

**VOLUME FIVE**

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

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APPENDIX

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ROBERT M. DUDEK  
Chief Appellate Defender

ALAN WILSON  
Attorney General

DAVID ALEXANDER  
Appellate Defender

DONALD J. ZELENKA  
Senior Assistant Deputy Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

S. CREIGHTON WATERS  
Assistant Deputy Attorney General

ALPHONSO SIMON, JR.  
Assistant Attorney General

MICHAEL J. ANZELMO

P. O. Box 11549  
Columbia, SC 29211

NELSON MULLINS RILEY &  
SCARBOROUGH, LLP  
Meridian, 17th Floor  
1320 Main Street  
Columbia, South Carolina 29201  
(803) 255-9589

ATTORNEYS FOR RESPONDENT

ATTORNEYS FOR PETITIONER

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:**

**PLAINTIFF'S EXHIBIT #72 (PHOTOGRAPH)**  
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1 Number 226, Mary Palmer.

2 THE COURT: All right. Ladies and  
3 gentlemen, you are now panel number 16 and your  
4 report time will be 2:30 on Thursday, 2:30 on  
5 Thursday. If you are not needed the clerk's  
6 office will certainly get in touch with you and  
7 inform you of that. However, if you do not hear  
8 from the clerk's office, please report to the  
9 room where Lieutenant Edwards will take you in  
10 just a moment at 2:30 on Thursday.

11 Remember, please, do not expose  
12 yourself to any information about this case, do  
13 not read, do not watch, do not listen to  
14 anything or to any information disseminated  
15 about this case and do not discuss this matter  
16 or allow anyone to discuss it with you. And I  
17 look forward to seeing you at 2:30 on Thursday.

18 Thank you, Lieutenant.

19 THE CLERK: Juror 294, Danny Sweatman, Jr.;  
20 Juror 203, Pauline Mcelyea; Juror 124, Wallace  
21 Hammonds; Juror 325, Mancenie Wertz; Juror 194,  
22 Phil Maynor.

23 THE COURT: Ladies and gentlemen, you now  
24 are panel 17, panel 17. And I'm going to ask  
25 you to please report at four o'clock on



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1 Thursday, four o'clock on Thursday. If you are  
2 not needed the clerk's office will call you and  
3 notify you of any further instructions, but if  
4 you do not hear from the clerk's office please  
5 be in the courtroom where Lieutenant Edwards  
6 will take you in just a moment at four o'clock  
7 on Thursday.

8 Be mindful do not discuss this matter,  
9 do not allow anyone to discuss it with you, do  
10 not read, listen to, or watch any information,  
11 any disseminated information about this  
12 particular matter. Thank all so very much and I  
13 look forward to seeing you at four o'clock on  
14 Thursday.

15 THE CLERK: Juror 172, Scott Kuhn; Juror  
16 157, Sonia Jones; Juror Number 57, Virginia  
17 Crawford; Juror 158, Tracy Jones; and Juror  
18 Number 55, Barbara Craig.

19 THE COURT: Ladies and gentlemen, you are  
20 now on panel 18, panel 18. I'm going to ask you  
21 to report at 5:30 on Thursday evening, 5:30  
22 Thursday evening. Obviously if you are not  
23 needed the clerk's office will call you, but if  
24 you do not hear from them, please report to the  
25 room where Lieutenant Edwards is going to take

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1 you in just a moment, at 5:30 on Thursday  
2 evening.

3 Do not discuss this matter, do not  
4 allow anyone to discuss it with you, and,  
5 please, ladies and gentlemen, do not watch, do  
6 not read, do not listen to any information which  
7 may be disseminated about this case. Thank you  
8 so much. I look forward to seeing you at 5:30  
9 on Thursday.

10 THE CLERK: Juror 249, Gertrude Reeves;  
11 Juror 268, Judith Schroeder; Juror 104, Craig  
12 Foster; Juror 254, John Richardson, Jr.; Juror  
13 189, Gloria Magwood.

14 THE COURT: Ladies and gentlemen, you are  
15 now on panel 19. And I'm going to ask you to  
16 please report to the room where Lieutenant  
17 Edwards will show you and escort you in just a  
18 moment, at nine o'clock Friday morning, nine  
19 o'clock Friday morning. Obviously if you are  
20 not needed the clerk's office will call you. If  
21 you do not hear from the clerk's office, please  
22 be in the room where Lieutenant Edwards will  
23 show you at nine o'clock Friday morning.

24 Be mindful not to discuss this matter  
25 or allow anyone to discuss it with you, do not

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1 read, watch, or listen to any information which  
2 might be disseminated on this case. I look  
3 forward to seeing you Friday morning at nine  
4 o'clock.

5 THE CLERK: Juror 208, Christine Miley;  
6 Juror 61, Craig Crosson; Juror 38, James Carson,  
7 III; Juror 320, Letitia Warren; Juror Number 5,  
8 Barbara Andrews.

9 THE COURT: All right. I know I'm going to  
10 pronounce your name badly, is it Crosson or  
11 Crosson (pronunciation)?

12 A JUROR: Crosson.

13 THE COURT: Mr. Crosson, I'm going to ask  
14 this panel to return at 10:30 on Friday morning.  
15 I forgot how that dealt with your schedule, I  
16 don't remember if you said the balance of this  
17 week with you is all right. Do you need to come  
18 earlier in the week?

19 A JUROR: Balance of this week is all  
20 right. It's next week that starts to get very  
21 hectic.

22 THE COURT: Thank you so much.

23 You are panel 20, ladies and  
24 gentlemen. I'm going ask you to return at  
25 10:30, 10:30 Friday morning. If you are not

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1 needed, then the clerk's office will call you  
2 and give you some further instructions, but  
3 hearing nothing from the clerk's office I look  
4 forward to seeing you at 10:30 on Friday  
5 morning. Now, in a moment Lieutenant Edwards is  
6 going to show you the room to come to, also tell  
7 you how to come and go from that room.

8 And remember, though, not to discuss  
9 this matter or allow anyone to discuss it with  
10 you. It's going to be several days we are  
11 apart, but do not listen to, watch, or read any  
12 information that might be disseminated about  
13 this case, and please know that I look forward  
14 to seeing you at 10:30 Friday morning. And  
15 thank you so very much.

16 THE CLERK: Juror Number 32, Sheree Burney;  
17 Juror Number 287, Bruce Spell; Juror 100,  
18 Wyverne Flatt; Juror 50, Henry Coleman., Juror  
19 171, Deborah Krueger.

20 THE COURT: Ladies and gentlemen, you are  
21 now panel 21, panel 21. I'm going to ask you to  
22 please report at one o'clock, one o'clock on  
23 Friday. If you're not needed you will receive a  
24 call from the clerk's office to that effect and  
25 they'll give further instructions at that time.

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1           However, if you do not receive a phone call from  
2           the clerk's office, please be in the room that  
3           Lieutenant Edwards is going to show in you just  
4           a few moments, please be there at one o'clock,  
5           one o'clock Friday afternoon. Thank all so very  
6           much.

7                       And be mindful not to discuss this  
8           matter or allow anyone to discuss it with you,  
9           and you do not watch, read, or listen to any  
10          information that may be disseminated on this  
11          matter and if I don't -- well, let me say that I  
12          look forward to seeing you at one o'clock on  
13          Friday. Thank you so much.

14                   THE CLERK: Juror Number 69, Genita Davis;  
15          Juror 127, Teresa Hatchell; Juror 169, James  
16          Kmets; Juror Number 256, Amy Ridge; and Juror  
17          Number 54, Mildred Cox; and Juror Number 299,  
18          Robert Thomas.

19                   THE COURT: Last but not least. Thank you  
20          so much for your services, Mr. Lofton, you can  
21          go back to your munchies and your book. Thank  
22          you so much.

23                   Ladies and gentlemen, you are panel  
24          22, 22. Your report time will be 2:30 on  
25          Friday, 2:30 on Friday. If you are not needed,

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1 then you will be called by the clerk's office  
2 and you will be given further instruction at  
3 that time. Please, if you are called follow  
4 that instruction, otherwise know that I look  
5 forward to seeing you at 2:30 on Friday. I  
6 think that works out really well for the meeting  
7 tomorrow. And, ladies and gentlemen, in a  
8 moment Lieutenant Edwards will take and you show  
9 you the room that you'll come to on Friday and  
10 how to come and go from that room.

11 Remember, please, not to discuss this  
12 matter, allow anyone to discuss it with you and  
13 do not read, do not watch, and do not listen to  
14 any information that might be disseminated about  
15 this case. Thank you all so very, very much.  
16 And I look forward to seeing you at 2:30 on  
17 Friday. Thank you. You're free to go. Good  
18 luck tomorrow.

19 A JUROR: Thank you.

20 THE COURT: All right, counsel, I know that  
21 the clerk's office has got some work to do to  
22 get information put together for the first  
23 panel, but I believe that you all have all of  
24 the questionnaires at this point. I have asked  
25 that someone report to me from the sheriff's

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1 department regarding the no-shows this morning.

2 It is my understanding, at least at  
3 this juncture, that the -- all but four of the  
4 no-shows were individuals that we had not  
5 received information back and the names.  
6 Remember the 60, approximately 60 names that  
7 went to the sheriff's department about a week  
8 ago, for those folks to be served even though  
9 the information had not come back from the  
10 postal service.

11 I understand that we had four, is that  
12 correct? Four individuals who had sent the  
13 information back and simply did not show up.  
14 The sheriff's department has found one of those  
15 folks who is now on a panel, but that is the  
16 status as I understand the jury at this moment.  
17 And I've asked the sheriff's department to  
18 report back immediately with those individuals  
19 for which we had, if you will, no-shows this  
20 morning.

21 Yes, ma'am, Ms. Graham.

22 THE CLERK: The one that was on the panel,  
23 she was not a no-show, she just had to have  
24 transportation from the sheriff and she was just  
25 waiting to get here, so we still have the four

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1 no-shows.

2 THE COURT: Four no-shows. We've sent  
3 folks for the four no-shows and I'm waiting for  
4 a report back on the other folks that we  
5 received no information, and the sheriff has had  
6 those names for about a week.

7 Anything further at this time from the  
8 State?

9 MR. BAILEY: Nothing from the State, Your  
10 Honor.

11 MR. CUMMINGS: Nothing from the defense at  
12 this time, Judge. Thank you.

13 THE COURT: Very well. All right. Of  
14 course the first panel will report at four  
15 o'clock and I'll be back a little before that in  
16 case there are any matters that have arisen.  
17 You all have had an opportunity to go through  
18 the individual voir dire and if you would like  
19 to look at it again, I'm happy for you to do  
20 that, please avail yourself of that opportunity.

21 We have the Court's Exhibit which has  
22 been marked Court's Exhibit 29, which will be  
23 Type One, Type Two, and Type Three. I have the  
24 jury list, Court's Exhibit Number 30, but I  
25 understand that this list has been updated.



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1 MR. BAILEY: It has. My understanding is  
2 there are two names that were dropped and didn't  
3 get across there, so I'll try to fix that  
4 between now and four o'clock.

5 THE COURT: That will be excellent.

6 MR. CUMMINGS: Thank you, Judge, yes.

7 THE COURT: And give the defense an  
8 opportunity to look at it so that we will have a  
9 potential witness list, and have that marked,  
10 and we will get the copies and place the  
11 potential witness list as well as Types One,  
12 Two, and Three in the jury room so that the  
13 jurors, potential jurors can look at this  
14 information prior to individual voir dire.  
15 Thank you all so much. Have a good lunch.  
16 (Lunch recess taken from 2:42 p.m. to 4:07 p.m.)

17 MS. HARDEE-THOMAS: Your Honor, may we  
18 approach for a second?

19 THE COURT: Yes, of course.

20 (Whereupon, a bench conference was held off the  
21 record.)

22 THE COURT: One of the things we need to  
23 put on the record is I understand there was a  
24 juror who did not respond earlier. And Claude  
25 Majors, and I should know his rank with the

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1       sheriff's department, but it alludes me at this  
2       moment, was able to locate her. She was, I  
3       understand, some 79 years old.

4               MR. CUMMINGS: Juror Number 49, Judge.

5               THE COURT: Juror Number 49 and her name  
6       is -- I forgot it --

7               MR. CUMMINGS: Is Ms. Cobb.

8               THE COURT: Ms. Cobb. And as I understand  
9       from all, you have spoken, both of you have  
10      spoken with Deputy Major, that's not his rank.  
11      Captain. I knew it was something illustrative.  
12      And my understanding is that both of you  
13      stipulate that she's obviously over the age of  
14      65 and not in good health and would be excused  
15      from her service; is that right?

16              MR. BAILEY: That's correct.

17              MR. CUMMINGS: Absolutely, Judge. Based on  
18      the representations of Captain Major,  
19      absolutely.

20              MS. HARDEE-THOMAS: We concur.

21              THE COURT: Now, let me ask your  
22      preference. We are now beginning to receive  
23      from the sheriff's department the affidavits of  
24      nonservice. And my question for you is do you  
25      wish to take those affidavits, do you wish them

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1 to come in, do you wish the custodian to come  
2 in? Tell me for who you wish --

3 MR. BAILEY: I consent to let the  
4 affidavits come in, I have no reason to doubt  
5 the authenticity or voracity, or whatever.

6 THE COURT: Thank you so much.

7 MR. CUMMINGS: Beg the Court's indulgence,  
8 Judge.

9 THE COURT: Take your time. While you do  
10 that, this beautiful young lady who is on the  
11 front seat, hello. Is your mommy one of the  
12 jurors, sweetheart? She is? We're going to  
13 hopefully get her out of here just as soon as we  
14 can. I'll tell you what, would you do me a big,  
15 big, favor, and I want you to come this way, I  
16 want you to see Mommy, let Mommy know where you  
17 are and we're going to put you right across the  
18 hall from Mommy if that's okay, okay? Thank  
19 you, dear. Thank you.

20 Now, counsel, have you had a chance to  
21 talk to Mr. Bowman?

22 MR. CUMMINGS: Judge, just for the purpose  
23 of the record, and I thank Your Honor, we've  
24 been previously having the deputies come in and  
25 be sworn.

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1 THE COURT: Yes.

2 MR. CUMMINGS: Mr. Bowman has said due to  
3 the lateness of the affidavits coming in that we  
4 believe that just submitting the affidavits to  
5 the Court would be sufficient and I just wanted  
6 to make sure that he is satisfied with that.  
7 And I've spoken to him, he says it's fine,  
8 co-counsel concurs.

9 MS. HARDEE-THOMAS: Whatever he --

10 THE COURT: That we'll take the affidavits  
11 in terms of -- all right. Very well. What  
12 we'll do, at the end of the day or first thing  
13 in the morning, we will have an accounting to  
14 see how many of the affidavits we have received  
15 to be sure that we have accounted for all the  
16 members of our jury panel.

17 Now, focus with me, everyone, on  
18 Mr. Brian Mannino who is juror number...?

19 MS. FOOTMAN: 190.

20 THE COURT: Mr. Mannino is Juror Number  
21 190. And he still lives in Dorchester County,  
22 but he is employed by Promo West Production  
23 located in Columbus, Ohio.

24 Now, what we have received today, some  
25 three o'clock, is a letter from Mr. Chris

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1 Beasley of Promo West Production who is the bar  
2 manager who says that he's -- that he,  
3 Mr. Mannino, is in Columbus, Ohio, and this  
4 means that his presence in your courtroom will  
5 be impossible.

6 Let me hand that to you all to review  
7 and get your suggestions. I'm not inclined to  
8 excuse Mr. Mannino because he chose voluntarily  
9 to absent himself from the court. The  
10 unfortunate reality, well, he's got several days  
11 to get back from Ohio, but I'll leave that to  
12 your thoughts. You do not have to tell me at  
13 this moment, just review it.

14 THE CLERK: They've seen it.

15 MR. CUMMINGS: We had no questionnaire from  
16 this gentleman, and as I'm sure Madam Clerk has  
17 told Your Honor, I know that Ms. Footman, or  
18 somebody's going to try to make contact, find  
19 out his location and purpose.

20 THE CLERK: I did.

21 MR. CUMMINGS: You're right, Judge, if we  
22 could have some time to think about it.

23 THE COURT: Have some time to think about  
24 it. If you choose to go forward, then I am  
25 certainly going to look at contempt. I am not

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1       pleased.

2               MR. CUMMINGS: Yes, ma'am. Not from a bar  
3       manager.

4               THE COURT: I'm not at all pleased. Maybe  
5       he would like to have the opportunity to know  
6       that his presence is not going to be excused,  
7       not in this manner.

8               Why don't you call him and tell him  
9       that, Ms. Graham, when we take a break, that he  
10      is not excused, that this is not the way people  
11      proceed regarding the court and he very well may  
12      be in contempt.

13              THE CLERK: I've already told him that.  
14      You want me to tell him again? He's a hard  
15      person to talk to.

16              THE COURT: Okay. Apparently he doesn't --  
17      it's up to him to care or not and if he doesn't  
18      care there will certainly be a day of reckoning.

19              MR. BAILEY: Did he say he's not a  
20      resident?

21              THE COURT: Unfortunately, Mr. Bailey, I  
22      was sort of hoping that he was not a resident,  
23      but it's very clear he is a resident of  
24      Dorchester County. I was thinking that would be  
25      an easy way to resolve his situation, but

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1           unfortunately he has confirmed to Ms. Graham  
2           that he is a resident of Dorchester County.

3           THE CLERK: That he did speak with  
4           Ms. Footman several weeks ago and Ms. Footman  
5           told him, well, if he was not going to be here  
6           he needed to send something so we could present  
7           it to the judge earlier and something from his  
8           employment and he just faxed it today. He may  
9           have sounded like she didn't specifically say  
10          she didn't need it right away. He was just  
11          being really bad. And he admitted about -- he  
12          talked to Ms. Footman in two days and he just  
13          chose to give it to us.

14          THE COURT: In other words, the information  
15          he was provided was he needed to respond in two  
16          days.

17          THE CLERK: That's right. When he spoke  
18          with Ms. Footman she told him that he needed to  
19          be present and to show it to the judge and the  
20          attorneys and that's what he did.

21          THE COURT: I'll leave it for you to think  
22          about and then we'll take that up.

23          THE CLERK: Make myself clear, this stack  
24          of affidavits that we received this afternoon  
25          they looked at, we've not excused these yet.

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1 THE COURT: No. We're going to account for  
2 those at the end of today.

3 THE CLERK: At the end of today.

4 THE COURT: Yeah.

5 THE CLERK: So I can tell the sheriff's  
6 department --

7 THE COURT: To continue to send them.  
8 Don't need the sheriff, need the affidavits.

9 THE CLERK: Just the affidavits.

10 THE COURT: Okay. All right. Counsel, are  
11 you ready to proceed with the individual voir  
12 dire?

13 MR. BAILEY: State's ready, Your Honor.

14 MR. CUMMINGS: Defense is ready.

15 MS. HARDEE-THOMAS: Defense is ready, Your  
16 Honor.

17 THE COURT: All right. Mr. Taylor, if you  
18 would ask Mr. George W. Young, Jr. to step in.  
19 He is panel number one, juror number one. I  
20 need those lists, panels, and the jurors.

21 Hi. You're Mr. George Young, Jr.?

22 MR. YOUNG: Correct.

23 THE COURT: Sit right here for me,  
24 Mr. Young. You're Juror Number 347?

25 MR. YOUNG: Yes, ma'am.



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1 THE COURT: Thank you so much, Mr. Young.  
2 (George W. Young, Jr., called as a prospective  
3 juror, having previously been duly sworn, is  
4 examined as follows:)

5 EXAMINATION

6 BY THE COURT:

7 Q. Now, Mr. Young, you have been sworn along with  
8 all the potential jurors earlier this day as you are  
9 well aware.

10 A. Right.

11 Q. And you now understand that the oath which you  
12 took this morning of course still applies to the  
13 questions and answers that you will share with us  
14 this afternoon. Do you understand that?

15 A. I understand.

16 Q. All right. Very well. Now, since we talked  
17 with you this morning has anyone talked with you  
18 about this case or tried to approach about you it, or  
19 have you inadvertently or otherwise been exposed to  
20 any information about this case?

21 A. No, ma'am.

22 Q. Very well. And, Mr. Young, when you were back  
23 in the jury room you were given a list of potential  
24 witnesses. Have you had a chance to review that  
25 list?

## Juror 347 George W. Young, Jr. - Examination

1 A. Yes, ma'am. I have.

2 Q. All right. And in reviewing that list, and let  
3 me share with you a copy of that list that I have.

4 Here you go, Mr. Young.

5 A. Okay.

6 Q. Did you recognize anyone on the list?

7 A. Anyone on the list?

8 Q. Do you have any connection with any of the  
9 potential witnesses?

10 A. I do not know of anyone I would know personally  
11 or have any acquaintance with of anyone that I read  
12 on this list, ma'am.

13 Q. You have no connection with anyone on that list?

14 A. No, ma'am.

15 Q. All right. You don't know them personally or  
16 casually?

17 A. No acquaintances or anything that I know of.

18 Q. No acquaintances, no personal or business  
19 relationship with anyone on this list?

20 A. No, ma'am.

21 Q. All right. Now, you did not indicate this  
22 morning when we asked you whether or not you had any  
23 opinion, or you had seen or read anything about this  
24 case, or had any bias or prejudice for or against  
25 either side in this case, you did not indicate that

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1 any of those things applied to you at the time; is  
2 that right?

3 A. Correct.

4 Q. All right. Since we have talked this morning  
5 has anything come to your memory that may have jogged  
6 your memory and created anything within your  
7 knowledge that would change your answer from the  
8 answers that you gave this morning?

9 A. I can definitely say no, ma'am. I work second  
10 shift and I don't hardly hear much of any news of any  
11 kind.

12 Q. All right. Now, Mr. Young, let me ask you this  
13 question, because I recall that in your voir dire  
14 that you did mention that you responded regarding  
15 alcohol consumption.

16 A. Yes, ma'am.

17 Q. That you had some concerns about that.

18 A. Yeah.

19 Q. Let me ask you whether or not the view that you  
20 hold regarding alcohol, whether or not you believe  
21 that that view, and there -- may interfere with in  
22 any regard your ability to give each side a fair and  
23 impartial trial? In other words, here's what I am  
24 asking you: Do you believe that your views are such  
25 that they would prevent or substantially impair your

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1 ability to listen to the evidence in this case and  
2 give to each side a fair and impartial trial?

3 A. If I may answer that briefly. I have a strong  
4 no against alcohol of any kind, but I would not say  
5 that would impair my judgment upon any facts or  
6 anything brought forward in the case.

7 Q. All right, sir. Now, Mr. Young, with regards to  
8 that are you telling me that while you may hold that  
9 opinion personally, that you do not believe that that  
10 view that you hold would interfere with --

11 A. Right.

12 Q. -- your ability to listen to --

13 A. To render.

14 Q. -- this matter?

15 A. Exactly.

16 Q. And be fair and impartial to both sides?

17 A. Yes, ma'am.

18 Q. All right, sir. Now, Mr. Young, I need to ask  
19 you some questions. Please know that we are not  
20 trying to invade your privacy we are just trying to  
21 find out how you may feel about some matters; in  
22 other words, what your opinions are.

23 A. Yes, ma'am.

24 Q. There are no right and no wrong answers. And  
25 obviously your opinions are just as good and valid as

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1 anyone else's. We don't challenge them, we don't  
2 wish in any way to challenge them, to attack them, we  
3 are just trying to understand your views and your  
4 opinions and see how they may impact on your jury  
5 service.

6 One of the things that I want to ask  
7 you your opinion about in a few moments is penalty,  
8 specifically the death penalty, because that may be  
9 an issue in the case, but I want to be sure that you  
10 understand the mere fact that we are talking about  
11 penalty --

12 A. Right.

13 Q. -- at this early stage really is premature  
14 because the trial hasn't even begun.

15 A. Exactly.

16 Q. And as I've said, Mr. Bowman is presumed  
17 innocent of the charges, but this is the only time  
18 that we have to talk to you about penalty,  
19 necessarily before the trial even gets underway.

20 So I'll ask you this: If you were a  
21 juror in any type of criminal case, Mr. Young, and  
22 I'm not talking about this case because you don't  
23 know anything about this case.

24 A. Right.

25 Q. And it would be unfair for me to ask you what

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1 you might do in this case and that's not what we're  
2 about, but in a generic sense, in general terms if  
3 you were a juror in any criminal case would you be  
4 willing to listen to the law as you were instructed  
5 by the judge, by me?

6 A. Yes, ma'am. I would be.

7 Q. All right. And would you be willing to accept  
8 the law as I give it to you and apply it to the facts  
9 as you found them to be?

10 A. Yes, ma'am.

11 Q. And even though you may not particularly like  
12 that law and you might even disagree with it, would  
13 you be willing still to follow the law as it was  
14 instructed to you by the judge, by me?

15 A. Yes, ma'am.

16 Q. All right. Now, if you were asked to serve as a  
17 juror in this case, State vs. Bowman, could you  
18 decide this case based solely upon what you would  
19 hear in the courtroom and disregard anything that you  
20 may have seen or heard, or read about this case from  
21 any source at all if anything like that should come  
22 into your memory?

23 A. That would be the only way I would know to go  
24 about it, yes, ma'am.

25 Q. And could you do that?

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1 A. Yes, ma'am.

2 Q. And in a criminal case as you know, and as I  
3 told you briefly this morning, the State has the  
4 burden of proving the guilt of the defendant, any  
5 defendant, and this defendant, beyond a reasonable  
6 doubt.

7 A. Yes, ma'am.

8 Q. In other words, Mr. Bowman, this defendant, any  
9 defendant, has no burden to prove his or her  
10 innocence. He is presumed innocent under the law.  
11 Do you understand that?

12 A. Yes. Until proven guilty.

13 Q. Yes, sir. Beyond a reasonable doubt. Do you  
14 understand that as well?

15 A. Exactly.

16 Q. All right. So if you were a juror in any  
17 criminal case would you be willing to listen to the  
18 facts and the circumstances and the law as you are  
19 instructed?

20 A. Yes, ma'am.

21 Q. And based upon what those facts and  
22 circumstances were, would you be willing to find the  
23 defendant not guilty of a criminal charge?

24 A. If so be it, yes, ma'am.

25 Q. All right. And could you then, depending on

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1 what the facts and circumstances were, if they were  
2 something else, would you be able to find the  
3 defendant guilty of a charge?

4 A. Again, so be it, yes, ma'am.

5 Q. All right. So you would be willing to listen,  
6 make your decision based upon whether or not you were  
7 convinced that the person is guilty or not?

8 A. Yes, ma'am.

9 Q. Now, most of the time, Mr. Young, jurors do not  
10 concern themselves with the matter of punishment.  
11 Most of the time in the criminal courtroom that is  
12 left up to the judge, but there's one case in our law  
13 when a jury has to deal with the matter of  
14 punishment, and that is in a case like this one. It  
15 is in a case where an individual has been charged  
16 with the crime of murder and where the State is  
17 seeking the death penalty.

18 If an individual in a death penalty  
19 case is convicted of the crime of murder, then the  
20 same jury that convicted him or her of murder must  
21 come back and in a separate and different proceeding  
22 decide the sentence that that person would get.  
23 There are only two choices. One is life imprisonment  
24 without the possibility of parole and one is the  
25 death penalty. That would be determined in a second



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1 or sentencing phase of the trial. Do you understand  
2 this?

3 A. Yes, ma'am.

4 Q. All right. Now, back in the jury room you had  
5 an opportunity to look at this paper similar to this  
6 sheet.

7 A. Exactly.

8 Q. And you had noticed essentially that it  
9 described three types of jurors.

10 A. Juror one, two, and three.

11 Q. Do you remember those three types of jurors and  
12 what they were?

13 A. Yes. I would be in juror three.

14 Q. You would be in juror number three. That was my  
15 next question. Which of those three types of juror  
16 best describes you?

17 A. Three.

18 Q. All right. Now, again, you would be willing to  
19 listen to whatever you might hear and if you thought  
20 it was appropriate to sentence someone to death, you  
21 would be able to do that?

22 A. Yes, ma'am.

23 Q. And if you thought the death sentence was not  
24 appropriate, or for any other reason the person ought  
25 to receive life imprisonment without parole, you

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1 would be able and willing to vote for a sentence of  
2 life imprisonment?

3 A. If so be it, yes, ma'am.

4 Q. All right. And so you would be willing to make  
5 your decision, either life imprisonment or the death  
6 penalty, based upon what you would hear in the  
7 courtroom?

8 A. Exactly.

9 Q. If you were chosen to serve as a juror in this  
10 case you and the other jurors would be housed, the  
11 word is sequestered, in a local motel during the  
12 course of the trial. That's where you would have to  
13 stay until the trial is over except when you are in  
14 the courtroom. This period could be as long as two  
15 weeks, it could be longer. Obviously that would  
16 create an inconvenience for you as it surely will for  
17 all who serve on this jury. Other than the  
18 inconvenience which it would cause anybody who would  
19 have to serve in this capacity, would that pose a  
20 serious risk of danger to your health, or well being,  
21 or to that of anybody who is dependent upon you if  
22 you had to serve in that capacity?

23 A. It would be no danger there. It would be a very  
24 big inconvenience, but no pose of danger or anything.

25 Q. You would be able to do that understanding

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1 the --

2 A. Able to would be kind of an iffy question. Able  
3 with things coming up in my life right now would be  
4 kind of hard to say, but being a court situation like  
5 this I'm held under the laws of the land to actually  
6 be here.

7 Q. Provide your community service?

8 A. Be here and provide my service.

9 Q. Very well. Thank you so much, Mr. Young. Now,  
10 at this time counsel has an opportunity to ask you  
11 some questions, so in a moment I'm going to ask them  
12 if they have questions. First of all I'll ask the  
13 State.

14 Yes, sir, Mr. Bailey.

15 EXAMINATION

16 BY MR. BAILEY:

17 Q. I'm Walter Bailey and I'll be prosecuting the  
18 case, just a couple questions. Again, I'm not going  
19 to ask about this case in particular because you  
20 hadn't heard the facts. But just in general, if a  
21 jury after hearing all the facts and the law from the  
22 judge decides on the death penalty, that sentence  
23 actually will be imposed, that will be the order of  
24 the Court. And if the jury votes for the death  
25 penalty they would all 12 unanimously vote for the

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1 death penalty and each one of the jurors would  
2 probably be asked to announce that verdict out loud,  
3 what's called polling the jury.

4 A. Okay.

5 Q. Could you stand up in open court and announce  
6 that decision for the death penalty if it was your  
7 decision?

8 A. Again, like I answered her question, so be it,  
9 yeah. If I had to do that I would do it.

10 Q. All right, sir. And there's also a death  
11 verdict form where if the jury votes unanimously for  
12 the death penalty each juror is asked to sign their  
13 name to the verdict form. Could you do that if that  
14 was your decision?

15 A. I'm not familiar with that, but if that's part  
16 of my jury duty I would have to do, yes, sir.

17 MR. BAILEY: I believe that's all I have of  
18 this gentleman. Thank you very much.

19 THE COURT: Yes, sir, Mr. Cummings.

20 EXAMINATION

21 BY MR. CUMMINGS:

22 Q. Good afternoon, sir.

23 A. Good afternoon to you.

24 Q. Mr. Young, I'm Norb Cummings, that young lady  
25 over there is Ms. Marva Hardee-Thomas and that's

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1 Mr. Marion Bowman Jr., sir. I know this morning all  
2 of the jurors were put a through a lot of questions  
3 by Her Honor --

4 A. I understand.

5 Q. -- and Court personnel and it looks like we're  
6 going over the same thing. You appear to be the type  
7 of gentleman, sir, that takes this matter very  
8 serious.

9 A. Yes, I do.

10 Q. And that is something that any citizen who's on  
11 trial for any crime is counting on, that he gets a  
12 fair trial by the peers of his society.

13 A. Exactly.

14 Q. And you live in Dorchester County, obviously, or  
15 else you wouldn't be picked here?

16 A. Yes, sir.

17 Q. You work, if I'm not mistaken, at Bosch?

18 A. I work at Bosch.

19 Q. How many years have you been there, sir?

20 A. Going on now about somewhere around a year and  
21 three months -- excuse me, a year and seven/eight  
22 months.

23 Q. All right, sir. A lot of the jurors would come  
24 in say normally it's an inconvenience or hardship  
25 being housed in a hotel for two weeks sometime, maybe

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1 three. And I know just a moment ago with your candor  
2 and honesty you told Her Honor.

3 A. It would definitely be an inconvenience for me  
4 because I've got a son that's graduating this Friday.

5 Q. This Friday?

6 A. This Friday.

7 Q. From what institution?

8 A. Actually I got two boys that are home schooled.

9 Q. All right, sir. If that can be accommodated  
10 around your schedule, if Her Honor were to -- somehow  
11 to take that into consideration if you were selected  
12 for this jury, sir, would you still be willing to  
13 serve and still be willing to follow your civic duty  
14 as you've told everybody you would?

15 A. Well, as I understand in the laws of the land  
16 you really don't have a choice in the matter. I  
17 mean, a lot of people like to be out of something  
18 like this, I'm sure I would not negate to the idea, I  
19 would, too, but if it's something that I must do,  
20 then I'm held by law and by rules of society to be  
21 here and do what is asked of me to do.

22 Q. Thank you, sir.

23 A. If something would come up like that where it  
24 would at least allow me to bend things a little bit  
25 to do something as important to me to be there when

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1 my son graduated, I think I can at least take off  
2 some time off for work even though that would kill  
3 some time there.

4 Q. I want to go back a little bit more now, ask  
5 your kindness and patience, Mr. Young, about --

6 A. Sure.

7 Q. Her Honor covered it very clearly that anybody  
8 who comes in this room is presumed innocent.

9 A. To prove them guilty.

10 Q. The State has the burden, yes, sir. And that  
11 fundamental right which is the -- one of the things  
12 people did 200 something years ago said the State  
13 must prove somebody guilty. But the mere fact you  
14 heard that this might have been a death penalty case  
15 where somebody was trying to seek the ultimate  
16 penalty, would that form or express any opinions in  
17 you to believe that somebody may be guilty just for  
18 being brought in this courtroom with that title of  
19 the State seeking the death penalty?

20 A. My opinions to any court case is not really  
21 brought up to play or used in any way, when I hear  
22 nothing out of my mouth until enough evidence has  
23 been proved to prove that person either guilty or  
24 innocent.

25 Q. All right, sir. And, again, as you know, it's

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1 the putting of the 12 collective minds together  
2 following the law and instructions as Her Honor  
3 gives. And I know you said you can do that.

4 A. Yeah.

5 Q. Again, when you're out here today you're giving  
6 your word to both the State and Mr. Bowman through us  
7 that that's Mr. Young's word.

8 A. I understand.

9 Q. And then Mr. Young, of course, you may get some  
10 issues or some law from Her Honor that may be  
11 contrary to even what we call common sense on the  
12 street, but different rules in the courtroom here.

13 A. I understand.

14 Q. And you said you could follow her --

15 A. Yes.

16 Q. She's the boss.

17 A. That's exactly it.

18 Q. Okay. And you may hear sometimes in here where  
19 Mr. Bailey and I, or even another member of his  
20 table, or Ms. Thomas, we may argue and object. And  
21 you wouldn't hold it against somebody if somebody  
22 makes an objection and later on Her Honor were to  
23 rule one side or the other? You understand it's just  
24 the rules of the game or rules of the court?

25 A. I've seen enough TV shows, I understand where



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1 you're going, yes, sir.

2 Q. Okay. And with that in mind, sir, as you know  
3 12 people would have to sign stating that they would  
4 impose the ultimate penalty on any citizen if the  
5 warrant and the facts require that. You told Mr.  
6 Bailey a few moments ago you could do that if it  
7 indeed required that?

8 A. If it indeed required it, if it went to that  
9 opinion or to that idea.

10 Q. Yes, sir. But you are the type of gentleman, I  
11 believe, to Mr. Bailey, and myself, Mr. Bowman,  
12 Ms. Thomas that if you believed something you would  
13 stand for your conviction?

14 A. Yes. I'm a firm believer in standing for  
15 rights.

16 Q. And you wouldn't just compromise your outlook or  
17 anything just to join in the -- to make things  
18 easier, go home earlier?

19 A. Exactly.

20 MR. CUMMINGS: Beg the Court's indulgence,  
21 Your Honor.

22 THE COURT: All right.

23 (Mr. Cummings conferring with Ms.  
24 Hardee-Thomas.)

25 Q. Just a couple briefly, sir, and I'll let you off

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1 the stand as Her Honor says that. You did state  
2 openly that you had like an infinity against alcohol  
3 or the consumption of alcohol?

4 A. To give you a brief background of my thoughts,  
5 my feeling, I'm a very true, and try to be a  
6 born-again Christian, I do not believe in anything to  
7 do with alcoholism. I believe the world would be a  
8 whole lot better without it, but therefore it's there  
9 and therefore you can't do nothing except for make a  
10 stand for what you believe is right and my right is I  
11 don't mess with it, I don't have nothing to do with  
12 it.

13 If somebody else drinks, that's fine,  
14 I don't hold it totally against them and I would not  
15 let that be a weigh factor in any court case. If  
16 they drink, so be it, they drink.

17 Q. Thank you, sir. And, again, just to cover this  
18 now, would your mind be on that precious time with  
19 your son graduating on Friday that you would not want  
20 to serve, or that you would serve because (a), it's  
21 your duty; and (b), you hold this high regard for  
22 jury service as an important part of living in this  
23 country?

24 A. I hold it as a high regard and I would  
25 actually -- if told that I need to serve I would have

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1 no other choice, though I would say that it would be  
2 nice for the idea if I had an opportunity to at  
3 least, if nothing else, have some time to see my son  
4 graduate. That comes as a one in a time year thing.

5 Q. Yes, sir. What time of day or evening would  
6 that be on Friday so we could have that on the record  
7 today and maybe have Her Honor have time to deal with  
8 it?

9 A. I don't know exactly, but it would probably be  
10 early evening, probably need some time somewhere  
11 around between 4:00 until later on that night, if  
12 possible. Because I don't know what all festivities  
13 would go on or how long it would take.

14 Q. Mr. Young, thank you very much, sir.

15 MR. CUMMINGS: Your Honor, thank you.

16 THE COURT: Thank you. Mr. Young, I'm  
17 going to ask you to please step out the  
18 courtroom, you don't need to go anywhere other  
19 than just step right outside the courtroom door  
20 so we can talk about you behind your back. But  
21 you're not going to have time to go anywhere and  
22 sit, we will have you come right back in in just  
23 a moment.

24 MR. YOUNG: Yes, ma'am.

25 THE COURT: Thank you.

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

3 THE COURT: What says the State?

4 MR. BAILEY: Qualified, Your Honor.

5 THE COURT: What says the defense?

6 MS. HARDEE-THOMAS: Qualified.

7 THE COURT: Very well.

8 MS. HARDEE-THOMAS: With the consent of  
9 Mr. Bowman.

10 THE COURT: Very well. I likewise find  
11 that he is qualified. Ask him to step back in.  
12 (Whereupon, the prospective juror returns to the  
13 courtroom.)

14 THE COURT: If you can sit back down for  
15 me. Mr. Young, you have been found to be  
16 qualified as a potential juror in the case.  
17 That doesn't mean you are on the jury yet, it  
18 just means that you are potentially a juror and  
19 may be selected to serve on this jury.  
20 Obviously you are the first juror that we've had  
21 an opportunity to speak with individually and  
22 there are dozens more with whom we would speak.

23 I am hoping, we are hoping that we  
24 will be able to select the jury on Thursday,  
25 Thursday afternoon. And this may be ambitious,

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1           however, I'm going to ask you to return at two  
2           o'clock on Thursday.

3                       Now, if that time needs to change we  
4           will get in touch with you, we will call. We  
5           have your numbers and we will call and you let  
6           you know.

7                       MR. YOUNG: Okay.

8                       THE COURT: Ms. Etheredge is going to give  
9           you a sheet of paper that contains some  
10          instructions to help you get ready for jury  
11          service, like packing the clothes to bring and  
12          the medications that you may need. It tells you  
13          where you will be housed during the course of  
14          the trial, so that you can leave that number  
15          with your family so that they can reach you in  
16          the event of an emergency. And it will be right  
17          here locally.

18                      Now, obviously I want you to know that  
19          you can discuss all of these practical details  
20          about where you will be, the numbers, the  
21          sequestration, however -- because your family  
22          needs to know and your employer is also going to  
23          need to know. However, be mindful, Mr. Young,  
24          that you must not, you may not discuss any  
25          aspect of this case with anyone or allow anyone

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1 to discuss this case with you, or expose  
2 yourself to any information about this case from  
3 any source at all. Meaning you cannot read the  
4 newspaper, internet, radio, or television, you  
5 cannot receive any information about this case  
6 from any source. Do you understand this?

7 MR. YOUNG: So understood, yes, ma'am.

8 THE COURT: Thank you so much. What I like  
9 to tell folks, Mr. Young, is if you are selected  
10 then you will be -- I need you to come with your  
11 bags packed and ready to remain with us.  
12 However, I certainly hear what you tell me about  
13 your son graduating on Friday, but come packed  
14 and ready to stay in any event and we may just  
15 have to -- that's subject to change, but you  
16 come on ready to stay.

17 And if you are not selected on the  
18 jury you can go home and then maybe take your  
19 family on a trip, stay packed for a couple of  
20 days. Thank you so much, Mr. Young, and you are  
21 free to go.

22 MR. YOUNG: Thank you.

23 THE COURT: Thank you.

24 MR. YOUNG: Come back Thursday at 2:00?

25 THE COURT: Thursday at two o'clock.

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1 MR. YOUNG: Okay. Thank you.

2 THE COURT: Thank you.

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

5 MR. BAILEY: Your Honor, before the next  
6 potential juror comes in, I didn't want to  
7 interrupt Mr. Cummings when he was  
8 cross-examining the potential juror, but he  
9 asked one question, something to the effect  
10 about compromising his position on that and it  
11 sounded almost like he was kind of steering the  
12 jurors not to deliberate and kind of hunker down  
13 and stick with your original idea which is, of  
14 course, the exact opposite of what a juror is to  
15 do, deliberate. And in case that question comes  
16 up again I would object to it.

17 THE COURT: I know what you're going to.  
18 What you're going to is to be sure that along  
19 that case line that you would -- that the jury  
20 would join with the majority for the sake of  
21 joining with the majority, but I agree with Mr.  
22 Bailey, you came somewhat close to the line.  
23 Just try to fashion your questioning, would you  
24 change your opinion for the sake of just going  
25 with the majority or something to that effect,

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1 Mr. Cummings, be careful not to cross that line,  
2 but I do understand where you're coming from.

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: Okay. Very well.

5 All right. Leo Sullivan, Juror Number  
6 293.

7 (Leo J. Sullivan, called as a prospective juror,  
8 having previously been duly sworn, is examined  
9 as follows:)

10 EXAMINATION

11 BY THE COURT:

12 Q. Mr. Sullivan. How are you, Mr. Sullivan?

13 A. Fine.

14 Q. Now, you, of course, are Juror Number 293. And,  
15 Mr. Sullivan, this morning you were sworn along with  
16 all the other potential jurors and you understand  
17 that the oath that you took this morning, of course,  
18 still applies?

19 A. Yes, ma'am.

20 Q. All right. And, of course, it will apply to all  
21 the answers that you will give me to the questions I  
22 will ask you this afternoon. Do you understand that?

23 A. Yes, ma'am.

24 Q. Very well. Now, Mr. Sullivan, since we talked  
25 with you this morning has anybody talked with you



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1 about this case or tried to approach you about it, or  
2 have you inadvertently or otherwise been exposed to  
3 any information about this case?

4 A. No.

5 Q. All right. Now, when you were back in the jury  
6 room you were given a list of potential witnesses,  
7 and I'll share that with you here, Mr. Sullivan. And  
8 I would ask whether or not you recognized and have  
9 any connection with any of those potential witnesses?

10 A. No, ma'am.

11 Q. All right, sir. You had an opportunity to look  
12 at each and every name on the list?

13 A. Yes, ma'am.

14 Q. Very well. Thank you. I'll take that back.

15 Now, this morning, Mr. Sullivan, you  
16 did not indicate when we asked you as to whether or  
17 not you had any opinion, or had seen, heard, or read  
18 anything about this case, or had any bias or  
19 prejudice for or against either side in this case,  
20 you did not indicate any of those things applied to  
21 you at the time; is that right?

22 A. Correct, ma'am.

23 Q. All right. Since we've talked has anything come  
24 to your memory that may have jogged your memory and  
25 created anything that you now have a memory that you

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1 did not share with us earlier?

2 A. No, ma'am.

3 Q. All right. You still have no memory of any of  
4 these matters?

5 A. No, ma'am.

6 Q. Haven't heard anything about it, read anything  
7 about it?

8 A. No, ma'am.

9 Q. Very well. Now, Mr. Sullivan, I need to ask you  
10 some questions, we need to ask you some questions. I  
11 want you to know we are not trying to invade your  
12 privacy and we are not trying to make you feel  
13 uncomfortable in the least. However, we're just  
14 trying to find out how you might feel about some  
15 matters and how those feelings or opinions that you  
16 may hold may impact on your service as a juror in  
17 this case. Please know, of course, there are no  
18 right and wrong answers and your opinions we know are  
19 just as good and valid as anybody else's. Please  
20 know that we do not in any way challenge your  
21 opinions. We just need to know a little bit about  
22 them and understand a little bit about your opinions,  
23 and, again, as they may impact on your jury service.  
24 Now, one of the things that I'm going  
25 to ask you about in just a few moments is penalty,

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1 specifically the death penalty, because that may be  
2 an issue in this case. But I want you to understand  
3 that the mere fact that we are talking about the  
4 penalty at this early stage really, really is  
5 premature. This trial has not even begun. And as  
6 I've said, Mr. Bowman is presumed innocent of these  
7 charges, but this is the only time that we have to  
8 talk about the penalty necessarily before the trial  
9 ever gets underway.

10 Now, if you were a juror in any type  
11 of criminal case, and I'm not talking about this case  
12 because you don't know anything about this case, and  
13 that wouldn't be fair for me to ask you anything  
14 about this case, but in a generic sense in general  
15 terms if you were a juror in any criminal case would  
16 you be willing to listen to the law as you were  
17 instructed by the judge?

18 A. Yes, ma'am.

19 Q. All right. And would you be willing to accept  
20 that law and apply it to the facts as you found them  
21 to be?

22 A. Yes, ma'am.

23 Q. All right. And even though you may not  
24 particularly like the law as it was given to you by  
25 the Court, or you might even disagree with it, would

## Juror 293 Leo J. Sullivan - Examination

1 you still be willing to follow the law as you were  
2 instructed to do by the judge?

3 A. Yes, ma'am.

4 Q. All right. And if you were asked to serve in  
5 the case of the State vs. Mr. Bowman, could you  
6 decide this case based solely upon what you would  
7 hear in this courtroom and disregard anything that  
8 you may have seen, or heard, or read about in this  
9 case from any source at all? If anything like that  
10 should come into your memory, I know that you say it  
11 hasn't, but if it was to come into your memory, could  
12 you do that?

13 A. Yes, ma'am.

14 Q. All right. Now, in a criminal case as you know,  
15 and we talked about it briefly this morning, the  
16 State has the burden of proving the guilt of the  
17 defendant and of this defendant, of Mr. Bowman,  
18 beyond a reasonable doubt. In other words, the  
19 defendant, Mr. Bowman, has no burden to prove his  
20 innocence. He is presumed innocent under the law and  
21 I'd ask if you understand that?

22 A. Yes, ma'am.

23 Q. All right. So if you were a juror in any  
24 criminal case, would you be willing to listen to the  
25 facts and the circumstances and the law as you were

## Juror 293 Leo J. Sullivan - Examination

1 instructed?

2 A. Yes, ma'am.

3 Q. All right. Based upon those facts and  
4 circumstances and the facts as you found them to be  
5 and the law as you would apply to those facts, would  
6 you be willing to find the defendant not guilty of  
7 the criminal charge? Sounds like a trick question,  
8 doesn't it?

9 A. Yes, ma'am.

10 Q. What I'm really asking you is could you, would  
11 you be willing to listen to the evidence, listen to  
12 the judge's charge, my charge on the law, and make  
13 your decision based upon whether or not you were  
14 convinced that the person was guilty or not?

15 A. Yes, ma'am.

16 Q. All right. In other words, based upon the facts  
17 and circumstances as you found them to be would you  
18 be willing to find the defendant not guilty of a  
19 criminal charge?

20 A. Yes.

21 Q. If that's what you found in the facts?

22 A. If that's what I found the facts to be.

23 Q. All right, sir. And could you then, depending  
24 on what the facts and circumstances were, if they  
25 were something else would you and could you find the

## Juror 293 Leo J. Sullivan - Examination

1 defendant guilty of the charge?

2 A. Yes, ma'am.

3 Q. All right. Now, most of the time, Mr. Sullivan,  
4 jurors do not concern themselves with the matter of  
5 punishment. Most of the time in the criminal  
6 courtroom that is left up to the judge. But there is  
7 one case in our law when the jury has to deal with  
8 the matter of punishment. And that is a case like  
9 this one, it is in a case where an individual has  
10 been charged with the crime of murder and where the  
11 State is seeking the death penalty.

12 If an individual in a death penalty  
13 case is convicted of the crime of murder, then the  
14 same jury that convicted him or her of murder must  
15 come back and in a separate and different proceeding  
16 decide the sentence that that person would get. And  
17 there are two choices. One is life imprisonment  
18 without parole and the other is the death penalty.  
19 That would be determined, that, of course, the  
20 penalty, would be determined in a second or  
21 sentencing phase of the trial. Do you understand  
22 this?

23 A. Yes, ma'am.

24 Q. All right. Now, did you have a chance to look  
25 at the paper that was back in the room?

## Juror 293 Leo J. Sullivan - Examination

1 A. Yes, ma'am.

2 Q. All right. And essentially it described three  
3 types of jurors for you.

4 A. Yes, ma'am.

5 Q. Let me hand you that just to refresh your  
6 memory. Do you remember those three types of jurors  
7 and what they were?

8 A. Uh-huh (affirmative response).

9 Q. That's a yes?

10 A. Yes, ma'am.

11 Q. All right. Which of those three types of  
12 jurors, Mr. Sullivan, best describes you?

13 A. Number three.

14 Q. Number three, all right, sir. Let me take that  
15 back from you. You would be willing then to listen  
16 to whatever you might hear, and if you thought it was  
17 appropriate that one be sentenced to death you would  
18 be able to do that?

19 A. Yes, ma'am.

20 Q. And if you thought that the death sentence was  
21 not appropriate, or for any other reason the person  
22 ought to receive life imprisonment without parole,  
23 you would be able and willing to vote for a sentence  
24 of life imprisonment without parole?

25 A. Yes, ma'am.

## Juror 293 Leo J. Sullivan - Examination

1 Q. All right. So you would make the decision based  
2 upon what you would hear in the courtroom?

3 A. Yes, ma'am.

4 Q. All right. Now, if you were chosen to serve as  
5 a juror in this case, you and the other jurors would  
6 be housed at the county's expense, and another word  
7 for that is sequestered, and you would be housed here  
8 in a local motel during the course of the trial. And  
9 that's where you would stay until the trial is over  
10 except, of course, when you're in the courtroom.

11 Now, this period, Mr. Sullivan, could  
12 be as long as two weeks, it could be a little longer.  
13 It would be until the end of the trial and there's no  
14 way for me to exactly know when that would be.

15 A. Yes, ma'am.

16 Q. Obviously that would create an inconvenience for  
17 you as it surely will for all those who serve on this  
18 jury. Other than the inconvenience which it would  
19 cause anybody who would have to serve in this  
20 capacity, would that pose a serious risk of danger to  
21 your health or well being, or to that of anybody who  
22 is dependent upon you if you had to serve in that  
23 capacity? You understand, obviously, you would be  
24 housed at county expense.

25 A. Uh-huh (affirmative response).



## Juror 293 Leo J. Sullivan - Examination

1 Q. Yes, sir.

2 A. I don't believe so, ma'am.

3 Q. All right, sir. Now, you would be able then to  
4 do that, Mr. Sullivan?

5 A. I believe.

6 Q. All right. Very well. All right. I'm now  
7 going to ask these lawyers if they have any questions  
8 for you, Mr. Sullivan.

9 Mr. Cummings, Ms. Hardee-Thomas, do  
10 you have any questions for Mr. Sullivan?

11 MR. CUMMINGS: If we may, Judge. Thank  
12 you.

13 EXAMINATION

14 BY MR. CUMMINGS:

15 Q. This morning you were kind enough to come up  
16 front talk to Her Honor when we were standing here  
17 around the court reporter, Mr. Sullivan?

18 A. Yes, sir.

19 Q. We kind of got spread out a little bit here and  
20 I would like to go over that, again, not to violate  
21 your privacy, sir. When you came up to talk to Her  
22 Honor, could you please tell us what that was about  
23 again?

24 A. Well, I just got fired from my job.

25 Q. Yes, sir.

## Juror 293 Leo J. Sullivan - Examination

1 A. They -- at the job they have stuff that they  
2 throw away and I was told that they wrote it off  
3 already, so it was going to be thrown away. So  
4 instead of throwing it away I was going to take it  
5 home and fix it, whatever. Unfortunately they called  
6 that theft. And I didn't believe I was stealing, but  
7 they did, so that was the outcome of that.

8 Q. All right, sir. Did they bring criminal charges  
9 against you?

10 A. No, sir.

11 Q. Or just terminate you?

12 A. Just terminate.

13 Q. And Her Honor, when she asked the questions out  
14 here of what we call the voir dire or the questions  
15 of jurors, you've not been charged with a crime or  
16 convicted of anything over one year?

17 A. No, sir.

18 Q. Thank you, sir. All right, Mr. Sullivan, now,  
19 you've been very kind and very polite to Her Honor,  
20 and then of course a few moments to either Mr. Bailey  
21 or the other young man sitting at the table answer  
22 any questions for both sides.

23 A. Yes, sir.

24 Q. I represent Mr. Bowman who's charged with these  
25 offenses, sir. And Ms. Marva Hardee-Thomas sits on

## Juror 293 Leo J. Sullivan - Examination

1 the other side of this gentleman. Would the fact  
2 that somebody's arrested, would you believe if the  
3 police arrest somebody that they're guilty?

4 A. No, sir.

5 Q. All right. So you would be willing to listen as  
6 you told Her Honor a few moments ago, sir, to all the  
7 facts and all the evidence here before you could ever  
8 render a decision in your mind whether or not  
9 somebody has been proven guilty beyond a reasonable  
10 doubt?

11 A. Yes, sir.

12 Q. All right, sir. And that you would be willing  
13 to take the law as the boss, as Her Honor gives it?

14 A. Yes, sir.

15 Q. You understand that you may not like it, you may  
16 not even think it makes any sense, but if the judge  
17 reads it to you, gives it to you, you'd follow it?

18 A. Yes, sir.

19 Q. And that you would work and pay attention in  
20 this courtroom and listen to all the evidence?

21 A. Yes, I would, sir.

22 Q. You would keep an open mind, because any citizen  
23 charged with a crime has a right to a fair trial; is  
24 that true, Mr. Sullivan?

25 A. Absolutely.

## Juror 293 Leo J. Sullivan - Examination

1 Q. And, Mr. Sullivan, you heard Her Honor say that,  
2 you know, the jurors, if you are picked, sir, will  
3 have to be housed in a hotel. And I know that's a  
4 great inconvenience to any citizen. Would that fact  
5 bother you on your jury service, sir, or take your  
6 mind away from it?

7 A. No, sir.

8 Q. And you would be willing to do your civic duty  
9 and give not only that gentleman there a fair trial,  
10 but the State a fair trial as well?

11 A. Yes, sir.

12 Q. And, Mr. Sullivan, and I guess these are  
13 questions that we ask to try to get the jurors to  
14 tell us everything they can about a feeling here.  
15 You just told Her Honor a few moments ago that you  
16 are a type three juror, which means a citizen who  
17 would either vote for life --

18 A. Yes, sir.

19 Q. -- without the possibility of parole, or if the  
20 facts so warranted that the State has to prove and  
21 convince the 12 of you good citizens to impose the  
22 death penalty you could sign your name to what we  
23 call a form that would ask Her Honor to impose that  
24 sentence that the jury passes out.

25 A. Yes, sir.

## Juror 293 Leo J. Sullivan - Examination

1 Q. And you could do that also?

2 A. Yes, sir.

3 Q. And you would want to listen to every bit of  
4 evidence, though, first before you ever reached that  
5 decision; is that true, Mr. Sullivan?

6 A. Absolutely, sir.

7 Q. And, Mr. Sullivan, if you heard booze or  
8 anything mentioned about alcohol, would that bother  
9 you, that you could not give somebody a fair trial?

10 A. No, sir.

11 Q. And you don't have any underlying reasons that  
12 you couldn't be a fair and impartial juror in this  
13 case, and I know you would tell Her Honor that if you  
14 did?

15 A. I have no --

16 Q. You have no reason not to serve?

17 A. I have no reason not to.

18 Q. And, again, sir, the reason I ask that now,  
19 there's been no publicity presented to you, or  
20 nothing you heard or read that would ever cause you  
21 to be anything other than a fair and impartial  
22 gentleman you've told Her Honor you would be?

