

VOLUME TWO OF SIX

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY

Edward W. Miller, Circuit Court Judge

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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 TWO
PAGES 501 – 1000

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

1 feloniously, willfully, and with malice aforethought kill
2 Rhonda Marie Ward. The next indictment would be for
3 kidnapping. And the allegation is that Mr. Evins did in
4 Spartanburg County on the same date unlawfully seize or
5 kidnap Rhonda Marie Ward. The next indictment is for
6 criminal sexual conduct. And it alleges that Mr. Evins
7 did on the same date in Spartanburg Count willfully and
8 unlawfully commit a sexual battery on Rhonda Marie Ward.
9 And, finally, the last indictment is for grand larceny.
10 And it alleges that Mr. Evins did in Spartanburg County on
11 or about February 13th, 2003, which is the same date in
12 all the indictments, feloniously carry away the 1993
13 Nissan Sentra and its contents belonging to Rhonda Marie
14 Ward.

15 Now, again, I emphasize those are just allegations
16 and they're not to be considered as evidence. Now, we
17 recognize that there has been publicity about this case on
18 television, radio, and in the newspaper. And the first
19 thing I would like to know is, have you heard anything
20 about this case?

21 JUROR #86, KATHERINE DUNLEAVY: Yes.

22 THE COURT: Can you tell me a little something about
23 that?

24 JUROR #86, KATHERINE DUNLEAVY: All I know is what I
25 read in the newspaper back in February.

1 THE COURT: Okay. Of last year?

2 JUROR #86, KATHERINE DUNLEAVY: Uh-huh.

3 THE COURT: Can you tell me what that is briefly? Do
4 you remember?

5 JUROR #86, KATHERINE DUNLEAVY: I just remember that
6 there was an article about the woman and the fact that she
7 worked at, I think, Cigarette's 4 Less and that she was
8 kidnapped and that they found her in -- her body in a
9 peach orchard. That's pretty much all I remember.

10 THE COURT: Okay. Do you remember seeing anything on
11 television or in the newspaper since then?

12 JUROR #86, KATHERINE DUNLEAVY: Just this past week,
13 where the -- it was getting ready for trial and the
14 article that was in the paper.

15 THE COURT: Okay. Now, do you understand that, as a
16 juror, under your oath, that you'd be required -- if
17 you're selected to serve, you would be required to set
18 aside anything that you have read, seen, or heard outside
19 of the courtroom when you make your decision?

20 Do you understand that?

21 JUROR #86, KATHERINE DUNLEAVY: Yes.

22 THE COURT: Okay. Now -- and the reason for that, so
23 you know, is that it's a basic precept of our system of
24 justice that the only evidence used against a person to
25 try and convict them of a crime is that which undergoes

1 Constitutional scrutiny and also is sworn testimony under
2 oath and subject to all the rights laid out in our
3 Constitution over the last 250 years or whatever it is.
4 So that's why we do that and why you must set aside what
5 you hear outside. You don't know about the accuracy or
6 anything about that.

7 So I would ask you, would you serve as a fair and
8 impartial juror and reach a verdict based on the facts
9 presented at trial in accordance with my instructions on
10 the law?

11 JUROR #86, KATHERINE DUNLEAVY: Yes.

12 THE COURT: All right. In any way have you formed an
13 opinion about the facts of this case?

14 JUROR #86, KATHERINE DUNLEAVY: No.

15 THE COURT: Have you formed any opinion about the
16 guilt or innocence of Mr. Evins?

17 JUROR #86, KATHERINE DUNLEAVY: No.

18 THE COURT: Okay. Now, keeping in mind the legal
19 principles of the presumption of innocence and the
20 obligation of the State to prove guilt beyond a reasonable
21 doubt, could you, depending on the facts and circumstances
22 which would be presented at trial and the law as I would
23 instruct it, could you find a defendant either guilty or
24 not guilty depending on what the evidence showed you?

25 JUROR #86, KATHERINE DUNLEAVY: Yes.

1 THE COURT: Your mind is not made up one way or the
2 other as to guilt or innocence?

3 JUROR #86, KATHERINE DUNLEAVY: Right.

4 THE COURT: Now, please remember, we may not go to
5 the second phase of the trial. We may not ever get there.
6 But because we possibly could, I do need to ask you a
7 little bit about your views on the death penalty. And I
8 would tell you that when a jury moves to the sentencing
9 phase, that means that the jury, this same jury, has
10 already found the Defendant guilty of murder.

11 So in the second phase, the jury would not be
12 considering any legal defenses. You wouldn't be exploring
13 defenses or discussing defenses. Guilt of murder would
14 have already been established by that same jury in the
15 first phase.

16 So in the second phase, we go on to what I have
17 described to you as aggravation evidence and mitigation
18 evidence. Your oath would require to you abandon any
19 preconceived notion you may have and to follow the law as
20 I instruct it. In other words, your oath would require
21 you to give serious and meaningful consideration to
22 evidence of aggravation and evidence of mitigation.

23 Would you honor your oath in that regard?

24 JUROR #86, KATHERINE DUNLEAVY: Yes.

25 THE COURT: Okay. Now, if you were a juror in that

1 situation -- by that, I mean the second phase of the
2 trial, the sentencing phase, could you, depending on the
3 particular facts and circumstances presented at trial,
4 including your consideration of aggravating circumstances
5 and mitigating circumstances and the law that I would
6 instruct you, could you return a sentence of life in
7 prison?

8 JUROR #86, KATHERINE DUNLEAVY: Yes.

9 THE COURT: All right. Conversely, if you're a juror
10 in that same situation, depending upon the particular
11 facts and circumstances proved at trial, taking into
12 consideration circumstances of aggravation and of
13 mitigation and the law as I would give it to you, could
14 you return a sentence of death?

15 JUROR #86, KATHERINE DUNLEAVY: No.

16 THE COURT: Okay. Now, I would ask you, is that --
17 you're very firm about that?

18 JUROR #86, KATHERINE DUNLEAVY: Yes.

19 THE COURT: Is there -- can you think of any
20 situation where you would feel that a sentence of death
21 would be appropriate?

22 JUROR #86, KATHERINE DUNLEAVY: No.

23 THE COURT: All right. Well, let me at this time --
24 well, I'll tell you what, I will allow the attorneys to
25 question you briefly at this time.

1 All right. Thank you very much, ma'am.

2 EXAMINATION

3 BY MR. ANTHONY:

4 Q Good afternoon, Ms. Dunleavy. My name is John
5 Anthony. And this is Barry Barnette and this is Trey
6 Gowdy. And we're representing the State in this case.

7 If you would -- I know you just told the Judge that
8 you wouldn't be able to render a death verdict, could you
9 just explain what your thought process is in reaching that
10 opinion that you have?

11 A Well, I've grown up in the Catholic faith and that's
12 what I practice. And, you know, part of our faith is
13 that, you know, there's only one being that can allow for
14 death or permit that and it's not human beings, so.

15 Q And because you are part of a church that has that
16 teaching, it would just be impossible for you --

17 A Right.

18 Q -- to render a death verdict in a case?

19 A Yes.

20 MR. ANTHONY: Thank you very much.

21 THE COURT: All right. Any questions from the
22 Defense?

23 MR. BOGGS: None, Your Honor.

24 I just want to thank Ms. Dunleavy. Of course, you
25 have your plate really full with the United Way and the

1 community indicators anyway, so you've got plenty to keep
2 you busy.

3 But thank you for responding and thank you for
4 showing up.

5 THE COURT: All right. Without any further ado, I,
6 too, want to thank you for being here. I appreciate your
7 service, which you have dutifully fulfilled. And we'll
8 excuse you from service in this case.

9 (Juror #86, Katherine Dunleavy, was excused from the
10 courtroom.)

11 THE COURT: Bring the next juror in.

12 (Juror #182, Sabrina Jenkins, a black female, was
13 seated.)

14 THE COURT: Hello, Ms. Jenkins.

15 JUROR #182, SABRINA JENKINS: Hi.

16 THE COURT: How are you doing?

17 JUROR #182, SABRINA JENKINS: Fine.

18 THE COURT: I want to start off by trying to put you
19 at ease over there. You look pretty comfortable and I'm
20 glad of that. I want you to know that we're going to ask
21 you some questions. And what we're, basically, trying to
22 get at is whether or not you know anything about this case
23 and then what your views on the death penalty are. Okay.
24 We may get into asking you a few other related topics, but
25 that's the basic stuff we're going to be asking you.

1 And I want to tell you there are no right or wrong
2 answers that you're going to give here. Because of the
3 serious nature of this proceeding, we need to know,
4 though, your truthful, accurate, and complete responses to
5 the questions we ask. So I don't want you to feel like --
6 no one is going to humiliate or embarrass you. I won't
7 allow that to happen. And I will also tell you that
8 there's no test. Nobody is going to pass any judgment on
9 your answers.

10 So let me tell you a little bit about the facts of
11 the case. And I'll tell you again, indictments are not
12 evidence and are not to be considered evidence in any way.
13 They're just allegations typed on a piece of paper. It's
14 the way that the case gets to court.

15 The first indictment in this case alleges that
16 Mr. Fredrick Antonio Evins did in Spartanburg County on or
17 about February 13th of the year 2003, feloniously,
18 willfully, and with malice aforethought kill Rhonda Marie
19 Ward. The second indictment is for kidnapping. And it
20 alleges that Mr. Evins did in Spartanburg County on or
21 about February 13th, 2003, unlawfully seize or kidnap
22 Rhonda Marie Ward. The next indictment is for criminal
23 sexual conduct. And it alleges that Mr. Evins did on that
24 same date willfully and unlawfully commit a sexual battery
25 upon the victim, Rhonda Marie Ward. And, finally, there's

1 an indictment for grand larceny that alleges that
2 Mr. Evins did on the same date take unlawfully the 1993
3 Nissan Sentra and its contents belonging to Rhonda Marie
4 Ward.

5 Okay. That's the basic allegations against Mr. Evins
6 in this case. Now, I want to ask you, we recognize there
7 has been publicity about this case and wanted to know,
8 first of all, do you know anything at all about this case?

9 JUROR #182, SABRINA JENKINS: No. I don't know
10 nothing about this case.

11 THE COURT: You haven't heard --

12 JUROR #182, SABRINA JENKINS: Just what I heard on
13 the news when it first happened.

14 THE COURT: Tell me about that.

15 JUROR #182, SABRINA JENKINS: I just heard she got
16 kidnapped from Cigarette's 4 Less and they found her body
17 in like an apple orchard or something like that. That's
18 about all I know about that case.

19 THE COURT: Okay. Did you see that on TV?

20 JUROR #182, SABRINA JENKINS: On the news, yeah, when
21 it first happened. I don't remember when that was.

22 THE COURT: You haven't seen anything since that
23 time?

24 JUROR #182, SABRINA JENKINS: Huh-uh.

25 THE COURT: You didn't read anything in the newspaper

1 or anything?

2 JUROR #182, SABRINA JENKINS: Huh-uh.

3 THE COURT: Okay. Now, do you understand, as a
4 juror, your oath would require you to disregard anything
5 that you have seen, read, or heard about this case?

6 Do you understand that?

7 JUROR #182, SABRINA JENKINS: (Juror nodded.)

8 THE COURT: Okay. And you would be required -- your
9 oath would require you to decide the facts only from the
10 evidence presented at trial.

11 Do you understand that?

12 JUROR #182, SABRINA JENKINS: (Juror nodded.)

13 THE COURT: Could you serve as a fair and impartial
14 juror and reach a verdict based solely on the facts
15 presented at trial in accordance with my instructions on
16 the law?

17 JUROR #182, SABRINA JENKINS: Yes, sir.

18 THE COURT: Okay. Have you formed any opinion as to
19 the facts of this case?

20 JUROR #182, SABRINA JENKINS: (Juror shook head.)

21 THE COURT: No?

22 JUROR #182, SABRINA JENKINS: (Juror shook head.)

23 THE COURT: Okay. And have you formed any opinion as
24 to the guilt or innocence of Mr. Evins?

25 JUROR #182, SABRINA JENKINS: (Juror shook head.)

1 THE COURT: No? Can I get you to speak? Because
2 she's got to take everything down.

3 JUROR #182, SABRINA JENKINS: No, sir.

4 THE COURT: All right. Thank you.

5 Now, keeping in mind the legal principles of the
6 presumption of innocence and the State's obligation to
7 prove guilt beyond a reasonable doubt, could you,
8 depending upon the facts and the evidence and the law at
9 trial, could you find a person based on those facts and
10 evidence guilty or not guilty?

11 JUROR #182, SABRINA JENKINS: Yes, sir, I could.

12 THE COURT: In other words, your mind is not made up
13 as to guilt or innocence from the beginning?

14 JUROR #182, SABRINA JENKINS: No, sir.

15 THE COURT: Now, remember that we may not reach that
16 second phase of the trial, but since we possibly could, I
17 need to know a little bit about your views on the death
18 penalty. And I'll tell you, when we move to the second
19 phase of the trial, the jury will have already decided --
20 the same jury will have already decided that the Defendant
21 is guilty of murder. So that issue is over with and you
22 wouldn't be back there arguing about or exploring the
23 possibility of some legal defense.

24 All right. In the second phase of the trial, if we
25 got that far, we would then be concerned with what I've

1 already told you is evidence in mitigation and evidence in
2 aggravation. Your oath would require you to abandon any
3 preconceived notion that you might have and to follow the
4 law as I instruct it to you. In other words, your oath
5 would require you to give serious and meaningful
6 consideration to aggravation evidence and mitigation
7 evidence.

8 Do you understand that?

9 JUROR #182, SABRINA JENKINS: Yes, sir.

10 THE COURT: And could you follow your oath and do
11 that?

12 JUROR #182, SABRINA JENKINS: Yes, sir.

13 THE COURT: All right. Now, if you were a juror in
14 that situation and, by that, I mean the second phase of
15 the trial, okay, guilt has already been established and
16 we're in the second phase and you're a juror there. Could
17 you, depending on the particular facts and circumstances
18 of the case, including consideration of aggravating
19 circumstances and consideration of mitigating
20 circumstances and considering the law as I gave it to you,
21 could you return a sentence of life in prison?

22 JUROR #182, SABRINA JENKINS: Yes, sir.

23 THE COURT: All right. Now, again, imagine you're a
24 juror in the second phase of the trial and you've already
25 found the Defendant guilty of murder, could you, depending

1 on the facts -- particular facts and circumstances of the
2 case, including consideration of the aggravating
3 circumstances and the mitigating circumstances and the law
4 as I would give it to you, based on all that, could you
5 return a sentence of death?

6 JUROR #182, SABRINA JENKINS: Yes, sir.

7 THE COURT: You could?

8 JUROR #182, SABRINA JENKINS: I could.

9 THE COURT: Okay. Now -- and there are no right or
10 wrong answers. So all we want is a truthful answer and
11 that's -- so don't be afraid of any answer you give here.

12 In the event of a death sentence, the South Carolina
13 law requires each of the 12 jurors to sign their name to
14 the verdict form. Could you, in that event, if that -- a
15 death sentence was reached, could you sign your name to a
16 death sentence verdict?

17 JUROR #182, SABRINA JENKINS: Yes, sir.

18 THE COURT: Now, do you remember the sheet with the
19 three types of jurors I had y'all review back there?

20 JUROR #182, SABRINA JENKINS: Yes.

21 THE COURT: Where would you put yourself?

22 JUROR #182, SABRINA JENKINS: Number 3.

23 THE COURT: Number 3. You'd have to listen to all
24 the facts and circumstances before you reached a verdict?

25 JUROR #182, SABRINA JENKINS: (Juror nodded.)

1 THE COURT: All right. If you were selected, would
2 you honor your oath as a fair and impartial juror and
3 approach jury service with an open mind to find the
4 truth from the evidence and apply the law as I instructed
5 it?

6 JUROR #182, SABRINA JENKINS: Yes, sir.

7 THE COURT: Do you know of any reason why you could
8 not serve?

9 JUROR #182, SABRINA JENKINS: No, I don't know of
10 any.

11 THE COURT: All right. Before I let the attorneys
12 question you, I want to just tell you that we're going to
13 sequester the jury that's selected. Right now, we're
14 doing qualifications just to find the qualified jurors.
15 And then we'll call all the qualified jurors back later in
16 the week and pick a jury of 12 people and some alternates.
17 And we're going to sequester the jury at that time and put
18 them in the Marriott over there. And, of course, all this
19 is going to be paid for by the county. And we estimate it
20 might last five to seven days. Okay.

21 JUROR #182, SABRINA JENKINS: Okay.

22 THE COURT: All right. At this time, I'm going to
23 turn it over to the attorneys.

24 MR. BROUGH: May it please the Court?

25 THE COURT: Yes, sir.

EXAMINATION

BY MR. BROUGH:

Q Ms. Jenkins, how are you this afternoon?

A Fine.

Q Judge Miller introduced us yesterday. But I'm Chris Brough, and along with Karen Quimby over there and Tam Boggs, we represent Fredrick Evins in this case.

I just want to ask you a couple of quick questions. I know that you're on the proverbial hot seat and would probably like it if the places were reversed. But I just want to ask you a couple questions about your views regarding the death penalty and a couple of other matters.

If I understood what you told Judge Miller correctly, you stated that you could consider all the evidence and if there were aggravating and mitigating circumstances, you could consider them in the second phase of the trial and you could return a verdict for either life or for death, depending on the facts; is that correct?

A Yes, sir.

Q Okay. Now, I want to ask you another couple of questions, too. You understand, though, that it never has to get to the second phase of the trial, that Mr. Evins is presumed innocent or not guilty as of now under the law?

A Uh-huh.

Q And you would be able to put aside and consider the

1 facts just as to the actual trial of the case, regardless
2 of the fact that this is designated -- because Mr. Gowdy
3 is seeking this as a death penalty case, you can put that
4 aside and try the facts?

5 A Yeah, I could. I'd really have to hear the
6 situation, you know, what really happened, to see what
7 really happened.

8 MR. BROUGH: Thank you very much, Ms. Jenkins.

9 I appreciate that.

10 MR. GOWDY: May it please the Court?

11 THE COURT: Mr. Gowdy, yes, sir.

12 EXAMINATION

13 BY MR. GOWDY:

14 Q Good afternoon, Ms. Jenkins.

15 A Hi.

16 Q How are you?

17 A Fine.

18 Q My name is Trey Gowdy. And that gentleman to your
19 left is John Anthony and Barry Barnette is in the middle.
20 The three of us are representing the State of South
21 Carolina in this case.

22 I appreciate you filling out this questionnaire. Can
23 I ask you a couple of questions about the things you
24 filled out?

25 A Uh-huh.

1 Q You were good enough to tell us that, I believe, it
2 may have been your boyfriend was shot?

3 A Uh-huh.

4 Q Did they ever catch who did that?

5 A They really don't know who did it right now, but they
6 had arrested a couple of boys who they thought could have
7 did it.

8 Q What -- did your boyfriend survive the attack?

9 A Yes, he survived.

10 Q What's his name?

11 A Terry Cahole.

12 Q Did this happen in Spartanburg County?

13 A Yes, sir.

14 Q Do you know if those arrests are still pending on the
15 two individuals that shot him?

16 A Yeah. I think they've still got to go to court to be
17 tried.

18 Q Okay. I want to flip over to the death penalty for
19 just a second. What are your beliefs or views on capital
20 punishment?

21 A Well, what I believe is to give someone the death
22 penalty, if you purposely kill somebody -- you know, it
23 could have been another situation that they could have
24 handled it. Then I see it as if -- I could see the death
25 penalty. But for life, I say that if there wasn't no way

1 out, you had to do what you had to do, you know. You had
2 to kill -- you had to murder someone right then, you know,
3 if you had to do it right then. And then you had to do
4 what you had to do. There wasn't no way out of it, you
5 know.

6 Q Like self-defense or something?

7 A Like self-defense, that's what I say, life. But I
8 say death penalty, if you purposely did it and you know
9 what you was doing and could have avoided it, then I think
10 you deserve the death penalty.

11 Q Sure. And as the Judge said, there are no right or
12 wrong answers, there are only Ms. Jenkins answers.

13 A Yes, sir.

14 Q Let me ask you this, lawyers have a way of sometimes
15 complicating things. Let's assume that murder -- when we
16 hear the term murder, the legal definition is the
17 intentional killing of another person with malice
18 aforethought. So it's not an accident. It's not
19 self-defense. You intentionally killed somebody.

20 A Yeah.

21 Q Let me ask you, understanding that murder is
22 intentionally killing another person, do you think that
23 the death penalty should always be imposed in that case?

24 A Yeah.

25 Q So laying aside the self-defense or involuntary

1 manslaughter or vehicular manslaughter, if you
2 intentionally killed somebody with malice aforethought,
3 which is an evil or depraved or wicked spirit, the death
4 penalty should be the punishment?

5 A Yeah.

6 Q You were good enough, I think, to mention -- and,
7 again, these are personal questions that, ordinarily, if
8 we were to run into each other in Wal-Mart, I wouldn't ask
9 you. But this is a little bit different situation. I
10 think you mentioned that a family member of yours may
11 have, actually, been incorrectly charged with an offense
12 that was later dismissed?

13 A Yeah. That was me.

14 Q Oh, I'm sorry.

15 A That was me.

16 Q I'm sorry. Do you know what police agency made that
17 incorrect arrest?

18 A The city.

19 Q The city?

20 A Yeah.

21 Q It was dismissed?

22 A Yeah.

23 Q Okay. You didn't plead to anything?

24 A Huh-uh.

25 Q No --

1 A It was dismissed.

2 Q Do you have any bias or hostility in your heart
3 towards law enforcement because you had to go through that
4 and were wrongfully accused?

5 A Not really, because it's over with now. So I really
6 ain't mad about nothing, you know what I'm saying,
7 something just happened that was wrong, so.

8 Q Do you remember who represented you during that
9 ordeal?

10 A Are you talking about like my lawyer?

11 Q Yes, ma'am.

12 A Pat Anderson.

13 Q Pat Anderson?

14 A Yeah.

15 Q Did a prosecutor ever get involved? Was anybody from
16 my office ever involved in it or was it taken care of
17 before then?

18 A It was taken care of before that.

19 Q So nobody on our side was involved in it?

20 A Huh-uh.

21 MR. GOWDY: All right. I know you've been up here a
22 long time.

23 Thank you for answering our questions. We appreciate
24 it.

25 THE COURT: I'm not quite done with you.

1 Now, let me -- I just want to get cleared up on some
2 stuff. And, again, no right or wrong answers, no tests or
3 anything.

4 Now, let me just explain the law to you real briefly
5 and the situation. Not every case in South Carolina that
6 is a murder is a capital case. You cannot -- the State
7 may not pursue the death penalty in every murder case.

8 Do you understand that?

9 JUROR #182, SABRINA JENKINS: Uh-huh.

10 THE COURT: Now -- so what I'm asking you is, do --
11 you told the Solicitor that you thought that every time
12 somebody committed murder, they should get the death
13 penalty.

14 JUROR #182, SABRINA JENKINS: Well --

15 THE COURT: You're in a tough place and you've got
16 some -- go ahead and tell me what you're thinking.

17 JUROR #182, SABRINA JENKINS: Let me rephrase that.
18 See, I told him what I thought about intentionally doing
19 it and defending yourself.

20 THE COURT: Okay. Well, let me just explain just a
21 little something to you, and then I'll let you get out of
22 here.

23 If you act in self-defense, you are not guilty of
24 murder. Okay.

25 JUROR #182, SABRINA JENKINS: Yeah, you're right.

1 THE COURT: And there are cases where there can be
2 the intentional and wrongful killing of another person
3 with malice aforethought, which is murder, but doesn't
4 have an aggravating circumstance attached to it. So they
5 cannot seek the death penalty. And then there's a capital
6 case where there must be an aggravating circumstance
7 attached to the murder conviction. Okay. And then and
8 only then can the State seek the death penalty.

9 Now, what I'm getting at is, I want to -- because
10 after what you had told me, it sounded a little different
11 than what you had said later. So is it -- are there
12 instances in cases where, let's say, we're -- as I asked
13 you before, I'm going to re-ask the same question,
14 basically, where you've committed -- where you are on the
15 jury in the second phase, which means you've already
16 convicted a person of murder, you're on the jury and that
17 same jury convicts, okay, and then decides the appropriate
18 sentence.

19 Do you mean to tell me now -- and I don't mean to --
20 you told me before that you could consider all the
21 aggravating and mitigating circumstances and return a
22 verdict of life in prison. Okay. And I'm not trying to
23 get you -- I'm not trying to persuade you one way or the
24 other. I just need to know the accurate answer, what you
25 really feel. And don't be intimidated by me or anyone

1 else. There's no consequences to the answer, we just need
2 the truth.

3 In that circumstance, after considering all of the
4 evidence, could you return a verdict of life in prison or
5 do you think that you had -- or could you only give the
6 death sentence?

7 JUROR #182, SABRINA JENKINS: I could give life in
8 prison.

9 THE COURT: Okay. Just tell me briefly a little bit
10 about that so I know -- understand. And it's a
11 complicated issue, no question about it.

12 JUROR #182, SABRINA JENKINS: I don't understand the
13 answer you're looking for.

14 THE COURT: I'm not looking for an answer. I want to
15 know how you feel. And the reason I'm curious about that,
16 you told me when I was questioning you that you could give
17 a life sentence and then later, you said that you would
18 always give death.

19 JUROR #182, SABRINA JENKINS: I'd always give death?

20 THE COURT: Yes. So I'm just trying to clear that up
21 and find out which is true.

22 JUROR #182, SABRINA JENKINS: Well, see, like I said,
23 the only -- it depends on life or death in the situation
24 of self-defense or intentionally -- you know, if you
25 intentionally kill somebody, you know what you were doing,

1 death penalty, but self-defense, life sentence.

2 THE COURT: All right. So every time, if you
3 intentionally kill somebody, the death sentence? I'm just
4 asking.

5 JUROR #182, SABRINA JENKINS: (Juror nodded.)

6 THE COURT: And you say "yes"?

7 JUROR #182, SABRINA JENKINS: Yes.

8 THE COURT: All right. Thank you, ma'am.

9 If you'll wait out in the hall for just a second and
10 we'll get back with you.

11 (Pause.)

12 THE COURT: Any objection to this juror?

13 MR. BOGGS: None.

14 THE COURT: None from the Defense.

15 MR. GOWDY: Regrettably, I think she's unqualified,
16 Your Honor.

17 THE COURT: How is she --

18 Mr. Boggs.

19 MR. BOGGS: Can I speak?

20 THE COURT: Yes. I'll allow you to respond to that.
21 Go ahead.

22 MR. BOGGS: Well, Your Honor, first of all, she
23 answered your questions and said she could give life or
24 she could give death based on the circumstances. Now, the
25 examples that we used with her were self-defenses, which,

1 of course, is an absolute defense and wouldn't even get to
2 a sentencing phase on that situation.

3 The other, it seems to me that she's been boxed in
4 somewhat by the last -- by Mr. Gowdy's question, and he
5 did a masterful job of it. But it would seem to me that
6 if that's going to be the criteria to let her go, then she
7 ought to have the explanation for different types of
8 homicides, voluntary, had that explained to her and say,
9 would you consider this particular sentence, you know,
10 guilty. I don't know. It just seems like she was getting
11 boxed in when, on two different occasions, she gave you an
12 answer directly to your question and the last time was, it
13 would depend on the circumstances.

14 She's using self-defense as an example. We don't --
15 but she's also said she would follow your charge on the
16 law if she received it, which means when you explain what
17 the law is, then she's willing to apply it to it and that
18 she has an open mind based on the circumstances and can
19 either give life or the death penalty.

20 THE COURT: Yes, sir, Mr. Gowdy.

21 MR. GOWDY: Your Honor, jurors are not well versed in
22 the law. And I think it is a little bit unfair for us
23 attorneys to assume that jurors understand what murder is.
24 It is the intentional killing of another person with
25 malice aforethought. Once Ms. Jenkins understood what

1 murder was, she was unequivocal both to Your Honor and to
2 me that death is automatic.

3 I almost cannot believe my ears that they want to
4 qualify a juror who says death equals -- murder
5 automatically equals the death penalty. But that's what
6 she said. She said it to me. She said it to Your Honor.
7 She is much further away from being qualified than a juror
8 that we've already found unqualified. So, regrettably,
9 she is unqualified.

10 MR. BOGGS: That's strange that Mr. Gowdy is trying
11 to challenge one that's so pro-State, apparently, by her
12 answers --

13 MR. GOWDY: I'm trying to be fair about it, Your
14 Honor, and --

15 THE COURT: Okay. Hang on. One at a time.

16 MR. GOWDY: Ms. Dunleavy was --

17 THE COURT: And let's not get into the stone throwing
18 across the tables. Okay.

19 MR. GOWDY: Yes, sir.

20 THE COURT: Well, I had thought originally that she
21 was qualified after I finished questioning her. When Mr.
22 Gowdy got her in his -- and he was masterful, in his fair
23 seeking of the qualified juror here, I requested her to
24 find out. And I think I gave her every opportunity to
25 change her mind, but I'm afraid she did not do it. And

1 I'm going to find that she's not qualified.

2 MR. BOGGS: Well, Your Honor, the masterful -- and
3 we're not -- I'm not going to pursue that. I would just
4 like to go on the record at this point that the masterful
5 cross-examination about boxing someone in just happens to
6 have been two black females that this has occurred on.
7 One of them was Patricia Murphy, Juror #258, who
8 originally said she could be fair, go either way, and then
9 that final question. The same thing here. I mean, I just
10 want to go on record that that seems to be a pattern
11 that's being established.

12 THE COURT: Okay. We'll keep track of that.

13 MR. BOGGS: It's clear that we feel like she's
14 qualified.

15 THE COURT: Yes, sir. There's no question about
16 that. It's my finding and it's after I honestly tried to
17 give her a chance.

18 MR. BOGGS: It's my position that you did and she
19 answered.

20 THE COURT: Well, she gave me the same answer that
21 she gave Mr. Gowdy.

22 MR. BOGGS: All right.

23 THE COURT: Would you bring her back in?

24 (Pause.)

25 THE BAILIFF: If you would go around and face the

1 Judge, please.

2 THE COURT: Hey, Ms. Jenkins.

3 JUROR #182, SABRINA JENKINS: Hi.

4 THE COURT: Let me just again express my thanks to
5 you from everybody in the court system for coming up here
6 and performing your jury duty and going through this extra
7 step. And just based on everything, I am going to excuse
8 you from jury duty.

9 JUROR #182, SABRINA JENKINS: All right.

10 THE COURT: Thank you for being here.

11 (Juror #182, Sabrina Jenkins, was excused from the
12 courtroom.)

13 THE COURT: Bring the next juror in.

14 (Juror #273, Barbara Owens, a white female, was
15 seated.)

16 THE COURT: Hello, Ms. Owens. How are you?

17 JUROR #273, BARBARA OWENS: Fine.

18 THE COURT: Would you pull your chair up around there
19 so we can get you in that microphone.

20 All right. I want you to feel at ease while you're
21 in here. I want to tell you briefly that there are no
22 right or wrong answers to any of the questions that I'm
23 going to ask or any of the lawyers are going to ask. This
24 is not a test. Nobody is going to pass judgment on you or
25 anything. We're just looking for truthful answers to the

1 questions that are asked. Okay.

2 JUROR #273, BARBARA OWENS: Okay.

3 THE COURT: And so if I ask you a question that you
4 don't understand, before you answer it, go ahead and ask
5 me to rephrase it, because I'll do that. I want to make
6 sure you understand everything I'm talking to you about.

7 JUROR #273, BARBARA OWENS: Okay.

8 THE COURT: All right. Now, I want to tell you a
9 little bit about the case that we're here on. And I would
10 emphasize again that indictments are not evidence. It's
11 just allegations typed on a sheet of paper that gets the
12 case to court.

13 JUROR #273, BARBARA OWENS: Okay.

14 THE COURT: Mr. Fredrick Antonio Evins, it is alleged
15 by the State that he did in Spartanburg County on or about
16 February 13th, 2003, feloniously, willfully, and with
17 malice aforethought did kill Rhonda Marie Ward. The next
18 indictment is for kidnapping. It alleges that Mr. Evins
19 did, same date, unlawfully seize or kidnap Rhonda Marie
20 Ward. The next indictment is for criminal sexual conduct.
21 It alleges that Mr. Evins did on the same date willfully
22 and unlawfully commit a sexual battery upon Rhonda Marie
23 Ward. And, finally, the last indictment is for grand
24 larceny. And it alleges that Mr. Evins did in Spartanburg
25 County on or about the same date, which is February 13th

1 of 2003, feloniously carry away the 1993 Nissan Sentra and
2 its contents belonging to Rhonda Marie Ward. Okay.

3 JUROR #273, BARBARA OWENS: Okay.

4 THE COURT: Now, we recognize that there has been
5 extensive publicity about this case. And the first thing
6 I want to know is, what have you heard about this case?

7 JUROR #273, BARBARA OWENS: Nothing.

8 THE COURT: Not a thing?

9 JUROR #273, BARBARA OWENS: Huh-uh.

10 THE COURT: You didn't read about it in the newspaper?

11 JUROR #273, BARBARA OWENS: No.

12 THE COURT: You didn't see it on TV?

13 JUROR #273, BARBARA OWENS: No.

14 THE COURT: Okay. Well, that's great.

15 Now, let me tell you, under your oath, as a juror, if
16 it were to occur to you later something -- you know, you
17 remembered you did, later on, under your oath, you'd have
18 to put all of that aside and decide this case based solely
19 on the facts that would be presented under oath in this
20 courtroom.

21 Do you understand that?

22 JUROR #273, BARBARA OWENS: Uh-huh.

23 THE COURT: And do you think you could do that?

24 JUROR #273, BARBARA OWENS: Yes, sir.

25 THE COURT: Could you be fair and impartial?

1 JUROR #273, BARBARA OWENS: Yes, sir.

2 THE COURT: All right. Have you formed an opinion
3 about the facts of this case?

4 JUROR #273, BARBARA OWENS: No, sir.

5 THE COURT: Have you formed an opinion about the
6 guilt or innocence of Mr. Evins?

7 JUROR #273, BARBARA OWENS: No, sir.

8 THE COURT: All right. Now, keeping in mind the
9 legal principles I've talked to you about, the presumption
10 of innocence and the State's obligation to prove guilt
11 beyond a reasonable doubt, could you, depending on the
12 facts and the evidence and the law as I would instruct it,
13 could you return a verdict -- after looking at the
14 evidence that was in front of you, could you return a
15 verdict of guilty or a verdict of not guilty depending on
16 what the evidence showed to you?

17 JUROR #273, BARBARA OWENS: Yes, sir.

18 THE COURT: Okay. And all I'm asking you is, you're
19 not -- do you have -- you're not already set in your mind
20 about whether somebody is guilty or not guilty, are you?

21 JUROR #273, BARBARA OWENS: No, sir.

22 THE COURT: Okay. You'd have to listen to the facts
23 before you decided that, wouldn't you?

24 JUROR #273, BARBARA OWENS: Uh-huh.

25 THE COURT: All right. Now, please remember that we

1 might not reach the second phase of the trial, but since
2 we could, I need to find out a little bit about your views
3 on the death penalty.

4 Do you understand?

5 JUROR #273, BARBARA OWENS: Uh-huh.

6 THE COURT: When we move to the second phase of the
7 trial, the jury has already -- would have already
8 determined that the Defendant was guilty of murder.

9 Do you understand that?

10 JUROR #273, BARBARA OWENS: Uh-huh.

11 THE COURT: So in the second phase, you wouldn't be
12 considering any legal defenses or anything like that,
13 because you would have already decided that the Defendant
14 was guilty of murder. Okay.

15 JUROR #273, BARBARA OWENS: Yeah.

16 THE COURT: The only thing that you would be
17 concerned with in the second phase is aggravating
18 evidence -- evidence of aggravation in the murder or
19 evidence in mitigation of the murder.

20 Do you understand that?

21 JUROR #273, BARBARA OWENS: Uh-huh.

22 THE COURT: Okay. Now, your oath would require you
23 to abandon any preconceived notion that you might have and
24 to follow the law as I instruct it.

25 Do you understand that?

1 JUROR #273, BARBARA OWENS: Yes, sir.

2 THE COURT: Okay. You would follow the law as I give
3 it to you, wouldn't you?

4 JUROR #273, BARBARA OWENS: Yes, sir.

5 THE COURT: In other words, you would -- your oath
6 would require you to give serious and meaningful
7 consideration to the aggravating evidence and the
8 mitigating evidence. Could you follow your oath and do
9 that?

10 JUROR #273, BARBARA OWENS: Yes, sir.

11 THE COURT: Okay. Now, imagine that you are a juror
12 in the second phase of the trial, which means that the
13 jury has already decided that the Defendant is guilty of
14 murder, depending on the particular facts and
15 circumstances of the case and considering all the
16 aggravating evidence and all of the mitigating evidence
17 and considering the law as I gave it to you, if you put
18 all that together, could you return a verdict of life
19 imprisonment?

20 JUROR #273, BARBARA OWENS: Yes, sir.

21 THE COURT: Okay. The same situation, imagine
22 yourself as a juror in the second phase of the trial,
23 could you, depending on the particular facts and
24 circumstances of the case, the mitigating and aggravating
25 circumstances and the law as I would give it to you, could

1 you return a verdict of death?

2 JUROR #273, BARBARA OWENS: Yes, sir.

3 THE COURT: You could. Okay. That's fine.

4 There's no right or wrong answer. It's just what you
5 feel, your heartfelt responses.

6 JUROR #273, BARBARA OWENS: Okay.

7 THE COURT: Now, in the event that the jury returned
8 a verdict of death, the law requires that all 12 jurors
9 sign their name to the verdict form. So could you sign
10 your name to a death sentence verdict form?

11 JUROR #273, BARBARA OWENS: Yes, sir.

12 THE COURT: All right. Now, do you recall the sheet
13 where I described the three types of jurors?

14 JUROR #273, BARBARA OWENS: Uh-huh.

15 THE COURT: Where do you put yourself in that list?

16 JUROR #273, BARBARA OWENS: Down below.

17 THE COURT: Down below? Number 3?

18 JUROR #273, BARBARA OWENS: I think.

19 THE COURT: And does that mean that you would have to
20 consider all the evidence before you made a decision?

21 JUROR #273, BARBARA OWENS: Yes, sir.

22 THE COURT: Okay. You'd have to listen to
23 everything, all the evidence in the trial and all the
24 aggravating circumstances and all the mitigating
25 circumstances before you decided what to do?

1 JUROR #273, BARBARA OWENS: Yes, sir.

2 THE COURT: Okay. Now, if you were selected to serve
3 on a jury, would you follow your oath and keep an open
4 mind and make the decision to find the truth from the
5 evidence and the law as I instructed it?

6 JUROR #273, BARBARA OWENS: Yes, sir.

7 THE COURT: That was a long question, wasn't it?

8 JUROR #273, BARBARA OWENS: Uh-huh.

9 THE COURT: Do you know of any reason why you
10 couldn't serve in this case?

11 JUROR #273, BARBARA OWENS: No, sir.

12 THE COURT: Okay. And I'll just tell you briefly
13 that if you're selected -- we're just doing qualification
14 right now. But if you're selected to serve, the jury will
15 be sequestered and staying over at the Marriott Hotel, the
16 new Marriott. It would last anywhere from five to seven
17 days over there. Okay.

18 JUROR #273, BARBARA OWENS: Okay.

19 THE COURT: Now, please answer any questions just as
20 honestly as you did with me with the attorneys as they
21 question you.

22 MR. ANTHONY: Thank you, Your Honor.

23 EXAMINATION

24 BY MR. ANTHONY:

25 Q Hey, Ms. Owens.

1 A Hey.

2 Q My name is John Anthony. And this is Barry Barnette
3 and this is Trey Gowdy. And we're the attorneys who are
4 going to represent the State in this case. Okay.

5 A Okay.

6 Q And I just want to ask you a few questions. I was
7 looking at this questionnaire that you sent in. And we
8 appreciate you filling that out and sending it in to us.

9 And I understand that your husband is a truck driver;
10 is that right?

11 A Yes, sir.

12 Q Okay. And you've got one son?

13 A Well, I've got two kids, but he stays with us.

14 Q Okay. There's one son that lives in -- one child
15 lives in your house?

16 A Uh-huh.

17 Q Is it a son?

18 A Uh-huh.

19 Q And what do your sons do? Are they both boys?

20 A No. I've got a girl and a boy.

21 Q Okay. And what does your son do?

22 A He's a -- hurt his arm and stuff and he's trying to
23 get on disability.

24 Q Oh, okay. And then you have a daughter, but she
25 lives out of the house?

1 A She's married.

2 Q Okay. And looking at the questionnaire that you
3 filled out, they ask the question, if you had anything --
4 if there was anything you believe would effect your
5 ability to be a juror and you put that you had bad nerves?

6 A Yes, sir.

7 Q And I was just wondering if you could explain to us
8 what you meant by that. Bad nerves is something that
9 probably means different things to different people. So
10 what does that mean to you when you wrote that?

11 A Well, I get really nervous and I stutter and
12 sometimes I have -- I have accidents.

13 Q Okay.

14 A Yeah.

15 Q Okay. And when you say "accidents," do you mean the
16 bathroom kind of accidents?

17 A Yes, sir.

18 Q Okay. I need to ask you just a few questions about
19 the death penalty like the Judge did. If you would, just
20 tell me what your thought process is on why you would be
21 able to give somebody the death penalty, if you felt like
22 that was the right sentence to give?

23 A Well, I believe if somebody took a life, they ought
24 to pay with their life.

25 Q Okay. And do you think that that ought to be the way

1 that it is any time somebody is convicted of murdering
2 somebody?

3 A No, sir.

4 Q Okay. So you think sometimes it might be the right
5 punishment and sometimes it might not be?

6 A Uh-huh.

7 Q Okay. And you understand that in this case, if you
8 were selected as a juror and there were a sentencing
9 phase, that the options would be either the death penalty
10 or life without parole?

11 A Yes, sir.

12 Q Okay. And if -- and like the Judge told you, there
13 will be a form that all 12 jurors have to sign saying that
14 they think the death penalty was the right thing to do.
15 If that is what they think, they'll have to sign a piece
16 of paper that says that.

17 Do you understand that?

18 A Yes, sir.

19 Q Okay. And do you think that you could do that
20 knowing what that would mean?

21 A Sort of.

22 Q All right. Well, Ms. Owens, we're in a spot -- it's
23 like the Judge told you, there's not a right answer or a
24 wrong answer here. We're just trying to find out what you
25 think. And what we need to know is whether or not you

1 could do it. If you couldn't do it, that's fine. If you
2 can do it, that's fine.

3 But we need to know if it got down to it and you're
4 in that jury room and you felt like that given the case
5 that you had heard that the death penalty was appropriate
6 here, could you put your name on a piece of paper saying
7 that's what's going to happen?

8 A No, sir.

9 Q You don't think you could do that?

10 A Huh-uh.

11 Q You don't think you could write that?

12 A No, sir.

13 MR. ANTHONY: If I could have one moment.

14 (Pause.)

15 BY MR. ANTHONY:

16 Q And let me ask you this, why is it you feel like you
17 couldn't write it?

18 A Because the church I go to, you know, the Lord said
19 you're not supposed to take a life.

20 Q And you go to the Church of God; is that right?

21 A Yes, sir.

22 Q Okay. And is your church -- it's your church's
23 teaching that it would be wrong to participate in
24 something that would lead to a life being taken. Is that
25 what you're saying?

1 A Yes, sir.

2 Q Okay. And because that's your church's teaching, you
3 just you don't think you could write your name on that
4 piece of paper?

5 A No, sir.

6 Q Okay. Is that very important to you, the teachings
7 of your church?

8 A Uh-huh.

9 Q And you try to live by those teachings the best you
10 can?

11 A Yes, sir.

12 Q Okay. And you know that you feel like those
13 teachings on this are pretty -- that they're pretty
14 explicit and they're pretty clear to you?

15 A Yes, sir.

16 Q And you think those teachings would just keep you
17 from being able to write your name on a -- what's called a
18 death warrant?

19 MS. QUIMBY: Your Honor, objection --

20 THE WITNESS: Yes, sir.

21 MS. QUIMBY: Your Honor, objection. I think she's
22 already answered that question.

23 THE COURT: Well, she hasn't answered that specific
24 question, so I'll let her answer that question.

25 MS. QUIMBY: Yes, sir.

1 MR. ANTHONY: I think she did, I believe.

2 BY MR. ANTHONY:

3 Q You're saying your religious beliefs -- or your
4 church's teachings would keep you from writing your name
5 on that death form?

6 A Yes, sir.

7 MR. ANTHONY: That's all.

8 Thank you very, much, Ms. Owens.

9 MS. QUIMBY: May it please the Court, Your Honor?

10 THE COURT: Yes, ma'am.

11 EXAMINATION

12 BY MS. QUIMBY:

13 Q Hey, Ms. Owens. I'm sorry. I realize you're
14 nervous. It is probably pretty intimidating to be sitting
15 all by yourself in that chair with all of us talking to
16 you. I'll try not to make you more nervous.

17 I just wanted to ask you -- kind of follow-up on what
18 everybody else has already talked to you about. You had
19 initially -- when the Judge was talking to you earlier
20 when you first came in, he had asked you if you thought
21 that after listening to the evidence that you could
22 find -- you could make a decision about whether you
23 thought he was guilty or not guilty?

24 A Uh-huh.

25 Q And then you also said that if it got to a second

1 phase -- if it got to a point where you had to determine
2 between life and death that you could return a verdict of
3 death, if you thought the circumstances called for it?

4 A Uh-huh.

5 Q And understanding that, I didn't want you to get the
6 wrong idea. If you get to the second phase -- I mean,
7 there's no guaranteeing that you would get to the second
8 phase. Because the first part of this big trial is just a
9 regular old trial. It's no different than any other kind.
10 The only thing that's different about what we're doing
11 here is that if he is found guilty in the first trial of
12 murder, in the first section -- in the first phase, if
13 he's found guilty of murder, only then would you ever even
14 go to a second phase. Okay.

15 A Uh-huh.

16 Q And once you get there, there's still no guarantee
17 that you're going to ever have to decide life or death.
18 Okay.

19 A Okay.

20 Q Because what the State also has to do is the State
21 has to prove to you some aggravating circumstances. The
22 same way they proved to you that he's guilty, they would
23 have to prove he's guilty plus some more stuff, stuff that
24 makes it worse.

25 A Okay.

1 Q And so after all that, the first thing that you would
2 have to decide back there is whether they proved that to
3 you --

4 MR. ANTHONY: Your Honor, at some point, I would ask
5 that she ask a question.

6 MS. QUIMBY: I can do that, Your Honor.

7 THE COURT: All right.

8 BY MS. QUIMBY:

9 Q Once you go back -- understanding that if you get to
10 the point where you do have to decide life or death, that
11 means that you've already found him guilty of murder and
12 you believe that the State has proven the additional
13 things to you. Okay. Understanding that, you had said
14 earlier to Judge Miller that you could sign your name, and
15 that you could vote for the death penalty, if you thought
16 that it called for it. Then when Mr. Anthony was asking
17 you questions, you said that you didn't think you could.

18 Can you help us figure out maybe why you didn't say
19 so before or why you did now? And it's okay. Any answer
20 that you give is okay.

21 A Because my nerves is bothering me bad.

22 Q That's okay. So -- okay. So you got in here and you
23 were just nervous at being asked the questions?

24 A (Juror nodded.)

25 Q Are you okay?

1 A (Juror shook head and was crying.)

2 THE COURT: All right. Let's take a little break
3 right now.

4 Ms. Owens, I'm going to -- let's --

5 I'm going to ask the attorneys to clear the courtroom
6 for a few minutes, please.

7 (The attorneys for the State and Defense exited the
8 courtroom.)

9 (Brief recess.)

10 THE COURT: How are you doing?

11 THE CLERK: Judge, she thinks she'd like to leave the
12 courtroom.

13 THE COURT: Ms. Owens, let me talk to you just a
14 second. Okay. I've asked all the attorneys to leave the
15 courtroom. I'll call them back after you're gone. I just
16 want you to compose yourself and be comfortable. I'm not
17 going to let them question you anymore. Okay. And I know
18 this is a very, very stressful place to be. And I
19 apologize to you for you having to undergo this stressful
20 situation.

21 I don't want you to think twice about -- have any
22 regrets about how you conducted yourself in this
23 courtroom. Because I think you behaved as a perfect lady
24 and I appreciate you being here. And I appreciate the
25 service that you performed for your community.

1 So at this time --

2 Do you think you're okay?

3 JUROR #273, BARBARA OWENS: Yes [crying].

4 THE COURT: How did you get up here today?

5 THE CLERK: We had to transport her up here. We'll
6 get somebody to take her back.

7 THE COURT: And we'll take you home. And you're all
8 through with your service.

9 But let me ask you this, when it's all done and it's
10 all over and you're not going to have to go through
11 anymore, I hope you feel good about your service to your
12 community. Because as hard as this was for you, our
13 community, Spartanburg County, really appreciates
14 everything you've done. Okay.

15 JUROR #273, BARBARA OWENS: Yes.

16 THE COURT: So we will -- at this time, we're going
17 to excuse you from jury service. And I want you to go
18 home. Please don't talk about the case with anybody until
19 it's over with. And if you need anything, if you have any
20 trouble as a result of being up here today, then you just
21 call and let us know and we'll see what we can do to help
22 you.

23 JUROR #273, BARBARA OWENS: Yes.

24 THE COURT: And you're free to go.

25 Thank you, ma'am.

1 You take care.

2 (Juror #273, Barbara Owens, was excused from the
3 courtroom.)

4 (WHEREUPON, a break was taken.)

5 THE COURT: During the examination by defense counsel
6 of Juror #273, Ms. Barbara Owens, who had previously
7 stated verbally in court and on her questionnaire that she
8 had a problem with her nerves, she had a -- what I would
9 call a mild breakdown here in court. And I excused the
10 attorneys from the courtroom and we consoled Ms. Owens.

11 And based on her inability to endure the questioning,
12 which I would put on the record was very gentle and
13 gentile by defense counsel, I made the decision that she
14 was not qualified to serve as a juror and I excused her
15 sua sponte and without consulting the attorneys.

16 Is there anything y'all would like to put on the
17 record? Any objections?

18 MS. QUIMBY: No, Your Honor, not from the Defense.

19 THE COURT: All right.

20 MR. ANTHONY: Nothing from the State, Your Honor.

21 THE COURT: All right. Do you need to wait on the
22 Solicitor?

23 MR. BARNETTE: No. You can go ahead, Your Honor.

24 THE COURT: All right. Please bring the next juror
25 in.

1 (Juror #54, P.S. Cecil, III, a white male, was
2 seated.)

3 THE COURT: Hello, Mr. Cecil.

4 JUROR #54, P.S. CECIL, III: Hello.

5 THE COURT: How are you doing?

6 If you would, pull your chair up so we can kind of
7 catch some of your voice in the microphone.

8 I want to welcome you back in the courtroom and let
9 you know again that we appreciate you being here. We're
10 going to go through this questioning. It won't take very
11 long. It's not a terrible process, although it probably
12 seems like it from where you sit right now. I want to
13 assure you this is not a test of any kind and no one is
14 going to pass judgment on any of the answers that you
15 give. And there are not any wrong or right answers. I
16 will tell you, based on the serious nature of the
17 proceedings, that it's very important that we get
18 complete, accurate, truthful answers. And, really, all
19 we're looking for is your heartfelt responses to these
20 questions.

21 And, basically, the two maybe categories we will be
22 questioning you about will concern whether or not you know
23 anything about the case. And, secondly, we want to
24 explore your views on the death penalty a little bit. So
25 that's kind of the areas. There may be a couple other

1 ancillary things that we go over with you, but that's,
2 basically, what we're going to be doing.

3 So I'm going to introduce the case to you again.
4 I've told you about the indictments before. I'm going to
5 read a little bit about of the indictment so you're kind
6 of familiar with the facts of the case -- or the alleged
7 facts of the case. And, again, I emphasize that
8 indictments are not evidence and should not be considered
9 to be evidence. All these are are allegations typed on a
10 piece of paper used to bring this case to court.

11 The first one is an indictment for murder. And it
12 alleges that Fredrick Antonio Evins did in Spartanburg
13 County on or about February 13th, 2003, feloniously,
14 willfully, and with malice aforethought kill Rhonda Marie
15 Ward. The next indictment is for kidnapping. It alleges
16 that Mr. Evins did on the same date unlawfully seize and
17 kidnap Rhonda Marie Ward. The next indictment is for
18 criminal sexual conduct. And it alleges that Mr. Evins
19 did on the same date, February 13th 2003, willfully and
20 unlawfully commit a sexual battery upon Rhonda Marie Ward.
21 And the final indictment is for grand larceny. And it
22 alleges that Mr. Evins did in Spartanburg County on
23 February 13th, 2003, same date, feloniously take and carry
24 away the 1993 Nissan Sentra and its contents belonging to
25 Rhonda Marie Ward. Those are the allegations contained in

1 the indictments.

2 Now, we recognize that there has been publicity about
3 this case on TV, radio, and in the newspaper. So the
4 first thing I would like to ask you is, have you read,
5 heard, or seen anything about this case?

6 JUROR #54, P.S. CECIL, III: A small amount, not a
7 whole lot, basically, what was in the paper yesterday
8 morning. I saw most of the headlines.

9 THE COURT: Okay. Did you -- other than that article
10 that was in the paper yesterday, have you heard anything
11 else about it?

12 JUROR #54, P.S. CECIL, III: Not that I remember, no,
13 sir.

14 THE COURT: Okay. Well, let me tell you that, as a
15 juror, your oath would require you to disregard anything
16 that you read, saw, or heard outside of the courtroom.
17 And that the -- your oath would require you to decide the
18 facts only from the evidence presented here in the
19 courtroom during a trial.

20 Do you understand that?

21 JUROR #54, P.S. CECIL, III: Yes, sir.

22 THE COURT: Could you serve as a fair and impartial
23 juror and reach a verdict based on the facts presented at
24 trial in accordance with my instructions to you on the
25 law?

1 JUROR #54, P.S. CECIL, III: Yes, sir.

2 THE COURT: Okay. Have you already formed an opinion
3 as to the facts of this case or the guilt or innocence of
4 Mr. Evins?

5 JUROR #54, P.S. CECIL, III: No, sir.

6 THE COURT: Okay. Keeping in mind the legal
7 principles of the presumption of innocence and the State's
8 obligation to prove guilt beyond a reasonable doubt, could
9 you, depending on the facts and the evidence presented at
10 trial and the law that I would instruct to you, could you
11 find a defendant guilty or not guilty depending on what
12 you heard during the trial?

13 JUROR #54, P.S. CECIL, III: Yes, sir.

14 THE COURT: So I'm asking, is your mind made up one
15 way or the other, guilty or not guilty?

16 JUROR #574, P.S. CECIL, III: No, sir.

17 THE COURT: All right. Now, remembering that we may
18 or may not get to the second phase or the sentencing phase
19 of the case, but because we possibly could, I need to ask
20 you about your views on the death penalty.

21 All right. And, again, there are no right or wrong
22 answers. But if you could just give us your heartfelt and
23 truthful answers to these questions as best you can.

24 Now, I would tell you before I start that when we
25 move -- when a jury goes to the second or sentencing

1 phase, that same jury has already decided that the
2 Defendant is guilty of murder. We wouldn't get to the
3 second phase if the jury hadn't already decided that.

4 So in the second phase, the jury is not going to be
5 considering any legal defense or legal theory because
6 you've already decided guilt. What you will consider is
7 evidence in aggravation and evidence in mitigation.

8 Now, your oath would require you to abandon any
9 preconception you might have and to follow the law as I
10 would instruct you. In other words, your oath would
11 require you to give serious and meaningful consideration
12 to all the evidence in aggravation and all the evidence in
13 mitigation.

14 Could you honor your oath in that regard?

15 JUROR #54, P.S. CECIL, III: Yes.

16 THE COURT: Okay. Now, if you were a juror in that
17 situation, the sentencing phase, imagine that that's where
18 you are, could you, depending upon the particular facts
19 and circumstances of the case, including evidence in
20 aggravation and evidence in mitigation and considering the
21 law that I would instruct you that applies, taking all
22 that into consideration, could you return a verdict of
23 life imprisonment?

24 JUROR #54, P.S. CECIL, III: Yes, sir.

25 THE COURT: Okay. Now, by the same token, if you're

1 a juror in the same situation and based on the particular
2 facts and circumstances of the case, including
3 consideration of aggravating and mitigating circumstances
4 and the law, could you return a sentence of death?

5 JUROR #54, P.S. CECIL, III: I don't know.

6 THE COURT: Okay. Well, let me just further explain
7 that a little bit if I can. Again, as I said, the jury
8 would have already made a determination that the Defendant
9 was guilty of murder.

10 JUROR #54, P.S. CECIL, III: Right.

11 THE COURT: The State has the obligation to prove in
12 the second phase the aggravating circumstances. Okay.
13 And you all would have to make a determination -- the jury
14 would have to make a determination as to aggravating
15 circumstances. The Defense would present to you and prove
16 to you mitigating circumstances. And you -- your job
17 would be to consider all that and then take the law as I
18 give it to you. And the question is -- I'm not changing
19 the question in any way.

20 JUROR #54, P.S. CECIL, III: Right.

21 THE COURT: Could you under your oath -- you've
22 already told me you could give a life sentence, could you
23 give a death sentence?

24 JUROR #54, P.S. CECIL, III: Yes, sir, I guess I
25 could.

1 THE COURT: Would that be an option that you could
2 follow through on and do?

3 JUROR #54, P.S. CECIL, III: Yes, sir.

4 THE COURT: Depending on the facts of each case?

5 JUROR #54, P.S. CECIL, III: Yes, sir.

6 THE COURT: I would further tell you that in South
7 Carolina, the law requires that if a death sentence is
8 handed down, all 12 jurors must sign the verdict form. So
9 could you -- if a jury had decided to give a death
10 sentence, could you sign your name to a death verdict
11 form?

12 JUROR #54, P.S. CECIL, III: Yes, sir.

13 THE COURT: Okay. And I appreciate and want you to
14 know that we all appreciate the serious nature of these
15 proceedings. And I appreciate the thoughtful answers
16 you've given me in that regard.

17 Did you get an opportunity to review -- I'm starting
18 to lose my voice. Excuse me.

19 Did you get an opportunity to review the verdict --
20 the three types of jurors, the form I gave back in the
21 jury room?

22 JUROR #54, P.S. CECIL, III: Yes, sir.

23 THE COURT: How would you classify yourself on that
24 form?

25 JUROR #54, P.S. CECIL, III: Somewhere --

1 THE COURT: Do you fit into any of the categories?

2 JUROR #54, P.S. CECIL, III: Not totally, no, sir,
3 somewhere between the second and third.

4 THE COURT: Okay. And, now, the second is someone
5 who could not ever give the death penalty, and the third
6 is someone who would consider all the -- before making a
7 decision would consider all the evidence. So you consider
8 yourself somewhere in that category?

9 JUROR #54, P.S. CECIL, III: Yes, sir.

10 THE COURT: Okay. Now, if you were elected -- or
11 selected to serve, would you honor your oath and serve as
12 a fair and impartial juror and approach jury service with
13 an open mind and find the truth from the evidence and
14 apply the law as I instruct it?

15 JUROR #54, P.S. CECIL, III: Yes, sir.

16 THE COURT: Okay. Do you know of any reason
17 whatsoever why you could not serve?

18 JUROR #54, P.S. CECIL, III: No, sir.

19 THE COURT: All right. I'm going to let the lawyers
20 question you in just a second. Before I do that, I just
21 want to let you know that we -- the jury -- we're doing
22 qualification right now, qualifying people.

23 JUROR #54, P.S. CECIL, III: Yes, sir.

24 THE COURT: When we get enough jurors qualified, then
25 we will do selection. And the jury selected will be

1 sequestered and they'll stay at the Marriott, the new
2 hotel across the way over there. And it may last from
3 five to seven days, we're just estimating on that. So I
4 just want to let you know that beforehand.

5 I'm going to turn the questioning over to the
6 attorneys at this time.

7 Thank you very much, sir.

8 EXAMINATION

9 BY MR. BOGGS:

10 Q Good afternoon, Mr. Cecil.

11 A Hello.

12 Q My name is Tam Boggs. I'm one of the attorneys
13 representing Mr. Evins in this case, along with Karen
14 Quimby, the young lady sitting here, and Chris Brough. We
15 appreciate you being here and appreciate you sending in
16 your questionnaire and we appreciate your answers.

17 A Yes, sir.

18 Q As Judge Miller has explained, this is a case where
19 Mr. Gowdy, the Solicitor, has asked for the death penalty.
20 Now, just the fact that he's asked for the death penalty,
21 does that have any kind of impact on you as to the issue
22 of guilt or innocence? Does it make it seem to you like
23 it would be -- I don't know -- a more guilty-type case
24 just because it's named that?

25 A (There was no response.)

1 Q And I understand it's kind of a difficult question,
2 but granted it's -- any time you hear death penalty
3 case --

4 A I guess possibly it does.

5 Q It's a high profile type, so I think human nature --

6 A Right.

7 Q -- would be, oh, it must be something really, really
8 out of the ordinary type?

9 A Right, yes, sir.

10 Q But along those lines, as Judge Miller has explained
11 to you, what we're going through now is just to find out
12 some opinions about the death penalty. But once the jury
13 is selected, all that has to be put aside because we,
14 actually, go through a trial just like any other trial.
15 And the fact that Mr. Gowdy has designated this as a death
16 penalty case doesn't have anything to do with that. Do
17 you understand that?

18 A Yes, sir.

19 Q So if you were selected and seated on the jury, it
20 would be just like any other trial. The State would still
21 have the burden of proof. They would put up evidence, et
22 cetera, whether that trial be a jay walking trial or any
23 other type trial. Do you understand that?

24 A Yes, sir.

25 Q And the fact that there's a -- potentially a second

1 phase to the trial doesn't have any impact at all on the
2 trial of the case. Now, do you believe you could put all
3 that aside and deal with the trial of the case, if you
4 were selected?

5 A Yes, sir.

6 Q And I realize that's kind of like saying take
7 something out of your mind and put it on the shelf and not
8 have it there; is that correct?

9 A (Juror nodded.)

10 Q All right. You mentioned that you read the article
11 in the paper yesterday?

12 A Yes, sir.

13 Q Before you came to jury duty?

14 A I, basically, just saw the headlines.

15 Q Did you read the article or do you remember? Did you
16 skim through the article?

17 A No. I didn't skim through it.

18 Q Did you realize that might be the case that you were
19 summoned to court for?

20 A Yes.

21 Q Is that why you didn't read it or were you just in a
22 hurry?

23 A I guess I was in a hurry.

24 Q Okay. So you don't know what the substance of that
25 particular article was; is that correct?

1 A No, sir.

2 Q After you read the article -- I mean, after you -- or
3 even before you came over, did you have a discussion with
4 anybody about the contents of that article?

5 A No, sir.

6 Q Yesterday, when you left the courthouse, did you ever
7 have an opportunity to discuss the fact that you were
8 sitting on a jury where there was an article in the paper
9 about it? Did you have a discussion with anybody about
10 that like with family, friends, coworkers, anything like
11 that?

12 A I told my wife that it was the death penalty case
13 that was in the paper.

14 Q Okay. And did y'all kind of talk about what the
15 facts were?

16 A No. I told her I wasn't supposed to.

17 Q I'm sorry?

18 A I told her we weren't supposed to talk about it, so,
19 basically, we did not, no, sir.

20 Q Well, good for you. That's exactly what you were
21 supposed to do.

22 My understanding from your answers to Judge Miller's
23 questions about the death penalty is that in certain
24 circumstances, you could find for the death penalty, but
25 those circumstances would have to be pretty severe. Is

1 that a fair statement?

2 A Yes, sir.

3 Q Okay. And that if the circumstances warranted a
4 death penalty, you could sign along with the other jurors
5 the form saying that that is -- well, it's, actually,
6 called the verdict form, that that's what you're deciding;
7 is that correct?

8 A Yes, sir.

9 Q Okay. Now, you do understand, though, again, that if
10 the case got to the death penalty phase and, of course,
11 that -- it may be that whoever is selected on this jury
12 that that phase may never come up. But if it got there,
13 you understand there would, actually, be two choices you
14 could make as far as the appropriate sentence, and that's
15 all you deal with is the appropriate sentence.

16 Do you understand that?

17 A Yes, sir.

18 Q Okay. And you would listen to whatever would be
19 presented in the penalty phase of the case and make an
20 appropriate sentence. You have the ability -- or would
21 make the appropriate sentence based on what you determined
22 to be appropriate according to the facts; is that correct?

23 A Yes, sir.

24 Q Have you ever -- have you thought about the death
25 penalty much? Has it been something that you've ever

1 thought about in the past?

