

VOLUME SEVEN

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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

RECEIVED

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S.C. Supreme Court

MARION BOWMAN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-213468

APPENDIX

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:

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PLAINTIFF'S EXHIBIT #73 (PHOTOGRAPH)

1 reasonable doubt, would you be willing to find that
2 defendant not guilty?

3 A. Yes.

4 Q. On the other hand, if after you had considered
5 the facts and the law if you were convinced that the
6 State had proven a defendant guilty beyond a
7 reasonable doubt, would you be willing and able 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 the 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's left up to the
17 judge. But there's one case in our law when a jury
18 has to deal with the matter of punishment and that is
19 in the case like this one. It is in a case where an
20 individual has been charged with the crime of murder
21 and where 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 in
25 a separate and different proceeding decides the

1 sentence that the person would get. There are two
2 choices. One, life imprisonment without the
3 possibility of parole, and the death penalty.

4 The penalty would be determined in the
5 second or sentencing phase of the trial as it is
6 called. Do you understand this information?

7 A. Yes.

8 Q. Now, in the jury room this piece of paper was
9 also present. And I'd ask if you had an opportunity
10 back there to look at that sheet?

11 A. I have.

12 Q. And it essentially describes three types of
13 jurors for you. Do you remember those three types of
14 jurors?

15 A. That's right.

16 Q. Which of those three types of jurors would you
17 say best describes you?

18 A. Type three.

19 Q. Would you -- does -- in other words, you would
20 be willing to listen to whatever you might hear and
21 base your decision upon what you would hear in the
22 courtroom; is that right?

23 A. That's correct.

24 Q. And if after you listened to the evidence if you
25 believed that it was appropriate that an individual

1 be sentenced to the death penalty, then would you be
2 willing and able to vote for that sentence?

3 A. Yes.

4 Q. And if you thought the death sentence was not
5 appropriate or if for any other reason the person
6 ought to receive life imprisonment, would you be able
7 and willing to vote for a sentence of life
8 imprisonment?

9 A. Yes.

10 Q. All right, sir. Now, if you were to -- here's
11 the question that you told us, we talked a little bit
12 earlier. If you were chosen to serve as a juror in
13 this case, you and the other jurors would be
14 sequestered and you'd have to stay with us, of course
15 at county expense, you would be placed in a motel
16 during the course of the trial except, of course,
17 when you were here in the courtroom, and you would
18 need to stay with us for the duration of the trial.
19 This period could be as long as two weeks, it could
20 be longer, it could be shorter, I simply don't know
21 the exact duration of the trial.

22 The question is -- obviously it would
23 create an inconvenience for you as it surely will for
24 all the jurors who serve in this matter. Other than
25 the inconvenience which it would cause anybody who

1 would have to serve in this capacity, would it pose a
2 serious risk of danger to your health or well being,
3 or that of anybody who is dependent upon you if you
4 had to serve in that capacity?

5 A. No.

6 Q. All right, sir. I know that you are concerned
7 about being able -- there are some business matters
8 that you wanted to be able to deal with. Tell me
9 about that.

10 A. Well, I'm in charge of all land sales and
11 acquisitions for the new merger and it's going to
12 require quite a bit of work over the next month,
13 certainly. And I have to travel extensively and I
14 have meetings and so I would have to at least make
15 telephone calls concerning those in the evenings.

16 Q. All right, sir. And the telephone calls that
17 you are contemplating that you would make in the
18 evening would be for business purposes?

19 A. That's correct.

20 Q. All right, sir. Tell me just for land
21 acquisition, different people land is being purchased
22 from?

23 A. Land sales.

24 Q. All right, sir.

25 A. I have meetings with prospective buyers and we

1 have a large sale in West Virginia that's coming up
2 that I have to be directly involved with and I would
3 have to some way make contact with those people.

4 Q. All right. If you were unable to do that, if
5 you were unable to make telephone calls in the
6 evenings, describe for me what that means for you.

7 A. That means I don't accomplish my job. And we
8 have just merged and it wouldn't be a healthy
9 situation for me.

10 Q. All right, sir.

11 A. Because they are expecting me to do this.

12 Q. Would you be concerned that it could have
13 consequences on your job?

14 A. Oh, certainly.

15 Q. Oh, certainly?

16 A. Yes.

17 Q. All right, sir. Very well. I'm going to see if
18 these lawyers have any questions for you.

19 A. Okay.

20 Q. And they certainly may.

21 THE COURT: Bear with me, let me find
22 another list. Here we go. Mr. Bailey.

23 MR. BAILEY: Thank you, Your Honor.

24

25

EXAMINATION

1
2 BY MR. BAILEY:

3 Q. I'm Walter Bailey, again, I just want to ask you
4 a few more questions. I want to ask you about your
5 work situation later, but first of all in regard to
6 the death penalty. And the judge went over that in
7 some detail, but it's potentially a two-part process
8 where the guilt phase deals with whether or not the
9 State can prove a defendant guilty of murder beyond a
10 reasonable doubt. And if that is accomplished we go
11 into the second phase where the jury gives additional
12 testimony and additional instructions from the judge.
13 The jury and not the judge would then determine the
14 punishment, either life without parole or the death
15 penalty.

16 You've indicated to the judge that you
17 would go into that. If we got to that second part of
18 the trial you would go in there with an open mind and
19 you could vote for life without parole or the death
20 penalty depending on what you heard; is that correct?

21 A. That's correct, sir.

22 Q. If all 12 jurors vote for the imposition of the
23 death penalty there is a death verdict form that each
24 juror's asked to sign that would result in that
25 person being executed at this point in the future.

1 Could you sign your name to a paper like that if that
2 was your verdict?

3 A. Yes.

4 Q. There's another part of the procedure where if
5 the jury votes for the death penalty and they sign
6 the form, they come out here into open court, it's
7 called polling the jury. Each juror's name would be
8 called out one at a time and they would be asked to
9 stand and affirm that that was their verdict and is
10 still their verdict. If that was your verdict could
11 you go through that process?

12 A. Yes.

13 Q. All right, sir. And like Judge Goodstein
14 pointed out, the sequestration is a hardship on
15 everybody to some degree. And with your responsible
16 position it would be a hardship, we all understand
17 that. But I think what we all want to find out is
18 whether or not if you were able to work in the
19 evenings in the motel, you'd be here in the daytime
20 probably from 9:00 to maybe 5:30, 6:00, but your
21 evenings would be free.

22 If you could do that would you be able
23 to -- I know you couldn't keep up to the extent you
24 could if you were free to come and go as you want,
25 but would that be sufficient to enable you to kind of

1 get by for a temporary period of time while you were
2 sequestered?

3 A. I think I could do that for a couple of weeks.

4 Q. All right, sir. It would not interfere with
5 your ability to concentrate on a very, very serious
6 trial?

7 A. I don't think so.

8 Q. All right, sir. Thank you, sir. That's all I
9 have.

10 THE COURT: All right, sir. Yes, sir.

11 MR. CUMMINGS: Thank you, Judge.

12 EXAMINATION

13 BY MR. CUMMINGS:

14 Q. I know you're probably tired of answering these
15 questions in infinitum and I will try to be as brief
16 as I can, Mr. Mollish. And I'll start on some
17 different topics to give you a little change of air
18 here for a moment. You had written in your
19 questionnaire, and I promise you we really did read
20 these questionnaires, question number 22 was dealing
21 with where your parents had been the victim of a home
22 robbery were your words, sir. I'll give you a moment
23 to read that.

24 A. Okay.

25 Q. All right, sir. And could you just briefly

1 expound on that, tell us like where that happened at,
2 sir, what county, what state?

3 A. In Raleigh County, West Virginia.

4 Q. All right, sir.

5 A. Our home was -- my parents' home was broken into
6 and several items, including guns, were taken.

7 Q. All right, sir. Would that fact, just merely
8 the fact the home was robbed and of course your
9 parents were victimized by that, would that
10 substantially impair your ability to sit as a fair
11 and impartial juror on any case concerning law
12 enforcement versus a citizen?

13 A. I don't think so. I think, though, in that
14 particular case my father never recovered and passed
15 away after that.

16 Q. As a result of that?

17 A. I always felt that way, yes.

18 Q. And I'm not trying to hurt your feelings, you've
19 been a very polite, kind gentleman with all of us in
20 here. And the reason why we ask those questions now
21 you see why. If I just asked you the gut question,
22 could you be fair and impartial to a citizen after
23 hearing what you just spoke to me and sit as a juror
24 of your peers, sir?

25 A. I think I could.

1 Q. Okay. And on the other hand here you had a
2 great experience with a law enforcement officer in
3 question number 27, or had a good experience?

4 A. Yes.

5 Q. All right. Could you briefly just expound on
6 that for us?

7 A. Well, we found a billfold of his one time and
8 returned it. And he was very pleased and he went out
9 of his way to just tell us how pleased he was that we
10 returned the billfold.

11 Q. Thank you, sir. And then I'll hit you with the
12 other end of the question of your occupation. If you
13 were told that perhaps you were not allowed to make
14 telephone calls or business, or not allowed to use
15 the internet or anything along that line during
16 sequestration, because remember Her Honor controls
17 the jury, sir, not us lawyers, would that change your
18 statement as you gave to Mr. Bailey, sir, politely,
19 or to me? We're only trying to get to the fairness
20 of how you would feel about that one issue, sir,
21 because as you stated you need to at least try to do
22 that.

23 A. I need to do something because we have a
24 deadline of June 1st on this particular sale, and I
25 need to be directly involved either by telephone or

1 some way through e-mail to be able to at least direct
2 our people to do some of that work.

3 Q. Yes, sir. And how many years have you been with
4 Westvaco? I could not read the numbers on this copy.

5 A. Thirty-seven.

6 Q. Thirty-seven?

7 A. Yes.

8 MR. CUMMINGS: Beg the Court's indulgence.
9 And thank you, sir.

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

12 MR. CUMMINGS: That's all the questions of
13 the gentleman. Thank you, Judge.

14 THE COURT: Mr. Mollish, I'm now going to
15 ask you to step outside, we're going to talk
16 about you.

17 MR. MOLLISH: Thank you.

18 THE COURT: All right. And we'll get you
19 right back in. We won't be but just a few
20 moments.

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

23 THE COURT: All right. What says the
24 State?

25 MR. BAILEY: Your Honor, the State would

Juror 212 Anthony P. Mollish - Examination

1 contend he is qualified. I know the concern is
2 his work situation. He has testified that
3 although it would create a hardship on him it
4 would be something that he could handle. And he
5 has asked that he be allowed to use the -- I
6 don't recall him saying he wanted to use the
7 internet, but that he wanted to have telephone
8 access strictly for business calls regarding the
9 land sale.

10 And, Your Honor, my position is that
11 we've done these before, that the sequestered
12 jurors are not kept in total isolation, they're
13 taken to restaurants, taken to church on
14 occasion, they're allowed SLED supervised
15 telephone conversation with family members and
16 that kind of thing and I would think he could
17 easily be accommodated by having a SLED agent
18 present when he made those calls to make sure
19 nothing regarding the case came up.

20 And efforts have been more or less
21 promised to some other jurors that wanted to
22 attend a graduation, I think two different
23 jurors, and then of course Mr. Porcher that
24 wanted to use his laptop and all and work in the
25 evenings. So this is an honest, mature,

1 intelligent individual that I think would make
2 an excellent juror and I think the Court should
3 hopefully accommodate him in trying to at least
4 keep alive as far as the business is concerned,
5 so I think he's qualified.

6 THE COURT: Let me tell you what I think.
7 I know that in the process we had before we
8 began this process we heard from folks and we
9 heard many of the hardship matters. And this is
10 I think in the nature of a hardship and let me
11 tell you why. At the point in time when he
12 tells me that if he is not able to perform in
13 this acquisition that his job could be at risk.
14 And the look on his face when he told me that
15 concerns me. The other part of this that
16 concerns me greatly is that the purchase which
17 is supposed to occur that he has a deadline is
18 on June the 1st. I think that -- and I think
19 he's tried to express the pressure that he's
20 under to have that occur.

21 I appreciate that he has been willing
22 to say that he can make telephone calls at
23 night, but I think we're talking about -- what I
24 sense is, is that that is a number of telephone
25 calls, that is a number of business matters and

1 I am concerned about the ability for him to do
2 that in the evenings.

3 He's also talking about e-mail. He
4 says I have to be able to e-mail and make phone
5 calls. So I am concerned about -- I'm concerned
6 about his ability to serve. I am concerned
7 about as the June the 1st deadline approaches if
8 there's -- I'm just concerned about that. And
9 I'm concerned that over the course as this trial
10 proceeds that his ability to pay attention
11 versus his job being of great concern. I think
12 he absolutely has expressed a hardship.

13 The difference with Mr. Porcher, and
14 they are very similar, Mr. Porcher is being
15 transferred, there's -- this gentleman hasn't
16 brought up any income concerns, that was the
17 income, the income was a concern of
18 Mr. Porcher's, but it wasn't going to put him
19 behind in his bills, he just wasn't going to be
20 able to make as much money. And what he asked
21 was can I have my laptop and work on
22 spreadsheets at night. Wasn't going to go on
23 the internet, but he did need to look at
24 spreadsheets and that certainly isn't a problem.

25 With regards to the graduation that we

Juror 212 Anthony P. Mollish - Examination

1 talked about, the most we're talking about is a
2 couple of hours on one occasion during this
3 trial. We're not talking about an ongoing
4 negotiations and an ongoing project that must
5 occur for the security of his job. And on those
6 bases, while I agree with you he's very well
7 qualified as a juror, I think he's expressed a
8 hardship and I'm going to transfer his service.
9 Thank you. Bring him back in.

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

12 THE COURT: Mr. Mollish, just have a seat.
13 Mr. Mollish, I'm going to transfer your service
14 and I want to tell you why. I am concerned that
15 you have told me that you have a large project
16 with your business between now and June the 1st
17 which is going to be during this trial. And you
18 are telling me that has to happen or your job
19 could be at risk. You're nodding that's
20 correct.

21 MR. MOLLISH: That's correct.

22 THE COURT: I think that you have expressed
23 a hardship. I'm going to transfer your service
24 that would get you to come back several months
25 from now and hopefully things will calm down.

1 MR. MOLLISH: That would be good.

2 THE COURT: I am going to ask, though, that
3 you do not discuss this process, any of the
4 questions with any of your fellow potential
5 jurors. Or if you think that you've seen the
6 witness list, if you think somebody might have
7 some connection with this case or be a potential
8 juror, that you likewise not discuss this matter
9 with them.

10 MR. MOLLISH: Okay.

11 THE COURT: With anybody else it's up to
12 you if you want to talk about it.

13 MR. MOLLISH: Okay. Thank you.

14 THE COURT: Thank you so much. I
15 appreciate you being here.

16 MR. MOLLISH: Thank you.

17 THE COURT: Thank you so much, Mr. Mollish.

18 MR. MOLLISH: Okay.

19 (Wanda A. Query, called as a prospective juror,
20 having previously been duly sworn, is examined
21 as follows:)

22 EXAMINATION

23 BY THE COURT:

24 Q. Good afternoon, Ms. Query, how are you. That's
25 a Q, not an O.

1 A. Yes.

2 Q. I can't read my own handwriting, Ms. Query.

3 Now, hang on one second for me. Ms. Query, you will
4 remember when we were together on Monday that you
5 took an oath along with the other potential witnesses
6 {sic}?

7 A. Yes, ma'am.

8 Q. And I would just tell you that that oath remains
9 in effect, you don't need to take another one and it
10 would cover the answers that you would give to the
11 questions that we would share with you today, okay?

12 A. Yes, ma'am.

13 Q. All right. Now, has anyone talked to you or
14 tried to approach you, or have you been exposed to
15 any information inadvertently or otherwise regarding
16 this case since Monday?

17 A. No, ma'am.

18 Q. All right. Now, in the jury room there was a
19 jury list, potential jury list. And I'm going to
20 place that up there for your review if you need to.
21 I would ask, first of all, did you have a chance to
22 review that list?

23 A. Yes, ma'am. I had a chance.

24 Q. Are you related by blood or marriage or
25 acquainted with or have any connection direct or

1 otherwise, casual relationship, personal
2 relationship, or business association with anyone
3 listed on that list?

4 A. No, ma'am.

5 Q. All right. And I'll take that, put that over
6 here. Now, my notes indicate when I went through
7 some issues the other day and asked you some
8 questions regarding whether or not you had an
9 opinion, or if you had read or heard or seen anything
10 about this case, or if you could be fair and
11 impartial without bias or prejudice to both sides, my
12 notes reflect that you didn't have -- none of those
13 things applied to you.

14 A. Right.

15 Q. All right. And since then has anything jogged
16 your memory or anything come to your knowledge that
17 would change that response?

18 A. Other than maybe seeing something in the paper,
19 but I can't really recall what it was, just fleeting,
20 but nothing has changed.

21 Q. Okay. If you saw something in the paper,
22 headline or whatever, did you read that article?

23 A. No, ma'am.

24 Q. Okay.

25 A. Might have skimmed it, but didn't read it word

1 for word, just skimmed over it.

2 Q. Are you talking about skimming something prior
3 to Monday or since Monday?

4 A. Prior to Monday.

5 Q. Prior to Monday?

6 A. Prior to Monday.

7 Q. Okay. Since Monday you have not?

8 A. No, ma'am. No, ma'am.

9 Q. All right. All right. Now, I'm going to be
10 asking you some questions, Ms. Query, and I want you
11 to know up front that I am absolutely not trying to
12 invade your privacy at all. What I'm trying to do is
13 find out -- what we are trying to do is to find out
14 your opinions about certain matters, how you feel
15 about certain issues and not to invade your privacy
16 in any regard. And to that end let me talk about
17 your opinions for just a moment.

18 A. Okay.

19 Q. Nobody's going to challenge your opinions.
20 Obviously your opinions are as good and right as
21 anybody else's, and there are no right or wrong
22 answers to anything that we're going to be asking you
23 here today. What we are trying to do is to find out
24 and understand a little bit about your opinions so
25 that we can see whether or not your opinions might

Juror 243 Wanda A. Query - Examination

1 impact on your jury service, okay?

2 A. Okay.

3 Q. Now, one of the things that I'm going to be
4 asking you about in just a few moment is your opinion
5 about penalty, specifically the death penalty,
6 because that might be an issue in this case. But I
7 want you to understand that obviously talking about
8 penalty at this stage is very premature. It's
9 premature because the trial hasn't begun and because
10 Mr. Bowman is presumed innocent of these charges, but
11 this is the only time that we can talk about penalty
12 necessarily before the trial begins.

13 Now, the questions that I'm going to
14 be asking you are going to be in generic or general
15 terms. I'm not going to ask you about this, your
16 opinions about this specific case because you don't
17 know anything about this case and that wouldn't be
18 fair to you and it would be improper, so the
19 questions that I'm going to be asking you are going
20 to be in the generic sense.

21 So I'd ask you if you were a juror in
22 any criminal case would you be willing to listen to
23 the law as you were instructed by the judge?

24 A. Yes, ma'am.

25 Q. And would you be willing to accept that law and

1 apply it to the facts as you found them to be?

2 A. Yes, ma'am.

3 Q. Even though you might not particularly like that
4 law and you might even outright disagree with it, but
5 even so would you be willing to follow the law as you
6 were instructed to do so by the judge?

7 A. Yes, ma'am.

8 Q. Now, if you were asked to serve in the case of
9 the State vs. Bowman, Mr. Bowman, could you decide
10 this case based solely upon what you would hear in
11 the courtroom and disregard anything that you may
12 have seen or heard or read about in this case from
13 any source at all if anything like that should come
14 into your memory?

15 A. Yes, ma'am.

16 Q. In other words, sometimes jurors, their memory
17 will get jogged, that's kind of what happened to you.

18 A. Yes, ma'am.

19 Q. Your memory gets jogged when you hear a little
20 bit about something, and that could happen. And if
21 that happened to you, would you be willing to set
22 that memory aside and try and make your decision
23 based on what you hear in this courtroom?

24 A. Yes, ma'am.

25 Q. All right. Now, in a criminal case as you know

Juror 243 Wanda A. Query - Examination

1 as we talked a little bit about Monday, the State has
2 the burden of proving the guilt of a defendant beyond
3 a reasonable doubt. You know that, right?

4 A. Yes, ma'am.

5 Q. Okay. And in other words, a defendant never has
6 the burden to prove himself innocent or a burden to
7 prove anything. You know that as well?

8 A. Yes, ma'am.

9 Q. And a defendant is always presumed innocent
10 under the law.

11 A. Yes, ma'am.

12 Q. All right. Now, if you were a juror in any
13 criminal case would you be willing to listen to the
14 evidence and the law as you were instructed?

15 A. Yes, ma'am.

16 Q. And you would listen to the evidence, listen,
17 and you would find the facts as you found them to be
18 and you would apply the law given to you by the judge
19 to those facts?

20 A. Yes, ma'am.

21 Q. And if in any criminal case after you did that
22 if you were not convinced that the State had proven a
23 defendant guilty beyond a reasonable doubt, would you
24 be willing and able to find that defendant not
25 guilty?

1 A. Yes, ma'am.

2 Q. On the other hand, if after you listened to the
3 evidence, found the facts as you found them to be and
4 applied the law to those facts, if you were convinced
5 that the State had proved the guilt of a defendant
6 beyond a reasonable doubt, would you be willing to
7 find that defendant guilty?

8 A. Yes, ma'am.

9 Q. Would you be willing to listen and make your
10 decision based on whether or not you were convinced
11 that a person is guilty or not?

12 A. Yes, ma'am.

13 Q. All right. Now, most of the time jurors do not
14 concern themselves with the matter of punishment.
15 Most of the time in the criminal court that is left
16 up to the judge. There is one case in our law when a
17 jury has to deal with a matter of punishment and that
18 is in a case like this one. It is in a case where an
19 individual has been charged with the crime of murder
20 and where the State is seeking the death penalty.

21 If an individual in a death penalty
22 case is convicted of the crime of murder, then the
23 same jury that convicted him or her of murder must
24 come back and in a separate and different proceeding
25 decide the sentence that the person would get. There

Juror 243 Wanda A. Query - Examination

1 are only two choices. One, of course, is life
2 imprisonment without the possibility of parole, and
3 the other is the death penalty. That would be
4 determined, the penalty would be determined in that
5 second or sentencing phase of the trial as it's
6 called. And I ask if you understand that?

7 A. Yes, ma'am.

8 Q. Now, back in the jury room did you have a chance
9 to look at this paper?

10 A. Yes, ma'am.

11 Q. And it describes essentially three types of
12 jurors on it. Do you remember the three types of
13 jurors?

14 A. Yes, ma'am.

15 Q. All right. It's here for you if you need to
16 refer to it.

17 A. Okay.

18 Q. Which of those three types of jurors do you
19 believe best describes you?

20 A. I would say the third one.

21 Q. The third one?

22 A. Yes, ma'am.

23 Q. You would be willing to listen to whatever would
24 be in the courtroom and make up your mind based upon
25 that evidence?

Juror 243 Wanda A. Query - Examination

1 A. Yes, ma'am.

2 Q. Now, if you thought based upon the evidence as
3 you heard it, if you thought that the death sentence
4 was appropriate based on what you heard would you be
5 willing and able to vote for that sentence?

6 A. It would be hard. I'm undecided about the death
7 penalty.

8 Q. All right. Based upon what you hear in the
9 courtroom do you believe based upon the facts and the
10 circumstances as you found them to be, if you thought
11 based on those facts and circumstances that someone
12 ought to be sentenced to death do you believe that
13 you could vote for a sentence of death?

14 A. I think I could.

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

20 A. Yes, ma'am.

21 Q. All right. So you would make the decision,
22 death sentence or life imprisonment, based upon what
23 you would hear in the courtroom?

24 A. Yes, ma'am.

25 Q. Now, if you were chosen to serve as a juror in

1 this case you and the other jurors would be housed
2 here in St. George in a motel for the duration of the
3 trial. The word is sequestered. And you would need
4 to remain with us until the trial is over except, of
5 course, when you are in the courtroom. You stay at
6 the motel, you stay in the courtroom.

7 A. Yes, ma'am.

8 Q. Now, the period could be as long as two weeks,
9 it could be longer, but it could be shorter. I just
10 don't know the exact duration of the trial.

11 Obviously that would create for you an inconvenience
12 as it would for all who serve on this jury. Other
13 than the inconvenience which it would cause anybody
14 who would have to serve in this capacity, would that
15 pose a serious risk of danger to your health or well
16 being, or to that of anybody who is dependent upon
17 you if you had to serve in that capacity?

18 A. No, ma'am.

19 Q. All right. Now, you would be able to do that?

20 A. Yes, ma'am.

21 Q. All right. I'm going to ask that you now answer
22 any questions. I'm confident that these lawyers will
23 have some questions for you and I would just ask that
24 you respond to their questions.

25 A. Okay.

Juror 243 Wanda A. Query - Examination

1 Q. Thank you so much.

2 THE COURT: And Mr. Cummings.

3 EXAMINATION

4 BY MR. CUMMINGS:

5 Q. Good afternoon, Ms. Query. I'm Norb Cummings,
6 that young lady right there is Ms. Marva
7 Hardee-Thomas and that gentleman right there is
8 Mr. Marion Bowman, ma'am. Ms. Thomas and I are Court
9 appointed to represent Mr. Bowman. And if I may, I
10 may start asking you something that's very, very
11 personal. And we're not trying to invade your
12 privacy, ma'am, but I promise you everybody in the
13 room reads those good questionnaires which we sent
14 out that you take the time to fill out. And Her
15 Honor has handed you yours, ma'am. And I see in
16 there from your wording that you were formerly
17 married to a Berkeley County sheriff's deputy?

18 A. Yes, sir.

19 Q. All right. Is that gentleman now with
20 Charleston, or still with Berkeley?

21 A. He's still with Berkeley County.

22 Q. Okay. Would the fact that you were formerly
23 married to a police officer, and you know I'm sure
24 when he came home from work as part of a husband and
25 wife you talked, would the fact that you were

Juror 243 Wanda A. Query - Examination

1 formerly married to a law enforcement officer, would
2 that cause you any concern, or I should say an unduly
3 or an unfair burden in your opinion sitting as a
4 juror, as a citizen?

5 A. No, sir. He became a police officer after we
6 divorced.

7 Q. After you were divorced?

8 A. Yes, sir.

9 Q. Thank you very much for sharing that and I'll
10 get off that topic. When you first -- I think I
11 remember you coming up here when Her Honor had a long
12 line of people back here.

13 A. Yes, sir.

14 Q. And, Ms. Query, again, we're only trying to find
15 out what's in your heart, what's in your mind about
16 certain issues in here. And Her Honor protects the
17 jurors. You had expressed some concern that there
18 was a school outing or something to that effect,
19 ma'am?

20 A. Yes, sir.

21 Q. All right. Would you share that back with me so
22 we could hear that today?

23 A. We were going on a field trip to Cape Canaveral
24 with a third grade class of Summerville Elementary,
25 and that's Thursday and Friday.

Juror 243 Wanda A. Query - Examination

1 Q. This Thursday and Friday?

2 A. Yes, sir.

3 Q. Okay. Would the fact -- were you going in what
4 capacity, ma'am?

5 A. Chaperon.

6 Q. Chaperon, okay. Have you paid for expenses or
7 for --

8 A. Yes, sir.

9 Q. Okay. Is there any way to get your funding
10 back?

11 A. I've already taken care of it.

12 Q. You've already taken care of that?

13 A. Yes, sir.

14 Q. All right. So the fact that you've missed that
15 would not cause you any undue burden or any harm
16 here?

17 A. No, sir.

18 Q. Well, thank you, Ms. Query, for answering that
19 because that's why Her Honor has people come up here.
20 As far as jury service here, you understand that a
21 few moments ago when you spoke to Her Honor and
22 answered some questions back I believe there was one
23 thing you stated in there that the ultimate penalty,
24 that you and any other fellow jurors that would vote
25 for that ultimate penalty if and when we ever got to

1 that stage, that it would be hard for you to do that,
2 but you then told Her Honor, if I'm correct, that you
3 would follow the law and instructions as Her Honor
4 gives.

5 A. Yes, sir.

6 Q. All right. And understanding that's not a light
7 issue or else we wouldn't be doing that today. And
8 later on Mr. Bailey may have some questions for you,
9 but we share this with you, that nobody ever has to
10 give somebody the death penalty unless and until
11 they've proven to you beyond a reasonable doubt
12 somebody's guilt of murder. And then afterwards the
13 jury, all 12 of you, would consider that ultimate
14 punishment or life imprisonment without parole. And
15 you are the type of lady that would consider both
16 punishments?

17 A. Yes, sir.

18 Q. And you would want to hear facts in evidence
19 from the State and then you would want to consider
20 any other information as to the types of punishments,
21 or whether or not to give what punishment as a fellow
22 juror?

23 A. Yes, sir.

24 Q. Okay. So you're not biased or opinionated one
25 way or the other about the penalty?

Juror 243 Wanda A. Query - Examination

1 A. No, sir.

2 Q. And you would not hesitate one moment of giving
3 any citizen a fair and impartial jury trial as you
4 told Her Honor?

5 A. Right.

6 Q. Ms. Query, I thank you.

7 MR. CUMMINGS: I beg the Court's
8 indulgence.

9 THE COURT: Okay.

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

12 MR. CUMMINGS: That's all the questions we
13 have of this nice lady. Thank you, Judge.

14 EXAMINATION

15 BY MR. BAILEY:

16 Q. I'm Walter Bailey and I'll be prosecuting this
17 case for the State and I need to ask you a few
18 questions. Like the judge said there are no right or
19 wrong answers. What I want to ask you primarily
20 about is the death penalty.

21 A. Yes, sir.

22 Q. And I'm not going to be talking about this case,
23 you haven't heard the facts, just talking in general.
24 And the only wrong answer is an answer you might give
25 because you think that's what I want to hear.

1 A. Yes, sir.

2 Q. But what I want to hear is exactly how you feel
3 about the death penalty. I noticed that you attend
4 church twice a week --

5 A. Yes, sir.

6 Q. -- in your questionnaire?

7 A. Yes, sir.

8 Q. Do you have any religious beliefs about the
9 death penalty that you think might enter into your
10 thought processes if you get picked on this jury?

11 A. No, sir.

12 Q. Do you have any deeply held personal beliefs
13 about the death penalty?

14 A. I'm really undecided about it.

15 Q. Okay.

16 A. I haven't really thought about it. Never been
17 in a position that I had to think about it.

18 Q. Okay. I think that's what you told Judge
19 Goodstein, that you were undecided about the death
20 penalty when she was asking you about that.

21 A. Yes.

22 Q. What do you mean by that, that you're undecided
23 about it?

24 A. I just never really thought about it.

25 Q. Okay.

1 A. I guess you would have to be in that position
2 and hear everything that's going on to be able to
3 make that kind of a decision.

4 Q. Yes, ma'am. As I understand what you're saying
5 it's not something you've given a whole lot of
6 thought to --

7 A. Right.

8 Q. -- in the past and you are kind of trying to
9 grope with it now?

10 A. Yes, sir.

11 Q. Kind of gather your thoughts together?

12 A. Yes, sir.

13 Q. All right. And as you know this would be
14 potentially a two-part process, we start out with the
15 guilt phase. And I think you've had some prior jury
16 service, I think there was a stolen ATV?

17 A. Yes, sir.

18 Q. That was a criminal case?

19 A. I can't remember, it's been a few years ago. It
20 was held over at DuBose Middle School.

21 Q. Okay. All right. That would have been a
22 general sessions case then, all right. And the first
23 part of this trial would be kind of like that case
24 that you served in, the State has charged somebody,
25 they're trying to prove him guilty beyond a

Juror 243 Wanda A. Query - Examination

1 reasonable doubt. And in this particular case the
2 State is seeking the death penalty and one of the
3 charges is murder.

4 If the jury is convinced beyond a
5 reasonable doubt that that defendant's guilty of
6 murder then we'd go into phase two of the trial, the
7 penalty phase. There would be additional evidence
8 that would come out in that second part of the trial,
9 additional instructions from the judge. And that
10 second trial is geared not to whether or not he's
11 guilty of murder, but what the punishment ought to be
12 given the fact that he's already found guilty of
13 murder. And the two choices would be life without
14 the possibility of parole and the death penalty. All
15 12 jurors after hearing all the facts and the law
16 have to agree on one or the other. And once that
17 jury makes its decision the judge would order that
18 jury's verdict to be carried out and it would be
19 carried out. So based on that jury's vote that
20 person either goes to prison for the rest of his life
21 without parole or he's executed.

22 And, again, I'm not going to ask you
23 to predict what you'd do in this case, you hadn't
24 heard the facts. But if the facts were bad enough
25 could you vote for the death penalty knowing that as

Juror 243 Wanda A. Query - Examination

1 a result of that jury vote that individual is
2 actually going to be executed?

3 A. Yes, sir. I believe I could.

4 Q. Okay. And when you say "I believe I could,"
5 again, I'm not trying to get you to say that you
6 would do that or would not do that in this case.

7 A. I would look at all the facts and if that's what
8 it was warranted, yes, sir.

9 Q. All right. If all 12 jurors vote for the death
10 penalty there's a death verdict form and each juror
11 is asked to sign their name to that paper, all 12 of
12 them. And the result of that would be that person
13 would be executed. Could you sign your name to a
14 paper like that if that was your decision?

15 A. Yes, sir.

16 Q. If the jury votes for the death penalty and
17 signs a verdict form they come out into open court
18 from the jury room, they're seated in these chairs
19 and each person's name's called out one at a time,
20 they would be asked to stand up and announce out loud
21 that that was their verdict and it's still their
22 verdict. Could you do that if that was your
23 decision?

24 A. Yes, sir.

25 Q. All right. Ms. Query, I think that's all I've

Juror 243 Wanda A. Query - Examination

1 got. And as I understand the situation with Thursday
2 and Friday, you have already canceled that?

3 A. Yes, sir. I've already taken care of it.

4 Q. All right. Thank you, ma'am, very much.

5 THE COURT: Ms. Query, let me tell you what
6 we're going to do now. I'm going to ask you to
7 please step outside the courtroom for just a
8 moment, you will not even have time to sit down.

9 MS. QUERY: Okay.

10 THE COURT: Thank you so much.

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

13 THE COURT: What says the defense?

14 MR. CUMMINGS: Statutorily qualified,
15 Judge.

16 THE COURT: What says the State?

17 MR. BAILEY: Qualified, Your Honor.

18 THE COURT: Thank you. You can bring her
19 back in.

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

22 THE COURT: Ms. Query, you have been found
23 qualified as a potential juror in this case.
24 That doesn't mean that you are on the jury yet,
25 it just means that you are a potential juror and

Juror 243 Wanda A. Query - Examination

1 may be selected to serve on this jury. We are
2 hoping, hoping that we will be able to select
3 the jury tomorrow at two o'clock, but I don't
4 know that we're going to make that. I think
5 that's ambitious at this point.

6 If we have to change the time we will
7 call and let you know. Look for sort of a call
8 in the morning. And before you come up here at
9 two o'clock, check again on the answering
10 machine, just check that, be sure we haven't
11 called you. And unless you hear back from us
12 come on back at two o'clock tomorrow.

13 Now, Ms. Etheredge is going to hand me
14 this sheet, I'm going to hand it to you and this
15 has Thursday at 2:00 on there just as a
16 reminder.

17 MS. QUERY: Okay.

18 THE COURT: And the sheet also contains an
19 instruction to help you get ready for your jury
20 service, like your clothes, bring your
21 medications, and gives you some phone numbers
22 for emergency phone numbers, where you can be
23 reached during the day and at night. Please
24 feel free to share that information, those
25 details with anyone that you choose to, need to.

1 However, please be mindful that you
2 must not discuss this case or any aspect of it
3 with anyone, or allow anyone to discuss any
4 aspect of this case with you and do not expose
5 yourself to any information from any source
6 about this case whatsoever.

7 MS. QUERY: Okay.

8 THE COURT: Do you understand all that?

9 MS. QUERY: Yes, ma'am.

10 THE COURT: I look forward to seeing you
11 tomorrow at 2:00. And I'm hopeful we'll be able
12 to select a jury at that time. Thank you so
13 much.

14 MS. QUERY: Thank you.

15 THE COURT: All right. That concludes
16 panel number eight. Boy, are we now behind.
17 We've got to have some lunch. We've got to take
18 a break. I think this is an appropriate time
19 for us to do that. Let's keep it as short as we
20 can. I hate to say 30 minutes, but if everybody
21 can get a sandwich, get some food and get back
22 let's see if we can do that. And we'll all be
23 out there and I'll check with everyone to see if
24 we can keep it to 30 minutes. Thank you.

25 (Recess, from 2:21 p.m. to 3:01 p.m.)

1 THE COURT: Did Ms. Graham mention to you
2 that Mr. Smalls very well may be now a resident
3 of Charleston County, maybe we could take him
4 quickly.

5 MR. BAILEY: She did.

6 MR. CUMMINGS: Yes, Judge.

7 THE COURT: What I'm going to do, is I'm
8 just going to call him on that issue and if he
9 is not then he will go someplace else. I'm not
10 going to break down just to him.

11 All right. Let's have Mr. James
12 Smalls, Jr.

13 MR. CUMMINGS: He's on panel number ten.

14 THE COURT: Hi, Mr. Smalls. How are you?

15 MR. SMALLS: Fine.

16 THE COURT: If you would have a seat,
17 please. Mr. Smalls, I'm going to ask you to
18 place your left hand on the Bible, raise your
19 right hand for me.

20 (James A. Smalls, called as a prospective juror,
21 having first been duly sworn, is examined as
22 follows:)

23 EXAMINATION

24 BY THE COURT:

25 Q. Let me ask you this question, Mr. Smalls. Let

1 me show you your questionnaire. As I'm looking at
2 your questionnaire and the questionnaire says that
3 while you may have been born in Ridgeville, that you
4 now live at [REDACTED].

5 A. That's our mailing address.

6 Q. That's your mailing address?

7 A. Uh-huh (affirmative response).

8 Q. Where is that?

9 A. That's in Clubhouse area.

10 Q. Clubhouse area. That's your mailing address in
11 Clubhouse?

12 A. Yes, ma'am.

13 Q. Where is your home?

14 A. Right now I live in Hollywood.

15 Q. You're living in Hollywood?

16 A. Yes, ma'am.

17 Q. I gather that's South Carolina, not California?

18 A. Yeah.

19 Q. How long have you lived in Hollywood?

20 A. I just moved there recently. I live with my
21 uncle.

22 Q. You live with your uncle in Hollywood?

23 A. About two weeks I moved there.

24 Q. About two weeks ago you moved there?

25 A. Yes.

1 Q. All right. And are you working in Charleston,
2 too?

3 A. No.

4 Q. Okay. Where do you work?

5 A. I don't have a job right now.

6 Q. Okay. You're looking for something?

7 A. Uh-huh (affirmative response).

8 Q. But you are living with your uncle and that's
9 your residence?

10 A. Right now.

11 Q. Right now?

12 A. Uh-huh (affirmative response).

13 Q. And when you say right now, it sounds like
14 you're fixing to change it again?

15 A. I am. I'm planning on getting an apartment in
16 Goose Creek.

17 Q. Oh, in Goose Creek?

18 A. Uh-huh (affirmative response).

19 Q. But when you were living in Dorchester County,
20 where were you living?

21 A. Clubhouse area.

22 Q. In the Clubhouse. Who were you living with
23 there?

24 A. My grandmother.

25 Q. With your grandmother, all right. But a couple

1 of weeks ago you left?

2 A. Uh-huh (affirmative response).

3 Q. And did you take your clothes and stuff with
4 you, too?

5 A. Some of them.

6 Q. Some of your clothes, all right. Are you
7 spending some nights in Hollywood and some nights at
8 Clubhouse?

9 A. Most nights in Hollywood.

10 Q. Most nights. Like on a weekly basis how many
11 nights are you staying in Hollywood?

12 A. Probably through the week.

13 Q. Through the week, okay. All right. And when
14 you -- are you coming back on the weekends to your
15 grandmother's house?

16 A. Sometimes.

17 Q. So where do you consider that you live?

18 A. Hollywood.

19 Q. You consider that you live in Hollywood?

20 A. Uh-huh (affirmative response).

21 Q. Have you changed either your driver's license or
22 your voter registration to Charleston County?

23 A. No.

24 Q. And you say you're about to get an apartment in
25 Goose Creek?

1 A. Goose Creek.

2 Q. Tell me why you say that?

3 A. Me and my fiancée went looking, went there
4 yesterday, day before yesterday.

5 Q. All right, okay.

6 A. So I plan on moving there.

7 Q. You plan on moving there. Where is your -- this
8 is very personal. Is your fiancée also in Hollywood?

9 A. No. She lives in the Ridgeville area.

10 Q. She lives in Ridgeville?

11 A. Uh-huh (affirmative response).

12 Q. All right.

13 THE COURT: Any questions from the State?

14 MR. BAILEY: No, ma'am.

15 THE COURT: From the defense?

16 MR. CUMMINGS: Judge, just briefly.

17 EXAMINATION

18 BY MR. CUMMINGS:

19 Q. I know Her Honor's ask you this, sir, I won't
20 belabor this. The main reason we ask this question
21 is to determine your honest and truthful answers
22 about what you consider your main domicil, or your
23 main house. And where would that be?

24 A. Hollywood.

25 Q. Hollywood. So you're not going to live with

1 your fiancée or that lady at all in Ridgeville?

2 A. No. Not until we move to Goose Creek.

3 Q. Okay. Thank you.

4 MR. CUMMINGS: Judge, that's all the
5 questions I have.

6 THE COURT: Thank you so much. Mr. Smalls,
7 if you would do me a big favor, just step right
8 outside the courtroom for me for just a moment.
9 (Whereupon, the prospective juror exits the
10 courtroom.)

11 THE COURT: I think it appears that he
12 lives in Charleston County. Yes, sir. Either
13 of you want to be heard on that?

14 MR. CUMMINGS: Judge, I have no legal
15 argument. I asked the gentleman where his main
16 domicile is, where he intended to lay his head.
17 And despite having a lady living in Ridgeville
18 he said Hollywood. Hollywood is in Charleston
19 County as far as I know.

20 THE COURT: Thank you so much.
21 (Whereupon, the prospective juror returns to the
22 courtroom.)

23 THE COURT: Mr. Smalls, part of Goose Creek
24 is in Charleston, part of Goose Creek's is in
25 Berkeley, so I look forward to seeing you either

Juror 279 James A. Smalls, Jr. - Examination

1 on a jury in Charleston County or maybe in
2 Berkeley County, but since you no longer live in
3 Dorchester County I certainly thank you so much
4 for being here and thank you for your time, but
5 we look forward to seeing you.

6 Now, you have come now for your
7 service and we do need to know what address to
8 send, you know, the great princely sum that
9 you're going to get.

10 A JUROR:

11 MR. SMALLS: My address is still at my
12 grandmother's house.

13 THE COURT: So it will catch up to you?

14 MR. SMALLS: Yes, ma'am.

15 THE COURT: Okay. Thank you so much. And
16 you are free to go.

17 MR. SMALLS: Okay. Thank you.

18 THE COURT: All right. Now, Mr. Jascomb is
19 who I have next, Juror Number 148. I think it's
20 Jascomb.

21 (Ricky Jascomb, called as a prospective juror,
22 having previously been duly sworn, is examined
23 as follows:)

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Juror 148 Ricky Jascomb - Examination

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

3 A. No, ma'am.

4 Q. All right. Now, when you were back in the jury
5 room there was back there with you a potential juror
6 list. I'd ask you first if you remember looking and
7 seeing this list?

8 A. Yes, ma'am.

9 Q. All right. And are you related by blood or
10 marriage or acquainted with any of the jurors listed
11 there, or do you have -- jurors, any of the potential
12 witnesses, do you have any connection, be it direct
13 or indirect, with any of those potential witnesses,
14 any casual relationship or business relationship with
15 them?

16 A. I know Mr. Asbell, Earl.

17 Q. All right. Tell me how you know Mr. Asbell.

18 A. We lived in the same neighborhood. I guess he's
19 been gone about 15 years now.

20 Q. You used to live in the same neighborhood?

21 A. Well, still live there. He moved.

22 Q. He moved about 15 years ago?

23 A. Right.

24 Q. And how often do you see him?

25 A. Oh, I haven't seen him in a couple of years,

1 probably.

2 Q. All right. And would the fact that you had that
3 connection with Mr. Asbell, would that, if you were a
4 witness or -- excuse me, if you were a juror in this
5 case would the fact that he is a potential witness
6 have any bearing on your ability to be a fair and
7 impartial juror in the trial of this case?

8 A. No.

9 Q. All right. Now, could you set aside that
10 connection that you have with Mr. Asbell and decide
11 this case based upon what you hear in court without
12 regard to your connection with Mr. Asbell?

13 A. Yes. I could do that, yes.

14 Q. All right. Now, my notes indicate that when we
15 asked you the questions about if you had an opinion
16 or if you read or heard or seen anything about this
17 case, or if you had any bias or prejudice for or
18 against either of these parties that you did not
19 respond to those questions which led me to believe
20 that none of those things applied to you; is that
21 right?

22 A. Correct.

23 Q. All right. And since we talked on Monday has
24 anything come to your memory within your knowledge
25 that would change your answer from the answers you

1 gave earlier?

2 A. No.

3 Q. All right. Now, we need to ask you some
4 questions. And we want to talk just a moment with
5 you about those questions because we need to know a
6 little bit about how you feel about certain matters.
7 We need to know what your opinions are because we
8 need to be able to see if your opinions might have
9 any effect on your service as a juror.

10 Now, obviously there are no right or
11 wrong answers and obviously your opinions are just as
12 good and valid as anybody else's and we're certainly
13 not going to challenge them in any way, we just need
14 to know a little bit about them, okay?

15 A. Yes, ma'am.

16 Q. In a little bit I'm going to be asking you about
17 penalty and about your opinion specifically about the
18 death penalty because that may be an issue in this
19 case. But you understand that the fact that we are
20 talking about penalty at this early stage really is
21 premature?

22 A. Correct.

23 Q. All right. This trial hasn't even begun. And
24 as I said, Mr. Bowman is presumed innocent of these
25 charges, but this is the only time when we can talk

1 about the penalty before the trial ever gets
2 underway.

3 Now, I'm going to be asking these
4 questions in the generic sense. I'm not going to be
5 asking you your opinions about this trial because you
6 don't know anything about this trial, it wouldn't be
7 fair and it would be improper.

8 A. Right.

9 Q. So I'm going to be asking you about criminal
10 cases in the generic or the general sense, okay?

11 A. Uh-huh (affirmative response).

12 Q. All right. 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 to do by the judge?

15 A. Yes.

16 Q. Would you be willing to accept that law and
17 apply it to the facts as you found them to be?

18 A. Yes, ma'am.

19 Q. Even though you might not particularly like the
20 law, you might even disagree with it, but would you
21 still be willing to follow the law as you were
22 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 solely on what you hear here in this courtroom
2 and disregard anything that you may have seen or
3 heard or read about this case from any source at all,
4 if anything like that should come into your memory?

5 A. Yes, ma'am.

6 Q. All right, sir. Now, in a criminal case as you
7 know and as we talked briefly on Monday, the State
8 has the burden of proving the guilt of a defendant
9 beyond a reasonable doubt. You understand that?

10 A. Yes.

11 Q. In other words, a defendant never has to prove
12 himself or herself innocent and never have to prove
13 anything. You understand this as well?

14 A. Yes.

15 Q. And a defendant is always presumed innocent
16 under the law. Do you understand this as well?

17 A. Yes. Right.

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

21 A. Yes, ma'am.

22 Q. And if you listened to the law and you -- excuse
23 me, as you listen to the evidence and you find the
24 facts as you find them to be, you'd apply the law
25 that the judge would give to you in a criminal case,

1 if after you did that you were not convinced that the
2 State had proved the guilt of a defendant beyond a
3 reasonable doubt, would you be able and willing to
4 find that defendant not guilty?

5 A. Would you please repeat that?

6 Q. That's lot. That sounds like a trick question.

7 A. I'm thinking about what you're saying.

8 Q. Here's what I'm asking you. I'm asking you
9 would you be willing to listen and make your decision
10 based upon whether or not you were convinced that a
11 person is guilty or not?

12 A. Yes, ma'am.

13 Q. All right. In other words, if you listened to
14 the evidence, made the facts as you find them to be,
15 applied the law as the judge would instruct you to
16 do, if after you do that you weren't convinced the
17 State had proven the guilt of that defendant, would
18 you find that defendant not guilty?

19 A. Based on the facts and the evidence or whatever,
20 there is a possibility, yes.

21 Q. A possibility?

22 A. That --

23 Q. Okay. Because recall that the State has the
24 burden of proving a defendant guilty. You understand
25 that?

1 A. Right.

2 Q. And if you were a juror and you did not think
3 the State had proven the guilt of a defendant beyond
4 a reasonable doubt --

5 A. Without a reasonable doubt, right.

6 Q. Yes, sir.

7 A. Yes.

8 Q. Yes, sir.

9 A. Yes, ma'am.

10 Q. In other words, you didn't think that had
11 happened, you did not think that the State had proven
12 the guilt of a defendant --

13 A. Right. I understand what you're saying.

14 Q. -- beyond a reasonable doubt.

15 A. Yes, ma'am.

16 Q. I think I confused you.

17 A. Right.

18 Q. All right. Would you be willing and able to
19 find that defendant not guilty?

20 A. I'd have to go along with the Court's --

21 Q. Instructions?

22 A. Instructions, yes.

23 Q. Okay. All right. So that if you didn't
24 think -- all right. And on the other hand, if you
25 found that the State had proven the guilt of a

1 defendant beyond a reasonable doubt, would you find
2 the defendant guilty if you thought that the State
3 had proven them guilty beyond a reasonable doubt?

4 A. Yes, ma'am.

5 Q. And by the same token just so I'm sure that you
6 and I are clear, if you didn't think that the State
7 had proven a defendant guilty beyond a reasonable
8 doubt, would you find the defendant not guilty?

9 Would you ever -- let me ask you this.

10 A. Would I ever --

11 Q. Would you find a defendant guilty when you
12 didn't think the State had proven him guilty? Tell
13 me what you're thinking because I think I've confused
14 you, so tell me what you're thinking.

15 A. You did a pretty good job of it. I'm trying to
16 think, you know, the way I would feel going through
17 something like this. I'd be very attentive, you
18 know, as far as listening to everything, all facts.
19 Personal opinions really wouldn't come into the
20 picture in this, that would be something I -- I
21 couldn't tell you right now, you know, how I would
22 react at that time.

23 Q. Oh, I know. I understand. And I'm not asking
24 you about this case at all. What I'm asking you
25 about is in a criminal case in general. And if you

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1 were a juror on a criminal case and you listened to
2 the evidence and you didn't think that the State had
3 proven the defendant guilty beyond a reasonable
4 doubt, would you be able and willing to find a
5 defendant not guilty?

6 A. Without a reasonable doubt, maybe so, yes.

7 Q. All right.

8 A. If, right.

9 Q. All right. All right. I understand.

10 THE COURT: Counsel, I'm going to give you
11 an opportunity to ask Mr. Jascomb some
12 questions. And yes, sir, Mr. Bailey, I'm going
13 to allow you to do that, yes, sir.

14 EXAMINATION

15 BY MR. BAILEY:

16 Q. I'm Walter Bailey, I'll be prosecuting the case
17 and I need to ask you a few questions and there are
18 no right or wrong answers.

19 A. Right.

20 Q. Okay. We're talking in general terms, not about
21 this case or any other case in particular, just in
22 general.

23 A. Correct.

24 Q. As you know this is a case where the State is
25 seeking the death penalty against the defendant.

1 And, again, we're not talking about this case, but
2 just in general terms. In a situation where the
3 State charges somebody with murder and is seeking the
4 death penalty, we start out with the guilt phase.
5 That's like any other criminal trial --

6 A. Right.

7 Q. -- where the jury is there to listen to the
8 testimony, listen to the instructions from the judge.
9 The State would be attempting to prove that defendant
10 guilty beyond a reasonable doubt to the satisfaction
11 of that jury.

12 Now, I think what the judge was asking
13 you was if the State was successful and were able to
14 convince you as a juror that that defendant was
15 guilty of the charge, in this case murder, beyond a
16 reasonable doubt and that was proven to your
17 satisfaction, would you vote to find him guilty?

18 A. That's correct, yes.

19 Q. And on the other hand, if the State failed in
20 that burden of proof, they didn't introduce
21 sufficient evidence or sufficient believable evidence
22 to convince you that he was guilty beyond a
23 reasonable doubt, would you find him not guilty?

24 A. That's correct.

25 Q. All right, sir.

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1 MR. BAILEY: Now, did you want me to go on
2 into the --

3 THE COURT: No, sir.

4 Yes, sir, Mr. Cummings.

5 MR. CUMMINGS: Thank you.

6 THE COURT: Just on that issue.

7 EXAMINATION

8 BY MR. CUMMINGS:

9 Q. Good afternoon, sir, I'm Norb Cummings and that
10 young lady over there is Ms. Marva Hardee-Thomas,
11 sir, and that gentleman right there is Mr. Marion
12 Bowman, sir, in the white shirt.

