

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Newberry County

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

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S.C. Supreme Court

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 WE'RE NOT EATING LUNCH. I'VE GOT JURORS COMING.
2 WE'VE GOT TWENTY-FOUR...WE'VE GOT TWENTY-THREE. DO
3 YOU WANT TO TAKE A SHORT BREAK?

4 MR. HARPOOTLIAN: DO YOU MIND IF WE
5 EAT IN HERE?

6 THE COURT: WE MIGHT COULD ORDER...WE
7 MIGHT COULD DO SOMETHING LIKE THAT.

8 MR. HARPOOTLIAN: I COULD SEND
9 SOMEBODY TO GO GET SOMETHING FROM ARBY'S FOR US OR
10 WHATEVER.

11 THE COURT: WE MIGHT COULD DO
12 SOMETHING LIKE THAT.

13 (COURT IS RECESSED)

14 (COURT IS RECONVENED)

15 THE COURT: IF YOU'LL RAISE YOUR RIGHT
16 HAND, PLEASE?

17 JANIE SMITH, BEING CALLED
18 AND DULY SWORN, TESTIFIES AS FOLLOWS:

19 THE COURT: ALL RIGHT, MA'AM, IF
20 YOU'LL STEP UP AND HAVE A SEAT, PLEASE? AND MS.
21 SMITH, I NEED TO ASK EACH JUROR WHETHER OR NOT YOU
22 HAVE SEEN, READ, OR HEARD ANY ACCOUNT OF THIS TRIAL
23 OR DISCUSSED IT WITH ANYONE SINCE MONDAY?

24 A NO, SIR.

25 THE COURT: OKAY. AND DID YOU GET A

1 CHANCE TO READ MY LETTER MONDAY?

2 A YES, SIR.

3 THE COURT: OKAY. AND SO YOU
4 UNDERSTAND THAT THE STATE IS SEEKING THE DEATH
5 PENALTY AND BY REASON OF THAT FACT THE ATTORNEYS
6 AND I GET TO ASK YOU SOME QUESTIONS ABOUT SOME OF
7 YOUR RELEVANT BELIEFS?

8 A YES, SIR.

9 THE COURT: ALL RIGHT. THERE ARE NO
10 RIGHT OR WRONG ANSWERS AND THERE ARE NO...NO ONE'S
11 HERE TO CHALLENGE YOU. WE JUST NEED TO KNOW, ON
12 CERTAIN SPECIFIC ISSUES, WHAT FEELINGS YOU MIGHT
13 HAVE. ALL RIGHT?

14 HAVE YOU FORMED OR EXPRESSED ANY
15 OPINION AS TO THE GUILT OR INNOCENCE OF STEPHEN
16 BECKHAM, THE DEFENDANT IN THIS CASE?

17 A NO, SIR.

18 THE COURT: DO YOU KNOW ANYTHING ABOUT
19 THE FACTS OF THE CASE?

20 A NO, SIR.

21 THE COURT: ARE YOU FAMILIAR WITH THE
22 LEGAL PRINCIPLE THAT A CITIZEN ACCUSED OF A CRIME
23 IS PRESUMED INNOCENT OF THAT CRIME UNTIL AND UNLESS
24 THE STATE ESTABLISHES THEIR GUILT BEYOND A
25 REASONABLE DOUBT?

1 A YES, SIR.

2 THE COURT: IS THAT A PRINCIPLE OF LAW
3 THAT YOU COULD ACCEPT AND FOLLOW IF YOU WERE A
4 JUROR IN A CASE? IN OTHER WORDS, WOULD YOU MAKE
5 THE STATE PROVE ITS CHARGE AGAINST A DEFENDANT OR
6 WOULD YOU JUST ASSUME HE WAS GUILTY BECAUSE HE WAS
7 CHARGED?

8 A I WOULD NOT ASSUME THAT.

9 THE COURT: OKAY. SO, IN OTHER WORDS,
10 AT THIS POINT IN TIME MR. BECKHAM HAS PLED NOT
11 GUILTY TO THE CHARGE. OKAY? I NEED TO MAKE SURE
12 YOU UNDERSTAND THAT THE LAW PRESUMES THAT HE'S
13 INNOCENT AND WHAT THAT MEANS IS THAT BEFORE ANY
14 CONVICTION CAN BE RETURNED, EVEN THOUGH HE'S BEEN
15 CHARGED, THE STATE HAS TO PROVE WHAT IT SAYS. DO
16 YOU UNDERSTAND THAT?

17 A YES, SIR.

18 THE COURT: CAN YOU FOLLOW THOSE
19 PRINCIPLES?

20 A YES, SIR.

21 THE COURT: OKAY. THE REASON THAT I'M
22 ASKING YOU SOME...A LITTLE BIT OF ABOUT THAT HAS TO
23 DO WITH THE FACT THAT WE'RE GOING TO DISCUSS
24 PENALTIES WITH YOU A FEW MINUTES AND I WANT TO BE
25 SURE THAT THE FACT THAT WE TALK ABOUT DEATH PENALTY

1 OR LIFE IMPRISONMENT, THAT YOU DON'T INFER OR IMPLY
2 THAT MR. BECKHAM IS GUILTY OF ANYTHING AT THIS
3 POINT. CAN YOU DO THAT?

4 A YES, SIR.

5 THE COURT: OKAY. NOW...HAVE YOU BEEN
6 ON A JURY BEFORE?

7 A NO, SIR.

8 THE COURT: OKAY. IN OUR CRIMINAL
9 JUSTICE SYSTEM, WHEN WE HAVE A JURY TRIAL, A JURY
10 OF TWELVE MEN AND WOMEN ULTIMATELY MAKE ONE
11 DECISION IN MOST CASES AND THAT IS WHETHER OR NOT A
12 DEFENDANT IS GUILTY OR NOT GUILTY OF THE CRIME
13 CHARGED. OKAY? IF HE'S NOT GUILTY HE'S RELEASED
14 FROM THE CHARGES. IF A JURY FINDS A DEFENDANT
15 GUILTY THEN HE'S BROUGHT AROUND AND HE HAS TO STAND
16 IN FRONT OF A JUDGE AND THE JUDGE SENTENCES HIM
17 ACCORDING TO WHATEVER THE STATUTE PROVIDES. ARE
18 YOU FAMILIAR WITH THAT CONCEPT?

19 A YES, SIR.

20 THE COURT: ALL RIGHT. NOW, IN A
21 DEATH PENALTY CASE, WHERE THE STATE SEEKS THE DEATH
22 PENALTY, A JURY IS CHARGED WITH TWO ULTIMATE
23 RESPONSIBILITIES. THE SAME ONE AS IN ALL CASES,
24 FIRST OF ALL THEY'VE GOT TO DETERMINE WHETHER OR
25 NOT A DEFENDANT IS GUILTY OR NOT GUILTY OF MURDER.

1 THAT'S THE FIRST THING THEY'VE GOT TO DO. NOT
2 GUILTY, THEN THE PROCEEDINGS STOP AND HE DOESN'T
3 FACE...HE'S RELEASED FROM THE CHARGES.

4 ON THE OTHER HAND, IF THE JURY FINDS A
5 DEFENDANT GUILTY OF MURDER THEN WE GO TO A SECOND
6 TRIAL -- THEY'RE BOTH IN CLOSE PROXIMITY OF EACH
7 OTHER -- WHEREIN THE STATE PRESENTS EVIDENCE OF
8 AGGRAVATING CIRCUMSTANCES, THINGS THAT THEY CONTEND
9 MAKE THE CRIME WORSE AND FOR WHICH THEY'RE ASKING
10 THE DEATH PENALTY TO BE IMPOSED. THERE MAY BE
11 EVIDENCE OF MITIGATION IN THE CASE OFFERED, THAT IS
12 THINGS ABOUT THE DEFENDANT OR VARIOUS THINGS ABOUT
13 IT THAT WOULD SAY THAT, "NO, THE DEATH PENALTY IS
14 NOT THE APPROPRIATE PUNISHMENT, LIFE IMPRISONMENT
15 IS." DO YOU FOLLOW ME?

16 A YES, SIR.

17 THE COURT: OKAY. NOW...AND OF
18 COURSE, ULTIMATELY, THE SECOND ULTIMATE
19 RESPONSIBILITY OF THE JURY IS TO CHOOSE WHETHER OR
20 NOT LIFE IS THE APPROPRIATE PUNISHMENT OR DEATH IS
21 THE APPROPRIATE PUNISHMENT.

22 NOW, WE KNOW FROM EXPERIENCE THAT
23 JURORS FALL INTO THREE CATEGORIES WHEN THEY ARE PUT
24 INTO THAT SITUATION OF DETERMINING WHAT THE
25 APPROPRIATE SENTENCE IS. GENERALLY SPEAKING THERE

1 IS ONE TYPE OF JUROR WHO SAYS, "WE'VE GOT A
2 CONVICTION FOR MURDER IN THE GUILT PHASE. WE HAVE
3 EVIDENCE OF AGGRAVATING CIRCUMSTANCES BEYOND A
4 REASONABLE DOUBT IN THIS PHASE. AND IT DOESN'T
5 MATTER WHETHER WE HAVE MITIGATION, I BELIEVE THAT
6 THE DEATH PENALTY IS ALWAYS THE APPROPRIATE
7 PUNISHMENT FOR THIS AND I VOTE FOR DEATH." OKAY?
8 THAT'S ONE TYPE OF JUROR.

9 WE HAVE A SECOND JUROR WHO SAYS, "IT'S
10 TRUE, WE'VE GOT A CONVICTION FOR MURDER IN THE
11 GUILT PHASE AND WE HAVE EVIDENCE OF AGGRAVATING
12 CIRCUMSTANCES. WE MAY OR MAY NOT HAVE EVIDENCE OF
13 MITIGATING CIRCUMSTANCES, BUT I BELIEVE THAT LIFE
14 IMPRISONMENT IS THE APPROPRIATE PUNISHMENT FOR THIS
15 TYPE OF OFFENSE, THEREFORE I VOTE FOR LIFE." THE
16 SECOND TYPE OF JUROR.

17 THE THIRD TYPE OF JUROR IS ONE WHO
18 SAYS, "YES, WE HAVE A CONVICTION FOR MURDER. WE
19 HAVE AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY NOT
20 HAVE MITIGATING CIRCUMSTANCES, BUT I WANT TO LOOK
21 AT THIS CASE SPECIFICALLY AND I WANT TO EVALUATE
22 ALL OF THE EVIDENCE AND THE LEGAL PRINCIPLES AND I
23 WANT TO CONSIDER LIFE, CONSIDER DEATH, AND THEN
24 I'LL CHOOSE WHICH IS THE APPROPRIATE PUNISHMENT IN
25 THIS CASE."

1 IF YOU HAD TO SAY WHICH CATEGORY YOU
2 MIGHT FALL IN, WHICH ONE WOULD YOU CHOOSE?

3 A I DON'T KNOW WHETHER I COULD PUT
4 ANYBODY TO DEATH OR NOT.

5 THE COURT: WELL, LET ME ASK YOU THIS
6 JUST A MINUTE. IF YOU LOOKED AT A CASE WHERE THERE
7 WAS A MURDER PLUS AGGRAVATING CIRCUMSTANCES AND
8 MAYBE, MAYBE NOT, MITIGATING CIRCUMSTANCES AND YOU
9 FELT THAT A LIFE SENTENCE WAS THE APPROPRIATE
10 SENTENCE, COULD YOU VOTE TO IMPOSE A LIFE SENTENCE?
11 COULD YOU DO THAT?

12 A UH-HUH. (YES).

13 THE COURT: ALL RIGHT. NOW, OUR
14 STATUTORY SCHEME IN THIS STATE SAYS THAT IF THE
15 STATE PROVES A MURDER PLUS AN AGGRAVATING
16 CIRCUMSTANCE BEYOND A REASONABLE DOUBT, THAT A JURY
17 IS AUTHORIZED OR PERMITTED TO IMPOSE THE DEATH
18 PENALTY. THEY CAN ALSO IMPOSE A LIFE SENTENCE.
19 THEY HAVE BOTH OPTIONS. BUT THEY'RE AUTHORIZED TO
20 DO THAT. IF ON A CASE THAT YOU WERE SITTING AND
21 YOU FELT ON THE WHOLE THAT THE DEATH PENALTY WAS
22 THE MORE APPROPRIATE PUNISHMENT THAN LIFE, COULD
23 YOU CONSIDER VOTING TO IMPOSE IT?

24 A I DON'T KNOW. I JUST DON'T.

25 THE COURT: YOU MEAN AT THIS TIME

1 BASED ON THE FACT THAT YOU DON'T HAVE FACTS, CASE-
2 SPECIFIC FACTS?

3 A NO.

4 THE COURT: WELL, OBVIOUSLY THE
5 HANDICAP WE ALL HAVE IS, IS THAT WE'RE NOT
6 PERMITTED TO TALK ABOUT THE FACTS BECAUSE WE DON'T
7 ALL KNOW WHAT THEY ARE YET. SO, WHAT WE'RE HAVING
8 TO DO IS SCREEN JURORS AHEAD OF TIME WHO SAY THAT
9 THEY CAN CONSIDER BOTH OPTIONS AND UNDER THE
10 APPROPRIATE CIRCUMSTANCES THEY COULD IMPOSE EITHER
11 OPTION. THAT'S ESSENTIALLY WHAT WE'RE ASKING HERE.
12 COULD YOU DO THAT?

13 A I STILL DON'T THINK I CAN IMPOSE THE
14 DEATH PENALTY.

15 THE COURT: UNDER ANY SET OF
16 CIRCUMSTANCES? AND YOU...IF YOU WERE REQUIRED TO
17 SIGN YOUR NAME TO A SENTENCING SHEET WHEREIN THE
18 DEATH SENTENCE WAS VOTED ON BY THE JURY WHICH YOU
19 WERE A MEMBER, COULD YOU SIGN YOUR NAME TO THE
20 SHEET?

21 A FOR THE DEATH SENTENCE?

22 THE COURT: YES.

23 A NO.

24 THE COURT: SOLICITOR?

25 MR. JONES: YES.

1 DIRECT EXAMINATION:
2 BY MR. JONES:
3 Q HELLO, MS. SMITH.
4 A HELLO.
5 Q GOOD AFTERNOON AND THANK YOU FOR BEING
6 SO PATIENT WITH US. MY NAME IS TOWNES JONES AND
7 I'M THE PROSECUTOR IN THIS CASE. YOU TOLD THE
8 JUDGE THAT YOU DIDN'T THINK YOU COULD IMPOSE THE
9 DEATH PENALTY, BUT WOULD YOU DESCRIBE YOUR
10 FEELING'S MORE HESITATION ABOUT THAT SITUATION THAN
11 IN A FIRM CONVICTION ABOUT IT? THERE'S A GOOD BIT
12 OF HESITATION THAT YOU'VE GOT THERE.
13 A I FEEL THAT THERE ARE OTHER
14 PUNISHMENTS OTHER THAN THE DEATH PENALTY THAT WOULD
15 BE...OF COURSE IT'S NOT GOING TO BE AS EFFECTIVE AS
16 THE DEATH PENALTY, BUT THAT WOULD BE EFFECTIVE.
17 Q WHAT DID YOU SAY? THAT IT'S NOT GOING
18 TO BE AS EFFECTIVE AS IF IT'S THE DEATH PENALTY?
19 A WELL, I MEAN IT WON'T EFFECT THEM IF
20 THEY'RE DEATH, THEIR FEELINGS. I'M SAYING THERE'S
21 OTHER PUNISHMENT THAT I FEEL COULD BE IMPOSED OTHER
22 THAN DEATH. I DO NOT BELIEVE IN IT.
23 Q THANK YOU, MA'AM.
24 THE COURT: MR. HARPOOTLIAN?
25 MR. HARPOOTLIAN: JUST A FEW

1 QUESTIONS.

2 CROSS-EXAMINATION:

3 BY MR. HARPOOTLIAN:

4 Q MA'AM, MY NAME'S DICK HARPOOTLIAN AND
5 I REPRESENT STEPHEN BECKHAM, THE GENTLEMAN RIGHT
6 HERE, WHO'S ON TRIAL, ALONG WITH JACK SWERLING.
7 THIS...AND I DON'T WANT BY ANY MEANS TO THINK
8 BECAUSE WE'RE TALKING ABOUT PUNISHMENT SO MUCH
9 WE'RE IN ANY WAY CONCEDED THAT WE'D EVER GET TO
10 THAT STAGE OF THE TRIAL. DO YOU UNDERSTAND THERE
11 WOULD BE, AS THE JUDGE HAS EXPLAINED TO YOU, THERE
12 WOULD BE A TRIAL ON GUILT OR INNOCENCE BEFORE WE
13 EVER EVEN WOULD POSSIBLY GET TO THAT SECOND STAGE.

14 YOU HAVE EXPRESSED THAT -- AND LET ME
15 UNDERSTAND THIS AND LET ME JUST CUT TO THE CHASE --
16 YOU WOULD NEVER GIVE THE DEATH PENALTY? IS THAT
17 WHAT YOU'RE TELLING US?

18 A RIGHT.

19 Q OKAY. I THINK I REMEMBER YOU...WE HAD
20 A LITTLE CONVERSATION, YOU AND I, YOU HAVE AN
21 ELDERLY MOTHER WHO YOU CARE FOR, IS THAT CORRECT?

22 A CORRECT.

23 Q AND YOU OBVIOUSLY DID NOT WANT TO BE
24 HERE, I DON'T THINK ANYBODY REALLY WANTS TO BE
25 HERE, BUT YOU REALLY HAVE SOME PERSONAL PROBLEMS

1 THAT REALLY MAKE IT DIFFICULT FOR YOU TO BE HERE?
2 A YES, SIR.
3 Q AND YOU'VE BEEN WAITING HERE FOR HOW
4 MANY DAYS NOW? I'VE LOST COUNT. THIS IS
5 WEDNESDAY. SO, YOU'VE BEEN SINCE MONDAY IN AND
6 OUT?
7 A UH-HUH. (YES).
8 Q YOU'VE BEEN HERE A LONG TIME THIS
9 MORNING?
10 A YES, SIR.
11 Q AND HAVE YOU BEEN BACK IN A JURY ROOM
12 WITH SEVERAL JURORS?
13 A YES, SIR.
14 Q AND I GUESS NOBODY REALLY WANTS TO BE
15 HERE, DO THEY?
16 A NO, NOT REALLY.
17 Q AND EVERYBODY'S PROBABLY COMPLAINING
18 BY NOW ABOUT BEING HERE SO LONG?
19 A ABOUT THE TIME INVOLVED, YES, SIR.
20 Q ABOUT THE TIME INVOLVED.
21 A UH-HUH. (YES).
22 Q AND I GUESS NOBODY'S REAL EXCITED
23 ABOUT GOING DOWN TO NEWBERRY FOR A COUPLE OF WEEKS
24 ON A TRIAL LIKE THIS, ARE THEY?
25 A SOME WERE WILLING TO.

1 Q RIGHT.

2 A YOU KNOW, WHATEVER THEY HAVE TO DO.

3 Q RIGHT. AND THEN SOME HAVE
4 DIFFICULTIES, LIKE YOU?

5 A RIGHT.

6 Q BUT NOBODY'S SAYING, "BOY I REALLY
7 HOPE I GET PICKED," AND...

8 A NO, I HAVEN'T HEARD THAT.

9 Q YOU HAVEN'T HEARD THAT. HAVE YOU
10 HEARD ANYBODY TALKING ABOUT THAT THIS IS A DEATH
11 PENALTY CASE BACK THERE IN THE JURY ROOM? HAVE
12 THEY BEEN TALKING ABOUT HOW SERIOUS THIS CASE IS?

13 A IT WAS MENTIONED BUT NO OPINION WAS
14 FORMED OR NOTHING WAS EVER SAID AFTER THAT.

15 Q AND I GUESS WHEN YOU'RE BACK THERE
16 TALKING ABOUT HOW SERIOUS IT IS, A DEATH PENALTY
17 CASE, ANYBODY EVER SAY THEY'D EVER BEEN ON A DEATH
18 PENALTY JURY BEFORE?

19 A NO.

20 Q DID ANYBODY BACK THERE EXPRESS THE
21 FACT THAT YOU HAD TO BELIEVE IN THE DEATH PENALTY
22 TO BE ON THIS JURY?

23 A NO, SIR.

24 Q NO ONE'S TALKING ABOUT THAT? NO ONE'S
25 TALKING ABOUT...

1 MR. JONES: YOUR HONOR, HE'S ASKED
2 THIS QUESTION. HE'S IN AN AREA NOW...IF YOU WANT
3 TO QUERY THESE JURORS ABOUT ANYTHING I THINK YOU'D
4 BE THE MORE APPROPRIATE PERSON TO CONDUCT THAT
5 INQUIRY.

6 THE COURT: WELL, HE WAS DOING FINE.
7 I WAS JUST GOING TO GIVE HIM A LITTLE BIT MORE
8 ROPE.

9 MR. JONES: THAT'S FINE. GO AHEAD.

10 THE COURT: AND THEN WE'LL SOLVE THE
11 PROBLEM.

12 MR. JONES: OKAY. GO AHEAD.

13 Q SITTING BACK THERE IN THE JURY ROOM,
14 HOW LONG HAVE YOU BEEN BACK THERE TODAY?

15 A SINCE 11:00.

16 Q OKAY. AND WERE YOU THERE YESTERDAY
17 ALSO?

18 A NO, SIR.

19 Q OKAY. SO, YOU HAVEN'T BEEN BACK SINCE
20 MONDAY?

21 A RIGHT.

22 Q I GUESS WHILE YOU'VE BEEN OUT AND
23 ABOUT, HAVE YOU TOLD PEOPLE THAT YOU MAY BE
24 AWAY...HAVE YOU BEEN TRYING TO FIND SOME WAY TO GET
25 YOUR MOTHER TAKEN CARE OF WHILE YOU PERHAPS ARE OUT

1 OF TOWN?

2 A WELL, IT'S NOT THE FACT OF ME TRYING
3 TO FIND SOMEONE. IT'S MY MOTHER NOT WANTING
4 ANYONE.

5 Q OKAY.

6 A I'VE HAD THAT PROBLEM FOR AWHILE.

7 Q OKAY. DID YOU AND YOUR MOM TALK ABOUT
8 THAT?

9 A JUST BRIEFLY. SHE'S WORRIED, YOU
10 KNOW. SHE'S ALREADY GETTING INTO A WORRIED STAGE
11 BECAUSE SHE DOESN'T KNOW WHAT MY FUTURE'S GOING TO
12 BE FOR A FEW WEEKS.

13 Q RIGHT. I GUESS WHAT I'M TRYING TO GET
14 TO IS IF YOU AND THIS OPPOSITION TO THE DEATH
15 PENALTY, HAVE YOU HAD A CHANCE TO TALK TO ANYBODY
16 ABOUT THAT IN THE LAST COUPLE OF DAYS?

17 A NO, SIR.

18 Q HAS ANYBODY IN THE JURY ROOM BEEN
19 TALKING ABOUT THAT?

20 A (SHAKES HEAD NEGATIVE)

21 MR. HARPOOTLIAN: YOUR HONOR, THAT'S
22 ALL I HAVE UNLESS YOU HAVE ANY FURTHER QUESTIONS.

23 THE COURT: ALL RIGHT, MS. SMITH, YOU
24 HAVE TO BE ABLE TO CONSIDER BOTH OPTIONS AND IMPOSE
25 BOTH OPTIONS. SO, BASED ON THE FACT OF YOUR

1 ANSWERS I'M GOING TO EXCUSE YOU FROM SERVICE IN THE
2 CASE. ALL RIGHT? YOU'RE FREE TO GO.

3 A THANK YOU.

4 THE COURT: MS. GRALBERT? IS THAT THE
5 WAY YOU PRONOUNCE THAT NAME?

6 MR. HARPOOTLIAN: I WOULD LIKE TO PUT
7 ON THE RECORD NOW, THIS IS I THINK THE SIXTH,
8 SEVENTH...?

9 CLERK: SEVENTH.

10 MR. HARPOOTLIAN: ...IN A ROW THAT'S
11 BEEN EXCUSED. FIVE...SIX OF WHICH BECAUSE OF THEIR
12 OPPOSITION OF THE DEATH PENALTY. I MEAN, IS THIS
13 JUST KISMET?

14 THE COURT: DON'T KNOW...YET.

15 MR. HARPOOTLIAN: OKAY.

16 MR. JONES: WELL, YOUR HONOR, AS FAR
17 AS THE YET IS CONCERNED, IF YOU'LL TAKE NOTE, THE
18 NEXT JUROR THAT'S COMING OUT HERE HAS SAID PRIOR TO
19 TODAY, THE FIRST DAY SHE WAS HERE, "I DON'T JUST
20 SIT IN JUDGEMENT OF OTHER PEOPLE."

21 THE COURT: I KNOW IT.

22 MR. HARPOOTLIAN: WELL, WHY DON'T WE
23 GO AHEAD AND DEAL WITH THAT?

24 THE COURT: MS. GRALBERT? HOW ARE YOU
25 DOING? HOW DO YOU PRONOUNCE YOUR NAME?

1 A GRALBERT.

2 THE COURT: GRALBERT. ALL RIGHT.

3 CLARA GRALBERT, BEING

4 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

5 THE COURT: IF YOU'D HAVE A SEAT,
6 PLEASE? MS. GRALBERT, I DON'T KNOW OF ANY WAY TO
7 EXPLAIN ALL OF THIS TO EVERY JUROR, BUT PANEL D GOT
8 CAUGHT IN THE TIME SQUEEZE YESTERDAY AND THEY
9 REALLY DID HAVE TO SPEND A LOT OF TIME. BUT THE
10 PANEL THAT YOU WERE ON, WE ASKED TO COME IN AT
11 11:00 AND WE'RE WITHIN TWO HOURS OF THE TIME THAT
12 YOU CAME IN, WHICH IS ABOUT AS FAST AS WE CAN MOVE.
13 SO I APOLOGIZE FOR THE INCONVENIENCE.

14 IN YOUR ANSWER BACK IN YOUR SHEET
15 BACK, OR ON YOUR JURY SUMMONS, TO THE EFFECT YOU
16 INDICATED THAT YOU COULD NOT SIT IN JUDGEMENT OF
17 ANY PERSON.

18 A RIGHT.

19 THE COURT: IS THAT BASED ON A
20 RELIGIOUS OR MORAL OR OTHER BASIS?

21 A WELL, THAT'S THE WAY I FEEL. I JUST
22 COULD NEVER SEND ANYBODY TO THE CHAIR.

23 THE COURT: WELL, COULD YOU DETERMINE
24 WHETHER OR NOT...SIT IN JUDGEMENT AS TO WHETHER OR
25 NOT SOMEBODY IS GUILTY OR NOT GUILTY OF A CRIME?

1 A THAT'S HARD TO SAY.

2 THE COURT: WHO DO YOU EXPECT TO DO
3 THAT IN OUR SOCIETY? IF NOT YOU, WHO?

4 A I DON'T KNOW. I MEAN, MAYBE SOME
5 PEOPLE ARE CUT OUT FOR THAT, BUT I JUST...I DON'T
6 KNOW WHAT TO SAY.

7 THE COURT: GENTLEMEN? DO YOU WANT TO
8 EXAMINE YOUR WITNESS?

9 MR. HARPOOTLIAN: WOULD YOU JUST ASK
10 HER HER OPINION AS TO THE PRESUMPTION OF INNOCENCE?
11 JUST FOR THE RECORD?

12 THE COURT: OKAY.

13 MR. HARPOOTLIAN: THAT'S THE ONLY AREA
14 I'D EVEN WANT TO KNOW ABOUT.

15 THE COURT: MS. GRALBERT, HAVE YOU
16 EVER HEARD THE PHRASE THAT THERE IS A...THAT A
17 CITIZEN ACCUSED OF A CRIME IS PRESUMED TO BE
18 INNOCENT OF THAT CRIME UNTIL THE GOVERNMENT PROVES
19 HIM GUILTY? HAVE YOU EVER HEARD OF THAT?

20 A I GUESS SO. YEAH.

21 THE COURT: IS THAT SOMETHING YOU
22 COULD BELIEVE IN?

23 A WELL, I'LL TELL YOU, I WAS BORN AND
24 RAISED IN GERMANY AND I MIGHT SPEAK ENGLISH BUT A
25 LOT OF TIMES I DON'T UNDERSTAND THE TERMS...YOU

1 KNOW, THE LEGAL TERMS...THE WAY THEY SAY THINGS.

2 THE COURT: WELL, MS. GRALBERT, YOU
3 KNOW, THE VERY FIRST JURY TRIAL THAT I HAD AS A
4 LAWYER TWENTY-SOMETHING YEARS AGO, I HAD AN
5 AMERICAN...A GERMAN NATIONALIZED CITIZEN ON MY JURY
6 AND SHE WAS THE TOUGHEST JUROR ON THERE BECAUSE
7 SHE'D JUST GONE THROUGH THE PROCESS. SHE
8 UNDERSTOOD THAT SHE WAS...BELIEVED STRONGLY IN THE
9 CONSTITUTION AND THE RIGHT TO A TRIAL BY JURY AND
10 SHE MADE A WONDERFUL JUROR.

11 A UH-HUH. (YES).

12 THE COURT: YOU DON'T SEEM TO SHARE
13 THAT SAME APPRECIATION FOR THE...

14 A NO.

15 THE COURT: ...CONSTITUTION AND THE
16 FACT THAT TRIAL BY JURY IN YOUR COUNTRY FOR A LONG
17 TIME WAS NOT EVEN AVAILABLE.

18 A NO.

19 THE COURT: ALL RIGHT. ANYTHING ELSE?

20 MR. JONES: NO QUESTIONS.

21 THE COURT: ALL RIGHT, MS. GRALBERT,
22 I'M GOING TO EXCUSE YOU FOR CAUSE FROM THE JURY.
23 YOU'RE FREE TO GO HOME.

24 A THANK YOU.

25 MR. HARPOOTLIAN: YOUR HONOR, WE'D

1 NOTE OUR PREVIOUS STATUTORY CONSTITUTIONAL
2 EXCEPTIONS.

3 THE COURT: SURE.

4 MR. HARPOOTLIAN: SHE COULD BE FAIR ON
5 THE FIRST PHASE BUT NOT ON THE SECOND. ARGUABLY.

6 THE COURT: ALL RIGHT. THANK YOU.
7 YOU'RE FREE TO GO.

8 A THANK YOU.

9 THE COURT: MR. AUSTIN. WHAT DO Y'ALL
10 THINK ABOUT HAVING THE JURY DELAYED COMING IN,
11 EXCEPT THOSE WHO ARE ALREADY GOING TO BE HERE,
12 UNTIL 3:30 OR 4:00? HOW ABOUT DELAYING THEM COMING
13 IF I CAN GET THE CLERK TO CALL THEM?

14 MR. JONES: I THINK WE SHOULD.

15 THE COURT: JACKIE, SEE IF WE CAN
16 NOTIFY AS MANY AS WE CAN AND ASK THEM NOT TO COME
17 UNTIL 4:00.

18 CLERK: YES, SIR.

19 WILLIAM AUSTIN, BEING CALLED
20 AND DULY SWORN, TESTIFIES AS FOLLOWS:

21 THE COURT: THANK YOU. IF YOU WOULD
22 HAVE A SEAT FOR JUST A MOMENT?

23 GENTLEMEN, COME OVER HERE JUST A
24 MINUTE AND LET ME TALK TO JACKIE ABOUT SOMETHING.

25 (BENCH CONFERENCE HELD IN THE PRESENCE

1 OF THE JUROR, OUT OF THE HEARING OF THE JUROR, AND
2 OFF THE RECORD)

3 THE COURT: MR. AUSTIN, HAVE YOU EVER
4 BEEN ON A JURY BEFORE?

5 A NO, I HAVEN'T.

6 THE COURT: OKAY. AND DID YOU GET A
7 CHANCE TO READ THE LETTER THAT I GAVE OUT MONDAY?

8 A YES.

9 THE COURT: AND DID YOU GENERALLY
10 UNDERSTAND WHAT WAS IN THE LETTER?

11 A YES.

12 THE COURT: OKAY. AND MR. AUSTIN,
13 HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO THE
14 GUILT OR INNOCENCE OF MR. BECKHAM, THE DEFENDANT IN
15 THIS CASE?

16 A NO, I HAVEN'T.

17 THE COURT: AND HAS ANYONE...HAVE YOU
18 READ, SEEN, OR HEARD OF ANY ACCOUNT ABOUT THE FACTS
19 OF THE CASE?

20 A I READ THE GREENVILLE NEWS, SO I READ
21 THE DEATH A COUPLE OF YEARS AGO. I REMEMBER SOME
22 OF THE DETAILS MAYBE FROM IT, BUT VERY LITTLE.

23 THE COURT: ALL RIGHT, WOULD THE FACT
24 THAT -- AND IT'S PERFECTLY ALL RIGHT TO DO THAT --
25 COULD YOU SET WHATEVER INFORMATION THAT WAS THERE

1 ASIDE AND SIT ON A JURY AND TRY THE CASE BASED ON
2 THE EVIDENCE PRESENTED TO YOU DURING THE TRIAL?

3 A SURE.

4 THE COURT: OKAY, GOOD. NOW, HAVE YOU
5 HEARD OF THE CONCEPT THAT A CITIZEN ACCUSED OF A
6 CRIME IS PRESUMED TO INNOCENT OF THAT CRIME UNTIL
7 THE GOVERNMENT PROVES HIS GUILT?

8 A CERTAINLY.

9 THE COURT: AND IS THAT A PRINCIPLE
10 THAT YOU COULD FOLLOW?

11 A BY ALL MEANS. YES, SIR.

12 THE COURT: WELL, THE REASON I NEEDED
13 TO ASK YOU ABOUT THAT IS, IS THAT WE'RE GOING TO
14 TALK ABOUT PENALTY HERE WITH YOU FOR A FEW MINUTES
15 AND I WANT TO MAKE SURE THAT YOU DON'T INFER OR
16 IMPLY THE FACT THAT THAT WE TALK ABOUT PENALTY THAT
17 MR. BECKHAM IS GUILTY OF ANYTHING AT THIS POINT.

18 A RIGHT.

19 THE COURT: ALL RIGHT. AND SO YOU
20 WON'T MAKE THAT INFERENCE?

21 A NO.

22 THE COURT: OKAY. NOW, THERE AREN'T
23 ANY RIGHT OR WRONG ANSWERS TO THE QUESTIONS AND
24 NOBODY'S HERE TO CHALLENGE WHAT YOU BELIEVE, BUT
25 THERE ARE SOME RELEVANT BELIEFS THAT YOU HAVE THAT

1 WE NEED TO KNOW ABOUT. THE FIRST THING IS THAT IN
2 OUR CRIMINAL JUSTICE SYSTEM, AND THERE'S A JURY
3 TRIAL, A JURY USUALLY HAS JUST ONE ULTIMATE
4 RESPONSIBILITY AND THAT IS TO DETERMINE WHETHER A
5 DEFENDANT IS GUILTY OR NOT GUILTY OF THE CRIME FOR
6 WHICH HE'S CHARGED. IF HE'S NOT GUILTY THEN OF
7 COURSE HE'S RELEASED FROM THE CHARGES. IF HE'S
8 GUILTY THEN HE'S BROUGHT IN FRONT OF A JUDGE AND
9 THE JUDGE SENTENCES HIM ACCORDING TO WHATEVER THE
10 STATUTE PROVIDES FOR. ARE YOU FAMILIAR WITH THAT?

11 A (NODS HEAD AFFIRMATIVE)

12 THE COURT: OKAY. NOW, WHERE THE
13 STATE SEEKS THE DEATH PENALTY, THAT IS THE ONLY
14 EXCEPTION TO THE GENERAL PRINCIPLE THAT THE JURY
15 ONLY CONSIDERS GUILT, THE JUDGE SENTENCES. WHERE
16 THE DEATH PENALTY IS SOUGHT, THE JURY HAS TWO
17 ULTIMATE RESPONSIBILITIES. NUMBER ONE, FIRST OF
18 ALL IT HAS TO DETERMINE WHETHER OR NOT A DEFENDANT
19 IS GUILTY OR NOT GUILTY OF THE CRIME OF MURDER. IF
20 IT MAKES THE DETERMINATION OF NOT GUILTY THEN OF
21 COURSE THE CASE ENDS. BUT, IF IT FINDS A DEFENDANT
22 GUILTY OF MURDER BEYOND A REASONABLE DOUBT THEN WE
23 GO TO ESSENTIALLY A SECOND TRIAL. AND IN THAT
24 TRIAL THE JURY DETERMINES THE SENTENCE, RATHER THAN
25 THE JUDGE, AND THEY HAVE THE CHOICE OF EITHER LIFE

1 OR DEATH. DURING THAT SECOND PROCEEDING, OF COURSE
2 YOU ALREADY KNOW THAT THERE WAS A CONVICTION FOR A
3 MURDER, BUT THERE WOULD BE EVIDENCE PRESENTED TO A
4 JURY TO CONSIDER. EVIDENCE OF AGGRAVATING
5 CIRCUMSTANCES, EVIDENCE OF MITIGATION, THINGS LIKE
6 THAT, THAT YOU WOULD BE GIVEN TO THEN DECIDE WHAT
7 IS THE APPROPRIATE PUNISHMENT. PROCEDURALLY DO YOU
8 FOLLOW ME?

9 A YES, SIR.

10 THE COURT: OKAY. WE KNOW FROM
11 EXPERIENCE THAT THERE ARE THREE TYPES OF JURORS
12 WHO, WHEN PLACED IN THAT SITUATION, FALL GENERALLY
13 LIKE THIS. THE FIRST JUROR SAYS, "WE CONVICTED HIM
14 OF MURDER. THERE'S AGGRAVATING CIRCUMSTANCES
15 PROVED BEYOND A REASONABLE DOUBT. IT DOESN'T
16 MATTER ABOUT MITIGATION. I BELIEVE THAT THE DEATH
17 PENALTY IS THE APPROPRIATE PUNISHMENT AND I WOULD
18 ALWAYS VOTE FOR DEATH." OKAY? THAT'S ONE TYPE OF
19 JUROR.

20 THE SECOND TYPE OF JUROR IS, "IT'S
21 TRUE, WE CONVICTED HIM OF MURDER. WE HAVE
22 AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY NOT HAVE
23 MITIGATING CIRCUMSTANCES, BUT I BELIEVE THAT LIFE
24 IMPRISONMENT IS ALWAYS THE APPROPRIATE PUNISHMENT
25 FOR THIS. I VOTE FOR LIFE." THE SECOND TYPE OF

1 JUROR.

2 THE THIRD TYPE OF JUROR SAYS, "YES,
3 WE'VE GOT A CONVICTION FOR MURDER. PROOF THERE'S
4 AGGRAVATING CIRCUMSTANCES EXISTING. MAY OR MAY NOT
5 HAVE MITIGATING CIRCUMSTANCES, BUT I WANT TO LOOK
6 AT THIS WHOLE...AT THIS CASE SPECIFICALLY AND AT
7 THIS DEFENDANT SPECIFICALLY AND ALL OTHER THINGS
8 ABOUT THE CASE SPECIFICALLY AND I'M GOING TO
9 CONSIDER A LIFE SENTENCE, I'M GOING TO CONSIDER A
10 DEATH SENTENCE AND BASED ON MY VIEW OF IT I WILL
11 DECIDE WHICH IS THE APPROPRIATE SENTENCE."

12 IF YOU HAD TO SAY WHICH CATEGORY YOU
13 MIGHT FALL IN, WHICH DO YOU THINK YOU WOULD BE?

14 A PROBABLY MORE CLOSELY TO THE THIRD
15 CATEGORY.

16 THE COURT: ALL RIGHT.

17 A WITH THE IDEA IN MIND THAT I WOULD
18 WANT TO JUDGE WHETHER THE MITIGATING CIRCUMSTANCES
19 FIT THE...WERE TRUE. IN OTHER WORDS, ALL THAT.

20 THE COURT: OKAY.

21 A IN OTHER WORDS, WHAT BEARING DO THEY
22 HAVE ON IT AND ALL OF THAT.

23 THE COURT: SURE. AND OF COURSE UNDER
24 OUR LAW IN THIS STATE, MR. AUSTIN, A JURY IS
25 PERMITTED TO RETURN A LIFE SENTENCE IN THE RECORD,

1 WHETHER OR NOT THERE'S MITIGATING CIRCUMSTANCES OR
2 NOT, IF THAT'S THEIR VIEW OF THE CASE. DO YOU
3 UNDERSTAND YOU HAVE THAT OPTION?

4 A RIGHT.

5 THE COURT: AND COULD YOU FOLLOW THAT
6 OPTION IF YOU THOUGHT THAT WAS THE APPROPRIATE
7 THING?

8 A YES.

9 THE COURT: OKAY. NOW, IF YOU LOOKED
10 AT THE CASE, CONSIDERING THE MURDER PLUS THE
11 AGGRAVATING CIRCUMSTANCES PLUS ANY MITIGATING
12 CIRCUMSTANCES, THEY MAY OR MAY NOT BE THERE, AND
13 YOU THOUGHT THAT THE APPROPRIATE SENTENCE WAS A
14 LIFE SENTENCE, COULD YOU IMPOSE A LIFE SENTENCE?

15 A YES.

16 THE COURT: ALL RIGHT. ON THE OTHER
17 HAND, IF YOU TAKE THAT SAME CASE AND YOU LOOK AT IT
18 AND YOU CAME TO THE CONCLUSION THAT THE DEATH
19 PENALTY WAS THE APPROPRIATE PUNISHMENT, COULD YOU
20 THEN VOTE TO IMPOSE THE DEATH PENALTY?

21 A YES.

22 THE COURT: NOW, OUR LAW ALSO REQUIRES
23 THAT IF A JURY COMES TO THE CONCLUSION THAT THE
24 DEATH PENALTY IS THE APPROPRIATE PENALTY, EACH
25 JUROR MUST BE ABLE TO SIGN THEIR NAME TO THE

1 SENTENCING FORM OR THE DEATH WARRANT INDICATING
2 THAT THAT IS THEIR PERSONAL DECISION. SIR, IF YOU
3 FELT THE DEATH PENALTY WAS APPROPRIATE, COULD YOU
4 SIGN YOUR NAME?

5 A YES.

6 THE COURT: ALL RIGHT. I'M GOING TO
7 LET THE LAWYERS ASK YOU A FEW QUESTIONS.

8 A OKAY.

9 THE COURT: MR. SOLICITOR?
10 DIRECT EXAMINATION:

11 BY MR. JONES:

12 Q GOOD AFTERNOON, MR. AUSTIN.

13 A HI.

14 Q I APPRECIATE YOUR PATIENCE WITH US
15 DURING THIS PROCESS. MY NAME IS TOWNES JONES AND
16 I'M THE SOLICITOR HERE...IN GREENWOOD. I'LL BE
17 TRYING THIS CASE AS THE PROSECUTOR. THIS IS
18 MICHAEL COULTER, DEPUTY SOLICITOR AND KNOX MCMAHON,
19 THE SOLICITOR THAT WILL BE HELPING US ALSO.

20 A OKAY.

21 Q WE GOT YOUR JUROR QUESTIONNAIRE FORM
22 AND LOOKED OVER SOME. WERE YOU IN THE AIR FORCE
23 DURING THE VIETNAM WAR?

24 A YES.

25 Q AND I BELIEVE I NOTICED THAT YOU

1 BELONG TO AN ORGANIZATION INVOLVING PRISONERS OF
2 WAR?

3 A YES.

4 Q AND WERE YOU IN THAT POSITION DURING
5 YOUR SERVICE?

6 A YES.

7 Q AND SO YOU HAVE DEMONSTRATED YOUR
8 BELIEF THAT THE FREEDOMS THAT INDIVIDUALS HAVE IN
9 THIS COUNTRY, A RIGHT TO TRIAL BY JURY, A RIGHT TO
10 BE PRESUMED INNOCENT, ARE WORTH FIGHTING FOR AND
11 PERSEVERING FOR?

12 A YOU BET.

13 Q THANK YOU VERY MUCH.

14 THE COURT: MR. HARPOOTLIAN?

15 MR. HARPOOTLIAN: JUST A COUPLE OF
16 QUESTIONS.

17 CROSS-EXAMINATION:

18 BY MR. HARPOOTLIAN:

19 Q IS IT MR. AUSTIN OR DO THEY CALL YOU,
20 SINCE YOU'RE RETIRED DO YOU HAVE A RANK OF...?

21 A COLONEL.

22 Q COLONEL.

23 A MR. IS FINE. EITHER WAY.

24 Q ALL RIGHT. LET ME CALL YOU COLONEL,
25 OKAY?

1 A OKAY.

2 Q MR. SWERLING AND I ARE OLD CLEMSON
3 GRADUATES SO WE'RE USED TO THE MILITARY ADDRESS.

4 A OKAY.

5 Q COLONEL, I JUST NEED TO ASK YOU A FEW
6 QUESTIONS AND WHAT WE'RE TRYING TO DO HERE IS TO
7 FIND A JURY THAT IS FAIR AND IMPARTIAL AND ALL WE
8 WANT FROM YOU ARE HONEST ANSWERS FROM YOUR HEART,
9 NOT...SOME PEOPLE THINK THAT LAWYERS THEY WANT A
10 CERTAIN ANSWER BACK. IN THIS CONTEXT THERE ARE NO
11 RIGHT OR WRONG ANSWERS. IT'S HOW YOU REALLY FEEL.

12 A I UNDERSTAND.

13 Q WE'VE BEEN TALKING A LITTLE BIT ABOUT
14 PENALTY, BUT LET ME MAKE SURE THAT YOU UNDERSTAND
15 THAT WE, IN THIS TRIAL OR ANY TRIAL LIKE THIS, MAY
16 NEVER GET TO THAT SECOND TRIAL OF SENTENCING.

17 A I KNOW, SURE.

18 Q AS THE JUDGE HAS EXPLAINED TO YOU THIS
19 IS THE ONLY KIND OF CASE IN WHICH THE JURY ACTUALLY
20 DOES A SENTENCING HEARING OR TRIAL. IN THE NORMAL
21 CASE THE JUDGE DOES THAT. DO YOU UNDERSTAND THAT?

22 A SURE.

23 Q WHAT I'D LIKE TO KNOW, WITH YOUR...YOU
24 WERE THE COMMANDER AT SHAW AIR FORCE BASE, IS THAT
25 CORRECT?

1 A YES.

2 Q AND HOW LONG WERE YOU AT SHAW?

3 A FROM '81 TO '85. I WAS THE COMMANDER

4 IN '85.

5 Q IN '85?

6 A I WAS THE...

7 Q AND DID, AS COMMANDER OF SHAW AIR

8 FORCE BASE, DID YOU HAVE ANY INTERACTION WITH ANY

9 NATIONAL GUARD UNITS?

10 A YES. I'M TRYING TO THINK BACK BECAUSE

11 I DID STAFF ASSISTANCE VISITS WITH THEM BEFORE I

12 WAS COMMANDER, BUT I DID NOT COMMAND ANY NATIONAL

13 GUARD UNITS OR ANYTHING LIKE THAT.

14 Q SO YOU WOULD KNOW GENERAL MARCHANT,

15 ESTON MARCHANT, WHO WAS THE COMMANDER OF THE

16 NATIONAL...HE'S THE ADJUTANT GENERAL?

17 A I KNOW HIM...I'VE BEEN WITH HIM

18 SOCIALLY MAYBE TWO OR THREE TIMES, SOMETHING LIKE

19 THAT.

20 Q OKAY. HAVE YOU EVER MET A OFFICER IN

21 THE NATIONAL GUARD NAMED JIM LANDER?

22 A I DON'T BELIEVE SO.

23 Q IN YOUR POSITION IN THE MILITARY, DID

24 YOU EVER PARTICIPATE IN ANY COURT MARSHALS?

25 A NOT PER SE.

1 Q I MEAN, I'M NOT THAT FAMILIAR WITH HOW
2 THE PROCESS WORKS.

3 A NO.

4 Q DID YOU SIT ON THEM? IS THERE A BOARD
5 THEY PICK OR...

6 A AS INSTALLATION COMMANDER I WAS
7 THE...I HAD THE COURT MARSHAL AUTHORITY ON THE
8 ENTIRE BASE. SO, I WAS THE AUTHORITY.

9 Q DID YOU CONDUCT THEM OR ORDER THEM?

10 A NO. ORDERED THEM.

11 Q DID YOU EVER PARTICIPATE...

12 A NO.

13 Q OKAY. AND IN YOUR YEARS IN THE
14 MILITARY YOU'VE NEVER ACTED AS A PROSECUTOR OR A
15 DEFENSE PERSON OR SAT ON A COURT MARSHAL?

16 A NO.

17 Q THEY HAVE A BOARD, DON'T THEY?

18 A RIGHT. NO, I DIDN'T. I'VE NEVER BEEN
19 ON IT.

20 Q YOU'VE NEVER BEEN ON A JURY BEFORE?

21 A NO.

22 Q WHEN THE JUDGE WAS TALKING TO YOU JUST
23 A MOMENT AGO ABOUT THE DEATH PENALTY AND THE
24 DIFFERENT OPTIONS HERE, HE INDICATED TO YOU THAT
25 THE JURY , AS I SAID A MINUTE AGO, WOULD BE THE

1 SENTENCING AUTHORITY AND THE JURY WOULD HEAR
2 CERTAIN FACTS IN AGGRAVATION. IT WOULD HAVE TO
3 FIND WHAT WE CALL AN AGGRAVATING CONDITION OR
4 AGGRAVATING ELEMENT. IN OTHER WORDS, JUST A
5 MURDER DOES NOT QUALIFY FOR THE DEATH PENALTY.

6 A RIGHT. I UNDERSTAND.

7 Q IT WOULD HAVE TO BE MURDER PLUS SOME
8 AGGRAVATING CIRCUMSTANCE. A MURDER PLUS A RAPE. A
9 MURDER PLUS AN ARMED ROBBERY. THOSE KINDS OF
10 THINGS. THE DEFENDANT COULD INTRODUCE, BUT DOESN'T
11 HAVE TO INTRODUCE, MITIGATING CIRCUMSTANCES.

12 DO I UNDERSTAND YOU THAT YOU WOULD
13 CONSIDER...YOU'RE NOT PREDISPOSED TO GIVE THE DEATH
14 PENALTY IN EVERY CASE, ARE YOU?

15 A NO.

16 Q AND YOU'RE NOT PREDISPOSED TO GIVING
17 LIFE IMPRISONMENT IN EVERY MURDER CASE?

18 A NO.

19 Q JUST BECAUSE IT'S A MURDER IN YOUR
20 MIND, AND UNDERSTAND THAT A JURY IN THE SECOND
21 STAGE WILL ALREADY HAVE FOUND THE PERSON GUILTY OF
22 MURDER, THE ISSUE THEN BECOMES WHAT'S THE
23 APPROPRIATE PENALTY BASED ON THE FACTS, THE
24 CIRCUMSTANCES, AND THE DEFENDANT, HIS PERSONAL
25 CHARACTERISTICS.

1 A YES.

2 Q DOES THAT MAKE SENSE TO YOU?

3 A YES.

4 Q AND YOU WOULD BE WILLING TO DO THAT

5 AND UNDERSTAND THAT?

6 A RIGHT.

7 Q SEATED OVER HERE IS STEPHEN BECKHAM.

8 HOW ABOUT STAND UP, STEPHEN? HE IS THE PERSON ON

9 TRIAL HERE.

10 A OKAY.

11 Q SEATED NEXT TO HIM, AS I'VE ALREADY

12 INDICATED, IS MR. SWERLING.

13 A RIGHT.

14 Q SEATED BEHIND STEPHEN ARE HIS FAMILY

15 THAT ARE HERE WITH HIM TODAY. DO YOU KNOW ANY OF

16 US?

17 A DON'T THINK SO. I THINK I'VE SEEN

18 YOUR NAME...OR DIDN'T YOU RUN FOR POLITICAL OFFICE

19 NOT TOO LONG AGO OR SOMETHING? MAYBE I SHOULDN'T

20 HAVE BROUGHT THAT UP?

21 THE COURT: IT'S GETTING TO BE A SORE

22 SUBJECT.

23 Q IT REALLY IS GETTING TO BE A SORE

24 SUBJECT.

25 A I RECOGNIZE YOUR NAME AND THAT'S ALL.

1 I'VE SEEN YOUR PICTURE, I GUESS, IS IT.

2 Q OKAY. OTHER THAN SEEING MY PICTURE
3 AND READING MY NAME, DO YOU KNOW ANY OF THESE
4 PEOPLE?

5 A NO.

6 Q CAN YOU THINK OF ANY REASON WHY YOU
7 SHOULDN'T BE ON THIS JURY?

8 A NO.

9 Q OKAY.

10 A I STARTED TO SAY SADLY NO, BUT NO, I
11 CAN'T.

12 Q LET ME ASK MR. SWERLING IF I'VE MISSED
13 ANYTHING. I WANT TO THANK YOU FOR YOUR VERY CANDID
14 AND HONEST ANSWERS WITH ME. I HOPE I DIDN'T PUT
15 YOU ON THE SPOT OR IN ANY WAY EMBARRASS YOU.

