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S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Newberry County

The Honorable Brooks P. Goldsmith, Circuit Court Judge
2000-CP-36-0051

STEPHEN ANDREW BECKHAM,

PETITIONER,

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT.

SUPPLEMENTAL APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY) COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VERSUS) 96-GS-36-79
STEPHEN ANDREW BECKHAM,)
DEFENDANT.)

NEWBERRY, SOUTH CAROLINA
SEPTEMBER 14-OCTOBER 4, 1996

B E F O R E

HONORABLE HENRY F. FLOYD, JUDGE.

A P P E A R A N C E S

W. TOWNES JONES, IV, SOLICITOR
MICHAEL T. COULTER, DEPUTY SOLICITOR
BETTY C. STROM, ASST. SOLICITOR
KNOX MCMAHON, DEPUTY SOLICITOR
APPEARING ON BEHALF OF THE PLAINTIFF.

JACK SWERLING, ATTORNEY
RICHARD HARPOOTLIAN, ATTORNEY
APPEARING ON BEHALF OF THE DEFENDANT.

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1 SLED WILL PROVIDE TRANSPORTATION AND
2 SECURITY DURING THE TRIAL, AND NEWBERRY COUNTY WILL
3 PAY FOR YOUR LODGING, YOUR FOOD AND THINGS
4 NECESSARY TO PERFORM YOUR DUTIES.

5 I'D ASK YOU NOT TO DISCUSS THE CASE
6 WITH ANYONE, OR LISTEN OR WATCH, OR READ ANY
7 ACCOUNT ABOUT THE TRIAL. WE WILL TRY TO START THIS
8 CASE SOMETIME WEDNESDAY AFTERNOON OR THURSDAY, SO
9 YOU NEED TO BE CAREFUL BETWEEN NOW AND THEN.

10 OKAY, I'LL SEE YOU TOMORROW AT ELEVEN
11 O'CLOCK.

12 A OKAY.

13 (JUROR EXCUSED)

14 THE COURT: MS. YVONNE HAYNES.

15 YVONNE R. HAYNES, BEING DULY
16 SWORN, WAS EXAMINED AS FOLLOWS:

17 THE COURT: ALL RIGHT, IF YOU'LL HAVE A
18 SEAT AND GET YOURSELF COMFORTABLE THERE, WE'LL GET
19 THE MIC FIXED FOR YOU.

20 OKAY, HAVE YOU EVER BEEN IN COURT
21 BEFORE?

22 A YES, SIR.

23 THE COURT: AS A PARTY OR AS A JUROR
24 OR?

25 A A JUROR.

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1 THE COURT: A JUROR? HOW LONG AGO WAS
2 THAT?

3 A SIX YEARS.

4 THE COURT: AND WAS IT A CRIMINAL OR
5 CIVIL CASE?

6 A CIVIL.

7 THE COURT: CIVIL. ALL RIGHT, DID YOU
8 GET A CHANCE YESTERDAY, MS. HAYNES, TO READ THE
9 LETTER THAT I HANDED OUT?

10 A YES, I DID.

11 THE COURT: DID YOU HAVE ANY QUESTIONS
12 ABOUT WHAT WAS IN IT, OR SOMETHING YOU DIDN'T
13 UNDERSTAND, OR SOMETHING WAS CONFUSING?

14 A NO, I DON'T.

15 THE COURT: OKAY. NOW, AS YOU WILL
16 KNOW FROM READING THE LETTER, ORDINARILY, THE JUDGE
17 IS THE ONLY ONE THAT GETS TO ASK QUESTIONS OF
18 JURORS, BUT BECAUSE OF THE POTENTIAL NATURE OF THIS
19 CASE, THE PROSECUTION GETS TO ASK YOU SOME
20 QUESTIONS AND THE DEFENSE ATTORNEYS GET TO ASK YOU
21 SOME QUESTIONS ABOUT YOUR RELEVANT VIEWS ON A CASE
22 THAT MAY DEVELOP.

23 NUMBER ONE, I WANT TO MAKE SURE YOU
24 UNDERSTAND WE'RE NOT HERE TO CHALLENGE ANYTHING YOU
25 BELIEVE OR PUT YOU ON THE SPOT OR EMBARRASS YOU.

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1 THERE AREN'T ANY RIGHT OR WRONG ANSWERS. THERE ARE
2 ONLY YOUR ANSWERS ON THE RELEVANT QUESTIONS.

3 NOW, IN ORDER TO GET A FAIR AND
4 IMPARTIAL TRIAL, DON'T YOU THINK IT'S FAIR THAT WE
5 KNOW WHAT YOUR BELIEFS ARE?

6 A YES.

7 THE COURT: AND MA'AM, HAVE YOU FORMED
8 OR EXPRESSED ANY OPINION AS TO THE GUILT OR
9 INNOCENCE OF STEPHEN BECKHAM, THE DEFENDANT IN THIS
10 CASE?

11 A NO, I HAVEN'T.

12 THE COURT: AND DO YOU KNOW ANYTHING
13 ABOUT THE FACTS OF THE CASE?

14 A NONE.

15 THE COURT: AND DO YOU ACCEPT AND
16 FOLLOW AS A PRINCIPLE IN OUR LEGAL SYSTEM THAT A
17 CITIZEN ACCUSED OF A CRIME IS PRESUMED INNOCENT OF
18 THAT CRIME UNTIL AND UNLESS THE STATE PROVES HIM OR
19 HER GUILTY BEYOND A REASONABLE DOUBT?

20 A THAT'S CORRECT.

21 THE COURT: YOU CAN FOLLOW THAT
22 PRINCIPLE?

23 A YES.

24 THE COURT: ALL RIGHT, THE REASON I
25 NEED TO MAKE SURE OF THAT, AND THE REASON I ASKED

1 YOU THE PRIOR QUESTION IS ONE OF THE THINGS WE'RE
2 GOING TO TALK ABOUT HAS TO DO WITH PENALTIES. I
3 WANT TO MAKE SURE THAT YOU WILL NOT INFER OR IMPLY
4 THAT MR. BECKHAM IS GUILTY OF ANYTHING BECAUSE
5 WE'RE TALKING ABOUT PENALTY RIGHT NOW. CAN YOU DO
6 THAT?

7 A YES.

8 THE COURT: BECAUSE WE HAVEN'T HAD THE
9 TRIAL YET. ALL RIGHT NOW, ESSENTIALLY, AS MY
10 LETTER TOLD YOU, IN A SITUATION LIKE THIS WHERE THE
11 STATE IS ALLEGING A MURDER AND IS SEEKING THE DEATH
12 PENALTY, THERE ARE TWO PHASES. THE FIRST PHASE IS
13 THE GUILT OR INNOCENCE OF THE DEFENDANT MUST BE
14 ESTABLISHED. THE GUILT OF THE DEFENDANT MUST BE
15 ESTABLISHED IN THE GUILT PHASE BY THE STATE. AND
16 OF COURSE IF THEY FAIL IN THAT BURDEN, THEN YOU
17 WOULD NOT GO TO THE SECOND PHASE.

18 BUT IF THEY MEET THAT BURDEN, THEN WE
19 GO TO THE SECOND PHASE, WHERE YOU, THE JURY, ARE
20 ASKED TO SET THE APPROPRIATE PUNISHMENT, DEATH OR
21 LIFE. DO YOU UNDERSTAND THAT PROCEDURE?

22 A YES, I DO.

23 THE COURT: AND DO YOU UNDERSTAND THAT
24 IF YOU ARE IN THE PENALTY PHASE THAT ONLY THE JURY
25 CAN DETERMINE THE PUNISHMENT, NOT THE JUDGE, BUT

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1 THE JURY?

2 A YES.

3 THE COURT: ALL RIGHT NOW, LET'S--LET
4 ME GIVE THIS SCENARIO FOR YOU. USUALLY WHEN WE
5 HAVE JURORS IN TALKING ABOUT PENALTY, THEY WILL
6 FALL INTO THREE CATEGORIES.

7 THE FIRST CATEGORY OF JUROR IS ONE WHO
8 SAYS, "WE GOT A MURDER CONVICTION, PLUS THE STATE
9 HAS OFFERED EVIDENCE OF AGGRAVATION, AND IT DOESN'T
10 MATTER TO ME WHETHER THERE'S MITIGATING EVIDENCE OR
11 NOT, I BELIEVE THAT THE DEATH PENALTY IS THE
12 APPROPRIATE PENALTY AND I WOULD ALWAYS IMPOSE THE
13 DEATH PENALTY." YOU UNDERSTAND THAT'S A CATEGORY
14 OF A JUROR?

15 A YES.

16 THE COURT: ALL RIGHT, THERE'S A SECOND
17 CATEGORY THAT SAYS, "IT'S TRUE THAT WE GOT A
18 CONVICTION, IT'S TRUE THAT THERE'S EVIDENCE OF
19 AGGRAVATION IN THE CASE, AND WE MAY OR MAY NOT HAVE
20 MITIGATING EVIDENCE, BUT I BELIEVE THAT LIFE
21 IMPRISONMENT IS ALWAYS THE APPROPRIATE PUNISHMENT.
22 I VOTE FOR LIFE." THAT'S A SECOND CATEGORY. YOU
23 UNDERSTAND THAT TYPE JUROR?

24 A YES.

25 THE COURT: OKAY. NOW, THERE'S A THIRD

1 CATEGORY OF JURORS WHO SAY, "IT'S TRUE, WE GOT A
2 CONVICTION; WE'VE GOT EVIDENCE OF AGGRAVATION. WE
3 MAY OR MAY NOT HAVE EVIDENCE OF MITIGATION, BUT I
4 BELIEVE WE SHOULD LOOK AT ALL OF THE EVIDENCE AND I
5 WOULD WANT TO CONSIDER WHICH IS THE MORE
6 APPROPRIATE PUNISHMENT, LIFE OR DEATH, BASED UPON
7 THE CIRCUMSTANCES."

8 IF I HAD TO ASK YOU WHICH JUROR YOU
9 THINK YOU WOULD LIKELY BE, COULD YOU TELL ME FROM
10 ONE, TWO, OR THREE?

11 A YES.

12 THE COURT: WHICH ONE?

13 A THREE.

14 THE COURT: OKAY. AND IF YOU FELT, MS.
15 HAYNES, THAT BASED UPON THE EVIDENCE AND THE LAW IN
16 THE CASE THAT THE DEATH PENALTY WAS THE APPROPRIATE
17 PUNISHMENT FOR A DEFENDANT, COULD YOU IMPOSE THE
18 DEATH SENTENCE, AS A JUROR?

19 A COULD YOU REPEAT THAT?

20 THE COURT: IF YOU FELT, IF YOU FELT
21 THAT THE EVIDENCE, BASED ON THE EVIDENCE,
22 CONSIDERING THE CONVICTION, THE AGGRAVATING
23 CIRCUMSTANCES, ANY MITIGATING CIRCUMSTANCES,
24 CONSIDERING THE WHOLE RECORD, AND FOLLOWING THE
25 LEGAL INSTRUCTIONS, IF YOU FELT THAT THE

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1 APPROPRIATE PUNISHMENT WAS THE DEATH SENTENCE AS
2 OPPOSED TO A LIFE SENTENCE, COULD YOU IMPOSE A
3 DEATH SENTENCE?

4 A YES.

5 THE COURT: AND LIKEWISE, MA'AM, IF YOU
6 FELT, CONSIDERING THOSE SAME, THAT SAME CASE, IF
7 YOU LOOKED AT IT AND YOU FELT THAT A LIFE SENTENCE
8 WAS A MORE APPROPRIATE SENTENCE THAN A DEATH
9 SENTENCE, COULD YOU IMPOSE A LIFE SENTENCE?

10 A YES.

11 THE COURT: OKAY. NOW, LET ME TAKE YOU
12 A STEP FURTHER. UNDER OUR STATUTORY SCHEME THAT
13 THE LEGISLATURE HAS PASSED, IF A JURY DETERMINES
14 THAT THE DEATH SENTENCE IS THE APPROPRIATE ---
15 DEATH PENALTY IS THE APPROPRIATE SENTENCE THEN EACH
16 INDIVIDUAL JUROR MUST SIGN THEIR NAME TO THE
17 VERDICT FORM OR TO THE DEATH WARRANT ACKNOWLEDGING
18 THAT THAT IS THEIR DECISION TO IMPOSE THE DEATH
19 PENALTY.

20 IF YOU FELT THAT THE DEATH PENALTY WAS
21 THE APPROPRIATE PUNISHMENT, COULD YOU SIGN YOUR
22 NAME TO THE SENTENCE FORM OR THE DEATH WARRANT?

23 A YES.

24 THE COURT: ALL RIGHT, LET ME LET THE
25 SOLICITOR ASK SOME QUESTIONS OF YOU, PLEASE.

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1 EXAMINATION BY:

2 MR. JONES:

3 Q GOOD AFTERNOON, MS. HAYNES.

4 A GOOD AFTERNOON.

5 Q MY NAME IS TOWNES JONES, AND I'M

6 SOLICITOR. I'LL BE PROSECUTING THIS CASE,

7 PRESENTING THE EVIDENCE IN THE CASE THAT WE HAVE.

8 LET ME AT THE OUTSET TELL YOU I APPRECIATE YOUR

9 PATIENCE. YOU'VE BEEN BACK THERE FOR A GOOD WHILE,

10 I IMAGINE, THIS MORNING AND WAITING ON US. WE'VE

11 BEEN WORKING STEADY AND TRYING TO GET TO YOU. I

12 WANT TO ASSURE YOU OF THAT.

13 WE HAVE YOUR QUESTIONNAIRE THAT YOU

14 SENT IN. YOU SENT THIS IN WHEN THE JUDGE SENT IT

15 TO YOU. YOU FILLED IT OUT AND SENT IT IN AND WE'VE

16 GONE OVER SOME OF THOSE MATTERS. I WANTED TO ASK

17 YOU, YOU SAID YOU ATTEND THE CHRIST COMMUNITY

18 CHURCH. IT'S A NON-DENOMINATIONAL, AND ROCK HILL

19 PRESBYTERIAN CHURCH?

20 A THAT'S CORRECT.

21 Q IS THE ROCK HILL CHURCH, IS THAT IN THE

22 TOWN OF ROCK HILL, OR IS IT...

23 A IT'S IN NORRIS, SOUTH CAROLINA.

24 Q WHERE IS NORRIS?

25 A IT'S SEVEN MILES OUT FROM CLEMSON.

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1 Q OKAY, WE'RE FROM...

2 A I'M SORRY.

3 Q THAT'S OKAY. WE CAME HERE FROM, I'M

4 FROM GREENWOOD, SOUTH CAROLINA, AND THIS TRIAL IS

5 GOING TO TAKE PLACE IN NEWBERRY, AND WE CAME UP

6 HERE SO I'M NOT THAT FAMILIAR WITH THE AREA.

7 THE COURT: IT'S IN PICKENS COUNTY.

8 Q AND THEN THE CHRIST COMMUNITY CHURCH,

9 THE NON-DENOMINATIONAL CHURCH.

10 A IT'S IN SENECA, WHERE I LIVE.

11 Q AND I BELIEVE YOU SAID YOU WENT TO

12 BOGGS ACADEMY HIGH SCHOOL?

13 A YES, THAT WAS A PRIVATE HIGH SCHOOL IN

14 GEORGIA.

15 Q IN GEORGIA?

16 A YES.

17 Q SO YOU GREW UP IN OCONEE THOUGH, AND

18 WENT OFF TO SCHOOL OVER THERE?

19 A YES, IT'S A PRESBYTERIAN CHURCH SCHOOL.

20 Q AND IS BLUE RIDGE A LOCAL SCHOOL?

21 A IT USED TO BE UNTIL INTEGRATION CAME

22 ABOUT.

23 Q A LOCAL JUNIOR HIGH SCHOOL?

24 A WELL, IT WAS HIGH SCHOOL THEN, IN

25 SENECA.

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- 1 Q EXCUSE ME ONE SECOND. WHEN YOU WERE
2 ANSWERING THE JUDGE'S QUESTIONS, YOU ASKED HIM WHEN
3 HE ASKED YOU IF YOU COULD IMPOSE THE DEATH PENALTY,
4 YOU ASKED HIM TO REPEAT THE QUESTION?
- 5 A I DID.
- 6 Q AND I COULDN'T QUITE TELL WHETHER THAT
7 WAS BECAUSE YOU DIDN'T HEAR HIM, OR YOU DIDN'T
8 UNDERSTAND IT, OR YOU NEEDED SOME TIME TO THINK
9 ABOUT YOUR ANSWER.
- 10 A I HEARD WHAT HE SAID BUT IT DIDN'T
11 QUITE--I DIDN'T QUITE EH....EH... I UNDERSTOOD WHAT
12 HE SAID, BUT I JUST NEEDED TO HEAR HIM TO REPEAT IT
13 ONCE FOR ME.
- 14 Q OKAY, SO YOU'RE TELLING ME THAT YOU
15 DIDN'T NEED TO THINK ABOUT YOUR ANSWER?
- 16 A NO, I DIDN'T.
- 17 Q YOU KNEW BEFORE HE ASKED THE QUESTION
18 THAT YOU COULD IMPOSE THE DEATH PENALTY?
- 19 A YES.
- 20 Q AND YOU KNEW BEFORE HE ASKED THE
21 QUESTION THAT IF IT REQUIRED YOU TO SIGN YOUR NAME,
22 IMPOSING THE DEATH PENALTY, THAT YOU COULD DO THAT
23 ALSO?
- 24 A YES, UH-HUH.
- 25 Q EXCUSE ME ONE MINUTE. THESE ARE SOME

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1 LAWYERS THAT ARE HELPING ME WITH THE CASE. THIS IS
2 SOLICITOR MIKE COULTER, SOLICITOR BETTY STROM,
3 SOLICITOR KNOX MCMAHON. THEY ARE HELPING ME
4 PREPARE THE CASE.

5 I NOTICE THAT YOU HAVE A FAMILY, SOME
6 CHILDREN, AND IT APPEARS YOUR YOUNGEST CHILD WOULD
7 BE FOUR AND A HALF?

8 A THAT'S CORRECT, SHE IS.

9 Q AND IS THERE SOMEONE AVAILABLE TO TAKE
10 CARE OF HER IN YOUR ABSENCE?

11 A I LIVE WITH MY PARENTS.

12 Q WHAT IS YOUR PARENTS' OCCUPATION?

13 A HE'S A MINISTER AT THE TWO CHURCHES I
14 ATTEND. AND MY MOTHER, SHE'S A HOUSEWIFE.

15 Q MS. HAYNES, I ALSO NOTICE THAT YOU ARE
16 CURRENTLY SEPARATED?

17 A THAT'S TRUE.

18 Q HOW LONG HAVE YOU BEEN SEPARATED?

19 A IT'S NOT LEGAL. WE WERE IN COURT IN
20 MAY AND THEN JUST AUGUST, PAST AUGUST FIRST, IN
21 PICKENS COUNTY.

22 Q OKAY. MS. HAYNES, THE VICTIM IN THIS
23 CASE WAS MURDERED. HER NAME IS VICTORIA LANDER
24 BECKHAM, AND HER PARENTS ARE HERE TODAY, HER DAD IS
25 HERE IN THE BLUE SUIT ON THE FIRST ISLE, SENATOR

1 LANDER. I'D LIKE TO INTRODUCE YOU TO HIM; ALSO,
2 HER MOM, MS. JOLENE LANDER SEATED NEXT TO HIM.

3 AND YOU UNDERSTAND THAT IN A TRIAL, YOU
4 KNOW, YOU GET EVIDENCE, AND WE PRESENT OUR EVIDENCE
5 AS TO GUILT, AND YOU DETERMINE WHETHER OR NOT
6 THERE'S SUFFICIENT EVIDENCE BASED ON WHETHER WE
7 PROVE TO YOU BEYOND A REASONABLE DOUBT. YOU
8 UNDERSTAND THAT?

9 A YES, I DO.

10 Q AND DO YOU ACCEPT THE PRINCIPLE OF
11 BEYOND A REASONABLE DOUBT?

12 A YES.

13 Q THANK YOU, MA'AM.

14 THE COURT: MR. SWERLING OR MR.
15 HARPOOTLIAN?

16 EXAMINATION BY:

17 MR. SWERLING:

18 Q GOOD AFTERNOON, MS. HAYNES.

19 A GOOD AFTERNOON.

20 Q I'M JACK SWERLING. HOW ARE YOU TODAY?

21 A I'M FINE.

22 Q THE FELLOW SEATED, WHO JUST GOT IN MY
23 CHAIR IS DICK HARPOOTLIAN. HE'S A FRIEND OF MINE
24 AND CO-COUNSEL IN THIS CASE FROM COLUMBIA.

25 SEATED NEXT TO HIM IS MR. BECKHAM WHO

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1 IS THE FELLOW ON TRIAL, OR WHO WILL BE ON TRIAL.

2 AND OVER THERE IS ALEX POSTICK, A YOUNG LAWYER WHO
3 IS WORKING ON THE CASE WITH US.

4 YOU DON'T KNOW ANY OF THE PEOPLE IN THE
5 COURTROOM HERE WHO ARE INVOLVED IN THIS CASE?

6 A NO, I DO NOT.

7 Q WE APPRECIATE YOU BEING HERE AND
8 APPRECIATE THE KIND OF UNCOMFORTABLE POSITION
9 YOU'RE IN, SITTING IN THE WITNESS' CHAIR HAVING TO
10 ANSWER QUESTIONS. I GUESS YOU DIDN'T PLAN ON THAT
11 WHEN YOU CAME TO JURY DUTY YESTERDAY.

12 A NO.

13 Q THIS IS KIND OF A UNIQUE SITUATION, AND
14 IF I CAN, I'D LIKE TO EXPLAIN IT TO YOU FOR A
15 MOMENT.

16 NORMALLY, YOUR VIEW OR EVERYBODY'S VIEW
17 OF THE COURTROOM, CRIMINAL COURT, IS JURORS COME IN
18 ON A MONDAY, MAY BE CALLED FOR A CASE. THE JUDGE
19 ASKS THEM SOME QUESTIONS AND THEY GET SEATED IN THE
20 JURY BOX, STATE PRESENTS EVIDENCE. IF THEY PRESENT
21 EVIDENCE BEYOND A REASONABLE DOUBT THAT A PERSON IS
22 GUILTY, THE JURY FINDS HIM GUILTY. IF THEY DON'T
23 PRESENT EVIDENCE THAT THE PERSON IS GUILTY BEYOND A
24 REASONABLE DOUBT, THE JURY FIND THEM NOT GUILTY.

25 IN THE FORMER SITUATION, IF THEY FIND

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1 HIM GUILTY, THE JUDGE DECIDES THE PUNISHMENT, OKAY?

2 A UH-HUH.

3 Q THAT IS THE WAY IT IS DONE, I THINK, I
4 DON'T THINK ANYBODY WOULD DISAGREE, THAT'S THE WAY
5 IT'S NORMALLY DONE.

6 WHAT'S DIFFERENT ABOUT THIS CASE IS
7 THAT UNDER OUR SCHEME THAT THE LEGISLATURE HAS
8 DEVELOPED ABOUT DEATH PENALTY CASES WHERE THE STATE
9 IS SEEKING THE DEATH PENALTY IN A HOMICIDE, MURDER
10 CASE, THEN WE DO IT A LITTLE BIT DIFFERENTLY. AND
11 THERE ARE SOME PROCEDURAL DIFFERENCES. NUMBER ONE,
12 WE HAVE THE OPPORTUNITY, THE LAWYERS HAVE THE
13 OPPORTUNITY TO ACTUALLY ASK YOU QUESTIONS. THAT'S
14 WHY THIS IS GOING ON, JUST SO YOU'LL UNDERSTAND.
15 THIS IS NOT NORMALLY WHAT HAPPENS.

16 AND BECAUSE THE CASES THAT ARE IN THAT
17 CATEGORY ARE SO SERIOUS WE'RE ALLOWED TO EXPLORE
18 WITH YOU SOME OF YOUR VIEWS ABOUT SOME PRINCIPLES
19 OF LAW, AND YOUR VIEWS ABOUT CAPITAL PUNISHMENT,
20 OKAY? THAT'S THE PURPOSE OF IT. NORMALLY, WE
21 DON'T GET TO ASK YOU ANY QUESTIONS AT ALL.

22 AND WHAT'S ALSO DIFFERENT ABOUT THIS
23 CASE IS IT'S ALMOST, IN THE EVENT THAT A JURY
24 DETERMINES BEYOND A REASONABLE DOUBT THAT A PERSON
25 IS GUILTY, THEN THE JURY SITTING IN A SEPARATING

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1 PROCEEDING, SEPARATE TRIAL ALMOST, ALSO GETS TO
2 DECIDE THE PUNISHMENT. THE ONLY TIME THAT THE JURY
3 GETS TO DECIDE THE PUNISHMENT IS WHERE THE STATE IS
4 IN FACT SEEKING THE DEATH PENALTY AND OBTAIN A
5 CONVICTION BECAUSE THEY'VE PROVEN IT BEYOND A
6 REASONABLE DOUBT.

7 OKAY, DOES THAT KIND OF PUT IT IN A
8 FRAMEWORK FOR YOU?

9 A YES.

10 Q AS TO WHY WE'RE ALL DOING THIS? BUT
11 ONE OF THE UNUSUAL THINGS ABOUT THAT IS WE'RE
12 STANDING HERE AND THE JUDGE IS ASKING YOU SOME
13 QUESTIONS ABOUT WHETHER YOU FELL INTO CATEGORY ONE,
14 TWO, OR THREE. AND THE SOLICITOR'S ASKING YOU
15 QUESTIONS ABOUT YOUR VIEWS ABOUT CAPITAL
16 PUNISHMENT, WHETHER YOU COULD DO THIS AND WHETHER
17 YOU COULD DO THAT. BUT THERE'S STILL THAT FIRST
18 TRIAL, THE FIRST PART OF THE CASE, AND IT MAY BE
19 THE ONLY PART OF THE CASE, WHERE THE JURY HAS TO
20 DETERMINE WHETHER OR NOT A PERSON IS GUILTY, OR
21 WHETHER OR NOT A PERSON IS NOT GUILTY, OKAY?

22 A UH-HUH.

23 Q THAT IS STILL SOMETHING TO DEAL WITH,
24 OKAY? BECAUSE WE DON'T GET TO THAT SECOND PART OF
25 THIS THAT EVERYBODY'S TALKING ABOUT UNLESS THE

1 STATE OBTAINS A CONVICTION IN THE FIRST PART OF THE
2 CASE, OKAY? YOU FOLLOW WHAT I'M SAYING?

3 A YES.

4 Q IN OTHER WORDS, THERE'S A BIG IF THERE.
5 WE DON'T GET TO THE SECOND TRIAL UNLESS THE JURY
6 RESOLVES IN THE FIRST TRIAL THAT THE DEFENDANT, OR
7 ANY DEFENDANT IS GUILTY BEYOND A REASONABLE DOUBT.

8 A UH-HUH.

9 Q SO WE HAVE A FIRST TRIAL, AND IN THAT
10 SITUATION, AS IN ANY SITUATION, AND THAT DOESN'T
11 CHANGE FROM CASE TO CASE, DEFENDANTS ARE PRESUMED
12 TO BE INNOCENT. IN OTHER WORDS, IT IS PRESUMED THE
13 PERSON SITTING IN THE COURTROOM CHARGED WITH A
14 CRIME IS INNOCENT OF THAT CRIME, OKAY? DO YOU FEEL
15 THAT IS AN APPROPRIATE PRINCIPLE OF LAW?

16 A YES.

17 Q AND YOU BELIEVE THAT IS A GOOD
18 PRINCIPLE OF LAW?

19 A YES.

20 Q AND DEFENDANT STEPHEN BECKHAM, WE CALL
21 HIM DEFENDANT, WE CALL HIM STEPHEN, HE'S PLED NOT
22 GUILTY IN THIS CASE, OKAY?

23 A OKAY.

24 Q AND IN A CRIMINAL COURT CONTEXT, THE
25 STATE MUST PROVE GUILT BEYOND A REASONABLE DOUBT.

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1 IN OTHER WORDS, A REASONABLE DOUBT IS A DOUBT THAT
2 CAUSES A REASONABLE PERSON TO HESITATE, OKAY?

3 AND IF THEY DON'T PROVE GUILT BEYOND A
4 REASONABLE DOUBT, THEN A DEFENDANT, ANY DEFENDANT,
5 IS ENTITLED TO AN ACQUITTAL. OKAY?

6 A UH-HUH.

7 Q SO I JUST WANTED TO KIND OF TALK TO YOU
8 ABOUT THOSE PRINCIPLES, AND YOU, AS I UNDERSTAND,
9 HAVE NO PROBLEM WITH THOSE PRINCIPLES OF LAW AT
10 ALL. YOU BELIEVE IN THOSE PRINCIPLES?

11 A YES, UH-HUH.

12 Q IN COMING INTO THE COURTROOM TODAY,
13 YOU, AS I UNDERSTAND IT, HAVE NO OPINION ABOUT
14 INNOCENCE OR GUILT?

15 A THAT'S TRUE.

16 Q YOU DON'T KNOW ANYTHING ABOUT THE CASE?

17 A THAT'S TRUE.

18 Q AND IF SELECTED ON THE JURY, WOULD BE
19 WILLING TO LISTEN TO ALL OF THE EVIDENCE IN THE
20 CASE, AND APPLY THOSE PRINCIPLES WE JUST TALKED
21 ABOUT, THE PRESUMPTION OF INNOCENCE...

22 A VERY MUCH SO.

23 Q ...AND PROOF BEYOND A REASONABLE DOUBT.

24 A UH-HUH.

25 Q AND YOU UNDERSTAND THE VERDICT WOULD

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1 HAVE TO BE UNANIMOUS?

2 A YES.

3 Q ALL TWELVE WOULD HAVE TO AGREE.

4 A UH-HUH.

5 Q NOW, SO WE HAVE THAT BIG IF, SO LET'S
6 GO INTO THE SECOND PART THAT THE LEGISLATURE SAYS
7 WE CAN TALK ABOUT FOR A MOMENT, AND THAT IS IF A
8 DEFENDANT IS FOUND GUILTY, THEN THE JURY IS RE-
9 IMPANELLED--NEVER REALLY NOT PANELLED, BUT YOU SIT
10 BACK IN THE JURY BOX, AND THE STATE AND THE DEFENSE
11 HAVE WHAT WE CALL THE SECOND PART OF THIS TRIAL.
12 IT'S A BIFURCATED TRIAL.

13 AND AS THE JUDGE EXPLAINED TO YOU,
14 THERE'S THREE CATEGORIES, BUT THEY ALL INVOLVE
15 HOMICIDES, OKAY? MURDER, OKAY? AND THE FIRST
16 CATEGORY WAS THAT PEOPLE WHO ARE FOUND GUILTY OF
17 MURDER, A JUROR BELIEVES THAT THEY ALWAYS DESERVE
18 THE DEATH PENALTY.

19 THE SECOND CATEGORY WAS IF SOMEBODY'S
20 CONVICTED OF MURDER, PERSON NEVER BELIEVES THAT THE
21 DEATH PENALTY IS APPROPRIATE, AND THE THIRD IS, IF
22 SOMEONE IS FOUND GUILTY OF MURDER THAT THE JUROR
23 HAS AN OPEN MIND ABOUT WHAT THE PUNISHMENT SHOULD
24 BE, CORRECT? AND YOU FALL INTO CATEGORY THREE?

25 A YES.

1 Q SO YOU FEEL, SITTING HERE, THAT
2 NOTWITHSTANDING THE FACT THAT IF A JURY FOUND
3 SOMEONE GUILTY OF MURDER, YOU WOULDN'T BE
4 PREDISPOSED ONE WAY OR THE OTHER ABOUT WHAT THE
5 PUNISHMENT SHOULD BE AT THAT POINT IN TIME? YOU
6 WOULD NOT HAVE A LEANING OR CONVICTION AT THAT
7 POINT IN TIME AS TO WHAT THE PUNISHMENT OUGHT TO BE
8 SIMPLY BY FINDING SOMEONE GUILTY OF MURDER, OR DO
9 YOU?

10 A NO.

11 Q NOW, ARE YOU HESITATING BECAUSE OF THE
12 QUESTION, OR TRYING TO GIVE--I GUESS I'M ASKING THE
13 SAME QUESTION THE SOLICITOR...

14 A YES.

15 Q YOU DO SEEM TO HESITATE ABOUT THAT
16 PARTICULAR ISSUE. IN OTHER WORDS, IF YOU FOUND
17 THAT SOMEONE WERE GUILTY OF MURDER, DO YOU HAVE A
18 FEELING AT THAT POINT WHAT THE APPROPRIATE
19 PUNISHMENT OUGHT TO BE?

20 A BASED ON EVIDENCE.

21 Q AND WHAT WOULD THAT BE?

22 A EH...?

23 Q IN OTHER WORDS, ARE YOU SAYING THAT IF
24 YOU FOUND--CORRECT ME IF I'M WRONG. ARE YOU SAYING
25 THAT IF YOU FOUND SOMEONE GUILTY OF MURDER THAT YOU

1 KNOW WHAT YOU BELIEVE THE PUNISHMENT OUGHT TO BE AT
2 THAT POINT?

3 A YEAH, WHAT THE LAW STATES IT SHOULD BE.

4 Q BUT YOU GET TO DECIDE WHAT THAT IS.

5 A UH-HUH.

6 Q AS A MEMBER OF THE JURY.

7 A UH-HUH.

8 Q DO YOU FEEL ONCE SOMEONE IS FOUND
9 GUILTY OF MURDER THAT THE PENALTY SHOULD ALWAYS BE
10 ONE WAY OR THE OTHER?

11 A IT JUST DEPENDS.

12 Q DEPENDS ON WHAT?

13 A ON THE EVIDENCE THAT'S BEEN PRESENTED.

14 Q OKAY, BUT REMEMBER NOW, WE'RE GETTING
15 TO A STAGE WHERE THE EVIDENCE HAS BEEN PRESENTED AS
16 FAR AS GUILT OR INNOCENCE. OKAY? WE'RE ONLY
17 GETTING TO THIS POINT IF THE JURY HAS SAID THAT
18 PERSON IS GUILTY, OKAY?

19 MR. JONES: AND FIND AGGRAVATING
20 CIRCUMSTANCES, YOUR HONOR.

21 MR. SWERLING: I'M NOT AT THAT STAGE.

22 THE COURT: HE HASN'T GOT TO THAT YET.
23 BUT IN ANTICIPATION OF THE OBJECTION, WHEN YOU'RE
24 TALKING ABOUT THE SECOND PART, YOU'VE GOT TO ADD
25 THAT TO THE EQUATION.

1 MR. SWERLING: YES, SIR, BUT I'M ONLY
2 TALKING ABOUT THE FIRST PART AT THIS POINT.

3 THE COURT: I UNDERSTAND WHERE YOU ARE.

4 Q WHAT I'M SAYING IS, AND IT GETS
5 CONFUSING, OKAY? LAWYERS MAKE THINGS CONFUSING,
6 AND I'M SORRY.

7 YOU SEEM TO INDICATE THAT IT DEPENDS ON
8 THE EVIDENCE. WHAT I'M TRYING TO FIND OUT IS, IS
9 IT THE EVIDENCE THAT'S PRESENTED IN THE FIRST PHASE
10 OF THE TRIAL? IN OTHER WORDS, IF YOU FIND THAT
11 SOMEONE IS GUILTY, OKAY? FIND THE STATE'S PROVEN
12 GUILT BEYOND A REASONABLE DOUBT, DO YOU HAVE AN
13 OPINION AT THAT TIME AS TO WHAT THE PUNISHMENT
14 OUGHT TO BE EVEN BEFORE YOU GO INTO THAT SECOND
15 PART OF THE TRIAL?

16 MR. JONES: JUDGE, SHE CAN'T HAVE AN
17 OPINION AS TO WHAT PUNISHMENT SHOULD BE UNLESS
18 AGGRAVATING CIRCUMSTANCE WAS FOUND BECAUSE...

19 MR. SWERLING: THAT'S NOT...

20 THE COURT: I OVERRULE THE OBJECTION.
21 BUT NOW SHE'S GOING TO HAVE TO GIVE YOU AN ANSWER.

22 MR. SWERLING: YES, SIR.

23 THE COURT: I UNDERSTAND WHAT YOU'RE
24 TRYING TO GET, BUT AS SOON AS YOU GET THAT ANSWER
25 NOW, YOU'VE GOT TO MEET HIS OBJECTION.

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1 MR. SWERLING: YES, SIR.

2 THE COURT: OKAY.

3 Q MS. HAYNES, BELIEVE ME, I'M NOT TRYING
4 TO INVADE, YOU KNOW, WHAT YOUR PRIVATE THOUGHTS
5 ARE. WHAT I'M TRYING, I GUESS, TO FIND OUT IS YOU
6 SAID SOMETHING ABOUT IT DEPENDS ON THE EVIDENCE.

7 A UH-HUH.

8 Q AND UNDERSTAND WE REALLY NEED TO DO
9 THAT AT THIS POINT TO LOOK INTO YOUR FEELINGS ABOUT
10 THIS KIND OF SITUATION. BECAUSE ALL SIDES ARE
11 GOING TO HAVE TO DECIDE WHETHER YOU'RE A JUROR IN
12 THIS CASE, OKAY?

13 A UH-HUH. YEAH.

14 Q SO I MEAN, THERE'S NOTHING PERSONAL
15 ABOUT IT. PLEASE UNDERSTAND WHAT I MEAN. WHAT I'M
16 TRYING TO FIND OUT FROM YOU IS IF YOU WERE TO FIND
17 SOMEONE GUILTY, ALONG WITH YOUR FELLOW JURORS, AT
18 THAT POINT, AT THAT POINT IN TIME, JUST BY FINDING
19 THAT PERSON GUILTY, DO YOU BELIEVE YOU KNOW WHAT
20 THE PUNISHMENT OUGHT TO BE, OR DO YOU HAVE A
21 FEELING AS TO WHAT THE PUNISHMENT OUGHT TO BE AT
22 THAT POINT IN TIME?

23 A I WOULD HAVE A FEELING.

24 Q AND WHAT WOULD THAT BE? THAT YOU HAVE
25 TO VOTE FOR DEATH?

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1 A YES.

2 Q SO YOUR FEELING IS THAT ONCE THE JURY
3 FINDS FROM THE EVIDENCE THAT A PERSON IS GUILTY
4 BEYOND A REASONABLE DOUBT, YOU FEEL THAT THE DEATH
5 SENTENCE IS APPROPRIATE? IS THAT WHAT YOU'RE
6 SAYING?

7 A YES, UH-HUH.

8 Q OKAY. IN ANY CASE, WHERE YOU FIND
9 GUILT BEYOND A REASONABLE DOUBT?

10 A YES.

11 Q YOU UNDERSTAND, THERE'S NO RIGHT OR
12 WRONG ANSWER ABOUT THIS THING, OKAY? I MEAN JUST
13 LIKE POLITICS IS LIKE RELIGION, EVERYBODY HAS AN
14 OPINION AND THESE ARE STRONG FEELINGS THAT PEOPLE
15 HAVE ABOUT IT, AND WE UNDERSTAND. THAT'S WHAT
16 WE'RE TRYING TO EXPLORE.

17 SO WHEN THE JUDGE WAS ASKING YOU ABOUT
18 WHICH CATEGORY YOU FELL INTO, GENERALLY WHAT YOU'RE
19 SPEAKING ABOUT IS YOU WANT TO KNOW THE EVIDENCE IN
20 THE CASE, BUT IF YOU WERE TO FIND SOMEONE GUILTY OF
21 MURDER, THEN THE APPROPRIATE SENTENCE WOULD BE THE
22 DEATH PENALTY?

23 A YES.

24 Q AND THAT'S IN ALL CASES WHERE YOU FOUND
25 EVIDENCE THAT THE PERSON WAS GUILTY OF MURDER? IS

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1 THAT CORRECT?

2 A YES.

3 Q SO WHEN YOU'RE TALKING ABOUT EVIDENCE,
4 YOU'RE TALKING ABOUT WHAT THE EVIDENCE IS AND
5 WARRANTS A FINDING OF GUILTY OR NOT GUILTY?

6 A YES.

7 Q THAT'S WHAT'S IMPORTANT TO YOU. AND
8 OBVIOUSLY, IF YOU FOUND SOMEONE NOT GUILTY, THERE
9 WOULDN'T BE NO ISSUE ABOUT THE PUNISHMENT, CORRECT?

10 A TRUE.

11 Q BUT IF YOU FOUND SOMEONE GUILTY, YOU
12 FEEL THE DEATH SENTENCE WOULD BE APPROPRIATE?

13 A YES.

14 Q EXCUSE ME ONE MINUTE.

15 NOTHING FURTHER AT THIS TIME.

16 THE COURT: REDIRECT, SOLICITOR?

17 EXAMINATION BY:

18 MR. JONES:

19 Q I'M BACK, MS. HAYNES. AND THE REASON
20 IS, IS THAT I DIDN'T UNDERSTAND EXACTLY WHAT YOU
21 SAID BECAUSE I THOUGHT THAT YOU TOLD THE JUDGE WHEN
22 HE WAS ASKING YOU QUESTIONS ABOUT WHICH CATEGORY
23 YOU FELL IN, AND I ASKED YOU ON DIRECT EXAMINATION,
24 AND YOU SAID, "WELL, I DIDN'T QUITE UNDERSTAND THE
25 QUESTION AND I ASKED HIM TO REPEAT IT, HE REPEATED

1 IT." DID YOU UNDERSTAND THE QUESTION TO BE, OR DO
2 YOU FALL INTO CATEGORY THREE, THE KIND OF PERSON
3 THAT WOULD HEAR ALL OF THE EVIDENCE, LOOK AT THE
4 CASE, AND MAKE A DECISION ABOUT WHETHER DEATH IS
5 THE APPROPRIATE SENTENCE OR A LIFE SENTENCE IS THE
6 APPROPRIATE SENTENCE. DID YOU TELL HIM THAT?

7 A YES, I DID.

8 Q SO YOU COULD SENTENCE SOMEONE TO LIFE
9 IF THE CIRCUMSTANCES OF THE CASE WARRANTED IT, IN
10 YOUR OPINION?

11 A YES.

12 Q AND YOUR POSITIVE ABOUT THAT?

13 A YES.

14 Q SO YOU DO FEEL IF THE CIRCUMSTANCES OF
15 THE CASE WARRANT A LIFE SENTENCE THEN YOU CAN VOTE
16 FOR A LIFE SENTENCE?

17 A YES.

18 Q YOU'RE ABSOLUTELY POSITIVE OF THAT?

19 A THAT'S TRUE.

20 Q I THOUGHT THAT'S WHAT YOU TOLD THE
21 JUDGE EARLIER, AND THEN WHEN YOU WERE BEING CROSS-
22 EXAMINED BY MR. SWERLING, I THOUGHT YOU SAID,
23 "WELL, I THINK DEATH IS ALWAYS THE PROPER
24 PUNISHMENT." BUT HE DIDN'T ASK THE OTHER QUESTION
25 ABOUT WHETHER OR NOT YOU WOULD CONSIDER ALL OF THE

1 CIRCUMSTANCES OF THE CASE, IS THAT CORRECT?

2 A HE MENTIONED WITH ALL THE EVIDENCE
3 BEING PRESENTED.

4 Q WELL, YOU SAID YOU WOULD LEAN TOWARDS
5 DEATH, IS THAT CORRECT?

6 A YES.

7 Q BUT YOU WOULD BE ABLE TO CONSIDER AND
8 IN FACT IMPOSE A LIFE SENTENCE, IS THAT CORRECT?

9 A YES.

10 Q YOU COULD SENTENCE SOMEBODY TO LIFE
11 IMPRISONMENT FOR THE CRIME OF MURDER, IS THAT
12 CORRECT?

13 A YES.

14 Q IS THAT CORRECT?

15 A YES.

16 Q AND IT WOULD DEPEND ON THE
17 CIRCUMSTANCES?

18 A TRUE.

19 Q SO IF I ASKED YOU THIS. IF I SAID,
20 "NOW IF SOMEBODY'S CONVICTED OF MURDER, YOU'RE
21 ALWAYS GOING TO SENTENCE THEM TO DEATH?" THAT
22 STATEMENT OR QUESTION WOULD NOT BE TRUE, IS THAT
23 CORRECT?

24 A THAT'S CORRECT.

25 Q SO, IF I SAID TO YOU, "IF YOU FOUND

1 SOMEBODY GUILTY OF MURDER, YOU WOULD ALWAYS
2 SENTENCE THEM TO DEATH," WOULD YOUR ANSWER BE NO?
3 A YES.
4 Q YOUR ANSWER WOULD BE NO, CORRECT?
5 A UH-HUH, YES.
6 Q EXCUSE ME ONE MINUTE, PLEASE MA'AM.
7 HAVE WE GIVEN YOU ENOUGH INFORMATION AT
8 THIS POINT IN TIME FOR YOU TO UNDERSTAND THAT THIS
9 TRIAL OR THIS TYPE OF TRIAL HAS TWO PHASES. IN THE
10 FIRST PHASE, THE JURY LISTENS TO EVIDENCE AND
11 DECIDES WHETHER OR NOT THE DEFENDANT IS GUILTY OR
12 NOT GUILTY. THAT'S THE FIRST ONE?
13 A YES.
14 Q AND THE JURY HEARS THE EVIDENCE AND
15 THEY GO BACK AND THEY VOTE, GUILTY OR NOT GUILTY,
16 AND THEY COME BACK OUT. AND IF THEY FIND HIM
17 GUILTY, THEN THE JURY HAS TO CONSIDER SOME OTHER
18 EVIDENCE. THEY HAVE TO GO THROUGH REALLY WHAT IS A
19 SECOND TRIAL. THE JURY COMES BACK AND SAYS, "WE
20 FIND HIM GUILTY. STATE PROVED THEIR CASE BEYOND A
21 REASONABLE DOUBT. HE'S GUILTY OF MURDER." AND THE
22 LAW WOULD REQUIRE THAT YOU FIND AN AGGRAVATING
23 CIRCUMSTANCE PRESENT IN ORDER TO PROCEED TO THE
24 SECOND PHASE, IS WHAT THE LAW WOULD REQUIRE. NOT
25 ONLY GUILTY OF MURDER, BUT A CIRCUMSTANCE OF

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1 AGGRAVATION MUST EXIST.

2 AND IF...

3 MR. SWERLING: YOUR HONOR, THAT'S NOT
4 CORRECT. THAT'S NOT A CORRECT STATEMENT.

5 THE COURT: REPHRASE...LET ME HEAR THAT
6 QUESTION AGAIN. I THOUGHT I HEARD...

7 MR. JONES: IN ORDER TO GO TO THE
8 SECOND PHASE, IN ORDER TO PROCEED TO THE SECOND
9 PHASE OF THIS TRIAL, AN AGGRAVATING CIRCUMSTANCE
10 HAS TO BE PRESENT.

11 THE COURT: THE EVIDENCE OF AN
12 AGGRAVATING CIRCUMSTANCE.

13 MR. JONES: EVIDENCE.

14 MR. SWERLING: OH, I MISUNDERSTOOD.

15 THE COURT: YEAH, HE'S RIGHT.

16 Q EVIDENCE OF AN AGGRAVATING
17 CIRCUMSTANCE. SO YOU GO TO A SECOND PHASE; THE
18 JURY, THE SAME JURY THEN IS ASKED TO DECIDE, OKAY,
19 NOW THAT YOU'VE FOUND HIM GUILTY WHAT SENTENCE WILL
20 BE IMPOSED. AND THE STATE INTRODUCES EVIDENCE AND
21 THE DEFENSE MAY OR MAY NOT INTRODUCE EVIDENCE, AND
22 THEN Y'ALL HAVE TO DECIDE. AT THAT STAGE, WOULD
23 YOU LISTEN TO ALL OF THE EVIDENCE THEN, THE SECOND
24 STAGE, AND COULD YOU RETURN A VERDICT OF EITHER THE
25 DEATH OR A LIFE SENTENCE? DEPENDING ON WHAT THE

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1 EVIDENCE WAS?
2 A YES.
3 Q YOU'RE CERTAIN OF THAT?
4 A YES.
5 Q SO YOU COULD RETURN A VERDICT OF LIFE
6 IN THOSE CIRCUMSTANCES, DEPENDING ON THE EVIDENCE?
7 A YES.
8 Q HAVE YOU THOUGHT ABOUT IT HERE TODAY?
9 WE'VE HAD YOU OUT HERE IN THE COURTROOM FOR ABOUT
10 FORTY-FIVE MINUTES. I REALIZE THAT'S--THAT'S PART
11 OF THE PROCESS.
12 A YES.
13 Q BUT YOU'VE THOUGHT ABOUT IT DURING
14 THESE FORTY-FIVE MINUTES, IS THAT CORRECT?
15 A YES.
16 Q AND HAVE YOU PRETTY MUCH MADE UP YOUR
17 MIND ON THIS, AND DO YOU FEEL LIKE YOU KNOW
18 YOURSELF PRETTY WELL ABOUT IT?
19 A YES.
20 Q DO YOU KNOW WHAT YOUR FEELINGS ARE,
21 WHAT YOUR THOUGHTS ARE, AND WHAT YOUR POSITION IS?
22 A UH-HUH.
23 Q ALL RIGHT. MS. HAYNES, YOUR POSITION
24 IS THEN, IS YOUR POSITION THAT DEPENDING ON THE
25 EVIDENCE, YOU, AS A JUROR, COULD RETURN A VERDICT

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- 1 OF LIFE OR DEATH, EITHER ONE, DEPENDING ON THE
2 EVIDENCE?
- 3 A YES.
- 4 Q AND WITHOUT SOUNDING TOO ELEMENTARY
5 HERE, I WOULD LIKE TO ASK YOU, THEN IT IS YOUR
6 POSITION, AND I WILL ASK YOU, IS IT YOUR POSITION
7 THAT YOU COULD RETURN, IN A MURDER CASE, DEPENDING
8 ON THE EVIDENCE THAT WAS PRESENTED A LIFE SENTENCE?
- 9 A YES.
- 10 Q AND YOU'RE FIRM IN THAT POSITION?
- 11 A YES.
- 12 Q AND ON THE OTHER ALTERNATIVE HAND,
13 DEPENDING ON THE EVIDENCE, YOU COULD RETURN A
14 SENTENCE OF DEATH?
- 15 A YES.
- 16 Q AND YOU'RE FIRM IN THAT POSITION?
- 17 A YES.
- 18 Q SO YOU ARE FIRM AND FIRMLY POSITIONED
19 THAT DEPENDING ON THE EVIDENCE, YOU COULD RETURN A
20 VERDICT OF LIFE, IS THAT CORRECT?
- 21 A THAT'S CORRECT.
- 22 Q OR DEATH?
- 23 A THAT'S CORRECT.
- 24 Q ARE YOU CERTAIN OF THAT?
- 25 A YES.

