

VOLUME FOUR

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Dorchester County
James E. Lockemy, Circuit Court Judge

RECEIVED

OCT 18 2013

MARION BOWMAN,

S.C. Supreme Court
PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213468

APPENDIX

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

PLAINTIFF'S EXHIBIT #72 (PHOTOGRAPH)
PLAINTIFF'S EXHIBIT #73 (PHOTOGRAPH)

1 Branchville. He very well may have returned to
2 Branchville.

3 The records at the jail indicate that
4 the defendant was returned to the jail at around
5 eleven o'clock on Sunday evening. The sheriff
6 cannot account in his testimony about where the
7 defendant was between nine o'clock, which is the
8 time that he puts -- he, the sheriff, puts on
9 the statement the statement was concluded, and
10 what happened to Mr. Bowman between that time
11 and when he was returned to the jail some two
12 hours later.

13 I also feel compelled to comment for
14 the record on Detective Van Doran's testimony
15 which was given yesterday. That testimony was
16 requested by the Court because of the concern
17 which he had -- he, Detective Van Doran, had
18 expressed to the solicitor which -- the
19 solicitor verbally and then in writing, which
20 the solicitor immediately transmitted to the
21 defense. And it was based upon that generated
22 uncertainty on a witness that had previously
23 testified, that I called him again. And Van
24 Doran had more information. I thought, I
25 certainly intended based upon my examination of

1 Van Doran, to elicit from him everything that he
2 remembered about the events on the 18th; what
3 occurred, who was present, what was said by
4 everyone, particularly the defendant and
5 particularly the sheriff and anyone else that
6 was present.

7 It was remarkable to me that during my
8 examination he chose not to tell me that it was
9 the defendant who had asked to go see his wife,
10 that he overheard that when the door was open
11 and he was able to hear Mr. Bowman after the
12 statement had been given. I must tell you that
13 I have no alternative but to put very little
14 stock in that testimony given the nature in
15 which that testimony was given.

16 Now, looking -- let me also say that
17 it's -- I think it's also important that based
18 upon the testimony of law enforcement the period
19 that the sheriff and that the defendant were
20 together on that Sunday evening, that that
21 period ranges from 45 minutes until about an
22 hour and a half, that's the range of time.
23 Certainly doesn't account for between 4:37 and
24 eleven o'clock. That's important to note as
25 well.

1 Taking the evidence as I have found it
2 to be, understanding that the State maintains
3 the burden of proving that Miranda was given and
4 that the statement was given freely and
5 voluntary, being mindful of the position of the
6 defendant, the testimony of the defendant that
7 the statement was induced, or coerced, the
8 burden doesn't shift, the burden remains with
9 the State and the State must satisfy the Court
10 that the statement was given freely and
11 voluntarily. Given the totality of the
12 circumstances I find that the statement was not
13 given freely and voluntarily. And the -- and,
14 again, it's the burden that belongs to the
15 State.

16 I think that the Court must have
17 satisfaction that the preponderance has been met
18 and I have -- I do not have that satisfaction,
19 and, therefore, must find that with regards to
20 State's Exhibit Number 7 that the State has
21 failed to meet its burden of proof that the
22 statement was freely and voluntarily given. I
23 do find that Miranda, however, was in place.
24 Based upon the Crawley decision while the
25 sheriff says he reminded him of Miranda or went

1 over from his memory the Miranda rights, I find
2 that the attorney -- I do not find that
3 Mr. Bowman had invoked either silence or his
4 request for an attorney on that occasion. I
5 find that Miranda was in place, but I find that
6 either the statement was induced or coerced.
7 Induced or coerced either with promises to see
8 Ms. Bowman or threats that she would be charged
9 with a crime. And both very well may have
10 occurred, but I find that the statement, State's
11 Exhibit Number 7, is not freely and voluntarily
12 given.

13 With regards to the next oral
14 statement which was given on February the 22nd,
15 likewise I find that statement was freely and
16 voluntarily given. Again, Detective Coker gave
17 the defendant the Miranda rights again and from
18 the Miranda rights form he signed a waiver. He
19 gave the oral statement.

20 With regards to the statement which
21 was given on February the 22nd, likewise I find
22 that Miranda was given, that the form was
23 initialed and signed, signed, at 12:18 p.m., and
24 that subsequent thereto the defendant freely and
25 voluntarily gave an oral statement. And I

1 believe that that concludes the ruling on the
2 Jackson vs. Denno hearing.

3 I believe that -- oh, and with regards
4 to the photographs, I've had an opportunity to
5 review that case law. With regards to the
6 exhibits that I mentioned yesterday, being the
7 autopsy photographs that show the victim's body
8 in its entirety, and there are two of them, I am
9 going to allow one of them. They are
10 duplicative and would ask the State to simply
11 pick one or the other, but find that under the
12 case law as I have received, reviewed it,
13 especially given that they would be offered in
14 the event of a penalty phase, one of them would
15 be allowed, but not both.

16 I think that's everything that I have.
17 I think I have no -- nothing left to rule on
18 unless you all can remind me of something?

19 MR. BAILEY: I can't think of anything
20 else, Your Honor.

21 THE COURT: All right.

22 MR. CUMMINGS: Judge, respectfully, just to
23 protect the record again. Your Honor has ruled.

24 THE COURT: Sure.

25 MR. CUMMINGS: And we understand the

1 Supreme Court rules that once you rule that's
2 our law, but I would just ask respectfully as
3 pursuant to the first oral statement --

4 THE COURT: Yes.

5 MR. CUMMINGS: -- Your Honor has admitted
6 into evidence, we would respectfully object
7 based on the earlier argument we've had with you
8 for days, respectfully, Judge. I know since we
9 don't -- haven't been able to vitiate anymore
10 you would at least protect the record as to
11 objections raised, unconstitutionality of the
12 arrest, nature of the arrest, any statements
13 derived therefrom that may be the result of
14 fruits of a poisonous tree or should be
15 suppressed by Your Honor. As to the first
16 written statement, again, Your Honor --

17 THE COURT: With regards to the arrest.

18 MR. CUMMINGS: The arrest of Mr. Bowman,
19 yes, ma'am.

20 THE COURT: Did I not mention yesterday
21 that I found it to be a lawful arrest?

22 MR. CUMMINGS: Absolutely, ma'am.

23 THE COURT: Okay. I thought I did that on
24 the suppression.

25 MR. CUMMINGS: Yes, ma'am. You've already

1 ruled on that and that's why I said that humbly,
2 that you ruled that --

3 THE COURT: Over the exception of the
4 defense.

5 MR. CUMMINGS: Yes, ma'am.

6 THE COURT: Absolutely as to all of the
7 statements I'm sure, but for State's Exhibit 7.

8 MR. CUMMINGS: Correct, ma'am. I just
9 wanted to state that openly. Thank you very
10 much. Judge, just to make one clarification.

11 THE COURT: Yes, sir.

12 MR. CUMMINGS: On the 22nd and 27th,
13 whether or not Your Honor found that the contact
14 made by my client was induced by my client to
15 see law enforcement versus law enforcement
16 coming and getting him out of the cell, and I
17 know that you've heard great testimony about
18 that, we went into great detail about the book,
19 whether it being hearsay, how somebody would
20 have gotten to my client out of the jail cell,
21 again, and I would ask Your Honor, respectfully,
22 that those two oral statements be suppressed as
23 not being freely, voluntarily, knowingly given,
24 or as a result of coercion, duress, or
25 intimidation, ma'am, by law enforcement.

1 Besides he was deprived of his procedural due
2 process rights based on the fact that he had not
3 had bond hearings prior to this, Judge,
4 respectfully, or to legally protect my client,
5 again, that he was taken out of his jail cell as
6 the pattern and practice had shown by law
7 enforcement in violation of his civil rights,
8 ma'am, constitutionally and by our state
9 constitution. Thank you, Judge.

10 THE COURT: Thank you so much. Very well.
11 All right. I think that -- I would certainly
12 remain with the -- with my rulings as I have
13 particularly with the -- and also with the
14 statements on the 22nd and the 27th and based
15 upon the totality of the circumstances, having
16 heard the testimony in its entirety, I find that
17 the statements were freely, voluntarily given.

18 MR. CUMMINGS: Yes, ma'am.

19 THE COURT: Great. All right. That's it
20 for us until tomorrow.

21 MR. CUMMINGS: Unless -- Judge, we didn't
22 know if you wanted us to stay longer or not, but
23 we were prepared to go over some of the
24 statutory ones if you wanted to do that while
25 Mr. Bowman is present.

1 THE COURT: Exactly. Let's put on the
2 record the jurors which there is an agreement to
3 excuse. And I understand that those are based
4 upon the statutory exclusions or exemptions.
5 And then I'd like to have a list of who we think
6 would be coming tomorrow.

7 MR. CUMMINGS: Yes.

8 THE COURT: Can you do that for me,
9 Ms. Footman? All right, Ms. Footman, you are
10 up. Would you all care to have Ms. Footman
11 publish the ones that you agree to? I would
12 probably rather have one of you guys do it
13 unless she's the bearer of that information.

14 MR. BAILEY: I can do it.

15 MR. CUMMINGS: Let Walter read it and we'll
16 review it with Mr. Bowman sitting right here.

17 MR. BAILEY: I'll just do numbers unless
18 you want the names.

19 MR. CUMMINGS: Numbers are fine.

20 MR. BAILEY: Okay. Seven, 10, 21, 23, 28,
21 35, 41, 43, 45, 51, 66, 71, 74, 76, 77, 82, 83,
22 84, 86, 87, 88, 89, 94, 97, 99, 107, 111, 114,
23 115, 116, 120, 125, 126, 133, 138, 139, 145 --
24 excuse me, 146.

25 THE COURT: Okay. Not 145?

1 MR. BAILEY: Not 145.

2 THE COURT: Okay.

3 MR. BAILEY: 146.

4 THE COURT: Okay.

5 MR. BAILEY: 147, 151, 152, 155, 156, 162,
6 165, 166, 170, 177, 186, 188, 191, 192, 193,
7 200, 204, 217, 221, 223, 225, 231, 233, 235,
8 236, 237, 241, 245, 251, 255, 262, 264, 265,
9 270, 276, 277, 281, 284, 292, 297, 314, 318,
10 324, 326, 327, 330, 333, 335, 338, 339, 340,
11 344, 346, 350.

12 MS. HARDEE-THOMAS: Mr. Bailey, how about
13 201?

14 MR. BAILEY: 201? I've got down she has
15 two children, two and five, which she attends
16 part-time preschool, so she didn't technically
17 meet the statutory exemption, but I have no
18 objection to excusing her.

19 MR. CUMMINGS: Judge, I think I would --
20 hopefully that that would be a lady that would
21 come up tomorrow, maybe, listen to, tell Her
22 Honor whether she works outside or not. If she
23 doesn't work outside, absolutely she meets the
24 statutory requirement, but if there's something
25 on her questionnaire she wrote in that she works

1 at the church, I guess, two or three days a
2 week, I don't want to belabor the Court's time
3 or anything, but I would agree also if she's
4 working -- excuse me, does not work outside the
5 home, I agree with solicitor the lady meets the
6 statutory requirement. Other than that we just
7 want to talk to you.

8 THE COURT: All right. Okay. So 201 at
9 this point is not an agreement.

10 MR. CUMMINGS: Questionable.

11 THE COURT: All right. Very well. And
12 were you all able to listen and were you, in
13 fact, able to agree to the numbers that the
14 solicitor just gave to me?

15 MS. HARDEE-THOMAS: We talked yesterday.

16 MR. CUMMINGS: Absolutely, Judge. And also
17 for the record and for Her Honor today, we were
18 briefly back in chambers. We kind of explained
19 to Mr. Bowman the statutory disqualifications, a
20 lot of people over 65 and they asked for their
21 exemption. Or people that have minor children
22 that don't work outside the home are entitled to
23 the statutory exemption.

24 Mr. Bailey had some people on there
25 that had just criminal records and it would be

1 disqualified, Your Honor, clearly by statute
2 under Rule 609. And I just wanted to put that
3 on the record, make sure that everybody knew how
4 we came to arrive at the agreement and the
5 qualifications and exceptions of the jurors.
6 Thank you, ma'am.

7 THE COURT: Very well. And you agree that
8 these numbers -- you concur that these people
9 are now excused from their jury service?

10 MR. CUMMINGS: Yes, ma'am.

11 THE COURT: Or disqualified?

12 MR. CUMMINGS: Correct, Judge.

13 THE COURT: Very well. Now, with regards
14 to the five folks that we just had the officer
15 testify to, Ms. Footman, or really any of you,
16 can you just retrieve those so we can have the
17 jury numbers? Did she give us the jury numbers?

18 MR. CUMMINGS: Gave some names, Judge.

19 THE COURT: Gave us names and not numbers.
20 Let's get the numbers.

21 MS. FOOTMAN: Number 95.

22 THE COURT: Number 95. Wait a minute now.
23 And the name would be?

24 MS. HARDEE-THOMAS: Sarah Ferguson.

25 THE COURT: Let me hold the exhibit.

1 MS. FOOTMAN: Sarah Ferguson.

2 THE COURT: All right. Juror Number 95,
3 Sarah Ferguson, okay, I have that.

4 MS. FOOTMAN: Number 101, Jean Foether.

5 THE COURT: All right 101, that is the
6 juror number for Ms. Foether.

7 MS. FOOTMAN: Number 128, Robin Hawhee.

8 THE COURT: I see that as 128, Robin
9 Hawhee, yes. 286, Theyla Snider.

10 MS. FOOTMAN: Correct. And Patricia
11 Tucker, 307.

12 THE COURT: Okay. Now, Ms. Footman, who
13 are you anticipating arriving tomorrow who were
14 jurors who wish to be excused?

15 MS. FOOTMAN: Okay. Number 21, Heather
16 Bowers; Number 22, Victoria Box states that
17 she's leaving town tomorrow morning for a trip
18 that she had already planned, so I need to
19 know -- I need to call her back.

20 THE COURT: Have you all -- do you all have
21 the questionnaire on Number 22?

22 MR. CUMMINGS: Yes, ma'am. If you'll give
23 us a moment.

24 MR. BAILEY: If I can look at yours.

25 MR. CUMMINGS: Absolutely.

1 THE COURT: Sure. Sure.

2 MR. BAILEY: Apparently she doesn't have a
3 vacation planned, she has -- she has a work
4 problem, so I'm not sure what her plans are for
5 tomorrow. I assume that she was going on
6 vacation, would be gone through the 13th or
7 something, but it doesn't say that here.

8 MS. HARDEE-THOMAS: She states she has a
9 mother who is living in an assisted living home
10 and she works a second job to make 300 a month
11 for the mother and basically with her being here
12 she would not be able to help her mother.
13 That's what she put on --

14 THE COURT: That's very different than
15 she's going on vacation.

16 MR. CUMMINGS: I think Flo had something
17 else to say about that.

18 MS. FOOTMAN: She stated that she has a
19 trip planned for tomorrow, for the weekend, and
20 she would be leaving Friday morning.

21 THE COURT: But she'll be back for the
22 13th?

23 MS. FOOTMAN: Yes, ma'am. I'm to call her
24 back.

25 THE COURT: What we'll do, just call her

1 back and say that.

2 MS. FOOTMAN: She needs to be here.

3 THE COURT: We're going to try to endeavor
4 to hear folks on one occasion. When will she
5 return, after the weekend?

6 MS. FOOTMAN: She be back on Monday from my
7 understanding.

8 THE COURT: We'll try to find some time to
9 hear folks next week. We're still trying to do
10 that.

11 MS. FOOTMAN: Okay.

12 THE COURT: Okay. All right. So she won't
13 be here tomorrow?

14 MS. FOOTMAN: No, ma'am.

15 THE COURT: I was thinking she had a
16 vacation that was planned during the pendency of
17 the trial and was leaving tomorrow.

18 MS. FOOTMAN: Number 23, Canady Boyd.

19 MR. CUMMINGS: We just struck her out, I
20 believe. Walter, you got her out?

21 MS. FOOTMAN: Yeah, you did.

22 MR. BAILEY: Let me look at his -- Your
23 Honor, on his questionnaire he says he has bad
24 eyes, diabetes, bad bladder, cancer still,
25 unable to read, write, wouldn't make a good

1 juror. I would agree to excuse him.

2 MS. HARDEE-THOMAS: I marked him excused.

3 MR. CUMMINGS: I would believe, Judge, he
4 should be excused.

5 THE COURT: Y'all are just worried about
6 him getting through this little hearing
7 tomorrow. All right. Will you call then
8 Mr. Boyd and tell him thank you, that counsel
9 has heard his voice.

10 MS. FOOTMAN: Okay.

11 THE COURT: All right. In fact, I had him
12 listed. I had him listed. Yes, ma'am. All
13 right.

14 MS. FOOTMAN: Number 34, Lolita Cabading.

15 THE COURT: Okay.

16 MS. FOOTMAN: Number 48 I have not been
17 able to get an answer at her number.

18 THE COURT: All right. Her name is?

19 MS. FOOTMAN: Joanne Clemons.

20 THE COURT: Okay.

21 MS. FOOTMAN: I will try her again.

22 MR. BAILEY: My recollection, my notes
23 here, she said her mother was critically ill, it
24 sounded like she might be terminal.

25 MS. HARDEE-THOMAS: At Trident.

1 MR. BAILEY: I would agree to excuse her.

2 MS. HARDEE-THOMAS: My only problem is I
3 don't know if the critical stage has ended. We
4 don't know.

5 MR. BAILEY: If it ends during the trial
6 she wouldn't make a real good juror.

7 MS. HARDEE-THOMAS: If it's ended we still
8 don't know, you know.

9 THE COURT: In other words, if she met her
10 demise.

11 MS. HARDEE-THOMAS: We don't know with the
12 circumstance.

13 THE COURT: In the last day or so. Your
14 question is would she be ready to serve on a
15 jury in a week.

16 MR. BAILEY: I wouldn't think so.

17 THE COURT: All right. She very well may
18 not be here tomorrow. She very well may not be
19 here tomorrow.

20 MS. FOOTMAN: Leave a question by her name.

21 THE COURT: Yeah, just leave a question by
22 her name.

23 MS. FOOTMAN: Number 52, Steven Conley.
24 And I would like to state for the record that I
25 left a message with his son.

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1 THE COURT: Okay. And he's number...?

2 MS. FOOTMAN: Fifty-two.

3 THE COURT: Thank you.

4 MS. FOOTMAN: Number 58, Mr. Creel, was
5 notified.

6 THE COURT: Okay.

7 MS. FOOTMAN: Number 63, Marilyn Cummings,
8 was notified.

9 MR. BAILEY: Your Honor, I'm looking at my
10 notes, Number 62, Karen Crow, said she had a
11 four-month-old child at home and I didn't know
12 whether she had -- you had contacted her.

13 MS. HARDEE-THOMAS: Number 62.

14 THE COURT: Sixty-two.

15 MR. BAILEY: Has a four month old at home.

16 THE COURT: Ms. Crow. You might want to
17 call her, Ms. Crow has a four month old at home.
18 Okay. Thank you, Mr. Bailey.

19 MS. FOOTMAN: Okay. Number 67, Earl David
20 does not have a phone number and I want to know
21 what to do about him. Should I send him a note?

22 MR. CUMMINGS: Would it be possible, Judge,
23 to have the sheriff at your direction order a
24 note from Madam Clerk?

25 THE COURT: I would. And the only reason

1 that I would is that it's just as a matter of
2 time. And if we can address those concerns
3 tomorrow, I think, and address as many of the
4 jurors' concerns as we can before the 13th we
5 will do ourselves such a service.

6 MS. FOOTMAN: So send him a note?

7 THE COURT: If you could do that and have
8 the sheriff deliver it.

9 MS. FOOTMAN: Okay.

10 THE COURT: Excellent.

11 MS. FOOTMAN: Number 77, Aline Drawdy was
12 notified.

13 THE COURT: Thank you..

14 MR. BAILEY: She's been excused.

15 MR. CUMMINGS: Correct, Judge, we agreed
16 after we learned from Ms. Footman and from
17 reading, Judge, lady's got a bad bladder, has a
18 doctor's note, I believe.

19 THE COURT: Very good.

20 MR. CUMMINGS: Yes, ma'am.

21 THE COURT: Seventy-seven.

22 MS. FOOTMAN: Number 78, John Dudley. He
23 was notified, but he had a real problem about
24 coming, so....

25 THE COURT: Even asked not to have to come.

1 MS. FOOTMAN: He was sending a doctor's
2 excuse to Cheryl by fax today, supposedly, so if
3 he gets the doctor's excuse?

4 THE COURT: Counsel, we'll just review it
5 and just see what they think about it.

6 MR. CUMMINGS: Because I believe, Judge, we
7 don't have a questionnaire returned by this
8 gentleman. I don't think Walter does, either.

9 THE COURT: Okay. Maybe the doctor's
10 excuse can shed light on that as well.

11 MR. CUMMINGS: Yes, ma'am.

12 THE COURT: Because apparently he's aware
13 enough to be communicating with the clerk's
14 office, so....

15 MS. FOOTMAN: Okay. Number 90, Jermaine
16 Eubanks was notified. Number 92, Paula Evans,
17 notified. Number 93, Carol Everly was notified.
18 Number 96, Charles Furtig, I haven't been able
19 to get an answer at his number, either. I'll
20 send a note. Number 97, Michelle Fields, I
21 haven't been able to get an answer there,
22 either.

23 MR. BAILEY: She had a doctor's excuse in
24 the file and we agreed to excuse her.

25 THE COURT: Okay. I have her as well, yes.

1 MS. FOOTMAN: Okay.

2 THE COURT: Do you think you need to call
3 these folks, Ms. Footman, so that they're not --
4 they understand that they don't have to come,
5 that they have been excused?

6 MS. FOOTMAN: Yes, I have to.

7 THE COURT: I think you want to do that
8 just so they don't come and feel like they're
9 getting crossed signals.

10 MS. FOOTMAN: Okay. Number 111, Aimee
11 Gerena was notified.

12 MR. BAILEY: We had agreed to excuse her
13 from the trial itself.

14 THE COURT: Okay. All right.

15 MS. FOOTMAN: Number 127, Teresa Hatchell,
16 notified.

17 THE COURT: Got it, okay.

18 MS. FOOTMAN: Number 130, Gayla Heinrich,
19 left a message on her machine. Number 135, Gail
20 Hess, notified her husband. Number 160,
21 Walburga Karwinski was notified.

22 THE COURT: Walburga who now?

23 MS. FOOTMAN: Karwinski.

24 THE COURT: Okay.

25 MS. FOOTMAN: And it was a question on

1 number 169. I spoke with him and he said that
2 he's a full-time student. And I don't know
3 whether you all have that information on
4 y'all's --

5 THE COURT: His name is?

6 MS. FOOTMAN: James Kmetz.

7 THE COURT: Okay.

8 MS. HARDEE-THOMAS: Your Honor, all we have
9 is that he's studying at the University of South
10 Carolina in accounting. Currently working in
11 Columbia at something associates and that he
12 graduates -- the reason why he should not serve
13 is that my graduation is May 10th.

14 THE COURT: I think that's Friday.

15 MS. HARDEE-THOMAS: Uh-huh.

16 THE COURT: And I think the trial starts on
17 Monday, okay. We'll just ask him to come talk
18 to us.

19 MS. FOOTMAN: He needs to come?

20 THE COURT: If he would like to talk to us
21 about being excused. And the reason is if he
22 graduates on the 10th of May, the trial does not
23 begin until the 13th of May, that he would no
24 longer -- I mean, implicitly with what he tells
25 us he would no longer be a full-time student on

1 the 13th of May if he graduates on the 10th of
2 May.

3 MS. FOOTMAN: He called me, I think he's
4 living in Columbia, working in Columbia.

5 THE COURT: Well, indeed, if he is a --
6 that's something else. He says he lives and
7 works in Columbia, so let him tell us he lives
8 and works in Columbia.

9 MS. FOOTMAN: So the final word for him
10 is --

11 THE COURT: I cannot. I need more
12 information.

13 MS. FOOTMAN: For him to come in.

14 THE COURT: Because when you are a student
15 in college you have your permanent address with
16 your parents, but if his status is changing on
17 the 10th, he's taking a job in Columbia, he's to
18 start Monday and he has a residence in Columbia
19 I think that may be a different situation, but I
20 need a little more information from him.

21 MS. FOOTMAN: Okay. Number 200, I think
22 that was the one that was in question about her
23 mother.

24 THE COURT: I have he or she is excused.

25 MS. FOOTMAN: She's currently MIA.

1 THE COURT: I have her excused, okay.

2 MS. FOOTMAN: Number 223.

3 THE COURT: I have her excused or him
4 excused as well.

5 MS. FOOTMAN: Okay. 267, Carol Sawyer,
6 left a message on her machine. Number 324.

7 THE COURT: 324 excused is what I have.

8 MS. FOOTMAN: Have him excused.

9 THE COURT: Yeah.

10 MS. FOOTMAN: Robert Whitlock, Number 330,
11 excused.

12 THE COURT: I have him excused.

13 MS. FOOTMAN: 335 excused.

14 THE COURT: I have him excused.

15 MS. FOOTMAN: 340 excused.

16 THE COURT: Excused.

17 MS. FOOTMAN: Number 341.

18 THE COURT: Okay.

19 MS. FOOTMAN: Left a message on his
20 machine.

21 THE COURT: All right. His name is?

22 MS. FOOTMAN: He called back this morning
23 and left another message on my machine because I
24 missed his call where he wanted me to call his
25 supervisor. But I spoke with one of the

1 secretaries there, I told them that it was no
2 need him talking to me because I could not
3 excuse him and I asked her to tell him to be
4 here in the morning.

5 THE COURT: Great. His name is?

6 MS. FOOTMAN: Michael Winstead.

7 THE COURT: Thank you.

8 MS. FOOTMAN: Number 342, Kathy Woods, left
9 message on her machine. And 346 y'all have
10 excused.

11 THE COURT: Yeah.

12 MS. FOOTMAN: And Number 260, Toni Romanus,
13 I don't think -- I don't think you all give me
14 that number, but she was on my voice mail in
15 reference to coming this morning and I don't
16 know whether someone spoke to her from the
17 office. But she has a vacation scheduled in the
18 morning, so I will call her back and tell her
19 that she does not have to come tomorrow.

20 THE COURT: Tomorrow, yeah, that we will
21 try to get her in next week.

22 MS. FOOTMAN: Because I don't think she was
23 on our list. Do you have her?

24 MS. HARDEE-THOMAS: I have that she lives
25 in Virginia.

1 MR. CUMMINGS: No, ma'am.

2 MS. FOOTMAN: Number 260?

3 MS. HARDEE-THOMAS: Yes, ma'am.

4 THE COURT: Is she in school? Or how old
5 is she?

6 MS. HARDEE-THOMAS: Your Honor, I have she
7 desires to be excused because I've already put
8 in vacation time for this week which was done
9 several weeks ago.

10 THE COURT: Week of the 13th? So she
11 doesn't say she lives in Virginia, it's just a
12 vacation need. And she's supposed to leave,
13 Flo, in the morning?

14 MS. FOOTMAN: No, ma'am.

15 THE COURT: Okay. Just for the 13th she's
16 supposed to be gone? Okay. Maybe just ask her
17 to come tomorrow if she could.

18 MS. FOOTMAN: Okay. And Number 4, these
19 came in like yesterday, Brian Alderson.

20 THE COURT: Number 4, okay. Have you all
21 looked at Number 4?

22 MS. FOOTMAN: I think he stated he was a
23 president of some small company, but I spoke
24 with him and told him to come in tomorrow.

25 Number 310, Nitza Tyus, she says she

1 has small children and I left a message on her
2 machine.

3 THE COURT: And tell me her name again.

4 MS. FOOTMAN: Nitza Tyus.

5 THE COURT: Okay. Looks like you've had a
6 good number of responses. How many responses
7 have you not received? How many individuals,
8 how many folks have failed at this point to
9 respond? Everybody's accounted for, either
10 there's been an attempt at service or else
11 you've heard from them?

12 MS. FOOTMAN: I'm not sure about that, but
13 I can give that to you this afternoon.

14 THE COURT: Tomorrow will be fine, that
15 will be wonderful.

16 Okay. And questionnaires, how many
17 questionnaires have been received?

18 MS. FOOTMAN: The majority of them. I
19 haven't counted them, but it's a whole lot of
20 them.

21 THE COURT: All right. We're scheduled to
22 begin in the morning at ten o'clock with the
23 officers and at eleven o'clock with these
24 individuals. And I would appreciate so much,
25 Ms. Footman, if you could just contact the

1 officers, or work with law enforcement to
2 contact the officers who are going to testify
3 and ask them to bring with them just like today
4 their affidavits.

5 MS. FOOTMAN: I have them, the affidavits,
6 that they returned to me which they'll use.

7 THE COURT: All right. Or any information
8 they have that would assist them, that's fine.

9 MS. FOOTMAN: Okay.

10 THE COURT: Anything else for today?

11 MR. BAILEY: Nothing from the State, Your
12 Honor.

13 MR. CUMMINGS: Nothing else from the State
14 (sic), Your Honor.

15 THE COURT: I will see you all in the
16 morning at ten o'clock.

17 MR. CUMMINGS: Thank you, Judge.

18 MR. BAILEY: Thank you, Your Honor.

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STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER) : C E R T I F I C A T E

I, Robin L. Keil, Registered Merit Reporter and First Judicial Circuit Court Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand this the 23rd day of July 2003.



Robin L. Keil, RMR
Resident Court Reporter
First Judicial Circuit

1380

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER) CASE NO. 01-GS-18-0348, 0349

ORIGINAL

STATE OF SOUTH CAROLINA,) VOLUME XIII Pages 1380 - 1549
Plaintiff,) TRANSCRIPT OF RECORD
-versus-) JURY MATTERS
MARION BOWMAN, JR.,) May 3, 2002
Defendant.) St. George, South Carolina

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Kirt L. Wallace - Examination

1 (May 3, 2002.)

2 THE CLERK: I spoke with one of the
3 officers out here today. These three came back
4 to us from the sheriff's department, Berkeley
5 County, Charleston County, Berkeley County, but
6 with no affidavit. I don't know if one of these
7 gentleman could testify that these addresses are
8 not Dorchester County or not, but there's no
9 affidavit. That's our only issue with them.

10 THE COURT: Great.

11 (Kirt L. Wallace, called as a witness, having
12 first been duly sworn, is examined and testifies
13 as follows:)

14 THE COURT: Thank you so much. If you'd
15 please be seated. And state your full name for
16 the record and spell your last name.

17 THE WITNESS: Full name is Deputy Kirt
18 Laverne Wallace.

19 EXAMINATION

20 BY THE COURT:

21 Q. Deputy Wallace.

22 A. Yes, ma'am.

23 Q. Okay. Did you have occasion to receive from the
24 Dorchester County clerk's office certain juror
25 summons?

1 A. Yes, ma'am.

2 Q. How many did you receive?

3 A. Well, I don't know exactly the number. We do
4 receive them on a daily basis and we have a certain
5 amount that we usually distribute out between each
6 region.

7 Q. Okay.

8 A. I couldn't tell you a specific number, but right
9 now I'm responsible for the three that I have to
10 answer to.

11 Q. In other words, you actually attempted to serve,
12 or served three?

13 A. Yes, ma'am. Most definitely, yes.

14 Q. Okay. Very well. You have those with you?

15 A. Yes, ma'am. I do.

16 Q. We're going to have those, Deputy Wallace,
17 marked as a Court's Exhibit. But would you tell me
18 the -- and you can take them one at a time.

19 A. Sure, sure.

20 Q. Give me the juror's name, the juror's number, if
21 you can do that for me, then tell me what you did.

22 A. Okay. This first one I have, let's see, the
23 juror name is under a Margaret Duncan located at [REDACTED]
24 [REDACTED] located in Summerville, the juror number
25 is Number 29. And upon making contact with the

1 defendant I spoke to a current resident that was
2 currently residing at the house.

3 Q. You said upon making contact with the defendant.

4 A. Upon trying to serve.

5 Q. Ms. Duncan.

6 A. Exactly. Upon trying to serve Ms. Duncan I
7 spoke to the current resident of the address that I
8 just mentioned, [REDACTED].

9 Q. Yes, sir.

10 A. And the current resident stated that Margaret
11 Duncan does not stay at the above address. In other
12 words, she had no recollection of who this Margaret
13 Duncan was and that she no longer resided at this --
14 she never did. I had the information with her, the
15 current address.

16 Q. All right. And did you sign an affidavit to
17 that effect?

18 A. Yes, ma'am. I sure did.

19 Q. All right. Thank you so much.

20 A. Again, let me just see here, whether I had a
21 date when I signed. I don't have a date, but, yes, I
22 did sign it.

23 Q. Thank you very much. And that has the affidavit
24 also.

25 A. Yes, ma'am. That's correct.

Kirt L. Wallace - Examination

1 Q. Thank you. The second one.

2 A. The second one is under a Rose M. Brown.

3 THE COURT: Any questions about Ms. Duncan
4 from either of you?

5 MR. BAILEY: Nothing from the State, Your
6 Honor.

7 MS. HARDEE-THOMAS: The correct number is
8 79, right, not 29?

9 THE WITNESS: I'm looking at Juror Number
10 29.

11 THE COURT: Yeah, 29.

12 THE CLERK: That belongs to a Janie Brown.

13 THE COURT: It certainly -- let me see.

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Margaret Duncan is 79.

16 THE COURT: He's looking at his affidavit
17 that says 29. And there may be a typo, let me
18 just look here at this summons itself.

19 Q. If you look at the juror summons itself rather
20 than the affidavit, what is the number of that juror,
21 Deputy Wallace? Look to the right-hand side, upper
22 right hand.

23 A. Okay. It's 079.

24 Q. Thank you so much.

25 A. You're quite welcome. Further I'll look inside

Kirt L. Wallace - Examination

1 instead of on the top.

2 Q. That's fine, That's certainly fine.

3 THE COURT: All right. Any other questions
4 from anyone?

5 MR. BAILEY: Not from the State, Your
6 Honor.

7 MS. HARDEE-THOMAS: No, ma'am.

8 THE COURT: All right.

9 A. Okay. My next one I have here is under Rose M.
10 Brown, the juror number on this one is Number 30.
11 And the address is [REDACTED] located in
12 Summerville. I went to the residence and I
13 specifically spoke to the current resident of the
14 address, [REDACTED], and she stated that Rose
15 Brown no longer lives at the above address.

16 In this particular one if I write that
17 spoke to current resident, states that the person
18 does not live at the above address, it's slightly
19 different than if they say that he or she no longer
20 lives there. So in this particular one a Rose Brown
21 did reside at the address in the past, but at this
22 point no longer lives at that specific address. And
23 there's no available current address or no forward
24 address that was given to me by the current resident.

25 Q. Thank you, Deputy Wallace.

1 A. You're quite welcome.

2 Q. All right. Did you indicate that on your
3 affidavit as well, you signed your affidavit?

4 A. Yes, ma'am. That's correct.

5 Q. Thank you.

6 THE COURT: Any questions from the State or
7 from the defense?

8 MR. BAILEY: Not from the State, Your
9 Honor.

10 MS. HARDEE-THOMAS: Nothing from the
11 defense.

12 Q. Thank you so much. Your third one?

13 A. My third one is under a Paula M. Lazzaro, it's
14 under the address of [REDACTED] [REDACTED] located in
15 Ladson, Summerville Place. And the juror number on
16 this particular one is 175.

17 And I spoke to the current resident, the
18 current resident states that Paula Lazzaro does not
19 live at the above address and that she does not know
20 her. And also signed a affidavit.

21 THE COURT: Any questions about Paula
22 Lazzaro?

23 MR. BAILEY: Nothing.

24 MS. HARDEE-THOMAS: Nothing from the
25 defense.

1 THE COURT: Anything further for Deputy
2 Wallace?

3 MR. BAILEY: Nothing from the State.

4 MS. HARDEE-THOMAS: Nothing from the
5 defense.

6 THE COURT: Thank you so much. If you will
7 leave those documents, pass them to the Court
8 reporter on the way out.

9 (Whereupon, the witness steps down from the
10 witness stand.)

11 (Marked for purposes of the record was
12 Court's Exhibit 19, affidavits of service.)

13 (William E. Bense, called as a witness, having
14 first been duly sworn, is examined and testifies
15 as follows:)

16 THE COURT: Thank you so much. If you
17 would please be seated and state your full name
18 for the record and spell your last name.

19 THE WITNESS: My name is William E. Bense,
20 the last name is B-e-n-s-e.

21 EXAMINATION

22 BY THE COURT:

23 Q. Yes, sir. And the information just as Deputy
24 Wallace gave to us, I need to know first of all how
25 many people did you have occasion to attempt service

1 or serve? Then just if you'll take them one at a
2 time with name, juror number, address, what you did
3 to attempt to serve them.

4 A. Okay. I have a total of four. The first one I
5 have is Juror Number 224, it's a Nicki N. Norris,
6 [REDACTED], Apartment [REDACTED]. I went straight
7 to the property manager's office, that person's name
8 is June Passailaigue and she informed me that person
9 does not currently reside there any longer.

10 Q. You signed the affidavit to that effect?

11 A. Yes, ma'am. I did.

12 THE COURT: I think we'll hear them all,
13 counsel, and then ask you if you have any
14 questions after he's been through all of them.

15 Q. All right.

16 A. The next one I have is Juror Number 211, Darin
17 Moan, [REDACTED] which is in
18 Saddlebrook, North Charleston. When I drove through
19 the neighborhood there that's currently a vacant lot,
20 the mobile home has been moved off the lot so there's
21 nothing even there for me to attempt.

22 Q. And you signed your affidavit for that as well?

23 A. Yes, ma'am. The third one I have is Juror
24 Number 331, Robert L. Whitworth, [REDACTED]
25 [REDACTED], Apartment [REDACTED], that's Waters Edge Apartments.

1 I also spoke to the property manager there, her name
2 was Cybil Helger, and she informed me that person
3 does not live there any longer.

4 Q. Likewise you indicated that on your affidavit?

5 A. Yes, ma'am. That's correct.

6 Q. Fourth?

7 A. Fourth one I have is Juror Number 85, it's
8 Christie Elliott at [REDACTED] [REDACTED] in North
9 Charleston. I spoke with a woman at that address by
10 the name of Barbara Chaney, and she informed me that
11 that person -- she's never heard of that person and
12 that she does not live at that address.

13 Q. Thank you so much. You indicated that likewise
14 on your affidavit?

15 A. Yes, ma'am.

16 THE COURT: All right. Any questions for
17 Deputy Bense?

18 MR. BAILEY: Nothing from the State, Your
19 Honor.

20 MS. HARDEE-THOMAS: Nothing from the
21 defense, Your Honor.

22 THE COURT: Thank you so much. If you'll
23 leave those with us we'll have those marked as a
24 Court's Exhibit.

25 THE WITNESS: Okay.

William E. Bense - Examination

1 (Whereupon, the witness steps down from the
2 witness stand.)

3 (Marked for purposes of the record was
4 Court's Exhibit 20, affidavits of service.)

5 THE COURT: Thank you so much. Happy to
6 have you all stay, but you're free to go once
7 you've testified.

8 (Brennel L. Simon, called as a witness, having
9 first been duly sworn, is examined and testifies
10 as follows:)

11 THE WITNESS: Corporal Brennel Simon,
12 Dorchester County Sheriff's Office.

13 EXAMINATION

14 BY THE COURT:

15 Q. Corporal Simon, how many people did you have
16 occasion to serve?

17 A. I attempted two services.

18 Q. All right, sir. And if you would just tell us
19 about those, juror number, name, address, what you
20 did.

21 A. The first is Juror 296, Mary E. Taylor, [REDACTED]
22 [REDACTED], which it is spelled improperly on
23 the paper and the --

24 Q. Summons?

25 A. And the summons, but we figured it out.

1 Q. All right.

2 A. That's located in Woodington down off of
3 Dorchester Road. Attempted service, the current
4 resident stated that this person had moved from that
5 residence and the affidavit states such fact.

6 Q. Thank you so much. And then your second one
7 was?

8 A. Second is Juror Number 300, Theodore B. Thomas,
9 [REDACTED] which is in the Appian
10 Subdivision.

11 Q. All right.

12 A. This one also, the current resident states that
13 the party in question moved approximately three years
14 ago which the affidavit reflects such.

15 Q. Thank you so much. With regards to the -- tell
16 me about Ms. Taylor, what is reflected on the juror
17 summons and what does her name say on the juror
18 summons?

19 A. It states Mary E. Taylor.

20 Q. How is it spelled?

21 A. M-a-r-y E. Taylor, T-a-y-l-o-r.

22 Q. You had to correct that spelling?

23 A. No. We had to correct the street.

24 Q. The street?

25 A. They have actually spelled C-o-l-i-t-t-i-o-n,

Brennel Simon - Examination

1 and it's actually Cotillion.

2 Q. Thank you so much.

3 THE COURT: Any questions for Corporal
4 Simons?

5 MR. BAILEY: Nothing from the State.

6 MS. HARDEE-THOMAS: Nothing from the
7 defense.

8 THE COURT: Thank you so much.

9 (Whereupon, the witness steps down from the
10 witness stand.)

11 (Marked for purposes of the record was
12 Court's Exhibit 21, affidavits of service.)

13 (Jerry Fowler, called as a witness, having first
14 been duly sworn, is examined and testifies as
15 follows:)

16 THE COURT: If you would please be seated
17 and state your full name for the record.

18 THE WITNESS: Corporal Jerry Fowler,
19 F-o-w-l-e-r.

20 EXAMINATION

21 BY THE COURT:

22 Q. Can you give us the number -- you have a stack
23 of them. And how many folks did you attempt to serve
24 or serve?

25 A. Eight, ma'am. Eight.

Jerry Fowler - Examination

1 Q. Eight. Very well. If you would just -- you've
2 heard your -- the other officers testify, if you
3 would just do so, consistently give us the juror
4 names, juror numbers, addresses, and what you did.

5 A. Okay. The first one's going to be Juror Number
6 246, Denise R. Ready. Did you want the address?

7 Q. Yes, please.

8 A. Okay. [REDACTED] [REDACTED]. I spoke to a
9 resident there and that person no longer lives there
10 and the affidavit --

11 Q. Reflects that?

12 A. Reflects that, yes, ma'am.

13 Q. Thank you so much.

14 A. Sorry, I've got sinus problems today.

15 Q. Can we give you some water? Are you okay?

16 A. Yes, ma'am.

17 Q. If you need some you let us know.

18 A. The next one is Juror Number 210, William F.

19 Mitchum, Sr., [REDACTED]. I spoke with the
20 property manager and he doesn't live there anymore
21 and the affidavit reflects that.

22 Q. Thank you so much.

23 A. The next one is Juror Number 6, Alfred L.

24 Arguello, it's A-r-g-u-e-l-l-o, [REDACTED]
25 Apartment -- supposed to be [REDACTED] [REDACTED]. I spoke with

Jerry Fowler - Examination

1 the apartment manager and he no longer lives there,
2 the affidavit reflects that.

3 Q. Thank you.

4 A. The next one is Juror 59, Thomas L. Cromwell,
5 Jr., [REDACTED]. He doesn't live there
6 anymore, there's another resident there and the
7 affidavit reflects so.

8 Q. Thank you.

9 A. The next one is I think it's going to be 334, is
10 the juror number.

11 Q. Right.

12 A. The name is Angelina E. Williams, [REDACTED] [REDACTED]
13 [REDACTED]. That person no longer lives there at that
14 address, affidavit reflects so.

15 Q. Thank you.

16 A. Next one is 247, Deborah Sterling Reed, [REDACTED]
17 [REDACTED]. That person no longer lives at
18 that residence either.

19 Q. All right.

20 A. The affidavit reflects so.

21 Q. Thank you.

22 A. The next one is Juror Number 173, Marie E.
23 Lackey, [REDACTED]. She no longer lives at
24 that address either.

25 Q. Thank you so much.

Jerry Fowler - Examination

1 A. Current resident --

2 Q. Told you that?

3 A. Yes, ma'am.

4 Q. And the affidavit reflects that as well?

5 A. Yes, ma'am.

6 Q. Thank you.

7 A. The last one, Juror Number 13, Roland E.

8 Beasley, [REDACTED]. This individual no
9 longer lives there, affidavit reflects so.

10 Q. Thank you so much.

11 THE COURT: Any questions from the State or
12 from the defense?

13 MR. BAILEY: None from the State, Your
14 Honor.

15 MS. HARDEE-THOMAS: Nothing from the
16 defense, Your Honor.

17 THE COURT: Thank you very much. And thank
18 you, Corporal Fowler. And we'll make these,
19 your summons and affidavits a Court's Exhibit if
20 you'll leave those with Ms. Keil, please.

21 (Whereupon, the witness steps down from the
22 witness stand.)

23 (Marked for purposes of the record was
24 Court's Exhibit 22, affidavits of service.)

25 (Hubert Prince, called as a witness, having first

Hubert Prince - Examination

1 been duly affirmed, is examined and testifies as
2 follows:)

3 THE COURT: Thank you. If you would please
4 be seated.

5 THE WITNESS: If I can fit in your chair.

6 THE COURT: For you we'll get you another
7 chair.

8 THE WITNESS: That's good enough.

9 THE COURT: And state your full name for
10 the record, spell your last name.

11 THE WITNESS: Corporal Hubert Prince,
12 P-r-i-n-c-e, Dorchester County Sheriff's
13 Department.

14 THE COURT: Also known as Mr. Prince.
15 Okay.

EXAMINATION

16
17 BY THE COURT:

18 Q. All right, sir. Tell us, Corporal Prince, how
19 many folks did you have occasion to either serve or
20 attempt to serve?

21 A. I have three attempts.

22 Q. All right. Tell me about those.

23 A. First juror would be 131, Roger J. Heinzen, [REDACTED]

24 [REDACTED]. I went out to that residence and that
25 residence is vacant.

Hubert Prince - Examination

1 Q. Okay.

2 A. It's under construction.

3 Q. All right. And does the affidavit reflect that,
4 Corporal?

5 A. Yes, ma'am.

6 Q. Thank you.

7 A. Second one would be Juror 229, Sheila A. Perdue,
8 [REDACTED] which is in Newington Plantation.

9 Spoke with the new homeowner, stated that he was
10 living there for the last three years, don't know
11 this person.

12 Q. Affidavit reflects that as well?

13 A. Yes, ma'am.

14 Q. Thank you, Corporal Prince.

15 A. Next one would be Juror 207, Karen K.
16 M-e-d-g-h-a-l-c-i.

17 Q. All right.

18 A. [REDACTED], which is in region three,
19 but I attempted to serve that one. I spoke with the
20 neighbor and the new homeowner, that subject no
21 longer lives there.

22 Q. Thank you so much.

23 A. You're welcome.

24 THE COURT: Any questions from the State or
25 from the defense?

Hubert Prince - Examination

1 MR. BAILEY: Nothing from the State.

2 MS. HARDEE-THOMAS: Nothing from the
3 defense, Your Honor.

4 THE COURT: We'll make those a Court's
5 Exhibit. Thank you so much for coming.

6 (Whereupon, the witness steps down from the
7 witness stand.)

8 (Marked for purposes of the record was
9 Court's Exhibit 23, affidavits of service.)

10 (Michael P. Waller, called as a witness, having
11 first been duly sworn, is examined and testifies
12 as follows:)

13 THE WITNESS: Deputy Michael Patton Waller,
14 W-a-l-l-e-r.

15 EXAMINATION

16 BY THE COURT:

17 Q. All right. How many folks did you serve or
18 either attempt to serve?

19 A. I attempted three.

20 Q. All right. If you would just give me that
21 information.

22 A. The first one is Juror Number 282, a Linda K.
23 Smith, [REDACTED]. Spoke with the current
24 resident, stated that this individual had moved to an
25 unknown location, the affidavit reflects so.

1 Q. Thank you.

2 A. Second one is Juror Number 123, for an Andrea
3 Halker, [REDACTED]. This is rental property,
4 spoke with the current resident, she stated that she
5 has not heard nor had any information pertaining to
6 this individual. No longer lives there, affidavit
7 reflects so.

8 Q. Thank you.

9 A. Third one is for Juror Number 129, Lorine B.
10 Haywood, [REDACTED], Number [REDACTED]. She no
11 longer lives at the address. However, by chance I
12 happened to run into her yesterday. And she has
13 moved to Apartment [REDACTED] and so I'm initiating the
14 paperwork in order to get her. She was notified, but
15 I need to get the paperwork and affidavit of service.

16 Q. Very well. In other words, you were able to
17 locate Ms. Haywood and we should expect to see her?

18 A. Right.

19 Q. Very well. And you were going to -- while she
20 was not at this particular address, you talked to
21 her, found her, and have served her with her summons
22 and we should expect to hear from her?

23 A. She has not been served yet. This had already
24 been turned in.

25 Q. I understand.

1 A. I just happened to run into her and locate her
2 and so I will do what I need to do in order for her
3 to be served.

4 Q. Thank you so much.

5 THE CLERK: We'll give him that summons
6 back and let him serve it.

7 THE COURT: That would be wonderful.

8 Q. Would you pick that up? Let's make that a
9 Court's Exhibit. And then before you leave today
10 Ms. Graham will give you the summons so you can serve
11 that. And I would appreciate it if you could serve
12 that today.

13 A. Okay.

14 Q. Great.

15 THE COURT: Any questions from the State or
16 from the defense?

17 MR. BAILEY: Nothing from the State, Your
18 Honor.

19 MS. HARDEE-THOMAS: Nothing from the
20 defense, Your Honor.

21 THE COURT: Thank you so much for being so
22 diligent and tracking her down.

23 (Whereupon, the witness steps down from the
24 witness stand.)

25 (Marked for purposes of the record was

1 Court's Exhibit 24, affidavits of service.)

2 (Jimmie Sloop, called as a witness, having first
3 been duly sworn, is examined and testifies as
4 follows:)

5 THE COURT: Very well. If you would please
6 be seated, state your full name for the record.

7 THE WITNESS: Jimmy Sloop, Jimmie is
8 spelled with an i-e, Sloop is S-l-o-o-p. And I
9 attempted service on two.

10 EXAMINATION

11 BY THE COURT:

12 Q. Thank you. All right, sir. If you would tell
13 me about them, please.

14 A. Juror Number 44, Anthony E. Clark, [REDACTED]
15 [REDACTED], St. George. I went to that
16 address, was advised that he had moved to [REDACTED]
17 [REDACTED] here in St. George. I contacted Mr. Clark
18 and served and the affidavit states that.

19 Q. All right, sir. Mr. Clark has, in fact, been
20 served?

21 A. Yes, ma'am.

22 Q. Thank you so much. All right.

23 A. Juror Number 250, Sadie P. Reeves at [REDACTED]
24 [REDACTED], St. George. Went to that address, it's an
25 abandoned house. Went next door to a family I knew

Jimmie Sloop - Examination

1 to be the Reeves, contacted them. And I was advised
2 that Sadie had passed away seven years ago and the
3 affidavit states that.

4 Q. Thank you so much.

5 THE COURT: Any questions from the State or
6 from the defense?

7 MS. HARDEE-THOMAS: No questions, Your
8 Honor. I would like to state for the record
9 that Mr. Sloop is on my witness list. And I
10 just raise that so it will be on the record
11 since he did have contact with at least one
12 juror.

13 THE COURT: I understand.

14 MR. CUMMINGS: Judge, I understand that on
15 behalf of the defense team --

16 MS. KARWINSKI HARDEE-THOMAS: There's no
17 objection.

18 MR. CUMMINGS: -- we know this gentleman
19 also and we believe he would have no verbal
20 contact with the jurors other than to deliver
21 the summons. We thank this gentleman for
22 tracking the juror down and doing an excellent
23 job above and beyond.

24 Q. You had no contact other than saying here's your
25 summons; is that right?

Jimmie Sloop - Examination

1 A. Right.

2 Q. Very well. Thank you so much.

3 MR. CUMMINGS: Thank you, Judge.

4 Q. Let me ask you this question while you are here.

5 And I guess this will put you on the spot. I

6 certainly don't want to put you on the spot. Are you

7 familiar with Nibbs Lane or Magnolia Circle in

8 Ladson, or with Courtland Drive in Summerville?

9 A. I am familiar with all three addresses; however,
10 that's in a different district than I work. I work
11 the St. George district.

12 Q. All right.

13 A. Those are all down in district two.

14 Q. They're in district two.

15 THE COURT: What district?

16 MR. WALLER: Actually I work district two.

17 I'm not familiar with those being in our --

18 THE COURT: In Dorchester County?

19 MR. WALLER: Yes, ma'am.

20 THE COURT: All right. That was the
21 previous officer before Mr. Sloop. Would you
22 step back up for just a moment? We would make
23 those a Court's Exhibit.

24 (Marked for purposes of the record was
25 Court's Exhibit 25, affidavits of service.)

Jimmie Sloop - Examination

1 THE COURT: All right. For the purposes
2 for the record I have just recalled Deputy
3 Waller.

4 MR. WALLER: I would verify to make sure.

5 THE COURT: Yes, sir. The information that
6 we have, and I don't mind sharing with you, is
7 that those are not Dorchester County addresses
8 and I wondered if you could confirm that or not.
9 If you're not comfortable doing that, do not do
10 it.

11 MR. WALLER: I'd have to look at a map to
12 make sure.

13 THE COURT: Thank you so much. We'll do
14 that. Thank you very much. Can you do that,
15 could I ask you to do that?

16 MR. WALLER: I can go right down to my car
17 right now and do it.

18 THE COURT: That would be marvelous. Thank
19 you so much.

20 Any objection to the officer doing
21 that?

22 MR. BAILEY: None from the State, Your
23 Honor.

24 MR. CUMMINGS: No.

25 THE COURT: The information is these are

1 out of county addresses and if he could confirm
2 that for us that would be wonderful.

3 THE CLERK: Do you need anything, Officer?

4 MR. WALLER: If I could have those.

5 THE COURT: Absolutely. Just bring those
6 back and we'll make them a part of the record
7 when you testify. Great. All right.

8 And I know that we have a number of
9 the jurors who are present as we went over the
10 list yesterday. And I would propose to just
11 take them from the numbers, the juror numbers
12 and move right along. And I'd ask, Ms. Graham,
13 do you know who is present?

14 THE CLERK: Yes, ma'am. I do.

15 THE COURT: All right. Well, and do you
16 have their juror questionnaires?

17 THE CLERK: Yes, ma'am. I do.

18 THE COURT: That's excellent. What I would
19 propose to do is take it from the top and move
20 through. And I have some questions that I would
21 ask of them, just explain to us a little more
22 fully about what they've stated in the
23 questionnaire and certainly give you all an
24 opportunity to ask them questions as well.

25 MS. HARDEE-THOMAS: Thank you.

1 MR. BAILEY: I had briefly talked to Mr.
2 Cummings before we got started this morning. It
3 occurred to me that maybe some jurors may not
4 have a problem if the jury is not sequestered,
5 but they would if they were sequestered. And we
6 had in chambers mentioned the possibility of not
7 sequestering this jury and I just thought this
8 may be a good time to address that.