16 A NO.

17 Q THAT WASN'T WHAT THIS WAS CALCULATED
18 TO BE.

19 A NO PROBLEM.

20 Q THANK YOU.

21 THE COURT: STATE AND DEFENSE APPROVE.
22 COLONEL AUSTIN, I FIND THAT YOU'RE QUALIFIED FOR
23 PURPOSES OF SERVING ON THIS JURY. I KNOW THIS IS
24 SHORT NOTICE, AND WE'RE RUNNING A LITTLE BIT BEHIND
25 WHERE WE MEANT TO BE. I WOULD ASK YOU TO GO HOME

1 AND PACK AND SEE IF YOU CAN BE BACK HERE BY 4:00
2 THIS AFTERNOON. IS THAT POSSIBLE?

3 A I GUESS.

4 THE COURT: OKAY. I MAY HAVE TO MOVE
5 THAT UP A LITTLE BIT. WE'RE A LITTLE SHORT OF
6 WHERE WE MEANT TO BE. SO, I WOULD SUGGEST YOU PACK
7 FOR A PERIOD UP TO TEN DAYS, COMFORTABLY, JUST LIKE
8 YOU ARE. WE'LL HAVE LAUNDRY SERVICES, SO IF YOU
9 DON'T WANT TO OVER PACK THAT'S FINE. SLED WILL
10 PROVIDE FOR YOUR SECURITY AND TRANSPORTATION AND
11 NEWBERRY COUNTY WILL PAY FOR YOUR MEALS AND LODGING
12 AND THAT KIND OF STUFF WHILE YOU'RE THERE. I WOULD
13 ASK YOU NOT TO DISCUSS THE CASE WITH ANYONE OR
14 ALLOW ANYONE TO DISCUSS IT WITH YOU OR READ, OR
15 LISTEN, OR WATCH ANY ACCOUNT UNTIL WE GET THE JURY
16 SELECTED. OKAY? ANY PROBLEMS, CONCERNS?

17 A A QUESTION I WOULD HAVE IS THAT I
18 DON'T...I WOULD PREFER NOT TO LEAVE MY CAR HERE.

19 THE COURT: ALL RIGHT.

20 A SO, DO I NEED TO HAVE SOMEBODY BRING
21 ME AND...

22 THE COURT: CAN YOU DO THAT? IF NOT,
23 I CAN MAKE SOME OTHER...

24 A OH, I CAN DO THAT.

25 THE COURT: IF YOU WOULD, THAT WOULD

1 BE HELPFUL TO US. WE'VE GOT A LIMITED NUMBER OF
2 AGENTS HERE, BUT IF YOU CAN DO THAT THAT'S FINE AND
3 WE'LL GET YOU HOME. DON'T WORRY ABOUT IT.

4 A OKAY.

5 THE COURT: ALL RIGHT.

6 A IN OTHER WORDS, I CAN COME AND SAY
7 HERE AT 4:00 AND LET THE PERSON GO ON BACK?

8 THE COURT: YEAH. THAT'S RIGHT AND
9 JUST BE ABLE TO CALL THEM BACK IN CASE YOU DON'T...

10 A AND THEN IF I DON'T GO YOU'LL GET ME
11 BACK HOME THEN?

12 THE COURT: YEAH, WE'LL DO THAT. AND
13 WE'RE A LITTLE BIT BEHIND, BUT WE'RE HOPING TO BE
14 READY BY 4:00. OKAY?

15 A OKAY.

16 THE COURT: WE'LL SEE YOU THEN.

17 THANKS.

18 LINDA PARTIN?

19 LINDA PARTIN, BEING CALLED
20 AND DULY SWORN, TESTIFIES AS FOLLOWS:

21 THE COURT: I KNOW YOU'LL BE TRUTHFUL
22 BECAUSE YOU TALKED YOURSELF INTO THIS, DIDN'T YOU?

23 NOW, MS. PARTIN, HAVE YOU EVER BEEN ON
24 A JURY BEFORE?

25 A YES, SIR.

1 THE COURT: ALL RIGHT. BUT DID YOU
2 READ THE LETTER THAT I GAVE OUT THE OTHER DAY?

3 A YES, SIR.

4 THE COURT: AND YOU BASICALLY
5 UNDERSTOOD THAT?

6 A UH-HUH. (YES).

7 THE COURT: OKAY. DO YOU REALIZE THAT
8 THE STATE IS SEEKING THE DEATH PENALTY IN THIS CASE
9 AND BY REASON OF THAT FACT THE LAWYERS AND I GET TO
10 ASK YOU SOME QUESTIONS ABOUT YOUR RELEVANT
11 FEELINGS?

12 A YES, SIR.

13 THE COURT: THERE AREN'T ANY WRONG
14 ANSWERS, RIGHT ANSWERS, THEY'RE YOUR ANSWERS. SO,
15 WE'RE NOT HERE TO CHALLENGE YOU OR PUT YOU ON THE
16 SPOT. THERE ARE SOME THINGS WE NEED TO KNOW ABOUT
17 HOW YOU FEEL.

18 HAVE YOU FORMED OR EXPRESSED ANY
19 OPINION AS TO THE INNOCENCE OR THE GUILT OF THE
20 DEFENDANT, STEPHEN BECKHAM, IN THIS CASE?

21 A NO, SIR.

22 THE COURT: OKAY. DO YOU KNOW
23 ANYTHING ABOUT THE FACTS OF THE CASE?

24 A NOT REALLY THE FACTS. I'VE JUST READ
25 IN THE PAPER THAT WE WERE GOING TO BE PICKED TO BE

1 TAKEN TO NEWBERRY, BUT NO FACTS ABOUT THE CASE.

2 THE COURT: ALL RIGHT. ARE YOU
3 FAMILIAR WITH THE LEGAL PRINCIPLE THAT A CITIZEN
4 ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT OF
5 THAT CRIME?

6 A YES, SIR.

7 THE COURT: IS THAT A PRINCIPLE OF LAW
8 THAT YOU CAN FOLLOW AS A JUROR?

9 A YES, SIR.

10 THE COURT: NUMBER ONE, THAT IS A
11 REQUIREMENT IN ORDER TO SIT AND SECONDLY, WE'RE
12 GOING TO BE TALKING ABOUT PENALTIES AND I WANT TO
13 MAKE SURE YOU DON'T INFER OR IMPLY FROM THE FACT
14 THAT WE DISCUSS PENALTY WITH YOU NOW THAT MR.
15 BECKHAM IS GUILTY OF ANYTHING. YOU WON'T DO THAT,
16 WILL YOU?

17 A NO, SIR.

18 THE COURT: OKAY. NOW, MS. PARTIN, A
19 JURY IN A CRIMINAL TRIAL NORMALLY HAS ONE ULTIMATE
20 RESPONSIBILITY. THAT IS TO DETERMINE WHETHER OR
21 NOT A DEFENDANT IS NOT GUILTY OR GUILTY OF THE
22 CRIME CHARGED. USUALLY WHEN THEY ARRIVE AT A
23 VERDICT...WHEN THEY ARRIVE AT A VERDICT OF NOT
24 GUILTY OF COURSE THE DEFENDANT IS RELEASED FROM THE
25 CHARGES. IF THEY FIND A VERDICT OF GUILTY THEN

1 HE'S BROUGHT AROUND IN FRONT OF A JUDGE AND HE'S
2 SENTENCED. NOW, THAT'S TRUE ABOUT EVERY TYPE OF
3 CASE THAT WE TRY IN THIS STATE EXCEPT ONE AND THAT
4 IS WHERE THE STATE SEEKS THE DEATH PENALTY. NOW,
5 WHEN THAT HAPPENS A JURY HAS TWO ULTIMATE
6 RESPONSIBILITIES. NUMBER ONE, THEY STILL HAVE TO
7 DETERMINE WHETHER OR NOT A DEFENDANT IS GUILTY OR
8 NOT GUILTY OF THE CRIME CHARGED. AND OF COURSE IF
9 IT'S NOT GUILTY IT GOES NO FURTHER. BUT IF THE
10 JURY FINDS THAT THE DEFENDANT IS GUILTY OF MURDER
11 THEN INSTEAD OF THE JUDGE SENTENCING, THE JURY
12 IS...WE GO TO ANOTHER PROCEEDING AND THE JURY, SAME
13 JURY, SITS AND LISTENS TO EVIDENCE OF AGGRAVATING
14 CIRCUMSTANCES, EVIDENCE OF MITIGATING CIRCUMSTANCES
15 AND THINGS ABOUT THE CASE AND THEN THEY DECIDE WHAT
16 IS THE APPROPRIATE PUNISHMENT BASED ON THE EVIDENCE
17 AND THE LAW AND THEY HAVE A CHOICE OF EITHER LIFE
18 IMPRISONMENT OR THE DEATH PENALTY. DO YOU FOLLOW
19 ME?

20 A UH-HUH. (YES).

21 THE COURT: OKAY. NOW, THE...WE KNOW
22 THAT WHEN JURORS GET INTO A PENALTY SITUATION THAT
23 THEY GENERALLY FALL INTO THREE CATEGORIES. THE
24 FIRST CATEGORY IS THE JUROR WHO SAYS, "WE FOUND HIM
25 GUILTY OF MURDER IN THE FIRST TRIAL. THERE IS

1 PROOF OF AGGRAVATING CIRCUMSTANCES BEYOND A
2 REASONABLE DOUBT IN THIS PROCEEDING. IT DOESN'T
3 MATTER WHETHER THERE'S MITIGATING CIRCUMSTANCES, I
4 BELIEVE THAT THE DEATH PENALTY IS ALWAYS THE
5 APPROPRIATE PUNISHMENT FOR THIS AND I VOTE DEATH."
6 THAT'S ONE TYPE OF JUROR.

7 THE SECOND TYPE OF JUROR SAYS, "YES,
8 WE FOUND HIM GUILTY OF MURDER. IT'S TRUE THAT
9 THERE ARE AGGRAVATING CIRCUMSTANCES. THERE MAY OR
10 MAY NOT BE MITIGATING CIRCUMSTANCES, BUT I FIND
11 THAT LIFE IMPRISONMENT IS A MORE APPROPRIATE
12 PUNISHMENT FOR THIS AND I WILL ALWAYS IMPOSE LIFE."

13 THEN WE HAVE A GROUP THAT SAYS, "WE
14 HAVE THE CONVICTION OF MURDER. WE HAVE THE
15 AGGRAVATING CIRCUMSTANCE OR STANCES. WE MAY OR MAY
16 NOT HAVE THE EVIDENCE OF MITIGATION." BUT THAT
17 JUROR SAYS, "I WANT TO LOOK AT THIS CASE
18 SPECIFICALLY AND LOOK AT ALL THE RELEVANT FACTS AND
19 APPLY THE LAW AND I WILL DETERMINE WHAT IS THE
20 APPROPRIATE SENTENCE IN THIS CASE. I WILL CONSIDER
21 LIFE. I WILL CONSIDER DEATH. AND THEN I WILL VOTE
22 FOR THE APPROPRIATE PUNISHMENT."

23 IF YOU HAD TO SAY WHICH IN CATEGORY
24 YOU MIGHT BE, COULD YOU TELL ME?

25 A PROBABLY TWO BECAUSE I COULD NEVER

1 VOTE FOR THE DEATH PENALTY. I FEEL THAT STRONGLY
2 ABOUT IT.

3 THE COURT: ARE YOU MORALLY OR
4 RELIGIOUSLY OPPOSED TO THE IDEA?

5 A YES, SIR.

6 THE COURT: AND IS THERE ANY SET OF
7 CIRCUMSTANCES UNDER WHICH YOU WOULD CONSIDER
8 IMPOSING THE DEATH PENALTY?

9 A NO, SIR. I CAN'T THINK OF ANY.

10 THE COURT: SOLICITOR?

11 DIRECT EXAMINATION:

12 BY MR. JONES:

13 Q GOOD AFTERNOON, MS. PARTIN.

14 A HI.

15 Q I APPRECIATE YOUR STRAIGHTFORWARDNESS
16 WITH US. YOU'VE MADE UP YOUR MIND THEN? YOU KNOW
17 THAT YOU COULD NEVER VOTE FOR THE DEATH PENALTY?

18 A EXACTLY RIGHT.

19 Q THANK YOU, MA'AM.

20 THE COURT: MR. HARPOOTLIAN?

21 CROSS-EXAMINATION:

22 BY MR. HARPOOTLIAN:

23 Q MS. PARTIN, JUST A COUPLE OF
24 QUESTIONS. I'M DICK HARPOOTLIAN AND I REPRESENT
25 MR. BECKHAM HERE WHO IS THE ONE ON TRIAL. I JUST

1 WANT TO UNDERSTAND THAT YOU COULD BE AND HAVE NO
2 TROUBLE RETURNING A FAIR AND IMPARTIAL VERDICT AS
3 TO GUILT OR INNOCENCE, ISN'T THAT CORRECT?

4 A YES, SIR.

5 Q IT'S JUST WHEN WE GET TO THAT
6 SENTENCING STAGE THAT YOU HAVE A PROBLEM?

7 A YES, SIR.

8 Q AND THAT PROBLEM IS THAT YOU...IF WE
9 GOT TO THAT STAGE THERE WOULD BE EVIDENCE OF
10 CERTAIN AGGRAVATION, AGGRAVATING CIRCUMSTANCES,
11 CERTAIN EVIDENCE OF MITIGATING CIRCUMSTANCES. THE
12 JUDGE WOULD TELL YOU THAT IT'S UP TO THE INDIVIDUAL
13 JURORS TO DETERMINE WHAT THE APPROPRIATE PUNISHMENT
14 IS AND UNDER THE JUDGE'S CHARGE YOU WOULD HAVE TO
15 BE ABLE TO CONSIDER EITHER A LIFE SENTENCE OR A
16 DEATH SENTENCE. ARE YOU TELLING US THAT YOU WOULD
17 NOT CONSIDER ONE OF THOSE ALTERNATIVES?

18 A I'M SAYING THAT I COULD NOT PUT
19 SOMEONE TO DEATH, BE A PART OF PUTTING SOMEONE TO
20 DEATH.

21 Q NOT BE A PART OF IT?

22 A NO, SIR.

23 Q YOU COULDN'T SIGN YOUR NAME ON THE
24 VERDICT FORM SENTENCING TO DEATH?

25 A NO, SIR.

1 Q OKAY. NO FURTHER QUESTIONS.

2 THE COURT: MS. PARTIN, THE LAW OF THE
3 STATE REQUIRES THAT YOU BE ABLE TO CONSIDER
4 IMPOSING LIFE OR DEATH AND TO SIGN YOUR NAME. SO,
5 THERE'S NOTHING WRONG WITH YOUR FEELINGS. THERE
6 ARE A LOT OF PEOPLE WHO AGREE WITH YOU -- A LOT OF
7 THEM TODAY AS A MATTER OF FACT. BUT, I'LL HAVE TO
8 EXCUSE YOU FOR CAUSE. OKAY? THANK YOU. I HOPE
9 YOU ENJOY YOUR SCHOOL NOW.

10 A THANK YOU..

11 THE COURT: ALL RIGHT. MS. BURRELL,
12 PLEASE?

13 LORANN G. BURRELL, BEING
14 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

15 THE COURT: MS. BURRELL, HAVE YOU EVER
16 SERVED ON A JURY BEFORE?

17 A NO, I HAVE NOT.

18 THE COURT: OKAY. DID YOU GET
19 MY...GET A CHANCE TO READ MY LETTER THAT I GAVE OUT
20 THE OTHER DAY?

21 A YES, SIR.

22 THE COURT: AND DO YOU HAVE ANY
23 QUESTIONS ABOUT THAT LETTER?

24 A NO.

25 THE COURT: YOU REALIZE THAT, I GUESS

1 AS A RESULT OF READING THE LETTER, THE STATE IS
2 SEEKING THE DEATH PENALTY IN THIS CASE AND AS A
3 RESULT OF THAT THE ATTORNEYS AND I GET TO ASK YOU
4 SOME QUESTIONS ABOUT SOME OF THE RELEVANT BELIEFS
5 THAT YOU MIGHT HAVE ON THE ISSUES. YOU WOULD AGREE
6 IT WOULD BE FAIR FOR US TO KNOW HOW YOU FEEL ABOUT
7 THE DEATH PENALTY AND THE PRESUMPTION OF INNOCENCE
8 AND THAT TYPE OF THING, WOULDN'T YOU?

9 A YES, SIR.

10 THE COURT: OKAY. NOW MS. BURRELL,
11 HAVE YOU FORMED OR EXPRESSED ANY OPINION AS TO THE
12 INNOCENCE OR THE GUILT OF MR. BECKHAM IN THIS CASE,
13 THE DEFENDANT?

14 A NO.

15 THE COURT: DO YOU KNOW ANYTHING ABOUT
16 THE FACTS OF THE CASE?

17 A I KNOW A LITTLE BIT.

18 THE COURT: ALL RIGHT. HOW DID YOU
19 DERIVE THAT KNOWLEDGE?

20 A PROBABLY ON THE 11:00 NEWS.

21 THE COURT: OKAY. AND THE FACT THAT
22 YOU HEARD ON THE NEWS SOMETHING ABOUT THIS CASE,
23 COULD YOU SET ASIDE THAT INFORMATION IF YOU WERE
24 SITTING ON THE JURY AND LISTEN TO THE EVIDENCE
25 THAT'S ACTUALLY PRESENTED IN THE TRIAL AND MAKE THE

1 DECISION BASED UPON WHAT IS PRESENTED AT THE TRIAL?
2 COULD YOU DO THAT?

3 A I BELIEVE SO.

4 THE COURT: OKAY. NOW, ARE YOU
5 FAMILIAR WITH THE LEGAL PRINCIPLE THAT A CITIZEN
6 ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT OF
7 THAT CRIME UNTIL AND UNLESS THE STATE CAN PROVE HIS
8 GUILT?

9 A YES.

10 THE COURT: IS THAT A LEGAL PRINCIPLE
11 THAT YOU CAN ACCEPT AND FOLLOW AS A JUROR?

12 A I BELIEVE SO.

13 THE COURT: OKAY. IN OTHER WORDS, YOU
14 UNDERSTAND MR. BECKHAM IN THIS CASE HAS AT THIS
15 POINT PLED NOT GUILTY TO THE CHARGE?

16 A YES.

17 THE COURT: ALL RIGHT. AND THAT
18 REQUIRES THE STATE TO PROVE HIS GUILT BEYOND A
19 REASONABLE DOUBT?

20 A YES.

21 THE COURT: AND CAN YOU REQUIRE THE
22 STATE TO DO THAT IF YOU SAT ON A JURY?

23 A I THINK SO.

24 THE COURT: OKAY. NOW, MS. BURRELL,
25 WE'RE GOING TO TALK ABOUT PENALTY: DEATH PENALTY

1 AND LIFE IMPRISONMENT FOR A FEW MINUTES. BUT I
2 WANT TO BE SURE THAT YOU UNDERSTAND THAT YOU'RE NOT
3 TO INFER OR IMPLY FROM ANY DISCUSSION THAT WE HAVE
4 ABOUT THAT THAT MR. BECKHAM IS GUILTY OF ANYTHING
5 AT THIS POINT IN TIME. AND YOU WON'T DO THAT, WILL
6 YOU?

7 A NO, SIR.

8 THE COURT: NOW, MS. BURRELL,
9 GENERALLY A JURY HAS ONE ULTIMATE RESPONSIBILITY IN
10 THOSE CASES AND THAT IS TO DETERMINE WHETHER OR NOT
11 A DEFENDANT IS NOT GUILTY OR GUILTY OF A CRIME FOR
12 WHICH HE'S CHARGED. IF HE'S NOT GUILTY THEN HE IS
13 RELEASED FROM THE CHARGES. IF HE'S GUILTY THEN HE
14 HAS TO COME AROUND HERE TO THE FRONT OF THE BAR AND
15 A JUDGE SENTENCES HIM. THAT'S WHAT HAPPENS IN ALL
16 CRIMINAL CASES IN THIS STATE EXCEPT ONE CATEGORY.
17 WHERE THE STATE SEEKS THE DEATH PENALTY THEN THE
18 JURY HAS TWO ULTIMATE RESPONSIBILITIES. THE FIRST
19 RESPONSIBILITY IS JUST LIKE IN ALL OTHER CASES, GOT
20 TO DECIDE WHETHER HE'S GUILTY OR NOT GUILTY, AS THE
21 CASE MAY BE, OF MURDER. THEN, IF THE JURY FINDS A
22 DEFENDANT GUILTY OF MURDER THEN WE GO ESSENTIALLY
23 TO A SECOND TRIAL AND IN THAT SECOND TRIAL THE
24 JURY, NOT THE JUDGE, SENTENCES THE DEFENDANT. AND
25 THEY HAVE TWO OPTIONS: LIFE IMPRISONMENT AND THE

1 DEATH PENALTY. NOW...PROCEDURALLY DO YOU FOLLOW ME
2 SO FAR?

3 A YES.

4 THE COURT: ALL RIGHT. NOW, DURING
5 THAT SENTENCING PHASE, JUST LIKE IF THEY WERE
6 STANDING OUT THERE IN FRONT OF ME, YOU WOULD GET
7 EVIDENCE OF AGGRAVATING CIRCUMSTANCES, YOU MAY GET
8 EVIDENCE OF MITIGATING CIRCUMSTANCES AND YOU WOULD
9 TAKE ALL OF THAT PLUS THE CONVICTION AND THE RECORD
10 OF THE CASE AND YOU WOULD MAKE A DECISION AS TO
11 WHAT THE APPROPRIATE PUNISHMENT IS: LIFE OR DEATH.
12 OKAY?

13 NOW, WE KNOW FROM EXPERIENCE THAT
14 THERE ARE GENERALLY THREE KIND OF JURORS WHEN
15 THEY'RE PUT INTO THAT POSITION. NUMBER ONE TYPE IS
16 WHO SAYS, "WE CONVICTED HIM OF MURDER. THERE'S
17 PROOF OF AGGRAVATING CIRCUMSTANCES BEYOND A
18 REASONABLE DOUBT. IT DOESN'T MATTER WHETHER
19 THERE'S ANY MITIGATING CIRCUMSTANCES, I BELIEVE
20 THAT THE DEATH PENALTY IS ALWAYS THE APPROPRIATE
21 PUNISHMENT FOR THAT AND I VOTE FOR DEATH." OKAY?

22 WE HAVE A SECOND GROUP WHO SAYS,
23 "WE'VE GOT A CONVICTION FOR MURDER. WE HAVE
24 EVIDENCE OF AGGRAVATING CIRCUMSTANCES. WE MAY OR
25 MAY NOT HAVE MITIGATING CIRCUMSTANCES, BUT IN THIS

1 CASE I BELIEVE...OR IN ALL CASES I BELIEVE THAT
2 LIFE IMPRISONMENT IS THE APPROPRIATE PUNISHMENT AND
3 I ALWAYS VOTE FOR LIFE." OKAY?

4 WE HAVE A THIRD GROUP THAT SAYS,
5 "WE'VE GOT THE CONVICTION, THE AGGRAVATING
6 CIRCUMSTANCES AND MAYBE OR MAYBE NOT MITIGATING
7 EVIDENCE." AND THAT JUROR SAYS, "WELL, I WANT TO
8 LOOK AT THIS PARTICULAR CASE, THIS PARTICULAR
9 DEFENDANT, AND THE FACTS AROUND IT, AND I'LL
10 CONSIDER A LIFE SENTENCE, I'LL CONSIDER A DEATH
11 SENTENCE. AND AFTER I CONSIDER IT I'LL VOTE FOR
12 ONE OR THE OTHER."

13 IF YOU HAD TO CHOOSE, WHICH ONE WOULD
14 YOU LIKELY BE IN?

15 A PROBABLY THE SECOND ONE.

16 THE COURT: THE SECOND? AND LET ME
17 ASK YOU, IF YOU FOUND THAT...IF YOU THOUGHT THAT
18 THE APPROPRIATE SENTENCE WAS A LIFE SENTENCE, COULD
19 YOU IMPOSE A LIFE SENTENCE?

20 A YES, SIR.

21 THE COURT: ALL RIGHT. NOW, IF YOU
22 THOUGHT...AND BEAR IN MIND NOW IN A TRIAL YOU'VE
23 FOUND A PERSON GUILTY OF MURDER AND YOU'LL HAVE THE
24 EXISTENCE OF AGGRAVATING CIRCUMSTANCES BEING
25 PRESENTED TO YOU AND YOU'D HAVE TO FIND BEYOND A

1 REASONABLE DOUBT THAT THE AGGRAVATING CIRCUMSTANCE
2 IN FACT EXISTED: MURDER PLUS ARMED ROBBERY,
3 SOMETHING LIKE THAT...OUR STATUTORY SCHEME
4 AUTHORIZES OR PERMITS A JUROR...A JURY TO IMPOSE
5 THE DEATH SENTENCE. DO YOU UNDERSTAND THE
6 STATUTORY PROVISION?

7 A YES.

8 THE COURT: IF YOU WERE SITTING ON A
9 JURY AND YOU CAME TO THE CONCLUSION THAT THE MURDER
10 PLUS THE AGGRAVATING CIRCUMSTANCES WARRANTED THE
11 IMPOSITION OF THE DEATH PENALTY, COULD YOU VOTE TO
12 IMPOSE THAT?

13 A I DON'T THINK SO, NO.

14 THE COURT: IS THERE ANY SET OF
15 CIRCUMSTANCES UNDER WHICH YOU COULD IMPOSE THE
16 DEATH PENALTY?

17 A I DON'T BELIEVE SO, NO.

18 THE COURT: DO YOU OPPOSE IT BASED ON
19 SOME RELIGIOUS OR MORAL REASON OR COULD YOU TELL ME
20 THE SOURCE OF YOUR OPPOSITION?

21 A I FEEL LIKE THE DEATH SENTENCE
22 PUNISHES THE FAMILY OF THE PERSON INVOLVED AND I
23 DON'T THINK I COULD HAVE THAT ON MY CONSCIENCE THAT
24 I WAS A PART OF ANYONE'S DEATH.

25 THE COURT: IS THIS A FEELING THAT HAS

1 BEEN LONG HELD OR RECENTLY DEVELOPED OR...?

2 A WELL, TO TELL YOU THE TRUTH, I HADN'T
3 THOUGHT TOO MUCH ABOUT IT UNTIL THIS WHOLE
4 SITUATION CAME UP AND I HAVE THOUGHT ABOUT IT SINCE
5 I GOT THE SUMMONS AND THAT'S HOW I FEEL RIGHT NOW.

6 THE COURT: AND HAVE YOU DISCUSSED
7 YOUR FEELINGS WITH ANYONE ELSE?

8 A NO.

9 THE COURT: SOLICITOR?

10 DIRECT EXAMINATION:

11 BY MR. JONES:

12 Q IS IT BURRELL OR BURRELL?

13 A BURRELL.

14 Q BURRELL? JUST A COUPLE OF QUESTIONS,
15 MS. BURRELL. YOU UNDERSTOOD THE JUDGE'S QUESTIONS?
16 YOU APPEARED TO AND, YOU KNOW...

17 A YES, SIR.

18 Q ...AND YOUR ANSWERS WERE...WHEN YOU
19 TELL HIM THAT YOU DON'T BELIEVE YOU COULD...IF YOU
20 WERE ON A MURDER CASE AND YOU DECIDED, "WELL, THIS
21 IS THE TYPE MURDER CASE WHERE THE DEATH PENALTY
22 WOULD BE APPROPRIATE, IT'S SOMETHING THAT WOULD BE
23 THE RIGHT THING TO DO," ARE YOU TELLING US THAT, IN
24 THAT SITUATION, YOU PERSONALLY COULD NOT VOTE TO
25 IMPOSE THE DEATH PENALTY ON ANOTHER HUMAN BEING?

1 A YES, SIR, THAT'S WHAT I'M SAYING.

2 Q AND YOU KNOW THAT?

3 A YES, SIR.

4 Q THANK YOU, MA'AM.

5 THE COURT: MR. HARPOOTLIAN?

6 MR. HARPOOTLIAN: JUST A COUPLE OF

7 QUESTIONS.

8 CROSS-EXAMINATION:

9 BY MR. HARPOOTLIAN:

10 Q I'M DICK HARPOOTLIAN AND I REPRESENT
11 STEVE BECKHAM ALONG WITH JACK SWERLING, WHO IS NOT
12 IN THE COURTROOM, BUT IS DOING SOME OTHER WORK
13 OUTSIDE THE COURTROOM. IT'S BURRELL?

14 A BURRELL.

15 Q MS. BURRELL, THE SOLICITOR JUST ASKED
16 YOU A LITTLE BIT ABOUT THE DEATH PENALTY AND YOUR
17 POSITION ON THAT. IS THIS A BELIEF YOU'VE HAD YOUR
18 ENTIRE LIFE OR IS IT SOMETHING YOU'VE COME TO
19 RECENTLY?

20 A WELL, AS I JUST EXPLAINED, I HADN'T
21 REALLY FORMED A CLEAR-CUT OPINION UNTIL I GOT THE
22 SUMMONS TO APPEAR HERE AND I HAVE BEEN THINKING
23 ABOUT IT SINCE THEN.

24 Q YOU INDICATE ON THIS FORM THAT YOU'VE
25 BEEN A WITNESS IN A CRIMINAL CASE PREVIOUSLY?

1 A YES, SIR.

2 Q WHAT KIND OF CASE WAS THAT?

3 A I BELIEVE IT WAS A FELONY DUI CHARGE.

4 Q AND YOU WERE A WITNESS FOR THE

5 PROSECUTION OR THE DEFENSE?

6 A FOR THE PROSECUTION.

7 Q OKAY. AND WAS THAT PERSON CONVICTED?

8 A I DON'T BELIEVE SO.

9 Q THAT WAS HERE IN THIS COUNTY?

10 A YES, SIR.

11 Q YOU ANSWERED THE JUDGE'S QUESTIONS

12 THAT YOU COULD BE FAIR ON THE FIRST TRIAL, THE

13 TRIAL ON GUILT OR INNOCENCE. YOU WOULD PRESUME MR.

14 BECKHAM INNOCENT, COULD YOU NOT?

15 A I THINK SO.

16 Q AND YOU COULD GIVE HIM A FAIR TRIAL?

17 A YES, SIR.

18 Q THANK YOU, I DON'T HAVE ANYTHING

19 FURTHER. THANK YOU VERY MUCH.

20 THE COURT: MS. BURRELL, UNDER OUR LAW

21 A JUROR HAS TO BE ABLE TO IMPOSE EITHER DEATH OR

22 LIFE, AS THE CASE MAY BE. CERTAINLY YOUR OPINION

23 IS HELD BY A LOT OF PEOPLE AND YOU'RE ENTITLED TO

24 THAT. BUT, I WOULD HAVE TO EXCUSE YOU FROM SERVICE

25 IN THE CASE BASED UPON THAT. SO, YOU'RE FREE TO

1 GO.

2 MS...CHRISTOPHER CONNALLY?

3 CHRISTOPHER

4 CONNALLY.

5

6 MR. HARPOOTLIAN: JUDGE, WE HAVE NO
7 OBJECTION TO YOU DEALING WITH THE SECOND ISSUE
8 FIRST. IN OTHER WORDS, YOU GO THROUGH SEVERAL
9 MINUTES DEALING WITH THE FIRST ISSUE. NO OBJECTION
10 TO DEALING WITH THE SECOND ISSUE FIRST.

11 THE COURT: ALL RIGHT.

12 CHRISTOPHER CONNALLY, BEING
13 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

14 THE COURT: THANK YOU, SIR. YOU MAY
15 HAVE A SEAT. LET ME ASK YOU SOME QUESTIONS. YOU
16 GOT MY LETTER THE OTHER DAY THAT I HANDED OUT WHEN
17 YOU CAME IN...

18 A YES, SIR.

19 THE COURT: OKAY. DID YOU READ IT?

20 A YES, SIR.

21 THE COURT: DID YOU BASICALLY
22 UNDERSTAND IT?

23 A YES, SIR.

24 THE COURT: WELL, YOU KNOW THAT EACH
25 SIDE HAS AND I GET AN OPPORTUNITY TO ASK YOU SOME

1 QUESTIONS ABOUT A LOT OF THINGS. ONE IN PARTICULAR
2 HAS TO DO WITH PENALTIES IN THE CASE. HAVE
3 YOU...AND THERE AREN'T ANY RIGHT OR WRONG ANSWERS,
4 SO...YOUR ANSWERS. HAVE YOU FORMED OR EXPRESSED
5 ANY OPINION AS TO THE GUILT OR INNOCENCE OF THE
6 DEFENDANT, MR. BECKHAM, IN THIS CASE?

7 A NO, SIR.

8 THE COURT: DO YOU KNOW ANYTHING ABOUT
9 THE CASE?

10 A NO, SIR.

11 THE COURT: ALL RIGHT. NOW, I'M GOING
12 TO REVERSE MY ORDER OF PRESENTATION A MINUTE. IN
13 OUR STATE IN ALL CRIMINAL CASES IF A JURY FINDS A
14 DEFENDANT GUILTY OF THE CRIME HE IS CHARGED, THE
15 JUDGE SENTENCES THAT DEFENDANT...IN ALL CASES BUT
16 ONE. THE EXCEPTION TO THAT IS WHERE THE STATE
17 SEEKS THE DEATH PENALTY. WHERE THEY SEEK THE DEATH
18 PENALTY THE JURY HAS TWO RESPONSIBILITIES. THEY
19 HAVE TO DETERMINE THE INNOCENCE OR GUILT OF A
20 DEFENDANT AND THEN IF THEY FIND A DEFENDANT GUILTY
21 OF MURDER THEN THEY'RE ASKED TO DETERMINE WHAT THE
22 PUNISHMENT SHOULD BE: LIFE OR DEATH. THE JUDGE
23 DOESN'T SENTENCE, THE JURY DOES. DO YOU UNDERSTAND
24 THE PROCEDURE?

25 A YES, SIR.

1 THE COURT: OKAY. NOW, WE KNOW THAT
2 THERE ARE JURORS, BASICALLY THERE ARE THREE TYPES
3 OF JURORS IN THAT TYPE OF SITUATION. THERE ARE
4 JURORS WHO SAY, "WE FOUND HIM GUILTY OF MURDER.
5 WE'VE GOT PROOF OF AGGRAVATING CIRCUMSTANCES, AND
6 THEREFORE I ALWAYS VOTE FOR THE DEATH PENALTY
7 BECAUSE I THINK THAT'S THE APPROPRIATE PUNISHMENT."

8 WE HAVE ANOTHER TYPE OF JUROR WHO
9 SAYS, "WE FOUND HIM GUILTY. WE HAVE PROOF OF
10 AGGRAVATING CIRCUMSTANCES. WE MAY HAVE MITIGATION,
11 WE MAY NOT. BUT, I BELIEVE THAT LIFE IMPRISONMENT
12 IS ALWAYS THE APPROPRIATE PUNISHMENT. I VOTE FOR
13 LIFE."

14 WE HAVE A THIRD CATEGORY WHO SAYS, "WE
15 HAVE THAT CONVICTION FOR MURDER. WE HAVE THAT
16 EVIDENCE OF AGGRAVATION. WE MAY OR MAY NOT HAVE
17 EVIDENCE OF MITIGATION, BUT I WANT TO LOOK AT THE
18 CASE, THIS CASE, AND I WANT TO EXAMINE IT
19 SPECIFICALLY AND FASHION WHAT I THINK IS THE
20 APPROPRIATE PUNISHMENT FOR THIS CASE. I'LL
21 CONSIDER LIFE. I'LL CONSIDER DEATH. AND THEN I'LL
22 IMPOSE THE PROPER PUNISHMENT."

23 IF YOU WERE ON A JURY LIKE THAT, WHICH
24 CATEGORY WOULD YOU LIKELY FALL IN?

25 A THE THIRD, I BELIEVE.

1 THE COURT: THE THIRD?

2 A I THINK IT'S CASE BY CASE.

3 THE COURT: OKAY. AND IF...YOU'RE
4 TELLING ME THAT IF YOU LOOKED AT A CASE SPECIFIC,
5 YOU LOOKED AT THE CONVICTION, THE AGGRAVATING
6 CIRCUMSTANCES, ANY MITIGATING CIRCUMSTANCES, IF YOU
7 CAME TO THE CONCLUSION THAT A LIFE SENTENCE WAS AN
8 APPROPRIATE PUNISHMENT IN THAT CASE, COULD YOU
9 IMPOSE A LIFE SENTENCE...VOTE TO IMPOSE A LIFE
10 SENTENCE?

11 A YES, YOUR HONOR.

12 THE COURT: AND LIKEWISE, LET'S TAKE
13 THAT SAME CASE, IF YOU CAME TO THE CONCLUSION THAT
14 THE DEATH PENALTY WAS THE APPROPRIATE PUNISHMENT,
15 COULD YOU VOTE TO IMPOSE THE DEATH PENALTY?

16 A YES, YOUR HONOR. IF I HAD NO DOUBT
17 WHAT-SO-EVER, I COULD. YES, SIR.

18 THE COURT: ALL RIGHT, AND ALSO, DO
19 YOU UNDERSTAND THAT OUR LAW REQUIRES THAT
20 INDIVIDUAL JURORS WHO...WHEN THE JURY FINDS THAT
21 THE DEATH PENALTY IS THE APPROPRIATE PUNISHMENT,
22 EACH JUROR MUST INDIVIDUALLY SIGN THE DEATH WARRANT
23 OR THE SENTENCING SHEET IF THAT'S THEIR VERDICT.
24 IF YOU FELT THE DEATH PENALTY WAS THE APPROPRIATE
25 PUNISHMENT, COULD YOU SIGN YOUR NAME TO THE FORM?

1 A YES, SIR.

2 THE COURT: ALL RIGHT. NOW, MR.

3 CONNALLY, LET ME MAKE SURE THAT THE FACT THAT WE

4 TALKED ABOUT THESE PENALTIES WITH YOU, THIS TYPE OF

5 THING, I WANT TO MAKE SURE YOU DON'T INFER OR GET

6 THE IDEA THAT MR. BECKHAM IS GUILTY OF ANYTHING.

7 HE HASN'T BEEN TRIED YET. SO, YOU UNDERSTAND THAT?

8 A RIGHT.

9 THE COURT: OKAY. AND DO YOU BELIEVE

10 THAT A CITIZEN ACCUSED OF A CRIME IS PRESUMED

11 INNOCENT UNTIL THE STATE PROVES HIM GUILTY?

12 A YES, SIR.

13 THE COURT: YOU CAN FOLLOW THAT?

14 A YES, SIR.

15 THE COURT: DO YOU HAVE ANY OPINION AS

16 TO MR. BECKHAM'S INNOCENCE OR GUILT AT THIS TIME?

17 A NO, SIR.

18 THE COURT: DO YOU KNOW ANYTHING ABOUT

19 THE CASE?

20 A NO, SIR.

21 THE COURT: ALL RIGHT. SOLICITOR?

22 THEY'RE GOING TO ASK YOU SOME QUESTIONS, OKAY?

23 DIRECT EXAMINATION:

24 BY MR. JONES:

25 Q GOOD AFTERNOON, MR. CONNALLY.

1 A GOOD AFTERNOON.

2 Q I APPRECIATE YOUR PATIENCE.

3 A THANK YOU.

4 Q YOU INDICATED TO THE JUDGE THAT YOU

5 WOULD FOLLOW THE LAW AND YOU COULD RETURN A VERDICT

6 OF DEATH OR LIFE, DEPENDING ON WHICH WAS THE

7 APPROPRIATE SENTENCE, IS THAT CORRECT?

8 A YES, SIR.

9 Q AND YOU INDICATED THAT YOU WOULD

10 FOLLOW THE LAW AS HE CHARGED IT TO YOU, IS THAT

11 CORRECT?

12 A YES, SIR.

13 Q AND DO YOU UNDERSTAND THAT I'M THE

14 PROSECUTOR IN THE CASE?

15 A YES, SIR.

16 Q AND WE PRESENT EVIDENCE IN THE CASE...

17 A YES, SIR.

18 Q WE PRESENT THE EVIDENCE AND YOU

19 UNDERSTAND THE JUDGE WILL CHARGE YOU THAT THE

20 STANDARD OF PROOF, THE BURDEN OF PROOF, THE LEVEL

21 OF PROOF THAT WE HAVE TO RISE TO IS PROOF BEYOND A

22 REASONABLE DOUBT?

23 A YES, SIR.

24 Q WOULD YOU FOLLOW THAT LAW?

25 A YES, SIR.

1 Q ALL RIGHT, SIR. THIS IS MR. MIKE
2 COULTER, HE'LL BE ASSISTING ME DURING THE TRIAL.
3 HE'S THE DEPUTY SOLICITOR IN THE 8TH CIRCUIT. THIS
4 IS KNOX MCMAHON, DEPUTY SOLICITOR WITH THE 5TH
5 CIRCUIT. THEY'LL BE ASSISTING US. THANK YOU.

6 A OKAY, THANKS.

7 THE COURT: MR. HARPOOTLIAN?

8 MR. HARPOOTLIAN: IF IT PLEASE THE
9 COURT, YOUR HONOR?

10 CROSS-EXAMINATION

11 BY MR. HARPOOTLIAN:

12 Q MR. CONNALLY, MY NAME IS DICK
13 HARPOOTLIAN, I'M AN ATTORNEY FROM COLUMBIA, AND
14 ALONG WITH JACK SWERLING HERE, WE REPRESENT STEPHEN
15 BECKHAM. THAT'S STEPHEN RIGHT THERE. HE'S THE GUY
16 ON TRIAL HERE. HE'S THE ONE WHO'S FACING THE
17 CHARGES HERE. AND THIS IS HIS FAMILY BEHIND HIM;
18 HIS MOTHER, HIS FATHER, OTHER FAMILY MEMBERS. DO
19 YOU KNOW ANY OF US?

20 A NO, SIR.

21 Q DO YOU KNOW ANYTHING ABOUT THIS CASE?

22 A NO, SIR.

23 Q OKAY. I NEED TO ASK YOU SOME
24 QUESTIONS. I'M NOT TRYING TO PUT YOU ON THE SPOT.
25 I'M NOT TRYING TO EMBARRASS YOU.

1 A OKAY.

2 Q BUT WE'RE GOING THROUGH A PROCESS HERE
3 OF TRYING TO PICK TWELVE PEOPLE WHO WILL BE, NOT
4 ONLY FAIR AND IMPARTIAL, BUT REALLY CAN RENDER A
5 TRUE AND FAIR VERDICT IN THIS CASE. NOT THAT
6 THERE'S ANYTHING ABOUT YOU THAT INDICATES THAT YOU
7 CAN'T DO THAT, BUT WE NEED TO SORT OF PROBE A
8 LITTLE BIT, OKAY?

9 A OKAY, THAT'S FINE, SIR.

10 Q NOW, YOU INDICATED A MOMENT AGO TO THE
11 SOLICITOR'S...IN ANSWER TO THE SOLICITOR'S
12 QUESTIONS THAT YOU WOULD FOLLOW THE JUDGE'S CHARGE
13 ON THE LAW. WE TALKED A GOOD BIT ABOUT PENALTY
14 HERE A MINUTE AGO AND I'M GOING TO ASK YOU ABOUT
15 THAT IN JUST A SECOND, BUT I WANT TO ASK YOU AND
16 REMIND YOU THAT WE MAY NEVER GET TO A SECOND TRIAL
17 -- THERE MAY BE TWO TRIALS -- WE MAY NEVER GET TO
18 THAT SECOND TRIAL AS TO SENTENCE BECAUSE MR.
19 BECKHAM, AND ANYONE IN THIS SITUATION, IS PRESUMED
20 INNOCENT. DO YOU UNDERSTAND...

21 A RIGHT.

22 Q ...WHAT THE PRESUMPTION OF INNOCENCE
23 MEANS?

24 A YES, SIR.

25 Q IT MEANS AS HE SITS OVER THERE RIGHT

1 NOW HE IS PRESUMED TO BE INNOCENT. THE FACT THAT
2 HE'S CHARGED OR ACCUSED OF A CRIME DOESN'T MEAN
3 ANYTHING.

4 A RIGHT.

5 Q IN TERMS OF PROOF. DO YOU UNDERSTAND?

6 A YES, SIR.

7 Q OKAY. AND DO YOU BELIEVE THAT?

8 A YES, SIR.

9 Q NOW, THE SOLICITOR HAS INDICATED TO
10 YOU THAT THE STATE HAS TO PROVE ITS CASE BEYOND A
11 REASONABLE DOUBT AND YOU UNDERSTAND THAT THE BURDEN
12 OF PROOF IS ON THE STATE OF SOUTH CAROLINA AND THAT
13 MR. BECKHAM DOESN'T HAVE TO PROVE ANYTHING?

14 A YES, SIR.

15 Q DO YOU UNDERSTAND THAT?

16 A YES, SIR.

17 Q OKAY. AND THE JUDGE IS GOING TO
18 CHARGE YOU OR TELL YOU THE LAW REGARDING THAT. AND
19 AGAIN, YOU'D ABIDE BY ALL OF THAT, IS THAT CORRECT?

20 A YES, SIR.

21 Q NOW, YOU SAID YOU FELL INTO...LET ME
22 TALK TO YOU ABOUT THE POSSIBLE PENALTY TRIAL. AND
23 LET ME MAKE SURE I UNDERSTAND YOUR POSITION. YOUR
24 POSITION IS THAT YOU WOULD LISTEN TO THE FACTS AND
25 CIRCUMSTANCES SURROUNDING THE CRIME AND THE

1 DEFENDANT...

2 A YES, SIR.

3 Q ...AND ASSESS WHAT WE CALL AGGRAVATING

4 CIRCUMSTANCES THE STATE WOULD HAVE TO PROVE. AND

5 AGGRAVATING CIRCUMSTANCES SIMPLY MEAN THE STATUTORY

6 AGGRAVATING CIRCUMSTANCES. JUST BECAUSE SOMEONE

7 COMMITS A MURDER DOESN'T MEAN THEY'RE EXPOSED TO

8 THE DEATH PENALTY. THERE HAS TO BE TWO THINGS THAT

9 HAVE TO HAPPEN. ONE IS THE SOLICITOR HAS TO ASK

10 FOR IT. HE HAS TO DECIDE THAT IT'S PROPER AND ASK

11 FOR IT AND FILE THE APPROPRIATE PAPERS AND THEN

12 SECONDLY, A JURY HAS TO FIND THE EXISTENCE OF AN

13 AGGRAVATING CIRCUMSTANCE -- MURDER PLUS SOMETHING:

14 MURDER PLUS AN ARMED ROBBERY; MURDER PLUS A RAPE;

15 MURDER PLUS A KIDNAPPING; MURDER PLUS...OKAY?

16 A RIGHT.

17 Q SO, WITHOUT THAT AGGRAVATION, THEY

18 COULDN'T ASK FOR THE DEATH PENALTY. DO YOU

19 UNDERSTAND THAT?

20 A YES, SIR.

21 Q SO, THE QUESTION BECOMES, WOULD YOU BE

22 AUTOMATICALLY PREDISPOSED TO GIVING SOMEONE WHO'S

23 CONVICTED OF MURDER THE DEATH PENALTY, OR WOULD YOU

24 BE PREDISPOSED TO GIVING THEM LIFE, OR ARE THERE

25 SOME MURDERS THAT YOU WOULD THINK WOULD BE

1 APPROPRIATE FOR THE DEATH PENALTY AND SOME MURDERS
2 NOT?

3 A I BELIEVE IT WOULD HAVE TO BE A CASE
4 BY CASE THING.

5 Q OKAY.

6 A I'M NOT TOTALLY FOR IT AND I'M NOT
7 TOTALLY AGAINST IT.

8 Q OKAY. MR. CONNALLY, EXCUSE ME ONE
9 SECOND AND LET ME CHECK WITH MR. SWERLING OVER
10 HERE. WE'VE BEEN DOING THIS FOR A FEW DAYS...

11 A OKAY.

12 Q ...AND I SOMETIMES FORGET WHETHER I'VE
13 ASKED YOU OR ASKED THE LAST JUROR OR THE JUROR
14 BEFORE THE SAME QUESTIONS.

15 THANK YOU VERY MUCH FOR YOU RESPONSES
16 TO MY QUESTIONS. YOU'VE BEEN VERY CANDID AND
17 HONEST WITH ME AND I WANT TO THANK YOU FOR IT.

18 A YOU'RE WELCOME.

19 THE COURT: YES, SIR?

20 MR. JONES: YOUR HONOR, IF I COULD,
21 JUST ONE STATEMENT?

22 THE COURT: QUESTION, YOU MEAN?
23 QUESTION OR STATEMENT?

24 MR. JONES: IT'S A QUESTION. I WANT
25 TO INTRODUCE HIM TO THE VICTIM'S FAMILY.

1 THE COURT: OH, NO PROBLEM.

2 REDIRECT EXAMINATION:

3 BY MR. JONES:

4 Q MR. CONNALLY, I FAILED EARLIER...THE
5 VICTIM IN THIS CASE IS VICTORIA LANDER BECKHAM AND
6 HER FAMILY IS SEATED HERE ON THE FRONT ROW. HER
7 DAD, SENATOR LANDER AND HER MOM IS NOT HERE, BUT
8 HER SISTER AND NIECE ARE HERE.

9 THE COURT: ALL RIGHT, ONES? ONES?

10 MR. JONES: YES, SIR.

11 THE COURT: MR. CONNALLY, I FIND YOU
12 QUALIFIED TO BE PLACED IN A POOL FROM WHICH WE
13 SELECT A JURY. THIS IS SHORT NOTICE.

14 A OKAY.

15 THE COURT: HOWEVER, I NEED FOR YOU TO
16 GO AND SEE IF YOU CAN GO AND PACK AND COME BACK BY
17 4:00. CAN YOU DO THAT?

18 A YES, SIR.

19 THE COURT: OKAY. PACK FOR TEN DAYS
20 OR IF YOU DON'T WANT TO PACK THAT MUCH WE WILL HAVE
21 LAUNDRY SERVICES AND THAT KIND OF STUFF. SLED WILL
22 PROVIDE FOR YOUR SECURITY AND TRANSPORTATION.
23 NEWBERRY COUNTY WILL PAY FOR YOU MEALS AND THAT
24 KIND OF STUFF WHILE YOU'RE THERE. WE ARE RUNNING A
25 LITTLE BIT BEHIND SO THERE MAY BE A LITTLE WAITING

1 PERIOD THIS AFTERNOON. SO, GET YOU SOMETHING TO
2 EAT AND IF YOU'LL BE BACK AT 4:00 WE'LL TAKE CARE
3 OF YOU. DON'T DISCUSS THE CASE OR ALLOW ANYONE TO
4 DISCUSS IT WITH YOU OR READ, WATCH, OR LISTEN TO
5 ANY ACCOUNT OF THE TRIAL. OKAY?