23 A. Correct, sir.

24 MR. CUMMINGS: Beg the Court's indulgence,  
25 Your Honor.

## Juror 293 Leo J. Sullivan - Examination

1 THE COURT: Yes, sir.

2 (Mr. Cummings and Ms. Hardee-Thomas conferring  
3 with Mr. Bowman.)

4 MR. CUMMINGS: That's all the questions I  
5 have of that gentleman. Thank you, ma'am.

6 THE COURT: All right, Mr. Bailey.

7 EXAMINATION

8 BY MR. BAILEY:

9 Q. I'm Walter Bailey, I'm going to be very brief  
10 because I think between the judge and Mr. Cummings  
11 you've probably been asked all the questions. Let me  
12 ask you this one question about the death penalty.  
13 Is the death penalty something you've had occasion to  
14 think about in the past before you found out you  
15 might be on this jury?

16 A. I've only heard it on the news and stuff like  
17 that.

18 Q. Okay.

19 A. I haven't really, really thought about it.

20 Q. I notice from your questionnaire that you go to  
21 church pretty much on a weekly basis?

22 A. Excuse me?

23 Q. You go to church pretty much on a weekly basis,  
24 every week, every Sunday?

25 A. Yes. Yes, sir.

## Juror 293 Leo J. Sullivan - Examination

1 Q. Okay. Do you have any religious beliefs in  
2 regard to the death penalty that you think might  
3 impact your ability to sit as a juror in this kind of  
4 case?

5 A. No, sir.

6 Q. All right, sir. And Mr. Cummings asked you  
7 about the death verdict form and you told him that  
8 you would be able to sign your name if you felt like  
9 that was the appropriate punishment if we got to that  
10 point?

11 A. Yes, sir.

12 Q. There's another procedure where if the jury  
13 unanimously votes for the death penalty each juror is  
14 asked to stand up when the name is called and  
15 announce out loud if that was their verdict, if that  
16 was their verdict. Could you do that when your name  
17 was called if you heard all the testimony and decided  
18 the death penalty was the most appropriate sentence?

19 A. Yes, sir.

20 Q. All right, sir. And you understand that  
21 whatever the jury's verdict is will be the order of  
22 the Court, that order will be carried out?

23 A. Yes, sir.

24 Q. If you felt like the case warranted a life  
25 sentence you would vote for life, on the other hand

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1 if we got to that point you felt like the death  
2 penalty was warranted you could also vote for that  
3 knowing that sentence would eventually be carried  
4 out?

5 A. Yes, sir.

6 Q. All right, sir. That's all I have, sir. Thank  
7 you very much.

8 EXAMINATION

9 BY MR. CUMMINGS:

10 Q. Mr. Sullivan, you understand that if the jury so  
11 found that they don't have to give the death penalty,  
12 if the jury so found?

13 A. Yes. I understood that, yes.

14 MR. CUMMINGS: Beg the Court's indulgence,  
15 I think that's our questions.

16 THE COURT: Yes, sir. That's fine. Thank  
17 you very much.

18 All right. Mr. Sullivan, I'm going  
19 ask you just to step right outside this door  
20 just for a moment. We won't be long, but we  
21 will talk about you behind your back. Thanks.  
22 We'll be right with you.

23 MR. SULLIVAN: Yes, ma'am.

24 THE COURT: Thank you, Mr. Sullivan.

25 (Whereupon, the prospective juror exits the



Juror 293 Leo J. Sullivan - Examination

1 courtroom.)

2 THE COURT: What says the defense?

3 MR. CUMMINGS: Judge, I believe he's  
4 qualified and I would like to be heard on one  
5 brief issue of law for your guidance.

6 THE COURT: Sure.

7 MR. BAILEY: I believe he's qualified, Your  
8 Honor.

9 THE COURT: Yes, thank you. I, likewise,  
10 find that he's qualified.

11 Yes, sir.

12 MR. CUMMINGS: Thank you, Judge. I know  
13 we've been talking about the issue we've got to  
14 keep religion out of this proceeding, and I know  
15 that the question asked on the juror form was  
16 would your religious beliefs prohibit you from  
17 doing that.

18 THE COURT: That's fine, Mr. Cummings. No,  
19 it was in terms of argument.

20 MR. CUMMINGS: Yes, ma'am.

21 THE COURT: And once this trial begins I'm  
22 concerned about opening statements, closing  
23 arguments and the like. Certainly -- and thank  
24 you for that clarification, but clearly in terms  
25 of voir dire it was asked on the questionnaire

## Juror 293 Leo J. Sullivan - Examination

1 and you may need to question.

2 MR. CUMMINGS: Absolutely, Judge.

3 THE COURT: That's fine.

4 MR. CUMMINGS: I guess why I'm standing up,  
5 and I'm trying to be as polite as I can about  
6 this, but Your Honor saying that how this has  
7 placed any defendant charged with this case,  
8 jurors will be disqualified almost 90 percent of  
9 the time based on religious belief that life is  
10 only taken by a god or some only be taken by  
11 God, and therefore, Judge, I'm just trying to  
12 renew my argument earlier that it would be  
13 unconstitutional to keep religion out of this.  
14 You've ruled, I'm just restating that for the  
15 record, ma'am, but I know you have ruled.

16 THE COURT: I have ruled.

17 MR. CUMMINGS: Yes, ma'am.

18 THE COURT: You want to ask them do they  
19 believe the life can only be taken by God?

20 MR. CUMMINGS: No, ma'am. I'm trying to  
21 say the influx of religion by asking that  
22 question of whether or not your religious  
23 beliefs prohibit you from rendering a death  
24 penalty verdict, that my client is denied a  
25 fundamental due process right to have a juror

## Juror 293 Leo J. Sullivan - Examination

1 that can follow the evidence and the law as Her  
2 Honor gives it, and even though she has or he  
3 has an instilled religious belief would not make  
4 them disqualified from being a juror who could  
5 find guilt or innocence based on the law and the  
6 fact and leave punishment up to the 12 people in  
7 that jury. And it counters our state law that  
8 says people who are type two jurors cannot  
9 serve.

10 And I'm arguing, Judge, that that  
11 prohibits a class of people strictly out of ever  
12 serving on a death penalty case if they believe  
13 morally, religiously that they cannot oppose or  
14 impose a death sentence.

15 THE COURT: Okay.

16 MR. CUMMINGS: Yes, ma'am. You've ruled  
17 and I'm just arguing to protect the record that,  
18 Judge, most people if they're religious cannot  
19 take a life and, therefore, he's denied a class  
20 of people to sit on a panel to judge him fairly  
21 and impartially in this state. And I will sit  
22 down quickly.

23 THE COURT: That's okay. I'm going to  
24 think about that because I think I missed the  
25 point. I think I missed the point.

## Juror 293 Leo J. Sullivan - Examination

1 MR. CUMMINGS: Mr. Bailey's asked about  
2 religious convictions and as soon as a person  
3 pulls up yes they're out. Again, I'm trying to  
4 rehabilitate jurors after that question is asked  
5 is almost impossible.

6 THE COURT: I got you. Okay. If it  
7 arises, let me know.

8 MR. CUMMINGS: Yes, ma'am.

9 THE COURT: Okay. Ask Mr. Sullivan to come  
10 back in.

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

13 THE COURT: Mr. Sullivan, not talking about  
14 you very much of that time, Mr. Sullivan, we  
15 launched out into another issue that I needed to  
16 know something about, so I apologize for keeping  
17 you out there as long as you were, but I do want  
18 to tell you that you have been found to be  
19 qualified as a potential juror in this case.  
20 And that doesn't mean that you are on the jury  
21 yet. It just means that you are a potential  
22 juror and may be selected to serve on this jury.

23 We are hoping to select the jury on  
24 Thursday at two o'clock, Thursday at 2:00. This  
25 may be a little ambitious and I may have to

## Juror 293 Leo J. Sullivan - Examination

1 change the time, but if I need to I'll give you  
2 a call. I won't give you a call, the clerk's  
3 office will give you a call and let you know.  
4 But unless you hear back from us I'm asking you  
5 to be back on Thursday at two o'clock.

6 And Ms. Etheredge is about to give you  
7 a sheet of paper. I hope she's written two  
8 o'clock on Thursday on there. And it just  
9 contains some instructions to help you get ready  
10 for your jury service, like packing clothes, to  
11 bring in medications that you may need. It  
12 tells you where you will be housed during the  
13 course of the trial so that you can leave that  
14 number with your family so that they can reach  
15 you in the event of an emergency. It's going to  
16 be right here locally and that number's on  
17 there. And the emergency number's put on there  
18 both for the place where you're going to be  
19 housed in the evening as well as to where to  
20 call during the day should something arise  
21 during the day.

22 Now, obviously you can discuss the  
23 details of where you will be and those numbers  
24 and the like with anybody that you need to,  
25 particularly your family because they're going

## Juror 293 Leo J. Sullivan - Examination

1 need to know where you are and the numbers that  
2 you can be reached. However, be mindful,  
3 Mr. Sullivan, that you cannot discuss any aspect  
4 of this case with anyone or allow anyone to  
5 discuss this case with you, or can you expose  
6 yourself to any information about this case.  
7 For example, the news, the newspaper, the  
8 internet, sometimes the internet will put news  
9 blurbs on the internet, or any information about  
10 this case from any source at all. Do you  
11 understand that?

12 MR. SULLIVAN: Yes, ma'am.

13 THE COURT: Thank so much, Mr. Sullivan.  
14 And you're free to go at this time and I look  
15 forward to seeing you Thursday at two o'clock  
16 unless, of course, we get in touch with you.  
17 The phone number is still -- on the sheet on  
18 your questionnaire --

19 MR. SULLIVAN: Yes, ma'am.

20 THE COURT: -- is still the same? Thank  
21 you so much.

22 (Whereupon, the prospective juror exits the  
23 courtroom.)

24 THE COURT: All right. Our next juror is  
25 Ms. Kathy Woods, Juror Number 342.

## Juror 342 Kathy M. Woods - Examination

1 (Kathy M. Woods, called as a prospective juror,  
2 having previously been duly sworn, is examined  
3 as follows:)

4 EXAMINATION

5 BY THE COURT:

6 Q. Good afternoon, Ms. Woods. How are you this  
7 afternoon?

8 A. Fine.

9 Q. Good. Now, this, of course, is Ms. Kathy M.  
10 Woods, Juror Number 342. Now, Ms. Woods, you have  
11 been sworn along with all the other potential jurors  
12 earlier in the day, and you understand that the oath  
13 that you took this morning still applies to the  
14 questions and the answers that we will share with you  
15 here today in the course of our dialogue; do you  
16 understand that?

17 A. Yes.

18 Q. All right. Now, since we talked with you this  
19 morning has anyone talked with you about this case or  
20 trial to approach about you it, or have you  
21 inadvertently or otherwise been exposed to any  
22 information about this case?

23 A. No.

24 Q. All right. Now, when you were back in the jury  
25 room you were given a list of potential witnesses,

## Juror 342 Kathy M. Woods - Examination

1 and I will share that with you because I need to ask  
2 whether or not you are related by blood or marriage  
3 or acquainted or connected by business relationship,  
4 by personal acquaintanceship or otherwise connected  
5 directly or indirectly with any of the potential  
6 witnesses listed on the sheet?

7 A. I don't recognize anybody.

8 Q. All right. And you've had an opportunity to  
9 look over this sheet?

10 A. Yes. Yes.

11 Q. All right. Very well. Now, this morning,  
12 Ms. Woods, you did indicate when we asked of you  
13 whether or not you had any opinion or had seen or  
14 read anything about this case, or had any bias or  
15 prejudice for or against either side in this case.  
16 Do you remember that question this morning?

17 A. Yes. Yes.

18 Q. And do you remember your response?

19 A. Yes, I --

20 Q. All right. And as I recall you indicated that  
21 you had heard or seen information regarding this  
22 case; is that right?

23 A. Yes.

24 Q. All right. And let me ask of you, and I don't  
25 want to specifically know either the source of your



## Juror 342 Kathy M. Woods - Examination

1 information or what it is that you know, I don't need  
2 to know that detail, but what I would ask of you is  
3 whether or not you have -- whether or not you have  
4 formed any opinions about this particular matter?

5 A. I have not.

6 Q. You have not formed any opinions, okay. And  
7 with regards to the information that you have  
8 previously heard or seen or otherwise regarding this  
9 case, would that information in any way impact,  
10 interfere with your ability to be completely fair and  
11 impartial both to the State as well as to Mr. Bowman?

12 A. No, don't I think so.

13 Q. All right. Now, you can set aside completely  
14 what you have heard or seen about this case in its  
15 entirety and try this case if you were a juror in  
16 this matter based upon the information in this  
17 courtroom and the law as I would give it to you?

18 A. Yes. Can I just say what it was that was in the  
19 paper this weekend --

20 Q. All right.

21 A. -- where the jury was going to be selected?

22 Q. All right.

23 A. That's pretty much what it was.

24 Q. Very well. All right. Now, I need to ask you  
25 some questions. And please know that we are not

## Juror 342 Kathy M. Woods - Examination

1 trying to invade your privacy, we are just trying to  
2 find out how you may feel about certain matters; in  
3 other words, what your opinions are. You know, of  
4 course, and I would share with you, of course, there  
5 are no right and no wrong answers and obviously your  
6 opinions are just as good and valid as anybody  
7 else's. And we don't certainly challenge them in any  
8 regard, we just need to understand them and see  
9 how -- if they may, how they may impact on your jury  
10 service.

11 One of the things that I want to ask  
12 your opinion about in a few moments is penalty,  
13 specifically the death penalty. Because that may be  
14 an issue in this case, but I would want you to  
15 understand that the mere fact that we are talking  
16 about penalty at this early stage is obviously real  
17 premature. This trial has not even begun. And as I  
18 have said, Mr. Bowman is presumed innocent of the  
19 charges that he's charged with, but this is the only  
20 time that we can talk with you about the penalty  
21 necessarily before the trial ever gets underway.

22 Now, if you were a juror in any type  
23 of criminal case, and I'm not asking you about this  
24 case because you don't know anything about this case,  
25 wouldn't be fair to you for me to ask you about this

## Juror 342 Kathy M. Woods - Examination

1 case and I'm not going to do that. But in a generic  
2 sense, in a general sense if you were a juror in any  
3 criminal case would you be willing to listen to the  
4 law as you were instructed by the judge?

5 A. Yes.

6 Q. And would you be willing to accept the law and  
7 apply it to the facts as you found them to be?

8 A. Yes.

9 Q. And even though you might not particularly like  
10 the law, you might even disagree with it, would you  
11 still be willing to follow the law as you were  
12 instructed to do by the Court, by me?

13 A. Yes.

14 Q. All right. And if you were asked to serve in  
15 the case of State vs. Bowman, could you decide this  
16 case based solely upon what you hear in this  
17 courtroom and disregard anything that you may have  
18 seen, or heard, or read about this case from any  
19 source at all?

20 A. Yes.

21 Q. Now, in a criminal case as I've told you all  
22 this morning the State has the burden of proving the  
23 guilt of the defendant, any defendant, and this  
24 defendant, Mr. Bowman, beyond a reasonable doubt. In  
25 other words, a defendant, this defendant, has no

## Juror 342 Kathy M. Woods - Examination

1 burden to prove his innocence. He is presumed  
2 innocent under the law. Do you understand this?

3 A. Yes.

4 Q. And so if you were a juror in any criminal case  
5 would you be willing to listen to the facts and  
6 circumstances and the law as you were instructed?

7 A. Yes.

8 Q. And based upon the facts as you found them to  
9 be, and the circumstances as you found them to be,  
10 and the law as charged to you by the Court and once  
11 you found the facts and applied the law if you found  
12 that the State had failed to prove the defendant  
13 guilty beyond a reasonable doubt, would you be  
14 willing to find the defendant not guilty of a  
15 criminal charge?

16 A. Yes.

17 Q. Likewise, could you, depending on what you found  
18 the facts and circumstances to be, if you found that  
19 the State has proven the defendant guilty beyond a  
20 reasonable doubt, would you be willing to find him  
21 guilty?

22 A. Yes.

23 Q. All right. In other words, could you, and would  
24 you be willing to listen and make your decision based  
25 upon whether or not you were convinced that a person

## Juror 342 Kathy M. Woods - Examination

1 is guilty or not?

2 A. Yes.

3 Q. Now, most of the time jurors do not concern  
4 themselves with the matter of punishment, most of the  
5 time in the criminal courtroom that's left up to the  
6 Court, it's left up to the judge. But there is one  
7 case in our law when a jury has to deal with the  
8 matter of punishment and that's a case like this one.  
9 It is in a case where an individual has been charged  
10 with a crime of murder and the State is seeking the  
11 death penalty. If an individual in a death penalty  
12 case is convicted of the crime of murder, then that  
13 same jury that convicted him or her of murder must  
14 come back and in a separate and different proceeding  
15 decide the sentence that the person would get. There  
16 are only two choices. One is life imprisonment  
17 without the possibility of parole and one is the  
18 death penalty. That would be, punishment, would be  
19 determined in a second or sentencing phase of the  
20 trial. Do you understand this?

21 A. Yes.

22 Q. Okay. Now, you've had an opportunity to look at  
23 this sheet of paper with the three types of jurors on  
24 it?

25 A. Yes.

## Juror 342 Kathy M. Woods - Examination

1 Q. Back in the room. And do you remember those  
2 three types of jurors and what they were?

3 A. Yes.

4 Q. I just hand that to you in the event, Ms. Woods,  
5 that you need to look at it. Which of those three  
6 types of jurors best describes you?

7 A. I'm juror three.

8 Q. You're juror three?

9 A. Yes.

10 Q. In other words, you would be willing to listen  
11 to whatever you might hear, and if you thought it was  
12 appropriate after you had heard the -- those matters  
13 in the sentencing phase, if you thought it was  
14 appropriate to sentence someone to death you would be  
15 able to do that?

16 A. If it was appropriate.

17 Q. All right. And if you thought that the death  
18 sentence was not appropriate, or for any other reason  
19 that the person ought to receive life imprisonment  
20 without parole, would you be able and willing to vote  
21 for a sentence of life imprisonment?

22 A. Yes.

23 Q. So you would make the decision life without  
24 parole or the death penalty based upon what you would  
25 hear in the courtroom?

## Juror 342 Kathy M. Woods - Examination

1 A. Yes.

2 Q. If you were chosen to serve as a juror in this  
3 case, you and the other jurors would be housed,  
4 obviously at county expense, and the word is  
5 sequestered, you would all be housed here in a local  
6 motel during the course of the trial. That's where  
7 you would have to stay until the trial is over  
8 except, of course, when you are in the courtroom.  
9 This period could be as long as two weeks, or longer.  
10 I have no way of knowing the exact duration of the  
11 trial. Obviously that would create an inconvenience  
12 for you as it surely will for all those who serve on  
13 this jury.

14 Now, other than the inconvenience  
15 which it would surely cause you and anybody who would  
16 have to serve in this capacity, would that pose a  
17 serious risk of danger to your health or well being  
18 or to that of anybody who is dependant upon you if  
19 you had to serve in that capacity?

20 A. Well, my husband wouldn't have coffee made for  
21 him in the mornings and he wouldn't get to make it  
22 for me in the mornings. No.

23 Q. All right. Very well. All right. Ms. Woods,  
24 I'm going now ask these attorneys if they have  
25 questions of you, they very well may.

## Juror 342 Kathy M. Woods - Examination

1 Mr. Bailey.

2 MR. BAILEY: Thank you, Your Honor.

3 EXAMINATION

4 BY MR. BAILEY:

5 Q. Ms. Woods, I'm Walter Bailey and I want to ask  
6 you a few more questions about the death penalty.  
7 Before I do that I wanted to ask you about a couple  
8 of your responses in the questionnaire. There is one  
9 question that asks whether or not a juror felt like  
10 community opinion and peer pressure might affect your  
11 ability to be impartial and your questionnaire has  
12 yes on that.

13 A. It could. I'm sure it could.

14 Q. Okay. As the judge told you a juror needs to  
15 form their opinion based upon the evidence they hear.

16 A. Right.

17 Q. And as far as the facts on the evidence they  
18 hear, and the judge would tell them what the law is  
19 and they would apply the law the judge gave them to  
20 the facts that they heard from that witness stand and  
21 then render a verdict. Peer pressure, community  
22 pressure, what goes on outside of the courtroom would  
23 not have a bearing on that if they follow the  
24 instructions.

25 Do you think that if you were picked



## Juror 342 Kathy M. Woods - Examination

1 in any case, not this case, but any criminal case  
2 that you could base your decision on the facts and  
3 the law and set aside what you felt like the  
4 community may think about the case?

5 A. I would try to.

6 Q. Okay. Do you think you would be able to?

7 A. I think I would be able to.

8 Q. All right. The next question asked about, it  
9 was a similar question, asked the fact you would have  
10 to return to work and live in the community after  
11 rendering your verdict, would that have an effect to  
12 be fair and impartial. And you answered yes on that  
13 also. Would that -- I guess same question. Would  
14 you be able to base an opinion as a juror on the  
15 facts as you found those facts to be --

16 A. I think I could.

17 Q. -- as a juror?

18 A. I think I could.

19 Q. And the law as the judge gave it to you? Okay.

20 The next question, next two questions  
21 concern any media pressure or publicity. And you  
22 indicated you had read something --

23 A. Right.

24 Q. -- prior to trial. Whatever you read, if it  
25 contained any factual information in it, could you

Juror 342 Kathy M. Woods - Examination

1 put that aside and take the facts from the sworn  
2 testimony?

3 A. Yes.

4 Q. Okay. All right. And in regard to the death  
5 penalty and, again, I'm not asking about this case,  
6 you don't know anything about the facts of the case  
7 at this point, but if a jury reaches that second  
8 phase of the trial that would mean they found the  
9 defendant guilty of murder beyond a reasonable doubt  
10 in the guilt phase, then we go into the second phase  
11 of the trial.

12 And you've indicated to the judge that  
13 if you felt like it was appropriate you could bring  
14 back a verdict for life without parole; Is that  
15 correct?

16 A. Depending upon the circumstances, yes, I think I  
17 could.

18 Q. If you felt the circumstances warranted a death  
19 penalty, you could by the same token bring back a  
20 verdict for the death penalty?

21 A. I think I could, yes.

22 Q. If the jury votes for the death penalty each  
23 juror would be asked when the verdict form is -- when  
24 the verdict is brought out, when their name is called  
25 out to stand up one at a time and announce that

## Juror 342 Kathy M. Woods - Examination

1 verdict out loud. Could you do that if that was your  
2 verdict?

3 A. I think I could, yes.

4 Q. Okay. There's a death verdict form that each  
5 juror would be asked to sign if they unanimously  
6 voted for the death penalty. Could you sign that  
7 form knowing that eventually that person would  
8 actually be executed based on that jury's verdict?

9 A. That would be very hard, but if -- like I said,  
10 if the circumstances warranted that I could do that I  
11 think.

12 Q. All right. Okay. I think that's all I have.  
13 Let me check real quick, Ms. Woods. All right. I  
14 suppose that's all I've got. Thank you very much.

15 THE COURT: Thank you, Mr. Bailey.

16 Mr. Cummings, Ms. Hardee-Thomas.

17 MR. CUMMINGS: Thank you, Judge.

18 EXAMINATION

19 BY MR. CUMMINGS:

20 Q. Ms. Woods, I know we had a chance to see each  
21 other a week or two ago now.

22 A. Right.

23 Q. I'm Norb Cummings, that's Ms. Hardee-Thomas,  
24 we're court appointed to represent Mr. Bowman, that's  
25 Ms. Thomas seated next to Mr. Bowman. When we last

## Juror 342 Kathy M. Woods - Examination

1 spoke, and I thank you again for your kindness and  
2 candor with Mr. Bailey and Your Honor, asking you  
3 about a lot of questions about your life. And why we  
4 do this is to try to find a juror who will swear to  
5 their God to be fair and impartial.

6                   And you've -- and I know you're up  
7 there and you're being asked a lot of questions. And  
8 we don't mean to pry, either the State or the  
9 defense, about trying to get in and disrupt what  
10 you're saying or what you're thinking about. And  
11 you've given very candid answers to Her Honor's  
12 questions and you've done so for Mr. Bailey and I  
13 know you'll do that for me.

14                   When we last spoke you had been a  
15 witness in a federal investigation; is that correct,  
16 ma'am?

17 A.   That's correct.

18 Q.   And you have not heard anything else back from  
19 any of the good folks about wanting you to go back to  
20 that state?

21 A.   Not yet.

22 Q.   Not yet. And the reason why we ask that, of  
23 course, is as you see how many people are up here,  
24 the court scheduling and how long even we've been  
25 here today. And Her Honor told you about being

## Juror 342 Kathy M. Woods - Examination

1 sequestered and I noticed on your questionnaire you  
2 said there were only two employees at your company?

3 A. There are only two in the position, or that can  
4 do the position that I'm in.

5 Q. Yes, ma'am. And that's kind of special and  
6 important. And I know you told that to Her Honor  
7 about a week ago --

8 A. That's correct.

9 Q. -- to point that concern out.

10 A. That's correct.

11 Q. Would that cause you any -- and I know not  
12 that -- and not even using the word inconvenience  
13 because everybody's going to be inconvenienced, but  
14 any particular hardship that would focus maybe, you  
15 know, your mind and your personal issues, ma'am, on  
16 the job instead of the devoting 125 percent of your  
17 attention to this room?

18 A. I mean, it would be very stressful. This week  
19 will be the toughest, the other person will be back  
20 from vacation next week.

21 Q. Yes, ma'am.

22 A. So he could take over most of the -- my duties  
23 that I'm doing.

24 Q. Yes, ma'am. And if anything came up you could  
25 tell Her Honor any issues or any concerns that you

## Juror 342 Kathy M. Woods - Examination

1 may have if you are chosen to come back on the jury  
2 for the remainder of this week?

3 A. Yes.

4 Q. Would you be willing to do that?

5 A. Yes.

6 Q. And, Ms. Woods, I want to go back a little bit  
7 now because as you, being the intelligent polite lady  
8 that you are to us in here today, you understand that  
9 there may be media coverage of this because you read  
10 something over the weekend?

11 A. Right.

12 Q. You understand not everything you read in the  
13 paper is always right?

14 A. You're right.

15 Q. And you heard the boss today, the judge, say  
16 Mr. Bowman's been accused of two particular crimes,  
17 she read the indictments.

18 A. Yes.

19 Q. And they're not evidence.

20 A. Right.

21 Q. Based on that, could you solely devote your  
22 fairness and impartiality based on the two charges,  
23 based on the evidence you heard and the facts as  
24 proven by the State?

25 A. What's occurred here in the courtroom.

## Juror 342 Kathy M. Woods - Examination

1 Q. Yes, ma'am.

2 A. Yes, I could.

3 Q. You understand the defendant doesn't have to do  
4 anything in a courtroom?

5 A. That's right.

6 Q. Would the fact that you are, for lack of better  
7 words, testifying in a federal investigation, would  
8 that slant you in any way to be pro State or pro  
9 defendant?

10 A. I don't think so.

11 Q. Okay. And the reason why you said you don't  
12 think so is because that has nothing to do with this  
13 case in here?

14 A. That's correct.

15 Q. You understand with media coverage that -- and  
16 you were a very polite lady when you said we may have  
17 some concerns about peer pressure out here in the  
18 community. Would this case really bother you if you  
19 served on it?

20 A. I don't think this case would. At the time when  
21 I filled out the questionnaire I didn't really know  
22 what was going on.

23 Q. Yes, ma'am. And, again, any community opinions,  
24 you understand that Her Honor protects all the jurors  
25 and that nobody's allowed to go talk to you, kind of

## Juror 342 Kathy M. Woods - Examination

1 like taken away from us for a long time, if you got  
2 any questions or any concerns you could bring that to  
3 Her Honor's attention?

4 A. Yes.

5 Q. And based on knowing that would you feel better  
6 about serving after hearing that from both myself or  
7 Mr. Bailey as the elected solicitor?

8 A. Yes.

9 Q. Okay. And there's no other issues or any other  
10 reason why you could not serve in this case, that  
11 giving everybody a fair and impartial trial?

12 A. The only -- if I get subpoenaed to Mississippi  
13 again, I don't know how that works.

14 Q. Yes, ma'am.

15 A. And I don't know when that could happen.

16 Q. Okay. I appreciate your candor.

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

18 THE COURT: Very well, yes.

19 MR. CUMMINGS: Thank you, Ms. Woods.

20 (Mr. Cummings and Ms. Hardee-Thomas conferring  
21 with Mr. Bowman.)

22 MR. CUMMINGS: That's all the questions I  
23 have of this nice lady. Thank you, Judge.

24 Thank you, ma'am.

25 THE COURT: Very well. Ms. Woods, would



## Juror 342 Kathy M. Woods - Examination

1       you do this for me, just step right outside the  
2       courtroom? We're going to talk about you. This  
3       is the second time we talked about you behind  
4       your back. We're going to do that again and  
5       we'll get you right back in.

6       (Whereupon, the prospective juror exits the  
7       courtroom.)

8               THE COURT: What says the State?

9               MR. BAILEY: Qualified, Your Honor.

10              THE COURT: The defense?

11              MR. CUMMINGS: Judge, I just raise two  
12       issues. We do not believe she's qualified. I  
13       think both her answers to Mr. Bailey and myself  
14       is she thinks she could, she would try to, I  
15       think I would be able to. And I know the lady  
16       said that three times that she was being very  
17       candid and very polite to everybody in here and  
18       she has that one concern about being subpoenaed  
19       back to either Mississippi or Louisiana as I  
20       read my notes, therefore, Judge, I don't believe  
21       this lady is qualified.

22              THE COURT: Thank you very much. Over the  
23       objection of the defense I find that Ms. Woods  
24       is qualified. I have observed her demeanor, I  
25       found her to be very forthright and I think that

## Juror 342 Kathy M. Woods - Examination

1       when she says that I think I can that she is  
2       truly examining her ability to follow the  
3       instructions and to do what she said she can do,  
4       so I don't -- I did not hear and I think the  
5       record should reflect that I did not hear  
6       ambivalence as much as I heard examination of  
7       her own beliefs. And she genuinely believes  
8       that she will and can do as she should, so I  
9       find that she is qualified.

10               I am not concerned about her being  
11       subpoenaed. In the event that, (a), that that  
12       happened, and that there's no certainty about  
13       when that would happen, but in the unlikely  
14       event, I believe, that that would happen during  
15       this period of this trial and we were unable to  
16       work that out with the jurisdiction that  
17       subpoenaed her for that purpose, that is why we  
18       have alternates, so I don't find that that would  
19       be an adequate reason to excuse her, so over the  
20       objection and exception of the defense I will  
21       find that Ms. Woods is qualified.

22               If you'll invite her back in.

23       (Whereupon, the prospective juror returns to the  
24       courtroom.)

25               THE COURT: Ms. Woods, I would suggest the

## Juror 342 Kathy M. Woods - Examination

1 coffee that comes prepackaged in the -- you  
2 know, in the little thing, that hubby can just  
3 put in the coffee maker and the water. He'll be  
4 fine. You have been found to be qualified as a  
5 potential juror in this case. That does not  
6 mean that you are on the jury yet, it just means  
7 that you are a potential juror and may be  
8 selected to serve on this jury.

9 We are hoping that we will be able to  
10 select the jury at two o'clock on Thursday. Two  
11 o'clock on Thursday. This may be a little  
12 ambitious. And if we have to change the time we  
13 will call you and let you know, but unless you  
14 hear from us I'm go to ask that you be back on  
15 Thursday at two o'clock.

16 And Ms. Etheredge -- oh, Ms. Graham  
17 now has for you a sheet of paper which she's  
18 going to hand to you that contains some  
19 instruction to help you get ready for your jury  
20 service, like packing clothes and medications  
21 that you may need. It tells you where you will  
22 be housed during the course of the trial so that  
23 you can leave that number with your family as  
24 well as a number here at the courthouse so that  
25 your family will have numbers where you can be

Juror 342 Kathy M. Woods - Examination

1 reached at night and during the day in the event  
2 of an emergency.

3 Now, the sequestration details, those  
4 practical matters about getting packed or ready  
5 for your jury service, those are fine to talk  
6 about with your family, your employer and the  
7 like. However, you must not discuss any aspect  
8 of the case with anyone or allow anyone to  
9 discuss the case with you or expose yourself to  
10 any information about this case from any source  
11 at all.

12 What that means is don't listen to the  
13 TV about it, don't listen to the radio about it,  
14 don't look at the internet about it or the  
15 newspaper, just be sure that you don't expose  
16 yourself to any information about this case from  
17 any source at all. Do you understand this?

18 MS. WOODS: Yes.

19 THE COURT: Thank you so much for your  
20 time. I look forward to seeing you Thursday at  
21 two o'clock. The number that's on your -- well,  
22 the two numbers, your numbers are still correct?

23 MS. WOODS: Yes.

24 THE COURT: Got them. Thank you so much.

25 (Whereupon, the prospective juror exits the

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1 courtroom.)

2 THE COURT: All right. Our next juror.

3 MR. BAILEY: Your Honor, before the next  
4 juror comes out, Mr. McCarter, I believe, is the  
5 next juror.

6 THE COURT: Yes.

7 MR. BAILEY: Mr. Cummings and I have been  
8 sharing information about who we had formerly  
9 represented or knew and all that. Mr. Cummings  
10 said that he represented Mr. McCarter, I  
11 believe, on a DUI case.

12 MR. CUMMINGS: Correct, sir.

13 MR. BAILEY: When the question was asked of  
14 all of them whether or not they had any  
15 affiliation or knew any of the lawyers involved,  
16 he did not stand up. And I don't know whether  
17 he didn't understand the question or whether  
18 he's intentionally not disclosing that, but I  
19 would request that Your Honor inquire of him why  
20 he didn't.

21 THE COURT: I will. I certainly will.  
22 Very well. All right. Would you invite in  
23 Mr. Casey A. McCarter, Number 197.

24 (Casey A. McCarter, called as a prospective  
25 juror, having previously been duly sworn, is

## Juror 197 Casey A. McCarter - Examination

1 examined as follows:)

2 EXAMINATION

3 BY THE COURT:

4 Q. You are Mr. Casey A. McCarter?

5 A. Yes, ma'am.

6 Q. You are, of course, Juror 197. You have been  
7 sworn along with all the potential jurors today as  
8 you will recall.

9 A. Yes, ma'am.

10 Q. You understand the oath you took this morning  
11 still applies to the questions and answers that we  
12 will share with you here today in the course of this  
13 dialogue? Do you understand that?

14 A. Yes, ma'am.

15 Q. All right. Now, since we talked with you this  
16 morning, Mr. McCarter, has anyone talked with you  
17 about this case or tried to approach you about it, or  
18 have you inadvertently or otherwise been exposed to  
19 any information about this case?

20 A. No, ma'am. I have not.

21 Q. All right, sir. Now, Mr. McCarter, when you  
22 were back in the jury room you were given a list of  
23 potential jurors and I hand that list to you for your  
24 continuing perusal and I would ask if you've had a  
25 chance to review this list?

## Juror 197 Casey A. McCarter - Examination

1 A. Yes, ma'am. I have. I never heard of any one  
2 of these people on these lists.

3 Q. All right. And, Mr. McCarter, I would ask, and  
4 I asked of you this morning regarding whether or not  
5 you knew either the defendant, Mr. Bowman, or any of  
6 the alleged victims in this matter as well as any of  
7 the attorneys and you did not indicate that you did.  
8 Does that remain correct?

9 A. Right. Yes, ma'am.

10 Q. You don't know any of the attorneys?

11 A. The attorneys?

12 Q. Yes, sir.

13 A. Oh, yes, sir. I do know the attorney.

14 Q. Okay. Tell me about that.

15 A. Well, I was represented in a DUI case. I'm  
16 terrible with time, might have been about four years  
17 ago, maybe five years ago.

18 Q. All right.

19 A. And Mr. -- actually it was Henry Schlein, if I'm  
20 pronouncing it right, Schlein.

21 Q. All right.

22 A. It was one of Norbert's -- Mr. Cummings'  
23 associates.

24 Q. Associates, okay. I asked that question this  
25 morning of you, Mr. McCarter. Tell me why you did

## Juror 197 Casey A. McCarter - Examination

1 not respond then.

2 A. I don't believe I heard Mr. Schlein's name. I  
3 didn't hear Mr. Schlein's name, I don't believe, when  
4 you asked that question.

5 Q. Did you hear Mr. Cummings' name?

6 A. Yes, sir. Excuse me, yes, ma'am, I did.

7 Q. All right. All right, sir.

8 A. But I never really had anything -- it was always  
9 with Mr. Schlein, basically.

10 Q. All right. All right, sir. But you're telling  
11 me now that you were represented by Mr. Schlein?

12 A. Yes, ma'am.

13 Q. And when you -- and Mr. Schlein at that time was  
14 an associate in Mr. Cummings' office, he worked in  
15 Mr. Cummings' --

16 A. Yes, ma'am. He works with Mr. Cummings' office,  
17 yes, ma'am.

18 Q. All right, sir. And you think that was about  
19 four years ago?

20 A. Yes, ma'am. Maybe five. Four or five.

21 Q. All right. Four or five years ago.

22 A. Yes, ma'am. It was some time ago.

23 Q. All right. Now, this morning, Mr. McCarter, you  
24 did not indicate that you had any opinion, or had  
25 seen, or heard, or read anything about this case, or



## Juror 197 Casey A. McCarter - Examination

1 had any bias or prejudice for or against either side  
2 in this case. You did not indicate that any of those  
3 things applied to you, didn't have any bias, didn't  
4 have any prejudice for or against either side, or  
5 didn't have any opinion or you hadn't read, or seen,  
6 or heard anything about this particular matter. Is  
7 that right?

8 A. Yes, ma'am. I have no idea what it's even  
9 about.

10 Q. All right. Since we talked this morning has  
11 anything come into your memory that may have jogged  
12 your memory and created some knowledge that maybe  
13 didn't exist this morning?

14 A. No, ma'am. I still don't know what it's about.

15 Q. All right. Now, Mr. McCarter, I need to ask  
16 you, we need to ask you some questions. And I want  
17 you to know that we are not trying to invade your  
18 privacy, we are just trying to find out how you may  
19 feel about some matters; in other words, what your  
20 opinions are about some things.

21 A. Sure. That's fine.

22 Q. You know that there's no right or wrong answer  
23 and obviously your opinions are just as good and just  
24 as valid as anyone else's. And we don't challenge  
25 your opinions in any regard, we just need to

## Juror 197 Casey A. McCarter - Examination

1 understand them and see how those opinions may impact  
2 on your jury service.

3           One of the things that I will ask you  
4 about in a few moments is penalty, specifically the  
5 death penalty because that may be an issue in this  
6 case. But you understand that the mere fact that we  
7 are talking about the penalty at this stage really is  
8 premature, because the trial hasn't even begun. And  
9 as I've said, Mr. Bowman is presumed innocent of the  
10 charges that he is charged with, but this is the only  
11 time that we can talk about the penalty and  
12 necessarily before the trial ever gets underway.

13 A. Right.

14 Q. Now, if you were a juror in any type of criminal  
15 case, I'm not going to ask you about this case  
16 because you don't know anything about this case, it  
17 would be unfair to you for me to ask you what you  
18 might do in this case.

19 A. Right.

20 Q. And that's not what we're about. But in the  
21 generic sense, in the general sense if you were a  
22 juror in any criminal case would you be willing to  
23 listen to the law as you were instructed by the  
24 Court, by the judge?

25 A. Yes, ma'am. I would.

## Juror 197 Casey A. McCarter - Examination

1 Q. Would you be willing to accept that law and  
2 apply that law to the facts as you found them to be?

3 A. From...?

4 Q. The judge.

5 A. Are you still speaking about the death penalty?

6 Q. Any criminal case. In any criminal case.

7 A. Oh, any case.

8 Q. Would you be willing to accept the law and apply  
9 the law to the facts as you found them to be?

10 A. Yes, ma'am. Yes, ma'am, I would.

11 Q. All right. And even though you may not  
12 particularly like the law, or you might even disagree  
13 with it, would you still be willing the follow the  
14 law as you were instructed to do so by the judge?

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

16 Q. All right, sir. If you were asked to serve in  
17 the case of State vs. Mr. Bowman, could you decide  
18 this case based solely upon what you would hear in  
19 this courtroom and disregard anything that you may  
20 have seen, or heard, or read about this case from any  
21 source at all if anything like that should come into  
22 your memory?

23 A. Right.

24 Q. Could you do that?

25 A. What --

## Juror 197 Casey A. McCarter - Examination

1 Q. What am I saying? Sounds like a trick question?

2 A. Yeah. Could you repeat? I'm sorry.

3 Q. In other words, sometimes what will happen to  
4 folks, they will hear something.

5 A. Would it change my judgment? No.

6 Q. What happens it will jog your memory and you  
7 would say, oh, my goodness, I remember hearing a  
8 little something about that.

9 A. Right.

10 Q. If that happened to you would you be willing to  
11 set that aside -- hold on, let's let Norfolk Southern  
12 get by. (Train) -- if that happened to you and  
13 something that you heard jogged some memory?

14 A. Something that I heard outside of the courtroom?

15 Q. That you heard before.

16 A. Yeah. I would pretty much disregard that.

17 Q. That's right. Could you disregard that in its  
18 entirety and decide this case based upon the evidence  
19 in this courtroom?

20 A. Yes, ma'am.

21 Q. All right.

22 A. Yes, ma'am.

23 Q. Now, in a criminal case as you know and as we  
24 talked about briefly this morning, the State has the  
25 burden of proving the guilt of a defendant beyond a

## Juror 197 Casey A. McCarter - Examination

1 reasonable doubt; in other words, the defendant has  
2 no burden, and this defendant, Mr. Bowman, has no  
3 burden to prove his innocence. He is presumed  
4 innocent under the law as is any defendant and I'd  
5 ask if you understand that?

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

7 Q. So if you were a juror in any criminal case  
8 would you be willing to listen to the evidence, to  
9 listen to the facts and listen to the law as you were  
10 instructed?

11 A. Yes, ma'am.

12 Q. And would you be willing to base your decision  
13 upon the facts as -- and circumstances as you found  
14 them to be, apply the law given to you by the Court,  
15 and based upon what those facts and circumstances  
16 were would you be willing to find the defendant not  
17 guilty of a criminal charge if you found that to be  
18 appropriate?

19 A. Well, if the facts pointed to it, yes, I would.

20 Q. All right. Could you, then, depending on what  
21 the facts and circumstances were, if they were  
22 something else, find a defendant guilty of a charge?

23 A. Yes, ma'am. I would if the facts pointed to him  
24 being guilty.

25 Q. All right. Guilty beyond a reasonable doubt.

## Juror 197 Casey A. McCarter - Examination

1 A. That's right.

2 Q. Very well. So you would be willing to listen  
3 and make your decision based upon whether or not you  
4 were convinced that the person is guilty or not; is  
5 that right?

6 A. Right.

7 Q. All right. Now, most of the time, Mr. McCarter,  
8 jurors don't concern themselves with the matter of  
9 punishment. Most of the time in the criminal court  
10 punishment is left up to the judge. But there is one  
11 case in our law when a jury has to deal with the  
12 matter of punishment, and that is a case like this  
13 one. It is a case where an individual has been  
14 charged with the crime of murder and the State is  
15 seeking the death penalty.

16 And if an individual in a death  
17 penalty case is convicted of the crime of murder,  
18 then the same jury that convicted him or her of  
19 murder must come back and in a separate and different  
20 proceeding decide the sentence that that person would  
21 get.

22 A. Uh-huh (affirmative response).

23 Q. There are two choices. One is life imprisonment  
24 without parole and the other is the death penalty.  
25 That would be determined in a second or sentencing

## Juror 197 Casey A. McCarter - Examination

1 phase of the trial. Do you understand this?

2 A. Yes, ma'am.

3 Q. All right. Now, Mr. McCarter, you had a chance  
4 to look at this paper, and I'm going to just show it  
5 to you, refresh your memory.

6 A. Yes, ma'am.

7 Q. To look at this paper back in the room.

8 A. Yes, ma'am.

9 Q. And you would notice essentially it describes  
10 three types of jurors for you. Do you remember those  
11 three types of jurors?

12 A. Yes, ma'am.

13 Q. And what they were?

14 A. Yes, ma'am.

15 Q. All right. Which of those three types of jurors  
16 best describes you?

17 A. Type three.

18 Q. All right, sir. And in other words, you would  
19 be willing to listen to whatever you might hear?

20 A. Yes, ma'am.

21 Q. And if you thought it was appropriate to  
22 sentence someone to death you would be able to do  
23 that?

24 A. Yes, ma'am. I would.

25 Q. And if you thought the death sentence was not

## Juror 197 Casey A. McCarter - Examination

1 appropriate or for any other reason the person ought  
2 to receive life imprisonment without parole, you  
3 would be able and willing to vote for a sentence of  
4 life imprisonment without parole?

5 A. Yes, ma'am.

6 Q. All right. So you would make the decision based  
7 upon what you would hear in the courtroom?

8 A. The facts, yes, ma'am.

9 Q. Yes, sir. Now, if you were chosen to serve as a  
10 juror in this case you and the other jurors would be  
11 housed, and the word is sequestered, what that means  
12 is that you would be housed here in a local motel  
13 during the course of the trial. And that is where  
14 you would have to stay until the trial is over  
15 except, of course, when you're in the courtroom.

16 This period could be as long as two  
17 weeks, or it could be longer, I simply don't know. I  
18 don't know the duration of the trial. Obviously that  
19 would create an inconvenience for you as it surely  
20 will for all who serve on this jury. Other than the  
21 inconvenience which it would cause anybody who would  
22 have to serve in this capacity, would that pose a  
23 serious risk of danger to your health?

24 A. No, ma'am.

25 Q. Or well being, or to that of anybody who is



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1 dependent upon you if you had to serve in that  
2 capacity?

3 A. No, ma'am.

4 Q. All right, sir. Now, you'd be able to do that,  
5 Mr. McCarter?

6 A. Well, yes, ma'am. I do have school. It's night  
7 school, but we go by the hours and I can always make  
8 my hours up.

9 Q. All right, sir.

10 A. So it's -- they're pretty lenient.

11 Q. Thank you for that. There's some flexibility?

12 A. Yes, ma'am. Very lenient.

13 Q. Very lenient?

14 A. Yes, ma'am.

15 Q. Thank you, Mr. McCarter.

16 A. If I could have maybe a note that I could give  
17 them.

18 Q. So they would understand. We could certainly  
19 provide that for you, happy to do that. So they  
20 would understand what your obligation was,  
21 Mr. McCarter, we can certainly provide that for you,  
22 indeed we can.

23 All right. Now, at this time these  
24 lawyers very well probably will have questions for  
25 you, so Mr. Cummings, Ms. Hardee-Thomas.

## Juror 197 Casey A. McCarter - Examination

EXAMINATION

1  
2 BY MR. CUMMINGS;

3 Q. Mr. McCarter, good afternoon.

4 A. How are you doing, Mr. Cummings?

5 Q. Just from my recollection of my reflection, did  
6 I handle the case personally with you, or did  
7 Mr. Schlein handle the case?

8 A. Well, Mr. Schlein handled the majority of the  
9 case. I met with you, I believe, once. And I  
10 believe Mr. Schlein -- am I pronouncing his name  
11 right?

12 Q. Yes.

13 A. He pretty much took over. I met with you once  
14 and after I met with you that one time Mr. Schlein  
15 pretty much took over. And that was basically the  
16 last time I saw you was in the courtroom and you  
17 didn't even -- you were just there to I think just to  
18 witness.

19 Q. Watch the associate working?

20 A. Yeah, to watch him working.

21 Q. All right. Again, I'm not trying to put any  
22 more words in your mouth because this morning did you  
23 hear Her Honor's question about that and deliberately  
24 try to evade saying that you knew either myself or my  
25 associate? You've already answered Her Honor, but I

## Juror 197 Casey A. McCarter - Examination

1 wanted to make sure and let Mr. Bailey, the  
2 solicitor, know.

3 A. Right.

4 Q. Everybody gets a fair trial in here.

5 A. Right. I did not hear. I'm sorry, I didn't  
6 hear Mr. Schlein's name. I heard your name, but  
7 since Schlein represented me then, you know, I didn't  
8 raise -- you know, I didn't say anything because I  
9 didn't hear Henry's name.

10 Q. You put down on your questionnaire in number 25  
11 that you had been arrested for DUI and later on it  
12 was reduced to some other charge?

13 A. Yes, sir.

14 Q. All right. So you did not try to hide that  
15 fact?

16 A. No, sir.

17 Q. All right. In question number 27 they asked you  
18 about experience with law enforcement and you said  
19 you always -- they're protective of you, you had a  
20 positive experience?

21 A. Well, yeah, recently -- well, for the last --  
22 ever since I've lived in Summerville I have a high  
23 respect for Summerville police officers.

24 Q. All right.

25 A. Simply because I have a lot of trouble with

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1 neighbors and they seem to do what they're supposed  
2 to do when they come to my road. It's like there's  
3 fights between the neighbors all -- I am surrounded  
4 by neighbors that are just hooligans at all hours of  
5 the night. And when I pick up the phone and I call  
6 the police, quite often they come out there and they  
7 solve the problem. So I'm always happy with  
8 Dorchester County. I've always been happy with  
9 Dorchester County.

10 Q. But the fact that you were arrested you would  
11 not hold that against the State in their attempt to  
12 try to convict a citizen, the fact that you were  
13 arrested one time before?

14 A. Oh, no. No. Not at all.

15 Q. The fact that you call law enforcement or call  
16 upon them as a citizen, would that hold any higher  
17 standard for you, or like you want to put a vote over  
18 for the State against some citizen charged with a  
19 crime? If you don't understand my question, tell me.

20 A. I'm sorry.

21 Q. Would you hold the police, the word of the  
22 police in a higher regard than you would a citizen  
23 charged with a crime?

24 A. Yes, I would.

25 Q. You would?

## Juror 197 Casey A. McCarter - Examination

1 A. Yes.

2 Q. And as far as Her Honor asking you about the  
3 death penalty, had you really given that topic a  
4 great amount of thought prior to coming into this  
5 courtroom today?

6 A. Yes. Yes, I have.

7 Q. All right. And you read that questionnaire very  
8 carefully back there while you're waiting to come out  
9 and speak to Her Honor?

10 A. Yes, sir. I did.

11 Q. And when you looked at that, you have told both  
12 Her Honor and now for me and then later on either Mr.  
13 Bailey or Mr. Lafond that you can be a fair and  
14 impartial juror; is that correct, sir?

15 A. That is correct.

16 Q. And you promised Her Honor by your duty as an  
17 oath that you would wait and listen to all the  
18 evidence before you ever render a decision about  
19 somebody being found guilty or not guilty if the  
20 State didn't meet its burden of proof; is that  
21 correct?

22 A. That's correct.

23 Q. You would not prejudge or rush to judgment or  
24 anything until you've heard all the facts and the law  
25 as the judge gives it to you?

## Juror 197 Casey A. McCarter - Examination

1 A. Right. That is correct also.

2 Q. And if the facts warranted you could impose life  
3 without the possibility of parole if the sentence so  
4 requires if he's found guilty of murder?

5 A. Yes, I would.

6 Q. And if the facts warranted it, you could vote  
7 for the death penalty along with your fellow jurors?

8 A. Yes.

9 Q. You have to speak up verbally.

10 A. Yes. Yes.

11 Q. And you understand that you may be required to  
12 put your signature to a document, what they call  
13 basically the death warrant. Could you sign your  
14 name with the other 11 people on that jury?

15 A. Yes, I guess I would have to.

16 Q. And if you had to stand up in the jury box later  
17 on at the end of the case, if Her Honor were to ask  
18 you to stand up, sir, and say is this your vote and  
19 is it still your vote, could you do that?

20 A. Yes, sir.

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

22 THE COURT: All right. While you're doing  
23 that I have a question.

24

25

## Juror 197 Casey A. McCarter - Examination

EXAMINATION

1

2 BY THE COURT:

3 Q. I meant to ask it earlier, I apologize to you.

4 And the question is given that Mr. Schlein

5 represented you and he is an associate of

6 Mr. Cummings' office and that you met with Mr.

7 Cummings and you have some connection with him in the

8 regard as you've described it, would that in any way

9 interfere with, impact upon your ability to be

10 completely fair and impartial both to the State as

11 well as to Mr. Bowman?

12 A. No, ma'am. That will not affect my opinion.

13 Q. And could you set that relationship as it is

14 completely aside and try this case based on the

15 evidence in this courtroom and the law as I give it

16 to you?

17 A. Yes, ma'am. Well, actually me and Norbert

18 really didn't have a relationship because I met him

19 for maybe 15 minutes both times.

20 Q. I understand.

21 A. Henry is more -- you know, I can understand if

22 Henry Schlein was sitting over there then, you know,

23 but Norbert was -- I consider Norbert as Henry's

24 boss.

25 Q. I understand.

## Juror 197 Casey A. McCarter - Examination

1 A. So it was just like, you know, I dealt with  
2 Henry and he pretty much told Henry what to do and  
3 most of the time was spent with Henry. Basically all  
4 the time was spent with Henry.

5 Q. Very well.

6 MR. CUMMINGS: Judge, that's the only  
7 question I was going to follow back up with.  
8 Thank you, ma'am.

9 THE COURT: Thank you. I apologize I  
10 didn't do that earlier.

11 All right. Yes, sir, Mr. Bailey.

12 MR. BAILEY: Yes, ma'am. Thank you.

13 EXAMINATION

14 BY MR. BAILEY:

15 Q. I'm Walter Bailey and I'll be prosecuting the  
16 case.

17 A. How are you doing?

18 Q. Fine. Thank you. How about you?

19 A. All right.

20 Q. Let me say this to you, I'm not going to try to  
21 embarrass you or anything, this is obviously the most  
22 important kind of case anybody can sit as a juror on,  
23 this is the only chance the judge and the lawyers get  
24 to talk to somebody ahead of time. So if I ask you  
25 personal questions you think may be not the



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1 appropriate questions, I apologize up front, but I do  
2 need to ask a couple of questions here.

3 A. Okay.

4 Q. All of the people that are summoned for jury  
5 duty are required to fill out a questionnaire and we  
6 review that questionnaire. And indulge me a second  
7 here. One of the questions, this is number 26 --  
8 excuse me, 25 asks if you had been accused of a crime  
9 and you responded that you had wrecked your car into  
10 a pole downtown and the police assisted you -- or  
11 accused you of DUI, later just reckless driver.  
12 That's the case where Mr. Cummings represented you;  
13 is that correct?

14 A. Well, Mr. Schlein.

15 Q. Mr. Schlein?

16 A. Mr. Schlein, yes, sir.

17 Q. Do you have any other criminal charges other  
18 than that?

19 A. Other than that I was charged with simple  
20 possession.

21 Q. Okay.

22 A. But that was years ago. And it was more on the  
23 traffic violation, so I didn't think it would --

24 Q. Actually, sir, you were charged with  
25 distribution of marijuana and that was after the DUI;

## Juror 197 Casey A. McCarter - Examination

1 is that correct, in 2000?

2 A. Yes, sir. But that was dropped to simple  
3 possession.

4 Q. Yes, sir. The question is whether you had been  
5 charged with a crime and you did not list that on  
6 your form. And, again, I apologize, I know this is  
7 getting into stuff that --

8 MR. BAILEY: Can I approach, Your Honor?

9 MR. CUMMINGS: Judge, approach, too.

10 THE COURT: Y'all want to approach?

11 MR. CUMMINGS: Yes, ma'am. Please.

12 THE COURT: Okay. Sure. All right.

13 (Whereupon, a bench conference was held off  
14 the record.)

15 THE COURT: All right.

16 MR. BAILEY: If I can approach.

17 THE COURT: Yes, now you can approach this  
18 way.

19 Q. We run rap sheets on all potential jurors, not  
20 just you, I wanted to let you know that and this is a  
21 portion of yours. And follow me here, it's got  
22 McCarter, Casey Allen, Dorchester County Sheriff's  
23 Office, August 25th, 2000 with an arrest for  
24 distribution of marijuana. And you had pled down to  
25 simple possession, apparently. Does that refresh

## Juror 197 Casey A. McCarter - Examination

1 your memory?

2 A. Yes, sir. It does.

3 Q. All right, sir.

4 A. Yes, sir. It does.

5 Q. Could you share with us, please, when that --  
6 question 25 when it asks about the record why you  
7 didn't explain that since that was more recent  
8 actually than the DUI arrest?

9 A. Yeah, I -- I didn't think of it.

10 Q. Okay.

11 A. I just didn't think about it because it was --  
12 it was -- I thought it was completely dropped.

13 Q. Okay. You didn't realize that you did have a  
14 conviction for possession, simple possession?

15 A. No, sir. I did not. Well, because I was really  
16 worried about the distribution charge because it was  
17 a false accusation, definitely.

18 Q. All right, sir.

19 A. And after when I got out of court I was under  
20 the assumption that it was gone, you know, and it was  
21 dropped, basically.

