

VOLUME ONE OF SIX

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY

Edward W. Miller, Circuit Court Judge

RECEIVED

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

FREDRICK ANTONIO EVINS,

APPELLANT

RECORD ON APPEAL

ROBERT M. DUDEK
Deputy Chief Attorney for Capital Appeals

AILEEN P. CLARE
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorneys for Appellant

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

DERRICK K. MCFARLAND
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

(803) 734-3727

HAROLD W. GOWDY, III
Solicitor, Seventh Judicial Circuit
Spartanburg County Courthouse
180 Magnolia Street, 3rd Floor
Spartanburg, SC 29306-2335
(864) 596-2575

Attorneys for Respondent

VOLUME ONE
PAGES 1 – 500

INDEX

INDEX	i
TRIAL TRANSCRIPT	1
COURT REPORTER'S INDEX.....	2
JURY QUALIFICATION	24
PRE-TRIAL MOTIONS	118
INDIVIDUAL VOIR DIRE	127
JUROR #102 – JOHN FOSTER	
By the Court.....	131
By Mr. Gowdy	137
By Mr. Boggs.....	137
JUROR #284 – ROBERT PERRY, JR.	
By the Court.....	144
By Mr. Brough.....	149
By Mr. Gowdy	157
JUROR #205 – WILLIAM KLUTZ	
By the Court.....	162
By Mr. Gowdy	169
By Ms. Quimby.....	170
JUROR #111– WAYNE GAMBRELL	
By the Court.....	181
By Mr. Boggs.....	186
By Mr. Barnette	200
JUROR #347 – ELAINE STEWART	
By the Court.....	208
By Mr. Barnette	216
By Ms. Quimby.....	218
JUROR #208 – KAREN LANFORD	
By the Court.....	226
By Mr. Brough.....	233
By Mr. Barnette	240

INDIVIDUAL VOIR DIRE – TUESDAY, NOVEMBER 9, 2004.....	246
JUROR #268 – MYRA NICHOLS	
By the Court.....	250
By Mr. Gowdy	258
By Ms. Quimby.....	259
JUROR #78 – ANNIE DAVIS	
By the Court.....	271
By Mr. Boggs.....	280
By Mr. Gowdy	288
JUROR #163 – WILLIAM HORTON	
By the Court.....	292
By Mr. Barnette	298
By Mr. Brough.....	300
By The Court.....	310
JUROR #241 – MICHAEL MCGRATH	
By the Court.....	311
JUROR #388 – JOEL WILLIAMS, JR.	
By the Court.....	316
By Mr. Anthony	324
By Mr. Brough.....	326
By The Court.....	331
JUROR #172 – DEREK HUNTSINGER	
By the Court.....	334
By Mr. Brough.....	339
By Mr. Anthony.....	344
By the Court.....	346
JUROR #316 – MARK ROLLER	
By the Court.....	348
JUROR #19 – DONALD BOWER	
By the Court.....	353
JUROR #258 – PATRICIA MURPHY	
By the Court.....	353
JUROR #316 – MARK ROLLER	
By the Court.....	354
By Mr. Gowdy	360
By Ms. Quimby.....	363

JUROR #258 – PATRICIA MURPHY

By the Court.....	368
By Ms. Quimby.....	379
By Mr. Gowdy	380
By the Court.....	384

JUROR #19 – DONALD BOWER

By the Court.....	385
By Mr. Barnette	391
By Mr. Boggs.....	394
By the Court.....	403

JUROR #164 – WILLIAM HOSPODAR

By the Court.....	404
By Mr. Brough.....	410
By Mr. Barnette	416

JUROR #422 – NEDDIE RICHARDS

By the Court.....	422
By Mr. Anthony.....	428
By Mr. Brough.....	432
By the Court.....	435

JUROR #66 – ALLEN COMBS

By the Court.....	436
By Mr. Boggs.....	442
By Mr. Anthony.....	448

INDIVIDUAL VOIR DIRE (JUROR PANEL NO. 4).....451

JUROR #86 – KATHERINE DUNLEAVY

By the Court.....	455

JUROR #212 – ANTHONY LEE

By the Court.....	456
By Mr. Barnette	465
By Mr. Boggs.....	470
By the Court.....	474

JUROR #56 – SANDRA CHAPMAN

By the Court.....	476
By Ms. Quimby.....	484
By Mr. Barnette	490

JUROR #86 – KATHERINE DUNLEAVY	
By the Court.....	498

VOLUME TWO

JUROR #86 – KATHERINE DUNLEAVY	
By the Court.....	501
By Mr. Anthony.....	506

JUROR #182 – SABRINA JENKINS	
By the Court.....	507
By Mr. Brough.....	515
By Mr. Gowdy.....	516
By the Court.....	521

JUROR #273 – BARBARA OWENS	
By the Court.....	529
By Mr. Anthony.....	535
By Ms. Quimby.....	541
By the Court.....	544

JUROR #54 – P.S. CECIL, III	
By the Court.....	547
By Mr. Boggs.....	555
By Mr. Gowdy.....	561
By the Court.....	573

INDIVIDUAL VOIR DIRE (JUROR PANEL NO. 5).....	577

JUROR #296 – LESLIE PUTZE	
By the Court.....	582
By Mr. Barnette.....	590
By Ms. Quimby.....	594
By the Court.....	600

JUROR #320 – PHILLIP SANDERS	
By the Court.....	602
By Mr. Brough.....	611
By Mr. Barnette.....	617

JUROR #309 – PAMELA RIDINGS	
By the Court.....	622
By Mr. Anthony.....	630

JUROR #108 – LIZZIE FRAWLEY

By the Court.....	637
By Mr. Boggs.....	645
By Mr. Gowdy.....	648
By the Court.....	651

JUROR #244 – NORMA MCMAKIN

By the Court.....	656
By Mr. Anthony.....	665
By Mr. Brough.....	668

JUROR #281 – RITA PEARSON

By the Court.....	675

INDIVIDUAL VOIR DIRE - WEDNESDAY, NOVEMBER 10, 2004.....678

JUROR #161 – CHERIE HOLSTEN

By the Court.....	684

JUROR #234 – KIM MAY

By the Court.....	685
By Mr. Barnette.....	696
By Ms. Quimby.....	698
By the Court.....	703

JUROR #149 – MICHAEL HENLINE

By the Court.....	706
By Mr. Boggs.....	711
By Mr. Barnette.....	722

JUROR #24 – BARBARA BRENDLE

By the Court.....	727
By Mr. Anthony.....	736
By Mr. Brough.....	739

JUROR #300 – THOMAS RAY, JR.

By the Court.....	749
By Mr. Brough.....	756
By Mr. Anthony.....	762
By the Court.....	763

JUROR #161 – CHERIE HOLSTEN

By the Court.....	764

JUROR #124 – AARON GRAY	
By the Court.....	769
By Mr. Gowdy	778
By Mr. Boggs.....	786
INDIVIDUAL VOIR DIRE (JUROR PANEL NO. 7).....	792
JUROR #101 – LARRY FORD	
By the Court.....	797
JUROR #32 – KRISTINE BROWN	
By the Court.....	797
JUROR #101 – LARRY FORD	
By the Court.....	798
By Mr. Boggs.....	806
By Mr. Barnette	816
JUROR #156 – ELIZABETH HILL	
By the Court.....	821
By Mr. Barnette	830
By Mr. Brough.....	833
JUROR #180 – MARY JAMES	
By the Court.....	839
JUROR #32 – KRISTINE BROWN	
By the Court.....	849
By Ms. Quimby.....	856
By Mr. Gowdy	864
JUROR #105 – JAMES FOSTER, JR.	
By the Court.....	872
By Mr. Anthony.....	878
By Mr. Boggs.....	881
By the Court.....	885
JUROR #246 – LINDA MEANS	
By the Court.....	889
By Mr. Brough.....	899
By Mr. Anthony.....	901
By the Court.....	910
INDIVIDUAL VOIR DIRE (JUROR PANEL NO. 8).....	914

JUROR #204 – BETTY KIRBY	
By the Court.....	920
By Mr. Gowdy	929
By Ms. Quimby.....	931

JUROR #112 – HOWARD GARLAND	
By the Court.....	939
By Mr. Boggs.....	946
By Mr. Gowdy	953

JUROR #326 – DOUGLAS SEIF	
By the Court.....	956
By Mr. Barnette	964
By Mr. Brough.....	967
By the Court.....	970

JUROR #14 – EMILY BIVENS	
By the Court.....	971

JUROR #137 – CHARLEY GWINN	
By the Court.....	999

VOLUME THREE

JUROR #137 – CHARLEY GWINN	
By the Court.....	1001
By Mr. Anthony	1006
By Ms. Quimby.....	1011
By the Court.....	1018

INDIVIDUAL VOIR DIRE (JUROR PANEL NO. 9).....	1019

JUROR #237 – CYNTHIA MCCRARY	
By the Court.....	1026

JUROR #154 – ROSETTA HIGGINS	
By the Court.....	1034
By Mr. Gowdy	1041
By Ms. Quimby.....	1046

JUROR #210 – BEVERLY SCHULTE	
By the Court.....	1052
By Mr. Brough.....	1060
By Mr. Anthony	1066

JUROR #91 – JOANN ERTZBERGER	
By the Court.....	1072
By Mr. Barnette	1078
By Mr. Boggs.....	1081
JUROR #107 – DOUGLAS FOWLER	
By the Court.....	1085
JUROR #269 – JIMMY NORMAN	
By the Court.....	1094
By Mr. Barnette	1101
By Ms. Quimby.....	1104
INDIVIDUAL VOIR DIRE – THURSDAY, NOVEMBER 11, 2004	1123
JUROR #155 – CAROLE HIGHTOWER	
By the Court.....	1129
INDIVIDUAL VOIR DIRE (JUROR PANEL NO. 10).....	1132
JUROR #197 – SUSAN KANIPE	
By the Court.....	1135
By Ms. Quimby.....	1142
By Mr. Gowdy	1144
JUROR #155 – CAROLE HIGHTOWER	
By the Court.....	1150
JUROR #118 – TINA GODFREY	
By the Court.....	1160
By Mr. Barnette	1174
By the Court.....	1181
JUROR #11 – SHELTON BENJAMIN	
By the Court.....	1186
By Mr. Boggs.....	1194
By Mr. Barnette	1198
By the Court.....	1202
JUROR #165 – JACKIE HOSTETLER	
By the Court.....	1206
JUROR #346 – CHRISTY STEWART	
By the Court.....	1214
By Mr. Anthony	1222
By Mr. Brough.....	1225

INDIVIDUAL VOIR DIRE	1228
JUROR #380– KENNETH WILKINS	
By the Court	1233
JUROR #153 – PHYLLIS HIGGINS	
By the Court	1238
By Mr. Brough	1243
By Mr. Barnette	1246
JUROR #264 – STEPHANIE NEWMAN	
By the Court	1249
By Mr. Barnette	1259
By Ms. Quimby	1262
JUROR #399 – JOHNNY YOUNG	
By the Court	1270
By Mr. Boggs	1283
By Mr. Anthony	1288
MATTERS OF LAW	1300
JURY SELECTION	1331
MOTIONS	1347
MATTERS OF LAW	1364
INTRODUCTORY REMARKS BY THE COURT	1370
OPENING STATEMENT BY MR. ANTHONY	1381
OPENING STATEMENT BY MR. BOGGS	1385
TESTIMONY	
WILLIAM F. SOUTHERLAND, JR.	
Direct Examination	1392
Cross Examination	1404
Redirect Examination	1412
Recross Examination	1413
COLEY PEAK	
Direct Examination	1413
Cross Examination	1419

DANIEL R. BRIDWELL.

Direct Examination.....	1424
Cross Examination	1429
Redirect Examination	1436

SAMANTHA PARSONS

Direct Examination.....	1440
Cross Examination	1444

DEAN WILLIAMS

Direct Examination.....	1450
Cross Examination	1466

MICHAEL RAY HILL

Direct Examination.....	1468
Cross Examination	1471

MATTERS OF LAW	1472

TESTIMONY

MICHAEL RAY HILL

Cross Examination - Continued	1474

JANICE HOLLEY

Direct Examination.....	1476
Cross Examination	1483

LARRY CAMPBELL

Direct Examination.....	1487

JIMMY BRUCE

Direct Examination.....	1496

VOLUME FOUR

TESTIMONY

ANSILL EDWARD COOLEY

Direct Examination.....	1502

MATTERS OF LAW	1507

TESTIMONY

RANDY EUGENE BOGAN

Direct Examination.....	1513
Cross Examination	1542

MATTERS OF LAW	1548

TESTIMONY

TERESA JOHNSON SMITH (IN CAMERA)

Examination By The Court.....	1549
Direct Examination (Jury In).....	1559
Cross Examination	1582

CHRISTOPHER SWITZER

Direct Examination.....	1597
Cross Examination	1600

DENNIS O'NEAL MEREDITH

Direct Examination.....	1611
Cross Examination	1630

TONY JONES

Direct Examination.....	1636

EUGENE EDWARDS

Direct Examination.....	1646
Cross Examination	1656

SHAUN SWEET

Direct Examination.....	1661
Cross Examination	1672

JASON YOWN

Direct Examination.....	1678

MATTERS OF LAW	1707

TESTIMONY

JASON YOWN

Direct Examination - Continued	1708
Cross Examination	1711
Redirect Examination	1738
Recross Examination	1742

TESTIMONY

KRISTOPHER BRIAN HARRINGTON

Direct Examination.....1744

STEVEN L. DENTON

Direct Examination.....1748

JEREMY COURTNEY

Direct Examination.....1762

Cross Examination 1769

JANICE HENDERSON

Direct Examination.....1771

WILLIAM REX HARRIS

Direct Examination.....1776

Cross Examination 1781

BRIAN SHRUM

Direct Examination.....1783

CHRIS OLSEN

Direct Examination.....1786

JOHN DAVID WREN, M.D.

Direct Examination.....1790

Cross Examination 1805

MATTERS OF LAW 1811

TESTIMONY

RANDY EUGENE BOGAN

Further Direct Examination.....1815

Further Cross Examination 1820

Redirect Examination 1822

Recross Examination.....1823

ALLEN MASON

Direct Examination.....1824

WENDY M. ALLEY

Direct Examination.....1826

EDDIE ALTON HARMON	
Direct Examination.....	1829
MEREDITH C. HIPPI	
Direct Examination.....	1832
TARA SKITTLE MCABEE	
Direct Examination.....	1837
ROBERT ROSENBERG	
Direct Examination.....	1838
ALEX G. LEWIS	
Direct Examination.....	1841
JACK D. BISHOP	
Direct Examination.....	1848
ROBERT ROSENBERG	
Further Direct Examination.....	1850
BETTY BUTLER	
Direct Examination.....	1854
EMILY D. NORRIS	
Direct Examination.....	1856
CHARLENA TINSLEY	
Direct Examination.....	1862
JOHN C. BARRON	
Direct Examination.....	1864
Cross Examination	1873
STATE RESTS.....	1876
MOTIONS	1877
QUESTIONING OF THE DEFENDANT.....	1884
TESTIMONY	
FREDRICK ANTONIO EVINS	
Direct Examination.....	1889
Cross Examination	1933

TERRY COCHRAN	
Direct Examination.....	1965
Cross Examination	1969
DEFENSE RESTS	1970
REPLY TESTIMONY	
STEVEN L. DENTON	
Further Direct Examination.....	1970
STATE RESTS.....	1971
MATTERS OF LAW	1973
RENEWAL OF MOTIONS	1976
MATTERS OF LAW	1978
CLOSING ARGUMENT BY MR. GOWDY	1980
CLOSING ARGUMENT BY MR. BOGGS	1999

VOLUME FIVE

CLOSING ARGUMENT BY MR. BOGGS	2001
CHARGE ON THE LAW	2023
MATTERS OF LAW	2036
VERDICT	2042
MOTIONS	2043
MATTERS OF LAW	2044

PENALTY PHASE

INTRODUCTORY REMARKS BY THE COURT	2099
OPENING STATEMENT BY MR. BARNETTE	2103
OPENING STATEMENT BY MS. QUIMBY	2106

TESTIMONY

WILLIAM F. SOUTHERLAND, JR.

Further Direct Examination.....2107

Further Cross Examination 2110

REBECCA LATHAN

Direct Examination.....2110

GENEVA GREENE

Direct Examination.....2115

Cross Examination 2118

CHARLENA TINSLEY

Further Direct Examination.....2119

CHARLES JERRY KNIGHTON

Direct Examination.....2122

Cross Examination 2132

JAMES PARIS

Direct Examination.....2133

Cross Examination 2138

CHARLENA TINSLEY

Further Direct Examination.....2139

CANDY DENISE HILL

Direct Examination.....2145

Cross Examination 2156

KIMBERLY DAWN VANCE CARTER

Direct Examination.....2158

LARRY NIMMONS, JR.

Direct Examination.....2163

KIZZY ANN SMITH

Direct Examination.....2165

Cross Examination 2171

TESTIMONY

TERRY SMITH

Direct Examination.....2172

GROVER BERRY	
Direct Examination.....	2179
Cross Examination	2183

DOUG SMITH	
Direct Examination.....	2185

ANNICE SPENCER STATIN	
Direct Examination.....	2198
Cross Examination	2171

MATTERS OF LAW	2210

TESTIMONY

BENJAMIN WARREN WHITNER	
Direct Examination.....	2222

JAMES HUFF	
Direct Examination.....	2225

LOUIS DISCHER	
Direct Examination.....	2228

DAVID WAYNE RAVAN	
Direct Examination.....	2233

ROBERT CHARLES TALANGES	
Direct Examination.....	2240

JOHN DAVID WREN, M.D.	
Direct Examination.....	2261

MATTERS OF LAW	2270

TESTIMONY

JOHN BELL	
Direct Examination.....	2276

DAVID HOGSED	
Direct Examination.....	2281

JOHN DAVID WREN, M.D.	
Further Direct Examination.....	2283

GEORGE DAVID REEVES	
Direct Examination.....	2285
Cross Examination.....	2288
Redirect Examination	2289
KENNETH BOGAN	
Direct Examination.....	2290
Cross Examination.....	2299
Redirect Examination	2300
Recross Examination	2300
SHAUN PATRICK ADKINS	
Direct Examination.....	2301
Cross Examination.....	2304
Redirect Examination	2305
BRIDGETT FOSTER TAYLOR	
Direct Examination.....	2306
Cross Examination.....	2309
JIMMY SLIGH	
Direct Examination.....	2310
Cross Examination.....	2315
CHARLENA TINSLEY	
Further Direct Examination.....	2317
Cross Examination.....	2323
Redirect Examination	2324
FAITH GOODWIN	
Direct Examination.....	2325
RANDY EUGENE BOGAN	
Further Direct Examination.....	2331
MOTIONS	2337
MATTERS OF LAW	2338
TESTIMONY	
THOMAS MARTIN, M.D.	
Direct Examination.....	2343
MATTERS OF LAW	2392

TESTIMONY

PAMELA CRAWFORD, M.D. (IN CAMERA)

Examination By The Court.....2394

Examination By Mr. Gowdy 2396

MATTERS OF LAW 2400

TESTIMONY

THOMAS MARTIN, M.D. (IN CAMERA)

Examination By The Court.....2402

Examination By Mr. Gowdy 2406

MATTERS OF LAW 2408

QUESTIONING OF THE DEFENDANT.....2413

MATTERS OF LAW 2422

TESTIMONY

CHARLENA TINSLEY

Direct Examination.....2425

Cross Examination.....2427

Redirect Examination 2428

JAMES FRANKLIN EVANS

Direct Examination.....2428

Cross Examination.....2439

WILLY LEE COLLINS

Direct Examination.....2441

Cross Examination.....2457

MINDY AIKEN

Direct Examination.....2458

Cross Examination.....2462

DEBORAH C. PHILBECK

Direct Examination.....2464

Cross Examination.....2469

AUBRIANNA MARQUIS EVANS

Direct Examination.....2471

QUESTIONING OF THE DEFENDANT.....	2477

TESTIMONY

THOMAS MARTIN, M.D.

Direct Examination.....	2481
Cross Examination.....	2482

VOLUME SIX

THOMAS MARTIN, M.D.

Cross Examination.....	2501
Redirect Examination	2504
Recross Examination	2509

DEFENSE RESTS	2510

TESTIMONY

PAMELA CRAWFORD, M.D.

Direct Examination.....	2511
Cross Examination.....	2521

STATE RESTS.....	2526

TESTIMONY

PAMELA CRAWFORD, M.D. (IN CAMERA)

Further Direct Examination.....	2528

MATTERS OF LAW	2531

CLOSING ARGUMENT BY MR. GOWDY	2536

CLOSING ARGUMENT BY MS. QUIMBY	2551

CHARGE ON THE LAW.....	2568

VERDICT	2593

SENTENCING	2587

PRE-TRIAL HEARING - MARCH 30, 2004	2590

PRE-TRIAL HEARING – OCTOBER 27, 2004	2604

TESTIMONY

STEVE DENTON

Direct Examination.....	2606
Cross Examination.....	2631

JASON YOWN

Direct Examination.....	2652
Cross Examination.....	2665

PRE-TRIAL TRANSCRIPT – OCTOBER 27, 2004.....	2668

MEMORANDUM IN SUPPORT OF THE STATE’S INTRODUCTION OF EVIDENCE IN THE SENTENCING PHASE.....	2705

MEDIA COVERAGE	2708

COURT’S EXHIBIT 14 (WSPA TELEVISION BROADCAST TRANSCRIPT).....	2711

COURT’S EXHIBIT 15 (NEWSPAPER ARTICLE – 9/18/02)	2735

COURT’S EXHIBIT 16 (NEWSPAPER ARTICLE – 2/15/03)	2736

COURT’S EXHIBIT 17 (NEWSPAPER ARTICLE – 2/16/03)	2737

COURT’S EXHIBIT 18 (NEWSPAPER ARTICLE – 2/17/03)	2738

COURT’S EXHIBIT 19 (NEWSPAPER ARTICLE – 2/18/03)	2739

COURT’S EXHIBIT 20 (NEWSPAPER ARTICLE – 2/19/03)	2740

COURT’S EXHIBIT 21 (NEWSPAPER ARTICLE – 2/16/03)	2741

COURT’S EXHIBIT 26 (NEWSPAPER ARTICLE – 4/13/03)	2750

COURT’S EXHIBIT 27 (NEWSPAPER ARTICLE – 6/22/03)	2752

COURT’S EXHIBIT 28 (NEWSPAPER ARTICLE – 6/22/03)	2754

COURT’S EXHIBIT 29 (NEWSPAPER ARTICLE – 7/11/03)	2755

COURT’S EXHIBIT 30 (NEWSPAPER ARTICLE – 8/30/03)	2756

COURT’S EXHIBIT 31 (NEWSPAPER ARTICLE – 11/8/04)	2757

COURT’S EXHIBIT 23 (NEWSPAPER ARTICLE – 3/22/03)	2758

COURT’S EXHIBIT 24 (NEWSPAPER ARTICLE – 3/22/03)	2759
COURT’S EXHIBIT 25 (THREE NEWSPAPER ARTICLES)	2761
COURT’S EXHIBIT 22 (NEWSPAPER ARTICLE – 3/1/03)	2764
COURT’S EXHIBIT 3 (NEWSPAPER ARTICLE – 11/8/04)	2765
INDICTMENTS	2766
CERTIFICATE OF APPELLANT	2772

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

COURT OF GENERAL SESSIONS

2003-GS-42-2532

2003-GS-42-2533

2003-GS-42-2534

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

FREDRICK ANTONIO EVINS,)
A/K/A FREDRICK ANTONIO EVANS,)

DEFENDANT.)

November 8, 9, 10, 11,
12, 13, 14, 15, 16, 17,
18, and 19, 2004
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE; and a jury.

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

HAROLD W. GOWDY, III, Solicitor
BARRY J. BARNETTE, Deputy Solicitor
JOHN C. ANTHONY, Assistant Solicitor
J. DONALD WILLINGHAM, II, Deputy Solicitor

THOMAS A.M. BOGGS, Esq.
KAREN M. QUIMBY, Esq.
CHRISTOPHER BROUGH, Esq.
Attorneys for the Defendant

HOLLIE M. JENKINS
Official Court Reporter

I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

Page No.

Jury Qualification.....	24
Pre-Trial Motions.....	118
Individual Voir Dire.....	127

Tuesday, November 9, 2004

Individual Voir Dire.....	246

Wednesday, November 10, 2004

Individual Voir Dire.....	678

Thursday, November 11, 2004

Individual Voir Dire.....	1,124
Matters of Law.....	1,300
Jury Selection.....	1,331
Motions.....	1,347

Friday, November 12, 2004

Matters of Law.....	1,364
Introductory Remarks by the Court.....	1,370
Opening Statement by Mr. Anthony.....	1,381
Opening Statement by Mr. Boggs.....	1,385

(SW) WILLIAM F. SOUTHERLAND, JR.:

Direct Examination by Mr. Gowdy.....	1,392
Cross-Examination by Mr. Boggs.....	1,404
Redirect Examination by Mr. Gowdy.....	1,412
Recross-Examination by Mr. Boggs.....	1,413

(SW) COLEY PEAK:

Direct Examination by Mr. Gowdy.....	1,413
Cross-Examination by Mr. Boggs.....	1,419

INDEX (CONTINUED)

(SW) DANIEL R. BRIDWELL:

Direct Examination by Mr. Barnette.....1,424

Cross-Examination by Mr. Boggs.....1,429

Redirect Examination by Mr. Barnette.....1,436

(SW) SAMANTHA PARSONS:

Direct Examination by Mr. Anthony.....1,440

Cross-Examination by Mr. Boggs.....1,444

(SW) DEAN WILLIAMS:

Direct Examination by Mr. Gowdy.....1,450

Cross-Examination by Mr. Boggs.....1,456

(SW) DANIEL WILLIAMS:

Direct Examination by Mr. Gowdy.....1,458

Cross-Examination by Mr. Boggs.....1,466

(SW) MICHAEL RAY HILL:

Direct Examination by Mr. Barnette.....1,468

Cross-Examination by Mr. Boggs.....1,471

Matters of Law.....1,472

(SW) MICHAEL RAY HILL:

Continued Cross-Examination by Mr. Boggs.....1,474

(SW) JANICE HOLLEY:

Direct Examination by Mr. Gowdy.....1,476

Cross-Examination by Mr. Boggs.....1,483

(SW) LARRY CAMPBELL:

Direct Examination by Mr. Gowdy.....1,487

(SW) JIMMY BRUCE:

Direct Examination by Mr. Gowdy.....1,496

(SW) ANSILL EDWARD COOLEY:

Direct Examination by Mr. Gowdy.....1,502

Matters of Law.....1,507

(SW) RANDY EUGENE BOGAN:

Direct Examination by Mr. Barnette.....1,513

Cross-Examination by Mr. Boggs.....1,542

INDEX (CONTINUED)

Matters of Law.....1,548

(SW) TERESA JOHNSON SMITH (IC):

Examination by the Court.....1,549

(SW) TERESA JOHNSON SMITH:

Direct Examination by Mr. Anthony.....1,559

Cross-Examination by Mr. Boggs.....1,582

(SW) CHRISTOPHER SWITZER:

Direct Examination by Mr. Barnette.....1,597

Cross-Examination by Mr. Boggs.....1,600

(SW) DENNIS O'NEAL MEREDITH:

Direct Examination by Mr. Gowdy.....1,611

Cross-Examination by Mr. Boggs.....1,630

Saturday, November 13, 2004

(SW) TONY JONES:

Direct Examination by Mr. Anthony.....1,636

(SW) EUGENE EDWARDS:

Direct Examination by Mr. Gowdy.....1,646

Cross-Examination by Mr. Boggs.....1,656

(SW) SHAUN SWEET:

Direct Examination by Mr. Anthony.....1,661

Cross-Examination by Mr. Boggs.....1,672

(SW) JASON YOWN:

Direct Examination by Mr. Gowdy.....1,678

Matters of Law.....1,707

(SW) JASON YOWN:

Continued Direct Examination by Mr. Gowdy.....1,708

Cross-Examination by Mr. Boggs.....1,711

Redirect Examination by Mr. Gowdy.....1,738

Recross-Examination by Mr. Boggs.....1,742

(SW) KRISTOPHER BRIAN HARRINGTON:

Direct Examination by Mr. Barnette.....1,744

INDEX (CONTINUED)

<u>(SW) STEVEN L. DENTON:</u>	
Direct Examination by Mr. Gowdy.....	1,748
<u>(SW) JEREMY COURTNEY:</u>	
Direct Examination by Mr. Anthony.....	1,762
Cross-Examination by Mr. Boggs.....	1,769
<u>(SW) JANICE HENDERSON:</u>	
Direct Examination by Mr. Anthony.....	1,771
<u>(SW) WILLIAM REX HARRIS:</u>	
Direct Examination by Mr. Barnette.....	1,777
Cross-Examination by Mr. Boggs.....	1,781
<u>(SW) BRIAN SHRUM:</u>	
Direct Examination by Mr. Anthony.....	1,783
<u>(SW) CHRIS OLSEN:</u>	
Direct Examination by Mr. Anthony.....	1,786
<u>(SW) JOHN DAVID WREN, M.D.:</u>	
Direct Examination by Mr. Gowdy.....	1,790
Cross-Examination by Mr. Boggs.....	1,805
Matters of Law.....	1,811
<u>(SW) RANDY EUGENE BOGAN:</u>	
Further Direct Examination by Mr. Barnette.....	1,815
Further Cross-Examination by Mr. Boggs.....	1,820
Redirect Examination by Mr. Barnette.....	1,822
Recross-Examination by Mr. Boggs.....	1,823
<u>(SW) ALLEN MASON:</u>	
Direct Examination by Mr. Barnette.....	1,824
<u>(SW) WENDY M. ALLEY:</u>	
Direct Examination by Mr. Barnette.....	1,826
<u>(SW) EDDIE ALTON HARMON:</u>	
Direct Examination by Mr. Barnette.....	1,829
<u>(SW) MEREDITH C. HIPPI:</u>	
Direct Examination by Mr. Barnette.....	1,832

INDEX (CONTINUED)

<u>(SW) TARA SKITTLE MCABEE:</u>	
Direct Examination by Mr. Barnette.....	1,837
<u>(SW) ROBERT ROSENBERG:</u>	
Direct Examination by Mr. Barnette.....	1,838
<u>(SW) ALEX G. LEWIS:</u>	
Direct Examination by Mr. Barnette.....	1,841
<u>(SW) JACK D. BISHOP:</u>	
Direct Examination by Mr. Barnette.....	1,848
<u>(SW) ROBERT ROSENBERG:</u>	
Further Direct Examination by Mr. Barnette.....	1,850
<u>(SW) BETTY W. BUTLER:</u>	
Direct Examination by Mr. Barnette.....	1,854
<u>(SW) EMILY D. NORRIS:</u>	
Direct Examination by Mr. Barnette.....	1,856

Sunday, November 14, 2004

<u>(SW) CHARLENA TINSLEY:</u>	
Direct Examination by Mr. Barnette.....	1,862
<u>(SW) JOHN C. BARRON:</u>	
Direct Examination by Mr. Barnette.....	1,864
Cross-Examination by Mr. Boggs.....	1,873
State Rests.....	1,876
Motions.....	1,877
Questioning of the Defendant.....	1,884
<u>(DW) FREDRICK ANTONIO EVINS:</u>	
Direct Examination by Mr. Boggs.....	1,889
Cross-Examination by Mr. Gowdy.....	1,933
<u>(DW) TERRY COCHRAN:</u>	
Direct Examination by Mr. Boggs.....	1,965
Cross-Examination by Mr. Anthony.....	1,969
Defense Rests.....	1,970

INDEX (CONTINUED)

(SW) STEVE L. DENTON:

Further Direct Examination by Mr. Gowdy.....	1,970
State Rests.....	1,971
Matters of Law.....	1,973
Renewal of Motions.....	1,976

Monday, November 15, 2004

Matters of Law.....	1,978
Closing Argument by Mr. Gowdy.....	1,980
Closing Argument by Mr. Boggs.....	1,999
Charge on the Law by the Court.....	2,023
Matters of Law.....	2,036
Verdict of the Jury.....	2,042
Motions.....	2,043
Matters of Law.....	2,044

Tuesday, November 16, 2004

Matters of Law.....	2,047
Introductory Remarks by the Court.....	2,099
Opening Statement by Mr. Barnette.....	2,099
Opening Statement by Ms. Quimby.....	2,106

(SW) WILLIAM F. SOUTHERLAND, JR.:

Further Direct Examination by Mr. Gowdy.....	2,107
Further Cross-Examination by Ms. Quimby.....	2,110

(SW) REBECCA LATHAN:

Direct Examination by Mr. Gowdy.....	2,110

(SW) GENEVA GREENE:

Direct Examination by Mr. Anthony.....	2,115
Cross-Examination by Mr. Brough.....	2,118

(SW) CHARLENA TINSLEY:

Further Direct Examination by Mr. Barnette.....	2,119

(SW) CHARLES JERRY KNIGHTON:

Direct Examination by Mr. Barnette.....	2,122
Cross-Examination by Mr. Brough.....	2,132

INDEX (CONTINUED)

<u>(SW) JAMES PARIS:</u>	
Direct Examination by Mr. Barnette.....	2,133
Cross-Examination by Mr. Brough.....	2,138
<u>(SW) CHARLENA TINSLEY:</u>	
Further Direct Examination by Mr. Barnette.....	2,139
<u>(SW) CANDY DENISE HILL:</u>	
Direct Examination by Mr. Barnette.....	2,145
Cross-Examination by Mr. Brough.....	2,156
<u>(SW) KIMBERLY DAWN VANCE CARTER:</u>	
Direct Examination by Mr. Gowdy.....	2,158
<u>(SW) LARRY NIMMONS, JR.:</u>	
Direct Examination by Mr. Gowdy.....	2,163
<u>(SW) KIZZY ANN SMITH:</u>	
Direct Examination by Mr. Barnette.....	2,165
Cross-Examination by Mr. Brough.....	2,171
<u>(SW) TERRY SMITH:</u>	
Direct Examination by Mr. Gowdy.....	2,172
<u>(SW) GROVER BERRY:</u>	
Direct Examination by Mr. Gowdy.....	2,179
Cross-Examination by Mr. Brough, ...	2,183
<u>(SW) DOUG SMITH:</u>	
Direct Examination by Mr. Barnette.....	2,185
<u>(SW) ANNICE SPENCER STATIN:</u>	
Direct Examination by Mr. Barnette.....	2,198
Matters of Law.....	2,210

Wednesday, November 17, 2004

Matters of Law.....	2,219
<u>(SW) BENJAMIN WARREN WHITNER:</u>	
Direct Examination by Mr. Barnette.....	2,222

INDEX (CONTINUED)

<u>(SW) JAMES HUFF:</u>	
Direct Examination by Mr. Gowdy.....	2,225
<u>(SW) LOUIS DISCHER:</u>	
Direct Examination by Mr. Anthony.....	2,228
<u>(SW) DAVID WAYNE RAVAN:</u>	
Direct Examination by Mr. Anthony.....	2,233
<u>(SW) ROBERT CHARLES TALANGES:</u>	
Direct Examination by Mr. Anthony.....	2,240
<u>(SW) JOHN DAVID WREN, M.D.:</u>	
Further Direct Examination by Mr. Anthony.....	2,261
Matters of Law.....	2,270
<u>(SW) JOHN BELL:</u>	
Direct Examination by Mr. Anthony.....	2,276
<u>(SW) DAVID HOGSED:</u>	
Direct Examination by Mr. Anthony.....	2,281
<u>(SW) JOHN DAVID WREN, M.D.:</u>	
Further Direct Examination by Mr. Anthony.....	2,283
<u>(SW) GEORGE DAVID REEVES:</u>	
Direct Examination by Mr. Anthony.....	2,285
Cross-Examination by Mr. Brough.....	2,288
Redirect Examination by Mr. Anthony.....	2,289
<u>(SW) KENNETH BOGAN:</u>	
Direct Examination by Mr. Anthony.....	2,290
Cross-Examination by Ms. Quimby.....	2,299
Redirect Examination by Mr. Anthony.....	2,300
Recross-Examination by Ms. Quimby.....	2,300
<u>(SW) SHAUN PATRICK ADKINS:</u>	
Direct Examination by Mr. Barnette.....	2,301
Cross-Examination by Ms. Quimby.....	2,304
Redirect Examination by Mr. Barnette.....	2,305
<u>(SW) BRIDGETT FOSTER TAYLOR:</u>	
Direct Examination by Mr. Barnette.....	2,306
Cross-Examination by Ms. Quimby.....	2,309

INDEX (CONTINUED)(SW) JIMMY SLIGH:

Direct Examination by Mr. Gowdy.....2,310
 Cross-Examination by Ms. Quimby.....2,315

(SW) CHARLENA TINSLEY:

Further Direct Examination by Mr. Barnette.....2,317
 Cross-Examination by Ms. Quimby.....2,323
 Redirect Examination by Mr. Barnette.....2,324

(SW) FAITH GOODWIN:

Direct Examination by Mr. Gowdy.....2,325

(SW) RANDY EUGENE BOGAN:

Further Direct Examination by Mr. Barnette.....2,331

State Rests.....2,336
 Motions.....2,337
 Matters of Law.....2,338

(DW) THOMAS MARTIN, M.D.:

Direct Examination by Ms. Quimby.....2,343

Matters of Law.....2,392

(SW) PAMELA CRAWFORD, M.D., (IC):

Examination by the Court.....2,394
 Examination by Mr. Gowdy.....2,396

Thursday, November, 18, 2004

Matters of Law.....2,400

(DW) THOMAS MARTIN, M.D., (IC):

Examination by the Court.....2,402
 Examination by Mr. Gowdy.....2,406

Matters of Law.....2,408
 Questioning of the Defendant.....2,413

INDEX (CONTINUED)Friday, November 19, 2004

Matters of Law.....	2,422
<u>(DW) CHARLENA TINSLEY:</u>	
Direct Examination by Mr. Brough.....	2,425
Cross-Examination by Mr. Gowdy.....	2,427
Redirect Examination by Mr. Brough.....	2,428
<u>(DW) JAMES FRANKLIN EVANS:</u>	
Direct Examination by Ms. Quimby.....	2,428
Cross-Examination by Mr. Gowdy.....	2,439
<u>(DW) WILLY LEE COLLINS:</u>	
Direct Examination by Ms. Quimby.....	2,441
Cross-Examination by Mr. Gowdy.....	2,457
<u>(DW) MINDY AIKEN:</u>	
Direct Examination by Ms. Quimby.....	2,458
Cross-Examination by Mr. Gowdy.....	2,462
<u>(DW) DEBORAH C. PHILBECK:</u>	
Direct Examination by Ms. Quimby.....	2,464
Cross-Examination by Mr. Gowdy.....	2,469
<u>(DW) AUBRIANNA MARQUIS EVINS:</u>	
Direct Examination by Ms. Quimby.....	2,471
Questioning of the Defendant.....	2,477
<u>(DW) THOMAS MARTIN, M.D.:</u>	
Further Direct Examination by Ms. Quimby.....	2,481
Cross-Examination by Mr. Gowdy.....	2,482
Redirect Examination by Ms. Quimby.....	2,504
Recross-Examination by Mr. Gowdy.....	2,509
Defense Rests.....	2,510
<u>(SW) PAMELA CRAWFORD, M.D.:</u>	
Direct Examination by Mr. Willingham.....	2,511
Cross-Examination by Ms. Quimby.....	2,521
State Rests.....	2,526

INDEX (CONTINUED)(SW) PAMELA CRAWFORD, M.D., (IC):

Further Direct Examination by Mr. Willingham.....	2,528
Matters of Law.....	2,531
Closing Argument by Mr. Gowdy.....	2,536
Closing Argument by Ms. Quimby.....	2,551
Charge on the Law by the Court.....	2,568
Verdict of the Jury.....	2,583
Sentencing by the Court.....	2,587
Certificate of the Reporter.....	2,589

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(State's Exhibits)		
S-1	Waiver Form of the Defendant.....	1,364...	1,691
S-2	Written Statement of the Defendant..	1,364...	1,697
S-3	Sworn Statement by the Defendant....	1,364	
S-4	Photo Line-up and Affidavit of Eugene Edwards signed by the Defendant.....	1,364	
S-5	Diagram of Knife.....	1,364	
S-6	Consent to Search Form by the Defendant for blood, hair, and saliva.....	1,364...	1,689
S-7	Conversion Table for Celsius to Fahrenheit.....	1,364...	1,439
S-8	National Weather Service Information for 2/13/03 thru 2/15/03.....	1,364...	1,439
S-9	Work Schedule for Rhonda Ward.....	1,364...	1,751
S-10	Picture of Rhonda Ward.....	1,364...	1,394
S-11	Videotape of Parking Lot at Cigarette's 4 Less.....	1,364...	1,399
S-12	Picture of Gano Road from the Air...	1,364...	1,425
S-13	Picture of Crime Scene on Gano Road from the Air.....	1,364...	1,517
S-14	Picture of Crime Scene on Gano Road.....	1,364...	1,517
S-15	Picture of Scene on Walker Road from the Air.....	1,364...	1,477
S-16	Picture of Scene on Walker Road.....	1,364...	1,477
S-17	Rhonda Ward's Wallet found at the Walker Road Scene.....	1,364...	1,500

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-18	Rhonda Ward's Hot Spot Insurance Booklet found at the Walker Road Scene.....	1,364...	1,494
S-19	Picture of Items #1, #2, and #3 at Walker Road Scene.....	1,364...	1,523
S-20	Picture of Gold Colored Ring (#1) found at Walker Road Scene.....	1,364...	1,523
S-21	Gold Colored Ring found at Walker Road Scene.....	1,364...	1,531
S-22	Picture of Black Knife Handle (#2) found at Walker Road Scene.....	1,364...	1,816
S-23	Black Knife Handle found at Walker Road Scene.....	1,364...	1,816
S-24	Picture of Gold Colored Chain (#3) found at Walker Road Scene.....	1,364...	1,527
S-25	Picture of Gold Colored Chain.....	1,364...	1,527
S-26	Gold Colored Chain.....	1,364...	1,532
S-27	Picture of Pill Bottle and two pens (#4) found at Walker Road Scene.....	1,364...	1,523
S-28	Pill Bottle with Rhonda Ward's Name on it from Walker Road Scene.....	1,364...	1,529
S-28-A	Close-up Picture of Pill Bottle with Rhonda Ward's Name on it....	1,364...	1,523
S-29	Picture of Keys on Chain (#8) found at Walker Road Scene.....	1,364...	1,523
S-30	Keys on Chain found at Walker Road Scene.....	1,364...	1,532
S-31	Picture of Piece of Paper (#6) found at Walker Road Scene.....	1,364...	1,523
S-32	Picture of Piece of Paper (#7) found at Walker Road Scene.....	1,364...	1,523
S-33	Picture of Piece of Paper (#8) found at Walker Road Scene.....	1,364...	1,523
S-34	Picture of Rhonda Ward's Checkbook (#9) found at Walker Road Scene..	1,364...	1,523
S-35	Rhonda Ward's Checkbook found at Walker Road Scene.....	1,364...	1,533
S-36	Picture of Piece of Paper (#10) with Rhonda Ward's Phone Number on it found at Walker Rd. Scene..	1,364...	1,523

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-37	Piece of Paper with Rhonda Ward's Phone Number on it found at Walker Road Scene.....	1,364...	1,534
S-38	Picture of CD Face Holder in the Barrel (#11).....	1,364...	1,523
S-38-A	CD Face Holder.....	1,364...	1,534
S-39	Picture of Pepsi Can (#12) found at Walker Road Scene.....	1,364...	1,523
S-40	Picture of Shoe and Underwear (#13) found at Walker Rd. Scene..	1,364	
S-41	CD Player Sold by the Defendant to Tony Jones.....	1,364...	1,645
S-42	Map of Spartanburg County.....	1,364	
S-43	Picture of the Defendant's Trailer on Anna Drive in the Riverside Trailer Park.....	1,438...	1,778
S-44	Picture of "Evans" Name on the Tongue of Trailer on Anna Drive..	1,438...	1,778
S-45	Close-up Picture of "Evans" Name on the Tongue of Trailer on Anna Drive.....	1,438...	1,778
S-46	Picture of Walker Road Turn Around Area where Items were found.....	1,513...	1,523
S-47	Picture of the License Plate of Rhonda Ward's Burnt Vehicle.....	1,513...	1,536
S-48	Picture of the Outside of Rhonda Ward's Burnt Vehicle.....	1,513...	1,536
S-49	Picture of the Backside of Rhonda Ward's Burnt Vehicle.....	1,513...	1,536
S-50	Picture of the Inside of Rhonda Ward's Burnt Vehicle.....	1,513...	1,536
S-51	Picture of the Inside of Rhonda Ward's Burnt Vehicle.....	1,513...	1,536
S-52	Star of David Necklace found beside Rhonda Ward at the Gano Road Crime Scene.....	1,513...	1,515
S-53	Photo Line-Up of Fredrick Evins seen by Teresa Johnson Smith.....	1,580...	1,709
S-54	Picture of Dennis Meredith's Trailer.....	1,611...	1,613
S-55	Picture of Dennis Meredith's Trailer.....	1,611...	1,613

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-56	Photo Line-Up of Fredrick Evins seen by Dennis Meredith.....	1,611...	1,628
S-57	Photo Line-Up of Fredrick Evins seen by Tony Jones.....	1,635...	1,643
S-58	Sworn Statement Form by Fredrick Evins.....	1,704	
S-59	Suspect Kit of Fredrick Evins used by SLED in Rhonda Ward Murder Case.....	1,708...	1,851
S-60	Sexual Assault Kit done on Rhonda Ward by Dr. Wren.....	1,708...	1,849
S-61	Blood Sample of Rhonda Ward.....	1,708...	1,852
S-62	Blood Sample of Rhonda Ward from Coroner's Office sent to SLED by Mail.....	1,708...	1,831
S-63	Second Blood Sample of Rhonda Ward taken to SLED by Sheriff's Department.....	1,708...	1,840
S-64	H&R Block Application for Tax Refund for Rhonda Ward.....	1,762...	1,766
S-65	Certified Check for Rhonda Ward from H&R Block.....	1,762...	1,767
S-66	Check Cashing Log from Sears.....	1,770...	1,773
S-67	Applebee's Work Record for Fredrick Evins.....	1,770...	1,788
S-68	Rhonda Ward's Spartanburg County Tax Record on her 1993 Nissan Car.....	1,862...	1,863
S-69	Videotape of the Rhonda Ward Murder Crime Scene.....	2,093	
S-70	Picture of the Back of Rhonda Ward at the Crime Scene on Gano Road..	2,047...	2,333
S-71	Picture of the Top of Rhonda Ward at the Crime Scene on Gano Road..	2,047...	2,333
S-72	Picture of the Star of David near the Head of Rhonda Ward at the Crime Scene on Gano Road.....	2,047...	2,333
S-73	Picture of Stab Wounds of Rhonda Ward's Chest.....	2,047	
S-74	Close-up Picture of Stab Wound on the Right Side of Rhonda Ward's Chest.....	2,047...	2,333

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-75	Picture of the hand of Rhonda Ward at the Crime Scene on Gano Road Showing Defense Wounds.....	2,047...	2,333
S-76	Picture of Defense Wounds on the Arm of Rhonda Ward at the Autopsy Room.....	2,047...	2,333
S-77	Picture of Stab Wound in the Left Shoulder and back of the Left Arm on Rhonda Ward at the Crime Scene on Gano Road.....	2,047...	2,333
S-78	Picture of Stab Wound on the Hand of Rhonda Ward.....	2,047	
S-79	Picture of the Body of Rhonda Ward at Crime Scene on Gano Road.....	2,047	
S-80	Picture of Knife Handle at the Walker Road Scene.....	2,047...	2,333
S-81	Spartanburg County Sheriff's Department Waiver Form given to Fredrick Evins on 11/22/86.....	2,047...	2,127
S-82	Written Statement given by Fredrick Evins on 11/22/86.....	2,047...	2,129
S-83	Picture of Kizzy Smith with Stab Wound to her Left Forearm.....	2,047	
S-83-A	Picture of Stab Wound to Kizzy Smith.....	2,047	
S-84	Spartanburg County Sheriff's Department Waiver Form given to Fredrick Evins on 3/8/95.....	2,047...	2,192
S-85	Written Statement given by Fredrick Evins on 3/8/95.....	2,047...	2,194
S-86	Sworn Statement Form Signed by Fredrick Evins on 3/8/95.....	2,047...	2,197
S-87	Picture of the Face of Annice Statin.....	2,047	
S-88	Picture of the Right Side of Annice Statin's Face and her Right Eye...	2,047	
S-89	Picture of the Left Side of Annice Statin's Face and her Left Eye...	2,047	
S-90	Picture of the Neck of Annice Statin.....	2,047	
S-91	Picture of the Bite Mark on the Tongue of Annice Statin.....	2,047	

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-92	Picture of Scratches on the back of Left Hand on Annice Statin....	2,047	
S-93	Picture of Scratches on the Left Elbow of Annice Statin.....	2,047	
S-94	Picture of Scratches on the Right Forearm of Annice Statin.....	2,047	
S-95	Picture of Right Side of the Back of Annice Statin.....	2,047	
S-96	Picture of the Back of Annice Statin.....	2,047	
S-97	Picture of Scratches on the Left Leg of Annice Statin.....	2,047	
S-98	Picture of the Scratches on the Legs of Annice Statin and her Right Foot Injury.....	2,047	
S-99	Picture of Scratches on the Breast of Annice Statin.....	2,047	
S-100	Picture of Crime Scene in Woods near Frey Road.....	2,047	
S-101	Picture of Annice Statin's Bra at the Crime Scene.....	2,047	
S-102	Close-up Picture of Annice Statin's Bra at the Crime Scene..	2,047	
S-103	Wider Angle Picture of Crime Scene in the Woods near Frey Road.....	2,047	
S-104	Notice of Disciplinary Hearing and Action from the Spartanburg County Detention Center on Fredrick Evins.....	2,047...2,307	
S-105	Notice of Disciplinary Hearing and Action from SCDC on Fredrick Evins.....	2,047...2,314	
S-106	National Weather Information for 11/22/86 at GSP.....	2,047...2,331	
S-107	National Weather Information for 3/5/95 at GSP.....	2,047...2,331	
S-108	Failure to Stop Indictment (#1986-GS-42-1361) against Fredrick Evins.....	2,047...2,320	
S-109	Opposing or Resisting Process Indictment (#1986-GS-42-1262) against Fredrick Evins.....	2,047...2,320	

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-110	Criminal Sexual Conduct Second Degree Indictment (#1987-GS-42-64) against Fredrick Evins.....	2,047...	2,139
S-111	Order of Probation Revocation on Fredrick Evins.....	2,047...	2,320
S-112	Strong Armed Robbery Indictment (#1991-GS-42-64) against Fredrick Evins.....	2,047...	2,120
S-113	Common Law Robbery Indictment (#1995-GS-42-2144) against Fredrick Evins.....	2,047...	2,320
S-114	Criminal Domestic Violence First Warrant (3/26/01) against Fredrick Evins.....	2,047...	2,320
S-115	Driving Under Suspension Third Offense (2/27/03) against Fredrick Evins.....	2,047...	2,320
S-116	Petit Larceny Ticket (2/27/03) against Fredrick Evins.....	2,047...	2,320
S-117	Photo of Rhonda Ward's Family.....	2,093...	2,114
S-118	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-119	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-120	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-121	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-122	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-123	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-124	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-125	Photo of Crime Scene at Duncan Park (9/14/02).....	2,219	
S-126	Suspect Kit of Fredrick Evins used by SLED in Demaris Huff Murder Case.....	2,219...	2,297
S-127	Sexual Assault Kit done on Demaris Huff by Dr. Wren.....	2,221...	2,294

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-128	Diagram of Duncan Park Crime Scene..	2,254...	2,254
S-129	Diagram of Duncan Park Crime Scene..	2,254...	2,254
S-130	Diagram of Duncan Park Crime Scene..	2,254...	2,254
S-131	Criminal Domestic Violence Second Conviction (2/16/02) against Fredrick Evins.....	2,047...	2,323
S-132	Set of Headphones from Duncan Park Crime Scene.....	2,047	
S-133	Cord found on the Neck of Demaris Huff at Duncan Park Crime Scene...	2,047	
S-134	Spartanburg County Detention Center Disciplinary Action against Fredrick Evins for Fighting (9/24/95).....	2,047...	2,307
S-135	SLED Sexual Assault Kit from Demaris Huff Collected by Dr. Wren.....	2,289...	2,289
(Defendant's Exhibits)			
D-1	Statement of Cathy Phillips.....	1,715	
D-2	Autopsy Report.....	1,806...	1,965
D-2-A	Stab Wound Chart.....	1,978...	1,978
D-3	School Records on Fredrick Evins....	2,354	
D-4	Court Dispositions-Dismissals.....	2,416...	2,426
D-5	Court Dispositions-Dismissals.....	2,416...	2,426
D-6	Court Dispositions-Dismissals.....	2,416...	2,426
D-7	Court Dispositions-Dismissals.....	2,416...	2,426
(Court's Exhibits)			
C-2	Defendant's Bifurcated Trial Instruction.....	109.....	109
C-3	Newspaper Article (11/8/04).....	118.....	118
C-4	Affidavit of Judy R. Bogan.....	118.....	118
C-5	Probation Department Document.....	656.....	656
C-6	Juror Questionnaire of Juror #281, Rita Pearson.....	656.....	656
C-7	Motion In Limine.....	1,350...	1,350
C-8	Motion To Suppress.....	1,350...	1,350
C-9	Note from the Jury.....	1,364...	1,364
C-10	Note from the Jury.....	1,708...	1,708
C-11	Note from the Jury.....	2,038...	2,038
C-12	Note from the Jury.....	2,038...	2,038

INDEX (CONTINUED)E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
C-13	Note from the Jury.....	2,045...	2,045
C-14	WSPA Television Broadcast		
	Transcripts.....	2,339...	2,339
C-15	Newspaper Article (9/18/02).....	2,339...	2,339
C-16	Newspaper Article (2/15/03).....	2,339...	2,339
C-17	Newspaper Article (2/16/03).....	2,339...	2,339
C-18	Newspaper Article (2/17/03).....	2,339...	2,339
C-19	Newspaper Article (2/18/03).....	2,339...	2,339
C-20	Newspaper Article (2/19/03).....	2,339...	2,339
C-21	Newspaper Article (2/19/03).....	2,339...	2,339
C-22	Newspaper Article (3/01/03).....	2,339...	2,339
C-23	Newspaper Article (3/22/03).....	2,339...	2,339
C-24	Newspaper Article (3/22/03).....	2,339...	2,339
C-25	Three Newspaper Articles.....	2,339...	2,339
C-26	Newspaper Article (4/13/03).....	2,339...	2,339
C-27	Newspaper Article (6/22/03).....	2,339...	2,339
C-28	Newspaper Article (6/22/03).....	2,339...	2,339
C-29	Newspaper Article (7/11/03).....	2,339...	2,339
C-30	Newspaper Article (8/30/03).....	2,339...	2,339
C-31	Newspaper Article (11/8/04).....	2,339...	2,339
C-32	Note from the Jury.....	2,583...	2,583

All Exhibits were retained by the Clerk of Court for Spartanburg County.

1 THE COURT: Good morning, ladies and gentlemen.

2 I guess you all know why you're here. We're here to
3 qualify the jury this morning. I want to tell you that my
4 name is Ned Miller and I'm a circuit judge. I reside in
5 Greenville. And it's a real pleasure for me to be here
6 today. And I appreciate each and every one of you being
7 here. Everyone involved in the Court system is aware that
8 jury service requires a lot of sacrifice and a lot of hard
9 work. And we really appreciate all the sacrifices that
10 you've made to be here.

11 We have already got your juror questionnaires. But
12 we anticipate -- and we appreciate you sending those in.
13 We are -- the purpose this morning first up -- the first
14 thing we'll do, after we take the roll, will be to qualify
15 you and make sure that each of you is qualified under the
16 state law to serve as a juror. And we'll get to that in
17 just a few minutes.

18 I want to tell you, ladies and gentlemen, that we
19 have the best system of justice in the world. And the
20 reason that we have the best system of justice in the
21 world is because of people like you who are willing to
22 serve and perform their civic duties and provide the
23 serious and solemn service that is required in order for
24 us to have a fair and impartial jury for all of our
25 citizens.

1 So I want to thank you from everyone in the
2 courthouse, all the Court staff, and everyone associated
3 with this case, and with every case for the efforts and
4 the sacrifices that you've made to be here.

5 At this time, I'm going to turn it back over to the
6 Clerk's Office. And they will call the roll. I would ask
7 you when they call your name to stand and speak loudly and
8 clearly so that we all can see you and hear you. And I
9 guess you all know what information to give.

10 Have they already been instructed --

11 THE CLERK: Yes, sir.

12 THE COURT: All right. Well, great. At this time,
13 I'll turn it over to the Clerk's Office.

14 (WHEREUPON, the Clerk called the roll.)

15 THE CLERK: That completes the roll, Your Honor.

16 THE COURT: Thank you, Mr. Clerk.

17 Ladies and gentlemen, thank you again. And I hope
18 that wasn't too painful for you. We are -- what I am
19 going to do now is give you just a brief road map of what
20 we'll do this morning during this process.

21 The law -- the State law requires that I ask certain
22 questions to determine your eligibility or qualifications
23 to serve as jurors. They are very simple questions and
24 there are about six or seven of those questions. The
25 next -- once we go through all the qualifications, I will

1 then ask you about certain exemptions where State law
2 allows jurors for certain limited reasons to be exempted
3 from jury service.

4 After I've done that, I will -- after we've gone
5 through all that, I will describe the particular case that
6 we are up here to try. I will give you some kind of a
7 brief outline of the trial. The next thing I will do,
8 we'll go over the basic legal concepts that apply to each
9 and every one of you and to all the citizens in this
10 country just to give you kind of a background on the basic
11 concepts of the law involved in this case. And, finally,
12 I'll go through the process that we will use to pick the
13 jury for this case.

14 Now, I know you all have all filled out the
15 questionnaires, and we appreciate that. I know that was
16 probably a little surprising and might have -- if we had
17 been there, a fly on the wall, we might have heard some
18 choice words when you filled it out. But I want you to
19 know that it's very important in this matter that we have
20 those questionnaires and that we have full, complete,
21 truthful, and accurate answers to all of the questions in
22 the questionnaire, and also to all of the questions that
23 you will be asked during the process of picking this
24 jury -- qualifying and picking the jury.

25 So before I go any farther, I just want to ask, is

1 there anyone who feels like they need to change any of
2 their answers on that questionnaire?

3 You don't have to stand right now, but I will give
4 you an opportunity in a few minutes to meet with me. And
5 if there's an answer on there that you think back on and
6 thought, well, I made a mistake on that and you want to
7 correct it, that would be the time to do it.

8 Now, the first thing I'm going to do, ladies and
9 gentlemen -- I know you've been in here for probably, some
10 of you going on two hours. And I am going to ask
11 everybody to stand up and stretch for about 20 seconds.

12 (Pause.)

13 THE COURT: Okay. Don't sit down yet. If I could
14 get you to stand up, all of you, please. And I'm going to
15 administer an oath to you. And if you would, raise your
16 right hand, please.

17 Will you provide truthful and complete responses
18 during jury qualification and the jury selection process?
19 If you agree to be bound by this oath, please state, "I
20 will."

21 (All jurors said "I will.")

22 JURY QUALIFICATION

23 THE COURT: All right. Thank you very much.

24 Now, you all can be seated.

25 I am going to go through the statutory list of

1 questions and, please, listen carefully and answer them if
2 you need to. I will tell you this, there are some
3 questions that for any -- if for any reason they might
4 cause you some embarrassment, that's the last thing that
5 anyone wants to do is to have you suffer any embarrassment
6 in front of your fellow jurors. When I have finished
7 asking all the questions with respect to jury
8 qualification and jury exemption -- or exemption from jury
9 service and there is a question that you did not respond
10 to and you need to speak to me about it, I will give you
11 an opportunity to do that after I finish asking the
12 questions.

13 So -- but if not, please -- if it won't cause you any
14 embarrassment, please stand and respond when I ask the
15 question.

16 Now, is any member of the jury panel not a citizen of
17 the United States of America? If so, please stand.

18 THE COURT: Yes, sir. Your name and number, please,
19 sir?

20 JUROR #329, AKHIL SHANBHAG: #329, Akhil Shanbhag.

21 THE COURT: Okay. If you would, I would like to
22 speak to you at the -- when I finish asking these questions.

23 Thank you very much.

24 Is any member of the jury panel not a resident and
25 citizen of Spartanburg County? If so, please stand.

1 JUROR #48, JOHN CAMPBELL: I'm not sure whether I am
2 or not. I just recently moved from the address that the
3 letter was sent to, so. I'm in Greer right now, but I
4 know --

5 THE COURT: All right. What's your name and number,
6 sir?

7 JUROR #48, JOHN CAMPBELL: #48, John B. Campbell.

8 THE COURT: All right. Mr. Campbell, we'll -- again,
9 I would like to speak with you as well at the appropriate
10 time. And we'll try and figure that out.

11 Thank you.

12 Is there any member of the jury panel unable to read,
13 write, speak, or understand the English language? If so,
14 please stand.

15 Yes, sir. Your name and number?

16 JUROR #298, DANNY RAMSEY, JR.: I'm #298, Danny
17 Ramsey. I can't read.

18 THE COURT: All right. Well, again, I'd like to
19 speak with you at the appropriate time.

20 Your name and number, sir?

21 JUROR #123, DARRYL GOWAN: #123, Darryl Gowan. I
22 can't read or write.

23 THE COURT: All right. Well, I will speak to you at
24 the -- after we finish the questioning.

25 Thank you, sir.

1 Is any member --

2 Oh, I'm sorry. Yes, ma'am.

3 JUROR #266, LYNN NUGYEN: My name is Lynn Nguyen. I
4 understand a little bit.

5 THE COURT: Okay. Well, again, when we -- I speak
6 with the jurors privately, if you would come up to see me.

7 Thank you.

8 JUROR #50, RUSSELL CARNELL: I can't read too good
9 and write too good.

10 THE COURT: Your name and number?

11 JUROR #50, RUSSELL CARNELL: Russell H. Carnell.

12 THE COURT: All right. I will speak to you at the --

13 JUROR #50, RUSSELL CARNELL: And I sent in a doctor's
14 statement about my emphysema and they hadn't responded.

15 THE COURT: All right. I'll talk to you -- you'll
16 get a chance to answer that question in a little bit.

17 Yes, ma'am.

18 JUROR #113, VANESSA GARRETT: Vanessa Garrett, #113.

19 THE COURT: Again, I will meet with you privately.

20 Yes, ma'am.

21 UNIDENTIFIED WOMAN: My mother here, she wants to
22 talk to you about -- she don't understand either.

23 THE COURT: Okay. I'll talk with her as well.

24 All right. Thank you.

25 Now, is there any member of the jury panel that has

1 less than a sixth grade education or its equivalent? If
2 so, please stand.

3 JUROR #298, DANNY RAMSEY, JR.: I don't.

4 THE COURT: Yes, sir.

5 Okay. Thank you.

6 Is there any member of the jury panel incapable by
7 reason of any mental or physical condition or infirmity to
8 render good, efficient jury service? And I would tell you
9 that during the trial of a case, generally, we go from one
10 to two hours between breaks. So is there anyone who fits
11 under that qualification?

12 I believe that would be your mother; is that right?

13 UNIDENTIFIED WOMAN: Yes.

14 THE COURT: And her name and number?

15 UNIDENTIFIED WOMAN: It's Brenda Sprouse, and it's
16 #341.

17 THE COURT: I will talk with her privately. Okay.

18 UNIDENTIFIED WOMAN: Yes, sir.

19 THE COURT: Now, the law provides that --

20 Oh, I'm sorry. Yes, ma'am.

21 JUROR #113, VANESSA GARRETT: Vanessa Garrett, #113.

22 THE COURT: Okay. Again, I'm already going to speak
23 to you.

24 JUROR #113, VANESSA GARRETT: Yes, sir.

25 THE COURT: Yes, sir.

1 JUROR #96, RICKEY FERGUSON: Physical. I --

2 THE COURT: Your name and number, please?

3 JUROR #96, RICKEY FERGUSON: Rickey Ferguson, #96.

4 THE COURT: Okay.

5 JUROR #96, RICKEY FERGUSON: I haven't been too long
6 got out of the hospital.

7 THE COURT: All right. Well, I will meet with you to
8 hear about that privately.

9 JUROR #96, RICKEY FERGUSON: Okay.

10 THE COURT: Yes, sir.

11 JUROR #144, WALTER HARRIS: I have a personality
12 disorder.

13 THE COURT: What's your name and number?

14 JUROR #144, WALTER HARRIS: Walter Harris, #144.

15 THE COURT: Well, I'll meet with you privately.

16 Yes, ma'am.

17 JUROR #314, JOANN ROBINSON: Juror #314. I would
18 like to talk to you. It's personal.

19 THE COURT: Okay. That will be fine.

20 Yes, ma'am, in the back.

21 JUROR #217, REBEKAH LEONARD: Physical disability.

22 THE COURT: Your name and number?

23 JUROR #217, REBEKAH LEONARD: Rebekah Leonard, #217.

24 THE COURT: Okay. I will meet with you.

25 Yes, sir.

1 JUROR #321, JIM SANFORD: Jim Sanford, #321. I have
2 severe sleep apnea.

3 THE COURT: All right. Well, we'll talk with you in
4 just a minute.

5 Yes, ma'am.

6 JUROR #158, RUBY HOLDEN: Yes. I have a personal
7 reason of -- it's medical.

8 THE COURT: All right. Your name and number?

9 JUROR #158, RUBY HOLDEN: My name is Ruby
10 Holden-Alley. And my number is 158.

11 THE COURT: All right. Well, I will meet with you as
12 well.

13 Yes, ma'am.

14 JUROR #386, PATRICIA WILLIAMS: My number is 386. I
15 have a personal reason.

16 THE COURT: All right. Well, I'll meet with you as
17 well.

18 Yes, sir.

19 JUROR #260, ALEXANDER NASH: My number is 260,
20 Alexander Nash.

21 THE COURT: Well, I'll meet and talk with you.

22 Yes, ma'am.

23 JUROR #305, SHIRLEY RICE: I am Shirley Rice, #305.

24 THE COURT: And what's your --

25 JUROR #305, SHIRLEY RICE: I would like to speak with

1 you privately. I'm Shirley Rice.

2 THE COURT: Okay. I'll talk with you privately.

3 Hey, I grew up in Spartanburg. I didn't know
4 Spartanburg was this unhealthy.

5 Yes, ma'am. Your name and number?

6 JUROR #250, DELORIS MILLS: #250, Deloris Mills. I
7 have a medical problem that I have to talk to you about.

8 THE COURT: Okay. Thank you.

9 Now, the law provides that no clerk or deputy clerk
10 of court, constable, sheriff, commissioned law enforcement
11 officer, probate judge, county commissioner, magistrate,
12 or other county officer, or any other person employed
13 within the walls of any courthouse is eligible to serve as
14 a juror.

15 So if this category applies to you, please stand.

16 Yes, sir. Your name and number?

17 JUROR #58, SCOTT CLEGG: #58. I'm Scott Clegg. And
18 I'm a reserve deputy for the Sheriff's Department.

19 THE COURT: All right. Thank you very much.

20 Is there any member of the jury panel --

21 THE BAILIFF: Judge --

22 THE COURT: Oh, there's more.

23 Yes, ma'am. I'm sorry. Your name and number?

24 JUROR #324, EILEEN SCOGGINS: Eileen Scoggins, #324.
25 I'm a parole agent.

1 THE COURT: I'm sorry.

2 JUROR #324, EILEEN SCOGGINS: Parole agent.

3 THE COURT: Okay. Thank you very much.

4 Now, is there any member of the jury panel who has
5 been convicted in state or federal court of a crime that
6 is punishable by imprisonment for more than one year and
7 your civil rights have not been restored by pardon or
8 amnesty?

9 So it's not what the actual sentence is that you
10 might have received, but what the maximum possible
11 sentence was, if that was greater than a year.

12 Yes, sir. Your name, please?

13 JUROR #18, FRANKLIN BOGGS: Franklin Boggs, #18.

14 THE COURT: All right. I will meet with you to talk
15 about that.

16 Yes, ma'am.

17 JUROR #161, CHERIE HOLSTEN: I'm Cherie Holsten.
18 About 31 years ago --

19 THE COURT: Okay. I'll meet with you to talk about
20 it privately.

21 JUROR #161, CHERIE HOLSTEN: Okay.

22 THE COURT: Yes, ma'am, in the back.

23 JUROR #340, NANCY SOLESBEE: Nancy Solesbee, #340.

24 THE COURT: Yes, sir.

25 JUROR #124, AARON GRAY: Aaron Gray, #124.

1 JUROR #339, MARSHALL SMITH: Marshall Smith, #339.

2 THE COURT: All right. I'll just talk with you all
3 as -- after we -- I'll meet with you privately.

4 Yes, sir.

5 JUROR #144, WALTER HARRIS: Walter Harris, #144.

6 THE COURT: Okay. I'll meet with you privately.

7 Yes, sir.

8 JUROR #345, JOHN STEVENS: John Stevens, #345.

9 THE COURT: All right. Thank you.

10 State law further provides that no person shall serve
11 as a juror more than once every calendar year. So is
12 there any member of the jury panel who has served on a
13 jury in state court, not federal court, not municipal
14 court, not magistrate's court, but in state court during
15 this calendar year? If so, please stand.

16 (There was no response.)

17 THE COURT: All right. Ladies and gentlemen, that
18 concludes the list of statutory qualifications. And we
19 move on now to the category that I described to you as
20 exemptions. An exemption does not mean that you're not
21 qualified to serve as a juror, but that a juror can choose
22 not to serve, if you meet one of these limited categories.

23 Now, there is an exemption dealing with prior jury
24 service. I'll kind of pick up where I left off. The law
25 provides an exemption to any person who has served on jury

1 duty in the three previous calendar years.

2 So is there any member of the jury panel who has
3 served in state court, that is in a county courthouse, not
4 federal court, not municipal court, not magistrate's
5 court, but in the county courthouse in the years 2001,
6 2002, and 2003? If so, please stand.

7 Yes, ma'am. Your name?

8 JUROR #106, MARSHA MURPH: Marsha Murph, #106.

9 THE COURT: When did you and where did you serve?

10 JUROR #106, MARSHA MURPH: Here in 2001. I think it
11 was 2001 or 2002.

12 THE COURT: All right. Well, we'll check on that and
13 if you'll meet with me.

14 Yes, sir. Your name and number?

15 JUROR #18, FRANKLIN BOGGS, JR.: Franklin Boggs, #18.
16 And it was about 2001 here.

17 THE COURT: I'm sorry.

18 JUROR #18, FRANKLIN BOGGS, JR.: About 2001 here.

19 THE COURT: All right. Well, we'll check on that one
20 for you as well.

21 Okay. Now, the next exemption deals with those of
22 you who are 65 years of age and older. And I would tell
23 you that that group of persons represents a tremendous
24 pool of experience and talent, which would be very useful
25 and helpful on jury service. And so I will tell you that

1 if you are 65 years of age and older, we would love to
2 have you serve. But you have earned the right to say
3 that, I choose to be exempted.

4 So is there any person in the jury panel 65 years of
5 age and older who would like to exercise their right to
6 claim an exemption based on age? If so, please stand.

7 Yes, sir. Your name and number?

8 JUROR #313, JIMMIE ROBERTSON: I'm Jimmie Robertson,
9 #313. And I have a very elderly mother that's home.
10 She's --

11 THE COURT: How about your age, sir?

12 JUROR #313, JIMMIE ROBERTSON: I'm 71.

13 THE COURT: All right. Well, you --

14 JUROR #313, JIMMIE ROBERTSON: I'm the only child,
15 the only one at home.

16 THE COURT: Well, are you telling me you don't want
17 to serve?

18 JUROR #313, JIMMIE ROBERTSON: Not really. I'm just
19 telling you that I need to be home with my mother. She
20 needs my help, sir.