2 A Yes, sir.

3 Q Okay. And what feelings have you had about the death
4 penalty situation?

5 A In some cases, it is definitely warranted. And I'm
6 not enthusiastic about serving on a jury where it has to
7 be decided that way.

8 Q Okay. Well, I understand that. It is a very severe,
9 solemn obligation or responsibility and I understand that.
10 But in the past, you've thought about the death penalty?

11 A Yes, sir.

12 Q I understand you to say that you either are aware of
13 or have seen cases where you felt like it would be
14 warranted, but it's not -- would it be fair to say that
15 that would be only in an extreme situation?

16 A Yes.

17 Q To sentence somebody to the death penalty?

18 A Yes, sir.

19 Q Do you feel like if somebody -- just because someone
20 causes the death of another person that that person is
21 guilty of murder? Did you follow my question?

22 A Rephrase it or ask it again or something.

23 Q All right. Do you feel if a person causes the death
24 of somebody else, does that necessarily mean it's murder?

25 A No.

1 Q Okay. Are you -- what kind of examples would you
2 think it wouldn't be murder?

3 A Well, if they purposely -- it could be accidental or
4 purposely.

5 Q Okay.

6 A There could be all kinds of circumstances, I guess.

7 Q And you would be willing to look at whatever the
8 circumstances were to decide whether it was murder or an
9 accident or even a different type homicide; is that
10 correct?

11 A Yes, sir.

12 Q And you're willing to take the law as Judge Miller
13 gives it to you and apply it to those facts; is that
14 correct?

15 A Yes, sir.

16 MR. BOGGS: Mr. Cecil, I think that's all the
17 questions I have.

18 I appreciate you being here and I appreciate you
19 providing us with this information.

20 MR. GOWDY: May it please the Court?

21 THE COURT: Yes, sir.

22 EXAMINATION

23 BY MR. GOWDY:

24 Q Good afternoon, Mr. Cecil.

25 A Hello.

1 Q My name is Trey Gowdy. That's John Anthony to your
2 left and Barry Barnette in the middle. The three of us
3 represent the State in this matter.

4 Are you any kin to David or Doug Cecil?

5 A Yes, sir. We're all cousins.

6 Q You All are cousins?

7 A Yes, sir.

8 Q I saw you were a Clemson fan, I figured you might be
9 related to David. I know he's a big Clemson man. Doug
10 may be, too.

11 A Most of us are, yes.

12 Q I play golf with Doug and Dave some.

13 A Okay.

14 Q But don't hold that against me.

15 I want to ask you and, like the Court and the Defense
16 attorney, I want to start by thanking you for answering
17 questions that are pretty personal, that if you and I were
18 to run into each other at Wal-Mart, I wouldn't ask you.
19 And if I did, you probably wouldn't answer me. But both
20 sides need to find jurors that are fair and open-minded.
21 And most importantly, both sides have to have jurors that
22 could give death or could give life.

23 You hesitated, you paused for a number of seconds
24 when the Judge asked if you could give death.

25 A Yes, sir.

1 Q And I would expect somebody to pause, that's a
2 difficult question and it's a difficult thing to get your
3 arms around. But then you said you were between the
4 second and third juror?

5 A Yes, sir.

6 Q And I'm going to ask you to extrapolate on that a
7 little bit. Second means, you can't give death?

8 A Right.

9 Q Which would mean that you were a juror that wouldn't
10 serve on the case. The third category means you could
11 give life or death, which means you could. So where do
12 you fall in between the two?

13 A Can I explain myself?

14 Q Sure, absolutely, yes, sir.

15 A I favor the death penalty, but I would find it
16 extremely hard personally to hand down the sentence of
17 death. I can't exactly explain it further than that.
18 That's just how I feel.

19 Q Okay. Do you think you could?

20 A It would be difficult. I think I could, but it would
21 be difficult.

22 Q Under South Carolina law, you will always have the
23 choice between life in prison without the possibility of
24 parole or death. No one will ever say, Mr. Cecil, because
25 the State has proven X, Y, and Z, you have to pick death.

1 You will always have the option of life. Understanding
2 that you will always have the option of life, can you ever
3 see yourself picking death?

4 A Yes, I can.

5 Q Mr. Boggs used the term "extreme situation," which
6 you agreed with. By extreme situation, are you talking
7 about a Timothy McVeigh type mass murder or a John Wayne
8 Gacy?

9 MR. BOGGS: Objection.

10 THE COURT: Sustained.

11 MR. GOWDY: Your Honor, can we approach? -

12 THE COURT: All right.

13 (WHEREUPON, a bench conference was held with the
14 attorneys.)

15 BY MR. GOWDY:

16 Q Thank you, Mr. Cecil. I appreciate your patience.

17 A Okay.

18 Q What do you mean by extreme situation?

19 A I don't know exactly. I don't know. I can't answer
20 that. You know, people like mass murders and McVeigh -- I
21 don't know. I can't explain that for you.

22 Q Would your ability to give the death penalty be
23 limited only to mass murders?

24 A No, sir.

25 Q Are there other situations -- and I appreciate the

1 difficulty of this, I really do. And I'm not trying to
2 change anybody's mind, but both sides are entitled to
3 jurors that can give life or death.

4 A Yes, sir.

5 Q And you said you can give death, but only in extreme
6 situations?

7 A Yes, sir.

8 Q And what I'm trying to get at is, what is Mr. Cecil's
9 definition of an extreme situation?

10 A I haven't thought about it that much. I don't know
11 exactly how to explain it.

12 Q Let me ask you this way. What are your -- if I were
13 just to ask you an open-ended question, what is your
14 position or view or belief on capital punishment, how
15 would you answer?

16 MR. BOGGS: Your Honor, could he repeat the question?
17 I didn't hear the question.

18 THE COURT: Do you remember the question?

19 MR. GOWDY: I may not remember it verbatim.

20 What is your position or belief on capital
21 punishment?

22 MR. BOGGS: Thank you.

23 THE WITNESS: Like I am in favor of capital
24 punishment in certain cases. But me, personally, being on
25 a jury having to decide it, I find it extremely hard to

1 do.

2 BY MR. GOWDY:

3 Q Yes, sir.

4 A I guess I probably could, but it doesn't sit well
5 with me to make that decision even though I do favor it.

6 Q Could you do it?

7 A Yes.

8 Q Is your belief relative to the death penalty such
9 that it would substantially impair your ability to give
10 the death penalty? I understand it wouldn't prevent it,
11 but would it substantially impair your ability to give it?

12 MR. BOGGS: Your Honor, I'm going to object. That's
13 a --

14 THE COURT: Y'all come on up here for one second.

15 (WHEREUPON, a bench conference was held with the
16 attorneys.)

17 BY MR. GOWDY:

18 Q Thank you again for your patience.

19 No right answers, no wrong answers, just Mr. Cecil's
20 answers. And I know you can appreciate both sides wanting
21 to have those jurors that if you are seated in the box,
22 both of us, I think, have the right to rely upon the fact
23 that you can give life or give death. And you said you
24 could, but you said in extreme situations. And I know I
25 asked you once and I won't beat a dead horse, but I'm not

1 sure it hurts the horse.

2 So let me ask you one more time. What is Mr. Cecil's
3 definition of extreme situation?

4 A I don't have a clear cut definition of extreme
5 situations. It would depend on the case, I guess, or the
6 circumstance. I don't have a clear definition on it.

7 Q Do you have a preconceived notion -- let's assume the
8 State of South Carolina says the following categories of
9 cases are subject to the death penalty, would it impose on
10 your own morays or morality or beliefs on top of that or
11 would you follow what the Court told you?

12 A I guess I would follow what the Court told me.

13 Q All right. You will never ever be told by a judge or
14 a court or a lawyer that you have to give the death
15 penalty. You will always have the option of life.
16 Understanding that, tell me about that group of cases
17 where you would vote for death.

18 MR. BOGGS: Your Honor, he's already answered that
19 question. He said it would be case by case. He said the
20 specific facts of the case is the answer he gave.

21 THE COURT: I'll allow him this one question and then
22 we're going to --

23 MR. BOGGS: He's getting over into specific --

24 THE COURT: Well, I'm going to allow this one
25 question, if he can answer it. We'll see what he's got to

1 say.

2 THE WITNESS: What was the question? You wanted
3 specifics? I don't have specifics.

4 THE COURT: All right.

5 MR. GOWDY: Thank you, Mr. Cecil. I appreciate it.

6 THE COURT: All right. Mr. Cecil, if you would,
7 would you step out in the hall for just a second and I'll
8 get right back with you.

9 JUROR #54, P.S. CECIL, III: All right.

10 (Pause.)

11 THE COURT: Okay. Any objection to this juror?

12 MR. GOWDY: Yes, sir.

13 THE COURT: Go ahead and enunciate that for me.

14 MR. GOWDY: Judge, it's not enough to merely say, I
15 would be able to give the death penalty in certain
16 circumstances. The cases are clear. If you can only give
17 it if you observe the crime, you're not eligible. If you
18 can only give it to a mass murderer, you're not eligible.
19 If you can only give it if you witnessed the crime or if
20 it affects your family, you're not qualified. What I had
21 tried -- and through no fault of this juror, because he is
22 very conscientious and very honest and wants to provide
23 it, he doesn't know. He cannot tell you today whether or
24 not he could vote for death under the facts of any case.
25 All I got was extreme situation. And that's not good

1 enough under South Carolina law.

2 THE COURT: Well, I understand that. But you did ask
3 there towards the end if he could follow the law as I
4 instructed it to him or his own morals and he said he
5 would follow the law.

6 MR. GOWDY: Judge, but the law is you'll never be
7 required to give death. And every time I wanted to ask
8 him, does it have to be a mass murderer, if the person
9 only killed one person, could you give it, it was objected
10 to.

11 So to be able to follow the law, you can give life
12 for the rest of your life and still follow the law.
13 You're never going to be told that you have to give death.

14 THE COURT: Well, I understand that. But you were
15 asking in regard to what -- in the context of what his
16 conception of extreme circumstances was. That was my
17 understanding is that you were pursuing that line to find
18 out where his boundaries were with respect to his ability.
19 Because he, clearly, stated he's in favor of the death
20 penalty and that he could do it in circumstances, which
21 you have characterized as extreme circumstances -- or he
22 did, I should say. And you're right, we don't know where
23 his limits are.

24 MR. GOWDY: Judge, if he cannot impose the death
25 penalty, then he's not qualified. And what we've gotten

1 so far from him is a very, very reluctant, yes, in extreme
2 situations. And I have -- I am no more certain now of
3 what those extreme situations are.

4 It is unfair to the State if in his mind he's saying,
5 well, it's got to be somebody who's killed five people or
6 it's got to be somebody who tortures them while they kill
7 them. That's not fair to the State to qualify somebody --

8 THE COURT: Well, now, torture is an aggravating
9 circumstance under the statute.

10 MR. GOWDY: Right. But what if it's an aggravator,
11 but not torture.

12 THE COURT: Well, let me --

13 MR. GOWDY: I mean, I am fine if the Court --
14 clearly, my questions are not very artfully asked. And I
15 am fine if the Court wants to re-voir dire him. I'm not
16 trying --

17 THE COURT: I understand.

18 Let me ask the Defense, would there be any objection
19 to a question from the Court with respect to, I guess,
20 reading to him the aggravating circumstances and see --

21 MR. BOGGS: Yes, sir.

22 THE COURT: You would object to that?

23 MR. BOGGS: Yes, sir.

24 Because if Mr. Gowdy's argument is adopted -- and
25 he's got a two-edge sword in this courtroom. Because when

1 there was somebody that said he couldn't give the death
2 penalty, they objected every time I tried to explore under
3 any circumstances. And the minute I mentioned the
4 assassination of the president, which was a mass murder
5 type situation, all three of them pop up and object.

6 So it's kind of like, you know, he wants his cake and
7 eat it, too. But the rules are the same, if my questions
8 are objectionable -- or if their objections are sustained
9 on exactly the same questions that I'm now asking -- or
10 I'm now objecting to -- it's got to be the same for both
11 sides.

12 MR. GOWDY: And, Your Honor, I agree with everything
13 Mr. Boggs just said. It ought to be the same for both
14 sides. That juror was found unqualified. That juror that
15 he wanted to ask, well, how about if you killed the
16 President of the United States, that juror was found not
17 qualified.

18 MR. BOGGS: I didn't get to ask him.

19 MR. GOWDY: Well, the juror was found not qualified
20 because the juror --

21 MR. BOGGS: Because I couldn't ask him.

22 THE COURT: Well, that was a different circumstance,
23 not completely analogous to this. Because I believe that
24 juror, if I remember correctly, had said under no
25 circumstances could they give the death penalty.

1 MR. GOWDY: It was a life pro juror. But my position
2 is life pro jurors are not qualified, neither are jurors
3 who have such an insular discreet category of cases, such
4 as if I know the victim or such as, if the person has a
5 bad criminal history.

6 What I'm getting at is that he may be qualified. He
7 may not be qualified. We don't know because he won't tell
8 us what extreme situation means. Extreme situation may
9 mean something that we all agree, well, no, that's not
10 qualified. Or it may be something such as it's got to be
11 premeditated murder. I don't know because he won't answer
12 the question. I mean, I've asked him three times and he
13 cannot tell me.

14 THE COURT: Okay.

15 MR. BOGGS: But in response, he did say when
16 Mr. Gowdy asked him, do you have an opinion, he was going
17 to put his personal feelings aside and follow what you
18 instructed him the law was and he could vote for the death
19 penalty. He can't specifically give you a legal
20 definition of extreme circumstances, but he said, in
21 essence, he knows it when he sees it.

22 MR. GOWDY: And, Your Honor, when I asked him, would
23 your beliefs on the death penalty, would they
24 substantially impair your ability to give death, there was
25 an objection that came, despite the fact that that is

1 exactly the language that's Wainwright v. Witt. I asked
2 him, would it substantially impair your ability to give
3 the death penalty, he objected to it.

4 So, I mean, we've got this category out there of
5 extreme situations and every time I try to find out what
6 one of those may be, I get an objection. So I would ask
7 the Court to inquire of him, what do you mean by that.

8 THE COURT: Well, I think that's fair. And I will do
9 that. And I will even ask him would his feelings
10 substantially impair his ability to follow the law.

11 I understand you object to it.

12 MR. BOGGS: Yeah. I've got to object to it.

13 THE COURT: Bring the juror back in, please.

14 (Pause.)

15 THE BAILIFF: Mr. Cecil, take the witness stand,
16 please.

17 THE COURT: Thank you for your patience, Mr. Cecil.
18 I appreciate it.

19 JUROR #54, P.S. CECIL, III: Yes, sir.

20 THE COURT: And from the Court's perspective, I just
21 wanted to follow-up on a few questions. I wanted to
22 reiterate that there are no right or wrong answers. This
23 is not any kind of test and no one is here to pass
24 judgment on you or anyone else, you or any of the other
25 hundred and so many jurors that we had.

1 But I am -- would like to know if you could in some
2 fashion tell me in what circumstances you think you could
3 sign or find a verdict of death.

4 JUROR #54, P.S. CECIL, III: I really don't know the
5 answer to that. I don't know.

6 THE COURT: Okay.

7 JUROR #54, P.S. CECIL, III: I'm sorry.

8 THE COURT: No. That's fine.

9 And you -- I understand you have -- you feel that --
10 you've answered me that you could follow the law with
11 respect to looking -- in the second phase of a trial, you
12 could consider all the facts and circumstances that were
13 presented in the case along with the law?

14 JUROR #54, P.S. CECIL, III: Yes, sir.

15 THE COURT: Along with aggravating circumstances and
16 mitigating circumstances and you could return a verdict of
17 death; is that right?

18 JUROR #54, P.S. CECIL, III: Yes, sir.

19 THE COURT: Okay. Can you tell me in any -- do you
20 have any inkling or idea of what you would consider
21 aggravating circumstances to be?

22 JUROR #54, P.S. CECIL, III: No. I don't know.

23 THE COURT: Okay. That's fine.

24 JUROR #54, P.S. CECIL, III: I'm sorry.

25 THE COURT: No. You don't have to apologize for that.

1 Do you think that the fact that you're having
2 difficulty or you have -- that you're having a little
3 difficulty, I guess, enumerating what those circumstances
4 would be, would that have a substantial impairment on your
5 ability to render efficient jury service in this case?

6 JUROR #54, P.S. CECIL, III: It could possibly.

7 THE COURT: Well, would it substantially impair your
8 ability to follow the law as I would give it to you?

9 JUROR #54, P.S. CECIL, III: Not to follow the law, I
10 don't think so.

11 THE COURT: Okay. Well, let me -- I hate to ask you
12 to get up and step out again for just a minute, but would
13 you do that for me?

14 JUROR #54, P.S. CECIL, III: Okay.

15 THE COURT: Thank you, Mr. Cecil.

16 (Pause.)

17 THE COURT: I'm going to -- he's a very thoughtful
18 and considerate man. He is also, obviously, very aware of
19 and conscious of his duty to follow the law. And so I'm
20 going to find him qualified. And I understand the State
21 objects.

22 Okay. Anything you want to put on the record other
23 than what you already have?

24 MR. GOWDY: No, sir.

25 Thank you, Judge.

1 THE COURT: Okay. We've got another panel to bring
2 in, the last one today.

3 MR. GOWDY: Do you want to tell him?

4 THE COURT: Oh, yes. Let's do that.

5 (Pause.)

6 THE BAILIFF: Please come in and go around and face
7 the Judge, please, sir.

8 THE COURT: Hi, Mr. Cecil.

9 Could would you come over here. I want to give that
10 to you and let you know you're still eligible as a juror
11 and qualified to serve in this case. And I would further
12 tell you that you're still under oath and will remain
13 under oath.

14 We're going through the qualification process and we
15 will, down the road, have to select the jury from the
16 qualified jurors. And that may be two days from now. I'm
17 thinking two days from now. But we've got your phone
18 number, we'll call you. It could be tomorrow, I doubt it,
19 but we'll just see. And we'll call you and ask you to
20 come back up and go through the jury selection process.

21 In the meantime, please don't read anything about it,
22 watch anything, listen to anything or even discuss the
23 case with anybody. You'll have that opportunity when the
24 case is over, but don't do it up until that point. Okay.

25 JUROR #54, P.S. CECIL, III: Yes, sir.

1 THE COURT: Okay. Thank you, Mr. Cecil.

2 (Juror #54, P.S. Cecil, III, was excused from the
3 courtroom.)

4 THE COURT: We're moving to Panel No. 5.

5 Do they have snacks or something to eat?

6 THE BAILIFF: No, sir.

7 THE COURT: Do we have any crackers or anything?

8 THE BAILIFF: At this time of the day, it would
9 almost be impossible without sending out some place.

10 THE COURT: Okay. Well --

11 MR. GOWDY: Your Honor, Juror #281 is on this panel.
12 That's the postal conviction issue. I just wanted to make
13 the Court aware of it.

14 THE COURT: Okay. That will shorten this panel down.

15 MR. BOGGS: Did they find the information on it?

16 THE COURT: We'll put that on the record.

17 Bring the panel in, please.

18 (WHEREUPON, Juror Panel No. 5 entered the courtroom.)

19 THE COURT: Ladies and gentlemen, I just -- you just
20 got seated and you just got comfortable, let me ask you to
21 stand up again and raise your right hand. We're going to
22 swear you in.

23 (WHEREUPON, Juror Panel No. 5 was sworn.)

24 THE COURT: Thank you, ladies and gentlemen.

25 I want to thank you for your patience. I want to

1 thank you for your service for being up here. As you can
2 tell, I guess, by the fact that we're running behind, this
3 is a very serious and solemn process that we go through.
4 And we are being just as diligent -- the attorneys,
5 everyone, is being as diligent as they possibly can be. I
6 apologize to you for running behind. We are moving with
7 all due speed and will go forward just as quickly as
8 efficient service will allow us to do that. I want to
9 thank y'all again for being here. And I want to reiterate
10 a couple of things to you.

11 One, is I want you to remember, I have no opinion
12 about the facts in this case. So I'm going to ask you
13 some questions individually in a little bit. And as I do
14 that, I don't want y'all to infer that I have any opinion
15 about the facts in the case. Just remember that the law
16 doesn't allow me to have an opinion and I, in all honesty,
17 do not have an opinion about the facts, because I don't
18 know the facts in this case.

19 Now, ladies and gentlemen, I'm going to tell you
20 that -- first, ask you since we talked yesterday, has
21 anybody been exposed to any publicity regarding the case?

22 (All jurors indicated no.)

23 THE COURT: I want to repeat two basic things that
24 y'all need to keep in mind. They're very important. I've
25 told this to you once or twice already, but they're very

1 important. And that is that every citizen who is charged
2 with a crime is presumed innocent unless and until the
3 State can prove them guilty beyond any reasonable doubt.
4 The burden is always on the State. And a person charged
5 with a crime never has to prove a thing. And the burden
6 of the State is to prove every element of a crime beyond a
7 reasonable doubt.

8 Now, a case of this nature is, generally, referred to
9 as a capital case. And let me just briefly tell you about
10 the process of a capital case. We're going through the
11 jury qualification process right now. When we get all the
12 qualified jurors, then we will select the jury from the
13 qualified jurors. Okay.

14 Now, once the jury is selected, then we go forward
15 with the trial. If, and only if, the jury decides that
16 the Defendant is guilty of murder do we go to the second
17 phase of the trial. I've been over this with you already,
18 but I want to go through it with you briefly again. And
19 the State has the burden of proving the Defendant guilty
20 beyond a reasonable doubt of each offense they have been
21 charged with. If the jury finds that the Defendant is not
22 guilty of murder, then the case does not go to the second
23 phase. The case would be over and the jury would be done
24 with their service in the case.

25 Now, if the jury found that the Defendant was guilty

1 of murder, then we would move to the second phase of the
2 trial, which is also known as the sentencing phase. In
3 that phase of the trial, the jury would consider what
4 we -- I told you about before, but what we call
5 aggravating circumstances and mitigating circumstances.
6 My voice is starting to go. I apologize to you.

7 After hearing the additional evidence in mitigation
8 and in aggravation, the jury then in the second phase
9 would determine only the appropriate sentence to give, and
10 that would be life imprisonment or the death penalty.

11 Now, if -- in a capital case, if the jury finds the
12 presence of an aggravating circumstance, a life sentence
13 means -- a sentence of life means life without the
14 possibility of parole. In other words, if a defendant has
15 been convicted of murder in the first phase of the trial
16 and the 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 and the Defendant
19 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 get to the second phase. But in the
23 event we do, I need to ask you certain questions.

24 Do each of you understand the general process I've
25 outlined to you?

1 (All jurors indicated yes.)

2 THE COURT: Okay. Now, permit me to briefly explain
3 to you the terms aggravating circumstance and mitigating
4 circumstance. These are terms which you will hear and
5 consider only in the event that the trial proceeds to the
6 second phase. An aggravating circumstance -- or
7 aggravating circumstances are facts, incidents, or
8 occurrences which the South Carolina General Assembly has
9 declared by law would aggravate or worsen the crime of
10 murder. In other words, an aggravating circumstance, when
11 accompanying a murder, increases the enormity of that or
12 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 reducing the degree of
18 responsibility or culpability.

19 Now, I have already introduced to you -- I hope
20 y'all -- does that help y'all with the terms aggravating
21 and mitigating? Okay. One is to increase the enormity of
22 the offense and the other is to lessen.

23 I've introduced the attorneys who are involved in
24 this case. They're not all here at this time, but you've
25 met them yesterday. And most of them are here. I'll ask

1 this panel, is there any member of the panel who is
2 related by blood, marriage, or an acquaintance of any kind
3 of any of the attorneys in this matter?

4 (There was no response.)

5 THE COURT: They all indicate no.

6 Is there any member of the jury panel who is related
7 by blood, marriage, or acquainted in any way with anyone
8 associated with these lawyers and their respective law
9 offices, which would include the Seventh Circuit
10 Solicitor's Office, the Spartanburg County Public
11 Defender's Office, and the Law Office of Mr. Tam Boggs?

12 (All jurors said no.)

13 THE COURT: Everyone indicates in the negative.

14 And I, finally, would ask you -- each of you, have
15 you had an opportunity to review that extensive witness
16 list in this case and I would ask you, is there any member
17 of the jury panel who is related by blood or marriage or
18 is acquainted in any fashion with anyone listed on the
19 witness lists?

20 Yes, ma'am. Your name?

21 JUROR #296, LESLIE PUTZE: Leslie Putze.

22 THE COURT: Yes, ma'am.

23 JUROR #296, LESLIE PUTZE: Ruth Crane with Wachovia
24 is our operations consultant, and I work at Wachovia.

25 THE COURT: Okay. We may ask you about that.

1 Would that impair your ability to be fair and
2 impartial in this case?

3 JUROR #296, LESLIE PUTZE: No.

4 THE COURT: All right. Well, thank you very much.

5 JUROR #281, RITA PEARSON: And you have a Christopher
6 Switzer that's on the State's list, and I know his mother.

7 THE COURT: Would that impair your ability to be fair
8 and impartial in this case?

9 JUROR #281, RITA PEARSON: No.

10 THE COURT: Thank you, ma'am.

11 Now, I'm going to excuse the jurors with the
12 exception of Ms. Putze.

13 And I'm going to ask you to jump into the hot seat
14 over here.

15 (WHEREUPON, Juror Panel No. 5 exited the courtroom,
16 with the exception of Juror #296, Leslie Putze.)

17 (Juror #296, Leslie Putze, a white female, was
18 seated.)

19 THE COURT: Ma'am, would you tell me how to pronounce
20 your name?

21 JUROR #296, LESLIE PUTZE: Putze.

22 THE COURT: Putze. And I apologize that I didn't
23 remember and get it right the first time out.

24 JUROR #296, LESLIE PUTZE: That's all right. You're
25 not by yourself.

1 THE COURT: Okay. The first thing I want to do is,
2 hopefully, put you at ease by telling you that they're --
3 we're going to ask you some questions. And the subjects
4 that we're going to broach are whether you've heard
5 anything about this case. And then we're going to want to
6 talk to you a little bit about your views on the death
7 penalty. And there may be one or two other little side
8 issues that get brought up, but that's generally what
9 we're going to be talking about.

10 I want you to know that there are no right answers
11 and there are no wrong answers. And I want you to know
12 that the only correct answers are your full, truthful, and
13 accurate answers to the questions. And what we're really
14 looking for in some personal and difficult subject matters
15 is your heartfelt, truthful response. No one is going to
16 embarrass you or humiliate you or pass judgment on you.
17 And there is no test that's -- no litmus test. We're just
18 interested in your opinion on these various subject
19 matters.

20 JUROR #296, LESLIE PUTZE: Okay.

21 THE COURT: Having said that, I'm going to tell you a
22 little bit more about the case in these indictments and
23 reaffirm that these indictments are not evidence and
24 should not be considered evidence by you or anyone else.
25 They are only allegations typed on a piece of paper which

1 allow this case to be brought to court.

2 The first indictment alleges that Fredrick Antonio
3 Evins did in Spartanburg County on or about February 13th,
4 of the year 2003, feloniously, willfully, and with malice
5 aforethought kill Rhonda Marie Ward. The next indictment
6 is for kidnapping. And it alleges that Mr. Evins on the
7 same date did unlawfully seize or kidnap the victim,
8 Rhonda Marie Ward. The next indictment is for criminal
9 sexual conduct. And it alleges that Mr. Evins did on the
10 same date willfully and unlawfully commit a sexual battery
11 upon Rhonda Marie Ward. And, finally, the last indictment
12 is for grand larceny. And it alleges that Mr. Evins did
13 in Spartanburg County on the same date unlawfully and
14 feloniously carry away the 1993 Nissan Sentra and its
15 contents belonging to Rhonda Marie Ward. Now, those are
16 the facts and circumstances alleged in the indictments.

17 And we recognize there has been substantial publicity
18 about the case. So my first question would be, have you
19 seen or heard anything about the facts that are alleged in
20 the indictment, anything about this case?

21 JUROR #296, LESLIE PUTZE: Well, just what I had read
22 in the paper back when it happened, that this lady
23 apparently worked at Cigarette's 4 Less in Drayton and was
24 missing and then her body was later found. And that's
25 all.

1 THE COURT: All right. Do you recall anything else
2 about what you read?

3 JUROR #296, LESLIE PUTZE: No. I mean -- no.

4 THE COURT: It's been a while.

5 JUROR #296, LESLIE PUTZE: Yeah.

6 THE COURT: You haven't heard or seen anything
7 recently, or have you?

8 JUROR #296, LESLIE PUTZE: Well, when I came in
9 Monday, I had the news on in the morning and I saw where
10 the trial was, I thought, to begin Monday. But I didn't
11 have any idea that I would be part of the jury selection.

12 THE COURT: All right. Well, let me tell you that,
13 as a juror, under your oath, you are required to disregard
14 anything that you have seen, read, or heard about this
15 case. And it will be your duty under your oath to
16 decide -- if you're selected to decide the facts only from
17 the evidence presented during the trial in the courtroom.
18 And you have to put everything that you've heard outside
19 of the courtroom out of your mind.

20 Do you understand that?

21 JUROR #296, LESLIE PUTZE: Yes, I do.

22 THE COURT: Okay. And I will ask you along those
23 lines, could you serve as a fair and impartial juror and
24 reach a verdict based on the facts presented at trial and
25 my instructions on the law?

1 JUROR #296, LESLIE PUTZE: Yes.

2 THE COURT: In any fashion whatsoever, have you
3 formed an opinion as to the facts of the case?

4 JUROR #296, LESLIE PUTZE: No.

5 THE COURT: Have you formed an opinion as to the
6 guilt or innocence of Mr. Evins?

7 JUROR #296, LESLIE PUTZE: No, I have not.

8 THE COURT: Now, keeping in mind the legal principles
9 of the presumption of innocence and the State's obligation
10 to prove guilt beyond a reasonable doubt, could you,
11 depending on the facts and evidence and the law as I would
12 instruct, find a defendant either guilty or not guilty
13 depending on the evidence presented?

14 JUROR #296, LESLIE PUTZE: Yes.

15 THE COURT: Okay. Now, please remember that we may
16 never get to the second phase of the trial, the sentencing
17 phase, but we possibly could. And, therefore, I need to
18 discuss your views on the death penalty with you a little
19 bit.

20 And I will tell you before we do that, when a jury
21 moves to the sentencing phase, it means that the jury --
22 the same jury, has already found the Defendant guilty of
23 murder. That decision has been made. He is guilty of
24 murder. And the next phase of the trial is only to
25 determine the appropriate sentence to give, and that could

1 be life imprisonment or death. In doing that, you will be
2 presented with evidence in aggravation of the offense and
3 evidence in mitigation of the offense.

4 Does that make sense?

5 JUROR #296, LESLIE PUTZE: Uh-huh.

6 THE COURT: In other words -- and I will tell you,
7 your oath would require you to give serious and meaningful
8 consideration to the aggravation and the mitigation
9 evidence. Could you follow your oath and do that?

10 JUROR #296, LESLIE PUTZE: Yes.

11 THE COURT: Now, if you were a juror in that
12 situation, the second phase, the sentencing phase, could
13 you, depending on the particular facts and circumstances
14 of the case, including the consideration of aggravating
15 and mitigating circumstances and the law that I would give
16 to you, taking all that into consideration, could you
17 return a sentence of life imprisonment?

18 JUROR #296, LESLIE PUTZE: Yes.

19 THE COURT: Okay. Also, in that same situation, in
20 the sentencing phase, could you, depending upon the
21 particular facts and circumstances of the case, including
22 considering aggravating and mitigating circumstances and
23 the law that I will give you at that time, could you
24 return a sentence of death?

25 JUROR #296, LESLIE PUTZE: Yes.

1 THE COURT: All right. Now, in the event that the
2 jury decides a death sentence is appropriate, the law
3 requires that all 12 jurors sign their name to the verdict
4 form. Could you sign your name to a death sentence
5 verdict form?

6 JUROR #296, LESLIE PUTZE: Yes.

7 THE COURT: Okay. Do you recall that sheet that I
8 gave you that listed three types of jurors?

9 JUROR #296, LESLIE PUTZE: Uh-huh.

10 THE COURT: Where do you put yourself in that
11 category?

12 JUROR #296, LESLIE PUTZE: Number 3.

13 THE COURT: So you're the type of person who has not
14 made a decision, but you need to hear all the facts and
15 circumstances before you decide, and based on that, you
16 could make the appropriate decision?

17 JUROR #296, LESLIE PUTZE: Yes.

18 THE COURT: Okay. And if you were selected, would
19 you honor your oath and serve as a fair and impartial
20 juror, and would you approach jury service with an open
21 mind and find the truth from the evidence and apply the
22 law as I instruct it?

23 JUROR #296, LESLIE PUTZE: Yes.

24 THE COURT: Do you know of any reason whatsoever why
25 you could not serve?

1 JUROR #296, LESLIE PUTZE: No.

2 THE COURT: And, finally, before I let the attorneys
3 begin questioning you, I want to inform you that we
4 anticipate -- we're going through qualification. We're
5 going to bring the qualified jurors back and select the
6 jurors. The jury of 12, plus, probably three alternates
7 will be sequestered. And that will be, we think --
8 they'll stay over at the Marriott. They'll stay over
9 there anywhere from four or five to seven days. Okay.

10 JUROR #296, LESLIE PUTZE: All right.

11 THE COURT: I'll turn it over to the attorneys.

12 MR. BARNETTE: May it please the Court, Your Honor?

13 EXAMINATION

14 BY MR. BARNETTE:

15 Q Hello. My name is Barry Barnette. And this is Trey
16 Gowdy and John Anthony. We're representing the State in
17 this case.

18 A Okay.

19 Q I noticed you had served on jury duty before?

20 A Uh-huh, about 20 years ago.

21 Q I was going to say, you don't look old enough to be
22 holding -- a murder trial and going through a trial back
23 in the 70's.

24 A Yeah, like in the '80s or late '70's maybe.

25 Q Was that in Union County?

1 A Uh-huh.

2 Q So you heard the evidence and you listened just like
3 any juror would in a case like that?

4 A Yes.

5 Q And you'd listen to the Judge in this case; is that
6 right?

7 A Right.

8 Q And would you weigh the evidence and look at all the
9 evidence and make a decision based off the evidence?

10 A Yes, I would.

11 Q And if we get to the sentencing phase, which is the
12 second part of the trial -- and I believe you said you
13 were on a murder trial before, I believe?

14 A Uh-huh.

15 Q So you've seen the first part of a murder trial and
16 so forth?

17 A Uh-huh.

18 Q And that -- was that a regular murder case?

19 A Uh-huh.

20 Q So there was no death penalty involved in that?

21 A No death penalty.

22 Q So you realize some murders -- the death penalty can
23 be asked for and there's aggravating circumstances and in
24 some murders, there's no aggravating circumstances?

25 A Right.

1 Q And would you listen to -- and you've got to realize
2 in the sentencing phase, the State presents aggravators,
3 what makes the crime worse?

4 A Uh-huh.

5 Q And then the Defense will present mitigating factors
6 that are involved with it. And you realize there's two
7 types of sentences under this type trial, you have life
8 without parole or the death penalty?

9 A Uh-huh.

10 Q If the State proves one or more aggravators, you can
11 find for the death penalty. On the other hand, if they
12 have mitigating factors, you can use that to lessen the
13 crime, life without parole. Would you be the type of
14 juror that would listen to both sides and give a verdict
15 based off what you heard?

16 A Yes.

17 Q And if you had one or more aggravators, could you
18 give the death penalty?

19 A I don't know. One or more aggravators?

20 Q Yes.

21 A I don't understand.

22 Q Let me rephrase that. If you had a situation where
23 the facts warranted it, like one or more of those
24 aggravating factors was proven by the State, could you
25 give the death penalty?

1 A Yes.

2 Q On the other hand, if you didn't think the evidence
3 led up to that level, could you give life without parole
4 in that situation?

5 A Yes.

6 Q And I noticed another thing, too, you said you work
7 at Wachovia?

8 A Right.

9 Q And how long have you worked at Wachovia?

10 A 23 years.

11 Q And have you done that since you've lived in
12 Spartanburg?

13 A Yeah -- well, no, I've lived in Spartanburg County
14 since 1980.

15 Q And before that, you lived in Union County?

16 A Yeah.

17 Q And I noticed your husband, he works as Upstate
18 Management?

19 A Yeah.

20 Q And you have one child?

21 A Uh-huh.

22 Q And does he go to the Golf Academy?

23 A Uh-huh.

24 Q So he's really into golf and so forth?

25 A Uh-huh.

1 Q Is your husband into golf and so forth?

2 A Yes, he is.

3 Q Where do y'all play golf?

4 A The Links and sometimes at Creek Landing before they
5 closed it.

6 MR. BARNETTE: Ma'am, thank you for answering my
7 questions.

8 THE WITNESS: Sure.

9 MR. BARNETTE: Thank you, Your Honor.

10 MS. QUIMBY: May it please the Court, Your Honor?

11 THE COURT: Yes, ma'am.

12 EXAMINATION

13 BY MS. QUIMBY:

14 Q Good afternoon, Ms. Putze. How are you?

15 A I'm fine. How are you?

16 Q Fine. Thank you.

17 I know I introduced myself the other day, but I'm
18 Karen Quimby. And Tam Boggs is not in the room, but he
19 sits in the empty chair, and then Christopher Brough. We
20 are representing Fredrick Evins. And thank you for being
21 here and for letting us interrupt your week. We all
22 appreciate your willingness to be here and to answer all
23 these personal questions that everybody keeps asking.

24 You had served on that murder trial in Union in the
25 '70's. Do you remember what the outcome of it was?

1 A Voluntary manslaughter.

2 Q Okay. Did you happen to be the foreperson?

3 A No, just a juror.

4 Q What did you think about jury service? I know that
5 wasn't your only time.

6 A Yeah. That was the first time I had ever served on a
7 jury. It was upsetting, you know.

8 Q Well, it's supposed to take some thought. And you're
9 willing to sit in this trial, if you're selected?

10 A Yeah.

11 Q Well, we appreciate that. You had also mentioned
12 that you had seen some articles in the paper about this
13 case and that would have been one right before this week.
14 And then did you see any back almost a year and a half to
15 two years ago?

16 A I think that maybe when I saw it, it was right after
17 it happened.

18 Q And did you form any kind of opinions about the case
19 or Mr. Evins himself at the time?

20 A No.

21 Q Okay. Beyond reading articles and, possibly, seeing
22 something on the news, was this case a topic that y'all
23 would talk about at work or you'd talk about with your
24 family?

25 A No.

1 Q Okay. When the police arrest somebody and charge
2 them with a crime, does that indicate anything to you or
3 do you -- does it effect whether or not you think someone
4 is guilty or not guilty of something?

5 A No.

6 Q And the fact that this is a potential death penalty
7 case, does that indicate anything to you or say anything
8 to you about what you might think is -- well, whether he,
9 Mr. Evins, is guilty or not guilty of anything?

10 A No. I have not formed an opinion.

11 Q Okay. As far as your general views on the death
12 penalty, obviously, you stated that you can -- you would
13 be able to sentence someone to the death penalty under the
14 appropriate circumstances. Where do you get that -- what
15 is your basis for that belief?

16 A I just feel like if someone takes a life that -- and
17 they're found guilty and I guess that -- you know, if the
18 Court is seeking the death penalty, I just think that
19 should be the sentence.

20 Q Okay. Well, you understand the Court isn't seeking
21 the death penalty?

22 A Or the State, yeah, whatever.

23 Q Okay. So at the point that it would ever even be
24 something you or the other jurors could even talk about,
25 whether it's life or death, you would have already found

1 that he's guilty of murder?

2 A Right.

3 Q And then you would come to the sentencing phase, the
4 second phase. You would hear all the evidence of
5 aggravating circumstances, all the things that the State
6 says makes this worse?

7 A Right.

8 Q Over and above other murders. Only if you found
9 those aggravating circumstances or, at least, one, only
10 then could jurors even talk about whether something is
11 life or death. So I just wanted to make sure that I
12 didn't misunderstand your answer about if he was guilty.
13 So you wouldn't be necessarily deciding life or death if
14 he had only been found guilty of murder. So once you come
15 into the second phase, it's still not on the table. It's
16 still not something you can discuss?

17 A Right.

18 Q And you go to Jonesville Baptist Church?

19 A Uh-huh.

20 Q Do you have any idea, does your church have any
21 particular stand on the issue of the death penalty, to
22 your knowledge?

23 A Not that I know of.

24 MS. QUIMBY: All right. Hold on one second, please.

25 I apologize.

1 (Pause.)

2 MS. QUIMBY: I apologize once again.

3 BY MS. QUIMBY:

4 Q Going back to a couple of questions ago, you had --
5 or we had talked about when might there be circumstances
6 where you would find that it might be appropriate to give
7 the death penalty. I'm not asking for specific
8 situations. Do you have -- do you believe -- all right.

9 If a person -- if a person's death is caused by
10 someone else, do you believe that in all cases that person
11 would be guilty of murder?

12 A (There was no response.)

13 Q Should I ask that a different way?

14 A Yes.

15 Q If I caused someone's death, do you believe that
16 means I'm guilty of murder?

17 A If you caused somebody's death, like a car accident?

18 Q Well, do you believe in all cases that if I caused
19 someone's death in any case, am I always guilty of murder?

20 A No. I don't believe that. Maybe I'm thinking
21 differently than what you're asking.

22 Q All we're looking for are your answers. There are no
23 right or wrong answers. So since all -- I may be even
24 confusing myself. If -- what I understand you saying is
25 it would depend on the circumstances?

1 A Right.

2 Q About whether causing someone's death is, actually,
3 murder?

4 A Right.

5 Q If it were proved to you that the person is guilty of
6 murder, do you think that you would lean towards one kind
7 of sentence, ultimately, or the other if it got down to
8 it?

9 A No. I would want to hear all the facts and just base
10 a decision on that.

11 MS. QUIMBY: Okay. One second.

12 I'm sorry to be back and forth.

13 JUROR 96, LESLIE PUTZE: That's okay.

14 BY MS. QUIMBY:

15 Q I'm trying to just reconcile an earlier answer with a
16 later answer. And I don't mean to put you on the spot.
17 I'm sorry.

18 Earlier, when I had asked you what your general views
19 on the death penalty are, I thought you had -- and I may
20 have misunderstood. I thought you had said that if it's
21 proven to you that someone is guilty of murder, then
22 that's when you would apply the death penalty?

23 A No.

24 Q And then that's when we got into the other
25 discussions and clarifying things. So just for

1 clarification, what are -- let me ask it one more time.

2 What are your general views on the death penalty?

3 A Well, as I said before, after reviewing all the
4 facts, if the Defendant is guilty and it's life
5 imprisonment or the death penalty, it would just depend on
6 what -- I mean, the facts.

7 MS. QUIMBY: All right. Thank you very much.

8 I'm sorry to ask the same question a million ways.

9 THE COURT: All right. Ms. Putze, would you mind
10 stepping into the hall for just one second.

11 JUROR #296, LESLIE PUTZE: Sure. I'll be glad to.

12 THE COURT: Thank you.

13 (Pause.)

14 THE COURT: Any objection to this juror?

15 MR. BARNETTE: None from the State, Your Honor.

16 MS. QUIMBY: None from the Defense.

17 THE COURT: Okay. Bring her back in.

18 (Pause.)

19 THE BAILIFF: Ms. Putze, go in the courtroom and face
20 the Judge, please.

21 THE COURT: Hey, Ms. Putze.

22 I have a present for you. I want to tell you -- if
23 you just will take that with you and read it when you get
24 home. You are still a qualified juror eligible to serve
25 on this case. And I anticipate it will be probably two

1 more days -- or in another two days that we will call all
2 the qualified jurors back to select the jury. So you're
3 free to go and go about your business and all that sort of
4 thing.

5 I want to tell you that -- again, reiterate that you
6 remain under oath not to listen, talk about, or look at
7 anything with respect to this case. And I would ask you
8 further, don't do any independent research or anything
9 like that. Don't discuss it with anyone, not your family
10 or friends. And the temptation has got to be very strong
11 to do that. And the reason behind that is even an
12 innocent comment from someone you love and trust might
13 impact your thoughts and ideas about the case. And that
14 person won't be here to hear the testimony and evidence.
15 So -- and they shouldn't have any input in the case. So
16 put that aside and please don't talk about it with anyone
17 and have this case be decided on the evidence that passes
18 Constitutional and legal scrutiny in the courtroom.

19 Okay. Does that make sense to you?

20 We look forward to talking to you.

21 JUROR #296, LESLIE PUTZE: So you'll call?

22 THE COURT: We'll call you. We have your number.

23 Thank you.

24 (Juror #296, Leslie Putze, was excused from the
25 courtroom.)

1 THE COURT: Bring in the next juror, please.

2 (Juror #320, Phillip Sanders, a white male, was
3 seated.)

4 THE COURT: Mr. Sanders, how are you?

5 JUROR #320, PHILLIP SANDERS: Fine. How are you?
6 I am a little nervous, to be honest with you.

7 THE COURT: Well, I'll tell you what, I've told a
8 couple other people, if you're sitting in that chair and
9 you're not nervous, there's probably something wrong with
10 you. So that is a perfectly normal and natural way to
11 feel and everybody in here understands that. And because
12 they understand that, they're not going to do anything to
13 try and upset up. They are not going to do anything to
14 try to embarrass you or humiliate you in any way. I
15 promise you that. And I just want to put you at ease as
16 best I can.

17 I want you to understand there are no right or wrong
18 answers to the questions we're going to ask. We are --
19 because of the serious nature of the case that we're
20 involved in, we need to get full, accurate, and truthful
21 answers to the questions we're going to ask. And, as I
22 said, there are no wrong. But the correct answer will be
23 your truthful and complete answer. And, really, what
24 we're looking for is your heartfelt belief on some stuff.
25 And this is some pretty personal stuff, I guess, part of

1 it is. It goes to your belief about things. And there's
2 no test and there's no right or wrongs, as I said.

3 But we're going -- the subject matter that we're
4 eventually going to be interested in is, do you know
5 anything, have you heard anything about this case, and
6 what that might be.

7 And then, secondly, we're going to discuss your views
8 on the death penalty a little bit. Okay.

9 JUROR #320, PHILLIP SANDERS: Okay.

10 THE COURT: So in order to do that, I really need to
11 go through the indictments a little bit and tell you a
12 little bit more about the facts to make sure we're on the
13 same page about what we're here about. I want to
14 reiterate that the indictments are not evidence and should
15 not be considered to be evidence in any way. They are
16 just allegations typed on a sheet of paper that allows
17 this case to come to court.

18 Now, the first indictment is for murder. And it
19 alleges that Fredrick Antonio Evins did in Spartanburg
20 County on or about February 13th, 2003, feloniously,
21 willfully, and with malice aforethought kill Rhonda Marie
22 Ward. The second indictment is for kidnapping. And it
23 alleges that Mr. Evins did on the same date unlawfully
24 seize or kidnap Rhonda Marie Ward. The third indictment
25 is for criminal sexual conduct. It alleges that Mr. Evins

1 did on the same date willfully and unlawfully commit a
2 sexual battery on the victim, Rhonda Marie Ward. And,
3 finally, the last indictment is for grand larceny. And it
4 alleges Mr. Ward -- excuse me, Mr. Evins did on or about
5 February 13th, 2003, in Spartanburg County feloniously
6 took and carried away the 1993 Nissan Sentra and its
7 contents belonging to Rhonda Marie Ward. Okay. Those are
8 the allegations contained in the indictments in this case.

9 Now, I want to ask you, there's been -- we recognize
10 there's been media coverage and publicity about the case
11 on TV, and on the radio, and in the newspaper. And the
12 first thing I would like to know is, have you read, heard,
13 or seen anything about this case?

14 JUROR #320, PHILLIP SANDERS: No, sir, I haven't.

15 THE COURT: Nothing at all?

16 JUROR #320, PHILLIP SANDERS: No. I've bought
17 equipment for my business and I've been assembling it for
18 weeks now.

19 THE COURT: Now, this -- let me just tell you, there
20 was media attention way back in early 2003. Do you
21 remember any of it?

22 JUROR #320, PHILLIP SANDERS: Oh, no. I have no idea
23 about that.

24 THE COURT: All right. Well, if during the course of
25 your questioning now or during the trial something pops up

1 that you might remember that you, in fact, did read, or
2 hear, or see something about this case, I want to tell you
3 that your oath, as a juror, requires that you disregard
4 that. Because you have sworn an oath to decide the facts
5 in this case purely and solely on the evidence that's
6 presented here in the courtroom.

7 Do you understand that?

8 JUROR #320, PHILLIP SANDERS: Yes.

9 THE COURT: Okay. Do you think that you could serve
10 as a fair and impartial juror and reach a verdict based
11 only on the facts presented at trial in accordance with
12 the law that I would give you?

13 JUROR #320, PHILLIP SANDERS: Yes.

14 THE COURT: Have you formed any kind of opinion as to
15 the facts of this case?

16 JUROR #320, PHILLIP SANDERS: No.

17 THE COURT: Have you formed an opinion as to the
18 guilt or innocence of Mr. Evins?

19 JUROR #320, PHILLIP SANDERS: No.

20 THE COURT: All right. Keeping in mind the legal
21 principles that I've discussed with you about the
22 presumption of innocence and the State's obligation to
23 prove a case beyond a reasonable doubt -- to prove guilt
24 beyond a reasonable doubt, could you, depending on the
25 facts and circumstances presented at trial and the law

1 that I would give you, could you return a verdict of
2 either guilty or not guilty based on the evidence that you
3 had heard during the trial?

4 JUROR #320, PHILLIP SANDERS: Yes.

5 THE COURT: Your mind is not made up one way or the
6 other?

7 JUROR #320, PHILLIP SANDERS: No.

8 THE COURT: Okay. Now, please remember that we may
9 not even reach the second phase of the trial or what I've
10 described to you as the sentencing phase in the case. But
11 since we might possibly get there, I need to discuss with
12 you your views on the death penalty.

13 JUROR #320, PHILLIP SANDERS: All right.

14 THE COURT: And before we do that, let me just tell
15 you, when we move to the second phase of the trial, the
16 jury has already decided -- it's already been decided in
17 the first phase of the trial that the Defendant is guilty
18 of murder. And that's the only reason you got to a second
19 phase. Already decided guilty of murder. So when the
20 jury is deliberating in the second phase, you won't be
21 concerned about legal defenses. You won't be questioning
22 any of the legal defenses or aspects of the case. The
23 only thing you'll be there to decide will be the
24 appropriate sentence to be given to the Defendant. And to
25 do that, you will be given -- you will hear in the second

1 phase evidence in mitigation and evidence in aggravation.

2 Okay.

3 So those will be what you hear in the second phase of
4 the trial. And that's what you will consider. I will
5 tell you that your oath requires you to abandon any
6 preconception you might have and to follow the law as I
7 give it to you. In other words, your oath would require
8 you to give serious and meaningful consideration to the
9 aggravation evidence and to the mitigation evidence.

10 Could you follow your oath and do that in the second
11 phase?

12 JUROR #320, PHILLIP SANDERS: Yes.

13 THE COURT: Okay. Now, if you were a juror in that
14 situation, you're a juror in the second phase, so the
15 decision as to guilt or innocence as to murder has been
16 made and the Defendant has been found guilty of murder.
17 Could you, depending upon the particular facts and
18 circumstances of the case, including the consideration of
19 aggravating and mitigating circumstances and the law that
20 I would give you, could you return a sentence of life in
21 prison?

22 JUROR #320, PHILLIP SANDERS: Yes.

23 THE COURT: Okay. Now, again, you're a juror in that
24 same situation, and that is the second phase of the trial.
25 Could you, depending on the facts and the circumstances,

1 including considering all the aggravating circumstances
2 and all the mitigating circumstances, and the law that I
3 would give you, could you return a sentence of death?

4 JUROR #320, PHILLIP SANDERS: Yes.

5 THE COURT: All right. Now, in the event that the
6 jury gave -- returned a sentence of death, it is required
7 under our law that each of the 12 jurors sign the verdict
8 form. Could you sign a death penalty verdict form?

9 JUROR #320, PHILLIP SANDERS: Yes.

10 THE COURT: Okay. Now, do you recall the sheet that
11 I had y'all look at back there about the three types of
12 jurors?

13 JUROR #320, PHILLIP SANDERS: Yes, sir.

14 THE COURT: All right. Where would you put yourself?

15 JUROR #320, PHILLIP SANDERS: In the middle. I feel
16 like if the things I heard led me to believe it was
17 warranted, I would make that decision. I mean, I don't
18 feel like there's any hard and fast rule. You have to
19 look at the degrees of separation and make that decision
20 based on what you think is the truth.

21 THE COURT: All right. So if I understand you
22 correctly, the type of juror you consider yourself to be
23 would be what's listed as the third type in this case,
24 that you wouldn't have a preconceived notion of the
25 sentence to give?

1 JUROR #320, PHILLIP SANDERS: Right. Correct.

2 THE COURT: You would need to hear all the evidence
3 before you made your decision; is that right?

4 JUROR #320, PHILLIP SANDERS: Yes.

5 THE COURT: All right. Now, if you were selected to
6 serve, could you honor your oath and serve as a fair and
7 impartial juror and approach jury service with an open
8 mind to find the truth from the evidence and apply the law
9 as I instructed it to you?

10 JUROR #320, PHILLIP SANDERS: Yes.

11 THE COURT: Do you know of any reason why you could
12 not serve in this case?

13 JUROR #320, PHILLIP SANDERS: Well, to be completely
14 honest, you probably should know that my late wife was a
15 victim of sexual assault as a child.

16 THE COURT: Okay.

17 JUROR #320, PHILLIP SANDERS: So, I mean, if they
18 need to take that into consideration. I don't feel like
19 that would sway me, but I think it would be fair to put
20 that out.

21 THE COURT: Well, thank you, sir. I appreciate you
22 telling me that.

23 I understand your wife has passed away?

24 JUROR #320, PHILLIP SANDERS: Yes, sir.

25 THE COURT: I am sorry to hear that.

1 So it was something that happened before you knew
2 her?

3 JUROR #320, PHILLIP SANDERS: Yes, as a child.

4 THE COURT: And the fact that your wife suffered as a
5 victim of that offense, do you think that that would
6 impair your ability to be fair and impartial in this
7 case?

8 JUROR #320, PHILLIP SANDERS: No, I don't. But there
9 again, I think if somebody's life is on the line, they
10 need to know who's making the decisions for them.

11 THE COURT: Well, I appreciate that. That is very up
12 front. And, honestly, we appreciate that very much.

13 I'm going to turn it over to the attorneys and let
14 them question you in a little bit in just a second.

15 I wanted to tell you before I did that that the
16 jury -- this is the qualification part of the trial.
17 We're going to get all the qualified jurors and then we're
18 going to call them all back and select the jury. We'll do
19 that in probably a couple of days from now. Once the jury
20 is selected, along with the alternates, they will be
21 sequestered, which means they will stay over at the
22 Marriott. And we anticipate that it may last from five to
23 seven days. I just wanted to let you know that.

24 And please answer any questions for the attorneys
25 that they might have.

EXAMINATION

BY MR. BROUGH:

Q Hello, Mr. Sanders. I know Judge Miller introduced us all yesterday, but I just wanted to reintroduce everybody. My name is Christopher Brough. And I represent Fredrick Evins, along with Karen Quimby and Tam Boggs.

I just want to ask you a couple of questions. I noticed that you're a big golf fan on your questionnaire. I kind of hook things to the left. I guess we all got to do what we've got to do. I also notice you like to read?

A Yes, sir.

Q What was the last thing you read?

A I -- you know, quite honestly, the last thing I probably read was a golf magazine. I work for a family. So over the last several weeks, that has been taking up my free time.

Q And the work that you do, do you work for Rhett Sanders Cabinets, you're the manager?

A Yes.

Q I just recently redid my kitchen. Can I ask you, why are those lazy Susan cabinets so expensive?

A Any time you cut an angle -- it depends on if it's an L-shape or angle. If it's an angle cabinet from our shop, it will be a little more expensive because the skill and

1 technique involved is more valuable.

2 Q I got you. I'm just going to ask, as Judge Miller
3 did, a couple of question concerning some things. One
4 thing I noticed is that -- and I hate to bring up what I
5 know is going to be a very painful subject for you, but
6 you did mention that your late wife had been the victim of
7 a sexual assault as a child. How much did she ever tell
8 you about that? I know it's a very personal thing.

9 A I knew the whole story. She told me the whole story
10 of what had happened.

11 Q Did it still effect her in her day-to-day
12 functioning?

13 A Not day-to-day. It would be more like once in a
14 while, maybe as often as every few months, she would kind
15 of get in a funk or a darker mood. But, you know, it was
16 something you really had to look for to see. I mean, Joe
17 Smoke on the street wouldn't know if she was depressed
18 about it or if it was on her mind. You had to know her to
19 see it.

20 Q But you would know?

21 A Oh, of course, yeah.

22 Q So she still suffered through her adult life?

23 A Yes.

24 Q And that effected you as well?

25 A Well, yeah. You never like to see anybody you love

1 upset or stressed over anything, so.

2 Q Well, do you feel that -- I'm sure you probably had
3 to console her on a number of occasions?

4 A Yes, of course.

5 Q Do you feel that that would effect your ability
6 regarding a criminal case -- or a criminal sexual conduct
7 case?

8 A You know, it very possibly could. It would be
9 foolish for me to say I could be -- or I could guarantee
10 that if it was proved factually that it wouldn't stir up
11 some sort of emotional response.

12 Q Do you think that hearing the evidence would stir up
13 some sort of emotional response, just hearing evidence?

14 A Only if it proved guilt, I mean.

15 Q I want to ask you a couple of other questions. I
16 also noticed that you had a family member, you said, with
17 some drug charges, but you didn't know what happened with
18 that?

19 A Well, I'm not sure exactly what the charges were. My
20 brother got arrested and served some time.

21 Q Was he in the annex? Was he dealing with an
22 addiction problem?

23 A Yeah.

24 Q Did you watch him while he was under the influence?

25 A Yeah. He works for me. And I did what I could for

1 him, but you can't help somebody that's not willing to
2 help themselves.

3 Q All right. I understand. I'm just going to ask you
4 a couple of questions. I know you said that you've been
5 busy assembling some equipment for your business for a
6 couple of weeks now. And I know you told Judge Miller you
7 don't really know a lot about anything that he was talking
8 about in terms of the case. Do you remember any kind of
9 publicity relating to Mr. Evins at all?

10 A No.

11 Q If you would, could you kind of just tell me what
12 your views are on the death penalty, just in general,
13 generally speaking? Again, there's no right or wrong
14 answers.

15 A Well, I just feel like there's some crimes that
16 warrant it. If some people prove that they can't operate
17 in society, a lot of times that's the only way to
18 alleviate the burden they put on society.

19 Q When you said there's some crimes that warrant it,
20 what crimes specifically?

21 MR. BARNETTE: Objection, Your Honor, indicating --

22 THE COURT: Sustained.

23 BY MR. BROUGH:

24 Q Now, let me ask you this, Mr. Sanders, Judge Miller
25 has instructed you that this is sort of a -- potentially,

1 a two-part trial.

2 A Correct.

3 Q Now, we never have to get to the second part and we
4 may never get to the second part.

5 A Right.

6 Q But if we did, and the Defendant was found guilty of
7 murder and the State was able to prove an aggravating
8 circumstance, could you consider both the death penalty
9 and the possibility of life without parole?

10 A Yeah.

11 Q You also said a couple of other things I wanted to
12 ask you about. When Judge Miller asked you which type of
13 juror you were, you originally said that you would put
14 yourself in the middle somewhere. What did you mean by
15 that?

16 A Until all the mitigating circumstances are presented,
17 you can't really make your mind up. Isn't that right? I
18 mean --

19 Q Well, you understand that if the State were to prove
20 an aggravating circumstance that you never have to impose
21 the death penalty?

22 A Right. I understand that. I mean, it's you kind of
23 have to weigh the facts there.

24 Q But you understand that, you know, you could give
25 life for no reason at all, that that would always be an

1 option?

2 A Right. Yes.

3 Q And you also said something about degrees of
4 separation. I was just wondering if you could tell me
5 about that?

6 A Well, the way I understood the Judge's instructions
7 were the mitigating circumstances lessen the severity and
8 the aggravating circumstances increased it. And it seems
9 like somewhere there will be a balance struck there
10 between those two arguments, and that will determine
11 whether or not it should be life in prison or death.

12 Q I just want to ask you one other quick question --
13 actually, a couple of quick questions about some other
14 related issues. Do you believe that causing the death of
15 another person would always be a murder?

16 A If it's done purposefully, yes.

17 Q I guess my next question is -- which is kind of
18 unrelated, so just bear with me. Have you ever known
19 anybody who's been interracial dating?

20 A I didn't hear you.

21 Q Anyone that's been interracial dating?

22 A Yes. My wife's brother was married to a black woman.

23 Q And did you approve of that relationship or not?

24 A It wasn't for me to approve of what other people do.

25 Q Okay. Well, thank you.

1 A I mean, it didn't bother me, if that's what you want
2 to know. I couldn't care less as long as they're happy.

3 MR. BROUGH: Well, thank you very much.

4 I appreciate your time, Mr. Sanders.

5 THE COURT: All right. From the State?

6 MR. BARNETTE: May it please the Court, Your Honor?

7 THE COURT: Yes, sir.

8 EXAMINATION

9 BY MR. BARNETTE:

10 Q Good afternoon, Mr. Sanders.

11 A Good afternoon.

12 Q My name is Barry Barnette, along with me is Trey
13 Gowdy and John Anthony. We'll be presenting the State's
14 case.

15 Which golf course do you play on?

16 A Well, I belong to Greer Country Club and then went up
17 to Kleg Horne. And now, with work what it is, I just play
18 where I can, when I can

19 Q I understand. Well, I was just wondering if you
20 heard of Duff Gowdy on one of the golf courses out there?

21 A I don't believe so.

22 Q He likes going out and playing golf quite a bit. You
23 wish you had more time yourself, but it sounds like you're
24 busy?

25 A I would spend every daylight hour doing it if I had

1 the opportunity.

2 Q I understand. Going back, you had -- I know you've
3 been listening to the Judge very intently and listening to
4 the instructions and everything. Could you set aside all
5 biases and everything and listen to the Judge's
6 instructions and apply it to the facts as you hear them?

7 A Yes, I believe so.

8 Q And would you follow those instructions?

9 A Yes.

10 Q And you realize we would be -- there's a possibility
11 of two parts, going through the guilt phase as well as the
12 sentencing phase?

13 A Right.

14 Q And you'd consider all the evidence presented by both
15 sides --

16 A Yes.

17 Q -- and you would reach a verdict based on that?

18 A Yes.

19 Q And you realize that all murders aren't the same.
20 Some murders have aggravation to them and some don't. And
21 you understand that some can be classified as a death
22 penalty, like the Judge says, and some aren't?

23 A Yes.

24 Q And you would, like I said, review those factors as
25 you hear them in the sentencing phase from both sides?

1 A Yes.

2 Q And you would make a decision based on that?

3 A On the facts, yes, sir.

4 MR. BARNETTE: Thank you for answering my questions.

5 THE COURT: Mr. Sanders, would you mind stepping out
6 of the courtroom for just a minute, sir?

7 JUROR #320, PHILLIP SANDERS: Yes, sir.

8 (Pause.)

9 THE COURT: Any objection?

10 MR. BROUGH: Your Honor, the Defense objects to
11 Mr. Sanders as a potential juror.

12 By his own admission, the fact that his late wife had
13 been the victim of a sexual assault when she was a child
14 could very well trigger an emotional response for him.
15 One of the elements to be considered is criminal sexual
16 conduct, which is one of the charges being brought in this
17 case by the State. And we would object to Mr. Sanders for
18 that reason.

19 THE COURT: Okay. Well, I believe he answered that
20 he could put aside all passion, prejudice, and bias and
21 follow the law.

22 MR. BROUGH: Well, Your Honor --

23 THE COURT: Yes, he did. Mr. Barnette asked that
24 question.

25 MR. BROUGH: I would like to state for the record,

1 Your Honor, that he did indicate that it was foolish of
2 him, I believe were his words, to indicate that it would
3 not have potential impact on how he would receive the
4 testimony, Your Honor.

5 THE COURT: Okay. Well, I --

6 Go ahead, Mr. Barnette.

7 MR. BARNETTE: And, Your Honor, I just want to put on
8 the record, he's probably one of the most conscientious
9 jurors. He listened to exactly what you said. He
10 followed the law. He did exactly everything. He even
11 gave that information to let everybody know ahead of time
12 and followed your instructions to the T. I think he's a
13 perfect class of juror in this situation.

14 THE COURT: Well, I'm going to overrule your
15 objection. I think he is a qualified juror. He did
16 answer that he could put aside his passion and prejudice.
17 And I'll tell you this, he's a very credible man. I
18 believe that he would sincerely do that.

19 So, if you would, bring him back.

20 (Pause.)