22 Q. Okay.

23 A. And I -- I wasn't too sure of how -- I was kind  
24 of confused actually about the whole circumstance.

25 Q. Okay.

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1 A. But as long as my distribution was dropped  
2 that's all I was worried about.

3 Q. All right. And, again, there are no right or  
4 wrong answers we just need to know what your  
5 recollection is. But you, your position is that this  
6 August 2000 arrest was you were not guilty of the  
7 distribution charge?

8 A. No, sir. I was not.

9 Q. All right, sir. Now, this arrest was made by  
10 the Dorchester County Sheriff's Office who is an  
11 agency that's involved in this case. Would the fact  
12 that you claim to have been arrested falsely by the  
13 Dorchester County Sheriff's Office impact in your  
14 ability to be a fair and impartial juror on this case  
15 in which the Dorchester County Sheriff's Office is  
16 the prosecuting agency? You're nodding your head  
17 yes?

18 A. Well, can I say something?

19 Q. Sure.

20 A. Well, I was falsely accused of distribution.

21 Q. Okay.

22 A. When they raided my house they did find, I think  
23 it was, two, three roaches I was guilty of  
24 possession, simple possession of marijuana.

25 Q. Okay.

## Juror 197 Casey A. McCarter - Examination

1 A. But I was not guilty of distribution.

2 Q. Okay. Again, my question would be that if you  
3 were not guilty of distribution, you were arrested  
4 for distribution by Dorchester County Sheriff's  
5 Office.

6 A. Right.

7 Q. This is a Dorchester County Sheriff's Office  
8 case that we're going to be trying here. Would that  
9 fact interfere with your ability to be fair and  
10 impartial to the State of South Carolina?

11 A. No, sir.

12 Q. Okay.

13 A. No, sir. Not at all.

14 Q. Okay. Let me ask a little bit about the death  
15 penalty. And you had indicated in response to Mr.  
16 Cummings' question that you had thought about the  
17 death penalty in the past; is that correct?

18 A. Well, yeah, I have.

19 Q. Okay. Could you tell us what in particular  
20 prompted you to think about it?

21 A. The last fellow that was on TV that was put to  
22 death due to the state trooper.

23 Q. Okay.

24 A. And I saw him saying that he was -- he was not  
25 guilty, he was innocent.

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1 Q. All right.

2 A. And some lady had shot him. And that really --  
3 you know, that really bothered me a little bit. I  
4 mean, what happens if the guy did get put to death  
5 for no reason because of some other woman?

6 Q. All right.

7 A. And that's what made me think about it.

8 Q. Had you thought of it before that?

9 A. Yeah, many times.

10 Q. Okay.

11 A. A lot of movies I've seen.

12 Q. All right.

13 A. But I'm all for it. If it's Ted Bundy out there  
14 I'm all for it, the death penalty.

15 Q. And you realize that in South Carolina the jury  
16 votes for the death penalty unanimously, that will be  
17 the sentence of the Court, that person actually would  
18 be executed?

19 A. Yeah. Well, I didn't realize that until just  
20 now. I thought the judge was the one who -- who  
21 decided the punishment.

22 Q. Okay. Well, do you recall the judge explained?

23 A. Yeah, she did explain it to me.

24 Q. You understand that now, the jury and not the  
25 judge decides that?

## Juror 197 Casey A. McCarter - Examination

1 A. Yes, sir. I do.

2 Q. Okay. All right.

3 MR. BAILEY: Your Honor, I believe -- bear  
4 with me one second, please.

5 THE COURT: Certainly.

6 (Pause in proceedings.)

7 MR. BAILEY: Thank you, sir. That's all I  
8 have, Mr. McCarter.

9 THE COURT: Very well. Let me tell you,  
10 Mr. McCarter, I'm going ask you to step right  
11 outside the courtroom for me and we will be with  
12 you very shortly.

13 MR. McCARTER: All right. Thank you.  
14 (Whereupon, the prospective juror exits the  
15 courtroom.)

16 THE COURT: What says defense?

17 MR. CUMMINGS: Statutorily qualified,  
18 Judge.

19 MR. BAILEY: Your Honor, I would suggest  
20 that he's not qualified, would ask the Court to  
21 remove him for cause. The one thing the jury  
22 has to do is to be credible and honest with the  
23 Court, to follow the instructions of the Court,  
24 and to be candid with the Court. And in two  
25 respects he causes me grave concerns. One is

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1 the fact that he knew up front that Mr. Cummings  
2 was involved with his DUI case, he acknowledged  
3 on the stand that Mr. Cummings was there with  
4 the initial interview and he was there in court,  
5 although Mr. Schlein was the one that actually  
6 handled the case.

7 When you announced the names of the  
8 lawyers involved you clearly gave Mr. Cummings  
9 and I, Ms. Hardee-Thomas, and Mr. Schlein out  
10 loud, there's no mumbling, no mistaking what you  
11 were saying. And his response to some of the  
12 questions he referred to him as Henry at one  
13 point, so he was -- had clearly, Your Honor, he  
14 was trying to evade that, he intentionally  
15 didn't stand up and give that information.

16 Second thing, Your Honor, of course is  
17 the fact that his PWI or possession --  
18 distribution of marijuana arrest in 2000 came  
19 after the DUI arrest, so it should be more  
20 current in his mind, more recent in his mind.  
21 Question 25 clearly asks you to explain any  
22 arrests that you've had, he chose not to, not to  
23 explain that. And then on the stand he  
24 incredibly denied knowledge of the fact that he  
25 was convicted.



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1                   Your Honor, I think if he's going to  
2                   lie in voir dire I just don't think he can be  
3                   trusted as a juror by either side in a case of  
4                   this magnitude and I would ask he be removed for  
5                   cause.

6                   THE COURT: Thank you, Mr. Bailey.

7                   Yes, sir, Mr. Cummings.

8                   MR. CUMMINGS: I don't think there's any  
9                   lying here. Judge, the question in 25 is vague.  
10                  This questionnaire is deliberately intended not  
11                  to pin bottle anybody in because we try to pick  
12                  the jurors to answer in the most polite way we  
13                  can so we don't offend anybody.

14                  This kid didn't have to put down about  
15                  DUI, he wasn't convicted of DUI. And that's why  
16                  it says have you ever been accused of a crime.  
17                  The other thing is, and I know it looks bad  
18                  because he was a client of my firm, there was a  
19                  juror in here a couple days ago that called you  
20                  Diane and only knowing you for like 20 questions  
21                  and he started talking instead of referring you  
22                  to Her Honor or Judge Goodstein. So I think  
23                  sometimes when people feel comfortable they use  
24                  first names. Lately anymore most young children  
25                  don't even know their friends' last names, they

## Juror 197 Casey A. McCarter - Examination

1 are over at Billy's house. And they ask where  
2 Billy lives. They don't know Billy's last name.

3 Judge, respectfully, according to our  
4 statute he's given answers that have qualified  
5 him as a statutory type three juror. And,  
6 respectfully, Judge, again we're trying to find  
7 a jury of this gentleman's peers. He's of the  
8 age group. The fact that he has hair of a  
9 different nature, nobody's pointed that out, but  
10 obviously his characteristics look a little  
11 different.

12 Your Honor, the simple possession  
13 conviction does not disqualify this gentleman  
14 from jury service and that's why I stood up  
15 earlier and objected, I know we were going to  
16 put that on the record. It had plenty and ample  
17 opportunity out here to look at the jurors, look  
18 at their rap sheets, we get copies of jurors'  
19 rap sheets also. I told Mr. Bailey today after  
20 going back through the jurors again over the  
21 weekend, and we have had a gentleman's agreement  
22 that if my office represented anybody or his  
23 office represented somebody he told me and I've  
24 told him. This weekend going back through it  
25 and everything with Henry, looked up Casey

## Juror 197 Casey A. McCarter -- Examination

1 McCarter and the name popped up, and Henry did  
2 remember and I made sure Mr. Bailey knew that  
3 today, so I've tried to do everything I can.

4 MR. BAILEY: If it please the Court. One  
5 other question here, number 28, "Have you ever  
6 had an experience with law enforcement that was  
7 bad or negative that stands out in your mind?"  
8 He said, "No."

9 On the stand he seemed obviously  
10 annoyed with the fact that he got arrested and  
11 he claims he was falsely accused of that, so,  
12 again, I would submit -- and I don't mind  
13 offending the fellow if he's up here not telling  
14 the truth, but he said no and obviously that was  
15 not a correct statement.

16 Your Honor, I concede that he's  
17 qualified as far as death penalty, I concede  
18 that he's qualified as not having a  
19 disqualifying record that carries over a year,  
20 but that isn't the end of the story. I mean, in  
21 your discretion if you find the witness either  
22 because of intentional misrepresentation or  
23 mental infirmity, whatever, cannot truthfully  
24 respond to these very basic, simple questions  
25 then I would submit that he should be

## Juror 197 Casey A. McCarter - Examination

1 disqualified, especially in a case of this  
2 magnitude.

3 THE COURT: Very well. All right. This  
4 will be the order of the Court. I have listened  
5 to Mr. McCarter and I know that you made  
6 reference to his hair, Mr. Cummings, and I know  
7 that might concern you, but it's clear that he's  
8 an artist, he's in cosmetology school. And,  
9 quite frankly, while he may choose to have  
10 dreads it's well kept, very well kept and well  
11 trimmed and I genuinely see his hair style being  
12 certainly in tune with someone who is studying  
13 cosmetology, so I don't see that as any  
14 statement at all to begin with.

15 I think it's very much in line with  
16 what his chosen field of study is at this point  
17 and would just note for the record because I'm  
18 obviously close to him. While he may have  
19 choose to have dreads, certainly the sides are  
20 very short and it's very just simply artistic,  
21 again, which I think is very much in keeping  
22 with his field of study at this time so I would  
23 make that comment. Certainly someone's hair  
24 style I think is indicative of what they think,  
25 particularly when there is -- willing to

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1 articulate certainly the opinions and as willing  
2 to do so certainly as he has been.

3 I am concerned about his failure to  
4 tell me that he had been represented by  
5 Mr. Schlein and that he knew you, he knew  
6 Mr. Schlein. I'm very, very concerned about  
7 that because I think I was very clear. I think  
8 I went through the colloquy to ask if they were  
9 related by blood or marriage or had a business  
10 association or personal association or any  
11 connection be it direct or indirect. And  
12 clearly the question this morning would have  
13 generated a response from him, I am confident.

14 When he tells me that he didn't hear  
15 it that concerns me, because obviously in a case  
16 of this magnitude jurors have got to listen.  
17 They can't just -- so the best case scenario for  
18 this juror, for Mr. McCarter, is that he wasn't  
19 listening. Well, that isn't any good, he needs  
20 to listen if he's going to be a juror in a case  
21 of this magnitude. So even assuming that he was  
22 not being evasive and chose not to respond to  
23 the question, he chose to -- surely as the  
24 dickens he certainly chose not to hear a lot of  
25 information, so I am concerned about that. And

## Juror 197 Casey A. McCarter - Examination

1 let me say that concerns me greatly.

2 It's clear that he did not put  
3 information on the questionnaire in response to  
4 the questionnaire that should have been on the  
5 questionnaire. I guess that's the downside of  
6 having the questionnaire. The good side is that  
7 you find information, the downside is what do  
8 you do when people don't answer the  
9 questionnaire fully or accurately, shall we say.  
10 And clearly he did not answer the questionnaire  
11 accurately.

12 But I think while I am concerned about  
13 that, clearly I am very concerned about the fact  
14 that he did not tell me that he knew Mr. Schlein  
15 and that he knew you, Mr. Cummings, and as a  
16 result I'm going to grant the State's motion and  
17 I am going to excuse him for cause over the  
18 objection of the defense.

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

20 MR. BAILEY: Thank you, Your Honor.

21 THE COURT: Thank you.

22 Ask him to step back in.

23 (Whereupon, the prospective juror returns to the  
24 courtroom.)

25 THE COURT: Mr. McCarter, thank you so much

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1 for your time. I'm going to excuse you from any  
2 further service on this jury panel. I thank you  
3 so very much for your candor and I thank you so  
4 much for your time. You are now free to go  
5 about your business.

6 MR. McCARTER: Okay.

7 THE COURT: I would ask, however, that you  
8 not -- that you not discuss this matter with  
9 anyone who is a potential juror, be mindful of  
10 that. You had an opportunity to spend some time  
11 with those folks this morning, so it would be my  
12 hope that you would certainly know who the  
13 potential jurors were. If you are not, let me  
14 caution you particularly during the pendency of  
15 this matter that you may not wish to discuss it.  
16 But in any event, you are free to go about your  
17 business and thank you so much for your time.

18 MR. McCARTER: Thank you. All right. Good  
19 luck.

20 THE COURT: Thank you.

21 (Whereupon, the prospective juror exits the  
22 courtroom.)

23 THE COURT: All right. Yes, sir. I think  
24 our final juror for today is, yes, Ms. Jordan.  
25 (Susan A. Jordan, called as a prospective juror,

## Juror 159 Susan A. Jordan - Examination

1       having previously been duly sworn, is examined  
2       as follows:)

3                               EXAMINATION

4 BY THE COURT:

5 Q.    Ms. Jordan, you are Juror Number 159; is that  
6       right?

7 A.    Yes, ma'am.

8 Q.    All right. Now, Ms. Jordan, you have been sworn  
9       along with all the potential jurors earlier in the  
10      day; is that right? Do you remember that?

11 A.    Yes, ma'am.

12 Q.    And you understand the oath that you took this  
13      morning, of course, still applies to the questions  
14      and answers that we're going to be asking you this  
15      afternoon --

16 A.    Yes, ma'am.

17 Q.    -- during the course of this dialogue? Do you  
18      understand that as well?

19 A.    Yes, ma'am.

20 Q.    All right. Counsel, this morning, and I will  
21      share, refresh their recollection because I think  
22      they were at the side bar this morning, Ms. Jordan,  
23      when you were concerned because as I understand it  
24      you worked last evening; is that right?

25 A.    Yes. I have to go back tonight at 8:30.



## Juror 159 Susan A. Jordan - Examination

1 Q. All right. Yes, ma'am. And you shared with me  
2 your letter from your employer. And I would just  
3 note for the record that the letter from your  
4 employer said that you were paid leave for your jury  
5 duty, but when your jury duty was concluded that they  
6 wanted you back at work. You are remembered that it  
7 said that as well?

8 A. Yeah. But that was not for third shift, they do  
9 not pay for third shift personnel.

10 Q. All right. But the letter did not say that?

11 A. At the bottom it says there's no provisions set  
12 up for third shift.

13 Q. That's what it means, no provision?

14 A. That's what that means, yes.

15 Q. All right.

16 A. We're not allowed time off for jury duty.

17 Q. I understand.

18 MS. HARDEE-THOMAS: Your Honor, I'm sorry,  
19 we can't hear over here.

20 Q. Okay. Ms. Jordan, let's move this microphone  
21 over. They'll help you.

22 A. Okay.

23 Q. Do you need a little water? Would you like some  
24 water?

25 A. No. No, that's all right.

## Juror 159 Susan A. Jordan - Examination

1 Q. All right. Now, since we talked with you this  
2 morning has anyone talked with you about this case,  
3 or tried to approach you about this case, or have you  
4 been -- inadvertently or otherwise been exposed to  
5 any information about this case?

6 A. No, ma'am.

7 Q. And when you were back in the jury room you were  
8 given a list of potential witnesses. Did you have a  
9 chance to review the list?

10 A. Yes, ma'am.

11 Q. All right. And do you know anyone on the list,  
12 have any connection with anyone on the list?

13 A. There's a few of the Dorchester County sheriff's  
14 deputies names that look familiar.

15 Q. All right.

16 A. But I can't -- unless I saw them I wouldn't be  
17 able to say for sure.

18 Q. All right. And I just handed you a copy of that  
19 potential witness list. Would you look for me and  
20 identify those folks are for me, please?

21 A. Okay.

22 Q. Again, I'm asking if you're related by blood or  
23 marriage, acquainted with, do you have any business  
24 association, or any personal acquaintanceship or  
25 association, or any connection with any of these

## Juror 159 Susan A. Jordan - Examination

1 individuals either directly or indirectly.

2 A. Not so much any of that. It's just dealings,  
3 you know, on a professional basis.

4 Q. All right. On a business basis?

5 A. Yeah. Where, you know, they have come to my  
6 house or something. I think Kicklighter, that sounds  
7 familiar, and there was another one, too. I just  
8 don't know for sure that I've seen before.

9 Q. All right. Let me see that. Thank you.  
10 Kicklighter?

11 A. Yeah.

12 Q. All right. J. D. Kicklighter, you think you  
13 recognize that name?

14 A. Yes, ma'am.

15 Q. All right. And as you've indicated it's a  
16 business association?

17 A. You know, there's been instances with my  
18 husband's ex-wife and stuff, that dealings with that  
19 kind of situation where, you know, they've come to  
20 our house and that kind of thing.

21 Q. I understand. And as a result of that  
22 connection with Deputy Kicklighter do you believe  
23 that it might impact in any regard on your ability to  
24 be fair and impartial both to the State as well as to  
25 Mr. Bowman?

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1 A. No, ma'am.

2 Q. All right. And can you set that relationship  
3 completely aside and try this case based on the  
4 evidence in this courtroom?

5 A. Yes, ma'am.

6 Q. All right. Very well. Now, Ms. Jordan, this  
7 morning you did not indicate that when asked whether  
8 or not you had any opinion or had seen or heard  
9 anything about this case, or had any bias or  
10 prejudice for or against either side in this case, as  
11 I said my notes indicate that you did not respond  
12 that you had either any -- had seen, or heard, or  
13 read, or had any opinion about this matter or that  
14 you had any bias or prejudice for or against either  
15 side.

16 Well, let me stop because I do have a  
17 note. Let me go back and look at this note.  
18 Actually, my note as I read it says you have read or  
19 heard information regarding this case. And I don't  
20 need to know where you received this information or  
21 what it was, but I would ask of you whether or not  
22 the information that you have received, has it caused  
23 you to form an opinion as to this matter?

24 A. No, ma'am.

25 Q. All right. And as a result of those things that

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1 you have read or heard regarding this case, can you  
2 set those aside and, again, try this case based upon  
3 the evidence in this courtroom if you were asked to  
4 serve on a jury in this matter?

5 A. Yes, ma'am.

6 Q. And would you be able to be fair and impartial  
7 in the trial of this case and set aside the  
8 information which you have read or heard?

9 A. Yes, ma'am.

10 Q. All right. Now, I also have a note that you  
11 were concerned about your ability to be fair and  
12 impartial in this matter. And can you discuss with  
13 me a little bit about your concerns in that regard?

14 A. Basically due to domestic violence between -- of  
15 me by my ex-husband I have a very strong opinion as  
16 to violence against women. That's something that I  
17 just don't accept, I don't tolerate.

18 Q. All right. And as a result of those personal  
19 opinions based, I gather, on your personal  
20 experience, Ms. Jordan, do you believe that that  
21 opinion that you hold could prevent or substantially  
22 impair your ability to be fair and impartial to both  
23 sides?

24 A. I think it would depend on the evidence,  
25 basically.

## Juror 159 Susan A. Jordan - Examination

1 Q. All right.

2 A. I mean, it could depending on the evidence. If  
3 the evidence leans that way, then that definitely  
4 would bring out some of my personal opinions in  
5 regards to that.

6 Q. All right. And personal opinion that you've  
7 indicated involving violence as it relates to women?

8 A. Yes, ma'am.

9 Q. All right. So what I'm hearing from you is  
10 that, is a concern that if there is evidence of  
11 violence towards a woman that that -- you have  
12 concerns that because of your personal experience,  
13 that your personal experience could impact on your  
14 ability to be fair and impartial to these parties?

15 A. Yes, ma'am.

16 Q. Do you believe that your opinion could  
17 substantially impair your ability to follow your  
18 duties as a juror? Let me tell what those are. They  
19 are obviously to listen to the evidence, listen to my  
20 charge on the law, making your decision based upon  
21 the evidence in this courtroom and the law as I give  
22 it to you.

23 A. Yes, ma'am. Like I say, my opinion would be  
24 swayed by the evidence. If the evidence points that  
25 way my tolerance would be very low.

## Juror 159 Susan A. Jordan - Examination

1 Q. All right. All right. Now, let me ask you some  
2 other questions. Since we have talked has anything  
3 come to your memory that may have jogged your memory  
4 or created anything other than -- any information  
5 about this matter other than you indicated this  
6 morning?

7 A. No, ma'am.

8 Q. All right. Now, although we've talked about  
9 some of your opinions and gotten into some of your  
10 opinions, Ms. Jordan, I need to talk a little bit  
11 about -- more about your opinions. And I wanted to  
12 tell you that we certainly don't do that to invade  
13 your privacy. And of course there are no right or  
14 wrong answers and obviously your opinions are as good  
15 and just and valid as anybody else's. And we don't  
16 challenge your opinions in any regard, we just need  
17 to understand them and to see how they might impact  
18 on your jury service.

19 One of the things that I'm going to  
20 want to ask you about regarding your opinion in a few  
21 moments is penalty, and specifically the death  
22 penalty because it may be an issue in this case. But  
23 I'd want you to understand that the mere fact that we  
24 are talking about the penalty at this stage, at this  
25 early stage, really is premature. This trial hasn't

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1 begun and as I have already talked about earlier,  
2 Mr. Bowman is presumed innocent of the charges he's  
3 been charged with, but this is the only time that we  
4 can talk about the penalty necessarily before the  
5 trial ever gets underway.

6                   So, if you were a juror in any type of  
7 criminal case, and I'm not asking you about this case  
8 because you don't know anything about this case and  
9 it wouldn't be fair for me to ask you about this  
10 case, but -- and what you might do, and that's not  
11 what we are about. But in a generic sense, in  
12 general terms, if you were a juror in any criminal  
13 case would you be willing to listen to the law as you  
14 were instructed by the judge?

15 A. Yes, ma'am.

16 Q. All right. And would you be willing to accept  
17 that law and apply it to the facts as you found them  
18 to be?

19 A. Yes, ma'am.

20 Q. And even though you might not particularly like  
21 the law, that you might even disagree with it, would  
22 you be still be willing to follow the law if you were  
23 instructed to do so?

24 A. Yes, ma'am.

25 Q. All right. And if you were asked to serve as a



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1 juror in the case of State vs. Mr. Bowman, could you  
2 decide this case based solely upon what you would  
3 hear in this courtroom and disregard anything that  
4 you may have seen, or heard, or read about this case  
5 from any source at all if anything like that should  
6 come to your memory?

7 A. Yes, ma'am.

8 Q. All right. And in a criminal case as you know,  
9 as I told you all briefly this morning, the State has  
10 the burden of proving the guilt of Mr. Bowman beyond  
11 a reasonable doubt, and in other words, Mr. Bowman  
12 doesn't have the burden to prove himself innocent, no  
13 defendant ever has to prove himself or herself  
14 innocent, he is presumed under the law to be  
15 innocent. Do you understand that?

16 A. Yes, ma'am.

17 Q. All right. So if you were a juror in any  
18 criminal case would you be willing to listen to the  
19 facts and circumstances and the law as you were  
20 instructed?

21 A. Yes, ma'am.

22 Q. All right. And am I hearing from you that, in  
23 the generic sense, that you would be willing to  
24 listen to the facts and circumstances and based upon  
25 the facts and circumstances you would -- and the

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1 facts as you found them to be and the law as you  
2 applied to those facts, would you be willing to find  
3 the defendant not guilty of a criminal charge?

4 A. Yes, ma'am.

5 Q. And could you then depending on what the facts  
6 and circumstances were, if they were something else  
7 find the defendant guilty of a charge?

8 A. Yes, ma'am.

9 Q. So you would be willing to listen and make up  
10 your decision based upon whether or not you were  
11 convinced that the person is guilty or not; is that  
12 right?

13 A. Yes, ma'am.

14 Q. Your concern, as I understand it as you've  
15 expressed it, your concern would be in the event, in  
16 the specific event that the facts arose involving  
17 violence towards a woman?

18 A. Yes, ma'am.

19 Q. All right. So in the generic sense you have no  
20 concern about listening to the evidence?

21 A. No.

22 Q. And but your concern is how you would react in  
23 the event that the -- that evidence showed violence  
24 towards a woman?

25 A. Yes, ma'am.

## Juror 159 Susan A. Jordan - Examination

1 Q. Have I fairly set that out for you, Ms. Jordan?

2 A. Yes, ma'am.

3 Q. All right. Now, most of the time jurors do not  
4 concern themselves with the matter of punishment.

5 Most of the time in the criminal court that's left up  
6 to the judge, punishment, but there is a case in our  
7 law when the jury has to deal with the matter of  
8 punishment and that's in a case like this one, it is  
9 in a case where an individual has been charged with  
10 the crime of murder and where the State is seeking  
11 the death penalty.

12 If an individual in a death penalty  
13 case is convicted of the crime of murder, then that  
14 same jury that convicted him of murder, or her of  
15 murder, must come back and in a separate and  
16 different proceeding decide the sentence that that  
17 person would get. There are two choices. One is  
18 life imprisonment without the possibility of parole  
19 and the other is the death penalty. And that would  
20 be determined, of course, in a second or sentencing  
21 phase of the trial. Do you understand this?

22 A. Yes, ma'am.

23 Q. All right. And have you had an opportunity to  
24 look at the paper that was back there in the room  
25 with you with the three types of jurors?

## Juror 159 Susan A. Jordan - Examination

1 A. Yes, ma'am.

2 Q. All right. And you would notice essentially  
3 that it described three types of jurors. Do you  
4 remember that?

5 A. Yes, ma'am.

6 Q. All right. I don't mind passing that to you to  
7 refresh your recollection, Ms. Jordan, but which of  
8 those types of jurors best describes you?

9 A. Type three.

10 Q. All right. And I would ask then would you be  
11 willing to listen to whatever you might hear and if  
12 you thought it was appropriate to sentence someone to  
13 death that you would be able to do that?

14 A. Yes, ma'am.

15 Q. And if you thought the death sentence was not  
16 appropriate or for any other reason the person ought  
17 to receive life imprisonment, you would be able and  
18 willing to vote for life imprisonment?

19 A. Yes, ma'am.

20 Q. So you would make the decision based upon what  
21 you would heard in the courtroom?

22 A. Yes, ma'am.

23 Q. Now, if you were chosen to serve as a juror in  
24 this case you and the other jurors would be housed,  
25 you would be sequestered here in a local motel during

## Juror 159 Susan A. Jordan - Examination

1 the course of the trial and that's where you would  
2 have to stay until the trial is over, except, of  
3 course, when you were in the courtroom. This period  
4 could be as long as two weeks, it could be longer. I  
5 don't know the duration of the trial with any  
6 exactness. Obviously, Ms. Jordan, that would create  
7 an inconvenience for you as it surely will be for all  
8 who serve on this jury.

9 Other than the inconvenience which it  
10 would cause anybody who would have to serve in this  
11 capacity, would that pose a serious risk of danger to  
12 you, or to your health, or well being, or to that of  
13 anybody who is dependant upon you if you had to serve  
14 in that capacity?

15 A. Yes, ma'am.

16 Q. Tell me about that, Ms. Jordan.

17 A. My daughter has asthma. I am married, but my  
18 husband and her do not get along. Basically he is  
19 not in any way, shape, or form her caregiver. And,  
20 you know, he's there with her at night and if there's  
21 a problem he calls me and I have to come home. And  
22 then I'm there when she gets home from school during  
23 the day, I'm there to make sure she takes her  
24 medicine like she's supposed to at night because she  
25 doesn't like to do so.

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1 Q. How old is she?

2 A. She just turned nine in March.

3 Q. She just turned nine in March?

4 A. Yes, ma'am.

5 Q. All right. And when you say give her medicine,  
6 I know that asthma people have the nebulizer I think  
7 the term is, and they have a breathing apparatus.

8 What sort of medication does your daughter take?

9 A. She doesn't do nebulizer, she takes Albuterol,  
10 inhaler, she takes Flo-Vent inhaler, Sudafed, Zyrtec,  
11 and Flonase. She just came off of an asthma study  
12 and she is supposed to be going back on another  
13 asthma study the first of June to compare some other  
14 medicines to see how they work for her.

15 Q. Who transported her back and forth for the  
16 study, Ms. Jordan?

17 A. I did.

18 Q. You did?

19 A. Yes, ma'am.

20 Q. All right. And I believe you work third shift,  
21 which is what 11:00 to 6:00?

22 A. No, ma'am. I work ten and a half hours. I work  
23 from 9:30 p.m. until 8:00 a.m. and it takes me an  
24 hour to get to and from work every day because I work  
25 at Medical University and we live in Knightsville.

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1 Q. All right. So what you're telling me is that  
2 traffic adds at least another hour?

3 A. Just the distance itself.

4 Q. All right. Very well. All right. Let me ask  
5 of you to -- or let me ask of these lawyers because  
6 they very well may have questions of you, Ms. Jordan.

7 And Mr. Bailey?

8 MR. BAILEY: No questions, Your Honor.

9 MS. HARDEE-THOMAS: Same with the defense,  
10 Your Honor.

11 THE COURT: Very well. Thank you both so  
12 much. Ms. Jordan, if you will just step outside  
13 the door for just a moment so we can talk about  
14 you, we're going to get you right back in here  
15 in just a couple of moments.

16 (Whereupon, the prospective juror exits the  
17 courtroom.)

18 THE COURT: What says the State?

19 MR. BAILEY: Your Honor, I think we can  
20 agree that she's not qualified due to her child.

21 MS. HARDEE-THOMAS: We concur. And I  
22 notice her affect. There was something else  
23 that was mentioned that I don't think that was  
24 covered, but with the abuse aspect she said that  
25 her sister was raped and that's what I was going

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1 to go into.

2 THE COURT: Very well. And also, of  
3 course, she expressed concerns that if the  
4 evidence involved violence of a woman she became  
5 very concerned about her ability to be fair and  
6 impartial as well. Certainly I have great  
7 concerns about her being sequestered as well and  
8 think it is appropriate that she be disqualified  
9 for service on this jury. Very well. Let her  
10 come back in.

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

13 THE COURT: Ms. Jordan, you don't need to  
14 sit back down. I find that you are not  
15 qualified to serve on this jury for the reasons  
16 that you stated, particularly with regards to  
17 your daughter as well your own personal  
18 experience and opinions that you shared with us  
19 that that you hold as a result.

20 And let me ask you and instruct you  
21 not to discuss these questions or this process  
22 with any potential juror. As a result of that  
23 you probably need to be very guarded about who  
24 you do discuss this matter with just in the  
25 event that you might inadvertently discuss this



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1 matter with a potential juror.

2           You are free to go about your  
3 business. This will conclude your service on  
4 this jury and I certainly thank you for the day.  
5 I am concerned about your obvious level of  
6 exhaustion. And let me ask you this: Can we  
7 call from the clerk's office on my behalf to  
8 someone at your work to say that even if we  
9 don't have a procedure we sure need one for  
10 tonight? I am happy to ask Ms. Graham to do  
11 that on your behalf.

12           A JUROR: Yeah. My manager doesn't come in  
13 until tomorrow, but the supervisor's name is  
14 Rick and the number is 792-8474.

15           THE COURT: I'm going to ask Ms. Graham to  
16 step out with you now and do that. I don't see  
17 Ms. Footman present, but I'm going ask her to  
18 step out and do that with you right now.

19           MS. JORDAN: Okay. Thank you.

20           THE COURT: Very well. If you need me let  
21 me know. Thank you, Ms. Jordan.

22           (Whereupon, the prospective juror exits the  
23 courtroom.)

24           THE COURT: All right. Now, of course,  
25 that concludes panel number one. I think given

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1 the hour what I'd like to do is in the morning  
2 I -- the jury panel's coming in at 9:00 and I  
3 would like for us at 8:30 just to, if you will,  
4 go over the jury, go over the affidavits so that  
5 we can begin to firm up this jury panel to see  
6 what else we need to do to find all of our  
7 jurors. And, counsel, if you can give me just a  
8 couple of minutes in chambers this evening just  
9 for some housekeeping matters that would be  
10 great.

11 Anything further before we break for  
12 the evening?

13 MR. BAILEY: Nothing from the State, Your  
14 Honor.

15 MR. CUMMINGS: Not tonight, Judge. We  
16 thank you very much.

17 THE COURT: Very well. Great. Super.  
18 Good night to everyone and we'll be adjourned  
19 until in the morning at 8:30.

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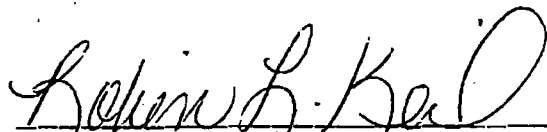
STATE OF SOUTH CAROLINA )  
COUNTY OF DORCHESTER ) : C E R T I F I C A T E

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 5th day of August 2003.

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

1941

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

**ORIGINAL**

STATE OF SOUTH CAROLINA, ) VOLUME XVI Pages 1941 - 2469  
Plaintiff, ) TRANSCRIPT OF RECORD  
-versus- ) JURY SELECTION  
MARION BOWMAN, JR., ) May 14, 2002  
Defendant. ) St. George, South Carolina

**B E F O R E:**

The Honorable Diane S. Goodstein

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

Walter M. Bailey, Jr., Esquire  
Benjamin Lafond, Esquire  
B. Harrison Bell, Jr., Esquire  
Office of Solicitor  
First Judicial Circuit  
140 North Main Street, Suite 102  
Summerville, SC 29483  
For the State of South Carolina

Norbert E. Cummings, Jr., Esquire  
Law Office of Norbert E. Cummings, Jr.  
100 South Main Street  
Summerville, SC 29483

-and-

Marva A. Hardee-Thomas, Esquire  
Law Office of Marva A. Hardee-Thomas  
130 East Richardson Avenue  
Summerville, SC 29483  
For Marion Bowman

Robin L. Keil, RMR  
Resident Court Reporter  
First Judicial Circuit  
Post Office Box 3335  
Summerville, SC 29484-3335

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1 (May 14, 2002.)

2 THE COURT: Now, as I understand we have a  
3 number of affidavits from the sheriff's  
4 department. Counsel, have you had an  
5 opportunity to look at them, the affidavits from  
6 the sheriff's department, those service?

7 THE CLERK: These are last night. I gave  
8 them more this morning.

9 THE COURT: Very well. Great. All right.  
10 Let's have those marked. Would you publish  
11 those, place them into the record, please?

12 THE CLERK: Juror Number 42, William  
13 Chester. Do you want me to read what's written,  
14 or just the names?

15 THE COURT: If they are something other  
16 than an affidavit of non-service.

17 THE CLERK: Unable to locate.

18 THE COURT: Okay.

19 THE CLERK: Juror Number 122, Kathryn  
20 Gunter; Juror 140, Bonnie Holloway; Juror 141,  
21 John Hosey; Juror 143, Patrick Hucks; Juror 181,  
22 Eric Long; Juror 311, Zenaida Upton; Juror 337,  
23 Steven Williams; Juror 315, Carol Vaughn. All  
24 of these was affidavits of no service from the  
25 sheriff's department.

1           Also this is Ms. Nancy McClelland,  
2 Juror 198, it was a letter faxed to us yesterday  
3 afternoon and I gave both counsel a copy of it.  
4 "This is to inform you that I'm 65 years old and  
5 do not wish to serve, my birthday is [REDACTED],  
6 [REDACTED] Thank you."

7           THE COURT: Very well. Any objection to  
8 her being excused?

9           MR. CUMMINGS: She's got the statutory --

10          THE COURT: She does.

11          MR. BAILEY: No objection.

12          THE COURT: She's not under oath and it's  
13 just simply a letter, but very well.

14          THE CLERK: And the last one is Mr. Brian  
15 Mannino from Columbus, Ohio, is working.

16          THE COURT: All right. With regards  
17 obviously to the jurors in which we have  
18 non-service they would be excused, all of them  
19 would be excused. We have some from week before  
20 last and they certainly would be excused from  
21 service. And we cannot find them, we cannot  
22 serve them, they didn't respond to the mail.

23                 Now, with regards to the lady who's 65  
24 years old that you just mentioned, her name  
25 is...?



1 THE CLERK: Nancy McClelland.

2 THE COURT: All right. She would likewise  
3 be exempted.

4 THE CLERK: I have one more, Judge.

5 THE COURT: Brian Mannino. Brain Mannino  
6 is the gentleman who lives in Dorchester County,  
7 as I understand it called Ms. Footman said that  
8 he would be working outside the state. And  
9 Ms. Footman informed him that it was required  
10 that he send some authorization of that to  
11 get -- to see if he would be excused and  
12 reported that to you yesterday.

13 What is the pleasure of the State?  
14 Let me hear from you.

15 MR. BAILEY: Your Honor, I wouldn't want  
16 him to hold up this process and I would just as  
17 soon excuse him from the jury and deal him later  
18 on with a contempt situation.

19 THE COURT: Very well.

20 THE CLERK: Excuse Mr. Mannino.

21 THE COURT: State doesn't get to run it.  
22 The defense gets to be heard.

23 MR. CUMMINGS: May it please the Court.

24 THE COURT: Yes, sir.

25 MR. CUMMINGS: Mr. Bowman, co-counsel, we

1 believe this gentleman should be dealt with by  
2 the Court as you see fit, ma'am. Without having  
3 any information to prepare, without having any  
4 information about this juror we have no way of  
5 knowing what type of juror he would have been,  
6 so therefore, Judge, I think he would be better  
7 dealt with by you, ma'am.

8 THE COURT: Thank you very much. And I  
9 intend to do that. Tell Mr. Mannino that at the  
10 conclusion of this trial the next general  
11 sessions court term we are going to schedule a  
12 contempt hearing for him and I suggest that he  
13 be present.

14 THE CLERK: Yes, ma'am. I'll get that to  
15 him.

16 THE COURT: Tell him I'm happy to hear from  
17 him at that point. Tell him his excuse is  
18 unacceptable.

19 THE CLERK: 9:30 that Monday morning?

20 THE COURT: That would be great.

21 All right. Now, what I need to  
22 know --

23 THE CLERK: Can I do one more, please?

24 THE COURT: You certainly can.

25 THE CLERK: Mary Palmer, Juror 226. Both

1 attorneys saw it this morning. She was born in  
2 '02 and is invalid. The sheriff's department --

3 MR. MOULTRIE: I know her personally, she  
4 is.

5 THE COURT: Well, she's 100 years old. My  
6 goodness. Yes, she certainly is entitled to an  
7 exemption if she chooses to exercise it.

8 MS. ETHEREDGE: We have two jurors that  
9 showed up today, no response yesterday.

10 THE COURT: All right. They should be on  
11 panels.

12 THE CLERK: They're only on panels if they  
13 sent their response back. If they sent the  
14 summons back, it was like four of them that we  
15 put on the panels.

16 THE COURT: Right.

17 THE CLERK: We never did get any response  
18 back, we need to check.

19 THE COURT: Based on the activity from the  
20 sheriff's department.

21 THE CLERK: They located them.

22 THE COURT: They located them.

23 THE CLERK: And I have also two more,  
24 Ms. Ida Moore, she was the student that never  
25 got the summons and she was in Columbia, came

1 home the day before and so she's coming this  
2 morning. And I have a Mr. John Smalls which  
3 received his summons and just forgot to show up  
4 yesterday and he's coming this morning, but he's  
5 probably on a panel.

6 THE COURT: All right. The question that I  
7 have for you is out of these individuals that  
8 now have surfaced, how many of them are not on  
9 panels?

10 THE CLERK: Okay. Ms. Amy Fuller, 106.

11 MS. ETHEREDGE: Two today.

12 THE CLERK: 106, Ms. Amy Fuller, she is not  
13 on a panel because we never did receive anything  
14 from her.

15 MS. ETHEREDGE: Sandra Hensley, 134.

16 THE CLERK: Ms. Hensley is not on a panel  
17 because we never received any summons back from  
18 her.

19 THE COURT: All right.

20 THE CLERK: She was just a no response at  
21 all.

22 THE COURT: All right.

23 THE CLERK: And they are both here right  
24 now.

25 THE COURT: All right.

1 MS. ETHEREDGE: Right.

2 THE COURT: All right. Counsel, let me  
3 hear from you how you wish to proceed regarding  
4 Ms. Fuller and Ms. Hensley. As I understand it  
5 the clerk's office, the letters were sent out,  
6 there was no response back from them. I know  
7 that the names went over to the sheriff's  
8 department and apparently at some point they  
9 were able to serve them, I suppose. At this  
10 moment I suppose I don't know how it is that  
11 they came to be here.

12 THE CLERK: They were on the list that on  
13 the third Friday of two weeks ago, the no  
14 response, we highlighted the list of no response  
15 per your request and sent it to the sheriff's  
16 department that Friday afternoon and asked them  
17 to try to go out and locate them.

18 THE COURT: Apparently after yesterday they  
19 located a few people. They had not finished it  
20 prior to yesterday and they've just found a  
21 couple of folks.

22 So what says the State?

23 MR. BAILEY: What I suggest is possibly  
24 just put them on the last panel and if we need  
25 them they would be there.

1 MR. CUMMINGS: Yes, ma'am. I think we have  
2 to qualify them and put them on the tail end,  
3 that will be fine, Judge.

4 THE COURT: All right. I think what I will  
5 do is I will put them in the last panel and  
6 qualify them at that time. Very well.

7 THE CLERK: They have not filled out a  
8 questionnaire yet. Would you like them to do  
9 that?

10 THE COURT: Absolutely. Absolutely.

11 THE CLERK: Do that this morning while  
12 they're here?

13 THE COURT: Let them fill out a  
14 questionnaire and tell them that they must be  
15 back, it's not optional.

16 THE CLERK: 2:30 on Friday.

17 THE COURT: Be sure you have a phone number  
18 to be able to reach them and an address. They  
19 cannot leave until they fill out the  
20 questionnaire. Great.

21 Now, what I need, counsel, for you to  
22 do with the clerk's office when you can, some  
23 point, I would appreciate so much today, is to,  
24 if you will, write an order so we will know  
25 where we are in terms of this panel at this

1 time. Because at this time all of the jurors  
2 should be accounted for, either put on the last  
3 panel, or having had a contempt hearing  
4 scheduled, or affidavits of non-service, or be  
5 here and on a panel.

6 Is that your -- is that your belief at  
7 this point?

8 THE CLERK: At this point they all have not  
9 been accounted for.

10 THE COURT: All right.

11 THE CLERK: I was just handed this envelope  
12 from the sheriff's department, so I'm going to  
13 view it. Also I handed a stack to Mr. Cummings  
14 this morning which they have not been put on the  
15 record.

16 THE COURT: A stack of...?

17 THE CLERK: No service.

18 THE COURT: No services. And you didn't  
19 put them on the record this morning because...?

20 MR. CUMMINGS: We wanted Mr. Bowman to see  
21 them, ma'am.

22 THE COURT: Certainly. And a whole other  
23 stack. So maybe we'll be able to do that in the  
24 morning?

25 THE CLERK: Yes, ma'am.

1 THE COURT: Okay. All right. Now,  
2 Ms. Perry is the juror that we need to qualify?

3 THE CLERK: I'm not quite sure.

4 THE COURT: That's okay, I'll ask her.  
5 I'll ask her when she comes in.

6 All right. Anything further before we  
7 begin this morning from the State?

8 MR. BAILEY: Nothing from the State, Your  
9 Honor.

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

12 THE COURT: All right. See if Shalaya  
13 Singleton is here. Is Shalaya Singleton present  
14 here? They're all five here?

15 LIEUTENANT EDWARDS: Ms. Perry said she was  
16 here all day yesterday. So they're reading them  
17 now, ma'am.

18 THE COURT: Very well. When Ms. Singleton  
19 has completed reading the material if you would  
20 escort her in.

21 LIEUTENANT EDWARDS: All right, ma'am.

22 (Pause in proceedings.)

23 (Shalaya A. Singleton, called as a prospective  
24 juror, having previously been duly sworn, is  
25 examined as follows:)



EXAMINATION

1

2 BY THE COURT:

3 Q. Good morning, Ms. Singleton.

4 A. Good morning.

5 Q. If you would have a seat right there. This is

6 Juror Number 275, Ms. Singleton.

7 A. Yes.

8 Q. Good morning.

9 A. Good morning.

10 Q. You will remember yesterday morning when we

11 began this process you were sworn in at that time; do

12 you recall that?

13 A. Yes, ma'am.

14 Q. I just wanted to remind you that the oath that

15 you took yesterday applies to this process here

16 today. And do you understand that?

17 A. Yes, ma'am.

18 Q. All right. Now, since we talked with you

19 yesterday has anyone talked with you about this case

20 or tried to approach you about it, or have you

21 inadvertently or otherwise been exposed to any

22 information about this case?

23 A. No, ma'am.

24 Q. All right. Now, when you were back in the jury

25 room, let me just share this with you in case you

1 need to just refresh your memory, but when you were  
2 back in the jury room you were given a list of  
3 potential witnesses. Have you had a chance to review  
4 that list?

5 A. Yes, ma'am.

6 Q. And after you had reviewed that list, are you  
7 related by blood or marriage, acquainted with, or  
8 have any business or personal relationship or  
9 acquaintanceship whatsoever with any of the  
10 individuals on that list?

11 A. No, ma'am.

12 Q. Very well. Now, Ms. Singleton, yesterday, you  
13 did not indicate when we talked about it yesterday  
14 whether or not -- you indicated when we asked you  
15 whether or not you had any opinion or had seen or  
16 heard or read anything about this case, or had any  
17 bias or prejudice for or against any side of this  
18 case, you did not indicate at that time that those  
19 things applied to you at all. Remember that?

20 A. Yes, ma'am.

21 Q. All right. Since that time has anything come  
22 into your memory, jogged your memory, or in any way  
23 created anything within your knowledge that would  
24 change your answer from yesterday morning?

25 A. No, ma'am.

1 Q. Now, Ms. Singleton, I need to ask you some  
2 questions. And I want you to know that we are not  
3 trying to invade your privacy, that's not our  
4 intention at all, and we are just trying to find out  
5 how you feel about certain matters, your opinions if  
6 you will.

7 And let me begin by saying that  
8 obviously there aren't any right or wrong answers,  
9 obviously your opinions are just as good and valid as  
10 anybody else's, we're just trying to learn a little  
11 bit, understand a little bit about your opinions.  
12 And the reason that we are doing that is to see  
13 whether or not your opinions might, or could impact  
14 on your jury service, so please understand we're not  
15 challenging you. We're just trying to find out  
16 whether or not there would be any impact of your  
17 opinions on your jury service.

18 Now, one of the things that I want to  
19 ask your opinion about in a few moments is penalty,  
20 specifically the death penalty because that could be  
21 an issue in this case. But I want you to understand  
22 that the mere fact that we're talking about penalty  
23 at this early stage really is premature. And  
24 obviously this trial hasn't begun and as I've said,  
25 Mr. Bowman is presumed innocent of the charges, but

1 this is the only time we talk about penalty  
2 necessarily before the trial ever gets underway.

3                   So, I'm going to ask you this way: If  
4 you were a juror in any type of criminal case, I'm  
5 not going to ask you about this case because you  
6 don't know about this case and it wouldn't be fair to  
7 ask you about this case, I'm not going to do that at  
8 all so I'm going to speak in a generic general sense.  
9 If you were a juror in a criminal case, any criminal  
10 case, would you be willing to listen to the law as  
11 you were instructed by the judge?

12 A. Yes, ma'am.

13 Q. All right. And would you be willing to accept  
14 the law and apply the law to the facts as you found  
15 them to be?

16 A. Yes, ma'am.

17 Q. Even though you might not like the law, you  
18 might not agree with it, you might think it was flat  
19 out wrong, but would you still be willing to apply  
20 the law as the law was given to you by the judge?

21 A. Yes, ma'am.

22 Q. So if you were asked to serve in the case of  
23 State vs. Bowman, could you decide this case based  
24 solely on what you'd hear in this courtroom; would  
25 you do that?

## Juror 275 Shalaya S. Singleton - Examination

1 A. Yes, ma'am.

2 Q. And could you disregard anything that you may  
3 have seen, or heard, or read about this case from any  
4 source at all if anything like that in the future  
5 came into your mind?

6 A. Yes.

7 Q. In other words, if something jogged your memory  
8 and you had some memory of this case, would you be  
9 willing to just set that aside at that time, could  
10 you do that?

11 A. Yes, ma'am.

12 Q. All right. Now, in a criminal case, which we  
13 talked about briefly yesterday, the State has the  
14 burden of proving the guilt of the defendant, any  
15 defendant, this defendant, Mr. Bowman, beyond a  
16 reasonable doubt. In other words, Mr. Bowman, or no  
17 defendant has the burden ever to prove himself or  
18 herself innocent because a defendant is always  
19 presumed innocent under our law. And do you  
20 understand that?

21 A. Yes, ma'am.

22 Q. Okay. So if you were a juror in any criminal  
23 case would you be willing to listen to the facts, the  
24 circumstances, listen to the law, apply the law to  
25 the facts and if you did not believe that the

1 defendant was guilty beyond a reasonable doubt would  
2 you be willing to find the defendant not guilty?

3 A. Yes, ma'am.

4 Q. On the other hand, if, depending on the facts  
5 and circumstances and the law, you find the facts,  
6 apply the law to it, if you were convinced as a juror  
7 that the State had proven the guilt of the defendant  
8 beyond a reasonable doubt, would you be willing to  
9 find the defendant guilty?

10 A. Yes, ma'am.

11 Q. So you would be willing to listen and make your  
12 decision based on whether or not you were convinced  
13 that the person is guilty or not; is that right?

14 A. Yes, ma'am.

15 Q. Okay. Now, most of the time jurors do not  
16 concern themselves with a matter of punishment. Most  
17 of the time in the criminal court what happens is  
18 that the punishment is left up to the judge, but  
19 there's one case in our law when a jury has to deal  
20 with the issue of punishment and that is a case like  
21 this one. That's a case when an individual has been  
22 charged with the crime of murder and when the State  
23 is seeking the death penalty. If an individual in a  
24 death penalty case is convicted of the crime of  
25 murder, then the same jury that convicted him or her

1 of murder comes back, must come back, and in a  
2 separate and a different proceeding decide the  
3 sentence that the person would get.

4                   There are only two choices. Number  
5 one, life imprisonment without the possibility of  
6 parole, and the other is the death penalty. That  
7 would be determined, the penalty would be determined  
8 in a second or a sentencing phase of the trial. Do  
9 you understand this?

10 A. Yes, ma'am.

11 Q. Now, have you had a chance to look at this paper  
12 back in the jury room?

13 A. Uh-huh (affirmative response).

14 Q. That was a yes?

15 A. Yes, ma'am.

16 Q. And you would notice essentially that it  
17 describes three different types of jurors, right?

18 A. Uh-huh (affirmative response).

19 Q. All right. Do you remember the three types of  
20 jurors?

21 A. Yeah. I might have to look at it again.

22 Q. Let me show it to you. Because I'm going to ask  
23 you to tell me which type of juror do you think best  
24 describes you?

25 A. Type three.

1 Q. Type three?

2 A. Uh-huh (affirmative response).

3 Q. All right. In other words, you would be willing  
4 to listen to whatever you might hear and if you  
5 thought it was appropriate to sentence someone to  
6 death you would be able to do that?

7 A. No.

8 Q. All right. Was that the extent of your --

9 A. The question asked me, I said no with the death  
10 penalty.

11 Q. All right. In other words, if you listened to  
12 the evidence and listened to what folks had to tell  
13 you, that based upon those facts and circumstances  
14 that you were told you do not believe that you would  
15 ever find it appropriate to sentence someone to  
16 death?

17 A. Exactly.

18 Q. All right. And, again, no matter what thees  
19 circumstances were?

20 A. Uh-huh (affirmative response).

21 Q. That's a yes?

22 A. Yes, ma'am.

23 Q. All right. And what you are telling me is that  
24 you would always vote for a sentence of life  
25 imprisonment?



1 A. Yes, ma'am.

2 Q. All right. No matter the facts and  
3 circumstances?

4 A. I just don't believe in the death penalty.

5 Q. Okay. In other words, it wouldn't -- you would  
6 have your mind made up before the sentencing phase  
7 would ever begin?

8 A. Yes, ma'am.

9 Q. Okay. And having your mind made up, then you  
10 would know that if you were on the jury and the jury  
11 found a defendant guilty of murder, that there would  
12 be no need for you to have a sentencing phase because  
13 you would know that no matter what the circumstances  
14 were, that you could never vote for the death  
15 penalty?

16 A. Yes, ma'am.

17 Q. All right. Let me tell you what I'm going to do  
18 at this point. These lawyers most probably will have  
19 some questions for you, so at this time I'm going to  
20 give them an opportunity, Ms. Singleton, to ask you  
21 questions.

22 And this morning we're going to begin  
23 with either Ms. Hardee-Thomas or Mr. Cummings.

24 MR. CUMMINGS: Judge, I'll say good morning  
25 to this young lady.

EXAMINATION

1  
2 BY MR. CUMMINGS:

3 Q. Good morning. I'm Norb Cummings and I'm court  
4 appointed to represent Mr. Bowman, that's Ms. Thomas  
5 as you heard Her Honor a moment ago. Again, why we  
6 do this is to give both the State and the defense a  
7 fair trial. You have to verbal verbally, she can't  
8 take down a head nod.

9 A. Yes, sir.

10 Q. Ms. Singleton, when Her Honor --

11 THE COURT: I'll tell you what, if you all  
12 need to communicate, it's very disconcerting  
13 just get her to step out, she can step out.  
14 Thank you so much.

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

16 Q. When Her Honor was asking you all about whether  
17 you could listen to the facts and the evidence,  
18 because as you well know there's two parts to this  
19 trial if we ever get to the second part. Do you  
20 understand that, Ms. Singleton?

21 A. Yes, sir.

22 Q. Okay. And you told her by an oath to your God  
23 or whoever you believe in, ma'am, that you could  
24 listen to the facts and the evidence and render a  
25 fair verdict for either the State or the defense

1 based on the evidence presented in this courtroom?

2 A. Yes, sir.

3 Q. And so you could do that?

4 A. Yes, sir.

5 Q. And you would perform your jury service as you  
6 are ordered to do by Her Honor?

7 A. Yes, sir.

8 Q. All right. When the judge began to ask you  
9 questions about what type of juror you were, you went  
10 back to the form again and you looked at the form?

11 A. Yes, sir.

12 Q. And at first you said you were type three?

13 A. Yes, sir.

14 Q. This is not a trick question I promise,  
15 Ms. Singleton. When you read type three juror it  
16 says on there that that's a juror that can listen to  
17 all the evidence.

18 A. Uh-huh (affirmative response).

19 Q. And based on the evidence could either vote for  
20 life without the possibility of parole if Mr. Bowman  
21 had been convicted of murder.

22 A. Yes, sir.

23 Q. And then also if the facts and circumstances so  
24 warrant that the jurors, all your fellow jurors and  
25 you, could vote for the death penalty. Is that the

1 type of juror you are, type three?

2 A. I think that one most fits me the best, but I  
3 really don't believe in the death penalty.

4 Q. Now, your belief, your comments about the death  
5 penalty, is that based on a religious background,  
6 ma'am, or other philosophy or background?

7 A. Religious.

8 Q. Okay. Is it that your religion would prohibit  
9 you from voting for the death penalty?

10 A. No. It's just a personal thing inside me what I  
11 believe in.

12 Q. Yes, ma'am. And that's why I want to hear your  
13 beliefs. If you'll just tell me why you believe you  
14 could never vote for the death penalty for the record  
15 here. And it's not a trick question. This is where  
16 we get to listen to you and this is just trying to  
17 get your feelings, and your thoughts, and your ideas,  
18 ma'am.

19 A. Yes, sir. The family I grew up in I just don't  
20 believe in the death penalty. Even though it don't  
21 matter how bad a crime it is I just think God will  
22 handle that and I just don't think nobody should be  
23 put to death no matter what.

24 Q. I understand. And but you still would be a fair  
25 and impartial juror on all the -- anything dealing

1 with a guilt phase?

2 A. Yes, sir.

3 Q. In other words, it's just that you, even if Her  
4 Honor asked you to follow her law and her  
5 instructions and sit with your other jurors, put your  
6 good minds together at the end and come up with some  
7 decision on punishment, you could never sign your  
8 name to any form that would require that any citizen  
9 be put in jeopardy of death?

10 A. Yes, sir.

11 MR. CUMMINGS: Beg the Court's indulgence,  
12 Your Honor.

13 (Mr. Cummings and Ms. Hardee-Thomas conferring  
14 with Mr. Bowman.)

15 MR. CUMMINGS: Judge, I have no questions  
16 of this young lady. I thank you, ma'am.

17 THE COURT: Very well. State?

18 MR. BAILEY: State has no questions, ma'am.

19 THE COURT: Very well. Ms. Singleton, I'm  
20 going to ask you to just step outside the  
21 courtroom because we're going to talk for just a  
22 moment and then ask you to come back.

23 MS. SINGLETON: Oh, all right.

24 THE COURT: Thank you so much.

25 MS. SINGLETON: You're welcome.

Juror 275 Shalaya S. Singleton - Examination

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

3 THE COURT: What says the defense?

4 MR. CUMMINGS: May it please the Court,  
5 Judge, I may be a little lengthy here. I  
6 started yesterday on my tangent, I apologize  
7 because I knew it was coming, Mr. Bailey and I  
8 have been doing these for a while and watching  
9 our court system for quite a while. Your Honor,  
10 my client is an African-American male.