9 THE COURT: Sure.

10 MR. CUMMINGS: Thank you, Judge. If I may
11 on the record. I presented that to Mr. Bowman
12 on two separate occasions in the past. And as
13 recently as yesterday afternoon when we broke
14 down in here after completing our work, we went
15 over to the jail yesterday and I told Marion
16 that we're going to have to make a decision.
17 And part of it is legal strategy, another part
18 of it is a personal decision whether or not,
19 since his life is at jeopardy here --

20 THE COURT: That's right.

21 MR. CUMMINGS: -- to ask him.

22 THE COURT: Sure.

23 MR. CUMMINGS: And I'm not trying to put
24 him on the spot immediately today, but I know
25 it's very important now and it's ten days before

1 the start of this trial. And I don't know if he
2 slept on it last night or not and I'll whisper
3 in his ear if the Court will give me another
4 moment, see if he's reached a decision.

5 THE COURT: I will proceed how you all want
6 to proceed. I want Mr. Bowman to have an
7 opportunity to obviously discuss it with you
8 fully and I don't want him on the spot. We'll
9 leave it as it is at this point, but I don't
10 want him on the spot. But Mr. Bailey is
11 absolutely correct.

12 MR. CUMMINGS: Yes, ma'am.

13 THE COURT: There's just a tremendous
14 amount of preparation. In fact, a SLED officer
15 that is in head of the detail that will guard
16 the sequestered jury is here waiting to meet
17 with me I think for the third time.

18 MR. CUMMINGS: Yes, ma'am. But I did want
19 the Court --

20 THE COURT: The first one more brief than
21 the second. At some point it needs to be
22 addressed or else the train certainly will pass
23 by the station. We have a nice gentleman here
24 in the back I just wanted to address who that
25 might be. Yes, sir. Hi.

1 MR. TAYLOR: He's the driver of one of the
2 jurors.

3 THE COURT: Driver of one of the jurors. I
4 don't want him in here.

5 Yes, sir, good morning. Thank you for
6 bringing our prospective juror. We're going to
7 find you a spot, and a magazine, and something
8 to drink right here in the back, make you
9 comfortable. Tell me who you're here with so we
10 can be sure to get the two of you hooked back up
11 when we're finished talking to you.

12 MR. M. CUMMINGS: Marlin Cummings.

13 THE COURT: Wonderful. You can go that
14 way, but you're welcome to come this way.

15 MR. TAYLOR: Go back there and talk to the
16 major.

17 THE COURT: Come on this way, you'll be
18 more comfortable. And you may change your mind,
19 decide you want a cup of coffee, or a Coca-Cola,
20 or something.

21 MR. M. CUMMINGS: Thank you.

22 THE COURT: Thank you.

23 MR. CUMMINGS: I'm sorry, Judge.

24 THE COURT: No. I'm sorry, Mr. Cummings,
25 to interrupt you that way, but that concerned

1 me. Yes, sir.

2 MR. CUMMINGS: I did want the Court to know
3 we have been talking about that and we went back
4 and reinforced it again yesterday.

5 THE COURT: Great.

6 MR. CUMMINGS: And I believe we do have to
7 make a decision soon.

8 THE COURT: Very well.

9 MR. CUMMINGS: I wanted the Court to know
10 that. And now, again, it's reinforcement with
11 Mr. Bowman again.

12 THE COURT: Whisper to Mr. Bowman and see
13 if he needs more time or if he's prepared for
14 y'all to make that decision.

15 (Mr. Cummings and Ms. Hardee-Thomas conferring
16 with Mr. Bowman.)

17 MR. CUMMINGS: I know you're busy reading.
18 Mr. Bowman would like to have some more time to
19 think. I'll get back to the Court, Mr. Bailey
20 through Ms. Thomas as soon as we learn
21 something.

22 THE COURT: Thank you so much.

23 MR. CUMMINGS: Yes, ma'am. As of right now
24 I understand the Court will continue on with
25 having the jurors sequestered.

1 THE COURT: Very well. All right. Are you
2 ready to begin?

3 MR. CUMMINGS: Yes, ma'am.

4 MS. HARDEE-THOMAS: State's ready.

5 THE COURT: All right. If we could have,
6 please, I think it's Brian Alderson.

7 Mr. Alderson, good morning. I'm going
8 to ask you, please, let me swear you in, if
9 you'll place your left hand on the Bible, raise
10 your right hand. Thank you.

11 (Brian Alderson, called as a prospective juror,
12 having first been duly sworn, is examined as
13 follows:)

14 THE COURT: Thank you so much. And have a
15 seat.

16 EXAMINATION

17 BY THE COURT:

18 Q. And, again, I thank you so much for coming in.

19 A. No problem.

20 Q. We are preparing to try a case beginning May the
21 13th, and obviously you've been summoned as a
22 prospective juror --

23 A. Right.

24 Q. -- on that date. And we have your questionnaire
25 and we've been over your questionnaire and read it,

1 we've read it and there were just some -- a little
2 more information that I need --

3 A. Okay.

4 Q. -- from you regarding this -- regarding your
5 comments. And I would note that what you're telling
6 me is that you are the president of a small company
7 and that you are preparing a -- which sounds like a
8 very large bid for your business, I'm sure.

9 A. Largest one from our company ever.

10 Q. All right. And that it is a very active time
11 for you over the next, and you say 30 to 45 days.

12 Can you tell me a little bit about your company?

13 A. The company was founded in 1983. I'm not the
14 founder, I've taken over.

15 Q. Right. Can you tell me the name?

16 A. Fuentes Systems Concepts.

17 Q. You tell me here as well, yes, sir.

18 A. And we are a government contractor primarily.

19 And in order to do business with the government you
20 have to submit proposals which are -- this particular
21 one is about 175 pages.

22 Q. I was going to say, it's probably exhaustive.

23 A. We have a large team. And most of the work on
24 the proposal is being done from the Washington area.
25 So since the RFP was released which --

1 Q. That's the request for proposals?

2 A. Correct, which was done in the April time frame.

3 Q. Yes.

4 A. I've been traveling back and forth between here
5 and Washington.

6 Q. And as the president you're responsible for
7 putting together that RFP, or primarily responsible?

8 A. I'm certainly not the only one that works on it,
9 but I am overall responsible for it, yes.

10 Q. How many employees does your company have?

11 A. Just over 200.

12 Q. All right. And what would be the result if you
13 were not available to do the work that you are doing
14 on this proposal? Is there someone else that could
15 do what you are doing?

16 A. Now, I'm not going to say there's not anybody,
17 but I think from an overall company perspective and
18 the overall flavor of the proposal as the head of the
19 company I'm the only one that can put in that total
20 flavor into the proposal.

21 Q. All right. And -- all right. Very well. I'm
22 now going to ask whether or not these folks have any
23 questions for you.

24 THE COURT: Mr. Bailey.

25 MR. BAILEY: None from the State, Your

1 Honor.

2 THE COURT: All right.

3 MR. CUMMINGS: Just a couple.

4 EXAMINATION

5 BY MR. CUMMINGS:

6 Q. The nature of your business.

7 A. Yes.

8 Q. Is it involving the defense of our country or is
9 it supplying necessary things? I'm trying to find
10 out what you do.

11 A. It's primarily for the Department of Defense,
12 Navy in particular, but we also do some work for the
13 Coast Guard.

14 Q. All right, sir. So obviously the government's
15 purchasing more items during our period of time now
16 than --

17 A. Absolutely, yes.

18 Q. And this government contract -- and, again, in
19 particular why I'm asking is not to divulge amounts
20 of quantities or whatever, sir, but this government
21 contract, is it as Her Honor asked you a time
22 specific issue that you have to be there, or can
23 another member of your good staff handle those
24 negotiations and/or, you know, requirements that the
25 government's putting on your company?

1 A. The specific procurement has a deadline of when
2 it has to be turned into the government.

3 Q. When is that, sir?

4 A. That's the 24th of May.

5 Q. Twenty-fourth of May. And, again, the other
6 half of my question was, was there anybody on your
7 good staff or company that could fulfill those duties
8 and you believe it would be done satisfactory if you
9 were not there?

10 A. Satisfactory is one thing. Like I said before,
11 as the president of the company I'm overall
12 responsible and I need -- I feel that I need to make
13 sure that the flavor of the entire company is
14 presented in that proposal and I think I'm the best
15 person to do that.

16 Q. Okay, sir.

17 MR. CUMMINGS: I thank Your Honor and thank
18 you, sir.

19 THE COURT: Thank you so much. I'm not
20 sure I introduced myself. I'm Diane Goodstein
21 and presiding over this trial. If you will do
22 this for me, Mr. Alderson, I'm going to ask you
23 just to step outside and we're going to talk
24 about you a second behind your back. I'm going
25 to ask you to step right back in just a moment.

1 Thank you so much, Mr. Alderson.

2 (Whereupon, the prospective juror exits
3 the courtroom.)

4 THE COURT: What says the State?

5 MR. BAILEY: No objection to excuse him
6 from the State.

7 MR. CUMMINGS: Judge, we beg the Court's
8 indulgence one moment.

9 THE COURT: Indeed. Certainly.

10 (Mr. Cummings and Ms. Hardee-Thomas conferring
11 with Mr. Bowman.)

12 MR. CUMMINGS: We would agree to excuse
13 this gentleman based on the fact that I would
14 specifically put this on the record, he's
15 involved with a government contract with the
16 defense of our nation and Mr. Bowman stated he
17 would have no objection because obviously his
18 mind would be somewhere else to try to protect
19 our country.

20 THE COURT: Very well. Thank you. All
21 right. If you will invite Mr. Alderson back in.
22 (Whereupon, the prospective juror returns to the
23 courtroom.)

24 Q. Mr. Alderson, again, I want to thank you for
25 coming in this morning. I do find, and counsel

Juror 004 Brian Alderson - Examination

1 certainly agrees, that you do have a compelling
2 circumstance. I would like to transfer you to
3 another term of court at some point in the future
4 when this is, this contract hopefully is acquired by
5 your company and things are not quite so hectic. I
6 would propose to transfer your service to perhaps in
7 the fall.

8 A. That's fine.

9 Q. Thank you so much.

10 A. I appreciate it.

11 Q. Thank you for coming in and we will certainly
12 excuse you for the 13th, and good luck.

13 A. All right. Thank you very much.

14 Q. Thank you, Mr. Alderson. They'll show you how
15 to exit the world that way, Mr. Alderson.

16 (Whereupon, the prospective juror steps down from
17 the witness stand and exits the courtroom.)

18 THE COURT: We now have -- Deputy Waller is
19 back I understand also with the information, so
20 let's go ahead and get him.

21 All right. Let us have Deputy Waller.
22 There he is. Back to the stand. Thank you.

23 (Michael P. Waller, called as a witness, having
24 previously been duly sworn, is examined and
25 testifies as follows:)

EXAMINATION

BY THE COURT:

Q. Thank you, Deputy Waller. Have you had a chance to check your map?

A. Right.

Q. All right. And check the addresses on those three envelopes?

A. Right. I could only find two.

Q. All right.

A. The [REDACTED], that is in Berkeley County.

Q. All right.

A. And the Nibbs Lane is in Charleston County, City of North Charleston.

Q. Oh, very well.

THE COURT: Any questions for Deputy waller?

MR. BAILEY: If we could get the juror numbers and the names.

THE COURT: Of course. And the name.

MR. WALLER: Twenty-four, Patricia Brantley from [REDACTED] [REDACTED].

THE COURT: All right.

THE CLERK: That's Charleston County?

MR. WALLER: Yes. And Number 164, Steven Kelsey, [REDACTED], that is Berkeley County.

Michael P. Waller - Examination

1 THE COURT: Let me see those. Thank you.
2 All right.

3 MR. WALLER: And I could not locate the
4 Magnolia Circle.

5 THE CLERK: That's 109?

6 MR. WALLER: Yeah, Juror Number 109.

7 THE COURT: Thank you so much. We're going
8 to mark these two again as a Court's Exhibit.
9 And we will continue to endeavor to discover the
10 last. Thank you so much.

11 (Whereupon, the witness steps down from the
12 witness stand.)

13 (Marked for purposes of the record was
14 Court's Exhibit 26, affidavits of service.)

15 THE COURT: All right. Any objection to
16 Ms. Haywood's summons being released as a
17 Court's Exhibit? We can substitute a copy and
18 give the original back to the deputy so he can
19 get her served.

20 MR. BAILEY: Nothing from the State, Your
21 Honor.

22 MR. CUMMINGS: Nothing from the defense,
23 Your Honor.

24 THE COURT: All right. We do have a couple
25 of folks with children who I allowed them to go

1 back there with them because they're well
2 behaved, but apparently that has run out. Do
3 you all have any objection to taking them out of
4 order so we can keep them --

5 MS. HARDEE-THOMAS: No.

6 MR. CUMMINGS: No objection, Judge.

7 THE COURT: Hopefully the calmness for the
8 other jurors.

9 Okay. Bring us the one with the
10 screaming children.

11 THE CLERK: Do you know the name?

12 THE COURT: I don't know the name.

13 THE CLERK: Okay.

14 (Walburga Karwinski, called as a prospective
15 juror, having first been duly sworn, is examined
16 as follows:)

17 THE COURT: Thank you so much.
18 Ms. Karwinski, you can be seated right there.
19 While you're doing that you and your
20 granddaughter feel free to have a seat right
21 there.

22 EXAMINATION

23 BY THE COURT:

24 Q. And, Ms. Karwinski, my name's Diane Goodstein
25 and I am the circuit court judge here in the First

Juror 160 Walburga Karwinski - Examination

1 Judicial Circuit. Ms. Karwinski, you have been
2 summoned as a prospective juror for May the 13th.

3 A. Yes.

4 Q. And you returned to us the juror information and
5 in that you gave us some information. And I wanted
6 to ask you to come here today so we could get a
7 little more information from you because I notice
8 that you've asked to be excused from the jury service
9 because you are taking care of your granddaughter?

10 A. My granddaughter.

11 Q. Very well. All right. Let me ask you a little
12 information. Your granddaughter, her parents, one or
13 both of her parents are in the area?

14 A. Yeah, my daughter is teaching.

15 Q. Your daughter is teaching?

16 A. Yeah.

17 Q. All right. And where does she teach?

18 A. Cottageville.

19 Q. She teaches in Cottageville, all right. What
20 does she teach?

21 A. Math and science.

22 Q. Math and science, all right.

23 A. Fifth grade.

24 Q. Fifth grade, all right. And her father, where
25 is her father?

1 A. He works at the Vegetable Lamp.

2 Q. All right.

3 A. Agriculture.

4 Q. Right. For the Department of Agriculture?

5 A. Yeah.

6 Q. All right. And you are requesting to be excused
7 because you babysit her during the day?

8 A. Yeah. From 7:00 until 4:00.

9 Q. From 7:00 until her parents get off work?

10 A. Yeah.

11 Q. All right. I hate to be very, very personal
12 about this, but I need to ask you this question.

13 A. My birthday is not on there.

14 Q. Oh, all right.

15 A. I was born in Romania, I grew up in Germany.

16 Q. All right. Your date of birth is not on there?

17 A. I guess not, I skipped it.

18 Q. Yeah, it is, all right. And your birth date is
19 what?

20 A. [REDACTED].

21 Q. All right. Is this your sole source of income,
22 taking care of your granddaughter?

23 A. I don't get paid for it.

24 Q. I thought maybe you did that as a kindness to
25 your children.

1 A. No.

2 Q. Very well.

3 THE COURT: All right. Any questions from
4 either the State or the defense?

5 MR. BAILEY: None from the State, Your
6 Honor.

7 EXAMINATION

8 BY MR. CUMMINGS:

9 Q. Ma'am, your husband works at Bosch?

10 A. My husband works at Robert Bosch. He's out of
11 town, again, like usual. He's a quality engineer.

12 Q. All right. And it's the parents of this
13 beautiful little grandchild you have with you today,
14 it's their choice that you watch the child, they
15 don't pay for day-care or have anybody else?

16 A. No, it's my choice.

17 MR. CUMMINGS: Thank you very much, Judge.

18 THE COURT: Thank you so much. If you
19 would do this for me, please, ma'am, if you
20 could just step outside the courtroom for just a
21 moment. And we don't mean to be rude, but we're
22 going to talk about you behind your back for a
23 moment and then we're going to invite you back.
24 in in just a moment.

25 (Whereupon, the prospective juror exits the

1 courtroom.)

2 THE COURT: All right. Let me hear from
3 you.

4 MR. BAILEY: Your Honor, the State has no
5 objection to excusing here. I just note for the
6 record she's 64, she's pushing the limit where
7 she would be eligible to get off anyway. My
8 concern is she might -- obviously her wishes are
9 to care for the child, not to sit on the jury
10 and with a case of this magnitude she may be
11 distracted thinking about the child she cares
12 for every day, so I would have no objection to
13 excusing her.

14 THE COURT: Thank you so much.

15 Yes, sir. From the defense?

16 MR. CUMMINGS: May it please the Court.
17 Judge, just, again, for the purpose of the
18 record, she does not meet the statutory age
19 requirement, nor is she the statutory person for
20 parenthood of watching a child, but I cleared
21 this with my client. Obviously when I asked
22 that question about the day-care it was her
23 choice, not even the parents' choice, so Mr.
24 Bailey stated correctly I think her mind would
25 be on that grandchild, not on this case. I have

Juror 160 Walburga Karwinski - Examination

1 Mr. Bowman's permission, Judge, to excuse this
2 juror if you see fit, ma'am. I think Ms. Thomas
3 concurs with my decision that we would have no
4 objection.

5 THE COURT: Very well. I concur with you,
6 I likewise am concerned that as it is her choice
7 and she may very well be distracted, concerned
8 about who is taking care of her very young
9 grandchild in the event she's unable to do that
10 and I concur as well.

11 If you would invite Ms. Karwinski back
12 in, please.

13 (Whereupon, the prospective juror returns to the
14 courtroom.)

15 Q. I wanted to thank you again for coming in this
16 morning and I am going to excuse you for your service
17 on this jury.

18 A. Thank you very much.

19 Q. Thank you again for coming in, you and your
20 beautiful granddaughter. You all have a pleasant
21 day.

22 A. Thank you.

23 (Whereupon, the prospective juror steps down from
24 the witness stand and exits the courtroom.)

25 THE COURT: Good morning.

Juror 130 Gayla M. Heinrich - Examination

1 MS. HEINRICH: Hello.

2 THE COURT: Good morning. Thank you so
3 much. You get him settled.

4 MS. HEINRICH: Okay. We'll try.

5 THE COURT: All right. You can stand,
6 that's fine, whatever you need to do. I'm going
7 to ask you to place your left hand on the Bible
8 real quick.

9 (Gayla M. Heinrich, called as a prospective juror,
10 having first been duly sworn, is examined as
11 follows:)

12 EXAMINATION

13 BY THE COURT:

14 Q. I'm Diane Goodstein, so let me begin by
15 introducing myself, I'm the circuit court judge for
16 the First Circuit. You pick him up, do whatever you
17 need to do.

18 A. I'm going to get him a little candy and that's
19 probably all we need to do.

20 Q. Okay. That's fine.

21 A. Okay. I guess I'm ready.

22 Q. If you'll state your full name for our record,
23 please.

24 A. Gayla Marie Heinrich.

25 Q. Heinrich. Ms. Heinrich, I appreciate you coming

1 in so much this morning. We are preparing to try a
2 case.

3 A. Yes, ma'am.

4 Q. And you have been summoned as a prospective
5 juror for May the 13th.

6 A. Right.

7 Q. And we have your juror questionnaire and just
8 have a couple of questions and need a little more
9 information.

10 A. Okay.

11 Q. That's why we asked you to join us this morning.
12 And, again, I appreciate you doing that. Let me ask
13 you this: First of all, do you work outside your
14 home?

15 A. I work part-time, I'm a part-time accountant, I
16 work two days a week.

17 Q. All right. What hours do you work?

18 A. I normally work Tuesdays and Thursdays.

19 Q. Okay.

20 A. Pretty much full days from, say, 8:30 until four
21 o'clock hours.

22 Q. All right. And, Ms. Heinrich, where does your
23 child stay when you work?

24 A. My husband teaches at a college and he teaches
25 at night those two days, so he keeps him at home the

1 two days that I work.

2 Q. I understand. And where does he -- what
3 college?

4 A. He works at Trident Technical College.

5 Q. Good. And I know that Trident is about to be
6 adjourned for the summer. Does he also teach in the
7 summer?

8 A. Yes, he teaches -- he always has the option to,
9 but he is teaching this summer also.

10 Q. He is teaching this summer?

11 A. Right.

12 Q. When will his summer schedule begin?

13 A. I never know exactly the dates.

14 Q. Is he anticipated to be teaching during, say,
15 the week of May the 13th?

16 A. That is not a week that he will have to work.

17 Q. All right.

18 A. Okay.

19 Q. How about the following week, which would be the
20 21st of May?

21 A. I'm not sure.

22 Q. The 20th of May would be that Monday, the 20th
23 of May.

24 A. He may not have to work that week also.

25 Q. All right. All right. And how about the

1 following week, which would be Monday the 27th?

2 A. I know that's the week he definitely has to be
3 back there.

4 Q. You know that he will be working or teaching the
5 week of May the 27th?

6 A. That's right.

7 Q. All right.

8 A. That's right.

9 Q. And do you have, are there times when you work
10 when he is not able to keep your son?

11 A. I mean, we do run into conflicts sometimes
12 because we try to work this out just for about the
13 past year.

14 Q. Yes.

15 A. But we don't have any permanent day-care so we
16 find friends to do it for hours here if he has to go
17 in when I need to work and that sort of thing.

18 Q. Very well.

19 THE COURT: Let me ask from the State any
20 questions?

21 MR. BAILEY: Very briefly, Your Honor.

22 EXAMINATION

23 BY MR. BAILEY:

24 Q. Ms. Heinrich, I noticed on your questionnaire
25 there's one question about whether or not you're

1 attending school.

2 A. Yes.

3 Q. And you had checked yes.

4 A. Yes. I'm a CPA, but I just work part-time in
5 order to keep my certification. I also go do
6 continuing professional education.

7 Q. Okay.

8 A. And I've chosen to do it through taking college
9 classes.

10 Q. All right.

11 A. So currently I'm in a college class, I'm in a
12 graduate accounting class through the College of
13 Charleston.

14 Q. How many hours are you taking now?

15 A. This is the second year I've done it and I am
16 just taking a three-hour course.

17 Q. Is that a night course, or daytime?

18 A. It was an afternoon course. I start at four
19 o'clock. As soon as I get off work on Tuesdays I've
20 been going to class for three hours.

21 Q. And that's every Tuesday?

22 A. Yes.

23 Q. If you missed two Tuesdays would you get pretty
24 far behind?

25 A. I can't miss any classes in that class.

1 Attendance is mandatory there. But that's
2 concluding, I'm in the process of finishing up finals
3 there.

4 THE COURT: When will you conclude?

5 MS. HEINRICH: I think my final is due the
6 week after Tuesday. My final and my paper is
7 due a week from Tuesday.

8 THE COURT: A week from this coming
9 Tuesday, May the 14th?

10 MS. HEINRICH: That's right.

11 THE COURT: And from the defense?

12 EXAMINATION

13 BY MR. CUMMINGS:

14 Q. I don't ever mean to be personal, nor anybody in
15 this courtroom.

16 A. That's okay.

17 Q. Is there anybody else in your family who -- in
18 this area or immediate area who could watch your
19 beautiful child if you were picked to serve on a jury
20 up here?

21 A. Well, that's the problem. My husband and I are
22 both from Texas and we have no immediate families
23 here at all, so we really rely just on ourselves and
24 some friends for short amounts of time and that's
25 basically about it.

1 Q. And I know you said that your spouse will be off
2 at least from the 13th through the 27th, I mean we
3 have one either holiday granted by the school or the
4 State during that time.

5 A. Right.

6 Q. What -- do you know, ma'am, I'm not asking you
7 to guess today, what his teaching days would be
8 during summer school starting in June or July?

9 A. If I'm -- I need to get this figured out, but
10 I'm pretty sure that he will still have his Tuesdays
11 and Thursdays off because I'm counting on still going
12 to work Tuesdays and Thursdays, so he will work the
13 other three days during -- he works all day from day
14 into the evening those three days and then at night
15 on Tuesday and Thursday nights.

16 Q. Yes, ma'am. This is the most polite way I can
17 ask you this question and it sounds like I'm an ogre,
18 but if the Court were to require, not either the
19 State or the defendant, but if the Court were to
20 require you, again, being a CPA, to perform your
21 civic duties up here, if the child had been placed in
22 day-care until your spouse could come pick the child
23 up, would that create a financial hardship or an
24 economic hardship on you so bad that you could tell
25 Her Honor that that could not be possible?

1 A. For the most part you really can't get any
2 full-time day-care unless you do it way in advance,
3 so I don't even have an opportunity to get a
4 full-time day-care even for a week if I were to come
5 in a week from now or something. I'm not even sure
6 that's possible. And if that's possible, yes, it
7 would become a financial hardship on myself.

8 MR. CUMMINGS: Thank you, Judge. Thank you
9 very much, ma'am.

10 THE COURT: Let me tell you how we're going
11 to proceed.

12 MS. HEINRICH: Okay.

13 THE COURT: I'm going to ask you to just
14 step outside the courtroom for just a moment so
15 we can talk about you behind your back for just
16 a moment and then we'll invite you back in.

17 MS. HEINRICH: Okay. Can I make one point?

18 THE COURT: Certainly.

19 MS. HEINRICH: You did receive my letter
20 that I was looking forward to serving as a
21 juror, but we do have -- we will be putting him
22 in day-care or have that available in the fall.
23 So that was my question, if I could please
24 postpone it.

25 THE COURT: That's a possibility.

1 MS. HEINRICH: That is my request. Not to
2 get out of it, but just to postpone if possible.

3 THE COURT: Yes, that is a possibility.
4 Thank you so much. If you'll just step right
5 out we will be with you very shortly.
6 (Whereupon, the prospective juror exits the
7 courtroom.)

8 MR. BAILEY: Your Honor, I don't want to
9 separate a mother from a two year old for a
10 period of weeks and I would ask she be excused.

11 THE COURT: And from -- do you need a
12 moment, Mr. Cummings?

13 MR. CUMMINGS: If we may, yes, ma'am,
14 please.

15 (Mr. Cummings and Ms. Hardee-Thomas conferring
16 with Mr. Bowman.)

17 MR. CUMMINGS: I'm going to sound like the
18 ogre of the year.

19 THE COURT: No, sir.

20 MR. CUMMINGS: Your Honor, respectfully,
21 she does not meet the statutory definition to be
22 excused because she does work outside the home.
23 I understand that in the modern professional --
24 ladies today, they've got to choose between
25 parenthood or career and this lady has chosen to

1 keep her certificate, keep her license up like
2 we all do and go to classes and stuff.

3 Mr. Bowman, and as his lawyer on his
4 behalf, I would say that she is an exemplary
5 person and would be a wonderful asset to the
6 State and the defense on a jury if the Court
7 does not excuse her. And I state that on the
8 record that I would like to keep the lady in the
9 possible potential jurors. She may get struck
10 for another reason or we may have to go through
11 this process when we go through it later on next
12 week, but for right now we would ask that she be
13 maintained in the general jury venire, ma'am.

14 THE COURT: Thank you so much, Mr.
15 Cummings. Over the objection of the defense I'm
16 going to excuse Ms. Heinrich for -- because I
17 find that jury service would work an undue
18 hardship upon her. While she believes that the
19 first two weeks of the anticipated -- of our
20 trial it is anticipated her husband very well
21 may be available to watch their -- particularly
22 their very small child who is two years old, and
23 I note that they have three children and that
24 certainly the two year old was very active. She
25 does not have available day-care, she does not

1 have available child care, and as she indicated
2 it is extraordinarily difficult to find day-care
3 on a temporary basis.

4 She does not have any family in this
5 area, she and her husband are both from Texas,
6 and his teaching responsibilities she knows
7 firmly begin on the 27th. And I have heard
8 both -- from both counsel that there is concern
9 that this case could go beyond three weeks and,
10 therefore, considering that she may be in a
11 circumstance to need more than just a week, one
12 week of day-care, child care, which likely would
13 be unavailable to her. And I should also note
14 that she does work two days a week, but she has
15 worked that out so that her husband teaches in
16 the evenings. And apparently that arrangement
17 is done much in advance.

18 So I would find that she does indicate
19 a hardship and the exemption -- and I know that
20 counsel is saying that she works outside her
21 home two days a week, that the exemption does
22 not apply, I think that there still yet is an
23 argument that it does. But even irrespective of
24 whether it does or it does not, I find that she
25 certainly indicates a hardship and over the

1 exception of the defense I will excuse
2 Ms. Heinrich.

3 All right. If you would invite her
4 back in.

5 (Whereupon, the prospective juror returns to the
6 courtroom.)

7 Q. Ms. Heinrich?

8 A. Yes.

9 Q. Again, thank you so much for coming in here
10 today. We will transfer your service given all of
11 the circumstances that you shared with us.

12 A. Okay.

13 Q. And we will transfer your service up until fall,
14 probably October or November.

15 A. Okay.

16 Q. We look forward to seeing you then.

17 A. That would be excellent. I look forward to
18 serving then.

19 Q. Thank you.

20 A. Okay. Can I just head out that way?

21 Q. You can come this way if you would like.

22 A. Thank you.

23 Q. Thank you again. Bye-bye.

24 (Whereupon, the prospective juror steps down from
25 the witness stand and exits the courtroom.)

1 THE COURT: All right. Our next
2 prospective juror is what number?

3 MR. TAYLOR: We have one more with a child.

4 THE COURT: I thought we were through with
5 the children. Great. Thank you, Mr. Taylor.

6 How are you this morning? I'm Diane
7 Goodstein, I'm one of the two resident circuit
8 judges from our circuit. And can you tell me
9 who you are?

10 MS. TYUS: Nitza Tyus.

11 THE COURT: Ms. Tyus, wonderful. I'm going
12 to ask you, if you would, to place your left
13 hand, thank you, raise your right hand.

14 (Nitza I. Tyus, called as a prospective juror,
15 having first been duly sworn, is examined as
16 follows:)

17 THE COURT: Thank you so much.

18 EXAMINATION

19 BY THE COURT:

20 Q. And if you and your sweet one want to have a
21 seat right here, that would be great. And you spell
22 your last name T-y-u-s?

23 A. That's correct.

24 Q. Ms. Tyus, you have been notified as a
25 prospective juror on a case which is going to trial

Juror 310 Nitza I. Tyus - Examination

1 on May the 13th and you -- we have your juror
2 questionnaire and I just needed to have a little more
3 information from you.

4 A. Sure.

5 Q. If you would be so kind. And this beautiful
6 young person I gather is your one-year-old child that
7 you speak of in your juror questionnaire?

8 A. Uh-huh (affirmative response).

9 Q. All right. How old are your other children, are
10 they over the age of seven, or under the age of
11 seven?

12 A. I have a 19 year old, a 16 year old, 12 year
13 old, and we adopted her at the hospital.

14 Q. All right. And let me ask you this, Ms. Tyus:
15 Do you work outside your home?

16 A. I babysit occasionally a set of twins, five year
17 olds.

18 Q. Can you tell me what you mean by "occasionally"?

19 A. Well, mom's a teacher so, you know, whenever she
20 needs me I babysit.

21 Q. And that might be -- is that on a daily basis,
22 weekly basis?

23 A. That's during the school season. I started as a
24 set -- as to help the other lady out, she was a
25 74-year-old lady and she got sick and so they'll call

1 me, so I've been doing it Monday through Friday.

2 Q. And so now you are sitting for a 74-year-old
3 lady?

4 A. No, no. She was the original babysitter and so
5 when she would come and go, come and go, and then
6 they would have me.

7 Q. I'm with you. When their main babysitter wasn't
8 able to go --

9 A. Right.

10 Q. -- then you would go?

11 A. Right. She's been doing it for seven years,
12 because they have an older child. Then back in
13 January she really got ill and so I started doing it.

14 Q. So you take her. So in addition to your own
15 child you watch a teacher's two children?

16 A. Uh-huh (affirmative response).

17 Q. I understand. And so teachers are about to get
18 out I gather the first of June, right?

19 A. June 15th I heard.

20 Q. June the 15th, okay. And then -- but you don't
21 place your own child in day-care?

22 A. No, I take her with me.

23 Q. All right. In other words, you're able to
24 provide day-care for your own child and someone
25 else's and make some money?

1 A. Right.

2 Q. All right. Very well.

3 THE COURT: Any questions from the State?

4 MR. BAILEY: None from the State, Your
5 Honor.

6 THE COURT: From the defense?

7 MR. CUMMINGS: Beg the Court's indulgence.

8 (Mr. Cummings and Ms. Hardee-Thomas conferring
9 with Mr. Bowman.)

10 MR. CUMMINGS: No questions, Your Honor.

11 THE COURT: Ms. Tyus, would you do this for
12 me? There are no questions for you. Would you
13 just step right outside and we'll talk about
14 you. We're going to talk about you for a minute
15 and we'll invite you right back in. Thank you
16 so much.

17 MS. TYUS: All right.

18 THE COURT: Thank you.

19 (Whereupon, the prospective juror exits the
20 courtroom.)

21 THE COURT: From the State?

22 MR. BAILEY: Your Honor, same as the
23 previous one, as long as the jury may be
24 sequestered I don't think a woman with a child
25 that age needs to be on it.

1 THE COURT: Thank you.

2 MR. CUMMINGS: I would just note the same
3 thing, Judge, I know you're going to overrule my
4 humble objection. I don't know if she's doing
5 it for income in the house or there's any other
6 issues about her, but obviously with a small
7 two-year-old infant the Court pretty much has --

8 THE COURT: She stays with her child, her
9 child is not placed in day-care.

10 MR. CUMMINGS: Yes, ma'am.

11 THE COURT: Thank you so much. Over the
12 objection of the defense I find that Ms. Tyus
13 should be excused. I find that she does not
14 leave her child, while she babysits other
15 children, she provides day-care for her own
16 daughter and I find that she ought to be
17 excused. I think that the exemption applies to
18 her, but even if it doesn't she certainly
19 exhibits a hardship because she stays with her
20 daughter and for her to serve would entail her
21 changing what her pattern is with her two year
22 old and I don't think that's what's
23 contemplated.

24 I think what's contemplated by the
25 exemption clearly is that if you have a mother

Juror 310 Nitza I. Tyus - Examination

1 who stays and provides day-care for their child,
2 that that is what the exemption contemplates. I
3 think that's clearly what this lady is doing, so
4 I would, over the objection and exception of the
5 defense, would excuse her. Thank you.

6 (Whereupon, the prospective juror returns to the
7 courtroom.)

8 Q. I'm going to keep you for just a moment and tell
9 you that we are going to excuse you from your service
10 on this jury.

11 A. Okay.

12 Q. And, again, thank you so much for coming in
13 today.

14 A. Well, thank you. Thank you so much.

15 Q. All right. Bye-bye.

16 (Whereupon, the prospective juror steps down from
17 the witness stand and exits the courtroom.)

18 THE COURT: All right. Now, everyone with
19 children.

20 MR. TAYLOR: That should be it.

21 THE COURT: Now we'll go back to the
22 beginning.

23 THE CLERK: Back to the beginning is Number
24 21, Heather Bowers.

25 THE COURT: Good morning. Miss Bowers, my

Juror 310 Nitza I. Tyus - Examination

1 name's Diane Goodstein and I am a circuit court
2 judge here in Dorchester County and am set to
3 preside over a trial beginning May the 13th for
4 which you have been summoned as a prospective
5 juror. And I thank you so much for coming in
6 this morning. We have your juror questionnaire
7 and just needed to ask you a little bit more
8 information. If you would place your left hand
9 on the Bible for me. Thank you. Raise your
10 right hand.

11 (Heather M. Bowers, called as a prospective juror,
12 having first been duly sworn, is examined as
13 follows:)

14 THE COURT: Thank you.

15 EXAMINATION

16 BY THE COURT:

17 Q. And, again, for our record you are Heather
18 Michelle Bowers?

19 A. Right.

20 Q. And what your questionnaire says is that you are
21 scheduled to be out of town from May the 13th to
22 August the 7th for a summer missionary position.

23 Miss Bowers, can you tell me just a little bit more
24 about that, where are you set to go?

25 A. It's -- the organization is through the North

1 American Mission Board, it's called World Changers.
2 Same concept as Habitat for Humanity, just a
3 different organization. I'm supposed to go and be
4 the team leader of the northeast team, we do Boston,
5 Baltimore, Ohio, and Norfolk, Virginia.

6 Q. And where are you scheduled to be, Miss Bowers?

7 A. In all four of those places, yeah. We go to
8 Alpharetta, Georgia, for three weeks of training and
9 then we go out for seven weeks during the summer and
10 then come back for a couple days' debriefing and then
11 return home.

12 Q. Return home. And you tell me you're a team
13 leader did you say?

14 A. Right.

15 Q. Which means you are -- what does that mean?

16 A. Well, I did last summer so any returners have
17 like the chance to do that, so there's five people
18 per team and I'm in charge of making sure my team
19 does what we're supposed to do.

20 Q. And you are to begin your training on May the
21 13th, is that what happens first?

22 A. We go to Alpharetta.

23 Q. You go to Alpharetta for your training?

24 A. Right.

25 Q. And that will teach you how to be a team leader?

1 A. Right.

2 Q. After that you immediately go out into your
3 duties?

4 A. Right.

5 Q. All right. And obviously this is your
6 missionary -- this is your mission work, if you will?

7 A. Uh-huh (affirmative response).

8 Q. And I must ask of you, is this your summer job
9 as well?

10 A. Well, I graduate a week from Sunday.

11 Q. Oh, congratulations.

12 A. Thanks. So I do this for the summer and then I
13 start grad school when I come back in the fall, so
14 it's just a summer thing.

15 THE COURT: All right. Any questions?

16 MR. BAILEY: None from the State, Your
17 Honor.

18 MR. CUMMINGS: None from the defense,
19 Judge.

20 THE COURT: Very well. Thank you so much.

21 Q. Now, Miss Bowers, I'm going to ask you to just
22 step right outside the courtroom.

23 A. Sure.

24 Q. We're going to talk about you behind your back
25 for just a minute. And we'll invite you right back

Juror 21 Heather M. Bowers - Examination

1 in just a couple of minutes.

2 A. Sure.

3 Q. Thank you so much.

4 (Whereupon, the prospective juror exits the
5 courtroom.)

6 THE COURT: Anything from the State?

7 MR. BAILEY: No objection from the State,
8 Your Honor.

9 MR. CUMMINGS: No objection, Judge.

10 THE COURT: Thank you so much. Invite her
11 back in, please.

12 (Whereupon, the prospective juror returns to the
13 courtroom.)

14 Q. Thank you so much, Miss Bowers, for coming in,
15 that information is exactly what we needed. Good
16 luck and we will excuse you. What I would like to do
17 is to transfer your service. Where are you going to
18 be in grad school?

19 A. The Citadel.

20 Q. Oh, all right.

21 A. So I'll still be local.

22 Q. Terrific. What I'd like to do is to perhaps
23 transfer your service to mid to late August.

24 A. That should be fine.

25 Q. And if not, you let us know then.

1 A. Great.

2 Q. Thank you so much. Good luck to you.

3 A. Thanks.

4 (Whereupon, the prospective juror steps down from
5 the witness stand and exits the courtroom.)

6 THE CLERK: Number 63.

7 THE COURT: Ms. Cummings is here and she is
8 not well, so we're going to invite her in next.

9 Do you all have the letter from Dr. Wimberly?

10 MR. BAILEY: I don't think I've got it. It
11 just came in this morning.

12 THE COURT: It just came in this morning?

13 MR. CUMMINGS: Yes.

14 THE COURT: All right. Show this.

15 (Marilyn J. Cummings, called as a prospective
16 juror, having first been duly sworn, is examined
17 as follows:)

18 EXAMINATION

19 BY THE COURT:

20 Q. Good morning. You got some juice? You want a
21 little juice?

22 A. I just have low blood sugar.

23 Q. What can we get for you?

24 A. Actually I'm eating this fruit. I ate breakfast
25 at like 7:30.

1 Q. Well, listen, we have fruit and we have cookies.

2 A. I can't eat sugar.

3 Q. Fruit. If we got you grapes, would that be
4 better for you?

5 A. I'm eating this.

6 Q. You've got an apple, that should suffice?

7 A. It should.

8 Q. Did someone come with you?

9 A. Actually he did, yeah. He's driving me home,
10 thankfully.

11 Q. He's driving you home?

12 THE COURT: All right. Counsel, did I see
13 an indication from both of you?

14 MR. CUMMINGS: Yes, ma'am. We would
15 concur, Judge. Thank you.

16 Q. Ms. Cummings, I got it. Thank you. This -- let
17 me tell you that counsel has had an opportunity to
18 review Dr. Wimberly's statement, this has been so
19 very helpful, this additional information, and we
20 certainly are able to excuse you. And thank you so
21 much for coming in and bringing this to us today, all
22 right?

23 Now what I don't want you to do is I don't
24 want you with your blood sugar low do things
25 that's -- I don't want you to move or do things until

1 you are ready. And tell us how we can help. But we
2 are able to excuse you. Do you want us to get your
3 driver? Do you need to sit a while?

4 A. Actually, I just want to -- I mean, he's out
5 there waiting, I don't want to keep him waiting too
6 much longer.

7 Q. We'll summon him for you.

8 A. He's right outside. I don't want to keep him
9 waiting longer.

10 THE COURT: We'll make this a part of the
11 record.

12 (Marked for purposes of the record was
13 Court's Exhibit 27, doctor's excuse.)

14 (Pause in proceedings.)

15 MR. CUMMINGS: Judge, during the break our
16 clerk of court showed us a letter from the
17 doctor, Juror Number 75.

18 THE CLERK: Came in four o'clock yesterday
19 afternoon, Judge.

20 THE COURT: Yes. And this is on Katherine
21 Dillehay.

22 MR. CUMMINGS: Yes, ma'am.

23 THE COURT: All right. Let me do this for
24 the record, I did not want to do that while
25 Ms. Cummings was in here, Ms. Marilyn Cummings,

Juror 63 Marilyn J. Cummings - Examination

1 Juror Number 63. We did, if you will, hand
2 signals once you all had an opportunity to meet
3 Ms. Cummings and see Dr. Wimberly's report which
4 came in this morning so neither one of you had
5 benefit of that report clearly until this
6 morning. And what I understood from you was
7 that you both consented to her being excused on
8 medical reasons, particularly when you had an
9 opportunity to get something from the doctor.
10 And I am correct in that; am I not?

11 MR. BAILEY: That's correct, Your Honor.

12 MR. CUMMINGS: Absolutely, Judge.

13 THE COURT: Very well. So Number 63 will
14 be excused.

15 That brings up then Number 75, which
16 we've just had faxed to us a medical statement
17 from Dr. Tuten that says that Ms. Dillehay is
18 scheduled to have surgery, I gather that's
19 5-6-02.

20 MR. CUMMINGS: That's what I read.

21 THE COURT: No activities, working, or
22 driving for one to two weeks until her post-op
23 appointment.

24 Okay. Counsel, you want to tell me
25 something about that? Are you telling me that

Juror 75 Katherine M. Dillehay

1 you are inclined to excuse her on that basis, or
2 transfer her?

3 MR. BAILEY: I am. I don't know whether
4 Mr. Cummings is.

5 MR. CUMMINGS: I said the same thing
6 because basically if she's going to be in
7 surgery...

8 THE COURT: Bless her heart.

9 MR. CUMMINGS: Thank you, ma'am.

10 THE COURT: Very well. What we will do is
11 we will transfer Ms. Dillehay to the fall.
12 Katherine Dillehay. All right. She is not
13 here, is she, Ms. Dillehay?

14 THE CLERK: No, ma'am.

15 THE COURT: She is not present, all right.
16 Just be sure that Mr. Dillehay is not here when
17 you step back here. Because you have the not
18 here and I don't have Ms. Dillehay on the not
19 here list.

20 THE CLERK: She wasn't summonsed to come in
21 here today. We just received this yesterday
22 afternoon and that's all she sent.

23 THE COURT: Very well. All right. Our
24 next person would be?

25 THE CLERK: Number 34.

Juror 75 Katherine M. Dillehay

1 THE COURT: Number 34, all right. Number
2 34 is Cabading.

3 Good morning.

4 MS. CABADING: Good morning.

5 THE COURT: Is it Cabading?

6 MS. CABADING: Cabading.

7 THE COURT: Thank you, Ms. Cabading. I'm
8 Diane Goodstein. Thank you so much for coming
9 in today. I'm going to ask you, if you would be
10 so kind, to place your left on the on the Bible,
11 I'm going to ask you to affirm, raise your right
12 hand.

13 (Lolita B. Cabading, called as a prospective
14 juror, having first been duly sworn, is examined
15 as follows:)

16 THE COURT: If you would just be sure we
17 have your spelling correctly, would you state
18 your full name for the record and spell your
19 last name?

20 MS. CABADING: Lolita B. Cabading,
21 C-a-b-a-d-i-n-g.

22 EXAMINATION

23 BY THE COURT:

24 Q. Thank you, Ms. Cabading. Ms. Cabading, I
25 appreciate you coming in this morning, you have been

1 summonsed as a prospective juror on May the 13th for
2 a trial. And we have received back from you your
3 summons and questionnaire and your letter.

4 A. Yes.

5 Q. And we needed to ask you a little more
6 information regarding what you have sent in, and so I
7 do so appreciate you being here.

8 A. Thank you.

9 Q. Your letter states that your concern is that if
10 you are to serve on a jury that you would be in
11 violation of a DHEC requirement that there be a
12 minimum of staff to resident ratio.

13 A. Yes, ma'am.

14 Q. Tell me a little bit about that.

15 A. See, the ratio is eight and I'm the
16 administrator of the two buildings.

17 Q. All right.

18 A. And one of my staff will do my job, she quit on
19 the 15th of April and I didn't get anybody to work
20 like what I'm doing. It's hard because that's for
21 elderly, I cannot just get somebody to replace me for
22 a certain day to work with me.

23 Q. So as I understand it the -- there was a
24 gentleman who could fill in for you as the
25 administrator and he left on April the 15th?

Juror 34 Lolita B. Cabading - Examination

1 A. No, not gentleman, a lady.

2 Q. Lady, all right.

3 A. A lady.

4 Q. An employee who could fill in for you?

5 A. Yes.

6 Q. But that employee is no longer there?

7 A. Is no longer there. She resigned April 15th, so
8 until now I'm trying to get someone to do my job just
9 for a couple of days to interview. It's very hard
10 because my job is not just like, you know.

11 Q. It's not an easy to fill position?

12 A. I have to train at least two to three weeks to
13 do my job because it's working with the elderly is
14 hard, that I could just fill in somebody.

15 Q. I understand. And tell me a little bit about
16 the ratio. You said that the DHEC ratio requirement
17 is what?

18 A. Eight. Eight resident to one employee.

19 Q. All right. Eight residents to one employee.
20 And does that include administrators as well?

21 A. Yes, because if one of my employees, I'm the one
22 who will do the job, something like that.

23 Q. You fill in?

24 A. Yeah.

25 Q. How many employees do you have?

1 A. It depends upon how many resident.

2 Q. Okay. Today how many employees do you have?

3 A. Today I have -- I have 18 employee -- 18
4 resident, in the other building is 15 resident. So I
5 got four there, four employee.

6 Q. All right. And do you have -- depending on how
7 many residents you have do you have --

8 A. Yes.

9 Q. Do you change the number of employees?

10 A. Yes.

11 Q. So that if you have more residents you go and
12 have more employees?

13 A. Yes, ma'am.

14 Q. And then if you have less then you can release
15 some of your employees?

16 A. No, it's not release. I let them stay there,
17 but some of my resident they go program at daily so
18 they go, you know.

19 Q. They're in a daily program with you?

20 A. Yes.

21 Q. I understand. So at this time you have four
22 employees plus --

23 A. Plus me.

24 Q. All right. And your concern is that none of the
25 employees that you have can serve as an

1 administrator?

2 A. Yeah. Medication, I'm the only one who do the
3 medication for the resident because I don't want them
4 to make mistakes so I'm always there to do the
5 medication.

6 Q. You --

7 A. I work there 24 hours.

8 Q. All right. And what you're telling me is that
9 you administer all the medications?

10 A. I do the medication when I'm there.

11 Q. And who does the medication when you are not
12 there?

13 A. My other son.

14 Q. Oh, you have a son who works with you?

15 A. Yeah.

16 Q. All right. Do you have one or two sons, or
17 children who work with you?

18 A. Yes.

19 Q. One or two?

20 A. Two.

21 Q. Two sons?

22 A. Yeah. But the other one is activities, for
23 activities. The other one is always there when he
24 don't have no appointments, but if they have
25 appointment I do all the work, yeah.

Juror 34 Lolita B. Cabading - Examination

1 Q. All right. And just to recap, your concern if
2 you had to serve is that --

3 A. Yeah, because I think it's how many days to
4 serve the jury, five days? Is that five days?

5 Q. No, it's anticipated that this trial could last
6 perhaps as long as three weeks.

7 A. Oh, well, that's the concern that I have. I
8 could do it for couple of days, but for three weeks,
9 I don't know, I will have a hard time.

10 Q. And the reason why you would have a hard time,
11 just if you could recap for us?

12 A. Well, because, see, with my job as an
13 administrator, I cannot be out for those weeks or
14 something.

15 Q. Very well.

16 THE COURT: Any questions from the State?

17 MR. BAILEY: Yes, ma'am.

18 EXAMINATION

19 BY MR. BAILEY:

20 Q. I noticed in your questionnaire that your
21 husband had passed away a couple months ago?

22 A. Yeah. And my husband passed away a couple
23 months ago also.

24 Q. Did he work with you at the nursing home?

25 A. No. My husband is 100 percent disabled.

Juror 34 Lolita B. Cabading - Examination

1 Q. All right. I think that's all I've got. Thank
2 you.

3 MR. CUMMINGS: Judge, we have no questions
4 of this nice lady. Thank you.

5 MS. CABADING: You're welcome.

6 Q. If you would just step out for a couple minutes,
7 we're going to talk about you behind your back.

8 A. That's fine.

9 Q. Thank you, Ms. Cabading. We'll have you come
10 right back in.

11 A. Okay.

12 (Whereupon, the prospective juror exits the
13 courtroom.)

14 MR. BAILEY: No objection, Your Honor.

15 MR. CUMMINGS: Judge, no objection, but I
16 just want to state on the record I'm not
17 familiar with the DHEC regulations. From what
18 we were reading from her questionnaire we had no
19 way of knowing whether she was the caretaker, or
20 the manager, or whatever, so we wanted to make
21 sure she came up on the record, satisfied you
22 and Mr. Bowman of any nature of her excuse,
23 ma'am.

24 THE COURT: Very well. We will excuse
25 Ms. Cabading. If you would have her come back

Juror 34 Lolita B. Cabading - Examination

1 in I will tell her.

2 (Whereupon, the prospective juror returns to the
3 courtroom.)

4 Q. Ms. Cabading, thank you, again, for coming in
5 this morning, we are able to excuse you for the
6 reasons that you stated, we do not want you to be in
7 violation of the DHEC regulations.

8 A. Yes.

9 Q. We do understand your concerns about leaving
10 your residents without an administrator.

11 A. Yes.

12 Q. And we will excuse you for this trial. Thank
13 you very much for coming today.

14 A. Okay. Thank you.

15 MR. BAILEY: You're welcome.

16 MS. CABADING: Bye-bye.

17 (Whereupon, the prospective juror steps down from
18 the witness stand and exits the courtroom.)

19 THE COURT: All right. Our next juror.

20 THE CLERK: Number 48.

21 THE COURT: Okay. That's Ms. Clemons. She
22 did not return the summons?

23 THE CLERK: No, ma'am. What you have is
24 what she sent back.

25 THE COURT: All right. Yes, ma'am,

Juror 34 Lolita B. Cabading - Examination

1 Ms. Clemons. Good morning, Ms. Clemons. I'm
2 Diane Goodstein and I thank you so much for
3 coming in this morning. I'm just going to be
4 asking you just a few questions. I'm going to
5 ask you if you would be so kind just to place
6 your left hand on the Bible, raise your right
7 hand.

8 (Joanne G. Clemons, called as a prospective juror,
9 having first been duly sworn, is examined as
10 follows:)

EXAMINATION

11
12 BY THE COURT:

13 Q. Thank you. Please be seated. And for our
14 record you are Joanne Clemons; is that right?

15 A. Yes.

16 Q. Ms. Clemons, let me tell you why I've asked you
17 to come in today. We have your questionnaire that's
18 been returned and we noticed one of the questions
19 gave us some information and we wanted to ask a
20 little bit more information about that, but I wanted
21 to, of course, share with you that you've been
22 selected as a prospective juror for a trial which is
23 to begin May the 13th. And when you returned the
24 questionnaire we noticed that you indicated about you
25 provide care for your mom.

1 A. Right.

2 Q. Who is in Trident Hospital?

3 A. Right.

4 Q. And that's what we wanted to -- I know it's very
5 difficult, perhaps, even to talk about for you, but
6 we needed to talk to you just a little bit more, get
7 a little bit more information about that. You spend
8 time with your mom, I gather, at Trident?

9 A. Right. I'm her only child.

10 Q. All right.

11 A. And I've been taking care of her the last three
12 and a half, four years since my father passed away.

13 Q. Yes, ma'am.

14 A. And --

15 Q. And you continue to do that?

16 A. Right.

17 Q. All right. And you spend time during the day,
18 during the evening there?

19 A. Day and night I've been with her because her
20 health is that critical at this point.

21 Q. All right. And in other words, you have left
22 her bedside to even travel here today?

23 A. Yes, ma'am.

24 Q. When you leave here today you would be
25 anticipating to return to her?

Juror 48 Joanne G. Clemons - Examination

1 A. Yes, ma'am.

2 THE COURT: Any questions from the State?

3 MR. BAILEY: No.

4 MR. CUMMINGS: None from the defense,
5 Judge, and we thank this nice lady.

6 THE COURT: Ms. Clemons, I'm going to ask
7 you to step out, we're going to talk behind your
8 back for just a minute, but we will not be long
9 and we'll bring you right back. Thank you so
10 much, Ms. Clemons.

11 (Whereupon, the prospective juror exits the
12 courtroom.)

13 THE COURT: What says the State?

14 MR. BAILEY: No objection, Your Honor.

15 THE COURT: What says the defense?

16 MR. CUMMINGS: No objection, Judge, that's
17 why we had the lady come up here.

18 THE COURT: I do know that.

19 (Whereupon, the prospective juror returns to the
20 courtroom.)

21 Q. Once again, thank you for coming. I'm so sorry
22 that you find yourself in that situation with your
23 mom, but she's -- I know you're a blessing to her and
24 I know she's lucky to have you. Thank you for coming
25 in and good luck.