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1 Q ARE YOU FIRM OF THAT?
2 A YES.
3 Q YOU'RE CONFIDENT?
4 A YES.
5 Q THAT IS YOUR POSITION?
6 A THAT'S MY POSITION.
7 Q WILL IT REMAIN YOUR POSITION?
8 A YES.
9 Q THANK YOU.
10 THE COURT: ANYTHING ELSE?
11 MR. SWERLING: A COUPLE, JUST FOR
12 CLARIFICATION.
13 EXAMINATION BY:
14 MR. SWERLING:
15 Q YOU KEEP GETTING ASKED QUESTIONS BACK
16 AND FORTH. MAYBE I MISUNDERSTOOD SOMETHING. I
17 JUST WANTED TO ASK YOU, WHEN WE WERE TALKING
18 BEFORE, YOU HAD INDICATED THAT IF YOU LISTENED TO
19 THE EVIDENCE AND FOUND SOMEONE GUILTY, BASED ON THE
20 EVIDENCE, YOU FOUND THE UNANIMOUS VERDICT THAT THEY
21 WERE GUILTY BEYOND A REASONABLE DOUBT, DID YOU SAY
22 BEFORE THAT YOU FELT THAT THE DEATH SENTENCE WOULD
23 BE APPROPRIATE?
24 A YES.
25 Q AND SO WHILE YOU WOULD CONSIDER ALL OF

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1 THESE THINGS, WHEN EVERYBODY'S TALKING ABOUT IN THE
2 ABSTRACT, CONSIDER, WHEN YOU FEEL THE DEATH
3 SENTENCE IS APPROPRIATE IF YOU FIND SOMEONE GUILTY?
4 ISN'T THAT A FAIR STATEMENT OF WHAT IT'S ABOUT?

5 A YES.

6 Q AND IF SOMEONE IS GUILTY THEN YOUR VOTE
7 WOULD BE FOR DEATH?

8 A MAYBE.

9 Q WELL, THAT'S WHAT I'M ASKING. THAT'S
10 WHAT I'M TRYING TO FIND OUT. IF YOU FOUND FROM THE
11 EVIDENCE THAT THE PERSON WAS GUILTY BEYOND A
12 REASONABLE DOUBT, YOU WOULD NOT CONSIDER A LIFE
13 SENTENCE, YOU WOULD CONSIDER ONLY THE DEATH
14 SENTENCE. IS THAT WHAT YOU'RE SAYING, FROM THE
15 EVIDENCE THAT'S PRESENTED THAT THAT PERSON IS
16 GUILTY?

17 A YES.

18 Q AND THAT'S THE WAY YOU FEEL ABOUT IT,
19 AND THAT'S FINE. IS THAT TRUE?

20 A YES.

21 Q SO DEATH IS THE SENTENCE IF THE PERSON
22 IS GUILTY, IF YOU FOUND THE PERSON GUILTY? BECAUSE
23 WE JUST WANT YOUR HONEST ANSWER ON THIS.

24 A YES.

25 Q AND DEATH WOULD BE THE APPROPRIATE

1 VERDICT, AS FAR AS YOU'RE CONCERNED, IF THE PERSON
2 WERE FOUND GUILTY?

3 A YES.

4 Q THANK YOU.

5 THE COURT: MS. HAYNES, I LET THE
6 LAWYERS ASK ALL THESE QUESTIONS. NOW LET ME ASK YOU
7 THESE QUESTIONS.

8 A ALL RIGHT.

9 THE COURT: YOU UNDERSTAND THAT JUST
10 BECAUSE YOU FIND SOMEBODY GUILTY OF MURDER, AS A
11 JUROR, YOU'RE NOT AUTHORIZED TO IMPOSE A DEATH
12 PENALTY?

13 A I UNDERSTAND.

14 THE COURT: ALL RIGHT, AND YOU
15 UNDERSTAND WHAT THE TERM AUTHORIZED MEANS? IF I
16 SAY I AUTHORIZE YOU TO GO TO LUNCH, WHAT DOES THAT
17 MEAN?

18 A YOU APPROVE.

19 THE COURT: ALL RIGHT, IN OTHER WORDS,
20 YOU CAN DO IT, OKAY? ALL RIGHT, THE ONLY TIME THAT
21 A JURY IS AUTHORIZED OR PERMITTED, OR CAN DO IT,
22 THAT IS TO IMPOSE A DEATH PENALTY OR A LIFE
23 SENTENCE, FOR THAT MATTER, IS WHEN THERE'S BEEN A
24 MURDER CONVICTION, PLUS EVIDENCE IN THE SECOND
25 PHASE, OF AGGRAVATING CIRCUMSTANCE PROVED TO YOUR

1 SATISFACTION BEYOND A REASONABLE DOUBT. NOW JUST
2 BECAUSE THERE'S A MURDER CONVICTION, THAT'S NOT
3 ENOUGH. DO YOU UNDERSTAND THAT?

4 A YES.

5 THE COURT: BUT YOU'VE GOT TO HAVE AN
6 AGGRAVATING CIRCUMSTANCE BEFORE YOU ARE AUTHORIZED
7 TO IMPOSE THE DEATH PENALTY. DO YOU FOLLOW WHAT
8 I'M SAYING?

9 A YES.

10 THE COURT: ALL RIGHT. NOW, IF YOU'RE
11 AUTHORIZED, AND YOU UNDERSTAND THAT'S THE ONLY
12 TIME, IS THAT IF YOU GET A MURDER CONVICTION AND
13 YOU, THE STATE OFFERS EVIDENCE OF AN AGGRAVATING
14 CIRCUMSTANCE, IF YOU'RE AUTHORIZED TO IMPOSE A
15 DEATH SENTENCE OR A LIFE SENTENCE, YOU'VE GOT THE
16 MURDER CONVICTION, YOU'VE GOT THE AUTHORIZE TO DO
17 IT, YOU'VE GOT EVIDENCE OF THE AGGRAVATING
18 CIRCUMSTANCE, YOU MAY OR MAY NOT HAVE EVIDENCE OF
19 MITIGATING CIRCUMSTANCES, TELL ME, WOULD YOU
20 AUTOMATICALLY VOTE FOR DEATH, OR WOULD YOU CONSIDER
21 A LIFE SENTENCE AND IMPOSE A LIFE SENTENCE, IF IT
22 WERE WARRANTED?

23 A I WOULD CONSIDER BOTH, BUT IF POSSIBLE,
24 IMPOSE LIFE IMPRISONMENT.

25 THE COURT: YOU WOULD IMPOSE LIFE?

1 A LIFE.

2 THE COURT: BUT YOU COULD IMPOSE DEATH,

3 TOO?

4 A YES.

5 THE COURT: ALL RIGHT, LET ME ASK YOU

6 TO STEP OUT JUST A MOMENT, PLEASE.

7 (JUROR EXCUSED)

8 THAT'S WHY I'M OPPOSED TO VOIR DIRE.

9 MR. HARPOOTLIAN: WHAT WAS HER

10 POSITION?

11 THE COURT: I'LL TELL YOU WHAT HER

12 POSITION IS. I COULDN'T SUSTAIN HIS OBJECTION.

13 MR. SWERLING WAS TRYING TO GET WOULD SHE JUST VOTE

14 FOR THE DEATH PENALTY IF THERE WAS A MURDER

15 CONVICTION. WELL, THAT'S NOT--I KNOW WHAT HE WAS

16 TRYING TO DO, "IN EVERY MURDER CASE, NO MATTER

17 WHAT, I'LL VOTE FOR DEATH." AND THAT'S A FAIR

18 QUESTION, TO ASK THAT. BUT YOU'VE GOT TO GO ONE

19 STEP FURTHER IN THAT IF SHE'S AUTHORIZED TO DO IT--

20 FIRST OF ALL, IF SHE'S GOT TO AUTHORITY TO DO IT,--

21 WOULD SHE CONSIDER ALL OF THE FACTORS AND RETURN A

22 LIFE OR DEATH SENTENCE. I THINK THAT SHE WILL.

23 NOW, I'LL BE GLAD TO LISTEN TO YOU, AND Y'ALL MAY

24 TALK ME OUT OF IT, BUT I THINK THAT'S ONE OF THE

25 SITUATIONS WHERE YOU OVER-QUESTION SOMEBODY.

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1 IF YOU LEAVE THEM ALONE, WHEN I GET THROUGH WITH
2 THEM YOU'D BE BETTER OFF.

3 NOW, SOLICITOR, YOU'VE GOT TO LOOK AT
4 IT TOO. THE LAST THING SHE SAID, IT WOULD ALWAYS
5 BE LIFE, SO...

6 ALL RIGHT. WHAT SAYS THE STATE?

7 MR. JONES: JUDGE, WE ACCEPT HER.
8 SHE'S QUALIFIED.

9 THE COURT: WHAT SAYS THE DEFENDANT?

10 MR. HARPOOTLIAN: YOUR HONOR, WOULD
11 YOU INDULGE US JUST ONE MOMENT?

12 THE COURT: IT'S YOUR LUNCH HOUR. ALL
13 RIGHT, BOTH SIDES CONCEDE SHE'S QUALIFIED. AND
14 I'LL TELL YOU THIS, SHE'S THE TYPE JUROR THAT WILL
15 FOLLOW THE JUDGE'S INSTRUCTIONS. SO YOU'LL BE ALL
16 RIGHT. BOTH OF YOU WILL BE. BRING HER BACK IN.

17 MS. HAYNES, WE NEED FOR YOU TO COME
18 BACK TOMORROW TO GO TO NEWBERRY POSSIBLY FOR TEN
19 DAYS -- NOT THAT YOU'RE ON THE JURY YET, BUT YOU'RE
20 GOING TO BE PUT IN A POOL FROM WHICH WE'RE GOING TO
21 HOPEFULLY DRAW AT ABOUT TWELVE O'CLOCK TOMORROW.

22 NOW, I WOULD ASK YOU TO PACK...LIKE
23 YOU'RE DRESSED NOW, AS COMFORTABLY, IS FINE, FOR UP
24 TO TEN DAYS. SLED WILL PROVIDE FOR YOUR
25 TRANSPORTATION AND SECURITY TO AND FROM NEWBERRY

1 AND NEWBERRY COUNTY WILL PAY FOR YOUR LODGING, YOUR
2 MEALS, AND THE THINGS NECESSARY FOR YOU TO PERFORM
3 YOUR DUTIES IF YOU'RE SELECTED.

4 NOW, I WOULD ASK YOU NOT TO DISCUSS
5 THE CASE WITH ANYONE OR ALLOW ANYONE TO DISCUSS IT
6 WITH YOU. DON'T READ OR LISTEN OR WATCH ANY
7 ACCOUNT OF THE TRIAL AND WE'LL TRY TO GET OUR JURY
8 SELECTED SOMETIME TOMORROW. SO, SEE YOU TOMORROW
9 AT ELEVEN O'CLOCK. AND WHAT I SUGGEST YOU DO IS
10 MAYBE HAVE YOUR MOTHER OR DAD BRING YOU UP HERE AND
11 LEAVE YOU, BUT BE...IN CASE YOU'RE NOT SELECTED
12 THOUGH YOU CAN CALL THEM AND THEY CAN COME BACK AND
13 GET YOU. OKAY? THEY'LL TELL YOU...THEY'LL SHOW
14 YOU WHERE TO COME.

15 A ALL RIGHT.

16 THE COURT: OKAY, WE'LL SEE YOU
17 TOMORROW.

18 LET'S BREAK UNTIL ABOUT TWO O'CLOCK OR
19 THEREABOUTS, A FEW MINUTES, 2:10, SOMEWHERE IN THAT
20 NEIGHBORHOOD.

21 MR. HARPOOTLIAN: CAN YOU GIVE US
22 THIRTY MINUTES, YOUR HONOR?

23 THE COURT: YEAH. I'VE GOT THIRTY
24 PEOPLE COMING BACK AT TWO O'CLOCK. NOW WE'RE NOT
25 MAKING MUCH PROGRESS.

1 (COURT IS RECESSED FOR LUNCH AT 1:42
2 P.M., RECONVENING AT 2:23 P.M.)

3 THE COURT: ALL RIGHT, I'VE
4 CONTEMPLATED IT OVER LUNCH AND I FORGOT THAT I
5 REMEMBER RULE 403. WHEN YOU HEAR THAT IT MEANS
6 YOU'RE WANDERING AROUND IN THE WILDERNESS AND WRAP
7 IT UP. I'M NOT GOING TO SAY JUST ABSOLUTELY THAT
8 IT'S GOT TO BE FIVE OR SIX OR SEVEN MINUTES, BUT
9 FOR A LONG TIME WE WERE ALL DOING ABOUT FIVE
10 MINUTES A PIECE AND THAT WAS GOOD.

11 I KNOW WE'RE IN A DEATH PENALTY CASE
12 AND I'M OBVIOUSLY GOING TO BE CAREFUL, BUT I
13 BELIEVE WE CAN MOVE A LITTLE QUICKER THAN WE HAVE
14 BEEN.

15 OKAY, BRING MS. HALL, GRETA HALL.

16 GRETA HALL, BEING CALLED AND
17 DULY SWORN, TESTIFIES AS FOLLOWS:

18 THE COURT: AND YOUR CORRECT NAME IS
19 GRETA A. HALL?

20 A YES, SIR.

21 THE COURT: AND MS. HALL, HAVE YOU
22 EVER BEEN IN COURT BEFORE?

23 A NO, SIR.

24 THE COURT: NEVER HAVE SERVED ON A
25 JURY?

1 A NO, SIR.

2 THE COURT: OKAY. HAVE YOU EVER BEEN
3 A WITNESS IN ANYTHING?

4 A NO, SIR.

5 THE COURT: OKAY. WELL, WE'RE NOT
6 GOING TO BITE YOU. SO YOU JUST SIT BACK AND RELAX
7 AND WE'LL TAKE OUR TIME WITH YOU. DID YOU GET A
8 CHANCE TO READ THE LETTER THAT I WROTE TO YOU
9 YESTERDAY OR GAVE TO YOU YESTERDAY?

10 A YES, SIR.

11 THE COURT: DID YOU UNDERSTAND
12 BASICALLY WHAT THE LETTER WAS ABOUT?

13 A YES, SIR.

14 THE COURT: IS THERE ANYTHING IN THAT
15 LETTER THAT YOU NEED FOR ME TO EXPLAIN TO YOU A
16 LITTLE FURTHER RIGHT NOW?

17 A NO, SIR.

18 THE COURT: OKAY. NOW, AS YOU ARE
19 AWARE THIS IS A POTENTIAL DEATH PENALTY CASE...

20 A YES, SIR.

21 THE COURT: ...AND BY REASON OF THAT
22 FACT THE RULES CHANGE A LITTLE BIT AND IT PERMITS
23 NOT ONLY ME TO ASK YOU SOME QUESTIONS, BUT ALSO THE
24 LAWYERS. USUALLY THEY DON'T GET TO ASK QUESTIONS.

25 NOW, THE FACT THAT WE ASK YOU SOME

1 QUESTIONS ABOUT SOME THINGS THAT ARE RELEVANT TO
2 THIS TRIAL, BUT WE'RE NOT TRYING TO PUT YOU ON THE
3 SPOT OR EMBARRASS YOU OR CHALLENGE WHAT YOU
4 BELIEVE. THERE ARE NO RIGHT OR WRONG ANSWERS,
5 SIMPLY JUST WHAT ARE YOUR ANSWERS. NOW, IS THAT
6 FAIR ENOUGH?

7 A YES, SIR.

8 THE COURT: OKAY. NOW, HAVE YOU
9 FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OR
10 INNOCENCE OF STEPHEN BECKHAM, WHO IS THE DEFENDANT
11 IN THIS CASE?

12 A NO, SIR.

13 THE COURT: AND DO YOU KNOW ANYTHING
14 ABOUT THE CASE?

15 A NO, SIR.

16 THE COURT: ALL RIGHT. YOU'VE NOT
17 READ, SEEN, OR HEARD ANYTHING?

18 A NO, SIR.

19 THE COURT: OKAY. NOW, MS. HALL, DO
20 YOU...HAVE YOU HEARD OF AND DO YOU APPRECIATE THE
21 LEGAL PRINCIPLE THAT A CITIZEN ACCUSED OF A CRIME
22 IS PRESUMED TO BE INNOCENT OF THAT CRIME UNTIL AND
23 UNLESS THE STATE CAN ESTABLISH HIS GUILT BY PROOF
24 BEYOND A REASONABLE DOUBT?

25 A YES, SIR.

1 THE COURT: YOU'VE HEARD THAT BEFORE?

2 A YES, SIR.

3 THE COURT: IS THAT A PRINCIPLE THAT
4 YOU CAN ACCEPT AND FOLLOW?

5 A YES, SIR.

6 THE COURT: ALL RIGHT. THE REASON I
7 NEEDED TO ASK YOU THOSE TWO QUESTIONS ARE SOME OF
8 THE BELIEFS THAT WE'RE GOING TO BE TALKING WITH YOU
9 ABOUT HAVE TO DO WITH PENALTY -- THE DEATH PENALTY,
10 LIFE IN PRISON -- AND I WANT TO MAKE SURE THAT YOU
11 DON'T INFER OR IMPLY THAT MR. BECKHAM IS GUILTY OF
12 ANYTHING BY REASON OF THE FACT THAT WE'RE TALKING
13 ABOUT THE PENALTY. OKAY?

14 A YES, SIR.

15 THE COURT: ALL RIGHT? HE HASN'T BEEN
16 TRIED AND WE DON'T KNOW WHAT THE OUTCOME OF THE
17 GUILT PHASE IS GOING TO BE. SO, YOU CAN FOLLOW
18 THAT INSTRUCTION?

19 A YES, SIR.

20 THE COURT: OKAY. NOW, IN THE TYPICAL
21 CRIMINAL CASE, A JURY IS EMPANELED AND THEY DECIDE
22 THE GUILT OR INNOCENCE OF A DEFENDANT AND IF A JURY
23 FINDS A PERSON NOT GUILTY, THAT PERSON IS FREE TO
24 GO. IF THAT PERSON IS FOUND GUILTY, THEN
25 ORDINARILY THE JUDGE SENTENCES HIM. BUT IN THIS

1 CASE, IF WE SEAT A JURY...OR IN A CAPITAL CASE, YOU
2 SEAT A JURY AND A DEFENDANT IS FOUND GUILTY OF
3 MURDER AND THE STATE IS ASKING FOR THE DEATH
4 PENALTY, THEN WE GO TO THE SECOND PHASE, WHICH IS
5 THE SENTENCING PHASE, WHICH NORMALLY THE JURY
6 DOESN'T DO EXCEPT IN THIS TYPE CASE. DO YOU
7 UNDERSTAND ME SO FAR?

8 A YES, SIR.

9 THE COURT: OKAY. NOW, IN THAT PHASE,
10 YOU'RE GOING TO HEAR...YOU'RE GOING TO ALREADY KNOW
11 THERE'S A CONVICTION FOR MURDER AND THEN YOU'RE
12 GOING TO HEAR TESTIMONY ABOUT AGGRAVATING
13 CIRCUMSTANCES, THINGS THAT THE STATE CONTENDS THAT
14 MAKES THE MURDER WORTHY OF THE DEATH PENALTY.
15 YOU'RE GOING TO HEAR, OR YOU MAY NOT HEAR, OF
16 MITIGATING CIRCUMSTANCES. THOSE ARE CIRCUMSTANCES
17 WHICH WOULD TEND TO SAY THAT LIFE IMPRISONMENT MAY
18 BE A MORE APPROPRIATE PUNISHMENT. DO YOU
19 UNDERSTAND WHAT I MEAN BY THAT?

20 A YES, SIR.

21 THE COURT: OKAY. AGGRAVATE MEANS TO
22 MAKE WORSE, MITIGATE MEANS TO LESSEN. NOW,
23 EXPERIENCE HAS TAUGHT US THAT WE HAVE THREE TYPES
24 OF JURORS. WE HAVE A JUROR WHO SAYS, "WE'VE GOT A
25 CONVICTION FOR MURDER. WE'VE GOT AGGRAVATING

1 CIRCUMSTANCES. I DON'T REALLY CARE WHETHER THERE'S
2 ANY MITIGATING CIRCUMSTANCES, I BELIEVE IN THAT
3 SITUATION THAT THE DEATH PENALTY IS THE
4 APPROPRIATE. I WOULD ALWAYS VOTE FOR DEATH." DO
5 YOU UNDERSTAND THAT TYPE JUROR?

6 A UH-HUH. (YES).

7 THE COURT: OKAY. NOW THERE'S A
8 SECOND KIND OF JUROR THAT SAYS, "IT'S TRUE WE'VE
9 GOT A CONVICTION. IT'S TRUE THERE'S EVIDENCE OF
10 AGGRAVATING CIRCUMSTANCES. THERE MAY OR MAY NOT BE
11 MITIGATING CIRCUMSTANCES," BUT THAT JUROR SAYS, "NO
12 MATTER, I VOTE FOR LIFE BECAUSE I ALWAYS BELIEVE
13 THAT LIFE IS THE MORE APPROPRIATE PUNISHMENT THAN
14 DEATH." OKAY? THE SECOND TYPE JUROR.

15 THEN WE HAVE A THIRD TYPE OF JUROR WHO
16 SAYS, "OKAY, IT'S TRUE WE'VE GOT A CONVICTION. I
17 WANT TO LISTEN TO THE EVIDENCE IN AGGRAVATION IF
18 IT'S THERE AND I WANT TO LISTEN TO THE EVIDENCE OF
19 MITIGATION IF THERE IS, IT MAY OR MAY NOT BE THERE,
20 AND I WANT TO LOOK AT THE WHOLE PICTURE. AND I'M
21 GOING TO LOOK AT THE PICTURE IN THAT CASE AND I'M
22 GOING TO DECIDE WHETHER THE DEATH PENALTY IN THAT
23 CASE OR LIFE IMPRISONMENT IS THE APPROPRIATE
24 PUNISHMENT."

25 IF I WERE TO ASK YOU WHICH OF THE

1 THREE JURORS WOULD YOU LIKELY BE, WHICH ONE DO YOU
2 THINK YOU WOULD FALL IN?

3 A THE LAST ONE.

4 THE COURT: THE LAST ONE?

5 A UH-HUH. (YES).

6 THE COURT: ALL RIGHT. NOW, MS. HALL,
7 IF YOU FELT AND FOUND THAT THE EVIDENCE AND THE
8 LEGAL PRINCIPLES WARRANTED...AND USING THE LEGAL
9 PRINCIPLES WARRANTED A DEFENDANT TO RECEIVE THE
10 DEATH PENALTY, COULD YOU IMPOSE THAT PENALTY?

11 A YES, SIR.

12 THE COURT: LIKEWISE, IF YOU FELT
13 THAT, CONSIDERING THAT SAME CASE AND YOU LOOKED AT
14 IT AND YOU SAID, "WELL, NO, I THINK THAT LIFE IS A
15 MORE APPROPRIATE PUNISHMENT," COULD YOU IMPOSE A
16 LIFE SENTENCE?

17 A YES, SIR.

18 THE COURT: NOW, CAN I TAKE YOU ONE
19 STEP FURTHER AND TELL YOU THAT UNDER OUR LAW THAT
20 IF A JUROR FINDS...OR JURY FINDS THAT THE DEATH
21 PENALTY IS THE APPROPRIATE PENALTY THEN EACH
22 INDIVIDUAL JUROR MUST SIGN THEIR NAME TO THE DEATH
23 WARRANT, OR THE SENTENCE, ACKNOWLEDGING THAT THAT
24 IS THEIR PERSONAL DECISION. MA'AM, IF YOU THOUGHT
25 THAT THE DEATH PENALTY WAS THE APPROPRIATE

1 PUNISHMENT AND YOU WERE GOING TO IMPOSE IT, COULD
2 YOU SIGN YOUR NAME TO THE DEATH WARRANT?

3 A YES, SIR.

4 THE COURT: ALL RIGHT. I'M GOING TO
5 LET THE SOLICITOR ASK YOU SOME QUESTIONS AND THEN
6 MR. SWERLING OR MR. HARPOON. OKAY? MR. SOLICITOR?
7 DIRECT EXAMINATION:

8 BY MR. JONES:

9 Q GOOD AFTERNOON, MS. HALL. MY NAME IS
10 TOWNES JONES, I'M THE PROSECUTOR. I'D BE
11 PRESENTING EVIDENCE IN THIS CASE AND PUTTING UP OUR
12 CASE AND EVIDENCE. I DON'T HAVE MANY QUESTIONS FOR
13 YOU. I WANT TO THANK YOU FOR BEING HERE AND BEING
14 WILLING TO PARTICIPATE IN THIS PROCESS AND DO YOUR
15 DUTY AS A CITIZEN OF THIS COUNTRY. I WOULD LIKE
16 TO INTRODUCE YOU TO A FEW FOLKS, IF I COULD. THE
17 VICTIM IN THIS CASE, VICKIE BECKHAM, WAS MURDERED.
18 HER PARENTS ARE STILL ALIVE AND THEY'RE HERE
19 TODAY...THEY WENT TO LUNCH...I JUST LOOKED BACK
20 THERE TO SEE THAT THEY WEREN'T HERE. BUT, HER DAD
21 AND MOM HAD BEEN HERE AND JUST APPARENTLY DIDN'T
22 GET BACK FROM LUNCH IN TIME TO BE HERE FOR YOU.
23 BUT, I'M GOING TO BE ASSISTED BY MR. COULTER,
24 MICHAEL COULTER, WHO IS A DEPUTY SOLICITOR; MR.
25 KNOX MCMAHON; AND MS. BETTY STROM, WHO IS A DEPUTY

1 SOLICITOR ALSO. I APPRECIATE YOUR RESPONSES, YOUR
2 HONEST RESPONSES TO THE JUDGE AND THAT'S ALL I HAVE
3 FOR HER.

4 THE COURT: MR. HARPOOTLIAN?

5 CROSS-EXAMINATION:

6 BY MR. HARPOOTLIAN:

7 Q MS. HALL, MY NAME'S DICK HARPOOTLIAN.
8 I'M A LAWYER, I PRACTICE IN COLUMBIA. I'VE BOTH
9 PROSECUTED AND DEFENDED CASES. I'M HERE
10 REPRESENTING STEPHEN BECKHAM -- STAND UP, STEPHEN -
11 - WHO IS THE ONE ON TRIAL. AND SEATED NEXT TO HIM
12 IS JACK SWERLING, WHO IS MY CO-COUNSEL. DO YOU
13 KNOW ANY OF US?

14 A NO, SIR.

15 Q OKAY. LET ME -- AND I'M GOING TO BE
16 VERY BRIEF WITH YOU -- THE JUDGE HAS ASKED YOU SOME
17 QUESTIONS ABOUT SENTENCE. LET ME, BEFORE I GET TO
18 THAT, ASK YOU, WHEN HE EXPLAINED TO YOU THAT THE
19 DEFENDANT IN A CRIMINAL CASE IS PRESUMED INNOCENT
20 UNTIL AND UNLESS THEY'RE PROVEN GUILTY BY THE STATE
21 BY EVIDENCE THAT CONVINCES YOU BEYOND A REASONABLE
22 DOUBT, WHEN HE EXPLAINED THAT PROPOSITION TO YOU,
23 THAT IS THAT A DEFENDANT IS PRESUMED INNOCENT, DO
24 YOU UNDERSTAND THAT?

25 A YES, SIR.

1 Q CAN YOU FOLLOW THAT INSTRUCTION?
2 A YES, SIR.
3 Q THAT YOU WILL MAKE THE STATE PROVE TO
4 YOU THE DEFENDANT'S GUILT BEYOND A REASONABLE
5 DOUBT?
6 A YES, SIR.
7 Q DO YOU HAVE ANY DIFFICULTY DOING THAT?
8 A NO, SIR.
9 Q WOULD YOU NATURALLY TEND TO BELIEVE
10 THAT SOMEONE WHO'S CHARGED WITH A CRIME IS GUILTY?
11 A UH-UH. (NO).
12 MR. JONES: YOUR HONOR, THAT'S NOT THE
13 PROPER QUESTION. THAT'S NOT THE PROPER QUESTION,
14 YOUR HONOR.
15 MR. HARPOOTLIAN: IT GOES TO
16 CREDIBILITY, YOUR HONOR.
17 THE COURT: NO, HE SAID "CHARGED WITH
18 A CRIME IS GUILTY." I OVERRULE THAT QUESTION, BUT
19 DON'T TERRY AROUND ON THAT.
20 MR. HARPOOTLIAN: NO, NO, I'M NOT.
21 I'M JUST WANTING TO MAKE SURE THE DEPTH OF HER
22 UNDERSTANDING OF THE PRESUMPTION OF INNOCENCE, YOUR
23 HONOR.
24 Q SO, YOU'VE GOT NO PROBLEM MAKING THE
25 STATE MEET ITS BURDEN? YOU'RE NOT HERE TO PRESUME

1 HE'S GUILTY, YOU'RE HERE TO PRESUME HIM INNOCENT?
2 IS THAT CORRECT?
3 A WHATEVER I'VE BEEN PROVED.
4 Q PARDON ME?
5 A WHATEVER I'VE BEEN PROVED.
6 Q OKAY. OKAY. LET ME...THE SOLICITOR
7 MENTIONED THE SOLICITOR'S PARENTS AND THE VICTIM,
8 HER NAME WAS VICKIE LANDER BECKHAM, SHE WAS THE
9 WIFE OF THE DEFENDANT, THEY WERE MARRIED, AND I
10 NOTICE YOU ARE ALSO MARRIED? IS THAT CORRECT?
11 A YES, SIR.
12 Q TWO CHILDREN?
13 A YES, SIR.
14 Q AND YOU WORK FULL TIME AT FRUIT OF THE
15 LOOM?
16 A YES, SIR.
17 Q ARE YOU GOING TO BE ABLE TO BE AWAY
18 FROM YOUR TWO CHILDREN AND YOUR JOB WITHOUT ANY
19 GREAT PERSONAL SACRIFICE OR DIFFICULTY?
20 A YES, SIR.
21 Q OKAY. YOU MIGHT WANT A VACATION FROM
22 TWO YOUNG-UNS FOR AWHILE? OKAY, I THINK THAT'S
23 ABOUT ALL I HAVE, BUT LET ME CHECK WITH MR.
24 SWERLING.
25 MR. SWERLING: JUST VERY BRIEFLY. THE

1 JUDGE ASKED YOU ABOUT AND TOLD YOU WHAT THE OPTIONS
2 WERE. IF, AND OF COURSE WE MAY NEVER GET TO THE
3 SECOND TRIAL, BUT IF WE GOT INTO A SECOND TRIAL, IN
4 ANY DEATH PENALTY CASE THERE, FIRST OF ALL IS THE
5 TRIAL ON GUILT OR INNOCENCE, IF THE DEFENDANT WERE
6 FOUND GUILTY, AND BY SAYING THAT I'M NOT INFERRING
7 THAT THAT WOULD HAPPEN IN THIS CASE, BUT IF A
8 DEFENDANT WERE FOUND GUILTY YOU WOULD GO TO THAT
9 SECOND STAGE AND THE ISSUE THERE WOULD BE SENTENCE
10 AND THE TWO CHOICES ARE LIFE IMPRISONMENT OR THE
11 DEATH PENALTY -- AND THE JUDGE HAS EXPLAINED THAT
12 TO YOU -- AS YOU SIT THERE TODAY, ARE YOU
13 PREDISPOSED IF SOMEONE'S CONVICTED OF MURDER TO
14 EITHER PENALTY, LIFE OR DEATH? DO YOU HAVE A
15 FEELING AS TO WHAT OUGHT TO HAPPEN TO SOMEBODY IF
16 CONVICTED OF MURDER, IN THE GENERAL SENSE? THEY
17 ALWAYS OUGHT TO GET ONE THING, OR THEY ALWAYS OUGHT
18 TO GET LIFE, OR THEY ALWAYS OUGHT TO GET DEATH?
19 A UH-UH. (NO).
20 MR. SWERLING: I MEAN, THERE ARE SOME
21 MURDERERS -- PEOPLE CONVICTED OF MURDER, NOW --
22 THAT YOU THINK OUGHT TO GET A LIFE SENTENCE?
23 A UH-HUH. (YES).
24 MR. SWERLING: AND THERE ARE SOME
25 PEOPLE WHO ARE CONVICTED OF A MURDER THAT OUGHT TO

1 GET THE DEATH PENALTY?

2 A YES, I DO.

3 MR. SWERLING: BUT, IT'S NOT ALL? I
4 JUST WANT TO MAKE SURE I UNDERSTAND.

5 A YES, NOT ALL. YEAH.

6 MR. SWERLING: I THINK THAT'S WHAT YOU
7 SAID BEFORE WHEN THE JUDGE...THAT YOU WOULD
8 CONSIDER...UNDERSTAND NOW, SOMEONE'S...YOU'RE
9 CONVINCED BEYOND A REASONABLE DOUBT THAT THEY HAVE
10 COMMITTED THIS MURDER, THERE'S NO QUESTION ABOUT
11 THAT, THE ONLY QUESTION IS WHAT HAPPENS TO THEM?

12 A UH-HUH. (YES).

13 MR. SWERLING: AND THE JUDGE NORMALLY
14 DOES THAT IN EVERY OTHER KIND OF CASE, BUT A JURY
15 DOES IT IN THIS KIND OF CASE. IF YOU WERE
16 CONVINCED BEYOND A REASONABLE DOUBT SOMEONE HAD
17 COMMITTED A MURDER, YOU COULD SENTENCE THEM TO
18 LIFE?

19 A UH-HUH. (YES).

20 MR. SWERLING: OKAY. AND YOU COULD
21 SENTENCE THEM TO DEATH?

22 A YEAH.

23 MR. SWERLING: LET ME...YOU SEEM A
24 LITTLE HESITANT ON THE LIFE SIDE. ARE YOU...I
25 MEAN, ARE THEY EQUAL OPTIONS TO YOU OR ARE YOU MORE

1 DISPOSED TO SENTENCING THEM TO DEATH?

2 A NO, THEY'RE THE SAME.

3 MR. SWERLING: OKAY. IT'S JUST ME.

4 ARE YOU LITTLE NERVOUS UP THERE?

5 A YEAH, I'M NERVOUS.

6 MR. SWERLING: OKAY. WELL, MAYBE WE

7 OUGHT TO BE A LITTLE MORE NERVOUS DOWN HERE. MS.

8 HALL, I REALLY WANT TO THANK YOU FOR BEING CANDID

9 AND HONEST WITH ME AND I'M SORRY IF I PUT YOU ON

10 THE SPOT AND I'M SORRY IF I MADE YOU NERVOUS AND I

11 APOLOGIZE IF I'VE EMBARRASSED YOU IN ANY WAY. I

12 JUST REPRESENT SOMEONE WHO'S CHARGED WITH A VERY

13 SERIOUS CRIME, WHO IS FACING THE POTENTIAL OF A

14 VERY SERIOUS PENALTY AND IT'S IMPORTANT THAT WE

15 UNDERSTAND HOW YOU FEEL FROM YOUR HEART.

16 A UH-HUH.

17 MR. SWERLING: AND THAT'S WHY I'M

18 ASKING YOU THIS, OKAY?

19 A I UNDERSTAND.

20 MR. SWERLING: THANK YOU SO MUCH.

21 THE COURT: WHAT SAYS THE STATE? ALL

22 RIGHT, THE DEFENSE BOTH...MS. HALL, I FIND YOU

23 QUALIFIED TO BE PLACED IN A POOL FROM WHICH WE WILL

24 BEGIN TO STRIKE A JURY SOMETIME TOMORROW AFTERNOON.

25 I WOULD ASK YOU TO COME BACK TOMORROW PACKED AND

1 READY TO GO TO NEWBERRY IN CASE YOU ARE SELECTED TO
2 SERVE. I WOULD ASK YOU TO COME BACK AT 2:30
3 TOMORROW AFTERNOON. WE'VE HAD TO MOVE IT FROM
4 11:00 TO 2:30 BECAUSE WE'RE A LITTLE BIT BEHIND
5 SCHEDULE. SLED WILL PROVIDE FOR YOUR SECURITY AND
6 TRANSPORTATION TO AND FROM NEWBERRY. NEWBERRY
7 COUNTY WILL PAY FOR YOUR LODGING AND YOUR MEALS AND
8 WHAT'S NECESSARY FOR YOU TO DO YOUR JOB. I WOULD
9 ASK YOU NOT TO DISCUSS THE CASE OR ALLOW ANYONE TO
10 DISCUSS IT WITH YOU, NOR READ NOR LISTEN OR WATCH
11 ANY ACCOUNT OF THE PROCEEDINGS. OF COURSE WE WANT
12 TO BE SURE WE HAVE A FAIR AND IMPARTIAL TRIAL.
13 OKAY?

14 A OKAY.

15 THE COURT: SEE YOU TOMORROW AT 2:30
16 AND THAT GENTLEMAN RIGHT THERE WILL SHOW YOU WHERE
17 TO COME TO.

18 A OKAY.

19 THE COURT: ADAM KEESE?

20 MR. JONES: JUDGE, IS THAT TWELVE OR
21 THIRTEEN?

22 THE COURT: THIRTEEN, I THINK.

23 CLERK: THIRTEEN.

24 MR. JONES: TWELVE.

25 THE COURT: WAIT A MINUTE. ONE, TWO,

1 THREE, FOUR, FIVE, AND I'VE GOT EIGHT ON THE OTHER
2 SIDE. IT'S THIRTEEN.

3 CLERK: IT'S THIRTEEN.

4 MR. HARPOOTLIAN: YOUR HONOR, IN THE
5 INTEREST OF TIME, WE WILL STOP INTRODUCING MR.
6 BECKHAM'S FAMILY IF THE PROSECUTION WILL REFRAIN
7 FROM INTRODUCING THE VICTIM'S FAMILY. I THINK
8 THAT'S NOT APPROPRIATE AT THIS POINT.

9 THE COURT: WELL...I'LL LEAVE IT TO
10 Y'ALL'S GOOD JUDGEMENT ABOUT THAT.

11 MR. HARPOOTLIAN: I'M JUST TRYING TO
12 CONSERVE TIME.

13 THE COURT: THERE'S GOING TO BE PLENTY
14 OF TIME FOR THAT. I WOULD SAY THAT.

15 ADAM KEESE, BEING CALLED AND
16 DULY SWORN, TESTIFIES AS FOLLOWS:

17 THE COURT: YOUR CORRECT NAME IS ADAM
18 KEESE?

19 A YES, SIR.

20 THE COURT: MR. KEESE, HAVE YOU EVER
21 BEEN IN THE COURT BEFORE?

22 A WITH THE SCHOOL.

23 THE COURT: WHEN THE SCHOOL CAME?

24 A YES, SIR.

25 THE COURT: OKAY. YOU'VE NEVER SERVED

1 ON A JURY BEFORE?

2 A NO, SIR.

3 THE COURT: ALL RIGHT. AND DID YOU
4 GET A CHANCE TO READ THE LETTER THAT I HANDED OUT
5 YESTERDAY?

6 A YES, SIR.

7 THE COURT: AND DID YOU UNDERSTAND THE
8 LETTER?

9 A (NODS AFFIRMATIVE)

10 THE COURT: IS THERE ANYTHING IN THERE
11 THAT YOU NEED FOR ME TO EXPLAIN TO YOU FURTHER THAT
12 YOU DIDN'T QUITE UNDERSTAND?

13 A NO, SIR.

14 THE COURT: ALL RIGHT. AND AS YOU
15 WILL KNOW FROM THAT LETTER, IT SAYS THAT THE JUDGE
16 AND THE TWO ATTORNEYS...OR THE ATTORNEYS GET AN
17 OPPORTUNITY TO ASK YOU SOME QUESTIONS ABOUT SOME
18 THINGS THAT ARE RELEVANT TO THIS CASE, SOME OF YOUR
19 BELIEFS THAT YOU MIGHT HAVE. OF COURSE THE PURPOSE
20 FOR THAT IS TO MAKE SURE WE HAVE A FAIR AND
21 IMPARTIAL JUROR, OKAY?. WE'RE NOT HERE TO CHALLENGE
22 WHAT YOU BELIEVE OR EMBARRASS YOU OR PUT YOU ON THE
23 SPOT. THERE AREN'T ANY RIGHT OR WRONG QUESTIONS,
24 OKAY? IS THAT FAIR ENOUGH THAT WE CAN GET THAT
25 KIND OF INFORMATION?

1 A YES, SIR.

2 THE COURT: OKAY. NOW, HAVE YOU
3 FORMED OR EXPRESSED ANY OPINION AS TO THE INNOCENCE
4 OR THE GUILT OF MR. STEPHEN BECKHAM, WHO IS THE
5 DEFENDANT IN THIS CASE?

6 A NO, SIR.

7 THE COURT: DO YOU KNOW ANYTHING ABOUT
8 THE FACTS OF THE CASE?

9 A NO, SIR.

10 THE COURT: ALL RIGHT. AND HAVE YOU
11 EVER HEARD THAT THE LEGAL PRINCIPLE THAT A CITIZEN
12 ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT OF
13 THAT CRIME UNTIL AND UNLESS THE STATE ESTABLISHES
14 HIS GUILT BEYOND A REASONABLE DOUBT?

15 A YES, SIR.

16 THE COURT: IS THAT A PRINCIPLE OF LAW
17 THAT YOU CAN ACCEPT AND APPLY IN A CRIMINAL CASE?

18 A YES, SIR.

19 THE COURT: YOU CAN FOLLOW THAT?

20 A (NODS AFFIRMATIVE)

21 THE COURT: ALL RIGHT. THE REASON I
22 NEED TO MAKE SURE YOU CAN IS BECAUSE ONE OF THE
23 THINGS THAT WE'RE GOING TO TALK ABOUT IN JUST A FEW
24 MINUTES IS THE DEATH PENALTY AND LIFE IN PRISON AND
25 I WANT TO MAKE SURE THAT YOU DON'T INFER OR IMPLY

1 FROM THE FACT THAT WE TALK ABOUT PENALTIES THAT MR.
2 BECKHAM IS GUILTY OF ANYTHING. CAN YOU DO THAT?

3 A YES, SIR.

4 THE COURT: YOU WON'T INFER OR IMPLY
5 THAT? ALL RIGHT. NOW, GENERALLY, MR. KEESE,
6 THE...WE HAVE A JURY THAT SITS OVER THERE AND THEY
7 DECIDE ONE QUESTION: WHETHER OR NOT A DEFENDANT IS
8 INNOCENT OR GUILTY, AND IF THEY DECIDE THAT A
9 DEFENDANT IS GUILTY BEYOND A REASONABLE DOUBT THEN
10 THAT DEFENDANT STANDS RIGHT THERE AND FACES THE
11 JUDGE AND THE JUDGE SENTENCES HIM -- PROBATION,
12 TIME, WHATEVER THE CASE MAY BE. BUT IN A DEATH
13 PENALTY CASE, THE JURY NOT ONLY SITS OVER THERE AND
14 DETERMINES GUILT OR INNOCENCE OF MURDER, IF THEY
15 FIND A DEFENDANT GUILTY OF MURDER THEN THEY DECIDE
16 -- NOT THE JUDGE, NOT ME -- THE APPROPRIATE
17 PUNISHMENT, WHETHER IT'S LIFE IMPRISONMENT OR
18 DEATH. DO YOU UNDERSTAND THAT? CAN YOU APPRECIATE
19 THAT CONCEPT?

20 A YES, SIR.

21 THE COURT: IT'S THE ONLY TIME IN OUR
22 JUDICIAL SYSTEM IN SOUTH CAROLINA WHERE THE JURY
23 SETS THE PUNISHMENT, OKAY? WHAT YOU WOULD HEAR,
24 WHEN I HAVE SOMEBODY STAND IN FRONT OF ME I HAVE
25 THEM TELL ME, WELL THIS IS WHAT MAKES THAT CRIME

1 WORSE, WHICH IS AGGRAVATING, AND I HEAR ALSO
2 SOMETIMES THINGS THAT THIS MAKES IT, YOU KNOW,
3 "WELL, HE'S NOT QUITE THIS BAD A PERSON OR THE
4 SITUATION IS NOT EXACTLY LIKE THAT" -- IT'S CALLED
5 MITIGATING. WHEN YOU SIT OVER THERE IN THAT JURY
6 AND YOU'RE HAVING TO PASS SENTENCE, LIFE OR DEATH,
7 YOU'RE GOING TO HAVE TO DETERMINE THE EXISTENCE OF
8 AGGRAVATING CIRCUMSTANCES AND YOU CAN CONSIDER
9 MITIGATING CIRCUMSTANCES IN ARRIVING AT YOUR
10 VERDICT. NOW, DO YOU UNDERSTAND WHAT I MEAN BY
11 THAT? YOU'RE SITTING LIKE A JUDGE.

12 A (NODS AFFIRMATIVE)

13 THE COURT: OKAY. WE KNOW, BY
14 EXPERIENCE, THAT THERE ARE THREE TYPES OF JURORS IN
15 THAT SITUATION. THERE ARE JURORS WHO SAY, "IT
16 DOESN'T MATTER. WE'VE GOT A CONVICTION. WE'VE GOT
17 AGGRAVATING CIRCUMSTANCE. IT DOESN'T MATTER IF
18 THERE'S ANY MITIGATING CIRCUMSTANCE. I'M GOING TO
19 ALWAYS VOTE FOR THE DEATH PENALTY BECAUSE I THINK
20 THAT'S ALWAYS THE APPROPRIATE PUNISHMENT." THAT'S
21 ONE TYPE OF JUROR. DO YOU FOLLOW ME SO FAR?

22 A (NODS AFFIRMATIVE)

23 THE COURT: OKAY. THERE'S A SECOND
24 TYPE JUROR THAT SITS OVER THERE AND AFTER THEY
25 LISTEN TO THE EVIDENCE THEY GO BACK AND THEY TELL

1 THEIR FELLOW JURORS, "SURE, THERE'S A CONVICTION
2 FOR MURDER. SURE, THERE'S AN AGGRAVATING
3 CIRCUMSTANCE. THERE MAY OR MAY NOT BE MITIGATING
4 CIRCUMSTANCES." AND THAT PERSON TELLS THE JURY,
5 "IT DOESN'T MATTER. I BELIEVE THAT LIFE
6 IMPRISONMENT IS ALWAYS THE APPROPRIATE PUNISHMENT.
7 I VOTE FOR LIFE." DO YOU FOLLOW ME SO FAR?

8 A (NODS AFFIRMATIVE)

9 THE COURT: OKAY. HERE'S THE THIRD
10 TYPE JUROR THAT SAYS, "SURE, THERE IS A CONVICTION
11 FOR MURDER, PLUS THE AGGRAVATING CIRCUMSTANCES,
12 MAYBE, MAYBE NOT EXISTENCE OF MITIGATING
13 CIRCUMSTANCES," BUT THAT JUROR SAYS, "LOOK, I'M
14 GOING TO LOOK AT THAT CASE, THE ONE I'M ON, AND I'M
15 GOING TO DECIDE WHETHER IT'S APPROPRIATE TO
16 SENTENCE TO DEATH OR TO LIFE AND I WANT TO LOOK AT
17 THE CASE INDIVIDUALLY AND SPECIFICALLY." IF I
18 ASKED YOU WHAT KIND OF JUROR YOU WOULD BE, WOULD
19 YOU BE A CATEGORY 1, 2, OR 3?

20 A I'D HAVE TO SAY THREE.

21 THE COURT: THREE? ALL RIGHT. SO,
22 LET ME ASK YOU THIS, THAT IF YOU'RE SITTING THERE
23 AND YOU'VE MADE THAT DECISION SAYING YOU'RE GOING
24 TO LOOK AT ALL...THE WHOLE CASE AND YOU'RE GOING TO
25 LOOK AT IT SPECIFICALLY, THAT CASE, IF AFTER

1 VIEWING IT, BASED ON THE EVIDENCE AND THE LAW, YOU
2 FELT THAT THE DEATH PENALTY WAS THE APPROPRIATE
3 PUNISHMENT UNDER THE CIRCUMSTANCES, COULD YOU
4 IMPOSE THE DEATH PENALTY?

5 A NO, SIR, I COULDN'T.

6 THE COURT: COULD YOU VOTE WITH YOUR
7 FELLOW JURORS TO IMPOSE THE DEATH PENALTY?

8 A (SHAKES HEAD NEGATIVE)

9 THE COURT: IS THERE ANY...WOULD YOU
10 VOTE FOR LIFE ALWAYS?

11 A UM, I MIGHT BE ABLE TO VOTE FOR LIFE,
12 BUT I COULD NOT PASS DEATH PENALTY.

13 THE COURT: IS THAT BECAUSE YOU HAVE
14 SOME RELIGIOUS OBJECTION TO IT OR SOME OTHER REASON
15 WHY YOU COULD NOT DO IT? DO YOU MIND SHARING THAT
16 WITH US?

17 A I JUST STRONGLY BELIEVE IN NOT PASSING
18 THE DEATH PENALTY.

19 THE COURT: IN NOT HAVING THE DEATH
20 PENALTY?

21 A YES, SIR.

22 THE COURT: IS THERE ANY SET OF
23 CIRCUMSTANCES UNDER WHICH YOU MIGHT CONSIDER
24 IMPOSING THE DEATH PENALTY?

25 A IF THE EVIDENCE WAS STRONG ENOUGH AND

1 IT WAS FACTS, YEAH.

2 THE COURT: WELL, THAT'S WHAT YOU'RE
3 GOING TO GET NOW. YOU'RE GOING TO GET EVIDENCE AND
4 FACTS, NOW HOW STRONG IT IS, THAT'S UP TO YOU.

5 LET'S SAY...USE THE WORD STRONG. IF
6 IT WAS STRONG ENOUGH, AS YOU USE THE TERM, THE
7 EVIDENCE AND THE FACTS, COULD YOU IMPOSE A DEATH
8 SENTENCE? I KNOW YOU DON'T HAVE ANY SPECIFIC FACTS
9 IN FRONT OF YOU, YOU DON'T HAVE A CASE IN FRONT OF
10 YOU, BUT WE'RE ASKING YOU IN LOOKING AT, CAN YOU
11 CONSIDER DEATH AS A POSSIBILITY? CAN YOU CONSIDER
12 LIFE AS A POSSIBILITY?

13 A I CAN'T CONSIDER DEATH, THAT'S FOR
14 SURE, AT ALL.

15 THE COURT: SOLICITOR, QUESTIONS?

16 MR. JONES: YOUR HONOR, IF IT PLEASE?

17 THE COURT: YES, SIR.

18 DIRECT EXAMINATION:

19 BY MR. JONES:

20 Q MR. KEESE, I APPRECIATE YOUR VERY
21 FRANK RESPONSES. I'M THE SOLICITOR, I'M
22 PROSECUTING THE CASE, AND BEFORE YOU COULD BE
23 HONEST WITH ME, OR WITH THE JUDGE EVEN, YOU HAD TO
24 BE HONEST WITH YOURSELF. AND I TAKE IT THAT WHEN
25 HE QUESTIONED YOU, YOU SEARCHED DEEP INSIDE...