13 Mr. Jascomb, again, I thank you very
14 much, sir, for your kindness as Mr. Bailey has done
15 and Her Honor for your close attention here, it's
16 kind of like I know -- I see on here you're old
17 military, old Air Force.

18 A. Yes.

19 Q. So you know what it's like sometimes to be asked
20 something, a question 29 different ways from the
21 first shirt to the CO, right?

22 A. Right.

23 Q. Well, that's the CO. I know you're very close
24 friends with Earl Asbell. He was probably an
25 insurance agent back then when he lived in your

1 neighborhood or was he coming on to law information
2 then?

3 A. He wasn't even in yet, I don't think.

4 Q. Okay, sir. And, again, I'm going back a little
5 bit here with what Her Honor first began with. And
6 you understand from civic duty and from your role in
7 the military that every citizen is presumed innocent,
8 sir, until and unless the State proves somebody
9 guilty?

10 A. That's correct.

11 Q. And that you would hold that philosophical ideal
12 dearly to you; would you not, sir?

13 A. Yes, I would.

14 Q. You would never be the type of gentleman who
15 would believe that somebody had to prove themselves
16 innocent in the courtroom, would you, sir?

17 A. Repeat that one more time.

18 Q. Would you ever think that a citizen would have
19 to prove themselves innocent in the courtroom?

20 A. No. The Court would find them.

21 Q. Find them innocent?

22 A. Right.

23 Q. I want to make sure I'm specific with my
24 question back to you, sir, as the polite gentleman
25 you've been. Do you believe a citizen would have to

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1 prove himself innocent in this courtroom?

2 A. A citizen is innocent until proven guilty.

3 Q. All right, sir. And that's why we're asking
4 about that question.

5 A. Right.

6 Q. And you would not have any expressed or formed
7 opinions that would prohibit you from following that
8 philosophical idea and belief that every citizen is
9 entitled to a fair and impartial trial?

10 A. Correct.

11 Q. And until and unless the State ever proved
12 anybody guilty beyond a reasonable doubt to all the
13 jurors' satisfactions that you would not find anybody
14 guilty, would you?

15 A. Right.

16 Q. And you would be willing to listen to the
17 evidence and the law as Her Honor presented it?

18 A. Yes, sir.

19 MR. CUMMINGS: Based on just that limited
20 issue, Judge.

21 THE COURT: Sure. Thank you so much.

22 EXAMINATION

23 BY THE COURT:

24 Q. Now, most of the time, most of the time,
25 Mr. Jascomb, jurors do not concern themselves with

1 the matter of punishment. Most of the time in the
2 criminal court punishment is left up to the judge,
3 but there is one case in our law when a jury has to
4 deal with a matter of punishment and that is in a
5 case like this one: It is in a case where an
6 individual has been charged with the crime of murder
7 and where the State 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 in
14 prisonment without the possibility of parole, and the
15 other is the death penalty. Now, the penalty would
16 be determined in that second or sentencing phase of
17 the trial. Do you understand this information?

18 A. Yes, ma'am.

19 Q. All right. Now, there was also a paper, this
20 paper that was back in the jury room with you as
21 well.

22 A. Right.

23 Q. And essentially what this paper does for you is
24 describe three types of jurors. Do you remember
25 those three types of jurors and what they were?

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1 A. Yes, ma'am.

2 Q. All right. Which of those three types of jurors
3 do you believe best describes you?

4 A. I would think number three.

5 Q. Number three. In other words, you would be
6 willing to listen to whatever you might hear and if
7 you thought based on what information you received
8 and the evidence that you heard if you thought it was
9 appropriate to sentence someone to death would you be
10 willing and able to vote for that sentence?

11 A. Yes.

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

16 A. Yes, ma'am.

17 Q. So you'd make the decision based upon what you
18 heard in the courtroom?

19 A. Yes.

20 Q. And if you were chosen to serve as a juror in
21 this case you and the other jurors would be housed,
22 the word is sequestered, you would all be housed here
23 in a local motel during the course of the trial and
24 that's where you would have to stay until the trial
25 is over except, of course, when you are in the

1 courtroom. This period could last as long as two
2 weeks or longer, it could also be shorter.

3 Obviously that would create an
4 inconvenience for you as it surely will for all who
5 serve on this jury. Other than the inconvenience
6 which it would surely cause anybody who would have to
7 serve in this capacity, would that pose a serious
8 risk of danger to your health or well being, or to
9 that of anybody who is dependent upon you if you had
10 to serve in that capacity?

11 A. No.

12 Q. Very well. You would be able to do that?

13 A. Yes, ma'am.

14 Q. All right. I'm going to ask you, Mr. Jascomb,
15 to please listen carefully to these lawyers'
16 questions. Thank you. And answer their questions
17 for them.

18 THE COURT: Mr. Bailey.

19 MR. BAILEY: Thank you, Your Honor.

20 EXAMINATION

21 BY MR. BAILEY:

22 Q. Mr. Jascomb, I'll be very brief. We have been
23 over this. If the jury gets to that penalty phase,
24 the second phase of the trial, it would, of course,
25 mean that they would have already found the defendant

1 guilty of murder beyond a reasonable doubt, then they
2 would have heard that additional -- hear that
3 additional evidence at the second part of the trial.

4 A. Yes.

5 Q. I'm not going to ask you do predict what you
6 would do in this case, you don't know the facts.

7 A. Correct.

8 Q. But if the facts warranted a death penalty, as I
9 understand your testimony you could impose that
10 penalty?

11 A. Yes, sir.

12 Q. And if the facts warranted a life sentence, you
13 could vote for a life sentence?

14 A. That's correct.

15 Q. All 12 jurors have to agree one way or the
16 other, death or life. And if they agree on the death
17 penalty then each one of the jurors is asked to sign
18 their names to a death verdict form that's going to
19 result in that defendant being executed. Could you
20 sign your name to a paper like that?

21 A. Yes.

22 Q. Knowing that it would result in that execution?

23 A. Yes, I could.

24 Q. All right, sir. If those two things happened,
25 the unanimous vote for the death penalty and all 12

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1 jurors signing that paper, the jury comes out, the
2 verdict is announced out here in open court, each
3 juror would be asked to stand up when their name is
4 called and affirm out loud if that's their verdict,
5 and it was still their verdict. Could you do that?

6 A. Yes, sir.

7 Q. All right, sir. Thank you, that's all I have.

8 THE COURT: Thank you, Mr. Bailey.

9 Mr. Cummings.

10 MR. CUMMINGS: Thank you, Judge.

11 EXAMINATION

12 BY MR. CUMMINGS:

13 Q. Again, sir, I'll try to be brief also as
14 Mr. Solicitor was. As you know, sir, you filled out
15 a questionnaire. And I promise you we really read
16 these things, everybody does. And there's one
17 question in particular, sir, that may be very
18 personal. And I don't mean to ever ask you anything
19 other than what we're allowed to by the Court and, of
20 course, Her Honor protects all the jurors.

21 A. Correct.

22 Q. But there was a situation sometime in your life
23 where you got to see that handsome guy over there in
24 the corner, Mr. Moultrie, when he worked for the
25 sheriff's department?

1 A. Yes.

2 Q. Would that fact of what happened in that
3 situation, sir, cause you any undue hardship or
4 substantially impair your opinions or your ability to
5 be a fair and unbiased juror, sir, to any citizen
6 charged with a crime?

7 A. None whatsoever.

8 Q. All right, sir. And the reason why we ask that
9 is you see now we want to try to give every citizen a
10 right to a fair and impartial trial.

11 A. Correct.

12 Q. The only way he gets that is through jurors of
13 his peers.

14 A. That's right.

15 Q. And then also, sir, just you don't have any
16 religious or other personal beliefs about the
17 imposition of the death penalty, if and when that's a
18 cause for the jurors to consider?

19 A. No, sir.

20 Q. And also for -- I understand you read the
21 *Summerville Journal Scene*?

22 A. Yes.

23 Q. Have you seen anything about this particular
24 jury case last week at all?

25 A. No. I haven't read anything on this yet.

1 Q. Yes, sir. And I know you'll follow Her Honor's
2 instructions completely about not doing that.

3 A. Right. Correct.

4 Q. And I think there was one other particular
5 question in here, and I don't mean to ask a trick
6 question, in question number 45. And if you need to
7 see that either I or Her Honor will pass that up.

8 THE COURT: There you go.

9 Q. I just leave mine own now.

10 A. Forty-five?

11 Q. Yes, sir.

12 A. I think I misread that question when I signed
13 this.

14 Q. That's why we ask you, sir. Take a moment.

15 A. Correct.

16 Q. Gather your thoughts. If I ask you about the
17 question it says -- as it says right now, and, of
18 course, you have the right to explain your answer,
19 sir. "Have you formed an opinion in this case such
20 that it would affect your ability to serve as a
21 juror?" And the word "Yes" is there.

22 A. This first section, "Do you feel that the fact
23 that you have to return to work and live in the
24 community after rendering this decision have any
25 affect on your..." No, I don't have any problem with

1 what I've answered here.

2 Q. All right, sir. And so there are no other
3 opinions either held by you or expressed by you about
4 serving on any type of particular criminal case or
5 particular this case, sir?

6 A. No. I'll be a fair person, I believe.

7 Q. Thank you, sir. And I thank you for clarifying
8 that for everybody in the room. Thank you, sir.

9 A. Yes.

10 THE COURT: All right. Mr. Jascomb, I'm
11 going to ask you to step outside for just a
12 moment. You don't even have to sit down, if
13 you'll just step right outside for us.
14 (Whereupon, the prospective juror exits the
15 courtroom.)

16 THE COURT: What says the State?

17 MR. BAILEY: Qualified, Your Honor.

18 THE COURT: What says the defense?

19 MR. CUMMINGS: Judge, after the Court
20 allowed us to colloquy I think he is statutorily
21 qualified. I just had a great concern at first
22 about whether or not he could be shifting the
23 burden, ma'am, or proof beyond a reasonable
24 doubt, but I know Her Honor will instruct this
25 jury adequately both at the beginning and at the

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1 end on any issues.

2 THE COURT: Thank you so much.

3 Ask him to step back, please.

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

6 THE COURT: Mr. Jascomb, you have been
7 found to be qualified as a potential juror in
8 this case. That doesn't mean you are on jury
9 yet, it just means that you are a potential
10 juror, you may be selected to serve on this
11 jury. We are hoping, hoping that we're going to
12 be able to select the jury tomorrow, Thursday at
13 two o'clock. However, I think this is -- the
14 more the time goes by the more I think this is
15 ambitious. Please check before you come, listen
16 maybe for the phone, if you have an answering
17 machine check that answering machine. If you
18 don't hear back from us, please be back here in
19 the courtroom at two o'clock tomorrow.

20 Now, Etheredge is going to hand to you
21 a sheet of information and it contains some
22 instructions to help you get ready for your jury
23 service, like packing, telling you about packing
24 clothes, bringing any medications that you might
25 need. It's also got some telephone numbers on

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1 it where you can be reached in the event of an
2 emergency both during the day and in the
3 evening, tells you where you will be housed and
4 gives you some other details.

5 Please feel free to share those
6 details with whomever you choose to share those
7 practical things with. However, please do
8 not -- remember, you may not discuss any aspect
9 of this case with anyone or allow anyone to
10 discuss it with you. And please do not discuss
11 or do not expose yourself to any information
12 about this case at all.

13 MR. JASCOMB: All right.

14 THE COURT: All right, sir.

15 MR. JASCOMB: Okay.

16 THE COURT: Do you understand all this?

17 MR. JASCOMB: Yes, ma'am.

18 THE COURT: I look forward to seeing you
19 tomorrow at 2:00.

20 MR. JASCOMB: Thank you. Two o'clock.

21 THE COURT: 2:00 or very soon thereafter.
22 Thank you, sir.

23 MR. JASCOMB: Yes, ma'am.

24 (Whereupon, the prospective juror exits the
25 courtroom.)

1 MR. CUMMINGS: Not about this juror at all,
2 Judge. Anytime one of us would leave the
3 courtroom we would put on the record that we'd
4 have to have our client's permission. Your
5 Honor, one of our investigators has come up here
6 today, and to not keep him in the courtroom
7 here, Ms. Thomas -- we would ask Mr. Bowman if
8 we could let Ms. Thomas go back and meet with
9 our investigator while we're doing this and I'll
10 make sure I tell my co-counsel everything we
11 did.

12 THE COURT: Okay.

13 MR. CUMMINGS: Then she would be allowed to
14 come back in the room without interruption?

15 THE COURT: Sure. It's fine with me. If
16 it's fine with Mr. Bowman, it's fine with me.

17 MR. CUMMINGS: Thank you, Judge.

18 THE COURT: I've got to take a very short
19 break, I've got to return a phone call so we'll
20 just take a short break.

21 (Recess, from 3:35 p.m. to 3:52 p.m.)

22 THE COURT: All right. Please, let us have
23 Ms. Sherri Barbour, Juror Number 11.

24 (Sherri L. Barbour, called as a prospective
25 juror, having previously been duly sworn, is

1 examined as follows:)

2 EXAMINATION

3 BY THE COURT:

4 Q. Good afternoon, Ms. Barbour.

5 A. Hello.

6 Q. Thank you so much for your patience. We are
7 obviously running behind substantially and the reason
8 for that is it's obviously important that we are able
9 to talk to each juror. And my ability to schedule
10 things and know what time that's going to take has
11 not been very good, so I apologize that you've had to
12 wait.

13 A. That's okay.

14 Q. Now, if you will recall, Ms. Barbour, on Monday
15 you were sworn in with the remaining, or the other
16 potential jurors. Do you remember that?

17 A. Yes, I do.

18 Q. Let me tell you that oath remains in effect and
19 would apply to the questions and the answers that we
20 would get from you -- or the answers that we would
21 get to the questions that we would ask you today,
22 okay?

23 A. Okay.

24 Q. All right. You are so soft spoken. Would you
25 pull that microphone down just a little bit? I can

1 hear you just fine, but I'm afraid some of these
2 folks that want to hear from you won't be as able.

3 A. Sometimes I get told I sound like a little kid.

4 Q. I think that's a good thing. All right. Since
5 we talked with you on Monday, has anyone talked to
6 you about this case or tried to approach you about
7 it, or have you inadvertently or otherwise been
8 exposed to any information about this case?

9 A. No.

10 Q. And when you were back in the jury room you were
11 given a list of potential witnesses. And I'll pass
12 that up there if you need to look at it, take your
13 time. There you go. And I would ask if you've had a
14 chance review the list?

15 A. I have.

16 Q. And after you've had a chance to review that
17 list I would ask if you are related by blood or
18 marriage or acquainted with, or if you have any
19 direct or indirect connection with any of those
20 folks, or if you are a personal acquaintance,
21 business associate or the like?

22 A. No, I'm not.

23 Q. All right. I'll take that back. Now, my notes
24 indicate that when we had a chance to talk on Monday
25 and I asked the entire jury panel if anyone had an

1 opinion about this matter, or if anyone had seen or
2 heard or read anything about the case, or had any
3 bias or prejudice for or against either side in the
4 case, and my notes reflect that you did not indicate
5 that any of those things applied to you.

6 A. That's correct.

7 Q. All right. And since we talked on Monday has
8 anything jarred your memory such that you need to let
9 me know that at this time?

10 A. No.

11 Q. All right. Now, we need to ask you some
12 questions. And I want you to know we are not trying
13 to invade in your privacy, we're just trying to find
14 out how you might feel about some matters. In other
15 words, we need to know what some of your opinions
16 are. And obviously there aren't any right or wrong
17 answers and obviously your opinions are just as good
18 and valid as anybody else's. And we're not
19 challenging your opinions, we just need to try to
20 understand a little bit about them and see how they
21 might impact on your jury service, okay?

22 A. Okay.

23 Q. All right. Now, one of the things that I want
24 to ask you your opinion about in a few moments is
25 penalty, specifically the death penalty. Because

1 there may be an issue -- that may be an issue in this
2 case, but I want you to understand the fact that
3 we're talking about penalty now at this early stage,
4 it really is premature. This trial hasn't begun and
5 as I have said Monday and say again, Mr. Bowman is
6 presumed innocent of these charges. But this is the
7 only time that we can talk about the penalty phase
8 with folks before the trial gets underway and that's
9 obviously why we need to talk to you and need to talk
10 to you before the trial gets underway.

11 And I'm going to talk to you in
12 general terms as I ask these questions. I'm not
13 going ask you about this case because you don't know
14 anything about this case and it wouldn't be fair and
15 it would be improper. So the questions that I'll ask
16 of you I'll ask in a generic or general sense, all
17 right?

18 A. Okay.

19 Q. And to that end if you were a juror in any
20 criminal case would you be willing to listen to the
21 law as you were instructed by the judge?

22 A. Yes.

23 Q. Would you be willing to accept that law and
24 apply it to the facts as you found them to be?

25 A. Yes.

1 Q. Even though you might not particularly like the
2 law, that law, or you might even disagree with it,
3 would you still be willing to follow the law as you
4 were instructed to do so by the judge?

5 A. Yes, I would.

6 Q. Now, if you were asked to serve in the case of
7 the State vs. Mr. Bowman, could you decide this case
8 based solely upon what you would hear in this
9 courtroom and disregard anything that you may have
10 seen or heard or read about this case from any source
11 at all if anything like that should come to your
12 memory?

13 A. Yes, I would.

14 Q. All right. Now, in a criminal case as you very
15 well may know and as we talked about briefly on
16 Monday, the State has the burden of proving the guilt
17 of a defendant beyond a reasonable doubt; in other
18 words, a defendant has no burden to prove himself or
19 herself innocent and never has to prove anything. A
20 defendant is presumed innocent under the law. Do you
21 understand this?

22 A. Yes, I do.

23 Q. Or do you understand these principles?

24 A. Yes, I do.

25 Q. So if you were a juror in any criminal case

1 would you be willing to listen to the evidence and
2 the law as you are instructed?

3 A. Yes.

4 Q. And based upon what you heard in the courtroom,
5 based upon the evidence that you heard and based upon
6 the facts as you would find them to be and once you
7 had applied the law to those facts if you believed,
8 or if you were -- let me say it this way to you: If
9 you were not convinced, if you were not convinced
10 that the State had proven the guilt of a defendant
11 beyond a reasonable doubt, would you be willing to
12 find a defendant not guilty?

13 A. Yes.

14 Q. On the other hand, if after you reviewed the
15 evidence and found the facts and applied the law if
16 you were convinced that the State had proven a
17 defendant guilty beyond a reasonable doubt, would you
18 be willing to find that defendant guilty?

19 A. Yes.

20 Q. Now, you would be willing to listen then and
21 make your decision based on whether or not you were
22 convinced that the person was guilty or not; is that
23 right?

24 A. Yes.

25 Q. All right. Now, most of the time, most of the

1 time jurors don't concern themselves with the matter
2 of punishment. Most of the time in the criminal
3 court that is left up to the judge. But there is one
4 case in our law when a jury has to deal with the
5 matter of punishment and that is -- and that is in a
6 case like this one, it is in a case where an
7 individual has been charged with the crime of murder
8 and where the State is seeking the death penalty.

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

19 A. Yes.

20 Q. Now, back in the jury room we also had a piece
21 of paper for you. And on that piece of paper
22 basically were listed three types of jurors. Do you
23 remember those three types of jurors?

24 A. Yes, I do.

25 Q. All right. And what they were?

1 A. Yes.

2 Q. All right. Which of those three types of jurors
3 would you say best describes you?

4 A. Type three.

5 Q. Type three?

6 A. Yes.

7 Q. In other words, you would be willing to listen
8 to the evidence, listen to what you hear in the
9 courtroom, and if you thought it was appropriate
10 based on the evidence that you heard and if you
11 thought it was appropriate that someone be sentenced
12 to death you would be willing and able to do that?

13 A. Yes.

14 Q. You would be able to vote for that sentence?

15 A. Yes.

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

20 A. Yes.

21 Q. So you would make that decision based on what
22 you would hear here in the courtroom?

23 A. Yes.

24 Q. If you were chosen to serve as a juror in this
25 case you and the other jurors would be housed, the

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1 word is sequestered, in a local motel during the
2 course of the trial. That's where you would have to
3 stay until the trial is over except, of course, when
4 you were in the courtroom. This period could be as
5 long as two weeks, it could be longer, it could be
6 less. And surely, and obviously, that would create
7 an inconvenience for you as it surely will for all
8 who serve on this jury.

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

15 A. No, it wouldn't.

16 Q. You would be able to do that?

17 A. Yes, I would.

18 Q. All right. Now, if you would, please, listen
19 carefully to these questions which I'm sure counsel
20 will have for you and answer their questions. Just
21 one second.

22 THE COURT: Mr. Cummings.

23 MR. CUMMINGS: Thank you, Judge.

24

25

EXAMINATION

1
2 BY MR. CUMMINGS:

3 Q. Good afternoon, Ms. Barbour. Am I pronouncing
4 it correctly, Barbour?

5 A. Barbour.

6 Q. Thank you, ma'am. I'm Norb Cummings, seated at
7 the table is Ms. Marva Hardee-Thomas. Both of us are
8 Court appointed to represent Mr. Bowman, ma'am. That
9 is Mr. Bowman in the white shirt.

10 Thank you for your kindness in
11 allowing us to ask you some questions this afternoon
12 because this is the only time we get to speak to
13 jurors ahead of time and we try to find a jury that
14 will be fair and impartial for any citizen accused of
15 any crimes. And I think you probably hold that civic
16 duty very close or very special.

17 A. I do.

18 Q. All right. Thank you, ma'am.

19 THE COURT: That was a yes. Let me tell
20 you about you that. Ms. Barbour, I need you to
21 answer audibly, not because Mr. Cummings doesn't
22 understand you or me, but I don't want Ms. Keil,
23 our court reporter, to have to interpret what
24 you mean.

25 MS. BARBOUR: Okay.

1 THE COURT: I want her to be able to know
2 and hear.

3 Q. You've probably answered this one question for
4 Her Honor, pretty much the last question about
5 sequestration. And I don't want to know the exact --
6 any names of your children, ma'am. Are the children
7 toddlers, middle school, or high school age?

8 A. High school.

9 Q. High school, okay.

10 A. Yes.

11 Q. So they can darn sure help daddy take care of
12 them, right?

13 A. I only have one, he's 15.

14 Q. Would you just tell me about Family Savers,
15 Inc., is it a beige building on Dorchester Road, or
16 what kind of business it is?

17 A. It's on Ashley Phosphate Road, actually. We're
18 in the process of trying to relocate, we've been
19 there since '93.

20 Q. Okay.

21 A. Would you like to know what we are?

22 Q. Please.

23 A. We're a consumer buying club.

24 Q. You and your spouse own that?

25 A. Yes, we do.

1 Q. I will move very quickly. I wanted to make sure
2 it was either retail or some sort of discount place
3 and not like an ambulance or --

4 A. No. It's a consumer buying club. You have to
5 have a membership to shop there.

6 Q. Well, thank you, ma'am. And along that line
7 now, in question number 22, if you need to see the
8 questionnaire --

9 THE COURT: I'll hand it to her. Here you
10 go, Ms. Barbour.

11 Q. Thank you, ma'am. In question number 22 when
12 you were asked whether a member of your immediate
13 family or close personal friend was the victim of a
14 crime you answered the word...?

15 A. "Yes."

16 Q. All right. And then you went on further to
17 explain what you wrote here. I don't want to put
18 words in your mouth. Could you just tell me
19 basically what happened? You don't have to read it
20 verbatim, but what happened?

21 A. It's hard for me to explain what happened
22 because I wasn't there.

23 Q. Yes, ma'am.

24 A. So I was just told what happened.

25 Q. By your spouse?

1 A. Yes. Just want me to read what I have?

2 Q. Basically says here that he was attacked by two
3 men at a business.

4 A. Right. Because we had a receptionist, a very
5 young girl who worked there and her boyfriend wanted
6 money and she wouldn't give it. Eventually she wrote
7 a check and then he tried to cash it, the check
8 bounced and the boyfriend was angry; so him and his
9 friends just decided they wanted to hit somebody.

10 Q. To take it out?

11 A. Yeah.

12 Q. Would that fact that it happened to your spouse,
13 would that in any way substantially impair your
14 ability to be a fair and impartial juror in this
15 case, ma'am?

16 A. No, it wouldn't.

17 Q. And it's been since 1994, you can put that way
18 behind you?

19 A. Way behind.

20 Q. Okay. And then, again, if you'll allow me just
21 a few more questions, ma'am.

22 A. Okay.

23 Q. As you know, any citizen who comes in this room
24 is presumed innocent. And you would hold that as
25 taken by Her Honor as the law and you would -- that

1 is the law and you would take it as this judge would
2 give it to you; would you not, ma'am?

3 A. Yes, I would.

4 Q. And thereafter and until and unless State proves
5 somebody guilty beyond a reasonable doubt, you would
6 have to listen to all the facts the circumstances as
7 presented by the State to convict a citizen beyond a
8 reasonable doubt; is that correct?

9 A. That's correct.

10 Q. All right. And you understand the defendant
11 doesn't have to do anything or has to do anything in
12 any criminal trial, that it's the burden on the State
13 only and only on the State?

14 A. I understand.

15 Q. Thank you, ma'am. Seems like I'm giving you a
16 civic lesson, huh? Ms. Barbour, the next question is
17 this now: If and when the jury, all 12 good people
18 put their minds together and if they render a
19 verdict, whatever it may be, but if a jury were to
20 find a person guilty of murder, then and only then
21 would it go to the next phase. And at that point
22 there are two and only two kinds of punishments as
23 the jury sees fit. One would be life without the
24 possibility of parole for any reason, or for reasons
25 as her -- discovered by Her Honor and the law coming

1 into the jury.

2 On the other hand, there is the
3 possibility of the death penalty being a sentence by
4 this jury. And all the jurors would put their good
5 minds together and arrive at a sentence unanimously,
6 if possible. And what I would ask you today is are
7 you the type of lady, the type of citizen that would
8 listen to everything first before rendering
9 punishment or wanting to decide on a punishment?

10 A. Yes, I would.

11 Q. And you would put your mind along with your
12 fellow jurors to collectively come to some sort of
13 understanding?

14 A. Yes, I would.

15 Q. Okay. And you understand that we'll talk to you
16 about the possibility of the ultimate penalty. And,
17 again, you may be required to do things statutorily,
18 like announce with your fellow jurors if -- we call
19 polling. They would ask you to stand up. And,
20 again, Her Honor protects all the jurors, but you may
21 be asked to stand up in court and say this is your
22 vote and it still would be your vote. And are you
23 the kind of lady who could do that?

24 A. Yes, I am.

25 Q. Okay. And you may be asked to sign a form. And

1 would you be willing to do that or could you do that?

2 A. Yes. I would and I could.

3 Q. And then of course the other end would have to
4 be to vote for one of the other penalties if you and
5 the other jurors saw fit. And you would do that
6 also?

7 A. Yes.

8 MR. CUMMINGS: Beg the Court's indulgence,
9 Your Honor.

10 THE COURT: All right.

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

13 MR. CUMMINGS: That's all the questions I
14 have of this nice lady. Thank you, judge.

15 MR. BAILEY: I'm Walter Bailey, I'll be
16 prosecuting the case. I have good news for you,
17 they've asked all the questions and I have
18 nothing more. Thank you.

19 THE COURT: Would you do me a favor,
20 please, ma'am, and just step right outside the
21 door? We will be with you very shortly. Won't
22 even have time to sit down.

23 MS. BARBOUR: Okay.

24 (Whereupon, the prospective juror exits the
25 courtroom.)

1 THE COURT: What says the defense?

2 MR. CUMMINGS: Judge, the defense, she's
3 statutorily qualified.

4 MR. BAILEY: Qualified.

5 THE COURT: Very well.

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

8 THE COURT: Thank you, Ms. Barbour.

9 Ms. Barbour, you have been found to be qualified
10 as a potential juror in this case. That doesn't
11 mean that you are on the jury yet, it just means
12 that you are a potential juror and you may be
13 selected to serve on this jury.

14 We are hoping that we will be able to
15 select the jury tomorrow at two o'clock. That's
16 real ambitious, I'm afraid. As you can tell we
17 are running behind. If we have to change the
18 time we will call and let you know probably in
19 the morning. So, please, before you drive up
20 here check your -- listen out for the phone and
21 check your answering machine if you have one
22 just to be sure that we haven't called. Because
23 if we have not called I'm going ask you to
24 please be back here at two o'clock tomorrow.

25 Now, here's a sheet for you with some

1 instructions to hopefully help you get ready for
2 your jury service. It has information on there
3 like packing your clothes, bringing any
4 medication you might need, and gives you where
5 you will be housed and gives you emergency
6 numbers where you can be reached both day and
7 night if your family or anyone needs to reach
8 you in that regard.

9 Please feel free to talk about these
10 practical details in any way and with whom
11 anyone you chose, but be mindful that you must
12 not talk about this case or allow anyone to
13 discuss this case or any aspect of it with you.
14 And do not expose yourself to any information
15 about this case from any source. Do you
16 understand these instructions?

17 MS. BARBOUR: Yes, I do.

18 THE COURT: Thank you so much. I look
19 forward to seeing you hopefully tomorrow at
20 2:00.

21 MS. BARBOUR: Okay.

22 THE COURT: Thank you, Ms. Barbour.

23 MS. BARBOUR: Thank you.

24 (Whereupon, the prospective juror exits the
25 courtroom.)

1 THE COURT: All right. The next name is
2 Ms. Sylvia Perry, we have already talked to.
3 She was a duplicate, so....

4 MR. CUMMINGS: We just wanted to point out
5 a couple things to Her Honor, please, if we may
6 on this next questionnaire.

7 THE COURT: I know, I saw that.

8 MR. CUMMINGS: I know it may be of a
9 sensitive nature.

10 THE COURT: Y'all want to chat a minute
11 about that?

12 MS. HARDEE-THOMAS: Yes, Your Honor, just a
13 second.

14 THE COURT: Yeah. Sure.

15 (Pause in proceedings.)

16 THE COURT: All right, counsel. We will
17 bring her in and we will begin the process.
18 Ms. Cathy Kilpatrick. I think I'll go right to
19 those questions.

20 (Cathy L. Kilpatrick, called as a prospective
21 juror, having previously been duly sworn, is
22 examined as follows:)

23 EXAMINATION

24 BY THE COURT:

25 Q. Hi, Ms. Kilpatrick. How are you?

Juror 167 Cathy L. Kilpatrick - Examination

1 A. Fine. How are you?

2 Q. Fine, thank you.

3 A. Glad to finally be here.

4 Q. That is a very kind way of saying, gosh, you're
5 running behind.

6 THE COURT: This is Ms. Cathy Kilpatrick
7 who is Juror Number 167.

8 Q. Now, Ms. Kilpatrick, you will recall when we
9 were together on Monday you were placed under oath
10 with all the other jurors. Do you remember that?

11 A. Yes, ma'am.

12 Q. You will, of course, remain under oath for this
13 process so you don't need to take another oath, all
14 right?

15 A. Okay.

16 Q. Since we talked on Monday has anyone talked to
17 you about this case, or tried to contact you about
18 the case, or approach you about the case, or have you
19 had any inadvertent or any other -- otherwise been
20 exposed to any information about this case?

21 A. No, ma'am.

22 Q. All right. Now, when you were back in the jury
23 room you hopefully were shown this list called the
24 potential witness list. I put it there in case you
25 need to refer to it. And I would ask if you had a

1 chance to look at it?

2 A. Oh, yes.

3 Q. And after you have looked at it, I would ask if
4 you are related by blood or marriage or acquainted
5 with, or have any relationship with, or any
6 connection be it direct or indirect, personal or
7 casual or business relationship with any of those
8 folks?

9 A. Didn't even recognize a name.

10 Q. All right. Thank you. Now, when we were
11 speaking on Monday and I was asking different
12 questions, do you know different people and folks
13 would stand up and identify themselves, my notes say
14 or indicate that you stood up to indicate that you
15 had some connection with someone in the solicitor's
16 office. Do I have that information right?

17 A. Yes, ma'am.

18 Q. Oh, great. Tell me who in the solicitor's
19 office do you know?

20 A. Mr. Robbins.

21 Q. Mr. Robbins, all right. And do you know -- and
22 Mr. Robbins -- well, I need to know a little bit
23 about that. Would you call it a professional or a
24 personal relationship?

25 A. It's personal, but extremely casual.

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1 Q. Extremely casual?

2 A. We belonged to the same service organization
3 several years ago.

4 Q. All right.

5 A. The last time I saw him was about three months
6 ago, we exchanged about ten words, hi, how are you
7 doing, nice see you.

8 Q. You don't visit in his home, he doesn't visit in
9 yours?

10 A. I don't even know where he lives.

11 Q. I understand. And would the fact that Mr.
12 Robbins is with the solicitor's office, my
13 understanding he will not participate in this trial,
14 but the fact that he works with the solicitor's
15 office and is a deputy solicitor, would that have any
16 potential -- would that have any -- would that cause
17 you any difficulty or in any way impact on your
18 ability to be a fair and impartial juror in this
19 matter?

20 A. No, ma'am.

21 Q. Can you set that relationship, casual as it is,
22 aside and try this case based on the evidence in this
23 courtroom?

24 A. Yes, ma'am.

25 Q. Thank you. Now, Ms. Kilpatrick, you have been

1 kind enough to share with us our questionnaire. And
2 I rather like the comment, gee, this sure is a long
3 questionnaire. But in any event, I've had -- just
4 one second. I hate to do this to you, especially
5 since you are here, there is a call that I must take.
6 If you will just stand at ease and we'll get right
7 back to you.

8 A. All right.

9 Q. Thank you. We'll be at ease for just a couple
10 minutes.

11 (Recess, from 4:17 p.m. to 4:28 p.m.)

12 THE COURT: All right. Thank all for that.

13 Q. Now, I believe I've asked you about Mr. Robbins,
14 you have a casual acquaintanceship. And the fact
15 that Mr. Robbins is with the solicitor's office,
16 would that in any way impact on your ability to be
17 fair and impartial?

18 A. No, ma'am.

19 Q. Very well. Now, the other questions that I
20 asked when we had an opportunity to talk on Monday, I
21 asked whether or not anyone had any opinions, whether
22 or not anyone had seen or heard or read anything
23 about this particular matter, or whether or not
24 anyone had any particular bias or prejudice for or
25 against any side. I did not record where you

1 indicated that any of those things applied to you.

2 A. I didn't know the name, I didn't know if it was
3 a casual name that was thrown out as a sample.

4 Q. All right.

5 A. I had no idea what it was.

6 Q. Very well. Now, and since we talked Monday has
7 anything jogged your memory, given you any
8 information along these lines that you did not have
9 on Monday?

10 A. Not at all.

11 Q. All right. Now, I've had an opportunity to
12 review your questionnaire as I indicated before we
13 took the break, and noticed your questions which
14 hopefully we can certainly address, and also
15 noticed -- this is lovely because you're very
16 uncomfortable about what happened, so I'm going to do
17 this in as gentle a way as I know how.

18 Obviously, Ms. Kilpatrick, there have
19 been some sadness, some tragedies in your life. And
20 unfortunately some of them involve, have involved law
21 enforcement. Obviously you've been a victim and
22 that's been involved in your life and I'm certainly
23 sorry about that and sorry that I must even delve
24 into that. I hope you understand given my role that
25 it's necessary that I do that to some extent.

1 The question that I would have for
2 you, is given that background which I've read, which
3 counsel has the benefit of, do you believe that those
4 experiences which you have had in your life could,
5 might, substantially impair your ability to be a
6 juror in this case?

7 The information particularly that I
8 read from the indictment on Monday, even though I
9 hasten to tell you, again, that an indictment isn't
10 evidence of anything, it is simply the charging
11 document. But at least I can certainly say to you
12 the reason that we read the indictments to a juror is
13 to give them an idea about the allegations of the
14 State. So I think it's fair to say that the State
15 will be presenting some evidence in those areas if
16 that's helpful to you.

17 So my question is to you, do you,
18 given that background, some of it certainly painful,
19 do you believe that that background might, or could,
20 substantially impair your ability to listen to the
21 evidence in this courtroom and then set those
22 experiences completely aside and try this case on the
23 evidence in this courtroom, obviously the law as I
24 give it to you, being completely unaffected, if you
25 will, by that experience so that your decision, if

1 you are a juror, would be rendered based on the
2 evidence in this courtroom, the law as I give it to
3 you being fair and impartial to both these parties?

4 A. I believe so. I said many times that I am who I
5 am today not just in spite of things that happened to
6 me, but because of them. And as you could see from
7 my answers I have volunteered on both sides of the
8 fence and that contributed a lot to my own healing.
9 I consider myself to be an intelligent human being
10 and I think that you can't let your emotions become
11 involved when you're making a decision.

12 Q. All right. Now, I need to ask you some
13 questions about some of your feelings, some of your
14 opinions.

15 A. Okay.

16 Q. And, again, I don't ask you those to invade your
17 privacy, quite frankly I just want to have some
18 understanding about your opinions to see how they
19 may, or might, impact on your jury service. And let
20 me remind you that there are no right and no wrong
21 answers. Let me also tell you that obviously we are
22 all aware that your opinions are as good and valid as
23 anybody else's and no one is going to challenge those
24 opinions at all. This is simply a process through
25 which we will try to hear and understand some of your

1 opinions about some issues.

2 Now, one of the matters that I'm going
3 to be asking you about is penalty and your opinion
4 about penalty, specifically the death penalty,
5 because that may be an issue in this case. Now,
6 obviously to talk about penalty when this stage of
7 the trial has not even begun is premature. And I
8 also hasten to tell you again, I think I did so on
9 Monday, that Mr. Bowman is presumed innocent of these
10 charges. However, this is my opportunity to talk to
11 potential jurors before the case begins about these
12 issues and that's why we're talking about them
13 prematurely. So I ask you to keep in your mind that
14 the discussion on penalty is premature, and keep also
15 in your mind that Mr. Bowman is presumed innocent of
16 these charges.

17 Now, I'm also going to be speaking to
18 you not about this case, because you don't know
19 anything about this case and that wouldn't be fair to
20 you and it would be improper so I'm not going to talk
21 to you about this case. But I am going to talk to
22 you in a more generic sense and I'll do that now.

23 If you were a juror in any criminal
24 case would you be willing to listen to the law as it
25 is instructed to you by the judge?

1 A. Oh, yes, most definitely.

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

4 A. I was able to do it in lower courts.

5 Q. All right.

6 A. When we were in the other room just chatting I
7 said, you know, sometimes what your instinct or your
8 gut tells you is right, when you get instructions
9 from the judge reverses. So you can find someone not
10 guilty when your instinct would say guilty, or you
11 could find someone guilty when your instinct says not
12 guilty of any specific charge.

13 Q. You're saying by following the law that the
14 judge gives you?

15 A. As the judge gives you.

16 Q. I understand.

17 A. And it's a difficult decision.

18 Q. Let me ask you this question: Even though you
19 might not particularly like that part of the law that
20 you're being charged or instructed, or even if you
21 disagree with it, do you still -- and would you still
22 be willing to follow the law if you were instructed
23 to do so by the judge?

24 A. Yes, ma'am. It's the law.

25 Q. All right. Now, if you were asked to serve in

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

7 A. Yes, I believe so.

8 Q. All right. In other words, what happens
9 sometimes to jurors is that --

10 A. Something jogs something.

11 Q. Exactly, something jogs something. If that
12 happened would you be willing to set that aside?

13 A. You have to.

14 Q. All right. Now, in a criminal case as you know
15 and as we talked about briefly on Monday, the State
16 has the burden of proving the guilt of a defendant
17 beyond a reasonable doubt. In other words, a
18 defendant has no burden to prove himself or herself
19 innocent, they don't have to prove a thing, the
20 burden remains upon the State to prove someone
21 guilty, and, again, a defendant is presumed innocent
22 under the law. Do you understand these principles?

23 A. Yes, ma'am.

24 Q. Okay. So if you were a juror in any criminal
25 case would you be willing to listen to the evidence

1 and the law as you were instructed?

2 A. Yes, ma'am.

3 Q. Now, if you did that, you listened to the
4 evidence, find the facts as you find them to be,
5 apply the law to those facts and if after you did
6 that you were not convinced that the State had proved
7 a defendant guilty beyond a reasonable doubt, would
8 you be willing to find a defendant not guilty?

9 A. Oh, yes.

10 Q. And on the other hand, if you listened to the
11 evidence and found the facts as you found them to be
12 and applied the law and you were convinced the State
13 had proved the guilt of a defendant beyond a
14 reasonable doubt, would you be willing to find that
15 defendant guilty?

16 A. Yes, ma'am.

17 Q. Now, you would then be willing to listen and
18 make your decision based upon whether or not you were
19 convinced that the person is guilty or not?

20 A. (Nodding.)

21 Q. That's a yes?

22 A. Yes, ma'am.

23 Q. All right.

24 A. I'm sorry, I forgot.

25 Q. That's okay. You and I were having a

1 conversation, that happens all the time. Now, would
2 you like a little water?

3 A. Oh, yes, please.

4 Q. And with any luck I won't spill it on you or me.
5 There you go.

6 A. Thank you.

7 Q. You're welcome. Now, most of the time jurors
8 don't concern themselves with the matter of
9 punishment. Most of the time in the criminal court
10 that is left up to the judge. But there is one case
11 in our law when a jury has to deal with the matter of
12 punishment and that is in a case like this one, 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.

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

1 A. Yes, ma'am.

2 Q. Now, did you have an opportunity to look at this
3 piece of paper in the jury room? You had ample time
4 to look at that piece of paper.

5 A. Yes.

6 Q. It essentially describes three types of jurors.
7 Do you remember these three types of jurors?

8 A. Yes, ma'am.

9 Q. Which of those three types of jurors would you
10 say best describes you?

11 A. I hope I'm number three.

12 Q. All right. And by that you would say that you
13 would be willing to listen to the evidence, listen to
14 the information and base your decision on that
15 information in this courtroom?

16 A. Yes, ma'am.

17 Q. Now, if after you considered all the information
18 provided to you in the sentencing phase in the
19 courtroom if you thought it was appropriate that
20 someone be sentenced to death, would you be able and
21 willing to vote for a sentence of death?

22 A. Yes, ma'am.

23 Q. On the other hand, if you thought the death
24 sentence was not appropriate or if for any other
25 reason the person ought to receive life imprisonment,

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

3 A. Yes, ma'am.

4 Q. Would you make your decision based upon what you
5 hear in the courtroom?

6 A. What you hear in the courtroom.

7 Q. Now, if you were chosen to serve as a juror in
8 this case you and the other jurors would be housed,
9 the word is sequestered, in a local motel during the
10 course of the trial. And that's where you would have
11 to stay until the trial is over except, of course,
12 when you were in the courtroom. This period could be
13 as long as two weeks, or longer.

14 Obviously that will create an
15 inconvenience upon you, as surely it will for all who
16 serve on this jury. Other than the inconvenience
17 which it would surely cause to anyone who would have
18 to serve in this capacity, would that pose a serious
19 risk of danger to your health or well being, or to
20 the health or well being of anyone who is dependent
21 upon you if you had to serve in that capacity?

22 A. I have dogs and fish and I have a neighbor who
23 is very, very good, we take care of each other.

24 Q. All right.

25 A. The only thing that I would have to do is make

1 sure I had enough medication.

2 Q. Very well.

3 A. Other than that I could do that.

4 Q. You would be able to do that?

5 A. Yeah. As long as I can bring a book or
6 something.

7 Q. All right. All right. And, Ms. Kilpatrick, I'm
8 going to ask that you just answer these lawyers'
9 questions. No doubt they will have some questions
10 for you as they are, of course, entitled to. And
11 just bear with me, I have to find another sheet of
12 paper.

13 THE COURT: Mr. Cummings.

14 EXAMINATION

15 BY MR. CUMMINGS:

16 Q. Good afternoon, ma'am, I'm Norb Cummings.

17 A. Hello.

18 Q. Seated at the table is Ms. Marva Hardee-Thomas,
19 the other co-counsel. We are both Court appointed to
20 represent Mr. Bowman. The other young lady is an
21 employee who won't be involved in this case at all
22 other than helping us in a general way.

23 A. All right.

24 Q. Her name is Miss Summer Veno. And I would just
25 like to start by this afternoon letting you know that

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1 Her Honor's the boss as you well know. And this gets
2 kind of difficult where people who don't know you and
3 you don't know us have to ask you certain questions
4 about trying to find fair and impartial jurors. And
5 from your own colloquy with the judge a little while
6 ago, you stated that you understood the importance of
7 that?

8 A. Oh, yes, sir.

9 Q. All right. And there are some issues. And I
10 promise you that we really do read these, as we make
11 all the people sit down and do homework with it.

12 You're employed at the Naval Hospital, ma'am?

13 A. Naval Hospital, Charleston.

14 Q. What capacity, please?

15 A. I'm a supply technician, defense medical
16 logistics systems administrator. I play with the
17 supply logistic system and I do analysis.

18 Q. All right, ma'am. How long have you been there?

19 A. I've been at Navy Hospital since July 30th,
20 1984.

21 Q. All right. And I noticed that you basically put
22 down on question number 48, if you need to see your
23 questionnaire we would share this with you, that you
24 suffer from bipolar or manic depressive?

25 A. Yes, sir.

1 Q. If I may, ma'am, please, how long have you been
2 diagnosed with that?

3 A. I was misdiagnosed for about five years with
4 chronic atypical depression and then they realized
5 that it was bipolar.

6 Q. Yes, ma'am.

7 A. And probably four or five years. I'm functional
8 with medication, it's a chemical imbalance.

9 Q. Could you, please, just for our purposes here
10 today let us know what types of medications you are
11 on, please, and how much dosage?

12 A. Certainly. I take 225 milligrams of Effexor XR
13 in the morning, I take 200 milligrams of Cartrol in
14 the morning and again at night. If I'm having
15 trouble sleeping I take 10 milligrams of Ambien and
16 then I'm on, you know, just regular like
17 Claritin D/24. And I think it's terrible getting
18 older.

19 Q. Don't we know it.

20 A. And Prempro just so I don't have power surges.

21 Q. All right. And the reason I ask that now is
22 it's very important that particularly with this
23 diagnosis that you follow your medication routine --

24 A. Oh, yes.

25 Q. -- to the letter.

1 A. It's like being a diabetic.

2 Q. Yes, ma'am. And, again, not trying to make you
3 uncomfortable about anything at all, ma'am, does
4 taking this medication cause you anything as far as
5 your physical abilities to either be tired or not be
6 able to pay attention or anything?

7 A. Not taking the medication affects my abilities,
8 that I sleep too much if I don't have my medication.
9 But other than that, since I've been on this regimen,
10 with the exception of a few slight, what would you
11 call it slumps, becoming slightly depressed rather
12 than completely depressed. I don't know if you know
13 the difference, you know, because you're not bipolar,
14 but I don't have deep dips and high highs, I
15 function. I function like a regular human being.

16 Q. We were not ever trying to say anything about
17 you as a person, ma'am, as you know.

18 A. I know that you need to understand because this
19 gentleman is your client.

20 Q. Yes, ma'am. And also along those lines that way
21 with your medication, Her Honor told you that you,
22 again, ma'am, if you were selected on a jury that we
23 may have the jury sequestered for up to two weeks,
24 maybe longer, maybe shorter. And we may be in the
25 courtroom depending, again, how the boss -- long

1 hours or however until Her Honor lets the jury go
2 back and rest or do whatever. Would that situation
3 cause any stress or cause you any harm in dealing
4 with the hours or the conditions in here?

5 A. Oh, no, sir. But I did -- I missed one. I
6 missed one. Excuse me, may I? Just so I can get the
7 right name on this.

8 Q. Yes.

9 A. If I should have any time when I feel any
10 anxiety or anything -- hello -- Clonopin.

11 Q. Okay.

12 A. .5 milligrams. And this is only an as-needed,
13 this would be if I felt very stressed. Other than
14 that, I go through one prescription of 30 tabs in --
15 or 45 tabs in a year.

16 Q. Yes, ma'am.

17 A. So it very rarely happens, but I do have it if
18 it does.

19 Q. As you know we have a JD and not an MD, that
20 means we didn't do well in math, okay? But in all
21 candor, that is like for either anxiety or a panic
22 issue?

23 A. Yeah, stress. And I don't expect that long
24 hours or serving on a jury would induce the kind of
25 stress that would require me to take that. I just

1 wanted to make sure that you had that medication.

2 Q. Thank you, ma'am. And then, again, there are
3 some questions as we go down your questionnaire, 49.
4 And you were probably one of the people that wrote
5 down that never received a questionnaire like this
6 before. And then you had some questions. And,
7 again, while her Honor will protect every juror it
8 says "Should I be afraid of retribution? I live
9 alone."

10 That's a question from you asking the
11 personnel of the Court. I'm not going to put words
12 in your mouth, would you expound on that, explain
13 that to me, ma'am, what you would mean by that?

14 A. Was that in response to a question that asked
15 about if I would be afraid?

16 Q. Number 49, ma'am, please.

17 A. Forty-nine. Oh, okay. The question itself just
18 led me to believe that -- do I have the right one?

19 Q. It's under number 49, ma'am, an "A" by it.

20 A. I never get a questionnaire. And when I looked
21 at the question number 45, my response was in
22 question number 45 which was saying is the fact that
23 you'll have to return to work and live in this
24 community. Since I didn't know what any of this was
25 about and I didn't know what Mr. Bowman was going to

1 be tried for, then I didn't know whether I should be
2 afraid. I am very rarely afraid of anything.

3 Q. Yes, ma'am.

4 A. But I do live alone and if there's something
5 that I need to do, then I guess we'll be calling the
6 security company to -- you know, to put something in.

7 Q. Okay.

8 A. But I don't see any reason actually to be afraid
9 in that respect. I think I may have been a little
10 bit flip in that answer just because it was a long
11 questionnaire and I didn't know what a lot of these
12 questions meant.

13 Q. And the reason for the questionnaire is to try
14 to get the juror --

15 A. To get a feeling, yes, sir.

16 Q. Yes, ma'am. I thank you for that. Then letter
17 "B" underneath it states "What kind of media coverage
18 puts a juror in a position to not be impartial?"

19 A. Well, it said, again, that's also under number
20 45, "Do you feel that media presence in this
21 community will have an effect on your ability to be
22 impartial?"

23 I can't see that media coverage of any
24 type -- you know, I mean what kind of media coverage
25 would put me in a position where I couldn't be

1 impartial? I'm a sequestered juror, I don't watch
2 television, right?

3 THE COURT: That's right.

4 A. A lot of court TV. So I wouldn't be influenced
5 by media coverage, so I mean I just -- I just
6 couldn't understand what would put me in that
7 position.

8 THE COURT: I can't believe I have to do
9 this again, and I would not if it was not
10 essential, but I have to break for just a moment
11 again. And I'm so sorry.

12 MR. CUMMINGS: Thank you, Judge.

13 THE COURT: Y'all just hang loose. Hold
14 loose. Come on, Ms. Kilpatrick, you can either
15 walk back or you can stay.

16 MS. KILPATRICK: Here we go.

17 (Recess, from 4:42 p.m. to 5:10 p.m.)

18 THE COURT: All right. Mr. Cummings, I
19 believe that you had concluded your questions.

20 MR. CUMMINGS: Yes, ma'am. I thank this
21 nice lady.

22 THE COURT: Yes, sir. Mr. Bailey.

23 MR. BAILEY: I don't believe I have any
24 questions.

25 THE COURT: Very well. Ms. Kilpatrick, let

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1 me tell you what happens next. I'm going to ask
2 you to just step outside the courtroom for just
3 a moment and we will confer and be with you in
4 just one moment.

5 MS. KILPATRICK: All right.

6 THE COURT: Thank you so much.

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

9 THE COURT: With counsel's consent you all
10 will allow me to call, to inform Ms. Kilpatrick
11 that we will call her in the next day or two to
12 let her know if she is needed; is that right?

13 MR. BAILEY: Correct, Your Honor.

14 MR. CUMMINGS: Absolutely, Judge. And we
15 have Mr. Bowman's consent.

16 THE COURT: Thank you. And send her back
17 in.

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

20 THE COURT: See how quick that was?
21 Ms. Kilpatrick, we have your telephone numbers,
22 I wanted to be sure that we did, and the clerk's
23 office will call you either tomorrow or Friday
24 to let you know if you are needed to return
25 later, probably call you tomorrow, later in the

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1 week, most probably on Friday if you are needed,
2 all right?

3 MS. KILPATRICK: All right. So I can go to
4 work tomorrow?

5 THE COURT: Indeed you can. Thank you so
6 much.

7 MS. KILPATRICK: Thank you.

8 THE COURT: Bye-bye. Thank you so much for
9 your time.

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

12 THE COURT: And, again, just for the
13 record, counsel has agreed to do that and to --
14 as I understand both counsel agreed that she
15 should not serve, that she should be, if you
16 will, disqualified. However, we have chosen and
17 consented to handle her situation in this regard
18 because of her medical/psychological condition;
19 is that right?