6 A OKAY.

7 THE COURT: SEE YOU THIS AFTERNOON.

8 A THANK YOU.

9 THE COURT: THANK YOU. YES, SIR.

10 MR. HARPOOTLIAN: PERHAPS WE SHOULD
11 STRIKE THE FIRST TWELVE?

12 THE COURT: I'M SUGGESTING THAT TO
13 YOU.

14 MR. HARPOOTLIAN: AND SEE WHAT WE'VE
15 GOT LEFT TO SEE HOW MANY MORE WE NEED TO GET, IF WE
16 NEED TO GET ANY.

17 THE COURT: IF BOTH OF YOU...BOTH
18 SIDES WILL AGREE TO THAT, I'M SUGGESTING THAT YOU
19 DO THAT AND THEN IF YOU'VE GOT SOME LEFT AND IF WE
20 CAN GET THE ALTERNATES, FINE. YOU MAY NOT USE ALL
21 YOUR STRIKES. SO, Y'ALL HAVE TO THINK ABOUT THAT.

22 MR. HARPOOTLIAN: BECAUSE THE NUMBER
23 OF STRIKES FOR THE FIRST TWELVE REMAINS...

24 THE COURT: AND IT'S STILL...AND IT'S
25 DOWN...

1 MR. HARPOOTLIAN: DOWN IN THAT SAME
2 ORDER, SO IT DOESN'T REALLY HURT ANYTHING.

3 THE COURT: SURE. OKAY, BRING HER IN.

4 JOYCE L. EDWARDS, BEING
5 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

6 A MAY I MAKE A SUGGESTION?

7 THE COURT: SURE.

8 A I DON'T FEEL THAT I WOULD LIKE TO
9 SERVE AS A JUROR FOR THIS TRIAL PRIMARILY BECAUSE I
10 THINK IT WILL INFRINGE ON MY BUSINESS, WHICH IS THE
11 NEWS MEDIA. WE OWN THE NEWSPAPERS IN OCONEE COUNTY
12 AND IN PICKENS COUNTY. I AM SECRETARY AND
13 TREASURER OF THE COMPANY. SO, I THINK IT WILL
14 RESTRICT ME AND MAKE ME VERY UNCOMFORTABLE.

15 THE COURT: HOW WOULD IT DO THAT?
16 BECAUSE YOU'RE GOING TO BE SEQUESTERED AND NOT
17 IN...

18 A NO, NOT THAT SO MUCH AS I AM AN
19 ADVISOR AND CONSULTANT TO THE NEWSPAPERS. WE DO
20 INTEND TO FOLLOW THIS CASE, PRIMARILY BECAUSE IT
21 IS...THE JURORS ARE BEING SELECTED FROM OCONEE
22 COUNTY AND FOR THAT REASON I THINK IT WOULD PUT ME
23 IN AN EXTREMELY UNCOMFORTABLE POSITION.

24 THE COURT: OF COURSE YOU UNDERSTAND,
25 MS. EDWARDS, YOU ARE NOT GOING TO BE ALLOWED TO

1 READ ANYTHING. THEY'RE NOT GOING TO BE ALLOWED TO
2 REPORT WHO THE JURORS ARE.

3 A I UNDERSTAND THAT, YOUR HONOR. BUT,
4 YOU SEE, IN MY POSITION I HAVE TO READ...WE HAVE
5 APPROXIMATELY THIRTY NEWSPAPERS IN SEVERAL STATES.
6 MY BUSINESS IS SUCH THAT I HAVE TO LOOK AT THOSE
7 PAPERS AND I HAVE A GREAT DEAL TO DO WITH THEM. IN
8 FACT, WE ARE IN NEGOTIATIONS AS I SPEAK IN THE
9 PURCHASE OF ANOTHER.

10 THE COURT: WELL, I MEAN, EVERYBODY
11 WHO COMES IN HERE, MS. CONNALLY, HAS A PROBLEM AND
12 IT'S AN IMPOSITION TO SERVE ON A JURY. I MEAN...

13 A I DON'T MEAN TO IMPLY THAT IT'S AN
14 IMPOSITION. WHAT I'M SAYING IS THAT IT PUTS ME IN
15 A VERY UNCOMFORTABLE POSITION. BEING THE NEWS
16 MEDIA, WE GENERATE THE STORIES AND I WOULD...IF YOU
17 WANT ME TO SIT ON A JURY, THAT MAKES ME VERY
18 UNCOMFORTABLE AND WE DO OWN THE NEWSPAPERS AND WE
19 HAVE AN AWFUL LOT OF INPUT INTO THEM. SO, THAT'S
20 MY POSITION.

21 THE COURT: WELL, LET ME ASK YOU TO
22 STEP OUTSIDE AND LET ME TALK TO THE LAWYERS JUST A
23 LITTLE BIT ABOUT IT.

24 A OKAY.

25 (JUROR IS EXCUSED FROM THE OPEN

1 COURTROOM)

2 THE COURT: SOLICITOR, WHAT'S YOUR
3 POSITION?

4 MR. JONES: WELL, YOUR HONOR, THE
5 STATE'S POSITION IS THAT I WAS INTERESTED IN
6 FOLLOWING YOUR QUESTIONING OF HER AND SOME OF THE
7 THINGS THAT YOU WERE SAYING TO HER. MY IMPRESSION
8 OF HER LAST STATEMENT IS THAT SHE'S CLOSE TO BEING
9 UNWILLING TO COOPERATE WITH THE PROCESS, WHETHER IT
10 BE FOLLOW THE INSTRUCTIONS OF THE LAW OR LISTEN TO
11 EVIDENCE AND THAT CONCERNS ME. SO, AT THIS
12 JUNCTURE I WOULD NOT, BASED ON WHAT SHE SAID, SHE
13 HASN'T COME RIGHT OUT AND SAID THAT, BUT I THINK
14 THE MOTION AND THE FIRMNESS OF HER LAST STATEMENT
15 IS AN INDICATION THAT TO ME THAT SHE'S CLOSE TO
16 SAYING, YOU KNOW, "I'M NOT GOING TO DO IT."

17 THE COURT: ALL RIGHT, MR.
18 HARPOOTLIAN?

19 MR. HARPOOTLIAN: YOUR HONOR, WE, YOU
20 KNOW, I THINK BACK UPON A YOUNG MAN THAT WE HAD IN
21 THE BACK A COUPLE OF DAYS AGO THAT HAD A VERY
22 DIFFICULT TIME BECAUSE HE WAS WORKING ON COMMISSION
23 AND WAS GOING TO HAVE A TOUGH TIME SUPPORTING HIS
24 WIFE AND BABY AND WE KEPT HIM ON THE PANEL AND...I
25 MEAN, I DON'T KNOW WHAT HER...I MEAN, IS SHE

1 TELLING US SHE HAS A FIRST AMENDMENT RIGHT NOT TO
2 SIT ON THE JURY?

3 THE COURT: OH, ABSOLUTELY NOT.

4 MR. HARPOOTLIAN: WHAT IS SHE...I
5 DON'T QUITE UNDERSTAND.

6 THE COURT: SHE'S JUST TOO FULL OF
7 BUSINESS.

8 MR. HARPOOTLIAN: SHE'S WHAT?

9 THE COURT: SHE'S TOO FULL OF BUSINESS
10 TO BE ON THE JURY.

11 MR. HARPOOTLIAN: WELL...

12 THE COURT: THAT'S WHAT SHE'S TELLING
13 US.

14 MR. HARPOOTLIAN: WELL, MY POSITION
15 WOULD BE THAT WE TAKE HER THROUGH THE QUALIFICATION
16 PROCESS. IF SHE'S RETICENT ABOUT THAT, THAT OCONEE
17 COUNTY HAS A PLACE THAT SHE TYPE FROM. I MEAN, IT
18 JUST DOESN'T SEEM TO ME THAT SHE OUGHT TO...THAT
19 SHE'S MORE BUSY THAN ANYBODY ELSE.

20 THE COURT: I AGREE.

21 MR. HARPOOTLIAN: WE'VE BEEN HERE FOR
22 THREE DAYS. SHE MAY BE THE PERFECT JUROR FOR THIS
23 CASE.

24 THE COURT: WE'LL SEE IF WE CAN
25 QUALIFY HER. BRING HER IN.

1 (JUROR IS RETURNED TO THE OPEN
2 COURTROOM)

3 THE COURT: MS. CONNALLY, RIGHT NOW
4 I'M NOT GOING TO...

5 A EDWARDS.

6 THE COURT: I'M SORRY, I'M LOOKING AT
7 THE WRONG...MS. EDWARDS. RIGHT NOW I'M NOT GOING
8 TO RELEASE YOU. WE'RE GOING THROUGH THE
9 QUALIFICATION WITH YOU. OKAY?

10 NOW, IN TERMS OF...YOU UNDERSTAND THAT
11 STATE IS SEEKING THE DEATH PENALTY IN THIS CASE?

12 A THAT'S CORRECT.

13 THE COURT: ALL RIGHT. AND WHEN THEY
14 DO THAT, OF COURSE THE LAWYERS ARE ENTITLED TO ASK
15 YOU SOME QUESTIONS AND I'M ENTITLED TO ASK THE
16 JURORS QUESTIONS ABOUT RELEVANT VIEWS ABOUT A CASE.
17 NOW, THE...ARE YOU FAMILIAR WITH THE CONCEPT THAT A
18 CITIZEN ACCUSED OF A CRIME IS PRESUMED TO BE
19 INNOCENT OF THE CRIME UNTIL THAT GUILT IS
20 ESTABLISHED?

21 A YES, SIR.

22 THE COURT: ALL RIGHT. AND DO YOU
23 BELIEVE IN THAT PRINCIPLE?

24 A YES, SIR.

25 THE COURT: OKAY. AND DO YOU BELIEVE

1 THAT ALL PERSONS ARE ENTITLED TO HAVE A TRIAL BY
2 THE JURY OF THEIR PEERS IF THEY ARE ACCUSED OF A
3 CRIME?

4 A YES, I DO.

5 THE COURT: OKAY. AND IF...HAVE YOU
6 FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OR
7 INNOCENCE OF MR. BECKHAM IN THIS CASE?

8 A NO, I HAVEN'T, BUT I DO KNOW SOME
9 OTHER PARTICULARS REGARDING THE CASE.

10 THE COURT: ALL RIGHT, AND I ASSUME
11 THAT BEING IN THE NEWSPAPER BUSINESS YOU HAVE READ
12 OR SEEN OR HEARD ACCOUNTS OF THE TRIAL?

13 A ABSOLUTELY.

14 THE COURT: OKAY. MA'AM, THE QUESTION
15 IS THAT IF YOU WERE TO BE SEATED IN A JURY AND
16 ASKED TO TRY THE CASE, COULD YOU SET THAT
17 INFORMATION ASIDE AND JUDGE THE CASE SOLELY UPON
18 THE EVIDENCE THAT YOU RECEIVE IN THE COURTROOM AND
19 NOT WHAT WAS IN THE PAPER?

20 A I DON'T...I CAN'T SAY THAT FOR SURE
21 BECAUSE I'M IN THAT BUSINESS AND IT'S, YOU
22 KNOW...IT WOULD BE DIFFICULT.

23 MR. HARPOOTLIAN: IF IT PLEASE THE
24 COURT, YOUR HONOR? I WITHDRAW MY PREVIOUSLY MADE
25 MOTION.

1 THE COURT: ALL RIGHT. MS. EDWARDS,
2 IN TERMS OF...I WON'T ASK WHAT I WAS GOING TO.
3 I'LL EXCUSE YOU.

4 A THANK YOU.

5 THE COURT: AFTER THE TRIAL I'LL
6 COMMENT ABOUT THAT.

7 BETTY SMITH?

8 BETTY SMITH,, BEING CALLED
9 AND DULY SWORN, TESTIFIES AS FOLLOWS:

10 THE COURT: ALL RIGHT, AND MS. SMITH,
11 HAVE YOU EVER SERVED ON A JURY BEFORE?

12 A NO.

13 THE COURT: DID YOU GET A CHANCE TO
14 READ THE LETTER THAT I GAVE OUT THE OTHER DAY?

15 A YES, I DID.

16 THE COURT: AND DID YOU GENERALLY
17 UNDERSTAND THE LETTER?

18 A YES, SIR.

19 THE COURT: NOW, I APOLOGIZE TO YOU
20 FOR HAVING TO WAIT. IT JUST TAKES US A LONG TIME.
21 WE'VE BEEN THROUGH...AND ACTUALLY WE'VE BEEN
22 THROUGH A LOT OF JURORS. BUT, BECAUSE THE STATE IS
23 SEEKING THE DEATH PENALTY, WE GET AN OPPORTUNITY TO
24 ASK YOU SOME QUESTIONS, OKAY?

25 NOW, MS. SMITH, A CITIZEN ACCUSED OF A

1 CRIME IS PRESUMED TO BE INNOCENT OF THAT CRIME. IS
2 THAT SOMETHING THAT YOU BELIEVE IN?

3 A YES, SIR, I BELIEVE IT.

4 THE COURT: OKAY. AND ON THE OTHER
5 HAND, THAT IF THE STATE, OF COURSE, HAS ASKED FOR
6 THE DEATH PENALTY IN THIS CASE...I KNOW YOU'RE
7 SHAKING YOUR HEAD.

8 A I KNOW. THAT'S WHAT BOTHERS ME.

9 THE COURT: WELL, MA'AM, LET ME ASK
10 YOU THIS. IN A CASE LIKE THIS WE HAVE TO HAVE A
11 JURY OF TWELVE MEN AND WOMEN WHO CAN LISTEN TO THE
12 EVIDENCE AND FAIRLY AND IMPARTIALLY TRY THE CASE.
13 AND SOMETIMES THE DEATH PENALTY MAY BE WARRANTED
14 AND SOMETIMES IT WILL NOT BE. ARE YOU TELLING ME
15 THAT YOU COULDN'T SIT ON A JURY AND DETERMINE GUILT
16 OR INNOCENCE AND THEN IF YOU FOUND SOMEONE GUILTY
17 THAT YOU COULDN'T CONSIDER IMPOSING THE APPROPRIATE
18 PUNISHMENT, WHETHER IT BE LIFE OR DEATH?

19 A NO.

20 THE COURT: YOU COULDN'T DO THAT?

21 A NO.

22 THE COURT: WHO WOULD YOU EXPECT TO DO
23 THAT IF JURORS LIKE YOU DON'T DO THAT?

24 A SOMEBODY ELSE MIGHT CAN DO THAT BUT I
25 CAN'T. I DO NOT BELIEVE IT'S RIGHT.

1 THE COURT: AND THAT'S ON A RELIGIOUS
2 BASIS...

3 A YES.

4 THE COURT: ...OR A MORAL BASIS.

5 A MORAL BASIS.

6 THE COURT: SOLICITOR?

7 DIRECT EXAMINATION:

8 BY MR. JONES:

9 Q MS. SMITH, I'M TOWNES JONES, THE
10 PROSECUTOR IN THE CASE. GOOD AFTERNOON.

11 A YES, SIR.

12 Q OBVIOUSLY YOU'VE GIVEN THIS SOME
13 THOUGHT AND YOU'VE EXPLAINED TO THE JUDGE WHAT YOUR
14 POSITION WAS, IS THAT CORRECT?

15 A THAT'S RIGHT.

16 Q WELL, THANK YOU, MA'AM.

17 THE COURT: MR. HARPOOTLIAN?

18 CROSS-EXAMINATION:

19 BY MR. HARPOOTLIAN:

20 Q MS. SMITH, LET ME UNDERSTAND YOU. YOU
21 WOULD HAVE NO PROBLEM TRYING MR. BECKHAM HERE ON
22 THE ISSUE OF GUILT OR INNOCENCE, IS THAT CORRECT?

23 A THAT'S RIGHT.

24 Q YOU COULD GIVE HIM A FAIR TRIAL? BUT,
25 ONCE...IF YOU GOT INTO THE SECOND STAGE OF A DEATH

1 PENALTY TRIAL AND THE ISSUE WAS LIFE OR DEATH, THEN
2 THERE ARE NO CIRCUMSTANCES UNDER WHICH YOU COULD
3 EVER DO THAT?

4 A NO.

5 Q OKAY. THAT'S ALL I HAVE. THANK YOU.

6 THE COURT: ALL RIGHT, MS. SMITH,
7 BASED ON YOUR INABILITY TO CONSIDER IMPOSING A
8 DEATH PENALTY SENTENCE I EXCUSE YOU FROM SERVICE IN
9 THIS JURY.

10 A ON THOSE SHEETS THAT YOU HANDED OUT,
11 THAT WAS VERY PAINFUL FOR ME TO SEE THAT.

12 THE COURT: THAT'S WHEN YOU FIRST
13 LEARNED ABOUT IT?

14 A I DIDN'T KNOW THAT THE STATE WAS
15 ASKING FOR THE DEATH PENALTY.

16 THE COURT: OKAY, BUT IN THE LAST
17 COUPLE OF THREE DAYS, NO JUROR HAS TALKED TO YOU
18 ABOUT IT?

19 A NOBODY'S SAID ANYTHING TO ME, NO.

20 THE COURT: ALL RIGHT. THANK YOU,
21 MA'AM. HAVE A NICE DAY.

22 DAVID CROWE?

23 DAVID CROWE, BEING CALLED
24 AND DULY SWORN, TESTIFIES AS FOLLOWS:

25 THE COURT: I APOLOGIZE FOR YOU HAVING

1 TO WAIT. WE'RE RUNNING A LITTLE BIT BEHIND BUT
2 WE'RE TRYING TO CATCH UP. MR. CROWE, HAVE YOU EVER
3 SERVED ON A JURY BEFORE?

4 A NO, SIR.

5 THE COURT: AND DID YOU GET MY LETTER
6 THE OTHER DAY AND HAVE A CHANCE TO READ IT?

7 A YES, I DID.

8 THE COURT: OKAY. AND YOU GENERALLY
9 UNDERSTOOD IT?

10 A YES.

11 THE COURT: OKAY. MR. CROWE, HAVE YOU
12 FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OR
13 INNOCENCE OF THE DEFENDANT, MR. BECKHAM, IN THIS
14 CASE?

15 A NO, SIR.

16 THE COURT: DO YOU KNOW ANYTHING ABOUT
17 THE CASE?

18 A I HAVE...KNOW NOTHING. I REALLY
19 DON'T.

20 THE COURT: HAVE YOU EVER HEARD OF THE
21 LEGAL PRINCIPLE THAT A DEFENDANT ACCUSED OF A CRIME
22 IS PRESUMED TO BE INNOCENT OF THAT CRIME UNTIL AND
23 UNLESS THEIR GUILT IS ESTABLISHED BY THE GOVERNMENT
24 OR THE STATE?

25 A YES, SIR.

1 THE COURT: IS THAT A LEGAL
2 CONSTITUTIONAL PRINCIPLE THAT YOU FOLLOW?

3 A YES, IT IS.

4 THE COURT: ALL RIGHT. AND WE'RE...AS
5 YOU KNOW, THE STATE IS SEEKING THE DEATH PENALTY IN
6 THIS CASE AND BY REASON OF THAT FACT WE GET TO ASK
7 YOU SOME QUESTIONS ABOUT SOME OF YOUR RELEVANT
8 BELIEFS.

9 A YES, SIR.

10 THE COURT: AND THERE AREN'T ANY WRONG
11 OR RIGHT ANSWERS, BUT WE NEED TO KNOW ON SOME
12 ISSUES HOW YOU FEEL.

13 A RIGHT.

14 THE COURT: NOW, I WANT TO MAKE SURE
15 THE FACT THAT WE'RE GOING TO TALK ABOUT PENALTY
16 WITH YOU THAT YOU DON'T INFER OR IMPLY THAT MR.
17 BECKHAM IS GUILTY OF ANYTHING. THERE HAS BEEN NO
18 EVIDENCE OFFERED IN THIS CASE. DO YOU UNDERSTAND
19 THAT?

20 A YES, SIR.

21 THE COURT: NOW, NORMALLY, MR. CROWE,
22 A JURY HAS ONE ULTIMATE RESPONSIBILITY AND THAT IS
23 TO SIT IN THE JURY BOX, LISTEN TO THE EVIDENCE,
24 APPLY THE LAW, AND TO DETERMINE WHETHER A DEFENDANT
25 IS GUILTY OR NOT GUILTY OF THE CRIME CHARGED. DO

1 YOU UNDERSTAND THAT?

2 A YES, SIR.

3 THE COURT: IF THEY RETURN A VERDICT
4 OF NOT GUILTY THEN THE DEFENDANT IS RELEASED FROM
5 THE CHARGES. OR IF HE IS FOUND GUILTY THEN HE HAS
6 TO STAND HERE IN FRONT OF THIS BENCH AND FACE A
7 JUDGE TO BE SENTENCED. THAT'S NORMALLY THE WAY IT
8 HAPPENS...IN ALL SITUATIONS BUT ONE. AND THAT ONE
9 SITUATION IS, IS WHEN THE STATE SEEKS THE DEATH
10 PENALTY. THEN, THE JURY HAS TWO ULTIMATE
11 RESPONSIBILITIES. NUMBER ONE, IT MUST DETERMINE
12 WHETHER OR NOT A DEFENDANT IS GUILTY OR NOT GUILTY
13 OF MURDER. THE SECOND THING IT MUST DO, IF THEY
14 FIND THE DEFENDANT GUILTY OF MURDER THEY MUST THEN
15 DETERMINE WHAT IS THE APPROPRIATE PUNISHMENT AND
16 THEY HAVE TWO CHOICES: LIFE OR DEATH.

17 A YES, SIR.

18 THE COURT: PROCEDURALLY DO YOU
19 UNDERSTAND?

20 A YES, SIR.

21 THE COURT: OKAY. JUST LIKE WHEN I
22 SENTENCE SOMEBODY, THE JURY IN A DEATH PENALTY CASE
23 WOULD ALSO RECEIVE EVIDENCE OF CIRCUMSTANCES IN
24 AGGRAVATION AND PERHAPS MITIGATION FOR THEM TO HELP
25 EVALUATE WHAT THE APPROPRIATE PUNISHMENT IS.

1 NOW, WE KNOW THAT WHEN JURORS ARE PUT
2 IN THAT SENTENCING PHASE THAT THEY FALL INTO TWO
3 CATEGORIES. THERE'S ONE GROUP THAT SAYS, "WE FOUND
4 THE DEFENDANT GUILTY OF MURDER. THERE IS THE
5 EXISTENCE OF THE AGGRAVATING CIRCUMSTANCE PROVED
6 BEYOND A REASONABLE DOUBT. IT DOESN'T MATTER
7 WHETHER THERE'S MITIGATING EVIDENCE, I BELIEVE THAT
8 THE DEATH PENALTY IS ALWAYS THE APPROPRIATE
9 PUNISHMENT FOR THAT. I VOTE DEATH."

10 THERE'S A SECOND TYPE JUROR THAT SAYS,
11 "WE FOUND HIM GUILTY OF MURDER. THERE'S
12 AGGRAVATING CIRCUMSTANCES. THERE MAY OR MAY NOT BE
13 MITIGATING EVIDENCE, BUT I BELIEVE THAT LIFE
14 IMPRISONMENT IS ALWAYS THE APPROPRIATE PUNISHMENT
15 FOR THAT. I VOTE FOR LIFE."

16 A UH-HUH. (YES).

17 THE COURT: THERE'S A THIRD ONE THAT
18 SAYS, "YES, WE HAVE THE CONVICTION. WE HAVE THE
19 AGGRAVATING CIRCUMSTANCES. WE HAVE...WE MAY OR MAY
20 NOT HAVE MITIGATING CIRCUMSTANCES, BUT BELIEVE THAT
21 I SHOULD LOOK AT THIS CASE SPECIFICALLY AND LOOK AT
22 THE DEFENDANT SPECIFICALLY AND THE OTHER FACTS
23 SPECIFICALLY AND TO DETERMINE AFTER REVIEW WHICH IS
24 THE APPROPRIATE PUNISHMENT FOR THIS CASE. IT MIGHT
25 BE LIFE AND I'LL CONSIDER THAT. IT MIGHT BE DEATH

1 AND I'LL CONSIDER THAT. AFTER I CONSIDER IT I WILL
2 MAKE UP MY MIND."

3 IF YOU HAD TO SAY WHICH CATEGORY YOU
4 FELL INTO, WHICH ONE WOULD IT LIKELY BE?

5 A I'D...MY BELIEF IS I DO NOT BELIEVE IN
6 THE DEATH PENALTY. IF A MAN'S GUILTY I BELIEVE IN
7 HIM SERVING HIS TIME IN PRISON, NOT BY DEATH.

8 THE COURT: SO, AS A JUROR IF YOU WERE
9 AUTHORIZED BY LAW AND INSTRUCTED UNDER THE PROPER
10 CIRCUMSTANCES THAT YOU COULD IMPOSE THE DEATH
11 PENALTY, ARE YOU TELLING ME THAT YOU COULD NOT EVER
12 IMPOSE A DEATH SENTENCE?

13 A NO, I COULD NOT.

14 THE COURT: UNDER ANY SET OF
15 CIRCUMSTANCES?

16 A NO.

17 THE COURT: HAS THIS BEEN A LONG-HELD
18 FEELING OR...

19 A YES, IT HAS.

20 THE COURT: IT'S A RELIGIOUS BASIS OR
21 MORAL...

22 A YES.

23 THE COURT: SOLICITOR?

24 DIRECT EXAMINATION:

25 BY MR. JONES:

1 Q GOOD AFTERNOON, MR. CROWE.
2 A HOW ARE YOU DOING?
3 Q YOU COULD NOT GIVE IT ANY
4 CONSIDERATION WHAT-SO-EVER?
5 A NO, SIR, I CAN NOT. THE WAY I
6 BELIEVE, I DON'T HAVE THE RIGHT TO JUDGE A MAN TO
7 DIE. GOD DIDN'T GIVE ME THAT RIGHT AND I DON'T
8 HAVE IT. IF A MAN'S GUILTY I CAN JUDGE HIM TO GO
9 TO PRISON FOR HOWEVER MANY YEARS, BUT I CAN'T JUDGE
10 HIM TO DIE.
11 Q THANK YOU, MR. CROWE.
12 THE COURT: MR. HARPOOTLIAN?
13 CROSS-EXAMINATION:
14 BY MR. HARPOOTLIAN:
15 Q LET ME JUST ASK YOU A COUPLE OF
16 QUESTIONS. YOU HAD NO PROBLEM WITH THE JUDGE'S
17 INSTRUCTION ON THE PRESUMPTION OF INNOCENCE? YOU
18 COULD GIVE MR. BECKHAM A FAIR TRIAL ON GUILT OR
19 INNOCENCE, COULD YOU NOT?
20 A NO, I UNDERSTAND IT COMPLETELY.
21 Q PARDON?
22 A I UNDERSTAND IT.
23 Q AND YOU COULD GIVE HIM A FAIR TRIAL ON
24 GUILT OR INNOCENCE?
25 A YES, I CAN.

1 Q IT'S JUST IF IT GOT TO A SECOND STAGE
2 YOU, NOT UNDER ANY CIRCUMSTANCES, COULD RENDER THE
3 DEATH PENALTY?

4 A NO, SIR, I CAN NOT.

5 Q AND THAT'S A RELIGIOUS BELIEF?

6 A YES, SIR.

7 Q NO FURTHER QUESTIONS.

8 THE COURT: ALL RIGHT. MR. CROWE, I'M
9 GOING TO EXCUSE YOU FROM SERVICE. ONE OF THE
10 REQUIREMENTS IS YOU HAVE TO BE ABLE TO CONSIDER
11 BOTH OPTIONS. SO, I'LL EXEMPT YOU FROM SERVICE.

12 A OKAY, THANK YOU.

13 THE COURT: HAVE A NICE DAY.

14 MR. GRIMES?

15 AS TO THE GREENVILLE NEWS REPORTER, I
16 AUTHORIZED THE CAMERA FOR ANYTHING OTHER THAN THE
17 JURORS, OKAY? NO OTHER...NO JUROR PICTURES.

18 MR. HARPOOTLIAN: YOUR HONOR, WE'RE
19 NOTING FOR THE RECORD OUR PREVIOUSLY MADE...I JUST
20 WANT...CAN WE JUST ON ANY JUROR WHO'S...

21 THE COURT: YEAH, THERE'S A CONTINUING
22 OBJECTION.

23 MR. HARPOOTLIAN: IF THEY'RE EXCUSED
24 BECAUSE OF OPPOSITION TO THE DEATH PENALTY BUT CAN
25 BE FAIR...THAT'S THE ONLY REASON I EVEN ASK THAT

1 QUESTION.

2 THE COURT: SURE.

3 JOHN GRIMES, BEING CALLED

4 AND DULY SWORN, TESTIFIES AS FOLLOWS:

5 THE COURT: MR. GRIMES. HAVE YOU EVER

6 BEEN ON A JURY BEFORE?

7 A NO, NOT CRIMINAL.

8 THE COURT: HAVE YOU HAD AN

9 OPPORTUNITY TO READ THE LETTER THAT I HANDED OUT

10 THE OTHER DAY?

11 A YES, YOUR HONOR.

12 THE COURT: AND DID YOU GENERALLY

13 UNDERSTAND THAT LETTER?

14 A YES.

15 THE COURT: OKAY. YOU UNDERSTAND THAT

16 THE STATE IS SEEKING THE DEATH PENALTY IN THIS

17 CASE?

18 A YES.

19 THE COURT: AND THAT BY REASON OF THAT

20 BOTH SIDES GET AN OPPORTUNITY TO ASK YOU SOME

21 QUESTIONS ABOUT YOUR VIEWS, OKAY? THERE AREN'T ANY

22 RIGHT ANSWERS, THERE AREN'T WRONG ANSWERS, BUT

23 THEY'RE YOUR ANSWERS. THAT'S WHAT WE'RE LOOKING

24 FOR.

25 HAVE YOU FORMED OR EXPRESSED ANY

1 OPINION AS TO THE INNOCENCE OR GUILT OF MR.
2 BECKHAM, THE DEFENDANT IN THIS CASE?

3 A NO, YOUR HONOR.

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

6 A I RECALL AFTER HEARING WHAT THE
7 CHARGES YOU READ YESTERDAY, I RECALL HEARING IT WAS
8 PROBABLY ONE OF THE FIRST NEWS BROADCASTS ON IT AND
9 THEN I HAVEN'T HEARD ANYTHING SINCE.

10 THE COURT: ALL RIGHT. WELL, THERE'S
11 NOTHING WRONG WITH THAT. THE QUESTION I WOULD ASK
12 TO YOU THOUGH IS THAT WHATEVER YOU HEARD COULD YOU
13 SET THAT ASIDE AND LISTEN TO THE EVIDENCE AND
14 DECIDE THE CASE BASED ON WHAT YOU HEARD IN THE
15 COURTROOM?

16 A YES, SIR.

17 THE COURT: OKAY. AND DO YOU BELIEVE
18 IN THE PRINCIPLE OF LAW, THE CONSTITUTIONAL
19 PRINCIPLE, THAT A CITIZEN ACCUSED OF A CRIME IS
20 PRESUMED TO BE INNOCENT OF THE CRIME CHARGED UNTIL
21 THE STATE ESTABLISHES HIS GUILT?

22 A YES, SIR.

23 THE COURT: ALL RIGHT. AND YOU CAN
24 FOLLOW THAT?

25 A YES, SIR.

1 THE COURT: NOW, THE REASON I NEEDED
2 TO ASK YOU THAT IS WE'RE GOING TO TALK ABOUT, A FEW
3 MINUTES, PENALTIES. WE MAY TALK ABOUT THE DEATH
4 PENALTY. WE'RE GOING TO TALK ABOUT LIFE
5 IMPRISONMENT. THE FACT THAT WE'RE TALKING ABOUT
6 THAT, I DON'T WANT YOU TO INFER THAT MR. BECKHAM IS
7 GUILTY OF ANYTHING. THERE'S BEEN NO EVIDENCE
8 PRESENTED. SO YOU WON'T DO THAT, WILL YOU?

9 A NO.

10 THE COURT: OKAY. NOW, MR. GRIMES,
11 GENERALLY WE HAVE A JURY COMES TO TRY...IN A
12 CRIMINAL TRIAL SETTING A JURY MAKES ONE ULTIMATE
13 DETERMINATION AND THAT IS WHETHER OR NOT A
14 DEFENDANT IS GUILTY OR NOT GUILTY OF THE CRIME
15 CHARGED. IF THEY RETURN A VERDICT OF NOT GUILTY
16 THEN OF COURSE THE DEFENDANT IS RELEASED FROM THE
17 CHARGES. IF HE IS FOUND GUILTY THEN HE IS
18 PRESENTED TO A JUDGE AND A JUDGE SENTENCES HIM.
19 THAT'S TRUE ABOUT OUR PROCEDURE IN EVERY SITUATION
20 EXCEPT ONE AND THE ONE EXCEPTION IS WHEN THE STATE
21 SEEKS THE DEATH PENALTY. IN THAT EVENT, A JURY IS
22 EMPANELED TO TRY THAT CASE HAS TWO ULTIMATE
23 RESPONSIBILITIES. THE FIRST ONE IS TO DETERMINE
24 WHETHER OR NOT THE DEFENDANT IS NOT GUILTY OR
25 GUILTY OF THE CRIME CHARGED. AND IN THAT CASE ONE

1 OF THE CRIMES CHARGED IS MURDER...ALWAYS IN A DEATH
2 PENALTY CASE. NOW, IF A VERDICT OF NOT GUILTY IS
3 RETURNED THEN THE JURY HAS NO MORE INVOLVEMENT IN
4 THE CASE. IF THEY RETURN A VERDICT OF GUILTY OF
5 MURDER THEN WE GO TO ESSENTIALLY A SECOND TRIAL.
6 AND IN THAT TRIAL, WHICH IS CALLED THE SENTENCING
7 PHASE, A JURY IS PRESENTED EVIDENCE OF AGGRAVATING
8 CIRCUMSTANCES, EVIDENCE OF MITIGATING
9 CIRCUMSTANCES, AND THEY GET THE WHOLE RECORD AND
10 THEY'RE ENTITLED THEN TO MAKE A DETERMINATION FROM
11 THEIR VIEW AND BASED ON THE LAW WHAT IS THE
12 APPROPRIATE PUNISHMENT. IT CAN BE LIFE, IT CAN BE
13 DEATH. DO YOU UNDERSTAND ME PROCEDURALLY?

14 A YES, YOUR HONOR.

15 THE COURT: ALL RIGHT, NOW WE KNOW
16 THAT WE HAVE THREE TYPES OF JURORS WHO PRESENT
17 THEMSELVES IN THAT TYPE OF SITUATION. THE FIRST
18 ONE IS WHO SAYS, "WE CONVICTED HIM OF MURDER.
19 THERE'S PROOF OF AGGRAVATING CIRCUMSTANCES BEYOND A
20 REASONABLE DOUBT. IT DOESN'T MATTER WHETHER
21 THERE'S MITIGATING CIRCUMSTANCES," THAT JUROR SAYS,
22 "I BELIEVE THE DEATH PENALTY IS ALWAYS APPROPRIATE
23 FOR THAT. I VOTE FOR THE DEATH PENALTY."

24 THE SECOND JUROR SAYS, "WE'VE GOT THE
25 CONVICTION. THERE ARE AGGRAVATING CIRCUMSTANCES.

1 THERE MAY OR MAY NOT BE ANY MITIGATING
2 CIRCUMSTANCES." BUT THAT JUROR SAYS, "I BELIEVE
3 THAT A LIFE SENTENCE IS ALWAYS THE APPROPRIATE
4 SENTENCE FOR THAT CONDUCT SO I VOTE LIFE."

5 AND THEN WE HAVE A THIRD GROUP THAT
6 SAYS, "WE'VE GOT THE CONVICTION. WE'VE GOT THE
7 AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY NOT HAVE
8 MITIGATING CIRCUMSTANCES." BUT THAT JUROR SAYS, "I
9 WANT TO LOOK AT THIS CASE SPECIFICALLY, THE
10 DEFENDANT SPECIFICALLY, THINGS ABOUT THE CASE
11 SPECIFICALLY AND THEN I'M GOING TO CONSIDER LIFE
12 AND I'M GOING TO CONSIDER DEATH AND THEN I'LL VOTE
13 FOR THE SENTENCE THAT I THINK IS APPROPRIATE."

14 IF YOU WERE TO BE SELECTED TO SERVE ON
15 A JURY, COULD YOU TELL ME WHICH CATEGORY YOU MIGHT
16 WELL FIT IN?

17 A I WOULD BE IN THE LAST CATEGORY YOU
18 DESCRIBED.

19 THE COURT: ALL RIGHT. SO THAT IF,
20 BASED ON THE LAW AND THE EVIDENCE IN THE CASE, THAT
21 YOU THOUGHT OR CONCLUDED THAT THE APPROPRIATE
22 SENTENCE WAS A LIFE SENTENCE, YOU COULD VOTE TO
23 IMPOSE A LIFE SENTENCE?

24 A YES, YOUR HONOR.

25 THE COURT: AND IF YOU FELT THAT ON

1 THAT SAME CASE THAT THE APPROPRIATE SENTENCE WAS
2 THE DEATH PENALTY, COULD YOU VOTE TO IMPOSE THE
3 DEATH PENALTY?

4 A YES, YOUR HONOR.

5 THE COURT: AND ALSO, MR. GRIMES, OUR
6 SYSTEM REQUIRES...OUR STATUTE REQUIRES THAT EACH
7 INDIVIDUAL JUROR MUST BE ABLE TO SIGN THEIR NAME TO
8 THE SENTENCING FORM OR THE DEATH WARRANT IF THEY
9 FIND THE DEATH PENALTY IS APPROPRIATE. COULD YOU
10 SIGN YOUR NAME TO THAT FORM IF YOU THOUGHT THE
11 DEATH PENALTY WAS APPROPRIATE?

12 A YES, YOUR HONOR.

13 THE COURT: OKAY. NOW I'M GOING TO
14 LET THE SOLICITOR AND THE DEFENSE ATTORNEYS ASK YOU
15 A FEW QUESTIONS. OKAY? MR. SOLICITOR?
16 DIRECT EXAMINATION:

17 BY MR. JONES:

18 Q GOOD AFTERNOON, MR. GRIMES.

19 A HELLO..

20 Q I APPRECIATE YOUR PATIENCE WITH US.
21 WE'RE TRYING TO WORK AS STEADY...IT'S JUST A
22 PROCESS THAT REQUIRES SOME TIME. I LISTENED TO
23 YOUR ANSWERS AND IT SOUNDED LIKE YOU UNDERSTOOD
24 WHAT THE JUDGE'S QUESTIONS WERE AND GAVE HIM THE
25 CORRECT ANSWER...YOUR ANSWERS WERE CORRECT IN YOUR

1 MIND AS FAR AS WHAT YOU COULD AND COULDN'T DO. SO,
2 YOU WOULD BE ABLE TO IMPOSE THE DEATH SENTENCE IF
3 YOU FELT IS WAS THE PROPER VERDICT...PROPER TYPE
4 CASE?

5 A YES, SIR.

6 Q AND IF YOU FELT THAT THE LIFE SENTENCE
7 WAS THE MORE PROPER SENTENCE, YOU COULD DO THAT
8 ALSO?

9 A YES.

10 Q AND YOU WOULDN'T ALWAYS LEAN TOWARDS
11 ONE OR THE OTHER? YOU WOULD JUST HAVE TO WAIT AND
12 SEE WHAT KIND OF CASE IT WAS? IS THAT CORRECT?

13 A THAT'S CORRECT.

14 Q I WOULD LIKE TO INTRODUCE YOU...VICKIE
15 LANDER BECKHAM WAS THE VICTIM IN THIS CASE AND HER
16 DAD, SENATOR LANDER, IS HERE WITH SOME OF HIS
17 FAMILY IN THE FRONT ROW. THEY'RE HERE FOR THE
18 CASE. AND I'LL BE ASSISTED IN THIS CASE BY MR.
19 MICHAEL COULTER, DEPUTY SOLICITOR FROM THE 8TH
20 CIRCUIT.

21 MR. COULTER: GOOD AFTERNOON.

22 Q AND DEPUTY SOLICITOR KNOX MCMAHON.
23 THANK YOU VERY MUCH FOR YOUR ANSWERS.

24 THE COURT: MR. SWERLING OR MR.
25 HARPOOTLIAN?

1 MR. HARPOOTLIAN: IF IT PLEASE THE
2 COURT, YOUR HONOR?

3 CROSS-EXAMINATION:

4 BY MR. HARPOOTLIAN:

5 Q MR. GRIMES, MY NAME IS DICK
6 HARPOOTLIAN AND I'M AN ATTORNEY. I PRACTICE IN
7 COLUMBIA PRIMARILY. AND THAT'S JACK SWERLING RIGHT
8 THERE. HE AND I ARE HERE REPRESENTING MR. BECKHAM.
9 THAT'S MR. BECKHAM RIGHT THERE. SEATED BEHIND HIM
10 ARE HIS MOTHER AND FATHER AND OTHER RELATIVES. DO
11 YOU KNOW ANY OF US?

12 A NO, I DON'T BELIEVE SO. NO.

13 Q OKAY. AND I NOTICE...FIRST OF ALL LET
14 ME APOLOGIZE. I'M NOT TRYING TO PUT YOU ON THE
15 SPOT. I'M JUST TRYING TO FIND OUT A LITTLE BIT
16 ABOUT YOU, OKAY? I NOTICE YOU'RE A SECURITY
17 OFFICER FOR DUKE POWER? IS THAT RIGHT?

18 A THAT'S RIGHT.

19 Q AND YOU CURRENTLY DO THAT?

20 A YES, SIR.

21 Q DO YOU WORK WITH LAW ENFORCEMENT A
22 GOOD BIT? DO YOU ARREST PEOPLE THAT TRESPASS OR
23 COMMIT CRIMES?

24 A I HAVE NEVER MADE AN ARREST. I'VE
25 BEEN AT DUKE, AT ONS, FOR I THINK SEVENTEEN YEARS

1 AND I HAVEN'T ARRESTED ANYONE YET. BUT I HAVE THE
2 POWER TO MAKE ARRESTS.

3 Q OKAY. I NOTICE ALSO, I'M NOT TRYING
4 TO EMBARRASS YOU IN ANY WAY, BUT ON THIS FORM THAT
5 YOU SENT BACK IN IT SAYS HAS ANY MEMBER OF YOUR
6 FAMILY EVER BEEN ARRESTED AND IT'S CHECKED YES?

7 A YES.

8 Q CAN YOU TELL ME ABOUT THAT?

9 A I HAVE A BROTHER, HE'S AN OLDER
10 BROTHER. I BELIEVE HE'S FIFTY-FIVE. HE RESIDES IN
11 FLORIDA AND HE WAS ARRESTED FOR A BOOKING
12 CHARGE...BETTING.

13 Q BETTING?

14 A BOOKING BASEBALL...

15 Q OH, OKAY.

16 A ...IT'S KIND OF FUN AND A SIDELINE FOR
17 HIM. I DON'T THINK HE WAS GETTING RICH OR DOING IT
18 FOR ANYONE ELSE.

19 Q IT'S NOT FUN ANYMORE?

20 A NO.

21 Q YOU BELONG TO THE NATIONAL YOUTH'S
22 SPORTS COACH'S ASSOCIATION? DO YOU COACH ANY SORT
23 OF TEAM?

24 A I COACHED LITTLE LEAGUE FOOTBALL HERE
25 IN WAHALLA FOR SEVEN YEARS. I COACHED COUNTY

1 FOOTBALL TEAM FOR TWO YEARS AND I'VE ALSO COACHED
2 SOME LADY'S AND GIRL'S SOFTBALL TEAMS. I HAVEN'T
3 BEEN ABLE TO COACH THE LAST TWO YEARS BECAUSE I'VE
4 BEEN WORKING A SWING-SHIFT AT THE PLANT, SO IT KIND
5 OF CUT THAT OUT.

6 Q CUT THAT OUT? WE TALKED A GOOD BIT,
7 AND THE JUDGE ASKED YOU, AND THE SOLICITOR
8 MENTIONED SOME THINGS ABOUT THE PENALTY TRIAL, IF
9 WE GET TO THAT POINT. YOU DO UNDERSTAND, AND I'M
10 SURE YOU DO, THAT MR. BECKHAM IS PRESUMED INNOCENT
11 AND THAT WE MAY NEVER GET TO A SECOND TRIAL, IF YOU
12 WILL?

13 A I UNDERSTAND THAT.

14 Q DO YOU KNOW ANYTHING ABOUT THIS CASE?
15 WHAT HAVE YOU READ, OR WHAT HAVE YOU HEARD, OR WHAT
16 DO YOU THINK YOU KNOW ABOUT THIS CASE?

17 A LIKE I SAID BEFORE, I JUST HEARD THE
18 FIRST...

19 MR. JONES: JUDGE, HE'S...YOU'VE ASKED
20 HIM THAT QUESTION, HE'S ANSWERED IT.

21 THE COURT: I UNDERSTAND, BUT I CAN'T
22 LIMIT...UNLESS HE ASKS IT AGAIN. IF HE ASKS IT A
23 SECOND TIME I CAN LIMIT IT. THE FIRST TIME I HAVE
24 TO GIVE HIM A BITE AT IT. OVERRULED.

25 Q I'M SORRY, THE JUDGED ASKED YOU ABOUT

1 THAT...I DON'T KNOW THAT HE ASKED YOU SPECIFICALLY
2 IF YOU REMEMBERED WHAT YOU'D READ, BUT THAT'S WHAT
3 I'M TRYING TO GET AT.

4 A NO, I HAVEN'T READ ANYTHING.

5 Q WHAT...AND I KNOW YOU MENTIONED YOU
6 SAW SOMETHING SPECIFICALLY...

7 A WELL, NOW, COME TO THINK OF IT I
8 RECALL HEARING A NEWS BROADCAST AND WHEN I HEARD
9 THE JUDGE READING THE CHARGES I KIND OF RELATED
10 THESE TWO. THEY MAY NOT HAVE BEEN THE SAME TWO.

11 Q OKAY. AS A RESULT OF WHAT YOU'VE READ
12 OR HEARD, OR WITH ANY OF THIS SORT OF SPINNING
13 AROUND OUT THERE IN THE MEDIA WORLD, HAVE YOU SAID
14 ANYTHING OR FELT ANYTHING ABOUT THIS CASE IN TERMS
15 OF...

16 A NO.

17 Q ...HE'S GUILTY OR INNOCENT OR ANY...I
18 MEAN, HAVE YOU TALKED ABOUT THAT IN ANY WAY?

19 A NO.

20 Q OKAY. THE JUDGE HAS TOLD YOU, AND HE
21 TALKED BRIEFLY ABOUT THIS PRESUMPTION OF INNOCENCE,
22 THE JURY IN A CASE SUCH AS THIS...AS I SAID, THERE
23 MAY BE TWO SEPARATE TRIALS...THE FACT THAT WE'RE
24 TALKING ABOUT PENALTY IN ANY WAY, DOES THAT INFER
25 TO YOU THAT HE MAY BE GUILTY OR MIGHT BE GUILTY?

1 A NO.

2 Q OKAY. YOU'RE NOT GETTING THAT MESSAGE

3 IN ANY WAY?

4 A NO.

5 Q OKAY, GOOD. CAN YOU THINK OF ANY

6 REASON WHY YOU SHOULDN'T BE ON THIS JURY?

7 A NO.

8 Q OKAY. IT'S NOT...YOU'D BE AWAY FROM

9 HOME FOR A COUPLE OF WEEKS. YOUR FAMILY CAN COPE?

10 YOUR JOB CAN COPE?

11 A YEAH, EVERYTHING WILL BE FINE.

12 Q WON'T BE ON SWING-SHIFT FOR A COUPLE

13 OF WEEKS?

14 A THAT MIGHT BE NICE.

15 Q MIGHT BE NICE? OKAY. JUST GIVE ME

16 TWO SECONDS TO GO OVER HERE AND TALK TO MR.

17 SWERLING AND SEE IF THERE'S ANYTHING I'VE MISSED.

18 A OKAY.

19 THE COURT: ONES.

20 Q I'M TOLD I'VE COVERED IT ALL. THANK

21 YOU VERY MUCH FOR YOU CANDID RESPONSES. I HOPE I

22 DIDN'T EMBARRASS YOU IN ANY WAY.

23 THE COURT: MR. GRIMES, DON'T HIT ME,

24 BUT I NEED TO TELL YOU WHAT I'M FACING. HOW LONG

25 WILL IT TAKE YOU TO GET PACKED AND COME BACK UP

1 HERE?

2 A A HALF HOUR TO AN HOUR.

3 THE COURT: IS THERE ANYONE THAT CAN
4 BRING YOU BACK OR WOULD IT BE HELPFUL IF I SENT
5 SOMEONE WITH YOU TO BRING YOU BACK?

6 A IF YOU'RE CONCERNED ABOUT MY
7 AUTOMOBILE, I COULD HAVE SOMEONE GET IT.

8 THE COURT: ALL RIGHT. SO, IF I SAID
9 COULD YOU PLEASE BE BACK AS NEAR AS 4:00 AS
10 POSSIBLE, COULD YOU DO THAT? OR A LITTLE
11 LATER...4:30?

12 A THAT'S ALL RIGHT.

13 THE COURT: I HATE TO DO THAT, BUT
14 WE'RE RUNNING RIGHT ON THE NECK OF THINGS. SO,
15 PACK FOR TEN DAYS, OR WE HAVE LAUNDRY SERVICES IF
16 YOU DON'T WANT TO PACK AN OVERLOAD. BUT SLED WILL
17 PROVIDE FOR YOUR TRANSPORTATION TO AND FROM AND
18 NEWBERRY COUNTY'S GOING TO PAY FOR YOUR LODGING AND
19 YOUR MEALS.

20 A WHERE DO I COME BACK TO?

21 THE COURT: HE'LL SHOW YOU. 4:00 OR
22 THEREABOUTS. I KNOW IF YOU RUN JUST A LITTLE BIT
23 BEHIND THAT'S FINE.

24 A ALL RIGHT.

25 THE COURT: OKAY. ALL RIGHT, THAT'S

1 PANEL E. PANEL F? GREGORY BROOME? LET'S SEE IF
2 WE CAN GET TWENTY-SEVEN AND THEN Y'ALL CAN TALK
3 ABOUT IT.

4 MR. HARPOOTLIAN: YOUR HONOR, AS I
5 UNDERSTAND IT, THE PROCEDURE YOU'RE PROPOSING IS
6 THAT WE GO AHEAD AND PICK TWELVE WITH TWENTY-SEVEN
7 JURORS? IF WE HAD ANY LEFT OVER WE MIGHT BE ABLE
8 TO PICK AN ALTERNATE OR TWO?

9 THE COURT: WE COULD DO THAT.

10 MR. HARPOOTLIAN: IF WE DON'T THEN WE
11 KNOW HOW MANY JURORS AT THAT POINT. IN OTHER
12 WORDS, WE DON'T NEED TO GO TO THIRTY-FIVE...SO,
13 WHAT'S THE DOWN SIDE?