21 THE BAILIFF: Step up to the bench, please, sir.

22 THE COURT: All right. Mr. Sanders, I have a little
23 memento for you to take home for the next couple of days.
24 You can read over it when you get home. It, basically,
25 says what I'm going to tell you right now. And that is,

1 you're still a qualified juror in the case. We are going
2 to finish qualifying the panel, then we will call the
3 qualified jurors back in for jury selection. I'm going to
4 let you go and let you take care of business for the next
5 day or two. I anticipate it will be two days from now
6 before we call the jury back in.

7 So, in the meantime, don't discuss the case with
8 anybody. Because an innocent comment from somebody you
9 trust or somebody you don't trust might infect your mind.
10 And we want a jury made up of people who are what I would
11 call pure of outside influences. And the decision really
12 ought to be made without -- based on the evidence
13 presented in this courtroom.

14 So don't read the newspaper with respect to this
15 case, don't watch television with respect to this case,
16 don't listen to the radio or anything like that. Don't do
17 any independent research.

18 Thank you.

19 I appreciate your patience.

20 (Juror #320, Phillip Sanders, was excused from the
21 courtroom.)

22 THE COURT: Yes, sir. Bring the next juror in.

23 (Juror #309, Pamela Ridings, a white female, was
24 seated.)

25 THE COURT: Hello, Ms. Ridings.

1 JUROR #309, PAMELA RIDINGS: Hello.

2 THE COURT: How are you?

3 JUROR #309, PAMELA RIDINGS: Fine. A little nervous.

4 THE COURT: You are? You're kidding me. If you
5 weren't nervous -- I've told this to everybody. If you
6 weren't nervous when you sat in that chair in this
7 courtroom with a big, old, mean judge like me up here and
8 these lawyers, there would be something wrong with you.
9 That is normal and natural. We all know that and
10 understand it and appreciate it. And we'll be very aware
11 of that when we discuss these things with you. So I want
12 you to feel as comfortable as you possibly can feel. I
13 promise you no one in here would ever try to embarrass you
14 or humiliate you in any way.

15 I will tell you that there's no test -- this is not a
16 test of anything at all. And this is -- in that regard,
17 there are no right answers and no wrong answers to these
18 questions. They're only your answers. And what we really
19 want are your full, truthful, complete answers to these
20 questions. We want -- you know, some of these questions
21 go to the root, I guess, you know, they get down in deep.
22 Because we're going to talk about, really, two things, two
23 categories of things. And the first is whether you know
24 anything about this case. And the second, which is the
25 one that's kind of personal, is your views on the death

1 penalty. And we'll discuss those with you. And in that
2 regard, there are no right or wrong answers. Okay.

3 JUROR #309, PAMELA RIDINGS: Okay.

4 THE COURT: So just whatever you truly feel and what
5 you truly believe in is all we're interested in.

6 JUROR #309, PAMELA RIDINGS: All right.

7 THE COURT: Now, for me to get at that first part
8 about finding out what you know about the case, I'm going
9 to go through the indictments with you very briefly. And
10 I remind you that these are not evidence and shouldn't be
11 considered evidence in any way. They are simply the
12 allegations that are typed on a piece of paper and bring
13 the case into court. That's all they are.

14 The first indictment is an indictment for murder.
15 And it alleges that Fredrick Antonio Evins did in
16 Spartanburg County on or about February 13th, 2003,
17 feloniously, willfully, and with malice aforethought kill
18 Rhonda Marie Ward. The second indictment is for
19 kidnapping. It alleges that Mr. Evins did at the same
20 date unlawfully seize or kidnap Rhonda Marie Ward. The
21 next indictment is for criminal sexual conduct. It
22 alleges that Mr. Evins did on the same date willfully and
23 unlawfully commit a sexual battery upon Rhonda Marie Ward.
24 And, finally, there's a grand larceny indictment, which
25 alleges that Mr. Evins did, the same date, February 13th,

1 2003, in Spartanburg County feloniously take and carry
2 away the 1993 Sentra Nissan and its contents that belonged
3 to Rhonda Marie Ward. Now, those are the allegations in
4 the indictments in this case, and that's what has brought
5 us to Court today.

6 We recognize that there has been publicity about this
7 case, media coverage and so forth. And so, the first
8 thing I want to know is, have you heard, read, or seen
9 anything about this case?

10 JUROR #309, PAMELA RIDINGS: I heard on Monday, just
11 very briefly, news, WSPA, you know, saying they were here.
12 And that was it.

13 THE COURT: Okay. Did you know you were going to be
14 part of it?

15 JUROR #309, PAMELA RIDINGS: No, sir, I did not. It
16 did not register.

17 THE COURT: Now, this event occurred, well, a year
18 and a half ago or so. Do you remember anything back in
19 February of 2003, any news accounts or anything like that?

20 JUROR #309, PAMELA RIDINGS: I do not.

21 THE COURT: All right. Well, very good. Let me tell
22 you that as we go through the case, something may pop up
23 and something may click and you may remember something
24 that you did hear from way back that just hadn't clued in
25 yet. And I want you to know that that's okay. But I want

1 you to know that under your oath, as a juror, you are
2 sworn to disregard anything that you may have read, seen,
3 or heard outside of this courtroom -- outside of what is
4 admitted evidence in the courtroom.

5 Do you understand that?

6 JUROR #309, PAMELA RIDINGS: Yes, sir.

7 THE COURT: And could you serve as a fair and
8 impartial juror and reach a verdict based solely on the
9 evidence presented here in the courtroom?

10 JUROR #309, PAMELA RIDINGS: Yes, sir.

11 THE COURT: Okay. Have you formed any kind of
12 opinion whatsoever about the facts of this case?

13 JUROR #309, PAMELA RIDINGS: No, sir.

14 THE COURT: Have you formed any opinion about the
15 guilt or innocence of Mr. Evins?

16 JUROR #309, PAMELA RIDINGS: No, sir.

17 THE COURT: Now, keeping in mind the legal principles
18 that I've talked to you about, the presumption of
19 innocence and the obligation of the State to prove guilt
20 beyond a reasonable doubt, depending on the facts and the
21 evidence that you hear -- that you will hear at trial or
22 would hear at trial and the law that I would give you,
23 could you find a defendant either guilty or not guilty
24 based on the evidence that you heard?

25 JUROR #309, PAMELA RIDINGS: Yes, sir.

1 THE COURT: Okay. Your mind is not made up one way
2 or the other?

3 JUROR #309, PAMELA RIDINGS: No, sir.

4 THE COURT: All right. Now, please remember, we
5 might not even get to the second phase of the trial, but
6 since we possibly could, we need to discuss your views on
7 the death penalty a little bit. Is that all right?

8 JUROR #309, PAMELA RIDINGS: Okay.

9 THE COURT: All right. I will tell you before that,
10 and it's kind of a prelude to that, if we get to the
11 second phase of a trial, it means that the jury -- the
12 same jury has already decided that the Defendant is guilty
13 of murder. So in the second phase, the jury would not be
14 discussing or exploring some legal defense about guilt
15 because guilt is already decided.

16 The only thing that the jury is going to do in the
17 second phase, if it gets that far, would be to determine
18 the appropriate sentence to give to the Defendant. And
19 those two -- the choices are life in prison or death. I
20 will further tell you what you will hear in the second
21 phase will be evidence of aggravation, which would tend to
22 increase the enormity of the crime or evidence -- and
23 evidence in mitigation, which would lessen the effect or
24 the enormity of the crime. Okay. That's what's going to
25 happen.

1 Now, your oath that you've sworn would require you to
2 abandon any preconceived notion that you have and to
3 follow the law that I would give to you. And your oath
4 would require that you give serious and meaningful
5 consideration to all the aggravating circumstances and all
6 the mitigating circumstances. Could you follow your oath
7 and do that?

8 JUROR #309, PAMELA RIDINGS: Yes, sir.

9 THE COURT: All right. Now, if you're a juror in the
10 second situation, in the sentencing phase of the trial,
11 where the jury has already decided guilt, could you, based
12 upon the particular facts and circumstances of that case
13 that you listened to, including all of the aggravating
14 circumstances and all of the mitigating circumstances and
15 the law that I would instruct you, could you return a
16 verdict of life imprisonment?

17 JUROR #309, PAMELA RIDINGS: Yes, sir.

18 THE COURT: Conversely, in that situation, in the
19 second phase of a trial, after the determination of guilt
20 on murder, could you, based on the -- depending on the
21 particular facts and circumstances of the case, including
22 any aggravating and mitigating circumstances and the law
23 that I would give you, could you return a sentence of
24 death?

25 JUROR #309, PAMELA RIDINGS: I don't know.

1 THE COURT: Okay. Well, let's talk about that a
2 little bit. Tell me how you feel about it. It's a very
3 difficult thing, a very serious thing and we understand
4 that.

5 JUROR #309, PAMELA RIDINGS: I would really have to
6 really think about it, you know. I think you should be
7 punished for any wrong that you have committed. But, you
8 know, I would just really have to weigh everything out and
9 put a lot of thought into it before I could do that.

10 THE COURT: Okay. Well -- and that is exactly what
11 jurors are supposed to do. This is not something that's
12 undertaken lightly or frivolously. We want every juror to
13 seriously and conscientiously listen to all the evidence,
14 the law, the facts, and to weigh it all and come to their
15 decision.

16 So my question is, having done that and listening to
17 all the particular facts and circumstances and the law
18 that I give you, could you give a verdict of death?

19 JUROR #309, PAMELA RIDINGS: Yes, sir.

20 THE COURT: Okay. Now, in the event that the jury
21 decides that death is the appropriate sentence, the law
22 requires that all 12 jurors sign the verdict form. So
23 could you sign your name to a death sentence verdict form?

24 JUROR #309, PAMELA RIDINGS: Yes, sir.

25 THE COURT: All right. Thank you.

1 Now, do you recall the sheet that listed the three
2 types of jurors?

3 JUROR #309, PAMELA RIDINGS: I do, yes, sir.

4 THE COURT: Where do you put yourself down in those
5 categories?

6 JUROR #309, PAMELA RIDINGS: The one where you would
7 discuss everything with us and then we would have to
8 decide based on the evidence.

9 THE COURT: Okay. So you don't have --

10 JUROR #309, PAMELA RIDINGS: I think that was maybe
11 Number 3.

12 THE COURT: Number 3. You don't have a preconceived
13 notion about the sentence?

14 JUROR #309, PAMELA RIDINGS: No, sir.

15 THE COURT: And you would want to hear everything and
16 think about everything and discuss it before you made a
17 decision?

18 JUROR #309, PAMELA RIDINGS: Yes, sir.

19 THE COURT: Okay. Now, if you're selected, could you
20 follow your oath to serve as a fair and impartial juror
21 and approach jury service with an open mind to find the
22 truth from the evidence and the law that I gave to you?

23 JUROR #309, PAMELA RIDINGS: Yes, sir.

24 THE COURT: Can you think of any reason why you could
25 not serve as a juror in this case?

1 JUROR #309, PAMELA RIDINGS: No, sir, I can't.

2 THE COURT: Well, great. I'm going to let the
3 attorneys question you in just a second. I want to tell
4 you that we're in the qualification process still. Once
5 we get the jurors qualified, then we'll call the qualified
6 jurors back to the courthouse and select the jurors, the
7 12 jurors and three alternates.

8 So when we do that, those persons will be
9 sequestered, which means they will be staying over across
10 the street -- you know, just over here at the Marriott,
11 the new Marriott. And we anticipate that they would be
12 there from five to seven days. And I just wanted to tell
13 you that.

14 And, now, I'm going to turn it over to the attorneys.

15 MR. ANTHONY: Thank you, Your Honor.

16 THE COURT: Yes, sir.

17 EXAMINATION

18 BY MR. ANTHONY:

19 Q Hey Ms. Ridings. How are you doing?

20 A Fine.

21 Q My name is John Anthony and I work for the
22 Solicitor's Office. And this is Barry Barnette and this
23 is Trey Gowdy. And the three of us are the attorneys
24 representing the State in this case.

25 And I just have a couple of things I want to ask you.

1 I saw from the questionnaire that you submitted that you
2 work at RSM?

3 A Yes, sir.

4 Q What is that? What kind of business is that?

5 A We're a textile chemical company. We were Adco
6 Industries and then Eastman Chemical. And we were sold on
7 August the 1st to RSM. We make textile chemicals for
8 mills.

9 Q Okay. And you're in customer service?

10 A Customer service, yes, sir.

11 Q So what exactly do you do?

12 A I answer the phone. I take orders from my customers,
13 enter the orders, and do the actual invoices for my
14 customers. I've been there 25 years.

15 Q Okay. Do y'all have -- I guess y'all have a pretty
16 much set client base that you have relationships with?

17 A Yes, sir.

18 Q And your husband, he works at Robinson Farms?

19 A He does. He worked at American Fast Print for 21
20 years. He was a supervisor. And they went out of
21 business. So he's been at Robinson Farms three or four
22 months. He buys produce for restaurants and schools,
23 Greenville County Schools and Spartanburg County schools.
24 So he has a customer base, also.

25 Q Okay. He -- now, how does that work? He works --

1 does the farm raise the produce?

2 A No, sir. They order it from California, Georgia. He
3 calls and places orders and the produce is delivered.

4 Q I see. So he's kind of like sort of the middle man?

5 A Right.

6 Q Like he buys the produce that the school system would
7 buy from Robinson Farms?

8 A Yes, sir.

9 Q I need to just ask you a few more questions about the
10 death penalty since that's what we're talking about here.
11 And the Judge has already asked you about it. When the
12 Judge asked you if you could impose the death penalty, you
13 said that you'd have to -- I think the words you used was
14 you'd have to weigh everything out and you'd have to think
15 real hard about it. And you said you thought you could --
16 if it was the appropriate thing to do, you thought you
17 could vote for a death verdict; is that correct?

18 A That's correct.

19 Q Okay. Well, let me just ask you, can you tell me
20 what your thought process is in feeling that way? Why --
21 how was it that you would come to reach that opinion that
22 that's how you would approach this?

23 A I would just make sure that I understood, you know,
24 all of the evidence, you know, I had no questions and that
25 I could live with my decision.

1 Q Okay. And do you think that that's a -- that in
2 certain circumstances that imposing the death penalty
3 ought to be an option that's available?

4 A No, not really.

5 Q Okay. And why is that?

6 A I don't know. I'm sorry. I don't know how to answer
7 you.

8 Q Well, let me just ask you, do you think that the
9 death penalty ought to be something -- do you think there
10 are some crimes that if a person commits them, they ought
11 to be subject to having death -- a death sentence imposed
12 on them?

13 A I guess maybe I look at some worse than others,
14 children, elderly people, you know. I know a death is a
15 death, but I look at some maybe, well, that's worse than
16 this one, you know. Maybe that's not the right thing to
17 do.

18 Q Okay. Well, would it -- would your evaluation of
19 that be limited to situations where it's a child or
20 elderly person?

21 A No. If I understand everything that has happened and
22 without a shadow of a doubt, you know, I have no
23 questions, then, you know, I could say, you know, yes, you
24 deserve the death penalty.

25 Q Okay. And you understand that -- or I just want to

1 myself. We appreciate you being here and filling out the
2 questionnaire and appreciate your honesty in a kind of a
3 nervous situation. I've been doing this 28 years and I
4 get nervous every time I walk in here. That's fine.

5 I'm Tam Boggs. I'm one of the attorneys representing
6 Mr. Evins, along with Karen Quimby and Chris Brough. We
7 appreciate again your fulfilling your civic duty.

8 Thank you, ma'am.

9 THE COURT: All right. Ms. Ridings, could you step
10 out into the hall for just one second for me. I'll be
11 right back with you.

12 JUROR #309, PAMELA RIDINGS: Yes, sir.

13 (Pause.)

14 THE COURT: All right. Do we have any objections?

15 MR. BOGGS: None, Your Honor.

16 MR. ANTHONY: Not from the State, Your Honor.

17 THE COURT: Okay. Bring her on back.

18 (Pause.)

19 THE COURT: Come on around over here. You don't have
20 to get back into that chair.

21 JUROR #309, PAMELA RIDINGS: Okay.

22 THE COURT: I'm going to give you that to take home
23 and read when you get home. I wanted to tell you that you
24 continue to be a qualified juror in the case and eligible
25 to serve. And what that means is that we've got to finish

1 qualifying the jury and then we will call you back for the
2 jury selection. Okay. I anticipate that will probably be
3 Thursday. Okay.

4 JUROR #309, PAMELA RIDINGS: Okay.

5 THE COURT: So in the meantime, don't read, look at,
6 or listen to anything about this case. And please don't
7 discuss it with anyone. Because even an innocent comment
8 from someone who you know and trust and love could infect
9 your mind. And that person is not going to be in this
10 courtroom listening to the evidence and watching the
11 testimony and all that. And the only people we want to
12 have an impact on the decision in this case are those
13 people who are sworn jurors who get a first-hand view of
14 this case.

15 Thank you very much.

16 JUROR #309, PAMELA RIDINGS: Thank you.

17 (Juror #309, Pamela Ridings, was excused from the
18 courtroom.)

19 THE COURT: Bring the next juror in, please.

20 (Juror #108, Lizzie Frawley, a black female, was
21 seated.)

22 THE COURT: Ms. Frawley, how are you?

23 JUROR #108, LIZZIE FRAWLEY: I'm fine.

24 THE COURT: Let me just before we get started make a
25 few comments to you about the situation you find yourself

1 in. I'm just guessing that you might feel a few
2 butterflies in your stomach.

3 JUROR #108, LIZZIE FRAWLEY: Yes.

4 THE COURT: And as I've told everybody so far, that
5 is completely normal and natural. And everyone in here
6 understands it. And I suspect that everyone in here goes
7 through the same thing that you're going through right
8 now. So don't worry about that. And I want you to be as
9 comfortable as you possibly can be. I want you to know
10 that I promise you no one will embarrass you or humiliate
11 you in any way on the witness stand. That will not happen
12 in this courtroom.

13 And I want to tell you that we're going to ask you
14 some questions and cover some information. And the basic
15 subject matter that we're going to cover will include
16 whether or not you know anything about this case and, if
17 so, what you know. And then, secondly, sort of a private
18 personal feeling, we're going to ask to discuss your views
19 on the death penalty. So that's the general subject
20 matter we're going to talk about. There might be some
21 other things that we generally talk about, but that's the
22 real meat and potatoes of what we're going to do.

23 JUROR #108, LIZZIE FRAWLEY: Okay.

24 THE COURT: I want to tell you, there is no test that
25 you're going to take. You're not being put to a test.

1 There are no right answers and there are no wrong answers
2 to any of these questions. The correct answer is your
3 full, accurate, truthful answer.

4 JUROR #108, LIZZIE FRAWLEY: Okay.

5 THE COURT: And we'll be looking really for your
6 heartfelt response to these very difficult questions.

7 JUROR #108, LIZZIE FRAWLEY: Okay.

8 THE COURT: And I want you to know that your
9 answer -- your heartfelt, truthful answer is the right
10 answer. Okay.

11 JUROR #108, LIZZIE FRAWLEY: Okay.

12 THE COURT: And before I can do that -- before we get
13 started, I need to just tell you a little bit more about
14 the facts of the case, the allegations of the case.

15 JUROR #108, LIZZIE FRAWLEY: Okay.

16 THE COURT: And I'm going to do that by going through
17 the indictments with you a little bit. I remind you that
18 the indictments are not evidence and may not be considered
19 evidence by anybody. They are allegations typed on a
20 piece of paper that brings this case through the system
21 and us end where we are, here in court. That's all it is,
22 a vehicle to get us here.

23 So the first one is an indictment for murder. It
24 alleges that the Defendant, Fredrick Antonio Evins, did in
25 Spartanburg County on or about February 13th of 2003,

1 feloniously, willfully, and with malice aforethought kill
2 Rhonda Marie Ward. The next indictment is for kidnapping.
3 It alleges that Mr. Evins did at the same time -- or on
4 the same date unlawfully seize or kidnap Rhonda Marie
5 Ward. The next one, the next indictment is for criminal
6 sexual conduct. It alleges that Mr. Evins did on the same
7 date unlawfully and willfully commit a sexual battery upon
8 Rhonda Marie Ward. And, finally, the last indictment is
9 for grand larceny. It alleges that Mr. Evins did on the
10 same date, that is February 13th of 2003, feloniously
11 carry away the 1993 Nissan Sentra and its contents
12 belonging to Rhonda Marie Ward.

13 Now, we recognize that there has been a fair amount
14 of media coverage on these -- about these events. And my
15 first question to you is, have you heard, read, or seen
16 anything about the facts in this case?

17 JUROR #108, LIZZIE FRAWLEY: No, I have not.

18 THE COURT: Okay. Well, let me tell you then with
19 respect to that, it may be that through the questioning,
20 something will come up or if you're selected as a juror
21 that something may come up in the trial that sparks your
22 memory and you remember, oh, gosh, I did see that. I did
23 hear something about that. That's okay.

24 But what you have to do and what your oath, as a
25 juror, requires of you is that you disregard anything that

1 you have heard, read, or seen outside of this courtroom
2 and your oath will be to decide the case strictly and
3 solely from the evidence that is presented in the
4 courtroom.

5 Do you understand that?

6 JUROR #108, LIZZIE FRAWLEY: I do.

7 THE COURT: Okay. Now, I want to ask you, could you
8 serve as a fair and impartial juror and reach a verdict
9 based on the facts presented at trial in accordance with
10 my instructions on the law?

11 JUROR #108, LIZZIE FRAWLEY: Yes. I think I could.

12 THE COURT: Okay. Now, I would ask you, have you
13 already formed an opinion about the facts of this case?

14 JUROR #108, LIZZIE FRAWLEY: No.

15 THE COURT: All right. Have you formed an opinion
16 about the guilt or innocence of Mr. Evins?

17 JUROR #108, LIZZIE FRAWLEY: No.

18 THE COURT: Okay. Now, keeping in mind the legal
19 principles I've talked to you about, the presumption of
20 innocence and the State's obligation to prove a case
21 beyond a reasonable doubt, could you, depending upon the
22 facts and the evidence presented at trial and the law that
23 I would instruct you, could you find a verdict -- a
24 defendant guilty or not guilty depending on the facts?

25 JUROR #108, LIZZIE FRAWLEY: I think, yeah, I could.

1 THE COURT: In other words, you don't have a -- do
2 you have a preconceived notion?

3 JUROR #108, LIZZIE FRAWLEY: No, I don't.

4 THE COURT: You would listen to the facts before you
5 made a decision?

6 JUROR #108, LIZZIE FRAWLEY: Yes.

7 THE COURT: Now, remember, we may not reach the
8 second phase of the trial, which is the sentencing phase,
9 we may not get there, but there's a possibility that we
10 might. And because of that, I need to talk to you
11 somewhat about your views on the death penalty.

12 Do you understand that?

13 JUROR #108, LIZZIE FRAWLEY: Uh-huh.

14 THE COURT: Now, I will tell you just as kind of a
15 background, when we move to the sentencing phase, the
16 jury -- the same jury that will decide the sentence has
17 already decided that the Defendant is guilty of murder.
18 Okay. So you don't get to the second phase unless the
19 jury has already made that determination that the
20 Defendant is guilty of murder. So in the second phase,
21 you would not be discussing or exploring a legal defense,
22 because that's already been done in the first phase.

23 What you would do in the second phase -- deliberate
24 on in the second phase would be aggravating circumstances
25 and mitigating circumstances as presented in the

1 courtroom. That's what you would do. Now, your oath
2 would require you to abandon any preconceived notions that
3 you might have and to follow the law as I instruct it to
4 you. In other words, you would be required under your
5 oath to give serious and meaningful consideration to both
6 the mitigating circumstances and the aggravating
7 circumstances. Could you follow your oath and do that?

8 JUROR #108, LIZZIE FRAWLEY: I could.

9 THE COURT: Okay. Now, imagine yourself as a juror
10 in that situation, that is in the second phase of the
11 trial where guilt of murder has already been established,
12 depending upon the particular facts and circumstances of
13 the case, including the consideration of aggravating and
14 mitigating circumstances and the law that I would instruct
15 you that applies, could you return a sentence of life in
16 prison?

17 JUROR #108, LIZZIE FRAWLEY: Yes, I could.

18 THE COURT: Okay. Now, in that same situation, guilt
19 established of murder, and you're a juror in the second
20 phase, depending on the particular facts and circumstances
21 of the case, including all the circumstances of
22 aggravation and mitigation and the law that I would give
23 you, could you return a sentence of death?

24 JUROR #108, LIZZIE FRAWLEY: Yes, I could.

25 THE COURT: All right. Now, in the event of a death

1 sentence -- that the jury decided to return a sentence of
2 death, which has to be unanimous, the law requires that
3 each of the 12 jurors sign their name to a verdict form.
4 Could you -- in that event, could you sign your name to a
5 death sentence verdict form?

6 JUROR #108, LIZZIE FRAWLEY: Yes, I could.

7 THE COURT: Okay. Thank you.

8 Now, do you recall that list that I gave you about
9 the three types of jurors?

10 JUROR #108, LIZZIE FRAWLEY: I do.

11 THE COURT: Which type do you consider yourself to
12 be?

13 JUROR #108, LIZZIE FRAWLEY: Number 3.

14 THE COURT: Okay. You would want to hear all the
15 facts and circumstances before you made a decision?

16 JUROR #108, LIZZIE FRAWLEY: Yes, sir.

17 THE COURT: You're not predisposed one way or the
18 other?

19 JUROR #108, LIZZIE FRAWLEY: No.

20 THE COURT: Now, if you're selected, would you honor
21 your oath and serve as a fair and impartial juror and
22 approach jury service with an open mind to find the truth
23 from the evidence and the law as I gave it to you?

24 JUROR #108, LIZZIE FRAWLEY: I would.

25 THE COURT: Do you know of any reason why you could

1 not serve in this case?

2 JUROR #108, LIZZIE FRAWLEY: No, sir.

3 THE COURT: Great. I'm going to let the lawyers
4 question you in just one second. I want to tell you that
5 before that comes up, though, that we're qualifying --
6 we're in the qualifying process right now. When we get
7 enough qualified jurors, then we will call the jurors back
8 in and select 12 jurors and three alternates. Those
9 people who are selected will be sequestered, which I told
10 you about yesterday. And they will be staying over at the
11 Marriott, the new Marriott Hotel. And we anticipate it
12 could be anywhere from five to seven days. So I just
13 wanted to tell you that beforehand.

14 So, at this time, I'm going to turn it over to the
15 attorneys.

16 EXAMINATION

17 BY MR. BOGGS:

18 Q Hello, Ms. Frawley. How are you today?

19 A I'm fine.

20 Q My name is Tam Boggs. I'm one of the attorneys
21 representing Mr. Evins, along with Karen Quimby, who's the
22 lady seated here, and Chris Brough. I appreciate you
23 participating and appreciate your cooperation in sending
24 this back and appreciate you fulfilling your civic duty.
25 I've just got a couple of little questions that I want to

1 ask you. Judge Miller has covered most of everything
2 that's applicable to your particular situation as being a
3 potential juror?

4 But I noticed in your questionnaire that you have
5 been or presently are in a supervisory position having
6 control of up to 40 people at a time?

7 A Well, in the past. I have a new role now, I'm a
8 sales associate.

9 Q But in the past you've had --

10 A Yeah, I have.

11 Q And as a result of that, you must be more of a leader
12 than a follower?

13 A Yeah. I guess you could say that.

14 Q You're kind of grinning. I get the feeling you may
15 be kind of strong-willed; is that right?

16 A Yeah.

17 Q Well, that's good. We want people on juries that
18 have convictions about things and you look at something,
19 make a decision, and stick with that. So that's good. I
20 didn't mean to back away when you said that.

21 A That's okay.

22 Q I also noticed that apparently you like to spend a
23 lot of time with your granddaughter?

24 A I do.

25 Q They're kind of neat, aren't they?

1 A Yes.

2 Q What kind of activities do you and she get to
3 participate in?

4 A We go to the park and we dress up like princesses and
5 do little stuff like that. I like to spend time with her.

6 Q Well, you boss 40, but I'll bet she can boss you
7 around pretty good?

8 A Oh, yes, yes.

9 Q And I also saw -- and just a couple of questions --
10 that, apparently, you participate pretty heavily in your
11 church and lend services as far as counseling?

12 A I do.

13 Q And I noticed that you counsel both -- it looked like
14 younger children and teenagers; is that right?

15 A Yes.

16 Q And when you say counseling, is this some -- you're
17 available if they've got a problem, they can come talk to
18 you about it? Is that the type?

19 A Yeah, kind of like a parent, you know. Some of them
20 can't share with their parents and they can share with an
21 adult.

22 Q So you can act almost as a release for them?

23 A Yeah.

24 Q And this is a volunteer-type thing with the church?

25 A It is.

1 MR. BOGGS: That's good. That's very admirable.

2 I don't think I have any other questions, but I
3 appreciate you being here and thank you for answering the
4 questions.

5 THE COURT: All right.

6 MR. GOWDY: May it please the Court, Your Honor?

7 THE COURT: Yes, sir.

8 EXAMINATION

9 BY MR. GOWDY:

10 Q Good evening, Ms. Frawley.

11 A Good evening.

12 Q How are you?

13 A Just fine.

14 Q My name is Trey Gowdy. That's John Anthony to your
15 left, and Barry Barnette in the middle. The three of us
16 represent the State in this case. I, too, want to thank
17 you for filling out your questionnaire and answering what
18 probably seem to be personal questions. If I were to meet
19 you at Wal-Mart or somewhere, I don't know that I would
20 have asked you those questions. And I doubt very
21 seriously you would have stuck around answering them. But
22 this is different and we're all grateful to you for it.

23 I want to ask you a couple of questions. Because you
24 did do such a good job of filling out your questionnaire
25 and you provided us with a lot of detailed information.

1 You listen to WLFJ?

2 A I do.

3 Q How long have you been listening to that radio
4 station?

5 A 16 years.

6 Q Do you ever listen in the mornings to a guy named
7 Britt Miller?

8 A I do.

9 Q Would you hold it against me if that was my
10 brother-in-law?

11 A No, I wouldn't. I like Britt Miller.

12 Q I do, too. He's on Saturday nights now. They put in
13 a different kind of music, which I don't listen to much,
14 on Saturday nights.

15 A I like him.

16 Q Where do you live? You describe it as Mayberry, and
17 I want to move there.

18 A Glendale. It's a little town. You go to the post
19 office and when you forget to put a stamp on your mail,
20 they put it on it for you and they know you by name.
21 That's why I call it Mayberry.

22 Q That's sound like a wonderful place to live.

23 A It is.

24 Q I, too, notice that you were very active in your
25 church. And because of your answers to the questions

1 about dealing with your grandchildren -- or your
2 granddaughter, watching movies and things like that, and
3 also, the counseling you do, one could not help but
4 believe that you were a very kind and
5 compassionate-hearted person, which is wonderful.

6 But I've got to ask, this is a death penalty case --

7 A Uh-huh.

8 Q -- and I heard you answer Judge Miller that if you
9 thought that death was the right sentence that you could
10 do it?

11 A Uh-huh.

12 Q I just want to ask you, are you sure?

13 A Yes, I'm sure.

14 Q Does your church have a position on the death
15 penalty? Does your faith dictate one position or the
16 other? Or where does your belief on the death penalty
17 come from?

18 A It comes from deep within. Because I believe that if
19 like someone has an aggravated nature and if they take a
20 life, I believe -- I know that I could come to that
21 conclusion. I think everybody is innocent until proven
22 guilty. And there's things that drive people to do
23 things. And I believe that based upon my own conviction,
24 I know I could come to the death penalty.

25 We all have our own convictions. You can't just go

1 by what your church believes or what -- you've got to go
2 by what your own conviction is. And my own conviction is
3 that everybody is innocent until proven guilty and upon
4 guilt, in certain situations, that people do deserve the
5 death penalty. That's what I believe.

6 MR. GOWDY: I couldn't have answered it better
7 myself.

8 Thank you. I appreciate it, especially the late
9 hour.

10 Thank you.

11 THE COURT: All right. Ms. Frawley, could you just
12 step outside in the hall for one second for me, please?
13 I'll get right back with you.

14 (Pause.)

15 THE COURT: All right. Any objection to Ms. Frawley?

16 MR. GOWDY: Not from the State, Your Honor.

17 MR. BOGGS: None from the Defense.

18 THE COURT: All right. Bring her on back.

19 (Pause.)

20 THE BAILIFF: Come right on back, and this time go up
21 to the bench.

22 THE COURT: That was pretty quick.

23 JUROR #108, LIZZIE FRAWLEY: Oh, I know it.

24 THE COURT: I'm going to let you take that home and
25 read that. What I want to tell you is that you continue

1 to be a qualified juror and eligible to serve in this
2 case. As such, you remain under oath. And we're not
3 going to sequester you at this time, but your oath still
4 stands. Please do not listen to, read, or watch anything
5 with respect to this case. Okay.

6 JUROR #108, LIZZIE FRAWLEY: Okay.

7 THE COURT: Please do not discuss this case with
8 anyone.

9 JUROR #108, LIZZIE FRAWLEY: All right.

10 THE COURT: And the reason we ask that is because we
11 want your unsullied view, as a juror, if you were selected
12 to serve. And an innocent comment from even your
13 granddaughter might impact you in your decision. And it
14 wouldn't be fair, because the only evidence under our
15 Constitution that can be considered is that sworn evidence
16 presented in this courtroom.

17 JUROR #108, LIZZIE FRAWLEY: Okay.

18 THE COURT: All right. We'll be back in touch. I
19 anticipate it will be Thursday before we call you back.

20 Thank you very much.

21 (Juror #108, Lizzie Frawley, was excused from the
22 courtroom.)

23 THE COURT: Let's take a break.

24 (WHEREUPON, a break was taken.)

25 THE COURT: All right. Is everybody ready?

1 MR. BOGGS: Yes, sir.

2 MR. GOWDY: Yes, Your Honor.

3 THE COURT: Before we go on to Ms. Norma McMakin, we
4 want to discuss Juror #281, Rita Pearson.

5 Now, this is a lady who has -- well, let me turn it
6 over to the Solicitor.

7 I understand you have some information about her
8 prior criminal history?

9 MR. GOWDY: Your Honor, if it please the Court.

10 Yesterday, it showed up on our juror list that she
11 had suffered a conviction. So we brought that to the
12 Court's attention and she was brought up to the bar for
13 the Court to examine. I would add that both on the face
14 of her questionnaire and the body of the questionnaire,
15 she made no mention of ever being arrested, much less
16 convicted. But sometimes NCIC is incorrect, so we brought
17 it forward.

18 She acknowledged a difficulty with the postal
19 service, but said she was not convicted of it. I called
20 Pat Culbertson, who Your Honor knows and I know is the
21 head of probation for the Feds. Kim Paschal reported back
22 to one of my employees that it would be a week to get a
23 1992 case out of archives.

24 THE COURT: And Kim Paschal is?

25 MR. GOWDY: She's a federal probation officer,

1 probably in the leadership position in Greenville --

2 THE COURT: Head of the office, I believe.

3 MR. GOWDY: Yes, sir.

4 What I did get, which is somewhat legible and
5 somewhat not, is a sentence of one year, execution
6 suspended and placed on probation for four years with a
7 fine. The way this statute, which is 18-USC-1711, reads a
8 felony or misdemeanor in the Federal system is contingent
9 upon the amount of loss or the amount alleged. I don't
10 have the information on the indictment. I can't say that.

11 Even if it were a misdemeanor, giving her the benefit
12 of the doubt right now, my position would be since she
13 three different times misrepresented the facts to the
14 Court, I think she should be disqualified on that basis
15 alone.

16 THE COURT: Mr. Boggs, anything you want to tell me
17 about it?

18 MR. BOGGS: Nothing, other than we were present -- of
19 course, we've had the documents, the questionnaires, et
20 cetera. The Solicitor had provided us with the
21 information relative to the conviction and we were present
22 when she represented to the Court she did not have a
23 conviction.

24 THE COURT: Okay. Have you had an opportunity to
25 review this document?

1 MR. BOGGS: Yes.

2 THE COURT: We will admit it as a Court's exhibit.
3 And I am going to -- out of an abundance of caution, I'm
4 going to disqualify her. We don't know if she's got a
5 felony conviction. It certainly appears as if she may
6 qualify for having a felony conviction. But her
7 misrepresentation of a prior criminal history will be the
8 basis for my disqualification of this juror.

9 And I understand you all may except to that rule; is
10 that correct? Or do you? I don't know. Just leave it up
11 the Court's discretion?

12 MR. BOGGS: We're leaving it up to the Court's
13 discretion. All I'm saying is we've been made available
14 all the documents on which the Court would make a ruling.

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

16 MR. GOWDY: In that regard, Your Honor -- and I'm
17 happy to make this a part of the record, also -- would be
18 the front sheet, which is asking, have you ever been
19 convicted of a crime other than a minor traffic offense?
20 She checked no. And then on the question as it relates to
21 the arrest, including family or anyone else or even
22 accused of a crime, not convicted, but accused greater
23 than a speeding ticket or minor traffic violation, she
24 checked no. And I would make that available, also.

25 THE COURT: Are we ready to go with Ms. McMakin?

1 MR. GOWDY: I think so, Your Honor.

2 THE COURT: Bring the next juror in, please.

3 (WHEREUPON, Court's Exhibit Nos. 5 and 6 were marked
4 for identification and admitted into evidence.)

5 (Juror #244, Norma McMakin, a white female, was
6 seated.)

7 THE COURT: Ms. McMakin, welcome back to the
8 courtroom.

9 JUROR #244, NORMA MCMAKIN: Thank you.

10 THE COURT: I appreciate your patience. This is
11 later than I anticipated. One of my many faults as a
12 judge is I don't have a good grasp of time. But this is a
13 very solemn, important matter that we're here on, so we
14 didn't want to -- no one wants to hurry through this. We
15 want to be thorough and precise in what we do. So that's
16 why we're running behind. So I appreciate your patience.
17 And we'll be through with you before you know it.

18 Let me ask you the first question, are you a little
19 bit nervous?

20 JUROR #244, NORMA MCMAKIN: A little bit, yes, sir.

21 THE COURT: And I've told everyone that if you're
22 sitting in that chair looking at this array of individuals
23 and you're not nervous, there's probably something wrong
24 with you. So it's normal and natural for you to feel a
25 little anxiety sitting where you sit. And I'd like to

1 resolve that completely for you and take it completely
2 away, but I probably can't do that. But I want you to
3 understand that as a -- what we're going to do is go
4 through a series of questions with you. And the subject
5 matter really covers two subjects.

6 And the first one is -- concerns your knowledge or
7 lack of knowledge about this case. The second one is a
8 little more personal and goes to some, maybe, deeply held
9 opinions or beliefs that you might have. But it's
10 essential that we talk about that, and that's your opinion
11 or views on the death penalty. Okay. I promise you -- I
12 will make a couple of promises to you. I promise that no
13 one in here will cause you to suffer embarrassment or
14 humiliation.

15 I promise you that there are no right or wrong
16 answers to the questions that will be put to you. I say
17 that with everybody. And the only right answer you can
18 give is your truthful, complete, and accurate answer.
19 That is the right answer. Okay. There's no litmus test
20 here. There's no test of any kind. There's no judgment
21 that will be passed on the answers you give. Okay.

22 JUROR #244, NORMA MCMAKIN: Yes, sir.

23 THE COURT: And I hope you understand that. The
24 importance of this matter requires that we ask these
25 questions, and you be as truthful with us as you possibly

1 can be.

2 JUROR #244, NORMA MCMAKIN: Yes, sir.

3 THE COURT: In order for me to explain to you the --
4 to talk about the case, I need to go through the
5 indictments. I read them to you a little bit. I'm going
6 to briefly go through them so you have a little better
7 understanding of what the allegations are in this case.
8 And I reemphasize that the indictments are not evidence
9 and should not be considered evidence in any way by you.
10 They merely are written allegations contained on a sheet
11 of paper which allows this case to weave its way through
12 the system and end up where we are today and brings this
13 case to court.

14 The first indictment is for murder. It alleges that
15 Fredrick Antonio Evins did in Spartanburg County on or
16 about February 13th, 2003, feloniously, willfully, and
17 with malice aforethought kill Rhonda Marie Ward. The next
18 indictment is an indictment for kidnapping. It alleges
19 that Mr. Evins did on or about the same date unlawfully
20 seize or kidnap Rhonda Marie Ward. The next indictment is
21 for criminal sexual conduct. It alleges that Mr. Evins
22 did on the same date willfully and unlawfully commit a
23 sexual battery upon the victim, Rhonda Marie Ward. And,
24 finally, the last indictment is for grand larceny. It
25 alleges that Fredrick Evins did on the same date in

1 Spartanburg County, and that is February 13th of 2003,
2 feloniously take and carry away the 1993 Nissan Sentra and
3 its contents belonging to Rhonda Marie Ward.

4 Now, ladies and -- excuse me. It been a long day.
5 My voice is going. My brain has probably gone long ago,
6 so forgive me if I make a few misstatements.

7 Those are just allegations and they're not proof of
8 anything. But that gives you a basis for why we're here
9 in court today.

10 Now, I want to ask you, we recognize there has been
11 publicity about this matter on television, the radio, and
12 in the newspaper. So the first thing I'd like to know is
13 have you heard, seen, or read anything about this case.

14 JUROR #244, NORMA MCMAKIN: Yes, sir, I have.

15 THE COURT: Okay. Tell me a little bit about that,
16 if you would.

17 JUROR #244, NORMA MCMAKIN: I read about it in the
18 Spartanburg Herald. I read the entire column, but it did
19 not give any facts or circumstances. It just briefly
20 talked about the case.

21 THE COURT: When did you read this?

22 JUROR #244, NORMA MCMAKIN: Monday before this
23 hearing.

24 THE COURT: All right. Have you ever heard anything
25 else about this case?

1 JUROR #244, NORMA MCMAKIN: No, sir, I haven't.

2 THE COURT: All right. And, now, let me tell you
3 that you will -- if you're selected, as a juror, you will
4 swear an oath and you've sworn an oath today, which
5 requires you to disregard anything you've read, heard, or
6 seen about this case outside of this courtroom. And the
7 reason for that is that we want to -- the law and the
8 Constitution of our country and our state require that a
9 jury decide facts based only on the evidence that is
10 presented in a courtroom, evidence which is subject to
11 being under oath and also subject to the Constitutional
12 scrutiny that is laid down by our forefathers. So that's
13 why you have to put aside anything you've read, heard, or
14 seen and decide the case only on evidence in the
15 courtroom.

16 So let me ask you, could you serve as a -- and would
17 you serve as a fair and impartial juror and reach a
18 verdict based on the facts presented at trial in
19 accordance with the instructions that I would give you on
20 the law?

21 JUROR #244, NORMA MCMAKIN: Yes, sir, I would.

22 THE COURT: Have you in any way, large, small, or in
23 any manner formed an opinion as to the facts of this case?

24 JUROR #244, NORMA MCMAKIN: No, sir. I don't know
25 the facts.

1 THE COURT: Okay. And have you in any way, manner,
2 shape, or form formed an opinion as to the guilt or
3 innocence of Mr. Evins?

4 JUROR #244, NORMA MCMAKIN: No, sir. I don't know
5 the circumstances or the facts.

6 THE COURT: Okay. Great. Thank you.

7 Now, keeping in mind the legal principles that I've
8 talked to you about, the presumption of innocence and the
9 State's obligation to prove guilt beyond a reasonable
10 doubt, could you, depending on the facts and circumstances
11 that would be presented at trial along with the law I
12 would give you, could you give a verdict of guilty or not
13 guilty depending on what the evidence showed you?

14 JUROR #244, NORMA MCMAKIN: Depending on the evidence
15 and facts and the circumstances, yes, sir.

16 THE COURT: So is your mind made up one way or the
17 other?

18 JUROR #244, NORMA MCMAKIN: No, sir, it's not.

19 THE COURT: Very good. Now, please remember, we may
20 not get to the second phase of the trial I've described to
21 you as the sentencing phase, but since we possibly could,
22 I need to ask you questions about your views on the death
23 penalty.

24 Do you understand that?

25 JUROR #244, NORMA MCMAKIN: Yes, sir.

1 THE COURT: When a jury -- a little background.
2 Again, I know I've told you a couple of times about this,
3 but it's so important, we need to do it again. When a
4 jury moves to the sentencing phase of a trial, it means
5 that that same jury has already been through the first
6 phase of the trial and found the defendant, whoever that
7 defendant might be, guilty of murder. So in the second
8 phase, the jury, when they're deliberating, is not
9 concerned with exploring or questioning any legal
10 defenses, because they've already determined that the
11 defendant is guilty of murder.

12 Now, in the second phase of the trial, you would only
13 hear evidence that would show aggravating circumstances or
14 mitigating circumstances. And, as you remember,
15 aggravating means to increase the enormity of the crime,
16 and mitigating means to lessen the responsibility or the
17 culpability of the crime. So that's all you would hear in
18 the second phase.

19 Now, your oath would require you to abandon any
20 preconceived notions you might have and to follow the law
21 as I instruct it to you. In other words, your oath would
22 require you to give serious and meaningful consideration
23 to the aggravating circumstances and the mitigating
24 circumstances. Could you follow your oath and do that?

25 JUROR #244, NORMA MCMAKIN: Yes, sir, I could.

1 THE COURT: Okay. Now, imagine that you are a juror
2 in that situation, that is the second phase of the trial,
3 wherein the first phase, guilt of murder has already been
4 determined by the jury. Could you, depending upon the
5 particular facts and circumstances that you would hear
6 about in that trial, along with all of the mitigating
7 evidence and all of the aggravating evidence and the law
8 that I will instruct you on, could you return a sentence
9 of life in prison?

10 JUROR #244, NORMA MCMAKIN: Yes, sir, I could.

11 THE COURT: All right. Now, by the same token, as a
12 juror in that same situation, could you, depending upon
13 the particular facts and circumstances of the case,
14 including the consideration of aggravating and mitigating
15 circumstances and the law that I would give you, could you
16 return a sentence of death?

17 JUROR #244, NORMA MCMAKIN: I hate for anyone to lose
18 their life, but if the circumstances and the facts warrant
19 that, then I would be able to.

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

21 Now, let me tell you, if the jury decided -- and it
22 would have to be a unanimous decision, that the death
23 sentence was the appropriate sentence, the law requires
24 all 12 jurors to sign the verdict form. So could you, in
25 that event, sign your name to a death sentence verdict?

1 JUROR #244, NORMA MCMAKIN: Yes, sir, I could.

2 THE COURT: All right. Thank you, ma'am.

3 Now, do you recall the three types of jurors on that
4 sheet that I asked you to read?

5 JUROR #244, NORMA MCMAKIN: Yes, sir.

6 THE COURT: Where would you put yourself in that
7 group?

8 JUROR #244, NORMA MCMAKIN: Number 3.

9 THE COURT: All right. So you consider yourself to
10 be the type of juror that is -- that doesn't have a
11 preconceived notion and you would want to hear all of the
12 evidence and all of the facts before you made a decision?

13 JUROR #244, NORMA MCMAKIN: That's correct.

14 THE COURT: Okay. Now, let me just ask you, finally,
15 if you're selected, would you honor your oath as -- and
16 serve as a fair and impartial juror and approach jury
17 service with an open mind to find the truth from the
18 evidence and to apply the law as I instructed it?

19 JUROR #244, NORMA MCMAKIN: Yes, sir, I could.

20 THE COURT: All right. Can you think of any reason
21 why you could not serve in this case?

22 JUROR #244, NORMA MCMAKIN: No, sir, I can't.

23 THE COURT: All right. Then I'm going to turn -- let
24 the attorneys question you in just a second. But I want
25 to make you are aware that we're going through the

1 qualification process right now. When we get through the
2 qualification process, then -- and we have enough
3 qualified jurors, we will call them back to the courthouse
4 and we will select the final jury, 12 persons for the jury
5 and three alternates. Those persons will then be
6 sequestered. And that means they will stay at the
7 Marriott, the new Marriott Hotel, right up the street
8 here. And we anticipate that that stay might be anywhere
9 from five to seven days. I just wanted to let you know
10 that. Okay.

11 At this time, I will turn the questioning over to the
12 attorneys.

13 MR. ANTHONY: Thank you, Your Honor.

14 EXAMINATION

15 BY MR. ANTHONY:

16 Q Ms. McMakin, hey.

17 A Hey.

18 Q My name is John Anthony. This is Barry Barnette, and
19 this is Trey Gowdy. We're the three lawyers that are
20 representing the State in this case. I've got just a few
21 questions I'd like to ask you.

22 A Okay.

23 Q I read the questionnaire that you sent in and we
24 appreciate you taking the time to fill this out.

25 Are you in school now?

1 A Not this term, no, sir. But, hopefully, I will be in
2 the spring term.

3 Q You're still at Furman?

4 A Yes, sir.

5 Q And you're majoring in business administration; is
6 that right?

7 A That's correct.

8 Q Okay. Has that been an enjoyable thing, to go back
9 to college at this point?

10 A At my age, it's been quite an experience, but it has
11 been.

12 Q Do you go at night?

13 A Yes, sir.

14 Q Okay. And I'm sure that's a pretty rough thing to
15 work a full-time job during the day and go to college at
16 night?

17 A It is, yes, sir.

18 Q Okay. Well, let me just ask you a couple of things
19 about the death penalty. As the Judge told you, there
20 will be two choices in this case -- if we get to a
21 sentencing phase, there will be a choice of life without
22 parole and a choice of rendering a death verdict.

23 And I know you told the Judge that you hated for
24 anyone to lose their life, but you thought there were
25 facts and circumstances where you could impose the death

1 penalty. Could you just tell me what it is -- what your
2 thought process is in coming to that opinion and why you
3 think that's the position you hold on this?

4 A I hate for innocent people to lose their lives, too.
5 And I just hate for anyone under any circumstances to lose
6 their life. But we have a legal process to handle
7 situations where it's needed to come to that, situations
8 like that.

9 Q Okay. And you don't think there's anything wrong
10 with that legal process, including a mechanism or a
11 possibility of someone, actually, being sentenced to lose
12 their life for a crime they commit?

13 A No, sir, I don't.

14 Q Okay. And you understand that, as I said, in this
15 case, there will be a choice -- if we get to a sentencing
16 phase, there will be a choice of either a sentence of
17 death or a sentence of life without parole. And, of
18 course, life without parole is always an option a jury has
19 in these circumstances if you get to a sentencing phase.
20 So if you have that option of life without parole, would
21 you always take that?

22 A It depends on the circumstances and the facts.

23 Q Okay. So there would be times where you would find
24 circumstances and facts to vote for the death penalty?

25 A That's right.

1 Q And the Judge told you that you would have to write
2 your name -- if you got to the point where you decided the
3 right thing to do was vote for a death verdict, you would
4 have to write your name and, actually, put a pen on a
5 piece of paper and say, I'm -- this is what I think is the
6 right thing to do?

7 A Yes, sir.

8 Q And do you think you can do that?

9 A Yes, sir.

10 Q If that's what you think is the right thing to do?

11 A Yes, sir.

12 MR. ANTHONY: Ms. McMakin, thank you for answering my
13 questions.

14 THE COURT: All right.

15 MR. BROUGH: May it please the Court, Your Honor?

16 THE COURT: Yes, sir.

17 EXAMINATION

18 BY MR. BROUGH:

19 Q Ms. McMakin, I'm Chris Brough. And I represent
20 Fredrick Evins, along with Karen Quimby, the lady sitting
21 there, and Tam Boggs over there. I know it's late and
22 you've been kind of here a while. I assure you, we've
23 been here a while, too. But I just want to ask you some
24 questions.

25 I noticed on your questionnaire that you were,

1 actually, the legal secretary for John White and Charles
2 Edwards for a while. Could you tell me about that?

3 A At one time, I was, yes, sir. I worked the workers
4 comp for Mr. White, and I worked mostly real estate for
5 Mr. Edwards.

6 Q You didn't do a lot of criminal?

7 A No, sir, no criminal.

8 Q I also noticed at one point, it looks like someone
9 had stolen your riding mower?

10 A Yes.

11 Q Can you tell me about that?

12 A Someone did steal it. We were at home. We did not
13 hear them. They pushed our Volkswagon from the carport
14 while we were there and stole our riding lawn mower.

15 Q They, actually, moved the car out of the way?

16 A Yes, sir, they did. And we did not hear it.

17 Q Did they ever find the people that did it?

18 A No, sir, they didn't.

19 Q I want to ask you a little bit about the newspaper
20 article that Judge Miller asked you about. You said that
21 you read the entire article in the Herald on Monday. Can
22 you kind of tell me what you remember it saying?

23 A I just remember the attorneys. It mentioned the
24 attorneys names. It mentioned the Defendant's name. It
25 did not give any of the facts and it mentioned the two

1 cases.

2 Q And what two cases are those?

3 A One was -- well, both are a murder cases.

4 Q But you said two murder cases?

5 A Yes, sir. I think one was at Duncan Park and one was
6 at a convenience store.

7 Q And the one at Duncan Park, do you remember if the
8 name was Demaris Huff?

9 A I don't remember the name.

10 Q I just want to ask you a couple of other questions.
11 I notice your nephew is an assistant pastor?

12 A Yes, sir.

13 Q Is that at the church that you go to as well?

14 A No, sir. He's at Surfside. He's an assistant pastor
15 at a Methodist Church at Surfside.

16 Q And you go to a Baptist church?

17 A Yes, sir.

18 Q Does your church cling to your religion -- I'm sorry,
19 your beliefs regarding the death penalty at all?

20 A It never has come up one way or the other. It never
21 has come up.

22 Q I know that you had said that you would hate for a
23 person to lose their life?

24 A Yes, sir.

25 Q And you also said that you would hate for an innocent

1 person to lose their life?

2 A That's correct.

3 Q Can you tell me what you kind of meant by that last
4 statement?

5 A Well, I just hate that we have to resort to the death
6 penalty to punish someone, but sometimes that's the only
7 way to handle the situation.

8 Q What do you mean "it's the only way to handle the
9 situation"? What do you mean by that?

10 A It depends on the circumstances. If the
11 circumstances warrant the death penalty, then I believe
12 that would be justice.

13 Q Now, you understand that, as Judge Miller has
14 indicated, this is what's called kind of a two-part trial
15 and that we may never get to the second part of that?

16 A Yes, sir.

17 Q And at that second part, if the State were to prove
18 an aggravating factor and the Defense would probably put
19 up some mitigating factors, would you take that all into
20 consideration?

21 A I would have to hear everything. It would have to be
22 solid evidence.

23 Q Okay. There's just one other question I want to ask
24 you. The fact that you've heard about this other Duncan
25 Park case, would that influence you in any way?

1 A No, sir.

2 MR. BROUGH: If I may have one minute, Your Honor.

3 THE COURT: Yes, sir.

4 BY MR. BROUGH:

5 Q Just a couple more questions, Ms. McMakin. Going
6 back to something we talked about a little bit earlier,
7 could you just kind of tell me what you know about the
8 Duncan Park case?

9 A Just what was in the paper Monday morning. That's
10 all I know about it.

11 Q All right. Could you erase what you read Monday
12 morning from your mind?

13 A Yes, sir, I could.

14 Q I just want to ask you a couple of questions. Can
15 you kind of tell me about your neighborhood where you
16 live?

17 A It's a real good neighborhood. We have good people
18 in our neighborhood.

19 Q What do you mean by that exactly?

20 A We seldom have any crime. It's just a really nice
21 neighborhood with real good people.

22 MR. BROUGH: Thank you very much.

23 THE COURT: All right. Ms. McMakin, could I ask you
24 to step in the hallway for just one second.

25 JUROR #244, NORMA MCMAKIN: Yes, sir.

1 (Pause.)

2 THE COURT: Okay. Any objections to this juror?

3 MR. ANTHONY: No, sir, not from the State, Your
4 Honor.

5 MR. BOGGS: Can I --

6 THE COURT: Yes.

7 MR. BOGGS: No. Go ahead.

8 THE COURT: Whoever.

9 MR. BROUGH: Your Honor, given the fact that
10 Ms. McMakin is aware of the Duncan Park case, it would be
11 the Defense's position that, one, that she might be able
12 to contaminate a jury that's back there if she were
13 mentioning it in deliberations, especially in the guilt
14 phase, Your Honor.

15 And, secondly, that, Your Honor, she indicated
16 regarding the death penalty that it was -- it would be the
17 only way to handle certain situations and that it would be
18 justice. And we would object to her based on her
19 knowledge of the Duncan Park case and also her views
20 regarding the death penalty, Your Honor.

21 THE COURT: Okay. Well, I think that her -- I heard
22 her testimony as being that she would be -- considers
23 herself a Number 3 type juror, that she would have to
24 consider all the facts and circumstances, and that I think
25 she feels that under certain circumstances that it is

1 warranted. So I deny your motion based on her views on
2 the death penalty.

3 The other matter, I found her to be conscientious and
4 honest. She appears to me to take her oath seriously.
5 And she would receive very strict cautionary instructions
6 about the other case.

7 So I'm going to find her to be a qualified juror in
8 this matter. And, of course, I note your objection or
9 exception for the record.

10 Okay. Let's bring her back in.

11 THE BAILIFF: Go right up to the bench, please, ma'am.

12 THE COURT: Hey, Ms. McMakin.

13 I'm going to give you that to take home and read.
14 I'm going to tell you that it, basically, says what I'm
15 going to tell you.

16 You remain a qualified juror in this case. And that,
17 as such, you remain under oath not to read, hear, or
18 listen to anything about this case, not to discuss it with
19 anyone and -- because even an innocent comment from
20 someone you love or don't love or someone you just know
21 might impact you in your determination in this case. And
22 we want the evidence to come solely from the witness stand
23 and the courtroom.

24 So we will finish qualifying the jury, and I
25 anticipate that we will call all the qualified jurors back

1 here, I think, on Thursday for jury selection. So that
2 will be kind of your next call. But, in the meantime,
3 just abide by your oath. And I appreciate your service at
4 this time.

5 Thank you very much.

6 JUROR #244, NORMA MCMAKIN: Thank you.

7 (Juror #244, Norma McMakin, was excused from the
8 courtroom.)

9 THE BAILIFF: Bring the next juror in?

10 THE COURT: Yes. Go ahead and bring her on out. She
11 doesn't need to sit down when she comes in.

12 (Juror #281, Rita Pearson, a black female, entered
13 the courtroom.)

14 THE COURT: Hi, Ms. Pearson. Welcome to court.

15 And I am glad to have you here and I want to tell you
16 how much we appreciate your sacrifice and efforts and
17 performance of your civic duty. And I guess I am pleased
18 to tell you that you are excused from jury duty. You're
19 free to go. But please don't talk about the case with
20 anybody until it's over with. And then you're free to
21 talk about it.

22 Thank you very much.

23 JUROR #281, RITA PEARSON: I need an excuse for my
24 job.

25 THE COURT: The Clerk's Office will have to provide

1 that for you.

2 Do y'all have a work excuse?

3 THE CLERK: If she wants to wait, I can type
4 something up.

5 THE COURT: Do you want to wait or can you come back
6 tomorrow and get it?

7 JUROR #281, RITA PEARSON: I work from 7:00 to 7:00.

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

9 (Juror #281, Rita Pearson, was excused from the
10 courtroom.)

11 THE COURT: We will stand in recess until tomorrow at
12 9:00.

13 And does everybody agree with the count of 21, I
14 believe?

15 MR. GOWDY: Yes, sir.

16 MS. QUIMBY: Yes, sir.

17 THE COURT: Do y'all have any opinion as to how many
18 we ought to get?

19 MR. GOWDY: 39.

20 THE COURT: At a minimum.

21 MR. BOGGS: I thought you said 40.

22 MR. GOWDY: 40 is a good round New Testament number.

23 MR. BOGGS: See, that's typical. I suggested 39 and
24 he wanted 40. Now, he wants 39 and he's making me pay for
25 it.

1 MR. GOWDY: Whatever Mr. Boggs wants is fine with me.

2 MR. BOGGS: Is that on the record?

3 MR. GOWDY: Sure, it is.

4 THE COURT: I'll see y'all tomorrow.

5 (WHEREUPON, the proceedings were concluded at

6 approximately 7:28 p.m., to be reconvened on

7 Wednesday, November 10, 2004.)

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1 WEDNESDAY, NOVEMBER 10, 2004

2
3 THE COURT: All right. We're going to bring them in.
4 Is there anything we need to do before we get them?

5 MR. GOWDY: No, sir.

6 THE COURT: Bring in Panel No. 6, please.

7 (WHEREUPON, Juror Panel No. 6 entered the courtroom.)

8 THE COURT: Good morning, ladies and gentlemen.
9 Welcome back to the courthouse. We're glad to have you
10 back. And I'll just put in a good word for these fine
11 attorneys and all the Court staff. We've been working
12 late. We left here about 7:30 last night, so I hope y'all
13 will understand that we're doing the best we can not to
14 inconvenience you. And we appreciate your patience and
15 the hard work that y'all put in to be here.

16 I want to before we start -- and I guess y'all
17 understand that we're going to do the individual
18 questioning of each of you today. Of course, while that
19 questioning will be done in front of court personnel, it's
20 private and confidential. So I want you to feel
21 comfortable about that. Just so you know what's coming,
22 we're warming up the hot seat for you. Y'all get to sit
23 in the witness box when you do this. That's a little
24 nerve racking, I know. And I've told everybody who has
25 been here and already done this -- and we've been through

1 a number of your fellow jurors and everybody has survived
2 it and done well. Everybody has been nervous. And I've
3 told all of them, everybody, I think, that if you get into
4 that chair with this crew staring you in the face and
5 you're not a little bit nervous, then there's probably
6 something wrong with you.

7 So it's normal and natural for you to feel nervous
8 when you sit in the chair. But I just want you to know
9 that I promise you that you will not be embarrassed and
10 you will not be humiliated. These fine attorneys will not
11 do that to you. They're not interested in doing that to
12 you and they don't want to do that. And they understand
13 the situation you all find yourselves in. So it's really
14 not as bad as it might seem.

15 Just before we start, I want to tell you a couple of
16 things. Again, I emphasize to you that I will be asking
17 you some questions to start with. And I want you to know
18 that I have no opinion about the facts. And that is for
19 two reasons -- I can tell you that and I state it
20 honestly. The first reason is that the Constitution
21 doesn't allow me to have an opinion about the facts. The
22 law requires that I have no opinion about the facts. The
23 second reason is I don't have an opinion about the facts.
24 I don't know much more about it than you all do. So
25 having said that, please don't think by anything I say or

1 do or the way I ask a question, please don't infer from
2 that that I have some opinion about the facts in this
3 case, because I really and honestly don't.

4 I want to repeat a couple of basic principles to you
5 about our law. And that is that every citizen in this
6 country -- these rights belong to each one of us. Every
7 citizen who is charged with a crime in this country is
8 presumed innocent unless and until the State, the charging
9 body, the person who has made the allegation, can prove in
10 the minds of 12 jurors that that person is guilty of each
11 and every element of the offense or the offenses that they
12 are charged with or that they have been alleged to have
13 committed. So the burden of proof is always on the State
14 in every case all the time. Keep those principles in mind
15 as we go through this process, and if you're selected on
16 the jury, particularly, during the trial of the case.

17 Now, a case of this nature is called a -- generally
18 called a capital case. And I've been through this a
19 little bit with you, but I can't -- you know, for me,
20 people have to pound things into me for me to remember
21 them. So I think it's good to hear it more than once. I
22 will tell you we're in the qualification of the jury
23 process right now. When we have a sufficient number of
24 qualified jurors, then those qualified jurors will be
25 called back and jury selection will begin. Once the jury

1 is selected, the Court conducts the first phase of the
2 trial. And this, perhaps, will be the only phase of the
3 trial, as I've told you. The jury, at that time,
4 determines the guilt or the innocence of -- based on those
5 standards, proof beyond a reasonable doubt, of the
6 Defendant.

7 Now, if -- and you all could return any verdict. I
8 have no idea, but it's a verdict of guilt or innocence on
9 all of the charges. Then we move to the second phase of
10 the trial if, and only if, the jury unanimously agrees
11 that the Defendant is guilty of murder. And I'm talking
12 in general about the capital case process. And, again, I
13 emphasize that the State has to prove -- the burden is on
14 the State to prove guilt beyond a reasonable doubt. Now,
15 if you found -- if the jury found them not guilty, that
16 would end the case and the jury service at that time. It
17 would be over and the rest of the case would be left up to
18 the Court to finish the case.

19 But if the jury finds the Defendant guilty of murder,
20 then you move to the second phase. And, as I have told
21 you, that's sometimes called the sentencing phase. And in
22 that phase of the trial, you would consider only evidence
23 in aggravation of the offense or evidence in mitigation --
24 or, I should say, and evidence in mitigation of the
25 offense.

1 Now, after a hearing -- after the jury hears the
2 additional evidence, the jury would then determine the
3 sentence. And as I've told you, the sentences that you
4 all -- the choices before the jury would be life
5 imprisonment or death. And in a capital case, if the jury
6 finds the presence of an aggravating circumstance, a
7 sentence of life imprisonment -- life means life without
8 the possibility of parole. In other words, if a defendant
9 who's been convicted of murder and the murder was
10 accompanied by what the law calls an aggravating
11 circumstance and the jury so finds, then a life sentence
12 means life. It's exactly what it says. There would be no
13 possibility of parole under such circumstance and the
14 defendant would die in jail.