Juror 48 Joanne G. Clemons - Examination

1 A. Your Honor, I would be happy to serve at a later
2 date.

3 Q. Could I put you down, perhaps, for the fall?

4 A. Yes.

5 Q. Very well. We will send you another notice.
6 October, November?

7 A. Sounds great.

8 Q. I look forward to seeing you then. Thank you so
9 much, Ms. Clemons.

10 (Whereupon, the prospective juror steps down from
11 the witness stand and exits the courtroom.)

12 THE COURT: Who's next?

13 THE CLERK: Fifty-two, Conley, Steven
14 Conley.

15 THE COURT: Mr. Conley. Good morning.
16 You're Mr. Conley?

17 MR. CONLEY: Yes.

18 THE COURT: Hi, Mr. Conley, I'm Diane
19 Goodstein. Thank you so much for being here.
20 We have your juror questionnaire, just got a
21 couple questions for you. Would you place your
22 left hand on the Bible and raise your right
23 hand?

24 (Steven D. Conley, called as a prospective juror,
25 having first been duly sworn, is examined as

1 follows:)

2 EXAMINATION

3 BY THE COURT:

4 Q. Thank you. And please be seated. We are -- I
5 am presiding over a matter which is to be tried and
6 begun on May the 13th and you have responded to your
7 questionnaire, we just have a couple of questions for
8 you. Let me flip to -- there we go.

9 All right, sir. I just notice that it says
10 down here under the question "Is there any reason why
11 you should not serve on the jury or be unable to do
12 so?" And you've indicated apparently that you had
13 just apparently suffered a sadness, it says you have
14 a 14-year-old son who's just lost his mother?

15 A. The 7th.

16 Q. The 7th of..?

17 A. April.

18 Q. April, all right. I apologize for asking you
19 information which I'm sure is (a), personal; and (b),
20 very sad. If you would indulge me I would be most
21 appreciative. Your son obviously is living with you
22 now?

23 A. Right. He's been living with me for a couple
24 years.

25 Q. Okay. He's been living with you for a couple

1 years?

2 A. She had cancer, liver cancer, so when she found
3 out she was sick she gave custody of him to me.

4 Q. To you. You all were not living together at
5 that time?

6 A. No, we never lived together. We were never
7 married or anything.

8 Q. I understand. And how has he been doing?

9 A. He's got his moments, you know. I mean, I guess
10 something that's been expecting to happen for a
11 while, but, you know, he just tends to make the wrong
12 decisions a lot of times, you know.

13 Q. All right. And are you married?

14 A. No.

15 Q. Okay. All right. And when you are working and
16 he gets home from school, tell me, you said you want
17 to be able to greet him when he gets home from
18 school. Tell me how your schedule is between the two
19 of you now.

20 A. I got to be to work at 6:30, I get off work at
21 4:00.

22 Q. Okay.

23 A. And I call and wake him up in the morning, he
24 gets himself off to school and he usually gets home
25 like five or ten minutes before me.

1 Q. All right. And that is your routine, he gets --

2 A. Pretty much.

3 Q. He's in high school?

4 A. No, he's not. He's in Alston Middle School.

5 Q. He's in Alston Middle School. I know they get
6 out at 3:40 or thereabouts, right?

7 A. Right. He rides the bus.

8 Q. By the time he gets home it's about --

9 A. Five after 4:00.

10 Q. All right. And you're home shortly thereafter?

11 A. Sometimes I'm home a couple minutes before him.

12 THE COURT: All right. Any questions from
13 the State?

14 MR. BAILEY: Nothing from the State.

15 THE COURT: From the defense?

16 MR. CUMMINGS: None from the defense,
17 Judge. Thank you so much.

18 Q. I'm going to ask you to step outside for just a
19 moment, we're going to talk about you behind your
20 back and then we'll be right back with you. Thank
21 you so much.

22 (Whereupon, the prospective juror exits the
23 courtroom.)

24 THE COURT: All right. What says the
25 State?

Juror 52 Steven D. Conley - Examination

1 MR. BAILEY: No objection, Your Honor.

2 THE COURT: What says the defense?

3 MR. CUMMINGS: Judge, no objection based on
4 the circumstances this gentleman described.

5 THE COURT: Very well. If you would ask
6 Mr. Conley to step back in.

7 (Whereupon, the prospective juror returns to the
8 courtroom.)

9 Q. Mr. Conley, under the circumstances as you have
10 described them to me, I am going to excuse you from
11 your service on the 13th, but I would like to
12 transfer you to several months into the fall, see how
13 he's doing then, hopefully you'll be doing better and
14 we'll be able to have you serve on a jury. I'm going
15 to try to transfer you to say November, all right?
16 We'll send you another notice.

17 A. All right.

18 Q. Thank you for coming in, Mr. Conley.

19 (Whereupon, the prospective juror steps down from
20 the witness stand and exits the courtroom.)

21 THE CLERK: Number 58, Mr. Creel.

22 THE COURT: Good afternoon, Mr. Creel. How
23 are you this morning?

24 MR. CREEL: Pretty good.

25 THE COURT: I'm Diane Goodstein. And I

Juror 52 Steven D. Conley - Examination

1 appreciate you coming in this morning. I'm
2 going to be presiding over a trial which is
3 scheduled to begin May the 13th and you have
4 been summoned as a prospective juror. And we
5 have your information that you sent back and we
6 just needed a little bit more information from
7 you. I'd ask you if you would be so kind as to
8 place your left hand on the Bible, raise your
9 right hand.

10 (Louis J. Creel, called as a prospective juror,
11 having first been duly sworn, is examined as
12 follows:)

EXAMINATION

13
14 BY THE COURT:

15 Q. Thank you. Be seated right there for me,
16 Mr. Creel. Mr. Creel, I'm looking at your
17 information and it says that you're concerned about
18 serving on a jury in this matter because you're
19 concerned about missing work.

20 A. Yes, ma'am.

21 Q. And you say I'm the main provider of my home and
22 that you could not afford to miss time from work.
23 Tell me a little bit more about that, Mr. Creel.
24 Because as you know missing work happens to all
25 jurors --

Juror 58 Louis J. Creel - Examination

1 A. Yes, ma'am.

2 Q. -- that would serve.

3 A. It's not only that, it's also because of my past
4 history, and I was a heavy drug user and alcoholic
5 and it's got my memory and mind. I've been clean for
6 over two years now.

7 Q. Congratulations.

8 A. It's got my mind, you know, kind of troubled and
9 it's sunk me in the hole real bad and I'm just
10 getting above water now. And I finally caught up
11 with everything and I just, you know.

12 Q. I understand. Tell me where you work.

13 A. Division Five in Hollywood, South Carolina.

14 Q. What is that?

15 A. It's a metal fabrication shop.

16 Q. I got you. Do you have any kind of time built
17 up?

18 A. No. I just --

19 Q. No vacation?

20 A. No. I just started back there about -- I've
21 been there about six months now, five months.

22 Q. About six months. You don't have any vacation
23 or any sort of leave time which is built up for you?

24 A. No. I left. Before I used to work there and
25 now I am back there again and I just started back in

1 December.

2 Q. I understand. Who is in your household,

3 Mr. Creel?

4 A. My wife and my two sons.

5 Q. How old are your sons?

6 A. Ten and seven.

7 Q. Ten and seven. Does your wife work outside the
8 home?

9 A. She does.

10 Q. She does, all right. Your wife works, I was
11 just looking at this, your wife works for Summerville
12 Elementary and does cafeteria work?

13 A. Yeah. She just brings in minimum pay.

14 Q. Okay. When you tell me about your difficulties
15 in the past, can you tell me a little bit more about
16 your concerns? You have some concerns?

17 A. It's just that when I'm -- I just have trouble
18 staying focused for long periods of time, you know, I
19 just kind of like go in and, you know, I'm sitting
20 there but I'm off somewhere else. And it's not
21 intentional, it's just like, you know, at my work
22 sometimes I'm doing things and I have to stop and
23 remember what I was doing. It's hard to follow
24 things, like watching things, movies.

25 Q. Yes.

Juror 58 Louis J. Creel - Examination

1 A. I have to stop and rewind them if I rent them
2 and go back. It's just hard for me to stay focused.

3 Q. Hard for you to follow --

4 A. Follow.

5 Q. -- when you're watching a movie the story line?

6 A. Exactly.

7 Q. You're concerned about your ability to remember
8 what the testimony is that you have heard?

9 A. Testimony, yes, ma'am.

10 THE COURT: All right. Any questions from
11 the State from Mr. Creel?

12 MR. BAILEY: Just very briefly, Mr. Creel.

13 THE COURT: All right.

14 EXAMINATION

15 BY MR. BAILEY:

16 Q. This case may last several weeks, potentially
17 three weeks. If you were picked on a jury that
18 lasted -- where the trial lasted that long with the
19 work problems that you've expressed, do you think
20 that would distract you from being able to follow the
21 trial?

22 A. Yes.

23 Q. Are you worried about finances?

24 A. Yes, sir.

25 Q. And you have no vacation time built up?

1 A. No, sir.

2 Q. The place where you work doesn't pay you for
3 jury service?

4 A. I asked about it and -- I didn't ask my
5 supervisor, I asked fellow employee who has been
6 there a long time and he said he didn't believe that
7 they did.

8 Q. All right.

9 A. I mentioned to my employer that I was coming
10 here today and he didn't say anything about it, so I
11 just presumed that they don't.

12 Q. Okay. Thank you. That's all I have.

13 MR. CUMMINGS: Just briefly again.

14 THE COURT: Yes.

15 EXAMINATION

16 BY MR. CUMMINGS:

17 Q. Mr. Creel, have you been diagnosed with any
18 medical conditions? You're telling Her Honor about
19 memory losses and other problems.

20 A. No, sir.

21 Q. Had you been treated for any -- I know you were
22 a very honest and open and above board gentleman
23 about telling Her Honor about the past history of
24 drug abuse, have you ever been in a facility such as
25 like Morris Village or someplace to dry out?

1 A. I went about -- when I was living in Florence
2 about four years ago I went to a rehab center on my
3 own will, but it didn't last for very long.

4 Q. All right, sir. Thank you very much, sir, for
5 your candor and your kindness.

6 MR. CUMMINGS: And thank Your Honor.

7 THE COURT: Thank you.

8 Q. Thank you, Mr. Creel. I'm going to ask you just
9 to step right behind the courtroom for just a minute.
10 We're going to just chat about you for a little bit
11 and then I'll get you to come right back in. Thank
12 you.

13 A. Thank you.

14 (Whereupon, the prospective juror exits the
15 courtroom.)

16 THE COURT: What says the State?

17 MR. BAILEY: State would move to excuse
18 Mr. Creel for the -- not only the missing work,
19 I think he could probably serve as a good juror
20 in a regular trial where he might miss two or
21 three days of work, but I think he would be
22 distracted, wouldn't be able to follow the trial
23 testimony, especially in view of his apparent
24 drug problems would keep him from concentrating.
25 If he can't follow a movie I don't think he

1 could follow days and days and days of testimony
2 and put it all together.

3 THE COURT: Thank you so much, Mr. Bailey.
4 Mr. Cummings.

5 MR. CUMMINGS: Judge, I concur with the
6 solicitor about we have great reservations about
7 somebody not being able to have memory,
8 particularly in light we talk about jurors not
9 taking notes.

10 THE COURT: Thank you, Mr. Cummings, that
11 came to my mind, too, is we talked about the
12 juror notebooks. And both of you had expressed
13 concerns about that and I shared with both of
14 you that I would not require them. And under
15 the circumstances that neither one of you wanted
16 the jurors to have trial notebooks and take
17 notes, as a result I think that it really
18 exacerbates his concerns about his ability to
19 follow the testimony, or follow the story line
20 in a movie which I equate to being able to
21 follow the testimony and that gives me great
22 concern, so I will excuse him on that basis.
23 Thank you so much.
24 (Whereupon, the prospective juror returns to the
25 courtroom.)

1 Q. Mr. Creel, you don't have to be seated. I just
2 wanted to tell you first of all thank you for being
3 here today and thank you for sharing that additional
4 information with us. I know that wasn't pleasant,
5 but it certainly allows us to hear your concern and
6 understand your concern which we do. And on that
7 basis we are going to excuse you from your service on
8 the jury and thank you so much for coming in.

9 A. Thank you.

10 Q. Take good care. You bet. Bye-bye.

11 (Whereupon, the prospective juror steps down from
12 the witness stand and exits the courtroom.)

13 THE COURT: Who's next?

14 THE CLERK: Number 67, Mr. Davis.

15 THE COURT: Mr. Davis. Good afternoon at
16 this point, Mr. Davis, I'm Diane Goodstein. How
17 are you?

18 MR. DAVIS: Fine.

19 THE COURT: You can be seated right there,
20 sir, appreciate you coming in. Mr. Davis, I
21 have reviewed -- first of all, I'm presiding
22 over a trial which is anticipated to begin
23 May 13th and you, of course, have been summonsed
24 as a prospective juror in that matter. We've
25 got benefit now of your jury questionnaire and

Juror 58 Louis J. Creel - Examination

1 just had a couple of questions for you and
2 that's why we've asked you to be with us and
3 come in and speak with us today.

4 I'm going to ask you to do this for
5 me, and place your left hand on the Bible and
6 raise your right hand.

7 (Earl Davis, called as a prospective juror, having
8 first been duly sworn, is examined as follows:)

9 EXAMINATION

10 BY THE COURT:

11 Q. Now, let me tell you what I'm showing.

12 A. Okay.

13 Q. Which I needed to ask you a little bit more
14 information. It says you're a little bit worried, I
15 gather, about your ability to stand for long periods
16 and you got some problems with your legs.

17 A. Yeah. I got --

18 Q. Tell me about that.

19 A. -- poor circulation in my legs.

20 Q. You have poor circulation?

21 A. Like when I sit they go numb, then when I get up
22 I have to stand a while before I can move off, they
23 give.

24 Q. I understand, all right. Let me ask you this:

25 Is there -- first thing I would tell you is that if

1 you are selected to serve on a jury you can stand if
2 you need to, or sit if you need to, whatever suits
3 you. We even have some brand new cushions coming for
4 our jury chairs for the trial and I share that with
5 you, Mr. Davis, but I would want to do whatever I
6 could to accommodate you so that you would be able to
7 serve if I needed to -- perhaps if these chairs
8 weren't adequate get you some other chair that was
9 adequate, because we certainly want you to be able to
10 serve if you are selected. We don't want to not
11 accommodate you.

12 Do you think, Mr. Davis, that we could
13 accommodate you if you could stand when you needed
14 to, sit when you needed to?

15 A. Yes, ma'am.

16 Q. That's marvelous. Thank you so much, Mr. Davis.
17 And if you would just let us know what we can do to
18 accommodate you, we'll be happy to do that.

19 A. Okay.

20 Q. All right?

21 A. Yes, ma'am.

22 Q. Thank you so much.

23 THE COURT: Any questions from the State?

24 MR. BAILEY: None from the State, Your
25 Honor.

Juror 67 Earl Davis - Examination

1 MR. CUMMINGS: None from the defense,
2 Judge. Thank you.

3 Q. Mr. Davis. Thank you for coming in.

4 A. You're welcome.

5 Q. I'll tell you what you can do. You think about
6 what we can do to accommodate you if you are selected
7 on this jury and we will do so. Thank you,
8 Mr. Davis.

9 A. Thank you.

10 Q. Thank you. Have a good day.

11 (Whereupon, the prospective juror steps down from
12 the witness stand and exits the courtroom.)

13 THE CLERK: Number 90, Mr. Eubanks.

14 THE COURT: Good morning.

15 MR. EUBANKS: Good morning. How are you?

16 THE COURT: Good. And you are Mr. Eubanks?

17 MR. EUBANKS: Yes, ma'am.

18 THE COURT: Hi, Mr. Eubanks. I'm Diane
19 Goodstein and I am to preside over the trial
20 that's to begin on May the 13th that you have
21 been summonsed for as a prospective juror. And
22 we have your questionnaire and just have a
23 couple of questions to follow up about your
24 concerns about serving in that matter and that's
25 why we asked you to come in today. I'm going to

1 ask you to place your left hand on the Bible,
2 raise your right hand.
3 (Jermaine Eubanks, called as a prospective juror,
4 having first been duly sworn, is examined as
5 follows:)

6 EXAMINATION

7 BY THE COURT:

8 Q. And I notice that you are employed?

9 A. Green Acres Landscaping.

10 Q. Yeah, Green Acres Landscaping. And your concern
11 is that you would be missing work if you were to
12 serve on a jury.

13 A. Yes.

14 Q. And I would tell you that this trial, at least
15 preliminarily, is anticipated to last, could last up
16 to three weeks, Mr. Eubanks, so I feel like I need to
17 tell you that. But I need to ask you some more
18 information. How many folks in your household,
19 Mr. Eubanks?

20 A. Me and my girlfriend live together.

21 Q. You all got any kids?

22 A. No, no kids.

23 Q. No children. And does your girlfriend work
24 outside the home?

25 A. Yes.

1 Q. She does?

2 A. Uh-huh (affirmative response).

3 Q. All right. Tell me, Mr. Eubanks, obviously
4 everybody that serves on the jury is going to be
5 sacrificing, is going to be missing work. Do you
6 have any kind of vacation time, or any kind of leave
7 time that you can build up at your business, or do
8 they pay jurors if you have to serve on a jury?

9 A. That's something I don't know, to be honest.

10 Q. All right.

11 A. Because I just been there like a year.

12 Q. All right.

13 A. And my supervisor he asked me already how long
14 this going to take. And I said I don't know. I said
15 all I can do is ask.

16 Q. Sure. Sure.

17 A. You know.

18 Q. Indeed. And when your supervisor asked you how
19 long was it going to take, he didn't share with you
20 that you've got any kind of built up time?

21 A. No. That's what I'm going to try to check into,
22 you know, within the next couple of days to find out
23 what's what.

24 Q. Yes, sir. Is it possible that you could call
25 now if I gave you a phone, could you see if there is

1 anybody in the office that could share that
2 information with you?

3 A. Yeah. I know I have four days, but other than
4 those four days I don't --

5 Q. You don't know if they pay for you when you're
6 out in jury service or not?

7 A. Yeah.

8 Q. All right. Would you like to know that
9 information? I would kind of like to know that
10 information.

11 A. Yes.

12 Q. All right. Let's do this. I'm going to ask you
13 to just go, Mr. Taylor will give you benefit of a
14 phone and then you can find that information out,
15 whether or not -- what kind of -- other than the four
16 days, what is their policy towards jury service.

17 A. Jury duty.

18 Q. That sort of thing, okay?

19 A. All right.

20 Q. Thank you.

21 (Whereupon, the prospective juror exits the
22 courtroom.)

23 THE COURT: All right. We'll just stand
24 down, let Mr. Eubanks find out. I don't
25 anticipate that he gets paid for jury service,

Juror 90 Jermaine Eubanks - Examination

1 but he certainly might. If he does I think that
2 would be information for certainly us to know
3 and for him as well.

4 All right. Who's next?

5 THE CLERK: Number 92, Paula Evans.

6 THE COURT: Oh, thank you.

7 THE CLERK: Number 92, Ms. Evans.

8 THE COURT: Good morning, Ms. Evans.

9 MS. EVANS: Hi, how are you?

10 THE COURT: Fine. I'm Diane Goodstein and
11 I appreciate you so much coming in. I am
12 scheduled to preside over a trial which is to
13 begin May the 13th and you have been summonsed
14 as a prospective juror for that matter. And we
15 have benefit of your, of your juror
16 questionnaire and some concerns that you had and
17 I just wanted to ask a few questions about that
18 if I may. And to that end I'm going to ask you
19 to place your left hand on the Bible and raise
20 your right hand.

21 (Paula A. Evans, called as a prospective juror,
22 having first been duly sworn, is examined as
23 follows:)

24

25

EXAMINATION

1

2 BY THE COURT:

3 Q. Ms. Evans, I sure hate, apologize for asking
4 about certainly your personal business, but let me
5 begin by asking you about your mom in Louisiana. Has
6 her condition changed any since you sent this in,
7 which would have just been a few days ago as I
8 understand?

9 A. No. If anything it's gotten worse. She's back
10 at the doctor right this minute and they're going to
11 let us know whether they're going to try to do
12 surgery again. They've removed one leg, they are
13 thinking about the other.

14 Q. That's what you're talking about, the constant
15 care, that the nursing home calls you?

16 A. They call my sister and my sister is getting
17 sick. She's done this for a year day and night. And
18 so she calls me like all of January and the first
19 week of February I stayed there because she just
20 got -- you know, it gets to you after a while and
21 then so she's getting to where it's about time for me
22 to come back and help a little bit.

23 Q. I'm with you. I understand. And your other
24 problem is one and -- and I kind of want to
25 understand that circumstance where when you have to

1 be excused you have to be excused immediately?

2 A. Right.

3 Q. All right. Let me ask you this question,
4 Ms. Evans, and I don't know any other way than to
5 just ask you because I certainly wouldn't want you to
6 be uncomfortable and I'm certainly willing to take
7 whatever breaks we need to to accommodate you and I
8 want you to know that. I don't want you to be
9 uncomfortable and I certainly, again, would want to
10 accommodate you.

11 And, again, I apologize for the personal
12 and sensitive nature, but give you a little bit of
13 information. We usually don't go more than about an
14 hour and a half without a break. And I know there
15 isn't any -- you don't know whether or not that would
16 be an occasion where you would need to take more
17 frequent breaks or not. But when you are taking
18 frequent breaks, about how frequently do you need to
19 break, approximately?

20 A. Usually every 30, 45 minutes.

21 Q. I understand. When you are needing to have
22 breaks?

23 A. Right.

24 Q. I understand. Now, the nature of your mother's
25 illness in Louisiana, is it diabetes?

1 A. She is a diabetic and she has had kidney
2 failure, she takes dialysis and those kind of things
3 and -- but she's lasted one year when they told us
4 she wouldn't last two months, but now she's getting
5 to where she can't eat so they're thinking about the
6 feeding tubes and things like that.

7 Q. And do you have any immediate plans that are --
8 that you actually know of to travel to Louisiana, or
9 are you -- can you tell me a little bit about that?
10 Are you anticipating making those plans?

11 A. Well, I'm really waiting more for the news
12 tonight to whether they're going to do surgery again
13 or not. But then Wednesday my sister that takes care
14 of her, they're going to tell us when they're going
15 to do surgery on her. So someone has to be there to
16 feed my mom, and so it would be me and I wouldn't
17 know that until next Wednesday.

18 Q. Your sister has to have surgery?

19 A. (Nodding.)

20 Q. All right. When do you anticipate that your --
21 that, if you will, the realm of time for your sister
22 to have surgery?

23 A. Well, they will let her know. They just did her
24 test and everything and they will let her know the
25 results of these tests on Wednesday. And they're

1 planning to do surgery, but they haven't told her
2 exactly when. So I told her, you know, to just tell
3 them whenever they needed to and I would come to tend
4 to Mom.

5 Q. I understand.

6 A. And so won't know that until Wednesday.

7 Q. When your sister, the period that you're
8 anticipating at this point that your sister would
9 have surgery, are you thinking weeks, months?

10 A. I'm thinking probably four weeks or whatever,
11 until she could get, you know, back on her feet and
12 this kind of stuff.

13 Q. Do you think when she goes Wednesday that her
14 surgical procedure's going to be --

15 A. Like the next week.

16 Q. Within days. Not within weeks or months?

17 A. No, like the next week.

18 Q. I understand. I understand.

19 THE COURT: Any questions from the State?

20 MR. BAILEY: None from the State, Your
21 Honor.

22 THE COURT: From the defense?

23 MR. CUMMINGS: None from the defense,
24 Judge.

25 Q. Now I'm going to tell you what we're going to

Juror 92 Paula A. Evans - Examination

1 do. I'm going to ask you just to step out for a
2 moment and we're going to chat without you and then
3 I'll ask you back in.

4 A. Do you need this?

5 Q. Oh, thank you so much. If you don't mind I will
6 keep this.

7 A. That's fine.

8 Q. Thank you, Ms. Evans.

9 (Whereupon, the prospective juror exits the
10 courtroom.)

11 THE COURT: Ms. Evans has shared with us a
12 doctor's statement from Palmetto Primary Care
13 physicians, it says, "Please excuse --" and it
14 says -- Ms. Paula Evans is at the top, it says,
15 "Please excuse from jury duty due to medical
16 problems."

17 All right. Let me hear from the
18 State.

19 MR. BAILEY: No objection, Your Honor.

20 MR. CUMMINGS: No objection based on the
21 doctor's note, Judge. Thank you.

22 THE COURT: Well, I think we needed that
23 additional information.

24 MR. CUMMINGS: Yes, ma'am.

25 THE COURT: And I think it certainly was

Juror 92 Paula A. Evans - Examination

1 clarified. Thank you.

2 (Whereupon, the prospective juror returns to the
3 courtroom.)

4 Q. Ms. Evans, thank you so much for coming in. The
5 information that you have given us today has been
6 very clarifying and thank you for it. Good luck with
7 your mother and I certainly will excuse you from your
8 duty, your jury duty.

9 A. Thank you. I have never done this and I really
10 wouldn't mind doing it, but it's just at this time
11 with the medical problems and her I just can't do it,
12 but....

13 Q. Thank you so much, Ms. Evans. Bye now.

14 A. Okay.

15 Q. Good luck with your sister, too. I hope she
16 gets along all right also.

17 (Whereupon, the prospective juror steps down from
18 the witness stand and exits the courtroom.)

19 MS. HARDEE-THOMAS: Your Honor, we would
20 like a copy of that note just for our records,
21 too.

22 THE COURT: Will you help us remember?

23 MS. HARDEE-THOMAS: Yeah.

24 THE CLERK: Number 93, Everly.

25 THE COURT: Number 93, Everly. Good

1 afternoon. You are Ms. Everly?

2 MS. EVERLY: Yes.

3 THE COURT: Ms. Everly, I'm Diane Goodstein
4 and I appreciate you coming in so much today.
5 You've been kind to return the response form to
6 us and we just had a few questions for you.

7 MS. EVERLY: Sure.

8 THE COURT: And to that end if you would be
9 so kind as to place your left hand on the Bible
10 and raise your right hand.

11 (Carol M. Everly, called as a prospective juror,
12 having first been duly sworn, is examined as
13 follows:)

14 EXAMINATION

15 BY THE COURT:

16 Q. Thank you so much. And you are Carol Everly.
17 And just be seated. You have, of course, as you know
18 been summonsed as a prospective juror for a term of
19 court to begin May the 13th and that is a trial over
20 which I am to preside. And I note on your response
21 form your concern is that you are a Realtor?

22 A. Yes.

23 Q. And that you work as a Realtor obviously on a
24 commission basis.

25 A. Right.

1 Q. And I just needed a little more information from
2 you, because obviously part of the jury service, part
3 of that community service is such that it entails a
4 sacrifice.

5 A. Right.

6 Q. So I wanted to know if you could help me
7 understand why your circumstance is worse because of
8 the commission, do you understand what I'm saying?

9 A. Right.

10 Q. Obviously you don't build up vacation time, you
11 take it when you want to take it, right?

12 A. Right. Most of the time I don't really take
13 vacations, per se, and if I do it's local so I can
14 come back to town to show a house or do whatever.
15 Obviously if I don't work I'm not going to get any
16 closings for the next month. And I most likely
17 wouldn't see any sort of lapse in my income in May,
18 but I would in June when the closings would be
19 occurring.

20 Q. Okay.

21 A. For example this week I've written three
22 contracts, but only two went through. And I had a
23 listing. If I wasn't working, then I wouldn't get
24 those closings.

25 Q. I understand what you're concerned about. Tell

1 me, let me share with you that this trial is
2 anticipated to last up to three weeks, so I need to
3 share that with you.

4 A. Uh-huh (affirmative response).

5 Q. And can you tell me a little bit about your
6 household? I noticed you are married and your spouse
7 is a border patrol agent. You told me you don't
8 build up vacation, you don't have leave where you are
9 paid when you are absent.

10 A. Right.

11 Q. But can you tell me a little bit about your
12 household and what that would mean for you?

13 A. My husband is a border patrol agent as you said,
14 and he teaches at the academy down at the base in
15 Charleston. And he works, you know, the normal
16 hours, just like usually 6:00 at night or so. And we
17 have a daughter who's nine and she goes to school at
18 Flowertown and I pretty much am the primary person
19 that picks her up from school, and goes to school a
20 lot, she's a special needs child so she has extra
21 needs, too, in that way.

22 And that's one of the nice things about
23 real estate, I can actually go to the school when I
24 need to off and on to touch base with them. And
25 that's basically -- and the household is, you know,

1 normal. I work usually until 5:30 or 6:00 because I
2 have to pick her up by 6:00. If I have a client in
3 the evening I have to get my husband to come home
4 early or find a babysitter or something like that.

5 Q. All right.

6 A. Is that way too much information?

7 Q. No, it wasn't, not at all. It absolutely was
8 not too much information. Your daughter is a special
9 needs, tell me a little bit about that.

10 A. My husband and his ex-wife adopted her when she
11 was an infant and he has full custody of her. And
12 I'm her stepmom, but I've been her stepmom since she
13 was three and she lives with us all the time so she's
14 mine. She has bipolar disorder and it's primarily,
15 you know, biological from her birth mother, and her
16 birth mother was alcoholic so she has, you know,
17 alcohol effects as well.

18 Q. And she's in special needs program at
19 Flowertown?

20 A. Not right now. She's still in her classroom,
21 but she gets in trouble daily and we're in the
22 process of trying to get her into a special classroom
23 right now.

24 Q. How often are you called to the school for her?

25 A. Not as often as I was last year because I write

1 a note to the teacher every day. So we communicate
2 in writing every day.

3 Q. All right. And do you go weekly to the school?

4 A. I'd say weekly, that's about --

5 Q. All right. All right.

6 A. I used to volunteer just to make my presence
7 known, but I don't even do that anymore because I
8 just got so busy.

9 Q. Very well.

10 THE COURT: All right. Any questions from
11 the State?

12 EXAMINATION

13 BY MR. BAILEY:

14 Q. I'm Walter Bailey, just a few more questions to
15 follow up on the judge. I hate to ask personal
16 questions, but that's sort of the nature of what
17 we're doing here. The jury may be put in a motel for
18 the duration of the trial, it would be several weeks.
19 Would that cause you any hardship with respect to
20 your stepdaughter and her needs?

21 A. Yes, it would. Like just because of the fact
22 that I'm the one that primarily goes and gets her. I
23 mean, I'm sure my husband would be more than willing
24 to go to arrange his schedule to get her, but that's
25 primarily what I do.

Juror 93 Carol M. Everly

1 Q. All right.

2 THE COURT: Is to pick her up at school?

3 MS. EVERLY: Right.

4 A. And she goes to the after-school program right
5 after school because that way I can still go to my
6 appointments in the afternoon, but I have to get her
7 by 6:00.

8 Q. All right. Thank you, ma'am. That's all I
9 have.

10 MR. CUMMINGS: Judge, I have no questions
11 of the nice lady.

12 THE COURT: Thank you so much.

13 Q. All right. Let me tell you what I'm going to
14 ask you to do, is just to step outside the courtroom
15 for just a moment.

16 A. Sure.

17 Q. Just right this way and then we're going to talk
18 about you a moment and invite you back in. Thank
19 you.

20 (Whereupon, the prospective juror exits the
21 courtroom.)

22 THE COURT: What says the State?

23 MR. BAILEY: No objection in view of her
24 special needs child and sequestration.

25 MR. CUMMINGS: We concur, Judge.

1 THE COURT: Ask her to step back in.

2 (Whereupon, the prospective juror returns to the
3 courtroom.)

4 Q. Thank you so much for coming back in and talking
5 to us, Ms. Everly, because that information really
6 has clarified several issues for us. We do hear your
7 concerns about your stepdaughter and we certainly
8 will excuse you from service and good luck with her.

9 A. Thank you so much. I appreciate it.

10 Q. Very well. Bye-bye.

11 A. Bye-bye.

12 THE COURT: All right. Mr. Eubanks.

13 EXAMINATION

14 BY THE COURT:

15 Q. Did you get a call back, Mr. Eubanks?

16 A. Yes, ma'am.

17 Q. What did they tell you?

18 A. They don't.

19 Q. I must say that I anticipated that that might be
20 your response. All right, Mr. Eubanks, just to
21 recap, your concern is, has to do with if you served
22 on this jury would be your loss of income?

23 A. Yes.

24 Q. All right. Let me ask you this question: You
25 know, Mr. Eubanks, obviously that whenever folks

1 serve on a jury that's a sacrifice, it's a part of
2 your community service, but it does represent a
3 sacrifice for every juror. Can you share with me why
4 in your circumstance it would be worse than any other
5 juror serving on a jury?

6 A. I don't know why for everybody else, I just know
7 that's my income coming in. And I mean, yes, my
8 girlfriend work, but that's the only type income we
9 have coming in. My job status, you know, you miss so
10 and so amount of days, even though I know you'll give
11 me an excuse for this, but I'm missing in bringing in
12 money for home, I mean bills. I know everybody have
13 bills. You know, really it's just like I said, it's
14 about my job to be honest, you know, it's no excuse,
15 it's just basically about my well being.

16 Q. I do understand.

17 THE COURT: All right, then. Any questions
18 from the State?

19 EXAMINATION

20 BY MR. BAILEY:

21 Q. Mr. Eubanks, just a couple follow-up questions.
22 As far as your financial situation are you current
23 now in your bills at home or are you behind?

24 A. No. I'm behind on some things, too.

25 Q. Okay. Way behind, or -- I hate to ask personal

1 questions.

2 A. To tell you the truth, living from check to
3 check right now.

4 Q. All right.

5 THE COURT: What you worried about being
6 behind on?

7 MR. EUBANKS: My rent, you know.

8 THE COURT: You got a car?

9 MR. EUBANKS: My car's paid for, I got an
10 '83 Grand Prix. And my other car was stolen the
11 other day, so I haven't found out on that.

12 Q. All right. If you did get picked as a juror, do
13 you think you'd have any difficulty concentrating on
14 the trial, or would you be kind of worried about the
15 bills being unpaid and your job and all that kind of
16 stuff?

17 A. To be honest, bills and my job status.

18 Q. Okay.

19 A. I might as well be honest with you.

20 Q. So that would concern you throughout the trial
21 if you got picked?

22 A. Yes, because I mean I could go home and have a
23 note on my door I'm evicted, you know.

24 Q. Yeah.

25 A. Or, you know, other things, then what I'm going

1 to do from there.

2 Q. I got you.

3 THE COURT: Thanks, Mr. Eubanks.

4 EXAMINATION

5 BY MR. CUMMINGS:

6 Q. Mr. Eubanks, again, just on half of Mr. Bowman
7 just to talk to you for a few moments here, ask you
8 some questions. The young lady that you share the
9 residence with, what does she do for a living?

10 A. She's a pharmacy technician.

11 Q. Who does she work for?

12 A. The VA Hospital.

13 Q. Okay.

14 A. The company dealing with the VA Hospital.

15 Q. I understand. Thank you, sir. And your sole
16 reason, again, being the gentleman that you are, is
17 because of the time off of work and any income that
18 you might lose?

19 A. Yes. And then everything would be basically on
20 her. And she get paid every two weeks, I get paid
21 every week, so it's back and forth.

22 Q. Thank you very much, sir.

23 MR. CUMMINGS: That's all the questions I
24 have of this gentleman. Thank you, Your Honor.

25 THE COURT: Thank you so much.

1 Mr. Eubanks, I'm going to ask you to step
2 outside the courtroom, just give us a second to
3 talk about you while you're out there and then
4 I'll ask you to step right back in.

5 MR. EUBANKS: Yes, ma'am.

6 THE COURT: Thank you, Mr. Eubanks.

7 MR. EUBANKS: Thank you.

8 (Whereupon, the prospective juror exits the
9 courtroom.)

10 THE COURT: Yes, sir, Mr. Bailey.

11 MR. BAILEY: Your Honor, he -- two things,
12 really, he clearly doesn't meet any statutory
13 exemption and all that, he's got -- wants to
14 work. The two things that concern me are,
15 number one, the fact that he has said that he's
16 not going to be able to concentrate on the
17 trial, he'll have his mind on work and all. The
18 second thing is that he's not current in his
19 bills which kind of increases the problem, makes
20 it more unique to him, so I would ask to either
21 excuse him or transfer him to a later term.

22 THE COURT: Yes, sir.

23 MR. CUMMINGS: May it please the Court,
24 Judge. The gentleman does not meet any
25 statutory exemptions or qualifications for jury

1 service and this trial's going to be a hardship
2 on everybody including the court personnel in
3 here. Your Honor, respectfully, this gentleman
4 is an African-American, my client is an
5 African-American, I'm asking this gentleman be
6 ordered to stay on the jury panel as of right
7 now. We have another procedure later on coming
8 up and at that point if more concerns are raised
9 up as we go into real in-depth questioning of
10 jurors then the Court still has a chance, Mr.
11 Bailey and I still have a chance to look at
12 other factors. And I would just ask this
13 gentleman be kept by the Court right now and not
14 excused because of economic reasons, ma'am.

15 THE COURT: Ask Mr. Eubanks to step back in
16 for me, please.

17 (Whereupon, the prospective juror returns to the
18 courtroom.)

19 BY THE COURT:

20 Q. Mr. Eubanks, tell me what bills, if any, are you
21 behind right now?

22 A. I mean, light bill.

23 Q. You're behind on your light bill?

24 A. Yes.

25 Q. How far behind are you?

1 A. I mean, it's getting ready to come up again,
2 it's doubling up.

3 Q. What does that mean, "doubling up"?

4 A. Last month's bill wasn't fully all the way paid,
5 so it's running over.

6 Q. Yes, sir. I understand you.

7 A. Water bill.

8 Q. Didn't get paid all the way last month?

9 A. I just paid my last month's rent last week.

10 Q. You paid April's rent last week. So you hadn't
11 paid May's rent yet?

12 A. No, ma'am.

13 Q. When are you going to be able to pay May's rent?

14 A. Not until next week, the 10th.

15 Q. Yes, sir. Do you get paid then?

16 A. No. I get paid like today and stuff, but I mean
17 I need to have all the money.

18 Q. I understand.

19 A. You know, she get paid every two weeks, you
20 know, we put the money together because I had to go
21 into my savings, you know, to handle some other bills
22 and stuff.

23 Q. Okay.

24 A. I'm trying to get my credit straight, you know,
25 things like that.

1 Q. All right. So just let me recap. Worried about
2 the water bill, worried about the light bill, worried
3 about the rent?

4 A. Yes.

5 Q. And you only have four days of vacation built
6 up?

7 A. Yes, I only have four days. And, you know, I
8 have miscellaneous bills. My phone is turned off
9 now. I'm sure y'all tried to call me, my phone is
10 disconnected.

11 Q. Has it been disconnected because the bill got
12 behind?

13 A. Yes.

14 Q. All right, Mr. Eubanks. Thank you. That's
15 helpful. Let me just ask you to step out for me
16 again, Mr. Eubanks.

17 (Whereupon, the prospective juror exits the
18 courtroom.)

19 THE COURT: Did that prompt any questions
20 from either of y'all?

21 MR. BAILEY: Not from the State, Your
22 Honor.

23 MR. CUMMINGS: The only thing that popped
24 up for me, Judge, again I apologize, is what
25 bills does this nice polite lady that he lives

1 with pay if he's bearing all this brunt of the
2 burden, but I don't think that's going to help
3 this situation out economically because I've
4 made the cold decision that we're asking he
5 stay. Because I know it's a hardship, but....

6 THE COURT: I'm with you. Over the
7 objection of the defense I think he does have a
8 hardship. He's behind on his rent, he is behind
9 on his light bill, he is behind on his water
10 bill. And if he was to -- he has four days
11 built up in annual leave or vacation time I
12 gather he would be paid for. The problem is, is
13 that this case is anticipated to go minimally
14 three weeks. If it goes four or five weeks this
15 trial could, unfortunately, effect economic
16 bankruptcy on this gentleman. He didn't use
17 those words, those are my words, but I'm -- he
18 said that if he served for three weeks he could
19 get an eviction notice on his door and I am very
20 concerned about him.

21 I certainly understand, Mr. Cummings,
22 why you would want him to serve. I would want
23 him to -- I want him to serve, but I am
24 concerned about -- and as his economic situation
25 becomes graver and graver, I am concerned about

Juror 90 Jermaine Eubanks - Examination

1 what that could do to him as a juror and his
2 ability to pay attention and to focus I would be
3 most concerned would be compromised. So I would
4 say over the objection of the defense I'm going
5 to excuse Mr. Eubanks on really a substantial
6 hardship.

7 His situation, apparently he's --
8 already finds himself as he presents himself
9 today before being out of work for an extended
10 period of time very close to the edge. Very
11 well. All right. Ask Mr. Eubanks to step in.
12 I am going to ask him one more question.
13 (Whereupon, the prospective juror returns to the
14 courtroom.)

15 BY THE COURT:

16 Q. Mr. Eubanks, one more thing. You talked about
17 savings. Do you have a lot of savings?

18 A. I have maybe \$10 in my savings.

19 Q. Thank you. I'm going to excuse you,
20 Mr. Eubanks, and let me tell you why, because I am
21 concerned that a trial of three weeks --

22 A. That will hurt me, to be honest.

23 Q. It sounds like it could really put you in a
24 difficult position, and certainly don't want you to
25 be in a difficult position.

1 A. And my job, I mean we only work four days, they
2 won't let you get 40 hours, you know.

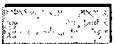
3 Q. I understand. What I would like to do is I'd
4 like to transfer you maybe to the wintertime, until
5 November, when the trial period will likely will be a
6 little shorter and maybe your financial circumstance
7 will be a little more secure. If not, certainly let
8 me know then, all right?

9 A. Yes, ma'am.

10 Q. But you be looking at November. Nobody wants to
11 be out in November planting trees.

12 A. No.

13 Q. Thank you for coming, Mr. Eubanks. We'll send
14 you another notice.

15 A. Do you have my right address on there, 
16 , Summerville?

17 Q. Yeah, that's what I have. Thank you,
18 Mr. Eubanks.

19 (Whereupon, the prospective juror steps down from
20 the witness stand and exits the courtroom.)

21 THE COURT: All right. Who's next?

22 THE CLERK: I passed it up already, 127,
23 Ms. Hatchell.

24 THE COURT: You sure did, all right.

25 Hi. Good afternoon, Ms. Hatchell, I'm.

Juror 90 Jermaine Eubanks - Examination

1 Diane Goodstein and I have been assigned to
2 preside over a trial which is to begin May the
3 13th. And you have been summoned as a
4 prospective juror and I have the benefit of the
5 information that you shared with us. And I
6 wanted to ask you a couple questions about that
7 and that's why you've been asked and you've been
8 so kind to come in today. And to that end I'd
9 ask that you place your left hand on the Bible
10 and raise your right hand.

11 (Teresa M. Hatchell, called as a prospective
12 juror, having first been duly sworn, is examined
13 as follows:)

14 THE COURT: Thank you. And if you would
15 please be seated.

EXAMINATION

16
17 BY THE COURT:

18 Q. I've just got a few questions for you to clarify
19 a couple issues. The first issue or concern that you
20 have is that you have a hip prosthesis and you would
21 be worried about sitting for long periods of time.
22 What I would say to you about that is that you can
23 sit or not sit, you can stand. We typically don't
24 stay seated but maybe an hour and a half or so and
25 then we take a break, but if you needed to stand or

1 take a break, or if I could accommodate you in any
2 way, I want you to know that I certainly want to do
3 that. We'll move on to some of the other issues that
4 you raise, but with regards to your situation with
5 your hip, tell me what that would --

6 A. Well, these chairs are padded, that's
7 comfortable, but if it's a chair with no pad.

8 Q. We have got brand new padding coming for the
9 chairs.

10 A. Then I would be okay.

11 Q. Great. Thank you so much. Now, let me ask you,
12 you also mentioned, it says that you apparently have
13 been a newspaper reporter. Tell me when you were a
14 newspaper -- it says 1993?

15 A. Actually I was a newspaper reporter from 1980
16 until last year.

17 Q. Oh, all right.

18 A. And I covered a lot of murder trials, a lot of
19 murders. And most specifically as Walter, Solicitor
20 Bailey will tell you, I covered the 1993 famous year
21 in Orangeburg County --

22 THE COURT REPORTER: I can't hear.

23 THE COURT: Wait a second. As soon as the
24 train goes back. We'll wait for Norfolk
25 Southern to go by.

1 A. There were 23 murders that year and I had to go
2 into people's homes. It was all the way from an
3 11-year-old child to, you know, another 17 year old,
4 a 19 year old, I mean just -- you know, just horrible
5 things that you go through. Being a reporter is
6 almost like being an officer, police officer, because
7 you have to research and you have to, you know,
8 investigate, but so --

9 Q. And tell me about your concern with that
10 experience.

11 A. I just feel like that might prejudice me, you
12 know, against since this is a murder trial, you know.
13 I mostly covered murders and rapes. And I always had
14 the feeling that I just -- I will just put it this
15 way: I always pulled for the victim. Do you know
16 what I'm saying?

17 Q. I do.

18 A. Because I went through the families' homes, I
19 saw their grief and sorrow. When I sat in the
20 courtroom I always would sit on the side and in my
21 heart just -- you know, I became attached to the
22 victims and just, you know, I think it would be hard
23 for me to -- now any other kind of thing I would be
24 okay.

25 Q. I understand. Thank you so much.

1 THE COURT: Questions from the State?

2 MR. BAILEY: Judge, could I take up a brief
3 matter of law?

4 THE COURT: Sure. Surely. I'm going to
5 ask you to step out for me just a moment.

6 MS. HATCHELL: Can I just leave my purse
7 here?

8 THE COURT: Yeah, absolutely.

9 (Whereupon, the prospective juror exits the
10 courtroom.)

11 MR. BAILEY: Your Honor, it appears we
12 might be getting into death qualification issues
13 and jurors have not been told what type of trial
14 this is and I didn't know if you wanted to defer
15 that and just address her health concerns or
16 what.

17 THE COURT: Well, thank you. Because I
18 thought about that and what concerned me was
19 that this issue was so much on her mind that she
20 felt compelled to --

21 MR. CUMMINGS: To bring it up.

22 THE COURT: -- put it down as the reason
23 why she should not serve. And I'm also mindful
24 of the request for the Court not to try to
25 rehabilitate the jurors when they -- even in the

1 death qualifications. What concerns me is that
2 she sort of doesn't quite even make that, I'm
3 not sure. That was my concern.

4 That was why I was willing to let her
5 express herself some to that extent. And I'm
6 happy to hear from you. In other words, it's
7 your position that at this point we ought to
8 just deal with the hip problem and move on, but
9 it's out there now.

10 MR. BAILEY: It is, Your Honor, because I
11 think to properly question her and to determine
12 the depth of her feelings of whether or not she
13 could put those aside and follow the testimony
14 and so on and so forth, I would need to tell her
15 this is a death penalty case and none of the
16 other prospective jurors have been told that.

17 THE COURT: Right.

18 MR. BAILEY: And I don't know that she
19 would have any contact with any of the rest of
20 them, I would hope not, but I would just think
21 it's an issue that should be put off so you can
22 advise all of the jurors in mass what kind of
23 case this is.

24 THE COURT: I understand.

25 MR. CUMMINGS: We have one other issue that

1 I wanted to point out to the Court besides this,
2 and that is politically I don't know if she's
3 ever asked Mr. Bailey as our elected solicitor
4 for interviews in Orangeburg. And, of course,
5 normally we won't get into that kind of
6 situation today, whether she's talked to our
7 deputy solicitors there.

8 Then as I'm sitting here at the table,
9 Ms. Hardee-Thomas informed me that this young
10 lady had gone in to speak to her for a
11 consultation on a divorce case. And we've had a
12 gentleman's agreement that if I had a client,
13 I've told Mr. Bailey about it, Mr. Bailey has
14 informed me of past private practice clients
15 that he had on this jury, just so we always know
16 about everything in here. And when Marva saw
17 her here this morning it kicked open a bell.

18 MS. HARDEE-THOMAS: She said hi to me. We
19 know each other.

20 MR. CUMMINGS: She said hi to Walter, too.

21 MR. BAILEY: I know her to speak to her
22 from when she was a reporter.

23 MR. CUMMINGS: And you are right, we're
24 kind of like in a Pandora's box, but I don't
25 want the cat out of the bag yet because she may

1 call this afternoon one of her colleagues, or
2 friend about, hey, you know what kind of case
3 this is? So far it's been quiet and we've
4 done -- and the Court's protected my client's
5 rights to the upmost here, and Mr. Bailey has
6 also, about this thing not coming out in the
7 press.

8 THE COURT: All right. Let me do this.
9 I'm going to ask -- Mr. Bailey, the first matter
10 at hand is if you all have had an agreement
11 regarding clients, prospective clients, I think
12 you all probably need to address that first and
13 see what the result of that is.

14 MR. BAILEY: All right.

15 THE COURT: The hip is no longer a problem.
16 And I think the question's where do we go at
17 this point. I think you probably need to
18 address the first issue raised by Mr. Cummings
19 if that's been how you all have operated.

20 MR. CUMMINGS: Yes, ma'am.

21 THE COURT: So why don't we take a moment
22 and give you a chance to do that.

23 THE CLERK: Can I make a comment on this
24 juror also?

25 THE COURT: No.

1 THE CLERK: She's talked to me. I mean I
2 know her, but I've not told her anything. I
3 just thought the Court might want to --

4 THE COURT: Absolutely. Raise your right
5 hand. Place your left hand on the Bible.

6 (Cheryl Graham, called as a witness, having first
7 been duly sworn, is examined and testifies as
8 follows:)

9 EXAMINATION

10 BY THE COURT:

11 Q. Tell me your name.

12 A. My name is Cheryl Graham.

13 Q. You are the clerk of court?

14 A. I am.

15 Q. And you've had a conversation with this
16 prospective juror, Ms. Hatchell?

17 A. I have. She is a classmate of mine and she paid
18 her respects at my mother's house last weekend and
19 she brought up -- I had no idea she was on jury duty,
20 she brought it to my attention. And she started
21 talking about her hip. And I said, "Well, you need
22 to come and if you feel you can't because of a
23 doctor -- you need to get a doctor's excuse." And
24 she kept on. I never once said, you know, I can't
25 excuse you. I just said, "If you need or want to be

1 excused your best bet is you need to probably get a
2 doctor's excuse for your hip."

3 After Ms. Footman called her again two
4 nights ago she called me again that night. And she
5 said, "Well, I don't know why I need to come up, I
6 didn't really ask to be excused or whatever."

7 I said, "Well, if they told you to come up
8 you need to come up. If you feel your hip's a
9 problem you need to get a doctor's excuse," but I
10 never once mentioned what type of trial.

11 Q. Thank you. Or had any other discussion with her
12 other than what you just--

13 A. Other than those two times.

14 THE COURT: Any questions of Ms. Graham?

15 MR. BAILEY: No.

16 MR. CUMMINGS: Of Ms. Graham, no.

17 THE COURT: Why don't you all just do that,
18 just have a conversation regarding her and -- so
19 she can share that with you.

20 MR. CUMMINGS: Judge, there is a question
21 we would like to ask Ms. Graham if she knows, if
22 we may.

23 THE COURT: Okay. Surely.

24

25

EXAMINATION

1
2 BY MR. CUMMINGS:

3 Q. Of your personal knowledge of this lady who was
4 just in the room today, is she still employed by the
5 newspaper here in St. George?

6 A. I'm not sure.

7 Q. You're not sure?

8 A. No, sir.

9 MR. CUMMINGS: Okay. We were trying get
10 that asked in a different way, Judge, instead of
11 asking her directly about her reporting and
12 about her closeness to the newspaper.

13 THE COURT: Do you want me to ask her where
14 she's employed?

15 MR. CUMMINGS: Yes, ma'am. If we can,
16 please.

17 THE COURT: She said she's currently
18 working for the *Times and Democrat*.

19 MR. CUMMINGS: When we were talking back
20 here we were trying to determine whether or not
21 she really still worked there. And the answer
22 is yes, so....

23 THE COURT: Very well. Do we go forward?

24 MR. BAILEY: Your Honor, I don't believe I
25 have any questions other than in regard to the

1 health problem. I think she adequately
2 addressed that in response to your questions and
3 I think, Mr. Cummings, correct me if I'm wrong,
4 we could defer the other questions until the
5 jurors are all told what kind of case this is.

6 THE COURT: Sure.

7 MR. CUMMINGS: Judge, and I'm trying to be
8 as cautious as I can. The Solicitor is correct
9 absolutely on that, but I would -- I'm trying to
10 find the words to try to figure out how we can
11 almost get like a request that nothing be
12 written about this today.

13 THE COURT: I'm not talking about it.

14 MR. CUMMINGS: Right.

15 THE COURT: I'm going to talk -- you know,
16 ask her not to discuss it.

17 MR. CUMMINGS: Thank you, ma'am.

18 THE COURT: She's given me some indication,
19 perhaps some personal feelings, personal
20 experiences and I would be inclined to ask her
21 not to discuss those with her fellow juror
22 members. Any exception to me instructing her as
23 to that?

24 MR. BAILEY: No, ma'am.

25 MR. CUMMINGS: None. And also, Judge, what

1 my main concern was, was whether or not she was
2 going to write about her experience up here
3 today.

4 THE COURT: I can't help that. That I
5 can't help. Very well.

6 MR. CUMMINGS: Thank you.

7 (Whereupon, the prospective juror returns to the
8 courtroom.)

9 BY THE COURT:

10 Q. Thank you so much, Ms. Hatchell. Let me see if
11 I can explain to you where we are. Where we are in
12 terms of your hip is we're good to go, we'll have the
13 cushions. I have heard your other concerns, but
14 there really is another time and another place to
15 address those more appropriately and we will
16 certainly have an opportunity to do that.

17 What I would ask of you and instruct you is
18 not to discuss your personal experiences or your
19 personal feelings, you've been very candid, but not
20 to discuss those with individuals who would be your
21 fellow prospective jurors. I'll ask you to refrain
22 from doing that, all right?

23 A. Okay.

24 Q. Thank you so much. I'm going to ask you to
25 return on May the 13th, on that Monday, in accordance

Juror 127 Teresa Hatchell - Examination

1 with the juror summons and just know that there will
2 be a time for us to discuss your other concerns,
3 okay? Thank you. You're nodding yes.

4 A. Ma'am?

5 Q. You're nodding yes, so I take that to mean you
6 understand me well. Thank you so much.

7 A. You're welcome.

8 Q. See you then. I'll tell you what, when you come
9 in and you see Mr. Taylor, remind Mr. Taylor that
10 you've got that hip problem, we'll get you a cushion
11 to sit out in the pews.

12 A. I can bring my own.

13 THE COURT: Great. Bring it on. Thank you
14 so much, Ms. Hatchell.

15 (Whereupon, the prospective juror steps down from
16 the witness stand and exits the courtroom.)