14 THE COURT: THERE'S NO DOWN SIDE TO
15 IT. I MEAN I DO IT ALL THE TIME. IT'S JUST
16 GETTING Y'ALL TO AGREE TO DO IT.

17 MR. HARPOOTLIAN: WHY WOULDN'T WE
18 AGREE?

19 THE COURT: I DON'T KNOW WHY YOU
20 WOULDN'T.

21 MR. HARPOOTLIAN: OKAY.

22 GREGORY BROOME, BEING CALLED
23 AND DULY SWORN, TESTIFIES AS FOLLOWS:

24 THE COURT: MR. BROOME, HAVE YOU EVER
25 SERVED ON A JURY BEFORE?

1 A YES, SIR.

2 THE COURT: WHAT KIND OF CASE WAS IT?

3 A MAGISTRATE'S COURT. SEVERAL YEARS

4 BACK.

5 THE COURT: OKAY. AND DID YOU GET A

6 CHANCE TO READ THE LETTER THAT I HANDED OUT THE

7 OTHER DAY?

8 A YES, SIR.

9 THE COURT: AND DID YOU ESSENTIALLY

10 UNDERSTAND THE LETTER?

11 A YES, SIR.

12 THE COURT: AND DID YOU...HAVE YOU

13 FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OR

14 INNOCENCE OF MR. BECKHAM, THE DEFENDANT IN THIS

15 CASE?

16 A I WAS RELUCTANT TO STAND UP IN FRONT

17 OF EVERYONE THE OTHER DAY WHEN YOU ASKED IF ANYBODY

18 HAD EVER HEARD OF THIS CASE. I REMEMBER ON THE

19 NEWS WHEN IT WAS FIRST DISCOVERED AND SORT OF

20 FOLLOWED IT THROUGH THE NEWS JUST OUT OF CURIOSITY.

21 THE COURT: ALL RIGHT.

22 A BUT, UM...

23 THE COURT: IS THAT ALL YOU KNOW ABOUT

24 IS WHAT YOU HEARD FROM THE NEWS?

25 A BASICALLY.

1 THE COURT: ALL RIGHT, WELL LET ME ASK
2 YOU THIS. ALL THE TIME, YOU KNOW, I READ THINGS
3 AND THEN LOW AND BEHOLD TO LEARN I HAVE TO MAKE A
4 DECISION ABOUT SOMETHING THAT I READ. THAT HAPPENS
5 TO JURORS ALL THE TIME. THE QUESTION THOUGH IS,
6 BEFORE YOU CAN BE ASKED TO DECIDE IT, IS CAN YOU
7 SET ASIDE THOSE NEWS ACCOUNTS AND AGREE TO TRY THE
8 CASE BASED ON THE EVIDENCE THAT IS PRESENTED HERE
9 AND PRESENTED IN THE COURTROOM AND DECIDE IT ON
10 THAT BASIS WITHOUT THE OUTSIDE INFLUENCE? COULD
11 YOU DO THAT?

12 A I DON'T KNOW.

13 THE COURT: WELL, WHAT ABOUT THE
14 INFORMATION THAT YOU HEARD THAT YOU THINK WOULD
15 AFFECT YOUR DECISION-MAKING PROCESS?

16 A I'M CURIOUS ABOUT A MOTIVE. HOW A
17 STORY CAN BE CONCOCTED.

18 THE COURT: WELL, IF...I DON'T KNOW
19 WHAT THE EVIDENCE IS GOING TO BE, BUT IF THERE'S
20 EVIDENCE IN THE CASE ABOUT THAT, WOULD THAT NOT
21 SATISFY YOUR CURIOSITY...OR NOT EVIDENCE? I MEAN,
22 I DON'T KNOW.

23 A I GUESS.

24 THE COURT: WELL, BEING CURIOUS IS NOT
25 NECESSARILY BEING...IN OTHER WORDS, WHAT I WANT TO

1 KNOW IS COULD YOU WITH AN OPEN MIND SIT IN THE JURY
2 BOX, LISTEN TO THE EVIDENCE, AND DECIDE THE CASE ON
3 THAT EVIDENCE?

4 A I COULD TRY MY BEST, I SUPPOSE.

5 THE COURT: OKAY. ANY OBJECTION TO MY
6 REVERSING MY ORDER?

7 MR. SWERLING: NO, SIR.

8 THE COURT: SOLICITOR, ANY OBJECTION
9 TO MY REVERSING?

10 MR. JONES: NO, YOUR HONOR.

11 THE COURT: ALL RIGHT. MR. BROOME, IN
12 A DEATH PENALTY CASE, WHICH THE STATE IS SEEKING IN
13 THIS CASE, THE JURY MAKES TWO DETERMINATIONS. THEY
14 DECIDE WHETHER A DEFENDANT IS GUILTY OR NOT GUILTY.
15 THEY ALSO DETERMINE WHAT THE APPROPRIATE PUNISHMENT
16 IS IN A DEATH PENALTY CASE. THEY CAN EITHER GIVE
17 LIFE OR THEY CAN GIVE DEATH. THE...JUST LIKE WHEN
18 I SENTENCE SOMEBODY, IF A JURY FINDS A DEFENDANT
19 GUILTY OF MURDER THEN THEY ARE PRESENTED, IN A
20 SENTENCING PHASE, EVIDENCE OF AGGRAVATION, EVIDENCE
21 OF MITIGATION, AND THEY THEN MAKE THEIR DECISION AS
22 TO THE APPROPRIATE PUNISHMENT.

23 NOW, WE KNOW THERE ARE THREE KINDS OF
24 JURORS WHEN THEY ARE PUT IN THAT POSITION. THERE
25 ARE THOSE JURORS WHO SAY, "WE FOUND A DEFENDANT

1 GUILTY OF MURDER, PLUS WE KNOW THAT THERE IS PROOF
2 OF AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE
3 DOUBT. IT DOESN'T MATTER WHETHER THERE'S ANY
4 MITIGATING CIRCUMSTANCE." THAT JUROR SAYS, "I
5 BELIEVE THE DEATH PENALTY IS ALWAYS APPROPRIATE IN
6 THAT CASE AND I ALWAYS VOTE FOR THE DEATH PENALTY."
7 OKAY?

8 THERE'S A SECOND TYPE JUROR WHO SAYS
9 THAT, "TRUE, THERE'S A CONVICTION. THERE'S
10 AGGRAVATING CIRCUMSTANCES. THERE MAY OR MAY NOT BE
11 MITIGATING CIRCUMSTANCES," BUT THAT JUROR SAYS, "I
12 BELIEVE FOR THIS THAT LIFE IMPRISONMENT IS ALWAYS
13 THE APPROPRIATE PUNISHMENT. I VOTE FOR LIFE."

14 THEN, THERE'S A THIRD KIND THAT SAYS
15 THAT, "WE HAVE THE CONVICTION, THE AGGRAVATING
16 CIRCUMSTANCE. MAY OR MAY NOT HAVE MITIGATING
17 CIRCUMSTANCE, BUT I WANT TO LOOK AT THIS SPECIFIC
18 CASE AND THIS SPECIFIC DEFENDANT AND I'LL CONSIDER
19 LIFE AND I'LL CONSIDER DEATH AND THEN I'LL DECIDE
20 WHICH IS THE APPROPRIATE PUNISHMENT IN THIS CASE."

21 IF YOU WERE A JUROR IN A CASE, WHAT
22 CATEGORY WOULD YOU LIKELY FALL IN?

23 A I FAVOR THE DEATH PENALTY
24 WITHOUT...THE ONLY CASE, I SUPPOSE, THAT I WOULD
25 NOT FAVOR THE DEATH PENALTY WOULD BE WITH SELF-

1 DEFENSE.

2 THE COURT: OKAY. ALL RIGHT. LET ME
3 TELL YOU ABOUT SELF-DEFENSE NOW. SELF-DEFENSE IS
4 WHAT IT SAYS. IT IS A DEFENSE, IT IS A COMPLETE
5 DEFENSE TO THE CHARGE OF MURDER, FOR EXAMPLE. I
6 WANT YOU TO GET OVER THAT HURDLE AND PUT IN YOUR
7 MIND THAT THIS HAS OCCURRED: A DEFENDANT HAS BEEN
8 CONVICTED OF MURDER. OKAY? NO DEFENSES. MURDER.
9 YOU KNOW THAT, OKAY? YOU FOUND HIM GUILTY OF THAT?
10 OKAY? DO YOU FOLLOW ME SO FAR?

11 A (NODS HEAD AFFIRMATIVE)

12 THE COURT: ALL RIGHT. YOU'RE ON A
13 JURY AND THEN YOU ARE ASKED TO DETERMINE WHAT IS
14 THE APPROPRIATE PUNISHMENT, AND YOU'RE GOING TO GET
15 EVIDENCE OF AGGRAVATING CIRCUMSTANCES, WHICH MEANS
16 SOMETHING THAT MADE THAT MURDER WORSE. FOR
17 EXAMPLE: MURDER PLUS ARMED ROBBERY, SOMETHING LIKE
18 THAT. YOU'RE GOING TO GET EVIDENCE OF MITIGATION,
19 THINGS ABOUT THE DEFENDANT, THINGS ABOUT HIS...JUST
20 THINGS THAT MIGHT BEAR ON...JUST LIKE I DO. WHEN I
21 SEE A MAN SITTING IN FRONT OF ME AND I'M GOING TO
22 PASS JUDGEMENT OR PUNISHMENT ON HIM, I WANT TO
23 KNOW, I WANT TO LOOK AT HIM, AND I WANT TO HEAR
24 ABOUT IT. AND I ALSO WANT TO KNOW FROM THE VICTIMS
25 AND THE STATE WHAT THE PROBLEMS ARE. AND I'M GOING

1 TO TAKE ALL OF THAT IN AND I'M GOING TO FIX THE
2 PUNISHMENT. EITHER LIFE...OR WHATEVER IT IS IN
3 THAT SITUATION. IN YOUR SITUATION IT WOULD BE LIFE
4 OR DEATH.

5 MY QUESTION IS, IS COULD YOU, IF THE
6 CIRCUMSTANCES...UNDERSTAND YOU HAVE MURDER, YOU
7 HAVE AN AGGRAVATING CIRCUMSTANCE, OKAY?

8 A BOTH TOGETHER?

9 THE COURT: YEAH. AND YOU MAY OR MAY
10 NOT HAVE MITIGATING CIRCUMSTANCES. COULD YOU, IF
11 YOU THOUGHT THAT THE APPROPRIATE SENTENCE WAS THE
12 DEATH PENALTY, COULD YOU IMPOSE THE DEATH PENALTY?

13 A YES, I COULD.

14 THE COURT: ALL RIGHT. ON THE OTHER
15 HAND, IF YOU TOOK THAT SAME CASE AND YOU LOOKED AT
16 IT AND YOU CAME TO THE CONCLUSION THAT A LIFE
17 SENTENCE WAS A MORE APPROPRIATE PUNISHMENT THAN
18 DEATH, COULD YOU IMPOSE...VOTE TO IMPOSE A LIFE
19 SENTENCE?

20 A I DOUBT IT.

21 THE COURT: ARE YOU SAYING YOU WOULD
22 AUTOMATICALLY BE FOR THE DEATH PENALTY ALL THE
23 TIME?

24 A MURDER WITH AGGRAVATING CIRCUMSTANCES?

25 YES, SIR.

1 THE COURT: AND YOU WOULDN'T CONSIDER
2 ANYTHING ELSE? ANY OTHER OPTION?

3 A NO, SIR.

4 THE COURT: ALL RIGHT. COULD YOU SIGN
5 YOUR NAME TO THE DEATH WARRANT IF YOU FOUND THE
6 DEATH PENALTY WAS APPROPRIATE?

7 A YES, SIR.

8 THE COURT: OKAY. SOLICITOR?

9 DIRECT EXAMINATION:

10 BY MR. JONES:

11 Q MR. BROOME, HOW ARE YOU? MY NAME IS
12 TOWNES JONES. I ONLY HAVE COUPLE OF QUESTIONS FOR
13 YOU. I WANTED TO ASK YOU IF YOU FELT LIKE YOU
14 COMPLETELY UNDERSTOOD WHAT THE JUDGE'S QUESTIONS
15 WERE ABOUT BEING ABLE TO SERVE AS A JUROR AND THAT
16 SORT OF THING? I THINK I UNDERSTOOD YOUR ANSWERS
17 AND MAYBE I WAS THE ONE THAT KIND OF WASN'T
18 LISTENING CLOSELY ENOUGH. LET ME ASK YOU THIS
19 QUESTION. IF...I HEARD YOU SAY THAT IF SOMEBODY'S
20 CONVICTED OF MURDER AND THERE'S AGGRAVATING
21 CIRCUMSTANCES PRESENT, YOU WOULD VOTE FOR THE DEATH
22 PENALTY, IS THAT CORRECT?

23 A YES, SIR.

24 Q WHAT I WANT TO ASK YOU IS, IF YOU WERE
25 ON A JURY AND SOMEBODY'S FOUND GUILTY OF MURDER AND

1 THERE ARE AGGRAVATING CIRCUMSTANCES THAT ARE
2 PRESENT, THAT EXIST, YOU SAY "THIS IS AN AGGRAVATED
3 MURDER," BUT THE JUDGE CHARGED YOU, IN HIS CHARGE
4 TO YOU, THAT YOU HAVE AN OPTION: YOU CAN COME BACK
5 WITH LIFE OR YOU CAN COME BACK WITH DEATH, WOULD
6 YOU TO BEGIN WITH CONSIDER...WOULD YOU FOLLOW HIS
7 CHARGE...?

8 MR. SWERLING: OBJECTION, YOUR HONOR.
9 THAT IS NOT THE STANDARD.

10 THE COURT: I ASSUME HE'S WORKING ON A
11 FOUNDATION. I'LL OVERRULE IT RIGHT NOW. OKAY.

12 Q WOULD YOU FOLLOW THE JUDGE'S CHARGE?
13 WOULD YOU ADHERE TO WHAT HE TOLD YOU THE LAW WAS?
14 WOULD YOU...IN OTHER WORDS, IF HE TOLD YOU A
15 PRINCIPLE OF LAW IS IN THE STATE OF SOUTH CAROLINA
16 THERE IS A PRESUMPTION OF INNOCENCE, THAT ALL
17 DEFENDANTS ARE PRESUMED INNOCENT AND THEY REMAIN
18 INNOCENT UNTIL...IF THE STATE PROVES ITS CASE --
19 AND ANOTHER LEGAL PRINCIPLE -- BEYOND A REASONABLE
20 DOUBT, WOULD YOU FOLLOW THE JUDGE'S INSTRUCTIONS
21 AND SAY, "OKAY, IF THE LAW IS THAT HE'S INNOCENT
22 UNTIL THE STATE OR IF THE STATE PROVES HIM GUILTY
23 BEYOND A REASONABLE DOUBT, I CAN FOLLOW THAT,
24 JUDGE. I CAN LISTEN TO THE EVIDENCE?" WOULD YOU
25 FOLLOW THAT PRINCIPLE OF LAW?

1 A I THOUGHT I UNDERSTOOD THAT THE JUDGE
2 INSTRUCTED THAT HE HAD BEEN CONVICTED OF MURDER AND
3 WITH AGGRAVATED ASSAULT...CIRCUMSTANCES.

4 Q OKAY. I THINK THE JUDGE DID GET THAT
5 FAR WITH YOU. I THINK HE DID. BUT, WHAT I WANTED
6 TO ASK YOU, BEFORE I GOT TO THAT, WAS IS WOULD YOU
7 FOLLOW THE JUDGE'S INSTRUCTIONS ON THE LAW?

8 A I COULD TRY.

9 Q WOULD YOU BE INCLINED TO? WOULD YOU
10 WANT TO?

11 A YES.

12 Q YOU WOULD WANT TO FOLLOW THE JUDGE'S
13 INSTRUCTIONS?

14 A RIGHT.

15 Q I HEARD YOU SAY EARLIER WAS, WELL, THE
16 ONLY TIME YOU COULD GIVE LIFE WAS IF IT WAS A SELF-
17 DEFENSE CASE. GIVE LIFE ON A SELF-DEFENSE CHARGE?

18 A OR DISMISS.

19 Q SIR?

20 A IF YOU DID IT PROTECTING YOUR LIFE...

21 Q RIGHT?

22 A ...OR SOMEONE'S LIFE...

23 Q RIGHT?

24 A ...AND IT HAPPENED...

25 Q RIGHT? THEN WHAT WOULD YOU WANT TO DO

1 WITH THAT?

2 A CLARIFY IT. GO TO COURT WITH IT.

3 Q AND?

4 A IF THE PERSON WAS INNOCENT, PROVEN IN
5 SELF-DEFENSE, EITHER DO...JUSTIFY DISMISSING IT OR
6 WHATEVER.

7 Q OKAY. AND WHAT WOULD YOU DO IF YOU
8 WENT TO COURT AND THE PROSECUTION DIDN'T PROVE ITS
9 CASE AT ALL? YOU WERE ON A JURY AND THE
10 PROSECUTION, TO YOU, DID NOT PROVE ITS CASE BEYOND
11 A REASONABLE DOUBT, WHAT WOULD YOU DO IN THAT CASE?

12 A I DON'T KNOW.

13 Q IF YOU WERE ON A MURDER CASE AND YOU
14 DECIDED THE PROSECUTION DID NOT PROVE ITS CASE?

15 A IT WOULD ALWAYS BE A QUESTION,
16 WOULDN'T IT?

17 Q BUT IF YOU DECIDED THE PROSECUTION
18 DIDN'T PROVE IT? I'M JUST TALKING ABOUT GUILT OR
19 INNOCENCE NOW.

20 A RIGHT. HAVE TO STAND BY WHAT YOU
21 BELIEVE.

22 Q AND WHAT WOULD THAT BE?

23 A IF THERE WAS A QUESTION, I WOULD WANT
24 TO KNOW.

25 Q SIR?

1 A I WOULD WANT TO KNOW IF THERE WERE A
2 QUESTION OF DOUBT.

3 Q RIGHT. AND IF THERE WAS A QUESTION OF
4 DOUBT THE PROSECUTION DIDN'T PROVE ITS CASE, WOULD
5 YOU FIND HIM NOT GUILTY?

6 A YES, SIR.

7 Q OKAY. THEN, IF YOU HAD A CASE WHERE
8 THERE WAS NO QUESTION OF DOUBT AND YOU DETERMINED
9 THIS PERSON HAD COMMITTED MURDER, WAS GUILTY OF
10 MURDER, WHEN THE STATE SEEKS THE DEATH PENALTY THEN
11 YOU HAVE TO HAVE A TOTALLY SEPARATE TRIAL AFTER
12 THAT. YOU HAVE ONE TRIAL TO DECIDE WHETHER THEY'RE
13 GUILTY OR NOT, IN THE STATE OF SOUTH CAROLINA, AND
14 THEN AFTER THAT IF THE JURY VOTES AND ALL TWELVE
15 SAY GUILTY OF MURDER THEN THE JURY HAS TO HAVE
16 ANOTHER SEPARATE TOTALLY NEW TRIAL, WITH THE SAME
17 JURY, BUT A NEW TRIAL. DO YOU KNOW WHAT THAT TRIAL
18 IS FOR?

19 A SENTENCING.

20 Q SENTENCING, THAT'S RIGHT. TO DECIDE
21 WHAT THE PUNISHMENT IS. AND THE JURY HAS TO DECIDE
22 THAT. AND THEY HAVE TO DECIDE IS THIS THE KIND OF
23 MURDER WHERE, IF IT'S THE KIND, IF IT'S THE KIND OF
24 MURDER...BECAUSE THERE'S CERTAIN CIRCUMSTANCES
25 INVOLVED IN THIS CASE, THERE'S A SITUATION HERE

1 THAT NEEDS TO BE PRESENTED TO THE JURY WHERE LIFE
2 IS THE APPROPRIATE SENTENCE, YOU COULD VOTE FOR
3 LIFE IN THAT CASE, COULDN'T YOU?

4 MR. SWERLING: YOUR HONOR, I HAVE TO
5 OBJECT. I THINK THE JUROR HAS ANSWERED THE
6 QUESTION THAT HE COULD NOT, THAT HE WOULD VOTE FOR
7 DEATH...IN MANY DIFFERENT WAYS. AND I WOULD HAVE
8 TO OBJECT TO CONTINUING TO PURSUE THIS LINE OF
9 QUESTIONING.

10 THE COURT: OVERRULED. YOU CAN ANSWER
11 THE QUESTION.

12 A COULD YOU PLEASE REPEAT THE QUESTION?

13 Q WELL, I HAD GONE THROUGH A GOOD BIT OF
14 SERIES ABOUT THINGS. I THINK WHAT WE HAD GOTTEN TO
15 WAS A SITUATION WHERE YOU HAD THAT TOTALLY SECOND
16 NEW TRIAL IN THIS PROCESS, IN THIS PROCEDURE, WHERE
17 THE STATE IS TRYING SOMEBODY AND HAS SERVED ITS
18 INTENTION TO SEEK THE DEATH PENALTY, IT'S STILL UP
19 TO THE JURY TO DECIDE. AND WHAT I SAID WAS IF THE
20 JURY HAD DECIDED THAT THE DEFENDANT WAS GUILTY OF
21 MURDER THEN YOU HAVE A TOTALLY SEPARATE TRIAL AFTER
22 THAT ONLY FOR THE PURPOSE...AND I ASKED YOU AND YOU
23 SAID, "SENTENCING. FOR SENTENCING." AND I SAID,
24 "WELL, IF IN A CASE THAT YOU WERE ON, AT THAT
25 SENTENCING TRIAL THERE WAS EVIDENCE PRESENTED TO

1 YOU AND THE JURY THAT IN THIS CASE, IN THIS MURDER
2 CASE, THE APPROPRIATE PUNISHMENT IS LIFE
3 IMPRISONMENT..."

4 MR. SWERLING: YOUR HONOR, HE'S
5 FOCUSING ON THIS CASE.

6 MR. JONES: NO, I SAID IN...

7 THE COURT: I DON'T TAKE IT TO MEAN
8 THAT. I TAKE IT TO MEAN ANY CASE, NOT THIS CASE.

9 MR. SWERLING: ALL RIGHT.

10 Q IN THE CASE WE WERE TALKING ABOUT THAT
11 YOU WERE SERVING ON, NOT WHAT'S GOING ON HERE
12 TODAY, BUT IN A CASE THAT...IN ANY CASE, LIKE THE
13 JUDGE SAID, BUT IN ANY CASE WE'RE TALKING ABOUT A
14 CASE WHERE AT THAT TIME, AT THAT TIME, THE JURY
15 SAID THIS MURDER, BECAUSE OF THE CIRCUMSTANCES
16 WE'VE LOOKED AT -- AND YOU'RE ON THAT JURY -- IS
17 NOT THE APPROPRIATE TYPE MURDER FOR THE DEATH
18 PENALTY, IT'S APPROPRIATE FOR LIFE IMPRISONMENT, IF
19 THAT WERE THE SITUATION YOU COULD THEN...

20 MR. SWERLING: OBJECTION, YOUR
21 HONOR...

22 Q ...COULD YOU...

23 MR. SWERLING: I OBJECT.

24 THE COURT: EXCUSE ME, YOUR OBJECTION
25 IS WHAT?

1 MR. SWERLING: I OBJECT TO THE FORM OF
2 THE QUESTION.

3 THE COURT: FORM OF THE QUESTION. ALL
4 RIGHT. SUSTAINED.

5 Q COULD YOU, UNDER THAT CIRCUMSTANCE,
6 IMPOSE A LIFE SENTENCE?

7 MR. SWERLING: I STILL OBJECT TO THE
8 FORM.

9 THE COURT: I'M GOING TO LET HIM
10 ANSWER IT. WITHDRAW THE SUSTAIN. OVERRULE.

11 A IT WOULD JUST DEPEND ON THE
12 CIRCUMSTANCES.

13 Q SO IT WOULD DEPEND ON THE
14 CIRCUMSTANCES? IS THAT CORRECT?

15 A YES.

16 Q SO, THERE ARE CIRCUMSTANCES WHERE
17 SOMEBODY COULD BE CONVICTED OF MURDER AND THEN IN A
18 SEPARATE SENTENCING PHASE, AS A JUROR, YOU AS A
19 JUROR, IN A SEPARATE SENTENCING PHASE FOUND
20 CIRCUMSTANCES, EVEN IF THERE WERE SOME
21 CIRCUMSTANCES OF AGGRAVATION, YOU LOOKED AT THE
22 TOTALITY OF THE CIRCUMSTANCES IN THAT MURDER CASE
23 AND DECIDED THAT THE MOST APPROPRIATE PUNISHMENT
24 WAS LIFE IMPRISONMENT THEN YOU COULD IMPOSE LIFE
25 IMPRISONMENT?

1 MR. SWERLING: OBJECT AS TO THE FORM
2 AGAIN, YOUR HONOR.

3 THE COURT: OVERRULE.

4 A WHAT TYPES OF AGGRAVATION ARE YOU
5 SPEAKING OF?

6 Q WELL, I CAN'T BE SPECIFIC ABOUT
7 AGGRAVATION. I'M ASKING YOU IF YOU...IF THERE IS A
8 CIRCUMSTANCE...YOU SAID IT WOULD DEPEND UPON THE
9 CIRCUMSTANCES. SO, I'M ASKING YOU IS WHAT YOU'RE
10 TELLING ME THAT THERE ARE CIRCUMSTANCES WHERE YOU
11 COULD IMPOSE A LIFE SENTENCE IN A MURDER CASE IF
12 THE CIRCUMSTANCES WERE APPROPRIATE?

13 A IF A PERSON WERE FORCED INTO A
14 SITUATION AND THEY HAD TO ACT AND THE ACTIONS
15 CAUSED A DEATH AND THE JURY FOUND HIM GUILTY OF
16 MURDER, LIFE.

17 Q SO, YOU COULD IMPOSE A LIFE
18 SENTENCE...

19 MR. SWERLING: OBJECTION, YOUR HONOR.

20 THE COURT: I SUSTAIN THAT. NOW MR.
21 SOLICITOR, I HAVE NOT SUSTAINED THE OBJECTION AS TO
22 THE FORM OF THE QUESTION, BUT LET'S CUT TO THE
23 CHASE.

24 MR. JONES: ALL RIGHT.

25 THE COURT: THE QUESTION IS, CAN YOU,

1 MR. JUROR, KNOWING THAT YOU HAVE FOUND A DEFENDANT
2 GUILTY OF MURDER, OKAY, THE INTENT...THE UNLAWFUL
3 KILLING OF ANOTHER HUMAN BEING WITH MALICE
4 AFORETHOUGHT, THAT'S WHAT MURDER IS, OKAY? NOW,
5 YOU'VE DONE THAT. NOW, WHAT THE SOLICITOR WANTS TO
6 KNOW...AND WHAT EVERYBODY HERE WANTS TO KNOW...IS
7 THAT IF YOU GO TO THAT SENTENCING PHASE AND YOU ARE
8 ASKED TO PASS JUDGEMENT AS TO WHAT SENTENCE HE
9 SHOULD GET, THE QUESTION IS...MURDER, AND NOW THEY
10 PROVE TO YOU THE EXISTENCE OF AN AGGRAVATING
11 CIRCUMSTANCE...AND LET ME JUST SHARE WITH YOU AN
12 EXAMPLE OF AN AGGRAVATING CIRCUMSTANCE: THAT IT
13 WAS DONE WHILE IN THE COMMISSION OF AN ARMED
14 ROBBERY; IT WAS BY PHYSICAL TORTURE; IT WAS OF A
15 JUDICIAL OFFICER OR A POLICE OFFICER; THINGS LIKE
16 THAT. WE'RE NOT TALKING ABOUT...THERE IS NO
17 ROUTINE MURDER CASE. WHEN I USE THAT WORD ROUTINE
18 I DON'T MEAN THAT IN ANY DIMINISHING WAY. MURDER
19 IS BAD. IT'S MURDER, THOUGH, PLUS AN AGGRAVATING
20 CIRCUMSTANCE. IF THAT'S ESTABLISHED TO YOUR
21 SATISFACTION BEYOND A REASONABLE DOUBT, THE
22 SOLICITOR WANTS TO KNOW COULD YOU CONSIDER...OR
23 COULD YOU VOTE TO IMPOSE A LIFE SENTENCE?

24 A NO, SIR.

25 MR. JONES: THANK YOU.

1 THE COURT: ALL RIGHT. ANYTHING ELSE?

2 MR. JONES: NO, SIR.

3 THE COURT: ALL RIGHT. SIR, I'M GOING
4 TO EXCUSE YOU FROM JURY SERVICE IN THIS CASE
5 BECAUSE YOU HAVE TO BE ABLE TO GIVE BOTH. I DON'T
6 HAVE ANY PROBLEM WITH THAT...

7 A YOU HAVE TO BE ABLE TO WHAT?

8 THE COURT: YOU HAVE TO BE ABLE TO
9 GIVE LIFE AS WELL AS DEATH. AND THAT'S FINE...YOU
10 BELIEVE...

11 A UNDER AGGRAVATING CIRCUMSTANCES?

12 THE COURT: YEAH, THAT'S RIGHT. AND
13 THERE'S NOTHING WRONG WITH THAT. YOU SHARE A
14 BELIEF THAT A LOT OF OTHER PEOPLE DO TOO. SO, LET
15 ME...I'M GOING TO EXCUSE YOU FROM SERVICE AND YOU
16 WON'T HAVE TO FINISH OUT, OKAY?

17 A SO WHAT DO I DO NOW?

18 THE COURT: YOU CAN GO HOME. HAVE A
19 NICE DAY.

20 MR. JONES: THANK YOU, MR. BROOME.

21 THE COURT: ALL RIGHT, SOLICITOR AND
22 MR. HARPOOTLIAN, THE CLERK, MS. BOWERS, ADVISES ME
23 THAT THE SLED TEAM THAT WILL BE HANDLING THE JURY
24 IS HERE AND SHE HAS SWORN THEM. DO YOU WANT IT
25 DONE IN OPEN COURT OR WILL YOU ACCEPT THE...

1 MR. HARPOOTLIAN: NO, SIR, YOUR HONOR.

2 THE COURT: ALL RIGHT, THEY HAVE BEEN
3 SWORN FOR PURPOSES OF HANDLING THE JURY. ALL
4 RIGHT, WITHOUT OBJECTION. AND THEY ARE ALL FROM
5 THE CHARLESTON OR LOWER PART OF THE STATE AREA.
6 THERE ARE NONE INVOLVED IN THE INVESTIGATION. THEY
7 ARE ALL WELL BELOW THE COLUMBIA AREA.

8 OKAY, MS. MCGUFFIN? THAT'S HOW YOU
9 PRONOUNCE IT, RIGHT?

10 A YES, SIR.

11 THE COURT: OKAY. AND MS. MCGUFFIN,
12 I'M SORRY YOU'VE HAD TO WAIT A LOT, BUT WE HAVE
13 BEEN THROUGH FORTY-SOME-ODD JURORS AND...

14 COURT REPORTER: DID YOU SWEAR THE
15 JUROR?

16 THE COURT: I DID NOT.

17 KATHY A. MCGUFFIN, BEING
18 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

19 THE COURT: I'M SORRY YOU HAD TO WAIT,
20 BUT WE'VE BEEN THROUGH ABOUT FORTY-SOME-ODD JURORS
21 SO IT'S BEEN KIND OF A GRUELLING THING. DID YOU
22 GET MY LETTER THE OTHER DAY AND HAVE A CHANCE TO
23 READ IT?

24 A YES, SIR.

25 THE COURT: OKAY. DID YOU ESSENTIALLY

1 UNDERSTAND WHAT I WAS TRYING TO TELL YOU?

2 A YES, SIR.

3 THE COURT: OKAY. YOU REALIZE THAT
4 THE STATE IS SEEKING THE DEATH PENALTY IN THIS CASE
5 AND FOR THAT REASON EACH SIDE GETS AN OPPORTUNITY
6 TO ASK YOU SOME QUESTIONS ABOUT SOME RELEVANT
7 BELIEFS. YOU AGREE THAT WOULD BE A FAIR THING TO
8 DO, WOULDN'T YOU?

9 A YES, SIR.

10 THE COURT: THERE ARE NO RIGHT OR
11 WRONG ANSWERS. NOBODY'S HERE TO EMBARRASS YOU, PUT
12 YOU ON THE SPOT. WE JUST NEED TO KNOW WHAT YOUR
13 FEELINGS WOULD BE.

14 MS. MCGUFFIN, HAVE YOU FORMED OR
15 EXPRESSED ANY OPINION AS TO THE INNOCENCE OR GUILT
16 OF THE DEFENDANT, MR. BECKHAM, IN THIS CASE?

17 A NO, SIR.

18 THE COURT: DO YOU KNOW ANYTHING ABOUT
19 THE FACTS OF THE CASE?

20 A NONE OTHER THAN WHAT YOU SPOKE OF.

21 THE COURT: ALL RIGHT. AND DO YOU
22 UNDERSTAND THE CONSTITUTIONAL PRINCIPLE OF THE
23 PRESUMPTION OF INNOCENCE? THAT IS, A CITIZEN
24 ACCUSED OF A CRIME IS PRESUMED INNOCENT OF THAT
25 CRIME UNTIL THE GOVERNMENT OR STATE PROVES HIS

1 GUILT?

2 A YES, SIR.

3 THE COURT: IS THAT A PRINCIPLE OF LAW
4 THAT YOU COULD ACCEPT AND APPLY AS A JUROR?

5 A YES, SIR.

6 THE COURT: ALL RIGHT. NOW MS.
7 MCGUFFIN, WE'RE GOING TO TALK ABOUT PUNISHMENT,
8 AMONG OTHER THINGS WITH YOU, FOR A FEW MINUTES AND
9 I WANT TO MAKE SURE THAT YOU DON'T INFER OR IMPLY
10 FROM THE FACT THAT WE HAVE THIS DISCUSSION THAT MR.
11 BECKHAM IS GUILTY OF ANYTHING. THERE'S BEEN NO
12 EVIDENCE OFFERED. WE DON'T KNOW WHAT THE CASE IS
13 ABOUT. OKAY?

14 A YES, SIR.

15 THE COURT: ALL RIGHT. NOW, YOU TOLD
16 ME YOU HAVE OR HAVE NOT BEEN ON A JURY BEFORE?

17 A I HAVE, BUT NOT THIS TYPE.

18 THE COURT: OKAY. WELL, IN A CRIMINAL
19 CASE A TRIAL JURY NORMALLY MAKES ULTIMATELY ONE
20 DECISION. THAT IS WHETHER OR NOT A DEFENDANT IS
21 GUILTY OR NOT GUILTY OF THE CRIME CHARGED. NOT
22 GUILTY THEN THE DEFENDANT IS RELEASED FROM THE
23 CHARGE. IF HE IS FOUND GUILTY THEN HE'S BROUGHT
24 BEFORE A JUDGE AND THE JUDGE SENTENCES HIM
25 ACCORDING TO THE STATUTE REQUIREMENTS. NOW THAT'S

1 TRUE IN ALL THE KINDS OF CASES THAT WE TRY EXCEPT
2 ONE TYPE AND THE ONE EXCEPTION IS THE DEATH PENALTY
3 CASES AND FOR THAT THE JURY HAS TWO ULTIMATE
4 RESPONSIBILITIES. FIRST, THEY MUST DETERMINE
5 WHETHER OR NOT A DEFENDANT IS GUILTY OR NOT GUILTY
6 OF THE CRIME OF MURDER. IF THEY DETERMINE THAT HE
7 IS GUILTY OF THE CRIME OF MURDER THEN WE GO TO
8 ANOTHER HEARING, WITH THE SAME JURY, AND THEN THE
9 JURY RECEIVES EVIDENCE OF AGGRAVATING
10 CIRCUMSTANCES, THINGS THAT WOULD AUTHORIZE THE
11 IMPOSITION OF THE DEATH PENALTY. YOU MAY OR MAY
12 NOT HEAR EVIDENCE OF MITIGATING CIRCUMSTANCES AS
13 WELL, THINGS THAT WOULD TEND TO SAY THAT A LIFE
14 SENTENCE IS MORE APPROPRIATE. BUT NEVER THE LESS,
15 THE JURY THEN MAKES THE ULTIMATE DETERMINATION OF
16 WHETHER THE SENTENCE SHOULD BE LIFE OR DEATH. DO
17 YOU FOLLOW ME PROCEDURALLY?

18 A YES, SIR.

19 THE COURT: OKAY. NOW MS. MCGUFFIN,
20 WE KNOW THAT WHEN WE GET JURORS PRESENTED WITH THAT
21 SITUATION THAT THEY FALL IN THREE CATEGORIES. ONE
22 SET SAYS, "WE FOUND HIM GUILTY OF MURDER IN THE
23 FIRST PROCEEDING. IN THE SECOND PROCEEDING WE FIND
24 THE EXISTENCE OF AN AGGRAVATING CIRCUMSTANCE, OR
25 CIRCUMSTANCES, BEYOND A REASONABLE DOUBT. AND IT

1 DOESN'T MATTER WHETHER THERE'S ANY MITIGATING
2 CIRCUMSTANCES BECAUSE I BELIEVE THAT THE DEATH
3 PENALTY IS ALWAYS THE APPROPRIATE PUNISHMENT FOR
4 THIS AND I ALWAYS VOTE FOR DEATH." OKAY?

5 WE HAVE A SECOND JUROR THAT SAYS,
6 "IT'S TRUE WE HAVE A CONVICTION FOR MURDER PLUS
7 WE'VE GOT AGGRAVATING CIRCUMSTANCES. AND WE MAY OR
8 MAY NOT HAVE MITIGATING CIRCUMSTANCES." BUT THAT
9 JUROR SAYS, "I THINK THAT LIFE IMPRISONMENT IS
10 ALWAYS THE APPROPRIATE PUNISHMENT FOR THAT AND I
11 VOTE FOR LIFE."

12 THEN WE HAVE A GROUP OF JURORS WHO
13 SAY, "WE HAVE THE CONVICTION, THE AGGRAVATING...WE
14 MAY HAVE THE MITIGATING CIRCUMSTANCES." AND THAT
15 JUROR SAYS, "WELL, I'M GOING TO LOOK AT THIS CASE
16 SPECIFICALLY. I'LL CONSIDER A LIFE SENTENCE. I'LL
17 CONSIDER A DEATH SENTENCE. AND THEN AFTER I'VE
18 REVIEWED IT I WILL VOTE FOR ONE OR THE OTHER BASED
19 UPON MY VIEW OF THE CASE."

20 IF YOU HAD TO SAY WHICH TYPE OF JUROR
21 YOU WOULD BE, COULD YOU TELL ME WHICH ONE?

22 A THE LAST ONE.

23 THE COURT: THE LAST ONE? ALL RIGHT.
24 AND MS. MCGUFFIN, IF...FOLLOWING THOSE INSTRUCTIONS
25 THAT I JUST GAVE YOU AND YOU WERE SITTING ON A

1 JURY, IF YOU CAME TO THE CONCLUSION THAT THE
2 APPROPRIATE SENTENCE IN THE CASE WAS A LIFE
3 SENTENCE, THEN YOU COULD VOTE FOR A LIFE
4 SENTENCE...TO IMPOSE IT?

5 A TRUE.

6 THE COURT: IF YOU CAME TO THE
7 CONCLUSION THAT THE DEATH PENALTY WAS WARRANTED,
8 COULD YOU VOTE TO IMPOSE THE DEATH PENALTY?

9 A IF I FELT WITH WHAT I HEARD IT WAS THE
10 RIGHT THING TO DO THEN I COULD, BUT IT WOULD BE A
11 VERY DIFFICULT THING FOR ME TO DO.

12 THE COURT: OH, SURE, AND YOU'RE NOT
13 GOING TO FIND ANY JUROR THAT COMES IN HERE AND SAYS
14 IT'S EASY.

15 A I'M NOT GOING TO SAY THAT THAT WOULD
16 BE SOMETHING EASY FOR ME TO DO.

17 THE COURT: BUT YOU COULD DO IT?

18 A IF I FELT THAT IT WAS THE RIGHT THING
19 TO DO.

20 THE COURT: OKAY. NOW, MS. MCGUFFIN,
21 IN ADDITION, IF YOU FELT IT WAS THE RIGHT THING TO
22 DO AND YOU CAME TO THAT CONCLUSION, OUR LAW
23 REQUIRES THAT WHEN A DEATH PENALTY IS IMPOSED THE
24 INDIVIDUAL JURORS MUST ACKNOWLEDGE THAT THAT WAS IN
25 FACT THEIR DECISION AND REQUIRES A SIGNATURE ON THE

1 SENTENCING FORM. COULD YOU SIGN YOUR NAME IF YOU
2 THOUGHT IT WAS THE RIGHT THING TO DO?

3 A IF I HAD TO DO THAT.

4 THE COURT: ALL RIGHT. AND I THE
5 LAW...AND I INSTRUCTED YOU THAT THAT WAS A
6 REQUIREMENT IF YOU THOUGHT IT WAS THE RIGHT THING
7 TO DO?

8 A YES, BUT AGAIN I WOULD HAVE A VERY
9 DIFFICULT TIME DOING IT.

10 THE COURT: ALL RIGHT. WELL, YOU'RE
11 NOT BY YOURSELF. OKAY? ALL RIGHT.

12 ALL RIGHT, MR. SOLICITOR?

13 DIRECT EXAMINATION:

14 BY MR. JONES:

15 Q GOOD AFTERNOON, MS. MCGUFFIN. MY NAME
16 IS TOWNES JONES AND I'M THE SOLICITOR, PROSECUTOR.
17 I'LL BE TRYING THIS CASE AND PRESENTING THE
18 EVIDENCE IN THIS CASE AND I SERVED NOTICE ON THE
19 DEFENDANT THAT THE STATE WOULD SEEK THE DEATH
20 PENALTY IN THIS CASE...SIGNED THE SHEET OF PAPER
21 AND SERVED NOTICE ON IT. I'M SEEKING THE DEATH
22 PENALTY IN THIS CASE AND I'M GOING TO ASK YOU...THE
23 JUDGE ASKED YOU AND YOU SAID IT WOULD BE A VERY
24 DIFFICULT THING FOR YOU TO IMPOSE A SENTENCE AND IN
25 CASE WE'RE TALKING ABOUT, NOT THIS CASE.

1 A RIGHT.

2 Q ANY CASE. BUT I'M GOING TO ASK IF IN
3 ANY CASE IF YOU THOUGHT IT WAS THE APPROPRIATE
4 CIRCUMSTANCE, YOU'RE TELLING ME NOW THAT YOU COULD
5 SEEK THE DEATH PENALTY...

6 MR. HARPOOTLIAN: YOUR HONOR, AND I
7 HATE TO INTERRUPT THE SOLICITOR...

8 THE COURT: JUST GIVE ME THE ONE WORD
9 BASIS OF YOUR OBJECTION.

10 MR. HARPOOTLIAN: SHE'S NOT TELLING
11 HIM, SHE'S TELLING THIS COURT. SHE'S NOT MAKING A
12 PROMISE TO HIM OR A COMMITMENT...

13 MR. JONES: I HAVEN'T ASKED FOR A
14 PROMISE, YOUR HONOR. THAT'S NOT ONE WORD.

15 THE COURT: ALL RIGHT AND I DON'T VIEW
16 IT THAT WAY. OBJECTION OVERRULED. ALL RIGHT,
17 SOLICITOR. ALL RIGHT, YOU MAY PROCEED.

18 MR. JONES: I AM, YOUR HONOR.

19 Q SO, MY QUESTION TO YOU IS THAT IF THE
20 CASE IS THE APPROPRIATE TYPE CASE, YOU COULD IMPOSE
21 THE DEATH PENALTY?

22 A WHAT I'M SAYING BASICALLY IS I DO
23 BELIEVE SOME CASES ARE PUNISHABLE. I BELIEVE IN
24 THAT FOR SOME CASES AND UNTIL I KNEW CIRCUMSTANCES
25 AND I BELIEVED THAT THAT WAS THE WAY IT SHOULD BE

1 THEN I COULD. BUT, I WOULD HAVE A DIFFICULT TIME
2 WITH IT. I WOULD HAVE TO KNOW THE CASE BEFORE I
3 COULD HONESTLY SAY YES, I WOULD OR NO, I WOULDN'T.
4 AND WITH NOT KNOWING THAT I'M SAYING THAT IF IT
5 CAME DOWN AND I BELIEVED IN MY HEART THAT THAT WAS
6 THE RIGHT THING I WOULD DO IT.

7 Q THANK YOU, MA'AM.

8 THE COURT: ALL RIGHT, CROSS-
9 EXAMINATION. MR. HARPOOTLIAN?

10 CROSS-EXAMINATION:

11 BY MR. HARPOOTLIAN:

12 Q VERY BRIEFLY. MS. MCGUFFIN...MS.
13 MCGUFFIN, CORRECT?

14 A YES, SIR.

15 Q MY NAME IS DICK HARPOOTLIAN AND I'M AN
16 ATTORNEY FROM COLUMBIA. I, ALONG WITH JACK
17 SWERLING, REPRESENT STEPHEN BECKHAM. THIS IS
18 STEPHEN BECKHAM AND HE IS THE GENTLEMAN WHO IS ON
19 TRIAL HERE. HE IS THE ONE WHO THIS WHOLE MATTER IS
20 ABOUT. HAVE A SEAT, STEVE.

21 SEATED BEHIND HIM IS HIS FATHER AND
22 HIS MOTHER AND OTHER FAMILY MEMBERS. THEY ARE HERE
23 WITH HIM TODAY. AND WHAT I'D LIKE TO TALK TO YOU
24 ABOUT FOR JUST A MINUTE, AND WE'VE TALKED ABOUT
25 DEATH PENALTY AND PUNISHMENT AND ALL OF THAT, I

1 WANT TO SHIFT BACK ONE STEP. THE JUDGE HAS ASKED
2 YOU, AND I WANT TO ASK YOU A LITTLE BIT MORE ABOUT
3 IT, WHETHER YOU UNDERSTAND THAT THE DEFENDANT IN A
4 CRIMINAL CASE, ANY CRIMINAL CASE AND THIS CRIMINAL
5 CASE, STEPHEN BECKHAM IS PRESUMED INNOCENT. DO YOU
6 UNDERSTAND THAT?

7 A YES, SIR.

8 Q AND YOU HAVEN'T READ ANYTHING OR HEARD
9 ANYTHING OR HAD ANYTHING ENTER INTO YOUR
10 DELIBERATIVE PROCESS THAT WOULD CHANGE THAT
11 POSITION?

12 A THE ONLY THING I HEARD WAS THE DAY
13 THAT I CAME, THE FIRST DAY, AND THE JUDGE READ THE
14 SENTENCE. THAT'S THE ONLY THING...

15 Q READ THE GRAND JURY INDICTMENT?

16 A RIGHT. THAT'S THE ONLY THING THAT
17 I'VE HEARD AT ALL.

18 Q WELL, A GRAND JURY INDICTMENT IS JUST
19 AN ACCUSATION. IT'S JUST THE WAY WE GET HERE. THE
20 TICKET, IF YOU WILL. IT'S NOT EVIDENCE OF
21 ANYTHING. THE JUDGE IS GOING TO TELL YOU THAT AT
22 SOME POINT. I GUESS WHAT I'M ASKING YOU IS THIS,
23 AS YOU SIT HERE IN THE COURTROOM TODAY, CAN YOU AND
24 DO YOU PRESUME STEPHEN BECKHAM INNOCENT, NOT
25 GUILTY? DO YOU PRESUME THAT? IS THE PRESUMPTION

- 1 OF INNOCENCE SOMETHING YOU ADOPT?
- 2 A HE'S INNOCENT UNTIL HE HAS HIS TRIAL
- 3 AND THEN THAT WILL BE DETERMINED THEN. UNTIL THEN
- 4 HE'S INNOCENT.
- 5 Q OKAY. OKAY. AND AT THE END OF A
- 6 TRIAL YOU HAVE NO HESITATION IF THE STATE DIDN'T
- 7 PROVE ITS CASE BEYOND A REASONABLE DOUBT, AND
- 8 THAT'S WHAT THE JUDGE IS GOING TO TELL YOU THE
- 9 STANDARD IS, BEYOND A REASONABLE DOUBT, YOU HAVE NO
- 10 HESITATION IF YOU DIDN'T FIND IN A CRIMINAL CASE
- 11 THAT THE EVIDENCE CONVINCED YOU BEYOND A REASONABLE
- 12 DOUBT YOU WOULD RETURN A VERDICT OF NOT GUILTY,
- 13 WOULD YOU NOT?
- 14 A CORRECT.
- 15 Q OKAY. NOW, I NOTICED ON YOUR
- 16 INFORMATION SHEET THAT YOU FILLED OUT, AND I'M
- 17 GOING TO BE JUST A COUPLE MORE MINUTES, BUT ONE OF
- 18 THE QUESTIONS THAT I WANTED TO ASK YOU WAS YOU SAID
- 19 YOU PREVIOUSLY SERVED ON A JURY IN A CRIMINAL CASE.
- 20 WAS THAT HERE?
- 21 A YES, SIR.
- 22 Q IN THIS COURTROOM?
- 23 A YES, SIR.
- 24 Q WHAT KIND OF CASE?
- 25 A IT WAS A CRIMINAL CASE.

1 Q WHAT WAS THE CHARGE?
2 A GRAND LARCENY.
3 Q GRAND LARCENY? AND DID Y'ALL GO ALL
4 THE WAY THROUGH? DID YOU REACH A VERDICT ON THE
5 CASE?
6 A YES, SIR.
7 Q DO YOU REMEMBER WHAT THE VERDICT WAS?
8 A GUILTY.
9 Q AND YOU DIDN'T HAVE ANY PROBLEM WITH
10 GOING THROUGH THAT PROCESS?
11 A NO, SIR.
12 Q OKAY. AND HOW LONG AGO WAS THAT?
13 A IT'S BEEN PROBABLY SEVEN OR EIGHT
14 YEARS AGO.
15 Q OKAY. WOULD THE FACT THAT YOU'D SAT
16 ON A JURY PREVIOUSLY AND RETURNED A VERDICT OF
17 GUILTY, WOULD THAT IN ANY WAY INFLUENCE YOUR
18 ABILITY TO GIVE STEPHEN BECKHAM A FAIR TRIAL?
19 A NO, SIR.
20 Q OKAY. I GUESS WHAT I'M SAYING IS NOT
21 EVERYBODY THAT COMES INTO THIS COURTROOM ACCUSED OF
22 A CRIME IS GUILTY. YOU UNDERSTAND THAT?
23 A YES, SIR.
24 Q NOW, YOU HAVE...DO YOU HAVE ANY
25 CHILDREN AT HOME?

1 A YES, SIR, A SEVENTEEN YEAR OLD
2 DAUGHTER.

3 Q AND SHE'D BE ABLE TO DO WITHOUT YOU
4 FOR A COUPLE OF WEEKS?

5 A YES, SIR.

6 Q SHE...AND YOUR HUSBAND...HE WORKS
7 WHERE, NOW?

8 A HE'S SELF-EMPLOYED.

9 Q WHAT KIND OF WORK DOES HE DO?

10 A HE'S A SALESMAN. HE SELLS INDUSTRIAL
11 PRODUCTS.

12 Q OKAY. AND YOU WORK AT...

13 A SLUMBERJAI.

14 Q SLUMBERJAI, OKAY. I COULDN'T
15 PRONOUNCE IT. LET ME CHECK WITH STEPHEN OVER HERE
16 TO SEE IF THERE'S ANYTHING ELSE I NEED TO ASK YOU.
17 EXCUSE ME JUST ONE MINUTE.

18 THE COURT: ONE'S, GENTLEMEN?

19 MR. HARPOOTLIAN: YES, SIR. AND THANK
20 YOU, I HOPE I DIDN'T PUT YOU ON THE SPOT.

21 A NO, SIR.

22 THE COURT: ALL RIGHT, MS. MCGUFFIN.

23 I FIND YOU QUALIFIED FOR BEING PLACED IN THE POOL
24 FROM WHICH WE'RE GOING TO STRIKE A JURY. DON'T GET
25 MAD AT ME, OKAY? BUT I'M UNDER A TIME CRUNCH. HOW

1 LONG WOULD IT TAKE YOU TO PACK TO BE ABLE TO GO TO
2 NEWBERRY?

3 A A COUPLE OF HOURS.

4 THE COURT: CAN WE MEET HALFWAY, LIKE
5 AN HOUR AND A HALF OR SOMETHING LIKE THAT MAYBE?

6 A I'LL DO MY BEST.

7 THE COURT: OKAY. LET ME ASK YOU
8 THIS. WOULD IT ASSIST YOU ANY IF I COULD HAVE A
9 SLED AGENT OR SOMEBODY GO WITH YOU TO HELP YOU...

10 A NO, SIR.

11 THE COURT: CAN SOMEBODY BRING YOU
12 BACK?

13 A YES, SIR.

14 THE COURT: OKAY. YOU MAY NOT BE
15 SELECTED, BUT WE'RE GETTING READY TO STRIKE A JURY
16 IN A LITTLE BIT. SO, IF YOU COULD DO THE BEST YOU
17 COULD ABOUT THAT TIME.

18 A OKAY.

19 THE COURT: OKAY, AND WE ARE GUESSING
20 THE POSSIBILITY OF A TEN DAY TRIAL. IT MIGHT BE
21 LESS. HOPEFULLY NOT MORE. NEWBERRY COUNTY WILL
22 PAY FOR YOUR LODGING AND YOUR FOOD AND SLED WILL
23 PROVIDE FOR YOUR TRANSPORTATION AND SO FORTH. SO,
24 MAYBE IT'LL BE 5:00? IS THAT WHAT YOU'RE TELLING
25 ME?