15 Now, please understand, I am talking about the
16 process of a capital case in general. In this particular
17 case, again, we may not even get to the second phase. But
18 in the event we do, I will need to ask you certain
19 questions regarding that. So do each of you understand
20 and have a pretty good feel of how the process works?

21 (All jurors said yes.)

22 THE COURT: Do I need to explain anything more? If
23 you're confused about it, you can ask me now or you can
24 ask me later. I want you to be comfortable with the
25 process.

1 Now, let me briefly explain the terms aggravating
2 circumstances and mitigating circumstances. And these are
3 terms that you will hear and consider only in the event
4 that we go to the second phase and that there has been a
5 conviction of murder in the first phase. Now, aggravating
6 circumstances are facts, incidents, or occurrences which
7 the South Carolina General Assembly have declared by
8 statute would aggravate or worsen the crime of murder. In
9 other words, an aggravating circumstance, when
10 accompanying a murder, increases the enormity of the
11 offense or it adds to the injury of the crime of murder.

12 Mitigating circumstances are incidents, facts, or
13 occurrences which the General Assembly has declared by
14 statute or which the jury otherwise determines should
15 reduce the severity of the offense of murder and may be
16 considered as extenuating or as reducing the degree of
17 culpability or responsibility. Now, I've already -- I
18 hope that is clear to you. And if at any time you need
19 further explanation about those terms, I'll be happy to
20 provide whatever explanation that I am able.

21 Now, I've already introduced the attorneys, this fine
22 group of attorneys. I need to ask you, is there any
23 member of the jury panel who's related by blood or
24 marriage or acquainted in any fashion whatsoever with any
25 of the attorneys involved in this matter? If so --

1 Yes, ma'am. Your name for the record?

2 JUROR #161, CHERIE HOLSTEN: My name is Cherie
3 Holsten.

4 My son, when he was a law student, interned for the
5 public defender. And I have met Karen. I don't know her,
6 but I have met her. She is a friend of my nephew before
7 he got married, years ago when they were in high school.
8 But I've heard lots of things about Karen, but I don't
9 know Karen.

10 THE COURT: All right. Well, that could cut both
11 ways, I guess.

12 JUROR #161, CHERIE HOLSTEN: I've never heard
13 anything bad.

14 THE COURT: All right.

15 JUROR #161, CHERIE HOLSTEN: Nothing bad.

16 THE COURT: All right. Let me ask the jury panel
17 this, is there anyone who is related by blood or marriage
18 or acquainted in any way with anyone associated with any
19 of these attorneys and their respective law offices, that
20 would be the Solicitor's Office, the Public Defender's
21 Office, and the Law Office of Mr. Tam Boggs? If so,
22 please raise your right hand.

23 (There was no response.)

24 THE COURT: Okay. Now, each of you has had an
25 opportunity to review the extensive witness list in this

1 case. And I'll ask you the same question about the
2 witnesses, is there any member of the panel who is related
3 by blood or marriage or acquainted in any fashion
4 whatsoever to any of the witnesses listed on that
5 extensive list? If so, please stand.

6 Yes, ma'am. Your name?

7 JUROR #234, KIM MAY: Kim May.

8 Dr. Webb. My son will be 16 in December and that was
9 his first baby doctor.

10 THE COURT: How long has it been since you've seen
11 him?

12 JUROR #234, KIM MAY: It was just -- it's been
13 probably 15 years. We switched doctors because our
14 insurance changed and I don't remember why.

15 THE COURT: Yes, sir. Your name?

16 JUROR #149, MICHAEL HENLINE: Michael Henline.

17 I just know Chuck Rice as a political liaison,
18 sheriff.

19 THE COURT: Yes, sir.

20 JUROR #149, MICHAEL HENLINE: I saw a Debbie Philbeck
21 on the list. I know a Deborah Philbeck from Rock Hill,
22 South Carolina. I don't even know if that's the same
23 person or not.

24 MS. QUIMBY: No, sir.

25 THE COURT: Okay. That's probably not the same

1 THE COURT: Thank y'all very much.

2 We'll be with you very shortly.

3 (WHEREUPON, Juror Panel No. 6 exited the courtroom,
4 with the exception of Juror #234, Kim May.)

5 (Juror #234, Kim May, a white female, was seated.)

6 THE COURT: Ms. May, thank you for being here.

7 I hope my silly comments over there put you a little
8 bit at ease. I want you to feel comfortable. And I'll
9 try not to run my mouth too much longer. I want you to
10 know that there are no right answers and there are no
11 wrong answers to the questions we're going to ask.
12 Because of the serious and solemn nature of this
13 proceeding, we have -- we need to get from you true and
14 accurate and complete answers to the questions.

15 Now, the subjects we're going to enter into are
16 really just your knowledge about the case, your ability to
17 be fair and impartial and your views on the death penalty.
18 Now, a lot of people feel that that's a very personal
19 issue with them and -- but it's extremely important that
20 we discuss it with you because of the nature of this
21 proceeding. So I want you to know, there are no right or
22 wrong answers. There's no litmus test you're being put
23 to. There's no -- no one is going to judge what you have
24 to say and -- but we do need just truthful answers. The
25 only correct answers you can give are your heartfelt

1 person.

2 JUROR #149, MICHAEL HENLINE: Okay.

3 THE COURT: Well, let me ask the people who responded
4 and who know someone, would that in any way impair your
5 ability to follow your oath and the law as I give it to
6 you and limit your ability to be fair and impartial in
7 this case?

8 JUROR #161, CHERIE HOLSTEN: No.

9 JUROR #234, KIM MAY: No.

10 JUROR #149, MICHAEL HENLINE: No.

11 THE COURT: Well, very good. We're going to, at this
12 time, begin the individual process of the individual
13 questioning.

14 So I would ask Kim May to remain in the courtroom and
15 jump into the hot seat and let us go ahead and hook up the
16 electrodes and all that kind of stuff. I'm only kidding
17 about that.

18 The rest of y'all, if you would, please go back to
19 the jury room.

20 Oh, wait. Before y'all go, please stand, if everyone
21 would stand. I have a problem with remembering this.
22 We're going to swear you in again.

23 THE CLERK: Please raise your right hand.

24 (WHEREUPON, Juror Panel No. 6 was sworn.)

25 THE CLERK: Thank you.

1 answers to these questions.

2 What I'm going to do to start with is to tell you
3 that we recognize -- we'll go through the indictments for
4 you. I've been through them briefly with you. I'm going
5 to go into a little bit more detail, but not a whole lot,
6 just so you're a little bit more familiar with the
7 particular allegations of this case. And, again, I
8 emphasize indictments are not evidence. They are only
9 allegations typed on a piece of paper which allow the case
10 to come forward and move through the system and get to
11 court.

12 All right. The first indictment is for murder. And
13 it alleges that Fredrick Antonio Evins did in Spartanburg
14 County on or about February 13th of 2003, feloniously,
15 willfully, and with malice aforethought kill Rhonda Marie
16 Ward. The next indictment is for kidnapping. It alleges
17 that Mr. Evins did in Spartanburg County on the same date
18 unlawfully seize or kidnap Rhonda Marie Ward. The next
19 indictment alleges that Mr. Evins did on or about February
20 13th, 2003, the same date, in Spartanburg County willfully
21 and unlawfully commit a sexual battery upon Rhonda Marie
22 Ward. And the last indictment alleges that Mr. Evins did,
23 same date, feloniously take away the 1993 Nissan Sentra
24 and its contents belonging to Rhonda Marie Ward. Those
25 are the allegations in this case.

1 And we recognize that there has been publicity about
2 the case on television, the radio, and in the newspaper.
3 My first question to you is, have you read, heard, or seen
4 anything about this case?

5 JUROR #234, KIM MAY: Honestly, I have not.

6 THE COURT: Okay.

7 JUROR #234, KIM MAY: I don't watch the news and I
8 don't read the paper.

9 THE COURT: All right. So you don't know anything
10 about it?

11 JUROR #234, KIM MAY: No. And if anybody were to see
12 my button and came up to me yesterday or the day before or
13 whenever, I wouldn't have even remembered what his name
14 was.

15 THE COURT: All right. Fair enough.

16 JUROR #234, KIM MAY: I've never heard of it.

17 THE COURT: Do you understand if somehow, some way
18 you had heard it and you see something today or if you're
19 selected during the trial and it sparks a memory that you
20 had about something you had heard before, do you
21 understand that your oath, as a juror, would require you
22 to disregard anything you have read, heard, or seen about
23 the case and decide the case only on the facts presented
24 in the courtroom.

25 Do you understand that?

1 JUROR #234, KIM MAY: (Juror nodded.)

2 THE COURT: Would you speak for me?

3 JUROR #234, KIM MAY: Yes.

4 THE COURT: Okay. Thank you.

5 Would you serve as a fair and impartial juror and
6 reach a verdict based on the facts presented at trial in
7 accordance with my instructions on the law?

8 JUROR #234, KIM MAY: Yes.

9 THE COURT: Have you formed any opinion whatsoever
10 about the guilt or innocence of Mr. Evins?

11 JUROR #234, KIM MAY: No.

12 THE COURT: Okay. Do you have any opinion about the
13 facts in the case?

14 JUROR #234, KIM MAY: I don't know nothing about it
15 yet, so.

16 THE COURT: All right. Now, keeping in mind the
17 legal principles I've talked to you about, the presumption
18 of innocence and the obligation of the State to prove
19 guilt beyond a reasonable doubt, could you, depending upon
20 the facts and circumstances presented at trial and the law
21 that I will give you, could you return a verdict either of
22 guilty or not guilty?

23 JUROR #234, KIM MAY: Yes.

24 THE COURT: Okay. And what I'm asking you there
25 really is, your mind is not made up one way or the other,

1 is it?

2 JUROR #234, KIM MAY: No.

3 THE COURT: Now, please remember that we may not even
4 reach the second phase or what I've told you we sometimes
5 call the sentencing phase. But since we possibly could, I
6 do need to ask you these questions about your views on the
7 death penalty. Okay.

8 JUROR #234, KIM MAY: Okay.

9 THE COURT: And a couple of more, as if I hadn't told
10 you enough about it, when the jury moves to the sentencing
11 phase or the second phase of the trial, if the jury did
12 that, I will tell you that that jury would have already
13 found the Defendant guilty of murder. So in the second
14 phase, the jury would not be concerned with any legal
15 defenses, with discussing a legal defense, or the guilt or
16 innocence, because that jury would have already decided
17 guilt. It's the only way you get to the second phase.

18 Now, in the second phase of a trial, you would hear,
19 as I told you, the evidence in aggravation and evidence in
20 mitigation. That's what you would be there to consider.
21 In other words, your oath -- now, let me tell you, you
22 would also have to abandon any preconceived notion you
23 might have and follow the law as I give it to you. In
24 other words, your oath would require you to give serious
25 and meaningful consideration to aggravation evidence and

1 mitigation evidence. Could you follow your oath in that
2 regard?

3 JUROR #234, KIM MAY: Yes.

4 THE COURT: All right. Now, if you're a juror in
5 that situation, the second phase of the trial, just
6 imagine you're there, the jury has already determined that
7 the Defendant is guilty. Okay. Could you, considering
8 the particular facts and circumstances of the case,
9 including all the aggravation circumstances and all the
10 mitigating circumstances and the law that I would give to
11 you, could you return a verdict of life in prison?

12 JUROR #234, KIM MAY: I feel like I probably could.

13 THE COURT: Okay.

14 JUROR #234, KIM MAY: I believe in prayer, so I
15 would -- you know, that would be something I would pray
16 about.

17 THE COURT: Okay.

18 JUROR #234, KIM MAY: But I feel like I could go
19 either way.

20 THE COURT: I'm sorry?

21 JUROR #234, KIM MAY: I feel like I could either way.

22 THE COURT: All right. Let me ask you, in that same
23 situation, depending on the facts and the circumstances
24 and the law that I would give to you and your
25 consideration of all the aggravating and mitigating

1 circumstances, could you return a sentence of death?

2 JUROR #234, KIM MAY: I probably could.

3 THE COURT: Okay. I can tell that you take this --
4 you would take it very serious; is that right?

5 JUROR #234, KIM MAY: Yes, it is serious.

6 THE COURT: I'm sorry?

7 JUROR #234, KIM MAY: It is serious.

8 THE COURT: Yes, ma'am, it is, very much so.

9 Now, let me tell you, in a situation where the
10 jury -- all 12 agreed to a death sentence, then it would
11 require -- the South Carolina law requires each juror to
12 sign their name to the verdict form. In that event, could
13 you sign your name to a death sentence verdict form?

14 JUROR #234, KIM MAY: Yes.

15 THE COURT: Okay. Now, do you recall the three types
16 of jurors I gave you on that list?

17 JUROR #234, KIM MAY: Yes.

18 THE COURT: Where do you plop yourself down?

19 JUROR #234, KIM MAY: I think down at the bottom.

20 THE COURT: The third type?

21 JUROR #234, KIM MAY: Yeah.

22 THE COURT: You would want to hear all the evidence
23 and all the facts before you made a decision?

24 JUROR #234, KIM MAY: Yes.

25 THE COURT: And you could go either way?

1 JUROR #234, KIM MAY: Yes.

2 THE COURT: Life or death?

3 JUROR #234, KIM MAY: Yes.

4 THE COURT: All right. Now, if you're selected,
5 finally, I just want to know, would you honor your oath
6 and serve as a fair and impartial juror, and would you
7 approach jury service with an open mind to find the
8 truth from the evidence and the law that I would give to
9 you?

10 JUROR #234, KIM MAY: Yes.

11 THE COURT: Okay. Do you know of any reason why you
12 could not serve in this case?

13 JUROR #234, KIM MAY: I don't know.

14 THE COURT: Okay. Now, let me just, finally, tell
15 you before I let the lawyers ask you a few questions about
16 these subjects --

17 JUROR #234, KIM MAY: I do have one question, though.

18 THE COURT: Yes, ma'am.

19 JUROR #234, KIM MAY: If it does get down to it and I
20 am chosen, I do need time to make arrangements for my kids
21 and things.

22 THE COURT: All right. Well, let's talk a little bit
23 about that right now. Because if you were selected on
24 this jury, then you would be sequestered.

25 JUROR #234, KIM MAY: Yeah.

1 THE COURT: And that means you would be staying at
2 the Marriott, the new Marriott over there. And we
3 anticipate it would be anywhere from four or five to seven
4 days.

5 JUROR #234, KIM MAY: Yeah.

6 THE COURT: I anticipate that the jury will be
7 selected tomorrow.

8 JUROR #234, KIM MAY: Okay.

9 THE COURT: And you don't know -- if you are
10 qualified, you don't know if you'll be selected or not.
11 This is a very serious and thoughtful process that goes
12 into the selection of a jury in a case like this. So I
13 don't know if you would be selected or not, but you would
14 need to be prepared tomorrow to stay. Because we're going
15 to ask all qualified jurors to be packed and ready to go
16 when they come for selection. Okay.

17 Would you be able to do that?

18 JUROR #234, KIM MAY: Yes. I would be able to do
19 that.

20 THE COURT: Thank you very much.

21 All right. Please answer any of the questions that
22 the attorneys have for you.

23 JUROR #234, KIM MAY: Okay.

24 MR. BARNETTE: May it please the Court, Your Honor?

25 THE COURT: Yes, sir.

EXAMINATION

BY MR. BARNETTE:

Q Hello, Ms. May. I know the Judge introduced us earlier to you when you was here the first time, but I'm Barry Barnette. Along with me is Trey Gowdy and John Anthony. We're representing the State in this case.

And I was just noticing some things. You work with health care; is that right?

A Yes.

Q And you have, actually, a son and a daughter and a stepdaughter; is that right?

A Yeah. My stepdaughter is graduated and doesn't live with us.

Q So it would be your son -- they're 15 and eight, the two youngest ones?

A Yes.

Q And I noticed that you listened very intently to the instructions of the Judge. It is a serious matter and we appreciate you being here and appreciate you filling this information out for us. I just wanted to ask you a few questions concerning the death penalty, just go through that with you.

The Judge was talking to you and if it does reach the second phase -- we have the first part of the trial about guilt or innocence. But if he's found guilty of murder,

1 then it goes to the second part of the trial. And would
2 you be able to listen to the aggravators, which is the
3 events or items that would make the crime more severe, as
4 well as the mitigators that would make it less or would be
5 presented by the Defense? Would you listen to both sides
6 and hear all that?

7 A I would want to hear everything so that I would know
8 to make the right decision.

9 Q And that's what we want you to do, to listen to
10 everything before you make a decision about that. And if
11 I remember right, you don't know anything about this?

12 A No, I don't.

13 Q So everything you hear in the courtroom would be the
14 first time you've heard about it?

15 A Yeah.

16 Q And in looking at the items and everything, you'd
17 listen to the Judge's instruction?

18 A Yes.

19 Q And you'd apply that -- and you realize you're the
20 judges of the facts, you determine what the facts may or
21 may not be in court and the Judge will instruct you on
22 that, but he'll give you the law that you apply to that.
23 And could you apply that law and make a decision that was
24 just and fair in this case?

25 A Yes.

1 Q And you're the type of juror, I think the Judge
2 asked, the Number 3 juror; is that right?

3 A Yes.

4 Q And you feel like in some cases, if the aggravators
5 were proven that you could give a death sentence?

6 A Yes.

7 Q And if those -- if the mitigators were proven by the
8 Defense or shown by the Defense or lessened the crime,
9 could you give a life without parole sentence?

10 A Yes.

11 Q So you're one of those jurors that would make a
12 decision based on what you saw?

13 A Yes.

14 Q And the facts?

15 A Yes.

16 MR. BARNETTE: We appreciate you answering my
17 questions, ma'am.

18 Thank you very much.

19 MS. QUIMBY: May it please the Court?

20 THE COURT: Yes.

21 EXAMINATION

22 BY MS. QUIMBY:

23 Q Hello, Ms. May.

24 A Hey.

25 Q My name is Karen Quimby. This is Tam Boggs in the

1 middle and Chris Brough. And we represent Fredrick Evins.

2 It's hard to know for sure if you have heard about
3 something if all you've heard is names you've never heard
4 before; right?

5 A Yeah.

6 Q So is there a chance you may have heard of this case
7 if your memory were jogged?

8 A I've been trying to think of what -- you know, if I
9 might know anything at all.

10 Q Okay. And I understand you try to keep -- you don't
11 try to keep --

12 A What I told him, I honestly do not watch the news and
13 the only thing I look at in the paper is the want ads. I
14 go to yard sales. So as far as I can remember, I don't
15 know that I've heard of this.

16 Q Okay. Well, a lot of times people keep up with
17 current events and things going on in the area just by
18 going to work and hearing people around you talk. Do
19 people at Interim talk --

20 A I don't work at Interim, I go out to elderly homes.
21 And, I mean, it's mostly old people.

22 Q Okay.

23 A Some of them don't -- you know, like one of them is
24 schizophrenic and another one has had a stroke and you
25 can't understand what he says.

1 Q Well, I understand that. I know that you had already
2 talked about your making arrangements for your children.
3 Are your husband's hours -- is that something that can
4 work out with your children? I mean, you can make
5 arrangements for them?

6 A Well, when I heard him say sequestered, I talked to
7 my mom and dad. I didn't say anything about what was
8 going on. I told them I couldn't talk about it, but the
9 word sequestered came up and would they be willing to help
10 if something came up and I had to be gone. And they said
11 they would. So during the week when the kids are at
12 school, they will have my kids.

13 Q Okay.

14 A Because my husband's hours, he has to be at work at
15 5:00, and sometimes he don't get home until as late as
16 7:00.

17 Q All right. Have you ever given any thought to the
18 death penalty before? That's a pretty personal issue for
19 some people.

20 A I've thought about it, but I've never really
21 thought -- you know, it's just been like I know it's
22 there, but I've never really --

23 Q Well, how do you feel about knowing it's there? Do
24 you think you're for it, against it?

25 A I'm not for or against it either way. I just -- it

1 just depends on what somebody has done, you know.

2 Q And understand there are no right or wrong answers.
3 I promise we're not trying to trick you or test you. We
4 just need to know what your opinions are. We're not here
5 to judge them.

6 Do you think that the death penalty is an appropriate
7 sentence in some circumstances? You don't have to name
8 what they are.

9 A It would probably be appropriate in some
10 circumstances.

11 Q Okay. And do you think that life without the
12 possibility of parole might be an appropriate punishment
13 in some circumstances?

14 A It probably would be.

15 Q Okay. Because you said that you would be the type of
16 juror that would need to listen to all of the evidence
17 first?

18 A Yes.

19 Q Okay. And I see that you go to the First Church of
20 the Nazarene?

21 A Yes.

22 Q Do you have any idea if your church takes a
23 particular view on the issue of the death penalty?

24 A If they do, I haven't heard about it.

25 Q Okay. And I know it's hard -- I don't know if you --

1 it would be hard to answer, I understand, if it came down
2 to the point in the trial where you had to pick between
3 life without the possibility of parole and the death
4 penalty. If all other things in your mind were equal, do
5 you feel like you would favor one over the other?

6 A I probably would favor life in prison over the death
7 penalty. I mean, I feel like it would have to be
8 something awfully, awfully bad for me to consider the
9 death penalty, but I would consider it. I don't know how
10 to answer that.

11 Q So you would consider both sides?

12 A Yeah.

13 Q And not in every case, you might tend to think life
14 initially, but you wouldn't make that final decision, is
15 that what I understand you're saying?

16 A I wouldn't think either/or. I would just wait until
17 I knew everything that was going on and then I'd start
18 thinking about what needed to be done.

19 MS. QUIMBY: Okay. Hold on one second, please.

20 (Pause.)

21 MS. QUIMBY: That's all the questions I have.

22 Please answer any of the State's questions or the
23 Judge's.

24 Thank you very much. We appreciate your time for
25 being here.

1 THE COURT: All right. Ms. May, let me ask you to
2 step into the hallway for just a second.

3 (Pause.)

4 THE COURT: Okay. Any objections?

5 MS. QUIMBY: No, Your Honor, not from the Defense.

6 MR. BARNETTE: She's qualified, Your Honor.

7 THE COURT: All right. Let's bring her on back.

8 (Pause.)

9 THE COURT: Ms. May, I just want to talk to you very
10 briefly. I'm going to give that to you to take with you
11 and read. And, really, what that tells you is you
12 continue to be a qualified juror in this case. And so I'm
13 going to remind you that you're under oath not to discuss
14 this case with anyone. Don't read the news, don't watch
15 TV, don't listen to the radio. If something about this
16 comes on, turn it off. The temptation has got to be there
17 for you to talk about this case with your family and
18 friends, and just don't do it.

19 And the reason I say that is because even an innocent
20 comment from somebody you trust or someone you don't trust
21 might adhere to your mind and kind of poison the well, so
22 to speak. And the law requires that the case be decided
23 solely on the sworn testimony and evidence presented in
24 the courtroom.

25 I would recommend, please, go ahead and prepare

1 yourself for five to seven days. And I anticipate that we
2 will be selecting the jury tomorrow.

3 JUROR #234, KIM MAY: So what do I need to do next?

4 THE COURT: Well, you can just go home, make
5 arrangements to take care of your children, get packed up,
6 and we'll call you and tell you when to come back.

7 Thank you very much.

8 I appreciate it very much.

9 (Juror #234, Kim May, was excused from the
10 courtroom.)

11 THE COURT: Bring the next juror in, please.

12 (Juror #149, Michael Henline, a white male, was
13 seated.)

14 THE COURT: Mr. Henline, nice to see you. You can
15 see Ms. May walked out on two feet. We didn't treat her
16 too bad. I promise you we'll treat you with the same
17 courtesy and respect that we gave to her.

18 Before we start, I want to just briefly tell you
19 again that we're -- the subject matters we're going to
20 talk about really include what you -- if anything, what
21 you know about the case, your ability to be fair and
22 impartial, and we need to discuss briefly with you your
23 views on the death penalty.

24 Now, a lot of people consider that to be very private
25 and personal. But because of the serious nature of the

1 offense, it's very important that you be candid, honest,
2 and complete in your answers with respect to those
3 questions. I promise you this is not a test. No one is
4 passing judgment on you for that. There are no right or
5 wrong answers. The only correct answers would be your
6 heartfelt feelings about these questions that we will put
7 to you. And there won't be that many or that complicated.

8 The first thing I want to do before we start is go
9 through the indictments briefly to give you a brief
10 factual background of the allegations in this case. And,
11 again, I remind you, indictments are not evidence and
12 should not be considered as evidence in any way. They're
13 just written allegations typed on a sheet of paper which
14 allow this case to move through the system and get to
15 where we are today.

16 But the first allegation contained in the indictment
17 is for murder. And it alleges that Fredrick Antonio Evins
18 did in Spartanburg County on or about February 13th, 2003,
19 feloniously, willfully, and with malice aforethought kill
20 Rhonda Marie Ward. The next indictment alleges
21 kidnapping. And it says that Mr. Evins did on or about
22 the same date unlawfully seize or kidnap Rhonda Marie
23 Ward. The next indictment is for criminal sexual conduct.
24 It alleges that Mr. Evins did on or about the same date,
25 February 13th of 2003, willfully and unlawfully commit a

1 sexual battery upon Rhonda Marie Ward. And, finally, the
2 last indictment is for grand larceny. It alleges that
3 Mr. Evins did on February 13th 2003, the same date,
4 feloniously take and carry away the 1993 Nissan Sentra and
5 its contents belonging to Rhonda Marie Ward. Those are
6 the allegations in this case.

7 Now, we recognize that there has been publicity on
8 television, in the newspaper, and on the radio in this
9 case. So the first question I have for you is, have you
10 heard, read, or seen anything about this case?

11 JUROR #149, MICHAEL HENLINE: Yes.

12 THE COURT: Would you tell me what that is, please?

13 JUROR #149, MICHAEL HENLINE: I vaguely remember from
14 the newspapers -- and I read -- I skimmed over the
15 newspaper article on it Monday morning.

16 THE COURT: What can you tell me that you remember
17 about it?

18 JUROR #149, MICHAEL HENLINE: Nothing really, just
19 I'm just familiar with what you're telling me about it.

20 THE COURT: Okay. Well, you don't remember any
21 specifics about it or anything like that?

22 JUROR #149, MICHAEL HENLINE: Just that it happened,
23 where it happened.

24 THE COURT: Okay. And where was that?

25 JUROR #149, MICHAEL HENLINE: In Drayton.

1 THE COURT: All right. Well, let me tell you this,
2 do you understand that under your oath, as a juror, that
3 you would be required to disregard anything that you have
4 heard, read, or seen about this matter when you come into
5 the courtroom, because it is imperative that the only --
6 that the decision that is reached in this case comes only
7 from the facts presented during the trial?

8 Do you understand that?

9 JUROR #149, MICHAEL HENLINE: Yes.

10 THE COURT: The importance of that is we all are
11 aware of the inaccuracies of news media coverage. And,
12 additionally -- and it's so important that the jury makes
13 a decision based on the evidence which is presented under
14 oath subject to Constitutional scrutinies here in the
15 courtroom. That's why you must put aside anything you may
16 have read, heard, or seen in this case.

17 Now, would you -- understanding that, would you serve
18 as a fair and impartial juror and reach a verdict based on
19 the facts presented at trial in accordance with my
20 instructions on the law?

21 JUROR #149, MICHAEL HENLINE: I think I could.

22 THE COURT: All right. Have you in any way, large or
23 small, formed an opinion about the facts of this case?

24 JUROR #149, MICHAEL HENLINE: No.

25 THE COURT: Have you in any way formed an opinion

1 about the guilt or innocence of Mr. Evins?

2 JUROR #149, MICHAEL HENLINE: No.

3 THE COURT: Okay. Now, keeping in mind the legal
4 principles I've talked to you about, the presumption of
5 innocence and the State's obligation to prove guilt beyond
6 a reasonable doubt, could you, depending upon the facts
7 and circumstances shown at trial or proven at trial and
8 the law that I will give you, could you return a verdict
9 of either guilty or not guilty?

10 JUROR #149, MICHAEL HENLINE: I think so.

11 THE COURT: In other words, your mind is not made up
12 one way or the other with respect to that issue?

13 JUROR #149, MICHAEL HENLINE: No.

14 THE COURT: Okay. Now, remember that we may not even
15 reach the second phase of the trial or what we've called
16 the sentencing phase, but since there's a possibility that
17 we might, I need to ask you about your views on the death
18 penalty.

19 Do you understand that?

20 JUROR #149, MICHAEL HENLINE: Yes, sir.

21 THE COURT: Okay. Now, when the jury moves to the
22 sentencing phase, that means that that jury has already
23 found that particular defendant guilty of murder. That
24 decision has been made in the first phase. So in the
25 second phase, the jury is not going to address that issue.

1 It's behind you -- behind the jury at that time and the
2 only issue that you would be considering in the second
3 phase of the trial would be the appropriate sentence.

4 Now, I've referred to aggravation and mitigation
5 evidence and explained those concepts to you a little bit.
6 Your oath would require you to abandon any preconceived
7 notion you might have and to follow the law as I instruct
8 it. In other words, your oath would require you to give
9 serious and meaningful consideration to all evidence in
10 mitigation and all evidence in aggravation. Would you
11 honor your oath and do that?

12 JUROR #149, MICHAEL HENLINE: Yes, sir.

13 THE COURT: Now, if you were a juror in that
14 situation, the sentencing phase, could you, depending upon
15 the particular facts and circumstances of the case,
16 including the consideration of aggravating and mitigating
17 circumstances and the law that I instruct -- I will
18 instruct to you, could you return a sentence of life in
19 prison?

20 JUROR #149, MICHAEL HENLINE: Yes.

21 THE COURT: All right. Now, in the same situation,
22 consider yourself in the second phase of a trial, and
23 depending upon the particular facts and circumstances of
24 the case, including consideration of all aggravating and
25 mitigating circumstances and the law that I would instruct

1 you, could you return a sentence of death?

2 JUROR #149, MICHAEL HENLINE: Yes.

3 THE COURT: All right. Now, in the event of a death
4 sentence, the South Carolina law requires that it has to
5 be a unanimous decision, all 12 jurors have to sign the
6 verdict form. Could you sign your name to a death penalty
7 verdict?

8 JUROR #149, MICHAEL HENLINE: Yes.

9 THE COURT: All right. Now, do you recall the sheet
10 where I listed the three types of jurors?

11 JUROR #149, MICHAEL HENLINE: Uh-huh.

12 THE COURT: What type of juror do you consider
13 yourself to be?

14 JUROR #149, MICHAEL HENLINE: The third one.

15 THE COURT: So you are the type of person who would
16 need to hear all of the facts and circumstances and review
17 all of those facts and circumstances before you made a
18 decision?

19 JUROR #149, MICHAEL HENLINE: Definitely.

20 THE COURT: Okay. Now, if you were selected, would
21 you honor your oath to serve as a fair and impartial
22 juror, and would you approach jury service with an open
23 mind to find the truth from the evidence and the law at
24 trial?

25 JUROR #149, MICHAEL HENLINE: Yes.

1 THE COURT: Do you know of any reason why you could
2 not serve in this case?

3 JUROR #149, MICHAEL HENLINE: No.

4 THE COURT: Okay. And now let me just briefly tell
5 you about sequestration. If you're -- we're going through
6 the qualification process right now. I anticipate that we
7 will select the jury tomorrow. If you're selected to
8 serve -- if you're qualified after this, after we're
9 through here, and if you're selected to serve, then you
10 will be sequestered, which means you will be staying at
11 the Marriott Hotel across the way over there, and that it
12 might last from five to seven days.

13 Do you understand that?

14 JUROR #149, MICHAEL HENLINE: Yes, sir.

15 THE COURT: And when -- if you are qualified, then we
16 will ask you to bring with you to the selection process --
17 be packed and ready to go for five to seven days. Okay.

18 JUROR #149, MICHAEL HENLINE: Okay.

19 THE COURT: Thank you very much.

20 I'm going to let the attorneys question you now.

21 EXAMINATION

22 BY MR. BOGGS:

23 Q Good morning, Mr. Henline.

24 A Good morning.

25 Q My name is Tam Boggs. I'm an attorney and I'm one of

1 the attorneys that represents Mr. Evins, along with Karen
2 Quimby, the lady in the red, and Chris Brough.

3 And as the Judge said, we're just asking a couple of
4 questions to try to help us determine just your opinion
5 about certain matters that could be relevant to the case.
6 Okay.

7 A Uh-huh.

8 Q And I noticed you raised your hand when the Judge
9 asked you about the witness list and you said you knew
10 Chuck; right? Was he a friend?

11 A No. I do not know him personally. I just know him
12 from the election.

13 Q And did you know him because you were a supporter or
14 just because you saw his signs out and knew what he was
15 running for and that sort of thing?

16 A I feel like I supported him better than the others.

17 Q And would that have also been in the primary as well
18 as the general election?

19 A Yes.

20 Q Did you vote for him, do you think more because of
21 the party he was with or just because of the person?

22 A Person.

23 Q So when you go to an election, you vote for who the
24 person is rather than the particular party?

25 A That's right.

1 Q But do you consider yourself kind of toward the
2 conservative, liberal, or moderate? Do you have any
3 particular feelings that way?

4 A Probably more Democratic than Republican.

5 Q So your leanings would be Democratic, but when you
6 vote, you look at the individual and vote for who you feel
7 individually?

8 A Yes, sir.

9 Q Okay. Just a couple of questions about your
10 questionnaire. You had mentioned that your daughter
11 either did or is presently working as a 911 dispatcher?

12 A Right.

13 Q And is that under the authority of the Sheriff's
14 Office, as far as you know?

15 A I think so. She's considered a civilian, but she's a
16 county employee.

17 Q A county employee. But she's under the office maybe
18 or, at least, there's a lot of connection with the
19 Sheriff's Department?

20 A I really don't know.

21 Q Have you discussed with her her duties or do you ever
22 talk about it?

23 A She can't say much about it at all.

24 Q So she's kind of under a gag and she can't release
25 the information?

1 A Uh-huh.

2 Q How long has she been down there? Do you know?

3 A I don't know. It's been somewhere in the
4 neighborhood of seven or eight years.

5 Q I imagine she has a lot of interesting stories to
6 tell, wouldn't you think?

7 A (Juror nodded.).

8 Q You also have a -- I believe a CWP permit, don't you?

9 A Yes, sir.

10 Q Is that related to business or --

11 A It's personal.

12 Q Personal?

13 A Uh-huh. I believe in the Second Amendment.

14 Q And one of the questions dealt with whether you had
15 ever seen anyone with a severe injury. Do you remember
16 that question?

17 A Yes, sir.

18 Q Can you tell me -- you described an incident up at
19 the emergency room, I believe?

20 A Yes, an ambulance brought in a gunshot victim.

21 Q Okay.

22 A And he had already turned blue.

23 Q Did you just happen to be there?

24 A Yes, sir.

25 Q So this was not something that you were connected

1 with or a friend or anything like that?

2 A No.

3 Q You just happened to be there?

4 A Right.

5 Q Now, you do read the newspaper, I assume?

6 A Oh, yeah.

7 Q What section do you start with?

8 A The front page.

9 Q Do you?

10 A Yes.

11 Q See, I always read the sports first and then go back.
12 But you start at the front. Do you read it all the way
13 through?

14 A I, basically, glance over the headlines and see if
15 there's anything in there that's related to me or that I
16 know. That's the reason I remember about Drayton, I
17 worked at Drayton Mills for about 15 years.

18 Q Oh, okay.

19 A So I picked up on that.

20 Q So you're familiar with that area down there pretty
21 good?

22 A Uh-huh.

23 Q And you also knew that you were coming to jury duty
24 at that point?

25 A Yes, sir.

1 Q And the headlines, I guess, caught your attention and
2 you read the article?

3 A I scanned over it. I didn't really read it.

4 Q And I know -- as much as you can, can you tell me
5 what you remember, specifically, about the article?

6 A Just an accusation for a murder.

7 Q Okay.

8 A That's all I remember about it.

9 Q All right.

10 A I don't remember the details.

11 Q But you remember a detail that it did happen down in
12 Drayton?

13 A Uh-huh.

14 Q And do you remember if it mentioned the Cigarette's 4
15 Less store? Do you remember that part?

16 A I think so. I remember that from the newspaper when
17 it happened.

18 Q Okay. That's kind of what I was getting to. Once
19 you read the article on Monday, did it jog your memory as
20 to having heard about it?

21 A Yes.

22 Q And do you remember ever seeing any news broadcasts
23 on TV about it?

24 A No.

25 Q So all the information that you've gotten would have

1 been through the newspaper?

2 A That's right.

3 Q Now, when it jogged your memory as to what occurred a
4 year and a half ago, you started thinking -- I guess, you
5 thought, well, I remember something about that?

6 A Uh-huh.

7 Q And what do you remember about it, as best you can
8 tell me from before?

9 A Just that it happened.

10 Q Okay. Down in Drayton?

11 A In Drayton, yeah.

12 Q But you can't remember anything else about it?

13 A No.

14 Q Now, when you read the newspaper, you mentioned that
15 you skim the headlines to see if anything --

16 A Uh-huh.

17 Q Typically, when you're reading the headlines, if you
18 see something that has to do with a criminal case, do you
19 generally read that kind of article, just out of
20 curiosity?

21 A No. I usually skip over those kind.

22 Q Okay. So you normally skip cases that deal with
23 criminal cases?

24 A Yes.

25 Q But this time, you skimmed the article because you

1 had some connection through being a juror, I guess; is
2 that right?

3 A Yeah.

4 Q All right. In answer to Judge Miller's question, he
5 asked you if the circumstances were right and if the facts
6 supported it that you could vote for life without parole;
7 is that correct?

8 A Uh-huh.

9 Q And, conversely, he asked you could you vote for the
10 death penalty if the facts and circumstances were right;
11 is that correct?

12 A Uh-huh.

13 Q Have you thought about what the death penalty is --
14 in the past, have you ever really thought about the death
15 penalty?

16 A Not much.

17 Q So would it be fair to say that you're aware that it
18 existed, but you've not really thought too much about it?

19 A Yes.

20 Q Would you -- based on that, do you have any
21 particular opinions about it or feelings about it?

22 A It would be difficult.

23 Q To sign a death penalty --

24 A To make -- to be a part of making it happen. But I
25 just -- there would have to be circumstances, absolutely

1 have to be.

2 Q Yes, sir. And, again, I think you stated those are
3 very serious choices you would have to make. But can you
4 give me some examples of what you think could quantify for
5 that situation?

6 MR. BARNETTE: Objection, Your Honor. I think we're
7 getting into specifics there.

8 MR. BOGGS: Well, I'm asking him to expand on -- he
9 said there were certain circumstances, and I asked him
10 what those circumstances to be.

11 THE COURT: I think I'm going to let him do that.

12 MR. BOGGS: Or we can approach, Your Honor.

13 THE COURT: Yes. Come on up.

14 MR. BOGGS: Excuse me a minute, Mr. Henline.

15 (WHEREUPON, a bench conference was held with the
16 attorneys.)

17 BY MR. BOGGS:

18 Q Mr. Henline, I need to rephrase this. Can you define
19 what you mean by certain circumstances?

20 A It would have to be a pretty extremely heinous crime.

21 Q That's fair. So if the facts support or show you
22 that it's an extremely heinous crime, then that would be
23 what you would feel could warrant the death penalty?

24 A It could. Not necessarily, but it could.

25 Q Along those lines, do you feel that if someone causes

1 the death of someone else that it necessarily means that
2 it's a murder case?

3 A Causes?

4 Q Yes.

5 A I'm sure there are different kind of causes, so the
6 answer would be, no.

7 Q Okay. In the death penalty phase of a case -- let me
8 rephrase that. You do understand if you are selected on
9 the jury, that everything we're discussing right now is
10 kind of put on the back burner, we're just exploring
11 particular opinions and such?

12 A Yes, sir.

13 Q If you're selected for the jury, though, there,
14 actually, has to be a trial before it ever went to a
15 penalty phase. Do you understand that?

16 A Uh-huh.

17 Q And during that trial, it would be up to the State to
18 present its evidence and you would have to reach a verdict
19 of either guilty or not guilty during that trial. Do you
20 understand that?

21 A Uh-huh.

22 Q And during that trial, the only thing you could
23 consider is the evidence that's presented there. It has
24 nothing to do with whether or not there's a second phase.
25 Do you understand the procedure on that?

1 A I understand.

2 Q And do you feel like you would have the ability, if
3 you were put on the trial, to completely erase the fact
4 that this has been designated by Mr. Gowdy as a penalty --
5 I mean, as a death penalty case?

6 A (Juror nodded.)

7 Q Okay. Mr. Henline, let's see. I believe that's
8 about all the questions. If you'll give me one second,
9 please, sir.

10 Just, you had mentioned that you had never really
11 thought about the death penalty. You were aware that it
12 existed, but you never really sat down -- have you ever
13 had any discussions about it with anybody that you can
14 remember, family or friends?

15 A No, not really.

16 Q So if it ever popped up in the news on maybe another
17 case somewhere else in the country, you never really had
18 any discussion with friends or family about whether it
19 should be a death penalty case or not?

20 A Probably so, but I don't remember any specifics.

21 Q So if you did -- what you're telling me is, if you
22 did have the discovery -- I mean, discussions, it wasn't
23 anything that made a major impact on you; is that right?

24 A Right.

25 MR. BOGGS: I believe that's all the questions I have.

1 Thank you, Mr. Henline.

2 MR. BARNETTE: May it please the Court, Your Honor?

3 THE COURT: Yes.

4 EXAMINATION

5 BY MR. BARNETTE:

6 Q Good morning, Mr. Henline.

7 A Good morning.

8 Q My name is Barry Barnette. I'll be representing the
9 State, along with Trey Gowdy and John Anthony. I just
10 want to follow-up on some questions that Mr. Boggs asked
11 you.

12 What do you mean by extremely hideous? What's your
13 definition of that?

14 A It would just have to be proven beyond a shadow of a
15 doubt that the person did that. The murder would have to
16 be 100 percent proven.

17 Q Okay. Is that your definition of extremely hideous
18 or what --

19 A Not necessarily hideous, just, I guess, more in the
20 line of intentional, you know.

21 Q And you realize that -- and the Judge will --

22 A Determine [sic] will be a factor in it.

23 Q Do you mean premeditated?

24 A Premeditated, yes, sir.

25 Q And I noticed you said it would be extremely

1 difficult?

2 A Uh-huh.

3 Q What do you mean by that?

4 A I just -- it would be -- I think it should be
5 difficult for anybody to be a part of putting another
6 person to death.

7 Q I understand. Let me ask you a little bit about
8 your -- about the death penalty. I know you really hadn't
9 thought about it, but what experience are you drawing on
10 or what background -- what makes your opinion on the death
11 penalty?

12 A The facts.

13 Q What does your -- I notice that you go to Saint
14 Paul's Methodist. Does your church have any religious
15 beliefs or anything concerning that?

16 A I really don't attend that church regularly.

17 Q So your belief about the death penalty, where would
18 it draw from, you know, your ideas about it come from?

19 A Christianity, religion, in general.

20 Q And what would your -- from your teaching or, I
21 guess, going to church before, your childhood and so
22 forth, what would be the basis for your feelings about the
23 death penalty?

24 A I've really not thought much about that. I just --
25 if I made that decision -- if I helped make that decision,

1 it would have to be something extremely serious.

2 Q What do you mean by extremely serious? I hate to ask
3 you those questions, but we just need to see how you're
4 feeling. And there's no right or wrong answers.

5 A Yeah. I understand that. I really don't know, for a
6 violent crime.

7 Q What would your definition of a violent crime be?

8 A Shooting somebody, or stabbing them, or choking them.

9 Q Would those be factors you would consider when you
10 decided between life and death?

11 A Yes.

12 Q And if those factors was present, would that be
13 something you would consider for the death sentence?

14 A I would consider it, yes.

15 Q Once you -- and you realize -- and the Judge will
16 instruct you on this, the burden of proof for the State is
17 beyond a reasonable doubt, not beyond a shadow of a doubt.
18 And that's something the Judge would give to you. Is that
19 something you would listen to?

20 A Uh-huh.

21 Q If it came down to it and the Judge was telling you
22 that you had to sign the death sentence or death warrant,
23 as it's called sometimes, if it came around to you and you
24 were the last person, the 12th person that had to sign
25 that death form, could you sign that death form?

1 A Yes, sir.

2 Q And the aggravating circumstances that the State is
3 talking about, would those be circumstances that you would
4 listen to?

5 A Oh, yes.

6 Q And also, knowing that you don't automatically have
7 to give a death sentence any time, you've always got life
8 without parole as an option. It's always an option
9 available to you. Knowing that life without parole is an
10 option available to you, could you ever find the death
11 sentence for somebody?

12 A I think so.

13 Q When you say you think so, do you think you could do
14 it or not?

15 A Yes, I could. It's possible.

16 Q It's possible. And I hate -- I know we keep talking
17 about it. Is it more -- what kind of possibility are you
18 talking about?

19 A Just murder itself, intentional murder.

20 Q Premeditated or intentional murder?

21 A Yeah.

22 MR. BARNETTE: One moment, Your Honor, please.

23 THE COURT: Okay.

24 MR. BARNETTE: Thank you, sir, for answering my
25 questions.

1 THE COURT: All right. Mr. Henline, if I could ask
2 you to step into the hallway for just one second, sir.

3 (Pause.)

4 THE COURT: Any objection to this juror?

5 MR. GOWDY: No, sir.

6 MR. BOGGS: No, Your Honor.

7 THE COURT: Okay. Bring him on back.

8 (Pause.)

9 THE COURT: Hey, Mr. Henline.

10 JUROR #149, MICHAEL HENLINE: Hey there.

11 THE COURT: I'm going to give this to you and ask you
12 to take that home and read it. What it, basically, says
13 is that you continue to be eligible to serve in this case.
14 You're a qualified juror. As such, you're still under
15 oath and just abide by your oath with respect to not
16 reading, listening to, or watching anything with respect
17 to this case.

18 JUROR #149, MICHAEL HENLINE: Uh-huh.

19 THE COURT: Additionally, I'm going to ask you not to
20 discuss the case with any family or friends. Because an
21 innocent comment made by somebody could sully your
22 opinion. You've got a clean slate and we want to keep it
23 that way. We don't want someone who's not going to sit
24 through this trial and listen to all the evidence to have
25 any input to what the outcome should be. And that's why

1 we ask you to do that.

2 Again, I anticipate that we will be selecting the
3 jury tomorrow. So I would ask you to be prepared when you
4 come back to be packed and ready to go for five to seven
5 days --

6 JUROR #149, MICHAEL HENLINE: Uh-huh.

7 THE COURT: -- when you come back for jury selection.

8 JUROR #149, MICHAEL HENLINE: Tomorrow?

9 THE COURT: Yes. Whenever we call you. And we'll
10 call you tomorrow and let you know.

11 Thank you, sir.

12 (Juror #149, Michael Henline, was excused from the
13 courtroom.)

14 THE COURT: Bring the next juror in, please.

15 (Juror #24, Barbara Brendle, a white female, was
16 seated.)

17 THE COURT: Ms. Brendle, how are you?

18 JUROR #24, BARBARA BRENDLE: Good.

19 THE COURT: Well, I think you'll be that way when you
20 finish this process, too. I promise you that -- as I told
21 you, I want you to feel as comfortable as you possibly can
22 while you're in here. And so, really, I don't think it's
23 that painful. But it's a little intrusive and we want to
24 make it as painless as we possibly can. I want to assure
25 you that no one in here will embarrass you or humiliate

1 you. That is not their intention and they have -- we've
2 done -- I couldn't tell you how many people we've talked
3 to and they haven't even come close to doing that to
4 anybody, so relax about that.

5 Now, the subjects we're going to address, really, are
6 two or three things. The first thing is we need to know
7 if you know anything about this case. We need to know if
8 you can be a fair and impartial juror. And we need to
9 know your views on the death penalty because of the
10 serious and solemn nature of this proceeding. And we need
11 to talk to you about those things. There are no right or
12 wrong answers. No one will judge your answers in any
13 fashion. No one will -- it's not a test is what I'm
14 trying to tell you.

15 JUROR #24, BARBARA BRENDLE: Uh-huh.

16 THE COURT: And the only correct answers that you can
17 give are your heartfelt responses. We need you to be
18 candid, accurate, and complete in your answers to these
19 questions. And I understand and we all understand that
20 the issues regarding capital punishment are generally --
21 you know, they're deeply held issues. They're not issues
22 that a lot of people are clear on. So don't worry about
23 that. You might be clear, you might not be. But I just
24 wanted to give you an idea that what we need to know is
25 your heartfelt thoughts on these issues.

1 Now, before we start, I would like to go through the
2 indictments with you briefly to give you some factual
3 background on this case. I've done that a little bit and
4 I want to emphasize again that indictments are not
5 evidence and are not to be considered as evidence by
6 anyone in any fashion. They are allegations which have
7 been typed on a sheet of paper that allow this case to
8 wind its way through the system to get to where we are
9 today.

10 Now, the allegations in the first indictment are for
11 murder. And they allege that Fredrick Antonio Evins did
12 in Spartanburg County on or about February 13th, 2003,
13 feloniously, willfully, and with malice aforethought kill
14 Rhonda Marie Ward. The next indictment is for kidnapping.
15 It alleges that Mr. Evins did on the same date unlawfully
16 seize or kidnap Rhonda Marie Ward. The next indictment is
17 for criminal sexual conduct. It alleges that Mr. Evins
18 did in Spartanburg on the same date, February 13th, 2003,
19 willfully and unlawfully commit a sexual battery upon
20 Rhonda Marie Ward. The last indictment alleges that
21 Mr. Evins did on the same date feloniously take and carry
22 away the 1993 Nissan Sentra automobile and its contents
23 belonging to Rhonda Marie Ward. Now, those are the
24 allegations in the charges against Mr. Evins.

25 So the first thing I would like to ask you is, have

1 -- we recognize there's been a lot of publicity about this
2 case on the television, radio, and in the newspaper. And
3 I just want to know, have you heard, read, or seen
4 anything about this case?

5 JUROR #24, BARBARA BRENDLE: When it happened?

6 THE COURT: At any time.

7 JUROR #24, BARBARA BRENDLE: When it happened, as far
8 as the newspaper and the television, yeah.

9 THE COURT: All right.

10 JUROR #24, BARBARA BRENDLE: I think probably what I
11 remember the most is, actually, not that case, but another
12 case with Ms. Huff in Duncan Park.

13 THE COURT: Okay. What do you remember about that?

14 JUROR #24, BARBARA BRENDLE: And that's just because
15 I run and walk and bike and everything and I go over to
16 Duncan Park a lot. And I walk around Duncan Park a whole
17 lot. And I was -- actually, I think it was the day that
18 they had arrested him that they had a newspaper reporter
19 or TV reporter out at Duncan Park and we -- a friend of
20 mine, we always go together, and they had stopped and told
21 us that there was breaking news on this case -- on the
22 Huff case. And so that's when -- I didn't know exactly
23 that they had arrested someone.

24 THE COURT: All right. Anything else you can
25 remember that you've heard or seen about this case?

1 this case, I didn't know a whole lot about it, other than
2 what was on the news and in the paper -- the newspaper.
3 So it didn't like stay with me, you know, as like the Huff
4 case being close to home.

5 THE COURT: All right. Well, let me ask you, when
6 you swear an oath, as a juror, the oath would require you
7 to disregard anything that you've heard, read, or seen
8 about this case. And you'd be required to decide the case
9 based solely on the evidence presented in the courtroom.

10 Do you understand that?

11 JUROR #24, BARBARA BRENDLE: Uh-huh.

12 THE COURT: Do you think you could serve as a fair
13 and impartial juror based on the facts presented at trial
14 only and in accordance with my instructions on the law?

15 JUROR #24, BARBARA BRENDLE: I believe so.

16 THE COURT: Have you already formed an opinion, large
17 or small, in any way about the facts of this case?

18 JUROR #24, BARBARA BRENDLE: No.

19 THE COURT: Have you formed an opinion about the
20 guilt or innocence of Mr. Evins?

21 JUROR #24, BARBARA BRENDLE: No.

22 THE COURT: Now, keeping in mind the legal principles
23 of the presumption of innocence and the State's obligation
24 to prove guilt beyond a reasonable doubt, could you,
25 depending upon the facts and the evidence presented at

1 JUROR #24, BARBARA BRENDLE: No.

2 THE COURT: Okay. And tell me why you connect the
3 two cases?

4 JUROR #24, BARBARA BRENDLE: Well, I think because
5 the Huff case seemed -- it was -- well, of course, we're
6 not getting all the facts. And so the information that
7 the public was receiving, it was just real confusing. And
8 then they would -- right after it happened, they kept --
9 the police would say that we're totally safe, you know,
10 that the residents, we don't need to fear, you know, and
11 that everything is fine to be still going around the area,
12 you know.

13 So I just felt -- well, I felt like, okay, we're
14 safe. And then when -- with this arrest and then with his
15 previous -- what he was being arrested for, I was a
16 little -- really scared that I had gone that period of
17 time thinking that I was safe or I didn't have anything to
18 fear -- too much to fear.

19 THE COURT: Okay. And what have you heard about
20 Mr. Evins, in particular? Anything?

21 JUROR #24, BARBARA BRENDLE: No.

22 THE COURT: Okay. You had said that when you heard
23 about his "previous," what were you going to say?

24 JUROR #24, BARBARA BRENDLE: Well, previous, as far
25 as what he was being arrested for. That case, which is

1 trial and the law as I would instruct it, find Mr. Evins
2 guilty or not guilty?

3 JUROR #24, BARBARA BRENDLE: I'm sorry. Could you --

4 THE COURT: After you sat through a trial, could you
5 find Mr. Evins either not guilty or guilty depending on
6 the facts and evidence?

7 JUROR #24, BARBARA BRENDLE: Yes, sir.

8 THE COURT: Okay. In other words, you're not -- you
9 don't have any preconceived notion at this time; is that
10 right?

11 JUROR #24, BARBARA BRENDLE: No.

12 THE COURT: Now, please remember, we might not even
13 reach the second or sentencing phase in this case, but
14 since we possibly could, I need to ask you questions about
15 your views on the death penalty.

16 Do you understand?

17 JUROR #24, BARBARA BRENDLE: Uh-huh.

18 THE COURT: Now, let me just preface it by saying
19 that when the jury moves to a second phase of a trial, it
20 means that that jury has already determined that the
21 Defendant in that particular case is guilty of murder.
22 That has already been decided in the first phase. So in
23 the second phase, there would be no legal defense to
24 discuss or explore.

25 JUROR #24, BARBARA BRENDLE: Right.

1 THE COURT: That has already been addressed and
2 decided. Now, in that second phase, the jury would hear
3 evidence as to aggravating circumstances and mitigating
4 circumstances. Your oath would require you to abandon any
5 preconceived notions that you might have and to follow the
6 law as I instruct it. In other words, your oath would
7 require you to give serious and meaningful consideration
8 to all the evidence of aggravation and to all the evidence
9 of mitigation. Could you follow your oath and do that?

10 JUROR #24, BARBARA BRENDLE: Yes.

11 THE COURT: Now, if you were a juror in that
12 situation, in the sentencing phase, the second phase of
13 the trial, could you, depending upon the facts and
14 circumstances -- particular facts and circumstances of the
15 case, including all the mitigating and aggravating
16 circumstances and the law that I would instruct you on,
17 could you return a sentence of life in prison?

18 JUROR #24, BARBARA BRENDLE: Yes.

19 THE COURT: Okay. Now, if you're a juror in that
20 sentencing phase, imagine this with me, depending on the
21 particular facts and circumstances of that case and
22 considering all of the aggravating and mitigating
23 circumstances and the law that I would instruct you, could
24 you return a death sentence?

25 JUROR #24, BARBARA BRENDLE: Yes, sir.

1 THE COURT: All right. Now, the law in South
2 Carolina requires that all 12 jurors sign the death
3 sentence form.

4 JUROR #24, BARBARA BRENDLE: Uh-huh.

5 THE COURT: Could you sign your name to that form?

6 JUROR #24, BARBARA BRENDLE: Yes.

7 THE COURT: Okay. Do you recall the sheet that I
8 gave you about the three types of jurors?

9 JUROR #24, BARBARA BRENDLE: Yes.

10 THE COURT: Where do you put yourself in there?

11 JUROR #24, BARBARA BRENDLE: I think it was Number 3.

12 THE COURT: Okay. How would you describe yourself?

13 JUROR #24, BARBARA BRENDLE: Depending on as far as
14 the aggravating circumstances of the crime.

15 THE COURT: Okay. So you would want to hear
16 everything before you made a decision?

17 JUROR #24, BARBARA BRENDLE: Yeah.

18 THE COURT: Okay. Now, if you were selected, would
19 you honor your oath to serve as a fair and impartial juror
20 and would you approach jury service with an open mind to
21 find the truth from the evidence and apply the law as I
22 instruct it?

23 JUROR #24, BARBARA BRENDLE: Yes.

24 THE COURT: Do you know of any reason why you could
25 not serve in this case?

1 JUROR #24, BARBARA BRENDLE: No.

2 THE COURT: And let me just tell you before I allow
3 the attorneys to begin questioning you that the jury that
4 is -- we're going through the qualification process right
5 now and then we'll move into the selection process, I
6 anticipate, tomorrow. The jury that is selected, along
7 with the alternates selected, will be sequestered at the
8 Marriott Hotel, the new Marriott, for a period of, we're
9 estimating, five to seven days. And so if you're
10 qualified and brought back for selection, then you would
11 need to be packed and ready to go for that time.

12 JUROR #24, BARBARA BRENDLE: Okay.

13 THE COURT: Now, I'm going to turn it over to the
14 attorneys for questioning.

15 MR. ANTHONY: Thank you, Your Honor.

16 THE COURT: Yes, sir.

17 EXAMINATION

18 BY MR. ANTHONY:

19 Q Good morning, Ms. Brendle. How are you doing?

20 A Good.

21 Q My name is John Anthony. I work with the Solicitor's
22 Office. And this is Barry Barnette and this is Trey
23 Gowdy. We're the attorneys representing the State in this
24 case. I have just a couple of things I want to ask you.

25 A Okay.

1 Q I understand from looking at the information you
2 submitted that you're a title abstractor?

3 A Yes.

4 Q And do you have your own business doing that now?

5 A Well, I was currently working for someone, but I left
6 employment with that person in August. So right now, I'm
7 temporarily unemployed.

8 Q I wasn't sure if you were doing that on your own or
9 if you were looking to go to work with someone else?

10 A Yes. But it was independently -- even with the
11 person I was -- she was an independent paralegal, so it
12 wasn't like she was working for a title agency or law
13 office or anything.

14 Q Okay. I know the Judge asked you some questions
15 about the death penalty, and I'm going to ask you some
16 questions as well. You said that you believe that you
17 could -- if you thought that the circumstances were right
18 that you could impose the death penalty in this case?

19 A (Juror nodded.)

20 Q And I just want to ask you, could you tell me what
21 your thought processes are to lead you to hold the opinion
22 that that's something you could do?

23 A Well, I think it would be based on the aggravated
24 nature of the crime, that would definitely -- it would
25 have to -- for me to reach that decision, you know, for

1 the death penalty. And I don't know if there's levels of
2 aggravation or not. But I think that I would just be able
3 to base my decision on what I felt as far as the levels of
4 aggravation.

5 Q All right. But do you believe you could listen to
6 the evidence the State would present about the evidence of
7 aggravation and then also the evidence that the Defense
8 would present about any mitigation in the case and you
9 could render a death verdict if you thought that was
10 appropriate?

11 A Right.

12 Q And at the same time, if you thought that based on
13 the evidence you heard that a life without parole verdict
14 was appropriate, you could do that, too?

15 A Right, yes.

16 Q And understanding that that would be your choice,
17 that you could always have a choice between a life without
18 parole or a death verdict, would you always chose the life
19 without parole?

20 A Not that I would always chose, no. It just would be
21 based on the circumstances of the case.

22 Q Okay. And you understand, before someone could,
23 actually, be sentenced to death, all 12 jurors would have
24 to sign a form?

25 A Right.

1 Q You would have to put your name on a form saying, I
2 think this person should be sentenced to death.

3 A Yeah.

4 Q Is that something you believe you could do, if you
5 thought that was the appropriate thing to do?

6 A I believe so.

7 MR. ANTHONY: If you could have just one moment.

8 THE COURT: Yes.

9 (Pause.)

10 MR. ANTHONY: Thank you.

11 That's all from the State.

12 Thank you very much, Ms. Brendle.

13 MR. BROUGH: May it please the Court?

14 THE COURT: Yes, sir.

15 EXAMINATION

16 BY MR. BROUGH:

17 Q Hi, Ms. Brendle. How are you today?

18 A Hi.

19 Q I'm Chris Brough. And along with Karen Quimby and
20 Tam Boggs, we represent Mr. Evins. I just want to ask you
21 a couple questions, some along the lines that Judge Miller
22 was asking you about.

23 I know you said you've heard about another case as
24 well. You said you were scared about that case?

25 A It's close to the area where I live and an area that

1 I visit quite frequently to exercise, walk. And so the
2 public was -- or we felt like we were safe. And so then
3 when they arrested Mr. Evins then for the charges that
4 were then known to us as far as the other crime, this
5 crime, I was scared. I mean, well, I felt -- I was scared
6 that I had gone that period of time and there was good
7 reason to have been scared.

8 Q You said that you talked to somebody, a reporter, or
9 someone who was there?

10 A Yeah. That day, there was -- I think it was a
11 Channel 7 news reporter just interviewing people that were
12 out walking around Duncan Park, the lake. And she was
13 telling us about the breaking news and that someone had
14 been arrested for the Huff case.

15 Q Do you remember about when that was?

16 A It was like the day. I mean, I know it was just in
17 the afternoon.

18 MR. GOWDY: Your Honor, I hate to interrupt Mr. Brough,
19 but I can't hear him. If he could speak a little louder.

20 MR. BROUGH: I'm sorry.

21 THE COURT: You're very soft-spoken.

22 MR. BROUGH: Not a problem.

23 Do you want me to repeat the last question?

24 MR. GOWDY: No. I heard it.

25 Thank you.

1 BY MR. BROUGH:

2 Q Getting back to some of this publicity stuff, when
3 Judge Miller was asking you about this case, you indicated
4 that you, actually, had heard Mr. Evins and you kind of
5 tied the two cases together. Could you kind of elaborate
6 on that for me?

7 A When the Huff case, when that happened, the news, you
8 know, as far as reported it as far as this case. That's
9 the only -- I mean, as far as how I put the two together.
10 It's like the first crime wasn't as -- I guess, it's not
11 as close to home to me as the second one was.

12 Q Okay. I've got you.

13 A Does that make sense?

14 Q That does make sense, actually. Well, let me ask you
15 this, knowing what you know, okay, would the fact that you
16 know about the Huff case, would that kind of be in the
17 back of your mind?

18 A I know that would be something that I would need to
19 just definitely -- it's this case, you know, it's not that
20 case. As far as the nature of that case and the facts and
21 everything, I don't know about, you know. I think there
22 would be --

23 Q Well, you understand there are no right or wrong
24 answers. I'm just asking you if you would be thinking
25 about it?

1 A Well, I don't know if I could say that I wouldn't. I
2 mean, I don't think I would dwell on it and think about it
3 and try to put the two together, but --

4 Q But it could pop up in your mind from time to time?

5 A I really don't -- I mean, it could, yeah.

6 Q All right. I want to ask you a couple of questions.
7 I know Mr. Anthony has asked you about your views on the
8 death penalty. Can you just kind of tell me what your
9 views are generally?

10 A Well, I think as far as the nature of the crime and
11 the level of aggravation that I would, you know, believe
12 that someone -- that if they committed that, that they
13 should get the death penalty, so.

14 Q I've heard you use the term "levels of aggravation"
15 several times.

16 A Well, and that's what -- and I'm not sure in a court
17 of law if there are levels of aggravation or is it just my
18 view as far as that I think, well, that's pretty --

19 Q Would that be the only thing you would consider when
20 you keep saying the levels of aggravation?

21 A I think so, as far as for the death penalty.

22 Q Okay. I want to ask you a couple of other questions
23 that I noticed on your questionnaire. You said that
24 someone had broken into your house at some point. Would
25 you kind of tell me about that?

1 A Well, I have had -- that was probably -- I'm trying
2 to think. It's been a good many years ago, 15 years ago,
3 when someone broke into my house. But I was -- actually,
4 it was someone that was raking my yard and I had to leave
5 the house to go pick up one of my children. And I came
6 back and the person was still raking my yard, but I came
7 in the house and I could tell that someone had come into
8 the house or came in through a window, which we later
9 found out which window he came through. But he went
10 through the house and stole some items. But so -- he was
11 still outside in the front yard raking while I called my
12 husband and the police and called my father and had
13 everybody come over.