1 MR. HARPOOTLIAN: YOUR HONOR, IS THIS
2 A QUESTION? I MEAN, GOOD GOLLY.

3 THE COURT: YES, SIR. I OVERRULE THE
4 OBJECTION.

5 Q I TAKE IT WHEN HE ASKED YOU, YOU
6 SEARCHED DEEP DOWN INSIDE AND YOUR RESPONSE WAS
7 HONEST TO HIM ABOUT THE FACT THAT YOU COULD NOT
8 SEEK THE DEATH PENALTY. IS THAT CORRECT?

9 A (NODS AFFIRMATIVE)

10 Q AND YOU FEEL THAT WAY FIRMLY, DON'T
11 YOU?

12 A (NODS AFFIRMATIVE)

13 Q YOU KNOW THAT THAT IS THE WAY THAT YOU
14 FEEL, DON'T YOU?

15 A (NODS AFFIRMATIVE)

16 Q AND YOU KNOW THAT BEING HONEST TO THIS
17 JUDGE AND TO ANYBODY ELSE THAT ASKS YOU QUESTIONS
18 IN HERE, THE TRUTH IS YOU'RE NOT GOING TO BE A PART
19 OF THE DEATH PENALTY ANY TIME, ANYWHERE, ARE YOU?

20 A NO, SIR.

21 Q SIR?

22 A NO, SIR.

23 Q THAT IS THE TRUTH, ISN'T IT?

24 A YES, SIR.

25 Q AND SO YOU WILL TELL THEM THAT WHEN

1 THEY ASK YOU QUESTIONS, WON'T YOU?

2 A YES, SIR.

3 Q AND IF THEY ASK YOU, "WELL, NOW COULD
4 YOU GIVE THE DEATH PENALTY IN A HORRIBLE, TERRIBLE,
5 TERRIBLE CIRCUMSTANCE..."

6 MR. HARPOOTLIAN: YOUR HONOR, I OBJECT
7 TO HIS HYPOTHETICAL...I WON'T ASK THAT QUESTION.

8 THE COURT: SUSTAINED.

9 MR. JONES: I SAID, "IF THEY ASK
10 YOU..."

11 MR. HARPOOTLIAN: WELL, I'M NOT GOING
12 TO.

13 THE COURT: HE SAYS HE WILL NOT ASK
14 THE QUESTION. SUSTAINED.

15 MR. JONES: WELL...WILL THEY SAY THEY
16 WILL NOT ASK HIM ANY QUESTIONS? I'LL SIT DOWN.

17 THE COURT: NO, SIR. YOU'RE TRYING TO
18 PUT IN THEIR MOUTH A QUESTION THEY'RE GOING TO ASK.
19 HE SAYS HE'S NOT GOING TO ASK THAT QUESTION SO I
20 SUSTAIN HIS OBJECTION.

21 MR. JONES: OKAY. ALL RIGHT.

22 Q WELL, MR. KEESE, LET ME ASK YOU THIS.
23 ARE YOU 100% SURE THAT YOU COULD NOT GIVE THE DEATH
24 PENALTY?

25 A YES, SIR.

1 Q YOU'RE POSITIVE ABOUT THAT?
2 A YES, SIR.
3 Q AND IS THERE ANYTHING ANYBODY CAN SAY
4 TO MAKE YOU CHANGE YOUR MIND ABOUT THAT?
5 A NO, SIR.
6 Q YOU'RE FIRM ABOUT THAT?
7 A YES, SIR.
8 Q SO, THERE'S NOTHING ANYBODY CAN SAY TO
9 GET YOU TO CHANGE YOUR MIND...
10 MR. HARPOOTLIAN: OBJECTION,
11 REPETITIVE, YOUR HONOR. HE'S ASKED HIM THE SAME
12 QUESTION THREE TIMES.
13 THE COURT: SUSTAINED.
14 MR. HARPOOTLIAN: THANK YOU.
15 MR. JONES: I'LL SIT DOWN THEN, MR.
16 KEESE.
17 THE COURT: ALL RIGHT, MR.
18 HARPOOTLIAN?
19 CROSS-EXAMINATION:
20 BY MR. HARPOOTLIAN:
21 Q MR. KEESE, I REPRESENT, ALONG WITH
22 JACK SWERLING HERE, THE DEFENDANT, STEPHEN BECKHAM.
23 STAND UP, STEPHEN. STEPHEN IS ON TRIAL IN THIS
24 CASE. HE'S THE ONE WHO'S CHARGED WITH THE CRIME.
25 HE IS ENTITLED TO A JURY OF HIS PEERS. THAT IS,

1 PEOPLE FROM ALL WALKS OF LIFE, ALL BACKGROUNDS...DO
2 YOU UNDERSTAND?

3 A YES, SIR.

4 Q NOW, YOU'VE INDICATED THAT YOU HAVE NO
5 PROBLEM PRESUMING HIM INNOCENT. IS THAT CORRECT?

6 A YES, SIR.

7 Q AND YOU INDICATE THAT YOU ARE
8 PREDISPOSED TO BE AGAINST THE DEATH PENALTY?

9 A (NODS AFFIRMATIVE)

10 Q NOW THE QUESTION IS NOT WHETHER YOU
11 ARE AGAINST THE DEATH PENALTY OR FOR THE DEATH
12 PENALTY, THE QUESTION IS WHETHER THIS DEFENDANT
13 WILL HAVE A JURY COMPOSED OF HIS PEERS, PEOPLE THAT
14 HAVE ALL KINDS OF OPINIONS ABOUT THE DEATH
15 PENALTY...

16 MR. JONES: YOUR HONOR, THAT'S NOT
17 WHAT WE'RE ASKING HIM ABOUT.

18 THE COURT: AND I, RIGHT NOW, OVERRULE
19 THE OBJECTION. WATCH THE LINE YOU ARE CROSSING.

20 MR. HARPOOTLIAN: YES, SIR.

21 Q NOW, MR. KEESE, YOU HAVE INDICATED YOU
22 ARE OPPOSED TO THE DEATH PENALTY, AND THE
23 SOLICITOR'S...AND THAT'S ADMIRABLE IN SOME
24 QUARTERS...AND CERTAINLY...IS THAT A RELIGIOUS
25 BELIEF? SOMETHING THAT YOU BELIEVE...

1 A YES, SIR.

2 Q YOU ATTEND A CHURCH, THE BOUNTY LAND

3 CHURCH?

4 A YES, SIR.

5 Q AND THAT'S SOMETHING THAT YOU'VE

6 LEARNED AT CHURCH?

7 A THAT'S SOMETHING I'VE LEARNED AT HOME.

8 Q AT HOME?

9 A YES, SIR...FAMILY.

10 Q PARDON?

11 A FAMILY.

12 Q FAMILY?

13 A YES, SIR

14 Q AND DO YOU UNDERSTAND IF YOU WERE PUT

15 ON THIS JURY, OR PICKED FOR THIS JURY, THAT THE

16 JUDGE WOULD TELL YOU -- AND IF YOU FOUND...LET'S

17 ASSUME, FOR THE SAKE OF ARGUMENT, YOU'RE ON A JURY

18 AND THE JUDGE TALKED ABOUT IT IN A THEORETICAL, AND

19 YOU INDICATED THAT YOU'D HAVE NO PROBLEM FINDING

20 SOMEBODY GUILTY OF MURDER, YOU WOULD HAVE SOME

21 PROBLEM IMPOSING A PENALTY OF DEATH. IS THAT

22 CORRECT?

23 A (NODS AFFIRMATIVE)

24 Q IN THE PROCESS OF CONSIDERING THAT

25 PENALTY, LIFE OR DEATH, AND LISTENING TO THE

1 JUDGE'S CHARGE ON AGGRAVATING CIRCUMSTANCES -- YOU
2 KNOW, NOT EVERY MURDER QUALIFIES FOR THE DEATH
3 PENALTY UNDER OUR LAW -- THE JURY WOULD HAVE TO
4 FIND WHAT WE CALL AN AGGRAVATING
5 CIRCUMSTANCE...IT'S WHAT I CALL MURDER PLUS --
6 MURDER PLUS AN ARMED ROBBERY, MURDER PLUS A RAPE,
7 MURDER PLUS SOME AGGRAVATING CIRCUMSTANCE -- AFTER
8 LISTENING TO THOSE AGGRAVATING CIRCUMSTANCES, WHICH
9 THE STATE WOULD PROVE, AND LISTEN TO ANY MITIGATING
10 CIRCUMSTANCES, THE DEFENSE MIGHT PROVE, THEN AS A
11 JUROR ON SUCH A JURY, YOU WOULD HAVE TO BE IN A
12 POSITION TO WHERE A LIFE SENTENCE AND A DEATH
13 SENTENCE WOULD BE VIABLE, REALISTIC ALTERNATIVES
14 FOR YOU. NOW, COULD YOU SIT ON A JURY...FIRST OF
15 ALL, COULD YOU SIT ON A JURY AND CONSIDER GIVING A
16 LIFE SENTENCE OR A DEATH SENTENCE?

17 A LIKE I SAID BEFORE, I CAN'T EVEN GIVE
18 THE DEATH PENALTY.

19 Q UNDER ANY CIRCUMSTANCES?

20 A UNDER ANY.

21 Q EVER?

22 A NO, SIR.

23 Q OKAY. I DON'T HAVE ANY FURTHER
24 QUESTIONS.

25 THE COURT: ALL RIGHT, MR. KEESE, I

1 RESPECT VERY MUCH YOUR VIEW ON THE PENALTY. THE
2 ONLY THING ABOUT IT IS THAT THE LAW IN THE STATE OF
3 SOUTH CAROLINA REQUIRES YOU TO BE ABLE TO IMPOSE
4 ONE OR THE OTHER BASED ON THE CIRCUMSTANCES. SO, I
5 WOULD EXCUSE YOU FROM SERVICE IN THIS CASE AND WE
6 WILL...THE BAILIFF WILL SHOW YOU ABOUT
7 CHECKING...OKAY?

8 A ALL RIGHT.

9 THE COURT: THANK YOU, SIR.

10 A THANK YOU.

11 THE COURT: SANDRA HOLLOWAY?

12 SANDRA HOLLOWAY, BEING
13 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

14 THE COURT: ALL RIGHT, IF YOU'LL HAVE
15 A SEAT AND GET YOURSELF COMFORTABLE AND GET WHERE
16 YOU CAN KIND OF TALK INTO THE MICROPHONE.

17 A OKAY.

18 THE COURT: OKAY. MS. HOLLOWAY, FIRST
19 OF ALL LET ME THANK YOU FOR BEING PATIENT. IT
20 TAKES US A LITTLE WHILE TO DO THIS.

21 A I UNDERSTAND.

22 THE COURT: HAVE YOU EVER BEEN IN
23 COURT BEFORE?

24 A YES.

25 THE COURT: HAVE YOU BEEN ON A JURY

1 BEFORE?

2 A NO.

3 THE COURT: OKAY. AS A PARTICIPANT OR
4 AN OBSERVER IN THE COURT PROCESS?

5 A BASICALLY THE SAME AS YOU'RE DOING
6 HERE. THEY DID NOT ACCEPT ME AS A JUROR.

7 THE COURT: OH, OKAY. IN A DEATH
8 PENALTY CASE?

9 A NO.

10 THE COURT: OKAY, I SEE. NOW...

11 A AND IT WASN'T IN SOUTH CAROLINA. IT
12 WAS IN ATLANTA.

13 THE COURT: OH, IN ATLANTA? OKAY.
14 ALL RIGHT. DID YOU GET A CHANCE TO READ THE LETTER
15 THAT I HANDED OUT YESTERDAY?

16 A YES, SIR.

17 THE COURT: AND DID YOU UNDERSTAND IT
18 PRETTY MUCH?

19 A YES.

20 THE COURT: IS THERE ANYTHING IN THAT
21 LETTER THAT WAS CONFUSING OR SOMETHING THAT YOU
22 WANTED ME TO EXPLAIN A LITTLE BETTER?

23 A NO, I UNDERSTAND.

24 THE COURT: OKAY. AND SO YOU'RE AWARE
25 THAT NOW, UNDER OUR LAW, BECAUSE THE STATE IS

1 SEEKING THE DEATH PENALTY IN THIS CASE, THAT NOT
2 ONLY I GET TO ASK YOU SOME QUESTIONS BUT THE
3 ATTORNEYS GET TO ASK YOU SOME QUESTIONS ABOUT YOUR
4 RELEVANT BELIEFS? PRINCIPALLY ABOUT THE DEATH
5 PENALTY?

6 A YES, SIR.

7 THE COURT: OKAY. NOW, WE'RE NOT
8 TRYING TO CHALLENGE ANYTHING THAT YOU BELIEVE OR
9 EMBARRASS YOU OR PUT YOU ON THE SPOT AND THERE
10 AREN'T ANY RIGHT OR WRONG ANSWERS. THE ONLY
11 ANSWERS ARE YOUR ANSWERS AND SO, OF COURSE, YOU
12 KNOW THE OBJECT IS TO FIND A FAIR AND IMPARTIAL
13 JUROR. DO YOU THINK IT'S FAIR THAT WE COULD ASK
14 YOU THESE QUESTIONS?

15 A YES.

16 THE COURT: OKAY. NOW, HAVE YOU
17 FORMED OR EXPRESSED ANY OPINION AS TO THE INNOCENCE
18 OR GUILT OF THE DEFENDANT, STEPHEN BECKHAM, IN THIS
19 CASE?

20 A NO, I HAVE NOT.

21 THE COURT: AND MS. HOLLOWAY, DO YOU
22 KNOW ANYTHING ABOUT THE FACTS IN THIS CASE?

23 A NO.

24 THE COURT: ARE YOU FAMILIAR WITH THE
25 PRINCIPLE THAT A CITIZEN ACCUSED OF A CRIME IS

1 PRESUMED TO BE INNOCENT OF THAT CRIME UNTIL AND
2 UNLESS THE STATE ESTABLISHES HIS GUILT BEYOND A
3 REASONABLE DOUBT?

4 A YES.

5 THE COURT: IS THAT A PRINCIPLE OF LAW
6 THAT YOU COULD FOLLOW AND APPLY IN A CASE AS A
7 JUROR?

8 A YES.

9 THE COURT: I NEEDED TO ASK YOU THOSE
10 QUESTIONS BECAUSE, AS YOU'RE AWARE, WE'RE GOING TO
11 BE TALKING ABOUT THE PENALTIES: DEATH PENALTY,
12 LIFE IMPRISONMENT. BUT, I WANT TO MAKE SURE THAT
13 YOU UNDERSTAND THAT YOU ARE NOT TO INFER OR IMPLY
14 FROM THE DISCUSSION THAT MR. BECKHAM IS GUILTY OF
15 ANYTHING. THE STATE MUST DO THAT BEFORE WE EVER
16 TALK...BEFORE WE HAVE TO DEAL WITH PENALTIES. DO
17 YOU UNDERSTAND THAT?

18 A YES, SIR.

19 THE COURT: OKAY. WE'VE GOT TO TALK
20 ABOUT IT. NOW, ORDINARILY, MS. HOLLOWAY, A JURY'S
21 EMPANELED, THEY SIT OVER IN THAT JURY BOX AND THEY
22 LISTEN TO THE EVIDENCE AND THEY COME BACK AND THEY
23 MAKE ONE DECISION: THAT IS, A DEFENDANT IS NOT
24 GUILTY OR GUILTY, AS THE CASE MAY BE. IF THEY SAY
25 THAT HE IS GUILTY, THE DEFENDANT WALKS AROUND HERE

1 IN FRONT OF THIS BENCH RIGHT HERE AND THE JUDGE
2 SENTENCES HIM. AND THE JUDGE, AT THAT TIME,
3 LISTENS TO WHAT'S AGGRAVATING ABOUT THE CASE,
4 WHAT'S MITIGATING ABOUT THE CASE. AGGRAVATING
5 MEANING MAKING IT WORSE, MITIGATING MAKING NOT
6 QUITE SO BAD. BUT IN A DEATH PENALTY CASE, THE
7 JURY, NOT THE JUDGE, IMPOSES THE SENTENCE. SO
8 AFTER THERE IS A VERDICT OF GUILTY BY THE JURY, OF
9 MURDER, THEN THE STATE...THE JURY...LISTENS TO
10 EVIDENCE OF AGGRAVATION AND THEY MAY HEAR EVIDENCE
11 OF MITIGATION AND THEN YOU'LL GET SOME INSTRUCTIONS
12 FROM THE JUDGE AND BASED ON THOSE INSTRUCTIONS AND
13 YOUR VIEW OF THE EVIDENCE, YOU HAVE TO MAKE A
14 DECISION: LIFE OR DEATH. DO YOU FOLLOW ME?

15 A YES, SIR.

16 THE COURT: OKAY. NOW, WE KNOW FROM
17 EXPERIENCE THAT THERE ARE THREE TYPES OF JURORS.
18 ONE TYPE OF JUROR SAYS, "WE'VE GOT A CONVICTION,
19 WE'VE GOT EVIDENCE OF AGGRAVATION. IT DOESN'T
20 MATTER WHETHER THERE'S MITIGATING EVIDENCE OR NOT.
21 I BELIEVE THAT THE DEATH PENALTY IS ALWAYS THE
22 APPROPRIATE PUNISHMENT. I VOTE FOR DEATH." DO YOU
23 UNDERSTAND THAT TYPE JUROR?

24 A YES, SIR.

25 THE COURT: WE HAVE A SECOND TYPE

1 JUROR THAT SAYS, "YOU'RE RIGHT. YOU'VE GOT A
2 CONVICTION. WE'VE GOT EVIDENCE OF AGGRAVATION. WE
3 MAY OR MAY NOT HAVE EVIDENCE OF MITIGATION, BUT I
4 VOTE FOR LIFE BECAUSE I THINK THAT LIFE
5 IMPRISONMENT IS ALWAYS THE APPROPRIATE PUNISHMENT."
6 DO YOU UNDERSTAND THAT TYPE OF JUROR?

7 A YES, SIR.

8 THE COURT: OKAY. WE HAVE A THIRD
9 TYPE JUROR THAT SAYS, "YOU'RE BOTH RIGHT. WE'VE
10 GOT A CONVICTION. WE'VE GOT EVIDENCE OF
11 AGGRAVATION. THERE MAY OR MAY NOT BE EVIDENCE OF
12 MITIGATION, BUT I WANT TO LOOK AT THE CASE
13 SPECIFICALLY AND I WANT TO EVALUATE THIS CASE
14 PARTICULARLY AND I WANT TO MAKE THE DECISION ON
15 PUNISHMENT THAT FITS THIS CASE. AND I'M GOING TO
16 CONSIDER LIFE AND I'M GOING TO CONSIDER DEATH."

17 NOW, IF YOU HAD TO CHOOSE WHICH TYPE
18 JUROR YOU WOULD BE, COULD YOU TELL ME WHICH?

19 A I WOULD SAY THE THIRD ONE.

20 THE COURT: THE THIRD CATEGORY?

21 A UH-HUH. (YES).

22 THE COURT: NOW, LET'S SAY THAT YOU'VE
23 GONE THROUGH THAT PROCESS OF ANALYZING THE EVIDENCE
24 OF AGGRAVATION, MITIGATION, CONVICTION. YOU'VE
25 LISTENED TO THE LEGAL ARGUMENTS...THE LEGAL CHARGE

1 AND SO FORTH, AND YOU HAVE COME TO THE CONCLUSION
2 THAT THE APPROPRIATE PUNISHMENT IN THAT CASE IS THE
3 DEATH PENALTY. COULD YOU IMPOSE THE DEATH PENALTY?

4 A YES, I COULD.

5 THE COURT: IF ON THE VIEW OF THE SAME
6 CASE YOU LOOKED AT IT AND YOU CAME TO THE
7 CONCLUSION THAT LIFE IMPRISONMENT WAS THE MORE
8 APPROPRIATE PUNISHMENT, COULD YOU IMPOSE A LIFE
9 SENTENCE?

10 A YES, I COULD.

11 THE COURT: NOW, I NEED TO TAKE YOU
12 ONE STEP FURTHER. UNDER OUR LAW IN THIS STATE THAT
13 IF A JURY DETERMINES THAT THE DEATH PENALTY IS THE
14 APPROPRIATE PUNISHMENT, EACH INDIVIDUAL JUROR IS
15 REQUIRED TO SIGN THE SENTENCE SHEET, OR VERDICT
16 FORM, OR DEATH WARRANT, ACKNOWLEDGING THAT THAT IS
17 THEIR PERSONAL DECISION AND THAT THEY ARE IN
18 AGREEMENT WITH IT. MA'AM, IF YOU WERE...IF YOU
19 FOUND THE DEATH PENALTY WAS THE APPROPRIATE
20 PUNISHMENT, COULD YOU SIGN YOUR NAME TO THE DEATH
21 WARRANT?

22 A YES, I COULD.

23 THE COURT: ALL RIGHT, MR. SOLICITOR?

24 MR. JONES: YES, SIR, YOUR HONOR.

25 DIRECT EXAMINATION:

1 BY MR. JONES:
2 Q GOOD AFTERNOON, MS. HOLLOWAY.
3 A HI.
4 Q HOW ARE YOU DOING?
5 A ALL RIGHT, I GUESS...AFTER A LONG
6 WAIT.
7 Q YEAH, I APPRECIATE YOUR PATIENCE.
8 A NO PROBLEM.
9 Q WE'VE BEEN WORKING STEADILY, I ASSURE
10 YOU. THE JUDGE HAS HAD US DOING THAT. AND WE
11 DIDN'T TAKE MUCH OF A LUNCH HOUR AT ALL. BUT THESE
12 THINGS DO TAKE A LITTLE TIME.
13 A I UNDERSTAND.
14 Q I'LL TRY TO BE BRIEF. YOU DON'T HAVE
15 A TWENTY-NINE YEAR OLD DAUGHTER, DO YOU?
16 A YES, I DO.
17 Q YOU DO? OKAY. WELL...AND A TWENTY-
18 SIX YEAR OLD DAUGHTER?
19 A YES.
20 Q LET ME ASK YOU THIS, YOU MENTIONED
21 THAT YOU COULD GIVE A VERDICT ON BOTH LIFE OR DEATH
22 AND IN A CASE, WOULD YOU LOOK AT THE CIRCUMSTANCES
23 OF THE CASE BEFORE YOU DECIDED WHICH WOULD BE THE
24 APPROPRIATE PUNISHMENT?
25 A OF COURSE.

1 Q YOU WOULDN'T BE LEANING TOWARDS EITHER
2 DEATH OR LIFE MORE THAN ONE OR THE OTHER ON JUST
3 ANY MURDER CASE? IF SOMEBODY SAID, "WELL, YOU'VE
4 GOT A MURDER CASE THEN YOU OUGHT TO LEAN TOWARDS
5 DEATH," OR "YOU OUGHT TO LEAN TOWARDS LIFE,"
6 WOULDN'T YOU LOOK AT THE FACTS OF EACH CASE BEFORE
7 YOU DECIDED...

8 A YES, I WOULD.

9 Q ...WHETHER IT'S DEATH OR LIFE? YOU
10 WOULD?

11 A YES, THE FACTS.

12 Q SO, IF I WERE TO ASK YOU, "WELL,
13 YOU'VE GOT A MURDER HERE AND SOMEBODY'S GUILTY,
14 THEN YOU REALLY OUGHT TO GIVE HIM THE DEATH
15 PENALTY," WHAT YOU WOULD SAY IS, "NO, WHAT I WANT
16 TO DO IS I WANT TO LOOK AND SEE THE FACTS IN THAT
17 CASE BEFORE I ANSWER THAT QUESTION." IS THAT THE
18 WAY YOU...

19 A OF COURSE.

20 Q AND IF SOMEBODY SAID, "WELL, YOU'VE
21 GOT A MURDER CASE, WOULDN'T YOU BE INCLINED JUST TO
22 GIVE HIM LIFE FIRST? ISN'T THAT YOUR FIRST
23 INCLINATION?" WOULD YOU SAY TO THEM, "WELL, I'D
24 HAVE TO HEAR THE FACTS OF THE CASE BEFORE I COULD
25 TELL YOU WHAT MY FIRST INCLINATION WOULD BE BECAUSE

1 IT WOULD DEPEND ON THE FACTS OF THE WHOLE CASE, THE
2 WAY THE WHOLE THING DEVELOPED?"

3 A THE WHOLE CASE, THAT'S CORRECT.

4 Q IS THAT HOW YOU WOULD HANDLE THAT
5 QUESTION?

6 A YES.

7 Q AND THAT'S YOUR RESPONSE TO IT?

8 A YES.

9 Q THANK YOU VERY MUCH.

10 THE COURT: MR. HARPOOTLIAN OR MR.
11 SWERLING?

12 MR. SWERLING: NO QUESTIONS, YOUR
13 HONOR.

14 THE COURT: ALL RIGHT.

15 EVERYBODY'S...ALL RIGHT. MS. HOLLOWAY, I FIND THAT
16 YOU'RE QUALIFIED TO BE PLACED IN THE POOL FOR
17 PURPOSES OF JURY SELECTION SOME TIME TOMORROW. WE
18 WILL SELECT TWELVE JURORS PLUS TWO ALTERNATES SOME
19 TIME TOMORROW AFTERNOON. I WOULD ASK YOU, IN
20 ANTICIPATION THAT YOU COULD GET SELECTED, THAT YOU
21 WOULD COME TOMORROW AFTERNOON AT 2:30 PACKED TO BE
22 ABLE TO GO TO NEWBERRY, SOUTH CAROLINA, TOMORROW
23 AFTERNOON...IF YOU'RE SELECTED. I WOULD SUGGEST
24 THAT YOU HAVE SOMEBODY BRING YOU THAT COULD ALSO
25 COME BACK AND PICK YOU UP IF YOU'RE NOT SELECTED,

1 OR YOU CAN BRING YOUR CAR AND LEAVE IT IF YOU'D
2 LIKE. WE CAN MAKE ARRANGEMENTS. EITHER WAY THAT
3 YOU NEED.

4 NOW, I WOULD ASK YOU TO PACK FOR A
5 PERIOD OF APPROXIMATELY TEN DAYS AND WE WILL ALSO
6 PROVIDE LAUNDRY SERVICES IF NECESSARY DURING THE
7 TIME. SLED PROVIDES FOR YOUR TRANSPORTATION AND
8 SECURITY TO AND FROM NEWBERRY. THE COUNTY OF
9 NEWBERRY WILL PAY FOR YOUR LODGING, MEALS, AND
10 EXPENSES NECESSARY TO PERFORM YOUR DUTIES. DO YOU
11 HAVE ANY QUESTIONS?

12 A NO, JUST THAT...I DON'T KNOW IF
13 THEY'RE AWARE THAT MY HUSBAND IS ALSO IN LAW
14 ENFORCEMENT?

15 THE COURT: WHERE IS HE IN LAW
16 ENFORCEMENT?

17 A IN GREENVILLE.

18 THE COURT: IN GREENVILLE?

19 A YES, SIR.

20 THE COURT: DID YOU ANSWER MY QUESTION
21 YESTERDAY TO THAT EFFECT?

22 A WELL, IT WASN'T IN THAT COUNTY SO I
23 DIDN'T KNOW REALLY HOW TO...

24 THE COURT: WHAT DOES HE DO?

25 A HE WORKS FOR U.S. CUSTOMS. HE'S AN

1 INVESTIGATOR.

2 THE COURT: U.S. CUSTOMS? ALL RIGHT.
3 WOULD THE FACT THAT HE'S INVOLVED IN THE U.S.
4 CUSTOMS EFFECT YOUR ABILITY TO LISTEN TO THIS CASE
5 AND FAIRLY AND IMPARTIALLY TRY IT?

6 A NO.

7 THE COURT: SOLICITOR, DO YOU WANT TO
8 ASK HER ANYTHING ELSE?

9 MR. JONES: NO, SIR. YOU ASKED IF IT
10 WOULD EFFECT...SHE SAID IT WOULDN'T.

11 THE COURT: MR...

12 MR. SWERLING: NO QUESTIONS, YOUR
13 HONOR.

14 THE COURT: OKAY. THANK YOU. WE'LL
15 SEE YOU TOMORROW AT 2:30.

16 A OKAY. THANK YOU.

17 THE COURT: OKAY. DON'T DISCUSS THE
18 CASE WITH HIM OR ANYONE ELSE OR READ OR LISTEN TO
19 ANY ACCOUNT.

20 A HE'S NOT HERE ANYWAY.

21 THE COURT: OKAY. WE'LL SEE YOU
22 TOMORROW.

23 PANEL C: MS. MARJORIE WEST?

24 MARJORIE WEST, BEING CALLED
25 AND DULY SWORN TESTIFIES AS FOLLOWS:

1 THE COURT: ALL RIGHT, THANK YOU,
2 MA'AM. IF YOU'LL HAVE A SEAT AND MAKE YOURSELF
3 COMFORTABLE THERE. THE MICROPHONE WILL BITE YOU
4 SOMETIMES.

5 A YES.

6 THE COURT: MS. WEST, I APPRECIATE YOU
7 BEING PATIENT. IT JUST TAKES US A LITTLE WHILE TO
8 GET THROUGH THIS. DID YOU...HAVE YOU EVER SERVED
9 ON A JURY BEFORE?

10 A YEARS AGO.

11 THE COURT: YEARS AGO? WAS IT A
12 CRIMINAL OR CIVIL CASE?

13 A CIVIL CASE.

14 THE COURT: CIVIL CASE. DID YOU GET A
15 CHANCE TO READ THE LETTER THAT I PASSED OUT
16 YESTERDAY?

17 A YES, I DID.

18 THE COURT: AND DID YOU UNDERSTAND
19 ESSENTIALLY WHAT IT WAS ABOUT?

20 A YES, SIR.

21 THE COURT: IS THERE ANYTHING IN THE
22 LETTER THAT WAS CONFUSING OR YOU NEED FOR ME TO
23 EXPLAIN TO YOU?

24 A I DON'T BELIEVE SO, SIR.

25 THE COURT: ALL RIGHT. MS. WEST, AS

1 YOU'RE AWARE, BECAUSE THE STATE IS SEEKING THE
2 DEATH PENALTY IN THIS CASE AND THAT ALLOWS THE
3 ATTORNEYS TO ASK YOU SOME QUESTIONS, AS WELL AS ME,
4 ABOUT SOME OF YOUR BELIEFS THAT ARE RELEVANT TO THE
5 ISSUES IN THE CASE. DO YOU UNDERSTAND THAT?

6 A YES, SIR.

7 THE COURT: WE'RE NOT HERE TO
8 CHALLENGE HOW YOU FEEL, OR PUT YOU ON THE SPOT, AND
9 THERE AREN'T ANY RIGHT OR WRONG ANSWERS, JUST WHAT
10 YOUR BELIEFS ARE. OF COURSE, OUR OBJECTIVE IS TO
11 FIND A JURY OF TWELVE MEN AND WOMEN WHO ARE FAIR
12 AND IMPARTIAL. WOULD YOU AGREE THAT IT WOULD BE
13 FAIR TO UNDERSTAND WHAT YOU BELIEVE ABOUT THINGS
14 LIKE THE DEATH PENALTY AND SO FORTH?

15 A YES, SIR.

16 THE COURT: OKAY. NOW, HAVE YOU
17 FORMED OR EXPRESSED ANY OPINION AS TO THE INNOCENCE
18 OR THE GUILT OF MR. STEPHEN BECKHAM IN THIS CASE?

19 A NO, SIR.

20 THE COURT: DO YOU KNOW ANYTHING ABOUT
21 THE FACTS OF THE CASE?

22 A I REALLY CAN'T REMEMBER ANYTHING ABOUT
23 THE CASE.

24 THE COURT: ALL RIGHT. AND ARE YOU
25 FAMILIAR WITH THE PRINCIPLE OF LAW THAT SAYS THAT A

1 CITIZEN ACCUSED OF A CRIME IS PRESUMED TO BE
2 INNOCENT OF THAT CRIME UNTIL AND UNLESS THE STATE
3 CAN ESTABLISH HIS GUILT BY EVIDENCE PROVING HIS
4 GUILT BEYOND A REASONABLE DOUBT? ARE YOU FAMILIAR
5 WITH THAT?

6 A YES, SIR.

7 THE COURT: IS THAT A PRINCIPLE OF LAW
8 THAT YOU CAN ACCEPT AND APPLY AS A JUROR IN A
9 CRIMINAL CASE?

10 A YES, SIR.

11 THE COURT: ALL RIGHT. NOW THE REASON
12 I NEEDED TO ASK YOU THOSE TWO QUESTIONS ARE THAT
13 FOR THE NEXT FEW MINUTES WE'RE GOING TO TALK ABOUT
14 THE PENALTIES: THE DEATH PENALTY AND LIFE
15 IMPRISONMENT, AND I WANT TO MAKE SURE THAT YOU
16 WON'T INFER OR IMPLY FROM THE FACT THAT WE TALK
17 ABOUT THEM THAT MR. BECKHAM IS GUILTY OF ANYTHING.
18 AND YOU WON'T DO THAT, WILL YOU?

19 A NO, SIR.

20 THE COURT: OKAY. ORDINARILY, MS.
21 WEST, WE PICK A JURY IN A CRIMINAL CASE AND THEY
22 SIT IN THAT BOX OVER THERE AND THEY LISTEN TO THE
23 EVIDENCE AND THEY MAKE ONE DECISION. THAT IS,
24 WHETHER A PERSON IS NOT GUILTY OR GUILTY AS THE
25 CASE MAY BE. IF THEY ARE NOT GUILTY, OF COURSE,

1 THEY WALK OUT OF THE COURTROOM AND THEY'RE FREE OF
2 CHARGES. BUT IF THEY ARE GUILTY THEN THEY HAVE TO
3 COME AROUND HERE AND STAND IN FRONT OF THIS BENCH
4 AND THEN I LISTEN TO EVIDENCE AS TO WHETHER THERE
5 WAS SOMETHING AGGRAVATING ABOUT THE OFFENSE OR
6 MITIGATING ABOUT THE DEFENDANT AND SO FORTH AND I
7 PASS SENTENCE. THAT HAPPENS IN EVERY SITUATION BUT
8 ONE, AND THAT'S THE SITUATION WE'RE IN NOW: WHERE
9 THE STATE SEEKS THE DEATH PENALTY. NOT ONLY DOES
10 THE JURY MAKE THE DECISION OF NOT GUILTY OR GUILTY,
11 AS THE CASE MAY BE, AFTER THEY MAKE THAT DECISION
12 INSTEAD OF THAT DEFENDANT COMING HERE, YOU LISTEN
13 TO EVIDENCE AND YOU DECIDE WHETHER OR NOT THE
14 DEFENDANT SHOULD GET LIFE IMPRISONMENT OR SUFFER
15 THE DEATH PENALTY. DO YOU UNDERSTAND THAT THAT
16 PROCEDURE IS THE SITUATION WE'RE IN?

17 A YES, SIR.

18 THE COURT: OKAY. NOW, I USED THE
19 WORDS A WHILE AGO, AGGRAVATING, MEANS IN THIS
20 CONTEXT THAT THE STATE MUST OFFER EVIDENCE OF
21 AGGRAVATING CIRCUMSTANCES BEFORE YOU'RE ENTITLED TO
22 CONSIDER THE DEATH PENALTY. AND ALSO DURING THE
23 PROCESS MITIGATING EVIDENCE CAN BE OFFERED INTO THE
24 RECORD. NOW, WE HAVE THREE TYPES OF JURORS,
25 GENERALLY SPEAKING. WE HAVE ONE GROUP OF JURORS

1 THAT SAYS, "WE HAVE A CONVICTION FOR MURDER, PLUS
2 WE HAVE AN AGGRAVATING CIRCUMSTANCES OR
3 CIRCUMSTANCES. IT DOESN'T MATTER WHETHER WE HAVE
4 MITIGATING CIRCUMSTANCES OR NOT, I BELIEVE THAT THE
5 DEATH PENALTY IS ALWAYS THE APPROPRIATE PUNISHMENT
6 IN THAT SET OF CIRCUMSTANCES AND I VOTE FOR DEATH."
7 ONE TYPE OF JUROR.

8 WE HAVE A SECOND TYPE OF JUROR THAT
9 SAYS, "YOU'RE RIGHT. WE HAVE A CONVICTION, PLUS WE
10 HAVE AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY NOT
11 HAVE A MITIGATING CIRCUMSTANCES OR STANCES, BUT I
12 VOTE FOR LIFE IMPRISONMENT BECAUSE I FEEL THAT
13 THAT'S ALWAYS THE APPROPRIATE PUNISHMENT."

14 AND THEN WE HAVE A THIRD JUROR THAT
15 SAYS, "YOU'RE BOTH RIGHT. WE HAVE A MURDER, PLUS
16 AGGRAVATING CIRCUMSTANCES, PLUS WE MAY OR MAY NOT
17 HAVE MITIGATING CIRCUMSTANCES, BUT I WANT TO LOOK
18 AT THIS PARTICULAR CASE AND I WANT TO MAKE A
19 DECISION AS TO WHETHER LIFE IMPRISONMENT IS MORE
20 APPROPRIATE OR THE DEATH PENALTY IS MORE
21 APPROPRIATE."

22 IF I COULD ASK YOU WHICH ONE OF THOSE
23 CATEGORIES YOU WOULD BE IN, WHICH WOULD IT BE?

24 A IT WOULD BE THE THIRD AND LAST
25 CATEGORY.

1 THE COURT: THE LAST CATEGORY.

2 A YES, SIR.

3 THE COURT: MS. WEST, IF UPON LOOKING
4 AT THE CASE AS A JUROR AND HAVING TO JUDGE WHAT IS
5 THE APPROPRIATE PUNISHMENT, IF YOU CAME TO THE
6 CONCLUSION THAT THE DEATH PENALTY WAS THE
7 APPROPRIATE PUNISHMENT, COULD YOU IMPOSE THE DEATH
8 PENALTY?

9 A I THINK SO, SIR.

10 THE COURT: ALL RIGHT. AND LIKEWISE,
11 IF YOU FELT THAT LIFE IMPRISONMENT WAS THE
12 APPROPRIATE PUNISHMENT, COULD YOU VOTE TO IMPOSE
13 LIFE IMPRISONMENT?

14 A YES, SIR.

15 THE COURT: NOW, I NEED TO TAKE YOU
16 ONE STEP FURTHER. LET'S GO BACK TO THE CASE WHERE
17 YOU BELIEVE...YOU'VE LISTENED TO THE EVIDENCE OF
18 GUILT, YOU'VE LISTENED TO THE EVIDENCE IN THE
19 PENALTY PHASE -- THE AGGRAVATION, MITIGATION, ALL
20 OF THOSE THINGS -- AND YOU HAVE COME TO THE
21 CONCLUSION THAT THE DEATH PENALTY IS THE
22 APPROPRIATE PUNISHMENT IN THE CASE, OUR LAW
23 REQUIRES THAT EACH INDIVIDUAL JUROR MUST BE ABLE TO
24 SIGN THEIR NAME TO THE DEATH WARRANT OR THE
25 SENTENCING FORM INDICATING THAT THAT IS THEIR

1 DECISION. MA'AM, IF YOU FELT THAT THE DEATH
2 PENALTY WAS THE APPROPRIATE PUNISHMENT IN THE CASE,
3 COULD YOU SIGN YOUR NAME TO THE DEATH WARRANT?

4 A YES, SIR.

5 THE COURT: ALL RIGHT. I'M GOING TO
6 LET THE SOLICITOR ASK YOU SOME QUESTIONS AND THEN
7 THE ATTORNEYS FOR MR. BECKHAM WILL ASK YOU SOME
8 QUESTIONS. AGAIN, NO RIGHT OR WRONG ANSWERS, OKAY?

9 A OKAY.

10 THE COURT: ALL RIGHT, SOLICITOR?

11 DIRECT EXAMINATION:

12 BY MR. JONES:

13 Q GOOD AFTERNOON, MS. WEST.

14 A GOOD AFTERNOON.

15 Q I APPRECIATE YOUR PATIENCE WITH US
16 YESTERDAY AND TODAY. WE HAVE BEEN WORKING AS
17 DILIGENTLY AS POSSIBLE AND OF COURSE THIS IS A VERY
18 SERIOUS MATTER. I APPRECIATE YOUR RESPONSES TO THE
19 JUDGE'S QUESTIONS AND THE MANNER IN WHICH YOU GAVE
20 THEM. IT APPEARED THAT YOU HAD GIVEN SOME THOUGHT
21 TO THE PROCESS...

22 A YES.

23 Q ...ABOUT WHAT YOU MAY BE ASKED TO DO.
24 AND OF COURSE IT'S DIFFICULT TO BE HONEST WITH
25 ANYBODY ELSE UNTIL YOU'RE HONEST WITH YOURSELF,

1 UNTIL YOU KIND OF DEAL WITH WHO YOU ARE AND WHAT
2 YOU ARE AND HOW YOU FEEL ABOUT THINGS. SO I'M
3 ASSUMING THAT YOU HAVE QUESTIONED YOURSELF ABOUT
4 YOUR ABILITY TO IMPOSE THE DEATH PENALTY IF IT'S AN
5 APPROPRIATE CASE. IS THAT CORRECT?

6 A THAT'S CORRECT, SIR.

7 Q AND IN DEALING WITH THAT ISSUE, DO YOU
8 FEEL THAT YOU ARE BEING HONEST WITH YOURSELF AND
9 WITH US WHEN YOU SAY THAT YOU CAN IMPOSE THE DEATH
10 PENALTY?

11 A I HOPE SO, SIR.

12 Q ALL RIGHT. WELL, I HAVE NO QUESTION
13 BUT THAT YOU'RE TRYING TO ANSWER MY QUESTIONS
14 HONESTLY. DON'T MISUNDERSTAND WHAT I'M SAYING.

15 A YES, I UNDERSTAND.

16 Q BUT WHEN YOU SAY, "I HOPE SO," AND "I
17 THINK SO," IT CAUSES ME TO WONDER IF IN FACT YOU
18 HAVE CROSSED THAT BRIDGE WITHIN YOUR OWN THOUGHT
19 PROCESS AND IN WITH DEALING WITH YOUR OWN, YOUR OWN
20 ABILITY TO DO THAT AND IT'S MY DUTY AND MY
21 OBLIGATION TO FIND OUT IF YOU HAVE.

22 A WELL, I FEEL THAT I CAN. IT WOULD
23 DEPEND ON THE CIRCUMSTANCES, OF COURSE.

24 Q SO, IF THE CIRCUMSTANCES ARE THERE...

25 A YES, AND IF YOU'VE PROVEN YOUR CASE TO

1 ME, I COULD SIGN IT.

2 Q OKAY.

3 A I COULD DEAL WITH IT.

4 Q AND, OF COURSE, THE JUDGE WOULD CHARGE
5 YOU THAT THE STANDARD OF PROOF IS BEYOND A
6 REASONABLE DOUBT.

7 A YES.

8 Q AND YOU ACCEPT THAT STANDARD OF PROOF
9 AND WOULD ACCEPT THE JUDGE'S CHARGE IN THAT REGARD?

10 A YES.

11 Q HAD YOU...OF COURSE, HAVING RECEIVED
12 THE JUDGE'S PAPERWORK AND QUESTIONS AND THE LETTER,
13 YOU'VE BEEN...GAVE IT SOME THOUGHT? I GUESS WHAT
14 I'M ASKING YOU IS, IF SOMEBODY HAD ASKED YOU BEFORE
15 TODAY, IF YOU HAD TALKED WITH SOMEBODY BEFORE
16 TODAY...WELL, IF A CASE WAS PRESENTED TO YOU AND
17 THE CASE HAD BEEN PROVED AND...

18 MR. HARPOOTLIAN: YOUR HONOR, I WOULD
19 OBJECT TO ANY HYPOTHETICAL AND I THINK HE'S...

20 THE COURT: HE HASN'T QUITE GOTTEN
21 ACROSS THAT LINE YET.

22 MR. HARPOOTLIAN: WELL, I JUST WANTED
23 TO RAISE THAT CONCERN AT THIS POINT.

24 THE COURT: THANK YOU FOR REMINDING
25 ME. OKAY.

1 Q ...AND YOU DECIDED THAT THE
2 APPROPRIATE VERDICT WAS GUILTY, YOU WOULDN'T SAY
3 ALL THE TIME THAT LIFE IS THE APPROPRIATE
4 PUNISHMENT...

5 MR. HARPOOTLIAN: YOUR HONOR, I THINK
6 HE'S ATTEMPTING TO MISLEAD THE JUROR AND I OBJECT
7 TO THIS.

8 MR. JONES: I'M ASKING A QUESTION.

9 THE COURT: I OVERRULE THE OBJECTION.

10 Q YOU WOULDN'T SAY ALL THE TIME THAT
11 LIFE WAS THE APPROPRIATE PUNISHMENT, WOULD YOU?

12 A NO.

13 Q AND YOU WOULDN'T SAY ALL THE TIME THAT
14 DEATH IS THE APPROPRIATE PUNISHMENT?

15 A THAT'S CORRECT.

16 Q AND IF SOMEONE WERE TO ASK YOU, "WELL,
17 IF YOU HAD SOMEBODY GUILTY OF MURDER, WHICH WOULD
18 YOU LEAN TO FIRST? WHICH WOULD BE YOUR FIRST
19 INCLINATION?" WOULD YOU TELL THEM, "I HAVE TO HEAR
20 THE FACTS AND CIRCUMSTANCES OF THAT CASE BEFORE I
21 COULD HONESTLY ANSWER THAT QUESTION?"

22 A CERTAINLY.

23 Q THAT'S WHAT YOU'D TELL THEM?

24 A YES.

25 Q THANK YOU, MA'AM.

1 A YOU'RE WELCOME.

2 THE COURT: MR. HARPOOTLIAN?

3 MR. HARPOOTLIAN: IF IT PLEASES THE

4 COURT?

5 CROSS-EXAMINATION:

6 BY MR. HARPOOTLIAN:

7 Q GOOD AFTERNOON, MS. WEST.

8 A GOOD AFTERNOON.

9 Q MY NAME IS DICK HARPOOTLIAN AND I'M AN

10 ATTORNEY FROM COLUMBIA.

11 A HELLO.

12 Q I, ALONG WITH JACK SWERLING...THIS IS

13 JACK SWERLING.

14 A HELLO.

15 Q WE REPRESENT STEPHEN BECKHAM. WOULD

16 YOU STAND UP, PLEASE, STEPHEN? AND STEPHEN IS THE

17 YOUNG MAN WHO'S ON TRIAL HERE. IT IS HIS TRIAL.

18 NOT MINE, NOT MR. JONES', NOT ANYONE ELSE'S. OKAY?

19 A OKAY.

20 Q SO, WHEN WE'RE TALKING TO YOU ABOUT

21 HOW YOU FEEL IN YOUR HEART OF HEARTS -- AND THAT'S

22 WHAT WE'RE TRYING TO FIND OUT HERE -- BECAUSE THIS

23 IS A VERY DIFFICULT CASE, VERY DIFFICULT BECAUSE OF

24 THE NATURE. ALL CASES LIKE THIS ARE DIFFICULT.

25 LET ME FIRST OF ALL -- AND I'M GOING TO TAKE JUST A

1 COUPLE OF MINUTES TO DO THIS -- MAKE SURE WE
2 UNDERSTAND OURSELVES ABOUT HOW THIS PROCESS WORKS.

3 A OKAY.

4 Q YOU UNDERSTAND THAT NO MATTER HOW
5 SIGNIFICANT THE EVIDENCE AS TO GUILT -- DID DO IT,
6 DIDN'T DO IT -- IN ANY CASE, IF IT'S PROVED TO THE
7 JURY HE DID IT AND THEY RETURN A VERDICT OF GUILTY
8 THEN THE JURY WOULD GO TO A SECOND STAGE. THE
9 JUDGE HAS ALREADY EXPLAINED TO YOU THAT'S UNLIKE
10 ANY OTHER CASE WE HAVE.

11 NORMALLY IF A JURY RETURNS A VERDICT
12 OF GUILTY THE JUDGE SENTENCES HIM. IN THIS KIND OF
13 CASE, IF THE JURY RETURNS A VERDICT OF GUILTY, WE
14 MOVE TO A SECOND TRIAL, IF YOU WILL. IT'S ANOTHER
15 TRIAL. AND THE ISSUE OF THAT TRIAL IS WHAT'S THE
16 APPROPRIATE SENTENCE? SO, THE QUANTITY, IF YOU
17 WILL, OF EVIDENCE IS NOT THE ISSUE AT THAT POINT,
18 IT'S WHETHER THE STATE SHOWS AGGRAVATING
19 CIRCUMSTANCES -- AND AGGRAVATING CIRCUMSTANCES ARE
20 STATUTORY, THE JUDGE WILL EXPLAIN THOSE TO YOU AT
21 THE APPROPRIATE JUNCTURE, IF NECESSARY -- IT'S
22 MURDER PLUS: MURDER PLUS A RAPE; MURDER PLUS AN
23 ARMED ROBBERY; MURDER PLUS SOMETHING -- AND THEN
24 THE DEFENDANT WOULD HAVE THE CHANCE TO SHOW CERTAIN
25 MITIGATING CIRCUMSTANCES. AND THAT COULD BE JUST

1 ABOUT ANYTHING. AND THEN, LIKE A JUDGE, THE JURY
2 MUST WEIGH WHAT'S THE APPROPRIATE PENALTY BASED ON
3 THE FACTS AND CIRCUMSTANCES OF THAT CASE AND THE
4 SPECIFIC CHARACTERISTICS AND FACTS SURROUNDING THE
5 DEFENDANT: HIS BACKGROUND, HIS CHARACTER,
6 HIS...THOSE SORTS OF THINGS. DO YOU UNDERSTAND
7 WHAT I'M SAYING?

8 A YES, I UNDERSTAND.

9 Q OKAY. SO, THE ISSUE IN THE SECOND
10 STAGE ISN'T WHETHER OR NOT YOU'RE CONVINCED OF HIS
11 GUILT. THAT'S ALREADY BEEN DONE. AND I GUESS WHAT
12 WE'RE TRYING TO FIND OUT IS IF YOU WERE SHOWN
13 BEYOND A REASONABLE DOUBT THE DEFENDANT COMMITTED
14 THE CRIME AND IS GUILTY OF MURDER...

15 A CORRECT.

16 Q OKAY. DO YOU HAVE SOME PREDISPOSITION
17 AS TO WHAT A SENTENCE SHOULD BE FOR SOMEONE WHO'S
18 CONVICTED OF MURDER? I GUESS THAT'S THE LONG WAY
19 TO GET TO A VERY SIMPLE ANSWER.