21 THE COURT: All right. Well, if you feel that way,
22 you have an out right here. Because you are over 65 years
23 of age and you may choose not to serve based on that
24 alone.

25 Is that what you would like to do?

1 JUROR #313, JIMMIE ROBERTSON: Yes, sir.

2 THE COURT: Okay. I will -- you are exempted. You
3 can --

4 JUROR #313, JIMMIE ROBERTSON: Thank you, sir.

5 THE COURT: Yes, sir.

6 All right. The next exemption applies to those of
7 you who have small children. And the law provides -- this
8 is a multi-part exemption and all of the parts must apply
9 to you in order to claim this exemption. But the law
10 provides that any person having a child or children under
11 the age of seven years who has legal custody and the duty
12 of care for such child or children may be excused from
13 jury service if the juror is unable to provide adequate
14 care for that child or children while performing jury
15 duty. If this exemption applies to you and you wish to
16 exercise that exemption, please stand.

17 Yes, ma'am.

18 JUROR #74, TINA CUELLO: What time, at the latest,
19 will we be out?

20 THE COURT: Well, do you have small children?

21 JUROR #74, TINA CUELLO: I do have a six year-old son
22 and we only have child care for a certain time in the
23 evening.

24 THE COURT: Well, I'll tell you, ma'am -- your name
25 and number?

1 JUROR #74, TINA CUELLO: Tina Cuello, #74.

2 THE COURT: If you will come up and I will speak
3 privately with you.

4 JUROR #74, TINA CUELLO: Okay.

5 THE COURT: Thank you very much.

6 Yes, sir.

7 JUROR #287, MICHAEL PITTMAN: I'm Michael Pittman,
8 #287. I need to talk to you about -- I have four kids.

9 THE COURT: All right. Well, I'll talk to you
10 privately.

11 Yes, ma'am.

12 JUROR #113, VANESSA GARRETT: I have four kids.
13 They're in school, but I have to go pick them up.

14 THE COURT: Okay. Well, I'm going to speak with you
15 privately about that.

16 Yes, ma'am.

17 JUROR #386, PATRICIA WILLIAMS: I have three children
18 in school. My youngest one is nine. And I don't have
19 nobody to watch her when she gets out of school and to
20 pick her up. The bus brings her home, but I don't have
21 nobody to look after her.

22 THE COURT: Okay. Well, I'll speak with you
23 privately about that. So line up when the time comes.

24 Now, the next exemption provides for a postponement
25 of jury service for students in school and school

1 employees. And the law provides that a full-time student
2 or school employee may request that their jury service be
3 postponed to a later date, which will not conflict with
4 their school-related obligations.

5 So if this exemption applies to you, please stand.

6 Yes, sir. Your name and number?

7 JUROR #198, MARK KENNEDY: Mark Kennedy, #198. I'm a
8 school teacher.

9 THE COURT: And you want to transfer?

10 JUROR #198, MARK KENNEDY: I know they would like me
11 to postpone it, but I guess I'm requesting that.

12 THE COURT: Okay. Well, we will transfer you to
13 another date.

14 Now, I would tell you, is there any member of the
15 jury panel who has served on any county Grand Jury during
16 the past five calendar years? If so, please stand.

17 JUROR #347, ELAINE STEWART: I have, but I don't
18 remember what year it was.

19 THE COURT: What's your name and number, ma'am?

20 JUROR #347, ELAINE STEWART: Elaine Stewart, #347.

21 THE COURT: Well, it's got to be 2000 through today.

22 JUROR #347, ELAINE STEWART: I can't remember. I
23 can't even remember what year it was. I'm sorry.

24 THE COURT: Okay. Now, the law further provides that
25 any guard or correctional officer with the Department of

1 Corrections or any other detention facility has a right to
2 be exempted. If anyone fits this category and wishes to
3 be exempted, please stand.

4 (There was no response.)

5 THE COURT: Ladies and gentlemen, that concludes the
6 statutory list of qualifications and exemptions. And this
7 is now -- I would tell you there is -- the law does
8 provide that if there are exceptional circumstances, which
9 require that your jury duty be transferred, and it's not
10 mere inconvenience or anything along those lines, but
11 exceptional circumstances, I will be happy to speak with
12 you privately about that in just a moment.

13 Now, I will tell you that this is the appropriate
14 time for us to -- for me to meet with you if you need to
15 speak with me privately. And we've got a lot of people in
16 here, 180-something people. So we want to avoid confusion--
17 as best we can.

18 To the remainder of you, you've been in here and been
19 very attentive for the last couple of hours, I'm going to
20 give you a break for about 15 or 20 minutes. So you may
21 stand up and move about. You can stay in this courtroom
22 or you may, if you need to, step out.

23 MR. BOGGS: May we approach?

24 THE COURT: Yes. You all come on up.

25 Hang on one second, please.

1 (WHEREUPON, a bench conference was held with the
2 attorneys.)

3 MR. GOWDY: He wants you to ask them not to discuss
4 the case. He wants you to tell them not to discuss the
5 case.

6 MR. BOGGS: And also, if they can go out that way.
7 If they're wandering around on the steps out here, I'm
8 concerned about people saying something about the case or
9 something like that. I don't know how to control that.

10 THE COURT: Well, do you want me to tell them not to
11 discuss the case at this time?

12 MR. BOGGS: If you just tell them like if they hear
13 anybody talking about it, don't -- you know, move away
14 from them and don't talk about it.

15 THE COURT: Do you want me to announce the case? Is
16 that what you want me to do? I don't particularly want to
17 do it before I get into it --

18 MR. BOGGS: Maybe that would be enough, just waving a
19 red flag to them --

20 THE COURT: Well, I'll instruct them about it. Okay.

21 MR. BOGGS: Okay.

22 (WHEREUPON, the bench conference was concluded.)

23 THE COURT: I am going to allow you all to take a
24 break. And you are under oath at this time. And part of
25 that -- as I tried to tell you, I cannot emphasize how

1 important it is that we have a fair and impartial jury in
2 this case and in every case. It is the -- one of the
3 basic fundamental principles that makes our country so
4 great and so free.

5 So you are under oath. And as part of that oath,
6 ladies and gentlemen, I instruct you that you are not to
7 discuss what you're up here for with anybody. And I would
8 like you to limit your conversations with persons who
9 might be outside the courtroom and in the halls of the
10 courthouse. Do not discuss any specific matters with
11 respect to jury service or why you're up here or any
12 current events of the day.

13 So, please, you are free to take about 15 to 20
14 minutes. And then please be back in the courtroom in 15
15 to 20 minutes. Okay.

16 THE BAILIFF: All those that's going to speak to you
17 are to stay?

18 THE COURT: Yes. Where would you like them?

19 THE BAILIFF: Right along here in the front.

20 THE COURT: So if you need to speak to me, you all
21 line up right here.

22 (Pause.)

23 THE COURT: I need for you to come right down here,
24 Mr. Gowan.

25 How are you doing?

1 JUROR #123, DARRYL GOWAN: All right.

2 THE COURT: Now, what is it you need to talk to me
3 about?

4 JUROR #123, DARRYL GOWAN: I ain't got no education
5 and all. And I've got real bad nerves and all. And I
6 might -- you know what I'm saying? Because I've got real
7 bad nerves and all. My mind, it ain't always stable.

8 THE COURT: How far did you go in school?

9 JUROR #123, DARRYL GOWAN: Okay. I went to -- I
10 repeated the first grade twice. And I failed the third
11 grade. And I went to the -- I, finally, got to the
12 seventh grade and skipped from the seventh to the ninth.
13 And then I got to the ninth. And that's when they -- you
14 know, they said that I wasn't going to --

15 THE COURT: Can you read and write?

16 JUROR #123, DARRYL GOWAN: No, sir.

17 THE COURT: What do you do with your money?

18 JUROR #123, DARRYL GOWAN: My money, now, I can count
19 a little money. But, see, I don't even work. Because I
20 can't fill out a job application or nothing like that
21 because I ain't strong minded.

22 THE COURT: All right. Anything --

23 MR. GOWDY: Could we discuss one thing?

24 THE COURT: Sure.

25 MR. GOWDY: Outside just -- it's a legal matter.

1 THE COURT: All right. Mr. Gowan, if you'll just
2 step right over here.

3 JUROR #123, DARRYL GOWAN: Yes, sir.

4 THE BAILIFF: Juror #130 --

5 THE COURT: Hang on.

6 MR. GOWDY: I have him as being disqualified anyway
7 because of perjury. I didn't know the best way to ask
8 him, are you the same Darryl Gowan that was convicted of
9 perjury? But I have him as being disqualified.

10 THE COURT: He's got a perjury conviction.

11 MR. BOGGS: There's nothing wrong with that.

12 MR. GOWDY: If it's the same Darryl Gowan, he's got a
13 record.

14 THE COURT: He can't read or write. He's not
15 qualified.

16 MR. GOWDY: I was just going to give you more than
17 one reason, if you wanted it.

18 THE COURT: Okay. We're going to cut him loose.
19 He's not qualified. He's #123.

20 (Pause.)

21 THE COURT: Mr. Gowan --

22 JUROR #123, DARRYL GOWAN: Am I excused?

23 THE COURT: Yes, sir.

24 THE BAILIFF: #130.

25 THE COURT: You are Pamela Gregory; is that right?

1 JUROR #130, PAMELA GREGORY: Yes, sir.

2 THE COURT: What can you --

3 JUROR #130, PAMELA GREGORY: I was arrested in 2001.

4 THE COURT: You were arrested?

5 JUROR #130, PAMELA GREGORY: I'm on probation.

6 THE COURT: For what?

7 JUROR #130, PAMELA GREGORY: Forgery.

8 THE COURT: All right. Do you have that?

9 MR. GOWDY: I have a Pamela Gregory that was
10 convicted of breach of trust. I don't know whether it is
11 the same one.

12 THE COURT: What's your date of birth?

13 JUROR #130, PAMELA GREGORY: 2-14-60. I think that's
14 what it was.

15 MR. GOWDY: I believe it was a conviction. I think
16 she may have used the word arrest. I think it, actually,
17 may have been a conviction.

18 THE COURT: She's on probation.

19 Isn't that right?

20 JUROR #130, PAMELA GREGORY: Right.

21 THE COURT: What was your sentence?

22 JUROR #130, PAMELA GREGORY: Five years probation.

23 MR. GOWDY: That's the same one.

24 THE COURT: Okay. Ma'am, you are disqualified.

25 JUROR #130, PAMELA GREGORY: Thank you.

1 THE BAILIFF: #96.

2 MR. BOGGS: It was breach of trust.

3 THE COURT: She said forgery.

4 MR. BOGGS: It was breach of trust.

5 (Pause.)

6 THE COURT: You are Mr. Ferguson. What can you tell
7 me, Mr. Ferguson?

8 JUROR #96, RICKEY FERGUSON: I'm disabled, and my
9 doctor wrote out an excuse.

10 THE COURT: What did they do to you?

11 JUROR #96, RICKEY FERGUSON: They cut me from here
12 all the way down, and they put tubes and everything in my
13 groin and all.

14 THE COURT: Okay. You had open heart surgery?

15 JUROR #96, RICKEY FERGUSON: Yeah. It was like open
16 heart surgery, there was a massive blockage.

17 THE COURT: Okay. Well, we will excuse you based on
18 the medical condition. We're going to keep this however.

19 JUROR #96, RICKEY FERGUSON: Thank you.

20 THE COURT: He was Juror #96.

21 THE CLERK: Okay. Thank you.

22 THE BAILIFF: #217.

23 THE COURT: Are you Ms. Leonard?

24 JUROR #217, REBEKAH LEONARD: Yes, sir.

25 THE COURT: What is --

1 JUROR #217, REBEKAH LEONARD: Lower back problem. I
2 can't sit more than 15 minutes out of an hour, hour and a
3 half. I have a doctor's excuse in the Clerk of Court's
4 Office, but my paperwork got lost.

5 THE COURT: All right. Do we have that, Mr. Clerk?

6 THE CLERK: Let me see.

7 JUROR #217, REBEKAH LEONARD: It was faxed to you.

8 THE COURT: All right. Ma'am, if you'll just step
9 aside, we'll see what we've got.

10 JUROR #217, REBEKAH LEONARD: Over here?

11 THE COURT: Yes, ma'am.

12 THE BAILIFF: #314.

13 THE COURT: Hi. Ms. Robinson, how are you?

14 JUROR #314, JOANN ROBINSON: Fine.

15 THE COURT: What do you want to tell me?

16 JUROR #314, JOANN ROBINSON: I have a fissure and it
17 done tore. My bowels are constantly bleeding when I sit
18 down.

19 And also, I have two small foster kids. I don't have
20 nobody to take care of them. And I'm going to have
21 surgery -- well, today is the -- on Wednesday.

22 THE COURT: Okay. You're scheduled for surgery on
23 Wednesday?

24 JUROR #314, JOANN ROBINSON: If they find the torn
25 bowels.

1 THE COURT: All right.

2 JUROR #314, JOANN ROBINSON: And I've done had the
3 appointment ever since August.

4 THE COURT: Since August?

5 JUROR #314, JOANN ROBINSON: Uh-huh. They're trying
6 to get me in.

7 THE COURT: All right. Well, we don't want -- I
8 mean, we hate to not have you serve, but we will excuse
9 you in this case

10 JUROR #314, JOANN ROBINSON: Thank you.

11 THE COURT: Okay. We need to hang on to that.

12 JUROR #314, JOANN ROBINSON: Okay.

13 THE COURT: Mr. Clerk, #314 is excused.

14 THE CLERK: We don't have a doctor's excuse for the
15 other lady in the books.

16 THE COURT: Remind me and we'll talk with her again
17 in just a second.

18 THE BAILIFF: #250.

19 THE COURT: Ms. Mills, what is your problem, ma'am?

20 JUROR #250, DELORIS MILLS: He is in counseling for
21 treatments.

22 THE COURT: What kind of treatments?

23 JUROR #250, DELORIS MILLS: Chemo.

24 THE COURT: Oh, this is your husband?

25 JUROR #250, DELORIS MILLS: Uh-huh.

1 THE COURT: Okay. What -- does he have cancer? Is
2 that what you're telling me?

3 JUROR #250, DELORIS MILLS: Uh-huh. He has lung
4 cancer.

5 THE COURT: When did you find out about it?

6 JUROR #250, DELORIS MILLS: Thursday.

7 THE COURT: How old is he?

8 JUROR #250, DELORIS MILLS: 58.

9 THE COURT: How long have you been married to him?

10 JUROR #250, DELORIS MILLS: For a while.

11 THE COURT: You don't remember?

12 JUROR #250, DELORIS MILLS: It's been a long time,
13 about 20 years ago.

14 THE COURT: What was your number, #250?

15 JUROR #250, DELORIS MILLS: Yes.

16 THE COURT: All right. Ma'am, I'm going to ask you
17 to wait and let me hang on to that.

18 JUROR #250, DELORIS MILLS: Okay.

19 THE COURT: It's her husband who has cancer.

20 MR. GOWDY: Do we know when he was diagnosed?

21 THE COURT: Thursday.

22 MR. BOGGS: She said last Thursday.

23 THE COURT: Ma'am, I'm going to excuse you and I wish
24 your husband the best of luck.

25 JUROR #250, DELORIS MILLS: Thank you.

1 THE COURT: Mr. Clerk, excuse #250.

2 THE BAILIFF: #307.

3 THE COURT: Right here, Ms. Richards.

4 JUROR #307, NELCIE RICHARDS: I had a note from the
5 doctor, and I left it with Ashley, that my brother had had
6 a stroke and I was the only one that could take care of
7 him. And I had give it to Ashley. And I don't know what
8 happened to it.

9 And then I don't write or read too well.

10 THE COURT: What -- you are number what?

11 JUROR #307, NELCIE RICHARDS: #307.

12 THE COURT: How far did you go in school?

13 JUROR #307, NELCIE RICHARDS: I went to the ninth,
14 but it was in special ed.

15 THE COURT: You can't read the newspaper?

16 JUROR #307, NELCIE RICHARDS: No, not that good.

17 THE COURT: And you say it's your -- that you gave a
18 note to Ashley, but then she lost it. Ashley doesn't lose
19 notes.

20 JUROR #307, NELCIE RICHARDS: I didn't say she lost
21 it. I said I gave it to her. It was a doctor's excuse.

22 THE COURT: All right. Mr. Richards, I am going to
23 ask you to -- it's your brother?

24 JUROR #307, NELCIE RICHARDS: Yes, sir.

25 THE COURT: Well, who do you live with?

1 JUROR #307, NELCIE RICHARDS: I live by myself.

2 THE COURT: Okay. How many brothers and sisters have
3 you got?

4 JUROR #307, NELCIE RICHARDS: I only have two
5 brothers.

6 THE COURT: And what's the matter with your brother?

7 JUROR #307, NELCIE RICHARDS: He had a stroke.

8 THE COURT: Who does he live with?

9 JUROR #307, NELCIE RICHARDS: He was living in this
10 apartment. He had a stroke last Saturday and he's
11 paralyzed down his right side.

12 THE COURT: Where is he?

13 JUROR #307, NELCIE RICHARDS: Right now?

14 THE COURT: Yes.

15 JUROR #307, NELCIE RICHARDS: He's back at the
16 hospital.

17 THE COURT: Okay. Ms. Richards, I'm going to ask you
18 to wait and I'll get back with you in a little bit. Okay.

19 JUROR #307, NELCIE RICHARDS: Okay.

20 THE BAILIFF: #158.

21 THE COURT: All right. Ms. Holden, how are you?

22 JUROR #158, RUBY HOLDEN: That's my problem, I can't
23 hear you.

24 THE COURT: Is that all you need to talk to me about
25 is your hearing?

1 JUROR #158, RUBY HOLDEN: Yes, sir. I just can't
2 hear you. I just can't hear people talking. I can hear
3 them if you're speaking like me and you. I can read your
4 lips. I have a hearing aid. And I'm completely deaf in
5 this ear.

6 THE COURT: Okay. Ms. Holden, I'm going to ask you
7 to just wait and I'll get back with you in a few minutes.

8 JUROR #158, RUBY HOLDEN: You're going to get back
9 with me?

10 THE COURT: Yes, ma'am.

11 Tell me --

12 MR. BOGGS: She's the wife of a sheriff -- I mean, a
13 security deputy at the jail.

14 MR. GOWDY: Detention officer.

15 MR. BOGGS: Detention officer. Thank you.

16 So, I mean, she's -- well, anyway, that may help you.

17 THE COURT: All right.

18 MR. GOWDY: I had Ms. Richards as being a school
19 teacher. The lady that said she had trouble reading and
20 writing, I had a note that she was a school teacher.

21 Did she not say she was a school teacher?

22 THE COURT: Well, we'll talk about her.

23 MR. GOWDY: Okay.

24 THE COURT: We'll cut #158 loose. She can't hear.
25 She's completely deaf in her left ear.

1 All right. Next juror, please.

2 THE BAILIFF: #386.

3 THE CLERK: Excuse me. Your Honor, are you keeping
4 #158?

5 THE COURT: She's gone.

6 THE CLERK: She's gone?

7 THE COURT: Yes. She's gone. You can tell her.
8 What was this next number?

9 MR. GOWDY: #386.

10 THE COURT: All right. Ms. Williams.

11 JUROR #386, PATRICIA WILLIAMS: My daughter, she gets
12 out at 2:40. And I don't have nobody to watch her.

13 And I was in a car wreck Tuesday -- I mean, I was in
14 an accident Tuesday. And I got hit real hard. And my
15 back and head and things are hurting.

16 THE COURT: How old is your daughter?

17 JUROR #386, PATRICIA WILLIAMS: She's nine.

18 And I done lost my car. I don't have no
19 transportation. I walked down here. I don't have no way
20 of getting around.

21 THE COURT: Who do you live with?

22 JUROR #386, PATRICIA WILLIAMS: I stay by myself.
23 I've got my own house. I don't have no transportation.

24 THE COURT: Well, we can get you here. And it's you
25 and your daughter?

1 JUROR #386, PATRICIA WILLIAMS: Yes, sir. I've got
2 three more -- I've got two more children, one is nine, one
3 is 11, and one is 14.

4 THE COURT: Okay.

5 JUROR #386, PATRICIA WILLIAMS: But the one that's --
6 she's nine, she gets out at 2:45. And the rest of them
7 get out at 3:30.

8 THE COURT: All right. Well, ma'am, if you will just
9 wait, and I'll get back with you. Okay.

10 JUROR #386, PATRICIA WILLIAMS: Okay. Thank you.

11 THE COURT: I just want to see how many we get before
12 I let her loose.

13 Next juror, please.

14 THE BAILIFF: #321.

15 THE COURT: Yes, sir, Mr. Sanford.

16 JUROR #321, JIM SANFORD: I just have sleep apnea.
17 And what happens, after I sit a period of time, I get
18 groggy and sleepy. And that's what scares me.

19 THE COURT: All right. Well, we can pump you full of
20 coffee. Will that help?

21 JUROR #321, JIM SANFORD: I mean, it's just something
22 that -- you know, if I'm sitting a long time, that's what
23 happens to me.

24 THE COURT: All right. We will certainly -- we will
25 be very mindful of that. Okay.

1 JUROR #321, JIM SANFORD: Okay.

2 THE COURT: But I'm going to ask you to serve. Okay.

3 JUROR #321, JIM SANFORD: Okay. Thank you, sir.

4 THE COURT: All right.

5 THE BAILIFF: #13.

6 THE COURT: #13, Daniel Berrian.

7 JUROR #13, DANIEL BERRIAN: Yes, sir.

8 THE COURT: All right. Yes, sir, Mr. Berrian.

9 JUROR #13, DANIEL BERRIAN: Sir, I have a job right
10 now and they started without me there. It's not getting
11 done at all. I missed a lot of work last week and am
12 behind on my bills.

13 So is there any way that I can just come back another
14 time? I just -- right now is a bad time for me. I didn't
15 want to just not show up.

16 THE COURT: Do you own your own business?

17 JUROR #13, DANIEL BERRIAN: Yes, sir, framing. And
18 I'm at a Hot Spot right now. I've just -- I've got to get
19 it done. And I've got two other guys working with me.
20 And unless I'm there, there's nothing going on. And I'm
21 really behind right now or otherwise I wouldn't ask for
22 this.

23 THE COURT: All right. Well, let me get back with
24 you. I'll talk with you in just a few minutes.

25 JUROR #13, DANIEL BERRIAN: Thank you, sir.

1 MR. BOGGS: He just wants a transfer; right?

2 THE COURT: Yes.

3 MR. GOWDY: Work hardship. It's a work hardship.

4 THE BAILIFF: #124.

5 THE COURT: A good looking guy like you, you couldn't
6 have gotten in trouble.

7 JUROR #124, AARON GRAY: The wrong crowd, sir.

8 THE COURT: The wrong crowd?

9 JUROR #124, AARON GRAY: Uh-huh.

10 THE COURT: Well I won't give you a lecture on that.
11 What's your problem?

12 JUROR #124, AARON GRAY: I have a PWID.

13 THE COURT: Possession with intent for what?

14 JUROR #124, AARON GRAY: Crack.

15 THE COURT: Is it pending or --

16 JUROR #124, AARON GRAY: I pleaded guilty.

17 THE COURT: When did you do that?

18 JUROR #124, AARON GRAY: It's not -- maybe two
19 months, three months ago.

20 THE COURT: What did you get?

21 JUROR #124, AARON GRAY: I haven't been -- I pleaded
22 guilty in preliminary. I haven't been to --

23 MR. GOWDY: It's still pending, Your Honor. It's
24 pending in my office.

25 THE COURT: Okay. You don't fit under the statutory.

1 You're not disqualified as of yet. Okay.

2 JUROR #124, AARON GRAY: Okay.

3 THE COURT: Mr. Gowdy, we'll talk about it.

4 MR. GOWDY: Okay. That puts us in an awkward
5 position.

6 THE COURT: I know.

7 Next juror.

8 THE BAILIFF: #260.

9 THE COURT: All right. And you are Mr. Coates?

10 JUROR #260, ALEXANDER NASH: Nash.

11 THE COURT: What's your number?

12 JUROR #260, ALEXANDER NASH: #260.

13 THE COURT: Oh, #260.

14 All right. Mr. Nash, what's --

15 JUROR #260, ALEXANDER NASH: I have seizures. I'm on
16 medication and I have to take one a day and two at night.

17 THE COURT: Okay. Well, you look like you're getting
18 around all right.

19 JUROR #260, ALEXANDER NASH: I have seizures. I have
20 to have my medication.

21 THE COURT: When was the last seizure you had?

22 JUROR #260, ALEXANDER NASH: I have them often.

23 THE COURT: Well, you didn't answer my question.

24 When was the last one you had?

25 JUROR #260, ALEXANDER NASH: Oh, when was the last

1 one I had?

2 THE COURT: Yes.

3 JUROR #260, ALEXANDER NASH: It's been about a week.

4 THE COURT: Who's your doctor?

5 JUROR #260, ALEXANDER NASH: Dr. Corby. He is in
6 Duncan.

7 THE COURT: You don't have a medical -- you didn't
8 bring any documentation?

9 JUROR #260, ALEXANDER NASH: No, sir.

10 THE COURT: All right. I'm going to ask you to hang
11 around. And I'll talk to you again in a few minutes.

12 JUROR #260, ALEXANDER NASH: Okay.

13 THE BAILIFF: #50.

14 THE COURT: All right. Mr. Carnell, how are you
15 doing?

16 JUROR #50, RUSSELL CARNELL: Well, I don't do too
17 good. I've got emphysema and asthma. And I take a spray
18 thing with me. And sometimes I start breathing hard and I
19 have to use it. And then I've got brown lungs on one side
20 of me.

21 THE COURT: Textile?

22 JUROR #50, RUSSELL CARNELL: Yeah. And I can walk --
23 you know, I can't walk too far. I get out of wind. And
24 right now, it's hot in here to me now and it is starting
25 to smother me. I'm getting hot and everything.

1 THE COURT: Can you read and write?

2 JUROR #50, RUSSELL CARNELL: I can't read too good.
3 I can't write too good, Your Honor.

4 THE COURT: Well, how old are you?

5 JUROR #50, RUSSELL CARNELL: I'm 61 years old.

6 THE COURT: You've made it that far? What kind of
7 work do you do?

8 JUROR #50, RUSSELL CARNELL: I do construction work.
9 But I've got somebody that helps me half the time when we
10 do some work. And my wife, she have to fill my checks out
11 and helps me write things and everything like that. I
12 ain't really too good on reading and not too good on
13 writing, because I have to have somebody to help me all
14 the time.

15 THE COURT: Mr. Carnell, I'm going to ask you to --
16 did you bring a medical excuse with you?

17 JUROR #50, RUSSELL CARNELL: I got a doctor's slip
18 somewhere they have with me -- it's doctor -- where they
19 sent to me one time and I sent one back.

20 THE COURT: Here?

21 JUROR #50, RUSSELL CARNELL: Yeah. It was with that
22 paper and everything.

23 THE COURT: All right. Well, we'll get with you in
24 just a few -- I'll get with you.

25 JUROR #50, RUSSELL CARNELL: Can I go to the bathroom

1 right quick?

2 THE COURT: Yes. You go ahead. You take a break.
3 We've got a ways to go.

4 MS. QUIMBY: He sent a medical excuse in. He had
5 high blood pressure.

6 THE COURT: Is that what the medical excuse was?

7 MS. QUIMBY: Uh-huh.

8 THE BAILIFF: #341.

9 THE COURT: Ms. Sprouse, how are you?

10 JUROR #341, BRENDA SPROUSE: All right.

11 THE COURT: Yes, ma'am.

12 UNIDENTIFIED WOMAN: She just don't understand some
13 things.

14 THE COURT: Have you got some documents with you?

15 UNIDENTIFIED WOMAN: No. This is what they gave me.

16 THE COURT: Well, what does she not understand?

17 UNIDENTIFIED WOMAN: He wants to know what you don't
18 understand.

19 JUROR #341, BRENDA SPROUSE: A lot of things.

20 THE COURT: Are you on disability?

21 JUROR #341, BRENDA SPROUSE: Yes.

22 THE COURT: What's it for?

23 JUROR #341, BRENDA SPROUSE: For my nerves. I've
24 been to mental health.

25 THE COURT: Have you?

1 JUROR #341, BRENDA SPROUSE: Yes.

2 THE COURT: When was the last time you went?

3 JUROR #341, BRENDA SPROUSE: About a year ago.

4 THE COURT: What did they put you on?

5 JUROR #341, BRENDA SPROUSE: They put me on that --
6 it just makes me sleep is all I can tell you.

7 UNIDENTIFIED WOMAN: And she has a sleeping disorder
8 and stuff.

9 JUROR #341, BRENDA SPROUSE: I'm supposed to be on
10 the machine, the breathing machine.

11 THE COURT: Oh, really. Well, why aren't you?

12 UNIDENTIFIED WOMAN: She just -- I put it on her
13 during the day and at night.

14 THE COURT: So you take care of her?

15 UNIDENTIFIED WOMAN: Yeah.

16 THE COURT: I'm going to excuse you, Ms. Sprouse.

17 JUROR #341, BRENDA SPROUSE: Okay. Thank you a lot.

18 THE COURT: Okay.

19 MR. GOWDY: Just for purposes of the record, she had
20 a conviction for more than one year as well, in case
21 somebody doesn't like that reason.

22 THE COURT: Okay. What was it for?

23 MR. GOWDY: It may take me a while, but grand larceny
24 is the one that leaps out the quickest.

25 THE COURT: Oh, she's got a lengthy record?

1 MR. GOWDY: Yes.

2 THE BAILIFF: #161.

3 JUROR #161, CHERIE HOLSTEN: Hey.

4 THE COURT: Ms. Holsten.

5 JUROR #161, CHERIE HOLSTEN: I do not want to get out
6 of doing this. But you asked me and I have to tell you
7 that I'm an old hippy that has --

8 THE COURT: You're an old what?

9 JUROR #161, CHERIE HOLSTEN: Hippy. And I do have
10 charges from the 1960's. And I was given like three to
11 five years and then they suspended it on probation. They
12 let me go after a year, because of good behavior. And my
13 rights were all restored by a letter from the Judge. Now,
14 in North Carolina -- you said amnesty or pardon. That's
15 something that has to be done by the Governor's Office.
16 Okay. So my rights have been restored, but not by either
17 method which you said. Now, on the other --

18 THE COURT: This was in North Carolina?

19 JUROR #161, CHERIE HOLSTEN: In North Carolina 30
20 years ago, but you asked.

21 THE COURT: I did.

22 JUROR #161, CHERIE HOLSTEN: On the other side of
23 that, I have taught criminal justice. My son interned
24 here as a law student at the Office of the Public
25 Defender. I, actually, helped to coordinate two

1 state-wide law enforcement conferences --

2 THE COURT: All right. Let me ask you this --

3 JUROR #161, CHERIE HOLSTEN: -- out of the Governor's
4 Office in the State of South Carolina. I am a notary
5 public. I don't know if that -- I mean, I could go on and
6 on and on.

7 THE COURT: Okay.

8 JUROR #161, CHERIE HOLSTEN: I helped to write a text
9 book --

10 THE COURT: Okay.

11 JUROR #161, CHERIE HOLSTEN: -- that was adopted at
12 the Criminal Justice Academy in Columbia.

13 THE COURT: All right. Do you have the letter?

14 JUROR #161, CHERIE HOLSTEN: No. It's long since
15 lost. But, you know, I was 17 years old -- had just
16 turned 17, and I'm 51 now.

17 THE COURT: Do you all have anything on her?

18 MR. GOWDY: All I have -- and, again, it may not be
19 the right Ms. Holsten. I have a 1970 possession of
20 narcotics, but it has no disposition on it.

21 JUROR #161, CHERIE HOLSTEN: That's what it was.

22 MR. GOWDY: It was in North Carolina and has no
23 disposition.

24 JUROR #161, CHERIE HOLSTEN: 1970 in Raleigh. It was
25 possession of -- which I wasn't a dealer. I was not a

1 dealer.

2 MR. GOWDY: I believe you.

3 THE COURT: But you were a hippy?

4 JUROR #161, CHERIE HOLSTEN: I was a hippy, oh, Lord,
5 forgive me, in 1969 and 1970.

6 MR. GOWDY: I know that North Carolina writes
7 restorations, from my days in the federal system, that
8 enables you to possess a firearm. I don't know what
9 all --

10 THE COURT: But you are a notary public in the State
11 of South Carolina?

12 JUROR #161, CHERIE HOLSTEN: In the State of South
13 Carolina, I am right now.

14 THE COURT: Okay. Well, I think --

15 JUROR #161, CHERIE HOLSTEN: And I don't want to get
16 out of doing this.

17 MR. BOGGS: I was going to say, is she asking to be
18 excused?

19 JUROR #161, CHERIE HOLSTEN: No. You asked me.

20 THE COURT: All right. Ms. Holsten --

21 JUROR #161, CHERIE HOLSTEN: My son interned. Now,
22 my son interned.

23 THE COURT: Okay. We will get back with you.

24 JUROR #161, CHERIE HOLSTEN: Okay.

25 THE BAILIFF: #106.

1 THE COURT: Ms. Murphy.

2 JUROR #106, MARSHA MURPH: It's Murph without the
3 "Y."

4 THE COURT: Oh, it's Ms. Murph?

5 JUROR #106, MARSHA MURPH: Uh-huh.

6 THE COURT: Yes, ma'am. What do you want to tell me?

7 JUROR #106, MARSHA MURPH: I mailed in a letter
8 asking if I could be postponed to a later date --

9 THE COURT REPORTER: I can't hear.

10 THE COURT: You're going to have to speak up just a
11 little bit.

12 JUROR #106, MARSHA MURPH: Oh, I'm sorry. I sent a
13 letter in asking if I could be postponed to a later date.
14 I just started a new job two weeks ago. And I go to
15 school full-time to Spartanburg Tech. And it was kind of
16 bad time for me to miss work.

17 THE COURT: Okay.

18 JUROR #106, MARSHA MURPH: And I served on a jury in
19 2001, I think it was

20 THE COURT: We'll check on that, Ms. Murph. And let
21 me -- we'll get back with you. Okay.

22 JUROR #106, MARSHA MURPH: Okay.

23 THE COURT: We'd love to have you.

24 JUROR #106, MARSHA MURPH: I enjoyed it last time,
25 but it was just -- I really need it to be a later date, if

1 possible.

2 THE COURT: All right. Well, we will check on that
3 and get back with you.

4 JUROR #106, MARSHA MURPH: Okay. Thank you.

5 MR. GOWDY: Your Honor, did she provide her full-time
6 student record?

7 THE COURT: Ms. Murph, you say you're a full-time
8 student?

9 JUROR #106, MARSHA MURPH: Uh-huh.

10 THE COURT: Do you have a record?

11 JUROR #106, MARSHA MURPH: Well, I brought my
12 schedule. I tried to get it this morning, but I wasn't --
13 I couldn't get it. And that's -- it's still the same, but
14 it's at night now. Because when I got my job, I changed
15 it from day to night.

16 MR. GOWDY: I think it's got to be more than 12 hours
17 to be considered full-time.

18 THE COURT: She's got 13 hours.

19 JUROR #106, MARSHA MURPH: It's 12 now, but I'm going
20 at night.

21 MR. GOWDY: I don't know what to do with this.

22 THE COURT: We'll get back with you.

23 JUROR #106, MARSHA MURPH: Okay.

24 THE BAILIFF: #18.

25 THE COURT: Mr. Boggs, what can you tell me?

1 JUROR #18, FRANKLIN BOGGS, JR.: Okay. I've been
2 convicted of a second CDV. I'm up for my third conviction
3 now waiting to stand trial. I also served on a jury.

4 THE COURT: When?

5 JUROR #18, FRANKLIN BOGGS, JR.: About three years
6 ago. Also I'm the only one that works in my household, a
7 family of six. If I'm a day late on my house payment,
8 I'll lose my house. I've been through bankruptcy. I
9 can't afford to be out of work.

10 THE COURT: All right. Well, we will -- we'll, I'm
11 going to have to take that under advisement. And we'll
12 get back with you.

13 JUROR #18, FRANKLIN BOGGS, JR.: Okay.

14 THE COURT: Is that the record you've got?

15 MR. GOWDY: Yes, sir. He has a pending CDV third or
16 subsequent in the office.

17 THE COURT: Okay. Next juror.

18 THE BAILIFF: #113.

19 THE COURT: This is the one that answered to every
20 question I asked.

21 MR. GOWDY: I know.

22 (Pause.)

23 THE COURT: Your name again, ma'am?

24 JUROR #113, VANESSA GARRETT: Vanessa Garrett.

25 THE COURT: Garrett?

1 JUROR #113, VANESSA GARRETT: Uh-huh.

2 THE COURT: What's her number?

3 MR. GOWDY: #113.

4 THE COURT: All right. Ms. Garrett, what do you want
5 to tell me?

6 JUROR #113, VANESSA GARRETT: I want to let you know
7 that I have a sinus problem, a bad sinus problem. And I
8 can't hear out of one ear. And I ain't got my
9 prescription filled yet. And I can't read and write. And
10 I've got four kids in school and I have to go pick them up
11 at 2:15.

12 THE COURT: How old are your children?

13 JUROR #113, VANESSA GARRETT: I've got one that's 13,
14 12, eight, and seven.

15 THE COURT: Where are they in school?

16 JUROR #113, VANESSA GARRETT: [Inaudible.]

17 THE COURT: All right. We'll I'm going to excuse you
18 at this time.

19 JUROR #113, VANESSA GARRETT: Okay.

20 THE COURT: All right. Next juror, please.

21 THE BAILIFF: #339.

22 THE COURT: What's your number?

23 JUROR #339, MARSHALL SMITH: #339.

24 THE COURT: Marshall Smith?

25 JUROR #339, MARSHALL SMITH: Yeah.

1 THE COURT: All right. What do you want to tell me?

2 JUROR #339, MARSHALL SMITH: I had a conviction in
3 1984.

4 THE COURT: For what?

5 JUROR #339, MARSHALL SMITH: Burglary and criminal
6 sexual conduct. I did ten years.

7 MR. GOWDY: That's correct, Your Honor.

8 THE COURT: Okay. You're excused.

9 JUROR #339, MARSHALL SMITH: Thank you.

10 THE COURT: Next juror, please.

11 THE BAILIFF: #305.

12 THE COURT: All right. Ms. Rice.

13 JUROR #305, SHIRLEY RICE: Yes.

14 THE COURT: What do you want to tell me?

15 JUROR #305, SHIRLEY RICE: I have a criminal record.

16 THE COURT: What is it?

17 JUROR #305, SHIRLEY RICE: Shoplifting.

18 THE COURT: When was that?

19 JUROR #305, SHIRLEY RICE: It's been about five years
20 ago.

21 MR. GOWDY: Your Honor, this may be the wrong
22 Ms. Rice, and if it is, I apologize. But it looks like
23 perhaps a forgery conviction from 1992, 1998 property
24 offense third or subsequent, which would be -- it could be
25 shoplifting, but if it was a third or subsequent, it would

1 be up to ten years.

2 THE COURT: What's your date of birth, ma'am?

3 JUROR #305, SHIRLEY RICE: 1-9-56.

4 MR. GOWDY: Shirley A. Rice on 179 Amos Street?

5 JUROR #305, SHIRLEY RICE: Uh-huh.

6 MR. GOWDY: That's her.

7 THE COURT: All right. Ma'am, you are excused.

8 THE BAILIFF: #157.

9 JUROR #157, CAROL HODGE: Yes, sir.

10 THE COURT: Yes, ma'am, Ms. Hodge.

11 JUROR #157, CAROL HODGE: Okay. I have some
12 extenuating circumstances. It's about my mother. I'm her
13 primary caregiver and she has limited vision. She had a
14 broken hip, which did not heal properly and needs further
15 surgery and may need amputation. And I do her meal
16 preparation.

17 THE COURT: You do what?

18 JUROR #157, CAROL HODGE: I prepare her meals and
19 help her with her activities.

20 THE COURT: I am going to excuse you from service.

21 JUROR #157, CAROL HODGE: All right, sir.

22 THE COURT: We're going to keep this letter, Mr.
23 Clerk.

24 THE CLERK: Yes, sir.

25 Is it #157?

1 THE COURT: Yes, #157.

2 Next juror.

3 THE BAILIFF: #156.

4 THE COURT: All right. Ms. Hill.

5 JUROR #156, ELIZABETH HILL: Yes, sir.

6 THE COURT: What do you want to tell me?

7 JUROR #156, ELIZABETH HILL: I didn't stand when
8 called. There's a few things on my record that might stop
9 me from serving. I have a DUI, DUS, and controlled
10 substance.

11 THE COURT: What have you got?

12 MR. GOWDY: I've got CDV from 1993, and a 2003
13 speeding and DUS. I don't have anything for controlled
14 substance.

15 JUROR #156, ELIZABETH HILL: That's been from a long
16 time ago.

17 MR. GOWDY: Was it a conviction?

18 JUROR #156, ELIZABETH HILL: No, sir.

19 THE COURT: Okay. Well, that does not excuse you.

20 JUROR #156, ELIZABETH HILL: Okay. I was just
21 wanting to make sure.

22 THE COURT: Well, I appreciate you coming up and
23 telling me.

24 Thank you.

25 THE BAILIFF: #333.

1 THE COURT: All right. Mr. Shook.

2 JUROR #333, JEFFERY SHOOK: Hey. How are you doing?

3 I drive a truck for a local company. And if I have
4 to be off very long, he'll put somebody else on my truck
5 and when I go back I'll have no truck to drive. It's
6 going to be hard to take a hit like this right now. I've
7 got two vehicles down at home. It's taking everything me
8 and my wife makes to make it.

9 And he hasn't said, you know, he's going to put
10 somebody else in it, but he'll be forced. If his trucks
11 don't roll, he's forced to put somebody in to drive it.
12 Then when I do get to where I can go back, you know, it's
13 like, hey, I don't have a truck for you and I don't have
14 no job. So I'm not going to come up here and lie to you,
15 you know. That's the truth. I'm just afraid, you know,
16 if I have to be off too long, he's going to put somebody
17 else in my truck and I'm going to be out of work.

18 THE COURT: Okay. I will get back to you in just a
19 few minutes.

20 JUROR #333, JEFFERY SHOOK: Okay. I appreciate it.

21 THE COURT: Next juror, please.

22 THE BAILIFF: #83.

23 THE COURT: Yes, sir, Mr. Dorch.

24 JUROR #83, MARK DORCH: How are you doing?

25 THE COURT: I'm doing good.

1 JUROR #83, MARK DORCH: I did seven years in
2 Charlotte, North Carolina, and I really don't like DA's or
3 officers.

4 THE COURT: What did you do time for?

5 JUROR #83, MARK DORCH: Drugs.

6 THE COURT: Do you have that on his record?

7 MR. GOWDY: Yes, sir.

8 I don't have the part about not like DA's offices,
9 but I do have the conspiracy to traffic drugs.

10 THE COURT: Okay. You're excused.

11 JUROR #83, MARK DORCH: Okay.

12 THE COURT: Thank you very much. I appreciate it.

13 THE BAILIFF: #58.

14 THE COURT: All right. Mr. Clegg.

15 JUROR #58, SCOTT CLEGG: Yes, Your Honor.

16 I'd like to stay, if I'm allowed. I'm a reserve
17 deputy with the Sheriff's Department.

18 THE COURT: A reserve deputy with the Sheriff's
19 Department. I think we'll cut you loose on this one.

20 JUROR #58, SCOTT CLEGG: Thank you.

21 THE BAILIFF: #329.

22 THE COURT: All right. Mr. Shanbhag.

23 JUROR #329, AKHIL SHANBHAG: Yes. I'm not a citizen
24 of USA.

25 THE COURT: Okay. Well, how long have you been here?

1 JUROR #329, AKHIL SHANGHAG: 14 years.

2 THE COURT: Well, why don't you go ahead and become a
3 citizen?

4 JUROR #329, AKHIL SHANGHAG: I haven't even bothered
5 to.

6 THE COURT: Well, we're going to excuse you.

7 JUROR #329, AKHIL SHANGHAG: Okay.

8 THE BAILIFF: #48.

9 THE COURT: John Campbell, you don't know where you
10 live?

11 JUROR #48, JOHN CAMPBELL: I'm not really sure.

12 MR. BOGGS: Greer?

13 JUROR #48, JOHN CAMPBELL: Yes, Greer.

14 It is off of Highway 101.

15 MR. BOGGS: Which side?

16 JUROR #48, JOHN CAMPBELL: The side that's towards
17 Woodruff.

18 THE COURT: Towards Woodruff?

19 JUROR #48, JOHN CAMPBELL: Yeah, near Simpsonville.

20 MR. BOGGS: It's down near Willow Creek?

21 JUROR #48, JOHN CAMPBELL: Yeah, it is past that.

22 MR. BOGGS: Is it past Willow Creek?

23 JUROR #48, JOHN CAMPBELL: Yeah, actually, the road I
24 live on runs past it.

25 THE COURT: Is that in Spartanburg?

1 THE COURTROOM OFFICER: Yeah.

2 MR. BOGGS: If you cut back on Weaver Road --

3 THE COURTROOM OFFICER: I can pull you a map.

4 THE COURT: Let's get a map and we'll find out.

5 Thank you, Mr. Campbell.

6 Next juror.

7 THE BAILIFF: #266.

8 THE COURT: All right. Ms. Nguyen.

9 JUROR #266, LYNN NGUYEN: Hi. How you?

10 THE COURT: Fine.

11 JUROR #266, LYNN NGUYEN: Yeah. I want to excuse
12 because I don't understand a lot. I don't speak --

13 THE COURT: Where are you from?

14 JUROR #266, LYNN NGUYEN: I from Vietnam.

15 THE COURT: How long have you been here?

16 JUROR #266, LYNN NGUYEN: 17 years.

17 THE COURT: Where do you work?

18 JUROR #266, LYNN NGUYEN: I do the nails. I work for
19 the people that do the nails. When I don't work today, I
20 don't have money. So how many people I work -- how many
21 people I can --

22 THE COURT: Pardon me --

23 JUROR #266, LYNN NGUYEN: Like I work for the -- I
24 work like today. I don't go to work, I don't have money.
25 And then --

1 THE COURT: All right. Well, I think I will excuse
2 you in this case.

3 JUROR #266, LYNN NGUYEN: Okay. Thank you.

4 I go home now?

5 THE COURT: Yes.

6 JUROR #266, LYNN NGUYEN: I come back tomorrow?

7 THE COURT: No. They'll tell you what to do.

8 JUROR #266, LYNN NGUYEN: Now, I go home?

9 THE COURT: Yes. They will talk to you.

10 THE BAILIFF: #340.

11 THE COURT: All right. Yes, ma'am, Ms. Solesbee.

12 JUROR #340, NANCY SOLESBEE: I have a felony.

13 THE COURT: What's that?

14 JUROR #340, NANCY SOLESBEE: I sold narcotics to an
15 undercover officer. And I also had a crack charge.

16 THE COURT: Did you get convicted?

17 JUROR #340, NANCY SOLESBEE: I done five years
18 probation.

19 THE COURT: What have you got?

20 MR. GOWDY: Trafficking cocaine, possession of ice or
21 crack.

22 THE COURT: Did you get convicted of that possession
23 of crack?

24 JUROR #340, NANCY SOLESBEE: Yes, sir.

25 I done five years probation on it.

1 THE COURT: Okay. You're excused.

2 THE BAILIFF: #55.

3 THE COURT: All right. Mr. Chapman.

4 JUROR #55, DAVIE CHAPMAN: Yes, sir.

5 THE COURT: What do you want to tell me?

6 JUROR #55, DAVIE CHAPMAN: My doctor was supposed to
7 have faxed a statement over here for me. I'm disabled
8 with a lower back problem.

9 THE COURT: Is Ashley over there?

10 THE CLERK: I'm over here.

11 THE COURT: Do we have one?

12 THE CLERK: We have one, but all it said is that
13 Mr. Chapman is disabled. So I think you have a copy of it
14 in your notebooks. But if you want me to go get it, I'll
15 go get it.

16 THE COURT: Okay. You've been in some trouble, too?

17 JUROR #55, DAVIE CHAPMAN: Yes, sir. I wrote that
18 down on my questionnaire. I've had several DUI's.

19 THE COURT: All right. Well, we're going to -- we'll
20 excuse you based on your prior record.

21 JUROR #55, DAVIE CHAPMAN: Okay. Thank you.

22 THE BAILIFF: #345.

23 THE COURT: All right. Mr. Stevens.

24 JUROR #345, JOHN STEVENS: Good morning. How are you
25 doing, Judge?

1 THE COURT: I'm good. How about you?

2 Tell me about it.

3 JUROR #345, JOHN STEVENS: I just come home from
4 prison.

5 THE COURT: For what?

6 JUROR #345, JOHN STEVENS: Conspiracy to traffic
7 marijuana 100 pounds to 1,000 pounds. I'm on paperwork
8 right now.

9 THE COURT: All right. Well, doesn't it feel good to
10 be up here in the courthouse?

11 JUROR #345, JOHN STEVENS: The last time I was in
12 here, you all gave me 10 years. I'm shaking.

13 THE COURT: All right. Good luck to you.

14 JUROR #345, JOHN STEVENS: Yes, sir.

15 Am I excused?

16 THE COURT: Yes, sir, you're excused.

17 THE BAILIFF: #298.

18 THE COURT: Hey, Mr. Ramsey. How are you doing?

19 JUROR #298, DANNY RAMSEY, JR.: Pretty good.

20 THE COURT: Tell me about it.

21 JUROR #298, DANNY RAMSEY, JR.: Well, I'd be more
22 than happy to serve, but I just hadn't got no education.
23 That's the only problem.

24 THE COURT: You can't read and write?

25 JUROR #298, DANNY RAMSEY, JR.: No.

1 THE COURT: How far did you go in school?

2 JUROR #298, DANNY RAMSEY, JR.: Second.

3 THE COURT: Second grade?

4 JUROR #298, DANNY RAMSEY, JR.: Yes, sir.

5 I'll serve if you want me to serve. I mean, I'll
6 serve.

7 THE COURT: Well, I'll tell you what, Mr. Ramsey, let
8 me just think about it for a little bit. Okay. And we'll
9 get back with you.

10 JUROR #298, DANNY RAMSEY, JR.: Okay.

11 THE BAILIFF: #327.

12 THE COURT: Hi, Mr. Sexton.

13 JUROR #327, TAYLOR SEXTON: Hi.

14 THE COURT: Tell me about it.

15 JUROR #327, TAYLOR SEXTON: My wife is having
16 multiple surgeries tomorrow. I brought you some paperwork
17 up here.

18 THE COURT: Well, this doesn't tell me what it is.
19 What is she having -- oh, that's tomorrow. And you're
20 taking her to the doctor?

21 JUROR #327, TAYLOR SEXTON: Yeah.

22 THE COURT: All right. I'll let y'all look at that.
23 The nature of the surgery is right up here.

24 I'm going to excuse you. I wish your wife the best
25 of luck. You're getting out of jury duty, so you take

1 good care of her.

2 JUROR #327, TAYLOR SEXTON: Yes, sir.

3 Thank you.

4 THE BAILIFF: #215.

5 THE COURT: Yes, Ms. Leigh.

6 JUROR #215, SANDRA LEIGH: The Clerk suggested that I
7 inform you that about 20 days ago, after I mailed the
8 questionnaire in, my doctor put me on medication that
9 requires the intake of a lot of water. Therefore, I have
10 to use the restroom facilities. And, today, about halfway
11 through the roll call, I was painfully distracted.

12 THE COURT: All right. Well, Ms. Leigh, I'll tell
13 you, we will -- I am not going to excuse you from service.
14 But if you are selected, we will pay close attention to
15 that, of course. We'll have a -- we're not going to let
16 anybody be uncomfortable. Okay.

17 JUROR #215, SANDRA LEIGH: Thanks.

18 THE COURT: Next juror, please.

19 THE BAILIFF: #144.

20 THE CLERK: The gentleman that we checked on the map,
21 he does live in Spartanburg County.

22 THE COURT: All right. Go tell him.

23 What number was he?

24 THE CLERK: It's John Campbell.

25 THE COURT: Yes, Campbell.

1 MR. ANTHONY: He's #48.

2 THE COURT: He's in Spartanburg.

3 MS. QUIMBY: That was #48?

4 THE COURT: Yes.

5 Yes, sir. Your name?

6 JUROR #144, WALTER HARRIS: Walter Harris.

7 THE COURT: What was your number?

8 JUROR #144, WALTER HARRIS: #144.

9 THE COURT: All right. Mr. Harris, what do you want
10 to tell me?

11 JUROR #144, WALTER HARRIS: I will start off about
12 several things I'd like to mention. I'm disabled. I have
13 DDD disease, deterioration disk disease, which bothers me
14 a lot when I sit a long period of time. But as part of my
15 disability, I have a major personality disorder.

16 THE COURT: What is that?

17 JUROR #144, WALTER HARRIS: I have more than one
18 personality.

19 THE COURT: Who treats you for that?

20 JUROR #144, WALTER HARRIS: I go to the Spartanburg --
21 I see a psychologist at Spartanburg Pain Management,
22 Dr. Tollison.

23 THE COURT: Pain management?

24 JUROR #144, WALTER HARRIS: Well, he comes down
25 from -- my psychologist at the -- it's on Kennedy Street.

1 He comes down once or twice a week, because he's got an
2 office in Spartanburg and one in Greenville, too.

3 THE COURT: Do you have any medical documentation?

4 JUROR #144, WALTER HARRIS: My disability papers.
5 But I'm telling you that there -- you know, I recently --
6 I'm out on bond. I just recently got out of jail in
7 Greenville County on September 22nd. I've got a
8 pending -- I have a pending armed robbery charge against
9 me. So I've got to -- I'm waiting on -- I'm out on a
10 \$30,000 bond.

11 THE COURT: Who's your lawyer over there?

12 JUROR #144, WALTER HARRIS: I have a public defender
13 assigned to me.

14 THE COURT: Who's that?

15 JUROR #144, WALTER HARRIS: Chris Posey. He's in
16 Greenville County. And I'm out on bond now, so.

17 THE COURT: All right. Well, you've got a multitude
18 of problems.

19 JUROR #144, WALTER HARRIS: Tell me about it.

20 THE COURT: I'm going to go ahead and excuse you.

21 JUROR #144, WALTER HARRIS: All right. I had -- on
22 my questionnaire, I had filled it out and told, you know,
23 my prior -- my criminal background record, you know. I've
24 got some DUI's in '81, felonies, but I got recent
25 Spartanburg criminal charges. It was three simple

1 assaults on a police officer, two of them was dropped and
2 I kept one. But that was --

3 MR. GOWDY: It looks like a resisting arrest and
4 DUI --

5 JUROR #144, WALTER HARRIS: But that was several
6 years back.

7 THE COURT: Okay. Well, you're excused.
8 Thank you.

9 THE BAILIFF: #342.

10 THE COURT: Yes, sir, Mr. Starnes.

11 JUROR #342, JOHN STARNES: Yes. I had filled out all
12 that stuff and sent it in before I realized that I had
13 school dates starting the 15th of November. And it's not
14 just a thing of me changing it now because it's too late.

15 THE COURT: School dates for what?

16 JUROR #342, JOHN STARNES: I have to go and get
17 current flight training in Florida once a year. And if I
18 don't get it, I just don't fly until I do get it. And
19 that's several thousand --

20 THE COURT: How long has it been scheduled?

21 JUROR #342, JOHN STARNES: Pardon me?

22 THE COURT: How long has that been scheduled?

23 JUROR #342, JOHN STARNES: It's been scheduled for --
24 since back in September or whenever. It was before I got
25 the jury --

1 THE COURT: Do you fly for a living?

2 JUROR #342, JOHN STARNES: Yes, I do.

3 THE COURT: All right. Well, I will transfer you to
4 another week. And they will --

5 You all will take care of him?

6 THE CLERK: Yes.

7 THE COURT: Next juror, please.

8 THE BAILIFF: #272.

9 THE COURT: Hi, Mr. Orr.

10 JUROR #272, RUSSELL ORR: I will give you this.

11 THE COURT: Yes.

12 JUROR #272, RUSSELL ORR: I'm not asking that I not
13 do my civic responsibilities. It's just that right now
14 with our -- our company has lost our two IT directors.
15 And they've given that job to me on top of everything else
16 I do.

17 So I'm currently working about 50-plus hours a week.
18 And I'm trying to do an IT job until we have somebody come
19 in, which we are now looking to hire for that position.
20 But I'm responsible for backing up and doing close to 50
21 servers at our company. And I just ask that you just
22 transfer me to the first of the year, if possible.

23 THE COURT: All right. Well, let me -- I'll get back
24 with you on that.

25 JUROR #272, RUSSELL ORR: Yes, sir.

1 THE BAILIFF: #138.

2 THE COURT: Mr. Hall.

3 JUROR #138, MICHAEL HALL: Yes, sir.

4 THE COURT: All right. Anything you want to tell me?

5 JUROR #138, MICHAEL HALL: No, sir. It ought to be
6 in the letter. My employer just said to give you that
7 letter. That's it.

8 THE COURT: I will get back with you.

9 JUROR #138, MICHAEL HALL: Okay. Thank you, sir.

10 THE BAILIFF: #275.

11 THE COURT: Mr. Paniagua.

12 JUROR #275, RAUL PANIAGUA: It's Paniagua.

13 I'm a Jehovah Witness. It's against my religion to
14 swear or judge a persons actions. I also have financial
15 problems.

16 THE COURT: Well, I'll tell you right now --

17 JUROR #275, RAUL PANIAGUA: I really don't want to
18 betray my religion.

19 THE COURT: My policy is -- because this comes up.
20 And my policy is that I ask those persons who want to
21 claim a religious exemption that they just sit and watch
22 the proceedings. So I will ask you if you want to do
23 that?

24 I'm going to ask you to sit through this trial.

25 JUROR #275, RAUL PANIAGUA: Okay.

1 THE COURT: Would you prefer to do that as opposed to
2 serving?

3 JUROR #275, RAUL PANIAGUA: I would rather not, but,
4 yeah, I mean.

5 THE COURT: Okay. We will -- you're not excused.
6 And I'm going to ask you -- you'll be involved in watching
7 the case.

8 JUROR #275, RAUL PANIAGUA: Okay.

9 MR. BOGGS: Are you using the term that he cannot
10 give the death penalty? Is that the reason?

11 MR. GOWDY: He can't sit in judgment.

12 THE COURT: Yes. He can't sit in judgment. He's a
13 Jehovah Witness.

14 THE BAILIFF: #227.

15 THE COURT: All right. I missed his number. Did you
16 get it?

17 JUROR #227, GARY MAHAFFEY: It's #227.

18 THE COURT: #227.

19 Okay. Have you got something for me.

20 JUROR #227, GARY MAHAFFEY: No.

21 THE COURT: All right. What do you want to tell me?

22 JUROR #227, GARY MAHAFFEY: Just that I had started a
23 new job six months ago after being out of work for a year.
24 And I'm up for evaluation on Thursday of this week.

25 THE COURT: All right. Well, I'll be perfectly

1 honest with you, that's not enough to get you excused, but
2 I appreciate it.

3 JUROR #227, GARY MAHAFFEY: Could I get a postponement
4 or anything?

5 THE COURT: I'll get back with you.

6 JUROR #227, GARY MAHAFFEY: Okay.

7 THE BAILIFF: #287.

8 JUROR #287, MICHAEL PITTMAN: How are you doing, sir?

9 THE COURT: Good. How about you?

10 JUROR #287, MICHAEL PITTMAN: Pretty good.

11 THE COURT: You're Mr. Pittman?

12 JUROR #287, MICHAEL PITTMAN: Yes.

13 THE COURT: What is it?

14 JUROR #287, MICHAEL PITTMAN: It's kids, child care.
15 I've got four kids. Actually, I have five. One of them I
16 pay child support for. That was my thing.

17 THE COURT: Okay. Well, are you married?

18 JUROR #287, MICHAEL PITTMAN: Yeah.

19 THE COURT: And your wife has got the kids?

20 JUROR #287, MICHAEL PITTMAN: Well, no. She works,
21 too. They're in child care until 6:00. It's mainly a
22 financial thing.

23 THE COURT: I sympathize with you, but that's not
24 going to allow me to excuse you.

25 JUROR #287, MICHAEL PITTMAN: That's fine.

1 THE COURT: I appreciate you bringing that to my
2 attention.

3 JUROR #287, MICHAEL PITTMAN: Okay. Thank you, sir.

4 THE BAILIFF: #74.

5 THE COURT: Ms. --

6 JUROR #74, TINA CUELLO: It's Cuello.

7 THE COURT: Ms. Cuello. What do you want to tell me?

8 JUROR #74, TINA CUELLO: We have a six-year-old. We
9 have child care until 5:30, just as long as I'm out by
10 then.

11 THE COURT: Who is your -- are you married?

12 JUROR #74, TINA CUELLO: Yes.

13 THE COURT: Okay. What does he --

14 JUROR #74, TINA CUELLO: My husband works out of
15 state and he's out of town. Sometimes he works in North
16 Carolina. But he's in Concord, North Carolina, now. And
17 he's been there since yesterday. So he may be gone for
18 two or three days, so. But my son leaves school about
19 2:40, and then he goes to the church until 5:30 in the
20 evenings.

21 THE COURT: All right. I'll -- but your husband is
22 there?

23 JUROR #74, TINA CUELLO: My husband?

24 THE COURT: Yes, your husband.

25 JUROR #74, TINA CUELLO: He's at work.

1 THE COURT: But you're married and you all live
2 together?

3 JUROR #74, TINA CUELLO: Yes.

4 THE COURT: All right. Thank you.

5 (WHEREUPON, a bench conference was held with the
6 attorneys.)

7 THE COURT: I'm going to -- what I'd like to do is
8 take a break and talk to Ashley about how many we've got
9 and decide on some of these. So I'm just going to tell
10 these people to stand and stretch and we'll be back with
11 them in about ten or 15 minutes.

12 Ashley, do you know how many we have?

13 THE CLERK: I'll check.

14 THE COURT: All right.

15 (Pause.)

16 THE COURT: We've got 161.

17 MR. GOWDY: But there are some people that have
18 suffered convictions that haven't told us yet, so I think
19 that number is going to come down some.

20 MR. BOGGS: You've got Scoggins, the parole officer.

21 THE COURT: No. She didn't come up.

22 MR. GOWDY: She wants to serve.

23 MR. BOGGS: I'm sure she does and Ponder does, too.

24 THE COURT: She didn't come up to see me.

25 MR. GOWDY: Is that a disqualification or is that --

1 I'm, actually, being serious. Is that a statutory
2 disqualification?

3 THE COURT: She's a commissioned law enforcement
4 officer. She's excused.

5 I mean, she's commissioned, is she not?

6 MR. GOWDY: Yeah. They carry guns.

7 MR. BOGGS: And they have arrest powers.

8 MR. GOWDY: There's a case on that.

9 THE COURT: What's that?

10 MR. GOWDY: There's a case on that. I don't remember
11 what the case says. There's a case on a probation agent.
12 I don't remember --

13 MR. BARNETTE: There is one.

14 MR. GOWDY: But there are people that have records
15 that haven't come up.

16 THE COURT: Do you all want to get that list together
17 for me?

18 MR. GOWDY: If you want it.

19 THE COURT: Yes.

20 MR. BARNETTE: I've been working on it.

21 MR. GOWDY: Will the Court give us an opportunity to
22 be heard on the people with pending charges in our office?

23 THE COURT: Oh, yes. Absolutely. I was just going
24 to get the statutory stuff done.

25 MR. GOWDY: Are we going to take a break?

1 THE COURT: Yes.

2 MR. GOWDY: Take a break and give you the list.

3 THE COURT: Yes. But there's a number of these
4 people -- in regards to the people, I think I'm going to
5 let some of them go, the guy with the sixth grade
6 education is statutory.

7 MR. BOGGS: Who is he?

8 THE COURT: #298. I should have just let him go.

9 MR. BOGGS: Oh, that Ramsey guy that can't read and
10 write?

11 THE COURT: Yes. He's statutory disqualified. I
12 can't let him serve.

13 MR. GOWDY: I'll give you the list of convictions.

14 THE COURT: All right. You do that.

15 (WHEREUPON, the bench conference was concluded.)

16 THE COURT: Ladies and gentlemen, I misjudged the
17 timing on that. I could have given you a longer break.
18 But we have a couple of things to do. I'm going to ask
19 you to stand, stretch, and we're going to take about a
20 15-minute break. We have got some information that we've
21 got to put together. And we will be back with you in just
22 a minute.

23 Thank you very much.

24 (WHEREUPON, a break was taken.)

25 THE COURT: If I could, there are just three jurors

1 that I'd like to speak with up front.

2 Mr. Howard Butler, if you would come up.

3 Ms. Rita Pearson, if you would come up.

4 And, Ms. Eileen Scoggins, please come up front.

5 THE COURT: Okay. Mr. Butler, could I see you up
6 here? If you'll come here.

7 How are you doing?

8 JUROR #45, HOWARD BUTLER: Fine. How are you doing?

9 THE COURT: I'm good. My understanding is that you
10 have a prior conviction on your record.

11 JUROR #45, HOWARD BUTLER: I pleaded guilty.

12 THE COURT: And to what?

13 JUROR #45, HOWARD BUTLER: Voluntary manslaughter.

14 THE COURT: Okay. When was that?

15 JUROR #45, HOWARD BUTLER: 1989.

16 THE COURT: All right. Well, that excuses you from
17 service.

18 JUROR #45, HOWARD BUTLER: All right.

19 THE COURT: But I appreciate you coming to court.

20 JUROR #45, HOWARD BUTLER: Okay. Thanks.

21 THE COURT: All right. Hi, Ms. Pearson. How are you
22 doing? I understand that you might have some -- do you
23 have a criminal conviction?

24 JUROR #281, RITA PEARSON: It was a charge back in
25 '80 something.

1 THE COURT: Okay.

2 JUROR #281, RITA PEARSON: But it was dismissed.

3 THE COURT: Dismissed?

4 JUROR #281, RITA PEARSON: Uh-huh.

5 THE COURT: You don't have a -- there was not a
6 conviction?

7 JUROR #281, RITA PEARSON: No.

8 THE COURT: What was the charge?

9 JUROR #281, RITA PEARSON: It was something like I
10 worked part-time at the post office and they accused me of
11 taking some money.

12 THE COURT REPORTER: I can't hear.

13 THE COURT: Come over here, please, Ms. Pearson.

14 You worked at the post office part-time and they
15 accused you of taking some money and you say it was
16 dismissed?

17 JUROR #281, RITA PEARSON: Yeah. It was dismissed in
18 Greenville.

19 THE COURT: Okay. And what's your date of birth?

20 JUROR #281, RITA PEARSON: 1-6-50.

21 THE COURT: 1-6-50?

22 MS. PEARSON: Yes.

23 THE COURT: You look a lot younger than that.

24 JUROR #281, RITA PEARSON: Thank you.

25 THE COURT: Okay. Thank you very much.

1 You'll just have to check it out.

2 MR. GOWDY: It says, "convicted and given a
3 probationary sentence."

4 THE COURT: Well, you know the people to call about
5 that.

6 MR. GOWDY: Yeah. We'll call them and --

7 THE COURT: Yes. Call them and find out.

8 Ms. Scoggins, come on over here.

9 I understand you are a parole officer.

10 JUROR #324, EILEEN SCOGGINS: Yes, sir.

11 THE COURT: Okay. And you are a commissioned law
12 enforcement officer?

13 JUROR #324, EILEEN SCOGGINS: Yes, sir.

14 THE COURT: Okay. Well, that disqualifies you from
15 service.

16 Okay. But thank you very much for being here.

17 JUROR #324, EILEEN SCOGGINS: All right.

18 (WHEREUPON, a bench conference was held with the
19 attorneys.)

20 THE COURT: Okay. Does that cover it?

21 MR. BOGGS: How about former commissioned officers?

22 THE COURT: No.

23 MR. BOGGS: They have to be active?

24 THE COURT: Yes.

25 MR. BOGGS: Is that it for us?

1 THE COURT: Yes.

2 MR. GOWDY: At some point, do you want us -- the
3 attorneys themselves to introduce themselves in case
4 anyone is a former Tam Boggs client?

5 THE COURT: Yes. I'm going to do that in just a
6 second.

7 MR. GOWDY: Okay.

8 (WHEREUPON, the bench conference was concluded.)

9 THE COURT: All right. Have we excused those people?

10 THE CLERK: The ones you just gave me?

11 THE COURT: Yes, sir.

12 THE CLERK: Yes, we have.

13 THE COURT: Karl, come here, please.

14 These people are going to be either excused or
15 transferred.

16 THE COURTROOM OFFICER: Tell them to step out front?

17 THE CLERK: Just the ones that are transferred.

18 THE COURT: Yes. And tell them to wait and they'll
19 come talk to them in just a second.

20 THE COURTROOM OFFICER: Yes, sir.

21 THE COURT: As I call your name, this group, if you
22 would step outside and wait just outside the courtroom and
23 we'll have somebody meet with you in just a second:

24 Alexander Nash, #260; #50, Russell Carnell; #106, Marsha
25 Murph; Danny Ramsey, Jr., #298; #386, Patricia Williams;

1 #13, Daniel Berrian; #333, Jeffrey Shook; #272, Russell
2 Orr; #138, Michael Hall; #227, Gary Mahaffey, Jr.; #74
3 Tina Cuello.

4 If you all will step out into the hallway and someone
5 from the Clerk's Office will be with you.

6 (Pause.)

7 THE COURT: Ladies and gentlemen, I gave you a brief
8 road map of what we were going to try and do. And I'm
9 going to try and follow that road map.

10 Now, as I told you before, this -- I can't emphasize
11 enough the importance to the citizens of Spartanburg
12 County, the State of South Carolina, and the United States
13 of America just how important your service is as a juror.
14 And I think it's been said that -- I don't know who --
15 it's attributed to all the great people in our modern
16 history that service on a jury is the single most
17 important thing that a person -- duty that a citizen can
18 perform for their country in peacetime. And whoever said
19 that statement really hit on a truism.

20 So we want to thank you again for your service and
21 the sacrifices that you're making to be here. And I
22 cannot emphasize enough just how important your service
23 is.

24 Now, I told you I was going to discuss the specific
25 case that's to be tried, and I will do that very briefly

1 now. I will tell you that the case -- this is the
2 State -- it's a series of three indictments, which I
3 will -- you will hear about more later, but there is a
4 series of three indictments. And it is the State v.
5 Fredrick Antonio Evins. These indictments -- indictment
6 #03-2532 is an indictment for murder; indictment #03-2533
7 is a two-count indictment, count one is for kidnapping and
8 count two is for criminal sexual conduct in the first
9 degree; and indictment #03-2534 is an indictment for grand
10 larceny.

11 Now, I would tell you, ladies and gentlemen, that in
12 this case, the State is seeking the death penalty. And
13 because of that, the law requires that I address certain
14 issues with you.

15 Now, I will tell you, first of all, that the South
16 Carolina Constitution does not allow me or any trial judge
17 to have an opinion about the facts of any case. And that
18 is true in this case. So please do not think by
19 anything -- the way you see me act or anything you might
20 hear me say, I don't want you to think that I have an
21 opinion about the facts in this case or any case. Because
22 the law does not permit me to have an opinion about the
23 facts.

24 I would tell you that a -- in criminal court -- this
25 is called the Court of General Sessions. A case comes to

1 the Circuit Court by way of an indictment. And those are
2 the three documents that I announced to you just a few
3 moments ago. I would tell you that an indictment in any
4 case is not evidence. It is not to be construed by any
5 person in the jury as evidence. It is merely a vehicle or
6 a -- it's a vehicle by which a case is steered through the
7 system and brought to court.

8 Now, at this time, I will ask the attorneys to stand
9 and introduce themselves to you. Please look at them and
10 listen to their names. We will ask you questions later
11 about whether or not you know them or have had any
12 relationship with them.

13 So, at this time, I'll ask the State to please stand
14 and introduce themselves.

15 MR. GOWDY: May it please the Court, Your Honor?

16 THE COURT: Yes, sir.

17 MR. GOWDY: Good afternoon, ladies and gentlemen. My
18 name is Trey Gowdy. I am the Solicitor in Spartanburg and
19 Cherokee Counties.