20 MR. BAILEY: That's correct, Your Honor.
21 Just for purposes of the record the reason as
22 far as the State is concerned is that I have
23 extreme concerns about the quantity of
24 medication she's on and the fact that she said
25 even though she is on that medication she still

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1 has depressive episodes that aren't as severe as
2 they would be without the medication. In
3 addition she had something else to kind of pump
4 her up if she needed that.

5 THE COURT: I think she had something for
6 panic attacks, too.

7 MR. BAILEY: Yeah. I think the pressure
8 that she would undergo as a juror in this type
9 of case with sequestration would potentially be
10 more than she can handle. And I'm also
11 concerned about the answer in the questionnaire
12 about her apparent fear of some kind of
13 retaliation or something that may spill over in
14 her deliberation.

15 THE COURT: Thank you so much. And I
16 gather the defense, likewise?

17 MR. CUMMINGS: Absolutely concur, Judge.
18 And all we would do is expound on what Mr.
19 Bailey already stated with our reasons that that
20 is satisfactory and we would ask this lady to be
21 excused, please.

22 THE COURT: Very well. We will disqualify
23 her and excuse her. I think what I will do is
24 I'll ask the clerk's office to just inform her
25 tomorrow that her services, great appreciation,

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1 but her services are not needed and just thank
2 her for her time.

3 MS. ETHEREDGE: Very well.

4 THE COURT: All right. That leads us then
5 to Ms. Marilyn Prine.

6 (Marilyn B. Prine, called as a prospective
7 juror, having previously been duly sworn, is
8 examined as follows:)

9 EXAMINATION

10 BY THE COURT:

11 Q. Hi, Ms. Prine. How are you?

12 A. Hi.

13 Q. Bored, tired of waiting I would think. I am so
14 sorry to have kept you as long as we have, but it is
15 so necessary that we are able to spend some time
16 talking to each of our jurors, so I thank you for
17 your time and your patience and apologize to you.

18 Ms. Prine, do you remember Monday,
19 gosh, it seems so long ago now, but remember on
20 Monday morning when you were sworn in with the other
21 potential jurors, remember that?

22 A. Yeah, I remember.

23 Q. Let me share with you that that oath remains
24 today, you don't need to take another one, and it
25 would cover, of course, the answers that you would

1 share with us to the questions that we will ask. Do
2 you understand that?

3 A. Uh-huh (affirmative response).

4 Q. Now, since we talked with you Monday morning,
5 has anyone talked to you about this case, or tried to
6 approach you about this case, or have you --

7 A. No.

8 Q. -- inadvertently or otherwise been exposed to
9 any information about this case?

10 A. No.

11 Q. All right. Now, you are -- I hear you, I'm
12 having no problem hearing you. I want to be sure
13 Ms. Keil can hear you and all the way over to Ms.
14 Hardee-Thomas.

15 A. Okay. All right.

16 Q. Thank you so much. Now, when you were back in
17 the jury room you probably had time to memorize the
18 potential witness list, but did you have time to
19 review the potential witness list?

20 A. Yes.

21 Q. And after you've done so are you related by
22 blood or marriage or acquainted with, or have any
23 connection direct or indirect, business relationship,
24 personal relationship and the like with any of the
25 folks who are listed on the potential witness list?

1 A. No.

2 Q. Now, my notes indicate, Ms. Prine, that when I
3 asked those questions Monday morning if anyone had
4 any opinion, anyone had seen or heard or read
5 anything about this case, or if anyone had any bias
6 or prejudice for or against either side on this case,
7 that you did not indicate that any of those things
8 applied to you; is that right?

9 A. That's right.

10 Q. All right. Since we talked on Monday has
11 anything jogged your memory, come into your mind such
12 that you need to, to respond to any of those
13 questions?

14 A. No.

15 Q. All right. And I'm going to ask you some
16 questions, Ms. Prine. And first of all, I want you
17 to know I am not prying into your personal business
18 and your privacy. What I need to know, is I need to
19 understand and know some of your opinions, how you
20 feel about certain matters. I don't mind telling you
21 one bit, and think you should know that the reason
22 that I'm going to be asking you these questions and
23 these lawyers are going to also be asking you some
24 questions, is really to find out whether or not any
25 of your opinions might have an impact on your jury

1 service, that's the purpose of these questions.

2 Let me begin by saying that obviously
3 there are no right or wrong answers. Obviously your
4 opinions are just as good, valid as anybody else's
5 and we're not about challenging your opinions at all,
6 that's not what we're interested in one bit. Again,
7 we just need to understand a little bit about your
8 opinions and see if they might impact on your jury
9 service.

10 I am going to be asking you some
11 questions in a general sense, generic sense. I'm not
12 going to talk to you specifically about this case
13 because you don't know anything about the case, it
14 wouldn't be fair to you, and that would improper so
15 I'm not going to do that. But I am going to ask you
16 some questions just regarding general, generic
17 matters.

18 Now, I'm going to be asking you in a
19 few moments about your opinion about penalty,
20 specifically the death penalty because that may be an
21 issue in this case. But you understand that the fact
22 that we're talking about penalty at this early stage
23 is obviously premature. It's premature because the
24 trial hadn't begun and because Mr. Bowman is presumed
25 innocent of these charges. We just talk about

1 penalty because it's the only time that we
2 necessarily can talk to jurors about penalty before
3 the case begins.

4 Now, I do want you to keep in mind two
5 things: That I'm prematurely asking you questions
6 about penalty because that's -- I'm not prematurely
7 asking you, I'm asking you questions when I'm
8 supposed to, but it's premature in this process, A;
9 and B, keep in mind that Mr. Bowman's innocent and --
10 well, he is presumed innocent under the law of these
11 charges, okay?

12 All right. Now, if you were a juror
13 in any kind of criminal case, would you be willing to
14 listen to the law as you were instructed by the
15 judge?

16 A. Yes.

17 Q. Would you be willing to accept that law and
18 apply it to the facts as you found those facts to be?

19 A. Yes.

20 Q. Even though you might not particularly like that
21 law or maybe you disagree with it, would you be still
22 be willing to follow the law as you were instructed
23 to do by the judge?

24 A. Yes.

25 Q. And if you were asked to serve in the case of

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

6 A. Yes.

7 Q. All right. And in a criminal case as you may
8 know and certainly as we talked about Monday morning,
9 the State has the burden of proving the guilt of a
10 defendant beyond a reasonable doubt. In other words,
11 the defendant has no burden. No defendant has a
12 burden to prove his innocence or her innocence. A
13 defendant in a criminal case never has to prove
14 anything. The burden is always on the State and a
15 defendant is always presumed innocent under our law.
16 Do you understand that?

17 A. Yes, I do.

18 Q. All right. And so if you were a juror in any
19 criminal case, would you be willing to listen to the
20 evidence and then listen to the law as you were
21 instructed?

22 A. Yes.

23 Q. All right. And if you were a juror in any
24 criminal case, and you've already said you would
25 listen to the evidence, after you listened to the

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1 evidence and found the facts as you found them to be
2 and listened to the law and applied the law as the
3 judge gave it to you, if after you did that you were
4 not convinced, were not convinced that the State had
5 proven the defendant guilty beyond a reasonable
6 doubt, would you be willing and able to find that
7 defendant not guilty?

8 A. I'm not sure.

9 Q. Is my question -- my question's confusing, isn't
10 it? It sounds like a trick question, doesn't it?

11 What I'm trying to ask you is would
12 you be willing to listen to the evidence and make
13 your decision based upon whether or not you were
14 convinced that a person is guilty or not?

15 A. Yes.

16 Q. All right. Very well. All right. Now, most of
17 the time jurors don't concern themselves with the
18 matter of punishment. Most of the time that's left
19 up to the criminal court, but there is a case when
20 penalty becomes an issue for the jury and that's a
21 case such as this case. Now, as I told you the other
22 day, you remember all that; is that correct?

23 A. Yes.

24 Q. Very well. Now, in the event that you had to
25 make a -- you were chosen to serve as a juror in this

1 case, do you understand about the -- well, let me
2 tell you a little bit about it. If you were selected
3 as a juror in this case you would have to be
4 sequestered throughout the trial. Do you understand
5 that? In other words, you would have to be in a
6 motel with the other jurors for a period of up to two
7 weeks or longer and stay in the motel except for when
8 you were in the courtroom. Do you understand that?

9 A. Yes.

10 Q. All right. Would that work a hardship on you?

11 A. Yes.

12 Q. All right. I'm going to ask you to step right
13 outside for me for just a moment, Ms. Prine.

14 (Whereupon, the prospective juror exits the
15 courtroom.)

16 THE COURT: Well, how well did I hide that?

17 MR. BAILEY: Your Honor, I think we can
18 agree to disqualify her based on her answers to
19 the questionnaire. And just for the record,
20 question 44 -- excuse me, 45, she indicated that
21 she had formed an opinion that would affect her
22 ability to serve as a juror. She said yes to
23 the question about some problem returning to
24 live and work in the community have an effect on
25 her ability to be impartial, felt the media

1 pressure might affect her and publicity might
2 affect her.

3 Question 49 she states, "I don't feel
4 that everyone gets a fair trial, if you have
5 money or know someone you seem to go free. A
6 poor person never seems to come out ahead."

7 MS. HARDEE-THOMAS: There's an explanation.

8 MR. BAILEY: And the explanation sheet she
9 goes into further detail about "I have no desire
10 to serve where it's not always a fair process
11 and I would not be impartial in any case." So
12 based on that the State would move that she be
13 disqualified.

14 MS. HARDEE-THOMAS: And the defense would
15 concur with Mr. Bowman's consent.

16 MR. CUMMINGS: Absolutely, Judge.

17 THE COURT: Very well. Thank you all so
18 much.

19 All right. Ask Ms. Prine to come in.
20 (Whereupon, the prospective juror returns to the
21 courtroom.)

22 THE COURT: Thank you, Ms. Prine.
23 Ms. Prine, based upon your candid answers that
24 you gave me just a few moments ago and your
25 questionnaire which you have shared with us I am

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1 going to excuse you from the service on this
2 jury. I'm going to ask you that you not share
3 the -- this process, this information, these
4 questions with any potential jurors. Likewise,
5 I would ask that you not have any discussions
6 with anyone who is associated with this trial.
7 Beyond anyone associated with the trial or
8 potential juror you are certainly free to talk
9 about this matter if you wish, all right?

10 MS. PRINE: Okay.

11 THE COURT: Thanks for your time,
12 Ms. Prine.

13 MS. PRINE: I need to get --

14 THE COURT: Something for work?

15 MS. PRINE: Yes, ma'am.

16 THE COURT: We will get that for you right
17 here.

18 MS. PRINE: Okay.

19 THE COURT: Ms. Etheredge will bring it
20 right out to you. Thank you so much, Ms. Prine.
21 I'm glad you reminded me about your work excuse,
22 too. Thank you, Ms. Prine.

23 MS. PRINE: Yes, ma'am.

24 (Whereupon, the prospective juror exits the
25 courtroom.)

1 THE COURT: All right. That takes us up to
2 Ms. Janet Best.

3 (Janet R. Best, called as a prospective juror,
4 having previously been duly sworn, is examined
5 as follows:)

6 EXAMINATION

7 BY THE COURT:

8 Q. Good afternoon, Ms. Best.

9 A. Hi.

10 Q. Ms. Best --

11 THE COURT: And this for our record is
12 Ms. Janet best who is Juror Number 16.

13 A. Yes, ma'am.

14 Q. Ms. Best, I appreciate so much your patience. I
15 know we're running substantially behind schedule, so
16 I thank you initially for your patience with me.

17 A. No problem.

18 Q. And appreciate that so much. Now, remember
19 Monday, it seems a long time ago now.

20 A. Yeah.

21 Q. But on Monday you were sworn in along with all
22 the other potential jurors in this case. Do you
23 remember that?

24 A. Yes, ma'am.

25 Q. All right. And I would just share with you you

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1 don't have to take another oath because that one is
2 still good today, it covers this process, okay?

3 A. Okay.

4 Q. All right. Now, since we talked with you on
5 Monday has anybody talked with you or tried to
6 contact you, or have you inadvertently or otherwise
7 been exposed to any information about this case?

8 A. No, ma'am.

9 Q. Thank you. When you were back in the jury room,
10 I feel like I could ask folks did you all memorize
11 the potential witness list. Did you have an
12 opportunity to look at the potential witness list?

13 A. I did.

14 Q. And having done that, are you related by blood
15 or marriage or acquainted with, or do you have any
16 direct or indirect connection with, or any personal
17 or business relationships, or any connection with any
18 of the folks listed on the potential witness list?

19 A. I did not recognize any of the names on there.

20 Q. Thank you. Now, on Monday I asked some
21 questions of the whole jury panel about whether or
22 not anyone had formed any opinion about this case,
23 whether or not the jurors could be fair and impartial
24 to both sides, whether or not anybody had heard or
25 seen anything about this case. And let me check my

1 notes. My notes indicate that you did not indicate
2 that any of those things applied to you. Are my
3 notes right?

4 A. Yes, ma'am. I recall having seen an article in
5 the newspaper a long, long time ago.

6 Q. Well, see, now that was my next question.

7 A. Yeah, okay.

8 Q. My next question was since you had that
9 experience on Monday --

10 A. Right.

11 Q. -- has anything jogged -- even being in that
12 Monday, has anything jogged your memory or created
13 anything within your knowledge that you would need to
14 supplement those answers?

15 A. Basically just that I had read about it in the
16 newspaper, that I had knowledge of it at some point
17 in time.

18 Q. I understand. And as a result of having read
19 about, or read the newspaper, did you -- have you
20 formed any opinions -- just as a yes or no, have you
21 formed any opinions about this case any regard?

22 A. No, ma'am.

23 Q. All right. And would you be able to set aside
24 whatever your recollection is from that information
25 and try this case based on the evidence in this

1 courtroom?

2 A. Yes, ma'am.

3 Q. Anything about that prior information that you
4 received that could impair, could substantially
5 impair your ability to be fair and impartial to both
6 sides in this case?

7 A. No, ma'am.

8 Q. All right. Now, anything else, anything else
9 jog loose?

10 A. Can't think of anything.

11 Q. All right. Now, I need to ask you some
12 questions and counsel will need to ask you some
13 questions also about some of your feelings about some
14 matters.

15 A. Okay.

16 Q. And I wanted to assure you that we do not intend
17 to invade your privacy, first of all. And secondly,
18 I wanted to tell you that when we ask your opinions
19 what we're trying to do is to understand them, learn
20 a little bit about them to see if they'll have any
21 impact on your jury service and that's the purpose of
22 it.

23 A. Okay.

24 Q. And to that end you should know that there
25 aren't any right or wrong answers.

1 A. Okay.

2 Q. You should also know that no one is going to
3 challenge your opinions because your opinions are
4 just as good and just as valid as anybody else's.

5 A. Okay.

6 Q. We just need to know a little bit about them.

7 A. Sure.

8 Q. Now, in a few moments I am going to ask you your
9 opinion about penalty, specifically the death penalty
10 because that may be an issue in this case.

11 A. Right.

12 Q. But the fact that we are talking at this early
13 stage in this process really -- it really is
14 premature.

15 A. Right.

16 Q. This trial hadn't begun and Mr. Bowman is
17 presumed innocent of these charges.

18 A. Right.

19 Q. The purpose is that I have no time to talk to a
20 potential juror about penalty before the trial other
21 than before the trial.

22 A. Right.

23 Q. So, please keep in mind that this is premature;
24 and secondly, that Mr. Bowman is presumed innocent of
25 these charges, okay?

1 A. Yes, ma'am.

2 Q. And I'm also going to be asking questions of you
3 in the generic or general sense.

4 A. Okay.

5 Q. Because it wouldn't be fair to ask you opinions
6 about this trial because you don't know anything
7 about this trial.

8 A. Right.

9 Q. And it wouldn't be fair and it wouldn't be
10 proper.

11 A. Right.

12 Q. So I won't be doing that.

13 A. Okay.

14 Q. Now, if you were a juror in any criminal trial,
15 would you be willing to listen to the instructions on
16 the law given to you by the judge?

17 A. Yes, ma'am.

18 Q. Would you be willing to accept that law and to
19 apply it to the facts as you found them to be?

20 A. Yes, ma'am.

21 Q. Would you be willing to do that even if you
22 didn't like that particular part of the law or even
23 if you didn't agree with it?

24 A. Yes, ma'am.

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

1 the case of the State vs. Mr. Bowman, could you
2 decide this case based solely on the evidence in this
3 courtroom and disregard any -- I should say any other
4 information that might come to you, or any other
5 memories that might be jogged as you heard things in
6 this courtroom?

7 A. Yes, ma'am.

8 Q. All right. Could you do that?

9 A. Yes, ma'am.

10 Q. All right. And in a criminal case as you very
11 well may know and as we talked about briefly Monday,
12 the State has the burden of proving the guilt of a
13 defendant beyond a reasonable doubt. Do you
14 understand that?

15 A. Yes, ma'am.

16 Q. All right. And in other words, a defendant
17 never has to prove himself or herself innocent and
18 they never have to prove anything. Do you understand
19 that as well?

20 A. Yes, ma'am.

21 Q. And a defendant is always presumed innocent
22 under the law. Do you understand that as well?

23 A. Yes, ma'am.

24 Q. All right. So if you were a juror in any
25 criminal case would you be willing to listen to the

1 evidence and listen to the judge's instruction on the
2 law?

3 A. Yes.

4 Q. And as you listen to the evidence, would you, of
5 course, after you listen to the evidence and you
6 would find the facts as you found them to be, apply
7 the law to those facts, and if after you did that, if
8 after you listened to all the evidence, made the
9 determinations as you found them to be, applied the
10 law, if you were not convinced that the defendant was
11 guilty, or a defendant was guilty beyond a reasonable
12 doubt, would you be willing to find that defendant
13 not guilty?

14 A. Yes, ma'am.

15 Q. On the other hand, if after you listened to the
16 evidence and found the facts and applied the law if
17 you were convinced that a defendant was guilty beyond
18 a reasonable doubt, would you then be willing to find
19 that defendant guilty?

20 A. Yes.

21 Q. Now, would you then be willing to listen and
22 make your decision based on whether or not you were
23 convinced that a person is guilty or not?

24 A. Yes.

25 Q. Now, most of the time jurors do not concern

1 themselves with the matter of punishment. Most of
2 the time in the criminal court that's left up to the
3 judge.

4 A. Right.

5 Q. But there is one case in our law when a jury has
6 to deal with the issue in the matter of punishment
7 and that's in a case like this one. It is in a case
8 where an individual has been charged with the crime
9 of murder and where the State is seeking the death
10 penalty.

11 If an individual in a death penalty
12 case, and this is a death penalty case, if an
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 comes back and in a separate or
16 different proceeding they decide what punishment that
17 person is going to get.

18 A. Right.

19 Q. And there are two choices. Life without the
20 possibility of parole and the death penalty. And
21 that would be, that penalty, that sentencing would be
22 determined in that second or the sentencing part of
23 the trial, it's called the sentencing phase of the
24 trial. Do you understand this information?

25 A. Yes, ma'am.

1 Q. Do you have any questions about that
2 information?

3 A. No, ma'am.

4 Q. All right. Now, also while you were back in the
5 jury room you had an opportunity to look at this
6 piece of paper. I'll sit it up here in case and,
7 please, take it if you need it.

8 A. Right.

9 Q. Just if you need to refresh your recollection.
10 That piece of paper essentially describes three types
11 of jurors. Do you remember those three types and
12 what they were?

13 A. Yes, ma'am.

14 Q. All right. Now, which of those three types of
15 jurors do you think best describes you?

16 A. I think probably number two, although possibly
17 number three.

18 Q. All right. Tell me about that.

19 A. I don't really -- I sort of believe that there's
20 certain types of punishment that should be perhaps by
21 a higher power than ours and I think God probably in
22 my opinion is the person who should judge life and
23 death. However, I know that there are certain
24 circumstances perhaps in our court of law that deem
25 it necessary. I guess it just goes against my

1 initial grain.

2 Q. I understand that. And are you telling me
3 that -- because I'm hearing I think two things.

4 A. I'm indecisive. I mean, in other words, like I
5 say, I really -- I really don't think the death
6 penalty -- I don't know. I have no problem with life
7 in prison without parole, hard labor, any of that
8 kind of stuff, but the death penalty is a little
9 bit -- I don't know, it just -- I'm not sure that I'm
10 the person that should decide that.

11 Q. All right. Are there circumstances -- well, let
12 me ask this question of you: Would you say that --
13 and let me just refer, if I may --

14 A. Right.

15 Q. -- to type number two. Would you then be
16 satisfied that you would not need to hear what the
17 facts and circumstances in aggravation in a
18 particular case were because you would have had your
19 mind made up concerning punishment no matter what was
20 said? In other words, as you know there's the guilt
21 phase.

22 A. Right.

23 Q. Which is what it's called.

24 A. Right.

25 Q. Like a normal -- normal -- it's like a typical

1 criminal case where the jury determines whether or
2 not someone is guilty or not guilty.

3 A. Correct.

4 Q. All right. This, of course, and I'm talking
5 about that.

6 A. Okay.

7 Q. But if after that determination is made are you
8 telling me that the second phase would then not be
9 necessary because you would know what the punishment
10 was, or would you -- would that second phase for you
11 be important to determine which of those two
12 punishments, life imprisonment or death, are
13 appropriate?

14 A. Will you say that one more time?

15 Q. Sure. What I'm trying to find out from you is,
16 quite frankly, whether or not you have a leaning and
17 a tendency, or whether you believe that in no case
18 would the death penalty be appropriate and that each
19 and every time someone is found -- in a death penalty
20 case that each and every time someone is found guilty
21 that the death penalty, no matter the circumstance,
22 that the punishment is life imprisonment. Am I
23 making myself clear? I may have confused myself.

24 A. Yes, ma'am. No, I understand.

25 Q. Okay.

1 A. That's a hard question. I think probably if
2 given the evidence to where there's no shadow of a
3 doubt in my mind to where I am convinced that that
4 would be the best thing, then I probably could vote
5 for the death penalty, but I believe it would be
6 against my better judgment.

7 Q. I understand. All right. I'm going to ask
8 these attorneys if they have questions of you. And
9 I'll ask Mr. Cummings or Ms. Hardee-Thomas.

10 MR. CUMMINGS: Thank you, Judge, I'll be
11 very brief.

12 EXAMINATION

13 BY MR. CUMMINGS:

14 Q. Ms. Best, and, again, I'm Norb Cummings, that
15 young lady there is Ms. Marva Hardee-Thomas. We're
16 both Court appointed to represent Mr. Bowman in the
17 white shirt, and that other nice lounge lady over
18 there is Miss Summer Veno who works in our office.

19 A. Okay.

20 Q. I'm going to get right to the point of the
21 matter because obviously you take your answers to Her
22 Honor very seriously, you've given this thought and
23 consideration this afternoon. And this is why we do
24 this, it's to find out from the jurors their personal
25 opinions, any biases or any reason why they could not

1 give any citizen a fair and impartial trial.

2 A. Right.

3 Q. And you understand the importance of this
4 because you already served on a murder trial before.

5 A. Right.

6 Q. And do you remember what county, where that was,
7 ma'am?

8 A. Yes, sir.

9 Q. Where was that, please?

10 A. It was Charleston County.

11 Q. In Charleston, okay. And you served on that
12 jury. I don't want to know what happened, I don't
13 want to know about the verdict, but you fulfilled
14 you're civic duty?

15 A. Yes, sir.

16 Q. All right. And in this case if a citizen were
17 to be put on trial for murder could you do your civic
18 duty, again, along with your other jurors?

19 A. Yes, sir.

20 Q. You could collectively come and put your minds
21 together and render a decision as to guilt or
22 innocence?

23 A. Yes, sir.

24 Q. Then and only then in particular, and like Her
25 Honor's telling you in this case, do we get to a

1 penalty phase if the jury is convinced beyond a
2 reasonable doubt of the crime of murder. And then
3 the State, again, presents other pieces of evidence
4 as Her Honor rules on. Mr. Bowman, or any other
5 citizen in any case, again, has the right to present
6 certain things or not certain things. And you
7 understand that?

8 A. Yes.

9 Q. And at that point the jury would only have two
10 options, life without the possibility of parole for
11 any reason or for the reasons the collective jurors
12 find based on the law and the evidence.

13 A. Right.

14 Q. And then and only then, again, the jury would
15 have the right to put the collective minds together
16 and consider the ultimate penalty, the death penalty.

17 A. Right.

18 Q. They don't ever have to do it. Do you
19 understand that?

20 A. Yes, sir. There is an option, that's what
21 you're saying?

22 Q. Yes, ma'am. And it is very serious and that's
23 why we ask this. There are three types of jurors
24 there. And you told Her Honor that you're between a
25 two and a three?

1 A. Yes, sir.

2 Q. All right. A two means I could never, ever give
3 the death penalty, at least in my humble reading of
4 that paper.

5 A. Yes.

6 Q. Under any facts or circumstances.

7 A. Right.

8 Q. Type three juror would want to listen to all the
9 facts and circumstances. And again, ma'am, not
10 about -- you don't know anything about this case.

11 A. Correct.

12 Q. But any issue where the death penalty comes in
13 in this state, any jurors would have to listen to all
14 the facts and circumstances and then and only then
15 ask a juror can you based on certain facts and
16 circumstances along with your other fellow jurors,
17 vote for the ultimate penalty, the death penalty, if
18 it was so warranted?

19 A. Yes, sir.

20 Q. And could you do that?

21 A. Yes, sir.

22 Q. Now, you understand that you may be asked to
23 sign what we commonly call a warrant. And based on
24 that all the citizens on that jury, all 12 of you
25 good folks, would have to sign your names to that

1 document. And that would in itself result in Her
2 Honor following out the jurors' wishes, whatever
3 punishment it be, life without parole or the death
4 penalty.

5 A. Right.

6 Q. Understand the jury sentences in this particular
7 issue and Her Honor makes sure that's followed
8 through.

9 A. Yes, sir.

10 Q. All right. And then afterwards either the
11 solicitor or I would ask you to stand behind your
12 verdicts, or if you don't stand behind it to let us
13 know it.

14 A. Right.

15 Q. Not just you individually, ma'am, but all 12.
16 And if that juror, or any juror stands up we only ask
17 two questions: Is this your verdict, or whatever
18 answer you give and then either by Madam Clerk or by
19 Her Honor, is it still your verdict? In other words,
20 to make sure you stand behind it in a public forum,
21 in open court. And could you do that?

22 A. Yes.

23 Q. And the key to this whole case here is looking
24 at that, did you hesitate about the type of juror you
25 are because you are caring and concerned about

1 falling into one of those three categories, or is it
2 because you have a hesitation about the ultimate
3 penalty?

4 A. I would say because I have hesitations about the
5 ultimate penalty.

6 Q. Okay. And then the next question we would
7 follow up is, but could you based on the facts and
8 circumstances vote for the death penalty if so
9 warranted?

10 A. Yes.

11 MR. CUMMINGS: That's all the questions I
12 have of this nice lady, but beg the Court's
13 indulgence to check at the table.

14 THE COURT: Sure.

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

17 MR. CUMMINGS: Judge, that's all the
18 questions I have of this young lady. Thank you,
19 ma'am.

20 EXAMINATION

21 BY MR. BAILEY:

22 Q. I apologize if I have to go back over some of
23 the same things we've already asked.

24 A. No problem.

25 Q. This is the only chance that any of us get to

1 talk to jurors before we actually pick the jury and
2 start the trial.

3 A. Right.

4 Q. And I want to assure you, if you're not already
5 assured, that there are no right or wrong answers.
6 Those three kind of jurors, the number one, number
7 two, number three kind of jurors, no one of them's
8 any better than the other one, it's just different
9 ways people feel about the death penalty for whatever
10 reason.

11 A. Correct.

12 Q. So any answer you give or any other juror gives
13 is the correct answer.

14 A. Okay.

15 Q. All right. I'm trying to read my handwriting
16 here so bear with me.

17 A. Okay.

18 Q. Because I took some notes when you were talking
19 to, answering Judge Goodstein's questions. And at
20 one point you said that something to the effect after
21 you said you were probably a number two, although I
22 can't -- that you might be a number two, although
23 possibly a number three and certain types of
24 punishment should be reserved for a higher power and
25 that God should judge life or death, that voting for

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1 the death penalty would go against your grain, that
2 you were indecisive, that you had no problem with
3 life without parole, but you were not sure about the
4 death penalty. And then you said something if
5 there's no shadow of a doubt that you probably could
6 vote for the death penalty, but that would be against
7 your better judgment.

8 A. Correct.

9 Q. Does that still pretty well characterize your
10 thoughts at least in the death penalty?

11 A. Yes, it does. I think that probably if the
12 circumstance of let's say one of my family members or
13 if I were in the situation where --

14 MR. CUMMINGS: Your Honor, I object to
15 this, respectfully, that's getting into the
16 persona of the juror.

17 MR. BAILEY: Your Honor, I would like to be
18 heard on that, please.

19 THE COURT: Yes, ma'am. If you would just
20 step right outside for us, if you would be so
21 kind.

22 MS. BEST: Yes, okay.

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

25 MR. BAILEY: Your Honor, again, we're faced

1 with a juror that's expressed extreme reluctance
2 on the death penalty and she has in her own mind
3 certain things that she is trying to get out
4 that are not directly responsive to the question
5 I asked her. She's attempting to tell the Court
6 and us the limitations on her ability to impose
7 the death penalty. And before she was stopped
8 she started to say something to the effect if it
9 was a member of my family maybe I could do it.

10 Obviously, Your Honor, she could not
11 sit as a juror if a family member of hers was a
12 murder victim. This is, again, following this
13 line of cases where the ability to impose the
14 death penalty only in certain standards are met
15 does not qualify the juror.

16 And I would, again, would like to cite
17 Wainwright vs. Witt which is the United States
18 Supreme Court case that sets out the standard.
19 And, again, that -- in that decision our United
20 States Supreme Court said that it wasn't
21 sufficient to state that it's -- that you could
22 conceivably vote for the death penalty under
23 some circumstances, but that if your ability to
24 vote for the death penalty would be
25 substantially impaired by your beliefs then you

1 would not be qualified.

2 Your Honor, I would submit to this,
3 again, that Ms. Best has some things on her mind
4 where she could vote for the death penalty, but
5 she could not possibly enter into any case that
6 she could serve as a juror on. And, again, I
7 don't know how we address these limitations that
8 our Supreme Court has addressed unless we allow
9 these people -- I mean, I would agree that we
10 should not try to pull it out of them and get
11 them to tell us, well, what kind of case would
12 you come back with the death penalty on, but
13 when they come up with it on their own I don't
14 think we can ignore what they're saying or else
15 these cases that have addressed those things
16 don't mean a whole lot.

17 THE COURT: Let me ask you, because this is
18 the second time this has come up, although I
19 think this is different. I think the first time
20 it was elicited by the question, this time it
21 was not elicited by the question. She's
22 answering another question that you have asked
23 and I don't specifically remember what it was,
24 but you clearly did not ask for specifics. I
25 think the time before was a much closer

1 situation where the specifics were asked. Do
2 you have -- I see you got the notebook. Do you
3 have that case? I have one of them, hold on,
4 let me look.

5 MR. CUMMINGS: Is it Drayton, Walter?

6 MR. BAILEY: Drayton is one of them.

7 THE COURT: This one is actually Skipper.

8 MR. CUMMINGS: Skipper.

9 THE COURT: All right. The case I looked
10 at did not answer the question for me. You all
11 referred me to State vs...?

12 MR. CUMMINGS: Skipper, I believe.

13 THE COURT: I was looking at Skipper. I
14 don't think skipper is particularly --

15 MR. BAILEY: If I could briefly run over
16 them. State vs. Drayton dealt with the -- if he
17 didn't know the victim couldn't bring back the
18 death penalty. State vs. Cain, couldn't do it
19 unless he had seen the act himself. State vs.
20 Davis, couldn't do it for mentally retarded
21 individual. State vs. Longworth, couldn't do it
22 for a young age, and State vs. Longworth,
23 couldn't do it for a non-trigger man, so....
24 (Pause in proceedings.)

25 THE COURT: All right. This will be the

1 ruling, because remember the relevant question
2 for her is does the opinion that you hold
3 regarding the death penalty substantially impair
4 or prevent you from considering the death
5 penalty, that's the relevant characterization.
6 I think that's the place to begin. I think
7 that's the question that I want rather than
8 would you do it in this one, would you do it in
9 that one. Those are not even particularly
10 informative.

11 Obviously when somebody in response to
12 that says, yeah, the only time I could ever give
13 it would be in this particular instance, and
14 that's what was happening in the Drayton case.
15 What they said in that case was the only time I
16 could give it is if -- you know, if I knew
17 someone, a victim. And so that was the
18 response, that was the answer that was given in
19 the Drayton case.

20 So the relevant inquiry from her is
21 based upon your views of the death penalty would
22 your views, would your opinion substantially
23 impair or prevent you from giving the death
24 penalty, considering the death penalty.

25 MR. BAILEY: I'll ask her that, Your Honor.

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1 THE COURT: I mean, I think that is the
2 relevant. And then her response to that which
3 is that which really is relevant in this
4 inquiry. All right. Ask her to step back in.
5 (Whereupon, the prospective juror returns to the
6 courtroom.)

7 THE COURT: Thank you. Thank you for that.

8 MS. BEST: Sure.

9 THE COURT: All right. Yes, sir, Mr.
10 Bailey.

11 BY MR. BAILEY:

12 Q. Ms. Best, I apologize for having to make you go
13 in and out and all that, but there are matters of law
14 we need to take up. And let me go ahead and ask
15 another question that might be a little bit of a
16 lengthy question. Would the views that you
17 previously expressed, and specifically your
18 statements that certain types of punishment should be
19 reserved for a higher power, that God should judge
20 life or death, that the death penalty would go
21 against your grain and that you're not sure that
22 you're the person to decide on the death penalty, and
23 that it -- voting for the death penalty would be
24 against your better judgment, would those beliefs
25 that you have expressed in your opinion substantially

1 impair your ability to fairly consider the death
2 penalty?

3 A. I believe it could, yes.

4 MR. BAILEY: Your Honor, that's all I have
5 at this point in time. I would reserve the
6 right potentially to ask further questions.

7 THE COURT: I understand. I understand.

8 All right. Yes, sir, Mr. Cummings.

9 EXAMINATION

10 BY MR. CUMMINGS:

11 Q. Ma'am, I know you said a moment ago you believe
12 it could, but could you vote for the death penalty if
13 the facts and circumstances in any situation --

14 MR. BAILEY: I object to that.

15 MR. CUMMINGS: I'll rephrase.

16 THE COURT: All right. Thank you.

17 Q. Could you follow Her Honor's instructions on the
18 law and follow the evidence and vote for the death
19 penalty if so warranted?

20 MR. BAILEY: Your Honor, I object to that
21 one. And I don't know whether I should state my
22 objection right now, but I do have a basis for
23 the objection.

24 THE COURT: I'm going to ask you to
25 rephrase your question, please, Mr. Cummings.

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1 Q. Would those beliefs as you just told the
2 solicitor substantially impair your decisions in
3 voting for either penalty?

4 A. I apologize for the --

5 Q. No, ma'am. And this is the nice thing, this
6 is -- all we asking for you to do, both from Mr.
7 Bailey and I, just tell us what's in your heart and
8 whether you could follow Her Honor's laws. No right
9 or wrong answers, nobody's going to do anything about
10 being upset or anything.

11 A. Right.

12 Q. This is why we do this because it is so
13 important.

14 A. I believe that -- I don't believe I would be
15 able to give the death penalty.

16 Q. Okay. That's all the questions we have.

17 MR. CUMMINGS: Thank you, Judge.

18 THE COURT: All right. Ms. Best.

19 MS. BEST: Yes.

20 THE COURT: First of all, obviously I thank
21 you for your candor and obviously this is not an
22 easy process; however, for this trial I must
23 disqualify your service on this trial because we
24 must have jurors who can consider both --

25 MS. BEST: Right.

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1 THE COURT: -- penalties.

2 MS. BEST: I understand.

3 THE COURT: And I think you do understand
4 that. Thank you so much.

5 Now, I'm going to ask you not to
6 discuss this process and these questions with
7 any of your fellow potential jurors and I'd ask
8 you likewise not to discuss this matter with
9 anyone who is associated with this trial.

10 Now, beyond that, if you want to talk
11 about it you are at liberty to talk about it.
12 And, again, I don't want to not acknowledge the
13 gift of your time that you have given to our
14 community and in this process, it is a gift and
15 I thank you so very much for it and you are free
16 to go.

17 MS. BEST: Thank you.

18 THE COURT: Thank you so much.

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

21 THE COURT: Note the exception and the
22 objection on behalf of the defense.

23 MR. CUMMINGS: Absolutely, ma'am. I did
24 not want to belabor it. I thank Mr. Bailey and
25 this lady because I understand it was very tough

1 for her at the end.

2 THE COURT: Absolutely. All right. Our
3 next juror is Micki Pitchford. Micki Pitchford.
4 (Micki Lee Pitchford, called as a prospective
5 juror, having previously been duly sworn, is
6 examined as follows:)

7 EXAMINATION

8 BY THE COURT:

9 Q. Ms. Pitchford, how are you this afternoon?

10 A. I'm fine. How are you?

11 Q. Fine. Thank you so much for your patience. We
12 are, needless to say, terribly behind schedule and I
13 just thank you so much for your patience. It is
14 necessary that we just have an opportunity to talk to
15 each juror and I've decided I'm not good at
16 scheduling things particularly, nor keeping to them,
17 but thank you so much for your patience.

18 Ms. Pitchford, let me ask of you
19 whether or not you remember Monday morning when we
20 were all together, the entire panel, you, along with
21 your prospective jurors, were sworn in, remember
22 that?

23 A. Yes, ma'am.

24 Q. I would just tell you that that oath, you don't
25 have to retake it because it continues through this

1 process and continues today as well. Do you
2 understand that?

3 A. Yes, ma'am.

4 Q. All right. Now, since Monday, since we were
5 together on Monday which now seems a long time ago,
6 but since Monday has anyone talked to you about this
7 case or tried to approach you about this case, or
8 have you inadvertently or otherwise received any
9 information at all about this case?

10 A. No, ma'am.

11 Q. All right, ma'am. Now, back in the jury room
12 with you was this document called the potential
13 witness list. You probably have been able to
14 memorize the potential witness list. I would ask
15 whether or not you have had a chance to review it?

16 A. Yes, ma'am.

17 Q. And have you had an opportunity to review the
18 potential witness list, are you related by blood or
19 marriage, acquainted with, have any direct or
20 indirect connection, have any personal relationship,
21 or business association, or casual acquaintanceship
22 with any of these folks listed on the potential
23 witness list?

24 A. No, ma'am. I don't recognize any of the names.

25 Q. Very well. Now, when we were together on Monday

1 I asked some questions about this case, like did
2 anybody have an opinion, had anybody heard or read or
3 knew anything about the case, did anyone have a bias
4 for or against either of these parties. And my notes
5 indicate that you did not find any of those items
6 applicable to you; is that right?

7 A. That is correct. However, since then I
8 realized --

9 Q. That was my next question, sure.

10 A. I realized that the defense counsel was my
11 ex-husband's attorney when we went to court a couple
12 of years ago. And I did not stand up when you asked
13 that question because I didn't realize that's who it
14 was.

15 Q. All right.

16 A. So I don't know if that makes a difference or
17 not, but I just wanted to let you know that here when
18 we're in the courtroom together.

19 Q. All right. And that was Mr. Cummings?

20 A. Yes.

21 Q. All right. Very well. And thank you for
22 bringing that to my attention. Because you have that
23 business, professional association in the past with
24 Mr. Cummings, would that have any impact whatsoever
25 on your ability to be completely fair and impartial

1 to both these sides?

2 A. I don't believe so.

3 Q. All right. Can you set that professional
4 relationship aside and try this case based on the
5 evidence in this courtroom being fair and impartial
6 to both sides?

7 A. Yes, ma'am.

8 Q. All right. Nothing that happened between the
9 lawyers caused you any great upset?

10 A. No. No.

11 Q. All right. Because I know that's what he's
12 sitting there thinking, oh, my gosh, what happened?

13 A. No.

14 Q. Very well. You can set that completely aside?

15 A. Yeah.

16 Q. Very well. Now, let me just get myself
17 organized a little bit here. Now, we need to ask you
18 some questions about how you feel about certain
19 matters. And please know that we're not asking you
20 these questions to invade your privacy in any sense
21 is that our purpose. We just need to know your
22 opinions about certain matters so we can understand a
23 little bit about them and determine whether or not
24 they may, or might, impact on your jury service, all
25 right?

1 To that end obviously no one here is
2 going to challenge your opinions, because we are all
3 well aware that your opinions are just as good and
4 valid as anyone else's. And obviously there are no
5 right or wrong answers, we just, again, need to
6 understand a little bit about your opinions.

7 Now, one of the things that I'm going
8 to ask you about in just a few moments is penalty,
9 the death penalty to be specific. I'm going to ask
10 you about your opinion regarding that punishment.
11 And I want you to understand that the fact that I'm
12 going to be asking you about punishment obviously
13 comes very prematurely.

14 A. Right.

15 Q. Because the trial hasn't begun, because
16 Mr. Bowman is presumed innocent of these charges.
17 It's simply reality that in order for me to ask
18 questions of penalty or about penalty with
19 prospective jurors, potential jurors, you got to do
20 that before the trial.

21 A. Right.

22 Q. So, please, as we go through this process be
23 mindful that the discussions about penalty are
24 premature. I said that the penalty, to talk about
25 the penalty is premature. There's no other time for

1 me to ask before the trial, but before the trial
2 these questions.

3 A. Right.

4 Q. And also, please keep in mind that Mr. Bowman is
5 presumed innocent of these charges. I'm also going
6 to be asking you questions in a generic sense, in a
7 general sense. Because obviously you didn't know
8 about this case and it wouldn't be fair to ask you
9 about this case and it wouldn't be proper, either, so
10 I'm not going to ask you specifically about this
11 case. Although, I'm going to ask you whether or not
12 whatever information -- the information that you
13 recalled, that's right, was about Mr. Cummings. You
14 still haven't read or heard or seen anything about
15 this case?

16 A. No.

17 Q. All right. Now, if you were a juror in any
18 criminal case, would you be willing to listen to the
19 law as you are instructed by the judge?

20 A. Yes.

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

23 A. Yes.

24 Q. And would you be willing to do that even though
25 you didn't like that particular part of the law, or

1 even if you disagreed with it, would you be still be
2 willing to follow the instructions of the judge?

3 A. Yes, I believe so.

4 Q. Now, if you were asked to serve in the case of
5 the State vs. Mr. Bowman, could you decide this case
6 based upon the evidence in this courtroom, what you
7 hear in this courtroom, and disregard anything that
8 you may have seen, or heard, or read about this case
9 from any source at all if anything like that should
10 come in your memory?

11 A. Yes.

12 Q. Sometimes jurors get something jogged. If that
13 happened to you, you can set that aside?

14 A. Yes.

15 Q. Now, in a criminal case as you very well may
16 know, as we talked about on Monday, the State has the
17 burden of proving the guilt of a defendant beyond a
18 reasonable doubt. A defendant, no defendant, ever
19 has the burden to prove himself or herself innocent
20 and never has the burden to prove anything. The
21 burden always remains with the State. Do you
22 understand these principles?

23 A. Yes.

24 Q. And also a defendant is presumed innocent. Do
25 you also understand that principle?

1 A. Yes, I do.

2 Q. Now, if you were a juror in any criminal case
3 would you be willing to listen to the evidence and
4 the law as you were instructed?

5 A. Yes.

6 Q. In listening to the evidence and then in finding
7 the facts as you would find them to be and then
8 applying the law to those facts, if after you did
9 that if you were not convinced that the State had
10 proven a defendant guilty beyond a reasonable doubt,
11 would you be willing to find that defendant not
12 guilty?

13 A. Yes.

14 Q. On the other hand, if after you considered the
15 evidence, listened to the evidence, found the facts
16 as you found them to be and applied the law if you
17 were convinced that the State had proven a defendant
18 guilty beyond a reasonable doubt, would you be
19 willing to find that defendant guilty?

20 A. Yes.

21 Q. In other words, you would be willing to listen
22 and make your decision based upon whether or not you
23 were convinced of a person's guilt or not?

24 A. Yes.

25 Q. All right. Now, most of the time jurors do not

1 concern themselves with punishment. Punishment is a
2 matter in the criminal court most of the time that's
3 left up to the judge. But there is one case in our
4 law when a jury has to deal with the matter of
5 punishment and that is in a case like this one. It
6 is in a case where an individual has been charged
7 with the crime of murder and where the State is
8 seeking the death penalty.

9 If an individual in a death penalty
10 case is convicted of the crime of murder, then the
11 same jury that convicted him or her returns and in a
12 separate and different proceeding decides the
13 punishment that that person will get. There are two
14 kinds of punishment that they would consider. One is
15 a life imprisonment without the possibility of parole
16 and the other possible punishment is the death
17 penalty. That decision, the decision on penalty is
18 determined in that second part, or the sentencing
19 phase as it is called.

20 A. Right.

21 Q. Do you understand this information?

22 A. Yes.

23 Q. And do you have any questions about that
24 information?

25 A. No, I understand.

1 Q. All right. Now, also back in the jury room with
2 you was this piece of paper and it describes
3 essentially three types of jurors. Do you remember
4 the three types of jurors that were described?

5 A. Yes, I do.

6 Q. Do you need to look at it? Please feel free to
7 refer to it. Which of these three types of jurors do
8 you think best describes you?

9 A. I would say juror three.

10 Q. All right. By that are you saying that you
11 would be willing to listen to whatever information,
12 whatever the testimony, whatever the information was
13 that was provided here in the courtroom, wherever in
14 the courtroom, and make your decision based upon that
15 information?

16 A. Yes.

17 Q. All right. And if you thought after you
18 considered the evidence in the sentencing phase, in a
19 sentencing phase I should say, that it was
20 appropriate that a person, an individual, be
21 sentenced to death, would you be willing and able to
22 vote for a sentence of death?

23 A. Yes, I would.

24 Q. On the other hand, if you thought the death
25 sentence was not appropriate or for any other reason

1 the person ought to receive life imprisonment, would
2 you be able and willing to vote for a sentence of
3 life imprisonment?

4 A. Yes, I would.

5 Q. So you would make your decision based upon the
6 information and evidence that you would hear in the
7 courtroom?

8 A. Yes, ma'am.

9 Q. Now, if you are chosen to serve as a juror in
10 this case, you and the other jurors would be housed
11 with -- at the county's expense, here in locally in a
12 motel, the term is sequestered. That's where you
13 would have to stay during the trial. And you'd have
14 to stay with us until the trial is over except, of
15 course -- you'd have to stay in the motel except, of
16 course, when you were here in the courtroom.

17 A. Right.

18 Q. Well, let me also tell you that this period
19 could be as long as two weeks, it could be longer, it
20 could be shorter. Obviously that would create an
21 inconvenience for you as it surely will for each of
22 the jurors who serve on this jury. Other than the
23 inconvenience which it would cause anybody who had to
24 serve in this capacity, would that pose a serious
25 risk of danger to your health or well being, or to

1 the health or well being of anyone who is dependent
2 upon you if you had to serve in that capacity?

3 A. What was the question again?

4 Q. All right.

5 A. The health or well being?

6 Q. Yes. Yes. Understanding that it is an
7 inconvenience and will inconvenience this jury, no
8 doubt. Would that pose a serious risk of danger to
9 your health or well being or to that of anybody who
10 is dependent upon you if you had to serve in that
11 capacity?

12 A. I have two small children. I mean, I guess it
13 wouldn't pose a problem to their health and I'm sure
14 they would be okay, but I guess it's hard to answer
15 that question.

16 Q. I understand.

17 A. I guess if I had to do what I had to do, then I
18 had to do it. I feel like that's my job as a
19 citizen, so....

20 Q. Civic duty. You would be able to do that?

21 A. Yes.

22 Q. All right. I am going to ask these lawyers now
23 to ask the questions that they have of you.

24 THE COURT: And Mr. Bailey.

25 MR. BAILEY: Thank you, Your Honor.

1 EXAMINATION

2 BY MR. BAILEY:

3 Q. Ms. Pitchford, I'm Walter Bailey and I'll be
4 prosecuting this case.

5 A. Yes, sir.

6 Q. I need to ask you a few more questions. And let
7 me ask you, first of all, about your children. You
8 said they were small children. Could you tell us how
9 old they are?

10 A. My son is eight and my daughter is six.

11 Q. All right. And is your husband at home and able
12 to care for the children?

13 A. Their stepfather is, yes.

14 Q. All right. Okay. And do either one of the
15 children have any kind of health problems, any
16 special needs that would -- we should take into
17 consideration?

18 A. No, sir.

19 Q. Okay. And if you were picked as a juror in this
20 case and you're sequestered for potentially up to two
21 weeks, would you be able to concentrate fully on the
22 case, or would you be worried about your children
23 during the course of the trial?

24 A. Would I have any contact with them?

25 Q. No. Well --

1 A. It would be very difficult for me. I think it
2 would be hard for me not to have contact with my
3 children for two weeks. If I had some contact with
4 them, if I could talk to them, know that everything
5 was okay I would probably be okay, but it would be
6 very difficult for me not to have contact.

7 Q. All right, I understand. I want to ask you a
8 little bit about the death penalty. And the
9 questions I'm going to ask you do not relate to this
10 case, you hadn't heard the facts, they're general in
11 nature. Is the death penalty something that you've
12 ever had occasion to think about before this week
13 when you found out you might be a juror on the a case
14 where the State's seeking the death penalty?

15 A. Yeah. I'd say I probably have thought about it.

16 Q. Okay.

17 A. Not if I were put into that situation, but,
18 yeah. I mean, you hear on the news and things about
19 the death penalty, so I probably have thought about
20 it, yes.

21 Q. All right. Just in general when you have
22 thought about it, something on the news prompted it,
23 what were your thoughts in general?

24 A. I guess I can't say I'm either for or against
25 it. It would depend on what the facts would be. I'm

1 a very fact-oriented person.

2 Q. Okay.

3 A. So it would depend on -- it would just depend on
4 what the situation is, I think.

5 Q. Of course, that's the reason we have that
6 penalty phase, the second phase of the trial.

7 A. Right.

8 Q. We wouldn't get there unless the jury's already
9 heard the facts in the first phase and they find the
10 defendant guilty of murder --

11 A. Right..

12 Q. -- beyond a reasonable doubt. Then that second
13 phase is -- what I understand you're saying is that
14 depending on the facts you could vote for life
15 without parole or you could vote for the death
16 penalty?

17 A. Correct.

18 Q. Knowing that whichever one of those verdicts the
19 jury comes up with the judge will order that sentence
20 be put into effect and it will be carried out?

21 A. Right.

22 Q. If all 12 jurors hearing all the facts and the
23 law from the judge vote for the death penalty then
24 each one is asked to sign their names to a paper, a
25 death verdict form that's going to at some point end

1 up in that person being executed. If that was your
2 decision for the death penalty, could you sign your
3 name to a paper like that along with the other
4 jurors?

5 A. If I made that decision, yes.

6 Q. The last thing the jury would have to do or
7 would be asked to do if they vote for the death
8 penalty and signed the death verdict form, they would
9 leave the jury room and they would come out here, the
10 verdict would be announced and each juror's name
11 would be called out one at a time and they would be
12 asked to stand and affirm that that was their verdict
13 and it was still their verdict. Could you do that if
14 it was your verdict?

15 A. If that was my verdict, yes.

16 Q. Ms. Pitchford, I believe that's all I have.
17 Thank you very much.

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

19 EXAMINATION

20 BY MR. CUMMINGS:

21 Q. I thank you very much for your candor because
22 those lawyers are reluctant to stand up and say, hey,
23 remember me in the courtroom. And along that line I
24 wanted just for the record here also, our judge's
25 name is Judge Goodstein.

1 A. Right.

2 Q. And does that ring any significant bells to you
3 about when you and your spouse, Mr. Farmer, were
4 going through marital discord, is there anything that
5 comes to your mind about the separation agreement or
6 anything? Because I want to make sure it's on the
7 record, make sure Judge Goodstein is well aware of
8 what we've done and our relation --

9 A. His first lawyer was an associate in the
10 Goodstein Law Firm.

11 Q. Right. And I want to make sure --

12 A. I don't remember her name.

13 Q. Right. And because of whatever reasons, either
14 people becoming judges or moving out, the case later
15 came to me?

16 A. Right.

17 Q. Okay. So you've never had any occasion to deal
18 with Judge Goodstein on the record?

19 A. No.

20 Q. You've never seen this nice lady?

21 A. No.

22 Q. Okay. And the reason we say that, do it on the
23 record, just like a few moments ago you were asked
24 whether or not because I had the case against you,
25 your former spouse, would you hold that against my

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1 client, Mr. Bowman?

2 A. No.

3 Q. And the other young lady at the table with me
4 who is Court appointed also is Ms. Marva
5 Hardee-Thomas. And the other young girl over there
6 is Miss Summer Veno who works in our office in
7 between college years. And what we try to do as Mr.
8 Bailey's asked you a little while ago, is try to get
9 fair and impartial jurors to come in here and listen
10 to the evidence and facts as presented in this
11 courtroom only. And we leave character,
12 personalities, outside, Ms. Pitchford. I think you
13 told Her Honor under your oath that you could do
14 that?