1 A YES, SIR.

2 THE COURT: I MEAN...AND I UNDERSTAND
3 WHERE WE ARE, OKAY? .

4 A OKAY.

5 THE COURT: SEE YOU BACK AT FIVE.

6 A OKAY.

7 THE COURT: ALL RIGHT, GENTLEMEN, I
8 PROPOSE WE STRIKE THE FIRST TWELVE AND SEE WHAT
9 WE'VE GOT. Y'ALL CAN THEN, BASED ON WHAT WE HAVE
10 THEN WE EITHER CAN GO FORWARD WITH QUALIFYING SOME
11 MORE OR WE CAN...WE MAY GET LUCKY. I DON'T KNOW.
12 SOLICITOR?

13 MR. JONES: YES, SIR, I WOULD LIKE TO
14 TALK IF I COULD. WE STARTED THIS MORNING AND THE
15 FIRST TIME I HEARD OF IT WAS THIS MORNING. IF I
16 COULD MEET WITH SENATOR LANDER AND HIS WIFE AND THE
17 SHERIFF AND CHARLIE WEBBER AND JUST EXPLAIN TO THEM
18 WHAT YOU HAVE PROPOSED AND WHAT WE'RE DOING?
19 YOU'RE PROPOSING THAT WE STRIKE THE JURY NOW?

20 THE COURT: THAT'S RIGHT, BECAUSE SEE
21 IT IS A STRIKE AS YOU GO.

22 MR. JONES: YES, SIR.

23 THE COURT: RATHER THAN SEQUESTER THEM
24 WE JUST DECIDED TO PUT THEM IN A LIST SO YOU COULD
25 KIND OF LOOK AT THE PRIMARY LIST.

1 MR. JONES: RIGHT.

2 THE COURT: THE JURORS...THE TWELVE
3 JURORS, UNDER ANY SCENARIO, THE PRIMARY TWELVE WILL
4 COME FROM THIS TWENTY-SEVEN.

5 MR. JONES: CORRECT. ALL RIGHT.

6 THE COURT: NOW THE ONLY THING THAT WE
7 COULD GAIN IS THAT IF EITHER SIDE USED ALL THEIR
8 STRIKES WE MIGHT COULD PICK UP THE ALTERNATES OUT
9 OF THE TWENTY-SEVEN AND WE'D BE THROUGH.

10 MR. HARPOOTLIAN: IF WE DIDN'T USE ALL
11 OUR STRIKES?

12 THE COURT: THAT'S RIGHT. SO, THERE'S
13 NO DOWN SIDE AS FAR AS THE PRIMARY TWELVE IS
14 CONCERNED. THERE IS THE POSSIBILITY THAT WE PICK
15 UP THE ALTERNATES.

16 MR. JONES: ALL RIGHT.

17 THE COURT: AND SO I'LL BE GLAD FOR
18 YOU TO DO THAT. I'M GOING TO ASK THE CLERK TO GO
19 AHEAD AND PREPARE THE LIST OF THE TWENTY-SEVEN
20 NAMES AND WE WILL COME BACK...BECAUSE WE WILL DRY
21 STRIKE IT, MEANING BLIND STRIKE IT, MEANING THEY
22 WON'T PHYSICALLY BE HERE. YOU ALREADY KNOW WHO
23 THEY ARE.

24 MR. HARPOOTLIAN: BUT JUDGE, YOU WILL
25 CALL OUT, "NUMBER TWENTY-TWO, MS. JONES, WHAT SAY

1 THE STATE, WHAT SAY THE DEFENSE?" I'VE NEVER DONE
2 THIS BEFORE.

3 THE COURT: AND ALL I'M DOING IS WE'RE
4 DOING IT WITHOUT THEM IN HERE AND THEN WE'LL SEE IF
5 THERE'S ANY EXCEPTION OR OBJECTION TO IT. IF
6 THERE'S NONE THEN WE'LL BRING THE JURY, THE LIVE
7 BODIES, IN HERE. WE'LL DO IT FORMALLY IN THEIR
8 PRESENCE AND THEN MOVE ON TO NEWBERRY.

9 MR. JONES: WELL, YOUR HONOR, THAT'S
10 THE ONLY ISSUE THAT I WANTED TO ADDRESS WITH YOU.
11 HOW LONG WERE YOU GOING TO TAKE BEFORE WE STRIKE
12 THE TWELVE?

13 THE COURT: I'D LOVE TO DO IT JUST AS
14 SOON AS POSSIBLE.

15 MR. JONES: FOUR-O-CLOCK? TWENTY
16 MINUTES? IS THAT WHAT YOU'RE SAYING?

17 THE COURT: IN THAT NEIGHBORHOOD.

18 MR. JONES: SO, YOU WEREN'T GOING TO
19 EAT BETWEEN NOW AND THEN?

20 THE COURT: I AM.

21 MR. JONES: OKAY. ALL RIGHT. SO,
22 YOU'RE GOING TO EAT IN TWENTY MINUTES. BUT MY NEXT
23 QUESTION WAS, LET'S SAY WE STRIKE THE JURY AND WE
24 GET THE JURY AT 4:30...?

25 THE COURT: YES, SIR?

1 MR. JONES: AND WE'VE GOT TWELVE
2 JURORS...?

3 THE COURT: RIGHT.

4 MR. JONES: BUT, WE DIDN'T HAVE ENOUGH
5 TO GET ANY ALTERNATES...?

6 THE COURT: RIGHT.

7 MR. JONES: ARE YOU GOING TO SEND THIS
8 JURY TO NEWBERRY?

9 THE COURT: I'M GOING TO SEND THE
10 PRIMARY TWELVE TO NEWBERRY AND PUT THEM UP.

11 MR. JONES: AND THEN YOU'RE GOING TO
12 STAY HERE AND BEGIN SELECTING JURORS?

13 THE COURT: THAT'S RIGHT.

14 MR. JONES: WILL YOU THEN TELL THOSE
15 TWELVE...BECAUSE IT COULD BE THAT WE WON'T GET
16 THERE UNTIL LATE TOMORROW, DEPENDING ON WHAT
17 HAPPENS THIS EVENING. IT'S POSSIBLE THAT IN
18 ATTEMPTING TO GET ALTERNATES, AND I THINK WE'VE
19 SEEN THAT FROM TODAY, THAT UNLESS YOU'RE WILLING TO
20 NOT STOP AND TO WORK UNTIL TWELVE OR ONE IT'S
21 POSSIBLE THAT WE WON'T BE ABLE TO GET THE
22 ALTERNATES UNTIL SOMETIME TOMORROW.

23 THE COURT: I UNDERSTAND THAT.

24 MR. JONES: I DON'T WANT THIS JURY
25 THINKING THAT THE DELAY IN THE PRESENTATION OF THE

1 EVIDENCE OF THE CASE IS THE STATE'S DELAY. I WOULD
2 LIKE FOR THE JURY, THE OTHER TWELVE, TO KNOW THAT
3 WHAT WE HAD TO DO WAS STAY HERE AND SELECT
4 ALTERNATES.

5 THE COURT: I'M CERTAINLY NOT GOING TO
6 PUT THE ONEROUS ON ANYBODY BUT ME. I'M NOT GOING
7 TO BLAME Y'ALL OTHER THAN TO CHIDE YOU OUT HERE
8 WHEN THEY'RE NOT HERE. I'M GOING TO WORK ON YOU...

9 MR. JONES: JUDGE, I DIDN'T EXPECT
10 THAT YOU WOULD BLAME ME.

11 THE COURT: OKAY.

12 MR. JONES: I DID NOT EXPECT THAT.

13 THE COURT: ALL RIGHT.

14 MR. JONES: WHAT I'M ASKING IS THAT
15 YOU GIVE THEM...

16 THE COURT: OH, SURE.

17 MR. JONES: ...THAT YOU LET THEM KNOW
18 WHAT WE'RE DOING.

19 MR. HARPOOTLIAN: NO OBJECTION.

20 MR. JONES: DO YOU UNDERSTAND, JUDGE?

21 THE COURT: OH, SURE.

22 MR. JONES: I'M NOT SUGGESTING THAT
23 YOU WOULD SAY IT'S ALL THE SOLICITOR'S FAULT.

24 THE COURT: OH, NO.

25 MR. JONES: WHAT I'M WANTING YOU TO DO

1 IS TO NOT ALLOW THEM THE OPPORTUNITY TO INFER THAT
2 BY EXPLAINING TO THEM WHAT WE DID.

3 THE COURT: TRUST ME, SOLICITOR, I'LL
4 TAKE GOOD CARE OF THEM. OKAY? GIVE THEM A LIST OF
5 TWENTY-SEVEN.

6 CLERK: CAN WE JUST COPY WHAT WE'VE
7 MADE?

8 THE COURT: YOU CERTAINLY CAN.

9 CLERK: THAT'S THE ORDER THAT THEY
10 WERE QUALIFIED.

11 THE COURT: ALL RIGHT, WHERE DO WE
12 HAVE PANEL F AT NOW?

13 BAILIFF: THEY'RE IN JURY ROOM NUMBER
14 ONE, YOUR HONOR.

15 MR. HARPOOTLIAN: YOUR HONOR, WE NEED
16 TO MEET WITH OUR CLIENT...

17 THE COURT: OKAY.

18 MR. HARPOOTLIAN: ...AND MAYBE A
19 COUPLE OF MEMBERS OF HIS FAMILY TO DO THIS PROCESS.

20 THE COURT: WELL, WORK IT OUT WITH
21 LAMAR. I MEAN HE'LL FIND A PLACE AND PUT YOU
22 SOMEWHERE, OKAY? THAT'S FINE. YOU CAN DO THAT.

23 MR. HARPOOTLIAN: YES, SIR.

24 THE COURT: ALL RIGHT. NOW, PANEL G
25 IS WHERE?

1 CLERK: PANEL G IS BACK HERE IN THE
2 OTHER JURY ROOM. THE REST OF F IS IN ONE, G IS IN
3 THE OTHER.

4 THE COURT: WELL, JUST ENTERTAIN THEM,
5 OKAY?

6 (CHERYL HEMBREE IS RETURNED TO THE
7 OPEN COURTROOM)

8 THE COURT: I NEED TO SWEAR YOU BACK
9 IN AND ASK YOU SOME QUESTIONS, PLEASE?

10 A OKAY.

11 CHERYL HEMBREE, BEING CALLED
12 AND DULY SWORN, TESTIFIES AS FOLLOWS:

13 THE COURT: ALL RIGHT. YOU CAN SIT UP
14 AND HAVE A SEAT. I NEED, MS. HEMBREE...MS.
15 HEMBREE, TRYING A CASE, WHETHER IT BE THIS CASE OR
16 ANY OTHER CASE OF COURSE, THE MOST IMPORTANT THING
17 THAT...WELL, ONE OF THE MOST IMPORTANT THINGS --
18 AND PROBABLY I'D RANK IT NUMBER ONE -- IS THE
19 INTEGRITY OF THE JURY AND THE JURY PROCESS. OKAY?
20 IT'S ABSOLUTELY IMPORTANT THAT PEOPLE WHO COME AND
21 ASK A JURY TO DO SOMETHING OR NOT TO DO SOMETHING,
22 AS THE CASE MAY BE, THEY ABSOLUTELY HAVE TO BELIEVE
23 THAT THE JURY WILL ACT IN ACCORDANCE WITH THE LAW.
24 IF THEY DON'T, YOU KNOW, THEN THEY LOSE CONFIDENCE
25 NOT ONLY IN THE JURY SYSTEM, BUT THEY ALSO LOSE

1 CONFIDENCE IN THE JUDICIAL SYSTEM, OKAY?

2 NOW, I...AND I'M MERELY MAKING AN
3 INQUIRY AT THIS POINT IN TIME, OKAY? BUT I'M AT
4 LEAST ADVISED THAT PRIOR TO YOUR BEING...YOU WERE
5 EXAMINED THIS MORNING, RIGHT?

6 A YES, SIR.

7 THE COURT: THAT AT LEAST PRIOR TO
8 YOUR EXAMINATION THIS MORNING, WHEREIN YOU WERE
9 QUALIFIED...AND WHAT I MEAN BY QUALIFIED IT'S SAID
10 THAT YOU COULD CONSIDER ALL OF THE EVIDENCE AND YOU
11 COULD, IF IT WAS NECESSARY TO IMPOSE PUNISHMENT IN
12 THE CASE, FOR THE JURY TO DO THAT, YOU COULD
13 CONSIDER A LIFE SENTENCE AND YOU COULD CONSIDER A
14 DEATH SENTENCE AND IMPOSE WHICHEVER ONE WAS MOST
15 IMPORTANT?

16 A RIGHT.

17 THE COURT: OKAY. AND THAT'S THE WAY
18 YOU WERE QUALIFIED THIS MORNING. I'M AT LEAST
19 ADVISED THAT DURING THE COURSE OF THE, MAYBE
20 YESTERDAY AFTERNOON WHILE EVERYBODY WAS SITTING
21 AROUND, THAT YOU MAY HAVE SUGGESTED OR TOLD TO
22 OTHER JURORS THAT YOU UNDER NO CIRCUMSTANCES WOULD
23 CONSIDER IMPOSING A DEATH SENTENCE AND I NEED TO
24 KNOW WHETHER OR NOT YOU MADE THAT STATEMENT?

25 A WELL, I DON'T KNOW IF I DID OR NOT. I

1 DON'T REMEMBER.

2 THE COURT: DID YOU ALL TALK ABOUT
3 PUNISHMENTS YESTERDAY THAT YOU RECALL?

4 A NO.

5 THE COURT: DID...YOU HAVE NO
6 RECOLLECTION AS TO ANY STATEMENT LIKE THAT?

7 A UH-UH. (NO).

8 THE COURT: OKAY. NOW MS. HEMBREE,
9 IF...IN TERMS OF YOUR QUALIFICATION TODAY, IS IT
10 STILL YOUR POSITION THAT YOU COULD SIT AND LISTEN
11 TO ALL THE EVIDENCE AND FIRST OF ALL DETERMINE THE
12 QUESTION OF GUILT OR INNOCENCE? YOU COULD STILL DO
13 THAT?

14 A YES, SIR.

15 THE COURT: AND THAT IF A GUILTY
16 VERDICT IS RETURNED FOR MURDER THAT YOU THEN COULD
17 CONSIDER ALL OF THE FACTORS AND PASS THE
18 APPROPRIATE PUNISHMENT, WHETHER IT IS A DEATH
19 SENTENCE OR WHETHER IT IS A LIFE SENTENCE? YOU CAN
20 DO THAT?

21 A YES, I COULD.

22 THE COURT: AND IF IT IS A DEATH
23 SENTENCE, YOU CAN SIGN YOUR NAME TO THE FORM?

24 A YES, I COULD.

25 THE COURT: ALL RIGHT. CAN I ASK YOU,

1 PLEASE, IF YOU WOULD JUST STEP RIGHT OUT THERE JUST
2 A MINUTE OR TWO? OKAY? THANKS.

3 (JUROR IS EXCUSED FROM THE OPEN
4 COURTROOM)

5 THE COURT: ALL RIGHT, SOLICITOR? ANY
6 COMMENT OR REACTION?

7 MR. JONES: YOUR HONOR, SHE SAID SHE
8 DIDN'T REMEMBER SAYING IT. SAID SHE DIDN'T DISCUSS
9 IT OR ANYTHING. SHE DIDN'T SAY, "WELL, NO, I NEVER
10 SAID, THERE'S NO WAY I SAID THAT." BUT, SHE SAID
11 SHE DIDN'T REMEMBER SAYING IT.

12 MR. HARPOOTLIAN: IF IT PLEASE THE
13 COURT, YOUR HONOR?

14 THE COURT: YES, SIR.

15 MR. HARPOOTLIAN: I THINK YOU'VE MADE
16 THE APPROPRIATE INQUIRY. I THINK WE CAN GO PICK A
17 JURY NOW. THAT'S THE DEFENSE POSITION. WE'RE
18 READY TO DO IT. PEOPLE SAY THINGS THAT ARE
19 MISINTERPRETED. PEOPLE SAY THINGS SITTING AROUND
20 THAT THEY DON'T REMEMBER. CERTAINLY I HAVE A
21 DIFFICULT TIME TODAY REMEMBERING WHAT I SAID
22 YESTERDAY.

23 MR. JONES: WELL, JUDGE, MORE
24 SPECIFICALLY SHE SAID SHE DIDN'T KNOW. SHE DID NOT
25 KNOW IF SHE MADE THAT STATEMENT. SHE DIDN'T DENY

1 MAKING THAT STATEMENT TO YOU. BUT THEN YOU ASKED
2 HER DID SHE TALK ABOUT THE PUNISHMENT AND SHE SAID
3 NO. I MEAN, YOU KNOW, AND THEY PROBABLY DIDN'T
4 DISCUSS PUNISHMENT.

5 THE COURT: WELL, I MEAN THAT'S WHAT
6 THE CONVERSATION WAS SUPPOSEDLY ABOUT WAS
7 PUNISHMENT.

8 MR. HARPOOTLIAN: BUT YOUR HONOR, EVEN
9 IF THEY HAD SUCH A DISCUSSION, WHEN I SAY
10 DISCUSSION, I MEAN WHAT ARE THEY GOING TO BE
11 TALKING ABOUT AS THEY SIT AROUND? "I DON'T WANT ON
12 THIS CASE. IT'S A DEATH PENALTY CASE. I WOULD
13 NEVER WANT TO DO THAT." I MEAN THAT MAY VERY WELL
14 BE THE KIND OF INNOCENT CONVERSATION. THE POINT OF
15 THE MATTER IS THAT YOU...WE'VE ASKED THIS WOMAN
16 TWICE TODAY WHAT HER POSITION IS. SHE'S GONE
17 THROUGH IT.

18 I MEAN, IT MAY SOUND STRANGE, BUT IT
19 SEEMS TO ME THAT HER RESPONSE TWICE UNDER OATH
20 TODAY HERE IS THE RESPONSE THAT WILL BE IN THE
21 RECORD, IS THE RESPONSE THAT MATTERS, NOT WHAT SHE
22 MAY HAVE SAID IN AN OFF-HAND REMARK TO SOMEBODY
23 ABOUT HOW UNCOMFORTABLE SHE WAS OR HOW SHE WOULDN'T
24 WANT TO DO IT. WHO WOULD WANT TO DO IT?

25 AND YOUR HONOR, AGAIN, IT'S QUARTER

1 AFTER FOUR. WE CAN HAVE OUR TWELVE JURORS HERE
2 PRETTY QUICKLY. THERE'S NO EVIDENCE IN THIS RECORD
3 TO DISQUALIFY HER FROM SITTING. AND I WOULD NOTE
4 THAT ALL WE HAVE IS A REPORT FROM A SLED AGENT THAT
5 THE JUROR WHOSE MAIN CONCERN FOR BEING EXCUSED WAS
6 THAT HER TWO YORKSHIRE TERRIERS WOULD NOT BE CARED
7 FOR AND HER POODLE, WHO I MIGHT SAY WHILE ON THE
8 STAND APPEARED TO BE A BIT FLAMBOYANT, IMAGINATIVE,
9 AND VERBOSE.

10 THE COURT: ALL RIGHT. I'M GOING TO
11 DECLINE TO STRIKE HER FROM THE PANEL. I HAVE TO
12 SIT HERE AND LOOK AT HER CREDIBILITY AND ASSESS
13 THAT AND I HOPE I'M A PRETTY GOOD JUDGE OF LOOKING
14 IN SOMEBODY'S EYES AND READING WHAT THEY ARE. I
15 DON'T...YOU CAN STRIKE HER IF YOU WANT, I'M GOING
16 TO LEAVE HER ON THE PANEL..

17 ALL RIGHT, ARE Y'ALL READY TO STRIKE?

18 MR. HARPOOTLIAN: NO, SIR. WE WERE IN
19 THE MIDDLE OF DOING THAT WHEN WE WERE BROUGHT BACK
20 DOWN HERE. WE'D ONLY BEEN DOING IT FOR ABOUT FIVE
21 MINUTES.

22 THE COURT: HOW LONG WILL IT TAKE YOU?

23 MR. HARPOOTLIAN: ABOUT ANOTHER
24 FIFTEEN. YOUR HONOR, LITERALLY WE WERE ABOUT A
25 THIRD OF THE WAY THROUGH.

1 THE COURT: ALL RIGHT, 4:30.

2 MR. HARPOOTLIAN: THANK YOU, YOUR
3 HONOR.

4 (JUROR RETURNED)

5 THE COURT: MS. HEMBREE, I WOULD ASK
6 YOU NOT TO DISCUSS WITH ANYONE THE PROCEEDINGS AT
7 THIS POINT IN TIME OF WHY YOU WERE IN HERE...

8 A OKAY.

9 THE COURT: ...WITH ANYBODY. IT'S
10 NONE OF THEIR BUSINESS.

11 A OKAY.

12 THE COURT: ALL RIGHT?

13 A YES, SIR.

14 THE COURT: OKAY GENTLEMEN, THE STRIKE
15 IS FIRST TO THE STATE AND THEN TO THE DEFENSE. WE
16 WILL GO DOWN IN THE ORDER IN WHICH THEY WERE PULLED
17 AND PLEASE REFER TO THE JUROR BY THEIR NAME...BY
18 THEIR NUMBER, THAT IS THEIR JUROR NUMBER, SO THAT
19 WE CAN KEEP THE RECORD CLEAR -- NOT BY THE ORDER IN
20 WHICH THEY'RE LISTED. TEN AND FIVE.

21 MR. JONES: ONE MOMENT, YOUR HONOR.

22 THE COURT: YES, SIR.

23 MR. JONES: ONE FINAL DECISION.

24 THE COURT: READY TO STRIKE?

25 MR. JONES: WE'RE READY, YOUR HONOR.

1 THE COURT: ALL RIGHT, MADAM CLERK?

2 CLERK: NUMBER 40, JAMES H. COOPRIDER.

3 WHAT SAYETH THE STATE?

4 MR. JONES: JUDGE, DO YOU WANT US TO
5 REPEAT THE NUMBER AND THE NAME?

6 THE COURT: NO, NOT SINCE SHE'S GOING
7 TO DO IT. THAT'S FINE.

8 MR. JONES: WE ACCEPT MR. COOPRIDER.
9 PLEASE PRESENT HIM.

10 CLERK: FOR DEFENSE?

11 MR. HARPOOTLIAN: SWEAR HIM.

12 CLERK: NUMBER 230, KATHRYN M.
13 WARDLAW. WHAT SAYETH THE STATE?

14 MR. JONES: WE ACCEPT MS. WARDLAW.
15 PLEASE PRESENT HER.

16 CLERK: FOR DEFENSE?

17 MR. HARPOOTLIAN: EXCUSE MS. WARDLAW,
18 PLEASE.

19 CLERK: NUMBER 126, ALICE C. LAMAR.
20 WHAT SAYETH THE STATE?

21 MR. JONES: WE ACCEPT MS. LAMAR.
22 PLEASE PRESENT HER.

23 CLERK: FOR DEFENSE?

24 MR. HARPOOTLIAN: SWEAR HER, PLEASE.

25 CLERK: NUMBER 111, LOUISE K. JAMES.

1 WHAT SAYETH THE STATE?
2 MR. JONES: WE ACCEPT MS. JAMES.
3 PLEASE PRESENT HER.
4 CLERK: FOR DEFENSE?
5 MR. HARPOOTLIAN: SWEAR HER, PLEASE.
6 CLERK: NUMBER 20, JAMES S. BROTHERS.
7 WHAT SAYETH THE STATE?
8 MR. JONES: WE ACCEPT MR. BROTHERS.
9 PLEASE PRESENT HIM.
10 CLERK: FOR DEFENSE?
11 MR. HARPOOTLIAN: EXCUSE THE JUROR,
12 PLEASE.
13 CLERK: NUMBER 157, MATTHEW MOORE.
14 WHAT SAYETH THE STATE?
15 MR. JONES: THE STATE WOULD EXCUSE
16 THAT JUROR FROM THIS TRIAL.
17 CLERK: NUMBER 200, JOEL A. SIGMAN.
18 WHAT SAYETH THE STATE?
19 MR. JONES: WE ACCEPT THE JUROR.
20 PLEASE PRESENT HIM.
21 CLERK: FOR DEFENSE?
22 MR. HARPOOTLIAN: EXCUSE THE JUROR,
23 PLEASE.
24 CLERK: NUMBER 87, JANIE L. HALL.
25 WHAT SAYETH THE STATE?

1 MR. JONES: WE ACCEPT THE JUROR, MS.

2 HALL. PLEASE PRESENT HER.

3 CLERK: FOR DEFENSE?

4 MR. HARPOOTLIAN: EXCUSE THE JUROR,
5 PLEASE.

6 CLERK: NUMBER 221, JOE L. TURNER.
7 WHAT SAYETH THE STATE?

8 MR. JONES: WE ACCEPT THE JUROR.
9 PLEASE PRESENT HIM.

10 CLERK: FOR DEFENSE?

11 MR. HARPOOTLIAN: SWEAR HIM, PLEASE.

12 CLERK: NUMBER 181, DELLA F. PRICE.
13 WHAT SAYETH THE STATE?

14 MR. JONES: WE ACCEPT THE JUROR.
15 PLEASE PRESENT HER.

16 CLERK: FOR DEFENSE?

17 MR. HARPOOTLIAN: SWEAR HER, PLEASE.

18 CLERK: NUMBER 68, BARBARA D. GAINES.
19 WHAT SAYETH THE STATE?

20 MR. JONES: EXCUSE THE JUROR FROM THE
21 TRIAL OF THIS CASE.

22 CLERK: NUMBER 93, YVONNE R. HAYNES.
23 WHAT SAYETH THE STATE?

24 MR. JONES: WE ACCEPT THE JUROR.
25 PLEASE PRESENT HER.

1 CLERK: FOR DEFENSE?
2 MR. HARPOOTLIAN: EXCUSE THE JUROR,
3 PLEASE.
4 CLERK: NUMBER 86, GRETA A. HALL.
5 WHAT SAYETH THE STATE?
6 MR. JONES: WE ACCEPT THE JUROR.
7 PLEASE PRESENT HER.
8 CLERK: FOR DEFENSE?
9 MR. HARPOOTLIAN: SWEAR HER, PLEASE.
10 CLERK: NUMBER 103, SANDRA HOLLOWAY.
11 WHAT SAYETH THE STATE?
12 MR. JONES: WE ACCEPT THE JUROR.
13 PLEASE PRESENT HER.
14 CLERK: FOR DEFENSE?
15 MR. HARPOOTLIAN: EXCUSE THE JUROR,
16 PLEASE.
17 CLERK: NUMBER 234, MARJORIE WEST.
18 WHAT SAYETH THE STATE?
19 MR. JONES: WE ACCEPT THE JUROR.
20 PLEASE PRESENT HER.
21 CLERK: FOR DEFENSE?
22 MR. HARPOOTLIAN: I'M SORRY, THAT WAS
23 NUMBER...?
24 CLERK: NUMBER 234, MARJORIE WEST.
25 MR. HARPOOTLIAN: SWEAR HER, PLEASE.

1 CLERK: NUMBER 176, KIMBERLY J.

2 PHILLIS. WHAT SAYETH THE STATE?

3 MR. JONES: PLEASE EXCUSE THE JUROR
4 FROM THE TRIAL OF THIS CASE.

5 MR. SWERLING: I'M SORRY, WHAT NUMBER?

6 MR. HARPOOTLIAN: NUMBER 16...NUMBER
7 176.

8 THE COURT: NUMBER 176.

9 MR. SWERLING: OKAY.

10 CLERK: NUMBER 69, JACK E. GALBREATH.
11 WHAT SAYETH THE STATE?

12 MR. JONES: WE ACCEPT THE JUROR.
13 PLEASE PRESENT HIM.

14 CLERK: FOR DEFENSE?

15 MR. HARPOOTLIAN: SWEAR HIM, PLEASE.

16 CLERK: NUMBER 71, BARBARA GEORGE.

17 WHAT SAYETH THE STATE?

18 MR. JONES: WE ACCEPT THE JUROR.

19 PLEASE PRESENT HER.

20 CLERK: FOR DEFENSE?

21 MR. HARPOOTLIAN: BEG THE COURT'S
22 INDULGENCE ONE MOMENT, PLEASE? HOW MANY STRIKES
23 HAVE WE EXERCISED?

24 THE COURT: I HAVE YOU AS EXERCISING
25 SIX.

1 MR. SWERLING: SIX.
2 CLERK: YES, SIR.
3 THE COURT: THE STATE HAS EXERCISED
4 THREE.
5 MR. HARPOOTLIAN: I NEED TO CHECK ONE
6 THING, YOUR HONOR. GIVE ME ONE SECOND, PLEASE?
7 EXCUSE HER, PLEASE.
8 CLERK: NUMBER 155, BILLY J. MOORE.
9 WHAT SAYETH THE STATE?
10 MR. JONES: EXCUSE THIS JUROR.
11 CLERK: NUMBER 186, BRANDY M. REID.
12 WHAT SAYETH THE STATE?
13 MR. JONES: WE ACCEPT THE JUROR.
14 PLEASE PRESENT HER.
15 CLERK: FOR DEFENSE?
16 MR. HARPOOTLIAN: SWEAR HER, PLEASE.
17 CLERK: NUMBER 96, CHERYL A. HEMBREE.
18 WHAT SAYETH THE STATE?
19 MR. JONES: EXCUSE THIS JUROR.
20 CLERK: NUMBER 149, BETTY E. MERRITT.
21 WHAT SAYETH THE STATE?
22 MR. JONES: WE ACCEPT THE JUROR.
23 PLEASE PRESENT HER.
24 CLERK: FOR DEFENSE?
25 MR. HARPOOTLIAN: EXCUSE HER, PLEASE.

1 CLERK: NUMBER 188, LARRY E. RITCH.

2 WHAT SAYETH THE STATE?

3 MR. JONES: WE ACCEPT THE JUROR.

4 PLEASE PRESENT HIM.

5 CLERK: FOR DEFENSE?

6 MR. HARPOOTLIAN: BEG THE COURT'S

7 INDULGENCE ONE MOMENT?

8 THIS IS NUMBER 188?

9 CLERK: YES, SIR.

10 MR. HARPOOTLIAN: EXCUSE HIM, PLEASE.

11 CLERK: NUMBER 5, WILLIAM R. AUSTIN,

12 THE SECOND. WHAT SAYETH THE STATE?

13 MR. JONES: WE ACCEPT COLONEL AUSTIN

14 IN THIS CASE. PLEASE PRESENT HIM.

15 CLERK: FOR DEFENSE?

16 MR. HARPOOTLIAN: THIS WOULD BE STRIKE

17 NUMBER TEN, IS THAT CORRECT?

18 THE COURT: IT WOULD BE, IF YOU

19 EXERCISED IT.

20 CLERK: YES, SIR.

21 MR. HARPOOTLIAN: EXCUSE COLONEL

22 AUSTIN, PLEASE.

23 CLERK: NUMBER 37, CHRISTOPHER L.

24 CONNALLY. WHAT SAYETH THE STATE?

25 MR. JONES: WE ACCEPT CHRIS CONNALLY.

1 CLERK: FOR DEFENSE?
2 MR. HARPOOTLIAN: SWEAR HIM.
3 CLERK: NUMBER 84, JOHN ROBERT GRIMES.
4 WHAT SAYETH THE STATE?
5 MR. JONES: WE ACCEPT MR. GRIMES.
6 CLERK: DEFENSE?
7 MR. HARPOOTLIAN: SWEAR HIM.
8 CLERK: NUMBER 145, CATHY A. MCGUFFIN.
9 WHAT SAYETH THE STATE?
10 MR. JONES: WE ACCEPT MS. MCGUFFIN.
11 CLERK: FOR DEFENSE?
12 MR. HARPOOTLIAN: SWEAR HER, PLEASE.
13 THE COURT: ALL RIGHT, MADAM CLERK, DO
14 YOU WANT TO CONFIRM THE STRIKES OR DO YOU WANT ME
15 TO DO IT?
16 CLERK: I CAN DO IT.
17 THE COURT: ALL RIGHT.
18 CLERK: CAN WE CHECK THESE, PLEASE?
19 MR. JONES: YES.
20 CLERK: THE STATE STRIKES NUMBER 157;
21 NUMBER 68; 176; 155; 96; THAT'S ALL.
22 MR. HARPOOTLIAN: ONE SEVENTY-SIX...?
23 I'M SORRY?
24 CLERK: YES, SIR?
25 MR. HARPOOTLIAN: WHAT WERE THE TWO

1 AFTER THAT?

2 CLERK: ONE FIFTY-FIVE AND 96.

3 THE COURT: IS THAT CORRECT, MR.

4 SOLICITOR?

5 MR. JONES: YES, YOUR HONOR.

6 THE COURT: ALL RIGHT. AND IF YOU'LL

7 CONFIRM IT WITH THE DEFENSE, PLEASE?

8 CLERK: YES, SIR. THE DEFENSE STRIKES

9 NUMBER 230; 20; 200; 87; 93; 103; 71; 149; 188; AND

10 5.

11 THE COURT: IS THAT CORRECT, MR.

12 HARPOOTLIAN?

13 MR. HARPOOTLIAN: LET ME...

14 MR. JONES: YOUR HONOR, CAN I ASK THAT

15 WE RUN DOWN THAT JUST ONE MORE TIME?

16 THE COURT: SURE.

17 CLERK: YES, SIR. TWO-THIRTY; 20;

18 200; 87; 93; 103; 71; 149; 188; AND 5.

19 MR. HARPOOTLIAN: YES, MA'AM.

20 THE COURT: ALL RIGHT, BOTH SIDES

21 AGREE. ALL RIGHT, OTHER THAN STATED OBJECTIONS AT

22 THE TIME OF QUALIFICATION, IS THERE ANY EXCEPTION

23 OR OBJECTION TO THE METHOD OF SELECTION OR MANNER

24 OF IMPANELMENT OF THIS JURY FOR THE STATE?

25 MR. JONES: NONE ON THE PART OF THE

1 STATE, YOUR HONOR, NO, SIR.

2 THE COURT: FROM THE DEFENSE?

3 MR. HARPOOTLIAN: JUST GIVE ME THIRTY
4 SECONDS, PLEASE?

5 NO OBJECTIONS, YOUR HONOR.

6 THE COURT: ALL RIGHT. I FIND THE
7 JURY QUALIFIED UNDER THE STATUTORY REQUIREMENTS. I
8 DO NOT FIND A VIOLATION OF BATSON V. KENTUCKY OR
9 JEB V. ALABAMA AND ANY OTHER ISSUES HAVE BEEN
10 CONSENTED TO OR WAIVED AS TO JURY SELECTION, UNLESS
11 PRESERVED IN THE RECORD AT THE TIME OF
12 QUALIFICATION.

13 ALL RIGHT. NOW, WHAT I'D LIKE TO DO
14 IS BRING THOSE TWENTY-SEVEN PEOPLE IN HERE NOW AND
15 I'LL DO IT EITHER WAY THAT YOU'D LIKE...MS. DOUGLAS
16 REMINDED ME THAT THE LAST TIME WE DID IT WE JUST
17 CALLED OUT THE NAMES OF THOSE SELECTED AND PUT THEM
18 IN THE BOX OR I CAN LET YOU GO THROUGH THE STRIKE
19 SYSTEM AGAIN...EITHER WAY. JUST CALL THEM OUT? IS
20 THAT ALL RIGHT, SOLICITOR?

21 MR. HARPOOTLIAN: YOUR HONOR, SINCE
22 WE'RE GETTING READY TO TRY TO GET SOME ALTERNATES
23 AND GET OUT OF HERE AT SOME DECENT POINT TONIGHT,
24 I'D JUST AS SOON JUST CALL THEM OUT.

25 THE COURT: SOLICITOR, DO YOU HAVE ANY

1 PREFERENCE?

2 MR. JONES: BEG...YOUR HONOR, JUST ONE
3 SECOND. I DON'T THINK THAT WE DO. I REALLY DON'T.
4 I JUST...WHAT I WANTED TO BE SURE IS THAT WE
5 GET...WE'VE GONE OVER THESE NUMBERS AND WHAT I WANT
6 BEFORE WE SEND ANYBODY ANYWHERE THAT I'M ABLE TO
7 MAKE SURE THAT WHAT WE GET UP HERE IS WHAT I
8 REFLECT THAT WE DID. WE'VE GONE OVER IT TWICE.

9 THE COURT: YES, SIR.

10 MR. JONES: OKAY.

11 THE COURT: THE CLERK'S RECORDS AGREE
12 WITH MY RECORDS AND I HOPE YOURS, TOO.

13 MR. HARPOOTLIAN: YOUR HONOR, IF
14 YOU'RE JUST GOING TO CALL THEM OUT, YOU'D STATE,
15 "THESE ARE THE JURORS THAT BOTH THE DEFENSE AND THE
16 PROSECUTION HAVE AGREED ON IN THIS CASE?" SO THEY
17 UNDERSTAND THAT WHEN YOU DO THE ALTERNATE SYSTEM
18 THEY UNDERSTAND THAT HE SAYS PUT ME AND HE SAYS PUT
19 ME.

20 THE COURT: IS THAT ALL RIGHT? YOUR
21 LISTS AGREE?

22 MR. JONES: YES, SIR.

23 THE COURT: OKAY. ALL RIGHT, NOW
24 CAPTAIN WEBBER, WHEN WE GET THE TWELVE SELECTED
25 YOU'RE PREPARED TO TAKE THE HANDLING TEAM OF MR.

1 BERRY, OLIVER MARTIN, RUDOLPH, REESE, AND MEARS ARE
2 PREPARED TO TAKE THOSE TWELVE TO COLUMBIA?

3 MR. WEBBER: YES, SIR.

4 THE COURT: ALL RIGHT, AND WE WILL
5 STILL HAVE TWO MORE TO GO...

6 MR. WEBBER: YES, SIR, THERE WILL BE
7 AT LEAST TWO CARS, SLED CARS, LEFT HERE. THE VAN'S
8 OUTSIDE THE DOOR, YOU KNOW, WHEN YOU GET THROUGH
9 TALKING TO THEM THE PEOPLE WILL TAKE THEM OUT THERE
10 AND THEY'LL LOAD THEIR LUGGAGE OUT THERE.

11 THE COURT: ALL RIGHT. WE'RE NOT
12 GOING TO SWEAR THE JURY OR ANYTHING UNTIL WE
13 ACTUALLY PHYSICALLY GET THEM INTO NEWBERRY
14 TOMORROW. BUT, I WILL GIVE THEM AN INSTRUCTION
15 ABOUT WHAT THEY CAN DO AND NOT DO AND WE'LL GO FROM
16 THERE.

17 ALL RIGHT, LET'S BRING THOSE TWENTY-
18 SEVEN FOLKS IN HERE AND GET THEM ON THE ROAD. AND
19 I WOULD ASK THOSE IN THE MIDDLE AISLE, IF YOU
20 WOULD, JUST GO TO ONE SIDE OR THE OTHER. IT MAKES
21 NO DIFFERENCE.

22 WE'VE GOT EIGHT LEFT IN PANEL F. I
23 HAVE PANEL G HERE RIGHT NOW. DO YOU BELIEVE WE CAN
24 GET TWO OUT OF THAT?

25 MR. HARPOOTLIAN: WELL, YOUR HONOR, I

1 WOULD NOTE THAT OF THOSE EXCUSED TODAY, THE
2 SOLICITOR AND I...THE SOLICITOR'S OFFICE AND I WILL
3 TAKE CREDIT, WITH MR. SWERLING, MOST OF THE PEOPLE
4 EXCUSED HAD NOTHING TO DO WITH ANYTHING WE SAID.

5 THE COURT: I AGREE.

6 MR. HARPOOTLIAN: SO, YOUR GUESS IS AS
7 GOOD AS OURS.

8 THE COURT: I'M GOING TO PUT H AND I
9 AND THE BALANCE ON NOTICE TO...

10 MR. HARPOOTLIAN: JUDGE, YOU DO INTEND
11 ON FINISHING THIS TONIGHT?

12 THE COURT: I DO.

13 MR. HARPOOTLIAN: YES, SIR.

14 THE COURT: I FEEL LIKE WE CAN GET IT
15 OUT OF THE NEXT EIGHTEEN JURORS. I MEAN, SURELY WE
16 CAN GET TWO.

17 MR. HARPOOTLIAN: I WOULD THINK SO.

18 THE COURT: OKAY. I'M GOING TO TAKE A
19 CHANCE. ASK THEM TO CALL BACK TONIGHT AFTER 9:00.
20 THAT'S EVERYBODY...WE'RE GOING TO FINISH PANEL F
21 AND WE'RE GOING TO FINISH PANEL G. ASK THE OTHERS
22 TO CALL BACK AFTER 9:00. IF I MISCALCULATED, WE'LL
23 BE HERE IN THE MORNING.

24 RICHARD WALKER, BEING CALLED
25 AND DULY SWORN, TESTIFIES AS FOLLOWS:

1 THE COURT: ALL RIGHT, IF YOU COULD
2 HAVE A SEAT UP HERE, PLEASE, SIR, AND MAKE YOURSELF
3 COMFORTABLE. I'M SORRY YOU'RE HAVING TO WAIT, BUT
4 WE HAVE TALKED TO ABOUT FORTY-SOME-ODD PEOPLE IN
5 THE LAST COUPLE OF DAYS AND IT TAKES A LONG TIME TO
6 DO THIS.

7 HAVE YOU EVER SERVED ON A JURY BEFORE?

8 A YES, SIR, BACK IN THE MID-80'S. I
9 DON'T REMEMBER EXACTLY WHAT YEAR.

10 THE COURT: WAS IT CRIMINAL OR CIVIL
11 JURY?

12 A I THINK IT WAS CRIMINAL.

13 THE COURT: OKAY.

14 A IT'S BEEN A WHILE.

15 THE COURT: DID YOU GET THE LETTER
16 THAT I HANDED OUT THE OTHER DAY AND HAVE A CHANCE
17 TO READ IT?

18 A YES, SIR.

19 THE COURT: YOU ESSENTIALLY UNDERSTOOD
20 WHAT I SAID IN THE LETTER?

21 A YES, SIR.

22 THE COURT: THEN YOU'RE AWARE THAT THE
23 STATE IS SEEKING THE DEATH PENALTY IN THIS CASE AND
24 BECAUSE OF THAT THE TWO SIDES GET AN OPPORTUNITY TO
25 ASK YOU SOME QUESTIONS ABOUT SOME RELEVANT ISSUES

1 IN THIS CASE. DO YOU UNDERSTAND THAT?

2 A YES, SIR.

3 THE COURT: ALL RIGHT. NOW NOBODY'S
4 HERE TO CHALLENGE YOUR VIEWS OR PUT YOU ON THE SPOT
5 AND THERE AREN'T ANY RIGHT OR WRONG ANSWERS, JUST
6 SIMPLY WHAT YOUR BELIEFS ARE. OKAY?

7 A YES, SIR.

8 THE COURT: HAVE YOU FORMED OR
9 EXPRESSED ANY OPINION AS TO THE GUILT OR INNOCENCE
10 OF THE DEFENDANT, MR. BECKHAM, IN THIS CASE?

11 A NO, SIR.

12 THE COURT: HAVE YOU TALKED WITH
13 ANYONE ABOUT THIS CASE OR ALLOWED ANYONE TO TALK
14 WITH YOU ABOUT IT OR TALKED ABOUT PENALTIES IN THIS
15 CASE WITH ANYONE?

16 A NO, SIR.

17 THE COURT: OKAY. AND DO YOU
18 UNDERSTAND THE...ARE YOU AWARE OF THE PRINCIPLE OF
19 LAW THAT SAYS THAT A CITIZEN ACCUSED OF A CRIME IS
20 PRESUMED TO BE INNOCENT OF THAT CRIME UNLESS HIS
21 PROOF IS ESTABLISHED BY THE STATE TO A CERTAIN
22 BURDEN OF PROOF? ARE YOU AWARE OF THAT?

23 A YES, SIR.

24 THE COURT: AND SIR, THE PRESUMPTION
25 OF INNOCENCE PRINCIPLE, IS THAT SOMETHING THAT YOU

1 COULD ACCEPT AND FOLLOW AS A JUROR?

2 A YES, SIR.

3 THE COURT: THE REASON I ASK THAT IS
4 BECAUSE WE ARE GOING TO TALK ABOUT PENALTIES, AS I
5 TOLD YOU, AND I WANT TO MAKE SURE THAT YOU DON'T
6 INFER FROM THE FACT THAT WE DISCUSS THAT THAT MR.
7 BECKHAM IS GUILTY OF ANYTHING AT THIS POINT BECAUSE
8 THERE'S BEEN NO EVIDENCE AND WE DON'T KNOW WHAT IT
9 WILL SHOW. DO YOU UNDERSTAND THAT?

10 A YES, SIR.

11 THE COURT: OKAY. NOW YOU'VE BEEN ON
12 A JURY BEFORE AND YOU UNDERSTAND THAT IN A JURY, IN
13 A CRIMINAL SETTING, A JURY ORDINARILY HAS ONLY ONE
14 ULTIMATE ISSUE AND THAT IS TO DETERMINE THE
15 INNOCENCE OR THE GUILT OF THE DEFENDANT AGAINST
16 WHATEVER HE'S CHARGED WITH. IF HE'S FOUND NOT
17 GUILTY OF COURSE THE CHARGES ARE DISMISSED AND HE'S
18 RELEASED FROM FACING THEM. IF HE IS FOUND GUILTY
19 THEN ORDINARILY HE COMES BEFORE A JUDGE AND A JUDGE
20 SENTENCES HIM TO WHATEVER THE REQUIREMENTS OF THE
21 LAW ARE. NOW THAT'S TRUE ABOUT ALL OF THE CASES
22 THAT WE HANDLE IN OUR SYSTEM EXCEPT ONE AND THE ONE
23 EXCEPTION TO THAT IS WHERE THE STATE SEEKS THE
24 DEATH PENALTY. IN THAT CASE, THE JURY HAS TWO
25 ULTIMATE RESPONSIBILITIES. NUMBER ONE, LIKE IN ALL

1 OTHER CASES, THEY MUST DETERMINE WHETHER OR NOT A
2 DEFENDANT IS GUILTY OR NOT GUILTY OF THE CRIME OF
3 MURDER. THE SECOND THING, IF THEY FIND THAT A
4 DEFENDANT IS GUILTY OF MURDER, THEN THE JURY MUST
5 THEN LISTEN TO EVIDENCE IN AGGRAVATION AND EVIDENCE
6 IN MITIGATION AND WEIGH THAT EVIDENCE AND DETERMINE
7 FROM THE WHOLE BODY OF EVIDENCE WHAT THE
8 APPROPRIATE PUNISHMENT IS. AND YOU HAVE TWO
9 CHOICES AND YOUR ULTIMATE DECISION IS WHETHER TO
10 IMPOSE THE DEATH PENALTY OR TO GIVE A LIFE
11 SENTENCE. PROCEDURALLY DO YOU UNDERSTAND ME TO
12 THIS POINT?

13 A YES, SIR.

14 THE COURT: OKAY. WE KNOW THAT WHEN
15 JURORS ARE PRESENTED WITH THAT SITUATION, THAT IS
16 TO DETERMINE THE SENTENCE, THAT WE HAVE THREE KINDS
17 OF JURORS. WE HAVE ONE KIND WHO SAYS, "WE HAVE
18 FOUND THE DEFENDANT GUILTY OF MURDER. WE HAVE
19 FOUND PROOF OF AGGRAVATING CIRCUMSTANCE BEYOND A
20 REASONABLE DOUBT. IT DOESN'T MATTER ABOUT
21 MITIGATING CIRCUMSTANCES. I BELIEVE IN THESE CASES
22 THAT THE DEATH PENALTY IS THE APPROPRIATE
23 PUNISHMENT AND I WILL ALWAYS VOTE FOR DEATH."
24 THAT'S ONE TYPE OF JUROR.

25 WE HAVE ANOTHER TYPE OF JUROR WHO

1 SAYS, "WE FOUND HIM GUILTY OF MURDER AND IN THIS
2 SENTENCING PHASE I AGREE THAT THERE IS EXISTENCE OF
3 AN AGGRAVATING CIRCUMSTANCE AND THERE MAY OR MAY
4 NOT BE MITIGATION." BUT, THAT JUROR SAYS, "I
5 BELIEVE THE PROPER PUNISHMENT FOR THIS TYPE OF
6 SITUATION IS LIFE IMPRISONMENT AND I WOULD ALWAYS
7 VOTE FOR LIFE."

8 THE THIRD JUROR SAYS, "WE'VE GOT THE
9 CONVICTION. WE'VE GOT THE AGGRAVATING
10 CIRCUMSTANCE. MAY OR MAY NOT HAVE MITIGATING
11 CIRCUMSTANCES." THAT JUROR SAYS, "I WANT TO LOOK
12 AT THIS CASE IN PARTICULAR AND IN THIS CASE I WILL
13 CONSIDER WHETHER OR NOT A LIFE SENTENCE IS
14 APPROPRIATE OR A DEATH SENTENCE IS APPROPRIATE.
15 AND AFTER I'VE CONSIDERED THEM THEN I WILL CHOOSE
16 WHAT I THINK IS THE APPROPRIATE PUNISHMENT."

17 IF YOU HAD TO SAY WHICH CATEGORY OF
18 JURORS THAT YOU WOULD FIT IN, WHICH WOULD YOU
19 LIKELY PICK?

20 A THE THIRD ONE.

21 THE COURT: THE THIRD ONE? ALL RIGHT.
22 SO, YOU'RE TELLING ME THAT IF YOU LOOKED AT A CASE
23 AND CONSIDERED ALL THE THINGS THE LAW ALLOWS YOU
24 TO, THAT IF YOU FOUND...IF YOU CAME TO THE
25 CONCLUSION THAT THE APPROPRIATE SENTENCE WAS A LIFE

1 SENTENCE, COULD YOU IMPOSE THAT SENTENCE?

2 A YES, SIR.

3 THE COURT: ALL RIGHT. LIKEWISE, IF
4 YOU CAME TO THE CONCLUSION THAT THE DEATH PENALTY
5 WAS THE APPROPRIATE SENTENCE FOR THE SITUATION,
6 COULD YOU VOTE TO IMPOSE THE DEATH PENALTY?

7 A YES, SIR.

8 THE COURT: AND IF YOU FELT THE DEATH
9 PENALTY WAS THE APPROPRIATE PENALTY, COULD YOU
10 COMPLY WITH OUR STATE STATUTE WHICH REQUIRES A
11 JUROR TO SIGN HIS OR HER NAME TO THE SENTENCING
12 FORM ACKNOWLEDGING THAT THAT IS THEIR SENTENCE?

13 A YES, SIR.

14 THE COURT: ALL RIGHT. NOW I'M GOING
15 TO LET THE SOLICITOR ASK YOU SOME QUESTIONS AND
16 THEN ONE OF THE DEFENSE ATTORNEYS WILL ASK YOU SOME
17 QUESTIONS. AND AGAIN, NO RIGHT OR WRONG ANSWERS.
18 OKAY?

19 MR. COULTER?

20 MR. COULTER: THANK YOU, YOUR HONOR.

21 DIRECT EXAMINATION:

22 BY MR. COULTER:

23 Q GOOD EVENING, MR. WALKER. MY NAME'S
24 MIKE COULTER AND I'M WITH THE SOLICITOR'S OFFICE.
25 I JUST WANT TO INTRODUCE YOU TO A COUPLE OF PEOPLE.

1 THIS IS SOLICITOR JONES, WHO IS PROSECUTING THE
2 CASE. THIS IS DEPUTY SOLICITOR STROM. WE'RE GOING
3 TO BE HELPING SOLICITOR JONES PROSECUTE THE CASE.
4 AND I JUST WANTED TO MAKE SURE I GOT AN
5 UNDERSTANDING OF THE ANSWERS THAT YOU GAVE TO US
6 JUST A SECOND AGO.