17 THE COURT: All right, then, Ms. Hatchell
18 will report. Who's next?

19 THE CLERK: 135, Ms. Hess.

20 THE COURT: Ms. Hess, good afternoon. I'm
21 Diane Goodstein, Ms. Hess, and I have been
22 assigned to preside over a matter for trial
23 which is expected to begin May the 13th and you
24 have been summoned as a prospective juror. And
25 you certainly have been kind enough to return

1 the questionnaires and the information and based
2 upon that we just had a couple questions.

3 MS. HESS: Okay.

4 THE COURT: And to that end I'd ask you to
5 please place your left hand on the Bible and
6 raise your right hand.

7 (Gail R. Hess, called as a prospective juror,
8 having first been duly sworn, is examined as
9 follows:)

10 EXAMINATION

11 BY THE COURT:

12 Q. Now, we have the letter from Mr. Shank regarding
13 your position, the importance of your position.

14 A. Yes, ma'am.

15 Q. And says your financial director left in April
16 to take another position, that you have assumed the
17 majority of those responsibilities. He talks about
18 that his -- is it Oratin?

19 A. Oratin.

20 Q. Is a small company, ten people in the Charleston
21 headquarters and that they're concerned that they
22 don't have the organizational depth needed to cover
23 your absence.

24 A. Right.

25 Q. Can you tell me a little bit about those duties

1 and how -- why it would be a hardship for you to
2 serve? Because, as you know, every person that
3 serves on jury --

4 A. Right.

5 Q. -- misses work and it generates certainly a
6 hardship on them.

7 A. Right.

8 Q. And it is such a sacrifice for every juror to
9 serve, but can you help me understand why your
10 circumstance really is worse?

11 A. Well, the only thing I can tell you is right now
12 I am the accounting department. There were two of us
13 and now there's just me. So that involves taking
14 care of the banking information as well as cash
15 available on a daily basis, entering invoices, paying
16 invoices. And if I'm not there there's no one else
17 there right now that knows how to do that. So
18 nothing would get deposited, nothing would get paid.

19 Q. So that's the difficulty?

20 A. Yeah.

21 Q. Are there other offices of Oratin?

22 A. No, we're it. It's a licensee office, we import
23 handbags and we have a retail store and an outlet
24 store, we're the headquarters. And right now I'm the
25 accounting department.

Juror 135 Gail R. Hess - Examination

1 Q. For the United States or for Charleston?

2 A. Well, it all comes through Charleston.

3 Q. No matter where it goes --

4 A. Right.

5 Q. -- it comes in through Charleston?

6 A. We sell mostly to retail stores, so....

7 Q. And would that in any way jeopardize the
8 business?

9 A. Well, when you're talking about cash flow and
10 invoice payment I would say, yeah, you know, to a
11 degree. Especially, you know, if it was a day or two
12 it would be all right, but if you're talking a week
13 or more --

14 Q. I don't mind telling you, Ms. Hess, we're
15 probably talking about three weeks.

16 A. I would say that would be very detrimental.
17 Like I said, there is no one else in the office right
18 now that can do this on a daily basis. We're, of
19 course, looking to replace this financial director,
20 but there's no one there but me. If I'm not there it
21 doesn't get done basically.

22 Q. I understand.

23 THE COURT: Let me ask Mr. Bailey, the
24 solicitor, do you have any questions on behalf
25 of the State?

EXAMINATION

1

2 BY MR. BAILEY:

3 Q. Ms. Hess, if you got picked on the jury, and as
4 the judge said it may last roughly three weeks, I
5 realize it would be a hardship on your employer, but
6 would it be a hardship on you, would you be worried
7 about what was going on back at the office?

8 A. Oh, yeah. But I mean, you know, if I got
9 selected and I had to serve, then I would have to
10 work out some way to either go in after jury duty,
11 or, you know, if that was possible.

12 Q. Let me tell you the rest of the story.

13 A. Okay.

14 Q. There's a chance the jury may get put up in a
15 motel or hotel during the course of the trial where
16 you would not have free telephone access and you
17 couldn't come and go.

18 A. In a case like that not only would my job be
19 impaired from that, but my mother also lives with me
20 and it's very hard for her to be alone. She's alone
21 during the day while I'm at work.

22 Q. Okay.

23 A. But for overnight care and things like that,
24 that's why she's with me.

25 Q. All right. I hate to ask personal questions,

1 but does your mother have some needs that --

2 A. She has Parkinson's disease.

3 Q. Okay.

4 A. So once her medication runs out, then she has a
5 difficult time walking.

6 Q. All right.

7 A. So she -- we have a bell system, she calls me, I
8 come help her.

9 Q. Are you are her primary caretaker?

10 A. Uh-huh (affirmative response).

11 Q. Thank you. That's all I have. That was a yes,
12 wasn't it?

13 A. Yes, I'm sorry.

14 Q. That's all right.

15 MR. CUMMINGS: Judge, I have no questions
16 of this nice lady.

17 MS. HESS: Thank you.

18 BY THE COURT:

19 Q. Let me tell you, I'm going to ask you to step
20 outside.

21 A. Okay.

22 Q. And we're going to talk about you.

23 A. All right.

24 Q. And then I'm going to ask you to step back in in
25 just a couple of minutes. Thank you so much.

Juror 135 Gail R. Hess - Examination

1 A. Thank you. Great.

2 (Whereupon, the prospective juror exits the
3 courtroom.)

4 THE COURT: From the State?

5 MR. BAILEY: No objection, primarily due to
6 her mother's situation.

7 THE COURT: Exactly.

8 MR. CUMMINGS: Concur, Judge, exactly.

9 THE COURT: And I concur also, I'm less
10 compelled by the needs of the business as I am
11 from her mother's condition, and Mr. Bailey I'm
12 grateful that you elicited that information from
13 her because from no other information that she
14 provided, nor was I able to find from her that
15 that existed, so thank you for doing that. I am
16 concerned about her circumstance with her mother
17 and would excuse her on that basis. Thank you.
18 I think I'll transfer her is what I'll do.

19 (Whereupon, the prospective juror returns to the
20 courtroom.)

21 BY THE COURT:

22 Q. Ms. Hess.

23 A. Yes.

24 Q. Let me tell you that, and I don't mind sharing
25 with you that we certainly have a concern about your

1 mother's circumstance.

2 A. Uh-huh.

3 Q. And I'm going to transfer you on that basis to
4 maybe the fall to a matter that perhaps won't last as
5 long and with the constraints that this trial very
6 well may have. And hopefully by then they will have
7 hired you as the financial director.

8 A. Oh, okay.

9 Q. And then have you an assist at that point.

10 A. Thank you.

11 Q. I do thank you for coming in very much.

12 A. Thank you.

13 Q. And I look forward to seeing you perhaps in the
14 fall.

15 A. Great. Thank you.

16 Q. Thank you.

17 (Whereupon, the prospective juror steps down from
18 the witness stand and exits the courtroom.)

19 THE CLERK: Juror 260, Toni Romanus.

20 THE COURT: Hi, Ms. Romanus, hi. My name
21 is Diane Goodstein and I have been appointed to
22 preside over a trial which is anticipated to
23 begin May 13th and for which you have been
24 summonsed as a prospective juror. We have your
25 jury information back and we just had a couple

1 questions for you.

2 MS. ROMANUS: Okay.

3 THE COURT: And to that end if you would
4 place your left hand on the Bible and raise your
5 right hand.

6 (Toni K. Romanus, called as a prospective juror,
7 having first been duly sworn, is examined as
8 follows:)

9 THE COURT: Please be seated.

10 EXAMINATION

11 BY THE COURT:

12 Q. Now, I think we probably all want to go with you
13 on vacation. You were supposed to leave the 13th?

14 A. Well, the Monday before.

15 Q. Oh, the Monday before which would be --

16 A. That was the week of, yeah.

17 Q. All right. So you're supposed to leave what
18 date?

19 A. The 11th, that started my vacation, yes.

20 Q. Started your vacation May the 11th?

21 A. But that can be canceled, but there's other
22 reasons that I filled this out and forgot.

23 Q. That's okay. Thank you for the questionnaire.

24 All right. Tell me what -- well, first of all, have
25 you -- do you have like prepaid things to go on

1 vacation?

2 A. No. That's why I said it can be --

3 Q. You're just taking vacation time and you can
4 shift that in some fashion --

5 A. Yes.

6 Q. -- if need be? But you have other concerns.

7 Let me look at this first. All right. Let me ask
8 you to do this now that we have this, Ms. Romanus.

9 Let me do this, let me just ask you to step back out
10 and let us have a chance to review this and we'll be
11 with you so shortly.

12 A. Sure.

13 Q. Thank you.

14 A. Thank you.

15 (Whereupon, the prospective juror exits the
16 courtroom.)

17 THE COURT: I wanted you all to have a
18 chance to look at Ms. Romanus' questionnaire and
19 share it with Mr. Bowman.

20 (Reviewing questionnaire.)

21 THE COURT: All right. We still need to
22 talk to her unless you all upon reviewing
23 that --

24 MR. BAILEY: We agree.

25 MR. CUMMINGS: Judge, I would agree with

Juror 260 Toni K. Romanus - Examination

1 this lady. I would prefer she would have had a
2 psychiatrist note or a psychologist note for the
3 record, but based on our experience with that
4 type of medication and the surroundings thereof,
5 I concur with solicitor, I don't think she'll
6 pay attention in this trial.

7 THE COURT: Very well. That's what I
8 wanted you to see --

9 MR. CUMMINGS: Yes, ma'am.

10 THE COURT: -- before I started questioning
11 her. All right. Very well. Just ask her to
12 step in.

13 (Whereupon, the prospective juror returns to the
14 courtroom.)

15 BY THE COURT:

16 Q. Thank you, Ms. Romanus. Ms. Romanus, we've gone
17 over your questionnaire, we don't have any questions
18 and would excuse you. Thank you so much and good
19 luck to you. Bye-bye.

20 (Whereupon, the prospective juror steps down from
21 the witness stand and exits the courtroom.)

22 THE COURT: All right. And would you
23 invite in Mr. Winstead.

24 THE CLERK: 341.

25 MR. WINSTEAD: I'm the last one in case

1 y'all didn't know.

2 THE COURT: I know that. You're probably
3 used to it. I should have started backwards is
4 what I was thinking. I should have started with
5 the W's and gone to the A's because I know
6 that's not the first time that's happened to
7 you.

8 MR. WINSTEAD: It happens all the time.

9 THE COURT: Mr. Winstead, my name is Diane
10 Goodstein.

11 MR. WINSTEAD: Nice to meet you.

12 THE COURT: Nice to meet you. Thank you
13 so much for coming in today. I am to preside
14 over a trial which is scheduled for May the 13th
15 and you have been summoned as a prospective
16 juror. I've got some information from you, but
17 we just needed to ask some follow-up questions
18 of you. And to that end would you place your
19 left hand on the Bible, raise your right hand.

20 MR. WINSTEAD: Yes, ma'am. I would be glad
21 to.

22 (Michael S. Winstead, called as a prospective
23 juror, having first been duly sworn, is examined
24 as follows:)

25

EXAMINATION

1

2 BY THE COURT:

3 Q. I know that you tell me in the questionnaire
4 that you have a previously schedule engagement
5 involving work that cannot be rescheduled?

6 A. That's because -- yes.

7 Q. Thank you so much.

8 A. You're very welcome.

9 Q. This says Scott -- this is from Fed-Ex from
10 Mr. Gary Hahn.

11 A. I'm an independent contractor which is different
12 than Express, we own our routes so we don't have
13 anybody to replace me. We own our routes. It's not
14 like Express. Like right now, you know, I've got to
15 get there to have packages delivered. So I wasn't
16 trying to be rude, but I was trying to give that to
17 them when I first got here and, you know, how it
18 works and all, you know.

19 Q. So just to -- so I understand it you own your
20 route for Fed-Ex?

21 A. Yes, ma'am.

22 Q. And it's not like Express where they have other
23 employees that can fill in?

24 A. Right. Their, employees they get paid by the
25 hour. I don't get paid but by the package and stop,

1 so, yeah, we bought out RPS.

2 Q. What is that?

3 A. Roadway Package --

4 Q. Yes.

5 A. -- Service. Or Roadway Parcel Service.

6 Q. Right.

7 A. We bought RPS out and now we're Fed-Ex Ground so
8 we actually do just -- we do the same job as what the
9 delivery drivers do for Express, but we --

10 Q. What happens when you go on vacation?

11 A. We have a vacation driver and he's actually
12 doing somebody else's vacation.

13 Q. I understand.

14 A. So he's doing it, but we have one driver that
15 does people's vacation. Like I'm going on vacation
16 and he'll be doing mine, but that's already scheduled
17 in June. We scheduled that at June, we say, okay, if
18 you want vacation you have to schedule it in June and
19 you have to buy it. I have to actually buy it
20 because I pay for the truck, I pay for the expenses,
21 I pay for everything. I probably ate too many
22 cookies back there, sorry.

23 Q. You probably need them to give you the energy to
24 zip all around.

25 A. I'm telling you.

1 Q. Let me ask you this: So how much in advance do
2 you have to go buy the person, the vacation person?

3 A. Oh, for the vacation person?

4 Q. Right.

5 A. Well, like I said, we have to schedule it in
6 June to actually get a vacation.

7 Q. Every year you have to schedule it in June?

8 A. Yeah.

9 Q. So if it's not scheduled --

10 A. If we don't, then if something comes up then we
11 have to pay for a truck, someone else to run a truck.
12 And they have managers, but those managers, you know,
13 their job is not to run everybody's truck, but if an
14 emergency comes up then they'll, you know, fill in
15 the best they can.

16 Q. Let me ask you this question: What happens if
17 there's like jury service and, you know, Fed-Ex
18 Ground has had to deal with people doing jury
19 service?

20 A. That's what Gary Hahn said, he said that -- he
21 said that, you know, he -- they don't have any. So I
22 was talking to him this morning, I was like what do
23 you all do? He said we've never -- you know, we've
24 always told them that they're independent contractors
25 and they just, you know, have understood. I mean,

1 that's what he told me. I don't know because I've
2 been there about seven months, so, you know, I don't
3 know what they -- what they've done, but that's what
4 they said, they said they've never had anyone --

5 Q. Because, you know, Fed-Ex is a more, for lack of
6 better terms, sophisticated company --

7 A. Well, they have one vacation route. This is
8 Fed-Ex Ground, they're different than Express.

9 Q. They don't have a jury driver?

10 A. A jury driver? They should. They should have
11 like reserves, someone for reserves. But honest to
12 God, and I'm not -- you know, I put my hand on the
13 Bible.

14 Q. I got you. I know it.

15 A. They only have one driver that does in this
16 terminal, in this terminal.

17 Q. Vacation.

18 A. Which is 23 routes. They have one person that
19 does. And then they have managers which also kind of
20 know everybody's route. But if -- I can't just say,
21 okay, go run this route because it's a route and
22 you've got to know -- you'll never get it done unless
23 you know the streets and know the -- you know, know
24 the route. So that's who they have, so....

25 Q. To do that work?

1 A. Right.

2 Q. All right.

3 A. But, you know, I would love to be on the jury,
4 but there's just no way. I mean, I just got married,
5 I have a little son, I just --

6 Q. So what you're telling me also is that if -- let
7 me share this with you.

8 A. Okay.

9 Q. This trial is expected to last for three weeks.
10 And what you're telling me is that that would mean
11 that your route may be without service for three
12 weeks?

13 A. Well, you could call him and find out. You
14 could call him and talk to him, 'cause I haven't
15 talked to him in depth about it because he has other
16 business concerns, but, yeah, I would have to pay.

17 Q. Someone to come in and do that?

18 A. Right. For what I know about it, you know, I
19 would have to pay. But I didn't even -- you know,
20 I've told him that this was coming up and I let him
21 know. And we've tried to talk to Flora, but, you
22 know, she didn't really want to say much or hear
23 anything that we had to say because I'm sure
24 everybody, a lot of people probably --

25 Q. Yeah.

1 A. -- try to get out of it.

2 Q. Sure. Okay.

3 A. But, yeah, I would have to pay for every day.

4 And that means I'm not making any money at all and
5 I'm paying.

6 Q. Do you know how much that costs for a week?

7 A. Well, if I let them use my truck it costs around
8 \$100, \$125 per day.

9 Q. Per day?

10 A. Yeah, cost around 100, 125. And that's just if
11 they use my truck.

12 Q. If they use their truck?

13 A. And if they use the terminal's truck I really
14 don't know exactly.

15 Q. But is it more or less? More money or less
16 money?

17 A. It's more. I've never had to do it so I can't
18 really honestly say.

19 Q. Because you've only been there seven months?

20 A. I've only been there seven months. And you know
21 how the communication is at first when you first come
22 to a company, things move slow.

23 Q. I understand. If I was to ask you to go call
24 Mr. Hahn and just ask him do we have a jury driver,
25 what is the jury policy for Fed-Ex, do you think he

1 would respond? Do you think you could get him?

2 A. Oh, yeah.

3 Q. All right. Would you do that for me?

4 A. Yeah.

5 Q. Do you know the number?

6 A. It's right there.

7 Q. Just tell him the judge wants to know what's the
8 jury policy, do we have a jury driver.

9 A. Okay.

10 Q. Thank you so much.

11 A. All righty. No problem. Where do I go?

12 Q. What we're interested to know is if you have a
13 jury driver, is it like your problem or their problem
14 for jury service.

15 A. Okay. Their problem or my problem?

16 Q. In other words --

17 A. It shouldn't be my problem.

18 Q. -- do you come out of pocket?

19 A. But like I was talking to the lady, the one who
20 was the Prudential Realtor real estate lady that came
21 in here with the blue jacket.

22 Q. Right.

23 A. She's losing money, but she's not -- if she
24 doesn't sell her houses -- well, if I don't deliver
25 my packages, then it's a little more dependent.

1 Q. I understand. It has to happen and you have to
2 perhaps pay to have that?

3 A. They're a little more dependent than what it
4 would be with her, but I'll ask him.

5 Q. Thank you.

6 (Whereupon, the prospective juror exits the
7 courtroom.)

8 THE COURT: Now, a little bit while I have
9 you and we sort of have a moment of downtime.
10 Ms. Keil, have you got the Court's Exhibits?
11 Not the ones that we have we've just been
12 through and talked to these jurors which we're
13 also going to make Court's Exhibits, but do you
14 have the Court's Exhibits from the officers that
15 testified earlier?

16 THE COURT REPORTER: Yes.

17 THE COURT: All right. Very well. All
18 right. Now, the other question that I have is
19 at this point we should either have jurors -- we
20 should have all of our jurors accounted for.
21 They should have either been attempted service
22 and could not serve because they have moved, or
23 they have been served or they -- and we don't
24 know any reason at this point why they wish to
25 be excused, or they were served, they sent in

1 concerns about serving and they have been
2 addressed.

3 THE CLERK: We have some that the summons
4 was sent, they had concerns and y'all have not
5 addressed them yet also, right?

6 MR. BAILEY: We are --

7 THE COURT: How could we have those?
8 That's what we're doing here today.

9 MR. CUMMINGS: I'm sure there were a couple
10 people that did not put any reasons down on
11 their jury questionnaires. Like here's the lady
12 didn't have a questionnaire, but --

13 THE COURT: I'm talking about today. I'm
14 trying to figure out where we are today.
15 Absolutely, Mr. Cummings, somebody's going to
16 show up and something terrible's happened or
17 they didn't tell us why they shouldn't serve,
18 yeah.

19 THE CLERK: Also we have about 60.

20 MS. FOOTMAN: Sixty-seven no response.

21 THE CLERK: No response where we mailed
22 them in the first class mail and they have not
23 come back to us at all, come back no response
24 from the mail. Then we had three year --

25 THE COURT: Hold on. Whoa, whoa, let me

1 digest that.

2 THE CLERK: Okay. And that is close to
3 normal. Usually when we draw 150 we have
4 anywheres from 20, 25 to 30 that goes out in the
5 mail and we just never hear back from them. And
6 that's the list we give to the sheriff's
7 department to go out to try to see if they can
8 personally find them. But at this time they
9 just have not come back to us at all in the mail
10 per mail or per the individual.

11 THE COURT: And they were all mailed at the
12 same time?

13 MS. FOOTMAN: Yes, ma'am.

14 THE COURT: Yes, sir, Mr. Cummings.

15 MR. CUMMINGS: Judge, the only thing I
16 would ask is perhaps, and not burden our good
17 clerks, have one list of these 60 jurors or
18 whatever number they are, give them to the civil
19 process division of our sheriff's department in
20 hand and have them assign somebody to check on
21 those 60 jurors if Your Honor would so order.
22 That would be our contention, this way we double
23 check and do a safety valve approach on it.

24 THE COURT: Yes, sir, Mr. Bailey.

25 MR. BAILEY: I agree they should be

1 summoned, accountability and all, everybody
2 that's on list.

3 THE COURT: I absolutely agree.

4 THE CLERK: I still predict we'll receive a
5 few more back in the mail next week. We receive
6 them up to the last minute.

7 THE COURT: I understand. Let's try to --
8 I want to -- at this time I want to really sort
9 of get our hands around where we are in terms of
10 the jury. We have had -- I think what I really
11 want to do is -- this is what I want us to do.
12 I'm going to request, counsel, that you meet
13 when we finish here and y'all get some lunch and
14 return, that you meet with Ms. Graham and I want
15 you to go through that process. I want you to
16 look at every juror so that every juror as of
17 today has a -- if you will, has a home in terms
18 of either they've returned the summons and the
19 questionnaire or they've returned the summons,
20 or they have been attempted to be served by one
21 of these deputies that testified today and they
22 were unavailable, or they were served.

23 And the 60 some odd that have not been
24 served as of today and you have not received
25 anything back, I think that the time is upon us

1 that that list does need to go to the sheriff's
2 department. And Mr. Cummings says the civil
3 process division, it seems to me would be
4 reasonable that it would go to them, and that
5 they, those jurors be served, that we undertake
6 at this point to serve them because the time is
7 passing.

8 MS. FOOTMAN: That's today?

9 THE COURT: Yeah. I really do think that
10 meeting needs to occur. And I know you've only
11 got a million things going on, all of you, but
12 that's got to happen. There's some urgency. I
13 did not realize that we still had that many
14 folks. I just didn't know that there were that
15 many folks for which we have no response.
16 Because as, you know, each and every juror must
17 be accounted for in this matter. Great. Thank
18 you.

19 THE CLERK: Also the list that Ms. Footman
20 received two nights ago, there were three people
21 that she made contact with through their
22 answering service or answering machine and was
23 told to be here today and they did not show up.
24 They all were people that y'all had concerns of.
25 Number 96.

1 THE COURT: Okay. Name.

2 THE CLERK: Fertig, Charles Fertig, it's
3 Number 96. He was called and was asked to come
4 in, left a message on the answering machine.

5 THE COURT: All right.

6 THE CLERK: The next one is Number 267,
7 Carol Sawyer. Same situation, was left a
8 message on the answering machine, told to come
9 in.

10 THE COURT: All right.

11 THE CLERK: The last one is 342, Kathy
12 Woods. Same situation, we left a message.

13 THE COURT: All right. I think what we
14 will do with those three individuals is we will
15 give them an additional opportunity to come in
16 next week.

17 Counsel, I would propose that we go
18 through this exercise again Tuesday morning, I'd
19 like to do it Friday, but the courthouse is
20 closed on Friday, but I'd like to do it Tuesday.
21 And if you will check and see if you all can do
22 that Tuesday. Tuesday is fine.

23 MR. CUMMINGS: Judge, as you know, that's
24 all we are doing --

25 THE COURT: I know that.

1 MR. CUMMINGS: So Tuesday whatever time is
2 Your Honor's pleasure.

3 THE COURT: 9:30.

4 MR. CUMMINGS: Yes, ma'am.

5 THE COURT: Tuesday morning.

6 (Whereupon, the prospective juror returns to the
7 courtroom.)

8 MR. WINSTEAD: First of all, I want to
9 apologize for calling everybody -- he told me
10 that I should call you by Judge, call you Judge
11 Goodstein.

12 THE COURT: I don't even hear that. Thank
13 you. All right, yes, sir.

14 MR. WINSTEAD: You want to know --

15 THE COURT: Yes.

16 MR. WINSTEAD: -- what Mr. Hahn said?

17 THE COURT: Yes.

18 MR. WINSTEAD: He said that I am
19 responsible for that because I'm an independent
20 contractor just like I said. That the Express,
21 they're employees. He said if you have any
22 questions -- I mean, I have his mobile phone and
23 all, but he said that I am responsible every day
24 to pay someone else to do my work.

25 THE COURT: Very well. Any questions from

1 the State?

2 EXAMINATION

3 BY MR. BAILEY:

4 Q. As I understand it you're going to have to pay
5 about \$100 a day, or however many weeks you're up
6 here?

7 A. Yes, sir.

8 Q. In addition not getting your regular commission
9 you would be going in the hole to that extent?

10 A. Uh-huh (affirmative response).

11 Q. If this thing lasted three weeks, would that
12 financial hardship cause you any problem in paying
13 attention to what's happening here, or would you be
14 worried about all the money going out the window?

15 A. Yeah. I just got married two months ago,
16 February 23rd.

17 Q. Okay.

18 A. And I have a son now so I'm saying 2,000. See,
19 like I told you, I own the truck and I'm paying
20 \$2,000 a month on this truck. If I wasn't paying
21 that \$2,000 a month I would love to be on a jury. In
22 three years I'll have this thing paid off, but I
23 actually -- and, yes, it would.

24 Q. You would be paying for the truck you use,
25 paying somebody else to drive your route, plus losing

1 all your money?

2 A. Right.

3 Q. And that would -- again, would that distract you
4 if you were picked on a jury anyway?

5 A. Yes, sir. Right now I'm -- what I'm doing it's
6 taking away. It is distracting.

7 Q. Thank you. That's all I have.

8 MR. CUMMINGS: No questions based on the
9 gentleman's representation to the solicitor.

10 THE COURT: I'm going to ask you just to
11 step outside, we're going to talk about you and
12 then ask you to step right back in. Thank you,
13 Mr. Winstead.

14 (Whereupon, the prospective juror exits the
15 courtroom.)

16 THE COURT: What says the State?

17 MR. BAILEY: No objection to excusing him.

18 MR. CUMMINGS: Do I even dare?

19 THE COURT: No objection?

20 MR. CUMMINGS: No objection, Judge.

21 THE COURT: Thank you. Let me talk to
22 Mr. Winstead.

23 (Whereupon, the prospective juror returns to the
24 courtroom.)

25 THE COURT: Mr. Winstead, good luck with

Juror 341 Michael S. Winstead - Examination

1 your new marriage, your new child, your route.
2 Go quickly, we are going to excuse you.

3 MR. WINSTEAD: Praise God. I appreciate
4 that.

5 THE COURT: That then concludes this
6 process.

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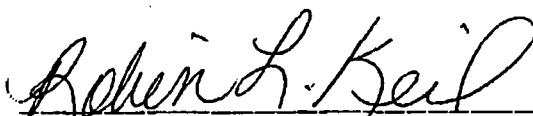
STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER) : C E R T I F I C A T E

I, Robin L. Keil, Registered Merit Reporter and First Judicial Circuit Court Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand this the 24th day of July 2003.



Robin L. Keil, RMR
Resident Court Reporter
First Judicial Circuit

1550

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER) CASE NO. 01-GS-18-0348, 0349

ORIGINAL

STATE OF SOUTH CAROLINA,) VOLUME XIV Pages 1550 - 1636
Plaintiff,) TRANSCRIPT OF RECORD
-versus-) JURY MATTERS
MARION BOWMAN, JR.,) May 9, 2002
Defendant.) St. George, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein

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1 (May 6, 2002.)

2 THE COURT: All right. Ms. Flo, I
3 understand we have had ten additional responses
4 since we were last together with folks that have
5 asked to be excused or transferred; is that
6 right?

7 MS. FOOTMAN: Yes, ma'am.

8 THE COURT: All right. Well, why don't you
9 give me the first questionnaire and the first
10 number now.

11 MS. FOOTMAN: Okay. We're here with the
12 three that didn't show up Friday.

13 THE COURT: Okay.

14 MS. FOOTMAN: And the first one is Charles
15 Fertig.

16 THE COURT: Okay.

17 MS. FOOTMAN: Number 96.

18 THE COURT: Great. Thank you so much.

19 Mr. Fertig, hi. Good afternoon. I'm
20 Diane Goodstein.

21 MR. FERTIG: Pleasure meeting you.

22 THE COURT: Thank you. I have been
23 assigned to preside over the term of court which
24 is to begin May the 13th and you've been
25 summoned as a prospective juror for that trial.

1 And we've been over your response and just need
2 a little bit more information from you, so I
3 appreciate you being here. Would you do me a
4 favor, place your left hand on the Bible and
5 raise your right hand.

6 (Charles K. Fertig, Jr., called as a prospective
7 juror, having first been duly sworn, is examined
8 as follows:)

9 THE COURT: Thank you. And please be
10 seated.

11 EXAMINATION

12 BY THE COURT:

13 Q. Now, let me tell you what I was reviewing. This
14 says you own your own company and you are concerned
15 about the daily operation. Tell me a little more
16 about your business and the daily operations that you
17 are talking about and what you are concerned about.

18 A. It's a trucking business so we're on the phone
19 with brokers all day or dealing with the drivers,
20 dealing with the customers that they're taking the
21 loads to, breakdowns out on the highway. Anything
22 and everything that could possibly happen usually
23 happens on a daily basis.

24 Q. I understand.

25 A. And we have to be there to make a decision.

Juror 96 Charles K. Fertig, Jr. - Examination

1 Q. And tell me a little bit about that. You're the
2 president, so --

3 A. Well, I'm half owner of it, so I'm the vice
4 president.

5 Q. You're the half owner, okay. How many
6 employees?

7 A. Twenty.

8 Q. Okay. And is there -- is the other half owner
9 involved in the business as well?

10 A. He is, but he also has a warehouse business,
11 too, and that takes up -- he's back and forth. I
12 mean, the trucking company is in the warehouse, but
13 he's, you know, very much involved.

14 Q. He's also running the warehouse as well?

15 A. Yes.

16 Q. And are there any other administrative folks in
17 the business?

18 A. There is one fellow who keeps track of logs,
19 paperwork, does the payroll, that type of thing.

20 Q. Let me ask you this question, really, and it
21 really is twofold: Tell me, or explain to me because
22 obviously service on a jury is going to be an
23 inconvenience to all the members of the jury,
24 clearly.

25 A. Right.

Juror 96 Charles K. Fertig, Jr. - Examination

1 Q. Explain to me why your circumstance is more so
2 or different.

3 A. If I'm not there to make a decision then
4 anything that could happen to either jeopardize or
5 alter the day-to-day operation of it. I'm not
6 looking to get out of jury duty, I mean, you know,
7 it's an honor in some ways and a civic duty in the
8 other, but if it could be rescheduled at some other
9 point in time that would also be good.

10 Q. All right.

11 A. But if I have to be here, I have to be here.

12 Q. I understand. And is your partner available to
13 help with some of those decisions?

14 A. Oh, he is most of the time, yeah. Yeah.

15 Q. I understand.

16 A. I mean, sometimes we both have to decide, it's
17 not just one over the other.

18 Q. I understand. I understand.

19 A. Actually, next week is a busier week from a
20 personal and business standpoint.

21 Q. Tell me about that.

22 A. I have to go to Atlanta to pick my daughter up,
23 she's at Emory, she finishing, I have to get her on
24 Monday. She's going out of the country, she's
25 leaving on Thursday. I scheduled a doctor's

Juror 96 Charles K. Fertig, Jr. - Examination

1 appointment for her on Tuesday, I'm going on
2 Wednesday, I have to get her to the airport on
3 Thursday. So it's crazy enough as it is, but it's --
4 she does not have a car. I have a standard shift
5 car, she does not drive a standard shift car. I am
6 not sure what provisions I'd even make at this point.

7 Q. To get her around?

8 A. Yeah.

9 Q. All right. Sounds as though you're responsible
10 for that, that there's not someone else in your
11 household that can share in those responsibilities?

12 A. My wife is working up in New York right now,
13 she's finishing up a position up there, so I'm the
14 only parent down here.

15 Q. Very well.

16 THE COURT: Yes, sir. From the State, Mr.
17 Bailey?

18 MR. BAILEY: Yes, ma'am.

19 EXAMINATION

20 BY MR. BAILEY:

21 Q. Mr. Fertig, I'm Walter Bailey, just a couple
22 questions. This case unlike many other cases may
23 extend beyond the one week that you probably thought
24 you were being served for. It possibly could last
25 three weeks, possibly more.

Juror 96 Charles K. Fertig, Jr. - Examination

1 A. Okay.

2 Q. Would that affect your ability to serve this
3 term?

4 A. Without question.

5 Q. Okay.

6 A. I mean, just without question it would.

7 Q. All right. And the other issue that may come up
8 is the jury may be put in a motel for the duration of
9 the trial once the jury's selected for several weeks.
10 Would that affect your ability to serve this term of
11 court?

12 A. Not that I can't stay in a motel. I have a dog
13 at the house that no one's going to be watching, so
14 it would be quite messy.

15 Q. I guess what we need to find out bottom line is
16 whether or not your concerns with work and all that
17 would detract from your ability to sit in a very
18 serious case and pay attention to the law the judge
19 gave you and the testimonies that unfolded?

20 A. I would think I would be distracted wondering
21 what's going on. I mean, in all candor I can't say I
22 wouldn't be. I would be focused, but not focused at
23 the same time.

24 MR. BAILEY: Thank you, Judge. That's all
25 I have.

Juror 96 Charles K. Fertig, Jr. - Examination

1 THE COURT: Yes, sir.

2 EXAMINATION

3 BY MR. CUMMINGS:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. I'm Norb Cummings. How long have you been a
7 citizen, resident of South Carolina?

8 A. Four years.

9 Q. And when you came down here I know you stated
10 that your wife was finishing up in business in New
11 York state, Manhattan, New York state?

12 A. She's up in Rockland County.

13 Q. And your daughter, what year is she at Emory
14 University?

15 A. Junior.

16 Q. Junior. If Her Honor or other people could make
17 some travel arrangements, like we start May 13th, but
18 it may be a flexible week, if you had special needs
19 or special cares about getting, I'm going to say,
20 your baby girl on the plane to go wherever she's
21 going, would that accommodate you enough that you
22 would be willing to at least render your civic duty
23 and serve here if Her Honor could accommodate you?

24 A. That would help from a personal standpoint,
25 taking care of her, if someone's going to get her to

Juror 96 Charles K. Fertig, Jr. - Examination

1 the doctor's and pick her up and take her to the
2 airport, that's fine.

3 Q. Yes, sir.

4 A. From a business standpoint, I mean that length
5 of time would cause serious problems.

6 Q. And we all know we can't predict anything in the
7 trial.

8 A. Right.

9 Q. Based on reading your questionnaire, educated,
10 professional gentleman, you understand Her Honor
11 would control the court hearing.

12 A. Right.

13 Q. But if there was anybody else in your business
14 that could handle, your partner or other people, do
15 you believe it would cause you any economic hardship?

16 A. No. It's strictly from the business standpoint,
17 but it's a very lean operation.

18 Q. Yes, sir.

19 A. And I couldn't imagine. I mean, we have never
20 taken off more than a week, either one of us, at any
21 given time.

22 Q. All right, sir.

23 A. For business reasons, I mean, we just have to be
24 there.

25 Q. Mr. Fertig, I thank you very much for answering

Juror 96 Charles K. Fertig, Jr. - Examination

1 my questions, I wish you the best.

2 A. You're welcome.

3 THE COURT: All right. What I'm going to
4 do, Mr. Fertig, now is ask you to, please, just
5 step outside.

6 MR. FERTIG: Thank you.

7 THE COURT: Thank you so much.

8 (Whereupon, the prospective juror exits the
9 courtroom.)

10 THE COURT: Yes, sir, Mr. Bailey.

11 MR. BAILEY: Obviously he is qualified, as
12 far as statutory qualified, I would ask that
13 within your discretion you excuse Mr. Fertig as
14 he quite candidly stated that he wouldn't be
15 able to pay full attention to the testimony in
16 what is as serious a trial as you can get. I
17 think it would be unfair to the State and to the
18 defendant to have somebody here that does not
19 have his full focus on what's going on.

20 I didn't ask him this because he did
21 not bring it up, but I also note in his
22 questionnaire that he expresses some concern
23 about the ability to be fair and impartial. The
24 question about peer pressure affecting his
25 ability, he says I don't think it would have an

Juror 96 Charles K. Fertig, Jr. - Examination

1 effect. But then he says possibly, but not
2 likely on the fact that he would have to return
3 to the community. He then has a problem with
4 reporters and he says as far as the high
5 publicity surrounding the case, he says it may
6 have an affect on him.

7 Your Honor, for all those reasons, the
8 fact that he's got a predisposition not to be
9 partial and candidly says that he may not be
10 able to pay full attention I think he should be
11 excused and transferred to another term of
12 court.

13 THE COURT: Thank you, Mr. Bailey.

14 Yes.

15 MR. CUMMINGS: Beg the Court's indulgence.

16 THE COURT: Certainly.

17 MR. CUMMINGS: After reading everything
18 over, I understand his concern for reporters and
19 other issues, I believe the gentleman would have
20 been statutorily qualified, but we would concur.
21 The gentleman needs to be excused for that, he's
22 not going to concentrate based on his answers,
23 we would concur. Mr. Bowman is aware of that,
24 ma'am.

25 THE COURT: Thank you. Ask Mr. Fertig to

Juror 96 Charles K. Fertig, Jr. - Examination

1 step in.

2 (Whereupon, the prospective juror returns to the
3 courtroom.)

4 THE COURT: Mr. Fertig, you don't even need
5 to sit down. We have conferred and do have
6 concern about as much as anything your ability
7 to stay focused with us in this endeavor for the
8 duration and, therefore, we will transfer your
9 service to another term of court, probably be,
10 oh, perhaps as early as June, as late as
11 November, but we'll send you another notice.

12 MR. FERTIG: Thank you.

13 THE COURT: Thank you for coming today.
14 (Whereupon, the prospective juror steps down
15 from the witness stand and exits the courtroom.)

16 MS. FOOTMAN: Next Ms. Sawyer, Carol
17 Sawyer, Juror Number 267.

18 THE COURT: Thank you. Ms. Sawyer, you're
19 back.

20 MS. SAWYER: That's the first time I've
21 been behind bars, it scared me.

22 THE COURT: Hi, I'm Diane Goodstein.

23 MS. SAWYER: Hi.

24 THE COURT: And I appreciate you coming so
25 much today.

Juror 96 Charles K. Fertig, Jr. - Examination

1 MS. SAWYER: Thank you.

2 THE COURT: I've been assigned to preside
3 over a case which is to begin May the 13th.

4 MS. SAWYER: Yes.

5 THE COURT: And you have been summoned as a
6 potential, prospective juror for that case. And
7 I've had an opportunity to go over your
8 questionnaire and just had some additional
9 information I needed to ask you about that. If
10 you would be so kind to place your left hand on
11 the Bible, raise your right hand. Your other
12 left hand. Thank you.

13 MS. SAWYER: I'm scared. I've never been
14 in court like this.

15 THE COURT: Yeah.

16 (Carol O. Sawyer, called as a prospective juror,
17 having first been duly sworn, is examined as
18 follows:)

19 THE COURT: Thank you. Please be seated.

20 EXAMINATION

21 BY THE COURT:

22 Q. Now, in reading your questionnaire it says that
23 while you are willing to serve, that you -- that the
24 summer is better for you because you're substitute
25 teaching and you have some economic concerns.

Juror 267 Carol O. Sawyer - Examination

1 A. Yes.

2 Q. Am I right about that?

3 A. Right now my main way of making a living is
4 substitute teaching.

5 Q. Okay.

6 A. And right now today I was substituting, I have a
7 job tomorrow and the next day.

8 Q. All right.

9 A. And I have opportunities to teach, I mean, until
10 next week I think. I don't know for sure, but I
11 would respectfully request that I not be a juror at
12 this time.

13 Q. All right. Let me ask you this question: Are
14 you the sole source of income in your household?

15 A. Yes.

16 Q. Okay. And are you -- do you have any other
17 sources of income, such as retirement, or...?

18 A. No. Right now this is it. I've been helping my
19 daughter who's going through a divorce, I've been
20 over at her house and that's why I didn't get your
21 message to come, I'm sorry I wasn't here Friday. I
22 got home Saturday and I got your message on the
23 answering machine that I was supposed to be there
24 Friday and then today.

25 Q. I understand. This case, Ms. Sawyer, is

Juror 267 Carol O. Sawyer - Examination

1 anticipated to last, and could last three weeks.

2 A. Goodness.

3 Q. And so I need you to tell me what that would
4 mean for you financially.

5 A. Well --

6 Q. I know that's prying, I know that's asking real
7 personal questions.

8 A. Could you tell me how much a juror makes?

9 THE COURT: I think, what is it, Flo, \$10 a
10 day?

11 MS. FOOTMAN: Twenty-five dollars a day.

12 A. Okay. Today I'm making 50. It's going to make
13 a difference. Also that's going to make me to the
14 end of the teaching year and working on my retirement
15 I need to teach at least five days and I've only
16 taught two. So I really need to teach to working on
17 my retirement also.

18 Q. Let me ask you this question: About how many
19 days a week typically do you substitute?

20 A. Well, over the -- over in December and January I
21 did a long-term sub for two or three months.

22 Q. That means every day?

23 A. Uh-huh (affirmative response).

24 Q. Okay.

25 A. March a lady had a hysterectomy and I taught for

Juror 267 Carol O. Sawyer - Examination

1 her for four weeks, then she -- her husband died of a
2 heart attack and then I taught for her for two weeks,
3 and then I get called from Dorchester County
4 sometimes, too, for days. So off and on it's not
5 really -- I've been just barely keeping afloat right
6 now.

7 Q. Well, the reason I asked is that if you're
8 substituting two days a week for \$50 versus five days
9 a week or \$25, you see what I'm saying, you would do
10 better being with us. That's why I was asking about
11 over the next, say, four weeks, which of course would
12 be the rest of the school year, how many days do you
13 sort of estimate you'll be teaching do you think?

14 A. I really don't know.

15 Q. Because I don't know, do teachers tend to go
16 towards the end of the year, do they tend to take
17 early summer vacation?

18 A. I really don't know. I've never done this
19 before.

20 Q. Never substitute --

21 A. This is \$25 a day?

22 Q. Twenty-five dollars a day which is \$125 a week.

23 A. Okay. In three days I'm making 150
24 substituting.

25 Q. That's right. That's right. That's right,

Juror 267 Carol O. Sawyer - Examination

1 exactly. And so at this point next week you are
2 scheduled to be teaching how many days?

3 A. I don't know.

4 Q. Oh, okay.

5 A. They've got a rule in Dorchester County not to
6 make plans ahead of time.

7 Q. Okay.

8 A. Which makes it kind of difficult for the
9 substitutes and the lady getting the subs.

10 Q. Yes. All right. If you were to serve, if I was
11 to ask you to return and to serve, do you believe --
12 and it would go as long as, say, three weeks, this
13 trial, do you think that you would be preoccupied
14 with your financial concerns, or do you think you
15 could focus, listen to the evidence in this
16 courtroom, listen to my instructions?

17 A. Well, I think I would be worried. My brother
18 gave me a big fussing at, he wants me to get another
19 kind of job. And I was going to start intentionally
20 trying to get a more permanent job. I had kind of
21 gone at this thinking I would be in a position to get
22 known, be known by the teachers and maybe work myself
23 into a teaching position. But teaching positions are
24 getting to be rare and my brother wants me to start
25 seriously looking for another job.

Juror 267 Carol O. Sawyer - Examination

1 Q. All right. Very well.

2 THE COURT: Mr. Bailey.

3 MR. BAILEY: Yes, ma'am.

4 EXAMINATION

5 BY MR. BAILEY:

6 Q. Ms. Sawyer, how are you doing?

7 A. Hi.

8 Q. Ms. Sawyer, are you considered a full-time
9 employee at the school district?

10 A. No.

11 Q. But they send a W-2 every year?

12 A. Yes.

13 Q. Did you say something about retirement, are you
14 under State retirement?

15 A. Yeah, retirement of 60.

16 Q. All right.

17 A. Is this State -- would the money be State money?

18 Q. You mean the juror money?

19 A. Yeah.

20 Q. I don't think so. I think just a one time only
21 like thing.

22 A. Okay. I mean, is it State money?

23 THE COURT: It's from the county.

24 MS. SAWYER: County, okay.

25 Q. But in your situation with the school system you

Juror 267 Carol O. Sawyer - Examination

1 are under the school retirement program?

2 A. Yes.

3 Q. So you get points or whatever --

4 A. Yes.

5 Q. -- for however many days you work as a

6 substitute?

7 A. Uh-huh (affirmative response).

8 Q. All right. I think that's all I have. Thank

9 you.

10 THE COURT: Yes, sir.

11 MR. CUMMINGS: Thank you, Judge.

12 EXAMINATION

13 BY MR. CUMMINGS:

14 Q. Good afternoon, ma'am. Ms. Sawyer, this trial
15 may take several weeks and there may even be a
16 requirement by Her Honor on behalf of the State to
17 sequester jurors in a motel, that means no contact
18 with the outside world other than that approved of by
19 Her Honor. Would that cause any hardship on you?
20 Because I know you said you have a family member
21 going through a very personal issue right now.

22 A. Yeah. My daughter's maybe going through a
23 divorce, my little grandson just had an operation on
24 his private part.

25 Q. I'm not trying to get you upset.

Juror 267 Carol O. Sawyer - Examination

1 A. And he's going to be going through a lot of pain
2 and I just would be very upset doing that.

3 Q. Okay. I appreciate your candor and kindness.
4 And as you know -- you probably know Mr. Bailey?

5 A. Yeah. I thought as soon as I saw him I thought,
6 hey.

7 Q. You know that guy?

8 A. I think I've seen that guy.

9 Q. He's your elected solicitor.

10 A. Yeah.

11 Q. I'm one of lawyers that practices along with Ms.
12 Hardee-Thomas. And why we do this with jurors is we
13 look at your questionnaires that you filled out, took
14 all that time, ma'am.

15 A. Yeah.

16 Q. And Her Honor tries to accommodate you good
17 folks, the jurors, and to allow you to express
18 concerns or hesitations. And if you have that to,
19 please, let me know, let Her Honor know.

20 A. I didn't know about being sequestered.

21 Q. Yes, ma'am.

22 A. See, my grandson's just been operated on and
23 he's -- on his private part because he was born two
24 pounds. And I've just never talked about this.

25 THE COURT: You don't need to tell us a bit

Juror 267 Carol O. Sawyer - Examination

1 of that.

2 A. And he's passing blood and I've been there for
3 him.

4 THE COURT: Ms. Sawyer, bless your heart,
5 you don't need to tell us any more. I'm going
6 to tell you what I'm going to ask you to do for
7 us, if you'll just step right outside the
8 courtroom and give us a minute to confer and
9 we'll be right back with you.

10 MS. SAWYER: Okay.

11 THE COURT: Thank you so much.

12 MS. SAWYER: It's not that I don't want to
13 do something.

14 THE COURT: I understand. Thank you.

15 THE BAILIFF: Is this yours, ma'am?

16 MS. SAWYER: Yeah, that's fine.

17 THE COURT: We'll be with you in just a
18 moment.

19 MS. SAWYER: Okay.

20 (Whereupon, the prospective juror exits the
21 courtroom.)

22 MR. BAILEY: Your Honor, just since the
23 record obviously is not going to pick it up, but
24 she was crying throughout half of Mr. Cummings'
25 questions. Not that it's his fault.

Juror 267 Carol O. Sawyer - Examination

1 THE COURT: And getting more and more upset
2 by the second.

3 MR. BAILEY: Yes, ma'am. I certainly don't
4 think she could stand up to any kind of trial,
5 much less this trial and I would ask she be
6 excused.

7 THE COURT: Thank you for noting that for
8 the record.

9 MR. CUMMINGS: I wholeheartedly agree, I
10 don't think we have any hesitation.

11 THE COURT: Yes, very well. I'm afraid
12 we're going to need to get her counseling so we
13 can get her back to Summerville.

14 MS. HARDEE-THOMAS: Exactly.
15 (Whereupon, the prospective juror returns to the
16 courtroom.)

17 THE COURT: Thank you. Thank you,
18 Ms. Sawyer. We have had an opportunity to
19 confer and certainly understand your situation
20 completely, wish you well in your teaching and
21 certainly with your family.

22 MS. SAWYER: Thank you.

23 THE COURT: Thanks for coming today.

24 MS. SAWYER: Thank you.

25 THE COURT: And we will excuse you,

Juror 267 Carol O. Sawyer - Examination

1 Ms. Sawyer. Thanks so much.

2 MS. SAWYER: Thank you.

3 (Whereupon, the prospective juror steps down
4 from the witness stand and exits the courtroom.)

5 MS. FOOTMAN: Kathy Woods, Juror Number
6 342.

7 THE COURT: Ms. Woods, hi.

8 MS. WOODS: How are you doing?

9 THE COURT: I'm fine. I'm Diane Goodstein,
10 nice to see you today. And I have been assigned
11 to preside over a term of court beginning May
12 the 13th that you have been summoned as a
13 prospective juror. I have the benefit of your
14 questionnaire and some concerns that you
15 expressed and appreciate you coming in, just I
16 need a little more information --

17 MS. WOODS: Okay.

18 THE COURT: -- so that I can make a
19 decision regarding your service.

20 MS. WOODS: Okay.

21 THE COURT: And to that end, I'm going to
22 ask you to place your left hand on the Bible and
23 raise your right hand.

24 (Kathy M. Woods, called as a prospective juror,
25 having first been duly sworn, is examined as

Juror 342 Kathy M. Woods - Examination

1 follows:)

2 THE COURT: Thanks so much. If you would
3 please be seated, Ms. Woods.

4 EXAMINATION

5 BY THE COURT:

6 Q. And let me tell you, I've been over your
7 questionnaire and it appears that your concern is, if
8 you will, is employment based I should say.

9 A. Yes.

10 Q. And of course every juror that would serve on
11 this jury is going to sacrifice, particularly in
12 terms of their work.

13 A. Right.

14 Q. So what I needed you to share with me, is tell
15 me why your situation is different, if you would do
16 that for me.

17 A. The co-worker that is on vacation for a month
18 won't be back until the 20th of May, trained me for
19 the job that I am doing now. He is the only other
20 person that can scheduled our shop. That is -- it
21 will just put a real stress on the company is really
22 the only reason --

23 Q. Let me ask you this question.

24 A. -- with both of us being gone at the same time.

25 Q. I understand. Let me ask you this question: If

Juror 342 Kathy M. Woods - Examination

1 the week of the 13th through the 20th I guess is of
2 great concern.

3 A. That's correct.

4 Q. Two things I want you to -- I want to ask you
5 about. One would be I don't know during the week of
6 the 13th, certainly some of your time would be to be
7 here, but there would be some periods of time when
8 you would not need to be here for that week.

9 A. Okay.

10 Q. But I would share with you that this trial is
11 going to take approximately three weeks to try. So I
12 want you to think about that and address that for me,
13 whether or not once your co-worker is back on the
14 20th, how that would factor in. Because the first
15 week you would not the entire week, you would be here
16 for periods of time, clearly, but certainly not the
17 entire week.

18 A. It would be stressful for them. I think that it
19 wouldn't shut down with me gone, but I could probably
20 serve if I wasn't going to be here a total --

21 Q. The first week.

22 A. Gone the whole of next week.

23 Q. While he's away?

24 A. That would definitely be stressful, but, you
25 know.

Juror 342 Kathy M. Woods - Examination

1 Q. I understand. I understand, I do.

2 THE COURT: Mr. Bailey, any questions?

3 MR. BAILEY: Yes, ma'am, just very briefly,
4 if I might.

5 THE COURT: All right. Sure.

6 EXAMINATION

7 BY MR. BAILEY:

8 Q. Ms. Woods, if you are picked as a juror in this
9 case and we go three weeks as the judge said, it
10 would obviously be an important, serious case. Would
11 you be able you think, to concentrate fully on what's
12 going on in court, or would you be distracted by
13 thinking about what's going on at the office with you
14 not being there?

15 A. I consider myself a good employee and of course
16 I would be worried about that, but I think if I was
17 in the courtroom I could separate that. I think I
18 could.

19 Q. Okay. So you could just set that aside,
20 concentrate on the trial and let work kind of take
21 care of itself until you go back?

22 A. I think I could do that, yes.

23 Q. I think that's all I have. Thank you, ma'am.

24

25

EXAMINATION

1

2 BY MR. CUMMINGS:

3 Q. Ms. Woods, I'm Norb Cummings, I practice law
4 here in the Summerville area. You had also put down
5 in your questionnaire that you were a witness in a
6 criminal investigation; is that correct, ma'am?

7 A. That's correct.

8 Q. Is that on behalf of the State, like a police
9 officer requesting you to be a witness, or is that on
10 behalf of the citizen who's charged with a crime?

11 A. That is on behalf of the State.

12 Q. All right. Can you share with us whether that's
13 in Dorchester County or not?

14 A. Part of it is in Dorchester County.

15 Q. Ma'am, and I know it may be of a personal nature
16 and I apologize to you as a gentleman, I don't know
17 about what you told us other than what's on the
18 questionnaire.

19 A. All right.

20 Q. We're trying, again, with Her Honor's
21 supervision over Mr. Bailey and I asking questions of
22 potential jurors, would that create any bias, or
23 prejudice, or bad feelings about somebody who might
24 be charged with a crime since you're being a witness
25 on a case?

Juror 342 Kathy M. Woods - Examination

1 A. I don't know.

2 Q. Well, I guess probably a better a question I
3 could ask you, would it cause you to hesitate to give
4 somebody a fair and impartial trial since you're
5 going through the process right now yourself in a
6 witness capacity?

7 A. I think so.

8 Q. Okay. For the record today, what type of
9 criminal investigation are you being a witness in?

10 A. It's a bankruptcy, large bankruptcy case, and
11 they're wondering where the money is.

12 Q. Yes, ma'am. As most people do. Is it corporate
13 or individual; in other words, like a company?

14 A. It's corporate and individual.

15 Q. Both, okay. Have you been subpoenaed to federal
16 court? Because that may be something that Her Honor
17 may need to know or Mr. Bailey and I.

18 A. I've been subpoenaed to Mississippi in front of
19 a grand jury.

20 Q. All right, ma'am.

21 A. I've already been.

22 Q. Don't discuss anything about the grand jury now,
23 but --

24 THE COURT: She's already been.

25 Q. Yes. That's over, your duty has been satisfied?

Juror 342 Kathy M. Woods - Examination

1 A. That's over for the time being. They said they
2 might have to recall me.

3 Q. Did they say possibly when you may be recalled?
4 Because that's --

5 A. This is an ongoing investigation and they did
6 not say when.

7 Q. Okay.

8 MR. CUMMINGS: Judge, I don't want to ever
9 cross my line.

10 Q. Ms. Woods, did you receive the subpoena on
11 behalf of like a trustee, or federal judge, or United
12 States attorney, or who, ma'am?