15 A. Yes.

16 Q. And along that line now I'm just going to ask
17 you a few more questions about that way. And you
18 believe strongly, I mean you teach?

19 A. Correct.

20 Q. You believe strongly in your civic
21 responsibilities and your duties?

22 A. I do.

23 Q. And as part of that you understand about jury
24 duty and our laws that every citizen is presumed
25 innocent until proven guilty by the State?

1 A. That's correct.

2 Q. And they hold that presumption all throughout
3 the trial. I know that, again, with some personal
4 involvement in the case that you've actually called
5 law enforcement in the past going through some
6 marital discord between you Mr. Farmer?

7 A. Yes, I did.

8 Q. Okay. And would that fact of calling the police
9 for marital discord substantially impair your ability
10 to sit as a fair and impartial juror in any case
11 presided in this courtroom here today?

12 A. No.

13 Q. I mean, you don't favor law enforcement versus a
14 citizen's rights?

15 A. No, not at all.

16 Q. Just because a policeman makes an arrest on
17 somebody doesn't mean they're automatically guilty,
18 right?

19 A. Correct.

20 Q. I know you had asked at first on the
21 questionnaire to be released from the jury duty
22 because of the standardized testing and probably
23 because of the children?

24 A. Correct.

25 Q. And you've got the standardized testing covered?

1 A. No. I didn't ask about standardized testing.

2 We don't have standardized testing.

3 Q. Okay.

4 MR. CUMMINGS: If I may show Madam Juror
5 question 19, Judge?

6 THE COURT: I've got it. There you are.
7 Nineteen. This might help a little bit.

8 A. This was in a previous -- not in this case.

9 Q. Not about this?

10 A. No. No. This was a previous time that I was
11 called for jury duty and they excused me because it
12 was the week of PACT testing.

13 Q. Okay. And as far as the children you believe
14 you can make proper arrangements?

15 A. Yes, I believe I could.

16 Q. Okay. And I understand about sequestration,
17 it's an inconvenience. We say hardship. But that
18 would not cause you an undue hardship to serve on
19 this jury and pay the attention as you would pay like
20 you are to me right now?

21 A. I don't believe so.

22 Q. Thank you, ma'am.

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

24 THE COURT: Thank you.

25 (Mr. Cummings and Ms. Hardee-Thomas conferring

1 with Mr. Bowman.)

2 MR. CUMMINGS: That's all the questions we
3 have of this juror. Thank you, Judge.

4 THE COURT: All right. Would you, please,
5 just for the moment, don't sit down, if you'll
6 just step outside for just a moment.

7 MS. PITCHFORD: Okay.

8 THE COURT: What says the State?

9 MR. BAILEY: Qualified, Your Honor.

10 THE COURT: What says defense?

11 MR. CUMMINGS: Judge, I would ask that this
12 juror be excused for cause. I know that she has
13 stated that she would be fair and impartial.
14 I've done that divorce case against this lady
15 and recently Mr. Farmer has come back into my
16 office prior to us being not able to work on any
17 cases. And I can't divulge my client's
18 knowledge to me about certain issues. And if
19 that had had the colloquy between former husband
20 and her resulting in another family court action
21 it may be resulting soon. This lady's a
22 teacher, at the end of her teaching year this
23 year she's not renewing her contract here and
24 wants to move away. And I would have a Pitt vs.
25 Olds issue and some other issues about taking

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1 Daddy's visitation rights away. I don't know if
2 that's leaked out. I did not ask that because I
3 don't want to divulge. My client may go to
4 another lawyer since I'm up here on this case.

5 But in an abundance of caution, and I
6 know we look for impartial jurors, I am not
7 trying to belabor the time tonight, we've all
8 done work in here, we've all done work against
9 people, I just in an abundance of caution of
10 Mr. Bowman if there's any consideration to have
11 this lady excused on this case -- I did this
12 case against her, it was highly contested.

13 And she has stated, though, under oath
14 that she could set that aside and be a fair and
15 impartial juror and I understand that and that
16 is the standard. But I would ask the Court to
17 look at the totality of this circumstance, in
18 particular in light of this case. And I only
19 brought that up about the firm, your former firm
20 to make sure later on nobody says anything about
21 that because the reason was, why it was in
22 transflux out of there, was because of the
23 nature of Ms. McLin and you, ma'am, moving on to
24 the judiciary. So I guess what I'm trying to
25 say is in an abundance of caution I would ask

1 this juror be removed for cause.

2 THE COURT: Mr. Bailey.

3 MR. BAILEY: Your Honor, I think she's
4 qualified. She clearly said she wouldn't hold
5 anything against Mr. Cummings. I didn't totally
6 follow everything that Mr. Cummings was saying
7 about some potential future action, but whatever
8 comes up would certainly come up after this
9 trial is completed.

10 MR. CUMMINGS: And that's why I can't
11 divulge my attorney/client privilege, that
12 client, as I told him I could not do anything
13 now 30 days before this trial starts.

14 THE COURT: Hold on, Norfolk Southern is
15 going to come up.
16 (Train.)

17 MR. CUMMINGS: And if my client learns that
18 she's on this jury duty he may want to move to
19 try to watch his children on this and with Mommy
20 calling that's my only thing. And I say that
21 without violating attorney/client privilege.

22 And I brought up the Pitt vs. Olds
23 issue, the school year is coming out very soon.
24 Her house is up for sale and I know that of a
25 personal nature by being shown pictures of it by

1 my client. Now, Judge, I point this out to the
2 Court only, I'm not trying to belabor this
3 tonight. I want to make sure my client gets a
4 fair trial and if this lady gets angry at me --

5 THE COURT: Oh, goodness, you're being an
6 advocate. I understand that a hundred percent.
7 What I'm hearing from you is that you're telling
8 me this is -- All right. Let me tell you what I
9 am uncomfortable about, counsel, and perhaps you
10 can address this for me. Here's where I am in
11 this position and I am uncomfortable in this
12 position. I know information that this
13 potential juror doesn't know. The information
14 that I have is that she may be compromising
15 herself by not asking to be excused from a jury.
16 I think she's statutorily qualified, Mr. Bailey,
17 unquestionably. The problem is, is that what's
18 being represented by the Court that if she
19 chooses, if she does not -- if she, if she --
20 counsel has information that if, in fact, she
21 serves on this jury that she could be putting
22 herself at a disadvantage in terms of her
23 children in a potential custody case. She
24 doesn't know that.

25 MR. CUMMINGS: And, Your Honor, again,

1 point that out, I'll let Mr. Bailey --

2 MR. BAILEY: I didn't know it either.

3 THE COURT: Oh, I know you didn't.

4 MR. CUMMINGS: And he would not have that.

5 THE COURT: Mr. Bailey, you're fortunate
6 enough not to have been in the domestic field of
7 practice.

8 MR. BAILEY: I've forgotten that stuff,
9 most of it, Judge. Trying to forget the rest of
10 it, what I did remember.

11 THE COURT: Indeed. You don't even want
12 your recollection to be refreshed.

13 MR. CUMMINGS: And further, Judge, based on
14 how this case evolved first from the law firm's
15 activity and then over to mine, that if that
16 ever happened it would look like -- I only point
17 that out because, again, I don't mean to tip my
18 client's information off.

19 THE COURT: I don't recognize her name, I
20 don't recognize her.

21 MR. CUMMINGS: I understand that, Judge, so
22 I don't know when if she was -- if he was a
23 client. He was, Mr. Farmer.

24 THE COURT: He, your client?

25 MR. CUMMINGS: Yes, ma'am. My client now.

1 THE COURT: See, I don't even know which
2 one was a client.

3 MR. BAILEY: Just some clarification. Do
4 you still represent him?

5 MR. CUMMINGS: The answer to that is yes.
6 When he came in with the picture of the house
7 for sale with the fact of she wants to move to
8 Columbia and did not renew her teaching contract
9 here, that he is demanding he has Wednesday
10 night visitations that he bargained for, he has
11 other --

12 THE COURT: I know, I'm with you.

13 MR. CUMMINGS: Okay. And as an officer of
14 the Court I would put in a sealed package to the
15 bench to protect the record and Mr. Bailey to
16 show that I'm telling the truth, give a copy of
17 the house for sale.

18 MR. BAILEY: I don't dispute anything
19 you're saying.

20 THE COURT: I know you don't.

21 MR. CUMMINGS: I could see this thing
22 coming back and backfiring because the
23 stepfather has no legal rights to these children
24 while Mom is in an incapacitated issue, but I
25 don't know how to say this to the lady about

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1 excusing her.

2 MS. HARDEE-THOMAS: Call her tomorrow,
3 Court call.

4 MR. BAILEY: Judge, I'll withdraw my
5 opposition, I understand it's a little more
6 involved than I thought.

7 THE COURT: I understand, Mr. Bailey. I
8 think that under these circumstances it is
9 appropriate.

10 Have her come back in.

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

13 THE COURT: Ms. Pitchford -- I remembered
14 that right -- I'm going to tell you two things.
15 First thing that I'm going to tell you is that
16 you are statutorily qualified to serve, so I
17 want you to know that. Let me tell you what my
18 concern is, twofold. I recall that you
19 mentioned that you intend to move in July, a
20 position somewhere else. I'm also mindful that
21 Mr. Cummings represented your ex. If you serve
22 on this jury that puts you in a position of
23 having to rely on the stepdad for care. They're
24 young, your children are very young.

25 Having balanced all of those matters,

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1 I don't want to get into, and I don't know how
2 your ex is about you moving, he may be perfectly
3 fine, I don't want to know about it. However, I
4 believe that under the circumstances as they
5 exist in your life right now, that while you are
6 qualified, statutorily qualified, I think it's
7 best that you not serve at this time.

8 Now, what I want to do is transfer you
9 because I think you would be an excellent juror
10 and with your permission I would transfer you to
11 a term in June.

12 MS. PITCHFORD: Okay.

13 THE COURT: That would be a week-long term,
14 all right, would not have to stay.

15 MS. PITCHFORD: That's fine.

16 THE COURT: Is that all right?

17 MS. PITCHFORD: Oh, definitely.

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

19 MS. PITCHFORD: Great. Thank you.

20 THE COURT: Now, let me mention this to
21 you. Since you are going to be leaving us I
22 need to ask you not to discuss these questions,
23 this proceeding with any of your potential
24 jurors, certainly don't talk to anyone who may
25 have some connection with this case. And since

Juror 234 Micki Lee Pitchford - Examination

1 you were in there so long unless you know who
2 that is, you know everybody, so be mindful of
3 that. Beyond that you can talk to whomever you
4 wish to about this matter.

5 MS. PITCHFORD: All right.

6 THE COURT: And thank you so very much for
7 all of your precious time.

8 MS. PITCHFORD: Thank you. Thank you. I
9 appreciate your concern.

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

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

13 THE COURT: All right. Any objection from
14 the State?

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

17 THE COURT: From the defense?

18 MR. CUMMINGS: No, Judge. I would like to
19 state as an officer of the Court, thank you very
20 much to my adversary and my colleague because,
21 Judge, it would have placed us in a bad
22 position.

23 THE COURT: Thanks for sharing that with
24 us. I think that was appropriate and that's a
25 good resolution.

1 We have an item on the next person?

2 MR. BAILEY: Yes. He appears -- or she
3 appears to have some problem being impartial.

4 MR. CUMMINGS: 199.

5 THE COURT: All right. Do we need to talk
6 to her, or all you all satisfied?

7 MR. CUMMINGS: If the Court would just
8 indulge us one more second, Judge, I think we
9 can move quickly.

10 THE COURT: Sure.

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

13 MR. BAILEY: We can agree, Your Honor.

14 THE COURT: Oh, very well then. All right.
15 Did she ask to be disqualified?

16 MR. CUMMINGS: She made a real big point at
17 the end to make a statement of displeasure, some
18 sort of --

19 THE COURT: Impartial.

20 MR. BAILEY: She's actually -- that
21 question is, is there any reason whatsoever that
22 she should not serve and she says yes.

23 THE COURT: So she does. What I'm going to
24 do is I am going to remind her of her oath, I'm
25 going to have her reaffirm her questionnaire and

Juror 199 Princess R. McConnell - Examination

1 I'm going to excuse her.

2 MR. BAILEY: Thank you.

3 MR. CUMMINGS: Thank you, Judge.

4 THE COURT: If you would, please, bring in
5 Ms. McConnell.

6 (Princess R. McConnell, called as a prospective
7 juror, having previously been duly sworn, is
8 examined as follows:)

9 EXAMINATION

10 BY THE COURT:

11 Q. Hello.

12 A. Hi.

13 THE COURT: This is Juror Number 199,
14 Ms. Princess McConnell.

15 Q. Ms. McConnell, do you remember on Monday when we
16 were together, it seems like a long time ago, but do
17 you remember that you were placed under oath with all
18 the other potential jurors?

19 A. Yes, ma'am.

20 Q. And, Ms. McConnell, let me tell you that that
21 oath obviously continues throughout this process and
22 would continue to the answers that you would share
23 with us to my questions here today, okay?

24 A. All right.

25 Q. Let me ask you this question: Your

1 questionnaire that you filled out, can you reconfirm
2 for me that the -- the truth of what you said in your
3 questionnaire?

4 A. Yes.

5 Q. In other words, you remember it?

6 A. Yes, I remember it.

7 Q. Very well. And that each and every piece of
8 information that you put in here remains true and
9 accurate?

10 A. Yes.

11 Q. All right. Ms. McConnell, let me tell you what
12 I have been able to do. I have been able to review
13 your questionnaire and I've reviewed your concerns at
14 question number 49. You don't need to publish it,
15 but just to refresh your memory, your concerns. Do
16 you remember that?

17 A. Yes.

18 Q. And let me tell you that having had you
19 reconfirm those concerns on this record under oath I
20 am able to excuse you from your service on this jury
21 given your statements in the questionnaire and able
22 to disqualify you on that basis from your service.

23 I would ask of you if you would be so
24 kind as to not discuss this process, these questions,
25 this process with any of the potential jurors.

1 A. I understand.

2 Q. Or don't discuss this matter obviously with
3 anyone who might be involved in this trial. And I
4 know that the jury list was -- I mean, the potential
5 witness list was in the jury room, so you probably
6 have memorized it given how long you've been back
7 there. But I don't want you to leave without me
8 giving to you, expressing to you so much thanks for
9 the precious -- the gift of time which is so precious
10 to all of us and I thank you for that.

11 A. Thank you.

12 Q. And you're free to go.

13 A. Thank you.

14 Q. Thank you.

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

17 THE COURT: All right. Ms. Sonya Thompson.
18 Anything about Ms. Thompson? No? Ms. Sonya
19 Thompson.

20 (Sonya A. Thompson, called as a prospective
21 juror, having previously been duly sworn, is
22 examined as follows:)

23 EXAMINATION

24 BY THE COURT:

25 Q. Hello, Ms. Thompson, how are you?

1 A. Tired.

2 Q. Tired, I know. I apologize for keeping you back
3 there for as long as you have been back there. You
4 probably want to get together a collection to give me
5 a new watch because I'm sure you're convinced that I
6 have lost all concept of time. We have needed to
7 spend the time with each juror as we have, so I sure
8 do appreciate your patience and I certainly know that
9 your time is so valuable and I thank you for your
10 patience.

11 THE COURT: For our record this is
12 Ms. Sonya Thompson, Juror Number 301, which is a
13 road that goes past my hometown of Dillon.

14 Q. Now, Ms. Thompson, you will recall when we were
15 together on Monday that you were placed under oath
16 with the other potential jurors. Do you remember
17 that?

18 A. Yes.

19 Q. Let me tell you that the oath that you took on
20 Monday remains in effect throughout this process and
21 would certainly be applicable to the answers that you
22 would share with us today, okay?

23 A. Okay.

24 Q. Now, since we talked with you on Monday has
25 anyone talked to you about this matter, tried to

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

4 A. No.

5 Q. Now, when you were back in the jury room there
6 was the potential witness list back there, you
7 probably had a chance to memorize it given how long
8 you've been back there.

9 A. Just about.

10 Q. Have you had a chance to look at it?

11 A. Yes.

12 Q. And are you related by blood or marriage, or
13 acquainted with or connected in any regard, directly
14 or indirectly, are you a business associate, casual
15 acquaintance, close personal friend, are you
16 connected with any of the folks whose names were on
17 the potential witness list?

18 A. No, ma'am.

19 Q. All right. Now, when we talked on Monday I
20 asked certain questions of folks, I asked whether or
21 not anybody had an opinion about this case, whether
22 or not anybody had any information about the case,
23 whether or not anyone had a bias or prejudice for or
24 against either party. And my notes reflect that
25 those matters didn't -- obviously didn't have any

1 application to you, didn't apply to you; is that
2 right?

3 A. Yes, ma'am.

4 Q. All right. And since we talked on Monday has
5 anything jogged your memory, come into your mind that
6 you would need to share with us? I don't know,
7 maybe -- who knows, you know, maybe you saw
8 something, or hearing names sometimes they mull
9 around in your brain and they will jog a memory. Has
10 anything like that happened?

11 A. No, ma'am.

12 Q. All right. So the fact that none of those
13 things applied to you on Monday continues to today?

14 A. Yes.

15 Q. All right. Now, I need to ask you some
16 questions about how you feel about certain matters,
17 your opinions. The reason that I'm going to be
18 asking you about your opinions is that we just need
19 to understand them so that we can determine whether
20 or not your opinions could, or might, have any impact
21 on your jury service.

22 Having said that I want you to know
23 that that's the purpose of our questions. We do not
24 intend to invade your privacy. Nobody's going to
25 challenge those opinions because your opinions are

1 just as good and valid as anybody else's, and
2 obviously there are no right or wrong answers. So I
3 want to just tell you to keep all that in mind, all
4 right?

5 A. Okay.

6 Q. Now, I'm going to be asking your opinion in a
7 few moments about penalty, specifically the death
8 penalty because that may be an issue in this case. I
9 want you to know that I know that even to talk about
10 penalty at this stage is very premature. Obviously
11 the trial hasn't begun and Mr. Bowman is presumed
12 innocent of the charges, so it clearly is premature.
13 However, I have no other time to ask potential jurors
14 about these issues prior to trial other than prior to
15 trial. So, please keep in mind as we go through
16 these questions that the questions of penalty are
17 premature and that Mr. Bowman is presumed innocent,
18 okay?

19 A. Okay.

20 Q. All right. Now, I'm going to ask these
21 questions in a general or generic sense because you
22 don't know anything about this case, it wouldn't be
23 fair or right to ask you about your opinions about
24 this case, you don't know anything about it. It's
25 also improper. So I'm not going to be asking you

1 your opinions about this case, but I'm going to be
2 asking you in a general sense.

3 For example, if you were a juror in
4 any criminal case, would you be willing to listen to
5 the instructions on the law given to you by the
6 judge?

7 A. Yes.

8 Q. And would you be willing to accept that law and
9 to apply the law to the facts as you would find them
10 to be?

11 A. Yes.

12 Q. That's a yes?

13 A. Yes.

14 Q. You're very soft spoken. And even though you
15 might not particularly like the law or even agree
16 with it, you may disagree with it, would you still be
17 willing to follow the law as you were instructed to
18 do by the judge?

19 A. Yes.

20 Q. Now, if you were to serve in the case of the
21 State vs. Mr. Bowman, could you decide this case
22 based on the evidence in this courtroom and disregard
23 anything that you may have seen, or heard, or read
24 about this case from any source at all if anything
25 like that came into your mind or your memory got

1 jogged later? In other words, sometimes that happens
2 to jurors, they don't have any memory and then during
3 the trial as they begin to hear things a memory will
4 get jogged. My question is if that should happen to
5 you, could you disregard that memory and determine
6 this case based on the evidence in the courtroom?

7 A. Yes, I could.

8 Q. In a criminal case as you very well know and you
9 probably do know, as we talked about on Monday, the
10 State has the burden of proving a defendant guilty
11 beyond a reasonable doubt. Do you understand that?

12 A. Yes, ma'am.

13 Q. All right. In other words, a defendant never
14 has to prove himself or herself innocent. A
15 defendant doesn't have to prove anything. The burden
16 is always upon the State to prove a defendant guilty.
17 Do you understand those principles?

18 A. Yes.

19 Q. And do you know the principle that a defendant
20 is presumed innocent under our law?

21 A. Yes.

22 Q. You understand that, all right. Now, if you
23 were a juror in any criminal case would you be
24 willing to listen to the evidence, listen to the law
25 as the judge gives it to you, find the facts from the

1 evidence as you would find them to be and apply the
2 law as the judge gave it to you?

3 A. Yes.

4 Q. And when you did that if you were not convinced
5 of a defendant's guilt beyond a reasonable doubt,
6 would you be willing and able to find a defendant not
7 guilty?

8 A. Yes.

9 Q. On the other hand, if after you reviewed the
10 evidence, found the facts and applied the law, if you
11 were convinced of a defendant's guilt beyond a
12 reasonable doubt, would you be willing and able to
13 find a defendant guilty?

14 A. Yes.

15 Q. All right. So you would be willing to listen
16 and to make your decision based upon whether or not
17 you were convinced that a person was guilty or not;
18 is that right?

19 A. Yes, ma'am.

20 THE COURT: Now can you all hear?

21 MR. CUMMINGS: Yes, ma'am.

22 THE COURT: Okay. Great.

23 Q. Now, most of the time jurors do not concern
24 themselves with the matter of penalty, punishment.
25 Most of the time in the criminal court punishment is

1 left up to the judge. But there is one case in our
2 law when a jury has to deal with the matter of
3 punishment and that is a case like this one, that is
4 a case where an individual has been charged with the
5 crime of murder and where the State is seeking the
6 death penalty.

7 If an individual in a death penalty
8 case is convicted of the crime of murder, then the
9 same jury that convicted him or her comes back and in
10 a different and separate proceeding determine the
11 punishment that that person will get. And those
12 punishment -- there are two. One, life imprisonment
13 without the possibility of parole, and the death
14 penalty. Those are determined in the second or
15 what's call the sentencing phase of the trial. Do
16 you understand this information?

17 A. Yes, ma'am.

18 Q. Do you have any questions about this part of the
19 information?

20 A. No, ma'am.

21 Q. Okay. Now, did you have a chance to look at
22 this piece of paper?

23 A. Yes, ma'am.

24 Q. And you will notice that it essentially
25 describes three types of jurors. Are you familiar

1 with the three types of jurors?

2 A. Yes.

3 Q. Did you read them?

4 A. Several times.

5 Q. Several times, all right. Which of these three
6 types of jurors do you think best describes you?

7 A. Three.

8 Q. Number three?

9 A. Yes, ma'am.

10 Q. And by that does that mean that you would be
11 willing to listen to whatever the information, the
12 evidence was in that sentencing phase, and if you
13 thought after you listened to all the information,
14 considered all the evidence, if you thought it was
15 appropriate that someone be sentenced to death would
16 you be willing and able to vote for a sentence of
17 death?

18 A. Probably.

19 Q. Probably?

20 A. Yes, ma'am.

21 Q. Okay. And if you thought the death sentence was
22 not appropriate or for any other reason the person
23 ought to receive life imprisonment, would you be able
24 and willing to vote for a sentence of life
25 imprisonment?

1 A. Yes.

2 Q. Yes?

3 A. I'm --

4 Q. So would you make up your mind, would you make
5 your decision based upon what you heard in the
6 courtroom?

7 A. Yes, ma'am.

8 Q. And is that what you think the type three
9 indicates?

10 A. Yes.

11 Q. All right. All right. And just to review a
12 little bit. If after you heard everything, reviewed
13 the evidence, thought about it, if you were convinced
14 that it was appropriate to sentence someone to death
15 would you be willing to vote for that sentence?

16 A. Yes.

17 Q. All right. Now, if you were chosen to serve as
18 a juror in this case you and the other jurors would
19 be housed locally in a motel, the word is
20 sequestered, obviously at county expense. And you
21 would have to stay with us until the trial is over
22 except when, you know, you would be in the courtroom,
23 you would be at the motel. And this period could
24 last as long as two weeks or longer, it could be
25 shorter, but it could be two weeks or longer, I just

1 don't know exactly how long it will take.

2 Obviously that would create an
3 inconvenience for you as it surely will for all the
4 jurors who serve on this case. Other than the
5 inconvenience which this service would cause anybody
6 who had to serve in this capacity, would that pose a
7 serious risk of danger to your health or well being,
8 or to the health or well being of anyone who is
9 dependent on you if you had to serve in this
10 capacity?

11 A. Well, there's no one to watch my son in the
12 morning. My husband leaves very early in the
13 morning.

14 Q. All right. How early does he leave?

15 A. He leaves at 5:00 and my son doesn't go to
16 school until 6:30, so it's just not good.

17 Q. All right. Tell me what your husband does.

18 A. He works in landscaping and drives a truck.

19 Q. He works in landscaping and drives a truck.

20 Does he -- Tupperway?

21 A. Yes.

22 Q. Is it Tupperway?

23 A. Yes.

24 Q. All right. Do you think that if he called that
25 he could make arrangements for that period of time

1 just to start a little bit later?

2 A. I could ask.

3 Q. You could ask. Has he ever done anything like
4 that?

5 A. No, sir.

6 Q. He's never asked to come a little bit later?

7 A. No.

8 Q. How long has he been with Tupperway?

9 A. About four months.

10 Q. About four months.

11 A. He just started.

12 Q. He just started. Do you work outside the home?

13 A. Yes.

14 Q. Where do you work?

15 A. Wal-Mart.

16 Q. You work at Wal-Mart, okay. Do you have any
17 family members that perhaps could help with that
18 task?

19 A. All my family works except my father-in-law, but
20 he's got cancer and he's in chemo and he can't keep
21 up with my son. My son is seven and he's wild, he's
22 all boy.

23 Q. I understand. I understand. What time does
24 your husband finish in the evening?

25 A. He usually gets home between 5:30 and 6:00.

Juror 301 Sonya A. Thompson - Examination

1 Q. All right. Is your son in an after-school
2 program?

3 A. No. I leave work at 2:00 and get him.

4 Q. You leave work at two o'clock and pick him up?

5 A. Yeah, and go home.

6 Q. And go home?

7 A. Yes, ma'am.

8 Q. Does that happen every day?

9 A. (Nodding.)

10 Q. That's a yes?

11 A. Yes, ma'am. Sorry.

12 Q. That's okay. Are there ever times when you
13 need -- you have someone that does that for you?

14 A. Today I had to beg my father-in-law, you know.
15 I told my son to behave.

16 Q. All right.

17 A. I mean, you know, I can't count on him to be
18 able to take care of him the whole time because he
19 has doctor's appointments so much.

20 Q. I understand. I understand. And what you're
21 not certain of is whether or not -- or even if your
22 husband started work a little bit late he would have
23 to get home a lot earlier?

24 A. Yeah.

25 Q. All right.

Juror 301 Sonya A. Thompson - Examination

1 A. I mean, I have a daughter, but she's not old
2 enough to watch my son.

3 Q. How old is your daughter?

4 A. She's 11.

5 Q. She's 11?

6 A. Yes. I mean, she's mature 11, but....

7 Q. In other words, you would be less concerned
8 about your 11 year old getting up and getting herself
9 to school and then being all right in the afternoons
10 than your seven year old?

11 A. Yes.

12 Q. I understand. I understand.

13 THE COURT: All right. Let me see. Any
14 questions of Ms. Thompson from you, Mr.
15 Cummings?

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

17 EXAMINATION

18 BY MR. CUMMINGS:

19 Q. Ms. Thompson, I'll be brief. I'm Norb Cummings,
20 the young lady seated on the other side of Mr. Bowman
21 is Ms. Marva Hardee-Thomas, Mr. Bowman is the
22 gentleman right here in the white shirt. The other
23 lady is Miss Summer Veno. I am going to be very
24 brief and try to ask you a few questions.

25 A. Okay.

Juror 301 Sonya A. Thompson - Examination

1 Q. And it basically it deals with being sequestered
2 in a motel for up to two weeks, maybe a little
3 longer, maybe less. The question that I would ask
4 you, it's not to be of an inconvenience to you,
5 ma'am, not to be an inconvenience, but would it cause
6 an undue hardship like Her Honor was trying to ask
7 you? We're just trying to get your feelings and your
8 honest statement about whether or not you could
9 concentrate on the evidence in here or be worried
10 about those beautiful children that you have.

11 A. I would probably be worried about my children.

12 Q. And that's why we want to ask this and whether
13 you could devote 125 percent in this room as your
14 civic duty requires and as the good lady that you are
15 telling Her Honor openly and honestly. And Mr.
16 Bailey, the solicitor, will probably ask you the same
17 kind of questions and he may ask you other questions.
18 But if your children, if you could have arrangements
19 for them, could you and would you be willing to be a
20 juror?

21 A. I could.

22 Q. All right. And would you be performing your
23 civic duties to the best of your ability?

24 A. Yes.

25 Q. And Her Honor's gone over a lot of questions

1 about the guilt stage and everything else about
2 jurors. And you are the type of juror that would be
3 willing to work with the other jurors and do your
4 civic duty, correct?

5 A. Yes, sir.

6 Q. All right. And then and only then will we get
7 to the penalty phase. And at that point I think you
8 told Her Honor you were a type three juror; is that
9 correct, ma'am?

10 A. Yes, it is.

11 Q. That means you would consider both penalties?

12 A. Yes.

13 Q. All right. And when you state that is it your
14 words that says you can give either penalty if so
15 picked?

16 A. Yes.

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

18 THE COURT: Yes.

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

21 MR. CUMMINGS: Thank you, Judge. No
22 further questions of this lady.

23 THE COURT: Anything from the state?

24 EXAMINATION

25 BY MR. BAILEY:

1 Q. Ms. Thompson, I'm Walter Bailey and I'll be
2 prosecuting the case and I need to ask you a few
3 questions. I want to make sure I fully understand
4 the situation in regard to your seven year old. As I
5 understand it you work at Wal-Mart?

6 A. Yes.

7 Q. Okay. And your husband's working in landscaping
8 and he leaves at 5:00?

9 A. Yes.

10 Q. And your son's in day-care until 2:00? Or where
11 is he?

12 A. No, he's in school.

13 Q. When does school let out?

14 A. School lets out at 2:10.

15 Q. For the year, I mean.

16 A. Oh, the 30th.

17 Q. The 30th of this month?

18 A. Yes.

19 Q. Okay. After the 30th of the month what's the
20 situation going to be?

21 A. My babysitters are in high school.

22 Q. Okay. All right.

23 A. In the summer I don't have problems.

24 Q. All right. So you're problem would be between
25 now and the 30th?

1 A. Yes.

2 Q. Okay. And as I understand it everybody in your
3 family works other than your father-in-law and he has
4 cancer and is undergoing chemo?

5 A. Yes.

6 Q. And you don't believe he would be able to take
7 care of your son from 2:00 on?

8 A. No, not every day.

9 Q. All right.

10 MR. BAILEY: Your Honor, indulge me one
11 second, please.

12 THE COURT: Certainly.
13 (Pause in proceedings.)

14 MR. BAILEY: Your Honor, that's all I have.

15 THE COURT: All right. Ms. Thompson, I'm
16 going to ask you just to step out for a moment.
17 We're not going to be but a moment and we will
18 be -- get you right back in.

19 MS. THOMPSON: Okay.

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

22 THE COURT: What says the defense?

23 MR. CUMMINGS: Judge, I just wanted to
24 state this openly and politely, that we believe
25 that she would be statutorily qualified. It's

Juror 301 Sonya A. Thompson - Examination

1 the issue of the children that's come up here.
2 Both Mr. Bailey and I both know if a juror's not
3 going to be able to pay attention, we both have
4 a hard time. And, of course, the Court
5 protecting the jurors if something would go on a
6 week from now or whatever, we would lose a juror
7 and then we're down another alternate.

8 I stand before you and tell you we
9 would love to have her, but I don't think her
10 mind would be here so I believe, Judge, she
11 probably would be excused for cause.

12 THE COURT: Thank you. And you concur?

13 MR. BAILEY: I concur, Your Honor.

14 THE COURT: Very well. Bring her back out.
15 (Whereupon, the prospective juror returns to the
16 courtroom.)

17 THE COURT: Ms. Thompson, let me say to you
18 that I want you to know that you are statutorily
19 qualified to serve as a juror on this case.
20 However, I think that you ought to be
21 transferred to the summertime when the
22 babysitter's there with the children. It sounds
23 to me like it's going to be quite a hardship on
24 your father-in-law and on your family.

25 So what I'm going to do is I'm going

1 to transfer you to later on in the summer when
2 the babysitters are up and running, okay? Thank
3 you so much.

4 But since you're going to be leaving
5 us, Ms. Thompson, let me ask you not to discuss
6 this process or these questions with any of your
7 potential jurors and be mindful not to discuss
8 this matter with anyone who might be involved in
9 this case. Beyond that if you want to talk
10 about it you certainly can do that. All right.
11 Thank you so much, Ms. Thompson, and you take
12 care and thank you, again, for all of your time.
13 (Whereupon, the prospective juror exits the
14 courtroom.)

15 THE COURT: Counsel, look at your notes
16 regarding Ms. Wilgos.

17 MS. HARDEE-THOMAS: Yes.

18 MR. BAILEY: She had a relative shot and
19 killed by someone.

20 MR. CUMMINGS: I think she said a black --

21 MS. HARDEE-THOMAS: Black man.

22 THE COURT: Unh-unh (negative response).

23 MR. BAILEY: Cousin was a police officer,
24 shot.

25 THE COURT: Yes. As I recall she came up

1 and told us that.

2 MR. CUMMINGS: Yes.

3 THE COURT: And she may have been tearful
4 on Monday, as I recall.

5 All right. What says the State?

6 MR. BAILEY: I would think that should be
7 the first line of inquiry; I'm not sure what her
8 situation is.

9 THE COURT: I understand. I will allow
10 that to be the first line of inquiry.

11 Very well. If you would ask her,
12 Ms. Wilgos, to come on in.

13 (Susan Wilgos, called as a prospective juror,
14 having previously been duly sworn, is examined
15 as follows:)

16 EXAMINATION

17 BY THE COURT:

18 Q. Hi, Ms. Wilgos.

19 A. Hi.

20 Q. Ms. Wilgos, I know you've been back there to the
21 point that you probably think the judge needs a new
22 watch, so I thank you so much for your patience. I'm
23 about to decide that I need to reevaluate how I
24 schedule things because I obviously do not do a very
25 good job, but it's important that we're able to have

1 time with each juror.

2 A. Sure.

3 Q. So I really appreciate your patience so much.

4 And I would remind you, remember Monday?

5 A. Yes.

6 Q. It's a long time ago now.

7 A. Yes, it is.

8 Q. But at that time you were placed under oath with
9 your fellow potential jurors.

10 A. Right.

11 Q. Do you remember that?

12 A. Right.

13 Q. That oath just continues throughout this
14 process, you don't need to take another oath.

15 A. Okay.

16 Q. I just tell you that it remains in effect with
17 the answers that you would give to my questions,
18 okay?

19 A. Sure.

20 Q. Now, Ms. Wilgos, you were very candid the other
21 day. And I said given the information, we'll talk
22 about it individually. And now the time has come --

23 A. Okay.

24 Q. -- to talk about this information. As I recall
25 when I was asking the questions the other day, I

1 asked does anyone know, have any reason why they are
2 concerned about your ability to be fair and
3 impartial.

4 A. Right.

5 Q. Does anybody have a bias or a prejudice. And
6 you were very candid and you said that I had a
7 cousin.

8 A. He was a police officer.

9 Q. And you were very concerned about that. Let me
10 ask you now --

11 A. Sure.

12 Q. -- to tell me why you are concerned about your
13 ability to be fair and impartial.

14 A. Well, I want to make sure I don't give the wrong
15 answer or anything because I don't want that on my
16 conscience for the rest of my life.

17 Q. Let me say this to you. Obviously there are no
18 right or wrong answers, there's only how you feel.

19 A. Okay.

20 Q. And how you feel is what this process is about,
21 is to get your opinions. And please know that there
22 are absolutely no right or wrong answers and whatever
23 your opinions are, are absolutely as good and right
24 as anybody else's.

25 A. Okay.

1 Q. And so just, please, know that.

2 A. Okay, sure.

3 Q. And what I wanted to ask of you was just if you
4 would share that feeling with us.

5 A. You mean when he was killed?

6 Q. No. Remember ask -- tell me why you think you
7 would have difficulty being fair and impartial. Is
8 it because of that experience?

9 A. Yes, it is. Because we're a very close family.
10 And every year we go down back to New York and I see
11 my aunt and she misses him very much, which I
12 understand. And I do, too, because he used to come
13 to see me a lot. And she brings it up all the time.
14 And we go through the whole process of crying and
15 then talking about him and the family he didn't know
16 he was going to have. And then we go to the cemetery
17 and, you know, we go to church then and, you know,
18 all this. And it brings back a lot of memories how
19 such a good person who gave his, I guess you would
20 call it, his all for the community and that and this
21 had to happen to him.

22 Q. Surely. Let me ask you this question: That
23 experience that you have had in your life and the
24 experiences that you continue to have with your aunt.

25 A. Right.

1 Q. Do you believe that that feeling that you have
2 about having a cousin who was shot, a police officer.

3 A. Right.

4 Q. Do you believe that that experience, the
5 feelings about that, any opinions that you may hold
6 as a result of that, do you believe that they could
7 substantially impair your ability to be fair and
8 impartial to both sides, to the State --

9 A. Right.

10 Q. -- as well as to the defendant?

11 A. I'm not sure. It's hard to say. Part of me
12 wants to -- how can I put it?

13 Q. Wants to say that you can put it aside, put it
14 completely aside and not be affected by it?

15 A. Right. And the other part I don't want to. You
16 know, when I go back and I see my aunt, because that
17 was her only son, and we go through this all over
18 again, it just brings tears to my eyes, and that why
19 such a good person doing all this should have this
20 happen to him and to the family. And I guess I just
21 don't understand that.

22 Q. I understand.

23 A. So....

24 Q. So your concern is that this is still very much
25 a part of your life?

1 A. Right. Right.

2 Q. And so this experience that you have, does it
3 cause you concern, that it could impact?

4 A. Right. I come from the family where everyone in
5 the family was either a state trooper, a lieutenant,
6 or whatever. And this all brings back -- you know,
7 if you weren't a police officer you were considered
8 odd and that. So growing up all my years I have
9 lived with someone from the family that was a police
10 officer and that. And I guess I just don't -- I
11 can't accept it when a police officer that is killed
12 and sometimes they let them go, that bothers me a
13 lot, so....

14 Q. I understand that. Let me say a couple things
15 to you. Do you think that your close family
16 relationships with law enforcement, do you believe
17 that that could impair, substantially impair your
18 ability to be fair and impartial to both sides, the
19 State as well as to the defense?

20 A. Yeah. Right.

21 Q. In other words, can you, can you, can you put
22 these things that you're telling me about, the death
23 of your cousin, the angst that you particularly feel
24 when you visit annually with your aunt.

25 A. Right.

1 Q. The family close family relationships with
2 police officers, the esteem that they hold within
3 your family unit, can you put those matters aside,
4 and put those matters aside and try this case based
5 upon the evidence in this courtroom and the law as I
6 give it to you and be completely unaffected by that?
7 Not completely unaffected, the real question is this.

8 A. Right.

9 Q. The real question is this: Would those
10 experiences, those opinions that you hold, would they
11 substantially impair or prevent, the whole term is
12 you performing your duties as a juror?

13 A. Right.

14 Q. Your duties as a juror --

15 A. I understand.

16 Q. -- are to listen to the evidence, listen to my
17 charge on the law, and be fair and impartial to
18 Mr. Bowman and to the State.

19 A. I don't know. To be honest with you, I don't
20 know.

21 Q. Well, I appreciate that. I want you to be
22 candid and appreciate you being candid. Let me
23 ask -- let's see, I think we are -- let me find my
24 sheet, hold on. I have too many pieces of paper.
25 Here we go.

Juror 332 Susan Wilgos - Examination

1 THE COURT: All right. Mr. Bailey.

2 MR. BAILEY: Your Honor, just very, very
3 briefly.

4 EXAMINATION

5 BY MR. BAILEY:

6 Q. I'm Walter Bailey and I will be prosecuting the
7 case. Like the judge said, there are no right or
8 wrong answers, okay?

9 A. Yeah.

10 Q. And I'm going to probably ask you the same thing
11 the judge asked you, maybe in a little bit different
12 way, so please excuse me if I get repetitious. But
13 the death of your cousin, that obviously has affected
14 you very much.

15 A. Right, we were very close.

16 Q. All right. Do you feel like that situation that
17 obviously still affects you, would substantially
18 impair your ability to sit as a fair and impartial
19 juror on this case? And if you could give us a yes
20 or no it would help, I think.

21 A. I really think it would.

22 Q. Okay.

23 A. Because I think about him a lot.

24 Q. All right. You think that might spill over into
25 this case?

Juror 332 Susan Wilgos - Examination

1 A. Yeah, we were very close. He used to come down
2 to the house a lot and we used to have a great time.

3 Q. Yes, ma'am.

4 A. And I guess what bothers me a lot, too, is he
5 never found out he was going to be a dad the day he
6 was murdered --

7 Q. All right.

8 A. -- his wife found out and he never knew it.

9 Q. All right. That's all I've got, Ms. Wilgos.
10 Thank you very much.

11 MR. CUMMINGS: Judge, I was going to say
12 based on this lady's candor I thank her and I
13 have no questions based on that.

14 THE COURT: Ms. Wilgos, I, too, I thank you
15 so much for your candor. As you can see this is
16 not a case where I think that you should serve
17 because of where you are with that. I would ask
18 you, Ms. Wilgos, though, would you be willing to
19 serve in a civil term, civil court, automobile
20 accidents and the like?

21 MS. WILGOS: There, again, I'm afraid
22 always --

23 THE COURT: The police officers that report
24 to the scene and that sort of thing?

25 MS. WILGOS: Yeah.

1 THE COURT: I got you.

2 MS. WILGOS: I know when my in-laws, when
3 they were robbed and we went down to the house
4 they destroyed everything and they told us
5 that --

6 THE COURT: Ms. Wilgos, I got that. All
7 right. Here's what I will do then. I will
8 excuse you from your service straight out and
9 ask you since you're going to be leaving us, if
10 you would not discuss this process --

11 MS. WILGOS: Sure.

12 THE COURT: -- with your potential jurors.
13 And obviously you've had time to memorize the
14 potential witnesses and if you would be so kind
15 as to not talk about this case with anyone who's
16 associated with it. Beyond that if you want to
17 talk about it, you certainly can talk about it
18 if you wish.

19 But before you leave I don't want you
20 to leave without me thanking you and
21 acknowledging all the time that you have given
22 us to and to this process.

23 MS. WILGOS: Well, I was just trying to be
24 honest.

25 THE COURT: I'm so grateful to you for

Juror 332 Susan Wilgos - Examination

1 doing that, too. And where in New York are you
2 from?

3 MS. WILGOS: Buffalo.

4 THE COURT: I'd have never known that.
5 Thank you so much, Ms. Wilgos, and you take good
6 care.

7 MS. WILGOS: Thank you.

8 (Whereupon, the prospective juror exits the
9 courtroom.)

10 THE COURT: All right. How are you holding
11 up?

12 THE COURT REPORTER: Fine.

13 THE COURT: All right. Okay. Mr. Hutto.
14 (Douglas A. Hutto, called as a prospective
15 juror, having previously been duly sworn, is
16 examined as follows:)

17 EXAMINATION

18 BY THE COURT:

19 Q. Mr. Hutto.

20 A. How are you doing?

21 Q. I'm fine. How are you doing?

22 A. I'm doing lovely.

23 Q. Thank you for saying that since I know how long
24 you've been back there waiting, I appreciate you
25 saying that, Mr. Hutto.

1 Mr. Hutto, you remember when we were
2 together on Monday that you were placed under oath
3 with everybody else who is a potential witness,
4 remember that?

5 A. Uh-huh (affirmative response).

6 Q. That's a yes?

7 A. Yes. I'm sorry.

8 Q. And let me just remind you that the oath that
9 you took is still good, you don't need to retake it,
10 it still applies to the answers that you give to the
11 questions that we would ask of you, okay?

12 A. Yes, ma'am.

13 Q. All right. Now, since Monday has anybody tried
14 to talk to you or approach you about this case, or
15 have you received any information inadvertently or
16 otherwise about this case?

17 A. No.

18 Q. Now, when I was asking questions of folks on
19 Monday you indicated that you knew Mr. Robbins --

20 A. Yes, ma'am.

21 Q. -- who obviously is an employee of the
22 solicitor's office.

23 A. Yes, ma'am.

24 Q. And as I recall what you told me you were
25 concerned at that point about your -- whether you

1 could be on a jury when Mr. Robbins was involved, as
2 I recall.

3 A. Right.

4 Q. Now, Mr. Robbins, he's the deputy solicitor in
5 the solicitor's office. Mr. Bailey is the solicitor,
6 Mr. Lafond is an assistant solicitor. It is my
7 information that Mr. Robbins would not participate in
8 the trial, but he is the deputy solicitor, he's the
9 number two guy in the solicitor's office.

10 A. Yeah.

11 Q. So I would ask of you whether or not your --
12 well, I guess I should ask you this: Tell me a
13 little bit about how you know Mr. Robbins.

14 A. He's just a casual acquaintance. When he used
15 to work for Mr. James Bell --

16 Q. Bell, yeah.

17 A. -- I had done some business with Mr. Jim and
18 know him from there, and known him from going dove
19 hunting and seen him on the golf course.

20 Q. Okay. All right. And I understand he likes to
21 play golf?

22 A. Yes, he does.

23 Q. Yes.

24 A. And through the Chamber of Commerce golf
25 tournament also, because I always play in that.

1 Q. All right. And so you would -- what I'm hearing
2 is that you would tell me that in the past you had a
3 professional relationship when he was in private
4 practice?

5 A. Correct.

6 Q. And since then you have a casual friendship?

7 A. Yeah. Just whenever I see him, hey, how you
8 doing.

9 Q. I understand. Do you visit in each other's
10 homes?

11 A. No, ma'am.

12 Q. All right. Do you believe that your connection
13 with Mr. Robbins would in any way keep you from being
14 fair and impartial to both sides?

15 A. Honestly, I don't know.

16 Q. Okay. Talk to me a little bit about that.

17 A. I don't think it would probably put any damper
18 on my decision, I don't think it would. I don't
19 think I show favoritism toward him, but I just let
20 you know I do know him.

21 Q. That you know him. Do you believe that you
22 could set your relationship, your connection with Mr.
23 Robbins aside and try this case based upon the
24 evidence in this courtroom and the law as I give it
25 to you?

1 A. I would think so.

2 Q. Okay. And if you were a juror in this case, and
3 for any reason, for any reason do you believe that
4 you would -- your relationship with Mr. Robbins and
5 what Mr. Robbins might think about what you were
6 doing, do you think that that would in any way
7 interfere with your ability to be fair and impartial?

8 A. No.

9 Q. No, all right. So do you believe then that you
10 could be a juror in this case and be fair and
11 impartial to the State and to Mr. Bowman, trying this
12 case based on the evidence in this courtroom and the
13 law as I give it to you, completely disregarding your
14 friendship with Mr. Robbins?

15 A. I'd say yes.

16 Q. Okay. You believe that to be so?

17 A. I think so.

18 Q. You think so?

19 A. Yeah.

20 Q. Do you have any concerns about that?

21 A. I would think it would might affect my judgment,
22 but I don't think it would.

23 Q. Okay. Tell me why you think it might.

24 A. Well, just because I know him, that's all.

25 Q. Okay. Just because you know him?

1 A. That's it.

2 Q. Anything about that relationship that you'd be
3 scared he would be mad at you?

4 A. No.

5 Q. That he would laugh at you?

6 A. No. Probably not even mention it.

7 Q. That he would want to reward you in any way?

8 A. No.

9 Q. So none of that would have an effect?

10 A. No.

11 Q. Well, then tell me what it is about knowing him
12 that causes you some concern.

13 A. I don't really have an answer for that.

14 Q. Okay. So on reflection do you think that you
15 can set that relationship aside and try this case
16 based on the evidence in this courtroom?

17 A. Yes.

18 Q. And the law as I give it to you?

19 A. Yes.

20 Q. And I think you've thought about that, too,
21 haven't you?

22 A. Oh, yeah.

23 Q. All right. Now, the witness list back in the
24 jury room, you've probably had time to memorize the
25 witness list. Have you had a chance to look at it?

1 A. Yes, ma'am.

2 Q. And having had an opportunity to look at it are
3 you related by blood or marriage or acquainted with
4 anyone whose name is on that list, or do you have a
5 direct or indirect connection, are you a business
6 associate, or do you know anyone casually or
7 personally who's on the list?

8 A. I have no relation to anyone, but I do know
9 Mr. Perry Chinnners very well.

10 Q. All right. And Mr. Perry Chinnners is on that
11 list?

12 A. Yes.

13 Q. All right. Tell me how you know Mr. Perry
14 Chinnners.

15 A. We didn't go to the same high school together,
16 we played sports against each other in high school,
17 we played on the same softball team for numerous
18 years.

19 Q. Okay.

20 A. I can't remember how many years we probably
21 played together, but at least, I'd say, from six to
22 eight. We played together on the same team traveling
23 here and there on the weekends, playing softball.

24 Q. Do you all visits in each other's homes?

25 A. Not now. I mean, just when I see him, what you

1 been up to, hey, how you doing. I don't see him, you
2 know, five, six times a year now lately.

3 Q. All right. And would the connection that you
4 have with Mr. Chinnners, would that have any bearing
5 on your ability to be a fair and impartial juror?

6 A. No.

7 Q. All right. And could you set aside the
8 connection that you have with Mr. Chinnners and decide
9 this case based on what you would hear in court
10 without regard to your connection with Mr. Chinnners?

11 A. Repeat that, please.

12 Q. Absolutely. Could you, would you, could you set
13 aside the connection that you have with Mr. Chinnners,
14 could you set that aside and decide this case based
15 upon what you would hear in court without regard to
16 your connection with Mr. Chinnners?

17 A. Yes.

18 Q. All right. Now, when we talked on Monday my
19 notes -- other than that connection that you have
20 with Mr. Robbins, my notes indicate that did you not
21 respond to having any opinion about this case or that
22 you had seen, heard, or read anything about this
23 case, or that you would have any bias or prejudice
24 for or against either side on this case. We talked a
25 little bit about Mr. Robbins, but finished talking

1 about that. No other indication about any bias or
2 prejudice for or against either side. And I'd ask if
3 that's correct?

4 A. Well, when you talked about did we have any
5 recollection of the incident, I did have a flashback
6 after we left of just --

7 Q. Well, that was my next question.

8 A. Right.

9 Q. Because that often happens.

10 A. Yeah.

11 Q. Because once people hear it, it's like the brain
12 really begins to look around. Did you have a
13 recollection?

14 A. Yes. I remember seeing it on the news, reading
15 about it in the newspaper.

16 Q. All right, sir. All right. And as a result of
17 having that information did you form, or have you
18 formed any opinions about this case?

19 A. I haven't formed any opinions because I just
20 remember sketchy details about it.

21 Q. And, again, would you be willing to set aside
22 what you have previously heard and seen about this
23 matter and if you are a juror in this case, decide
24 this case from what you hear in this courtroom?

25 A. Yes.

1 Q. And not by anything that you may have heard
2 before or read before. Could you do that?

3 A. Yes.

4 Q. Would you do that?

5 A. Yes.

6 Q. All right. Now, there are some questions that I
7 want to ask. And I want you to know I am not trying
8 to invade your privacy. What I'm trying to find out
9 is how you might feel about some matters; in other
10 words, what your opinions are about certain matters.
11 Obviously there are no right and no wrong answers.

12 A. Okay.

13 Q. And obviously your opinions, which is what I
14 want to know a little bit about, are just as good and
15 valid as anybody else's.

16 A. Okay.

17 Q. And nobody here is going to challenge your
18 opinions. We just want to know a little bit about
19 them so that we can determine whether -- and see how
20 they might impact on your jury service, okay?

21 A. Okay. Yes, ma'am.

22 Q. Now, one of the things that I'm going ask you
23 about your opinion in a few moments is penalty,
24 specifically the death penalty because that may be an
25 issue in this case. But I want you to understand

1 that the fact that I'm talking about penalty at this
2 early stage really is premature because the trial has
3 not even begun, and as I've said Mr. Bowman is
4 presumed innocent of these charges, but this is the
5 only time that we can talk about the penalty
6 necessarily before trial gets underway. So as we
7 talk about penalty, please be mindful that it's
8 premature and that Mr. Bowman is presumed innocent,
9 okay?

10 A. Yes, ma'am.

11 Q. Now, I'm going to talk -- the questions that I'm
12 going to ask you I'm going to ask them in a generic
13 sense, in a general sense. I'm not asking about your
14 opinions about this case because you don't have any
15 opinions about this case.

16 A. Right.

17 Q. And it wouldn't be fair to you and it wouldn't
18 be proper, so I'm not going to do that. I'm going to
19 ask you about your opinions in a general sense. I'm
20 going to do that now.