20 A NO, I DON'T.

21 Q OKAY, AND THERE ARE SOME CASES IN
22 WHICH, EVEN THOUGH THEY ARE CONVICTED OF MURDER,
23 THEY'RE A MURDERER AT THAT POINT, YOU THINK LIFE IS
24 THE APPROPRIATE PENALTY?

25 A IT DEPENDS ON THE CASE. YES, THAT'S

1 WHAT I BELIEVE.

2 Q OKAY. AND ON SOME CASES...BUT THERE
3 ARE CASES IN WHICH YOU THINK LIFE IS THE
4 APPROPRIATE PENALTY FOR MURDER?

5 A YES.

6 Q OKAY. AND THERE ARE CASES IN WHICH
7 YOU THINK DEATH IS APPROPRIATE FOR A MURDERER?

8 A YES.

9 Q OKAY. AND THAT'S...I GUESS I'M JUST
10 TRYING TO GET COMFORTABLE WITH THAT. I'M NOT
11 TRYING TO PUT YOU ON THE SPOT. YOU KNOW, THESE ARE
12 HOW YOU FEEL.

13 A RIGHT.

14 Q IT'S NOT WHAT YOU SAW, WHERE YOU WENT,
15 WHAT YOU DID, AND IT'S SORT OF...THIS IS A VERY
16 DIFFERENT KIND OF EXPERIENCE FOR THOSE OF US WHO GO
17 THROUGH THIS PROCESS. IT'S HOW YOU FEEL ABOUT
18 SOMETHING.

19 LET ME BACK UP FOR JUST A MINUTE. WE
20 KEEP TALKING ABOUT PENALTY AND THE ONLY REASON I
21 DID THAT WAS BECAUSE THAT'S WHERE THE SOLICITOR
22 FINISHED AND I WANTED TO GO AHEAD AND GET INTO
23 THAT. YOU UNDERSTAND THAT STEPHEN BECKHAM OVER
24 HERE IS PRESUMED INNOCENT?

25 A CORRECT.

1 Q AND THAT THIS TRIAL OR ANY TRIAL LIKE
2 THIS THEY NEVER GET TO THAT SECOND STAGE? DO YOU
3 UNDERSTAND THAT?

4 A YES.

5 Q BECAUSE IF HE'S FOUND NOT GUILTY,
6 THAT'S IT, IT'S OVER, IT'S THROUGH, THERE IS NO
7 SECOND TRIAL.

8 A CORRECT.

9 Q OKAY.

10 A I UNDERSTAND.

11 Q OKAY. AND AS YOU SIT THERE, YOU'VE
12 INDICATED YOU DON'T KNOW ANYTHING ABOUT THIS TRIAL,
13 ALL YOU KNOW IS THAT THE STATE OF SOUTH CAROLINA,
14 THE SOLICITOR HERE, HAS SIGNED AN INDICTMENT, IT'S
15 BEEN PRESENTED TO THE GRAND JURY THAT NEVER HEARD
16 ANYTHING FROM ANYBODY EXCEPT THE STATE, AND THEY'VE
17 RETURNED A...IT'S LIKE A TICKET, AN ACCUSATION.
18 THAT'S ALL THAT WE KNOW AT THIS POINT. DO YOU
19 UNDERSTAND THAT?

20 A YES.

21 Q SO, HE JUST STANDS ACCUSED AND THE
22 DEATH PENALTY IS SOMETHING THE SOLICITOR DECIDES.
23 HE'S DECIDED TO SEEK THE DEATH PENALTY. IT'S
24 SOMETHING HE'S GOING FORWARD WITH. AND SO JUST
25 BECAUSE HE'S ASKED FOR IT DOESN'T MEAN YOU'LL GIVE

1 IT, ISN'T THAT CORRECT?

2 A CORRECT.

3 Q NOW, I NOTICE YOU'VE INDICTED

4 THAT...YOU INDICATE THAT YOUR HUSBAND IS RETIRED.

5 IS THAT CORRECT?

6 A THAT'S CORRECT.

7 Q AND WHAT IS HE RETIRED FROM?

8 A GENERAL MOTORS.

9 Q GENERAL MOTORS?

10 A SUPERVISOR.

11 Q AND YOU'VE LIVED HERE IN WESTMINSTER

12 FOR...?

13 A SIX YEARS.

14 Q SIX YEARS.

15 A WILL BE SIX YEARS.

16 Q WILL BE SIX YEARS. AND YOU MOVED DOWN

17 HERE FROM...?

18 A OHIO.

19 Q OHIO. YOU LIKE IT DOWN HERE?

20 A LOVE IT.

21 Q I THINK THAT'S ALL I HAVE. LET ME

22 CHECK WITH MR. SWERLING AND MAKE SURE I HAVEN'T

23 MISSED ANYTHING.

24 I WANT TO THANK YOU VERY MUCH FOR

25 BEING VERY CANDID AND HONEST WITH ME. AND AGAIN, I

1 WANT TO APOLOGIZE IF I'VE PUT YOU ON THE SPOT AT
2 ALL, BUT WE'VE GOT A JOB TO DO AND WE REPRESENT
3 STEVE BECKHAM WHO'S ACCUSED OF A VERY SERIOUS CRIME
4 HERE.

5 A I UNDERSTAND.

6 Q THANK YOU SO MUCH.

7 THE COURT: WHAT SAYS THE STATE? ALL
8 RIGHT, MS. WEST, I FIND THAT YOU'RE QUALIFIED FOR
9 PURPOSES OF BEING PLACED IN A POOL FROM WHICH WE
10 WILL SELECTED ULTIMATELY A JURY THAT WILL BE
11 COMPOSED OF ABOUT THIRTY-FIVE TO FORTY PEOPLE.
12 WE'LL GET TWELVE PLUS TWO ALTERNATES BY A STRIKING
13 SYSTEM. I NEED FOR YOU TO COME TOMORROW ABOUT 2:30
14 TO WHERE THE BAILIFF WILL SHOW YOU, PACKED, IN THE
15 EVENT YOU ARE SELECTED TO GO TO NEWBERRY. WE WILL
16 BE THERE SOMEWHERE IN THE NEIGHBORHOOD OF SEVEN TO
17 TEN DAYS.

18 SLED PROVIDES FOR YOUR SECURITY AND
19 TRANSPORTATION TO AND FROM, AND THE COUNTY PAYS FOR
20 YOUR LODGING, MEALS, ETCETERA. I WOULD SUGGEST YOU
21 CAN DRESS COMFORTABLY, LIKE YOU ARE IS FINE. YOU
22 DON'T HAVE TO WEAR SUNDAY CLOTHES OR ANYTHING LIKE
23 THAT.

24 NOW IN THE EVENT THAT YOU'RE NOT
25 SELECTED, BE SURE YOUR HUSBAND OR SOMEBODY CAN COME

1 BACK AND PICK YOU BACK UP OR IF YOU WANT TO BRING
2 YOUR CAR AND PARK IT WE'LL MAKE ARRANGEMENTS ABOUT
3 THAT. BUT, WE'LL BE LEAVING FROM HERE IF YOU'RE
4 SELECTED.

5 PLEASE DON'T DISCUSS THE CASE WITH
6 ANYONE OR ALLOW ANYONE TO DISCUSS IT WITH YOU OR
7 READ OR LISTEN OR WATCH ANY ACCOUNT OF THE TRIAL.
8 WE'LL WAIT UNTIL WE GET DOWN TO NEWBERRY AND DEAL
9 WITH THE EVIDENCE THEN. OKAY? THANK YOU SO MUCH
10 AND WE'LL SEE YOU TOMORROW ABOUT 2:30.

11 A TWO-THIRTY?

12 THE COURT: YES, MA'AM.

13 A PACK FOR TEN DAYS?

14 THE COURT: YEAH. WE HAVE LAUNDRY
15 SERVICES IF YOU DON'T WANT TO OVER PACK, OKAY?

16 A OKAY. THANK YOU.

17 THE COURT: MS. KIMBERLY PHILLIS

18 MR. JONES: YOUR HONOR?

19 THE COURT: YES, SIR?

20 MR. JONES: BEFORE SHE COMES IN, I
21 WOULD LIKE TO POINT OUT DEFENSE COUNSEL HAD
22 REFERRED A COUPLE TIMES TO MURDER PLUS, MURDER/
23 RAPE, MURDER/ ARMED ROBBERY, AND I'M GOING TO ARGUE
24 BY HIRE AND I OBJECT TO THEM REFERRING TO MURDER/
25 RAPE, MURDER/ BURGLARY, MURDER/ ARMED ROBBERY.

1 THE COURT: WELL, USUALLY THE
2 OBJECTION COMES, WE TRY TO PROHIBIT THEM FROM
3 TALKING ABOUT THE ACTUAL AGGRAVATING CIRCUMSTANCE.
4 THAT'S WHAT I DON'T WANT THEM TALKING ABOUT
5 IT...JUST AS A--BY WAY OF EXAMPLE. AS LONG AS THEY
6 DON'T TALK ABOUT MURDER FOR HIRE OR MURDER PLUS
7 KIDNAPPING THEN I DON'T HAVE A PROBLEM, GENERALLY.
8 DO YOU SEE A PROBLEM WITH THAT?

9 MR. JONES: I JUST WAS HOPING WE COULD
10 LEAVE IT AS AN AGGRAVATING CIRCUMSTANCE AND NOT
11 SPEAK OF ANY PARTICULAR CRIME.

12 THE COURT: I'VE NEVER BEEN QUITE THAT
13 RESTRICTIVE EXCEPT TALKING ABOUT THE SPECIFIC
14 AGGRAVATING CIRCUMSTANCES.

15 MR. JONES: ALL RIGHT, SIR.

16 THE COURT: MS. PHILLIS, IS THAT THE
17 WAY YOU PRONOUNCE YOUR NAME?

18 A THAT'S CORRECT.

19 KIMBERLY J. PHILLIS, BEING
20 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

21 THE COURT: MS. PHILLIS, LET ME THANK
22 YOU FIRST OF ALL FOR BEING PATIENT. IT JUST TAKES
23 US A WHILE TO DO THIS.

24 A NO PROBLEM.

25 THE COURT: OKAY. DID YOU READ MY

1 LETTER FROM YESTERDAY?

2 A YES, SIR.

3 THE COURT: OKAY, AND WAS THERE
4 ANYTHING ABOUT THE LETTER THAT YOU DIDN'T
5 UNDERSTAND OR YOU NEED FOR ME TO EXPLAIN A LITTLE
6 BETTER TO YOU TODAY?

7 A NO, SIR.

8 THE COURT: OKAY. AS YOU'RE AWARE,
9 BECAUSE THIS IS A POTENTIAL DEATH PENALTY CASE AND
10 BECAUSE THAT IS THE POTENTIAL IN THE CASE, THE
11 ATTORNEYS FOR THE STATE AND THE DEFENSE ARE
12 ENTITLED TO ASK YOU SOME QUESTIONS, LIKE I'M ALWAYS
13 ENTITLED TO ASK YOU, ABOUT SOME OF YOUR RELEVANT
14 VIEWS AND BELIEFS IN THE CASE. OKAY?

15 A YES, SIR.

16 THE COURT: AND YOU AGREE THAT WE
17 SHOULD HAVE A FAIR AND IMPARTIAL JUROR?

18 A SURE.

19 THE COURT: AND KNOWING WHAT YOU
20 BELIEVE ABOUT BASIC PRINCIPLES LIKE WHAT THE
21 PUNISHMENT MIGHT OUGHT TO BE, OR THE BURDEN OF
22 PROOF, PRESUMPTION...ALL THOSE ARE FAIR QUESTIONS
23 FOR US TO KNOW ABOUT? DO YOU AGREE WITH THAT?

24 A YES.

25 THE COURT: HAVE YOU FORMED OR

1 EXPRESSED ANY OPINION AS TO THE GUILT OR INNOCENCE
2 OF STEPHEN BECKHAM IN THIS CASE?

3 A NO, SIR.

4 THE COURT: DO YOU KNOW ANYTHING ABOUT
5 THE FACTS OF THE CASE?

6 A NO, SIR.

7 THE COURT: AND THE REASON I ASK THAT
8 IS BECAUSE WE'RE GOING TO TALK PRIMARILY ABOUT
9 PENALTIES: THE DEATH PENALTY AND LIFE
10 IMPRISONMENT, AND I WANT TO MAKE SURE THAT YOU
11 DON'T INFER OR IMPLY FROM THE FACT THAT WE'RE
12 HAVING THIS DISCUSSION NOW THAT YOU ASSUME OR INFER
13 THAT MR. BECKHAM IS GUILTY OF ANYTHING. AND YOU
14 WON'T DO THAT, WILL YOU?

15 A NO, SIR.

16 THE COURT: OKAY. NOW, HAVE YOU EVER
17 SERVED ON A JURY BEFORE?

18 A NO, SIR.

19 THE COURT: OR HAVE YOU BEEN IN A
20 COURTROOM BEFORE?

21 A NEVER.

22 THE COURT: ALL RIGHT. WELL, IT'S A
23 TOUGH TIME TO BE HERE, BUT IT'S AN EXPERIENCE THAT
24 I HOPE THAT YOU WILL APPRECIATE AND ENJOY, AS FAR
25 AS THE SYSTEM GOES. ORDINARILY A JURY IS SELECTED

1 TO SIT OVER THERE IN THAT JURY BOX AND THEY LISTEN
2 TO EVIDENCE IN A CRIMINAL TRIAL AND THEY MAKE ONE
3 DECISION AND THAT DECISION IS WHETHER OR NOT THAT
4 DEFENDANT IS GUILTY OR NOT GUILTY OF THE CRIME
5 CHARGED. IF NOT GUILTY, OBVIOUSLY HE GOES FREE.
6 IF HE'S GUILTY THEN THE DEFENDANT COMES AROUND
7 HERE, STANDS RIGHT IN FRONT OF ME, AND I SENTENCE
8 HIM BASED ON WHATEVER THE LEGISLATURE SAYS I CAN
9 GIVE HIM. WHEN I DO THAT, I LISTEN TO AGGRAVATING
10 CIRCUMSTANCES FROM THE PROSECUTION, THE VICTIMS.
11 THEN LISTEN TO MITIGATING CIRCUMSTANCES FROM THE
12 DEFENDANT, FRIENDS, PEOPLE WHO KNOW HIM, THINGS
13 LIKE THAT, TO ASSIST ME IN SENTENCING HIM
14 APPROPRIATELY. OKAY?

15 NOW, IN SOUTH CAROLINA THERE IS ONE
16 TIME THAT A JURY MAKES THAT DECISION AS TO WHAT IS
17 THE APPROPRIATE SENTENCE AND NOT A JUDGE, AND THAT
18 IS IN A DEATH PENALTY CASE. DO YOU UNDERSTAND THAT
19 PROCEDURALLY THAT OCCURS?

20 A YES.

21 THE COURT: ALL RIGHT. LET'S...WHEN
22 YOU'RE ON THAT JURY, YOU FIND THE DEFENDANT EITHER
23 NOT GUILTY OR GUILTY, LET'S ASSUME YOU FIND A
24 DEFENDANT GUILTY, THEN YOU UNDERSTAND THAT YOU'RE
25 IN THE SECOND PHASE? YOU'RE ACTING LIKE THE JOB I

1 DO. YOU'RE GOING TO SENTENCE HIM AND THERE'LL BE
2 EVIDENCE OF AGGRAVATION PRESENTED TO YOU, THAT'S
3 THINGS THAT MAKE THE CRIME WORSE -- MITIGATION,
4 WHICH MAKES THE SITUATION A LITTLE DIFFERENT AND
5 TRIES TO EXPLAIN WHY LIFE IMPRISONMENT OUGHT TO BE
6 IMPOSED AS OPPOSED TO THE DEATH PENALTY. DO YOU
7 FOLLOW ME?

8 A YES, SIR.

9 THE COURT: OKAY. WE HAVE THREE TYPES
10 OF JURORS, AS A MATTER OF HISTORY, IN THIS PROCESS.
11 NUMBER ONE, WE HAVE JURORS THAT SAY, "WE'VE GOT A
12 CONVICTION. WE'VE GOT EVIDENCE OF AGGRAVATING
13 CIRCUMSTANCE. WE MAY OR MAY NOT HAVE PROOF OF ANY
14 MITIGATING CIRCUMSTANCE, BUT IT DOESN'T MATTER. I
15 ALWAYS VOTE FOR THE DEATH PENALTY BECAUSE I BELIEVE
16 THAT IS THE APPROPRIATE PUNISHMENT IN THIS CASE."

17 WE HAVE A SECOND SET OF JURORS THAT
18 SAYS, "YOU'RE RIGHT, WE'VE GOT A CONVICTION. WE'VE
19 GOT EVIDENCE IN AGGRAVATION. WE MAY OR MAY NOT
20 HAVE EVIDENCE OF MITIGATION, BUT I VOTE FOR LIFE
21 IMPRISONMENT BECAUSE I FEEL THAT'S ALWAYS THE
22 APPROPRIATE PUNISHMENT." OKAY? JUROR NUMBER TWO.

23 WE HAVE A THIRD SET OF JURORS AND THIS
24 THIRD SET SAYS, "YOU'RE BOTH RIGHT. WE'VE GOT A
25 CONVICTION. WE'VE GOT EVIDENCE OF AGGRAVATION. WE

1 MAY OR MAY NOT HAVE EVIDENCE OF MITIGATION, BUT I
2 WANT TO LOOK AT THIS CASE PARTICULARLY AND
3 SPECIFICALLY TO DETERMINE WHAT IS THE APPROPRIATE
4 PUNISHMENT AND I WILL DO THAT AND I MIGHT VOTE FOR
5 LIFE OR I MIGHT VOTE FOR DEATH."

6 IF I COULD ASK YOU, DO YOU HAVE AN
7 OPINION AS TO WHICH GROUP OF JURORS YOU WOULD
8 LIKELY BE IN?

9 A I WOULD HAVE TO SAY THREE. THE
10 PUNISHMENT WOULD HAVE TO FIT WHAT WE'RE TALKING
11 ABOUT RIGHT HERE AND NOW.

12 THE COURT: OKAY. ALL RIGHT. SO,
13 LET'S SAY THAT YOU DO WHAT YOU'VE JUST AGREED TO
14 DO. YOU'VE LOOKED...YOU KNOW ABOUT THE CONVICTION.
15 YOU KNOW ABOUT THE EVIDENCE IN AGGRAVATION. THERE
16 MAY OR MAY NOT HAVE BEEN EVIDENCE OF MITIGATION.
17 AND YOU'VE LOOKED AT THE WHOLE AND YOU'VE APPLIED
18 THE LEGAL INSTRUCTIONS THE JUDGE HAS GIVEN YOU AND
19 YOU HAVE COME TO THE CONCLUSION THAT IN THAT CASE
20 THE DEATH PENALTY IS THE APPROPRIATE PUNISHMENT.
21 IF YOU CAME TO THAT CONCLUSION, COULD YOU VOTE FOR
22 THE DEATH PENALTY, TO IMPOSE IT?

23 A IF THAT'S WHAT WE CAME TO AND
24 THAT'S...I DON'T KNOW. I'D STRUGGLE WITH IT.

25 THE COURT: WELL, SURELY YOU'VE NEVER

1 BEEN ASKED THIS QUESTION BEFORE, HAVE YOU?

2 A EXACTLY.

3 THE COURT: OKAY. HAVE YOU EVER
4 THOUGHT ABOUT IT BEFORE?

5 A WELL, YOU KNOW, I USED TO THINK IF
6 THAT'S THE WAY THE LAW SAID THEN THEREFORE THAT'S
7 THE WAY WE MUST STICK TO IT. BUT NOW THAT IT'S IN
8 MY OWN HANDS, I STRUGGLE WITH IT.

9 THE COURT: ALL RIGHT. THAT'S
10 PERFECTLY ALL RIGHT, BUT LET ME BACK UP. THE ONLY
11 TIME THAT THE JURY IS AUTHORIZED TO IMPOSE A
12 SENTENCE OF DEATH IS WHEN THERE IS PROOF OF AN
13 AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES BEYOND A
14 REASONABLE DOUBT. OF COURSE YOU CAN ALSO CONSIDER
15 MITIGATING CIRCUMSTANCES TOO.

16 NOW, THE INSTRUCTION WOULD SAY THAT IF
17 YOU FIND THE EXISTENCE OF A CONVICTION OF MURDER
18 PLUS AN AGGRAVATING CIRCUMSTANCE, YOU THE JURY ARE
19 AUTHORIZED TO IMPOSE THE SENTENCE OF DEATH IF THAT
20 BE YOUR VIEW OF THE CASE. DO YOU BELIEVE THAT YOU
21 COULD FOLLOW THAT LEGAL INSTRUCTION AND IMPOSE A
22 SENTENCE OF DEATH?

23 A YES.

24 THE COURT: ALL RIGHT. NOW, LIKEWISE,
25 IF YOU TAKE THAT SAME CASE AND YOU LOOK AT IT AND

1 YOU COME TO THE CONCLUSION THAT IT OUGHT TO BE A
2 LIFE SENTENCE, COULD YOU IMPOSE THE LIFE SENTENCE?

3 A YES, SIR.

4 THE COURT: NOW LET ME TAKE YOU ONE
5 STEP FURTHER.

6 A OKAY.

7 THE COURT: WHEN THE DEATH PENALTY IS
8 AUTHORIZED TO BE IMPOSED AND A JURY DECIDES TO
9 IMPOSE THE DEATH PENALTY, UNDER OUR STATUTE EACH
10 JUROR IS REQUIRED TO SIGN HIS OR HER NAME TO THE
11 SENTENCING SHEET, OR THE DEATH WARRANT,
12 ACKNOWLEDGING THAT THAT IS THEIR DECISION TO IMPOSE
13 THE SENTENCE. IF YOU BELIEVED THAT THE DEATH
14 PENALTY WAS THE APPROPRIATE PUNISHMENT, COULD YOU
15 SIGN YOUR NAME?

16 A YES, SIR, I BELIEVE I COULD.

17 THE COURT: ALL RIGHT, THEN I'LL LET
18 YOU ANSWER SOME QUESTIONS FOR THE SOLICITOR AND FOR
19 MR. HARPOOTLIAN OR MR. SWERLING, OKAY?

20 A OKAY.

21 DIRECT EXAMINATION:

22 BY MR. JONES:

23 Q GOOD AFTERNOON, MS. PHILLIS.

24 A GOOD AFTERNOON.

25 Q I APPRECIATE YOUR PATIENCE WITH US.

1 A NO PROBLEM.

2 Q I KNOW IT'S BEEN A LONG TIME BACK

3 THERE. WE'RE MOVING JUST AS FAST AS WE CAN.

4 A THAT'S FINE.

5 Q AS YOU CAN SEE IT TAKES SOME TIME WITH

6 EACH PERSON THAT COMES OUT.

7 A SURE. SURE.

8 Q MS. PHILLIS, I COULDN'T HELP, OF

9 COURSE, BUT NOTICE YOUR HESITATION WHEN THE JUDGE

10 ASKED YOU ABOUT THE DEATH PENALTY AND OF COURSE AS

11 HE COMMENTED IT'S THE FIRST TIME YOU'VE BEEN ASKED

12 THAT QUESTION AND THAT SORT OF THING.

13 A RIGHT.

14 Q BUT I'M GOING TO SUGGEST TO YOU THAT

15 EXPERIENCE TELLS US THAT IT'S DIFFICULT TO ANSWER

16 THAT QUESTION HONESTLY, TRUTHFULLY, CONCRETELY,

17 FIRMLY, ASSUREDLY, POSITIVELY, UNTIL YOU'VE

18 SEARCHED YOURSELF...

19 A RIGHT.

20 Q ...AND KNOW YOURSELF POSITIVELY,

21 FIRMLY, CONCRETELY, ASSUREDLY, ON THAT POINT. THAT

22 POINT OF, AS I BELIEVE YOU SAID, IT'S A LITTLE

23 DIFFERENT WHEN IT'S IN YOUR HANDS.

24 A EXACTLY.

25 Q WELL, YOU HAVE TO DECIDE TODAY IF YOU

1 CAN AND TELL US WITHOUT HESITATION, FIRMLY.

2 MR. SWERLING: OBJECTION, YOUR HONOR.

3 THAT'S NOT CORRECT. I OBJECT TO WHEN THE SOLICITOR
4 SAYS SHE HAS TO SAY WITHOUT HESITATION. THE
5 JUROR'S TRYING TO BE CANDID AND IT'S AN IMPORTANT
6 DECISION. I WOULD OBJECT TO THE FORM.

7 THE COURT: I SUSTAIN IT AS TO THE
8 FORM.

9 Q WELL, MS. PHILLIS, LET ME ASK YOU
10 THIS...AND IT IS PHILLIS?

11 A YES, SIR.

12 Q IS THAT THE WAY YOU PRONOUNCE IT?

13 A YES, SIR.

14 Q I WOULD ASK YOU TO THINK NOW FOR A
15 MINUTE, JUST TO STOP AND THINK, JUST TO REALLY, YOU
16 KNOW, SEARCH YOURSELF. I MEAN, GET TO KNOW EXACTLY
17 NOW, NOW, WHAT YOUR POSITION IS ABOUT BEING ABLE TO
18 IMPOSE THE DEATH PENALTY ON A FELLOW HUMAN BEING.
19 AND I WOULD LIKE FOR YOU TO THINK ABOUT THAT AND
20 WHEN YOU BELIEVE THAT YOU KNOW WHETHER OR NOT YOU
21 HAVE THE ABILITY, IF YOU WOULD JUST SAY TO ME, "I
22 BELIEVE I KNOW. I KNOW." AND THEN I'LL HAVE
23 ANOTHER QUESTION FOR YOU.

24 A OKAY. SIR, I BELIEVE I KNOW.

25 Q DO YOU KNOW?

1 A I WOULD HAVE TO SAY THAT IF THE
2 EVIDENCE PRESENTS ITSELF THAT THE DEATH PENALTY
3 SHOULD BE A WAY OF SENTENCING THEREFORE I WOULD
4 HAVE TO FOLLOW WHAT THE EVIDENCE STATED. IF THE
5 EVIDENCE STATES THAT MAYBE IT'S MORE OF A LIFE
6 SENTENCE CASE THEN THEREFORE I'D HAVE TO FOLLOW
7 JUST BASICALLY THE EVIDENCE. I DON'T KNOW IF THAT
8 HELPS YOU OR IF THAT SAYS I MAKE UP MY MIND OR I'M
9 STILL KIND OF...

10 Q WELL, EXCUSE ME FOR ONE MOMENT, BUT
11 WHAT I'M ASKING YOU IS IF YOU KNOW IF THE EVIDENCE
12 IS THERE, I'M ASKING YOU IF YOU KNOW NOW THAT YOU
13 HAVE THE ABILITY TO IMPOSE A DEATH SENTENCE ON A
14 FELLOW HUMAN BEING AND IF YOU WOULD DO THAT. OF
15 COURSE, I UNDERSTAND YOUR RESPONSE. YOU WANT TO
16 KNOW THAT THE EVIDENCE IS THERE. BUT WHAT I'M
17 ASKING YOU NOW IS ASSUMING THE EVIDENCE IS THERE...

18 A RIGHT.

19 Q ...THEN HAVE YOU DEALT WITH THAT ISSUE
20 WITHIN YOURSELF CONCERNING YOUR ABILITY TO IMPOSE A
21 DEATH SENTENCE ON A FELLOW HUMAN BEING AND WRITE
22 YOUR NAME DOWN, MS. PHILLIS, IMPOSING IT? HAVE YOU
23 DEALT WITH THAT ISSUE?

24 A NO.

25 Q YOU HAVE NOT DEALT WITH IT?

1 A NO.

2 Q WELL, IF YOU WOULD, JUST THINK FOR A

3 MINUTE.

4 A OKAY.

5 Q AND JUST THINK ABOUT YOURSELF FOR A

6 MINUTE, ON THAT ISSUE FOR A MINUTE, IF YOU WILL.

7 BECAUSE OUR JUSTICE...PARDON ME...

8 A YOU'RE FINE.

9 Q I WOULD SUGGEST TO YOU THAT JUST AS

10 THESE MATTERS SHOULD NOT BE TAKEN LIGHTLY, JUST AS

11 THEY ARE SERIOUS MATTERS, I'M NOT TRYING TO GET YOU

12 TO SAY ONE THING OR THE OTHER.

13 A SURE.

14 Q I'M JUST ASKING YOU THAT WHEN YOU TELL

15 US SOMETHING THAT YOU KNOW THAT YOU'RE NOT JUST

16 SAYING WHAT YOU THINK WE WANT YOU TO SAY.

17 A SURE.

18 Q BUT THAT YOU'RE SAYING WHAT YOU KNOW

19 ABOUT YOURSELF IS IN FACT SO.

20 A SURE.

21 Q AND IF YOU KNOW THAT YOU CAN'T IMPOSE

22 THE DEATH PENALTY...

23 MR. SWERLING: OBJECTION, YOUR HONOR.

24 THE COURT: SUSTAINED. YOU'VE ASKED

25 THAT QUESTION FOUR DIFFERENT WAYS AND SHE HAS

1 REFLECTED UPON IT AND SHE HAS GIVEN YOU AN ANSWER.

2 SHE SAYS, "I KNOW."

3 MR. JONES: JUDGE, I'M SORRY. I

4 APOLOGIZE.

5 THE COURT: OKAY.

6 MR. JONES: I THOUGHT THE LAST ANSWER

7 THAT SHE GAVE ME WAS THAT SHE HAD NOT DEALT WITH

8 THAT ISSUE WITHIN HERSELF. I APOLOGIZE.

9 THE COURT: WELL, SHE...WHEN YOU TOOK
10 THE TIME TO GO OVER THERE AND TALK TO YOUR
11 ASSOCIATES, SHE SAID, "SIR," AND SHE ANSWERED YOUR
12 QUESTION. I ASSUME THAT'S HER ANSWER.

13 Q I APOLOGIZE MS. PHILLIS.

14 MR. JONES: JUDGE, CAN I ASK HER WHAT
15 HER ANSWER IS?

16 THE COURT: YES, SIR.

17 Q I DIDN'T UNDERSTAND WHAT YOU SAID.

18 I'M SORRY.

19 A MY ANSWER TO COULD I IMPOSE THE DEATH
20 PENALTY, OR...?

21 Q YES, MA'AM. COULD YOU IMPOSE THE
22 DEATH PENALTY?

23 A IF THE EVIDENCE WARRANTS ITSELF, I
24 FEEL THAT I COULD.

25 Q THANK YOU VERY MUCH. I APPRECIATE

1 YOUR...AND I'M SORRY IF MY QUESTION WAS NOT...
2 A NO, SIR, IT WAS FINE.
3 THE COURT: QUESTIONS?
4 MR. SWERLING: JUST A COUPLE, YOUR
5 HONOR.
6 THE COURT: ALL RIGHT.
7 CROSS-EXAMINATION:
8 BY MR. SWERLING:
9 Q MS. PHILLIS, I'M JACK SWERLING. HOW
10 ARE YOU?
11 A NICE TO MEET YOU.
12 Q I REPRESENT STEPHEN BECKHAM. THAT'S
13 STEPHEN STANDING OVER THERE. THAT'S DICK
14 HARPOOTLIAN FROM COLUMBIA, A FRIEND OF MINE AND
15 ALSO CO-COUNSEL ON THE CASE.
16 A OKAY.
17 Q THAT'S ALEX POSTIC OVER THERE, A YOUNG
18 LAWYER.
19 A NICE TO MEET ALL OF YOU.
20 Q I'M NOT GOING TO BELABOR THE POINT,
21 BUT AS I UNDERSTAND IT, YOU BELIEVE THE DEATH
22 PENALTY IS APPROPRIATE UNDER CERTAIN CIRCUMSTANCES?
23 A EXACTLY.
24 Q YOU'D HAVE TO WEIGH THOSE
25 CIRCUMSTANCES YOU'D HAVE TO GIVE IT SOME CAREFUL

1 THOUGHT AND AT THIS POINT IN TIME YOU HAVE AN OPEN
2 MIND ABOUT WHETHER PUNISHMENT SHOULD BE LIFE OR IF
3 PUNISHMENT SHOULD BE DEATH, CORRECT?

4 A CORRECT.

5 Q STRICTLY BASED ON THE CIRCUMSTANCES IN
6 THE CASE? YOU DON'T COME INTO THIS COURT
7 PREDISPOSED ONE WAY OR THE OTHER AS I UNDERSTAND
8 IT?

9 A CORRECT.

10 Q WHAT I'D LIKE TO...LET ME MOVE FROM
11 THAT JUST REAL BRIEFLY THOUGH.

12 A OKAY.

13 Q AS THE JUDGE TOLD YOU, THIS IS KIND OF
14 A UNIQUE SITUATION BECAUSE IN THIS CASE, UNLIKE IN
15 ANY OTHER CRIMINAL CASE...OR NOT IN JUST THIS CASE,
16 BUT THIS TYPE OF CASE WHERE THE STATE'S SEEKING THE
17 DEATH PENALTY...WE GET TO ASK YOU SOME QUESTIONS
18 UNLIKE IN OTHER CASES, AND IT'S KIND OF A
19 BIFURCATED TRIAL. IT'S TWO TRIALS, REALLY. WE
20 DON'T EVER GET TO THAT SECOND PHASE WHERE THE JURY
21 DECIDES WHAT THE PUNISHMENT IS BECAUSE NORMALLY BY
22 THE WAY THAT'S RESERVED FOR THE JUDGE IN MOST
23 CASES. BUT WHERE THE STATE'S SEEKING THE DEATH
24 PENALTY THE JURY DECIDES WHAT THE PUNISHMENT IS.
25 WE DON'T GET THERE UNLESS WE GET PAST THAT FIRST

1 STAGE OF THE TRIAL.

2 A OKAY.

3 Q OKAY?

4 A UH-HUH. (YES).

5 Q SO THERE'S A BIG IF.

6 A RIGHT.

7 Q STEPHEN BECKHAM HAS PLED NOT GUILTY TO

8 THESE CHARGES. THAT MEANS THAT WE DON'T GET THERE

9 UNLESS THE STATE PROVES BEYOND A REASONABLE DOUBT

10 THAT HE IS GUILTY OF THE CRIME FOR WHICH THEY ARE

11 SEEKING THE DEATH PENALTY. OKAY? SO, WE'RE IN A

12 DIFFICULT POSITION AT THIS POINT BECAUSE

13 EVERYBODY'S TALKING TO YOU ABOUT PUNISHMENT, BUT

14 WE'RE NOT THERE YET.

15 A EXACTLY.

16 Q BUT, UNFORTUNATELY THERE'S NO OTHER

17 TIME TO TALK TO YOU ABOUT IT. WE'VE GOT TO TALK TO

18 YOU NOW EVEN BEFORE THE TRIAL STARTS. SO, THAT

19 DOESN'T CONCERN YOU OR BOTHER YOU OR INFLUENCE YOU

20 IN ONE WAY OR THE OTHER, DOES IT, THAT WE'RE ALL

21 HAVING TO TALK ABOUT THAT ISSUE AND WE MAY NOT EVEN

22 GET THERE?

23 A NO, SIR. NO.

24 Q OKAY. YOU HAVE NO PROBLEM WITH THE

25 PRESUMPTION OF INNOCENCE, THE FACT THAT ANYBODY

1 ACCUSED IN THIS COUNTRY WITH A CRIME IS PRESUMED TO
2 BE INNOCENT?

3 A YES, THEY ARE.

4 Q DO YOU BELIEVE IN THAT?

5 A YES, I DO.

6 Q AND DO YOU BELIEVE THAT BEFORE THE
7 STATE IS ENTITLED TO A VERDICT OF GUILTY THAT THEY
8 HAVE TO PROVE THAT BEYOND A REASONABLE DOUBT?

9 A YES, SIR.

10 Q DO YOU BELIEVE IN THAT PRINCIPLE?

11 A YES, SIR.

12 Q DO YOU UNDERSTAND UNDER OUR STATE BOTH
13 THE...IN ORDER FOR A JURY TO FIND GUILT OR IN ORDER
14 FOR A JURY TO RECOMMEND DEATH IT HAS TO BE
15 UNANIMOUS?

16 A OKAY.

17 Q THOSE ARE OUR PRINCIPLES, BASIC
18 PRINCIPLES, THAT SOUTH CAROLINA RECOGNIZES.

19 A OKAY.

20 Q AND YOU DON'T HAVE ANY PROBLEM WITH
21 THOSE PRINCIPLES OF LAW EITHER?

22 A NO, SIR.

23 Q OKAY. THANK YOU VERY MUCH. I'M SORRY
24 THAT YOU HAD TO GO THROUGH THIS THE LAST COUPLE OF
25 DAYS.

1 A THANK YOU.

2 Q WE APPRECIATE IT.

3 THE COURT: WAIT JUST A MINUTE RIGHT
4 THERE.

5 A OKAY.

6 THE COURT: MS. PHILLIS, I FIND YOU
7 QUALIFIED FOR PURPOSES OF BEING PLACED IN A POOL
8 FROM WHICH WE WILL SELECT A JURY ULTIMATELY. I
9 WOULD ASK YOU TO COME PACKED TOMORROW AT 2:30
10 PREPARED TO GO TO NEWBERRY, SHOULD YOU BE SELECTED.
11 I WOULD PACK FOR APPROXIMATELY TEN DAYS. IF YOU
12 DON'T WANT TO OVER PACK WE'VE GOT LAUNDRY SERVICES
13 AND THAT KIND OF STUFF AVAILABLE FOR YOU THERE.
14 DRESS COMFORTABLY. YOU DON'T HAVE TO WEAR SUNDAY
15 CLOTHES ALL THE TIME, BUT YOU CAN'T WEAR BEACH
16 CLOTHES, OKAY?

17 A SURE.

18 THE COURT: AND I WOULD ASK YOU IN THE
19 MEANTIME NOT TO DISCUSS THE CASE OR ALLOW ANYONE TO
20 DISCUSS IT WITH YOU OR READ OR LISTEN OR WATCH ANY
21 ACCOUNT OF THE TRIAL.

22 I WOULD TELL YOU THAT SLED WILL
23 PROVIDE FOR YOUR TRANSPORTATION AND YOUR SECURITY
24 TO AND FROM NEWBERRY AND WHILE YOU'RE THERE AND THE
25 COUNTY WILL PAY FOR YOUR LODGING AND YOUR MEALS AND

1 EXPENSES NECESSARY FOR YOU TO PERFORM YOUR JOB.
2 A OKAY.
3 THE COURT: SO, WE'LL SEE YOU TOMORROW
4 AT 2:30.
5 A AT 2:30.
6 THE COURT: TWO-THIRTY.
7 A OKAY.
8 THE COURT: AND HE'LL SHOW YOU WHERE
9 TO COME TO.
10 A OKAY. THANK YOU.
11 THE COURT: ALL RIGHT. MR. GALBREATH?
12 JACK E. GALBREATH, BEING
13 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:
14 THE COURT: IF YOU'LL HAVE A SEAT.
15 MR. GALBREATH...IS THAT THE WAY YOU PRONOUNCE IT?
16 OR GALBREATH.
17 A GALBREATH.
18 THE COURT: GALBREATH. ALL RIGHT.
19 MR. GALBREATH, HAVE YOU EVER BEEN ON A JURY BEFORE?
20 A NO, SIR.
21 THE COURT: OKAY. HAVE YOU BEEN IN A
22 COURTROOM BEFORE YESTERDAY?
23 A YES.
24 THE COURT: TO WATCH OR BE A WITNESS
25 OR...?

1 A CORONER'S JURY.

2 THE COURT: CORONER'S JURY, OKAY.

3 A WELL, I WASN'T ON THE JURY. I WAS
4 THERE IN COURT.

5 THE COURT: OKAY. DID YOU GET A
6 CHANCE TO READ THE LETTER THAT I WROTE TO YOU
7 YESTERDAY?

8 A YES, SIR.

9 THE COURT: IS THERE ANYTHING IN THE
10 LETTER THAT CONFUSED YOU OR YOU DIDN'T UNDERSTAND
11 OR YOU NEED FOR ME TO EXPLAIN A LITTLE FURTHER
12 RIGHT NOW?

13 A I DON'T THINK SO.

14 THE COURT: YOU WILL REMEMBER THE
15 LETTER INDICATED THAT THIS IS A POTENTIAL DEATH
16 PENALTY CASE AND AS A RESULT OF THAT THE PROSECUTOR
17 AND THE DEFENSE ATTORNEYS GET TO ASK YOU SOME
18 QUESTIONS ABOUT SOME OF YOUR BELIEFS IN THIS CASE.
19 I GET THE SAME OPPORTUNITY. I WANT TO TELL YOU UP
20 FRONT THAT THERE AREN'T ANY RIGHT OR WRONG ANSWERS
21 AND NOBODY'S HERE TO CHALLENGE HOW YOU FEEL OR
22 INTIMIDATE YOU OR CAUSE YOU ANY PERSONAL CONCERN.
23 OKAY?

24 NOW, HAVE YOU FORMED OR EXPRESSED ANY
25 OPINION AS TO THE GUILT OR INNOCENCE OF STEPHEN

1 BECKHAM, THE DEFENDANT IN THIS CASE?

2 A NO, I HAVEN'T.

3 THE COURT: DO YOU KNOW ANYTHING ABOUT
4 THE FACTS OF THE CASE?

5 A NO, I DON'T.

6 THE COURT: ARE YOU FAMILIAR WITH THE
7 PRINCIPLE OF LAW THAT SAYS THAT A CITIZEN ACCUSED
8 OF A CRIME IS PRESUMED TO BE INNOCENT OF THAT CRIME
9 UNTIL AND UNLESS THE STATE CAN ESTABLISH HIS GUILT
10 BY EVIDENCE SATISFYING YOU OF THAT FACT BEYOND A
11 REASONABLE DOUBT?

12 A YES, I'M AWARE OF THAT.

13 THE COURT: IS THAT A PRINCIPLE THAT
14 YOU CAN APPRECIATE AND WOULD FOLLOW AS A JUROR?

15 A YES.

16 THE COURT: NOW THE REASON I NEED TO
17 ASK YOU THAT IS THAT MOST OF THIS DISCUSSION WITH
18 YOU FOR THE NEXT FEW MINUTES WILL HAVE TO DO WITH
19 PENALTIES. THAT PRESUMES A CONVICTION AND I WANT
20 TO MAKE SURE YOU'RE NOT GOING TO INFER OR ASSUME
21 THAT MR. BECKHAM IS GUILTY OF ANYTHING AT THIS
22 POINT IN TIME. CAN YOU DO THAT, SIR? YOU WON'T
23 INFER THAT?

24 A YES, SIR.

25 THE COURT: ALL RIGHT. NOW, GENERALLY

1 SPEAKING, WHEN A JURY IS EMPANELED TO TRY A CASE
2 THEY SIT IN THAT BOX OVER THERE AND THEY MAKE ONE
3 DECISION AND THAT DECISION IS WHETHER OR NOT A
4 DEFENDANT IS GUILTY OR NOT GUILTY OF THE CRIME
5 CHARGED. IF HE'S NOT GUILTY THEN THE DEFENDANT IS
6 RELEASED. IF THE DEFENDANT IS FOUND GUILTY THEN HE
7 COMES AROUND IN FRONT OF THIS BENCH AND A JUDGE
8 SENTENCES HIM, NOT THE JURY. NOW, THERE'S ONE
9 EXCEPTION TO THAT IN OUR LAW IN THIS STATE AND THAT
10 IS WHERE THE STATE SEEKS THE DEATH PENALTY. AND
11 WHERE THE STATE SEEKS THE DEATH PENALTY, THE JURY
12 NOT ONLY DETERMINES THE QUESTION OF WHETHER A
13 DEFENDANT IS GUILTY OR NOT GUILTY, IF THEY FIND THE
14 DEFENDANT GUILTY THEN THEY MUST DETERMINE WHAT THE
15 APPROPRIATE PUNISHMENT IS: LIFE OR DEATH. SO YOU
16 FOLLOW ME PROCEDURALLY?

17 A YES, SIR.

18 THE COURT: ALL RIGHT. NOW, THE SAME
19 THING HAPPENS IN FRONT OF ME WHEN I SENTENCE
20 SOMEBODY THAT WILL HAPPEN TO YOU IF YOU WERE
21 SITTING ON A JURY. I WOULD HEAR EVIDENCE OF
22 AGGRAVATION ABOUT THE CRIME. I WOULD HEAR EVIDENCE
23 OF MITIGATION. AGGRAVATION, THINGS THAT MAKE IT
24 WORSE. MITIGATION, THINGS THAT MIGHT TEND TO
25 MEDiate THE PUNISHMENT. THAT'S WHAT YOU'D BE DOING

1 AS A JUROR. YOU'D KNOW YOU GOT A CONVICTION FOR
2 MURDER, BUT YOU'D BE LISTENING TO EVIDENCE IN
3 AGGRAVATION AND PERHAPS EVIDENCE OF MITIGATION AND
4 YOU WOULD HAVE TO MAKE A DECISION OF WHETHER OR NOT
5 IT'S LIFE OR DEATH.

6 NOW, WE KNOW THAT THERE ARE THREE
7 TYPES OF JURORS. THE FIRST TYPE OF JUROR IS THE
8 ONE WHO SAYS, "WE'VE GOT A CONVICTION. WE HAVE
9 EVIDENCE OF AGGRAVATION. IT DOESN'T MATTER WHETHER
10 THERE'S EVIDENCE OF MITIGATION. I BELIEVE THAT THE
11 DEATH PENALTY IS ALWAYS THE APPROPRIATE PUNISHMENT
12 AND I VOTE FOR DEATH." DO YOU UNDERSTAND THAT TYPE
13 OF JUROR?

14 A NO, I DON'T.

15 THE COURT: ALL RIGHT. WELL, WILL YOU
16 AGREE WITH ME THAT THERE MAY BE THAT TYPE?

17 A YES.

18 THE COURT: OKAY. THERE'S A SECOND
19 TYPE THAT SAYS, "YOU'RE RIGHT. WE'VE GOT A
20 CONVICTION. WE'VE GOT EVIDENCE OF AGGRAVATION. WE
21 HAVE EVIDENCE...MAY OR MAY NOT HAVE EVIDENCE OF
22 MITIGATION, BUT I BELIEVE THAT LIFE IMPRISONMENT IS
23 ALWAYS THE APPROPRIATE PUNISHMENT. I VOTE FOR
24 LIFE." DO YOU AGREE THAT THERE MAY BE THAT TYPE OF
25 JUROR?

1 A YES.

2 THE COURT: ALL RIGHT. THEN THERE IS
3 A THIRD TYPE OF JUROR THAT SAYS, "YOU'RE BOTH
4 RIGHT. WE'VE GOT A CONVICTION FOR MURDER, PLUS
5 WE'VE GOT AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY
6 NOT HAVE EVIDENCE OF MITIGATION, BUT I WANT TO LOOK
7 AT THAT PARTICULAR CASE, THAT PARTICULAR DEFENDANT,
8 AND THE CIRCUMSTANCES AROUND IT, AND I'M GOING TO
9 DECIDE WHETHER DEATH OR LIFE IS THE MORE
10 APPROPRIATE PUNISHMENT."

11 IF I WERE TO ASK YOU WHICH ONE OF
12 THOSE CATEGORIES YOU MIGHT LIKELY BE IN, WHICH ONE
13 WOULD IT BE?

14 A I DON'T KNOW. THAT WOULD BE HARD FOR
15 ME TO SAY.

16 THE COURT: WELL, YOU KNOW...

17 A I'M THE TYPE PERSON I LIKE TO LOOK AT
18 EVERYTHING AND THEN MAKE MY DECISION.

19 THE COURT: OKAY, WELL LET ME ASK YOU
20 THIS THEN. SITTING IN A DEATH PENALTY CASE, YOU
21 HAVE A MURDER CONVICTION, PLUS YOU HAVE EVIDENCE OF
22 AGGRAVATION PROVED TO YOU BEYOND A REASONABLE
23 DOUBT. WOULD YOU ALWAYS VOTE FOR THE DEATH
24 PENALTY, OR WOULD YOU ALWAYS VOTE FOR LIFE, OR
25 WOULD YOU LOOK AT BOTH SIDES AND THEN DECIDE WHICH

1 ONE'S THE BEST?

2 A I WOULD LOOK AT BOTH SIDES AND THEN
3 DECIDE.

4 THE COURT: NOW, LET'S ASSUME THAT
5 YOU'VE LOOKED AT THE EVIDENCE OF THE CONVICTION.
6 YOU KNOW THAT THE JUDGE HAS TOLD YOU THAT IF YOU
7 FIND EVIDENCE OF AGGRAVATING CIRCUMSTANCE BEYOND A
8 REASONABLE DOUBT YOU'RE AUTHORIZED TO IMPOSE THE
9 DEATH PENALTY AND YOU'VE CONSIDERED ANY MITIGATING
10 EVIDENCE. IF YOU CAME TO CONCLUSION THAT UNDER ALL
11 OF THE EVIDENCE, THE FACTS, AND THE LAW IN THE CASE
12 THAT THE DEATH PENALTY WAS THE MORE APPROPRIATE
13 PUNISHMENT, COULD YOU IMPOSE THE DEATH PENALTY?

14 A YES.

15 THE COURT: ON THE OTHER HAND, TAKE
16 THAT SAME CASE, AND IF YOU CAME TO THE CONCLUSION
17 THAT LIFE IMPRISONMENT WAS A MORE APPROPRIATE
18 PUNISHMENT, COULD YOU IMPOSE THAT PUNISHMENT?

19 A YES.

20 THE COURT: I NEED TO TAKE YOU ONE
21 STEP FURTHER. UNDER OUR LAW IN THIS STATE, IF A
22 JURY DETERMINES THAT THE DEATH PENALTY IS THE
23 APPROPRIATE PUNISHMENT, EACH INDIVIDUAL JUROR MUST
24 SIGN THEIR NAME TO THE DEATH SENTENCE, OR TO THE
25 DEATH WARRANT, OR TO THE SENTENCING FORM INDICATING

1 AND ACKNOWLEDGING THAT THAT IS THEIR DECISION. IF
2 YOU BELIEVED THAT THE DEATH PENALTY WAS THE
3 APPROPRIATE PUNISHMENT, COULD YOU SIGN YOUR NAME TO
4 THAT FORM?