11 THE COURT: I think she's a female.

12 MR. CUMMINGS: Yes, ma'am. The juror is an  
13 African-American female, but my client is an  
14 African-American male.

15 THE COURT: Of course.

16 MR. CUMMINGS: When I started my talk  
17 yesterday I said there are certain cultures,  
18 certain religious beliefs that would not follow  
19 Cesar's law, follow God's law. And Your Honor  
20 has said that based on your ruling that we  
21 cannot go into Cesar's law versus God's law  
22 here. This juror according to our statutory  
23 conception could qualify for a trial on the  
24 verdict of murder either guilty or not guilty.

25 When it comes to punishment this young

Juror 275 Shalaya S. Singleton - Examination

1 lady at first said she was a type three juror,  
2 listen to the facts and the evidence. And then  
3 upon Her Honor going down through the questions  
4 again stated thereafter she could not vote for  
5 the death penalty ever. After my questioning  
6 she said she could not do that. Even I tried to  
7 rehabilitate her based on a religious basis and  
8 based on the fact she believes God can only take  
9 a life.

10 Your Honor, I think it's  
11 unconstitutional and a violation of due process  
12 for my client to be placed in jeopardy of death  
13 when there are jurors out here that believe in  
14 fairness and believe in an evidentiary hearing  
15 and can follow your rules and evidence, but just  
16 have a religious problem or a religious  
17 conviction that says they could never vote to  
18 put somebody to death.

19 Your Honor, that's going to deny my  
20 client a certain class of jurors, and  
21 particularly this black female. Your Honor, my  
22 client is entitled to a jury of his peers. So  
23 far we've qualified three people and all three  
24 are white. And this is now, as we look at the  
25 percentages, starting to go back to where my

1 client has not had a member of his race as far  
2 as the jury percentages as of right now.

3 I know Your Honor has taken every step  
4 to ensure that Mr. Bowman receives a fair and  
5 impartial trial and will continue to do so, but  
6 we come to jurors of African-American dissent,  
7 Your Honor, it's been the history, practice,  
8 procedure, that most of them do not believe in  
9 the death penalty unless they have certain other  
10 convictions. And, Your Honor, I'm not speaking  
11 for anybody because I am not African-American,  
12 but I strongly, Judge, urge that we get a fair  
13 and impartial jury and, again, that Mr. Bowman  
14 be entitled to jurors of his peers.

15 Your Honor, I could try to  
16 rehabilitate that lady all day, she said she's a  
17 class two, according to our statutory law she's  
18 not qualified, I just wish to protect the record  
19 stating that my client is not -- this lady would  
20 have been a great juror in the evidentiary  
21 stage, she would have been a great juror in the  
22 guilt phase if you want to call it that, it's  
23 just she's now not qualified in the penalty  
24 phase because of her religious bailiffs. I  
25 thank you, ma'am.



1 THE COURT: Thank you, sir. I think the  
2 record should reflect, and it would reflect that  
3 when you asked her about her religious beliefs  
4 that she told you it really wasn't her religious  
5 belief, that it was her personal belief. And  
6 what she believes personally is right rather  
7 than --

8 MR. CUMMINGS: I just thought I heard her  
9 say --

10 THE COURT: We have someone that just  
11 walked in. I don't know who has walked in. Who  
12 is present?

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

14 THE COURT: I'm just trying to be cautious  
15 if a juror would walk in.

16 Yes, ma'am, who is this?

17 OFFICER SMITH: One of the students that do  
18 courtroom --

19 THE COURT: Okay. Let me tell you, I don't  
20 want anybody coming in when -- listen to me. We  
21 got new rules, all right. No one can come in  
22 unless we have a break, unless I have more  
23 information, particularly students that are  
24 observing. Because what happens is, is that we  
25 are trying very, very, very hard to focus and

1 it's extraordinarily distracting when we got  
2 people walking all over the courtroom, so please  
3 be mindful of that.

4 If it's people that are related to the  
5 victim's family or the defendant I think that's  
6 different. If it's the press coming in I think  
7 that perhaps is different, but when we have  
8 students who are serving detention from their  
9 school as some punishment and that is why they  
10 are here, I do not want them to disrupt this  
11 process.

12 Now, if you need to talk up here with  
13 court personnel, and I know a lot of times I'm a  
14 little bit easier than that, it can be  
15 disconcerting to counsel who's trying to  
16 concentrate. And Mr. Cummings happens to like  
17 to be here, he's entitled to stand where he  
18 wants to stand and I don't want him worried  
19 about that. But he's trying to focus so hard  
20 that he's extraordinarily focused and I just  
21 noticed him trying to struggle to stay on point  
22 as he examined the witness and he just couldn't  
23 do it.

24 OFFICER SMITH: Okay.

25 THE COURT: What concerns me is once he

1 stopped nobody acknowledged that he had stopped.  
2 So please understand that we have all got  
3 different tasks to do, but there must be  
4 deference shown to the lawyers who are trying to  
5 work up here. I know that you were trying to  
6 get Ms. Etheredge and, gosh knows, Smitty, I  
7 know what you were doing I'm sure is just as  
8 important as what any of us are doing. And,  
9 Ms. Etheredge, if Smitty needs you, you step out  
10 and you help him.

11 MS. ETHEREDGE: Yes, ma'am.

12 THE COURT: Don't put him in a position of  
13 having to struggle to get help. If he needs  
14 you, y'all step out and help him, okay?

15 OFFICER SMITH: Yes, ma'am.

16 THE COURT: Because he obviously needed you  
17 because he wouldn't have done that otherwise.  
18 If he's needy or if security is needy I expect  
19 the court personnel to respond and step out of  
20 this courtroom to help each other. Don't put  
21 security people in a position of having to  
22 disrupt because he would never do that, it's not  
23 the way he does business and I know that so  
24 thank you for that. And excuse me for that, but  
25 I think that's important.

1 I've just noticed that -- I've noticed  
2 the need for concentration particularly in this  
3 case is very great and I'm watching counsel  
4 struggle and I need to be sure that I'm doing  
5 all I can to accommodate, so thank you all so  
6 much for that.

7 All right. I know that that  
8 distracted me. The point was that Ms. Singleton  
9 did mention that her conviction was one that was  
10 a personal, rather than a religious one. I  
11 think that our law is quite clear on two  
12 matters. Number one, that we do death qualify  
13 jurors for the guilt phase. And as I understand  
14 the decisions to this date that is a  
15 requirement. We do not have two juries, we do  
16 not have a guilt phase qualified jury and a  
17 death qualified jury, that we have one jury and  
18 that is the law.

19 And further that jurors must be able  
20 to consider both the death penalty as well as  
21 life imprisonment without the possibility of  
22 parole and they must under the facts and  
23 circumstances as they find appropriate, they  
24 must be willing and have the capacity to impose  
25 either sentence based upon what they find to be

1 the facts and circumstances.

2 That is the state of the law today as  
3 I understand it, Mr. Cummings, and I gather --  
4 let me hear from you, Mr. Bailey, before I --

5 MR. BAILEY: Your Honor, I think your  
6 assessment was absolutely correct and I would  
7 concur in everything you've said.

8 THE COURT: All right. And I will note for  
9 the record certainly that Ms. Singleton is an  
10 African-American. However, I think she finds  
11 herself squarely as a type two juror and based  
12 on the valiant attempts of the defense to  
13 rehabilitate her she has been very clear that  
14 she is unable to impose -- to consider the death  
15 sentence and as a result I find that she is  
16 disqualified.

17 MR. CUMMINGS: Judge, we just protect the  
18 record for my objection. Thank you, ma'am.

19 THE COURT: Absolutely. Over the objection  
20 of the defense. Note your exception.  
21 (Whereupon, the prospective juror returns to the  
22 courtroom.)

23 THE COURT: Ms. Singleton, thank you for  
24 your patience. I am going to be able to excuse  
25 you from your service on this jury and I want to

1 just briefly tell you why. No criticism to your  
2 opinions at all, but the law requires that we  
3 have jurors who can consider both possible  
4 punishments and as a result of that you will be  
5 disqualified from service on this jury.

6 Now, I'm going to ask that you not  
7 discuss your questions, this process, with any  
8 prospective jurors. You can talk about it with  
9 anybody else if you want to, you are in complete  
10 control about that. However, if you're not sure  
11 whether or not someone may be a prospective  
12 juror, then you would be well advised not to  
13 discuss it with them. Because obviously as I  
14 talked about, we do not want jurors to discuss  
15 this matter with anyone else. Thank you so much  
16 for your patience.

17 MS. SINGLETON: You're welcome.

18 THE COURT: And you are free to go.

19 MS. SINGLETON: Thank you.

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

22 THE COURT: Oh, we'll have Ms. Sylvia  
23 Perry.

24 (Sylvia A. Perry, called as a prospective juror,  
25 having previously been duly sworn, is examined

1 as follows:)

2 EXAMINATION

3 BY THE COURT:

4 Q. You're Ms. Sylvia Perry?

5 A. Yes, ma'am.

6 Q. Good morning, Ms. Perry. Ms. Perry, you were  
7 here yesterday throughout the entire process, the  
8 jury qualification?

9 A. Yes, ma'am. I was scared yesterday.

10 Q. All right.

11 A. When y'all sent them cops after me.

12 Q. All right. And what time did you arrive  
13 yesterday?

14 A. Morning?

15 Q. Yes, ma'am.

16 A. About a quarter to 10:00.

17 Q. About a quarter to 10:00.

18 A. I was sitting on the last pew.

19 Q. I remember, very well. I had some information  
20 which I think was incorrect, that perhaps that you  
21 came a little bit later and I was just going to do  
22 the first part of the qualification and that's why I  
23 asked that question. And I don't need to do that.

24 Now, and for the record this is Ms. Sylvia Perry and  
25 you are Juror Number 232.

1                   Now, Ms. Perry, obviously yesterday  
2 you were sworn along with all the other potential  
3 jurors, and you understand the oath that you took  
4 yesterday still applies to this process?

5     A.    Yes, ma'am.

6     Q.    All right. Since we talked with you yesterday  
7 has anyone talked with you about this case, or tried  
8 to approach you about this case, or have you  
9 inadvertently or otherwise been exposed to any  
10 information about this case?

11    A.    No, ma'am.

12    Q.    All right. Now, back in the jury room where you  
13 just came from you were given a list of potential  
14 witnesses, Ms. Perry, and I would just ask you if you  
15 had a chance to review that list?

16    A.    Yes, ma'am.

17    Q.    And are you related by blood or marriage,  
18 acquainted with, or have any business or personal or  
19 casual relationship, do you have any connection, be  
20 it direct or indirect, with any of the individuals  
21 who are mentioned on the sheet?

22    A.    Not that I recognize.

23    Q.    Thank you. Now, yesterday, Ms. Perry, you did  
24 not indicate that you had any opinion, or that you  
25 had seen, heard, or read anything about this case, or



1 that you had any bias or prejudice for or against  
2 either of these parties, either side. You didn't  
3 indicate that any of these things applied to you; is  
4 that right?

5 A. Yes, ma'am.

6 Q. And since we talked yesterday has anything come  
7 to your memory that may have jogged your memory or  
8 created anything within your knowledge that would  
9 change your answer from your answers yesterday?

10 A. No, ma'am.

11 Q. All right. Now, I need to ask you some  
12 questions.

13 A. Okay.

14 Q. And I want you to know that I am not trying to  
15 invade your privacy in the least. We are trying to  
16 find out how you may feel about certain matters. In  
17 other words, we're trying to find out what your  
18 opinions are regarding certain matters.

19 And I want you to know there are no  
20 right or wrong answers, and obviously your opinions  
21 are just as good, just as valid as anybody else's.  
22 We do not challenge your opinions in any regard. We  
23 simply need to understand a little bit about your  
24 opinions so that we can see whether or not your  
25 personally held opinions will impact on your jury

1 service and that's the purpose for these questions.

2 Now, in a few moments I'm going to be  
3 asking you about penalty, specifically the death  
4 penalty, because that may be an issue in this case.  
5 But I want you to understand that the mere fact that  
6 I'm talking about penalty at this early stage really  
7 is premature because this trial hasn't even begun  
8 yet. And as I've said, Mr. Bowman is presumed  
9 innocent of the charges, but this is the only time  
10 that I can speak with you about penalty. Obviously,  
11 necessarily I need to do that before the trial gets  
12 underway.

13 A. Yes, ma'am.

14 Q. Now, if you were a juror in any type of criminal  
15 case, I'm not going to ask you about this case, you  
16 don't know anything about this case, that wouldn't be  
17 fair to you to ask you about this case, so I'm going  
18 to ask in generic senses, in general senses. If you  
19 were a juror in any kind of criminal case, would you  
20 be willing to listen to the law as it was instructed  
21 to you by the judge?

22 A. Yes, ma'am.

23 Q. And would you be willing to accept the law and  
24 apply the law as the judge gave it to you?

25 A. Yes, ma'am.

1 Q. Even if you didn't think it made sense, or you  
2 didn't agree with it, or if you downright thought the  
3 judge was wrong, would you still follow the law as it  
4 was given to you by the judge?

5 A. Yes, ma'am.

6 Q. All right. And if you were asked to serve in  
7 the case of the State vs. Mr. Bowman, could you  
8 decide this case based solely on what you would hear  
9 in this courtroom and disregard anything that you  
10 might have seen, or that you may see, hear, or read  
11 about from any other source at all, if anything like  
12 that should come into your memory? In other words,  
13 say you are on the jury and something jogged your  
14 memory and you have no memory now, but say your  
15 memory got jogged. Would you be able to set that  
16 completely aside and try this case, make your  
17 decision based upon what you hear in the courtroom?

18 A. Yes, ma'am.

19 Q. Now, Ms. Perry, in a criminal case, as we talked  
20 about a little bit yesterday, the State has the  
21 burden of proving the guilt of a defendant, any  
22 defendant, this defendant, beyond a reasonable doubt.  
23 In other words, a defendant, this defendant, has no  
24 burden to prove his innocence because he is presumed  
25 innocent under the law. Do you understand that?

1 A. Yes, ma'am.

2 Q. So if you were a juror in a criminal case, would  
3 you be willing to listen to the facts and  
4 circumstances and the law as you were instructed?

5 A. Yes, ma'am.

6 Q. And based upon what you found those facts and  
7 circumstances to be, would you be willing to find a  
8 defendant not guilty of a criminal charge if you  
9 found that the State -- it sounds like a trick  
10 question, doesn't it, Ms. Perry?

11 A. Yes.

12 Q. Let me try that. In other words, if you were  
13 not convinced based on the facts and circumstances as  
14 you found them to be and the law as given to you by  
15 the Court, if you were not convinced of the  
16 defendant's guilt beyond a reasonable doubt, would  
17 you be willing to find a defendant not guilty?

18 A. Yes.

19 Q. All right. And also on the other hand, if based  
20 upon the facts and circumstances as you found them to  
21 be, applying the law given to you by the Court, if  
22 you were convinced that the defendant was guilty, or  
23 a defendant was guilty beyond a reasonable doubt,  
24 would you be willing to find that defendant guilty?

25 A. Yes, ma'am.

1 Q. All right. So you would be willing to listen to  
2 the evidence and make your decision based upon  
3 whether or not you were convinced that the person is  
4 guilty or not?

5 A. Yes, ma'am.

6 Q. All right. Now, I'll talk about another topic  
7 with you, Ms. Perry. Most of the time jurors do not  
8 concern themselves with the matter of punishment.  
9 Most of the time in the criminal court the punishment  
10 is left up to the judge. There is one case in our  
11 law when a jury has to deal with the issue of  
12 punishment, and that is a case like this case. It is  
13 in a case where an individual has been charged with  
14 the crime of murder and where the State is seeking  
15 the death penalty. If an individual in a death  
16 penalty case is convicted of the crime of murder,  
17 then that same jury that convicted the person must  
18 come back and in a separate and a different  
19 proceeding decide the sentence that the person would  
20 get. There are only two choices. One is life  
21 imprisonment without the possibility of parole, and  
22 the other is the death penalty. Punishment would be  
23 determined in that second or sentencing phase of the  
24 trial. Do you understand this?

25 A. Yes, ma'am.

1 Q. All right. Now, back in the jury room with you  
2 we had another sheet, and I'd ask if you had a chance  
3 to look at this sheet? And I'll pass it to you just  
4 for your refreshing your recollection.

5 Now, that sheet really described three  
6 types of jurors: Type one, type two, and type three.  
7 Do you remember the three types?

8 A. Yes, ma'am.

9 Q. Okay. Which of those three types of jurors do  
10 you think best describes you?

11 A. Number three.

12 Q. Number three. In other words, you would be  
13 willing to listen to whatever you might hear and if  
14 you -- and if you thought it was appropriate based  
15 upon the evidence that you heard, based upon the  
16 information that you heard that it was appropriate to  
17 sentence someone to death, would you be able to do  
18 that?

19 A. Yes, ma'am.

20 Q. And if you thought that the death sentence was  
21 not appropriate, or for any other reason that the  
22 person ought to receive life imprisonment without the  
23 possibility of parole, you would be able and willing  
24 to vote for a sentence of life imprisonment?

25 A. Yes, ma'am.

1 Q. So you would make the decision based upon what  
2 you would hear in the courtroom?

3 A. Yes, ma'am.

4 Q. Now, Ms. Perry, if you were chosen to serve as a  
5 juror in this case, you and the other jurors would be  
6 housed, the word is sequestered, in a local motel  
7 during the course of the trial. That's where you  
8 would have to stay until the trial is over except, of  
9 course, when you're in the courtroom. This period  
10 could be as long as two weeks, it could be longer, I  
11 simply don't know how long the trial will take with  
12 any tremendous specificity.

13 Obviously that would create an  
14 inconvenience for you as it surely will for all who  
15 serve on this jury. Other than, other than the  
16 inconvenience it will cause anybody who would have to  
17 serve in that capacity, would that pose a serious  
18 risk of danger to your health or well being, or to  
19 that of anybody who is dependent upon you if you had  
20 to serve in that capacity?

21 A. No, ma'am.

22 Q. All right. Very well. Now, Ms. Perry, these  
23 lawyers are going to ask you some questions, so if  
24 you would just bear with them and if you would be so  
25 kind to answer those questions as you have mine.

1 Mr. Bailey.

2 MR. BAILEY: Thank you, Your Honor.

3 EXAMINATION

4 BY MR. BAILEY:

5 Q. Ms. Perry, how are you doing? I'm Walter Bailey  
6 and I'll be prosecuting the case, I need to ask you a  
7 few more questions primarily about the death penalty.  
8 Like the judge said there are no right or wrong  
9 answers, we just want to know how you feel.

10 Before I get into that you indicated  
11 on your questionnaire that you filled out that you  
12 had a sciatic nerve problem that may be --

13 A. Yes. I've taken care of that. I have shots  
14 done and I just had one done.

15 Q. So that's no problem?

16 A. No, sir.

17 Q. Okay. All right. And when Judge Goodstein  
18 explained the process in the death penalty you  
19 understand the way the system works in South  
20 Carolina, if we get to the penalty phase of the trial  
21 it would mean the defendant had already been found  
22 guilty of murder in the first part of the trial and  
23 then the jury, not the judge, decides what his  
24 sentence is, either life without parole or the death  
25 penalty. And you've indicated that you could vote



1 for either life without parole or the death penalty  
2 depending on what you heard; is that correct?

3 A. Yes, sir.

4 Q. All right. If all 12 jurors after hearing the  
5 facts and the law from the judge vote for the death  
6 penalty, there's a death verdict form that each  
7 juror's asked to sign their names to.

8 A. Yes, sir.

9 Q. Could you sign your name to a paper like that if  
10 you heard all the evidence --

11 A. Yes, sir.

12 Q. -- and decided the death penalty was the  
13 appropriate sentence?

14 A. Yes, sir.

15 Q. All right. And you could do that knowing that  
16 as a result of signing that paper that person  
17 eventually would be executed?

18 A. Yes, sir.

19 Q. There is another part of the process where each  
20 one of the jurors once that verdict is announced  
21 would come out into open court and each name is  
22 called out loud and you would be asked to stand up  
23 and affirm out loud if that was your verdict. If  
24 that was your verdict, could you stand up and say  
25 that's my verdict?

1 A. Yes, sir.

2 Q. Ms. Perry, that's all I have. Thank you very  
3 much.

4 THE COURT: Mr. Cummings.

5 EXAMINATION

6 BY MR. CUMMINGS:

7 Q. Good morning, ma'am. I'm Norb Cummings, I'm  
8 court appointed to represent Mr. Bowman, also seated  
9 at that table is Ms. Thomas and also Mr. Bowman.  
10 Ma'am, if you will allow me this morning to ask you  
11 some questions. I know this is the only chance we  
12 get to talk to you with Her Honor's protection, they  
13 have all the jurors in here. And as you talked to  
14 Mr. Bailey a few moments ago, I'm going to try to do  
15 the same, okay?

16 A. Okay.

17 Q. On your questionnaire it states that you donated  
18 to the highway patrol.

19 A. Yes.

20 Q. Is that like for one of those stickers, or the  
21 troopers' fund?

22 A. Yeah. Just I get a sticker every year, I donate  
23 \$25 --

24 Q. Okay.

25 A. -- when they call.

1 Q. Okay. You work at Smitty's. Is that the one on  
2 61?

3 A. Yes, 61 and 17-A.

4 Q. Okay. And obviously the troopers come in a lot?

5 A. Yeah.

6 Q. And the deputies come in a lot?

7 A. Yes.

8 Q. When you looked at the witnesses did you  
9 recognize any of the deputies' names on there?

10 A. I don't know them by name, they just come in and  
11 get something to eat and leave. The only one I  
12 really know by name is his name is Ponch, but I don't  
13 know his real name.

14 Q. That's because he eats a lot.

15 A. He's the one that come to get me yesterday.

16 Q. None of the deputies have talked to you about  
17 this case at all, have they, Ms. Perry?

18 A. No.

19 Q. How long have you worked at Smitty's Grocery  
20 there?

21 A. I just went there in December.

22 Q. In December of 2001?

23 A. Yes, last year.

24 Q. And, Ms. Perry, I want to go back a little bit.

25 Obviously ladies and gentlemen who work in grocery

1 stores at night or daytime they feel very comfortable  
2 when law enforcement shows up. You're right there at  
3 that point and there's a lot of traffic coming in and  
4 out.

5 A. Yeah.

6 Q. Do you think you have a strong allegiance to law  
7 enforcement because of where you work and the fact  
8 these guys come in to check on you?

9 A. No.

10 Q. And so you are the type of lady that's fair and  
11 impartial?

12 A. I feel that I am.

13 Q. And you would listen to the evidence?

14 A. Oh, yes.

15 Q. And you're not the kind of lady or potential  
16 juror, ma'am, that just because somebody's arrested  
17 you believe they would be guilty?

18 A. No, sir.

19 Q. And the type of juror, and why we ask these  
20 questions is to get a juror who's fair and impartial  
21 and understands that they're not here to reward  
22 anybody, or punish anybody, they just do their civic  
23 duty?

24 A. Yes, sir.

25 Q. Ms. Perry, you believe that you -- you know, you

1 work out here, you live out here, you would do your  
2 civic duty?

3 A. Yes.

4 Q. And as we all understand, maybe we go through  
5 this thing pretty lightly, but Her Honor tried to  
6 cover it saying that everyone who comes in this room  
7 is presumed innocent.

8 A. They are until they're proven guilty.

9 Q. Yes, ma'am. And the reason is that's the only  
10 fundamental basis that we really have to protect  
11 every citizen that's charged with a crime.

12 A. Yes, sir.

13 Q. And obviously, ma'am, when I ask you these  
14 questions it's to try to find out whether when you  
15 sit in that box you and the other nice people, the 11  
16 of you will put your minds together and collectively  
17 decide what's presented in this room. And then at  
18 the end of that, you know there's two stages again,  
19 one would be guilt or innocence and then if we  
20 ever -- if somebody's found guilty of murder, then  
21 and only then do we consider any possible penalty.

22 A. Yes, sir.

23 Q. And I know that you answered Her Honor when she  
24 asked you whether or not you could vote for giving a  
25 citizen the death penalty.

1 A. Yes, sir.

2 Q. Okay. Do you understand you don't have to do  
3 that?

4 A. Yes, I understand that.

5 Q. And that you would consider any alternative  
6 sentences along with your fellow jurors?

7 A. Yes, sir.

8 Q. And, again, being the polite lady that you have  
9 been to myself and Mr. Bowman and Ms. Thomas this  
10 morning, you would want to make sure the government  
11 proved their case beyond a reasonable doubt, would  
12 you?

13 A. Yes.

14 Q. And you understand the seriousness of your jury  
15 duty here today because you were here earlier?

16 A. Yes, sir.

17 Q. Even sat in the back row?

18 A. Yes, sir.

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

20 THE COURT: Certainly.

21 (Mr. Cummings and Ms. Hardee-Thomas conferring  
22 with Mr. Bowman.)

23 MR. CUMMINGS: Thank you very much. That  
24 is all the questions I have of this nice lady.

25 MR. BAILEY: Could I ask one other question

1 I omitted to ask earlier?

2 THE COURT: Certainly.

3 EXAMINATION

4 BY MR. BAILEY:

5 Q. I think when the question was asked whether or  
6 not if you knew any of the solicitors or the defense  
7 team over here that you stood up and said you knew  
8 Mr. Cummings or Ms. Hardee-Thomas?

9 A. Ms. Hardee-Thomas.

10 Q. Okay. Can you tell us how you know her?

11 A. She represented my son on a violation of  
12 probation.

13 Q. All right. And that was here in this -- in  
14 Dorchester County?

15 A. Yes.

16 Q. Okay. Would the fact that Ms. Hardee-Thomas  
17 represented your son and the fact that she's one of  
18 the lawyers in this case have any effect on your  
19 ability to be fair to both sides?

20 A. No, sir.

21 Q. You would make your decision on the facts and  
22 the law and that's it?

23 A. Yes, the facts only.

24 Q. Thank you. That's all I have.

25 THE COURT: Thank you so much. Ms. Perry,

1 would you do me a favor and just step -- we're  
2 not going to be but a moment, step right outside  
3 the courtroom and we'll have you come right back  
4 in, we're just going to talk about you behind  
5 your back for a moment.

6 (Whereupon, the prospective juror exits the  
7 courtroom.)

8 THE COURT: What says the State?

9 MR. BAILEY: Qualified, Your Honor.

10 THE COURT: What says defense?

11 MR. CUMMINGS: Statutorily qualified,  
12 Judge.

13 THE COURT: Thank you so much. Ask her to  
14 step back in.

15 (Whereupon, the prospective juror returns to the  
16 courtroom.)

17 THE COURT: I told you it would be quick.

18 MS. PERRY: Yes, ma'am.

19 THE COURT: Ms. Perry, you have been found  
20 to be qualified as a potential juror in this  
21 case. That doesn't mean that you are on the  
22 jury yet, it just means that you are a potential  
23 juror and you may be selected to serve on this  
24 jury. We are hoping, hoping-hoping, that we  
25 will be able to select the jury on Thursday



1       afternoon at two o'clock.

2               And it may be ambitious, it may not be  
3       ambitious, we might be able to do it a little  
4       bit earlier. And if we have to change the time  
5       either earlier or later, I want you to know that  
6       we will call and you let you know. We won't  
7       send Ponch, we will call you and let you know.  
8       But unless you hear back from us, we are asking  
9       that you be back here in the courtroom at two  
10      o'clock, at two o'clock on Thursday.

11             Got a little sheet, Ms. Etheredge just  
12      handed you a little sheet of paper that contains  
13      some instructions to help you get ready for your  
14      jury service, like packing clothes, medications,  
15      and things that you will need. It also tells  
16      you where you're going to be housed and it gives  
17      you a couple of emergency numbers for your  
18      family or if anyone needs you, one for here at  
19      the courthouse during the day and then one for  
20      the motel at night.

21             Now, please know you can talk about  
22      these practical things, where you're going to  
23      be, the numbers, that sort of thing with anybody  
24      you want to talk to. And I urge you to talk to  
25      your family about it and your employer about it.

1           However, remember you must not, you must not  
2           discuss this case or any aspect of this case in  
3           any manner whatsoever with anyone.

4           MS. PERRY:   Yes, ma'am.

5           THE COURT:   Also you must not expose  
6           yourself to any information about this case from  
7           any source at all.  And that would be  
8           television, newspaper, internet, radio, any  
9           source whatsoever.  Do you understand this?

10          MS. PERRY:   Yes, ma'am.

11          THE COURT:   Thank you so much.  I look  
12          forward to seeing you Thursday at 2:00.  Bye,  
13          Ms. Perry.

14          MS. PERRY:   Bye.

15          (Whereupon, the prospective juror exits the  
16          courtroom.)

17          THE COURT:   Our next juror is Juror Number  
18          68, Gene Davis.  Thank you so much.

19          (Gene C. Davis, called as a prospective juror,  
20          having previously been duly sworn, is examined  
21          as follows:)

22          THE COURT:   Good morning, how are you  
23          doing, Mr. Davis?  Please be seated right there  
24          for me.  For the record this is Mr. Gene Davis  
25          who is Juror Number 68.

EXAMINATION

1  
2 BY THE COURT:

3 Q. Now, Mr. Davis, as you will recall you were  
4 sworn in along with the rest of the panel yesterday  
5 morning. Do you recall that?

6 A. Yes, ma'am.

7 Q. And that oath continues to this process today,  
8 all right?

9 A. Okay.

10 Q. Very well. And you understand that?

11 A. Yes, I do.

12 Q. Now, since we talked with you yesterday morning  
13 has anyone talked to you about this case or tried to  
14 approach you about it, or have you inadvertently or  
15 otherwise been exposed to any information about this  
16 case?

17 A. No, ma'am.

18 Q. All right, sir. Now, when you were back in the  
19 jury room, Mr. Davis, you were given this list of  
20 potential witnesses, and I would ask whether or not  
21 you recognize any of those folks?

22 A. No, I do not.

23 Q. All right. Are you connected, or related by  
24 blood or marriage, or connected directly or  
25 indirectly, or have a business or personal

1 relationship, be it even a casual acquaintanceship  
2 with any of those individuals?

3 A. No, ma'am.

4 Q. All right, sir. Now, Mr. Davis, based upon my  
5 notes you did not indicate yesterday morning when you  
6 were asked that you had any opinion about this case,  
7 or that you had seen or read anything about it, or  
8 heard anything about this case, or that you had any  
9 sort of bias or prejudice for or against either side  
10 in this case. Am I correct in my memory, you did not  
11 indicate that any of those things applied to you?

12 A. You're correct.

13 Q. All right. Since we talked yesterday, has  
14 anything come into your memory that may have jogged  
15 your memory, or created anything within your  
16 knowledge that would change your answers?

17 A. No, ma'am.

18 Q. But, anyway, change you so you would need to  
19 answer to any of those questions?

20 A. (Shaking head.)

21 Q. That was a no?

22 A. Yes.

23 Q. Now, I need to ask you some questions. And I  
24 want you to know that I am not trying to -- we are  
25 not trying to invade your privacy in the least. We

## Juror 68 Gene C. Davis - Examination

1 are just trying to find out how you may feel about  
2 certain matters, trying to find out what your  
3 opinions are is what we're doing, Mr. Davis. And  
4 before we do that I want to explain to you why we  
5 need to know something about some of your opinions.

6 We need to know whether or not any of  
7 your -- not any, but some of the opinions that you  
8 may hold that we will ask you about, whether or not  
9 those opinions may impact on your juror service.  
10 That's the purpose of the questions.

11 A. Okay.

12 Q. Obviously, there are no right and wrong answers,  
13 obviously your opinions are just as good and valid as  
14 anybody else's, we just need to know what they are  
15 and understand a little bit about what they are and  
16 that's the purpose for these questions.

17 And in a few moments, Mr. Davis, I'm  
18 going to be asking you about penalty, and  
19 specifically about the death penalty because that may  
20 be an issue in this case. But I want you to  
21 understand that the mere fact we're talking about  
22 that issue in no way is anything other than premature  
23 at this time. Obviously the case hasn't everyone  
24 begun yet, so obviously when we begin talking about  
25 penalty at this stage it is premature. It's just my

1 opportunity before the case begins to ask you your  
2 opinion about certain matters as they may impact on  
3 penalty. Let me reiterate to you as I did yesterday,  
4 that Mr. Bowman is presumed innocent of the charges.  
5 But, again, this is the only time I've got to talk to  
6 you about penalty before the trial gets underway.

7                   Now, Mr. Davis, I'm going to be asking  
8 you some questions and I'm asking them in a general  
9 or a generic sense. Obviously because I can't ask  
10 you about this case, you don't know anything about  
11 this trial, this case at all, and wouldn't be fair  
12 for me to ask you about how you may feel about this  
13 case because you don't know anything about it. So  
14 I'm going to be asking you questions in the generic,  
15 general sense, I'm going to be asking you about  
16 criminal trials in general. And I'll do that now.

17                   If you were a juror in any criminal  
18 case, in any criminal matter, would you be willing to  
19 listen to the law as you were instructed by the  
20 judge?

21 A. Of course.

22 Q. All right. And would you be willing to accept  
23 the law and apply the law to the facts as you found  
24 them to be?

25 A. Yes, ma'am.

1 Q. And would you be willing to accept the law and  
2 apply the law even if you didn't agree with it, even  
3 if you didn't think it made any sense would you still  
4 be willing to follow the law as you were instructed  
5 to do so by the judge?

6 A. Yes, ma'am.

7 Q. All right. Now, Mr. Davis, if you were asked to  
8 serve in the case of State vs. Mr. Bowman, could you  
9 decide this case based solely upon what you would  
10 hear in this courtroom and disregard anything that  
11 you may have seen, or heard, or read about this case  
12 from any source at all if anything like that should  
13 come into your memory?

14 In other words, if something during  
15 this trial you heard it and it jogged some memory and  
16 you're like, gosh, you know, I guess maybe that's  
17 jogging something way back in the back of my mind, or  
18 that's jogging memory, would you be willing to  
19 disregard that memory, disregard that jogged sense or  
20 knowledge completely and decide this case based on  
21 the evidence in this courtroom?

22 A. Yes, ma'am.

23 Q. Now, in a criminal case as you know and as we  
24 discussed yesterday morning, the State has the burden  
25 of proving the guilt of the defendant, any defendant,

1 this defendant, Mr. Bowman, beyond a reasonable  
2 doubt. In other words, a defendant, this defendant,  
3 Mr. Bowman, has no burden to prove himself innocent.  
4 A defendant is always presumed innocent under our  
5 law. Do you understand this?

6 A. Yes, I do.

7 Q. So if you were a juror in any criminal case  
8 would you be willing to listen to the facts and  
9 circumstances and the law as you were instructed?

10 A. Yes.

11 Q. And based upon what you found those facts and  
12 circumstances to be, and when you apply the law to  
13 those facts as you found them to be, if you were not  
14 firmly convinced of the defendant's guilt beyond a  
15 reasonable doubt would you be willing to find a  
16 defendant not guilty?

17 A. Yes, I would.

18 Q. And on the other hand, could you, depending upon  
19 what you found the facts to be and applied the law to  
20 those facts, if you were not -- or if you were firmly  
21 convinced of the defendant's guilt beyond a  
22 reasonable doubt, would you be willing to find a  
23 defendant guilty of the charge?

24 A. Yes, ma'am.

25 Q. So you would be willing to listen to the



1 evidence, and make your decision based upon whether  
2 or not you were convinced that a defendant was guilty  
3 or not?

4 A. Yes.

5 Q. Now, most of the time jurors do not concern  
6 themselves with the matter of punishment, penalty.  
7 Most of the time in the criminal court penalty is  
8 left up -- punishment is left up to the judge. But  
9 there is one case under our law when a jury has to  
10 deal with the matter of punishment and that is a case  
11 like this case. It is a case where an individual has  
12 been charged with the crime of murder and where the  
13 State is seeking the death penalty.

14 If an individual in a death penalty  
15 case is convicted of the crime of murder, then the  
16 same jury that convicted that individual of murder  
17 must come back and in a separate and different  
18 proceeding decide the sentence that that person would  
19 get. And there are two choices. One is life  
20 imprisonment without the possibility of parole, and  
21 the other is the death penalty. That would be  
22 determined, the penalty, the punishment would be  
23 determined in a second or sentencing phase of the  
24 trial. Do you understand this?

25 A. Yes, I do.

1 Q. All right. Now, in the jury room back there  
2 with you there was another sheet of paper, and on  
3 that sheet of paper there were three types of jurors  
4 who were described. Do you remember this little  
5 sheet of paper?

6 A. Yes, ma'am.

7 Q. And do you remember the three types of jurors on  
8 that sheet of paper?

9 A. Yes, ma'am.

10 Q. I would ask of you which of those three types of  
11 jurors best describes you?

12 A. Number three.

13 Q. Number three. In other words, you would be  
14 willing to listen to whatever you might hear in that  
15 sentencing phase, and if you thought it was  
16 appropriate based on the information, based on the  
17 facts that you heard if you thought it was  
18 appropriate to sentence someone to death you would be  
19 able to do that?

20 A. Yes, ma'am.

21 Q. If, on the other hand, you thought that the  
22 death sentence was not appropriate, or for any other  
23 reason the person ought to receive life imprisonment  
24 without the possibility of parole, you would be able  
25 and willing to vote for a sentence of life?

1 A. Yes, ma'am.

2 Q. So you would make that decision based upon what  
3 you would hear in the courtroom?

4 A. Yes.

5 Q. Now, Mr. Davis, if you were chosen to serve as a  
6 juror in this case, you and the other jurors would be  
7 housed, the word is called sequestered, here locally  
8 in a motel during the course of the trial. That's  
9 where you would have to stay until the trial is over,  
10 obviously except when you are in the courtroom. This  
11 period could be as long as two weeks or longer, I  
12 simply don't know the exact duration of the trial.

13 Obviously, Mr. Davis, that would  
14 create an inconvenience for you as it surely will for  
15 all who serve on this jury. Other than the  
16 inconvenience which it will surely cause anyone who  
17 would have to serve in this capacity, would that pose  
18 a serious risk of danger to your health or well  
19 being, or to that of anybody who is dependent upon  
20 you if you had to serve in that capacity?

21 A. No, ma'am.

22 Q. All right, sir. You would be able to do that?

23 A. Yes, ma'am.

24 Q. All right, sir. Now, these lawyers no doubt  
25 will have some questions for you, so I'm -- at this

1 time I'm going to ask Mr. Cummings or Ms.  
2 Hardee-Thomas if they have any questions for you,  
3 Mr. Davis.

4 MR. CUMMINGS: Thank you. Thank you, Your  
5 Honor.

6 EXAMINATION

7 BY MR. CUMMINGS:

8 Q. Mr. Davis, good morning, sir.

9 A. Good morning.

10 Q. And I'll wait.

11 THE COURT: Wait, let me get that.

12 MR. CUMMINGS: Yes, ma'am.

13 THE COURT: If I spill it on him you can go  
14 ahead and shout at me. There you go, Mr. Davis.

15 MR. DAVIS: Thank you.

16 Q. All set, sir? Okay. Thank you for allowing us  
17 the opportunity to speak to us this morning. As Her  
18 Honor told you it's the only chance either myself,  
19 Norb Cummings, Ms. Thomas, we're both Court appointed  
20 attorneys for Mr. Bowman, and Mr. Bowman gets to  
21 speak to you this way. And then Mr. Bailey or  
22 anybody from the solicitor's office will get to speak  
23 to you about some questions also, sir.

24 A. Okay.

25 Q. When I was looking through your questionnaire,

## Juror 68 Gene C. Davis - Examination

1 sir, how long have you been a citizen, resident of  
2 Dorchester County, sir?

3 A. About 20 years.

4 Q. Okay. So you've been here quite a while?

5 A. Yes.

6 Q. And you didn't know any of the witnesses on the  
7 that big, long sheet of paper back there, or proposed  
8 witnesses?

9 A. No, I do not.

10 Q. Okay. And where you work at you don't have any  
11 contact with law enforcement officers in any kind of  
12 general sense?

13 A. No.

14 Q. All right. And, Mr. Davis, when Her Honor asked  
15 you, again, according to your civic duty, your oath  
16 as a juror, that you would render the basic principle  
17 that every citizen is presumed innocent until the  
18 State proves somebody guilty beyond a reasonable  
19 doubt.

20 A. That's correct.

21 Q. And you hold that fundamental issue very, very,  
22 very important, sir?

23 A. Yes, I do.

24 Q. All right. You're an Army vet?

25 A. Yes, I am.

1 Q. All right. And, Mr. Davis, when you were  
2 brought in here you were told that somebody is --  
3 there's going to be a big trial, you saw a lot of  
4 jurors in here.

5 A. Uh-huh (affirmative response).

6 Q. Did the fact, or is a fact that somebody is  
7 arrested by the police and brought into court, would  
8 you have any issues about believing that they are --  
9 either if the police arrest them they're guilty, or  
10 you wait to hear every fact and every evidence before  
11 you would ever render that decision?

12 A. I need to hear the facts.

13 Q. Okay. And, again, you would hold to that  
14 principle?

15 A. Yes, I would.

16 Q. All right. And at the end of it when put your  
17 mind together collectively with the other good jurors  
18 that may be with you, sir, you would listen to all  
19 the facts and evidence and collectively come to a  
20 decision?

21 A. Correct.

22 Q. All right. Then if somebody is found guilty of  
23 murder, then and only then do we ever get to what  
24 they call the second part or the penalty phase.

25 A. Yes.

1 Q. And that phase, understanding you would have to  
2 put your mind together with your collective jurors  
3 and whatever decision you good folks make, you make.

4 A. Yes.

5 Q. Because you understand that nobody has to vote  
6 for the death penalty, nobody has to vote for life  
7 imprisonment?

8 A. Okay. Yes.

9 Q. You would render and weigh everything or  
10 anything like Her Honor says?

11 A. Yes, I would.

12 Q. Okay. And as far as just, again, looking back  
13 here now, you would not be inconvenienced being put  
14 in a hotel for two or three weeks, possibly?

15 THE COURT: Yeah, he would be  
16 inconvenienced.

17 MR. CUMMINGS: Excuse me, I don't mean  
18 that. I used the wrong word there, sir.

19 THE COURT: They would all be  
20 inconvenienced.

21 Q. That would not cause any undue hardships on you,  
22 sir?

23 A. I would be willing to do that.

24 Q. And, again, at the end of any and all  
25 proceedings you would be asked to sign your name to a

1 document. And depending on what you and the other  
2 fellow jurors do based on, again, if and only when  
3 somebody is proven guilty of murder, you may be asked  
4 to sign your name to a document that carries out the  
5 death penalty. Would you be willing to do that, sir,  
6 as part of your civic duty?

7 A. Yes.

8 Q. Also you may be asked at the end of the trial to  
9 stand up and announce in open court, we're a public  
10 forum here with protection of Her Honor, stand up  
11 there and say this is my vote and it is still my  
12 vote. And you would be willing to do that as a  
13 gentleman?

14 A. Yes, I would.

15 Q. Thank you, Mr. Davis.

16 MR. CUMMINGS: That's all the questions I  
17 have, Your Honor.

18 THE COURT: Thank you, Mr. Cummings.

19 Mr. Bailey.

20 EXAMINATION

21 BY MR. BAILEY:

22 Q. I think the Judge and Mr. Cummings have asked  
23 all the questions, so I have nothing further. Thank  
24 you, sir.

25 A. Thank you.



## Juror 68 Gene C. Davis - Examination

1 THE COURT: Now let me tell you what I'm  
2 going to ask you to do, Mr. Davis. I'm going to  
3 ask you to step outside this door for just a  
4 moment. Don't need to go anywhere, I'll get you  
5 right back in. We're just going to talk about  
6 you behind your back for a second.

7 MR. DAVIS: Okay.

8 THE COURT: Thank you.

9 (Whereupon, the prospective juror exits the  
10 courtroom.)

11 MR. DAVIS: What says the defense?

12 MR. CUMMINGS: Statutorily qualified,  
13 Judge.

14 THE COURT: What says the State?

15 MR. BAILEY: Qualified, Your Honor.

16 THE COURT: I find him to be qualified as  
17 well. Thank you.

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

20 THE COURT: All right. Mr. Davis, you are  
21 found to be qualified as a potential juror in  
22 this case. That does not mean that you are on  
23 the jury yet, it just means that you are a  
24 potential juror and may be selected to serve on  
25 this jury. We are hoping that we will be able

1 to select the jury on Thursday at two o'clock.

2 MR. DAVIS: Okay.

3 THE COURT: This may be a little ambitious,  
4 we may speed along faster than I think we will  
5 as well. If we have to change the time we will  
6 call you and let you know, but unless you hear  
7 from us I'm going to ask that you be back here  
8 in the courtroom at two o'clock on Thursday.

9 Now, Ms. Etheredge, and here she  
10 comes, Ms. Etheredge is going to give you a  
11 sheet of paper that contains some instructions  
12 to help you get ready for your jury service,  
13 like packing clothes to bring, and medications  
14 that you may need, tells you where you will be  
15 housed, gives you an emergency phone number both  
16 for nighttime over at the motel as well as  
17 during the day here at the courthouse so that if  
18 you're needed, if they need to reach you that  
19 they'll be able to reach you in the event of an  
20 emergency.

21 Now, you can certainly, and I urge you  
22 to talk to obviously your family, your employer,  
23 about where you will be, give them those  
24 emergency numbers in case you are needed and you  
25 can talk about those things, certainly fine.

## Juror 68 Gene C. Davis - Examination

1       However, with regards to this case you must not  
2       discuss any aspect of this matter with anyone or  
3       allow anyone to discuss any aspect of this trial  
4       with you. And you must not expose yourself to  
5       any information, the newspaper, radio,  
6       television, internet and the like. You must not  
7       expose yourself to any information about this  
8       matter from any source. Do you understand this?

9               MR. DAVIS: Yes, ma'am.

10              THE COURT: Thank you so much, Mr. Davis.  
11       And I look forward to seeing you Thursday at two  
12       o'clock.

13              MR. DAVIS: Thank you.

14              THE COURT: Thank you.  
15       (Whereupon, the prospective juror exits the  
16       courtroom.)

17              THE COURT: All right. Lieutenant Edwards,  
18       Ms. Karen Young, bring her right along.

19       (Karen S. Young, called as a prospective juror,  
20       having previously been duly sworn, is examined  
21       as follows:)

22              THE COURT: Good morning, Ms. Young. If  
23       you would, please, be seated right there. For  
24       our record this is Ms. Karen Young who is Juror  
25       Number 348.

EXAMINATION

1  
2 BY THE COURT:

3 Q. Now, Ms. Young, if you will recall you were  
4 sworn in yesterday along with the other potential  
5 jurors. Do you remember that?

6 A. That's correct.

7 Q. And you understand that the oath that you took  
8 yesterday still applies to this process today?

9 A. I do.

10 Q. All right. Now, since we talked with you  
11 yesterday has anyone talked with you about this case,  
12 or tried to approach you about it, or have you  
13 inadvertently or otherwise been exposed to any  
14 information about this case?

15 A. No.

16 Q. All right. Now, when you were back in the jury  
17 room, Ms. Young, you had an opportunity to look at  
18 this potential witness list?

19 A. Yes, I did.

20 Q. And I would ask if you had a chance to review  
21 it?

22 A. Yes, I did.

23 Q. And did you -- are you related by blood or  
24 marriage, or acquainted with, either business  
25 associate, casual acquaintanceship or friendship, are

1 you connected either directly or indirectly with  
2 anyone listed on this sheet?

3 A. I know none of those people.

4 Q. All right. Now, yesterday, Ms. Young, we asked  
5 certain questions. And with regards to those  
6 questions you did not indicate that you had any  
7 opinion or that you had heard, read, or seen anything  
8 about this case, or that you had any bias or  
9 prejudice for or against either of these parties. I  
10 would ask whether or not that is correct, you didn't  
11 indicate any of that, those things applied to you?

12 A. That's correct.

13 Q. All right. Now, since we talked has anything  
14 come to your memory that may have jogged your memory,  
15 or created anything within your knowledge that would  
16 change so that you would need to respond to any of  
17 those things?

18 A. No. No.

19 Q. All right. Now, Ms. Young, I need to ask you  
20 some questions, we need to ask you some questions and  
21 I wanted just to tell you some preliminary things  
22 about that. The first thing to tell you is that we  
23 are not trying to invade your privacy, we're just  
24 trying to find out how you feel about certain  
25 matters. In other words, we're trying to find out

1 what your opinions are regarding certain matters.

2 And because that's what we're trying  
3 to do, obviously there aren't any right or wrong  
4 answers. Obviously your opinions are just as good  
5 and valid as anybody else's. The reason that we're  
6 trying to find out your opinions about some  
7 particular matters is to find out how and if those  
8 opinions would impact your jury service.

9 A. Sure.

10 Q. Now, in a moment I'm going to be asking you  
11 about penalty, specifically the death penalty. And I  
12 wanted to talk about that and be sure that you know  
13 that obviously we're talking about penalty in a very  
14 premature fashion. It's obviously very premature  
15 because the trial hasn't even begun.

16 And as I've already talked about  
17 yesterday, Mr. Bowman is presumed innocent of the  
18 charges that he faces. But this is the only time  
19 that we can talk with you about penalty, obviously,  
20 before the trial even gets underway.

21 Now, the opinions that I'm going to be  
22 asking you are going to be asked in a generic or  
23 general sense. I'm obviously not going to ask you  
24 about this case because you don't know anything about  
25 this case. And it wouldn't be fair to you and I'm

1 not going to do that. So, again, the questions that  
2 I'm going to be asking of you I'm going to be asking  
3 in a generic or a general sense.

4 Now, if you were a juror in any  
5 criminal case, would you be willing to listen to the  
6 law as it was instructed to you by the judge?

7 A. Yes.

8 Q. Would you be willing to accept the law and apply  
9 it to the facts as you found them to be?

10 A. Yes.

11 Q. Even though you may not particularly like the  
12 law, you may not agree with it, you may disagree with  
13 the law, would you be still willing to follow the law  
14 as you were instructed by the judge?

15 A. Yes.

16 Q. And if you were asked to serve in the case of  
17 the State vs. Mr. Bowman, could you decide this case  
18 based solely on what you hear in this courtroom and  
19 disregard anything that you may have seen, or heard,  
20 or read about this case, any source at all if  
21 anything like that should come into your memory?

22 A. Yes.

23 Q. In a criminal case as you know, and talked about  
24 it previously yesterday, the State has the burden of  
25 proving the guilt of the defendant, any defendant,

1 and this defendant beyond a reasonable doubt. In  
2 other words, that no defendant, and this defendant,  
3 Mr. Bowman, has no burden to ever prove his  
4 innocence. Do you understand that?

5 A. Yes, I do.

6 Q. He is, any defendant, he or she, is presumed  
7 innocent under our law. Do you understand that?

8 A. Yes, I do.

9 Q. So if you were a juror in any criminal case  
10 would you be willing to listen to the facts and  
11 circumstances and the law as you were instructed?

12 A. Yes, I would.

13 Q. Now, based upon those facts and circumstances,  
14 the evidence that you would hear in any criminal  
15 case, if after you've listened to the evidence and  
16 after you applied the law to the facts as you found  
17 them to be, if you were not convinced that the State  
18 had proven the defendant guilty beyond a reasonable  
19 doubt, would you be willing to find the defendant not  
20 guilty?

21 A. Can you repeat that? I'm just kind of nervous.

22 Q. Absolutely. It sounds like a trick question,  
23 doesn't it? What I'm asking of you, quite simply, is  
24 would you be willing to listen to the evidence in the  
25 courtroom and make up your mind and base your



1 decision on whether or not you were convinced that  
2 the defendant or a person was guilty or not?

3 A. Yes.

4 Q. In other words, if after listening to the  
5 evidence, you listened to the law, if you were not  
6 convinced the State had proven a defendant guilty  
7 beyond a reasonable doubt, would you be willing to  
8 find that defendant not guilty?

9 A. Yes.

10 Q. Likewise, if you thought that the State had  
11 proven a defendant's guilt beyond a reasonable doubt,  
12 would you find him guilty?

13 A. Yes.

14 Q. In other words, you would be willing to listen  
15 and make up -- make your decision based upon whether  
16 or not you were convinced that the person was guilty  
17 or not, right?

18 A. That's correct.

19 Q. Okay. Now, Ms. Young, most of the time jurors  
20 do not concern themselves with the matter of  
21 punishment. Most of the time in the criminal court  
22 that's left up to the judge. There's one case in our  
23 law when a jury has to deal with a matter of  
24 punishment and that is in a case like this one. It  
25 is in a case where an individual has been charged

1 with the crime of murder and where the State is  
2 seeking the death penalty.

3 If an individual in a death penalty  
4 case is convicted of the crime of murder, then the  
5 same jury that convicted that person would come back  
6 and in a separate and different proceeding decide the  
7 sentence that the person would get. And there are  
8 two choices. One, life imprisonment without the  
9 possibility of parole; and secondly, the other  
10 possibility is the death penalty. Now, the  
11 punishment would be determined in a separate or  
12 second sentencing phase of the trial. Do you  
13 understand this?

14 A. Yes, I do.

15 Q. All right. Now, back in the jury room did you  
16 have an opportunity to look at the sheet that  
17 described the three different types of jurors?

18 A. That's correct.

19 Q. All right. And which of these types of jurors  
20 best describes you?

21 A. Juror number three.

22 Q. Juror number three. In other words, you would  
23 be willing to listen to whatever you might hear, and  
24 if you thought it was appropriate based upon what you  
25 heard you would be able to sentence someone to death?

1 A. That's correct.

2 Q. And if you thought that the death sentence was  
3 not appropriate, or for any other reason that the  
4 person ought to receive a life imprisonment sentence,  
5 you would be able and willing to vote for a sentence  
6 of life?

7 A. Yes.

8 Q. So you would make the decision based upon what  
9 you would hear in the courtroom?

10 A. That's correct.

11 Q. If you were chosen to serve as a juror in this  
12 case, you and the other jurors would be housed, the  
13 word's sequestered, you would be housed here in a  
14 local motel during the course of the trial. That's  
15 where you would have to stay until the trial is over,  
16 except, of course, when you're in the courtroom.

17 A. Sure.

18 Q. This period could be as long as two weeks, it  
19 could be longer. I don't know the duration of the  
20 trial. Obviously that would create an inconvenience  
21 for you as it surely will for all who serve on this  
22 jury. Other than the inconvenience which it will  
23 cause anyone who has to serve in this capacity, would  
24 that pose a serious risk of danger to your health or  
25 well being, or to that of anybody who is dependent

1 upon you if you had to serve?

2 A. No, it would not.

3 Q. Okay. Now, Ms. Young, these lawyers may have  
4 some questions for you, they probably will. And I'm  
5 going to ask you to, please, if you'd listen to their  
6 questions and answer their questions.

7 And, Mr. Bailey.

8 EXAMINATION

9 BY MR. BAILEY:

10 Q. Ms. Young, I'm Walter Bailey, I'll be  
11 prosecuting the case and I've just got a few  
12 questions to ask you. And like the judge said, there  
13 are no right or wrong answers. You understand that  
14 we would not even be talking about the punishment  
15 unless the jury had heard all the facts in the first  
16 part of the trial and found that defendant guilty of  
17 murder?

18 A. That's correct.

19 Q. And if that occurs then we go into the penalty  
20 phase, there's additional testimony, additional law  
21 from the judge and then the jury, not the judge,  
22 decides the punishment.

23 A. I understand that.

24 Q. Whatever that decision is has to be unanimous.

25 A. Yes.

1 Q. If the jury unanimously votes for the death  
2 penalty, then each juror is asked to come out into  
3 open court, and they would be sitting in these chairs  
4 out here, their names would be called out one at a  
5 time, they would be asked to stand up and announce  
6 their verdict out loud. If your verdict was for the  
7 death penalty, could you get up and announce that out  
8 loud when your name was called?

9 A. Yes, I could.

10 Q. The other part of the process if the jury  
11 decides on the death penalty is there's a death  
12 verdict form that each juror is asked to sign their  
13 names to. And that is going to ultimately result in  
14 that person actually being executed.

15 A. I understand.

16 Q. If you thought the death penalty was the  
17 appropriate sentence, could you sign your name to a  
18 paper like that?

19 A. Yes, I could.

20 Q. Okay. All right. Ms. Young, that's all I've  
21 got. Thank you very much.

22 THE COURT: All right. Thank you, Mr.  
23 Bailey.

24 Mr. Cummings, Ms. Hardee-Thomas.

25 EXAMINATION

1 BY MR. CUMMINGS:

2 Q. Good morning, ma'am, I'm Norb Cummings. Seated  
3 at the table there is Ms. Marva Hardee-Thomas,  
4 Mr. Bowman. Both Ms. Thomas and I are Court  
5 appointed to represent Mr. Bowman. Thank you for  
6 allowing us the opportunity to speak to you this  
7 morning, I think you heard from Mr. Bailey just a few  
8 moments ago, I'm going to try to ask you a few  
9 questions and with Her Honor's protection this is the  
10 only way we get to ask jurors questions.