21 If you were a juror in any criminal
22 case, would you be willing to listen to the law as
23 you were instructed by the judge?

24 A. Yes.

25 Q. Would you be willing to accept that law and

1 apply it to the facts as you found them to be?

2 A. Yes.

3 Q. And even though -- would you be willing to do
4 that even though you might not like that part of the
5 law or you might even disagree with it, would you
6 still be willing to follow the law as you were
7 instructed to do by the judge?

8 A. Yes. I would have to hear what has to be said.

9 Q. Yeah. Well, the judge will tell you what it is
10 you're supposed to know and that certainly does
11 happen. But even if you don't like it would you be
12 willing to follow it if the judge instructs you this
13 is the law?

14 A. Yes.

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

23 A. Yes.

24 Q. All right. Now, in a criminal case as you may
25 know, certainly as we talked about on Monday morning,

1 the State has the burden of proving a defendant
2 guilty beyond a reasonable doubt. In other words, a
3 defendant never has to prove himself or herself
4 innocent and a defendant does not have to prove
5 anything. The burden is, and remains on the State.

6 Do you understand these principles?

7 A. Yes.

8 Q. All right. And do you also understand that all
9 defendants, defendants, a defendant, this defendant,
10 is presumed innocent under the law. Do you
11 understand that?

12 A. Yes.

13 Q. All right. Now, if you were a juror in any
14 criminal case would you be willing to listen to the
15 evidence, find the facts as you would find them to be
16 and apply the law to those facts, the law of course
17 to be given to you by the judge?

18 A. Yes.

19 Q. And after you did that, after you listened to
20 the evidence, found the facts as you found them to be
21 and applied the law to those facts, if you were not
22 convinced that the defendant was guilty, if you were
23 not convinced that the State had proven the guilt of
24 the defendant beyond a reasonable doubt, would you be
25 willing and able to find a defendant not guilty?

1 A. Yes.

2 Q. On the other hand, if you listened to the
3 evidence, found the facts as you found them to be and
4 applied the law to those facts, if you were convinced
5 that the State had proven a defendant guilty beyond a
6 reasonable doubt would you be able to find
7 that defendant guilty?

8 A. Yes.

9 Q. Now, most of the time, most of the time -- well,
10 in other words, you would be willing to listen and
11 make your decision based upon whether or not you were
12 convinced that a person is guilty or not, right?

13 A. Correct.

14 Q. All right. Now, most of the time jurors are not
15 concerned, do not concern themselves with the matter
16 of punishment. Most of the time the matter of
17 punishment is -- in the criminal court is left up to
18 the judge. But there is one case in our law when a
19 jury has deal with the matter of judgment and that is
20 in the case like this one, it is in a case where an
21 individual has been charged with the crime of murder
22 and where the State is seeking the death penalty.

23 If an individual in a death penalty
24 case is convicted of the crime of murder, then the
25 same jury that convicted him or her comes back and in

1 a separate proceeding, in a different proceeding they
2 decide what sentence the person would get. And there
3 are two options, there are two choices. One, life
4 imprisonment without the possibility of parole, the
5 other is the death penalty. The penalty would be
6 determined in that second, or what's call the
7 sentencing phase of the trial. Do you understand
8 this information?

9 A. Yes.

10 Q. All right. Now, also in the jury room with you
11 was this piece of paper that essentially describes
12 three different types of jurors. Did you have a
13 chance to look at this paper?

14 A. Yes, ma'am.

15 Q. And do you remember the three different types of
16 jurors?

17 A. Yes.

18 Q. All right. Which of these three types of jurors
19 do you think best describes you?

20 A. One.

21 Q. Number one. All right, sir. Tell me a little
22 bit about that.

23 A. I just always believe an eye for an eye.

24 Q. An eye for an eye?

25 A. That's right.

1 Q. All right. So that once someone is found guilty
2 of murder, you don't need the sentencing phase
3 because you feel like you know what the sentence
4 would be?

5 A. Yes.

6 Q. And that would be so in each and every case
7 where someone was found guilty of murder?

8 A. For murder, yes.

9 Q. For murder. That's what I'm talking about
10 specifically, for murder.

11 A. Yes.

12 Q. All right, sir. And so it would be automatic?

13 A. Yes.

14 Q. Very well. Thank you.

15 THE COURT: Well, let me look at my sheet.

16 Mr. Cummings.

17 EXAMINATION

18 BY MR. CUMMINGS:

19 Q. Hello, Mr. Hutto, I'm Norb Cummings. Ms. Thomas
20 and I are both Court appointed to represent
21 Mr. Bowman here at the table. And we thank you for
22 your candor and I'll be very brief with a few
23 questions.

24 A. Okay.

25 Q. And the reason why we do this, Mr. Hutto, as you

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1 see, questions from Her Honor or questions from
2 either me or Mr. Bailey is to try to find jurors that
3 tell us the truth, are fair and impartial to any
4 citizen facing trial here. And you've been a very
5 candid gentleman tonight.

6 As Her Honor asked you, you are a type
7 one juror and you are a gentleman who is strong in
8 his conviction, sir?

9 A. Yes.

10 Q. And when you say that, if I asked you questions
11 to try to sway you from that, would your answers
12 still be the same based on your convictions?

13 A. For murder, yes.

14 Q. Is that a personal belief, or religious belief,
15 or anything that you would like to tell me about
16 that?

17 A. I think it would probably personal and it's the
18 way I was brought up.

19 Q. All right, sir.

20 MR. CUMMINGS: Beg the Court's indulgence.
21 Thank you, sir. I think that's the last
22 question.

23 THE COURT: All right.

24 (Mr. Cummings and Ms. Hardee-Thomas conferring
25 with Mr. Bowman.)

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1 MR. CUMMINGS: That's all the questions,
2 Judge. I thank this gentleman.

3 THE COURT: Mr. Bailey.

4 EXAMINATION

5 BY MR. BAILEY:

6 Q. Mr. Hutto, I'll try to be as brief as
7 Mr. Cummings. I just want to make sure I fully
8 understand what you're saying. Are you saying that
9 anytime somebody commits murder, it's proven to your
10 satisfaction as a juror, that you wouldn't need to
11 hear anything else, your mind would be made up at
12 that point?

13 A. That's right.

14 Q. You can't think of any murder case where you
15 would vote for life without the possibility of
16 parole?

17 A. No, sir.

18 Q. That's all I got. Thank you very much.

19 THE COURT: All right. Now, Mr. Hutto, I'm
20 going to disqualify you from your service on
21 this jury because we need jurors that have the
22 ability to review both types of punishment
23 should that become --

24 MR. HUTTO: Okay.

25 THE COURT: Should sentence be addressed in

Juror 145 Douglas A. Hutto - Examination

1 this case. Because I'm about to dismiss you
2 from your service I wanted to do a couple
3 things. The first thing I want to do is thank
4 you for your time and acknowledge that that's
5 been a gift that you've given to your community
6 and a valuable treasure and thank you for that,
7 that's the first thing.

8 The second thing I will do is ask you
9 and instruct you not to discuss this process or
10 any of the questions with your fellow
11 prospective jurors. You now know who all the
12 potential witnesses are because you probably
13 memorized them, so I would also ask you and
14 instruct you not to discuss this matter with
15 anyone who could be involved in this case.

16 Beyond that you are free to talk about
17 this matter if you choose to, you own that
18 information. If you want to, fine; and if you
19 don't, fine. And, again, thank you so much for
20 your time and you're free to go.

21 MR. HUTTO: Thank you now.

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

24 THE COURT: Ms. Kelly Greenhill. Oh, Janie
25 Hilliard. I did do that wrong. I scribbled out

1 on mine. Did you all object to doing it
2 flip-flopping?

3 MR. BAILEY: It doesn't matter.

4 THE COURT: It doesn't matter. I mean,
5 they're not going to change their position.

6 (Janie M. Hilliard, called as a prospective
7 juror, having previously been duly sworn, is
8 examined as follows:)

9 EXAMINATION

10 BY THE COURT:

11 Q. All right. Are you Ms. Greenhill?

12 A. Hilliard.

13 Q. Ms. Hilliard. That's great. That's great.

14 Actually, I have a list and I looked at the wrong
15 name, so these folks are looking after me because it
16 should have been you, you should be next. So I'm
17 actually delighted that they're doing such a great
18 job of looking after me.

19 A. Okay.

20 Q. Thank you so much. And thank you for your
21 patience back there. Listen, I know you've been back
22 there a long time so I appreciate that a lot.

23 A. That's all right.

24 Q. Now, Ms. Hilliard, do you remember on Monday
25 when you were placed under oath with the other

1 potential jurors?

2 A. Right.

3 Q. Remember that?

4 A. Yeah.

5 Q. And I just want to tell you that the oath that
6 you took just continues and would apply to the
7 answers that you have give to the questions that I
8 ask.

9 A. Okay.

10 Q. Now, since we were together on Monday has anyone
11 tried to talk to you, or approach you, or have you
12 inadvertently or otherwise received any information
13 about this case?

14 A. No.

15 Q. Now, there is the potential witness list back in
16 the jury room. Did you have a chance to look at it?

17 A. Yes, I did.

18 Q. All right. And are you related by blood or
19 marriage, or acquainted with, or you have any
20 personal or casual relationship or business
21 relationship, what I'm asking you is do you have a
22 connection with any of these folks directly or
23 indirectly?

24 A. No, I don't.

25 Q. Okay. Don't recognize any of these names?

1 A. I recognize one of the -- an Officer Joyner, but
2 that was just because of a conversation with my son a
3 couple months back, but I never met -- you know, I
4 never actually met him. I knew him on the telephone.

5 Q. On the telephone?

6 A. Yes.

7 Q. All right. And I just ask you if Mr. -- because
8 of that connection with Mr. Joyner, could that
9 interfere with your ability to be fair and impartial
10 in this case?

11 A. Oh, no. No.

12 Q. Okay. As limited as that connection is could
13 you set that aside, try this case based on the
14 evidence in this courtroom and be unaffected by that,
15 disregard that --

16 A. Yes.

17 Q. -- small acquaintanceship?

18 A. Yes, ma'am.

19 Q. Thank you. Now, back here. Ms. Hilliard, you
20 will remember that when we were together I asked
21 whether or not any members of the jury panel had any
22 opinion about this case, had heard or seen or read
23 anything about this case, or had any bias or
24 prejudice for or against either of these sides. Do
25 you remember those questions the other day?

1 A. Yes, I remember.

2 Q. And my notes indicate that none of those things
3 applied to you; is that right?

4 A. That's right.

5 Q. All right. And since we have talked on Monday
6 has anything jogged your memory, has any knowledge
7 come to your mind that you need to share with me?

8 A. No.

9 Q. All right. Now, I need to ask you some
10 questions.

11 A. That's fine.

12 Q. And I want you to know that I am not trying to
13 pry into your privacy, and know that I'm just trying
14 to find out a little bit about how you feel about
15 some matters, get some opinions from you if I can.
16 And the reason I'm doing that is so that we can see
17 how your opinions might impact on your jury service.

18 A. Okay.

19 Q. And obviously, obviously there aren't any right
20 or wrong answers.

21 A. Right.

22 Q. Obviously your opinions are just as valid and
23 good as anybody else's, so we know that, too. I want
24 you to know that we know that as well. And also know
25 that no one is going to be challenging your opinions,

1 we just need to learn a little bit about them. Also
2 I'm going to be asking you your opinion about
3 penalty, and specifically the death penalty. And I
4 wanted to talk about that for just a moment because
5 obviously to talk about penalty at this stage is
6 premature.

7 A. Right.

8 Q. The trial hasn't started.

9 A. Right.

10 Q. Mr. Bowman is presumed innocent of these
11 charges. And the reason that we talk about penalty
12 at this time is because we need to ask some questions
13 of jurors and get opinions before the case begins, so
14 we do talk about penalty prematurely, we know we're
15 doing it then. I'm going to ask you to keep that in
16 mind, that to talk about penalty is premature and
17 that Mr. Bowman is presumed innocent, okay?

18 A. Innocent.

19 Q. That's right, beyond a reasonable doubt.

20 A. Exactly.

21 Q. Now, I'm also going to be asking you these
22 questions in a general sense.

23 A. Okay.

24 Q. Because you don't know anything about this
25 trial. It would not be fair to ask you about your

1 opinions about this trial and it would be improper,
2 so I'm not going to do that.

3 A. Okay.

4 Q. But I am going to ask you in the general,
5 generic sense and I'll do that beginning now. If you
6 were a juror in any criminal case would you be
7 willing to listen to the law as you were instructed
8 by the judge?

9 A. Yes.

10 Q. And would you be willing to accept the law and
11 apply the law to the facts as you found them to be?

12 A. Right.

13 Q. And even though you may not particularly like
14 that part of the law or you might even disagree with
15 it, would you still be willing to follow the law as
16 you were instructed by the judge?

17 A. Yes, ma'am.

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

1 A. Yes, ma'am.

2 Q. Sometimes what happens is that when jurors hear
3 about cases there will be a memory that will get
4 jogged. And so I got to ask you now if that happened
5 would you set that memory aside?

6 A. Uh-huh (affirmative response).

7 Q. All right.

8 THE COURT: Can you all hear, everybody
9 hear?

10 MR. BAILEY: Yes, ma'am.

11 MR. CUMMINGS: Yes, ma'am.

12 Q. I've got to be sure that everybody can hear you.

13 Now, in a criminal case as you know,
14 as we talked about Monday morning, the State has the
15 burden of proving the guilt of a defendant beyond a
16 reasonable doubt. Do you understand this?

17 A. Yes.

18 Q. A defendant never has to prove himself or
19 herself innocent or prove anything. Do you
20 understand this as well?

21 A. Yes.

22 Q. And a defendant is always -- a defendant is
23 presumed innocent under the law. Do you understand
24 that as well?

25 A. Uh-huh (affirmative response).

Juror 136 Janie M. Hilliard - Examination

1 Q. That's a yes?

2 A. Yes.

3 Q. All right. So if you were a juror in any
4 criminal case would you be willing to listen to the
5 evidence, find the facts as you found them to be and
6 then apply the law to those facts, the law that was
7 given to you by the judge?

8 A. Yes.

9 Q. And once you did that, listened to the evidence,
10 found the facts, applied the law as the judge would
11 give it to you, if you were not convinced that a
12 defendant in a criminal case was guilty and had been
13 proven guilty, if you were not convinced that he had
14 been proven guilty beyond a reasonable doubt, would
15 you be willing and able to find him not guilty?

16 A. If he didn't do it, if I felt like he didn't do
17 it, if there's any doubt in my heart at all, I'm
18 going to --

19 Q. All right. In other words, if you didn't
20 believe that the State had proven the defendant
21 guilty beyond a reasonable doubt.

22 A. They have to prove it to me, exactly.

23 Q. All right. All right. The definition of
24 reasonable doubt is the kind of doubt that would
25 cause a reasonable person to hesitate to act. All

1 right. So if you had that doubt could you, would you
2 find him not guilty, or her not guilty?

3 A. If I had some doubt I would, yes.

4 Q. All right. On the other hand, if after you
5 listened to the evidence, found the facts, applied
6 the law, if you were convinced that the State had
7 proven the guilt of a defendant beyond a reasonable
8 doubt would you be able, would you be willing to find
9 that defendant guilty?

10 A. Yes.

11 Q. All right. Now, so you would be willing to
12 listen to the evidence, make your decision based upon
13 whether or not you were convinced that a person is
14 guilty or not?

15 A. Yes, ma'am.

16 Q. All right. Now, most of the time jurors do not
17 concern themselves with the matter of punishment.
18 Most of the time the matter of punishment in the
19 criminal court is left up to the judge. But there is
20 one case in our law when a jury has to deal with the
21 matter of judgment and that is in a case like this
22 one, it is in a case where an individual has been
23 charged with the crime of murder and the State is
24 seeking the death penalty.

25 If an individual in a death penalty

1 case is convicted of the crime of murder and 12
2 jurors find that person guilty beyond a reasonable
3 doubt, enter their verdict in the guilt phase, guilt
4 phase is what's that's called of a trial, it's like
5 any other criminal trial, if the jury, all 12 of them
6 unanimously find a defendant guilty of the crime of
7 murder, then the same jury comes back, the same jury
8 that convicted him or her, comes back and in a
9 separate and different proceeding have to determine
10 the sentence. There are two choices. One is life
11 imprisonment without the possibility of parole, and
12 the other one is the death penalty. The sentence
13 would be determined in that second or what's call the
14 sentencing phase of the trial. Do you understand
15 this information?

16 A. Yes, ma'am.

17 Q. All right. Do you have any questions about this
18 information?

19 A. No.

20 Q. All right. Now, also back in the jury room with
21 you was this piece of paper. Do you remember this
22 piece of paper?

23 A. Yes.

24 Q. It essentially describes three types of jurors.
25 Do you remember the paper and the three types of

1 jurors?

2 A. Yes, I do.

3 Q. And which of those three types of jurors do you
4 think best describes you?

5 A. I think number three would describe me best.

6 Q. All right. In other words --

7 MR. BAILEY: I'm sorry, I didn't --

8 THE COURT: Number three.

9 A. Number three.

10 Q. In other words, you would be willing to listen
11 to the evidence in that second phase, that sentencing
12 phase, and make your decision based on what you heard
13 in the courtroom?

14 A. Yes, ma'am.

15 Q. All right. And if after you listened to all the
16 evidence if you were convinced that the death penalty
17 was appropriate, would you be able and willing to
18 vote for that sentence?

19 A. I don't know about that one.

20 Q. Let me ask you this one: If you thought the
21 death sentence was not appropriate, or for any other
22 reason that a person ought to receive life
23 imprisonment, would you be able and willing to vote
24 for a sentence of life?

25 A. Yes.

1 Q. If after you listened to the evidence in the
2 courtroom and if after you considered it, if you were
3 convinced that the death penalty was appropriate in
4 that event would you be willing and able to vote for
5 that sentence?

6 A. Yes, if it's appropriate.

7 Q. All right. You don't know what any
8 circumstances are in any case.

9 A. Right.

10 Q. And I'm not asking you about any particular kind
11 of case. You certainly don't know anything about
12 this case and I am certainly not asking about you
13 this case.

14 A. Okay.

15 Q. I am simply asking you that, again, remember in
16 that generic sense.

17 A. Right.

18 Q. In the event that based upon what you heard in
19 the courtroom that you thought that a death sentence
20 was appropriate, could you vote for that sentence?

21 A. Yeah, if it was appropriate.

22 Q. If it was appropriate, all right. Would you
23 make the decision of life imprisonment or the death
24 penalty based upon what you heard in the courtroom?

25 A. With enough evidence, yes.

1 MR. BAILEY: Your Honor, I'm sorry, I
2 can't --

3 THE COURT: She said, "With enough
4 evidence..."

5 Q. And you would listen to whatever was provided,
6 the information, the evidence in the courtroom?

7 A. Right.

8 Q. All right. Now, if you were chosen to serve as
9 a juror in this case you and the other jurors would
10 be housed here in a local motel during the course of
11 the trial, that terms is called sequestered. What
12 that means is, is that you would just stay in a
13 motel, obviously at county expense, for the duration
14 of the trial, except, of course, when we come to
15 court. You wouldn't stay in a motel all the time
16 because you would come to court.

17 A. Right.

18 Q. Now, this period could be as long as two weeks,
19 it could be longer, but it could be shorter, I
20 just -- obviously I'm not so good about telling --
21 being able to tell if things are going to be shorter
22 or longer.

23 A. Right.

24 Q. That's my estimate. But it could be a little
25 longer, it could be a little shorter, but

1 approximately two weeks. Now, obviously that would
2 create an inconvenience for you as surely it will
3 create an inconvenience for each of the jurors in
4 this case.

5 Other than the inconvenience which it
6 would surely cause anybody who would have to serve in
7 this capacity, would that pose a serious risk of
8 danger to your health or well being as to that of
9 anybody -- or to anybody who is dependent upon you if
10 you had to serve in that capacity?

11 A. No.

12 Q. You could do that?

13 A. I could.

14 Q. All right. It would be inconvenient?

15 A. Yeah.

16 Q. But you would be able to do that?

17 A. As my duty, yes.

18 Q. Thank you. Yes, ma'am. These lawyers now have
19 an opportunity to ask you questions, so if you would
20 please answer their questions.

21 THE COURT: And I think that it's Mr.
22 Bailey.

23 MR. BAILEY: Thank you, Your Honor.

24 EXAMINATION

25 BY MR. BAILEY:

1 Q. Ms. Hilliard, I'm Walter Bailey, I'll be
2 prosecuting the case.

3 A. Hi.

4 Q. How are you doing?

5 A. Okay.

6 Q. I'm tired.

7 A. I bet.

8 Q. There are no right or wrong answers.

9 A. Okay.

10 Q. The judge went over the three kind of jurors
11 with you. And number one, number two, number thee,
12 they're all fine, they're all good jurors. It's just
13 a matter of personal preference, so there are no
14 right or wrong answers.

15 A. Right.

16 Q. If we get to the issue of the punishment in this
17 case that would mean the defendant's found guilty of
18 murder in the first part of the trial. Do you
19 understand that?

20 A. Right.

21 Q. We start off with the guilt phase.

22 A. Right.

23 Q. And we are not talking about this case because
24 you have not heard the facts, but just in general.
25 We start off with the guilt phase, that's like any

1 other criminal trial where the State attempts to
2 prove a person guilty of whatever he's charged with
3 beyond a reasonable doubt.

4 A. Okay.

5 Q. And if we're unable to do that that's the end of
6 it. If we are able to convince that jury of guilt
7 beyond a reasonable doubt, then we go into the second
8 part of the trial, there would be additional evidence
9 coming up, there would be additional instructions
10 from the judge. Then the jury has to take all that
11 into consideration and they have to agree
12 unanimously, all 12 of them, either life without
13 parole or the death penalty.

14 And in this state the jury makes that
15 decision and what the judge does is she orders that
16 decision to be carried out. So if the jury votes for
17 life without parole, the judge would order life
18 without parole and that person goes to prison for the
19 rest of their life.

20 On the other hand, if the jury votes
21 for the death penalty the judge orders that execution
22 to take place and that person would actually be
23 executed by lethal injection or the electric chair.

24 A. Right.

25 Q. Okay. Again, I'm not asking you what you would

1 do if you were a juror in this case because you
2 don't -- you don't know anything about it.

3 A. I don't know anything, yes.

4 Q. But if you were picked as a juror on a case like
5 this, the defendant is found guilty of murder, could
6 you vote for the death penalty knowing that as a
7 result of that vote that person actually would be
8 executed?

9 A. If there's enough evidence to prove to me as a
10 juror I could.

11 Q. All right. Could you sign your name to a death
12 verdict form, a piece of paper along with the other
13 jurors, that would result in that person being
14 executed?

15 A. If that's what I would have to do, yes.

16 Q. Okay. Now, you wouldn't have to do anything as
17 a juror.

18 A. Okay.

19 Q. I mean, the decision of the punishment, the
20 judge would give you some guidance and instructions,
21 but you would never be told that you had to vote for
22 either the death penalty or life in prison, that
23 would be up to you as a juror.

24 A. Okay.

25 Q. Okay. So if I -- bearing that in mind if I

Juror 136 Janie M. Hilliard - Examination

1 asked that same question again, could you sign a
2 paper like that if the option's between life without
3 parole and the death penalty?

4 A. Yeah, I think I could.

5 Q. Okay. Now, when you say "I think I could," I
6 need to try --

7 A. I believe I could. I could.

8 Q. Okay.

9 A. I could.

10 Q. All right. If all 12 jurors vote for the death
11 penalty and they sign that paper, then the next thing
12 that happens is they would come out here into open
13 court, that verdict would be announced. And we're
14 assuming it's a death verdict just for the purpose of
15 our talk here.

16 A. Right.

17 Q. Each one of those juror's names is called out
18 one at a time, they would be asked to stand up and
19 affirm that was their verdict. Could you do that if
20 that was your verdict?

21 A. Yes. If it was my verdict, yes.

22 Q. Okay. All right. And as far as the
23 sequestration being in the motel during the trial,
24 the judge told you about that.

25 A. Right.

1 Q. I think you have some children?

2 A. Yes.

3 Q. Okay. How old are they?

4 A. Eighteen, sixteen, and ten.

5 Q. Okay. And as far as the ten year old, the older
6 children could kind of pitch in and help out and take
7 care of that child?

8 A. Actually, she probably takes care of them.

9 Q. Okay. So that wouldn't be a problem?

10 A. No.

11 Q. Okay. All right. That's all I've got. Thank
12 you very much.

13 THE COURT: Thank you, Mr. Bailey.

14 Mr. Cummings.

15 MR. CUMMINGS: Thank you, Judge, Solicitor.

16 EXAMINATION

17 BY MR. CUMMINGS:

18 Q. Good evening, ma'am, I'm Norb Cummings, the
19 young lady sitting at the table over there is
20 Ms. Marva Hardee-Thomas and we're both Court
21 appointed to represent Mr. Bowman.

22 A. Okay.

23 Q. I'm not going to ask you other than a few
24 questions and just want to take the opportunity to
25 introduce ourselves to you. Are you the type of

Juror 136 Janie M. Hilliard - Examination

1 juror who would follow Her Honor's instructions in
2 the law as that judge gives it?

3 A. Yes, I would.

4 Q. And you could coordinate with the other fellow
5 jurors to arrive at a decision that would be both
6 fair and impartial based on the evidence and facts?

7 A. Yes, sir.

8 Q. And you would want to hear all those before
9 rendering any decision?

10 A. Yes, sir.

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

12 THE COURT: All right.

13 (Mr. Cummings and Ms. Hardee-Thomas conferring
14 with Mr. Bowman.)

15 MR. CUMMINGS: Thank you, Judge. Thank
16 you, Your Honor, that's all the questions of
17 this lady.

18 THE COURT: Would you do this for me, just
19 step outside, don't even sit down, just step
20 outside for me for just a moment.

21 MS. HILLIARD: Okay.

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

24 THE COURT: What says the State?

25 MR. BAILEY: Your Honor, I would agree I

Juror 136 Janie M. Hilliard - Examination

1 think with Mr. Cummings that she is qualified,
2 she answered the questions correctly. I would
3 note for the record that I had some concern and
4 I just -- cases of Batson issue, I want to put
5 this on the record, that she appeared to,
6 talking about the guilt phase, have some idea
7 that it would take a greater burden of proof
8 than beyond a reasonable doubt. She said at one
9 point if she had any doubt at all she would
10 found him not guilty. And then I think when you
11 explained the process she was asked again and
12 she said if I have some doubt. So that does
13 cause me some concern.

14 And it appeared to me that she -- when
15 she answered the questions about the death
16 penalty and said that she could impose it, her
17 voice lowers. She was soft spoken anyway, but I
18 had trouble hearing what she said and there
19 appeared to be some hesitancy there. Then when
20 I asked about signing the death verdict form
21 she, again, equivocated to some extent by saying
22 first that I believe I could do this, then I
23 think I could, or vice-versa. So I just wanted
24 to note that for the record.

25 THE COURT: All right, Mr. Bailey.

1 What says the defense?

2 MR. CUMMINGS: Just real brief, Judge. I
3 believe when I asked the lady the questions and
4 I asked if she could follow Her Honor's
5 instructions she said yes. I believe also,
6 Judge, when asked about signing her name on a
7 death warrant I have written down here "I
8 believe I could." I think she was real adamant
9 about saying I want to hear it all.

10 She even shocked me at the table
11 because I had written down ahead of time that I
12 believe that she would be a type two juror and I
13 was wrong. And I say that openly. And that was
14 before she even began answering any questions.
15 So I would say, Judge, she's statutorily
16 qualified and ask you to find so.

17 THE COURT: Very well. All right. I find
18 her qualified.

19 MR. CUMMINGS: Yes, ma'am.

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

22 THE COURT: Ms. Hilliard.

23 MS. HILLIARD: Yes, ma'am.

24 THE COURT: You have been found to be
25 qualified as a potential juror in this case.

Juror 136 Janie M. Hilliard - Examination

1 And that does not mean that you are on the jury
2 yet, it just means that you are a potential
3 juror and may be selected to serve on this jury.
4 We are hoping that we will be able to select the
5 jury I'm going to say at ten o'clock.

6 MS. HILLIARD: Tonight?

7 THE COURT: Friday morning.

8 MS. HILLIARD: Okay.

9 THE COURT: You are the first person that
10 I've moved it up. I had hoped to do that
11 tomorrow afternoon, but that's not going to
12 work. I'm going to tell you ten o'clock Friday
13 morning. Ten o'clock Friday morning, okay? And
14 we're scribbling. We had a little note we're
15 going to give you to go home with you, but we're
16 going to change it from Thursday to the Friday
17 at 10:00. We just did that, see, from Thursday
18 at 2:00 to Friday at 10:00.

19 MS. HILLIARD: Oh, okay.

20 THE COURT: I don't think that is
21 ambitious, I think that's realistic. But if
22 there's any change in the time I will let you
23 know, I will let -- the clerk's office will let
24 you know.

25 You've just been given that sheet of

1 paper from Ms. Etheredge and that contains some
2 instructions to help you get ready for your jury
3 duty, like packing clothes, remind you to bring
4 any medications that you may need. It tells you
5 where you will be housed during the course of
6 the trial and it gives you the emergency phone
7 numbers where you can be reached during the day
8 and at night.

9 MS. HILLIARD: Okay.

10 THE COURT: Please feel free to discuss
11 these practical details with anybody you need to
12 or want to; however, be mindful that you must
13 not discuss this case and any aspect of the
14 case --

15 MS. HILLIARD: I understand.

16 THE COURT: -- with anyone or allow anyone
17 to discuss it with you. And do not expose
18 yourself to any information about this case from
19 any source. Do you understand all this?

20 MS. HILLIARD: I have it.

21 THE COURT: Thank you, Ms. Hilliard. I
22 look forward to seeing you on Friday at ten
23 o'clock.

24 MS. HILLIARD: Here?

25 THE COURT: You'll be there, I'll be here.

1 MS. HILLIARD: Well, yeah, okay.

2 THE COURT: Thanks, Ms. Hilliard.

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

5 MR. CUMMINGS: Two things, briefly. Number
6 one, Mr. Bowman asked to use the restroom.
7 We've been sitting here about three hours and I
8 think we got something Walter and I would like
9 to try to talk about ahead of time.

10 THE COURT: Sure. Absolutely. Yes. He
11 needs something to drink, he needs to run to the
12 restroom, not a problem at all. Anybody else
13 that needs to take a comfort break it's a great
14 time to go.

15 (Recess, from 8:01 p.m. to 8:10 p.m.)

16 MR. BAILEY: Judge, she said she had access
17 to law enforcement information as a dispatcher,
18 that she had a negative experience with law
19 enforcement, I don't know whether that was her
20 work or what it was, that she consults with a
21 lawyer and that may make her partial and she's
22 got asthma and she's nearsighted. I don't know
23 how serious any of this stuff is.

24 MR. CUMMINGS: Judge, from the very
25 beginning in here this young lady stood up and

1 wanted to be excused. She approached also and
2 told Her Honor she wanted to be excused. She
3 said she does have a close working relationship
4 with law enforcement. I think we could be --
5 I'd agree to excuse her unless Your Honor wants
6 something on the record.

7 MR. BAILEY: If he doesn't need it on the
8 record, I don't need it. I concede that she
9 wants off.

10 MR. CUMMINGS: I would agree to excuse her.

11 THE COURT: Very well. What I will do
12 since she's been waiting as long as she has, I'm
13 going to bring her in and confirm this and tell
14 her based on the information that she has shared
15 with us and based upon the fact that she has
16 confirmed an oath we can let her go, so thank
17 you.

18 Ms. Greenhill.

19 (Kelly L. Greenhill, called as a prospective
20 juror, having previously been duly sworn, is
21 examined as follows:)

22
23
24 EXAMINATION

25 BY THE COURT:

Juror 119 Kelly L. Greenhill - Examination

1 Q. Hi. I should say good evening, Ms. Greenhill,
2 how are you?

3 A. Good evening to you, Judge. How are you?

4 Q. Fine, thanks.

5 THE COURT: Let me say this: This is Kelly
6 L. Greenhill, Juror Number 119.

7 A. Yes, ma'am.

8 Q. Now, you will recall on Monday, it seemed so
9 long ago now, when we were together that at that time
10 you were placed under oath with the other potential
11 jurors.

12 A. Yes, ma'am.

13 Q. Do you understand that that oath continues
14 through this process and continues to your answers
15 that you would give me tonight?

16 A. Yes, ma'am.

17 Q. All right. Now, are you able to reconfirm for
18 me the information that is in your questionnaire that
19 you've sent back to the Court?

20 A. Anything -- because I don't even remember some
21 of what's on there.

22 Q. Sure. Look through that just to be sure that
23 insofar as you know that information is still fairly
24 accurate, or accurate.

25 A. I believe everything is correct, Judge.

Juror 119 Kelly L. Greenhill - Examination

1 Q. Very well. Now, let me just, if I may, you work
2 dispatch?

3 A. Yes, ma'am.

4 Q. Obviously, as you said, you work every day with
5 police officers?

6 A. Yes, ma'am.

7 Q. Got to do that when you're a dispatch.

8 A. Yes, ma'am.

9 Q. I needed to be able to under oath confirm your
10 questionnaire that you've been kind enough to do and
11 I so appreciate that. I am going to excuse you from
12 your service on this jury because of your close
13 association with law enforcement, I think that is
14 appropriate. Let me say to you, though, that I need
15 you to be mindful not to discuss this process or any
16 information with your fellow potential jurors.

17 A. Yes, ma'am.

18 Q. And be mindful not to discuss this case with
19 anyone who's associated with it until the matter is
20 over. And finally, with respect to each and every
21 other person, you may talk about this matter if you
22 wish to.

23 And please understand, Ms. Greenhill,
24 how much we appreciate and thank you for your time.
25 And we know that it's valuable, we know it's a

1 treasure, and we thank you for that gift to your
2 community.

3 A. Thank you, ma'am.

4 Q. You're free to go.

5 A. Thank you. You have a good evening.

6 Q. Thank you. As short as it's getting, huh?
7 (Whereupon, the prospective juror exits the
8 courtroom.)

9 THE COURT: All right. Any objection from
10 the State?

11 MR. BAILEY: None from the State, Your
12 Honor.

13 MR. CUMMINGS: No, Judge. Thank you.

14 MR. BAILEY: The last one is VanPatten and
15 she said she wants off because she's going
16 through a very emotional divorce right now. So
17 I don't want to concede that she isn't qualified
18 at this point, but that might be something to
19 look into first.

20 THE COURT: Yes.

21 MR. CUMMINGS: She has hearing problems
22 also, Judge. She has hearing problems.

23 THE COURT: Let us, please, have
24 Ms. Marilyn VanPatten.

25 (Marilyn V. VanPatten, called as a prospective

Juror 313 Marilyn V. VanPatten - Examination

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

3 EXAMINATION

4 BY THE COURT:

5 Q. Ms. VanPatten.

6 A. Yes.

7 Q. How are you, tired, bored?

8 A. A little of both.

9 Q. Thank you so much for your patience as we have
10 gone through this process, I really do appreciate
11 your time --

12 A. Okay.

13 Q. -- and know it's valuable and I thank you for
14 your patience because we've had to talk to each juror
15 individually, so I certainly thank you for it. I
16 have learned that I'm not so good at scheduling
17 things. I thought I was a little bit better, but
18 thank you for your patience.

19 Now, Ms. VanPatten, I want to remind
20 you that when we were together Monday, which at this
21 point seems a while ago, that you were placed under
22 oath, if you recall, with all the other potential
23 jurors.

24 A. Right.

25 Q. And I would just share with you that you don't

1 need to take another oath, that that oath remains
2 through this process and would apply to the answers
3 that you give to my questions, okay?

4 A. All right.

5 Q. Has anyone tried to approach you or talk to you
6 about this case, or have you received any information
7 inadvertently or otherwise about this case since
8 Monday?

9 A. No.

10 Q. All right. Now, Ms. VanPatten, I want to ask
11 you about the questionnaire. Because we read the
12 questionnaires and in it you express in two places
13 the concern about serving if this case was a divorce
14 case and you talk about that. And then you just want
15 us to know that you're going through a very emotional
16 time in the divorce as divorces are. So let me ask
17 you this: Now that you know that this case is not a
18 domestic case, a family court, a divorce case, tell
19 me whether or not where you are emotionally with your
20 personal circumstance, if you think that that would
21 substantially affect your ability to be a juror in
22 this case and do your duty as a juror, and let me
23 tell you a little bit about that.

24 A juror is, a juror's duty is to
25 listen to the evidence in the courtroom and to render

1 a verdict based upon that evidence and to be fair and
2 impartial to both sides, and obviously to listen and
3 to follow the instructions of the Court. Those are
4 the duties. There are others, but those are
5 certainly some substantial duties of a juror. And I
6 would ask of you whether or not your personal
7 circumstance at this time would substantially impair
8 or prevent you from performing those duties?

9 A. I think that it would put a lot of -- a lot more
10 emotional stress on me. And, actually, I thought
11 that I had put on my questionnaire that if it were to
12 be a murder case, I thought that I put something on
13 my questionnaire about that, I didn't?

14 Q. Let me show it to you. You flip through it.

15 A. The reason I say that is because I would have a
16 very hard time with the capital punishment because of
17 my religious beliefs.

18 Q. All right.

19 A. Maybe I didn't. I thought I did.

20 Q. All right.

21 A. I guess not.

22 Q. There was not a direct question about capital
23 punishment on that Ms. VanPatten, that's not
24 addressed in the questionnaire, so you very well may
25 not have.

1 A. Okay.

2 Q. You know, there wasn't a question asking you
3 about that --

4 A. Okay.

5 Q. -- so it very well may be that you didn't. What
6 you just told me was that it, this trial, would put
7 an additional emotional upset on you?

8 A. Right. And with the divorce, I have high blood
9 pressure, anyway, and that has caused my blood
10 pressure medication to have to be increased because
11 it went out of sight. And I'm afraid that if I have
12 to deal with a murder trial, that that could cause
13 even more problems.

14 Q. I understand. And excuse me for asking the
15 question again, but I just want to be sure that I'm
16 clear. Are you telling me that you believe that your
17 personal circumstance at this time, coupled with your
18 blood pressure concerns, could substantially impair
19 your ability to do your duties as a juror in this
20 case?

21 A. Yes.

22 Q. All right.

23 THE COURT: Any questions from you, Mr.
24 Bailey?

25 MR. BAILEY: Indulge me a second.

1 THE COURT: All right. Indeed.

2 MR. BAILEY: No, ma'am.

3 MR. CUMMINGS: No, Judge. We thank this
4 nice lady.

5 THE COURT: Ms. VanPatten, I appreciate you
6 coming in. I needed a little more information
7 from you because it's couched in terms of a
8 divorce case, but with this additional
9 information I am going to excuse you from the
10 trial of this case --

11 MS. VANPATTEN: Okay.

12 THE COURT: -- on exactly the bases that
13 you have told us about. Let me also say to you
14 a couple of things. First of all, I want to
15 thank you for the time that you've given to your
16 community because it's a gift. Because clearly
17 your time is valuable and you have given to us
18 lots of it and so I want to thank you for that
19 and genuinely want you to know that.

20 And secondly, I'm going to ask you not
21 to discuss this process or the questions that
22 are asked in this process to any of your
23 potential jurors. And be mindful -- and you
24 probably know all the potential jurors because
25 you probably memorized the list because you had

1 time to do it back there.

2 MS. VANPATTEN: Not really.

3 THE COURT: But if you would just be
4 mindful not to discuss this matter with anyone
5 who would be potentially connected with this
6 case --

7 MS. VANPATTEN: Okay.

8 THE COURT: -- until the time that the
9 case, you know, is over with. If you would be
10 so kind as to be mindful of that, then take our
11 good hopes for you. And, again, I appreciate
12 you for all that you've given us and you are
13 free to go.

14 MS. VANPATTEN: Okay. Thank you.

15 THE COURT: You know, beyond those folks I
16 was talking about you can talk about this with
17 anybody else you choose to, okay?

18 MS. VANPATTEN: All right.

19 THE COURT: Thank you.

20 MS. VANPATTEN: Thank you.

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

23 THE COURT: All right. Anything further
24 for this evening?

25 MR. BAILEY: Just very briefly. As far as

1 just planning for Friday, Your Honor, generally
2 it wouldn't take that long to strike the jury
3 assuming that we get everybody qualified, enough
4 qualified tomorrow. Normally what happens is
5 that they show up with their bags and then
6 they're checked into the motel and getting
7 settled in and then come back over here. And I
8 need to start lining up witness and I'm just
9 wondering what would be a safe time to assume
10 that we might start. And I was thinking it
11 probably wouldn't occur until after lunch. I
12 know there's some outstanding motions that need
13 to be heard after we finish this and would say
14 1:30, two o'clock, would that be safe?

15 THE COURT: I think you're safe in saying
16 two o'clock, Mr. Bailey, and I really -- I think
17 you're exactly right, by the time we get the
18 jury selected, send them over, let them settle
19 in, give them time to get a bite of lunch that
20 that's a good time to begin, so I think you are
21 absolutely safe in saying two o'clock, I think
22 you certainly are.

23 MR. BAILEY: Thank you, Your Honor.

24 THE COURT: Thank you.

25 MR. CUMMINGS: I understand, Judge. Thank

1 you.

2 THE COURT: Anything further from anyone?

3 MR. BAILEY: Nothing from the State, Your
4 Honor.

5 THE COURT: All right. Nine o'clock in the
6 morning everyone. Let me, again, thank our
7 court personnel for everything today, you all
8 are outstanding. And not one time did you all
9 look tired, so thank you for that. I look
10 forward to seeing everyone in the morning at
11 nine o'clock. Or 8:30, you guys got to be here
12 at 8:30.

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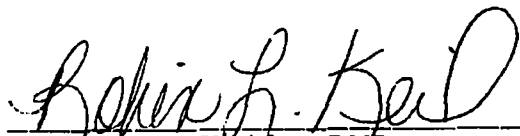
STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER) : C E R T I F I C A T E

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 14th day of August 2003.


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

2973

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

 **ORIGINAL**

STATE OF SOUTH CAROLINA,) VOLUME XVIII Pages 2973 - 3491
Plaintiff,) TRANSCRIPT OF RECORD
-versus-) JURY SELECTION
MARION BOWMAN, JR.,) May 16, 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 16, 2002.)

2 THE COURT: Anything before we bring our
3 first juror out, Ms. Bishop?

4 MR. BAILEY: I don't know whether or not
5 he's going to show up or not, but Mr. DeLee is
6 on the 10:30 panel, I believe we have an
7 agreement to excuse him.

8 MR. CUMMINGS: Absolutely, Judge. As you
9 well heard in chambers I was the gentleman who
10 signed his indictment back in 1993.

11 THE COURT: All right. Got it. All right.
12 Ms. Susan Bishop, please, Juror Number 17. I
13 guess you all have figured out that when I went
14 through and lined you guys up that when you
15 don't examine them, the person is excused before
16 you get a chance to examine them, you lose your
17 turn. You all probably figured that out, but
18 it's happened to both of you so I think it's
19 going to end up being the same.

20 (Susan R. Bishop, called as a prospective juror,
21 having previously been duly sworn, is examined
22 as follows:)

23 EXAMINATION

24 BY THE COURT:

25 Q. Good morning, Ms. Bishop. Please have a seat.

Juror 17 Susan R. Bishop - Examination

1 THE COURT: This is Ms. Susan R. Bishop,
2 Juror Number 17.

3 Q. Ms. Bishop, if you will recall on Monday you
4 were sworn in along with all the other prospective
5 jurors, potential jurors I should say. And I would
6 remind you that that oath that you took continues
7 'til today, okay?

8 A. Okay.

9 Q. And will cover the answers that you will give to
10 the questions that I ask, okay?

11 A. Okay.

12 Q. All right. Now, when you were back -- or since
13 we talked Monday has anyone approached you about this
14 case, or tried to talk to you about this case, or
15 have you exposed yourself to any information about
16 this case?

17 A. No.

18 Q. All right. Now, when you were back in the jury
19 room you were given a list of potential witnesses.
20 Did you have an opportunity to look at the list?

21 A. Yes, I did.

22 Q. All right. And with respect to the jurors on
23 the list, are you related by blood or marriage or
24 acquainted with, or have any direct or indirect
25 connection or any sort of personal or business

Juror 17 Susan R. Bishop - Examination

1 relationship with any of the folks listed on the jury
2 list?

3 A. No, I don't.

4 Q. All right. Now, you did not indicate, I don't
5 think, on Monday when I asked the questions whether
6 or not you had any opinion, knew anything about this
7 case, had heard anything about this case, read
8 anything about this case, or had any prejudice for or
9 against either of these parties or bias. My notes
10 reflect that you did not indicate that any of those
11 things applied to you at the time; is that right?

12 A. That's right.

13 Q. Does that continue 'til today?

14 A. Right.

15 Q. Very well. Now, there's some questions that I
16 need to ask you.

17 A. Okay.

18 Q. I do not mean to invade your privacy, so know
19 that. I'm trying to find out your opinions about
20 certain issues, how you feel about certain issues.
21 And the reason that we're all going to be doing that,
22 quite frankly, is to find out whether or not any of
23 your opinions might have any impact on your jury
24 service, and that's the purpose.

25 A. Okay.

Juror 17 Susan R. Bishop - Examination

1 Q. So know that's the task that we are up to.
2 Obviously at no point this morning are there any
3 right or wrong answers. Obviously your opinions are
4 as good and valid as anybody else's. I'm just --
5 need to know a little bit about those opinions.

6 A. Okay.

7 Q. I'm going to be asking you in a few moments
8 about penalty, specifically the death penalty. And I
9 want to tell you that obviously it's premature to ask
10 you about, or anybody about their opinion about
11 penalty because the trial hasn't even begun yet and
12 Mr. Bowman is presumed innocent of these charges.
13 It's just that I need to ask potential jurors some
14 opinions, some of the opinions about penalty and
15 necessarily must do that before trial. Do you
16 understand that?

17 A. Uh-huh (affirmative response).

18 Q. Keep in mind that this is, of course, premature
19 at this stage of the trial and it may be an issue in
20 this case, it may not be an issue in this case, but
21 that's the purpose that I'm going to be asking you
22 these questions. And keep in mind also that
23 Mr. Bowman is presumed innocent of the charges.

24 Now, questions that I'm going to be
25 asking you I'm going to be asking them in a general

Juror 17 Susan R. Bishop - Examination

1 sense. I'm not going to ask you your opinion about
2 this trial because that wouldn't be fair to you, you
3 don't know anything about this matter, and it would
4 also be improper so I'm not going to do that. But
5 I'll be asking general questions.

6 The first question that I'll ask you
7 is that if you were a juror in any criminal case,
8 would you be able to listen to the law that was given
9 to you by the judge?

10 A. Yes.

11 Q. Would you be able to accept that law and apply
12 that law to the facts as you found them to be?

13 A. Yeah.

14 Q. Okay. I know exactly what you mean. Ms. Keil
15 needs to take down what you say and all the way over
16 there Ms. Hardee-Thomas needs to be able to hear you.
17 You're doing great, though.

18 Now, would you be willing to listen to
19 the law and apply the law to the facts as you found
20 them to be even though you didn't particularly like
21 that part of the law or particularly agree with it?

22 A. No. I wouldn't be able to do that if there was
23 something I didn't agree with, I wouldn't be able to.

24 Q. In other words, if the judge said to you, Ms.
25 Bishop, this is the law and you must apply the law as

Juror 17 Susan R. Bishop - Examination

1 I give it to you and even if you don't agree with it.
2 So if the judge gave you a part of the law,
3 instructed you on the law and you didn't like it or
4 you disagreed with the law as the judge gave it to
5 you, you would not apply it to the case or apply it
6 to the facts?

7 A. Right.

8 Q. That's what you're telling me?

9 A. I think so. I think you need to be a little
10 more specific.

11 Q. Let me see if I can do that. Let me see if I
12 can do that. The judge is charged with the
13 responsibility of instructing jurors regarding the
14 law, all right? Jurors in a trial, they are the
15 judges of the facts, they listen to the evidence,
16 they decide what the facts are.

17 A. Right.

18 Q. But they are by their oath responsible for
19 listening to and applying the law given to them by
20 the judge exactly as the judge gives it to them.
21 They're not free to play loose and easy with the law.
22 They must, by their oath, follow the law exactly as
23 the judge gives it to them and apply the law to the
24 facts as they find them to be.

25 The jurors are the judges of the

Juror 17 Susan R. Bishop - Examination

1 facts, they are the sole determiners of the facts.
2 The judge, however, is the sole determiner of the law
3 of the case. And jurors, by their oath, must follow
4 the law exactly as the judge gives it to them.
5 That's an area where a juror must follow the
6 instructions of the judge.

7 So my question to you is that -- and,
8 goodness, I certainly appreciate your candor, but
9 that's why I ask you and that's why the question is,
10 would you follow the law exactly as the judge gives
11 it to you even if you don't like it, even if you
12 disagree with it?

13 A. Yes.

14 Q. You could do that?

15 A. Yeah.

16 Q. All right. You thought I meant something else
17 earlier?

18 A. Yeah.

19 Q. Okay. I thought maybe you did. I may ask you
20 now, now that we've been through it tell me where,
21 what was it that you and I had that little
22 communication problem, but I'll ask that at the end
23 because I want you to hear all these questions and
24 see if that wouldn't sort of marshal it out for you.

25 If you were asked to serve in the case

Juror 17 Susan R. Bishop - Examination

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

7 A. I could, yes.

8 Q. Sometimes jurors will be listening to the
9 evidence, a little memory will get triggered and the
10 question is can you move that, can you put that
11 aside?

12 A. Yes.

13 Q. Now, in a criminal case as you may know and
14 certainly as we talked about on Monday, the State has
15 the burden of proving the guilt of a defendant beyond
16 a reasonable doubt. In other words, a defendant does
17 not have to prove himself or herself innocent. A
18 defendant doesn't have to prove himself or herself,
19 doesn't have to prove anything and a defendant is
20 presumed innocent under the law. Do you understand
21 these principles?

22 A. Right, I do.

23 Q. All right. Now, if you were a juror in any
24 criminal case, would you be willing to listen to the
25 evidence and to listen and apply the law as it was

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1 instructed?

2 A. Yeah.

3 Q. And after you did that, after you listened to
4 the evidence, found the law as you found it -- I
5 mean, found the facts as you found them to be,
6 applied the law to those facts, if you were not
7 convinced of a person's guilt, if you were not
8 convinced that the State had proven the person's
9 guilt beyond a reasonable doubt, would you be able
10 and willing to find that person not guilty?

11 A. Yes.

12 Q. On the other hand, if after you listened to the
13 evidence and found those facts as you found them to
14 be, applied the law as it was given to you by the
15 judge, if you were convinced of a person's guilt
16 beyond a reasonable doubt, would you be willing to
17 find that person guilty?

18 A. Yes.

19 Q. Now, you would be willing to listen and make
20 your decision based upon whether or not you were
21 convinced a person was guilty or not?

22 A. Right.

23 Q. All right. Now, most of the time jurors do not
24 concern themselves with the issue of punishment.
25 Most of the time in the criminal court punishment is

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1 left up to the judge. There is one case in our law
2 when a jury has to deal with the matter of punishment
3 and that is in a case like this one. That is in a
4 case where an individual has been charged with the
5 crime of murder and the State is seeking the death
6 penalty.

7 If an individual in a death penalty
8 case is convicted of the crime of murder that means
9 12 people get together, they're the jurors, they
10 listen to the evidence, find the facts, they are
11 convinced that a defendant is guilty beyond a
12 reasonable doubt of the crime of murder.

13 A. All right.

14 Q. And then that same jury that convicted him or
15 her, they come back and they listen -- in a separate
16 and different proceeding they listen to the evidence
17 that's presented there and then they decide the
18 punishment. And there are two choices, life without
19 the possibility of parole and the death penalty.

20 That penalty is determined in that second or
21 sentencing phase of the trial as it is called. Do
22 you understand this information?

23 A. Yes, I do.

24 Q. Now, also back in the jury room with you was
25 this sheet of paper.

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1 A. Right.

2 Q. Did you have a chance to see that paper?

3 A. Yes, I did.

4 Q. And it essentially describes three types of
5 jurors. Do you recall that?

6 A. Uh-huh (affirmative response).

7 Q. Which of these three types of jurors do you
8 think best describes you?

9 A. Type two.

10 Q. You are type two?

11 A. Uh-huh (affirmative response).

12 Q. All right. In other words, once the jury
13 determined in any case, or any capital case the guilt
14 of the defendant.

15 A. Right.

16 Q. You wouldn't need the sentencing proceeding
17 because there wouldn't be anything for you to listen
18 to because you would think that life imprisonment was
19 appropriate?

20 A. Right.

21 Q. Don't even need it?

22 A. Right.

23 Q. In other words, no matter what the circumstances
24 are, no matter what the circumstances are, you would
25 always upon every circumstance find life?

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1 A. Right.