13 A. Mississippi Attorney General.

14 Q. All right. The attorney general of Mississippi.

15 MR. CUMMINGS: Beg the Court's indulgence.

16 THE COURT: Surely.

17 MR. CUMMINGS: Thank you, ma'am.

18 THE COURT: Just a moment.

19 Q. The last word the attorney general in
20 Mississippi or their representatives asked you, did
21 they tell you you may be coming back anytime shortly?
22 This trial may start between the 13th --

23 A. They said they were doing an investigation, as
24 far as they have not decided to indict anybody and
25 that they might request my services at a later time.

Juror 342 Kathy M. Woods - Examination

1 That's all they said.

2 Q. All right. Thank you very much. Thank you,
3 Ms. Woods.

4 THE COURT: Ms. Woods, now let me tell you
5 what you we're going to do, we're actually going
6 to talk about you behind your back.

7 MS. WOODS: Okay.

8 THE COURT: So if you would be so kind just
9 to step outside the courtroom right here,
10 Mr. Taylor will show you, and we will not be but
11 a moment.

12 MS. WOODS: That's fine.

13 THE COURT: We'll ask you to come back in
14 in just a second.

15 MS. WOODS: Okay.

16 THE COURT: Thanks, Ms. Woods.

17 (Whereupon, the prospective juror exits the
18 courtroom.)

19 THE COURT: What says the State?

20 MR. BAILEY: Your Honor, I think she's
21 qualified, she's a -- as far as I know the only
22 juror that's had a work conflict has said she
23 can overcome that and concentrate on the
24 testimony. And although she could potentially
25 be called back to the grand jury or trial of

Juror 342 Kathy M. Woods - Examination

1 this investigation, things could happen to any
2 juror and that's why we have alternates. I
3 think she is qualified.

4 THE COURT: Thank you.

5 Yes, sir, Mr. Cummings.

6 MR. CUMMINGS: Thank you, Judge. Your
7 Honor, two concerns of course I have is the fact
8 that somebody may get pulled out and then we
9 have to go to alternates. We know we have
10 alternates for a safety valve approach, but
11 that's not the jury that mostly will sit here
12 and judge judgment over Mr. Bowman. The
13 alternates as we all know, Judge, are only there
14 and you never know when somebody's sick or not,
15 we run out of people.

16 We've been very cautious in our
17 approach to the prospective jurors here to honor
18 the requests. Ms. Woods is a very polite lady
19 and very frank when I asked her questions about
20 that, but I'm concerned that even though she
21 says she can be fair and impartial I don't
22 believe she will be since she was real frank
23 about her answers about dealing with the
24 bankruptcy both corporate and individual, and
25 also about her corporate responsibilities in her

Juror 342 Kathy M. Woods - Examination

1 office from her questionnaire.

2 THE COURT: Thank you.

3 MR. CUMMINGS: Yes, ma'am. I just believe
4 that a lot of people have been leaving because
5 of work problems and stuff, and I think this
6 lady may put us in a double quandary, one, for
7 business-related problem; number two, potential
8 issue in Mississippi. And I was trying to
9 distinguish between federal court and state
10 court, but, again, Judge, you have to deal with
11 the issue of whether or not she's subpoenaed or
12 not.

13 THE COURT: Very well.

14 MR. CUMMINGS: Yes, ma'am.

15 THE COURT: Over the exception of the
16 defendant I'm going to ask her to join us on the
17 13th. Thank you.

18 (Whereupon, the prospective juror returns to the
19 courtroom.)

20 THE COURT: Ms. Woods, you don't even need
21 to be seated. Ms. Woods, after having
22 considered everything that you've told us and
23 understanding that there's -- you will not be
24 with us the entire week of the 13th, I'm going
25 to ask you to please join us on the 13th at

Juror 342 Kathy M. Woods - Examination

1 9:30; is that right? Nine o'clock?

2 MS. FOOTMAN: It's at 10:00.

3 THE COURT: Ten o'clock on the 13th.

4 MS. WOODS: Okay.

5 THE COURT: Thank you so much. Right here
6 in the courtroom. Thanks so much, Ms. Woods.

7 MS. WOODS: You're welcome.

8 (Whereupon, the prospective juror steps down
9 from the witness stand and exits the courtroom.)

10 THE COURT: Who is next?

11 MS. FOOTMAN: Number 22, Victoria Box.

12 THE COURT: Thank you. Would you get her,
13 please?

14 MS. FOOTMAN: Victoria Box.

15 THE COURT: Hi, how are you?

16 MS. BOX: How are you?

17 THE COURT: Ms. Box, I'm Diane Goodstein.

18 MS. BOX: Nice to meet you.

19 THE COURT: Nice to meet you. Thank you so
20 much for coming in today and let me tell you
21 why. I've been assigned to preside over a trial
22 which is to begin May the 13th. You were kind
23 enough to send your questionnaire in.

24 MS. BOX: Right.

25 THE COURT: And we noticed you just

Juror 342 Kathy M. Woods - Examination

1 indicated some concern about your ability to
2 serve and I just had a need for a little
3 additional information.

4 MS. BOX: Okay.

5 THE COURT: Which is why I asked you to
6 come today. And to that end could I ask you to
7 place your left hand on the Bible, raise your
8 right hand?

9 (Victoria C. Box, called as a prospective juror,
10 having first been duly sworn, is examined as
11 follows:)

12 EXAMINATION

13 THE COURT: Thanks so much. Please be
14 seated.

15 BY THE COURT:

16 Q. Now, let me share with you that I notice that
17 your concern is that if you were to miss more than a
18 week of work that it could present a problem for you
19 financially, particularly understanding that you
20 contribute toward your mother's care.

21 A. Right.

22 Q. Let me share with you --

23 A. Okay.

24 Q. -- Ms. Box, that this trial is anticipated to
25 take approximately three weeks.

Juror 22 Victoria C. Box - Examination

1 A. That's a problem for me.

2 Q. That's why I needed to ask you that. As you are
3 well aware when anyone serves on a jury the mere fact
4 that they're serving, they've left their homes, their
5 own daily lives and their jobs and certainly it's a
6 sacrifice for everyone that serves, but I needed you
7 to tell me a little more information. Because what
8 you're I think telling me is that your circumstance
9 certainly you feel --

10 A. Right.

11 Q. -- is different. So share that with us would
12 you, please? I hate to be personal, but....

13 A. Well, my husband's retired, my mother is in
14 assisted living in Orangeburg, so I work part-time at
15 Magnolia Planation so that I can contribute to her
16 financial care at assisted living. Her savings ran
17 out about a year or so ago and because of that she
18 does not have the income to continue to live there
19 unless my brother and I assist her. And so that's
20 basically why I am working.

21 Q. I understand.

22 A. I work two to three days a week depending on the
23 season of the year and that's where my money goes, my
24 salary.

25 Q. I'm going to be very, very nosey. For that

Juror 22 Victoria C. Box - Examination

1 period, because there is a stipend, it's \$25 a day as
2 a juror so I was --

3 A. That's less than I -- I have a pay stub.

4 Q. You can tell me what it is and that will be
5 sufficient.

6 A. It varies. This last one that I received for a
7 two-week period cleared \$300 at that time.

8 Q. That's about \$150 a week?

9 A. Uh-huh (affirmative response). And that was I
10 think five days I worked during that time. See, it's
11 not an every day.

12 Q. It's not every day?

13 A. It's not every day.

14 Q. Okay. So if you work five days a week you make
15 150?

16 A. Well, it averages out, it's 7.62 an hour.

17 Q. Okay.

18 A. And I work eight to nine hours a day.

19 Q. Okay. Okay. All right. And you typically work
20 two to three days a week?

21 A. This week I'm scheduled to work three days.

22 Q. Okay. All right.

23 THE COURT: Any questions?

24 MR. BAILEY: Yes, ma'am.

25

Juror 22 Victoria C. Box - Examination

EXAMINATION

1

2 BY MR. BAILEY:

3 Q. Ms. Box, I'm Walter Bailey I wanted to ask you a
4 few more questions. Would the financial concerns
5 that you have expressed, do you believe, keep you
6 from paying full attention to what goes on in a trial
7 of roughly three weeks' duration?

8 A. Yes, I feel like it would. That's basically the
9 main reason I'm working. I wouldn't be otherwise.

10 Q. Yes, ma'am. Okay.

11 A. And I know that they are shorthanded where I
12 work right now and they had me -- they count on me,
13 too, to be there on those days that I've been
14 assigned.

15 Q. Okay. And do you think those thoughts would be
16 with you if you were on the jury and possibly
17 distract you from following the trial?

18 A. If it were for a long period of time. That's
19 why I said if it were over a week I would be
20 concerned. I don't think a week would affect it that
21 much.

22 Q. Okay.

23 A. But I do know since my husband is retired that
24 we use his income to live off, so mine that I make
25 working contributes to her.

Juror 22 Victoria C. Box - Examination

1 Q. Okay. Is it a situation where if you got behind
2 in the payments there that they would -- would there
3 be a grace period for you to catch up?

4 A. I don't think it would be behind. It would just
5 be a financial concern that it would -- if it were to
6 go on for more than a week.

7 Q. Okay.

8 A. My brother and I both contribute so much per
9 month, you know, to take care of her expenses.

10 Q. Yes, ma'am. All right. I think that's all I
11 have. Thank you, Ms. Box.

12 MR. CUMMINGS: Thank you, Judge.

13 EXAMINATION

14 BY MR. CUMMINGS:

15 Q. I'm Norb Cummings, I practice law in
16 Summerville. And I know that Mr. Bailey, our
17 solicitor, has asked you some questions and Her
18 Honor's asked you some, and it's not to ever cause
19 any hardship or anything.

20 A. Oh, I understand.

21 Q. Thank you, ma'am. If the jury was to be
22 sequestered for up to maybe three weeks, and that
23 means no contact, and I understand your mom -- I
24 haven't asked you this yet, but how old is this nice
25 lady?

Juror 22 Victoria C. Box - Examination

1 A. She'll be 92 in August.

2 Q. And do you and your brother share in like care
3 duties, going to visit her?

4 A. Yes. In fact, he took her to the doctor today
5 and I took her last week. She has been having some
6 medical problems and so we're back and forth, you
7 know, checking on her and taking care of that.

8 Q. Yes, ma'am. And you understand with Her Honor's
9 guidance, that's why we asked the jurors these
10 questions, to see if we can try to find any way to
11 help potential jurors if possible.

12 A. Right.

13 Q. Do you think that would create a hardship on you
14 as a juror? You already were very kind, very polite
15 to Mr. Bailey and said your mind is somewhere else,
16 especially in a three-week trial.

17 A. If it were a long period of time, yes, that
18 would be a concern.

19 Q. Would that create a hardship both -- not
20 economically on you, for lack of better words,
21 emotionally and physically in the caretaking of your
22 mom for two to three weeks?

23 A. It would depend on my brother's situation. My
24 husband is diabetic, so I do try to prepare meals
25 also for him at a certain time in the afternoon. And

Juror 22 Victoria C. Box - Examination

1 if I had to go for a long period of time I would be
2 concerned about that, too.

3 Q. Would it be fair to say that you would like to
4 maybe be excused now, maybe serve another time, maybe
5 ask Your Honor that? I'm not trying to put words in
6 your mouth. Is that the feeling that I'm getting; is
7 that correct?

8 A. Yes. I mean, you know, if it were not for a
9 long period of time, like I said, I feel like
10 anything over a week I would be financially concerned
11 about.

12 Q. Thank you very much for your candor and
13 kindness, ma'am.

14 A. Thank you.

15 THE COURT: Ms. Box, let me tell you what
16 we're going to do now. I'm simply going to ask
17 you to step right outside the courtroom. And
18 it's so we can talk about you.

19 MS. BOX: Okay. Talk behind my back,
20 right?

21 THE COURT: Thank you, ma'am.

22 MS. BOX: Thank you.

23 (Whereupon, the prospective juror exits the
24 courtroom.)

25 THE COURT: What says the State?

Juror 22 Victoria C. Box - Examination

1 MR. BAILEY: I guess to be consistent we've
2 excused everybody that expressed an ability not
3 to concentrate because of work problems and she
4 fits in that category also.

5 THE COURT: Plus her husband I think
6 represents a concern. That sort of came up at
7 the end, but I'm just as concerned about her
8 husband's diabetic condition if he's used to
9 having her there and helping in that regard.

10 Mr. Cummings, is that what you were
11 going to add?

12 MR. CUMMINGS: I was going to concur with
13 Mr. Bailey that except for the fact that some
14 we've asked over our objection, Your Honor,
15 we've excused, but other than that on this lady
16 I absolutely concur with Mr. Bailey.

17 THE COURT: Thank you. Let's invite her
18 back in.

19 (Whereupon, the prospective juror returns to the
20 courtroom.)

21 THE COURT: Thank you. You don't even need
22 to sit down, Ms. Box. We are going to transfer
23 your service.

24 MS. BOX: Okay.

25 THE COURT: I certainly have a concern

Juror 22 Victoria C. Box - Examination

1 about the situation with your mother, but also
2 the situation with if you are sequestered what
3 would happen to your husband's diabetic
4 condition if he relies on you in a daily basis
5 to assist him in that regard.

6 MS. BOX: He does.

7 THE COURT: So what we will do, we will
8 transfer your service --

9 MS. BOX: Okay.

10 THE COURT: -- to another term of court,
11 probably a week-long term of court.

12 MS. BOX: That would be better.

13 THE COURT: And I look forward to seeing
14 you then.

15 MS. BOX: Okay. Thank you.

16 THE COURT: Thank you so much for coming in
17 today. Thank you, appreciate it. Bye-bye,
18 Ms. Box.

19 (Whereupon, the prospective juror steps down
20 from the witness stand and exits the courtroom.)

21 MS. FOOTMAN: Number 189, Gloria Magwood.

22 THE COURT: Ms. Magwood, good afternoon.

23 I'm Diane Goodstein.

24 MS. MAGWOOD: How are you?

25 THE COURT: Fine. I've been assigned to

Juror 22 Victoria C. Box - Examination

1 preside over a term of court which is to begin
2 May the 13th and you've been summoned as a
3 prospective juror for that term. And I have
4 benefit of your questionnaire and I just needed
5 a little more information from you and that's
6 why you've been asked to be here this afternoon.
7 To that end I'm going to ask you to place your
8 left hand on the Bible for me. That's the right
9 one. There you go. Raise your right hand with
10 the pocketbook's fine.

11 (Gloria J. Magwood, called as a prospective
12 juror, having first been duly sworn, is examined
13 as follows:)

14 THE COURT: Thank you ma'am. You can be
15 seated right there, Ms. Magwood.

EXAMINATION

17 BY THE COURT:

18 Q. First I need to ask you how your mother-in-law
19 is doing?

20 A. She's still hanging in there, she has -- she
21 keeps having these cerebral episodes so they still
22 haven't been able to do surgery, we're running in and
23 out, back and forth.

24 Q. She's still in New York?

25 A. She's still in New York.

Juror 189 Gloria J. Magwood - Examination

1 Q. As I understand your questionnaire she went for
2 a funeral?

3 A. She went for a funeral.

4 Q. And, if you will, got caught in New York with
5 this illness?

6 A. Had a heart attack. Went for her brother's
7 funeral, had a heart attack while she was there, and
8 still there because they cannot transport her back
9 here.

10 Q. And she has no family. You all are her family
11 and everybody's at home?

12 A. Yeah, she lives here. No immediate family
13 there. Actually her sons and daughters are here,
14 everybody's here, so we are taking turns going back
15 and forth there.

16 Q. You take a week?

17 A. Right. Well, actually we haven't been two
18 weeks, we should be going this weekend, hopefully.

19 Q. For the next week?

20 A. Yeah.

21 Q. I understand.

22 A. We'll go for a few days, hopefully. Because
23 there's no one there. She does have a lot of tubes
24 out, but they still can't do surgery on her yet. We
25 are hoping they don't have to, we're still hopeful.

Juror 189 Gloria J. Magwood - Examination

1 Q. So are you hoping that she'll be transported
2 back home for the surgery, or it may have to occur in
3 New York?

4 A. The doctors are saying that they wouldn't
5 transport her. If she's going to have surgery she
6 would have it there, they're not going to transport
7 her. It would be just too costly to try to do that
8 and all that.

9 Q. I understand. And so have you already made a
10 trip to New York?

11 A. Yes.

12 Q. Yes. And so your week to come up is the
13 following week; is that right?

14 A. Hopefully we can go this weekend.

15 Q. Okay.

16 A. I'm hoping. If not this weekend, next weekend.
17 We've kind of gone back and forth with it. And, you
18 know, it's costly to go back and forth.

19 Q. Right. But you're certain that you will return
20 either this coming weekend or the next weekend?

21 A. Right.

22 Q. And for several days, or the week?

23 A. No. We're not staying the week. What we're
24 trying to do is pretty much make it up on a long
25 weekend. Because we have to work, you know, we have

1 to work. So we're trying to make it kind of like
2 long weekend just to pretty much put eyes and hands
3 on her, see how she's doing, let her know somebody is
4 thinking about her, praying for her.

5 Q. I understand.

6 A. It's costly to fly back and forth. We're pretty
7 much driving back and forth.

8 Q. Back and forth. Let me ask you this question,
9 Ms. Magwood: This case is anticipated to last for
10 three weeks and there is a possibility that the jury
11 will be sequestered, which means put up in a motel.

12 A. I was sequestered before on a case.

13 Q. You've been sequestered before?

14 A. Yes.

15 Q. And so you understand what that is. And so I
16 would -- and I guess the question that I would have
17 for you is what does that mean to you? Would you be
18 able to focus on the trial? Would you be distracted
19 by your mother-in-law's condition? Could your
20 husband in your stead go to New York to see his mom?

21 A. I'm sure he could go without me. And, you know,
22 he very well might go without me because, like I
23 said, we do have to work. In actuality, the reason I
24 asked that is because I don't know exactly what's
25 going to happen to her. I would hate to be locked

1 into a case and something happens for the worse or
2 something and I know that I would have to pretty much
3 say, hey, I'm not going today, I have to go. I have
4 to be there to support my husband, you know, be there
5 for him to lean on me if that kind of stuff that's
6 going on, you know.

7 Q. Certainly. If something that -- I think we're
8 talking about a very dramatic event occurring.

9 A. Right. Even when this happened he didn't need
10 to see her like that. And just being there with him,
11 you know, he's not very verbal at all, but just
12 seeing him going through this and having him even
13 worrying that way would take him, you know, from
14 point A to point B.

15 Q. Has it been difficult for him?

16 A. Yeah. He's just -- you know, you never seen
17 your mother still. She's a very active woman, she's
18 very, very active and just seeing her unconscious and
19 just hearing about her basically going up there. She
20 drove, you know, all the way, you know, from here
21 to -- really, I drove to DC because, you know, he
22 just wasn't with it. But just seeing him not being
23 able to function or whatever, being supportive. I
24 need support when I needed it and the support when he
25 needed it. So just to have to just be there to

1 support him. I wouldn't want to be not available,
2 you know, in that case. I'm sure if everything is
3 well I can be focused. I mean, I'm not sure. And it
4 just gave names or whatever, I'm not sure what kind
5 of a case or whatever --

6 Q. Sure.

7 A. -- but as I could be with anything.

8 Q. All right. Ms. Magwood, Solicitor Bailey may
9 have some questions, Mr. Cummings, Ms. Hardee-Thomas
10 may also have some questions for you.

11 EXAMINATION

12 BY MR. BAILEY:

13 Q. Ms. Magwood, just a couple of questions here. I
14 hate to be personal, but we have to find out the
15 questions now, the answers now. You don't know right
16 now whether or not your mother-in-law is actually
17 going to have surgery; is that correct?

18 A. Right.

19 Q. Okay.

20 A. They're doing some studies still because they
21 want to get out the -- her heart, it had like all
22 kind of machines on her. They did take some of them
23 off, but it's still not as regulated.

24 Q. They're trying to stabilize her and then either
25 decide whether to do surgery or not?

Juror 189 Gloria J. Magwood - Examination

1 A. Exactly.

2 Q. If they do do surgery, do you plan on being in
3 New York for the surgery?

4 A. Yes. Yes.

5 Q. Okay. And that would be regardless of whether
6 or not your brother's able to get up there, you would
7 definitely want to go up there for the surgery?

8 A. My husband.

9 Q. Husband, I'm sorry.

10 A. Well, yes. I would like to be with him.

11 Q. Okay.

12 A. All depends on the length of time. We would
13 like to be there at least if not the day of the
14 surgery, post-op, when she gets up or whatever.

15 Q. Okay.

16 A. Back and forth. Like I said, there's no like
17 family. Her brother was her last total --

18 Q. Okay.

19 A. -- family so it's back and forth, everybody's
20 trying to be there for her.

21 Q. Okay. And have they given you any idea -- I
22 know you don't know what's going to happen in a
23 situation like this, it may be good or bad or
24 anything, but have they given you any prognosis,
25 whether or not they think they're going to have to

Juror 189 Gloria J. Magwood - Examination

1 operate, and if so when that might be?

2 A. No, because this actually happened on the 15th
3 of April.

4 Q. Yeah.

5 A. And they were ready to actually do surgery
6 except her fever wouldn't go down. And it was kind
7 of really for the best because her heart is doing
8 better than they thought.

9 Q. Okay.

10 A. So, you know, I'm not sure. At this point he's
11 doing studies trying to see how strong it's going to
12 get. Who knows. I mean, we're still praying.

13 Q. Day-to-day thing.

14 A. It's a day-to-day thing. You know, continue
15 prayer. And may just do the studies and put her on
16 medication, but they haven't done that.

17 Q. All right. You may have answered this when the
18 judge asked you a similar question, but if your
19 mother -- if your mother-in-law's in the same
20 condition that she is now at the time we pick this
21 jury and start the trial, would you be able to
22 concentrate on the testimony in a very, very
23 important case, or would you be concerned about your
24 husband and his mother and what's going on up in New
25 York, would that distract you from following the

Juror 189 Gloria J. Magwood - Examination

1 trial closely?

2 A. I'm certain I could concentrate. Like I said --
3 what I said to the judge was that if she's fine,
4 everything is fine, I'm my husband's support.

5 Q. Right.

6 A. I would be supportive of him. As long as he's
7 fine and she's like she is I am going to fine.

8 Q. Okay.

9 A. I would just not be well if he needed me because
10 he is not a person that was very verbal.

11 Q. Okay.

12 A. And, you know, when you're married to somebody
13 for a while you can read that person.

14 Q. Yeah.

15 A. And, you know, you have to be there for them.

16 Q. All right.

17 A. And, you know, I know that -- you know, I know
18 when he needs me even if he says, well, go ahead, you
19 know, I know him.

20 Q. All right.

21 A. That kind of stuff.

22 Q. All right. I understand. Thank you,

23 Ms. Magwood. That's all I have.

24 MR. CUMMINGS: Thank you, Judge. I don't
25 have any questions of this nice lady.

Juror 189 Gloria J. Magwood - Examination

1 THE COURT: Thank you so much. Thank you,
2 Ms. Magwood. I'm going to tell you what's going
3 to happen next. I'm going to ask you to just
4 step right outside the courtroom just so we can
5 talk about you for a second and then I'll invite
6 you right back in.

7 MS. MAGWOOD: Okay.

8 THE COURT: Thank you so much.
9 (Whereupon, the prospective juror exits the
10 courtroom.)

11 THE COURT: Mr. Bailey.

12 MR. BAILEY: I think she is qualified. I
13 would suggest possibly that she come back Monday
14 and see what the situation is at that time. I
15 am somewhat concerned about if either the
16 surgery or if things go real bad and she passes
17 away, I am concerned about that. But we don't
18 know if that's going to happen or not and it's
19 just I think a week from today might be a
20 clearer picture.

21 THE COURT: Okay. Yes, sir.

22 MR. CUMMINGS: Thank you, Judge. I think
23 Mr. Bailey stated a moment ago she is
24 statutorily qualified at this point, Judge. And
25 just like Ms. Woods, we would have an alternate

Juror 189 Gloria J. Magwood - Examination

1 God forbid if something did happen in New York.
2 She's not asked specifically to be excused and I
3 would ask Your Honor, and with somebody's
4 hopeful outlook in life that maybe her relative
5 will hang on during the duration.

6 I would ask Your Honor to keep her,
7 please, and we will know more as we go through
8 next week whether or not she even makes one of
9 the panels, Judge, after we do more voir dire
10 and other issues and maybe by that time a doctor
11 will have spoken, if Your Honor sees fit.

12 THE COURT: I'll ask her to return on that
13 basis to see how she's doing, but if she gets
14 more grave, if she gets gravely ill I certainly
15 don't want her -- I'm going to explain to her if
16 she gets very gravely ill and it happens over
17 the weekend and she needs to go to New York, to
18 call us Monday morning. Would that suffice the
19 two of you?

20 MR. BAILEY: Yes, ma'am.

21 MR. CUMMINGS: Yes, Judge.

22 THE COURT: I'll leave it like that, that
23 we're all hopeful that she's going to be well,
24 medication's going to fix it and she'll know by
25 next Monday.

Juror 189 Gloria J. Magwood - Examination

1 MR. CUMMINGS: Thank you, Judge.

2 THE COURT: Otherwise let us know. Okay.

3 (Whereupon, the prospective juror returns to the
4 courtroom.)

5 THE COURT: Ms. Magwood.

6 MS. MAGWOOD: Yes.

7 THE COURT: Let me tell you what I'm going
8 to ask you to do. You are very optimistic and
9 we are very optimistic with you. So what I'm
10 going to ask you to do is just to return next
11 Monday at ten o'clock to give us an update.

12 Now, however, if she takes a turn for
13 the worst between now and next Monday, you let
14 us know. Because if you need to go to her
15 between now and next Monday I don't want you to
16 not go because you're anticipated to return on
17 Monday. Do you see what I'm saying?

18 MS. MAGWOOD: Yes.

19 THE COURT: You just call and let us know
20 that is what has occurred and that's why you're
21 not present, okay? But say she continues to
22 improve and the doctors say Friday she's doing
23 wonderfully, we think medication will handle it
24 and it looks like she's going to be coming back
25 pretty soon, we hate to lose you.

Juror 189 Gloria J. Magwood - Examination

1 So what I'd like you to do is to
2 return next Monday, give us an update because it
3 might be she's doing great. However, if she
4 takes a turn for the worst and you need to go to
5 her, you just call us first thing Monday
6 morning.

7 MS. MAGWOOD: Okay.

8 THE COURT: Okay?

9 MS. MAGWOOD: Okay.

10 THE COURT: Thank you, Ms. Magwood. All
11 right.

12 MS. MAGWOOD: Thank you.

13 (Whereupon, the prospective juror steps down
14 from the witness stand and exits the courtroom.)

15 MS. FOOTMAN: Next we have Number 201, Lisa
16 McDonald Gibson, is her new name now.

17 THE COURT: Okay. Thank you.

18 Hi. How are you?

19 MS. McDONALD GIBSON: Good.

20 THE COURT: You are Ms. McDonald, and I'm
21 Diane Goodstein. So nice to meet you,
22 Ms. McDonald. We have benefit of your
23 questionnaire. I have been assigned to preside
24 over a trial which is to go to trial on May the
25 13th, you've been summoned as a prospective

Juror 189 Gloria J. Magwood - Examination

1 juror and I have the benefit of your
2 questionnaire and just needed a little bit more
3 information. And to that end would you place
4 your left hand on the Bible and raise your right
5 hand?

6 (Lisa McDonald Gibson, called as a prospective
7 juror, having first been duly sworn, is examined
8 as follows:)

9 THE COURT: Thank you so much. Listen, I
10 don't know what to do with all this beauty in
11 this courtroom. My goodness, darling, y'all are
12 welcome to go sit in the jury box like jurors.
13 And those seats rock back and forth a little
14 bit, but just pick a seat. We're not going to
15 keep you but a second. There you go. We're not
16 going to keep Mommy but just a couple of
17 minutes. Thanks.

18 EXAMINATION

19 BY THE COURT:

20 Q. I was noticing that two and five year old and
21 here they are.

22 A. Yes, ma'am.

23 Q. And you take -- you work with Mother's Morning
24 Out with the girls and take them with you?

25 A. Yes, ma'am. Well, the five year old, she's in

Juror 201 Lisa McDonald Gibson - Examination

1 kindergarten.

2 Q. Great. Where?

3 A. She's at Flowertown.

4 Q. Oh, great.

5 A. And Sarah actually just turned three last week,

6 so she's three.

7 Q. Okay.

8 A. And she goes to the Mother's Morning Out, we do

9 it on Tuesdays and Thursdays and it's for four hours

10 so we are gone for eight hours a week. I work eight

11 hours a week.

12 Q. You don't get the Mother's Morning Out if you're

13 teaching the Mother's Morning Out?

14 A. No, but I do it so she can go.

15 Q. I understand. And be with the kids?

16 A. I can't leave her yet.

17 Q. I understand.

18 THE COURT: Any questions from the State?

19 MR. BAILEY: No, ma'am.

20 THE COURT: Any questions from the defense?

21 MR. CUMMINGS: No. Judge, we thank this

22 nice lady also.

23 MR. BAILEY: No objection.

24 MR. CUMMINGS: No objection, Judge.

25 THE COURT: Thank you so much. I needed to

Juror 201 Lisa McDonald Gibson - Examination

1 just assure myself of exactly what you said, and
2 that is that you go together and you wouldn't
3 leave her, that the whole point is so you can go
4 together. And that's the very small piece of
5 information that I needed, but I'm excited that
6 the girls are here, maybe shall decide to be
7 lawyers. It will be in their background.

8 Thank you so very much, you are
9 certainly free to go and I am going to excuse
10 you from your service on the basis of the
11 exemption. Thank you so much.

12 MS. McDONALD GIBSON: Thank you.

13 THE COURT: And they are so beautiful and
14 well behaved.

15 MS. McDONALD GIBSON: Thank you.

16 THE COURT: We had some kids here last week
17 with their moms and they were not as quiet.

18 MS. McDONALD GIBSON: Thank you so much.

19 THE COURT: Thank you so much,

20 Ms. McDonald, take good care. Bye, girls.

21 (Whereupon, the prospective juror steps down
22 from the witness stand and exits the courtroom.)

23 MS. FOOTMAN: Number 222, Lisa Nichols.

24 THE COURT: Ms. Nichols, how are you?

25 MS. NICHOLS: Good.

Juror 201 Lisa McDonald Gibson - Examination

1 THE COURT: My name is Diane Goodstein and
2 I am to preside over a trial which is to begin
3 May 13th and I have your information sheet and
4 your concerns. I just had a couple of
5 additional questions, a little more information
6 that I needed to ask you.

7 My goodness, there's so much -- this
8 is the second time this has happened today, all
9 this beauty in the courtroom, my goodness.
10 Whatever are we to do? And I just need a couple
11 questions answered. Would you place your left
12 hand on the Bible for me?

13 (Lisa Nichols, called as a prospective juror,
14 having first been duly sworn, is examined as
15 follows:)

16 THE COURT: Thanks so much. Please be
17 seated.

18 EXAMINATION

19 BY THE COURT:

20 Q. Ms. Nichols, you work inside your home?

21 A. Yes.

22 Q. And you do not work outside your home?

23 A. Well, I'm a stay-at-home mom primarily, but I'm
24 a musician so I play at weddings and things on
25 weekends.

Juror 222 Lisa Nichols - Examination

1 Q. Oh, you do, all right. And why is it more
2 convenient during the weekend?

3 A. Well, that's when people get married, usually
4 they get married on Saturdays.

5 Q. Okay. And who cares for the children in that
6 event?

7 A. Usually I have some friends that work, you know,
8 during the week and so they're off on the weekends.

9 Q. Okay.

10 A. Or sometimes my husband might be free as well.

11 Q. I got you. Is that an every weekend thing,
12 probably this time of the year?

13 A. May is very busy and June's very busy. It's
14 seasonal, some months there's nothing and some months
15 there's a lot.

16 Q. Especially like now, this is the wedding time of
17 the year. But certainly you mentioned here that you
18 are a stay-at-home mom and that has been your choice.
19 Obviously you have an eight year old and a four year
20 old. Very well. Thank you.

21 THE COURT: Any questions from the State?

22 MR. BAILEY: None from the State.

23 THE COURT: And from Mr. Cummings?

24 MR. CUMMINGS: No questions, either. Thank
25 this very nice lady.

Juror 222 Lisa Nichols - Examination

1 THE COURT: Very well. I think that
2 provides us with the information that we need.
3 What I'm going to ask you to do is step outside
4 the courtroom for just a moment, let us chat and
5 I'll get you right back in.

6 MS. NICHOLS: Okay.

7 THE COURT: All right, gorgeous ones. I'll
8 tell you, when you walked in I had to look hard
9 to see which one was a little girl and which one
10 was a mom.

11 MS. NICHOLS: Thank you.
12 (Whereupon, the prospective juror exits the
13 courtroom.)

14 THE COURT: What says the State?

15 MR. BAILEY: No objection.

16 MR. CUMMINGS: No objection.

17 THE COURT: I think the exemption applies
18 clearly to this woman. Thank you.

19 (Whereupon, the prospective juror returns to the
20 courtroom.)

21 THE COURT: Thank you so much. You don't
22 even need to sit down, that gave me exactly all
23 the information I need. There is an exemption
24 that applies for you.

25 MS. NICHOLS: Okay.

Juror 222 Lisa Nichols - Examination

1 THE COURT: And you obviously wish to
2 exercise that exemption. And have a great
3 summer. Y'all have fun.

4 MS. NICHOLS: Thank you very much.

5 THE COURT: Thank you. Bye-bye now.
6 (Whereupon, the prospective juror steps down
7 from the witness stand and exits the courtroom.)

8 THE COURT: Next.

9 MS. FOOTMAN: Next we have 272, Ms. Inez
10 Shuler.

11 THE COURT: How many more do we have?

12 MS. FOOTMAN: One more.

13 THE COURT: Hi, Ms. Shuler.

14 MS. SHULER: Hi.

15 THE COURT: How are you?

16 MS. SHULER: I'm fine.

17 THE COURT: Ms. Shuler, I'm Diane Goodstein
18 and I have been assigned to preside over a term
19 of court to begin May the 13th. And you have
20 been summoned to be a potential juror for the
21 week and I have your juror questionnaire. And
22 on that you've expressed some concerns, but I
23 needed to get a little bit more information from
24 you so I appreciate you coming today so very
25 much.

Juror 222 Lisa Nichols - Examination

1 MS. SHULER: Oh, yes, well...

2 THE COURT: Would you place your left hand
3 on the Bible for me?

4 A JUROR: Well....

5 THE COURT: I'm going to ask you to affirm.
6 Are you worried about that?

7 MS. SHULER: I affirm.

8 THE COURT: All right. Affirm.

9 (Inez S. Shuler, called as a prospective juror,
10 having first been duly affirmed, is examined as
11 follows:)

12 THE COURT: Thank you. Come on sit down,
13 Ms. Shuler, you make yourself comfortable.

14 EXAMINATION

15 BY THE COURT:

16 Q. I see your concern is that you've got that
17 problem?

18 A. Yes.

19 Q. That you've got diabetes?

20 A. Yes.

21 Q. So let me ask you this question, because here's
22 what I want you to know. If I can accommodate you I
23 want to accommodate you. Let me tell what you that
24 means. First thing it means we've got new cushions
25 coming for the chairs and they've been ordered and

Juror 272 Inez S. Shuler - Examination

1 they'll be in this week so I think the chairs will be
2 at least cushioned. We take a break about every hour
3 and a half, but if you needed to take a break a
4 little more frequently I want you to know I want you
5 to do that.

6 A. Okay.

7 Q. You know, we have snacks available for jurors
8 and we take a midmorning snack and then we take lunch
9 and we have an afternoon snack, but if you needed
10 your orange juice or something to eat while you're in
11 the jury box I don't care. I mean, in other words, I
12 want to accommodate you, I don't want you to suffer
13 any discomfort and I certainly want you to be able to
14 serve, so that's what I wanted to say to you. And I
15 wanted to know from you whether or not you thought
16 that would help.

17 A. Well, it would help, but just sitting here long
18 periods of time, sometime I have to stand with my
19 legs.

20 Q. That doesn't matter, that's not a problem.

21 A. My legs get numb and my feet get numb.

22 Q. Standing's not a problem, it really isn't. It
23 isn't a problem. You know, I've had jurors before
24 that, you know, they just needed to stand where they
25 were, move around, it's not a problem. I mean, you

Juror 272 Inez S. Shuler - Examination

1 think everybody would be staring at you, but it
2 really doesn't seem to be a problem.

3 Tell me this, let me ask you this question:
4 About how long before you start get stove up or
5 having discomfort?

6 A. Oh, about maybe 45 minutes.

7 Q. Forty-five minutes, yeah. That's not a problem.
8 If you were selected on this jury, Ms. Shuler, I
9 would be happy for you to do that. Have you talked
10 with your doctor to see what he thinks about it?

11 A. No. That's why when they called they said talk
12 to you.

13 Q. Yeah.

14 A. And if you preferred I could, you know, talk to
15 him.

16 Q. With your diabetes do you have to take a shot?

17 A. No. I just take natural tablets.

18 Q. Natural tablets.

19 A. Yeah.

20 Q. I know you have to watch your diet, where you
21 eat and what you eat, but I can certainly accommodate
22 you. First of all, let me ask these folks if they
23 have any questions.

24 THE COURT: Mr. Bailey, have you got any
25 questions?

Juror 272 Inez S. Shuler - Examination

1 MR. BAILEY: Yes, ma'am. Just briefly.

2 EXAMINATION

3 BY MR. BAILEY:

4 Q. I'm Walter Bailey and I just wanted to ask you a
5 couple questions. In addition to the sitting, the
6 back problems you've got, I notice that you've got
7 high blood pressure and headaches. Could you tell us
8 how often you have a headache and how bad they are?

9 A. I have one right now just sitting here.

10 Q. That's probably because I'm asking these
11 questions, okay.

12 A. Well, the headaches really come from sometime
13 the strain on my eyes, or....

14 Q. Okay.

15 A. Like my pressure's up, if I don't eat at a
16 certain amount of time --

17 Q. Okay.

18 A. -- I get a headache.

19 Q. Do you get them every day?

20 A. Every day.

21 Q. Okay. More than once a day?

22 A. Sometime it lasts for about two hours and
23 sometime it lasts for about 30 minutes, it varies.

24 Q. Okay. And are they those kind of headaches that
25 make you not be able to concentrate?

Juror 272 Inez S. Shuler - Examination

1 A. Not really, no.

2 Q. Okay. So do you take any medication for that,
3 any prescription medication?

4 A. Not a prescribed.

5 Q. Okay. You take aspirin, or Excedrin, or
6 something like that?

7 A. Yeah, something.

8 Q. Okay. Are you on any kind of medication at all,
9 any kind of prescription medication?

10 A. I'm on -- for high blood pressure I am on
11 medication.

12 Q. Okay. All right.

13 A. And I'm on medication for diabetes.

14 Q. All right. And do you see the same doctor for
15 both of those problems?

16 A. Yes.

17 Q. Who is your doctor?

18 A. Dr. Hanna in Goose Creek.

19 Q. All right. Okay. All right. And do you feel
20 like if you got picked on this jury that even though
21 you've got the headaches and the high blood pressure
22 and the diabetes, that if you were able to stand up
23 every 45 minutes or however often you felt like it,
24 would you be able to sit as a juror if you get
25 picked?

Juror 272 Inez S. Shuler - Examination

1 A. Yes.

2 Q. Okay. All right. I think that's all I've got.

3 Thank you.

4 THE COURT: Thank you, Mr. Bailey.

5 MR. CUMMINGS: I don't have any questions
6 of this lady, Judge. Thank you.

7 THE COURT: Great. All right. Let me tell
8 you what I'm going to do. I'm going to ask you,
9 please, ma'am, just to step right outside the
10 door just for a second.

11 MS. SHULER: Right there.

12 THE COURT: Don't go back to the room
13 because you're going to have to come in in just
14 a couple of minutes. That's just so we can talk
15 about you behind your back.

16 MS. SHULER: Oh, I hope it's something
17 good.

18 THE COURT: Of course it's going to be
19 good.

20 (Whereupon, the prospective juror exits the
21 courtroom.)

22 THE COURT: I think she's qualified. I
23 think that I'll ask her to check with her doctor
24 to be sure her doctor thinks that she can serve,
25 but I think that she can certainly come. Very

Juror 272 Inez S. Shuler - Examination

1 well. Thank you. Any objection?

2 MR. BAILEY: No objection from the State.

3 MR. CUMMINGS: No.

4 THE COURT: Thank you. Ask her to come
5 back in.

6 (Whereupon, the prospective juror returns to the
7 courtroom.)

8 THE COURT: Ms. Shuler, this is what I'm
9 going to ask you to do, I am going to ask you to
10 return on Monday at ten o'clock. But between
11 now and then I want you to think about it. And
12 you might want to check with your doctors just
13 to be sure they think you can serve. I think we
14 can accommodate, and I want to accommodate you
15 if you are able to serve. You come on this way
16 because there's an elevator this way. You
17 didn't come up those steps, did you, Ms. Shuler?

18 MS. SHULER: No. That was going to be my
19 main problem, climbing stairs.

20 THE COURT: Well, guess what, we got an
21 elevator. I think it's dedicated to somebody
22 that used to live in St. George. Thanks,
23 Ms. Shuler.

24 (Whereupon, the prospective juror steps down
25 from the witness stand and exits the courtroom.)

Juror 215 Michael R. Moskal

1 (Michael R. Moskal, called as a prospective
2 juror, is examined as follows:)

3 THE COURT: Who's our last person?

4 MS. FOOTMAN: Number 215, Michael Moskal.

5 THE COURT: Thank you so much.

6 Guys, he's got an exemption,
7 Mr. Moskal.

8 MR. CUMMINGS: I'm sorry, Judge?

9 THE COURT: He's got an exemption. Y'all
10 hadn't seen him, huh?

11 MR. CUMMINGS: No, ma'am. We just got it.

12 THE COURT: Okay. I'll ask him if he's
13 still teaching. Have you all seen it? He says
14 he's a high school teacher and he's got an
15 exemption.

16 EXAMINATION

17 BY THE COURT:

18 Q. Mr. Moskal, how are you?

19 A. I am real good.

20 Q. Where do you teach?

21 A. Where? Summerville High.

22 Q. You do?

23 A. Yes, ma'am. I know Ari.

24 Q. I wouldn't dare ask another question after that.

25 You are entitled to an exemption, Mr. Moskal, but you

Juror 215 Michael R. Moskal

1 want to exercise your exemption; am I right about
2 that?

3 A. Yes, ma'am. I think so.

4 Q. Just transfer your service to later.

5 A. Later in the summer would be great.

6 Q. All right. Be easy on him now.

7 A. I never had him.

8 Q. I know.

9 A. He took a class in my room, but I never had him
10 personally.

11 Q. Well, I kind of wish you had, then I could
12 really pick your brain.

13 A. You could, really.

14 Q. Thank you, but I've got another one coming
15 through so you keep your eye out for her, okay?

16 A. Sounds good.

17 Q. She'll be there next year. Thank you for coming
18 in. Bye now. We're going to transfer you to later
19 in the summer.

20 A. Thank you.

21 (Whereupon, the prospective juror steps down
22 from the witness stand and exits the courtroom.)

23 MS. FOOTMAN: For the record I have -- we
24 had Mr. Robert Talley, I think, on our list was
25 supposed to come today. And he states that he

1 doesn't have a problem and he will be here
2 Monday the 13th.

3 THE COURT: Very good. Thank you so much.

4 MR. CUMMINGS: Thank you, Flo.

5 THE COURT: That's Mr. Talley.

6 Let me ask one other thing, counsel,
7 of you. And, again, we have not addressed that
8 concern, but when we have the individual voir
9 dire is there a request of you that as the first
10 juror is questioned, maybe the State goes first
11 and then the defense asks questions when that
12 opportunity presents itself, and then on juror
13 two we flip that so the defense goes first and
14 then the State goes? Is there any request for
15 that?

16 You all haven't mentioned it and I
17 just noticed based on some of the things that I
18 have been reading that that seemed to be a
19 procedure. And I don't know that it makes a
20 difference, but I thought that I would inquire.

21 MR. BAILEY: Your Honor, both ways, it
22 doesn't matter to me.

23 MR. CUMMINGS: Either way, Judge. And as a
24 matter of fact, sometime it's probably nice to
25 take a little break from going first, sometimes

1 jurors --

2 THE COURT: Let the solicitor think for a
3 moment instead of always having to ask all those
4 questions. All right.

5 MR. CUMMINGS: Also, Judge --

6 THE COURT: If you will remind me we'll do
7 that.

8 MR. CUMMINGS: -- one of the things we were
9 going to talk about, probably not to take up
10 court time on the record, but to present written
11 voir dire questions for the general jury panel
12 again on Monday. And then after we conferred in
13 chambers today Mr. Bailey and I will do what we
14 call the death penalty qualified jury
15 questionnaire.

16 THE COURT: Yeah, sure.

17 MR. CUMMINGS: And we'll make sure we have
18 that for you this week.

19 THE COURT: That will be great. That will
20 be great. And we talked about the witness list
21 and y'all are going to compile your witness list
22 and then we'll present that to the jurors in the
23 room. While the panels are waiting they can
24 review the witness list and then I will inquire
25 of each juror individually whether or not they

1 know any of the jurors.

2 MR. CUMMINGS: Thank you, Judge.

3 THE COURT: I'm sorry, whether they know
4 any of the witnesses, I'm sorry. I'm trying to
5 think, is there anything further that we need to
6 do? Yes.

7 MR. CUMMINGS: Yes, Judge. We had talked
8 previously when we met last week and then
9 earlier in chambers I had explained to my client
10 on Saturday morning with Ms. Thomas and I
11 meeting with our clients, that there would be
12 some questions we were going to desire an answer
13 today from.

14 THE COURT: That's right.

15 MR. CUMMINGS: And I would prefer if Your
16 Honor would let me do this since the courtroom's
17 empty, to have Mr. Bowman stand and have
18 Ms. Thomas ask him his desire as to the issue of
19 jury sequestration.

20 THE COURT: Yes. Thank you. Thank you,
21 Mr. Bowman.

22 MR. CUMMINGS: Mr. Bowman, as you know we
23 have asked several times back and forth whether
24 or not -- the normal procedure in the state is
25 the jury would be sequestered unless you freely,

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1 voluntarily, knowingly waive the right to have
2 that jury sequestered and as part of the -- our
3 trial strategy to say to you that we concur in
4 your decision; do you understand that?

5 MR. BOWMAN: Yes, sir.

6 MR. CUMMINGS: What is your desire today
7 that you make to Her Honor and the record as to
8 the jury either being sequestered or not
9 sequestered, sir?

10 MR. BOWMAN: Sequestered, ma'am.

11 THE COURT: Okay. Very well.

12 MR. CUMMINGS: Ms. Thomas, do you have any
13 questions of Mr. Bowman?

14 MS. HARDEE-THOMAS: He already spoke.

15 MR. CUMMINGS: Thank you, Judge.

16 THE COURT: Very well. All right. Again,
17 my only concern -- not a concern -- and I shared
18 both with counsel and I certainly will do that
19 with you, too, Mr. Bowman, of course we don't
20 know exactly how long this matter will last.
21 And I shared with your lawyers and the solicitor
22 and share with you now just that I have a
23 graduation on June the 1st. I think when we
24 scheduled this trial we anticipated that the
25 trial would be concluded by then, but who knows,

1 but I got to make a graduation on June the 1st.
2 Even if we need to continue on that's perfectly
3 fine. But I just shared that with everyone.
4 Very well.

5 All right. Yes, ma'am. Ms. Flo has
6 got something else, you go Ms. Flo.

7 MS. FOOTMAN: For the record I want to
8 address the people that the attorneys consented
9 to excuse after you left --

10 THE COURT: Yes. Yes.

11 MS. FOOTMAN: -- on Friday.

12 THE COURT: All right.

13 MS. FOOTMAN: Number 8, Isiah Austin, he
14 had left the county.

15 THE COURT: Okay.

16 MS. FOOTMAN: Number 19, Valerie Blake, she
17 had a criminal record.

18 THE COURT: Okay.

19 MS. FOOTMAN: Number 25, M. S. Brigman,
20 left the county; Number 39, Tammy Castro, small
21 children; Number 109, Davidra (sic) Greene I
22 think it is, he left the county.

23 THE COURT: How do you spell that, I'm
24 sorry?

25 MS. FOOTMAN: G-e-e-n-e, I believe. I'm

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1 not sure. Right, G-e-e-n-e.

2 THE COURT: Got it.

3 MS. FOOTMAN: Number 121, David Grooms, had
4 a criminal record; Number 195, Tricia Mazell,
5 that's M-a-z-e-l-l, she was a teacher and eight
6 months pregnant.

7 THE COURT: Okay.

8 MS. FOOTMAN: Number 302, Jeffrey Tilley,
9 left the state; Number 80, Kimberly Dunn.

10 MR. BAILEY: Wait a minute, 80?

11 MS. FOOTMAN: Eighty. Got it? Number 304,
12 Jaclyn Torlay, lives in Charleston County; and
13 Number 183, Bruce Love, deceased. And that's
14 it. I still need to know what to do with the
15 two people we had questions on, we had no
16 responses on Friday and I received their summons
17 today. It's Number 26 which is Albert Britt.

18 THE COURT: Right.

19 MS. FOOTMAN: And Number 285, Rodney Snook,
20 S-n-o-o-k.

21 THE COURT: You received from them today
22 what, their questionnaires with concerns?

23 MS. FOOTMAN: Yes, ma'am. Mr. Britt was
24 retarded or mentally --

25 THE COURT: Counsel, have you all seen

1 Mr. Britt and Mr. Snook, you've seen their
2 questionnaires?

3 MR. BAILEY: I have.

4 THE COURT: Why don't we invite them to --
5 if the regular jury panel's coming in at 10:00,
6 why don't we invite them to come in at 9:00 on
7 that Monday the 13th.

8 MR. BAILEY: 285, Snook, had a doctor's
9 excuse.

10 THE COURT: Had a doctor's excuse. Did you
11 have a chance to see it?

12 MS. FOOTMAN: So we can excuse him?

13 THE COURT: Hold on one second.

14 MS. HARDEE-THOMAS: Yes, Your Honor, we did
15 see 285 and we went over it, says hearing loss
16 in both ears, short term memory loss, being
17 treated for anxiety and depression and could not
18 hear or remember anything. And he has a
19 doctor's excuse listed on the back.

20 THE COURT: So you all would consent to him
21 being excused?

22 MS. HARDEE-THOMAS: Without question, Your
23 Honor.

24 THE COURT: Very well. All right. So 285,
25 I'll add 285, Mr. Snook, to the list where

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1 there's been consent that these folks be
2 excused. Which leaves us with Number 26,
3 Mr. Britt?

4 MS. FOOTMAN: Yes, ma'am.

5 THE COURT: Do you want to look at
6 Mr. Britt?

7 MR. CUMMINGS: Unless he can send something
8 up through the clerk's office, Judge, and Flo
9 will call either one of us. I understand he's
10 being treated by disability and special needs in
11 some capacity, but just from reading the
12 summons --

13 THE COURT: It isn't helpful for you, I
14 understand.

15 MR. CUMMINGS: I would hope those nice
16 folks would at least get him someplace that
17 would not make that nice man come up here if not
18 needed.

19 THE COURT: No, tell them we need some
20 doctor's excuse or some reason, some
21 verification of what they -- what his problems
22 are.

23 All right. Now, with regards to the
24 some odd 60 folks that had not responded that we
25 talked about getting that, getting their summons

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1 to the sheriff, where are we on that?

2 MS. FOOTMAN: Yes, ma'am. We've already
3 delivered those. And I've gotten some back
4 which I've reported today and I haven't checked
5 with her since before lunch to see if they have
6 any more.

7 THE COURT: Any more.

8 MS. FOOTMAN: So how do you want me to
9 handle those as they come in? Do you want the
10 officers to come up, or...?

11 THE COURT: I think what I would like is
12 same circumstance, continue to consult with
13 counsel. And if the folks are reached and their
14 questionnaires express a concern about serving,
15 have them come in at 9:00 on Monday.

16 MS. FOOTMAN: Okay.

17 THE COURT: Assuming there's not a consent.
18 Obviously if they have a consent, counsel has
19 looked at it and consent that they're out of the
20 county or whatever their circumstances are, you
21 can just report that to me on Monday, the 13th.

22 MS. FOOTMAN: Okay. And as I get them,
23 they've been served, I'll notify the attorneys.

24 THE COURT: Just throughout the balance of
25 the week that would be wonderful.

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1 MS. FOOTMAN: Okay.

2 THE COURT: Because at this point how many
3 jurors have not been accounted for?

4 MS. FOOTMAN: Just those, really, the ones
5 that we have.

6 THE COURT: The 60.

7 MS. FOOTMAN: Sent out, right.

8 THE COURT: Minus the ones that have
9 responded?

10 MS. FOOTMAN: Yes, ma'am.

11 THE COURT: Okay. Great. Very well.
12 Thank you all so much. Anything that we can do
13 further for today?

14 MR. BAILEY: We were going to mark
15 exhibits, I think.

16 THE COURT: I understand y'all are going to
17 do that when I leave you.

18 MR. BAILEY: Okay.

19 THE COURT: Y'all don't need me to do that.

20 MR. CUMMINGS: Just for purposes of this
21 week and not to imply or even ask about Your
22 Honor's schedule this week.

23 THE COURT: I was going to get into that.

24 MR. CUMMINGS: Then I'll stay quiet.

25 THE COURT: Yes. Let me tell you what my

1 schedule is. Tomorrow I will have some
2 availability. Of course my duties begin
3 tomorrow afternoon with the circuit judges'
4 association conference which actually doesn't
5 begin on Wednesday, but my participation begins
6 tomorrow about midday. If you all need me in
7 the morning, you let me know if anything arises.
8 The conference begins -- it actually begins
9 Wednesday afternoon, my responsibilities really
10 do begin tomorrow because I'm responsible for
11 the conference, so I've got about a million and
12 a half things that I've got to do that I'm
13 responsible for.

14 Thursday, likewise, I have
15 responsibilities and I have some free time. And
16 when we step back in chambers I'll give you some
17 numbers where you can reach me on Thursday.
18 Friday I had wanted to go through this process
19 again, but we have no courthouse and Flo says
20 she's taking her holiday.

21 MS. FOOTMAN: Yes, please.

22 THE COURT: She's going to contemplate her
23 eyelids, the inside of her eyelids and rest a
24 little bit before Monday is what she says. You
25 know, she wants you to know she thinks it's well

1 deserved. But I'm going to be available Friday.
2 The conference ends at twelve o'clock noon.
3 I've got to button things up for the conference,
4 so I should be back up here by one or two
5 o'clock and if you need me I am there.