14 Q What ultimately happened to the individual?

15 A He was arrested and he was sent to prison, because he
16 had been breaking into other houses in the area and was
17 found.

18 Q Do you know who handled that case?

19 A No.

20 Q Do you remember coming to court at all?

21 A No.

22 Q All right. I noticed you also had a couple of other
23 things that happened, another person stole a bicycle from
24 your garage?

25 A Yeah. Where I live is near Spartanburg High School,

1 so we have a lot of traffic as far as people walking
2 through Converse Heights. And I have a garage that opens
3 to the street. And at that time, my sons were young and
4 so we had bicycles in the garage. But the bicycles were
5 in the garage and -- but I don't know if this person had
6 seen them before or whatever. He said he picked it up in
7 the yard, but they were in the garage. And, actually, he
8 came around to the back door to come in the back of the
9 garage to steal the bicycle.

10 Q And something, I guess, happened to your son, too?

11 A Yeah.

12 Q He was cut by another person on school property?

13 A Yeah.

14 Q When did that happen?

15 A He was a senior at -- either a junior or senior at
16 Spartanburg High and he came out of school, it was after
17 school. And I don't know if he and this other boy had had
18 words, you know, or something going on before, but the boy
19 came up to his car right after school and told him to roll
20 his window down like he was wanting to say something to
21 him and he popped him right in the mouth. And he looked
22 like he must have had a razor or something between his
23 knuckles because it just slit his lip right in two.

24 So he made it home real quick because I'm only like
25 about a block away from the high school. So he got home

1 and I was there and took him to the emergency room.

2 Q There's one other thing I wanted to ask you about. I
3 noticed that you go to First Baptist?

4 A Uh-huh.

5 Q Do you know Mr. Gowdy or anyone in the Solicitor's
6 Office?

7 A I just know him, I mean, as far as by sight.

8 Q Okay.

9 A But not personally. And I've seen him at the
10 athletic club. But as far as personally, I don't know
11 him.

12 Q But that wouldn't have any bearing on your --

13 A No.

14 MR. BROUGH: Thank you very much, ma'am.

15 No further questions.

16 THE COURT: All right. Ms. Brendle, let me ask you
17 to step out in the hallway for just a minute, please,
18 ma'am.

19 (Pause.)

20 THE COURT: Any objections to this juror?

21 MR. BROUGH: Yes, Your Honor.

22 The Defense objects for a couple of reasons, Your
23 Honor. The first being, she says that -- she indicates
24 that she knows a lot about the Huff case. She felt
25 scared. She wouldn't necessarily be able to separate it

1 and that it would pop back into her mind on occasions.
2 And as of now, that case should not be coming into the
3 guilt phase has been the Court's ruling. Additionally,
4 Your Honor, there's a possibility that she could infect
5 the rest of the jury back there with knowledge about that
6 case.

7 And, furthermore, regarding her views on the death
8 penalty, she indicated that she would -- the sole thing
9 that she would consider is the aggravating -- or the
10 degrees of aggravation is what she said. And based on
11 that, she would not consider the mitigating circumstances.

12 We would ask that she be excused.

13 And also, that she was personally effected by the
14 Huff case, Your Honor.

15 MR. ANTHONY: I'm sorry. She was what?

16 MR. BROUGH: Personally effected. She said she was
17 scared.

18 MR. ANTHONY: Your Honor, first of all, as to the --
19 what the Defense said about she would only consider the
20 aggravating, she specifically said a couple of times when
21 the Court examined her and when I examined her that she
22 would consider all of the factors, aggravating and
23 mitigating.

24 As to the Huff issue, she told the Court and she told
25 Mr. Brough that she realized that she would have to keep

1 the two separate and she would have to make a judgment
2 based on the facts that she heard in court about the Ward
3 murder solely.

4 And the only thing that she said that would in any
5 way run contrary to that is when she -- and I think, quite
6 honestly, admitted that it would pop up in her mind, which
7 is -- I don't know how you could expect that to not pop up
8 in someone's mind. But that is not a sufficient -- the
9 fact that it might pop up does not necessarily mean it
10 would affect her judgment. As a matter of fact, she
11 constantly said it would not effect her judgment and she
12 would be able to render a decision just based solely on
13 what she heard about the Ward homicide.

14 There are a whole line of cases where jurors have
15 been seated having knowledge of prior -- actually, having
16 knowledge of prior convictions sustained by defendants.
17 And given what she said where the only thing -- the only
18 thing that would indicate that it might at all impact her
19 is where she said it might pop up. But she constantly
20 maintained that she would be able to just set that aside
21 and be able to render a verdict based solely on what she
22 heard about the Ward murder.

23 The State believes she should be qualified.

24 THE COURT: All right. Well, I'm going -- I disagree
25 with the Defense with respect to her ability to appreciate

1 and take into consideration the mitigating circumstances.
2 I think that she did -- although, you didn't ask the
3 question, I think she did respond appropriately to those.

4 But I am going to find that she's disqualified
5 because of her personal involvement and what she told
6 about that. And I'm sure she might -- it may well be
7 sustained if I qualified her, but I think out of an
8 abundance of caution -- I think otherwise she would be an
9 outstanding candidate for the jury. But based on her
10 personal involvement with the other offense, I am going to
11 disqualify her.

12 So will you bring her back in.

13 (Pause.)

14 THE BAILIFF: Would you go around and face the Judge,
15 please.

16 THE COURT: Hey, Ms. Brendle.

17 JUROR #24, BARBARA BRENDLE: Hey.

18 THE COURT: I want to thank you for your service.
19 And I've made the decision because of your personal
20 involvement that you had and the knowledge of this other
21 case, although I know you would make every effort and,
22 probably, it wouldn't effect you, but just out of an
23 abundance of caution, I've decided to excuse you.

24 JUROR #24, BARBARA BRENDLE: Okay.

25 THE COURT: But I really appreciate your efforts

1 being up here and wish you the best of luck.

2 Thank you very much.

3 (Juror #24, Barbara Brendle, was excused from the
4 courtroom.)

5 THE COURT: Please bring the next juror in.

6 (Juror #300, Thomas Ray, Jr., a white male, was
7 seated.)

8 THE COURT: Mr. Ray, how are you?

9 JUROR #300, THOMAS RAY, JR.: Good.

10 THE COURT: I hope that all my comments before put
11 you at ease about sitting in the hot seat. But, if not,
12 there are a couple of other things I want to tell you.

13 There are no right or wrong answers that you can give
14 up here. Actually, that's not true. The right answers
15 are for you to be completely candid, honest, and truthful
16 in your answers. The wrong answer would be if you
17 withheld something. So that's the only right or wrong.
18 No one is going to judge the answers you give or make any
19 determination about those -- give you a test about the
20 answers you give. Because of the serious nature of the
21 case, we're just looking for your complete answers and
22 truthful answers.

23 And so -- and the subjects we're going to talk about
24 include your knowledge -- any knowledge you might have in
25 the case, your ability to be fair and impartial, and,

1 finally, some -- we'll discuss your views on the death
2 penalty.

3 Now, a lot of people consider that to be very
4 personal and we appreciate that and understand that,
5 everybody in the courtroom does. And everyone in the
6 courtroom understands where you're sitting. And I think
7 probably most of them have sat in that chair before for
8 one reason or another, not for the reason you're there.
9 So they know that it's not the most comfortable or
10 desirable place to be. But we just need you to be honest,
11 just give us your heartfelt thoughts. As I said, there is
12 no right or wrong answers.

13 Now, in order for me to get to these issues, I'm
14 going to go through the indictments a little bit to
15 identify the case. I remind you that indictments are not
16 evidence and they are never to be considered evidence in
17 any case. They are allegations which are typed on a piece
18 of paper which allows the case to be brought. It's just a
19 vehicle to drive this case up here.

20 The first indictment I would share with you is an
21 indictment for murder. And it alleges that Fredrick
22 Antonio Evins did in Spartanburg County on or about
23 February 13th, 2003, feloniously, willfully, and
24 maliciously did kill Rhonda Marie Ward. The next
25 indictment is for kidnapping. It alleges that Mr. Evins

1 did on the same date unlawfully seize or kidnap Rhonda
2 Marie Ward. The next indictment is for criminal sexual
3 conduct. It alleges that Mr. Evins did on the same date,
4 February 13th of 2003, willfully and unlawfully commit a
5 sexual battery on Rhonda Marie Ward. And, finally, the
6 last indictment alleges that Mr. Evins did on the same
7 date feloniously take and carry away the 1993 Nissan
8 Sentra and its contents belonging to Rhonda Marie Ward.

9 Now, those are the allegations that are made in this
10 case. And we recognize that there has been publicity
11 about the case on television, in the newspaper, and on the
12 radio. So the first thing I would like to know is, have
13 you read, heard, or seen anything about this case?

14 JUROR #300, THOMAS RAY, JR.: No, sir.

15 THE COURT: Okay. Now, this would have been a year
16 and a half ago when this event occurred.

17 JUROR #300, THOMAS RAY, JR.: I don't recall anything
18 about the case.

19 THE COURT: All right. Well, great.

20 Now, you understand your oath, as a juror, would
21 require you to disregard anything that you may have read,
22 heard, or seen about the case. So if you -- during the
23 trial, if you were selected or during this process
24 something pops up where you go, oh, yeah, I remember,
25 that's okay. There's nothing wrong with that. Your oath

1 will require you to set that aside and to put it in a
2 separate room in your mind and close the door. And the
3 reason for that is the case must be decided only and
4 solely from the evidence that is presented in the
5 courtroom under oath and subject to Constitutional
6 scrutinies.

7 So would you serve as a fair and impartial juror and
8 reach a verdict based on the facts solely and on the
9 evidence presented at trial and the law that I would give
10 you?

11 JUROR #300, THOMAS RAY, JR.: Yes, sir.

12 THE COURT: Okay. Have you already formed an opinion
13 as to the facts of the case?

14 JUROR #300, THOMAS RAY, JR.: No, sir.

15 THE COURT: Okay. Do you -- have you formed an
16 opinion as to the guilt or innocence of Mr. Evins?

17 JUROR #300, THOMAS RAY, JR.: No, sir.

18 THE COURT: Okay. Now, keeping in mind the legal
19 principles of the presumption of innocence and the State's
20 obligation to prove guilt beyond a reasonable doubt, could
21 you, depending on the facts and circumstances and the law
22 that I have given you, after a trial and you've heard
23 everything, could you return a verdict of not guilty or a
24 verdict of guilty, depending on the facts and
25 circumstances you heard?

1 JUROR #300, THOMAS RAY, JR.: Yes, sir.

2 THE COURT: Okay. So your mind is not made up one
3 way or the other?

4 JUROR #300, THOMAS RAY, JR.: No, sir.

5 THE COURT: Now, please remember, we may not even get
6 to the second phase of the trial or what I've described as
7 the sentencing phase, but because we possibly could, I
8 need to ask you questions about your views on the death
9 penalty.

10 JUROR #300, THOMAS RAY, JR.: Okay.

11 THE COURT: Now, first, I want to tell you, as I've
12 already told you, you're probably tired of hearing it, in
13 the sentencing phase, if we get to the sentencing phase,
14 the jury -- the same jury would have already decided in
15 the first phase of the trial that the Defendant was guilty
16 of murder. Okay. So to get to the second phase, that
17 same jury has already made that determination. So you
18 wouldn't be -- in the second phase, you wouldn't be
19 deciding any issues on a legal defense.

20 The only evidence you would hear in the second phase
21 would be those circumstances in mitigation and
22 circumstances in aggravation of the offense. Okay. Now,
23 I've explained those to you. And your oath would require
24 you to abandon any preconceived notion that you might have
25 and to follow the law as I instructed you on it. In other

1 words, your oath would require you to give serious and
2 meaningful consideration to all of the evidence in
3 aggravation and all of the evidence in mitigation.

4 Do you understand that?

5 JUROR #300, THOMAS RAY, JR.: Yes, sir.

6 THE COURT: And could you follow your oath and do
7 that?

8 JUROR #300, THOMAS RAY, JR.: Yes, sir.

9 THE COURT: Now, if you were a juror in the second
10 phase, hypothetical question, could you, depending upon
11 the particular facts and circumstances of the case that
12 we're presenting and based -- after considering all of the
13 evidence in mitigation and all of the evidence in
14 aggravation and the law as I would instruct it to you,
15 could you return a sentence of life in prison?

16 JUROR #300, THOMAS RAY, JR.: If the circumstances
17 warranted it, yes, sir.

18 THE COURT: All right. Now, imagine -- another
19 hypothetical question. If you were a juror in the second
20 phase, depending on the particular facts of the case and
21 circumstances of the case, including your consideration of
22 all of the aggravating circumstances and all of the
23 mitigating circumstances and the law that I would apply --
24 what I would instruct you that applies, could you return a
25 sentence of death?

1 JUROR #300, THOMAS RAY, JR.: Yes, sir.

2 THE COURT: All right. Now, in the event of a death
3 sentence, all 12 jurors must agree on that. It's got to
4 be unanimous. And the law requires that all the jurors
5 sign the death sentence verdict form. Could you sign your
6 name to a death sentence verdict?

7 JUROR #300, THOMAS RAY, JR.: Yes, sir.

8 THE COURT: All right. Do you recall that sheet with
9 the three types of jurors?

10 JUROR #300, THOMAS RAY, JR.: Yes, sir.

11 THE COURT: Where do you consider yourself to be in
12 there?

13 JUROR #300, THOMAS RAY, JR.: I think I would be
14 Number 3. You know, I would certainly want to weigh all
15 of the circumstances and that would determine how I felt
16 about the death penalty.

17 THE COURT: Very good. You would want to hear all of
18 the evidence before you made your decision?

19 JUROR #300, THOMAS RAY, JR.: Absolutely.

20 THE COURT: Now, if you were selected, you would
21 honor your oath to serve as a fair and impartial juror and
22 would you approach jury service with an open mind to find
23 the truth from the evidence and the law as I instructed it
24 to you?

25 JUROR #300, THOMAS RAY, JR.: Yes, I would.

1 THE COURT: All right. Do you know of any reason why
2 you could not serve as a juror in this case?

3 JUROR #300, THOMAS RAY, JR.: No, sir.

4 THE COURT: All right. And let me just tell you
5 before we go any farther that we're in the qualification
6 process. And once we have a sufficient number of
7 qualified jurors, we will call them back in and select the
8 jury, pick the jury, and three alternates to serve. When
9 that occurs, then those jurors will be sequestered. And
10 we anticipate that will be from five to seven days.
11 They'll be staying over at the Marriott Hotel. And when
12 the jurors -- the qualified jurors are called to come
13 back, they will be asked to bring their baggage with them
14 so if they're selected, they'll go directly from the
15 courthouse over to the hotel. Okay.

16 JUROR #300, THOMAS RAY, JR.: All right.

17 THE COURT: All right. Now, I'm going to let the
18 attorneys ask you some questions.

19 MR. BROUGH: May it please the Court?

20 THE COURT: Yes, sir.

21 EXAMINATION

22 BY MR. BROUGH:

23 Q Mr. Ray, how are you doing?

24 A I'm all right.

25 Q I'm Chris Brough. I know Judge Miller introduced us

1 all on Monday, but I'm Chris Brough. I, along with Karen
2 Quimby, sitting there, and Tam Boggs represent
3 Mr. Fredrick Evins.

4 A Okay.

5 Q I'm just going to ask you a couple of questions. I
6 notice that you're the CEO of Evergreen Mortgage?

7 A Yes, sir.

8 Q I guess you majored in [inaudible] in school?

9 A I did.

10 Q That's quite a little leap you got?

11 A Absolutely.

12 Q I just wanted to ask you a couple of questions
13 regarding your parents. First of all, where do your folks
14 live?

15 A Rock Hill, South Carolina.

16 Q They live in Rock Hill. And your mother is a
17 librarian?

18 A She's retired now. Actually, I think she still works
19 for a magnate school and does some assisting there, but
20 she's, for the most part, retired.

21 Q Judge Miller asked you, and you haven't heard
22 anything about this case at all?

23 A No, sir.

24 Q I guess you read the Greenville newspaper?

25 A I do when I have time.

1 Q Okay. You're kind of right on the line in Greer?

2 A Yeah.

3 Q All right. And you watch Fox News?

4 A I do.

5 Q About how regularly do you watch the news?

6 A Well, during the election, I watched it fairly
7 regularly. Other than that, it's difficult with my job,
8 running the company, I don't have a lot of time, so not
9 often.

10 Q I saw that you had a Bush bumper sticker, so I guess
11 you're pretty happy with how that came out?

12 A Yeah. But I don't think I have a Bush bumper sticker
13 on my car.

14 Q "W-Bush '04"?

15 A Oh, my wife does on her vehicle. That's right.

16 Q I got you. I want to ask you about one thing. I
17 noticed that you had indicated that your office has been
18 broken into once?

19 A Yes.

20 Q Could you kind of tell me about that?

21 A Well, we just had an alarm at the office and went up
22 there and noticed the door had been opened. And it looked
23 like it had been opened with a key. So, you know, it
24 wasn't physically forced open. So whomever did that had
25 access to a key or maybe a past employee. Nothing was

1 missing, but some computer files were accessed.

2 Q Okay. And you don't think that has anything to do
3 with the lawsuit you're being sued for, do you?

4 A No. I don't think so.

5 Q How is that going?

6 A I think it's going okay. It seems to be a frivolous
7 lawsuit against my company. But, you know, I guess I'll
8 have my day in court when that takes place.

9 Q It deals with an interest lock expiration; is that
10 right?

11 A That's right.

12 Q Somebody got upset that the rates went up, huh?

13 A Right.

14 Q Now, I just want to ask you, if you could just kind
15 of verbalize to me what your views are on the death
16 penalty. Again, there are no right or wrong answers, I'm
17 just looking for your honest answers.

18 A Well, you know, I think it's a very serious issue. I
19 believe in the death penalty. But I believe that, you
20 know, there has to be absolute certainty of guilt and that
21 the circumstances should warrant the death penalty, you
22 know. I don't think that all murder cases warrant that,
23 but, certainly, some could.

24 Q Okay.

25 A I believe it's a real serious issue that needs

1 serious attention paid to it.

2 Q Well, you understand then we're kind of, you know,
3 putting this issue before anything else and it may never
4 even get to that point, you know. The second phase, we
5 may never reach it. But if we do reach it, we're asking
6 these questions. And if we did reach the second phase,
7 the jury would have found Mr. Evins guilty of murder.
8 Then would you be able to listen to aggravating
9 circumstances presented by the State and mitigating
10 circumstances presented by the Defense before making a
11 decision?

12 A Absolutely.

13 Q And would you want to hear all of the evidence at
14 that phase, understanding that there's no legal defense at
15 that point? That, you know, he would have been found
16 guilty at that point if it got to that, would you still
17 want to hear all of the evidence?

18 A Yes.

19 Q I also notice your sister is a paralegal in Rock
20 Hill?

21 A Yes.

22 Q What kind of law firm does she work for?

23 A They handle commercial real estate.

24 Q So, I guess, real estate kind of runs in the family?

25 A Yes.

1 Q All right. I want to ask you, on the questionnaire,
2 you indicated that you had seen some severe injuries
3 caused by another person in the emergency room. Why were
4 you -- were you injured, is that why you were in the ER?

5 A Yeah. I've had a few sports injuries.

6 Q Okay. What kind of sports?

7 A Football.

8 Q Okay. Got you. And what did you see when you were
9 there?

10 A It's been a long time. I recall someone coming in
11 bleeding profusely from the mouth. And I think there was
12 another leg or side injury. It's been a long time.

13 MR. BROUGH: If I may have one minute, Your Honor.

14 THE COURT: Okay.

15 (Pause.)

16 MR. BROUGH: No further questions.

17 THE COURT: Thank you very much.

18 Mr. Ray, may I ask you to please step in the hall and
19 we'll be right back with you?

20 MR. ANTHONY: Your Honor, we didn't --

21 THE COURT: Oh, Mr. Ray, I'm sorry.

22 We've been doing this for a day and a half and my
23 brain is not functioning correctly. And please don't take
24 anything from that. I just thought they had done it. It
25 was my fault.

EXAMINATION

BY MR. ANTHONY:

Q I'm just going to very briefly ask you a couple of questions. My name is John Anthony. This is Barry Barnette, and this is Trey Gowdy. And we're the attorneys that represent the State in this case.

Just very briefly, as the Judge told you, if the case goes to the sentencing phase, there will be a form in the jury room and every juror will have to sign it saying that if you decide to give a death verdict, that's what you'll have to sign. And every juror has to sign it saying this is what I think is the right thing to do.

And I just want to ask you, do you think if you were convinced under the facts and the circumstances of this case that a death penalty was the appropriate verdict, are you sure that you could write your name down on that form and, actually, impose it?

A Yes.

MR. ANTHONY: All right. Thank you.

That's all my questions, Mr. Ray.

THE COURT: Would you step into the hall now?

I apologize about that.

JUROR #300, THOMAS RAY, JR.: Yes.

(Pause.)

THE COURT: I'm sorry about that, gentlemen.

1 MR. GOWDY: That's all right.

2 THE COURT: Any objection to this juror?

3 MR. BROUGH: No, Your Honor.

4 MR. ANTHONY: No, Your Honor.

5 THE COURT: All right. Bring the juror back in.

6 THE BAILIFF: Mr. Ray, you can go ahead and face the
7 Judge, please, sir.

8 THE COURT: Mr. Ray, come on around and let me hand
9 this to you. Take that home with you and read it.

10 JUROR #300, THOMAS RAY, JR.: All right.

11 THE COURT: I want to tell you that you have been
12 qualified and remain eligible to serve in this case. I
13 anticipate -- we're hoping to finish the qualification
14 process either today or early tomorrow and then we'll
15 select the jury tomorrow.

16 JUROR #300, THOMAS RAY, JR.: Okay.

17 THE COURT: So in the meantime, you're free to go
18 home, get ready to go, get packed up for five to seven
19 days. You may or may not be selected. You may have to go
20 home and unpack. But in any event, you have to be ready
21 when you come back.

22 I would also tell you, implore you and remind you
23 that you're still under oath. Don't talk about the case
24 with anybody. Don't read the newspaper, or look at TV, or
25 listen to the radio or anything with respect to this case.

1 And I ask you not to discuss it with anybody, even though
2 it's got to be very tempting to do that. I know your
3 family will probably want to talk to you about it. You
4 can tell them you're going to be sequestered and where
5 you're going to be, of course, and all that. But an
6 innocent comment from somebody might impact your thought
7 process in the trial. And that's why I implore you not to
8 talk about it with anybody.

9 JUROR #300, THOMAS RAY, JR.: Yes, sir.

10 THE COURT: Thank you very much.

11 (Juror #300, Thomas Ray, Jr., was excused from the
12 courtroom.)

13 THE COURT: Bring the next juror in, please.

14 (Juror #161, Cherie Holsten, a white female, was
15 seated.)

16 THE COURT: Ms. Holsten, welcome to the courtroom.

17 JUROR #161, CHERIE HOLSTEN: Thank you very much.

18 THE COURT: Now, let me -- I hope I put you at ease
19 when I talked to you a little bit or took off some of the
20 edge. I know I certainly couldn't have taken all of the
21 edge off. I want to assure you -- first of all, let me
22 tell you what we're going to talk about.

23 JUROR #161, CHERIE HOLSTEN: Sure.

24 THE COURT: We're going to go over two or three
25 subjects. The first one will be if you have any knowledge

1 about this case. The next one will be --

2 JUROR #161, CHERIE HOLSTEN: No, I don't.

3 THE COURT: Well, wait until we ask questions before
4 you start answering.

5 JUROR #161, CHERIE HOLSTEN: Okay.

6 THE COURT: The next will be whether you can be fair
7 and impartial in this case. And the third will be your
8 views on the death penalty, because of the serious nature
9 of this charge. So I want you to know that no one in here
10 intends -- will not be allowed to, but they do not intend
11 to try to embarrass or humiliate you in any way by the
12 questions.

13 And there are no right or wrong answers, except, the
14 right answers are your truthful, candid, and complete
15 answers to the questions, and your heartfelt feelings
16 about some of these subjects which may -- a lot of people
17 consider to be private, but we need your heartfelt and
18 truthful responses. And other than that, there are no
19 right or wrong answers to any of these questions and no
20 one is going to judge you. And there is no test that's
21 being taken. There's no litmus test of any kind.

22 Before we start, I want to give you a little bit more
23 information about the cases as contained in the
24 allegations in the indictments. I will remind you that
25 these indictments are not evidence and should not be

1 considered to be evidence in any fashion.

2 JUROR #161, CHERIE HOLSTEN: I understand that.

3 THE COURT: All right. The first indictment -- and
4 I'll tell you this, they are allegations typed on the
5 paper, and that's all they are, that allow this case to
6 move through the system.

7 JUROR #161, CHERIE HOLSTEN: I taught America court
8 systems one time.

9 THE COURT: Very good.

10 This first indictment is for murder. And it alleges
11 that Fredrick Antonio Evins did in Spartanburg County on
12 or about February 13th, 2003, feloniously, willfully, and
13 with malice aforethought kill Rhonda Marie Ward. The
14 second indictment is for kidnapping. And it alleges that
15 Mr. Evins did on or about the same date unlawfully seize
16 or kidnap Rhonda Marie Ward. The next indictment is for
17 criminal sexual conduct. It alleges that on the same
18 date, February 13th of 2003, Mr. Evins willfully and
19 unlawfully committed a sexual battery upon Rhonda Marie
20 Ward. And, finally, the last indictment is for grand
21 larceny. And it alleges that Mr. Evins did on or about
22 that same date feloniously take and carry away the 1993
23 Nissan Sentra and its contents belonging to Rhonda Marie
24 Ward.

25 Now, we recognize that there has been publicity about

1 this case on television, the radio, and in the newspaper.
2 The first question I would like to ask you is, have you
3 heard, read, or seen anything about this case?

4 JUROR #161, CHERIE HOLSTEN: Probably, but I don't
5 pay a whole lot of attention to names, so I don't know the
6 specific case you're talking about. Now, I know there's a
7 whole lot of cases right now that are in the news, but
8 this particular case is not ringing any bells.

9 THE COURT: All right. Now, this occurred about a
10 year and a half ago.

11 JUROR #161, CHERIE HOLSTEN: No.

12 THE COURT: It still doesn't perk anything up?

13 JUROR #161, CHERIE HOLSTEN: No.

14 THE COURT: All right. Well, let me tell you that --
15 ask you, do you understand that your oath, as a juror,
16 would require you to disregard anything that you have
17 read, heard, or seen about this case. And it may be that
18 during -- if you were selected, that during the trial or
19 during this process, it may perk your memory so that you
20 remember something about the case. And if it does,
21 there's nothing wrong with that, but you need -- during
22 this process, you certainly need to let us know. But,
23 otherwise, you will be under oath to disregard anything
24 you might remember, because you are required to decide the
25 facts only from the evidence presented at trial.

1 Do you understand that?

2 JUROR #161, CHERIE HOLSTEN: Oh, yeah.

3 THE COURT: Could you serve as a fair and impartial
4 juror and reach a verdict based on the facts presented at
5 trial and in accordance with my instructions on the law?

6 JUROR #161, CHERIE HOLSTEN: Yes, as far as the.
7 verdict goes. Now, sentencing would be a separate thing.

8 THE COURT: Well, go ahead and tell me what that
9 issue would be.

10 JUROR #161, CHERIE HOLSTEN: I cannot condone capital
11 punishment in any way, shape, form, or fashion. I have
12 taught that subject. I have researched that subject. I
13 have held numerous discussions on that subject and had
14 lots of deep thought. I could not sentence anybody to
15 death, no matter what.

16 THE COURT: Under any circumstances?

17 JUROR #161, CHERIE HOLSTEN: Under any circumstances.
18 I think God is the only person or the only entity in this
19 universe that has a right to do that. I don't believe two
20 wrongs make a right.

21 THE COURT: Okay. You seem very firm in that belief.

22 JUROR #161, CHERIE HOLSTEN: I am very firm. I have
23 led enough discussions with college students to where they
24 were screaming in the classroom at each other. I have
25 deep thought and very deep convictions. I would not ever,

1 ever sentence anybody to death.

2 THE COURT: All right. Well, ma'am, I am -- at this
3 point, because of your deep seeded and firmly held beliefs
4 which are, of course, very intelligently and meticulously
5 thought out on your part, I am going to excuse you from
6 service.

7 And we appreciate you being here.

8 JUROR #161, CHERIE HOLSTEN: I kind of thought that
9 might end up happening after all of this. But, you know,
10 what can I say? I tried to tell you when you asked me.

11 THE COURT: Well, we appreciate it very much.

12 JUROR #161, CHERIE HOLSTEN: All right.

13 THE COURT: Good luck to you.

14 (Juror #161, Cherie Holsten, was excused from the
15 courtroom.)

16 THE COURT: All right. I hate to do it, but we need
17 to take just about a five-minute break.

18 (WHEREUPON, a break was taken.)

19 THE COURT: We're way behind. So let's go ahead and
20 bring the next juror in.

21 (Juror #124, Aaron Gray, a black male, was seated.)

22 THE COURT: Mr. Gray, thank you for your patience.

23 I hope -- I put you completely at ease, didn't I?
24 You're not nervous at all, are you?

25 JUROR #124, AARON GRAY: Not really.

1 THE COURT: Well, I'm glad to hear it. What I want
2 to tell you before we start is, of course, what we're
3 going to talk about will be whether or not you know
4 anything about this case, whether or not you could be a
5 fair and impartial juror, and then because of the nature
6 of this case, we're going to talk about your views about
7 the death penalty. Okay.

8 JUROR #124, AARON GRAY: Yes, sir.

9 THE COURT: And before we start, I want to tell you
10 there are no right or wrong answers. The right answers
11 that you could give -- there are right answers, and what
12 those are are for you to be truthful and candid and
13 complete in your answers to the questions. And a lot of
14 people consider their views on the death penalty to be --
15 you know, a lot of people aren't completely sure about it
16 and they consider it to be very personal. We all
17 understand that, but we want you to be completely truthful
18 about it. And I tell you, other than just giving your
19 true feelings, there are no wrong or right answers to any
20 of these questions. Okay.

21 JUROR #124, AARON GRAY: Okay.

22 THE COURT: I'm going to tell you a little bit about
23 the background of the case. And by doing that, I'm going
24 to read part of these indictments to you. And I will tell
25 you again, the indictments are not evidence and don't

1 consider them to be evidence. They are allegations typed
2 on a piece of paper that allow this case to move through
3 the system and get to court. Okay.

4 JUROR #124, AARON GRAY: Okay.

5 THE COURT: I want to tell you the first indictment
6 alleges that Fredrick Antonio Evins did in Spartanburg
7 County on or about February 13th of 2003, feloniously,
8 willfully, and with malice aforethought kill Rhonda Marie
9 Ward. The next indictment is for kidnapping. And it
10 alleges that Mr. Evins did on the same date unlawfully
11 seize or kidnap Rhonda Marie Ward. The next allegation is
12 criminal sexual conduct. It alleges that Mr. Evins did on
13 the same day, February 13th, 2003, willfully and
14 unlawfully commit a sexual battery upon Rhonda Marie Ward.
15 And, finally, grand larceny. It alleges that Mr. Evins
16 did on the same day, February 13th, 2003, carry away --
17 feloniously take and carry away the 1993 Nissan Sentra and
18 its contents belonging to Rhonda Marie Ward. Those are
19 the allegations.

20 Now, we know or understand that there has been
21 publicity on this case on television, in the newspaper,
22 and the radio, this type thing. And so my first question
23 is, have you read, heard, or seen anything about this
24 case?

25 JUROR #124, AARON GRAY: When it first happened, I

1 seen it on the news, but that's as far as I know about it.

2 THE COURT: Okay. Well, do you remember what you
3 saw?

4 JUROR #124, AARON GRAY: I just seen him being
5 arrested, you know. I seen him in handcuffs on the news.

6 THE COURT: You saw Mr. Evins?

7 JUROR #124, AARON GRAY: I believe.

8 THE COURT: Okay. Do you remember anything about the
9 facts of the case?

10 JUROR #124, AARON GRAY: No, sir.

11 THE COURT: Okay. Well, let me tell you, do you
12 understand that, as a juror, your oath is going to require
13 you to disregard anything you may have read, heard, or
14 seen about this case? And you would be required to decide
15 the facts only from the evidence presented at trial.

16 Do you understand that?

17 JUROR #124, AARON GRAY: Yes, sir.

18 THE COURT: Okay. Could you serve as a fair and
19 impartial juror and reach a verdict based solely on the
20 facts presented at trial and in accordance with my
21 instructions on the law? Could you do that?

22 JUROR #124, AARON GRAY: Yes, sir.

23 THE COURT: Okay. Have you already formed an opinion
24 as to the facts of this case?

25 JUROR #124, AARON GRAY: No, sir.

1 THE COURT: Have you formed an opinion as to the
2 guilt or innocence of Mr. Evins?

3 JUROR #124, AARON GRAY: No, sir.

4 THE COURT: Now, keeping in mind the legal principles
5 of the presumption of innocence and the State's obligation
6 to prove guilt beyond a reasonable doubt, could you,
7 depending upon the facts and the evidence presented at
8 trial and the law that I would instruct you, could you
9 find a defendant charged with a crime either guilty or not
10 guilty?

11 JUROR #124, AARON GRAY: Yes, sir.

12 THE COURT: Okay. Your mind isn't made up one way or
13 the other?

14 JUROR #124, AARON GRAY: No.

15 THE COURT: Now, remembering that we may not even get
16 to the second phase of the trial, but because we possibly
17 could, I must ask you questions about your view on the
18 death penalty. Okay.

19 JUROR #124, AARON GRAY: Yes, sir.

20 THE COURT: Now, I will tell you again, when a jury
21 moves to the sentencing phase, that same jury would have
22 already decided in the first phase that the Defendant was
23 guilty of murder.

24 JUROR #124, AARON GRAY: Yes, sir.

25 THE COURT: That issue wouldn't be in front of the

1 jury in the second phase. They wouldn't be considering
2 any legal defenses or anything like that. All they would
3 be considering -- all the jury would be considering would
4 be the evidence in aggravation and the evidence in
5 mitigation of the offense.

6 Do you understand that?

7 JUROR #124, AARON GRAY: Yes, sir.

8 THE COURT: Okay. Now, your oath would require you
9 to put -- to abandon or put aside any preconceived notions
10 that you might have and to follow the law as I instructed
11 you on it. In other words, your oath would require you to
12 give serious and meaningful consideration to all of the
13 evidence presented in aggravation and all the evidence
14 presented in mitigation.

15 Could you follow your oath and do that?

16 JUROR #124, AARON GRAY: Yes, sir.

17 THE COURT: Okay. Now, a hypothetical question here,
18 imagine you were a juror in the second phase of a case
19 where a defendant had already been found guilty of murder,
20 depending on the facts, the particular facts and
21 circumstances of that case, and taking into consideration
22 all of the aggravating and mitigating circumstances and
23 the law that I would give to you, could you return a
24 verdict of life in prison?

25 JUROR #124, AARON GRAY: Yes, sir.

1 THE COURT: All right. Now, another hypothetical
2 question, you're a juror in the second phase, guilt is
3 already established, guilt of murder is already
4 established, could you, depending on the particular facts
5 and circumstances of that case, including considering all
6 the aggravating and all of the mitigating circumstances,
7 could you return a sentence of death?

8 JUROR #124, AARON GRAY: I really would have to be
9 persuaded, you know, because I'm really not for the death
10 penalty. I really don't think it should be up to a
11 citizen to decide if a person should live or die, but
12 maybe by the facts I could be persuaded and I maybe could.

13 THE COURT: So what you're telling me is that
14 depending on the particular facts and circumstances of the
15 case and the law and after considering the aggravating
16 circumstances, which increase the enormity of the offense,
17 and the mitigating circumstances, which would lessen it,
18 after you considered all of that, you could return a
19 verdict of death; is that right?

20 JUROR #124, AARON GRAY: Yes.

21 THE COURT: I'm not putting words in your mouth, am
22 I?

23 JUROR #124, AARON GRAY: No, sir.

24 THE COURT: You'd take it very seriously?

25 JUROR #124, AARON GRAY: Yes.

1 THE COURT: Now, in the event that the jury -- and
2 all 12 jurors would have to agree. In the event a death
3 sentence was returned, the law requires that all 12 jurors
4 would have to sign their names to the death sentence
5 verdict form. Could you sign your name to a death
6 verdict?

7 JUROR #124, AARON GRAY: I really don't know, sir. I
8 mean, like I said, it would have to be the facts. Because
9 right now, I would probably say no. Just without hearing
10 the facts, I would say, no, I couldn't sign it.

11 THE COURT: Okay. Well, now, you've told me that you
12 could return a verdict of death.

13 JUROR #124, AARON GRAY: (Juror nodded.)

14 THE COURT: So assume for this next question that
15 that's where you are, that you have listened to all the
16 facts and circumstances and the mitigating and aggravating
17 circumstances and the law and you have -- you felt that it
18 did -- was a case where you could return a sentence of
19 death. All right. You've already gone through all that.
20 Could you -- in that instance, could you sign your name to
21 a death verdict form?

22 JUROR #124, AARON GRAY: Yes.

23 THE COURT: Okay. Do you recall the sheet that had
24 all three listed -- the three types of jurors on it?

25 JUROR #124, AARON GRAY: Yes, sir.

1 THE COURT: How would you classify yourself? Where
2 would you put yourself on that list?

3 JUROR #124, AARON GRAY: Right now, I would probably
4 be Number 2.

5 THE COURT: Number 2. Okay. And that is the juror
6 who would not give the death penalty?

7 JUROR #124, AARON GRAY: Not -- you know, no, I
8 wouldn't.

9 THE COURT: Okay. Well, now, let me just ask you
10 this, if you were selected, you could honor your oath and
11 approach jury service with an open mind and find the truth
12 from the evidence, couldn't you?

13 JUROR #124, AARON GRAY: Yes, sir.

14 THE COURT: All right. And do you know of any reason
15 why you could not serve as a juror in this case?

16 JUROR #124, AARON GRAY: No, sir.

17 THE COURT: All right. Now, I'll tell you this
18 before I let the attorneys question you about these same
19 subjects, we're going through the qualification process.
20 When we get enough qualified jurors, then we'll ask them
21 all to come back and bring their luggage for five to seven
22 days and pick the jury and three alternates. And be --
23 they will be sequestered for five to seven days over at
24 the -- they'll be staying at the new Marriott Hotel.
25 Okay.

1 JUROR #124, AARON GRAY: Yes, sir.

2 THE COURT: Understanding that, I'm going to turn you
3 over to the attorneys and let them ask you questions.

4 I think it's the State -- well, I did dismiss --

5 MR. GOWDY: I mean, I'm happy to go.

6 THE COURT: Are you?

7 MR. GOWDY: I would be delighted to.

8 THE COURT: Okay.

9 EXAMINATION

10 BY MR. GOWDY:

11 Q Good morning, Mr. Gray.

12 A Good morning.

13 Q How are you doing?

14 A Pretty good.

15 Q I want to introduce myself. My name is Trey Gowdy.
16 That's Barry Barnette.

17 A How are you doing?

18 Q John Anthony may or may not come in the courtroom.
19 The three of us will be representing the State of South
20 Carolina in this case.

21 I'm going to start, Mr. Gray, by thanking you for
22 filling out the questionnaire. Those are some personal
23 questions. They are questions that I wouldn't, you know,
24 ask you if we just ran into each other at the mall or
25 somewhere, but I appreciate the time that you took to fill

1 it out and the completeness with which you filled it out.

2 There are not any right answers, there are no wrong
3 answers, there are just Mr. Gray's answers. Whatever your
4 answers are, I ain't going to try to change your mind.
5 This ain't the forum for it and I wouldn't do it any way.
6 Okay..

7 A Okay.

8 Q You expressed reservation, reluctance when Judge
9 Miller asked you about your thoughts on the death penalty?

10 A Yes, sir.

11 Q And I want you to keep in mind whatever your thoughts
12 are, they are -- nobody -- I'm not going to try to -- this
13 ain't the time and place for you and I to debate capital
14 punishment. But I've got to know what your thoughts are.
15 You told the Judge you were probably a Number 2 juror?

16 A Yes, sir.

17 Q Which means you're not going to give death. If
18 you've got a choice between life and death, you're going
19 to pick life?

20 A Yes, sir.

21 Q Tell me about that.

22 A I don't know, really. I mean, I've just always been
23 the type that when I see it on TV or something about the
24 death penalty, I'm always against it. There hasn't been
25 one case yet where I said he deserves death.

1 Q How old are you?

2 A 23.

3 Q Well, you're still a young man. In 23 years, you
4 have not seen a case yet where somebody deserved death?

5 A I don't really know how to answer that. You know --

6 Q Well, I'm not trying to put words in your mouth. I
7 thought that's what you just said --

8 A Yeah.

9 Q -- you have not seen a case yet where you thought
10 somebody deserved death?

11 A That's my opinion.

12 Q And that's all I care about.

13 A Other people may think, you know, that they may
14 deserve death, but that's my opinion.

15 Q That's what I want to ask you about is your opinion.
16 Nobody else's opinion matters right now. Your opinion has
17 got as much value and worth as anybody else's, so whatever
18 your opinion is, that's what I want you to give me.

19 A Yes, sir.

20 Q And what you're telling me, I think -- again, I don't
21 want to put words in your mouth. But you have not seen a
22 case yet in your 23 years where you would give the death
23 penalty?

24 A No.

25 Q Okay. Is your opposition to the death penalty

1 spiritually based? Is it based on a philosophical view
2 that you have? What's the genesis of your opposition to
3 the death penalty?

4 A It's spiritual.

5 Q Spiritual?

6 A Yes, sir.

7 Q New Testament teaching, Old Testament teaching, or
8 what denomination?

9 A I'm a Baptist. I'm a Southern Baptist. And I don't
10 know. I was just always taught that a person shouldn't
11 judge another person.

12 Q Would your religious views make it very difficult for
13 you to sit on a death penalty case?

14 A Kind of, in a way. I can do it but, like I said, I
15 would have to be really persuaded with the evidence for me
16 to give a death penalty sentence.

17 Q Okay. I want you to -- and again, these are tough
18 questions. It's tough for me to ask them and tough for
19 you to answer them.

20 A Yes, sir.

21 Q On the one hand, you say you've got to be really
22 persuaded before you can give death. And, on the other
23 hand, you say I'm opposed to the death penalty. I'm a
24 type two juror and I've never seen a case in my 23 years
25 yet where I would give death. Reconcile those two answers

1 for me.

2 A I guess it's open, you know, that I could give death.
3 But, you know, just from me just saying that before
4 hearing anything, I would say that I wouldn't do it. But,
5 then again, I could be persuaded that I would do it. I'm
6 not totally saying that I couldn't do it, but right now,
7 I'm against it.

8 Q Okay. As you sit right now -- as you sit in that
9 jury chair right now, is it fair to say that you cannot
10 impose the death penalty?

11 MR. BOGGS: Your Honor, objection.

12 THE WITNESS: I'm going to say, no.

13 THE COURT: Hang on.

14 MR. BOGGS: He's asked it and he's answered the
15 questions three times.

16 THE COURT: He answered it no.

17 MR. GOWDY: I don't think I've asked it but once,
18 but --

19 THE COURT: Go ahead and ask your question.

20 BY MR. GOWDY:

21 Q As you sit there right now, is your response, no, I
22 cannot impose the death penalty?

23 A No. I'm going to say I -- maybe I can give it. I'm
24 against it, but I can give the death penalty.

25 Q Okay. Help me understand how you can give it.

1 A I'd have to be persuaded by the evidence. I'd have
2 to be really persuaded to go against what I believe.

3 Q When you say "persuaded," do you mean persuaded by
4 the quantum of proof, the amount of proof, or the
5 heinousness of the crime?

6 A The heinousness of the crime, you know, the
7 seriousness of the crime. It all depends on what really
8 happened. What exactly did they do for me to have to give
9 them the death penalty.

10 Q Do you have a definition within your own mind of what
11 heinous or serious is?

12 A Not really.

13 Q You see, what I'm trying to get at -- I'm not trying
14 to get at anything other than what you believe in your
15 heart. To be a qualified juror, you've got to be able to
16 impose the death penalty and you've got to be able to
17 impose life. Both sides have got to be able to rely upon
18 you to do either one, depending on what you think is
19 right.

20 What I'm trying to get at is, if the category of
21 cases that you could give the death penalty is so small as
22 to effectively render you not able to give the death
23 penalty. That's what I'm getting at. So when you say, I
24 can do it if it's heinous and it's serious, you know,
25 without asking you for specific examples, is that category

1 so small and so narrow -- I mean, you're 23 years old and
2 you haven't found a case yet; is that fair?

3 A Yes.

4 Q Okay. And, again, I don't like asking you these
5 questions, it probably ain't comfortable for you answering
6 them. But both sides, we have to know what your position
7 is.

8 A Yes, sir.

9 Q You were, again, candid enough in your questionnaire
10 and, again, actually, on Monday, if I remember
11 correctly --

12 A Yes, sir.

13 Q -- to tell the Court that you, actually, have a
14 charge pending in this circuit?

15 A Yes, sir.

16 Q And my office is prosecuting that charge?

17 A Yes, sir.

18 Q And if I reviewed your file correctly, the Public
19 Defender's Office is defending you?

20 A Yes, sir.

21 Q Mr. Bartosh?

22 A Yes, sir.

23 Q Am I right about that?

24 A Yes.

25 Q And it's still pending and hasn't been resolved?

1 A It hasn't been resolved.

2 Q Did you know that Ms. Quimby and Mr. Brough worked
3 with Mr. Bartosh?

4 A I knew they worked at the Public Defender Office's,
5 but didn't know there was any connections going on.

6 Q You didn't know that it was all one law firm?

7 A Yeah.

8 Q The -- and, again, I'm not trying to pry into details
9 of that case because now is not the time to do that. But
10 if I read the file correctly, the Sheriff's Department,
11 actually, made the arrest?

12 A I believe.

13 Q Do you know that the Sheriff's Department made the
14 arrest in this case?

15 A No.

16 Q Did you know that?

17 A No.

18 Q Would it matter to you?

19 A No.

20 Q No animosity or bias --

21 A No animosity.

22 Q -- toward the Sheriff's Department?

23 A No, sir.

24 MR. GOWDY: Give me one second, Mr. Gray.

25 (Pause.)

1 MR. GOWDY: Mr. Gray, thank you for filling out the
2 questionnaire. I appreciate you answering my questions.

3 Thank you.

4 EXAMINATION

5 BY MR. BOGGS:

6 Q Mr. Gray, how are you doing today?

7 A Fine. How you doing?

8 Q My name is Tam Boggs. I'm an attorney here in town.
9 And I'm also working with Ms. Quimby, in the red, and
10 Mr. Brough. And we're representing Mr. Evins. Okay.

11 A Okay.

12 Q When you answered the Judge's questions about your
13 opinions and how you feel about the death penalty and
14 answered Mr. Gowdy's, it sounded like you took the Judge's
15 instructions -- when all six of you came out in your group
16 earlier --

17 A Yes, sir.

18 Q -- do you remember when the Judge said that the
19 presumption of innocence -- a person is presumed innocent?

20 A Yes, sir.

21 Q Until he's proven guilty?

22 A Yes, sir.

23 Q And that's what he instructed you?

24 A Yes, sir.

25 Q Now, is that what you're telling us now, that as you

1 sit here right now, a person is innocent until you hear
2 the facts?

3 A Yes, sir.

4 Q Is that what you were explaining to Mr. Gowdy? I
5 mean, you believe that a person is innocent -- presumed
6 innocent --

7 MR. GOWDY: Your Honor, could he answer the question?
8 He hasn't answered it the way Mr. Boggs wants him to, yet,
9 but will he give him a chance --

10 MR. BOGGS: I object to that.

11 THE COURT: Hang on.

12 MR. BOGGS: I object to that.

13 THE COURT: No more speaking of objections.

14 Go ahead.

15 BY MR. BOGGS:

16 Q Do you remember when the Judge defined or told you
17 about the presumption of innocence?

18 A Yes, sir.

19 Q And you also know that the Judge told you that you
20 had to take the law the way he told you?

21 A Yes, sir.

22 Q So do you take it that a person is presumed innocent
23 until he is proven guilty?

24 A Yes, sir.

25 Q And do you believe that the only way to prove

1 somebody guilty is to bring all the facts and put the
2 testimony up and then the jury can make the decision?

3 A Yes, sir.

4 Q Is that your feeling about how a case should proceed?

5 A Yes, sir.

6 Q And once you have that evidence, even though you're
7 against the death penalty, if in the first phase the
8 person was convicted of murder and it went to a second
9 phase and after you heard all the facts, even though you
10 may be opposed to it, if the crime was heinous like you
11 said, you could impose the death penalty; is that correct?

12 A Yes, sir.

13 Q You said that you did have a pending charge. But at
14 this point, you have no animosity against anybody or
15 anybody to reward or anybody to punish; is that correct?

16 A Yes.

17 Q Could you be -- the Judge asked you if you could be a
18 fair juror. Do you feel like you could be fair?

19 A Yes, sir.

20 Q And keep an open mind?

21 A Uh-huh.

22 Q And deal only with the case that's in court and not
23 be influenced by anything outside of court; is that
24 correct?

25 A Yes, sir.

1 MR. BOGGS: Mr. Gray, I appreciate your answers.

2 Thank you.

3 THE COURT: All right. Mr. Gray, would you please
4 step into the hallway for just a minute?

5 JUROR #124, AARON GRAY: Yes, sir.

6 (Pause.)

7 THE COURT: All right. Mr. Gowdy.

8 MR. GOWDY: Your Honor, may it please the Court?

9 I do agree Mr. Gray did everything he could to
10 provide honest forthright answers, including that he has
11 not in 23 years seen a case yet where he can impose the
12 death penalty. I frankly don't think he's qualified on
13 the issue of Wainwright v. Witt. But when you combine
14 that with the fact that he has a pending charge that is
15 being prosecuted by this table and he is being defended by
16 that table -- we just disqualified a juror for jogging in
17 a park where a crime victim was --

18 THE COURT: You say we did, do you agree with that
19 then?

20 MR. GOWDY: Well, I don't -- I agree with all Your
21 Honor's decisions.

22 THE COURT: Okay. Thank you, Mr. Gowdy.

23 MR. GOWDY: I did not object to that disqualification.
24 I understood the Court's reasoning.

25 THE COURT: All right.

1 MR. GOWDY: But this juror is infinitely more
2 disqualified.

3 THE COURT: I got the gist of your argument.
4 Anything y'all want to say?

5 Because I am inclined to disqualify him.

6 MR. BOGGS: Yes, sir.

7 We think he's qualified. He's answered your
8 questions. And he -- Your Honor, the criteria for
9 disqualifying some others has been because of what they
10 said on the stand under oath. This man has said he can be
11 fair. He's also, basically, said more than any other
12 juror we've had so far is, I believe what the Judge says,
13 a man is presumed innocent until the facts. If the facts
14 warrant it, I can pass on the death penalty.

15 THE COURT: Okay. Well, I agree with -- and I
16 personally liked him and thought he was a very pleasant
17 young man. I just think it puts him in a very awkward
18 position because of his situation. And I may be making an
19 error here, but I am going to disqualify him.

20 MR. BOGGS: I'd ask the Court to inquire into that.
21 If you would just ask him questions and whatever the Court
22 feels after that. But he said he could put that aside.
23 Every juror that's going to serve is going to have to have
24 something he puts aside.

25 THE COURT: I am going to find that the potentials

1 for him -- for his bias is too overwhelming to put him on
2 the jury. And I find he is disqualified. He is
3 represented by the same law office that represents
4 Mr. Evins in this case. And I think that -- I hadn't
5 thought it all the way through, but if there's not a
6 conflict there, it's dancing on the line. And it
7 certainly has the appearance of an impropriety. I am
8 going to disqualify him.

9 Is there anything else you want to put on the record
10 with respect to that?

11 I fully appreciate your position on this.

12 MR. BOGGS: I think I've pretty well covered it.

13 THE COURT: All right. Bring him on back.

14 (Pause.)

15 THE BAILIFF: Mr. Gray, go up and face the Judge,
16 please.

17 JUROR #124, AARON GRAY: Okay.

18 THE COURT: Mr. Gray.

19 JUROR #124, AARON GRAY: Yes, sir.

20 THE COURT: I want to thank you for coming up here
21 and the sacrifices you've made to be up here. I hope it
22 has been an educational and rewarding experience for you
23 to participate in this proceeding.

24 I have decided, not through any of the answers you
25 gave, but just because of your circumstances that I am

1 going to disqualify you. It doesn't have anything to do
2 with the views you've expressed or anything like that.
3 But I'm going to disqualify you and thank you again for
4 your service in this case.

5 JUROR #124, AARON GRAY: Thank you.

6 (Juror #124, Aaron Gray, was excused from the
7 courtroom.)

8 THE COURT: Bring the next panel in, please.

9 (WHEREUPON, Juror Panel No. 7 entered the courtroom.)

10 THE COURT: Ladies and gentlemen, I appreciate y'all
11 being here and welcome you back to court. I want to tell
12 you that we're about to begin the individual questioning
13 of each of you. And I appreciate your patience.
14 Sometimes, it takes a little longer than others to get
15 through this questioning, and that's why we're running a
16 little bit behind and we're trying our best to get caught
17 up. But we appreciate the sacrifices you've made to be
18 here.

19 I want to tell you a couple of quick things and then
20 we'll get right to it. The first thing is, I want to
21 repeat two basic principles in our law. And that is that
22 every citizen -- these are rights that belong to every
23 citizen. Every person charged with a crime is presumed
24 innocent unless and until the State can prove them guilty
25 beyond any reasonable doubt of each and every element of

1 the offense or offenses that they are charged with.

2 Please keep that in mind throughout this questioning that
3 you'll be undergoing, and if you're selected throughout
4 the trial of the case. The burden of proof always remains
5 on the State.

6 Now, a case of this nature is generally referred to
7 as a capital case. And let me just explain the process
8 briefly one more time for you. We're in the process of
9 juror qualification right now. Once we have qualified a
10 sufficient number of jurors, we will select the jury to
11 hear the case along with three alternates. Once the jury
12 is selected, then we will conduct the first phase of the
13 trial, wherein the State will have to prove beyond a
14 reasonable doubt the allegations that they've alleged --
15 or they will present their proof. And if it is to the
16 jury's satisfaction beyond a reasonable doubt, then the
17 jury will return their verdicts based on the evidence.

18 Now, it may be that we will not get to the second
19 phase. The only way that we get to the second phase of a
20 case such as this is if the State is able to prove to the
21 satisfaction of the jurors beyond a reasonable doubt that
22 the Defendant is guilty of murder. Okay. Now, if that
23 is -- occurs and the jury is satisfied that that has
24 happened, then we move to the second phase of the trial.

25 And in the second phase of the trial, I will tell you

1 that the only thing that the jury will be considering will
2 be the evidence in aggravation and evidence in mitigation
3 in order to determine the appropriate sentence that should
4 be imposed, and that is life imprisonment or the death
5 sentence.

6 Now, in a capital case, if the jury finds the
7 existence or presence of an aggravating circumstance, a
8 sentence of life means life without the possibility of
9 parole. In other words, if a defendant has been convicted
10 of murder and the murder is accompanied by what the law
11 calls an aggravating circumstance, then a life sentence,
12 should it be imposed by the jury, means life. There would
13 be no possibility of parole under such circumstance and
14 the Defendant would die in jail. Please understand I am
15 talking about the process of a capital case in general.
16 And in this particular case, we may not even reach the
17 second phase. But in the event we do, we will need to ask
18 you several questions.

19 Do each of you understand the process that I've
20 outlined to you?

21 (All jurors said yes.)

22 THE COURT: I will briefly explain to you the terms
23 aggravating circumstances and mitigating circumstances.
24 And these are terms which you will hear and consider only
25 in the event that this case goes to the second phase.

1 Aggravating circumstances are facts, incidents, or
2 occurrences which the South Carolina General Assembly has
3 declared by statute would aggravate or worsen the crime of
4 murder. In other words, an aggravating circumstance when
5 accompanying a murder increases the enormity of it or adds
6 to the injury of the crime of murder.

7 Mitigating circumstances are incidents, facts, or
8 occurrences which the General Assembly has declared by
9 statute or which a jury otherwise determines should reduce
10 the severity of the offense of murder and may be
11 considered as extenuating or reducing the degree of
12 responsibility or culpability. Now, I previously -- does
13 that make sense to y'all, the aggravating and mitigating,
14 my explanation? I hope that will help.

15 (Some jurors said yes.)

16 THE COURT: It did not help. All right.

17 Aggravating circumstances is evidence that will be
18 presented by the State to show why they think the death
19 penalty ought to be imposed. And they are circumstances
20 which would increase the severity of the actual murder.

21 Okay. Mitigating circumstances will be presented by
22 the Defense to lessen the degree of murder, to lessen the
23 responsibility or the culpability in the case.

24 Does that help? One is to make it seem greater and
25 one is to make it seem less.

1 (All jurors said yes.)

2 THE COURT: Now, I've introduced the attorneys in the
3 case. And I want to ask you, is there any member of the
4 jury panel who is related by blood, marriage or acquainted
5 in any way with any of the attorneys in this case? If so,
6 please raise your right hand.

7 (There was no response.)

8 THE COURT: All right. Is anyone related by blood or
9 marriage or an acquaintance of Mr. Fredrick Antonio Evins?
10 If so, please raise your right hand.

11 (There was no response.)

12 THE COURT: Is there any member of the jury panel who
13 is related by blood or marriage or acquainted in any way
14 with anyone associated with these attorneys and their
15 respective law offices? In other words, either their
16 family, if you might know them, or the Seventh Circuit
17 Solicitor's Office, the Public Defender's Office, or the
18 Law Office of Mr. Tam Boggs? If you are, please raise
19 your right hand.

20 (There was no response.)

21 THE COURT: Now, each of you has had an opportunity
22 to review the extensive witness list in this case of
23 potential witnesses.

24 Have y'all had an adequate opportunity to look at
25 that?

1 (All jurors said yes.)

2 THE COURT: Does anyone need to look at it some more?

3 (There was no response.)

4 THE COURT: Is there any member of the panel who is
5 related by blood or marriage or an acquaintance of anyone
6 listed on that witness list? If so, please raise your
7 right hand.

8 Yes, sir. Your name?

9 JUROR #101, LARRY FORD: I'm Larry Ford.

10 Carroll Emory, he's a customer that comes in my store
11 every now and then.

12 THE COURT: He's a customer that comes in the store?

13 JUROR #101, LARRY FORD: And I've known him for years
14 when he was in Inman.

15 THE COURT: You've known him for years?

16 JUROR #101, LARRY FORD: Yes, sir.

17 THE COURT: Okay.

18 JUROR #101, LARRY FORD: I know of him because he
19 used to live in Inman.

20 THE COURT: Yes, ma'am?

21 JUROR #32, KRISTINE BROWN: Craig Coggins.

22 THE COURT: I'm sorry. I couldn't hear you.

23 JUROR #32, KRISTINE BROWN: Craig Coggins. I was
24 friends with his daughter in high school.

25 THE COURT: Your name is?

1 JUROR #32, KRISTINE BROWN: Kristine Brown.

2 THE COURT: All right. Well, let me ask the two of
3 you, would the fact that they're potential witnesses in
4 this case impair your ability to be fair and impartial in
5 this case?

6 JUROR #101, LARRY FORD: No.

7 JUROR #32, KRISTINE BROWN: No.

8 THE COURT: All right. Well, very good. We may ask
9 you some more questions about that when we talk to you
10 individually.

11 I'm going to excuse everybody from the courtroom,
12 with the exception of Mr. Larry Ford, who gets to go first
13 because he's at the top of the list.

14 And before you go, if everybody would stand. Please
15 stand and raise your right hand for an additional oath.

16 (WHEREUPON, Juror Panel No. 7 was sworn.)

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

18 (WHEREUPON, Juror Panel No. 7 exited the courtroom,
19 with the exception of Juror #101, Larry Ford.)

20 (Juror #101, Larry Ford, a white male, was seated.)

21 THE COURT: Okay. Mr. Ford, I appreciate you being
22 here. And I want you to put yourself at ease as best you
23 can. And I assure you that everybody in here knows that
24 you're not in a position to feel at ease and that you're
25 probably nervous, and that is normal and expected. And if

1 you weren't nervous, there would probably be a little
2 something wrong with you. So everybody is aware of that.
3 And I promise you, no one here has any intent to embarrass
4 you or humiliate you in any way.

5 I want you to understand that there are -- well,
6 aside from the fact that we're going to -- because of the
7 enormity of the case, we're going to talk to you about
8 some subjects. And there are really three subjects that
9 we will talk about. The first will be whether or not you
10 have any knowledge about this case. The second will be
11 whether you can be fair and impartial. And the third,
12 because of the nature of the case, we need to inquire on
13 your views with respect to the death penalty.

14 JUROR #101, LARRY FORD: Yes, sir.

15 THE COURT: Now, some of those subjects may well be
16 sensitive and you may feel that they're personal. I've
17 told everyone there are no right or wrong answers. And
18 then I turn around and tell them that there are right
19 answers. The only right answers that there are in this
20 case are your answers, your candid, complete, and truthful
21 answers to the questions. And I hope you understand
22 because of the nature of this case and the seriousness of
23 this case that we really need you to be candid and
24 truthful and complete in your answers. But other than
25 that, there are no right or wrong answers. There are no

1 -- this is not a test of any kind and no one is going to
2 pass any judgment on your views. So please understand
3 that. And let me then proceed by telling you a little bit
4 about the case from the indictments. It's not a whole lot
5 of information, but a little bit of information.

6 Before I do that, I want to again remind you that
7 indictments are not evidence and should not be considered
8 evidence in any fashion whatsoever. They are allegations
9 typed on a piece of paper which allow this case to move
10 through the system and get to the point where we are now.

11 The first indictment is for murder. And it alleges
12 that Mr. Fredrick Antonio Evins did in Spartanburg County
13 on or about February 13th, 2003, feloniously, willfully,
14 and with malice aforethought kill Rhonda Marie Ward. The
15 next indictment is for kidnapping. It alleges that
16 Mr. Evins did on the same date unlawfully seize and kidnap
17 Rhonda Marie Ward. The next indictment is for criminal
18 sexual conduct. It alleges that Mr. Evins did in
19 Spartanburg County on the same date, February 13th, 2003,
20 willfully and unlawfully commit a sexual battery upon the
21 victim, Rhonda Marie Ward. And, finally, the last
22 indictment is grand larceny. It alleges that Mr. Evins
23 did in Spartanburg County, same date, February 13th, 2003,
24 feloniously take and carry away the 1993 Nissan Sentra and
25 its contents belonging to Rhonda Marie Ward. Those are

1 the allegations in this case.

2 Now, we recognize there has been publicity about this
3 case on television, and on the radio, and in the
4 newspaper. So my first question would be, have you read,
5 heard, or seen anything about this case?

6 JUROR #101, LARRY FORD: It seemed like I remember
7 last year hearing some stuff about it, but nothing in the
8 last six or eight months or so.

9 THE COURT: All right. Can you tell me what it is
10 you remember hearing?

11 JUROR #101, LARRY FORD: I just remember hearing
12 something about the abduction. And that's all I know.

13 THE COURT: All right. Can you give me any more
14 details than that?

15 JUROR #101, LARRY FORD: That's all I remember.

16 THE COURT: All right. Well, I want you to know
17 there's nothing wrong with that and -- but, you know, we
18 just kind of -- we need to know what it is that you
19 remember.

20 JUROR #101, LARRY FORD: Yes, sir.

21 THE COURT: And I would tell you that your oath, as a
22 juror, would require you to disregard anything that you
23 have read, seen, or heard about this case during the trial
24 of the case. You would be required to decide the facts
25 only from the evidence presented during the trial.

1 Do you understand that?

2 JUROR #101, LARRY FORD: Yes, sir.

3 THE COURT: And could you serve as a fair and
4 impartial juror and reach a verdict based on the facts
5 presented at trial and in accordance with my instructions
6 on the law?

7 JUROR #101, LARRY FORD: Yes, sir.

8 THE COURT: Have you already formed an opinion as to
9 the facts of this case or as to the guilt or innocence of
10 Mr. Evins?

11 JUROR #101, LARRY FORD: I don't know any of the
12 facts, no.

13 THE COURT: All right. Now, keeping in mind the
14 legal principles of the presumption of innocence and the
15 State's obligation to prove guilt beyond a reasonable
16 doubt, could you, depending on the facts and circumstances
17 of the case and the law as I would give it to you, could
18 you find a defendant either guilty or not guilty,
19 depending on the facts?