2 Q. You could never find -- no matter what the
3 circumstances you might hear in that second
4 sentencing proceeding, you would never render a
5 sentence of death?

6 A. Correct.

7 Q. All right. Very well. I'm going to ask you to
8 answer the questions these lawyers no doubt will have
9 for you.

10 THE COURT: Mr. Cummings.

11 EXAMINATION

12 BY MR. CUMMINGS:

13 Q. I'm Norb Cummings, that is Ms. Marva
14 Hardee-Thomas, ma'am, we're both Court appointed to
15 represent Mr. Marion Bowman, the gentleman seated
16 right there. Again, the reason I'll be brief is
17 because Her Honor's asked you a lot of questions and
18 after a while it gets kind of repetitive. And we
19 apologize to you, that's the only chance we get to
20 talk to jurors ahead of time.

21 A. Okay.

22 Q. Could you sit as a member of a jury panel along
23 with 11 other good people and collectively put your
24 minds together to determine guilt or innocence of any
25 citizen in any kind of criminal case?

Juror 17 Susan R. Bishop - Examination

1 A. Yes.

2 Q. All right. And, of course, because of the
3 alleged nature, in this case being a potential death
4 penalty case, until and unless the jury reached that
5 verdict nobody would even get to the second phase,
6 what we call the penalty phase. Do you understand
7 that?

8 A. Right.

9 Q. And, of course, Her Honor is the law, she's the
10 boss.

11 A. Right.

12 Q. And so if she tells you it's X, you would follow
13 it and say it's X?

14 A. Right.

15 Q. And the reason I ask that again is if we ever
16 got to the second phase there's two possible
17 punishments and only two that the jury could ever
18 issue. One would be life without the possibility of
19 parole for any reason, or for the reasons that the
20 jury's put together in their minds, ma'am. And you
21 could vote for that, could you?

22 A. I'm sorry, can you repeat?

23 Q. Could you vote for life without the possibility
24 of parole?

25 A. Yes, I could.

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1 Q. On the other hand, the ultimate penalty is out
2 there and that's the death penalty. Are you stating
3 to Her Honor no matter what you would do you would
4 never -- and, again, don't think of any
5 circumstances, facts, just as a potential juror in a
6 death penalty case, could you vote for the death
7 penalty in your conscience?

8 A. No.

9 Q. Okay. No matter if I asked you any questions
10 about that you're such a strong person about that
11 that you would never, ever vote for the death
12 penalty?

13 A. I don't think I would.

14 MR. CUMMINGS: That's all the questions I
15 have of this nice lady, Judge, and beg the
16 Court's indulgence.

17 THE COURT: All right.

18 (Mr. Cummings and Ms. Hardee-Thomas conferring
19 with Mr. Bowman.)

20 MR. CUMMINGS: That's all the questions we
21 have of this lady, Judge. Thank you.

22 THE COURT: Very well.

23 MR. BAILEY: No questions from the State,
24 Your Honor.

25 THE COURT: Thank you. I'm sorry, Mr.

Juror 17 Susan R. Bishop - Examination

1 Bailey.

2 Ms. Bishop, I'm going to disqualify
3 you from service on this jury because we must
4 have jurors who can consider both. I'm going to
5 ask that you not discuss this matter with your
6 other fellow potential jurors, or anyone
7 associated with this trial and beyond that you
8 can talk about this case with anybody that you
9 choose to or want to. And I thank you so much
10 for your time as we've gone through this
11 process. Your time is valuable and it's a gift
12 to your community and I thank you for it. Have
13 a good one.

14 MS. BISHOP: Thank you.

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

17 THE COURT: If you would bring us Ms.
18 Kadedra Kiner.

19 MR. CUMMINGS: If I could just be heard on
20 the record.

21 THE COURT: Oh, absolutely.

22 MR. CUMMINGS: Obviously she's a juror who
23 could vote for guilt or innocence. As Your
24 Honor rules she's not statutorily qualified, we
25 believe she would be a juror that could

Juror 17 Susan R. Bishop - Examination

1 determine guilt or innocence and we would ask
2 that she be seated, but I understand you've
3 ruled, ma'am.

4 THE COURT: Thank you so much.

5 MR. CUMMINGS: Yes, Judge.

6 THE COURT: Over the exception of the
7 defense.

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

9 (Kadedra D. Kiner, called as a prospective
10 juror, having previously been duly sworn, is
11 examined as follows:)

12 EXAMINATION

13 BY THE COURT:

14 Q. Good morning.

15 A. Good morning.

16 Q. How are you?

17 A. Fine, thank you.

18 THE COURT: For our record this is Kadedra
19 Kiner, Juror Number 168.

20 Q. Now, Ms. Kiner, do you remember long ago when we
21 were together on Monday morning and you were sworn in
22 as a potential juror in this matter along with your
23 fellow potential jurors?

24 A. Yes, I do.

25 Q. That oath that you took then remains with us

Juror 168 Kadedra D. Kiner - Examination

1 today and would be applicable to the answers that you
2 would give to the questions that we would ask of you
3 today, okay?

4 A. Okay.

5 Q. Now, since we talked on Monday has anyone
6 approached you about this case, or tried to talk to
7 you about this case, or talked to you about this
8 case, or have you received any information about this
9 matter or been exposed to any information about this
10 case?

11 A. I have not been exposed to any information. A
12 few people at work asked me what was going on, you
13 know, and I was like I really can't talk about it
14 until the judge releases me, so....

15 Q. Thank you for doing that. You followed my
16 instructions, so thank you so much for that. Now,
17 when you were back in the jury room did you have an
18 opportunity to look at the potential witness list?

19 A. Yes.

20 Q. And with regards to each and every individual
21 listed on here are you related by blood or marriage,
22 acquainted with, connected directly or indirectly, a
23 friend, a casual acquaintance, business associates,
24 do you have any connection with any of those folks at
25 all?

Juror 168 Kadedra D. Kiner - Examination

1 A. No.

2 Q. All right. Now, my notes indicate that when I
3 asked the questions on Monday do you have an opinion
4 about this case, have you seen or heard or read
5 anything about this case, do you have any bias or
6 prejudice for or against either side, my notes
7 indicated that none of those things applied to you;
8 is that correct?

9 A. That's correct.

10 Q. And does that remain true even today?

11 A. Yes, it does.

12 Q. All right. Now, I've got certain questions to
13 ask you and I wanted just to talk a moment about
14 that. First thing that I want to tell you is that no
15 one is trying to invade your privacy, that's the
16 first thing to tell you. The next thing to tell you
17 is why we're asking the questions. And that's
18 because we need to know a little bit about your
19 feelings about certain issues, your opinions.

20 A. Okay.

21 Q. To see if those opinions might impact on your
22 jury service. Now, no right or wrong answers, keep
23 that in mind. Also keep in mind that we know that
24 your opinions are as good and valid as anybody
25 else's, which is why there are no right or wrong

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1 answers. And please know that nobody here's going to
2 challenge your opinions, we only need to understand a
3 little bit about them.

4 A. Okay.

5 Q. I'm going to ask you this morning about your
6 opinion about penalty, specifically the death
7 penalty, and because that may be an issue in this
8 case. But I want you to know that the fact that we
9 are mentioning penalty at this phase clearly is
10 premature.

11 A. Okay.

12 Q. And I also want you to keep in mind throughout
13 this process that Mr. Bowman is presumed innocent of
14 these charges. It's just the reality that in order
15 to talk to prospective jurors about some of their
16 opinions as they might touch and concern punishment,
17 you have to do it before the trial. So that's
18 exactly -- that's why we need to ask you these
19 questions at this point.

20 A. Okay.

21 Q. But do keep in mind that they are premature and
22 that Mr. Bowman is presumed innocent of these
23 charges.

24 I'm going to be asking you these
25 questions also in a generic sense, which means I'm

Juror 168 Kadedra D. Kiner - Examination

1 not going to ask you about this case because you
2 don't know anything about this case and that wouldn't
3 be fair to you, nor would it be proper. So please
4 know that I'm not going to ask you any of your
5 opinions about this case. I'm going to be asking you
6 your opinions about cases, criminal cases in general
7 and that's where we'll be.

8 Now, if you were a juror on any
9 criminal case, could you listen to the instructions
10 on the law given to you by the judge?

11 A. Yes.

12 Q. And could you and would you be willing to accept
13 that law and apply that law to the facts as you found
14 them to be?

15 A. Yes.

16 Q. Even if you didn't like that part of the law or
17 you even flat out disagreed with it, would you still
18 be willing to listen and follow the instructions of
19 the judge?

20 A. Yes. I think that comes with the territory.

21 Q. Yes. And if you were to serve in the case of
22 the State vs. Mr. Bowman, could you decide this case
23 based on the evidence in this courtroom, based on
24 what you hear in this courtroom, and disregard
25 anything that you may see or -- may have seen or

Juror 168 Kadedra D. Kiner - Examination

1 heard or read about if that should come to your mind?

2 Let me tell you what I'm talking about

3 a little more specifically. Sometimes when jurors
4 are on juries and they hear information, it will jog
5 a memory that at this point doesn't exist. And that
6 question is designed simply to ask if that happened
7 to you, it may and it may not, but if it did happen
8 to you could you just set that memory aside and try
9 this case, make your decision based on what you hear
10 in the courtroom?

11 A. I know that's what I would have to do so I would
12 work very hard to make sure I would do that.

13 Q. Very well.

14 A. It may be difficult maybe, though.

15 Q. It would be difficult?

16 A. Well, just because I think that's human nature
17 that, you know, you have these experiences and they
18 make you who you are and they help you see what you
19 see when someone tells you something, but I mean if
20 you instructed me so I would do that.

21 Q. Yes. Now, let me be sure that you and I --

22 A. Okay.

23 Q. I'm talking about anything that you may have
24 seen or heard or read about this case.

25 A. I don't know anything, though.

Juror 168 Kadedra D. Kiner - Examination

1 Q. Exactly.

2 A. I see what you mean.

3 Q. What I'm saying is that sometimes a juror might
4 hear in a case anything, like he approached here with
5 the glass slipper after midnight or, you know, and
6 they'll think, oh, that jogs a little memory in my
7 mind, I may have heard something about that. That's
8 what I'm talking about. If you had an experience
9 like that, that if something you heard during the
10 trial jogged a little memory of this case that you
11 would set that aside, set that memory aside and try
12 this case based on what you heard in the courtroom.

13 A. What I hear here. I'm sorry, I misunderstood.

14 Q. Don't you apologize, I'm sure I've been through
15 this several times and I may not quite be as sharp as
16 I was when I started.

17 Now, in a criminal case as you know
18 and as we talked about briefly on Monday, the State
19 has the burden of proving a defendant guilty beyond a
20 reasonable doubt. A defendant never has to prove
21 himself or herself guilty. A defendant never has to
22 prove anything, the burden is always on the State to
23 prove a defendant guilty and a defendant is always
24 presumed innocent. You understand these principles?

25 A. Yes, I do.

Juror 168 Kadedra D. Kiner - Examination

1 Q. Now, if you were a juror in any criminal case,
2 would you be willing to listen to the evidence and
3 then apply the law to the facts as you found them to
4 be?

5 A. Yes.

6 Q. Good. And if you did that, if you listened to
7 the evidence, if you found the facts as you found
8 them to be and applied the law given to you by the
9 judge, if you were not convinced of a person's guilt
10 beyond a reasonable doubt, would you be able and
11 willing to find that person not guilty?

12 A. Yes.

13 Q. On the other hand, if you listened to the
14 evidence, if you found those facts as you found them
15 to be, applied the law to the facts as the judge
16 would give that law to you if you were convinced that
17 a defendant was guilty beyond a reasonable doubt,
18 would you be willing and able to find that defendant
19 guilty?

20 A. Yes.

21 Q. Okay. So you would be willing to listen and to
22 make your decision based upon whether or not you were
23 convinced of a person's guilt or not?

24 A. Yes, that's correct.

25 Q. Now, most of the time, most of the time jurors

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1 do not concern themselves with the matter of
2 punishment. Most of the time in the criminal court
3 punishment's left up to the judge, but there's one
4 case where the jury does concern itself with the
5 matter of judgment and that is in a case like this
6 one, that is in a case where a person has been
7 charged with the crime of murder and the State is
8 seeking the death penalty.

9 Now, if an individual, if an
10 individual in a death penalty case is convicted of
11 the crime of murder 12 jurors listen to the evidence,
12 listen to the judge's instruction, find the facts.
13 The first step is like any other criminal case and
14 what happens is they will determine guilty or not
15 guilty.

16 A. Right.

17 Q. In the event that the jury, and of course only
18 in the event where the jury, the 12 jurors find a
19 person guilty of crime of murder, then and in that
20 event the jury returns, they come back, and in a
21 separate and a different proceeding they hear more
22 evidence, they receive more information, if you will.

23 A. Okay.

24 Q. Receive instructions from the judge and then the
25 jury has to decide the punishment. And there are two

Juror 168 Kadedra D. Kiner - Examination

1 choices, life without the possibility of parole and
2 the death penalty. That determination, the penalty
3 determination is made in that second proceeding, it's
4 called the sentencing phase of the trial.

5 A. Okay.

6 Q. Do you understand this information?

7 A. I understand it, yes.

8 Q. Okay. Now, we had another piece of paper back
9 there for you.

10 A. Right.

11 Q. Did you have a chance to look at this piece of
12 paper?

13 A. I did.

14 Q. It essentially describes three types of jurors.

15 A. Right.

16 Q. Are you type one, type two, type three do you
17 think?

18 A. I determined myself to be type three.

19 Q. In other words, you would be willing to listen
20 to whatever you would hear in that sentencing phase
21 and you would make your mind up, you'd make your
22 decision based upon what you heard in the courtroom?

23 A. Yes.

24 Q. In other words, if you listened to that evidence
25 and if you thought, if you decided and you were

Juror 168 Kadedra D. Kiner - Examination

1 convinced that the appropriate sentence was the death
2 sentence, in that event you would be able and willing
3 to vote for a sentence of death?

4 A. If that is what I felt based on the facts and
5 what had been presented during that phase, yes.

6 Q. On the other hand, if you thought that the death
7 sentence was not appropriate or for any other reason
8 the person ought to receive life imprisonment, would
9 you be able and willing to vote for a sense of life
10 imprisonment?

11 A. Yes.

12 Q. Again, you would make up your mind, you would
13 make your decision based upon the evidence that you
14 heard in the courtroom?

15 A. That's correct, yes.

16 Q. Now, if you were chosen to serve as a juror in
17 this case, you, along with the other jurors in the
18 case, would be housed here in a motel locally, of
19 course at county expense, the word is sequestered.

20 A. That's correct. That's a decision that has been
21 made is, that what you're telling me?

22 Q. That's a decision that has been made.

23 A. Okay.

24 Q. You would have to stay in the motel during the
25 trial obviously except when you're in the courtroom

Juror 168 Kadedra D. Kiner - Examination

1 as the case proceeds.

2 A. Right.

3 Q. The period could be as long as two weeks, it
4 could be longer, it could be shorter. I just don't
5 know, I don't know the exact duration of it.

6 Obviously that would create an inconvenience for you
7 as it will every juror that serves on this --

8 A. Right.

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

15 A. No. As long as my job didn't fire me it
16 probably would be okay.

17 Q. Okay. All right. All right. Well, I don't
18 think that -- well, let me say this to you.

19 A. Okay.

20 Q. Where do you work, first of all?

21 A. I work at Benefit Focus.com, it's a software
22 development company in Mount Pleasant.

23 Q. Wow, all right. Let me -- I don't think that
24 would be a problem.

25 A. Okay.

Juror 168 Kadedra D. Kiner - Examination

1 Q. And the reason that I don't is that there's case
2 law that says that to do that would not be okay.

3 A. Okay.

4 Q. To fire someone for their, for them doing their
5 civic duty.

6 A. Okay. I don't have small children at home or
7 anything like that, so I don't see that it would be
8 any inconvenience in any other way.

9 Q. Very well. Ms. Kiner, I'm going to ask you to
10 please answer the questions of these lawyers that
11 they'll have for you.

12 THE COURT: And Mr. Bailey.

13 MR. BAILEY: Thank you, Your Honor.

14 EXAMINATION

15 BY MR. BAILEY:

16 Q. I'm Walter Bailey, I'm the solicitor, I'll be
17 prosecuting this case on behalf of the State. I want
18 to ask you a few questions.

19 A. Okay.

20 Q. And they'll be relating to the death penalty.

21 A. Okay.

22 Q. In a general nature and as the judge said we're
23 not going to talk about this case because you hadn't
24 heard the facts.

25 A. Okay.

Juror 168 Kadedra D. Kiner - Examination

1 Q. Just hypothetical.

2 A. In general?

3 Q. Yes, ma'am. Now, we start out in a case of this
4 type with the guilt phase that's like any other
5 criminal trial where the focus is on whether or not
6 the State can prove a defendant guilty of the crime
7 that he's charged with beyond a reasonable doubt.

8 A. Right.

9 Q. In a situation where the State is alleging
10 murder and seeking the death penalty, if the jury
11 finds that defendant guilty of murder then we go into
12 the second phase of the trial, there would be
13 additional testimony, additional instructions from
14 the judge then the jury unanimously, all 12, would
15 have to agree on one verdict or the other. Life
16 without the possibility of parole or the death
17 penalty.

18 When that happens, the judge will
19 order that sentence to be carried out and it will be
20 carried out. So the judge does not make the
21 determination, the jury does that and she just orders
22 that sentence to be carried out.

23 A. Right.

24 Q. And, again, I'm not going to ask you to predict
25 what you'd do in this case, but my question is if we

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1 reach that second part of the trial and the facts and
2 circumstances that were developed were bad enough,
3 severe enough, could you vote for the death penalty
4 knowing that as a result of that vote that person
5 actually would be executed?

6 A. Yes.

7 THE COURT: I think that's similar to what
8 you asked me.

9 Q. Yes, ma'am.

10 A. That's correct.

11 Q. And I apologize for being repetitious.

12 A. Okay. That's all right.

13 Q. And that's going to lead into my next question
14 which I don't think you've been asked yet. If all 12
15 jurors vote for the death penalty there's a death
16 verdict form and each person's asked to sign their
17 name to that paper. If that was your decision, could
18 you sign a document like that?

19 A. Yes.

20 Q. The last step in the process as far as the
21 jury's involvement is that, of course, the
22 deliberations, the decision to be made in the jury
23 room. The jury would come out, that decision would
24 be announced and each juror would be asked when their
25 name is called to stand up and affirm that that was

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1 their verdict and still their verdict.

2 A. Right. Like a poll or something like that.

3 Q. Right.

4 A. Yes. I would feel I could do that if I had to,
5 yes.

6 Q. Thank you.

7 EXAMINATION

8 BY MR. CUMMINGS:

9 Q. I'm Norb Cummings, that young lady over there is
10 Ms. Marva Hardee-Thomas, and both she and I are Court
11 appointed to represent Mr. Bowman, that gentleman
12 seated right there at the table.

13 A. Okay.

14 Q. I want to start off by saying good morning to
15 you again, because you've been very kind answering
16 Her Honor's questions and Mr. Bailey's. It seems
17 like sometimes we just keep going over the same old
18 ground, but we got to do it. One of the things we
19 want to ask jurors ahead of time to make sure we get
20 fair and impartial, because as you told Her Honor you
21 believe in that strong principle that every citizen
22 is presumed innocent until and unless proven guilty
23 by the State?

24 A. Correct.

25 Q. You know it's impossible for them to prove

Juror 168 Kadedra D. Kiner - Examination

1 themselves innocent. You heard this may be a death
2 penalty case. Did that put any kind of cloud or
3 anything in your mind that because of the nature or
4 the serious punishment involved that you believe that
5 one person might be looking like they did something
6 that they're guilty of just because the police said
7 they were, would you believe if somebody's arrested?

8 A. Would I believe because they are here today,
9 that that indicated some kind of guilt?

10 Q. That someone's guilty.

11 A. No, absolutely not.

12 Q. Thank you, ma'am. Again, you would put your
13 mind collectively with the other good jurors and
14 listen to the facts and evidence as Her Honor allows
15 them to be and testified to from that stand?

16 A. That's correct.

17 Q. And then if we ever got to the second part,
18 there's only two, and only two types of punishment,
19 and you are an open minded lady from reading your
20 questionnaire, and I promise you we really do read
21 these things.

22 A. I hope so.

23 Q. It says that you are a person of strong
24 opinions, strong beliefs. And you are open, an
25 open-minded lady enough to determine that both

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1 punishments are possible along with the collective
2 minds of the other jurors? And you would not be
3 swayed? I know you're nodding your head.

4 A. Are you talking about both? Tell me what you
5 mean by both punishments, in other words.

6 Q. Life without the possibility of parole, ma'am.

7 A. Okay.

8 Q. Or the imposition of the death penalty.

9 A. Okay.

10 Q. And you're an open-minded lady to consider both
11 of those punishments if we ever got there?

12 A. That's correct.

13 Q. And as you told Mr. Bailey, the solicitor, you
14 could vote along with your other fellow jurors for
15 either one as you saw fit?

16 A. That's correct.

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

18 A. Okay. Thank you.

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

21 MR. CUMMINGS: Judge, that's all the
22 questions we have of this nice lady. Thank you.

23 THE COURT: Ms. Kiner, I'm going to ask you
24 to step back and you're not going to have time
25 to even sit down while we talk behind your back

Juror 168 Kadedra D. Kiner - Examination

1 about you. You are not even going to have time
2 to sit down. Thank you so much.

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

5 THE COURT: What says the State?

6 MR. BAILEY: Qualified, Your Honor.

7 THE COURT: Defense?

8 MR. CUMMINGS: Statutorily qualified,
9 Judge.

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

12 THE COURT: Ms. Kiner, you have been found
13 to be qualified as a potential juror in this
14 case. This doesn't mean you're on the jury yet,
15 but it does mean that you are a potential juror
16 and you may be selected to serve on this jury.
17 We are hoping to select a jury tomorrow morning
18 at ten o'clock.

19 MS. KINER: Okay.

20 THE COURT: Tomorrow morning at 10:00.

21 MS. KINER: Tomorrow's Friday, correct?

22 Does that mean I have to be here?

23 THE COURT: Four steps ahead of me. That's
24 exactly what it means. Not only does it mean --
25 here's a piece of paper that's going to give you

Juror 168 Kadedra D. Kiner - Examination

1 some instructions. There's a possibility, there
2 is a possibility that we won't select the jury
3 at 10:00, but if it's postponed for any reason
4 we'll call and you let you know.

5 MS. KINER: Okay.

6 THE COURT: If you don't hear from us, if
7 you'll be here in the morning at ten o'clock,
8 packed and ready to go. This sheet of paper
9 I've just given you gives you some instructions
10 about packing clothes and bringing any
11 medication you might need, it gives you the
12 emergency telephone numbers during the day and
13 at night and gives you some other information.

14 MS. KINER: Okay.

15 THE COURT: Please feel free to share that
16 information with anyone you want to or need to.

17 MS. KINER: Okay. Can I ask you a couple
18 questions?

19 THE COURT: You certainly can.

20 MS. KINER: Is that okay? Part of what I
21 do is really dependent on me having like
22 internet connection just because I work for a
23 software company. Would it be a problem for me
24 to bring a laptop with me with the motel, have
25 internet activity?

Juror 168 Kadedra D. Kiner - Examination

1 THE COURT: Let me ask you this question:
2 There will be a phone jack; in other words, you
3 know, you can call out and get a provider.

4 MS. KINER: Okay. But it won't be
5 something that's got like a modem connection
6 already, right?

7 THE COURT: No.

8 MS. KINER: Okay.

9 THE COURT: Now, the question that I would
10 have is if you did have internet access, what
11 would you be accessing on the internet?

12 MS. KINER: If you allowed it I would need
13 to access my company e-mail, personal e-mail
14 could probably go for two weeks, but my company
15 e-mail. Clearly would be a benefit to me if I
16 tell you what our company does, maybe that will
17 also help. We develop software that employers
18 use to allow their employees to access their
19 benefits on line. So it's like healthcare,
20 dental, you know, life insurance, nothing
21 controversial at all. So if I could bring work
22 with me.

23 THE COURT: To do in the evenings.

24 MS. KINER: To do in the evenings. It
25 would simply be accessing a web site that you

Juror 168 Kadedra D. Kiner - Examination

1 could -- I mean, if I bring a laptop I don't
2 guess you could lock it down any way, but, you
3 know, it would be a specific URL address that I
4 would be accessing to do only the work of that.

5 THE COURT: The work that you do?

6 MS. KINER: Right.

7 THE COURT: Let me, let me -- in other
8 words, that would be a preference.

9 MS. KINER: That would be a preference.

10 THE COURT: You don't think you would be
11 discharged from your job if you could not do
12 that in the evenings?

13 MS. KINER: I don't think so, no.

14 THE COURT: What --

15 MS. KINER: But it would be --

16 THE COURT: But it would be beneficial?

17 MS. KINER: And it would help me out.

18 THE COURT: Let me consider that, that very
19 well may be possible.

20 MS. KINER: Okay.

21 THE COURT: I would tell you that you would
22 need to do that in a location and where SLED
23 would be present just to be sure that you're not
24 being accessed.

25 MS. KINER: I'm just thinking ahead. That

Juror 168 Kadedra D. Kiner - Examination

1 way I need to know whether I bring something.

2 If it's not allowed, that will be fine.

3 THE COURT: Go ahead and bring the laptop
4 with you and we will consider it and I will let
5 you know.

6 MS. KINER: Okay. And if you don't make
7 the decision tomorrow at 10:00 a.m., when are
8 you anticipating you might make the decision?

9 THE COURT: Like at 11:00.

10 MS. KINER: Oh, so it would still be
11 tomorrow?

12 THE COURT: Yes. You can anticipate that
13 we will select our jury. And I like to tell
14 folks that you might -- and it's Friday, you'll
15 be packed, and if you're not selected you ought
16 to go on a trip. Go home, pack up the husband
17 and child and go away. But in any event, please
18 be mindful, please be mindful not to discuss
19 this case with anyone or any aspect of it or
20 allow anyone to discuss it with and you do not
21 expose yourself to anything about this.

22 MS. KINER: Are cell phones allowed?

23 THE COURT: We will have phone service for
24 you.

25 MS. KINER: So I don't need to bring it?

Juror 168 Kadedra D. Kiner - Examination

1 THE COURT: No cell phone, don't even bring
2 it. We have phones. If you need to make a
3 phone call, obviously that phone call will be
4 monitored, all right?

5 MS. KINER: Okay.

6 THE COURT: Thank you so much.

7 MS. KINER: Thank you.

8 (Whereupon, the prospective juror exits the
9 courtroom.)

10 MR. CUMMINGS: Judge, before the next
11 witness comes in we have somebody answered our
12 subpoenas. We didn't know how far along we'd
13 be, with Mr. Bowman's permission, Ms. Thomas be
14 allowed to go back out of the courtroom and meet
15 with this person?

16 THE COURT: Give them an update?

17 MR. CUMMINGS: Yes, ma'am. And I'll make
18 sure Mr. Bowman and Ms. Thomas are told
19 everything we do about the next witness.

20 MR. BAILEY: On the next witness I just
21 note she has some health problems, also some
22 problems in serving apparently in her last
23 question.

24 MR. CUMMINGS: Yes, Judge.

25 THE COURT: Thank you. Ms. Lana Turner.

Juror 308 Lana N. Turner - Examination

1 (Lana N. Turner, 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 morning, Ms. Turner.

7 A. Good morning.

8 THE COURT: For our record this is Ms. Lana
9 Turner, Juror Number 308.

10 Q. Ms. Turner, when we were together on Monday, it
11 seems a while ago now, do you recall that you were
12 sworn in along with the other potential jurors?

13 A. Yes, ma'am.

14 Q. Let me tell you that you do not need to be
15 resworn because that oath is good here today too
16 during this process, all right? And it will cover
17 the answers that you will give to me and to all of
18 us.

19 And since you talked with us on
20 Monday, has anyone talked with you about this case or
21 tried to talk to you about this case or have you been
22 exposed to any information about this trial at all?

23 A. No, ma'am.

24 Q. And when you were back in the jury room you were
25 given the potential witness list to review. Did you

Juror 308 Lana N. Turner - Examination

1 have a chance to look at that?

2 A. Yes, ma'am.

3 Q. And after you've looked at it, I would ask if
4 you are related by blood or marriage or acquainted
5 with, if you have any direct or indirect connection
6 with any of those folks, if you have a personal
7 relationship, a business associate or do you have any
8 connection with any of those folks in any regard
9 whatsoever?

10 A. No, ma'am.

11 Q. All right. Now, when I was asking Monday about
12 this case specifically, you indicated to me that you
13 had read, seen, or heard information specifically
14 about this case. Am I correct in remembering that?

15 A. Yes, ma'am.

16 Q. All right. Was it just -- tell me the general
17 source, I don't want to know specifically about what
18 you read, but -- or what you saw, but was it from --
19 did you talk to somebody about it, did you see the
20 newspaper, TV, what was it?

21 A. Newspapers and TV.

22 Q. Newspapers and TV?

23 A. Discussed it with my daughter.

24 Q. And discussed that with your daughter. And have
25 you formed any opinions regarding this case?

Juror 308 Lana N. Turner - Examination

1 A. Not -- no.

2 Q. No, all right. And would you be able to set
3 aside, to completely disregard the information that
4 you have received I gather from the media about this
5 case as well as the discussions with your daughter
6 and if you were selected on a jury in this case to
7 make your decision based upon what you hear in the
8 courtroom?

9 A. Yes, ma'am.

10 Q. Would you be able to be fair and impartial to
11 both the State and to Mr. Bowman?

12 A. I would try.

13 Q. Okay. And in trying, do you believe that that
14 is something that you would be able to do, or do you
15 have concerns about your ability to do that?

16 A. I believe I can, you know, try.

17 Q. Okay. You believe that you can, but you would
18 try?

19 A. Uh-huh (affirmative response).

20 Q. Okay. All right. I may have a few more
21 questions about that in just a little bit only
22 because I must be assured, Ms. Turner, that you can
23 be fair and impartial and that you are satisfied in
24 your mind that you can be fair and impartial because,
25 Ms. Turner, both the State and Mr. Bowman are

Juror 308 Lana N. Turner - Examination

1 entitled to have jurors in this case who can be fair
2 and impartial, who are able and willing to try this
3 case, decide this case based upon the evidence in
4 this courtroom and not influenced by anything else.
5 Do you understand that?

6 A. Yes, ma'am.

7 Q. Okay. And do you believe that's something you
8 can do?

9 A. I'll try.

10 Q. Okay. "I'll try" puts me back where we were
11 before. Tell me what -- something's bothering you,
12 tell me about that. What's bothering you?

13 A. I'm just nervous, that's all.

14 Q. Okay. Well, other than being nervous. I don't
15 want you to be nervous.

16 A. Scared, maybe.

17 Q. I don't want you to scared, okay? All right.
18 Well, if you get concerned at any point in time that
19 you are worried about your ability to do that, let me
20 know, okay, and then we'll go through the rest of
21 those questions, okay?

22 A. Okay.

23 Q. Okay. Now, you also made a comment that you
24 consider it wrong to consume alcohol. And that is an
25 opinion that you hold?

Juror 308 Lana N. Turner - Examination

1 A. Yes.

2 Q. Ms. Turner, I have no idea whether or not
3 alcohol will or will not come in this case, I don't
4 know, none of us, you know, you don't know, I don't
5 know. But assume for the purposes, well, that it
6 might. Would that, the opinions that you hold, if
7 something about alcohol was to be talked about would
8 your opinion that you hold, would that opinion
9 substantially impair or prevent you from listening to
10 the evidence in this courtroom and making a decision
11 based upon what you hear in the courtroom being fair
12 and impartial to both the State as well as to
13 Mr. Bowman?

14 A. I just think it's wrong. It probably would.

15 Q. You think that it might?

16 A. It probably would.

17 Q. Okay. In other words, if it's mentioned at all
18 you're afraid that that will interfere with your
19 ability to be fair and impartial?

20 A. Probably so.

21 Q. Okay. Substantially impair?

22 A. Probably.

23 Q. Very well. You know, I'm so grateful that
24 people are so candid with me and I want you to know,
25 Ms. Turner, how much I appreciate your candor with

Juror 308 Lana N. Turner - Examination

1 me. I think that perhaps this would not be the best
2 case for you to serve on, but I'm hoping to see you
3 on a jury panel in the near future and be able to
4 work with you at that time.

5 Thank you so very much for coming in
6 and thank you for your gift of time that you've given
7 to all of us and to your community. It's no small
8 gift, I'm aware of that, and I thank you so much for
9 it and you are free to go.

10 A. Thank you.

11 Q. Ms. Turner, would you do this for me?

12 A. Sure.

13 Q. Would you refrain, would you not talk about this
14 process and the questions with your other potential
15 jurors, and would you -- now that you know who the
16 witnesses and all are, would you also not talk about
17 this case with anyone who might be involved in this
18 case?

19 A. Yes, ma'am.

20 Q. And beyond that you are at liberty, free to talk
21 about this matter if you wish.

22 A. Thank you.

23 Q. Thank you so much.

24 A. Thank you.

25 (Whereupon, the prospective juror exits the

Juror 308 Lana N. Turner - Examination

1 courtroom.)

2 THE COURT: Any objection from the State?

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

5 MR. CUMMINGS: No, Judge. I thank you very
6 much because this lady had a hard time with
7 setting aside anything, ma'am.

8 THE COURT: Oh, I know it. I appreciate so
9 much our procedure. I get so excited when I see
10 you all in my peripheral vision. All right.

11 Now Ms. Espereita Fortune.

12 (Espereita A. Fortune, 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 morning, Ms. Fortune.

18 A. Good morning.

19 Q. How are you?

20 A. Fine. And you?

21 Q. Fine.

22 THE COURT: This is Ms. Espereita Fortune,
23 Juror Number 103.

24 Q. Ms. Fortune, you will remember long ago, on
25 Monday morning when we were together you were sworn

Juror 103 Espereita A. Fortune - Examination

1 in with all the other potential jurors in the case.

2 Do remember that?

3 A. Yes.

4 Q. Let me tell you you do not need to take another
5 oath because that one's still good and would cover
6 the answers that you would give me to the questions
7 that I'll ask you today, okay?

8 A. Yes, ma'am.

9 Q. Now, since Monday has anybody talked with you,
10 or tried to talk with you, or tried to approach you
11 about this case, or have you been exposed to any
12 information about this case?

13 A. No.

14 Q. All right. Now, when you were back in the jury
15 room you were given a list of potential witnesses.
16 Did you have a chance to look at it?

17 A. Yes.

18 Q. And are you related by blood or marriage, or
19 acquainted with any of those folks, or do you have a
20 casual or business or personal relationship, or do
21 you have any direct or indirect connection with any
22 of the folks on the potential witness list?

23 A. No.

24 Q. All right. Now, when we spoke on Monday and I
25 had a chance to ask the jury panel some general

Juror 103 Espereita A. Fortune - Examination

1 questions, my notes indicate that when I asked if
2 anybody had any opinions about the case, or if
3 anybody had read or heard anything about the case, or
4 if anybody was biased or prejudiced for or against
5 either of these parties, my notes indicate that you
6 didn't -- that none of those things applied to you?

7 A. No.

8 Q. No. And has anything jogged your memory or come
9 into your mind that would cause you to need to change
10 your response?

11 A. No.

12 Q. All right. Now, I need to ask you some
13 questions, but I wanted to take a moment just to talk
14 about the questions that I'm going to be asking. .
15 First thing that I want you to know that we are not,
16 we are not trying to invade your privacy, so please
17 know that.

18 And also I want to tell you that what
19 we are going to do this morning is see if we can
20 learn a little bit about your feelings about certain
21 matters to get and understand a little bit about some
22 of the opinions that you might have to see if those
23 opinions might impact on your jury service, okay?

24 A. Yes.

25 Q. So obviously there are no right or wrong

Juror 103 Espereita A. Fortune - Examination

1 answers. Obviously your opinions that we're going to
2 be asking you about, I want you to know that we know
3 are just as good and valid as anybody else's, all we
4 need to do is know a little bit about them. No one's
5 going to challenge your opinions, I also want you to
6 know that, we just need to know a little bit about
7 them, okay?

8 A. Okay.

9 Q. One of the things that I'm going to be asking
10 you about is penalty, specifically the death penalty.
11 But I wanted to tell you, first of all, that I'm
12 going to be asking you about that because it may be
13 an issue in this case. But I want you to understand
14 that to ask you about penalty at this time is
15 obviously premature, the trial hasn't even begun yet,
16 Mr. Bowman is presumed innocent of these charges, but
17 I need to ask potential jurors about penalty and to
18 learn a little bit about their opinions, so obviously
19 I have to do that before the trial begins. So,
20 please keep in mind as I ask you about penalty and
21 the death penalty, please keep in mind that, yes, I'm
22 asking you prematurely, and, yes, Mr. Bowman is
23 presumed innocent. So keep those in your mind, okay?

24 The questions that I'm going to be
25 asking you I'm going to be doing that in a generic,

Juror 103 Espereita A. Fortune - Examination

1 general sense. Because you don't know anything about
2 this case, it wouldn't be fair to you to ask you
3 about your opinions about this case and it would be
4 improper so I'm not going to do that. But I am going
5 to ask you just your opinions in the general, generic
6 sense, okay?

7 Now, in a criminal case, in any
8 criminal case, would you be willing to listen to the
9 instructions on the law given to you by the judge?

10 A. Yes.

11 Q. And would you be willing to accept that law and
12 apply that law to the facts as you found them to be?

13 A. Yes.

14 Q. Even though you might not like particularly that
15 part of the law and you might disagree with it, would
16 you still be willing to follow the law as you were
17 instructed to do so by the judge?

18 A. Yes.

19 Q. Now, if you were asked to serve on this jury in
20 the case of the State vs. Mr. Bowman, would you
21 decide this case based on the evidence in this
22 courtroom and if something came into your mind, if
23 some -- something that you heard jogged your memory
24 and you thought, oh, I do remember a little something
25 about this case because that sometimes happens to

Juror 103 Espereita A. Fortune - Examination

1 jurors, would you be willing to set that memory aside
2 and still decide this case based on the evidence in
3 this courtroom?

4 A. Yes.

5 Q. Now, in a criminal case as you no doubt know and
6 as we talked on Monday, the State has the burden of
7 proving a defendant guilty beyond a reasonable doubt.
8 Do you understand that?

9 A. Uh-huh (affirmative response).

10 Q. That's a yes, isn't it?

11 A. Yes.

12 Q. And a defendant never has to prove himself or
13 herself innocent. Do you understand that?

14 A. Yes.

15 Q. In fact, the defendant doesn't have to prove
16 anything. Do you understand that as well?

17 A. Yes.

18 Q. Because a defendant is presumed innocent.

19 A. Yes.

20 Q. All right. Now, so if you were a juror in any
21 criminal case and you listened to the evidence as
22 you've already told me you would do, and you found
23 the facts as you would find the facts as you found
24 them to be after you listened to the evidence, you
25 took the law from the judge and then you applied it

Juror 103 Espereita A. Fortune - Examination

1 to those facts, if after you did that if you were not
2 convinced that a defendant or that a person was
3 guilty and had not been proven guilty beyond a
4 reasonable doubt, would you be willing and able to
5 find that person not guilty?

6 A. Yes.

7 Q. On the other hand, if you listened to the
8 evidence, found the facts as you found them to be,
9 you applied the law to those facts and you were
10 convinced that a person was guilty and that the State
11 had proven them guilty beyond a reasonable doubt,
12 would you be willing and able to find that person
13 guilty?

14 A. Yes.

15 Q. All right. Now, you would be willing then to
16 listen to the evidence and make your decision based
17 upon whether or not you were convinced that a person
18 is guilty or not, right?

19 A. Yes.

20 Q. All right. Now, most of the time jurors do not
21 concern themselves with the issue of punishment.
22 Most of the time in criminal court punishment is an
23 issue, is a matter of the judge. But there is one
24 case in our law when the jury has to deal with the
25 issue of punishment and that is in a case like this

Juror 103 Espereita A. Fortune - Examination

1 one, it is in a case where an individual has been
2 charged with the crime of murder and where the State
3 is seeking the death penalty.

4 If an individual in a death penalty
5 case is convicted of the crime of murder; in other
6 words, the jury heard all the evidence and the jury
7 unanimously were convinced, each and every member of
8 that jury was convinced, and unanimously convicted a
9 defendant, an individual, a person, found that
10 person, found him or her guilty of the crime of
11 murder, then that same jury would return and in a
12 separate and different proceeding they would hear
13 evidence, hear some instructions from the judge, and
14 the jury then sentences the person, they decide what
15 sentence they're going to get.

16 And they have two choices. One is
17 life imprisonment without the possibility of parole
18 and the other is the death penalty. The penalty is
19 decided and determined by the jury in that second or
20 sentencing phase. Do you understand this
21 information?

22 A. Yes.

23 Q. Do you have any questions about this part?

24 A. No.

25 Q. All right. Now, have you had a chance to look

Juror 103 Espereita A. Fortune - Examination

1 at this paper back in the jury room?

2 A. Yes.

3 Q. And it essentially describes three types of
4 jurors?

5 A. Yes.

6 Q. And do you remember the three types of jurors
7 and what they are? You don't have to struggle
8 because they're here. You look at it if you would
9 like, just take it and hold it and look at it.
10 Because I'm going to ask you, Ms. Fortune, which of
11 those three types of jurors do you think best
12 describes you?

13 A. Juror three.

14 Q. Juror number three. In other words, you would
15 be willing to listen to the evidence and make up your
16 mind based on what you hear in the courtroom; is that
17 right?

18 A. Yes.

19 Q. In other words, if you listened to the evidence,
20 if you were convinced that based upon what you heard
21 in the courtroom on that -- this -- if you will, we
22 we're talking again in the general, generic sense,
23 but if you were convinced in a case that it was
24 appropriate that someone receive the death sentence,
25 would you be able and willing to vote for that

Juror 103 Espereita A. Fortune - Examination

1 sentence?

2 A. I don't know.

3 Q. Is that because you don't know what
4 circumstances?

5 A. Yeah.

6 Q. Well, obviously please know I am not talking to
7 you about this case at this time. I'm talking about
8 really in any criminal case, any -- not criminal
9 case. In any capital case, any death penalty case,
10 the question is if you found, if you listened to the
11 evidence and you found it to be appropriate because
12 you were convinced that was appropriate, could you,
13 would you be able and willing to vote for that
14 sentence?

15 A. Yes.

16 Q. All right. And on the other hand, if you
17 thought the death sentence was not appropriate, or
18 for any other reason the person ought to receive life
19 imprisonment, would you be able and willing to vote
20 for a sentence of life imprisonment?

21 A. Yes.

22 Q. Okay. So you would be willing to make your
23 decision for death sentence or life sentence based
24 upon what you heard in the courtroom?

25 A. Yes.

Juror 103 Espereita A. Fortune - Examination

1 Q. Okay. Now, if you were chosen to serve as a
2 juror in this case, you and the other jurors would be
3 housed in a motel here locally, the word is
4 sequestered, obviously at county expense. You would
5 stay with us during the course of the trial, you
6 would be at the motel and of course you would be here
7 in the courtroom. And the period, this period could
8 be as long as two weeks. It could be longer, it
9 could be shorter, I'm just not exactly sure how long
10 it will take.

11 Obviously, obviously that would create
12 an inconvenience for you as it surely will create an
13 inconvenience for all who serve on this jury. Other
14 than the inconvenience which it would cause anybody
15 who would have to serve in this capacity, would that
16 pose a serious risk of danger to your health or well
17 being, or to that of anybody who is dependent on you
18 if you had to serve in this capacity?

19 A. Yes.

20 Q. Tell me about that.

21 A. I have three kids.

22 Q. Okay.

23 A. Two in school.

24 Q. All right. How old are they?

25 A. Thirteen and 14.

Juror 103 Espereita A. Fortune - Examination

1 Q. Okay. Are you a single mom?

2 A. Yes.

3 Q. Okay. There's no one else that could help you
4 watch the kids?

5 A. Not in my area to get them off to school.

6 Q. Okay. Mom or aunt or nobody could come in and
7 help you do that for a couple of weeks?

8 A. No.

9 Q. No. All right. And tell me how old the kids
10 are again, 13?

11 A. And 14.

12 Q. Fourteen and...?

13 A. Eighteen.

14 Q. And 18. All right. Eighteen year old is not
15 old enough and responsible enough to help --

16 A. He's old enough, but he's not responsible
17 enough.

18 Q. Okay. To look after the younger kids?

19 A. Yes.

20 Q. All right. Have you ever had to leave them with
21 anybody?

22 A. Yes, during the summer, but not during the
23 school time.

24 Q. But not during school. School's got a couple
25 more weeks to go, doesn't it?

Juror 103 Espereita A. Fortune - Examination

1 A. Yes.

2 Q. When do they get out?

3 A. On the 30th.

4 Q. On the 30th, all right. I'm going to ask you to
5 answer any questions that these folks might have for
6 you.

7 THE COURT: Mr. Bailey.

8 MR. BAILEY: Your Honor, could you indulge
9 me one second, confer with Mr. Cummings?

10 (Mr. Bailey conferring with Mr. Cummings.)

11 EXAMINATION

12 BY MR. BAILEY:

13 Q. I'm Walter Bailey and I'll be prosecuting the
14 case. How are you doing?

15 A. Fine.

16 Q. I need ask you a few questions. And let me
17 start out with where you finished up with the judge
18 about the situation with your children.

19 A. Yes.

20 Q. You have an 18 year old, a 13, and 14 year old
21 at home and you're a single parent?

22 A. Yes.

23 Q. Okay. All three are in school?

24 A. Two.

25 Q. Okay. The two youngest are in school?

Juror 103 Espereita A. Fortune - Examination

1 A. Yes.

2 Q. All right. And there are no other relatives,
3 friends, neighbors, anybody that could take care of
4 them to -- maybe potentially two weeks starting
5 tomorrow if you were put up in a motel?

6 A. Everyone else works.

7 Q. All right. So there would be -- I mean, they
8 would be on their own, really?

9 A. Yes.

10 Q. Okay. All right.

11 MR. BAILEY: I think that's all I've got at
12 this point, Your Honor.

13 MR. CUMMINGS: Judge, just based on what
14 this nice lady said I have no questions, but I
15 think Mr. Bailey and I would confer a little
16 further.

17 THE COURT: We are going to miss you
18 because I would tell you that I would find you
19 statutorily qualified, but you have told me
20 about a hardship and I cannot put your children
21 at risk. May I ask you this question?

22 MS. FORTUNE: Yes.

23 THE COURT: Ms. Fortune, can I transfer you
24 to another term of court where you would not
25 need to be sequestered?

Juror 103 Espereita A. Fortune - Examination

1 MS. FORTUNE: Yes.

2 THE COURT: Oh, thank you so much. We'll
3 send you another notice. And thank you so much
4 for being willing to come back.

5 Let me also say a couple of things to
6 you. First of all, please don't talk about this
7 process with any of your other potential jurors.

8 MS. FORTUNE: Yes.

9 THE COURT: Or anyone who might be
10 associated with this trial. You have been over
11 the witness list so you have some sense of those
12 folks. But let me say to you, let me thank you
13 for your time. I know that your time is
14 precious and I know that you have given this
15 gift to all of us and our community and I want
16 to thank you for that and know that I look
17 forward to seeing you soon. Thank you,
18 Ms. Fortune. We will transfer Ms. Fortune.
19 (Whereupon, the prospective juror exits the
20 courtroom.)

21 MR. CUMMINGS: Judge, if I may while you're
22 writing, put it on the record.

23 THE COURT: Yes.

24 MR. CUMMINGS: I conferred with Mr. Bowman,
25 we would have loved to have this juror as well

Juror 103 Espereita A. Fortune - Examination

1 as the State. And I won't speak for my
2 colleague, but, Judge, respectfully, the three
3 children, two teenagers left home alone.

4 THE COURT: You can't do that.

5 MR. CUMMINGS: Right. Therefore, Judge, I
6 just wanted to put that on the record that
7 Mr. Bowman understands that she's a black female
8 and also, Judge, she was a great juror.

9 THE COURT: Thank you so much.

10 MR. CUMMINGS: Can we take a short break?
11 I think that's the last one on that panel.

12 THE COURT: We're doing all right. Yeah.
13 As long as everybody's back and ready to go by
14 20 after.

15 MR. CUMMINGS: Yes, ma'am.

16 THE COURT: Great.

17 (Recess, from 10:12 a.m. to 10:24 a.m.)

18 (Brenda H. Torrance, called as a prospective
19 juror, having previously been duly sworn, is
20 examined as follows:)

21 EXAMINATION

22 BY THE COURT:

23 Q. Good morning.

24 THE COURT: And for our record this is
25 Ms. Brenda Torrance, Juror Number 305.

Juror 305 Brenda H. Torrance - Examination

1 A. Yes, ma'am.

2 Q. Ms. Torrance, I wanted to hand you back your
3 questionnaire.

4 A. Do I need to get my glasses?

5 Q. Because you said you needed to make a change.
6 You can do it orally.

7 A. The only thing I wanted to ask is when I filled
8 that out I'm not sure if I was working part-time or
9 not.

10 Q. We'll get to that.

11 A. That's all.

12 Q. All right. Do you remember when we were
13 together on Monday?

14 A. Yes, ma'am.

15 Q. Do you remember when you were sworn in, placed
16 under oath with all the other potential jurors?

17 A. Yes, ma'am.

18 Q. We don't have to do that again because that oath
19 still continues to the answers that you will give us
20 today, okay?

21 A. All right.

22 Q. Now you wanted to tell me about the
23 questionnaire. And let me see, it says down here --

24 A. Employment.

25 Q. I'm going to find that, just one minute. "If

Juror 305 Brenda H. Torrance - Examination

1 you are currently working, where do you work?" You
2 were not working outside your home then and now you
3 are?

4 A. Part-time, that's correct.

5 Q. Where?

6 A. Comfort Suites in Summerville.

7 Q. Comfort Suites in Summerville. What are you
8 doing for that?

9 A. Desk clerk and then part-time breakfast hostess.
10 Kind of a floater, a little bit of everything.

11 Q. A little bit of everything?

12 A. Trust me, everything.

13 Q. As you have learned, very well. Now, since we
14 talked on Monday, has anyone talked with you about
15 this case, tried to approach you about this case, or
16 have you received any information or any exposure to
17 any information about this case?

18 A. No, ma'am. I made it a point to tell everybody
19 don't ask me any questions.

20 Q. All right. And you indicated earlier that you
21 had seen, or heard, or read some information about
22 the case. I don't want to know what you know.

23 A. Okay.

24 Q. But can you tell me was it in conversation, was
25 it news, how do you know?

Juror 305 Brenda H. Torrance - Examination

1 A. When I first arrived at the courthouse the
2 gentleman that was sitting next to me, I didn't know
3 what the case was about, he just basically told me
4 what he thought.

5 Q. What he thought about the case, or what he
6 thought the case was about?

7 A. What he thought the case was about.

8 Q. All right. Did he express any opinions to you
9 about the case?

10 A. No, ma'am.

11 Q. All right. He just said this is what I think
12 this is about?

13 A. Right.

14 Q. All right.

15 A. That's correct.

16 Q. Very well. Now, when you were back in the jury
17 room, there was -- the potential witness list was
18 back there. Did you have a chance to look at it?

19 A. Yes, ma'am

20 Q. And I would ask are you related by blood or
21 marriage, acquainted with --

22 A. No, ma'am.

23 Q. -- do you have any connection, direct or
24 indirect, either personal friend, business associate
25 with any of these folks?

Juror 305 Brenda H. Torrance - Examination

1 A. No, ma'am.

2 Q. Thank you. Now, with regards to what the
3 gentleman said to you and the information that you
4 received, that bit of conversation would not impair
5 your ability to be a juror in this platter, would it?

6 A. No, ma'am.

7 Q. You can be fair and impartial to both sides?

8 A. Absolutely.

9 Q. All right. Now, you did -- my notes further
10 indicate that when I asked whether or not anybody had
11 an opinion about this case or whether or not anyone
12 had any bias or prejudice, that you did not indicate
13 that any of those things applied to you. Does that
14 still continue to be correct?

15 A. Yes, ma'am.

16 Q. All right. Now, I'm going to be asking you some
17 questions.

18 A. All right.

19 Q. And I want to tell you a little bit about the
20 questions before I even ask them. The first thing
21 that I want you to know is that we are not trying to
22 invade your privacy, that's the first thing you need
23 to know. The second thing is to tell you why we're
24 asking the questions. We're asking the questions
25 because we need to learn a little bit about your

Juror 305 Brenda H. Torrance - Examination

1 feelings, about some issues, your opinions about some
2 issues so that we can see how they might impact on
3 your jury service.

4 A. Okay. All right.

5 Q. That's the beginning and the end of the why.

6 Because of that there are no right and no wrong
7 answers, obviously. And obviously we all know that
8 your opinions are just as good and valid as anybody
9 else's.