20 This is Barry Barnette to my left, who will be
21 assisting me in the prosecution, and John Anthony, both of
22 whom are from Spartanburg.

23 THE COURT: Thank you very much, Solicitor.

24 MR. GOWDY: Yes, sir.

25 THE COURT: Ms. Quimby.

1 MS. QUIMBY: May it please the Court?

2 Good afternoon everyone. My name is Karen Quimby.
3 I'm also from Spartanburg. I'm an attorney with the
4 Spartanburg County Public Defender's Office.

5 And with me, defending Mr. Evins this week and next
6 week, will be Tam Boggs, a private attorney from
7 Spartanburg, and Christopher Brough, he also works in the
8 Public Defender's Office here.

9 THE COURT: And, Mr. Evins, would you stand, please,
10 so that the jury can see you.

11 Thank you, sir.

12 Now, ladies and gentlemen, there are -- and you will
13 hear this again and again during the process that you will
14 be engaged in. In our -- part of the basic foundation or
15 the building blocks of our system of justice are that
16 every person who is charged with a crime is presumed
17 innocent unless and until the State is able to prove them
18 guilty beyond any reasonable doubt of each and every
19 element of each alleged offense that they are charged
20 with. The burden of proof in every criminal case is on
21 the State and always remains on the State. And that is
22 proof beyond a reasonable doubt.

23 And further, every citizen who is charged with a
24 crime in this country is presumed innocent unless and
25 until the State can prove to a jury and satisfy them

1 beyond a reasonable doubt that they are guilty.

2 Now, ladies and gentlemen, I would tell you that by
3 your service here today and the oath or affirmation that
4 you have made and further oaths and affirmations that you
5 will make, you have agreed to accept and apply these legal
6 concepts. They are legal concepts that belong not only to
7 Mr. Evins, but to each and every person in our society.

8 Now, in the State of South Carolina, when the State
9 seeks the death penalty for the charge of murder, the law
10 provides for a bifurcated trial. Now, the word bifurcated
11 is a fancy legal term. And, really, what it means is that
12 it is a two-part or a two-step or a two-phase trial. It's
13 just that is what that means with respect to this case.

14 Now, in the first phase of a trial, such as the one
15 that we will -- that we are beginning to engage in, in the
16 first phase of the trial, the jury is only concerned with
17 the guilt or innocence of the Defendant. So the only
18 issue to be decided in the first phase, the only issue, is
19 whether the Defendant is not guilty or guilty of the
20 offense or offenses with which he is charged, including
21 the offense of murder.

22 If the jury finds the Defendant not guilty of murder,
23 the trial would not proceed to the second phase. The case
24 would end. If and only if the jury finds the Defendant
25 guilty of murder do we go to the second phase of the

1 trial.

2 Now, in the second phase of the trial, which is
3 sometimes called the sentencing phase, the only issue that
4 the jury is to determine is what punishment is
5 appropriate. Now, the choice of appropriate punishments
6 in the second phase of the trial would be life
7 imprisonment or the death penalty.

8 Now, the law in South Carolina provides that the
9 State cannot seek the death penalty in every murder case.
10 That is not permitted. The State can only seek the death
11 penalty in a case where there is a murder and the murder
12 is accompanied by, at least, one aggravating circumstance.

13 The term aggravating circumstance is a term of art in
14 the law. And aggravating circumstances are specifically
15 identified in the Code of Laws of South Carolina. The
16 State then can only seek the death penalty in a case where
17 there is a conviction of murder and the murder is
18 accompanied by, at least, one aggravating circumstance,
19 which is identified in the law. And by the term aggravate
20 or aggravating circumstance, we mean to make worse, to
21 exacerbate the circumstance.

22 Now, under the law if, and only if, we go to the
23 second phase or what we have -- I have called to you or
24 termed to you the sentencing phase, the jury is required
25 to consider any mitigating circumstance of any nature

1 whatsoever. Mitigating means to lessen, that is to lessen
2 and reduce fault and culpability.

3 Now, if we reach the second phase or the sentencing
4 phase, the jury, after considering all the evidence, could
5 impose the death penalty only if the jury unanimously
6 finds the existence of an aggravating circumstance. . In
7 the event the jury, under the law, unanimously determines
8 that the death penalty is appropriate, it is required that
9 each member of the jury sign his or her name to the
10 verdict form.

11 Now, the jury further has the authority to sentence
12 the Defendant to life imprisonment. I reiterate to you
13 that we reach the second or sentencing phase only if the
14 Defendant is found guilty of murder in the first phase of
15 the trial. If the Defendant is not convicted of murder,
16 that would conclude the trial with respect to the jury's
17 duties. And I speak to you about the death penalty only
18 because it would be an issue if you first find the
19 Defendant guilty of the crime of murder.

20 Now, because of that possibility, we will take the
21 time to question you individually, privately, and under
22 oath. And we will spend several days going through this
23 process. Thus far, I have only asked you questions about
24 your general eligibility to serve as jurors in the Circuit
25 Court. And when I question you individually, we will be

1 discussing case specific questions. For example, are you
2 related or acquainted with any of the participants in the
3 case such as the parties, the family members, the
4 witnesses, or the attorneys. We will also ask you if you
5 have seen, heard, or read anything about this case in the
6 press or from any other source.

7 And, ladies and gentlemen, we anticipate that you may
8 have been exposed to publicity about this case. That is
9 expected. And please do not worry about it. When you are
10 questioned, we want to know what you recall from the press
11 or what you have heard from others about the case. And,
12 importantly, whether you have already formed an opinion
13 about the facts of this case. And, finally, what we're
14 driving at is to find whether you can serve as a fair and
15 impartial juror in this case.

16 For those of you who are chosen to serve in this
17 case, you must accept and apply the law as I state it to
18 you. And I will at -- throughout the case be giving you
19 instructions on the law. It would be a further part of
20 your oath to find the truth from the evidence presented in
21 the courtroom. And you are not permitted under your oath
22 to be swayed or influenced by anything occurring outside
23 the courtroom such as any publicity regarding this case.

24 Now, ladies and gentlemen, I will question you
25 regarding your view or views on the death penalty. And

1 please understand, there are no right and no wrong
2 answers. I trust you understand that we must have a full
3 and honest disclosure from you to be able to select a fair
4 and impartial jury.

5 There are some people, I would tell you, who favor
6 the death penalty in every crime of murder. And once
7 guilt has been determined, such a person would always vote
8 for the death penalty no matter what the facts and
9 circumstances are. There are other people who would never
10 agree to vote for the death penalty. Such a person could
11 not be persuaded by the facts. Such a person, very
12 simply, would never vote for the death penalty.

13 There are persons whose minds are not made up
14 concerning punishment. And to this type of person or
15 juror, although the guilt of the Defendant as to the
16 charge of murder has been determined, this juror would not
17 have his or her mind made up in advance. This person or
18 juror would need to hear the facts and circumstances in
19 aggravation and in mitigation and would want to listen to
20 all of the evidence and testimony and follow the law
21 before he or she could make the decision regarding
22 punishment.

23 Now, if the facts presented so warranted, such a
24 juror could bring in a verdict for life imprisonment. Or
25 if the facts presented so warranted, this juror could

1 bring in a verdict for the death penalty. Now, perhaps
2 your view of the death penalty fits or does not fit one of
3 these three categories I have just outlined to you. We
4 will explore this when we question you. I am simply
5 providing you with an overview of the process that we will
6 follow and the types of issues and questions that we will
7 be asking you.

8 Now, in questioning each of you individually, here is
9 what we will do. Your names will be randomly selected
10 into panels of six persons. It will be group one, group
11 two, three, four, up to and including all of you as
12 jurors. We are going to do that in just a few moments.
13 And what we will do is tell you a time -- assign a time
14 for you to return back to the courthouse where you will be
15 privately and under oath questioned by yourself. So we
16 will give you that information before you leave today.

17 Now, we are going to proceed in that fashion until we
18 have a sufficient number of qualified jurors or until we
19 have the jury selected. And the qualified jurors will
20 return to the courthouse for the selection of the jury.

21 The jury, which is ultimately selected, will be
22 sequestered until the trial is over. That is, the jurors
23 chosen in this case will be staying together at a local
24 motel and eating all your meals together. The county, of
25 course, will be responsible for all the expenses

1 associated with that. A team of security officers will be
2 there to protect you and to watch over you.

3 Now, until the jury is selected, you will not be
4 sequestered. And in that regard, from this moment on, do
5 not read any news account, nor watch or listen to any
6 television or radio accounts about this case. Do not talk
7 to your fellow prospective jurors or anyone about this
8 case, including members of your own family. If anyone
9 contacts you or tries to contact you about this case,
10 please get the name of the individual who contacts you and
11 report that information to me immediately. I cannot
12 overemphasize the importance of that instruction. Do not
13 speak to anyone about this case or any potential issue in
14 this case.

15 Do not expose yourself to any publicity about the
16 case. And I recognize that some of you may have already
17 heard some information about the case. And we will talk
18 about that when we question you privately and individually
19 in court. But from this moment on, do not discuss the
20 case with anyone or expose yourself to any publicity about
21 the case. And part of my instruction to you, of course,
22 includes admonishment not to undertake any investigation
23 as to the law, the facts, or location of the alleged
24 offenses.

25 Now, the Clerk will randomly select you into your

1 groups of panels.

2 And do you want to break for lunch?

3 THE CLERK: It's up to you, Your Honor, whatever you
4 want to do.

5 THE COURT: All right. Let's break for lunch and
6 have them come back.

7 THE CLERK: Yes, sir.

8 THE COURT: Ladies and gentlemen, let me just tell
9 you this, it takes a good bit of time just to physically
10 write down -- break a group this size into panels. So we
11 are going to break for lunch. And you all -- I'm going to
12 ask -- it is ten after 1:00. I am going to ask you to be
13 back here in this courtroom by 2:30.

14 But before we do that, ladies and gentlemen, the law
15 requires that I administer an additional oath to you at
16 this time regarding your obligations to honor the
17 instructions I have given you.

18 So, at this time, I ask you to please stand and raise
19 your right hand again.

20 Will you faithfully comply with the instructions the
21 Court has given you including your duty not to expose
22 yourself to any further information about this case from
23 the press or any person. And if you agree to be bound by
24 this oath, please say "I will" at this time.

25 (All jurors said "I will.")

1 THE COURT: All right. Thank you.

2 Ladies and gentlemen, I appreciate your patience in
3 this very important matter. And we will do our best to
4 work with you in good faith to make this as painless a
5 process as we possibly can. And we will do our best to
6 put you at ease. And I assure you that you will be
7 treated with courtesy and respect.

8 And we are going to go ahead and arrange these pools
9 now. And I ask you to be back in this courtroom by 2:30.

10 Thank you very much.

11 (WHEREUPON, the jury panel exited the courtroom.)

12 MR. BOGGS: Your Honor, I am going to introduce --

13 THE COURT: Hang on.

14 Okay. Go ahead, Mr. Boggs.

15 MR. BOGGS: In chambers, I had submitted a
16 Defendant's Request For Bifurcated Trial Instruction.

17 THE COURT: Yes, sir.

18 MR. BOGGS: We discussed that. And I think the Court
19 has covered everything that we had asked for in it.
20 However, I would like to just go ahead and introduce and
21 have marked my copy of it.

22 THE COURT: Yes, sir.

23 MR. BOGGS: This is not an objection to what you,
24 actually, charged, but I would like that to be a part of
25 the record.

1 THE COURT: Yes, sir.

2 MR. BOGGS: Your Honor, also, I don't know when -- we
3 had also mentioned to the Court a change of venue motion.
4 When would you like to address that on the record? Right
5 before lunch -- I mean, right before we start back or --

6 THE COURT: Yes. If you all can be here at 2:15.
7 Will that give you enough time?

8 MR. BOGGS: Yes, sir.

9 THE COURT: Well, we better do it -- we better not do
10 that because they'll be trickling in. Why don't -- what
11 we'll do is -- I'll tell you what, we'll go ahead and
12 we'll announce the panels, we'll tell them what panels
13 they're in. And then we'll argue the motion.

14 MR. BOGGS: That will be fine.

15 MR. BARNETTE: Your Honor, one other matter was on
16 indictment #03-GS-42-2533, which is criminal sexual
17 conduct in the first degree, count two, the Defendant
18 needs to formally be arraigned on that. He's been given
19 the information and everything.

20 THE COURT: All right.

21 MR. BARNETTE: And we thought we better put that on
22 the record, too.

23 THE COURT: Okay.

24 MR. BOGGS: Your Honor, this is #03-GS-42-2533, a
25 two-count indictment, Mr. Evins had not been arrested on

1 criminal sexual conduct. It was included in a -- as count
2 two of the indictment. We've explained to Mr. Evins his
3 right to be arraigned on these charges. We will waive
4 formal reading of the indictment. He pleads not guilty.

5 THE COURT: All right. Thank you very much.

6 MR. BARNETTE: Your Honor, do you want me to give
7 these to the Clerk?

8 THE COURT: Yes, sir.

9 And they'll be in the Clerk's custody throughout the
10 course of the trial.

11 MR. BARNETTE: Thank you, Your Honor.

12 THE COURT: See you all back here at 2:30.

13 (WHEREUPON, a lunch break was taken.)

14 (WHEREUPON, Court's Exhibit No. 2 was marked for
15 identification and admitted into evidence.)

16 THE COURT: Ladies and gentlemen, I trust you had a
17 pleasant lunch. And I appreciate you all being back here
18 and being so punctual.

19 Over the lunch hour, I'd like to say that I worked
20 through lunch, but I didn't. But I want to thank the
21 Clerk's Office, because they did work through lunch. And
22 they have divided the entire pool into panels.

23 And what I propose to do, ladies and gentlemen, is to
24 call your names and your numbers. And I'm going to do it
25 in groups of three panels. We will -- three at a time. I

1 think we have three of these hardworking ladies who
2 will -- if you'll meet individually with them, they will
3 give you a sheet which tells you when you need to report
4 back to the courthouse so that we can privately,
5 individually, and confidentially interview you at that
6 time.

7 Now, I would further tell you that when you return to
8 the courthouse, you will come in groups of six. And we
9 have reserved some parking spaces behind the courthouse in
10 the back parking lot. If you were behind the courthouse,
11 I think you can find the public parking lot, they will be
12 marked or denoted by red cones, street safety cones. And
13 when you arrive, you'll have your badge and your -- you'll
14 have the sheet that you've been given and you really
15 shouldn't have any trouble parking in those spots. And I
16 think there will be somebody there to meet you. And then
17 we'll get you all to come in the side through the
18 Magistrate's entrance and then up. And these kind
19 gentlemen, the soldiers in red, will show you where to go.
20 And we will then proceed with the individual voir dire.

21 So, at this time, I'm going to call out the first
22 three panels. I would tell you that the first panel, we
23 are going to begin this afternoon with the voir dire. And
24 we are going to take you to a jury room for you all to
25 wait until we can get to you. And then the other -- you

1 all will have a sheet -- the other panels will have a
2 sheet which tells you what time that you need to -- and
3 what day you need to come back to the courthouse.

4 So the first panel, Juror #102 --

5 And who's going to -- Charlena, who's going to --

6 THE CLERK: The bailiffs will take them to the jury
7 room.

8 THE COURT: All right. If you all will go with our
9 bailiffs: #102, John Foster; #284, Robert Perry, Jr.;
10 #205, William Klutz; #111, Wayne Gambrell; #347, Elaine
11 Stewart; and #208, Karen Lanford.

12 All right. Now, I'm going to call three groups so
13 that we can -- we'll try to speed through this as quickly
14 as we can.

15 Panel No. 2, who's going to handle that?

16 THE CLERK: I am.

17 THE COURT: Come right over here.

18 If you all will come around and line up over here.

19 Panel No. 2: #268, Myra Nichols; #78, Annie Davis; #163,
20 William Horton; #241, Michael McGrath; #388, Joel
21 Williams, Jr.; #172, Derek Huntsinger.

22 All right. Where are we going to go with the next
23 group, right in front here?

24 THE CLERK: Yes.

25 THE COURT: Do you want to do it right there?

1 THE CLERK: Yeah. That way we can keep them
2 separated.

3 THE COURT: All right. The next group, this is Panel
4 No. 3, if you all will come to this side of the courtroom,
5 please: Juror #316, Mark Roller; #258, Patricia Murphy;
6 #19, Donald Bower; #164, William Hospodar; #306, Neddie
7 Richards; #66, Allen Combs.

8 Where do you want yours, right in front?

9 THE CLERK: Yes.

10 THE COURT: Okay. Panel No. 4, if you would report
11 to the front. They are: Juror #212, Anthony Lee; Juror
12 #56, Sandra Chapman; Juror #86, Katherine Dunleavy; Juror
13 #182, Sabrina Jenkins; Juror #273, Barbara Owens; and
14 Juror #86, Mark Dorch.

15 THE BAILIFF: Juror #83, Mark Dorch. He's not
16 present.

17 THE COURT: If you all will sound his name out in the
18 hallway and see if you can locate Mr. Dorch..

19 MS. QUIMBY: Your Honor, he was struck.

20 THE COURT: He was struck?

21 MS. QUIMBY: Yes.

22 THE CLERK: I'm sorry.

23 THE COURT: Now, before -- you all are going to be
24 released. And let me just say this, again, I remind you
25 that you are under oath. And I cannot emphasize the

1 importance of you all following your oath not to discuss
2 this with anyone. The temptation will be great. But the
3 way our system works and the reason that we've been
4 successful through the centuries with our criminal justice
5 system is that citizens do abide by their oaths and that
6 trials are had solely on the sworn evidence and testimony
7 presented in the courtroom. And that's the only thing
8 that a juror should consider.

9 So don't pollute yourselves by talking to anybody
10 about it, don't read anything about it, and don't do any
11 independent research. And we will appreciate that
12 greatly. So that when you're finished meeting with these
13 ladies, then you are free to go and must report back at
14 the time listed on your sheet.

15 I understand that over lunch -- and I want to
16 congratulate that juror, someone saw his pin and came up
17 and asked him about the case and he did not respond. And
18 that is the exact appropriate response that you should
19 have. And I appreciate that very much.

20 THE BAILIFF: Juror #83 did not respond when I
21 called, Your Honor.

22 THE COURT: Right. He was struck.

23 Juror #54, P.S. Cecil, III, will be on Panel No. 4.

24 Are we ready for the next panel?

25 THE CLERK: Yes, Panel No. 5.

1 (WHEREUPON, the jurors were divided into panels.)

2 THE COURT: Let me just say this, for those groups
3 number ten and beyond, we don't -- I've tried to plan it
4 out as best I can, but we probably have gone far enough
5 with as far as the times to come back. So if you're in
6 group ten, 11, 12 and above, please call the number to
7 determine when it is that you --

8 And you all have -- have you all given them the
9 number to call?

10 THE CLERK: Yes, sir. It's on the card.

11 THE COURT: Call the number to determine when it is
12 that you will need to report for your service to -- for
13 your individual voir dire.

14 Now, I'll go on to group 11.

15 (WHEREUPON, the juror were divided into panels.)

16 THE COURT: Okay. To the remaining members of the
17 panel, I want to tell you that we have chosen randomly
18 like we were playing bingo up here. Those 120 or so
19 people -- isn't that right? I can't remember the number.

20 But in any event, I don't know that we will get to
21 you all, to the remaining -- to you all. But if we need
22 you, we have your phone numbers and we may have to summon
23 you back. Right now, we don't anticipate that we will.

24 Now, this is going to be very difficult for you,
25 because you might think that you're not going to get -- be

1 subject to voir dire and get chosen. You remain under
2 your oath not to read about this, not to watch television,
3 and not to talk to anybody about this case. And I can't
4 emphasize that enough.

5 Is there a number -- should we have them call back or
6 should we just call them if we need them?

7 THE CLERK: Let's get phone numbers and call them.
8 They can just split up.

9 THE COURT: Okay. It looks about even. I'm going to
10 ask each of you, if you'll stand up and form a line so we
11 can get a phone number where we can reach you. Just one
12 on this side and one on that side.

13 And we'll be at ease while the clerks do that.

14 (WHEREUPON, a break was taken.)

15 THE COURT: Who do we have here?

16 THE CLERK: Ashley Bruton and Jeffrey Cross. I'm not
17 positive of their numbers off the top of my head.

18 JUROR #73, GREGORY CROSS: It's Greg Cross, instead
19 of Jeffrey Cross.

20 THE CLERK: Oh, I'm sorry. I did say Gregory. I
21 apologize.

22 THE COURT: Well, let me ask y'all, where have you
23 been?

24 JUROR #37, ASHLEY BRUTON: I didn't have any
25 transportation and just totally forgot.

1 JUROR #73, GREGORY CROSS: I apologize. It slipped
2 my mind this morning and I went to work. I truly intended
3 on being here.

4 THE COURT: Well, this is an extremely serious and
5 solemn part of our justice system. We cannot function as
6 a society without jurors that come in and work and perform
7 their civic duties. That's how important it is.

8 You will not be found qualified this week for this
9 case, but I am going to require that you attend the guilt
10 phase of this trial and sit through it and watch it. And
11 next time, you'll remember. And that's -- I hope this
12 will serve as a good civic lesson for you and we will --
13 and as a reminder of the importance that when your court
14 system calls, you need to respond. We cannot function
15 without citizens that will work.

16 So, Ashley, if you'll get their phone numbers and we
17 will call you. We're not sure -- it will be later in the
18 week, we anticipate. And it may be that you'll be up here
19 on Saturday as well.

20 JUROR #73, GREGORY CROSS: And, again, I apologize.
21 I did intend on being here.

22 Thank you.

23 THE CLERK: I have your numbers and I can just call
24 you whenever it starts and you can be up here then.

25 JUROR #73, GREGORY CROSS: And, again, I'm sorry.

1 THE COURT: Yes, sir.

2 Thank you.

3 While we are finalizing and getting ready, how I
4 intend to proceed is that I will bring the entire panel
5 out here, I'll give them a brief charge. At that time,
6 I'm going to ask them if they know any of you all and have
7 any relationship with you, and just go over the law a
8 little bit with them out of an abundance of caution. Then
9 I will excuse them back and take them one at a time. I'm
10 going to ask some questions, and then I am going to allow
11 each of you to ask questions. And we're going to
12 alternate who goes first on each juror.

13 So do y'all want to flip a coin and see or can you
14 agree among yourselves?

15 MR. BOGGS: They've got the burden, let them go first.

16 THE COURT: I won't require you to go first, but I'll
17 allow you that opportunity, if you want, I mean, to be the
18 first one to question a witness when I'm done.

19 MR. GOWDY: I don't care.

20 MR. BOGGS: Flip a coin.

21 THE COURT: All right. Well, the State will go with
22 the first one and y'all second.

23 MR. GOWDY: Do you want to do it by panels, Your
24 Honor? Do you want us to go first for the first panel or
25 with each juror?

1 MR. BOGGS: Juror.

2 THE COURT: Each juror.

3 Okay. I think we can --

4 Charlena, are you ready?

5 THE CLERK: Yes, sir.

6 MR. BOGGS: Judge, we do have that --

7 THE COURT: Oh, yes. We do have a motion before we
8 bring the panel in.

9 PRE-TRIAL MOTIONS

10 MR. BOGGS: Judge, back in chambers, I made the Court
11 aware of a newspaper article in the paper this morning.
12 Based upon that article, at this time, I would move for a
13 change of venue in the case. I'm going to ask the Court
14 to allow me to introduce the article.

15 (WHEREUPON, Court's Exhibit No. 3 was marked for
16 identification and admitted into evidence.)

17 MR. BOGGS: Additionally, Your Honor, I'm handing up
18 an affidavit of Judy R. Bogan, who was an individual who
19 saw a newscast this morning on the early morning news
20 relative to this case. It's my understanding that there
21 was also a newscast last night. I do not have any
22 information, but I do have an affidavit from the person
23 that, actually, saw the broadcast this morning.

24 (WHEREUPON, Court's Exhibit No. 4 was marked for
25 identification and admitted into evidence.)

1 MR. BOGGS: Your Honor, the substance of the motion
2 is, it's our position that once this article was published
3 and once the broadcast was aired, it reopened and asserted
4 a crime -- another crime into this case.

5 A little history, if Your Honor will bear with me
6 very briefly back last September -- or September of 2002,
7 a woman by the name of Demaris Huff was found murdered in
8 Spartanburg County. It drew a lot of attention in
9 Spartanburg County because of the social standing of the
10 woman. She was a librarian. They lived in a fairly
11 upscale neighborhood, well to do, well respected, no
12 apparent reason for the murder.

13 At one point, the focus of that murder was on her
14 husband and remained there for many, many months. And it
15 was a very high profile case. Subsequent to the arrest of
16 Mr. Evins in the case before the Court today, which was a
17 case arising out of an incident on February 13th, 2003, he
18 was charged with the murder from September of 2002, which
19 started another barrage of newspaper clippings.

20 We did not have time to make copies of them, Your
21 Honor, but, however, I can start out with the dates, if
22 the Court will allow me. I will introduce copies of these
23 as opposed to the originals, we only have one copy. But,
24 very briefly, 9/18/02 was an article in the Spartanburg
25 Herald Journal relative to the Demaris Huff killing.

1 There was an article in the Spartanburg Herald Journal on
2 February 15th relative to Rhonda Ward missing. February
3 16, relative to her body being found. February 17th, all
4 of these being in the Spartanburg Herald Journal, as to
5 her identification. February 18th, relative to the cause
6 of death. February 19th, relative to her car being found
7 in Greenville County. March 1st, relative to the arrest
8 of Mr. Evins. March 1st -- excuse me, that's the same
9 article. March 22nd, dealing with the -- these are all in
10 2003, this series that I'm referring to.

11 THE COURT: Okay..

12 MR. BOGGS: Another article on March 22nd. And, Your
13 Honor, it even went so far as to leading the article
14 relative to sexual registry articles. There was also an
15 article on April 6th, the entire front page that I'll hold
16 up to the Court, devoted to the two homicides in question.
17 There was an article -- a follow-up article --

18 THE COURT: Is that the front page of the newspaper
19 or --

20 MR. BOGGS: It's the front page of the Upstate, which
21 is --

22 THE COURT: The local section?

23 MR. BOGGS: Which is the local section, that's
24 correct.

25 THE COURT: All right.

1 MR. BOGGS: There was -- as the Court can see, that's
2 a rather overpowering article with the three pictures and
3 the two victims pictures and an article on each one. June
4 22nd, a specific article about sex offenders having to
5 register, the main crux of which deals with Mr. Evins and
6 these two particular homicides. July 11th, another
7 significant article about it.

8 The point I'm making is, we're talking about a series
9 of articles that -- and we don't have all the ones between
10 September of 2003 and February of -- I mean, 2002 to
11 February of 2003, however, that's a string of, at least,
12 ten or 12 stories.

13 Let me back up then, as far as the one that's awful
14 overpowering with the pictures, this being the April 6th
15 of 2003, on the inside when you open it up, there are two
16 full -- that whole -- two pages are devoted to this
17 article. Again, it's primarily dealing with sexual
18 offenders or predators, but channeling the focus towards
19 Mr. Evins.

20 The reason I point all of these articles out, Your
21 Honor, is that for a significant period of time, the major
22 focus in this county as far as it dealt with, apparently,
23 the criminal -- or the crimes that were going on channeled
24 on these two cases. As the Court is certainly aware, when
25 somebody sees that -- and I'm again referring to the April

1 6th, that's more damaging than five or six pages of
2 something written, just the pictures themselves. People
3 remember that. Anyway, this was a long series of a high
4 profile matter.

5 On April 30th, the last article that I would submit
6 to the Court is Mr. Gowdy went ahead and filed his notice
7 of his intention to seek the death penalty, again, front
8 page story in the Upstate, a picture of Mr. Evins, again,
9 citing both of the cases for which he's been charged.
10 From that point on, the publicity started to die down,
11 though it has been sometime in excess of a year since the
12 publicity was churned up. But for a long period of time,
13 to live in this county, I'd submit you either never
14 watched TV or read the paper if you did not know about
15 either one of these cases.

16 A significant issue in the case before the Court
17 today is -- and we've addressed this in pre-trial motions.
18 The Court has set out very stringent parameters as to the
19 admission in the penalty phase, if it got to the penalty
20 phase, of any information that the Court may allow in
21 relation to the Demaris Huff homicide. What comes in, if
22 anything, of course, we don't know at this point.
23 However, if any of that information came in or, even
24 worse, if none of that information came in and the jury
25 has been tainted by the resurrection of this publicity.

1 from a year and a half ago, the overflow from that could
2 poison them as to -- or blind them as to the facts of the
3 particular Ward case. The Ward case facts are so entirely
4 different than the Huff facts, but there is just the
5 potential for the overflow.

6 I don't see that if a juror knew about these cases
7 through the extensive publicity back in February, March,
8 April, May, June, July, and August of 2003, even if it had
9 been pushed in the back of their mind, it has been
10 resurrected by the article today. The prejudice to my
11 client would be overwhelming significant because of the
12 potential overflow.

13 Because what the Court has ruled, at least, at this
14 point is as not admissible has now been interjected into
15 the Ward trial in the guilt phase. So the paper has
16 introduced evidence within the guilt phase of information
17 that the Court said, and the Solicitor agreed, was not
18 admissible in the guilt phase had the State tried to
19 introduce it. So the paper has, actually, done what the
20 law would not allow any of the participants to do.

21 THE COURT: All right.

22 MR. BOGGS: Based upon that, we feel that the
23 Defendant is entitled to a change of venue and we'd move
24 for that.

25 THE COURT: All right. I agree that this is

1 irresponsible journalism. And I understand that this has
2 been done on all of the death penalty trials that have
3 been tried in Spartanburg this year, even at the request
4 of -- even when the newspaper has been requested not to
5 report these stories. So I agree that it is irresponsible
6 journalism.

7 However, I do not, at this time, think that there has
8 been a sufficient showing that we can't get an untainted
9 jury to try this case. And, of course, as a result of
10 this article, I will allow you latitude in your
11 questioning with respect to what they have been -- the
12 jurors have been exposed to with respect to the publicity.
13 And, of course, I wouldn't want to tell you how to try
14 your case, but I think you have to be very careful with
15 how you approach that.

16 All right. Is there anything else?

17 Now, we had a couple things, before we bring that
18 small panel in, and that is an issue that -- that's a
19 bridge we have not come to yet, Mr. Boggs, I don't
20 believe. So we'll just see how this jury responds and
21 take it from there.

22 MR. BOGGS: All right, sir.

23 THE COURT: But my understanding is that prior to
24 today, the attorneys on both sides have agreed -- have
25 come to an agreement with respect to excusing a number of

1 jurors in this case. And I'll ask you now, are there any
2 issues who -- jurors, potential jurors, who did not appear
3 today? And so I'll ask both sides, is there any
4 objection, exception, or anything you want to say about
5 the agreed excused jurors? Are there any issues that need
6 to be raised?

7 MR. GOWDY: Not from the State, Your Honor.

8 MS. QUIMBY: None from the Defense.

9 THE COURT: Are there any other issues that we need
10 to raise at this time?

11 MR. BOGGS: Your Honor, we were served, as the
12 Court's aware, with a life without parole because of a
13 prior conviction of my client. And even if the jury found
14 him guilty of a lesser included offense, he is subject to
15 that. So very contrary to what the situation might have
16 been in status conferences or whatnot and the Solicitor
17 pointed out, oh, he could get 30 years, that doesn't exist
18 anymore. This is a true death penalty or life without
19 parole case. And we'd ask the Court to inform the jury of
20 that and we'd ask at the proper time -- or suggest that
21 the proper time may be when you bring them in and give
22 them their instructions.

23 THE COURT: Well, I do intend to say that life means
24 life.

25 MR. BARNETTE: One other housekeeping matter, Your

1 Honor, we had talked, I think, in pre-trial conferences
2 that Mr. Evins now spells his last name E-V-I-N-S, but,
3 originally, I think it was E-V-A-N-S. And I think that
4 both sides have agreed that we would amend the indictments
5 to show Fredrick Antonio Evins, E-V-I-N-S, a/k/a Fredrick
6 Antonio Evans.

7 THE COURT: E-V-I-N-S; correct?

8 MR. BARNETTE: Yes, sir.

9 THE COURT: Is that correct?

10 MS. QUIMBY: Yes, sir.

11 THE COURT: Well, then we'll amend the indictments to
12 the correct spelling of his name.

13 Anything else?

14 MR. GOWDY: The only other residual issue I can think
15 of this morning, Your Honor, is those jurors with pending
16 cases in the Seventh Circuit, I would ask the Court if we
17 might could be heard on that at some point to the extent
18 that any of these jurors are reached, it does put us in an
19 awkward position voir diring folks that we may be
20 prosecuting next week.

21 MR. BOGGS: Are there any in the first six?

22 MR. GOWDY: I don't think so. I don't think there
23 will be any today.

24 THE COURT: I've got your exhibits. And I will allow
25 you to submit copies of those other newspaper articles.

1 Let's put that out of sight so the jury doesn't see it.

2 And let's go ahead and bring them in.

3 (WHEREUPON, Juror Panel No. 1 entered the courtroom.)

4 THE COURT: Ladies and gentlemen of the jury, thank
5 you for your patience. You can see we had to not only do
6 a bunch of legal work, we did a little bit of construction
7 in here, too. So this makes it a little less cavernous, I
8 guess.

9 Now, ladies and gentlemen, you all -- I will remind
10 you that you are still under oath and you've sworn an oath
11 to give us complete, accurate, and truthful answers to the
12 questions. And this is a -- as I told you, a very solemn
13 and serious matter, but I don't want y'all to be
14 uncomfortable. There are a few things that I want to tell
15 you as a group, before I excuse all of you with the
16 exception of one of you who will go first, and just remind
17 you about some of the important legal concepts.

18 First of all, I remind you again that I have no
19 opinion about the facts in this case. And not only does
20 the law not allow me to have an opinion, but I do not have
21 an opinion about the facts in this case. So don't think
22 from anything -- you might look at me and think, oh, he
23 thinks that or he said that or something. Don't make a
24 judgment about what I think from what you might see in the
25 courtroom. Okay.

1 Now, I want to repeat a couple of basic principles
2 before we start, and that is the presumption of innocence.
3 And every citizen in this country is entitled to -- who is
4 charged with a crime is presumed to be innocent. And that
5 presumption of innocence stays with that citizen or that
6 defendant unless and until it is removed by a jury of 12
7 people after the State has proven to each of those 12
8 people to their satisfaction beyond a reasonable doubt the
9 guilt of that person on each and every element of the
10 offense or offenses for which they are tried. The burden
11 of proof is on and always remains on the State throughout
12 the trial of the case.

13 Now, a case of this nature is referred to as a
14 capital case. And this is a case in which the State is
15 seeking the death penalty. So allow me to just briefly go
16 over a capital case in general. Once the jury is
17 selected, the Court conducts the first phase and, perhaps,
18 only the first phase of the trial. The jury determines
19 whether the State has proven that the Defendant on trial
20 is guilty of murder and all the other charges and proves
21 that beyond -- and proves that to each of you jurors
22 beyond a reasonable doubt.

23 Now, should that jury find the Defendant not guilty
24 of murder, that would end the case as far as the jury is
25 concerned. There would be no further jury service. The

1 case would be over.

2 If a jury, however, finds such a Defendant guilty of
3 murder, then we would move to the second phase, which is
4 sometimes called the sentencing phase. And the jury, at
5 that time, would consider what we call evidence in
6 aggravation and evidence in mitigation. And the jury,
7 after hearing the additional evidence, would determine the
8 sentence, life imprisonment or death.

9 And in a capital case, if the jury finds the presence
10 of an aggravating circumstance, a sentence of life means
11 life without the possibility of parole. Life means life.
12 In other words, a Defendant who is convicted of -- who has
13 been convicted of murder and the murder was accompanied by
14 what the law calls an aggravating circumstance, then a
15 life sentence means life. There would be no possibility
16 of parole under that circumstance. And the Defendant
17 would die in jail.

18 Now, please understand, I am talking about the
19 process of a capital case in general. And in this
20 particular case, we may not even reach the second or the
21 sentencing phase. But in the event we do, I need to ask
22 you certain questions.

23 Now, do each of you understand generally the process
24 I've outlined about the two phases of the trial?

25 (All jurors said yes.)

1 THE COURT: Okay. They all indicate they do.

2 Now, permit me to briefly explain the terms
3 aggravating and mitigating circumstances. And these are
4 terms which you will hear and consider only in the event
5 the trial proceeds to that second phase or the sentencing
6 phase.

7 Aggravating circumstances are facts, incidents, or an
8 occurrence which the South Carolina General Assembly has
9 declared by statute which would aggravate or worsen the
10 crime of murder. In other words, an aggravating
11 circumstance when accompanying a murder increases the
12 enormity of it or adds to the injury of the crime of
13 murder.

14 Mitigating circumstances are incidents, facts, or
15 occurrences which the General Assembly has declared by
16 statute or which a jury otherwise determines should reduce
17 the severity of the offense of murder and may be
18 considered as extenuating or as reducing the degree of
19 responsibility or culpability.

20 Now, ladies and gentlemen, I have previously
21 introduced -- or the attorneys involved in this case have
22 previously been introduced to you. So I want to ask you,
23 is there any member of this panel who is related by blood
24 or marriage or an acquaintance of any kind of any of the
25 attorneys who are involved in this case? If so, please

1 stand.

2 (There was no response.)

3 THE COURT: All right. No one stands.

4 Is there any member of the jury panel who is related
5 by blood or marriage or acquainted in any way with anyone
6 associated with these attorneys and their respective law
7 offices, which are the Solicitor's Office, the Public
8 Defender's Office, and the Law Office of Mr. Tam Boggs?
9 If so, please stand.

10 JUROR #102, JOHN FOSTER: I'm not really sure if
11 she's a part of the office, but Jenice Wofford is my
12 sister. I know she works with the court system. I don't
13 know what she does.

14 THE COURT: Okay. And your name, sir?

15 JUROR #102, JOHN FOSTER: John Foster, Juror #102.

16 THE COURT: All right. And her name was?

17 JUROR #102, JOHN FOSTER: Jenice Wofford.

18 THE COURT: All right. Now, I sent in a list of
19 witnesses -- an extensive list of witnesses. Have each of
20 you had an opportunity to review that witness list?

21 (All jurors said yes.)

22 THE COURT: They all indicate yes.

23 Is there any member of this jury panel who is related
24 by blood or marriage or acquainted in any way with any of
25 the potential witnesses in this case? If so, please stand.

1 (There was no response.)

2 THE COURT: Okay. Is there any member of the jury
3 panel who is related by blood or marriage or acquainted in
4 any way with Mr. Fredrick Antonio Evins? If so, please
5 stand.

6 (There was no response.)

7 THE COURT: Okay. Ladies and gentlemen, with that,
8 I'm going to ask all of you to retire to the jury room
9 with the exception of Mr. John Foster.

10 And it's not because of who your sister is, it's
11 because you're the first on the list, Mr. Foster.

12 (WHEREUPON, Juror Panel No. 1 exited the courtroom,
13 with the exception of Juror #103, John Foster.)

14 THE COURT: I'll tell you -- do you -- you're already
15 under oath and you have sworn an oath to answer
16 truthfully, accurately, and fully the questions that we
17 ask.

18 JUROR #102, JOHN FOSTER: Yes, sir.

19 THE COURT: Please have a seat.

20 (Juror #102, John Foster, a black male, was seated.)

21 THE COURT: And let's close this door.

22 THE BAILIFF: I'm sorry.

23 THE COURT: Now, is there any -- before we start, is
24 there any member of the press in here?

25 (There was no response.)

1 THE COURT: All right. The first thing I want to do,
2 Mr. Foster, is put you at ease. I know that's a difficult
3 thing, you're sitting there and you feel in the hot seat,
4 and there's no question that it is, it's a hot seat. But
5 I want you to be as at ease as you can possibly be. And
6 the first thing I want to tell you is that there are no
7 right and no wrong answers, okay, absolutely not. All
8 we're looking for is just truthful answers from you. And
9 so I hope that you feel comfortable enough to do that.
10 And if you have a problem, just let me know and we'll see
11 if we can't resolve that for you.

12 Let me introduce this case to you. I have told you
13 that the Defendant is Mr. Fredrick Antonio Evins. There
14 are two -- or, actually, three indictments, but four
15 charges in this case. And they are murder, kidnapping,
16 criminal sexual conduct, and grand larceny.

17 Now, the allegations -- as I told you before, an
18 indictment is not evidence. The only evidence in a trial
19 is what is -- is what the jury hears under oath from the
20 witness stand. So these are allegations.

21 And the first, the murder, alleges that in
22 Spartanburg County on or about February 13th, 2003, that
23 Mr. Evins did feloniously, willfully, and with malice
24 aforethought kill one Rhonda Marie Ward by stabbing the
25 victim multiple times in the chest. And the victim died

1 as a result thereof.

2 The kidnapping indictment alleges that Mr. Evins did
3 in Spartanburg County on or about February 13th, 2003,
4 unlawfully seize, confine, inveigle, decoy, kidnap,
5 abduct, or carry away the victim, Rhonda Marie Ward,
6 without authority of law. Count two, criminal sexual
7 conduct, alleges that in Spartanburg County on or about
8 February 13th, 2003, Mr. Evins willfully and unlawfully
9 committed a sexual battery upon Rhonda Marie Ward and
10 either used aggravated force to accomplish that or the
11 victim submitted to the battery under circumstances where
12 the victim was also the victim of forcible confinement,
13 kidnapping, robbery, extortion, burglary, housebreaking,
14 or other similar offense.

15 And, finally, grand larceny, which alleges that
16 Mr. Evins did in Spartanburg County on or about February
17 13th, 2003, feloniously took away the personal goods
18 belonging to the victim, a 1993 Nissan Sentra and its
19 contents.

20 Now, the first thing I'd like to ask you is, have you
21 heard anything about the events that I've talked about
22 here?

23 JUROR #102, JOHN FOSTER: No, sir.

24 THE COURT: Okay. You haven't. There's been media
25 coverage of the incident and so if you have, we just need

1 to know that you did and what you heard. But you have not
2 heard anything about it?

3 JUROR #102, JOHN FOSTER: No, sir.

4 THE COURT: All right. Now, I would tell you, do you
5 feel that you can be fair and impartial in this case?

6 JUROR #102, JOHN FOSTER: Yes, sir.

7 THE COURT: Do you think you could in the first phase
8 of this trial, reach a verdict of either not guilty or
9 guilty?

10 JUROR #102, JOHN FOSTER: Yes, sir.

11 THE COURT: Okay. Now, if the jury finds, as I've
12 told you, a verdict of guilty in this first phase, then we
13 would move to the second phase, if and only if there was a
14 verdict of guilty of murder. Now, I would tell you that
15 the law requires you to consider mitigating and
16 aggravating circumstances.

17 Could you do that?

18 JUROR #102, JOHN FOSTER: Could you explain? I mean.

19 THE COURT: Okay. Well, in the second phase of the
20 trial, guilt is already established. The jury has already
21 said he is guilty of murder.

22 JUROR #102, JOHN FOSTER: Okay.

23 THE COURT: He or she in any case. In the second
24 phase, aggravating circumstances are put up by the State
25 to try and show a greater enormity of this case.

1 JUROR #102, JOHN FOSTER: Yeah.

2 THE COURT: And mitigating circumstances are put up
3 by the Defense to try and lessen that.

4 Would you consider both aggravating and mitigating
5 circumstances in the second phase?

6 JUROR #102, JOHN FOSTER: Yes, sir.

7 THE COURT: All right. And after considering all the
8 evidence in the second phase, the mitigating and
9 aggravating circumstances, could you return a sentence of
10 life imprisonment?

11 JUROR #102, JOHN FOSTER: Yes, sir.

12 THE COURT: All right. And after considering all the
13 evidence, mitigating and aggravating circumstances, could
14 you return a verdict of death?

15 JUROR #102, JOHN FOSTER: No, sir.

16 THE COURT: All right. Now, did you get a chance to
17 read the three types of jurors?

18 JUROR #102, JOHN FOSTER: Yes, sir.

19 THE COURT: How would you classify yourself?

20 JUROR #102, JOHN FOSTER: Number 2.

21 THE COURT: Number 2. All right. That means I have
22 to look at it. I'm sorry. I thought I was more organized
23 than that. Here it is.

24 Okay. Now -- and you seem pretty sure about that.

25 JUROR #102, JOHN FOSTER: Yes, sir.

1 THE COURT: Well, at this time, I will turn the
2 questioning over to the attorneys.

3 MR. GOWDY: Your Honor, very briefly.

4 EXAMINATION

5 BY MR. GOWDY:

6 Q Mr. Foster, who's older, you or Jenice?

7 A She is.

8 Q She is?

9 A Yes, sir.

10 Q I just want to thank you on behalf of everybody for
11 filling out that questionnaire. I think, actually, on the
12 last page of the questionnaire, you wrote in there you do
13 not believe in the death penalty?

14 A Yes, sir.

15 Q There's nothing wrong with that. Under no
16 circumstances would you be able to give death; is that
17 right?

18 A Yes, sir.

19 MR. GOWDY: No further questions, Your Honor.

20 THE COURT: All right. Anything from the Defense?

21 EXAMINATION

22 BY MR. BOGGS:

23 Q Mr. Foster, I want to thank you for doing your civic
24 duty and being here on the jury. As Judge Miller has told
25 you, besides being one of the most important jobs that a

1 person has during peace time, I want to thank you for
2 filling out the questionnaire and being a responsible
3 person.

4 I assume that as far as you filled it out, you're
5 here, you've cooperated, and that you feel like you're
6 pretty civic minded; is that correct?

7 A Yes, sir.

8 Q And do you believe pretty strongly in our judicial
9 system? Do you think it's the kind of system that's a
10 good system?

11 A Yes, sir.

12 Q And do you understand that our system is based upon a
13 person being judged by a jury of his peers?

14 A Yes, sir.

15 Q And do you understand that that means that our system
16 doesn't give the power of one man to decide things, it's
17 12 people that decide things collectively?

18 A Yes, sir.

19 Q Okay. And I believe you're employed at Covington
20 Industries; is that correct?

21 A Yes, sir.

22 Q And you've been there about three years or so,
23 roughly?

24 A Yes, sir.

25 Q And, I think, in the past, haven't you had some

1 supervisory-type positions or you've, actually, supervised
2 some people?

3 A Yes, sir.

4 Q You work on a -- you're a work load or you're a load
5 worker?

6 A Yes. I work in the shipping department where me --
7 usually, when I have a crew is at month end when we get
8 the busiest, and they'll send me a crew of three or four
9 men. And I, basically, supervise them on what shipments
10 go where and with what trucks.

11 Q And the reason I ask that, have you ever been in a
12 group where the group is trying to make a decision and one
13 person has one opinion about one thing and another person
14 says, we ought to be doing it this way, and there are
15 differences of opinions?

16 A No, sir.

17 Q What about on a football team or anything like that?

18 A No, sir. We usually do what the coach tells us to.

19 Q That's generally the way to keep your position, to do
20 what the coach says. You say you believe in the jury
21 system. Do you think it's a -- from what you know about
22 it, do you think it's designed in the appropriate way?

23 A I haven't really looked into it deeply, so I can't
24 really give you a definite opinion on how it should go.

25 Q Okay.

1 A But I know, in fact, that if the evidence is
2 presented properly both ways, then a group of people could
3 come together and make a decision. And if not, I guess
4 either they would have to go with the majority or I'm not
5 sure how they would go. But a group of people should be
6 able to come together if everything is presented properly.

7 Q And would you ever think there would be a time when a
8 jury -- some people may want to vote one way and some
9 people may vote another initially, but at some point they
10 come together?

11 A Yes, sir.

12 Q And some people on that jury may not agree initially
13 with what the ultimate outcome could be, but after they've
14 discussed it with the other jurors, they realize that's a
15 reasonable way of resolving the case?

16 A Yes. That's why you discuss things and work things
17 out amongst yourselves.

18 Q Okay. And do you understand that if you were on the
19 jury, of course, the State has asked that the jury return
20 the death penalty; correct? Do you understand that?

21 A Yes, sir.

22 Q And you understand that that would be an option that
23 the jury would have, as the Judge has explained to you,
24 which would either be life or the death penalty; is that
25 correct?

1 A Yes, sir.

2 Q Now, if you were -- and you testified and wrote in
3 your report that you don't believe in the death penalty?

4 A Yes, sir.

5 Q All right. Have you ever -- how much have you
6 thought about the death penalty situation? Is it
7 something that you've ever really sat down and just
8 pondered on?

9 A Yeah. I've thought about it quite a bit and there
10 are different things I've seen on television and I really
11 don't think it's fair for us to play God and say, okay,
12 this person has to die for what they did. Should they be
13 punished, yes. But for us to say, okay, this person needs
14 to die for it, no, it's not our place. I don't feel that
15 way anyway.

16 Q All right. Well, is that -- would that be based on
17 just a personal feeling or possibly a religious feeling or
18 what?

19 A It's both, really, because I don't -- who's to say,
20 yeah, maybe this person did commit this crime or they
21 didn't. If they did do it, then what's to make the --
22 you -- the person who would do the lethal injection or
23 would turn the switch to electrocute that person, who is
24 making them different from the person that, actually,
25 committed the crime?

1 Q All right. So you can't imagine any situation where
2 you think that -- based on your personal beliefs and
3 religious teachings that a person has committed something
4 so heinous that he's just not a value to society?

5 A No, sir, if that's the case.

6 Q Like, for example, if somebody assassinated the
7 President of the United States --

8 MR. GOWDY: Your Honor, I'm going to object.

9 This juror has answered the question all six times
10 Mr. Boggs has asked it, and now he's giving specific
11 hypotheticals, which is improper.

12 MR. BOGGS: I'll move on.

13 THE COURT: All right.

14 BY MR. BOGGS:

15 Q I believe you were telling us why you feel the way
16 you do, that you don't feel it's somebody else's place?

17 A I don't feel it's our place to say, okay, this person
18 is going to die for what they did. Should they be
19 punished, yeah; punishment, but not death.

20 Q And if you sat on a jury and all 11 of the other
21 jurors and you discussed the case and you had respect for
22 their opinions and all other 11 felt that that was the
23 appropriate sentence and it's within the law and it was
24 something that they felt like merited the death penalty,
25 you don't feel that you could vote for it?

1 A No. Because, no -- just because I feel like they
2 should be punished if that's what the person did, but I'm
3 not going to let 11 other people force me or make me
4 believe contrary to what I believe as far as the case
5 goes.

6 Q So you believe punishment is all right, but you don't
7 believe that the death penalty punishment that's been
8 enacted by our legislature is a proper type of punishment?

9 A No, sir.

10 MR. BOGGS: One minute, Your Honor.

11 (Pause.)

12 MR. BOGGS: I don't think I have any other questions.

13 THE COURT: All right. Thank you, Mr. Foster.

14 I'm going to ask you to step out in the hallway for
15 just one second.

16 JUROR #102, JOHN FOSTER: Thank you.

17 THE COURT: Thank you, sir.

18 (Pause.)

19 THE COURT: Is there any question about this?

20 MR. GOWDY: Nothing from the State, Your Honor.

21 THE COURT: I'm going to excuse Mr. Foster.

22 Okay. Let's get Robert Perry, Jr.

23 THE BAILIFF: Do you want him back in, Mr. Foster?

24 THE COURT: Yes. Bring him back in.

25 (Pause.)

1 THE COURT: You're fine right there, Mr. Foster.

2 I really appreciate you coming in. And I hope so far
3 what you've been through has been an educational
4 experience. But, at this time, I'm going to excuse you
5 from service in this case.

6 Thank you, sir.

7 JUROR #102, JOHN FOSTER: Thank you.

8 THE COURT: Thank you.

9 (Juror #102, John Foster was excused from the
10 courtroom.)

11 THE BAILIFF: Are you ready for the next one?

12 THE COURT: Yes, sir.

13 THE BAILIFF: Have a seat right here, please, sir.

14 (Juror #284, Robert Perry, Jr., a white male, was
15 seated.)

16 THE COURT: Mr. Perry, how are you doing?

17 JUROR #284, ROBERT PERRY, JR.: Pretty good.

18 THE COURT: I want to remind you that you're still
19 under oath. And the first thing I want to do is tell
20 you -- I want to command you to be at ease. I know that's
21 real difficult and I'm just kidding about that. You're in
22 a tight spot here. But I want you to know that not only
23 have you sworn an oath to tell the truth and give us
24 complete answers, but I want you to know there are no
25 right and no wrong answers to any of the questions that

1 are propounded to you. Okay.

2 JUROR #284, ROBERT PERRY, JR.: Uh-huh.

3 THE COURT: The first thing I want to do is just tell
4 you, this is the State v. Fredrick Antonio Evins. And it
5 involves the alleged murder, criminal sexual conduct,
6 kidnapping, and grand larceny in Spartanburg County on or
7 about February 13th of 2003, and alleges that Mr. Evins
8 did feloniously, willfully, and with malice aforethought
9 kill Rhonda Marie Ward by stabbing her in the chest
10 multiple times. Also, on that same date that he did
11 unlawfully seize, confine, inveigle, decoy, kidnap,
12 abduct, or carry away Rhonda Marie Ward. Also, that he
13 did on the same date unlawfully commit a sexual battery
14 upon Rhonda Marie Ward. And also, that he did carry away
15 her 1993 Nissan Sentra and its contents.

16 Now, I recognize and we all recognize that there's
17 been publicity regarding this case on the TV, and the
18 radio, and in the newspaper. And the first thing I want
19 to know is, have you read, heard, or seen anything about
20 this case?

21 JUROR #284, ROBERT PERRY, JR.: No.

22 THE COURT: Nothing. Okay. And do you understand
23 that your oath would require you to disregard anything
24 that you've read, heard, or seen? But you have not heard
25 anything about it?

1 JUROR #284, ROBERT PERRY, JR.: (Juror shook head.)

2 THE COURT: Okay. Let me get you to --

3 JUROR #284, ROBERT PERRY, JR.: No.

4 THE COURT: All right. Now, would you -- if you are
5 selected to sit on the jury, I would instruct you
6 throughout the case on the law of the case. Could you
7 serve as a fair and impartial juror and reach a verdict
8 based on the facts presented at trial and the law as I
9 would instruct it to you? Would you follow your oath?

10 JUROR #284, ROBERT PERRY, JR.: Yes, sir.

11 THE COURT: Have you formed an opinion as to the
12 facts of this case or the guilt or innocence of Mr. Evins?

13 JUROR #284, ROBERT PERRY, JR.: No.

14 THE COURT: All right. And now, let me tell you that
15 could you -- after following the law, could you reach a
16 verdict of guilty or not guilty depending on how the
17 facts -- what you saw the truth of the facts to be and
18 apply the law to it?

19 JUROR #284, ROBERT PERRY, JR.: Yes.

20 THE COURT: Now, as I told you before, there is in
21 the -- if and only if the jury finds Mr. Evins guilty of
22 murder do we move to the second phase of the trial, only
23 if he's guilty of murder. So I would tell you that when
24 you move to the sentencing phase, it means that the jury
25 has already found him guilty of murder and there is no

1 legal defense to discuss or explore in the second phase of
2 the trial. Guilt has been established in the first phase.

3 So in the second phase of the trial, we'd hear
4 evidence in aggravation and mitigation. Now, your oath
5 would require you to abandon any preconception that you
6 may have and follow the law as I instruct it. Okay. In
7 other words, your oath would require you to give serious
8 and meaningful consideration to aggravating and mitigating
9 evidence.

10 Would you honor your oath in that regard?

11 JUROR #284, ROBERT PERRY, JR.: Yes.

12 THE COURT: Okay. And if you were a juror in that
13 situation, the sentencing phase, could you, depending on
14 the facts and circumstances of the case, including the
15 consideration of aggravating and mitigating circumstances
16 and the law that I would instruct you that applies, could
17 you return a sentence of life in prison?

18 JUROR #284, ROBERT PERRY, JR.: Yes.

19 THE COURT: Now, could you in that situation -- after
20 considering aggravating and mitigating circumstances and
21 the law as I would instruct you, could you return a
22 sentence of death?

23 JUROR #284, ROBERT PERRY, JR.: I don't know.

24 THE COURT: You don't know. You're not sure?

25 JUROR #284, ROBERT PERRY, JR.: I'm not sure.

1 THE COURT: Okay. Now, in the event of a death
2 sentence, let me just tell you this, if the jury decided
3 to give a death sentence, South Carolina law requires each
4 juror to sign their name to the verdict form. In the
5 event that you did decide to hand down a death sentence,
6 could you sign your name to the verdict form?

7 JUROR #284, ROBERT PERRY, JR.: Yes.

8 THE COURT: All right. Do you recall the three types
9 of jurors that I -- that list I gave you back in there?

10 JUROR #284, ROBERT PERRY, JR.: Yes.

11 THE COURT: How would you characterize yourself?

12 JUROR #284, ROBERT PERRY, JR.: Number 3.

13 THE COURT: So you would be willing to listen to the
14 facts and circumstances in aggravation and mitigation
15 before you made up your mind; is that correct?

16 JUROR #284, ROBERT PERRY, JR.: Yes.

17 THE COURT: Do you know any of the -- I've already
18 asked you that.

19 Do you know of any particular reason why you couldn't
20 be fair and impartial in this case?

21 JUROR #284, ROBERT PERRY, JR.: No.

22 THE COURT: All right. And could you keep an open
23 mind and find the truth from the facts presented in the
24 courtroom?

25 JUROR #284, ROBERT PERRY, JR.: Yes.

1 THE COURT: All right. At this time, I'm going to
2 allow the attorneys to ask you a few questions as well.

3 Thank you.

4 And, again, I remind you, there are no right or wrong
5 answers.

6 EXAMINATION

7 BY MR. BROUGH:

8 Q How are you doing, Mr. Perry?

9 A Fine.

10 Q Not too fun being up there, is it?

11 A No.

12 Q Well, I'm just going to try to have a conversation
13 and ask you a couple of questions. I noticed on your
14 questionnaire that you filled out that you used to live in
15 New York state?

16 A Yes.

17 Q Where was that?

18 A Upstate.

19 Q Upstate?

20 A Yeah.

21 Q I, actually, used to live up in Syracuse myself. But
22 I also noticed you said one of your hobbies was playing
23 video games?

24 A Yes.

25 Q Do you have an X-Box, PS2?

1 A PS2.

2 Q Do you play NCAA 2005?

3 A 2004.

4 Q What's that?

5 A 2004.

6 Q What's your team?

7 A PDI.

8 Q What's that?

9 A PDI Nascar.

10 Q Oh, got you. Good stuff. Well, I just want to ask
11 you a little bit about it. I noticed -- I just want to
12 ask you a couple of questions. I know the Judge has asked
13 you have you seen anything about this or anything like
14 that. So I noticed on your questionnaire -- what news
15 station do you listen to?

16 A Every now and again, I watch the headline news.

17 Q Do you watch Channel 4 or Channel 7 at all?

18 A No.

19 Q Do you read the paper?

20 A No.

21 Q You don't read the paper. Let me ask you this. As
22 you sit here, I know that the Judge has instructed you
23 that you're to presume Mr. Evins innocent. How do you
24 feel about that?

25 A What do you mean?

1 Q I mean, do you feel that's a good instruction? Do
2 you agree with it?

3 A Yes.

4 Q Have you ever happened to see a news story where
5 someone was arrested or anything like that?

6 A Like on Cops?

7 Q Anything like that. Do you watch Cops?

8 A Yeah.

9 Q Do you like Cops?

10 A Yeah.

11 Q What's your favorite part?

12 A Just the whole thing. Them, actually, just riding
13 around and seeing somebody doing something, a crime.

14 Q Got you. The song in the beginning is a little
15 catchy, too, huh?

16 A Yeah.

17 Q But now, when you watch shows like that and, you
18 know, as you sit here -- when the cops chase after
19 somebody on the show, do you generally think the person
20 would be guilty or innocent?

21 A Usually, they show them doing something before they
22 go after them like fighting, and then they turn on the
23 blue lights.

24 Q All right. So based on that, you tend to form an
25 opinion if you had seen something?

1 A Yeah.

2 Q And when you form an opinion, do you generally try to
3 stick to it or is there things that can change your mind?

4 A Usually, I change my mind. Because there are two
5 people in the car and you see one of them jump out and you
6 realize they didn't have anything to do with it.

7 Q Right. I got you. Generally, if you're with a group
8 of people, would you be the person -- like, say, you're
9 going to lunch, who would decide where you're going?

10 A Mostly everybody else.

11 Q Everybody else. All right. Now, if -- I know the
12 Judge and everybody has talked to you about this being a
13 sort of two-case trial and things of that nature. But I
14 want to ask you a couple of questions. If you're back and
15 you're deliberating, say, you're the first person to vote,
16 would you want to vote or would you want to pass?

17 A I'd go ahead and vote.

18 Q And then if you heard everybody else differ with you
19 for, say, the next five people or so, would that cause you
20 to reconsider?

21 A No.

22 Q Say, all 11 people voted opposite of what you were
23 voting, would that cause you to change your mind at all?

24 A I'd reconsider.

25 Q You'd reconsider that?

1 A Yeah.

2 Q Would you really reconsider if you had been there
3 kind of all night and it was late and everybody else was
4 disagreeing?

5 A I would try to figure why they're voting one way and
6 I'm voting another.

7 Q Would you try to convince them you were right at all?

8 A Probably not.

9 Q Probably not?

10 A No.

11 Q Okay. You've heard the term beyond a reasonable
12 doubt, haven't you?

13 A Yes.

14 Q What does that kind of mean to you?

15 A If there was no possible other way that it happened.

16 Q Okay. If the case were to get to the second
17 proceeding, and I do say if, because it's not guaranteed
18 that it could get to the second proceeding. But what I'm
19 kind of curious about is, how do you feel about the death
20 penalty? Can you just kind of tell me? Is it something
21 you've thought about?

22 A Yeah. I, actually, have. I believe in it, but only
23 in certain cases.

24 Q Only certain cases. And have you talked about that
25 with anybody?

1 A No.

2 Q You've never talked to like a friend?

3 A Did we talk?

4 Q Right.

5 A Not really. It's nobody else's business.

6 Q Kind of a personal feeling?

7 A Uh-huh.

8 Q How strong is your belief? I mean, is it something
9 -- you said only in certain cases, but do you feel that
10 the death penalty would be okay under certain
11 circumstances?

12 A Yes.

13 Q Okay. But you also feel that there are certain
14 circumstances where it would not be okay?

15 A Correct.

16 Q Okay. So I guess what I'm trying to get to is, if we
17 were to give you evidence, as the Judge has indicated,
18 some mitigating factors, you'd be willing to consider them
19 just as you'd be able to consider their aggravating
20 factors?

21 A Correct.

22 Q Do you have any opinion as to what the term life
23 means? Life imprisonment, what does that mean to you?

24 A They're going to spend the rest of their days in
25 prison.

1 Q Okay. I'm going to ask you another couple quick
2 questions. I noticed that you don't belong to any
3 religious-type organizations or anything like that. Do
4 you have any kind of feelings that are based on any
5 religious beliefs?

6 A No.

7 Q Okay. I also noticed that you like to -- you said
8 that you watch CSI. You know, it's not exactly like that?

9 A No.

10 Q Okay. I've never watched it. What is it?

11 A It's forensic science.

12 Q Forensic science-type stuff. Do they kind of piece
13 everything together?

14 A (Juror nodded.)

15 Q All right. Now, I've also noticed that, at some
16 point, you were, actually, a store manager?

17 A Yeah.

18 Q Did you supervise a lot of people,

19 A No, just two people.

20 Q Just two people?

21 A A small store.

22 Q Did you ever have to deal with any sort of employee
23 disciplinary matters or anything like that?

24 A Not really.

25 Q So everybody was kind of on the level?

1 A It was almost a family business.

2 Q Okay. So you never had to resolve any kind of
3 conflicts or anything?

4 A (Juror shook head.)

5 Q Do you have a computer?

6 A Yes.

7 Q In what ways do you use it? Do you look up stuff on
8 the Internet or use it for e-mail?

9 A E-mail, video games.

10 Q Are you, I guess, Internet savvy?

11 A Uh-huh.

12 Q What kind of stuff do you look up? Do you look up
13 like ESPN?

14 A Different stuff, like if my son has homework.

15 Q Do you ever look up anything law related or anything
16 like that?

17 A No.

18 Q You said that you don't subscribe to the Herald or
19 anything like that?

20 A (Juror shook head.)

21 MR. BROUGH: If I may have one minute, Your Honor.

22 THE COURT: All right.

23 MR. BROUGH: No further questions.

24 THE COURT: All right. From the State?

25 MR. GOWDY: May it please the Court, Your Honor?

1 THE COURT: Yes, sir.

2 EXAMINATION

3 BY MR. GOWDY:

4 Q Good afternoon, Mr. Perry. How are you doing?

5 A Fine.

6 Q My name is Trey Gowdy. That's John Anthony to your
7 left and Barry Barnette in the center. And the three of
8 us, together, represent the State of South Carolina.

9 Do you ever watch Law and Order?

10 A No.

11 Q I saw you watch CSI, you don't watch lawyers, you
12 watch the cops?

13 A Yeah.

14 Q Speaking of watching, I couldn't help but notice
15 you're a Little E fan. Did you watch the race yesterday?

16 A Yes.

17 Q Did you agree with their decision not to get tires
18 with 10 laps to go?

19 A Yep.

20 Q It turned out to be the right one, didn't it?

21 A Yep.

22 Q I want to ask you a couple of questions about the
23 death penalty. But first, I want to thank you for filling
24 out this questionnaire. I'm sure it ain't easy writing
25 all that stuff down and thinking about it and having a

1 bunch of strangers come and ask your opinion about the
2 death penalty. But it is important, and I appreciate you
3 doing it.

4 I noticed when His Honor, Judge Miller, asked you
5 about the death penalty and would you be able, if you
6 thought it was the right thing to do, to give death, you
7 kind of paused for a second and said, I don't know. Maybe
8 that's the first time anybody has ever asked you that
9 question before. But I've got to ask you, are you sure in
10 your well of souls if you thought it was the right thing
11 to do that you would be able to vote to put someone to
12 death?

13 A If everything warranted that, yes.

14 Q When you say everything warranted that, I know the
15 Judge explained this and he did a better job than I can do
16 with it, but under the law in South Carolina, you're never
17 required to give anybody the death penalty. It's never if
18 you do A, B, and C, then you automatically have to get
19 death. You always have that option of life or death. And
20 what I'm asking you is, knowing you've always got the
21 option of giving somebody life, would you ever choose
22 death?

23 A See, that's what I'm saying. It's not a very light
24 thing to walk into.

25 Q Right. Sure.

1 A I couldn't just jump on it.

2 Q I wouldn't want you to.

3 A I could if everything warranted it.

4 Q I guess what I'm getting at is, what do you mean by
5 if everything warranted it?

6 A Well, if you have a murder, that's one thing. Some
7 people snap, some people hit a breaking point and go too
8 far.

9 Q Sure.

10 A But then if you've got somebody that sat down,
11 thought about it, planned it out, that's a whole different
12 scenario.

13 Q So if I hear what you're saying, all murders aren't
14 the same?

15 A Correct.

16 Q You're going to look at it and assuming the State
17 proves murder, you're going to look at the murder --

18 A Correct.

19 Q -- and you're going to decide whether or not this
20 murder fits the category where death is appropriate or
21 whether it fits the category where life is appropriate.
22 That's exactly the kind of juror I think both sides are
23 looking for. You're going to listen to both of us?

24 A Correct.

25 Q But in your well of souls, if you thought death was

1 right, would you be able to vote and sign your name to it?

2 A Yes.

3 Q Okay. Fair enough. One other thing you said that I
4 want to ask you. I may have written it down wrong, if I
5 did, I apologize to you. When the Defense attorney asked
6 you your definition of reasonable doubt, you said no
7 possible way it could happen any way else. I think what
8 the Judge is going to tell you at the end when he gives
9 the law, he's going to give you a definition of reasonable
10 doubt that's not quite as strict as the one you gave.
11 Would you follow what he said?

12 A Yes.

13 Q Because it's tough to prove anything that there's no
14 possible way something else happened. You'd follow what
15 -- the law he gave you?

16 A Correct.

17 Q Okay. Fair enough. Do you believe you could be fair
18 if you were in juror in this case?

19 A Yes.

20 Q You'd listen to both the folks on my side of the
21 courtroom and the Defendant's side?

22 A Yes.

23 Q And if you thought life was appropriate, you'd vote
24 for life?

25 A Yes.

1 Q And if you thought death was appropriate, you'd vote
2 for death?

3 A Yes.

4 Q Are you sure?

5 A Yes.

6 MR. GOWDY: Thank you, Mr. Perry.

7 I appreciate it.

8 THE COURT: All right. Mr. Perry, let me ask you to
9 step out in the hallway for just one second.

10 (Pause.)

11 THE COURT: Any -- the man looks qualified to me.

12 MR. GOWDY: He's qualified, Your Honor.

13 THE COURT: From the Defense?

14 MS. QUIMBY: No objection, Your Honor.

15 THE COURT: All right. Bring him back.

16 (Pause.)

17 THE COURT: Mr. Perry, you can just come right around
18 here, if you don't mind. I'm going to give this to you
19 and I want you to hang on to that. And I'm going to tell
20 you that you remain a qualified juror in this case.

21 Okay. And I'm going to let you go home and go about
22 your business, but this is going to be a very difficult
23 thing for you to do because we anticipate that there will
24 be media exposure with respect to this. And I am going to
25 instruct you and under your oath require you not to read

1 any newspaper or other articles about this. Don't listen
2 to the radio. Don't look at the television news because
3 this might pop up.

4 Do you understand?

5 JUROR #284, ROBERT PERRY, JR.: Yes, sir.

6 THE COURT: And we will be back in touch with you.
7 Make sure we have your phone number where we can get in
8 touch with you. And we will summon you back after we've
9 been through this process with quite a number of people.

10 All right. Thank you very much.

11 JUROR #284, ROBERT PERRY, JR.: Yes, sir.

12 Thank you.

13 THE COURT: Thank you, Mr. Perry.

14 (Juror #284, Robert Perry, Jr. was excused from the
15 courtroom.)

16 THE COURT: All right. Are you ready?

17 THE BAILIFF: Yes, sir.

18 THE COURT: Who remembers how to pronounce this next
19 gentleman's name?

20 MS. QUIMBY: Klutz.

21 THE COURT: Klutz. Okay.

22 (Juror #205, William Klutz, a white male, was
23 seated.)

24 THE COURT: Mr. Klutz, thank you. The first thing I
25 want to do is remind you, of course, you're under oath and

1 we're looking for full, accurate, complete answers,
2 truthful answers to the questions we're going to ask you.
3 And I want you to be at ease. I know that's very
4 difficult to do. A lot of people, I guess, in your
5 situation have never sat in a witness chair, so it's
6 not -- it's easy for me to sit here and tell you to be at
7 ease. It's a lot easier to tell you than it is for you to
8 do that. But I want you to feel as comfortable as you
9 possibly can. And along those lines, I want you to know
10 that the questions that you will be asked, there are no
11 right and no wrong answers. I mean, all we're looking for
12 is to know how you feel, and we just want the truth about
13 that.

14 I will tell you that this case is, as I told you, the
15 State v. Fredrick Antonio Evins. As I told you,
16 indictments are not evidence and they're not to be
17 construed as evidence in any fashion. They're just the
18 allegations on a piece of paper that allow the case to
19 come to Court.

20 But these indictments allege that Mr. Evins did in
21 Spartanburg County on or about February 13th, 2003,
22 feloniously, willfully, and with malice aforethought kill
23 Rhonda Marie Ward through -- by stabbing. Also, that he
24 did on that date unlawfully seize, confine, inveigle,
25 decoy, kidnap, abduct, or carry away Rhonda Marie Ward.

1 Also, that he did on or about that same day unlawfully
2 commit a sexual battery upon Rhonda Marie Ward. And,
3 finally, that he did feloniously carry away Rhonda
4 Marie -- excuse me, Rhonda Marie Ward's 1993 Nissan Sentra
5 automobile.

6 Now, I understand that there has been -- I recognize
7 there's been quite a bit of media coverage about this
8 matter. And I just want to ask you if, in fact, you've
9 heard anything about it?