7 NOW, YOU UNDERSTAND -- IF I UNDERSTAND
8 -- THAT THERE ARE TWO PHASES TO THIS TRIAL?

9 A YES.

10 Q ALL RIGHT. AND THAT THE FIRST PHASE
11 DEALS WITH GUILT OR INNOCENCE OF THE PERSON
12 CHARGED?

13 A YES.

14 Q ALL RIGHT. AND THAT YOU, AS A FACT-
15 FINDER, WITH YOUR OTHER ELEVEN JURORS, WOULD
16 DETERMINE WHETHER OR NOT THE STATE HAD PROVEN THE
17 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT?

18 A YES, SIR.

19 Q THAT'S THE FIRST PHASE. THAT IF YOU
20 FIND THAT THE STATE HAS MET THAT BURDEN OF PROOF
21 THEN WE'D GO ON TO THE SECOND PHASE?

22 A YES, SIR.

23 Q NOW, IF WE'VE PROVEN THE CASE BEYOND A
24 REASONABLE DOUBT, IN REGARDS TO MURDER, THEN THE
25 NEXT PHASE, THE SECOND PHASE, IS THE PENALTY PHASE.

- 1 DO YOU UNDERSTAND THAT?
- 2 A YES, SIR.
- 3 Q ALL RIGHT. AND IF I UNDERSTAND THE
- 4 ANSWERS THAT YOU GAVE, YOU HAD SAID THAT BASED ON
- 5 THE EVIDENCE, DEPENDING ON THE EVIDENCE, YOU COULD
- 6 IN FACT RETURN A VERDICT FOR A PENALTY OF LIFE IN
- 7 PRISON?
- 8 A YES.
- 9 Q BUT YOU ALSO SAID THAT BASED ON THE
- 10 CIRCUMSTANCES YOU COULD ALSO VOTE TO IMPOSE THE
- 11 DEATH SENTENCE?
- 12 A YES.
- 13 Q ON ANOTHER HUMAN BEING?
- 14 A YES, SIR.
- 15 Q IS THAT RIGHT.
- 16 A YES, SIR.
- 17 Q AND THAT YOU COULD IN FACT, IN MAKING
- 18 THAT DETERMINATION, GO AHEAD AND SIGN YOUR NAME ON
- 19 A DEATH WARRANT STATING THAT YOU WOULD VOTE TO
- 20 IMPOSE THE DEATH SENTENCE ON ANOTHER HUMAN BEING?
- 21 A YES, SIR.
- 22 Q YOU CAN DO THAT?
- 23 A YES, SIR.
- 24 Q AND YOU'RE SURE OF THAT?
- 25 A YES, SIR.

1 Q AND IF I UNDERSTAND FROM YOUR ANSWERS,
2 YOU WOULD ALSO TAKE INTO CONSIDERATION ALL OF THE
3 FACTS AND YOU WOULDN'T LEAN TOWARDS LIFE OR DEATH?
4 YOU WOULD JUST TAKE EVERYTHING INTO CONSIDERATION
5 BEFORE YOU COULD MAKE THAT FINAL DETERMINATION?

6 A YES, SIR.

7 Q THAT'S RIGHT? OKAY. JUST ONE SECOND.
8 THANK YOU, MR. WALKER.

9 THE COURT: MR. HARPOOTLIAN?

10 MR. HARPOOTLIAN: IF IT PLEASE THE
11 COURT, YOUR HONOR?

12 CROSS-EXAMINATION:

13 BY MR. HARPOOTLIAN:

14 Q GOOD AFTERNOON, MR. WALKER.

15 A HOW ARE YOU, SIR?

16 Q TIRED. I'M DICK HARPOOTLIAN AND I'M A
17 LAWYER. I PRACTICE LAW IN COLUMBIA AND MOVE AROUND
18 FROM TIME TO TIME, HOWEVER IT'S MY FIRST TRIP TO
19 OCONEE COUNTY. IT'S NICE TO BE UP HERE WITH Y'ALL.
20 I WISH IT WERE UNDER DIFFERENT CIRCUMSTANCES.
21 JOINING ME ON THIS TRIP IS MR. JACK SWERLING,
22 STANDING OVER THERE -- HE'S MY CO-COUNSEL ON THIS
23 CASE -- AND SEATED AT COUNSEL TABLE IS STEPHEN
24 BECKHAM. HE IS THE GENTLEMAN WHO IS ON TRIAL HERE.
25 DO YOU KNOW ANY OF US?

- 1 A NO, SIR.
- 2 Q OKAY. THE JUDGE HAS ASKED YOU SOME
- 3 QUESTIONS, I'M GOING TO ASK YOU A FEW QUESTIONS,
- 4 AND WHAT WE'RE TRYING TO DO IS DETERMINE...FIND OUT
- 5 A LITTLE BIT ABOUT YOU SO THAT WE CAN DECIDE
- 6 WHETHER OR NOT JURY SERVICE ON THIS JURY WOULD BE
- 7 APPROPRIATE FOR YOU. OKAY? I'M NOT TRYING TO
- 8 OFFEND YOU IN ANY WAY. I'M GOING TO TRY NOT TO ASK
- 9 YOU ANY PERSONAL QUESTIONS, BUT WE NEED TO FIND OUT
- 10 A LITTLE BIT ABOUT YOU.
- 11 NOW, YOU APPARENTLY HAVE BEEN ON A
- 12 JURY BEFORE, IS THAT CORRECT?
- 13 A YES.
- 14 Q WHAT KIND OF CASE WAS THAT?
- 15 A IT'S BEEN A LONG TIME AGO. I REALLY
- 16 CAN'T HARDLY REMEMBER THE CASE. I JUST REMEMBER
- 17 BEING ON IT.
- 18 Q WAS IT A CRIMINAL CASE OR A CIVIL
- 19 CASE/
- 20 A CIVIL CASE, I THINK. I'M NOT
- 21 POSITIVE.
- 22 Q OKAY.. YOU DON'T REMEMBER WHAT IT WAS
- 23 ABOUT OR WHAT Y'ALL...YOUR VERDICT WAS OR ANYTHING?
- 24 A NO, NOT REALLY.
- 25 Q OKAY. WAS IT IN THIS COURTHOUSE?

1 A YES.

2 Q WAS HOWARD BALLENGER THE JUDGE?

3 A I DON'T REMEMBER THAT EITHER.

4 Q YOU DON'T REMEMBER? OKAY. YOU

5 INDICATE IN HERE YOU'RE RETIRED. WHAT IS IT YOU

6 DID BEFORE YOU WERE RETIRED?

7 A I WORKED FOR DUKE POWER. I

8 WAS...WELL, I OPERATED CRANE FOR A WHILE AND ALSO

9 MATERIAL DELIVERY, PICK UP MATERIALS.

10 Q NOW, SOLICITOR'S OFFICE AND THE JUDGE

11 AND OTHER HAVE ASKED YOU ABOUT YOUR OPINIONS ABOUT

12 THE DEATH PENALTY. I'M GOING TO TALK TO YOU ABOUT

13 THAT IN JUST A MINUTE, BUT BEFORE WE GET TO THAT

14 LET ME REMIND YOU OR EXPLAIN TO YOU THAT THIS

15 TRIAL, PERHAPS WOULD BE TWO TRIALS, IT MAY JUST BE

16 ONE TRIAL. AND THAT ONE TRIAL WOULD BE TO

17 DETERMINE THE GUILT OR INNOCENCE OF MR. BECKHAM

18 OVER HERE. THAT IS, BEFORE WE EVER GET TO A SECOND

19 STAGE, A SECOND TRIAL, A JURY WOULD HAVE TO FIND

20 MR. BECKHAM GUILTY BEYOND A REASONABLE DOUBT. THAT

21 IS, THE STATE WOULD HAVE TO CARRY THAT BURDEN OF

22 PROVING HIS GUILT BEYOND A REASONABLE DOUBT. DO

23 YOU UNDERSTAND THAT?

24 A YES, SIR.

25 Q THE JUDGE HAS SAID TO YOU, AND I'M

1 SURE THAT YOU UNDERSTAND, THAT MR. BECKHAM IS
2 PRESUMED INNOCENT.

3 A YES, SIR.

4 Q DO YOU BELIEVE THAT? DO YOU SUBSCRIBE
5 TO THAT?

6 A YES, SIR.

7 Q CAN YOU FOLLOW THE JUDGE'S CHARGE ON
8 THAT?

9 A YES, SIR.

10 Q HE DOESN'T HAVE TO PROVE ANYTHING?

11 A YES, SIR.

12 Q HE DOESN'T HAVE TO PRESENT ANY
13 EVIDENCE. HE DOESN'T HAVE TO TESTIFY. HE DOESN'T
14 HAVE TO DO A THING. IT'S UP TO THE STATE OF SOUTH
15 CAROLINA TO BRING EVIDENCE BEFORE YOU THAT
16 CONVINCES YOU BEYOND A REASONABLE DOUBT OF HIS
17 GUILT. CAN YOU FOLLOW THAT LAW?

18 A YES, SIR.

19 Q NOW, LET'S TALK A LITTLE BIT ABOUT THE
20 DEATH PENALTY...OR LIFE IMPRISONMENT. WE SAY THE
21 DEATH PENALTY, BUT IF IN A CASE SUCH AS THIS A JURY
22 WERE TO RETURN A VERDICT OF GUILTY THE TRIAL WOULD
23 MOVE INTO THE SECOND TRIAL, WHICH IS...ACTUALLY WE
24 HAVE A ONE DAY RECESS AND THEN WE START THE SECOND
25 TRIAL. AND THE SECOND TRIAL IS THE TRIAL OF

1 SENTENCE. NORMALLY THE JUDGE IS SEATED HERE WITH
2 SENTENCE...ANY JUDGE WOULD SENTENCE IN ANY OTHER
3 KIND OF CRIMINAL CASE. BUT IN THIS CASE THE JURY
4 SENTENCES. AND THEY HAVE WHAT WE CALL GUIDED
5 DISCRETION. THEY HAVE TO FIND THE EXISTENCE OF
6 SOME AGGRAVATING CIRCUMSTANCE. THAT MEANS IT CAN'T
7 JUST BE -- AND I DON'T MEAN A SIMPLE MURDER -- BUT
8 THERE ARE MURDERS WITH AGGRAVATION AND MURDERS
9 WITHOUT. THE AGGRAVATING CIRCUMSTANCES ARE: A
10 MURDER IN THE COMMISSION OF AN ARMED ROBBERY; A
11 MURDER IN THE COMMISSION OF RAPE; A MURDER IN
12 KIDNAPPING; IT'S MURDER PLUS, IS WHAT WE SAY. DO
13 YOU UNDERSTAND WHAT I MEAN BY THAT?

14 A YES, SIR.

15 Q SO, A MURDER WITHOUT AGGRAVATING
16 CIRCUMSTANCES WOULD...IF THE JURY WERE NOT TO FIND
17 THE EXISTENCE OF AN AGGRAVATING CIRCUMSTANCE, THEY
18 COULD NOT SENTENCE TO DEATH. OKAY?

19 A YES, SIR.

20 Q SO, I GUESS WHAT I'M ASKING YOU IS IF
21 YOU...AND EVEN IF THEY FOUND AN AGGRAVATING
22 CIRCUMSTANCE THEY DON'T HAVE TO SENTENCE TO DEATH.
23 DO YOU UNDERSTAND THAT?

24 A YES, SIR.

25 Q DO YOU HAVE SOME PREVIOUS POSITION AS

1 TO WHAT THE PENALTY OUGHT TO BE? I MEAN HAVE YOU
2 TALKED IN THE PAST? HAVE YOU HAD CONVERSATIONS AT
3 WORK OR OVER A CUP OF COFFEE DOWN AT HARDEE'S ABOUT
4 WHAT OUGHT TO HAPPEN TO MURDERERS IN GENERAL?

5 A WELL, NOT REALLY.

6 Q OKAY. DO YOU HAVE ANY FEELING ABOUT
7 WHAT OUGHT TO HAPPEN AS A GENERAL RULE? WHETHER
8 THEY OUGHT TO GET LIFE? WHETHER THEY OUGHT TO GET
9 DEATH? DO YOU HAVE A FEELING ABOUT THAT?

10 A NOT REALLY.

11 Q WOULD IT DEPEND ON A INDIVIDUAL CASE?

12 A MORE OR LESS. YES, SIR.

13 Q SO, I GUESS WHAT I'M ASKING YOU IS
14 EVEN IF YOU FOUND, IN A DEATH PENALTY CASE,
15 AGGRAVATING CIRCUMSTANCES, WOULD YOU STILL BE ABLE
16 TO GIVE A LIFE SENTENCE?

17 A WELL, YES.

18 Q I'M SORRY, DID YOU WANT TO EXPLAIN
19 THAT? I MEAN, IS THERE MORE TO JUST YES, YOU COULD
20 DO THAT?

21 A YES, I COULD DO THAT.

22 Q OKAY. I'M NOT TRYING TO PUT YOU ON
23 THE SPOT. I'M NOT TRYING TO EMBARRASS YOU. AND
24 MAYBE BECAUSE I'M A LITTLE TIRED UP HERE I'M
25 BABBLING A LITTLE BIT. LET ME LOOK OVER THIS FORM.

1 CAN YOU THINK OF ANY REASON WHY YOU SHOULDN'T BE ON
2 THIS JURY?

3 A NO, SIR.

4 Q YOU COULD BE FAIR TO BOTH SIDES?

5 A YES, SIR.

6 Q FAIR TO MR. BECKHAM AND THE STATE?

7 A YES, SIR.

8 Q LET ME CHECK WITH MY CO-COUNSEL OVER
9 HERE, MR. SWERLING, AND SEE IF I'VE ASKED YOU
10 EVERYTHING I'M SUPPOSED TO ASK YOU.

11 MR. WALKER, THANK YOU VERY MUCH FOR
12 YOUR ANSWERS. I REALLY APPRECIATE YOU BEING SO
13 CANDID AND HONEST WITH ME.

14 THE COURT: ONES, GENTLEMEN?

15 (ALL ANSWERED YES)

16 THE COURT: OKAY. ALL RIGHT, MR.
17 WALKER, I FIND YOU QUALIFIED FOR THE PURPOSE OF
18 BEING SELECTED TO BE PLACED ON THIS JURY. I KNOW
19 IT'S LATE, BUT WE'RE TRYING TO GO TO NEWBERRY
20 TONIGHT. HOW LONG WOULD IT TAKE YOU TO GET PACKED
21 AND COME BACK?

22 A OH, PROBABLY FORTY-FIVE MINUTES...AN
23 HOUR.

24 THE COURT: WELL, HOW ABOUT 6:30?

25 A SIX-THIRTY?

1 THE COURT: OKAY? BE BACK BY 6:30. I
2 HATE TO DO THAT, BUT WE'RE TRYING TO GET TO WHERE
3 WE CAN GET STARTED TOMORROW AND THE QUICKER WE CAN
4 GO THE BETTER OFF WE ARE. I WOULD SUGGEST THAT YOU
5 PACK COMFORTABLE CLOTHES FOR A PERIOD NOT TO EXCEED
6 TEN DAYS. IF YOU DON'T WANT TO PACK THAT MUCH WE
7 WILL HAVE LAUNDRY SERVICES AND THAT KIND OF STUFF
8 AVAILABLE TO YOU. SLED WILL PROVIDE FOR YOUR
9 TRANSPORTATION AND SECURITY TO AND FROM NEWBERRY
10 AND NEWBERRY'S GOING TO PAY FOR YOUR LODGING AND
11 MEALS AND THAT KIND OF THING.

12 I WOULD ASK YOU NOT TO DISCUSS THE
13 CASE WITH ANYONE OR ALLOW ANYONE TO DISCUSS IT WITH
14 YOU. YOU'RE GOING TO BE HOME DURING THE NEWS HOUR,
15 SO I ASK YOU PLEASE DON'T WATCH OR LISTEN TO ANY
16 ACCOUNT OF THESE PROCEEDINGS. WE WILL SEE YOU BACK
17 AT 6:30. NOW, YOU MAY NOT GET SELECTED TO GO, BUT
18 WE NEED TO SEE WHERE WE ARE. OKAY?

19 A OKAY.

20 THE COURT: SIX-THIRTY.

21 A OKAY.

22 THE COURT: HE'LL SHOW YOU WHERE TO
23 COME TO.

24 WE NEED MR. LEONARD.

25 YES, SIR?

1 MR. JONES: ARE WE GOING FORWARD WITH
2 THE NEXT ONE?

3 THE COURT: OH, THAT'S RIGHT. WE'VE
4 GOT ALL TWENTY-SEVEN HERE NOW. LET'S GO AHEAD AND
5 GET THEM STRUCK.

6 MR. JONES: AND JUDGE, I'D LIKE TO
7 POINT OUT THAT THE STATE IS WILLING TO ACCEPT THIS
8 AS THE FIRST ALTERNATE JUROR IF THE DEFENSE IS
9 WILLING TO ACCEPT HIM AS THE FIRST ALTERNATE JUROR.
10 AND WE WOULD TAKE THE NEXT ONE QUALIFIED AS THE
11 SECOND ALTERNATE JUROR IF THEY'LL TAKE THE NEXT ONE
12 QUALIFIED AS THE SECOND ALTERNATE JUROR.

13 THE COURT: WELL, OKAY, BUT THEY HAVE
14 A DIFFERENT PROBLEM FROM WHAT THE STATE'S SITUATION
15 IS. IF THEY'RE WILLING TO DO THAT AND THE CLIENT'S
16 WILLING TO DO IT, I DON'T HAVE A PROBLEM WITH IT.

17 MR. JONES: SURE. I JUST THOUGHT I'D
18 MENTION IT.

19 THE COURT: SURE, SURE. BUT, I MEAN
20 IF THEY DON'T, I MEAN, YOU HAVE TO UNDERSTAND THEY
21 HAVE A DIFFERENT...IT COMES AROUND AT A DIFFERENT
22 ANGLE.

23 MR. JONES: YES, SIR. I JUST THOUGHT
24 I'D BRING...

25 THE COURT: SURE.

1 MR. JONES: I WANTED YOU TO KNOW WHAT
2 OUR POSITION WAS AND TELL YOU.

3 THE COURT: SURE, SURE, AND I
4 APPRECIATE THAT.

5 MR. HARPOOTLIAN: AND WE APPRECIATE
6 THE SOLICITOR'S GRACIOUS OFFER, BUT WE REALLY, AT
7 THIS JUNCTURE, CAN'T MAKE THAT...WE MAY, IN A
8 COUPLE OF JURORS, BE ABLE TO DO THAT.

9 THE COURT: WELL, WHAT I WOULD SUGGEST
10 YOU DO IS FOLLOW UP WITH WHAT THE SOLICITOR'S
11 SAYING. HE MAY TAKE THE POSITION THAT IF WE GET TO
12 THREE THAT HE'S NOT GOING TO STRIKE ANY ONE OF THE
13 THREE. ALTHOUGH I THINK YOU'RE...I THINK BOTH
14 SIDES ARE ENTITLED TO TWO AND ONE, AND TWO AND ONE.
15 HOWEVER, Y'ALL CAN WORK IT OUT. SUIT YOURSELF.
16 YOU'RE THE ONE'S THAT HAVE GOT TO WORK IN THIS
17 THING.

18 MR. SWERLING: JUDGE, AS SOON AS WE
19 CAN MAKE THE DECISION, WE WILL.

20 THE COURT: OKAY. AND YOU UNDERSTAND
21 WHAT HE'S SAYING? HE'S WILLING...

22 MR. SWERLING: SURE. YES, SIR.

23 THE COURT: OKAY. ALL RIGHT.

24 MR. HARPOOTLIAN: YEAH.

25 THE COURT: ALL RIGHT, LET'S BRING

1 THAT TWENTY-SEVEN IN AND GET THEM ON THE WAY.

2 (JURY PANEL IS RETURNED TO THE OPEN
3 COURTROOM)

4 SOLICITOR, COULD I ASK YOU AND MR.
5 HARPOOTLIAN ONE QUICK THING?

6 (BENCH CONFERENCE HELD IN THE PRESENCE
7 OF THE JURY, OUT OF THE HEARING OF THE JURY, AND
8 OFF THE RECORD)

9 THE COURT: ALL RIGHT, LADIES AND
10 GENTLEMEN OF THE JURY PANEL, WE HAVE GONE THROUGH A
11 STRIKE PROCESS WHERE BOTH SIDES HAVE GONE THROUGH
12 THE LIST OF PROSPECTIVE JURORS AND WE HAVE SELECTED
13 A PANEL OF TWELVE JURORS TO SERVE AS THE PRIMARY
14 PANEL FOR PURPOSES OF TRYING THIS CASE. WE HAVE
15 HAD A SLOW GO OF IT IN TERMS OF GETTING ENOUGH
16 QUALIFIED IN ORDER TO GET THE ALTERNATES AND WE
17 WILL HAVE TO STAY AND WORK ON THE ALTERNATES. BUT,
18 IN AN EFFORT TO KEEP YOU FROM BEING DELAYED, THOSE
19 OF YOU WHO ARE SELECTED, WE'RE GOING TO GO AHEAD
20 AND EMPANEL THE JURY OF TWELVE AND TRANSPORT YOU TO
21 NEWBERRY NOW AND THEN WE WILL FINISH UP OUR
22 ALTERNATES AND HOPEFULLY THEY WILL BE JOINING YOU
23 SHORTLY.

24 AS TO WHAT TIME THE TRIAL WILL START
25 ACTUALLY TOMORROW KIND OF DEPENDS ON WHEN WE GET

1 OUT OF HERE TONIGHT. BUT WE WILL START SOMETIME
2 TOMORROW.

3 NOW, LADIES AND GENTLEMEN, AS I SAY,
4 BOTH SIDES HAVE BEEN THROUGH THE STRIKE PROCESS AND
5 WHAT WE'LL SIMPLY DO IS TO CALL OUT THE NAMES OF
6 THE TWELVE JURORS WHO HAVE BEEN SELECTED. WHEN
7 YOUR NAME IS CALL IF YOU WILL PLEASE COME AROUND
8 AND HAVE A SEAT IN THE JURY BOX AND THEN I NEED TO
9 TALK WITH YOU A FEW MINUTES AND WE'LL GET YOU READY
10 TO GO TO NEWBERRY. THOSE OF YOU WHO ARE NOT
11 SELECTED, IF YOU'LL JUST STAY WHERE YOU ARE FOR A
12 FEW MINUTES AND I'LL BE ABLE TO LET YOU GO HOME.

13 SO, MADAM CLERK, IF YOU WOULD CALL THE
14 NAMES OF THE JURORS WHO HAVE BEEN SELECTED BY BOTH
15 SIDES FOR PURPOSES OF SERVING IN THIS CASE?

16 CLERK: NUMBER 40, JAMES H. COOKRIDE.
17 ONE TWENTY-SIX, ALICE C. LAMAR. ONE-ELEVEN, LOUISE
18 K. JAMES. TWO TWENTY-ONE, JOE L. TURNER. ONE
19 EIGHTY-ONE, DELLA F. PRICE. EIGHT-SIX, GRETA A.
20 HALL. TWO THIRTY-FOUR, MARJORIE F. WEST. SIXTY-
21 NINE, JACK E. GALLAGHER. ONE EIGHTY-SIX, BRANDY M.
22 REID. THIRTY-SEVEN, CHRISTOPHER L. CONNALLY.
23 EIGHTY-FOUR, JOHN ROBERT GRIMES. ONE FORTY-FIVE,
24 KATHY A. MCGUFFIN.

25 THE COURT: ALL RIGHT, NOW LADIES AND

1 GENTLEMEN WHO HAVE NOT BEEN SELECTED TO SERVE ON
2 THE PANEL, LET ME THANK YOU FOR YOUR PATIENCE AND
3 FOR YOUR WILLINGNESS TO PARTICIPATE IN THE PROCESS.
4 I KNOW THAT IT WAS... TWO OR THREE DAYS IS A
5 LENGTHY PERIOD OF TIME. THE CLERK WILL MAIL YOUR
6 CHECKS TO YOU FOR YOUR MILEAGE AND FOR YOUR DAYS OF
7 SERVICE HERE.

8 BY REASONS OF PARTICIPATING IN THIS
9 PROCESS YOU GET A STATUTORY EXEMPTION FROM JURY
10 SERVICE FOR A PERIOD OF TIME. THAT'S BEING CHANGED
11 CURRENTLY BY THE LEGISLATURE, BUT RIGHT NOW IT'S A
12 MANDATORY ONE YEAR AND YOU HAVE AN EXEMPTION UP TO
13 THREE IF YOU WANT IT. SO, I WANT TO THANK YOU VERY
14 MUCH FOR PARTICIPATING WITH US AND WE WILL MAYBE
15 GET A CHANCE TO SEE YOU IN THE FUTURE. Y'ALL HAVE
16 A NICE DAY AND YOU'RE FREE TO GO HOME.

17 OKAY, NOW LADIES AND GENTLEMEN OF THE
18 JURY PANEL, WE'RE GOING TO GO AHEAD AND TRANSPORT
19 YOU TO NEWBERRY AND THEY'LL FEED YOU AND GET YOU IN
20 YOUR ROOMS TONIGHT. WHAT WE HAVE IS A TEAM FROM
21 THE LOWER PART OF THE STATE WITH THE SOUTH CAROLINA
22 LAW ENFORCEMENT DIVISION WITH MR. BERRY, WHO IS THE
23 AGENT IN CHARGE, MR. RUDOLPH, AND MR. OLIVER ARE
24 HERE RIGHT NOW. WE HAVE ANN REESE AND KENNETH
25 MEARS WILL BE JOINING YOU...

1 SPEAKER: THEY'RE WITH THE OTHER TWO
2 PANELS RIGHT NOW.

3 THE COURT: THEY'RE WITH THE OTHER TWO
4 PANELS. THEY'LL INTRODUCE THEMSELVES. NOW,
5 THEY'RE CHARGED, LADIES AND GENTLEMEN, BY THE COURT
6 TO DO A NUMBER OF THINGS. ONE IS TO PROVIDE
7 TRANSPORTATION FOR YOU. TWO, TO PROVIDE SECURITY
8 FOR YOU. THREE, TO KIND OF WATCH OVER YOU WHILE
9 YOU'RE AT THE MOTEL AND THEY'LL BE TAKING YOU TO
10 YOUR MEALS AND THAT KIND OF THING. THEY'RE A NICE
11 GROUP OF FOLKS AND THEY'RE INSTRUCTED, THEY'RE
12 UNDER VERY STRICT ORDERS, THAT THEY'RE NOT TO
13 DISCUSS ANYTHING ABOUT THE CASE WITH YOU. THEY
14 CAN'T EVEN TALK IN GENERAL ABOUT THAT KIND OF
15 STUFF. PLEASE DON'T ASK THEM THE QUESTIONS AND
16 THEY'LL TELL YOU THEY CAN'T SAY ANYTHING ABOUT IT.
17 BUT THEY'RE GOOD AT WHAT THEY DO IN TERMS OF
18 ENTERTAINING YOU TO THE EXTENT THAT THEY CAN DURING
19 THE OFF TIME -- OF COURSE YOU'LL BE IN COURT MOST
20 OF THE TIME. AND THEY'RE THERE TO ASSIST YOU IN
21 ANY WAY THAT IS WITHIN REASON.

22 NOW THEY ALSO HAVE SOME STRICT RULES
23 AND GUIDELINES AND I PROBABLY WILL SPEND A LITTLE
24 BIT MORE TIME TALKING ABOUT THAT WITH YOU TOMORROW.
25 BUT THERE ARE CERTAIN FORMS THAT THEY WILL NEED FOR

1 YOU TO GIVE THEM CERTAIN INFORMATION. THAT IS, WHO
2 TO CONTACT IN EMERGENCY, WHETHER OR NOT THERE ARE
3 ANY PARTICULAR MEDICAL NEEDS OR PROBLEMS THAT WE
4 NEED TO BE ON THE LOOKOUT FOR. THEY ALSO
5 HAVE...THEY'RE ALSO UNDER ORDERS TO CONTROL
6 COMMUNICATION WITH OTHER PEOPLE. NOW YOU'RE NOT
7 JUST GOING TO BE ABSOLUTELY LOCKED UP WITH A LOCK
8 AND KEY. YOU'LL BE PERMITTED SOME OUTSIDE
9 COMMUNICATION AND THINGS LIKE THAT, BUT THEY HAVE
10 GUIDELINES FOR THAT AND WE'VE BEEN OPERATING UNDER
11 THIS PROCEDURE MOST OF THIS YEAR IN ALL THESE TYPE
12 CASES. AND SO IT'S REASONABLE, BUT IT'S ALSO TO BE
13 ENFORCED.

14 NOW, WITH REGARD TO YOUR MEALS AND
15 THAT KIND OF THING, THE AGENTS WILL PROVIDE THAT
16 AND THE COUNTY OF NEWBERRY WILL BE PAYING FOR THAT
17 AND THEY HAVE A VARIETY OF CHOICES. AND ONE OF THE
18 THINGS THAT YOU'RE GOING TO NEED TO DO RIGHT OFF
19 THE BAT IS KIND OF INTRODUCE YOURSELVES TO EACH
20 OTHER, GET TO KNOW EACH OTHER, AND IT'LL BE A LOT
21 BETTER SITUATION IF YOU CAN KIND OF TALK AND GET TO
22 KNOW...AND I THINK AS A GROUP, REGARDLESS OF THE
23 DIFFICULTY OF THE TASK AHEAD FOR ALL PARTIES
24 CONCERNED, AS A GROUP THE CLOSER YOU GET TO EACH
25 OTHER AND TALKING WITH EACH OTHER, I THINK AS FAR

1 AS HAVING TO GO THROUGH THE EXPERIENCE IT WILL BE
2 ENJOYABLE IF YOU GET TO KNOW EACH OTHER. YOU WILL
3 NOT BE PERMITTED TO READ NEWSPAPER ACCOUNTS OR
4 WATCH TELEVISION ACCOUNTS. THERE WILL BE
5 RESTRICTIONS ON WHAT YOU CAN WATCH IN TERMS OF
6 TELEVISION, THAT TYPE OF THING. WE DO HAVE
7 ENTERTAINMENT TYPE THINGS FOR YOU AND THEY'LL GO
8 OVER THAT KIND OF STUFF WITH YOU. THERE WILL BE
9 SOME RESTRICTION AS TO ANY READING MATERIAL THAT
10 YOU HAVE WITH YOU. NOW SOME THINGS ARE NO
11 PROBLEMS, BUT SOME READING MATERIAL YOU MIGHT TAKE
12 WITH YOU OR HAVE MAY HAVE SOMETHING TO DO WITH THIS
13 TYPE OF CASE AND THERE OBVIOUSLY WILL BE SOME
14 RESTRICTIONS ABOUT THAT.

15 I DO NOT KNOW IF ANY OF YOU PARTAKE OF
16 ALCOHOLIC BEVERAGES OR NOT. I'M NOT SUGGESTING
17 THAT YOU START NOW AND I'M NOT SUGGESTING THAT YOU
18 DO. I WILL NOT PROHIBIT YOU FROM HAVING A COCKTAIL
19 OR TWO, BUT NO MORE THAN THAT IN THE EVENING. IF
20 YOU DO THAT YOU HAVE TO PAY FOR THAT AT YOUR OWN
21 EXPENSE AND THE AGENTS WILL STRICTLY MONITOR THAT.
22 I SUGGEST THAT YOU DON'T DO IT, BUT I'M NOT GOING
23 TO PROHIBIT. YOU'LL FIND THAT IT WILL BE A
24 CHALLENGING EXPERIENCE, IT'LL BE AN INTERESTING
25 EXPERIENCE, BUT IT'S GOING TO BE HARD WORK. AND SO

1 YOU NEED TO BE AS ALERT AND AS RESTED AS YOU CAN
2 BE.

3 SOLICITOR AND MR. HARPOOTLIAN,
4 ANYTHING ELSE YOU THINK I OUGHT TO TELL THEM
5 PRELIMINARILY RIGHT NOW?

6 MR. JONES: NOTHING, YOUR HONOR.
7 NOTHING FROM THE STATE.

8 THE COURT: OKAY.

9 MR. HARPOOTLIAN: YOUR HONOR, MR.
10 SWERLING AND I THINK YOU'VE COVERED EVERYTHING.

11 THE COURT: OKAY. NOW, WE'LL HAVE A
12 LITTLE MORE CONVERSATION TOMORROW ABOUT IT. I'M
13 NOT GOING TO SWEAR YOU IN AT THIS POINT IN TIME,
14 BUT I AM GOING TO ORDER YOU FROM THIS POINT ON
15 AGAIN NOT TO DISCUSS THE CASE AMONG YOURSELVES OR
16 WITH ANYONE ELSE, OR ALLOW ANYONE ELSE TO DISCUSS
17 THE CASE WITH YOU WHILE THE TRIAL IS IN PROGRESS.
18 I WOULD ASK YOU ALSO NOT TO MAKE UP YOUR MIND ABOUT
19 ANYTHING IN THIS CASE. YOU HAVEN'T HEARD ANY
20 EVIDENCE. YOU DON'T KNOW WHAT'S GOING TO BE COMING
21 TO YOU. SO, DON'T HAVE ANY PRECONCEIVED IDEAS OR
22 TRY TO FIGURE OUT ANYTHING. JUST RELAX, ENJOY
23 TONIGHT, GET READY FOR TOMORROW AND THEN WE'LL GO
24 FROM THERE. AND OF COURSE I'VE ALREADY TOLD YOU
25 THAT YOU CAN'T LISTEN, WATCH, OR READ ANYTHING

1 ABOUT THE ACCOUNTS OF THESE PROCEEDINGS.

2 SO, WE WILL SEE YOU SOMETIME TOMORROW
3 AND THAT DEPENDS ON WHAT TIME WE GET OUT OF HERE
4 TONIGHT. SO, IF YOU WILL GO WITH THE AGENTS, AND
5 THEY'LL INTRODUCE THEMSELVES TO YOU. YOUR LUGGAGE
6 WILL BE TRANSPORTED BY NEWBERRY COUNTY IN ONE OF
7 THEIR VANS AND MAJOR...HE'S AROUND HERE...THERE HE
8 IS...HE WILL BE TAKING CARE OF THAT FOR YOU. WE'LL
9 GET IT ALL THERE. YOU WILL BE STAYING AT THE
10 NEWBERRY INN IN NEWBERRY AND ARRANGEMENTS FOR ALL
11 OF THAT HAVE BEEN MADE. SO...MS. SMITH?

12 MS. SMITH: IS THERE ANY ONE OF THEIR
13 FAMILIES THAT I NEED TO CALL TO TELL THEM THAT THEY
14 ARE GONE? AND I'LL TAKE CARE OF THAT IF NEEDED.

15 THE COURT: ALL RIGHT, THE CLERK SAYS
16 THAT SHE WILL BE GLAD TO MEET WITH YOU FOR JUST A
17 MINUTE IF YOU NEED FOR HER TO CALL SOMEBODY TO SAY
18 THAT YOU'VE ACTUALLY BEEN SELECTED AND YOU'RE ON
19 YOUR WAY. SHE'LL BE MORE THAN HAPPY TO ACCOMMODATE
20 YOU ON THAT. I WANT TO THANK MS. SMITH WHILE
21 YOU'RE HERE FOR HER HELP AND HER ASSISTANT'S HELP
22 HERE. IT'S NO EASY TASK GETTING ONE OF THESE CASES
23 READY AND SHE'S DONE AN OUTSTANDING JOB HERE IN
24 OCONEE AS MS. BOWERS HAS DONE IN NEWBERRY COUNTY.
25 SO, SHE'S A HARD WORKER AND DOES GREAT.

1 SO, IF YOU WILL GO WITH THE AGENTS AND
2 WE'LL SEE YOU IN NEWBERRY SOMETIME TOMORROW. HAVE
3 A NICE EVENING.

4 (JURY IS EXCUSED FROM THE OPEN
5 COURTROOM)

6 THE COURT: THERE IS A COPY OF THE
7 SLED PROTOCOL THAT IS IN EFFECT. THE FORMS AS TO
8 THAT, IF YOU WANT TO LOOK AT THAT YOU'RE ENTITLED
9 TO DO THAT. THEY MONITOR ALL OF THE CALLS. THEY
10 MONITOR THE MAIL. EVERYTHING HAS A SET OF
11 SPECIFICS AS TO HOW MANY...WHAT THEY CAN WATCH,
12 WHAT THEY CAN'T WATCH, MOVIES, ALL THAT KIND OF
13 STUFF IS CONTROLLED NOW BY THAT PROTOCOL. AND I'VE
14 USE IT PREVIOUSLY AND IT'S WORKED VERY WELL.
15 SO...BUT IF YOU WANT TO SEE IT I'LL BE GLAD TO
16 SHARE IT WITH YOU.

17 OKAY, LET'S PICK UP WITH SAMUEL
18 LEONARD.

19 SAMUEL LEONARD, BEING CALLED
20 AND DULY SWORN, TESTIFIES AS FOLLOWS:

21 THE COURT: ALL RIGHT, IF YOU'D HAVE A
22 SEAT, PLEASE, SIR? AND I APOLOGIZE FOR THE WAIT,
23 BUT WE'VE BEEN AT IT FROM SUN-UP TO SUN-DOWN.

24 A NO PROBLEM.

25 THE COURT: OKAY. HAVE YOU EVER

1 SERVED ON A JURY BEFORE?

2 A YES, SIR, ON A PETIT JURY, CIVIL
3 COURT.

4 THE COURT: OKAY. DID YOU HAVE A
5 CHANCE TO READ THE LETTER THAT I WROTE YOU THE
6 OTHER DAY?

7 A YES, I DID.

8 THE COURT: ALL RIGHT, AND DID YOU
9 GENERALLY UNDERSTAND IT?

10 A YES, SIR, I DID.

11 THE COURT: OKAY. NOW, MR. LEONARD,
12 DO YOU...HAVE YOU FORMED OR EXPRESSED ANY OPINION
13 AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT IN
14 THIS CASE, MR. STEPHEN BECKHAM?

15 A NO, SIR, I HAVE NOT.

16 THE COURT: DO YOU KNOW ANYTHING ABOUT
17 THE FACTS OF THE CASE?

18 A NO, I DO NOT.

19 THE COURT: HAVE YOU DISCUSSED WITH
20 ANYONE OR ALLOWED ANYONE TO DISCUSS WITH YOU
21 PENALTIES IN A... OR THE NATURE OF DEATH PENALTIES
22 OR LIFE IMPRISONMENT, THAT TYPE OF THING, THIS
23 WEEK?

24 A NO, I HAVE NOT. ALL I HAVE IS THE
25 INFORMATION THAT YOU PROVIDED IN THE LETTER, WHICH

1 I THOUGHT WAS VERY GOOD.

2 THE COURT: ALL RIGHT, THANK YOU. AND
3 I'M ALWAYS LOOKING FOR IMPROVEMENTS, SO IF THERE IS
4 A WAY TO IMPROVE IT YOU LET ME KNOW.

5 YOU'RE FAMILIAR WITH THE CONCEPT, THE
6 LEGAL PRINCIPLE, THAT A CITIZEN ACCUSED OF A CRIME
7 IS PRESUMED TO BE INNOCENT OF THE CRIME UNTIL HIS
8 GUILT IS ESTABLISHED BY EVIDENCE THAT THE STATE
9 OFFERS?

10 A YES, SIR.

11 THE COURT: DO YOU BELIEVE IN THAT
12 CONCEPT?

13 A ABSOLUTELY, I DO.

14 THE COURT: AND SO AS A JUROR YOU CAN
15 FOLLOW THAT?

16 A YES. YES, I CAN.

17 THE COURT: AND MR. LEONARD, WE NEED
18 TO TALK ABOUT PENALTIES FOR A FEW MINUTES AS PART
19 OF THIS DISCUSSION AND I WANT TO MAKE SURE THAT THE
20 FACT THAT WE DO THAT THAT YOU DON'T INFER OR IMPLY
21 THAT MR. BECKHAM IS GUILTY OF ANYTHING. YOU AGREE
22 THAT YOU WOULD NOT...YOU WOULD NOT MAKE THAT
23 INFERENCE, WOULD YOU?

24 A NO, SIR.

25 THE COURT: OKAY. NOW THE QUESTIONS

1 THAT WE'RE GOING TO ASK YOU FROM HERE ON OUT ARE
2 PRETTY MUCH QUESTIONS ABOUT YOUR BELIEFS ON CERTAIN
3 RELEVANT ISSUES. THERE AREN'T ANY RIGHT ANSWERS OR
4 WRONG ANSWERS AND NOBODY'S HERE TO CHALLENGE WHAT
5 YOU BELIEVE, BUT IF YOU HAVE CERTAIN BELIEFS WE'D
6 LIKE TO KNOW WHAT THEY ARE BECAUSE THEY WOULD HAVE
7 A BEARING ON THIS TRIAL. ALL RIGHT?

8 A ALL RIGHT.

9 THE COURT: IN A...IN MOST CRIMINAL
10 TRIALS, JURY TRIALS, A JURY HAS ONE ULTIMATE
11 RESPONSIBILITY AND THAT IS TO LISTEN TO THE
12 EVIDENCE, APPLY THE LAW, AND RETURN A VERDICT OF
13 EITHER GUILTY OR NOT GUILTY OF THE CRIME CHARGED
14 AGAINST THE DEFENDANT. THAT'S WHAT THEY NORMALLY
15 DO. IF THEY RETURN A VERDICT OF NOT GUILTY
16 OBVIOUSLY THE DEFENDANT IS RELEASED FROM THE
17 CHARGES. IF THEY FIND THE DEFENDANT GUILTY THEN HE
18 IS MOST...USUALLY BROUGHT BEFORE A JUDGE AND A
19 JUDGE SENTENCES THAT DEFENDANT. NOW, THAT'S TRUE
20 IN ALL OF THE TYPES OF CASES THAT WE HANDLE IN
21 THIS STATE EXCEPT FOR ONE AND THE ONE EXCEPTION IS
22 WHERE THE STATE IS SEEKING THE DEATH PENALTY. IN
23 THAT SITUATION THE JURY HAS TWO ULTIMATE
24 RESPONSIBILITIES. THE FIRST ONE IS THAT THE JURY
25 MUST DETERMINE WHETHER OR NOT A DEFENDANT IS GUILTY

1 OR NOT GUILTY OF THE CRIME CHARGED...CRIME OF
2 MURDER IN A DEATH PENALTY CASE. OF COURSE IF
3 THERE'S A NOT GUILTY VERDICT THE JURY'S
4 CONSIDERATION IS OVER. HOWEVER, IF THERE IS A
5 VERDICT OF GUILTY RETURNED THEN THAT SAME JURY ACTS
6 AS A SENTENCER IN THE CASE AND WE HAVE ANOTHER
7 HEARING WHERE THE JURY HEARS EVIDENCE RELATIVE TO
8 SENTENCING. THAT HAS TO DO WITH THE EXISTENCE OR
9 NON-EXISTENCE OF AGGRAVATING CIRCUMSTANCES, THE
10 EXISTENCE OF MITIGATING CIRCUMSTANCES, THINGS LIKE
11 THAT THAT WOULD BEAR ON THE QUESTION OF WHAT IS THE
12 APPROPRIATE PUNISHMENT.

13 NOW, PROCEDURALLY DO YOU...AND OF
14 COURSE ULTIMATELY THE JURY MAKES THAT SECOND
15 DETERMINATION. WHAT IS THE SENTENCE: DEATH OF
16 LIFE? PROCEDURALLY DO YOU FOLLOW ME TO THIS POINT?

17 A OH, YES, SIR.

18 THE COURT: OKAY. NOW WE KNOW THAT
19 WHEN JURORS ARE PRESENTED WITH THAT SCENARIO WE
20 USUALLY GET THREE KIND OF JURORS. THE FIRST ONE IS
21 A JUROR WHO SAYS, "WE CONVICTED THE DEFENDANT OF
22 MURDER IN THE FIRST PROCEEDING. IN THIS PROCEEDING
23 THERE IS EVIDENCE BEYOND A REASONABLE DOUBT OF
24 AGGRAVATING CIRCUMSTANCES. IT DOES NOT MAKE ANY
25 DIFFERENCE OF THE FACT OF MITIGATING CIRCUMSTANCES

1 BECAUSE I, AS A JUROR, BELIEVE THAT IN THESE TYPE
2 OF CASES THE DEATH PENALTY IS THE APPROPRIATE
3 PENALTY AND I WILL ALWAYS VOTE FOR DEATH." THAT'S
4 ONE KIND OF JUROR.

5 WE HAVE ANOTHER TYPE OF JUROR WHO
6 SAYS, "IT'S TRUE THAT WE HAVE A CONVICTION. WE
7 HAVE AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY NOT
8 HAVE MITIGATING CIRCUMSTANCES, BUT I, AS A JUROR,
9 BELIEVE THAT A LIFE SENTENCE IS THE APPROPRIATE
10 SENTENCE IN THESE TYPES OF CASES AND I WOULD ALWAYS
11 VOTE FOR LIFE."

12 WE HAVE A THIRD TYPE OF JUROR WHO SAYS
13 THAT, "IT'S TRUE, WE HAVE THE CONVICTION. WE HAVE
14 THE AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY NOT
15 HAVE THE MITIGATING CIRCUMSTANCES. BUT, I WOULD
16 WANT TO LOOK AT THIS CASE IN PARTICULAR, AND AT THE
17 DEFENDANT, AND AT THE CIRCUMSTANCES, AND I WOULD
18 CONSIDER A DEATH PENALTY SENTENCE, I WOULD CONSIDER
19 A LIFE SENTENCE AND THEN BASED ON MY VIEW OF THE
20 CASE I WOULD RETURN A VERDICT THAT I THOUGHT WAS
21 APPROPRIATE."

22 IF YOU HAD TO SAY WHERE YOU...WHICH
23 ONE OF THOSE CATEGORIES YOU WOULD LIKELY BE IN,
24 WHICH ONE WOULD IT BE?

25 A I WOULD BE THE MIDDLE ONE. THE SECOND

1 ONE.

2 THE COURT: THE SECOND ONE?

3 A I THINK THAT'S THE RESPONSIBILITY OF A
4 JUROR.

5 THE COURT: AND THE SECOND ONE IS THAT
6 YOU WOULD ALWAYS VOTE FOR A LIFE SENTENCE?

7 A NO, SIR.

8 THE COURT: YOU MEAN THE THIRD ONE?

9 A WELL, THE THIRD, YES.

10 THE COURT: OKAY. ALL RIGHT. YOU
11 KNOW...

12 A I WOULD CONSIDER ANY MITIGATING
13 CIRCUMSTANCES.

14 THE COURT: OKAY. AND YOU WOULD
15 CONSIDER BOTH OPTIONS? THE DEATH SENTENCE AND A
16 LIFE SENTENCE?

17 A YES, SIR.

18 THE COURT: ALL RIGHT. SO, LET ME
19 FOLLOW UP TO THIS. LET ME FOLLOW UP WITH THIS. IF
20 YOU FELT, AFTER CONSIDERING THE EVIDENCE OF THE
21 CONVICTION, THE AGGRAVATING CIRCUMSTANCES, ANY
22 MITIGATING CIRCUMSTANCES, ETCETERA, AND YOU THOUGHT
23 A LIFE SENTENCE WAS APPROPRIATE, COULD YOU IMPOSE A
24 LIFE SENTENCE?

25 A YES, SIR.

1 THE COURT: AND LIKEWISE, IF YOU
2 LOOKED AT THAT SAME CASE AND YOU CAME TO THE
3 CONCLUSION THAT THE DEATH PENALTY WAS THE
4 APPROPRIATE SENTENCE, COULD YOU IMPOSE A DEATH
5 SENTENCE?

6 A YES, I COULD.

7 THE COURT: NOW, DO YOU UNDERSTAND
8 THAT IN SOME CASES THERE MAY NOT BE ANY MITIGATING
9 CIRCUMSTANCES? ALL YOU MAY HAVE IS A CONVICTION
10 PLUS AGGRAVATING CIRCUMSTANCES? IN THAT SITUATION,
11 OF COURSE, YOU'RE STILL AUTHORIZED TO, YOU COULD
12 IMPOSE DEATH OR GIVE A LIFE SENTENCE. AND YOU
13 COULD DO THAT IN THAT SITUATION?

14 A YES, SIR.

15 THE COURT: ALL RIGHT. NOW, OUR LAW
16 HAS ONE OTHER REQUIREMENT IN IT. IT SAYS THAT IF
17 YOU FIND THAT THE DEATH PENALTY IS AN APPROPRIATE
18 SENTENCE, EACH INDIVIDUAL JUROR MUST SIGN THE
19 SENTENCING FORM INDICATING AND ACKNOWLEDGING THAT
20 THAT IS THEIR DECISION AND VERDICT. IF YOU THOUGHT
21 THAT THE DEATH PENALTY WAS THE APPROPRIATE
22 SENTENCE, COULD YOU SIGN YOUR NAME TO THE FORM?

23 A YES, I COULD.

24 THE COURT: ALL RIGHT, SOLICITOR?

25 A IT WOULD NOT BE EASY, BUT I COULD.

1 THE COURT: OH, YEAH. I UNDERSTAND.
2 THIS IS MR. COULTER. HE'S GOING TO EXAMINE YOU AND
3 THEN MR. SWERLING WILL.

4 DIRECT EXAMINATION:

5 BY MR. COULTER:

6 Q GOOD EVENING, MR. LEONARD. I'M NOT
7 GOING TO TAKE TOO LONG. I KNOW IT'S GETTING LATE.

8 A THAT'S FINE.

9 Q BUT I JUST WANT TO MAKE SURE I
10 UNDERSTAND THE ANSWERS YOU GAVE THE COURT.

11 A SURE.

12 Q BEFORE I START, THIS IS SOLICITOR
13 TOWNES JONES. HE IS THE SOLICITOR OF NEWBERRY
14 COUNTY PROSECUTING THE CASE AND I'M JUST GOING TO
15 BE ASSISTING HIM IN THE PROSECUTION. YOU
16 UNDERSTAND OF COURSE, MR. LEONARD, THAT THERE ARE
17 GOING TO BE TWO PHASES, POTENTIALLY, TO THIS TRIAL?

18 A YES, SIR.

19 Q TWO PHASES. THE FIRST ONE WHERE YOU
20 AS A FACT FINDER, ALONG WITH YOUR ELEVEN OTHER
21 JURORS, WOULD DETERMINE THE GUILT OR INNOCENCE OF
22 THE DEFENDANT.

23 A YES, SIR.

24 Q AND THAT IF THE STATE PROVES THE
25 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT THAT AT

1 THAT POINT YOU'D HAVE THE OPPORTUNITY TO BRING BACK
2 A GUILTY VERDICT.

3 A YES, SIR.

4 Q IF WE FAILED TO PROVE THE CASE BEYOND
5 A REASONABLE DOUBT THEN THE TRIAL WOULD END. DO
6 YOU UNDERSTAND?

7 A YES, SIR.

8 Q OKAY. NOW, IN FACT MURDER IS PROVEN
9 BY THE STATE BEYOND A REASONABLE DOUBT THEN WE
10 WOULD GO TO THE SECOND PHASE. THE SECOND PHASE
11 WHERE YOU AS A JUROR ON THE JURY WOULD DETERMINE
12 THE PENALTY TO BE IMPOSED.

13 A YES, SIR.

14 Q ALL RIGHT. AND FROM WHAT I UNDERSTAND
15 OF YOUR ANSWERS YOU COULD CONSIDER ALL OF THE
16 DIFFERENT CIRCUMSTANCES AND BASED ON THAT YOU COULD
17 IMPOSE OR VOTE FOR A LIFE SENTENCE?

18 A YES, SIR.

19 Q BASED ON ALL THE CIRCUMSTANCES?

20 A UH-HUH. (YES).

21 Q AND YOU ALSO SAID, I BELIEVE, THAT
22 BASED ON ALL OF THOSE DIFFERENT CIRCUMSTANCES YOU
23 COULD ALSO VOTE FOR THE DEATH PENALTY?