10 A. Right.

11 Q. And nobody is going to challenge your opinions,
12 we only need to learn a little bit about them.

13 A. Okay.

14 Q. Also when I ask you questions I'm going to be
15 asking them in a generic or general sense.

16 A. Okay.

17 Q. Because it wouldn't be fair to you and it would
18 be improper to ask you about this case and your
19 opinions about this case and I'm not going to do
20 that. I'm going to be asking in the generic sense
21 and then in a general sense. And you'll see that in
22 just a moment.

23 A. All right.

24 Q. One of the opinions that I want to talk to you
25 about, or one of your areas or one of the areas that

Juror 305 Brenda H. Torrance - Examination

1 I want to ask you about your feeling is penalty,
2 specifically the death penalty. But I want to tell
3 you that obviously to talk about penalty is real
4 premature. And the reason I'm going to talk about
5 penalty is that may be an issue in this case. So
6 it's important that I talk to potential jurors about
7 their feelings about penalty and I must do that,
8 necessarily, before the trial begins.

9 But I want you to keep in mind two
10 things. Number one, to talk about penalty obviously
11 it's very premature. And the other thing that I want
12 you to keep in mind is that Mr. Bowman is presumed
13 innocent of these charges.

14 A. Absolutely.

15 Q. So as we go through that keep that in mind.
16 Now, if you were a juror in any criminal case, would
17 you be willing to listen to the law as the judge
18 instructed it?

19 A. Absolutely.

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

22 A. Absolutely.

23 Q. Even if you didn't particularly agree with that
24 part of the law or like that part of the law, would
25 you still be willing to follow the instructions of

Juror 305 Brenda H. Torrance - Examination

1 the judge?

2 A. Absolutely.

3 Q. Now, if you were asked to serve on the case of
4 State vs. Bowman, could you decide this case based
5 upon what you hear in this courtroom? It sounds like
6 a trick question, let me tell you what I mean.
7 Sometimes as jurors sit on a case they'll hear
8 something and a memory will get jogged. The question
9 that I've got to ask you now is if that happened to
10 you, I don't have any idea that it will or it won't,
11 but if it did could you set that memory aside and
12 listen to the evidence and decide this case based on
13 what you hear in this courtroom?

14 A. Absolutely.

15 Q. Now, in a criminal case as you no doubt know as
16 we talked a little bit about on Monday, the State has
17 the burden of proving a defendant guilty beyond a
18 reasonable doubt. A defendant never has to prove
19 himself or herself innocent, or prove anything.

20 A. Okay.

21 Q. And a defendant is always presumed innocent. Do
22 you understand these principles?

23 A. I absolutely do, yes.

24 Q. Now, so if you were a juror in a criminal case
25 and you had listened to the evidence, and you had

Juror 305 Brenda H. Torrance - Examination

1 found the facts as you found them to be, and you
2 applied the law as the judge gives it to you to those
3 facts and you were not convinced of a person's guilt
4 beyond a reasonable doubt, could you find that person
5 not guilty?

6 A. If it was beyond a reasonable doubt.

7 Q. And that is the standard.

8 A. Uh-huh (affirmative response).

9 Q. If the person's guilt was not proven beyond a
10 reasonable doubt, could you find that person not
11 guilty?

12 A. Yes.

13 Q. On the other hand, if you listened to the
14 evidence and you found the facts as you found them to
15 be and you applied the law to those facts and you
16 were convinced that the defendant, or the person, was
17 guilty and the State had proven that person guilty
18 beyond a reasonable doubt, could you and would you be
19 willing to find that person guilty?

20 A. Yes.

21 Q. Now, in other words, you would be willing to
22 listen to the evidence, to listen to what you hear in
23 this courtroom?

24 A. Absolutely.

25 Q. Make your decision based on whether or not you

Juror 305 Brenda H. Torrance - Examination

1 were convinced that a person was guilty or not?

2 A. Yes.

3 Q. Now, most of the time jurors do not concern
4 themselves with the issue of punishment. Most of the
5 time in the criminal court that's left up to the
6 judge.

7 A. All right.

8 Q. But there is one case in our law when the jury
9 does have to deal with the matter of punishment, and
10 that is in a case like this one. That is in a case
11 where a person is charged with the crime of murder
12 and the State is seeking the death penalty.

13 If an individual in a death penalty
14 case is convicted of the crime of murder, if the 12
15 jurors, each and every one of them are convinced of
16 the defendant's guilt beyond a reasonable doubt and
17 that person is convicted, found guilty, then the same
18 jury comes back and in a separate and different
19 proceeding the jury then hears evidence and it's the
20 jury's responsibility to decide the punishment that
21 the person's going to get. And there are two
22 choices. One is life imprisonment without the
23 possibility of parole and the other is the death
24 penalty.

25 Now, the penalty, the punishment is

Juror 305 Brenda H. Torrance - Examination

1 determined in that second proceeding which is called
2 the sentencing phase of the trial, it's known as the
3 sentencing phase. Do you understand what I just told
4 you?

5 A. Uh-huh (affirmative response).

6 Q. Do you have any questions about that?

7 A. No, ma'am.

8 Q. All right. Now, we had another paper for you
9 back in the jury room. Did you have a chance to look
10 at that paper?

11 A. Yes, ma'am.

12 Q. And it essentially describes three types of
13 jurors?

14 A. Yes, ma'am.

15 Q. Do you remember the three types of jurors?

16 A. Uh-huh (affirmative response).

17 Q. Which of those three types of jurors do you
18 think best describes you?

19 A. The third one. The third one.

20 Q. The third one. In other words, you would be
21 willing to listen to the evidence in the courtroom.

22 A. Yes, ma'am.

23 Q. And make up your mind based upon what you heard?

24 A. Yes, ma'am.

25 Q. Now, if you did that, and, again, I'm talking

Juror 305 Brenda H. Torrance - Examination

1 about a generic capital case, I am not talking about
2 this one. But in a general sense, in a generic sense
3 if you listened to the evidence in the courtroom in
4 that second phase and if you were convinced that the
5 death sentence was appropriate, could you, would you
6 be willing to vote for that sentence if you were
7 convinced that was the appropriate sentence?

8 A. Be willing to vote on it?

9 Q. Be willing to vote for that sentence.

10 A. Yes, ma'am.

11 Q. On the other hand, if you did not think that the
12 death sentence was appropriate, if you thought it was
13 not appropriate, or for any other reason the person
14 ought to receive life imprisonment, would you be able
15 and willing to vote for a sentence of life
16 imprisonment?

17 A. Yes, ma'am.

18 Q. So, again, you would make your decision based
19 upon what you heard in the courtroom?

20 A. Yes, ma'am.

21 Q. Now, if you were chosen to serve as a juror in
22 this case you and the other jurors would be housed
23 here locally in a motel and you'd have to stay there
24 for the duration of the trial except, of course, when
25 you're in the courtroom. Now, this trial is expected

Juror 305 Brenda H. Torrance - Examination

1 to last approximately two weeks, it could be a little
2 longer, it could be a little shorter.

3 Obviously this would create an
4 inconvenience for you as it will no doubt for
5 everyone who serves on this jury. Other than the
6 inconvenience which it will no doubt cause for anyone
7 who has to serve in this capacity, would that pose a
8 serious risk of danger to your health or well being,
9 or to anyone who is dependent upon you if you had to
10 serve in that capacity?

11 A. No, ma'am.

12 Q. You would be willing to do that?

13 A. Yes, ma'am.

14 Q. Would you answer the questions, any questions
15 that these folks would have for you?

16 A. Yes, ma'am.

17 THE COURT: Mr. Cummings.

18 MR. CUMMINGS: Thank you, Judge.

19 EXAMINATION

20 BY MR. CUMMINGS:

21 Q. Good morning, Ms. Torrance.

22 A. Good morning.

23 Q. Ms. Torrance, I think you proved to everybody
24 how big, dumb, and ugly I am, I scared you into a
25 cough a second ago.

Juror 305 Brenda H. Torrance - Examination

1 A. I won't give you that credit.

2 Q. We'll say good morning. That young lady at the
3 table there, ma'am, is Ms. Marva Hardee-Thomas.
4 She's co-counsel with me on this case, we're both
5 Court appointed to represent Mr. Marion Bowman.

6 A. Hi.

7 Q. Thank you, ma'am. Just a couple of questions.
8 And, again, I'll change that terminology, just a few
9 questions. And the reason for that is because as you
10 stated a few moments ago to Her Honor, we try to find
11 fair and impartial jurors. And you appear to be a
12 very strong lady in principal and believe in certain
13 fundamental principles.

14 A. Yes, sir.

15 Q. And, ma'am, when you were sitting out here with
16 the mass of people out here as potential jurors, I
17 know you told Her Honor that there was a gentleman
18 sitting next to you.

19 A. That's correct.

20 Q. And can you just share with us exactly what that
21 person might have told you about this case? Because
22 when everybody comes in they don't know anything
23 about it.

24 A. Exactly. One of the ladies next to me asked
25 what the case was about and I said I don't know. And

Juror 305 Brenda H. Torrance - Examination

1 so kind of overheard it, actually. I was talking to
2 her.

3 Q. Yes, ma'am.

4 A. He said something about murder and arson and
5 that's pretty much all he said. Like I said, I
6 wasn't talking with him directly, he was just talking
7 to the lady across, beside me.

8 Q. Yes, ma'am. Just like Her Honor told you, would
9 that fact of hearing that in any way substantially or
10 materially impair your ability to remain a fair and
11 impartial juror?

12 A. I don't know how it could.

13 Q. Thank you, ma'am.

14 A. I don't know anything about the case.

15 Q. And I thank you for your very candid answer on
16 that, ma'am. And then, of course, and I want to make
17 sure that as a juror you understood that the very
18 first thing we do in here is a citizen, any citizen,
19 would be on trial for guilt or innocence. And just
20 because there might be a title or might be something
21 where the death penalty name is even mentioned.

22 A. Right.

23 Q. Would that cause you any concern that somebody
24 might be guilty of an offense before any good jurors
25 hear facts and evidence to prove somebody?

Juror 305 Brenda H. Torrance - Examination

1 A. No.

2 Q. And so it's fair to say you're the type of lady
3 in type three, that you want to listen to everything?

4 A. Absolutely.

5 Q. And the State has that burden of proof?

6 A. I do believe that, yes.

7 Q. And at the end of the case you could put your
8 mind together with your other good jurors and come to
9 a decision based on guilt or innocence?

10 A. Yes, sir.

11 Q. And then, and then if and only then a murder
12 conviction's arrived at then go to the second phase,
13 you would be the type of juror that could consider
14 both possible punishments, life without the
15 probability of parole and the death penalty?

16 A. Consider both, yes.

17 Q. Yes, ma'am.

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

19 THE COURT: All right.

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

22 Q. I've read in your questionnaire, I really do
23 promise you we really do read these things, that you
24 had some members in your family in law enforcement?

25 A. Yes, sir.

Juror 305 Brenda H. Torrance - Examination

1 Q. Are they still in law enforcement?

2 A. I'm not sure about my uncle and cousin, but my
3 direct family, my brother, is not.

4 Q. Yes, ma'am. And, again, would that fact that
5 they had been police officers or law enforcement
6 officers in any way materially or substantially
7 impair your ability to remain a fair and impartial
8 juror?

9 A. I don't know how.

10 Q. I was going to say because normally when the
11 police arrest somebody you wouldn't think they're
12 automatically guilty?

13 A. No. No.

14 Q. Thank you, ma'am. That's why we asked that.
15 Thank you very much.

16 THE COURT: Mr. Bailey.

17 EXAMINATION

18 BY MR. BAILEY:

19 Q. I'm Walter Bailey, I'll be prosecuting the case.
20 How are you doing today?

21 A. Hi.

22 Q. I got a few more questions to ask you.

23 A. I got a froggy throat, but other than that,
24 fine.

25 Q. I'll give you a few minutes to get some water

Juror 305 Brenda H. Torrance - Examination

1 then. Ms. Torrance, what I want to ask you about is
2 the death penalty. And as the judge said it will be
3 of a general nature, we're not going to talk about
4 this case, you hadn't heard the facts, but just in
5 general.

6 A. Right.

7 Q. You understand we would not even be addressing
8 the penalty unless the defendant's found guilty of
9 murder in the first part of the trial?

10 A. Yes, sir.

11 Q. Then we get into that. If that happens we get
12 into phase two, the penalty phase or sentencing
13 phase.

14 A. Yes, sir.

15 Q. There would be additional evidence. The judge
16 would give the jury additional instructions on the
17 law that would apply. The jury would then deliberate
18 and they would come back with one of those two
19 choices, which as you know is life without the
20 possibility of parole and the death penalty.

21 A. Yes, sir.

22 Q. And all 12 jurors would be instructed they have
23 to agree on one verdict or the other. Whatever that
24 jury's verdict is, that unanimous verdict, the judge
25 will order that sentence to be carried out and it

Juror 305 Brenda H. Torrance - Examination

1 will be carried out. So based on the jury's verdict
2 that person goes to prison for the balance of their
3 lives without parole or they're executed.

4 And, again, not asking you about this
5 particular case, but my question is if the facts
6 presented in that phase of the trial were severe
7 enough, could you vote for the death penalty knowing
8 that that person actually would be executed based on
9 that jury's vote?

10 A. Repeat that to me. I don't think I quite got
11 your --

12 Q. Okay. If you were on a jury in a case like this
13 where the State is alleging murder as one of the
14 charges, and the jury is convinced beyond a
15 reasonable doubt that person is guilty of murder,
16 then we go into the second phase of the trial. If
17 the evidence that you heard during the course of the
18 trial was bad enough, could you vote for the death
19 penalty knowing that that vote would result in that
20 person actually being executed?

21 A. I could and I couldn't, it would depend on -- it
22 just would depend. I just have to hear the evidence.

23 Q. Okay. All right. And, again, to make myself
24 clear --

25 A. Like I said, I could or I couldn't, I don't

Juror 305 Brenda H. Torrance - Examination

1 know.

2 Q. You could vote for life without parole?

3 A. I could vote for either one.

4 Q. You could vote for the death penalty depending
5 on what you heard?

6 A. Depending on what I heard.

7 Q. If you and the other jurors voted for the death
8 penalty the next step in that process is that each
9 person would be asked to sign their name to a death
10 verdict form that would result in that execution
11 taking place at some point in the future. If that
12 was your vote after hearing the facts and the law,
13 could you sign your name to a paper like that?

14 A. I'll sign my name to anything I do believe in or
15 don't believe in, yes.

16 Q. Okay.

17 A. Absolutely.

18 Q. The last thing the jury would be involved in,
19 they would deliberate and reach a decision in the
20 jury room, they would come out, each juror would be
21 sitting out here in a chair. Each person's name
22 would be called out one at a time, when their name is
23 called they'll be asked to stand up and affirm that
24 was their verdict, it was still their verdict. Could
25 you do that if that was your verdict?

Juror 305 Brenda H. Torrance - Examination

1 A. I would stand by what I do, yes.

2 Q. Ms. Torrance, that's all I've got. Thank you so
3 much.

4 THE COURT: Let me tell you what I'm going
5 to ask you to do for me now, Ms. Torrance, is
6 just step right outside the door, you won't be
7 there long enough to sit down, so we can talk
8 about you behind your back.

9 MS. TORRANCE: I was standing up in there,
10 I was tired of standing.

11 THE COURT: I bet, I bet. We'll get you
12 out of here quickly. Thank you so much.

13 MS. TORRANCE: Thank you.
14 (Whereupon, the prospective juror exits the
15 courtroom.)

16 THE COURT: What says the defense?

17 MR. CUMMINGS: Statutorily qualified,
18 Judge.

19 THE COURT: What says the State?

20 MR. BAILEY: Qualified, Your Honor.

21 (Whereupon, the prospective juror returns to the
22 courtroom.)

23 THE COURT: Thank you. Come on right here.

24 MS. TORRANCE: That was fast.

25 THE COURT: I told you you weren't going to

Juror 305 Brenda H. Torrance - Examination

1 have time to sit down. You have been found to
2 be qualified as a potential juror in this case.
3 And that doesn't mean you're on the jury yet,
4 but it does mean that you could, you are a
5 potential juror and you could be selected to
6 serve on this jury. We are hoping to select the
7 jury tomorrow morning at ten o'clock. Tomorrow
8 morning, Friday, at ten o'clock. And it might
9 be a little ambitious, but I don't think so, I
10 really do think that's when we will select the
11 jury. But if we have to change it for any
12 reason we would certainly give you a call.

13 Now, I just gave you a sheet of paper
14 and that has some instructions for you to help
15 you get ready for your service, about, you know,
16 bringing clothing, medicines that you might
17 need. It's got on there the numbers where you
18 can be reached on an emergency basis during the
19 day and at night, and it's got some other
20 details on that information.

21 Share that with whomever you want to,
22 need to. However, be mindful, and as you've
23 indicated you have been, not to discuss this
24 matter or allow anyone to discuss it with you or
25 any aspect of this trial. And, please, do not

Juror 305 Brenda H. Torrance - Examination

1 expose yourself to any information about this
2 case, okay?

3 MS. TORRANCE: I wouldn't.

4 THE COURT: Haven't and won't.

5 MS. TORRANCE: No, I won't.

6 THE COURT: Thank you so much. I look
7 forward to seeing you in the morning.

8 MS. TORRANCE: What time again?

9 THE COURT: At ten o'clock. I'm supposed
10 to tell you when you come you don't have to
11 bring your clothes, your bags to the courtroom,
12 you can leave them in the car.

13 MS. TORRANCE: Okay.

14 THE COURT: Thank you so much.

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

17 THE COURT: All right. Our next juror is
18 Ms. Lynda Woody, Number 343.

19 (Lynda S. Woody, called as a prospective juror,
20 having previously been duly sworn, is examined
21 as follows:)

22 EXAMINATION

23 BY THE COURT:

24 Q. Good morning, Ms. Woody.

25 A. Good morning.

Juror 343 Lynda S. Woody - Examination

1 Q. How are you?

2 A. Fine. How are you?

3 Q. Fine, thank you. Ms. Woody, if you will
4 remember when we were together on Monday you were
5 sworn in with all the other potential jurors.

6 A. Correct.

7 Q. You do not need to take another oath, that would
8 continue throughout this process and would certainly
9 apply to the answers that you would share with us
10 today, okay?

11 A. Okay.

12 Q. Since we were together on Monday has anybody
13 tried to talk to you about this case, or approached
14 you about this case, or have you exposed yourself to
15 any information inadvertently or otherwise about this
16 case?

17 A. Not necessarily about the case. Asked me about
18 jury duty selection type things.

19 Q. Yeah. Sure. And you had co-workers, whomever,
20 ask you about that?

21 A. Uh-huh (affirmative response).

22 Q. You didn't talk about this case with them?

23 A. No. I did say we're not supposed to talk about
24 it.

25 Q. Thank you.

Juror 343 Lynda S. Woody - Examination

1 A. But yesterday the *Summerville Journal* did come
2 and it was right on the front page and I did kind of
3 look at it.

4 Q. Oh, you did, you read?

5 A. Just glanced at it.

6 Q. You glanced at it. Did you glance at it to see
7 that it was --

8 A. It said something about the jury selection
9 continues type thing and that was what I --

10 Q. And that's what you saw?

11 A. Uh-huh (affirmative response).

12 Q. All right. Did you read any other particular
13 areas?

14 A. No.

15 Q. Can you, would you be able to set aside that
16 information if you were selected to serve on this
17 jury, or do you think having read that information
18 along with -- and I think you told us that you read
19 something or heard something before?

20 A. I had. I knew about the case.

21 Q. You knew about the case from the media?

22 A. Right.

23 Q. All right. And do you believe that you can set
24 that information completely aside, being fair and
25 impartial to both sides?

Juror 343 Lynda S. Woody - Examination

1 A. Truthfully I feel like somebody is not normally
2 charged for a crime if there is not usually enough
3 evidence.

4 Q. All right.

5 A. So I don't know. I don't exactly know how to
6 answer that question.

7 Q. I understand. I'm with you. All right. Are
8 you telling me that if police officers arrest someone
9 and they -- and they're indicted and they come
10 forward at that point for trial that there must be
11 something to it, they must be guilty?

12 A. Not necessarily, I guess, that they're
13 completely guilty, but there must be something to it,
14 yes.

15 Q. Okay. All right. Now, let me ask you this
16 question: I notice in your questionnaire, and we do
17 read these questionnaires, that you were concerned
18 about your children and the ability to pick up your
19 children if you had to serve on this jury.

20 A. Right.

21 Q. Talk to me a little bit about that.

22 A. Well, I've got a fourth grade daughter that
23 comes home after school. And I also keep two other
24 neighborhood children, a first grader and a fifth
25 grader after school.

Juror 343 Lynda S. Woody - Examination

1 Q. Oh, all right. And then you said you pick up
2 your older --

3 A. And then my older son, I have one in high
4 school, and I pick him up after school. My younger
5 son rides the bus home.

6 Q. Do you work outside your home?

7 A. I do. I work part-time at Mr. Inkman from 9:00
8 to 1:30.

9 Q. All right. So you're normally and typically
10 home in the afternoon when your children --

11 A. I'm home in time for the bus to get there.

12 Q. Okay. And if you were -- are you a single
13 parent?

14 A. No, I'm not.

15 Q. Okay. So somebody would be there in the
16 evening?

17 A. Uh-huh (affirmative response).

18 Q. All right. And if you had to serve on the jury,
19 let me say if you got the opportunity to serve on
20 this jury, would you be able to make arrangements for
21 someone to pick up the children and be with the
22 children in the afternoon?

23 A. I guess if it, you know, came down to not being
24 a -- you know, that I didn't have a choice and I was
25 chosen we would have to make arrangements, but we are

Juror 343 Lynda S. Woody - Examination

1 not from South Carolina and we don't have family
2 here, so....

3 Q. I understand. All right. I'll tell you what
4 I'm going to do at this time, I'm going to ask
5 counsel if they have any questions of you.

6 THE COURT: Mr. Bailey.

7 MR. BAILEY: Your Honor, bear with me one
8 second.

9 THE COURT: Certainly.

10 (Pause in proceedings.)

11 EXAMINATION

12 BY MR. BAILEY:

13 Q. Ms. Woody, I don't know whether the judge asked
14 you this or not, I was taking notes and I might have
15 missed it, but when we start the trial which is
16 probably going to be tomorrow the jury's going to be
17 sequestered, they'll tell put in a motel for up to
18 two weeks. If you were picked as a juror you would
19 be here in the daytime and a motel at night. And
20 that two weeks is a guess, but would that cause you
21 any undue problems with your children, the age they
22 are?

23 A. It would cause me -- it would cause trouble.

24 Q. Okay. Would there be anybody that could take
25 care of your children if that situation --

Juror 343 Lynda S. Woody - Examination

1 A. My husband is home in the evenings.

2 Q. Okay.

3 A. But getting the kids to school in the morning
4 and picking them up in the afternoon, that does cause
5 difficulty.

6 Q. Okay. Would that be a situation that would
7 cause difficulty to the extent that you would be
8 concerned and worried about what the children were
9 doing and who was taking care of them if you got
10 picked?

11 A. To some extent it would.

12 Q. Okay.

13 A. You know, I would have to have -- make
14 arrangements for all of that.

15 Q. All right. Do you think you could make those
16 arrangements?

17 A. Possibly.

18 Q. Okay. All right.

19 MR. BAILEY: Your Honor, that's all I have
20 right now on this issue.

21 THE COURT: All right.

22 EXAMINATION

23 BY MR. CUMMINGS:

24 Q. Good morning, ma'am, I'm Norb Cummings. And the
25 reason why we ask you these questions, we try to find

Juror 343 Lynda S. Woody - Examination

1 a fair and impartial juror to sit in judgment of any
2 citizen. And I know from your questionnaire, and I
3 promise you we really read these things, you're
4 married to a gentleman -- a border patrol?

5 A. That's correct.

6 Q. And you, of course, being married with this
7 gentleman share ideas, share conversations. And so
8 you've been married to a, and I'm going to use the
9 word cop, for how many years?

10 A. Well, he's been in the border patrol for ten,
11 would we've been married 19 years.

12 Q. Yes, ma'am. Before that I think you said he
13 worked somewhere in construction. And then when you
14 filled out the questionnaires, and, again, if you
15 need to see your questionnaire I think you're
16 probably a lady who remembers what you stated, that
17 in question number 45, this is "Have you formed an
18 opinion in this case such that it would affect your
19 ability to serve as a juror?" and I think your words
20 exactly were, ma'am, "Based on what I read in the
21 paper yes."

22 A. That's correct.

23 Q. And then, of course, it just got reinforced
24 again the other day by reading the headlines? Did it
25 kick anything alive again, or reinforce anything that

Juror 343 Lynda S. Woody - Examination

1 you had in stating this belief when you signed this
2 document?

3 A. No. No, it didn't reinforce anything. It
4 didn't -- anything that I read on the headlines did
5 not tell me anything that I didn't already -- you
6 know, jury selection, you know, still going on,
7 didn't reinforce anything.

8 Q. All right. And back when you filled that
9 questionnaire out you had an opinion. And I think
10 you tried to share that with Her Honor and Mr. Bailey
11 was very polite and asked you about the concern of
12 your children as we all are, but could you please
13 expound to us about the opinions that, you know, if
14 you felt the police arrested somebody that he
15 probably did it? And I don't want to put words in
16 your mouth.

17 A. I may not articulate myself in the best possible
18 way.

19 Q. This is your words.

20 A. But normally I feel --

21 Q. Yes, ma'am.

22 A. -- like if somebody has been arrested for a
23 crime there is a reason that they've been arrested
24 for that crime.

25 Q. Yes, ma'am.

Juror 343 Lynda S. Woody - Examination

1 A. They are involved somehow. I don't think that
2 he would have been indicted or anything if there was
3 not enough evidence to do it, so....

4 Q. Yes, ma'am. Would that fact of that personal
5 belief, and obviously you are a lady of strong
6 convictions, and, you know, you stand behind the
7 principles that you believe in, would that fact cause
8 you any substantial impairment in being a fair and
9 impartial juror in this particular case? And we're
10 asking only from the honesty of your heart and Her
11 Honor here to listen to your words, ma'am.

12 A. I believe that I am a fair person and can look
13 at both sides of a situation.

14 Q. But could you set aside that personal opinion at
15 the very beginning and come into this courtroom
16 sitting as a fair and impartial juror like you
17 didn't --

18 A. Know anything about it?

19 Q. Right.

20 A. Like I said, I feel like I'm a fair person and
21 if I saw both sides of the situation and I saw that
22 he was unfairly accused and the evidence showed that,
23 then, yes, I could.

24 Q. Okay. And you understand the basic principle of
25 right that no citizen --

Juror 343 Lynda S. Woody - Examination

1 A. Yes, I do.

2 Q. -- never has to prove themselves innocent of
3 anything?

4 A. I do understand that.

5 Q. And there are only a few more questions. And I
6 promise you it's not to pry with you, ma'am. You had
7 had a close personal friend who was the victim of a
8 murder?

9 A. That's correct.

10 Q. All right. And, again, would that fact as
11 you've told us politely and correctly per the
12 questionnaire, would that fact substantially impact
13 you or cause you to have any concerns as your service
14 as a juror in a potential murder case?

15 A. I know that there's a difference in the two
16 situations and because I've had a friend that was
17 murdered doesn't mean that I'm going to combine those
18 two incidents.

19 Q. Yes, ma'am. So you could set those aside?

20 A. I could.

21 Q. And then the last thing, of course, is on behalf
22 of Mr. Bowman and Ms. Thomas and I, the children.

23 You understand sequestration and it would mean
24 that -- could you devote the attention -- and, again,
25 as a mommy, okay, understanding that you would be in

Juror 343 Lynda S. Woody - Examination

1 this courtroom for Her Honor's hours, Her Honor's
2 instructions to the jury, would you not be more
3 concerned about your children as to your attention,
4 ma'am, than what might be going on in here?

5 A. Well, I have to say I would be concerned about
6 my children.

7 Q. Yes, ma'am.

8 A. But I don't know how else to say.

9 Q. Yes, ma'am.

10 A. I would.

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

12 (Mr. Cummings and Ms. Hardee-Thomas conferring
13 with Mr. Bowman.)

14 Q. I thank you so much, ma'am.

15 A. Thank you.

16 MR. CUMMINGS: Thank you. That's all the
17 questions we have of this nice lady, Judge.

18 THE COURT: Ms. Woody, I'm going to ask you
19 to step outside for just a moment for me and
20 we'll get you right back in just a moment.

21 MS. WOODY: Okay. Thank you.

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

24 THE COURT: What says the State?

25 MR. BAILEY: Your Honor, she's qualified.

Juror 343 Lynda S. Woody - Examination

1 She is concerned about her children. Any mother
2 would be concerned about their children no
3 matter where they are, but she didn't say that
4 would concern her to the extent that she
5 couldn't follow the trial testimony. Of course,
6 we hadn't gotten to the death qualification yet.

7 THE COURT: I know that. How about the
8 fact she thinks if somebody's arrested then
9 there must be something to it?

10 MR. BAILEY: I think she's correct, Your
11 Honor. I think her husband's in law enforcement
12 and that she has some familiarity with the
13 criminal justice system and she understands that
14 when someone's arrested some magistrate has
15 determined there's probable cause for the arrest
16 and some grand jury has decided a true bill
17 should be issued. She has clearly said in
18 response to Mr. Cummings' questions --

19 THE COURT: I noticed that he tried to
20 rehabilitate her.

21 MR. BAILEY: He did. She stated that she
22 understood the presumption of innocence, that
23 she would give that to him, that she wouldn't
24 let the other murder situation spill over into
25 this case, and, Your Honor, I think she's

Juror 343 Lynda S. Woody - Examination

1 qualified.

2 THE COURT: I'm just -- that was -- okay.
3 I'm sorry, Mr. Cummings, but I did notice that.

4 MR. CUMMINGS: I just wanted to look her --
5 I'm sorry, I know Mr. Bailey is not done, I'm
6 sorry.

7 MR. BAILEY: I guess I am done. I think
8 she's qualified to this point, Your Honor.

9 THE COURT: I understand it's to this
10 point.

11 Yes, sir, Mr. Cummings.

12 MR. CUMMINGS: I just wanted to look this
13 lady in the eyes and see if she would look at me
14 and answer those questions back as it is utmost
15 and important for my client. Judge, as you
16 judging these witnesses if you think that she's
17 going to be able to set aside -- she not only
18 read the paper, had expressed an opinion in
19 question number 45, and puts it down --

20 THE COURT: Read the paper when I told her
21 not to read the paper.

22 MR. CUMMINGS: That's right. It is this
23 bold headline. Again, Your Honor may hear some
24 issues in here that a lot that's printed in the
25 paper is not fundamentally correct and reads it

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1 again. And then I asked her, I looked at her,
2 and the reason I wanted to ask her is to see if
3 she would change as she went along. She was
4 like very pleasing to the Court, very pleasing
5 to Mr. Bailey and I. She understands the
6 importance of any case.

7 What really got me was I understand
8 the difference of a murder case and a death
9 penalty. She's telling us she understands the
10 difference. And why and how I'm sure is because
11 of the background and her current living
12 situation.

13 But, again, Your Honor, she has to be
14 able to listen to the evidence, she has to be
15 able to be fair and impartial. I have the
16 utmost caution on this lady and I would ask that
17 she be removed for cause. And further, Judge,
18 that is the type of juror that could easily
19 taint any jury pool and easily take control of
20 the jury by herself with her background and her
21 legal knowledge as she just told the Court.

22 THE COURT: Yes, sir.

23 MR. BAILEY: She didn't say that she
24 understood the difference in a murder case and a
25 death penalty. What she said was she wouldn't

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1 let the fact that her friend had been murdered
2 enter into her deliberations in this case. As I
3 understood the paper situation, that she did not
4 read the thing, she opened up the paper, the
5 headlines jumped at her.

6 THE COURT: Here's what worries me about
7 that. I asked what I asked her. I said, You
8 just saw the headlines and you moved it aside
9 and you identified what that was about? She
10 said, No, ma'am. I saw the headlines and I read
11 through it briefly, or words to that effect.

12 She didn't just look at it and see
13 that it was about this case and move it aside
14 which anybody -- that could happen to anyone.
15 She went a step further and said, No, I kind of
16 glanced through it. And that bothers me.

17 I'm troubled by the fact that she
18 identified that's what it was, she knew that's
19 what it was and then continued to read. That
20 concerns me. I am concerned about it. And I'm
21 also quite concerned -- really two things. I'm
22 concerned with her position that if someone is
23 arrested and charged and comes to this point
24 she -- her words were is they have to be
25 involved somehow. That's my feeling. And I'm

Juror 343 Lynda S. Woody - Examination

1 very troubled about that. And then she said
2 that she would be willing to sten to both sides
3 and if the defendant has been unjustly accused
4 she's willing to hear that. And that bothers
5 me.

6 MR. BAILEY: But I think she also said in
7 response to Mr. Cummings' rehabilitation, that
8 she understood the concept and the defendant
9 didn't have to prove anything.

10 THE COURT: She did. She did.

11 MR. BAILEY: I think you need to look at
12 all the totality of it.

13 THE COURT: I am. I certainly am. I am
14 satisfied that this is a juror that ought to be
15 excused for cause. We've had so many people
16 from all walks of life, and if they've been
17 consistent in any regard to this point I think
18 they've been consistent in their understanding
19 that just because you're arrested doesn't mean
20 you've got any involvement or any culpability.
21 And Ms. Woody has certainly indicated to me that
22 she believes the opposite, that if you've been
23 arrested you have some culpability and I'm going
24 to dismiss her for cause over the objection of
25 the State.

Juror 343 Lynda S. Woody - Examination

1 This record needs to reflect because I
2 was teasing Mr. Cummings, he's been so thorough
3 with all of these, all of these witnesses and
4 it's clear that he did not intend for -- to do
5 anything other than strengthen her resolve and
6 her response and I think the record needs to
7 reflect that. Thank you, yes.

8 (Whereupon, the prospective juror returns to the
9 courtroom.)

10 THE COURT: Ms. Woody, first of all, I want
11 to tell you that I'm going to be able to excuse
12 you to go and take care of those -- all those
13 several obligations with those young folk. And
14 I want to thank you so much for your service.
15 And that's what that's been, you've come, you've
16 given us so very much of your time and I'm so
17 grateful to you for that. It truly is a gift
18 that you have given to all of us and to our
19 community, but I am going to be able to excuse
20 you from your service on this jury.

21 I would ask that you not discuss this
22 process with any of your potential jurors and
23 that you not talk about any -- with anyone who's
24 involved in this case anything about this case.
25 Beyond that you can talk about this matter if

Juror 343 Lynda S. Woody - Examination

1 you choose to.

2 MS. WOODY: All right.

3 THE COURT: Thank you so much.

4 MS. WOODY: All right.

5 THE COURT: Bye-bye.

6 MS. WOODY: Bye-bye.

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

9 THE COURT: All right, let me also say that
10 from the examination that she indicated that she
11 had an opinion that she thought could interfere
12 with her being a juror, so I think I'll add that
13 as well.

14 All right. That brings us up to
15 Ms. Christina Logan.

16 (Christina M. Logan, called as a prospective
17 juror, having previously been duly sworn, is
18 examined as follows:)

19 EXAMINATION

20 BY THE COURT:

21 Q. Good morning, Ms. Logan.

22 A. Good morning.

23 For our record this is Ms. Christina Logan
24 who is juror Number 180.

25 Q. Ms. Logan, remember, it seems a long time ago,

Juror 180 Christina M. Logan - Examination

1 but remember when we were together on Monday?

2 A. Yes, ma'am.

3 Q. And you were sworn in with the other potential
4 jurors then?

5 A. Yes, ma'am.

6 Q. That oath continues until today and certainly
7 will apply to answers that you will share with us
8 today, so we don't need to put you under oath again.

9 Now, since we talked with you on
10 Monday has anyone talked with you about this case, or
11 attempted to approach you about this case, or have
12 you exposed yourself to any information about this
13 case from any source?

14 A. No, ma'am.

15 Q. All right. Now, back in the jury room did you
16 have a chance to look at the potential witness list?

17 A. Yes, ma'am.

18 Q. And are you related by blood or marriage, or
19 acquainted with, have any connection direct or
20 indirect, or friends, even casual acquaintances, or
21 business associates with anyone listed on the witness
22 list?

23 A. There was one name, Jimmy -- Detective Jimmy
24 Nettles I believe is his name.

25 Q. All right.

Juror 180 Christina M. Logan - Examination

1 A. I met him a few years ago, so I guess that means
2 acquaintance.

3 Q. All right. Did you meet him in his professional
4 capacity or met him --

5 A. Casual.

6 Q. Casual, all right. And that was a few years
7 ago?

8 A. Yes, ma'am.

9 Q. And have you seen him interimly?

10 A. No, ma'am. Not --

11 Q. You have not seen him. You met him a few years
12 ago and that was the extent of your relationship?

13 A. Uh-huh (affirmative response).

14 Q. Would you be able to set aside that connection
15 with Mr. Nettles and be fair and impartial to these
16 parties?

17 A. Yes, ma'am.

18 Q. All right, then. And would that connection have
19 any potential bearing on your ability to be fair and
20 impartial?

21 A. No, ma'am. It would not.

22 Q. All right. Anyone else?

23 A. No, ma'am. That was the only name.

24 Q. Okay. Now, my notes -- on Monday when I asked
25 whether or not anyone knew or heard or seen anything

Juror 180 Christina M. Logan - Examination

1 about this case, or if anyone had an opinion about
2 this case, or if anyone had any bias or prejudice I
3 don't believe that you indicated that any of those
4 things applied to you; is that correct?

5 A. That's correct. I had just -- when you asked me
6 if I heard of any information on the case, the night
7 before there was a brief thing on the news about an
8 upcoming trial and that was the extent.

9 Q. That was all?

10 A. Yes, ma'am.

11 Q. All right. Anything else?

12 A. No, ma'am.

13 Q. Anything about that report that you heard the
14 night before that could in any way interfere with
15 your ability to be fair and impartial to both sides
16 in this case?

17 A. No, it wouldn't.

18 Q. Can you set whatever information that was, that
19 was in that report, could you set that information
20 aside and try this case based on the evidence in this
21 courtroom?

22 A. Yes, ma'am.

23 Q. All right. Now, I need to ask you some
24 questions. And I want you to know that we are not
25 here to invade your privacy, we're just trying to

Juror 180 Christina M. Logan - Examination

1 find out how you may feel about some matters. In
2 other words, we need to get your opinions on some
3 matters.

4 And there are no right or wrong
5 answers, your opinions are as good as anybody else's.
6 We just need to understand them and see if they might
7 impact on your jury service. Nobody's going to
8 challenge your opinions, so I don't want you
9 concerned about that and there clearly are no right
10 or wrong answers.

11 A. Okay.

12 Q. Now, one of the things I'm going to ask you
13 about in a few moments is penalty, specifically the
14 death penalty, and I need to get your opinion about
15 that. But I want you to know that we are discussing
16 penalty obviously very prematurely, the case hasn't
17 even begun yet, but as that may be an issue in this
18 case and I have a need to discuss penalty with
19 prospective or potential jurors, necessarily I have
20 to do that before the case begins.

21 A. Yes, ma'am.

22 Q. So do keep in mind that the discussion about
23 penalty is, A, premature, and also keep in mind that
24 Mr. Bowman is presumed innocent of these charges,
25 okay? Got it?

Juror 180 Christina M. Logan - Examination

1 A. Yes.

2 Q. That's yes?

3 A. Yes, ma'am. I'm sorry.

4 Q. That's okay. I'm also going to be asking these
5 questions in a generic or a general sense. I'm not
6 going ask you your opinions on this trial because
7 that wouldn't be fair to you, it wouldn't be
8 appropriate, so I'm not going to do that.

9 A. Okay.

10 Q. But I am going to ask you these questions in a
11 generic sense. If you were a juror in any criminal
12 case would you be willing to listen to the
13 instructions on the law that the judge would give to
14 you?

15 A. Yes, ma'am.

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

18 A. Yes, ma'am.

19 Q. Even though you might not particularly like that
20 part of the law and you might even flat out disagree
21 with it, would you still be willing to listen to the
22 law and apply it as it was instructed by the judge?

23 A. Yes, ma'am.

24 Q. Now, if you were asked to serve in the case of
25 the State vs. Mr. Bowman, could you decide this case

Juror 180 Christina M. Logan - Examination

1 solely based upon the evidence that you hear in the
2 courtroom and disregard anything that you may have
3 heard, or seen, or read about this case from any
4 source whatsoever that might come to your mind? For
5 example, sometimes -- even though you told me the bit
6 that you remembered, sometimes when jurors hear
7 things it will jog a memory. So I need to ask you at
8 this point if that happened to you, jog your memory
9 about this case, not any memories, but jog any
10 memories about this case, you know, maybe I did hear
11 something, whenever. If that happened to you could
12 you set that aside and try this case based on the
13 evidence in this courtroom?

14 A. Yes, ma'am.

15 Q. All right. In a criminal case as you very well
16 may know and as we all talked about briefly on
17 Monday, the State has the burden of proving a
18 defendant guilty beyond a reasonable doubt. A
19 defendant never has to prove himself or herself
20 innocent and a defendant never has to prove anything.
21 The burden is always on the State. And also that
22 defendant, a defendant, any defendant, this defendant
23 is presumed innocent. Do you understand these
24 principles?

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

Juror 180 Christina M. Logan - Examination

1 Q. So if you were a juror in any criminal case,
2 would you be willing to listen to the evidence and
3 the law as you were instructed?

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

5 Q. Now, if you were on any jury, any criminal jury,
6 any jury in a criminal case, would you be willing to
7 listen to the evidence, make the facts as you find
8 them to be, apply the law to those facts, and if
9 after you did that if you were not convinced of a
10 person's guilt beyond a reasonable doubt, would you
11 be willing and able to find that person not guilty?
12 That sounds like a trick question.

13 A. I was going to say, that is a trick. Can you
14 say it just a little --

15 Q. Yes, I can. Would you be willing to listen and
16 make your decision based upon whether or not you were
17 convinced that a person was guilty or not?

18 A. Whether I was convinced with the evidence that
19 the State has proven?

20 Q. Exactly.

21 A. I could make a correct decision.

22 Q. Exactly.

23 A. Yes, ma'am. Okay.

24 Q. In other words, once you listen to all the
25 evidence.

Juror 180 Christina M. Logan - Examination

1 A. Right.

2 Q. Found the facts as you found them to be, applied
3 the law as the judge gave it to you, if based upon
4 that you did not think that someone was guilty, could
5 you find them not guilty?

6 A. Yes, ma'am.

7 Q. On the other hand, if you listened to the
8 evidence, made the facts, found the facts as you
9 found them to be, applied the law to those facts, if
10 after you did that you were convinced that a
11 defendant was guilty and the State had proven that
12 guilty -- that person guilty beyond a reasonable
13 doubt, would you be willing to find that person
14 guilty?

15 A. Yes, ma'am.

16 Q. That's what I'm saying, you would be willing to
17 listen to the evidence?

18 A. Correct.

19 Q. And make your decision based upon whether or not
20 you were convinced of a person's guilt or not; is
21 that right?

22 A. Yes, ma'am.

23 Q. All right. Now, most of the time jurors don't
24 concern themselves with punishment. Most of the time
25 in the criminal court the matter of punishment is

Juror 180 Christina M. Logan - Examination

1 left up to the judge. But there is one case in our
2 law when a jury has to deal with the matter of
3 punishment and that is in a case like this one. That
4 is in a case where a person has been charged with the
5 crime of murder and where the State is seeking the
6 death penalty.

7 Now, if an individual in a death
8 penalty case is convicted of the crime of murder,
9 meaning that 12 jurors listened to the evidence and
10 found a person guilty of murder unanimously, then and
11 in that event the same jury comes back, the same jury
12 that convicted or found the person guilty comes back
13 and in a separate and different proceeding that jury
14 determines the punishment that the person will get.
15 There are two choices, life without the possibility
16 of parole and the death penalty. That decision is
17 made in that second or sentencing phase of the trial
18 is the name for it. Do you understand that
19 information?

20 A. Yes, ma'am. I got you there now.

21 Q. Now, have you had a chance to look at this
22 paper?

23 A. Yes, ma'am.

24 Q. All right. It essentially describes three types
25 of jurors. Do you recall the three types of jurors?

Juror 180 Christina M. Logan - Examination

1 I'm not going to test you on them, but do you recall
2 what they were? You do not have to guess, I want you
3 to have it and look at it because I'm going to ask
4 you which of those three types of jurors best
5 describes you. Take your time and review it, that
6 would be fine.

7 A. (The prospective juror complies.) I believe it
8 would be type number three juror.

9 Q. Type number three?

10 A. Yeah.

11 Q. In other words, you would be willing to
12 listen --

13 A. To listen.

14 Q. -- and to make your decision based upon what you
15 heard in the court?

16 A. Yes, ma'am.

17 Q. All right. Now, to that end, if you were a
18 juror in a criminal case, in a capital case and you
19 listened to the evidence in the sentencing phase, if
20 you were convinced that the death sentence was
21 appropriate, could you and would you -- could you
22 vote, would you be willing to vote for a sentence of
23 death?

24 A. Yes, ma'am.

25 Q. On the other hand, if you did not think that the

Juror 180 Christina M. Logan - Examination

1 death sentence was appropriate, put another way if
2 you thought the death sentence was not appropriate,
3 or for any other reason the person ought to receive
4 life imprisonment, would you be able and willing to
5 vote for a sentence of life?

6 A. Yes, ma'am.

7 Q. Okay. In other words, again, you would make
8 up -- you'd make your decision based on the
9 information, the evidence that you received in the
10 courtroom?

11 A. Yes, ma'am. Correct.

12 Q. Now, if you were chosen to serve as a juror in
13 this case you and the other jurors would be housed
14 here in a motel locally throughout the trial which
15 could last up to two weeks. It could be longer, it
16 could be shorter. The word is sequestered.

17 A. Yes, ma'am.

18 Q. Now, obviously, obviously this would create an
19 inconvenience for you as it surely will for all
20 jurors who serve on this matter. However, other than
21 the inconvenience which it will surely cause anybody
22 who has to serve in this capacity, would that pose a
23 serious risk of danger to your health or well being,
24 or to that of anybody who is dependent upon you if
25 you had to serve in that capacity?

Juror 180 Christina M. Logan - Examination

1 A. Yes, ma'am. A nine-year-old daughter.

2 Q. Okay.

3 A. At home. I mean, if I had to be --

4 Q. All right. Now, are you a single parent?

5 A. Yes, ma'am.

6 Q. Okay. All right. And do you work -- you work
7 outside the home?

8 A. Yes, ma'am.

9 Q. There wouldn't be anybody to stay with her when
10 she got out of school?

11 A. Yeah. I'm sure I could find a friend,
12 babysitters that would help me take care of her.
13 That would be the only inconvenience, is my
14 nine-year-old daughter.

15 Q. I understand.

16 A. I would have to make sure she was taken care of.

17 Q. Certainly you would. Do you think you would be
18 able to do that?

19 A. Yes, ma'am.

20 Q. All right. I will then ask you to, please,
21 answer the questions that these lawyers will have for
22 you.

23 A. Okay.

24 THE COURT: Mr. Bailey.

25 MR. BAILEY: Thank you, Your Honor.

Juror 180 Christina M. Logan - Examination

1 THE COURT: Yes, sir.

2 EXAMINATION

3 BY MR. BAILEY:

4 Q. I'm Walter Bailey and I'll be prosecuting the
5 case and I've got a few questions I need to ask you.
6 And I want to ask you first about some of the
7 responses on the questionnaire that you filled out
8 along with the other jurors.

9 THE COURT: I'll get that for you. Here
10 you go.

11 Q. I notice, first of all, that you've got a cousin
12 with the Berkeley County Sheriff's Office?

13 A. Correct.

14 Q. Who is that?

15 A. Kevin Hamm.

16 Q. All right. And has he been there for a while?

17 A. I think he's been a sheriff deputy for -- I'm
18 not positive, I want to say between a year to a year
19 and a half.

20 Q. All right. And one of the questions on there
21 related to whether or not you'd had any positive or
22 negative experiences with law enforcement. And I
23 think that you'd had some problem in that your
24 boyfriend had been arrested?

25 A. A girlfriend of mine.

Juror 180 Christina M. Logan - Examination

1 Q. Okay.

2 A. She was a roommate.

3 Q. All right. How long ago did that happen, was it
4 recently?

5 A. No, sir. It was approximately two years ago.

6 Q. Okay. Would the fact that that happened, that
7 somebody got arrested that possibly shouldn't have,
8 would that affect your ability to sit as a fair and
9 impartial juror in this case?

10 A. No, sir, because they hadn't had all the
11 evidence.

12 Q. All right. So you could set that situation
13 aside if you got picked on this jury?

14 A. Yes, sir.

15 Q. All right. And you also said that your son had
16 had some difficulty with an arrest for possession?

17 A. Yes, sir.

18 Q. Okay. Same question with regard to that, would
19 that situation interfere with your ability to sit in
20 this?

21 A. No, sir.

22 Q. All right. And finally, and I promise to get
23 off this in a minute.

24 A. It's okay.

25 Q. You had a friend that was a robbery victim, I

Juror 180 Christina M. Logan - Examination

1 think. Let me check my notes here. Yeah, on number
2 22 there you said that a friend had been robbed.

3 A. Okay. Let me just think for just one moment.

4 Q. Okay.

5 A. Okay. Yeah. I remember now. Okay.

6 Q. Okay. Would that situation cause you any
7 problem to sit as a juror in this case?

8 A. No, sir.

9 Q. Okay. Ms. Logan, I want to ask you about the
10 death penalty. And like Judge Goodstein said, we're
11 not going to ask you about this case, you hadn't
12 heard the facts. I'm talking in general.

13 A. Right.

14 Q. Could be any other case like this, okay? And
15 when you went over the three types of jurors, is the
16 death penalty something that you've really given any
17 thought to in any detail in the past?

18 A. Meaning?

19 Q. Has it ever come up in the past, just seeing a
20 movie, or something on the news or newspaper, or
21 talking with friends has it ever become an issue?

22 A. The situation that I've seen or heard about that
23 I said that they should have gotten the death
24 penalty, or should not have gotten, is that what
25 you're saying?

Juror 180 Christina M. Logan - Examination

1 Q. Possibly, yeah. Has it ever come up in your
2 life where it was something that you thought about in
3 any detail?

4 A. No, not really.

5 Q. Okay. Now that you've had a chance to go over
6 the three type jurors and know that you may be a
7 juror on a case where the State is seeking the death
8 penalty, do you think you've had sufficient time to
9 think about it and make your decision?

10 A. Yes, sir.

11 Q. Okay. And Judge Goodstein explained the process
12 that we go through where we start off with the guilt
13 phase. That's like any other criminal trial where
14 the focus as far as the jury is concerned is whether
15 or not the State can convince that jury beyond a
16 reasonable doubt that person's guilty of what he's
17 charged with. In a case where the State is charging
18 somebody with murder and seeking the death penalty,
19 if the jury finds that person guilty of murder then
20 we go into phase two, the sentencing phase or penalty
21 phase. And like the judge said, there would be
22 additional evidence that would come out there that
23 would be focused or geared toward the appropriate
24 punishment.

25 A. Right.

Juror 180 Christina M. Logan - Examination

1 Q. And in this state the judge doesn't decide the
2 sentence, the jury makes that determination. And the
3 two choices are life without parole or the death
4 penalty.

5 A. Right.

6 Q. The jury would decide unanimously, all 12 would
7 agree on one or the other after hearing all the facts
8 and the law, and the judge would order that sentence
9 carried out. So based on that jury's vote that
10 defendant is going to prison for the rest of his life
11 without parole or he's going to be executed.

12 A. Correct.

13 Q. So I just want to run through the process again.

14 A. Okay.

15 Q. And, again, I'm not asking you about this case,
16 but if you were sitting as a juror in a case of this
17 type, the defendant's found guilty of murder and you
18 think the case is severe enough, could you vote for
19 the death penalty knowing that as a result of that
20 vote that person really is going to get executed?

21 A. Yes, sir.

22 Q. Okay. And on the other hand, if you felt like a
23 life sentence was appropriate you could vote for
24 that; is that correct?

25 A. Right, I could.

Juror 180 Christina M. Logan - Examination

1 Q. If all 12 jurors vote for the death penalty the
2 second step in the process as far as the jury is
3 concerned is they would all be asked to sign their
4 names to a piece of paper, a death verdict form, that
5 would result in that execution happening at some
6 point. Could you sign your name to a paper like that
7 if you've already heard the evidence and voted for
8 the death penalty?

9 A. And then I'd sign my name saying --

10 Q. It's a verdict form where if the jury
11 unanimously, all 12 of them vote for the death
12 penalty, each one is -- the next step in the process
13 is that you sign your name to a verdict form.

14 A. Yes, sir.

15 Q. Okay. Last thing the jury would be involved in
16 is the deliberations. The decision would be made
17 back in the jury room where you have been waiting for
18 a while.

19 A. Yes, sir.

20 Q. Once that decision is reached the jury would
21 come out here, they would be seated out here in open
22 court and each juror's name would be called out one
23 at a time and they would be asked to announce out
24 loud that that was their verdict and it was still
25 their verdict. Could you do that if that was your

Juror 180 Christina M. Logan - Examination

1 verdict?