5 A YES.

6 THE COURT: SOLICITOR, QUESTIONS,
7 PLEASE?

8 MR. JONES: YES, SIR.

9 DIRECT EXAMINATION:

10 BY MR. JONES:

11 Q GOOD AFTERNOON, MR. GALBREATH.

12 A HI.

13 Q IS IT GALBREATH OR...

14 A GALBREATH.

15 Q GALBREATH?

16 A UH-HUH. (YES).

17 Q I APPRECIATE YOUR PATIENCE. IT'S BEEN
18 A WHILE, I UNDERSTAND. WE'RE MOVING AS FAST AS WE
19 CAN. WE HAD THESE JUROR QUESTIONNAIRES THAT YOU
20 FILLED OUT TO LOOK OVER AND WE USE THAT TO TRY TO
21 UPDATE OUR KNOWLEDGE OF YOU ABOUT THESE QUESTIONS
22 BEFORE WE GET HERE. THERE WERE A COUPLE OF THEM
23 THAT YOU LEFT BLANK. THE ONE ABOUT FAVORITE T.V.
24 SHOW. I GUESS YOU DON'T HAVE ONE?

25 A MOST OF THE TIME I'M WORKING AND I

1 DON'T WATCH THAT MUCH T.V.

2 Q WHAT IS PEIDMONT MECHANICAL

3 INCORPORATED?

4 A A MECHANICAL CONTRACTOR. WE DO HEAVY

5 INDUSTRIAL.

6 Q WHAT IS YOUR ROLE WITH THEM? WHAT DO

7 YOU DO?

8 A I'M A SHEET METAL MECHANIC AND

9 SUPERVISOR.

10 Q HOW LONG HAVE YOU BEEN DOING THAT?

11 A I'VE BEEN DOING IT FOR NINETEEN YEARS.

12 Q I ALSO NOTICED THAT YOU CHECKED THAT

13 YOUR MARITAL STATUS IS SEPARATED.

14 A RIGHT.

15 Q I DON'T MEAN TO PRY, BUT WE'RE JUST

16 TRYING TO GET A CLEAR PICTURE OF WHAT YOUR STATUS

17 IS. HOW LONG HAVE YOU BEEN SEPARATED?

18 A I WAS LEGALLY SEPARATED JULY THE 15TH.

19 Q OF THIS YEAR?

20 A YES, SIR.

21 Q SO, ARE YOU LIVING IN YOUR MARITAL

22 HOME OR DID YOU MOVE OUT?

23 A I MOVED OUT.

24 Q DID YOU GET A PLACE OF YOUR OWN?

25 A I WORK OUT OF TOWN MOSTLY, SO I STAY

1 IN A MOTEL.

2 Q YOU MENTIONED TO THE JUDGE, WHEN HE
3 WAS FIRST ASKING YOU, THAT IT WOULD BE HARD TO SAY
4 WHICH CATEGORY YOU FELL INTO UNTIL YOU KNEW THE
5 FACTS OF THE CASE?

6 A UH-HUH. (YES).

7 Q IS THAT WHAT...DID I HEAR YOU
8 CORRECTLY WHEN YOU SAID THAT?

9 A YES.

10 Q AND THEN YOU WENT ON TO SAY, "ONCE I
11 KNEW THE FACTS OF THE CASE THEN I WOULD DECIDE
12 EITHER ON LIFE OR DEATH." IS THAT CORRECT?

13 A UH-HUH. (YES).

14 Q YOU COULD IMPOSE THE DEATH PENALTY
15 THOUGH?

16 A YES.

17 Q AND YOU COULD IMPOSE A LIFE SENTENCE?

18 A YES.

19 Q JUST DEPENDS ON THE FACTS OF THE CASE?
20 IS THAT CORRECT?

21 A RIGHT.

22 Q AND IF SOMEBODY WERE TO ASK YOU...IF I
23 WERE TO ASK YOU, "WELL, IF YOU FOUND SOMEBODY
24 GUILTY OF MURDER, WOULDN'T YOU LEAN TOWARDS
25 THE...WHICH WOULD YOU WANT TO LEAN TOWARDS, MURDER

- 1 OR LIFE? I MEAN, THE DEATH PENALTY OR LIFE?"
- 2 WOULD YOU ANSWER THAT QUESTION BY SAYING, "WELL,
- 3 I'D JUST HAVE TO AGAIN HEAR THE FACTS OF THE CASE
- 4 BEFORE I DECIDE?"
- 5 A I THINK SO.
- 6 Q THAT'S THE WAY YOU ANSWER THAT
- 7 QUESTION?
- 8 A I THINK SO.
- 9 Q AGAIN, I DON'T MEAN TO PRY, BUT THIS
- 10 INFORMATION IS HERE AND IT'S FAIRLY COMPLETE, BUT
- 11 YOU CHECKED THE SPACE THERE THAT SAID, YES THAT A
- 12 MEMBER OF YOUR FAMILY HAD BEEN ARRESTED?
- 13 A A BROTHER.
- 14 Q A BROTHER?
- 15 A YEAH, AT AN EARLY AGE. TEENAGE YEARS.
- 16 Q TEENAGER?
- 17 A UH-HUH. (YES).
- 18 Q WHAT KIND OF PROBLEM DID HE GET INTO,
- 19 DO YOU KNOW?
- 20 A DRUG ABUSE.
- 21 Q OKAY. WAS HE INVOLVED IN MARIJUANA OR
- 22 COCAINE OR DEMEROL OR...
- 23 A I THINK MARIJUANA.
- 24 Q MARIJUANA?
- 25 A UH-HUH. (YES).

1 Q IS HE DOING OKAY?

2 A OH, YES. THAT'S BEEN TEN OR FIFTEEN

3 YEARS AGO.

4 Q DID THE ARREST RESULT IN HIS HAVING TO

5 GO TO JAIL?

6 A I DON'T THINK HE'S EVER BEEN TO JAIL.

7 I MEAN HE'S BEEN IN JAIL SOME, BUT HE NEVER SERVED

8 NO TIME FOR THAT.

9 Q OKAY. IS HIS ARREST OR HIS PROBLEM

10 CAUSED YOU TO HAVE KIND OF A SKEPTICAL FEELING

11 ABOUT LAW ENFORCEMENT, PROSECUTING?

12 A NO.

13 Q HASN'T?

14 A HUH-HUH. (NO).

15 Q YOU FELT LIKE HE WAS TREATED FAIRLY?

16 A YEAH.

17 Q YOU FELT LIKE HE NEEDED WHAT HE GOT?

18 A OH, YEAH.

19 Q YOU DID?

20 A YEAH.

21 Q YOU MENTIONED EARLIER THAT YOU AGREE

22 WITH THE PRESUMPTION OF INNOCENCE. YOU BELIEVE IN

23 THAT PRINCIPLE OF LAW, DO YOU NOT?

24 A YES.

25 Q AND DO YOU AGREE WITH THE LEGAL

1 PRINCIPLE OF BEYOND A REASONABLE DOUBT? THAT IS,
2 THE CASE MUST BE PROVED BEYOND A REASONABLE DOUBT?

3 A YES.

4 Q IS THE CURRENT SEPARATION THAT YOU
5 HAVE, IS THAT YOUR FIRST WIFE?

6 A NO, IT'S NOT. THIRD.

7 Q THIRD?

8 A UH-HUH. (YES).

9 Q DID THE FIRST TWO MARRIAGES END IN
10 DIVORCE?

11 A YES.

12 Q WAS THAT SOMETHING...THE DIVORCE IN
13 THE FIRST MARRIAGE, WAS THAT SOMETHING THAT YOU
14 WANTED?

15 MR. SWERLING: JUDGE, AT THIS POINT I
16 THINK I WOULD OBJECT. YOUR HONOR HAD KIND OF HAD
17 RULED THAT WE COULDN'T GET INTO THIS.

18 THE COURT: WELL, LET ME SUGGEST THIS
19 TO YOU. IF YOU GO MUCH FURTHER YOU'RE GOING TO
20 OPEN THE DOOR. I'M GOING TO LET HIM WALK THROUGH
21 IT. NOW YOU CAN ASK HIM WHETHER IT WAS PLEASANT OR
22 UNPLEASANT, BUT AS FAR AS GETTING INTO DETAILS, I
23 DON'T THINK THAT'S APPROPRIATE. APPROPRIATE WOULD
24 BE WHETHER IT WAS DIFFICULT OR EASY OR AMICABLE,
25 THAT'S FINE. OKAY?

1 Q EXCUSE ME, MR. GALBREATH. MR.
2 GALBREATH, I'M NOT GOING TO BOTHER YOU WITH THE
3 DETAILS OF THOSE MATTERS. I WOULD LIKE TO ASK YOU,
4 YOU MENTIONED HERE THAT YOU LIVED IN OCONEE COUNTY
5 FOR FORTY-FIVE YEARS?
6 A YES.
7 Q I ASSUME THAT'S MOST OF YOUR LIFE?
8 ALL OF YOUR LIFE?
9 A YES.
10 Q SO, YOU'RE PRIOR MARRIAGES WERE HERE
11 IN OCONEE COUNTY, IS THAT CORRECT?
12 A YES.
13 Q THE TWO PRIOR AND THIS ONE?
14 A ALL OF THEM...THIS THIRD ONE, I WAS
15 MARRIED IN NORTH CAROLINA, BUT I WAS WORKING THERE
16 AT THE TIME. THAT'S WHERE SHE WAS FROM.
17 Q THANK YOU VERY MUCH.
18 THE COURT: CROSS-EXAMINATION?
19 MR. SWERLING: IF THE COURT WOULD
20 INDULGE ME ONE MOMENT?
21 CROSS-EXAMINATION:
22 BY MR. SWERLING:
23 Q IT'S GALBREATH, RIGHT?
24 A GALBREATH.
25 Q GALBREATH, WITH A G?

1 A UH-HUH. (YES).

2 Q OKAY. I JUST WANTED TO MAKE SURE I
3 WAS PRONOUNCING IT RIGHT. I'M JACK SWERLING FROM
4 COLUMBIA. HOW ARE YOU?

5 A JUST FINE.

6 Q THIS IS STEPHEN BECKHAM, HE'S THE
7 FELLOW ON TRIAL, AND THAT'S RICHARD HARPOOTLIAN,
8 CO-COUNSEL ON THE CASE. THIS IS STEPHEN'S FAMILY.
9 HIS FATHER'S SITTING BEHIND HIM. JUST A COUPLE OF
10 QUESTIONS AND THEN I'M GOING TO GO AHEAD AND SIT
11 DOWN. I APPRECIATE YOUR BEING HERE FOR THE LAST
12 COUPLE OF DAYS. THIS IS PROBABLY THE FIRST TIME
13 YOU'VE EVER BEEN KIND OF PUT IN THIS POSITION OF
14 HAVING TO GIVE THESE ANSWERS, I WOULD ASSUME?

15 A YES.

16 Q AND IT'S PROBABLY DIFFICULT TO COME UP
17 WITH AN IMMEDIATE ANSWER TO SOME OF THE QUESTIONS
18 WE'VE ASKED, I WOULD IMAGINE?

19 A YES.

20 Q OKAY. ONE OF THE THINGS I JUST WANTED
21 TO EXPLAIN, I THINK THE JUDGE STARTED TO EXPLAIN IT
22 TO YOU, THIS IS A LITTLE BIT DIFFERENT THAN MOST
23 CRIMINAL CASES, OKAY, BECAUSE IN THIS CASE THE
24 STATE IS SEEKING THE DEATH PENALTY AND WHEN THE
25 STATE SEEKS THE DEATH PENALTY THE JURY IS EMPANELED

1 TO SIT POSSIBLY IN TWO PHASES OF THE TRIAL. ONE IS
2 THE INNOCENCE/GUILT STAGE, THE OTHER IS THE LIFE OR
3 DEATH STAGE, IF YOU GET PAST THE FIRST STAGE, OKAY?
4 AND THE LAW ALLOWS US TO ASK SOME QUESTIONS AND
5 THAT'S WHY WE'RE DOING THAT. SO, IF YOU SAY, "WHY
6 DID I COME TO COURT? EVERYBODY'S ASKING THESE
7 QUESTIONS?" THAT'S THE WHOLE THING THAT'S GOING ON
8 HERE.

9 DOES THE FACT THAT PEOPLE ARE TALKING
10 ABOUT THE PUNISHMENT, AND WE HAVEN'T EVEN GOTTEN
11 PAST THE FIRST STAGE, IN ANY WAY CONCERN YOU OR
12 BOTHER YOU THAT WE'RE HAVING TO TALK ABOUT THAT?

13 A NO.

14 Q OKAY.. YOU DON'T...THAT DOESN'T GIVE
15 YOU ANY NEGATIVE FEELINGS ABOUT WHETHER OR NOT A
16 PERSON IS INNOCENT OR GUILTY, DOES IT?

17 A NO, IT DON'T.

18 Q OKAY. YOU UNDERSTAND MR. BECKHAM HAS
19 PLED NOT GUILTY?

20 A YES.

21 Q AND WE'RE GOING TO HAVE A TRIAL ON
22 INNOCENCE OR GUILT...

23 A UH-HUH. (YES).

24 Q ...AND AS I UNDERSTAND IT, WHAT YOU
25 TOLD THE JUDGE, YOU HAVE NO PROBLEM, YOU BELIEVE IN

1 THE PRESUMPTION OF INNOCENCE?

2 A NONE AT ALL.

3 Q YOU BELIEVE THAT? AND YOU ALSO HAVE
4 NO PROBLEM WITH THE FACT THAT UNLESS THE STATE
5 PROVES GUILT BEYOND A REASONABLE DOUBT AND A JURY
6 UNANIMOUSLY COMES TO THAT CONCLUSION, THEN A PERSON
7 HAS TO BE ACQUITTED?

8 A RIGHT.

9 Q FOUND NOT GUILTY? DO YOU BELIEVE IN
10 THAT PRINCIPLE ALSO?

11 A YES.

12 Q OKAY. NOW, WE'VE BEEN TALKING ABOUT
13 PUNISHMENT, I JUST WANTED TO COVER WITH YOU FOR A
14 MOMENT THAT THAT PART OF THE TRIAL COMES FIRST AND
15 IF THE PERSON'S FOUND NOT GUILTY WE NEVER EVEN GET
16 TO THE SECOND STAGE OF THE TRIAL.

17 A RIGHT.

18 Q BUT WE HAVE TO ASK YOU QUESTIONS AT
19 THIS POINT ABOUT WHAT YOUR ATTITUDES ARE ABOUT THE
20 SECOND PHASE OF THE TRIAL IF WE GET THERE. OKAY?

21 A UH-HUH. (YES).

22 Q SO, THAT'S THE WHOLE SITUATION AND
23 WHAT I UNDERSTAND IS YOU KIND OF SAID THAT THIS...I
24 GUESS NOBODY'S EVER REALLY ASKED YOU IN THE
25 POSITION YOU'RE IN RIGHT NOW WHAT YOUR FEELINGS

1 ARE?
2 A THAT'S CORRECT.
3 Q ABOUT THE DEATH PENALTY?
4 A THAT'S CORRECT.
5 Q AND WHAT YOUR FEELINGS ABOUT WHAT YOU
6 WOULD HAVE TO DO UNDER A PARTICULAR SET OF
7 CIRCUMSTANCES?
8 A NOT IN THIS POSITION.
9 Q RIGHT, IN THIS POSITION.
10 A YES.
11 Q I MEAN, YOU MAY HAVE TALKED ABOUT
12 IT...
13 A OH, YEAH.
14 Q ...AND IN GENERAL, FROM WHAT I'M
15 GATHERING, YOU DON'T HAVE ANY OPPOSITION TO THE
16 DEATH PENALTY?
17 A NONE AT ALL.
18 Q BUT YOU DON'T HAVE STRONG FEELINGS
19 ABOUT IT EITHER? OR DO YOU?
20 A WELL, I DON'T HAVE STRONG FEELINGS
21 ABOUT IT.
22 Q YOU'RE NOT A LIFE LONG ADVOCATE FOR
23 THE DEATH PENALTY?
24 A OH, NO.
25 Q AND WHAT I HEAR YOU SAYING IS THAT IF

1 THE JURY WERE TO GET PAST THAT FIRST STAGE OF THE
2 TRIAL, IF THE JURY UNANIMOUSLY FOUND GUILT BEYOND A
3 REASONABLE DOUBT, WITH...AND THERE WERE SOME
4 AGGRAVATING CIRCUMSTANCES THAT THE JUDGE WAS
5 TALKING ABOUT...IN OTHER WORDS, THERE WAS A
6 HOMICIDE AND THEN THERE'S AGGRAVATING
7 CIRCUMSTANCES, FACTORS THAT MAKE IT AGGRAVATING,
8 OKAY?

9 A UH-HUH. (YES).

10 Q THEN THE JUDGE COULD CONSIDER THE
11 DEATH PENALTY. YOU DON'T HAVE TO, OKAY? DO YOU
12 UNDERSTAND? THEY COULD STILL IMPOSE A LIFE
13 SENTENCE EVEN IF THEY FOUND AGGRAVATING
14 CIRCUMSTANCES?

15 A UH-HUH. (YES).

16 Q EVEN IF THERE WERE NO MITIGATING
17 CIRCUMSTANCES, OKAY? WHAT I UNDERSTAND YOU TO BE
18 SAYING IS THAT YOU COME INTO THIS CASE, YOU HAVE NO
19 OPINION ABOUT GUILT OR INNOCENCE?

20 A THAT'S RIGHT.

21 Q AND YOU'RE WILLING TO LOOK AND FIND
22 WHAT THE UNANIMOUS VERDICT IS AND GO ALONG WITH
23 THAT?

24 A CORRECT.

25 Q AND WERE YOU TO COME TO A CONCLUSION

1 THAT THE PERSON, OR A PERSON, WAS GUILTY...WE'RE
2 NOT TALKING ABOUT THIS PERSON, WE'RE TALKING ABOUT
3 IN GENERAL...THEN YOU WOULD ALSO HAVE AN OPEN
4 ATTITUDE ABOUT WHAT THE PUNISHMENT OUGHT TO BE?

5 A THAT'S CORRECT.

6 Q YOU'RE NOT PREDISPOSED...THAT'S A
7 TERRIBLE LEANING WORD...BUT YOU DON'T HAVE ANY
8 LEANINGS ONE WAY OR THE OTHER?

9 A THAT'S RIGHT.

10 Q YOU DON'T COME INTO THE CASE ONE WAY
11 OR THE OTHER? YOU WANT TO HEAR THE WHOLE THING?

12 A THAT'S CORRECT. I WOULD RATHER HEAR
13 IT ALL.

14 Q AND EVEN IN A HOMICIDE CASE, OR A
15 MURDER CASE, WHERE THE JURY WERE TO FIND
16 AGGRAVATING CIRCUMSTANCES, YOU WOULD STILL HAVE AN
17 OPEN MIND ABOUT WHETHER THE PUNISHMENT SHOULD BE
18 DEATH?

19 A YES.

20 Q AND YOU WOULD HAVE AN OPEN MIND ABOUT
21 WHETHER THE PUNISHMENT SHOULD BE LIFE?

22 A YES.

23 Q YOU'D CONSIDER BOTH?

24 A YEAH, I WOULD CONSIDER BOTH.

25 Q YOU'D CONSIDER BOTH?

1 A UH-HUH. (YES).

2 Q AND AT THIS POINT IN TIME THOSE ARE
3 BOTH VIABLE OPTIONS TO YOU?

4 A YEAH.

5 Q I APPRECIATE IT. THANK YOU FOR BEING
6 HERE.

7 THE COURT: STATE? DEFENSE? MR.
8 GALBREATH, WE FIND THAT YOU QUALIFY FOR PURPOSES OF
9 BEING PLACED IN A POOL FROM WHICH WE WILL SELECT
10 THIS JURY TOMORROW SOME TIME. I WOULD ASK THAT YOU
11 COME BACK TOMORROW AT 2:30 PACKED WITH THE ABILITY
12 TO GO TO NEWBERRY TOMORROW AFTERNOON AND TO STAY
13 APPROXIMATELY TEN DAYS. YOU CAN DRESS COMFORTABLY.
14 NO BEACH BUM CLOTHES. YOU DON'T HAVE TO WEAR
15 SUNDAY CLOTHES. I MEAN, JUST WHATEVER'S
16 COMFORTABLE TO YOU. I WOULD ASK YOU NOT TO DISCUSS
17 THE CASE WITH ANYONE OR ALLOW ANYONE TO DISCUSS IT
18 WITH YOU OR READ, LISTEN, OR WATCH ANY ACCOUNT OF
19 THE TRIAL AND I WOULD TELL YOU THAT SLED WILL
20 PROVIDE FOR YOUR TRANSPORTATION TO AND FROM
21 NEWBERRY AND YOUR SECURITY WHILE YOU'RE THERE. THE
22 COUNTY OF NEWBERRY WILL FURNISH THE LODGING, MEALS,
23 AND THINGS NECESSARY FOR YOU TO MAKE YOUR...IF
24 YOU'RE SELECTED FOR THE JURY.

25 SO, WE'LL HAVE YOU BACK HERE TOMORROW

1 AT 2:30.

2 A OKAY.

3 THE COURT: OKAY? HAVE A NICE
4 AFTERNOON. LET'S DO ONE MORE. WE'LL TAKE A BREAK.
5 CANNON HAS BEEN EXCUSED, SO LET'S DO RICHARD MILLER
6 AND THAT WILL PUT US ALMOST HALFWAY THROUGH PANEL
7 THREE.

8 RICHARD MILLER, BEING CALLED
9 AND DULY SWORN, TESTIFIES AS FOLLOWS:

10 THE COURT: ALL RIGHT, MR. MILLER, IF
11 YOU'LL HAVE A SEAT UP HERE AND JUST MAKE YOURSELF
12 COMFORTABLE AND GET WHERE YOU CAN TALK INTO THAT
13 MIKE, OKAY? ALL RIGHT, AND MR. MILLER, YOUR
14 CORRECT NAME IS RICHARD L. MILLER?

15 A YES, SIR.

16 THE COURT: MR. MILLER, HAVE YOU EVER
17 SERVED ON A JURY BEFORE?

18 A NO, SIR, I HAVEN'T.

19 THE COURT: HAVE YOU BEEN IN A
20 COURTROOM BEFORE YESTERDAY?

21 A NO, SIR.

22 THE COURT: ALL RIGHT. DID YOU GET A
23 CHANCE TO READ THE LETTER THAT I WROTE TO YOU
24 YESTERDAY?

25 A YES, SIR, I DID.

1 THE COURT: ALL RIGHT. WAS THERE
2 ANYTHING IN THE LETTER THAT WAS CONFUSING OR
3 SOMETHING YOU WANT ME TO EXPLAIN A LITTLE BIT
4 FURTHER TO YOU AT THIS POINT?

5 A NO, SIR, IT WAS CLEAR.

6 THE COURT: OKAY. NOW...THEN YOU
7 REALIZE THAT THIS IS A POTENTIAL DEATH PENALTY
8 CASE?

9 A YES, SIR.

10 THE COURT: AND AS A RESULT, THE
11 PROSECUTOR AND THE DEFENSE ATTORNEYS GET TO ASK YOU
12 SOME QUESTIONS, ALONG WITH ME, ABOUT SOME RELEVANT
13 BELIEFS THAT YOU MAY HAVE ABOUT ISSUES IN THIS
14 CASE?

15 A YES, SIR, I DO.

16 THE COURT: ALL RIGHT. YOU WOULD
17 AGREE IT'S FAIR THAT WE SHOULD KNOW THAT BEFORE WE
18 PUT YOU ON A JURY?

19 A OH, YES, SIR. I THINK IT'S VERY FAIR.

20 THE COURT: HAVE YOU FORMED OR
21 EXPRESSED ANY OPINION AS TO THE GUILT OR INNOCENCE
22 OF MR. STEPHEN BECKHAM, THE DEFENDANT IN THIS CASE?

23 A NO, SIR, I HAVEN'T.

24 THE COURT: DO YOU KNOW ANYTHING ABOUT
25 THE FACTS OF THIS CASE?

1 A JUST A VERY LITTLE BIT. YOU KNOW,
2 ABOUT WHAT I HEARD ON THE RADIO AND T.V. BACK AND A
3 LITTLE BIT IN THE PAPER. OTHER THAN THAT, NO.

4 THE COURT: IS THERE ANYTHING THAT
5 WOULD AFFECT YOUR ABILITY TO GIVE MR. BECKHAM AND
6 THE STATE OF SOUTH CAROLINA A FAIR AND IMPARTIAL
7 TRIAL -- THAT YOU'VE READ, SEEN, OR HEARD?

8 A NO, SIR.

9 THE COURT: AND IF YOU WERE PLACED ON
10 THE JURY, COULD YOU SET THAT ASIDE AND TRY THE CASE
11 SOLELY UPON WHAT YOU HEAR IN THE COURTROOM?

12 A I BELIEVE SO.

13 THE COURT: IS THERE ANY OUTSIDE
14 INFLUENCE WOULD AFFECT YOU?

15 A I DON'T THINK SO.

16 THE COURT: OKAY. NOW, ARE YOU
17 FAMILIAR WITH THE CONCEPT AND THE PRINCIPLE OF LAW
18 THAT A CITIZEN ACCUSED OF A CRIME IS PRESUMED TO BE
19 INNOCENT OF THAT CRIME UNTIL AND UNLESS THE STATE
20 OR GOVERNMENT CAN ESTABLISH HIS GUILT BY EVIDENCE
21 SATISFYING YOU THE JURY BEYOND A REASONABLE DOUBT?

22 A YES, SIR, I AM.

23 THE COURT: IS THAT A PRINCIPLE OF LAW
24 THAT YOU COULD FOLLOW AS A MEMBER OF A JURY PANEL?

25 A YES, SIR.

1 THE COURT: I NEEDED TO MAKE SURE YOU
2 COULD DO THAT BECAUSE THE NEXT THING WE'RE GOING TO
3 TALK ABOUT ARE PENALTIES. IT'S KIND OF LIKE THE
4 CART BEFORE THE HORSE SITUATION, BUT WE HAVE TO ASK
5 ABOUT THAT NOW. I WANT TO MAKE SURE THAT YOU'RE
6 NOT GOING TO INFER OR IMPLY FROM THAT ANYTHING THAT
7 MR. BECKHAM IS GUILTY OF ANYTHING. YOU WON'T DO
8 THAT AT THIS POINT, WILL YOU?

9 A NO, SIR.

10 THE COURT: OKAY. WE HAVEN'T HEARD
11 THE EVIDENCE SO NEITHER YOU NOR I KNOW WHAT'S GOING
12 TO HAPPEN.

13 A NO, WE DON'T.

14 THE COURT: NOW, MR. MILLER, NORMALLY
15 WHEN WE SEAT A JURY IN A CRIMINAL CASE, THEY SIT
16 OVER IN THAT JURY BOX AND THEY MAKE ONE DECISION
17 AND THAT DECISION IS WHETHER OR NOT THE DEFENDANT,
18 OR A DEFENDANT, IS GUILTY OR NOT GUILTY OF THE
19 CRIME CHARGED. NOT GUILTY, HE'S RELEASED. IF HE'S
20 GUILTY THEN THE DEFENDANT IS BROUGHT RIGHT HERE IN
21 FRONT OF ME, OR ANY OTHER JUDGE, AND THE JUDGE
22 SENTENCES HIM. THAT HAPPENS IN EVERY CASE IN THE
23 STATE OF SOUTH CAROLINA BUT ONE AND THE ONE
24 EXCEPTION TO THAT IS A DEATH PENALTY CASE. DO YOU
25 UNDERSTAND THAT IF A JURY WERE TO RETURN A VERDICT

1 OF GUILTY OF MURDER IN A DEATH PENALTY CASE THEN
2 THE JURY WOULD ACT AS A SENTENCING JUDGE?

3 A YES, I UNDERSTAND THAT'S THE WAY IT
4 WORKS.

5 THE COURT: OKAY. AND THE JURY WOULD
6 DETERMINE WHETHER OR NOT A DEFENDANT SHOULD BE
7 SENTENCED TO LIFE OR TO DEATH?

8 A YES, SIR, I UNDERSTAND THAT.

9 THE COURT: ALL RIGHT. NOW, WE HAVE
10 THREE KINDS OF JURORS THAT TRADITIONALLY WE CAN
11 IDENTIFY. WE HAVE A SET OF JURORS THAT WOULD SAY,
12 "WE'VE GOT A CONVICTION. PLUS, I'VE GOT SOME
13 AGGRAVATING CIRCUMSTANCES," -- WHICH AUTHORIZES A
14 JURY TO CONSIDER THE DEATH PENALTY -- AND YOU MAY
15 OR MAY NOT HAVE ANY MITIGATING CIRCUMSTANCES. AND
16 THAT JUROR SAYS, "IT DOESN'T MATTER. I BELIEVE
17 THAT THE DEATH PENALTY IS ALWAYS THE APPROPRIATE
18 PUNISHMENT IN A CASE LIKE THIS AND I'M GOING TO
19 VOTE FOR THE DEATH PENALTY." OKAY? ONE TYPE OF
20 JUROR. CAN YOU APPRECIATE THAT TYPE JUROR?

21 A YES, SIR.

22 THE COURT: ALL RIGHT. THE SECOND
23 TYPE JUROR SAYS, "YOU'RE RIGHT. YOU'VE GOT A
24 CONVICTION. THERE'S EVIDENCE OF AN AGGRAVATING
25 CIRCUMSTANCE AND THERE MAY OR MAY NOT BE EVIDENCE

1 OF MITIGATING CIRCUMSTANCES. IT DOESN'T MATTER. I
2 BELIEVE THAT LIFE IMPRISONMENT IS ALWAYS THE
3 APPROPRIATE PUNISHMENT. I'M GOING TO VOTE FOR LIFE
4 IMPRISONMENT." CAN YOU APPRECIATE THAT TYPE JUROR?

5 A YES, SIR.

6 THE COURT: ALL RIGHT. THERE'S A
7 THIRD TYPE OF JUROR WHO SAYS, "YOU'RE BOTH RIGHT.
8 WE'VE GOT A MURDER, PLUS EVIDENCE OF AGGRAVATING
9 CIRCUMSTANCES, PROVEN BEYOND A REASONABLE DOUBT."
10 YOU MAY OR MAY NOT HAVE MITIGATING CIRCUMSTANCES.
11 BUT THAT JUROR SAYS, "I'M GOING TO LOOK AT THIS
12 CASE AND THE FACTS AND THE LAW IN THIS CASE AND I'M
13 GOING TO DECIDE WHICH IS THE MORE APPROPRIATE
14 PUNISHMENT: DEATH OR LIFE." DO YOU UNDERSTAND
15 THAT TYPE OF JUROR?

16 A YES, SIR.

17 THE COURT: ALL RIGHT. MR. MILLER, I
18 KNOW IT'S SHORT NOTICE, BUT IF I WERE TO ASK YOU
19 WHICH TYPE JUROR YOU MIGHT FALL INTO, COULD YOU
20 TELL ME?

21 A I WOULD PROBABLY FALL INTO THE GROUP
22 FOR, YOU KNOW, LIFE IMPRISONMENT BECAUSE IT WOULD
23 JUST BE AWFUL, AWFUL HARD FOR ME TO, YOU KNOW,
24 SENTENCE SOMEBODY TO THE DEATH PENALTY.

25 THE COURT: WELL, I DON'T THINK

1 ANYBODY HAS EVER SAID THAT TASK IS EASY.

2 A IT WOULD HAVE TO BE TOUGH.

3 THE COURT: WELL, LET ME ASK YOU ABOUT
4 THAT. LET'S ASSUME THAT YOU'RE SITTING ON A CASE
5 AND YOU'VE GOT EVIDENCE OF THE MURDER CONVICTION,
6 YOU'VE CONVICTED HIM OF MURDER, PLUS YOU'VE GOT
7 EVIDENCE OF AN AGGRAVATING CIRCUMSTANCE AND YOU'VE
8 LISTENED TO MITIGATING CIRCUMSTANCES IF THEY WERE
9 THERE, AND YOU HAVE COME TO THE CONCLUSION THAT THE
10 DEATH PENALTY IS THE APPROPRIATE PUNISHMENT IN THAT
11 CASE. COULD YOU VOTE TO IMPOSE THE DEATH PENALTY?

12 A I REALLY DON'T THINK SO.

13 THE COURT: WELL, TAKE THAT EVIDENCE
14 AND THAT SAME CASE AND LOOK AT IT. COULD YOU VOTE
15 FOR A LIFE SENTENCE?

16 A YES, I COULD VOTE FOR A LIFE SENTENCE,
17 BUT I DON'T THINK THAT I COULD VOTE FOR THE DEATH
18 PENALTY IN ANY CASE UNLESS IT WAS JUST AN EXTREME
19 RARITY WHERE, YOU KNOW, MAYBE THE PERSON...I WOULD
20 FEEL LIKE IF HE WAS CAPABLE OF BREAKING OUT OF
21 JAIL, HE'D KILLED A BUNCH OF PEOPLE, YOU KNOW, AND
22 I DIDN'T THINK THE PRISON SYSTEM COULD HOLD HIM,
23 THEN I DON'T KNOW IF I COULD VOTE FOR THE DEATH
24 PENALTY THEN OR NOT, BUT, YOU KNOW, I COULD HANDLE
25 LIFE IN PRISON.

1 THE COURT: ALL RIGHT. LET ME LET THE
2 LAWYERS ASK YOU SOME QUESTIONS. MR. SOLICITOR?
3 DIRECT EXAMINATION:
4 BY MR. JONES:
5 Q GOOD AFTERNOON, MR. MILLER.
6 A HEY, HOW ARE YOU?
7 Q OKAY. HOW ARE YOU DOING?
8 A FINE.
9 Q MR. MILLER, FIRST OF ALL LET ME SAY TO
10 YOU THAT WE APPRECIATE YOUR PATIENCE AND WE
11 CERTAINLY APPRECIATE YOUR TRYING TO ANSWER THESE
12 QUESTIONS AS HONESTLY AS YOU CAN.
13 A THANK YOU.
14 Q AND I'M GOING TO ASK YOU TO TRY TO DO
15 THAT.
16 A OKAY.
17 Q I BELIEVE YOU HAVE. WOULD YOU AGREE
18 THAT YOU CAN'T REALLY BE HONEST OR FAIR WITH
19 SOMEBODY ELSE UNTIL YOU'VE BEEN DEEP DOWN INSIDE
20 HONEST WITH YOURSELF ABOUT HOW YOU FEEL?
21 A PROBABLY.
22 Q ALL RIGHT. WELL, I BELIEVE I'M
23 HEARING YOU TO SAY THAT YOU CAN'T RETURN A DEATH
24 PENALTY VERDICT. IS THAT WHAT YOU'RE TELLING ME?
25 A I'M TELLING YOU UNLESS IT WAS A

1 CIRCUMSTANCE, LIKE I WAS SAYING TO THE JUDGE A
2 WHILE AGO, WHERE I DIDN'T FEEL LIKE THE MAN WOULD
3 BE...HE'D BREAK OUT OF JAIL OR SOMETHING AND DO THE
4 CRIME AGAIN. I THINK IF THE PRISON SYSTEM CAN HOLD
5 A PERSON THEN I THINK THAT'S WHERE HE NEEDS TO BE.

6 Q WELL, I'VE HEARD THAT ANSWER AND I
7 THOUGHT YOU ENDED UP WITH IS THAT YOU'D RATHER GIVE
8 A LIFE SENTENCE?

9 A YES, SIR.

10 Q I THOUGHT THAT'S WHAT YOU SAID WHEN
11 YOU ENDED UP THAT SENTENCE AND SO WE'RE HERE TODAY
12 AND WE NEED TO KNOW TODAY WHETHER OR NOT YOU WOULD
13 IMPOSE A DEATH SENTENCE ON ANOTHER HUMAN BEING?

14 MR. SWERLING: YOUR HONOR, I OBJECT TO
15 THAT. THAT'S NOT THE QUESTION. THE QUESTION IS
16 WHETHER OR NOT HE COULD CONSIDER IT, HE SAID HE
17 COULD UNDER THE RIGHT CIRCUMSTANCES.

18 THE COURT: WELL...

19 A IT WOULD BE MORE...

20 THE COURT: WAIT JUST A MINUTE, MR.

21 MILLER. I...

22 MR. SWERLING: HE'S TRYING TO STAKE
23 HIM OUT. THAT'S MY OBJECTION.

24 THE COURT: WELL, I UNDERSTAND THAT.
25 I'M GOING TO OVERRULE THE OBJECTION. LET ME HEAR

1 HIS ANSWER. I UNDERSTAND WHAT HE'S DOING.

2 A I DON'T BELIEVE I COULD, YOU KNOW,
3 SENTENCE ANYBODY TO DEATH.

4 Q YES, SIR, AND THAT'S WHAT I THOUGHT
5 YOU WERE TRYING TO TELL THE JUDGE. THAT'S ALL
6 WE'RE ASKING YOU. YOU UNDERSTAND THAT?

7 A I DON'T THINK IT WOULD BE FAIR FOR ME
8 TO TELL YOU SOMETHING AND THEN LATER ON COULDN'T DO
9 IT.

10 Q AND THAT'S WHAT I'M ASKING YOU RIGHT.

11 MR. SWERLING: OBJECTION.

12 THE COURT: WHAT IS YOUR OBJECTION?

13 MR. SWERLING: HE'S GIVING HIM A
14 HAND...THE SOLICITOR JUST GAVE THE JUROR A HAND
15 GESTURE LIKE THAT AND I OBJECT TO THAT.

16 MR. JONES: YOUR HONOR, I SAID,
17 "THAT'S WHAT I'M ASKING."

18 THE COURT: LET ME ASK YOU TO GO
19 OUTSIDE FOR JUST ONE MOMENT. STEP OUTSIDE.

20 (JUROR IS EXCUSED FROM THE OPEN
21 COURTROOM)

22 IN-CAMERA:

23 THE COURT: NOW, WHAT'S YOUR
24 OBJECTION?

25 MR. HARPOOTLIAN: WELL, YOUR HONOR,

1 MR. SWERLING IS DOING THE OBJECTION.

2 MR. SWERLING: MY OBJECTION IS THAT I
3 DON'T THINK THAT'S APPROPRIATE AND I DON'T KNOW
4 WHAT THE MESSAGE WAS, AND I'M NOT SAYING...I'M NOT
5 TRYING TO INTERPRET IT, BUT I DON'T THINK THAT IS
6 APPROPRIATE.

7 THE COURT: WELL, LET'S ASSUME THAT
8 WAS DONE, WHAT DO YOU PROPOSE I DO ABOUT IT?

9 MR. SWERLING: I DON'T KNOW THAT
10 ANYTHING CAN BE DONE AT THIS POINT, JUDGE. I JUST
11 DON'T WANT IT HAPPENING AGAIN. THAT'S MY CONCERN.

12 THE COURT: ALL RIGHT.

13 MR. SWERLING: I'M NOT READING
14 SOMETHING INTO IT THAT'S BAD, I'M SAYING I JUST
15 DON'T THINK IT'S APPROPRIATE.

16 THE COURT: MR. SOLICITOR, I'VE KNOWN
17 YOU A LONG TIME AND YOU ARE DEMONSTRATIVE, YOU
18 KNOW, AND YOU GET EXCITED SOMETIMES. DON'T DO THAT
19 ANYMORE -- EITHER THAT OR THIS -- TO THE JURORS.
20 YOU CAN WORK ON WITNESSES, ALL YOU WANT, BUT NOT
21 JURORS.

22 MR. JONES: ALL RIGHT.

23 MR. JONES: JUDGE, BEFORE WE BRING HIM
24 BACK IN, COULD WE ALSO ADDRESS AN ISSUE THAT'S BEEN
25 CONCERNING ME? I'VE FELT LIKE THAT WHEN I'VE ASKED

1 THE QUESTION, A NUMBER OF JURORS COULD...YOU KNOW,
2 "WOULD YOU IMPOSE THE DEATH SENTENCE?" I THINK
3 THAT'S A FAIR AND APPROPRIATE QUESTION AND THE
4 DEFENSE HAS OBJECTED TO IT DURING MY EXAMINATION
5 REPEATEDLY. YOU HAVE RULED THAT YOU WOULD ALLOW ME
6 TO ASK THAT QUESTION, THAT THE ISSUE IS NOT WHETHER
7 THEY COULD CONSIDER, BUT RATHER IN FACT THEY COULD,
8 AFTER CONSIDERING, UNDER THE PROPER CIRCUMSTANCES.
9 THAT IS A QUESTION I HAVE A RIGHT TO ASK AND THEY
10 KEEP OBJECTING AND THEN THEY BEGIN TO ARGUE IN
11 FRONT OF YOU. I DON'T KNOW WHAT KIND OF MESSAGE
12 THEY'RE TRYING TO SEND THESE JURORS WHEN THEY ARGUE
13 IN FRONT OF YOU, WHEN THEY MAKE THAT OBJECTION, BUT
14 I WOULD ASK THAT IF YOU'RE GOING TO ALLOW THEM TO
15 CONTINUE TO OBJECT TO THAT QUESTION, AT LEAST DON'T
16 HAVE THEM ARGUE AND MAKE WHATEVER MESSAGE SENDING
17 STATEMENTS THEY WANT TO MAKE TO THESE JURORS. ASK
18 THEM TO GO OUTSIDE OF THE ROOM AND LET'S ARGUE THE
19 POINT OUTSIDE THE JUROR.

20 THE COURT: WELL, I DON'T DISAGREE
21 WITH YOU, SOLICITOR, ABOUT THAT, BUT I THINK THAT
22 THE OBJECTIONS THAT THEY HAVE MADE, YOU'VE ASKED
23 THE QUESTION TWO OR THREE DIFFERENT WAYS.

24 MR. JONES: YES, SIR.

25 THE COURT: WELL, I THINK I'VE

1 OVERRULED THE OBJECTION EVERY TIME. "CONSIDER" IS
2 NOT THE STANDARD. IT'S "COULD YOU IMPOSE?"

3 MR. SWERLING: YOUR HONOR, WHAT WE'VE
4 OBJECTED TO IS, "WOULD YOU, TODAY..." THE
5 SOLICITOR WANTS TO GET THESE JURORS TO SAY, "YES, I
6 WILL." AND THAT'S WHAT WE'RE OBJECTING TO. I
7 DON'T THINK WE'VE OBJECTED TO A WHOLE LOT HERE.

8 MR. JONES: NO, SIR. I'M NOT ASKING
9 THEM TO SAY, "YES, I WILL." I DIDN'T ASK THEM TO
10 TELL ME, "WILL YOU PROMISE ME OR WILL YOU SAY YES
11 YOU WILL GIVE A DEATH SENTENCE?" I'VE NEVER ASKED
12 NOT ONE JUROR THAT QUESTION AND YOU...YOUR HONOR,
13 YOU ASKED ME NOT TO TALK ABOUT THE FUTURE. YOU
14 ASKED ME TODAY. TODAY IS ALL WE'RE CONCERNED WITH.

15 THE COURT: "AND TODAY COULD YOU
16 CONSIDER IMPOSING A LIFE SENTENCE OR A DEATH
17 SENTENCE?" THERE'S NOTHING WRONG WITH THAT. BUT
18 LISTEN TO THE OBJECTION THAT THEY'RE MAKING THOUGH.
19 "COULD YOU CONSIDER..." -- I MEAN, IT'S NOT AS IF
20 YOU'RE GOING TO MAKE THE DECISION TODAY BECAUSE
21 THEY'RE NOT -- BUT "TODAY."

22 MR. JONES: NO, THE DECISION THEY'RE
23 MAKING TODAY IS WHETHER THEY COULD OR NOT.

24 THE COURT: THAT'S EXACTLY RIGHT AND
25 THAT'S WHERE Y'ALL ARE SEMANTICALLY DIFFERING OVER

1 SOMETHING THAT...THEY READ INTO THAT THAT YOU'RE
2 SAYING, "TODAY YOU'RE COMMITTING TO VOTE FOR A LIFE
3 SENTENCE OR A DEATH SENTENCE." THAT'S NOT WHAT
4 YOU'RE ASKING AND I UNDERSTAND THAT.

5 MR. JONES: NOT ONLY IS THAT NOT WHAT
6 I'M ASKING THEM, THAT IS PRECISELY WHAT I'M SAYING.
7 WE CAN'T HELP WHAT THEY READ INTO IT.

8 THE COURT: LISTEN, IT IS SUBJECT TO
9 THAT INTERPRETATION. SO, THE QUESTION IS, "TODAY,
10 COULD YOU CONSIDER IMPOSING A LIFE SENTENCE OR A
11 DEATH SENTENCE?" AND THAT SOLVES EVERYBODY'S
12 PROBLEM. WE'RE TALKING ABOUT "TODAY, COULD YOU
13 CONSIDER?"

14 MR. JONES: YOUR HONOR, I DON'T THINK
15 I OUGHT TO HAVE TO COMBINE THE LIFE AND THE DEATH
16 IN THE SAME QUESTION.

17 THE COURT: NO, YOU DON'T HAVE TO.
18 NO. NOBODY'S SUGGESTING THAT. ANY OTHER PROBLEMS?

19 MR. HARPOOTLIAN: NO, SIR, OTHER
20 THAN...

21 THE COURT: YOU'RE NOT IN THIS ONE,
22 MR. SWERLING IS.

23 MR. SWERLING: I DON'T HAVE ANY
24 FURTHER PROBLEMS.

25 MR. HARPOOTLIAN: WELL, YOU LOOKED AT

1 ME SO I THOUGHT YOU WANTED TO HEAR FROM ME.

2 THE COURT: I KNOW, BUT I FORGOT.

3 YOU'VE BEEN STANDING UP MOST OF THE DAY, SO... ALL

4 RIGHT. NOW, FOLKS, Y'ALL ARE DOING REAL GOOD HERE.

5 WE'RE MOVING RIGHT ALONG. WE HAVEN'T MISSED A

6 JUROR YET THAT'S GOTTEN BY MY QUESTIONS AND THIS

7 GUY RIGHT HERE DIDN'T GET BY MY QUESTIONS. SO WHY

8 ARE YOU HASSLING ABOUT IT? YOU KNOW?

9 MR. JONES: WE'RE CRANKY. WE HAVEN'T

10 HAD OUR AFTERNOON MEAL BREAK.

11 THE COURT: OKAY, WE'RE GETTING READY

12 TO HAVE IT. ANY OTHER THING BEFORE WE BRING THIS

13 JUROR BACK IN? I MEAN REALLY, DO WE NEED TO BRING

14 THIS JUROR BACK IN HERE?

15 MR. JONES: NO, SIR. WELL, I THINK

16 MR. SWERLING WANTS TO TALK TO HIM FOR A MINUTE.

17 MR. SWERLING: PARDON?

18 MR. JONES: DID YOU WANT TO TALK TO

19 HIM?

20 MR. SWERLING: JUDGE, I THINK HE'S

21 QUALIFIED.

22 THE COURT: OKAY. BRING HIM ON BACK.

23 (JUROR IS RETURNED TO THE OPEN

24 COURTROOM)

25 THE COURT: OKAY. ALL RIGHT, MR.

1 SOLICITOR, LET'S SEE, REPHRASE YOUR QUESTION.

2 MR. JONES: WELL, YOUR HONOR,
3 BASICALLY, WITH ALL DUE RESPECT, MR. MILLER
4 ANSWERED MY QUESTION. WHAT I'D LIKE TO DO IS
5 PURSUE THAT LINE OF QUESTIONING. HE...I BELIEVE,
6 YOUR HONOR, HE MENTIONED TO ME THAT HE COULD NOT
7 AND WOULD NOT WANT TO SAY THAT HE COULD GIVE A LIFE
8 SENTENCE TODAY AND THEN CHANGE A WEEK LATER AND I
9 SAID, "PRECISELY AND THAT'S WHAT I'M ASKING YOU
10 RIGHT NOW."

11 Q AND MY QUESTION FOR YOU, MR. MILLER,
12 IS, IS THAT IN ATTEMPTING TO BE FORTHRIGHT, IN YOUR
13 EFFORTS TO BE FORTHRIGHT WITH US, YOU HAVE SAID TO
14 ME THAT YOU COULD NOT IMPOSE THE DEATH SENTENCE.
15 IS THAT CORRECT?

16 A YEAH, BASICALLY, YEAH.

17 MR. SWERLING: YOUR HONOR, I OBJECT.
18 THAT IS NOT WHAT THE WITNESS...WHAT THE JUROR IS...

19 THE COURT: SUSTAINED. THAT IS NOT
20 HIS ANSWER. YOU CAN PUT TO HIM THE ANSWER HE GAVE
21 TO YOU.

22 Q COULD YOU IMPOSE THE DEATH SENTENCE?

23 A IT WOULD BE VERY HARD FOR ME TO DO
24 THAT.

25 Q WHAT I'M ASKING YOU IS COULD YOU?

1 A IF I HAD TO ANSWER YES OR NO, I'D SAY
2 NO.

3 Q ALL RIGHT. AND HAVING ANSWERED NO,
4 AND HAVING ANSWERED ME NO, HAVE YOU ANSWERED ME
5 HONESTLY?

6 A YES, SIR.

7 Q AND ARE YOU FIRM IN THAT ANSWER?

8 A I THINK SO, YES, SIR.

9 Q WELL, HAVING TO ANSWER, AND HAVING HAD
10 ANSWERED, YOU ARE FIRM IN THAT ANSWER, IS THAT
11 CORRECT?

12 A YES.

13 MR. SWERLING: YOUR HONOR, I OBJECT.
14 HE KEEPS REPEATING...

15 THE COURT: FOUR-O-THREE, 403. ASK
16 AND ANSWER IT. ASK AND ANSWER IT.

17 Q ALL RIGHT. I ASK YOU THIS QUESTION:
18 YOU HAVE RESPONDED TO MY QUESTION AND IF I WERE TO
19 ASK YOU, "WELL, MR. MILLER, YOU SAID YOU THOUGHT
20 YOU COULDN'T RETURN A DEATH SENTENCE, BUT IN THIS
21 MOST HEINOUS CASE YOU'RE TALKING ABOUT, YOU REALLY
22 COULD, COULDN'T YOU? IN FACT, IF I TRIED TO
23 ENCOURAGE YOU TO SAY THAT YOU COULD, WHAT WOULD YOU
24 SAY TO ME?"

25 MR. SWERLING: YOUR HONOR, I HAVE TO

1 OBJECT TO THAT. HE'S STAKING OUT THE WITNESS.
2 HE'S TRYING TO STAKE OUT THIS JUROR.

3 THE COURT: I'M GOING TO OVERRULE THAT
4 OBJECTION. BUT NOW LET'S MOVE ON WITH THE PROGRAM
5 HERE.

6 A I DON'T THINK IN THIS CASE I COULD.

7 Q ALL RIGHT...

8 THE COURT: IN WHICH CASE? WE'RE NOT
9 TALKING ABOUT ANY CASE IN PARTICULAR, SOLICITOR...

10 MR. JONES: I DIDN'T TALK ABOUT ANY
11 CASE IN PARTICULAR.

12 THE COURT: OKAY.

13 A I'M SORRY, I THOUGHT YOU WERE TALKING
14 ABOUT THIS ONE.

15 Q YOU DID? NO, SIR. WHAT I'M ASKING
16 YOU IS IF SOMEONE WERE TO SAY...I BELIEVE YOU SAID
17 EARLIER, YOU SAID...BEFORE YOU TOLD ME THAT YOU
18 WERE POSITIVE, THAT YOU'D MADE UP YOUR MIND, BEFORE
19 YOU TOLD ME THAT YOU COULD NOT IMPOSE THE DEATH
20 PENALTY, I BELIEVE YOU HESITATED SOME...