6 MR. CUMMINGS: My main concern is so far,
7 Judge, this case has done so well in this
8 courtroom with Mr. Bailey, myself, Ms. Thomas,
9 and nobody sent any press request that I'm aware
10 of right now. And what I was concerned about is
11 any requests that would be coming in to Her
12 Honor to grant either cameras or any mechanical
13 devices in the room next week, we would like to
14 have as much notice, the Court likes to have
15 notice.

16 THE COURT: Sure. I wanted to get with you
17 guys on Friday irrespective so we could just
18 touch base. And I'll know on Friday because I
19 don't think it's -- I think that the reality is,
20 is if I don't have them this afternoon I will
21 not deal with them until Friday.

22 MR. CUMMINGS: Thank you, ma'am.

23 THE COURT: So they won't know until Friday
24 what they're doing.

25 MR. CUMMINGS: And none of us, and I say

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1 this and I can't speak for my colleague, but, of
2 course, my adversary in this case, but, you
3 know, about us picking up the phone and calling
4 anybody, we don't do that. And that's why it's
5 been such a quiet, close, comfortable courtroom
6 all this time and it's enjoyable, we don't have
7 to worry about what we do and what we say. And
8 I was asking, again, out of professional
9 courtesy, that if there's been any inquires that
10 we be made aware of. Anything else?

11 THE COURT: You know, I am sure if you ask
12 Mr. Bailey, I would be willing to bet you he'd
13 be happy to let you know.

14 MR. BAILEY: I've got two calls in from Bo
15 Peterson, hadn't returned either one of them,
16 hadn't heard from the TV.

17 MR. CUMMINGS: Thank you, ma'am. Thank
18 you, Walter.

19 THE COURT: Anything further? Why don't we
20 just compare calendars. Y'all come on back and
21 give me a couple minutes, let me give you some
22 numbers.

23 MR. CUMMINGS: While we do the exhibits I
24 would like to have Mr. Bowman here.

25 THE COURT: Absolutely. I don't need you

1 all but two minutes and then I'm out of here.

2 MR. BAILEY: Something, Mr. Cummings,
3 yesterday he wanted Mr. Bowman here when we
4 marked exhibits. I certainly don't think it's a
5 critical stage. And I understand -- I'm not
6 trying to hide the ball or anything, I'll show
7 what I've got to the court reporter and Mr.
8 Cummings is welcome to see it, but I don't
9 believe Mr. Bowman needs to be look over his
10 shoulder at the exhibits and it's not --

11 THE COURT: I understand. I'll allow him
12 to stay, though, while that goes on. Very well.

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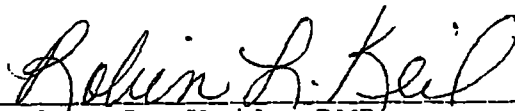
STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER) : C E R T I F I C A T E

I, Robin L. Keil, Registered Merit Reporter and First Judicial Circuit Court Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand this the 25th day of July 2003.



Robin L. Keil, RMR
Resident Court Reporter
First Judicial Circuit

1637

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER) CASE NO. 01-GS-18-0348, 0349

ORIGINAL

STATE OF SOUTH CAROLINA,) VOLUME XV Pages 1637 - 1940
Plaintiff,) TRANSCRIPT OF RECORD
-versus-) JURY QUALIFICATION
MARION BOWMAN, JR.,) May 13, 2002
Defendant.) St. George, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein

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1 (May 13, 2002.)

2 THE COURT: There are preliminary matters
3 that I wanted to conclude before the jury came
4 in this morning, and I want to proceed to do
5 that now. As I told you back in chambers, I
6 think one of the first things that we need to do
7 is I wanted to arraign Mr. Bowman this morning.
8 I understand that he has previously been
9 arraigned, but in an abundance of caution I
10 would like to do that again.

11 I need to confirm that he has received
12 the indictment, obviously three days before
13 trial, and also need some confirmation that he
14 has received in writing the aggravating
15 circumstances that the State would propose to
16 offer in the event that there is a sentencing
17 proceeding. So let us do that. I think that
18 the appropriate place for us to begin would be
19 with the arraignment unless I hear otherwise
20 from counsel.

21 MR. CUMMINGS: That's fine, Your Honor.
22 Thank you, ma'am.

23 THE COURT: Thank you. Great.

24 MR. CUMMINGS: Mr. Bowman, stand up. Stand
25 next to me, Marva will stand on the other side.

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1 MR. BAILEY: Raise your right hand, please.
2 Are you Marion Bowman, Jr.?

3 MR. BOWMAN: Yes, sir.

4 MR. BAILEY: Indictment 2001-GS-18-348,
5 State of South Carolina, charges Marion Bowman,
6 Jr. did in Dorchester County on or about -- on
7 or between February 16th, 2001 and
8 February 17th, 2001 with malice aforethought
9 kill one Kandee Martin by means of shooting the
10 victim in the head and back and the said victim
11 did die as a proximate result thereof. How do
12 you plead to that charge?

13 MR. BOWMAN: Not guilty.

14 MR. BAILEY: How do you wish to be tried?

15 MR. BOWMAN: By God and jury.

16 MR. BAILEY: In indictment 2001-GS-18-349,
17 State charges Marion Bowman, Jr. did in
18 Dorchester County on or about February 16th,
19 2001, February 17th, 2001, willfully,
20 unlawfully, and maliciously burn or cause to be
21 burned with intent to destroy a car belonging to
22 Cordeal Martin and/or Kandee Martin, this
23 offense being a violation of Section
24 16-11-110(c) of the Code of Laws of South
25 Carolina 1976 is amended. How do you plead to

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1 that charge of third degree arson?

2 MR. BOWMAN: Not guilty.

3 MR. BAILEY: How do you wish to be tried?

4 MR. BOWMAN: By God and jury.

5 THE COURT: Very well. And with regard to
6 this matter I would ask, Mr. Bowman, you or your
7 lawyer certainly can respond, I would ask if you
8 are ready for trial?

9 MR. BOWMAN: Yes, ma'am.

10 THE COURT: Thank you. Very well. I think
11 that concludes the arraignment.

12 MR. BAILEY: Your Honor, if I can approach
13 I'll hand the Court the indictments.

14 THE COURT: Thank you. Now, with regards
15 to the indictment, when was Mr. Bowman served --
16 indictments, when was Mr. Bowman served with the
17 indictments for murder and arson third degree?

18 MR. BAILEY: Your Honor, he was originally
19 arraigned, I don't have the exact date, but
20 shortly after July the 18th, 2001 at the same
21 time he was served with State's notice of
22 evidence of aggravation, death penalty notice
23 that was done in open court. The amended
24 indictments were faxed to the defense sometime
25 last week.

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1 THE COURT: Very well.

2 MR. BAILEY: The amendments reflect a
3 typographical error on the murder indictment
4 where the year is wrong on the second time it
5 appeared, and the code section on the arson
6 third was one digit off and that was corrected.
7 They have both been before the grand jury again
8 and true billed, Your Honor.

9 THE COURT: Very well. Thank you.

10 Yes, sir.

11 MR. CUMMINGS: That's correct, Judge. We
12 received a fax, I believe, Wednesday of last
13 week, ma'am. That would have given us Thursday,
14 Friday was a state holiday, Saturday, Sunday,
15 and today is Monday.

16 THE COURT: Very well. Thank you.

17 MR. CUMMINGS: Judge, just for the record,
18 also when Mr. Bowman was arraigned the first
19 time I was not Court appointed at that time, he,
20 of course, had Ms. Hardee-Thomas. I was not
21 present for any initial arraignment and I just
22 wanted to make sure that was clear on the record
23 that he had one counsel at that time.

24 THE COURT: Thank you very much. And let
25 me ask you this question: With regards to

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1 having received written notice of the -- the
2 aggravating circumstances which the State would
3 propose, have you received that in writing, has
4 the defense received that in writing?

5 MR. CUMMINGS: Ma'am, I know that
6 Ms. Thomas received that first and then Mr.
7 Bailey, once I was Court appointed, sent me as
8 part of the discovery package, he did enclose
9 personally to me his anticipated aggravating
10 factors that he would present to the Court, yes,
11 ma'am.

12 THE COURT: And as I recall I think that
13 was -- your appointment was back in June of
14 2001; is that right, Mr. Cummings?

15 MR. CUMMINGS: I believe the Court order, I
16 believe, Judge, if my mind is correct, is
17 June 23rd of the year 2001. And that's why I
18 don't remember the indictment or the arraignment
19 date being July 18th, I would have been involved
20 in it, but I think it was perhaps maybe
21 June 18th or May.

22 THE COURT: Very well.

23 MR. CUMMINGS: But, again, I'll defer to
24 Mr. Solicitor on that, I wasn't there.

25 THE COURT: Very well. All right.

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1 Needless to say there's been in excess of 30
2 days?

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: Okay. Very well. Now, we have
5 motions that we likewise need to attend to this
6 morning and I have them. And I think what I'm
7 most concerned about hearing this morning, some
8 of the other ones are not as pressing, is the
9 request for voir dire. So let us turn our
10 attention to the defense request for voir dire.

11 We have had an opportunity in chambers
12 this morning for me to simply share with counsel
13 my outline for voir dire, both in terms of
14 generally qualifying the jury as well as
15 individual voir dire. And counsel has had an
16 opportunity to go through that in chambers. And
17 let us now address defense motions. The first
18 one, of course, being the request for voir dire.

19 MR. CUMMINGS: May it please the Court,
20 Judge.

21 THE COURT: I know that Mr. Bailey has had
22 an opportunity to see that, so I'll ask Mr.
23 Bailey with regards to them, tell me what, if
24 any, of those requests for voir dire do you have
25 objections to?

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1 MR. BAILEY: Your Honor, I would have no
2 objection to most of it if it wasn't already
3 covered in your general charge that you shared
4 with both of us this morning. And I think to
5 repeat it again would give added emphasis to a
6 portion of your charge, the detriment to
7 possibly the rest of it. Specifically on the
8 bottom of the first page, there's a sentence
9 there that I don't really understand what it
10 means. And if I don't understand it maybe the
11 jury wouldn't either, but it says "The matter of
12 punishment is entirely within your discretion of
13 the death sentence is a legally possible
14 sentence as well as life not lightly regarded
15 your obligation as a jury."

16 I think there may be some typos in
17 that, I'm not sure where.

18 THE COURT: All right. Now, I will share
19 with you that I do not -- in the request for
20 voir dire you must be looking at something else
21 because I don't have that in the -- request to
22 charge. You're looking at the request to
23 charge.

24 MR. BAILEY: Request to charge in voir
25 dire, I apologize.

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1 THE COURT: I understand. Let us do this
2 before we turn our attention to that, look at
3 the request for voir dire where it just has, the
4 first question is, "Have you or any close friend
5 or relative ever been a victim of a crime?"

6 MR. BAILEY: Yes, ma'am. Your Honor, we
7 had extensive discussions regarding the jury
8 questionnaire and the idea was by using that
9 extensive questionnaire it would cut down on the
10 voir dire and perhaps save time. This just
11 basically repeats what's already in the
12 questionnaire, they've already agonized over,
13 filled out and mailed back. So I'm not sure if
14 we do anything other than just take up Court
15 time to go through it again.

16 THE COURT: All right. What about that,
17 Mr. Cummings?

18 MR. CUMMINGS: Judge, I don't think it
19 would ever take up any valuable time of this
20 Court because, Judge, as we found out today
21 people are still trickling in jury
22 questionnaires. Some people are very shy of
23 answering questions back, some people just go
24 through these questionnaires like it's an
25 inconvenience and they get it out of the way.

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1 When they got to look you in the eye, Judge,
2 when they listen to these questions again today
3 in the sanctity of this courtroom I believe it
4 places greater emphasis on any potential juror
5 when they hear it coming from the bench as to
6 they have to answer these questions back.

7 Your Honor, just filling out a
8 questionnaire does not make them a great juror.
9 It is intended to try to give us a more --
10 especially when the State's seeking the highest
11 penalty, to give us somewhat of a look inside
12 the juror. But, Your Honor, respectfully, we
13 come through every time in every court in this
14 land and ask those questions out loud so that
15 everybody gets a fair and impartial jury in this
16 room.

17 THE COURT: All right. I'm not inclined to
18 ask the questions again. If they are in the
19 questionnaire I think that they have been asked
20 and you've been given benefit of it. Oftentimes
21 in the comfort and security of one's own home
22 it's likely also that one has the opportunity to
23 think about and contemplate to answer those
24 questions. So I am not going to reask questions
25 that have already been asked in the

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1 questionnaire, particularly if they've been
2 responded to.

3 Mr. Cummings, you've obviously had
4 benefit of the all the questionnaires. I know
5 you did receive a few this morning, but I am
6 satisfied, particularly before the individual
7 voir dire that you'll have an opportunity to
8 review those questionnaires.

9 Now, so let me ask of both of you
10 whether or not any of these request for voir
11 dire that I have this morning, whether or not
12 they are all covered in the questionnaire or
13 whether or not there are some that are not
14 encompassed within the questionnaire, or the
15 voir dire which I would intend to ask that you
16 all have had an opportunity to review.

17 MR. BAILEY: Your Honor, it appeared to me
18 that 1 through 14 were covered. Starting with
19 number 15, 16, 17 -- 15 and 16 are not covered
20 on the questionnaire. I would object to those
21 because it quizzes the jurors on their knowledge
22 of the law prior to the time that you've
23 instructed them in the general opening as to
24 what the law is. So I don't know that that
25 would really be of any sufficient -- any use to

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1 anybody to test them on what they haven't been
2 told yet.

3 If you tell them and they still don't
4 understand I think that would be something that
5 you should look into, but what they know now
6 really I don't think makes any difference.

7 THE COURT: What about that, Mr. Cummings?

8 MR. CUMMINGS: Judge, 15 and 16, again, are
9 used in every trial. And, again, just
10 respectfully, I know Your Honor has already
11 ruled, you want to protect the record on 1
12 through 14, Judge, you've ruled that they are
13 not going to be repeated and I respectfully
14 object, Your Honor, and --

15 THE COURT: Let me ask you this question as
16 to 1 through 14: Do you believe that these
17 questions are encompassed within the jury
18 qualification -- the jury qualification
19 questionnaire?

20 MR. CUMMINGS: In general, yes, ma'am.

21 THE COURT: All right. Very well.

22 MR. CUMMINGS: Of course we have taken some
23 other sitting down, again, Judge, following the
24 Court's thing and gone back and put more
25 specific types of questions there for people

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1 that have not -- after looking at the answers
2 back when the general questionnaire was sent
3 out, ma'am, we went back and tried to fill in to
4 ask potential jurors questions of things that we
5 believe would be important to Mr. Bowman's case
6 and that were not answered by the general jury,
7 ma'am.

8 THE COURT: All right. Bear with me just a
9 moment.

10 (Pause in proceedings.)

11 THE COURT: Mr. Cummings, I want to direct
12 your attention to the individual voir dire that
13 you went over this morning.

14 MR. CUMMINGS: Yes, ma'am.

15 THE COURT: With regards to 15 and 16, that
16 is asked in the individual voir dire.

17 MR. CUMMINGS: Yes, ma'am. By us. And I
18 know Your Honor is going to cover it in her
19 general charge, I just wanted to make sure for
20 the record that I did at least elicit on behalf
21 of Mr. Bowman those types of questions, ma'am.

22 THE COURT: I understand. Well, I think
23 then, in fact, I will ask it in individual voir
24 dire.

25 MR. CUMMINGS: Yes, ma'am.

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1 THE COURT: Which is even more specific
2 than asking it in the general voir dire.

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: I think it's covered. I think
5 that it's more appropriate that it be asked
6 individually, rather than by the general group.
7 And while I'm not denying the requested voir
8 dire, I do think it's covered in the individual
9 voir dire that I would propose to use and showed
10 you this morning, so I believe that 15 and 16
11 are in fact covered.

12 MR. CUMMINGS: Yes, ma'am. Based on what
13 you have showed us this morning and based on
14 what Your Honor said would be charged I thank
15 Your Honor.

16 THE COURT: I would not add those again.
17 And, Mr. Bailey and Mr. Cummings and Ms.
18 Hardee-Thomas, 17 is covered in the general voir
19 dire already.

20 MR. CUMMINGS: Yes, ma'am.

21 THE COURT: And 18 I would propose to ask
22 just the solicitors who are going to be involved
23 in the case. So tell me about that.

24 MR. BAILEY: That one just as far as actual
25 trial Mr. Lafond and I.

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1 THE COURT: Okay.

2 MR. CUMMINGS: Your Honor, if I may be
3 heard on that, respectfully, Judge.

4 THE COURT: Sure.

5 MR. CUMMINGS: Your Honor, as you know we
6 are a very small bar and we are lucky we're a
7 very small bar and we are lucky that we have
8 professional people in our bar.

9 THE COURT: You feel that -- let me just
10 ask. Is there any objection to that?

11 MR. BAILEY: I have no objection, Your
12 Honor. I would ask that Mr. Cummings' associate
13 be included.

14 MR. CUMMINGS: Henry Schlein, yes.

15 THE COURT: You may have to remind me,
16 gentlemen.

17 MR. CUMMINGS: Yes.

18 THE COURT: Very well. I'll make a note.
19 Make a note.

20 All right. Number 20 is -- I don't
21 recall. Is Number 20 covered in the
22 questionnaire?

23 MR. BAILEY: I'm just a little concerned
24 about getting into whether somebody's sinning,
25 we're getting into a religion. I think if they

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1 were asked it was wrong to -- maybe that wasn't
2 even in there, but I don't know. This isn't a
3 DUI case, not a felony DUI case. There's
4 alcohol involved on the part of many of the
5 witnesses at the time they observed thi"gs, but
6 I don't know that's really pertinent to
7 anything.

8 MR. CUMMINGS: It is our belief, Judge,
9 from everything in discovery we've gotten and
10 everything from the investigation of this case,
11 that alcohol and drugs are going to become a
12 very important key in this case. There have
13 been -- even in a Jackson v. Denno, Judge, you
14 heard lots of testimony about alleged use of
15 illegal substances.

16 THE COURT: I hate to interrupt you. Any
17 concern on your part substituting is it wrong
18 versus a sin?

19 MR. CUMMINGS: That's fine, Judge. Again,
20 I'll apologize for the use of the word.

21 THE COURT: Don't worry about that. That's
22 fine, Mr. Cummings. All right. And it is
23 not -- this question is not asked in the
24 questionnaire?

25 MR. CUMMINGS: No, ma'am.

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1 THE COURT: I will ask it. I will
2 certainly ask that. And, again, you may have to
3 help me, but I will certainly endeavor to plug
4 that in.

5 MR. CUMMINGS: Yes, ma'am.

6 THE COURT: All right. Any further
7 requested voir dire from the defense?

8 MR. CUMMINGS: Judge, we had submitted to
9 you what we call basically pretrial jury charges
10 asking the juries, again, about the importance
11 of the proceedings and our state system, ma'am,
12 in the State seeking the death penalty. And one
13 is to ensure -- one and two are to ensure that
14 the jurors will follow Her Honor's instructions.
15 And I know we come back before the Court and the
16 first thing every judge says is I charge
17 specifically what our Supreme Court says and
18 what my charge book says.

19 But, Judge, we're asking of course
20 importance today that the jurors understand that
21 everybody's innocent. Even though we have a
22 two-part prong here today, it's kind of like we
23 put the cart before the horse. And I've been
24 waiting for somebody to raise the allegation of
25 the unconstitutionality of how we try our cases

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1 even though our Supreme Court has said it's
2 constitutional and we're going to follow this
3 system. Because we would argue that there
4 should be two separate juries, two separate
5 trials, and it's been argued legally before and
6 been denied. And I would renew that legal
7 argument, but, of course, Judge, I don't have
8 great legal standing to argue that.

9 Respectfully, Judge, why we are asking
10 those two be charged, and it is, and, again,
11 last minute issues the typographical, it should
12 be yours instead of you.

13 THE COURT: Let me ask you this question
14 because you had an opportunity to look at the
15 language which I would propose to tell the jury,
16 tell me two things. Number one, is it not
17 already adequately covered in what I've already
18 showed you, (a); and (b), if not how would
19 you -- how would you amend? Rather than just
20 substituting what you have for what I have, it
21 seems to me that it's covered.

22 MR. CUMMINGS: Yes, ma'am.

23 THE COURT: If not verbatim the points are
24 certainly covered. But I want to hear from you
25 any points that you feel are not covered in what

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1 I have already shown you.

2 MR. CUMMINGS: Thank you, ma'am. Prior to
3 coming in here today we anticipated this, and I
4 know, you know, as far as legal preparation Mr.
5 Bailey and the defense team here is working
6 vigorously over the past month, particularly the
7 past weekend. And Your Honor not knowing that
8 you would present that in the proper -- and I
9 mean not saying proper way, but in the complete
10 way that you have shown us today I did this to
11 protect my client along with Ms. Thomas.

12 THE COURT: Certainly. That's why I asked
13 that question of you, Mr. Cummings.

14 MR. CUMMINGS: Yes, ma'am.

15 THE COURT: Given where we are now, given
16 the request it seems to me that it is covered,
17 but I certainly want to -- I want you to tell me
18 do we need to amend it, how do we need to amend
19 it, what is it covered.

20 MR. CUMMINGS: Judge, we even amend it, but
21 what you were going to do this morning by
22 putting in life without the possibility of
23 parole for Kelly and the State vs. Simmons,
24 respectfully. And I believe, Your Honor, if the
25 general nature of your charge is what we read

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1 this morning about the importance of this man
2 being innocent until the State proves him guilty
3 and the separation of the jury's maintaining his
4 right, his constitutional rights in this
5 courtroom this morning prior to them taking and
6 actually being sworn in as jurors, ma'am, I
7 think you will protect his constitutional
8 rights.

9 THE COURT: Thank you.

10 MR. CUMMINGS: And I think we have covered
11 that.

12 THE COURT: Thank you so much. I think
13 they are covered and I thank you for the efforts
14 to be sure that they were covered, but I do
15 believe in the charges, in the colloquies that I
16 have shown you this morning that I intend to say
17 to this jury I do believe that they are covered.

18 All right. With regards the other
19 motion that I have, of course, is the motion to
20 prevent disqualification of jurors opposed to
21 capital punishment. I have reviewed that
22 motion. I think that that -- and I certainly
23 understand that the defense has raised this.
24 And I think that even the United States Supreme
25 Court has spoken to this issue and has

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1 determined that it is appropriate and, in fact,
2 it is an error not to disqualify jurors who are
3 opposed to capital punishment and would
4 respectfully deny that motion and note your
5 exception for the record. But I do think that
6 the law is -- at least at this juncture unless
7 something has changed over the weekend, has
8 spoken to that issue fairly clearly and
9 frequently I think as well.

10 MR. CUMMINGS: Thank you, Judge.

11 THE COURT: Very well. Now, I know that
12 there is a motion to reconsider.

13 MR. BAILEY: Your Honor, while we're having
14 a little bit of a gap here, I'm not sure how
15 much of the merits I will be getting into in
16 arguing this motion. I think there are some
17 potential witnesses out there and I'm not sure
18 whether the sequestration maybe shouldn't start
19 now.

20 THE COURT: I was going to -- thank you so
21 much. You short circuited for me, Mr. Bailey, I
22 think we have leave that for later and was going
23 to ask that we do that. And you just remind me
24 that that needs to be heard.

25 MR. BAILEY: All right.

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1 THE COURT: I understand there are some new
2 motions that arose last week.

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: Likewise we will hear those
5 later. I would like to do them this evening
6 when we finish with the jury, but let's see
7 where we are. We may do them early in the
8 morning.

9 Very well. All right. Anything
10 beyond those additional motions that need to be
11 heard, as you say, go to the merits, any other
12 motions, any other matters concerning the jury
13 before we allow them to come in?

14 MR. CUMMINGS: No, Judge. I think Madam
15 Clerk has given us the last jury questionnaires
16 that were presented. I don't know if there's
17 anything else for us to look at, but I thank
18 Your Honor so much.

19 THE COURT: All right. If you all need to
20 take a comfort break now would be a good time to
21 do that, although inquire of Mr. Bowman and make
22 sure he's okay before the jury comes in, because
23 before they begin to come in I want to be sure
24 that he's comfortable for a couple of hours.
25 Ask him if he needs to take a comfort break.

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1 MR. CUMMINGS: Judge, before you go off the
2 bench the only thing I wanted to do is Benji
3 retyped 1, 2, 3.

4 THE COURT: Oh, wonderful.

5 MR. CUMMINGS: And, Your Honor,
6 respectfully, I know that I would like to make
7 this part of a Court's Exhibit.

8 THE COURT: Please.

9 MR. CUMMINGS: Judge, have you got your
10 copy?

11 THE COURT: I have not.

12 MR. CUMMINGS: May I approach?

13 THE COURT: Yeah. Oh, there it is.

14 MR. BAILEY: Your Honor, I've got the
15 merged witness list from the defense and I think
16 they've had a chance to look over it.

17 MR. CUMMINGS: Yeah. And Mr. Bowman is
18 just reviewing it one more second, Judge, make
19 sure we don't leave anybody out. Your Honor, at
20 this point I would just like to state that as
21 the trial erupts or keeps going like the last
22 time, some people were put in there and, again,
23 I don't anticipate anything else from any other
24 witnesses.

25 THE COURT: I understand that. And if

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1 that's required we'll deal with that when that
2 happens. What I wanted to do is everyone that
3 both sides knew could be, might be potential
4 witnesses, I wanted to put those on the list.
5 And for the record that list will be with the --
6 each panel in the room as they are waiting. And
7 I'm going to individually voir dire the jurors
8 regarding the witnesses to see if any of the
9 jurors know any of the witnesses and that will
10 be part of my questioning of the jurors. We
11 need to make that witness list also the Court's
12 Exhibit.

13 MR. CUMMINGS: Yes, ma'am.

14 (Marked for purposes of the record was
15 Court's Exhibit 28, juror questionnaires.)

16 (Marked for purposes of the record was
17 Court's Exhibit 29, three types of juror form.)

18 (Marked for purposes of the record was
19 Court's Exhibit 30, potential witness list.)

20 THE COURT: I understand Mr. Britt, who was
21 not able to come last week, is present with his
22 special needs assistant. I wanted you all to
23 have an opportunity before he came in since he
24 did make, request to be excused. And I know
25 that there was some discussion and you needed

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1 some verification of his condition. I
2 understand that he is here this morning with his
3 special needs person and wanted you to have an
4 opportunity to address that. Do you want to
5 bring him in separately?

6 MR. CUMMINGS: Could we bring him in here,
7 Judge?

8 MR. BAILEY: We could do him now.

9 MR. CUMMINGS: As long as Your Honor
10 doesn't mind staying on the bench for a moment.

11 THE COURT: No, not a bit.

12 MR. TAYLOR: Bring him in?

13 MR. CUMMINGS: Please, sir.

14 THE COURT: Good morning. Come right in.
15 Counsel, did you want to have an opportunity to
16 talk to Mr. Britt, or you want me to just -- and
17 his assistant, or do you want me just to call
18 them up?

19 MR. BAILEY: If we could just maybe hear
20 from her.

21 THE COURT: Absolutely. Yes, ma'am. Hi,
22 good morning.

23 MS. ROBINSON: Good morning.

24 THE COURT: You can stand right where you
25 are. Tell me your name.

Juror 26 Albert Britt - Examination

1 MS. ROBINSON: I'm Cloritha Robinson and
2 I'm with Dorchester County Board of Disability
3 and Special Needs. And Mr. Britt here is a
4 client of ours and he's been in the program for
5 about ten years now.

6 THE COURT: All right. Tell me, ma'am,
7 what is your capacity with Mr. Britt?

8 MS. ROBINSON: Well, he's in a supervised
9 living program, but he has had minimal education
10 background and, quite frankly, I feel like, you
11 know, to sit on a jury and make a decision would
12 be kind of hard for him.

13 THE COURT: All right. Would be difficult
14 for him?.

15 MS. ROBINSON: Yes.

16 THE COURT: And how often do you work with
17 him?

18 MS. ROBINSON: I see him on a daily basis.

19 THE COURT: On a daily basis?

20 MS. ROBINSON: Yes.

21 THE COURT: All right. Tell me what does
22 he do on a daily basis, does he work?

23 MS. ROBINSON: Yes, he does work.

24 THE COURT: All right.

25 MS. ROBINSON: He works at Burger King for

Juror 26 Albert Britt - Examination

1 about four hours a day.

2 THE COURT: All right. What does he do at
3 Burger King?

4 MS. ROBINSON: Janitor, janitorial work,
5 stocker.

6 THE COURT: All right. And do you have any
7 information regarding his -- well, his
8 educational basis, does he have a sixth grade
9 education?

10 MS. ROBINSON: No.

11 THE COURT: All right.

12 MS. ROBINSON: He went as far as fifth
13 grade, but I do have his chart.

14 THE COURT: You have his chart. How about
15 the -- his equivalent to a sixth grade
16 education, does he have equivalent do you think
17 of a sixth grade education?

18 MS. ROBINSON: Yeah.

19 THE COURT: All right. And can he read?

20 MS. ROBINSON: Yes, he can read, but it's
21 as high as a first grade level.

22 THE COURT: All right. Can he write?

23 MS. ROBINSON: Yes, he can.

24 THE COURT: All right. All right. Very
25 well. And in terms of -- and Mr. Britt's

Juror 26 Albert Britt - Examination

1 medical condition, are you familiar with that?

2 MS. ROBINSON: Yes.

3 THE COURT: Does he have any medical
4 problems?

5 MS. ROBINSON: He's mild MR and he's also
6 seizure prone.

7 THE COURT: All right. What is MR?

8 MS. ROBINSON: Mental retardation.

9 THE COURT: I understand. I understand.
10 And you said he's prone to seizures?

11 MS. ROBINSON: Yes.

12 THE COURT: Is he on seizure medication?

13 MS. ROBINSON: Yes, he is.

14 THE COURT: Or anti-seizure medication I
15 should say?

16 MS. ROBINSON: Yes.

17 THE COURT: All right. As one of, I
18 gather, his caretakers.

19 MS. ROBINSON: Yes.

20 THE COURT: Is that an appropriate term to
21 use for you, ma'am?

22 MS. ROBINSON: Yes.

23 THE COURT: As one of his caretakers you
24 are here to express concern in regard to his
25 ability to serve as a juror in this case?

Juror 26 Albert Britt - Examination

1 MS. ROBINSON: Yes, I am.

2 THE COURT: Very well. Let me ask you this
3 question: In the evenings you said he lives in
4 some sort of facility?

5 MS. ROBINSON: Well, he lives in his own
6 apartment, but it's a supervised living program.

7 THE COURT: All right. How is it
8 supervised?

9 MS. ROBINSON: Well, with staff from DCDSN.
10 We go by and check on him, take him where he
11 needs to go.

12 THE COURT: All right. Do you think it
13 would be difficult for Mr. Britt to live in a
14 motel sequestered on a jury, if he was selected
15 to serve would that be difficult for him?

16 MS. ROBINSON: Yes, I think so.

17 THE COURT: Okay. Would it be difficult
18 because he would be in unusual, different
19 surroundings?

20 MS. ROBINSON: In unusual surroundings.
21 And also he mostly depends upon us for a lot of
22 his needs.

23 THE COURT: Very well.

24 Any questions from the State?

25 MR. BAILEY: None from the State, Your

Juror 26 Albert Britt - Examination

1 Honor.

2 THE COURT: Defense counsel?

3 MR. CUMMINGS: Beg the Court's indulgence.

4 THE COURT: Indeed.

5 MR. CUMMINGS: Judge, with the permission
6 of Mr. Bowman we would excuse Mr. Britt, we
7 thank this nice lady for coming with him, ma'am.

8 THE COURT: Very well. We are able then to
9 excuse Mr. Britt. Thank you so much. Thank you
10 for coming today and you all are free to go.

11 MS. ROBINSON: Thank you.

12 THE COURT: All right. Anything before we
13 bring the jury in?

14 MR. BAILEY: Not from the State, Your
15 Honor.

16 MR. CUMMINGS: Nothing else from the
17 defense, Your Honor, thank you.

18 THE COURT: Mr. Bowman is good? Because if
19 he's going to take a comfort break now would be
20 a good time, otherwise we're going to bring the
21 jury. He's fine?

22 MR. CUMMINGS: Yes, ma'am.

23 THE COURT: I think what I will do, I'm
24 going to step out while the jury comes in and
25 we'll bring the jury in. Thank you. Let the

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1 jury come in.

2 (Whereupon, the jury panel enters the
3 courtroom.)

4 (Recess, from 9:56 a.m. to 10:26 a.m.)

5 THE COURT: Good morning, ladies and
6 gentlemen again. Major Moultrie has just
7 introduced me to you. And, again, my name is
8 Diane Goodstein and I have been assigned to
9 preside over this term of court here in
10 Dorchester County in this term of general
11 sessions.

12 You all have been asked to come here
13 this morning to serve as potential jurors during
14 this term of court. In just a moment we're
15 going to go through what is called the roll call
16 process and get this process of jury
17 qualification underway.

18 I will introduce court personnel to
19 you as we go through this process of jury
20 qualification. Let me tell you briefly what the
21 process is all about and how we will be
22 proceeding mechanically here in just a few
23 moments.

24 When I finish talking to you our
25 elected clerk of court here in Dorchester

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1 County, Ms. Cheryl Graham, is going to call the
2 roll to see who is here. When your name is
3 called, if you would please stand and in a loud,
4 clear voice simply report to us that you are
5 present. Please listen very carefully to the
6 names as they are called because we certainly
7 want to have your correct name. And if you are
8 a junior and Ms. Graham doesn't say junior,
9 please bring that to our attention. It is not
10 unheard of that a junior will call a pa-pa and
11 say, "Gosh, Dad, you've been called for jury
12 duty, you got to be in St. George Monday
13 morning." So, please, if you are a junior and
14 we don't call your name junior, please just
15 bring that to our attention because we want to
16 be sure if there's a junior and senior in your
17 family we have the person who is supposed to be
18 here.

19 Now, again, at this time just stand
20 and let us know that you are here. We will get
21 other information from you during the course of
22 further questions that I will ask of you and I
23 will explain that process to you in just a few
24 moments. But for now, please, acknowledge your
25 presence when your name is called.

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1 Ms. Graham, if you would please call
2 the roll.

3 THE CLERK: Thank you.
4 (Roll call.)

5 THE COURT: Thank you very much. Ladies
6 and gentlemen, I want to explain to you now what
7 will occur to those whose names were called and
8 they did not respond. Major Moultrie, who is in
9 charge of security for the courthouse, is going
10 to have the sheriff's deputies around the county
11 immediately, immediately go out in the county
12 and give those folks a ride to the courthouse.

13 If you would do so immediately for me.
14 Thank you, Major.

15 So we look forward to having them join
16 us very shortly.

17 Now, ladies and gentlemen, in order to
18 determine your qualifications to serve as jurors
19 this term I've got to ask you some additional
20 questions. We don't ask you these questions
21 trying to invade your privacy or pry into your
22 personal or business lives any more than we need
23 to, but each, each of the questions which I ask
24 you has a direct bearing on a constitutional or
25 a statutory requirement that effects your

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1 ability to serve as a juror. So there is a
2 reason for each of these questions that I ask
3 you and, therefore, it's real important that you
4 answer these questions accurately, and
5 completely, and candidly with us.

6 In order to ensure that process, of
7 course, we're going to put you under oath right
8 now. Then I will ask you some questions
9 regarding your qualifications to serve this
10 term.

11 Ladies and gentlemen, I think I may
12 have heard a cell phone, so let me just ask you
13 to, please, at this moment, there should be no
14 cell phones in the courtroom or beepers. It is
15 my understanding that there are many signs which
16 greet you on the way to the courtroom; however,
17 someone very well may have come in with a beeper
18 or a cell phone. Don't be shy at this moment,
19 take out your beeper or your cell phone and turn
20 it off. Don't be shy. There's obviously one in
21 the courtroom because if I hear it again, you
22 will have been forewarned, so, please, just take
23 out your beeper or your cell phone. Don't worry
24 about it, just take it out, let's turn it off.
25 Thank you so much.

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1 Ladies and gentlemen, at this time I'm
2 going to ask you to, please, stand and raise
3 your right hand. Do you swear or affirm that
4 you will provide complete and truthful responses
5 and answers during this jury qualification
6 process? If you accept the oath, please
7 indicate by saying I do and by being seated at
8 this time. Is there anyone who failed to take
9 the oath? If so, please stand. Very well.

10 A JUROR: I just don't swear on the Bible.
11 I do plan to tell the truth.

12 THE COURT: All right. Do you affirm that
13 for me, ma'am?

14 A JUROR: Yes, I do.

15 THE COURT: Thank you. And you did just
16 now affirm, didn't you?

17 A JUROR: Yes, I did.

18 THE COURT: Thank you so much. Tell me
19 your name.

20 A JUROR: Inez Shuler.

21 THE COURT: Thank you, Ms. Shuler. I
22 thought that was you, Ms. Shuler, out there.
23 Thank you very much. Affirming is just as good,
24 so thank you for that, Ms. Shuler.

25 Now, ladies and gentlemen, with your

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1 juror summons that was sent to you some time ago
2 there was also sent to you a juror
3 questionnaire, looks something like this. It is
4 about nine pages long, eight, nine pages long,
5 you will probably remember it. I ask, ladies
6 and gentlemen, is there any one of you, any of
7 you who did not, who did not fill out this
8 questionnaire and return it? If you did not
9 fill out and return your questionnaire, please
10 stand at this time.

11 All right. Very well. What I'm going
12 to ask you to do is I'm going to ask you in a
13 moment to identify yourself and I'm going to
14 give to you a questionnaire and a pencil now and
15 ask you to fill it out. Do you have them, Madam
16 Clerk? Ready to pass them pencils or pens?

17 THE CLERK: Yes, ma'am.

18 THE COURT: Very well. All right. And
19 we'll begin right here. Yes, sir, your name in
20 the plaid shirt?

21 A JUROR: William D. Smith.

22 THE COURT: William D. Smith. Do you know
23 what your juror number is, Mr. Smith, by chance?
24 That's quite all right, we'll get to it. Hold
25 on one second for me.

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1 THE CLERK: Number 283.

2 THE COURT: 283, Juror 283.

3 Yes, ma'am. Your name?

4 A JUROR: Princess McConnell.

5 THE COURT: All right, Ms. McConnell,

6 Princess McConnell.

7 A JUROR: It's 199.

8 THE COURT: Thank you, Juror 199.

9 Yes, sir, your name?

10 A JUROR: Jonathan Davis.

11 THE COURT: Jonathan Davis.

12 A JUROR: Seventy.

13 THE COURT: Seventy. Thank you, Mr. Davis.

14 And right behind you, Mr. Davis?

15 A JUROR: Andre Porcher.

16 THE COURT: Andre Porcher. And do you know
17 your juror number, Mr. Porcher?

18 THE CLERK: 238.

19 THE COURT: Yes, sir. Behind Mr. Porcher?

20 A JUROR: Jonathan Smalls, 280.

21 THE COURT: Thank you, Mr. Smalls, Jonathan
22 Smalls, Juror 280.

23 Yes, ma'am, in the back?

24 A JUROR: Juror 343, Lynda Woody.

25 THE COURT: Thank you, Ms. Woody.

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1 Yes, ma'am, over here.

2 A JUROR: Evelyn Lewis. I filled one out,
3 but this officer told me y'all didn't get it or
4 y'all didn't have it.

5 THE COURT: All right. We will check on
6 that.

7 A JUROR: But I'll go ahead and fill out
8 another one.

9 THE COURT: Let us check on that,
10 Ms. Woody.

11 A JUROR: It's Lewis.

12 THE COURT: Lewis. I'm sorry, Ms. Lewis.

13 THE CLERK: Ms. Lewis needs a
14 questionnaire.

15 THE COURT: We do not have Ms. Lewis'
16 questionnaire? I'm sorry, Ms. Lewis, I don't
17 know where it is, but if you would be so kind.
18 Thank you, Ms. Lewis.

19 Yes, ma'am, and your name?

20 A JUROR: Linda Wheeler.

21 THE COURT: Yes, ma'am, Ms. Wheeler, thank
22 you.

23 And yes, ma'am.

24 A JUROR: Linda Lynch, 187.

25 THE COURT: Linda Lynch, 187.

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1 Do you have those numbers and names?

2 THE CLERK: Yes.

3 THE COURT: Thank you, ladies and
4 gentlemen. If you will fill out those
5 questionnaires we will collect them from you in
6 just a few minutes.

7 Now, ladies and gentlemen, if.

8 OFFICER SMITH: I got two.

9 THE COURT: Oh, two. Let me have those for
10 the record, the names. And for our record,
11 Ms. Lynda Sue Woody and Jonathan Davis. Is
12 that yours, Mr. Davis? All right. In other
13 words, you all have filled it, you've just
14 needed to return it to us? Mr. Jonathan Davis,
15 stand for me, please. In other words, you
16 filled it out, Mr. Davis, you just returned it
17 just now; is that right?

18 A JUROR: That's right.

19 THE COURT: Thanks. And same with you
20 Ms. Woody, you had filled it out and you just
21 returned it?

22 A JUROR: Yes.

23 THE COURT: Thank you so much. We'll make
24 copies of those.

25 Teal, take those. Thank you.

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1 Now, ladies and gentlemen, let me
2 share with you that if there have been any
3 changes in your questionnaires; in other words,
4 if you filled out your questionnaire, you sent
5 it in, but something has changed, some
6 information which was placed on your
7 questionnaire early has, in fact, changed as of
8 this time, in a few moments I will ask you
9 whether or not there's anyone who needs to
10 change their questionnaires in any way. So just
11 if you need to make a change on your
12 questionnaire, just know that I will ask you in
13 a little while about any one who needs to make a
14 change in their questionnaire.

15 Now, ladies and gentlemen, in order to
16 serve as a juror in the courts of our state you
17 must have either a South Carolina driver's
18 license, a valid South Carolina driver's
19 license, or an identification card from the
20 South Carolina Department of Public Safety, or a
21 voter registration.

22 Now, you don't have to have all three,
23 but if you don't have at least one of those
24 items I don't know how you came to be with us
25 today. So I would ask if there is any member of

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1 our jury panel who does not have at least one of
2 the following: South Carolina driver's license,
3 identification card from the South Carolina
4 Department of Public Safety, or a voter
5 registration, please stand, because you are a
6 mystery. Thank you. I find no one standing.

7 Now, ladies and gentlemen, has any
8 member of our jury panel not reached his or her
9 18th birthday? Any members of our jury panel
10 who have not reached your 18th birthday? If so,
11 please stand. I find no one standing.

12 Is there any member of our jury panel
13 who is not, who is not a citizen and resident of
14 Dorchester County? If you are not a citizen and
15 resident of Dorchester County, please stand.

16 Yes, sir, tell me your name.

17 A JUROR: Tom Weaver.

18 THE COURT: All right, Mr. Weaver. Tell me
19 where you're now living.

20 A JUROR: Berkeley County.

21 THE COURT: In Berkeley County. When did
22 you move to Berkeley County?

23 A JUROR: Five years ago.

24 THE COURT: Five years ago. Well,
25 something hasn't caught up. Thank you. I look

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1 forward to seeing you in Berkeley County,
2 Mr. Weaver. Let me get your juror number before
3 you leave us.

4 A JUROR: 223.

5 THE COURT: 223.

6 THE CLERK: Thomas Weaver.

7 THE COURT: Thank you. I look forward to
8 seeing you in Moncks Corner real soon, Mr.
9 weaver.

10 Yes, ma'am, tell me your name.

11 A JUROR: Irena Lockwood.

12 THE COURT: Lockwood. Yes, ma'am,
13 Ms. Lockwood.

14 A JUROR: I am a citizen through marriage,
15 but I was born in Germany.

16 THE COURT: All right. That was my next
17 question. Are you a citizen of the United
18 States?

19 A JUROR: No, but married a citizen.

20 THE COURT: But married a citizen. But you
21 do not have your own individual citizenship of
22 the United States?

23 A JUROR: That's correct.

24 THE COURT: You have no proof of
25 citizenship?

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1 A JUROR: That's correct.

2 THE COURT: Ms. Lockwood, I'm so sorry to
3 tell you, but that will disqualify your service
4 in that you are not a citizen of the United
5 States. And you are free to go, thank you for
6 your candor.

7 THE CLERK: 179.

8 THE COURT: Any exceptions?

9 MR. BAILEY: None from the State, Your
10 Honor.

11 MR. CUMMINGS: None from the defense.

12 THE COURT: Thank you very much.

13 Now, does any member of our jury panel
14 hold a law enforcement commission either with or
15 without pay; for example, a constable, sheriff,
16 game warden, deputy sheriff, reserve officer, or
17 the like? If so, please stand. I find no one
18 standing.

19 Has any member of our jury panel been
20 convicted either by a guilty plea or by a trial
21 in a state or federal court of record of a crime
22 punishable by imprisonment for more than one
23 year and your civil rights have not been
24 restored by pardon or amnesty? Let me say that
25 crime punishable by imprisonment for more than

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1 one year means you could have received
2 punishment for more than one year, you very well
3 may have received a probationary sentence, some
4 sort of fine. What is relevant here is that you
5 could have received punishment of more than one
6 year and your civil rights have not been
7 restored by pardon or amnesty.

8 Now, ladies and gentlemen, in a moment
9 I'm going to be going over a few other ones,
10 this obviously does ask for some considerable
11 personal information. In a moment I'm going to
12 ask anyone who needs to stand, or needs to
13 respond to stand. If you do not wish to stand
14 I'm going to issue an invitation in just a few
15 moments for you to come forward, but I want to
16 ask some other rather personal questions as
17 well.

18 So I must have the information if this
19 applies to you; however, if you do not wish to
20 stand at this moment you can come forward in
21 just a few moments. Stand if you will at this
22 time or make a note and come forward in just a
23 few minutes.

24 Yes, sir, your name is?

25 A JUROR: David Grooms.

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1 THE COURT: Mr. Grooms, yes, sir. Tell me,
2 Mr. Grooms, what was the offense?

3 A JUROR: Distribution.

4 THE COURT: All right, sir. That would
5 disqualify you from service. It carries a
6 penalty in excess of one year. Thank you so
7 much for your candor and you would then be free
8 to go. Disqualified.

9 THE CLERK: Juror 121.

10 THE COURT: Juror 121, Mr. David Grooms.

11 Yes, sir, tell me your name.

12 A JUROR: Julius Campbell.

13 THE COURT: Julius Campbell. All right,
14 Mr. Campbell. You are juror number...?

15 THE CLERK: Thirty-six.

16 THE COURT: Thirty-six, Mr. Campbell. Yes,
17 sir. What offense?

18 A JUROR: Burglary.

19 THE COURT: Burglary, all right, sir. And
20 you were convicted of that; is that correct?
21 Thank you. You're nodding yes, Mr. Campbell.
22 Thank you for your candor. You would be
23 disqualified from service and you're free to go.
24 Thank you, Mr. Campbell.

25 Now, has any -- or does any member of

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1 our jury panel have less than, less than a sixth
2 grade education or its equivalent? What do I
3 mean by equivalent? Well, ladies and gentlemen,
4 let me say to you that equivalent means in my
5 mind if you are working and paying your bills
6 and living in this world as sophisticated as we
7 have become, then I think you have much more
8 than a sixth grade educational equivalent.
9 However, this -- the question is does any member
10 of our jury panel have less than a sixth grade
11 education or its equivalent?

12 Again, if this applies to you and you
13 need to respond you may stand now, or you may
14 come up in just a few minutes when I give you an
15 invitation to speak a little more privately with
16 me. Anyone wish to stand at this time, please
17 do so. Very well.

18 Is any member of our jury panel
19 unable, not able, to read, write, speak, or
20 understand the English language? Again, if you
21 need to respond you may stand now or come up in
22 just a few moments if you need to respond.
23 Anyone wish to stand now, please do so. I find
24 no one standing.

25 Is any member of our jury panel

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1 unable, not able as a result of a physical or a
2 mental infirmity, physical or mental problem, to
3 render efficient jury service? We've certainly
4 endeavored to find out this information earlier.

5 Yes, ma'am, Ms. Shuler, you want to
6 stand. You can come up at the end. Do you have
7 a doctor's excuse with you, Ms. Shuler? It's
8 from who?

9 A JUROR: Dr. Hanna.

10 THE COURT: Dr. Hanna. You can start
11 making your way then, Ms. Shuler, let me take a
12 look at it. Thank you, Ms. Shuler.

13 Anyone else? You can certainly come
14 up in a moment and we'll talk about anyone else.

15 Any member of our jury panel --
16 somebody's raising their hand, you need to stand
17 or come up at the end. You cannot stand?

18 A JUROR: I'll come up at the end. I would
19 like to come up at the end to speak with you
20 privately.

21 THE COURT: Sure. Absolutely. That would
22 be fine.

23 A JUROR: Thank you.

24 THE COURT: Thank you, Ms. Shuler. All
25 right. Just make a place for Ms. Shuler on the

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1 front row here and I'll talk to her in just a
2 moment. I need a little bit more information.
3 Thank you, Ms. Shuler.

4 Is there any member of our jury panel
5 who has served on a jury in a court of record,
6 this is not magistrate's court or municipal
7 court, who served in this courtroom or in
8 federal court in a court of record, circuit
9 court, again, or federal court, in the year
10 2002, in the calendar year 2002? If so, please
11 stand.

12 Any member of our jury panel who has
13 served on the grand jury in the last five years?
14 Any member of our jury panel who has served on
15 the Dorchester County Grand Jury within the last
16 five years, please stand. I find no one
17 standing.

18 All right. Now, ladies and gentlemen,
19 we now move to jury exemptions because state law
20 provides for several exemptions for jury
21 service, and what that means is it does not mean
22 you are not qualified to serve, it simply means
23 that you have the right to say thank you, but I
24 choose not to serve.

25 For example, those of you who are 65

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1 years of age or older represent a pool of
2 fantastic talent for jury service. However,
3 state law says that if you are 65 years of age
4 or older, then you may be exempted from your
5 jury service as jurors. So I would ask of you,
6 ladies and gentlemen, whether or not any members
7 of our jury panel are 65 years of age or older
8 and who wish to be exempted from your jury
9 service, please stand. All right, sir. Yes,
10 sir, tell me your name again.

11 A JUROR: William D. Smith.

12 THE COURT: Yes, sir, Mr. Smith. And you
13 are juror number?

14 THE CLERK: Is it William D.?

15 A JUROR: Yes.

16 THE CLERK: 283.

17 THE COURT: How old are you, Mr. Smith?

18 A JUROR: Seventy-two.

19 THE COURT: Seventy-two? My goodness, you
20 are a youthful 72. What is your date of birth,
21 Mr. Smith?

22 A JUROR: [REDACTED] [REDACTED] [REDACTED].

23 THE COURT: [REDACTED] [REDACTED] [REDACTED].

24 Thank you so much for being with us, Mr. Smith,
25 if you are going to exercise your exemption. Do

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1 you want to exercise your exemption? You don't
2 want to stay with us?

3 A JUROR: No.

4 THE COURT: Well, we will miss you. Thank
5 you, Mr. Smith.

6 Who is this youthful lady near you?
7 Yes, ma'am, tell me your name.

8 A JUROR: Margaret Washington.

9 THE COURT: Ms. Washington?

10 A JUROR: Yes.

11 THE COURT: You can't possibly be 65.
12 She's 321. Ms. Washington, tell me your date of
13 birth.

14 A JUROR: The [REDACTED] [REDACTED] [REDACTED] day,
15 the year [REDACTED].

16 THE COURT: I would have never thought
17 that. We will miss you so much. You don't want
18 to stay with us?

19 A JUROR: I would love to.

20 THE COURT: Well, then stay with us,
21 please, Ms. Washington, and thank you so much.

22 A JUROR: Thank you.

23 THE COURT: Look at these children in the
24 back. Yes, sir, your name?

25 A JUROR: Donald Erbe.

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1 THE COURT: Let me get your juror number
2 real quick.

3 A JUROR: Eighty-seven.

4 THE COURT: Thank you so much. Your date
5 of birth?

6 A JUROR: [REDACTED].

7 THE COURT: My goodness. We have to talk
8 skin care later. And you wish to exercise your
9 exemption?

10 A JUROR: Yes, ma'am.

11 THE COURT: Well, we will miss you so much,
12 Mr. Erbe. You are free to go.

13 THE CLERK: Number 87.

14 THE COURT: Juror Number 87.

15 Yes, sir, your name again for our
16 record.

17 A JUROR: Lorry McAllister.

18 THE COURT: What is your date of birth?

19 A JUROR: [REDACTED].

20 THE COURT: Mere child. And do you wish to
21 exercise your exemption?

22 A JUROR: Yes, ma'am.

23 THE COURT: Well, we will miss you so much.
24 Thank you for coming today.

25 THE CLERK: 196.

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1 THE COURT: Juror 196 exercising his
2 exemption.

3 Now, ladies and gentlemen, I would ask
4 of you whether or not any members of our jury
5 panel, if you are a clerk; a deputy clerk of
6 court, or any person employed within the walls
7 of any courthouse? If so, please stand. Thank
8 you. I find no one standing.

9 Now, another exemption involves those
10 of you who are women, statute doesn't do much at
11 this point for guys in this regard, for
12 Mr. Moms. However, one day the statute may
13 change, but as of this moment it's only for
14 moms. And I would ask whether or not there are
15 any members of our jury panel who are women who
16 have children under the age of seven years,
17 under the age of seven years, who have the legal
18 custody of their child or children under the age
19 of seven years, and have the care, custody, and
20 control of their child or children under the age
21 of seven years, and who are unable, who are not
22 able to make adequate arrangements for your
23 child or children while performing your jury
24 duty. If this applies to any of you, and I mean
25 each and every one of these elements applies to

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1 you, then you may be exempted on this basis, but
2 only if each and every one of these elements is
3 present. If this applies to anyone, please
4 stand.

5 All right. Yes, ma'am, we'll start
6 right here. Tell me your name.

7 A JUROR: Melissa Jones.

8 THE COURT: All right, Ms. Jones.
9 Ms. Jones, do you work outside your home?

10 A JUROR: No, I do not.

11 THE COURT: You do not. You're a
12 stay-at-home mom, you work inside your home.
13 How old are your children?

14 A JUROR: I have a six-month-old daughter
15 that lives with me.

16 THE COURT: You have a six-month-old
17 daughter. All right. You don't work outside
18 your home and you provide for her care. And
19 there's no grandmama or anyone who can provide
20 care for your six month old while performing
21 your jury duty?

22 A JUROR: No, ma'am.

23 THE COURT: All right, Ms. Jones. Thank
24 you so much. I think the exemption applies to
25 you and I will excuse you on that basis.

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1 THE CLERK: 156.