10 JUROR #205, WILLIAM KLUTZ: No, not that I can,
11 specifically, recall.

12 THE COURT: Okay. And you can't remember or you
13 vaguely remember?

14 JUROR #205, WILLIAM KLUTZ: It seems like I remember
15 a situation of this nature sometime ago, but I'm not sure
16 it's the same one.

17 THE COURT: Okay. Well, let me ask you this, do you
18 understand, as a juror, your oath would require you to
19 disregard anything that you may have read, seen, or heard
20 about this case and you would be required to decide -- if
21 you were chosen on the jury to decide the facts only from
22 the evidence presented during the trial?

23 Do you understand that?

24 JUROR #205, WILLIAM KLUTZ: Yes.

25 THE COURT: And do you believe that you could follow

1 your oath and do that?

2 JUROR #205, WILLIAM KLUTZ: Yes, I do.

3 THE COURT: And would you serve as a fair and
4 impartial juror and reach a verdict based on the facts
5 presented at trial in accordance with my instructions to
6 you on the law?

7 JUROR #205, WILLIAM KLUTZ: Yes.

8 THE COURT: Have you already formed any kind of
9 opinion as to the facts of this case or as to the guilt or
10 innocence of Mr. Evins?

11 JUROR #205, WILLIAM KLUTZ: No.

12 THE COURT: Now, keeping in mind the legal principles
13 of the presumption of innocence and the State's obligation
14 to prove guilt beyond a reasonable doubt, could you,
15 depending on the facts and the evidence and the law as I
16 would instruct it to you, find Mr. Evins either guilty or
17 not guilty? Could you find -- depending on the law and
18 the evidence, could you find either way?

19 JUROR #205, WILLIAM KLUTZ: Yes.

20 THE COURT: All right. Now, please remember that we
21 may not even reach the second phase. I've been over that
22 a couple of times with you. But since we possibly could,
23 I want to ask you some questions about your views on the
24 death penalty.

25 Do you understand that?

1 JUROR #205, WILLIAM KLUTZ: Yes.

2 THE COURT: All right. Now, when a jury moves to the
3 sentencing phase, that means that the jury has already
4 found that person guilty of murder, and there is no legal
5 defense to discuss or explore in the second phase of the
6 trial. Guilt of murder has been established in the first
7 phase.

8 Do you understand that?

9 JUROR #205, WILLIAM KLUTZ: Yes, I do.

10 THE COURT: All right. In the second or the
11 sentencing phase of the trial, the jury would hear
12 evidence with -- which I have referred to as mitigating
13 evidence or aggravating evidence. Now, I want to ask you,
14 your oath would require you to abandon any preconception
15 that you may have and to follow the law as I instruct it
16 to you. In other words, your oath would require you to
17 give serious and meaningful consideration to aggravation
18 and mitigation evidence. Would you honor your oath in
19 that regard?

20 JUROR #205, WILLIAM KLUTZ: Yes, I would.

21 THE COURT: And if you were a juror in that
22 situation, the sentencing phase of the trial, the second
23 phase, could you, depending upon the particular facts and
24 circumstances of the case, including the consideration of
25 aggravating and mitigating circumstances and the law as I

1 would instruct it to you, return a sentence of life in
2 prison?

3 JUROR #205, WILLIAM KLUTZ: I'm sorry. Repeat that,
4 please.

5 THE COURT: Okay. If we got to the second part of
6 the trial --

7 JUROR #205, WILLIAM KLUTZ: Yes.

8 THE COURT: That was a long question, wasn't it?

9 JUROR #205, WILLIAM KLUTZ: (Juror nodded.)

10 THE COURT: We get to the second part of the trial
11 and the evidence presented to you -- there would be
12 evidence presented to a jury to show aggravation and also
13 evidence to show mitigation. Could you consider all of
14 the aggravation and the mitigation evidence and apply the
15 law as I instruct it to you, having done that, could you
16 return a sentence of life in prison?

17 JUROR #205, WILLIAM KLUTZ: Yes.

18 THE COURT: All right. Now, if you were -- likewise,
19 if you were a juror in that situation and you had heard --
20 depending on the particular facts and circumstances of the
21 case and after listening to aggravating and mitigating
22 evidence and the law that I instructed, could you return a
23 death sentence?

24 JUROR #205, WILLIAM KLUTZ: Yes.

25 THE COURT: All right. And in the event of a death

1 sentence, South Carolina requires that each juror sign
2 their name to a verdict form. If that were the case,
3 could you sign your name to a death sentence verdict?

4 JUROR #205, WILLIAM KLUTZ: Yes, I could.

5 THE COURT: All right. Now, do you recall the three
6 types of jurors we had?

7 JUROR #205, WILLIAM KLUTZ: Yes.

8 THE COURT: How would you categorize yourself?

9 JUROR #205, WILLIAM KLUTZ: I would categorize myself
10 as being able to go either way on the sentencing.

11 THE COURT: All right. And that is, you would --
12 that's a Number 3, I guess?

13 JUROR #205, WILLIAM KLUTZ: Number 3, I believe, yes.

14 THE COURT: So you would listen to the evidence
15 before you made up your mind; is that right?

16 JUROR #205, WILLIAM KLUTZ: Correct.

17 THE COURT: And do you believe that you could follow
18 your oath if you were selected and keep an open mind to
19 find the truth from the evidence and only from the
20 evidence and the law as I instruct it to you?

21 JUROR #205, WILLIAM KLUTZ: Yes.

22 THE COURT: All right. Do you know of any reason why
23 you could not serve in this case?

24 JUROR #205, WILLIAM KLUTZ: No, I do not.

25 THE COURT: I'll turn it over to the State.

1 MR. GOWDY: May it please the Court, Your Honor?

2 EXAMINATION

3 BY MR. GOWDY:

4 Q Good evening, sir.

5 A Good evening.

6 Q My name is Trey Gowdy, along with John Anthony, to
7 your left, and Barry Barnette, in the center. We
8 represent the State of South Carolina in this case. I
9 just want to ask you a couple of questions. It looks like
10 you may live out at River Falls, do you?

11 A I live at Twin Lakes.

12 Q Twin Lakes, I knew it was a west side address.
13 You're also a golfer?

14 A Yes.

15 Q Okay. A couple of quick questions about what the
16 Judge asked you. With respect to the death penalty, is it
17 an issue that you've given a lot of thought to and you
18 have longly-held beliefs, or have you recently come to the
19 belief you have? Can you tell me a little bit about what
20 you believe about the death penalty and how long you've
21 held that belief?

22 A I believe -- my conviction one way or the other for
23 the death penalty is probably based on simply growing up
24 through life. The death penalty has evolved. It has been
25 set aside and has come back over the years. And I think

1 my disposition on it is based on the various cases that
2 I'm familiar with, which is simply through the news media,
3 be that as accurate as it may. So my opinion is that
4 there are cases where it can apply, and there are cases
5 where it would not apply.

6 Q Yes, sir. And if I understood you right, when you
7 were talking to His Honor, Judge Miller, you would listen
8 to both sides, both the Prosecution and the Defense, in
9 the sentencing phase, if we got there. And if you thought
10 life was right, that's what you would vote for, and if you
11 thought death was right, that's what you'd vote for?

12 A That's correct.

13 Q And if you few opted for death, you'd be able to sign
14 your name to a death warrant and pass it up to the Judge?

15 A Yes.

16 MR. GOWDY: Thank you.

17 I appreciate you answering my questions.

18 THE COURT: All right.

19 MS. QUIMBY: May it please the Court, Your Honor?

20 EXAMINATION

21 BY MS. QUIMBY:

22 Q Good afternoon, Mr. Klutz.

23 A Good afternoon.

24 Q My name is Karen Quimby. And I, along with Tam Boggs
25 and Christopher Brough, are here representing Fredrick

1 Evins, as you already know.

2 Now, you said that some of your beliefs -- you said
3 that your disposition about the death penalty has
4 evolved -- well, is based on the fact that it's changed
5 over the years with the times.. And you base your beliefs
6 on, you said, the cases you get from the news media.. Do
7 you mean the specific facts of the case?

8 A That's the only way we would have access to cases is
9 through the news media, unless we attend court sessions,
10 which, typically, I don't do that. So my knowledge is
11 based on the news media.

12 Q Okay. So -- and, again, I'm just asking you these
13 things not to be -- not to be personally nosey, but just
14 because your opinions are important. There's no right
15 opinion or wrong opinion. We just need to know your
16 opinions.

17 So you would say that you get your information about
18 current cases from the media and that forms the basis for
19 your beliefs in favor of the death penalty; is that about
20 right?

21 A Yes.

22 Q Okay. Do you subscribe to the Herald Journal? I
23 noticed on your questionnaire you read the Herald Journal.

24 A Yes.

25 Q And is that also -- by news media, I imagine, you

1 mean TV, newspaper?

2 A Correct.

3 Q Okay. And it said you watch Channel 4 and Channel 7;
4 is that right, for news?

5 A Yes.

6 Q Okay. Judge Miller, I think he's already instructed
7 you that if you are selected as a juror on this case and
8 anybody selected as a juror on this case, anything they
9 have read about any case in the past, anything they may
10 have read about this case, anything they read about law or
11 criminal law, in general, or see on the news, you have to
12 put that aside and only decide this case on the testimony
13 and evidence that you get during the trial. Is that
14 something you can accept and do?

15 A Yes.

16 Q Okay. You had also mentioned that you couldn't,
17 specifically, recall whether you had heard anything about
18 this particular case. You said that it seems like you
19 remember something, but you don't know if it's the same
20 case?

21 A Correct.

22 Q Okay. If it is the same case, do you have any
23 specific memory of what you heard or do you have any -- do
24 you remember anything about it, if this is the one you're
25 thinking about?

1 A The one I was thinking about, I thought there was
2 another party involved in it. And I'm not sure at all
3 that that is the current case that we're addressing here.

4 Q Okay. You mean someone else involved?

5 A Another Defendant.

6 Q Okay. Whether that is the case or whether that's not
7 the case, we're not going to get into that right now. But
8 whether it is or is not, can you forget you ever heard
9 that if you're selected as a juror on the case?

10 A No more than I could remember about this potential
11 case, yes, I can forget that.

12 Q Okay. And the law doesn't require that you forget
13 it. It just requires you to put it aside for a while and
14 only decide the case on the facts presented and the law
15 that Judge Miller instructs you on. Have you ever had to
16 sit on a witness stand before? I don't imagine a civil
17 engineer would have to do that very much.

18 A Only on arbitration.

19 Q Okay. I had to be in the witness seat when I did
20 Family Court in private practice and I never got used to
21 it, so I'll try to keep it short. And I also understand
22 it's awkward, because we're asking you about such things
23 that are normally very personally things, personally-held
24 opinions, and this may be a subject you've never discussed
25 with your closest family and friends?

1 Have you ever -- to the best of your memory, have you
2 ever gotten in any discussions with family or friends or
3 coworkers about people's views on the death penalty or a
4 certain case where the death penalty is at issue? In
5 other words, is this the first time you've had to out loud
6 talk about your feelings about the death penalty?

7 A No. I don't think it's the first time. I think
8 those discussions have taken place.

9 Q Okay. And I find that that usually follows -- you
10 know, do they usually come after you've read something
11 that's particularly interesting to you and you want to
12 just, hey, I was reading this thing today and -- is that
13 how most of the discussions start?

14 A That would certainly be one way. Simply by the fact
15 that it has been taken away and then reinstated and so
16 forth would generate conversation just on the merits of
17 why does that happen -- why did that happen.

18 Q All right. If you were on a jury and it came time
19 for a vote regarding -- just pretend you've already gotten
20 past the first phase, because you understand that it may
21 not get to a second phase. If you get to a second phase
22 and it comes time to vote, if you happen to be in the
23 first seat, would you want to be the guy that goes first
24 to --

25 A To cast the first vote?

1 Q Yes, sir.

2 A It wouldn't bother me.

3 Q Okay. No matter what it is, and we don't know what
4 it is?

5 A Correct.

6 Q And if you were the fifth or sixth person, would that
7 make you feel any different if you had heard all the
8 answers before and they were different than yours?

9 A I don't think so.

10 Q Okay. What if you were unfortunate enough to be in
11 the twelfth seat and all of the other answers were
12 different than the vote you were going to cast, would you
13 reconsider or start getting -- would you start second
14 guessing yourself?

15 A Based solely on the number of votes for or against,
16 no, that wouldn't change my mind.

17 Q Would it make you, at least, interested to find out
18 why all of them wanted to vote that particular way?

19 A I would have to assume that some of that is -- comes
20 about during the deliberation process. So I would hope
21 that you would know that prior to the vote being cast.

22 Q Okay. Do you think that you would at any point,
23 whatever side you're on, whether you're in the minority or
24 majority, would you feel like I've made up my mind and
25 that's the end of it, or would you possibly be the type of

1 juror who would want to maybe help the other jurors see
2 your point of view or persuade them to your point of view?
3 And I know that's a hard question.

4 A I think it would be reasonable to discuss the points
5 that would lead you to vote one way or the other.

6 Q Okay.

7 A It has two ramifications, either, yes, you could
8 persuade others or they could persuade you that some of
9 your points are incorrect.

10 Q Okay. So what you're telling me is you're going to
11 keep an open mind?

12 A I would certainly strive to do that.

13 Q That's exactly what we want. That's what we're here
14 for. We're here to just seat 12 people with an open mind.
15 You also understand -- and we're going to skip back to
16 phase one. You also understand that as Mr. Evins sits
17 there right this minute, he is presumed innocent?

18 A Correct.

19 Q And that means as he sits there right there, he's not
20 guilty of anything?

21 A Correct.

22 Q And you can accept that and that doesn't bother you?

23 A It does not bother me.

24 MS. QUIMBY: One moment, Your Honor, just one second.

25 (Pause.)

1 MS. QUIMBY: I apologize, Your Honor. I'm sorry.

2 BY MS. QUIMBY:

3 Q If Mr. Evins is convicted of murder after
4 deliberations in the first phase, the Solicitor has asked
5 for the sentence to be death. Do you understand that
6 somebody who causes the death of someone else -- if you
7 believe someone has caused the death of someone else, do
8 you believe that that is always going to be murder?

9 A No.

10 Q Okay. Can you explain that answer for me?

11 A Self-defense.

12 Q Okay. So you would agree that you would -- that
13 there are sometimes defenses to murder that make it not
14 murder while it doesn't change whether someone's death has
15 been caused by that person?

16 A I think the answer to that is yes.

17 Q And I know -- once I said it, I realized that. I'm
18 glad you could try to answer that. I also noticed that
19 you were in Alabama in the late '60's, was that with -- it
20 looks like that might have been with your first job?

21 A That's correct.

22 Q Where were you in Alabama?

23 A Huntsville.

24 Q Okay. I've got family in Alabama and Mississippi, so
25 that was a -- that might have been a very sensitive time

1 to be in Alabama during in the late '60's. Did you feel
2 any of that tension down there when you were there with
3 the civil rights movement going on?

4 A No, I did not. Huntsville, Alabama, was one of the
5 most dynamic cities in Alabama due to the Red Stone
6 Arsenal and space program, which is what I was involved in
7 at the time.

8 Q Really.

9 A It had an extremely high per capita income. Most of
10 the people were not natives, they were brought in due to
11 the space program.

12 Q Okay.

13 A I don't think it was, perhaps, your typical -- what
14 we might call a typical city in Alabama.

15 Q Okay. So -- but you were there during -- you were in
16 Alabama when some of the other cities in Alabama were
17 having some pretty serious, I guess, racial problems with
18 integration?

19 A Yes.

20 Q Do you feel any feelings about -- do you have -- did
21 that cause you to develop any feelings one way or the
22 other about segregation, integration, or interracial
23 friendships, relationships, anything like that?

24 A By virtue of the fact that I was in Alabama or what
25 was going on in Alabama?

1 Q I guess being in Alabama during that time period, did
2 that have any bearing on --

3 A No, it didn't.

4 Q Do you -- regardless of being in Alabama, do you have
5 any specific feelings one way or the other about an
6 interracial friendship or relationship, anything like
7 that?

8 A I've lived in the south all my life. To say that I
9 do not have emotions about integration and racial
10 situations would be untrue. They have changed drastically
11 over my life span, mine have changed.

12 Q Yes, sir.

13 A And for the betterment, I would say.

14 MS. QUIMBY: Okay. And I think that's what life is
15 all about, changing and getting better.

16 So thank you for your time.

17 Thank you.

18 THE COURT: All right. Mr. Klutz, may I ask you to
19 please step into the hallway for just a moment, please,
20 sir.

21 (Pause.)

22 THE COURT: He seems to be a qualified juror to me.
23 Any exceptions or objections?

24 MS. QUIMBY: None from the Defense.

25 MR. GOWDY: None from the State.

1 THE COURT: All right. Ask Mr. Klutz to come back.

2 (Pause.)

3 THE COURT: Mr. Klutz, if you can, just step on
4 around here and let me hand you this notice. You continue
5 to be a qualified juror in this case. And if you would,
6 just review that when you get a chance. I want to tell
7 you that I'm not going to sequester you at this time, but
8 I'm going to let you go home and go about your business.
9 And before you leave, we're going to get your phone number
10 so we'll know where we can get in touch with you at a
11 later time, two or three days later.

12 JUROR #205, WILLIAM KLUTZ: Okay.

13 THE COURT: Again, I caution you, we anticipate there
14 will be media coverage, so please don't read the
15 newspaper. If you can, have it screened. Please don't
16 watch local news. I hate to do that to you, but it's
17 extremely important. So I ask you if anyone talks to you
18 about this case, cut them off immediately and tell them
19 it's not proper. If they continue, then just let me know
20 because I will have to deal with that.

21 JUROR #205, WILLIAM KLUTZ: Very good.

22 THE COURT: Thank you very much.

23 Charlena, are you getting it?

24 THE CLERK: Yes, sir.

25 THE COURT: All right. Thank you, sir.

1 (Juror #205, William Klutz was excused from the
2 courtroom.)

3 THE COURT: Bring the next juror in, please.

4 (Juror #111, Wayne Gambrell, a white male, was
5 seated.)

6 THE COURT: All right. Mr. Gambrell.

7 JUROR #205, WAYNE GAMBRELL: Yes, sir.

8 THE COURT: Welcome to the courtroom. The first
9 thing I want to do is tell you -- put you at ease. I wish
10 I could cast a spell on you and make you feel comfortable,
11 but I know that's not possible. And this is, I guess, a
12 very stressful situation. But I want you to feel as
13 comfortable as you possibly can. And I want you to know
14 that there are no right answers and there are no wrong
15 answers to the questions that will be asked of you. It's
16 just very important, though, that you follow your oath and
17 you give us accurate, complete, and truthful answers to
18 the questions. And, again, nothing -- there is nothing
19 wrong and nothing right about your answers.

20 I want to tell you that this is the State v. Fredrick
21 Antonio Evins. And he is here charged on several
22 indictments. And, again, I emphasize to you that an
23 indictment is not evidence. It's not to be construed as
24 evidence in any fashion whatsoever. And it is just
25 allegations made and put down on a piece of paper to steer

1 the Court -- the case through the system and get to court.

2 But he is charged in Spartanburg County on or about
3 February 13th of 2003, with the unlawful, felonious,
4 willful and with malice aforethought killing of Rhonda
5 Marie Ward by stabbing. Also, on the same day and in
6 Greenville -- excuse me, Spartanburg County, he is charged
7 with unlawfully seizing, confining, inveigling, decoying,
8 kidnapping, abducting, or carrying away Rhonda Marie Ward.
9 Also, he is charged on the same day that he unlawfully
10 committed a sexual battery on Rhonda Marie Ward. And,
11 finally, that on the same day, he did feloniously take and
12 carry away Rhonda Marie Ward's 1993 Nissan Sentra and its
13 contents.

14 Now, I recognize and we all recognize that there has
15 been a lot of publicity about this case on the TV, and on
16 the radio, and in the newspaper. So I just need to know
17 have you read, seen, or heard anything about this case?

18 JUROR #111, WAYNE GAMBRELL: No, sir.

19 THE COURT: Okay. Do you recall -- I mean, it's been
20 a while back. Do you recall anything about it?

21 JUROR #111, WAYNE GAMBRELL: No, sir.

22 THE COURT: Okay. Well, do you understand that, as a
23 juror, your oath would require you to disregard anything
24 that you have read, seen, or heard about this case and you
25 would be required to decide the facts only from the

1 evidence presented at trial?

2 Do you understand that?

3 JUROR #111, WAYNE GAMBRELL: Yes, sir.

4 THE COURT: Okay. And would you serve as a fair and
5 impartial juror and reach a verdict based on the facts
6 presented at trial in accordance with my instructions on
7 the law?

8 JUROR #111, WAYNE GAMBRELL: I would.

9 THE COURT: Have you already formed an opinion as to
10 the facts of the case or to the guilt or innocence of
11 Fredrick Antonio Evins?

12 JUROR #111, WAYNE GAMBRELL: No, sir.

13 THE COURT: Now, keeping in mind the legal principles
14 of the presumption of innocence and the State's obligation
15 to prove guilt beyond a reasonable doubt, could you,
16 depending on the facts and the evidence and the law as I
17 would instruct it to you, find Mr. Evins either guilty or
18 not guilty based on all that?

19 JUROR #111, WAYNE GAMBRELL: I could.

20 THE COURT: All right. So you're not predisposed to
21 find one way or the other, you'd listen to the facts and
22 the law and decide according thereto; is that right?

23 JUROR #111, WAYNE GAMBRELL: Yes, sir.

24 THE COURT: Now, please remember, we may not even
25 reach the second part of the trial or the second phase in

1 the case. But since we possibly could, I need to ask you
2 some questions about your views on the death penalty.

3 Okay.

4 JUROR #111, WAYNE GAMBRELL: Okay.

5 THE COURT: Now, when a jury moves to the sentencing
6 phase, that means that the jury has already found that
7 particular defendant guilty of murder. There is no legal
8 defense to discuss or explore in the second phase of a
9 trial like that. And guilt of murder would have been
10 established in the first phase.

11 Do you understand that?

12 JUROR #111, WAYNE GAMBRELL: I understand.

13 THE COURT: All right. In the second or sentencing
14 part of the trial, the jury would hear evidence, which I
15 have referred to as evidence in aggravation and evidence
16 in mitigation.

17 Do you understand that?

18 JUROR #111, WAYNE GAMBRELL: Yes, sir.

19 THE COURT: Okay. And your oath would require you to
20 abandon any preconception you might have and to follow the
21 law as I instruct it. In other words, your oath, the oath
22 you have taken and will take again, will require you to
23 give serious and meaningful consideration to the
24 aggravation and mitigation evidence. Would you honor your
25 oath in that regard?

1 JUROR #111, WAYNE GAMBRELL: I would.

2 THE COURT: And if you were a juror in that
3 situation, the sentencing phase, could you, depending upon
4 the particular facts and circumstances presented at trial,
5 including the consideration of aggravating and mitigating
6 circumstances and also the law that I would instruct you,
7 could you return a sentence of life in prison?

8 JUROR #111, WAYNE GAMBRELL: I could.

9 THE COURT: All right. Now, conversely, if you're a
10 juror in that same situation, could you, depending on the
11 particular facts and circumstances of the case, including
12 the consideration of aggravating and mitigating
13 circumstances and the law that I would instruct you, could
14 you take all that into consideration and return a sentence
15 of death?

16 JUROR #111, WAYNE GAMBRELL: I could.

17 THE COURT: All right. Now, in the event of a death
18 sentence, if the jury unanimously agreed to recommend a
19 sentence of death, South Carolina law requires each juror
20 to sign their name to the verdict form. In that event,
21 could you sign your name to a death sentence verdict?

22 JUROR #111, WAYNE GAMBRELL: I could.

23 THE COURT: All right. Do you recall the three types
24 of jurors on that list?

25 JUROR #111, WAYNE GAMBRELL: Yes, sir.

1 THE COURT: How would you classify yourself?

2 JUROR #111, WAYNE GAMBRELL: Number 3.

3 THE COURT: Okay. So you could listen -- you would
4 go into a trial with an open mind -- could you keep an
5 open mind, listen to all the facts and the evidence and
6 the law as I instruct it to you, and deliberate and reach
7 a verdict based on all the law and all the evidence?

8 JUROR #111, WAYNE GAMBRELL: Yes, sir.

9 THE COURT: Okay. If you're selected as a juror,
10 would you honor your oath and serve as a fair and
11 impartial juror and approach jury service with an open
12 mind?

13 JUROR #111, WAYNE GAMBRELL: I would.

14 THE COURT: Do you know of any reason why you could
15 not serve as a juror in this case?

16 JUROR #111, WAYNE GAMBRELL: No, sir.

17 THE COURT: All right. At this time, I'll turn it
18 over to the lawyers to question you.

19 EXAMINATION

20 BY MR. BOGGS:

21 Q Mr. Gambell -- or is it Gambrell?

22 A Gambrell.

23 Q My name is Tam Boggs. I'm one of the attorneys
24 representing Fredrick Evins, the gentleman sitting over
25 there. Karen Quimby and Chris Brough are also involved in

1 it. And we're here just to talk to you a little bit and
2 find out some ideas about some of your opinions, et
3 cetera. And we appreciate you being here. It's a strong
4 civic duty you're doing. And I want to thank you for
5 serving on this jury -- or being available to serve on the
6 jury.

7 I believe I noticed in your questionnaire that was
8 sent back that you subscribe to the Greenville News or
9 read the Greenville News primarily; is that correct?

10 A That's correct.

11 Q Do you ever read the Spartanburg Herald Journal?

12 A In the past, I have. But it's been about four years
13 since I've taken the Spartanburg paper.

14 Q You lost interest in it?

15 A Well, I was taking both of them, so I just decided to
16 take one.

17 Q Okay. And what channels do you normally watch as far
18 as news media goes?

19 A Normally, Channel 4 from Greenville.

20 Q Greenville channel?

21 A Uh-huh.

22 Q And what type of shows -- entertainment shows, do you
23 normally like?

24 A The one I watch most is CSI.

25 Q And Law and Order and that type of thing?

1 A Yeah, that type of thing

2 Q As far as the publicity, before you came into court
3 today, had you ever heard the name Fredrick Evins as far
4 as you can remember?

5 A I never have.

6 Q Okay. You're not aware of any facts about the case?

7 A No, sir.

8 Q Do you have any opinion at all or have you formed any
9 opinion about the case since you've been to court today
10 and heard Judge Miller read the indictments?

11 A No, sir. I haven't formed any kind of opinion.

12 Q Okay. Speaking of opinions, are you the type of
13 person that once you form an opinion or develop an
14 opinion, you pretty much stick to it?

15 A Well, not always.

16 Q Okay. So when you form an opinion on a set of facts,
17 you'll hold that opinion until maybe somebody else says,
18 well, that's really not the way I see it, and you're
19 willing to discuss it with them a little bit?

20 A That's correct.

21 Q Well, along those lines, do you consider yourself a
22 leader or follower or are you really sure?

23 A Well, I guess a follower.

24 Q Kind of a follower. Well, let me ask you this then,
25 Mr. Gambrell, if you were on a jury and you were the very

1 first one to vote, okay, and the next five that voted,
2 they voted exactly opposite of you, would you begin to
3 kind of question what your vote was? Would you kind of
4 doubt your own vote at that point, do you think?

5 A Well, I may, you know, reconsider.

6 Q Okay. Well, let's carry it on around. Suppose they
7 went on around the table and all the other 11 people had
8 voted just the opposite of you, how do you think that
9 would effect your feeling about the way you voted?

10 A Well, I might reevaluate if I felt like I went the
11 right way or not.

12 Q Okay. Well, initially, when you cast your vote, you
13 thought you voted the right way because you had based it
14 on your understanding of the facts and understanding of
15 the law and then the other people vote different. What
16 would it take for them to convince you to change your
17 vote?

18 MR. BARNETTE: Objection, Your Honor.

19 I think he's starting to stake out the jury at this
20 point, specific instances in the jury room or whatever.

21 MR. BOGGS: I'm staking out the jury, he said?

22 MR. BARNETTE: You're trying to look at specific
23 instances.

24 MR. BOGGS: I didn't understand the word stake out.

25 MR. BARNETTE: Stake out.

1 MR. BOGGS: Well, I'll move on.

2 THE COURT: All right.

3 BY MR. BOGGS:

4 Q What I'm trying to get at, I'm not staking you out or
5 anything, Mr. Gambrell, is you said you felt like you were
6 a follower, but you have the ability and can make
7 decisions based on your own opinion. And I was just
8 curious as to are there any type of things that may cause
9 you to change your opinion once you've formed an opinion?
10 And if you can't think of anything specific, that's fine.

11 A I can't think of anything specific.

12 Q Okay. Now, you know Mr. Gowdy has asked for the
13 death penalty in this case. And that's one of the reasons
14 that we're required to ask you a series of questions.
15 Okay. But just because Mr. Gowdy has asked for the death
16 penalty, do you think that means the Defendant is guilty?

17 A No.

18 Q Okay. Now, you hesitated a little bit. It kind of
19 makes you think, though, doesn't it, kind of wonder about
20 it?

21 A I don't think he's guilty until proven guilty.

22 Q Okay. Well, let's carry it a little bit further
23 then. Do you think the fact that Mr. Gowdy has asked for
24 the death penalty has any bearing on whether he's guilty
25 or innocent?

1 A No.

2 Q So as far as you're concerned, the fact that this has
3 been designated a death penalty case --

4 MR. BARNETTE: Objection, Your Honor.

5 He's asked and answered that question. I think
6 Mr. Boggs is asking him for the fourth time now.

7 THE COURT: I'll allow him to go ahead and ask it.

8 Go ahead.

9 BY MR. BOGGS:

10 Q So what I understand is, the fact that Mr. Gowdy has
11 asked for the death penalty has no bearing in your mind as
12 to guilt or innocence at this stage of the game?

13 A That's correct.

14 Q Okay. Well, do you understand that even though we're
15 asking a lot of questions about the death penalty during
16 this, us doing the talking now, the death penalty portion
17 of a trial doesn't even come into existence until and
18 unless and if and only if the Solicitor can prove murder
19 against the Defendant?

20 Do you understand that?

21 A Yes, I do.

22 Q So what we're doing is kind of putting the cart
23 before the horse. The trial that's about to start is a
24 trial where the Defendant has been charged with a murder.
25 It doesn't have anything to do with sentencing.

1 Do you understand that?

2 A I understand that.

3 Q And the fact that Mr. Gowdy has asked for the death
4 penalty doesn't enter in at all in the trial that's
5 getting ready to start.

6 Do you understand that?

7 A I understand that.

8 Q And are you willing to keep that, the fact that he's
9 asked for the death penalty, totally out of your mind and
10 sit on the jury during the trial of the case?

11 A Yes, sir.

12 Q Okay. During the course of your lifetime, have you
13 had much opportunity to think about the death penalty?

14 A I'm sorry?

15 Q Have you ever thought about the death penalty before,
16 or ever had any discussions with people about it?

17 A I can't recall really discussing that with anyone.

18 Q So, to your knowledge, you've never had a
19 conversation about the death penalty? Do you keep up in
20 the news with cases going on around parts of the country
21 that may do death penalty cases?

22 A I do read those cases occasionally.

23 Q Okay. Do you ever have the opportunity to talk to
24 your family, maybe, about it and see what's happening in
25 so and so's case?

1 A I would discuss that with my wife, yeah.

2 Q And how would you describe your feelings about the
3 death penalty?

4 A Well, I don't feel -- the way I feel about it, you
5 know, if a person is -- took another person's life, then
6 it's justified for it.

7 Q Okay. So your feelings about the death penalty are
8 if a person is convicted of murder, he deserves the death
9 penalty?

10 A If all the facts are there and the information, yes.

11 Q Okay. So -- and don't let me put words in your
12 mouth, but what I understand you saying is if -- like this
13 first part, the trial part that we're talking about, if
14 the State can prove beyond a reasonable doubt that
15 Mr. Evins is guilty of murder -- okay -- you feel like the
16 appropriate sentence would be the death penalty?

17 A I do.

18 Q Okay. Now, remember, you could have an option of
19 either life without parole or death. But your particular
20 understanding or feelings of the death penalty would be if
21 he's convicted of murder, then the appropriate sentence
22 would be death? Is that -- am I understanding what you're
23 saying?

24 A Yes.

25 Q Okay. And how strong are these feelings? You've had

1 quite a -- you're very experienced in life. You've had
2 some military experience. You had a real strong work
3 experience. I believe you worked for 39 years at the same
4 job; is that correct?

5 A 39 years and eight months.

6 Q And eight months. Okay. So how strong are your
7 feelings about the death penalty? And, again, don't let
8 me put words in your mouth, but I understood you to say if
9 the trial of a case ends up in murder, then the
10 appropriate sentence -- even though there's a choice of
11 life or death, you feel the proper sentence for murder is
12 the death penalty; is that correct?

13 A That is correct.

14 Q And are you pretty strong on those feelings?

15 A Somewhat, yeah.

16 Q Okay. Well, do you feel like somebody could change
17 your mind or do you feel like, no, that's my opinion and
18 that's what I feel and that's what I'm sticking to?

19 A I don't think I would change my mind.

20 Q Okay. Thank you. I appreciate you being honest
21 about it.

22 Now, I noticed that you grew up in Greer, I believe;
23 is that correct?

24 A That's correct.

25 Q And you went over to Greer High School, I believe?

1 A Greer High.

2 Q Okay. And did you play football over there back when
3 they had those good teams or were they a little after you,
4 maybe?

5 A A little after me, but we did have some good teams.

6 Q You still had good football back then, didn't you?
7 But you grew up in Greer and went -- you had a job in
8 Greer for a while or in Greenville County and then, I
9 believe -- was your National Guard unit called up to
10 active duty?

11 A No, sir.

12 Q Okay. Did you join the National Guard?

13 A I joined the National Guard in Alabama.

14 Q Had you been transferred to Alabama or something?

15 A My first job, the company was in Alabama.

16 Q And what part of Alabama was that?

17 A I lived in Selma, Alabama.

18 Q That was about, what, 1964?

19 A That's correct.

20 Q That was pretty tough being in Selma in the National
21 Guard back in '64, I guess, wasn't it?

22 A It was interesting.

23 Q Okay. And you were down there, what, about four
24 years maybe?

25 A No, sir. I was only there a year.

1 Q In Selma?

2 A In Selma.

3 Q Did you commute back and forth to the unit or did you
4 transfer up to a National Guard unit up here?

5 A I transferred to Greer after I left the project in
6 Alabama.

7 Q Was your unit ever called up to try to deal with any
8 racial unrest down there or was that before?

9 A No, sir. It never was.

10 Q Okay. Well, did you -- you know, you and I are
11 pretty close to the same age. Have you ever formed any
12 opinions on interracial dating that you can think of, or
13 do you have any opinions on interracial dating?

14 A No, sir.

15 Q So you don't have any or you never thought about it
16 or what?

17 A Well, everybody, I think, thought about it, but I
18 just don't really have --

19 Q Well, if you thought about it, do you remember what
20 you might have thought about it? Do you approve of it?

21 A That's a decision they have to make for themselves
22 and it don't have any bearing on me, so.

23 Q Okay. So you pretty much let people do whatever they
24 want; is that correct?

25 A Yes, sir.

1 Q Have you ever been in a fight or any sort of heated
2 verbal argument yourself? Have you ever been in a fight
3 before?

4 A When I was younger.

5 Q I think we all did when we were younger, depending on
6 who was breaking in line or whatever.

7 A Not anything that simple.

8 Q Okay. Was it the kind of fight you, all of the
9 sudden, spurred up real quick, or was it the kind of fight
10 that you and another fellow kind of had a feud going on
11 and it just escalated or one of these instantaneous-type
12 things, if you remember?

13 A I don't think it was anything that was long and
14 drew out, just a spur of the moment.

15 Q Okay. Two guys messing around and get a little fist
16 and cussing and that's it?

17 A That's it.

18 Q Okay. Let me ask you this, too, and I've just got a
19 couple of general questions. Do you have any close
20 personal friends or family member that you're aware of
21 that might have ever been addicted to alcohol or drugs?

22 A No.

23 Q Okay. So you've never had to deal with anybody
24 that's suffered through any sort of alcohol or drug
25 addiction?

1 A Not immediate family. I've had a couple of uncles
2 that were alcoholics and been around it.

3 Q Were you around them a fair amount?

4 A Yes.

5 Q Did either of those uncles ever try to control that
6 problem either with treatment or AA that you're aware of?

7 A One of my uncles did, yes.

8 Q And I hope he was successful?

9 A For a period of time.

10 Q For a period of time?

11 A He always went back.

12 Q But he did, at least, make the effort?

13 A Yes.

14 Q And you saw him when he attempted to stay dry; right?

15 A That is correct.

16 Q Okay. But there was something about that
17 overpowering alcohol, I guess, that got him back, as far
18 as you know?

19 A As far as I know.

20 Q Okay. If you're picked on a jury -- and this is just
21 a general question. Would you ever feel any pressure
22 about -- after the verdict was over, would you feel like
23 that was a private thing, or would you feel pressure that
24 you'd have to explain that verdict to either family or
25 friends?

1 A I'd like for it to be a private thing.

2 Q What about if you were involved in a jury that might
3 be kind of a high profile case and you're the one that's
4 inside the courtroom and hearing the evidence and you're
5 the one that's got to vote, because you're the one that's
6 heard it, you're the one that's got that duty. And based
7 on the evidence, you vote one way, which may not be
8 particularly popular with somebody else, would you feel
9 pressure that you'd have to explain --

10 MR. BARNETTE: Objection, Your Honor.

11 I think that is irrelevant in this situation. The
12 jury being sequestered and everything and -- obviously,
13 that would be something after the fact and doesn't have
14 any involvement in this case and is not relevant to it.

15 MR. BOGGS: Well, Your Honor, he's already said that
16 he's more of a follower --

17 THE COURT: Well, I'll allow you to ask the question,
18 but pick up the pace a little bit, Mr. Boggs.

19 BY MR. BOGGS:

20 Q Did you understand what I saying before Mr. Barnette
21 objected?

22 A No, sir.

23 Q Would you feel any pressure having to explain your
24 verdict is, basically, all I'm asking you?

25 A I would not.

1 Q Okay. So you would take -- your duty, you would take
2 as a very private thing and to heck with what other people
3 think, you're going to do your job; correct?

4 A That's correct.

5 Q And if you were picked on a jury and the Defendant
6 was convicted of murder, you already know that the
7 appropriate sentence would be death; is that correct?

8 A That's my -- yes.

9 MR. BOGGS: Thank you very much.

10 I appreciate your honesty.

11 MR. BARNETTE: May it please the Court, Your Honor?

12 THE COURT: Yes, sir, Mr. Barnette.

13 EXAMINATION

14 BY MR. BARNETTE:

15 Q Hello, Mr. Gambrell. I'm Barry Barnette, Along with
16 me is Trey Gowdy and John Anthony. I just want to ask you
17 a few questions. I appreciate you coming. I know this is
18 a tough thing. We have to ask you a lot of personal
19 questions and we appreciate you filling out the
20 questionnaire and talking to us about it.

21 I noticed when the Judge was talking to you, he was
22 asking what kind of juror you was, that you were the third
23 kind of juror that could consider life or death in a
24 situation. And looking at murders, do you consider all
25 murders the same or is there different types of murders or

1 different types of situations?

2 A I feel like, you know, maybe, self-defense, you maybe
3 murder a person in defense, but murder is murder.

4 Q But you understand the Judge would give you -- there
5 would be facts -- each case has different types of facts.
6 And would you look at the facts to determine what kind of
7 sentence would be appropriate?

8 A I would.

9 Q And would you listen to the law that the Judge would
10 give you to determine what the appropriate sentence would
11 be based on the law and using the facts that you've been
12 presented?

13 A I would.

14 Q And if the facts showed a situation where a person --
15 they may have had some mitigating circumstances and those
16 mitigating circumstances were proven to you and -- you
17 realize a death sentence is not always automatic. It's
18 not something that A, B, C, or D equals the death
19 sentence. You don't always have to give a death sentence.
20 It's never required and life without parole is an option.
21 If those mitigating circumstances was proven based on what
22 the Judge -- the law given to you and the facts of the
23 case, could you find a defendant -- give him life without
24 parole instead of death in that situation?

25 A I would.

1 Q And at the same time, if you thought it was
2 appropriate and the aggravating circumstances were proven,
3 could you give a death sentence in that situation?

4 A I could.

5 Q So you would take what the Judge gave to you and
6 listen to the case, you'd listen to both sides; is that
7 right?

8 A That's correct.

9 Q And you'd give fair consideration to both sides?

10 A I would.

11 Q And you'd listen to the State's presentation, which
12 goes first, and you'd listen to the Defense presentation?

13 A I would.

14 Q And you'd base your decision on the facts of the
15 case?

16 A I would.

17 Q And you mentioned self-defense and other defenses,
18 would you listen to those defenses?

19 A I'm sorry?

20 Q If the defense was self-defense or a different
21 defense that the Defense would present --

22 A I would.

23 Q And would you consider that in your decision?

24 A I would.

25 Q And you realize you have to find the Defendant guilty

1 of murder before it goes to the second phase?

2 A I'm sorry? Repeat it.

3 Q You realize that we go through the first phase, which
4 is the guilt phase?

5 A Right.

6 Q And you have to find him guilty of murder in the
7 first phase?

8 A Correct.

9 Q And you understand there's a second phase?

10 A I do.

11 Q And in that second phase, there's presentations from
12 both sides or they have the ability to present that to
13 you. And, like I said, there's aggravating circumstances
14 and mitigating circumstances. Would you listen to all
15 those circumstances?

16 A I would.

17 Q And would you make the appropriate sentence based on
18 what you saw in court?

19 A I would.

20 Q And is there circumstances that you'd listen to,
21 perhaps, even if he was found guilty of murder and if they
22 proved those mitigating circumstances or the evidence
23 showed that a life without parole sentence was the proper
24 sentence, would you do that?

25 A Yes.

1 Q At the same time, if you had -- if the circumstances
2 proved a death sentence, would you give the death
3 sentence?

4 A Yes.

5 Q And you realize the Judge is the one that gives you
6 law?

7 A I do.

8 Q And would you apply the law to the facts of the case
9 and give the appropriate verdict concerning that?

10 A I would.

11 Q I just want to ask you a few other questions. You
12 work at Fluor Daniels; is that right, sir?

13 A For 39 years and eight months.

14 Q Do you need a drink or anything?

15 A I'm okay. I'm getting a little bit --

16 Q I know you've talked a lot. I'm not going to keep
17 you here, and we appreciate it. And you said CSI is your
18 favorite show?

19 A Well, yes.

20 Mr. BARNETTE: Okay. I'm not going to keep you
21 talking. I know you've talked a lot.

22 One moment, Your Honor.

23 THE COURT: All right.

24 MR. BARNETTE: Thank you, Your Honor.

25 That will be all the questions.

1 Thank you, Mr. Gambrell.

2 I appreciate your time.

3 THE COURT: Mr. Gambrell, let me just -- so I'm clear
4 on this and let me again emphasize, there are no right or
5 wrong answers. And we just want to know -- get your sense
6 of how you feel about these things. And so I need to
7 know -- you understand, I explained to you before in the
8 first phase of the trial is where the jury decides whether
9 or not a defendant is guilty or not guilty.

10 If a jury finds a defendant guilty of murder in this
11 type of proceeding, then and only then do we go to the
12 second phase. Okay. You wouldn't have to decide anything
13 about a legal defense to the crime of murder. The only
14 thing you're there to decide is the appropriate sentence.
15 And so the evidence you would hear would be that
16 aggravating evidence that the State would put up. And
17 then you'd also hear the mitigating evidence that the
18 Defense would put up.

19 And do you feel that if once the jury has convicted
20 somebody of murder that they ought to automatically get
21 death or do you think you can listen to the aggravating
22 evidence and the mitigating evidence, make your decision
23 on that of either life imprisonment or death, which --
24 where would you be on that?

25 JUROR #111, WAYNE GAMBRELL: I'd still think I would

1 fall in Number 3 category.

2 THE COURT: So you could give a life imprisonment
3 sentence?

4 JUROR #111, WAYNE GAMBRELL: I could, yes.

5 THE COURT: All right. Thank you very much.
6 Would you step in the hall for just a second?

7 (Pause.)

8 THE COURT: All right. Mr. Boggs.

9 MR. BOGGS: We object, Your Honor.

10 Obviously, he's been through cues, but the bottom
11 line is he says his definition of murder is murder.
12 What's the appropriate sentence for murder? Death. And
13 as much as Mr. Barnette wants to put a spin on it, that's
14 what he answered over and over. Because I wanted to make
15 sure that's what I was hearing. And I know that he even
16 flip flopped back when Your Honor talked to him. But he's
17 saying that murder is murder and if you murder, except for
18 self-defense, it's death. And he's just -- we object to
19 him. We think that he's a hard line -- not hard line, but
20 if there is a murder conviction, he's already said what
21 he's going to vote, and that's going to be for the death
22 penalty.

23 THE COURT: Mr. Barnette.

24 MR. BARNETTE: No. I think the questions you asked
25 were appropriate and he answered them as a Number 3 juror.

1 Mr. Boggs spent a long time -- I mean, he pounded him. He
2 asked him several times over and over again the different
3 questions to try to get him boxed in. But I think when he
4 answered your questions, he went through them. He
5 answered my questions. And then you even followed up with
6 him, Your Honor. And he's a qualified juror based on the
7 answers he gave.

8 THE COURT: All right. Well, I -- we know one thing.
9 He's a follower. I'll say that. But I do think it's very
10 difficult to know, because I think he follows the line of
11 the questioning that he's receiving, but I do think that
12 he is a qualified juror. So I am going to overrule your
13 objection on that.

14 Okay. Let's bring him back in.

15 (Pause.)

16 THE COURT: Mr. Gambrell, thank you. Come right
17 around here and let me give you this. Let me tell you
18 that you are still a qualified juror in this case. And so
19 I'm going to instruct you again, don't read anything in
20 the paper. Don't look at the television. Don't listen to
21 the radio. If somebody tries to talk to you about this
22 case, don't do it. Just tell them, no, that you have
23 sworn an oath that you're not going to do that.

24 Okay. And if you would, step over here and give your
25 phone number to the Clerk's Office. And we will call you

1 back in a couple of days and have you back.

2 Thank you, sir.

3 JUROR #111, WAYNE GAMBRELL: This way?

4 THE COURT: No, I think you go out this way.

5 (Juror #111, Wayne Gambrell was excused from the
6 courtroom.)

7 MR. BOGGS: He takes heart medicine and he needs to
8 go to the bathroom.

9 THE COURT: Okay. Let's do that right now. We'll
10 take about a five- or ten-minute break.

11 (WHEREUPON, a break was taken.)

12 THE COURT: We're going to pick up the pace a little
13 bit on this.

14 Bring the next juror in.

15 (Juror #347, Elaine Stewart, a white female, was
16 seated.)

17 THE COURT: Ms. Stewart, how are you?

18 JUROR #347, ELAINE STEWART: Fine. Thanks.

19 THE COURT: The first thing I want to do is tell
20 you -- is thank you for being here and also just to tell
21 you to please be as comfortable and at ease as much as you
22 possibly can, even though I know that chair is not
23 conducive to that. And I want to ensure you that there
24 are no right or wrong answers. And, really, what we're
25 looking for is just your truthful feelings about how you

1 feel about some of the questions we're going to ask.
2 Because it's very important that we know that as we go
3 through the case.

4 Now, first of all, I want to describe to you -- I've
5 told you this is the State v. Fredrick Antonio Evins. And
6 I want you to know there are these indictments that he's
7 charged with. And I described them once to you in the big
8 pool, but I want to go through in a little bit more
9 detail. I want you to understand that indictments -- in
10 no case ever, ever is an indictment evidence of any kind.
11 It is just allegations put on a piece of paper, which
12 allows the case to be brought through the system and
13 brought to Court.

14 The allegations in this case on the indictment
15 include -- they include that Mr. Fredrick Antonio Evins
16 did in Spartanburg County on or about February 13th, 2003,
17 unlawfully and with malice aforethought kill Rhonda Marie
18 Ward.

19 He's also here on a kidnapping indictment that
20 alleges on the same date and time that he did kidnap,
21 unlawfully seize, confine, inveigle, or carry away Rhonda
22 Marie Ward.

23 And he's also here on a criminal sexual conduct
24 indictment that alleges on the same day that he willfully
25 and unlawfully committed a sexual battery upon the victim,

1 Rhonda Marie Ward.

2 And, finally, there's an indictment for grand
3 larceny, which alleges that he did on the same date
4 feloniously carry away the personal goods of Rhonda Marie
5 Ward, a 1992 Nissan Sentra and its contents.

6 Now, I understand and we all understand and recognize
7 that there's been a lot of publicity about this case. So
8 I would like to know if you have heard, seen, or read
9 anything about this case?

10 JUROR #347, ELAINE STEWART: Not to my knowledge, I
11 haven't.

12 THE COURT: Okay. And you can't -- you don't --

13 JUROR #347, ELAINE STEWART: I don't recall any.

14 THE COURT: All right. Do you understand that, as a
15 juror, your oath would require you to disregard anything
16 that you might have heard, read, or seen with respect to
17 the case.

18 Do you understand that?

19 JUROR #347, ELAINE STEWART: Yes, sir.

20 THE COURT: Okay. Would you serve as a fair and
21 impartial juror and reach a verdict based solely on the
22 facts presented at trial in accordance with my
23 instructions on the law?

24 JUROR #347, ELAINE STEWART: Yes.

25 THE COURT: Okay. Have you already formed an opinion

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1 as to the facts of this case?

2 JUROR #347, ELAINE STEWART: No, sir.

3 THE COURT: Have you already formed an opinion as to
4 the guilt or innocence of Fredrick Antonio Evins?

5 JUROR #347, ELAINE STEWART: No, sir.

6 THE COURT: Now, keeping in mind the legal principles
7 of the presumption of innocence and the State's obligation
8 to prove guilt beyond a reasonable doubt, could you,
9 depending on the facts and the evidence that are presented
10 in the courtroom and the law as I would instruct it to
11 you, find Mr. Evins either guilty or not guilty?
12 Depending on what the facts and the evidence showed and
13 what the law was as I gave it to you, could you find guilt
14 or could you find not guilty?

15 JUROR #347, ELAINE STEWART: Yes.

16 THE COURT: You're not predisposed to find one way or
17 the other?

18 JUROR #347, ELAINE STEWART: No, sir.

19 THE COURT: Now, please remember, we may not even
20 reach the second phase of the trial, what I said was
21 called the sentencing phase, but since we possibly could,
22 I must ask you your views on the death penalty.

23 Do you understand that?

24 JUROR #347, ELAINE STEWART: Yes.

25 THE COURT: I'm going to ask you a few questions

1 about it. Now, when a jury moves to the sentencing phase,
2 that means that the jury has already found that particular
3 defendant guilty of murder. There is -- in the second
4 phase, there is no legal defense to discuss or explore in
5 the second phase. Guilt of murder would have been
6 established in the first phase.

7 Do you understand that?

8 JUROR #347, ELAINE STEWART: Yes.

9 THE COURT: Okay. Now, in the second or sentencing
10 phase of the trial, you would hear evidence that I have
11 referred to as evidence in aggravation or evidence in
12 mitigation.

13 Do you understand that?

14 JUROR #347, ELAINE STEWART: I'm not sure.

15 THE COURT: In the first phase, the jury is going to
16 decide guilty or not guilty based on the evidence that is
17 presented. Okay. If the Defendant is found guilty of
18 murder, we move to the second phase of the trial. And in
19 that second phase, you would hear evidence of aggravation.
20 Okay.

21 JUROR #347, ELAINE STEWART: Okay.

22 THE COURT: And you would also hear evidence of
23 mitigation. So aggravation is to -- that kind of evidence
24 would increase the enormity of the crime, of the murder.

25 JUROR #347, ELAINE STEWART: I understand.

1 THE COURT: Mitigation would lessen it.

2 Does that make sense?

3 JUROR #347, ELAINE STEWART: I understand now.

4 THE COURT: Now, your oath would require you to
5 abandon any preconceived notion that you might have and to
6 follow the law as I instruct it. In other words, your
7 oath would require you to give serious and meaningful
8 consideration to the aggravating evidence and to the
9 mitigating evidence. Would you honor your oath in that
10 regard?

11 JUROR #347, ELAINE STEWART: Yes, sir.

12 THE COURT: Okay. Now, if you were a juror in that
13 situation, the sentencing phase, could you, depending on
14 the particular facts and circumstances of the case, which
15 would include your consideration of the aggravating, the
16 larger, and the mitigating, the lessening, circumstances,
17 could you, in listening to the law that I give you, could
18 you return a sentence of life imprisonment?

19 JUROR #347, ELAINE STEWART: Yes, sir.

20 THE COURT: All right. In the same situation, on the
21 other side of the coin, if you're a juror in that
22 situation, could you, depending on the particular facts
23 and circumstances of the case, including the aggravation
24 and the mitigation evidence and the law that I would
25 instruct you, could you return a sentence of death?

1 JUROR #347, ELAINE STEWART: Yes, sir.

2 THE COURT: Okay. Now, in the event of a death
3 sentence, South Carolina law requires each juror to sign
4 their name to the verdict form. In that event, could you
5 -- if a death sentence was returned, could you sign your
6 name to the death sentence verdict?

7 JUROR #347, ELAINE STEWART: Yes, sir.

8 THE COURT: All right. Now, do you recall the sheet
9 which listed the three types of jurors?

10 JUROR #347, ELAINE STEWART: I'm not sure.

11 THE COURT: I handed it out in the jury room.

12 JUROR #347, ELAINE STEWART: I read several of them
13 in there.

14 THE COURT: Okay. Do you want to take a minute and
15 look at this again?

16 JUROR #347, ELAINE STEWART: Yes.

17 THE COURT: Take a minute. We'll get it to you.

18 If you would, just take a second and glance through
19 that.

20 JUROR #347, ELAINE STEWART: Yes, I remember it.

21 THE COURT: All right. Would you tell me which --
22 out of those three categories, how would you describe
23 yourself?

24 JUROR #347, ELAINE STEWART: I'm not sure. I'd be
25 fair.

1 THE COURT: Okay. Well, the first category is
2 someone who, once the crime of murder has been proved, the
3 juror was -- and the juror was considering punishment,
4 they felt like they would give the death penalty in every
5 case. Okay. That's the first type. The second type is
6 even though the guilt of the Defendant had been
7 determined, they would never give the death penalty.

8 Are you either one of those two types?

9 JUROR #347, ELAINE STEWART: No.

10 THE COURT: Okay. So you feel like you're the third
11 type, which would be that you don't have your mind made up
12 concerning punishment; is that a fair statement?

13 JUROR #347, ELAINE STEWART: Right.

14 THE COURT: And you would listen to all the evidence
15 presented in aggravation and mitigation before you made a
16 decision; is that right?

17 JUROR #347, ELAINE STEWART: Yes.

18 THE COURT: And if you were selected to serve, would
19 you honor your oath and serve as a fair and impartial
20 juror and approach jury service with an open mind to find
21 the truth from the evidence and apply the law as I
22 instruct it? Could you do that?

23 JUROR #347, ELAINE STEWART: Yes, sir.

24 THE COURT: Do you know of any reason why you can't
25 serve as a juror in this case?

1 JUROR #347, ELAINE STEWART: No, sir.

2 THE COURT: Okay. Thank you very much.

3 And, if you would, please answer any questions that
4 the attorneys have for you.

5 MR. BARNETTE: May it please the Court, Your Honor?

6 EXAMINATION

7 BY MR. BARNETTE:

8 Q Ms. Lanford, my name is Barry Barnette, and this is
9 Trey Gowdy and John Anthony. We'll be presenting the
10 State's case. I want to take a second -- I appreciate you
11 filling out this information and talking to us. I know
12 you didn't have much choice in the matter, but we do
13 appreciate you being here. I'll just ask you a few
14 questions.

15 I notice you have two children and a godson?

16 THE COURT: I think you -- this is Elaine Stewart.

17 MR. BARNETTE: I apologize, Ms. Stewart. I'm sorry.

18 BY MR. BARNETTE:

19 Q I'm glad I figured that out. But you have three
20 children, two sons and a daughter; is that right?

21 A Yes.

22 Q And did you work at Sam's Club during that time?

23 A Yes.

24 Q I'll just ask you a few questions. Have you ever
25 thought about the death penalty much before now?

1 A No, sir. I haven't thought too much about it. I've
2 never been asked much about it.

3 Q You never thought about it until you got this
4 questionnaire asking you about it and so forth?

5 A Right.

6 Q And in developing your feelings and whatever, what is
7 your basis -- or have you ever thought about it from the
8 standpoint -- what would your basis come from, your life
9 experiences and so forth, any feeling you would have about
10 the death penalty?

11 A Not really.

12 Q Would you listen to the facts of the case and
13 determine it based on the facts of the case?

14 A Yes.

15 Q And would you listen to the law as the Judge gives it
16 to you?

17 A Yes, I would.

18 Q And in listening to the case and if we got to the
19 sentencing part -- and you realize the death penalty is
20 not automatic or anything like that. It's never something
21 you have to do. Life without parole is always a
22 possibility and it's the other choice you have there.
23 Depending on the facts of the case and the aggravating
24 circumstances that the Judge presented to you, plus the
25 mitigating circumstances, do you think there are some

1 cases where life without parole would be -- the verdict
2 should be given in those cases?

3 A Yes, probably.

4 Q And if you listened to all the facts and you found
5 out there were aggravating circumstances in this type
6 case, do you think the death penalty would be appropriate
7 in some cases?

8 A Yes, I do.

9 Q So, in other words, you're one of those jurors that
10 would listen to both sides and be fair?

11 A Right.

12 Q And you would give the verdict that would fit the
13 crime; is that right?

14 A Yes.

15 Q And fit the circumstances around it?

16 A Yes.

17 MR. BARNETTE: That's all we're looking for, ma'am,
18 is a fair juror. We appreciate it.

19 I thank you for your time, ma'am.

20 MS. QUIMBY: May it please the Court?

21 EXAMINATION

22 BY MS. QUIMBY:

23 Q Good afternoon, Ms. Stewart.

24 A Hi.

25 Q My name is Karen Quimby. And I'm here representing

1 Fredrick Evins along with Tam Boggs and Christopher
2 Brough. And we thank you for your being here today and
3 for your service. I know it's not convenient for anybody,
4 but we really appreciate it.

5 You have stated that you don't have any preconceived
6 feelings about whether the death penalty should apply to a
7 certain person or not or a certain set of facts. But let
8 me back up a little bit. Do you have any -- do you have
9 any thoughts or feelings about -- right now, only having
10 heard really what Judge Miller has read to you from the
11 indictments, that's really the only thing you know about
12 the case right now. Do you have any feelings about
13 whether you believe Mr. Evins is guilty or not guilty?

14 A No, I don't.

15 Q Okay. And so, do you understand -- did you
16 understand Judge Miller explaining that as he sits there,
17 Mr. Evins is not guilty?

18 A Yes, I understand.

19 Q Okay. He's presumed innocent. And the State has the
20 burden of proof to prove to each of the jurors beyond a
21 reasonable doubt that Mr. Evins would be guilty of murder.
22 And unless they meet that burden, you would not be able to
23 find him guilty of murder, right or --

24 A I'm not sure I understand you right now.

25 Q Okay. I'm sorry. It's getting late in the

1 afternoon. Let me see if I can find a better way to say
2 that.

3 The State has to prove their case to you beyond a
4 reasonable doubt. And that doesn't mean that there's no
5 way it could have been anything else, it just means beyond
6 a reasonable doubt. If they don't prove it to you by that
7 standard, by beyond a reasonable doubt, do you understand
8 that you would have to find him not guilty?

9 A Right.

10 Q Okay. Great. And you don't have any ideas about --
11 you haven't formed any opinions about the case already?

12 A No, ma'am.

13 Q Okay. When asked earlier, you said that -- whether
14 you remembered hearing anything about the case, you said,
15 not that I can recall. If you knew a little bit more
16 about the case, not anything that would be contested by
17 anybody, but would -- do you read the paper enough or
18 watch the news enough to keep up with current events
19 around town?

20 A I watch the news at nighttime is about the only time.

21 Q Okay. Did you watch it last night?

22 A No, I didn't. I was gone.

23 Q Did you watch -- and you watch Channel 7; right?

24 A Yes.

25 Q Did you happen to watch it this morning while you

1 were getting ready?

2 A No. I haven't even turned it on today.

3 Q Okay. Do you have any opinion sitting here right
4 now, not about the case, but about Mr. Evins himself?

5 A No, ma'am.

6 Q Okay. I see that you're self-employed, and then this
7 morning, you said that you run Stewart's Diner?

8 A Well, I'm self-employed at Stewart's Diner. I was
9 working for Sam's Club.

10 Q Okay.

11 A I've only had it about two months, two and a half.

12 Q And is that -- so Sam's Club would be where you were
13 a supervisor?

14 A No. I wasn't a supervisor, I was a floor associate.

15 Q Floor associate. If you were to be seated as a juror
16 and if you have already found him guilty of murder, then
17 it would go to a second phase, a second minitrial. When
18 you go back to deliberate on that, you've already said
19 that you would be able to vote for life if that's what you
20 believe was appropriate and you could vote for death if
21 you believe that was appropriate. What if you were the
22 first person that had to cast their vote out loud, would
23 you want to be the first person or would you want to go
24 somewhere in the middle or last toward the end?

25 A That would depend on, you know, what I hear.

1 Q So you don't mind sometimes just saying what you
2 think?

3 A Right.

4 Q Okay. Do other peoples opinions tend to make you
5 question yours sometimes?

6 A Not really.

7 Q Okay. So once you've made up your mind, if you -- if
8 it's been based on what you reasonably believe you've been
9 shown, then you're sticking with it?

10 A Right.

11 Q And I noticed also on your questionnaire you've had
12 jury service once before?

13 A Yes.

14 Q Was that here in Spartanburg County?

15 A Yes.

16 Q Was that civil or criminal? Do you remember which
17 court?

18 A It wasn't criminal.

19 Q Okay. Was it up here in one of these big courtrooms
20 or was it downstairs in the smaller one?

21 A No. It was a pretty good size one. I don't know
22 which one it was.

23 Q Okay. Were you picked to serve on the jury?

24 A Yes.

25 Q Okay. And so it would have been a civil case,

1 probably, if it wasn't criminal. And do you remember
2 whether you had any good or bad experience with that?

3 A Are you saying if I had any arguments?

4 Q No. I mean, looking back on jury service, did you
5 think it was not so bad, or did you think it was something
6 you really just don't want to do again?

7 A It wasn't so bad.

8 Q It wasn't so bad. Okay. What was the worst part
9 about it?

10 A I guess deciding on whether it was guilty or not.

11 Q Okay. What was the best part about it?

12 A Meeting people and chatting.

13 Ms. QUIMBY: Okay. Just one minute, please.

14 I apologize, Ms. Stewart.

15 BY MS. QUIMBY:

16 Q I see your daughter-in-law works for Charles Edwards
17 here in town?

18 A Yes.

19 Q And he practices law. Is she a secretary or
20 paralegal? Does she -- what does she do?

21 A I guess she was a secretary.

22 Q She doesn't work there anymore?

23 A She's been out on medical leave, she's just had a
24 baby.

25 Q So you're a grandma?

1 A Yeah, seven times.

2 Q Well, congratulations seven times then. So that was
3 recent?

4 A Yes. It's about a month and a half old.

5 Q Do you know what kind of cases she worked on?

6 A No. I don't know anything about it.

7 Q Okay. And, again, I know that asking you questions
8 about the death penalty is probably getting personal
9 enough with you, but I'm just going to ask another couple
10 of questions.

11 Have you ever given any thought to or formed any
12 opinions about what you believe about interracial
13 friendships or interracial dating?

14 A I don't have an opinion about it.

15 Q Okay. So people can do that if they want to, and
16 they don't have to do that if they don't want to?

17 A That's up to them.

18 Q Okay. And have you -- I think it said that you had
19 never witnessed any crime or anything that you feel like
20 was a crime?

21 A No.

22 Q Have you ever witnessed a fight that got out of hand
23 or an argument that got out of hand?

24 A No.

25 MS. QUIMBY: Thank you very much for your time.

1 We appreciate it.

2 THE COURT: All right. Ma'am, if you could step out
3 into the hall for just a second.

4 (Pause.)

5 THE COURT: All right. She appears to be qualified.
6 Any objections?

7 MR. BARNETTE: None from the State, Your Honor.

8 MS. QUIMBY: None from the Defense.

9 THE COURT: All right. Let's bring her back on in.

10 (Pause.)

11 THE COURT: Ms. Stewart, thank you very much.

12 You are still a qualified juror in this case. I'm
13 going to give you that to take with you to read. It,
14 basically, says you're still under oath. And we
15 anticipate that there may be media coverage that will
16 appear in the newspapers, TV, and radio. So I, again, am
17 instructing you, do not read anything about it, do not
18 watch those shows. Just don't expose yourself to anything
19 so that you won't be influenced by anything that's
20 inappropriate.

21 JUROR #347, ELAINE STEWART: Yes, sir.

22 THE COURT: And if you would, if you'll give your
23 number to Charlena, we'll call you in a couple of days or
24 sometime and tell you when to come back, but you're free
25 to go about your business until that time.

1 JUROR #347, ELAINE STEWART: Until you call?

2 THE COURT: Until we call you again. But just don't
3 talk about the case with anybody.

4 Thank you, ma'am.

5 JUROR #347, ELAINE STEWART: Thank you.

6 (Juror #347, Elaine Stewart was excused from the
7 courtroom.)

8 THE BAILIFF: Are you ready for Ms. Lanford?

9 THE COURT: Yes.

10 (Pause.)

11 THE BAILIFF: Have a seat in the red chair here.

12 (Juror #208, Karen Lanford, a white female, was
13 seated.)

14 THE COURT: Hello, Ms. Lanford. How are you?

15 JUROR #208, KAREN LANFORD: Just fine.

16 Thank you.

17 THE COURT: Good. The first thing I want to do is
18 just assure you that -- somehow put you at ease. I don't
19 know if I can do that or not. You're in the hot seat, I
20 guess, so to speak. But I want you to know that,
21 certainly, no one here is -- no one is here to try and
22 cause you any discomfort. And so, please, be as
23 comfortable as you possibly can be under the circumstance.

24 I will tell you that in that vein that we're going to
25 ask you some questions. And I want you to know that there

1 are no right answers and no wrong answers. The only
2 answers that anyone is interested in are your truthful,
3 honest, heartfelt answers. And I mean that sincerely when
4 I say that there are no right answers and there are no
5 wrong answers.

6 So what I want to first do is kind of -- I've told
7 you this is the State v. Fredrick Antonio Evins. I've
8 told you what the charges are, but I'm just going to tell
9 you very briefly a little bit more about the facts. And
10 that is -- and before I do that, I will tell you again
11 that an indictment is not evidence and it's not to be
12 construed as evidence in any way or any fashion
13 whatsoever. It contains -- it's a piece of paper that
14 contains allegations made, and it allows the case to come
15 through the system and arrive in court. So it's just not
16 evidence.

17 But these allegations are -- in one indictment, it's
18 murder. And it alleges that Fredrick Antonio Evins did in
19 Spartanburg County on or about February 13th, 2003,
20 feloniously, willfully, and with malice aforethought kill
21 Rhonda Marie Ward. There's also an indictment for
22 kidnapping. It alleges on the same day that he did kidnap
23 Rhonda Marie Ward. There's also another indictment for
24 criminal sexual conduct that alleges that he did on the
25 same day willfully and unlawfully commit a sexual battery

1 upon Rhonda Marie Ward. And, finally, there's an
2 indictment for grand larceny, which alleges that Mr. Evins
3 did on the same day feloniously take and carry away the
4 personal property of Rhonda Marie Ward, that is her 1993
5 Nissan Sentra and its contents. Those are the allegations
6 in this case.

7 We recognize that there has been a fair amount of
8 publicity with respect to this case. And the first thing
9 I'd like to know is, have you heard, seen, or read
10 anything about this case?

11 JUROR #208, KAREN LANFORD: No, sir.

12 THE COURT: Okay. It happened sometime ago. So I
13 guess you've had an opportunity to search your mind, but
14 you're sure you haven't heard anything about it?

15 JUROR #208, KAREN LANFORD: No, sir.

16 THE COURT: Well, you understand, as a juror, you've
17 sworn an oath and you'll have to -- if you're selected,
18 you will have to swear another oath to require you to
19 disregard anything that you may have read, heard, or seen
20 about this case. And you would be required under your
21 oath to decide the facts of this case only from the
22 evidence presented at trial.

23 Do you understand that?

24 JUROR #208, KAREN LANFORD: Yes, sir.

25 THE COURT: Okay. And would you serve as a fair and

1 impartial juror and reach a verdict based on the facts
2 presented at trial in accordance with my instructions on
3 the law?

4 JUROR #208, KAREN LANFORD: Yes, sir.

5 THE COURT: Could you be fair and impartial?

6 JUROR #208, KAREN LANFORD: Yes, sir.

7 THE COURT: Have you already formed an opinion as to
8 the facts of this case?

9 JUROR #208, KAREN LANFORD: No, sir.

10 THE COURT: And have you formed an opinion as to the
11 guilt of Fredrick Antonio Evins?

12 JUROR #208, KAREN LANFORD: No, sir.

13 THE COURT: Guilt or innocence, I should say.

14 Now, keeping in mind the legal principles I've talked
15 to you about before, the presumption of innocence and the
16 State's obligation to prove guilt beyond a reasonable
17 doubt, could you, depending on the facts and evidence and
18 the law as I would instruct, could you find the Defendant
19 either not guilty or guilty?

20 JUROR #208, KAREN LANFORD: Yes, sir.

21 THE COURT: Okay. In other words, your mind is not
22 made up one way or the other?

23 JUROR #208, KAREN LANFORD: No.

24 THE COURT: Okay. And you would listen to the facts
25 before you made the decision?

1 JUROR #208, KAREN LANFORD: Right.

2 THE COURT: All right. Now, please remember that we
3 may not even reach the second phase or the sentencing
4 phase of the trial, but since we possibly could, I need to
5 ask you a few questions about your views on the death
6 penalty.

7 Do you understand that?

8 JUROR #208, KAREN LANFORD: Yes, sir.

9 THE COURT: Now, when a jury moves to the sentencing
10 phase, that means that the jury in the first phase has
11 already found a particular defendant guilty of murder.
12 There's no way you get to the second phase if you haven't
13 already heard evidence and decided that the Defendant is
14 guilty of murder.

15 Do you understand that?

16 JUROR #208, KAREN LANFORD: Right.

17 THE COURT: Now, in the second phase, there's no
18 legal defense to discuss or to explore, and guilt of
19 murder has been established. So in the second or
20 sentencing part of the trial, you would hear evidence that
21 I have referred to as evidence in aggravation and evidence
22 in mitigation.

23 Does that make sense?

24 JUROR #208, KAREN LANFORD: So-so.

25 THE COURT: A little bit. In other words, it's going

1 to be evidence -- on the one side, they're going to be
2 presenting evidence to show aggravation, which means to
3 enlarge the enormity of the crime. And the other side is
4 going to be presenting evidence in mitigation, to lessen
5 the culpability or the magnitude of the crime.

6 Do you understand that?

7 JUROR #208, KAREN LANFORD: Yes.

8 THE COURT: So your oath would require you to abandon
9 any preconceived notion that you might have and to follow
10 the law as I instruct it.

11 Okay. In other words, your oath would require you to
12 give serious and meaningful consideration to the
13 aggravation evidence and the mitigation evidence. Okay.
14 Would you honor your oath and listen to all the evidence
15 both in aggravation and mitigation before you made up your
16 mind?

17 JUROR #208, KAREN LANFORD: Yes, sir.

18 THE COURT: Okay. Now, if you were a juror in that
19 situation, the sentencing phase, could you, depending upon
20 the particular facts and circumstances of the case,
21 including the aggravation and the mitigation evidence and
22 the law that I would instruct you that applies, could you
23 return a sentence of life in prison?