21 MR. SWERLING: THE JUROR NEVER SAID
22 THAT. THE JUROR HAS ALWAYS LEFT OPEN...

23 THE COURT: I SUSTAIN THAT OBJECTION.

24 MR. JONES: YOUR HONOR, MR. SWERLING
25 IS MISREPRESENTING THE RECORD.

1 THE COURT: NO, SIR.

2 MR. JONES: THE JUROR CLEARLY TOLD ME
3 THAT HE COULD NOT...

4 THE COURT: WELL, STEP OUTSIDE, MR.
5 MILLER, JUST ONE MINUTE, PLEASE?

6 (JUROR IS EXCUSED FROM THE OPEN
7 COURTROOM)

8 IN-CAMERA:

9 THE COURT: LISTEN, THIS IS WHAT THE
10 MAN SAID, TO ME. NOW, YOU ARE ADVOCATES AND YOU
11 ALL GOT DIFFERENT PERSPECTIVES AND THIS IS THE
12 CLOSEST JUROR THAT WE'VE HAD SO FAR. THERE'S NO
13 QUESTION THAT THIS IS THE CLOSEST ONE. BUT HE TOLD
14 ME THAT HE COULD. THERE WAS ONE SET OF
15 CIRCUMSTANCES, THE GUY BEING IN PRISON, THOUGHT HE
16 MIGHT BREAK OUT AND KILL OTHER PEOPLE. THAT IS A
17 CIRCUMSTANCE UNDER WHICH HE SAID HE COULD CONSIDER
18 AND IMPOSE A DEATH SENTENCE. THAT'S WHAT HE SAID.
19 NOW SHORT OF THAT, I KNOW YOU STAKED HIM OUT AND HE
20 SAID NO, HE WON'T. BUT I DON'T KNOW THAT THAT'S
21 GOING TO GET YOU BY. HE GOT THAT DOOR OPEN JUST
22 ENOUGH ON YOU THAT IT'S A PROBLEM.

23 MR. JONES: JUDGE...

24 THE COURT: THAT'S WHAT HE SAID.

25 MR. JONES: JUDGE, I REALIZE THAT, YOU

1 KNOW, I MISS A LOT OF WHAT THEY SAY, BUT WHEN
2 HE...THE LAST THING HE SAID TO YOU IS, "I WOULD
3 HAVE TO GO WITH LIFE IMPRISONMENT." AND IT WAS SO
4 EMPHATIC THAT YOU DIDN'T EVEN ASK HIM ABOUT SIGNING
5 HIS NAME. YOU SENT HIM ON TO ME.

6 THE COURT: I DID DO THAT.

7 MR. JONES: YOU ASKED HIM ABOUT
8 SIGNING HIS NAME?

9 THE COURT: NO, NO, I DID SEND HIM ON
10 TO YOU. THERE'S NO QUESTION I DID THAT. BUT HE
11 DID SAY, HE DID SAY THAT...HE GAVE YOU A SCENARIO
12 UNDER WHICH HE COULD CONSIDER THE DEATH PENALTY AND
13 IMPOSE IT. THAT'S WHAT HE SAID.

14 MR. JONES: WHY DIDN'T YOU ASK HIM
15 ABOUT SIGNING HIS NAME?

16 THE COURT: I DIDN'T DO IT. I MEAN, I
17 WILL BE GLAD TO DO THAT FOR YOU.

18 MR. JONES: NO, SIR. I'LL ASK HIM.

19 THE COURT: OKAY.

20 MR. SWERLING: JUDGE, I THINK THIS
21 GUY'S GETTING BEAT UP...THIS JUROR.

22 THE COURT: WELL, NO. Y'ALL ARE
23 BEATING EACH OTHER UP, NOT HIM.

24 MR. SWERLING: JUDGE, THIS IS THE KIND
25 OF GUY WE WANT ON A JURY. HE'S GOING...IT'S A HARD

1 DECISION FOR HIM, BUT HE SAID THERE'S A
2 CIRCUMSTANCE HE COULD DO IT.

3 THE COURT: I'M NOT SURE HE'S GOING TO
4 GET ON THE JURY YET, BUT I'M JUST SAYING
5 THAT...BRING THE JUROR BACK IN.

6 MR. SWERLING: JUDGE, I'D RATHER YOU
7 ASK HIM SINCE YOU'VE BEEN THE ONE DOING IT.

8 THE COURT: I'LL ASK HIM.

9 (JUROR IS RETURNED TO THE OPEN
10 COURTROOM)

11 THE COURT: MR. MILLER, LET ME BACK UP
12 TO SOMETHING I LEFT OUT, AND THEN WE'LL LET THE
13 ATTORNEYS...AND THEY HAVE A RIGHT TO ASK THESE
14 QUESTIONS. DON'T GET UPSET ABOUT IT.

15 A OH, YES, SIR. I'M SORRY I CONFUSED
16 THEM.

17 THE COURT: I MEAN, IT'S THEIR JOB AND
18 I TOLD YOU, THERE ARE NO RIGHT OR WRONG ANSWERS.
19 THEY EACH GOT A JOB TO DO AND THEY'RE DOING A GOOD
20 JOB WITH IT, OKAY?

21 LET'S GO BACK. I ASKED YOU WAS THERE
22 A SET OF CIRCUMSTANCES...OR YOU GAVE ME AN EXAMPLE
23 UNDER WHICH YOU COULD CONSIDER IMPOSING THE DEATH
24 PENALTY. TELL ME AGAIN WHAT IT WAS YOU SAID?

25 A THE ONLY WAY THAT I CAN IMPOSE A DEATH

1 PENALTY ON SOMEBODY, THEN I SAID IT WOULD BE HARD
2 TO DO THEN, IS LIKE SOME OF THESE SERIAL KILLERS
3 THAT HAD KILLED MANY PEOPLE AND IS CAPABLE OF THE
4 PRISON SYSTEM NOT BEING ABLE TO HOLD THOSE PEOPLE
5 AND THEM GETTING BACK OUT ON THE STREET AND DOING
6 IT AGAIN. ANYBODY THAT I FELT LIKE THE PRISON
7 SYSTEM COULD HOLD, I THINK, BY GEORGE, AT LEAST
8 LIFE IMPRISONMENT INSTEAD OF THE DEATH PENALTY.

9 THE COURT: ALL RIGHT, NOW LET ME ASK
10 YOU, LET'S SUPPOSE THAT WE TAKE YOUR SITUATION THAT
11 YOU GAVE ME AND YOU THOUGHT THE DEATH PENALTY WAS
12 THE APPROPRIATE PUNISHMENT, COULD YOU SIGN YOUR
13 NAME TO THE DEATH WARRANT INDICATING THAT YOU VOTED
14 OR WOULD IMPOSE A DEATH SENTENCE?

15 A YOUR HONOR, I REALLY DON'T KNOW
16 WHETHER I COULD OR NOT UNTIL I REALLY GOT THERE.

17 THE COURT: WELL, WE NEED TO KNOW
18 WHETHER...IF YOU FELT THAT THE DEATH PENALTY...IT
19 DOESN'T MATTER WHAT CASE IT IS THAT YOU THINK IS
20 APPROPRIATE, THE QUESTION IS, IF YOU...THE CASE YOU
21 THINK IT'S APPROPRIATE IN, COULD YOU SIGN YOUR NAME
22 TO THE DEATH WARRANT IMPOSING THE DEATH SENTENCE?
23 IN OTHER WORDS...LET ME TELL YOU WHY. THAT'S A
24 REQUIREMENT OF EVERY JUROR WHO SITS ON A CASE WHERE
25 THEY FIND THAT THE DEATH PENALTY IS THE APPROPRIATE

1 SENTENCE. EACH INDIVIDUAL JUROR MUST SIGN THEIR
2 NAME INDICATING THAT THAT WAS THEIR DECISION.
3 COULD YOU DO THAT?

4 A I WOULD HAVE TO SAY NO.

5 THE COURT: UNDER ANY SET OF
6 CIRCUMSTANCES? EVEN IN THAT CASE, YOU COULD NOT?

7 A IF I ABSOLUTELY HAD TO SAY YES OR NO,
8 I WOULD PROBABLY...I WOULD HAVE TO SAY NO.

9 THE COURT: EVEN IN THE EXAMPLE YOU
10 GAVE ME?

11 A YOU KNOW, MAYBE SO. YOU KNOW, I MIGHT
12 COULD DO IT, BUT THAT WOULD BE THE ONLY
13 CIRCUMSTANCES THAT I COULD EVEN POSSIBLY THINK OF
14 BEING ABLE TO DO IT IN.

15 THE COURT: ALL RIGHT, SOLICITOR, LET
16 ME LET YOU FINISH WITH YOUR EXAMINATION. ANY
17 FURTHER EXAMINATION?

18 Q LET ME ASK YOU IF I UNDERSTOOD YOUR
19 CONVERSATION WITH THE JUDGE CORRECTLY. HE ASKED
20 YOU TO GIVE A SCENARIO OF A SITUATION WHERE YOU
21 COULD AND YOU MENTIONED THE SERIAL KILLER WHO HAD
22 KILLED MANY, MANY PEOPLE, WHO HAD BROKEN OUT OF
23 JAIL, AND YOU DIDN'T THINK HE WAS GOING TO STAY IN
24 JAIL, IN THAT SITUATION YOU MIGHT COULD? AND THEN
25 HE SAID, "ALL RIGHT, I WANT TO ASK YOU NOW, YOU'D

1 HAVE TO SIGN YOUR NAME, AS ALL THE JURORS WOULD
2 THAT WERE GOING TO RECOMMEND DEATH, AND YOU'D HAVE
3 TO RECOMMEND IT YOURSELF," AND YOU SAID, "I'D HAVE
4 TO ANSWER YOU 'NO.'" DID I HEAR YOU RIGHT?

5 A YES, SIR.

6 Q AND YOU WERE REFERRING TO THE
7 SITUATION INVOLVING THE MOST HEINOUS MURDER YOU
8 COULD THINK OF, SERIAL SITUATION?

9 A I WAS JUST INVOLVING A MURDER CASE.

10 Q YES, SIR. AND THAT'S WHAT IT REALLY
11 BOILS DOWN TO, ISN'T IT?

12 A YES, SIR.

13 Q MURDER'S MURDER AND YOUR
14 SIGNING...YOUR BEING ABLE TO SIGN AND IMPOSE A
15 DEATH PENALTY IS YOUR BEING ABLE TO DO IT OR NOT
16 BEING ABLE TO DO IT, IS THAT CORRECT?

17 A YES, SIR.

18 Q AND YOU HAVE DECIDED THAT YOU WOULD
19 NOT DO IT, IS THAT CORRECT?

20 A YOU KNOW, I REALLY HADN'T GAVE IT A
21 TREMENDOUS AMOUNT OF THOUGHT UNTIL I CAME INTO THIS
22 COURTROOM YESTERDAY MORNING. I THOUGHT THAT THERE
23 WAS A VERY GOOD CHANCE THAT I MIGHT GET PICKED AS
24 ONE OF THE JURORS AND I KNEW THAT IF I GOT DOWN
25 THERE I WAS GOING TO HAVE TO MAKE THIS DECISION AND

1 I'VE THOUGHT ABOUT IT LONG AND HARD. IT'S NOT
2 SOMETHING THAT I DIDN'T THINK ABOUT LAST NIGHT AND
3 I JUST DON'T BELIEVE THAT I CAN DO IT.

4 Q WELL, I APPRECIATE THE FACT THAT
5 YOU'VE THOUGHT ABOUT IT AND YOUR ANSWER IS THAT YOU
6 DON'T BELIEVE THAT YOU COULD DO IT?

7 A I DON'T.

8 Q ALL RIGHT. WELL, WE ARE IN A
9 POSITION...I HAVE TO ASK YOU THIS QUESTION. WHEN
10 YOU SAY YOU DON'T BELIEVE YOU COULD DO IT, IS THE
11 ANSWER THAT YOU COULD NOT DO IT?

12 MR. SWERLING: JUDGE, I THINK THE
13 JUROR IS TRYING TO BE HONEST...

14 MR. JONES: JUDGE, I NEVER IMPLIED
15 THAT HE WAS TRYING TO BE ANYTHING OTHER THAN
16 HONEST.

17 THE COURT: WAIT JUST A MINUTE,
18 SOLICITOR. NEITHER ONE OF YOU GET UPSET. ALL
19 RIGHT. HANG ON JUST A MINUTE. I'M TRYING TO FIND
20 THE CASE BEFORE HE ANSWERS THE QUESTION.

21 MR. SWERLING: YES, SIR.

22 THE COURT: THE OBJECTION IS
23 OVERRULED. NOW, ASK HIM THE QUESTION AGAIN AND LET
24 HIM...

25 Q WHEN YOU SAID TO ME A SECOND AGO THAT,

1 YOU KNOW, YOU THOUGHT ABOUT IT LAST NIGHT, YOU WERE
2 TRYING TO LET ME KNOW HOW MUCH YOU HAD...

3 A I HAD GIVEN IT A LOT OF CONSIDERATION.

4 Q RIGHT. RIGHT. AND THEN YOU SAID, I
5 BELIEVE, I THINK YOU SAID YOU DON'T THINK YOU COULD
6 IMPOSE THE DEATH PENALTY, OR YOU DIDN'T THINK YOU
7 COULD. IS THAT WHAT YOU SAID?

8 A I JUST DON'T BELIEVE I COULD, LET'S
9 JUST PUT IT THAT WAY. I COULDN'T.

10 Q YOU COULDN'T? ALL RIGHT, ARE YOU
11 POSITIVE ABOUT THAT?

12 A YES, SIR.

13 Q ARE YOU FIRM ABOUT THAT?

14 A YES, SIR.

15 Q THAT IS YOUR ANSWER?

16 A YES, SIR.

17 Q YOU'RE TELLING US THAT THAT'S YOUR
18 ANSWER?

19 A YES, SIR.

20 Q IS THAT CORRECT?

21 A YES, SIR.

22 Q AND YOU KNOW THAT?

23 A YES, SIR.

24 Q HAVE YOU THOUGHT ABOUT IT NOW ENOUGH
25 TODAY TO KNOW THAT?

1 A YES, SIR. I'VE THOUGHT ABOUT IT LAST
2 NIGHT AND TODAY.

3 Q AND TODAY?

4 A YES, SIR.

5 Q AND YOU SAID YOU COULD NOT IMPOSE THE
6 DEATH PENALTY IN ANY CASE?

7 A YES, SIR.

8 MR. SWERLING: JUDGE, THAT'S NOT WHAT
9 HE SAID.

10 THE COURT: I'LL GIVE YOU A CHANCE TO
11 CROSS-EXAMINE HIM.

12 Q BUT YOU'VE MADE UP YOUR MIND?

13 MR. SWERLING: JUDGE, HE JUST KEEPS
14 GOING ON AND ON.

15 THE COURT: SUSTAINED, 403. YOU'VE
16 ASKED HIM FOR HIS ANSWER, HE'S GIVEN YOUR ANSWER
17 THAT YOU WANT.

18 MR. JONES: YOUR HONOR...

19 THE COURT: FIRM, ASSURED, INTENT,
20 ETCETERA ARE THE SAME WAY OF GETTING THE SAME
21 ANSWER TO THE SAME QUESTION AND THE OBJECTION IS
22 SUSTAINED.

23 MR. JONES: YES, SIR.

24 THE COURT: OKAY? HE ANSWERED THE
25 QUESTION.

1 MR. JONES: I REALIZE THAT, JUDGE, BUT
2 I JUST WANT THE COURT TO KNOW IS THAT THE ANSWER
3 THAT I WANT IS THE ANSWER HE KNOWS IS THE CORRECT
4 ANSWER.

5 THE COURT: I UNDERSTAND THAT.

6 MR. JONES: THAT'S THE ONLY ANSWER I
7 WANT IS THE ANSWER THAT HE KNOWS IS THE CORRECT
8 ANSWER.

9 THE COURT: SOLICITOR, I'VE RULED.

10 MR. JONES: ALL RIGHT, SIR.

11 THE COURT: NOW, ANYTHING ELSE?

12 MR. JONES: YES, SIR.

13 THE COURT: ALL RIGHT.

14 Q IS THERE A CASE, ANY CASE, WHERE YOU
15 CAN THINK OF WHERE YOU WOULD IMPOSE THE DEATH
16 PENALTY?

17 MR. SWERLING: JUDGE, I HAVE TO OBJECT
18 TO THAT.

19 THE COURT: OVERRULED.

20 A WE'RE JUST GOING AROUND IN CIRCLES ON
21 THIS RIGHT HERE.

22 Q WELL...

23 THE COURT: HE'S A LOT SMARTER THAN I
24 THOUGHT ABOUT THAT QUESTION.

25 Q WELL, IS THE ANSWER YES OR NO?

1 A NO.

2 Q THANK YOU.

3 THE COURT: ALL RIGHT, MR. SWERLING?

4 CROSS-EXAMINATION:

5 BY MR. SWERLING:

6 Q MR. MILLER, I'M JACK SWERLING.

7 A HOW ARE YOU DOING, SIR?

8 Q I REPRESENT STEPHEN BECKHAM.

9 A YES, SIR.

10 Q THAT'S STEPHEN RIGHT THERE. THAT'S

11 MR. HARPOOTLIAN FROM COLUMBIA. I'M SORRY THAT

12 YOU'RE HAVING TO GO THROUGH THIS SITUATION WHERE

13 YOU HAVE TO GIVE AN ANSWER ON STUFF THAT YOU

14 PROBABLY NEVER THOUGHT YOU'D HAVE TO GIVE AN ANSWER

15 ON.

16 A I REALLY NEVER THOUGHT I WOULD UNTIL,

17 YOU KNOW, REALLY UNTIL I GOT UP HERE YESTERDAY AND

18 THEN, LIKE I SAID, I THOUGHT ABOUT IT A LOT.

19 Q STEPHEN'S CHARGED WITH MURDER IN THIS

20 CASE.

21 A YES, SIR.

22 Q THE STATE'S SEEKING THE DEATH PENALTY.

23 A YES, SIR.

24 Q THEY'RE ENTITLED TO ASK FOR THE DEATH

25 PENALTY...

1 A YES, SIR.

2 Q ...IF THE JURY FINDS THAT THIS WAS A

3 HOMICIDE ACCOMPANIED BY CIRCUMSTANCES OF

4 AGGRAVATION, OKAY?

5 A YES, SIR.

6 Q STEPHEN'S PLED NOT GUILTY, OKAY?

7 A YES, SIR.

8 Q HE'S ENTITLED TO HAVE A JURY DECIDE,

9 FIRST OF ALL, WHETHER HE'S GUILTY OR HE'S NOT

10 GUILTY.

11 A YES, SIR.

12 Q OKAY? THAT'S THE FIRST THING, BECAUSE

13 WE'VE SPENT AN AWFUL LOT OF TIME, PROBABLY ABOUT

14 FORTY MINUTES, TALKING ABOUT PUNISHMENT BUT WE

15 HAVEN'T GOTTEN THERE YET, OKAY? IT'S A BIG IF. WE

16 DON'T GET THERE UNLESS THE JURY FIRST FINDS

17 UNANIMOUSLY THAT THE STATE PROVED HIS GUILT BEYOND

18 A REASONABLE DOUBT, OKAY?

19 A UH-HUH. (YES).

20 Q ALL RIGHT. AND YOU BELIEVE IN THE

21 PRESUMPTION OF INNOCENCE, RIGHT?

22 A RIGHT.

23 Q THAT A PERSON IS PRESUMED INNOCENT?

24 YOU BELIEVE THAT THE STATE IS ENTITLED TO A VERDICT

25 OF GUILTY IF THEY PROVE GUILT BEYOND A REASONABLE

1 DOUBT?

2 A YES, SIR, I DO.

3 Q AND YOU ALSO BELIEVE THAT THE
4 DEFENDANT IS ENTITLED TO A VERDICT OF NOT GUILTY IF
5 THE STATE DOESN'T PROVE BEYOND A REASONABLE DOUBT?

6 A YES, I DO.

7 Q YOU BELIEVE IN THE LAW?

8 A YES, SIR.

9 Q YOU FOLLOW THE LAW AND IF THE JUDGE
10 TOLD YOU TO APPLY THE LAW, YOU WOULDN'T HAVE ANY
11 HESITATION DOING THAT, WOULD YOU?

12 A NO, SIR.

13 Q OKAY. NOW, AGAIN, I JUST WANT TO
14 REMIND YOU THAT WE'RE TALKING ABOUT PUNISHMENT AT
15 THIS STAGE ONLY UNDER THIS SYSTEM, WHERE THE
16 STATE'S SEEKING THE DEATH PENALTY IN A HOMICIDE
17 CASE, THE JURY GETS TO DECIDE THE PUNISHMENT. SO
18 OBVIOUSLY AT THIS POINT WE HAVE TO TALK ABOUT WHAT
19 YOUR ATTITUDE IS AND YOUR FEELINGS ARE ABOUT THE
20 DEATH PENALTY.

21 A YES, SIR.

22 Q OKAY. NOW, WHAT YOU SAID TO THE
23 JUDGE, WHAT YOU SAID ORIGINALLY, WAS THAT YOU FOUND
24 THAT TO BE A VERY DIFFICULT DECISION, RIGHT?

25 A YES, SIR.

1 Q AND WE'VE GONE ON AND ON AND ON AND
2 ON.

3 A AND JUST ABSOLUTELY I COULDN'T DO IT.

4 Q OKAY. IT IS A DIFFICULT CHOICE, ISN'T
5 IT?

6 A IT'S ONE I DON'T BELIEVE I COULD MAKE.

7 Q YOU THOUGHT ABOUT LAST NIGHT AND
8 YOU'RE ON THE STAND TODAY...

9 A YES, SIR.

10 Q ...GETTING ASKED QUESTIONS YOU
11 PROBABLY THOUGHT YOU'D NEVER BE IN THAT SITUATION
12 GETTING ASKED QUESTIONS. WHEN PEOPLE ARE ASKING
13 YOU ARE THERE SITUATIONS WHERE YOU COULD OR YOU
14 COULDN'T DO THAT, OKAY, IN GENERAL, WHAT I
15 UNDERSTOOD YOU TO SAY WAS THAT YOU FOUND LAST NIGHT
16 WHEN YOU THOUGHT ABOUT IT AND YOU WERE PUT ON THE
17 SPOT THAT YOU THOUGHT THERE WERE...WAS AT LEAST THE
18 ONE OF THOSE CIRCUMSTANCES WHERE YOU FELT IT WAS AN
19 APPROPRIATE PUNISHMENT.

20 A YOU KNOW, I DON'T EVEN KNOW IF IN
21 SOMETHING LIKE THAT I COULD BE THE ONE TO SIGN IT.
22 I THINK THAT WOULD BE AN APPROPRIATE PUNISHMENT,
23 BUT I CAN'T DO IT. I DON'T BELIEVE I COULD
24 ACTUALLY DO IT.

25 Q I UNDERSTAND. BUT THAT WAS SOMETHING

1 THAT YOU THOUGHT ABOUT LAST NIGHT BECAUSE YOU KNEW
2 YOU WERE GOING TO GET ASKED THOSE QUESTIONS TODAY?

3 A I THOUGHT ABOUT IT LAST NIGHT AND I
4 THOUGHT ABOUT IT TODAY AND, YOU KNOW, I ALSO HAVE
5 SEEN THE DEFENDANT THERE...

6 Q YES, SIR.

7 A ...AND I JUST DON'T REALLY THINK I
8 COULD DO IT.

9 Q WELL, YOU SAY THAT YOU DON'T THINK
10 SO...

11 A I CAN'T DO IT.

12 Q YOU CAN'T? AND EVEN UNDER THE
13 CIRCUMSTANCES YOU TOLD THE JUDGE...

14 MR. JONES: YOUR HONOR, HE ASKED THAT
15 QUESTION ALREADY. IT'S BEEN ANSWERED.

16 THE COURT: SUSTAINED.

17 Q UNDER THOSE CIRCUMSTANCES THAT YOU
18 DESCRIBED TO THE JUDGE, WHERE YOU FELT LIKE SOMEONE
19 WAS NOT ADAPTABLE TO PRISON, YOU FELT LIKE...

20 A I STILL COULDN'T.

21 Q I'M SORRY?

22 A I STILL COULDN'T. YOU KNOW, IF I HAD
23 TO SIGN MY NAME TO IT I STILL COULDN'T DO IT.

24 Q YOU COULD NOT DO IT?

25 A NO.

1 Q ALL RIGHT. YOU WOULD NOT EVEN
2 CONSIDER...

3 A I DON'T THINK SO.

4 Q YOU SAY YOU DON'T THINK SO...

5 A I WOULDN'T CONSIDER IT.

6 THE COURT: ALL RIGHT, MR. MILLER, LET
7 ME ASK YOU IF YOU WOULD...ARE YOU THROUGH?

8 MR. SWERLING: YES, SIR.

9 THE COURT: STEP RIGHT OUTSIDE JUST A
10 MOMENT, PLEASE?

11 (JUROR IS EXCUSED FROM THE OPEN
12 COURTROOM)

13 IN-CAMERA:

14 THE COURT: NOW, BASED ON HIS ANSWER
15 AS TO SIGNING THE...I WANT TO TAKE UP THE CLEAREST
16 ISSUE FIRST AND THEN WE'RE GOING TO SETTLE THIS
17 OTHER ISSUE ONCE AND FOR ALL, SINCE THIS IS THE
18 FIRST TIME IT'S COME UP. BUT AS TO THE ABILITY TO
19 SIGN THE DEATH WARRANT, HE INDICATES HE CAN NOT DO
20 THAT OR WOULD NOT DO THAT. SO, ON THAT BASIS IS
21 THERE ANY REASON HOW I CAN QUALIFY HIM? THE STATE
22 SAYS NO. I DON'T KNOW OF ANY BASIS THAT I CAN.

23 MR. SWERLING: I WOULD JUST LIKE THE
24 RECORD TO REFLECT THAT I THINK THAT THERE'S ANOTHER
25 POINT. THIS JUROR, WHEN HE RESPONDED TO YOUR

1 QUESTIONS -- AND THIS EXACTLY THE KIND OF JUROR
2 THAT I THINK SHOULD BE SITTING ON A CASE -- FINDS
3 THIS TO BE THE MOST DIFFICULT DECISION HE WOULD
4 EVER HAVE TO MAKE. AND HE TOLD YOU ORIGINALLY,
5 YOUR HONOR, THAT THIS WAS...HE FOUND THAT THERE WAS
6 A CIRCUMSTANCE...OR IN SEARCHING LAST NIGHT WHEN HE
7 GAVE IT SOME THOUGHT, THAT THERE WAS A CIRCUMSTANCE
8 THAT HE COULD IMPOSE THE DEATH PENALTY AND THAT'S
9 ONE OF THE ISSUES THAT A JURY'S GOING TO HAVE TO
10 DECIDE: PRISON ADAPTABILITY. WHETHER OR NOT
11 SOMEONE...WHETHER PRISON'S GOING TO HOLD THEM,
12 WHETHER OR NOT HE WOULD KILL AGAIN. SO, TO THIS
13 JUROR, HE FOUND ORIGINALLY THAT THE DEATH PENALTY
14 WAS APPROPRIATE IN A SITUATION WHICH SOMEONE MAY
15 NOT BE ADAPTABLE TO PRISON OR MIGHT HAVE A CHANCE
16 AT ESCAPING AND KILLING AGAIN. THE SOLICITOR, OVER
17 OUR OBJECTION, KEPT REPEATEDLY TRYING TO STAKE HIM
18 OUT TO THE POINT THEN WHERE YOUR HONOR HAD TO COME
19 BACK AND ASK HIM ABOUT THE RECOMMENDATION OF DEATH.
20 BUT THIS JUROR WAS BEING CANDID AND HONEST ABOUT
21 THE FACT THAT IT'S A WEIGHED DECISION, BUT HE CAN
22 FIND, IN SEARCHING JUST VERY BRIEFLY -- OBVIOUSLY
23 HE HASN'T GIVEN IT A LIFE LONG THOUGHT -- BUT LAST
24 NIGHT HE THOUGHT ABOUT A SITUATION WHERE HE COULD
25 DO IT.

1 THE COURT: WELL, I UNDERSTAND THAT,
2 BUT LET'S...AND WE'RE GOING TO CROSS THAT BRIDGE.
3 I CAN'T UNCROSS THAT ONE. THE QUESTION IS, IS ON
4 HIS ABILITY TO SIGN THE DEATH WARRANT. I
5 DON'T...YOU TELL ME OF ANY REASON THAT I CAN
6 QUALIFY HIM?

7 MR. SWERLING: WELL, YOUR HONOR, I
8 WOULD SUBMIT THAT HAD THE QUESTION BEEN ASKED AT
9 THE TIME THAT YOUR HONOR WAS ASKING THE SERIES OF
10 QUESTIONS, AS OPPOSED TO AFTER THE SOLICITOR, WHO'S
11 VERY SKILLED AT HIS EXAMINATION, WAS STAKING THE
12 JUROR OUT TO GIVING HIM AN ANSWER TODAY, THEN I
13 THINK THE ANSWER WOULD HAVE BEEN DIFFERENT.
14 BECAUSE THIS JUROR HAS A FEELING THAT THE DEATH
15 PENALTY IS APPROPRIATE UNDER AT LEAST ONE
16 CIRCUMSTANCE THAT HE GAVE HIS THOUGHT TO LAST
17 NIGHT. I'M SURE THAT THE JUROR WAS GIVEN THE
18 OPPORTUNITY, WITHOUT BEING UNDER THE GUN, TO THINK
19 OF SITUATIONS, HE COULD ALSO FIND THE SAME.

20 THE COURT: ALL RIGHT. WELL, I'M NOT
21 REQUIRED TO ASK ANY SPECIFIC QUESTION OR IN ANY
22 ORDER. OF COURSE I SIT UP HERE TRYING TO MANAGE
23 WHO'S GOING TO BE WHERE...

24 MR. SWERLING: YES, SIR.

25 THE COURT: ...AND I DON'T THINK OF

1 EVERYTHING, SO AS A RESULT I FIND THAT HE'S NOT
2 QUALIFIED ON THAT ISSUE.

3 NOW, I WANT TO HEAR, BEFORE WE TAKE A
4 BREAK, HAD HE ANSWERED THE QUESTION YES, THAT HE
5 COULD HAVE SIGNED IT, YOU TELL ME, ON THE BASIS OF
6 HIS ANSWERS TO ME -- AND HE SAID THAT HE COULD HAVE
7 SIGNED IT UNDER THAT SCENARIO -- HE WOULD HAVE BEEN
8 QUALIFIED, DO YOU AGREE?

9 MR. JONES: THE STATE DOES NOT, YOUR
10 HONOR. AND I WOULD ARGUE THE CASE OF THE STATE
11 VERSUS ELMORE, WHICH WE BELIEVE IS THE CONTROLLING
12 LAW OF THE STATE OF SOUTH CAROLINA, 1985 DECISION,
13 332 SOUTHEASTERN SECOND 762. BASICALLY, YOUR
14 HONOR, THE PERTINENT PART OF THAT CASE, THE TRIAL
15 JUDGE WAS CORRECT IN DISQUALIFYING THE JUROR WHO
16 REPEATEDLY STATED FOR OPPOSITION TO THE DEATH
17 PENALTY EVEN THOUGH AT ONE POINT SHE SAID SHE WOULD
18 HAVE TO LISTEN TO THE CASE AND THEN SHE COULD GIVE
19 IT. A JUROR'S RESPONSES MUST BE EXAMINED IN ITS
20 ENTIRETY. OPPOSITION TO THE DEATH PENALTY NEED NOT
21 BE DEMONSTRATED WITH UNMISTAKABLE CLARITY. STATE
22 VERSUS ELMORE, YOUR HONOR. IT GIVES YOU SOME
23 DISCRETION THERE TO LOOK AT THE TOTALITY OF THE
24 CIRCUMSTANCES AND THAT THE JUROR'S RESPONSES SHOULD
25 BE EXAMINED IN ITS ENTIRETY. YOU SHOULD LOOK, AS

1 FAR AS THE JURY IS CONCERNED, AT...YOU KNOW, I
2 DON'T WANT TO GET BACK ON THIS JUROR SINCE WE'RE,
3 YOU KNOW, UNLESS TO USE THIS MOST RECENT JUROR AS
4 AN EXAMPLE -- BUT THIS JUROR CLEARLY WAS ANSWERING
5 YOUR QUESTIONS BASED ON SOMETHING THAT HE HAD GIVEN
6 SOME CONSIDERATION OF AND THAT IS, JUDGE, YES, HE
7 THINKS IT'S SOMETHING WE NEED TO DO IN SOCIETY WHEN
8 WE'VE GOT, AS HE SAID TO YOU, A KILLER THAT'S
9 REPEATED COUNTLESS TIMES WHO CONTINUES TO EITHER
10 BREAK OUT OR BE LET OUT OF JAIL AND THERE'S NO
11 OTHER WAY TO STOP THIS HEINOUS ANIMAL BUT TO CHOP
12 HIS HEAD OFF. AND EVEN UNDER -- NOT BADGERING,
13 JUDGE. I'M TALKING TO THESE PEOPLE IN A FAIRLY
14 EVEN KEEL VOICE AND I'M NOT PRESSURING THEM, I'M
15 ASKING THEM TO TAKE THEIR TIME. I'M JUST ASKING
16 THEM TO LOOK INSIDE THEMSELVES AND UNDERSTAND THAT
17 WE'RE IN A VERY SERIOUS PROCEEDING AND WE'RE ASKING
18 THEM WHETHER OR NOT THEY CAN OR CAN'T DO THESE
19 THINGS. AND WHEN HE FACED THAT CROSSROAD, WHEN HE
20 CAME TO THAT DECISION, HE ADMITTED TO YOU AND TO ME
21 AND TO EVERYBODY ELSE IN THIS COURTROOM THAT HE
22 WOULD NOT BE A PART OF IT. THAT HE...IT'S OKAY IF
23 OTHER PEOPLE DO IT, BUT IT GETS DOWN TO HIM HE CAN
24 NOT BE A PART OF IT AND THAT IS NOT THE KIND OF
25 JUROR THAT IS A FAIR AND WOULD GIVE JUSTICE AN

1 OPPORTUNITY TO BE EXERCISED IN A CASE WHERE IN THE
2 STATE OF SOUTH CAROLINA SAYS THE DEATH PENALTY CAN
3 BE SOUGHT. THAT'S NOT...PUTTING SOMEONE ON THERE
4 THAT SAYS IT'S OKAY, THAT THE DEATH PENALTY IS
5 OKAY, AS LONG AS OTHER PEOPLE DO IT, IS NOT GETTING
6 A JURY POOL THAT IS WHAT THE COURTS AND EVEN THE
7 LAW WOULD WANT US TO DO, JUDGE. AND SO THAT'S WHY
8 ELMORE SPEAKS TO THIS ISSUE BECAUSE IT HAS COME UP
9 BEFORE AND AS FAR AS THE CASE IS CONCERNED, YOUR
10 HONOR, AGAIN, A KEY NOTE TO THREE, AS FAR AS...A
11 JUROR WAS PROPERLY EXCUSED BECAUSE WHERE SHE STATED
12 CATEGORICALLY THAT SHE COULD NOT VOTE TO IMPOSE THE
13 DEATH PENALTY, EVEN THOUGH ISOLATED PORTION OF HER
14 TESTIMONY ON VOIR DIRE INDICATED THAT SHE MIGHT
15 AGREE TO THE DEATH PENALTY UNDER CERTAIN
16 CIRCUMSTANCES.

17 YOUR HONOR, WHAT I WAS PREPARED TO
18 ARGUE TO YOU...

19 THE COURT: I...

20 MR. SWERLING: ...IF I COULD, JUST A
21 MINUTE, JUDGE, JUST ONE MINUTE -- WHAT I WAS
22 PREPARED TO ARGUE TO YOU IN THIS CASE IS IF YOU
23 HADN'T RULED THAT BECAUSE HE COULD NOT AGREE TO
24 SIGN HIS NAME ON THIS CASE HE WAS DISQUALIFIED, IF
25 YOU HAD NOT RULED THAT I WAS PREPARED TO ARGUE TO

1 YOU THAT THIS JUROR FALLS RIGHT INTO THAT
2 SITUATION, JUDGE. HERE WE ARE ABOUT TO CONSIDER
3 QUALIFYING HIM AS DEATH PENALTY QUALIFIED WHEN HE
4 SAYS THE ONLY CASE THAT HE COULD EVER EVEN CONSIDER
5 IT WAS A SITUATION WHERE YOU'VE GOT A MULTIPLE MASS
6 MURDERER THAT HAS ESCAPED FROM PRISON THAT COULD
7 NOT BE HELPED. I MEAN, WE...I DON'T THINK THAT
8 THAT...HE IS THEN NOT SAYING, "I COULD CONSIDER IT
9 UNDER GENERAL CIRCUMSTANCES." HE'S NOT EVEN
10 STEPPING TO THE DEGREE, JUDGE, TO THE LINE THAT
11 SHOULD BE THE MINIMAL STAKE AND THAT IS THAT "I
12 COULD CONSIDER IT UNDER GENERAL CIRCUMSTANCES."
13 HE'S PULLING SOME ABSOLUTE, JUST...POSSIBLY
14 UNLIKELY SCENARIO, YOU KNOW, THAT PEOPLE WOULD RUN
15 INTO TO GIVE, YOU KNOW, A YES ANSWER. AND THAT
16 SURELY IS, IN THE STATE'S POSITION, STRETCHING IT,
17 JUDGE, AND STRETCHING IT OUTSIDE THE PARAMETERS OF
18 WHAT THE LAW IS.

19 THE COURT: ALL RIGHT, MR.

20 HARPOOTLIAN?

21 MR. HARPOOTLIAN: YOUR HONOR, I FIND
22 THE ARGUMENT OF THE SOLICITOR INTERESTING BECAUSE
23 THIS ISSUE WAS ADDRESSED MOST RECENTLY IN STATE
24 VERSUS RICKY FORD, A 1996 DECISION DECIDED JUST
25 SEPTEMBER 3RD OF THIS YEAR. AND WHAT HAPPENED,

1 WHAT'S INTERESTING ABOUT THAT CASE AND HOW IT
2 APPLIES HERE AND WHAT IT'S ROLE HERE IS, JUROR
3 WATKINS, IN VOIR DIRE, APPELLATE CONTENDS TRIAL
4 JUDGE ERRED IN QUALIFYING MR. WATKINS AFTER HE
5 STATED HE COULD NOT SIGN HIS NAME TO A LIFE
6 SENTENCE FORM. WE DISAGREE. AND WHAT THEY GO ON
7 TO SAY IS THAT WHEN YOU LOOK AT HIS OTHER ANSWERS,
8 JUST LIKE THIS GENTLEMAN'S OTHER ANSWERS, THAT HE
9 INDICATED THAT HE COULD CONSIDER A LIFE SENTENCE
10 EVEN THOUGH HE SAID THAT HE'D NEVER, OR HE WOULD
11 NOT SIGN HIS NAME TO THE LIFE...NOT THE DEATH
12 WARRANT, IT'S THE LIFE VERDICT THAT HE WOULDN'T
13 SIGN. MY ARGUMENT IS THAT WHAT'S GOOD FOR THE
14 GOOSE IS GOOD FOR THE GANDER. THIS CASE IS HOT OFF
15 THE PRESS AND I THINK IT REPRESENTS OUR SUPREME
16 COURT'S MOST RECENT POSITION ON THE ABILITY TO SIGN
17 A VERDICT FORM OR NOT SIGN A VERDICT FORM.

18 THE COURT: WELL, THAT'S A MEMORANDUM
19 OPINION. THEY DIDN'T PUBLISH THAT. DID THEY CITE
20 ANY OTHER AUTHORITY OTHER THAN...

21 MR. HARPOOTLIAN: WELL, I MEAN, THEY
22 CITED WAYNEWRIGHT VERSUS WHITT, STATE VERSUS GREEN,
23 ALL OF THE CASES INDICATED IT'S WITHIN YOUR
24 DISCRETION, AND PERKETT VERSUS ELAM, WHICH IS
25 A...WELL, THAT'S....

1 THE COURT: THAT'S A DIFFERENT DEAL.

2 MR. HARPOOTLIAN: YES, SIR. STATE
3 VERSUS GREEN IS WHAT THEY CITED.

4 THE COURT: ALL RIGHT, WELL, I KNOW
5 WHAT YOUR POSITIONS ARE, BRING MR. MILLER IN AND
6 LET ME...

7 MR. HARPOOTLIAN: YOUR HONOR, DO YOU
8 HAVE A COPY OF THIS CASE? I'LL BE HAPPY TO HAND IT
9 UP.

10 THE COURT: I'VE GOT A NOTE. I DON'T
11 HAVE A COPY OF IT. JUDGE COTTINGHAM TRIED IT?

12 MR. HARPOOTLIAN: YES, SIR.

13 (JUROR IS RETURNED TO THE OPEN
14 COURTROOM)

15 THE COURT: MR. MILLER, I'M GOING
16 TO...A COUPLE OF THINGS HAVE TO HAPPEN IN A DEATH
17 PENALTY CASE. YOU HAVE TO, NUMBER ONE, BE ABLE TO
18 CONSIDER IMPOSING THE DEATH PENALTY, YOU MAY OR MAY
19 NOT BE ABLE TO DO THAT, BUT YOU ALSO HAVE TO SIGN
20 THE WARRANT. AND SO BASED ON THAT I'M GOING TO
21 EXCUSE YOU FROM SERVICE. SO YOU WON'T HAVE TO
22 PARTICIPATE IN THE TRIAL. ALL RIGHT, SIR?

23 A OKAY.

24 THE COURT: THANK YOU FOR YOUR CANDOR
25 AND YOUR HONESTY THOUGH. YES, SIR. TAKE A SHORT

1 BREAK.

2 MR. JONES: YOUR HONOR, FOR THE RECORD
3 WE'D ACCEPT UNDER WAINWRIGHT VERSUS DEWITT, 469-US-
4 412, THE STATE VERSUS GREEN, 392 SOUTHEAST SECOND,
5 AND STATE VERSUS TORTE.

6 THE COURT: ALL RIGHT. OKAY, LET'S
7 TAKE A SHORT BREAK AND THAT PUTS US...

8 MR. JONES: SEVENTEEN?

9 THE COURT: SEVENTEEN.

10 KEM J. EMERSON, BEING CALLED
11 AND DULY SWORN, TESTIFIES AS FOLLOWS:

12 A CAN I GIVE YOU SOMETHING I SHOWED YOU
13 YESTERDAY? SOME OF MY HEALTH PROBLEMS? AND ALSO I
14 WAS SUPPOSED TO WENT AND HAVE MY GALL BLADDER
15 EXAMINATION YESTERDAY AND I WASN'T ABLE...I DIDN'T
16 GET TO GO TO IT BECAUSE I WAS HERE.

17 MR. HARPOOTLIAN: I'M SORRY, YOUR
18 HONOR, I CAN'T HEAR THE JUROR.

19 THE COURT: THIS IS ONE OF THE
20 HARDSHIP CASES THAT WE TOOK UP YESTERDAY. DO YOU
21 WANT TO DEAL WITH THIS QUESTION BEFORE WE GET INTO
22 THE EXAMINATION? HERE'S HIS...

23 MR. JONES: HARDSHIP OR MEDICAL, YOUR
24 HONOR?

25 THE COURT: MEDICAL.

1 A I HAD AN APPOINTMENT YESTERDAY FOR A
2 GALL BLADDER EXAMINATION. THEY THOUGHT IT MIGHT BE
3 MY GALL BLADDER TOO, AND I WASN'T ABLE TO GO.

4 THE COURT: DO YOU WANT TO LOOK AT
5 THIS AND SEE WHETHER YOU WANT TO PROCEED ON THIS
6 ONE OR NOT?

7 MR. HARPOOTLIAN: YES, SIR.

8 A AND I HAVE THE MEDICATION YOU ASKED
9 ABOUT YESTERDAY, AS FAR AS WHAT IT WAS. IF HE
10 WANTS TO LOOK AT IT.

11 THE COURT: HOW ABOUT LET THEM LOOK AT
12 THE MEDICATION?

13 A THIS IS THE MEDICATION...

14 THE COURT: SOLICITOR, HOW ABOUT LOOK
15 AT THIS MEDICATION AS WELL WHILE YOU'RE...

16 MR. HARPOOTLIAN: I WANT THE RECORD TO
17 NOTE THAT FOR A SHORT MOMENT THE SOLICITOR AND I
18 AGREE ON SOMETHING, THAT THIS YOUNG MAN OUGHT TO BE
19 EXCUSED.

20 THE COURT: ALL RIGHT, MR. EMERSON,
21 THANK YOU FOR COMING. WE'LL EXCUSE YOU.

22 A THANK YOU.

23 THE COURT: BRING MS. MIKOLS IN.

24 CATHERINE MIKOLS, BEING
25 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

1 THE COURT: IF YOU'LL HAVE A SEAT,
2 PLEASE? AND I KNOW YOU'VE BEEN HERE SINCE ELEVEN.

3 A UH-HUH. (YES).

4 THE COURT: MS. MIKOLS, HAVE YOU EVER
5 BEEN ON A JURY BEFORE?

6 A YES.

7 THE COURT: WAS IT CRIMINAL OR CIVIL?

8 A CIVIL.

9 THE COURT: CIVIL. DID YOU GET A
10 CHANCE TO READ THE LETTER THAT I GAVE OUT
11 YESTERDAY?

12 A YES.

13 THE COURT: AND IS THERE ANYTHING IN
14 THE LETTER THAT YOU DIDN'T UNDERSTAND OR THAT YOU
15 WANT ME TO EXPLAIN TO YOU FURTHER AT THIS POINT IN
16 TIME?

17 A NO, SIR.

18 THE COURT: OKAY. SO, IT WAS PRETTY
19 WELL UNDERSTOOD?

20 A I UNDERSTOOD IT.

21 THE COURT: OKAY. I ASK THAT FOR TWO
22 REASONS: NUMBER ONE, TO MAKE SURE YOU UNDERSTAND,
23 AND ALSO I'M WILLING TO TAKE GOOD CRITICISM AS TO
24 HOW TO MAKE IT CLEARER, OKAY?

25 ALL RIGHT. NOW, MA'AM, YOU UNDERSTAND

1 AS A RESULT OF READING THAT LETTER THAT YOU...THE
2 ATTORNEYS IN THIS CASE GET AN OPPORTUNITY TO ASK
3 YOU SOME QUESTIONS ABOUT SOME RELEVANT OPINIONS YOU
4 MIGHT HAVE ON SOME ISSUES IN THIS CASE...

5 A RIGHT.

6 THE COURT: ...AND LIKEWISE I GET TO
7 ASK YOU SOME QUESTIONS. AND YOU WOULD AGREE THAT
8 IN ORDER TO SEEK A FAIR AND IMPARTIAL JURY IT WOULD
9 BE IMPORTANT TO KNOW WHAT YOUR BELIEFS ARE ABOUT
10 CERTAIN LEGAL PRINCIPLES LIKE PRESUMPTION OF
11 INNOCENCE, BURDEN OF PROOF, AND PENALTIES AND
12 THINGS LIKE THAT?

13 A RIGHT.

14 THE COURT: OKAY. NOW, MS. MIKOLS,
15 HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO THE
16 GUILT OR INNOCENCE OF MR. STEPHEN BECKHAM, THE
17 DEFENDANT IN THIS CASE?

18 A NO.

19 THE COURT: DO YOU KNOW ANYTHING ABOUT
20 THE FACTS OF THE CASE?

21 A SOME.

22 THE COURT: ALL RIGHT. DID YOU OBTAIN
23 THOSE FACTS FROM READING NEWSPAPER ARTICLES OR
24 READING OR HOW DID YOU COME TO KNOW ANYTHING ABOUT
25 IT?

1 A TELEVISION AND NEWSPAPER.

2 THE COURT: TELEVISION AND
3 NEWSPAPER...

4 MR. JONES: YOUR HONOR, I APOLOGIZE, I
5 JUST CAN'T HEAR OVER HERE. I WONDER IF YOU COULD
6 PULL THAT MICROPHONE A LITTLE BIT CLOSER? I'LL GET
7 A LITTLE BIT CLOSER MYSELF.

8 THE COURT: NOW, YOU'VE LISTENED TO
9 SOME TELEVISION ACCOUNT OR SOME NEWSPAPER COVERAGE
10 ABOUT THE TRIAL. HOW RECENTLY WAS THAT? WHEN IT
11 HAPPENED OR HERE LATELY OR A COMBINATION?

12 A THE TELEVISION WAS WHEN IT FIRST
13 HAPPENED.

14 THE COURT: OKAY.

15 A AND THE NEWSPAPER WAS JUST RECENTLY.

16 THE COURT: ALL RIGHT. THERE'S
17 NOTHING WRONG WITH READING OR WATCHING TELEVISION
18 OR KNOWING SOMETHING ABOUT THE FACTS OF THE CASE.
19 THE QUESTION THAT I WOULD PUT TO YOU, BASED UPON
20 WHAT YOU'VE READ OR LISTENED TO ON TELEVISION AND
21 READ IN THE PAPER, CAN YOU SET THAT INFORMATION
22 ASIDE AND TRY THE CASE BASED SOLELY UPON THE
23 EVIDENCE THAT WOULD BE PRESENTED DURING THE TRIAL?

24 A YES.

25 THE COURT: ALL RIGHT. SO, WHATEVER

1 YOU READ OR HEARD OR SAW WOULD NOT AFFECT YOUR
2 ABILITY TO BE FAIR AND IMPARTIAL?

3 A NO.

4 THE COURT: OKAY. AND YOU UNDERSTAND
5 THAT NEWSPAPERS AND TELEVISION, THEY'RE ENTITLED TO
6 THEIR OPINIONS BUT THEY DON'T MAKE THE DECISION?

7 A RIGHT.

8 THE COURT: OKAY. NOW, MS. MIKOLS, DO
9 YOU APPRECIATE AND COULD YOU FOLLOW THE LEGAL
10 PRINCIPLE THAT A CITIZEN ACCUSED OF A CRIME IS
11 PRESUMED INNOCENT OF THAT OFFENSE UNTIL AND UNLESS
12 THE STATE CAN ESTABLISH HIS GUILT BY PROOF BEYOND A
13 REASONABLE DOUBT?