20 JUROR #101, LARRY FORD: Yes, sir.

21 THE COURT: Your mind is not made up one way or the
22 other?

23 JUROR #101, LARRY FORD: No, sir.

24 THE COURT: And please remember, we may not even
25 reach the second phase of the trial, but since we possibly

1 could, we do need to discuss your views about the death
2 penalty.

3 Do you understand that?

4 JUROR #101, LARRY FORD: Yes, sir.

5 THE COURT: When a jury moves to the sentencing
6 phase, let me again tell you that that jury would have
7 already decided that the Defendant was guilty of murder.
8 So in the second phase of the trial, the jury would have
9 no legal defense to discuss or explore. The only thing
10 that you would be concerned with would be evidence in
11 aggravation and evidence in mitigation. Your oath would
12 require you to put aside any preconceived notions that you
13 might have with respect to the case and to follow the law
14 as I instruct you on it. In other words, your oath would
15 require you to give serious and meaningful consideration
16 to the evidence in mitigation and the evidence in
17 aggravation. Could you follow your oath and do that?

18 JUROR #101, LARRY FORD: Yes, sir.

19 THE COURT: All right. Let me ask you a couple
20 hypothetical questions. Imagine that you are a juror in
21 the second phase of the case where guilt had already been
22 decided as to the charge of murder, depending upon the
23 particular facts and circumstances of the case, including
24 consideration of all of the aggravating and all of the
25 mitigating circumstances and the law which I would

1 instruct the jury on, could you return a sentence of life
2 in prison?

3 JUROR #101, LARRY FORD: Yes, sir.

4 THE COURT: All right. My second hypothetical
5 question would be, you're a juror in that same situation,
6 depending upon the particular facts and circumstances of
7 the case, including considering aggravating and mitigating
8 circumstances and the law that I would instruct you that
9 applies, could you return a sentence of death?

10 JUROR #101, LARRY FORD: Yes, sir.

11 THE COURT: Okay. Now, in the event of a death
12 sentence, which requires a unanimous jury finding, the law
13 requires that a juror -- each juror sign their name to the
14 verdict form. Could you -- in that event, could you sign
15 your name to a death sentence verdict?

16 JUROR #101, LARRY FORD: Yes, sir.

17 THE COURT: Okay. Do you recall the three types of
18 jurors listed on that list I gave you?

19 JUROR #101, LARRY FORD: Yes, sir.

20 THE COURT: Where would you put yourself on that
21 list?

22 JUROR #101, LARRY FORD: I would put myself in the
23 category of I could decide upon the evidence whether the
24 death penalty would be justified in the case or a life
25 sentence.

1 THE COURT: Okay. So you would be a Number 3 juror
2 on that list?

3 JUROR #101, LARRY FORD: Yes, sir.

4 THE COURT: And you think you would need to listen to
5 all the facts and all the circumstances?

6 JUROR #101, LARRY FORD: Yes, sir.

7 THE COURT: You would need to weigh all the
8 mitigating and aggravating circumstances before you could
9 return a verdict?

10 JUROR #101, LARRY FORD: Yes, sir.

11 THE COURT: And you could find either life
12 imprisonment or a death sentence depending on those facts
13 and circumstances?

14 JUROR #101, LARRY FORD: Yes, sir.

15 THE COURT: Okay. If you're selected as a juror,
16 would you honor your oath and serve as a fair and
17 impartial juror and approach jury service with an open
18 mind?

19 JUROR #101, LARRY FORD: Yes, sir.

20 THE COURT: Do you know of any reason why you could
21 not serve as a juror in this case?

22 JUROR #101, LARRY FORD: No, sir.

23 THE COURT: Well, before I turn your questioning over
24 to the attorneys, I will let you know that when we finish
25 the qualification process and we have all the jurors

1 qualified, we'll bring all the qualified jurors back and
2 we will select the jury. I anticipate that will be
3 tomorrow sometime. Those jurors then will be sequestered
4 for five to seven days at the Marriott Hotel right up the
5 street here. So we would need all qualified jurors to
6 bring their belongings for five to seven days when they
7 came for jury selection sometime tomorrow. Okay.

8 JUROR #101, LARRY FORD: Yes, sir.

9 THE COURT: All right. I'll turn it over to the
10 attorneys at this time.

11 EXAMINATION

12 BY MR. BOGGS:

13 Q Hello, Mr. Ford. My name is Tam Boggs. I'm one of
14 the attorneys handling Mr. Evins case, along with Karen
15 Quimby, in the red, and Chris Brough at the end of the
16 table.

17 As Judge Miller has explained to you, we just want to
18 ask you a couple of questions. We appreciate you filling
19 out your questionnaire and sending it back. What we're
20 trying to do, as he said, is go through a series of
21 questions to determine who might be qualified to be on the
22 panel for this particular case. And I believe you've
23 stated that you can remember some of the publicity about
24 it from a long time ago; is that correct?

25 A The only thing I can remember is I remember hearing

1 about the abduction and the car being gone, but I never
2 heard anything else. And I hadn't really paid any
3 attention to it.

4 Q All right. So you think all you remember was that
5 there was some information about an abduction?

6 A Yes, sir.

7 Q And something about a car. Do you remember what it
8 was?

9 A The lady's car was missing, too. That's all I
10 remember.

11 Q Okay. Do you know where -- do you remember where
12 this might have taken place?

13 A I think I might have heard it on the radio at work.

14 Q You don't think you saw any TV coverage about it?

15 A No, sir. I don't usually get home in time to watch
16 the news. I'm self-employed.

17 Q Self-employed, that takes all your time, doesn't it?

18 A Yes, sir.

19 Q In fact, I think you -- what do you run, an auto
20 parts shop?

21 A Auto parts, yes, sir,

22 Q Do you do any repairs there or just sell parts?

23 A No, sir, just sell parts.

24 Q Do you live up in the Inman area?

25 A Yes, sir. I live up on Coates Road.

1 Q Did you grow up in that area?

2 A I grew up in the Inman Mill village.

3 Q Did you go to, what, Chapman High maybe?

4 A Yes, sir.

5 Q And I see that you're a Shriner; is that right?

6 A Yes, sir. I was in the Shriners. I'm not active in
7 them now, but I am a member of it.

8 Q Okay. Let me ask you a couple of questions about the
9 death penalty. Have you in the past ever thought about
10 the death penalty?

11 A No, sir, not really.

12 Q All right. If there's a case that -- you know, kind
13 of a publicized case whether it be here or somewhere in
14 the country that's a pretty high profile case, do you
15 discuss that type of case with your friends?

16 A I can't remember a particular case, but I'm sure I
17 probably have.

18 Q Do you ever remember discussing the death penalty
19 with any friends or family? I'm not going to limit it --
20 or with co-workers, with anybody, how about that?

21 A To my recollection, no, sir.

22 Q Okay. So are you telling me you're just aware
23 there's something called the death penalty --

24 A Yeah. I know there's a death penalty. But I -- I've
25 never really had an opinion of, you know, this person

1 should have gotten the death penalty or not. Because I
2 never listen to the evidence that the people that made the
3 decision have.

4 Q Okay. Well, I guess you realize that, at this point,
5 that this requires making pretty serious decisions?

6 A Yes, sir.

7 Q Before you came into court today or Monday, what
8 would you consider the biggest decision you've ever had to
9 make in your life?

10 A I guess my decision to raise a family.

11 Q Okay. Well, that's a pretty big one, too, isn't it?

12 A Yes, sir.

13 Q When you make a decision or once you make a decision
14 about something, you have an opinion, you form a
15 decision -- or form an opinion based on that decision.
16 Are you pretty firm in it or is --

17 A Yes, sir. When I make a decision -- I mean, once I
18 have the information and make a decision by the
19 information, I pretty well stick to it.

20 Q Okay. Well, what if several -- you made a decision
21 and several of your buddies said, we have a different
22 opinion of this particular situation, would you be willing
23 to listen to them or do you feel like by the time you've
24 made your decision, you've already looked at the facts
25 enough to that's what you want to stick to?

1 A Generally, I study the facts over until I'm sure on
2 the decision I'm going to make. And I don't --

3 Q That's fine. You know what I'm talking about, some
4 people will make a decision like that and --

5 A A snap decision, no.

6 Q And the next guy will come along and say, well, I
7 think this and they change --

8 A They change.

9 Q And the next guy comes along, they say something, so
10 that person changes again. There's another kind of person
11 that will look at a set of facts, study it, digest it,
12 take their time and once he makes that decision, nobody is
13 going to budge them unless he is firmly, firmly, firmly
14 convinced that he made the wrong decision.

15 A Right.

16 Q Now, which one of those two are you?

17 A The latter decision.

18 Q The latter. So you feel like you're the type of
19 personality that before you will ever make a decision, you
20 make sure you know everything about the situation and once
21 you make your decision, you stick with it?

22 A Yes, sir.

23 Q Is that correct?

24 A Yes, sir.

25 Q You say that you've never really thought about the

1 death penalty, but you're aware of it and you, obviously,
2 realize that it's about the most severe penalty --

3 A Yes, sir.

4 Q -- that can be levied for a person. Since you knew
5 you were going to be picked on this panel or, at least,
6 brought to court to be a potential juror, I assume you've
7 thought about it more than you would have just prior to
8 this?

9 A Yes, sir.

10 Q Okay. And what kind of -- have you started thinking
11 about what kind of cases might -- or what kind of
12 circumstances would warrant the death penalty?

13 MR. BARNETTE: Your Honor, I'm going to object to
14 this. I think he's getting into specifics.

15 MR. BOGGS: I changed it. I said circumstances. I
16 did say cases, but I rephrased it.

17 THE COURT: All right.

18 THE WITNESS: I've thought a little more about it,
19 but we were told not to make any kind of decisions, so
20 other than just the thought, you know, in and out of your
21 mind.

22 BY MR. BOGGS:

23 Q And, of course, you're not making the decision on a
24 particular case, but I'm just asking what thoughts have
25 you had about the death penalty in general?

1 A Basically, really, I've tried not to think anything
2 about it since we were told about it the other day.

3 Q All right. Well, so you haven't even thought about
4 what kind of circumstances would exist before you could
5 impose the death penalty?

6 A No, sir.

7 Q Okay.

8 A We were told to keep an open mind, so I've not
9 listened to anything either way.

10 Q Okay. Let me ask you a couple of questions along a
11 different line. Have you ever known anybody that's been
12 involved in an interracial relationship?

13 A Yes, sir.

14 Q Okay. And was this in your family or a friend?

15 A A niece.

16 Q Okay. And were you pretty close to that niece?

17 A No, sir, not really close. She was, actually, a
18 step-niece.

19 Q Okay. Well, as far as you know, was that a good
20 relationship or were there problems or were you close
21 enough to even know?

22 A No, sir.

23 MR. BARNETTE: Your Honor, I think -- I'm going to
24 object, at this point, because he's getting into
25 specifics.

1 THE COURT: Yes. It's a little too specific. Get
2 his general feelings on that.

3 BY MR. BOGGS:

4 Q What were your general feelings about the interracial
5 relationship?

6 A Well, you know, if that's what they wanted, that was
7 their lifestyle and their thing. I mean, it didn't have
8 anything to do with me.

9 Q Okay. So you're pretty much -- you're telling me
10 you're pretty much neutral about the situation, whatever
11 another person does as long as it doesn't effect you, it's
12 fine?

13 A Well, I mean, you know, to me, if they chose that,
14 that's their choice, you know. We are in a free country.

15 Q All right. You were talking about how once you form
16 an opinion and make a decision about something that you
17 pretty much stick to it?

18 A Yes.

19 Q And, of course, being in a courtroom and serving on a
20 jury is a pretty confined area, you're not out dealing
21 with the general public?

22 A Yes, sir.

23 Q But once you made that decision or as you were making
24 that decision, would you ever feel any pressure that you
25 may have to explain that decision to anyone outside of the

1 courtroom once the case was over?

2 MR. BARNETTE: Objection, Your Honor. That's
3 something that's going outside the province of the jury
4 talking about after the fact.

5 MR. BOGGS: I'm asking how he's going to respond
6 inside here as to any external matter that could affect
7 him. Because the Court is going to tell each juror that
8 all they can consider is what is in here.

9 MR. BARNETTE: He's talking about after the case, if
10 I remember the question right.

11 MR. BOGGS: No. I asked --

12 THE COURT: Go ahead and re-ask your question.

13 BY MR. BOGGS:

14 Q Would you feel any pressure that may come after the
15 case is over -- would you feel any pressure while you're
16 serving on the jury that you may have to explain your
17 decision once the case is over?

18 MR. BARNETTE: Your Honor, I'm going to object to
19 that because that's after the case, talking about factors
20 beyond this courtroom.

21 THE COURT: I'll let him ask that one time.

22 JUROR #101, LARRY FORD: Well, I don't think there
23 would be any pressure on me. I'm going to decide by the
24 evidence and whatever the evidence is. When I make a
25 decision, that's what I've got to live with, the decision

1 I made then, and I don't care what anybody else thinks.

2 BY MR. BOGGS:

3 Q Okay. So this goes back to once you've studied it,
4 you've got enough strength in you, basically, once you
5 make that decision and it's based on all the facts that
6 you're going to stick with that decision and, basically,
7 to heck with what anybody else thinks?

8 A Well, I mean, you know, if somebody outside thinks it
9 ought to be different, that's their thought. It doesn't
10 effect me.

11 MR. BOGGS: Excuse me just one minute, Mr. Ford.

12 (Pause.)

13 BY MR. BOGGS:

14 Q You've got -- in your jury questionnaire when it
15 said, do you have any bumper stickers on your car, you put
16 down the Shriners bumper sticker?

17 A I have a tag, yeah.

18 Q And did I read right, did you have a bumper sticker
19 called the "Hillbilly"?

20 A It's "Hillbillies."

21 Q Is that --

22 A That's an organization in the Shriners. If you've
23 ever been to a Shrine parade, you've seen the Hillbillies
24 with old cars. I was in that when it was active.

25 Q So you were one of the -- that was kind of a group

1 that you belonged to in the Shriners?

2 A Yes, sir.

3 MR. BOGGS: All right. Mr. Ford, I appreciate your
4 time.

5 Thank you.

6 MR. BARNETTE: May it please the Court, Your Honor?

7 THE COURT: Yes.

8 EXAMINATION

9 BY MR. BARNETTE:

10 Q Mr. Ford, as the Judge introduced us earlier, I'm
11 Barry Barnette. And along with me is Trey Gowdy and John
12 Anthony. We'll be presenting the State's case in this
13 situation.

14 One thing I wanted to ask you about the Shriners
15 before we get to the other questioning. What degree are
16 you in the Shriners?

17 A Degree?

18 Q Degree or whatever, 32nd, 64th?

19 A No. That's the Masons.

20 Q Oh, the Masons?

21 A I was a 32nd degree Mason and went into the Shriners.
22 Basically, I was just a member. I didn't go after any
23 posting or any position. I was just another member.

24 Q You're a member of the Shriners and a member of the
25 Hillbillies?

1 A Yes, sir.

2 Q Going back and asking some questions following up on
3 Mr. Boggs, let's say you're in the jury room or whatever
4 listening or whatever, would you listen to the other
5 folks -- would you be dead set in your position or would
6 you listen to other folks and listen to what they had to
7 say, as well as what you had to say in making a decision?

8 A I would listen to their deliberations and their
9 interpretations of the evidence, too, along with mine,
10 which I'd give them my opinion of the evidence, too.

11 Q So you'd discuss and try to find out what they're
12 thinking about, as well as what you're thinking?

13 A Once we go into deliberations, yes, sir.

14 Q And you would listen and they may realize something
15 you didn't realize and vice versa?

16 A Yes, sir.

17 Q So you would be open minded to their discussions?

18 A Yes, sir.

19 Q And looking at the death penalty in general, if you
20 had the circumstances -- and we -- like the Judge said
21 before, we have to prove aggravating circumstances, or one
22 of them. And, say, we had one or more aggravating
23 circumstances and you feel like that increased the crime
24 to the level that the death penalty would be appropriate,
25 could you give the death penalty in that situation?

1 A Yes, sir.

2 Q And the Judge was saying in a situation where you
3 have the form that you have to sign, if you was the last
4 juror, could you sign that form?

5 A Yes, sir.

6 Q And you could do that if you felt like that was the
7 right verdict to do?

8 A Yes, sir.

9 MR. BARNETTE: One moment, Your Honor, please.

10 THE COURT: All right.

11 (Pause.)

12 MR. BARNETTE: No further questions.

13 THE COURT: Mr. Ford, would you step into the hallway
14 for just a second?

15 (Pause.)

16 THE COURT: Any objections?

17 MR. BARNETTE: None from the State, Your Honor.

18 THE COURT: Anything, Mr. Boggs?

19 MR. BOGGS: Nothing I can legitimately put on.

20 THE COURT: Okay. Bring him back.

21 (Pause.)

22 THE BAILIFF: If you will, go ahead and face the
23 Judge.

24 THE COURT: Come right on around here, Mr. Ford, if
25 you would.

1 I'm going to give you that to take home and read.
2 I'm going to tell you that you are a qualified juror
3 eligible to serve in this case. You're still under oath
4 and you're not to look at anything on the television,
5 radio, newspaper, just don't -- anything about this case,
6 avoid it. Please don't discuss the case with anybody,
7 none of your friends, family, anything like that. Because
8 even an innocent comment that they might make might impact
9 you. And it's just not right and not fair that somebody
10 outside of this case could have an influence on how this
11 case is decided. I know you'll take that to heart, and I
12 hope it makes sense.

13 We will call you probably tomorrow. Please come back
14 when we call you prepared to stay for five to seven days.
15 You may not get selected, you may get selected, but you've
16 got to be ready to go at that time.

17 JUROR #101, LARRY FORD: How long would I have once
18 you call to get down here?

19 THE COURT: I'm sure --

20 JUROR # 101, LARRY FORD: Because I'll be at work.

21 THE COURT: I'm sure we'll give you plenty of time to
22 get here. Don't worry about it.

23 Thank you, sir.

24 (Juror #101, Larry Ford, was excused from the
25 courtroom.)

1 THE COURT: Bring the next juror in, please.

2 MR. GOWDY: Could I mention one thing to the Court
3 before the next juror?

4 THE COURT: Yes.

5 Hang on one second.

6 MR. GOWDY: Very quickly, Your Honor, yesterday, and
7 again this morning, there was a line of questions, are you
8 a leader, are you a follower. Those are fine questions.
9 I have no problem with them. But lately, they're
10 beginning to lock jurors in about, will you hold to a
11 position and not change your mind. And my concern is that
12 is antithetical to what the Judge is going to tell them in
13 your charge, which is that you need to deliberate with a
14 view towards listening to other people's viewpoints.

15 When you say, once you hold an opinion, nobody is
16 going to be able to sway it from you, that, actually, is
17 contrary to what you're going to tell them. And that's my
18 concern with that line of questioning. Yesterday, it was,
19 are you a leader or a follower. Today, it's once you make
20 up your mind, nobody is going to be able to change it.
21 And that's not the law.

22 THE COURT: All right. We have an anticipatory
23 objection here. And we're bogging down. We need to pick
24 up the pace a little bit. So let's find out whether or
25 not they consider themselves to be a leader or follower,

1 but don't lock them in. Does that make sense?

2 You can't lock them in. You can ask them, are you,
3 and explore a little bit, but we're -- we've got 30
4 minutes left to do -- in this time period to do five more
5 jurors. That juror took almost 30 minutes. We need to
6 pick up the pace a little bit.

7 All right. Bring the next juror in.

8 (Juror #156, Elizabeth Hill, a white female, was
9 seated.)

10 THE COURT: Hello, Ms. Hill. Welcome to the
11 courtroom.

12 JUROR #156, ELIZABETH HILL: Thank you.

13 THE COURT: I want you to feel at ease as best you
14 can. And I want to tell you before we start that there
15 are no right or wrong answers to the questions that are
16 being asked. We're going to cover the topics of whether
17 or not you know anything about this case, whether you can
18 be fair and impartial, and discuss your views on the death
19 penalty a little bit. So those are, basically, the topics
20 we're going to cover.

21 I saw your facial expression when I mentioned the
22 death penalty, and we all understand and realize that a
23 lot of people consider it to be a very personal issue and
24 it's not often easy to discuss it. And there is -- many
25 people may not have a set defined feeling about it or have

1 it decided in their mind.

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

3 THE COURT: I want to assure you that no one is here
4 to embarrass you or humiliate you in any way. And they
5 won't try to do it. And I won't let them do it. We've
6 been through a number of jurors already and nobody has
7 even come close to anything like that, so don't worry
8 about that.

9 The only -- there is a right answer and the right
10 answer is for you to be completely honest, candid, and
11 truthful in your answers. There is no -- your answer will
12 not be judged in any way to be right or wrong. Okay. So
13 just what you feel is what we need to know.

14 All right. I'm going to tell you a little bit about
15 the case by going through the indictments very briefly.
16 Again, indictments are not evidence and should never be
17 considered to be evidence.

18 They allege in this indictment, which is for murder,
19 that Fredrick Antonio Evins did in Spartanburg County on
20 or about February 13th, 2003, feloniously, willfully, and
21 with malice aforethought kill Rhonda Marie Ward. Also,
22 there's an indictment for kidnapping. It alleges
23 Mr. Evins on the same date did unlawfully seize or kidnap
24 Rhonda Marie Ward. The next one is for criminal sexual
25 conduct. It alleges Mr. Evins did on the same date,

1 February 13th of 2003, unlawfully and willfully commit a
2 sexual battery upon Rhonda Marie Ward. And, finally,
3 there's an indictment for grand larceny that alleges that
4 Mr. Evins did on the same date feloniously take and carry
5 away a 1993 Nissan Sentra and its contents belonging to
6 Rhonda Marie Ward. Those are the allegations.

7 We recognize that there has been publicity concerning
8 this case. And my first question is, have you heard,
9 read, or seen anything about this case?

10 JUROR #156, ELIZABETH HILL: I've seen a little bit
11 on the news.

12 THE COURT: Okay. What did you see?

13 JUROR #156, ELIZABETH HILL: Just about her being
14 gunned down.

15 THE COURT: About her doing what?

16 JUROR #156, ELIZABETH HILL: Being gunned down.
17 Wasn't she gunned down?

18 THE COURT: Actually, that is not -- the indictment
19 alleges that she was killed by stabbing. Okay.

20 JUROR #156, ELIZABETH HILL: Okay.

21 THE COURT: So you must be thinking about a different
22 case.

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

24 THE COURT: All right. Now, can you think of
25 anything that you might have heard about this case?

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

2 THE COURT: Well, let me tell you, do you understand
3 that as we go through the questioning that something may
4 pop into your mind, or if you're selected to sit on the
5 jury that it may come back to you that you had -- you
6 might remember something that you've heard or seen outside
7 the courtroom. Your oath, as a juror, would require you
8 to disregard anything that you have read, seen, or heard
9 about this case. Because you are required under your oath
10 to decide the case only from the facts presented in
11 evidence during the trial.

12 Do you understand that?

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

14 THE COURT: Could you serve as a fair and impartial
15 juror and reach a verdict based on the facts presented at
16 trial and in accordance with my instructions on the law?

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

18 THE COURT: Have you already formed an opinion about
19 the facts of this case or the guilt or innocence of
20 Mr. Evins?

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

22 THE COURT: All right. Now, keeping in mind the
23 legal principles of the presumption of innocence and the
24 State's obligation to prove guilt beyond a reasonable
25 doubt, could you, depending on the facts and circumstances

1 presented at trial, could you find a defendant either
2 guilty or not guilty according to the evidence?

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

4 THE COURT: All right. Your mind is not already made
5 up one way or the other?

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

7 THE COURT: Now, please remember, we may not get to
8 the second phase of the trial, but because we possibly
9 could, we need to talk about your views on the death
10 penalty.

11 JUROR #156, ELIZABETH HILL: Right.

12 THE COURT: And let me just again tell you, when we
13 move -- when the jury moves to the second phase of the
14 trial, that same jury would have already decided that the
15 Defendant was guilty of murder. So in the second phase of
16 the trial, the jury would not be considering any evidence
17 with respect to a legal defense to the charge of murder,
18 because that decision is already made.

19 What the jury would be considering in the second
20 phase -- I've referred to the aggravating evidence and the
21 mitigating evidence. Okay. That's what you would
22 consider in the second phase. Your oath would require you
23 to abandon any preconceived notion that you have and to
24 follow the law as I instruct it. In other words, your
25 oath would require you to give serious and meaningful

1 consideration to the aggravation and mitigation evidence.
2 Could you honor your oath and do that?

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

4 THE COURT: Now, imagine with me that you are a juror
5 in the second phase of the trial. So the first phase has
6 already passed and the jury has decided that the Defendant
7 is guilty of murder. Could you, depending upon the
8 particular facts and circumstances of the case, including
9 your consideration of all the aggravating and mitigating
10 circumstances and the law that I would instruct you that
11 applies, could you return a life -- a sentence of life in
12 prison? Depending on the facts, is it in you to give a
13 sentence of life in prison?

14 JUROR #156, ELIZABETH HILL: (There was no response.)

15 THE COURT: Do I need to re-ask that question? It's
16 a big question.

17 JUROR #156, ELIZABETH HILL: Go ahead and re-ask it,
18 please.

19 THE COURT: Okay. All I'm interested in knowing is
20 that assuming you're in the second phase --

21 JUROR #156, ELIZABETH HILL: Right.

22 THE COURT: So you've already decided that the
23 Defendant in that particular case is guilty of murder.

24 JUROR #156, ELIZABETH HILL: Right.

25 THE COURT: Okay. And in the second phase, the State

1 has presented the evidence in aggravation and the Defense
2 has presented the evidence in mitigation. I will instruct
3 you on what the law is. And considering the facts and
4 circumstances in that case, and this is a hypothetical
5 question, could you return a sentence of life in prison?

6 JUROR #156, ELIZABETH HILL: Without parole?

7 THE COURT: Yes.

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

9 THE COURT: Okay. Now, the same situation, you're a
10 juror in the second phase, the Defendant is already -- has
11 already been convicted of murder. The jury has already
12 found him guilty of murder. And the State has presented
13 its evidence in aggravation. The Defendant has presented
14 its evidence -- the Defense has presented its evidence in
15 mitigation. I've given you the law on the case. Could
16 you return a sentence of death?

17 JUROR #156, ELIZABETH HILL: Yes.

18 THE COURT: Okay. Now, with a sentence of death, all
19 12 jurors must agree. It has to be unanimous.

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

21 THE COURT: And the law requires that each juror sign
22 their name to the verdict form. Could you sign your name
23 to a verdict form for the death sentence?

24 JUROR #156, ELIZABETH HILL: Yes, sir, without a
25 doubt.

1 THE COURT: Do you recall that sheet that I had
2 listed the three types of jurors? Do you remember that
3 back there that I had you review the three types of
4 jurors?

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

6 THE COURT: Do you remember that?

7 JUROR #156, ELIZABETH HILL: (Juror nodded.)

8 THE COURT: What type of juror do you consider
9 yourself to be?

10 JUROR #156, ELIZABETH HILL: Honest.

11 THE COURT: Okay. Well, let me hand this down. Let
12 me just tell you, I'll go through it real quick.

13 JUROR #156, ELIZABETH HILL: Okay.

14 THE COURT: The first type of juror was a juror who
15 once the murder has been proven by the State and the jury
16 is considering punishment, that juror feels that he or she
17 would give the death penalty in each and every case. This
18 juror feels that once a murder has been committed, the
19 death penalty is the appropriate punishment no matter what
20 the circumstance of the case. That's the first type.

21 The second type of juror is the juror who, although
22 guilt of the Defendant has been determined, under no
23 circumstances could they ever give the death penalty.
24 This juror, the second type of juror, would not need to
25 hear what the facts and circumstances of aggravation in a

1 particular case were, because the juror would have his
2 mind made up concerning the punishment no matter what they
3 heard. Okay. That's the second type.

4 The third type is a juror who, although the guilt of
5 the Defendant has been determined, would not have his or
6 her mind made up concerning punishment. This juror would
7 need to hear the facts and circumstances in aggravation
8 and mitigation and would want to listen to and follow the
9 law as the Judge charged it before they could make a
10 decision regarding the punishment. And if the facts so
11 warranted, the juror could bring in the verdict of life in
12 prison. Also, if the facts so warranted, the juror could
13 bring in a verdict of the death penalty.

14 JUROR #156, ELIZABETH HILL: That one.

15 THE COURT: Now, of those three types, which one are
16 you?

17 JUROR #156, ELIZABETH HILL: The third one.

18 THE COURT: All right. Now, if you were selected,
19 would you honor your oath to serve as a fair and impartial
20 juror and approach jury service with an open mind and find
21 the truth from the evidence and apply the law as I
22 instructed it?

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

24 THE COURT: All right. Do you know of any reason why
25 you could not serve in this case?

1 JUROR #156, ELIZABETH HILL: No, sir, I do not.

2 THE COURT: Okay. And I will tell you now that we're
3 going through the qualification process. And when we have
4 enough qualified jurors, we will call them all -- all the
5 jurors back in and then select a jury. I anticipate that
6 will be done tomorrow.

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

8 THE COURT: And, at that time, you would need to come
9 packed and ready to stay for five to seven days over at
10 the Marriott Hotel.

11 Do you understand that?

12 JUROR #156, ELIZABETH HILL: Yes, sir. Tomorrow?

13 THE COURT: Probably starting tomorrow.

14 JUROR #156, ELIZABETH HILL: Okay.

15 THE COURT: Now, I'm going to let the attorneys
16 question you.

17 Thank you very much.

18 MR. BARNETTE: May it please the Court, Your Honor?

19 THE COURT: Yes, sir.

20 EXAMINATION

21 BY MR. BARNETTE:

22 Q Hello, Ms. Hill. How are you?

23 A Fine. How are you?

24 Q Fine. Thank you.

25 Let me introduce myself again, I know the Judge

1 introduced us before. I'm Barry Barnette. And this is
2 Trey Gowdy and John Anthony. And we're going to be
3 representing the State in this case.

4 A Okay.

5 Q And I notice you live in Clifton; is that right?

6 A Yes, sir.

7 Q And have you been around that area all your life, or
8 most of your life?

9 A Most of my life, yes, sir.

10 Q And let me just ask you a few questions, just
11 following up to the Judge's questions.

12 A Okay.

13 Q You realize this is a death penalty case and there
14 would be two parts of the case. The first would be the
15 actual trial. And if he's found guilty of murder, then it
16 would go to the second phase, which is the sentencing
17 phase. And in the sentencing phase, the State gets to
18 present evidence of aggravation. We have to prove just
19 one of those aggravating factors. And on the other side,
20 the Defense gets to prove the mitigating evidence.

21 Would you listen to both sides and give a verdict
22 based off those factors and the evidence you heard?

23 A Oh, yes, sir.

24 Q And would you -- for example, if one or more of the
25 aggravators were proven by the State -- and we just have

1 to prove one, but there's more than one that's going to be
2 presented -- could you find the Defendant guilty of death
3 in that situation?

4 A Repeat that, please. Slow down a little bit.

5 Q I talk too fast. I will slow down a little bit.

6 In the State's case, we have to prove, at least, one
7 aggravating factor. And there may be more than one
8 presented, there probably is going to be more than one
9 presented in this case. If we prove one or more factors,
10 could you find a death sentence in that situation?

11 A Yes, sir.

12 Q On the other hand, would you listen to the
13 Defendant's case when they present mitigating evidence and
14 so forth and if you feel like the evidence did not lead to
15 the death sentence, could you sentence to life without
16 parole in that situation?

17 A Yes, sir.

18 Q So you would listen to both sides and give verdicts
19 based off the evidence you heard?

20 A Yes, sir.

21 Q And at the end of the case, if you feel like a death
22 sentence is warranted, could you sign the death verdict
23 that the Judge asked you about?

24 A Yes, sir, without a doubt.

25 Q At the same time, if the State didn't prove their

1 case high enough for the death sentence, could you come
2 back with a verdict of life without parole?

3 A Yes, sir.

4 Q So you would follow the evidence and everything and
5 apply the Judge's law that he gave to you and reach a
6 verdict that was fair and just?

7 A (Juror nodded.)

8 MR. BARNETTE: One moment, Your Honor, please.

9 THE COURT: All right.

10 (Pause.)

11 MR. BARNETTE: No further questions.

12 MR. BROUGH: May it please the Court?

13 EXAMINATION

14 BY MR. BROUGH:

15 Q Ms. Hill, how are you doing today?

16 A Fine. How are you?

17 Q Good. I know Judge Miller introduced us all on
18 Monday, but my name is Chris Brough. And I represent
19 Fredrick, along with Karen Quimby, seated right there, and
20 Tam Boggs.

21 I just want to ask you a couple of questions
22 regarding your view on the death penalty. I know that
23 when Judge Miller asked you about it, at one point, you
24 said "honest." And that's what I want to hear. I want to
25 hear your honest answers and what your honest views are on

1 the death penalty. So could you explain that for me?

2 A Could you say that again?

3 Q I'm just asking what your views are -- what your
4 honest views are on the death penalty. That's all I'm
5 asking. Can you kind of verbalize them to me?

6 A Well, if the death penalty is deserved and he is
7 proven guilty.

8 Q What do you mean by that exactly, if he's proven
9 guilty? Am I understanding you that if the trial were to
10 get past the stage where Mr. Evins were to be found
11 guilty, then the death penalty should be imposed?

12 A If he's passed that?

13 Q Yes.

14 A No.

15 Q I've got another couple of questions. You kind of
16 hesitated when Judge Miller asked you about if you could
17 impose a sentence of life. And then you asked him the
18 question, "without parole?" Why did you ask him that
19 question?

20 A Okay. You're confusing me.

21 Q Okay. I'm sorry. I'm going to back up.

22 Do you remember when Judge Miller was asking you some
23 questions?

24 A Yes, sir.

25 Q Okay. And one of the questions he asked you about

1 was if it gets to the second phase. Okay.

2 A Right.

3 Q Would you consider the aggravating and mitigating
4 circumstances and could you give a sentence of life? He
5 asked that you question, do you remember that?

6 A Yes.

7 Q Okay. Your reply to him was, you said, "without
8 parole?"

9 A Right.

10 Q I'm asking you why you asked that question? Why did
11 you ask the Judge that?

12 A That was just my opinion. Do I not have an opinion?

13 Q Oh, you're entitled to an opinion. I'm not trying to
14 change your opinion. I'm just asking if you weren't clear
15 on that or --

16 A Yes. I'm clear on that.

17 Q All right. I've also noticed that when asked about
18 the death penalty and could you sign your name on the
19 death warrant, you always add in the phrase, "without a
20 doubt." Why do you add that phrase in?

21 A Because if someone deserves the death penalty, that's
22 why I added that.

23 Q When you say, "if someone deserves the death
24 penalty," I'm just trying to figure out what your views on
25 capital punishment are.

1 A Okay. Go for it.

2 Q So could you kind of just tell me what those views
3 are. I'm just asking you, have you ever talked about the
4 death penalty with anybody?

5 A No, sir, I haven't.

6 Q Okay.

7 A But everyone has their own view; right?

8 Q Everybody does. And I'm just trying to figure out
9 what they are. That's all I'm trying to figure out.

10 A Okay.

11 Q So I'm just trying to figure out, do you get them
12 from some sort of religious aspect --

13 A Oh, no, sir. In my opinion, if someone goes out and
14 murders someone or two people or three people, if they are
15 found guilty, I think they deserve the death penalty.

16 Q All right. Thank you very much.

17 A Is that good enough?

18 MR. BROUGH: Good enough.

19 Thank you very much.

20 No further questions.

21 THE COURT: Okay. Ms. Hill, let me ask you to step
22 out in the hallway for just a second.

23 (Pause.)

24 THE COURT: All right. Any objections?

25 MR. BROUGH: Yes, Your Honor.

1 The Defense objects to Ms. Hill as a potential juror.
2 When asked in general what her views about the death
3 penalty were, she stated that it doesn't matter if you
4 murder one people, two people, three people, if you're
5 found guilty, you deserve death. That's what she said. I
6 didn't try and lead her.

7 THE COURT: I know.

8 All right. Mr. Barnette.

9 MR. BARNETTE: Well, Your Honor, we had Mr. Cecil the
10 other day and he's been qualified. And there's no
11 question, she answered all the questions. She went
12 through your questions, my questions, answered even
13 talking to Mr. Brough's questions. And he kept leading
14 her down that path and kept going through there.

15 She answered the questions that she would listen to
16 both sides and she would listen to mitigation. She's a
17 Number 3 type juror. You went through the list yourself,
18 one, two, and three. And there was only one question that
19 he asked about that. There was no follow-up or anything
20 about that. And the thing is, she's qualified at this
21 point. She could do both. She can listen to the
22 evidence, aggravation and mitigation. We went through it
23 in detail. You went through it in detail.

24 THE COURT: I did.

25 MR. BROUGH: If I may briefly reply, Your Honor.

1 Your Honor, when we questioned the Juror
2 Patricia Murphy, who was ultimately disqualified --

3 THE COURT: I'm not -- I'll tell you what we're not
4 going to do is start comparing the jurors.

5 MR. BROUGH: All right. Well, Your Honor, I would
6 just indicate that, again, I -- that's what she said. I
7 wasn't asking any kind of leading questions. I don't know
8 what Mr. Barnette was referring to by "leading her down
9 the path." I was only asking about answers that she
10 responded to Your Honor's questions.

11 THE COURT: All right. I am going to disqualify her.
12 I think that just based on my assessment of her testimony
13 here in the courtroom that she -- her ability to be fair
14 and impartial would be substantially impaired. That's
15 just my judgment on it. So I'm going to disqualify her.

16 Okay. Do y'all need anything else on the record?

17 MR. GOWDY: No, sir.

18 MR. BARNETTE: No, sir.

19 THE COURT: All right. Bring her back in.

20 (Pause.)

21 THE COURT: Hey, Ms. Hill.

22 I want to thank you for your service in this case.
23 And I am pleased to be able to tell you that you are
24 excused from service in this case. Okay. But I want you
25 to know how much we appreciate the sacrifices you've made

1 to come up here. And I appreciate your willingness to
2 participate in this process and your honest answers.

3 So thank you very much.

4 I wish you the best of luck.

5 JUROR #156, ELIZABETH HILL: Thank you.

6 And you have a great day.

7 THE COURT: And you, too.

8 (Juror #156, Elizabeth Hill, was excused from the
9 courtroom.)

10 THE COURT: Bring the next juror in.

11 (Juror #180, Mary James, a black female, was seated.)

12 THE COURT: Okay. Ms. James, welcome to the
13 courtroom. I'm going to speak to you briefly and ask you
14 a few questions. And I'm going to let the attorneys
15 question you as well. The subject matter we're going to
16 talk about will consist of whether or not you've heard
17 anything about this case, whether or not you can be a fair
18 and impartial juror, and then we're going to talk to you
19 about your views on the death penalty.

20 Now, before we start, I hope you're comfortable and I
21 hope you feel at ease. And, you know, I -- what I will do
22 is promise you that no one will embarrass you or humiliate
23 you in any way in this courtroom. We've been going
24 through this now for the last -- well, going on the second
25 day. And I will tell you that no one has been embarrassed

1 or humiliated. Okay. So just be comfortable about that.

2 Now, I want to tell you that, also, what we're
3 interested in, because of the serious nature of this case,
4 are your complete, honest, and candid answers to all these
5 questions. It's very important that we know that. That's
6 the only right answer that you can give as long as you are
7 honest and forthcoming to these questions. Even though
8 they might be -- they might pry a little bit, looking --
9 delving into some personal, deeply held beliefs, it's very
10 important that we get in -- that we know what your views
11 are on these subjects. So there is no right or wrong with
12 respect to your answers. There's not a test. And no one
13 is going to pass judgment about what you have to tell us.

14 JUROR #180, MARY JAMES: Okay.

15 THE COURT: So, first of all, let me give you a
16 little more background on the case. And these are the
17 indictments, they are not evidence and should never be
18 considered to be evidence in any fashion.

19 They allege in one indictment the charge of murder,
20 that Fredrick Antonio Evins did in Spartanburg County on
21 or about February 13th of 2003, feloniously, willfully,
22 and with malice aforethought kill Rhonda Marie Ward. The
23 next indictment is for kidnapping. It alleges that
24 Mr. Evins did on the same date unlawfully seize and carry
25 away or kidnap Rhonda Marie Ward. The next indictment is

1 for criminal sexual conduct. It alleges that Mr. Evins
2 did on the same date, February 13th of 2003, unlawfully
3 and willfully commit a sexual battery upon the victim,
4 Rhonda Marie Ward. And, finally, there's an indictment
5 for grand larceny that alleges that Mr. Evins did in
6 Spartanburg County on the same day feloniously take and
7 carry away the 1993 Nissan Sentra and its contents
8 belonging to Rhonda Marie Ward. Those are the allegations
9 in this case.

10 Now, we recognize that there has been publicity about
11 this case. And so my first question -- that would be on
12 the TV, newspaper, and radio. So my first question would
13 be, have you heard, read, or seen anything about this
14 case?

15 JUROR #180, MARY JAMES: (Juror shook head.)

16 THE COURT: No. Okay. It's all right if you have
17 and it's not -- you know, we just need to know about it.
18 But if you haven't, that's even better.

19 Now, I will tell you that, as a juror, when we go
20 through this questioning process or if you're selected to
21 serve on the jury, something may prod your memory and all
22 of a sudden it will come to you, oh, yeah, I did hear that
23 or I did see that or I did read that. So I must tell you
24 that your oath, as a juror, requires you to disregard
25 anything you've read, seen, or heard about this case.

1 Because the case must be based solely on the facts
2 presented in evidence during the trial.

3 Now, let me ask you this, would you serve as a fair
4 and impartial juror and reach a verdict based on the facts
5 presented at trial and in accordance with my instructions
6 on the law?

7 JUROR #180, MARY JAMES: Yes.

8 THE COURT: Okay. Now, have you already formed an
9 opinion as to the facts of this case?

10 JUROR #180, MARY JAMES: Well, I don't believe in the
11 death penalty.

12 THE COURT: Okay. Well, you're getting ahead of me a
13 little bit.

14 JUROR #180, MARY JAMES: I'm sorry.

15 THE COURT: But since you went there, let me go ahead
16 and go there.

17 JUROR #180, MARY JAMES: Okay.

18 THE COURT: Tell me a little bit about your thoughts
19 on the death penalty.

20 JUROR #180, MARY JAMES: I'm a Christian. And who am
21 I to judge? And I think when Judgment Day comes, the Lord
22 will -- you know, whatever we've done in our life that's
23 bad, he will punish us. We have to pay --

24 THE COURT: Okay.

25 JUROR #180, MARY JAMES: -- for what we have done.

1 THE COURT: All right. Now -- well, let me back up
2 and I'll keep that in mind, of course. But have you
3 formed an opinion as to the facts of the case at this
4 time?

5 JUROR #180, MARY JAMES: What do you mean? I don't
6 understand.

7 THE COURT: Do you have any opinion about the facts
8 in this case? You say you haven't heard anything about
9 it. Do you have an opinion about them?

10 JUROR #180, MARY JAMES: No, sir.

11 THE COURT: All right. Do you have any opinion about
12 the guilt or innocence of Mr. Evins?

13 JUROR #180, MARY JAMES: I don't understand.

14 THE COURT: Well, I'm just curious if you've got any
15 preconceived notion or idea about whether or not Mr. Evins
16 is guilty or innocent?

17 JUROR #180, MARY JAMES: Well, when you kill someone,
18 you are guilty.

19 THE COURT: Okay. Well, do you have some idea that
20 he's guilty at this time?

21 JUROR #180, MARY JAMES: I'm a nervous wreck up here.
22 I don't know. I'm so nervous.

23 THE COURT: That's all right. We fully understand
24 that. And I wish I could wave a magic wand and put you at
25 ease because, really, all we're interested in is hearing

1 you talk. Nobody's opinion is worth more than anybody
2 else's opinion in this courtroom. So if there's anything
3 I can do to make you more comfortable, I want to.

4 And what I'm trying -- what we really need is just
5 for you -- and this won't last that long -- is just for
6 these few minutes be completely honest with us about your
7 feelings about this. If there's something you don't
8 understand, just ask me and I'll certainly explain it to
9 you.

10 Do you have an opinion? I mean, you say you don't
11 know anything about the case. So have you formed an
12 opinion about his guilt or innocence?

13 JUROR #180, MARY JAMES: Well, like I say, if you,
14 you know, kill someone, you are guilty. And that's -- the
15 Bible says that under the Ten Commandments, do not kill.

16 THE COURT: Yes, ma'am.

17 All right. Well, keeping in mind the legal
18 principles I've talked to you about, that is the
19 presumption of innocence and the State's obligation to
20 prove guilt beyond a reasonable doubt -- and we're not
21 talking about being judged by God. We're talking about
22 the laws of man here. So please try and distinguish the
23 two, if you can.

24 But keeping in mind those two legal principles, the
25 presumption of innocence and the State's obligation to

1 prove guilt beyond a reasonable doubt, could you,
2 depending upon the facts and the evidence presented at
3 trial and the law as I would give it to you, could you
4 find a defendant either guilty or not guilty after a
5 trial, depending on what the facts showed to you?

6 JUROR #180, MARY JAMES: Guilty.

7 THE COURT: Guilty?

8 JUROR #180, MARY JAMES: (Juror nodded.) Well, if
9 someone killed someone.

10 THE COURT: All right. Well, the State would have
11 the obligation to prove that to you beyond a reasonable
12 doubt. Okay.

13 JUROR #180, MARY JAMES: Uh-huh.

14 THE COURT: So depending on the facts and
15 circumstances and the law as I would instruct it,
16 including that law, could you find a defendant guilty or
17 not guilty depending on what was shown to you at trial?

18 JUROR #180, MARY JAMES: Guilty.

19 THE COURT: Guilty every time?

20 JUROR #180, MARY JAMES: Not every time, but it
21 depends on what case it is.

22 THE COURT: Okay. Well, that's what I'm getting at.
23 I just need to know if your mind is already made up and if
24 you think that when someone is charged with a crime, do
25 you think they're automatically guilty?

1 JUROR #180, MARY JAMES: No.

2 THE COURT: Okay. That's all I'm getting at.

3 JUROR #180, MARY JAMES: Okay.

4 THE COURT: Now, please remember, we might not reach
5 the second phase of the trial, but since we possibly
6 could, I need to ask you some questions about the death
7 penalty. And we'll get you to explain a little bit more.
8 Do you understand if we get to the second phase, the jury
9 would have already decided that the Defendant was guilty
10 of murder? You've already decided that he is guilty of
11 murder.

12 Now, in the second phase, you wouldn't be concerned
13 with a legal defense to the charge of murder. The only
14 thing you would consider in the second phase would be
15 evidence in mitigation of the crime, to lessen it, or
16 evidence in aggravation of the crime, to increase the
17 enormity of it.

18 Does that make sense?

19 JUROR #180, MARY JAMES: (Juror nodded.)

20 THE COURT: All right. Now, in the second phase,
21 your oath would require you to give meaningful and serious
22 consideration to the aggravating evidence and the
23 mitigating evidence.

24 Okay. Do you understand that?

25 JUROR #180, MARY JAMES: (Juror nodded.)

1 THE COURT: Could you speak? We're trying to --

2 JUROR #180, MARY JAMES: Yes.

3 THE COURT: Okay. And would you honor your oath in
4 that regard and give serious and meaningful
5 consideration --

6 JUROR #180, MARY JAMES: Yes.

7 THE COURT: Okay. Now, if you were a juror in that
8 second phase of the trial, imagine with me that you're a
9 juror, and the jury has already decided that the Defendant
10 is guilty of murder. Okay. Could you, depending upon the
11 particular facts and circumstances of the case and
12 considering all of the mitigating and aggravating evidence
13 of the case and the law as I would give it to you, could
14 you return a verdict of life in prison?

15 JUROR #180, MARY JAMES: Yes.

16 THE COURT: Okay. Now, in that same situation, as a
17 juror, could you -- after you've decided that the
18 Defendant is guilty of murder in the second phase, could
19 you, depending on the particular facts and circumstances
20 of the case and after considering all of the aggravating
21 and mitigating evidence and circumstances and the law that
22 I would give to you, could you return a sentence of death?

23 JUROR #180, MARY JAMES: No.

24 THE COURT: Okay. Under any circumstances, could you
25 ever return a sentence of death?

1 JUROR #180, MARY JAMES: No.

2 THE COURT: Okay. Not ever?

3 JUROR #180, MARY JAMES: (There was no response.)

4 THE COURT: Can you imagine a set of circumstances
5 where you could do that?

6 JUROR #180, MARY JAMES: No.

7 THE COURT: All right. Well, thank you very much.

8 Let me at this time -- I appreciate, Ms. James, you
9 coming in. Let me ask you to step into the hallway for
10 just a minute.

11 JUROR #180, MARY JAMES: Okay.

12 THE COURT: Thank you.

13 (Pause.)

14 THE COURT: Do y'all want to question her?

15 MS. QUIMBY: I would like to think that we could
16 rehabilitate her. I don't think it's possible. I don't
17 think it's possible at all.

18 THE COURT: Okay. So I presume the State objects to
19 her. I don't think she's qualified.

20 MR. GOWDY: No, sir. I do not believe that she is
21 qualified.

22 THE COURT: All right. Well, we're not having good
23 luck with this panel.

24 Let's bring her back.

25 (Pause.)

1 THE COURT: Ms. James, I want to thank you very much
2 for coming up here. I can't tell you how much -- as a
3 member of our judicial system, how much we appreciate your
4 service. We understand the inconvenience and all that,
5 and also to sit in that witness stand and answer questions
6 I know is very difficult. So I want to thank you for your
7 service. But I am, at this time, excusing you from
8 service on the jury. Okay.

9 JUROR #180, MARY JAMES: Okay.

10 THE COURT: Good luck to you.

11 JUROR #180, MARY JAMES: Thank you.

12 (Juror #180, Mary James, was excused from the
13 courtroom.)

14 THE COURT: Bring the next juror in, please.

15 (Juror #32, Kristine Brown, a white female, was
16 seated.)

17 THE COURT: Ms. Brown, welcome to the courtroom. I
18 know you are just pleased as punch to be here, sitting in
19 that chair. I want to try to put you at ease as best I
20 can. I want to tell you what we're going to talk to you
21 about so there isn't any mysteries here.

22 We need to really discuss about three things, three
23 major subjects that we want to talk about. And that is,
24 first of all, if you know anything about this case, and,
25 secondly, if you can be a fair and impartial juror and

1 follow the law as we give it to you, and, thirdly, we need
2 to discuss your views on the death penalty, because of the
3 serious and solemn nature of this case.

4 So recognizing that, I want to further tell you that
5 there -- I've been telling everybody that there's no right
6 and wrong answer. And there really is not a right or
7 wrong answer to the questions that we're going to ask, as
8 long as we get your candid, full, complete, and accurate
9 answers to the questions. Anything you tell us is not
10 right or wrong. Okay. It's just very vitally important
11 that we find out how you feel about it and discuss your
12 views on it. And we recognize that being the subject of
13 examination by lawyers and a judge is no fun, and it would
14 be a nervous experience for any of us. So we recognize
15 that. No one here is going to try and embarrass you in
16 any way, so don't worry about that. We want your
17 heartfelt, open discussion about these issues. That's all
18 we're looking for.

19 JUROR #32, KRISTINE BROWN: Okay.

20 THE COURT: Now, before we can do that, I need to go
21 through the indictments very briefly with you. I've
22 described them to you once, but just so you know what
23 we're talking about. And I'll remind you that these are
24 not evidence and are never to be considered to be
25 evidence. Okay.

1 JUROR #32, KRISTINE BROWN: Okay.

2 THE COURT: The first indictment is for murder. And
3 it alleges that Mr. Fredrick Antonio Evins did in
4 Spartanburg County on or about February 13th of 2003,
5 feloniously, willfully, and with malice aforethought kill
6 Rhonda Marie Ward. The next one is for kidnapping. And
7 it alleges that Mr. Evins did on the same date unlawfully
8 seize and kidnap Rhonda Marie Ward. The next one is for
9 criminal sexual conduct. And it alleges that Mr. Evins
10 did on the same date, which is February 13 of 2003,
11 unlawfully and willfully commit a sexual battery upon
12 Rhonda Marie Ward. And, finally, the last indictment is
13 for grand larceny. And it alleges that on the same date,
14 February 13th of 2003, he did feloniously take and carry
15 away a 1993 Nissan Sentra and its contents belonging to
16 Rhonda Marie Ward. Now, those are the allegations in this
17 case. And, of course, it's not evidence and hasn't been
18 proven yet. They're only allegations.

19 We recognize that there has been publicity about this
20 case on television, the radio, and in the newspaper. So
21 the first thing I want to ask you is, have you read,
22 heard, or seen anything about this case?

23 JUROR #32, KRISTINE BROWN: (Juror shook head.)

24 THE COURT: Not at all?

25 JUROR #32, KRISTINE BROWN: No.

1 THE COURT: Well, as you sit through this process,
2 something -- and if you're selected as a juror, something
3 may jog your memory and you may -- and it may come back to
4 you that you have, in fact, heard, read, or seen
5 something. I want you to know that that's okay. But your
6 oath, as a juror, requires that you put aside and
7 disregard anything you might have read, heard, or seen
8 about this case because it is the mandate of our
9 forefather's through our Constitution that a case only be
10 decided on the evidence in the courtroom at trial.

11 Do you understand that?

12 JUROR #32, KRISTINE BROWN: I do.

13 THE COURT: Could you serve as a fair and impartial
14 juror and reach a verdict based solely on the facts
15 presented at trial in accordance with my instructions on
16 the law?

17 JUROR #32, KRISTINE BROWN: Yes.

18 THE COURT: Okay. And have you already formed an
19 opinion as to the facts of this case in any way?

20 JUROR #32, KRISTINE BROWN: No.

21 THE COURT: Okay. Have you formed an opinion as to
22 the guilt or innocence of Mr. Evins in any way?

23 JUROR #32, KRISTINE BROWN: No.

24 THE COURT: Okay. Now, keeping in mind the legal
25 principles that I've told you about two or three times

1 already, the presumption of innocence and the State's
2 obligation to prove guilt beyond a reasonable doubt, could
3 you, depending on the facts and the evidence and the law
4 as I would instruct you, find a defendant either guilty or
5 not guilty depending on what evidence was shown to you?

6 JUROR #32, KRISTINE BROWN: Yes.

7 THE COURT: So your mind is not made up one way or
8 the other until you've heard all the evidence; is that
9 right?

10 JUROR #32, KRISTINE BROWN: Right.

11 THE COURT: Now, please remember, we might not reach
12 the second phase of the trial, but since we possibly
13 could, I need to talk to you about your views on the death
14 penalty.

15 Do you understand that?

16 JUROR #32, KRISTINE BROWN: Uh-huh.

17 THE COURT: Now, I'll tell you again briefly that
18 when we get to the second phase of the trial, it means
19 that the jury has already decided that the Defendant is
20 guilty of murder. That's already been decided in the
21 first phase and we'd move to the second phase. Okay.
22 There is no legal defense for the jury to discuss or talk
23 about in the second phase. The only thing that the jury
24 will discuss is the -- are the aggravating circumstances
25 and the mitigating circumstances. Okay.

1 JUROR #32, KRISTINE BROWN: Okay.

2 THE COURT: Now, I must tell you that your oath
3 requires you to abandon any preconceived notions that you
4 may have and your oath requires that you give serious and
5 meaningful consideration to all of the aggravating
6 circumstances and all of the mitigating circumstances.
7 Could you follow your oath and do that?

8 JUROR #32, KRISTINE BROWN: Yes.

9 THE COURT: Okay. Now, if you were a juror -- this
10 is a hypothetical question. In that second or sentencing
11 phase, imagine yourself as a juror, could you, depending
12 upon the particular facts and circumstances of the case,
13 after considering all of the aggravating and mitigating
14 evidence and taking into consideration the charge on the
15 law that I would give you, could you return a verdict of
16 life in prison?

17 JUROR #32, KRISTINE BROWN: Yes.

18 THE COURT: Okay. Now, another hypothetical
19 question, same situation, the second phase of a trial, the
20 Defendant is guilty of murder, depending on the particular
21 facts and circumstances of the case, including all the
22 aggravating and mitigating circumstances and the law that
23 I would give you, could you find a defendant -- or
24 sentence a defendant to death?

25 JUROR #32, KRISTINE BROWN: Yes.

1 THE COURT: Okay. Now, the law requires that to be a
2 unanimous decision, all 12 jurors have to agree. And in
3 the event of the death sentence, South Carolina law
4 requires each juror to sign their name to the verdict
5 form. Could you sign your name to a death sentence
6 verdict?

7 JUROR #32, KRISTINE BROWN: Yes.

8 THE COURT: Okay. Do you recall the sheet which
9 listed the three types of jurors?

10 JUROR #32, KRISTINE BROWN: Yes.

11 THE COURT: All right. Where would you consider
12 yourself to be on that list?

13 JUROR #32, KRISTINE BROWN: I wouldn't want to make
14 any decisions until I've heard more about the case.

15 THE COURT: All of the evidence?

16 JUROR #32, KRISTINE BROWN: Right.

17 THE COURT: So that would be Number 3, a Number 3
18 type juror?

19 JUROR #32, KRISTINE BROWN: Right.

20 THE COURT: You would want to hear everything before
21 you made your decision?

22 JUROR #32, KRISTINE BROWN: Right.

23 THE COURT: Now, let me ask you, if you were
24 selected, would you honor your oath to serve as a fair and
25 impartial juror and approach jury service with an open

1 mind to find the truth from the evidence presented at
2 trial and apply the law as I instruct it?

3 JUROR #32, KRISTINE BROWN: Yes.

4 THE COURT: Do you know of any reason why you could
5 not serve?

6 JUROR #32, KRISTINE BROWN: No.

7 THE COURT: All right. And let me briefly tell you
8 before the lawyers question you a little bit about these
9 subjects that we're qualifying the jury. As soon as we
10 have a qualified number, then we will call everybody back
11 in and select the jury. If you were qualified and asked
12 to come back for jury selection, then you need to be
13 packed and ready to go for five to seven days where you'll
14 be sequestered to stay over at the Marriott Hotel. Okay?

15 JUROR #32, KRISTINE BROWN: Okay.

16 THE COURT: I'll turn it over to the attorneys now.
17 Thank you very much.

18 EXAMINATION

19 BY MS. QUIMBY:

20 Q Hey, Ms. Brown.

21 A Hey.

22 Q I noticed that you returned your questionnaire as
23 Ms. Belue, you got married about a year ago, didn't you?

24 A I did.

25 Q Would you rather me call you Mrs. Belue?

1 A That's fine.

2 Q My name is Karen Quimby, and I introduced myself to
3 everybody in the room on Monday. But I represent Fredrick
4 Evins and so does Tam Boggs and Chris Brough.

5 A Okay.

6 Q We appreciate you being here and we appreciate you
7 filling out the questionnaire. It helps us know what to
8 talk to you about. Because, like Judge Miller told you,
9 we just need your opinions. We're not looking for right
10 or wrong answers, we're just trying to find out what yours
11 are.

12 A Okay.

13 Q You said that you had not heard anything about the
14 case that you know of; right?

15 A Right.

16 Q But it's hard to know whether you've heard of it with
17 only the names?

18 A Right.

19 Q If you had more information just to jog your memory,
20 would that help?

21 A I guess. I don't really watch or read news things.

22 Q Well, even if you don't really watch -- or watch the
23 news or read the newspaper, sometimes you can't help but
24 hear people talk about it, like neighbors or co-workers or
25 things like that. You heard the charges, murder,

1 kidnapping, criminal sexual conduct, and grand larceny.

2 This would have happened about a year and a half to a year
3 and nine months ago, in February of 2003. And it was in
4 the news. And so I just didn't know if that might bring
5 anything back?

6 A No, ma'am.

7 Q Okay. You do get your news from the Internet; right,
8 when you get it?

9 A Right.

10 Q What sites do you go to?

11 A Normally, WHNS.com or something like that. I just
12 read the weather and things like that.

13 Q So you look at it for the weather?

14 A Yeah, those kind of things or the headlines.

15 Q Do you read any other headlines like -- are you
16 interested in any other type things that would be on those
17 sites, on the 21 site?

18 A It just depends on what interests me on them.

19 Q Okay. You're a teller at Wachovia?

20 A Yes.

21 Q Okay. Have you ever had any reason to think or talk
22 about your feelings on the death penalty?

23 A No.

24 Q Or is this the first time?

25 A This is the first time.

1 Q Well, I'm sorry you have to be in the witness seat.
2 This being the first time, what might your general views
3 be on that?

4 A Well, I kind of believe that if you kill somebody and
5 it's just in cold blood and you weren't defending yourself
6 in any way, then I kind of believe like an eye for an eye.

7 Q You believe in an eye for an eye?

8 A Yes, when it comes to that.

9 Q When it comes to that?

10 A (Juror nodded.)

11 Q So in the first phase -- it's the actual trial in the
12 first phase. And if you believe that the State has proven
13 murder, then we would move on to a second phase for
14 sentencing. So in your mind -- well, if it was
15 self-defense, obviously, it wouldn't be murder so we
16 wouldn't move on to that second phase. But if you found
17 murder and we moved to that second phase, do you
18 believe -- is what I'm understanding you say is that if
19 you're guilty of murder, you think that the death penalty
20 is the more appropriate punishment?

21 A Right. I mean, it just depends on what all you did,
22 I guess, too. I mean how you murdered, that kind of
23 thing.

24 Q So you would want to hear the evidence in
25 aggravation?

1 A Right.

2 Q Would you also need to hear --

3 THE COURT: Could you speak up just a little bit.

4 THE WITNESS: Yes. I'm sorry.

5 MS. QUIMBY: I tend to gravitate to that side of the
6 room. I'm sorry.

7 BY MS. QUIMBY:

8 Q Would you also take into consideration other things
9 that aren't in aggravation, other things that would make
10 it worse? In other words -- well, let me rephrase that
11 whole question because I think I messed it all up. You
12 said you would want to know more details about it?

13 A Right.

14 Q And that would be what the State would be presenting
15 is aggravating circumstances, things that they think makes
16 it worse.

17 A Okay.

18 Q Would that alone help you make your determination
19 about life or death or would you also want to hear things
20 that sort of put the whole thing in context, and that
21 would be mitigating circumstances? Maybe something -- go
22 ahead.

23 A Yeah, I guess. I mean, I would want to hear
24 everything about it, I mean.

25 Q Okay. I see that you go to Saint Paul's?

1 A Yes.

2 Q And your mom works at Saint Paul's?

3 A Yes.

4 Q And you went to school there as a child?

5 A Right.

6 Q Are you aware of your church's views on the death
7 penalty?

8 A Yeah. I think that they believe that you
9 shouldn't -- that you should let God decide who dies.

10 Q So your views kind of stray a little from your
11 church's?

12 A Right.

13 Q So can I ask where you developed your views? Is that
14 from experiences or --

15 A No. I'm not really sure. It's just how I feel.

16 Q Okay. And that's fine. If given the choice between
17 life without the possibility of parole and the death
18 penalty, do you tend to in your mind favor one over the
19 other for someone convicted of murder?

20 A No. It just depends on the circumstances what would
21 sway me one way or the other.

22 Q What's the biggest decision you've ever had to make?

23 A The biggest decision, probably about school and
24 marriage and moving out of my house, those kind of things.

25 Q Those are big decisions. I see that your brother is

- 1 a trooper?
- 2 A Right.
- 3 Q How long has he been a trooper?
- 4 A For like ten years, eight or ten years.
- 5 Q What's the age difference between y'all?
- 6 A 14 years. I was a surprise.
- 7 Q Well, I'm sure you were a good surprise. So he is
- 8 36?
- 9 A Right.
- 10 Q I'm not very good at math. And he's been a trooper
- 11 for about ten years?
- 12 A I'd say eight to ten. I'm not really sure.
- 13 Q Is he around here?
- 14 A He's in Pickens.
- 15 Q So do you see him a lot?
- 16 A Not that much, every now and then, maybe every other
- 17 weekend or something like that.
- 18 Q Every other weekend?
- 19 A Uh-huh.
- 20 Q Do you get to hear stories about his job?
- 21 A Yes.
- 22 Q Are they, generally, funny stories or does he come
- 23 home with the frustrating stories?
- 24 A Normally, funny stories.
- 25 Q Funny stories. And I see that you went to high

1 school with the daughter of Craig Coggins?

2 A Right.

3 Q Have you stayed in contact with her since high
4 school?

5 A No, no. We were friends when we were in elementary
6 school and we were just more acquaintances in high school.
7 Just school friends, not like outside of school friends,
8 but when we were younger we were.

9 Q When you were younger, how much contact did you have
10 with them?

11 A I went to Carowinds with her one time. And I spent
12 the night at their house a couple of times when I was
13 young.

14 Q It wasn't like that was your best friend?

15 A Oh, no.

16 Q Okay. Did you ever hear him tell stories about his
17 experiences being an officer?

18 A No.

19 Q All right. Is there any chance that your brother
20 being a trooper might effect how you might feel one way or
21 the other about Mr. Evins' guilt or innocence or anything
22 that you might have to decide?