11 A. Sure.

12 Q. And I would like to start by just asking you a  
13 few things. You would not put any greater weight  
14 merely because a police officer arrests somebody that  
15 you believe that he would be guilty before they come  
16 into this courtroom, would you?

17 A. No.

18 Q. But you hesitated a moment. I'm not trying to  
19 trick you with the question.

20 A. The reason I'm hesitating is just because  
21 perhaps I'm a little nervous, but also a -- are you  
22 saying that if a police officer arrests somebody that  
23 I automatically find them guilty?

24 Q. Believe they're guilty of something.

25 A. I do not believe that. If a police officer

1 arrests somebody they could be innocent, I don't  
2 know.

3 Q. And that's a fundamental principle.

4 A. Sure.

5 Q. That Her Honor, when she asks you this question  
6 about before you could even jump to any conclusion or  
7 any good juror that they would want to hear all the  
8 facts and evidence.

9 A. Right. And the reason I hesitated, I want to  
10 make sure I understand the answer and am answering  
11 you correctly.

12 Q. Yes, ma'am. I thank you for that. If you don't  
13 understand my questions, please tell me.

14 A. Okay.

15 Q. And I know the reason why we have jurors fill  
16 out these questionnaires is, of course, to try to  
17 find a juror that does care about their civic duty,  
18 ma'am. Obviously, Ms. Young, you are taking this  
19 very seriously.

20 A. Yes.

21 Q. Number two, to try to give both the State and  
22 the defense somewhat of a picture of that juror about  
23 how they are going to take this civic duty, you know,  
24 how they're going to handle it.

25 A. Sure.

1 Q. Ms. Young, I know there's been a couple things  
2 in your life and, again, we don't try to pry. Your  
3 sister had her purse stolen, I believe. And that was  
4 in Goose Creek?

5 A. That's correct.

6 Q. The fact that she was the victim of a crime,  
7 would you hold that out against anybody, or maybe  
8 would that taint you in any way to be pro police  
9 versus a citizen?

10 A. No. No.

11 Q. And that's why -- you see now why I asked that  
12 question earlier?

13 A. Sure.

14 Q. Unfortunate as that incident was, that person  
15 was never apprehended?

16 A. No, it wasn't.

17 Q. And that was the end of the involvement on that  
18 issue?

19 A. Correct.

20 Q. And then you have a very strong moral belief or  
21 an issue, or maybe even a religious belief against  
22 people that stray outside their marriage?

23 A. That's correct.

24 Q. All right. If you are ever in a case or on a  
25 trial where any of that situation might come up --



1 MR. BAILEY: Your Honor, I have a matter of  
2 law.

3 THE COURT: Yes. All right. Very well.

4 I'm going to ask you, if you would be  
5 so kind, just to step right outside, we won't be  
6 long.

7 (Whereupon, the prospective juror exits the  
8 courtroom.)

9 MR. BAILEY: Your Honor, I apologize for  
10 interrupting Mr. Cummings, but it looks like he  
11 was getting ready to stake this lady out on some  
12 evidence he thought might arise in the trial and  
13 I think to get case specific before they've  
14 heard all the facts is getting on shaky ground.

15 MR. CUMMINGS: We had a motion in here, one  
16 of the reasons why we asked this question here  
17 is because we want to know about every juror's  
18 biases, prejudices, et cetera. This lady in  
19 question number 43, if I may on the record, her  
20 answer was "I believe it is a mortal sin to have  
21 an affair. I've been married for a total of 28  
22 years and have never had an affair, nor do not  
23 believe in sex before marriage."

24 I want to see if she has a bias or  
25 prejudice against any --

1 THE COURT: Let me just hear the question  
2 that you're going to ask.

3 MR. CUMMINGS: I was going to ask her if  
4 that would affect if she were ever on a trial  
5 where any evidence might come out on that, would  
6 that cause a bias or prejudice against anybody.

7 THE COURT: Yes, sir, Mr. Bailey.

8 MR. BAILEY: Your Honor, how would she know  
9 unless she knew the context that it came out and  
10 whether the -- it was an allegation against the  
11 victim, or the defendant, or bystander? I mean,  
12 again, he's asking her to predict what she would  
13 do and she hadn't heard the facts.

14 THE COURT: Well, isn't that -- the  
15 relevant inquiry is whether or not the opinion  
16 that she holds will prevent or substantially  
17 impair her from being able to perform her duties  
18 as a juror. Obviously, Mr. Bailey is concerned  
19 about --

20 MR. CUMMINGS: Issues specific.

21 THE COURT: I'm going to allow you to get  
22 to ask this question, Mr. Cummings. I'm going  
23 to ask you, allow you to ask her whether or not  
24 the opinions that she holds would keep her, that  
25 if that issue arose in this case, does she hold

1       that opinion to such an extent that it would  
2       prevent her from being able to listen to the  
3       evidence.

4               MR. CUMMINGS: Yes, ma'am.

5               THE COURT: Or to substantially impair her  
6       from being able to listen to the evidence,  
7       listen to my charge on the law and render a  
8       verdict.

9               MR. CUMMINGS: Yes, ma'am.

10              THE COURT: In other words, would the  
11       opinion that she holds --

12              MR. CUMMINGS: Prevent you.

13              THE COURT: -- prevent or substantially  
14       impair her from being able to perform her duties  
15       as a juror.

16              MR. CUMMINGS: Right. Thank you, ma'am.

17              THE COURT: Okay.

18              MR. CUMMINGS: Judge, while we're out here  
19       I might as well put the next up here, too. She  
20       had been the victim of a domestic abuse issue.  
21       And we've already had one juror the other day  
22       where she was a victim and she wouldn't forgive  
23       anybody for hurting a woman. And the fact that  
24       we have an issue between a female who's deceased  
25       and a male who is accused of this crime, I would

1 like to at least ask her that if she has a bias  
2 or a prejudice against the issue, again, of any  
3 issues dealing with violence against -- an  
4 accused dealing with violence against a woman.  
5 And that's the only way I would argue that  
6 question.

7 THE COURT: Well, but remember the relevant  
8 issue is whether or not that will keep her from  
9 being able to listen to the evidence in this  
10 courtroom, render a decision based upon that.

11 MR. CUMMINGS: Yes, ma'am.

12 THE COURT: Because the problem is, is that  
13 if you ask her would that cause you any upset,  
14 that's interesting, but that's of no moment. In  
15 other words, you've got to go beyond that. Is  
16 that would the fact that the person who is the  
17 decedent here is a woman would that cause you,  
18 that fact, keep you from being able to listen to  
19 the evidence.

20 MR. CUMMINGS: Yes, ma'am.

21 THE COURT: Render a verdict based upon it  
22 being fair and impartial to both sides.

23 MR. BAILEY: I was going say that criminal  
24 domestic violence is a criminal offense and I  
25 think any good juror should be biased against --

1 THE COURT: Upset.

2 MR. BAILEY: -- against the commission of a  
3 criminal offense.

4 THE COURT: And that's not the relevant  
5 inquiry.

6 MR. BAILEY: Yes, ma'am.

7 THE COURT: The relevant inquiry is would  
8 that opinion about that issue keep, prevent, or  
9 substantially impair the juror from being able  
10 to perform their duties. In other words, you  
11 can not like it, be upset about it, abhor it,  
12 but that isn't even relevant. What's relevant  
13 is would the opinion prevent or substantially  
14 impair the juror from performing the juror's  
15 duties. Okay?

16 And that's what happened yesterday  
17 with the juror yesterday, because she said if  
18 that's involved that's as far as it goes for me.

19 MR. CUMMINGS: Yes, ma'am.

20 THE COURT: Great.

21 MR. CUMMINGS: Thank you.

22 THE COURT: Ready?

23 MR. CUMMINGS: Yes, ma'am.

24 THE COURT: All right. Ask her to step  
25 back in.

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

3 THE COURT: Thank you, Ms. Young. When  
4 there are matters of law when folks are asked to  
5 step out like that, I don't mind explaining to  
6 you what happens is that there are matters of  
7 law that are raised by the lawyers. And  
8 oftentimes it deals with -- well, it does, each  
9 time deal with matters of law.

10 And when I have to have a discussion  
11 about a matter of law, then sometimes I have to  
12 discuss with the lawyers certain facts. And the  
13 law does not permit me to have an opinion about  
14 the facts or to in any way communicate to a  
15 juror, to a potential juror what I may think  
16 about the facts, or anything about the facts.

17 So that's why we have to ask jurors,  
18 potential jurors to step out so that I may have  
19 discussions about the law with the lawyers. And  
20 when that happens, sometimes I need to make a  
21 comment about facts and you can't hear about it  
22 because you are a potential juror and that's  
23 why.

24 MS. YOUNG: Thank you for telling me.

25 THE COURT: Absolutely. Happy to do that.

1 MR. CUMMINGS: Thank you, Judge.

2 BY MR. CUMMINGS:

3 Q. Ms. Young, as you found out she's the boss. If  
4 we blow the whistle, she makes the call. And that's  
5 an important function. You wouldn't hold that  
6 against either Mr. Bailey or I if we make objections  
7 in the courtroom and then Her Honor rules, as you  
8 just found out you understand that's part of the --

9 A. I wouldn't hold that against you.

10 Q. Thank you. And my question earlier was that you  
11 are, it appears to be, a very strong and a very, I'm  
12 not going to say the word opinionated in the wrong  
13 way, but you hold certain beliefs and certain  
14 principles, ma'am, would that be correct?

15 A. That would be correct.

16 Q. In one particular question it is your principle  
17 or opinion that if you were to ever hear anything  
18 about an infidel situation, infidelity, would that  
19 impair, substantially impair your position as a juror  
20 to render a fair and impartial decision on a case?

21 A. I don't think. I don't think that that would --  
22 are you saying that --

23 Q. Not in this particular case, but in any case  
24 that you might be sitting on, ma'am.

25 A. I don't know that I --

1 Q. We're just trying to -- soul searching.

2 A. Restate that question, please.

3 Q. The principle or the belief that you have about  
4 infidelity.

5 A. Okay.

6 Q. If you were ever seated on a jury and heard any  
7 evidence about that, would your principles or beliefs  
8 that you hold to you closely, ma'am, would that  
9 substantially impair your decision as a juror to be  
10 fair and impartial?

11 A. I don't think that it would substantially  
12 impair.

13 Q. All right. Would it impair you at all? And,  
14 again, this is where we get to ask you questions from  
15 your complete honesty and truthful witness as you've  
16 told Her Honor.

17 MR. BAILEY: Your Honor, same concern I had  
18 earlier.

19 THE COURT: And, Mr. Cummings, I think that  
20 the relevant inquiry is would it prevent or  
21 substantially impair. I think if you need to  
22 examine it further, but I think that the  
23 standard is substantially impair or prevent.

24 MR. CUMMINGS: Yes, ma'am.

25 Q. Again, I'm not trying to put words in your



1 mouth, you just heard Her Honor say would it  
2 substantially impair your fairness?

3 A. I guess, no, it wouldn't substantially impair.

4 Q. Okay.

5 A. Okay.

6 Q. And if I asked you about any issues where a  
7 woman had been hurt, would that decision also cause  
8 you anything that you hold dear to you or your  
9 principles, ma'am, substantially impair your decision  
10 as a juror?

11 A. No, I don't believe it would.

12 Q. You would make everything issue specific or  
13 facts --

14 A. Exactly.

15 Q. -- and fundamental specific?

16 A. Exactly. As well as infidelity by the way.

17 Q. Yes, ma'am.

18 A. If that's what you're trying to get to at the  
19 bottom line.

20 Q. Yes, ma'am.

21 A. Yes, I think I could probably look at all the  
22 facts and make a decision based upon the facts and  
23 not my personal feelings.

24 Q. Because you understand you would put your mind  
25 with 11 other collective jurors?

1 A. That's correct.

2 Q. Thank you.

3 MR. CUMMINGS: That's all the questions I  
4 have of this young lady.

5 Q. I thank you very much for your kindness, ma'am.

6 MR. CUMMINGS: Thank you, Judge.

7 THE COURT: Thank you, Mr. Cummings.

8 And Mr. Bailey.

9 EXAMINATION

10 BY MR. BAILEY:

11 Q. Ms. Young, I believe between the judge and Mr.  
12 Cummings they've asked all the questions, so that's  
13 you have a I've got. Thank you.

14 THE COURT: Thank you, Mr. Bailey. I'm  
15 going to ask you, again, just to step out for a  
16 moment. We are going to talk about you behind  
17 your back at this time and we'll get you to come  
18 right back in.

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

21 THE COURT: What says -- I'm trying to  
22 think. What says, you went first, the defense?

23 MR. CUMMINGS: May it please the Court,  
24 Judge, and I'll try to be brief. Your Honor, I  
25 have asked this lady specific questions, that

1 with the Court's ruling and guidance and polite  
2 limitations. Your Honor, I believe this juror  
3 was being very open, but, again, she thinks, if  
4 I remember correctly -- and I did not write a  
5 note down because I was trying to concentrate on  
6 her facial expressions. And at the end of her  
7 colloquy with me on questioning she said that  
8 she could be fair and impartial, but yet I saw  
9 hesitation on the questions of infidelity and on  
10 the issue of the woman being a victim of  
11 violence.

12 Again, Judge, she, after listening to  
13 Your Honor's instructions, came back in and  
14 tried to give the answer that I respectfully  
15 believe was pleasing and not a fundamental issue  
16 to her. I think this lady is a very educated,  
17 very polite, very principled lady and in her  
18 questionnaire it is no doubt what she wrote.  
19 And the question number 43 is very specific.  
20 And, again, the question number 42 she states  
21 her ex-husband was physically violent with her.

22 And there's two questions legally in  
23 this case, Judge, that would be paramount to  
24 Mr. Bowman having a fair and impartial jury and  
25 dealing with both of those issues respectfully,

1 ma'am, I do not believe this juror is qualified  
2 and I state that for Her Honor's opinion.

3 THE COURT: Thank you. Thank you, Mr.  
4 Cummings.

5 Mr. Bailey.

6 MR. BAILEY: Your Honor, of course, the  
7 fact that a woman has an unfortunate history of  
8 criminal domestic violence in her life and also  
9 the fact that she was against extramarital sex  
10 and adultery certainly doesn't disqualify a  
11 juror. She answered all the questions the way  
12 she was supposed to answer those and Mr.  
13 Cummings just doesn't believe her answers. I  
14 think that's grounds for a strike, but certainly  
15 not disqualification.

16 MR. CUMMINGS: We did it yesterday with  
17 Casey McCarter, Mr. Bailey didn't believe his  
18 answers at all. And, I mean, that's -- I just  
19 wanted to make a comparison on the record.

20 THE COURT: Well, I don't know if he -- I  
21 think that the problem -- and I don't want to go  
22 back there, but I do think there's a difference  
23 between when a juror gives you their responses  
24 on the questionnaire and then says even though  
25 that is my history that is what I believe, that

1 those -- that history, those beliefs are not  
2 going to substantially impair my ability to be a  
3 juror and a juror on the questionnaire who  
4 says --

5 MR. CUMMINGS: Left something off?

6 THE COURT: Left in the very best of view  
7 it, certainly and, you know, sort of kind of  
8 forgot who represented him in the past.

9 MR. CUMMINGS: Maybe that's a good blessing  
10 because I didn't get hired in the second case.

11 THE COURT: I do think there's a  
12 substantial difference. I think she's  
13 qualified. I think that -- part of what I think  
14 is that when you ask someone those questions  
15 that you sort of entice their minds to start  
16 thinking about every possibility, and what are  
17 you asking me, or what kind of facts are you  
18 talking about, what circumstances are you  
19 talking about. I am satisfied that particularly  
20 when you ask her about if there's a woman that  
21 is hurt can you set that aside and be fair and  
22 impartial to both sides. And she was very clear  
23 about, yes, I can do that. And by the way,  
24 clearly if that's what you're asking me about  
25 the infidelity I can do that, too.

1           So she went back and I think really --  
2           and even reiterated that while she may hold  
3           those opinions that she can set those opinions  
4           aside. And those opinions, those experiences in  
5           her life I find, I don't believe that they would  
6           permit or substantially impair her from  
7           performing her duties as a juror in this case  
8           and find her qualified over the exception of the  
9           defense. So I find Ms. Young qualified.

10           Invite her in, please.

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

13           THE COURT: Ms. Young, you have been found  
14           to be a qualified juror and, therefore, you are  
15           a potential juror in this case. It does not  
16           mean that you are on the jury yet. It just  
17           means that you are a potential juror and you may  
18           be selected to serve on this jury. We are  
19           hoping to select, be able to select the jury on  
20           Thursday at two o'clock, Thursday at two  
21           o'clock.

22           This may be a little bit ambitious,  
23           but let me say to you that if we need to change  
24           that time, either earlier or later, we will  
25           certainly call and give you plenty of time, but

1 unless you hear back from us I am asking that  
2 you be back here in the courtroom at two o'clock  
3 on Thursday.

4 And here comes Ms. Etheredge with a  
5 sheet of paper for you that contains some  
6 instructions to help you get ready for your jury  
7 service, like packing clothes to bring and  
8 medication that you may need. It tells you  
9 where you will be housed during the course of  
10 the trial so that you can leave that number with  
11 your family or your employer so that you can be  
12 reached in the event of an emergency. It's  
13 going to be right here locally, by the way.

14 MS. YOUNG: Okay.

15 THE COURT: Now, you can talk about  
16 practical things, where you're going to be, what  
17 you need to pack, that sort of thing.

18 MS. YOUNG: Okay.

19 THE COURT: All those details, please, feel  
20 free to discuss those with anyone that you  
21 choose to and want to. However, you may not  
22 discuss any aspect of this case with anyone --

23 MS. YOUNG: Sure.

24 THE COURT: -- or allow anyone to discuss  
25 this case with you, or expose yourself to any

1 information about this case from any source.

2 And do you understand this?

3 MS. YOUNG: I do.

4 THE COURT: And I look forward to seeing  
5 you Thursday at two o'clock.

6 MS. YOUNG: Thank you very much.

7 THE COURT: Thank you.

8 (Whereupon, the prospective juror exits the  
9 courtroom.)

10 THE COURT: All right. If you would invite  
11 Ms. Pringle to come in, please.

12 (Lorraine J. Pringle, called as a prospective  
13 juror, having previously been duly sworn, is  
14 examined as follows:)

15 THE COURT: Good morning, Ms. Pringle.

16 MS. PRINGLE: Good morning.

17 THE COURT: If you would, please, be seated  
18 there. Now, for our record this is Ms. Lorraine  
19 Pringle and she is Juror Number 240.

20 EXAMINATION

21 BY THE COURT:

22 Q. Now, of course, Ms. Pringle, yesterday morning  
23 you were sworn in along with all the other potential  
24 jurors. And you understand that that oath applies to  
25 the questions that we will ask you today in this



1 process; do you understand that?

2 A. Yes.

3 Q. All right. And since we talked with you  
4 yesterday has anyone talked with you about this case,  
5 or tried to approach you about it, or have you  
6 inadvertently or otherwise been exposed to any  
7 information about this case?

8 A. No.

9 Q. All right. Now, when you were back in the jury  
10 room you were given this list of potential witnesses,  
11 Ms. Pringle, and I ask you if you had a chance to  
12 look at the list?

13 A. Yes.

14 Q. And with regards to each and every name on that  
15 list, I'll ask whether or not you are related by  
16 blood or marriage, or acquainted with, if you had a  
17 business relationship, a personal relationship, a  
18 casual relationship, if you have any connection with  
19 anyone listed on this list either directly or  
20 indirectly. Do you?

21 A. No. No.

22 Q. All right. Very well. Now, yesterday when we  
23 asked whether or not you had any opinion about this  
24 case or whether or not you had seen, or heard, or  
25 read anything about this case, or whether or not you

1 had any bias or prejudice for or against either of  
2 these sides, you did not indicate that any of those  
3 things applied to you; is that right?

4 A. That's right.

5 Q. All right. Since we have talked yesterday has  
6 anything come into your memory that may have jogged  
7 your memory or created anything within your knowledge  
8 that would change the fact that you didn't indicate  
9 that any of these matters had any application to you?

10 A. No.

11 Q. All right. Now, Ms. Pringle, we need to ask you  
12 some questions, and there's some things I want to  
13 tell you about the questions even before we start.  
14 The first thing I want to tell you is that we are not  
15 trying to invade your privacy. The second thing that  
16 I want to tell you is that the purpose of these  
17 questions is to find out how you feel about certain  
18 matters. And the reason that we need to know how you  
19 feel about certain matters is to find out how, or if  
20 your opinions might, or could, impact on your jury  
21 service. That's the whole purpose of our questions.

22 We are going to be asking your  
23 feelings, your opinions about certain matters. And  
24 obviously there aren't any right or wrong answers.  
25 Obviously your opinions are just as good and just as

1 valid as anybody else's. And, again, the only  
2 reasons that we are asking -- we're not challenging  
3 your opinions one bit, the only reason that we are  
4 asking for your opinions for your feelings are,  
5 again, just to see if your opinions would have any  
6 impact on your jury service.

7           So, let me also tell you that in a few  
8 moments I'm going to be asking you your opinions,  
9 your feelings about penalty, specifically the death  
10 penalty. And I want you to understand that the mere  
11 fact that we're talking about penalty at this early  
12 stage really is premature. This trial hasn't even  
13 begun. And as I've said, Mr. Bowman is presumed  
14 innocent of these charges, but this is the only time  
15 that we can talk about the penalty, necessarily,  
16 before the trial gets underway.

17           Now, if you were a juror in any type  
18 of criminal case, I'm not going to ask you about this  
19 particular case, you wouldn't know anything about  
20 this case and that wouldn't be fair to ask you about  
21 this case, nor would it be proper, so I'm going to  
22 ask you in the generic general sense and in general  
23 terms if you were a juror in any criminal case, would  
24 you be willing to listen to the law as you were  
25 instructed by the judge?

1 A. Yes.

2 Q. All right. And would you be willing to accept  
3 the law and apply the law to the facts as you found  
4 them to be?

5 A. Yes.

6 Q. And even though you might not particularly like  
7 the law, or you might even disagree with it, would  
8 you still be willing to follow the law as you were  
9 instructed to do by the judge?

10 A. Yes.

11 Q. And if you were asked to serve in the case of  
12 the State vs. Mr. Bowman, could you decide this case  
13 solely upon what you would hear in this courtroom and  
14 disregard anything that you may have seen, or heard,  
15 or read about this case from any source at all if  
16 anything like that should come into your memory?

17 A. I can do that.

18 Q. Because sometimes, Ms. Pringle, what happens is  
19 that you'll hear something in a trial and that will  
20 jog some memory. So the question for you is if that  
21 happened to you, could you disregard that memory --

22 A. Yes.

23 Q. -- and try this case based on what's in the  
24 courtroom?

25 A. (Nodding.)

1 Q. That's a yes?

2 A. Yes. Yes.

3 Q. Okay. In a criminal case as you know, and as we  
4 talked about a little bit yesterday, the State has  
5 the burden of proving the guilt of a defendant, the  
6 guilt of any defendant, the guilt of Mr. Bowman  
7 beyond a reasonable doubt. In other words, a  
8 defendant, no defendant, and this defendant,  
9 Mr. Bowman, has no burden to prove his innocence. No  
10 defendant has to ever prove himself or herself  
11 innocent. The burden is always upon the State to  
12 prove a defendant guilty beyond a reasonable doubt.

13 And the reason is, is that all  
14 defendants, and Mr. Bowman, is presumed innocent  
15 under the law. Do you understand this?

16 A. Yes.

17 Q. So if you were a juror in any criminal case  
18 would you be willing to listen to the facts and  
19 circumstances and the law as you are instructed?

20 A. Yes.

21 Q. And would you be willing to listen to the  
22 evidence and find the facts as you found them to be,  
23 apply the law then to the facts as you found them to  
24 be, and if you were not firmly convinced of a  
25 defendant's guilt beyond a reasonable doubt would you

1 be willing to find that defendant not guilty?

2 A. Yes.

3 Q. And on the other hand, if after you listened to  
4 the evidence and found the facts as you found them to  
5 be, applied the law as the judge told you the law, if  
6 you were firmly convinced of the defendant's guilt  
7 beyond a reasonable doubt, would you be willing to  
8 find that defendant guilty?

9 A. Yes.

10 Q. So you would be willing to listen and make your  
11 decision based upon whether or not you were convinced  
12 that a person is guilty or not?

13 A. Yes.

14 Q. Now, most of the time jurors do not concern  
15 themselves with the matter of punishment. Most of  
16 the time in the criminal court that is left up to the  
17 judge. There's one case in our law where the jury  
18 has to deal with the issue of punishment, and that's  
19 a case like this one. It is a case where a defendant  
20 has been charged with the crime of murder and where  
21 the State is seeking the death penalty.

22 If an individual in a death penalty  
23 case is convicted of the crime of murder, then the  
24 same jury that convicted him or her comes back, and  
25 that same jury that convicted him or her of murder in

## Juror 240 Lorraine J. Pringle - Examination

1 a separate and a different proceeding decides what  
2 the sentence should be for that person. And there  
3 are only two choices. One is life in prisonment  
4 without the possibility of parole and the other is  
5 the death sentence, the death penalty. And the  
6 penalty would be determined in that second or  
7 sentencing phase of the trial. Do you understand  
8 this?

9 A. Yes.

10 Q. All right. Now, back in the jury room there was  
11 another piece of paper that had on it three types of  
12 jurors. Do you remember that piece of paper?

13 A. Yes.

14 Q. And do you remember the three types of jurors?

15 A. Yes.

16 Q. All right. How would you best -- which of these  
17 three types of jurors do you think best describes  
18 you?

19 A. Number three.

20 Q. Number three. In other words, you would be  
21 willing to listen to the information and the evidence  
22 in the sentencing phase and make your decision based  
23 upon that?

24 A. Yes.

25 Q. In other words, if after you listened to the

1 circumstances, you listened to the facts, you  
2 listened to all the information that you were given  
3 in the sentencing phase, if you thought it was  
4 appropriate that the death penalty be given that you  
5 would be able to do that?

6 A. Yes.

7 Q. Yeah? Yes? You're saying yes?

8 A. Yes.

9 Q. And on the other hand, if you thought after you  
10 listened to the facts, you listened to the  
11 circumstances, you listened to the evidence and the  
12 information in the sentencing phase, if you thought  
13 that the death sentence was not appropriate or for  
14 any other reason that the person ought to receive  
15 life imprisonment, then you would be able and willing  
16 to vote for a sentence of life?

17 A. Yes.

18 Q. So you would make your decision based on what  
19 you would hear in the courtroom?

20 A. Yes.

21 Q. All right. Now, Ms. Pringle, if you were chosen  
22 to serve as a juror in this case, you and the other  
23 jurors would be housed, the word that we use is  
24 sequestered, you all would be housed here in a local  
25 motel during the course of the trial and that's where



1 you would have to stay until the trial is over,  
2 except, of course, when you are in the courtroom.

3                   This period could be as long as two  
4 weeks, it could be longer. I just don't know what  
5 the duration of the trial would be. Obviously,  
6 Ms. Pringle, that would create an inconvenience for  
7 you as surely it will for all who serve on this jury.  
8 Other than that inconvenience, obviously -- let me  
9 just tell you, obviously, the county pays, there's no  
10 expense to you. Other than the inconvenience which  
11 would cause anybody who would have to serve in this  
12 capacity, would that pose a serious risk of danger to  
13 your health or well being, or to that of anybody who  
14 is dependent upon you if you had to serve in that  
15 capacity?

16 A. No. I just pick my granddaughter up, I  
17 generally pick my granddaughter up from school about  
18 three o'clock and that will have to be switched  
19 around.

20 Q. All right. And are you willing to see if you  
21 can get that switched around?

22 A. Yes.

23 Q. All right. Very well. Now, these folks no  
24 doubt will have some questions for you, Ms. Pringle,  
25 and I will just ask you to listen to their questions.

1                   And I think we will start with you,  
2 Mr. Bailey. Let me take a quick look. Defense, I'm  
3 sorry, Mr. Bailey.

4                   MR. BAILEY: Okay. I thought so.

5                   THE COURT: I'm sorry. I'm sorry. Each  
6 side's going first. And I'm sorry, Mr.  
7 Cummings, it's your turn to go first.

8                   MR. CUMMINGS: Thank you, Judge.

9                   THE COURT: I apologize.

10                                   EXAMINATION

11 BY MR. CUMMINGS:

12 Q. I'm Norb Cummings, the other young lady over  
13 there is Ms. Marva Hardee-Thomas, and, of course,  
14 this is Mr. Bowman here. You appear to be a very  
15 principled lady and when Her Honor asked you  
16 questions you were straightforward, you answered the  
17 questions understanding how important your civic duty  
18 is in this case; is that correct, ma'am?

19 A. That's correct.

20 Q. And you understand Her Honor's the boss?

21 A. Yes.

22 Q. And so if you were to hear like one of the  
23 attorneys for the State make an objection or I make  
24 an objection, you wouldn't hold that against either  
25 side in this adversarial proceeding, would you,

1 Ms. Pringle?

2 A. No.

3 Q. You understand this is part of the rules and  
4 when she makes the call that's it?

5 A. Yes.

6 Q. Okay. There's a whole list of witnesses in this  
7 thing and I know that you've had a chance to look at  
8 that. Are there any people on there that you  
9 recognize, or any names that you recognize?

10 A. No. I didn't recognize any names, but sometime  
11 if you see a person's face.

12 Q. Face.

13 A. You know.

14 Q. Yes, ma'am. And the reason why we ask that is  
15 to see if, again, you live in a community, you work  
16 out here, whether or not you knew any of these  
17 witnesses.

18 A. Right. Not on the list.

19 Q. Okay, ma'am. And I think in your questionnaire  
20 you stated there was a friend who has a daughter who  
21 is a judge?

22 A. Yeah.

23 Q. Do you know who that is?

24 A. A Geneva Spann is the friend in the Acabe  
25 section in North Charleston and her daughter,

1 Tiffany -- I know it was Tiffany Spann, I know she  
2 got married, she's a judge in North Charleston.

3 Q. Yes, ma'am. But you don't have any individual  
4 contact with that judge, or talk to that young lady?

5 A. No, not every day.

6 Q. In a professional setting?

7 A. No, not professional setting.

8 Q. You just know here she happens to be a judge and  
9 you've answered the questionnaire.

10 A. Right.

11 MR. CUMMINGS: Judge, if I may beg the  
12 Court's indulgence, I think that's all the  
13 questions I have of this nice lady.

14 THE COURT: Sure.

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

17 MR. CUMMINGS: That's all the questions of  
18 this lady. Thank you, Judge.

19 THE COURT: All right. Yes, sir, Mr.  
20 Bailey.

21 EXAMINATION

22 BY MR. BAILEY:

23 Q. Ms. Pringle, I'm Walter Bailey and I'll be  
24 prosecuting the case and I need to ask a few more  
25 questions.

1 A. All right.

2 Q. And primarily I want to ask you about the death  
3 penalty.

4 A. Okay.

5 Q. Like the judge said, there are no right or wrong  
6 answers, so, please, don't give me an answer because  
7 you think I want to hear it, we want to know what you  
8 think. Is the death penalty something that you've  
9 ever had an occasion to think about in the past?

10 A. No, not really.

11 Q. Okay. When you found out that this was a case  
12 in which the State was seeking the death penalty, now  
13 you've read of the three kind of jurors, have you had  
14 a chance to kind of think about it since then?

15 A. I mean, I've read over it.

16 Q. Okay.

17 A. Number three.

18 Q. All right.

19 A. You know, because the other ones the wordings  
20 were off a little bit.

21 Q. The wordings were off?

22 A. Yeah. Like not listening or whatever.

23 Q. Okay.

24 A. And you have to listen.

25 Q. Okay. All right. And you understand that we

1 wouldn't even be talking about the death penalty  
2 unless and until the defendant was found guilty of  
3 murder in the first part of the trial?

4 A. Right.

5 Q. If he's found guilty beyond a reasonable doubt  
6 we go into the second phase. And if we get to that  
7 point in the trial the judge doesn't decide what the  
8 penalty is, the jury makes that decision. Of  
9 whatever that decision is it would be unanimous, all  
10 12 would agree. And the judge would order that  
11 decision to be carried out and it would be carried  
12 out; in other words, that person would get the death  
13 penalty, be executed, or he would get life without  
14 parole depending what that jury's vote was.

15 A. Right.

16 Q. Okay. And do you feel like that if you were on  
17 a jury and you heard all the facts and circumstances  
18 and felt like the case warranted the death penalty,  
19 you could vote for the death penalty knowing that  
20 sentence actually would be carried out, that person  
21 would be executed?

22 A. I feel I can do that.

23 Q. All right. If all 12 jurors vote for the death  
24 penalty, then each one of them they would come back  
25 and sit in these chairs out here and the clerk would

1 call out each name individually and each one of those  
2 jurors would be asked to say out loud if that was  
3 their verdict.

4 A. Okay.

5 Q. And could you say that if that was your verdict?

6 A. Yes, I could.

7 Q. All right. Again, if the jury votes for the  
8 death penalty, there's a death verdict form and each  
9 juror's asked to sign their name to that paper which  
10 would eventually result in that person being  
11 executed. Could you sign your name to a paper like  
12 that knowing that person would be executed?

13 A. I think I could.

14 Q. Okay. I have to follow up on that a little bit  
15 because you said, "I think I could." I'm not asking  
16 you to predict what you would do in this case, you  
17 haven't heard the facts, but if after hearing all the  
18 facts and circumstances you and the other 11 jurors  
19 thought that between life without parole and the  
20 death penalty the death penalty was the appropriate  
21 sentence, could you then sign your name to that  
22 paper?

23 A. Yeah.

24 Q. Okay. All right, Ms. Pringle. And I believe  
25 that yesterday when some of the jurors came up here

1 to have some discussions private with the judge you  
2 came up and you had some concerns about some high  
3 blood pressure medication.

4 A. Yes.

5 Q. Divan?

6 A. Yeah, Divan.

7 Q. I take that, too.

8 A. So....

9 Q. Okay. And you don't think that would be any  
10 kind of major problem?

11 A. Well, that's -- I don't know how -- you know,  
12 because it does make you go to the restroom and  
13 that's my major concern.

14 Q. All right.

15 A. But what I do is just raise my hand and say I  
16 got to go to the bathroom.

17 Q. All right. So as long as you can take a break  
18 when you need to there would be no problem?

19 A. And as long as you're not sitting like two or  
20 three hours.

21 THE COURT: I won't make it two or three  
22 hours. I wouldn't make it two or three hours,  
23 Ms. Pringle.

24 MS. PRINGLE: Like an hour 15 minutes I got  
25 to go.



1 THE COURT: We can accommodate that,  
2 Ms. Pringle.

3 MR. BAILEY: Thank you, Ms. Pringle.  
4 That's all I've got.

5 THE COURT: Very well. Let me tell you  
6 what I'm going ask you to do. I'm going to ask  
7 you to just step outside the courtroom for just  
8 a moment. We're going to talk about you behind  
9 your back, but we're not going to do it long.  
10 Thank you, Ms. Pringle, we'll get you right back  
11 in in just a moment.

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

14 THE COURT: What says the defense?

15 MR. CUMMINGS: Statutorily qualified,  
16 Judge.

17 THE COURT: What says the State?

18 MR. BAILEY: I agree, she is qualified and  
19 have no objection to her qualification. I would  
20 say for the record in case the situation should  
21 arise later on, I wouldn't anticipate it, but  
22 that Ms. Pringle in her responses to me were --  
23 she was somewhat very, very soft spoken and I  
24 could hardly hear her when we were talking death  
25 penalty questions and it just appeared to me

1 based on her demeanor that she was having some  
2 internal second thoughts on it, but had kind of  
3 locked herself into that position.

4 But, again, I agree, that she did  
5 answer the questions correctly, she expressed  
6 death qualification and I think we've got to  
7 take her at her word for it.

8 THE COURT: Yes, sir.

9 MR. CUMMINGS: Judge, just politely against  
10 my adversary here, I believe she spoke softly  
11 during the entire time because we have a train  
12 and I think you were noticing Ms. Thomas and I  
13 leaning forward. And then further, Judge,  
14 again, I think every juror in this room as Your  
15 Honor found two jurors ago, that they're trying  
16 to give their answers and that you're judging  
17 the credibility of people as they sit up there  
18 and I believe this lady was trying to answer as  
19 best as she could answer.

20 THE COURT: Well, I think part of the  
21 process, also unlike when normally jurors are  
22 projecting to the back of the jury box and they  
23 know they have to project that far, I'm sitting  
24 a foot away from these jurors and they're  
25 talking to me and I think that in terms of

Juror 240 Lorraine J. Pringle - Examination

1 volume nobody's been particularly all that loud.  
2 They've all been talking to me and I think that  
3 encourages folks to not be as loud as they might  
4 be otherwise and I think -- and I noticed that  
5 she was soft spoken, but very well.

6 All right. Note this for the record.  
7 And I know that that concludes panel number one  
8 and panel number two is probably in, they're  
9 finished reading, but let's take a short comfort  
10 break.

11 LIEUTENANT EDWARDS: It's not number two,  
12 it's number three.

13 THE COURT: I mean, panel number three.  
14 That concludes panel number two. We're going to  
15 take a short break.

16 MR. CUMMINGS: Judge, do you want to get  
17 our juror back in?

18 LIEUTENANT EDWARDS: She's still out there.

19 THE COURT: Oh, gosh, boy, do I want a  
20 comfort break. Yes, of course. Yes, thank you  
21 all.

22 (Whereupon, the prospective juror returns to the  
23 courtroom.)

24 THE COURT: Ms. Pringle, you have been  
25 found to be a qualified juror in the case. That

1 does not mean that you are on the jury yet. It  
2 just means that you are a potential juror and  
3 may be selected to serve on this jury. We are  
4 hoping that we will be able to select the jury  
5 on Thursday at two o'clock. And that might be a  
6 little ambitious. If we have to change the time  
7 a little bit earlier or a little bit later we  
8 will call you and let you know in plenty of  
9 time, but unless you hear back from us we are  
10 asking that you be back here in the courtroom at  
11 two o'clock on Thursday afternoon.

12 The clerk, Ms. Etheredge, is going to  
13 give you a sheet of paper that contains some  
14 instructions to help you get ready for your jury  
15 service, like packing clothes, remembering your  
16 medication, things of that sort. It also tells  
17 you where you will be housed, gives you a  
18 daytime number and a nighttime number for you to  
19 get to your family, your employer if you need  
20 to, where you can be reached in the event of an  
21 emergency.

22 You can talk about the details of  
23 where you're going to be, those numbers, and the  
24 details about getting ready to go for your jury  
25 service with anybody that you want to and need

Juror 240 Lorraine J. Pringle - Examination

1 to. However, you must not discuss this case or  
2 any aspect of this case with anyone or allow  
3 anyone to discuss any aspect of this case with  
4 you. Do not expose yourself to any information  
5 about this case from any source, don't read  
6 anything, don't listen to anything, don't watch  
7 anything about this case. Do you understand  
8 this?

9 MS. PRINGLE: Yes.

10 THE COURT: Thank you, Ms. Pringle. And I  
11 look forward to seeing you Thursday at 2:00.

12 MS. PRINGLE: Okay.

13 THE COURT: This Saturday your daughter  
14 graduates at ten o'clock in the morning. Where?

15 MS. PRINGLE: At McAllister Field House.

16 THE COURT: From...?

17 MS. PRINGLE: JW, Johnson & Whales.

18 THE COURT: All right. That's Saturday  
19 morning. How long will that last? You don't  
20 know. It will last as long as it lasts. All  
21 right. All right. Thank you for that,  
22 Ms. Pringle. Let me consider that, okay?

23 MS. PRINGLE: All right.

24 THE COURT: Thank you very much. I gather  
25 you tell me that because you want to go to the

Juror 240 Lorraine J. Pringle - Examination

1 graduation, right?

2 MS. PRINGLE: Right.

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

5 THE COURT: Okay. Anything, counsel, that  
6 you want to put on the record regarding  
7 Ms. Pringle's last comment that her daughter  
8 graduates at ten o'clock on Saturday?

9 MR. BAILEY: Your Honor, the only thing I  
10 can think of just, out of an abundance of  
11 caution, would be to find out if she's unable to  
12 attend that whether that is going to -- what  
13 that would do to her.

14 THE COURT: What do you say about that, Mr.  
15 Cummings?

16 MR. CUMMINGS: Judge, I think the key word  
17 here is inconvenienced. And when I asked that I  
18 know that Your Honor corrected me and you were  
19 absolutely right on that, I think everybody's  
20 going to have to give up some sacrifices here,  
21 but I know there's also procedure that if this  
22 was something I'm sure somebody could  
23 accommodate this lady.

24 THE COURT: You know, graduation is just  
25 going to be one of those events in these folks'

1 lives and I'm not prepared to disqualify her on  
2 that basis, we just may have to accommodate  
3 them. And I hate to put everyone through that,  
4 I think that's very difficult, but let me think  
5 about what to do regarding that. You all  
6 certainly have that information, I have that  
7 information, but I'm inclined to accommodate  
8 her.

9 MR. CUMMINGS: Thank you.

10 THE COURT: Very well.

11 MR. BAILEY: Thank you.

12 THE COURT: Let's take a short break.

13 (Recess, from 11:03 a.m. to 11:16 a.m.)

14 MS. HARDEE-THOMAS: Your Honor, may we  
15 approach?

16 THE COURT: Yeah.

17 MS. HARDEE-THOMAS: Just so you won't be  
18 surprised.

19 THE COURT: So I won't be surprised?

20 MS. HARDEE-THOMAS: Yes.

21 THE COURT: I'm always surprised.

22 (Whereupon, a bench conference was held off the  
23 record.)

24 THE COURT: Thanks very much for that.

25 MS. HARDEE-THOMAS: Yes, Your Honor.

## Juror 12 Harold L. Bazzle - Examination

1 (Harold L. Bazzle, called as a prospective  
2 juror, having previously been duly sworn, is  
3 examined as follows:)

4 THE COURT: Hi. You're Mr. Bazzle?

5 MR. BAZZLE: Yes, ma'am.

6 THE COURT: All right. If you would,  
7 please, be seated. For our record this is Juror  
8 Number 12, Harold Bazzle.

9 EXAMINATION

10 BY THE COURT:

11 Q. Now, Mr. Bazzle, yesterday morning you were  
12 sworn in along with all the other potential jurors.  
13 Do you remember that?

14 A. Yes, ma'am.

15 Q. And do you understand that the oath that you  
16 took yesterday, of course, still applies to this  
17 process and to the questions and answers which we  
18 will share with you today? You understand that?

19 A. Yes, ma'am.

20 Q. All right. Now, since we talked with you  
21 yesterday about this matter, has anyone talked with  
22 you about this case, or tried to approach you about  
23 this case, or have you inadvertently or otherwise  
24 been exposed to any information about this case?

25 A. No, ma'am.



## Juror 12 Harold L. Bazzle - Examination

1 Q. All right. We got the microphone. You and I  
2 are talking and I am hearing you just fine, we just  
3 need everybody to be able to hear you, Mr. Bazzle.

4 Now, when you were back in the jury  
5 room you were given a list of potential witnesses,  
6 this document. I hand it to you if you need to  
7 review it again. And I would ask you, first of all,  
8 did you have a chance to review that document?

9 A. Yes, I did.

10 Q. All right. And are you related by blood or  
11 marriage, acquainted with, do you have a personal  
12 acquaintanceship or relationship, a business  
13 association or relationship, and are you connected  
14 either directly or indirectly to any of the  
15 individuals on that list?

16 A. No, I'm not.

17 Q. All right. Now, let me look at this.  
18 Mr. Bazzle, my notes indicate that yesterday when we  
19 asked whether or not you had any opinion or had seen  
20 or read anything about this case, or had any bias or  
21 prejudice for or against either side, that you did  
22 not indicate that any of those things applied to you;  
23 is that right?

24 A. Well, I had a problem with, you know, some  
25 people.

1 Q. You have a problem with some people, okay. And  
2 tell me what you mean by that.

3 A. I don't get along with people of color too well.

4 Q. You don't get along with people of color too  
5 well, okay. And what do you mean when you say,  
6 "people of color"?

7 A. Blacks, mixed.

8 Q. All right. Black, African-Americans. When you  
9 say mixed, are you talking about interracial  
10 individuals, folks?

11 A. Yeah.

12 Q. All right, sir. And I think that you may have  
13 actually indicated that on your questionnaire; is  
14 that right?

15 A. Yes, ma'am.

16 Q. All right. So are you telling me that you have  
17 concerns about having a bias or a prejudice in this  
18 case because Mr. Bowman is an African-American, you  
19 think that?

20 A. Yes, ma'am.

21 Q. And do you think that that opinion that you hold  
22 might, or could, interfere with or substantially  
23 impair your duties as a juror?

24 A. Yes, I do.

25 Q. All right, sir. Very well.

## Juror 12 Harold L. Bazzle - Examination

1 THE COURT: Along that line, Mr. Bailey, do  
2 you have any questions?

3 MR. BAILEY: No, ma'am.

4 MS. HARDEE-THOMAS: No questions from the  
5 defense, Your Honor.

6 THE COURT: Very well. Mr. Bazzle, in that  
7 you have expressed your bias and your prejudice,  
8 I am going to disqualify you as a juror in this  
9 case, because we need individuals who are not so  
10 biased or prejudiced to assure that both sides  
11 receive a fair and impartial trial.

12 I certainly thank you for your candor,  
13 I appreciate you sharing that information with  
14 us, but I will disqualify you from your service  
15 on this jury and ask that you not discuss the  
16 procedure here today or any of the questions or  
17 these, any of these matters with any potential  
18 jurors. And I -- and I would just ask if you're  
19 not sure whether or not someone's a potential  
20 juror, don't talk about it with them. With  
21 regards to anybody that you know is not a  
22 potential juror you certainly are free to talk  
23 about this matter if you wish to. Thank you  
24 very much for being in here today, Mr. Bazzle.  
25 You are free to go.

## Juror 12 Harold L. Bazzle - Examination

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

3 THE COURT: Any exception to the  
4 disqualification?

5 MR. BAILEY: None from the State.

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

8 MR. CUMMINGS: Absolutely none.

9 THE COURT: All right. Our next juror is  
10 Ms. Stephanie Pellos. Is she here? She is.  
11 She has arrived.

12 MR. BAILEY: Your Honor, I don't believe --  
13 I'm sorry.

14 MS. ETHEREDGE: She is not sworn in,  
15 qualified.

16 THE COURT: She was not sworn in yesterday  
17 and she thinks she lives in Charleston County,  
18 so I'm going to begin with this examination of  
19 her because I don't want to get into the rest of  
20 it if that's so.

21 MR. CUMMINGS: Yes, ma'am.

22 (Stephanie N. Pellos, called as a prospective  
23 juror, having first been duly sworn, is examined  
24 as follows:)

25 THE COURT: Good morning, Ms. Pellos.

## Juror 228 Stephanie N. Pellos - Examination

1 MS. PELLOS: Hi.

2 THE COURT: Have a seat right there for me.  
3 Now, Ms. Pellos, I've got to ask you some  
4 preliminary questions because you arrived a  
5 little late yesterday. And let me grab this.  
6 Place your left hand on the Bible for me,  
7 please, raise your right hand. Do you swear or  
8 affirm that the information that you will give  
9 during this jury qualification process will be  
10 the truth and you will give complete responses  
11 and answers during this jury qualification  
12 process?

13 MS. PELLOS: Yes, ma'am.

14 THE COURT: Thank you so much.

15 EXAMINATION

16 BY THE COURT:

17 Q. Now, Ms. Pellos, I have had some information, so  
18 I'm going to get right to the preliminary  
19 qualifications and ask you, first of all, are you a  
20 citizen of the United States?

21 A. Yes.

22 Q. Are you a citizen and resident of Dorchester  
23 County?

24 A. No.

25 Q. All right. Tell me, when did you leave

1   Dorchester County?

2   A.   In August of last year.

3   Q.   In August of last year. And either your  
4   driver's license, or your voter registration, or your  
5   identification card through the South Carolina  
6   Department of Public Safety, something hasn't caught  
7   up with you.

8   A.   Right.

9   Q.   And it's still showing Dorchester County.

10  A.   Right.

11  Q.   All right. But you live, I think you shared  
12  with us, your new address is in Charleston?

13  A.   Uh-huh (affirmative response).

14  Q.   And that is now your residence?

15  A.   It is.

16  Q.   Okay. Very well.

17           THE COURT: Any questions from the State?

18           MR. BAILEY: None from the State, Your  
19  Honor.

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

22           THE COURT: Very well. Thank you so much.  
23  I needed to get that on the record. You  
24  obviously cannot serve in Dorchester County  
25  because you've got to be a resident in order to

Juror 228 Stephanie N. Pellos - Examination

1 serve on this jury, but that's okay, we'll see  
2 you in Charleston County.

3 MS. PELLOS: Okay.

4 THE COURT: Thank you so much. And I  
5 understand the deputies brought you here this  
6 morning, they will get you home as well. Be  
7 sure you tell them you're ready to go. Thanks,  
8 Ms. Pellos.

9 MS. PELLOS: Okay.  
10 (Whereupon, the prospective juror exits the  
11 courtroom.)

12 THE COURT: Any exception from the State?

13 MR. BAILEY: None from the State.

14 THE COURT: From the defense?

15 MS. HARDEE-THOMAS: None from the defense,  
16 Your Honor.

17 THE COURT: All right. Now, Ms. Rhonda  
18 Toler, Juror Number 303.

19 (Rhonda L. Toler, called as a prospective juror,  
20 having previously been duly sworn, is examined  
21 as follows:)

22 EXAMINATION

23 BY THE COURT:

24 Q. Let's see, good morning. I can still say good  
25 morning. How are you, Ms. Toler?

## Juror 303 Rhonda L. Toler - Examination

1 A. I'm fine.

2 Q. Very good.

3 THE COURT: For our record is this is Juror  
4 Number 303, Ms. Rhonda Toler.

5 Q. Now, Ms. Toler, yesterday, if you will recall,  
6 you were sworn in along with all the other potential  
7 jurors. Do you remember that?

8 A. Right.

9 Q. And I would just simply tell you that the oath  
10 that you took yesterday still applies to this  
11 process, okay?

12 A. Yes, ma'am.

13 Q. Very well. Now, since we talked with you  
14 yesterday, has anyone talked with you about this  
15 case, or tried to approach you about it, or have you  
16 inadvertently or otherwise been exposed to any  
17 information about this case?

18 A. No, Your Honor.

19 Q. All right. Now, when you were back in the jury  
20 room, Ms. Toler, you were shown a list of potential  
21 witnesses. I'm just going to place it there in case  
22 you need to refer to it. And I'd ask, first of all,  
23 did you have a chance to look at it?

24 A. Yes, I did.

25 Q. And once you reviewed the list, do you believe



1 that you are related by blood or marriage, acquainted  
2 with, that you have a casual or personal  
3 relationship, or business association, or any  
4 connection either direct or indirect with any of the  
5 individuals whose names are listed on the potential  
6 witness list?

7 A. No.

8 Q. All right. Now, when we talked yesterday my  
9 notes indicate that you did not, that you did not  
10 yesterday indicate that you had any opinion, or that  
11 you had seen, heard, or read anything about this  
12 case, or that you had any bias or prejudice for or  
13 against either side; is that right?

14 A. That is correct.

15 Q. Okay. Since we have talked yesterday has  
16 anything come into your memory that may have jogged  
17 your memory, or created anything within your  
18 knowledge that would change your feeling from  
19 yesterday?

20 A. No.

21 Q. All right. So you would tell me you have no  
22 bias, you have no prejudice about, and you have no  
23 opinion, you haven't heard anything about this  
24 matter?

25 A. No.

1 Q. Other than the little tiny bit you heard  
2 yesterday?

3 A. Right.

4 Q. All right. Now, Ms. Toler, we need to ask you  
5 some questions.

6 A. Okay.

7 Q. And I just want to talk about the questions  
8 themselves for just a moment. Because the first  
9 thing I want to tell you is that we are not trying to  
10 invade your privacy at all.

11 A. Okay.

12 Q. And what we are trying to do is to find out how  
13 you feel about certain matters; in other words, we  
14 want to know what some of your opinions are.  
15 Obviously there are no right or wrong answers.  
16 Obviously your opinions are just as good and valid as  
17 anybody else's opinion. The reason that we are  
18 asking your feelings and your opinions, quite  
19 frankly, is just to find out whether or not those  
20 opinions that you hold might, or could, impact on  
21 your jury service.

22 And in a few moments I'm going to be  
23 asking you about penalty, specifically the death  
24 penalty. And because that could be, that may be an  
25 issue in this case. But I want you to understand

1 that the mere fact that we are talking about the  
2 penalty at this early stage really is premature  
3 because the trial hasn't begun. And as I have  
4 already said yesterday, and I'll tell you again,  
5 Mr. Bowman is presumed innocent of these charges.  
6 But because this is the only time that we can talk  
7 about the penalty it necessarily needs to occur  
8 before the trial gets underway, that's the purpose  
9 that we talk about it.

10 Now, if you were a juror in any type  
11 of criminal case, I'm not going to ask you about this  
12 case because you don't know anything about this case,  
13 and it wouldn't be fair to you to ask you about your  
14 opinions about this case and it wouldn't be proper.  
15 So I'm going to just ask you about if you were in a  
16 criminal case in the generic or in the general sense.  
17 If you were a juror in any criminal case, would you  
18 be willing to listen to the law as you were  
19 instructed by the judge?

20 A. Yes.

21 Q. Would you willing to accept the law and apply  
22 the law to the facts as you found them to be?

23 A. Yes.

24 Q. Even though you might not particularly like the  
25 law and you might even disagree with it, would you be

1 willing to follow the law as it was instructed to you  
2 by the judge?

3 A. Yes.

4 Q. Now, if you were asked to serve in the case of  
5 the State vs. Mr. Bowman, would you decide this case  
6 based solely upon what you hear in this courtroom and  
7 disregard anything that you may have seen, or heard,  
8 or read about this case from any source at all if  
9 anything like that should come into your memory? In  
10 other words, if during the course of the trial  
11 something jogged your memory and you have no memory  
12 now, but you heard something you thought, oh, maybe I  
13 remember something like that, would you be willing to  
14 set aside that memory and try this case based solely  
15 on the information, the evidence that you receive in  
16 the courtroom?

17 A. Yes.

18 Q. Now, Ms. Toler, in a criminal case, as you know,  
19 as we talked about yesterday, the State has the  
20 burden of proving the guilt of a defendant, any  
21 defendant, and this defendant, Mr. Bowman, beyond a  
22 reasonable doubt. In other words, a defendant never  
23 has to prove himself or herself innocent. Mr. Bowman  
24 does not have to prove himself innocent. He is  
25 presumed innocent under the law. Do you understand

1 that?

2 A. Yes.

3 Q. So if you were a juror in any criminal case  
4 would you be willing to listen to the facts and  
5 circumstances and the law as you were instructed?

6 A. Yes.

7 Q. And based upon what you found the facts and  
8 circumstances to be, would you be then apply the law  
9 to those facts, and if you were not convinced of a  
10 defendant's guilt beyond a reasonable doubt would you  
11 be willing to find a defendant not guilty?

12 A. Yes.

13 Q. If, on the other hand, when you considered the  
14 facts and circumstances and found those facts as you  
15 found them to be, and applied the law to the facts  
16 and you were firmly convinced of the defendant's  
17 guilt beyond a reasonable doubt, would you be then be  
18 willing to find a defendant guilty?

19 A. Yes.

20 Q. So you would be willing to listen and to make  
21 your decision based upon whether or not you were  
22 convinced that a person is guilty or not; is that  
23 right?

24 A. Yes.

25 Q. All right. Now, most of the time jurors do not

1 concern themselves with the matter of punishment.  
2 Most of the time in the criminal court the  
3 punishment, the sentence, is left up to the judge.  
4 But there is one case in our law when a jury has to  
5 deal with the matter of punishment and that is a case  
6 like this one. It is in a case where an individual  
7 has been charged with the crime of murder and where  
8 the State is seeking the death penalty.

9           If an individual in a death penalty  
10 case is convicted of the crime of murder, is found  
11 guilty of the crime of murder, then the same jury  
12 that convicted him or her of murder must come back  
13 and in a separate and different proceeding decide the  
14 sentence that the person would get. There are only  
15 two choices. One is life imprisonment without the  
16 possibility of parole and the other is the death  
17 penalty. That would be determined in a second, or  
18 the sentencing phase of the trial. Do you understand  
19 this?

20 A. Yes.

21 Q. All right. Now, back in the jury room with you,  
22 Ms. Toler, there was another sheet of paper.

23 A. Uh-huh (affirmative response).

24 Q. And I'll put it there for you in case you need  
25 it. And I'd ask if you had a chance to look at that

1 piece of paper?

2 A. Yes, I did.

3 Q. And you will, of course, notice, and would have  
4 noticed that the sheet described three types of  
5 jurors for you. Do you remember those three types of  
6 jurors and what they were?

7 A. Yes, I do.

8 Q. All right. Which of those three types of jurors  
9 best describes you?

10 A. It would have to be number three.

11 Q. All right. And in other words, you would be  
12 willing to listen to whatever you might hear and make  
13 your decision based upon what you had heard?