24 A YES, SIR.

25 Q YOU COULD IN FACT VOTE TO IMPOSE THE

1 DEATH PENALTY ON ANOTHER HUMAN BEING?

2 A YES, SIR.

3 Q IS THAT RIGHT?

4 A YES, SIR.

5 Q IF THE CIRCUMSTANCES...

6 A IF THE CIRCUMSTANCES SUPPORT IT,

7 THAT'S RIGHT.

8 Q ALL RIGHT. AND I UNDERSTAND AS WELL

9 THAT WHEN YOU GO INTO A PENALTY PHASE THAT YOU

10 WOULDN'T BE LEANING ONE WAY TOWARDS DEATH OR

11 TOWARDS LIFE?

12 A NO, SIR.

13 Q THAT INSTEAD YOU WOULD HAVE TO LOOK AT

14 EVERYTHING BEFORE YOU COULD MAKE THAT FINAL

15 DECISION?

16 A LIFE IS A VERY PRECIOUS COMMODITY,

17 SIR.

18 Q ALL RIGHT. AND IT WOULD REQUIRE YOU

19 TO KNOW EVERYTHING ABOUT THE CASE...

20 A YES, SIR.

21 Q ...BEFORE YOU COULD IMPOSE THAT DEATH

22 SENTENCE?

23 A YES, SIR.

24 Q AND YOU COULD, IF THE CIRCUMSTANCES

25 WARRANTED, SIGN YOUR NAME ON THE DEATH WARRANT?

1 A YES, I COULD.

2 Q TO TAKE ANOTHER HUMAN BEING'S LIFE?

3 TO IMPOSE THAT DEATH SENTENCE?

4 A YES, SIR.

5 Q ALL RIGHT. JUST ONE SECOND. THANK

6 YOU VERY MUCH.

7 THE COURT: MR. SWERLING, ANY

8 QUESTIONS?

9 MR. SWERLING: THANK YOU, YOUR HONOR.

10 CROSS-EXAMINATION:

11 BY MR. SWERLING:

12 Q HEY, MR. LEONARD. I'M JACK SWERLING.

13 HOW ARE YOU, SIR?

14 A YES, SIR.

15 Q SORRY TO KEEP YOU AROUND FOR A COUPLE

16 OF DAYS.

17 A NO PROBLEM. IT MUST BE DONE.

18 Q THAT'S A GOOD ATTITUDE. I APPRECIATE

19 THAT. THIS IS STEPHEN BECKHAM. HE'S THE ONE

20 THAT'S ON TRIAL HERE.

21 A YES, SIR, I REMEMBER HIM FROM THE

22 OTHER DAY.

23 Q A COUPLE OF QUESTIONS, IF I CAN, TO

24 FOLLOW UP ON OR ELABORATE ON SOME OF THE QUESTIONS

25 THE JUDGE WAS ASKING YOU ABOUT. THIS IS A UNIQUE

1 KIND OF SITUATION WHERE WE, FIRST OF ALL, GET TO
2 TALK TO JURORS AND JURORS GET TO BE EXAMINED.
3 NORMALLY IN A CRIMINAL CASE YOU COME IN, THE JUDGE
4 ASKS SOME QUESTIONS, AND THEN YOU GET EMPANELED AS
5 A JURY, YOU HEAR THE CASE. IF THE STATE PROVES
6 GUILT BEYOND A REASONABLE DOUBT THEN THE JUDGE
7 DETERMINES THE SENTENCE.

8 A YES, SIR.

9 Q IF THE STATE HAS NOT PROVEN GUILT
10 BEYOND A REASONABLE DOUBT THEN OF COURSE YOU FIND
11 THE PERSON NOT GUILTY. AND OF COURSE UNDER OUR
12 SYSTEM, A DEFENDANT, ANYBODY, WHO'S CHARGED WITH A
13 CRIME IS PRESUMED TO BE INNOCENT.

14 A ABSOLUTELY.

15 Q DO YOU BELIEVE IN THAT PRINCIPLE?

16 A YES, SIR, I DO.

17 Q AND DO YOU BELIEVE THAT THE STATE MUST
18 PROVE GUILT BEYOND A REASONABLE DOUBT BEFORE
19 THEY'RE ENTITLED TO A VERDICT?

20 A YES, SIR.

21 Q OKAY. YOU BELIEVE IN THAT PRINCIPLE?

22 A YES, SIR, I DO.

23 Q NOW, WHAT I WANTED TO TELL YOU WAS
24 THAT STEPHEN BECKHAM HAS PLED NOT GUILTY.

25 A I UNDERSTAND THAT FROM THE OTHER

1 MORNING. YES, SIR.

2 Q AND WE'RE GOING TO HAVE A TRIAL ON THE
3 ISSUE OF WHETHER OR NOT THE STATE CAN PROVE THAT
4 HE'S GUILTY OR WHETHER OR NOT THE JURY WILL FIND
5 HIM INNOCENT, NOT GUILTY. SO, THERE'S A BIG IF AS
6 FAR AS EVEN GETTING TO THE OTHER TRIAL THAT
7 EVERYBODY KEEPS TALKING ABOUT, THAT SECOND STAGE.

8 A ABSOLUTELY.

9 Q OKAY. SO, THAT IF STANDS IN THE WAY.
10 NOW, IT'S ONLY IF THE STATE PROVES GUILT BEYOND A
11 REASONABLE DOUBT THAT WE EVER GET...

12 A (NODS HEAD AFFIRMATIVE)

13 Q OKAY. SO, AS FAR AS I UNDERSTAND IN
14 THE FIRST PHASE OF THAT TRIAL YOU DON'T COME INTO
15 THIS COURTROOM WITH ANY OPINIONS?

16 A NO, I HAVE NO OPINIONS.

17 Q YOU'RE PRETTY WIDE OPEN ABOUT THE
18 WHOLE THING?

19 A I'VE HEARD THE BECKHAM NAME BUT THAT'S
20 ALL. I REALLY DON'T KNOW A THING ABOUT THE FACTS.
21 WE'RE TOO FAR REMOVED.

22 Q RIGHT.

23 A OBVIOUSLY.

24 Q YOU MEAN YOU REMEMBER READING IT IN
25 THE PAPER OR SOMETHING LIKE THAT?

1 A YES.

2 Q BUT DON'T HAVE ANY RECALL OF ANY OF

3 THE FACTS OF THE CASE?

4 A NO, SIR, I DO NOT.

5 Q OKAY. I NOTICE YOU HAD PUT DOWN THAT

6 YOU WERE THE VICTIM OF A CRIME AND I'D LIKE TO ASK

7 YOU ABOUT THAT IF IT'S NOT TOO PERSONAL?

8 A WELL, IT WAS STRICTLY PROPERTY STOLEN

9 FROM MY PROPERTY WHERE I WAS BUILDING A HOUSE.

10 Q AND DID THAT KIND OF TAINT YOU IN ANY

11 WAY...

12 A NO.

13 Q ...OR CAUSE YOU TO LOSE THAT FEELING

14 ABOUT THE PRESUMPTION OF INNOCENCE OR ANYTHING LIKE

15 THAT?

16 A NO.

17 Q OKAY.

18 A THEY NEVER APPREHENDED ANYBODY SO I

19 NEVER HAD A DECISION TO MAKE.

20 Q AND I NOTICE YOU'VE BEEN MARRIED

21 FIFTY-TWO YEARS?

22 A YES, SIR.

23 Q GOD BLESS YOU, THAT'S GREAT.

24 A THANK YOU.

25 Q IN THIS SECOND PHASE OF THE TRIAL, WE

1 GET THERE IF THE JURY FINDS A PERSON GUILTY OF
2 MURDER. OKAY? AND THEN THE JURY GETS TO DECIDE
3 WHAT THE PUNISHMENT, THE APPROPRIATE PUNISHMENT IS.
4 THERE ARE MURDER CASES, AS I'M SURE YOU'RE AWARE
5 OF, AND THERE ARE MURDER CASES THAT ARE ACCOMPANIED
6 BY CIRCUMSTANCES OF AGGRAVATION.

7 A YES, SIR.

8 Q MURDER, FOR EXAMPLE, AND AN ARMED
9 ROBBERY OR A MURDER AND KILLING A JUDICIAL OFFICER
10 OR SOME OTHER LAW ENFORCEMENT OR SOMETHING LIKE
11 THAT. IN OTHER WORDS, IT'S A MURDER ACCOMPANIED BY
12 SOME OTHER FACTOR.

13 A YES, SIR.

14 Q AND UNDER THAT SCENARIO, AND THERE'S A
15 WHOLE LIST OF THEM, THE STATE IS AUTHORIZED TO SEEK
16 THE DEATH PENALTY WHICH THEY'RE DOING, OBVIOUSLY,
17 IN THIS CASE. AND THE JURY, THE JUDGE WILL TELL
18 YOU, AT THAT POINT IS AUTHORIZED TO GO AHEAD AND
19 IMPOSE THE DEATH PENALTY. THEY DON'T HAVE TO.
20 THEY CAN IMPOSE A LIFE SENTENCE FOR WHATEVER REASON
21 THEY WANT. THEY CAN IMPOSE A LIFE SENTENCE IF THEY
22 DON'T FIND ANY MITIGATING FACTORS OR THEY CAN
23 IMPOSE A LIFE SENTENCE IF THEY DO FIND MITIGATING
24 FACTORS. IN OTHER WORDS THEY WEIGH EVERYTHING,
25 OKAY? AND IT'S KIND OF ANOTHER TRIAL.

1 A YES, SIR.

2 Q DO YOU...ARE YOU KIND OF SWAYING ONE
3 WAY OR THE OTHER OR ARE YOU PREDISPOSED, I SUPPOSE,
4 TO A LIFE SENTENCE OR A DEATH SENTENCE IN THE EVENT
5 THAT YOU WERE TO SIT OR HAD TO SIT ON A PANEL THAT
6 WAS GOING TO FIND A SENTENCE APPROPRIATE FOR
7 SOMEONE?

8 A NO, SIR, I'M NOT. I THINK THE WAY THE
9 LAW IS STRUCTURED THAT THAT'S THE JUROR'S
10 RESPONSIBILITY TO MAKE THAT DECISION.

11 Q OKAY.

12 A TO MAKE THAT RECOMMENDATION.

13 Q IT IS THE...

14 A IT'S NOT EASY.

15 Q NO. IT IS THE JUROR'S RESPONSIBILITY.
16 NO QUESTION ABOUT IT.

17 A YES, SIR.

18 Q THAT'S WHAT OUR STATUTE SAYS.

19 A THAT'S RIGHT.

20 Q BUT GOING INTO THAT, I SUPPOSE THE
21 QUESTION IS DO YOU FEEL -- AND I'M NOT TALKING
22 ABOUT THIS CASE, I'M TALKING ABOUT IN GENERAL -- DO
23 YOU FEEL THAT ONE IS MORE APPROPRIATE THAN THE
24 OTHER, A LIFE SENTENCE OR A DEATH SENTENCE, IN
25 THOSE CIRCUMSTANCES?

1 A NO, SIR, I DON'T BECAUSE I THINK THE
2 LAW HAS MADE THAT DISTINCTION. THEY DRAW THE LINE.
3 Q AS FAR AS WHAT?
4 A AS FAR AS THE JUROR HAVING THE
5 RESPONSIBILITY TO MAKE THAT DECISION.
6 Q RIGHT.
7 A I AM NOT PREDISPOSED EITHER WAY.
8 Q SO, IN OTHER WORDS, GOING INTO A
9 SENTENCING PHASE OF THE TRIAL, YOU'RE JUST AS OPEN-
10 MINDED ABOUT WHETHER IT SHOULD BE A LIFE SENTENCE
11 OR A DEATH SENTENCE?
12 A YES, SIR.
13 Q AND, I MEAN, IF THE FACTORS WARRANTED
14 IT, YOU WOULD FIND THAT A LIFE SENTENCE WAS
15 APPROPRIATE?
16 A YES, SIR.
17 Q EVEN THOUGH YOU HAD FOUND A PERSON
18 GUILTY OF MURDER?
19 A I THINK IT'S A VERY BROAD AREA. AND I
20 THINK THAT MANY THINGS WOULD HAVE TO BE WEIGHED AND
21 YOU HAVE TO ACCEPT THE RESPONSIBILITY FOR MAKING
22 THAT DECISION.
23 Q AND YOU WOULD WANT TO HEAR IT ALL
24 THEN?
25 A I WOULD WANT TO HEAR IT ALL.

1 Q I'M SATISFIED WITH THAT. I APPRECIATE
2 THAT. THANK YOU.

3 THE COURT: ONES, GENTLEMEN?

4 (ALL ANSWERED YES)

5 THE COURT: ALL RIGHT. MR. LEONARD, I
6 FIND YOU QUALIFIED FOR PURPOSES OF SERVING ON THE
7 JURY PANEL AND I HAVE TO ASK YOU HOW LONG WOULD IT
8 TAKE YOU TO GET PACKED UP TO GO TO NEWBERRY?

9 A PROBABLY AN HOUR AT THE MOST.

10 THE COURT: OKAY.

11 A I'M ABOUT FIFTEEN MINUTES OR TWENTY
12 MINUTES AWAY FROM HOME.

13 THE COURT: ALL RIGHT. SIX-THIRTY OR
14 THEREABOUTS OR A QUARTER 'TIL SEVEN? SOMEWHERE
15 LIKE THAT?

16 A YES, SIR.

17 THE COURT: ALL RIGHT. WE'RE GETTING
18 THERE AND I WOULD PACK FOR A PERIOD OF TEN DAYS.
19 NOW IF YOU DON'T WANT TO PACK LIKE THAT WE HAVE
20 LAUNDRY SERVICES. SLED WILL TRANSPORT YOU AND
21 PROVIDE FOR YOUR SECURITY WHILE YOU'RE THERE AND
22 ALSO THE COUNTY OF NEWBERRY WILL PAY FOR YOUR
23 LODGING AND YOUR MEALS AND THAT KIND OF THING.
24 WE'RE GOING TO NEWBERRY TONIGHT.

25 WE HOPE TO START THE CASE SOMETIME TOMORROW. I'M

1 NOT SURE EXACTLY WHEN, IT JUST DEPENDS ON HOW WE
2 GET OUT OF HERE TONIGHT.

3 THE BAILIFF WILL SHOW YOU WHERE TO
4 COME BACK TO. DO YOU HAVE SOMEBODY THAT CAN DROP
5 YOU OFF AND CAN COME BACK IF YOU DON'T...

6 A YES, SIR.

7 THE COURT: ...GET SELECTED? OKAY.

8 ALL RIGHT. WELL, WE'LL SEE YOU AS SOON AS WE CAN.
9 IN AN HOUR OR SO. OKAY?

10 A I GO HOME AND GET MY THINGS AND COME
11 BACK?

12 THE COURT: YES, SIR.

13 A OKAY.

14 THE COURT: THANK YOU, SIR.

15 A YOU'RE WELCOME. THANK YOU.

16 THE COURT: OKAY, WE NEED RANDALL
17 HAWKINS.

18 SPEAKER: RANDALL WHO?

19 THE COURT: HAWKINS.

20 SPEAKER: OH, OKAY.

21 MR. HARPOOTLIAN: YOUR HONOR, WHILE
22 THEY'RE BRINGING THAT JUROR IN, JUST
23 LOGISTICAL...WE'VE GOT SOME (INAUDIBLE) AND PEOPLE
24 (INAUDIBLE) TOMORROW BEFORE WE CAN BEGIN THIS
25 PROCESS. SO, WE'VE GOT...I'M JUST TRYING TO GET AN

1 IDEA WHAT TIME WE ABSOLUTELY HAVE TO BEGIN
2 TOMORROW. I MEAN, I UNDERSTAND WE'LL GET A JURY
3 TONIGHT AND I KNOW THE SOLICITOR WILL...

4 MR. JONES: WELL, JUDGE, DO YOU THINK
5 IT'S PROPER TO MAKE THAT DECISION NOW? I MEAN WE
6 MIGHT BE HERE AT SEVEN, WE MIGHT BE HERE AT ELEVEN.
7 IS THAT GOING TO IMPACT WHEN YOU SAY WE'LL BE THERE
8 OR NOT?

9 MR. HARPOOTLIAN: WELL, I'M ASSUMING
10 THAT WE GET OUT OF HERE SOMETIME BETWEEN SEVEN AND
11 ELEVEN. WE'RE GOING TO GET BACK TO OUR OFFICES
12 TONIGHT, IF WE GO IN TONIGHT, SOMETIME BETWEEN TEN
13 AND ONE.

14 THE COURT: GIVE ME A LITTLE BIT MORE
15 TIME HERE.

16 MR. HARPOOTLIAN: I'M JUST HAVING
17 PEOPLE FROM MY OFFICE CALLING SAYING, "WHEN DO I
18 NEED TO BE THERE?" AND I'M JUST TRYING...IT'S A
19 LOGISTICAL PROBLEM FOR US SINCE WE'RE OPERATING OUT
20 OF...

21 THE COURT: LET'S SEE HOW THIS JUROR
22 DOES AND I'LL HAVE AN IDEA.

23 MR. HARPOOTLIAN: OKAY.

24 THE COURT: WE'LL BE ABLE TO HAVE AN
25 ALTERNATE, YOU KNOW, HERE AT THIS POINT.

1 MR. HARPOOTLIAN: I THINK WE'RE ABOUT
2 AN HOUR AWAY FROM THAT PROSPECT.

3 THE COURT: OKAY. MR. HAWKINS, HOW
4 ARE YOU DOING?

5 A FINE, SIR.

6 RANDALL HAWKINS, BEING
7 CALLED AND DULY SWORN, TESTIFIES AS FOLLOWS:

8 THE COURT: YOU PREFER AFFIRMATION? I
9 MEAN, THAT'S WHAT I'M ASKING.

10 A YES, SIR.

11 THE COURT: OKAY. ALL RIGHT. AND
12 WE'LL REMEMBER THAT TOMORROW IF YOU'RE ON THE JURY
13 FOR THE PURPOSES OF BEING SWORN IN.

14 OKAY, MR. HAWKINS, HAVE YOU EVER
15 SERVED ON A JURY BEFORE?

16 A NO, SIR.

17 THE COURT: AND HAVE YOU EVER BEEN IN
18 A COURTROOM BEFORE MONDAY?

19 A YES, SIR.

20 THE COURT: AND DID YOU HAVE AN
21 OPPORTUNITY TO READ MY LETTER THAT I GAVE OUT
22 MONDAY?

23 A YES, SIR.

24 THE COURT: AND DID YOU GENERALLY
25 UNDERSTAND WHAT WAS IN THE LETTER?

1 A YES, SIR.

2 THE COURT: OKAY. THEN YOU'RE AWARE
3 THAT IN THIS CASE THE STATE IS SEEKING THE DEATH
4 PENALTY?

5 A YES, SIR.

6 THE COURT: AND THEY, WHEN THEY DO
7 THAT BOTH THE ATTORNEYS FOR EACH SIDE AND MYSELF
8 GET TO ASK YOU SOME QUESTIONS ABOUT SOME OF YOUR
9 RELEVANT BELIEFS IN A CASE.

10 A YES, SIR.

11 THE COURT: AND THERE ARE NO RIGHT OR
12 WRONG ANSWERS. AND YOU...NOBODY'S HERE TO
13 CHALLENGE WHAT YOU FEEL OR MAKE YOU FEEL
14 UNCOMFORTABLE. IT'S JUST TO FIND OUT WHAT YOU DO
15 BELIEVE. OKAY?

16 A YES, SIR.

17 THE COURT: HAVE YOU FORMED OR
18 EXPRESSED ANY OPINION AS TO THE GUILT OR INNOCENCE
19 OF THE DEFENDANT, STEPHEN BECKHAM?

20 A NO, SIR.

21 THE COURT: ARE YOU AWARE OF ANY OF
22 THE FACTS ABOUT THE CASE?

23 A NO, SIR.

24 THE COURT: DO YOU UNDERSTAND AND
25 APPRECIATE THE LEGAL PRINCIPLE THAT A CITIZEN

1 ACCUSED OF A CRIME IS PRESUMED INNOCENT OF THAT
2 CRIME UNTIL AND UNLESS THE STATE CAN ESTABLISH HIS
3 GUILT BY A CERTAIN BURDEN OF PROOF?

4 A YES, SIR.

5 THE COURT: IS THAT A PRINCIPLE OF LAW
6 THAT YOU COULD FOLLOW AS A JUROR?

7 A YES, SIR.

8 THE COURT: ONE OF THE REASONS I ASK
9 YOU THAT IS THAT WE'RE GOING TO TALK ABOUT
10 PENALTIES: DEATH PENALTY OR LIFE IMPRISONMENT.
11 AND I WANT TO MAKE SURE THAT YOU WON'T INFER OR
12 IMPLY FROM OUR DISCUSSION THAT MR. BECKHAM IS
13 GUILTY OF ANYTHING AT THIS POINT IN TIME. YOU
14 WON'T DO THAT AT THIS POINT IN TIME?

15 A NO, SIR.

16 THE COURT: OKAY. NOW, ORDINARILY,
17 MR. HAWKINS, A JURY HAS ONE ULTIMATE RESPONSIBILITY
18 IN A TYPICAL CRIMINAL CASE AND THAT IS TO DETERMINE
19 WHETHER OR NOT A DEFENDANT IS GUILTY OR NOT GUILTY
20 OF THE CRIME CHARGED. IF HE'S NOT GUILTY THAT ENDS
21 THE CASE. IF HE IS GUILTY THEN THE RESPONSIBILITY
22 OF SENTENCING IS PASSED TO A JUDGE WHO NORMALLY
23 WOULD IMPOSE A SENTENCE. IN ALL OF OUR CASES IN
24 SOUTH CAROLINA SENTENCING IS HANDLED BY A JUDGE
25 EXCEPT ONE AND THAT IS WHEN THE STATE SEEKS THE

1 DEATH PENALTY. WHEN THAT HAPPENS A JURY HAS TWO
2 ULTIMATE RESPONSIBILITIES, POTENTIALLY. NUMBER
3 ONE, THEY MUST MAKE THE DECISION AS TO WHETHER OR
4 NOT A DEFENDANT IS GUILTY OR NOT GUILTY OF THE
5 CRIME OF MURDER. IF HE'S NOT GUILTY THEN THE
6 JURY'S RESPONSIBILITY HAS ENDED. BUT, IF THEY
7 RETURN A VERDICT OF GUILTY OF MURDER, THEN THE JURY
8 SITS AS A SENTENCING AUTHORITY. AND IN A SEPARATE
9 PROCEEDING THEY LISTEN TO EVIDENCE OF AGGRAVATING
10 CIRCUMSTANCES, MITIGATING CIRCUMSTANCES, OTHER
11 THINGS THAT ARE RELEVANT TO THE ISSUE, TO DETERMINE
12 WHAT IS THE APPROPRIATE PUNISHMENT FOR THAT
13 DEFENDANT, BE IT LIFE OR DEATH. AND THEN THEY
14 ULTIMATELY, OF COURSE, MAKE THAT DECISION. DO YOU
15 UNDERSTAND, PROCEDURALLY, THAT PROCESS?

16 A YES, SIR, JUST WHAT I HEARD.

17 THE COURT: JUST WHAT I EXPLAINED TO
18 YOU?

19 A YES, SIR.

20 THE COURT: OKAY. NOW, WHEN WE HAVE
21 JURORS PRESENTED WITH A SENTENCING SITUATION LIKE
22 THAT, WE GET THREE TYPICAL RESPONSES. ONE IS FROM
23 A JUROR WHO SAYS THAT, "WE CONVICTED THE MAN OF
24 MURDER. AGGRAVATING CIRCUMSTANCES HAD BEEN PROVED
25 BEYOND A REASONABLE DOUBT. IT DOESN'T MATTER

1 WHETHER MITIGATING CIRCUMSTANCES EXIST OR NOT, I
2 BELIEVE THAT IN THESE TYPE OF CASES THE DEATH
3 PENALTY IS THE APPROPRIATE PUNISHMENT AND I WOULD
4 ALWAYS VOTE FOR DEATH."

5 WE HAVE A SECOND JUROR WHO SAYS, "IT'S
6 TRUE, WE CONVICTED A MAN OF MURDER. IT'S TRUE
7 THERE EXISTS AGGRAVATING CIRCUMSTANCES. THERE MAY
8 OR MAY NOT BE MITIGATING CIRCUMSTANCES, BUT I
9 BELIEVE THE APPROPRIATE PUNISHMENT FOR THESE TYPE
10 OF OFFENSES IS LIFE IMPRISONMENT AND I WOULD ALWAYS
11 VOTE FOR LIFE." THAT'S THE SECOND TYPE OF JUROR.

12 WE HAVE A THIRD TYPE OF JUROR WHO
13 AGAIN, WE HAVE THE MURDER CONVICTION. WE HAVE
14 AGGRAVATING CIRCUMSTANCES. WE MAY OR MAY NOT HAVE
15 MITIGATING CIRCUMSTANCES, BUT THAT JUROR SAYS,
16 "LOOK I'M GOING TO LOOK AT THE RECORD, LOOK AT THE
17 FACTS IN THIS CASE, THE EVIDENCE IN THIS CASE, AND
18 I WILL CONSIDER A DEATH SENTENCE AND I WILL
19 CONSIDER A LIFE SENTENCE AND I WILL, FROM THE WHOLE
20 RECORD, DETERMINE WHICH OF THOSE TWO I BELIEVE IS
21 APPROPRIATE FOR THIS CASE."

22 NOW, IF YOU WERE SELECTED TO SERVE ON
23 A JURY, WHICH CATEGORY WOULD YOU LIKELY FALL IN?

24 A TO CONSIDER, YOU KNOW, BOTH...

25 THE COURT: LIFE AND DEATH?

1 A YES.

2 THE COURT: ALL RIGHT. YOU'RE NOT
3 PREDISPOSED OR WOULD AUTOMATICALLY VOTE FOR DEATH
4 OR AUTOMATICALLY VOTE FOR LIFE?

5 A NO, SIR.

6 THE COURT: OKAY. NOW, THE ADDITIONAL
7 REQUIREMENT THAT OUR LAW HAS THAT IF A JUROR COMES
8 TO THE CONCLUSION THAT A DEATH SENTENCE SHOULD BE
9 IMPOSED, EACH INDIVIDUAL JUROR IS REQUIRED TO SIGN
10 HIS OR HER NAME TO THE VERDICT FORM ACKNOWLEDGING
11 THAT THAT IS THEIR DECISION. IF YOU BELIEVED THAT
12 A DEATH SENTENCE WAS THE APPROPRIATE SENTENCE IN A
13 CASE, COULD YOU SIGN YOUR NAME TO THE DEATH
14 WARRANT?

15 A YES, SIR.

16 THE COURT: ALL RIGHT. NOW I'M GOING
17 TO LET THE SOLICITOR AND THE DEFENSE ATTORNEYS ASK
18 YOU SOME QUESTIONS AND IT WILL BE A LOT OF PRETTY
19 MUCH THE SAME THINGS THAT I ASKED YOU BUT MAYBE
20 JUST A LITTLE DIFFERENT ANGLE. ALL RIGHT, SIR?

21 ALL RIGHT, MR. COULTER OR MR.
22 SOLICITOR?

23 DIRECT EXAMINATION:

24 BY MR. COULTER:

25 Q GOOD EVENING, MR. HAWKINS.

1 A YES, SIR.

2 Q I KNOW IT'S GETTING LATE, SO I WON'T
3 TAKE LONG.

4 A OKAY.

5 Q I APPRECIATE YOUR PATIENCE. I KNOW
6 YOU'VE BEEN BACK THERE FOR A LONG TIME. THIS IS
7 SOLICITOR TOWNES JONES. HE IS THE SOLICITOR OF
8 NEWBERRY COUNTY, HE'S GOING TO BE PROCESSING THE
9 CASE. I'M JUST GOING TO BE ASSISTING HIM IN THE
10 PROSECUTION. I JUST WANT TO TRY TO FIND OUT IF I
11 UNDERSTOOD ALL OF YOUR ANSWERS CORRECTLY. SO, IT
12 WON'T TAKE VERY LONG AT ALL.

13 YOU UNDERSTAND IN THIS TYPE OF TRIAL,
14 WITH THE STATE SEEKING THE DEATH PENALTY, THAT
15 THERE ARE GOING TO BE TWO DIFFERENT STAGES? DO YOU
16 UNDERSTAND THAT?

17 A YES, SIR.

18 Q ALL RIGHT. AND THE FIRST STAGE IS
19 REFERRED TO AS THE GUILT PHASE AND THAT'S THE PHASE
20 WHERE YOU AND YOUR FELLOW JURORS, ELEVEN OTHER
21 JURORS, WILL DETERMINE WHETHER OR NOT THE STATE HAS
22 PROVED THE DEFENDANT'S GUILT BEYOND A REASONABLE
23 DOUBT. THAT'S WHAT YOU'LL BE DOING IN THAT FIRST
24 PHASE, MAKING THAT DETERMINATION.

25 A YES.

1 Q AND BASED ON WHAT THE STATE PRESENTS
2 YOU WOULD MAKE THE DETERMINATION AS TO WHETHER OR
3 NOT THE DEFENDANT WAS GUILTY BEYOND A REASONABLE
4 DOUBT OR NOT GUILTY.

5 A YES.

6 Q YOU UNDERSTAND. NOW, ONCE THAT PHASE
7 IS DONE, AND IF IN FACT YOU FIND THAT THE STATE HAS
8 PROVEN THE DEFENDANT GUILTY OF MURDER BEYOND A
9 REASONABLE DOUBT, IF WE GET TO THAT STAGE THEN WE
10 WILL GO TO THE SECOND PHASE, THE PENALTY PHASE.
11 YOU UNDERSTAND THAT?

12 A YES.

13 Q TWO SEPARATE...ALMOST TWO SEPARATE
14 TRIALS. TWO DIFFERENT TRIALS. AND IN THE SECOND
15 PHASE THEN YOU WOULD HAVE THE OPPORTUNITY TO
16 DETERMINE, BASED ON ALL OF THIS EVIDENCE, WHETHER
17 OR NOT YOU WOULD EITHER GIVE THE DEFENDANT LIFE OR
18 DEATH. WHETHER YOU COULD VOTE TO IMPOSE EITHER
19 LIFE OR DEATH. AND I UNDERSTOOD IN YOUR ANSWERING
20 THAT IN ORDER FOR YOU TO MAKE THAT DECISION THAT
21 YOU WOULD HAVE TO HEAR ALL OF THE CIRCUMSTANCES
22 INVOLVED WITH THAT PENALTY PHASE BEFORE YOU COULD
23 REACH THAT DECISION. IS THAT RIGHT?

24 A YES.

25 Q ALL RIGHT. AND THAT IF THE

1 CIRCUMSTANCES THAT YOU HEARD DURING THAT PENALTY
2 PHASE WARRANTED THAT YOU COULD VOTE TO IMPOSE LIFE.
3 IS THAT CORRECT?

4 A YES.

5 Q BUT YOU ALSO, I BELIEVE, SAID THAT YOU
6 COULD, IF THE CIRCUMSTANCES WARRANTED, IF IT
7 WARRANTED, BASED ON THOSE CIRCUMSTANCES PRESENTED
8 THAT YOU COULD VOTE TO IMPOSE -- TAKE THE LIFE OF
9 THE DEFENDANT...TO TAKE THE LIFE OF ANOTHER HUMAN
10 BEING. IS THAT RIGHT?

11 A YES, THAT'S WHAT I SAID. I WOULD HAVE
12 A QUESTION ABOUT THAT. I THINK YOU MIGHT WANT TO
13 KNOW THAT ME BEING A MINISTER, I AM A MINISTER, AND
14 I DON'T MIND SERVING TO VOTE OR, YOU KNOW, TO...AS
15 A JUROR, AND GIVEN EVIDENCE AND PROVEN, YOU KNOW, I
16 DON'T MIND BEING PART OF THAT JURY, BUT YET AT THE
17 SAME TIME I'M NOT JUST DECIDING THAT. I'M DECIDING
18 WITH JURORS TOGETHER AND SIGNING TOGETHER WITH
19 THEM. I JUST WOULDN'T WANT IT TO LOOK...YOU KNOW,
20 BE THINKING ABOUT THAT I MYSELF WAS PRONOUNCING
21 THAT ON THAT PERSON.

22 Q WELL, IT IS TRUE YOU HAVE TO HAVE A
23 UNANIMOUS VERDICT...

24 A YES, SIR.

25 Q ...TO IMPOSE DEATH.

1 A UH-HUH. (YES).

2 Q BUT I JUST WANT TO BE SURE THAT YOU
3 WOULD, IF YOU REACHED THAT CONCLUSION, IF YOU FOUND
4 THAT THE CIRCUMSTANCES WARRANTED, THAT YOU COULD IN
5 FACT SIGN YOUR NAME ON THAT DEATH WARRANT TO TAKE
6 THE LIFE OF ANOTHER HUMAN BEING -- YOU COULD DO
7 THAT.

8 A AFTER SPEAKING TO THE JUDGE A MOMENT
9 AGO I DON'T KNOW THAT I COULD DO THAT REALLY...IN
10 THE POSITION I'M IN.

11 I'M NOT TRYING TO CAUSE ANY CONFUSION,
12 JUDGE, BUT, YOU KNOW, IN TALKING WITH YOU, JUST THE
13 THOUGHT OF IT, I JUST DON'T KNOW THAT I COULD DO
14 THAT.

15 Q BASED ON A RELIGIOUS BELIEF THAT YOU
16 HAVE?

17 A YES, SIR.

18 Q AND THAT IS THE RELIGIOUS BELIEF YOU
19 HAVE WOULDN'T ALLOW YOU TO VOTE TO IMPOSE THAT
20 DEATH PENALTY? IS THAT RIGHT?

21 A IT'S JUST PART OF IT WOULD LOOK
22 CONTRADICTORY. YOU KNOW? I BELIEVE IN THE JUROR
23 LISTENING TO EVIDENCE AND DOING THE JOB THAT YOU'RE
24 SUPPOSED TO DO, BUT I JUST DON'T KNOW WHEN THAT
25 TIME COMES, YOU KNOW? RIGHT NOW I MIGHT SAY THAT I

1 COULD DO IT, BUT WHEN THAT TIME COMES I DON'T KNOW
2 IF I WOULD OR NOT.

3 Q WELL, YOU UNDERSTAND THAT THIS IS THE
4 LAST TIME WE HAVE TO TALK TO YOU ABOUT THIS?

5 A YES.

6 Q SO, WE NEED TO UNDERSTAND WHETHER OR
7 NOT YOU COULD FOLLOW THE INSTRUCTIONS OF THE JUDGE
8 AND THE LAW AND THAT IS THAT YOU WOULD HAVE THE
9 ABILITY, IF YOU FOUND THE CIRCUMSTANCES WARRANTED,
10 TO SIGN YOUR NAME ON THAT DEATH WARRANT? THAT'S
11 WHAT WE HAVE TO KNOW BECAUSE THIS IS THE LAST
12 CHANCE WE HAVE TO ASK YOU THAT QUESTION.

13 A YES, SIR. I DON'T KNOW THAT I COULD,
14 REALLY, NOW.

15 Q ALL RIGHT. AND AGAIN, THAT'S BASED ON
16 YOUR RELIGIOUS BELIEF?

17 A YES.

18 Q IS THAT RIGHT? THAT YOU COULD NOT AT
19 THIS TIME FEEL THAT YOU COULD SIGN...

20 MR. HARPOOTLIAN: YOUR HONOR, I
21 OBJECT. THIS IS THE THIRD TIME THAT HE'S ASKED HIM
22 THAT QUESTION. I THINK WE UNDERSTAND WHAT HIS
23 POSITION IS.

24 THE COURT: OVERRULED.

25 Q ALL RIGHT. AGAIN, YOU JUST SAID AGAIN

1 THAT YOU DON'T BELIEVE, FIRMLY, BASED ON YOUR
2 RELIGIOUS BELIEF THAT YOU COULD NOT SIGN YOUR NAME
3 ON A DEATH WARRANT TO TAKE THE LIFE OF ANOTHER
4 HUMAN BEING?

5 A WHEN IT COMES TO THAT TIME.

6 Q YES?

7 A YES.

8 Q ALL RIGHT.

9 THE COURT: MR. HARPOOTLIAN?

10 MR. HARPOOTLIAN: NO QUESTIONS.

11 THE COURT: OKAY. TWO?

12 (ALL ANSWERED YES)

13 THE COURT: OKAY. AGREED?

14 (ALL ANSWERED YES)

15 THE COURT: ALL RIGHT. REVEREND

16 HAWKINS, WE WILL EXCUSE YOU FROM SERVICE IN THIS
17 CASE BASED UPON YOUR BELIEF ABOUT THAT. AS A JUROR
18 YOU HAVE TO BE ABLE TO IMPOSE IT IF YOU FEEL THAT
19 IT IS APPROPRIATE. SO, WE'LL LET YOU GO AND THANK
20 YOU FOR YOUR ASSISTANCE AND HELP.

21 A I'M SORRY ABOUT THE TROUBLE.

22 THE COURT: NO PROBLEM. WE'VE BEEN
23 DOING THAT ALL DAY.

24 A YES, SIR.

25 THE COURT: NO PROBLEM.

1 A I DO WANT TO SAY, YOU KNOW, I RESPECT
2 WHAT YOU'RE DOING AND IT IS DEFINITELY MADE AN
3 IMPRESSION ON ME ABOUT THE RIGHTNESS OF THE LAW AND
4 THE WAY IT PROTECTS PEOPLE'S RIGHTS.

5 THE COURT: WELL, THANK YOU VERY MUCH.
6 HAVE A NICE DAY.

7 A I THINK Y'ALL ARE HANDLING THINGS VERY
8 WELL.

9 THE COURT: ALL RIGHT. THANK YOU.

10 A YES, SIR.

11 THE COURT: CAROL SCOTT?

12 CAROL SCOTT, BEING CALLED
13 AND DULY SWORN, TESTIFIES AS FOLLOWS:

14 THE COURT: HAVE YOU EVER BEEN ON A
15 JURY BEFORE?

16 A NO.

17 THE COURT: OKAY. DID YOU READ MY
18 LETTER FROM THE OTHER DAY?

19 A YES.

20 THE COURT: OKAY. AND DID YOU
21 UNDERSTAND IT?

22 A PRETTY MUCH, YES.

23 THE COURT: OKAY. AND YOU UNDERSTAND
24 AS A RESULT OF READING THAT LETTER THAT THE STATE
25 IS SEEKING THE DEATH PENALTY AGAINST MR. BECKHAM?

1 A YES.

2 THE COURT: AND BECAUSE THEY'RE DOING
3 THAT THE ATTORNEYS, THE SOLICITOR AND THE DEFENSE
4 ATTORNEYS, AND MYSELF ARE ENTITLED BY LAW TO ASK
5 THE PROSPECTIVE JURORS THEIR FEELINGS ABOUT CERTAIN
6 ISSUES THAT ARE RELEVANT IN THE CASE. AND YOU
7 WOULD AGREE THAT IF SOMETHING YOU BELIEVE OR FELT
8 WOULD MATTER IN THE CASE THAT WE SHOULD HAVE THE
9 RIGHT TO ASK YOU ABOUT THAT, WOULDN'T YOU?

10 A (NODS HEAD AFFIRMATIVE)

11 THE COURT: YOU...HAVE YOU FORMED OR
12 EXPRESSED ANY OPINION AS TO THE GUILT OR INNOCENCE
13 OF STEPHEN BECKHAM IN THIS CASE?

14 A NO, I HAVEN'T.

15 THE COURT: DO YOU KNOW ANYTHING ABOUT
16 THE FACTS OF THE CASE?

17 A NO, I DON'T.

18 THE COURT: OKAY. AND HAVE YOU HEARD
19 OF THE BASIC PRINCIPLE OF LAW THAT SAYS THAT A
20 CITIZEN ACCUSED OF A CRIME IS PRESUMED TO BE
21 INNOCENT OF THAT CRIME UNTIL THE STATE CAN PROVE
22 HIS GUILT BY A CERTAIN EVIDENTIARY STANDARD?

23 A YES.

24 THE COURT: THIS PRESUMPTION OF
25 INNOCENCE REQUIREMENT, IS THAT SOMETHING THAT YOU

1 COULD ACCEPT AND FOLLOW IF YOU WERE A JUROR IN A
2 CASE? CAN YOU FOLLOW THAT INSTRUCTION?

3 A (NODS HEAD AFFIRMATIVE)

4 THE COURT: DO YOU BELIEVE IN IT?

5 A YES.

6 THE COURT: AND YOU COULD FOLLOW THAT?

7 IS THERE SOMETHING THAT TROUBLES YOU ABOUT THAT?

8 A COULD YOU REPEAT THAT AGAIN? I'M
9 NERVOUS.

10 THE COURT: OH, OKAY. WE HAVE A VERY
11 BASIC PRINCIPLE OF LAW THAT SAYS THAT WHEN ANY
12 PERSON IS CHARGED OR ACCUSED OF A CRIME THEY ARE
13 PRESUMED TO BE INNOCENT OF THAT CRIME UNLESS THE
14 STATE CAN PROVE THAT PERSON'S GUILT BEYOND A
15 REASONABLE DOUBT.

16 A RIGHT.

17 THE COURT: NOW, YOU'VE HEARD THAT
18 BEFORE?

19 A YES.

20 THE COURT: ALL RIGHT. AND
21 FUNDAMENTAL TO OUR SYSTEM IS THAT WHEN THE
22 GOVERNMENT MAKES A CHARGE AGAINST SOMEONE OUR
23 SYSTEM SAYS THAT THE STATE MUST PROVE THE CHARGE
24 AGAINST THE DEFENDANT. THE DEFENDANT DOES NOT HAVE
25 TO PROVE ANYTHING OR OFFER ANY EXPLANATION. YOU'VE

1 HEARD THAT BEFORE?

2 A YES.

3 THE COURT: ALL RIGHT. THIS
4 PRESUMPTION OF INNOCENCE, THE PRINCIPLE OF THAT, IS
5 THAT SOMETHING YOU CAN UNDERSTAND AND FOLLOW IF YOU
6 WERE A JUROR?

7 A YES.

8 THE COURT: OKAY. NOW, WE'RE GOING TO
9 TALK ABOUT PENALTIES FOR A FEW MINUTES, POTENTIAL
10 PENALTIES, AND I WANT TO MAKE SURE THAT IF THE FACT
11 THAT WE TALK ABOUT THAT THAT YOU DON'T INFER OR
12 ASSUME THAT MR. BECKHAM IS GUILTY OF ANYTHING.
13 THERE HAS NOT BEEN ANY EVIDENCE PRESENTED. YOU
14 WON'T INFER GUILT OR ASSUME GUILT, WILL YOU?

15 A (SHAKES HEAD NEGATIVE)

16 THE COURT: I'M GOING TO REVERSE THE
17 ORDER, WITHOUT OBJECTION?

18 (WITHOUT OBJECTION)

19 THE COURT: IN A CASE OF THIS NATURE,
20 A JUROR HAS POTENTIALLY TWO ULTIMATE
21 RESPONSIBILITIES. THE FIRST RESPONSIBILITY IS TO
22 DETERMINE WHETHER OR NOT A DEFENDANT IS GUILTY OR
23 NOT GUILTY OF THE CRIME OF MURDER. OKAY?

24 A (NODS HEAD AFFIRMATIVE)

25 Q IF A JUROR FINDS...IF THE JURY FINDS A

1 DEFENDANT GUILTY OF MURDER, THE SECOND
2 RESPONSIBILITY OF THE JURY IS TO DETERMINE WHAT THE
3 APPROPRIATE PUNISHMENT IS AND THEY BASE THAT ON
4 HEARING CIRCUMSTANCES OF AGGRAVATION, THINGS THAT
5 MAKE THAT CRIME WORSE, MITIGATION, THINGS LIKE THAT
6 THAT MAKE IT NOT QUITE SO BAD. AND THEN THE JURY
7 HAS TWO CHOICES. THEY CAN IMPOSE A LIFE SENTENCE
8 OR A DEATH SENTENCE. DO YOU FOLLOW ME SO FAR?

9 A UH-HUH. (YES).

10 THE COURT: OKAY. WE'VE TRIED TO PUT
11 ON THE JURY JURORS WHO WILL CONSIDER BOTH OPTIONS.
12 THAT IS, WOULD CONSIDER A LIFE SENTENCE, WOULD
13 CONSIDER A DEATH SENTENCE BEFORE THEY MAKE UP THEIR
14 MIND AND THEN MAKE UP THEIR MIND SPECIFICALLY ABOUT
15 THAT CASE. DO YOU UNDERSTAND ME?

16 A (NODS HEAD AFFIRMATIVE)

17 THE COURT: OKAY. IF YOU WERE TO BE A
18 JUROR ON A CASE LIKE THAT -- WE'RE NOT TALKING
19 ABOUT THIS CASE, BUT A CASE WHERE THE STATE IS
20 SEEKING THE DEATH PENALTY -- AND YOU FOUND THAT THE
21 STATE HAD PROVEN THE GUILT OF THE DEFENDANT BEYOND
22 A REASONABLE DOUBT AS TO MURDER AND THEN YOU WERE
23 ASKED TO SET THE SENTENCE AND YOU HEARD EVIDENCE OF
24 AGGRAVATION BEYOND A REASONABLE DOUBT AND YOU HEARD
25 EVIDENCE OF MITIGATION -- MAYBE, MAYBE NOT -- COULD

1 YOU, IF YOU FELT THE APPROPRIATE PUNISHMENT WAS A
2 LIFE SENTENCE, COULD YOU VOTE TO IMPOSE A LIFE
3 SENTENCE?

4 A YES.

5 THE COURT: ALL RIGHT. NOW, WHAT
6 I'M...NOW LET'S TAKE THAT SAME SET OF FACTS AND
7 LET'S ASSUME THAT YOU CAME TO ANOTHER CONCLUSION,
8 THAT HAVING CONSIDERED THE CONVICTION, CONSIDERING
9 THE CIRCUMSTANCES IN AGGRAVATION AND ANY
10 MITIGATION, IF YOU CAME TO THE CONCLUSION THAT THE
11 DEATH PENALTY WAS WARRANTED, COULD YOU VOTE TO
12 IMPOSE THE DEATH PENALTY?

13 A DUE TO THE CIRCUMSTANCES I BELIEVE
14 THAT I COULD.

15 THE COURT: YOU COULD? ALL RIGHT.
16 WELL, LET'S SAY THAT YOU CAME TO THAT CONCLUSION.
17 THE CIRCUMSTANCES WERE THERE THAT SATISFIED YOU
18 THAT THE APPROPRIATE PUNISHMENT WAS DEATH. OUR LAW
19 REQUIRES THAT JURORS, THAT THE JURY PANEL AND EACH
20 INDIVIDUAL JUROR, SIGN THEIR NAME TO THE SENTENCING
21 FORM ACKNOWLEDGING THAT THAT WAS THEIR DECISION.
22 IF YOU CAME TO THAT CONCLUSION THAT THE DEATH
23 PENALTY WAS THE APPROPRIATE PENALTY, COULD YOU SIGN
24 YOUR NAME TO THE SENTENCING FORM?

25 A I'M GETTING CONFUSED.

1 THE COURT: DO YOU WANT ME TO REPEAT
2 THAT?

3 A IF IT WAS FOR THE DEATH PENALTY COULD
4 I SIGN A FORM...

5 THE COURT: ...ALONG WITH YOUR OTHER
6 FELLOW JURORS THAT EACH OF YOU HAD AGREED THAT THAT
7 WAS THE APPROPRIATE SENTENCE?

8 A NO, I DON'T THINK SO.

9 THE COURT: IF I TOLD YOU THAT THE LAW
10 REQUIRED THAT YOU GOT AN INSTRUCTION THAT IF YOU
11 WERE AUTHORIZED TO IMPOSE...PERMITTED TO IMPOSE THE
12 DEATH PENALTY, AND YOU DECIDED THAT THAT WAS THE
13 APPROPRIATE PENALTY, AND I TOLD YOU THAT, AS A
14 MATTER OF INSTRUCTION, THAT IF YOU BELIEVED THAT
15 WAS THE APPROPRIATE PENALTY YOU MUST SIGN YOUR NAME,
16 YOU DON'T THINK YOU COULD DO THAT?

17 A IF I BELIEVED IT, YES.

18 THE COURT: IF YOU BELIEVED IT?

19 A YES.

20 THE COURT: OKAY. ALL RIGHT. ALL
21 RIGHT, NOW LET ME LET THE SOLICITOR AND THE DEFENSE
22 ATTORNEYS ASK YOU SOME QUESTIONS. THEY'RE GOING TO
23 BE PRETTY MUCH THE SAME THING THAT I'VE ALREADY
24 ASKED YOU, BUT MAYBE WITH JUST A LITTLE DIFFERENT
25 TWIST. ALL RIGHT?

1 ALL RIGHT, MR. COULTER?

2 DIRECT EXAMINATION:

3 BY MR. COULTER:

4 Q GOOD EVENING, MS. SCOTT.

5 A HI.

6 Q MY NAME IS MIKE COULTER. I'M WITH THE
7 SOLICITOR'S OFFICE IN NEWBERRY. THIS IS SOLICITOR
8 TOWNES JONES, THE SOLICITOR FROM NEWBERRY. HE IS
9 GOING TO BE PROSECUTING THE CASE AND I'M GOING TO
10 ASSIST HIM WITH THE PROSECUTION. THIS IS THE LAST
11 CHANCE I GET TO ASK YOU SOME OF THESE QUESTIONS OR
12 HEAR YOUR RESPONSES. SO, I JUST WANT TO MAKE SURE
13 I UNDERSTOOD THEM FROM WHAT YOU JUST SAID.

14 A UH-HUH. (YES).

15 Q OKAY? NOW, YOU HESITATED, I THOUGHT,
16 A LITTLE BIT, WHEN THE JUDGE ASKED YOU IF YOU GOT
17 TO THE POINT WHERE A DEFENDANT WAS FOUND GUILTY OF
18 MURDER AND YOU WEIGHED ALL THE CIRCUMSTANCES AND
19 DETERMINED THAT THE DEATH SENTENCE WAS APPROPRIATE
20 THAT YOU COULD SIGN YOUR NAME TAKING THE LIFE OF
21 ANOTHER HUMAN BEING. YOU COULD DO THAT?

22 A THAT'S MORE CLEAR. NO.

23 Q NO, YOU COULDN'T?

24 A IF HE...WOULD YOU REPEAT THAT AGAIN,
25 PLEASE?

1 Q SURE. SURE.

2 A I...MY UNDERSTANDING...

3 Q OKAY. AFTER YOU DETERMINE THAT THE
4 STATE HAS PROVEN THE DEFENDANT GUILTY OF MURDER
5 BEYOND A REASONABLE DOUBT...

6 A ...IS GUILTY OF MURDER...RIGHT.

7 Q OKAY. AND THEN YOU GO INTO THE SECOND
8 PHASE DETERMINING THE PENALTY...

9 A OKAY.

10 Q ...THE PENALTY, AND THE PENALTY WOULD
11 BE WHETHER OR NOT...THE CHOICE WOULD BE WHETHER OR
12 NOT THE DEFENDANT WOULD GET LIFE OR WOULD BE PUT TO
13 DEATH. YOU WOULD VOTE ON THOSE TWO DIFFERENT
14 OPTIONS. AND I THOUGHT YOU SAID TO THE JUDGE THAT
15 IN REGARDS TO VOTING WHAT YOU COULD VOTE TO
16 IMPOSE...

17 MR. SWERLING: YOUR HONOR, I'D ASK
18 THAT HE JUST ASK THE JUROR THE QUESTION AS TO
19 WHETHER SHE COULD OR SHE COULDN'T. I THINK SHE
20 TOLD YOU SHE COULD.

21 THE COURT: WELL, I HAVE ALLOWED...I
22 MEAN, Y'ALL HAVEN'T FUSSED ABOUT EDITORIAL COMMENT
23 ALL DAY SO I'M NOT GOING TO START NOW UNLESS YOU
24 WANT ME TO DRAW THE LINE AGAINST BOTH OF YOU?