2 THE COURT: All right. Yes, ma'am, in the
3 red, tell me your name.

4 A JUROR: Aretha Smalls.

5 THE COURT: All right, Ms. Smalls. Let me
6 get your number just a second.

7 THE CLERK: 278.

8 THE COURT: 278. Yes, ma'am, Ms. Smalls,
9 do you work outside your home?

10 A JUROR: Yes, I do.

11 THE COURT: Where do you work?

12 A JUROR: Food Lion.

13 THE COURT: At Food Lion, all right. And
14 you have a child or children under the age of
15 seven years, and you have custody of your child
16 or children under the age of seven years?

17 A JUROR: Yes.

18 THE COURT: All right. What hours do you
19 work during the day?

20 A JUROR: I work night shift.

21 THE COURT: You work night shift. All
22 right. Why do you work night shift?

23 A JUROR: Well, because I really don't have
24 anybody to keep them. I have a mentally
25 disabled son and if no one's there to get him

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1 from the bus, they'll take him back to the
2 school and I don't have any way to get him home.

3 THE COURT: I understand. All right. And
4 your hours that you work at night, Ms. Smalls,
5 are what, what hours?

6 A JUROR: 6:00 to close.

7 THE COURT: 6:00 to close. That sounds
8 like you don't know what time, it could be
9 anything. All right.

10 A JUROR: Closes eleven o'clock at night.

11 THE COURT: Hopefully, all right. All
12 right, Ms. Smalls. Ms. Smalls, I believe that
13 the exemption applies to you.

14 Counsel, if you need to discuss that I
15 want you to feel free to approach.

16 (Whereupon, a bench conference was held off the
17 record in the presence of the jury panel but out
18 of the hearing of the jury panel.)

19 THE COURT: Thank you, Ms. Smalls. I think
20 that the -- certainly the exemption applies to
21 you and I will excuse you on that basis and you
22 are free to go. Thank you.

23 And, yes, ma'am, tell me your name.

24 A JUROR: Lorine Haywood.

25 THE COURT: Thank you, Ms. Haywood. My

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1 ears are going, Ms. Haywood. Yes, ma'am, you
2 are juror number?

3 MS. FOOTMAN: 129.

4 THE COURT: All right. You have custody of
5 a child under the age of seven years?

6 A JUROR: Yes, grand.

7 THE COURT: Your grandchild. And you
8 actually have legal custody, you got papers
9 giving you custody?

10 A JUROR: I'm the guardian.

11 THE COURT: You're the guardian. We'll
12 talk about that later. Stay with me for now,
13 Ms. Haywood, would you, and we'll talk about
14 that later? We'll make a note to talk about
15 that individually, Ms. Haywood.

16 All right. Yes, ma'am, in the green.

17 A JUROR: Sharon Kelly.

18 THE COURT: Yes, ma'am, Ms. Kelly, do you
19 work outside your home?

20 A JUROR: Yes, I do.

21 THE COURT: All right. And where do you
22 work, during the day, or at night?

23 A JUROR: During the day.

24 THE COURT: During the day, all right.

25 Where?

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1 A JUROR: Red Lobster.

2 THE COURT: Oh, at Red Lobster, all right,
3 yes, ma'am. Tell me, do you have a child or
4 children under seven?

5 A JUROR: Yes, I have two small daughters.
6 And I only work briefly 12:00 to 4:00 at Red
7 Lobster.

8 THE COURT: You work from 12:00 until 4:00?

9 A JUROR: Yes.

10 THE COURT: All right. There's no other
11 adult in the home that helps care for the
12 children?

13 A JUROR: No, ma'am.

14 THE COURT: Okay. Ms. Kelly, I'll tell you
15 what I'm going to do, I'm going to make a note
16 and talk to you about that in a little more
17 detail, all right? Stay with us for now, but we
18 will make a note. Thank you, Ms. Kelly.

19 Yes, ma'am, your name?

20 A JUROR: Lauren Lecroy.

21 THE COURT: Ms. Lecroy, you have a child or
22 children under the age of seven years?

23 A JUROR: Yes, ma'am, he's four.

24 THE COURT: All right. And do you work
25 outside your home?

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1 A JUROR: Yes, I do.

2 THE COURT: Tell me where you work,
3 Ms. Lecroy.

4 A JUROR: I work at Six Continents Hotels,
5 I'm a sales associate. I work from five o'clock
6 in the evening until 11:30 a.m. because my son
7 goes to a special school for kids with physical
8 disabilities and I have to be there to put him
9 on the bus at 11:00 and get him off at 2:00 and
10 that's why I work nights.

11 THE COURT: I understand, Ms. Lecroy. I'm
12 going to make a note and I will discuss that
13 with you in a little more detail.

14 A JUROR: Okay.

15 THE COURT: Thank you so much, Ms. Lecroy.

16 Now, ladies and gentlemen, the next
17 exception or exemption is as follows: You will
18 recall a few moments ago I asked you whether or
19 not any members of our jury panel had served as
20 a juror in a court of record during the calendar
21 year 2002, that disqualifies a juror from
22 further service in the same calendar year.
23 However, prior jury service also gives rise to
24 an exemption, because no juror is required to
25 serve more often than once every three calendar

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1 years.

2 So I would ask whether or not there
3 are any members of our jury panel who have
4 served in a court of record, it's not municipal
5 court or magistrate's court, but in a court of
6 record in the calendar years 2001 or 2000 who
7 wish to be exempted from your jury service? If
8 so, please stand. I find no one standing.

9 A JUROR: Excuse me. I served last year
10 here.

11 THE COURT: You served. And tell me your
12 name.

13 A JUROR: Mungin, M-u-n-g-i-n.

14 THE COURT: Let me get your juror number.

15 A JUROR: 216.

16 THE COURT: All right. And you were in
17 this courtroom?

18 A JUROR: Yes, ma'am.

19 THE COURT: Last year?

20 A JUROR: Yes, ma'am.

21 THE COURT: Who was on the bench?

22 A JUROR: I don't remember.

23 THE COURT: It wasn't me? I don't remember
24 you.

25 A JUROR: It wasn't you. It was a man.

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1 THE COURT: It was a guy.. Well, it wasn't
2 me. All right, then. Very well, then. Yes,
3 ma'am. And you wish to exercise your exemption?

4 A JUROR: Yes, please. Yes.

5 THE COURT: Okay. You're free to go.

6 A JUROR: Okay.

7 THE COURT: We'll miss you, though.

8 And I would ask whether or not there
9 are any members of our jury panel who is a guard
10 with the Department of Corrections at a
11 penitentiary, because if so I'm going to ask you
12 to stand now because state law says you're going
13 to be exempted from your jury service. So,
14 please stand if you are a guard with the
15 Department of Corrections at a penitentiary. I
16 find no one standing.

17 Now, ladies and gentlemen, listen very
18 carefully to this one because it's a little
19 unusual. I would ask whether or not there are
20 any members of our jury panel whose services are
21 so essential to the business or the agricultural
22 enterprise that the business or the agricultural
23 enterprise, here's the part, must close, not
24 should close, but must close if you were to
25 perform your community service and serve on jury

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1 duty. Now, must close, not should close. If
2 so, please stand.

3 Yes, ma'am, tell me your name.

4 A JUROR: Brenda Adkins.

5 THE COURT: All right, Ms. Adkins. I'm
6 going to ask you, Ms. Adkins, just to come
7 forward in just a moment and talk to me about
8 that.

9 She's Juror Number 2?

10 THE CLERK: That's correct.

11 THE COURT: All right.

12 Yes, sir, tell me your name.

13 A JUROR: Stanley DeLee.

14 THE COURT: Yes, sir, Mr. DeLee. We'll get
15 your juror number first.

16 A JUROR: Seventy-three.

17 THE CLERK: Seventy-three.

18 THE COURT: Seventy-three, all right.

19 Likewise, I'm going to ask you to just come
20 forward in a minute and talk to me, okay?
21 Thanks, Mr. DeLee.

22 Now, do we have any members of our
23 jury panel who is a full-time student, school
24 teacher, school crossing guard, school bus
25 driver, or involved in any way with a

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1 school-related function who would be unable to
2 serve this week as a result of that school
3 involvement? If so, we will transfer your
4 service to another term of court. If this
5 applies to anyone, please stand at this time.
6 Yes, ma'am -- yes, sir, I'm so sorry. Tell me
7 your name.

8 A JUROR: Shawn Taylor.

9 THE COURT: All right, Mr. Taylor.

10 A JUROR: This is my last week of high
11 school.

12 THE COURT: All right. Yes, sir. Where
13 are you in school?

14 A JUROR: Fort Dorchester High School.

15 THE COURT: Are you doing exams?

16 A JUROR: The end of next week, but I
17 exempted the exams.

18 THE COURT: Congratulations. And you're a
19 senior at Fort Dorchester?

20 A JUROR: Yes, ma'am.

21 THE COURT: All right, sir.

22 THE CLERK: 297.

23 THE COURT: 297. I'm going to transfer
24 you. You're asking me to do that, is that
25 right, Mr. Taylor, so that you can attend your

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1 last week in high school?

2 A JUROR: Yes.

3 THE COURT: Very well. Thank you,
4 Mr. Taylor. We will transfer your service to
5 the summertime.

6 A JUROR: All right.

7 THE COURT: Thank you. You are free to go.
8 Yes, ma'am, tell me your name.

9 A JUROR: Kathryn Peebles.

10 THE COURT: Peebles?

11 A JUROR: Right. I'm a teacher in Berkeley.
12 County.

13 THE COURT: All right. And now the last
14 couple of weeks of school I know you want to
15 stay with us, right?

16 A JUROR: Well, I'd like to, but....

17 THE COURT: All right. You are about to
18 have exams?

19 A JUROR: Yes, we are.

20 THE COURT: And you are a teacher in
21 Berkeley County and we will transfer your
22 service, Ms. Peebles.

23 THE CLERK: 227.

24 THE COURT: Thank you. It's Juror 227.

25 Yes, ma'am.

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1 A JUROR: Wanda Query, Number 243.

2 THE COURT: Yes, ma'am, Ms. Query, you are
3 a teacher?

4 A JUROR: No, ma'am. I'm going to be a
5 chaperon for a third grade class at Summerville
6 Elementary Thursday and Friday, we're going to
7 Florida.

8 THE COURT: All right. I'm going to have
9 to talk to you about that in a little bit.
10 Thank you, Ms. Query.

11 Yes, ma'am, tell me your name.

12 A JUROR: Evelyn Rast.

13 THE COURT: You are Juror Number...?

14 A JUROR: 248.

15 THE COURT: 248.

16 A JUROR: I'm a special needs supervisor,
17 transportation supervisor.

18 THE COURT: For...?

19 A JUROR: For Dorchester District Two.

20 THE COURT: For Dorchester District Two.
21 And you wish to transfer your service?

22 A JUROR: Yes, ma'am. I would like to
23 because this is our busy time of the year, you
24 know, trying to get transportation ready for
25 next year and all this kind of stuff and if I

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1 can I would like to have a transfer.

2 THE COURT: All right. Very well. Yes,
3 ma'am. I will transfer your service, Ms. Rast.
4 Very well.

5 A JUROR: Thank you. I appreciate it.

6 THE COURT: Yes, ma'am.

7 Ladies and gentlemen, do any of you
8 know any reason why you are not duly qualified
9 to serve as a juror in this court? If so,
10 please stand. I find no one standing.

11 Oh, all right, sir. Tell me your
12 name.

13 A JUROR: Michael Durr.

14 THE COURT: Durr. I'm going to ask you to
15 come forward in just a moment, Mr. Durr, okay?

16 THE CLERK: Number 81.

17 THE COURT: Let me ask you this question
18 before you all respond, because you may be
19 responding because you think you have a
20 hardship, all right.

21 Well, I'll tell you what I'm going to
22 do, let me just at this point get your names,
23 your numbers. I don't want to hear any response
24 at this point, just your names and your numbers.
25 I've got Mr. Durr.

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1 Yes, ma'am, your name?

2 A JUROR: Marilyn Prine.

3 THE CLERK: 239.

4 THE COURT: 239. All right, Ms. Prine.

5 Yes, sir?

6 A JUROR: Leo Sullivan, 293.

7 THE COURT: All right. I'll talk to you in
8 just a moment.

9 Yes, sir.

10 A JUROR: Phil Maynor, 194.

11 THE COURT: Yes, ma'am.

12 A JUROR: Rebecca Huber, 142.

13 THE COURT: Yes, ma'am.

14 A JUROR: Kelly Greenhill, Number 119.

15 THE COURT: Can't hear you, ma'am.

16 A JUROR: Kelly Greenhill, Number 119.

17 THE CLERK: 119.

18 THE COURT: Thank you. Got it now,
19 Ms. Greenhill.

20 MR. CUMMINGS: Judge?

21 THE COURT: Yes, ma'am.

22 A JUROR: Judith Schroeder, 268.

23 THE CLERK: 268.

24 THE COURT: 268, Ms. Schroeder.

25 All right. Ladies and gentlemen,

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1 normally at this point in the process I would
2 ask regarding hardship, whether or not there are
3 any of you that have a particular hardship that
4 would interfere with your ability to serve
5 during this term as a juror. But we have
6 certainly endeavored through the use of the
7 questionnaires to find out whether or not you
8 have hardships and we've endeavored to speak to
9 those folks.

10 However, if any of you did not
11 register a hardship and you now need to tell me
12 about that I'm going to ask you to stand, just
13 identify yourself, your name and your juror
14 number if you know it, and we will talk about
15 your specific situation later.

16 Anyone who has a particular hardship,
17 and it's much more than just an inconvenience
18 because everyone is inconvenienced by the gift
19 that they give their community which is your
20 jury service, but anyone that has a particular
21 hardship that did not earlier raise it on the
22 questionnaire can stand, just identify
23 themselves.

24 Yes, sir, your name?

25 A JUROR: John C. Richardson, Jr.

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1 THE COURT: Do you know your juror number,
2 Mr. Richardson?

3 A JUROR: 254.

4 THE COURT: We will talk to you about that.

5 Yes, ma'am.

6 A JUROR: Princess McConnell, it's 199.

7 THE COURT: All right. Thank you, yes,
8 ma'am.

9 A JUROR: Lorraine Pringle, 240.

10 THE COURT: Yes, sir.

11 A JUROR: Douglas Hutto.

12 THE COURT: Do you know your juror number?

13 A JUROR: No.

14 THE COURT: We'll get it, Mr. Hutto.

15 THE CLERK: 145.

16 THE COURT: Yes, sir.

17 A JUROR: Mancene Wertz, 325. Yes, ma'am.

18 THE COURT: Thank you. You are three...?

19 A JUROR: Twenty-five.

20 THE COURT: Thank you.

21 Yes, sir.

22 A JUROR: Robert Thomas, 299.

23 THE CLERK: 299.

24 THE COURT: Now, ladies and gentlemen,
25 those of you who did not respond, I'm not

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1 talking about the hardship folks, but those of
2 you who did not respond to those personal
3 questions that I asked, I'm going to ask you to
4 come forward at this time. Those of you, again,
5 who did not respond to those personal questions
6 that I asked.

7 Let me go over with you very briefly
8 the qualifications for jury service: That you
9 are a citizen of the United States, that you are
10 a citizen and resident of Dorchester County,
11 that you are able to read, write, speak, and
12 understand the English language, that you have
13 at least a sixth grade education or its
14 equivalent, that you are not employed as a law
15 enforcement officer, clerk, or employed within
16 the walls of any courthouse, that you have not
17 been convicted of a crime punishable by
18 imprisonment for more than one year and your
19 civil rights have not been restored by pardon or
20 amnesty, that you have not previously served on
21 jury duty during this calendar year in a court
22 of record, and that you are able physically and
23 mentally to render efficient jury service.

24 If any of these qualifications
25 concerns you or if you have a question about

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1 these qualifications as they apply to you or
2 your situation, or if you have a question or
3 concern about an exemption, then please come
4 forward at this time.

5 Counsel, let's just gather around the
6 court reporter.

7 While those folks are coming forward,
8 Mr. John Richardson, Jr., or Mr. John Richardson
9 that reported. Hi, Mr. Richardson. Tell me
10 your date of birth.

11 A JUROR: [REDACTED].

12 THE COURT: We got you, thank you.

13 THE CLERK: 264.

14 THE COURT: Mr. Benjamin Wamer. When is
15 your date of birth?

16 A JUROR: [REDACTED] [REDACTED].

17 THE COURT: We got who we're supposed to
18 have. Thank you, gentlemen, thank you both.

19 THE CLERK: Judge, we have 113 at this
20 time.

21 THE COURT: Okay. Great. Okay. Just get
22 name and number. Yes, sir.

23 A JUROR: I'm sorry?

24 THE COURT: Just come on.

25 MR. TAYLOR: Number 288, Mrs. Stanfield.

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1 THE COURT: Yes, ma'am, Ms. Stanfield.

2 A JUROR: Your Honor, my son-in-law is the
3 victim of a violent crime and I don't feel I
4 should be here.

5 THE COURT: Did you put that on your
6 questionnaire?

7 A JUROR: Yes, ma'am.

8 THE COURT: We will have an opportunity to
9 talk to you about that. Thank you so much.
10 Just stay with us for now. Thank you very much.
11 Did you hear that?

12 MS. HARDEE-THOMAS: Yes.

13 MR. BAILEY: I didn't, I'm sorry.

14 THE COURT: She and her son were victims of
15 a violent crime, she didn't feel like she ought
16 to be here. She's very emotional, but I told
17 her we would talk to her about that when we do
18 the individual voir dire. All right.

19 MR. TAYLOR: 174, Mr. Langley.

20 THE COURT: Yes, sir.

21 A JUROR: Since I last turned in the
22 questionnaire I'm scheduled for a hernia
23 operation on Wednesday morning at 7:00 a.m. at
24 Trident Surgical Center.

25 THE COURT: All right. Thank you,

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1 Mr. Langley. We'll get back to you in just a
2 moment on that.

3 A JUROR: Okay.

4 THE COURT: On Wednesday. Any objection to
5 excusing him?

6 MR. BAILEY: No, he'll be out.

7 THE COURT: He certainly will. All right.

8 MR. CUMMINGS: No.

9 THE COURT: Mr. Langley? You are free to
10 go, Mr. Langley, due to your condition and good
11 luck.

12 MR. LAFOND: 174, Your Honor?

13 THE COURT: 174 is Mr. Langley and he is
14 excused which has arisen since he sent in the
15 questionnaire.

16 MR. TAYLOR: 239, Mrs. Prine.

17 THE COURT: Yes, ma'am.

18 A JUROR: You asked that question about
19 conviction stuff. I've been arrested for simple
20 assault and battery, but I wasn't charged. I
21 was offered a PR bond and I went to court and
22 offered a fine.

23 THE COURT: It was simple assault?

24 A JUROR: Yes, ma'am.

25 THE COURT: Simple assault, magistrate's

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1 court?

2 A JUROR: Yes, ma'am.

3 THE COURT: That would not disqualify you.

4 A JUROR: I wanted to let you know.

5 THE COURT: Thank you so much for your
6 candor. Please stay with us.

7 Yes, sir.

8 MR. TAYLOR: Number 293, Mr. Sullivan.

9 THE COURT: Yes, sir, Mr. Sullivan. Come
10 on forward. Hi, Mr. Sullivan.

11 A JUROR: Ma'am, I was dismissed from my
12 job because of -- they said I stole, but I
13 didn't. I consider it circumstances beyond my
14 control and I listened to someone said something
15 was not -- that had already been written off on
16 the things and I figured it would be thrown away
17 so I could take it and they didn't go off the
18 property, but they still considered it against
19 me so I feel I would make a bad juror because of
20 my judgment.

21 THE COURT: I understand, Mr. Sullivan.
22 I'll tell you what, I'll make a note and we'll
23 talk about that in more detail when I talk to
24 you individually, but that wouldn't disqualify
25 you from service.

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1 A JUROR: Okay.

2 THE COURT: Thank you, Mr. Sullivan.

3 MR. TAYLOR: Number 272, Mrs. Shuler.

4 THE COURT: Hi. Come on, Ms. Shuler.

5 Ms. Shuler has a doctor's excuse that it says
6 due to -- it says that "Inez Shuler, please
7 dismiss from jury duty due to medical
8 condition."

9 I want to you tell me what medical
10 condition.

11 A JUROR: I have a lot of swelling in my
12 legs and they really hurts.

13 THE COURT: Your leg, all right. And your
14 doctor doesn't think you ought to serve because
15 of that; is that right? You don't think you
16 ought to serve because of that?

17 A JUROR: No.

18 THE COURT: And any other conditions other
19 than your legs swell?

20 A JUROR: Just my back and my legs, that's
21 it.

22 THE COURT: All right. And you don't feel
23 like if you were able to stand or take breaks,
24 that that would help you, Ms. Shuler?

25 A JUROR: They hurts. They really hurts.

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1 THE COURT: All right. Does that keep you
2 from being able to focus on what you're doing?

3 A JUROR: If I'm focusing on the pain,
4 yeah.

5 THE COURT: Okay. And how often does the
6 pain get like that, Ms. Shuler?

7 A JUROR: Well, you can see they're swollen
8 now, it hurts.

9 THE COURT: Are they hurting?

10 A JUROR: Yeah. I have a bone spur in my
11 heel.

12 THE COURT: It really hurts. All right,
13 Ms. Shuler. Would you go back to Mr. Taylor
14 right there, let me just chat with these
15 attorneys a second? Thank you, Ms. Shuler, they
16 may need for me to ask you something else.

17 All right. What says the State?

18 MR. BAILEY: It's not the most intensive
19 explanation I've ever seen.

20 THE COURT: It's not. It's not.

21 MR. BAILEY: I think she supplemented that
22 by saying she's in pain, can't focus.

23 THE COURT: That's what concerns me.

24 MR. CUMMINGS: We ask to keep her.

25 THE COURT: He's concerned she's just

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1 trying to get out of her service.

2 MR. CUMMINGS: She said one time she came
3 over here last week, and then this note is so
4 generic, it's....

5 MR. BAILEY: That's another reason I
6 wouldn't keep her, if she doesn't want to be
7 here, she's gone to that extent to exaggerate
8 her medical condition to get out of jury service
9 I don't think she would be a good juror, anyway.

10 MS. HARDEE-THOMAS: If you give everybody
11 an opportunity they will find a reason like
12 that.

13 THE COURT: Ms. Shuler? Where's
14 Ms. Shuler? Ms. Shuler, I'm going to ask you
15 just to stay with us for now. I'm going to have
16 a chance to talk to you a little bit more in
17 detail, but just stay with me now, okay?

18 Yes, sir.

19 MR. TAYLOR: 194, Mr. Maynor.

20 THE COURT: Yes, sir, Mr. Maynor.

21 A JUROR: I'm in the military, I'm a
22 homeowner in Dorchester County, but I'm not a
23 legal resident of South Carolina. I'm a legal
24 resident of South Dakota.

25 THE COURT: All right. And you're

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1 domiciled here?

2 A JUROR: I've lived here for the last nine
3 years, but with my military employment things
4 could happen anytime so I ask to be exempt
5 because of that.

6 THE COURT: Because of that? Do you
7 currently have orders to ship out?

8 A JUROR: No, I don't.

9 THE COURT: I understand with the current
10 situation in the world that that could happen.
11 I'm going to ask that you stay with us,
12 Mr. Maynor. In the event that you receive
13 orders we will certainly deal with that if they
14 come.

15 A JUROR: I just wanted to bring it to your
16 attention while I could.

17 THE COURT: I know. And I appreciate that
18 very, very much.

19 A JUROR: Thank you.

20 MR. TAYLOR: 254, Mr. Richardson.

21 THE COURT: Mr. Richardson, tell me what
22 your number is.

23 A JUROR: 254.

24 THE COURT: Okay.

25 A JUROR: What I do is I black out.

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1 THE COURT: Okay.

2 A JUROR: And I'm not supposed to drive or
3 be around, you know, nothing strenuous.

4 THE COURT: Who is your doctor?

5 A JUROR: Dr. Castellone.

6 THE COURT: Dr. Castellone? Let me ask you
7 to do this for me, can you get me something from
8 Dr. Castellone?

9 A JUROR: It was supposed to have been
10 already mailed in.

11 THE COURT: I'll tell you what, I'm going
12 to get the clerk to give you a fax number and
13 that way they can fax what your condition is.
14 I'm going to ask you to stay with us right now
15 until we can get that information.

16 A JUROR: No problem.

17 THE COURT: Come on, Ms. Footman will give
18 you the fax number and you can communicate that.
19 Please stay with us until then, okay?

20 Yes.

21 MR. TAYLOR: Number 73, Mr. DeLee.

22 THE COURT: Yes, sir, Mr. DeLee.

23 A JUROR: Hi.

24 THE COURT: Hi.

25 A JUROR: I work for Transglobal, I pull

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1 hazardous waste. It's such part of the business
2 now, I'm the only driver they have. I'm also --
3 I got six sugar pills, 850 milligram, three
4 times a day.

5 THE COURT: Okay.

6 A JUROR: And they have no one else in that
7 department that can drive that truck.

8 THE COURT: For the department. For what
9 department, Global Trans?

10 A JUROR: Transglobal.

11 THE COURT: Transglobal? All right.
12 Mr. DeLee, you don't have a doctor's excuse with
13 you on your medical condition?

14 A JUROR: No, ma'am.

15 THE COURT: I'm going to ask you to stay
16 with us at this point. We'll have an
17 opportunity to talk to you in a little more
18 detail about that later on, but I'm going to ask
19 you to stay with us at this point.

20 A JUROR: All right.

21 THE COURT: Thank you.

22 MR. BAILEY: Judge, according to the rap
23 sheet Mr. DeLee is wanted for ABHAN and child
24 endangerment. And there's another juror that's
25 got a bench warrant outstanding. I didn't know

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1 how you wanted to handle those people.

2 THE COURT: He has a warrant?

3 MR. BAILEY: According to the rap sheet
4 he's wanted by Dorchester County, ABHAN and
5 child endangerment.

6 THE COURT: I think what I want to do is,
7 since those are warrants and those are not
8 convictions, I think let's handle those
9 individually when we talk to them because I
10 don't think that will disqualify them.

11 MR. BAILEY: My concern is whether or not
12 he should be arrested on the outstanding
13 warrant.

14 MR. CUMMINGS: We had a situation in the
15 Gardner case, a police officer had a family
16 court bench warrant on him, Judge Anderson --

17 MR. BAILEY: A witness.

18 MR. CUMMINGS: A witness, no question,
19 exempted for service of process.

20 THE COURT: That's right. And they're in
21 the courthouse and they are at the point in time
22 when they -- I don't know what's going to happen
23 when he goes outside the courthouse, the
24 courtroom I mean, it could be a problem.

25 MR. BAILEY: It could follow him home.

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1 THE COURT: It could follow him home,
2 indeed it could. But at this point I think we
3 ought to handle them individually, but, please,
4 remind me when we go through the individual voir
5 dire.

6 MR. TAYLOR: 268, Mr. Schroeder.

7 THE COURT: Yes, ma'am.

8 A JUROR: I have two medical problems.

9 THE COURT: Ms. Schroeder has two medical
10 problems. I'm sorry, Ms. Keil has to take down
11 what you are saying.

12 A JUROR: I have throat cancer. They gave
13 me a drug called Ativan which takes away my
14 short term memory.

15 THE COURT: She's on Ativan.

16 A JUROR: It took away my short term
17 memory. And I can remember 30 years ago, but I
18 can't remember 20 minutes ago. And I also had
19 eight weeks of radiation treatments so I have
20 no -- so I have to constantly keep drinking this
21 water. And she said not to speak or not to
22 drink --

23 THE COURT: You go ahead drink.

24 A JUROR: -- when you were talking.

25 THE COURT: You go ahead and drink, you

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1 have a medical condition, if you need to. Don't
2 you worry about that. I can certainly
3 accommodate the drinking, that's not at all a
4 problem.

5 A JUROR: I'm afraid that I wouldn't
6 remember.

7 THE COURT: Do you have anything from your
8 doctor that can --

9 A JUROR: I didn't even think to bring it.

10 THE COURT: To bring that?

11 A JUROR: I thought it would be evident.

12 THE COURT: Well, you look awfully good, I
13 must tell you that.

14 A JUROR: I know. They said I would be
15 dead.

16 THE COURT: You look great. Tell you what
17 I'm going to ask you to do for me, stay with me
18 now. If you can get something from your doctor.

19 A JUROR: Okay.

20 THE COURT: Either have that sent in or
21 bring that with you and let me give you the fax
22 number, because you can even have your doctor
23 fax something in, if we can get some
24 documentation on short term memory loss,
25 otherwise we're going to talk to you a little

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1 bit more about that. Come on with Ms. Footman
2 and she'll give you the fax number.

3 THE CLERK: What are we doing?

4 THE COURT: We're going to talk to her,
5 she's going to stay with us.

6 THE CLERK: Stay with us?

7 THE COURT: Right now.

8 Yes, ma'am. Hi.

9 MR. TAYLOR: Number 119, Ms. Greenhill.

10 A JUROR: Good morning, Judge.

11 THE COURT: Good morning, Ms. Greenhill. I
12 need Ms. Keil to be able to hear you and we will
13 gather round.

14 A JUROR: Yes, ma'am. I am employed by the
15 Town of Summerville Police Department as a
16 dispatcher and also an instructor.

17 THE COURT: But you don't not have an
18 active law enforcement commission, you don't
19 have arrest powers?

20 A JUROR: No, ma'am.

21 THE COURT: Okay. Great. Thank you for
22 sharing that with us. Stay with us right now.

23 A JUROR: Okay.

24 THE COURT: We'll talk more, Ms. Greenhill.
25 Thank you.

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1 MR. TAYLOR: 199, Mrs. McConnell.

2 THE COURT: Yes, ma'am.

3 A JUROR: I have a close family member
4 that's incarcerated, he was shot by a police
5 officer and I just didn't know if I should let
6 you all know it, if it would affect it.

7 THE COURT: Thank you for sharing that with
8 us. We'll have an opportunity to talk more
9 about that. Remember to share that with us,
10 Ms. McConnell, and we will talk about it.

11 A JUROR: All right.

12 THE COURT: Thank you.

13 MR. TAYLOR: 240, Mrs. Pringle.

14 THE COURT: Yes, ma'am, Ms. Pringle.

15 A JUROR: Yes. I'm taking Divan medication
16 which is a pressure/water pill and I need to use
17 the restroom. How do I do it, just get up and
18 go when I have to?

19 THE COURT: You're talking about right now?

20 A JUROR: I need to go now.

21 THE COURT: You need to go ahead and go, I
22 can accommodate that.

23 A JUROR: Because I didn't know how it
24 works, like if I have to go to the bathroom.

25 THE COURT: How often?

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1 A JUROR: About an hour and 15 minutes.

2 THE COURT: Oh, you'll be fine. You'll be
3 fine. If you need --

4 A JUROR: That's my main concern..

5 THE COURT: Oh, absolutely. I don't ever
6 want you concerned about that. That's easy to
7 accommodate. If you need to scoot, go ahead and
8 scoot because we're going to be a few. Thank
9 you. She's staying.

10 MR. TAYLOR: 145, Mr. Hutto.

11 THE COURT: Hi.

12 A JUROR: How are you doing?

13 THE COURT: Hi, Mr. Hutto.

14 A JUROR: I know Mr. Robbins, I thought I
15 might tell you that.

16 THE COURT: Just hang loose and I'll ask
17 about that. Okay. Thank you. Come on and stay
18 with us for now.

19 MR. TAYLOR: 129, Ms. Haywood.

20 THE COURT: Hi, Ms. Haywood.

21 A JUROR: Hi.

22 THE COURT: I was going to ask you about
23 your grand.

24 A JUROR: Oh, yeah.

25 THE COURT: Okay. You have a grandchild

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1 and you are the guardian. You don't have legal
2 custody?

3 A JUROR: I've had them since they were
4 five, two of them.

5 THE COURT: You've had two of them since
6 they were little. Do you work outside your
7 home?

8 A JUROR: No, I'm disabled.

9 THE COURT: You are disabled. Is there
10 anybody else that can look after -- does look
11 after those kids?

12 A JUROR: No. Then I have my mother there
13 with me, she's 95. I'm her caretaker.

14 THE COURT: Any other reasons you came
15 forward, any medical conditions, any other
16 reasons you came forward other than what you
17 just told me about the children?

18 A JUROR: No.

19 THE COURT: Okay. That's your concern?

20 A JUROR: Yes.

21 THE COURT: And you don't work outside your
22 home?

23 A JUROR: No. And then my daughter had to
24 go in the hospital Saturday night, so I have her
25 kids over there to put them on the bus.

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1 THE COURT: What's wrong with your
2 daughter?

3 A JUROR: She has some kind of bacteria.
4 She's in Trident.

5 THE COURT: She's in the hospital. And you
6 got her kids also?

7 A JUROR: Uh-huh.

8 THE COURT: All right.

9 A JUROR: Put them on the bus.

10 THE COURT: Are you to get them off the
11 bus?

12 A JUROR: They stay with me. They're
13 staying with me until she gets out.

14 THE COURT: Until she gets out of the
15 hospital. And nobody can care for those
16 children but you?

17 A JUROR: No. I have a sister, but she
18 broke her foot.

19 THE COURT: You have a sister who broke her
20 foot, she's having difficulty.

21 A JUROR: She had a stroke.

22 THE COURT: Honey, stay right back here for
23 me, let me ask these folks and I'll be right
24 with you. Just stand right back there at the
25 gate. Come on and gather around.

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1 MR. BAILEY: I remember the questionnaire,
2 the 95-year-old mother.

3 MS. HARDEE-THOMAS: Yeah, I remember that.

4 THE COURT: The grandchildren and now her
5 daughter. I think she has compelling
6 circumstances to be excused. You want to talk
7 to him?

8 (Pause in proceedings.)

9 MR. CUMMINGS: With Mr. Bowman's consent he
10 will excuse Ms. Haywood based on the situations
11 as she described.

12 THE COURT: Okay. Ms. Haywood is excused.
13 Ms. Haywood, you are excused.

14 A JUROR: Thank you.

15 THE COURT: You go take care of I think
16 half the county, Ms. Haywood. Okay.

17 MR. TAYLOR: 176, Ms. Lecroy.

18 THE COURT: Ms. Lecroy.

19 A JUROR: Yes, ma'am.

20 THE COURT: Yes, ma'am, Ms. Lecroy. You
21 have children and you work outside your home?

22 A JUROR: I work nights. I work at night
23 because I have a child with physical
24 disabilities and I have to be there to put him
25 on the bus at 11:00, get him off at 2:00. And

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1 that's the reason I work nights, so that I can
2 be there.

3 THE COURT: I understand you can
4 accommodate him. How old is this child?

5 A JUROR: He's four.

6 THE COURT: He's four. Stand right back
7 there for me while I talk to these gentlemen and
8 lady.

9 I think it applies to her.

10 MR. CUMMINGS: No objection, handicapped
11 child, four.

12 THE COURT: Exactly. Ms. Lecroy, I think
13 the exemption applies to you and I'm going to
14 excuse you on that basis and thank you for
15 coming today.

16 A JUROR: Thank you.

17 MR. TAYLOR: 163, Ms. Kelly.

18 THE COURT: Hi, Ms. Kelly. Let's see now,
19 you have two children who are under the age of
20 seven years?

21 A JUROR: Yes.

22 THE COURT: And you work outside the home?

23 A JUROR: On the weekends.

24 THE COURT: Only on the weekends?

25 A JUROR: Yes.

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1 THE COURT: All right. And you're there
2 with the children during the week?

3 A JUROR: Yes. I don't have anyone to
4 watch them during the week.

5 THE COURT: All right. And during the
6 weekends you can get somebody who's not working
7 during the week to watch them when you go to
8 work.

9 A JUROR: It fluctuates from their
10 godmother, their father, stuff like that. So I
11 really don't have a definite person, but they,
12 you know, watch them for me when they can.

13 THE COURT: On the weekends.

14 A JUROR: On the weekends.

15 THE COURT: Is that care available for you
16 during the week?

17 A JUROR: Not at all, because everybody
18 works in my family.

19 THE COURT: All right. I want you to step
20 right back there.

21 A JUROR: I also have one more thing.

22 THE COURT: Oh, sure.

23 A JUROR: I had to withdraw from school
24 this semester right here because I had a death
25 of my child. And I'm trying to go back, I

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1 registered for summer courses and I would start
2 probably the first part of June.

3 THE COURT: Okay.

4 A JUROR: And that's a reason why also.

5 THE COURT: Also. Thank you so much. Yes,
6 ma'am. All right.

7 Yes, I think that the exemption
8 applies to her. There's a case on point also
9 with the mom that only worked on the weekends.
10 So do you want to talk to him?

11 (Pause in proceedings.)

12 THE COURT: Yes.

13 MR. CUMMINGS: Put it on the record.

14 MS. HARDEE-THOMAS: Just that he consents.

15 THE COURT: He consents. Very well.

16 Ms. Kelly will be excused.

17 Ms. Kelly, we're going to be able to
18 excuse you on that basis.

19 A JUROR: Thank you.

20 THE COURT: Yes, ma'am.

21 MR. TAYLOR: 325, Mr. Wertz.

22 THE COURT: Yes, sir, Mr. Wertz.

23 A JUROR: I have chronic asthma and I'm
24 deaf in my left ear. And as far as the case I
25 don't know how long it lasts, but I'm going to

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1 summer school this summer.

2 THE COURT: Okay. All right. When does
3 summer school start?

4 A JUROR: Starts in June.

5 THE COURT: When in June?

6 A JUROR: June the 4th.

7 THE COURT: June the 4th?

8 A JUROR: Yes, ma'am.

9 THE COURT: Are you on asthma medication?

10 A JUROR: Right here.

11 THE COURT: You don't have to show it to
12 me. Do you work?

13 A JUROR: No, ma'am. I don't work.

14 THE COURT: You don't work outside the
15 home?

16 A JUROR: No, ma'am.

17 THE COURT: The asthma medication that you
18 use, would it keep you from being able to serve
19 on the jury?

20 A JUROR: It varies. Some days I feel
21 good, some days I feel bad.

22 THE COURT: How often do you have to go to
23 the emergency room, or have that kind of asthma?

24 A JUROR: That varies, too. I'm on the
25 machine, the nebulizer, the inhaler.

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1 THE COURT: How often do you have to use
2 the nebulizer?

3 A JUROR: Every day.

4 THE COURT: The nebulizer is the puffy
5 thing, that's the nebulizer. How about the
6 breathing machine, how often do you use that?

7 A JUROR: At least three times a week.

8 THE COURT: At least three times. And how
9 long are you on the breathing machine?

10 A JUROR: Until I can get my asthma under
11 control.

12 THE COURT: All right, sir. If you'll step
13 back there for me, please, sir.

14 He might be able to do it at night.

15 MR. BAILEY: If he's a full-time student
16 starting June 4th that's going to be a potential
17 problem.

18 THE COURT: I'm going to ask him to stay
19 with us and see if he can bring me something
20 from his doctor and his school schedule.

21 Yes, sir. Mr. Wertz, this is what I'm
22 going to do, I'm going to ask you to stay with
23 me right now. But I'm going to ask you from
24 Ms. Footman to get a fax number and if your
25 doctor doesn't think you ought to serve, then I

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1 want you to get him to fax or give you something
2 that you can bring, he or she, from your doctor.

3 A JUROR: Okay.

4 THE COURT: And with regards to the school,
5 if you are already registered bring me some
6 class schedule or something to show that you are
7 registered also, okay?

8 A JUROR: Okay.

9 THE COURT: Can you do that for me?

10 A JUROR: Yes, ma'am.

11 THE COURT: And then we'll talk again. I
12 hate to lose you. We'll talk again, Mr. Wertz,
13 but stay with me for now.

14 THE CLERK: Do you need the fax number,
15 Judge?

16 THE COURT: I'm sorry, Mr. Wertz, let me
17 get you to get the fax number from Ms. Footman.

18 MR. TAYLOR: Number 2, Mrs. Adkins.

19 THE COURT: Yes, ma'am, Ms. Adkins. I need
20 Ms. Keil to take down what you are saying.

21 A JUROR: I just took on a small business
22 the first of this year and my husband and I are
23 the only two that can run it. Myself, I work
24 full-time. He can't take off. He was able to
25 take off today because he first put in when he

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1 got the notice, but since it's not him having
2 jury duty he can't take the rest of the week
3 off, I'm the only one that can do it.

4 THE COURT: Who owns this business?

5 A JUROR: I do. It's called Sweatman's
6 Grocery. I just took it over.

7 THE COURT: Do you have any employees?

8 A JUROR: No.

9 THE COURT: You run it. If it's open you
10 got to run it?

11 A JUROR: Right. I will until my husband
12 gets there which --

13 THE COURT: Okay. All right. When does he
14 get there?

15 A JUROR: About 4:00 in the afternoon.

16 THE COURT: So you're running it during the
17 daylight hours?

18 A JUROR: Right now my husband works.

19 THE COURT: If he's working you got to
20 close the business; is that what you're telling
21 me?

22 A JUROR: Right.

23 THE COURT: I got it. Stand right back
24 there for me for just a moment.

25 All right. What says the State?

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1 MR. BAILEY: I have no objection.

2 MR. CUMMINGS: If she's the only source.

3 THE COURT: Yeah. They have to close it,
4 that's who the exemption applies to.

5 MR. CUMMINGS: Yes, ma'am.

6 THE COURT: I'm going to excuse her, I'm
7 going to exempt her.

8 I'm going to exempt you, I think the
9 exemption applies to you. Thank you,
10 Ms. Adkins, you are free to go. Thank you for
11 being here.

12 MR. TAYLOR: 238, Porcher.

13 THE COURT: Hi. Yes, sir, how are you
14 doing? Come close up here, I just need Ms. Keil
15 to be able to take down what you are saying.

16 A JUROR: Three and a half weeks ago I got
17 transferred to a plant in Alabama. For the last
18 three and a half weeks I was working in Alabama
19 on the weekends and immediately after high
20 school this year I'm moving my whole family up
21 to the plant, so....

22 THE COURT: So where are you working today?

23 A JUROR: I'm supposed to be in Alabama
24 today.

25 THE COURT: Today you're supposed to be in

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1 Alabama?

2 A JUROR: Yes. I didn't realize I was
3 summonsed for a court until Saturday when a
4 sheriff deputy came to the house and summonsed
5 me, but I was supposed to fly back yesterday.

6 THE COURT: Fly back to Alabama?

7 A JUROR: Yes.

8 THE COURT: I understand. All right. When
9 do your kids get out of school?

10 A JUROR: My stepson graduates in May, June
11 is graduation this year from Summerville High
12 School.

13 THE COURT: Right. It is June 1st, all
14 right.

15 A JUROR: Yes, ma'am.

16 THE COURT: Mr. Porcher, I'm going to ask
17 that you stay with us just for now, I'm going to
18 have an opportunity to talk to folks
19 individually over today and the course of the
20 next couple of days. Let me get more
21 information with you. Just tell your employer
22 just that we'll have an opportunity to talk
23 about that, okay?

24 A JUROR: All right.

25 THE COURT: Thanks so much, Mr. Porcher.

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1 All right, yes, ma'am.

2 MR. TAYLOR: 332, Ms. Wilgos.

3 THE COURT: All right. Yes, ma'am,
4 Ms. Wilgos.

5 A JUROR: Doesn't have to do with children,
6 what it has to do is we had a murder in the
7 family. My cousin, a police officer, he was
8 murdered and he was tortured before he was
9 murdered and the family still can't get over it.
10 And we were a very close-knit family and this is
11 bringing up memories of what happened to him.

12 THE COURT: All right. And what you're
13 telling me is that you don't feel as though --
14 what you're telling me is as a result of that
15 experience that you think it could have an
16 impact on your ability to give a fair and
17 impartial trial?

18 A JUROR: Right. Also my parents were
19 robbed and they did a lot of damage. And if my
20 parents would have came home five minutes
21 earlier they would have either got hit over the
22 head or stabbed or something.

23 THE COURT: Ms. Wilgos, I'm going to ask
24 you to step back there, this is actually a
25 little premature, I'm going to have an

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1 opportunity to ask folks about that. Step right
2 back for me for just a moment. Go ahead, dear.

3 All right. Now, this is premature, it
4 comes out of, it comes out of order, but we're
5 going to have to excuse her or deal with her in
6 time. What says the State?

7 MR. BAILEY: I think it is premature. I
8 think she's trying to get out of it.

9 THE COURT: Yeah, I think so, too.

10 MR. CUMMINGS: In an abundance of caution I
11 would ask she not stand up in front of the
12 panel, say what she just said.

13 THE COURT: All right. Ms. Wilgos, first
14 of all, you are absolutely appropriate to share
15 that with me.

16 A JUROR: Okay.

17 THE COURT: I now have your concern. It
18 just comes at a part of the process that it's a
19 little difficult for me because for the record
20 perhaps I need to kind of be organized, I'm
21 going to inquire that I have that. Be mindful,
22 be careful not to mention that in the presence
23 of your fellow jurors, okay?

24 A JUROR: Okay. This is the first time I'm
25 called, so I really don't know anything that's

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1 going on.

2 THE COURT: You are doing this just right.

3 A JUROR: Okay.

4 THE COURT: In an abundance of caution you
5 did exactly right. I don't in any way want to
6 communicate to you you didn't because you're
7 right, so I appreciate you so much doing that.
8 So you'll stand up, I'll know who you are, I'll
9 know what the situation is with you, Ms. Wilgos,
10 and you don't need to share that with the other
11 jurors. Thanks, Ms. Wilgos.

12 MR. TAYLOR: Number 142, Mrs. Huber.

13 A JUROR: Yes, ma'am. I'm requesting a
14 hardship. I have a flight out of here on
15 Thursday.

16 THE COURT: Okay. For what purpose?

17 A JUROR: It's to visit my mother-in-law.

18 THE COURT: Okay.

19 A JUROR: I don't get to spend much time
20 with my husband, he was home 95 days last year,
21 he's only been home 12 days this year and our
22 time is sacred and I would like to spend this
23 time with my husband, if I can serve at another
24 time.

25 THE COURT: This is a trip which you all

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1 have previously planned?

2 A JUROR: Since March, since March 15th.

3 THE COURT: You're supposed to leave when?

4 A JUROR: It's Thursday at 5:00.

5 THE COURT: How long are you supposed to be
6 gone?

7 A JUROR: Until Sunday.

8 THE COURT: Until Sunday. You're supposed
9 to go on this trip. Have you paid for your
10 tickets?

11 A JUROR: Yes, ma'am. They're already paid
12 for, \$211.

13 THE COURT: If you'll step right back there
14 for me and I'll be right with you.

15 What says the State?

16 MR. BAILEY: She'll be back Sunday if she
17 got into an early panel.

18 THE COURT: That means we can't start the
19 trial until Monday. I'm hopeful, I don't know
20 that we'll be able to, but I am hopeful that
21 we'll be able to start it earlier.

22 MR. CUMMINGS: Missing a trip.

23 THE COURT: I'm going to excuse her on that
24 basis.

25 I'm going to excuse you, Ms. Huber, on

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1 that basis. Thank you very much. Actually,
2 Ms. Huber, I'm going to transfer your service.

3 A JUROR: That's fine. I appreciate that.

4 THE COURT: I'm going to transfer you to
5 another term. Thank you.

6 THE CLERK: 142.

7 MR. TAYLOR: 243, Mrs. Query.

8 THE COURT: Yes, ma'am, Ms. Query.

9 A JUROR: I need to see if I could get a
10 transfer, I was going on a Young Astronauts'
11 trip with my child's class.

12 THE COURT: Okay.

13 A JUROR: Just transfer it to another time.

14 THE COURT: I'm going ask you to step right
15 back there for me, let me talk to these lawyers.

16 A JUROR: Okay.

17 THE COURT: Let me tell you I've been on
18 that trip, I know about that trip and they end
19 up with almost as many adults as they do
20 children on that trip. You know, it's a
21 wonderful trip, it's a wonderful experience for
22 her to have with her children, but I don't know
23 that it's in all honesty...so I have to tell you
24 that unless you all wish to excuse her I can't
25 excuse her on that basis.

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1 Ms. Query, I need you to stay with us
2 at this point. We'll have a chance to talk
3 about that a little more fully later. Thank you
4 so much.

5 MR. TAYLOR: 212, Mr. Mollish.

6 THE COURT: Yes, sir. I need Ms. Keil to
7 be able to hear what you are saying, we'll all
8 gather around.

9 A JUROR: Okay. I would love to serve on
10 the jury, but we've just combined our companies,
11 I work for Meade-Westvaco and I've been made
12 vice president of our land sales and
13 acquisitions and this week and next week and the
14 next six months I'll be having to travel
15 extensively. I have three meetings this week
16 and next week I have four days in Maine and I
17 think more importantly there was an article in
18 the Summerville paper this past week --

19 THE COURT: I'm going to get to that. I'm
20 going to get to that. All right, sir.
21 Mr. Mollish, I'm going to ask you to stay with
22 us at this point.

23 A JUROR: Okay.

24 THE COURT: We'll have an opportunity for
25 some individual questioning of you on those

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1 issues, but I cannot at this time tell you
2 that -- I think that you have certainly an
3 inconvenience as all jurors do, but I don't know
4 that I can excuse you on that basis at this
5 time, but we'll have an opportunity to talk.

6 A JUROR: Okay.

7 THE COURT: Thank you. So stay with us at
8 this time.

9 MR. TAYLOR: 308, Ms. Turner.

10 THE COURT: Yes, ma'am, Ms. Turner.

11 A JUROR: It's arthritis of the spine,
12 degenerative arthritis. My left hip, right foot
13 are numb right now from sitting. I also have --
14 since I had gallbladder surgery I can't -- well,
15 I go to the bathroom a lot, bowel wise if it
16 gets stressed kicks into gear.

17 THE COURT: I understand when it kicks into
18 gear. How often are we talking about?

19 A JUROR: Frequently.

20 THE COURT: How frequently, every hour,
21 every half hour?

22 A JUROR: Can go for a half hour. In fact,
23 eating makes it worse.

24 THE COURT: Okay. I understand. I'll tell
25 you what I'm going to do, Ms. Turner. We had

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1 asked on questionnaires --

2 A JUROR: I put that on there.

3 THE COURT: Did you? All right. Let me
4 ask you to do this for me. I'm going to ask you
5 to stay with us just right now. If you need to
6 run, go on, scoot to the bathroom, but I need
7 you to get from Ms. Footman a fax number, get a
8 statement from your doctor.

9 A JUROR: Okay.

10 THE COURT: If your doctor doesn't think
11 it's appropriate for you to serve because of
12 these difficulties, okay?

13 A JUROR: That's fine.

14 THE COURT: Thank you so much. Come on,
15 Ms. Footman will give you a fax number.

16 THE CLERK: Is she staying?

17 THE COURT: For now.

18 MR. TAYLOR: 234, Ms. Pitchford.

19 THE COURT: Yes, ma'am.

20 A JUROR: I am a school teacher in
21 Dorchester County District Two, but I'm going to
22 be moving in July so I didn't want to stand up
23 and ask for a postponement knowing that that
24 wouldn't be a possibility, but I didn't know if
25 you wanted me to stay or not.

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1 THE COURT: Oh, all right. Well, let me
2 say to you, you have an exemption that you are
3 entitled to use.

4 A JUROR: Okay.

5 THE COURT: And if I can put you into late
6 June I will.

7 A JUROR: Okay.

8 THE COURT: But do you need to be excused
9 this week for school purposes?

10 A JUROR: Yes.

11 THE COURT: All right. Come on with
12 Ms. Footman, give her your dates and we'll
13 transfer you to a term that will work, because
14 you're entitled to be transferred.

15 A JUROR: Okay.

16 THE COURT: All right. Very well.
17 Transferring Ms. Pitchford.

18 THE CLERK: Yes, ma'am. 234.

19 MR. TAYLOR: 274, Mrs. Simmons.

20 THE COURT: Yes, ma'am, Ms. Simmons. Yes,
21 ma'am. I just need Ms. Keil to be able to take
22 down what you are saying.

23 A JUROR: Okay. I'm at the point where I
24 can't take any more time off from work, because
25 I'm scheduled for surgery later on this month

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1 and I think it's going to take me like two weeks
2 to recover.

3 THE COURT: When is your surgery scheduled?

4 A JUROR: It's like the end of May. I
5 think I go in on the 25th.

6 THE COURT: And it's already scheduled?

7 A JUROR: Uh-huh (affirmative response).

8 THE COURT: All right. And you're going to
9 be out of commission for a couple of weeks?

10 A JUROR: For a couple of weeks. I need to
11 work as much as possible, I couldn't get paid if
12 I didn't work. I'm a cosmetologist.

13 THE COURT: Okay. Step right back there,
14 please, Ms. Simmons, let me talk to these folks.

15 Yeah. She's got surgery scheduled in
16 May.

17 MR. CUMMINGS: She didn't put it in the
18 questionnaire.

19 THE COURT: I don't know if she did or not.

20 MS. HARDEE-THOMAS: Can we get something
21 showing that?

22 MR. BAILEY: That would work.

23 MS. HARDEE-THOMAS: You think so?

24 THE COURT: Let me ask her.

25 Ms. Simmons, when was -- because we

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1 have the questionnaire from you and we don't
2 remember seeing that on your questionnaire.

3 A JUROR: No. But I put down I wasn't able
4 to take off from work, I didn't put that.

5 THE COURT: You didn't put the surgery.
6 When was the surgery scheduled?

7 A JUROR: Twenty-fourth or 25th.

8 THE COURT: Was it scheduled when you did
9 the questionnaire?

10 A JUROR: No, I was still in question.

11 THE COURT: That was coming up, but at this
12 point they need to do that the 25th of May. Who
13 is your doctor?

14 A JUROR: Dr. Hamilton at MUSC.

15 THE COURT: MUSC, Dr. Hamilton. Can he --
16 when you get something, fax it in.

17 A JUROR: It's a female. I have some
18 papers.

19 THE COURT: Let me see what you have.

20 A JUROR: I don't have them with me.

21 THE COURT: Let me give you a fax, send me
22 anything that shows that and then we will excuse
23 you on that basis. Come on, tell Ms. Footman.

24 Give her the fax information.

25 All right. I'm going to excuse her on

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1 the basis of her surgery, she has surgery
2 scheduled the 25th of May. Very well.

3 MR. TAYLOR: 299, Mr. Thomas.

4 THE COURT: Yes, sir, Mr. Thomas.

5 A JUROR: Your Honor, I don't know if I'm
6 in the right place right now, I have an
7 interview that was originally scheduled for last
8 Monday and because of the security lines I
9 missed they've rescheduled it for tomorrow.
10 This is in Raleigh, North Carolina.

11 THE COURT: All right. An interview for
12 what?

13 A JUROR: For a job position.

14 THE COURT: When would you start?

15 A JUROR: They would first need to make me
16 an offer. I anticipate this --

17 THE COURT: A good one, too, right? Sure.
18 What time is the -- your appointment with them?

19 A JUROR: It begins at 8:30, scheduled to
20 run through most of the day, and then I have
21 some unscheduled things down here.