23 A No. I don't believe so. I mean, no.

24 Q Do you know if -- well, off of that subject. Have
25 you ever given any thought to your views on interracial

1 friendships or relationships?

2 A No. I have no problem with that. That's fine.

3 MS. QUIMBY: Okay. Hold on one second, please.

4 (Pause.)

5 MS. QUIMBY: Okay. Ms. Belue, thank you very much
6 for answering my questions. And thank you for being here
7 this week.

8 MR. GOWDY: May it please the Court?

9 THE COURT: Yes, sir.

10 EXAMINATION

11 BY MR. GOWDY:

12 Q Good afternoon, Ms. Belue. My name is Trey Gowdy.
13 That's John Anthony to your left and Barry Barnette in the
14 middle. The three of us are representing the State of
15 South Carolina in this case.

16 I'm just going to ask you a couple of quick
17 questions. The first one I've got to ask you, though, is
18 do you really watch Nip Tuck?

19 A Yes.

20 Q How do you stay up that late?

21 A Well, my husband works two jobs, so I'm up waiting on
22 him.

23 Q It comes on Tuesday nights, doesn't it?

24 A Right.

25 Q I've seen it a time or two. You -- in response to

1 the Defense attorney's questions, one of them, you said --
2 you referred back to an Old Testament passage. I want to
3 see if you agree with this statement. And if you don't,
4 that's fine. Because there are no right or wrong answers,
5 they're just your answers. And whatever they are, they're
6 fine.

7 Would you agree with me that all murders are not the
8 same?

9 A Yes.

10 Q So, therefore, the punishment for all murders should
11 not be the same?

12 A Yes.

13 Q So you could give life if, based on all the
14 circumstances, you thought that was the right decision?

15 A Right.

16 Q And, correspondingly, if you thought death was the
17 right decision, based on all the circumstances, you could
18 do that?

19 A Yes.

20 Q All right. I never ask people about religion.
21 That's one of the things you're supposed to stay away
22 from. But in this case, since you listed that you went to
23 Saint Paul's Catholic and, I think, still consider that to
24 be your church membership?

25 A Uh-huh.

1 Q Do you -- are you confident in your well of souls
2 that the church's position, while it's not an edict, it's
3 a position, would not, at some point over the next two
4 weeks, cause you difficulty or consternation if you served
5 on a capital case?

6 A Meaning?

7 Q Well, I guess what I mean by that is, in the back of
8 your mind -- I mean, you're very young, 22?

9 A Right.

10 Q I think you said you had not really discussed or
11 thought about the death penalty a whole lot until you were
12 called for this case?

13 A Right.

14 Q You believe that now that you could give death, if
15 you thought that was right?

16 A Right.

17 Q But you also realize that the church's unofficial
18 position on capital punishment is, we're not in favor of
19 it?

20 A Right.

21 Q I guess what I'm asking you is, at some point in the
22 next five to seven days, is that going to dawn on you and
23 you're going to think, well, you know, maybe I should have
24 answered the question differently?

25 A I don't believe so.

1 Q Okay. You are firm -- as firm as you can be in your
2 belief now that you are capable of voting for the death
3 penalty, if you thought that was right?

4 A Right.

5 Q Okay. You mentioned one of your hobbies was playing
6 with your pets?

7 A Yes.

8 Q What kind of pets do you have?

9 A I have three dogs.

10 Q What are their names?

11 A Cooper, Rex, and Carmen.

12 Q I've got two myself named Judge and Jury. How old
13 are your dogs?

14 A How old?

15 Q Yeah.

16 A Like 12, seven, and almost a year in December.

17 MR. GOWDY: Good. Thank you for answering our
18 questions.

19 THE COURT: All right. Ms. Brown, I have one more
20 question, you don't kick your dogs, do you?

21 JUROR #32, KRISTINE BROWN: No.

22 THE COURT: Okay. Thank you very much.

23 Would you wait out in the hall for just a second?

24 JUROR #32, KRISTINE BROWN: Sure.

25 (Pause.)

1 THE COURT: All right. Any objections?

2 MR. GOWDY: Not from the State, Your Honor.

3 MS. QUIMBY: Your Honor, I understand that she did
4 say earlier that she believed in an eye for an eye for
5 most murders -- well, she -- actually, what she said was
6 that if you're proven guilty of murder, then she believes
7 in an eye for an eye. So I just wanted to put that on the
8 record.

9 THE COURT: Okay. I appreciate that exception. I
10 think you're covered on the record, but I think that was
11 later explained. And I'm going to find she's a qualified
12 juror.

13 MS. QUIMBY: Yes, sir.

14 THE COURT: Bring her in.

15 (Pause.)

16 THE COURT: Hi. Come on around, Ms. Brown.

17 I didn't mean to ask you that about your dog.

18 I want you to take that home and read it. You remain
19 eligible to serve, because you are a qualified juror in
20 this case. I'm going to tell you, we're going to -- I
21 don't know if we'll finish qualifying all the jurors today
22 or not. But I think tomorrow, we're going to select a
23 jury and so we'll call you. You need to be packed and
24 ready to go for five to seven days and you'll stay over at
25 the Marriott.

1 Now, I would ask you and instruct you and tell you,
2 you're still under oath and instruct you not to read the
3 newspapers, watch TV, listen to the radio, or go on the
4 Internet and look at anything about the case.

5 Do you understand that?

6 JUROR #32, KRISTINE BROWN: I do.

7 THE COURT: And while I know it will be very
8 difficult, because it's got to be very tempting to discuss
9 this with your husband, don't discuss the case with him
10 until it's over. It's your right that you're protecting
11 when you do this. Because every citizen deserves a jury
12 that doesn't suffer from any outside influences when they
13 make their decision. So I ask you to protect your own
14 rights and the rights of every other citizen by doing
15 that.

16 Thank you very much.

17 JUROR #32, KRISTINE BROWN: Thank you.

18 (Juror #32, Kristine Brown, was excused from the
19 courtroom.)

20 THE COURT: Bring the next juror in, please.

21 (Juror #105, James Foster, Jr., a white male, was
22 seated.)

23 THE COURT: Mr. Foster, welcome back to the
24 courtroom. I appreciate you being here. Thank you for
25 your patience. And I do appreciate your sacrifices being

1 here.

2 I'm going to run through my little spiel real
3 quickly. I want you to feel very comfortable. I know
4 that's almost impossible given where you are and where
5 you're sitting and all that. And the anticipation of
6 what's -- I'm sure you're anticipating what's going to
7 happen. I want you to understand -- I'm going to lay out
8 the road map for you right now. What we're going to talk
9 about is three basic subjects. The first one is, do you
10 know anything about the case, and the second is, can you
11 be a fair and impartial juror, and the third, because of
12 the serious nature of this case, we need to discuss your
13 views on the death penalty.

14 Now, a lot of people consider that to be a very
15 personal, private issue and it's not easy to talk about.
16 Everybody in here understands that. Everybody in here --
17 let me back up. No one in here will do anything to
18 embarrass or humiliate you in any way.

19 There are no right or wrong answers. Your answers
20 will not be judged or put on some litmus test or anything
21 like that. But we do need to have your candid, frank,
22 honest, complete answers to these questions. Okay. And
23 those would be the correct answers. We just need to have
24 your heartfelt feelings about these issues, because it's
25 so vitally important in this serious case. Other than

1 that, I don't know what else I could do to put you at
2 ease, but I just want you to know that's where we're
3 going. It won't last that long.

4 But before we do that, let me describe a little bit
5 more about the case to you. And, again, I remind you that
6 indictments are not evidence and should never be
7 considered to be evidence. The first indictment in this
8 case is for murder. And it alleges that Fredrick Antonio
9 Evins did in Spartanburg County on or about February 13th
10 of 2003, feloniously, willfully, and with malice
11 aforethought kill Rhonda Marie Ward by stabbing. The next
12 indictment is for kidnapping. It alleges that Mr. Evins
13 did on the same date unlawfully seize or kidnap the
14 victim, Rhonda Marie Ward. The next indictment is for
15 criminal sexual conduct. And it alleges that Mr. Evins
16 did on the same date, which is February 13th of 2003,
17 willfully and unlawfully commit a sexual battery on Rhonda
18 Marie Ward. And the last indictment is for grand larceny.
19 And it alleges that Mr. Evins did on that same date
20 feloniously take and carry away the 1993 Nissan Sentra and
21 its contents belonging to Rhonda Marie Ward. Now, those
22 are the allegations in the case. And I remind you that
23 they are not evidence. They are just allegations.

24 And I want to tell you that we recognize that there
25 has been publicity about this case on the television, in

1 the newspaper, and on the radio. And the first question I
2 would like to ask you is, have you read, heard, or seen
3 anything about this case?

4 JUROR #105, JAMES FOSTER, JR.: I heard about it back
5 in 2000, and I didn't hear anymore about it. I seen the
6 TV yesterday, his picture come on and I cut the TV off.

7 THE COURT: Well, I appreciate that. What do you
8 remember hearing back 2000?

9 JUROR #105, JAMES FOSTER, JR.: My understanding is
10 they thought the man's wife done it -- I mean, her husband
11 had done it. And that's all. I didn't hear no more. I
12 don't watch the news or nothing that much.

13 THE COURT: You don't. Okay. Well, let me tell you
14 something, I think you're confused about the case.

15 JUROR #105, JAMES FOSTER, JR.: I might be.

16 THE COURT: But without saying anything further, what
17 else do you remember about it? Think back.

18 JUROR #105, JAMES FOSTER, JR.: Did it happen at
19 Duncan Park?

20 THE COURT: No, sir.

21 JUROR #105, JAMES FOSTER, JR.: That must be
22 different then. I've got something mixed up then. My
23 understanding was it was the Duncan Park murder.

24 THE COURT: No, sir. That is not this case.

25 JUROR #105, JAMES FOSTER, JR.: All right.

1 THE COURT: Anything else you can remember?

2 JUROR #105, JAMES FOSTER, JR.: Nope. I only watch
3 TV on three stations, the fishing and hunting programs.
4 And I don't believe nothing the paper says.

5 THE COURT: Okay. Well, that's a pretty doggone good
6 philosophy to live by.

7 Be that as it may, let me just tell you that your
8 oath, as a juror, requires that you disregard anything
9 that you may have read, heard, or seen about this case
10 when you are -- if you are selected as a juror. And you
11 would be required to decide the facts from the -- only
12 from the evidence presented during the trial.

13 Do you understand that?

14 JUROR #105, JAMES FOSTER, JR.: Uh-huh.

15 THE COURT: All right. Could you serve as a fair and
16 impartial juror and reach a verdict based on the facts
17 presented at trial and in accordance with my instructions
18 on the law?

19 JUROR #105, JAMES FOSTER, JR.: Yes, sir.

20 THE COURT: Okay. Have you already formed an opinion
21 as to the facts of this case?

22 JUROR #105, JAMES FOSTER, JR.: I don't know the
23 facts.

24 THE COURT: Okay.

25 JUROR #105, JAMES FOSTER, JR.: The evidence is --

1 you've got to go by the evidence. And if they ain't got
2 the evidence, he might not be guilty.

3 THE COURT: Absolutely. That is an absolute correct
4 statement of the law. Let me ask you this, have you
5 formed an opinion as to the guilt or innocence of
6 Mr. Evins at this point?

7 JUROR #105, JAMES FOSTER, JR.: No.

8 THE COURT: Okay. Now, keeping in mind those legal
9 principles that I've talked about, that is the presumption
10 of innocence and the State's obligation to prove guilt
11 beyond a reasonable doubt, could you, depending on the
12 facts and the evidence presented at trial and the law that
13 I would give you, could you find a defendant either guilty
14 or not guilty depending on what evidence there was?

15 JUROR #105, JAMES FOSTER, JR.: I'd go by how the
16 evidence showed up.

17 THE COURT: Fair enough. Now, please remember, we
18 might not ever reach the second phase of the trial, but
19 because it's possible, I need to ask you -- or talk to you
20 about your views on the death penalty.

21 Is that all right?

22 JUROR #105, JAMES FOSTER, JR.: Yeah.

23 THE COURT: Let me just, again, tell you that when a
24 jury moves to the second phase or the sentencing phase of
25 a case, it means that that jury has already decided that

1 the defendant is guilty of murder. So in the second
2 phase, you will not be deciding or arguing about a legal
3 defense or legal theory with respect to guilt or
4 innocence. That's already decided.

5 What the jury will do in the second phase of the
6 trial is listen to evidence about aggravation and evidence
7 about mitigation, okay, increasing the enormity of the
8 crime or lessening the responsibility or culpability of
9 the crime.

10 So -- and let me further tell you, your oath would
11 require you to put aside any preconceived notions that you
12 might have and your oath would require you to give serious
13 and meaningful consideration to all the evidence in
14 mitigation and all the evidence in aggravation. Could you
15 follow your oath and do that?

16 JUROR #105, JAMES FOSTER, JR.: Yes, sir.

17 THE COURT: Imagine with me -- this is a hypothetical
18 question, imagine that you are a juror in the second phase
19 of a trial, where the jury has already found the Defendant
20 guilty of murder, depending on the particular facts and
21 circumstances of that that had been presented, after
22 considering all of the aggravating or mitigating evidence
23 in the case and the law that I would give you, could you
24 return a sentence of life in prison?

25 JUROR #105, JAMES FOSTER, JR.: Yeah, either way.

1 THE COURT: All right. Well, my other question would
2 be, if you were a juror in that situation, the sentencing
3 phase, and you had already found the Defendant guilty of
4 murder, considering the particular facts and circumstances
5 of the case and all the mitigating and aggravating
6 evidence and my charge to you on the law, could you impose
7 a death sentence?

8 JUROR #105, JAMES FOSTER, JR.: Yes, sir.

9 THE COURT: All right. The law requires that that be
10 a unanimous decision, all the jurors would have to agree.
11 And the law requires that they all have to sign a death
12 sentence verdict form. Could you sign your name to a
13 verdict form that gave death?

14 JUROR #105, JAMES FOSTER, JR.: Yes, sir.

15 THE COURT: Now, do you recall the sheet with the
16 three types of jurors on it that I had you read back
17 there? It describes three types.

18 JUROR #105, JAMES FOSTER, JR.: Yeah.

19 THE COURT: Where would you put yourself in that
20 group?

21 JUROR #105, JAMES FOSTER, JR.: I'd have to think --
22 listen to all the things before I think I could be fair
23 about it.

24 THE COURT: All right. You'd want to listen to all
25 the facts and evidence?

1 JUROR #105, JAMES FOSTER, JR.: Oh, yeah. I'd want
2 to hear everything before I make a decision.

3 THE COURT: All right. Good enough. Now, if you
4 were selected, would you honor your oath and serve as a
5 fair and impartial juror and approach jury service with an
6 open mind to find the truth from the evidence and apply
7 the law as I gave it to you?

8 JUROR #105, JAMES FOSTER, JR.: Yes, sir.

9 THE COURT: All right. Do you know of any reason why
10 you could not serve in this case?

11 JUROR #105, JAMES FOSTER, JR.: No.

12 THE COURT: Okay. And before I let the lawyers ask
13 you a few questions about this as well, let me tell you
14 now, we're qualifying the jury. And I think tomorrow,
15 we're thinking we'll bring all the qualified jurors back
16 and we'll select the jury at that time. So if you are
17 qualified and called back, you need to be packed and ready
18 to go for five to seven days. You'll be staying over at
19 the Marriott Hotel. Okay.

20 JUROR #105, JAMES FOSTER, JR.: All right.

21 THE COURT: It's not easy, but that's what we're
22 talking about.

23 JUROR #105, JAMES FOSTER, JR.: All right.

24 THE COURT: I'll let the lawyers ask you some
25 questions now.

1 Thank you, sir.

2 MR. ANTHONY: Thank you, Your Honor.

3 EXAMINATION

4 BY MR. ANTHONY:

5 Q Mr. Foster, my name is John Anthony, and I work for
6 the Solicitor's Office. This is Barry Barnette. We're
7 two of the lawyers that will be representing the State on
8 this case. Trey Gowdy is the other lawyer, and he's out
9 of the courtroom right now, but I'm sure you'll be seeing
10 him if you are called back and, actually, get chosen for
11 service on the jury.

12 I have just a couple of things that I want to ask
13 you. You work at Coler; right?

14 A Right.

15 Q And you have worked there for 43 years?

16 A Into the 44th year now.

17 Q Well, that's real unusual these days for somebody to
18 work at one place that long. I want to ask you, you said
19 that you could vote to impose the death penalty or you
20 could vote for life without parole?

21 A Right.

22 Q And I just want to ask you what -- in thinking about
23 that question, what is it that -- as far as your thought
24 process or your way of looking at this, what is it that
25 leads you to have that opinion?

1 A Well, I see a lot of people sit -- they put them in
2 there for 20 years before they do anything to them. And I
3 just -- if they're going to do it, do it. And that's --
4 it's costing the taxpayers money sitting there. And I
5 think if you're going to do it, do it.

6 Q And you're talking about, actually, what somebody is
7 sentenced?

8 A Yeah, once they're sentenced if they're guilty.

9 Q Okay. So you're -- what you're saying is if they get
10 sentenced to the death penalty, there shouldn't be a big
11 delay from that time to the time that it happens?

12 A That's right.

13 Q But as far as whether they ought to be sentenced to
14 the death penalty or not, what is it that brings you to a
15 point where you say you could do it if you think it's
16 appropriate, but you wouldn't do it if you didn't think it
17 wasn't appropriate?

18 A I would just go by the crime and what they done and
19 the evidence and everything. I'd go with it that way. It
20 would have to be really brutal.

21 Q Okay. And what would make it really brutal?

22 A According to how it was done, the situation and all
23 the way through with it.

24 Q And that's the kind of thing you would look at and
25 decide whether you needed to impose it or not?

1 A Right.

2 Q Okay. And you understand that if he was found guilty
3 and we did have a sentencing hearing that we would -- the
4 State would present evidence that we think needs to be
5 considered in arguing that the death penalty ought to be
6 imposed, and the Defense would present evidence that they
7 think ought to be considered in arguing that it shouldn't
8 be imposed?

9 A Yeah.

10 Q And you'd be willing to listen to the evidence that
11 they present just like the evidence we present?

12 A Yes, I sure would.

13 Q And if you didn't think it ought to be imposed, you
14 could impose life without parole and not impose the death
15 penalty?

16 A Right.

17 MR. ANTHONY: If I could just have one second.

18 THE COURT: Sure.

19 (Pause.)

20 BY MR. ANTHONY:

21 Q Mr. Foster, you say you have three sons?

22 A Uh-huh.

23 Q Have you got any grandchildren?

24 A Five.

25 Q Five grandchildren.

1 MR. ANTHONY: Okay. Well, thank you very much.

2 That's all my questions.

3 THE COURT: All right. Mr. Boggs.

4 EXAMINATION

5 BY MR. BOGGS:

6 Q Good afternoon, Mr. Foster. I'm Tam Boggs. I'm one
7 of the attorneys representing Mr. Evins, along with Karen
8 Quimby, in the red, and at the end is Chris Brough.

9 Just a couple of questions. You testified you saw
10 something on TV the other day about what you thought was
11 this case; is that correct?

12 A It come on and I seen his picture.

13 Q Okay.

14 A And I just flipped it over. That's the only news I
15 had watched all week. I didn't pay no attention to it.

16 Q You were telling the Judge -- you said something
17 about Duncan Park?

18 A Well, see, somebody at work had said that's that
19 Duncan Park murder.

20 Q When was that? Do you remember?

21 A Last week sometime, you know, when I got a jury --

22 Q When you got a jury summons?

23 A Yeah. I just presumed that's what it was. I didn't
24 know, actually, what it was.

25 Q Okay. So somebody -- when you told the fellows at

1 work, I got summoned to jury duty --

2 A Yeah.

3 Q -- and somebody said, oh, that's that Duncan Park
4 murder?

5 A Yeah.

6 Q Where they thought it was -- what else did they tell
7 you?

8 A They thought it was her husband.

9 Q Okay.

10 A But I didn't know. I presumed that's what it was.

11 Q Now, the other night when the news came on, you said
12 you saw Mr. Evins face?

13 A Yes.

14 Q Did you hear any commentary on that?

15 A I cut it off right then.

16 Q Let me ask you also about -- you made the statement
17 about the costs. Okay. Now, if this case -- and, of
18 course, it is just an if, but if the case got to what's
19 referred to as the penalty phase, it will have already
20 been decided by the jury that the Defendant is guilty of
21 murder. And in the penalty phase, the State will try to
22 prove an aggravator, something to say that this is more
23 than just your run of the mill murder. They want to try
24 to prove something even more severe. Okay. That's called
25 an aggravator, which the Judge has asked you about.

1 Now, you made the comment about the costs of the long
2 prison sentence. So if the State were to prove an
3 aggravator on top of the murder, and we're talking about
4 in the second phase, which would make, I guess, it more
5 severe or more brutal, like you said, in that situation,
6 would you feel that the appropriate sentence would be
7 death?

8 A The more brutal it would be, yeah.

9 Q All right. Now, the degree of the aggravator, they
10 don't have to prove any -- you know, there are not
11 different degrees of aggravators, just something on top of
12 the murder which says that makes it a worse murder than
13 the normal murder.

14 A All right.

15 Q So if they got to the second phase, the State has
16 already proven murder. Then they come in and put this
17 aggravator on top of it, which kind of makes it murder
18 plus. Under that circumstance, do you think the
19 appropriate sentence would be death?

20 A Probably, yes, sir.

21 Q Okay. Of course, if they didn't prove an aggravator,
22 you would have -- well, you would always have the option
23 of either life in prison or death. But if they proved
24 that it was more severe, would you think your verdict
25 would always be death?

1 MR. ANTHONY: Objection. He's asking a hypothetical.

2 MR. BOGGS: I'm asking flat out, same thing.

3 THE COURT: I'm going to allow him to ask that.

4 THE WITNESS: Yeah. I would think the more you got
5 stacked on top, the worse it would be.

6 BY MR. BOGGS:

7 Q And that's why I'm asking. Because when I heard you
8 answering the Judge, it was like, if it's murder, it's one
9 thing -- excuse me, answering Mr. Anthony's questions, if
10 there's something on top of it, then you're going to give
11 death?

12 A Probably. I would have to think about it.

13 Q Well, would there be a situation when they had the
14 murder and the aggravator on top of it where you would
15 give life, as opposed to death?

16 MR. ANTHONY: Objection.

17 THE COURT: I'm going to let him answer.

18 THE WITNESS: I'd have to go with the death penalty.

19 BY MR. BOGGS:

20 Q And, see, that's kind of what I'm getting at,
21 because -- and I appreciate it, the fact that you separate
22 them out. So we've got this as far as the murder, but if
23 we've got a murder plus -- and, again, the legal term is
24 aggravator. If it's murder without the aggravator, you
25 think life. But if they've proven the aggravator, you

1 feel like it would always be death; is that correct?

2 A That's right.

3 Q So in that situation, the built up one, you wouldn't
4 give life without parole, you would give the death penalty
5 under that situation?

6 A (Juror nodded.)

7 Q Okay. And you're pretty -- you feel like that's a
8 pretty fair presentation of the way you would always vote?

9 A (Juror nodded.)

10 MR. BOGGS: I think that's all the questions I have,
11 Mr. Foster.

12 Thank you.

13 THE COURT: Mr. Foster, let me just get a little
14 clear here. I'm not asking you to change anything.

15 Using Mr. Bogg's example, where you've got a murder
16 and, as he said, had something on top, would you consider
17 the mitigators, which, I guess, would be, using his
18 analogy, something on bottom? Would you consider those as
19 well?

20 JUROR #105, JAMES FOSTER, JR.: I don't understand
21 what you're talking about.

22 THE COURT: Yes. Okay. Let me back up.

23 You know, I told you about aggravating circumstances
24 and mitigating circumstances; right.

25 JUROR #105, JAMES FOSTER, JR.: Yeah. Like you done

1 one crime and then done some more stuff while he was doing
2 that same crime.

3 THE COURT: Right. Depending on -- now, the laws
4 define what those aggravating circumstances are.

5 JUROR #105, JAMES FOSTER, JR.: Yeah.

6 THE COURT: And in the second phase, that's the
7 State's job, to prove those aggravating circumstances.

8 JUROR #105, JAMES FOSTER, JR.: Right.

9 THE COURT: In the second phase, the Defense is not
10 required to, but they could certainly prove mitigating
11 circumstances to lessen the same offense. Okay.

12 JUROR #105, JAMES FOSTER, JR.: Okay.

13 THE COURT: Now, would you -- you have told me that
14 you would consider all of that before you made your
15 decision; is that right?

16 JUROR #105, JAMES FOSTER, JR.: That's right.

17 THE COURT: Okay. You told Mr. Boggs that if the
18 State proved an aggravator on top of the murder -- you
19 know, they've already got murder, so if they proved an
20 aggravating circumstance, are you telling me that every
21 time you would go for the death penalty?

22 JUROR #105, JAMES FOSTER, JR.: Yes, sir.

23 THE COURT: Without exception?

24 JUROR #105, JAMES FOSTER, JR.: Without -- if he got
25 more charged with it, I think --

1 THE COURT: Got what with it?

2 JUROR #105, JAMES FOSTER, JR.: You know, more
3 aggravated things like you was talking about, yeah, I
4 would go with the --

5 THE COURT: Could you consider life in a situation
6 like that if there was a -- you know, if they proved some
7 mitigating circumstances?

8 JUROR #105, JAMES FOSTER, JR.: I'd have to hear it
9 all before I would -- I would think about it hard.

10 THE COURT: All right.

11 JUROR #105, JAMES FOSTER, JR.: I probably could go
12 with life, but I would have to --

13 THE COURT: I'm not trying to get you to -- you know,
14 this is what I was telling you before, it's a tough issue.

15 JUROR #105, JAMES FOSTER, JR.: Yeah. It's a tough
16 issue. I'd still have to go with the death penalty on
17 that, I mean.

18 THE COURT: Okay.

19 JUROR #105, JAMES FOSTER, JR.: If you've got enough
20 against him, but if it was just one thing, I could go for
21 life imprisonment.

22 THE COURT: "Just one thing," what do you mean by
23 that?

24 JUROR #105, JAMES FOSTER, JR.: I mean, just plain
25 murder, something like that, I probably could go with life

1 without parole.

2 THE COURT: Okay. But, otherwise, with anything else
3 combined with it, you think --

4 JUROR #105, JAMES FOSTER, JR.: The death penalty.

5 THE COURT: Okay. And that's your heartfelt belief?

6 JUROR #105, JAMES FOSTER, JR.: Oh, yeah.

7 THE COURT: Let me ask you to step out in the hallway
8 for just a second.

9 (Pause.)

10 THE COURT: I know the Defense objects.
11 Anything y'all want to tell me?

12 MR. ANTHONY: We'd just leave that up to the Court,
13 Your Honor.

14 THE COURT: All right. Well, I thought he was going
15 to be a good qualified juror until I let Mr. Boggs
16 question him, maybe we ought to stop letting him work this
17 case.

18 MR. BOGGS: Can I go home?

19 THE COURT: I'm going to find he's not qualified.
20 Bring him in.

21 (Pause.)

22 THE COURT: Hey, Mr. Foster.

23 JUROR #105, JAMES FOSTER, JR.: Hey.

24 THE COURT: Was it as bad as you thought it was going
25 to be?

1 JUROR #105, JAMES FOSTER, JR.: Well, I ain't never
2 been in one before, so it wasn't as bad as I thought it
3 was going to be.

4 THE COURT: Okay. Well, good, I'm glad. I
5 appreciate your service and everything you've done, the
6 sacrifices you've made. And I especially appreciate your
7 honesty and views on everything. And I want to tell you,
8 we're going to excuse you in this case.

9 JUROR #105, JAMES FOSTER, JR.: All right.

10 THE COURT: Thank you for coming up here.

11 JUROR #105, JAMES FOSTER, JR.: Thank you.

12 THE COURT: Yes, sir.

13 (Juror #105, James Foster, Jr., was excused from the
14 courtroom.)

15 THE COURT: Bring the next juror in.

16 (Juror #246, Linda Means, a black female, was
17 seated.)

18 THE COURT: Ms. Means, welcome to the courtroom.
19 We're glad to have you here. I bet you're real glad to be
20 here, too, aren't you?

21 JUROR #246, LINDA MEANS: (There was no response.)

22 THE COURT: The only thing I ask from you up here is
23 that you give me honest answers. Okay.

24 JUROR #246, LINDA MEANS: All right.

25 THE COURT: Are you real glad to be here?

1 JUROR #246, LINDA MEANS: Not at all.

2 THE COURT: I didn't think so. Okay. We'll make
3 this as painless as we possibly can. And I want to thank
4 you again for being here. And I want to tell you again
5 before we get started that I want to put you at ease as
6 best I can. I know this is an uncomfortable situation and
7 I promise you that everyone in the courtroom knows that,
8 too. No one in the courtroom would chose to be where you
9 are now. But it's a -- you know, jury duty is not
10 necessarily easy. It's a tough duty, but it's so vitally
11 important to make our wheels of justice turn in this
12 country and we really appreciate you being here.

13 Now, what I'm going to do is tell you what we're
14 going to do is talk to you briefly, really, about three
15 issues. Okay. The first one will be whether or not you
16 know anything about this case. The second one will be
17 whether you can be fair and impartial. And the third will
18 be that because of the serious and solemn nature of these
19 proceedings, we need to talk to you about your views on
20 the death penalty. That's the road map of where we're
21 going.

22 JUROR #246, LINDA MEANS: All right.

23 THE COURT: Now, before we do that, I want to tell
24 you, there are no right or wrong answers that you can
25 give. As long as you give us candid, truthful, complete

1 answers, there are no wrong answers. What we're looking
2 for -- and a lot of people consider this to be --
3 particularly, the view on the death penalty to be a
4 confusing issue and to be a private and personal issue. A
5 lot of people feel that way. So if you feel that way,
6 that's fine. All we would like is to have your heartfelt
7 and true feelings and discuss that here. I promise you
8 there's no test and no one will sit in judgment of
9 anything you say in the courtroom. And we just appreciate
10 your honesty. All right.

11 JUROR #246, LINDA MEANS: All right.

12 THE COURT: Before we start, I want to go over the
13 indictments again briefly and give you a little more
14 factual background on the case so you'll know what we're
15 talking about. And I remind you, these are not evidence
16 and can never be considered to be evidence. Okay.

17 JUROR #246, LINDA MEANS: All right.

18 THE COURT: The first indictment alleges murder. And
19 it alleges that Fredrick Antonio Evins did in Spartanburg
20 County on or about February 13th, 2003, feloniously,
21 willfully, and with malice aforethought kill Rhonda Marie
22 Ward by stabbing. The next indictment is for kidnapping.
23 And it alleges that Mr. Evins did on the same date
24 unlawfully seize or kidnap Rhonda Marie Ward. The next
25 indictment is for criminal sexual conduct. It alleges

1 that Mr. Evins did on the same date, February 13th of
2 2003, willfully and unlawfully commit a sexual battery
3 upon Rhonda Marie Ward. And, finally, the last indictment
4 is for grand larceny. It alleges that Mr. Evins did on
5 the same date feloniously take and carry away the 1993
6 Nissan Sentra and its contents belonging to Rhonda Marie
7 Ward. Okay. Those are the allegations in this case.

8 JUROR #246, LINDA MEANS: Okay.

9 THE COURT: Now, we recognize that there has been
10 publicity about this case on television, on the radio, and
11 in the newspaper. So the first question I want to ask you
12 is, have you heard anything about this case -- seen,
13 heard, or listened to anything about this case or read
14 anything?

15 JUROR #246, LINDA MEANS: Yeah. Because I read the
16 paper every day and, yeah, I do remember it.

17 THE COURT: All right. Tell me, if you would, what
18 you remember about the case.

19 JUROR #246, LINDA MEANS: I remember it happened at
20 the Cigarette's 4 Less store.

21 THE COURT: Okay.

22 JUROR #246, LINDA MEANS: And, basically, what you
23 just mentioned, I remember reading it.

24 THE COURT: All right. And I'm sure that there will
25 be more questions about it, so the more you can tell me

1 now about what you remember, the better. Okay. If you
2 could tell me everything you remember about what you've
3 read or heard outside of the courtroom, that would be
4 great.

5 JUROR #246, LINDA MEANS: Well, I haven't heard
6 anything outside the courtroom. I never discussed it with
7 anybody.

8 THE COURT: No. I mean -- I understand.

9 JUROR #246, LINDA MEANS: But I remember reading
10 about it. And I remember later on about another incident
11 in Duncan Park.

12 THE COURT: Okay.

13 JUROR #246, LINDA MEANS: Yeah. And I can remember
14 that.

15 THE COURT: Okay. Well, tell me what you remember.
16 I mean, it's important that we know what you've read about
17 it and what you can recall.

18 JUROR #246, LINDA MEANS: I remember like somebody
19 was missing or something that morning or something. I
20 don't know. It's kind of vague to me. I just remember
21 that something about somebody being abducted at the
22 Cigarette's 4 Less store. I remember that. And I
23 remember them -- something about they found her later on
24 that evening, I forget where, but in an abandoned car or
25 something. I can remember that part.

1 THE COURT: Okay. Well, that's great. I appreciate
2 that.

3 Now, let me tell you, under your oath, as a juror, if
4 you were selected to serve in this case, your oath would
5 require you to disregard anything that you have read,
6 heard, or seen about this case.

7 Do you understand that?

8 JUROR #246, LINDA MEANS: Yes, I do.

9 THE COURT: The purpose for that is that the
10 Constitution and the laws require that a case be decided
11 solely on the evidence presented in the courtroom. Okay.

12 JUROR #246, LINDA MEANS: Yes.

13 THE COURT: Could you serve as a fair and impartial
14 juror and reach a verdict based on the facts -- solely on
15 the facts presented at trial and in accordance with the
16 law that I would give you? Could you do that?

17 JUROR #246, LINDA MEANS: I know I could, because I'm
18 an honest person.

19 THE COURT: All right. I believe you are. Let me
20 ask you this, have you already formed any opinion, big or
21 small, about the facts of this case?

22 JUROR #246, LINDA MEANS: None whatsoever.

23 THE COURT: And do you have any opinion about the
24 guilt or innocence of Mr. Evins?

25 JUROR #246, LINDA MEANS: No.

1 THE COURT: Okay. Now, keeping in mind the legal
2 principles I've talked to you about, the presumption of
3 innocence and the State's obligation to prove guilt beyond
4 a reasonable doubt, could you, depending upon the facts
5 and circumstances and the law that I would give you at a
6 trial, could you find a defendant either guilty or not
7 guilty depending on the evidence that was presented?

8 JUROR #246, LINDA MEANS: I could.

9 THE COURT: All right. Your mind is not made up one
10 way or the other?

11 JUROR #246, LINDA MEANS: No way.

12 THE COURT: Now, please remember, we may not even
13 reach the second phase of the trial, but because we
14 possibly could, it's necessary for us to talk to you about
15 your views on the death penalty. Okay.

16 JUROR #246, LINDA MEANS: All right.

17 THE COURT: Now, I'll briefly tell you again, when we
18 move to the sentencing phase, it means that a jury has
19 already decided -- the same jury has already decided that
20 the Defendant is guilty of murder. Okay.

21 So in the second phase, the jury will not be
22 considering a legal defense. You won't have to make that
23 decision. All you will be considering will be the
24 evidence that's been introduced in aggravation and the
25 evidence that's been introduced in mitigation. Okay.

1 JUROR #246, LINDA MEANS: Okay.

2 THE COURT: Now, your oath would require you to put
3 aside any preconceived notions that you might have and
4 your oath would require you to give serious and meaningful
5 consideration to all of the evidence in aggravation and
6 all the evidence in mitigation. Could you honor your oath
7 and do that?

8 JUROR #246, LINDA MEANS: Yes.

9 THE COURT: Now, imagine with me -- this is a
10 hypothetical question. Imagine that you are a juror in
11 the second phase of a case -- of a trial, which means that
12 you are sitting on the jury with the other jurors and have
13 already determined that that defendant is guilty of
14 murder. Okay.

15 JUROR #246, LINDA MEANS: Yes.

16 THE COURT: So you're in the second phase. Could
17 you, depending on the particular facts and circumstances
18 of the case, after considering all the aggravating and
19 mitigating evidence and my instructions to you on the law,
20 could you return a sentence of life imprisonment?

21 JUROR #246, LINDA MEANS: Yes, I could.

22 THE COURT: Okay. Another hypothetical question, a
23 juror in the same situation, you have already decided the
24 Defendant is guilty of murder, depending upon the
25 particular facts and circumstances in that case and after

1 reviewing and giving serious consideration to all of the
2 evidence in mitigation and all the evidence in aggravation
3 and the law that I would give you, could you return a
4 sentence of death?

5 JUROR #246, LINDA MEANS: Yes, I could.

6 THE COURT: Okay. Now, in the event of a death
7 sentence, it has to be a unanimous decision by the jury.
8 Okay. And the law requires that every member of the jury
9 sign a death sentence verdict form. Could you sign your
10 name to such a form if you had found death?

11 JUROR #246, LINDA MEANS: Yes, I could.

12 THE COURT: You could sign your name to a death
13 verdict?

14 JUROR #246, LINDA MEANS: Yes, I could.

15 THE COURT: Do you recall the list of the three types
16 of jurors that I had back there for y'all to review?

17 JUROR #246, LINDA MEANS: Yeah, I saw it.

18 THE COURT: Which type of juror do you consider
19 yourself to be?

20 JUROR #246, LINDA MEANS: I probably would be the
21 third.

22 THE COURT: You would have to listen to all the facts
23 and circumstances before you made a decision?

24 JUROR #246, LINDA MEANS: That's right, I would.

25 THE COURT: You don't have a preconceived notion of

1 what the law -- what the punishment should be?

2 JUROR #246, LINDA MEANS: No, I don't.

3 THE COURT: Okay. And if you were selected, would
4 you honor your oath to serve as a fair and impartial juror
5 and approach jury service with an open mind to find the
6 truth from the evidence and the law as I instructed it to
7 you?

8 JUROR #246, LINDA MEANS: I would.

9 THE COURT: Do you know of any reason whatsoever why
10 you could not serve in this case?

11 JUROR #246, LINDA MEANS: None, except that I
12 wouldn't like to.

13 THE COURT: Well, Ms. Means, this is a difficult and
14 important service that we've asked -- that we're asking
15 citizens to perform. And I appreciate that very much.

16 Let me tell you this. Now, if you are qualified --
17 we're qualifying the jurors. And if you're found to be
18 qualified, then we will call you back probably tomorrow.
19 And that jury is going to be sequestered for five to seven
20 days. They're going to be staying at the Marriott Hotel.
21 So when you come back, if you're qualified for jury
22 selection, you would need to be packed for your stay. You
23 may not get selected. But if you're called back -- you're
24 qualified and called back, you need to be ready to go.
25 Okay.

1 JUROR #246, LINDA MEANS: All right.

2 THE COURT: All right. Thank you, ma'am.

3 And I'm going to let the attorneys ask you some
4 questions now.

5 THE COURT: Okay.

6 MR. BROUGH: May it please the Court?

7 THE COURT: Yes, sir.

8 EXAMINATION

9 BY MR. BROUGH:

10 Q Ms. Means, how are you doing today?

11 A I'm fine.

12 Q I know Judge Miller introduced us a couple days ago.
13 My name is Chris Brough. And I represent Mr. Evins along
14 with Karen Quimby and Tam Boggs seated over there.

15 I just want to ask you a couple of questions. I know
16 you really don't want to be here today. You've got bills
17 to pay and you're not at work.

18 A That's the truth.

19 Q And I know nobody really wants to be in that chair
20 either, so I'll do my best to take it easy on you. All
21 right.

22 A All right.

23 Q All right. I just want to ask you a couple of quick
24 questions regarding some things. I know you told Judge
25 Miller kind of what you remembered about the Cigarette's 4

1 Less incident, and you said you might have remembered
2 another incident. Could you tell me about that a little
3 bit?

4 A Well, I know a lady had been found in Duncan Park,
5 but that's been a long time before that happened. And
6 they were still trying to find out who did it and they
7 couldn't find out who did it. I remember that because it
8 was in the paper a lot.

9 Q Okay. Let me ask you this. Do you believe there
10 should be a cross section of the community on the jury?

11 MR. ANTHONY: Objection, relevance.

12 THE COURT: Yes. I will sustain that.

13 BY MR. BROUGH:

14 Q I notice that you're a certified nursing assistant?

15 A That's right.

16 Q You've been doing that for about 30 years?

17 A That's right.

18 Q You're at Valley Falls?

19 A I'm at Valley Falls.

20 Q I notice that you get your news from a number of TV
21 stations?

22 A Oh, yeah.

23 Q One of which is ESPN, you like to keep up on sports?

24 A I like to keep up with them. I'm a sports fan,
25 basketball and all that stuff.

1 Q That sounds good. I just want to ask you a little
2 bit about your views on the death penalty.

3 A All right.

4 Q If -- and I do say if, because it may never get that
5 far. If it gets to the second phase, then Mr. Evins would
6 have been found guilty of murder. In that second phase,
7 the State would have to prove an aggravating circumstance.
8 They would have to prove murder, plus something. And we
9 would have to prove mitigating circumstances. Could you
10 listen to all that evidence and be fair and impartial?

11 A I could.

12 Q And could you return a verdict for either death or
13 for life?

14 A I could.

15 Q Okay. And you'd want to hear all of the evidence?

16 A Yes, I would.

17 MR. BROUGH: Thank you very much.

18 I appreciate your time.

19 EXAMINATION

20 BY MR. ANTHONY:

21 Q Hey, Ms. Means. My name is John Anthony, and I work
22 for the Solicitor's Office. And this is Barry Barnette,
23 and this is Trey Gowdy. And we're the three attorneys
24 that will be representing the State in this case.

25 I want to ask you just a few things. I know we were

1 talking about the death penalty and you were saying that
2 you thought that in the right circumstances, you could
3 impose it or in the right circumstance, you could not
4 impose it. Let me just ask you, what is it that leads you
5 to take that opinion that you could do that in some
6 circumstances?

7 A Well, it depends on how bad it was, you know, what
8 happened and all the circumstances around it, you know.

9 Q Okay.

10 A To me, that's what it is, to me, you know.

11 Q And those are the things you look at?

12 A Yeah.

13 Q And you understand that if a case went to a
14 sentencing phase that one thing the Defense would do is
15 they would try to introduce what are called mitigating
16 factors. They'd try to introduce things that would make
17 the crime seem less serious or things that would make it
18 more likely that you wouldn't want to impose a death
19 sentence?

20 A Right.

21 Q And if the Defense showed one of those mitigating
22 factors, how would you approach the situation then?

23 MR. BROUGH: Your Honor, I'm going to object.

24 May we approach?

25 THE COURT: All right.

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

3 BY MR. ANTHONY:

4 Q If there were a mitigating factor shown by the
5 Defense in this case, which they don't have to do, life
6 will still be an option if they do that or not. But if
7 there were one shown, how would that effect the way you
8 evaluate the decision to vote for life without parole or
9 death?

10 A Well, I feel like this, I have my own mind and I
11 would listen to the evidence and I don't think anything
12 could change the way -- you know, either way.

13 Q Okay. What do you mean by that nothing could change
14 your mind?

15 A I mean, when I listen to the evidence, I'd have my
16 own conclusion already.

17 Q Okay. And what would that conclusion be based on?

18 A The facts.

19 Q The facts?

20 A That I hear in court, yeah.

21 Q Okay. And you're saying that you could -- if the
22 circumstances led to it, you could vote to impose the
23 death penalty?

24 A I could.

25 Q All right. And you understand to do that, everybody

1 in the jury room has to sign a form saying that that's the
2 sentence that they want to impose? Do you understand
3 that?

4 A I understand it.

5 Q And could -- if all the 11 people had done that,
6 could you be the last one to sign that paper?

7 A Yes. If that's the way I thought, I could.

8 Q Okay. Let me ask you this, and I know this is a
9 personal thing and I don't want to -- it's just something
10 that we've got to ask you about, so I hope you understand
11 that. I understand from the questionnaire that you sent
12 in that your son is, you said, in jail; is that right?

13 A Yeah. He got out November the 1st.

14 Q Okay. He's out?

15 A He is.

16 Q Where was he?

17 A In Columbia.

18 Q Okay. And what was he in for?

19 A He had a drug charge.

20 Q What was the charge, if you know?

21 A I don't know exactly what it was. It was, I guess,
22 distribution, I think.

23 Q Okay. Do you know what drug was involved?

24 A I believe it might -- no, not really, I don't.

25 Q Okay. And was he charged in Spartanburg County?

1 A Yes, he was.

2 Q Okay. Do you know what law enforcement agency
3 charged him?

4 A What do you mean?

5 Q I mean, was it the city police, the Sheriff's Office,
6 or the highway patrol? I mean, who was it that, actually,
7 brought the charge?

8 A I think the county. I guess the county.

9 Q Okay. And do you know who the Solicitor was that
10 handled the case?

11 A No. I never showed up for court.

12 Q You didn't go to court when he went to court?

13 A I didn't.

14 Q Do you know -- did he have a lawyer?

15 A No. He had a public defender. I know that.

16 Q Okay. Do you know who his public defender was?

17 A No. All I know is it was a lady.

18 Q It was a female?

19 A Uh-huh.

20 Q Okay. Did you -- I mean, did you have any contact
21 with his attorney?

22 A None.

23 Q Okay. How did you find out it was a woman that was
24 representing him?

25 A Well, he called me on the phone. He could call every

1 day.

2 Q Okay. And he called you and told you he had -- there
3 was a woman that was his lawyer?

4 A He told me everything, you know. When he went to
5 trial, he called me again.

6 Q I'm sorry?

7 A And I said, when he went to trial, he called me again
8 and told me the circumstances.

9 Q Okay. And what kind of sentence did he get?

10 A He got two years.

11 MR. BROUGH: Objection, relevance.

12 THE COURT: I'm going to let him ask that.

13 THE WITNESS: Two years.

14 BY MR. ANTHONY:

15 Q And did you think he was treated fairly in the system
16 on that charge?

17 A Yeah. I really did. I prayed for him and -- because
18 I thought he was going to get more years than that, and I
19 didn't want that to happen.

20 Q And, Ms. Means, some of the -- of course, some of
21 the -- if the county charged him, you know, some of the
22 people who will be -- who may be testifying in this case
23 are going to -- you know, they're going to be working for
24 the same organization that charged your son. Do you
25 understand what I'm saying when I say that?

1 A Yeah. I don't know any of them.

2 Q Okay. Would that make any difference to you in
3 hearing the case to think that these people work for the
4 same organization that arrested your son?

5 A No. Why should it? I don't understand, why should
6 it?

7 Q Okay. That wouldn't matter to you?

8 A (Juror shook head.)

9 MR. ANTHONY: If I could have one moment.

10 THE COURT: Okay.

11 (Pause.)

12 BY MR. ANTHONY:

13 Q Did your son -- did you feel like he had a drug
14 problem himself?

15 A I know he did.

16 Q Okay. And how do you feel about people being
17 addicted to drugs?

18 A How do I feel about people being addicted to drugs?

19 Q Uh-huh.

20 A That's a hard question. I don't know how to answer
21 that.

22 Q Okay.

23 A I really don't.

24 Q Okay. How do you feel about the people who are
25 addicted to drugs as far as being responsible for things

1 they may do?

2 MR. BROUGH: Objection, Your Honor.

3 I'd like to know the relevance of that.

4 THE COURT: I'm going to let him ask it.

5 THE WITNESS: Okay. Ask it again.

6 BY MR. ANTHONY:

7 Q How do you feel about the responsibility of someone
8 who's addicted to drugs for some behavior that they might
9 engage in while they're -- because of that addiction or
10 while they're under that addiction?

11 A Well, I think they're responsible.

12 MR. BOGGS: Your Honor --

13 THE COURT: Okay. She's answered it and that's as
14 far as we're going in that direction.

15 BY MR. ANTHONY:

16 Q And you said -- when we were talking a few minutes
17 ago, and you said when you made your mind up that you were
18 going to do -- and I don't want to mischaracterize what
19 you're saying. So if you think I'm saying it the wrong
20 way, please correct me.

21 But as I recall, you said that, you know, when you
22 heard something and you evaluate it and made a decision
23 that that was how you were going to follow through with
24 your decision. Is that fair how -- what -- a fair way to
25 characterize what you just said?

1 A I don't know whether it's fair or not, but that's
2 just the way I am.

3 Q Okay. I just didn't want to be putting words in your
4 mouth. So you would agree that's how you are?

5 A That's just the way I am.

6 Q Well, if you're selected for the jury, would you --
7 and you hear the evidence in the courtroom and you go back
8 to the jury room, what would your attitude be towards the
9 other people in the jury room and what they think?

10 A Just like I said, usually, if I make up my mind on
11 something, it would be hard to sway me differently. If I
12 felt something, nobody could persuade me the other way.
13 That's just the way I am.

14 Q Okay. So when you go into the jury room, you're
15 going to make -- you're going to have a conclusion about
16 what should happen and that's going to be how -- what you
17 think should happen?

18 A I'm going to make my own decision. If I've listened
19 to everything in the courtroom and everything, I should
20 have my decision made by then and, you know, unless
21 something came up that I missed.

22 MR. ANTHONY: Okay. Thank you.

23 That's everything.

24 THE COURT: All right. Ms. Means, could I ask you --
25 well, let me just ask you this question, would you be

1 willing -- once all the evidence was in and the jury
2 retired to talk about the case, would you be willing to
3 discuss it with the other members of the jury and listen
4 to their views to make sure that you were correct in what
5 you thought was right?

6 JUROR #246, LINDA MEANS: Yes, I would.

7 THE COURT: Okay. Can I ask you to step out into the
8 hallway for just a second.

9 (Pause.)

10 THE COURT: Okay. What have we got?

11 MR. BROUGH: No objection from the Defense, Your
12 Honor.

13 THE COURT: Okay.

14 MR. ANTHONY: No, not from the State.

15 THE COURT: Okay. Great.

16 Ask her to come on back in.

17 (Pause.)

18 THE COURT: Come on around, Ms. Means.

19 I've got -- I want to give you one of these to take
20 home with you. And, really, all it says is that you are a
21 qualified juror and continue to be eligible to serve in
22 this case. I anticipate that tomorrow we will be calling
23 the qualified jurors back to come on in and go through the
24 selection process. So I would ask you to go ahead and be
25 prepared to come on back tomorrow for five to seven days.

1 You may or may not get selected. I don't know. But I
2 want you to be prepared to go when you come back --
3 whenever we call you to come back.

4 The other thing I'm going to ask you to do is between
5 now and then, do not read anything in the newspaper about
6 this matter. Do not watch anything on television. Don't
7 listen to anything on the radio and don't talk about it
8 with your friends. The temptation has got to be there.
9 But now even as strong minded as you are, an innocent
10 comment from a friend of yours or a family member would --
11 might come into play in this courtroom. And it wouldn't
12 be fair for somebody who didn't sit through the trial and
13 listen to all the evidence and watch the people testify
14 for them to have an impact in this case.

15 So I'm asking you not to talk about it. And when I
16 ask you to do that, you're protecting your rights.
17 Because that is your right and every citizens right for a
18 trial to be held only on the evidence presented in the
19 courtroom.

20 JUROR #246, LINDA MEANS: Okay.

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

22 (Juror #246, Linda Means, was excused from the
23 courtroom.)

24 THE COURT: All right. We are going to have to take
25 some time off. Mr. Evins needs to eat. So I -- we're

1 just going to be running an hour behind. I want everybody
2 back here -- be back here in 30 to 35 minutes, if you
3 could. And we'll get to this next panel as quickly as we
4 can.

5 If y'all want to stay in the courtroom, the SLED
6 agents are coming. I've got to swear them in. You don't
7 have to stay, but you're welcome to, whatever y'all want
8 to do.

9 (Brief recess.)

10 THE COURT: Before lunch, I'm going to go ahead and
11 swear the SLED agents in.

12 I want to welcome y'all and I appreciate y'all being
13 here and the service you provide. And if there's anything
14 I can do, let me know. Because I know I'm going to be
15 calling on y'all for assistance throughout the case.

16 Would each of you raise your right hand?

17 Do each of you swear or affirm that to the extent
18 your duties require you to have contact with the jury in
19 this case that you will allow no person to speak to them
20 without leave of the Court, that you will not speak to
21 them regarding this case, nor permit them to speak with
22 one another about this case, that you will assist the
23 State Law Enforcement Division in the discharge of its
24 duties to the extent required of you, and then you will
25 follow the instructions of this Court. If you agree to be

1 bound by this oath, please, say, "I will," at this time.

2 (All SLED agents said, "I will.")

3 THE COURT: Bring the red coats over here.

4 (Pause.)

5 THE COURT: Can I get y'all to raise your right
6 hands?

7 Do each of you swear or affirm that to the extent
8 that your duties require you to have contact with the jury
9 in this case that you will allow no person to speak to
10 them without leave of the Court --

11 Grab them real quick, the SLED agents. They may have
12 all gone.

13 THE BAILIFF: They're right here.

14 THE COURT: I gave you the wrong oath. Y'all are
15 sworn in as bailiffs. I apologize. Let's try again.

16 Do each of you swear or affirm that you will keep the
17 jury in the appointed housing, that you will allow no
18 person to speak to them without leave of the Court, that
19 you will not speak to them regarding this case, nor permit
20 them to speak with one another about this case, that you
21 will present them to this Court at the appointed times and
22 see to their care and safety while they are in your
23 charge. If you agree to be bound by this oath, please
24 say, "I will," at this time.

25 (All SLED agents said, "I will.")

1 THE COURT: Thank you very much.

2 I'm sorry about that.

3 All right. Now, let's try again, guys.

4 Do each of you swear or affirm to the extent your
5 duties require you to have contact with the jury in this
6 case that you will allow no person to speak to them
7 without leave of the Court, that you will not speak to
8 them regarding this case, nor permit them to speak with
9 one another about this case, that you will assist the
10 State Law Enforcement Division in the discharge of its
11 duties to the extent required of you and that you will
12 follow the instructions of this Court. If you agree to be
13 bound by this oath, say, "I will."

14 (All bailiffs said, "I will.")

15 THE COURT: Thank you.

16 We'll take a lunch break now.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: Is everybody ready?

19 MR. GOWDY: Yes, sir, the State is.

20 MS. QUIMBY: Yes, sir.

21 THE COURT: Okay. Bring the next panel in.

22 (WHEREUPON, Juror Panel No. 8 entered the courtroom.)

23 THE COURT: Ladies and gentlemen, I want to thank you
24 for being here and also thank you for your patience. I
25 don't want you to think we've been lolly gagging around.

1 We worked until 7:15 Monday night, and 7:30 last night.
2 And we just took 30 minutes for lunch. So I appreciate
3 y'all being patient with us.

4 Now, ladies and gentlemen, before we -- we're going
5 to get started real quickly. I'm trying to shorten up --
6 I can't help it, I'm long-winded. But I'm going to try to
7 shorten everything up and get through this as quickly as
8 we can. I want to tell you a couple of things.

9 Once again, I just emphasize to you that I don't have
10 any opinion about the facts of this case. For two
11 reasons, one, the Constitution does not allow me to have
12 an opinion, and two, I personally don't have an opinion
13 about the facts. I don't know terribly much more about
14 the case than you do, and I do not have an opinion. And
15 the reason I tell you that, again, is because I'm going to
16 be questioning you all briefly in just a minute and I
17 don't want you to think by anything that I say or the way
18 I ask a question or some facial expression I might have --
19 my wife always tells me that my facial expressions are
20 apparently bad because I'm always in trouble with her.
21 But in any event, I don't want you to consider from that
22 or infer from that that I have any opinion about the
23 facts, because I honestly do not.

24 The other thing I want to tell you, again, keep in
25 mind throughout this process and if you're selected to

1 serve on the jury, throughout that and the entire trial
2 process, that every citizen accused of a crime in this
3 country is presumed innocent unless and until the State,
4 the Government, can prove them guilty beyond any
5 reasonable doubt of each and every element of the offense
6 or offenses that they are charged with.

7 Now, I want to briefly tell you about -- again, about
8 the nature of this case is what we call a capital case.
9 And the process that we're going to go through includes
10 what we're doing right now, which is the qualification of
11 the jury. Once the jury is qualified, we will then select
12 the jury out of the qualified jurors. And once that's
13 done, then we move into the first case of the trial, which
14 is where the State must prove beyond a reasonable doubt to
15 the satisfaction of all the jurors the charges that
16 they've brought in order to get a conviction.

17 If they get a -- do not get a conviction on their --
18 on the indictment of murder, then the case is over, as far
19 as the jury is concerned. If they do, they get a
20 conviction beyond -- they prove to the jury beyond a
21 reasonable doubt and the jury convicts the Defendant of
22 murder, then and only then do we move to the second phase
23 of the trial. And as I've told you, the second phase of
24 the trial is where the jury is to consider what sentence
25 is appropriate in the case. And I would tell you that in

1 a capital case, if the
2 jury -- and the sentence choices there are life
3 imprisonment and death.

4 And in a capital case, if the jury finds the presence
5 of an aggravating circumstance, a sentence of life means
6 life without the possibility of parole. In other words,
7 if a defendant who has been convicted of murder and the
8 murder was accompanied by what the law calls an
9 aggravating circumstance, then a life sentence means life.
10 There would be no possibility of parole under such a
11 circumstance and the Defendant would die in jail.

12 Now, please understand, I'm talking about the process
13 of a capital case in general. In this particular case, we
14 may not even reach that second phase. But in the event we
15 do, we will need to ask you certain questions about your
16 views on the death penalty, which we'll talk about when we
17 meet with you privately.

18 Now, permit me to briefly explain the terms of
19 aggravating and mitigating circumstances. Because in the
20 second phase of a trial, that's all the jury is concerned
21 with. An aggravating circumstance are facts, incidents,
22 or occurrences which the South Carolina General Assembly
23 has declared by statute would aggravate or worsen the
24 crime of murder. In other words, an aggravating
25 circumstance, when accompanying a murder, increases the

1 enormity of it or adds to the injury of the crime of
2 murder. That's an aggravating circumstance. It makes
3 it -- enlarges it, it worsens the effect.

4 Mitigating circumstances are incidents, facts, or
5 occurrences which the General Assembly has declared by
6 statute or which a jury otherwise determines should reduce
7 the severity of the offense of murder and may be
8 considered as extenuating or as reducing the degree of
9 responsibility or culpability.

10 Now, does that help you all with the -- understand
11 what those two terms mean? Can I give you any more
12 explanation or are you satisfied?

13 (All jurors said yes.)

14 THE COURT: Now, I've introduced the lawyers to you
15 previously. And I will ask you now, is there any member
16 of the jury panel who is related by blood or marriage or
17 an acquaintance of any kind with any of the attorneys
18 involved in this case? If so, please raise your right
19 hand.

20 (There was no response.)

21 THE COURT: Okay. Is there any member of the jury
22 panel related by blood or marriage or an acquaintance of
23 any kind with the Defendant in this case, Mr. Fredrick
24 Antonio Evins?

25 Yes, ma'am. Your name?

1 JUROR #14, EMILY BIVENS: Emily Bivens.

2 THE COURT: Yes, ma'am.

3 JUROR #14, EMILY BIVENS: I worked with him at
4 Applebee's.

5 THE COURT: When was that?

6 JUROR #14, EMILY BIVENS: 2002, 2003, maybe.

7 THE COURT: All right. Now, we will -- we'll talk to
8 you about that in private, but I appreciate you disclosing
9 that.

10 Now, is there any member of the jury panel who is
11 related by blood or marriage or acquainted in any way with
12 anyone associated with these lawyers respective law
13 offices, that would be the Seventh Circuit Solicitor's
14 Office, the Public Defender's Office of Spartanburg
15 County, or the Law Offices of Mr. Tam Boggs? If so,
16 please raise your right hand.

17 (There was no response.)

18 THE COURT: Okay. Each of you has had an
19 opportunity, I hope, to review that extensive witness list
20 that's back there. And I'll ask you the same question
21 about the witnesses. Is there any member of the jury
22 panel who is related by blood or marriage or an
23 acquaintance of any kind with any of the witnesses listed
24 on the witness list? If so, please raise your right hand.

25 Yes, sir. Your name?

1 JUROR #112, HOWARD GARLAND: Spartanburg County --
2 I'm sorry. My name?

3 THE COURT: Yes, sir.

4 JUROR #112, HOWARD GARLAND: Howard Garland.

5 THE COURT: All right. Mr. Garland, who is it?

6 JUROR #112, HOWARD GARLAND: I went to school with
7 Spartanburg County Sheriff's Deputy Craig Coggins.

8 THE COURT: All right. And we will speak to you
9 about that in private then.

10 Ladies and gentlemen, can I get you all to stand for
11 me and we're going to put you under oath again, so please
12 raise your right hand.

13 (WHEREUPON, Juror Panel No. 8 was sworn.)

14 THE CLERK: Thank you.

15 THE COURT: Okay. And up, down, up, down. I'm going
16 to ask y'all to retire to the jury room, with the
17 exception of Ms. Betty Kirby, who's at the top of the
18 list. She gets to go first.

19 (WHEREUPON, Juror Panel No. 8 exited the courtroom,
20 with the exception of Juror #204, Betty Kirby.)

21 (Juror #204, Betty Kirby, a white female, was
22 seated.)

23 THE COURT: Ms. Kirby, I'm going to start out by
24 making just a few opening comments, and I'm hoping those
25 comments will put you at ease. Let me tell you that we

1 all understand that you're sitting in the hot seat or the
2 hot spot, however you want to call it, and that,
3 certainly, it is absolutely normal for you to feel nervous
4 a little about where you are. All of us understand that
5 and realize that and recognize it. I promise you that no
6 one in here will cause you any embarrassment or any
7 humiliation through their questions. That's not going to
8 happen. I won't allow it to happen, but, more
9 importantly, they won't even try to do that. So, please,
10 relax about that.

11 I will tell you that we're going to talk to you about
12 three basic subject matters and maybe a few other
13 questions. It just depends on the circumstances. The
14 first is, we want to know if you've heard anything at all
15 about this case and what it is. The second subject matter
16 would be if you can be fair and impartial in the case.
17 And the third is, we need to discuss -- because of the
18 enormity or the severity or the seriousness of this
19 proceeding, we need to talk to you about your views on the
20 death penalty. So that's going to be the general subject
21 matter about what we're going to talk about.

22 We recognize that some of these issues might be very
23 personal and might be issues that you are conflicted about
24 yourself. You may not have a definite answer. And that
25 would be absolutely normal and natural. And it may be

1 something a lot of people would feel as intrusive to ask
2 those questions. But because of the seriousness of these
3 proceedings, we feel it's necessary that we discuss those
4 issues with you.

5 There are absolutely no wrong and no right answers.
6 And I would tell you that the correct answer from you
7 would be a candid, honest, complete, and accurate answer
8 to the questions. And once you do that, there is
9 absolutely no right and no wrong answer. And I would tell
10 you further that -- I just forgot what I was going to say.
11 But if you will answer those questions in that fashion,
12 then everyone will be completely satisfied. There's no
13 test that your answers are put to. You won't be judged by
14 your -- by the answers you give. So all we need is just
15 your heartfelt, truthful answers to these questions in
16 this matter.

17 All right. Having said all that, let me go forward
18 and introduce you to the case just a little bit more, not
19 a whole lot more information, but just some of the
20 allegations contained in the indictments. And I will tell
21 you again that the indictments are not evidence and can
22 never be considered to be evidence.

23 The first indictment is an indictment for murder.
24 And it alleges that Fredrick Antonio Evins did in
25 Spartanburg County on or about February 13th, 2003,

1 feloniously, willfully, and with malice aforethought kill
2 Rhonda Marie Ward by stabbing. The next indictment is for
3 kidnapping. It alleges that Mr. Evins did on the same
4 date unlawfully seize and kidnap Rhonda Marie Ward. The
5 next indictment is for criminal sexual conduct. It
6 alleges that Mr. Evins did on or about the same date,
7 which is February 13th of 2003, willfully and unlawfully
8 commit a sexual battery upon Rhonda Marie Ward. And,
9 finally, the last indictment is for grand larceny. And it
10 alleges that Mr. Evins did on the same date unlawfully and
11 feloniously carry away a 1993 Nissan Sentra and its
12 contents that belonged to Rhonda Marie Ward. Those are
13 the allegations in this case.

14 Now, we recognize that there has been publicity on
15 the television, in the newspaper, and on the radio about
16 this case. So my first question to you would be, what
17 have you heard, seen, or read about this case?

18 JUROR #204, BETTY KIRBY: I first heard about it on
19 the news that it had happened. Other than that, nothing.

20 THE COURT: Okay.

21 JUROR #204, BETTY KIRBY: I haven't heard anything
22 other than that.

23 THE COURT: Was that on the TV or the radio?

24 JUROR #204, BETTY KIRBY: TV.

25 THE COURT: Can you tell me what you recall about

1 what that report was?