2 A. Yes, sir.

3 Q. Okay. Ms. Logan, I think that's all I've got.
4 Give me just one second, please.

5 (Pause in proceedings.)

6 Q. Okay. I think that's it. Thank you very much.

7 A. Thank you.

8 THE COURT: Thank you, Mr. Bailey.

9 Mr. Cummings.

10 MR. CUMMINGS: Thank you, Judge.

11 EXAMINATION

12 BY MR. CUMMINGS:

13 Q. Good morning, Ms. Logan. I'm Norb Cummings, the
14 young lady sitting at the table is Ms. Marva
15 Hardee-Thomas.

16 A. Hi.

17 Q. And both of us have been Court appointed to
18 represent Mr. Marion Bowman, Jr., ma'am.

19 A. Okay.

20 Q. I'm just going to ask you a few questions
21 because Her Honor has went over a bunch, Mr. Bailey,
22 the solicitor, went over a bunch.

23 A. Okay.

24 Q. Just real quickly, would the fact you have a
25 family member, cousin, being in law enforcement,

Juror 180 Christina M. Logan - Examination

1 would that materially or substantially impact you,
2 your ability to be a fair and impartial juror to any
3 citizen charged with a crime?

4 A. No, sir.

5 Q. And you appear to be a lady of strong
6 convictions and you answered all the questions as
7 forthwith as you could or right off the bat. And you
8 understand the basic principle of presumption of
9 innocence and --

10 A. Until proven guilty, yes, sir.

11 Q. And you'd make the State do that job?

12 A. Yes, sir.

13 Q. And you could put your mind with the other
14 collective jurors and do that throughout the guilt
15 phase of this trial?

16 A. Yes, sir.

17 Q. And until and unless the State proved any person
18 guilty beyond a reasonable doubt, you understand of
19 murder, we would never get to the second part, the
20 second phase where the penalty phase is? Because if
21 you don't understand my question I'll repeat it.

22 A. Okay.

23 Q. Do you understand that until and unless the
24 State proved the entire jury panel guilty beyond a
25 reasonable doubt of murder we would never even get to

Juror 180 Christina M. Logan - Examination

1 the second part of the trial called the penalty
2 phase.

3 A. Okay.

4 Q. And then you've told Her Honor and Mr. Bailey
5 that you are a potential juror that could consider
6 both types of punishments?

7 A. Correct.

8 Q. Okay.

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

10 THE COURT: All right.

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

13 MR. CUMMINGS: Judge, we have no further
14 questions of this nice lady. Thank you.

15 THE COURT: Thank you so much. I'm going
16 to ask you, Ms. Logan, just to step outside for
17 just a moment so we can talk about you.

18 MS. LOGAN: Okay.

19 THE COURT: We'll get you right back in.
20 (Whereupon, the prospective juror exits the
21 courtroom.)

22 THE COURT: What says the State?

23 MR. BAILEY: Qualified, Your Honor.

24 MR. CUMMINGS: Statutorily qualified,
25 Judge.

Juror 180 Christina M. Logan - Examination

1 THE COURT: Send her back in.

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

4 THE COURT: I told you that would be fast.

5 MS. LOGAN: Very quick.

6 THE COURT: Ms. Logan, you have been found
7 to be qualified as a potential juror in this
8 case. That does not mean you are on the jury
9 yet.

10 MS. LOGAN: Okay.

11 THE COURT: But it does mean that you are a
12 potential juror and that you may be selected to
13 serve on this jury. We are hoping that we will
14 be able to select the jury tomorrow morning at
15 ten o'clock. Tomorrow morning at 10:00. It may
16 be a little bit ambitious, I may need to call
17 you and put that back a little bit, but we will
18 call you this evening if we think we need to put
19 that back a little bit.

20 MS. LOGAN: Okay.

21 THE COURT: But unless you hear from us,
22 please be back in the courtroom at ten o'clock
23 tomorrow morning.

24 Now, Buster, there's a sheet I wanted
25 to put them up here, with the instructions.

Juror 180 Christina M. Logan - Examination

1 Thank you so much. Thank you. There you go.

2 That sheet has some instruction for
3 you, like about packing and bringing any
4 medication that you need, it tells you where you
5 will be and it gives you emergency numbers both
6 in the morning -- or in the daytime as well as
7 at night and gives you some other details. Feel
8 free to share those details with whomever you
9 need to or chose to; however, be mindful not to
10 discuss this matter or allow anyone to discuss
11 it with you or any aspect of it, and, please do
12 not expose yourself to any information from any
13 source about this case. And I look forward to
14 seeing you tomorrow.

15 MS. LOGAN: So you want me to bring the
16 clothes?

17 THE COURT: Packed and really to go. Leave
18 your suitcase in the car.

19 MS. LOGAN: I just want to make sure I make
20 phone calls tonight.

21 THE COURT: Thank you so much.

22 MS. LOGAN: Thank you.

23 THE COURT: Bye-bye.

24 MS. LOGAN: Bye-bye.

25 (Whereupon, the prospective juror exits the

Juror 180 Christina M. Logan - Examination

1 courtroom.)

2 THE COURT: All right. I was trying to
3 find out from Ms. Etheredge whether or not
4 Ms. Shuler had sent in a doctor's excuse.

5 MR. CUMMINGS: I think she sent in a
6 generic one, Judge, that we were going to ask
7 her some questions about.

8 THE COURT: Seems like she had one Monday.

9 MR. CUMMINGS: It didn't really say
10 anything.

11 THE COURT: I told her that she needed to
12 have her doctor say whether or not she could do
13 any of those, or couldn't do any of those
14 things. I think I'm going to examine her on the
15 physical part.

16 MR. CUMMINGS: Yes, ma'am.

17 THE COURT: Because she seems to have a
18 number of difficulties. Ms. Shuler, Inez
19 Shuler.

20 (Inez S. Shuler, called as a prospective juror,
21 having previously been duly sworn, is examined
22 as follows:)

23 EXAMINATION

24 BY THE COURT:

25 Q. Good morning, Ms. Shuler.

Juror 272 Inez S. Shuler - Examination

1 A. Good morning.

2 THE COURT: And this is Ms. Inez Shuler who
3 is Juror Number 272.

4 Q. Now, Ms. Shuler, remember when we were together
5 on Monday? Seems like a long time ago now, doesn't
6 it?

7 A. Not really.

8 Q. On Monday, if you will recall, you were sworn
9 in. I think you were affirmed on Monday along with
10 the other potential jurors. Do you remember that?

11 A. Yes.

12 Q. And I would just tell you that oath just remains
13 today, or that affirmation remains today for the
14 answers that you would share with us to some
15 questions that we will ask you, okay?

16 A. Okay.

17 Q. Very well. Now, has anyone talked to you about
18 this case or tried to approach you about this case
19 since we were together on Monday?

20 A. No.

21 Q. Have you exposed yourself to any information
22 about this case since we were together on Monday?

23 A. No.

24 Q. All right. Now, I want to -- let me ask you,
25 did you see the potential witness list in the room?

Juror 272 Inez S. Shuler - Examination

1 Are you related by blood or marriage, or acquainted
2 with, or got any personal or casual relationship or
3 business association, or connected directly or
4 indirectly with any folks on the potential witness
5 list?

6 A. No.

7 Q. Okay. Now, Ms. Shuler, we had the excuse that
8 your doctor gave us, but it was so general, it didn't
9 really help me know much about why you ought not to
10 serve and I was concerned about that. Did you talk
11 with your doctor between Monday and today?

12 A. No, I haven't.

13 Q. You hadn't talked to him. So you don't know if
14 your doctor can give us any more specific information
15 if he's worried about you serving or not?

16 A. I hadn't spoken with him, but if that's what you
17 need I can always go and get it.

18 Q. Well, do you feel like, do you -- you're
19 concerned about your ability to sit for long periods
20 of time because you have back problems. Talk to me
21 about that, because we just got new cushions for our
22 jurors and so the seats are padded. And I don't have
23 any problem if a juror needs to stand up or if we
24 need to take breaks for a juror, I have no problem
25 doing that to accommodate a juror. In fact, I got a

Juror 272 Inez S. Shuler - Examination

1 little back problem myself, so I'm sensitive to those
2 kinds of issues. So if you -- if I didn't tell you
3 you've got to sit and be still, but you could move
4 and we will take breaks, do you think that would help
5 your back?

6 A. Well, I have two ruptured discs in my back and
7 sometimes it goes out to where I can't just even move
8 around a bit or either stand and I have to go and lie
9 down for a while until it settles down. And it's
10 just a nerve ending.

11 Q. Tell me how often that happens, Ms. Shuler.

12 A. Well, it happens maybe once every two weeks, or
13 every now and then when I am moving about.

14 Q. You have to go lie down?

15 A. Lie down.

16 Q. Lie down for a couple hours, couple of days?

17 A. No. It lasts for maybe five or six hours. I
18 either try to lay down for a while or move -- you
19 know, just sit with my legs elevated for a while.

20 Q. Until it goes a way?

21 A. Until it goes away.

22 Q. And you said you are a diabetic and you have
23 high blood pressure. And I know some folks that are
24 diabetic, it just means they got to go to the ladies'
25 room a little more often, but they got to watch their

Juror 272 Inez S. Shuler - Examination

1 diet, they got to watch their sugar and they need the
2 juice or whatever, you know, you need to eat
3 regularly; is that right?

4 A. Right. That's right.

5 Q. Do you take medicine also?

6 A. Yes. I take Glucotrol tablets.

7 Q. Okay.

8 A. And lately it's I guess maybe by being worried
9 about this thing being up here it's been like 170,
10 180 something sometimes.

11 Q. You're talking about when you have to stick your
12 finger?

13 A. Uh-huh (affirmative response).

14 Q. You have to stick your finger how often?

15 A. Every day.

16 Q. And how about your blood pressure, how has that
17 been?

18 A. It's been kind of elevated too like 167 over 80
19 or maybe 170 something over 80, 90.

20 Q. Okay. And you said you have frequent headaches,
21 too?

22 A. I usually get them when I'm not eating right.

23 Q. Yeah, sure you do.

24 A. Get upset it comes.

25 Q. When you get upset you get headaches?

Juror 272 Inez S. Shuler - Examination

1 A. Uh-huh (affirmative response).

2 Q. When those headaches come does -- okay. All
3 right. Very well. Let me say this to you. Let me
4 say first of all it's been especially delightful to
5 spend a little bit of time with you, to chat. I see
6 based upon your -- us having this little bit of time
7 together that it wouldn't be fair to you to have you
8 sit and go through this process, although I'll miss
9 you. I think that it wouldn't be fair to you and I
10 am going to excuse you on the basis of your medical
11 concerns.

12 A. Thank you.

13 Q. But can I say this to you before you leave? Two
14 things. Number one, the potential jurors, don't talk
15 to them about what we were talking about, okay, and
16 anybody that might have anything to do with this
17 trial please don't talk to them about this trial.
18 And you can talk about it to anybody else you want
19 to.

20 Now, I want to thank you for the time,
21 your precious time that you have given to all of us
22 and to our community as we go through this process.

23 A. Thank you.

24 Q. I want you to know that I understand the
25 sacrifice and how appreciative we all are of that and

Juror 272 Inez S. Shuler - Examination

1 I thank you so much.

2 A. Thank you.

3 Q. And you're free to go.

4 A. Thank you.

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

7 THE COURT: See if Mr. DeLee is back there.

8 LIEUTENANT EDWARDS: Yes, ma'am. He's
9 here.

10 THE COURT: He's here.

11 MR. CUMMINGS: Judge, just for the record,
12 also before this other juror comes in, we have
13 spoken with Mr. Bowman, he has the greatest care
14 and concern for Ms. Shuler, it's the third time
15 this poor lady has tried to get off, and
16 medically. We thank Mr. Bailey also for
17 acknowledging that she was not wanting to serve
18 and she was suffering as she sat up there.

19 THE COURT: Yeah.

20 MR. CUMMINGS: Thank you, Judge.

21 THE COURT: All right. Now, I understand
22 there is an agreement regarding our next
23 potential juror?

24 MR. CUMMINGS: Yes, Judge, I think I have
25 to do that, especially.

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1 THE COURT: All right. How do you think
2 it's best to proceed?

3 MR. BAILEY: Your Honor, I can just put on
4 the record what the situation is regarding
5 Mr. DeLee.

6 THE COURT: I think that's best. And I
7 don't know that he even needs to come out here.

8 MR. BAILEY: He has a general sessions
9 bench warrant issuing from my office for assault
10 and battery of a high and aggravated nature, we
11 FTA'd the case and the bench warrant is still
12 outstanding. Mr. Cummings at the time this
13 occurred was an assistant solicitor in my
14 office, he's the one that indicted Mr. DeLee.
15 There's also a family court bench warrant out
16 that we're not involved in, but that he's wanted
17 by the law enforcement for both those things.

18 THE COURT: All right. How do you propose,
19 gentlemen and lady, that we inform Mr. DeLee,
20 just tell him? That's probably the best thing
21 to do.

22 MS. HARDEE-THOMAS: I think -- can we
23 excuse him?

24 MR. CUMMINGS: And then --

25 MS. HARDEE-THOMAS: And then y'all take

State vs. Bowman Volume XVIII

1 care of y'all's situation. Because we don't
2 want it to be a part of this matter.

3 THE COURT: It suits me for it not to be a
4 part of it. I don't know that it needs to.

5 MR. BAILEY: If we can just tell him he's
6 excused and leave it at that.

7 THE COURT: I think I'll just have Court
8 personnel tell him that he's excused, we don't
9 need to put him on the record.

10 MR. CUMMINGS: Then, I guess, Judge, in an
11 abundance of caution I know that if law
12 enforcement -- once he leaves the physical
13 protection of this courtroom he's no longer a
14 juror, if they maybe want to take him to another
15 location before they announce his situation to
16 him so that any potential jurors would not see
17 another juror maybe being arrested.

18 MS. HARDEE-THOMAS: Thank you. Thank you.

19 MR. CUMMINGS: And I know that nobody would
20 ever do that intentionally.

21 MS. HARDEE-THOMAS: But it happens.

22 MR. CUMMINGS: We got a clean record, we
23 got a clean issue how we've done the courtroom.

24 THE COURT: I agree. And I don't know who
25 would do that.

State vs. Bowman Volume XVIII

1 Smitty, we are going to excuse
2 Mr. DeLee and just be sure that he, you know,
3 just exits the courthouse premises on his feet
4 with both his hands and his feet free.

5 DEPUTY SMITH: I got some paperwork for
6 him, though.

7 THE COURT: No, sir. Not while he's on the
8 courthouse premise.

9 DEPUTY SMITH: Thank you, ma'am, Your
10 Honor.

11 THE COURT: Yes, sir. Thank you so much.
12 If you'd handle. He's this way. Go on this
13 way. Thank you so much, Deputy. I would be
14 most appreciative of that. Thank you. All
15 right. You can tell him if you want to he's
16 excused as a juror. Thank you.

17 All right. Well, counsel, I will ask
18 of you we are going to have about an hour -- I
19 don't know what to think -- an hour and
20 15-minute break it appears and I wondered from
21 you whether or not you wanted to take that
22 break? I want you to take that break if you
23 want to take it in its entirety. If you wanted,
24 I know there are a number of motions that have
25 been filed, if you want to also work on those

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1 motions I'm certainly willing to do that, but
2 you all have been very hard at it since Monday,
3 so if you want this break I want you to take it.

4 MR. CUMMINGS: Judge, on behalf of the
5 defense I would ask that we take the break for
6 two reasons, we're having jurors come up --
7 excuse me, potential witnesses come up.

8 THE COURT: That's what we'll do.

9 MR. CUMMINGS: And we will have to
10 coordinate that. And also with Mr. Bowman for a
11 little bit.

12 THE COURT: That is exactly the way we will
13 proceed. Enjoy your hour and 15-minute break.
14 Imagine that.

15 (Lunch recess, from 11:43 a.m. to 1:04 p.m.)

16 THE COURT: All right. Our next juror is
17 Juror Number 110, Ms. Patricia George.

18 (Patricia N. George, called as a prospective
19 juror, having previously been duly sworn, is
20 examined as follows:)

21 EXAMINATION

22 BY THE COURT:

23 Q. Good afternoon, Ms. George, if you would please
24 be seated. Thank you so much.

25 THE COURT: For our record, this is

Juror 110 Patricia N. George - Examination

1 Ms. Patricia George and she is Juror Number 110.

2 Q. Ms. George, do you remember when we were
3 together on Monday, which now seems a long time
4 ago --

5 A. Yeah.

6 Q. -- that you were sworn along with the other
7 potential jurors, do you remember that?

8 A. Yeah.

9 Q. I wanted to share with you that the oath that
10 you took then still applies to this process and would
11 cover the answers that you would share with me here
12 this afternoon, okay?

13 A. Yes, ma'am.

14 Q. Now, you are very soft spoken.

15 A. Yeah.

16 Q. See Ms. Hardee-Thomas way over there?

17 A. I'm sorry. I'll try and do better.

18 Q. No, no, that's fine. I'll tell you what you can
19 do, there's a microphone, if you can just maybe move.
20 Lieutenant Edwards will help you move your chair up
21 just a little bit so that you can have benefit of the
22 microphone.

23 A. Okay.

24 Q. And Ms. Keil needs to take down what you're
25 saying as well.

Juror 110 Patricia N. George - Examination

1 A. Okay.

2 Q. Would you like a little water?

3 A. Please. Thank you.

4 Q. How about a little bit, sure. You might be a
5 little bit nervous.

6 A. Yeah. I've never done this before.

7 Q. You know what, that is okay. There you go.

8 A. Thank you.

9 Q. Take a deep breath.

10 A. Okay.

11 Q. Now, since we talked on Monday, has anyone
12 talked with you about this case or tried to approach
13 you about this case, or have you been exposed to any
14 information about this case?

15 A. No.

16 Q. All right. And when you were back in the jury
17 room, did you see this paper called the potential
18 witness list?

19 A. Yes, ma'am.

20 Q. And did you have an opportunity to review it?

21 A. Yes, I did.

22 Q. And after you review it, are you related by
23 blood or marriage, or acquainted with, or connected
24 in any regard in a business way or a personal or
25 casual way with any of the folks listed on the

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1 potential witness list?

2 A. The only people I know are some of the deputies
3 on there from the Dorchester County Sheriff's Office.

4 Q. All right. Would you do me a favor and please
5 hold that.

6 A. Okay.

7 Q. This is for your use.

8 A. Okay.

9 Q. First of all, would you do me a favor and just
10 flip through there and just list for me the folks you
11 think you might know or recognize?

12 A. Sure. Detective Terry Van Doran.

13 Q. Okay.

14 A. I think I've just met him.

15 Q. All right.

16 A. Just at a meeting. I don't really know him.

17 Q. Okay. Would the fact that you have that
18 connection with Detective Van Doran, do you think
19 that would interfere or have any bearing on your
20 ability to be fair and impartial to both sides in
21 this case?

22 A. No, ma'am.

23 Q. All right.

24 A. I can't find it on here, but Major Tim
25 Stephenson.

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1 Q. Okay.

2 A. I do know him.

3 Q. Okay. And the same question, how do you know
4 him, first of all?

5 A. Just through the club that my husband used to be
6 president of.

7 Q. And what is that?

8 A. I don't think it exists anymore. It was the
9 Hundred Club, law enforcement support club.

10 Q. Okay.

11 A. He's no longer with it. And, of course, we're
12 divorcing right now.

13 Q. All right.

14 A. But I have talked to him on several occasions at
15 meetings and different functions.

16 Q. All right. And do you think that your
17 friendship, your acquaintanceship with Major
18 Stephenson could bear upon your ability to be a fair
19 and impartial juror in this trial?

20 A. No, ma'am.

21 Q. All right. And do you believe that you could
22 set aside the connection that you have with Detective
23 Van Doran as well as Major Stephenson?

24 A. Yes, ma'am.

25 Q. All right. And try this case based on the

Juror 110 Patricia N. George - Examination

- 1 evidence in this courtroom?
- 2 A. Yes, ma'am.
- 3 Q. All right. Unaffected by that relationship?
- 4 A. Yes, ma'am.
- 5 Q. Or those relationships?
- 6 A. Yes, ma'am.
- 7 Q. All right. You want to hand that back to me?
- 8 Anyone else you think you know on list?
- 9 A. There was one more, but just I met him one time
- 10 at the sheriff's office, I don't really know, I
- 11 couldn't find his name.
- 12 Q. Okay.
- 13 A. I just met him once.
- 14 Q. You met him one time at the sheriff's
- 15 department?
- 16 A. That's all. Do you want me to look over it
- 17 again?
- 18 Q. Yeah. You take your time.
- 19 A. I'm sorry.
- 20 Q. We're not in any rush, you take your time.
- 21 A. I said Terry Van Doran, didn't I?
- 22 Q. You sure did.
- 23 A. Okay. I think it was Mike Miller.
- 24 Q. Mike Miller?
- 25 A. But I just met him one time. I don't really

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1 know him, I wouldn't recognize him if I had seen him.

2 Q. I understand. Would then the fact that you met
3 Mike Miller one time have any bearing on your ability
4 to be fair and impartial?

5 A. No, ma'am.

6 Q. All right. And you can set that very limited
7 connection with Mr. Miller aside and try this case
8 based on the evidence in this courtroom?

9 A. Yes, ma'am.

10 Q. All right. Now, let me ask you this question,
11 because you have been so kind to share with us this
12 information on the sheet and I'm going to -- do not
13 at all mind handing you your questionnaire. I want
14 you to -- because just if you'll take a look at that,
15 I just want to refresh your recollection. Apparently
16 you are having some difficulties right now?

17 A. Yeah. I was very emotional when I filled this
18 out and I probably put down some things I shouldn't
19 have, but I was just trying to be honest.

20 Q. Listen, that's a wonderful thing to do and I
21 appreciate your candor tremendously. We all
22 appreciate your candor. But you mention in there
23 that now is a very difficult time for you. And I
24 just wanted to give you a chance to address that.
25 Because let me share with you this: That if you are

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1 selected to serve on this jury you would be
2 sequestered in a motel here in St. George for a
3 period of up to two weeks. Of course, you would be
4 so at the county expense and you'd stay there except,
5 of course, when you were with us in the courtroom.
6 And I want to address that with you I think first
7 because of what you've indicated on your
8 questionnaire, to be sure that that wouldn't cause or
9 be any danger of -- or serious -- of any sort of
10 risk, serious risk to your health or well being, or
11 anyone dependent on you.

12 A. Well, my daughter lives with me right now,
13 she's -- she's with Charleston County Sheriff's
14 Office and she has to be at her job and we have --
15 between us we have five dogs and six cats.

16 Q. Okay.

17 A. So that's our situation right now. I'm on
18 several medications I have to take.

19 Q. Will you share those with us?

20 A. I don't remember the names of all of them. I
21 have asthma, I take medicine for chronic fatigue, for
22 fibromyalgia, for fluid retention I'm on
23 80 milligrams of Lasix, that's about it.

24 Q. That's about it?

25 A. Yes, ma'am.

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1 Q. All right. And is there anything that concerns
2 you about the other part that's going on in your life
3 that you would be concerned about your ability to be
4 on a jury in this matter being fair and impartial?

5 A. Not to be fair and impartial, I'm just -- it's
6 hard for me to control my emotions right now to be
7 honest.

8 Q. Well, that's what I was sort of getting at.

9 A. Yes, ma'am.

10 Q. Yes, ma'am. I noticed that you're about tearful
11 now. All right. Very well.

12 THE COURT: Counsel, very well.

13 Q. Let me tell you what I think is best. I think
14 if you would be willing I would transfer your service
15 to the fall.

16 A. That would be great.

17 Q. We'll get together then and maybe all this will
18 be resolved and we can have you serve on a jury where
19 you will not have to be sequestered.

20 A. Okay.

21 Q. Is that fair enough? Let me give you a little
22 bit of instruction, if I may.

23 A. Yes, ma'am.

24 Q. And I'm going to ask you not to discuss this
25 part of the process with the other potential jurors.

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1 A. Yes, ma'am.

2 Q. And be mindful not to discuss this case with
3 anyone who might be associated with it if you would
4 be so kind.

5 A. I won't.

6 Q. Very well. And beyond that you can talk about
7 this case with anyone that you choose. And, finally,
8 let me thank you for the gift of your time which, of
9 course, is precious to all of us and on behalf of all
10 of us here as well as for your community. You are
11 fine. You are fine.

12 Why don't you stay with us a little
13 bit? We got some chocolate pound cake back there,
14 why don't you go on out here and maybe take her to
15 Ms. Saulisbury, let Ms. Saulisbury give her a little
16 something to drink.

17 A. I'll be okay.

18 Q. Are you sure?

19 A. Yeah.

20 Q. All right, dear. Okay.

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

23 THE COURT: All right. I have transferred
24 Ms. George for the record. Let the record
25 reflect I was very concerned about her emotional

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1 health as she sat right here by me on the
2 witness stand. I don't know that my skills are
3 great, but I certainly did as much hand holding
4 as I could to even begin that process and she
5 was doing a fair job of falling apart, and so
6 that's the basis that I have transferred her.
7 Any objection from the State?

8 MR. BAILEY: None from the State, Your
9 Honor.

10 MR. CUMMINGS: None from the defense, Your
11 Honor, and thank you.

12 THE COURT: All right. Our next juror is
13 Matt Cummings, Juror Number 64.

14 (Matt A. Cummings, called as a prospective
15 juror, having previously been duly sworn, is
16 examined as follows:)

EXAMINATION

17
18 BY THE COURT:

19 Q. Good afternoon, Mr. Cummings.

20 A. Hello, how are you?

21 Q. I'm fine. Good.

22 THE COURT: Let the record reflect that
23 this is Mr. Matt Cummings who is Juror Number
24 64.

25 Q. Mr. Cummings, you will recall Monday morning you

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1 were sworn in with the other potential jurors in this
2 case, remember that?

3 A. Yes, ma'am.

4 Q. That oath continues here today and continues
5 throughout this process and would cover the answers
6 that you would share with us, okay?

7 A. Okay.

8 Q. Since Monday has anyone talked with you about
9 this case, or tried to approach you about it, or have
10 you exposed yourself inadvertently or otherwise to
11 any information about this case?

12 A. No, ma'am.

13 Q. Okay. In the jury room with you there was this
14 list called the potential witness list. Did you have
15 a chance to look at it?

16 A. Yes, ma'am.

17 Q. And having looked at it, are you related by
18 blood or marriage, acquainted with, do you have any
19 personal or business association or acquaintanceship
20 with any of these folks, or are you connected either
21 directly or indirectly to anyone whose name is listed
22 on this potential witness list?

23 A. No, ma'am.

24 Q. All right. Now, on Monday when I had an
25 opportunity to ask some more general questions about

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1 this matter, my -- and I asked whether or not anyone
2 had an opinion regarding this matter or had heard or
3 seen or read anything about this matter, or had a
4 bias or prejudice for or against either side, my
5 notes indicate that you did not find any of those
6 things applicable to you; is that right?

7 A. Yes, ma'am.

8 Q. Is that right?

9 A. Yes, ma'am.

10 Q. And does that continue today?

11 A. Yes, ma'am.

12 Q. All right, sir. Now, Mr. Cummings, you are not
13 related to Mr. Norbert Cummings?

14 A. No.

15 Q. It's just -- you just happen to have the same
16 last name?

17 A. Yes, ma'am. I don't have any relatives around
18 here, really, blood relatives, so....

19 Q. All right. I have some questions to ask you.

20 A. Okay.

21 Q. And I want to tell you that -- or we have
22 questions to ask you, but no one is trying to invade
23 into your privacy, know that first.

24 A. Okay.

25 Q. And secondly I want to tell you that what we are

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1 doing is we want to know how you feel about certain
2 matters, we want to know what those opinions are
3 because we need to know whether or not your opinions
4 might have an impact on your jury service and that's
5 the purpose of the questions.

6 A. Okay.

7 Q. Be mindful, obviously, that there are no right
8 or wrong answers and your opinions we know are as
9 good and valid as anybody's opinions. And no one is
10 here to challenge them, that's not the purpose of our
11 asking for that information at all.

12 A. Okay.

13 Q. We just simply need to know whether or not your
14 opinions could impact on your jury service.

15 A. Okay.

16 Q. Now, I'm going to be asking you in a few moments
17 about penalty, about the death penalty specifically.
18 And I want you to understand that obviously to ask
19 you about penalty at this stage before the case even
20 begins is premature.

21 A. Right.

22 Q. And the reason that I need to ask you these
23 questions is that that may become an issue in this
24 case. I also want you to keep in mind that even
25 though I'm asking about penalty, be mindful of two

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1 things: Number one, that it's premature as I've
2 mentioned; and number two, that Mr. Bowman is
3 presumed innocent of these charges. It's simply
4 reality that if I need to ask potential jurors about
5 penalty, I need to do that before the case begins.

6 A. Right.

7 Q. So just be mindful that our process is just
8 that.

9 A. Okay.

10 Q. Now, I'm going to be asking you questions in the
11 general or generic sense because I -- you don't know
12 anything about this case, I don't want to -- would
13 never put you in a position as would be unfair to you
14 to ask you about your opinions about this case, and
15 further it wouldn't be proper, so I'm not going to do
16 that.

17 A. Okay.

18 Q. The questions that I'm going to ask of you when
19 I ask your opinions are going to be in a generic or
20 general sense. And along those lines, if you were a
21 juror in any criminal case, would you be willing to
22 listen to the law as instructed by the judge?

23 A. Yes, ma'am.

24 Q. And would you be willing to accept that law and
25 apply it to the facts as you, as a juror, would find

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1 them to be?

2 A. Yes, ma'am.

3 Q. Even though you may not like that particular law
4 or you may even disagree with it, would you still be
5 willing to follow the law as the judge instructed
6 you?

7 A. Of course.

8 Q. And if you were asked to serve in the trial of
9 State vs. Mr. Bowman, could you decide this case
10 based upon the evidence in the courtroom, and in the
11 event that your memory was jogged by something that
12 you saw during the course of the trial and you found
13 you did have some memory of something you had read or
14 seen or heard prior to trial, would you be willing to
15 set that memory aside, to disregard that and try this
16 case based on the evidence in this courtroom?

17 A. Yes, ma'am.

18 Q. I mentioned that because that sometimes happens
19 to jurors.

20 Now, in a criminal case as you very
21 well may know as we talked about briefly on Monday,
22 the State has the burden of proving a defendant
23 guilty. A defendant never has to prove himself or
24 herself innocent. In fact, a defendant does not have
25 to prove anything. A defendant is presumed innocent.

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1 Do you understand this?

2 A. Yes, ma'am.

3 Q. All right. Now, if you were a juror in any
4 criminal case, would you be willing to listen to the
5 evidence and listen to the law as it was instructed
6 to you?

7 A. Uh-huh (affirmative response).

8 Q. And as part of that process, if you listened to
9 the evidence, if you found the facts as you found
10 them to be after you heard the evidence and applied
11 the law to those facts, if after you did that if you
12 were not convinced of a person's guilt beyond a
13 reasonable doubt, would you be willing and able to
14 find that person not guilty?

15 A. If there was a reasonable doubt you've got --
16 yeah.

17 Q. All right. On the other hand, if you listened
18 to the evidence, if you found the facts as you found
19 them to be and you apply the law as the judge gave it
20 to you to those facts, if you were convinced that a
21 person was guilty beyond a reasonable doubt, the
22 State had proven them guilty beyond a reasonable
23 doubt, would you be willing and able to find that
24 person guilty?

25 A. Of course.

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1 Q. All right, sir. In other words, you would be
2 willing to listen 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. Now, most of the time jurors do not involve
7 themselves and do not concern themselves with the
8 matter of punishment. Most of the time in the
9 criminal court punishment is a matter for the judge.
10 There is one case in our law, though, where a jury
11 has to deal with the matter of punishment and that is
12 in a case like this one. That is in a case where an
13 individual has been charged with the crime of murder
14 and where the State is seeking the death penalty.

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

20 A. Okay.

21 Q. There are two choices. One, life imprisonment
22 without the possibility of parole, and the death
23 penalty. The penalty is determined by the jury in
24 that second, or as it's known sentencing, phase of
25 the trial. Do you understand this information?

Juror 64 Matt A. Cummings - Examination

1 A. Uh-huh (affirmative response).

2 Q. That's a yes, isn't it?

3 A. Yes, ma'am.

4 Q. All right.

5 A. Excuse me.

6 Q. Now, back in the jury room there was another
7 piece of paper. Did you have a chance to review this
8 paper?

9 A. Yes, ma'am.

10 Q. It essentially describes for you three different
11 types of jurors. Do you remember the three different
12 types of jurors and what they were?

13 A. Yes, ma'am.

14 Q. You are welcome to refer to this now if you need
15 to, that's why it's there. Which of those three
16 types of jurors do you think best describes you?

17 A. Probably the last one, type three.

18 Q. Type three?

19 A. Yeah.

20 Q. And by that are you telling me that you would be
21 willing to listen to the information, to the evidence
22 in the courtroom and make your decision based upon
23 that evidence?

24 A. Uh-huh (affirmative response).

25 Q. And after you heard that evidence if you were

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1 convinced that it was appropriate that a person be
2 sentenced to death, would you be able and willing to
3 vote for that sentence?

4 A. Yes, ma'am.

5 Q. And on the other hand, if you thought the death
6 sentence was not appropriate, or for any other reason
7 the person ought to receive life imprisonment, would
8 you be able and willing to vote for a sentence of
9 life imprisonment?

10 A. Yes, ma'am.

11 Q. So you would, again, make up your mind and make
12 your decision based on what you would hear in the
13 courtroom?

14 A. Yes, ma'am.

15 Q. If you were chosen to serve as a juror in this
16 case you and the other jurors would be housed here
17 locally in a motel for the duration of this trial.
18 You would be in the courtroom, obviously, when you
19 weren't at the hotel. The word is called
20 sequestered.

21 A. Okay.

22 Q. And you would need to remain with us for the
23 duration of the trial, which is anticipated to be two
24 weeks. It could be a little longer, it could be a
25 little shorter.

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1 A. Okay.

2 Q. Obviously that would create an inconvenience for
3 you as it would anyone and will no doubt for all who
4 serve on this jury. Other than the inconvenience
5 which it would cause anybody who would have to serve
6 in this capacity, would that pose a serious risk of
7 danger to your health or well being, or to the health
8 or well being of anybody who is dependent upon you if
9 you had to serve in that capacity?

10 A. No, ma'am.

11 Q. You would be able to do that?

12 A. Yes. I would be able to do it, yes, ma'am.

13 THE COURT: Mr. Cummings, I'm going ask
14 that you answer these questions of these
15 lawyers, these folks who are going to no doubt
16 have questions for you. And I'm looking for --
17 bear with me while I look for a piece of paper.

18 Counsel, do you know which one -- who
19 goes next?

20 MR. CUMMINGS: I think I'm up, Judge.

21 THE COURT: Thank you. I thought so, too,
22 Mr. Cummings.

23 MR. CUMMINGS: Thank you, Judge. We'll
24 both be looking around for our fathers.

25

Juror 64 Matt A. Cummings - Examination

1 EXAMINATION

2 BY MR. CUMMINGS:

3 Q. Good afternoon, sir. And I thank you very much
4 and I'm going to be very brief.

5 A. Okay.

6 Q. You understand the importance of Her Honor's
7 questions, sir?

8 A. Yes.

9 Q. And the importance of jury service and your
10 civic duty?

11 A. Yes, sir.

12 Q. You appear to be a strong-principled gentleman
13 and you believe in certain fundamental principles,
14 like no citizen ever has to prove themselves
15 innocent?

16 A. Right.

17 Q. And you understand, sir, that this case will be
18 about guilt and innocence at first, along with your
19 fellow jurors and you would be following Her Honor's
20 laws and instructions and you said you could do that?

21 A. Yes, sir.

22 Q. And that you would give any citizen a fair and
23 impartial trial?

24 A. Yes, sir.

25 Q. All right. I'm Norb Cummings, sir, just for the

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1 record, that's Ms. Marva Hardee-Thomas over there,
2 co-counsel, we are both Court appointed for
3 Mr. Bowman, this gentleman setting over there.

4 MR. CUMMINGS: I beg the Court's
5 indulgence. I think that's all the questions I
6 have of this gentleman, Judge. That's all the
7 questions, Judge.

8 THE COURT: Mr. Bailey.

9 EXAMINATION

10 BY MR. BAILEY:

11 Q. I'm Walter Bailey, I'll be prosecuting this case
12 for the State of South Carolina. I want to ask you a
13 couple other questions about the death penalty and
14 about the procedure we go through.

15 A. Okay.

16 Q. I'll try not to repeat what Judge Goodstein has
17 already told you. And what I'm going to ask you
18 about is just in general terms, as she said we're not
19 talking about this case, you hadn't heard the facts.

20 A. Right.

21 Q. With a jury in the case of this nature it gets
22 to the second phase, the penalty phase, they have
23 those two options as you're aware of, life without
24 parole and the death penalty.

25 A. Yes, sir.

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1 Q. And that jury's verdict one way or the other has
2 to be unanimous, all 12 would have to agree on one
3 punishment or the other.

4 A. Yes, sir.

5 Q. And the judge would impose that punishment and
6 it would be carried out, whichever it is.

7 A. Yes, sir.

8 Q. In other words, the jury and not the judge makes
9 the decision.

10 A. Right.

11 Q. Again, I'm not asking you to predict what you
12 would do in this case, you haven't heard the facts.
13 My question is if the facts were bad enough, could
14 you vote for the death penalty knowing that penalty
15 actually would be carried out?

16 A. Yes, sir. I could.

17 Q. On the other hand, if you felt like a life
18 without parole sentence was warranted you have
19 indicated you could vote for that also?

20 A. Yes, sir.

21 Q. If the jury hears the facts and the law from the
22 judge and decides the death penalty is the
23 appropriate sentence, they're then asked to sign
24 their names to a death verdict form. Could you sign
25 your name to a paper like that if you had reached

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1 that decision?

2 A. Yes, sir.

3 Q. And the next thing that would happen is the jury
4 would leave the jury room, they would come out here
5 and they would be seated out here and each person's
6 name would be called out one at a time, they would be
7 asked to announce when their name was called that
8 that was their verdict and is still their verdict.

9 If that was your verdict, could you do that when your
10 name was called?

11 A. Yes, sir.

12 Q. Mr. Cummings, that's all I've got. Thank you
13 very much.

14 THE COURT: Mr. Cummings, I'm going to ask
15 you to step outside the courtroom for just a
16 moment.

17 MR. CUMMINGS: Okay.

18 THE COURT: You aren't going to have time
19 to sit down. And that's so we can talk about
20 you behind your back.

21 MR. CUMMINGS: Oh, okay.

22 THE COURT: Thank you, Mr. Cummings.

23 MR. CUMMINGS: All right. Thank you.

24 (Whereupon, the prospective juror exits the
25 courtroom.)

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1 THE COURT: What says defense?

2 MR. CUMMINGS: Statutorily qualified,
3 Judge.

4 THE COURT: What says the State?

5 MR. BAILEY: Qualified, Your Honor.

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

8 THE COURT: I told you it was going to be
9 quick.

10 MR. CUMMINGS: You're right.

11 THE COURT: Mr. Cummings, you have been
12 found to be qualified as a potential juror in
13 this case. That does not mean that you are on
14 the jury yet.

15 MR. CUMMINGS: Okay.

16 THE COURT: But it does mean that you are
17 qualified and you may be selected to serve on
18 this jury. We are hoping to select the jury
19 tomorrow morning at ten o'clock.

20 MR. CUMMINGS: Okay.

21 THE COURT: That might be a little bit
22 ambitious, and if we need to call and set you
23 back a little bit we will do that.

24 MR. CUMMINGS: Okay.

25 THE COURT: I'm passing you a little sheet

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1 of paper and that has some instructions on it
2 for you, remind you to pack. I'm a bit of a
3 nag, I guess, pack your clothes, bring your
4 medicine.

5 MR. CUMMINGS: For tomorrow?

6 THE COURT: For tomorrow for two weeks.

7 MR. CUMMINGS: Okay.

8 THE COURT: And emergency numbers on there
9 both daytime and nighttime in the event that
10 someone needs to get in touch with you, there's
11 some other instructions on there where you will
12 be and the like.

13 MR. CUMMINGS: Okay.

14 THE COURT: You certainly may discuss these
15 details with anyone that you choose to, need to.
16 However, be mindful that you must not discuss
17 this case or allow anyone to discuss this case
18 or any aspect with you, and do not expose
19 yourself to information about this case from any
20 source. Do you understand all this?

21 MR. CUMMINGS: Yes, ma'am.

22 THE COURT: Thank you so much and I look
23 forward to seeing you tomorrow, Mr. Cummings.

24 MR. CUMMINGS: Okay.

25 THE COURT: Bye now.

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1 MR. CUMMINGS: Thank you.

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

4 THE COURT: All right. Our next juror is
5 Robert Talley.

6 (Robert T. Talley, called as a prospective
7 juror, having previously been duly sworn, is
8 examined as follows:)

9 EXAMINATION

10 BY THE COURT:

11 Q. Mr. Talley.

12 A. Hello.

13 Q. Good afternoon.

14 A. How are you doing?

15 Q. Fine, thank you.

16 A. Before we get started.

17 Q. Yes, sir.

18 A. Could I ask -- I'm a brittle diabetic and I'm on
19 the insulin pump and I called Ms. Graham and she said
20 that provisions would be made for diabetics. Well,
21 on Monday I did eat some crackers during the break,
22 but at 2:30 when I left here, when I was drawn in the
23 group --

24 Q. Yes, sir.

25 A. -- I was almost bottomed out because I had not

Juror 295 Robert T. Talley - Examination

1 eaten. Will there be a problem during the trial?

2 Q. No, sir.

3 A. I have no objections to serving, that doesn't
4 bother me, but --

5 Q. Mr. Talley, we will -- you tell us what we need
6 to do and it will be done.

7 A. Well, I never know. Sometimes my sugar may be
8 40, sometimes it may be 400.

9 Q. That's okay.

10 A. It doesn't bother me if it's high, it's when
11 it's low. And if I'm sitting in the jury box and my
12 sugar goes low, can provisions be made for that?

13 Q. Easiest thing in the world to do, indeed, be
14 happy to do that. Let me tell you this, what's real
15 different about when we have the whole panel in the
16 courtroom versus what goes on with our jurors once we
17 have our jury selected, what I would urge you to do
18 is I would -- we have fruit and we have snacks and we
19 have meats and we have cheese and we have -- we have
20 about anything you would want or need. And what I
21 would urge you to do, normally jurors don't eat in
22 the jury box except when someone needs to.

23 A. Okay.

24 Q. And I would urge you to bring crackers or fruit.

25 A. Well, I've got crackers with me, I keep them all

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1 the time.

2 Q. Well, whatever it would be that you would need.

3 And if you were on this jury and you needed to take a

4 break it takes no more than raising your hand.

5 A. Okay.

6 Q. It truly is that simple.

7 A. No problem.

8 Q. And you can -- I'll ask you those questions in

9 just a minute.

10 A. Right.

11 Q. If you had to bring your pump with you, could

12 you bring it with you?

13 A. My pump's on now.

14 Q. It's on now?

15 A. It's on 24 hours a day.

16 Q. Well, that would not be a problem. I would

17 be -- we would accommodate that.

18 A. Okay.

19 Q. And that would be very simple to do.

20 A. Right.

21 Q. We're munching around here all the time.

22 A. Okay.

23 THE COURT: Now, for our record, this is

24 Mr. Robert Talley, Juror Number 295.

25 Q. Mr. Talley, let me just remind you that when we

Juror 295 Robert T. Talley - Examination

1 were together on Monday you were sworn in with all
2 the potential jurors in this case.

3 A. Yes, ma'am.

4 Q. You remember that. That oath continues and
5 would cover the answers that you'll share with us to
6 our questions today, okay?

7 A. Okay.

8 Q. Now, since we were together on Monday, that
9 seems a long time ago now.

10 A. It does.

11 Q. Has anyone talked to you about this case, or
12 attempted to approach you about this case, or have
13 you been exposed to any information about this case
14 since Monday?

15 A. Nothing. Except Monday morning I did read the
16 article that was in the paper and that's before you
17 told us not to read.

18 Q. I understand. Was that in the *Post & Courier*?

19 A. The *Post & Courier* and then read the one in the
20 *Summerville Journal Scene* on Friday.

21 Q. Last week?

22 A. Last week.

23 Q. All right. Now, let me ask you this question:
24 The information that you have read, and you shared
25 that with us on Monday, I have my note, has that

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1 information caused you to form any opinion about this
2 case or opinions about this case?

3 A. No, ma'am. Because I do not remember enough
4 about the incident when it happened. I remember
5 reading it at that time, but I have forgotten that
6 information.

7 Q. All right, sir.

8 A. As far as the details or anything I don't know.

9 Q. Whatever information you have then would you
10 have any difficulty setting that information
11 completely aside and if you were a juror trying this
12 case making up your mind, deciding this case based
13 upon the evidence in this courtroom?

14 A. No, ma'am. I would not.

15 Q. Very well. Now, in the jury room with you there
16 was a potential witness list. Did you have a chance
17 to look at that?

18 A. Yes, ma'am.

19 Q. And having looked at it are you related by blood
20 or marriage or acquainted with, do you have any
21 business association or casual or personal
22 acquaintanceship or friendship, or are you connected
23 either directly or indirectly to any of the potential
24 witnesses who are on this list?

25 A. No, ma'am.

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1 Q. Very well. Now, when I asked the questions on
2 Monday whether or not you had any opinions about this
3 case, or about whether or not any bias or prejudice
4 about this case, you did not indicate that either of
5 those things applied to you; is that correct?

6 A. That's correct.

7 Q. And does that continue until today?

8 A. Yes, ma'am. Yes, ma'am.

9 Q. All right. I need to now ask you some
10 questions, but I want to talk a little bit about the
11 questions even before I ask them, and tell you that,
12 first of all, we are not intending to invade your
13 privacy at all, so please know that to start off
14 with. Secondly, we are going to be asking you some
15 questions to see how you feel about some matters, to
16 get your opinions on some issues in some areas.

17 And there obviously aren't any right
18 or wrong answers. Obviously we know that your
19 opinions are as good and valid as anyone's and we're
20 not challenging your opinions in any regard. The
21 purpose of us asking you about your opinions is so we
22 can understand and learn a little bit about them and
23 try to see if those opinions might have any impact on
24 your jury service and that is the purpose of these
25 questions.

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1 Now, I am going to want to ask you,
2 I'm going to ask you in a few moments about penalty,
3 specifically your opinions about the death penalty.
4 But before I do that I want to express to you that to
5 ask you about penalty at this time before the trial
6 even begins is obviously premature. It's premature
7 because the trial hasn't begun and it's premature
8 because Mr. Bowman is presumed innocent. However, I
9 need to speak with jurors about penalty because it
10 may be an issue in this case, and in order to speak
11 to potential jurors about an issue you necessarily
12 have to talk to those folks before the case begins.

13 I would ask, being mindful of my need
14 ask you these questions at this time, if you would
15 remember that it is premature and that Mr. Bowman's
16 presumed innocent.

17 A. Okay.

18 Q. I will ask you these questions in a generic or
19 general sense. I will not be asking your opinions
20 about this case because it wouldn't be fair to you,
21 it would be improper. So the opinions that I'm going
22 to be asking are going to be generic, general
23 questions. So keep that in mind also.

24 A. Okay.

25 Q. If you were a juror in any criminal case, would

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1 you be able and willing to listen to the instructions
2 given to you by the judge?

3 A. Yes, ma'am.

4 Q. Would you be willing to accept the law and apply
5 it to the facts as you found them to be?

6 A. Yes.

7 Q. Even though you might not particularly like that
8 law or you may downright disagree with it, would you
9 still be willing listen to the law as you were
10 instructed to do so by the judge?

11 A. Yes, ma'am.

12 Q. Now, if you were asked to serve in the case of
13 State vs. Bowman, could you decide this case based
14 upon the evidence in this courtroom and disregard
15 anything that you may have seen or heard from any
16 source at all should -- I've asked you about the
17 things you know about, but should anything else come
18 into your memory?

19 Let me tell you why I ask that
20 question. Sometimes when jurors are on a jury and
21 they hear testimony, they hear evidence, their
22 memories will get -- will be jogged. And even though
23 they may have no memory of hearing about a particular
24 case before the case begins, something in their
25 memories will get jogged by something that they hear.

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1 So I ask you the question at this juncture, do you
2 think if that happened that you would be able to set
3 that memory aside?

4 A. Yes, ma'am.

5 Q. And then try this case based on what you hear in
6 this courtroom?

7 A. Yes, I would.

8 Q. Now, in a criminal case as you very well may
9 know, and we talked about some on Monday, the State
10 has the burden of proving a defendant guilty beyond a
11 reasonable doubt. A defendant doesn't have to prove
12 himself or herself innocent and a defendant doesn't
13 have to prove anything. The burden is always upon
14 the State. And a defendant is presumed innocent. Do
15 you understand these principles?

16 A. Yes, ma'am.

17 Q. Now, if you were a juror in any criminal case,
18 would you be able to listen to the evidence, find
19 facts based upon that evidence as you found them to
20 be, and apply the law to those facts, the law given
21 to you by the judge?

22 A. Yes.

23 Q. And when you did that if you were not convinced
24 that a person was guilty beyond a reasonable doubt,
25 would you be willing and able to find that person not

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1 guilty?

2 A. I would.

3 Q. On the other hand, if after you listen to the
4 evidence, found facts as you found them to be,
5 applied the law to those facts given to you by the
6 judge, if you were convinced that the State had
7 proven a defendant guilty beyond a reasonable doubt,
8 would you be willing to find that defendant guilty?

9 A. Yes.

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

14 A. That's correct.

15 Q. All right. Now, most of the time jurors do not
16 concern themselves with the matter of punishment.
17 Most of the time in the criminal court that is left
18 up to the judge, punishment is a matter for the judge
19 most of the time. But there is one case in our law
20 where a jury has to deal with the matter of
21 punishment and that is in a case like this one, it is
22 in a case where an individual has been charged with
23 the crime of murder and where the State is seeking
24 the death penalty.

25 If an individual in a death penalty

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1 case is convicted of the crime of murder, then the
2 same jury that convicted him or her comes back and in
3 a separate and different proceeding decides the
4 punishment that the person will get. There are two
5 choices. One, life imprisonment without the
6 possibility of parole, and the second is the death
7 penalty. That determination is made in that second
8 part of the trial, it's called the sentencing phase.

9 Do you understand this information?

10 A. Yes, ma'am.

11 Q. Now, also back in the jury room with you there
12 was another piece of paper. Did you have an
13 opportunity to review that piece of paper?

14 A. Yes, I did.

15 Q. That piece of paper essentially describes three
16 types of jurors. Do you remember the three types of
17 jurors?

18 A. Yes, ma'am.

19 Q. It is here for you if you need to refer to it.
20 Please feel free to pick it up and refer to it if you
21 need to. Which of those three types of jurors do you
22 think best describes you?

23 A. Number three.

24 Q. In other words, you would be willing to listen
25 to the evidence and make your decision based upon

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1 what you've heard in the courtroom?

2 A. That's correct.

3 Q. If after you listened to all the evidence if you
4 were convinced that a person deserved, that the death
5 sentence was appropriate, would you be able and
6 willing to vote for that sentence?

7 A. Yes. I do believe in capital punishment.

8 Q. All right, sir. On the other hand, if you
9 thought that the death sentence was not appropriate,
10 or for any other reason the person ought to receive
11 life imprisonment, would you be able and willing to
12 vote for a sentence of life?

13 A. Yes.

14 Q. Again, you would make your decision based upon
15 what you heard in the courtroom?

16 A. That's correct.

17 Q. And based upon what you heard in the courtroom
18 you could vote for a sentence of death if you thought
19 that was appropriate, or life if you thought that was
20 appropriate?

21 A. Yes, ma'am.

22 Q. If you were chosen to serve as a juror in this
23 case, you, along with the other jurors, would be
24 housed in a motel here locally. It's called
25 sequestered, is what it's called. You would remain

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1 with us in the courtroom, of course, as we tried the
2 case and in the motel in the evenings. This trial is
3 expected to last approximately two weeks. It could
4 be a little longer, it could be a little shorter.
5 And we would need for you to remain with us for the
6 duration of the trial. I know that that would create
7 an inconvenience for you as it surely will for all
8 who serve on this jury. Other than the inconvenience
9 which it would cause anybody who would have to serve
10 in this capacity, would that pose a serious risk of
11 danger to your health or well being, or to that of
12 anybody who is dependent upon you if you had to serve
13 in that capacity?

14 A. My wife is a retired school teacher as I am, but
15 she's disability retired just like I am and she has
16 MS. At times she's good. Right now would not be a
17 problem. I have two sons that live there in town
18 that, you know, could help with her. Right now I
19 don't see a problem with that.

20 Q. If that changed they certainly could get in
21 touch with you either during the day or in the
22 evening if that event occurred.

23 A. Okay.

24 Q. All right. Very well. I'm going to ask that
25 you please answer the questions that these lawyers