24 JUROR #208, KAREN LANFORD: Yes, sir.

25 THE COURT: Okay. Now, conversely, if you were a

1 juror in that situation, could you, depending on the
2 particular facts and circumstances of the case, including
3 the consideration of the aggravating and mitigating
4 evidence and the law that I would instruct you, could you
5 return a sentence of death?

6 JUROR #208, KAREN LANFORD: Yes, sir.

7 THE COURT: Okay. In the event of a sentence of
8 death, the South Carolina law requires that every juror
9 sign their name to the death sentence verdict, could you
10 do that?

11 JUROR #208, KAREN LANFORD: Yes, sir.

12 THE COURT: Okay. Now, do you recall that sheet that
13 I had y'all look at back in the room back there about the
14 three types of jurors?

15 JUROR #208, KAREN LANFORD: Uh-huh.

16 THE COURT: Where do you put yourself?

17 JUROR #208, KAREN LANFORD: Probably, the third.

18 THE COURT: Okay. So you feel like you could -- if
19 you were selected, you could honor your oath and keep an
20 open mind --

21 JUROR #208, KAREN LANFORD: Yes, sir.

22 THE COURT: -- throughout the case, listen to all the
23 evidence in the case and apply the law as I give it to you
24 before you make a decision?

25 JUROR #208, KAREN LANFORD: Yes, sir.

1 THE COURT: All right. And you would honor your oath
2 and be a fair and impartial juror?

3 JUROR #208, KAREN LANFORD: Yes, sir.

4 THE COURT: Do you know of any reason why you can't
5 serve in this case?

6 JUROR #208, KAREN LANFORD: No, sir.

7 THE COURT: All right. Thank you.

8 And I'm going to let the attorneys ask you a few
9 questions now.

10 Thank you very much.

11 MR. BROUGH: Thank you, Your Honor.

12 EXAMINATION

13 BY MR. BROUGH:

14 Q Ms. Lanford, I'm Chris Brough. I'm here representing
15 Fredrick Evins with Karen Quimby and Tam Boggs. Judge
16 Miller introduced us earlier. I'm going to ask you a
17 couple of questions. I'm going to ask you about some
18 personal stuff, and I know that's an imposition. Please
19 bear with me, it's not because I'm personally nosey, but I
20 just want to ask you a couple of questions.

21 I noticed on the questionnaire that you filled out,
22 you said you watch news from, was it Channel 7?

23 A Yes.

24 Q About how often do you watch the news?

25 A Two or three nights a week maybe.

1 Q Did you watch it last night?

2 A No.

3 Q You don't watch it in the mornings?

4 A No. Most of time, I'm with my grandchild. So I do
5 watch it every now and then at 11:00.

6 Q Got you. And you read the Herald, too?

7 A No. I read it occasionally. I skim over it. I
8 don't really read it. My husband reads it front to back,
9 but I just kind of skim over it.

10 Q Did you skim over it today?

11 A No.

12 Q Okay. I also saw that you read the Star and the
13 Globe, too?

14 A Uh-huh.

15 Q What are your favorite portions of those? What kind
16 of stories do you like?

17 A Mostly about the super stars. Junk mail, I guess.

18 Q Got you. You also like Law and Order?

19 A Oh, yes.

20 Q Which one, the regular one?

21 A Yes.

22 Q You don't watch SVU?

23 A Oh, yeah, all of them.

24 Q Do you like the original the best?

25 A Oh, yeah.

1 Q Well, who's your favorite character on the original
2 one?

3 A Lenny.

4 Q You like Lenny. Okay. I noticed you said that you
5 had listed three children, two of them are yours and, I
6 guess, your godson lives with you; is that correct?

7 A Uh-huh.

8 Q How did that come to be?

9 A Me and his mother was -- we were best friends back in
10 middle school. And I didn't see her for about ten years,
11 she moved away and then she came back with a baby. And
12 she used drugs and stuff like that, so I ended up with
13 him.

14 Q So you had an opportunity to see her when she was
15 under the influence?

16 A Uh-huh.

17 Q Did she ever try to go through some sort of
18 rehabilitation?

19 A No, no. She's still in and out of jail all the time.

20 Q Okay. And I noticed that you didn't list that you
21 were a member of any kind of church or anything?

22 A No.

23 Q But you're his godmother; is that correct?

24 A Uh-huh.

25 Q So, at some point, you were a member of a church?

1 A No. She just listed me down as his godmother.

2 Q Okay. I was a little confused about that.

3 Now, I'm going to ask you some questions,
4 specifically, regarding the death penalty. And I know
5 Judge Miller has kind of told you how it works. And I
6 noticed that you served before on a DUI jury and a civil
7 jury. Can you tell me about that experience?

8 A It was his third offense.

9 Q Did that change your mind because it was his third
10 offense?

11 A Because it was his third offense, yes.

12 Q Okay. So somebody charged with a specific crime,
13 does that kind of bear upon whether or not -- your opinion
14 about that?

15 A Well, no, not really, but, I guess, in a way it did,
16 kind of.

17 Q Well, I understand that. And here, after having
18 heard Judge Miller read the indictments, have you formed
19 any opinion about Mr. Evins?

20 A No.

21 Q Any kind of personal opinion?

22 A No. Because I really don't know the circumstances,
23 what all happened.

24 Q And your husband is a contractor?

25 A He's an erector foreman.

1 Q He works out of town a lot?

2 A Yes.

3 Q Are you going to have some difficulty finding someone
4 to take care of your godson?

5 A Well, if I know ahead of time, I can work it out.

6 Q I got you. Regarding the death penalty, how do you
7 feel about that?

8 A It's just according on the circumstances.

9 Q Have you discussed your views with anybody before?

10 A No.

11 Q Not even your husband, your friends?

12 A No, not about the death penalty.

13 Q So this is kind of your first time really having to
14 think about it?

15 A Right.

16 Q All right. Well, let me ask you some questions. If
17 you were back in deliberations and if we got to the second
18 part and you -- and Mr. Evins was found guilty of murder
19 and you -- would you be the first person -- would you want
20 to be the first person to vote after that back in the jury
21 room, what your opinion would be regarding the second
22 phase?

23 A Probably not.

24 Q Well, let me ask you this. Say, you're the fifth
25 person and everybody before you voted a different way than

1 what you were thinking, would you change your mind?

2 A No.

3 Q What if it was all 11 people had voted a different
4 way, would you change your mind then?

5 A No. Because everyone has their own opinion.

6 Q Would you want to know why they all thought that way?

7 A Yeah.

8 Q Would you try and persuade them to think your way?

9 A No. Because they have their own opinion.

10 Q Okay. Now, Judge Miller has instructed you that as
11 he sits here before you today that Mr. Evins is presumed
12 innocent. Do you understand that means that as of now,
13 he's not guilty.

14 A Right.

15 Q What does the term life imprisonment mean to you?

16 A Somebody that stays in jail forever.

17 Q Okay. I want to ask you a couple of other questions,
18 too, about a couple different areas. Specifically, I want
19 to ask you about interracial dating, friendships, things
20 of that nature. Have you ever known anyone that was in a
21 relationship like that?

22 A In a what now?

23 Q An interracial relationship.

24 A My godson is a Hispanic.

25 Q So your friend then, was she involved with someone

1 interracially? Is she Hispanic?

2 A No.

3 Q Okay. But that relationship didn't really kind of
4 work out too well?

5 A No. But she's always been with Hispanics, even when
6 we were young.

7 Q Do you feel that had anything to do with her foray
8 into drugs or anything like that?

9 A No.

10 Q Have you ever been involved in any kind of argument
11 ever, a very heated verbal argument or a fight or
12 anything?

13 A No.

14 Q Not even when you were a kid?

15 A Not that I remember.

16 Q Okay. Let me ask you this. Do you understand that
17 if someone has caused the death of another individual that
18 that would not necessarily be a murder?

19 A Right.

20 Q And could you give me kind of some examples of that?

21 MR. BARNETTE: Objection, Your Honor. At this time,
22 he's talking about specific conduct that I don't think is
23 appropriate.

24 THE COURT: Sustained.

25 BY MR. BROUGH:

1 Q But if the Judge were to instruct you on specific
2 offenses, you would consider them?

3 A Pardon?

4 Q If Judge Miller were to instruct you on some specific
5 offenses, would you consider that?

6 MR. BARNETTE: Objection, Your Honor. I don't think
7 that's a proper question either.

8 THE COURT: Yes. Let's move on from this.

9 MR. BROUGH: Okay. I believe that's all the
10 questions I have.

11 THE COURT: Okay.

12 EXAMINATION

13 BY MR. BARNETTE:

14 Q Hi, Ms. Lanford.

15 A Hi.

16 Q My name is Barry Barnette. I, along with Trey Gowdy
17 and John Anthony, represent the State's case. I just want
18 to ask you a few questions.

19 I notice you have two other children, a daughter and
20 a son, also?

21 A Yes.

22 Q And your husband, he's a foreman; is that right?

23 A Right.

24 Q And you also watch CSI?

25 A Yes.

1 Q So you must watch all the TV shows pretty much. Just
2 a couple of things. You'd listen to the facts of the
3 case?

4 A Right.

5 Q And you'd listen to the instructions on the law the
6 Judge would give you on the law?

7 A Yes, sir.

8 Q And would you apply the law to the facts of this case
9 to determine what the proper verdicts would be?

10 A Yes.

11 Q And you did that before on the jury you were on
12 before?

13 A Right.

14 Q And you've been on a criminal jury and a civil jury?

15 A No.

16 Q Just a criminal jury?

17 A Uh-huh. I'm sorry. Is this a civil or a criminal?

18 Q I'm sorry. A civil is where they have an argument
19 over money or something.

20 A Oh, no, I guess it was criminal.

21 Q And you also listened to the Judge in that case and
22 applied the law to the facts of the case as you heard
23 them?

24 A Yes.

25 Q And you'd be fair and listen to everything that

1 occurred in Court?

2 A Yes.

3 MR. BARNETTE: Thank you, ma'am.

4 I won't hold you up. It's getting late tonight.

5 THE COURT: Ms. Lanford, would you step out in the
6 hall for just a second. And we'll be right back with you.

7 (Pause.)

8 THE COURT: All right. Anything? Any objection?

9 MS. QUIMBY: None from the Defense.

10 MR. BARNETTE: None from the State, Your Honor.

11 MR. BOGGS: Judge --

12 THE COURT: Wait one minute.

13 MR. BOGGS: I think you're doing it, but since she
14 mentioned that her husband reads the paper from front to
15 back, when you say don't talk to anybody, if you would
16 emphasize family or friends.

17 THE COURT: I will.

18 (Pause.)

19 THE COURT: Hey, Ms. Lanford.

20 I just want to let you know that you remain eligible
21 to serve as a qualified juror in this case. I'm going to
22 give this to you to take it home and read it. And I just
23 want to tell you that I'm not going to -- we're not
24 sequestering jurors at this point. So you're going to get
25 to go home. You're free to go about your business. And I

1 anticipate it will be two or three days before we call you
2 back and have you come back up here.

3 So what I -- and what I would suggest to you to do is
4 to go ahead and try and make arrangements for your child
5 for the possibility that you may get selected. Okay. You
6 don't want it to come down to the very last minute, so go
7 ahead and make those arrangements.

8 Now, a couple of other things I want to tell you. I
9 know you watch television a little bit and you skim the
10 newspaper. And we anticipate that there will be media
11 coverage on this case. So I am going to caution you again
12 and remind you that you've sworn an oath. I've given you
13 two oaths, so don't read the newspaper. Don't listen to
14 the radio -- and I'm not telling you the whole
15 newspaper --

16 JUROR #208, KAREN LANFORD: Right.

17 THE COURT: -- but don't look at any story about this
18 case. Don't listen to anything on the radio, and don't
19 watch a news story about this case.

20 And the other thing that's important is, I know you
21 said your husband reads the newspaper from front to back.
22 Now, he's going to go home and say, where were you and
23 where's my dinner and all that kind of stuff. And you're
24 going to tell him that you're up here on jury duty and all
25 that. And he's -- I mean, he's going to want to talk to

1 you about it.

2 JUROR #208, KAREN LANFORD: He's out of town.

3 THE COURT: Okay. Well, we're safe. But he will be
4 back and he will read the newspaper and he's going to want
5 to talk to you about it. So just tell him, look, this
6 mean old judge up there is going to throw me in jail if I
7 talk about this case. And you know I'm exaggerating about
8 that. But what I'm telling you is, let your -- don't let
9 anyone who's not part of this case have influence in the
10 case. Okay. Somebody who's not going to come up here and
11 sit through the trial and listen to all the evidence, they
12 shouldn't have any input into the outcome of the case.
13 And an innocent comment from somebody who you're close to
14 could have an impact on you. So just tell them, hey, I
15 take this seriously. This is an important duty and this
16 is what the Judge told me to do. And I'm sure he'll
17 cooperate with you on that.

18 So if you would, if you'll come over, Charlena will
19 get your phone number and we'll be back in touch with you.

20 And, again, go ahead and make potential plans for
21 your child. And we'll be back in touch with you in two or
22 three days.

23 JUROR #208, KAREN LANFORD: So I don't have to show
24 up in the morning or nothing?

25 THE COURT: No, you don't.

1 Thank you, Ms. Lanford.

2 (Juror #208, Karen Lanford was excused from the
3 courtroom.)

4 THE COURT: All right. Gentlemen, we've got to start
5 at 9:00 in the morning -- ladies and gentlemen, I
6 apologize.

7 Anything before we break for the night?

8 MR. GOWDY: No, sir, Your Honor, not from the State.

9 MS. QUIMBY: No, sir.

10 THE COURT: All right. We'll see you at 9:00.

11 (WHEREUPON, the proceedings were concluded at
12 approximately 6:43 p.m., to be reconvened on
13 November 9, 2004.)
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TUESDAY, NOVEMBER 9, 2004

THE COURT: Is everybody ready?

MR. GOWDY: Yes, sir.

THE COURT: Okay. Let's go ahead and bring the next panel in.

(WHEREUPON, Juror Panel No. 2 entered the courtroom.)

THE COURT: Good morning, ladies and gentlemen.

Before we get started, I'm going to, as a precaution, ask the Clerk to put y'all under oath again.

So, if you could, just stand where you are and raise your right hand again, please.

(WHEREUPON, Juror Panel No. 2 was sworn.)

THE COURT: Thank you very much.

Again, I want to thank you for being here today and just repeat my appreciation for the sacrifices y'all are making to serve here. And I hope the way we're doing this provides the least inconvenience for you that I know you're going to have to suffer anyway.

I'm going to speak to you briefly together just for a second. And then we're going to send y'all back into the jury room and have y'all come out one at a time for individual questioning. And I want you to understand again, as I've told you before, that I have no opinion about the facts of this case. The law does not allow me

1 to have any opinion. So don't you infer from anything
2 that I say or do that I have an opinion about the facts.

3 Now, let me just ask you this, since the
4 qualification process began and we sent you home last
5 night, I want to ask you if you've been exposed to any
6 publicity regarding this case since that time? Has
7 anybody been exposed to it since that time?

8 (All jurors indicated no.)

9 THE COURT: And I want to repeat just a couple basic
10 principles about our system of justice. And that is that
11 every citizen who is charged with a crime is presumed
12 innocent unless and until the State can prove them guilty
13 beyond any reasonable doubt of each and every element of
14 the offense or the offenses that they are charged with.
15 And the burden of proof is always on the State to prove
16 guilt beyond a reasonable doubt. And those are some of
17 the basic fundamental foundations of our criminal justice
18 system. And throughout this case and throughout any other
19 case, those precepts are just fundamental and important to
20 the case.

21 Now, again, I told you that this is a capital case.
22 And when -- it's a case in which the State seeks the death
23 penalty. So let me just explain a capital case in general
24 once again. Once the jury is selected, the Court conducts
25 the first phase of the trial, which is where the jury must

1 decide whether -- between innocence and guilt.

2 Now, that could be the only phase of the trial,
3 depending on the outcome or the jury's decision with
4 respect to the charge of murder. If the jury finds that
5 the Defendant is not guilty of that charge, then the case,
6 as far as the jury is concerned, is over. And if the jury
7 finds him guilty, then we would proceed to the second
8 phase. Now -- and as I've told you, that is also
9 considered the sentencing phase.

10 Now, in the sentencing phase, the jury would consider
11 really two kinds of evidence. There would be evidence in
12 aggravation -- okay -- and I would tell you that the jury
13 would have to -- well, I'm getting a little bit ahead of
14 myself. Let me back up.

15 Once you've heard -- in the second phase, of course,
16 when they've presented all the evidence, the aggravating
17 evidence and the mitigating evidence, then the jury's
18 decision would be what punishment is appropriate. And the
19 choices there are life in prison or the death penalty.

20 Now, if the jury finds the presence of an aggravating
21 circumstance, a sentence of life means life without the
22 possibility of parole. In other words, if a defendant who
23 has been convicted of murder and the murder was
24 accompanied by what the law calls an aggravating
25 circumstance, then a life sentence means life. There

1 would be no possibility of parole under such circumstances
2 and the Defendant would die in jail.

3 Now, please understand, I am talking about the
4 process of a capital case in general. In this particular
5 case, we may not even reach the second or sentencing
6 phase. But in the event we do, I need to ask you certain
7 questions. Do each of you understand this process that
8 I've outlined, the first phase is guilt or innocence, the
9 second phase is what sentence? We may not get to the
10 second phase, but if we do, then the two types of evidence
11 that will be considered are aggravating circumstances and
12 mitigating circumstances.

13 Now, these -- let me just tell you a little bit -- or
14 define those just briefly to you. Now, these are terms
15 which you will hear and consider only in the event that
16 the case goes to the sentencing phase. Aggravating
17 circumstances are facts, incidents, or an occurrence which
18 the South Carolina General Assembly has declared by
19 statute which would aggravate or worsen the crime of
20 murder. In other words, an aggravating circumstance, when
21 accompanying a murder, increases the enormity of it or
22 adds to the injury of the crime of murder.

23 Mitigating circumstances are incidents, facts, or
24 occurrences which the General Assembly has declared by
25 statute or which a jury otherwise determines should reduce

1 the severity of the offense of murder, and may be
2 considered as extenuating or as reducing the degree of
3 responsibility or culpability.

4 Now, if you all -- again, you all know the parties
5 that are here. I'm going to ask you -- they've been
6 introduced to you. Is there any member of this panel who
7 is related by blood or marriage or is an acquaintance of
8 any kind with any of the attorneys involved in this case?
9 If so, please indicate by raising your hand.

10 (There was no response.)

11 THE COURT: All right. Is there any member of this
12 jury panel who is related by blood or marriage or
13 acquainted in any way with anyone associated with the
14 lawyers or their respective law firms, and that would be
15 the Solicitor's Office, the Public Defender's Office, or
16 the Law Offices of Mr. Tam Boggs? If you're acquainted in
17 any way, business, friendship, any way, please indicate by
18 raising your hand.

19 Yes, ma'am. Your name?

20 JUROR #268, MYRA NICHOLS: Does Ms. Crook count?

21 MR. GOWDY: She works with the Solicitor's Office,
22 Your Honor.

23 THE COURT: And what's your name, ma'am?

24 JUROR #268, MYRA NICHOLS: Myra Nichols.

25 THE COURT: Okay. Ms. Nichols, how are you

1 acquainted with her?

2 JUROR #268, MYRA NICHOLS: I know -- her children are
3 in our day care, just that.

4 THE COURT: Okay. Well, thank you for telling us
5 about that. We may ask you some questions about that a
6 little bit later.

7 Now, each of you has had, I hope, an opportunity to
8 review that extensive list of witnesses that's back in the
9 jury room with you. And I'll ask you the same question
10 with respect to those witnesses. Is there any member of
11 the panel who is related by blood or marriage or is
12 acquainted in any way with any of the persons listed on
13 the witness lists? If so, raise your right hand.

14 (There was no response.)

15 THE COURT: All right. Well, we're going to now
16 proceed to the individual questioning.

17 And, Ms. Nichols, I'm going to excuse everybody else
18 to go back to the jury room.

19 And if -- while you're back there, if you haven't had
20 a chance to review the three types of jurors, please do
21 that.

22 And, Ms. Nichols, I'm not picking on you because you
23 answered the question. You're just first on the list, so.

24 (WHEREUPON, Juror Panel No. 2 exited the courtroom,
25 with the exception of Juror #268, Myra Nichols.)

1 THE COURT: Now, Ms. Nichols, if you would come
2 around and have a seat over here.

3 (Juror #268, Myra Nichols, a white female, was
4 seated.)

5 THE COURT: We're going to ask you just a few
6 questions like I had just described to you. And I want
7 you -- first of all, I want you to feel at ease. I order
8 you to feel at ease. I know that's real difficult.
9 You're in the hot seat up here, but I want you to just be
10 as comfortable as you possibly can be. And we are -- and
11 I know that's difficult, but I don't want you to feel
12 threatened in any way.

13 And so if you -- are you comfortable and do you need
14 anything, some water or anything like that?

15 JUROR #268, MYRA NICHOLS: No, just nervous.

16 THE COURT: Okay. There's no question that if any
17 one of us sat where you are sitting would be nervous, too.
18 So that's completely normal and natural, please,
19 understand that.

20 First of all, I want to describe the events that are
21 alleged that I've talked about briefly. I've told you
22 that this is the State v. Fredrick Antonio Evins. And he
23 is charged in some indictments. And, as I said before,
24 indictments are not evidence and they are not to be
25 construed as evidence in any fashion whatsoever. They are

1 simply a piece of paper which contain allegations against
2 a citizen which allows the case to be brought through the
3 process and into court.

4 And what these indictments contain and allege, one,
5 is for murder. And it alleges that Fredrick Antonio Evins
6 did in Spartanburg County on or about February 13th of
7 2003, feloniously, willfully, and with malice aforethought
8 kill Rhonda Marie Ward. The second one, there's another
9 indictment for kidnapping that alleges that Mr. Evins in
10 Spartanburg County on or about the same day did kidnap
11 Rhonda Marie Ward. The next one is -- alleges -- is
12 criminal sexual conduct and alleges that on the same date,
13 Mr. Evins willfully and unlawfully committed a sexual
14 battery upon Rhonda Marie Ward. And, finally, the
15 indictment for grand larceny alleges that Mr. Evins did on
16 the same date feloniously carry away a 1993 Nissan Sentra
17 and its contents belonging to Rhonda Marie Ward.

18 Now, I want to ask you, I understand and we all
19 recognize that there has been publicity concerning this
20 case. So the first thing I would really like to know is
21 what have you read, heard, or seen about this case?

22 JUROR #268, MYRA NICHOLS: Just what I've heard on
23 the news. And, basically, like I do everything else, I
24 don't really get into listening to a lot of things. I
25 don't concern myself with it. Just that -- the charges

1 you just read.

2 THE COURT: Okay. Do you remember when you heard
3 that or saw that?

4 JUROR #268, MYRA NICHOLS: No, not really. I don't
5 really sit down and watch something. It's just moving
6 through and I listen to the news. And I can't recall when
7 it was.

8 THE COURT: Okay. Well, you understand that your
9 oath would require you to disregard anything that you have
10 read, heard, or seen about this case and you would be
11 required to decide the facts only from the evidence
12 presented during the trial.

13 Do you understand that?

14 JUROR #268, MYRA NICHOLS: Yes, sir.

15 THE COURT: Do you think you could do that?

16 JUROR #268, MYRA NICHOLS: Well, I guess if I had to.

17 THE COURT: Yes, ma'am. Well, that would be your
18 oath.

19 JUROR #268, MYRA NICHOLS: Okay.

20 THE COURT: And I will tell you that the -- those
21 people have not -- the media has not heard anything --
22 they have not heard the sworn testimony and evidence. And
23 that's the only thing that a jury is to consider is what
24 comes in this courtroom. It will be in this courtroom
25 from the chair where you sit is where the testimony under

1 oath will be delivered. And that is the most reliable and
2 the only evidence that you should consider.

3 Could you put aside what you've heard before and
4 serve as a fair and impartial juror and reach a verdict
5 based on the facts presented at trial in accordance with
6 my instructions on the law?

7 JUROR #268, MYRA NICHOLS: Yes, sir.

8 THE COURT: Okay. Well, have you already formed an
9 opinion as to the facts of this case or the guilt or
10 innocence of Mr. Evins?

11 JUROR #268, MYRA NICHOLS: No, sir.

12 But I don't know whether you'll ask me this question
13 later on or not, but I do not favor the death penalty. I
14 need to tell you that.

15 THE COURT: Okay. Well, we'll talk about that in
16 just a moment.

17 JUROR #268, MYRA NICHOLS: I didn't know if you would
18 bring that up later or not.

19 THE COURT: Oh, you bet you. We're going to bring it
20 up.

21 JUROR #268, MYRA NICHOLS: Okay.

22 THE COURT: But right now, I'm just concerned about
23 whether you could follow your oath and make a decision
24 with respect to guilt or innocence based solely on the
25 evidence presented under oath, and pursuant to all the

1 Constitutional guarantees that you will hear in the
2 courtroom.

3 JUROR #268, MYRA NICHOLS: Yes, sir.

4 THE COURT: All right. Now, keeping in mind the
5 legal principles -- now, this is kind of the same type
6 question. The presumption of innocence and the State's
7 obligation to prove guilt beyond a reasonable doubt, could
8 you, depending on the facts and circumstances presented
9 here in the courtroom and the law that I would give you,
10 find a Defendant either guilty or not guilty based on what
11 that evidence showed?

12 Could you make you -- what I'm asking you, are you
13 predisposed to find somebody guilty or predisposed to find
14 somebody not guilty, or would you make your decision based
15 on the evidence that you heard?

16 JUROR #268, MYRA NICHOLS: Yes, sir, I guess so. I
17 mean, that's the only way I could make a decision is based
18 on what I heard.

19 THE COURT: All right. Now, please remember, we may
20 not even reach the second phase or the sentencing phase of
21 the trial. Since we possibly could, I must ask you some
22 questions about your views on the death penalty.

23 Now, when a jury moves to the sentencing phase, that
24 means that the jury has already found the particular
25 defendant guilty of murder. There is no -- in the

1 sentencing phase, there is no legal defense to discuss or
2 explore in that second phase. Guilt of murder has already
3 been established by the jury in the first phase.

4 Do you understand that?

5 JUROR #268, MYRA NICHOLS: Uh-huh.

6 THE COURT: So in the second phase, if it got that
7 far, you would hear evidence, as I told you, with respect
8 to aggravation and evidence in mitigation. Now, your
9 oath, the oath that you've sworn, and if you're selected,
10 the further oath, would require you to abandon any
11 preconception you might have and to follow the law as I
12 instruct it. In other words, your oath would require you
13 to give serious and meaningful consideration to the
14 evidence presented to show aggravation and the evidence
15 presented to show mitigation.

16 Could you follow your oath in that regard?

17 JUROR #268, MYRA NICHOLS: Well, I couldn't go as far
18 as sentencing the death penalty thing. I couldn't -- I
19 couldn't do that. If it got to that, I couldn't do that.

20 THE COURT: Okay. Well, let me just -- I'll keep
21 going. If you were a juror in that situation in the
22 sentencing phase, could you, depending on the particular
23 facts and circumstances in the case, including the
24 consideration of aggravating and mitigating circumstances
25 and the law that I would instruct you, could you return a

1 sentence of life in prison?

2 JUROR #268, MYRA NICHOLS: I could do that.

3 THE COURT: Okay. And if you were a juror in that
4 situation, could you, depending on the particular facts of
5 the case and the law that I will give you, return a
6 sentence of death?

7 JUROR #268, MYRA NICHOLS: No.

8 THE COURT: All right. Well, at this time, I'm going
9 to allow -- I will turn the questioning over to the
10 attorneys. So please be as truthful with them as you have
11 been with me.

12 And I forgot to tell you this, but there are no right
13 or wrong answers, and no one here is going to judge your
14 views on any of these matters.

15 Thank you very much.

16 MR. GOWDY: May it please the Court, Your Honor?

17 EXAMINATION

18 BY MR. GOWDY:

19 Q Good morning, Ms. Nichols. How are you?

20 A Nervous.

21 Q My name is Trey Gowdy, and that's Barry Barnette in
22 the middle, and John Anthony to your left.

23 Does your daughter work for Dr. Black, with the
24 orthopedic group?

25 A Yes.

1 Q I thought she did. She gave me a shot about three
2 months ago. She did a good job, though.

3 Judge Miller just finished telling you there are no
4 right and there are no wrong answers. We just have to
5 know what your answer is. And whatever it is, I'm going
6 to sit down. I'm not going to try to change your mind.
7 I'm not going to try to talk you out of. If I understood
8 you right, you told Judge Miller that even if you had a
9 choice between life and death, you would pick life, you
10 would never impose the death penalty; is that right?

11 A That's right.

12 MR. GOWDY: Okay. That's all the questions I have
13 for you.

14 Thank you for filling out your questionnaire and
15 thank you for coming here this morning.

16 MS. QUIMBY: May it please the Court, Your Honor?

17 EXAMINATION

18 BY MS. QUIMBY:

19 Q Good morning, Ms. Nichols. My name is Karen Quimby.
20 I am here representing Fredrick Evins and -- along with
21 Tam Boggs and Christopher Brough, which we've already
22 introduced ourselves to you yesterday. But thank you for
23 being here this week. And we know it's inconvenient to a
24 lot of people's schedules and we know you're missing work.
25 So we thank you for being here.

1 A Yes.

2 Q You work at a day care; correct?

3 A Yes.

4 Q And you care for children from six weeks to 11 years
5 old?

6 A Uh-huh.

7 Q What all do you do at the day care? Are you just one
8 of the room teachers?

9 A Basically, everything that needs to be done. I've
10 been there for 15 years, so I cover it all.

11 Q Okay. Now, you said that you've heard a little bit
12 about this on the news, mainly, about just the charges,
13 the same things that Judge Miller just said?

14 A Uh-huh.

15 Q Can you remember anything else that you might have
16 heard?

17 A No. Just when I first heard it when it come out, how
18 it happened, you know. But I really didn't get into it,
19 because I really don't -- you know, I just don't do that.

20 Q You mean when it happened?

21 A Uh-huh.

22 Q When it came out back in February of 2003?

23 A Back when she was -- when it happened. That's all I
24 know. I really don't -- like I said, I don't get into all
25 this.

1 Q I understand. Okay. And you understand -- and it's
2 okay, nobody told you until yesterday about being careful
3 not to read the newspaper or watch TV, that just meant
4 from yesterday on. It's okay to have watched it before or
5 to have heard something about it.

6 Now, I'm so sorry to have to bring up something that
7 I know is a painful subject from your questionnaire. I
8 know it was probably difficult to bring up and write
9 about. And so I'm sorry to have to also have to bring it
10 up this morning. But is it all right if I talk to you for
11 just a moment about your daughter and what happened to her
12 with her husband?

13 A Yeah.

14 Q Okay. And, again, I'll try to make it real quick and
15 I'll just ask you a couple of questions. Do you
16 remember -- when about was that?

17 A Are you talking about Rhonda and her friend, Lisa?

18 Q Yes, ma'am.

19 A I don't remember when it was, just years back, a
20 couple years back. I've tried to totally put all this out
21 of my mind, so I don't remember what year it was that Lisa
22 was shot.

23 Q Okay. Have you put it totally out of your mind?

24 A No. She hasn't either because she still calls when
25 she gets upset. Just one day last week, she had an

1 episode with it. So it's there all the time with us.

2 Q And I'm sure as a mother, that is painful.

3 A Yeah, it is.

4 Q How do you help her deal with that?

5 A Talking. She just talks. We talk it out. She is --
6 I don't know. It's just -- she's okay for a while and
7 then it don't take a lot to bring it up with her. So it's
8 just she still gets very emotional about it. And
9 sometimes she'll say, that's it, I'm not going to talk
10 about it anymore, that's it. And she still has episodes
11 with it. And she just lives in fear of the day that he
12 may get out one day, and she lives in that fear. So she
13 tries to keep in contact with what goes on.

14 Q And how do you deal with that, because your child --
15 you know, when your child is that upset, how do you handle
16 that? Is it something you talk about with your husband?
17 Do you --

18 A Well, she usually -- if she's having a hard time,
19 I've had her to pull over on the side of the road and call
20 me. And she'll be crying and she'll just start talking,
21 and we just talk. And no matter where I'm at or what I'm
22 doing, we talk until she calms down. And then we take it
23 from there and she goes on. If she wants me to come where
24 she's at or she comes to me or whatever, we just talk.
25 And we talk it out.

1 Q And I think that's a wonderful thing. I'm glad that
2 you're there for her. And I guess what I'm trying to get
3 at is, that's probably causing you some trouble inside
4 that your daughter is hurting?

5 A Sure.

6 Q So how do you handle that once your daughter has sort
7 of gotten past that upset moment and she's gone back to
8 her day-to-day things and is trying to get on with that?
9 Do you have any residual trouble with it? I mean, are
10 there times that you need to talk to somebody about it?

11 A No, not really. I just pray about it. And that's
12 where I get my answers right there is through prayer. And
13 I usually try to pray her through it and myself, too. So
14 that's where I get my strength from there to go on with
15 it. It's sort of like now, it's a part of us or something
16 that we deal with separately from -- you know, it's hard
17 to explain to you what I'm trying to tell you.

18 Q I think I understand.

19 A We've found a place to put it and it's there. And
20 when we go to it, we deal with it and then it's there.

21 Q I understand. I, actually, really do. Do you
22 remember what kind of sentence your son-in-law received?

23 A Well, he wasn't my son-in-law. This was her best
24 friend's husband. She was with -- maybe I didn't state it
25 right. No, this is not my son-in-law. She was with her

1 best friend when this happened. Lisa was her friend.

2 Q Okay. So this was the friend's husband?

3 A Uh-huh.

4 Q Okay. I misunderstood. In your questionnaire, it
5 sounded like it was your daughter's husband.

6 A It was Lisa's husband.

7 Q Do you remember what kind of sentence he got?

8 A He's in prison, I guess, for life, as far as I know.
9 He does come up, I think, for parole or something, but --
10 I don't know. She wouldn't let me deal with that part of
11 it. They didn't let me deal with that part of it. So all
12 I know is she still is notified when he's moved or
13 something like that.

14 Q Okay. So you're not even -- are you sure of the --
15 what charges he had? Was he charged with murder?

16 A Uh-huh.

17 Q Was he charged with something in connection with your
18 daughter as well?

19 A Yeah. He shot her, too. He grazed her.

20 Q Okay. So do you remember whether he had a trial or
21 whether --

22 A Yeah.

23 Q -- he pled? He had a trial?

24 A Yeah. They went to trial.

25 Q Okay. And a jury convicted him?

1 A I really don't know what happened at the trial. I
2 just know he's in jail. He's in prison for it now. She
3 had to go, but she didn't -- I don't know what happened
4 there. I didn't go.

5 Q Okay. So that was not the trial that you testified
6 in? You said you had been a witness at one point in some
7 trial?

8 A That was just a case where I was called up to --
9 somebody -- phone harassment or something. I don't know
10 what it was. And they subpoenaed me to come there as a
11 witness, but it was for my grandson. And he -- somebody
12 threatened him over the phone or something, and he called
13 me when it happened. And so, because he called me, they
14 subpoenaed me to court.

15 Q Okay.

16 A It was just a mess.

17 Q Okay. So you said that that was a bad experience.
18 Was it just because you didn't think that it involved you,
19 really?

20 A No. I didn't think that. You know, it was a bad
21 experience. Any time you have to go to court, I think
22 it's a bad experience.

23 Q Well, I think a lot of people would agree with you.
24 So this is not the first time that you've sat in the
25 witness chair?

1 A No. I sat in the witness chair one time at my
2 daughter's divorce. But I think it never -- like I say,
3 when I went to that, they didn't even call me up there.
4 We had the hearing and it was over with.

5 Q So you testified at your daughter's divorce?

6 A Uh-huh.

7 Q I used to testify in Family Court when I was in
8 private practice. I was a guardian ad litem. And I never
9 got used to being up there. So I'll, again, try to keep
10 this a little shorter.

11 Your nephew is a city police officer?

12 A Uh-huh.

13 Q For Spartanburg City?

14 A Uh-huh.

15 Q Do you see him frequently? Is that Rhonda's son or
16 another daughter's son?

17 A That is my husband's sister's son.

18 Q Husband's sister's son. Okay. And do you see him a
19 lot?

20 A At gatherings and stuff like that, not on a daily
21 basis.

22 Q Do you know what kind of cases he works on? Does he
23 have a patrol area or is he mainly an officer?

24 A Well, sometimes, he's an arresting officer and he
25 does things like that. He's all over. I don't know what

1 his basic job is.

2 Q Okay. Do y'all talk about his work at gatherings?

3 Like at Thanksgiving dinner, do y'all talk about his
4 experiences, whether they were good, bad, funny, tragic?

5 A We have talked about things, but not every time. No,
6 not all the time.

7 Q Okay. Does he ever talk about specific cases -- even
8 without giving you the names of whoever he's arrested,
9 does he talk about specific arrests?

10 A No, not to me.

11 Q Okay. Now, you keep Ms. Crooks' children at your day
12 care; correct?

13 A Uh-huh. Yes, ma'am.

14 Q Do you know anybody else in the Solicitor's Office?

15 A No, ma'am.

16 Q Okay. And I guess when I was thinking that it was
17 Rhonda's husband, I thought maybe you might -- but you
18 would have had no contact with them during that period of
19 time; right?

20 A Huh-uh.

21 Q Again, from your questionnaire, you said that your
22 brother-in-law has been accused of -- is it child abuse?

23 A Uh-huh.

24 Q Can you tell me a little bit about that?

25 A I'll tell you what I know about it. They kept it

1 kind of quiet. You know, they didn't want it out.

2 Q Well, no, you don't have to tell me. Is it something
3 that -- well, was it on your side of the family or your
4 husband's side?

5 A My husband's side.

6 Q Okay. And did he have to go to Family Court on that,
7 or was that in criminal court?

8 A I don't know which court it was, but I know he went
9 and I know he can't come around the child anymore. He
10 can't -- he couldn't even -- they had to quit going to the
11 same church and everything, because he couldn't come into
12 the church or anything with the child.

13 Q All right. And are you -- was that a child in his
14 family?

15 A Step-grandson.

16 Q Step-grandchild?

17 A Uh-huh.

18 Q And speaking of church, you said that you go to -- is
19 it Hebrew Methodist?

20 A Yes, ma'am.

21 Q And you have painted and redecorated the basement?

22 A Yes, ma'am, still working on it.

23 Q Oh, good. Is that something that you are just
24 volunteering to do? Is that a group project?

25 A Well, it's just one group of us that's doing it.

1 There's six of us that's doing it. That's it. It's just
2 something that needed to be done and we're doing it.

3 Q Okay. Do the six of y'all get together and -- are
4 y'all six a group that -- an informal group that -- I
5 mean, do y'all kind of look for stuff to do around the
6 church?

7 A No. If it needs to be done, we just do it.

8 THE COURT: Ms. Quimby, where are we going with this?

9 (There was no response.)

10 BY MS. QUIMBY:

11 Q Do you know if your church takes any kind of position
12 on the death penalty?

13 A I've never heard it said, if they do. I've never
14 heard it brought up.

15 Q And you said that you do not favor the death penalty.
16 Where -- what is your basis for that? Is that just
17 something that you've grown up believing or something from
18 church?

19 A Well, I just believe the Lord give a life and he
20 should be the one to take it. I don't want to be the
21 one -- I, personally, if I said somebody had to die, I
22 couldn't deal with that from now on. I couldn't do it.
23 It's just something with me that's in me. I cannot deal
24 with that. I don't like to be people's judge. I,
25 basically, don't like to judge anybody. Sometimes I know

1 you have to form an opinion, but I just simply do not like
2 to do that. And I just don't believe in that.

3 MS. QUIMBY: Okay. Thank you very much for your
4 time. We appreciate it.

5 THE COURT: All right. Ms. Nichols, if you would,
6 step out into the hall for just a second. And I'll get
7 right back with you.

8 (Pause.)

9 THE COURT: All right. I do not believe this juror
10 is qualified to serve.

11 Any objections?

12 MR. GOWDY: No, sir.

13 MS. QUIMBY: No, Your Honor.

14 THE COURT: Well, let me just tell you this, we've
15 got a long way to go. And when somebody is that upfront
16 about their feelings about it, let's cut to -- there's no
17 problem with a couple of questions to put them at ease,
18 but cut to the chase right away. Okay.

19 MS. QUIMBY: Yes, sir.

20 THE COURT: All right. Bring her back in.

21 (Pause.)

22 THE COURT: Hey, Ms. Nichols.

23 I want to thank you again for coming up here, for the
24 sacrifices you've made and for you to come in here and be
25 so honest and give us your heartfelt answers. And that's

1 exactly what we wanted.

2 The law, however, finds that you're not qualified to
3 sit on this jury. So I guess that will probably be some
4 relief for you, so you are excused from service.

5 Please don't talk to anybody about -- you can talk
6 with your husband privately, but don't talk with anybody
7 else about the case until it's over with. Okay.

8 JUROR #268, MYRA NICHOLS: Okay.

9 THE COURT: All right. Thank you very much.

10 (Juror #268, Myra Nichols was excused from the
11 courtroom.)

12 THE COURT: Bring the next juror in, please.

13 (Juror #78, Annie Davis, a black female, was seated.)

14 THE COURT: Ms. Davis, how are you doing?

15 JUROR #78, ANNIE DAVIS: All right.

16 THE COURT: It's nice to see you this morning.

17 JUROR #78, ANNIE DAVIS: I'm a little nervous.

18 THE COURT: Well, I'll tell you what, you know, if
19 there were somebody who was in your position and wasn't
20 nervous, I think there would be something wrong with them,
21 so. But I do want you to be as comfortable as you
22 possibly can be. And I just want you to know that no one
23 is here to threaten you or pass judgment on you.

24 Okay. And we're going to ask you some questions, and
25 there are no right or wrong answers to these questions.

1 Absolutely not. The only answers there are are how you
2 feel about it. And we just -- you've sworn the oath and
3 all we want is truthful answers. And those -- as a matter
4 of fact, there are right answers, and it's how you feel
5 about it. Okay.

6 Now, I'm going to tell you a little bit more about
7 the case. And this, as I told you, is the State v.
8 Fredrick Antonio Evins. And there are several
9 indictments. Before I tell you what are in the
10 indictments, I just want to reiterate that these
11 indictments are not evidence and they are not to be
12 considered evidence. All they are are pieces of paper
13 which contain allegations against Mr. Evins. And they're
14 put on this piece of paper to allow the case to weave its
15 way through court and end up where we are today.

16 Now, there's an indictment for murder that alleges
17 Mr. Evins did on February 13th, 2003, unlawfully and with
18 malice aforethought kill Rhonda Marie Ward. There is an
19 indictment for kidnapping that alleges Mr. Evins on the
20 same day did kidnap Rhonda Marie Ward. There is another
21 indictment, criminal sexual conduct, that alleges on the
22 same day that he willfully and unlawfully committed a
23 sexual battery on Rhonda Marie Ward. And, finally,
24 there's an indictment for grand larceny, which alleges
25 that Mr. Evins did on the same day, February 13th, 2003,

1 feloniously take and carry away Rhonda Marie Ward's 1993
2 Nissan Sentra and its contents.

3 Okay. Those are the allegations contained. They're
4 not evidence. They're allegations.

5 So the first thing I want to ask you is, we recognize
6 there has been publicity about this case on TV, and the
7 radio, and in the newspaper. And the first thing I'd like
8 to know is, have you heard -- have you ever heard of
9 this -- the incidents I've read to you?

10 JUROR #78, ANNIE DAVIS: Yes.

11 THE COURT: Okay. And can you tell me a little bit
12 about that, where you've heard it and when.

13 JUROR #78, ANNIE DAVIS: Well, it was on the news.

14 THE COURT: Okay. When was that?

15 JUROR #78, ANNIE DAVIS: It's been a couple of weeks.

16 THE COURT: Okay. And what do you remember from that
17 account?

18 JUROR #78, ANNIE DAVIS: I just seen his picture and
19 they said what he was done -- what he did.

20 THE COURT: All right. Well, did you form -- let me
21 ask you, did you form -- did you have any opinion about
22 the facts in this case?

23 JUROR #78, ANNIE DAVIS: No, because I didn't know
24 him.

25 THE COURT: Okay. And do you have any opinion as to

1 the guilt or innocence of Mr. Evins?

2 JUROR #78, ANNIE DAVIS: Well, not at the moment.

3 THE COURT: Okay. Well, do you understand now that,
4 as a juror, your oath -- the oath that you will take --
5 the oath that you've already taken and, if you're chosen,
6 that you would take later would require you to disregard
7 anything that you may have read, seen, or heard about this
8 case. And you would be required under your oath to decide
9 the facts only from the evidence presented during the
10 trial.

11 Do you understand that?

12 JUROR #78, ANNIE DAVIS: Yes.

13 THE COURT: Okay. And could you serve -- would you
14 serve as a fair and impartial juror and reach a verdict
15 based on the facts presented at trial in accordance with
16 my instructions on the law?

17 JUROR #78, ANNIE DAVIS: Well, Your Honor, I done
18 been through this before, so it would be kind of hard for
19 me, you know, to --

20 THE COURT: When have you been through this before?

21 JUROR #78, ANNIE DAVIS: Well, I had two sons to get
22 killed at one time.

23 THE COURT: Okay. And when was that?

24 JUROR #78, ANNIE DAVIS: Back in 2001.

25 THE COURT: All right. Were you up in this

1 courthouse? Did you come to court?

2 JUROR #78, ANNIE DAVIS: We didn't come to court, but
3 just came for him to be sentenced.

4 THE COURT: Okay.

5 JUROR #78, ANNIE DAVIS: Over there at the
6 Solicitor's.

7 THE COURT: Pardon me?

8 JUROR #78, ANNIE DAVIS: The Solicitor's Office.

9 THE COURT: Okay. So you --

10 JUROR #78, ANNIE DAVIS: But we came to -- you know,
11 before a judge.

12 THE COURT: And so was it here in Spartanburg?

13 JUROR #78, ANNIE DAVIS: Yes.

14 THE COURT: Do you remember who you dealt with in the
15 Solicitor's Office?

16 JUROR #78, ANNIE DAVIS: I believe it was Kelly.

17 THE COURT: Okay. Well, let me ask you, do you think
18 that you could -- keeping in mind the legal principles
19 I've talked to you about, the presumption of innocence and
20 the State's obligation to prove guilt beyond a reasonable
21 doubt, could you, depending on the facts and the evidence
22 presented at trial and the law that I would give you,
23 could you find a defendant either guilty or not guilty
24 depending on what you heard?

25 JUROR #78, ANNIE DAVIS: Well, to be truthful, I

1 don't know.

2 THE COURT: Okay. Well, what would your inclination
3 be? What are you thinking? That's all we want to find
4 out.

5 JUROR #78, ANNIE DAVIS: Well, right now, I don't
6 have no idea.

7 THE COURT: Okay. Would you have to hear the facts
8 and the evidence before you made a decision about this
9 case?

10 JUROR #78, ANNIE DAVIS: Your Honor, I still -- I
11 can't make up my mind. I don't know what happened to my
12 two sons, and I haven't got over it yet.

13 THE COURT: Okay. Well, let me ask you this, now,
14 remember that we might not even reach the second phase of
15 the trial I've described to you. Okay. But since we
16 possibly could, I need to ask you your opinions about the
17 death penalty.

18 Would that be all right?

19 JUROR #78, ANNIE DAVIS: (Juror nodded.)

20 THE COURT: Now, let me tell you, when a jury moves
21 to the sentencing phase, that means that the jury has
22 already found that that particular defendant is guilty of
23 murder. So in the second phase, there is no legal defense
24 to discuss or to explore, and guilt of murder would have
25 already been decided by the jury.

1 Do you understand that?

2 JUROR #78, ANNIE DAVIS: (Juror nodded.)

3 THE COURT: Okay. Now, in the second phase, you
4 would hear evidence that I've referred to as aggravation
5 and evidence in mitigation. Okay. Your oath would
6 require you to abandon any preconception you may have and
7 to follow the law as I instruct it. In other words, your
8 oath would require you to give serious and meaningful
9 consideration to aggravation evidence and mitigation
10 evidence.

11 Would you follow your oath in that regard and give
12 serious consideration to all the evidence that you hear?

13 JUROR #78, ANNIE DAVIS: Yes, I would.

14 THE COURT: Okay. Now, if you were a juror in that
15 sentencing phase or the second phase, could you, depending
16 upon the evidence that they brought and you heard,
17 including the evidence that they would show you about
18 aggravation and evidence they would show you about
19 mitigation and considering the law I would give you, could
20 you return a sentence of life in prison?

21 JUROR #78, ANNIE DAVIS: Yes.

22 THE COURT: All right. Now, on the other side of the
23 coin, if you were a juror in that same situation in the
24 second phase, could you consider the facts and the
25 circumstances, including mitigation evidence and

1 aggravation evidence and the law that I would give you,
2 could you consider all that and return a sentence of
3 death?

4 JUROR #78, ANNIE DAVIS: It would be the right one.

5 THE COURT: It would be the right one?

6 JUROR #78, ANNIE DAVIS: (Juror nodded.)

7 THE COURT: Okay. What do you mean by that?

8 JUROR #78, ANNIE DAVIS: The sentence of death if
9 it -- if that's what it came to.

10 THE COURT: So you could do that?

11 JUROR #78, ANNIE DAVIS: Yeah.

12 THE COURT: All right. But you could also give life
13 in prison if that was the right thing?

14 JUROR #78, ANNIE DAVIS: Yes.

15 THE COURT: Now, let me just tell you, if the jury
16 returned a sentence of death, the law requires every juror
17 to sign their name to the death sentence verdict, could
18 you do that?

19 JUROR #78, ANNIE DAVIS: Yes.

20 THE COURT: All right. Now, do you recall that sheet
21 about the three types of jurors that I had back there?

22 JUROR #78, ANNIE DAVIS: Yes.

23 THE COURT: Could you tell me which type you think
24 you are?

25 JUROR #78, ANNIE DAVIS: I really don't know.

1 THE COURT: All right. Well, now, you said that you
2 could give a life sentence; is that right?

3 JUROR #78, ANNIE DAVIS: Yes.

4 THE COURT: If that was appropriate, based on the
5 evidence you heard; is that right?

6 JUROR #78, ANNIE DAVIS: Uh-huh. Yes.

7 THE COURT: And you could give a death sentence if
8 that was appropriate?

9 JUROR #78, ANNIE DAVIS: Yes.

10 THE COURT: All right. Would you have to listen to
11 all the facts and the evidence before you made your
12 decision?

13 JUROR #78, ANNIE DAVIS: I think I would.

14 THE COURT: Okay. Now, I know you've said it was
15 very difficult about the guilt or the innocence. I know
16 you've been through a tough time. But could you follow
17 the law in the guilt or innocence phase and listen to all
18 the evidence before you made your decision about guilty or
19 not guilty?

20 JUROR #78, ANNIE DAVIS: Yes.

21 THE COURT: All right. Now, if you were selected to
22 serve on the jury, would you honor your oath and serve as
23 a fair and impartial juror?

24 JUROR #78, ANNIE DAVIS: I would.

25 THE COURT: And would you approach jury service with

1 an open mind to find the truth from the evidence and apply
2 the law as I instructed?

3 JUROR #78, ANNIE DAVIS: Yes.

4 THE COURT: Okay. Do you know of any reason why you
5 could not serve on this jury?

6 JUROR #78, ANNIE DAVIS: Well, like I say, it would
7 be hard on me, you know, to go through -- you know, to
8 try, but I'd do the best I could.

9 THE COURT: Okay. Well, Ms. Davis, I appreciate your
10 answers. You've been very truthful and very honest. And
11 I'm going to allow the attorneys to briefly ask you some
12 questions.

13 Thank you.

14 EXAMINATION

15 BY MR. BOGGS:

16 Q Good morning, Ms. Davis.

17 A Good morning.

18 Q Ms. Davis, I'm Tam Boggs. And I'm one of the
19 attorneys handling the case for Mr. Evins, along with
20 Karen Quimby and Chris Brough. And I appreciate you being
21 here. You realize this is a civic duty and you're
22 fulfilling that civic duty. And I appreciate your candor
23 about how difficult a trial might be for you because of
24 the past experience. But we thank you for coming forward
25 and doing your civic duty.

1 Now, let me ask you a question, Mr. Barnette is one
2 of the Solicitors. Do you remember him from any previous
3 dealings at all?

4 A Uh-huh.

5 Q Okay. And had you talked with him on numerous
6 occasions back several years ago?

7 A Back then, yes.

8 Q Okay. And do you remember me?

9 A Yes.

10 Q And do you remember -- how do you remember me?

11 A I seen you in the courthouse.

12 Q Okay. And do you remember where you saw me?

13 A You was just coming down the hall.

14 Q Okay. Are you aware of any connection that I might
15 have had to the case that your sons were involved in?

16 A Sir, I really don't know. I done went through so
17 much for the last three years, so I really --

18 Q Okay. And do you remember if Mr. Barnette might have
19 had any connection with that?

20 A Yes.

21 Q And you think he did have a connection with it?

22 A Yes.

23 Q Okay. The fact that either Mr. Barnette or I might
24 have had a connection with that case, would that have any
25 impact on your decision? Would it make it more difficult

1 for you to make a decision in this case?

2 A Well, like I say, it would be rough on me.

3 Q Okay. Well, I understand serving on the trial would
4 because it would be, possibly, an emotional thing, but you
5 seem like a strong lady.

6 A Well, I try to be, but sometimes it get hard.

7 Q Well, you, obviously, are a very good citizen because
8 you've done your duty about coming here. And you,
9 obviously, have respect for our judicial system because
10 you are here.

11 But even just human nature itself, the fact that
12 Mr. Barnette did a good job on handling the case that your
13 sons were involved with, would that cause you to feel
14 like -- kind of lean toward Mr. Barnette because he had
15 done such a good job?

16 A No. That wouldn't have nothing to do with it.

17 Q So you think you could separate yourself from the
18 fact that Mr. Barnette was involved with it?

19 A Yes.

20 Q Okay. Well, I appreciate you saying that. I noticed
21 on your questionnaire, too, that Miracle [phonetic] lives
22 with you now; is that correct?

23 A Uh-huh.

24 Q Sometimes the grandchildren are a little bit more fun
25 the children, I guess, because you get to spend time with

1 them you might not have had. I know when I see my little
2 granddaughter, she's -- I feel like she's closer sometimes
3 than the children, but they're a lot of fun. But I assume
4 you're primarily a real role model for that child?

5 A I try to be.

6 Q Now, you've also told Judge Miller that -- well,
7 first of all, let me back up. Do you understand that this
8 type of trial, even though these questions are being asked
9 to you now about potential sentence, that doesn't have
10 anything to do with the initial trial?

11 Do you understand that?

12 A (Juror nodded.)

13 Q The initial trial just determines whether or not the
14 person is innocent or guilty. And if it's determined that
15 he's guilty, then the jury decides what he might be guilty
16 of. Okay. And it would only be if the jury decided he
17 was guilty of murder that it would go to the second phase.

18 Do you understand that?

19 A Yes.

20 Q And you've told Judge Miller that if, by chance, for
21 some reason, it got to that second phase and the -- you
22 would, based on the facts, be able to either vote for life
23 imprisonment without parole or the death penalty; is that
24 correct?

25 A Yes.

1 Q Okay. And that would be based totally on what the
2 evidence was, the aggravation and mitigation; is that
3 correct?

4 A Uh-huh.

5 Q Excuse me?

6 A Yes.

7 Q Thank you. Now, Ms. Davis, are there circumstances
8 where a person causes someone else's death that wouldn't
9 be murder? Are you aware of those -- any circumstances
10 like that? Or do you think that any time somebody else
11 causes another person's death that it is murder?

12 A Yes, it is.

13 Q You think if somebody causes somebody else's death,
14 it's automatically murder?

15 A Uh-huh.

16 Q Okay. Well, what about an issue like self-defense?
17 If a person was being attacked and he caused somebody
18 else's death to keep that attack away, would that be
19 murder?

20 A No. That would be defending yourself.

21 Q Okay. Good. Now, what if a person accidentally
22 caused somebody else's death, like two people out hunting
23 and one of them shot the other by accident, they were good
24 friends or whatnot, would that be murder?

25 A (There was no response.)

1 Q Do you think there are circumstances when a person
2 may cause another person's death and it doesn't have to be
3 murder?

4 A Well, most of the time, it is murder.

5 Q Okay. But there might be other times that it's not?

6 A Yes.

7 Q But you would be willing to listen to what Judge
8 Miller told you the law was and if the law was that it
9 wasn't murder, but some other type, you'd be able to go
10 along with that other type if that's what the law said?

11 A Yes.

12 Q Okay. Now, just a couple more questions. You said
13 you had seen something on the news about this particular
14 case?

15 A (Juror nodded.)

16 Q All right. Was that fairly recently? Could it have
17 been like maybe a day or two --

18 A Well, it was a while back, but I hadn't seen nothing
19 else about it until --

20 Q A couple days ago maybe?

21 A Yeah.

22 Q So you remember back about a year and a half ago when
23 it happened and all the publicity about it?

24 A Yes. But like I say, I didn't know him.

25 Q Okay. But for a while, you didn't hear anything

1 about it and then recently, you've seen it on the news?

2 A Yeah. It came back up.

3 Q Okay. The fact that it was on the news -- well,
4 first of all, back about a year and a half ago, had you
5 formed any opinion as to whether -- just because Mr. Evins
6 was arrested, had you formed an opinion as to whether he
7 was guilty or not?

8 A Well, to be honest, I really didn't know too much
9 about it.

10 Q Okay. Fine. Thank you.

11 Now, what you saw on the news the other night, did
12 it -- were you -- did you form any kind of opinion as to
13 whether he might be guilty, based on what you heard the
14 other night?

15 A Well, really, I didn't pay it too much attention.

16 Q Because your oath -- and Judge Miller has already
17 asked you, if you're selected on the jury, the only
18 evidence that you can listen to and take into
19 consideration is what you hear in court here?

20 A Yeah.

21 Q Because, you know, the news people, about half the
22 time --

23 A Right. I don't hardly look at TV that much anyway.

24 Q The news people, half the time, get it wrong anyway,
25 don't they? They kind of get it backwards?

1 A Yeah.

2 Q So you're willing -- if you're put on the jury, you'd
3 be willing to disregard anything you saw on the news?

4 A Yes.

5 Q And you would make your decision based solely on what
6 you heard from the witness stand during the trial; is that
7 correct?

8 A Yes.

9 Q Have you read anything in the newspaper, also, about
10 it? Do you take the Herald Journal?

11 A No.

12 Q Do you ever pick it up at the grocery store?

13 A Every now and then, I get a copy, a family member,
14 you know, or obituaries or something like that.

15 Q You get a copy of the obituaries or something like
16 that. Okay. So the only exposure you've had recently is
17 the Channel 7 news blurb the other night?

18 A Yes.

19 MR. BOGGS: Okay. Ms. Davis, I think that's -- when
20 you came out, you said you were a little nervous. And I
21 think we all are a little nervous, but you look like
22 you're doing fine. And I appreciate your answers and I
23 appreciate you being here.

24 Thank you.

25 MR. GOWDY: May it please the Court, Your Honor?

1 THE COURT: Yes, sir.

2 EXAMINATION

3 BY MR. GOWDY:

4 Q Good morning. My name is Trey Gowdy. I think you
5 know Barry Barnette, and that's John Anthony beside him.

6 What were the names of your two sons that passed
7 away?

8 A Craig and Kevin.

9 Q I see you have a son named James Davis?

10 A Yes. I had three boys, I have one now.

11 Q Yes, ma'am. I went to school with a James Davis, but
12 it was at Jesse Boyd. Did y'all ever live in District 7?

13 A Yeah, but he didn't go --

14 Q He didn't go to Jesse Boyd?

15 A No.

16 Q It's just rare to see a guy the same age as me with
17 the same name. He and I were in sixth grade together, but
18 it must be another one.

19 I want -- I'm concerned because you were so candid
20 and honest with us about what you went through a couple
21 years ago. Is coming back to this courthouse going to
22 upset you? I mean, you look strong today, but it also --

23 A Well, it used to, but it don't bother me. It just,
24 you know, brings memories back.

25 Q Yes, ma'am.

1 A But, you know, I can deal with it.

2 Q And seeing Mr. Barnette and Ms. Crook that worked
3 with you during that case, are you going to be okay with
4 that?

5 A It don't have nothing to do with it.

6 Q Okay. You told Judge Miller that if you thought life
7 was the right sentence, you'd sentence somebody to life.
8 And if you thought death was the right sentence, you would
9 sentence somebody to death. Did I get that right?

10 A Yes.

11 Q Do you mind if I ask you what your general views or
12 beliefs on the death penalty are?

13 A Well, if they do something that is wrong, they have a
14 right to be punished for it.

15 Q Yes, ma'am.

16 A And if it comes to death or a life sentence, it would
17 be one of the two.

18 Q And you think you could pick death if that's what you
19 thought was right?

20 A Yes.

21 Q It gets kind of -- a little bit complicated. It may
22 not be for you, it is for me. The law in South Carolina
23 never requires a juror to pick death. If you were seated
24 in that jury box and we got through presenting this case
25 to you and you had the choice between life or death, you

1 never have to pick death, you can always pick life. And
2 you don't ever have to give anybody a reason for it. You
3 can pick life for any reason or no reason.

4 Do you think there would be circumstances where you
5 would pick death even understanding that you would never
6 have to?

7 A Well, I never had to, but, like I said, whatever the
8 verdict was that would be it.

9 Q I guess what I'm saying is, you always will have a
10 choice of life. If you want to pick life, nobody is going
11 to ever make you pick death. Do you still think you can
12 envision in your mind a crime that is such that you would
13 pick death as the right sentence for somebody?

14 A Well, I wouldn't want to pick it, but if it was the
15 right sentence, I could do it.

16 MR. GOWDY: Right. Fair enough.

17 I want to thank you for coming up here and discussing
18 what I know are very difficult things, Ms. Davis. We
19 appreciate it.

20 THE COURT: All right. Ms. Davis, if I could ask you
21 to step out to the hallway for just a moment, please.

22 (Pause.)

23 THE COURT: I believe she's a qualified juror.

24 Any objections?

25 MR. BOGGS: None, Your Honor.

1 MR. GOWDY: No, sir.

2 THE COURT: All right. Would you ask her to come on
3 back in?

4 (Pause.)

5 THE COURT: Ms. Davis, I want to thank you for coming
6 up here. I hope it wasn't too painful to sit in that
7 chair. They were pretty nice to you, weren't they?

8 JUROR #78, ANNIE DAVIS: Yes.

9 THE COURT: I'm going to give that to you to take
10 home and read. And I want to tell you that you are still
11 a qualified juror in this case, which means you will have
12 to come back at some point when the final jury selection
13 occurs, which might be in two or three days. We're not
14 sure.

15 So what I would ask you to do is go talk to Charlena
16 over here, leave your phone number where we can get in
17 touch with you so we can tell you when to come back.
18 Again, I will tell you that you're under oath not to read
19 the paper, listen to the radio, or watch TV with respect
20 to this case.

21 Do you understand that?

22 JUROR #78, ANNIE DAVIS: I know.

23 THE COURT: And don't talk to anybody else about it,
24 and don't let them talk to you.

25 JUROR #78, ANNIE DAVIS: Okay.

1 THE COURT: All right. Ms. Davis, thank you.

2 (Juror #78, Annie Davis, was excused from the
3 courtroom.)

4 THE COURT: All right. Is everybody all right to go
5 or do you need a break?

6 (There was no response.)

7 THE COURT: We've spent over half the time on one
8 third of the people, so we're going to pick it up.

9 Let's go.

10 (Juror #163, William Horton, a white male, was
11 seated.)

12 THE COURT: Mr. Horton, good morning, how are you
13 doing?

14 JUROR #163, WILLIAM HORTON: Fine. How are you?

15 THE COURT: I'm good. We've got you in here and we
16 want to talk to you briefly and do the individual
17 questioning that we talked about.

18 JUROR #163, WILLIAM HORTON: Okay.

19 THE COURT: And I want you to feel as comfortable as
20 you can be, although I know that's the hot seat. And as I
21 tell most people, if you're not nervous, then there's
22 probably something wrong with you. So that's normal and
23 to be expected.

24 Now, one other thing I want to tell you is, there are
25 no right or wrong answers to these questions. And if

1 there is a right answer, it's just that you give us your
2 heartfelt belief and be honest about these questions. |

3 JUROR #163, WILLIAM HORTON: All right.

4 THE COURT: The one other thing I want to tell you
5 now is that selection on this jury would include
6 sequestration, which I've mentioned to you, which would
7 mean staying in the Marriott Hotel across the street -- or
8 down the street for -- it could be five to seven days.

9 JUROR #163, WILLIAM HORTON: Right.

10 THE COURT: All right. Now, the other thing I want
11 to tell you is, I told you briefly about the charges
12 against Mr. Evins, but I want to go through the
13 indictments in slightly more detail. But I want to
14 re-emphasize that indictments are not evidence.

15 JUROR #163, WILLIAM HORTON: Right.

16 THE COURT: And they are not to be construed in any
17 way as evidence. They simply contain allegations made
18 against Mr. Evins and put on a piece of paper which weaves
19 its way through the system and ends up in court.

20 So anyway, he is charged in an indictment for murder.
21 And it alleges that Mr. Evins did on February 13th of
22 2003, unlawfully and with malice aforethought kill Rhonda
23 Marie Ward. There's an indictment for kidnapping, which
24 alleges that he did in Spartanburg County on the same date
25 unlawfully kidnap or abduct Rhonda Marie Ward. There is

1 another indictment for criminal sexual conduct, which
2 alleges that Mr. Evins did on February 13th, 2003,
3 unlawfully and willfully commit a sexual battery upon
4 Rhonda Marie Ward. And, finally, there is an indictment
5 for grand larceny, which alleges that he did -- Mr. Evins
6 did, same date, feloniously carry away the 1993 Nissan
7 Sentra and its consents belonging to Rhonda Marie Ward.

8 Now, with respect to those charges, we recognize
9 there has been publicity about the case on television, and
10 the radio, and in the newspaper. So the first thing I
11 want to ask you is, have you heard, read, or seen anything
12 about these alleged incidents?

13 JUROR #163, WILLIAM HORTON: Yes, I have.

14 THE COURT: Okay. What can you tell me about it?

15 JUROR #163, WILLIAM HORTON: I just know that the
16 lady worked at the cigarette shop and was abducted and she
17 was missing. I remember back -- I hadn't read anything
18 recently or heard anything recently, but back when it was
19 happening.

20 THE COURT: And do you remember -- did you hear that
21 on television or the newspaper?

22 JUROR #163, WILLIAM HORTON: Both. I read the
23 newspaper and watch local news.

24 THE COURT: Okay. And did that -- well, let me -- do
25 you understand, as a juror, your oath would require you to

1 disregard anything that you have read, seen, or heard
2 about the case and you would be required to decide the
3 facts only from the evidence presented at trial?

4 Do you understand that?

5 JUROR #163, WILLIAM HORTON: Yes, I do.

6 THE COURT: And I'll tell you that -- and I think
7 everyone is aware that the media does not get things right
8 all the time, and that the only evidence that's of any
9 value is what's under oath presented here in the
10 courtroom.

11 JUROR #163, WILLIAM HORTON: I understand.

12 THE COURT: Okay. And would you serve as a fair and
13 impartial juror and reach a verdict based on the facts
14 presented at trial in accordance with my instructions on
15 the law?

16 JUROR #163, WILLIAM HORTON: Yes, I would.

17 THE COURT: Have you in any way already formed an
18 opinion as to the facts of this case?

19 JUROR #163, WILLIAM HORTON: No, I haven't.

20 THE COURT: And have you formed any opinion as to the
21 guilt or innocence of Mr. Evins?

22 JUROR #163, WILLIAM HORTON: No, I haven't.

23 THE COURT: Keeping in mind the legal principles of
24 the presumption of innocence and the State's obligation to
25 prove guilt beyond a reasonable doubt, could you,

1 depending on the facts and the evidence and the law as I
2 would instruct the jury, find a defendant either guilty or
3 not guilty depending on those facts?

4 JUROR #163, WILLIAM HORTON: Yes, I could.

5 THE COURT: All right. And, remember, we may not
6 even reach the second phase of the trial.

7 JUROR #163, WILLIAM HORTON: Right.

8 THE COURT: But since we possibly could, I need to
9 question you about your views on the death penalty. And,
10 again, there are no right or wrong answers about this.

11 JUROR #163, WILLIAM HORTON: Right.

12 THE COURT: When we move to the sentencing phase,
13 that means that the jury has already found that particular
14 defendant guilty of murder. So in the sentencing phase or
15 the second phase, there's no legal defense to discuss or
16 explore, and guilt of murder has already been established
17 by the jury.

18 So in the second phase of the trial, you would hear
19 evidence concerning aggravation and evidence concerning
20 mitigation. And your oath would require you to abandon
21 any preconceived notion that you might have and to follow
22 the law as I instruct it. In other words, your oath would
23 require you to give serious and meaningful consideration
24 to the aggravation and to the mitigation evidence. Would
25 you honor your oath in that regard?

1 JUROR #163, WILLIAM HORTON: Yes, sir, I would.

2 THE COURT: Okay. And if you were a juror in that
3 situation, in the second or sentencing phase, could you,
4 depending on the particular facts and circumstances of the
5 case, including the consideration of aggravating evidence
6 and mitigating evidence and the law that I would instruct
7 you, could you return a verdict or a sentence of life in
8 prison?

9 JUROR #163, WILLIAM HORTON: Yes, I could.

10 THE COURT: Okay. Conversely, if you were a juror in
11 that second phase, could you, depending on the particular
12 facts and circumstances of the case, including the
13 consideration of aggravating and mitigating circumstance
14 and the law that I would instruct to you, return a
15 sentence of death?

16 JUROR #163, WILLIAM HORTON: Yes, I could.

17 THE COURT: All right. And in the event of a death
18 sentence, the South Carolina law requires that all 12
19 jurors sign their name to the death sentence verdict form.
20 Could you do that?

21 JUROR #163, WILLIAM HORTON: Yes, sir, I could.

22 THE COURT: All right. Do you recall the sheet I had
23 back in the jury room about the three types of jurors?

24 JUROR #163, WILLIAM HORTON: Yes, sir.

25 THE COURT: How would you classify yourself?

1 JUROR #163, WILLIAM HORTON: Number 3.

2 THE COURT: So you could weigh the evidence before
3 you make a decision?

4 JUROR #163, WILLIAM HORTON: Yes, sir.

5 THE COURT: All right. Now, if you were selected,
6 would you -- you would honor your oath and serve as a fair
7 and impartial juror, and would you approach jury service
8 with an open mind to find the truth from the evidence?

9 JUROR #163, WILLIAM HORTON: Yes, sir, I would.

10 THE COURT: Okay. Do you know of any reason why you
11 could not serve?

12 JUROR #163, WILLIAM HORTON: No, sir.

13 THE COURT: All right. I'm going to turn you over to
14 the attorneys.

15 Thank you.

16 MR. BARNETTE: May it please the Court, Your Honor?

17 THE COURT: Yes, sir.

18 EXAMINATION

19 BY MR. BARNETTE:

20 Q Good morning, Mr. Horton. My name is Barry Barnette.
21 This is Trey Gowdy and John Anthony presenting the case.
22 Again, we appreciate you coming in here. I know it's sort
23 of like being in the hot seat or whatever, but this is
24 important --

25 A No, I understand.

1 Q And you're taking it very serious today.

2 A Right.

3 Q Just a couple of questions. I noticed you have two
4 children?

5 A Right.

6 Q They both go to Clemson University?

7 A Both at Clemson.

8 Q And you went to PC?

9 A Presbyterian College, yes, sir.

10 Q And your wife works in Union County?

11 A She's a school psychologist, Union County schools.

12 Q And just a couple of questions in general. You
13 realize the Judge will be giving you the law and you could
14 follow the law as he gives it to you; is that right?