14 A I COULD.

15 THE COURT: AND YOU BELIEVE IN THAT
16 PRINCIPLE?

17 A YES.

18 THE COURT: ALL RIGHT. NOW THE REASON
19 I ASK YOU IS THAT IT'S IMPORTANT, WE HAVE TO TALK
20 ABOUT THE WHOLE POTENTIAL TRIAL. AND AS YOU KNOW,
21 THIS IS A POTENTIAL DEATH PENALTY CASE AND ONE OF
22 THE THINGS WE'RE GOING TO TALK ABOUT ARE PENALTIES:
23 LIFE IMPRISONMENT AND THE DEATH PENALTY. AND THE
24 REASON I ASKED YOU THOSE QUESTIONS AND NOW IS THAT
25 I WANT TO MAKE SURE THAT YOU UNDERSTAND THAT YOU

1 SHOULDN'T INFER OR IMPLY FROM ANYTHING THAT WE TALK
2 ABOUT BY WAY OF PENALTY THAT MR. BECKHAM IS GUILTY
3 OF ANYTHING. CAN YOU APPRECIATE THAT FACT?

4 A YES.

5 THE COURT: OKAY. NOW, ORDINARILY IN
6 A CRIMINAL TRIAL, WHERE YOU HAVE A JURY TRYING THE
7 CASE AND THEY'RE SITTING LIKE OVER IN THAT BOX,
8 THEY'RE ASKED TO DO ONE THING. THEY LISTEN TO THE
9 EVIDENCE AND APPLY THE LAW AND THEY DECIDE WHETHER
10 OR NOT A DEFENDANT IS GUILTY OR NOT GUILTY OF THE
11 CRIME FOR WHICH HE'S CHARGED. IF THEY RETURN A
12 VERDICT OF NOT GUILTY THEN OBVIOUSLY THE DEFENDANT
13 IS RELEASED FROM JEOPARDY. IF THEY FIND HIM GUILTY
14 THEN THE DEFENDANT IS BROUGHT BEFORE THE JUDGE AND
15 THE JUDGE SENTENCES HIM. THAT HAPPENS IN EVERY
16 CASE IN THE STATE OF SOUTH CAROLINA WHERE A JURY
17 TRIAL OCCURS EXCEPT ONE. AND THE ONE TIME THAT
18 THAT DOES NOT OCCUR IS IN A DEATH PENALTY CASE.
19 CAN YOU APPRECIATE THAT PROCEDURE?

20 A YES.

21 THE COURT: OKAY. IN THE DEATH
22 PENALTY CASE, INSTEAD OF THE JUDGE BEING THE
23 SENTENCER THE JURY DETERMINES WHETHER OR NOT THE
24 DEFENDANT SHOULD BE SENTENCED TO LIFE OR TO DEATH.
25 DO YOU FOLLOW ME SO FAR?

1 A YES.

2 THE COURT: OKAY. NOW, JUST LIKE WHEN
3 A PERSON STANDS BEFORE ME FOR SENTENCING, THE CASE
4 WOULD BE PRESENTED TO YOU AS A MEMBER OF A JURY AND
5 YOU WOULD RECEIVE EVIDENCE OF AGGRAVATING
6 CIRCUMSTANCES, THINGS THAT MAKE THE CRIME OF MURDER
7 WORSE, FOR WHICH THE DEATH PENALTY WOULD BE
8 JUSTIFIED IF THAT WHAT YOU THOUGHT WAS APPROPRIATE
9 -- OR AUTHORIZED, AS THE CASE MAY BE. AND YOU'D
10 ALSO CONSIDER...YOU ALSO WOULD HEAR MAYBE TESTIMONY
11 ABOUT MITIGATING CIRCUMSTANCES, THINGS ABOUT THE
12 DEFENDANT, A DEFENDANT, OR THINGS ABOUT THE EVENTS
13 THAT MIGHT MITIGATE AGAINST IT, MAKE YOU CONSIDER A
14 DIFFERENT TYPE OF PUNISHMENT. DO YOU FOLLOW ME SO
15 FAR?

16 A YES.

17 THE COURT: OKAY. NOW, WE KNOW THAT
18 THERE ARE BASICALLY THREE KINDS OF JURORS WHO, WHEN
19 ASKED TO SIT IN JUDGEMENT IN A CASE LIKE THIS, WE
20 HAVE THREE TYPES. WE HAVE ONE TYPE THAT SAYS, "WE
21 HAVE A CONVICTION. WE HAVE EVIDENCE OF AGGRAVATING
22 CIRCUMSTANCES BEYOND A REASONABLE DOUBT AND IT
23 DOESN'T MATTER WHETHER THERE ARE MITIGATING
24 CIRCUMSTANCES OR NOT, I BELIEVE THAT THE DEATH
25 PENALTY IS THE APPROPRIATE PUNISHMENT IN EVERY CASE

1 AND I WOULD VOTE FOR THE DEATH PENALTY." DO YOU
2 FOLLOW ME, AS FAR AS THAT BEING ONE TYPE OF JUROR?

3 A RIGHT.

4 THE COURT: ALL RIGHT. THERE IS A
5 SECOND TYPE OF JUROR WHO SAYS, "YOU'RE RIGHT, WE
6 HAVE A CONVICTION. WE HAVE AGGRAVATING
7 CIRCUMSTANCES. WE MAY OR MAY NOT HAVE EVIDENCE
8 MITIGATING CIRCUMSTANCES. BUT I BELIEVE THAT THE
9 APPROPRIATE PUNISHMENT IN EVERY CASE IS LIFE
10 IMPRISONMENT SO I VOTE FOR LIFE." THAT'S THE
11 SECOND TYPE OF JUROR.

12 WE HAVE A THIRD TYPE OF JUROR WHO
13 SAYS, "YOU'RE BOTH RIGHT. WE'VE GOT A CONVICTION.
14 WE'VE GOT EVIDENCE OF AGGRAVATING CIRCUMSTANCES
15 BEYOND A REASONABLE DOUBT. WE MAY OR MAY NOT HAVE
16 MITIGATING CIRCUMSTANCES, BUT LISTEN, I WANT TO
17 LOOK AT THE WHOLE RECORD AND I WANT TO LOOK AT THIS
18 PARTICULAR CASE AND I WANT TO MAKE A SPECIFIED
19 DECISION IN THIS CASE. I'M GOING TO CONSIDER LIFE.
20 I'M GOING TO CONSIDER DEATH. AND I WILL DECIDE
21 WHAT IS THE APPROPRIATE PUNISHMENT IN THE CASE:
22 LIFE OR DEATH."

23 IF I COULD ASK YOU, DO YOU HAVE AN
24 IDEA AS TO WHICH JUROR OR CATEGORY YOU WOULD LIKELY
25 FALL INTO?

1 A IF I UNDERSTOOD THAT THE WAY I THINK I
2 UNDERSTOOD IT, I WOULD PROBABLY SAY THE THIRD
3 BECAUSE I WOULD BRING EVERYTHING AND I WOULDN'T GO
4 INTO IT SAYING LIFE AND I WOULDN'T GO INTO SAYING
5 DEATH.

6 THE COURT: ALL RIGHT. SO LET ME
7 PURSUE THAT JUST A LITTLE FURTHER -- AND I THINK
8 YOU UNDERSTOOD MY QUESTION CORRECTLY. IF YOU
9 LOOKED AT A CASE AND YOU WERE ON THE JURY TO
10 DETERMINE THE SENTENCE, BE IT LIFE OR DEATH, AND
11 YOU CONSIDERED A CONVICTION OF MURDER PLUS THE
12 EVIDENCE OF AN AGGRAVATING CIRCUMSTANCE OR
13 CIRCUMSTANCES BEYOND A REASONABLE DOUBT, ANY
14 MITIGATING CIRCUMSTANCES, AND YOU CAME TO THE
15 CONCLUSION THAT THE APPROPRIATE PUNISHMENT IN THAT
16 CASE WAS THE DEATH PENALTY, COULD YOU AS A JUROR
17 VOTE TO IMPOSE THE DEATH PENALTY?

18 A YES.

19 THE COURT: ALL RIGHT. LIKEWISE,
20 MA'AM, IF YOU TOOK THAT SAME CASE AND YOUR
21 PERSPECTIVE WAS THAT "I BELIEVE THAT THIS IS AN
22 APPROPRIATE CASE FOR A LIFE SENTENCE," COULD YOU
23 VOTE TO IMPOSE A LIFE SENTENCE?

24 A YES.

25 THE COURT: ALL RIGHT. NOW I NEED TO

1 TAKE YOU ONE STEP FURTHER BEFORE I LET THE LAWYERS
2 ASK YOU SOME QUESTIONS. UNDER OUR STATUTORY
3 SCHEME, THE LEGISLATURE SAYS THAT WHEN A JURY FINDS
4 THAT THE DEATH PENALTY IS THE APPROPRIATE VERDICT
5 IN A CASE, THAT EACH INDIVIDUAL JUROR MUST BE ABLE
6 TO SIGN THEIR NAMES TO THE SENTENCING FORM, OR TO
7 THE DEATH WARRANT, ACKNOWLEDGING THAT THAT WAS
8 THEIR DECISION. MA'AM, IF YOU FELT THAT THE DEATH
9 PENALTY WAS THE APPROPRIATE SENTENCE IN A
10 PARTICULAR CASE, COULD YOU SIGN YOUR NAME TO THE
11 WARRANT? IF THE LAW REQUIRED IT?

12 A IF THE LAW REQUIRED IT.

13 THE COURT: AND I'LL TELL YOU NOW THAT
14 THAT IS A REQUIREMENT OF IMPOSING THE DEATH PENALTY
15 IN THIS STATE. NUMBER ONE, YOU MUST FIND IT AS A
16 JUROR AND YOU MUST FIND IT UNANIMOUSLY, AND THEN
17 YOU MUST BE ABLE TO SIGN YOUR NAME TO THE WARRANT.
18 IF THOSE WERE THE INSTRUCTIONS, COULD YOU FOLLOW
19 THEM?

20 A I THINK SO.

21 THE COURT: ALL RIGHT. LET ME LET THE
22 SOLICITOR ASK YOU SOME QUESTIONS AND THEN I'LL PASS
23 IT TO THE DEFENSE ATTORNEY.

24 DIRECT EXAMINATION:

25 BY MR. JONES:

1 Q GOOD AFTERNOON, MS. MIKOLS.
2 A HELLO.
3 Q I REALIZE IT'S BEEN A LONG WAIT AND I
4 APOLOGIZE ABOUT THE DELAY AND WE APPRECIATE YOUR
5 PATIENCE. WE'VE BEEN WORKING AS DILIGENTLY AS WE
6 CAN. WHEN YOU ANSWERED THE JUDGE'S LAST QUESTION,
7 MS. MIKOLS, I BELIEVE I HEARD YOU SAY -- CORRECT ME
8 IF I'M WRONG -- "I THINK SO?"
9 A RIGHT.
10 Q WELL, WE'RE HERE TODAY TO ATTEMPT TO
11 GET YOU TO TELL US ONE WAY OR THE OTHER. "DO YOU
12 WANT TO GO OUT TONIGHT," SOMEONE COULD ASK. "I
13 THINK SO." "WELL, DO YOU OR DON'T YOU?" YOU KNOW?
14 A RIGHT.
15 Q AND THAT'S KIND OF WHAT WE HAVE TO
16 DEAL WITH IN THIS SITUATION BECAUSE IT'S A SERIOUS
17 SITUATION. YOU'RE BEING ASKED TO BE CONSIDERED FOR
18 A SERIOUS JOB, ONE THAT INVOLVES ISSUES OF LAW,
19 FACTS, AND THE DEATH PENALTY, AND WHETHER OR NOT
20 YOU ARE ABLE TO IMPOSE THE DEATH PENALTY IF THE
21 FACTS AND THE LAW DO SO. AND, YOU KNOW, YOU MAY
22 NOT OR YOU MAY HAVE GIVEN IT A GREAT DEAL OF
23 THOUGHT BEFORE TODAY, BUT WE NEED TO KNOW TODAY.
24 AND WHETHER YOU HAVE OR WHETHER YOU HAVEN'T, I'M
25 GOING TO HAVE TO ASK YOU TO SEARCH YOURSELF. I

1 WOULD...SEARCH YOURSELF AND DECIDE TODAY WHETHER
2 YOU COULD IMPOSE THE DEATH PENALTY. IT'S A
3 QUESTION, YOU KNOW, I REALIZE IT'S A DIFFICULT ONE
4 IN THAT YOU HAVE TO KNOW YOURSELF, YOU HAVE TO
5 UNDERSTAND YOURSELF. I RECOGNIZE THAT THERE ARE,
6 YOU KNOW, SOMETIMES, AND I WOULD IMAGINE YOU HAVE
7 PROBABLY SAID BEFORE, "WELL, I'M NOT SURE..."

8 MR. HARPOOTLIAN: YOUR HONOR, I
9 HESITATE TO INTERRUPT THE SOLICITOR, BUT
10 THIS...HE'S BEEN SPEAKING FOR THREE OR FOUR MINUTES
11 AND SHE'S NEVER RESPONDED. SHE'S NEVER HAD AN
12 OPPORTUNITY TO ANSWER. THESE ARE SUPPOSED TO BE
13 QUESTIONS.

14 MR. JONES: JUDGE, LET ME ASK HER THE
15 QUESTION THEN.

16 THE COURT: PLEASE DO.

17 Q MS. MIKOLS, I MENTIONED I WANTED TO
18 GIVE YOU A CHANCE, HAVE YOU HAD A CHANCE TO THINK
19 ABOUT AND TELL ME WHETHER YOU COULD OR COULD NOT
20 IMPOSE THE DEATH PENALTY?

21 A I'M HEARING TWO QUESTIONS.

22 Q OKAY.

23 A YES, I CAN IMPOSE THE DEATH PENALTY.
24 I HAVE A QUESTION IN REGARDS TO SIGNING THE
25 DOCUMENTATION SAYING THAT I HAVE AGREED, OR THAT I

1 FEEL THAT MY VERDICT IS TO IMPOSE THE DEATH
2 PENALTY.

3 Q ALL RIGHT.

4 A I GUESS MY QUESTION IS, DO THOSE
5 SIGNATURES BECOME PUBLIC KNOWLEDGE AS FAR AS
6 WHO...I DON'T UNDERSTAND THAT PART OF THE JUDICIAL
7 SYSTEM BECAUSE I'VE NEVER BEEN EXPOSED TO IT.

8 THE COURT: I CAN ANSWER...I'LL ANSWER
9 THAT QUESTION FOR YOU. THE...WELL, LET ME TALK TO
10 THE LAWYERS ON THE SIDE AND MAKE SURE THAT THEY
11 AGREE WITH WHAT I'M GOING TO SAY.

12 (BENCH CONFERENCE HELD IN THE PRESENCE
13 OF THE JUROR, OUT OF THE HEARING OF THE JUROR, AND
14 OFF THE RECORD)

15 THE COURT: ALL RIGHT, MS. MIKOLS. I
16 THINK WE AGREE AS TO WHAT THE SITUATION IS. FIRST
17 OF ALL, THE SIGNING OF THE SENTENCING SHEET IS A
18 MATTER OF PUBLIC RECORD. IT FOLLOWS THE PAPERWORK
19 HERE AND IS RETAINED IN THE CLERK'S OFFICE. IT IS
20 ALSO ANYWHERE ANY ISSUE ABOUT THAT CASE GOES WITH
21 IT. ALL RIGHT?

22 NOW, I THINK THE GENERAL ASSEMBLY, IN
23 ITS WISDOM, HAS PASSED A STATUTE RECENTLY -- IT
24 DOESN'T MATTER WHETHER THEY HAVE OR NOT -- AS A
25 MATTER OF COURSE SINCE I'VE BEEN ON THE BENCH, I'VE

1 ALWAYS TAKEN THIS POSITION AND THAT IS: NUMBER
2 ONE, YOU HAVE RIGHTS TO DISCUSS THE CASE OR NOT TO
3 DISCUSS IT AND IF ANYBODY VIOLATES YOUR RIGHT TO
4 DISCUSS OR NOT TO DISCUSS THEN I'M PREPARED TO DEAL
5 WITH THEM.

6 THE PRESS IS ALSO INSTRUCTED NOT TO
7 PUBLISH NAMES OF JURORS WHO PARTICIPATED IN THE
8 CASE. YOUR NAME DOESN'T SHOW UP ON THE TELEVISION
9 NEWS THAT YOU WERE ONE OF THE TWELVE THAT DID THIS
10 OR DID THAT. BUT, IT IS -- IN FAIRNESS TO YOU --
11 IT IS A MATTER OF PUBLIC RECORD. BUT EVERYTHING IS
12 DONE TO ASSURE: NUMBER ONE, THAT YOUR DECISION OR
13 ANYBODY ELSE'S DECISION, THE INTEGRITY OF YOUR
14 DECISION WE WILL ATTEMPT TO MAINTAIN. AND I HAVE
15 DONE THAT AND HAVE NO HESITANCY ABOUT DOING THAT.
16 SO, I THINK, IN FAIRNESS, IT IS PART OF THE PUBLIC
17 RECORD. SOMEBODY WOULD HAVE TO COME LOOK, THAT
18 TYPE THING. BUT AS FAR AS IT BEING A HEADLINE THAT
19 MS. MIKOLS VOTED FOR THIS OR THAT, NO. DOES THAT
20 ANSWER YOUR QUESTION?

21 A YES.

22 THE COURT: OKAY. ALL RIGHT.

23 A THEN THE ANSWER TO YOUR QUESTION WOULD
24 BE YES, I COULD DO THAT.

25 Q WELL, MS. MIKOLS, HAVING ANSWERED THAT

1 QUESTION, IF I COULD ASK YOU THAT IN A CASE WHERE
2 THE FACTS CONSTITUTED MURDER AND THE JURY DECIDED
3 THAT GUILTY WAS THE PROPER VERDICT AND IT WAS ASKED
4 OF YOU, "WELL THEN WITH MURDER, WOULD THE DEATH
5 PENALTY BE THE MOST APPROPRIATE PUNISHMENT?" WOULD
6 YOUR RESPONSE TO THAT QUESTION BE, "NO, I WOULD
7 HAVE TO WAIT AND LOOK AT THE FACTS SURROUNDING THE
8 CASE AND ALL MITIGATING AND AGGRAVATING
9 CIRCUMSTANCES BEFORE I WOULD TELL YOU THE PROPER
10 PUNISHMENT. IT COULD BE THE DEATH PENALTY OR IT
11 COULD BE LIFE." IS THAT WHAT YOUR ANSWER WOULD BE?

12 A I WOULD HAVE TO HEAR ALL THE FACTS AND
13 WEIGH THE FACTS TO MAKE MY FINAL DECISION AS TO
14 WHETHER IT WOULD BE LIFE OR WHETHER IT WOULD BE
15 DEATH.

16 Q SO, IN A CASE WHERE THE VERDICT WAS
17 GUILTY OF MURDER, YOU WOULD NOT AUTOMATICALLY BE
18 INCLINED TO PUNISH WITH THE DEATH PENALTY, BUT
19 WOULD RATHER LOOK AT THE AGGRAVATING AND THE
20 MITIGATING FACTORS BEFORE YOU DECIDED WHETHER IT
21 SHOULD BE THE DEATH PENALTY OR LIFE IMPRISONMENT?

22 A AGAIN, I WOULD LOOK AT ALL THE FACTS
23 BEFORE I MADE THAT DETERMINATION.

24 Q WELL, I THANK YOU VERY MUCH.

25 THE COURT: MR. HARPOOTLIAN?

1 MR. HARPOOTLIAN: YES, SIR. IF IT
2 PLEASE THE COURT?

3 CROSS-EXAMINATION:

4 BY MR. HARPOOTLIAN:

5 Q MS. MIKOLS, MY NAME'S DICK HARPOOTLIAN
6 AND I'M A LAWYER THAT PRACTICES LAW IN COLUMBIA AND
7 I REPRESENT STEVE BECKHAM. THIS IS STEVE RIGHT
8 HERE. STEVE IS THE PERSON WHO IS ON TRIAL. HE IS
9 THE ONE WHO IS CHARGED WITH MURDER. HE IS THE ONE
10 THAT THE SOLICITOR IS ASKING THE DEATH PENALTY FOR.
11 HE IS THE ONE WHO HAS ALL OF THIS SWIRLING AROUND
12 HIM HERE TODAY. AND I KNOW YOU FEEL A LITTLE ON
13 THE SPOT AND I'M GOING TO HAVE TO ASK YOU SOME
14 QUESTIONS THAT AREN'T CALCULATED TO EMBARRASS YOU,
15 BUT STEPHEN BECKHAM HAS A LOT RIDING ON THIS CASE.

16 A RIGHT.

17 Q NOW, LET ME ASK YOU A LITTLE BIT ABOUT
18 YOUR BACKGROUND. AND AGAIN, YOU'RE FROM CHARLOTTE?

19 A RIGHT, ORIGINALLY.

20 Q MORRIS PARK HIGH SCHOOL?

21 A RIGHT.

22 Q WHAT YEAR?

23 A SIXTY-SEVEN.

24 Q SIXTY-SEVEN. EAST MECKLENBURG, '66.

25 IT'S A LONG WAY FROM CHARLOTTE.

1 A YES.

2 Q YOU NOW LIVE IN...WHEN DID YOU MOVE TO

3 SALEM?

4 A WE'VE BEEN THERE A LITTLE OVER...RIGHT

5 AROUND TWO YEARS, I GUESS.

6 Q OKAY. AND YOUR HUSBAND IS A DESIGN

7 TECHNICIAN?

8 A RIGHT.

9 Q AND HE WORKS WITH...?

10 A DUKE POWER.

11 Q OKAY. DID Y'ALL MOVE FROM CHARLOTTE

12 TO HERE?

13 A RIGHT. WE RELOCATED ABOUT FOUR YEARS

14 AGO.

15 Q AND...WITH DUKE IN...

16 A CHARLOTTE.

17 Q ...CHARLOTTE.

18 A RIGHT.

19 Q DO YOU LIKE IT UP HERE?

20 A I MISS CHARLOTTE.

21 Q YOU MISS CHARLOTTE? OKAY. I WANT TO

22 TALK A LITTLE BIT ABOUT AN AREA THAT HASN'T BEEN

23 TALKED ABOUT IN GREAT DETAIL. THE SOLICITOR AND

24 THE JUDGE HAVE SPENT THE PAST FEW MINUTES GOING

25 OVER WITH YOU THE DEATH PENALTY AND HOW YOU FEEL

1 ABOUT IT. AND WHAT THE SOLICITOR SAID TO YOU A
2 MOMENT AGO WAS THAT, YOU KNOW, THIS JURY HAS TO BE
3 ABLE TO GIVE THE DEATH PENALTY AND THAT'S ONE OF
4 THE THINGS THAT YOU HAVE TO BE ABLE TO DO TO GET ON
5 THIS JURY IS BE ABLE TO CONSIDER THE DEATH PENALTY.
6 I WANT TO REMIND YOU BEFORE I GO TO THIS OTHER AREA
7 THAT YOU ALSO HAVE TO BE ABLE TO CONSIDER A LIFE
8 SENTENCE AND YOU SAID THAT YOU CAN DO THAT ALSO?
9 YOU'RE NOT PREDISPOSED?

10 A THAT'S RIGHT.

11 Q SO, LET ME MOVE TO ANOTHER AREA. THE
12 FACT THAT WE'RE TALKING ABOUT PUNISHMENT SO MUCH,
13 I'M AFRAID HAS MAYBE SHIFTED THE FOCUS FROM WHERE
14 IT OUGHT TO BE. STEPHEN BECKHAM HAS PLED NOT
15 GUILTY. HE IS ACCUSED OF A CRIME BY THE STATE OF
16 SOUTH CAROLINA. IT IS ONLY AN ACCUSATION AT THIS
17 POINT, DO YOU UNDERSTAND THAT?

18 A RIGHT.

19 Q HE'S NOT BEEN CONVICTED OF ANYTHING
20 AND THE FACT WE'RE TALKING ABOUT THIS POTENTIAL
21 PENALTY, DOES THAT IN ANY WAY GIVE YOU THE FEELING
22 THAT MAYBE HE IS GUILTY OF SOMETHING?

23 A NO.

24 Q OKAY. YOU UNDERSTAND THAT WE JUST
25 HAVE TO DO IT THIS WAY?

1 A RIGHT.

2 Q NOW, YOU'VE GOT CHECKED ON THIS FORM
3 THAT YOU SENT US THAT YOU'VE BEEN THE VICTIM OF A
4 CRIME?

5 A RIGHT.

6 Q HOW LONG AGO WAS THAT?

7 A ABOUT SIX YEARS AGO.

8 Q IN CHARLOTTE?

9 A YES.

10 Q WHAT KIND OF CRIME WAS THAT?

11 A A BREAK-IN TO OUR STORAGE ROOM.

12 Q OKAY. WERE YOU THERE?

13 A NO.

14 Q OKAY. WHERE DID YOU LIVE IN
15 CHARLOTTE?

16 A IN SOUTHEAST CHARLOTTE. MONTCLAIR.

17 Q OKAY. AND AS A RESULT OF BEING THE
18 VICTIM OF A CRIME, DOES THAT IN ANY WAY SENSITIZE
19 YOU TO BEING...BELIEVE POLICE MORE? TO BE MORE
20 PRO-LAW ENFORCEMENT THAN PERHAPS YOU WERE BEFORE?

21 MR. JONES: YOUR HONOR, I WOULD
22 OBJECT.

23 THE COURT: SUSTAINED.

24 Q LET ME MOVE ON TO ANOTHER AREA. THIS
25 PROCESS MAY GO ON A COUPLE OF WEEKS IF YOU'RE

1 SEATED ON THIS JURY. IS THERE...DO YOU HAVE
2 CHILDREN?

3 A NO.

4 Q OKAY. WOULD IT PROVIDE ANY HARDSHIP
5 FOR YOU TO BE AWAY FROM YOUR HUSBAND AND HOME FOR A
6 COUPLE OF WEEKS?

7 A THAT WOULD NOT PRESENT A PROBLEM. I
8 PERSONALLY HAVE A PROBLEM WITH IT.

9 Q AND WHAT'S YOUR PROBLEM?

10 A I'M THE KIND OF PERSON THAT IS
11 SOMEWHAT OF A HYPER PERSON AND GOING LONG PERIODS
12 OF TIME I GET VERY FIDGETY OR AGITATED OR LOSE MY
13 TRAIN OF THOUGHT, THAT TYPE OF THING. AND THAT'S
14 WHAT WE'RE HERE FOR IS TO BE HONEST AND THAT'S THE
15 WAY I AM. I JUST...TODAY WAS VERY TRYING...

16 Q TODAY WAS VERY TRYING?

17 A ...BECAUSE I'VE BEEN IN ONE PLACE FOR
18 A LONG PERIOD OF TIME AND I DON'T...

19 Q MAYBE THAT'S WHY THEY CALL IT A TRIAL,
20 YOU KNOW? IF YOU'LL EXCUSE MY PUN THERE. LET'S
21 EXAMINE THAT JUST A LITTLE BIT. IF YOU'RE ON THIS
22 JURY, THIS JURY'S GOING TO BE SEQUESTERED. DO YOU
23 KNOW WHAT THAT MEANS?

24 A RIGHT.

25 Q AND THIS JURY WILL BE KEPT TOGETHER

1 AND BROUGHT TO THE COURTHOUSE EVERYDAY AND THEN
2 BROUGHT BACK TO WHEREVER THE JUDGE DECIDES TO TAKE
3 THEM BACK TO AND THEY LIVE, NOT GREAT, BUT THEY
4 LIVE WELL. I MEAN, YOU GET MEALS BOUGHT AND I'M
5 SURE THAT THE JUDGE WILL MAKE SURE THAT YOU'RE VERY
6 COMFORTABLE. AND THEN DURING THE DAY YOU'D BE
7 SITTING, NOT IN THIS COURTHOUSE, BUT WE'LL BE IN
8 NEWBERRY IN A COURTROOM VERY MUCH LIKE THIS, IN A
9 JURY BOX VERY MUCH LIKE THAT, AND INSTEAD OF YOU
10 BEING UP THERE YOU'D BE OVER THERE AND THERE'D BE
11 WITNESSES UP THERE AND YOU'D BE LISTENING TO THEM.
12 YOU'VE BEEN TO...HAVE YOU EVER BEEN IN A COURTROOM?

13 A YES.

14 Q SO YOU'VE SEEN HOW THAT PROCESS WORKS?

15 A YES.

16 Q ARE YOU TELLING ME THAT YOU WOULD NOT
17 BE ABLE TO PAY ATTENTION TO THE WITNESSES? WOULD
18 YOU PUT IT...WOULD YOU...YOU CALL IT HYPER. I MEAN
19 IS THIS JUST YOUR PERSONALITY OR IS THIS SOMETHING
20 YOU...

21 A RIGHT. NO.

22 Q ...IT'S NOT A MEDICAL CONDITION?

23 A NO, IT'S JUST ME.

24 Q JUST YOU? YOU THINK YOU'D HAVE
25 DIFFICULTY LISTENING TO THE WITNESSES?

1 A AFTER A CERTAIN PERIOD OF TIME, YES.

2 Q AND A PERIOD OF TIME WOULD BE...?

3 A USUALLY ABOUT AN HOUR AND A HALF.

4 Q AN HOUR AND A HALF.

5 THE COURT: I CAN SOLVE THAT PROBLEM,

6 SOLICITOR. I DON'T EVER GO LONGER THAN THAT.

7 THAT'S NOT A PROBLEM. I CAN'T SIT STILL FOR AN

8 HOUR AND A HALF. OKAY? SO THAT'S NOT A PROBLEM.

9 MR. HARPOOTLIAN: OKAY. WELL, LET ME

10 JUST ASK HER A COUPLE OF MORE QUESTIONS ON THAT

11 AREA.

12 Q IT'S IMPORTANT TO STEPHEN BECKHAM OVER

13 HERE THAT YOU BE ABLE TO PAY ATTENTION TO THE

14 TESTIMONY ON THE WITNESS STAND AND I GUESS WHAT

15 WE'RE TRYING TO FIND OUT IS -- AND YOU'VE BEEN VERY

16 HONEST AND CANDID AND I'M NOT TRYING TO EMBARRASS

17 YOU IN ANY WAY -- IS IT...AND ONLY YOU CAN TELL

18 US...WOULD YOU BE ABLE TO GIVE STEPHEN BECKHAM AND

19 THE STATE OF SOUTH CAROLINA -- THEY'RE ENTITLED TO

20 YOUR ATTENTION ALSO AS THEY PUT THEIR CASE UP --

21 WOULD YOU BE ABLE TO PAY ATTENTION TO THE

22 WITNESSES, REMEMBER WHAT THEY'VE SAID, FOCUS ON THE

23 EVIDENCE, AND LISTEN TO THE LAW THAT THE JUDGE

24 GIVES TO YOU?

25 A MY HONEST, PERSONAL OPINION IS NO.

1 Q OKAY. AND THAT'S HOW YOU FEEL?
2 A YES. THAT'S HOW I KNOW ME.
3 Q OKAY. LET ME TALK TO MR. SWERLING FOR
4 JUST A MINUTE. THAT'S MR. SWERLING RIGHT THERE. I
5 DON'T THINK YOU'VE MET HIM. HE'S MY CO-COUNSEL.
6 HE WENT OUT BECAUSE HE CAN'T SIT VERY LONG IN
7 PLACES.
8 I WANT TO THANK YOU FOR BEING VERY
9 CANDID AND HONEST AND I HAVEN'T TRIED TO EMBARRASS
10 YOU AND I'M NOT TRYING TO EMBARRASS YOU...
11 A NO.
12 Q ...I JUST HAD A JOB TO DO FOR MY
13 CLIENT OVER HERE.
14 A RIGHT.
15 Q I APPRECIATE YOU BEING VERY CANDID AND
16 HONEST WITH ME. THANK YOU.
17 THE COURT: ANYTHING IN RESPONSE? ANY
18 FURTHER INQUIRY? I'M GOING TO TALK TO Y'ALL ABOUT
19 THAT A MINUTE.
20 MR. JONES: YOU ARE?
21 THE COURT: YES.
22 MR. JONES: ALL RIGHT. THEN IF YOU'RE
23 GOING TO ADDRESS IT, I DON'T NEED TO TAKE UP ANY
24 MORE TIME.
25 THE COURT: OKAY, MS. MIKOLS, TO TELL

1 YOU THE TRUTH, I'VE KNOWN MR. JONES A LONG TIME,
2 I'VE KNOWN THESE TWO FELLOWS OVER HERE A LONG TIME,
3 AND MYSELF, AND WE'RE ALL KIND OF HYPERACTIVE.
4 WE'RE UP AND DOWN AND HERE AND THERE AND CAN'T SIT.
5 AND I USUALLY LET JURORS, YOU KNOW, WE HAVE SOME
6 THAT HAVE CERTAIN HEALTH PROBLEMS, AN HOUR, HOUR
7 AND A HALF WE TAKE BREAKS, WE MOVE AROUND AND GO
8 AND THAT TYPE OF THING. ARE YOU TELLING ME THAT IF
9 UNDER THAT SET OF CIRCUMSTANCES THAT YOU
10 CAN'T...YOU KNOW, WE'RE LOOKING FOR GOOD JURORS,
11 FAIR AND IMPARTIAL JURORS, AND I DON'T WANT TO
12 CREATE A HARDSHIP, BUT UNDER THAT SET OF
13 CIRCUMSTANCES, DO YOU THINK YOU COULD SERVE?

14 A IN FAIRNESS TO BOTH, THE ATTENTION
15 SPAN AFTER A WHILE IS NOT THERE.

16 THE COURT: LET ME ASK YOU TO STET
17 OUTSIDE FOR JUST A MINUTE. WE'LL BE RIGHT WITH
18 YOU.

19 (JUROR IS EXCUSED FROM THE OPEN
20 COURTROOM)

21 IN-CAMERA:

22 THE COURT: WHAT SAYS THE STATE?

23 MR. JONES: WELL, JUDGE, YOU KNOW,
24 JUST TO MOVE MATTERS ALONG, SHE SAID SHE DOESN'T
25 THINK SHE CAN PAY ATTENTION TO THE CASE AND LISTEN

1 TO THE FACTS AND RENDER A VERDICT THAT'S BASED ON
2 THE EVIDENCE. I DON'T SEE HOW WE CAN PUT HER ON
3 THE JURY.

4 MR. HARPOOTLIAN: ON THE OTHER HAND,
5 JUDGE, SHE WAS JUST AS ANXIOUS AND JUST AS NERVOUS
6 AND JUST AS DISTRACTED AS EVERYBODY ELSE. SHE'S
7 BEEN FAIR...I MEAN, SHE JUST SOUNDS LIKE SHE'D BE
8 FAIR ABOUT EVERYTHING, TO ME. I HATE TO LOSE A
9 JUROR THAT SOUNDS THAT FAIR, FAIR ON BOTH SIDES.
10 SHE COULD GIVE THE DEATH PENALTY, SHE COULD GIVE
11 LIFE. SHE ANSWERED EVERYTHING RIGHT. I'M SORRY I
12 ASKED THAT QUESTION. I REALLY AM. I REALLY AM.

13 THE COURT: ME TOO.

14 MR. HARPOOTLIAN: I WAS JUST SORT OF
15 LOOKING TO SEE IF THERE WAS SOMETHING THERE.

16 THE COURT: WELL, HERE'S SOMETHING
17 THAT YOU'VE GOT TO BEAR IN MIND NOW. WE'VE TALKED
18 ABOUT TWELVE PLUS TWO ALTERNATES. SUPPOSE SHE DOES
19 AND WE LOSE HER? FRANKLY, I'M REVISING MY
20 ESTIMATES ABOUT THE LENGTH OF THIS TRIAL. I'M NOT
21 SURE WE CAN GET IT IN TEN DAYS. SO, WHAT IF I LOSE
22 HER EARLY ON?

23 MR. JONES: JUDGE, THAT'S A
24 POSSIBILITY. AND I THOUGHT ABOUT IT BEFORE YOU
25 ASKED THE QUESTIONS. I THOUGHT ABOUT SAYING, "WHY

1 DON'T WE KIND OF GIVE HER..." AND YOU NEVER KNOW,
2 BUT GIVE HER A RUN DOWN OF WHAT'S GOING ON. SHE'S
3 GOING TO BE IN THE COURTROOM FROM NINE IN THE
4 MORNING UNTIL ABOUT ONE AND I, HAVING TRIED CASES
5 WITH YOU, I KNOW THAT YOU'RE GOING TO WANT THE NEXT
6 WITNESS ON THE WAY TO THE WITNESS STAND AS THE
7 PRIOR WITNESS IS ON THE WAY OUT OF THE COURTROOM.

8 THE COURT: I AGREE WITH THAT.

9 MR. JONES: THERE ARE GOING TO BE SOME
10 LEGAL ARGUMENTS THAT ARE GOING TO HAVE TO TAKE
11 PLACE DURING THE COURSE OF THE TRIAL, BUT I KNOW
12 HOW YOU HANDLE THOSE AND YOU MOVE ALONG. SHE'S NOT
13 GOING TO BE SITTING BACK IN A JURY ROOM CONFINED
14 AND WHEN WE FINISH TESTIMONY SHE'S GOING TO LUNCH
15 AND SHE'S GOING TO SPEND TIME GOING TO LUNCH,
16 GETTING OUTSIDE, GOING TO EAT, AND COMING BACK, AN
17 HOUR AND A HALF, AND THEN WE'RE GOING TO TAKE
18 TESTIMONY FROM 2:30 UNTIL ABOUT SIX, 6:30. SO,
19 SHE'S GOING THROUGH FOUR MORE HOURS WITH A BREAK IN
20 BETWEEN THEN. THEN SHE'S GOING BACK TO THE MOTEL
21 ROOM AND I DON'T KNOW THAT SITTING IN A MOTEL ROOM
22 CAUSES HER...IF THAT'S WHERE SHE'S TALKING ABOUT
23 THE CONFINEMENT BEGINS TO BREAK DOWN HER THINKING
24 PROCESS AND SHE WALKS IN THERE THE NEXT MORNING NOT
25 REFRESHED AFTER HAVING WATCHED A LITTLE T.V OR READ

1 A BOOK AND GOTTEN A GOOD NIGHT'S SLEEP AND SHE
2 WALKS IN ZOMBIED, THEN WE'RE GOING TO LOSE HER.
3 BUT I DON'T THINK SHE UNDERSTANDS WHAT IS GOING TO
4 OCCUR DURING THE COURSE OF THIS TRIAL AND I DON'T
5 THINK THAT SHE UNDERSTANDS THAT TO THE EXTENT THAT
6 SHE WOULD NOT BE COOPED UP AND BORED AND FORCED
7 INTO SOME KIND OF...

8 THE COURT: SO, ARE YOU CHANGING YOUR
9 MIND?

10 MR. JONES: YES, SIR.

11 THE COURT: YOU BOTH WANT HER?

12 MR. HARPOOTLIAN: WANT HER.

13 MR. JONES: RIGHT.

14 THE COURT: WELL, LET ME DO THIS. LET
15 ME BRING HER IN HERE AND JUST TELL HER BOTH SIDES
16 WANT HER AND RIGHT NOW LET'S SEE WHAT HAPPENS.

17 MR. HARPOOTLIAN: WE MAY GET DOWN THE
18 LINE AND WE CHANGE OUR MINDS OVERNIGHT AND WE CAN
19 EXERCISE PREEMPTORY CHALLENGE, BUT...

20 THE COURT: I AGREE WITH BOTH OF YOU.
21 SHE IS A GOOD JUROR. BRING HER IN AND LET'S SEE.

22 (JUROR IS RETURNED TO THE OPEN
23 COURTROOM)

24 THE COURT: MS. MIKOLS, WE HAVE
25 CONSULTED. AT FIRST WE THOUGHT ABOUT...LET ME JUST

1 TELL YOU, TELL YOU WHAT WE'VE GOT...BOTH SIDES WERE
2 CONCEDING THAT YOU WERE VERY QUALIFIED, WOULD LIKE
3 TO HAVE YOU SERVE ON THE JURY. AND WE THOUGHT
4 ABOUT TELLING YOU A LITTLE BIT ABOUT THE PROCESS
5 AND THEN I THOUGHT ABOUT LETTING YOU THINK ABOUT IT
6 OVERNIGHT AND NOT DISQUALIFYING YOU. WHAT IF I DID
7 THAT? SUPPOSE THAT I LET YOU THINK ABOUT IT
8 OVERNIGHT? SEE, YOU'VE BEEN THROUGH THIS PROCESS
9 AND YOU CAN GET THIS OFF OF YOUR MIND. YOU DON'T
10 HAVE TO WORRY ABOUT IT ANYMORE. AND YOU'VE
11 GOT...AND I'LL TELL YOU, AS A MATTER OF COURSE,
12 THAT WE'RE UP AND DOWN WITH WITNESSES, WE'RE IN AND
13 OUT, WE'RE GOING TO LUNCH, WE'RE COMING...I MEAN,
14 THINGS...THE COURTROOM'S PRETTY ACTIVE IN A TRIAL.
15 HOW ABOUT LET ME...DO YOU THINK THAT IF YOU GOT
16 HOME AND GOT THIS OVER WITH, HAVING GONE THROUGH
17 THIS, THAT TOMORROW MIGHT BE A BRIGHTER DAY?

18 A NO.

19 THE COURT: DON'T THINK SO?

20 A NO. I'M SORRY.

21 THE COURT: ALL RIGHT, WITH THE
22 CONSENT OF THE STATE AND THE DEFENSE, THEN I'LL
23 EXCUSE YOU FROM SERVICE.

24 A AT LEAST YOU GO THROUGH THIS DURING
25 TRIAL, I MEAN...

1 THE COURT: I DIDN'T MEAN TO EMBARRASS
2 YOU.

3 A NO, IT'S NOT THAT. THAT'S WHAT I'M
4 SAYING. AFTER BEING IN THE SPOT ALL DAY...

5 THE COURT: WELL, THEY AGREED TO LET
6 ME LET YOU GO IF YOU SAID NO TO THAT QUESTION. SO,
7 I'LL EXCUSE YOU FROM SERVICE, OKAY?

8 A I'M SORRY.

9 THE COURT: THANKS. ALL RIGHT. LET'S
10 SEE. BARBARA GEORGE?

11 THE COURT: MS. GEORGE, HOW ARE YOU
12 DOING?

13 A I'M TIRED.

14 THE COURT: ME TOO, OKAY? I'M SORRY
15 YOU HAD TO WAIT, BUT THIS JUST TAKES A WHILE AND WE
16 CAN'T EVER PREDICT WHEN WE'RE GOING TO GET TO YOU.

17 A THAT'S OKAY.

18 BARBARA GEORGE, BEING CALLED
19 AND DULY SWORN, TESTIFIES AS FOLLOWS:

20 THE COURT: MS. GEORGE, HAVE YOU EVER
21 BEEN ON A JURY BEFORE?

22 A I'VE BEEN ON CIVIL CASES, A COUPLE OF
23 THINGS HERE IN THIS COUNTY BEFORE. TWICE.

24 THE COURT: WELL...AND DID YOU GET A
25 CHANCE TO READ THE LETTER THAT I PASSED OUT

1 YESTERDAY?

2 A YES, SIR.

3 THE COURT: WAS THERE ANYTHING IN THE
4 LETTER THAT WAS CONFUSING OR SOMETHING THAT YOU
5 NEED FOR ME TO EXPLAIN TO YOU AT THIS POINT IN
6 TIME?

7 A I DON'T THINK SO. I DON'T KNOW
8 ANYTHING ABOUT THIS CASE OR ANYTHING ABOUT THAT. I
9 WASN'T INVOLVED.

10 THE COURT: ALL RIGHT. WELL, LET ME
11 GO A LITTLE FURTHER WITH YOU THEN. AS WE INDICATED
12 IN THE LETTER, BECAUSE...THIS IS A POTENTIAL DEATH
13 PENALTY CASE -- NOT THAT IT WILL BE, BUT THAT IT
14 HAS THAT POTENTIAL -- AND AS A RESULT OF THAT, THE
15 LAWYERS PLUS MYSELF GET TO ASK YOU SOME QUESTIONS
16 ABOUT SOME OF YOUR RELEVANT FEELINGS ON SOME OF THE
17 ISSUES. NOW, THERE AREN'T ANY RIGHT ANSWERS.
18 THERE AREN'T ANY WRONG ANSWERS. NOBODY'S HERE TO
19 CHALLENGE YOU OR EMBARRASS YOU OR PUT YOU ON THE
20 SPOT. OKAY?

21 NOW, IN ORDER TO HAVE A FAIR AND
22 IMPARTIAL JURY THOUGH, YOU WOULD AGREE THAT WE NEED
23 TO KNOW SOME OF YOUR FEELINGS ABOUT, YOU KNOW,
24 PUNISHMENT, FOR EXAMPLE, BURDEN OF PROOF, THAT KIND
25 OF THING?

1 A YES.

2 THE COURT: OKAY. NOW, MS. GEORGE,
3 HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO THE
4 INNOCENCE OR THE GUILT OF STEPHEN BECKHAM?

5 A NO, I HAVEN'T.

6 THE COURT: AND I THINK YOU'VE ALREADY
7 TOLD ME, BUT FOR THE RECORD, DO YOU KNOW ANYTHING
8 ABOUT THE FACTS OF THE CASE?

9 A NO, SIR, I DON'T.

10 THE COURT: ALL RIGHT. AND MS.
11 GEORGE, THE REASON THAT I NEEDED TO ASK YOU THAT IS
12 THAT A LARGE PART OF WHAT WE'RE GOING TO TALK ABOUT
13 HAS TO DO WITH THE DEATH PENALTY OR LIFE
14 IMPRISONMENT, AS THE CASE MAY BE.

15 A UH-HUH. (YES).

16 THE COURT: AND I WANT TO BE SURE THAT
17 YOU DON'T INFER OR IMPLY FROM THE FACT THAT WE'RE
18 GOING TO TALK ABOUT PENALTY THAT MR. BECKHAM IS
19 GUILTY OF ANYTHING AT THIS POINT IN TIME. CAN YOU
20 DO THAT? YOU WON'T DO THAT, WILL YOU?

21 A NO, I WON'T.

22 THE COURT: OKAY. NOW, MS. GEORGE,
23 NORMALLY WHEN WE HAVE A CRIMINAL CASE CALLED FOR
24 TRIAL WE PUT A JURY OVER THERE AND TWELVE MEN AND
25 WOMEN LISTEN TO THE EVIDENCE AND APPLY THE LAW AND

1 THEY MAKE ONE DECISION AND THAT DECISION IS IS
2 WHETHER OR NOT THE DEFENDANT IS GUILTY OR NOT
3 GUILTY OF THE CRIME FOR WHICH HE'S CHARGED.

4 A RIGHT.

5 THE COURT: AND WHEN HE'S FOUND NOT
6 GUILTY, OF COURSE, HE'S RELEASED FROM JEOPARDY. IF
7 HE'S FOUND GUILTY THEN THE DEFENDANT IS BROUGHT
8 AROUND HERE IN FRONT OF THE BENCH AND THE PRESIDING
9 JUDGE SENTENCES HIM. NOW, THAT HAPPENS IN EVERY
10 CASE IN SOUTH CAROLINA EXCEPT ONE AND THAT IS WHERE
11 THE STATE IS SEEKING THE DEATH PENALTY. AND IN
12 THAT SITUATION, THE JURY NOT ONLY DETERMINES THE
13 QUESTION OF GUILT OR INNOCENCE, BUT IF IT
14 DETERMINES GUILT, IT ALSO DETERMINES WHAT THE
15 PUNISHMENT SHOULD BE -- IN A SEPARATE PROCEEDING --
16 EITHER LIFE OR DEATH. DO YOU UNDERSTAND THAT
17 PROCEDURE?

18 A YES, SIR.

19 THE COURT: ALL RIGHT. NOW, WE KNOW
20 FROM EXPERIENCE...LET ME BACK UP AND SAY ONE OTHER
21 THING. JUST LIKE IF A DEFENDANT WHO HAD BEEN
22 CONVICTED IS STANDING BEFORE ME AND I'M GOING TO
23 SENTENCE HIM BECAUSE THE JURY HAS FOUND HIM GUILTY,
24 I WOULD BE RECEIVING EVIDENCE OF AGGRAVATING
25 CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES. THINGS

1 THAT WORK TOWARD A HARSHER SENTENCE, SOME TOWARD A
2 LENIENT SENTENCE. THE SAME THING...OR LESSER
3 SENTENCE. THE SAME THING IS TRUE WHEN THE JURY IS
4 SITTING AS THE SENTENCER IN A DEATH PENALTY CASE.
5 YOU WILL BE GETTING OF AGGRAVATION, EVIDENCE MAYBE
6 OF MITIGATION, AND YOU WILL HAVE TO MAKE A
7 DECISION. DO YOU FOLLOW ME?

8 A YES, SIR.

9 THE COURT: OKAY. NOW WE KNOW THAT WE
10 HAVE HISTORICALLY THREE CATEGORIES OF JURORS.
11 NUMBER ONE, WE HAVE A CATEGORY THAT SAYS, "WE HAVE
12 A CONVICTION. WE HAVE EVIDENCE OF AGGRAVATING
13 CIRCUMSTANCES BEYOND A REASONABLE DOUBT. IT
14 DOESN'T REALLY MATTER WHETHER THERE'S MITIGATING
15 CIRCUMSTANCES OR NOT. I BELIEVE THAT THE DEATH
16 PENALTY IS ALWAYS THE APPROPRIATE PUNISHMENT IN
17 THAT CASE AND I VOTE FOR THE DEATH PENALTY." OKAY?

18 A YES ,SIR.

19 THE COURT: THERE'S A SECOND GROUP
20 THAT SAYS, "YOU'RE RIGHT. WE'VE GOT A CONVICTION.
21 WE'VE GOT THE AGGRAVATING CIRCUMSTANCES. WE MAY OR
22 MAY NOT HAVE MITIGATING CIRCUMSTANCES. BUT I
23 BELIEVE THAT LIFE IN PRISON IS A MORE APPROPRIATE
24 PUNISHMENT AND I WILL ALWAYS VOTE FOR LIFE." DO
25 YOU FOLLOW ME SO FAR?

1 A YES, SIR.

2 THE COURT: ALL RIGHT. THERE'S A
3 THIRD TYPE CATEGORY OF JURORS THAT SAYS, "YOU'RE
4 BOTH RIGHT. WE'VE GOT A CONVICTION FOR MURDER,
5 PLUS AN AGGRAVATING CIRCUMSTANCE, PROVEN BEYOND A
6 REASONABLE DOUBT, MAY OR MAY NOT HAVE MITIGATING
7 CIRCUMSTANCES," BUT THAT JUROR SAYS, "I'M GOING TO
8 LOOK AT THIS PARTICULAR CASE AND I'M GOING TO
9 WEIGH, CONSIDER ALL OF THE EVIDENCE AND EVERYTHING:
10 MITIGATING, AGGRAVATING, ETCETERA, AND I'M GOING TO
11 DETERMINE IN THIS CASE WHAT IS THE APPROPRIATE
12 PUNISHMENT, BE IT DEATH OR LIFE."