14 A. The facts.

15 Q. Exactly.

16 A. Yes.

17 Q. And if you found based upon the facts as you  
18 heard them, the information that you received, if you  
19 found that it was appropriate, or if you thought it  
20 was appropriate to sentence someone to death, would  
21 you be able to do that?

22 A. Yes.

23 Q. On the other hand, if you thought the death  
24 sentence was not appropriate, or for any other reason  
25 the person ought to receive life imprisonment without

1 the possibility of parole, would you be able and  
2 willing to vote for a sentence of life imprisonment?

3 A. Yes.

4 Q. And, again, you would make up your mind based  
5 upon what you hear in the courtroom?

6 A. Exactly.

7 Q. Now, Ms. Toler, if you were chosen to serve as a  
8 juror in this case you and the other jurors would be  
9 housed, county expense, and that word is called  
10 sequestered, you would be housed here in a local  
11 motel during the course of the trial. And that's  
12 where you would have to stay until the trial is over  
13 except when you are in the courtroom. This period  
14 could be as long as two weeks, it could be longer, it  
15 could be a little shorter, I simply don't now.

16 Obviously that would create an  
17 inconvenience for you as it surely will do for all  
18 who serve on this jury. Other than the  
19 inconvenience, which it would cause anybody who will  
20 have to serve in this capacity, would that pose a  
21 serious risk of danger to your health, or well being,  
22 or to that of anybody who is dependent upon you if  
23 you had to serve in that capacity?

24 A. Well, I -- there are four people in my  
25 household.



1 Q. All right.

2 A. I am the only one with a legal driver's license  
3 and I have to make sure everybody gets to work and  
4 back.

5 Q. Okay. Tell me who those folks are in your  
6 household.

7 A. Okay. My fiancé, his son, and his son's  
8 girlfriend. My fiancé lost his license due to some  
9 back child support, so I have to take him back and  
10 forth to work and his -- well, his son is not working  
11 at present time, but his daughter -- I mean, his  
12 son's girlfriend, she lost her license because of  
13 unpaid tickets.

14 Q. Do you think if they had some time, if they had  
15 a day or two to work on that issue, that they could  
16 perhaps find someone to help them with transportation  
17 while you served your jury duty? Do you think they  
18 could work together to find assistance with that?  
19 You know, maybe your fiancé could find someone at his  
20 work to help just during this limited time, or  
21 perhaps your son's girlfriend could find a friend to  
22 just help, help out just for this period of time?

23 A. That's a possibility. I mean....

24 Q. Would you be willing to ask them to try to do  
25 that?

1 A. Sure.

2 Q. Thank you. Now, Ms. Toler, I'll tell you what  
3 I'm going to do, I'm going to now ask these attorneys  
4 if they have some questions of you. No doubt they  
5 will.

6 A. Okay.

7 Q. So we will do that now.

8 THE COURT: Mr. Bailey.

9 MR. BAILEY: Thank you, Your Honor.

10 EXAMINATION

11 BY MR. BAILEY:

12 Q. Ms. Toler, I'm Walter Bailey, I'll be  
13 representing the State prosecuting this case. I need  
14 to ask you a little bit about your thoughts at least  
15 on the death penalty.

16 A. Okay.

17 Q. I'm not going to talk about this case, you  
18 haven't heard the facts of this case, but we're  
19 talking in general.

20 A. Right.

21 Q. Is the death penalty something that you've ever  
22 had occasion to think about before this week?

23 A. No, not really.

24 Q. All right. Now that you know that you may be a  
25 juror on a death penalty case and you've read over

1 that piece of paper the judge gave you all, and  
2 you're pretty convinced you're in that third category  
3 that would want to hear the facts and the evidence  
4 and the law from the judge?

5 A. Yes.

6 Q. And then decide whether or not to impose life  
7 without parole or the death penalty if we get to that  
8 point in trial?

9 A. Right.

10 Q. You understand that in South Carolina the jury,  
11 not the judge, makes the decision if we get to that  
12 point. Two choices, life without parole and the  
13 death penalty. And the jury's verdict has to be  
14 unanimous, all 12 would have to agree, then the judge  
15 would order whatever the jury's verdict is to happen  
16 and it would happen. In other words, based on that  
17 jury's verdict that individual either goes to prison  
18 for the rest of his life or is executed. And, again,  
19 I'm not going to ask you to predict what you'd do in  
20 this case, you hadn't verdict the facts.

21 A. Right.

22 Q. But if the facts warranted it could you vote for  
23 the death penalty knowing that person actually would  
24 be executed?

25 A. Yes.

1 Q. All right. If all 12 jurors vote for the death  
2 penalty they would come out, they'd sit in these  
3 chairs out here, and the clerk would call each name  
4 out separately and you'd be asked to stand up when  
5 your name is called out and announce out loud that  
6 was your verdict. Could you do that if that was your  
7 verdict?

8 A. Yes.

9 Q. The other thing that's part of the process is  
10 that if a jury votes for the death penalty and all 12  
11 agree on it, there's a death verdict form. Each  
12 juror would be asked to sign their name to that paper  
13 and that would result in that person being executed  
14 at some point.

15 A. Yes.

16 Q. Could you sign your name to a paper like that if  
17 you thought that was the appropriate sentence?

18 A. Yes.

19 Q. Ms. Toler, that's all I've got. Thank you very  
20 much.

21 THE COURT: Thank you, Mr. Bailey.

22 And Mr. Cummings.

23 EXAMINATION

24 BY MR. CUMMINGS:

25 Q. Goods morning, ma'am. Ms. Toler, I'm Norb

1 Cummings, the other young lady sitting at the table  
2 is Ms. Marva Hardee-Thomas and we're both Court  
3 appointed to represent Mr. Bowman seated at the table  
4 here, ma'am.

5 A. Okay.

6 Q. Ms. Toler, I also, like the solicitor, I'm going  
7 ask you some questions. And I apologize, some of  
8 them may be private in nature, but understanding you  
9 have the protection of Her Honor this morning and  
10 she's the boss.

11 A. Okay.

12 Q. Okay. And if I ask you a question you don't  
13 understand or if something's troubling I know you'll  
14 point that out to me, okay?

15 A. Okay.

16 Q. Ms. Toler, understanding your fiancé, the man in  
17 your life, he depends on you to get back and forth to  
18 work; is that correct?

19 A. Yes.

20 Q. And you work outside the home for an income?

21 A. Yes, I do.

22 Q. Would that -- and Her Honor asked you this very  
23 specific, would the fact that he could not or maybe  
24 doesn't have transportation, would that economically  
25 impact you to maybe cause your attention to be placed

1 there instead of inside this courtroom?

2 A. Well, I do sometimes worry about things like  
3 that, but....

4 Q. And that's why I saw that look of concern on  
5 your face as a lady. And you were very, very  
6 forthwith with Mr. Bailey, the solicitor, and you're  
7 paying close attention to Her Honor's questions to  
8 you, ma'am, and I know that you've been paying  
9 attention to Ms. Thomas and I. And we try to ask  
10 questions of jurors that may cause some impact or  
11 substantially impair their jury service.

12 A. Uh-huh (affirmative response).

13 Q. Would that cause you an economic hardship if  
14 this gentleman could not get a ride?

15 A. Yes.

16 Q. Okay. And would that cause you concern and  
17 perhaps substantially impair your duties as a juror  
18 in here?

19 A. I'd have to admit, yes, it would.

20 Q. And that's why we ask that. There's no right or  
21 no wrong answers here.

22 A. Right.

23 Q. Nobody is putting you under the spotlight.

24 A. Okay.

25 Q. And further, there's a son and another lady

1 residing in the house and they're dependent upon your  
2 income according to what you said a little while ago.

3 A. Yes.

4 Q. And I know that you gave me the words, testified  
5 for Mr. Bailey it's a possibility that it would  
6 really cause an inconvenience -- not an  
7 inconvenience, a hardship.

8 A. Yes.

9 Q. All right. And I'm going to move off that topic  
10 now, I promise you.

11 A. Okay.

12 Q. There have been a couple of crises in your young  
13 life. On your jury questionnaire you had an impact  
14 one time where a friend of the family had been found  
15 deceased?

16 A. Right.

17 Q. All right. Would that fact alone substantially  
18 or in any way materially impair yourself being a fair  
19 and impartial juror to any person put on trial, the  
20 fact that you know that somebody had lost their life  
21 somehow?

22 A. No.

23 Q. And I know that when you answered that a moment  
24 ago you stopped and thought for a second, because you  
25 don't know any of the facts in this case at all.

1 A. Right.

2 Q. But the mere fact that anybody might be even  
3 alleged to have been charged with murder, and you've  
4 promised Her Honor and your oath today that everybody  
5 that comes in this courtroom is innocent until proven  
6 guilty by the State beyond a reasonable doubt.

7 A. Right.

8 Q. Correct?

9 A. That's correct.

10 Q. And you hold that principle dear to you?

11 A. Absolutely.

12 Q. And the mere fact that there had been some  
13 tragedy in the past about that situation would never  
14 cause you to hesitate to be a fair and impartial  
15 juror?

16 A. No, it wouldn't.

17 Q. And then there was another personal issue in  
18 your life about a family member.

19 A. Right.

20 Q. Would that fact substantially impair your  
21 decisions as a juror in jury service on any case?

22 A. No.

23 Q. All right. And you would be willing to listen  
24 to all the facts and all the evidence completely  
25 before rendering any decision on guilt?



1 A. Yes, I would.

2 Q. All right. And then if the jury, all 12 members  
3 of the jury put their minds together and find a  
4 person guilty of murder, until and unless than we go  
5 to the second part of a trial. And, again, with Her  
6 Honor's guidance and the rules of evidence that we  
7 have in here, you would hear things as presented.  
8 And based on that the jury would have two types of  
9 punishments. All 12 of you good folks would get  
10 together, put your minds together. And you  
11 understand that the death penalty is a possibility if  
12 all 12 vote for that; is that correct, ma'am?

13 A. Correct.

14 Q. All right. And you've told Mr. Bailey you could  
15 sign your name to that form?

16 A. Yes.

17 Q. And then you also stand up in public and  
18 announce that that's your verdict and it still would  
19 be your verdict if you so arrived at that ultimate  
20 penalty, right?

21 A. Yes.

22 Q. Okay. But you also understand you could vote --  
23 have the jury vote together collectively life without  
24 the possibility of parole?

25 A. Right.

1 Q. And that could be for any reason or any legal  
2 reason. And you understand that from Her Honor's  
3 instructions?

4 A. Yes.

5 Q. Okay. And you would be willing to follow that  
6 as your civic duty as a juror?

7 A. Yes.

8 Q. Okay.

9 MR. CUMMINGS: Beg the Court's indulgence,  
10 Your Honor.

11 THE COURT: All right.

12 (Mr. Cummings and Ms. Hardee-Thomas conferring  
13 with Mr. Bowman.)

14 MR. CUMMINGS: That's all the questions I  
15 have for this nice lady, judge.

16 MR. BAILEY: Nothing further from the  
17 State.

18 EXAMINATION

19 BY THE COURT:

20 Q. Let me be sure I'm clear now, Ms. Toler. Are  
21 you telling me that you're concerned about whether or  
22 not your household members can find rides, and if  
23 they can find rides you're okay, but other -- if they  
24 can't find rides then you're going to be concerned?

25 A. Yeah. I mean, because we depend on all of the

1 incomes in the house, I mean we're depending on all  
2 of them. And if -- you know, if for some reason they  
3 couldn't find rides, then, yeah, it would probably  
4 cause me some worry and concern.

5 Q. And if they can find rides to and from work, if  
6 they can find rides to and from work, do you feel  
7 like then you could focus on the trial knowing that  
8 they were getting back and forth to work?

9 A. Yes.

10 Q. Okay. Very well. Thank you so much.

11 Ms. Toler, I'm going to ask you just to step outside  
12 the courtroom just so we can talk about you behind  
13 your back very briefly.

14 A. Okay.

15 Q. And then we'll get you right back in.

16 A. All right.

17 Q. Thanks so much, Ms. Toler.

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

20 THE COURT: What says the State?

21 MR. BAILEY: Your Honor, I think she's  
22 qualified. Your Honor, I know that the concern  
23 would be her ability to concentrate on the trial  
24 if her family members have no transportation and  
25 all, but she never did say that it -- even if it

1 was a concern it would be a concern to the  
2 extent that it would substantially impair her  
3 ability to follow trial testimony. And I think  
4 any juror is going to be concerned with what's  
5 going on outside, they're not just complete  
6 robots once they got in here, they've got a life  
7 outside that's going to cross their mind. But I  
8 don't think just listening to the totality of  
9 her answers that it -- that even if they can't  
10 find a ride it would override her ability to be  
11 able to concentrate on the trial.

12 THE COURT: Thank you very much.

13 MR. CUMMINGS: May it please the Court,  
14 Judge. The only argument I would specifically  
15 have in this case is that every juror in here is  
16 going to have to devote every ounce of attention  
17 and basically be shut off from the outside  
18 world. Respectfully, Judge, if this lady's  
19 placed in a position in her household where  
20 nobody else has a driver's license for whatever  
21 legal reasons, including not paying child  
22 support, et cetera, if he can't go to work it's  
23 going to cause the child support issue on that  
24 gentleman, it's going to cause some other issues  
25 on his children.

1 I'm asking Your Honor to take into  
2 consideration without knowing about this juror's  
3 ability to ask some other adult to be  
4 responsible for their own actions in life, if  
5 that's not going to put a great weight on her  
6 mentally, physically, emotionally. It may  
7 distract her from jury service when this  
8 gentleman's facing the ultimate penalty, ma'am.

9 Respectfully, Judge, she's answered  
10 the questions that would qualify her as a  
11 statutorily qualified juror under type three.  
12 My only concern on behalf of my client is that  
13 this is going to cause an economic hardship on  
14 her, and then, Judge, perhaps you take her mind  
15 away from the facts of this case which is going  
16 to be of the most important of nature ever.  
17 Thank you, ma'am.

18 MR. BAILEY: Could you possibly inquire as  
19 to her, or allow us to inquire whether or not --  
20 you know, how far away her -- because I  
21 understand the fiancé's son is not working.  
22 It's the fiancé and the fiancé's son's  
23 girlfriend.

24 THE COURT: Girlfriend.

25 MR. BAILEY: You know, how far away they

1 live from work, whether public transportation's  
2 available. It may be --

3 THE COURT: Here's what I'm going to do.  
4 And, counsel, what I'm inclined to do and I'm  
5 happy to hear from you about it, I'm inclined to  
6 qualify her currently, qualify her now, ask her  
7 to have her household members inquire into  
8 things like public transportation,  
9 transportation from friends. I believe that we  
10 are going to need to, most probably, qualify  
11 more folks than just sufficient for the strikes,  
12 because I'm anticipating that we very well may  
13 have folks that may have a problem between now  
14 and when we actually select the jury.

15 So that I think that what is  
16 appropriate to do is to find her qualified now,  
17 send her out with the task to help her family or  
18 her household members find transportation and  
19 then if they are unable to do so then we can --  
20 I'll address that. I think that's the  
21 appropriate way to proceed and we're going to  
22 proceed that way over the exception of the  
23 defense.

24 MR. CUMMINGS: Thank you, Judge.

25 MR. BAILEY: Thank you, Your Honor.

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

3 THE COURT: Thank you so much, Ms. Toler.  
4 Ms. Toler, you have been found to be qualified  
5 as a potential juror in this case. This does  
6 not mean that you are on the jury yet, it just  
7 means that you are a potential juror and may be  
8 selected to serve on this jury.

9 Now, I'm going to ask, because I'm  
10 hoping that -- I am hoping that we'll be able to  
11 select the jury on Thursday at two o'clock.

12 MS. TOLER: Okay.

13 THE COURT: Between when you see your  
14 household members I want you to tell them that  
15 you may be selected on this jury and about the  
16 sequestration. I'm going to then ask you all to  
17 put your heads together and see if they can help  
18 themselves and with your help, I'm sure, find  
19 some transportation. Maybe public  
20 transportation would work, maybe friends or the  
21 like, co-workers or the like.

22 MS. TOLER: Okay.

23 THE COURT: When you return on Thursday if  
24 they have been unable to find transportation and  
25 you are concerned about that inability, I want

1 you to address that with me at that time. Do  
2 you understand?

3 MS. TOLER: Yes.

4 THE COURT: I may not ask you specifically,  
5 but I'll ask if anything has occurred between  
6 the time we were together and when we select the  
7 jury, and you can raise your hand and let me  
8 know then, all right?

9 MS. TOLER: Okay.

10 THE COURT: Now, so let me also tell you  
11 that I may be a little ambitious hoping to pick  
12 this jury at two o'clock on Thursday. I hope  
13 not, but I might be. If I need to change the  
14 time we will call you in plenty of time for you  
15 to know that.

16 MS. TOLER: Okay.

17 THE COURT: But unless we hear back from  
18 you I'm going to ask that you be back in the  
19 courtroom at two o'clock on Thursday.  
20 Ms. Etheredge is going to pass you now a little  
21 sheet of paper.

22 MS. TOLER: All right.

23 THE COURT: And that sheet of paper will --  
24 just has some suggestions for you, like getting  
25 your clothes ready for jury service, bringing



1 your medications. It tells you where you're  
2 going to be housed, it gives you the emergency  
3 numbers both during the day and at night for you  
4 to give your family members or folks at work or  
5 whomever you believe might need that  
6 information.

7 Now, let me say that you can discuss  
8 all of these practical details with anybody that  
9 you choose to. However, you may not discuss any  
10 aspect of this case with anyone or allow anyone  
11 to discuss any aspect of this case with you.  
12 You cannot expose yourself either to any  
13 information about this case regardless of what  
14 source. Do you understand?

15 MS. TOLER: Yes.

16 THE COURT: Ms. Toler, I look forward to  
17 seeing you on Thursday at two o'clock. Thank  
18 you so much.

19 MS. TOLER: Thank you, Your Honor.

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

22 THE COURT: All right. Our next juror is  
23 Mr. Richard Perez, Juror 230.

24 LIEUTENANT EDWARDS: Yes, ma'am, Perez,  
25 230.

## Juror 230 Richard Perez - Examination

1 Richard Perez, called as a prospective juror,  
2 having previously been duly sworn, is examined  
3 as follows:)

4 THE COURT: Good morning, Mr. Perez, I can  
5 barely say. I've got four more minutes I can  
6 say good morning. For the record, this is  
7 Mr. Richard Perez and he is Juror Number 230.

8 EXAMINATION

9 BY THE COURT:

10 Q. Now, Mr. Perez, you will remember that yesterday  
11 you were sworn in along with all the other potential  
12 jurors in this case. Do you remember that?

13 A. Yes, ma'am.

14 Q. And I would tell that you that oath continues  
15 through this process. And you remain then under oath  
16 as we go through these questions and answers with you  
17 today, okay?

18 A. Yes, ma'am.

19 Q. Very well. Since we talked with you yesterday  
20 has anybody talked with you about this case, or tried  
21 to approach you about it, or have you inadvertently  
22 or otherwise been exposed to any information about  
23 this case?

24 A. No, ma'am.

25 Q. All right. Now, when you were back in the jury

1 room you were given a list of potential witnesses.  
2 I'll just put it here in case you need to refer to  
3 it. And I'd, first of all, ask if you had a chance  
4 to look at it?

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

6 Q. After you reviewed the list, did you determine  
7 that you were related by blood or marriage, or  
8 acquainted with, or had any business or professional  
9 or casual connection or relationship, a friendship,  
10 any sort of connection with these individuals  
11 whatsoever, be it direct or indirect?

12 A. No. No, ma'am.

13 Q. Didn't recognize anyone on the list?

14 A. No, ma'am.

15 Q. Very well. Now, also yesterday we asked several  
16 questions. And I noticed that you did not indicate  
17 whether or not you had any opinion, you indicated --  
18 you did not indicate that you had an opinion, or had  
19 seen, or heard, or read anything about this case, or  
20 had any bias or prejudice for or against any side in  
21 this case. You did not indicate that any of those  
22 things applied to you; is that right?

23 A. Yes, ma'am.

24 Q. All right. And since we talked yesterday, has  
25 anything come to your memory, has anything jogged

1 your memory, anything come into your knowledge that  
2 you would need to change your answers from yesterday?

3 A. No, ma'am.

4 Q. All right. Now, Mr. Perez, I need to ask you  
5 some questions and just want to talk for a moment  
6 about the questions and their purpose, if you will.  
7 I'm going to be asking you how you feel about certain  
8 matters; in other words, what your opinions are about  
9 certain matters. Obviously there aren't any right or  
10 wrong answers, and obviously your opinions are just  
11 as good and valid as anybody else's.

12 The reason that I'm going to be asking  
13 these questions that we will be soliciting from you,  
14 eliciting from you your opinions, is to determine  
15 whether or not your opinions may, or might, impact on  
16 your jury service and that's the purpose for these  
17 questions. No one here is going to challenge your  
18 opinions at all, we just need to understand them and  
19 hear what they are.

20 Now, in a few moments I'm going to be  
21 asking you about penalty, specifically the death  
22 penalty. And I want to talk about that for a moment.  
23 And I want to tell you that the mere fact that we are  
24 talking about the penalty at this early stage really  
25 is premature because the trial hasn't begun. And as

1 I've said yesterday and I'll tell you again,  
2 Mr. Bowman is presumed innocent of the charges, but  
3 this is the only time that we can talk about the  
4 penalty, necessarily, before the case begins.

5 Now, I'm going to be asking you  
6 certain questions about what you would do if you were  
7 a juror in any type of criminal case. I'm not going  
8 to ask you about this case because it wouldn't be  
9 fair to ask you about this case because you don't  
10 know anything about this case, and it wouldn't be  
11 proper. But I am going to ask you questions  
12 regarding any criminal case, generically any criminal  
13 case.

14 Now, if you were a juror in any  
15 criminal case, would you be willing to listen to the  
16 law as you were instructed by the judge?

17 A. Yes, ma'am.

18 Q. And would you be willing to accept that law and  
19 apply it to the facts as you found those facts to be?

20 A. Yes, ma'am.

21 Q. And even though you might not particularly agree  
22 with the law as the judge gave it to you, you might  
23 even disagree with it, would you be willing even  
24 still to follow the law as it was instructed to you  
25 by the judge?

1 A. Yes, ma'am.

2 Q. Now, if you were asked to serve in the case of  
3 the State vs. Mr. Bowman, could you decide this case  
4 based solely upon what you would hear in this  
5 courtroom and not upon what -- and not upon anything  
6 that you may remember? And what I'm asking is that  
7 sometimes when jurors are on a case even though at  
8 this point nothing comes to their mind, there is no  
9 memory and they will hear something within the trial  
10 itself and that will jog their memory.

11 So I'm going to ask you this question:  
12 If that happened to you, if you heard something in  
13 that trial and that somehow jogged a memory of yours,  
14 would you be willing to set that memory aside and try  
15 this case based upon what you hear in the courtroom?

16 A. Yes, ma'am.

17 Q. All right. Now, in a criminal case, as I told  
18 you briefly yesterday and as you know, the State has  
19 the burden of proving the defendant guilty beyond a  
20 reasonable doubt. The State has the burden of  
21 proving the guilt of all defendants and Mr. Bowman as  
22 well. In other words, no defendant, and this  
23 defendant also included in that, has no burden to  
24 prove his innocence. A person is presumed innocent  
25 under the law. Do you understand this?

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

2 Q. So if you were a juror in any criminal case  
3 would you be willing to listen to the facts, listen  
4 to the evidence and the law as you were instructed?

5 A. Yes, ma'am.

6 Q. All right. And based upon the evidence would  
7 you be willing to listen to that evidence, find the  
8 facts as you would find them to be and then apply the  
9 law to those facts, and if after you listen to the  
10 evidence and found the evidence and you found them to  
11 be and applied the law to those facts, if you were  
12 not convinced of a defendant's guilt beyond a  
13 reasonable doubt, would you be willing to find a  
14 defendant not guilty?

15 A. Yes, ma'am.

16 Q. On the other hand, if after you listened to the  
17 evidence and found the facts, applied the law to  
18 those facts, if you were convinced of a defendant's  
19 guilt beyond a reasonable doubt would you be willing  
20 to find that defendant guilty?

21 A. Yes, ma'am.

22 Q. So you would be willing to listen and to make  
23 your decision based upon whether or not you were  
24 convinced that the person is guilty or not; is that  
25 right?

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

2 Q. Now, most of the time jurors do not, jurors do  
3 not concern themselves with the matter of punishment.  
4 Most of the time in the criminal court that is left  
5 up to the judge. But there is one case in our law  
6 when a jury has to deal with the issue of punishment,  
7 and this is such a case. It is a case where an  
8 individual has been charged with the crime of murder  
9 and where the State is seeking the death penalty.

10 If an individual in a death penalty  
11 case is convicted of the crime of murder, then the  
12 same jury that convicted him or her of murder must  
13 come back and in a separate and different proceeding  
14 decide the sentence that the person would get. There  
15 are only two choices. One is life imprisonment  
16 without the possibility of parole, and the other is  
17 the death penalty. Penalty would be determined in  
18 the second or sentencing phase of the trial. Do you  
19 understand this?

20 A. Yes, ma'am.

21 Q. Now, also in the jury room back there with you,  
22 Mr. Perez, was this sheet of paper. Do you remember  
23 seeing this?

24 A. Yes.

25 Q. And on that sheet of paper there are listed



1 three types of jurors. Do you remember the three  
2 types of jurors?

3 A. Yes, ma'am.

4 Q. Would you say -- or which of these types of  
5 jurors would you say best describes you?

6 A. Number three.

7 Q. Number three?

8 A. Yes, ma'am.

9 Q. In other words, you would be willing to listen  
10 to whatever you might hear and if you thought based  
11 on hearing all of the evidence, all of the  
12 information and considering all the information, if  
13 you thought it was appropriate to sentence someone to  
14 death, could you do that?

15 A. Yes, ma'am.

16 Q. If, on the other hand, you thought the death  
17 sentence was not appropriate, or for any other reason  
18 you thought that the person ought to receive life  
19 imprisonment, would you be able and willing to vote  
20 for a life sentence?

21 A. Yes, ma'am.

22 Q. So you would make the decision based upon what  
23 you would hear in the courtroom?

24 A. Yes, ma'am.

25 Q. If you were chosen to serve as a juror in this

## Juror 230 Richard Perez - Examination

1 case, Mr. Perez, you and the other jurors would be  
2 housed, obviously at county expense, the word is  
3 sequestered, here locally in a motel during the  
4 course of the trial. And that is where you would  
5 have to stay until the trial is over, except, of  
6 course, when you are in the courtroom. This period  
7 could be as long as two weeks, it could be longer, it  
8 could be a little shorter. Obviously I don't exactly  
9 know how long the case will take.

10 Obviously that would create an  
11 inconvenience for you as it surely will for all who  
12 serve on this jury. Other than the inconvenience  
13 which it would cause anybody who would have to serve  
14 in this capacity, would that pose a serious risk of  
15 danger to your health, or well being, or to that of  
16 anybody who is dependent upon you if you had to serve  
17 in that capacity?

18 A. No, ma'am.

19 Q. All right, sir. You would be able to do that?

20 A. Yes, ma'am.

21 Q. All right. Now, Mr. Perez, these folks I am  
22 confident are going to have some questions for you,  
23 and as they certainly are entitled, it gives them an  
24 opportunity to talk to you a little bit.

25 And I'm going to ask at this time that

1 Mr. Cummings, you or Ms. Hardee-Thomas, come forward  
2 at this time.

3 MR. CUMMINGS: Thank you, Judge.

4 EXAMINATION

5 BY MR. CUMMINGS:

6 Q. Now good afternoon, sir. Mr. Perez, I'm Norb  
7 Cummings and that young lady sitting there is  
8 Ms. Marva Hardee-Thomas and we're both Court  
9 appointed to represent Mr. Bowman, the gentleman  
10 sitting in the white shirt there, sir.

11 A. Okay.

12 Q. I'm just going to go back and ask a couple  
13 questions, sir. This is the only chance we ever get  
14 to talk to jurors to try to get a fair and impartial  
15 jury for any citizen charged with any crime, sir. I  
16 know you understand that because you paid close  
17 attention to Her Honor's instructions.

18 You spent 24 years in the Air Force,  
19 sir?

20 A. Yes, sir.

21 Q. Can you just briefly tell us what you did in the  
22 Air Force? I know you probably did a bunch of  
23 things.

24 A. Primarily I loaded aircraft, cargo.

25 Q. All right, sir. Like C17's, 141's before that?

1 A. Yes, sir.

2 Q. All right. The reason I asked that is because I  
3 think on your questionnaire, sir, you put down you  
4 worked as a security guard for a while.

5 A. Part-time. When I first enlisted in the Air  
6 Force I needed extra money.

7 Q. Did you get AP, air police, or security?

8 A. Oh, oh, well, they augment. We augmented  
9 security police, yeah.

10 Q. Yes, sir. And that was early on in your career  
11 in the service?

12 A. Yes, sir.

13 Q. Would the fact that you were a security, either  
14 Air Force police or augment the security police,  
15 would that cause you to be substantially impaired as  
16 a juror who would sit in judgment for fairness on any  
17 citizen charged with any crime because of a past  
18 association with law enforcement?

19 A. I don't believe so, no.

20 Q. And in the Air Force you worked with lots of  
21 people of different backgrounds and different  
22 outlooks on life; would that be fair to say, sir?

23 A. Yes, sir.

24 Q. All right. And you understand this and probably  
25 because of your past military duty, sir, the

1 importance of jury duty, and you understand how  
2 following Her Honor's instructions is just like  
3 following from the old CO, the old commanding  
4 officer.

5 A. That's correct.

6 Q. And she's the boss?

7 A. Yes, sir.

8 Q. And you would take the law as Her Honor gives  
9 that to you; would you not, Mr. Perez?

10 A. Yes, sir.

11 Q. Along that line, sir, you understand that every  
12 citizen comes in here presumed innocent?

13 A. Yes, sir. I understand that.

14 Q. Until and unless the State proves that person  
15 guilty beyond a reasonable doubt they stay that way.

16 A. Yes, sir.

17 Q. And then when it came time, sir, the 12 good  
18 people would put their heads together and they would  
19 decide on guilt or innocence based on the facts and  
20 the law presented in this courtroom.

21 A. Yeah, I understand that. Yes, sir.

22 Q. And you've not heard or read anything about this  
23 case as you told Her Honor this morning?

24 A. That's correct.

25 Q. And then, Mr. Perez, if somebody were convicted

1 of murder, sir, they would go then to a second  
2 penalty where the jury would only have two choices of  
3 punishment, sir. Of course one would be life without  
4 the possibility of parole for any reason depending on  
5 the 12 good minds put together. And you would follow  
6 that, sir?

7 A. Yes, sir.

8 Q. And then also if the State proved their case to  
9 you beyond a reasonable doubt in the guilt phase and  
10 then later on came into the second penalty phase you  
11 could also listen to the other jurors, put your mind  
12 together and vote for the death penalty if you saw  
13 fit?

14 A. I could do that, yes, sir.

15 Q. All right. Mr. Perez, I think that's all the  
16 questions I have, sir.

17 MR. CUMMINGS: Ma'am, if you'll beg the  
18 Court's indulgence.

19 THE COURT: Yes, sir.

20 (Mr. Cummings and Ms. Hardee-Thomas conferring  
21 with Mr. Bowman.)

22 MR. CUMMINGS: That's all the questions I  
23 have of this gentleman and I thank you, ma'am.

24 THE COURT: Very well. Anything from the  
25 State?

1 MR. BAILEY: Yes, ma'am. Thank you.

2 EXAMINATION

3 BY MR. BAILEY:

4 Q. Mr. Perez, I'm Walter Bailey, and I'm going to  
5 be prosecuting this case for the State. I need to  
6 ask a few more question, just kind of follow up on  
7 what Mr. Cummings asked and what Judge Goodstein  
8 asked. I want to ask you primarily about the death  
9 penalty. And you understand that we're talking in  
10 generalities. I'm not going to ask you about this  
11 case in particular, you don't know the facts of the  
12 case, but just in general.

13 Is the death penalty something you've  
14 had occasion to think about in any depth in the past  
15 before this week?

16 A. Not particularly, no.

17 Q. All right, sir. Do you have any personal or  
18 religious beliefs in regard to the death penalty that  
19 you think might impact your ability to sit as a juror  
20 on a murder case where the State is seeking the death  
21 penalty?

22 A. No, sir.

23 Q. All right, sir. You understand that we would  
24 not even be getting to that issue unless the jury in  
25 the first part of the trial finds that defendant

1 guilty of murder beyond a reasonable doubt?

2 A. I understand that.

3 Q. And if that occurs, then the jury determines the  
4 punishment. All the judge does is she would order  
5 that jury's verdict to be carried out. So if we get  
6 to the second phase the jury would vote for life  
7 without parole or the death penalty, the judge would  
8 order that and then it would happen.

9 A. I understand.

10 Q. Based on that jury's verdict.

11 A. Yes.

12 Q. If all 12 jurors after hearing the facts and the  
13 law unanimously decide on the death penalty, they  
14 would come out and the verdict would be announced,  
15 each juror's name is called out one at a time and  
16 they would be asked to stand up and say out loud if  
17 that's your verdict, still their verdict. It's  
18 called polling the jury.

19 A. Right.

20 Q. If you got to that point and you determine the  
21 death penalty was the appropriate sentence along with  
22 the other jurors, could you announce that verdict out  
23 loud knowing that would eventually result in that  
24 person being executed?

25 A. Yes, sir.



1 Q. The other thing the jury would be asked to do if  
2 they all vote for the death penalty is to sign their  
3 name to a death verdict form. Could you sign your  
4 name to a paper like that along with the other 11  
5 jurors?

6 A. Yes, sir.

7 Q. Knowing that sentence would be carried out, put  
8 into effect?

9 A. Right. Yes, sir.

10 Q. Mr. Perez, that's all I've got. Thank you very  
11 much.

12 THE COURT: Mr. Perez, I'm going ask you to  
13 just step outside the courtroom for a moment so  
14 we can talk about you behind your back. We'll  
15 get you right back in.

16 MR. PEREZ: All right.

17 THE COURT: Thank you so much.

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

20 THE COURT: What says the defense?

21 MR. CUMMINGS: Statutorily qualified,  
22 Judge.

23 THE COURT: What says the State?

24 MR. BAILEY: Qualified, Your Honor.

25 THE COURT: Bring him back in.

## Juror 230 Richard Perez - Examination

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

3 THE COURT: I told you that would be  
4 briefly. Mr. Perez, you have been found to be  
5 qualified as a potential juror in this case.  
6 This does not mean that you are on the jury yet,  
7 it just means that you are a potential juror and  
8 you may be selected to serve on this jury.

9 We are hoping that we will be able to  
10 select the jury on Thursday at two o'clock. And  
11 this might be a little ambitious. If we have to  
12 change the time we will give you a call in  
13 plenty of time to let you know that, but unless  
14 you hear back from us, please be packed and back  
15 in the courtroom on Thursday at two o'clock.

16 Ms. Etheredge is coming right now with  
17 a little sheet of paper and that paper contains  
18 some instructions to help you get ready for your  
19 jury service, like packing clothes, reminding  
20 you to bring medications that you may need,  
21 tells you where you will be housed during the  
22 course of the trial so that you can leave that  
23 number with your family in the event anyone  
24 needs to get in touch with you in the event of  
25 an emergency. There's a daytime number and a

1       nighttime number.

2               Now, you are welcome, and I encourage  
3       you to talk with your family about the details  
4       in terms of getting packed, getting the phone  
5       numbers and the like. However, be mindful that  
6       you cannot, you may not discuss any aspect of  
7       this case with anyone or allow anyone to discuss  
8       any aspect of this case with you. Please  
9       remember not to expose yourself to any sources  
10      of information about this case at all. Don't  
11      read, don't look at, don't listen to any  
12      information about this case. Do you understand  
13      this?

14             MR. PEREZ: Yes, ma'am. I do.

15             THE COURT: Thank you so much, Mr. Perez,  
16      and I look forward to seeing you Thursday at two  
17      o'clock. Bye now.

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

20             THE COURT: All right. And our next --  
21      yes, sir. Our next juror is Number 27, Anthony  
22      Britt. If you'll send in Anthony Britt.  
23      Anthony D. Britt, called as a prospective juror,  
24      having previously been duly sworn, is examined  
25      as follows:)

## Juror 27 Anthony D. Britt - Examination

1 THE COURT: Good afternoon, Mr. Britt. For  
2 our record this is Anthony Britt who is Juror  
3 Number 27.

4 EXAMINATION

5 BY THE COURT:

6 Q. Now, Mr. Britt, I will remind you that yesterday  
7 morning you were sworn in along with all the other  
8 potential jurors in this case. And the oath that you  
9 took yesterday also applies to this process, the  
10 questions and the answers which you'll give today,  
11 okay?

12 A. Okay.

13 Q. Okay. And since we talked yesterday has anybody  
14 talked to you about this case, or tried to talk to  
15 you about this case, or tried to approach you about  
16 this case, or have you inadvertently or otherwise  
17 been exposed to any information about this case?

18 A. No, I haven't.

19 Q. All right. Now, when you were back in the jury  
20 room you were given, or shown a list of potential  
21 witnesses, let me just put that in case you need to  
22 refer to it.

23 A. Right.

24 Q. I'd ask if you had a chance to review that list?

25 A. Yes, I have.

1 Q. And are you related by blood or marriage,  
2 acquainted with, do you have any business association  
3 or casual or personal association, or are you  
4 connected directly or indirectly with any of the  
5 individuals listed on this sheet?

6 A. Not that I can recall of. I mean, I'm kind of  
7 hard on picturing names with faces, but as far as  
8 looking at the names, no.

9 Q. Just from reviewing the names you do not?

10 A. No.

11 Q. All right. Now, when we talked yesterday, and I  
12 asked certain questions about this case yesterday, my  
13 notes indicate that you did not have any opinions  
14 about this case, that you had not seen, or heard, or  
15 read anything about this case and that you did not  
16 have any bias or prejudice for or against any --  
17 either side in this case; is that correct?

18 A. That's correct.

19 Q. All right. Did you -- I would ask did you  
20 indicate, though, that you had some affiliation with  
21 the solicitor's office?

22 A. Right.

23 Q. All right. Tell me very briefly, do you know  
24 someone in the solicitor's office?

25 A. Yeah, Robby.

1 Q. Oh, you know Mr. Robbins?

2 A. Uh-huh (affirmative response).

3 Q. Tell me how you know Mr. Robbins, very briefly.

4 A. He represented my ex.

5 Q. Represented your -- all right. When he was in  
6 private practice with Mr. Bell?

7 A. Right.

8 Q. All right. And the fact that you know Mr.  
9 Robbins in that professional capacity and he  
10 currently, of course, is employed with the  
11 solicitor's office, do you believe that that  
12 professional relationship such as it has been, would  
13 it, could it impact on your ability to be fair and  
14 impartial to both sides in this trial?

15 A. Well, I mean, it did have a little effect on it,  
16 you know, I mean....

17 Q. All right, sir. What I would be asking you is  
18 can you set that relationship aside and try this case  
19 based on the evidence in this courtroom and the law  
20 as I give it to you unaffected by that prior  
21 professional relationship?

22 A. I possibly could.

23 Q. All right, sir. Let me ask you a little bit  
24 more about that. In other words, would it, would the  
25 fact that Mr. Robbins represented your ex-wife and

## Juror 27 Anthony D. Britt - Examination

1 now is an employee with the solicitor's office, it is  
2 my understanding he will not be involved with this  
3 trial, but the fact that he is in the office of the  
4 solicitor, could that, would that have a substantial  
5 impact on your ability to be a fair and impartial  
6 juror in this case, listening to the evidence,  
7 listening to my charge on the law and render a  
8 verdict based upon the evidence in this courtroom,  
9 the law as I give it to you, setting aside that  
10 professional relationship with Mr. Robbins?

11 A. Yeah, I could do that.

12 Q. You're satisfied that you can do that?

13 A. Yeah.

14 Q. All right. In other words, as you listen to  
15 this case, as you try the issues in this case, you  
16 would not be affected by that prior professional  
17 relationship?

18 A. No. No, I don't think so.

19 Q. All right. And you're satisfied that you can do  
20 that?

21 A. Yeah, I'm satisfied.

22 Q. All right.

23 A. Yeah.

24 Q. All right. Anyone else on the list, or anyone  
25 else, rather, in the solicitor's office that you

1 know?

2 A. No.

3 Q. Okay. Or either Mr. Cummings' office or Ms.  
4 Hardee-Thomas, her office?

5 A. No.

6 Q. Okay. Now, since we talked yesterday has  
7 anything else come to your memory that may have  
8 jogged any memory about this case or about anything  
9 that you may have heard, or seen, or read about this  
10 case?

11 A. No.

12 Q. Okay. Now, Mr. Britt, we need to ask you some  
13 questions, and I wanted to just talk for a moment in  
14 general about the questions. And the first thing I  
15 want to tell you is that we don't want to invade your  
16 privacy, that's not the purpose of asking you these  
17 questions. The next thing that I want to tell you is  
18 that the reason that we're going to ask you these  
19 questions is to find out how you feel about certain  
20 matters; in other words, what some of your opinions  
21 are. And, quite frankly, the reason that we're doing  
22 that is to find out whether or not your opinions  
23 could have an impact on your jury service.

24 A. All right.

25 Q. Obviously there are no right and wrong answers



1 and obviously your opinions are just as good and just  
2 as valid as anybody else's. We're not challenging  
3 your opinions in any regard. What we are doing is  
4 trying to learn a little bit about them, understand a  
5 little bit about them so that we can determine  
6 whether or not your opinions could impact on your  
7 jury service, that's the purpose of these questions.

8 Now, in a little bit I'm going to be  
9 asking you about penalty, specifically the death  
10 penalty. And before I do that -- or let me also tell  
11 you the reason I'm going to ask you about that is  
12 because that penalty may be an issue in this case.  
13 But I want you to understand that the mere fact that  
14 we're talking about the penalty at this early stage  
15 really is premature. The trial has not begun. And  
16 as I've said, Mr. Bowman is presumed innocent of  
17 these charges, but this is the only time that we can  
18 talk about penalty necessarily before the trial ever  
19 gets underway.

20 Now, I'm going to ask you these  
21 questions in a general or generic sense. I'm not  
22 going to ask you about this trial, you don't know  
23 anything about this trial and that wouldn't be fair  
24 to you. It would also be improper. So I'm going to  
25 ask you these questions in a generic sense and I'll

1 do that now.

2 Now, if you were a juror in any, any  
3 criminal case, would you be willing to listen to the  
4 law as instructed to you by the judge?

5 A. Yes.

6 Q. And would you be willing to accept that law and  
7 apply it to the facts as you found them to be?

8 A. Yes.

9 Q. Would you be willing to do that, to listen to  
10 the law and apply the law even if you might not  
11 particularly like that part of the law, or if you  
12 disagreed with that part of the law would you still  
13 be willing to follow the law as you were instructed  
14 to do so by the judge?

15 A. It's the law, yes.

16 Q. All right. And if you were asked to serve in  
17 the case of the State vs. Mr. Bowman, could you  
18 decide this case based solely on what you would hear  
19 in this courtroom and disregard anything you may have  
20 seen, or heard, or read about this case from any  
21 source at all, if anything like that should come into  
22 your memory?

23 Let me tell you a little more about  
24 what I'm talking about. Sometimes jurors can hear  
25 something in a case and it will jog a memory. And

1 this case the question is sort of meant to ask you if  
2 that happened to you do you think you could and would  
3 be willing to just set that aside, disregard that  
4 memory, and, again, try this case, make your decision  
5 based on what you hear in this courtroom and see in  
6 this courtroom, obviously?

7 A. I don't know. It's kind of hard to say.

8 Q. Sounds like a trick question, doesn't it?

9 A. I mean, you know, you try to keep your mind on  
10 what's in the courtroom.

11 Q. That's right. That's correct. In other  
12 words -- and that sometimes will happen to a juror.

13 A. Yeah.

14 Q. What will happen is that they'll hear something,  
15 it will jog something.

16 A. Yeah.

17 Q. And the question is would you be willing to, if  
18 that happened to you, to set that aside and try this  
19 case based on what you would -- the evidence in this  
20 courtroom?

21 A. Yes, in the courtroom.

22 Q. Yes, sir. Thank you. Now, in a criminal case  
23 as you know and as we talked about yesterday, the  
24 State has the burden of proving the guilt of a  
25 defendant, any defendant, this defendant, beyond a

1 reasonable doubt. In other words, a defendant never  
2 has the burden to prove himself or herself innocent.  
3 The defendant is always, always presumed innocent  
4 under the law as is this defendant, Mr. Bowman. Do  
5 you understand that?

6 A. Yes.

7 Q. Okay. I know what you mean, but we need to take  
8 down what you mean.

9 A. Yeah.

10 Q. So if you were a juror in a criminal case would  
11 you be willing to listen to the facts and  
12 circumstances and the law as you were instructed?

13 A. Yes, I would.

14 Q. And based upon those facts, but -- listen to the  
15 evidence, based upon the facts as you found them to  
16 be, you would then apply the law as instructed by the  
17 Court.

18 A. Yes.

19 Q. If you found that the State had failed to prove  
20 a defendant guilty beyond a reasonable doubt, would  
21 you be willing to find a defendant not guilty?

22 A. Yes.

23 Q. On the other hand, if after listening to the  
24 evidence and found the facts as you found them to be  
25 and applied the law as instructed by the judge, if

## Juror 27 Anthony D. Britt - Examination

1 you were convinced that the State had proven a  
2 defendant guilty beyond a reasonable doubt, would you  
3 be willing to find that defendant guilty?

4 A. Yes.

5 Q. Now, as I understand it from you, you would be  
6 willing to listen and make your decision based on  
7 whether or not you were convinced that the person is  
8 guilty or not; is that right?

9 A. Yes.

10 Q. Okay. Now, most of the time jurors do not  
11 concern themselves with the matter of punishment.  
12 Most of the time in the criminal court the punishment  
13 is left up to the judge. But there is one case in  
14 our law when a jury has to deal with the matter of  
15 punishment and that is in a case like this one. It  
16 is in a case where an individual has been charged  
17 with the crime of murder and where the State is  
18 seeking the death penalty.

19 If an individual in a death penalty  
20 case is convicted of the crime of murder, then the  
21 same jury that convicted him, or her, of murder must  
22 come back and in a separate and different proceeding  
23 decide the sentence that that person would get.  
24 There are only two choices, of course. One is life  
25 imprisonment without the possibility of parole, and

1 one is the death penalty. That would be determined,  
2 the penalty would be determined in a second or  
3 sentencing phase of the trial. Do you understand  
4 this?

5 A. Yes.

6 Q. Now, back in the jury room there was another  
7 piece of paper. Let me put it here in case you need  
8 to refer to it. And you would notice essentially  
9 that it describes three types of jurors for you. Do  
10 you remember those three types of jurors and what  
11 they were?

12 A. Uh-huh (affirmative response).

13 Q. That's a yes?

14 A. Yes.

15 Q. All right. Which of those three types of jurors  
16 best describes you?

17 A. I'd say type three.

18 Q. Type three?

19 A. Uh-huh (affirmative response).

20 Q. In other words, you would be willing to listen  
21 to whatever you might hear and if you thought it was  
22 appropriate after you listened to all of the  
23 evidence, if you thought it was appropriate to  
24 sentence someone to death, you would be able to vote  
25 for that?

1 A. Yes.

2 Q. And if you thought the death sentence was not  
3 appropriate, or for any other reason you thought that  
4 the person ought to receive life imprisonment, you  
5 would be able and willing to vote for a sentence of  
6 life?

7 A. Yes.

8 Q. So you would make the decision based upon what  
9 you would hear in the courtroom?

10 A. Yes.

11 Q. All right. Now, if you were chosen, Mr. Britt,  
12 to serve as a juror in this case, you and the other  
13 jurors would be housed, county expense, would be  
14 sequestered here in a local motel during the course  
15 of the trial. That's where you would have to stay  
16 during the trial and until it is over, except, of  
17 course, when you were here in the courtroom. This  
18 period could last as long as two weeks or longer, or  
19 shorter. I simply don't know the exact duration of  
20 the trial.

21 Obviously that would create an  
22 inconvenience for you as it surely will for all who  
23 serve on this jury. Other than the inconvenience  
24 which it would cause anybody who would have to serve  
25 in this capacity, would that pose a serious risk of

1 danger to your health, or well being, or to that upon  
2 anyone who is dependent upon you if you had to serve  
3 in that capacity?

4 A. No.

5 Q. You would be able to do that?

6 A. I'll be able to, be able to do that.

7 Q. Mr. Britt, at this time counsel will have  
8 questions for you, and at this time then I'm going to  
9 ask Mr. Bailey if he has any questions.

10 MR. BAILEY: Thank you, Your Honor.

11 EXAMINATION

12 BY MR. BAILEY:

13 Q. Mr. Britt, I'm Walter Bailey and I'll be  
14 prosecuting this case for the State. And as the  
15 judge says, Robby Robbins will not be involved in the  
16 case. Mr. Lafond here is the only other one in my  
17 office and Ms. Simmons here is going to help us out  
18 with some of the paperwork here. Let me again ask  
19 you. As I understand Mr. Robbins represented your  
20 ex-wife in family court?

21 A. Yes.

22 Q. You've told the judge that you could put that  
23 relationship aside, whether it's good or bad, and  
24 base your decision strictly on the law the judge  
25 gives you and the facts as you find those facts to



## Juror 27 Anthony D. Britt - Examination

1 be?

2 A. Yes, I could put it aside.

3 Q. All right, sir. Let me ask you a little bit  
4 about the death penalty. Is that something you've  
5 had occasion to think about before this week when  
6 found out you might be a juror on this kind of a  
7 case?

8 A. To tell you the truth, I mean I just started  
9 thinking about it, you know, this week.

10 Q. Okay. When you found out you might get to be a  
11 juror here?

12 A. Yeah, started thinking about it.

13 Q. All right. And can you tell me what your  
14 thoughts are just in general? Not talking about this  
15 case at all because you don't know the facts of the  
16 case, but just what your thoughts are.

17 A. Well, I feel the death penalty, I mean, if a  
18 person deserves it, then they deserve it, but  
19 everybody is to be heard. And I'm getting a little  
20 nervous.

21 Q. That's all right. We're all nervous.

22 THE COURT: That's all right, Mr. Britt.

23 A. And everybody has a chance to tell their side of  
24 the story of the case, of any case.

25 Q. All right. One of the things the judge would

1 tell you is that the defendant has no burden of  
2 proof; in other words, it's up to the State to prove  
3 that case and it's up to the judge to instruct the  
4 jury on the law. If she told you something to that  
5 effect would you accept that and follow that as the  
6 law, that the State has the burden of proving the  
7 person guilty?

8 A. Yes.

9 Q. Okay. And let me -- and what we're doing is --  
10 the judge said is kind of premature because we're  
11 talking about potentially the penalty phase and we  
12 haven't even had the trial yet. We wouldn't get to  
13 the penalty phase unless the jury hears all the facts  
14 and the circumstances and the law and they find that  
15 defendant guilty of murder beyond a reasonable doubt.

16 If that happens, then we go into the  
17 penalty phase. And then the jury decides based on  
18 what they hear during the trial whether or not the  
19 defendant gets life without parole or the death  
20 penalty. And all the judge does, they order that  
21 jury's verdict to happen. And it will happen. So if  
22 the jury unanimously, all 12 of them vote for life,  
23 the judge would order that sentence to be carried out  
24 and he would serve life without parole. On the other  
25 hand, if the jury votes for the death penalty, all 12

1 of them, the judge would order that sentence to be  
2 carried out and that person would be executed based  
3 on that jury's verdict.

4           Again, I'm not going to ask you to  
5 predict what you'd do in this case, but if you  
6 thought the case justified it, could you vote for the  
7 death penalty knowing that person actually would be  
8 executed based on that verdict?

9 A. I think I could.

10 Q. All right, sir. If all 12 jurors vote for the  
11 death penalty, if they think that's the most  
12 appropriate punishment, each one of them, they would  
13 come out from the jury room back in this area where  
14 you've been earlier, they would be sitting in these  
15 chairs, the verdict would be announced and each juror  
16 would be asked to stand up and say out loud if that's  
17 their verdict and still their verdict. Could you do  
18 that if that was your verdict?

19 A. Yes.

20 Q. The other thing the jury would be involved in if  
21 all 12 of them vote for the death penalty, they sign  
22 their names to the death verdict form that's going to  
23 result in that defendant being executed at some point  
24 in the future. Could you sign your name to a paper  
25 like that if you'd already heard the facts and voted

1 for the death penalty and announced that out loud,  
2 could you sign the form?

3 A. Yes.

4 Q. All right, sir. Mr. Britt, I believe that's all  
5 I've got. Thank you, sir.

6 THE COURT: Yes, sir, Mr. Cummings.

7 MR. CUMMINGS: Thank you, Judge, Mr.  
8 Bailey.

9 EXAMINATION

10 BY MR. CUMMINGS:

11 Q. Good afternoon, Mr. Britt, we'll try to be  
12 quick. I won't ask you if Robby did a good job or  
13 not against you, but the most important thing, and  
14 now you see why we get to ask the questions of you  
15 good ladies and gentlemen whenever the juries are  
16 brought before us here with Her Honor's protection,  
17 is to try to make sure that every citizen and the  
18 State gets a fair and impartial trial, Mr. Britt.

19 A. No doubt.

20 Q. And you're holding that very close to you. It's  
21 a principle as you talked to Her Honor and Mr.  
22 Bailey. And you stated you could set aside the fact  
23 that Mr. Robbins had a civil case against you. And  
24 that's kind of the biggest oxymoron in the world,  
25 family court being a civil case.

1 A. Yeah.

2 Q. But you could set that aside and render a fair  
3 and impartial verdict based on the evidence and the  
4 facts as presented?

5 A. Yes, I could.

6 Q. All right. And Mr. Britt, again, when Mr.  
7 Bailey asked you as you go down the questions, you  
8 understand that -- and there may be something that  
9 people have a hard time understanding, that the  
10 defendant in any criminal case never has to do  
11 anything, they have a constitutional right to remain  
12 silent as Her Honor would tell the jurors when she  
13 first meets them. And it's the burden of the State,  
14 the government, to prove beyond a reasonable doubt a  
15 person's guilt or innocence -- excuse me, guilt.  
16 Correct, sir?

17 A. Correct.

18 Q. And you understand that basic principle and you  
19 hold that dear also?

20 A. Yes.

21 Q. Because a citizen has a hard time trying to  
22 prove themselves innocent, okay. And I guess,  
23 Mr. Britt, based on that it's your testimony today  
24 you could render a fair and impartial verdict to any  
25 citizen standing accused of any crime in this

1 courtroom based on the laws and facts as presented in  
2 this courtroom?

3 A. Yes, I could.

4 Q. I know you've been asked that three times and  
5 now it's time to move on.

6 A. I could.

7 Q. If, and only if a person is found guilty of  
8 murder, do we ever get to the second part of this  
9 trial. And at that point there's only two possible  
10 verdicts. One is life, because it's there, and for  
11 any reason the 12 people that can conclude that a  
12 citizen has a right to life. Would you follow that?

13 A. Yes.

14 Q. And also if the facts and circumstances so  
15 warranted as you told Mr. Bailey a few moments ago,  
16 you along with the other 11 jurors, plus you making  
17 12, possibly, sir, could put your minds together and  
18 vote for death if that was appropriate?

19 A. If that was appropriate.

20 Q. Yes, sir.

21 MR. CUMMINGS: Beg the Court's indulgence,  
22 Your Honor, and I thank this gentleman.

23 THE COURT: All right. Yes, sir.

24 (Mr. Cummings and Ms. Hardee-Thomas conferring  
25 with Mr. Bowman.)

## Juror 27 Anthony D. Britt - Examination

1 MR. CUMMINGS: That's all the questions I  
2 have of this gentleman. Thank you, Judge.

3 THE COURT: Mr. Britt, let me tell you what  
4 I'm going to ask you to do, I'm going to ask you  
5 to step right outside the courtroom and we're  
6 going to talk about you behind your back for  
7 just a second or two.

8 MR. BRTITT: That's fine.

9 THE COURT: But we'll have you come right  
10 back in, Mr. Britt. Thank you so much.

11 MR. BRTITT: Thank you.  
12 (Whereupon, the prospective juror exits the  
13 courtroom.)

14 THE COURT: Mr. Bailey.

15 MR. BAILEY: Qualified, Your Honor.

16 THE COURT: Mr. Cummings?

17 MR. CUMMINGS: Statutorily qualified. I  
18 thought there was going to be a question about  
19 Mr. Robbins.

20 THE COURT: Very well. All right.

21 (Whereupon, the prospective juror returns to the  
22 courtroom.)

23 THE COURT: Mr. Britt, you can sit right  
24 back down. You have been found to be qualified  
25 as a potential juror in this case. It doesn't

## Juror 27 Anthony D. Britt - Examination

1 mean that you are on the jury yet, but it does  
2 mean that you are a potential juror and that you  
3 may be selected to serve on this jury.