15 A I understand.

16 Q And you would listen to both sides to reach a verdict
17 that you felt would be the fair verdict in this case?

18 A Yes.

19 Q And you realize that we go through a guilt phase and
20 we go through a sentencing phase?

21 A Right. I understand.

22 Q And it could be two parts, you understand. And you'd
23 listen to everything that was said?

24 A I would.

25 Q And consider all the facts?

1 A I would. I take this seriously.

2 MR. BARNETTE: And that's all we can ask you to do.

3 We appreciate it.

4 Thank you very much.

5 Thank you, Your Honor.

6 THE COURT: All right. Thank you.

7 MR. BROUGH: Thank you, Your Honor.

8 EXAMINATION

9 BY MR. BROUGH:

10 Q Good morning, Mr. Horton. I'm Chris Brough. Along
11 with Karen Quimby and Tam Boggs, we represent Mr. Fredrick
12 Evins.

13 As Mr. Barnette asked you about, I notice that both
14 of your children go to Clemson, so I'll bet you are pretty
15 excited about last weekend?

16 A Oh, yeah, good game.

17 Q Well, it was a close one, but it came out pretty good
18 for you.

19 A Right.

20 Q I just want to ask you a couple of questions about
21 some things. When Judge Miller asked you a couple
22 questions about seeing some stuff on the news -- and I
23 noticed from your questionnaire that you tend to watch a
24 lot of news shows regularly, everything from Dateline to
25 the local news?

1 A Right.

2 Q You're pretty well informed, I would imagine?

3 A I would say fairly well informed.

4 Q Did you watch the news a couple days ago?

5 A No, I didn't.

6 Q Did you read the newspaper a couple days ago?

7 A The last newspaper I read was Saturday.

8 Q You read it Saturday?

9 A Yeah.

10 Q You said you remembered some of the publicity
11 surrounding this case. Specifically, could you go into
12 what you remember?

13 A All I remember was someone was abducted from the
14 cigarette shop and was missing for a few days and
15 eventually they found her. And that's about all I know.

16 Q Was that the Cigarette's 4 Less?

17 A It was over on Drayton Avenue.

18 Q Okay. And do you remember --

19 A I really don't know the name of the --

20 Q Name of the store?

21 A Yes.

22 Q Do you remember where they found this person?

23 A I'm thinking out in a field somewhere out in the
24 country.

25 Q Okay. Do you remember any other kind of publicity

1 regarding Mr. Evins at all?

2 A If I'm not mistaken, I think he might have been tied
3 to the lady that was abducted in -- what is it, over -- I
4 can't even think of the name.

5 It's Duncan Park.

6 Q Duncan Park?

7 A Yes, sir.

8 Q And what did you hear about that?

9 A Well, I just knew she was missing for a long -- not
10 missing for a long time, but that went on for a long time,
11 them trying to find out who committed the crime.

12 Q Do you remember anything about the crime?

13 A Just that they found her nude. And I really can't
14 remember whether she -- any sexual -- and, you know, I
15 will admit that I kept thinking it was the husband myself
16 for a long time. We didn't hear a lot of it in the news
17 after a certain amount of time.

18 Q Thank you for your honesty. I appreciate that.

19 I'm going to ask you a couple of other questions as
20 well, specifically, regarding your views on the death
21 penalty. Could you just kind of generally tell me how you
22 feel about it?

23 A Well, I'm a firm believer in the death penalty. I
24 believe everybody knows right from wrong and everybody
25 comes up from a young age knowing that, you know, if you

1 kill somebody, your life is going to be taken. But I do
2 believe there are certain circumstances that can push
3 people to kill, like an abusive situation, you know, where
4 a wife is abused and, you know, can drive someone to kill.
5 And I look at that as a different situation and don't
6 believe that every murder or murderer is -- should receive
7 the death penalty.

8 Q Let me ask you a question. Do you believe that
9 causing death of another individual is always a murder or
10 are there some circumstances?

11 A I think there are some circumstances, but murder is
12 murder. Taking the life of someone is murder.

13 Q And you said a little earlier when I had asked you
14 that growing up that people know right from wrong and that
15 if you take the life of someone else, then your life is
16 going to be taken. So let me ask you this, if -- and I do
17 emphasize if, this trial was to get to a second phase --
18 because, as you know, Mr. Evins is presumed innocent?

19 A Right.

20 Q And if the jury did return a verdict of murder, then
21 would you automatically impose it?

22 A No. I would look at the circumstances in the case.

23 Q Now, I just want to ask you a couple other quick
24 questions, too. I noticed that -- well, you own several
25 businesses, a couple different businesses, but I notice

1 that you have listed, I guess, Frank's was broken into in
2 1999?

3 A Right.

4 Q And you listed that something happened in the case
5 where the person was caught and made restitution?

6 A The person was caught, right, and made restitution.

7 Q Were you involved with anyone at the Solicitor's
8 Office in that case?

9 A You know, I can't remember. I know we had to show up
10 for a hearing for him that we came to. And other than
11 that, I wasn't really involved in anything else. And I
12 don't remember any people. I do remember the judge, Judge
13 Clary.

14 Q It was Judge Clary?

15 A Right.

16 Q So it happened here in Spartanburg?

17 A Right. But other than that, I don't remember working
18 with any lawyers or solicitor or any names.

19 Q So the fact that that case took place wouldn't impact
20 your decision in this case?

21 A No.

22 Q Okay. I also noticed that you said there were
23 several other break-in's at Drew's?

24 A Right. We've got a methadone treatment center that
25 opened next door to us. And since that opened up, we've

1 been broken into six times. In fact, we were broken into
2 last Tuesday night.

3 Q Last Tuesday?

4 A Right.

5 Q So since this clinic has opened up next door to you,
6 have you had the opportunity to see a lot of people that
7 are on drugs?

8 A Well, I'll tell you, it amazes me that that clinic
9 opens at 5:00 in the morning till 11:00 and the parking
10 lot is full all that time.

11 Q Well, let me ask you this, have you ever seen
12 anyone -- I mean, obviously, the parking lot is full.
13 Have you ever seen anyone that was on drugs at the time?

14 A No. I don't really look at the people. I just
15 notice the parking lot.

16 Q Got you. Have you ever been involved in a fight or
17 some sort of heated verbal argument?

18 A When I was young.

19 Q And how did that come out?

20 A I got beat up.

21 Q Well --

22 A Other than that, I've -- I do not like violence and
23 I'm a peaceful -- I like to talk things out. I learned my
24 lesson.

25 Q I think that's pretty reasonable. Okay. I just want

1 to ask you one other -- or two other quick questions about
2 your view on the death penalty. I notice that you go to
3 the methodist church, St. Paul's Methodist Church. What
4 does your church say about the death penalty?

5 A My church has never indicated any -- that -- to my
6 knowledge, anything, you know, swaying a member or
7 whatever one way or the other.

8 Q And I guess --

9 A As far as I know, my church doesn't get involved in
10 that.

11 Q And I guess my last question is just a simple one.
12 What are your views on interracial dating?

13 A I really don't have a problem with it. I wouldn't be
14 excited about it with one of my children, but it is just
15 like gays or whatever, they have a life to live. It's
16 their preference. And, you know, if it's their preference
17 and they're abiding by the law and not doing harm to me,
18 then I have no problem with it.

19 MR. BROUGH: All right. Thank you very much for your
20 time, sir.

21 JUROR #163, WILLIAM HORTON: You're welcome.

22 THE COURT: All right. Mr. Horton, if I could ask
23 you to step in the hall for just a second, please.

24 (Pause.)

25 THE COURT: All right. Anything?

1 MR. BROUGH: We object, Your Honor.

2 He said going through life growing up, if you take
3 someone's life, then you have to expect your life to be
4 taken. And we would challenge the juror based on that.

5 And also, Your Honor, regarding the publicity,
6 clearly, he's heard evidence of the Huff case, which we
7 discussed. We believe and it is our position that since
8 as of now the Court's ruling is that it should be kept out
9 of, at least, the guilt phase, and we would make some
10 future determination based on the two prong test that Your
11 Honor has set up. But since he is aware of that, we
12 believe it would cloud his judgment in the guilt phase.
13 And he would be predisposed and have knowledge of
14 information that as of now and has always been the Court's
15 ruling that it should be kept out of the trial of the
16 case, Your Honor.

17 THE COURT: All right. Mr. Barnette.

18 MR. BARNETTE: Well, Your Honor, he's qualified.
19 He's answered all the questions. He's the type of
20 juror -- Number 3 juror. The situation about the
21 publicity and everything, Your Honor, he said he could put
22 that out of his mind. He answered all of Your Honor's
23 questions properly concerning that. He also said he'd
24 look at the circumstances and decide based on the
25 circumstances. And we believe he's qualified.

1 THE COURT: Mr. Boggs.

2 MR. BOGGS: May I add one thing?

3 THE COURT: Yes.

4 MR. BOGGS: The criteria is that whether or not his
5 ability to fairly judge could be substantially impaired.
6 And whether a person wants to -- a person wants to believe
7 he can set aside things, but if the Court's ruling
8 eventually is it has nothing to do with this, he's already
9 testified that that's in his mind.

10 The other thing about him that really just shocked me
11 was the detail that he remembers about this. He says he
12 hasn't heard anything about it in a while, but the detail,
13 where it occurred, in Drayton, where the -- the body and
14 how the body was found, how it was associated with the
15 Duncan Park thing. He remembers Duncan Park. He
16 remembers everything except the sexual conduct with
17 particularity with which he knows it either means he's
18 heard something recently or -- and this is the real
19 hazard, the impact it made upon him back when he did hear
20 about it has made a tremendous impression on him, because
21 he can remember the specific details.

22 It's our position that he cannot be -- his judgment
23 cannot be, at least, somewhat impaired by the introduction
24 of the Huff testimony into this case. And for that
25 reason, we're going to ask that he be excused. I don't

1 think he can be impartial. And that's the standard that
2 the Court has to look at at this stage.

3 MR. BARNETTE: Your Honor, you have to look at his
4 total testimony from the standpoint -- what he testified
5 to was he could look at the total circumstances and make a
6 decision on the circumstances. He's very specific about
7 that. He said he could put it out of his mind and he
8 would listen to what is here in court. And I believe that
9 meets the standard of being qualified. And he is not
10 substantially impaired based on the standard.

11 MR. BOGGS: Well, it's up to the Court to make that
12 determination.

13 MR. BARNETTE: I understand.

14 THE COURT: I understand.

15 MR. BOGGS: And his view on the death penalty, he's a
16 firm believer, then you add in the publicity thing, Judge.

17 THE COURT: Well, I can certainly understand your
18 views on it, but I do think that he is qualified. So I'm
19 going to -- I will overrule your objection on that.

20 Okay.

21 THE BAILIFF: Bring him in?

22 THE COURT: Let's get the next one.

23 THE BAILIFF: Do you want me to bring Mr. Horton back?

24 THE COURT: Yes, sir. Bring him back. I'm sorry.

25 (Pause.)

1 THE COURT: Mr. Horton, I want to give this to you to
2 hang on to and read. I want to tell you that you are
3 still a qualified juror in this case, which means you
4 would be -- you're not finished.

5 JUROR #163, WILLIAM HORTON: Okay.

6 THE COURT: And you will be summoned back. It could
7 be two or three days for the selection process.

8 JUROR #163, WILLIAM HORTON: Okay.

9 THE COURT: So I will further admonish you not to
10 read the newspaper, listen to the radio, or watch
11 television.

12 JUROR #163, WILLIAM HORTON: Right.

13 THE COURT: And don't discuss this with anybody else.

14 JUROR #163, WILLIAM HORTON: Right. I understand.

15 THE COURT: All right. Thank you very much.

16 JUROR #163, WILLIAM HORTON: Thank you.

17 THE BAILIFF: Telephone number.

18 THE COURT: Charlena, don't we have his telephone
19 number?

20 THE CLERK: Yes, sir.

21 THE COURT: All right. Thank you.

22 (Juror #163, William Horton, was excused from the
23 courtroom.)

24 THE COURT: All right. Is everybody all right or do
25 you want to take two minutes?

1 Let's take a few minutes.

2 (WHEREUPON, a break was taken.)

3 THE COURT: We've got 20 minutes to do three of them.
4 Here we go.

5 (Juror #241, Michael McGrath, a white male, was
6 seated.)

7 THE COURT: Hi. Welcome to court. How are you?

8 JUROR #241, MICHAEL MCGRATH: Fine.

9 THE COURT: A Couple things I want to do is tell you,
10 first of all, it's mandatory when you're sitting in that
11 seat that you have to be comfortable and at ease. It's
12 mandatory. I know that's a weak attempt at humor. I know
13 this is a hot seat and it's nerve wracking where you are,
14 but I just want to -- I'm trying to put you at ease and
15 make you feel as comfortable as you can.

16 We're going to ask you a few questions. And I want
17 you to know there are no right or wrong answers. The only
18 right answers are what you truly feel. And we just want
19 your heartfelt responses to these questions.

20 One thing I wanted to tell you beforehand is that if
21 you are selected, finally selected on the jury, then --
22 and this -- we're going through the qualification process
23 right now. But if you're finally selected -- and I've
24 told you about sequestration. It would mean staying in
25 the Marriott Hotel for anywhere -- we're guessing four or

1 five to seven days. I just want to let you know that
2 beforehand.

3 Now, the other thing I want to do before we start
4 asking you questions is let you know that these
5 indictments -- we talked briefly about them before --
6 they're not evidence and are not to be construed as
7 evidence. They contain allegations that have been written
8 down on paper, which is the document that allows the case
9 to wind its way through the system and end up here in
10 court.

11 But I want to give you a little bit of information
12 out of the indictments. They allege that Mr. Evins did in
13 Spartanburg County, February 13th, 2003, unlawfully and
14 with malice aforethought kill Rhonda Marie Ward. Another
15 indictment is for kidnapping. It alleges that Mr. Evins
16 did on the same day seize or kidnap Rhonda Marie Ward.
17 Another indictment -- another charge is that Mr. Evins did
18 in Spartanburg County on the same date unlawfully and
19 willfully commit a sexual battery upon Rhonda Marie Ward.
20 And, finally, the last indictment is for grand larceny.
21 And it alleges that Mr. Evins did in Spartanburg County,
22 same date, unlawfully and feloniously carry away Ms.
23 Rhonda Marie Ward's 1993 Nissan Sentra and its contents.

24 Now, we recognize and understand there has been
25 publicity regarding this case. It's been on television,

1 and the radio, and in the newspaper. So I just want to
2 know, have you personally read, seen, or heard anything
3 about the case?

4 JUROR #241, MICHAEL MCGRATH: I have read about it.
5 And also, before we go much further, I didn't have the
6 opportunity to read the witness list before I came in here
7 earlier. And when I went back in and read the
8 Prosecution's list, I saw on it that there was a James
9 Huff that I'm related to --

10 THE COURT: All right.

11 JUROR #241, MICHAEL MCGRATH: -- on that list.

12 THE COURT: Okay. Well, we'll explore that in a
13 little bit. Okay.

14 JUROR #241, MICHAEL MCGRATH: Okay.

15 THE COURT: But tell us a little bit about what you
16 know about this case and where you know it from.

17 JUROR #241, MICHAEL MCGRATH: Well, just from reading
18 about it in the paper and hearing it on the news. And
19 it's tied into another case that I was very familiar with.

20 THE COURT: Okay.

21 JUROR #241, MICHAEL MCGRATH: The Huff case.

22 THE COURT: All right. Now, let me just ask you
23 this, do you understand that your oath, as a juror, would
24 require you to disregard anything that you have read,
25 heard, or seen about this case and you would be required

1 to decide the case only on the facts presented at trial.

2 Could you put aside what you know or have heard about
3 this case and make your decision solely on the evidence
4 presented at trial?

5 JUROR #241, MICHAEL MCGRATH: I think I'd have a hard
6 time doing that.

7 THE COURT: Okay. Do you think you could serve as a
8 fair and impartial juror and reach a verdict based on the
9 facts presented at trial and put everything else aside?

10 JUROR #241, MICHAEL MCGRATH: (There was no response.)

11 THE COURT: Again, there are no right or wrong
12 answers. We just want the truth.

13 JUROR #241, MICHAEL MCGRATH: Just knowing what I
14 know about the one case, it would be hard to put all that
15 aside.

16 THE COURT: Okay. What is it that you know, if you
17 don't mind telling me?

18 JUROR #241, MICHAEL MCGRATH: From what I understand,
19 that they got DNA from Mr. Evins and it linked him to the
20 Huff case.

21 THE COURT: And are you -- you've mentioned the Huff
22 case twice now. Do you understand this is --

23 JUROR #241, MICHAEL MCGRATH: This is a different
24 case, I know.

25 THE COURT: And that case could not be considered in

1 this case.

2 Do you understand that?

3 JUROR #241, MICHAEL MCGRATH: Yes, I do.

4 THE COURT: All right. Well, have you -- and let
5 me -- just, again, no wrong or right answers. Do you
6 think you've already formed an opinion about the guilt or
7 innocence of Mr. Evins?

8 JUROR #241, MICHAEL MCGRATH: I believe I have, yeah.

9 THE COURT: Okay. Do you think there's any way you
10 could put that aside?

11 JUROR #241, MICHAEL MCGRATH: No.

12 THE COURT: Okay. Well, let me ask you to just --
13 Mr. McGrath, to step out in the hallway for just a second.

14 JUROR #241, MICHAEL MCGRATH: Okay.

15 (Pause.)

16 THE COURT: Do y'all want to question him?

17 MR. BARNETTE: No, sir. He's not qualified.

18 MR. BOGGS: We agree.

19 THE COURT: All right. Let's bring him back in and
20 let me tell him, if you will.

21 (Pause.)

22 THE BAILIFF: Go ahead and face the Judge, please,
23 sir.

24 THE COURT: You're fine right there.

25 Thank you, Mr. McGrath, for coming.

1 I want to let you know how much we appreciate the
2 sacrifices you've made to be up here and, particularly,
3 the honesty with which you've answered the questions. But
4 at this time, we're going to excuse you from service.

5 JUROR #241, MICHAEL MCGRATH: All right.

6 THE COURT: Thank you very much.

7 (Juror #241, Michael McGrath, was excused from the
8 courtroom.)

9 THE COURT: Bring the next juror in, please.

10 (Juror #388, Joel Williams, Jr., a white male, was
11 seated.)

12 THE COURT: Mr. Williams, how are you doing?

13 JUROR #388, JOEL WILLIAMS, JR.: Fine.

14 THE COURT: We're glad to have you in the courtroom.
15 And I've been trying to put everybody at ease when they
16 come in and sit in that chair. It's just hard to do. I
17 know it's nerve racking. It's a very nervous or anxious
18 place to be. And I've told a number of people that if
19 you're not nervous when you're sitting right there, then
20 there's probably something wrong with you. So it's
21 completely normal for you to be a little bit on your -- on
22 edge up there.

23 But I do want to tell you that we're going to ask you
24 a few questions. It's very important that we do that.
25 And I want to emphasize that there are no right or wrong

1 answers when you answer these questions. The only thing
2 that we want from you would be just completely truthful,
3 heartfelt responses to the questions. And no one is here
4 to judge you or make any judgments about your answers to
5 these questions.

6 Another thing I want to make sure you understand is
7 that sequestration would involve -- if you were selected
8 on the jury -- we're right now doing the qualification
9 process. But if you're selected, you'd be sequestered and
10 it could be up to a week long. And we don't know, you
11 know, four to seven days, something like that. You'd be
12 staying at the Marriott Hotel. I just wanted to let you
13 know that. Okay.

14 JUROR #388, JOEL WILLIAMS, JR.: (Juror nodded.)

15 THE COURT: Now, I've got indictments up here that I
16 referred to before. And I want to make sure you
17 understand they are not evidence and cannot be construed
18 to be evidence against Mr. Fredrick Antonio Evins.

19 But they do allege -- and they contain just
20 allegations that in Spartanburg County on or about
21 February 13th, 2003, he did unlawfully and with malice
22 aforethought kill Rhonda Marie Ward. He's also charged on
23 the same date with unlawfully kidnapping or abducting
24 Rhonda Marie Ward. He's also charged on the same date
25 with willfully and unlawfully committing a sexual battery

1 upon Rhonda Marie Ward. And, finally, he is charged in an
2 indictment for grand larceny, which on the same date, he
3 feloniously carried away Ms. Rhonda Marie Ward's 1993
4 Nissan Sentra and its contents.

5 Okay. Those are the charges -- the basic substance
6 of the charges against Mr. Evins. And I want to ask
7 you -- or tell you, we recognize there's been publicity
8 about the case on the television, and newspaper, and radio
9 and so forth. And I just want to know, have you read,
10 heard, or seen anything about the facts of this case?

11 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

12 THE COURT: Tell me what you've heard and seen.

13 JUROR #388, JOEL WILLIAMS, JR.: Well, I don't know
14 much. I read in the newspaper that they were going to
15 call 200 people to pick a jury from.

16 THE COURT: Was that on Monday morning?

17 JUROR #388, JOEL WILLIAMS, Jr.: Yeah, somewhere
18 around there.

19 THE COURT: All right. Anything else you remember?

20 JUROR #388, JOEL WILLIAMS, JR.: No, sir.

21 THE COURT: Okay. You don't remember anything they
22 said about the facts of the case or anything like that?

23 JUROR #388, JOEL WILLIAMS, JR.: No, sir.

24 THE COURT: Okay. I guess you knew you were coming
25 up here so that's what was important to you.

1 JUROR #388, JOEL WILLIAMS, JR.: Pretty much.

2 THE COURT: Okay. Do you remember any other media
3 coverage, any television, or anything from a year or so
4 ago?

5 JUROR #388, JOEL WILLIAMS, JR.: I don't know if this
6 is about this case or not, but I heard of a murder over
7 at -- over by Drayton Mills, a murder over there. I
8 didn't -- and what they said in the newspaper was that
9 they were calling a jury for that case. I wasn't sure if
10 this was it or not. That's all I can say.

11 THE COURT: You don't remember the facts? Did they
12 say any facts in there?

13 JUROR #388, JOEL WILLIAMS, JR.: Not that I remember.

14 THE COURT: All right. Well, you understand that, as
15 a juror, your oath would require you to disregard anything
16 you might have read, seen, or heard about this case. And
17 you would be required to decide the facts only from the
18 evidence presented at trial, you know; only what you heard
19 in the courtroom after somebody put their hand on the
20 Bible and swore to tell the truth, and the other evidence
21 that might be introduced here at trial where they would be
22 subject to Constitutional protections. Okay.

23 Do you understand that?

24 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

25 THE COURT: Your oath would require you to put

1 everything else aside and just deal with that.

2 JUROR #388, JOEL WILLIAMS, JR.: Yes.

3 THE COURT: Do you think you could do that?

4 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

5 THE COURT: Would you serve as a fair and impartial
6 juror and reach a verdict based on the facts presented at
7 trial in accordance with my instructions to you on what
8 the law is?

9 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

10 THE COURT: Okay. Have you already formed an opinion
11 in any way about the facts of this case?

12 JUROR #388, JOEL WILLIAMS, JR.: No, sir. I don't --
13 I haven't heard anything, you know. I can't make an
14 opinion.

15 THE COURT: Okay.

16 JUROR #388, JOEL WILLIAMS, JR.: I have nothing to go
17 on.

18 THE COURT: Okay. And do you have any -- have you
19 formed any opinion about the guilt or innocence of
20 Mr. Evins?

21 JUROR #388, JOEL WILLIAMS, JR.: No, sir.

22 THE COURT: Okay. Now, keeping in mind the legal
23 principles of the presumption of innocence and the State's
24 obligation to prove guilt beyond a reasonable doubt,
25 depending on the facts and the circumstances -- the facts

1 and the evidence presented and the law as I would instruct
2 it, could you find a defendant guilty or not guilty just
3 depending on what you heard?

4 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

5 THE COURT: Okay. Now, again, please remember, we
6 may never reach the second phase of the trial, we might
7 not get there, but since we possibly could, I need to ask
8 you about your views on the death penalty. Okay.

9 JUROR #388, JOEL WILLIAMS, JR.: (Juror nodded.)

10 THE COURT: Now, when a jury moves to the sentencing
11 phase, that means that that same jury has already found a
12 particular defendant guilty of murder. So in the second
13 phase, there is no legal defense to discuss or explore by
14 the jury. Okay. All that is done, the jury has already
15 found guilt of murder.

16 Do you understand that?

17 JUROR #388, JOEL WILLIAMS, JR.: (Juror nodded.)

18 THE COURT: Okay. Now, in the second phase or the
19 sentencing phase of the trial, we would hear evidence that
20 I've already described to you as mitigating circumstances
21 and aggravating circumstances. Okay.

22 Do you understand that?

23 One is going to be presented to make the crime seem
24 less, to lessen it. One is going -- and that's
25 mitigating. Aggravating is going to be presented to make

1 it seem greater. Okay.

2 JUROR #388, JOEL WILLIAMS, JR.: (Juror nodded.)

3 THE COURT: All right. Now, understanding that, your
4 oath would require you to abandon any preconception you
5 might have and follow the law as I instruct it. Okay. In
6 other words, your oath would require you to give serious
7 and meaningful consideration to the mitigating
8 circumstances and to the aggravating circumstances.

9 Would you honor your oath in that regard?

10 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

11 THE COURT: Okay. Now, if you were a juror in that
12 situation, where we were in the second phase and had
13 already found somebody guilty, would you -- or could you,
14 depending on the facts and the circumstances of the case,
15 including consideration of the aggravating circumstances
16 and the mitigating circumstances and the law I would give
17 you, could you return a verdict of life without parole?

18 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

19 THE COURT: Okay. Now, flip of the coin, if you're a
20 juror in that situation, depending on the particular facts
21 and circumstances of the case and the mitigating evidence
22 and the aggravating evidence and the law, could you return
23 a verdict of death?

24 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

25 THE COURT: Okay. Now, in the event of a death

1 sentence, South Carolina requires every juror to sign
2 their name to the verdict form. So if that occurred,
3 could you sign your name to a death sentence verdict form?

4 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

5 THE COURT: Now, do you recall the three types of
6 jurors I had on that list?

7 JUROR #388, JOEL WILLIAMS, JR.: (There was no
8 response.)

9 THE COURT: Kind of, sort of. Do you want to look at
10 it again?

11 JUROR #388, JOEL WILLIAMS, JR.: (Juror nodded.)

12 THE COURT: Hang on. We'll get it for you.

13 Okay. How would you characterize yourself?

14 JUROR #388, JOE WILLIAMS, JR.: Well, I'm a juror
15 that has to hear all the facts before I can make an
16 opinion. I can't just come in, you know, and listen to
17 what somebody says and make a decision to know whether for
18 him to be guilty or not.

19 THE COURT: Okay.

20 JUROR #388, JOEL WILLIAMS, JR.: I have to take in
21 everything, you know. I can hear only certain things and
22 one thing might be left out that could change my mind.

23 THE COURT: So you would want to hear all the
24 evidence?

25 JUROR #388, JOEL WILLIAMS, JR.: Right.

1 THE COURT: Before you made a decision. That would
2 put you in the Number 3 category, wouldn't it?

3 JUROR #388, JOEL WILLIAMS, JR.: Yeah.

4 THE COURT: Thank you. I appreciate that.

5 So if you were selected, you would honor your oath
6 and serve as a fair and impartial juror?

7 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

8 THE COURT: And you would approach jury service with
9 an open mind to find the truth from the evidence and the
10 law?

11 JUROR #388, JOEL WILLIAMS, JR.: Yes, sir.

12 THE COURT: Okay. Do you know of any reason why you
13 couldn't serve?

14 JUROR #388, JOEL WILLIAMS, JR.: No, sir.

15 THE COURT: Okay. I'm going to let the lawyers ask
16 you a few questions.

17 MR. ANTHONY: Thank you, Your Honor.

18 THE COURT: Yes, sir.

19 EXAMINATION

20 BY MR. ANTHONY:

21 Q Hey, Mr. Williams. My name is John Anthony. And I,
22 along with Mr. Barnette, Barry Barnette, and Trey Gowdy,
23 we're the lawyers that are going to be representing the
24 State in this case.

25 I see -- just looking from your questionnaire, I see

1 you're a wrestling fan. Did you catch Raw last night?

2 A Yes, sir.

3 Q Did you see the T-Sort [phonetic] match?

4 A Yes, sir.

5 Q It was a pretty good match, wasn't it?

6 A Yes, sir.

7 Q Just going back over real briefly what the Judge
8 asked you about, I know you said you've read some stuff
9 about this in the paper; is that right?

10 A (Juror nodded.)

11 Q Did you read it in the paper or see it on TV?

12 A I read part of it in the paper.

13 Q But you could just set all that aside if you're made
14 a juror in this case?

15 A Right.

16 Q And if you -- if the case goes to a sentencing phase,
17 and you heard all the evidence, you heard the evidence
18 that we'd present, and you'd hear the evidence that the
19 Defense would present and you thought that voting for life
20 without parole was the right thing to do, could you do
21 that?

22 A Yes, sir.

23 Q It wouldn't just be an automatic thing that you'd
24 want to vote for death?

25 A No, sir.

1 Q But, at the same time, if you heard all the evidence
2 that both sides presented and listened to the instructions
3 from the Judge, and you decided that voting for the death
4 penalty in this case was the right thing to do, could you
5 do that?

6 A Yes, sir.

7 Q It wouldn't be something that you'd have a
8 reservation about if you thought it was the right thing to
9 do?

10 A No, sir.

11 MR. ANTHONY: Thank you.

12 That's everything from the State.

13 Thank you, Mr. Williams.

14 THE COURT: All right.

15 MR. BROUGH: Your Honor --

16 THE COURT: Yes, sir.

17 EXAMINATION

18 BY MR. BROUGH:

19 Q How are you doing, Mr. Williams?

20 A Fine.

21 Q I also noticed on your questionnaire that you listen
22 to 93? Did you listen to it coming in this morning?

23 A Yes, sir.

24 Q Did you catch the war of the roses they had on there?

25 A Yes, sir.

1 Q Pretty crazy, huh?

2 A Yeah.

3 Q I just want to ask you a couple of quick questions.
4 When Judge Miller asked you if you had heard anything
5 about the case, you mentioned that you might have seen
6 something or read something in the paper, something that
7 might have happened down at Drayton Mills. Could you tell
8 me what you saw?

9 A I didn't read -- well, I read it. I didn't read the
10 whole thing. I just remembered part of it, something
11 about it. I don't remember any names or what took place.
12 All I know is they said they were calling 200 people for a
13 jury on that case. I don't know anybody involved or what
14 happened, just that it was something about murder.

15 Q Okay. And you don't remember any names or anything
16 else?

17 A No, sir.

18 Q Do you remember any other kind of publicity relating
19 to Mr. Evins at all?

20 A No, sir.

21 Q All right. I just want to ask you a couple of
22 questions. I noticed on your questionnaire that I saw
23 that your neighbors, you said, were robbed in the middle
24 of the night?

25 A Yes, sir.

1 Q Can you tell me about that?

2 A I heard about it the next day.

3 Q You heard about it the next day?

4 A Yeah.

5 Q I notice that, I guess, you and your family own some
6 firearms, did you check them afterwards and make sure that
7 they worked?

8 A They worked.

9 Q They worked. Okay. And I guess you made sure they
10 worked just in case -- and I was just wondering kind of
11 just in case what happened?

12 A In case somebody broke in our house.

13 Q Okay. So if somebody did break into your house, that
14 would be how you would deal with it?

15 A (Juror nodded.)

16 Q Do you think that people that break into someone's
17 house deserves to be killed?

18 A Not to be killed, but to defend me.

19 MR. ANTHONY: Objection, hypothetical.

20 MR. BROUGH: I'll move on.

21 THE COURT: All right.

22 BY MR. BROUGH:

23 Q I also notice on your questionnaire, you said that
24 you had seen a man beaten with a lead pipe and had many
25 bruises and cuts. Could you tell me about that?

1 A It was one of my friend's friend. I don't know them
2 personally, but I saw him the next day and I heard about
3 what happened. His face was, you know, tore up pretty
4 bad. He had stitches from here to here and --

5 Q What did he tell you happened. You said you heard
6 about what happened. What did he tell you happened?

7 A He was jumped by a group of people.

8 Q He didn't describe the group of people to you?

9 A No.

10 Q I'm just going to ask you some questions about the
11 death penalty now. Could you just kind of tell me what
12 your views on the death penalty are?

13 A I think the death penalty -- I think that's -- you
14 know, if you chose between a death penalty and spending
15 life in jail without parole, you're going to die in jail
16 anyway. So getting the death penalty is kind of
17 shortening it. And I think anybody who kills anybody or
18 takes somebody's life ought to have theirs taken.

19 Q I understand that. I appreciate that. And I'm not
20 here to try and change your mind. I just want you to be
21 honest, and we'll just kind of have a little bit of a chat
22 about it.

23 The other thing I wanted to ask you, I just want to
24 ask you a couple of other quick questions. Have you ever
25 known anybody under the influence of drugs or alcohol or

1 anything like that?

2 A Yes, sir.

3 Q Have you seen them while they're under the influence?

4 A Yes, sir.

5 Q Can you kind of tell me about that?

6 A Well, people do drugs and get messed up, you know,
7 and you know what they look like. And, I mean, I've seen
8 that before. I ain't saying I'm one of these people, but
9 I've seen people that do that and how they react.

10 Q And how do they react?

11 A I mean, if you're drunk or high, you know, you don't
12 normally -- you're off in outer space somewhere.

13 Q I just want to ask you one other question. What are
14 your thoughts on interracial dating or anything like that?

15 A I don't have any problems with it. I don't think
16 it's -- I'm not saying I think it's right or I think it's
17 wrong. People have a choice of who they want to date.
18 That's fine.

19 MR. BROUGH: All right. Thank you very much.

20 THE COURT: Mr. Williams, let me just get -- if you
21 don't mind, just straighten me out a little bit on your
22 feelings on the death penalty. You think -- just tell me
23 what you think honestly about it.

24 JUROR #388, JOEL WILLIAMS, JR.: (There was no
25 response.)

1 THE COURT: Not what you think I want to hear, just
2 tell me what you think.

3 JUROR #388, JOEL WILLIAMS, JR.: Well, I think
4 it's -- you know, it should be used in certain cases.
5 But, you know, depending on how everything goes and what
6 they did, you know, how badly it happened and what all was
7 involved, but --

8 THE COURT: Well, do you think it ought to be used in
9 every case where somebody is convicted of murder?

10 JUROR #388, JOEL WILLIAMS, JR.: No.

11 THE COURT: It's a tough question, isn't it?

12 JUROR #388, JOEL WILLIAMS, JR.: Yeah. I have to
13 think about it.

14 THE COURT: I'm just -- all I -- as I said, there are
15 no right or wrong answers. I just want to know how you
16 feel, that's the key. That's the key here.

17 JUROR #388, JOEL WILLIAMS, JR.: I don't think it
18 ought to be used in every case. But if everything is
19 stated to me and I could make a choice of that, depending
20 on, you know, whether somebody -- I don't know.

21 THE COURT: Go ahead. I mean, honestly, go ahead.

22 JUROR #388, JOEL WILLIAMS, JR.: I don't know what to
23 say.

24 THE COURT: Okay. Well, let me get you to step out
25 into the hallway for just a second. And we'll get back

1 with you in just a second.

2 (Pause.)

3 THE COURT: Okay. What do y'all think?

4 MR. BOGGS: We object to him, Your Honor.

5 Do you want a reason?

6 THE COURT: Yes.

7 MR. BOGGS: Well, there are two things. Number one
8 is when asked, specifically, what your view on a death
9 penalty case is, he says anyone who kills someone should
10 have his life taken. That's pretty cut and dry right there.

11 But to also go with a preconceived -- or a basic
12 tenant of your philosophy of when it comes to life and
13 death saying, well, if you're going to get life anyway,
14 the death penalty just shortens it. That's a dangerous
15 type attitude to take into a courtroom -- I mean, into a
16 jury room when the decision is only left to one or two
17 things, life and death.

18 So his idea is, let's shorten it anyway. So he's
19 going to shorten it anyway for whatever reason, save the
20 State money. I don't know. But those two statements make
21 him -- indicate to us that he could not reach a decision
22 based on what he heard in the courtroom. He has
23 preconceived ideas that he stated rather emphatically.

24 THE COURT: All right. The State?

25 MR. ANTHONY: Well, there's nothing wrong with having

1 an idea. I mean, he said repeatedly when the Court
2 started his examination and then at the end of the
3 examination, both times when the Court was talking to him,
4 he said several times that he did not think it was
5 appropriate in all cases and he could vote to give life
6 without parole. So the State believes he would be
7 qualified.

8 THE COURT: I'll tell you, I'm going to excuse
9 Mr. Williams from service in this case. I just think he's
10 a little too far.

11 Let's bring him back on in.

12 (Pause.)

13 THE COURT: Hey, Mr. Williams.

14 I want to tell you how much I appreciate you being up
15 here and the sacrifices you've made to be away. And I
16 know this is a tough thing and it's probably not the most
17 pleasant place you've been in your life, but we really
18 appreciate it. And I am going to excuse you from service
19 in this case.

20 So you're free to go and you can read the newspaper,
21 do whatever you want. Don't talk about the case to
22 anybody until it's over with, though. Okay.

23 Thank you very much.

24 (Juror #388, Joel Williams, Jr., was excused from the
25 courtroom.)

1 THE COURT: Bring the next juror in, please.

2 (Juror #172, Derek Huntsinger, a white male, was
3 seated.)

4 THE COURT: How are you doing?

5 JUROR #172, DEREK HUNTSINGER: Fine.

6 THE COURT: We're going to ask you a few questions.
7 I'm going to give you a few opening remarks and then ask
8 questions. And I want you to know there are no right or
9 wrong answers here. I just -- the only thing we're
10 interested in is truthful and, really, your heartfelt
11 responses. It's not easy to do sitting in that chair with
12 people looking at you and taking notes and all that stuff.
13 And we all understand that, I promise you. But it's a
14 serious and solemn event that we're involved in here. So
15 it's very important that we do get your truthful,
16 complete, accurate and really heartfelt responses to these
17 questions. And they're asking some tough questions here.

18 In any event, I want to tell you again about the
19 charges up here. These indictments are not evidence,
20 they're just allegations. Okay. And they allege that
21 Fredrick Antonio Evins did in Spartanburg County on
22 February 13th of, 2003, unlawfully and with malice
23 aforethought kill Rhonda Marie Ward. He's also charged in
24 a kidnapping indictment that alleges on the same date, he
25 unlawfully kidnapped or abducted Rhonda Marie Ward. He's

1 also charged with criminal sexual conduct. And it alleges
2 that he did unlawfully commit a sexual battery upon Rhonda
3 Marie Ward. It also alleges that he did, on the same date
4 take and feloniously carry away Rhonda Marie Ward's 1993
5 Nissan Sentra and its contents.

6 So I want to ask you, initially, we recognize there's
7 been publicity about this case in the newspaper, and on
8 the television, and on the radio. I just want to know
9 whether or not you have heard, read, or seen anything
10 about the facts that I've just described to you?

11 JUROR #172, DEREK HUNTSINGER: I don't think so.

12 THE COURT: Okay. You know, this occurred a year and
13 a half ago, so search your memory. Do you recall anything
14 about it?

15 JUROR #172, DEREK HUNTSINGER: Not this case. I
16 mean, I see all kinds of stuff on the news.

17 THE COURT: This doesn't jump out at you?

18 JUROR #172, DEREK HUNTSINGER: No.

19 THE COURT: All right. Well, good. Do you
20 understand, as a juror, your oath would require you to
21 disregard anything that you might have heard, read, or
22 seen about the case, and you would have to decide the
23 facts only from the evidence presented at trial?

24 Do you understand that?

25 JUROR #172, DEREK HUNTSINGER: Yes, sir.

1 THE COURT: Okay. Would you serve as a fair and
2 impartial juror and reach a verdict based on the facts
3 presented at trial and in accordance with my instructions
4 on the law?

5 JUROR #172, DEREK HUNTSINGER: I believe so.

6 THE COURT: Okay. Have you in any way already formed
7 an opinion about the facts?

8 JUROR #172, DEREK HUNTSINGER: I don't really know
9 the facts.

10 THE COURT: Okay. And in any way, have you formed an
11 opinion about Mr. Evins' guilt or innocence?

12 JUROR #172, DEREK HUNTSINGER: No, sir.

13 THE COURT: Okay. Now, keeping in mind the legal
14 principles of the presumption of innocence and the State's
15 obligation to prove guilt beyond a reasonable doubt,
16 depending on the facts and circumstances presented at
17 trial and the law as I would instruct it to you, could you
18 find the Defendant guilty or not guilty?

19 JUROR #172, DEREK HUNTSINGER: I believe so.

20 THE COURT: Okay. Now, remember, we may not even
21 reach the second phase of the trial, but since we could, I
22 need to ask you -- question you about your views about the
23 death penalty.

24 Do you understand?

25 JUROR #172, DEREK HUNTSINGER: Uh-huh.

1 THE COURT: Now, when a jury moves to the sentencing
2 phase, the second phase of the trial, that means that the
3 jury has already found that Defendant guilty of murder.

4 JUROR #172, DEREK HUNTSINGER: Uh-huh.

5 THE COURT: So in the second phase, the jury would
6 not have to consider any legal defense or -- there
7 wouldn't be a legal defense to discuss or explore.

8 Do you understand that?

9 JUROR #172, DEREK HUNTSINGER: Yep.

10 THE COURT: Okay. Guilt of murder would have already
11 been established by the jury.

12 JUROR #172, DEREK HUNTSINGER: Uh-huh.

13 THE COURT: And in the second phase, we -- or you
14 would hear evidence that I've referred to as aggravation
15 and mitigation. Now, your oath would require you to
16 abandon any preconceived notion or conception that you
17 might have and to follow the law as I instruct it. In
18 other words, in your oath would require you to give
19 serious and meaningful consideration to the aggravating
20 circumstances and to mitigating circumstance. Would you
21 honor your oath in that regard?

22 JUROR #172, DEREK HUNTSINGER: Yeah.

23 THE COURT: Okay. And if you were a juror in that
24 situation, in the sentencing phase, could you, after
25 listening to all the evidence and the facts and the

1 circumstances of the case, including aggravating
2 circumstances and including mitigating circumstances and
3 the law that I would charge you, could you return a
4 sentence of life in prison?

5 JUROR #172, DEREK HUNTSINGER: Yep.

6 THE COURT: Okay. And as a juror in that situation,
7 depending on the particular facts and circumstances of the
8 case, including all the aggravating circumstances and the
9 mitigating circumstances and the law, could you return a
10 sentence of death?

11 JUROR #172, DEREK HUNTSINGER: Yep.

12 THE COURT: Okay. Now, in the event that a death
13 sentence was determined or decided upon by the jury, the
14 South Carolina law requires all jurors to sign their names
15 to the verdict form. Could you sign your name to a death
16 sentence verdict form?

17 JUROR #172, DEREK HUNTSINGER: Uh-huh.

18 THE COURT: Now, do you remember the list of the
19 three types of jurors?

20 JUROR #172, DEREK HUNTSINGER: (Juror nodded.)

21 THE COURT: How do you classify yourself?

22 JUROR #172, DEREK HUNTSINGER: I guess I would be
23 Number 3.

24 THE COURT: All right. You could listen to
25 everything before you made your decision?

1 JUROR #172, DEREK HUNTSINGER: Yep.

2 THE COURT: All right. And would you approach jury
3 service with an open mind to find the truth from the
4 evidence?

5 JUROR #172, DEREK HUNTSINGER: Yes, sir.

6 THE COURT: Do you know of any reason why you can't
7 serve?

8 JUROR #172, DEREK HUNTSINGER: No.

9 THE COURT: All right. I'm going to let the lawyers
10 ask you a few questions.

11 MR. BROUGH: May it please the Court?

12 THE COURT: Yes.

13 EXAMINATION

14 BY MR. BROUGH:

15 Q How are you doing today, Mr. Huntsinger?

16 A Pretty good.

17 Q I notice that you -- one of your hobbies is playing
18 video games?

19 A Yep.

20 Q Do you have a PS2 or X-Box?

21 A Both.

22 Q What's your favorite game?

23 A Grand theft auto.

24 Q Grand theft auto?

25 A Yep.

1 Q Pretty good stuff. Do you have the new one that just
2 came out?

3 A Yes, I do.

4 Q I haven't played it yet, I'll have to get on it. I'm
5 just going to ask you a couple of quick questions. I know
6 Judge Miller just asked you if you had ever read about
7 anything in the paper or seen anything in the news?

8 A It's possible.

9 Q It's possible. I know you said you saw all kinds of
10 things on the news. Do you remember anything about
11 anything happening regarding a cigarette store or anything
12 like that?

13 A I guess. I don't know. Yeah, somebody did.

14 Q Why don't you tell me about what you heard?

15 A I heard somebody got killed at a cigarette store.

16 Q Is that all you heard?

17 A I don't remember specific names, or dates, or places.

18 Q I'm not asking for that. I'm just asking what you
19 heard.

20 A I don't remember exactly. It was a long time ago.

21 Q Okay. I noticed that your mother is a court
22 reporter?

23 A Yes, sir.

24 Q Which judge does she work for?

25 A She works in the Master in Equity Office.

1 Q Master in Equity?

2 A Yes, sir.

3 Q Does she ever talk to you about work?

4 A We don't live together, so I haven't spoken to her.

5 Q I also noticed that you said that you had a female
6 friend that was badly beaten by her boyfriend?

7 A Yes.

8 Q Could you tell me about that?

9 A What do you want to know?

10 Q Just generally what happened.

11 A Well, I wasn't there at the time, but I took her to
12 the hospital. I don't know.

13 Q How did she look when you took her to the hospital?

14 A She had a black eye. That was about it.

15 Q That was about it?

16 A Yep.

17 Q If that was about it, why did you say she was badly
18 beaten?

19 A The incident I was present for, I took her to the
20 hospital and she had a black eye. I don't know exactly
21 what happened.

22 Q I'm just going to ask you a couple of questions. Can
23 you tell me what your views are on the death penalty, in
24 general, just kind of verbalize them?

25 A I haven't never really thought about it a lot, to be

1 honest with you.

2 Q So this is kind of the first time somebody has forced
3 you to think about it?

4 A Pretty much.

5 Q Well, even this being the first time that you really
6 thought about it, can you kind of tell me how you feel
7 about it?

8 A I feel it's pretty extreme punishment.

9 Q But -- and what do you mean by that exactly?

10 A It's an extreme punishment. It's very harsh
11 punishment.

12 Q Now, if the circumstances warranted it, though, could
13 you impose the death penalty?

14 THE COURT: Mr. Huntsinger, can I get you to pull
15 that microphone up. We're having a hard time hearing you.

16 JUROR #172, DEREK HUNTSINGER: Yeah. I'm sorry.

17 THE COURT: That's all right. No problem.

18 BY MR. BROUGH:

19 Q And if the circumstances warranted it, could you
20 impose life without the possibility of parole?

21 A Yep.

22 Q Now, if you were the -- back in the jury room, would
23 you want to be the first person to vote?

24 A No.

25 Q Okay. If you were the fifth person to vote and the

1 other four people ahead of you voted differently than you,
2 would that cause you to change your mind?

3 A No.

4 Q What if it's all eleven voting before you and you're
5 in the twelfth seat and they've all voted differently,
6 would that cause you to change your mind?

7 A I don't think so.

8 Q Even if it's late at night and you've been in there a
9 long time?

10 A I mean, it could, I guess. I don't know. I've never
11 been in that situation.

12 Q Would you try to convince others to your point of
13 view?

14 A No.

15 Q I just want to ask you, I saw that your aunt is a
16 nurse?

17 A Yes, sir.

18 Q Okay. Where does she work?

19 A I don't think she works anymore. She did work for a
20 family.

21 Q Doing family care type stuff?

22 A I think she's unemployed now and taking care of her
23 son.

24 Q I guess I just have a couple other quick questions
25 for you. What are your feelings regarding, say,

1 interracial dating?

2 A I don't really care, to be honest with you.

3 Q Okay. Have you -- let me ask you this, is causing
4 the death of another person in your mind always a murder
5 or are there some other circumstances?

6 A Causing the death?

7 Q Yes.

8 A I guess there could be other circumstances.

9 MR. BROUGH: Okay. Thank you very much, sir.

10 THE COURT: All right.

11 MR. ANTHONY: Thank you, Your Honor.

12 EXAMINATION

13 BY MR. ANTHONY:

14 Q Hey, Mr. Huntsinger. My name is John Anthony. This
15 is Barry Barnette, and this is Trey Gowdy. And we're
16 representing the State in this case.

17 I see you work for UPS?

18 A Yes, sir.

19 Q And what exactly do you do?

20 A I type addresses into a computer.

21 Q Where do the addresses come from?

22 A All over Spartanburg.

23 Q Are they people y'all are delivering to?

24 A Yeah.

25 Q What's the significance?

1 A People we're delivering to that are shipping.

2 Q So when somebody comes to y'all for business, you put
3 their name in the system?

4 A That's right.

5 Q When Mr. Brough was asking you questions, he asked
6 you about the death penalty, and you said that you thought
7 it was a pretty extreme punishment, I believe are the
8 words you used?

9 A Yes, sir.

10 Q Well, do you think it's extreme and we just shouldn't
11 do it?

12 A No.

13 Q Okay. So you think there's some times that it might
14 be justified?

15 A Yep.

16 Q Okay. And if -- in this case, if you were on a jury
17 and if there was a guilty verdict in the guilt phase of
18 the case, do you think it would be possible for you if you
19 were convinced from the evidence you heard that it was the
20 right thing to do to impose the death penalty? Do you
21 think you could do that?

22 A Yes.

23 Q Okay. And if you -- same respect, if you heard all
24 the evidence and you felt like the right thing to do in
25 the case was to sentence someone to life without parole,

1 do you think you could do that?

2 A Yep.

3 MR. ANTHONY: Thank you.

4 That's everything.

5 THE COURT: All right. Thank you, Mr. Huntsinger.

6 If you could step out in the hall for just a second.

7 (Pause.)

8 THE COURT: All right. Any comments?

9 MR. ANTHONY: No objection from the State.

10 MR. BROUGH: None from the Defense, Your Honor.

11 THE COURT: Okay. Bring him on back.

12 (Pause.)

13 THE COURT: Mr. Huntsinger, how are you doing?

14 JUROR #172, DEREK HUNTSINGER: Pretty good.

15 THE COURT: It feels good to get out of that chair,
16 doesn't it?

17 JUROR #172, DEREK HUNTSINGER: Uh-huh.

18 THE COURT: I'm going to give that to you and let you
19 hang on to it. You are still a qualified juror in the
20 case. And so in two or three days, we will be calling you
21 to bring you back up here for jury selection. So in the
22 meantime, there may or may not be a lot of publicity about
23 the case. Please follow your oath and do not read, listen
24 to, or watch anything with respect to this case. Okay.

25 JUROR #172, DEREK HUNTSINGER: Okay.

1 THE COURT: Let any -- if you're chosen, let the
2 decision you make come only from the evidence presented in
3 the courtroom.

4 JUROR #172, DEREK HUNTSINGER: Okay.

5 THE COURT: And we will call you and tell you when to
6 return.

7 JUROR #172, DEREK HUNTSINGER: All right.

8 THE COURT: Thank you very much.

9 MR. BOGGS: Your Honor, could you discuss his family
10 ties?

11 THE COURT: Mr. Huntsinger, that's fine right there.
12 Your mom is a court reporter?

13 JUROR #172, DEREK HUNTSINGER: Uh-huh.

14 THE COURT: She's got to be familiar with the goings
15 on up at the courthouse. Don't talk to her about it.
16 Don't talk to anybody about it. And they're going to want
17 to talk to you about it.

18 JUROR #172, DEREK HUNTSINGER: Yes, sir.

19 THE COURT: Just tell them, hey, I can't.

20 JUROR #172, DEREK HUNTSINGER: Okay.

21 THE COURT: And when it's over, you can talk about
22 it, but right now, don't do it.

23 Thank you very much.

24 (Juror #172, Derek Huntsinger, was excused from the
25 courtroom.)

1 MR. BOGGS: Thank you.

2 THE COURT: Bring the next juror in, please.

3 (Juror #316, Mark Roller, a white male, was seated.)

4 THE COURT: Mr. Roller, how are you doing?

5 JUROR #316, MARK ROLLER: Pretty good. How are you
6 doing?

7 THE COURT: Good. Welcome back. AS I told you
8 briefly, we're going to individually question you and, of
9 course, this is all private and confidential. It doesn't
10 look like that with all these people in here, but it is.

11 So I want you to feel as at ease as you possibly can.
12 I know that's not easy to do sitting where you sit and
13 being in that witness chair. But I want you to know there
14 are no right or wrong answers to any of the questions that
15 you're asked. But it's just vital and important in this
16 serious and solemn event that we get your honest,
17 complete, and truthful answers. And that -- oh.

18 THE CLERK: He needs to be on the next panel.

19 THE COURT: I'll tell you what. Can you remember
20 everything I told you?

21 JUROR #316, MARK ROLLER: Yes, sir.

22 THE COURT: And I'm going to get all your compatriots
23 in the next panel to come in and I'm going to tell
24 y'all -- you can go ahead and sit over in the jury box.

25 And let's bring them all in.

1 THE BAILIFF: I'm sorry.

2 THE COURT: No. That's my fault.

3 THE BAILIFF: I apologize.

4 (WHEREUPON, Juror Panel No. 3 entered the courtroom.)

5 THE COURT: All right. Before y'all get all
6 comfortable, could y'all stand for a second and we're
7 going to administer another oath to you.

8 THE CLERK: Would you raise your right hand, please.

9 (WHEREUPON, Juror Panel No. 3 was sworn.)

10 THE COURT: Thank y'all.

11 I just wanted to get y'all in here briefly before we
12 start to go over a few things, so I don't have to repeat
13 it individually with you as you come into the courtroom.

14 The first thing that I want y'all to do is to feel as
15 comfortable as you can. I promise you no one is going to
16 embarrass you or humiliate you in any way when you're in
17 here. And there are no right or wrong answers to any of
18 the questions. And what we're looking for is just
19 truthfulness, complete accurate answers, and really just
20 your heartfelt answers to the questions. That's what
21 we're looking for.

22 Again, I remind you that the Constitution of our
23 state does not allow me or any trial judge to have an
24 opinion about the facts. So if there's something that I
25 say or do that you think means that I have some opinion, I

1 promise you, I don't. And don't infer from what I might
2 say or do that I have an opinion.

3 I want to tell you that -- I want to repeat a couple
4 of basic things. They are the foundation of our system of
5 justice. They're vitally important and they belong to
6 every citizen. And the only way that they're valid for
7 any citizen is that they're valid for all citizens. And
8 that is that every person charged with a crime is presumed
9 to be innocent unless and until the State can prove them
10 guilty beyond a reasonable doubt of each and every element
11 of each offense that that person is charged with. The
12 State always has the burden of proof to prove guilt beyond
13 a reasonable doubt. And every citizen charged with a
14 crime is presumed innocent unless and until a jury removes
15 that cloak of innocence at the close of all the evidence
16 in a case.

17 Now, a case of this nature is generally referred to
18 as a capital case. And that's a case in which the State
19 seeks the death penalty. So let me explain briefly the
20 process of a capital case. Once a jury is selected, the
21 Court conducts the first phase and, perhaps, the only
22 phase of the trial. The jury determines whether the State
23 has proven that the defendant on trial is guilty of murder
24 and any other offenses he might be charged with. And they
25 have to prove that beyond a reasonable doubt, as I have

1 told you.

2 Now, should a jury find a defendant not guilty of
3 murder, that would end that case with respect to the jury.
4 There would be no further jury service. The case would be
5 over. If a jury, however, finds such a defendant guilty
6 of murder, then we would move to the second phase, which I
7 have -- I sometimes call the sentencing phase. And the
8 jury would consider what we call evidence in aggravation
9 or/and evidence in mitigation. And the jury, after
10 hearing this additional evidence, would determine the
11 sentence, life imprisonment or death.

12 And in a capital case, if the jury finds the presence
13 of an aggravating circumstance, a sentence of life means
14 life without the possibility of parole. In other words,
15 if a defendant who has been convicted of murder and the
16 murder was accompanied by what the law calls an
17 aggravating circumstance, then a life sentence means life.
18 There would be no possibility of parole under such
19 circumstances and the Defendant would die in jail.

20 Now, please understand, I am talking about the
21 process of a capital case in general. In this particular
22 case, we may not even reach that second or sentencing
23 phase. But in the event that we do, I need to ask you
24 certain question.

25 Do each of you understand the process as I've

1 outlined it to you?

2 (All jurors indicated yes.)

3 THE COURT: Permit me to briefly explain the terms
4 aggravating circumstances and mitigating circumstances.
5 These are terms which you will hear and consider only in
6 the event the trial proceeds to that second phase.

7 Aggravating circumstances are facts, incidents, or
8 occurrences which the South Carolina General Assembly has
9 declared by statute would aggravate or worsen the crime of
10 murder. In other words, an aggravating circumstance, when
11 accompanying a murder, increases the enormity of the
12 offense or it adds to the injury of the crime of murder.

13 Now, mitigating circumstances are incidents, facts,
14 or occurrences which the General Assembly has declared by
15 statute or which a jury otherwise determines should reduce
16 the severity of the offense of murder, and may be
17 considered as extenuating or as reducing the degree of
18 responsibility or culpability in that case.

19 Now, y'all have met the attorneys and they've
20 introduced themselves to you. So I want to ask, is there
21 any member of this jury panel who is related by blood or
22 marriage or have an acquaintanceship of any kind with any
23 of the attorneys to whom you've been introduced? If so,
24 raise your right hand.

25 (There was no response.)

1 THE COURT: Is there any member of the jury panel who
2 is related by blood or marriage or acquainted in any way
3 with anyone associated with these lawyers and their
4 respective law offices, that is the Seventh Circuit
5 Solicitor's Office, the Public Defender's Office, or the
6 Law Office of Mr. Tam Boggs? If so, please raise your
7 right hand.

8 (There was no response.)

9 THE COURT: Okay. Now, each of you has had an
10 opportunity to review the witness list, I trust?

11 (All jurors indicated yes.)

12 THE COURT: And is there anyone -- let me ask you
13 this, is there any member of the panel related by blood or
14 marriage or have an acquaintanceship of any kind with any
15 of the persons listed on the witness list?

16 Okay. Yes, sir. If you would, your name?

17 JUROR #19, DONALD BOWER: Yes, sir. Donald Bower.

18 Dr. Ken Webb could be my primary doctor I go to. I'm
19 not sure -- he practices on Blackstock Road at Foothills
20 Family Services. The name is the same -- same name of my
21 doctor, but he goes as Kenneth, instead of Dr. Ken Webb.

22 THE COURT: All right. And, yes, ma'am, your name?

23 JUROR #258, PATRICIA MURPHY: Patricia Murphy.

24 THE COURT: Yes, ma'am. And who do you --

25 JUROR #258, PATRICIA MURPHY: I'm not sure if it's

1 the same Chester McDowell. I had acquaintances at the old
2 job where I used to work, there was Joyce Miller, Betty
3 Ferguson, and Cynthia Martin. I used to work with these
4 people.

5 THE COURT: And can you tell me where that was, where
6 you worked?

7 JUROR #258, PATRICIA MURPHY: Piedmont Community
8 Actions.

9 THE COURT: All right. We may ask the two of you
10 questions about that later on individually, just so you're
11 aware of that.

12 All right. Well, ladies and gentlemen, let's, at
13 this time, proceed to the individual questioning. And so
14 let me get everybody, with the exception of Mr. Roller, to
15 go ahead back to the jury room.

16 Thank you.

17 (WHEREUPON, Jury Panel No. 3 exited the courtroom,
18 with the exception of Juror #316, Mark Roller.)

19 (Juror #316, Mark Roller, a white male, was seated.)

20 THE COURT: All right. You're back again. I'm sorry
21 I forgot about that.

22 I'm going to talk a little bit about the particulars
23 of this case and just give you some brief -- to identify
24 the case and learn, really, whether you know anything
25 about it.

1 There are several indictments in the case, as I've
2 already described, and these are a brief description of
3 what's in these. But let me tell you again, let me
4 emphasize, these are not evidence. And they are only
5 allegations that have been typed on a piece of paper to
6 allow the case to wind its way through the system and come
7 to court.

8 One is an indictment which alleges that Mr. Fredrick
9 Antonio Evins did in Spartanburg County on or about
10 February 13, 2003, feloniously, willfully, and with malice
11 aforethought kill Rhonda Marie Ward. The next, there's a
12 charge of kidnapping that alleges that Mr. Evins did at
13 the same -- on the same date unlawfully kidnap or abduct
14 Rhonda Marie Ward. The next charge is criminal sexual
15 conduct. And it alleges that Mr. Evins did on or about
16 the same date willfully and unlawfully commit a sexual
17 battery on Rhonda Marie Ward. And, finally, grand larceny
18 alleges that Mr. Evins did in Spartanburg County February
19 13th, 2003, same date, feloniously take or carry away the
20 personal goods of Rhonda Marie Ward, a 1993 Nissan Sentra
21 and its contents. Okay. Those are the allegations
22 contained in the indictments.

23 Now, we recognize there's been publicity about the
24 case on TV, in the newspaper, and on the radio. And we
25 would just like to know if you've heard, read, or seen

1 anything about these allegations?

2 JUROR #316, MARK ROLLER: I've just seen like what's
3 on the television or in the newspaper.

4 THE COURT: Okay. Could you tell me a little bit in
5 detail what that was?

6 JUROR #316, MARK ROLLER: Just that a crime had been
7 committed, and that's what I saw on the television and in
8 the newspaper. That's the extent of what I saw.

9 THE COURT: Do you remember when that was?

10 JUROR #316, MARK ROLLER: I think that was back after
11 when they first reported it.

12 THE COURT: Okay. Have you seen anything lately?

13 JUROR #316, MARK ROLLER: No.

14 THE COURT: Okay. Well, do you understand, as a
15 juror, your oath would require you to disregard anything
16 you may have read, seen, or heard about the case and that
17 you would be required to decide the facts only from the
18 evidence presented at trial?

19 Do you understand that?

20 JUROR #316, MARK ROLLER: Yes, sir.

21 THE COURT: Okay. And the reason for that is that
22 the only evidence that's of importance or of any value is
23 that which is given under oath in the courtroom and which
24 is subject to all of our Constitutional scrutinies and
25 protections.

1 Okay. Now, would you serve as a fair and impartial
2 juror and reach a verdict based on the facts presented at
3 trial in accordance with my instructions on the law?

4 JUROR #316, MARK ROLLER: Yes, I would.

5 THE COURT: Okay. Have you in any way already formed
6 an opinion as to the facts of this case or the guilt or
7 innocence of Mr. Evins?

8 JUROR #316, MARK ROLLER: No, sir, I haven't.

9 THE COURT: Okay. Now, keeping in mind those legal
10 principles of the presumption of innocence and the State's
11 obligation to prove guilt beyond a reasonable doubt, could
12 you, depending on the facts and the evidence and the law
13 as I would instruct, find a defendant either guilty or not
14 guilty depending on what you heard?

15 JUROR #316, MARK ROLLER: Yes, sir.

16 THE COURT: Okay. And, remember, we may not even
17 reach that second or sentencing phase, but since we could,
18 I've got to ask you your views about the death penalty.

19 Do you understand that?

20 JUROR #316, MARK ROLLER: Yes.

21 THE COURT: Okay. And when we move to the sentencing
22 phase, I'm going to tell you that that means that the jury
23 has already found the Defendant guilty of murder. Okay.
24 There is no legal defense that will be discussed or
25 explored. The jury has already spoken on the issue of

1 guilt and innocence.

2 So in the second phase of the trial, we would hear
3 evidence that I've explained to you is and I've described
4 as aggravating circumstances and mitigating circumstances.
5 Now, your oath would require you to abandon any
6 preconceived notion you might have and to follow the law
7 as I instruct you. In other words, your oath would
8 require you to give serious and meaningful consideration
9 to the aggravating evidence and the mitigating evidence.

10 Would you honor your oath in that regard?

11 JUROR #316, MARK ROLLER: Yes, sir.

12 THE COURT: And if you were a juror in that
13 situation, the sentencing phase of the trial, could you,
14 after listening to the particular facts and circumstances
15 of the case, after listening to the aggravating and the
16 mitigating evidence and listening to my charge on the law,
17 could you return a sentence of life in prison?

18 JUROR #316, MARK ROLLER: Yes, sir.

19 THE COURT: Okay. Now, also as a juror in that
20 situation, could you, depending on the facts and
21 circumstances of the case, including the consideration of
22 the aggravating evidence and the mitigating evidence and
23 my instruction on the law, could you return a sentence of
24 death?

25 JUROR #316, MARK ROLLER: Yes, sir.

1 THE COURT: Okay. Now, in the event of a death
2 sentence, the South Carolina statutes require that all 12
3 jurors sign their name to the verdict form. Could you
4 sign your name to a death sentence verdict?

5 JUROR #316, MARK ROLLER: Yes, sir.

6 THE COURT: All right. Do you recall that sheet that
7 I had y'all look at about the three types of jurors?

8 JUROR #316, MARK ROLLER: Yes, I do.

9 THE COURT: How would you describe yourself?

10 JUROR #316, MARK ROLLER: I would probably say I'm in
11 group three.

12 THE COURT: So you would need to hear all the
13 evidence before you made a decision?

14 JUROR #316, MARK ROLLER: Yes, I would.

15 THE COURT: And if you were selected on the jury,
16 would you approach jury service with an open mind to find
17 the truth from the evidence and the law as I instructed it
18 to you?

19 JUROR #316, MARK ROLLER: Yes, I would.

20 THE COURT: Do you know of any reason why you
21 couldn't serve in this case?

22 JUROR #316, MARK ROLLER: No, I don't.

23 THE COURT: Okay. And you understand if you were
24 selected to serve that -- I told you about sequestration.
25 You'd be staying at the Marriott Hotel right over here and

1 it might last anywhere from five to seven days, something
2 like that. Okay.

3 JUROR #316, MARK ROLLER: Yes.

4 THE COURT: Now, I'm going to let the attorneys
5 question you a little bit.

6 MR. GOWDY: May it please the Court?

7 THE COURT: Yes.

8 EXAMINATION

9 BY MR. GOWDY:

10 Q Good morning, Mr. Roller. How are you?

11 A Fine. How are you?

12 Q I'm doing good. Thank you.

13 My name is Trey Gowdy. That's Barry Barnette in the
14 middle, and John Anthony to your left. The three of us
15 represent the State of South Carolina in this case.

16 I've just got a couple of questions for you, because
17 you did such a thorough job of filling out the
18 questionnaire, which we all appreciate. I know it asks a
19 lot of questions you aren't used to answering for
20 strangers. I noticed that movies was one of your hobbies?

21 A Yes.

22 Q Have you seen any good ones lately?

23 A No, actually, I haven't.

24 Q I haven't. I saw the Borne Supremacy, that's the
25 last good movie I've seen. I saw a little bit of prior

1 jury service?

2 A Yes. I think was summoned seven years ago, but did
3 not serve on a jury.

4 Q You did not get picked?

5 A No.

6 Q If I understood you right when His Honor was asking
7 you questions, you understand this is a two-stage trial?
8 There's the guilt stage and then there's potentially the
9 sentencing stage?

10 A Yes.

11 Q I want to talk to you about the sentencing stage for
12 just a second. You told the Court that if you thought
13 life was the right sentence, that's what you would vote
14 for?

15 A Yes.

16 Q And if you thought death was the right sentence,
17 that's what you would vote for?

18 A Yes.

19 Q I want to make sure that you understand that in South
20 Carolina, the law will never require you to pick death.
21 You always have an option.

22 A Right.

23 Q Understanding that you have -- you will never be
24 required, nobody is ever going to say, Mr. Roller, if you
25 find A, B, and C to be true, you have to pick death.

1 Nobody will ever say that. Do you still think there are
2 circumstances under which you could pick death?

3 A Yes. I believe when all the facts are submitted and
4 all the evidence is looked at, then that determination
5 would have to be made at that time by myself.

6 Q Right. And it can't be made before then, because you
7 don't know what the parties are going to say?

8 A Exactly.

9 Q Exactly. You have to have an open mind?

10 A Yes.

11 Q And that's all either side is looking for is a fair
12 open-minded juror.

13 A Exactly.

14 Q And by the same token, if you thought life was the
15 right sentence, that's what you'd vote for?

16 A Yes.

17 Q There's not automatic one way or the other?

18 A Just the facts and the evidence and what you would
19 have to look at would have to determine what that would
20 be.

21 Q Okay. I may have one more question, and then I'm
22 going to sit down and let you go.

23 A Okay.

24 Q I think you have a friend -- you may have, actually,
25 checked that you have a friend in the medical field, maybe

1 a friend that's a nurse?

2 A A nurse practitioner.

3 Q Where does he or she practice?

4 A Well, she's retired now.

5 Q Okay.

6 A I think she was at Spartanburg Regional before she
7 retired.

8 MR. GOWDY: Great. Thank you for filling out the
9 questionnaire and for answering my questions.

10 MS. QUIMBY: May it please the Court?

11 THE COURT: All right.

12 EXAMINATION

13 BY MS. QUIMBY,

14 Q Hey, Mr. Roller.

15 A Hi.

16 Q My name is Karen Quimby, and I represent Mr. Evins.
17 And Tam Boggs and Chris Brough also represent Mr. Evins.
18 And I also thank you for filling out the questionnaire and
19 being here.

20 Are we throwing your internal clock out of whack?

21 A No, I'm fine.

22 Q I see that you work from 8:00 p.m. until 7:00 a.m.?

23 A Yeah.

24 Q Okay. I would be just all messed up.

25 Mr. Gowdy asked you if you had seen any good movies

1 lately. What kind of movies or books do you like? What
2 interests you?

3 A I think I like history, that type of thing, anything
4 having to do with history.

5 Q Okay. And you also indicated that you write?

6 A Yeah. I like to write some.

7 Q Okay. Is that just personal thoughts like a journal
8 or do you write --

9 A Yeah. I just like to do that.

10 Q Okay. The fact that Mr. Gowdy is seeking the death
11 penalty in this case, does that seem to say anything to
12 you about whether or not you think that Mr. Evins is
13 guilty or not guilty?

14 A Actually, no, it doesn't. No. I'm just -- I think I
15 believe like everybody else, that everybody is innocent
16 until proven guilty. So that's my opinion.

17 Q Okay. And what are your thoughts on the death
18 penalty? Do you believe it's appropriate for murder in
19 general or sometimes?

20 A Well, as I was telling him, I think everything has to
21 be looked at, all the facts, the evidence, then that
22 determination can be made. But until you do that, you
23 know, I don't know if you can form a concrete opinion on
24 it.

25 Q Okay. But you do believe in the death penalty in

1 certain circumstances; correct?

2 A Yes, I would say I would.

3 Q Okay. Do you know where the basis of that is for
4 you? I mean, where did you develop that? Was that from
5 childhood, or family, or church, growing up?

6 A I just think it's my own thinking, the way I feel
7 myself. I don't know that anybody has transpired that on
8 me. I just think it's just my own thinking.

9 Q Okay. Now, do you watch -- do court things like
10 trials and things, does that interest you?

11 A I would say to a point. It's not something that I
12 would like make a special effort to look at, but I have,
13 you know, looked at some, whether it be on television or
14 what have you.

15 Q Like the O.J. trial?

16 A Yeah.

17 Q All right. And what did you think about that?

18 A Well, I think our system is just. I think the
19 process is just. I look at it as the way that we go about
20 doing that sort of thing is, you know, the right way.
21 It's a just way.

22 Q Okay. Finally, what are your thoughts on the
23 possible sentence of a life sentence without the
24 possibility of parole? Do you think that means what it
25 says?

1 MR. GOWDY: Your Honor, I object to that. The line
2 of cases is clear that that question cannot be asked.

3 MS. QUIMBY: I withdraw.

4 THE COURT: Withdraw that, and I'll sustain that
5 objection.

6 BY MS. QUIMBY:

7 Q Do you think that is appropriate in some cases?

8 A It would just have to depend on the case and what
9 transpired.

10 MS. QUIMBY: Thank you very much for your time. We
11 appreciate it.

12 THE COURT: Mr. Roller, I'm going to ask you to step
13 into the hallway for just one second. I'll be back with
14 you.

15 (Pause.)