22 THE COURT: All right. I'll tell you what
23 we can do, we can accommodate that, Mr. Thomas,
24 so then the time that we need to talk to you
25 that we can -- we'll try to accommodate you.

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1 Just stay with us at this point, okay?

2 A JUROR: Okay.

3 THE COURT: Because what's going to happen,
4 we're going to put folks on different panels,
5 we'll place you in a panel, don't know what
6 panel, but if it's during tomorrow we can
7 accommodate you.

8 A JUROR: Good, thank you.

9 THE COURT: Thanks, Mr. Thomas. Remind me,
10 don't leave here today until you know when to
11 return, okay?

12 A JUROR: Okay.

13 THE COURT: Thanks, Mr. Thomas.

14 MR. TAYLOR: 159, Ms. Jordan.

15 THE COURT: Yes, ma'am. Come on forward,
16 Ms. Jordan, I need Ms. Keil to take down what
17 you're going to say.

18 A JUROR: I was going to wait until later,
19 but I don't know how much longer I can wait. I
20 work third shift at the Medical University, I
21 work ten and a half hours, I cannot be excused
22 from work. I even sent a letter in from my
23 manager saying that they have no provision set
24 up for third shift personnel. I worked last
25 night.

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1 I've been up for 24 hours right now
2 and I don't know how I'm supposed to work all
3 night, come here all day. I have a daughter who
4 has asthma and is home and will be home by
5 herself. Because normally I'm home sleeping
6 during the day, so she will be home by herself
7 from 2:30 until whatever time sessions end.

8 THE COURT: You're a single parent?

9 A JUROR: No, but my husband works until
10 5:00 and he doesn't get home until 6:00, so my
11 daughter will be by herself. And my concern is
12 she has asthma, something happens, she -- I have
13 nobody to keep her. The one lady who used to
14 keep her is not able to keep her because she's
15 keeping three other kids now, so I haven't had a
16 need for a babysitter. I've worked third shift
17 for the last three years, so....

18 THE COURT: All right. Let me ask you to
19 step right back to the....

20 All right. She gets paid for jury
21 duty and so I don't know why they're granting
22 paid leave for jury duty, but they are expected
23 to promptly return to work upon completion of
24 the jury duty.

25 Well, if she's serving on the jury

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1 that will be -- she's going to bet paid so
2 clearly it's not a hardship on her in that
3 regard. The child with the asthma very well may
4 be a hardship; I think I'm going ask her to stay
5 with us.

6 Yes, ma'am. I'm going to ask you,
7 ma'am, to please stay with us. We'll have an
8 opportunity to talk a little more fully with
9 you, but on this basis I would ask that you stay
10 with us at this time. Thank you, ma'am.

11 MR. TAYLOR: Number 81, Mr. Durr.

12 THE COURT: All right. Got to quit coming
13 up. Yes, sir.

14 A JUROR: I waited until the last minute,
15 it was a hardship. I didn't fill out the
16 questionnaire properly because I didn't know
17 that this was the case that it is. I know a
18 little bit more about it than I think I should.

19 THE COURT: All right. Let me ask you not
20 to discuss that with anyone, I'll inquire of
21 that at a different time. Just don't discuss
22 that. And you are Mr....?

23 A JUROR: Durr.

24 THE COURT: Durr. Thanks, Mr. Durr.

25 THE CLERK: Eighty-one.

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1 MR. TAYLOR: 234, Mrs. Pitchford again.

2 A JUROR: I'm here. I might as well just
3 stay. Is that okay, if I change my mind? I was
4 going to transfer service. I thought I'm
5 already here, everything is already set for
6 school, I might as well just stay.

7 THE COURT: We'll allow you to stay at this
8 point. She is Ms....?

9 THE CLERK: 234 is back.

10 THE COURT: 234 is back for now.

11 MR. TAYLOR: Number 61, Crosson, Craig.

12 THE COURT: Craig Crosson.

13 A JUROR: Yes.

14 THE COURT: I need Ms. Keil to take down
15 what you are saying.

16 Order, please.

17 Yes, sir, Mr. Crosson.

18 A JUROR: I apologize, this is an
19 inappropriate spot.

20 THE COURT: That's okay.

21 A JUROR: But could you give me some
22 feeling as to the duration of the expected
23 proceedings?

24 THE COURT: I will. You'll get that.

25 A JUROR: But, I mean, it impacts me if it

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1 kind of goes beyond this week.

2 THE COURT: It's going to go beyond this
3 week.

4 A JUROR: I'm the surgeon for surgery at
5 the Medical University of South Carolina and at
6 the Eye Institute and I have to be in
7 Washington. It's not something -- it's
8 something that I do. I'm the chairman of the
9 visual science study section and my presence
10 there is kind of required, plus I have a number
11 of applicants coming in to fill various
12 positions at the Eye Institute and that they're
13 expecting to see me.

14 THE COURT: I understand. Just stay with
15 us. On that, we're going to have an opportunity
16 to talk about all of that.

17 A JUROR: I realize that those are mainly
18 hardships, not necessarily --

19 THE COURT: Yeah.

20 A JUROR: Not necessarily absolute
21 disqualifications.

22 THE COURT: We'll have a chance to address
23 those.

24 A JUROR: There are no people that can
25 really take my class.

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1 THE COURT: Okay. Got you.

2 A JUROR: So you would like me to sit down?

3 THE COURT: Just for a bit, yes.

4 All right. Yes, ma'am, if you would
5 please stand and tell me your name.

6 A JUROR: Stephanie Pellos.

7 THE COURT: Stephanie Pellos is now with
8 us.

9 THE CLERK: Number 228.

10 THE COURT: I'm going to make a -- I'm not
11 going to qualify her now, but I'll qualify her
12 individually when we talk with her individually,
13 228. Thank you so much.

14 All right. Now, I find that those
15 that at this point that have not been excused or
16 transferred as of this point are qualified. And
17 I think it's probably, ladies and gentlemen, a
18 good time for us to take a break.

19 Now, ladies and gentlemen, we're going
20 to take about a 15-minute break. I'm going to
21 ask you to, please, gather outside the courtroom
22 at about, well, 20 minutes until 1:00. At 20
23 minutes until one o'clock.

24 Now, ladies and gentlemen, I know that
25 I've had an opportunity to talk to several of

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1 you, and you know very little about this matter,
2 you know nothing about this particular matter,
3 any of the matters that we're going to try this
4 week, but I'm going ask you not to discuss any
5 matters that you may think we're going to
6 discuss this week, or try this week, or any of
7 the other issues that we may discuss. If you
8 will, just talk about the weather, talk about
9 the Gamecocks and the Tigers, that ought to keep
10 you busy for this period of time.

11 But those of you that want to smoke,
12 feel free to smoke, but if you gather at about
13 20 minutes to come on back into the courtroom I
14 would be most appreciative. Thank you so much.
15 We will take our break.

16 (Recess, from 12:21 p.m. to 1:02 p.m.)

17 THE COURT: I need for three folks to
18 please step forward. Mr. Wamer, Mr. Tempkin,
19 Ms. Lynch. If you all will just meet me down
20 near the court reporter.

21 And, counsel, you're so free to join
22 me if you would.

23 Come on forward. Yes, sir. All
24 right.

25 A JUROR: Wamer.

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1 THE COURT: Hey, Mr. Wamer. I just got
2 some information and I apologize for burdening
3 you with this, but I've just got to ask a little
4 bit of information from you. Now, what the
5 solicitor, as an accommodation to me, I get to
6 learn a little information and this information
7 came up on you, I don't have any idea if this is
8 you or not. Let me share this with you. Let me
9 get to the part of this thing. Your date of
10 birth, is this your date of birth?

11 A JUROR: [REDACTED]

12 THE COURT: Is this your social?

13 A JUROR: Yeah.

14 THE COURT: All right. Let's look here a
15 minute. This says that you have a conviction
16 for fraudulent check more than 500, first
17 offense.

18 A JUROR: Yeah. Oh, yeah.

19 THE COURT: Do you remember that?

20 A JUROR: Yeah.

21 THE COURT: Well, it says you had a year
22 suspended on two years' probation, but it
23 carries up to two years. You may not have even
24 known that.

25 A JUROR: I thought it was on -- it was for

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1 until I paid the check. That's what it was.

2 THE COURT: Exactly.

3 A JUROR: That's what I understood.

4 THE COURT: That happens.

5 A JUROR: That's what I understood it to
6 be.

7 THE COURT: That certainly happens with
8 folks. What happens, though, is -- and what is
9 applicable is the amount of time that you could
10 have received. And on the basis of that I'm
11 going to excuse you from your service. We're
12 going to miss you.

13 A JUROR: Oh, that's fine.

14 THE COURT: But it will be necessary for me
15 to excuse you. Thank you for your candor with
16 me, too, Mr. Wamer.

17 A JUROR: Okay. Thank you so much.

18 THE COURT: We'll see you soon. You're
19 free to go.

20 Mr. Wamer is disqualified.

21 THE CLERK: Thank you.

22 THE COURT: Hi. You must be Chris Tempkin.
23 Chris, let me just tell you that I apologize for
24 bringing you up here, but I just got to check
25 some information that I have if you would be so

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1 kind as to help me here.

2 A JUROR: If I'm dismissed, it's true.

3 THE COURT: Let me look at it, I may have
4 wrong information and that's why I asked you to
5 step up here. Look here with me, Mr. Tempkin,
6 this talks about Florida and I'm coming along
7 and it says, let me continue to look here, here
8 it is, let's see, now, look here with me. It
9 says -- let's see what the disposition is.
10 Here's an arrest, here's the charge, there's the
11 offense and date, but you got to follow with me.
12 Let's look and see what they say about it. Move
13 on over to this page. Let's see what this says.
14 Burglary destruction, auto, burglary destruction
15 conveyance plea, nolo contendere. It appears
16 you pled, got two years' probation and a fine.
17 But this says burglary to a structure.
18 Apparently this is out of Florida; is that
19 right?

20 A JUROR: Uh-huh (affirmative response).

21 THE COURT: All right, sir. That was a
22 yes?

23 A JUROR: Yes.

24 THE COURT: Okay. Do you know what that
25 charge -- and then we got this one, too. This

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1 one says I guess third degree, I guess it's
2 grand larceny, third degree, dwelling property
3 100, under \$300.

4 A JUROR: I didn't know I had all those,
5 really.

6 THE COURT: That's a misdemeanor.

7 A JUROR: I pled no contest, but I had no
8 idea what they were doing to me.

9 THE COURT: I understand.

10 A JUROR: I was real young. And I was
11 doing something wrong, I just didn't know.

12 THE COURT: Absolutely. I didn't bring you
13 up here at all to embarrass you.

14 A JUROR: You don't have to defend
15 yourself, it's okay.

16 THE COURT: But my question to you is
17 whether or not you know if these provisions
18 carry felonies?

19 A JUROR: I did not know that.

20 THE COURT: And do you know whether or not
21 they carry more than one year?

22 A JUROR: That's what I don't know. That's
23 why I didn't answer earlier.

24 THE COURT: Very well. Thank you so much.
25 That gives me -- right there to the gates for me

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1 and let me confer with counsel.

2 All right, guys, this says we got two
3 years' probation and a fine. It's a felony.

4 MR. CUMMINGS: Just not to argue with Your
5 Honor's disposition, I didn't know if he behaved
6 himself in two years it was supposed to come
7 off.

8 THE COURT: I don't know. The plea, it
9 says nolo. I don't know.

10 MR. CUMMINGS: So that's the disposition.

11 THE COURT: And this is '93, so I don't
12 know. I really don't know. I think we're going
13 to have to -- I'm going to have to ask you to do
14 some more checking.

15 MR. BAILEY: I can call some DA's office
16 down in Florida.

17 THE COURT: Exactly. I'm going to ask him
18 to come on in and then we'll deal with him.
19 That was Mr. Tempkin.

20 Mr. Tempkin, just stay with us right
21 now, thank you. Just stay with us.

22 Yes, ma'am. Come here, Ms. Lynch.
23 Hi, Ms. Lynch. I've got some information and I
24 just need to try to clear something up here. Is
25 this your social?

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1 A JUROR: Yes, it is.

2 THE COURT: Is this your date of birth?

3 A JUROR: Yes, it is.

4 THE COURT: Okay, hon. That's -- I'm
5 looking here and I would ask of you whether or
6 not this occurred. Let me just show you what
7 I'm showing. I'm showing two arrests, one
8 possession of a forged instrument, plea of
9 guilty and then grand larceny third. This says
10 this is a class D felony and this is a class E
11 felony. Did those things happen to you?

12 A JUROR: Yes.

13 THE COURT: Do you remember the time
14 that -- the maximum time that those offenses
15 carried, do you remember?

16 A JUROR: No, I don't.

17 THE COURT: I wondered if you didn't. And
18 did you receive a probationary sentence, or
19 fine, or something like that?

20 A JUROR: Yes, I did.

21 THE COURT: Okay. I'm going to have to
22 keep doing a little bit of checking. You just
23 stay with us right now, okay?

24 A JUROR: Uh-huh (affirmative response).

25 THE COURT: Thank you. We'll just check on

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1 her, she doesn't know. We're going to check and
2 see about the time..

3 THE CLERK: Is she staying, Judge?

4 THE COURT: Yeah. She's going to stay
5 right now.

6 All right. Ladies and gentlemen, as I
7 told you before the break, I find that at this
8 point that you are qualified to serve as a juror
9 in this court.

10 Mr. Solicitor, at this time I'm going
11 to ask you to please call your case.

12 MR. BAILEY: Your Honor, the State calls
13 indictment 2000-GS-18-349, State vs. Marion
14 Bowman, Jr., charged with arson third degree,
15 and 2001-GS-18-348, charging Marion Bowman, Jr.
16 with murder.

17 THE COURT: Thank you, Mr. Bailey.

18 Ladies and gentlemen, the solicitor,
19 Mr. Bailey, has called the case of the State vs.
20 Marion Bowman. Mr. Bowman has been indicted by
21 the grand jury of Dorchester County. Let me
22 tell you that he has been indicted -- there are
23 two indictments, one for arson third and one
24 indictment for murder.

25 Let me tell you, ladies and gentlemen,

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1 that the indictments are not evidence of the
2 charges that they contain. An indictment is not
3 evidence of anything. It is not proof of the
4 charges for which it contains and an indictment
5 may not be afforded any evidentiary weight
6 whatsoever. It is simply a piece of paper that
7 has a charge written on it.

8 Now, ladies and gentlemen, I will read
9 for you portions of the indictments now in just
10 a moment, simply to let you know what this case
11 is about. Because we are going to need to know
12 from you if you know, or think you know, or if
13 you have heard, or think you have heard
14 anything, anything whatsoever about this matter,
15 or if you have any connection with this case
16 whatsoever. Obviously it is necessary that you
17 know what the indictment says, or the
18 indictments say even though they aren't proof of
19 the charges before you can respond to those
20 questions.

21 The indictment for arson third says
22 that Marion Bowman, Jr. did in Dorchester County
23 on or about -- or on or between February the
24 16th, 2001 and February the 17th, 2001,
25 willfully, unlawfully, and maliciously burn or

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1 cause to be burned with intent to destroy a car
2 belonging to Cordelia Martin and/or Kandee
3 Martin. This being an offense of Section
4 16-11-110(c) of the South Carolina Code of Laws,
5 1976 as amended.

6 The indictment for murder says that
7 Marion Bowman, Jr. did in Dorchester County on
8 or between February the 16th, 2001 and February
9 the 17th, 2001 with malice aforethought kill one
10 Kandee Martin by means of shooting the victim in
11 the head and back and the said victim did die as
12 a proximate result thereof.

13 Now, ladies and gentlemen, I remind
14 you that the indictment is not proof, it is
15 simply a piece of paper that has the charges
16 written on it. To the charges, or to the charge
17 in each of these indictments Mr. Bowman has pled
18 not guilty and has requested a jury trial at
19 your hands.

20 Now, at this time, Mr. Cummings, Ms.
21 Hardee-Thomas, would Mr. Bowman please be
22 permitted to stand and face our jury panel.

23 MR. CUMMINGS: Yes, ma'am.

24 THE COURT: Thank you. Thank you,
25 Mr. Bowman. And you certainly may be seated.

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1 Now, ladies and gentlemen, are there
2 any of you who are related by blood or marriage
3 to Mr. Bowman? If so, please stand. Related by
4 blood or marriage to Mr. Marion Bowman? If so,
5 please stand. I find no one standing.

6 Are any of you friends, business
7 associates, casual acquaintances, social
8 acquaintances, or people who have any direct or
9 indirect contact with Mr. Marion Bowman? If so,
10 please stand. If you have any connection with
11 Mr. Bowman, please stand. I find no one
12 standing.

13 Now, ladies and gentlemen, I would ask
14 whether or not you are related by blood or
15 marriage to Ms. Kandee Martin, or to
16 Ms. Cordelia Martin, or if you are friends,
17 business associates, casual acquaintances,
18 social acquaintances, or people who have any
19 direct or indirect contact with Ms. Cordelia
20 Martin and/or Miss Kandee Martin? If so, please
21 stand.

22 All right. All I'm going to ask you
23 to do -- all I'm going to ask you to do at this
24 time is just to give me your name and your juror
25 number if you know it.

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1 Yes, sir.

2 A JUROR: Eighty-one.

3 THE COURT: Eighty-one. And your name is
4 Mr. Durr?

5 A JUROR: Durr, yeah.

6 THE COURT: Thank you, Mr. Durr.

7 Anyone else? All right.

8 Ladies and gentlemen, I'm now going to
9 introduce you to the attorneys who may be
10 involved in this matter, some who I know will be
11 and the others in the offices. I'm going to
12 begin with the attorneys who are representing
13 Mr. Bowman. And, Mr. Cummings, this is
14 Mr. Norbert Cummings. Thank you, Mr. Cummings.
15 Ms. Marva Hardee-Thomas. Thank you Ms.
16 Hardee-Thomas. Also Mr. Henry Schlein. I don't
17 know if he is present, but he's in Mr. Cummings'
18 office.

19 I would ask whether or not any members
20 of our jury panel are related by blood or
21 marriage, or -- related by blood or marriage to
22 Ms. Hardee-Thomas, Mr. Cummings, or Mr. Schlein?
23 If so, please stand. Very well.

24 And then I would ask whether or not
25 any members of our jury panel are friends,

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1 business associates, casual acquaintances,
2 social acquaintances, or people who have any
3 direct or indirect contact with Ms. Marva
4 Hardee-Thomas, Mr. Norbert Cummings, or
5 Mr. Henry Schlein?

6 All I need you to do is just tell me
7 your name and your juror number if you know it.
8 Right here in the red dress.

9 A JUROR: Sonia Jones, Juror Number 157.

10 THE COURT: Thank you so much, Ms. Jones.

11 All right. Yes, ma'am, in the black
12 shirt.

13 A JUROR: Genita Davis.

14 THE COURT: All right. And your juror
15 number, Ms. Davis, if you know it?

16 A JUROR: Sixty-nine.

17 THE COURT: Hold on, we'll pull it real
18 quick.

19 THE CLERK: Sixty-nine.

20 THE COURT: Sixty-nine. Thank you. You
21 are right, Ms. Davis, it is 69.

22 Yes, sir, in the yellow shirt.

23 A JUROR: John Richardson, 254.

24 THE COURT: Thank you, Mr. Richardson.

25 Yes, ma'am.

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1 A JUROR: Janice Hull, H-u-l-l, 144.

2 THE COURT: 144. Thank you, Ms. Hull.

3 A JUROR: Sylvia Perry, 232.

4 THE COURT: I have Sylvia Perry?

5 A JUROR: Perry.

6 THE COURT: Thank you, Ms. Perry.

7 Anyone else? Yes, sir, your name?

8 A JUROR: Kenneth Evans, Juror Number 91.

9 THE COURT: Thank you, Mr. Evans.

10 Yes, ma'am.

11 A JUROR: Dianne Wade, 317.

12 THE COURT: Thank you, Ms. Wade, 317.

13 Thank you. All right.

14 Now, let me also introduce you to the
15 solicitor, Mr. Walter Bailey. This is Mr.

16 Bailey. Thank you, Mr. Bailey. And Mr. Bailey
17 will be assisted in this case by Mr. Ben Lafond.

18 This is Mr. Lafond. And also in his office is
19 Ms. Maité Murphy. Thank you, Ms. Murphy.

20 Mr. Robby Robbins. Thank you, Mr. Robbins.

21 Mr. Harrison Bell who is not present and

22 Mr. Jimmy Messervy. Thank you, Mr. Messervy.

23 I would ask whether or not any members
24 of our jury panel are related by blood or
25 marriage to Mr. Bailey, Mr. Lafond, Ms. Murphy,

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1 Mr. Robbins, Mr. Bell, or Mr. Messervy. If so,
2 please stand. I believe that is the office,
3 isn't it, Mr. Bailey, did I list all the
4 lawyers?

5 MR. BAILEY: Virgil Deas is family court
6 prosecutor.

7 THE COURT: Of course. And Mr. Virgil
8 Deas. Related by blood or marriage to Mr. --
9 also to Mr. Virgil Deas who is also in the
10 office? If so, please stand.

11 Likewise, ladies and gentlemen, I
12 would ask whether or not there are any members
13 of our jury panel who are friends, social
14 acquaintances, business associates, casual
15 acquaintances, or people who have any direct or
16 indirect contact with Mr. Bailey, Mr. Lafond,
17 Ms. Murphy, Mr. Robbins, Mr. Bell, Mr. Messervy,
18 or Mr. Deas? If so, please stand.

19 And, again, ladies and gentlemen, I am
20 looking for your name and your juror numbers if
21 you happen to know it. And we'll begin here
22 with the lady in the white blouse with the black
23 trim.

24 A JUROR: Juror Number 60, Lynn Crook.

25 THE COURT: Crooks? One Crook. Thank you

25 || Now, ladies and gentlemen, let me ask

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1 you also at this time whether or not there are
2 any members of our jury panel who need to make a
3 change on their questionnaire. In other words,
4 you filled out the questionnaire, you've sent it
5 in, the question I have for you now is there
6 anyone, any members of our jury panel who need
7 to make a change on their questionnaire? If so,
8 please stand.

9 Mr. Durr, I have it. Thank you.

10 Anyone else? Yes, ma'am, just give
11 me -- just identify yourself, we'll ask you more
12 specifically later.

13 A JUROR: 305.

14 THE COURT: Thank you so much. 305. Tell
15 me your name again.

16 A JUROR: Brenda Torrance.

17 THE COURT: Thank you.

18 Anyone else? Those folks who have the
19 juror questionnaires earlier that needed to fill
20 those out, have you completed the
21 questionnaires?

22 THE CLERK: They have received them back
23 and copies have been made. Have you all
24 received your copies?

25 THE COURT: Very well.

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1 MS. HARDEE-THOMAS: That's correct.

2 MR. CUMMINGS: Thank you, Judge.

3 THE COURT: Thank you all so much. I was
4 not aware, so thank you.

5 Now, ladies and gentlemen, we are here
6 to impanel a jury in the trial of this case that
7 will be fair and impartial and unbiased both to
8 the State and to the defendant, Mr. Bowman. We
9 are here to impanel a jury that will be capable
10 of listening to the evidence and the testimony
11 to be presented, to be capable of deciding what
12 is the believable evidence and testimony, a jury
13 that will be capable of applying that testimony
14 to the evidence and the law as I will tell you,
15 and capable of returning a fair verdict and a
16 recommendation of sentence should the need
17 arise.

18 So a qualified juror, then, is one who
19 will conscientiously listen and who will
20 conscientiously apply the law and will find the
21 facts. A qualified juror is one who is capable
22 of returning a verdict and a recommendation of
23 sentence if that should be necessary based on
24 the evidence and the law.

25 A qualified juror is one who is

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1 capable of setting aside his or her opinions and
2 deciding a matter based upon the law and the
3 evidence. A juror is not qualified, is not
4 qualified if that juror's views would prevent or
5 substantially impair the performance of that
6 juror in his or her duties in accordance with
7 the oath that the juror will take and the
8 instruction of the Court.

9 So, what I have done thus far and what
10 I will continue to do throughout this process,
11 is to ask you questions and solicit answers from
12 you designed to ensure that in this process we
13 will have a jury seated over in this jury box to
14 begin this trial in a day or so, who will be
15 capable of doing those things that I just told
16 you: Listening to the evidence and the
17 testimony, determining the facts of this case,
18 applying the law to the facts of this case,
19 setting aside any opinion that that juror might
20 previously have held, and base his or her
21 decision purely on what is heard in this
22 courtroom.

23 I've introduced you to Mr. Bowman and
24 I have named for you through the reading of the
25 indictments the individuals who are alleged to

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1 be victims in this case. I've introduced you
2 also to the lawyers involved in this case. I
3 need now to know at this point if any of you
4 have heard, or seen, or read anything about this
5 case, if you have acquired any information about
6 this case, or if any of you have heard or seen
7 or read anything about this case from any source
8 at all.

9 I am not interested in what the
10 information is or what you have read, or what
11 source it came from. I just want to know if any
12 of you at this point in time have any
13 information about this case, if you have seen or
14 heard, or read, or discussed it with others from
15 any source at all. If so, please stand at this
16 time.

17 I only need your names and your juror
18 numbers if you know them. And we'll begin on
19 this side. Yes, sir. Again, I need you to
20 state for me your name and your juror number.

21 A JUROR: Jeryl Johnson, 153.

22 THE COURT: Thank you, sir.

23 Yes, sir.

24 A JUROR: Anthony Mollish, 212.

25 A JUROR: Christina Logan, 180.

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1 A JUROR: Virginia Crawford, 57.
2 A JUROR: Michael Durr, 81.
3 THE COURT: Thank you. Yes, ma'am.
4 A JUROR: Belinda Shaw, 271.
5 A JUROR: Evelyn Lewis, 178.
6 THE COURT: Thank you, Ms. Lewis.
7 A JUROR: Judith Schroeder, 268.
8 THE COURT: All right.
9 A JUROR: Linda Lynch, 186.
10 THE COURT: Thank you.
11 A JUROR: Susan Jordan, 159.
12 A JUROR: Kenneth Evans, 91.
13 THE COURT: Thank you, Mr. Evans.
14 Yes, ma'am.
15 A JUROR: Letitia Warren, 320.
16 THE COURT: All right.
17 A JUROR: Robert Talley, 295.
18 THE COURT: Yes, ma'am.
19 A JUROR: Brenda Torrance, 305.
20 THE COURT: Thank you. I'm trying to
21 figure out -- I think with the blue shirt on.
22 Yes, ma'am.
23 A JUROR: Kathy Woods, 342.
24 THE COURT: Thank you.
25 A JUROR: Phil Maynor, 194.

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1 THE COURT: Yes, ma'am.

2 A JUROR: Susan Wilgos, 332.

3 THE COURT: Thank you.

4 Yes, ma'am.

5 A JUROR: Lana Turner, 308.

6 THE COURT: All right.

7 A JUROR: Lianne Luisi, 185.

8 THE COURT: Very well. Yes, ma'am.

9 A JUROR: Lisa Stanfield, 288.

10 THE COURT: Yes, ma'am.

11 A JUROR: Sheree Burney, 32.

12 THE COURT: All right.

13 A JUROR: Teresa Hatchell, 127.

14 A JUROR: Lynn Crook, 60.

15 THE COURT: Thank you. In the red shirt.

16 A JUROR: Lynda Woody, 343.

17 THE COURT: Mr. Richardson.

18 A JUROR: 254.

19 THE COURT: Yes, sir. Mr. DeLee.

20 A JUROR: Seventy-three.

21 THE COURT: All right. And right behind

22 Mr. DeLee, yes, sir.

23 A JUROR: Anthony Clark, 44.

24 THE COURT: And behind you, Mr. Clark?

25 A JUROR: Graig Foster, 104.

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1 THE COURT: Mr. Foster, thank you.

2 Yes, ma'am.

3 A JUROR: Kelly Greenhill, 119.

4 THE COURT: Thank you, Ms. Greenhill.

5 Now, ladies and gentlemen, have any of
6 you formed or expressed any opinion about this
7 case or any issues involved in this case? If
8 so, please stand. Any of you formed or
9 expressed any opinion about this case, or any
10 issues involved in this case? If so, please
11 stand. Again, I just need your name and number.
12 Yes, sir.

13 A JUROR: Anthony Mollish, 212.

14 THE COURT: Thank you.

15 A JUROR: Michael Durr, 81.

16 THE COURT: All right, sir.

17 Anyone else?

18 Very well. Are any of you conscious
19 of any bias or prejudice for or against the
20 State or for or against the defendant,
21 Mr. Bowman? If so, please stand. I find no one
22 standing.

23 Do any of you know any reason, or any
24 kind whatsoever of reason, that would keep from
25 you being a fair and impartial juror and giving

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1 a fair trial to both the State of South Carolina
2 and to Mr. Bowman? If you know of any such
3 reason, please stand.

4 All right. And, again, I'm just going
5 to have you give me your name and your number,
6 Mr. Durr, 81.

7 Yes, ma'am.

8 A JUROR: Susan Jordan, 159.

9 THE COURT: Thank you, Ms. Jordan.

10 A JUROR: Susan Wilgos, 332.

11 THE COURT: Thank you, Ms. Wilgos.

12 Now, ladies and gentlemen, before I do
13 that, let me ask one other question. Counsel,
14 let me ask you to approach real quick for me. I
15 need you to bring me your -- oh, I have it. I
16 have one. Yeah, but y'all come on, anyway.

17 (Whereupon, a bench conference was held off the
18 record in the presence of the jury panel but out
19 of the hearing of the jury panel.)

20 THE COURT: Ladies and gentlemen, is there
21 any member of our jury panel who consider it
22 wrong to consume alcoholic beverage? Any
23 members of our jury panel who consider that it
24 is wrong to consume alcoholic beverages? If so,
25 please stand.

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1 All right. Again, I'm just going to
2 ask you to identify yourself by name and number.
3 We'll begin right here. Ms. Shuler, your
4 number?

5 A JUROR: 272.

6 THE COURT: Thank you.

7 Yes, ma'am.

8 A JUROR: Lana Turner, 308.

9 THE COURT: All right. Yes, sir.

10 A JUROR: Phil Maynor, 194.

11 THE COURT: Thank you.

12 In the white.

13 A JUROR: Christina McKay, 205.

14 THE COURT: Thank you.

15 A JUROR: Lorraine Pringle, Number 240.

16 THE COURT: Thank you, ma'am.

17 Yes, sir.

18 A JUROR: George Young, 347.

19 THE COURT: Okay.

20 A JUROR: Sheree Burney, 32.

21 THE COURT: All right, Ms. Burney. Tell me
22 your full name again.

23 A JUROR: Sheree Burney.

24 THE COURT: Thank you.

25 Mr. DeLee.

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1 A JUROR: Stanley DeLee, 73.

2 A JUROR: Kelly Greenhill, 119.

3 THE COURT: Now, ladies and gentlemen, let
4 me tell you how this process works, basically,
5 and what your role will be in it. As you know
6 Mr. Bowman, the defendant in this case, has
7 entered pleas of not guilty to the charges
8 against him. Under our law the burden of proof
9 is placed upon the State of South Carolina, upon
10 the State to prove that he is guilty of those
11 charges to the satisfaction of a jury beyond a
12 reasonable doubt.

13 A defendant is never required to prove
14 himself or herself innocent. The State has the
15 burden of proving his guilt beyond a reasonable
16 doubt. Mr. Bowman is presumed innocent. When
17 we say that someone is presumed innocent of a
18 charge, that means that he or she does not have
19 to prove his or her innocence, because the
20 defendant is presumed innocent.

21 The jury will be assigned the task of
22 deciding after it has heard all the evidence and
23 testimony in the case whether or not the State
24 has met the burden of proof of convincing that
25 jury of guilt beyond a reasonable doubt. If the

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1 State meets that burden of proof, the State is
2 entitled to a verdict of guilty. If the State
3 fails to meet that burden of proof; that is,
4 fails to satisfy the members of the jury, all of
5 them, of the guilt of the defendant, Mr. Bowman,
6 beyond a reasonable doubt, then you must find
7 him, Mr. Bowman, the defendant, not guilty.

8 So what the jury does as the finder of
9 fact is to determine whether or not the State
10 has met that burden of proof by listening to the
11 evidence and the testimony and applying the law
12 of the case to that evidence and testimony.

13 Now, ladies and gentlemen, in this
14 particular case the State is seeking to impose
15 the death penalty against the defendant,
16 Mr. Bowman. Now, we talk about penalty at an
17 obviously premature stage in this proceeding
18 because the trial has not even begun.

19 Mr. Bowman, as I have told you, is
20 presumed innocent of these charges. He is not
21 guilty of these charges and will not be guilty
22 unless and until the State can prove to the
23 satisfaction of a jury that he is guilty beyond
24 a reasonable doubt. However, this is the only
25 time that I have the opportunity to talk with

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1 you as a group and later as an individual about
2 these matters, so it is necessary for me to
3 discuss at this preliminary stage the aspect of
4 penalty.

5 Now, in a case in which the State is
6 seeking to impose the death penalty against a
7 defendant, the trials are divided; that is, they
8 are bifurcated is the word that the law calls
9 it. This simply means that the trial is divided
10 into two parts.

11 The first part is what we call the
12 guilt phase of the trial. During the guilt
13 phase of the trial the jury will decide whether
14 the defendant, whether Mr. Bowman is guilty of
15 the crimes charged. And if the defendant, if
16 Mr. Bowman is found guilty of the crime of
17 murder in the guilt phase, then we would move to
18 the second part of the trial which is the
19 penalty phase.

20 In that part of the trial, the penalty
21 phase, the jury would decide whether the
22 defendant should receive a penalty of life
23 imprisonment without the possibility of parole
24 or the penalty of death, which in our state is
25 by lethal injection or by electrocution.

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1 I remind you, again, that my mention
2 of penalty at this stage means nothing and
3 indicates nothing about the guilt of this
4 defendant, because he is presumed innocent. But
5 there is no other time for us to discuss this
6 matter with you.

7 Now, what we are going to do is to
8 begin drawing your names to set you up in
9 individual panels. We are going to draw your
10 names and assign you to individual panels of
11 five jurors each. We will ask that you report
12 back at intervals one and a half hours apart.
13 During that one-and-a-half hour period I will
14 discuss with you individually here in the
15 courtroom in the presence of the lawyers and the
16 parties who are involved, the answers to some of
17 the questions that you have already given me. I
18 will also discuss with you your feelings about
19 some other legal issues that may arise in this
20 particular case.

21 We will go through that process until
22 we have arrived at a panel of enough qualified
23 jurors to enable us to try this case. From that
24 panel of qualified jurors we will select the
25 final jury panel who will try this case. That

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1 matter is going to take us the balance of the
2 day, tomorrow, very well may go into Wednesday
3 and possibly into Thursday until we have
4 received enough qualified jurors to begin the
5 trial of this case, so I am going to have to ask
6 your patience.

7 Because you will leave here today and
8 you're going to have instructions as to when you
9 are going to come back. After you get back, we
10 are going to talk with you individually. If you
11 get selected, we are going to have to ask you to
12 come back still a third time to submit yourself
13 to jury service in this particular case.

14 I appreciate your involvement in this
15 and I want you to appreciate the absolute
16 essential nature of your involvement as jurors
17 in this process because without you, ladies and
18 gentlemen, the rest of us could go home. If you
19 were not here none of the rest of us would need
20 to be here because we cannot, we cannot operate
21 this court without you.

22 You are the essential ingredients in
23 this system of justice. You will be asked to
24 make sacrifices this week. And even if you
25 don't get to serve you have already made a

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1 sacrifice and you will have to make other
2 sacrifices in going and coming during the week.
3 We apologize for having to impose the sacrifices
4 upon you, but I trust that you will understand
5 the need for good folks like you to submit
6 yourselves to this type of service for the
7 reasons that I have already told you.

8 Now, ladies and gentlemen, in a few
9 moment -- a few moments ago I asked if -- I
10 asked you if any of you have heard, or read, or
11 seen anything about this case. Some of you told
12 me that you had, or indicated that you had. It
13 might be that the rest of you or some of the
14 rest of you on reflection might recall something
15 that you have seen or heard about this case, so
16 I will inquire of you at an appropriate time
17 about that. But let me tell you that from this
18 point on, ladies and gentlemen, from now until
19 you are released from your service as a juror,
20 or excused from any further service in this
21 particular case, I direct you specifically not
22 to read any account, or look at any TV account,
23 television account, or listen to any account of
24 these proceedings either on the radio, the
25 television, the internet, through other

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1 individuals, or in any manner whatsoever.

2 You can't discuss this matter with
3 anyone, even with each other among yourselves as
4 you wait from time to time. As you wait later
5 in the room waiting to come out here you won't
6 even be able to discuss this matter with your
7 fellow jurors. If you get to serve on the jury,
8 until I have given you plain and clear
9 instructions as to when you can do that.

10 If anybody tries to talk with you
11 about this case, please tell them that the judge
12 has told you that you are not to discuss this
13 case with them. And if they persist in their
14 efforts to discuss this case with you after you
15 have told them that, I want you simply to, as
16 discretely and as quietly as possible, simply
17 separate yourself from those folks. If you can,
18 please find out who they are and let me know who
19 they are when you return to the court and I will
20 see that they are properly dealt with.

21 Now we are going to go through the
22 process of drawing the panels and assigning
23 times for you to report. I believe that we can
24 probably draw the panels and conclude that at
25 about 2:30, and then I will ask our first panel

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1 to return at four o'clock. So our first panel I
2 will ask to return at four o'clock this
3 afternoon.

4 Now, ladies and gentlemen, this is how
5 we're going to proceed. You probably notice
6 this young man stepped in here, and I'm going to
7 ask him to step up tall, very tall. This is
8 Mr. Lofton. And Mr. Lofton is nine years old.
9 Right, Mr. Lofton? He is a child under the age
10 of ten years old and he is going to be selecting
11 the jury.

12 Under our statutory configurations you
13 can request that a child under the age of ten
14 years, sometimes a blind person. And I've asked
15 Mr. Lofton to be here for that purpose today and
16 he is going to be charged with the task of
17 pulling the names out of the hopper where they
18 have been placed.

19 When your names have been -- I need
20 you all to please leave the jury box. When your
21 names are called, then the jurors will be placed
22 in the jury box five at a time and then you will
23 be sure that you know your instructions and then
24 you will be shown where to report back to as you
25 return for your individual voir dire.

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1 You will be assigned a panel number.
2 The first panel will be panel number one. The
3 second panel will be panel number two. And now
4 you have the idea. I went to law school to
5 learn that, ladies and gentlemen.

6 Now, when you return to the room where
7 you will be waiting for your individual voir
8 dire, there will be some sheets of paper in that
9 room for you to review. There will be a list of
10 names that you need to review, those will be
11 potential witnesses, and then there will be
12 another sheet for you to review. And when I
13 give you an individual voir dire, I will test
14 you on the contents of those writings. So,
15 please, if you would read them carefully, they
16 aren't long or cumbersome, but if you would read
17 them while you are waiting for your individual
18 voir desire I would be most appreciative.

19 All right. Now, are both the State
20 and the defense ready to proceed with the matter
21 of drawing panels?

22 MR. BAILEY: State's ready, Your Honor.

23 MR. CUMMINGS: Defense is ready, Your
24 Honor.

25 MS. HARDEE-THOMAS: Defense is ready, Your

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1 Honor.

2 THE COURT: All right. Ms. Graham, if you
3 will assist and if you will have Mr. Lofton pull
4 the names five at a time. And if you will
5 announce the names and they will come to the
6 jury box.

7 I want you to list each one that will
8 be on panel one, juror number one, if you can
9 keep the record in that fashion.

10 THE CLERK: Juror Number 347, George Young,
11 Jr.; Juror Number 293, Leo Sullivan; Juror
12 Number 342, Kathy Woods; Juror Number 197, Casey
13 McCarter; Juror 159, Susan Jordan.

14 THE COURT: That's the first five. If you
15 will just take your seats.

16 THE CLERK: Juror 275 --

17 THE COURT: Wait one second. Just a
18 second. That's our first five. Let me go
19 through that real quick.

20 Ladies and gentlemen, you are on panel
21 number one. And as panel number one I'm asking
22 you, I'm going to ask you to please be in the
23 jury room at four o'clock. And from that point
24 I'm going to ask you to read those documents
25 which I have referred to earlier and then we

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1 will speak with you individually.

2 I'm going to ask you to -- in just a
3 moment to follow Agent -- I'm going to get this
4 wrong because you probably have a title --
5 Lieutenant Edwards. I knew he did. Lieutenant
6 Edwards. I was going to say Lieutenant Buster,
7 but I will say Lieutenant Edwards. And he will
8 show you the room where you will come to and how
9 to come and go from the courthouse and I believe
10 we will finish this process by that point. You
11 are on panel number one.

12 Please mindful not discuss this matter
13 or allow anyone to discuss it with you. Do not
14 look at, view any information regarding this
15 case and I look forward to seeing at four
16 o'clock. Remember to leave telephones and
17 beepers away from the courthouse as well. If
18 you'll follow Mr. Edwards, Lieutenant Edwards.

19 Counsel, let me see you just a second.
20 (Whereupon, a bench conference was held off the
21 record in the presence of the jury panel but out
22 of the hearing of the jury panel.)

23 THE CLERK: Juror 275, Shalaya Singleton;
24 Juror 232, Sylvia Perry; Juror Number 68, Gene
25 Davis; Juror 348, Karen Young; Juror 240,

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1 Lorraine Pringle.

2 THE COURT: After each five. Thank you.

3 All right. Ladies and gentlemen, you
4 now compose panel number two. I'm going to ask
5 you to please be in the jury room at nine
6 o'clock in the morning. At nine o'clock in the
7 morning. And, again, Lieutenant Edwards will
8 return in a moment to escort you to the jury
9 room and to show you how to come and go from the
10 jury room and report there in the morning.

11 Now, ladies and gentlemen, you're
12 going to be going home tonight and subsequently
13 everyone else will as well, so I must admonish
14 you and caution you again, do not read, do not
15 listen to, do not internet about, do not in any
16 way, shape, or form allow anyone to share
17 information with you or you share information
18 about this case or anyone who has anything to do
19 with it. Please be very mindful of that. I'll
20 certainly ask you when you return in the morning
21 about that.

22 Please be as prompt as you can in the
23 morning. Please try to be here at nine o'clock
24 in the morning so that we may be prompt in
25 getting to this process. When you are in the

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1 jury room in the morning or in the room waiting
2 in the morning, again, there will be sheets of
3 paper for you to review and we'll talk about
4 that during your -- as we have an opportunity to
5 talk to you individually. Thank you very much,
6 ladies and gentlemen, and I look forward to
7 seeing you in the morning at 9:30.

8 THE CLERK: You said nine o'clock.

9 THE COURT: I meant nine o'clock. I'm
10 sorry, I didn't mean to confuse you. Nine
11 o'clock. Nine o'clock. Thank you. Nine
12 o'clock. And you're free to go at this time.
13 You can go exit this way.

14 All right. Continue.

15 THE CLERK: Juror Number 12, Harold Bazzle;
16 Juror Number 228, Stephanie Pellos; Juror 303,
17 Rhonda Toler; Juror Number 230, Richard Perez;
18 Juror Number 27, Anthony Britt.

19 MR. BAILEY: Your Honor, can we approach
20 briefly?

21 THE COURT: You may.

22 (Whereupon, a bench conference was held off the
23 record in the presence of the jury panel but out
24 of the hearing of the jury panel.)

25 THE COURT: All right. Ladies and

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1 gentlemen, you are now on panel three. I'm
2 going to ask you to report back at 10:30 in the
3 morning. Remembering, again, you're going to be
4 leaving us over the night, do not discuss this
5 matter, do not allow anyone to discuss it with
6 you, do not read, do not listen, do not look at
7 anything to do with this matter and I'll look
8 forward to seeing you in the morning at 10:30.
9 I know that one of your number I have yet to
10 qualify, I will do that individually in the
11 morning. Thank you and have a pleasant evening.

12 THE CLERK: Juror Number 81, Michael Durr;
13 Juror Number 242, Wendy Proveaux; Juror Number
14 67, Earl Davis; Juror Number 209, Mary Mills
15 Hanhauser; Juror Number 280, Jonathan Smalls.

16 THE COURT: Ladies and gentlemen, you are
17 on panel number four. Panel number four. I'm
18 going to ask you to please be present in the
19 room and they'll escort you in just a moment to
20 show you that room and, again, how to come and
21 go from that room. I'm going to ask you to
22 please be in that room ready for us to talk to
23 you individually at one o'clock. One o'clock
24 tomorrow. One o'clock on Tuesday.

25 And be mindful, of course, not to

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1 discuss this matter or allow anyone to discuss
2 it with you, do not read, listen to, or look at
3 anything to do with this matter and I look
4 forward to seeing you in the morning -- or in
5 the afternoon tomorrow, in the afternoon
6 tomorrow at one o'clock. Thank you very much.

7 THE CLERK: Juror Number 298, Chris
8 Tempkin; Juror Number 238, Andre Porcher; Juror
9 Number 184, Eric Lowry; Juror 187, Linda Lynch;
10 Juror Number 206, Kathleen McPartlin.

11 THE COURT: Ladies and gentlemen, you now
12 compose panel number five. Panel number five.
13 I'm going to ask you to please be in the room,
14 they'll show you the room when you exit through
15 this door in just a moment, at 2:30 tomorrow.
16 2:30 Tuesday. 2:30 Tuesday, and then we will
17 talk to you individually at that time.

18 If you would please go with Lieutenant
19 Edwards and he will show you that room. And
20 please remember my admonition about not
21 discussing this matter, reading anything,
22 watching anything, or listening to anything
23 about this matter. Thank you. I look forward
24 to seeing you tomorrow.

25 THE CLERK: Juror Number 153, Gerald

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1 Johnson; Juror Number 309, Tamra Tyndell; Juror
2 Number 328, Michael Whaley; Juror Number 321,
3 Margaret Washington; Juror Number 72, Raymond
4 Dejong, II.

5 THE COURT: Ladies and gentlemen, you now
6 compose, or comprise panel number six. I'm
7 going to ask you to please be in the room
8 outside the courtroom, and Lieutenant Edwards
9 will show that to you in just a moment, at four
10 o'clock tomorrow afternoon. Four o'clock
11 tomorrow afternoon across the hall.

12 And, ladies and gentlemen, again
13 remember my admonition, do not discuss this
14 matter, do not allow anyone to discuss it with
15 you, do not read, do not listen, do not watch
16 anything about this particular matter, and have
17 a pleasant afternoon and I look forward to
18 seeing you tomorrow at four o'clock. Thank you.

19 THE CLERK: Juror 178, Evelyn Lewis; Juror
20 Number 144, Janice Hull; Juror Number 185,
21 Lianne Luisi; Juror Number 269, Edward Scott;
22 Juror Number 44, Anthony Clark.

23 THE COURT: Ladies and gentlemen, I am --
24 would tell you that you now comprise panel
25 number seven, panel number seven. I'm going to

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1 ask you all to be across the hall and, again,
2 Lieutenant Edwards will show you that location.
3 I'm going to ask you to be in that room at nine
4 o'clock on Wednesday morning, nine o'clock
5 Wednesday morning.

6 Please remember my admonition not to
7 discuss this matter or allow anyone to discuss
8 it with you. And please do not watch, do not
9 read, do not listen to anything regarding this
10 case. And, again, Lieutenant Edwards will show
11 you that location and I look forward to seeing
12 you at nine o'clock, nine o'clock Wednesday
13 morning.

14 THE CLERK: Juror Number 70, Jonathan
15 Davis; Juror Number 202, Laura McDougall; Juror
16 271, Belinda Shaw; Juror 212, Anthony Mollish;
17 Juror Number 243, Wanda Query.

18 THE COURT: You now compose panel number
19 eight. Panel number eight. I'm going to ask
20 you all to please be across the hall at 10:30,
21 10:30 Wednesday morning. And, again, for the
22 purposes of individual questioning.

23 Now, ladies and gentlemen, again, I
24 remind you, please do not discuss this matter
25 and do not allow anyone to discuss it with you.

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1 Do not read, do not watch, do not listen to any
2 account whatsoever about this particular matter
3 in between now and, of course, the time when we
4 are together at 10:30 a.m. Wednesday. Thank
5 you. So if you'll go with Lieutenant Edwards he
6 will show you the room and how to come and go
7 from that space.

8 THE CLERK: Juror 148, Ricky Jascomb; Juror
9 Number 11, Sherri Barbour; Juror Number 232,
10 Sylvia Perry. She's one of the no-shows.

11 THE COURT: I understand.

12 THE CLERK: Juror 167, Kathy Kilpatrick;
13 Juror Number 239, Marilyn Prine.

14 THE COURT: Ladies and gentlemen, you now
15 are panel nine, panel nine. I'm going to ask
16 you to please report to the room that Lieutenant
17 Edwards is going to show you in just a few
18 moments at one o'clock, one o'clock on
19 Wednesday. Being mindful, of course, not to
20 discuss this matter or allow anyone to discuss
21 it with you. Do not read, listen, or watch
22 anything regarding this matter as well. Thank
23 you, ladies and gentlemen, I look forward to
24 seeing you at one o'clock on Wednesday.

25 THE CLERK: Juror Number 16, Janet Best;

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1 Juror Number 234, Mickie Lee Pitchford; Juror
2 279, James Smalls, Jr.; Juror 199, Princess
3 McConnell; and Juror 301, Sonya Thompson.

4 THE COURT: All right. Ladies and
5 gentlemen, you are panel ten. I'm going to ask
6 you to please be in the room that Lieutenant
7 Edwards is going to just show you in just a
8 moment at 2:30, 2:30 on Wednesday. And being
9 mindful regarding the admonition about
10 discussing this matter with anyone or allowing
11 anyone to discuss it with you, regarding not
12 watching, listening to, or viewing anything
13 regarding this matter. Thank you so much. I
14 look forward to seeing you now Wednesday at
15 2:30.

16 THE CLERK: Juror 332, Susan Wilgos; Juror
17 145, Douglas Hutto; Juror 228, Stephanie Pellos.

18 MR. BAILEY: She's already been pulled.

19 MR. CUMMINGS: Ms. Pellos is on panel
20 number three, Judge.

21 THE COURT: So just put her in twice.

22 THE CLERK: We put her in twice.

23 THE COURT: They understand what occurred.
24 She had two slips and they're aware that she had
25 two slips and they forgot to pull one, sorry.

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1 All right.

2 THE CLERK: Okay. 136, Janie Hilliard;
3 Juror 119, Kelly Greenhill; Juror Number 313,
4 Marilyn VanPatten.

5 THE COURT: All right. Ladies and
6 gentlemen, you now are panel 11, panel 11. I'm
7 going to ask you to please be in the room where
8 Lieutenant Edwards is going to take you in just
9 a moment at four o'clock on Wednesday, four
10 o'clock on Wednesday. Just remember, of course,
11 my admonition about not discussing this matter
12 or allow anyone to discuss it with you and not
13 to read, view, listen to anything regarding this
14 matter. And I look forward to seeing you
15 Wednesday at four o'clock. Thank you so much.

16 THE CLERK: Juror Number 17, Susan Bishop;
17 Juror Number 168, Kadedra Kiner; Juror 308, Lana
18 Turner, Juror 103, Espereita Fortune; Juror 112,
19 Josephine Gibson.

20 THE COURT: Ladies, you now are panel
21 number 12, panel number 12. I'm going to ask
22 you to please be in the room where Lieutenant
23 Edwards is going to take you at 5:30, at 5:30 on
24 Wednesday. 5:30 on Wednesday evening. Thank
25 you all so much.

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1 Remember now my admonition about not
2 discussing this matter, reading anything,
3 watching anything, listening to anything about
4 this matter regarding any information that may
5 be disseminated about this particular case.
6 Thank you all so much. I look forward to seeing
7 you at 5:30 on Wednesday.

8 THE CLERK: Juror 305, Brenda Torrance;
9 Juror 343, Lynda Woody, Juror 180, Christina
10 Logan; Juror 272, Inez Shuler; and Juror number
11 73, Stanley DeLee.

12 THE COURT: Ladies and gentlemen, you are
13 now panel number 13, lucky 13. I'm going ask
14 you to please report to the room where
15 Lieutenant Edwards is going to take in you just
16 a moment at nine o'clock, nine o'clock Thursday
17 morning. Nine o'clock Thursday morning.

18 Please remember not to discuss this
19 matter or allow anyone to discuss it with you.
20 Do not read, watch, or listen to any information
21 which may be disseminated about this case. And
22 I look forward to seeing you Thursday morning at
23 nine o'clock. Thank you so much.

24 THE CLERK: Juror 110, Patricia George;
25 Juror 64, Matt Cummings; Juror 295, Robert

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1 Talley; Juror Number 31, Roger Brownlee; Juror
2 Number 288, Lisa Stanfield.

3 THE COURT: Ladies and gentlemen, you are
4 now panel number 14 and I'm going to ask you to
5 report on Thursday morning at 10:30, Thursday
6 morning at 10:30. Please remember not to
7 discuss this matter or allow anyone to discuss
8 it with you. Do not watch, do not listen, do
9 not read anything about any information which
10 might be disseminated about this case. Thank
11 you so much, ladies and gentlemen, for your time
12 today and I look forward to seeing you at 10:30
13 Thursday morning. Lieutenant Edwards will show
14 you the room to come to.

15 THE CLERK: Juror 205, Christina McKay;
16 Juror 317, Diane Wade; Juror 14, Frederick
17 Beaverson; Juror 329, Linda Wheeler; and Juror
18 Number 37, Glen Carroll.

19 THE COURT: Now, ladies and gentlemen, you
20 are now panel 15, panel 15. And I'm going to
21 ask you to report back to the room where
22 Lieutenant Edwards is going to take you in just
23 a few moments, at one o'clock on Thursday. One
24 o'clock on Thursday.

25 Now, I am hopeful that we may have by

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1 that point sufficient jurors to try this matter
2 and to allow for the work which is to be done,
3 so you very well may receive a telephone call
4 that may give you another schedule. I don't
5 know that at this point. I'm probably being a
6 little optimistic, but I did want to share that
7 with you that there is a possibility you may
8 receive a telephone call from the clerk's office
9 with further instructions. But in any event, if
10 you don't hear from us, please report to the
11 room where Lieutenant Edwards will show you at
12 one o'clock on Thursday.

13 Now, obviously that's three days
14 hence, so please be mindful not to discuss this
15 matter, not to allow anyone to discuss it with
16 you, do not watch, do not read, do not listen to
17 any information disseminated about this case, do
18 not expose yourself in any regard to any
19 information regarding this matter. I look
20 forward to seeing you at one o'clock on
21 Thursday. Thank you so much. If you would go,
22 please, with Lieutenant Edwards.

23 THE CLERK: Juror Number 33, Jami Burt;
24 Juror 91, Kenneth Evans; Juror Number 60, Lynn
25 Crook; Juror Number 253, Ralph Rice; Juror