4 We are hoping that we will be able to  
5 select a jury on Thursday at two o'clock.  
6 Thursday at two o'clock. This might be a little  
7 bit ambitious. If we need to change the time,  
8 we will call you in plenty of time and let you  
9 know that, but unless you hear back from us,  
10 please be in the courtroom at two o'clock on  
11 Thursday.

12 Ms. Etheredge is now going to hand you  
13 a sheet of paper that does have some  
14 instructions for you that will help get you  
15 ready for your jury service, like packing your  
16 clothes, bringing them with you, any medications  
17 that you might need. It will also tell you  
18 where you're going to be housed during the  
19 course of the trial so that you can leave that  
20 number with your family, or your work, or anyone  
21 that you want to have that number so that they  
22 can call you in the event of an emergency.  
23 There's a daytime number here at the courthouse  
24 and then one for in the evening.

25 Now, obviously you can discuss these



1 details about your housing, all those details  
2 with anyone you choose to need to. However, be  
3 mindful that you may not discuss any aspect of  
4 this case with anyone or allow anyone to discuss  
5 this case with you, or expose yourself to any  
6 information about this case from any source at  
7 all. Do you understand this?

8 MR. BRTITT: I understand that.

9 THE COURT: Yes, sir.

10 MR. BRTITT: I'm supposed to go back to  
11 work tomorrow?

12 THE COURT: That's fine, go back. You're  
13 fine to go back to work tomorrow.

14 MR. BRTITT: Okay.

15 THE COURT: I do not believe that we will  
16 select a jury before Thursday, I really don't  
17 believe we will, so you will be fine to go to  
18 work tomorrow. And if that will change we will  
19 call you tonight.

20 MR. BRTITT: Okay.

21 THE COURT: But you are probably not going  
22 to hear from us tonight. Thank you so much,  
23 Mr. Britt.

24 MR. BRTITT: Okay. Thank you.

25 (Whereupon, the prospective juror exits the

1 courtroom.)

2 THE COURT: Okay. All right. Anything  
3 before we take our break for lunch?

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

6 MR. CUMMINGS: Yes, Judge, from the  
7 defense.

8 MS. HARDEE-THOMAS: Since we're taking a  
9 break for lunch nothing, because we can take  
10 care of it with the clerk of court.

11 MR. CUMMINGS: I wanted to put on the  
12 record that as of right now Juror Number 81 we  
13 don't have any information on him, and we  
14 believe there was some comments out here that he  
15 may be married to the deputy coroner. And, Your  
16 Honor, I know that when the people go back in  
17 the jury room they're not just sitting there  
18 looking at each other, I hope that these next  
19 four or five people won't be -- there won't be  
20 any comments from Juror Number 81 to any other  
21 prospective jurors.

22 THE COURT: Okay.

23 MR. BAILEY: I don't understand  
24 Mr. Cummings said we had no information on him.  
25 We've got a questionnaire.

1 MS. HARDEE-THOMAS: We don't have it.

2 MR. BAILEY: Okay. I've got --

3 THE COURT: Ms. Etheredge is telling me  
4 that's true, that's true.

5 MS. ETHEREDGE: He is married to the deputy  
6 coroner who is going to be a witness.

7 THE COURT: Okay.

8 MR. BAILEY: But I'll be happy to give you  
9 a copy of my questionnaire.

10 THE COURT: Let me stop just a moment. How  
11 could it be that both sides do not have  
12 Mr. Durr's questionnaire? That concerns me  
13 tremendously. Is there any other juror that you  
14 don't have a questionnaire for?

15 MR. CUMMINGS: No. And I'm sure yesterday,  
16 I don't know if the gentleman had filled it out  
17 earlier or not, we've been working very close  
18 with the clerks.

19 THE COURT: Absolutely. Why don't I ask  
20 you all to do this because he will be here in a  
21 moment. Look at the questionnaire, it should  
22 have his spouse listed on the questionnaire.  
23 Who is his spouse?

24 MR. BAILEY: His spouse is Alice Durr who  
25 is the coroner. And he has disclosed that.

1 THE COURT: Is she listed as a potential  
2 witness?

3 MR. BAILEY: No. She's a deputy coroner,  
4 she's not listed and neither is the coroner.

5 THE COURT: Okay. All right. Now tell me  
6 what your concern is.

7 MR. CUMMINGS: My concern, Judge, is we  
8 have subpoenaed information from the coroner's  
9 office. Our Dorchester County Coroner's Office  
10 was involved in the removal and transportation  
11 of the body to the autopsy, and was involved in  
12 the investigation of the case very early on and  
13 I'm sure it will be an integral part of this  
14 case.

15 THE COURT: And he's -- and let me share  
16 with you that he --

17 MR. CUMMINGS: Stood up every time.

18 THE COURT: Yesterday he indicated many  
19 things, that he knew a number of people, that he  
20 knew about this case and he had information  
21 about this case. I think that I admonished them  
22 any number of times about not discussing this  
23 matter not only as a general panel, but  
24 certainly as an individual panel as well and  
25 I'll trust that he will -- that he will have

1 honored that. And if you will remind me I do  
2 not mind asking him that.

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: Very well.

5 MS. HARDEE-THOMAS: Thank you.

6 THE COURT: And they're scheduled at 1:00,  
7 so let's all go have some lunch.

8 (Lunch recess taken from 12:45 p.m. to  
9 1:25 p.m.)

10 THE COURT: All right. Let's see. I  
11 believe that certainly the majority of our next  
12 panel is present. Now, I wanted to review my  
13 notes with you, counsel, and I've done -- there  
14 will be a couple of people that I will do that.  
15 And with Mr. Durr, as I recall his response  
16 yesterday, he had an affiliation he's indicated  
17 with the victim's family, he wants to make a  
18 change on his questionnaire, he has read, heard,  
19 or seen information regarding the case, he has  
20 formed or expressed an opinion regarding the  
21 case and he has a reason that would keep him  
22 from being impartial and he knows he has an  
23 affiliation with the solicitor's office.

24 MR. CUMMINGS: That's what we understand.

25 MS. HARDEE-THOMAS: Correct.

1 MR. BAILEY: He wants off.

2 THE COURT: Yes. I think it is likely that  
3 what I will do is I will go through these items  
4 and I very well may offer him to you at that  
5 point, but let's just see what he has to say.

6 Thank you. Mr. Durr.

7 (Michael W. Durr, called as a prospective juror,  
8 having previously been duly sworn, is examined  
9 as follows:)

10 THE COURT: Mr. Durr, come on right here.  
11 For purposes of our record this is Mr. Michael  
12 Durr, Juror Number 81. Please be seated.

13 EXAMINATION

14 BY THE COURT:

15 Q. Now, Mr. Durr, you will remember that you were  
16 sworn yesterday along with all the other potential  
17 jurors; do you remember that?

18 A. That's right.

19 Q. And you, of course, continue under oath  
20 throughout this process of these questions and  
21 answers, okay?

22 A. Okay.

23 Q. Very well. Now, you were kind enough to share a  
24 lot of information with us yesterday, Mr. Durr, and I  
25 really wanted to go into that first and then I'll ask

1 you some other questions as well. Now, my notes  
2 reflect -- well, let me ask you this before I get  
3 into that.

4                   Since we talked with you yesterday has  
5 anyone talked with you about this case, or tried to  
6 talk to you about this case, or have you  
7 inadvertently or otherwise been exposed to any  
8 information about this case?

9 A. No, ma'am.

10 Q. Okay. Now, Mr. Durr, my notes reflect that  
11 yesterday you shared with us that you knew or had an  
12 affiliation with the victim's family.

13 A. Yes, ma'am.

14 Q. Did I record that correctly?

15 A. That's part of it.

16 Q. Tell me who you know.

17 A. I went to school with the girl that got killed's  
18 father when I was in grammar school, I lived across  
19 the road and am kin to her aunt, my first cousin is  
20 married to the girl that got killed so it's her  
21 niece. Family wise my wife is a deputy coroner,  
22 she's the one that picked up body up.

23 Q. She actually reported to the scene?

24 A. Yes, ma'am.

25 Q. All right. All right, sir. Very well. And

## Juror 81 Michael W. Durr - Examination

1 that really goes into whether or not you had  
2 information about this case.

3 A. Exactly.

4 Q. All right. Very well. Let me ask you this  
5 question. First of all, as a result of the fact that  
6 you know and have relationship to the victim's  
7 family, do you believe that that relationship might,  
8 or could, interfere with -- substantially interfere  
9 with your ability to be fair and impartial in this  
10 case?

11 A. Most definitely.

12 Q. Most definitely?

13 A. Yes, ma'am.

14 Q. All right. I would ask you this: As a result  
15 of likewise the information which I gather you  
16 received information from your wife?

17 A. Well, some of it came from the captain that was  
18 at the scene before my wife got there, but it was in  
19 discussion.

20 Q. All right. And as a result of -- yes. Very  
21 well. Very well. All right.

22 A. I could go on, but it's not necessary.

23 Q. I understand, Mr. Durr. Mr. Durr, it certainly  
24 is clear to me that just based upon the relationship  
25 with your bride who is the deputy coroner as well as



1 your relationship that you ought to be disqualified  
2 in this matter. I certainly thank you so much for  
3 your candor throughout this process and for your  
4 time. I truly do.

5 A. Thank you.

6 Q. I would ask that you do this for us and would  
7 instruct you obviously not to discuss this matter  
8 with any potential jurors. Any discussions that you  
9 wish to have with anyone else would certainly be  
10 fine, but I would certainly ask you not to have any  
11 discussion with any potential jurors, or give any  
12 information --

13 A. Yes, ma'am.

14 Q. -- which would then get to any potential jurors.  
15 You haven't talked to anyone about this matter since  
16 you were summoned?

17 A. No, ma'am. And that's the reason why I tried to  
18 explain to you yesterday that I knew more than I  
19 should know about the case. But all the questions  
20 you asked none of them, you know, I couldn't answer  
21 anymore than that.

22 Q. Thank you so much. Thank you for being here  
23 today, Mr. Durr, and you're free to go.

24 A. Thank you.

25 (Whereupon, the prospective juror exits the

1 courtroom.)

2 THE COURT: Any exception from the State?

3 MR. BAILEY: No.

4 THE COURT: From the defense?

5 MR. CUMMINGS: No. And we thank Mr. Bailey  
6 agreeing yesterday, it saved some time and we  
7 thank you, Judge.

8 THE COURT: Okay. Our next juror is  
9 Ms. Proveaux.

10 (Wendy H. Proveaux, called as a prospective  
11 juror, having previously been duly sworn, is  
12 examined as follows:)

13 THE COURT: Ms. Proveaux, hi. If you  
14 would, please, be seated right here for me,  
15 please. For our record this Ms. Proveaux and  
16 she is Juror Number 242.

17 EXAMINATION

18 BY THE COURT:

19 Q. Am I pronouncing your last name correctly?

20 A. Yes.

21 Q. Thank you. I grew up in Dillon and I get a  
22 little worried about my ability to pronounce French.  
23 All right. Thank you. Now, Ms. Proveaux, if you  
24 will recall yesterday you were sworn in with all the  
25 other potential jurors. Do you remember that?

1 A. Yes.

2 Q. And I would simply tell you that the oath you  
3 took yesterday certainly continues throughout this  
4 process and would continue through our questions and  
5 answers here today. Do you understand that?

6 A. Yes.

7 Q. All right. Now, since you talked with us  
8 yesterday, has anyone talked with you about this  
9 case, or attempted to talk to you about this case, or  
10 have you inadvertently or otherwise been exposed to  
11 any information about this case?

12 A. No, ma'am.

13 Q. All right. Now, back in the jury room you were,  
14 hopefully, and I believe shown a potential witness  
15 list. And I'll put it here in case you need to refer  
16 to it. And I'd first of all ask if you had a chance  
17 to review that form?

18 A. Yes, ma'am.

19 Q. All right. And are you related by blood or  
20 marriage, or acquainted with, or do you have a  
21 business association, or a personal acquaintanceship  
22 or friendship, or are you connected in any regard  
23 directly or indirectly with any of the folks whose  
24 names are on this list?

25 A. No.

1 Q. Very well. Now, I'll put that aside. Yesterday  
2 when we talked -- and let me get my information.  
3 Yesterday when we talked you did not indicate when we  
4 asked whether or not you had any opinion about this  
5 case or whether or not you had read, or seen, or  
6 heard anything about this case, or whether or not you  
7 had any bias or prejudice for or against either side  
8 in this case you did not indicate that any of these  
9 things applied to you. Is that still true?

10 A. Yes, ma'am.

11 Q. Okay. And since we have talked has anything  
12 come to your mind, jogged your memory or otherwise  
13 that you have maybe some memory of this matter that  
14 you didn't have yesterday?

15 A. No, ma'am.

16 Q. All right. Now, Ms. Proveaux, I have some  
17 questions to ask you and these folks have some  
18 questions to ask you. I just wanted to tell you the  
19 purpose of question then we'll get right to you it.  
20 The first thing I wanted to tell you is that no one  
21 is asking you these questions to invade your privacy.  
22 The purpose of asking you these questions is, quite  
23 frankly, to find out how you feel about certain  
24 issues, get your opinion about them, and, therefore,  
25 necessarily there aren't any right or wrong answers.

1 And let me begin by saying that your opinion is just  
2 as good, just as valid, obviously, as anybody else's.  
3 And the purpose of us being here is not to challenge  
4 your opinion at all.

5 The purpose of our being here is  
6 simply to find out whether or not your feelings, the  
7 opinions that you may hold about some of the issues  
8 that we'll talk about could impact on your jury  
9 service. That's the beginning and the ending of it.

10 Now, in a moment, or in a few moments  
11 I'm going to be asking you about penalty,  
12 specifically the death penalty. And I want to begin  
13 by telling you that to discuss penalty at this stage  
14 when the trial hasn't even begun is obviously  
15 premature. However, penalty, we would need to  
16 discuss with you some of the issues in -- regarding  
17 penalty because it may come up in this case. May  
18 not, but it may come up in this case and necessarily  
19 we need to talk to you about this issue before the  
20 trial ever gets underway.

21 Let me hasten to tell you that even  
22 though we talk about penalty, we talk about penalty  
23 at this premature stage, Mr. Bowman is presumed  
24 innocent of these charges. But, again, this is the  
25 only time we have to talk to you before the case

1 begins.

2 I'm also going to ask you questions  
3 and want to ask you questions today, Ms. Proveaux,  
4 I'm going to ask you in the general and generic  
5 sense. I'm not going to ask you about this case  
6 because you don't know anything about this case, that  
7 wouldn't be fair to you and it wouldn't be proper.  
8 But I am going to ask you some questions, again, in  
9 the generic sense and I'll begin that now.

10 If you were a juror in any criminal  
11 case, would you be willing to listen to the law as  
12 you were instructed by the judge?

13 A. Yes, ma'am.

14 THE COURT: Ms. Proveaux and I can hear  
15 each other fine. Can you all hear her as well?

16 MR. BAILEY: Yes, ma'am.

17 Q. Would you be willing to accept that law and  
18 apply it to the facts as you found them to be?

19 A. Yes, ma'am.

20 Q. And even though you might not particularly like  
21 the law or you may even disagree with it, would you  
22 still be willing to follow the law as it was  
23 instructed to you by the judge?

24 A. Yes, ma'am.

25 Q. All right. Now, if you were asked to serve in

1 the case of the State vs. Mr. Bowman, could you  
2 decide this case based solely upon what you would  
3 hear in the courtroom and disregard anything that you  
4 may have seen, or heard, or read about in this case  
5 from any source at all if anything like that should  
6 come into your memory?

7 A. Yes, ma'am.

8 Q. In other words, you know, sometimes a juror will  
9 hear something as the trial goes on and they don't  
10 have any memory at this point, there will be  
11 something that they'll hear and it will kind of jog a  
12 memory. The question is if that should happen to  
13 you, do you think you could just set that aside and  
14 try this case, decide this case based on the evidence  
15 in the courtroom?

16 A. Yes, ma'am.

17 Q. Now, Ms. Proveaux, in a criminal case as you  
18 know as we talked about yesterday, the State has the  
19 burden of proving the guilt of the defendant, any  
20 defendant, and Mr. Bowman, beyond a reasonable doubt.  
21 In other words, the defendant, no defendant,  
22 including Mr. Bowman, ever has to prove himself or  
23 herself innocent. A defendant, and this defendant,  
24 is presumed innocent under the law. Do you  
25 understand?

1 A. Yes, ma'am.

2 Q. So if you were a juror in any criminal case,  
3 would you be willing to listen to the facts and  
4 circumstances and the law as you were instructed?

5 A. Yes, ma'am.

6 Q. And if after you listened to the evidence and  
7 found those facts as you found them to be and applied  
8 the law, the judge gives you the law and you applied  
9 that law to the facts, if you were not convinced of a  
10 defendant's guilt beyond a reasonable doubt would you  
11 be willing to find that defendant not guilty?

12 A. Yes, ma'am.

13 Q. And by the same token, if after you listened to  
14 the evidence, found the facts as you found them to  
15 be, applied the law as the judge gave it to you to  
16 those facts, if you were convinced that a defendant  
17 was guilty beyond a reasonable doubt, would you be  
18 willing to find that defendant guilty?

19 A. Yes, ma'am.

20 Q. In other words, could you then depending on what  
21 the facts and the circumstances were, make your  
22 decision based on whether or not you were convinced  
23 that the person was guilty or not?

24 A. Yes, ma'am.

25 Q. All right. Now, most of the time jurors do not



1 concern themselves with the issue and the matter of  
2 punishment. Most of the time, particularly of course  
3 here in the criminal courtroom, that is left up to  
4 the judge. But there is one case in our law when the  
5 jury has to deal with the matter of punishment and  
6 that is a case such as this case. It is in a case  
7 where an individual has been charged with the crime  
8 of murder and where the State is seeking the death  
9 penalty.

10 If an individual in a death penalty  
11 case is convicted of the crime of murder, then the  
12 same jury that convicted him or her of murder must  
13 come back and in a separate and different proceeding  
14 decide the sentence that he or she is going to get.

15 Now, there are two choices of  
16 sentencing. One is life in prisonment without the  
17 possibility of parole and the other is the death  
18 penalty. And, again, the penalty would be determined  
19 in a second or what's called the sentencing phase of  
20 a trial. Do you understand this?

21 A. Yes, ma'am.

22 Q. All right. Now, there was another paper in the  
23 jury room, I'm going to put it there in case you need  
24 to refer to it. And did you have a chance to look at  
25 the paper that I've just placed in front of you?

1 A. Yes.

2 Q. And did you notice when you looked at it in the  
3 jury room that it basically described three types of  
4 jurors?

5 A. Yes, ma'am.

6 Q. All right. And do you remember those three  
7 types of jurors?

8 A. Sort of.

9 Q. All right.

10 A. Yeah.

11 Q. All right. And, please, refer to it if you need  
12 to.

13 A. Okay.

14 Q. Which of those three types of jurors best  
15 describes you?

16 A. I think number three.

17 Q. All right. And does that mean that you would be  
18 willing to listen to whatever you might hear and make  
19 your decision based on the evidence that you heard in  
20 the courtroom?

21 A. Yes, ma'am.

22 Q. And if you thought it was appropriate when you  
23 heard all of the evidence and considered all the  
24 evidence, if you thought it was appropriate that  
25 someone be sentenced to death would you be able to do

1 that?

2 A. Yes, ma'am.

3 Q. And on the other hand, if you thought the death  
4 sentence was not appropriate or for any other reason  
5 you thought that the person ought to receive life  
6 imprisonment, would you be able and willing to vote  
7 for a sentence of life?

8 A. Yes, ma'am.

9 Q. So you would make that -- you would make the  
10 decision death penalty or life imprisonment based  
11 upon what you would hear in the courtroom?

12 A. Yes, ma'am.

13 Q. All right. If you were chosen to serve as a  
14 juror in this case, you and the other jurors would be  
15 housed, obviously at county expense. And that word  
16 means -- what it is, is called sequestered, you all  
17 would be housed here in a local motel during the  
18 course of the trial and that's where you would have  
19 to stay until the trial is over except, of course,  
20 when you were in the courtroom.

21 This period could be as long as two  
22 weeks, or longer, it could be shorter, I just don't  
23 know the exact duration of the term. And obviously  
24 that would create an inconvenience for you, as it  
25 surely will for all who serve on this jury. Other

1 than that inconvenience, which, again, will cause  
2 anybody -- would cause anybody who would have to  
3 serve in this capacity, would that pose a serious  
4 risk of danger to your health or well being, or to  
5 that of anybody who is dependent upon you if you had  
6 to serve in that capacity?

7 A. No, ma'am.

8 Q. Very well. You would be able to do that?

9 A. Right. Yes, ma'am.

10 Q. Now, let me tell you, at this time I know that  
11 these folks are probably going to have some questions  
12 for you as is their right. And I would just ask if  
13 you would, please, be so kind as to answer the  
14 questions. And I will ask of Mr. Bailey.

15 MR. BAILEY: Thank you, Your Honor.

16 EXAMINATION

17 BY MR. BAILEY:

18 Q. Ms. Proveaux, I'm Walter Bailey and I will be  
19 prosecuting this case and I need to ask you a few  
20 questions today. How are you today?

21 A. I'm fine, thank you.

22 Q. I need to ask you a few questions and there are  
23 no right or wrong answers. First of all, on the  
24 questionnaire you and the other jurors filled out you  
25 indicated you had a little problem with a police

1 officer in connection with a traffic accident and he  
2 was rude to you?

3 A. Yes.

4 Q. All right. Would the fact that you had a  
5 problem with a police officer have any effect on your  
6 ability to sit in this case as a fair and impartial  
7 juror?

8 A. No, because that's just one bad person.

9 Q. It's kind of an isolated situation?

10 A. There's a lot of good ones out there.

11 Q. Okay. You also indicated that you had worked  
12 for a lawyer before; is that right?

13 A. I have.

14 Q. Who did you work for?

15 A. Mr. William Clark.

16 Q. Okay. Bill Clark?

17 A. Uh-huh (affirmative response).

18 Q. Okay. All right. Let me ask you a little bit  
19 about the death penalty. What I'm asking you about  
20 is in general. Not addressing this particular case  
21 because you hadn't heard the facts, but just in  
22 general, is the death penalty something you've had  
23 occasion to think about in the past?

24 A. Yes.

25 Q. Okay. Can you tell us what you've thought of it

1 when you have thought of it?

2 A. If beyond a reasonable doubt that they are  
3 proven guilty, then I agree with the death penalty.

4 Q. Okay.

5 A. Completely.

6 Q. And you understand that as part of the two-part  
7 process where the guilt beyond a reasonable doubt  
8 issue would arise would be in the first phase of the  
9 trial, and if the State could not prove a person  
10 guilty beyond a reasonable doubt that would be the  
11 end of it, he would be acquitted and we would all go  
12 home. But if he's found guilty of murder beyond a  
13 reasonable doubt, then and only then we would go into  
14 that penalty phase. So anytime a jury gets into the  
15 penalty phase it means they've already addressed that  
16 reasonable doubt issue and found the State has proven  
17 beyond a reasonable doubt.

18 A. Yes, sir.

19 Q. And the reason we have that second phase is to  
20 allow additional instructions to the judge and  
21 additional evidence to come up to help the jury  
22 decide not guilty, because that's already established,  
23 but to establish the punishment.

24 A. Yes, sir.

25 Q. And you've indicated you're a number three type

1 juror, that depending on what you hear you may vote  
2 for death or you may vote for life without parole  
3 depending on what you hear?

4 A. Yes, sir.

5 Q. All right. So you would not automatically vote  
6 for the death penalty just because you convicted  
7 somebody.

8 A. Yes, sir.

9 Q. All right. And you understand that in South  
10 Carolina the way it works is the jury unanimously  
11 decides on the punishment, the judge orders that  
12 punishment to happen and then the punishment is  
13 carried out? In other words, the judge does not  
14 decide the punishment, the jury decides that?

15 A. Yes, sir.

16 Q. Okay. If in a case like this the jury decides  
17 on the death penalty, then each juror's asked to  
18 stand up and announce that verdict out loud when  
19 their name is called out. Could you do that if you  
20 had arrived at that decision.

21 A. Yes, sir.

22 Q. Could you say it out loud, could you sign your  
23 name to a death verdict form along with the other 11  
24 jurors if you had reached that decision?

25 A. Yes, sir.

1 Q. Okay. Knowing that that would result in that  
2 execution taking place at some point in the future?

3 A. Yes, sir.

4 Q. All right. Mr. Proveaux, that's all I've got.  
5 Thank you very much.

6 A. Thank you.

7 THE COURT: Mr. Cummings.

8 EXAMINATION

9 BY MR. CUMMINGS:

10 Q. Mr. Proveaux, I don't mean to date you on this,  
11 but you said you were working for Mr. Clark back when  
12 you were in high school.

13 A. Yes, many years ago.

14 Q. That's why I said I don't mean to date you.  
15 What type of law did Mr. Clark practice, ma'am?

16 A. Mainly divorce.

17 Q. Okay. Family court?

18 A. Yeah. Family court, yes, sir.

19 Q. And as a result of that that had no impact on  
20 you that you would bring into any jury service here  
21 today, the fact that you worked and listened to  
22 personal disputes between spouses or other family  
23 members, that wouldn't cause you any substantial  
24 impairment to render a fair and impartial verdict  
25 today as a juror these number of years later?



1 A. No, sir.

2 Q. Okay. In other words, we're trying to ask  
3 whether or not you have formed any or expressed any  
4 opinions or biases or prejudices after working in  
5 that wonderful field of domestic work. Okay. Thank  
6 you, Ms. Proveaux.

7 And, again, there are no right or  
8 wrong answers either from Mr. Bailey, or I, or Her  
9 Honor. And we're just trying to see and make sure  
10 the State and the defendant gets a fair and impartial  
11 trial.

12 A. Right..

13 Q. And I think you hold that principle very dear,  
14 don't you?

15 A. Very dear.

16 Q. And you take jury service very sincere and hold  
17 it to be a high duty?

18 A. Yes, sir.

19 Q. And along that line, and, again, as you read the  
20 questionnaire as type one, type two, type three  
21 juror, again, that's the only way we know how to ask  
22 people today about the ultimate penalty, whether or  
23 not they'll listen to facts in evidence and presume  
24 people innocent until proven guilty by the State.

25 And, again, working for a lawyer you understood that?

1 A. Right. Yes, sir.

2 Q. And then today that if somebody is found guilty  
3 of murder, and I would never want to take your words  
4 out of context, ma'am, but if they were found guilty  
5 of murder beyond a reasonable doubt, would that kind  
6 of signal or would that kind of make you want to  
7 impose the death penalty? And all we can ask for is  
8 answers from your heart.

9 A. I'm not quite sure how to answer that.

10 Q. If you could following with Her Honor's  
11 instructions, could you give us your most honest and  
12 forthright answer about how you would feel about  
13 that, if somebody's found guilty of murder whether  
14 you would impose the death penalty?

15 A. Yes. I would, yeah.

16 Q. Okay. And you understand that what happens, of  
17 course, by Her Honor's instruction she has to give  
18 each, the 12 of you good jurors, the law and the  
19 facts. But, again, while I ask you your personal  
20 points, and this is the only chance we get

21 Mrs. Proveaux.

22 A. Right.

23 Q. You've been very kind and hospitable to Mr.  
24 Bailey and I about trying to get to what the jurors  
25 hold dear to them, and that is if somebody is found

1 guilty of murder you would lean towards the position  
2 of the death penalty?

3 A. Yes.

4 Q. Okay. That's all the questions I have of this  
5 nice lady. Thank you, Ms. Proveaux.

6 EXAMINATION

7 BY THE COURT:

8 Q. Let me see if I understand you correctly.  
9 Assume for a moment a defendant in a death penalty  
10 case had been found guilty of murder. Do you  
11 automatically impose the death penalty, is it  
12 automatic?

13 A. Not right off the top of my head does it come  
14 sentence them to death, no.

15 Q. Because as I've explained to you there is what's  
16 called a sentencing phase, there is a second phase of  
17 the trial. And during that phase the jury receives  
18 more information from the State, from the defense.  
19 And my question to you is would you want to hear that  
20 information before you made a decision the defendant  
21 ought to be sentenced to life or to the death  
22 sentence, or would you not need that, you would just  
23 know --

24 A. I would want the information.

25 Q. You would want to hear that information?

1 A. Yes, ma'am.

2 Q. All right. You would want to hear it from the  
3 defendant?

4 A. Yes.

5 Q. And from the State?

6 A. Yes, ma'am.

7 Q. So were you saying that you, you -- if someone  
8 was found guilty of the crime of murder that you  
9 would sentence -- vote for a sentence of death, or  
10 you could vote for a sentence of death?

11 A. I could vote for a sentence of death.

12 Q. All right. But you would want to hear both from  
13 the State as well as from the defense before you made  
14 that --

15 A. I made that decision.

16 Q. You think that's important to hear?

17 A. Yes, ma'am. Most definitely.

18 Q. Most definitely?

19 THE COURT: Does that prompt any questions  
20 from either of you?

21 MR. BAILEY: Not from the State at in  
22 point.

23 MR. CUMMINGS: Just one.

24 EXAMINATION

25 BY MR. CUMMINGS:

1 Q. And you understand the defendant never has to do  
2 anything in any criminal trial, not just in this case  
3 if that were, because we don't know anything about  
4 this case yet and as you sit up here today you know  
5 none of the facts as presented in this case because  
6 it hasn't started yet.

7 A. Right.

8 Q. But you understand the defendant would not have  
9 to do anything if that's what that person chose to  
10 do, any citizen. They are innocent until proven  
11 guilty and they don't have to do anything in this  
12 courtroom other than be protected by the law, the  
13 constitution.

14 A. Yes, sir.

15 EXAMINATION

16 BY THE COURT:

17 Q. You wouldn't want anything that any of us have  
18 said to you to in any way understand anything other  
19 than the State always, always maintains the burden of  
20 proof and must prove beyond a reasonable doubt. Do  
21 you understand that?

22 A. Yes. Yes, ma'am.

23 Q. All right. That is the burden of proof by the  
24 State. And Mr. Cummings is exactly correct, a  
25 defendant, no defendant, no defendant ever has to

1 prove anything because under our law in all  
2 circumstances the defendant is presumed innocent,  
3 never has to prove himself, herself, innocent or  
4 prove anything. You understand that?

5 A. Yes.

6 Q. Thank you.

7 THE COURT: Mr. Cummings.

8 EXAMINATION

9 BY MR. CUMMINGS:

10 Q. I guess the follow-up question with that is if a  
11 person, a citizen in any case that you've happened to  
12 have been picked as a juror on, ma'am, if they were  
13 found guilty of murder, would you, your beliefs be  
14 that they should receive the ultimate penalty, the  
15 death penalty?

16 A. I think I'm getting a little confused.

17 THE COURT: See if you can phrase that  
18 again, or just restate it.

19 Q. If a person was found guilty of murder beyond a  
20 reasonable doubt and if you were a juror on that  
21 panel together with your fellow 11 other jurors plus  
22 you, ma'am, would you be inclined to vote for the  
23 death penalty based on your beliefs and your  
24 opinions? Because I think when you told me earlier  
25 if they're found guilty of murder you would lean

1 towards the imposition of a death sentence.

2 A. Yes, sir.

3 Q. And that would be your honest answer,

4 Ms. Proveaux?

5 A. Yes.

6 MR. CUMMINGS: Thank you, Judge. That's  
7 all the questions I have of this nice lady.

8 EXAMINATION

9 BY MR. BAILEY:

10 Q. Ms. Proveaux, in spite of your leanings or  
11 feelings towards the death penalty, would you still  
12 wait to hear the evidence that came out in the second  
13 phase of that trial, instructions from the Judge  
14 before making up your mind on the penalty?

15 A. Yes, sir.

16 Q. If you thought it was appropriate could you vote  
17 for life without the possibility of parole?

18 A. Yes, sir.

19 Q. Depending on what you heard as far as the facts  
20 you could also vote for the death penalty; is that  
21 right?

22 A. Yes, sir.

23 MR. BAILEY: Thank you. That's all I have.

24 THE COURT: Thank you so much.

25 Ms. Proveaux, I'm going ask you to please step

1 right outside the courtroom for just a moment  
2 and give us an opportunity to talk about you  
3 behind your back and then you can come right  
4 back in.

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

7 THE COURT: All right. What says the  
8 State?

9 MR. BAILEY: Your Honor, the State contends  
10 that she is qualified. And I would concede that  
11 she does have a leaning toward the death  
12 penalty; however, she has clearly stated in  
13 response to your questions, mine, and Mr.  
14 Cummings' that despite that leaning she could  
15 maintain an open mind and hear the facts and  
16 circumstances, the law from the Court and based  
17 on that could vote for life without the  
18 possibility of parole as well as the death  
19 penalty. So I think under Wainwright vs. Witt  
20 she is qualified.

21 And I would just submit that jurors of  
22 this type are the kind -- the reason we have  
23 strikes and that she is qualified. I can cite  
24 cases if I need to, Your Honor.

25 THE COURT: Yes.



1 MR. BAILEY: I see you have the case law in  
2 front of you.

3 THE COURT: Yes. I'm looking at -- State  
4 vs. Ricky George comes to mind, obviously the  
5 Wainwright case as you -- obviously the Seminole  
6 case. All right.

7 MR. BAILEY: Thank you, Your Honor.

8 THE COURT: Yes, sir. Mr. Cummings.

9 MR. CUMMINGS: Judge, I have a twofold  
10 approach here and I say this with the highest  
11 respect, Your Honor. One of the motions that we  
12 had presented to the Court early on was the fact  
13 that asking Her Honor not to ask the jurors  
14 questions once they began to waffle. I  
15 understand you're the boss and you rule. I  
16 think Mr. Bailey and I both joined in that  
17 motion and it was consented to that the Court in  
18 asking its questions a few moments ago, I had  
19 had Madam Potential Juror here trying to pull  
20 the feelings out for her where she said once she  
21 found somebody guilty of murder beyond a  
22 reasonable doubt she would vote for the death  
23 penalty.

24 THE COURT: Let me ask you about that, Mr.  
25 Cummings, because I remember that discussion, I

1 remember that from both of you. And I remember  
2 the discussion said that the Court would not  
3 look at the juror and say, yes, but would you be  
4 willing to follow the law, would you be willing  
5 to listen to the evidence and follow the law as  
6 I gave it to you.

7 MR. CUMMINGS: Yes, ma'am.

8 THE COURT: And that was what was said to  
9 me. It was absolutely not, my understanding  
10 that that motion encompassed any questions for  
11 clarity purposes on the part of the Court if  
12 I've got to make the decision, Mr. Cummings.

13 Was that what was intended, Mr.  
14 Bailey?

15 MR. BAILEY: As I understood what the  
16 ruling was that we wouldn't beat this thing to  
17 death. But by saying that I think all of us  
18 still have an obligation to try to ascertain  
19 what that juror's true feelings are. If there's  
20 some ambiguity, some confusion, you get to the  
21 bottom of it, but not to go back and forth  
22 indefinitely and then box them into a corner.

23 THE COURT: That's interesting, because my  
24 distinct impression -- and I will go back and  
25 look at that. Do we have an order that has been

1 written that --

2 MR. CUMMINGS: Judge, I think we consented  
3 to that motion. I don't think there's an order  
4 to that effect.

5 THE COURT: Okay. Let me look at the  
6 motion.

7 MR. CUMMINGS: Yes, Judge.

8 THE COURT: Because I will be very clear  
9 with you and clear on this record that what was  
10 depicted to me on the record was a concern that  
11 the Court would say, yes, but you will listen to  
12 my instructions on the law and you'll follow the  
13 law that I give to you. And that is all that  
14 was said to me by counsel.

15 Because if, in fact, it had been made  
16 clear to me that it was your intentions to limit  
17 my ability to clarify things because -- because  
18 you all raised issues and they were not  
19 clarified when I am the finder regarding the  
20 qualifications of the jury as I am charged to  
21 do, I would -- oh, no, sir, because, Mr.  
22 Cummings, then that puts the Court in a position  
23 that if you raise and fail to clarify issues for  
24 me and I am to be the finder of fact and the  
25 finder and either to qualify or disqualify a

1 juror as I am charged to do under the law, how  
2 in this world could I do that?

3 MR. CUMMINGS: Again, I say it with the  
4 highest respect, is not to limit Her Honor from  
5 running your court, your bench and, you know,  
6 from looking at this juror and protecting the  
7 jurors.

8 THE COURT: Yes, sir.

9 MR. CUMMINGS: I think where it comes into  
10 play as we all know, is once a judge asks a  
11 juror a question and you have that juror's  
12 undivided attention because of the respect for  
13 the bench and because of your capacity of being  
14 the courtroom judge here, that this lady seemed  
15 to elicit the question and want to answer it  
16 back in a favorable way. And she was very  
17 polite and kind to Mr. Bailey, very polite and  
18 kind with me. It didn't kick into anything here  
19 until a moment ago until after I asked her  
20 whether or not beyond a reasonable doubt if  
21 somebody's convicted of murder that she would  
22 vote for death. Then it kicked back around.

23 And then when Her Honor politely asked  
24 this lady some questions to clarify her mind, my  
25 only concern was, Judge, that this juror because

1 of the power of the bench and the judge that she  
2 was perhaps being -- answering back in a way she  
3 thought may be liked by the court or liked by  
4 the jury -- not by the jury, but the lawyers in  
5 here.

6 And I did not mean to upset Her Honor  
7 or to offend you, ma'am. When I say we did not  
8 want Her Honor to ask leading questions of the  
9 jurors, it was in particular cases where the  
10 waffling -- I know you got to make the call.  
11 And I know that you, Judge, this lady was  
12 waffling here until you correctly pointed out  
13 our law. And I say that respectfully because I  
14 believe that she tried to please the Court.

15 Not in every case would I stand up  
16 here and say, Judge, don't ask any questions.  
17 We've not done that yet. But it was only until  
18 this question where, of course, Mr. Bailey, and  
19 it comes out and then myself on behalf of  
20 Mr. Bowman, then Your Honor's questions and then  
21 back and then forth. And that's where we were  
22 going on that motion, trying to keep this back  
23 and forth.

24 THE COURT: I understand your point.

25 MR. CUMMINGS: And, of course, I think you

1 know my leaning of that, but I did not mean to  
2 stop Her Honor.

3 THE COURT: I got the point.

4 Anything you want to add, Mr. Bailey?

5 MR. BAILEY: We're dealing with people in  
6 the average that have high school diplomas and  
7 they're dealing with concepts, grasping concepts  
8 or trying to, that it took us probably the first  
9 year in law school to really figure out and it's  
10 new to them. And I didn't think that this woman  
11 was -- she answered 99 percent of the questions  
12 just perfectly and she indicated some confusion,  
13 admittedly some leaning toward the death  
14 penalty. But, again, that's not disqualifying  
15 when she has said that she can listen to both  
16 sides and could vote for life imprisonment. I  
17 just don't know of any case law, any authority  
18 that would disqualify her.

19 I think to the extent the Court went  
20 into it was entirely appropriate just to get to  
21 the bottom of what she was really thinking and I  
22 think that's what your obligation is.

23 THE COURT: All right. Let me ask you this  
24 question, Mr. Cummings: Is there any case law  
25 that disqualifies a juror for leanings?

1 MR. CUMMINGS: For leaning, no, ma'am.  
2 After reading George and Wainwright, but it  
3 says -- and, Your Honor, again, I may humbly  
4 state this to both of you, that it says that all  
5 we do in doing this, I don't I want to say  
6 peremptory challenges here, is to try to find  
7 out from the jurors whether or not their true  
8 feelings as to whether they're type one, type  
9 two, type three juror.

10 Your Honor, if they waffle at all  
11 about giving the death penalty, they're  
12 automatically excluded as a type two juror. And  
13 that's been proven here today. In reading  
14 George and Wainwright it says that that juror is  
15 supposed to give an honest and true statement  
16 about their feelings, and if they're waffling so  
17 bad that they cannot then become the type of  
18 juror, that the class of juror that they say  
19 they are, then they should be excluded as I read  
20 those cases. But if they're waffling just to  
21 say, well, I'm a three and I would have to  
22 listen to all the facts after they have been --  
23 direct, cross, direct back again, and back on  
24 cross, then, Judge, that's totally to your  
25 credibility issue. And that's why I did not

1 mean to step on Her Honor's toes, but --

2 THE COURT: You didn't step on my toes.

3 MR. CUMMINGS: -- as Your Honor has seen  
4 here that there's two answers here that's on  
5 record. One is proof beyond a reasonable doubt,  
6 murder, she would vote death. And then after  
7 being rehabilitated by the State she says could  
8 you render fair and impartial. And Your Honor  
9 trying to protect the jurors here, then asks the  
10 questions and she says, yes, I'll listen to  
11 everything. But I know, Judge, she has stated  
12 if there is a murder conviction she would lean  
13 towards the imposition of death.

14 THE COURT: She clearly said if someone was  
15 found guilty of murder that she would lean  
16 towards the death penalty; however, she would  
17 listen to -- she repeatedly said she would  
18 listen to -- and there are jurors who tell you,  
19 I wouldn't listen to it, I'm not interested in  
20 it, they truly are a type one juror. She's not  
21 a type one juror.

22 There's nothing in anything that she  
23 told us other than she would lean towards the  
24 death penalty. But she certainly has led me to  
25 believe that she would listen and if she found



1 it to be appropriate that she would give life.  
2 So I find over the objection of the defendant  
3 that she -- I find that she's qualified.

4 MR. CUMMINGS: Thank you, Judge.

5 THE COURT: I'm a little bit more concerned  
6 about this issue, and I don't want to -- I do  
7 not, I absolutely do not want there to be any  
8 miscommunication between the Court and counsel  
9 as we go through this process, so let me be  
10 clear --

11 MR. CUMMINGS: Yes, ma'am.

12 THE COURT: -- with both of you. I have  
13 been very careful if I have had to ask questions  
14 of the jurors once you have found -- once an  
15 issue may have popped up, I have been very  
16 careful not to coerce, if you will, the juror by  
17 saying, but you would follow the law as the  
18 Court gave you and you would do what the law --  
19 what the judge told you to do in terms of the  
20 law. I've been very careful not to do that.  
21 That was my understanding of what that motion  
22 was about, was that the Court would not step in  
23 to try to have a juror be rehabilitated.

24 In this last instance I think it's  
25 very important that the record reflect that she

1 was, I thought during my colloquy with her,  
2 extremely clear about her willingness to listen  
3 to all the evidence. She was likewise extremely  
4 clear based upon when Mr. Bailey examined her.  
5 It was -- there was the one question that you  
6 asked her, Mr. Cummings, and at that point in  
7 time when she said wherever she said that she  
8 would, and then explained that she would lean  
9 towards the death penalty if someone was found  
10 guilty. And I'm not -- that's where I wanted to  
11 clarify was she telling you that she could or  
12 she would give the death penalty because she  
13 would then be disqualified.

14 MR. CUMMINGS: Yes, ma'am.

15 THE COURT: Or that she could give the  
16 death penalty. And that was very important to  
17 me to ask and that's the purpose that I asked  
18 her that question.

19 MR. CUMMINGS: The only reason I brought  
20 that up is to make sure. And it looked like  
21 this Madam Juror here and you ruled, and I'll be  
22 very brief.

23 THE COURT: Okay.

24 MR. CUMMINGS: That she wanted to please  
25 both Mr. Bailey, myself, and especially Your

1 Honor with her answers. She worked for a lawyer  
2 and as we all know sometimes it causes them to  
3 be a little more thoughtful than most people.

4 And I say thank you, Judge.

5 THE COURT: Very well. All right. Then  
6 invite her back in, please.

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

9 THE COURT: Ms. Proveaux, thank you for  
10 your time. Ms. Proveaux, you have been found to  
11 be qualified as a potential juror in this case.  
12 And that does not mean that you are on the jury  
13 yet, but it does mean that you are a potential  
14 juror and that you may be selected to serve on  
15 this jury. We are hoping that we will be able  
16 to select this jury on Thursday afternoon at two  
17 o'clock. Thursday afternoon at 2:00. This may  
18 be a little ambitious, but if we have to change  
19 that time we will call you in plenty of time for  
20 you to know that. If you don't hear from us,  
21 please be back in the courtroom at two o'clock.

22 And Ms. Etheredge is now going to give  
23 you a sheet of paper that contains some  
24 instructions to help you get ready for jury  
25 service.

1 MS. PROVEAUX: Okay.

2 THE COURT: Like packing clothes and  
3 bringing medications that you may need, and also  
4 tells you where you will be housed and it gives  
5 numbers for emergency purposes that you can be  
6 reached during the day and at night.

7 Please know that you can discuss these  
8 details with anybody that you wish to, the  
9 details of packing and medication and where you  
10 will be and the numbers.

11 MS. PROVEAUX: Okay.

12 THE COURT: However, please know that you  
13 may not discuss any aspect of this case with  
14 anyone or allow anyone to discuss this case with  
15 you, or expose yourself to any information about  
16 this case from any source at all. And do you  
17 understand this?

18 MS. PROVEAUX: Yes, ma'am.

19 THE COURT: Thank you so much. I look  
20 forward to seeing you Thursday afternoon at  
21 2:00.

22 MS. PROVEAUX: Thank you.

23 THE COURT: Bye now.

24 (Whereupon, the prospective juror exits the  
25 courtroom.)

1 THE COURT: Number 67, Mr. Earl Davis, if  
2 you'll get him, please.

3 (Earl Davis, called as a prospective juror,  
4 having previously been duly sworn, is examined  
5 as follows:)

6 EXAMINATION

7 BY THE COURT:

8 Q. Hi, yes, sir. How are you doing, Mr. Davis?

9 Good to see you again.

10 A. Yes, ma'am.

11 Q. Yes, sir. Now, Mr. Davis, if you will recall --

12 THE COURT: And for the record this is

13 Mr. Earl Davis, he is Juror Number 67.

14 Q. Now, Mr. Davis, yesterday you were sworn, if you  
15 will recall, as all the other potential jurors in  
16 this -- who reported for this term of court. Do you  
17 remember that?

18 A. Say that again.

19 Q. Sure. Yesterday you gave an oath, you were  
20 sworn in, gave an oath along with all the other  
21 potential jurors yesterday morning. Do you remember  
22 that?

23 A. Yes, ma'am.

24 Q. All right. And that oath continues throughout  
25 this process and would continue and apply to the

1 questions and answers that you give to me today.

2 A. Okay.

3 Q. Do you understand that? And of course to these  
4 lawyers today. Do you understand that?

5 A. Yes.

6 Q. All right. Now, since we have talked with you,  
7 has anyone talked with you about this case or tried  
8 to approach you about it, or have you inadvertently  
9 or otherwise been exposed to any information about  
10 this case?

11 A. No, ma'am.

12 Q. All right, sir. Now, when you were back in the  
13 jury room you were given a list of potential  
14 witnesses. I'm going to sit that right there for you  
15 so that you can refer to it if you need to. Have you  
16 had a chance to review that list?

17 A. I need to tell you something.

18 Q. You need to tell me something. Sure you can  
19 tell me something.

20 A. When you asked yesterday if anybody had any past  
21 history.

22 MR. CUMMINGS: Excuse me, Judge, we  
23 couldn't hear this nice gentleman.

24 THE COURT: All right. What he's telling  
25 me is that yesterday when I asked the question

## Juror 67 Earl Davis - Examination

1           about whether or not anyone had any education  
2           past sixth grade, yes, sir.

3   A.    I can't read that.

4   Q.    All right. I understand. I understand. Tell  
5   me how far you went in school.

6   A.    Well, the school I was going to they send me to  
7   like a trade school.

8   Q.    Sure.

9   A.    They didn't teach you anything, reading and  
10   things. They give you like a trade.

11   Q.    I understand. I understand.

12   A.    Like brick mason and thinks like that.

13   Q.    So you can go make all the money in the world, I  
14   understand. All right. And I don't mean to  
15   embarrass you one bit, but I do need to ask you a  
16   couple of questions. Can you read your Bible,  
17   Mr. Davis? Can't read the Bible. All right, sir.  
18   And you had difficulty reading the witness list?

19   A.    Uh-huh (affirmative response).

20   Q.    All right, sir. And that was yes. You nodded  
21   yes?

22   A.    Yes, ma'am.

23   Q.    All right, sir. And are you concerned about  
24   your ability to read?

25   A.    Yes, ma'am.

## Juror 67 Earl Davis - Examination

1 Q. I understand. I understand. And apparently you  
2 have more than a sixth grade education or equivalent  
3 in terms of the trade school? That's a yes?

4 A. Yes, ma'am.

5 Q. Your concern is, is that when you saw this  
6 great, long witness list today and you saw the other  
7 sheets of paper you became concerned about your  
8 ability to read?

9 A. Yes, ma'am.

10 Q. All right. And yesterday, you were concerned  
11 about telling me that yesterday?

12 A. Yes, ma'am.

13 Q. I understand. I understand. I understand. All  
14 right. But you cannot read -- well, do you read at  
15 all?

16 A. Well, I can try and, but I don't understand it.

17 Q. But you don't understand, all right. Who kind  
18 of reads and does that for you in your life,  
19 Mr. Davis?

20 A. My wife.

21 Q. Your wife does that for you?

22 A. Yeah.

23 Q. I understand. I understand.

24 THE COURT: Any questions?

25 MR. BAILEY: Not at this time, Your Honor.



## Juror 67 Earl Davis - Examination

1 THE COURT: Let me begin with Mr. Cummings  
2 this time.

3 MR. CUMMINGS: Thank you, Judge. Thank you  
4 Mr. Bailey.

5 EXAMINATION

6 BY MR. CUMMINGS:

7 Q. Mr. Davis, did you fill out the questionnaire?  
8 And if you cannot see it I'll ask Your Honor if I can  
9 walk around to you.

10 A. My wife did.

11 Q. Your wife did?

12 A. (Nodding.)

13 Q. Were you sitting next to her and gave her the  
14 answers, Mr. Davis?

15 A. Uh-huh (affirmative response).

16 Q. Okay.

17 A. Yes, sir.

18 Q. All right. And I -- just for our purposes  
19 today, and I promise you there are not any trick  
20 questions or no right or wrong answers, sir. It says  
21 you're a high school graduate in 1977; is that  
22 correct?

23 A. From the trade school, the trade school they  
24 send me to.

25 Q. Yes, sir.

1 A. They give you a diploma, but it said for -- what  
2 I took, a food service, or fry cook, rather, and  
3 that's what it says on the diploma, but it was in '77  
4 when they graduate me from that school.

5 Q. Yes, sir. Have you had to fill out job  
6 applications since you graduated high school and went  
7 out in this world as we speak today, sir?

8 A. Well, how I do that, my wife would fill out some  
9 papers, you know, how to spell some words and then  
10 when I go fill out the application she already got  
11 them write out on the paper. Like for reference and  
12 things, she have it fill out and I just fill in the  
13 blanks, you know, that's how I do that.

14 Q. Yes, sir. It says in your questionnaire,  
15 question number 35, I know you do, you know, have the  
16 question there in front of you, that you read the  
17 newspaper. Is that correct, sir?

18 A. Well, I look through the newspaper.

19 Q. Okay. You read the News & Courier?

20 A. Yes, sir. That's the paper, I think.

21 Q. And it says I think about reading books, you  
22 don't read any books. If Her Honor were to ask you  
23 this question, or either Mr. Bailey or I, I would be  
24 happy to state, and the defense attorneys, if you  
25 were able to sit here like you're listening to me

## Juror 67 Earl Davis - Examination

1 right now and paying close attention to me, sir, I  
2 thank you for that, your kindness.

3 A. Yes, sir.

4 Q. Mr. Davis, would you understand us as we speak  
5 to you?

6 A. Yes, sir.

7 Q. Okay. And do you think you would be able to  
8 follow Her Honor's instructions? In other words, if  
9 she tells you that the law says X, whatever she may  
10 tell you, could you follow that as a citizen and obey  
11 her instructions?

12 A. Uh-huh (affirmative response).

13 Q. If you were handed -- not in this case, but if  
14 you were ever on a jury and handled photographs,  
15 could you read them and understand them, you know,  
16 like look at a picture and understand what it says?

17 A. No. Not if it's reading it, no.

18 Q. Okay. But if you were handed any legal  
19 documents you could not read that at all?

20 A. I wouldn't understand what I'm reading.

21 Q. When you were handed what we call the  
22 questionnaire, did you -- could you read the words on  
23 that questionnaire that Her Honor asked you to read  
24 back in the back room?

25 A. Well, you know, I look over it. Some words I

## Juror 67 Earl Davis - Examination

1 know, but to understand it I don't.

2 MR. CUMMINGS: Beg the Court's indulgence,  
3 Your Honor.

4 (Mr. Cummings and Ms. Hardee-Thomas conferring  
5 with Mr. Bowman.)

6 MR. CUMMINGS: Judge, I have no further  
7 questions of the gentleman at this time.

8 THE COURT: Very well. Mr. Bailey.

9 MR. BAILEY: Your Honor, could you indulge  
10 a second here?

11 THE COURT: Sure.

12 MR. BAILEY: No questions, Your Honor.

13 THE COURT: Sure. Very well. Mr. Davis,  
14 I'm going to ask you to step right outside here  
15 for me just a moment. I'll ask you to step back  
16 in. You take your time. Take your time. Thank  
17 you, sir. We'll be right with you.

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

20 THE COURT: Yes, sir.

21 MR. CUMMINGS: May it please the Court,  
22 Judge, and I'll be as brief and humble as I can  
23 here in a moment. One of the issues that's come  
24 up with Mr. McCarter, and the only reason I  
25 remember that name is because I recognize the

## Juror 67 Earl Davis - Examination

1 name and face, was that he did not give complete  
2 and truthful answers and that was a cause of  
3 great concern for you, Your Honor, and all of us  
4 out here as lawyers.

5 Mr. Davis could have easily answered  
6 honest questions about whether or not anybody  
7 could read, write, understand the English  
8 language as part of your jury instructions to  
9 the general panel. And further, his wife filled  
10 out the document and it would have been real  
11 easy for anybody to let him if he just came up  
12 here approached Your Honor yesterday. Plus this  
13 gentleman asked to be excused the first time and  
14 never told any of this when we were asking  
15 questions up here. You accommodated him because  
16 of any concerns for his legs.

17 I know that he is a member of our  
18 cognisable race, Mr. Davis is a black male, my  
19 client is a black male, but, judge, I don't  
20 believe statutorily that you could find him  
21 qualified. Plus we also have an issue of his  
22 answers on the questionnaire not being complete  
23 and truthful as I humbly say. But I don't think  
24 there's any reason or any way I could keep him  
25 on this jury, Judge, or as Mr. Bailey as an

## Juror 67 Earl Davis - Examination

1 officer of the Court.

2 THE COURT: And you sure tried.

3 MR. CUMMINGS: Yes, ma'am.

4 THE COURT: Any objection?

5 MR. BAILEY: No, ma'am. Just to add to  
6 that for the record, he came up earlier as one  
7 of the jurors that had wanted to be excused and  
8 said he had circulation problems with his legs  
9 and that may be another reason to take a close  
10 look at him.

11 THE COURT: Indeed. All right. I gather  
12 you likewise --

13 MR. BAILEY: I would agree with Mr.  
14 Cummings.

15 THE COURT: I understand. I agree with  
16 you, too, Mr. Cummings. And I'm concerned  
17 about -- I'm concerned about obviously his  
18 inability to read. And just as you said, either  
19 he can't read -- and I think he can't read based  
20 on his answers, but you're right, he puts in  
21 there the business about being able to read the  
22 newspaper and so he was -- it appears that he  
23 was not candid with his inability to read when  
24 he says he can read the newspaper. But I think  
25 he's -- obviously is disqualified and I would

## Juror 67 Earl Davis - Examination

1 likewise agree with you. All right.

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

4 THE COURT: You do not have to even be  
5 seated back down, Mr. Davis. Obviously our law  
6 requires, as you know from yesterday morning,  
7 that you have to be able to read. And also  
8 yesterday you mentioned difficulty with your  
9 legs and your circulation and your concern about  
10 that as well. And you know that, of course, the  
11 questionnaire talked about the -- that you read  
12 the newspaper and now we learn that you cannot  
13 read. I think based upon all those matters, I  
14 think it's best, particularly as you've  
15 expressed your health concerns that you not  
16 serve on this jury and on that basis I will  
17 disqualify you. But I certainly thank you so  
18 much for your candor and I thank you for being  
19 with us yesterday and today.

20 And I would ask of you this,  
21 Mr. Davis, not to discuss this matter, this  
22 process, these questions with anyone who might  
23 be a potential juror, folks who were here  
24 yesterday, anybody certainly that's around the  
25 courthouse. Beyond that you can talk about this

## Juror 67 Earl Davis - Examination

1 with anybody you want to, but obviously you can  
2 determine that. Thank you so much for being  
3 here today, Mr. Davis. Mr. Davis, do you want  
4 to go this way and catch the elevator?

5 MR. DAVIS: Yes.

6 THE COURT: Well, you can do that very  
7 thing. Thank you so much for coming in.

8 (Whereupon, the prospective juror exits the  
9 courtroom.)