16 THE COURT: Any objection to this juror?

17 MR. GOWDY: Not from the State, Your Honor.

18 MS. QUIMBY: No, Your Honor.

19 THE COURT: All right. Bring him on in.

20 (Pause.)

21 THE COURT: Hey, Mr. Roller.

22 I'm going to give that to you and tell you that you
23 remain a qualified juror in this case. And so you're
24 still under oath. And part of that oath is to not read,
25 watch, or listen to anything that has anything to do with

1 this case. And don't discuss it with anybody else.
2 They're going to want to talk to you about it. I mean,
3 it's just natural human nature to want to talk about. And
4 you're going to have to tell them, look, I can't. And
5 when it's over, you can talk to them all you want or as
6 little as you want. But right now, you may not talk to
7 them.

8 So, at this time, we're going to let you go. We've
9 got your phone number. In two or three days, we'll be
10 calling you back for jury selection. We're going through
11 the qualification process. Sometimes, it gets confusing.
12 We'll call you back for the selection process and look to
13 see you then.

14 JUROR #316, MARK ROLLER: Thank you very much.

15 THE COURT: Yes, sir.

16 (Juror #316, Mark Roller, was excused from the
17 courtroom.)

18 MR. BOGGS: Judge, may I ask something for
19 clarification?

20 THE COURT: Yes.

21 MR. BOGGS: Mr. Gowdy made an objection. You've
22 already charged them or told them that life without parole
23 means literally that. Maybe the question wasn't phrased
24 right, but I think we ought to be allowed to say, you
25 understand that life without parole, as the Judge told

1 you, is taken in its literal meaning.

2 MR. GOWDY: Your Honor, regrettably, the South
3 Carolina Supreme Court disagrees with Mr. Boggs. That's
4 not a correct question. Whether they agree with it or
5 not, you're the law.

6 THE COURT: I've explained it to them.

7 MR. BOGGS: All right.

8 THE COURT: So let's don't. I will explain it to
9 them, I promise.

10 MR. BOGGS: All right. I never asked him to agree
11 with me.

12 THE COURT: Are you ready?

13 Was this one of the ladies who knew somebody?

14 MR. GOWDY: Yes.

15 THE COURT: Who were the witnesses? I'll let y'all
16 get into that. I don't know who they are.

17 (Juror #258, Patricia Murphy, a black female, was
18 seated.)

19 THE COURT: Hey, Ms. Murphy.

20 JUROR #258, PATRICIA MURPHY: Hi.

21 THE COURT: How are you?

22 JUROR #258, PATRICIA MURPHY: Good.

23 THE COURT: Good. We're going to ask you some
24 questions briefly, and want you to know they're
25 confidential and won't be disclosed anywhere else outside.

1 of this courtroom. So we want you to be as comfortable as
2 you possibly can be, understanding the situation you're
3 in. Everybody in here knows that you're in the hot seat.
4 And I promise you this, nobody is going to do anything to
5 embarrass you or humiliate you. Okay. So I just want you
6 to be as comfortable as you possibly can be.

7 We are just looking -- I will tell you, there are no
8 right or wrong answers. But in this serious and solemn
9 event, we need truthful, accurate, and complete answers.
10 And, really, what we're looking for is just your heartfelt
11 response to a lot of these questions. It's not going to
12 get deeply person, but I just want to kind of let you know
13 what's coming.

14 I've told you briefly about the indictments in the
15 case, but I'm going to give you a little bit more about
16 the allegations in the indictments so you're familiar a
17 little bit with this case. Again, I remind you,
18 indictments are not evidence. They are merely allegations
19 typed on a sheet of paper to allow this case to come to
20 Court.

21 And in these indictments, they allege that Fredrick
22 Antonio Evins did in Spartanburg County on or about
23 February 13th, 2003, unlawfully with malice aforethought
24 kill Rhonda Marie Ward. He is also charged with
25 kidnapping. It alleges that he did on the same date

1 unlawfully kidnap or abduct Rhonda Marie Ward. Also, he
2 is charged with criminal sexual conduct. It alleges that
3 he did on the same date willfully and unlawfully commit a
4 sexual battery on Rhonda Marie Ward. And, finally, he is
5 charged with grand larceny. It alleges that he did on the
6 same date take the personal property of Rhonda Marie Ward,
7 and that is a 1993 Nissan Sentra and its contents. So
8 those are the allegations contained in the indictments
9 against Mr. Evins.

10 So we recognize that there has been publicity about
11 the case on television, and the newspaper, and on the
12 radio. The first thing I would like to know is, have you
13 read, heard, or seen anything about this case?

14 JUROR #258, PATRICIA MURPHY: I have.

15 THE COURT: Okay. And tell me what you've -- if you
16 would, tell me what that is and where -- what source it
17 came from.

18 JUROR #258, PATRICIA MURPHY: I saw it on the Channel
19 7 news where they had him in custody bringing him to the
20 courthouse and saying that he had murdered -- I forgot
21 which one of the ladies' names, but it was just the
22 Cigarette's 4 Less place. And that's, basically, all I
23 heard about that.

24 THE COURT: And when did you see -- do you remember
25 when you saw this?

1 JUROR #258, PATRICIA MURPHY: It's been some while
2 ago. I don't know exactly when. I think when it first
3 took place.

4 THE COURT: Okay. Now, you said some "ladies," can
5 you amplify on that? You said plural.

6 JUROR #258, PATRICIA MURPHY: I said lady.

7 THE COURT: Oh, okay. I'm sorry.

8 Well, do you understand that, as a juror, your oath
9 would require you to disregard anything you've read,
10 heard, or seen with respect to this case and to decide the
11 facts only from the evidence presented in the courtroom at
12 trial.

13 Do you understand that?

14 JUROR #258, PATRICIA MURPHY: I do.

15 THE COURT: Okay. And could you put aside anything
16 you have heard, seen, or read about this case and do just
17 exactly that?

18 JUROR #258, PATRICIA MURPHY: Absolutely.

19 THE COURT: Okay. And do you feel that you could
20 serve as a fair and impartial juror and reach a verdict
21 based solely on the evidence presented in the courtroom
22 and in accordance with my instruction on the law?

23 JUROR #258, PATRICIA MURPHY: Yes.

24 THE COURT: Have you already formed any kind of
25 opinion about the facts of this case?

1 JUROR #258, PATRICIA MURPHY: No.

2 THE COURT: And do you have any opinion as to the
3 guilt or innocence of Mr. Fredrick Antonio Evins?

4 JUROR #258, PATRICIA MURPHY: I do not.

5 THE COURT: Now, keeping in mind the legal principles
6 of the presumption of innocence and the State's obligation
7 to prove guilt beyond a reasonable doubt, could you,
8 depending on the facts and the evidence presented in this
9 case and the law as I instruct it, could you find the
10 Defendant, depending on all that, either guilty or not
11 guilty?

12 JUROR #258, PATRICIA MURPHY: Yes.

13 THE COURT: Okay. So you're not -- you haven't made
14 up your mind one way or the other?

15 JUROR #258, PATRICIA MURPHY: No.

16 THE COURT: All right. Now, please remember, we may
17 not even reach the second phase of the trial, or what I've
18 called the sentencing phase, but since we possibly could,
19 I need to ask you a few questions about your views on the
20 death penalty.

21 Do you understand?

22 JUROR #258, PATRICIA MURPHY: Uh-huh.

23 THE COURT: When the jury moves to the sentencing
24 phase, that means the jury has already found the Defendant
25 guilty. They're in the second phase of the trial. There

1 would be no legal defense for you to explore or even
2 discuss, because the jury would have already made the
3 determination that the Defendant was guilty.

4 Do you understand that?

5 JUROR #258, PATRICIA MURPHY: Uh-huh.

6 THE COURT: So when the jury moves to the sentencing
7 phase or in the sentence -- the second or sentencing
8 phase, then you would hear evidence in what I've talked
9 about -- in aggravation or in mitigation. Okay. You
10 would -- your oath would require you to abandon any
11 preconceived notion that you might have and follow the law
12 as I instruct it. In other words, your oath would require
13 you to give serious and meaningful consideration to the
14 aggravating circumstances and to the mitigating
15 circumstances.

16 Would you honor your oath and do that?

17 JUROR #258, PATRICIA MURPHY: Yes.

18 THE COURT: Now, if you were a juror in that
19 situation, the sentencing phase, could you, depending on
20 the particular facts and circumstances of the case, in
21 addition to considering the mitigating circumstances and
22 the aggravating circumstances and considering the law as I
23 would instruct it to you, could you return a verdict of
24 life imprisonment?

25 JUROR #258, PATRICIA MURPHY: Yes.

1 THE COURT: All right. Conversely, as a juror in
2 that situation, could you, depending upon the particular
3 facts and circumstances of the case and considering all
4 the mitigating factors and all the aggravating factors and
5 the law as I instruct it, could you return a sentence of
6 death?

7 JUROR #258, PATRICIA MURPHY: No.

8 THE COURT: How firm are you in that belief?

9 JUROR #258, PATRICIA MURPHY: Well, I just don't
10 think -- I think that a man should be punished for his
11 crime, but it's just not up to me as an individual to give
12 a man death.

13 THE COURT: Okay. Well, let me say this to you now,
14 it wouldn't be you alone. It would be a consensus
15 opinion. It would have to be a unanimous opinion or
16 decision by the jury. Does that make any difference to
17 you with respect to your stated --

18 JUROR #258, PATRICIA MURPHY: A unanimous vote would
19 include my vote.

20 THE COURT: Yes, ma'am.

21 JUROR #258, PATRICIA MURPHY: So if I didn't agree to
22 that, then it would be a different case.

23 THE COURT: Okay. Is there any circumstance at all
24 where you think you could give the death penalty?

25 JUROR #258, PATRICIA MURPHY: It depends on what the

1 severity of the case is, it depends on it.

2 THE COURT: All right. Well, would you, after
3 listening to all the facts and circumstances of a
4 particular case and after every -- all the evidence was
5 introduced in mitigation, which is there to lessen the
6 impact, and all the evidence introduced in aggravation,
7 which is there to show the enormity of the offense, and
8 the law as I would give it to you, after considering all
9 that, could you return -- are you telling me that
10 there are cases where you could return a verdict of
11 death?

12 JUROR #258, PATRICIA MURPHY: Yes, there are.

13 THE COURT: Okay. Now, I'll tell you this, in the
14 event of a death sentence or the verdict of death, South
15 Carolina law requires every juror to sign their name to
16 the verdict form. So if that case -- in that event, could
17 you sign your name to the verdict form?

18 JUROR #258, PATRICIA MURPHY: No.

19 THE COURT: All right. Even though you believe you
20 could in certain circumstances give a death sentence, in
21 those circumstances, could you sign your name to the
22 verdict form?

23 JUROR #258, PATRICIA MURPHY: The reason for that is
24 because I didn't know that occurred until you told me
25 about your name being signed to that. I work with the

1 public and I could be a target for anybody with the job
2 that I have. So on that note, I would say, no.

3 THE COURT: Okay. Well, let me tell you that I
4 appreciate that and understand your concerns about that.
5 Of course, those are really kind of outside the ambit of
6 what I'm trying to ask you about. And I would tell you
7 that otherwise you're -- you know, there may be cameras in
8 the courtroom during all this, but they're not allowed to
9 take pictures of the jury. Your name is not allowed to
10 appear in print.

11 Okay. So taking all that into consideration, do you
12 think you could sign --

13 JUROR #258, PATRICIA MURPHY: My name and address --
14 is my name and address allowed to be given to anyone?

15 THE COURT: No, ma'am. We're going to protect the
16 jurors. Okay. And so I guess -- what I'm asking is, in
17 the event that you -- the facts and circumstances that you
18 listen to with all the mitigating and aggravating
19 circumstances and the law, and you've told me that you
20 felt that you could return a death sentence, in that
21 event, in that case, could you sign your name to the
22 verdict form?

23 JUROR #258, PATRICIA MURPHY: If I'm protected as a
24 juror, yes.

25 THE COURT: All right. Now, do you recall the sheet

1 of the three jurors that I asked y'all to review, the
2 three types of jurors?

3 JUROR #258, PATRICIA MURPHY: Yes.

4 THE COURT: Okay. Can you just tell me where you
5 would classify yourself in that list?

6 JUROR #258, PATRICIA MURPHY: Probably the second
7 one.

8 THE COURT: Now, the second one is someone who could
9 never --

10 JUROR #258, PATRICIA MURPHY: Wait a minute.

11 THE COURT: Do you want to take a look at it?

12 JUROR #258, PATRICIA MURPHY: Yeah.

13 THE COURT: Let me let you take a look at it.

14 JUROR #258, PATRICIA MURPHY: I would be the third
15 one.

16 THE COURT: The third one, which indicates that
17 before you would make a decision with respect to that, you
18 would want to hear all the facts and circumstances.

19 JUROR #258, PATRICIA MURPHY: Absolutely.

20 THE COURT: Okay. Now, if you were selected, would
21 you honor your oath and serve as a fair and impartial
22 juror?

23 JUROR #258, PATRICIA MURPHY: Yes.

24 THE COURT: Okay. And you would approach jury
25 service with an open mind to find the truth from the

1 evidence and apply the law as I instructed it?

2 JUROR #258, PATRICIA MURPHY: Yes.

3 THE COURT: Do you know of any other reason why you
4 could not serve as a juror in this case?

5 JUROR #258, PATRICIA MURPHY: Well, based on the
6 names that you had listed on the papers, being that I
7 worked with these people before -- I mean, I don't see
8 where I could not be fair, but maybe they won't think I
9 would be fair.

10 THE COURT: Let's talk about that briefly. And I'm
11 going to let the attorneys talk to you about that, too.

12 When did you work with those folks?

13 JUROR #258, PATRICIA MURPHY: Back in -- let's see,
14 2000, back in 2000.

15 THE COURT: Okay. And I'll tell you now, not only do
16 I not have an opinion about the facts, but I don't know
17 the facts. I don't know what those witnesses are going to
18 testify to. But the fact that you know them, would you
19 be able to follow your oath and still be fair and
20 impartial?

21 JUROR #258, PATRICIA MURPHY: Oh, yes.

22 THE COURT: All right. Well, I'm going to let the
23 attorneys question you a little bit now briefly.

24 Thank you, ma'am.

25 MS. QUIMBY: May it please the Court, Your Honor?

1 THE COURT: Yes.

2 EXAMINATION

3 BY MS. QUIMBY:

4 Q Hey, Ms. Murphy.

5 A Hey there.

6 Q My name is Karen Quimby. And I represent Fredrick
7 Evins, along with Tam Boggs and Christopher Brough.
8 They'll also be representing Fredrick Evins.

9 I wanted to thank you very much for being here. I
10 know that for a lot of people, it's not real convenient to
11 come to court and interrupt their schedule. But we
12 appreciate you being here and we appreciate your honesty,
13 your honest answers.

14 I saw on your questionnaire that you enjoy reading?

15 A Uh-huh.

16 Q What kind of things do you like to read?

17 A Basically, Christian things.

18 Q Christian-based subjects?

19 A (Juror nodded.)

20 Q Okay. And what was the last book you read?

21 A Our Daily Bread.

22 Q Our Daily Bread. Is that like a devotional?

23 A Uh-huh.

24 Ms. QUIMBY: All right. Thank you.

25 Please answer any questions that the State has.

EXAMINATION

BY MR. GOWDY:

Q Good afternoon, Ms. Murphy.

A Hello.

Q How are you?

A I'm good.

Q My name is Trey Gowdy. And that is John Anthony to the left and Barry Barnette in the center. You said you enjoyed reading religious books. I couldn't -- let me, first of all, thank you for filling out the questionnaire. I know you went all the way back to Sugar and Spice as your first job, so you clearly took it seriously and put a lot of time and effort into it. And we appreciate that. I know it asks personal questions. It also asks about a bumper sticker.

I think you have a bumper sticker that says "Jesus is the answer"?

A I used to.

Q Used to. Okay. Well, based on your readings, I guess you still believe that that's true?

A Yes.

Q Which I don't want to pry into your religion, only to the extent that it may impact your thoughts and feelings about the death penalty. When the Judge first asked you about the death penalty, you seemed very clear and very

1 resolute that you do not believe in the death penalty.
2 And then he asked again and you said, yes, and then you
3 said, maybe. Whatever your position is, nobody is going
4 to challenge it. You are well-educated enough and have
5 lived life long enough to know what your views are. But
6 we just have to know what they are.

7 So what are your views on the death penalty?

8 A Well, I feel like to me -- and this might be a bad
9 choice of words, but if you've got a psycho running around
10 here killing people, I don't think they deserve to live.
11 I mean, of course, I'm not supposed to be judgmental, but
12 that's just my feeling. You know, you don't kill a lot of
13 people and then expect to live.

14 Q When you say "psycho," what do you mean by that?

15 A That's why I said it was a bad choice of words.

16 Q That's okay.

17 A But something has to be wrong with a person that goes
18 around killing people. Because you just don't kill people
19 for no reason, so something is not there.

20 Q You mentioned a serial killer, more than one person.
21 Is that the only circumstance under which you could see
22 yourself giving the death penalty, if somebody killed more
23 than one person or were a serial killer?

24 A Basically, no. But if you just killed somebody --
25 for example, if I just walked in your office and just

1 killed you for no reason, because I was mad at you for
2 whatever reason, I just think that's premeditated murder.

3 Q Do you believe that the death penalty is appropriate
4 in all cases where there's premeditated murder?

5 A Not all cases, no.

6 Q What made you tell the Judge initially that you did
7 not believe in the death penalty?

8 A I guess, basically, my religion, thinking -- you
9 know, weighing the pro's and con's of it, I guess.

10 Q What made you change your answer the second time he
11 asked?

12 A I don't know. I guess with the information he told
13 me about being protected and all that, you know.
14 Sometimes things are scary, you hear a lot of things and
15 you think people are going to maybe come after you because
16 you're a juror.

17 Q Would that be in the back of your mind if you served
18 on this jury?

19 A I think it would be.

20 Q Do you think that it being in the back of your mind
21 would impact your service as a juror?

22 A No. It wouldn't impact my service. But it would
23 have some thought to the back of my mind as to, you know,
24 this is a small town and people can find you quickly.

25 Q If I were to tell you that you always have a choice

1 of life in prison, never get out, spend the rest of your
2 life in prison or death, would you pick life in prison?

3 A Uh-huh.

4 Q Always?

5 A Uh-huh.

6 Q If you've always got that, you'll always pick life in
7 prison?

8 A Uh-huh.

9 MR. GOWDY: Your Honor, at this point, that would be
10 all the questions I have.

11 THE COURT: All right. Ms. Murphy, let me ask you
12 just to step out in the hallway for just a second, please.

13 (Pause.)

14 MR. GOWDY: Your Honor, she is no more qualified than
15 Juror #388 that we struck 30 minutes ago. In fact, he
16 vacillated a lot less than she did and he was found
17 unqualified. If we plow the same standard, this good lady
18 is not qualified, also.

19 MS. QUIMBY: Your Honor, we believe she is qualified,
20 understanding that she did vacillate. Clearly, after
21 further questioning, questioning from Your Honor and
22 additional questioning, her main concern, her main
23 objection to being able to serve was not necessarily a
24 question of morality or a question of death penalty, it
25 was a question of whether her identity would be protected

1 as a juror. Once she was assured of that --

2 THE COURT: Well, up to that point, there wasn't much
3 question in my mind that she was qualified.

4 Yes, sir.

5 MR. BOGGS: If he's basing it on that last question,
6 that last question didn't put it as, if you have a choice
7 between the two, would you always --

8 THE COURT: That was his question.

9 MR. GOWDY: Have we waived the two-lawyer rule, Your
10 Honor? I mean, is Mr. Boggs going to handle all the
11 objections?

12 THE COURT: All right. Now --

13 MR. BOGGS: No. I'll sit down.

14 MR. GOWDY: I mean, the question was as clear as it
15 could be, would you pick life or death, and she twice
16 said, I'd pick life.

17 THE COURT: That was the question. I'm going to have
18 to strike her.

19 (Pause.)

20 THE COURT: Hey, Ms. Murphy.

21 JUROR #258, PATRICIA MURPHY: Hey.

22 THE COURT: I want to thank you again for coming up
23 here and for performing your civic duty. I can't tell you
24 how important it is and what an important part in the
25 whole process you have played. And I am, at this time,

1 going to excuse you from service on the jury.

2 JUROR #258, PATRICIA MURPHY: Okay.

3 THE COURT: So I appreciate you being up here and
4 wish you the best of luck.

5 JUROR #258, PATRICIA MURPHY: Okay. Thank you.

6 (Juror #258, Patricia Murphy, was excused from the
7 courtroom.)

8 THE COURT: Okay. Bring the next one in.

9 (Juror #19, Donald Bower, a white male, was seated.)

10 THE COURT: Hello, Mr. Bower.

11 How are you?

12 JUROR #19, DONALD BOWER: Just fine. And you?

13 THE COURT: Great. Fine. Thank you very much.

14 Mr. Bower, we're going to -- as you know, I guess, by
15 now, we're going to ask you some individual questions
16 about the case and about your view on the death penalty.
17 Those are the -- kind of the subject matter that we're
18 going to pursue here. And I want to put you at ease as
19 best I can. I want to assure you that no one here is
20 going to embarrass you or humiliate you in any way
21 whatsoever.

22 I want you to know there are no right or wrong
23 answers to any of the questions that will be asked of you.
24 But this is a very serious and solemn occasion that we're
25 up here on, so it's vitally important that we get

1. truthful, accurate, and complete answers to the questions.
2. What we're looking for, while there are no right or wrong
3. answers -- I say that, there are right answers and the
4. right answers are your truthful, heartfelt responses to
5. these questions. And that's all we're after. And I
6. promise you, no one will be in judgment about any of the
7. answers you give. Okay.

8. So with that being said, I'm going to introduce the
9. case to you a little bit. And I've described the
10. indictments and told you what the charges are up until
11. now. I'm going to go through them and give you a little
12. bit -- take a little meat off the bone and give it to you
13. so you'll know what we're talking about up here. I want
14. to emphasize to you that these indictments are not
15. evidence and they shouldn't be considered or construed in
16. any way as evidence. They're just allegations, which are
17. typed on a piece of paper which allows this case to be
18. brought up here to court.

19. So the first one is that Fredrick Antonio Evins did
20. in Spartanburg County on or about February 13th, 2003,
21. feloniously, willfully, and with malice aforethought kill
22. Rhonda Marie Ward. The next one is a kidnapping
23. indictment. It alleges that Mr. Evins on the same date
24. did unlawfully kidnap or abduct Rhonda Marie Ward. The
25. next one is criminal sexual conduct. It alleges that

1 Mr. Evins did on the same date willfully and unlawfully
2 commit a sexual battery on the victim, Rhonda Marie Ward.
3 And, finally, there's a grand larceny indictment, which
4 alleges that Mr. Evins on the same date feloniously took
5 away Ms. Ward's Nissan Sentra automobile and its contents.

6 So those are the indictments or the allegations
7 contained in the indictments. And what -- we recognize
8 there's been publicity about this case. It's been on
9 television, in the newspaper, and on the radio. And so,
10 I'm curious to know, have you read, heard, or seen
11 anything about this case?

12 JUROR #19, DONALD BOWER: Yes, I have.

13 THE COURT: Okay. Tell me about that, would you?

14 JUROR #19, DONALD BOWER: I just remember hearing
15 about it when it first happened. And I didn't realize
16 anybody had been charged with it. That's about all I know
17 about the case. I just remember when it did happen.

18 THE COURT: All right. So everything that you know
19 about the case was back -- that you heard about, it was
20 way back around the time it occurred?

21 JUROR #19, DONALD BOWER: Yes. Well, except for
22 yesterday, the day before, the first thing in the morning,
23 they said there was going to be a murder case in
24 Spartanburg. It was on the news before I come in for jury
25 duty. And that was it.

1 THE COURT: Well, do you understand, as a juror, your
2 oath requires that you have to put aside anything you've
3 already read, heard, or seen about the case, and you have
4 to decide the facts only from the evidence presented in
5 the courtroom?

6 Do you understand that?

7 JUROR #19, DONALD BOWER: Of course, yes.

8 THE COURT: So would you serve as a fair and
9 impartial juror and reach a verdict based on the evidence
10 presented and the facts presented at trial and in
11 accordance with my instructions on the law?

12 JUROR #19, DONALD BOWER: Yes, I would.

13 THE COURT: Now, have you in any way already formed
14 an opinion about the facts in this case?

15 JUROR #19, DONALD BOWER: No, I haven't.

16 THE COURT: Have you formed any kind of opinion about
17 the guilt or innocence of Mr. Evins?

18 JUROR #19, DONALD BOWER: No.

19 THE COURT: Now, keeping in mind the legal principles
20 of the presumption of innocence and the State's obligation
21 to prove guilt beyond a reasonable doubt, could you,
22 depending on the facts and the evidence and the law as I
23 would give to you, find a defendant either guilty or not
24 guilty, depending on what that evidence showed?

25 JUROR #19, DONALD BOWER: Yes, I could.

1 THE COURT: Okay. Now, please remember that we may
2 not even reach the second phase or the sentencing phase,
3 but since we possibly could, it's important that we
4 discuss your views on the death penalty a little bit.
5 When a jury moves to the second phase, or the sentencing
6 phase, it means that the jury has already found that
7 defendant guilty of murder.

8 So in the second phase, you wouldn't consider in any
9 way any legal defense. You wouldn't have to question or
10 explore any legal defense. Guilt of murder would have
11 been established by the jury -- the same jury in that
12 first phase of the trial. So in the second phase of the
13 trial, you would hear evidence, as I've described to you,
14 in mitigation and evidence in aggravation.

15 Now, your oath would require you to put aside any
16 preconceived notion that you might have and follow the law
17 as I instruct it to you. So, in other words, your oath
18 would require you to give serious and meaningful
19 consideration to the aggravating circumstances and to the
20 mitigating circumstances. Would you honor your oath in
21 that regard?

22 JUROR #19, DONALD BOWER: Yes, I would.

23 THE COURT: Okay. Now, if you were a juror in that
24 situation, and by that, I mean the second or sentencing
25 phase of the case, you're a juror in that situation,

1 depending -- could you, depending on the particular facts
2 and circumstances of that case, depending and listening to
3 the aggravating circumstances and the mitigating
4 circumstances, listening to the law as I would give it to
5 you, could you return a verdict of life in prison?

6 JUROR #19, DONALD BOWER: Yes.

7 THE COURT: Okay. Conversely, as a juror in that
8 situation, could you, depending on the facts and the
9 circumstances of that case, all of the aggravating and
10 mitigating circumstances and the law, could you return a
11 verdict of death?

12 JUROR #19, DONALD BOWER: Yes.

13 THE COURT: Okay. Now, South Carolina law requires
14 in the event of a death sentence that all 12 jurors sign
15 the death sentence verdict form, could you do that?

16 JUROR #19, DONALD BOWER: Yes.

17 THE COURT: All right. Do you remember the sheet
18 that I had passed out in the room about the three types of
19 jurors?

20 JUROR #19, DONALD BOWER: Yes, sir.

21 THE COURT: Where do you put yourself?

22 JUROR #19, DONALD BOWER: The third one.

23 THE COURT: The third one?

24 JUROR #19, DONALD BOWER: Yes.

25 THE COURT: So you would need to listen and hear all

1 the facts and all the evidence before you made a decision?

2 JUROR #19, DONALD BOWER: Yes.

3 THE COURT: If you were selected, would you honor
4 your oath and approach jury service with an open mind to
5 find the truth from the evidence and apply the law as I
6 gave it to you?

7 JUROR #19, DONALD BOWER: Yes.

8 THE COURT: Do you know of any reason why you
9 couldn't serve as a juror in this case?

10 JUROR #19, DONALD BOWER: No, I don't.

11 THE COURT: Now, I'll tell you just again briefly,
12 I've told you a little bit -- or earlier that the jury
13 will be sequestered and will be staying at the Marriott
14 Hotel. And it might last from five to seven days. So I
15 just want you to be aware of that. Okay.

16 JUROR #19, DONALD BOWER: Uh-huh.

17 THE COURT: I'm going to let the attorneys question
18 you at this time.

19 Thank you, sir.

20 MR. BARNETTE: May it please the Court, Your Honor?

21 THE COURT: Yes, sir.

22 EXAMINATION

23 BY MR. BARNETTE:

24 Q Hello, Mr. Bower. Let me introduce myself, I know
25 the Judge introduced us. I'm Barry Barnette. And this is

1 Trey Gowdy, and this is John Anthony. We'll be
2 representing the State.

3 I notice you're wearing a Carolina Panthers jacket.

4 A Yes, I am.

5 Q Are you a big sports fan, football, baseball?

6 A Yes.

7 Q Is the Braves your baseball team?

8 A Yes.

9 Q Were you raised in Pennsylvania?

10 A Yes.

11 Q Was it a big football area where you're from up
12 there?

13 A High school football. Philadelphia is about 100
14 miles away.

15 Q And your wife, she works at Hope, Incorporated?

16 A Yes.

17 Q And you have five children, two children and three
18 stepchildren?

19 A Yes.

20 Q I know the Judge has asked you some questions
21 about -- and like I said, we appreciate you filling out
22 this information. Because it's very important to us and,
23 you know, it's a very important case to everybody. And we
24 appreciate you being here.

25 But, basically, would you listen to both sides before

1 you made a verdict in this situation?

2 A Yes.

3 Q And would you listen to -- if he was found guilty,
4 it would go to a sentencing phase and the State would
5 present their aggravating circumstances and the Defense
6 would introduce mitigating circumstance. Would you listen
7 to all those sides and make a decision on what you heard?

8 A Yes, I would.

9 Q And you realize in a case involving the death penalty
10 and everything, all 12 jurors have to sign a sentence form
11 like the Judge says?

12 A (Juror nodded.)

13 Q And would you feel comfortable signing that, if that
14 was the appropriate verdict?

15 A Yes.

16 Q But you realize a death sentence -- it don't mean
17 that you automatically have to give a death sentence?

18 A Right.

19 Q Life without parole is always an option.

20 A Right.

21 Q But if you felt like the aggravating circumstances
22 added up and the aggravation evidence as you heard it,
23 could you sign that death sentence?

24 A Yes, I could.

25 Q On the other hand, if it didn't reach that level,

1 could you come back with a verdict of life without parole?

2 A Yes.

3 MR. BARNETTE: Sir, thank you for your time. I

4 appreciate you being here.

5 Thank you, Your Honor.

6 THE COURT: All right. Mr. Boggs.

7 EXAMINATION

8 BY MR. BOGGS:

9 Q Good, I guess, afternoon Mr. Bower. How are you?

10 A Fine. How are you?

11 Q My name is Tam Boggs, Mr. Bower. I'm one of the
12 attorneys representing Mr. Evins, along with Karen Quimby
13 and Chris Brough. I want to ask you a couple of questions
14 following up with what Judge Miller says. A lot of the
15 information that you sent in -- and we appreciate you
16 sending in this questionnaire. It, of course, deals with
17 personal background. We like to know a little bit about
18 that. I did have one question.

19 I was Army infantry and I saw you were in the Navy
20 and I didn't know, what is a BT-3?

21 A Boiler technician.

22 Q So you were down there making them run, I guess?

23 A Yes, I was.

24 Q And you now work with the J.M. Smith Corporation?

25 A Yes, sir.

1 Q Are you over at the new building?

2 A The new building, yes.

3 Q That's a nice --

4 A Yes, it is.

5 Q Y'all just recently moved in there, I think, haven't
6 you?

7 A Yes.

8 Q You answered Judge Miller's questions about the
9 publicity in the case saying that you have heard or read
10 about the incident several months ago and --

11 A Correct.

12 Q -- that you did hear the TV news report on Monday; is
13 that correct?

14 A Yes.

15 Q All right. As best you can, kind of tell me what you
16 remember about the TV broadcast on Monday. Was this on
17 Channel 7?

18 A I'm not sure what it was on. We swap back and forth.
19 It was in the morning early.

20 Q An early morning show?

21 A Yeah. It was either Channel 4 or 7, one or the
22 other. And it just said there was going to be a murder
23 case. This week and that was all I heard of it.

24 Q I'm sorry?

25 A There was going to be a murder case this week in

1 Spartanburg.

2 Q Do you remember if it identified the name of the
3 person that was going to be tried?

4 A I'm not sure. I just can't remember that. It seems
5 like they did, yeah.

6 Q And do you remember much about what the contents of
7 that story was?

8 A No. That's all I heard. I was in between getting
9 ready, going from one room to the another.

10 Q When you heard that story, did it kind of revive in
11 your memory what you had read 18 months ago or so?

12 A No. Because I really didn't know they had anybody.
13 I just remembered that something happened over there at,
14 some place in Drayton. And that's all I -- I didn't know
15 anything else about it except for that.

16 Q Okay. Well, back -- let's go back to when you first
17 heard about the incident 18 months ago or so. Do you
18 remember whether there was much publicity about it back
19 then?

20 A No. It probably was on the -- I know they were
21 looking for a car or something, seems like I remember
22 something like that. And it took them a few days to find
23 the body. I think that was -- that's all I remember about
24 that.

25 Q Okay. Now, what do you -- what goes into your mind

1 when you either read or hear on the news that somebody has
2 been arrested on a particular offense?

3 A Well, I really don't -- I can't say that a lot does.
4 Because, just as you say, maybe they got the one that done
5 it or maybe, you know --

6 Q Well, would your initial inclination -- and, of
7 course, it could be human nature. Would your initial
8 inclination be, well, they arrested somebody or --

9 MR. BARNETTE: Objection, Your Honor. I think he's
10 starting to get into a hypothetical situation.

11 MR. BOGGS: I'm asking for a straight opinion.

12 THE COURT: No. I'm going to overrule that.

13 BY MR. BOGGS:

14 Q Would you think, well, they arrested the guy that did
15 so and so? I mean, that would be human nature, wouldn't
16 it?

17 A To a certain extent, yeah. Because I've always been
18 a firm believer of the Court system. But if they arrest
19 somebody for a traffic fine or what, until they prove him
20 guilty, I try not to judge anybody until I know all the
21 facts.

22 Q All right. Well, even if you did have the feeling,
23 well, they've arrested somebody, there must be some guilt
24 associated with it, if you were picked on the jury, would
25 you be able to put that aside and judge this case --

1 MR. BARNETTE: Objection, Your Honor.

2 MR. BOGGS: Only about what he's heard about the
3 testimony is what I'm asking.

4 THE COURT: I think it's all right. I'm going to let
5 him ask it.

6 Go ahead.

7 BY MR. BOGGS:

8 Q Would you be able to put that prior information
9 aside -- or prior feeling aside and judge the case based
10 on only what you hear --

11 A The information, yes, and the facts, yes.

12 Q So even like the news stories or reading about it,
13 you would be able to put that aside and judge the case
14 only on what you've heard here?

15 A Yes, I could.

16 Q All right. Give me a little bit -- or tell me what
17 your feelings are about the death penalty, your general
18 feelings about it.

19 A Well, I'd hate to sentence the death penalty. I
20 guess -- I do believe in it as far as, you know, the
21 circumstances. I think each case or each thing of
22 somebody sentenced to death would be special
23 circumstances. And it had to be -- there had to be
24 certain facts before I would sentence somebody to death.

25 Q All right. Well, let me ask you this then, do you

1 feel like any person convicted of murder should get the
2 death penalty?

3 A If the facts warrant so, yes. Not everybody, you
4 know, there is different reasons, you know.

5 Q Okay. We'll narrow it down a little bit. Just
6 generally, any person that's convicted of murder, do you
7 think the appropriate sentence is the death penalty?

8 A No.

9 Q All right. So you recognize that there are
10 circumstances where life would be more appropriate than
11 the death penalty?

12 A Yes, I do.

13 Q All right. Do you have any -- what would pop into
14 your mind as something that would warrant the death
15 penalty?

16 MR. BARNETTE: Objection, Your Honor. Now, we're
17 getting into specific incidents.

18 THE COURT: Yes. I'm going to sustain that one.

19 BY MR. BOGGS:

20 Q Going back to your feelings about the death penalty,
21 do you know where those feelings are rooted? By that, I
22 mean, was it something that developed over time? Is it
23 based on a religious-type feeling?

24 A No. I guess it's just come along with life in
25 general and living the years I have.

1 Q Life experiences?

2 A Life experiences, yes.

3 Q Are your feelings pretty strong about the death
4 penalty? You've pretty much said that you feel like under
5 the proper circumstances that death would be warranted.
6 Is that a fair statement?

7 A Yes.

8 Q All right. You've heard the term an eye for an eye,
9 what does that mean to you?

10 A Like if you do something to me, I could do the same
11 thing back to you.

12 Q Do you hold to that principle necessarily?

13 A No. I'm not very -- no, sir.

14 Q Just a couple more questions. In the past, have you
15 had jobs or positions that have put you in a supervisory
16 position or have control of other people?

17 A Yes.

18 Q Are you presently in that type of position?

19 A Not at the moment, no, sir.

20 Q And, in fact, in the past, you supervised a fair
21 number of people at one time?

22 A Yes, sir.

23 Q Okay. So you understand -- let me rephrase that. Do
24 you consider yourself, then, the type of personality that
25 would be classified as a leader or more as a follower?

1 A I'm more of a leader.

2 Q More of a leader. And that's generally the
3 supervisory type?

4 A Yes.

5 Q And if you served on a jury and you cast the very
6 first vote, okay, and then the next five people voted
7 opposite of you, would that begin to make you question how
8 you voted?

9 A Not necessarily, no. I think once I made my mind up,
10 I think I would -- unless I could -- I'm not saying
11 people -- I might overlook something or something like
12 that, you know. I could be completely different, but
13 generally --

14 Q Generally, when you weigh all the facts and make a
15 decision, you say, I'm going to stick by it?

16 A I'm going to stick by it.

17 Q And the next five people, of course, have their own
18 opinion, but you don't think that would make you start
19 questioning your own decision?

20 A No.

21 Q What if it ended up 11 had voted opposite of you, and
22 it was just your vote against the 11?

23 A As long as I thought I was right, I would stick by
24 it.

25 Q Well, that's admirable. So if you were convinced

1 that you had taken a position that was justified in your
2 mind, based upon all the evidence, you would not let the
3 other 11 change it?

4 A They wouldn't sway me, no, sir.

5 Q I'm sorry?

6 A They wouldn't sway me.

7 Q All right. So you're pretty firm in your convictions
8 then?

9 A Yes.

10 Q And, apparently, you have a lot of confidence in your
11 ability and that's an admirable trait.

12 A Yes.

13 Q All right. I think that's -- just one or two more
14 questions, I think, Mr. Bower. Now, as Judge Miller has
15 explained to you, if Mr. Evins is convicted of murder --
16 and, of course, that's if, if he was convicted, then
17 Mr. Gowdy has asked for the penalty of death. You
18 understand that?

19 A Yes.

20 Q Just because Mr. Gowdy has decided to ask for that,
21 do you think that has any bearing on the case, as opposed
22 to just any other case? In other words, would just the
23 fact that Mr. Gowdy has asked for death, does that weigh
24 in what you consider the strength of the State's case?

25 A No, it doesn't.

1 Q So you're saying that just because it's been
2 designated as a death penalty case, that would not
3 influence you as to whether or not Mr. Evins is guilty?

4 A No, it wouldn't.

5 Q And you do, of course, understand that our questions
6 today have to deal with the death penalty phase of the
7 case, but that there has to be a trial before --

8 A Correct.

9 Q -- that could even pop up?

10 A Right.

11 Q And it very well may be that whoever is selected on
12 this jury wouldn't even have to go to that phase, you
13 understand that?

14 A I understand.

15 MR. BOGGS: Your Honor, that's all.

16 Thank you.

17 THE COURT: All right. Mr. Bower, could I ask you to
18 step to the hall for just a second, please.

19 JUROR #19, DONALD BOWER: Sure.

20 (Pause.)

21 THE COURT: All right. Any objections?

22 MR. BARNETTE: None from the State, Your Honor.

23 MR. BOGGS: We have no objection.

24 THE COURT: I didn't think you did.

25 All right. Bring him back.

1 THE COURT: Mr. Bower, thank you very much.

2 I want to tell you how much we appreciate your
3 service, being up here and all. I'm going to give this to
4 you to take with you. And I want to tell you that you
5 remain a qualified juror in the case, which means we're
6 going through the qualification process. When we get a
7 certain number of qualified juror, then we will bring
8 y'all back in and select the jury. So in two or three
9 days, you'll be getting a phone call from the Clerk's
10 Office, and they'll tell you when to report back.

11 In the meantime, please, I admonish you to follow
12 your oath and do not read, listen to, or watch anything
13 with respect to this case. Let the decision that's made
14 in this case come solely from the sworn testimony and
15 evidence that's presented in the courtroom. And so don't
16 discuss it with anybody. And we'll be back in touch with
17 you.

18 JUROR #19, DONALD BOWER: Okay. Thank you.

19 THE COURT: Thank you.

20 (Juror #19, Donald Bower, was excused from the
21 courtroom.)

22 THE COURT: Bring the next juror in.

23 (Juror #164, William Hospodar, a white male, was
24 seated.)

25 THE COURT: Mr. Hospodar, welcome to the courtroom.

1 JUROR #164, WILLIAM HOSPODAR: Thank you, sir.

2 THE COURT: I want to put you at ease as best I can.
3 I know that seat -- I tell everybody it's the hot seat and
4 it is right now. Let me just tell you -- maybe I don't
5 need to put you at ease, that would be great.

6 But I want to tell you a couple of things, one, there
7 are no right or wrong answers to the questions we're going
8 to ask.

9 JUROR #164, WILLIAM HOSPODAR: Okay.

10 THE COURT: And it's not a test of any kind. And I
11 want you to know that we are interested only in your
12 truthful, complete, accurate answers. This is a very
13 serious and solemn proceeding that we're in. So it's
14 really important that we get your heartfelt answers to
15 these questions. I promise you that nobody is going to
16 embarrass you or humiliate you in any way.

17 With that being said, let me tell you a little bit
18 more about the specifics in this case, not a whole lot,
19 but a little bit. And, again, I will remind you that the
20 indictments are not evidence. They're just simply
21 allegations that are written on a piece of paper that
22 allows the case to be brought to court. But they do
23 contain the charges.

24 The first charge is that Fredrick Antonio Evins did
25 in Spartanburg County on or about February 13th, 2003,

1 willfully and with malice aforethought kill Rhonda Marie
2 Ward. He's also charged with kidnapping. It alleges on
3 the same date that he did unlawfully kidnap or abduct
4 Rhonda Marie Ward. Additionally, there's a criminal
5 sexual conduct indictment that alleges that he did on the
6 same date unlawfully commit a sexual battery on Rhonda
7 Marie Ward. And, finally, there's an indictment for grand
8 larceny, which alleges that he did on the same date
9 feloniously take and carry away Rhonda Marie Ward's Nissan
10 Sentra and its contents.

11 Okay. Again, those are just the allegations
12 contained in the case. But having heard that, we
13 recognize that there has been publicity regarding the case
14 on television, the radio, and in the newspaper. So I'm
15 curious and need to know, have you read, heard, or seen
16 anything about the facts of this case?

17 JUROR #164, WILLIAM HOSPODAR: Not with those
18 specific names, no.

19 THE COURT: All right. And do you understand that
20 should you recall -- you might have heard it, but don't
21 recall it. But your oath will require you to disregard
22 anything that you've heard, read, or seen about the case.
23 And you would be required to decide the case solely and
24 only from the facts and the evidence presented in the
25 courtroom.

1 Do you understand that?

2 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

3 THE COURT: Okay. Now, would you serve as a fair and
4 impartial juror and reach a verdict based on the facts
5 presented at trial in accordance with my instructions on
6 the law?

7 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

8 THE COURT: Okay. Have you formed any opinion as to
9 the facts of this case or the guilt or innocence of
10 Mr. Evins?

11 JUROR #164, WILLIAM HOSPODAR: No, sir.

12 THE COURT: All right. Keeping in mind the legal
13 principles of the presumption of innocence and the State's
14 obligation to prove guilt beyond a reasonable doubt, could
15 you, depending on the facts and the evidence that you've
16 heard and the law as I instruct it to you, find a
17 defendant either guilty or not guilty depending on the
18 evidence?

19 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

20 THE COURT: Okay. Now, please remember that we may
21 not even reach the second or sentencing phase in the case,
22 but since we possibly could, I need to ask you about your
23 views on the death penalty.

24 Do you understand?

25 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

1 THE COURT: Okay. When the jury moves to the
2 sentencing phase or the second phase of the trial, it
3 means the jury has already found the Defendant guilty of
4 murder. So when you go to the second phase, the jury
5 would not be considering any legal defenses. There
6 wouldn't be any legal defense to discuss or explore. The
7 guilt of the murder would have already been established by
8 the jury in that first phase.

9 So in the second or sentencing phase, the jury, as I
10 described to you, would be considering aggravating
11 circumstances and mitigating circumstances. Now, your
12 oath would require you to put aside any preconceived
13 notion that you might have and follow the law as I give it
14 to you at that time. In other words, your oath would
15 require you to give serious and meaningful consideration
16 to the aggravation and the mitigation evidence. Would you
17 honor your oath in that regard?

18 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

19 THE COURT: Now, if you're a juror in that situation,
20 the second phase of the trial, could you, depending upon
21 the particular facts and circumstances of the case,
22 including your consideration of the mitigating and
23 aggravating circumstances and the law that I would give
24 you, could you return a sentence of life in prison?

25 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

1 THE COURT: All right. Now, again, if you're a juror
2 in that situation and considering the particular facts and
3 circumstances of that case, including the aggravating and
4 mitigating circumstances and the law as I would give it to
5 you, could you return a verdict of death?

6 JUROR #164, WILLIAM HOSPODAR: Yes.

7 THE COURT: Now, in the event of a death sentence,
8 South Carolina law requires all 12 jurors to sign the
9 verdict form. Could you sign your name to a death
10 sentence verdict?

11 JUROR #164, WILLIAM HOSPODAR: Yes.

12 THE COURT: All right. Do you recall that list of
13 three types of jurors that I had you look at?

14 JUROR #164, WILLIAM HOSPODAR: Uh-huh.

15 THE COURT: How would you characterize yourself?

16 JUROR #164, WILLIAM HOSPODAR: Probably somewhere
17 between the always death sentence and the one that can go
18 either way.

19 THE COURT: Okay. So you're -- you would be
20 inclined, I guess is what you're telling me, to give a
21 death sentence; is that right?

22 JUROR #164, WILLIAM HOSPODAR: If a person is
23 convicted of murder and they have no chance of parole, I
24 personally would have a hard time spending taxpayer money
25 keeping them alive simply so they could die in prison.

1 THE COURT: All right. But what I am interested in
2 knowing is if the facts warranted -- after listening to
3 everything, if the facts warranted that you -- could you
4 ever give a life without possibility of parole?

5 JUROR #164, WILLIAM HOSPODAR: Depending on the facts
6 in the case, yes.

7 THE COURT: All right. And if you were selected,
8 would you honor your oath and keep an open mind to find
9 the truth from the evidence presented at trial?

10 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

11 THE COURT: Do you know of any reason why you
12 couldn't serve in this case?

13 JUROR #164, WILLIAM HOSPODAR: No, sir, I don't.

14 THE COURT: All right. Do you understand that the
15 jury will be sequestered and be staying over at the
16 Marriott and be there anywhere from four to seven days?

17 Do you understand that?

18 JUROR #164, WILLIAM HOSPODAR: Yes, sir.

19 THE COURT: All right. I'll let the attorneys ask
20 you some questions.

21 MR. BROUGH: May it please the Court?

22 EXAMINATION

23 BY MR. BROUGH:

24 Q Good afternoon, Mr. Hospodar. As Judge Miller
25 introduced us before, I'm Chris Brough. And I represent

1 Fredrick Evins, along with Karen Quimby and Tam Boggs,
2 who's briefly stepped out.

3 I noticed based on the juror questionnaire -- and we
4 appreciate you filling that out -- that you're a chemical
5 engineer?

6 A Yes, sir.

7 Q An awful lot of calculus and chemistry?

8 A Yep.

9 Q I also noticed that your father was a police officer?

10 A Yes, he was.

11 Q And you used to live at some point in Ohio; is that
12 correct?

13 A Yes.

14 Q East Cleveland?

15 A He was an officer there. We lived in Cleveland
16 Heights, which is a suburb right next to it.

17 Q And I noticed also -- and I was kind of curious about
18 this, you, actually, went back to school at some point to
19 get some training so that you could be an EMT; is that
20 correct?

21 A Yes.

22 Q And how is that going?

23 A I no longer practice.

24 Q You no longer practice?

25 A No, sir. Spartanburg County made it difficult for me

1 to practice. So I had a family growing at the time and I
2 made a choice to stay with my family and not commit the
3 extra time to volunteering.

4 Q Did you have a chance to work with a lot of law
5 enforcement while you were doing that?

6 A Sure.

7 Q Now, Judge Miller has asked you about pretrial
8 publicity and things of that nature. And I know you said
9 you didn't remember anything regarding any specific
10 names?

11 A No.

12 Q Do you recall ever hearing anything in the newspaper
13 or on TV about anything regarding a cigarette store or
14 anything like that?

15 A No.

16 Q Okay. And you said you didn't hear anything relating
17 to Mr. Evins in terms of publicity; is that right?

18 A Not that I recall.

19 Q I just want to ask you a couple of questions about
20 the death penalty. Can you just kind of tell me what your
21 general viewpoints are?

22 A I believe that if someone is guilty of murder in the
23 first degree that, in general, they should receive the
24 death penalty.

25 Q Now, when Judge Miller asked you that, you mentioned

1 something about spending taxpayer money?

2 A Right.

3 Q You understand that that's not something that you
4 could consider in this case?

5 A Okay.

6 Q Now, I also noticed that you read the Spartanburg
7 Herald?

8 A Every once in a while. I usually pick up a Sunday
9 paper.

10 Q When is the last time you read it?

11 A Last Sunday.

12 Q All right. I want to ask you a couple of questions
13 about some other things in addition to just kind of the
14 death penalty stuff. Can you just kind of tell me what
15 your view points are on interracial dating.

16 A Okay. It's -- I have a three-month-old daughter.
17 When she grows up, is it something I would encourage her
18 to do? Probably not. Would I be violent if she did it?
19 No.

20 Q Okay. I've got you. Let me just ask you a couple of
21 other quick questions. I know some of the TV shows that
22 you said you watched -- you said JAG?

23 A Yeah.

24 Q What is it you like about that show?

25 A Just the general plot of the show.

1 Q Do you like the law portion or sort of the action
2 portion better?

3 A Probably more the action portion of it.

4 Q I also saw that you had Trading Spaces and While You
5 Were Out down there. Is that something you watch with
6 your wife?

7 A Yeah.

8 Q She kind of turns it on?

9 A It's nice to see how some people get their homes
10 redone. It gives you good ideas on how to do your home.

11 Q I also noticed you said you had served as a juror
12 before?

13 A Yes.

14 Q Was it down in Magistrate Court?

15 A One time in Magistrate Court.

16 Q Could you tell me about how that happened? What was
17 your experience like down there?

18 A I mean, I was called through a summons just like
19 anybody else, and I think I sat on two or three juries
20 during that week.

21 Q I know that --

22 A Sometimes, it was a painfully slow process.

23 Q I know that at one point you said that you found it
24 sort of appalling that the officers had to prosecute their
25 own cases down there?

1 A Yeah. To me, it was, at best, curious that a police
2 officer has to prosecute his own case. I've never heard
3 of that before.

4 Q Right.

5 A To me, that's what the DA's Office is for. Now,
6 maybe I don't understand the law in Spartanburg County or
7 South Carolina.

8 Q So I take it your father never had to prosecute his
9 cases?

10 A No.

11 Q Did he ever talk a lot to you about work?

12 A He talked to me, yeah, a good deal.

13 Q What kind of stuff did he discuss?

14 A Things he had done that day, some of the cases he was
15 working on.

16 Q When he discussed some of the cases he was working
17 on, did you -- how did you feel towards some of the people
18 that would eventually be arrested?

19 MR. BARNETTE: Objection, Your Honor. I think we're
20 getting into special conduct here, special instances.

21 THE COURT: Yes. I'm going to sustain that.

22 MR. BROUGH: I'll move on.

23 No further questions.

24 Thank you.

25 THE COURT: All right.

EXAMINATION

1
2 BY MR. BARNETTE:

3 Q Good afternoon, sir. My name is Barry Barnette. And
4 this is Trey Gowdy and John Anthony. We represent the
5 State in this case.

6 In answering the Judge's questions and everything,
7 you realize that automatically just because you're
8 convicted of murder don't mean you automatically get the
9 death sentence?

10 Do you understand that?

11 A Right.

12 Q Do you understand you'd have to listen to the
13 evidence -- first, you'd have to determine if somebody was
14 guilty or innocent?

15 A Right.

16 Q And after that, you'd have to listen to if there's
17 any aggravating circumstances that's presented by the
18 State?

19 A Right.

20 Q And there's mitigating circumstances presented by the
21 Defense?

22 A Okay.

23 Q And a person would listen to all those. And would
24 you listen to all those and make a decision based off what
25 you heard?

1 A Sure.

2 Q And if you felt like there was mitigating
3 circumstances in that situation and the aggravating
4 circumstances didn't reach a certain level, you could find
5 a sentence of life without parole in that situation?

6 A If the law so prescribed, yes

7 Q And would you follow the law as the Judge gave it to
8 you?

9 A Of course.

10 Q And do you realize, many times, life without parole,
11 actually, costs more money than a death sentence would?

12 MR. BROUGH: Objection, Your Honor.

13 THE COURT: Sustained.

14 BY MR. BARNETTE:

15 Q And do you -- if there was aggravating circumstances,
16 conversely, could you find a death sentence in that
17 situation?

18 A Sure.

19 Q If it's proven. You would listen to the evidence and
20 you'd hear the evidence. You don't have any preconceived
21 idea about what the evidence would be prior to this, do
22 you?

23 A No.

24 Q And you don't have any preconceived notions about the
25 case itself?

1 A No.

2 Q So you would base it off the evidence that was given
3 to you?

4 A I'd have to, that's all I heard.

5 Q And you'd apply the law as the Judge gave it to you?

6 A Yes.

7 Q And I noticed you said you were in Magistrate Court
8 before?

9 A Yeah.

10 Q Did you listen to the law as the Judge gave it to you
11 then?

12 A Yes.

13 Q And did you apply it to the facts in those cases?

14 A To the best of my recollection, yeah.

15 Q And that's what you'd do in this case?

16 A Yeah.

17 Q And I notice you do have two young children?

18 A Excuse me?

19 Q I notice you do have two young children?

20 A Yes.

21 Q Do you take care of those children?

22 A My wife and I do.

23 Q And both of you -- and you was working for EMS prior
24 to this; is that correct?

25 A I was in their reserve program. I was not a paid

1 person. I was volunteering.

2 Q Are you an engineer, also?

3 A Yes.

4 Q And that's your full-time job, as well as your wife's
5 job?

6 A Yes.

7 Q And in those situations, you apply the facts that you
8 deal with everyday; is that right? And you make decisions
9 based off what you're given to work on and to do with your
10 work; is that right?

11 A I hope so.

12 Q And that's what you would do in court here?

13 A Sure.

14 MR. BARNETTE: One moment, Your Honor, please.

15 (Pause.)

16 MR. BARNETTE: Just one question to follow-up, Your
17 Honor.

18 BY MR. BARNETTE:

19 Q Could you -- in a case where somebody is found guilty
20 of murder, could you give a life without parole sentence
21 if the facts warranted that?

22 A If the facts warranted it, yes.

23 Q And if the evidence showed that?

24 A Yes.

25 MR. BARNETTE: Thank you, sir.

1 Thank you, Your Honor.

2 THE COURT: All right. Mr. Hospodar, if I could ask
3 you to step to the hallway for just a second, please, sir.

4 (Pause.)

5 THE COURT: All right. Any objections?

6 MR. BROUGH: The Defense objects to this juror, Your
7 Honor. Specifically, when asked what his viewpoints on
8 the death penalty were, he said if someone was guilty of
9 first degree murder that he would have a hard time
10 justifying anything other than the death sentence.

11 Additionally, when Your Honor questioned him, he
12 indicated that he would have a hard time justifying
13 taxpayer money to be spent just to keep someone alive
14 without the possibility of parole when the death sentence
15 could be imposed. So we would object to that also.

16 THE COURT: Okay.

17 MR. BARNETTE: Judge, we feel like he's qualified.
18 Because just one leaning or the other -- the case law is
19 pretty clear. To be qualified, you just have to be able
20 to consider what the law was given to him and the facts of
21 the case. And I believe that's what the juror has done in
22 this situation. And I think he's qualified.

23 THE COURT: I'm going to find he's qualified.

24 Bring the juror back in.

25 (Pause.)

1 THE COURT: Hey, Mr. Hospodar.

2 If you would come on over here, I've got something to
3 give you, and I want you to hang onto it. You remain a
4 qualified juror in this case. And just -- it gets a
5 little confusing. We're going through the qualification
6 process. So at some later date, in two or three days, we
7 will bring in all the qualified jurors and have a
8 selection -- a jury selection. So in two or three days,
9 you'll get a phone call from the Clerk's Office to tell
10 you when to come back up.

11 Again, let me emphasize to you the importance of you
12 following your oath and not reading anything about this
13 case, listening to anything about this case, watching
14 anything about this case, or discussing anything about
15 this case. And I know the temptation has got to be there
16 to talk about it. It's going to be difficult to resist,
17 but these rights belong to you. And the only way to
18 protect the rights of a fair trial here that belong to you
19 and everyone else in this country is that every juror
20 abide by their oath and not discuss it and let the case be
21 decided from the sworn testimony and evidence in the
22 courtroom.

23 So we'll be back in touch with you in a couple of
24 days.

25 Thank you, sir.

1 (Juror #164, William Hospodar, was excused from the
2 courtroom.)

3 THE COURT: Bring the next juror in, please.

4 (Juror #306, Neddie Richards, a white male, was
5 seated.)

6 THE COURT: Mr. Richards, how are you doing?

7 JUROR #306, NEDDIE RICHARDS: Pretty good.

8 THE COURT: Welcome back.

9 I'm going to try to be as quick as I possibly can. I
10 want you to be at ease up here. And I want you to be
11 ensured that no one is going to ask you any questions or
12 do anything that would embarrass you or humiliate you in
13 any way. But I want you to understand also that there are
14 no right or wrong answers to the questions that you'll be
15 asked up here. We're going to want to know what you know
16 about this case, basically, and talk to you about your
17 views on the death penalty a little bit.

18 So there are no right or wrong answers. And all we
19 ask of you is that you give us truthful, complete, and
20 accurate answers and really just give us your heartfelt
21 responses to some of these questions. No one is judging
22 you. And this is not a test, I promise.

23 All right. I'm going to talk to you a little bit
24 about the indictments in the case. I've told you what the
25 charges are. I'm going to go through them briefly so

1 you're a little bit familiar with what the allegations
2 are. Again, these are not evidence and shouldn't be
3 considered by you or anyone else to be evidence. They are
4 only allegations typed on a piece of paper which allow
5 this case to be brought to court.

6 And they are -- they include an indictment for murder
7 that Fredrick Antonio Evins did in Spartanburg County on
8 or about February 13th, 2003, unlawfully and with malice
9 aforethought kill Rhonda Marie Ward. There's a kidnapping
10 indictment. It alleges that he did on the same date
11 unlawfully kidnap or abduct Rhonda Marie Ward. There's
12 also a criminal sexual conduct indictment that alleges
13 that he did on the same date unlawfully commit a sexual
14 battery on Rhonda Marie Ward. And then, finally, there's
15 a grand larceny indictment which alleges that Mr. Evins
16 did on February 13th, 2003, feloniously carry away Ms.
17 Rhonda Marie Ward's 1993 Nissan Sentra and its contents.
18 Those are the charges against Mr. Evins and the
19 indictments that we're up here on.

20 And so we recognize there has been publicity about
21 this case on TV, in the newspaper, and on the radio. And
22 I just need to know, have you heard, read, or seen
23 anything about this case?

24 JUROR #306, NEDDIE RICHARDS: The only thing that I
25 can remember is that on the 9th, when we came -- the

1 morning that I had to come to court, I was waking up and I
2 was hearing something that they were saying that -- it's a
3 little bit --

4 THE COURT: Fuzzy?

5 JUROR #306, NEDDIE RICHARDS: -- vague. Well, I
6 mean, because I was waking up at the time. It was just
7 saying that -- it was something about a food mart and they
8 had 200 jurors. And that's really all I remember hearing.

9 THE COURT: You heard that on the radio?

10 JUROR #306, NEDDIE RICHARDS: No, it was the TV. It
11 was my grandma's TV. She has it up quite loud, so I was
12 overhearing it.

13 THE COURT: I take it she gets up before you do?

14 JUROR #306, NEDDIE RICHARDS: Yeah.

15 THE COURT: Well, did you -- is there anything else
16 that you remember hearing?

17 JUROR #306, NEDDIE RICHARDS: No.

18 THE COURT: Well, you understand, as a juror, your
19 oath would require you to put aside anything you've heard,
20 read, or seen about the case and decide the case solely
21 from the facts and the evidence presented in the
22 courtroom?

23 Do you understand that?

24 JUROR #306, NEDDIE RICHARDS: Yes, sir.

25 THE COURT: Okay. Could you serve as a fair and

1 impartial juror and make your decision based solely on the
2 facts presented at trial?

3 JUROR #306, NEDDIE RICHARDS: Yes, sir.

4 THE COURT: Have you formed any opinion about the
5 facts in the case?

6 JUROR #306, NEDDIE RICHARDS: No, sir.

7 THE COURT: Have you formed any opinion about the
8 guilt or innocence of Mr. Evins?

9 JUROR #306, NEDDIE RICHARDS: No, sir.

10 THE COURT: Now, keeping in mind the legal principles
11 of the presumption of innocence and the State's obligation
12 to prove guilt beyond a reasonable doubt, could you,
13 depending upon the facts and the circumstances, the facts
14 and the evidence in the case and the law as I give it to
15 you, find a defendant guilty or not guilty depending on
16 what you heard?

17 JUROR #306, NEDDIE RICHARDS: On the facts -- I would
18 be able to --

19 THE COURT: In other words, what I'm asking you, is
20 your mind made up one way or the other?

21 JUROR #306, NEDDIE RICHARDS: No, once I hear the
22 facts.

23 THE COURT: All right. Now, please remember, we may
24 not even reach the second phase or what I call the
25 sentencing phase, but because we possibly could, I'm going

1 to ask you some -- a few questions about your views on the
2 death penalty. Okay.

3 JUROR #306, NEDDIE RICHARDS: Okay.

4 THE COURT: Now, when the jury -- first of all, let
5 me tell you, when the jury goes to the sentencing phase,
6 it means that the jury has already decided the guilt of
7 the Defendant. In other words, they have said he is
8 guilty of murder, and that's why we would go to the second
9 phase.

10 So I would tell you there is no legal defense that a
11 jury would be exploring or discussing. Just -- because
12 guilt has already been established. In the second phase,
13 you would hear evidence I've already told you about,
14 mitigating and aggravating evidence. And your oath would
15 require you to put aside any preconceived notions that you
16 might have and follow the law as I would instruct it to
17 you. In other words, your oath is going to require you to
18 give serious and meaningful consideration to the
19 aggravation and the mitigation evidence.

20 Do you understand that?

21 JUROR #306, NEDDIE RICHARDS: Uh-huh.

22 THE COURT: Would you honor your oath and do that?

23 JUROR #306, NEDDIE RICHARDS: Yes, sir.

24 THE COURT: Now, if you were a juror in that
25 situation, this is the sentencing phase, could you,

1 depending upon the particular facts and circumstances of
2 the case and depending upon the mitigating circumstances
3 and the aggravating circumstances and taking into
4 consideration the law as I give it to you, taking all that
5 into consideration, could you return a verdict of life in
6 prison without parole?

7 JUROR #306, NEDDIE RICHARDS: Yes, sir.

8 THE COURT: All right. Now, conversely, if you're a
9 juror in that second phase, could you consider all the
10 particular facts and circumstances of the case, the
11 aggravating circumstances, the mitigating circumstances,
12 the law as I would give it to you, could you take all that
13 into consideration and doing that, could you return a
14 verdict of death?

15 JUROR #306, NEDDIE RICHARDS: Yes, sir.

16 THE COURT: All right. Now, the law requires in
17 South Carolina that with a verdict of death each juror
18 sign the verdict form. Could you sign your name to a
19 death sentence verdict form?

20 JUROR #306, NEDDIE RICHARDS: Yes, sir.

21 THE COURT: Okay. Now, do you recall that sheet with
22 the three types of jurors on it?

23 JUROR #306, NEDDIE RICHARDS: Yes.

24 THE COURT: All right. Which one are you?

25 JUROR #306, NEDDIE RICHARDS: I'm neutral, really. I

1 mean, I'm not going to say I'm for the death penalty, but
2 I'm not going to say I'm against it. I mean, I really
3 would like to know the facts before I make a decision.

4 THE COURT: All right. Fair enough. If you were
5 selected, then, would you approach jury service with an
6 open mind to find the truth from the evidence and apply
7 the law as I would give it to you?

8 JUROR #306, NEDDIE RICHARDS: Yes, sir.

9 THE COURT: Do you know of any reason why you
10 couldn't serve in this case?

11 JUROR #306, NEDDIE RICHARDS: No, sir.

12 THE COURT: And before I turn you over to the
13 attorneys, let me tell you that if you were selected --
14 we're doing the qualification process right now. But if
15 you were selected at a later date, in a few days from now,
16 you would be sequestered. You'd be staying over at the
17 Marriott. You wouldn't be awakened every morning by your
18 grandmother's TV. And you'd be over there from anywhere
19 from, I'm guessing, five to seven days.

20 All right. I'm going to turn it over to the
21 attorneys now.

22 MR. ANTHONY: Thank you, Your Honor.

23 EXAMINATION

24 BY MR. ANTHONY:

25 Q Hey, Mr. Richards. How are you?

1 A Pretty good, and you?

2 Q Fine. My name is John Anthony. And this is Barry
3 Barnette and Trey Gowdy. We're representing the State in
4 this case.

5 I just want to ask you a few things. Have you -- are
6 you still trying to get work through Phillips Staffing?

7 A Phillips Staffing. Like I say, I'm waiting on them
8 to give me a call. What it is, I'm laid off. I was in
9 there working at Buoy [phonetic] and wound up getting
10 hurt. Supposedly, it is supposed to be not that I got
11 hurt is the reason I got laid off, but I'm still waiting
12 on them to give me a call back.

13 Q Where were you working last?

14 A I was working through Phillips Staffing, it's Buoy.

15 Q What kind of work were you doing?

16 A I was a machine operator -- well, press operator,
17 basically, just putting rubber on a press and pressing
18 down parts for like Freightliner and Volvo.

19 Q If you don't mind my asking, what kind of injury did
20 you have?

21 A I had pulled a muscle in my side here. And whenever
22 I went to pick up the material -- because the material
23 depends on how much thickness it is. After you roll it
24 out so long -- because you've got to go by certain
25 measurements to get so many parts out of it. You've got

1 to pick it up and you've got to put it up there. And for
2 me, the machine was up here, so I had to sort of swish it
3 up there and I pulled a muscle in my back.

4 Q Has your back healed up?

5 A Yeah. It healed up.

6 Q It's not giving you trouble anymore?

7 A No, sir.

8 Q Okay. Well, let me just ask you a couple of things
9 about this case and about the death penalty. You said --
10 you told the Judge that you were neutral on the death
11 penalty; is that right?

12 A Yeah.

13 Q And what I'd like for you to do is just tell me what
14 your thought process is on the whole issue of the death
15 penalty and how you would approach it if you were on a
16 jury that had to decide whether to vote for life or death
17 for somebody?

18 A Well, I mean, like I was explaining to the Judge,
19 really, I would need to know the facts to, actually, weigh
20 it out. I mean, I've really not gave the death penalty
21 too much thought because, I mean, I've never -- this is my
22 first time being in a jury. But, you know, I'm sort of
23 neutral and would like to hear the facts to know what went
24 on. And then I'd be able to come up with an answer.

25 Q Okay. And do you think it would be possible for you,

1 if you were seated on a jury, to hear the evidence that
2 the State presented and the evidence that the Defense had
3 presented and then make that decision?

4 A Right.

5 Q Okay.

6 A I mean, I'm not saying I'm against it and I'm not
7 saying I'm for it. I'm just saying that, really, I would
8 like to hear the facts and everything else before I make
9 my decision.

10 Q But if you heard the facts and based on the facts you
11 heard and the instructions the Judge gave you, if you
12 thought that the right thing to do in the case was to
13 impose the death penalty, could you do that?

14 A If -- yes.

15 Q Okay. You could sign a piece of paper saying, I
16 believe that this person should receive the death penalty?

17 A Yes, sir.

18 Q Okay. And you understand that you'll have life in
19 prison as an option?

20 A Yes, sir.

21 Q And if you have an option between life in prison and
22 the death penalty, would you always chose life in prison?

23 A No, sir. I mean, it's just like I say, the facts
24 would have to come out. I mean, you'd have to weigh out
25 the facts. I mean, I'm not saying I'm all for, you know,

1 the death penalty, but I'm not against it.

2 MR. ANTHONY: Mr. Richards, thank you for answering
3 my questions. And thank you for filling out the
4 questionnaire.

5 Thank you very much.

6 MR. BROUGH: May it please the Court?

7 THE COURT: All right.

8 EXAMINATION

9 BY MR. BROUGH:

10 Q How are you doing today, Mr. Richards?

11 A Pretty good.

12 Q Good. As Judge Miller introduced us before, I'm
13 Chris Brough. And I represent Fredrick Evins along with
14 Karen Quimby and Tam Boggs. And I just want to, first of
15 all, thank you for taking the time to fill out the
16 questionnaire. I know it's pretty long. And the other
17 thing that I'd like to thank you for is thank you for your
18 honest answers.

19 And I just want to ask you a couple of questions
20 about the death penalty. I know Mr. Anthony just asked
21 you some questions and Judge Miller asked you some
22 questions, but I just want to make sure that I understand.

23 You don't have an opinion overall about the death
24 penalty; is that right? You said you're not for it, but
25 you're not against it?

1 A Right. I'm really -- I'm neutral.

2 Q Neutral?

3 A I mean, I'm not for it and I'm not against it. But,
4 like I said, I'd really like to hear the facts before
5 making a decision like that. I mean, you're talking about
6 a person's life.

7 Q So you would want to get the facts and make an
8 educated decision based on what's going on in the case?

9 A Right.

10 Q I know that you just have a new daughter; isn't that
11 right?

12 A Yes.

13 Q Brand new, eight months now?

14 A She's 11 months. Her birthday is December the 26th.

15 Q Congratulations.

16 A Thank you.

17 Q I just want to ask you a couple of other quick
18 questions about the publicity stuff just one last time.

19 A Okay.

20 Q I know that you said you had kind of heard something,
21 a little bit while you were --

22 A Like I said, half of it may have been about the
23 situation, half of it may not. I was waking up and
24 overheard it. Like I say, it come on and said something
25 about a food mart and said -- it said something about 200

1 jurors.

2 Q What was the half that may not have been?

3 A I mean, that's what I'm saying. I don't know if they
4 were together or not. I was halfway asleep at that point
5 in time.

6 Q Okay. I've got you.

7 A I don't know whether it was a story I just happened
8 to wake up with and then go to sleep and wake up on
9 another one. I'm not sure if either one of them had
10 anything to do with each other together.

11 Q Let me ask you just another couple of quick questions
12 about kind of some other things, if you don't mind. What
13 are your feelings about interracial dating or things like
14 that?

15 A What now?

16 Q Like interracial dating, do you have any opinions on
17 that?

18 A Not really.

19 MR. BROUGH: Thank you very much.

20 THE COURT: All right. Mr. Richards, could I ask you
21 to step out into the hall for just a second, please.

22 JUROR #306, NEDDIE RICHARDS: Yes, sir.

23 (Pause.)

24 THE COURT: Any objections?

25 MR. ANTHONY: No, sir.

1 MR. BROUGH: No, Your Honor.

2 THE COURT: Okay. Bring him on back in.

3 (Pause.)