25 MR. SWERLING: THAT'S FINE.

1 THE COURT: ALL RIGHT. ALL RIGHT, MR.
2 COULTER.

3 MR. COULTER: ALL RIGHT.

4 Q COULD YOU VOTE TO IMPOSE THE DEATH
5 SENTENCE AND TAKE THE LIFE OF ANOTHER PERSON?

6 MR. SWERLING: SHE'S NOT...YOUR HONOR,
7 SHE IS NOT TAKING THE LIFE OF ANOTHER PERSON.

8 THE COURT: I SUSTAIN THAT OBJECTION.

9 MR. SWERLING: SHE'S VOTING.

10 THE COURT: SHE'S VOTING.

11 Q COULD YOU VOTE TO TAKE THE LIFE OF
12 ANOTHER PERSON?

13 MR. SWERLING: IT'S STILL NOT...

14 THE COURT: THAT'S NOT THE PROPER
15 QUESTION..

16 MR. SWERLING: THAT'S STILL NOT
17 APPROPRIATE.

18 MR. COULTER: ALL RIGHT.

19 THE COURT: THE QUESTION IS, "VOTE TO
20 IMPOSE THE DEATH PENALTY?"

21 MR. COULTER: WHICH IS, RESPECTFULLY,
22 ESSENTIALLY THE SAME THING.

23 THE COURT: WELL...LET ME LET YOU STEP
24 OUT JUST A MINUTE.

25 A PARDON?

1 THE COURT: COULD YOU STEP RIGHT OUT
2 THERE?

3 A SURE.

4 (JUROR IS EXCUSED FROM THE OPEN
5 COURTROOM)

6 THE COURT: IT MAY MEAN TO YOU THE
7 SAME THING, BUT TO A JUROR WHO WALKS IN HERE AND
8 HAS ABSOLUTELY NO CONCEPT OF WHAT WE'RE TALKING
9 ABOUT UNTIL MONDAY...THEY DON'T TAKE THEIR LIFE.
10 THE DEPARTMENT OF CORRECTIONS PUTS THEM TO DEATH.
11 BUT, THE JURY AUTHORIZES OR IMPOSES THAT SENTENCE
12 AND THAT...

13 MR. COULTER: YOUR HONOR, BASICALLY
14 THAT'S INSULATING THE JURY...JUST LIKE THE
15 OBJECTION IS TO TELL A JURY THAT THEY'RE ONLY
16 RECOMMENDING DEATH AND THEY CAN DISASSOCIATE
17 THEMSELVES WITH THE PROCESS BECAUSE SURELY WHEN THE
18 DEFENSE GETS UP THERE, IF AND WHEN WE GET TO THAT
19 STAGE, THEY'RE GOING TO BE ARGUING THAT THIS WOULD
20 BE TO TAKE THE LIFE OF THIS PARTICULAR PERSON.
21 THEY DON'T NEED TO BE FOOLED BY THE FACT THAT THIS
22 IS THE DEATH PENALTY...I MEAN, IT IS NOT SOMETHING
23 THAT THE COURT CAN OPT NOT TO DO.

24 THE COURT: I AGREE WITH THAT. I
25 AGREE WITH THAT.

1 MR. COULTER: AND I THINK THEY NEED TO
2 KNOW...

3 THE COURT: BUT, IT'S "VOTE TO IMPOSE
4 THE DEATH PENALTY." IF SHE SAYS SHE CAN DO THAT
5 THEN...

6 MR. COULTER: WHAT SHE HAD ASKED AS I
7 ASKED HER THAT, WHETHER SHE COULD SIGN HER NAME,
8 AND SHE SAID, "NO." AND THEN SHE SAID, "COULD YOU
9 REPEAT IT AND MAKE IT MORE CLEAR?" AND THAT'S ALL
10 I'M TRYING TO DO.

11 THE COURT: (INAUDIBLE) SAYS, AMONG
12 OTHER THINGS, "WE UNANIMOUSLY FIND THE DEFENDANT
13 SHOULD BE SENTENCED TO DEATH." AND IN THE CHARGE
14 THAT THEY WILL HEAR IT WILL SAY THAT "YOU ARE
15 AUTHORIZED TO IMPOSE THE SENTENCE OF DEATH." I
16 MEAN...MAYBE IT'S TOO LATE IN THE DAY AND MAYBE
17 WE'RE TALKING ABOUT SEMANTICS, BUT THEIR PHYSICALLY
18 PUTTING THEM TO DEATH IS NOT WHAT THEY'RE DOING.
19 THEY'RE VOTING TO IMPOSE A DEATH SENTENCE AND HAVE
20 SOMEONE...I MEAN, SOMEONE DOES IT. I MEAN,
21 NOT...WE'RE NOT GOING TO GET ANYWHERE WITH THIS
22 JUROR, I DON'T THINK, ANYWAY. I OVERRULE THE
23 OBJECTION AND LET YOU FINISH UP WITH HER AND SEE
24 WHERE YOU GO.

25 MR. COULTER: ALL RIGHT.

1 THE COURT: WE HAGGLE OVER SOMETIMES
2 THAT...BRING HER BACK IN.

3 (JUROR IS RETURNED TO THE OPEN
4 COURTROOM)

5 Q OKAY, MS. SCOTT, I'M ALMOST FINISHED.
6 I JUST NEED TO TRY TO GET IT CLEAR AS TO MY
7 UNDERSTANDING AS YOUR ANSWERING THE QUESTION.
8 OKAY?

9 A SECOND AGO I THOUGHT YOU HAD TOLD
10 ME, WHEN I ASKED YOU ABOUT SIGNING THE DEATH
11 WARRANT, THAT YOU SAID THAT YOU DIDN'T FEEL THAT
12 YOU COULD DO THAT, THEN ASKED ME TO EXPLAIN IT A
13 LITTLE BIT MORE. IS THAT RIGHT?

14 A (NODS HEAD AFFIRMATIVE)

15 Q AND YOU UNDERSTAND THAT WHEN YOU WOULD
16 BE IN THE SECOND PHASE, AS FAR AS AFTER YOU AS A
17 JURY HAD FOUND THAT THE DEFENDANT WAS GUILTY OF
18 MURDER, WOULD BE THERE TO DETERMINE WHETHER OR NOT
19 HE GOT LIFE OR DEATH? DO YOU UNDERSTAND THAT?

20 A UH-HUH. (YES).

21 Q AND I'M JUST TRYING TO FIND OUT IF
22 YOU, AS A JUROR GOING INTO THIS PENALTY PHASE WITH
23 THOSE TWO OPTIONS, COULD IN FACT, IN LOOKING AT
24 THOSE DIFFERENT CIRCUMSTANCES PRESENTED, FIND AND
25 VOTE FOR THE DEATH PENALTY?

1 MR. SWERLING: THE JUROR SAID SHE
2 COULD DO THAT.

3 THE COURT: OVERRULED.

4 A IT'S ACCORDING TO WHAT THE
5 CIRCUMSTANCES...

6 Q OKAY.

7 A I WOULDN'T... I COULDN'T JUST SAY
8 RIGHT NOW.

9 Q ALL RIGHT. SO, YOU THINK THAT YOU
10 COULD CONSIDER...?

11 A I COULD CONSIDER IF I KNEW THE
12 CIRCUMSTANCES OF THE...

13 Q ALL RIGHT. AND THEN IF YOU RECEIVED
14 THOSE CIRCUMSTANCES IN THAT PENALTY PHASE...

15 A THEN I COULD MAKE UP...

16 Q THEN YOU COULD, IF THE CIRCUMSTANCES
17 WARRANTED, VOTE FOR THE DEATH PENALTY?

18 A ACCORDING TO THE CIRCUMSTANCES.

19 Q OKAY. IF THE CIRCUMSTANCES WARRANTED?

20 A YES.

21 Q AND IF THE CIRCUMSTANCES WARRANTED IT
22 AND YOU VOTED FOR THE DEATH PENALTY, YOU COULD SIGN
23 THE DEATH WARRANT?

24 MR. SWERLING: OBJECTION, YOUR HONOR.

25 IT'S NOT A DEATH WARRANT, IT'S A VERDICT FORM.

1 MR. COULTER: I THINK I'VE HEARD THAT
2 SAID...

3 THE COURT: I'VE USED IT BOTH WAYS.
4 THE TECHNICALLY CORRECT FORM...THE TECHNICALLY
5 CORRECT IS "THE VERDICT OF THE SENTENCE."

6 Q YOU COULD SIGN YOUR NAME FOR THE
7 VERDICT OF THE SENTENCE FOR DEATH? IS THAT RIGHT?

8 A ACCORDING TO THE CIRCUMSTANCES.

9 Q DEPENDING ON THE CIRCUMSTANCES?

10 A DEPENDING ON THE CIRCUMSTANCES.

11 Q OKAY. AND GOING INTO THIS SENTENCING
12 PHASE, YOU HAVE...THE SENTENCING PHASE AS TO
13 WHETHER OR NOT LIFE OR DEATH WERE TO BE
14 IMPOSED...DO YOU HAVE...YOU LEAN ONE PARTICULAR WAY
15 VERSUS ANOTHER? WHETHER IT BE FOR LIFE OR DEATH?
16 OR WOULD THAT STILL DEPEND ON ALL OF THE
17 CIRCUMSTANCES?

18 A IT WOULD DEPEND ON THE CIRCUMSTANCES.

19 Q ON THE CIRCUMSTANCES. OKAY. ALL
20 RIGHT. THANK YOU.

21 A YOU'RE WELCOME.

22 THE COURT: DO YOU HAVE ANY QUESTIONS,
23 MR. SWERLING?

24 MR. SWERLING: NO QUESTIONS.

25 THE COURT: ALL RIGHT. ONES?

1 (ALL ANSWERED YES)

2 THE COURT: ONES. ALL RIGHT, MS.

3 SCOTT, I FIND YOU QUALIFIED...IT'S MS. SCOTT,

4 RIGHT? CAROL?

5 A YES. CAROL.

6 THE COURT: MY BIFOCALS DON'T WORK SO

7 GOOD SOMETIMES. I FIND YOU QUALIFIED FOR PURPOSES

8 OF SERVING ON THIS JURY. WE ARE GOING TO BE

9 FINISHING UP THE SELECTION PROCESS TONIGHT. WE

10 HAVE JUST A LITTLE BIT MORE TO GO. I NEED FOR YOU

11 TO GO HOME AND SEE IF YOU CAN PACK UP IN A

12 REASONABLY SHORT PERIOD OF TIME AND BE READY TO AT

13 LEAST SEE WHETHER WE'RE GOING TO SEAT YOU OR STRIKE

14 YOU AND I DON'T KNOW THE ANSWER TO THAT BECAUSE

15 THEY GET TO DO THAT. HOW LONG WOULD IT TAKE YOU TO

16 PACK TO GO TO NEWBERRY? AN HOUR? HOUR AND A HALF?

17 A THAT AT LEAST. DO I HAVE TO?

18 THE COURT: YES, MA'AM. YOU AT LEAST

19 HAVE TO COME BACK AND SEE WHETHER YOU'RE GOING TO

20 BE SELECTED AND IF YOU ARE THEN YOU'RE GOING TO

21 NEED TO GO AND IF NOT...

22 A OH, YOU MEAN I HAVE TO COME BACK...

23 THE COURT: COME BACK HERE.

24 A HERE?

25 THE COURT: UH-HUH.

1 A WHEN?

2 THE COURT: YOU TELL ME HOW FAST YOU

3 CAN DO THIS.

4 A OH, TONIGHT?

5 THE COURT: WE'VE GOT TO GO TO...IF

6 YOU'RE SELECTED WE'RE GOING TO NEWBERRY TONIGHT.

7 SLED WILL TRANSPORT YOU AND WE'VE GOT A ROOM FOR

8 YOU AND THE COUNTY PAYS FOR YOUR EXPENSES. WE'LL

9 BE THERE...WE'RE GOING TO BE THERE TONIGHT. RIGHT

10 NOW YOU'RE JUST IN THE POOL. I DON'T KNOW WHETHER

11 YOU'LL BE SELECTED, BUT YOU NEED TO GO PACK

12 PREPARED TO GO.

13 A OH, OKAY.

14 THE COURT: CAN YOU DO IT IN ABOUT AN

15 HOUR?

16 A AT LEAST.

17 THE COURT: OKAY. HOW FAR DO YOU HAVE

18 TO GO?

19 A WESTMINSTER. EIGHT MILES, NINE MILES.

20 THE COURT: OKAY. DO YOU NEED...YOU

21 HAVE SOMEBODY THAT CAN BRING YOU BACK AND WAIT

22 UNTIL WE SEE WHETHER YOU'RE SELECTED OR NOT?

23 A SURE.

24 THE COURT: OKAY. ALL RIGHT. SEE YOU

25 ABOUT 7:30 OR A QUARTER 'TIL EIGHT, SOMEWHERE IN

1 THAT NEIGHBORHOOD, ALL RIGHT.

2 A CAN YOU TAKE ANYONE WITH YOU?

3 THE COURT: NO, MA'AM. YOU'LL MEET
4 SOME NEW FRIENDS.

5 A I'LL MEET NEW FRIENDS? OKAY.

6 THE COURT: I'LL SEE YOU IN ABOUT AN
7 HOUR OR AN HOUR AND FIFTEEN MINUTES.

8 A OKAY. WHERE DO I COME TO?

9 THE COURT: THEY'LL TELL YOU WHERE.

10 AND COME PACKED FOR ABOUT TEN DAYS. YOU DON'T HAVE
11 TO...WE'LL HAVE LAUNDRY SERVICES, SO IF YOU DON'T
12 WANT TO, YOU KNOW, WE CAN TAKE CARE OF THAT PROBLEM
13 TOO.

14 A UH-HUH. (YES). OKAY. ALL RIGHT.

15 THE COURT: (INAUDIBLE) ON AN
16 ALTERNATE?

17 MR. SWERLING: JUDGE, WE THINK...WE'VE
18 GOT THREE RIGHT NOW.

19 THE COURT: YES, SIR.

20 MR. HARPOOTLIAN: IF WE QUALIFIED ONE
21 MORE...

22 MR. SWERLING: ...THEN WE COULD STRIKE
23 ONE. IF THAT'S ALL RIGHT WITH THAT COURT:

24 THE COURT: SAY THAT AGAIN?

25 MR. SWERLING: IF WE QUALIFY ONE MORE

1 WE'LL TRY AND STRIKE THE FIRST ALTERNATE.

2 THE COURT: YEAH.

3 MR. HARPOOTLIAN: AND THEN IF WE...WE
4 JUST WANT TO SEE WHAT THAT ONE LOOKS LIKE.

5 THE COURT: OKAY. I MEAN, I AGREE
6 THAT WE...YOU'RE ENTITLED TO DO THAT.

7 MR. HARPOOTLIAN: WELL, AND...

8 THE COURT: I UNDERSTAND THE BIG
9 PICTURE.

10 MR. HARPOOTLIAN: IT MAY BE THAT THIS
11 WILL BE ALL WE'LL NEED IF WE...

12 THE COURT: OKAY.

13 MR. HARPOOTLIAN: IT COULD BE THAT'S
14 ALL WE NEED, PERIOD.

15 THE COURT: ALL RIGHT. CAROL SCOTT?
16 MS. SCOTT? I MEAN EDNA CAPPS. EDNA CAPPS?

17 MR. SWERLING: WE'RE TRYING TO DO IT
18 IF WE CAN.

19 MR. HARPOOTLIAN: WE DIDN'T ASK IF
20 THERE WERE ANY QUESTIONS? DO WE GET ANY CREDIT FOR
21 THAT WHAT-SO-EVER? NONE. THAT'S WHAT I FIGURED.

22 EDNA CAPPS,, BEING CALLED
23 AND DULY SWORN, TESTIFIES AS FOLLOWS:

24 THE COURT: WHAT ARE YOU READING
25 TODAY?

1 A OH, I JUST...I GOT IT, I'VE NOT EVEN
2 READ IT.

3 THE COURT: OH, OKAY. AND I APOLOGIZE
4 TO YOU FOR HAVING TO WAIT, BUT WE QUITE FRANKLY
5 HAVE BEEN THROUGH ALMOST SIXTY JURORS AND SO IT
6 TAKES A LITTLE WHILE AND WE'RE JUST KIND OF OUT
7 OF...WE'RE RUNNING OUT OF TIME, BUT WE'RE CLOSE
8 TOWARDS GETTING A PROSPECTIVE POOL.

9 DID YOU GET A CHANCE TO READ MY LETTER
10 THAT I GAVE OUT MONDAY?

11 A TO US THE FIRST DAY?

12 THE COURT: UH-HUH.

13 A YES, SIR, I DID.

14 THE COURT: OKAY, AND DID YOU
15 GENERALLY UNDERSTAND IT?

16 A YES, SIR, I THINK I DID.

17 THE COURT: OKAY. ALL RIGHT. AND
18 MA'AM, HAVE YOU FORMED OR EXPRESSED ANY OPINION AS
19 TO THE GUILT OR INNOCENCE OF MR. BECKHAM, THE
20 DEFENDANT IN THIS CASE?

21 A NO, SIR.

22 THE COURT: DO YOU KNOW ANYTHING ABOUT
23 THE FACTS OF THE CASE?

24 A NO OTHER THAN WHAT YOU'VE TOLD US IN
25 THE COURT HERE.

1 THE COURT: OKAY. ALL RIGHT. AND ARE
2 YOU FAMILIAR WITH THE LEGAL PRINCIPLE THAT A PERSON
3 ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT OF
4 THAT CRIME UNLESS THE STATE CAN PROVE HIS GUILT BY
5 EVIDENCE BEYOND A REASONABLE DOUBT? DO YOU
6 UNDERSTAND THAT PRINCIPLE?

7 A YES, SIR, I DO.

8 THE COURT: AND IS THAT SOMETHING, MS.
9 CAPPS, A PRINCIPLE THAT YOU COULD ACCEPT AND FOLLOW
10 IF YOU WERE A JUROR...IF YOU WERE SITTING ON A
11 CASE?

12 A I THINK I COULD, YES, SIR.

13 THE COURT: OKAY. NOW, THE REASON I'M
14 ASKING...PART OF THE REASON I'M ASKING THAT IS THAT
15 WE'RE GOING TO TALK FOR A FEW MINUTES ABOUT
16 POTENTIAL PENALTIES IN A CASE OF THIS NATURE AND I
17 WANT TO MAKE SURE THAT YOU WON'T INFER OR IMPLY
18 THAT MR. BECKHAM IS GUILTY OF ANYTHING OR HE SHOULD
19 GET ANY PARTICULAR PENALTY AT THIS POINT IN TIME
20 BECAUSE WE HAVEN'T CROSSED THAT BRIDGE YET. AND
21 YOU WON'T MAKE THAT INFERENCE, WILL YOU?

22 A NO, SIR.

23 THE COURT: OKAY. NOW THE NEXT FEW
24 QUESTIONS, MS. CAPPS, ARE QUESTIONS DESIGNED TO
25 DETERMINE YOUR PERSONAL FEELINGS OR BELIEFS ABOUT

1 SOME ISSUES THAT ARE RELEVANT IN OUR CASE, OR CASES
2 LIKE THIS, AND THERE ARE NO RIGHT OR WRONG ANSWERS
3 AND NOBODY WANTS TO EMBARRASS YOU OR CHALLENGE YOUR
4 VIEWS, BUT WE DO NEED TO KNOW THE ANSWERS.

5 ORDINARILY IN A CRIMINAL TRIAL SETTING
6 A JURY WILL MAKE ONE ULTIMATE DECISION AND THAT IS
7 WHETHER OR NOT A DEFENDANT IS GUILTY OR NOT GUILTY
8 OF THE CRIME CHARGED. IF HE'S NOT GUILTY HE'S
9 RELEASED FROM THE CHARGES. IF HE'S GUILTY THEN
10 HE'S BROUGHT AROUND IN FRONT OF A JUDGE, LIKE
11 MYSELF, AND HE'S SENTENCED. OKAY?

12 A YES, SIR.

13 THE COURT: IN ALL OF OUR CASES IN
14 SOUTH CAROLINA JUDGES SENTENCE DEFENDANTS WHO HAVE
15 BEEN CONVICTED BY JURIES EXCEPT IN ONE SITUATION
16 AND THAT SITUATION IS WHERE THE STATE SEEKS THE
17 DEATH PENALTY AGAINST A DEFENDANT. IN THAT
18 SITUATION THE JURY HAS TWO ULTIMATE
19 RESPONSIBILITIES. THE FIRST RESPONSIBILITY IS THAT
20 IT MUST DETERMINE WHETHER OR NOT A DEFENDANT IS
21 GUILTY OR NOT GUILTY OF THE CRIME OF MURDER. OKAY?

22 A YES, SIR.

23 THE COURT: AND THEN IN THE SECOND
24 PART OF THAT, IF THEY FIND HIM GUILTY OF MURDER
25 THEN THEY HAVE THE RESPONSIBILITY OF SENTENCING

1 THAT DEFENDANT -- NOT THE JUDGE, THE JURY -- AND
2 THE JURY WOULD HEAR, DURING THE SENTENCING PHASE --
3 OF COURSE YOU'D ALREADY KNOW HE'S BEEN CONVICTED --
4 AND THEN YOU WOULD HEAR CIRCUMSTANCES OF
5 AGGRAVATION, YOU WOULD HEAR CIRCUMSTANCES OF
6 MITIGATION, AND THEN YOU WOULD BE ASKED TO FIX THE
7 PENALTY, BE IT LIFE IN PRISON OR DEATH.
8 PROCEDURALLY DO YOU FOLLOW ME TO THIS POINT?

9 A YES, SIR.

10 THE COURT: OKAY. WE KNOW THAT WHEN
11 JURORS ARE PRESENTED WITH THAT SITUATION THEY FALL
12 IN ONE OF THREE CATEGORIES. WE HAVE JURORS WHO SAY
13 THAT, "WE CONVICTED HIM OF MURDER THE DAY BEFORE
14 YESTERDAY. THERE IS EVIDENCE OF AGGRAVATING
15 CIRCUMSTANCES THAT PERMITS US TO IMPOSE THE DEATH
16 PENALTY. THEY'VE BEEN PROVED BEYOND A REASONABLE
17 DOUBT. IT DOESN'T MATTER WHETHER THERE'S ANY
18 MITIGATING CIRCUMSTANCES BECAUSE I BELIEVE THAT THE
19 DEATH PENALTY SHOULD BE IMPOSED IN ALL CASES LIKE
20 THIS AND I WOULD VOTE FOR DEATH." OKAY? THAT'S
21 ONE TYPE OF JUROR.

22 THE SECOND JUROR IS ONE WHO SAYS,
23 "WE'VE GOT THAT CONVICTION. WE'VE GOT THOSE
24 AGGRAVATING CIRCUMSTANCES." YOU MAY OR MAY NOT
25 HAVE MITIGATING CIRCUMSTANCES. BUT THAT JUROR

1 SAYS, "I BELIEVE THAT IN ALL CASES LIKE THIS THAT
2 LIFE IMPRISONMENT IS THE APPROPRIATE PUNISHMENT AND
3 I WOULD ALWAYS VOTE FOR LIFE." DO YOU FOLLOW ME ON
4 JUROR TWO?

5 A YES, SIR.

6 THE COURT: WE HAVE A THIRD GROUP OF
7 JURORS WHO SAYS KNOWING OF THE CONVICTION, THE
8 AGGRAVATING CIRCUMSTANCES, AND MAYBE, MAYBE NOT,
9 MITIGATING CIRCUMSTANCES, SAYS THAT, "WELL, I WANT
10 TO LOOK AT THIS CASE SPECIFICALLY AND I WILL
11 CONSIDER A DEATH SENTENCE AND I WILL CONSIDER A
12 LIFE SENTENCE AND ON THE WHOLE I WILL DETERMINE
13 WHICH IS THE MORE APPROPRIATE SENTENCE: LIFE OR
14 DEATH."

15 IF I HAD...IF I COULD ASK YOU WHICH
16 CATEGORY YOU THINK YOU MIGHT FIT IN -- ONE, TWO, OR
17 THREE -- COULD YOU TELL ME THAT?

18 A SIR, I'VE NEVER BEEN ON A....YOU
19 KNOW...BUT I WOULD SAY I BELIEVE IF A PERSON
20 IS...I'LL TELL YOU WHAT I THINK.

21 THE COURT: SURE, THAT'S WHAT WE WANT
22 TO KNOW.

23 A I BELIEVE IF A PERSON BREAKS THE LAW
24 AND COMMITS A CRIME THAT HE'S NOT...HE SHOULD BE
25 PUNISHED. BUT, I FEEL LIKE A PERSON HAS TO BE

1 PROVEN ME THAT THEY'RE DEAD. BUT I'VE JUST NEVER
2 BEEN ON A JURY, SIR, AND I JUST...

3 THE COURT: OKAY...

4 A AND I'M JUST STATING MY FACTS. I DO
5 BELIEVE IN OBEYING THE LAW.

6 THE COURT: ALL RIGHT. LET'S TAKE
7 THIS A STEP...AND I APPRECIATE WHAT YOU'RE TELLING
8 ME. SO, FIRST OF ALL YOU BELIEVE THAT THE QUESTION
9 OF GUILT OR INNOCENCE MUST SERIOUSLY BE EXAMINED BY
10 A JUROR AND YOU WOULD AGREE TO DO THAT?

11 A YES, SIR.

12 THE COURT: ALL RIGHT. WHAT I'M
13 TRYING TO DO, MS. CAPPS, IS TO GET YOU TO GO TO
14 THIS POINT. LET'S SAY THAT YOU HAVE VERY CAREFULLY
15 DETERMINED AND CONSIDERED THE QUESTION OF GUILT OR
16 INNOCENCE IN A POTENTIAL DEATH PENALTY CASE AND YOU
17 HAVE DETERMINED BEYOND A REASONABLE DOUBT THAT A
18 DEFENDANT IS GUILTY OF MURDER, OKAY? HE DID IT.

19 A UH-HUH. (YES).

20 THE COURT: OKAY. ALL RIGHT. NOW,
21 THE QUESTION IS, IS WHAT SHOULD THE PUNISHMENT BE?
22 AND THAT'S WHAT WE'RE ASKING...WOULD BE ASKING OF
23 YOU AS A JUROR. AND HERE'S WHAT HAPPENS. YOU'LL
24 GET EVIDENCE OF AGGRAVATION, THAT IS EVIDENCE THAT
25 TENDS TO SHOW YOU OR TRY TO CONVINCE YOU THAT THIS

1 WAS A...THERE'S NO GOOD MURDER, BUT I MEAN, A MUCH
2 WORSE MURDER -- AN AGGRAVATED MURDER. AND THE
3 STATE WOULD BE TRYING TO SAY "BASED UPON THESE
4 AGGRAVATING CIRCUMSTANCES YOU SHOULD GIVE THIS
5 DEFENDANT THE DEATH PENALTY." OKAY? AND YOU'LL
6 ALSO BE HEARING TESTIMONY ABOUT MITIGATING
7 CIRCUMSTANCES, THINGS LIKE THAT, THAT WOULD TEND TO
8 SAY "NO, THE BETTER PUNISHMENT IS LIFE AS OPPOSED
9 TO DEATH." YOU'LL BE HEARING THOSE KIND OF THINGS
10 AND YOU'LL HAVE TO MAKE A DECISION ON, AFTER
11 CONSIDERING ALL OF THAT. NOW, DO YOU FOLLOW ME SO
12 FAR?

13 A YES, SIR.

14 THE COURT: ALL RIGHT, NOW BEAR IN
15 MIND THAT YOU DON'T HAVE TO HAVE ANY MITIGATING
16 CIRCUMSTANCES IN ORDER TO RETURN A LIFE SENTENCE.
17 YOU CAN RETURN A LIFE SENTENCE FOR ANY REASON YOU
18 WANT. BUT, YOU HAVE TO HAVE AGGRAVATING
19 CIRCUMSTANCES IN ORDER TO FIND A PERSON OF
20 DEATH...TO SENTENCE A PERSON TO DEATH.

21 NOW, I KNOW YOU HAVEN'T SAT IN THIS
22 SITUATION BEFORE BUT I WANT YOU TO IMAGINE THAT YOU
23 HAVE FOUND A PERSON GUILTY OF MURDER.

24 A OKAY.

25 THE COURT: YOU HAVE FOUND THE

1 EXISTENCE OF AGGRAVATING CIRCUMSTANCES BEYOND A
2 REASONABLE DOUBT AND YOU'RE ASKED TO FIX THE
3 PUNISHMENT. COULD YOU, IF YOU FELT THAT THE PROPER
4 PUNISHMENT WAS A LIFE SENTENCE UNDER THOSE
5 CIRCUMSTANCES, COULD YOU IMPOSE A LIFE SENTENCE IF
6 YOU FELT IT WAS THE APPROPRIATE PUNISHMENT?

7 A YES, SIR, I COULD.

8 THE COURT: ALL RIGHT. LET'S TAKE
9 THAT SAME CASE AND LET'S SAY THAT YOU CAME TO
10 ANOTHER CONCLUSION AND THAT CONCLUSION IS THAT FOR
11 THIS CASE THAT THE MORE APPROPRIATE PUNISHMENT
12 WOULD BE THE DEATH PENALTY. COULD YOU VOTE TO
13 IMPOSE THE DEATH PENALTY?

14 A SIR, I JUST TELL YOU, I DON'T BELIEVE
15 I COULD. I LOST A CHILD THAT WAS TWENTY-ONE YEARS
16 OLD AND I KNOW HOW ONE OF THE MOTHERS FEELS THAT'S
17 ALREADY LOST A CHILD AND THEN TO TAKE A LIFE OF
18 ANOTHER MOTHER'S CHILD, I JUST DON'T BELIEVE I
19 COULD SIGN THE PAPER OR...

20 THE COURT: OR VOTE FOR IT?

21 A I JUST DON'T BELIEVE I COULD. NO,
22 SIR. I DON'T THINK I COULD LIVE WITH IT. I'M
23 SORRY, BUT I JUST DON'T THINK I COULD.

24 THE COURT: ALL RIGHT. WELL, LET
25 ME...IS THERE ANY SET OF CIRCUMSTANCES UNDER WHICH

1 YOU MIGHT CONSIDER A DEATH PENALTY AS BEING AN
2 APPROPRIATE PUNISHMENT AND VOTE TO IMPOSE IT?

3 A IF I FELT LIKE THE PARTY WAS GUILTY
4 AND THEY COULD GET THE POINT OVER TO ME THAT THEY
5 WERE GUILTY, I BELIEVE I COULD, YES, SIR.

6 THE COURT: OKAY. SO, LET'S SAY THAT
7 YOU'RE CONVINCED NOW THAT THIS PERSON'S GUILTY AND
8 YOU'VE GOT THIS AGGRAVATING SITUATION, COULD YOU
9 VOTE TO IMPOSE THE DEATH PENALTY IN THAT SITUATION?
10 YOU'RE CONVINCED.

11 A I BELIEVE I COULD.

12 THE COURT: ALL RIGHT.

13 A BUT I JUST DON'T THINK I COULD LIVE
14 WITH IT. I'M A CHRISTIAN AND I JUST DON'T...YOUR
15 HONOR, I JUST DON'T THINK I COULD DO IT BECAUSE I
16 LOST A CHILD...

17 THE COURT: ALL RIGHT.

18 A AND I FEEL LIKE I WOULD BE TAKING
19 SOMEBODY'S LIFE. DO YOU KNOW WHAT I'M TRYING TO
20 SAY?

21 THE COURT: YES, MA'AM, I UNDERSTAND
22 YOUR ANSWER.

23 A I'VE READ YOUR LETTER AND I JUST
24 REALLY...

25 THE COURT: OKAY. WELL, LET ME SEE IF

1 THE ATTORNEYS HAVE SOME QUESTIONS FOR YOU.

2 A OKAY.

3 THE COURT: MR. SOLICITOR?

4 DIRECT EXAMINATION:

5 BY MR. JONES:

6 Q MS. CAPPS, MY NAME IS TOWNES JONES.

7 I'M THE SOLICITOR.

8 A YES, SIR.

9 Q I'LL BE PROSECUTING THIS CASE. WHAT
10 IS YOUR POSITION AS FAR AS IF YOU SERVED ON A JURY
11 AND THE JURY FOUND THE PERSON CHARGED GUILTY OF
12 MURDER AND THEN YOU WENT INTO A SEPARATE PROCEEDING
13 TO DECIDE WHETHER OR NOT THE DEATH PENALTY WAS
14 THE...OR WHAT THE PUNISHMENT SHOULD BE AND THE
15 FACTORS WERE THAT Y'ALL DECIDED THAT IT WAS A CASE
16 WHERE THE DEATH PENALTY WAS THE APPROPRIATE
17 PUNISHMENT? WE NEED...I'M ASKING YOU WOULD YOU
18 IMPOSE THE DEATH PENALTY?

19 MR. HARPOOTLIAN: IF IT PLEASE THE
20 COURT, YOUR HONOR. I HATE TO INTERRUPT THE
21 SOLICITOR. THAT'S NOT THE...NOT WHETHER SHE WOULD
22 IMPOSE. THE QUESTION IS WHETHER SHE WOULD RETURN
23 SUCH A VERDICT OR WHETHER SHE WOULD SIGN THE
24 VERDICT FORM.

25 Q WOULD YOU VOTE...

1 THE COURT: HE'S GOT THE QUESTION

2 RIGHT.

3 Q WOULD YOU VOTE TO IMPOSE THE DEATH
4 PENALTY?

5 A WELL, I WOULD SAY THIS, SIR. IF YOU
6 COULD PROVE TO ME THAT THIS WAS A BRUTAL
7 THING...YOU KNOW WHAT I'M SAYING? AND I COULD SEE
8 THE FACTS AND IT WOULD PROVE TO ME, I MIGHT COULD
9 DO IT. BUT I DON'T KNOW WHETHER OR NOT I COULD
10 LIVE WITH THAT OR NOT BECAUSE I LOST A SON. THAT'S
11 WHAT I'M TRYING TO SAY, Y'ALL. I DON'T THINK I
12 COULD SIGN THE PAPER, I WANT TO, TO BE HONEST, TO
13 PUT SOMEONE IN THE ELECTRIC CHAIR BECAUSE I BELIEVE
14 THAT WOULD BE ON MY CONSCIENCE.

15 Q YES, MA'AM. WELL, THAT...YOU
16 KNOW...WE JUST...THERE'S NO RIGHT ANSWER. IT'S THE
17 TRUTH, YOU SAID HONEST. YOU TOOK AN OATH TO THE
18 JUDGE TO TELL HIM THE TRUTH.

19 A YES, SIR.

20 Q AND HONESTY AND TRUTH ARE ONE IN THE
21 SAME AND THAT'S WHAT WE'RE ASKING YOU, WHAT IS THE
22 TRUTH? COULD YOU OR COULDN'T YOU?

23 A I DON'T THINK I COULD, NO, SIR. YOU
24 KNOW, I THINK I COULD GIVE A PERSON A FAIR TRIAL,
25 DON'T GET ME WRONG. BUT I DON'T THINK IF WE FOUND

1 THE PERSON GUILTY THAT I COULD SIGN FOR A DEATH
2 SENTENCE. I MIGHT COULD SIGN FOR A LIFE
3 IMPRISONMENT, DO YOU KNOW WHAT I'M SAYING? BUT I
4 COULDN'T A DEATH SENTENCE, NO, SIR. I JUST DON'T
5 FEEL LIKE I COULD LIVE WITH THAT AFTER I LOST MY
6 OWN CHILD.

7 Q WELL, YOU KNOW, I HATE TO SOUND
8 LIKE...

9 A THAT'S OKAY.

10 Q ...A BROKEN RECORD, BUT WHEN YOU SAID
11 YOU DON'T THINK YOU COULD, DO YOU KNOW WHETHER YOU
12 COULD OR NOT?

13 A I'VE NEVER BEEN ON A JURY, I DON'T
14 KNOW. BUT I WOULD TELL YOU THIS, I WOULD UPHOLD
15 THE LAW.

16 Q YES, MA'AM. I UNDERSTAND THAT. I
17 UNDERSTAND THAT. WHAT I NEED TO KNOW IS WOULD YOU,
18 UNDER THE CIRCUMSTANCES WHERE YOU DECIDED THE DEATH
19 PENALTY WAS THE APPROPRIATE PUNISHMENT, WOULD YOU
20 SIGN YOUR NAME VOTING TO IMPOSE THAT DEATH PENALTY?

21 A I THINK WOULD.

22 Q YOU WOULD?

23 A YES, SIR, I THINK I COULD.

24 Q YOU DO?

25 A YEAH, BUT IT'S GOING TO BE HARD FOR ME

1 TO DEAL WITH IT AFTER IS WHAT I'M TELLING YOU.

2 Q I UNDERSTAND THAT AND THAT'S WHAT I
3 WANT YOU TO THINK ABOUT AND BE SURE ABOUT. THAT'S
4 WHAT I WANT YOU TO THINK ABOUT AND BE SURE ABOUT.

5 MR. HARPOOTLIAN: IF IT PLEASE THE
6 COURT, YOUR HONOR? HE'S ASKED THE QUESTION AND
7 SHE'S RESPONDED TO THE QUESTION. RULE 403.

8 THE COURT: I OVERRULE THE OBJECTION
9 IN LIGHT OF THE RESPONSES AT THIS POINT. BUT, I'M
10 GETTING CLOSE TO IT.

11 MR. JONES: ALL RIGHT.

12 Q YOU UNDERSTAND THAT THERE ARE NO RIGHT
13 ANSWERS OR WRONG ANSWERS. YOUR ANSWERS TODAY ARE
14 NOT RIGHT OR WRONG. WHAT WE WANT IS AN HONEST
15 ANSWER FROM YOU. THAT'S WHAT WE WANT IS...AND
16 HONESTY, YOU CAN'T BE HONEST WITH ME UNLESS YOU'RE
17 FIRST HONEST WITH YOURSELF.

18 A THAT'S RIGHT.

19 Q AND THAT'S WHAT I'M ASKING...

20 MR. HARPOOTLIAN: IF IT PLEASE THE
21 COURT, YOUR HONOR? AGAIN, I HATE TO INTERRUPT, BUT
22 THIS DIALOG IS NOT QUESTIONING.

23 MR. JONES: WHAT I'M...

24 THE COURT: ALL RIGHT. I SUSTAIN THE
25 OBJECTION AND IT WILL BE BOTH WAYS.

1 MR. HARPOOTLIAN: I UNDERSTAND.

2 THE COURT: ALL RIGHT, ASK THE
3 QUESTION.

4 Q ARE YOU BEING HONEST WITH ME WHEN YOU
5 SAY THAT YOU COULD VOTE TO IMPOSE THE DEATH PENALTY
6 IN A MURDER CASE?

7 A YES, SIR, I'M BEING HONEST WITH YOU.
8 I HAVE NO REASON TO NOT BE.

9 Q ALL RIGHT. AND SO YOU COULD VOTE FOR
10 THE DEATH PENALTY?

11 A YES, SIR, BUT I JUST...I JUST
12 DON'T...LIKE I SAID TO Y'ALL THAT I LOST A CHILD.
13 DO YOU KNOW WHAT I'M SAYING?

14 Q YES, MA'AM. UH-HUH.

15 A AND I'VE BEEN THINKING ABOUT THIS EVER
16 SINCE I READ THAT LETTER AND I'VE BEEN READING MY
17 BIBLE ABOUT IT AND I JUST...IN OTHER WORDS I WOULD
18 FEEL BETTER IF I DIDN'T HAVE NO SAY-SO IN SOMEBODY
19 TAKING SOMEBODY'S LIFE. DO YOU FOLLOW WHAT I'M
20 TRYING TO SAY BECAUSE...

21 Q YES, MA'AM, I THINK YOU DO. AND I
22 THINK MY QUESTION TO YOU HAS PROBABLY BEEN KIND OF
23 VAGUE OR WHATEVER. I DON'T KNOW WHETHER IT HAS OR
24 NOT. I ASK YOU, HAVE YOU UNDERSTOOD MY QUESTION?

25 A YES, SIR. HAVE YOU ASKED ME COULD I

1 LIVE WITH IT IF I SIGNED FOR SOMEBODY TO BE
2 EXECUTED, IS THAT RIGHT?

3 Q YES, MA'AM. UH-HUH. AND YOUR ANSWER?

4 A I DON'T THINK I COULD LIVE WITH IT.

5 Q WELL, IN THAT SENSE THEN, YOU WOULD
6 NOT DO IT?

7 MR. HARPOOTLIAN: OBJECTION, YOUR
8 HONOR.

9 THE COURT: SUSTAINED.

10 MR. HARPOOTLIAN: THAT'S NOT WHAT SHE
11 SAID.

12 THE COURT: SUSTAINED.

13 MR. JONES: WELL, JUDGE, MY QUESTION
14 WAS "COULD."

15 Q LET ME ASK YOU THIS QUESTION. IF YOU
16 SAT ON A JURY AND YOU FOUND SOMEBODY GUILTY OF
17 MURDER AND YOU WENT TO THE SENTENCING PHASE AND AT
18 THE SENTENCING PHASE YOU HAD TO DECIDE THE
19 APPROPRIATE PUNISHMENT: LIFE SENTENCE OR DEATH
20 PENALTY, AND THE JURY LOOKED AT THE CASE AND YOU
21 LOOKED AT THE CASE AND DECIDED THAT THE APPROPRIATE
22 PUNISHMENT, UNDER THAT SET OF CIRCUMSTANCES, WAS
23 THE DEATH PENALTY. WOULD YOU VOTE TO IMPOSE THE
24 DEATH PENALTY AND SIGN YOUR NAME OF VOTING TO
25 IMPOSE THE DEATH PENALTY?

1 A YES, IF IT WAS FOUND GUILTY AND THAT
2 WAS...AND I WAS ON THE JURY, YES, I WOULD. YES.
3 BUT, LIKE I'M TELLING YOU, IT WOULD BOTHER ME
4 AFTERWARDS. DO YOU FOLLOW ME?
5 Q YES, MA'AM, I DO. YES, MA'AM, I DO.
6 AND I HOPE YOU UNDERSTAND THAT I DO.
7 A I DO.
8 Q BUT, I'M PROSECUTING THIS CASE. DO
9 YOU UNDERSTAND THAT?
10 A YES, SIR, I DO.
11 Q AND AS SOLICITOR, I'M SEEKING THE
12 DEATH PENALTY...
13 MR. HARPOOTLIAN: OBJECTION, YOUR
14 HONOR.
15 THE COURT: SUSTAINED.
16 MR. HARPOOTLIAN: THANK YOU.
17 THE COURT: LISTEN, SHE'S NOT HOLDING
18 ANYTHING AGAINST YOU. SHE UNDERSTANDS.
19 MR. JONES: ALL RIGHT.
20 Q ALL RIGHT, THANK YOU.
21 A NO, SIR, I UNDERSTAND.
22 THE COURT: DO YOU HAVE ANY QUESTIONS.
23 MR. HARPOOTLIAN: JUST TWO QUESTIONS.
24 CROSS-EXAMINATION:
25 BY MR. HARPOOTLIAN:

1 Q WE TALKED A LOT ABOUT THE DEATH
2 PENALTY HERE. THE JUDGE HAS EXPLAINED, AND I WANT
3 TO MAKE SURE YOU UNDERSTAND, WE MAY NEVER GET TO
4 THAT STAGE. THE JURY, IN A CASE SUCH AS THIS, HAS
5 TO FIRST OF ALL HEAR THE EVIDENCE AS TO GUILT OR
6 INNOCENCE. DO UNDERSTAND THAT, MA'AM?

7 A YES, SIR.

8 Q BY THE WAY, I'M DICK HARPOOTLIAN AND
9 JACK SWERLING AND I...

10 MR. SWERLING: HELLO.

11 Q ...REPRESENT STEPHEN BECKHAM, THAT'S
12 THAT YOUNG MAN RIGHT HERE. OKAY?

13 A UH-HUH. (YES).

14 Q HE'S THE ONE ON TRIAL. AND THE STATE
15 WOULD HAVE TO PROVE TO YOU BEYOND A REASONABLE
16 DOUBT...YOU SHOULD PRESUME HIM INNOCENT. DO YOU
17 UNDERSTAND THAT? CAN YOU PRESUME HIM INNOCENT?

18 A IF THEY COULD PROVE IT.

19 Q WELL, NO, NO. THE PRESUMPTION OF
20 INNOCENCE, AS THE JUDGE HAS SAID TO YOU...

21 A YES, UH-HUH.

22 Q OKAY. FINE. I'M FINE. THANK YOU SO
23 MUCH.

24 THE COURT: ALL RIGHT, MS. CAPPS, YOU
25 UNDERSTAND THAT IN THIS STATE THAT A TRIAL JUDGE

1 WHEN HE GIVES INSTRUCTIONS THAT THAT IS THE LAW OF
2 THE STATE IN THAT CASE? YOU SAID THAT YOU WOULD
3 FOLLOW THE LAW?

4 A I WILL.

5 THE COURT: ALL RIGHT.

6 A I'VE NEVER BEEN IN TROUBLE AND I NEVER
7 INTEND TO BE.

8 THE COURT: AND YOU WILL FOLLOW MY
9 INSTRUCTIONS?

10 A YES, SIR.

11 THE COURT: ALL RIGHT. ANY QUESTIONS?

12 MR. JONES: NO, SIR.

13 MR. HARPOOTLIAN: NO, SIR.

14 THE COURT: ALL RIGHT, ONES? MS.

15 CAPPS, YOU HAVE QUALIFIED TO BE AT LEAST CONSIDERED
16 TO BE PUT ON THE JURY -- NOT THAT YOU'RE ON IT YET.

17 BUT WE'RE GOING TO STRIKE THAT JURY IN JUST A
18 LITTLE WHILE. YOU MIGHT MAKE IT, YOU MIGHT NOT.

19 BUT, THESE PEOPLE HAVE EXAMINED YOU AND I'VE
20 QUALIFIED YOU AS A FAIR AND IMPARTIAL JUROR AND I
21 BELIEVE THAT YOU ARE. SO, I NEED...Y'ALL GIVE ME A
22 LITTLE GUIDANCE ABOUT YOUR...I'M AT TEN MINUTES
23 'TIL SEVEN AND I'VE GOT TO GIVE HER SOME IDEA ABOUT
24 IT.

25 MR. HARPOOTLIAN: WELL, YOUR HONOR, I

1 THINK WE'VE GOT ENOUGH TO DEAL WITH THE FIRST ONE.
2 WE COULD PROBABLY MAKE THAT DECISION IN THE NEXT
3 FIVE MINUTES.

4 THE COURT: CAN YOU DO IT IN THREE OR
5 FOUR MINUTES?

6 MR. JONES: THE FIRST ONE?

7 THE COURT: YEAH.

8 MR. JONES: YES, SIR.

9 THE COURT: LET ME ASK YOU, IF YOU
10 WOULD, JUST TO STEP OUTSIDE JUST A FEW MINUTES.
11 DON'T DISCUSS WITH ANYONE...

12 A ALL RIGHT, SIR.

13 BAILIFF: WAIT OUT HERE?

14 THE COURT: YEAH, SHE CAN JUST WAIT
15 RIGHT THERE. THEY CAN PRETTY WELL DO IT...

16 (JUROR IS EXCUSED FROM THE OPEN
17 COURTROOM)

18 THE COURT: NOW, BEFORE WE GET TO...SO
19 THERE'S NO MISUNDERSTANDING NOW, WE HAVE QUALIFIED
20 FOUR.

21 MR. HARPOOTLIAN: FOUR. YES, SIR.

22 THE COURT: AND WE WILL START DOWN THE
23 LIST AND IF WE GET ONE WITHIN THE FIRST THREE
24 PEOPLE THEN THAT'S THE NEXT ONE...THE NEXT ONE'S
25 UP, THAT TYPE OF THING.

1 MR. JONES: THAT'S FINE.

2 MR. HARPOOTLIAN: WELL, YES, SIR, BUT
3 WHAT WE'D DO IS...WHAT I'M SAYING, YOUR HONOR, IS
4 THIS. IF WE, FOR INSTANCE, WE SAT...LET'S SAY WE
5 TOOK MR. WALKER, NUMBER ONE, WE BOTH AGREED ON HIM,
6 WE'D HAVE THREE LEFT. WHAT WE'D WANT TO DO AT THAT
7 POINT IS TO QUALIFY ONE MORE SO THAT WE WOULD HAVE
8 A FULL FOUR.

9 THE COURT: OH, I UNDERSTAND THAT.

10 MR. HARPOOTLIAN: IF WE SAT MS. SCOTT
11 AND THERE'S ONE LEFT, WE WOULD WANT TO QUALIFY TWO
12 OR THREE MORE. WE MAY...I'M JUST...

13 THE COURT: ALL RIGHT. WE'RE SINGING
14 OUT OF THE SAME HYMN BOOK.

15 MR. HARPOOTLIAN: OKAY. AND WE'RE
16 BASICALLY READY RIGHT NOW.

17 THE COURT: ARE YOU READY, SOLICITOR?

18 MR. JONES: YES, SIR.

19 THE COURT: ALL RIGHT. MADAM CLERK,
20 BEGINNING WITH RICHARD WALKER, NUMBER 226?

21 CLERK: NUMBER 226, RICHARD WALKER,
22 WHAT SAYETH THE STATE?

23 MR. JONES: PLEASE PRESENT MR. WALKER.
24 WE ACCEPT HIM.

25 MR. HARPOOTLIAN: EXCUSE HIM, PLEASE.

1 CLERK: NUMBER 130, SAMUEL LEONARD.

2 WHAT SAYETH THE STATE?

3 MR. JONES: PLEASE PRESENT MR.

4 LEONARD. WE ACCEPT HIM.

5 MR. HARPOOTLIAN: EXCUSE HIM, PLEASE.

6 CLERK: NUMBER 195, CAROL J. SCOTT.

7 WHAT SAYETH THE STATE?

8 MR. JONES: PLEASE EXCUSE MS. SCOTT

9 FROM THIS TRIAL.

10 CLERK: NUMBER 28, EDNA A. CAPPS.

11 WHAT SAYETH THE STATE?

12 MR. JONES: PLEASE PRESENT THE JUROR.

13 WE ACCEPT HER.

14 CLERK: FOR DEFENSE?

15 MR. HARPOOTLIAN: WE'RE BOTH OUT OF

16 BULLETS, SO...

17 THE COURT: THAT'S RIGHT. BRING MS.

18 CAPPS IN. I CAN TELL HER FOR SURE SHE'S GOING TO

19 NEWBERRY.

20 (JUROR IS RETURNED TO THE OPEN

21 COURTROOM)

22 THE COURT: MS. CAPPS, I NEED FOR YOU

23 TO GO HOME AND SEE IF YOU CAN PACK AND BE READY TO

24 GO TO NEWBERRY FOR A PERIOD OF UP TO TEN DAYS.

25 SLED'S GOING TO TAKE YOU DOWN THERE AND PROVIDE FOR

1 YOUR TRANSPORTATION AND YOUR SECURITY AND WE'VE GOT
2 A NICE ROOM AND MEALS AND THAT KIND OF STUFF FOR
3 YOU.

4 A YES, SIR.

5 THE COURT: WHAT I WANT TO FOCUS ON AT
6 THIS POINT IN TIME, WE'RE GOING TO DEAL WITH THE
7 ISSUES IN THE TRIAL AND THEN I'LL DEAL WITH
8 ANYTHING ELSE THAT NEEDS TO BE AFTER THE CASE.
9 OKAY? I WANT YOU TO DO YOUR JOB IN THIS CASE AS
10 YOU'LL BE SWORN TO DO.

11 DO YOU NEED SOMEBODY TO GO WITH YOU TO
12 HELP YOU PACK?

13 A DO I COME BACK TONIGHT?

14 THE COURT: YES, MA'AM.

15 A I AM IN CHARGE OF A CHILD IN CLEMSON
16 UNIVERSITY AND I NEED TO GET IN CONTACT WITH HIM
17 AND GIVE HIM A KEY WHERE HE CAN COME STAY...

18 THE COURT: ALL RIGHT. WE'LL MAKE THE
19 ARRANGEMENTS FOR THAT. CAN I SEND A SLED AGENT
20 WITH YOU TO HELP YOU?

21 A IF YOU WANT TO. IT DOESN'T...

22 THE COURT: ALL RIGHT.

23 A THEY'D HAVE ME IN JAIL, MY NEIGHBORS
24 WILL.

25 THE COURT: NO, I'LL DO ANYTHING TO DO