13 IF I WERE TO ASK YOU TO SAY TODAY
14 WHICH ONE OF THOSE THREE CATEGORIES OF JURORS YOU
15 MIGHT BE IN, WHICH WOULD YOU CHOSE?
16 A TO MY OPINION, THE DEATH PENALTY WOULD
17 BE TO THE CIRCUMSTANCES OF THE CRIME ITSELF
18 INVOLVED AND I KNOW NOTHING ABOUT THAT.

19 THE COURT: ALL RIGHT. AND SO WOULD
20 YOU CONSIDER ALL OF THE CIRCUMSTANCES AND CONSIDER
21 LIFE AND DEATH BEFORE YOU MADE A DECISION? WOULD
22 YOU DO THAT?

23 A YOU WERE TALKING ABOUT WE EITHER HAVE
24 TO SAY THE DEFENDANT AS GUILTY OR INNOCENT...

25 THE COURT: ALL RIGHT. LET ME BACK UP

1 JUST A MINUTE. FIRST THING YOU HAVE TO DO IS
2 DETERMINE WHETHER OR NOT HE IS GUILTY OR NOT
3 GUILTY. OKAY?

4 A GUILTY. YES.

5 THE COURT: THAT'S THE FIRST THING.

6 A YES.

7 THE COURT: NOW, WE'RE TALKING ABOUT
8 JUST IN A CAPITAL CASE. WE'RE NOT TALKING ABOUT
9 THIS CASE SPECIFICALLY, WE'RE TALKING ABOUT IN
10 GENERAL.

11 A RIGHT.

12 THE COURT: NOW LET'S ASSUME THAT YOU
13 HAVE MADE A DECISION THAT A DEFENDANT IS GUILTY OF
14 MURDER, OKAY? NOW...AND THE STATE IS SEEKING THE
15 DEATH PENALTY. ARE YOU FOLLOWING ME SO FAR? AND
16 DO YOU UNDERSTAND THAT WHEN THAT HAPPENS I DON'T
17 SENTENCE HIM, THE JURY DOES?

18 A RIGHT.

19 THE COURT: OKAY. SO, WE'RE GOING TO
20 HAVE...IN THAT SITUATION, A DEFENDANT HAS BEEN
21 FOUND GUILTY OF MURDER AND WE GO TO A SECOND TRIAL
22 CALLED THE PENALTY PHASE...

23 A YES, SIR.

24 THE COURT: ...WHERE THE JURY WILL
25 LISTEN TO EVIDENCE IN AGGRAVATION AND MITIGATION.

1 AND IN ORDER FOR THE JURY TO BE AUTHORIZED OR
2 PERMITTED TO IMPOSE THE DEATH PENALTY, THEY MUST
3 FIND THE EXISTENCE OF AN AGGRAVATING CIRCUMSTANCE.
4 DO YOU UNDERSTAND THAT?

5 A YES, SIR.

6 THE COURT: AND THAT'S ONE OF THE
7 REASONS WE HAVE THAT SEPARATE HEARING. AND THEY
8 CAN ALSO CONSIDER MITIGATING EVIDENCE AND THAT SORT
9 OF THING. SO, AT THE END OF THAT HEARING YOU WOULD
10 GO BACK TO THE JURY ROOM. HE'S ALREADY BEEN
11 DETERMINED GUILTY FOR MURDER, BUT NOW YOU'RE GOING
12 TO EVALUATE THE AGGRAVATING, MITIGATING EVIDENCE
13 AND YOU'RE GOING TO SIT BACK THERE AMONGST YOUR
14 FELLOW JURORS AND DECIDE, IS THIS A CASE WHERE A
15 DEFENDANT SHOULD BE PUT TO DEATH OR SHOULD HE BE
16 GIVEN A LIFE SENTENCE. OKAY? DO YOU UNDERSTAND
17 THE PROCESS?

18 A YES, SIR.

19 THE COURT: ALL RIGHT. WHAT I WAS
20 REALLY TRYING TO GET AT WAS WOULD YOU AUTOMATICALLY
21 VOTE FOR DEATH OR AUTOMATICALLY VOTE FOR LIFE OR
22 CONSIDER BOTH YOUR OPTIONS BEFORE YOU MAKE UP YOUR
23 MIND?

24 A I WOULD THINK THERE WOULD BE AN OPTION
25 BETWEEN THE TWO.

1 THE COURT: AND YOU WOULD CONSIDER A
2 LIFE SENTENCE AS WELL AS A DEATH SENTENCE?

3 A YEAH, I BELIEVE THERE ARE
4 CIRCUMSTANCES THAT I WOULD SAY THE DEATH SENTENCE.

5 THE COURT: OKAY. SO NOW LET ME
6 FOLLOW UP WITH THAT SINCE WE UNDERSTAND WHAT'S
7 GOING TO HAPPEN. LET'S SAY THAT YOU HAVE LISTENED
8 TO THE EVIDENCE IN THE PENALTY PHASE AND YOU'VE GOT
9 EVIDENCE OF A CONVICTION OF MURDER, PLUS EVIDENCE
10 OF AGGRAVATION, MAY OR MAY NOT HAVE EVIDENCE OF
11 MITIGATION, IF YOU LOOKED AT THAT CASE, MS. GEORGE,
12 AND YOU FELT THAT THE APPROPRIATE PUNISHMENT IN
13 THAT CASE WAS THE DEATH PENALTY, COULD YOU VOTE TO
14 IMPOSE THE DEATH PENALTY?

15 A I THINK SO.

16 THE COURT: ALL RIGHT. NOW, LIKEWISE,
17 LET'S TAKE THAT SAME CASE AND YOU WERE TO LOOK AT
18 IT AND YOU SAID, "WELL, I THINK THIS IS A CASE THAT
19 A LIFE SENTENCE WOULD BE APPROPRIATE." COULD YOU
20 VOTE TO IMPOSE A LIFE SENTENCE?

21 A I COULD.

22 THE COURT: ALL RIGHT. NOW LET ME
23 TAKE YOU A STEP FURTHER. LET'S ASSUME THAT YOU
24 HAVE COME TO THE CONCLUSION IN A CASE THAT A
25 DEFENDANT SHOULD SUFFER THE PENALTY OF DEATH -- YOU

1 BELIEVE THAT, FOUND THAT BEYOND A REASONABLE DOUBT
2 -- OUR STATUTE REQUIRES THAT EACH INDIVIDUAL JUROR
3 SIGN THEIR NAME TO THE SENTENCING SHEET OR THE
4 DEATH WARRANT ACKNOWLEDGING THE FACT THAT THEY MADE
5 THAT DECISION. NOW, IF YOU FELT THAT THE DEATH
6 PENALTY WAS THE APPROPRIATE PUNISHMENT, COULD YOU
7 SIGN YOUR NAME TO THE SHEET? IF THAT WAS A
8 REQUIREMENT OF THE LAW?

9 A YES, SIR, I THINK SO.

10 THE COURT: IN OTHER WORDS, YOU COULD
11 FOLLOW THAT LEGAL INSTRUCTION THAT IF YOU FOUND THE
12 DEATH PENALTY APPROPRIATE YOU COULD SIGN YOUR NAME?

13 A YES, SIR, I THINK SO.

14 THE COURT: ALL RIGHT, SOLICITOR, ARE
15 YOU GOING TO ASK SOME QUESTIONS, PLEASE, SIR?

16 MR. JONES: YES, I WOULD, YOUR HONOR.
17 THANK YOU.

18 Q MS. GEORGE, GOOD EVENING. I REALIZE
19 IT'S LATE AND I BELIEVE YOU, LIKE ALL OF US, ARE
20 FEELING THE WEAR AND TEAR OF THIS PROCESS, BUT WE
21 DO APPRECIATE YOUR PATIENCE. THE JUDGE WAS ASKING
22 YOU A QUESTION AND OF COURSE MY JOB IS TO TRY TO
23 DETERMINE WHETHER OR NOT YOU WOULD BE ABLE TO
24 IMPOSE THE DEATH PENALTY. YOU UNDERSTAND THAT?

25 A YES, SIR.

1 THE COURT: AND YOU SAID THAT YOU
2 THOUGHT YOU COULD. I THINK YOU SAID TO THE JUDGE,
3 "I THINK SO." AND, YOU KNOW, SITUATIONS WHERE
4 SOMEBODY MIGHT SAY, "HOW WOULD YOU LIKE TO GO OUT
5 TO DINNER TONIGHT?" AND YOU SAY, "WELL, I THINK I
6 WOULD." I DON'T KNOW IF THAT PERSON WOULD KNOW IF
7 YOU WERE GOING TO GO WITH THEM OR NOT. WOULD YOU?

8 A I DIDN'T THINK OF IT THAT WAY.

9 Q OH, YOU DIDN'T? WELL, WHEN YOU SAY
10 YOU THINK YOU COULD, DO YOU MEAN, "I'M NOT SURE
11 WHETHER I COULD OR NOT," OR, "I COULD IMPOSE THE
12 DEATH PENALTY?"

13 A I COULD.

14 Q SO, THE ANSWER TO THE QUESTION WHEN I
15 ASK YOU...

16 A YES.

17 Q ...ARE YOU CERTAIN...

18 A YES.

19 Q ...THAT YOU COULD IMPOSE THE DEATH
20 PENALTY ON ANOTHER HUMAN BEING...

21 A YES, SIR.

22 Q ...YOUR ANSWER IS YES?

23 A YES.

24 Q AND AS THE JUDGE ASKED YOU, YOU WOULD
25 BE ABLE TO SIGN YOUR NAME...

1 A YES, SIR.

2 Q ...IMPOSING THE DEATH PENALTY?

3 A YES, SIR.

4 Q MS. GEORGE, YOU LISTED THAT YOU HAVE

5 TWO CHILDREN, BOTH SONS, MICHAEL AND TRACEY?

6 A YES, SIR.

7 Q AND THEIR AGES?

8 A THIRTY-SIX AND TWENTY-NINE. ONE'S

9 GOING ON THIRTY.

10 Q AND ARE THEY IN THE AREA?

11 A YES.

12 Q WHERE ARE THEY?

13 A THIS COUNTY.

14 Q IN THIS COUNTY?

15 A THIS TOWN, CITY. WELL, OUTSKIRTS.

16 Q DOES MICHAEL HAVE A FAMILY?

17 A A DAUGHTER BY HIS FIRST MARRIAGE, A

18 DAUGHTER BY SECOND.

19 Q EXCUSE ME?

20 A A DAUGHTER BY FIRST MARRIAGE AND A

21 DAUGHTER BY SECOND MARRIAGE.

22 Q I SEE. AND WHERE IS HE EMPLOYED?

23 A HE DOES CONSTRUCTION WORK. HE'S DRY-

24 WALL...DOES DRY-WALLS AND STUFF LIKE THAT. HE'S AN

25 OUTDOORS MAN. DOES CONSTRUCTION.

1 Q IS HE ABLE TO KEEP UP WITH HIS
2 DAUGHTER BY THE FIRST MARRIAGE?
3 A YES, SIR.
4 Q DOES HIS DAUGHTER BY THE FIRST
5 MARRIAGE HAVE A STEP-FATHER?
6 A YES, HE'S IN PRISON AT THIS TIME --
7 THE STEP-FATHER.
8 Q THE STEP-FATHER?
9 A YES.
10 Q AND SO I GUESS MICHAEL'S KIND OF
11 HELPING UP WITH HER UPBRINGING?
12 A WELL, HE PAYS HIS...
13 Q CHILD SUPPORT?
14 A YEAH. HE DOESN'T GET TO SEE HER VERY
15 MUCH, BUT THE CIRCUMSTANCES ARE THAT WAY.
16 Q YES, MA'AM. ALL RIGHT. AND HOW ABOUT
17 TRACEY? DOES HE HAVE A FAMILY?
18 A NO, HE'S NOT. HE'S BEEN MARRIED BUT
19 HE'S NOT DIVORCED. HE STAYS WITH ME MOST OF THE
20 TIME.
21 Q SO, IS HE SEPARATED?
22 A HE'S SEPARATED, HASN'T FILED FOR
23 DIVORCE, BUT HE WAS MARRIED JUST A SHORT WHILE.
24 Q JUST A SHORT WHILE...
25 A HE WASN'T MARRIED JUST A SHORT WHILE,

1 HE WASN'T MARRIED A LONG TIME.

2 Q AND I SEE HERE WHERE YOUR EX-HUSBAND,
3 IS HE IN THE AREA OR HAS HE...

4 A NO, HE'S IN IVA.

5 Q IN THE IVA AREA? AND YOU'RE STILL
6 WORKING AT WESTPOINT...

7 A I'M RETIRING.

8 Q YOU ARE...

9 A I'M RETIRED.

10 Q WHEN DID YOU RETIRE?

11 A I WILL RETIRE THE 29TH OF THIS MONTH.

12 Q CONGRATULATIONS.

13 A YES.

14 Q THIRTY-FOUR YEARS THERE IS A GOOD
15 WHILE. YOU'VE BEEN THERE...

16 A WELL, I'VE BEEN WORKING FOR STEVENS
17 SINCE 1953. I WORKED AT THE SENECA PLANT FOR A
18 NUMBER OF YEARS, BUT I'VE BEEN WORKING SINCE I WAS
19 IN SCHOOL, IN THE TWELFTH GRADE. I STARTED TO WORK
20 IN '53, THAT'S WHEN I GRADUATED AND I WAS GOING TO
21 SCHOOL WHEN I GRADUATED AND I WAS WITH THEM AND I
22 ONLY HAD ABOUT A TWO YEAR'S BREAK WITH MY CHILD AND
23 OTHER THAN THAT...AND THERE WAS A SEPARATION AND
24 SERVICE TIME AND THAT. SO BASICALLY YOU COULD SAY
25 THAT I'VE BEEN WITH THEM FORTY-THREE YEARS.

1 Q WOULD SERVING ON A JURY FOR, YOU KNOW,
2 A WEEK OR TWO, OR EVEN THREE, CAUSE YOU ANY
3 INCONVENIENCE? IT WOULDN'T CREATE A PROBLEM FOR
4 YOU?

5 A NO, SIR. I'VE JUST GOT TO GET MY
6 LICENSE RENEWED BEFORE THE 29TH OR WOULD THAT BE AN
7 IMPOSITION?

8 Q WELL, YOU MIGHT HAVE TO DO THAT
9 TOMORROW. WOULD THAT BE AN IMPOSITION?

10 A NO.

11 THE COURT: WE CAN DO THAT IN
12 NEWBERRY.

13 A CAN YOU DO THAT IN NEWBERRY?

14 THE COURT: YEAH.

15 Q OKAY.

16 A THAT'S ALL. I DON'T HAVE ANYTHING AT
17 HOME EXCEPT A DOG AND TWO CATS AND I CAN GET A DOG-
18 SITTER. THAT'S ALL I HAVE.

19 Q OKAY.

20 A TRACEY CAN FEND FOR HIMSELF.

21 Q I JUST HAD A COUPLE MORE QUESTIONS FOR
22 YOU, MS. GEORGE. WHEN THE JUDGE WAS ASKING YOU
23 ABOUT YOUR POSITION OF THE DEATH PENALTY OR LIFE
24 SENTENCE, IF SOMEBODY WAS FOUND...I'M TALKING IF
25 YOU GOT A GUILTY VERDICT THERE AND I ASKED YOU,

1 "OKAY, YOU'VE GOT A GUILTY VERDICT ON A MURDER
2 CASE, ARE YOU GOING TO BE INCLINED FIRST TO VOTE
3 FOR A LIFE SENTENCE OR ARE YOU GOING TO BE INCLINED
4 FIRST TO VOTE FOR A DEATH SENTENCE OR ARE YOU GOING
5 TO WAIT AND SAY, 'LET'S EVALUATE THIS SITUATION.
6 LET'S LOOK AT ALL OF THE CIRCUMSTANCES HERE BEFORE
7 WE DECIDE WHAT THE PROPER PUNISHMENT IS.'" IS THAT
8 YOUR ANSWER TO THAT QUESTION?

9 A WELL SEEING THAT I DON'T KNOW ANYTHING
10 ABOUT THIS SITUATION OR THE CASE OR THE NATURE OF
11 THE CRIME, I WOULD HAVE TO HEAR THE EVIDENCE BEFORE
12 I COULD SAY YEAH, I THINK.

13 Q SO, IS YOUR ANSWER TO MY QUESTION, "I
14 COULDN'T TELL YOU WHETHER I WOULD BE IN FAVOR OF
15 LIFE ALL THE TIME OR DEATH ALL THE TIME. I WOULD
16 HAVE TO WAIT AND HEAR ALL OF THE EVIDENCE BEFORE I
17 COULD MAKE A DECISION?"

18 A I REALLY DON'T KNOW. I'VE NEVER HAD
19 TO MAKE THAT DECISION. BUT LIKE I SAID, AGAIN, I
20 THINK THERE ARE SOME CIRCUMSTANCES THAT A MAN
21 SHOULD PAY BY DEATH AND I'M A CHRISTIAN AND I
22 BELIEVE IN TURNING THE CHEEK, BUT I ALSO BELIEVE
23 THAT THE LORD TELLS US TO WEIGH THE FACTS AND THE
24 NATURE...NOBODY HAS THE RIGHT TO REALLY TAKE
25 ANOTHER MAN'S LIFE OR SAID PERSON, BUT THAT HE

1 SHOULD PAY FOR THAT AND I, TOO, WERE ACQUAINTED OF
2 A YOUNG MAN OF THIS COUNTY THAT MY SON GREW UP AND
3 KNEW AS A CHILD AND I ALSO KNEW THAT HE WAS GIVEN A
4 LIFE SENTENCE...I MEAN A DEATH SENTENCE AND THE BAD
5 PART ABOUT THAT, AND I KNEW THIS CHILD MYSELF
6 BECAUSE HE SPENT THE NIGHT A COUPLE OF TIMES WITH
7 MY SON, AND I KNOW THAT THE WORSE THING I SAW OUT
8 OF THAT, THE EVIDENCE OF WHAT THIS YOUNG MAN AND
9 ANOTHER MAN DID TO THESE VICTIMS WAS MORE THAN MY
10 MIND CAN COMPREHEND, BUT THE WORSE THING I SAW OUT
11 OF THAT WAS THE POSTPONING OF THE SENTENCE FOR THE
12 YEARS THAT THEY EXTENDED IT. YOU KNOW? THE
13 PARENTS GAVE UP THEIR HOME, THEY SELLED THEIR HOME,
14 THEY DID EVERYTHING TO STAY THIS EXECUTION BUT IT
15 STILL HAPPENED AND AS A RESULT OF THAT IT LITERALLY
16 MADE THE BOY, THAT MAN THAT WAS ELECTROCUTED, HE
17 WAS SUFFERED, I THINK, MORE THAT WAY THAN IF THEY
18 HADN'T DRUG IT OUT SO LONG.

19 Q UH-HUH. (YES).

20 A BECAUSE WHAT IT PERSONALLY DID TO THE
21 PARENTS, THE FATHER OF THIS YOUNG MAN ALSO HAD
22 GUILT BECAUSE A PART OF WHAT HIS FATHER DIDN'T DO,
23 THIS BOY IS A CHILD. HE LATER KNEW AT THIS TIME,
24 WHEN THIS BOY WAS CONDEMNED, THE FAILURES HE MADE,
25 YOU KNOW, WITH THE SON. BUT THERE AGAIN, THIS

1 YOUNG MAN, HE WAS AN ADULT AT THE TIME AND HE WAS
2 NO LONGER A CHILD AND IT'S TRUE THAT HIS FATHER
3 PROBABLY DIDN'T SPEND A LOT OF TIME WITH HIM, LIKE
4 SO MANY FATHERS DON'T, BUT THAT DOESN'T GIVE A MAN
5 A RIGHT TO TAKE ANOTHER'S LIFE IN A BRUTAL WAY.
6 SO, I THINK THE THING OF THAT WAS THE POSTPONING
7 OVER THE PERIOD OF TIME THAT I SAW IT HAPPENING,
8 THE STAGES IN THESE PEOPLE'S LIVES.

9 Q YES, MA'AM. WELL, I APPRECIATE YOUR
10 ANSWER TO THE QUESTION AND I WOULD ONLY HAVE A
11 COUPLE OF FOLLOW-UP QUESTIONS AS FAR AS IT WAS
12 CONCERNED. I BELIEVE -- AND CORRECT ME IF I'M
13 WRONG, I DON'T KNOW AS MUCH ABOUT IT AS I SHOULD...

14 A YES?

15 Q ...BUT WHEN YOU SAID, "TURN THE OTHER
16 CHEEK," THEN YOU MUST BE FAMILIAR WITH THE NEW
17 TESTAMENT?

18 A WELL, I DON'T KNOW. THERE'S
19 CIRCUMSTANCES IN THE NEW TESTAMENT, TOO. I'M
20 FAMILIAR WITH BOTH.

21 Q THE WHOLE TESTAMENT?

22 A THE BOTH, YES. AND I KNOW THAT GOD
23 GAVE THE MEN THAT DAY THE RIGHT TO SENTENCE A MAN
24 TO DEATH.

25 Q THAT BEING RENDERED UNDER TO CAESAR'S

1 WHAT IS CAESAR'S...

2 A CEASER'S...

3 MR. SWERLING: YOUR HONOR, I WOULD
4 OBJECT TO ANY BIBLICAL PASSAGES QUOTED BY THE
5 SOLICITOR.

6 THE COURT: SUSTAINED.

7 A CEASER AUGUSTUS RENDER UNDER CEASER
8 AND GOD WITH GOD.

9 MR. JONES: YOUR HONOR, I WITHDRAW THE
10 QUESTION.

11 Q LET ME ASK YOU THIS, MA'AM. YOU, IN
12 ANSWER TO THIS QUESTION, AGAIN, I ASKED YOU BEFORE
13 AND I JUST AM NOT SURE I UNDERSTOOD YOUR ANSWER,
14 BUT IF YOU...IF I ASK YOU NOW IF YOU WERE ON A JURY
15 AND THE JURY DECIDED THAT THE VERDICT WAS GUILTY OF
16 MURDER, WOULD YOU FIRST SAY, "I WANT TO LOOK AT ALL
17 THE CIRCUMSTANCES, THE EVIDENCE IN AGGRAVATION, AND
18 THE EVIDENCE IN MITIGATION, BEFORE I DECIDE WHETHER
19 THE SENTENCE SHOULD BE LIFE OR DEATH?"

20 A NO, SIR. I THINK THAT WOULD BE...I
21 THINK THAT OPINION WOULD BE FORMED BEFORE YOU
22 SAID...DECLARED THE MAN WAS GUILTY. I MEAN, THE
23 JUROR, TO ME...BUT IF HE WAS THEN SO BE IT. I
24 THINK THAT IT WOULD BE THAT WAY.

25 Q EXCUSE ME ONE MINUTE. IT MAY BE THAT

1 I'M NOT ASKING A CLEAR QUESTION FOR YOU.

2 A OKAY.

3 MR. JONES: JUDGE, IF I COULD HAVE ONE

4 SECOND?

5 THE COURT: SURE.

6 Q YOU UNDERSTAND THE PROCESS THAT WE'RE

7 INVOLVED IN RIGHT HERE?

8 A RIGHT.

9 Q THE STATE HAS CHARGED THE DEFENDANT

10 WITH MURDER?

11 A RIGHT.

12 Q AND WE'RE ATTEMPTING TO SELECT A

13 JURY...

14 A RIGHT.

15 Q ...THAT WILL HEAR THE CASE...

16 A YES, SIR.

17 Q ...AND DECIDE, FIRST, WHETHER OR NOT

18 THERE'S ENOUGH EVIDENCE TO CONVICT HIM OF THE

19 CRIME?

20 A YES, SIR.

21 Q DO YOU FEEL, BASED ON ALL OF YOUR

22 HISTORY AND ALL OF YOUR PAST, THAT YOU CAN SIT ON

23 THAT JURY AND DO THAT FAIRLY AND OBJECTIVELY AND

24 IMPARTIALLY?

25 A YES, SIR.

1 Q ALL RIGHT. IF YOU SAT ON THAT JURY
2 AND YOU FOUND THE DEFENDANT GUILTY OF THE CRIME OF
3 MURDER...
4 A YES?
5 Q ...COULD YOU, ALONG WITH THE OTHER
6 ELEVEN JURORS, CONSIDER SENTENCING HIM TO LIFE IN
7 PRISON?
8 A WHICHEVER THEY DETERMINE.
9 Q SO, YOU COULD CONSIDER LIFE
10 IMPRISONMENT OR DEATH, IS THAT CORRECT?
11 A RIGHT.
12 Q NOW...JUST ONE MOMENT.
13 MR. JONES: JUDGE, I JUST WOULD LIKE
14 TO ASK ONE LAST QUESTION.
15 Q YOU SAID "THEY." YOU SAID, "WHATEVER
16 THEY DECIDED." HOW DID YOU MEAN THAT?
17 A I DIDN'T MEAN THAT.
18 Q WHAT DID YOU MEAN?
19 A I THINK THAT WE ALL HAVE THE RIGHT TO
20 MAKE OUR OWN DECISION IN THE GUILT AND INNOCENCE.
21 Q WHAT IS YOUR SON'S FIRST WIFE'S
22 HUSBAND IN JAIL FOR?
23 A DRUGS AND FIREARMS.
24 Q ILLEGAL FIREARMS?
25 A SELLING FIREARMS OR SOMETHING.

1 Q FEDERAL CHARGE?
2 A UH-HUH. (YES). HE'S IN FED PRISON.
3 FLORIDA, I THINK.
4 Q THANK YOU, MA'AM.
5 A OKAY.
6 THE COURT: MR. SWERLING?
7 CROSS-EXAMINATION:
8 BY MR. SWERLING:
9 Q HELLO, MS. GEORGE. GOOD EVENING.
10 A HI.
11 Q ARE YOU TIRED? LONG DAY?
12 A UH-HUH. (YES).
13 Q MY NAME'S JACK SWERLING. I'M FROM
14 DOWN IN COLUMBIA.
15 A YES.
16 Q THAT'S STEPHEN BECKHAM. STEPHEN,
17 WOULD YOU STAND UP? HE'S THE YOUNG MAN ON TRIAL...
18 A YES. I SEE HIM.
19 Q ...THAT THE STATE'S SEEKING THE DEATH
20 PENALTY FOR. THAT'S HIS FAMILY BACK THERE:
21 DAUGHTER, NIECE, MOTHER, AND FATHER. THE SOLICITOR
22 SPENT A GREAT DEAL OF TIME TALKING TO YOU ABOUT
23 PUNISHMENT. THE JUDGE ASKED YOU ABOUT SOME
24 PUNISHMENT.
25 A YES.

1 Q OKAY? BUT, I'D LIKE TO RE-EMPHASIZE
2 WITH YOU AT THIS POINT THAT STEPHEN BECKHAM HAS
3 PLED NOT GUILTY IN THIS CASE. OKAY?
4 A YES.
5 Q AND WE'RE GOING TO HAVE A TRIAL WHERE
6 THE JURY'S GOING TO DETERMINE WHETHER OR NOT HE'S
7 INNOCENT OR HE'S GUILTY.
8 A RIGHT.
9 Q HE'S PRESUMED INNOCENT.
10 A YES.
11 Q DO YOU BELIEVE IN THAT PRINCIPLE OF
12 LAW?
13 A YES.
14 Q YOU HAVE NO PROBLEM WITH THAT?
15 PRESUMING HIM INNOCENT?
16 A NO, SIR.
17 Q AND THE STATE IS NOT ENTITLED TO A
18 VERDICT OF GUILTY UNLESS THEY PROVE BEYOND A
19 REASONABLE DOUBT. AND YOU UNDERSTAND THAT?
20 A YES, SIR.
21 Q AND YOU DON'T HAVE ANY PROBLEM WITH
22 THAT PRINCIPLE OF LAW EITHER?
23 A NO, SIR.
24 Q AND YOU KNOW REASONABLE DOUBT IS
25 SOMETHING OF DOUBT THAT CAUSES YOU TO HESITATE?

1 A YES.

2 Q IF THEY DON'T PROVE THAT THEN THERE IS

3 NO SECOND PART OF THE TRIAL...

4 A RIGHT.

5 Q ...THAT EVERYBODY'S BEEN TALKING

6 ABOUT.

7 A YES, SIR.

8 Q SO, THE ONLY THING I WOULD ASK YOU IS

9 WHETHER OR NOT ALL OF THIS TALK ABOUT PUNISHMENT IN

10 SOME WAY CAUSES YOU TO HAVE ANY OPINION OR BE

11 SWAYED ABOUT WHAT THE FINDING IN THE FIRST CASE

12 WOULD BE AS GUILTY OR INNOCENT? DO YOU STILL HAVE

13 AN OPEN MIND ABOUT THAT? ABOUT GUILT OR INNOCENCE?

14 A YES.

15 Q OR DO YOU HAVE AN OPINION ABOUT THAT?

16 A I DON'T HAVE ANY OPINION. I DON'T

17 KNOW ANYTHING ABOUT IT.

18 Q OKAY. AND THESE QUESTIONS DON'T

19 CONCERN YOU ABOUT TALKING ABOUT PUNISHMENT?

20 A NO.

21 Q YOU UNDERSTAND THAT...

22 A WELL, NOT AT THIS POINT, NO.

23 Q YOU UNDERSTAND THAT THIS IS THE ONLY

24 TIME THAT WE HAVE TO TALK WITH YOU?

25 A RIGHT.

1 Q BUT THERE'S A BIG IF HERE. WE DON'T
2 GET TO THAT SECOND PART THAT EVERYBODY'S BEEN
3 TALKING ABOUT...

4 A RIGHT.

5 Q ...UNLESS THE STATE CONVINCES YOU AND
6 THE REST OF THE JURY UNANIMOUSLY BEYOND A
7 REASONABLE DOUBT OF STEPHEN BECKHAM'S GUILT. IF
8 THEY DON'T, HE'S ENTITLED TO A VERDICT OF NOT
9 GUILTY.

10 A YES, SIR.

11 Q OKAY? AND YOU CAN FOLLOW THAT
12 PRINCIPLE OF LAW?

13 A YES, SIR.

14 Q NOW, THE ONLY TIME WE EVER EVEN GET TO
15 THAT SECOND STAGE -- THAT'S WHAT I WANT TO TALK TO
16 YOU ABOUT REAL BRIEFLY -- IS WHETHER OR NOT THE
17 JURY FINDS GUILT WITH THESE EVIDENCES...EVIDENCE OF
18 AGGRAVATION. THE LAW RECOGNIZES THERE'S MURDER
19 CASES AND THEN THERE'S MURDER CASES THAT THERE ARE
20 AGGRAVATING FACTORS.

21 A YES, SIR.

22 Q OKAY? WE DON'T GET TO THAT SECOND
23 STAGE UNTIL THE JURY FINDS THERE'S MURDER AND ONE
24 OF THESE AGGRAVATING FACTORS -- SOMETHING THAT
25 MAKES IT DIFFERENT, MAKES IT AGGRAVATING.

1 A YES, SIR.

2 Q AND THE WORD BASICALLY MEANS WHAT IT

3 SAYS.

4 A YES, SIR.

5 Q IT'S A MURDER ACCOMPANIED BY SOME

6 OTHER ACT.

7 A YES, SIR.

8 Q NOW, WE'VE GONE BACK AND FORTH AND

9 WHAT I'D LIKE TO JUST ASK YOU IS DIRECTLY AS THIS:

10 YOUR RESPONSES, DO THEY MEAN...OF IS WHAT YOU WERE

11 SAYING THAT IF YOU CONSIDERED ALL OF THE EVIDENCE

12 AND FOUND A PERSON GUILTY, WITH THESE AGGRAVATING

13 FACTORS, THAT YOU AT THIS TIME KNOW WHAT YOU FEEL

14 THE PUNISHMENT WOULD BE OR SHOULD BE?

15 A IF HE'S PROVEN GUILTY?

16 Q YES, MA'AM. IN OTHER WORDS, IF

17 SOMEONE'S PROVEN GUILTY, WITH CIRCUMSTANCES OF

18 AGGRAVATION, THEN ARE YOU TELLING...OR DID YOU SAY

19 BEFORE THAT IN THAT KIND OF CASE THE DEATH

20 PENALTY'S APPROPRIATE?

21 A YES, SIR.

22 Q OKAY. AND THAT'S WHAT YOU FEEL WOULD

23 BE APPROPRIATE IF...ONCE THE JURY RESOLVES THAT

24 ISSUE OF GUILT?

25 A YES, SIR.

1 Q OKAY. AND ONCE THEY RESOLVE THAT
2 ISSUE OF GUILT, THEN A LIFE SENTENCE WOULD NOT BE
3 AN OPTION FOR YOU?
4 A RIGHT.
5 Q THE DEATH SENTENCE WOULD BE THE ONLY
6 OPTION?
7 A RIGHT.
8 Q OKAY. SO, WOULD YOU EQUATE...YOU
9 EQUATE THE PUNISHMENT, OR WHAT YOU FEEL THE
10 APPROPRIATE PUNISHMENT OUGHT TO BE, WITH WHETHER OR
11 NOT THE JURY FINDS THE PERSON GUILTY BEYOND A
12 REASONABLE DOUBT WITH CIRCUMSTANCES OF AGGRAVATION?
13 IS THAT CORRECT?
14 A YES, SIR.
15 Q IN ALL OF THOSE CASES...
16 A YES, SIR.
17 Q ...WHERE YOU RESOLVE THAT, YOU BELIEVE
18 THAT DEATH WOULD BE THE APPROPRIATE PUNISHMENT?
19 A YES, SIR.
20 Q AND WOULD NOT CONSIDER A LIFE
21 SENTENCE?
22 A YES, SIR.
23 Q IS THAT CORRECT?
24 A YES, SIR.
25 Q THANK YOU.

1 A THANKS.

2 THE COURT: ANYTHING ELSE, SOLICITOR?

3 MR. JONES: JUDGE, YES, SIR, I WOULD

4 LIKE

5 TO ASK HER A QUESTION.

6 THE COURT: OKAY.

7 REDIRECT EXAMINATION:

8 BY MR. JONES:

9 Q SO, IF YOU SERVED ON A JURY, YOU COULD
10 NOT IMPOSE A LIFE SENTENCE? YOU COULDN'T VOTE FOR
11 A LIFE SENTENCE?

12 A IF I SERVED...I DIDN'T UNDERSTAND.

13 Q IF YOU SERVED ON A JURY, COULD YOU
14 VOTE TO SENTENCE SOMEONE TO A LIFE SENTENCE?

15 A IF YOU...YOU SAY THAT YOU ARE...IT'S
16 FOR THE DEATH PENALTY YOU'RE SEEKING? OKAY, I
17 DON'T QUITE UNDERSTAND.

18 Q GO AHEAD, ASK YOUR QUESTION.

19 A OKAY, THE OPTION OF LIFE VERSUS DEATH,
20 WOULD THAT BE VOTED ON THEN...OR WHICHEVER...IN
21 FAVOR OF?

22 Q IT WOULD BE VOTED ON. YOU WOULD HAVE
23 A CHANCE TO VOTE.

24 A YES, SIR, I COULD VOTE EITHER WAY.

25 Q YOU COULD?

1 A YES.

2 Q WELL, DID YOU MISUNDERSTAND WHAT THE
3 LAWYER WAS TALKING TO YOU ABOUT JUST NOW,
4 BECAUSE...

5 A WHAT? SIR?

6 Q WHAT HE ASKED YOU WAS, HE SAID ANYTIME
7 YOU SAT ON A JURY AND FOUND SOMEBODY GUILTY OF
8 MURDER YOU WOULD ALWAYS SENTENCE HIM TO DEATH,
9 WOULDN'T YOU?

10 MR. SWERLING: THAT'S NOT WHAT I SAID,
11 YOUR HONOR.

12 A NO, SIR, NOT...

13 THE COURT: WAIT A MINUTE. I'M NOT
14 GOING TO GET INTO THIS SEMANTIC ARGUMENT. I
15 SUSTAIN THE OBJECTION.

16 A NOT ANY DEATH...

17 THE COURT: WAIT A MINUTE, MA'AM.

18 A NOT ANY...

19 THE COURT: WAIT JUST A MINUTE. WAIT
20 JUST A MINUTE.

21 A OH.

22 THE COURT: NOW, THE WAY OUT OF THAT,
23 SOLICITOR, YOU ASK THE QUESTION YOU WANT. DON'T
24 SUGGEST WHAT HE ASKED.

25 MR. JONES: ALL RIGHT.

1 THE COURT: AND YOU KNOW WHAT HE ASKED
2 AND SO LET'S DON'T GET INTO THAT BATTLE. YOU ASK
3 HER WHAT YOU NEED TO DO TO GET HER WHERE YOU...BUT
4 DON'T SUGGEST WHAT HE SAID AND THEN WE DON'T GET
5 INTO THAT BATTLE.

6 MR. JONES: ALL RIGHT.

7 THE COURT: OKAY.

8 Q WELL...

9 THE COURT: AND YOU'RE BOTH HEADED IN
10 THE RIGHT...HE'S RIGHT ABOUT HIS OBJECTION, BUT
11 THERE'S A WAY TO CURE IT. OKAY?

12 MR. JONES: WELL, I'LL JUST ASK IT.

13 Q WHAT I ASKED YOU A MINUTE AGO. COULD
14 YOU, KNOW, RETURN A VERDICT OR RECOMMEND A VERDICT
15 FOR SOMEONE TO RECEIVE A LIFE SENTENCE?

16 A WELL, I COULD.

17 Q YOU COULD? WELL, IT JUST DEPENDS ON
18 THE CIRCUMSTANCES, IS THAT CORRECT?

19 A WELL, I WOULDN'T KNOW UNTIL I HEARD
20 EVIDENCE AND FOR MYSELF AND WHAT IT...YOU
21 KNOW...TOWARD THE...AND I WHOLE HEARTEDLY BELIEVE
22 THERE'S MURDERS THAT REQUIRE OR WOULD...YOU COULD
23 SEEK THE DEATH PENALTY FOR THAT WOULD BE GREATER
24 THAN IF I WENT OUT HERE AND SHOT THIS GUY DOWN
25 HERE. IN THAT CASE I DON'T THINK I COULD JUST SAY,

1 "WELL, GIVE HIM DEATH." BUT I THINK IT WOULD HAVE
2 TO BE UNNATURAL CIRCUMSTANCES TO THE MURDER.

3 Q UNNATURAL CIRCUMSTANCES? I DIDN'T
4 FOLLOW...

5 A WELL, OUT OF THE ORDINARY, I GUESS.

6 Q OKAY. ALL RIGHT.

7 A YOU KNOW?

8 Q YES, MA'AM, I THINK I DO UNDERSTAND
9 WHAT YOU'RE SAYING. I WOULD ASK YOU IS WHAT YOU
10 JUST SAID THEN, ARE YOU SAYING THAT THERE ARE SOME
11 MURDERS, IF YOU SAT ON THE JURY AND THE VERDICT WAS
12 GUILTY OF MURDER, THAT YOU COULD RECOMMEND A LIFE
13 SENTENCE?

14 MR. SWERLING: OBJECT TO THE FORM OF
15 THE QUESTION, YOUR HONOR. THE ISSUE IS MURDER WITH
16 AN AGGRAVATED CIRCUMSTANCE, WHICH IS WHAT I WAS
17 QUESTIONING THE JUROR ABOUT.

18 MR. JONES: I THOUGHT YOU TOLD ME NOT
19 TO ASK HIS QUESTION, JUDGE, TO ASK MY OWN QUESTION.

20 THE COURT: NO, I DIDN'T SAY THAT. I
21 SAID DON'T SAY, "DID HE ASK YOU THAT?" YOU ASK THE
22 QUESTION YOU WANT TO ASK.

23 MR. JONES: WELL, I ASKED HER MY
24 QUESTION.

25 THE COURT: OKAY.

1 MR. JONES: ALL RIGHT.

2 THE COURT: THIS IS THE PROBLEM WITH
3 VOIR DIRE. LISTEN TO HIS QUESTION REAL CAREFULLY,
4 ALL RIGHT?

5 A OKAY.

6 THE COURT: AND REMEMBER...I OVERRULE
7 THE OBJECTION RIGHT NOW. PROCEED, BUT REMEMBER
8 WHERE YOU ARE WITH HER.

9 MR. JONES: ALL RIGHT.

10 THE COURT: OKAY. OKAY. ALL RIGHT,
11 NOW LISTEN TO IT REAL CAREFULLY.

12 Q IF YOU SAT ON A JURY THAT HEARD
13 EVIDENCE IN A CASE AND THE JURY DECIDED THAT THE
14 VERDICT WAS GUILTY AND THE JURY ALSO FOUND, YOU
15 KNOW, AN AGGRAVATING CIRCUMSTANCE PRESENT AND THE
16 JUDGE SAID, "OKAY, NOW JURY, IT'S YOUR DECISION TO
17 DECIDE WHETHER OR NOT THE DEATH PENALTY IS THE MOST
18 APPROPRIATE PUNISHMENT OR LIFE IMPRISONMENT. IT'S
19 UP TO YOU. YOU TAKE IN ALL THE FACTORS YOU WANT TO
20 TAKE IN TO CONSIDER." COULD YOU IMPOSE A LIFE
21 SENTENCE IF THE FACTORS DICTATED THAT WAS THE MOST
22 APPROPRIATE SENTENCE?

23 A IF THE WHAT?

24 Q IF THE FACTS IN THE CASE DICTATED THAT
25 WAS THE MOST APPROPRIATE SENTENCE?

1 A I COULD.

2 Q YOU COULD?

3 A I MEAN, THE APPROPRIATE PUNISHMENT FOR
4 THE CRIME.

5 Q YES, MA'AM. THAT'S WHAT I'M ASKING.

6 A YES, SIR.

7 Q THANK YOU.

8 THE COURT: ALL RIGHT, MS. GEORGE, IF
9 YOU'D STEP OUT JUST A MINUTE AND LET ME...DON'T GO
10 ANYWHERE NOW. I'VE GOT TO TALK ABOUT SOMETHING.

11 A I'M GOING TO RUN AWAY.

12 (JUROR IS EXCUSED FROM THE OPEN
13 COURTROOM)

14 IN-CAMERA:

15 THE COURT: ALL RIGHT, THE STATE SAYS
16 SHE'S QUALIFIED. MR. SWERLING?

17 MR. SWERLING: JUDGE, I'D HAVE TO MOVE
18 THAT SHE BE CHALLENGED FOR CAUSE. THIS IS PROBABLY
19 THE FIRST ONE WE'VE ASKED FOR, BUT THE SITUATION AS
20 I UNDERSTAND IT, WHICH HAPPENS SO OFTEN IN THESE
21 KIND OF SITUATIONS WHEN JURORS ARE PUT TO THIS KIND
22 OF QUESTIONING, SOME JURORS EQUATE A FINDING OF
23 GUILT WITH WHAT THE PUNISHMENT OUGHT TO BE AND NOT
24 THE SECOND STAGE OF THE TRIAL WHERE THERE'S A WHOLE
25 SECOND TRIAL. I MEAN, I THINK SHE WAS PRETTY CLEAR

1 WHEN I ASKED HER THE QUESTION. IT WASN'T A TRICK
2 QUESTION. IT WAS GENERALLY STATED. IF SHE FOUND
3 HIM GUILTY, SHE THOUGHT...WITH AGGRAVATION...THAT
4 SHE THOUGHT THAT THE PENALTY OUGHT TO BE DEATH.

5 THE COURT: WELL, YOU SEE, THIS IS
6 WHERE I...I'M NOT GOING TO SAY "PUT OUT WITH
7 Y'ALL"...I'M GOING TO SAY HERE'S THE PROBLEM. I
8 TOOK HER THROUGH THE PROCESS PROPERLY. I TOLD HER
9 SHE HAD TO HAVE A CONVICTION PLUS AN AGGRAVATING
10 CIRCUMSTANCE AND COULD CONSIDER MITIGATING AND THEN
11 WHEN SHE DELIBERATED COULD SHE CONSIDER LIFE AND
12 COULD SHE CONSIDER DEATH AND SHE TOLD ME SHE COULD.
13 NOW, I UNDERSTAND WHAT YOUR POSITION IS, IS THAT
14 THERE ARE A LOT OF PEOPLE WHO SAY, FIRST OF
15 ALL...AND I WOULD TEND TO BUY THAT ARGUMENT HAD SHE
16 FIRST OF ALL GAVE YOU THE "EYE FOR AN EYE AND A
17 TOOTH FOR A TOOTH" ANSWER, BUT SHE DIDN'T GIVE YOU
18 THAT. SHE GAVE YOU THE TURN OF THE CHEEK
19 ANSWER...OR GAVE THE SOLICITOR THAT. AND THEN SHE
20 DIDN'T SAY...REALLY, WHAT I THOUGHT YOU WERE BOTH
21 HEADING -- THIS IS WHAT WE DUELED OVER A LITTLE BIT
22 EARLIER TODAY -- THERE ARE A LOT OF PEOPLE THAT
23 WALK IN HERE AND SAY, "BY GEORGE, IT'S A MURDER AND
24 I'M FOR THE DEATH PENALTY," AND I THOUGHT THAT'S
25 WHERE YOU WERE SETTING HER UP AT. BUT SHE'S GONE

1 BEYOND THAT. IT'S NOT JUST A MURDER AND THEN THE
2 DEATH PENALTY. I MEAN, SHE'S...BUT SEE, Y'ALL
3 PHRASED IT SUCH -- AND HERE'S WHERE IT'S TANGLED
4 HER UP -- IS AS IF AT THE GUILTY STAGE, GUILT
5 STAGE, YOU HAVE PROVEN MURDER PLUS AN AGGRAVATING
6 CIRCUMSTANCE, AND THAT'S NOT THE CASE. ALL WE'RE
7 DETERMINING WHETHER OR NOT IT'S GUILT OR INNOCENCE
8 OF MURDER AND ANY OTHER CRIMES CHARGED. BUT YOU'VE
9 STILL GOT TO PROVE THE AGGRAVATING CIRCUMSTANCES.
10 I THINK SHE UNDERSTANDS THAT...

11 MR. SWERLING: JUDGE, I THINK THAT
12 THAT EVEN GOES TO SPEAK WHAT I...SUPPORTS MY
13 ARGUMENT EVEN MORE. SHE IS SAYING THAT IF SHE GETS
14 TO THE POINT WHERE SHE FINDS MURDER WITH AN
15 AGGRAVATING CIRCUMSTANCE, IN OTHER WORDS MAKES A
16 FINDING OF GUILTY WITH AN AGGRAVATING CIRCUMSTANCE
17 THEN DEATH IS APPROPRIATE. THIS JUROR DOESN'T EVEN
18 GET TO THE SECOND STAGE.

19 THE COURT: WELL, SEE, THAT'S WHY I
20 LIKE MY QUESTIONS. I NOTE YOUR OBJECTION. I FIND
21 HER QUALIFIED.

22 I CAN TELL YOU BEFORE THE NEXT JUROR
23 COMES IN HERE THAT HE'S COMING IN HERE WITH AN
24 EXCUSE. SO, WE MIGHT AS WELL HEAR THAT FIRST
25 BEFORE WE GET TO THE...BRING MR. GRAHAM...OH, NO,

1 BRING MS. GEORGE BACK IN HERE AND LET ME...

2 (JUROR IS RETURNED TO THE OPEN
3 COURTROOM)

4 THE COURT: MS. GEORGE?

5 A YES, SIR?

6 THE COURT: I FIND YOU QUALIFIED TO AT
7 LEAST BE PUT IN THE POOL FOR PURPOSES OF
8 CONSIDERATION FOR THE JURY. I WOULD ASK YOU TO
9 PLEASE COME BACK TOMORROW AT 2:30 PACKED AND BE
10 READY TO GO TO NEWBERRY IN THE EVENT THAT YOU ARE
11 SELECTED TO SERVE. NOW...AND IF YOU ARE, WE WILL
12 BE THERE APPROXIMATELY TEN DAYS. SLED WILL PROVIDE
13 FOR YOUR SECURITY AND TRANSPORTATION. NEWBERRY
14 COUNTY WILL PAY FOR YOUR FOOD AND LODGING AND THAT
15 SORT OF THING. PLEASE DON'T DISCUSS THE CASE WITH
16 ANYONE OR ALLOW ANYONE TO DISCUSS IT WITH YOU.
17 DON'T READ, LISTEN, OR WATCH ANY ACCOUNT OF THE
18 TRIAL.

19 NOW, YOU CAN MAKE YOUR BEST EFFORT TO
20 TRY TO TAKE CARE OF YOUR DRIVER'S LICENSE THING
21 TOMORROW, BUT IF THAT DOESN'T WORK BRING THE FORM
22 WITH YOU, JUST IN CASE YOU GET SELECTED, AND WE'LL
23 TAKE CARE OF IT IN NEWBERRY.

24 A OKAY. BE HERE AT...?

25 THE COURT: TWO-THIRTY.

1 A TWO-THIRTY.
2 THE COURT: AND I SUGGEST YOU HAVE
3 SOMEBODY DROP YOU OFF RATHER THAN DRIVE YOUR CAR,
4 IF YOU COULD.
5 A YEAH, I WAS THINKING ABOUT THAT.
6 THE COURT: OKAY. WHATEVER'S
7 CONVENIENT FOR YOU. BUT NOW IF THEY DROP YOU OFF,
8 BE SURE THEY CAN COME BACK AND GET YOU IN CASE YOU
9 DON'T GO. ALL RIGHT?
10 A OKAY.
11 THE COURT: OKAY. SEE YOU AT 2:30
12 TOMORROW.
13 THE COURT: MR. GRAHAM?
14 LET ME MAKE SURE MY MATH'S RIGHT.
15 I'VE BEEN TRYING TO BE KIND OF LIBERAL ABOUT THIS
16 THING. WE NEED TWELVE JURORS PLUS...AND THEN TO
17 GET THOSE TWELVE THE STRIKES ARE TEN AND FIVE. SO,
18 IF EVERYBODY USED THEIR TEN AND FIVE, THAT WOULD BE
19 FIFTEEN. SO, WE NEED TWENTY-SEVEN. THEN WE GO TO
20 THE ALTERNATE. WE'D HAVE TO HAVE TWO ALTERNATES.
21 STRIKES ARE TWO AND ONE. TWO ALTERNATES WOULD
22 BE...TWO AND ONE...WE'VE GOT TO HAVE THIRTY-FIVE NO
23 MATTER WHAT.
24 MR. SWERLING: MINIMUM OF THIRTY-FIVE.
25 THE COURT: SIR?