4 THE COURT: Hey, Mr. Richards.

5 Thanks a bunch.

6 I'm going to give you this to take with you. You
7 will remain a qualified juror in this case. And how the
8 procedure will work, I'm going to cut you loose and you're
9 free to go home and all that, but you're still under oath.
10 So I implore you to follow your oath. Do not listen to
11 anything, watch anything, or read anything about this
12 case. And there may well be publicity about it, so avoid
13 it at all costs.

14 JUROR #306, NEDDIE RICHARDS: Yes, sir.

15 THE COURT: Also, there's going to be a great
16 temptation to discuss the case. People are going to want
17 to talk to you about it. Don't do it. Just go, look, I'm
18 not going to do it. When it's over, I can talk to you,
19 but right now, I'm not. Okay.

20 JUROR #306, NEDDIE RICHARDS: Okay.

21 THE COURT: And the reason for that is that we don't
22 want even an innocent comment from somebody -- a friend or
23 family member could, basically, poison the well and might
24 influence you. And those people who aren't going to sit
25 through the trial and have anything to do with it have no

1 right to have any input into it.

2 JUROR #306, NEDDIE RICHARDS: Yes, sir.

3 THE COURT: So just let the decision be made on the
4 evidence and the sworn testimony presented in the
5 courtroom.

6 We'll be in touch with you. We'll give you a call
7 and tell you when to be back.

8 Thank you very much.

9 JUROR #306, NEDDIE RICHARDS: Thank you.

10 THE COURT: Yes, sir.

11 (Juror #306, Neddie Richards, was excused from the
12 courtroom.)

13 THE COURT: All right. Bring in the next juror.

14 (Juror #66, Allen Combs, a white male, was seated.)

15 THE COURT: Mr. Combs, do I have that right?

16 JUROR #66, ALLEN COMBS: Yes, sir.

17 THE COURT: Welcome back to the courtroom. I want to
18 try and put you at ease before we start and just let you
19 know that no one in here is going to embarrass you or
20 humiliate you in any way. We want you -- and I want you
21 to know there are no right or wrong answers to the
22 questions that are going to be asked. All we're trying to
23 do is get your full, truthful, accurate answers to the
24 questions. And, really, we're looking for your heartfelt
25 responses to some of these issues. And I'll tell you that

1 2003, feloniously convert Rhonda Marie Ward's 1993 Nissan
2 Sentra and its contents to his own use. Those are the
3 allegations in the case against Mr. Evins. Okay.

4 And we recognize there has been publicity regarding
5 the case on television, in the newspaper, and on the
6 radio. So the first thing I'd like to do is ask you, have
7 you heard, read, or seen anything about this case?

8 JUROR #66, ALLEN COMBS: No, sir, not that I can
9 remember.

10 THE COURT: Okay. And let me just tell you this, in
11 case you did hear anything and it came back to you later,
12 do you understand your oath, as a juror, would require you
13 to disregard anything you have heard, read, or seen
14 outside of the courtroom?

15 Do you understand that?

16 JUROR #66, ALLEN COMBS: Yes, sir.

17 THE COURT: Do you think you could serve as a fair
18 and impartial juror and reach a verdict based solely on
19 the facts presented at trial and in accordance with my
20 instructions on the law?

21 JUROR #66, ALLEN COMBS: Yes, sir.

22 THE COURT: Have you in any way formed an opinion as
23 to the facts of this case?

24 JUROR #66, ALLEN COMBS: No, I haven't.

25 THE COURT: Have you formed any opinion as to the

1 we're going to talk a little bit about what you might know
2 about this case and then, really, a little bit about your
3 views on the death penalty.

4 Before I do that, I want to describe the case a
5 little bit more fully to you by going through the
6 indictments and tell you what the allegations contained in
7 the indictments are.

8 JUROR #66, ALLEN COMBS: Okay.

9 THE COURT: Again, I emphasize that these are not
10 evidence and should not be considered as evidence in any
11 way or any manner whatsoever. And I'll just tell you,
12 they are allegations typed on a piece of paper which serve
13 as a vehicle to drive this case to the Court system, which
14 is where we are now.

15 There is an indictment for murder. And it alleges
16 that Fredrick Antonio Evins did in Spartanburg County on
17 or about February 13th, 2003, feloniously, willfully, and
18 with malice aforethought kill Rhonda Marie Ward. There's
19 also a kidnapping indictment that alleges that he did on
20 the same date unlawfully kidnap Rhonda Marie Ward. Also,
21 there's a criminal sexual conduct indictment that alleges
22 that he did on the same date unlawfully commit a sexual
23 battery upon Rhonda Marie Ward. And then, finally,
24 there's an indictment for grand larceny that alleges he
25 did in Spartanburg County on the same date, February 13th,

1 guilt or innocence of Mr. Evins?

2 JUROR #66, ALLEN COMBS: No, sir.

3 THE COURT: Okay. Now, keeping in mind the legal
4 principles of the presumption of innocence and the State's
5 obligation to prove guilt beyond a reasonable doubt, could
6 you, depending on the facts and the evidence and the law
7 as I would instruct it, find a defendant guilty or not
8 guilty taking into consideration the evidence and law?
9 Could you find either way depending on your view of the
10 evidence?

11 JUROR #66, ALLEN COMBS: Yes, sir.

12 THE COURT: Okay. You're not -- you're mind is not
13 made up one way or the other?

14 JUROR #66, ALLEN COMBS: No.

15 THE COURT: Now, please remember, we may not even
16 reach the second phase of the trial, the sentencing phase
17 of the trial, but because we might possibly get there, I
18 need to ask your views on the death penalty. Okay.

19 Now, when we move to the second or sentencing phase,
20 I want you to know that the jury has already made the
21 determination of guilt. They've already found the
22 Defendant guilty. So when you deliberate in the second
23 phase, you're not going to be worried about discussing or
24 exploring some legal defense. Okay. Guilt has been
25 established.

1 So in the second part of the trial, you'd hear
2 evidence in aggravation and evidence in mitigation. Your
3 oath would require you to put aside any preconceived
4 notion you might have and follow the law as I instruct it
5 to you. In other words, your oath would require you to
6 give serious and meaningful consideration to the
7 aggravation and mitigation evidence.

8 Could you follow your oath and do that?

9 JUROR #66, ALLEN COMBS: Yes, sir.

10 THE COURT: Now, if you're a juror in that
11 situation -- and by that, I mean in the sentencing phase,
12 could you based on all the particular facts and
13 circumstances of the case and considering the mitigating
14 circumstances and the aggravating circumstances and the
15 law, could you consider all that and in considering that,
16 could you return a verdict of life without parole?

17 JUROR #66, ALLEN COMBS: Yes, sir.

18 THE COURT: All right. Now, conversely, a juror --
19 if you're a juror in that situation, the sentencing phase,
20 could you consider the particular facts and circumstances
21 of that case along with the mitigating and aggravating
22 circumstances and the law, could you consider all that and
23 return a verdict of death?

24 JUROR #66, ALLEN COMBS: Yes, sir.

25 THE COURT: Okay. Now, I'll tell you that in the

1 event of a death sentence, South Carolina law requires
2 that each juror sign their name to the verdict form.
3 Could you sign your name to a death sentence verdict form?

4 JUROR #66, ALLEN COMBS: Yes, sir.

5 THE COURT: Okay. Do you recall the list of -- the
6 sheet with the three types of jurors on it?

7 JUROR #66, ALLEN COMBS: Uh-huh.

8 THE COURT: Where do you put yourself on that list?

9 JUROR #66, ALLEN COMBS: The third category.

10 THE COURT: You would need to listen to and hear all
11 the facts and circumstances before you made a decision?

12 JUROR #66, ALLEN COMBS: Yes, sir.

13 THE COURT: Okay. And if you were selected, would
14 you honor your oath and approach jury service with an open
15 mind to find the truth from the evidence and the law that
16 you heard at trial?

17 JUROR #66, ALLEN COMBS: Yes, sir.

18 THE COURT: Okay. Do you know of any reason why you
19 couldn't serve?

20 JUROR #66, ALLEN COMBS: No.

21 THE COURT: All right. I'll tell you, if you --
22 we're doing the qualification process right now and we
23 haven't gotten to jury selection. We're going to get the
24 qualified jurors and then select the jury out of that
25 group. Could you -- well, I want you to know that if

1 you're selected, you would be sequestered at the Marriott
2 Hotel, that new, big hotel over there. And it might last
3 anywhere from up to seven days, from five to seven days.

4 Do you understand that?

5 JUROR #66, ALLEN COMBS: Yes, sir.

6 THE COURT: Okay. I'm going to let the lawyers ask
7 you some questions.

8 EXAMINATION

9 BY MR. BOGGS:

10 Q Mr. Combs, how are you doing today?

11 A Just fine, sir.

12 Q My name is Tam Boggs. I'm an attorney. I'm
13 representing Mr. Evins, who's seated over there, along
14 with Karen Quimby and Chris Brough. I appreciate you
15 filling out your questionnaire. It helps us understand a
16 little bit about you and also reflects that you've got a
17 good civic streak in you that we're looking for.

18 I did notice you grew up in Kentucky and have only
19 been in South Carolina a couple years; right.

20 A About 12.

21 Q About 12 years or so?

22 A Yes, sir.

23 Q Okay. And I also noticed one of your hobbies was
24 playing basketball. It's kind of hard growing up in
25 Kentucky not playing basketball?

1 A Yes.

2 Q Well, if you can't shoot basket, they'll run you out
3 of the state, won't they, pretty much? I noticed in there
4 that -- in your jury questionnaire that you subscribe, I
5 guess, to the Greenville News?

6 A Sunday paper.

7 Q So you, generally, don't read the Spartanburg Herald
8 Journal, do you?

9 A No, sir.

10 Q And that you told the Judge that you really haven't
11 heard anything about the case before you came here today.
12 You didn't know who Fredrick Evins was or anything of that
13 nature?

14 A No, sir.

15 Q Okay. And you do understand from the -- the Judge
16 has instructed you that even though Mr. Gowdy has
17 designated this as a death penalty case and we're talking
18 a lot about it in the qualification stage that that all
19 has to be put aside if you're selected for the jury
20 because there's, actually, a trial that will take place?

21 A Yes, sir.

22 Q And it's if and only if there is a murder conviction
23 returned that the other side -- or the other stage would
24 ever come into existence?

25 A Yes, sir.

1 Q You understand that?

2 A Yes, sir.

3 Q So during the trial of the case, you understand that
4 you would not be concerned with any of that at all?

5 A (Witness nodded.)

6 Q Now, would you be able to put all this what we're
7 going through today aside and just deal with the trial of
8 the case if you're selected for the jury?

9 A Yes, sir.

10 Q All right. Have you ever in the past -- or how much
11 have you thought about the death penalty in the past? Has
12 it been something you've ever sat down and pondered?

13 A No, sir.

14 Q Okay. So do you have any particular strong feelings
15 about the death penalty?

16 A No, sir.

17 Q All right. Do you think you're pro death penalty or
18 anti or you just kind of are idling in neutral, accepting
19 that that's part of our law?

20 A Yes, sir.

21 Q You're kind of neutral idling, accepting that that's
22 part of our law?

23 A Yes, sir.

24 Q Having not thought about it much, do you understand
25 much about the requirements for the death penalty or not,

1 or is that what you expect the Judge to instruct you on?

2 A I don't know that much about it.

3 Q Okay. Do you ever read about criminal cases either
4 in novels or in the newspaper or anything of that nature?

5 A No, sir.

6 Q So it doesn't really interest you or is not your
7 persuasion?

8 A No, sir.

9 Q As far as -- do you believe that if someone takes the
10 life of another person that it is always a murder case?

11 A No, sir.

12 Q All right. Can you give me an example of what you
13 consider not to be a murder case?

14 MR. ANTHONY: Objection, asking for a hypothetical.

15 THE COURT: Sustained.

16 BY MR. BOGGS:

17 Q But you understand that every homicide is not a
18 murder?

19 A Yes, sir.

20 Q And as far as the -- I'm going to go back to the
21 death penalty in just a second. Well, let me ask you
22 about your -- whether or not you consider yourself a
23 leader or a follower, have you ever thought about that
24 before?

25 A Not much.

1 Q Okay. Well, you've been in a position, a supervisory
2 position, haven't you?

3 A Yes, sir.

4 Q In fact, I think you supervised up to, at least, 25
5 people?

6 A Yes, sir.

7 Q So you must have some leadership qualities?

8 A I guess so.

9 Q But other than that, if you're with a crowd of
10 friends and they all say, what are we going to do, do you
11 generally pipe up --

12 A I usually say whatever.

13 Q Whatever the crowd wants to do?

14 A (Juror nodded.)

15 Q Where do you want to go eat, it doesn't matter to me,
16 I'll just go?

17 A Yeah.

18 Q So you don't force yourself on other people, you
19 pretty much kind of go along with the crowd?

20 A Yes, sir.

21 Q But once you make up your mind about something, all
22 right, and you say this is what I really want to do, will
23 you stick by that conviction or that decision?

24 A I guess so.

25 Q Okay. Well, let's say, for example, using your

1 friends going out to eat and you were riding with your
2 buddies, and they say, Mr. Combs, you get to pick where we
3 go and your favorite food is Italian, and you say, I want
4 to go eat Italian. The other four say, well, we don't
5 want to do that, we want to go eat Chinese. They gave you
6 the choice, you were the first man, and now they don't
7 want to do that. Would you still insist on going to eat
8 Italian?

9 A No.

10 Q So you'd go along with what the other four said?

11 A Yeah.

12 Q Okay. Mr. Combs, I think that's about it.

13 The -- if you hear that a person is -- in the news or
14 reading the paper that a person has been arrested for a
15 crime, what do you feel about -- how do you interpret that
16 as far as whether or not that person is guilty or not?

17 A I wouldn't know. I mean, that's something I would
18 have no clue if they were guilty or not.

19 Q Okay. Well, just the fact that a person has been
20 arrested, does it ever pop in your mind, well, that guy
21 must be guilty because he was arrested?

22 A Not really.

23 Q Okay. The fact that Mr. Gowdy has asked for the
24 death penalty in this case, does that indicate to you as
25 far as guilt goes that maybe he's more guilty than he

1 would be in a different type case?

2 A No, not necessarily.

3 Q So you're telling me you're placing no significance
4 as it relates to guilt that Mr. Gowdy has asked for the
5 death penalty?

6 A No, sir.

7 MR. BOGGS: All right. Thank you very much.

8 MR. ANTHONY: Thank you, Your Honor.

9 EXAMINATION

10 BY MR. ANTHONY:

11 Q Hey, Mr. Combs. My name is John Anthony. I'm the
12 Assistant Solicitor here in Spartanburg. This is Barry
13 Barnette, and this is Trey Gowdy. And we're the lawyers
14 who will be representing the State in this case.

15 I just have a couple of things I want to ask you. I
16 know you've talked a good bit about the death penalty in
17 the last few minutes. I just want to make sure you
18 understand that when -- if this case goes to a sentencing
19 phase, there will be two choices. There will be the
20 choice of life without parole and the choice of the death
21 penalty?

22 A Yes, sir.

23 Q And life without parole will always be an option in a
24 case like this. So the question I want to ask you is, if
25 you heard a case, would -- and you had an option between

1 life without parole and a death sentence, would you always
2 vote for life without parole?

3 A No, sir.

4 Q So you could listen to what the State presented and
5 what the Defense presented?

6 A Yes, sir.

7 Q If you thought that the death penalty was appropriate
8 and called for, you could vote for the death penalty?

9 A Yes, sir.

10 Q And you don't think you would have any problem
11 putting your name on a piece of paper that meant that a
12 person would receive the death penalty?

13 A No, sir.

14 MR. ANTHONY: Thank you for answering my questions.
15 And thank you for filling out the questionnaire and being
16 willing to serve on the case.

17 THE COURT: All right. Mr. Combs, could I ask you to
18 step out in the hallway for just a second.

19 (Pause.)

20 THE COURT: Do we have any objection to this juror?

21 MR. BOGGS: None, Your Honor.

22 MR. ANTHONY: No, sir, Your Honor.

23 THE COURT: Okay. Let's bring him back.

24 (Pause.)

25 THE COURT: Hey, Mr. Combs.

1 Come on around and let me give you that to hang onto.
2 I want you to know that you remain eligible to serve in
3 the case. We are going through the qualification process
4 and we'll get to the selection process in a day or two, or
5 three. I'm not sure how long it will take. We will call
6 you about that and tell you when to come back. And then
7 we'll go through the selection process, which doesn't last
8 quite as long.

9 I want to remind you and reiterate, do not listen to,
10 watch, or read anything about this case and don't discuss
11 it with anybody. It's going to be very difficult for you
12 not to go home and want to talk about it. And they're
13 going to want to -- your family and friends are going to
14 want to talk to you about it. Don't do it.

15 An innocent comment from somebody that didn't mean to
16 say anything might infect your mind about it and have an
17 impact on what your decision in the case is. And that
18 person is not going to have heard any of the evidence. So
19 just tell them, hey, I'm not going to talk about it. I'm
20 going to follow my oath. I'm going to do what's right and
21 when it's over with, I'll talk to you about it.

22 JUROR #66, ALLEN COMBS: Okay.

23 THE COURT: But we'll be back in touch with you.

24 (Juror #66, Allen Combs, was excused from the
25 courtroom.)

1 THE COURT: By my count, we've got 13.

2 Is that what y'all have got?

3 MR. GOWDY: Yes, sir.

4 MR. BOGGS: Yes.

5 THE COURT: Well, we've got 13 jurors and 35 minutes
6 to eat.

7 See y'all back here at 2:00.

8 (WHEREUPON, a lunch break was taken.)

9 THE COURT: Let's go ahead and bring the next panel
10 in.

11 (WHEREUPON, Juror Panel No. 4 entered the courtroom.)

12 THE COURT: Don't sit down just yet. We're going to
13 swear you again.

14 If y'all would raise your right hand for us, please.

15 (WHEREUPON, Juror Panel No. 4 was sworn.)

16 THE COURT: All right. Please be seated.

17 Ladies and gentlemen, I'll try and move along as
18 quickly as I possibly can. I wanted to tell you that we,
19 again, thank you for being here. We appreciate your
20 sacrifices from being away from work. And we think we've
21 got the least intrusive way of handling this, and I hope
22 you'll find it to be that way.

23 I want to tell you a few things before we start, just
24 go over a few things with you before we start individual
25 voir dire. I want to, again, emphasize to you that I have

1 no opinion about the facts in the case. And that's
2 because of two reasons, one, I have no opinion about the
3 facts in the case and, two, the South Carolina
4 Constitution does not allow me to have an opinion or any
5 trial judge to have any opinion about the facts in a case.

6 So that being said, ladies and gentlemen, I want to
7 go ahead and tell you -- re-emphasize to you some basic
8 rights that are the building blocks of our criminal
9 justice system. And I honestly believe that we have the
10 best justice system in the world. And that is that every
11 citizen -- these are rights that belong to every citizen.
12 Every citizen accused of a crime is presumed innocent
13 unless and until the State can prove them guilty beyond
14 any reasonable doubt of each and every element of the
15 offense or offenses that they are charged with. The
16 burden is always on the State. A citizen charged with a
17 crime never has to prove anything. I ask y'all to keep
18 that in mind throughout the trial -- or throughout this
19 process and if you're selected, throughout the trial of
20 the case.

21 Do each of you understand those concepts?

22 (All juror indicated yes.)

23 THE COURT: Okay. Now, a case of this nature is,
24 generally, referred to as a capital case. And if you
25 would allow me to explain the process of a capital case in

1 general. I've done it once or -- I can't remember, once
2 or twice yesterday, but I want to do it again today.

3 Once the jury is selected -- and we are in the
4 qualification process right now. When we have the jurors
5 qualified, then we'll select the jury. And once the jury
6 is selected, the Court conducts the first phase of the
7 trial. And that might be the only phase of the trial.
8 The jury determines whether the State has proven that the
9 Defendant who is on trial is guilty of murder and any
10 other cases that he's charged with, and they must prove
11 that beyond a reasonable doubt.

12 Now, should a jury find a defendant not guilty of
13 murder, that would end the case for that jury. There
14 would be no further jury service and the case would be
15 over. If a jury, however, finds such a defendant guilty
16 of murder, then we would move to the second phase, which
17 is sometimes called the sentencing phase.

18 And, at that point, the jury would consider what we
19 call evidence in aggravation and evidence in mitigation.
20 And the jury, after hearing this additional evidence,
21 would determine the appropriate sentence, and that would
22 be life in prison or death.

23 Now, in a capital case, if the jury finds the
24 presence of an aggravating circumstance, a sentence of
25 life means life without the possibility of parole. In

1 other words, if a defendant who has been convicted of
2 murder and the murder was accompanied by aggravating
3 circumstances -- what the law defines as an aggravating
4 circumstance, then a life sentence means life. There
5 would be no possibility of parole under such a
6 circumstance and the Defendant would die in jail.

7 Now, please understand, I am talking about the
8 process of a capital case in general. In this particular
9 case, we may not even reach that second phase. In the
10 event we do, though, I'm going to need to ask you certain
11 questions.

12 Do each of you understand the general process that
13 I've outlined so far?

14 (All jurors indicated yes.)

15 THE COURT: Now, let me briefly explain to you the
16 terms aggravating circumstances and mitigating
17 circumstances. And these are terms which you will hear
18 and consider only in the event the trial proceeds to the
19 sentencing phase or the second phase.

20 Aggravating circumstances are facts, incidents, or
21 occurrences which the South Carolina General Assembly has
22 declared by statute would aggravate or worsen the crime of
23 murder. In other words, an aggravating circumstance, when
24 accompanying a murder, increases the enormity or adds to
25 the injury of the crime of murder.

1 Mitigating circumstances are incidents, facts, or
2 occurrences which the General Assembly has declared by
3 statute or which a jury otherwise determines should reduce
4 the severity of the offense of murder, and may be
5 considered as extenuating or as reducing the degree of
6 responsibility or culpability.

7 Now, a couple of things, ladies and gentlemen, one,
8 have any of you heard, seen, read, or been exposed to any
9 discussion about this case since you left yesterday?

10 (All jurors indicated no.)

11 THE COURT: All right. Very good.

12 Now, I want to ask you, we introduced all these
13 folks, the attorneys involved in the case to you
14 yesterday. And I want to ask each of you, is there any
15 member of the jury panel who is related by blood or
16 marriage or acquainted in any fashion whatsoever with any
17 of the attorneys involved in this case? If so, raise your
18 right hand, please.

19 Yes, ma'am. Your name?

20 JUROR #86, KATHERINE DUNLEAVY: Katherine Dunleavy.

21 THE COURT: Yes.

22 JUROR #86, KATHERINE DUNLEAVY: I'm in Rotary with
23 Mr. Gowdy.

24 THE COURT: All right. Very good.

25 Would that in any way impair your ability to be fair

1 and impartial in this case?

2 JUROR #86, KATHERINE DUNLEAVY: No.

3 THE COURT: Now, is there any member of the jury
4 panel who is related by blood or marriage or aquatinted in
5 any fashion whatsoever with anyone associated with these
6 attorneys or their law firms, and that would be the
7 Solicitor's Office, the Public Defender's Office, or the
8 Law Office of Tam Boggs? So do you know anybody that
9 works with them or is associated with them? If so, please
10 raise your right hand.

11 (There was no response.)

12 THE COURT: Okay. Now, I -- we put the extensive
13 witness lists back in the jury room for you to review.
14 And I hope you all have each had an opportunity to do
15 that. I want to ask you, is there any member of this jury
16 panel who is related by blood or marriage or acquainted in
17 any fashion whatsoever with any of the witnesses listed on
18 those witness lists? If so, please signify by raising
19 your right hand.

20 JUROR #212, ANTHONY LEE: There was one name familiar
21 to me, but I don't think it's the same person, William
22 Byars. I know a Billy Byars.

23 MR. BOGGS: No, sir.

24 JUROR #212, ANTHONY LEE: I'm almost certain it's not
25 the same person.

1 THE COURT: All right. Well, good. We may explore
2 that when we question you individually.

3 What we're going to do is I'm going to excuse all
4 five of you with the exception of Mr. Anthony Lee.

5 And you get chosen because you're at the top of the
6 list.

7 So I want you all to take a look around. This is
8 what it's going to be like when you come back. And I
9 promise you, none of you will suffer any embarrassment or
10 humiliation of any kind when you're in here.

11 Thank you all very much.

12 (WHEREUPON, Juror Panel No. 4 exited the courtroom,
13 with the exception of Juror #212, Anthony Lee.)

14 (Juror #212, Anthony Lee, a white male, was seated.)

15 THE COURT: Mr. Lee, you're in the hot seat. Did you
16 feel it warm up when you got over there?

17 JUROR #212, ANTHONY LEE: Not too bad.

18 THE COURT: Well, I promise you that the object of
19 what we're doing here is in no way to embarrass you or
20 cause you any pain. But because of the serious and solemn
21 nature of the proceedings that we're involved in, it's
22 just critically important that we have this opportunity to
23 talk with you.

24 And we're trying -- there are no right or wrong
25 answers to any of the questions that are going to be

1 asked. The only thing that we ask is that you give your
2 full, complete, truthful, and accurate answers to the
3 questions. Really, just your heartfelt feelings about
4 what's being asked of you. And, again, there's no one
5 who's passing judgment on you. And there's, certainly, no
6 test that will be given as a result of these questions.

7 So what I would like to do, first of all, is
8 introduce the case to you in a little bit more detail, not
9 a lot. I told you yesterday about the indictments in the
10 case and what the charges were. I'll go through those in
11 a little bit more detail to see -- we're trying to find
12 out if you know anything about the case and then we're
13 going to want to know a little bit about your views about
14 the death penalty. That's the essential purpose of what
15 we're doing here.

16 So I, again, will emphasize that the indictments are
17 not evidence and should not be considered evidence in any
18 form or fashion by you or anyone else with respect to this
19 case. It's allegations typed on a piece of paper which
20 allows the case to move through the system and get to
21 where we are today.

22 So the first indictment charges Mr. Fredrick Antonio
23 Evins with murder. And it alleges that he did in
24 Spartanburg County on or about February 13th of 2003,
25 willfully and with malice aforethought kill Rhonda Marie

1 Ward. The next indictment would be for kidnapping. And
2 it alleges that Mr. Evins did on the same date unlawfully
3 kidnap or abduct Rhonda Marie Ward. The next indictment
4 would be for criminal sexual conduct. And it alleges that
5 Mr. Evins did on the same day unlawfully commit a sexual
6 battery upon Rhonda Marie Ward. And then, finally, the
7 last indictment is for grand larceny, which alleges on the
8 same day in Spartanburg County that Mr. Evins feloniously
9 carried away the 1993 Nissan Sentra and its contents that
10 belonged to Rhonda Marie Ward.

11 Now, those are the allegations contained in the
12 indictments in this case. And we recognize that there has
13 been publicity about this matter. And I would just like
14 to know whether or not you have heard, seen, or read
15 anything about this case?

16 JUROR #212, ANTHONY LEE: Actually, I have not. I
17 just transferred to Greenville about five months ago with
18 my job. But prior to that, I worked in Spartanburg, but
19 never read the paper. I, actually, started reading the
20 paper and listening to the radio probably in the last four
21 months. I just never read the paper, except for the
22 comics, of course.

23 But, actually, I was trying to think of it when you
24 mentioned his name yesterday and I haven't talked about it
25 to anybody. But I was trying to think, obviously, it must

1 have happened a long, long time ago because most murder
2 trials will take a long time to come to court. And I just
3 did not recall anything about it.

4 THE COURT: All right. Very good.

5 Let me just tell you, should something come up and
6 your memory get prodded --

7 JUROR #212, ANTHONY LEE: I'm sure when it happened,
8 I'm sure I heard about it then. But right now, sitting
9 here, I can't remember anything about it.

10 THE COURT: Okay. Well, your oath will require you
11 should you -- something come up where you remember about
12 something you may have read, seen, or heard pops into your
13 mind at a later time, you would be required to put that
14 aside and required to decide the case only on the facts
15 presented under oath here in the courtroom.

16 Do you understand that?

17 JUROR #212, ANTHONY LEE: Yes, sir.

18 THE COURT: All right. And could you serve and would
19 you serve as a fair and impartial juror and reach a
20 verdict based on the facts presented at trial in
21 accordance with my instructions on the law?

22 JUROR #212, ANTHONY LEE: I believe I can.

23 THE COURT: Have you in any way formed an opinion
24 about the facts in the case or the guilt or innocence of
25 Mr. Evins?

1 JUROR #212, ANTHONY LEE: I don't know anything yet.

2 THE COURT: Now, keeping in mind the principles of
3 the presumption of innocence and the State's obligation to
4 prove guilt beyond a reasonable doubt, could you,
5 depending on the facts and the evidence and the law as I
6 would instruct it, find a defendant either guilty or not
7 guilty depending on what the law and evidence showed to
8 you?

9 JUROR #212, ANTHONY LEE: Sure.

10 THE COURT: Okay. Now, remember, we may not even
11 reach the second phase. But because that's a possibility,
12 I need to ask you a few questions about your feelings or
13 views on the death penalty.

14 Do you understand that?

15 JUROR #212, ANTHONY LEE: Uh-huh.

16 THE COURT: When a jury moves to the sentencing
17 phase, that means that the jury has already decided that
18 the Defendant is guilty of murder.

19 Okay. So at the second phase of the trial, the jury
20 would not be discussing or exploring any legal defenses,
21 because the jury would have already established guilt of
22 murder in the first phase.

23 So in the second phase of the trial, you would hear
24 evidence in aggravation or mitigation of the offense that
25 I described to you earlier. Your oath would require you

1 to abandon any preconception you might have and follow the
2 law as I instruct it. In other words, your oath would
3 require you to give serious and meaningful consideration
4 to the aggravation and mitigation evidence.

5 Would you honor your oath in that regard?

6 JUROR #212, ANTHONY LEE: Yes, sir.

7 THE COURT: Okay. If you were a juror in that
8 situation, in the sentencing or second phase of the trial,
9 could you, depending upon the particular facts and
10 circumstances of the case, including the aggravating
11 circumstances and the mitigating circumstances and
12 including my charge to you on the law, taking all that
13 into consideration, could you return a sentence of life in
14 prison?

15 JUROR #212, ANTHONY LEE: Yes.

16 THE COURT: All right. Now, conversely, in that --
17 if you were a juror in that same situation, could you,
18 depending upon the particular facts and circumstances of
19 the case, the aggravating and mitigating circumstances and
20 the law as I would give it to you, could you take all
21 those into consideration and, if appropriate, could you
22 return a sentence of death?

23 JUROR #212, ANTHONY LEE: I don't know. It's
24 possible. I kind of sit on the fence when it comes to the
25 death penalty.

1 So without, actually, seeing, you know, more of the
2 case and knowing, actually, what happened to sway my
3 opinion. I mean, yes, I could if the evidence showed that
4 it was just a horrific crime and there was a history of --
5 I mean, somebody just got really ticked off and lost it
6 for one day and shot two or three people in a post office,
7 then that's a little different. But if there was a long
8 history of it, you know, I would have to see the evidence.
9 Yes, if the facts were there, I could, but without knowing
10 more about it, I can't really say.

11 THE COURT: All right. Let me be a little more
12 specific. I will tell you in detail at the appropriate
13 time what the aggravating circumstances are and what the
14 mitigating circumstances are and then you, of course, can
15 consider any mitigating -- the jury can consider any
16 mitigating circumstances to lessen the crime. And I'll
17 tell you what the statutory aggravating factors are. But
18 knowing -- hearing that and hearing all of the evidence
19 and not trying to pin you down on this at all, we just
20 need to know, could you, depending on the particular facts
21 of the case and with the understanding of the law and the
22 aggravating and mitigating circumstances, could you return
23 the verdict of death?

24 JUROR #212, ANTHONY LEE: Yes.

25 THE COURT: All right. And in the event of a death

1 sentence, South Carolina law requires each juror to sign
2 the verdict form. So could you sign your name to a death
3 sentence verdict form?

4 JUROR #212, ANTHONY LEE: Yes.

5 THE COURT: Okay. Now, do you remember or recall the
6 sheet where I outlined the three types of jurors?

7 JUROR #212, ANTHONY LEE: The one we just read back
8 there?

9 THE COURT: Yes.

10 JUROR #212, ANTHONY LEE: Yeah.

11 THE COURT: Where would you put yourself in that?

12 JUROR #212, ANTHONY LEE: I would be number three.

13 THE COURT: So you would need to listen to and
14 consider all the facts and circumstances before you
15 reached a decision?

16 JUROR #212, ANTHONY LEE: Yeah. Because I'm neither
17 for or against the death penalty. So it would just depend
18 on the case, I guess.

19 THE COURT: All right. Now, if you were selected as
20 a juror, would you approach jury service with an open
21 mind, find the truth from the evidence, and apply the law
22 as I instructed it?

23 JUROR #212, ANTHONY LEE: Yes, sir.

24 THE COURT: And do you know of any reason why you
25 could not serve as a juror in this case?

1 JUROR #212, ANTHONY LEE: (Juror shook head.)

2 THE COURT: All right. And let me just briefly tell
3 you before I let the attorneys question you about these
4 same subjects that this is a case where we will sequester
5 the jury that is selected. Now, you won't be sequestered
6 today. You may be sequestered and stay at the Marriott
7 Hotel for a period of -- we're estimating five to seven
8 days, something like that.

9 MR. BARNETTE: May it please the Court?

10 THE COURT: Yes, sir.

11 EXAMINATION

12 BY MR. BARNETTE:

13 Q Good afternoon, Mr. Lee. How are you doing?

14 I'm Barry Barnette, as the Judge introduced me
15 earlier. This is Trey Gowdy and John Anthony. We'll be
16 representing the State. Again, let me thank you for
17 coming up here. I know it's tough coming up here. We
18 Appreciate you filling out the questionnaire and answering
19 our questions.

20 Going back to the Judge's questions, have you ever
21 thought about the death penalty before you got called to
22 this jury.

23 A Yes.

24 Q So you have thought about it before?

25 A Uh-huh.

1 Q Where did your belief of the death penalty come from?

2 A My belief on the death penalty would be based in my
3 Baptist church. But there's still really nothing in the
4 Bible that stipulates whether it should be a sin or not a
5 sin to impose the death penalty. They did it back in
6 Christ's time. And as a matter of fact, I talked to my
7 father -- I didn't say --

8 You'd be proud of me, Judge.

9 I didn't say anything about which case it was. I
10 just said, I've got a capital case that I'm a potential
11 jury for. And I called my father this morning, who is a
12 deacon, and I asked him, I said, Dad, is there anything in
13 the Bible that says anything specifically about the death
14 penalty? I said, because I really don't know. I said, I
15 can see what part of it being a deterrent. But then on
16 the flip side, the person committing the crime is not
17 thinking about getting caught and going to prison and
18 dying anyway, so the death sentence is not really a
19 deterrent in prevention of the crime. It would only be a
20 deterrent in the sense that you're getting rid of someone,
21 rather than let our tax dollars support them in a state
22 prison.

23 And then I said, well, on the flip side of that is,
24 what would be a bigger punishment, life in prison,
25 especially for somebody that's young. I mean, I know I

1 wouldn't want to live life in prison. So I'm thinking
2 maybe life in prison might be worse. And we discussed it
3 at length. And he said, well, you know, if a person has
4 demonstrated that they're not, basically, any use to
5 society, to themselves or whatever, then what's the point
6 in keeping them around? And I was like, okay. And I
7 said, but you're passing punishment as God; right? He
8 said, well, not necessarily. God knows your heart.

9 So if there's a chance -- my question to him was, if
10 I elect to put you to death, then I have taken away all
11 possibility of you ever reverting your life and committing
12 your life to God. And my dad says, well, no, God knows
13 your heart, so he would have known if you would ever have
14 that potential to convert. He said, so -- my daddy's for
15 it and he's a deacon.

16 And that's why I was telling the Judge that I sit on
17 the fence. Because I would have a hard time imposing the
18 death sentence on somebody just sitting right here. But
19 if I knew the facts -- like I said, if it was a horrific
20 crime -- I mean, if the case warranted it, then, yes, I
21 could.

22 Q Okay. You realize that the Judge will be giving you
23 instructions and based off of those instructions, you'll
24 have to follow what he gives you?

25 A Okay.

1 Q It won't be, you know, what somebody else has said,
2 what else or whatever, it's what he gives to you. You
3 understand that?

4 A Right.

5 Q And you understand that if -- the first thing is
6 Mr. Evins has to be found guilty or not guilty. But if
7 he's found guilty and it goes to the second phase, the
8 sentencing phase, the State will present aggravating
9 circumstances for you to make the crime worse or whatever.

10 You were talking about horrific or whatever. Those
11 aggravators are what you look at to make the crime worse.
12 Because not every murder is a death penalty case, like the
13 Judge was telling you earlier yesterday. And looking at
14 the aggravators, if the aggravators in that situation --
15 if the circumstances warranted it, could you give the
16 death penalty?

17 A Yes. That's what I was talking about it. If it
18 warrants it, then yes.

19 Q And also, you realize, the Defense will be giving
20 mitigating circumstances?

21 A Right.

22 Q And by mitigators, they're trying to lessen the
23 crime. Would you take a look at those, also?

24 A I would have to.

25 Q Okay. And if those warranted -- the facts and the

1 circumstances led to it, could you give life without
2 parole in that situation?

3 A Yes.

4 Q So you would look at the circumstances and make the
5 decision based on what you saw the facts of the case were?

6 A Yes.

7 Q And you'd listen to the Judge and follow his
8 instructions concerning the case?

9 A Yes.

10 Q And you'd make a verdict based off of that?

11 A (Juror nodded.)

12 Q It wouldn't matter what somebody told you in the past
13 or whatever you believed or whatever, you would look at
14 the case?

15 A No. Because, actually, no one has really given me an
16 opinion about that. I mean, we've all discussed the death
17 penalty throughout our life and everything. You ask five
18 people if they believe in it and you ask five more people
19 and they don't believe in it. And this is an age old
20 question that will be argued until the end of time because
21 I don't think there is a set answer of is it right or is
22 it wrong. You just have to take a look at the
23 circumstances and does it warrant it.

24 Q And that's what you would do in this case?

25 A Yeah, I'd have to.

1 Q And you'd keep an open mind and look at that?

2 A (Juror nodded.)

3 MR. BARNETTE: One moment, Your Honor.

4 MR. BOGGS: Good afternoon, Mr. Lee.

5 THE COURT: Hang on, Mr. Boggs. Wait a minute.

6 Are y'all done?

7 MR. BARNETTE: We are now.

8 Thank you, sir. Thank you for answering my

9 questions.

10 THE COURT: Okay.

11 EXAMINATION

12 BY MR. BOGGS:

13 Q Hello, Mr. Lee. I'm Tam Boggs. I'm the attorney
14 that's going to be representing Mr. Evins, along with
15 Karen Quimby, the young lady right here. And that's Chris
16 Brough, he's also going to be an assistant. Okay.

17 A Okay.

18 Q I appreciate you filling out the questionnaire and us
19 getting it back. That helps the Court determine -- you
20 know, make a lot of evaluations in the case and also shows
21 us that you've got a real good sense of civic duty, and we
22 appreciate that.

23 I'm not going to ask you really too much, but what I
24 understand is that you have the ability to take the
25 instructions from the Judge, apply them to the facts, and

1 then based upon that, you can make a fair determination --
2 or a determination that in your conscience is fair based
3 upon the facts of the case, not something on the outside
4 or some opinions on the outside? You're willing to take
5 what's presented in court and make a fair evaluation based
6 on that; is that correct?

7 A Yes, sir.

8 Q I might have misunderstood what you said, but when
9 the Judge was asking you did you know anything about this
10 case, I think you said, no, but then you said you moved
11 over toward Greenville --

12 A Well, I didn't expound upon that. It's just weird,
13 for the last four or five years, I never listened to the
14 radio in the truck. My girlfriend listens to karaoke.
15 I'll sing songs. We'll play karaoke tapes. I never
16 listened to the radio and very seldom ever read the paper.
17 I've just never read the paper. I always catch up on news
18 talking to my customers in sales. It's up until the last
19 four months when I moved to -- my transfer to Greenville,
20 a guy brings a paper in and it's sitting right there in
21 front of me every day.

22 So it's up until like the last four months that I've
23 started reading the paper on a daily basis. So I'm sure
24 when this case happened, I'm sure at the time I had to
25 have heard something about it. It was probably somebody

1 saying hey, did you hear about this killing that went or
2 something. But right now, I cannot recall anything about
3 it.

4 Q That's fair enough. But back 18 months ago, were you
5 living inside the city limits?

6 A Yeah. I still do. I just -- my job transferred me
7 to Greenville as far as the workday goes.

8 Q Are you living in Spartanburg or up toward Inman?

9 A Actually, in Inman.

10 Q But Spartanburg County?

11 A Right.

12 Q But 18 months ago, were you inside the city or were
13 you living up in the Inman area?

14 A Actually, I worked probably half a block from here.

15 Q All right. And I believe you said most of your
16 beliefs in the death penalty are centered on some of the
17 teachings of the church or your Christina raising; is that
18 correct?

19 A Well, yes and no. I mean, the people I have talked
20 to are, obviously, in the Baptist church. But like I
21 said, you could poll our congregation and, half of them
22 are for it and half of them -- and so, actually, I don't
23 really have a set opinion outside -- in other words,
24 influence from other people. Because my mother is against
25 it, my father is for it, so right there, I'm split.

1 So the only thing I was doing when I was talking to
2 daddy, I was just peppering him with questions about more
3 specifics, like, is there something in the Bible that
4 specifically says, you know -- and he's like, no, not that
5 he's aware of anyway. So I said, what it does come down
6 to is, basically, your opinion? And he's like, just go
7 with what your heart feels.

8 Q That's what I was going to say. You consider your
9 job, if you were selected on this jury, a very personal
10 thing that you deal with within yourself. And you're
11 satisfied that if you have that feeling -- your verdict
12 was found on that feeling and it would be the proper
13 feeling; is that correct?

14 A Yes --

15 Q I mean, the proper verdict?

16 A Yeah.

17 Q And, basically, what I'm getting at, you don't sound
18 like the type of fellow that you would be swayed by
19 pressure from other people. You, basically, can make up
20 your mind and you're going to stick to what you feel is
21 the right thing to do?

22 A I hope so, yeah.

23 Q Well, you come across that way, which is a very
24 admirable trait.

25 A Thank you.

1 Q I think that's about all.

2 You went to Parker High?

3 A Yes, sir.

4 Q Didn't they have some kind of big reunion not too
5 long ago?

6 A We combined our 20th, 21st, and 22nd reunion this
7 past May because our classes at Parker were so small --
8 well, actually, the first time around, I was on the
9 committee to start the reunion. We had about 47
10 responses. And with 47 people, that's not enough to pay
11 for the hotel room and the banquet hall and the food and
12 everything. So we, actually, combined '82, '83, and '84
13 and made a combined reunion so we'd have more people to
14 pay the bill.

15 MR. BOGGS: All right. Well, I appreciate you being
16 here and I appreciate you sending in the questionnaire.
17 And thank you for your honesty.

18 JUROR #212, ANTHONY LEE: Thank you, sir.

19 THE COURT: Mr. Lee, if I could get you to step out
20 in the hall for just a minute.

21 JUROR #212, ANTHONY LEE: Okay.

22 (Pause.)

23 THE COURT: All right. Any objections?

24 MR. BARNETTE: None from the State, Your Honor.

25 MR. BOGGS: No objections.

1 THE COURT: Bring Mr. Lee back in.

2 (Pause.)

3 THE COURT: Okay. Mr. Lee, my voice may not hold up
4 through this whole thing. I'll give you that to hang
5 onto. Okay.

6 JUROR #212, ANTHONY LEE: Okay.

7 THE COURT: You can take that with you. I want to
8 inform you that you're a qualified juror. You're still
9 eligible for service in this case. We're going through
10 the qualification process right now. And we will, in a
11 couple of days, select the jury once we get the qualified
12 jurors nailed down. Okay.

13 So we're not going to sequester you now. You're free
14 to go about your business and do what you want to do.
15 Make sure we've got your phone number. And we will call
16 you and tell you when to come back.

17 JUROR #212, ANTHONY LEE: Okay.

18 THE COURT: Now, let me admonish you on your oath not
19 to read anything about this, listen to anything about it,
20 or watch anything about it. And I'm going to tell you not
21 to discuss it with anybody. Okay.

22 JUROR #212, ANTHONY LEE: Well, like I said, I don't
23 know anything about it, so there's nothing really to
24 discuss.

25 THE COURT: Okay. Well, I don't want you to discuss

1 your service in the case even with your father again, if
2 that's all right. Okay. And we will -- we just want the
3 decision that's going to be made with respect to the
4 outcome of this case to come from the evidence in the
5 courtroom.

6 Okay. And I don't mean to say anything bad about
7 your father, but even an innocent comment from someone
8 else could impact you. And we want this decision to be
9 made by the jurors who are selected in this case.

10 JUROR #212, ANTHONY LEE: Agreed.

11 THE COURT: Okay. Thank you, Mr. Lee.

12 We'll be back in touch.

13 (Juror #212, Anthony Lee, was excused from the
14 courtroom.)

15 THE COURT: Bring the next juror in, please.

16 (Juror #56, Sandra Chapman, a white female, was
17 seated.)

18 THE COURT: Hey, Ms. Chapman. How are you doing?

19 JUROR #56, SANDRA CHAPMAN: I'm fine.

20 THE COURT: Is it sizzling hot in that seat?

21 JUROR #56, SANDRA CHAPMAN: Yes, sir, it is.

22 THE COURT: All right. I appreciate your honesty
23 about that, and we all know that. Believe me, everybody
24 in here understands the situation you find yourself in. I
25 promise you, as I did a moment ago, that no one is going

1 to embarrass you or humiliate you in any way. No one is
2 looking to test you in any way. This is not a test.

3 There are no right or wrong answers. The only right
4 answers there are are your full, truthful, accurate
5 answers to the questions that you are asked. And this,
6 you know, is a very solemn and important proceeding that
7 we're involved in, so that's the importance -- that's why
8 it's so important to have your truthful answers to the
9 questions. But, again, there are no right or wrong
10 answers. We just want to know from you what your
11 heartfelt feelings are about the questions we're going to
12 ask.

13 And we are going to ask you about what you know about
14 this case and then a little bit about your views on the
15 death penalty. Those are the issues that we're looking at
16 here. So whatever your heartfelt, truthful answers are is
17 what we're looking for.

18 Now, before we do that, I've told you a little bit
19 about the charges in this case, but I want to go through
20 the indictments very briefly to give you a little more
21 factual background about why we're here. Again, I
22 emphasize to you that the indictments are not evidence.
23 They should not be considered by you to be evidence in any
24 fashion. These are just allegations typed on a piece of
25 paper which allows this case to be brought into court,

1 which is where we are now.

2 So let me briefly go through these. The first
3 indictment alleges that Fredrick Antonio Evins did in
4 Spartanburg County on or about February 13th, 2003, .
5 feloniously, willfully, and with malice aforethought kill
6 one Rhonda Marie Ward. The second indictment would be for
7 kidnapping. And it alleges that Mr. Evins did at the
8 same -- on the same date unlawfully kidnap or carry away
9 Rhonda Marie Ward. The second -- or the next indictment
10 is for criminal sexual conduct. And it alleges that
11 Mr. Evins did on that same day, which is February 13th of
12 2003, in Spartanburg County willfully and unlawfully
13 commit a sexual battery upon Rhonda Marie Ward. And,
14 finally, there is a grand larceny indictment that alleges
15 that Mr. Evins did on that same date feloniously carry
16 away Rhonda Marie Ward's 1993 Nissan Sentra and its
17 contents. Okay.

18 JUROR #56, SANDRA CHAPMAN: (Juror nodded.)

19 THE COURT: Those are the indictments that are
20 alleged -- or allegations contained in the indictments.

21 Now, we recognize that this case has had some
22 publicity and it's been covered in the newspaper, on the
23 TV, and on the radio, I believe. So my first question
24 would be to you, have you heard, seen, read or -- read,
25 heard, or seen anything about the case that I've just

1 described to you?

2 JUROR #56, SANDRA CHAPMAN: Yes, sir, on TV.

3 THE COURT: Okay. Thank you.

4 Well, can you tell me a little bit about that?

5 JUROR #56, SANDRA CHAPMAN: They showed the picture
6 of the -- it was a factory or outlet store that she worked
7 at. I was unsure exactly of the location. They showed
8 her picture. Of course, I don't know her. And that's,
9 basically -- they might have showed the car, I'm not sure.
10 It's been so long that I'm really not sure.

11 THE COURT: This was way back in 2003; is that right?

12 JUROR #56, SANDRA CHAPMAN: Yes, sir.

13 THE COURT: Have you heard, read, or seen anything
14 else about it?

15 JUROR #56, SANDRA CHAPMAN: No, sir.

16 THE COURT: Okay. And do you understand that, as a
17 juror, under your oath, that you would be required to put
18 aside anything that you had heard, read, or seen about
19 this case and decide the case solely on the evidence
20 that's presented in the courtroom?

21 Do you understand that?

22 JUROR #56, SANDRA CHAPMAN: Yes, sir.

23 THE COURT: Okay. And do you feel that you can serve
24 as a fair and impartial juror and reach a verdict based
25 solely on the facts presented at trial and in accordance

1 with my instructions to you on the law?

2 JUROR #56, SANDRA CHAPMAN: Yes, sir.

3 THE COURT: Have you already formed an opinion about
4 the facts in this case in any way?

5 JUROR #56, SANDRA CHAPMAN: No, sir.

6 THE COURT: Okay. Have you formed an opinion about
7 the guilt or innocence of Mr. Evins in any way?

8 JUROR #56, SANDRA CHAPMAN: No, sir.

9 THE COURT: Now, keeping in mind the legal principles
10 of the presumption of innocence and the obligation of the
11 State to prove guilt beyond a reasonable doubt, could you,
12 depending upon the facts and the evidence that was
13 presented in the courtroom and the law as I would instruct
14 it to you, could you find a defendant guilty or not guilty
15 depending on what the facts showed to you?

16 JUROR #56, SANDRA CHAPMAN: If I have all the facts,
17 I could determine that.

18 THE COURT: Okay. But you're not -- you don't have
19 your mind made up one way or the other right now?

20 JUROR #56, SANDRA CHAPMAN: No, sir.

21 THE COURT: All right. Very good.

22 Now, please remember that we might not get to the
23 second phase of the trial, but since we possibly could, I
24 need to ask you a few questions about your views on the
25 death penalty.

1 Do you understand that?

2 JUROR #56, SANDRA CHAPMAN: Yes, sir.

3 THE COURT: Okay. When a jury moves to the
4 sentencing phase, the second phase of the trial, the jury
5 would have already decided guilt. They would have already
6 found the Defendant guilty of murder. So in the second
7 phase, the jury would not be concerned with any legal
8 defense. You wouldn't be exploring or discussing a legal
9 defense because you had already decided guilt.

10 Do you understand that?

11 JUROR #56, SANDRA CHAPMAN: Yes, sir.

12 THE COURT: Now, in that second phase -- I've already
13 told you a little bit about aggravating and mitigating
14 circumstances. Your oath would require you to abandon any
15 preconception you may have and to follow the law as I
16 instruct it. In other words, your oath would require you
17 to give serious and meaningful consideration to the
18 aggravating evidence that was introduced and to the
19 mitigating evidence that was introduced. Could you honor
20 your oath and do that in that event?

21 JUROR #56, SANDRA CHAPMAN: Yes, sir.

22 THE COURT: Now, if you were a juror in that
23 situation, which would be the second phase of a trial,
24 could you, depending upon the facts and the circumstances
25 of that particular case, taking into consideration all of

1 the aggravating evidence and all of the mitigating
2 evidence and my instructions to you on the law, taking all
3 that together, could you return a life -- a sentence of
4 life without parole?

5 JUROR #56, SANDRA CHAPMAN: Yes, sir, I could.

6 THE COURT: Okay. Now, conversely, in that
7 situation, could you, depending on the particular facts
8 and circumstances of that case, including consideration of
9 the aggravating and the mitigating circumstances and the
10 law that I would give to you at the end of the case, could
11 you, with all that, taking that into consideration, return
12 a sentence of death?

13 JUROR #56, SANDRA CHAPMAN: I think I could.

14 THE COURT: Okay.

15 JUROR #56, SANDRA CHAPMAN: I read that form in the
16 back, the one, two, and three. I look at Number 3.

17 THE COURT: All right. You consider yourself --

18 JUROR #56, SANDRA CHAPMAN: I'm straddling the fence.
19 Because I'm not sure exactly how I feel about the death
20 penalty. Part of me is like, yes, I do agree with it.
21 And then part of me is like, no, you need to sit and think
22 about what you've done. So I really -- I'm not sure.

23 THE COURT: Okay. Well, that's understandable. This
24 is pretty weighty stuff we're dealing with. But you
25 consider yourself to be in that third category; is that

1 right?

2 JUROR #56, SANDRA CHAPMAN: Yes, sir.

3 THE COURT: So you've told me that you could impose a
4 life sentence; is that right?

5 JUROR #56, SANDRA CHAPMAN: Yes, sir.

6 THE COURT: And you've told me you could impose the
7 death penalty?

8 JUROR #56, SANDRA CHAPMAN: Possibly, yes, sir.

9 THE COURT: And you would, of course -- but what
10 you're saying to me is you need to hear all the evidence;
11 is that right?

12 JUROR #56, SANDRA CHAPMAN: Yes, sir.

13 THE COURT: You need to consider all the mitigating
14 factors and all of the aggravating factors before you make
15 a decision; is that right?

16 JUROR #56, SANDRA CHAPMAN: Yes, sir.

17 THE COURT: All right. Now, let me tell you, in
18 South Carolina, in the event that the jury reaches a
19 sentence of death, the law requires that each juror, all
20 12 jurors, sign the verdict form.

21 So I ask you, could you sign your name to a death
22 sentence verdict form? This is assuming you've already
23 decided to give the death penalty, could you do that?

24 JUROR #56, SANDRA CHAPMAN: Yes, sir.

25 THE COURT: All right. Now -- and if you were

1 selected -- because, right now, we're qualifying the jury
2 and we'll -- when we get the qualified jurors, then we'll
3 come back and select the jury out of those people. If you
4 were selected, would you approach jury service with an
5 open mind to find the truth from the evidence and apply
6 the law as I instructed it?

7 JUROR #56, SANDRA CHAPMAN: Yes, sir.

8 THE COURT: Do you know of any reason why you could
9 not serve as a juror in this case?

10 JUROR #56, SANDRA CHAPMAN: No, sir.

11 THE COURT: All right. Well, let me tell you before
12 I let the attorneys question you a little bit on these
13 same subjects, that this case, it's a -- you know, I told
14 you about sequestration. And the sequestration would
15 involve staying over at the Marriott. And it might last
16 from -- we're guessing from five to seven days. I just
17 wanted to let you know that.

18 Thank you.

19 And I'm going to let the attorneys question you about
20 those subjects.

21 MS. QUIMBY: May it please the Court, Your Honor?

22 THE COURT: All right.

23 EXAMINATION

24 BY MS. QUIMBY:

25 Q Good afternoon, Ms. Chapman.

1 A Hi.

2 Q How are you?

3 A Fine.

4 Q My name is Karen Quimby. We introduced ourselves to
5 all of you yesterday. Tam Boggs and Chris Brough and
6 myself, we're all representing Fredrick Evins. Thank you
7 for letting us interrupt your life for a couple of days.

8 I did want to bring up one thing from your
9 questionnaire that I just wanted to ask you about. Thank
10 you for filling it out. We all appreciate that. You --
11 and before I start, nothing you say is right or wrong.
12 It's yours. It's your opinion and we just need to know
13 what it is. Okay. So we're not judging your answers.

14 Okay. You said that you're a fairly emotional
15 person?

16 A Yes, I am.

17 Q And that if there are things that upset you or
18 devastate you, you will cry?

19 A Yes.

20 Q And that's fine. I mean, that's what you do. What
21 kind of things in the past have caused you to get upset?

22 A Well, if I watch Survivor, I get emotional, anything.
23 I'm just an emotional person. I've got a big heart. If I
24 hit a squirrel, I get all upset about hitting a squirrel.
25 There's tears of joy, too. But that's just the way I am.

1 Q And that's fine. That's fine. Okay. Well, we --
2 you said that you go back and forth on whether you believe
3 the death penalty is appropriate. And there's nothing
4 wrong with that either. I think it should be a -- I think
5 we'd all agree that it's something that somebody needs to
6 think long and hard on. It shouldn't probably be such an
7 easy decision.

8 But what I understood you to say is that you couldn't
9 make up your mind completely about this case until you had
10 heard -- first of all, you would have already found that
11 he's guilty of murder. And you would listen to anything
12 that might make it worse or anything that might make you
13 tend to think that a life sentence might be appropriate;
14 is that right?

15 A My feelings about the death penalty is, I feel that's
16 an easy way out, a fast way out. Some people think of
17 death as being, it's over. It's not, it's just the
18 beginning. We're all going to stand up before our
19 Heavenly Father one day at judgment.

20 So in some cases, I don't know. I feel like maybe if
21 they sit in a little cell somewhere where they're -- I
22 mean, prison is not a Holiday Inn, by no means. There's
23 violence there. There's no telling what happens there,
24 you hear the horror stories. If you have time to reflect
25 on what you've done and why you're there and that's where

1 you're going to grow old and die, then so be it.

2 Q So you could consider either one punishment or the
3 other?

4 A Yes, ma'am.

5 Q Fair enough. You remembered back in early 2003
6 seeing some things on the news. Do you remember -- you
7 told us there were pictures that you saw on the news. Do
8 you remember the story that went along with it?

9 A I can't. I don't.

10 Q All right. Well, we've been pretty vague. Do you
11 tend to keep up with current events?

12 A Not really.

13 Q Okay. I think your questionnaire said you watch
14 Channel 7 news?

15 A Uh-huh.

16 Q About how often do you watch that?

17 A Usually, it's to see the weather and Friday sports.
18 It's usually on while I'm doing dinner and something will
19 catch my ear and I'll run in and look, you know, whatever
20 it may be. But -- and as far as the newspaper, I hardly
21 ever -- my mother passes it along to me because I was just
22 getting it at one time and then wastefully just not
23 reading it. So -- but it's -- I don't subscribe. I just
24 get it like every day or every other day from my mother.

25 Q So what you did see on the news, the picture of the

1 factory, the store, whatever it was? And I think you said
2 her picture was on there and it may or may not have shown
3 the car, that, right now, doesn't trigger your memory as
4 to any other facts about it?

5 A I don't remember how she died.

6 Q Okay.

7 A So that, I don't know.

8 Q Okay. What do you think when somebody is arrested?
9 Does that make you tend to think someone is probably more
10 guilty than not guilty?

11 A Well, usually -- I mean, it's supposed to be -- I
12 feel like you're guilty until proven innocent -- not
13 innocent. Wait a minute, maybe I've got that backwards.
14 When you commit a crime and you go to jail, whatever it
15 may be, usually, there's a fine and you get out.

16 Did I say that backwards? I think I did. But, I
17 mean, if you go to jail, you go to jail for a reason.
18 They're not just going to come and get an innocent person
19 and put them behind bars.

20 Q Well, let me separate for you the difference between
21 being arrested, and being charged with something, and
22 being in jail. Because you've been charged with something
23 and then getting convicted of something after a jury has
24 found you guilty or after you've said, I plead guilty, and
25 then having possibly to do some time in prison on a

1 sentence. So there are two different ways somebody could
2 be in jail for something, either just by being arrested
3 and not been to court yet or by being arrested, been to
4 court and now, you're convicted and doing a sentence.

5 So as to the first part, when somebody has initially
6 been arrested, does that tend to make you think one thing
7 or another about his or her guilt?

8 A Not really. I guess it depends on the severity on
9 the charge, you know. If you didn't pay a ticket, I don't
10 know, would they come and arrest you? I don't know. You
11 know, it just, I guess, depends on the severity of the
12 charge.

13 Q So -- and I'm just trying to understand. The more
14 severe the charge, how would that effect what you think
15 about the guilt of whoever is arrested?

16 A I'm not sure I quite understand you.

17 Q You said whether or not you attached any importance
18 at all to the fact that someone has been arrested and
19 charged with a crime depends on how severe the crime is.
20 So does that mean that if it's a real severe crime, what
21 are you going to think about whether they're guilty or not
22 guilty?

23 A Not until I hear what's out there, you know. I mean,
24 I can't -- I mean, who are we to judge? You know, without
25 a photo or a film, like a robbery or something, you know.

1 Of course, when you see it in black and white, it's there,
2 you're guilty. There's no getting out of that. But I
3 guess I'd have to see it, you know.

4 Q Now, obviously, Mr. Evins is black. Ms. Ward was
5 white. Do you have any personal opinions that would
6 effect your ability to make a decision as to whether he is
7 guilty or not guilty?

8 A I am not prejudiced.

9 Q Okay. Do you have any personal opinions -- I
10 understand you're not prejudiced. Do you have any
11 personal opinions about interracial friendships or
12 relationships?

13 A I have nothing negative to say.

14 MS. QUIMBY: Just one second.

15 Thank you very much for your time. We appreciate it.

16 MR. BARNETTE: May it please the Court?

17 THE COURT: Yes, sir.

18 EXAMINATION

19 BY MR. BARNETTE:

20 Q Good afternoon, Ms. Chapman.

21 A Hi.

22 Q How are you?

23 A Good.

24 Q My name is Barry Barnette. And this is John Anthony
25 and Trey Gowdy. We'll be presenting the State's case.

1 Again, thank you for answering our questions. I know it's
2 a hot seat and we all appreciate it.

3 A It is the hot seat.

4 Q But I wanted to go back. I noticed you went to -- is
5 it Resurrection Church?

6 A Uh-huh.

7 Q Does that have any basis for the death penalty and
8 the way you feel about it?

9 A No, sir. I was born Baptist and that's my -- you
10 know, I just -- I'm Baptist. I was raised that way.

11 Q Does that have any impact on how you feel about the
12 death penalty and why?

13 A I guess religion does. I mean, you know, you have to
14 look at the Bible and it says an eye for an eye. But then
15 the Ten Commandments, thou shall not kill. Who are we
16 to -- you know, I'm not sure. I'm really not sure on
17 that.

18 Q And I hate to keep asking you about that. That's one
19 of the things we're trying to find out and see how you
20 feel about it and so forth. And you say you just don't
21 feel -- in what way do you not feel good about it or feel
22 what about it?

23 A That's where, I guess, I have to look at the Old
24 Testament and New Testament, you know, and I have to
25 consider the severity, you know. And like I told --

1 I can't remember your name. I'm sorry.

2 MR. BARNETTE: Ms. Quimby.

3 MS. QUIMBY: Ms. Quimby.

4 THE WITNESS: Like I told you, I have to look at
5 thinking maybe someone needs to sit there in that little
6 cell and think about what they've done for the rest of
7 their life. And then again, you know, an eye for an eye.
8 I don't know. I really don't know. I'm just in the
9 middle here with that subject.

10 BY MR. BARNETTE:

11 Q Okay. I think you were talking to the Judge and you
12 felt like you were, I guess, in between two groups of
13 jurors in that situation?

14 A Right.

15 Q Knowing that -- you don't -- death -- just because
16 you're convicted of murder doesn't mean you always get the
17 death sentence.

18 A Uh-huh.

19 Q Life without parole is always an option.

20 A Uh-huh.

21 Q In that situation. If you knew life without parole
22 was always an option, could you ever give the death
23 penalty?

24 A If life without parole was the only --

25 Q No, no. You do have two options. Life without

1 parole is always an option and the death penalty is always
2 an option, if you reach the second phase of the trial.

3 A Uh-huh.

4 Q You don't automatically have --

5 MR. BROUGH: Objection, Your Honor. He needs to
6 state aggravating circumstances first.

7 MR. BARNETTE: I'll just rephrase.

8 THE COURT: Okay.

9 MR. BARNETTE: I'll rephrase the question.

10 BY MR. BARNETTE:

11 Q In presenting the case, you have aggravating
12 circumstances and mitigating circumstances. And,
13 obviously, you'll listen to that evidence and so forth.
14 But just because we've proven an aggravating circumstance
15 doesn't mean you automatically get the death penalty in
16 that situation. We have to prove one in order to get the
17 death penalty, the State does, but you still have that
18 option of life without parole. It doesn't matter if an
19 aggravating circumstance is proven or not.

20 Do you feel like that you could give the death
21 sentence in circumstances where you had life without
22 parole as an option?

23 A I think I could, sir.

24 Q I noticed you keep talking about the little box or
25 whatever, going back to --

1 A The little cell.

2 Q The little cell. Would that influence your decision?

3 A You know, like on my questionnaire, you know, I am a
4 very emotional person. I don't -- that's just me. I
5 don't know what the circumstances are going to be. I
6 don't know who all is going to be in the courtroom. If I
7 hear someone cry, I may cry. I don't know if you're going
8 to have pictures. I don't know what I'm up against. Like
9 I said, I am emotional. If something angers me, I'm going
10 to be upset and angry. I could go either way. I'm really
11 not sure. I don't know.

12 Q Let me ask you this question, a death penalty case is
13 emotional or any kind of murder case is, especially a
14 death penalty case. Do you feel like that you could
15 emotionally handle that type of situation?

16 A I think I could.

17 Q Have you ever thought about this -- have you ever
18 thought about the death penalty until you walked in the
19 courtroom?

20 A Not until yesterday, I didn't really think about it,
21 no. But if I was in the situation, you know, if I lost a
22 family member, how would I feel? I would probably be
23 outraged, very much so, and want revenge. You know,
24 that's the human of us, you know. I have children. I
25 have a mother, myself, to think about, you know. I'm not

1 sure how I would --

2 Q Okay. I was going to talk about the aggravating
3 circumstances. If the State proved those aggravating
4 circumstances, one or more of them, do you feel like you
5 could give the death penalty in that situation?

6 MR. BOGGS: Your Honor, he's asked that three times
7 and she's answered it.

8 THE COURT: Well, let her answer this one more time.

9 And, y'all, one lawyer rule. Okay. She did the
10 questioning, so.

11 MR. BARNETTE: Thank you, Your Honor.

12 BY MR. BARNETTE:

13 Q Go ahead.

14 A I probably could go the death penalty.

15 Q And you'd look at the facts and the circumstances?

16 A Yes, sir.

17 Q And you realize the way the law is written and the
18 way the law is given by the Judge -- you would look at
19 that, and is there some case you feel like would warrant
20 the death penalty if the circumstances --

21 A The circumstances, yes.

22 Q And you feel there are some cases that would warrant
23 life without parole?

24 A Exactly.

25 Q So you would look at all those circumstances and

1 weigh them?

2 A Yes.

3 Q And if you felt like the aggravators is proven beyond
4 a reasonable doubt to you and you felt like that the death
5 penalty was warranted --

6 A Yes, sir.

7 Q And vice versa, if --

8 MS. QUIMBY: Objection, Your Honor. I think, again,
9 the question has been asked in several different ways.

10 THE COURT: You've been going over this.

11 MR. BARNETTE: Yes, sir.

12 THE COURT: All right.

13 BY MR. BARNETTE:

14 Q And you'd apply the law that the Judge would give to
15 you to those facts, wouldn't you?

16 A Yes, sir.

17 Q And you'd be fair and listen to both sides?

18 A Yes, sir.

19 MR. BARNETTE: That's all we can ask for.

20 Thank you, ma'am.

21 Thank you, Your Honor.

22 THE COURT: Ms. Chapman, let me ask you to step in
23 the hallway for just a second, please, ma'am.

24 (Pause.)

25 THE COURT: Any objection?

1 MR. GOWDY: No, sir.

2 MS. QUIMBY: No, Your Honor.

3 MR. GOWDY: Your Honor, after you bring her back in,
4 but before the next juror, can we approach about another
5 matter?

6 THE COURT: Yes. Sure.

7 All right. Bring her back in.

8 (Pause.)

9 THE COURT: Hey, Ms. Chapman.

10 Come on up here, if you would. I'm going to give you
11 that to take with you. And I am going to tell you that
12 you are a qualified juror, which means you're eligible to
13 serve in this case. I'm not going to sequester you now.
14 I'm going to let you go home and go about your business.
15 And we've got your phone number and we'll call you in
16 about a day or two or three days, whenever we get all the
17 jurors qualified and tell you when to come back, because
18 you have not been selected to serve on the jury yet.
19 We're qualifying the jury and then we will have the jury
20 selection.

21 In the meantime, do not read, listen to, or watch
22 anything about this case. And, please, don't discuss this
23 matter with anybody whatsoever. It's going to be real
24 tempting to do that. And it's going to be very tempting
25 for your family and friends to want to talk to you about

1 it. And you just have to -- you've sworn an oath on the
2 Bible and you'll just have to tell them that you did.

3 The reason for that, just so you know, so it's not --
4 so you don't think somebody's just telling you -- ordering
5 you around, is that it's a basic precept in this country
6 and in our justice system that a person is tried -- who is
7 accused of a crime is tried solely on the evidence that is
8 under oath and subject to the Constitutional scrutiny that
9 we have in this court. And for somebody outside the case
10 to say something to you might -- even if it's innocent,
11 might impact you and change how you might decide the
12 matter. So that's why we ask you to not talk about it.

13 Thank you.

14 And we'll be in touch.

15 JUROR #56, SANDRA CHAPMAN: Yes, sir.

16 THE COURT: It wasn't so bad, was it?

17 JUROR #56, SANDRA CHAPMAN: Ooh.

18 THE COURT: It was pretty bad then. Okay.

19 (Juror #56, Sandra Chapman, was excused from the
20 courtroom.)

21 THE COURT: Bring the next juror in.

22 (Juror #86, Katherine Dunleavy, a white female, was
23 seated.)

24 THE COURT: Ms. Dunleavy, welcome back to court.

25 JUROR #86, KATHERINE DUNLEAVY: Thank you.

1 THE COURT: I know you're happy to be here,
2 particularly, to be sitting in that chair.

3 JUROR #86, KATHERINE DUNLEAVY: Oh, yes.

4 THE COURT: I want to lessen the ill effect of being
5 in that chair, being in what I have termed the hot seat
6 here today. I want you to feel just as comfortable as you
7 possibly can, and I will do whatever I can to put you at
8 ease. You can tell it doesn't take that long for us to do
9 this. And I promise you, no one is here to embarrass you
10 or humiliate you in any way.

11 JUROR #86, KATHERINE DUNLEAVY: Okay.

12 THE COURT: And I will not allow that to happen. I
13 will also tell you that the questions -- we're going to --
14 really, what we're looking for, essentially, is to
15 determine if you know anything about the facts of the case
16 and if you do, how that impacts you.

17 And then we want to know -- because of the
18 possibility that this case could go to a sentencing phase,
19 we need to know a little bit about your views on the death
20 penalty. And there are a few other areas that might be
21 explored a little bit, but that's generally where we're
22 going with these questions.

23 And I want you to know there are no right or wrong
24 answers to any of the questions. Because this is a
25 serious and solemn proceeding that we're involved in, it's

1 essential that we get truthful, accurate, and complete
2 answers to the questions. You're not being tested in any
3 way. There will be no judgmental analysis of your answers
4 to any of these questions. And so I want you to
5 understand that right from the first.

6 Does the fact that you're in Rotary with Mr. Gowdy --
7 I don't want that to impact you. And if it bothers you, I
8 could ask him to leave and I know he would. But are you
9 okay?

10 JUROR #86, KATHERINE DUNLEAVY: Sure.

11 THE COURT: Now, I've been doing a lot of talking
12 over the last couple of days, so I'm starting to lose my
13 voice a little bit. But I want to tell you a little bit
14 about this case more so than I have up to this point, but
15 just to give you a factual background.

16 I've told you about indictments. And the indictments
17 in this case -- and, again, I emphasize that they are not
18 evidence and should not be considered evidence by anyone.
19 But they are simply the allegations that have been typed
20 onto a sheet of paper which serve as the vehicle to bring
21 this case to court, which is where we are.

22 And in this case, the State has alleged in the
23 indictment -- the first indictment is for murder. And
24 they have alleged that Fredrick Antonio Evins did in
25 Spartanburg County on or about February 13th of 2003,