10 THE COURT: And we'll have Ms. Mills-  
11 Hanhauser.

12 (Mary Mills-Hanhauser, called as a prospective  
13 juror, having previously been duly sworn, is  
14 examined as follows:)

15 EXAMINATION

16 BY THE COURT:

17 Q. Good afternoon. Now, let me get this right.

18 It's Mills-Hanhauser; is that right?

19 A. Mills-Hanhauser.

20 Q. Mills-Hanhauser.

21 A. There you go.

22 Q. Great. All right. Very well. And

23 Ms. Mills-Hanhauser, I'm going to get this right,

24 Ms. Mills-Hanhauser?

25 A. I said Mary is easier.



1 Q. You got it, Mary. All right, Mary.

2 THE COURT: And for our record she is Juror  
3 Number 209, Ms. Mills-Hanhauser.

4 Q. You have been sworn along with all the other  
5 potential jurors as you will recall yesterday, and  
6 your oath that you took still remains with this  
7 progression of questions and answers here today. And  
8 I'd ask if you understand that?

9 A. I do.

10 Q. All right. And since we talked with you  
11 yesterday has anyone talked with you about this case  
12 and tried to talk with you about this case, or have  
13 you inadvertently or otherwise been exposed to any  
14 information about this case?

15 A. No.

16 Q. Now, when you were back in the jury room, you  
17 were given a list of potential witnesses. I'll pass  
18 that up there in case you need to refer to it.

19 A. I don't, thank you.

20 Q. I would ask of you, first of all, have you had a  
21 chance to review the list?

22 A. Yes, I have.

23 Q. Are you related by blood or marriage, acquainted  
24 with, or have any connection with any of these  
25 potential witnesses?

1 A. No.

2 Q. Directly or indirectly?

3 A. No.

4 Q. All right. Now, you did not indicate yesterday  
5 when we asked whether or not you had an opinion as to  
6 this matter or had seen, read, or heard anything  
7 about this case, or if you had a bias or prejudice  
8 for or against either party in this case, you did not  
9 indicate that any of those things applied to you at  
10 that time; is that right?

11 A. Yes.

12 Q. And since we talked has anything come into your  
13 memory that may have jogged your memory or your  
14 knowledge that would change your answers from the  
15 answers yesterday?

16 A. I know absolutely nothing about this.

17 Q. Okay. Very well. And I'm having not one bit of  
18 trouble hearing you, but I wonder whether or not --

19 A. I'm sorry.

20 Q. That's okay; it happens. Because we're having a  
21 conversation. I bet Ms. Hardee-Thomas is struggling  
22 and I bet Mr. Lafond might be struggling, so if you  
23 could keep your voice up, I want to be sure you can  
24 hear.

25 MS. HARDEE-THOMAS: Thank you.

1           THE COURT: I don't know I've been as good  
2           about that as I should have been to you, Ms.  
3           Hardee-Thomas.

4   Q. All right. Now, I'm going to be asking you some  
5   questions. And I want to talk for just a moment why  
6   I'm going to be asking you these questions, so we'll  
7   just talk about the questioning process for just a  
8   moment. I'm going to be asking you some questions  
9   because I need to know about how you feel about  
10   certain matters, I need your opinions on certain  
11   matters, if you will.

12           And the reason that I need to have  
13   your opinions on those certain matters, quite  
14   frankly, is to find out whether or not they have any  
15   impact on your jury service. Obviously I'm not  
16   challenging your opinions, your opinions are just as  
17   good and valid as anybody else's, there obviously are  
18   no right or wrong answers to the questions I'm going  
19   to ask of you and I really don't mean to delve into  
20   your privacy.

21   A. Okay.

22   Q. I don't mean to violate that one bit. Again,  
23   the purpose of my asking you your opinions is simply  
24   to find out whether or not your opinions could have  
25   an impact on your jury service.

1                   Now, in a moment I'm going to be  
2 asking you about penalty, specifically the death  
3 penalty. And I want you to understand, though, that  
4 the fact that we are talking about penalty this time  
5 is obviously very premature. It's premature because  
6 the trial hasn't even begun. But penalty could, may  
7 arise in this case and that's the reason that it's  
8 important that I ask you before the trial begins some  
9 information about your opinions as they could, or as  
10 they relate to penalty.

11                   But let me reiterate as I did  
12 yesterday, that Mr. Bowman is presumed innocent of  
13 these charges. And let me just emphasize that you  
14 should take no meaning from the fact that we are  
15 simply talking about penalty at this stage. You just  
16 need to know that this is the time for us to have an  
17 opportunity to talk to potential jurors before the  
18 trial gets underway.

19                   Let me reiterate, again, to you that  
20 Mr. Bowman is presumed innocent and that presumption  
21 of innocence will remain with him throughout this  
22 trial. Every defendant in every criminal case in  
23 this country is presumed innocent. So let me just  
24 reiterate that because that's important that you hold  
25 that and keep that thought as we talk some about

1 penalty.

2 Now, I'm going to also ask you some  
3 questions and I'm going to ask those questions in a  
4 general or generic sense. I'm going to ask you about  
5 a criminal case, again, in a general sense because  
6 I'm not going to ask you about this case. Number  
7 one, you don't know anything about this case; number  
8 two, it wouldn't be fair; and number three, it  
9 wouldn't be proper. So I'm not going to ask you  
10 about this case, but I am going to ask you some  
11 questions in the general sense.

12 Now, if you were a juror in any  
13 criminal case would you be willing to listen to the  
14 law as you were instructed by the trial judge?

15 A. Yes.

16 Q. Would you be willing to accept that law, apply  
17 that law to the facts as you found them to be?

18 A. I think I would.

19 Q. All right. And even though you may not  
20 particularly like the law, you may disagree with it,  
21 would you yet and still be willing to follow the law  
22 as you were instructed to do so by the judge?

23 A. Yes.

24 Q. Now, if you were asked to serve in the case of  
25 the State vs. Mr. Bowman, could you decide this case

1 based upon the evidence in this courtroom, based  
2 solely upon what you hear in this courtroom, and  
3 disregard anything that you may have seen, or heard,  
4 or read about this case from any source at all if  
5 anything like that should come into your memory?

6 A. I think I could.

7 Q. In other words, what happens to jurors sometimes  
8 is that during the course of the trial they can hear  
9 something and it jogs some memory. So we ask at this  
10 time if that happened to you can you set that aside  
11 and disregard that memory, listen to the evidence --

12 A. I believe I could.

13 Q. -- in this courtroom?

14 A. I believe I could.

15 Q. Very well. Now, in a criminal case as you know,  
16 we talked about it yesterday, the State has the  
17 burden of proving the guilt of a defendant beyond a  
18 reasonable doubt, any defendant, and this defendant.  
19 A defendant and this defendant never has to prove  
20 himself or herself innocent. The burden is always  
21 upon the State to prove a defendant guilty beyond a  
22 reasonable doubt.

23 And the reason for that is, again,  
24 defendants under our law, and this defendant,  
25 Mr. Bowman, is presumed innocent under the law. Do

1 you understand this?

2 A. Yes, I do.

3 Q. So if you were a juror in any criminal case  
4 would you be willing to listen to the facts, listen  
5 to the circumstances, and listen to the law as you  
6 were instructed?

7 A. Yes, I do.

8 Q. And listening to the evidence in the case and  
9 finding the facts as you would find them to be in a  
10 criminal case, applying that law to those facts, if  
11 in any criminal case after you applied the law to the  
12 facts as you found them to be if you were not  
13 convinced of a defendant's guilt beyond a reasonable  
14 doubt, would you be willing to find that defendant  
15 not guilty?

16 A. If I -- yes, I would.

17 Q. All right. And on the other hand, if you  
18 listened to the evidence and found the facts as you  
19 found them to be, applied the law to those facts, if  
20 you were convinced that the defendant was guilty and  
21 the State had proven his or her guilt beyond a  
22 reasonable doubt, would you be willing to find that  
23 defendant guilty?

24 A. Yes, I would.

25 Q. All right. So you would be willing to listen

1 and to make your decision based upon whether or not  
2 you were convinced that a person is guilty or not?

3 A. Yes.

4 Q. Now, most of the time jurors do not concern  
5 themselves with the matter of punishment. Most of  
6 the time in the criminal courtroom punishment is left  
7 up to the judge. But there's one case in our law  
8 when a jury does concern itself and does deal with  
9 the matter of punishment, and that is a case like  
10 this one. It is in a case where an individual has  
11 been charged with the crime of murder and where the  
12 State is seeking the death penalty. If any  
13 individual in a death penalty case is convicted of  
14 the crime of murder, then the same jury that  
15 convicted him or her of murder must come back and in  
16 a separate and different proceeding decide the  
17 sentence that the defendant would receive, would get.

18 There are two choices. Number one,  
19 life imprisonment without the possibility of parole,  
20 and the death penalty. The penalty, again, would be  
21 determined in the second, or what's call the  
22 sentencing phase of the trial. Do you understand  
23 this?

24 A. Yes, I do.

25 Q. Now, back in the jury room you had an



1 opportunity to look at this paper, and I just put it  
2 there for your reference. And that paper essentially  
3 describes three different types of jurors. Do you  
4 remember those three different types of jurors?

5 A. Yes, I do.

6 Q. All right. Which of those three types of jurors  
7 best describes you?

8 A. Type number three.

9 Q. Type number three. In other words, you would be  
10 willing to listen to whatever you hear and if you  
11 thought based upon hearing the testimony, hearing the  
12 evidence that it was appropriate to sentence someone  
13 to death you would be willing to do that?

14 A. Yes.

15 Q. You would be able to do that?

16 A. I would be, yes.

17 Q. All right.

18 A. I believe in it.

19 Q. All right. And, and on the other hand, if you  
20 thought the death sentence was not appropriate based  
21 upon the evidence that you heard, and for any other  
22 reason you determined that you thought that the  
23 person ought to receive life imprisonment, would you  
24 be able and willing to vote for a sentence of life  
25 imprisonment?

1 A. Yes, I believe I would.

2 Q. All right. So you would make the decision based  
3 upon what you would hear in the courtroom?

4 A. Yes.

5 Q. After you heard the evidence if you found the  
6 death sentence was appropriate you would be willing  
7 to vote for that?

8 A. Yes.

9 Q. And if you thought that a life sentence was  
10 appropriate, you would be willing to vote for that?

11 A. Whichever one would be fair, yes.

12 Q. All right. And you would make that  
13 determination after you heard the evidence?

14 A. Only after.

15 Q. Okay. Now, let me say to you that if you were  
16 chosen to serve as a juror in this case, you and the  
17 other jurors would be housed, county's expense, the  
18 word is sequestered, you would be housed here in a  
19 local motel during the course of this trial. That's  
20 where you would stay until the trial is over, except,  
21 of course, when you were in the courtroom.

22 This period could be as long as two  
23 weeks, it could be longer, it could be shorter.

24 There's no way for me to know at this moment how long  
25 the trial will actually take. Obviously that would

## Juror 209 Mary Mills-Hanhauser - Examination

1 create an inconvenience on you, as it surely will for  
2 all who serve on this jury. Other than the  
3 inconvenience which it surely will cause anybody who  
4 has to serve in this capacity, would that pose a  
5 serious risk of danger to your health, or your well  
6 being, or to that of anybody who is dependent upon  
7 you if you had to serve in that capacity?

8 A. No.

9 Q. You would be able to do this?

10 A. Reluctantly, yes.

11 Q. All right. All right. Understanding the  
12 inconvenience of it?

13 A. Yes.

14 Q. All right. At this time, Ms. Mills-Hanhauser --  
15 did I get it right?

16 A. Yes, you did.

17 Q. All right. I'm going to -- no doubt counsel  
18 will have questions as they are entitled.

19 THE COURT: And I would ask of them at this  
20 point, Mr. Bailey.

21 EXAMINATION

22 BY MR. BAILEY:

23 Q. Ms. Hanhauser, I want to ask you just a few more  
24 questions. Like the judge said, there are no right  
25 or wrong answers.

1 A. Sure, okay.

2 Q. I noticed in your questionnaire that you'd had  
3 some, I think, both positive and negative experiences  
4 with law enforcement in the past?

5 A. Yes.

6 Q. Would those experiences, either good or bad,  
7 have any influence on your ability to sit as a juror  
8 in this case?

9 A. I do not believe that.

10 Q. Okay. And in regard to the death penalty, you  
11 understand that we would not even be addressing that  
12 issue unless and until the defendant was found guilty  
13 of murder in the first part of the trial?

14 A. Yes, I do.

15 Q. And then if the jury finds him not guilty that's  
16 the end of it, if they find him guilty beyond a  
17 reasonable doubt we go into phase two of the penalty  
18 phase, there would be additional evidence, additional  
19 instructions from the judge and the jury has two  
20 choices to make, life without parole or the death  
21 penalty.

22 A. I understand.

23 Q. And you've indicated that you would not have  
24 your mind made up ahead of time, you would want to  
25 hear what came out in that trial, what instructions

1 the judge gave. And depending on what you heard you  
2 could vote for death, or you could vote for life  
3 without parole; is that correct?

4 A. This is true.

5 Q. If all 12 jurors reached that second phase of  
6 the trial and they all voted the death penalty, each  
7 one of them is asked to stand up when their name is  
8 called and announce out loud if that's their verdict.

9 Could you announce that if that was your verdict?

10 A. Yes, I could.

11 Q. Could you sign your name to a piece of paper,  
12 death verdict form, that would result in that person  
13 actually being executed at some point?

14 A. Only if I believed in it.

15 Q. All right. And by the same token, if you  
16 believed the life sentence was appropriate you could  
17 vote for that; is that correct?

18 A. Yes, I could. Yes.

19 Q. All right. That's all I have, ma'am. Thank you  
20 very much.

21 THE COURT: All right. Mr. Cummings.

22 EXAMINATION

23 BY MR. CUMMINGS:

24 Q. Good afternoon, ma'am. You notice I didn't even  
25 try to introduce your hyphenated last name.

1 A. That's why I said Mary's easier.

2 Q. But I think Her Honor would look at Mr. Bailey  
3 or I to stand up here and call anybody's first name  
4 in a very opportunistic way, but probably not a right  
5 way for us to do that.

6 A. Okay.

7 Q. Ma'am, the first thing I would like to go back  
8 and ask you, as you understand I'm Norb Cummings and  
9 I represent Mr. Bowman, the other young lady sitting  
10 at the table there is co-counsel, Ms. Marva  
11 Hardee-Thomas.

12 You were married formerly to a  
13 gentleman, according to your questionnaire, who was a  
14 captain in the Department of Corrections up in New  
15 Jersey?

16 A. He still is.

17 Q. He's still up there?

18 A. Yes.

19 Q. And you have children with that young man?

20 A. Yes, I do.

21 Q. Would the fact that he was a correctional  
22 officer, and I'm not sure if it's in Rahway, or  
23 wherever?

24 A. Rahway, as a matter of fact.

25 Q. Okay. The fact that you were married to him and

1 the fact of what he did for a living, would that  
2 substantially impact on you or impair your ability to  
3 sit as a fair and impartial juror in any case -- you  
4 don't know the facts of this one -- but in any case  
5 where a citizen would be put to trial?

6 A. That was his occupation and not mine and he  
7 didn't bring it home.

8 Q. Okay.

9 A. So I would say, no. What he did would have  
10 nothing to do on my feelings.

11 Q. He never came home with any horror stories,  
12 never told you about people in general?

13 A. He refused to bring that home.

14 Q. And I notice that you were a military member for  
15 12 years.

16 A. Uh-huh (affirmative response).

17 Q. And now you carry that over to the Department of  
18 Defense now?

19 A. Right.

20 Q. In your 12 years of Air Force and military  
21 career, did you ever work in like security or AP, or  
22 the air police and all?

23 A. No.

24 Q. Okay. And, again, ma'am, I apologize with  
25 trying not to invade your privacy.

1 A. That's okay.

2 Q. Trying not to cause any discomfort, but I think  
3 in what we call our questionnaire number 22 it says,  
4 "Have you, or a member of your immediate family,  
5 close personal friend been the victim of a crime?"

6 And you politely answered, "Yes."

7 And I was going to ask you if you  
8 could just elaborate on that just a little bit to,  
9 again, not cause any embarrassment or harm, but if --

10 A. Would you like negative or positive? I mean, do  
11 you want the victim, or you want the one that did it,  
12 which way?

13 Q. The basis of my question, ma'am, is to say,  
14 again, would that substantially impact you being a  
15 fair and impartial juror? And, again, if --

16 A. I think it's only made me more fair or impartial  
17 because I've heard both sides of the story. I've  
18 heard negative, I've heard positive.

19 Q. Thank you, ma'am. And the reason why I asked  
20 that question is because it was just left with yes  
21 and that's why I just try to expound on it a little  
22 bit.

23 And then there is a question in here,  
24 and obviously you express a very strong belief about  
25 extramarital affairs. And, again, if you were ever



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1 picked to be on a jury and if any conversations or  
2 any elements of that were to come out, would that  
3 substantially impact you being a fair and impartial  
4 juror if you were to hear anything about that?

5 A. I do have an opinion, but I can listen to -- I  
6 can listen to a situation, but I do have an opinion.  
7 It is an opinion formed already as far as  
8 extramarital affair.

9 Q. Could you set aside that opinion? And that's  
10 why we're all human beings, all individuals. Could  
11 you set aside that personal opinion to render a fair  
12 and impartial verdict?

13 A. I probably could. I can't say yes for sure  
14 until I know the situation, but I probably could.

15 Q. Okay. If Her Honor were to charge you the law  
16 as to a certain issue or a certain fact, would you  
17 still be able to set aside your personal opinion --

18 A. I think I could.

19 Q. -- and follow Her Honor's instructions?

20 A. I think I could.

21 Q. And but you couldn't say that with a hundred  
22 percent certainty today?

23 A. No, I couldn't. I couldn't be a hundred percent  
24 positive on it.

25 Q. And if a person was convicted of murder beyond a

1 reasonable doubt, and then and only then will we ever  
2 get to the second phase of any trial, is it your  
3 belief that you would always vote for the death  
4 penalty, or you would want to take every  
5 consideration into effect and give any citizen the  
6 benefit of the doubt as to life without the  
7 possibility of parole sentence along with your other  
8 jurors, or would you always vote for death after  
9 that?

10 A. I used to think that I would always vote for the  
11 death penalty, but I don't believe that now. I  
12 believe that I would have to hear all the details  
13 first before I could make that decision.

14 Q. And you're also the type of juror that  
15 understands that no citizen ever has to prove  
16 themselves innocent of put up any evidence at all if  
17 you were ever selected on a jury panel?

18 A. Yes.

19 Q. And so it wouldn't be that you would have to  
20 expect somebody to come up and prove themselves why  
21 their life should be spared, or why their life should  
22 be taken by the State?

23 A. I understand that, yes.

24 Q. And the only reason I ask that, ma'am, that's  
25 that fundamental issue, and, again, trying to get a

1 juror that would follow Her Honor's instructions,  
2 follow the evidence and law presented in the  
3 courtroom today, you would be that kind of lady?

4 A. I hope so.

5 Q. Thank you, ma'am.

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

7 THE COURT: Sure. Sure, Mr. Cummings.

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

10 MR. CUMMINGS: Judge, that's all the  
11 questions we have of this nice lady. Thank you.

12 THE COURT: Thank you, Mr. Cummings.

13 MR. BAILEY: Nothing further, Your Honor.

14 THE COURT: I'm going to tell you what I'm  
15 going to ask you to do. I'm going to ask you  
16 to, first of all, dodge the falling papers; and  
17 then secondly, I'm going to ask you to just step  
18 right outside the courtroom, we won't be a  
19 moment and have you come right back in. And,  
20 yes, we're going to talk about you behind your  
21 back.

22 MS. MILLS-HANHAUSER: Okay.

23 (Whereupon, the prospective juror exits the  
24 courtroom.)

25 THE COURT: All right. What says the

1 defense?

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

3 THE COURT: Did he go first?

4 MR. CUMMINGS: Walter went first, that's  
5 okay. I'm sorry, I'll stand up.

6 THE COURT: I'll let him go first.

7 What says the State?

8 MR. BAILEY: Qualified.

9 THE COURT: What says the defense?

10 MR. CUMMINGS: Your Honor, I'm trying to  
11 remember correctly the exact words she said,  
12 Ms. Thomas is writing while I was up here. My  
13 main consideration, Judge, is that this lady  
14 would not be able to set aside her personal  
15 opinion and belief as to the issue of an  
16 extramarital affair or infidelity. And I asked  
17 about that and I think her exact words were she  
18 thinks she would try, or possibly.

19 And, Your Honor, there may be some  
20 evidentiary issues. I know you've not heard any  
21 issues, but the reason why we have that question  
22 in there is because of a particular issue that  
23 may come out. And, Your Honor, I don't believe  
24 that she could be a fair and impartial juror  
25 based on her own statements. And it's not a

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1 question of whether she can try it or not, it's  
2 whether she can set aside her personal beliefs  
3 and whether or not it would substantially affect  
4 her being a fair and impartial juror. And I  
5 think, Judge, she would not be statutorily  
6 qualified, as well as she holds an opinion or  
7 bias against people who would be involved in an  
8 extramarital affair, Judge, respectfully.

9 THE COURT: Thank you very much. All  
10 right. I find that she's qualified. And I  
11 think that you have to listen to, and I think  
12 the law is very clear that the Court has to  
13 listen to and assess any information, the  
14 demeanor of the prospective juror in its  
15 entirety. What is very difficult, particularly  
16 in the way that the questions get asked, it's  
17 like, you know, how would you feel if an  
18 extramarital affair came up in a case. You say  
19 you don't like them. You know, would you  
20 completely set it aside. And I think it's very  
21 difficult for a person in this circumstance to  
22 say anything other than I believe that I could.  
23 But it's very difficult when they have that  
24 information in a vacuum.

25 But judging from her demeanor, judging

1 from the many, many, many questions that she was  
2 asked about her ability to be fair and  
3 impartial, she repeatedly expressed and stressed  
4 her belief, and listening to the evidence and  
5 after listening to that evidence to make up her  
6 mind after that. And I'm convinced that the --  
7 that while she has an opinion that extramarital  
8 affairs are not proper, I think you'll probably  
9 find that opinion widely in our society. And in  
10 our culture it says -- the response actually  
11 says I do have a strong opinion against  
12 extramarital affairs, but I don't think it would  
13 cloud my judgment.

14 From the questionnaires that I've seen  
15 at this point, I don't remember anyone who took  
16 the time in the response on their questionnaires  
17 to say that while I have a strong opinion, I  
18 don't think it would cloud my judgment. So I  
19 think that what she has tried to express both on  
20 the questionnaire and here in the courtroom  
21 today is that she -- is that -- is that she  
22 could set her opinions aside and that those  
23 opinions would not prevent or substantially  
24 impair her from her duties as a juror, and I so  
25 find over the objection and the exception of the

1 defense.

2 MR. CUMMINGS: Thank you, Judge.

3 MR. BAILEY: Thank you, Your Honor.

4 THE COURT: Very well. Have her come back  
5 with us.

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

8 THE COURT: Ms. Mills-Hanhauser, let me  
9 tell you, you have been found to be qualified.  
10 That does not mean that you are a juror yet, but  
11 it does mean that you are a potential juror and  
12 you may be selected to serve on this jury. We  
13 are hoping that we will be able to select a jury  
14 in this case on Thursday afternoon at two  
15 o'clock. This may be a little ambitious, and I  
16 may have to change the time, but if I do we will  
17 call and let you know that, we'll call in plenty  
18 of time for you to know that. But unless you  
19 hear back from us, please be in the courtroom  
20 two o'clock Thursday.

21 And Ms. Etheredge has for you a sheet  
22 of paper and that has some instructions to help  
23 you get ready for your jury service, like  
24 packing clothes, you know, packing and bringing  
25 your medications that you may be needing. It

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1 will have -- or it should have on there where  
2 you will be housed during the course of the  
3 trial and also have emergency numbers, both one  
4 during the day here in the courtroom, or  
5 courthouse. Not courtroom, but courthouse. And  
6 the number, the emergency number in the evening.

7 Please feel free to share these  
8 details, these housekeeping details, if you  
9 will, with anyone that you think is appropriate.  
10 However, let me remind you that you must not  
11 discuss any aspect of this case or allow anyone  
12 to discuss it with you. You can also remember  
13 that you must not expose yourself to any  
14 information about this case from any source at  
15 all. Do you understand this?

16 MS. MILLS-HANHAUSER: I sure do.

17 THE COURT: Thank you so much. And I look  
18 forward to seeing you Thursday at 2:00.

19 MS. MILLS-HANHAUSER: Have a good day.

20 THE COURT: Packed and ready to go. Thank  
21 you, ma'am.

22 (Whereupon, the prospective juror exits the  
23 courtroom.)

24 MR. BAILEY: In regard to Mr. Smalls I  
25 wanted to disclose to the Court Sam Richardson,



1       who is my jury investigator, reviewed the jury  
2       list and he is some relationship to him and just  
3       I wanted to disclose that.

4               MR. CUMMINGS: Thank you, sir.

5               THE COURT: Thank you. Do you remember  
6       what that relationship is?

7               MR. BAILEY: He didn't say. He just said  
8       he's a relative. I could find out.

9               THE COURT: I got you. You don't know if  
10      it's brother, or if it's an eighth cousin?

11              MR. BAILEY: I think it would be closer to  
12      eighth cousin.

13              THE COURT: I think it will be important if  
14      Mr. Smalls knows that, too.

15              Mr. Bailey, our next prospective juror  
16      is Kris Tempkin, is the juror you needed to  
17      check with another state?

18              MR. BAILEY: Mr. Bell made a call on that  
19      and apparently he got -- the charge he was  
20      convicted of carried up to five years, but the  
21      adjudication was withheld upon completion of  
22      probation. And I don't know whether or not he  
23      completed the probation, but if he did then  
24      there would be -- the adjudication would be  
25      withdrawn as I understand it, sort of like a

1 conditional sentence.

2 So I did not review the statute to  
3 see. I mean, it's a procedure we don't have in  
4 this state that I'm aware of. I'm not sure how  
5 the statute reads and how it would apply to  
6 this, but he did plead to a charge that carried  
7 in excess of one year and is still -- and is  
8 still on the rap sheet, so I guess we need to  
9 ask him further what happened.

10 THE COURT: What concerns me is that I  
11 don't know that he will have any information  
12 that would be of assistance.

13 Yes, sir, Mr. Cummings.

14 MR. CUMMINGS: I'm sorry, Judge, that's  
15 what I was going to stand up to do and I know  
16 that -- argue that. I hate to say it, in other  
17 states they do have procedures where if they're  
18 of good behavior for a couple years it is  
19 expunged then, or should be expunged and no  
20 adjudication. I know personally that New York  
21 had that, it's called an adjournment  
22 contemplation of dismissal. Again, that brings  
23 back some old roots, but as far as the  
24 procedures a lot of cases don't get expunged.  
25 Your Honor is up here numerous times on bail and

1 bond hearing, I wasn't found guilty of it, still  
2 on a rap sheet.

3 THE COURT: Let me ask you this question.  
4 Am I hearing from you that the defense would  
5 like for Mr. Tempkin to be considered as -- and  
6 not disqualified on the basis that you are  
7 telling me?

8 MR. CUMMINGS: Yes, ma'am. On the basis  
9 it's presented right now.

10 THE COURT: Sure.

11 MR. CUMMINGS: When his rap sheet was  
12 brought up here by the state as our statute and  
13 laws require I don't believe he's been  
14 statutorily disqualified at this point. I think  
15 he should be treated like every other potential  
16 juror and dealt with the process both by the  
17 State and by the defense.

18 THE COURT: I understand.

19 MR. BAILEY: I misspoke in saying that was  
20 a New York situation, it was Florida. It was  
21 the other lady, got her name, was a New York  
22 situation. It does indicate a probation  
23 violation on his rap sheet which would lead me  
24 to believe that possibly he did not complete the  
25 program.

1                   Your Honor, I'll show this to Mr.  
2                   Cummings, but it appears the burglary auto  
3                   felony conviction was back in 1993, burglary  
4                   destruction conveyance in 1993 where he got a  
5                   two-year probationary sentence. But in  
6                   April 2002 it looks like he got a probation  
7                   violation in reference alcohol minor, I don't  
8                   know whether selling. He did not appear to be a  
9                   minor to me.

10                  THE COURT: No.

11                  MR. BAILEY: Potentially conveyed this  
12                  alcohol to a minor. He shows no disposition.

13                  MR. CUMMINGS: Obviously, Judge, just to go  
14                  back as I read this page, in particular it says  
15                  disposition date 3-23-93, disposition ADJ  
16                  withheld. Adjournment at least. I understand  
17                  this would be adjournment. If he does have a  
18                  violation of probation I don't see that. I  
19                  don't want to frustrate justice, I don't want to  
20                  stand before you and say that he should  
21                  automatically just come on forward since he has  
22                  at least some involvement with the police, but  
23                  at least on behalf of Mr. Bowman right now I  
24                  don't see any convictions that would bar him  
25                  unless --

1           THE COURT: Why don't we do this. Why  
2           don't we bring him in and we'll just ascertain  
3           as much information as we can from him. As I  
4           recall yesterday in my discussions with him he  
5           was not a wealth of information or  
6           understanding --

7           MR. CUMMINGS: Yes, ma'am.

8           THE COURT: -- about the process. And  
9           we'll just see where it goes. How about that?

10          MR. CUMMINGS: Yes, Judge.

11          MR. BAILEY: Do you want me to hand this  
12          up?

13          THE COURT: Sure, I don't know anything.  
14          Y'all feel free to approach and get this rap  
15          sheet when you all question him if you feel like  
16          you need it.

17          MR. BAILEY: Yes, ma'am.

18          THE COURT: All right, Mr. Tempkin.

19          MR. BAILEY: Mr. Bell is here and he might  
20          be able to --

21          THE COURT: Can you shed light, Mr. Bell?

22          MR. BELL: Yes, Your Honor. I talked with  
23          a -- I believe it was an assistant State's  
24          attorney in Leon County, Florida, which is  
25          around Tallahassee, and he actually pulled up

1 Mr. Tempkin, I think is his name, rap sheet on  
2 the county, on their clerk of court's office.  
3 What he explained to me was he was convicted of  
4 this basically what's burglary third in Florida,  
5 it's breaking into cars and shacks and all that  
6 which carries up to five years. However, he had  
7 adjudication withheld. Florida is one of the  
8 few states that has that. Basically they put  
9 him on probation, they successfully complete  
10 probation and then they're adjudicated as not  
11 being a convicted felon. Their civil rights are  
12 never taken away unless they violate that  
13 probation. He successfully completed, so as I  
14 understand it he's -- his civil rights have  
15 never been taken away.

16 THE COURT: In tact. All right. Thank you  
17 so much, Mr. Bell.

18 MR. CUMMINGS: Based on that representation  
19 then I don't think we have to ask this gentleman  
20 any questions when he takes the stand other than  
21 our statutory questions.

22 MR. BAILEY: Your Honor, the only other  
23 thing is the 2002 offense in Florida I think  
24 should be addressed. Apparently there was a  
25 probationary sentence or some reference to

1 probation on the rap sheet, a conviction this  
2 year or an arrest this year.

3 THE COURT: Okay.

4 MR. BAILEY: I'm not sure.

5 MR. BELL: I didn't question that. The  
6 only thing that he told me there was a reckless  
7 driving or something on his -- that was a  
8 misdemeanor in Florida or something like that,  
9 so....

10 THE COURT: I would ask, Mr. Bailey, that  
11 you just simply ask him have you been convicted  
12 of anything in 2002. If he says yes, then we'll  
13 handle it. If he says no, since there's nothing  
14 to indicate that on the rap sheet that we move  
15 on I think would be appropriate since we don't  
16 have any information to go beyond that, okay?  
17 If you did, I certainly would want you to, but  
18 unfortunately the rap sheet looks like there's  
19 this entry and then it just sort of falls.

20 Counsel, if you want me to, I don't  
21 mind asking him if he's had any convictions in  
22 2002.

23 MR. BAILEY: If you would. I don't want to  
24 alienate him.

25 THE COURT: That's right. I would ask him.

1 MR. CUMMINGS: I'm trying to say we were  
2 talking earlier Florida basically follows New  
3 York state criminal procedural law and the  
4 substantive law.

5 THE COURT: There's a reason for it.

6 MR. CUMMINGS: Yes, ma'am.

7 THE COURT: Everybody from New York retires  
8 in Florida.

9 MR. CUMMINGS: Brooklyn, yes, ma'am.

10 THE COURT: All right. Now we will talk to  
11 him, to Mr. Tempkin.

12 (Kris R. Tempkin, called as a prospective juror,  
13 having previously been duly sworn, is examined  
14 as follows:)

15 THE COURT: Hi, Mr. Tempkin. How are you?  
16 Be seated right there for me. Thank you. For  
17 our record this is Mr. Kris R. Tempkin, who is  
18 Juror Number 298.

19 EXAMINATION

20 BY THE COURT:

21 Q. Now, Mr. Tempkin, you remember yesterday you  
22 were sworn in with all the other potential jurors  
23 yesterday morning?

24 A. Yes.

25 Q. And you remember that, don't you?



1 A. Yes, ma'am.

2 Q. And I would simply remind you that the oath that  
3 you took yesterday certainly remains in effect and  
4 applies to all the questions and answers that I would  
5 ask of you today, okay?

6 A. Yes, Your Honor.

7 Q. You understand that, great. Now, since we  
8 talked with you yesterday morning, has anyone talked  
9 with you about this case or tried to approach you  
10 about it, or have you inadvertently been exposed to  
11 any information about this matter, or have you been  
12 exposed to any information about this case?

13 A. No information. People have asked me, you know,  
14 what's been going on with my life right now, but no  
15 information, no new information or otherwise has  
16 transpired.

17 Q. All right. Do you mind sharing with us who  
18 asked you what's been going on in your life?

19 A. Team members at work, people that work for me.

20 Q. Team members at work with where have you been?

21 A. Ryan's Steakhouse in Summerville.

22 Q. In Summerville Ryan's Steakhouse, okay. And  
23 what did you tell them?

24 A. It's a trial and I have to appear and I'm on  
25 jury.

1 Q. All right. And have you discussed this case in  
2 any regard?

3 A. No. Not really, no.

4 Q. No, not really, meaning that says to me maybe a  
5 little bit?

6 A. Only that I have to be here. Where is it?  
7 St. George.

8 Q. I understand. In other words, you're just  
9 talking about where you're supposed to report, no  
10 specifics about this particular case?

11 A. No.

12 Q. I understand. All right. In other words, you  
13 work for somebody and you had to tell them that you  
14 had to return to St. George and they wanted to know  
15 why?

16 A. Right.

17 Q. Okay. And you needed to tell them that?

18 A. Yes.

19 Q. And you did?

20 A. Right.

21 Q. All right. But in terms of what this case is  
22 about, or who it involves, or what kind of case it  
23 is.

24 A. None.

25 Q. You've talked about that not at all. Very well.

1 I understand. Now, when you were back in the jury  
2 room you were given a list of names which are on the  
3 potential witness list. And first of all, I'd ask  
4 whether or not you had an opportunity to review that  
5 list?

6 A. I did.

7 Q. And after you reviewed that list did you  
8 determine that you were related by blood or marriage,  
9 acquainted with, or had any connection direct or  
10 indirect with any of these individuals? And by that  
11 I mean you have a business association, do you have a  
12 casual, personal connection, or acquaintanceship, do  
13 you have any connection with any of these folks  
14 either directly or indirectly?

15 A. Not that I could see.

16 Q. From reading the names on the list?

17 A. No. Not from the names, no.

18 Q. All right. Very well. Now, Mr. Tempkin, you  
19 were kind enough to talk to me yesterday about some  
20 matters that had -- information that I had from a rap  
21 sheet. And I've cleared that up, I believe, but I  
22 have one remaining question for you and that question  
23 is in the year 2002 have you had any convictions in  
24 Florida?

25 A. No.

1 Q. Okay.

2 A. It's still 2002. No.

3 Q. This year. How about 2001?

4 A. No, I don't think so.

5 Q. No, all right, very well. The only situation  
6 was the one we talked about yesterday and you said I  
7 don't think that was a conviction because I think it  
8 was held. Remember we talked about that?

9 A. Right. Right.

10 Q. You were correct and we've been able to confirm  
11 that.

12 A. Okay.

13 Q. Okay. All right. Very well. Now, yesterday we  
14 asked several questions, we asked questions whether  
15 or not anyone had an opinion about this case, or  
16 whether or not anyone had seen or heard or read  
17 anything about this case, or had any sort of bias or  
18 prejudice for or against either side in this case.  
19 And my notes indicate that you did not indicate that  
20 any of these things applied to you. Is that right?

21 A. Right.

22 Q. Since we --

23 A. Well, I do know somebody that knows information  
24 about it.

25 Q. Okay. Tell me about that.

1 A. But she has not told me anything about it. She  
2 won't.

3 Q. All right.

4 A. I've asked her, but she won't.

5 Q. All right.

6 A. I did see a picture of the defendant.

7 Q. Okay.

8 A. But that was the article. And she said you  
9 can't read it and I said okay, no problem.

10 Q. All right. And when did that occur?

11 A. Possibly, I think, a week ago.

12 Q. All right.

13 A. Maybe two weeks ago.

14 Q. A week ago. And would you share with me who has  
15 information?

16 A. It's my wife.

17 Q. Your wife. And how does she have that  
18 information?

19 A. She saw it in the paper.

20 Q. She read a newspaper article?

21 A. Yes.

22 Q. All right. And she would not let you see the  
23 newspaper article?

24 A. She would not.

25 Q. Okay.

1 A. Despite I even asked her her opinion just so I  
2 could try to get out of it, but she would not give it  
3 to me, so....

4 Q. All right. And that happened about a week ago?

5 A. Yes.

6 Q. All right. So you have not -- your wife has  
7 been persistent and has not shared with you any  
8 information that she may have?

9 A. The only information I have is the picture that  
10 I saw.

11 Q. The picture that you saw of Mr. Bowman?

12 A. Right.

13 Q. All right. Now, since we have -- and I gather  
14 that since we talked yesterday other than maybe this  
15 information that you're sharing with us, has anything  
16 else jogged your memory or created any knowledge  
17 about this matter that you didn't know about  
18 yesterday?

19 A. None. None whatsoever.

20 Q. All right. Now, Mr. Tempkin, we need to ask you  
21 some questions. And please know that we are not here  
22 to invade your privacy, but we are here to find out  
23 your feelings, your opinions about certain matters.  
24 And the reason that we need to know that information,  
25 quite frankly, is to determine whether or not your

1 opinions may have an impact on your jury service.

2 Obviously there are no right or wrong  
3 answers and obviously your opinions are just as good  
4 and valid as anybody else's opinions, and obviously  
5 we're not here to challenge those opinions. We are  
6 only here to understand them, to learn a little bit  
7 about them and, again, for the purpose of determining  
8 how they might impact on your jury service.

9 One of the things that I want to ask  
10 you about in a few moments is penalty, your opinion  
11 about penalty, and specifically the death penalty  
12 because that may be an issue in this case. But I  
13 want you to understand that the fact that we are  
14 talking about penalty at this early stage really is  
15 premature. This trial hasn't even begun. And as I  
16 have said Mr. Bowman is presumed innocent of these  
17 charges, but this is the only time that we can talk  
18 about the penalty, necessarily, before the trial ever  
19 gets underway.

20 Now, I'm going to be asking you some  
21 questions and I'm going to ask them in generic ways,  
22 in general ways, Mr. Tempkin, because we don't know  
23 anything about this case, it wouldn't be fair for me  
24 to ask you about this case, it would be improper. So  
25 I'm not going to ask you about this case, but I am

1 going to ask you in general terms, in generic terms  
2 and I'm going to do that now.

3 And I ask you this: If you were a  
4 juror in any criminal case, would you be willing to  
5 listen to the law as you were instructed by the  
6 judge?

7 A. Of course, yes, ma'am.

8 Q. Okay. Would you be willing to accept that law  
9 and apply it to the facts as you found them to be?

10 A. Yes.

11 Q. And even though you might not particularly like  
12 that law, or even if you disagreed with it, would you  
13 still be willing to follow the law as you were  
14 instructed to do so by the judge?

15 A. I would do my best, yes, to try.

16 Q. And do you feel that that's something that you  
17 could do?

18 A. Yes.

19 Q. All right. Now, if you were asked to serve in  
20 the case of State vs. Mr. Bowman, could you decide  
21 this case based solely upon what you would hear in  
22 this courtroom and disregard anything that you may  
23 have seen, or heard, or read about from any source at  
24 all, if anything like that should jog your memory or  
25 come into your memory could you do that?



1 A. Solely based on the information from the court,  
2 yes.

3 Q. Yes. Very well. In other words, what happens  
4 to some folks, Mr. Tempkin, is that they'll hear  
5 something during the course of the trial and that  
6 will jog a memory and here they've told, you know,  
7 the Court that they didn't know anything and the  
8 truth is they didn't have any memory, didn't know  
9 anything but there can be something during the trial  
10 that can trigger a memory. I'm asking this likewise  
11 prematurely, do you feel as though if that happened  
12 to you that you could set that aside, disregard that  
13 and listen to the evidence and make your decision  
14 based upon the evidence in the courtroom?

15 A. Yes, Your Honor.

16 Q. Now, in a criminal case as you know and as we  
17 talked about yesterday, the State has the burden of  
18 proving the guilt of a defendant beyond a reasonable  
19 doubt. In other words, a defendant has no burden to  
20 prove his or her innocence. He or she is presumed  
21 innocent under the law. Do you understand that?

22 A. I do.

23 Q. So if you were a juror in any criminal case  
24 would you be willing to listen to the facts and  
25 circumstances and the law as you were instructed?

1 A. Yes.

2 Q. And based upon your listening to the evidence,  
3 based upon your finding facts as you found them to  
4 be, applying the law to those facts, if after you  
5 found the facts, applied the law to those facts, if  
6 you were not convinced that the State had proven a  
7 defendant guilty beyond a reasonable doubt, would you  
8 be willing to find that defendant not guilty?

9 A. Yes.

10 Q. On the other hand, if you listened to the  
11 evidence and you found the facts to be as you found  
12 them to be, applied the law to those facts, if after  
13 you did that you were convinced that the State had  
14 proven the defendant guilty beyond a reasonable  
15 doubt, would you be willing to find that defendant  
16 guilty?

17 A. Yes.

18 Q. So you would be willing to listen and make your  
19 decision based upon whether or not you were convinced  
20 that the person is guilty or not?

21 A. Correct.

22 Q. Is that right?

23 A. Right.

24 Q. All right. Now, most of the time jurors do not  
25 concern themselves with the matter of punishment.

1 Most of the time in the criminal court the issue of  
2 punishment is left up to the judge. But there is one  
3 case in our law when a jury has to deal with the  
4 matter of punishment and that is in a case like this  
5 one. It is in a case where an individual has been  
6 charged with the crime of murder and where the State  
7 is seeking the death penalty.

8 If an individual in a death penalty  
9 case is convicted of the crime of murder, then the  
10 same jury that convicted him or her of murder must  
11 come back and in a separate and different proceeding  
12 decide the sentence that that person would get.  
13 There are only two choices. One is life imprisonment  
14 without the possibility of parole and the other is  
15 the death penalty. The penalty would be determined  
16 in the second or sentencing phase of the trial. Do  
17 you understand this information?

18 A. I do.

19 Q. Now, back in the jury room you had a chance to  
20 look at this piece of paper which describes three  
21 types of jurors. Do you recall the three types of  
22 jurors that were described?

23 A. I do.

24 Q. Which of those three types of jurors best  
25 describes you?

1 A. Number three.

2 Q. Number three. In other words, you would be  
3 willing to listen to whatever you might hear and if  
4 you thought it -- and make your determinations based  
5 on the evidence that you would hear, and you would be  
6 willing to hear that evidence, and I gather that if  
7 you thought it was appropriate to sentence someone to  
8 death, would you be able to vote to do that?

9 A. Only if it was appropriate.

10 Q. All right, sir. And on the other hand, if you  
11 thought the death sentence was not appropriate, or  
12 for any other reason the person ought to receive a  
13 life imprisonment, would you be able and willing to  
14 vote for a sentence of life?

15 A. I would. I'm not sure what the difference  
16 between the two is, but I guess I would find that out  
17 then, right?

18 Q. No, that's my responsibility.

19 A. Okay.

20 Q. Let me see if I can clarify that.

21 A. Okay.

22 Q. Let me go back through this again.

23 A. I understand the difference, but I don't know  
24 why you would do one and not the other.

25 Q. All right. Let me -- I think maybe I've

1 confused you and I may have misspoken, so let me just  
2 begin this card again. Obviously you would never  
3 consider the sentence unless there had already been  
4 the part of the trial and all the jurors had found  
5 that the defendant was guilty of murder beyond a  
6 reasonable doubt, right, and then that phase would be  
7 over.

8 A. Okay.

9 Q. All right. That's as I just have talked with  
10 you.

11 A. Right.

12 Q. That an individual is convicted of a crime of  
13 murder, then that same jury would return.

14 A. Right.

15 Q. And would hear evidence, hear testimony, receive  
16 evidence regarding the punishment. So as I  
17 understand it from your indicating that you were a  
18 type three, you would be willing to listen to that  
19 evidence and it would only be after listening to that  
20 evidence that you would make up your mind as to what  
21 the appropriate punishment would be?

22 A. Right.

23 Q. And if after you listened to that evidence, if  
24 you believe that the appropriate sentence was the  
25 death penalty, then you would be willing to vote for

1 that and able to vote for that?

2 A. Yes.

3 Q. All right. If, on the other hand, you did not  
4 think that the death sentence was appropriate or for  
5 any other reason you thought that the person ought to  
6 receive life imprisonment, that in that event you  
7 would be able and willing to vote that the defendant  
8 would receive a sentence of life imprisonment?

9 A. Yep.

10 Q. All right. So you would make your decision  
11 based upon what you hear here in the courtroom?

12 A. Correct.

13 Q. All right. Or in any courtroom. All right.  
14 Now, if you were chosen to serve as a juror in this  
15 case you and the other jurors would be housed, the  
16 word is sequestered, of course, at county expense,  
17 and you would be housed here in a local motel during  
18 the course of the trial. That's where you would have  
19 to stay until the trial is over, except, of course,  
20 when you are in the courtroom. This period could be  
21 as long as two weeks, or longer. It could be  
22 shorter. I just don't know the exact duration of the  
23 trial.

24 Now, obviously that would create an  
25 inconvenience for you as it surely will for all who

1 serve on this jury. Other than the inconvenience  
2 which it would cause anybody who would have to serve  
3 in this capacity, would that pose a serious risk of  
4 danger to your health or well being, or to that of  
5 anybody who is dependent upon you if you had to serve  
6 in that capacity?

7 A. I'm not sure because it's never happened before.  
8 Not to me it wouldn't be threatening, but possibly to  
9 my wife, I'm not sure how much stress that would put  
10 upon her if it was greater than two weeks.

11 Q. All right. Tell me, does she have any medical  
12 conditions or emotional conditions that concern you?

13 A. Yes.

14 Q. All right.

15 A. Just a little bout of depression that she seems  
16 to be over with right now, but we have a christening  
17 coming up for my nine-month-old daughter and she  
18 would not want me to miss that.

19 Q. And when is that christening?

20 A. The 22nd of next month.

21 Q. Twenty-second of June?

22 A. Yes.

23 Q. I think that I am safe in telling you that I  
24 think we -- this trial will be concluded by then,  
25 well in advance of the 22nd of June based on all the

1 information that I have at this point.

2 THE COURT: Counsel, any problem with me  
3 making that representation?

4 MR. BAILEY: Not from the State.

5 MR. CUMMINGS: No, Judge. And I believe  
6 that you've made it real clear and we'll keep  
7 moving along.

8 THE COURT: All right. Very well. Very  
9 well.

10 Q. All right, sir. So count on the christening,  
11 all right, count on being finished substantially  
12 before the christening, okay?

13 A. Okay.

14 Q. Very well. When you consider that then, do you  
15 believe you would be able to serve?

16 A. Yes.

17 Q. All right. Very well. What I'm going to do at  
18 this time is that I'm going to ask you to, please,  
19 answer the questions which might be posed to you by  
20 counsel.

21 And I'd ask Mr. Bailey if you have any  
22 questions for Mr. Tempkin?

23 MR. BAILEY: Thank you, Your Honor.  
24  
25



EXAMINATION

1  
2 BY MR. BAILEY:

3 Q. I'm Walter Bailey and I will be prosecuting the  
4 case and I need to ask you a few more questions. Let  
5 me apologize up front if you think I'm asking  
6 personal questions, this is the only chance we get to  
7 talk to witnesses about their service and about the  
8 questionnaire.

9 The situation the judge asked you  
10 about with the Florida arrest and the conditional  
11 discharge or whatever it was, do you think that  
12 situation you were involved in down there, I know  
13 that's in your past, would that have any bearing on  
14 your ability to sit as a fair juror both as to the  
15 State and the defense in this case?

16 MR. CUMMINGS: Your Honor, respectfully.

17 THE COURT: Yes. Oh, there's a matter of  
18 law?

19 MR. CUMMINGS: Yes, ma'am. Can we approach  
20 just quickly on the side?

21 THE COURT: Sure. Sure.

22 (Whereupon, a bench conference was held off the  
23 record in the presence of the prospective juror  
24 but out of the hearing of the prospective  
25 juror.)

1 THE COURT: Thank you.

2 Q. Let me rephrase that. Would that situation have  
3 any substantial affect in your opinion on your  
4 ability to serve as a fair and impartial juror to  
5 both sides, the defense and to the State?

6 A. No.

7 Q. Okay. All right. Let me ask a little bit about  
8 the death penalty and my questions are going to be of  
9 a general nature, not specific to this case because  
10 you don't know anything about this case so it  
11 wouldn't be fair to get into the specifics.

12 Before you found out that you might be  
13 a juror on a death penalty case, found that out I  
14 assume sometime this week, did you have any thoughts  
15 or opinions on the death penalty?

16 A. I've pondered it, but I don't -- it's only in  
17 the circumstance where it's necessary would it be  
18 necessary.

19 Q. Okay.

20 A. But I've never fathomed in my brain, you know,  
21 something like that happening, so I don't -- I've  
22 never thought about it myself putting the death  
23 penalty on somebody, no.

24 Q. Okay. All right. You think you've had enough  
25 time to think about it and go over the three kind of

1 jurors, would be able to formulate an opinion now?

2 A. I could not form an opinion now on whether  
3 somebody was getting the death penalty right now.

4 Q. Again, I'm not talking about this case, I'm not  
5 going to ask you to predict what you would do, you  
6 hadn't heard the facts. I'm talking in general. You  
7 know, can you tell us just in general terms what your  
8 thoughts are on the death penalty at this moment?

9 A. Only in the circumstance whereas necessary would  
10 somebody get the death penalty only.

11 Q. All right. And you understand that it's  
12 potentially a two-part process, we go through a guilt  
13 phase which is like any other criminal trial where  
14 the jury is just there to determine whether or not  
15 the State can prove a defendant guilty beyond a  
16 reasonable doubt, and only if that jury is convinced  
17 of that defendant's guilt of murder beyond a  
18 reasonable doubt do we go into the second phase.

19 A. I do.

20 Q. There would be additional testimony. And then  
21 in South Carolina the jury, not the judge, decides  
22 the punishment, two choices, of life without parole  
23 and the death penalty. What the judge does, she  
24 orders that jury's verdict to happen and then it will  
25 happen. So if the jury votes unanimously for life

1 without parole the judge would order that, that  
2 person goes to prison for the rest of his life  
3 without parole. If the jury votes for the death  
4 penalty, the judge orders that, that person is  
5 executed at some point in the future.

6 A. I understand.

7 Q. Now, again, I'm not asking you to predict what  
8 you'd do in this case, but if the case was bad  
9 enough, could you vote for the death penalty knowing  
10 that decision would result in that execution actually  
11 taking place?

12 A. Only in that, only in the circumstance where  
13 it's necessary like I said, yes.

14 Q. Okay. When you say "it's necessary," can you  
15 explain that to me a little bit?

16 A. No, because I've never fathomed that, I couldn't  
17 tell you that.

18 Q. All right. If all 12 jurors unanimously agree  
19 on the death penalty they would come out here into  
20 open court, that decision would be announced by the  
21 foreman or by the clerk of court, then each juror  
22 would be asked to stand up when their name is called  
23 and say that is their verdict and it's still their  
24 verdict. Could you do that if that was your verdict?

25 A. Yes.

1 Q. Each juror if they vote for the death penalty is  
2 asked to sign their names to a death verdict form or  
3 death warrant which is going to result in that  
4 defendant being put to death by execution. Could you  
5 sign your name to a paper like that if you already  
6 decided the death penalty was the appropriate  
7 sentence?

8 A. Correct.

9 Q. All right, sir. Are you saying that you can  
10 fairly consider both options, life without parole and  
11 the death penalty?

12 A. Right.

13 Q. And if the situation warranted it you could come  
14 back with a life without parole and if the situation  
15 warranted it you come back with the death penalty?

16 A. Right.

17 Q. I think the word you used was it would have to  
18 be necessary; is that correct?

19 A. The situation -- it would only be under the  
20 situation, yes. Yes.

21 Q. Okay. All right. Mr. Tempkin, I believe that's  
22 all I've got. Thank you very much.

23 THE COURT: Yes, sir, Mr. Cummings.

24

25

EXAMINATION

1 BY MR. CUMMINGS:

2 Q. Good afternoon, sir, just a couple brief  
3 questions. I think Mr. Bailey and I know Her Honor  
4 has covered a lot of issues with you. I think, sir,  
5 as a juror and I think you hold this principle pretty  
6 close to your heart, that everybody's innocent until  
7 they walk in this courtroom and until and unless the  
8 State has proved beyond a reasonable doubt the  
9 elements of the offense they charged them with; is  
10 that correct?

11 A. Right.

12 Q. And you would give every citizen a fair and  
13 impartial trial if you were selected for a jury along  
14 with your other 11 jury members?

15 A. Correct.

16 Q. And I know you had a concern about the upcoming  
17 christening on the 22nd, but based on what Her Honor  
18 says and the two hours and of course Ms. Thomas  
19 sitting at the table over there, you've been pretty  
20 well assured that we'll be out of here by the 22nd of  
21 June.

22 A. I see that.

23 Q. And knowing that, would you have any  
24 difficulties at all serving on this jury about the  
25 situation with the christening?

1 A. There would be difficulties, but I could  
2 overcome them.

3 Q. And are you willing to serve?

4 A. Yes.

5 Q. And render a fair and impartial trial for the  
6 State and the defense?

7 A. Correct.

8 Q. All right. Now, you had one question here that  
9 I want to just briefly go over and it was under an  
10 issue of dealing with a situation where somebody had  
11 been, and I'll use your words, sir, a rape. Not  
12 knowing anything in here about this, would any issue  
13 of that cause a substantial basis in you to not  
14 render a fair and impartial verdict if you were  
15 sitting on a jury that would have any testimony about  
16 that?

17 A. I thought I heard you say rape.

18 Q. Yes, sir. And if I'm wrong now -- I'm just  
19 trying to read your questionnaire.

20 A. I don't remember --

21 MR. CUMMINGS: Your Honor, may I approach  
22 the gentleman?

23 THE COURT: Sure. I've got his if you can  
24 just --

25 MR. CUMMINGS: Judge, if you'll just pass

1           it to him.

2           THE COURT: I'll just pass it right to him.

3           Here you go.

4   Q.    It's number 43, I believe, sir.

5           THE COURT: It's question 43.

6   A.    Right, okay. In this matter I believe it would  
7 be best to have, you know, sexual activity after  
8 being married.

9   Q.    Yes, sir.

10 A.    But I have done it before marriage and so I  
11 don't think that it is totally wrong to do it before  
12 marriage, although the only, the only way I see that  
13 it's not right before marriage is rape is my opinion.

14 Q.    Could you set aside any personal beliefs or  
15 opinions inside your heart and render a fair and  
16 impartial verdict to any citizen, in particular in a  
17 court case that you might hear, and, again, not  
18 knowing anything about any facts or circumstances,  
19 sir, the question is would that substantially impact  
20 your decisions to be a fair and impartial juror just  
21 with having a personal opinion or a bias?

22 A.    No, it wouldn't. That wouldn't render my  
23 verdict, no. No, that wouldn't change it at all.

24 Q.    All right, sir. So you would give the State and  
25 the defense a fair trial?



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1 A. Correct.

2 Q. That's all anybody would ask of you.

3 A. Correct. That would have nothing to do with the  
4 defendants, no.

5 Q. All right.

6 MR. CUMMINGS: Beg the Court's indulgence,  
7 Your Honor.

8 THE COURT: Sure.

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

11 MR. CUMMINGS: Thank you. That's all the  
12 questions I have of this gentleman. Thank you,  
13 Judge.

14 THE COURT: All right. Thank you so much.  
15 If you would just step right outside, just go  
16 with Mr. Tempkin for a very short moment, you  
17 won't even have time to sit down. Thank you.  
18 (Whereupon, the prospective juror exits the  
19 courtroom.)

20 THE COURT: What says the State?

21 MR. BAILEY: Qualified, Your Honor.

22 THE COURT: What says the defense?

23 MR. CUMMINGS: Statutorily qualified,  
24 Judge.

25 THE COURT: Let me speak with Mr. Tempkin.