2 JUROR #204, BETTY KIRBY: Well, really, I'm not one
3 to watch the news, so I just caught that there was a
4 murder of a lady, but any details, I did not catch.
5 Because I just -- I was in another room when I heard it.
6 It's not like I was just sitting there watching it, so.
7 But that's, basically, all I heard.

8 THE COURT: All right. Well, let me tell you that,
9 as a juror, your oath would require you to put aside and
10 disregard anything that you might have read, seen, or
11 heard about this case. And the reason for that is that
12 the law requires that this case be decided by the facts
13 only -- by the facts presented -- let me back up.

14 This case is to be decided from the facts -- only
15 from the evidence presented in the courtroom. Okay. That
16 was a very inartful way of saying that. But the only
17 thing that a juror can consider in making their
18 determination in a case is the evidence presented under
19 oath subject to Constitutional scrutiny in the courtroom.
20 So your oath would require you to put aside anything
21 you've heard, seen, or read outside the courtroom.

22 Do you understand that?

23 JUROR #204, BETTY KIRBY: Yes.

24 THE COURT: Now, could you serve as a fair and
25 impartial juror and reach a verdict based on the facts

1 presented at trial and in accordance with my instructions
2 on the law?

3 JUROR #204, BETTY KIRBY: Yes.

4 THE COURT: Have you already formed any kind of
5 opinion as to the facts of this case?

6 JUROR #204, BETTY KIRBY: No.

7 THE COURT: Okay. Have you formed any kind of
8 opinion as to the guilt or innocence of Mr. Evins?

9 JUROR #204, BETTY KIRBY: No.

10 THE COURT: All right. Now, keeping in mind the
11 legal principles of the presumption of innocence and the
12 State's obligation to prove guilt beyond a reasonable
13 doubt, could you, depending upon the evidence and facts
14 presented at trial and the law that I would give to you,
15 could you find a defendant either guilty or not guilty
16 depending on the evidence?

17 JUROR #204, BETTY KIRBY: Yes.

18 THE COURT: Okay. Now, please remember, we may not
19 even reach the second phase of the trial, but since we
20 possibly could, we need to talk about your views on the
21 death penalty.

22 Now, when a jury moves to the second -- sentencing
23 phase or the second phase of a trial, that same jury has
24 already decided that the Defendant is guilty of murder,
25 guilty beyond a reasonable doubt of murder. So in the

1 second phase of the trial, the jury would not be
2 considering a legal defense. The only thing the jury
3 would be considering would be evidence in mitigation and
4 evidence in aggravation.

5 Okay. Your oath, at that time, would require you to
6 abandon any preconception that you might have and to
7 follow the law as I would instruct it to you. In other
8 words, your oath would require you to give serious and
9 meaningful consideration to all the aggravation and
10 mitigation evidence. Could you follow your oath and do
11 that?

12 JUROR #204, BETTY KIRBY: Yes.

13 THE COURT: Okay. Now, a hypothetical question, if
14 you were a juror in that situation, in the sentencing
15 phase, the Defendant is already -- you've already
16 determined -- the jury has already determined he or she is
17 guilty of murder. In the second phase, depending upon the
18 particular facts and circumstances presented at trial,
19 including the consideration of all aggravating and
20 mitigating circumstances and the law that I would give to
21 you, could you return a verdict of life imprisonment?

22 JUROR #204, BETTY KIRBY: Yes.

23 THE COURT: Okay. Now, a second hypothetical
24 question, in that situation, the second phase of the
25 trial, the sentencing phase, depending on the facts and

1 circumstances of that particular case, taking into
2 consideration all of the aggravating and mitigating
3 circumstances and the law that I would give you, could you
4 return a sentence of death?

5 JUROR #204, BETTY KIRBY: Yes.

6 THE COURT: Okay. Now, in the event of a death
7 sentence, the law requires that it be a unanimous decision
8 and it requires that all the jurors sign the verdict form.
9 Could you sign your name to a death sentence verdict form?

10 JUROR #204, BETTY KIRBY: Yes.

11 THE COURT: Okay. Now, do you recall the sheet which
12 described the three types of jurors?

13 JUROR #204, BETTY KIRBY: Yes.

14 THE COURT: Okay. And can you tell me which type
15 that you think you fit into?

16 JUROR #204, BETTY KIRBY: I'm thinking it was three.
17 I can't remember which one was which.

18 THE COURT: All right. Describe what you remember.

19 JUROR #204, BETTY KIRBY: As far as the death
20 penalty?

21 THE COURT: Yes.

22 JUROR #204, BETTY KIRBY: I feel like that if the
23 circumstances and the crime warrants the death penalty,
24 yes, I believe in it.

25 THE COURT: But are you the type of person who would

1 need to listen to all the facts and circumstances before
2 you made up your mind?

3 JUROR #204, BETTY KIRBY: Yes.

4 THE COURT: And you could give either a life sentence
5 or a death sentence?

6 JUROR #204, BETTY KIRBY: Yes.

7 THE COURT: Now, if you were selected, would you
8 honor your oath to serve as a fair and impartial juror and
9 approach jury service with an open mind to find the truth
10 from the evidence and the law?

11 JUROR #204, BETTY KIRBY: Yes.

12 THE COURT: Okay. Do you know of any reason why you
13 could not serve in this case?

14 JUROR #204, BETTY KIRBY: No.

15 THE COURT: Let me tell you before I let the lawyers
16 question you some -- a little bit that we're going to
17 finish qualifying the jury. And I'm hoping tomorrow we
18 will begin jury selection. If you are qualified and you
19 are -- then you will be called back for jury selection.
20 When you come back for jury selection, you need to be
21 packed for five to seven days. Because the jury that is
22 selected will be staying at the new Marriott Hotel during
23 that period of time. So I just wanted to let you know.

24 I'll turn you over and let the attorneys question you
25 now.

1 MR. GOWDY: May it please the Court?

2 THE COURT: Yes.

3 EXAMINATION

4 BY MR. GOWDY:

5 Q Good afternoon, Ms. Kirby. How are you?

6 A Good. How are you?

7 Q Fine. My name is Trey Gowdy. That's John Anthony to
8 your left, and Barry Barnette in the middle. The three of
9 us are the lawyers representing the State of South
10 Carolina in this case.

11 I want to ask you just a couple of questions, because
12 Judge Miller went over everything that I was going to ask
13 you. Let me start by thanking you for filling out that
14 questionnaire. I know it asked a lot of questions you
15 might not be used to answering, especially from strangers.

16 You grew up in Cherokee, but moved to Spartanburg?

17 A Right.

18 Q When?

19 A I moved to Spartanburg County in 1972.

20 Q And you are in Mayo now?

21 A Uh-huh.

22 Q Okay. If I understood you right when you were
23 talking to Judge Miller, you told him that if you -- after
24 listening to the facts and circumstances, if you thought
25 death was the right verdict, that's what you'd vote for?

1 A Right.

2 Q If you thought life was the right verdict, that's
3 what you would vote for?

4 A Yes.

5 Q In other words -- in your words, I imagine what
6 you're saying is that all murders are not the same?

7 A True.

8 Q So they should, therefore, not be punished the same?

9 A True.

10 Q Universally, you're going to look at it and if the
11 State proves to you an aggravating circumstance and in
12 your judgment, death is the right punishment, that's what
13 you would vote for?

14 A Yes.

15 Q And you can sign your name to a form?

16 A Yes.

17 Q One more thing and then I'll sit down. And I know
18 the Judge did a good job of explaining this. In a capital
19 case in South Carolina, you will never ever be told that
20 you have to sentence somebody to death. Even if we prove
21 an aggravating circumstance, you'll always have the option
22 of life. Understanding that nobody will ever say,
23 Ms. Kirby, you've got to find him guilty -- I mean, you've
24 got to sentence him to death, do you still think that you
25 could chose to impose the death sentence, always knowing

1 you had an option of life?

2 A Yes.

3 MR. GOWDY: Thank you for your time over the past
4 couple of days.

5 Good afternoon to you.

6 EXAMINATION

7 BY MS. QUIMBY:

8 Q Good afternoon, Ms. Kirby. How are you?

9 A Fine.

10 Q Ms. Kirby, my name is Karen Quimby. And I know we
11 introduced ourselves to everybody in the jury the other
12 day, I just wanted to do it again. Tam Boggs, who's
13 walking around, and Chris Brough are also representing
14 Fredrick Evins in this trial.

15 So you have -- you remember seeing something or
16 hearing something on the news back in 2003 when this
17 happened?

18 A Uh-huh.

19 Q And I don't mean to ask a question that's already
20 been asked, but I just want to get a little bit more clear
21 because, like Judge Miller told you, there are no right
22 and there are no wrong answers. We just need to know what
23 your answers are.

24 So when you heard this -- can you remember anything
25 you might have heard about the case?

1 A The only thing I heard was that it had took place.

2 Q Okay. Did --

3 A I didn't even remember names.

4 Q Okay. And that's fine. So you didn't hear
5 locations?

6 A No.

7 Q Okay. And you didn't hear names?

8 A No.

9 Q And I'm not second guessing you and I'm not doubting
10 you at all, I'm just -- again, I just want to understand.
11 I guess I'm wondering how -- okay. That happened back in
12 February of 2003, so about a year and nine months ago.
13 When you got here for jury service, what triggered your
14 memory since you didn't hear names back then?

15 A Well, what triggered it is, you know, any time you
16 hear something that had happened, you're going to think,
17 well, this happened on that side of town, but you don't
18 know too much about it. But, like I said, it wasn't
19 anything that triggered it. I just remembered -- and
20 there was something not too long ago that had happened. I
21 remembered hearing it, but I don't remember names or
22 anything that happened with the one that took place just a
23 few weeks ago, because I just remember hearing it
24 happened.

25 Q Okay.

1 A See, I'm not one that's big on news.

2 Q Okay. So -- but you knew that you were coming here
3 today on the one from before, not the one from a few weeks
4 ago?

5 A No, I did not know.

6 Q Okay. Even if you don't follow the news as far as
7 watching TV, because I know sometimes that's inconvenient,
8 or reading the paper, sometimes you just can't help but
9 hearing other people talking about things going on in the
10 area, things that have happened, whether you're at work,
11 at home or in the grocery store. Have you heard anything
12 from anybody, even -- not necessarily new information, but
13 have you heard people talk about the case?

14 A Not this particular case. You know, when you're at
15 work and you're in the break room, people are talking
16 about this happened, that happened, but, basically,
17 concerning one case, not really.

18 Q Okay. You don't remember any case in particular?

19 A No. Well, the one that I remember most was the one
20 that the lady was found in Cleveland Park back a couple
21 years ago and the Peterson case. But, you know, those are
22 the only two that we have -- that I remember anything
23 about.

24 Q The Scott Peterson case in California?

25 A (Juror nodded.)

1 Q Are you following that?

2 A No. I'm not following that, it's just there are
3 people I hear discussing it.

4 Q Okay. What -- I'm just asking, what have you
5 heard -- you said -- you mentioned about the lady in
6 Cleveland Park?

7 A (Witness nodded.)

8 Q What have you heard about that one?

9 A That they suspected her husband. They are still
10 looking for suspects. But I haven't heard anything lately
11 on that.

12 Q Okay. And we'll just -- we'll get off of that now.
13 You go to Graham Chapel Church in Mayo?

14 A (Juror nodded.)

15 Q Is that baptist church?

16 A Wesleyan.

17 Q Do you have -- well, what are your views on the death
18 penalty, just your general views?

19 A I feel like that if the crime is severe enough to
20 warrant the death penalty, I could give the judgment of
21 the death penalty without, you know, feeling bad about it.
22 Because if a person does something that heinous, then I
23 just feel like that's the way it should go. But I would
24 be open for evidence and discussion, but I do go along
25 with the death penalty in circumstances.

1 Q Okay. And, again, this is to repeat something you've
2 already heard. If you get to a point -- and it's an if --
3 if you get to the point where you and other jurors would
4 have to decide between life without the possibility of
5 parole and the death penalty, that would be in the
6 sentencing phase, which is different than the first
7 segment of the trial. So you would already have found
8 he's guilty of murder in the first phase.

9 So in the second, sentencing phase, it's still not a
10 guarantee that you would have to decide between life and
11 death. Do you think that you would tend -- once you have
12 found him guilty of murder, do you think you might tend to
13 lean one way or the other as far as sentencing?

14 A No, not until everything was discussed and brought
15 before me. I'm not easily persuaded either way.

16 Q Okay. You would make it a serious decision?

17 A Yes, I would.

18 Q Okay. That's what it's supposed to be. I would hate
19 for anybody to take it lightly.

20 You understand that once the first phase is over and
21 someone has been found guilty of murder, then it goes to
22 the second phase. The State is required to prove, at
23 least, one aggravating circumstance. That's just
24 something that makes it what they believe worse than -- I
25 know no murder is a good murder, but it makes it worse

1 than your average unaggravated murder. If you believed
2 that the State had proven that to you, do you think that
3 you would tend one way or the other to go with life or
4 death.

5 MR. GOWDY: Your Honor, I'm going to interpose an
6 objection. It's been asked and answered three times now,
7 the same question.

8 THE COURT: Go ahead and finish it for the last time.

9 THE WITNESS: Well, no. I don't think I would lean
10 one way or the other until it come to that and everything
11 was presented.

12 BY MS. QUIMBY:

13 Q All right. Now, do you have any idea if your church
14 takes a particular position on the death penalty issue?

15 A No. That would be something that was based on
16 individuality.

17 Q Okay. I see your son-in-law is a pastor?

18 A (Juror nodded.)

19 Q Where is he a pastor?

20 A Canton Free Will Baptist.

21 Q In North Carolina?

22 A (Juror nodded.)

23 Q I've been through Canton. All right. Now, if you
24 had decided that -- if you and the other jurors had
25 decided in the penalty phase, in the sentencing phase,

1 that you believed that the death penalty was the most
2 appropriate thing, would you want to be the first one to
3 sign the piece of paper?

4 A If I felt firmly that was the right choice, yes. If
5 I felt that's the way I should vote, yes.

6 Q Let me back up from that just a bit. If you believed
7 that death was the appropriate punishment and it was a --
8 and you hadn't gone around the table yet to say your vote,
9 what if all 11 people had gone before you and they thought
10 that life was the more appropriate punishment, would you
11 feel -- would you -- how would you feel about that? What
12 would you want to do? What would you want to know?

13 A I think then we would have to go back and review some
14 of the evidence and read back on it and check it out
15 again. But I would state my opinion, but I would want for
16 us to review.

17 MS. QUIMBY: Okay. Just one second, please.

18 (Pause.)

19 MS. QUIMBY: Thank you very much.

20 We appreciate your time.

21 THE COURT: All right. Ms. Kirby, could I ask you to
22 step out in the hallway for just a second, please, ma'am.

23 (Pause.)

24 THE COURT: Any objection?

25 MR. GOWDY: Not from the State, Your Honor.

1 MS. QUIMBY: No, Your Honor.

2 THE COURT: All right. Bring her on back.

3 (Pause.)

4 THE COURT: Hey, Ms. Kirby.

5 I'm going to give you this sheet of paper to take
6 home and you can read it. And, basically, what it says is
7 you are qualified and remain an eligible juror in this
8 case. I'm hopeful that we will select the jury tomorrow.
9 So we'll call you to let you know when to come back. But
10 go ahead and be ready to come. Go ahead and get your
11 stuff packed. You may or may not get selected, but you
12 need your stuff. And you will be sequestered, if you're
13 chosen, right after the selection.

14 Let me ask you not to read anything, watch
15 television, or listen to the radio or anything about this
16 case. Okay.

17 JUROR #204, BETTY KIRBY: Okay.

18 THE COURT: And please, also, don't discuss the case
19 with anybody. And I know that will be very tempting to
20 talk to your family and friends about it, but don't do
21 that. By doing that, you protect your rights and
22 everybody's rights. Because it is everyone's
23 Constitutional right to be tried solely on the evidence
24 presented in the courtroom. And even an innocent comment
25 from a friend or a family member might influence you in

1 some way. And that just would not be fair for them to
2 have an influence on the case when they have not seen or
3 heard the evidence. Okay.

4 JUROR #204, BETTY KIRBY: Okay.

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

6 (Juror #204, Betty Kirby, was excused from the
7 courtroom.)

8 THE COURT: Bring the next juror in.

9 (Juror #112, Howard Garland, a white male, was
10 seated.)

11 THE COURT: Hello, Mr. Garland. Welcome to the
12 courtroom.

13 JUROR #112, HOWARD GARLAND: Thank you, sir.

14 THE COURT: I want to make a few brief comments to
15 you and then we'll begin the questioning and, hopefully,
16 it won't take very long. I want you to feel as
17 comfortable as you possibly can. We all recognize that
18 where you're sitting right now is not a comfortable seat
19 to be in. But I want you to know that everybody in here
20 understands that and recognizes that. And no one in here
21 intends to or will they embarrass you or humiliate you in
22 any way. I won't allow that to happen. And they're not
23 going to try to make that happen.

24 So let me further tell you that there are no right or
25 wrong answers that you can give to any of the questions

1 that are asked of you. All we ask is that you give us
2 candid, truthful, complete answers to the questions.

3 JUROR #112, HOWARD GARLAND: Yes, sir.

4 THE COURT: And some of it -- what we're going to ask
5 you about includes whether or not you've heard anything
6 about the case and, also, whether you can be fair and
7 impartial and, also, because of the nature of the case,
8 the seriousness of the case, we're going to ask you your
9 views on the death penalty. Now, some people really
10 cringe when they hear that, because it's a very personal
11 issue to a lot of people.

12 JUROR #112, HOWARD GARLAND: Right.

13 THE COURT: And, also, a lot of people are not sure
14 about it and they're conflicted about it. But even though
15 it's an intrusive sort of questioning, we really need to
16 do it. And I told you, as long as you give us that
17 complete and truthful answer, it cannot be wrong. And we
18 really appreciate that.

19 Now, I'll begin by just going through the indictments
20 a little bit with you and go through them so you get a
21 little bit more of the facts. I remind you that these are
22 not evidence and can never be considered to be evidence.

23 Now, the first indictment charges murder. And it
24 alleges that Fredrick Antonio Evins did in Spartanburg
25 County on or about February 13th, 2003, feloniously,

1 willfully, and with malice aforethought did kill Rhonda
2 Marie Ward by stabbing. The next indictment is
3 kidnapping. And it alleges that Mr. Evins did on or about
4 the same date unlawfully seize and kidnap Rhonda Marie
5 Ward. The next indictment is for criminal sexual conduct.
6 It alleges that Mr. Evins did on or about the same date,
7 which was February 13th of 2003, willfully and unlawfully
8 commit a sexual battery on Rhonda Marie Ward. And,
9 finally, grand larceny alleges that Mr. Evins did on the
10 same date feloniously take and carry away a 1993 Nissan
11 Sentra and its contents belonging to Rhonda Marie Ward.
12 Now, those are the allegations contained in the
13 indictments. And, of course, it's not evidence. The
14 State has to prove what they're alleging beyond a
15 reasonable doubt.

16 Now, understanding that, we recognize that there's
17 been publicity about this case. It's been on television,
18 in the newspaper, and on the radio. The first question
19 I'd like to ask is, have you heard, read, or seen anything
20 about this case?

21 JUROR #112, HOWARD GARLAND: I don't recall anything.
22 I don't read the paper much other than the sports section.
23 To be absolutely honest, if it's on TV and it's something
24 like that, I flip to the next channel.

25 THE COURT: All right. Well, very good.

1 Well, something -- you may in the back of your mind
2 have heard something about it and as we go through this
3 questioning or if you're selected on the jury, when you
4 hear details, it may prod your memory somewhat. So I will
5 tell you that your oath, as a juror, would require you to
6 disregard anything you might have heard, seen, or read
7 about this case. Because the case must be decided only on
8 the facts presented in the courtroom at trial.

9 Now, will you serve or could you serve as a fair and
10 impartial juror and reach a verdict based solely on the
11 facts presented at trial and in accordance with my
12 instructions on the law?

13 JUROR #112, HOWARD GARLAND: Yes, sir.

14 THE COURT: Have you already formed any kind of
15 opinion as to the facts in this case?

16 JUROR #112, HOWARD GARLAND: No, sir.

17 THE COURT: Have you formed any kind of opinion as to
18 the guilt or innocence of Mr. Evins?

19 JUROR #112, HOWARD GARLAND: No, sir.

20 THE COURT: Now, keeping in mind the legal principles
21 I've described to you about the presumption of innocence
22 and the State's obligation -- or burden to prove guilt
23 beyond a reasonable doubt, could you, depending upon the
24 facts and evidence and the law that I would give you, find
25 a defendant guilty or not guilty depending on the facts

1 and evidence presented to you?

2 JUROR #112, HOWARD GARLAND: Yes, sir.

3 THE COURT: So your mind is not made up one way or
4 the other?

5 JUROR #112, HOWARD GARLAND: No, sir.

6 THE COURT: Now, please remember, we may not even
7 reach the second phase of the trial, but since we possibly
8 could, it's necessary for us to talk about your views on
9 the death penalty. Now, when a jury moves to the second
10 phase of the trial, that means that that same jury has
11 already found the Defendant guilty of murder. So that
12 decision has been made and the jury would not be
13 discussing or exploring any legal defenses with respect to
14 this second phase. The only thing they would be
15 considering would be the evidence in mitigation and the
16 evidence in aggravation.

17 Now, I'll tell you that your oath requires you to
18 abandon any preconception you have about the law or the
19 facts. You must take it and follow the law as I instruct
20 it to you. In other words, your oath would require you to
21 give serious and meaningful consideration to aggravation
22 and mitigation evidence. Could you honor your oath and do
23 that?

24 JUROR #112, HOWARD GARLAND: Yes, sir.

25 THE COURT: Now, I'm going to ask you a hypothetical

1 question. If you would, imagine you're a juror in the
2 second phase of a trial or the sentencing phase, could
3 you, depending on the facts -- particular facts and
4 circumstances of the case, including considering all of
5 the aggravation and all of the mitigation evidence and the
6 law I would give you, could you return a sentence of life
7 in prison?

8 JUROR #112, HOWARD GARLAND: Yes, sir.

9 THE COURT: All right. The second hypothetical, the
10 same circumstances, the second phase of a trial,
11 considering all the particular facts and circumstances,
12 all the mitigation and aggravation evidence and the charge
13 on the law, could you return a sentence of death?

14 JUROR #112, HOWARD GARLAND: Yes, sir.

15 THE COURT: All right. Now, in the event of a death
16 sentence, the law requires that all 12 jurors agree and
17 that they all 12 sign the death sentence verdict form.
18 Could you sign your name to a death verdict?

19 JUROR #112, HOWARD GARLAND: Yes, sir.

20 THE COURT: Okay. Now, do you recall the sheet that
21 listed the three types of jurors?

22 JUROR #112, HOWARD GARLAND: Yes, sir.

23 THE COURT: How would you classify yourself?

24 JUROR #112, HOWARD GARLAND: I believe it was C.

25 THE COURT: The third one?

1 JUROR #112, HOWARD GARLAND: The third one, yes, sir.

2 THE COURT: So you're the type of juror that would
3 want to hear all the evidence before making a decision?

4 JUROR #112, HOWARD GARLAND: A man is presumed
5 innocent until proven guilty.

6 THE COURT: Okay. Very good.

7 Now, if you were selected, would you honor your oath
8 to serve as a fair and impartial juror and approach jury
9 service with an open mind to find the truth from the
10 evidence and the law as I give it to you?

11 JUROR #112, HOWARD GARLAND: Absolutely.

12 THE COURT: Do you know of any reason why you could
13 not serve in this case?

14 JUROR #112, HOWARD GARLAND: No, sir.

15 THE COURT: All right. I'm going to let the lawyers
16 question you in just one second. I want to tell you that
17 this jury will be sequestered. And if you are qualified
18 and are asked to return as a qualified juror for jury
19 selection, we would ask you to pack your bags and bring
20 them with you at that time. We anticipate the case will
21 last from five to seven days. You will be staying at the
22 Marriott Hotel, the new Marriott, just a couple blocks
23 away. And I guess that's all I need to tell you. But I
24 just wanted to make you aware of that.

25 I'm going to turn it over to the attorneys at this

1 time.

2 EXAMINATION

3 BY MR. BOGGS:

4 Q Good afternoon, Mr. Garland. How are you doing, sir?

5 A I'm doing fine. Thank you.

6 Q My name is Tam Boggs. I'm one of the attorneys
7 handling the case with Mr. Evins, along with Karen Quimby,
8 in the red, and at the end of the table is Chris Brough.

9 First of all, I want to thank you for doing the
10 questionnaire, that helps us find out a little bit of
11 information, but it does take you a little bit of time.
12 You could probably spend -- there are a little bit more
13 things more fun than that.

14 You work at Wal-Mart; is that correct?

15 A Yes, sir.

16 Q And are you in a supervisory position?

17 A Yes, sir. I'm an assistant manager.

18 Q So when you put down that you supervised up to about
19 30 people, that would be where that is?

20 A Uh-huh.

21 Q Which, I assume, means you have the ability to be a
22 leader, as opposed to a follower-type situation?

23 A Yeah.

24 Q And I also noticed that you have a friend -- or your
25 best friend is a U.S. probation officer?

1 A Yes, sir.

2 Q What's his name?

3 A Chris Bryant.

4 Q Oh, yeah. I know Chris well. Have you had occasion
5 to talk with Chris about cases that he's handled? He used
6 to be with the State.

7 A Since he's been with the Feds, very, very little.
8 We're best friends, but we see each other and talk maybe
9 every couple of months because of work, especially mine.

10 Q Is he still playing with his band?

11 A Very little, I believe.

12 Q I think he liked that better than he liked the U.S.
13 Probation, didn't he?

14 A Uh-huh.

15 Q As you're aware of, Mr. Gowdy has asked that this
16 case be designated as a death penalty case. Just the fact
17 that it's been designated as a death penalty case, when
18 you hear that, how does it effect your thoughts about the
19 case as it relates to guilt or innocence?

20 A It sounds like the Solicitor's Office is very
21 confident in their evidence.

22 Q Okay. Well, I appreciate your candor on that. It's
23 kind of like, I hear people say, oh, it's going to Federal
24 Court, you know, that may be less severe, but everybody
25 just assumes once you hear that --

1 A Right.

2 Q -- along the same lines of your thought process, as
3 you're reading the paper or watching TV and you see that
4 so and so was arrested for something.

5 Now, I know that you said you stood by the
6 proposition that a man is innocent until proven guilty.
7 But human nature being what it is, if you see a headline
8 in the paper or something that says so and so was
9 arrested, what would be your first thought process?

10 A A lot of times, yeah, you know, natural human
11 instinct is to say they're guilty, but I don't know.

12 Q Then it kind of has to filter down?

13 A Well, you watch a lot of TV and you see that, well,
14 yeah, they had this, but they're found innocent after all.

15 Q Let me jump back to a question you answered that your
16 belief -- or not belief, but your thought was when you see
17 a death penalty destination, that it appears to you that
18 the Solicitor feels like he has a pretty strong case.

19 Now, if you were put on the jury, Judge Miller has
20 explained to you that all that we're doing today gets put
21 on the back burner?

22 A Right.

23 Q And we start just as if it were not a death penalty
24 case and it would have to be treated just like a driving
25 case or any other case where a trial would be held on the

1 charge?

2 A Right.

3 Q Okay. Do you feel like you could put that, what
4 we're doing today and the designation, et cetera, on the
5 back burner and only deal with the fact that we're in a
6 trial on a criminal charge?

7 A Yes, sir, I do.

8 Q Okay. And that's tough. It's like you say, human
9 nature being what it is, it's putting things out of your
10 mind is like the Judge saying disregard that last
11 statement, you know, when you've already heard it?

12 A Right.

13 Q Now, do you feel that a person who causes the
14 death -- and I'm not talking about accidental or
15 self-defense or anything like that -- that a person that
16 causes the death of another is automatically guilty of
17 murder?

18 A The statutes of the law or?

19 Q Just do you feel like taking the life of another
20 person, again, not like a car accident, but taking the
21 life other another person automatically makes you guilty
22 of murder?

23 A The definition of murder is killing someone else,
24 isn't it?

25 Q Well, it's part of it, killing someone unlawfully

1 with malice aforethought.

2 A I guess so, yeah.

3 Q Let me carry it on through. If the jury in the case
4 found that -- and you were on the jury, found that the
5 Defendant was guilty of murder, you would go to the
6 penalty phase and you would have two options.

7 A Right.

8 Q One option would be life without parole, and one
9 option would be the death penalty. If he had already been
10 convicted of murder, at that point, what do you think
11 your inclination would be as far as what kind of
12 sentence?

13 A It would be based on the testimony and the evidence.

14 Q In the?

15 A In the trial.

16 Q In the penalty phase of the trial or the trial of --

17 A On how he's found guilty.

18 Q So at the conclusion of that first trial, if you
19 found him guilty, you think you would know what you could
20 sentence him to at that point, based on what you had heard
21 during the trial of the case?

22 MR. GOWDY: Your Honor, I'm going to object to that
23 question. I'd be happy to approach and cite the reasons
24 for it.

25 THE COURT: All right. Come on over.

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

3 BY MR. BOGGS:

4 Q Let me rephrase that because I don't think I made
5 my -- during the first part of the trial, you have to
6 determine guilt or innocence.

7 A Right.

8 Q And if the jury finds a person guilty at that point
9 of murder, then it goes to the second phase.

10 A Yes, sir.

11 Q Okay. And it's only during the second phase that you
12 would determine the appropriate sentence, either life
13 without parole or murder --

14 A Uh-huh.

15 Q -- I mean, death, excuse me.

16 A Right.

17 Q But the Defendant has already been convicted of
18 murder. All right. So what -- would you feel that --
19 having been convicted of murder, would you be leaning one
20 way or the other going into the penalty phase?

21 A The way I understand it, if it's malicious, whatever,
22 with malice, then that's the death penalty. And if not,
23 it's life; is that correct?

24 Q Well, the Judge will instruct you about what is
25 involved.

1 A Right.

2 Q And I understand you don't have -- but whatever the
3 Judge would instruct you on, you'd be willing to follow
4 his instructions?

5 A Yes, sir.

6 Q Okay. Very briefly now, I don't want to take up too
7 much of your time. But as to the death penalty sentence,
8 have you thought about that very much in the past?

9 A Yeah.

10 Q Okay. And what are your feelings about the death
11 penalty? When do you think it's appropriate?

12 A I guess if someone wantonly and willfully just walks
13 up on the street or whatever, you know, with children, a
14 malicious attack, I think absolutely, yes, sir.

15 Q Okay. That would be a death penalty-type situation?

16 A Uh-huh.

17 Q And you do recognize -- or do I hear what you're
18 saying is that there could be some homicide or murders
19 that don't deserve the death penalty? Is that what you're
20 saying?

21 A I think so, yes.

22 Q Well, there are some that you say we know that --

23 A Without a doubt.

24 Q Without a doubt, there's some?

25 A Right.

1 Q But are there any kind of murders that you can think
2 of that should get life without parole?

3 A Accidental.

4 Q Okay. Now, accidental would be like a defense and he
5 would be convicted of that. But I didn't mean to
6 interrupt you. Go ahead.

7 A I can't think of any off the top of my head right
8 now, but I believe I could differentiate.

9 Q Differentiate between?

10 A Between this was done, death penalty, and this was
11 done, life in prison.

12 Q And when you say "this," you're talking about two
13 murders?

14 A Yes.

15 Q So you could have two murders, one you think could be
16 life without parole and one that would be death penalty?

17 A Yeah.

18 MR. BOGGS: Okay. Well, Mr. Garland, I appreciate
19 your time and I appreciate you being here.

20 Thank you, sir.

21 MR. GOWDY: May it please the Court?

22 THE COURT: Yes, sir.

23 EXAMINATION

24 BY MR. GOWDY:

25 Q Good afternoon, Mr. Garland. How are you?

1 A Fine. How are you doing?

2 Q I'm doing wonderful. I hope you are. Very briefly,
3 my name is Trey Gowdy. That's John Anthony to your left,
4 and that's Barry Barnette in the middle. The three of us
5 will be representing the State of South Carolina in this
6 case.

7 The first thing I've got to ask you is, what was it
8 like living in Hawaii for three years?

9 A Absolutely honest?

10 Q Yeah.

11 A It gets old.

12 Q Does it?

13 A When you walk outside, you have to turn around and go
14 inside and look at the calender and see if it's July the
15 1st or January the 1st.

16 Q You were in the Marines?

17 A Yes.

18 Q I'm not going to belabor this, Judge Miller asked you
19 the questions. I thought your answers were clear.

20 A Yes.

21 Q If you think life is the right sentence, that's what
22 you're going to vote for?

23 A Yes.

24 Q If you think life [sic] is the right sentence, that's
25 what you're going to vote for? You can do either one,

1 you're going to have to wait and see what's brought before
2 you during these two trials?

3 A Absolutely.

4 MR. GOWDY: Thank you. Mr. Garland.

5 I appreciate your time.

6 THE COURT: Okay. Mr. Garland could you step into
7 the hallway for just a second, please.

8 (Pause.)

9 THE COURT: All right. Any objections?

10 MR. GOWDY: Not from the State, Your Honor.

11 MR. BOGGS: I think he's qualified to be on the
12 panel.

13 THE COURT: All right. Thank you.

14 Bring him on back.

15 (Pause.)

16 THE BAILIFF: Just go right in and go around and face
17 the Judge.

18 THE COURT: Mr. Garland, I'm going to give this to
19 you and let you take it home and read it. Basically, what
20 it says is that you continue to be a qualified juror and
21 are eligible to serve in this case. So I anticipate that
22 tomorrow we'll select the jury. We'll call you and tell
23 you what time to be back. And you need to have your bags
24 packed and ready to go. When we select the jury -- and
25 you may or may not get selected. If you're selected,

1 you'll be sequestered. If you're not, you'll be free to
2 go.

3 JUROR #112, HOWARD GARLAND: Get packed tonight just
4 in case?

5 THE COURT: Yes.

6 And please don't read, listen to, or watch anything
7 about the case. Please don't talk about it with family or
8 friends.

9 JUROR #112, HOWARD GARLAND: I follow orders.

10 THE COURT: All right. Very good.

11 Thank you.

12 I appreciate it very much.

13 (Juror #112, Howard Garland, was excused from the
14 courtroom.)

15 THE COURT: Bring in the next juror.

16 (Juror #326, Douglas Seif, a white male, was seated.)

17 THE COURT: Mr. Seif, let me just tell you that we
18 all recognize that that's a tough spot to be in, and
19 that's completely normal and we all understand that. I
20 want you to also know that no one in here will in any way
21 embarrass you or humiliate you for a couple of reasons.
22 One, and most importantly, they wouldn't try to do that.
23 And, secondly, I wouldn't let them.

24 We are going to have to ask you some questions. And
25 let me give you a road map about what we're going to talk

1 about. It's really pretty simple. We're going to ask you
2 whether you know anything about this case, and whether or
3 not you can be fair and impartial, and, finally, and
4 probably the most sensitive subject is we're going to talk
5 about your views on the death penalty. And a lot of
6 people consider that to be very private and a lot of
7 people are conflicted and don't have a clear answer
8 themselves of what that is. But because of the serious
9 nature of this case, we need to talk to you about that.

10 Now, I will tell you there are no right or wrong
11 answers to any of the questions you'll be asked. You're
12 not going to be judged or tested or anything like that.
13 We just need to know what your answers are. And in that
14 regard, I ask you to be completely candid, forthright, and
15 complete and truthful in your answers to these questions.
16 We're just looking for your heartfelt responses to these
17 issues.

18 So without going on any further, let me read part of
19 the indictments to you. And I will tell you, again, that
20 these are not evidence and should not be considered in any
21 way as being evidence. They just contain the allegations
22 that the State has made and it allows us to bring this
23 case to Court.

24 The first one is an indictment for murder. And it
25 alleges that Fredrick Antonio Evins did in Spartanburg

1 County on or about February 13th of 2003, feloniously,
2 willfully, and with malice aforethought kill Rhonda Marie
3 Ward by stabbing. The next indictment is for kidnapping.
4 It alleges that Mr. Evins did on the same date unlawfully
5 seize, confine, and kidnap Rhonda Marie Ward. The next
6 indictment reads in part that Mr. Evins did on or about
7 the same date, February 13th of 2003, willfully and
8 unlawfully commit a sexual battery on Rhonda Marie Ward.
9 And, finally, the last indictment is for grand larceny.
10 It alleges that Mr. Evins did in Spartanburg County on or
11 about February 13th of 2003, feloniously take and carry
12 away a 1993 Nissan Sentra and its contents belonging to
13 Rhonda Marie Ward. Now, I would again emphasize that
14 those are merely allegations. And, of course, the State
15 has the burden of proof beyond a reasonable doubt to prove
16 guilt.

17 Now, we recognize that this case has had publicity.
18 It's been on television, in the newspaper, and on the
19 radio. And my first question to you would be, have you
20 read, heard, or seen anything about this case?

21 JUROR #326, DOUGLAS SEIF: No. I don't pay attention
22 to no local news.

23 THE COURT: All right. Well, very good. Let me tell
24 you that as we go through this process or if you're
25 selected to serve, it may -- something may be said that

1 prods your memory, maybe a comment or you're watching TV
2 and it perks a memory that you have of it. If that should
3 happen, I will tell you that your oath requires that you
4 disregard anything you've heard, seen, or read outside the
5 courtroom with respect to this case. Because you're
6 required to decide the facts of this case only from the
7 evidence presented in the courtroom.

8 Do you understand that?

9 JUROR #326, DOUGLAS SEIF: Yes.

10 THE COURT: Okay. Would you and could you serve as a
11 fair and impartial juror and reach a verdict based solely
12 on the facts presented at trial and in accordance with the
13 law that I would give you?

14 JUROR #326, DOUGLAS SEIF: Yes. I believe I could.

15 THE COURT: Okay. Now, have you in any form or
16 fashion formed an opinion as to the facts or as to the
17 guilt or innocence of Mr. Evins?

18 JUROR #326, DOUGLAS SEIF: No. I mean, all I've
19 heard is the indictments that you've read, so.

20 THE COURT: No opinion?

21 JUROR #326, DOUGLAS SEIF: I don't have no opinion of
22 the facts, because I don't know what the facts are.

23 THE COURT: Okay. How about guilt or innocence of
24 Mr. Evins, any opinion about that?

25 JUROR #326, DOUGLAS SEIF: No. I don't have an

1 opinion on that.

2 THE COURT: All right. Very good. Now, keeping in
3 mind the principles I talked to you about, the presumption
4 of innocence and the State's obligation to prove guilt
5 beyond a reasonable doubt, could you, depending on the
6 facts and circumstances and the evidence and the law
7 presented at trial, could you find a defendant either
8 guilty or not guilty depending on the evidence?

9 JUROR #236, DOUGLAS SEIF: Yes, depending what the
10 evidence is.

11 THE COURT: So there's no -- you don't have a
12 predetermined notion about guilt or innocence then?

13 JUROR #236, DOUGLAS SEIF: No, not before the
14 evidence.

15 THE COURT: All right. Very good. Now, please
16 remember we may not even reach the second phase. But
17 because there's a possibility that we might, we need to
18 talk about your views on the death penalty.

19 Now, I will again tell you that when a jury moves to
20 the sentencing phase, the issue of guilt would have
21 already been decided by that same jury. As to the issue
22 of guilt as to the charge of murder, that jury would have
23 already decided that the Defendant is guilty. So in the
24 second phase, you're not concerned with talking about or
25 exploring any legal defenses or any issues about guilt.

1 In the second phase, all you're concerned about is the
2 consideration -- or what's presented in the second phase
3 is the evidence in aggravation of the offense or evidence
4 in mitigation of the offense. Okay.

5 Now, your oath would require you at trial to abandon
6 any preconceived notion that you have and follow the law
7 as I give it to you. And you would be required under your
8 oath to give serious and meaningful consideration to all
9 the aggravating circumstances and all of the mitigating
10 circumstances. Could you follow your oath and do that?

11 JUROR #236, DOUGLAS SEIF: I believe so.

12 THE COURT: All right. Now, please -- this is a
13 hypothetical situation. Consider that you were a juror in
14 the second phase of a trial or in the sentencing phase.
15 So guilt as to the offense of murder has already been
16 determined by the jury. And could you, depending on the
17 particular facts and circumstances of the case, including
18 your consideration of all of the aggravating and
19 mitigating evidence and the law that I would give you,
20 could you return a verdict of life imprisonment?

21 JUROR #236, DOUGLAS SEIF: Yes.

22 THE COURT: Second hypothetical, same circumstance,
23 the second phase of the trial, could you, depending upon
24 the particular facts and circumstances of the case and in
25 consideration of all the mitigating and aggravating

1 circumstance and my instructions on the law to you, could
2 you return a sentence of death?

3 JUROR #236, DOUGLAS SEIF: Yes.

4 THE COURT: In the event of a death sentence, the law
5 requires that it be a unanimous decision, all 12 jurors
6 would have to agree. The law also requires that all 12
7 jurors must sign a death sentence verdict form. Could you
8 sign your name to a death verdict?

9 JUROR #236, DOUGLAS SEIF: Yes.

10 THE COURT: All right. Now, do you recall the list
11 of the three types of jurors?

12 JUROR #236, DOUGLAS SEIF: (Juror nodded.)

13 THE COURT: Where do you classify yourself in there?

14 JUROR #236, DOUGLAS SEIF: I believe it's Number 3.
15 I think, obviously, that murder can be of a nature to have
16 the death penalty appropriate and also at times not be
17 appropriate.

18 THE COURT: All right. Well, good. You would want
19 to hear all the facts and circumstances before you made
20 your decision?

21 JUROR #236, DOUGLAS SEIF: Right.

22 THE COURT: And if you were selected, would you honor
23 your oath and serve as a fair and impartial juror and
24 approach jury service with an open mind to find the truth
25 from the evidence and the law?

1 JUROR #236, DOUGLAS SEIF: Yes, I would. I would say
2 I would prefer to have someone else serve, because it
3 would be a burden on my partner as far as handling our
4 practice and all of that.

5 THE COURT: Okay.

6 JUROR #236, DOUGLAS SEIF: Because we have a
7 two-person practice. And when one of us is gone, the
8 other one has to take emergencies and stuff like that all
9 the time. But I would be impartial, I believe.

10 THE COURT: All right. Very good. Do you know of
11 any reason why you could not serve in this case?

12 JUROR #236, DOUGLAS SEIF: No. Aside from the
13 inconvenience, no.

14 THE COURT: All right. Well, let me just tell you
15 this before I allow the attorneys to question you on these
16 issues. If you are found qualified, you will be asked to
17 return for jury selection, which we anticipate will be
18 sometime tomorrow. Please understand that you would need
19 to be packed and ready to go. You might not be selected
20 if you're found qualified, but you would need to be packed
21 for five to seven days. You'll be sequestered at the
22 Marriott Hotel. And, of course, that would be an
23 expense-free sequestration. But in any event, I just want
24 you to be aware of that.

25 And, at this time, I will turn the questioning over

1 to the attorneys.

2 MR. BARNETTE: May it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 EXAMINATION

5 BY MR. BARNETTE:

6 Q I want to make sure I pronounce it right, it's
7 Mr. Seif?

8 A Seif.

9 Q Seif. I just want to make sure I'm pronouncing it
10 right. I know the Judge has introduced us before, but my
11 name is Barry Barnette. This is Trey Gowdy, and John
12 Anthony. And we're presenting the State's case.

13 I notice you are a veterinarian. Does your wife also
14 work at the practice.

15 A She's our office manager.

16 Q Okay. So it's a family business?

17 A Yeah, partly. I mean, my partner isn't related, but,
18 yes.

19 Q So your partner would have to pick up the slack?

20 A Right.

21 Q And you have two children, two girls?

22 A Stepdaughters.

23 Q And they're 25 and 27?

24 A Yes.

25 Q And I notice you used to work for the Humane Society

1 in Greenville?

2 A I was there eight years as medical director.

3 Q And that was back in the late 80's, early 90's?

4 A 1985 to 1993.

5 Q What I would like to do is go back and follow-up on
6 some questions the Judge asked you about. I know we've
7 been talking about the death penalty. And I just wonder
8 what your general view is on the death penalty?

9 A I guess my general view is that society has the right
10 to segregate out people either in prison or in
11 circumstances by death. There are people that cannot live
12 in society or we do not want to be in society with us.
13 That's probably how our whole law system works. I don't
14 think it's something historically that -- you know,
15 hundreds of years ago, they applied it to people that
16 stole a loaf of bread. Well, that's kind of ludicrous,
17 obviously, but it's reasonable for some case and some
18 offenses. I -- you know, I don't know if I have a list of
19 cases of where exactly it falls given as far as, you know,
20 aggravated murder or anything like that. I don't
21 necessarily think it's for just any manslaughter or
22 anything like that. I think it's for more severe crimes.

23 Q So it would be a situation that you would just --
24 have you ever thought about the death penalty before you
25 came here today?

1 A Probably in general. I mean, I probably voted for
2 people who are in favor of it. So I guess you think in
3 general terms, it's something that's fine to have in
4 society or fine to have as a penalty for certain crimes.

5 Q So you would -- like the Judge was asking you
6 earlier, you'd listen to the law and listen to both sides
7 of the facts of the case and you'd decide it based off the
8 facts of the case?

9 A Yes.

10 Q You don't have any preconceived notion? You realize
11 that all murders aren't all death penalty and all aren't
12 life without parole?

13 A Right.

14 Q And you'd base it off the facts of what you heard in
15 the case?

16 A Right.

17 Q And that's what you would make your decision off of?

18 A Right.

19 Q And, basically, I think you told the Judge you're a
20 Number 3 juror, you're one that would wait and listen to
21 all the evidence before you made a decision?

22 A Right.

23 MR. BARNETTE: One moment, Judge.

24 THE COURT: Okay.

25 (Pause.)

1 MR. BARNETTE: Thank you for answering my questions.

2 MR. BROUGH: May it please the Court?

3 THE COURT: Yes, sir.

4 EXAMINATION

5 BY MR. BROUGH:

6 Q How are you doing today, Mr. Seif? My name is
7 Christopher Brough. I'll be assisting Karen Quimby in the
8 red right there, and Tam Boggs representing Mr. Fredrick
9 Evins.

10 I noticed you grew up in Grand Rapids, Michigan?

11 A Yes.

12 Q That's the Amway headquarters out there now?

13 A Amway, yes, sir.

14 Q I also noticed that you went to Michigan State?

15 A Right.

16 Q Both for veterinarian school and undergrad?

17 A Right.

18 Q Are you a big college football fan?

19 A Somewhat. Some years I follow them closer than others.

20 Q I'll bet you don't like the Wolverines too much?

21 A No. I don't like the Wolverines.

22 Q I want to ask you, I notice this isn't the first time
23 you've ever been in a witness chair. You used to be an
24 expert witness at times?

25 A Yeah. I have been a witness for -- when I was with

1 the Humane Society those years, I'd be an expert witness
2 for cruelty cases, things of that nature, that were
3 brought -- that the Humane Society would bring to court.
4 And also, I've had clients who over the -- I've been
5 practicing about 20 years, I've had a few occasions where
6 I had to testify. For example, one was a goat dairy that
7 got in a lawsuit with Purina over adulterated feed and I
8 was in a witness in a case such as that. So that's,
9 basically, veterinary matters.

10 Q Did it ever have anything to do with any kind of DNA
11 or anything like that?

12 A No.

13 Q All right. I noticed that you had stated that your
14 business had some break-in's by strangers and disgruntled
15 employees?

16 A Yeah. Over the years, we've had some different
17 break-in's. I guess, cleaning people, things of that
18 nature or people who worked for us. Like one person took
19 a credit card one time and stuff like that.

20 Q I just want to ask you, I know that Mr. Barnette
21 asked you, what exactly, once again, are your views on the
22 death penalty?

23 A I guess I think the death penalty is appropriate for
24 certain crimes or certain, I guess, murders. I don't
25 necessarily think it's a catchall, but I think it's

1 appropriate in some cases.

2 Q So if we got to -- and I do emphasize if --

3 A I guess without knowing, obviously, the facts or -- I
4 won't say the mitigating circumstances. I guess I would
5 look at it and I would consider, I guess, at least, from
6 the indictments read that if they were proved -- it sounds
7 like there's some aggravating circumstances on top of
8 murder. Kidnapping, I guess would be aggravating. I
9 don't know the exact Judge's -- what his instructions
10 would be, but I've heard that. I guess that's the only
11 thing I've heard about the case.

12 Q And you understand that no one will ever force you to
13 give the death penalty, that life without parole would
14 always be an option?

15 A Right.

16 MR. BROUGH: Thank you very much.

17 THE COURT: Mr. Seif, could you step into the hallway
18 for just one second.

19 (Pause.)

20 THE COURT: Any objection from anybody?

21 MR. BROUGH: No objection, Your Honor.

22 MR. BARNETTE: No objection, Your Honor.

23 THE COURT: All right. Bring him back in.

24 (Pause.)

25 THE COURT: I guess it's Dr. Seif?

1 JUROR #326, DOUGLAS SEIF: Yeah.

2 THE COURT: I'm sorry. Just take this with you to
3 notify you that you remain a qualified juror. And we will
4 be, hopefully, striking the jury tomorrow -- or selecting
5 the jury tomorrow. So when you get called to come back,
6 you need to be packed and ready to roll.

7 I would also just caution you, don't read anything,
8 listen to anything, or watch anything about this case.
9 And please don't discuss the case. I understand you may
10 have to talk with your partner about what might be going
11 on, but don't talk about the case even with family or
12 friends. Because an innocent comment might poison the
13 well, so to speak.

14 JUROR #326, DOUGLAS SEIF: Okay. So they will -- I
15 will be called about whether I need to reappear tomorrow?

16 THE COURT: Yes, sir.

17 JUROR #326, DOUGLAS SEIF: And you said something
18 about bags packed or prepared?

19 THE COURT: Yes, sir, for five to seven days.

20 Thank you very much.

21 (Juror #326, Douglas seif, was excused from the
22 courtroom.)

23 THE COURT: Bring the next juror in.

24 (Juror #14, Emily Bivens, a white female, was
25 seated.)

1 THE COURT: Ms. Burns --

2 JUROR #14, EMILY BIVENS: Bivens.

3 THE COURT: I'm sorry. I did that yesterday or
4 Monday.

5 JUROR #14, EMILY BIVENS: That's okay.

6 THE COURT: Let me just -- a couple of things. I
7 want to put you at ease, if I can. It's easier said than
8 done. We all recognize that that's the hot seat, so to
9 speak. And let me just tell you, though, that it's
10 perfectly normal and natural for you to feel anxious or
11 nervous where you are. And everybody in the courtroom
12 understands that and we all will be sensitive to that.
13 And we want you to relax as best you can. And I think
14 you'll find that as I and the lawyers talk to you that
15 it's really not going to be as bad as it seems like it
16 would be. But in any event, what I want to talk to you
17 about is give you a little road map. We need to talk to
18 you about -- the subject of what we'll talk about will
19 include whether you know anything about the case, whether
20 you can be fair and impartial, and then, because of the
21 serious nature of this case, we need to talk about your
22 views on the death penalty.

23 JUROR #14, EMILY BIVENS: All right.

24 THE COURT: And a lot of people consider that to be a
25 very personal and private issue and it seems invasive that

1 we would be asking you about that, particularly, when a
2 lot of people are not sure or settled in their own minds
3 about how they feel about it. Well, everyone in here
4 understands that and all we -- I will tell you in that
5 regard there are no right answers and there are no wrong
6 answers. The only answers we would ask from you is that
7 you give us candid, complete, and truthful answers to
8 these questions. And I promise no one will judge you on
9 these answers. There won't be a test that you'll have to
10 take. And it's just because of the serious nature of this
11 case that we need to talk about those things.

12 Now, in order for me to get to that point where I can
13 talk to you, I need to go through the indictments with you
14 just a little bit. I will remind you the indictments are
15 not evidence and should not be considered evidence in any
16 way whatsoever. Okay. But they do allege certain things.
17 And I'm going to read parts of the indictments to give you
18 a better description of the facts.

19 The first indictment is for murder. And it alleges
20 that Mr. Fredrick Antonio Evins did in Spartanburg County
21 on or about February 13th, 2003, feloniously, willfully,
22 and with malice aforethought kill Rhonda Marie Ward by
23 stabbing. The next indictment is for kidnapping. It
24 alleges that Mr. Evins did in Spartanburg County on or
25 about the same date did unlawfully seize, confine, and

1 kidnap Rhonda Marie Ward. The next indictment is for
2 criminal sexual conduct. And it alleges that Mr. Evins
3 did on or about the same date, which was February 13th of
4 2003, willfully and unlawfully commit a sexual battery
5 upon Rhonda Marie Ward. And, finally, the last indictment
6 is for grand larceny. And it alleges that Mr. Evins did
7 on or about the same date, which is February 13th of 2003,
8 feloniously take or carry away a 1993 Nissan Sentra and
9 the contents thereof belonging to Rhonda Marie Ward. Now,
10 those are just allegations and they're not in evidence in
11 any way.

12 So having told you about the case, I want to tell you
13 that we recognize that there's been publicity about the
14 case. It's been on TV, it's been in the newspaper, and
15 it's been on the radio. So my first question to you would
16 be, have you heard, read, or seen anything about this
17 case?

18 JUROR #14, EMILY BIVENS: Yes.

19 THE COURT: Okay. Now, I know that you said that you
20 have worked previously with Mr. Evins; is that correct?

21 JUROR #14, EMILY BIVENS: That's correct.

22 THE COURT: Can you tell me a little bit more about
23 that? How long did you work with him? How well did you
24 know him?

25 JUROR #14, EMILY BIVENS: People come and go so much

1 that I'm not sure exactly how long he worked there with
2 us, but it was during the alleged times of the murder.
3 And we -- okay. I'm sorry. I lost my train of thought.
4 It was, I would say, 2002 to 2003. We saw in the paper --
5 him in the paper. And that's -- he wasn't there anymore,
6 so.

7 THE COURT: Well, did you read the paper then?

8 JUROR #14, EMILY BIVENS: I read the paper and
9 watched the news.

10 THE COURT: What do you remember knowing about the
11 case?

12 JUROR #14, EMILY BIVENS: This one? This case?

13 THE COURT: Well, what else do you know?

14 JUROR #14, EMILY BIVENS: I know this case is the
15 Cigarette's 4 Less lady. And he, supposedly, took her car
16 and her. And I don't remember where it was, but they
17 found her body and everything.

18 There was also the librarian. I remember they found
19 her in Duncan Park. She was running or walking. But this
20 is the other one.

21 THE COURT: All right. Well, I appreciate you
22 telling me that. Now, let me tell you that if you were
23 selected as a juror in the case, your oath would require
24 you to put all of that aside, anything you might have
25 read, seen, or heard. Because the facts of the case have

1 to be determined solely from the evidence presented in the
2 courtroom. Could you do that?

3 JUROR #14, EMILY BIVENS: Yes.

4 THE COURT: Well, now, be honest with me. Let me
5 tell you, don't give me the answers you think I want.

6 JUROR #14, EMILY BIVENS: I mean, knowing him, I
7 already have decisions of how he is and everything. We
8 spoke. We worked together, so we spoke a lot. And, you
9 know, I know how he is and I already have decisions.

10 THE COURT: You've already made up your mind?

11 JUROR #14, EMILY BIVENS: Yeah, not exactly made up
12 my mind. I haven't seen any evidence or anything, but,
13 you know, mannerisms and everything. I knew him and
14 thought he was a nice guy.

15 THE COURT: But do you have an opinion about the
16 facts?

17 JUROR #14, EMILY BIVENS: I don't know. But to make
18 up a decision, it would be kind of hard.

19 THE COURT: Well, I mean, at this point, do you have
20 an opinion about the facts in the case?

21 JUROR #14, EMILY BIVENS: (No response.)

22 THE COURT: It's okay if you do. It would be kind of
23 normal for you to have them.

24 JUROR #14, EMILY BIVENS: I don't really have an
25 opinion.

1 THE COURT: All right. Do you have an opinion about
2 the guilt or innocence of Mr. Evins at this point?

3 JUROR #14, EMILY BIVENS: I do not have an opinion
4 about that.

5 THE COURT: All right. Well, let me tell you that
6 keeping in mind the legal principles I've talked about,
7 the presumption of innocence and the State's obligation to
8 prove guilt beyond a reasonable doubt, could you,
9 depending upon the facts and circumstances presented at
10 trial and the law that I would instruct you, could you
11 find the Defendant either guilty or not guilty depending
12 on what the evidence is?

13 JUROR #14, EMILY BIVENS: Knowing him, it would be a
14 hard decision. And I don't think I could decide.

15 THE COURT: Okay. Do you think it would
16 substantially impair your ability to make a decision in
17 this case?

18 JUROR #14, EMILY BIVENS: It would.

19 THE COURT: Okay. And I know -- do you think you
20 could be -- I mean, it sounds like you've already got an
21 opinion, and it would be very difficult for you to be cold
22 and objective; is that correct?

23 JUROR #14, EMILY BIVENS: That's correct.

24 THE COURT: Okay. Well, let me ask you, could you
25 step out in the hall for just a second and I'll be right

1 back with you.

2 (Pause.)

3 THE COURT: Clearly, I've got some problems with it.

4 What do you all -- I'll be happy to listen.

5 MR. BROUGH: We don't believe she's qualified, Your
6 Honor.

7 THE COURT: You don't?

8 How about you the State?

9 MR. BARNETTE: We agree, Your Honor.

10 THE COURT: All right. Well, let's bring her back in
11 and let me cut her loose.

12 (Pause.)

13 THE COURT: Ma'am, you don't have to sit down over
14 there.

15 Ms. Bivens, I apologize for not getting your name
16 right. I want to thank you for your service and
17 everything you've done up to this point. And I realize
18 how difficult it must have been being in your position. I
19 want you to know that I am going to excuse you from
20 service in this case, and thank you for everything that
21 you've done.

22 JUROR #14, EMILY BIVENS: Okay. Thank you.

23 (Juror #14, Emily Bivens, was excused from the
24 courtroom.)

25 THE COURT: Bring the next juror in, please.

1 (Juror #389, John Williamson, a white male, was
2 seated.)

3 THE COURT: Mr. Williamson, welcome to the courtroom.
4 I'll Wave the magic wand and put you at your ease and make
5 you feel comfortable. I know we can't do that, but I want
6 you to know that everybody in here understands that you
7 probably feel a little nervous and are suffering from some
8 anxiety about where you are. Everybody knows that. It's
9 normal and natural.

10 I want to tell you what we're going to try to do.
11 I'm going to try and give you an idea so you won't be
12 surprised. We're going to ask you some questions. I'm
13 going to ask you some questions and then the attorneys are
14 going to ask you some questions. The subject matter is
15 going to be pretty much confined to what you know about
16 the case, any -- whether or not you can be fair and
17 impartial and, finally, because of the serious nature of
18 this case, we need to talk to you about your views on the
19 death penalty. That's, basically, the subject matter
20 we're going to cover when we talk to you and ask you
21 questions.

22 So I will tell you that there are no right or wrong
23 answers. And all we would ask you to do is to be fully,
24 totally candid, and give us a full and complete answers,
25 be truthful. And if you do that, there is no right and no

1 wrong answer, and your answers won't be judged. They're
2 not going to be put to some kind of test. We just need to
3 know how you feel about things. And I know it's an
4 intrusive type of question, because a lot of people are
5 not sure about their position on the death penalty.
6 They're conflicted in their own mind. A lot of people
7 consider it to be a very personal issue. So we understand
8 that and we're sensitive to it, but we still need to talk
9 to you about it.

10 JUROR #389, JOHN WILLIAMSON: Okay.

11 THE COURT: In order for me to find out some of this
12 information, I need to make sure we're reading off the
13 same page. So I'm going to read the meaty parts of the
14 indictments to you. And the first one -- and, again, I
15 remind you, these are not evidence. They are not
16 considered to be evidence in any fashion.

17 The first indictment is for murder. And it alleges
18 that Mr. Fredrick Antonio Evins did in Spartanburg County
19 on or about February 13th, 2003, feloniously, willfully,
20 and with malice aforethought kill Rhonda Marie Ward by
21 stabbing. The second indictment is for kidnapping. It
22 alleges that Mr. Evins did on or about the same date
23 unlawfully seize, confine, and kidnap Ms. Rhonda Marie
24 Ward. The next indictment is for criminal sexual conduct.
25 And it alleges that Mr. Evins did on or about the same

1 day, February 13th of 2003, willfully and unlawfully
2 commit a sexual battery upon Rhonda Marie Ward. And,
3 finally, the last indictment is for grand larceny. It
4 alleges that Mr. Evins did on or about that same day,
5 February 13th, 2003, feloniously take and carry away a
6 1993 Nissan Sentra and its contents belonging to Rhonda
7 Marie Ward. Those are the allegations that the State has
8 made in these cases.

9 So we recognize that there has been publicity on TV,
10 in the newspaper, and on the radio about this. My first
11 question to you would be, have you heard, seen, or read
12 anything about this case?

13 JUROR #389, JOHN WILLIAMSON: Very little. But, yes,
14 sir, a little bit on the news and a little bit in the
15 paper.

16 THE COURT: All right. It's important for us to know
17 what you heard, saw, and read.

18 JUROR #389, JOHN WILLIAMSON: About the place on 221,
19 the cigarette place, the little trailer-like thing out
20 there, about a lady getting kidnapped from there and
21 murdered. And I think something along the lines of
22 something getting taken from there. I'm not exactly sure.
23 I remember reading something about it. And about a lady
24 in Cleveland Park, about the same -- basically, it somehow
25 got twisted in that. That's, basically, all I know.

1 THE COURT: All right. That is not what we're here
2 about. We're here about the lady at the cigarette thing.
3 Okay.

4 JUROR #389, JOHN WILLIAMSON: Okay.

5 THE COURT: Now, do you understand that your oath, as
6 a juror, would require you to put aside anything you've
7 read, seen, or heard outside of the courtroom, because the
8 Constitution and law requires that the facts be decided
9 only from the evidence in the courtroom?

10 Do you understand that?

11 JUROR #389, JOHN WILLIAMSON: Yes, sir.

12 THE COURT: Okay. Understanding that, do you think
13 you could put all that aside and serve as a fair and
14 impartial juror and reach a verdict based solely on the
15 evidence presented at trial and in accordance with my
16 instructions on the law?

17 JUROR #389, JOHN WILLIAMSON: It would be hard to,
18 because I've already read certain things and seen certain
19 things on TV. To me, it would be hard.

20 THE COURT: That's a very honest answer and I
21 appreciate that.

22 Have you already formed any kind of opinion, big,
23 small, little, about the facts in the case?

24 JUROR #389, JOHN WILLIAMSON: No, sir.

25 THE COURT: Okay. Well, have you formed any kind of

1 opinion as to the guilt or innocence of Mr. Evins?

2 JUROR #389, JOHN WILLIAMSON: No, sir.

3 THE COURT: All right. Well, keeping in mind the
4 legal principles I've talked to you about, the presumption
5 of innocence and the obligation of the State to prove
6 guilt beyond a reasonable doubt, could you, depending upon
7 the facts and the evidence presented at trial and the law
8 I would instruct you, could you find the Defendant either
9 guilty or not guilty of these charges?

10 JUROR #389, JOHN WILLIAMSON: Depending on the
11 evidence, yes, sir.

12 THE COURT: Your mind is not made up one way or the
13 other?

14 JUROR #389, JOHN WILLIAMSON: No.

15 THE COURT: Now, remember, we may or may not reach
16 the second phase of the case, the sentencing phase, but
17 there's a possibility that we could, so it's important
18 that we talk to you about your views on the death penalty.
19 And when a jury moves to the second or sentencing phase of
20 the case, it means that they have already in the first
21 phase of the case decided that the Defendant is guilty of
22 murder. Okay. That was done in the first phase. In the
23 second phase, the only thing that the jury is going to
24 hear about and there be to consider would be the
25 circumstances of aggravation and the circumstances of

1 mitigation. Okay. You remember those terms that I talked
2 to you about?

3 JUROR #389, JOHN WILLIAMSON: Uh-huh.

4 THE COURT: Now, your oath would require you to
5 abandon any preconceived notions and follow the law as I
6 instruct it and it would require you to give serious and
7 meaningful consideration to the aggravation and the
8 mitigation evidence.

9 Do you understand that and could you follow your oath
10 and do that?

11 JUROR #389, JOHN WILLIAMSON: Yeah.

12 THE COURT: Okay. Now, let me give you a
13 hypothetical question. If you were a juror in the second
14 phase of the trial, the sentencing phase, could you,
15 depending upon the particular facts and circumstances of
16 the case, including the consideration of all the
17 aggravating and mitigating evidence and the law I would
18 give you, could you return a sentence of life in prison?

19 JUROR #389, JOHN WILLIAMSON: Yeah.

20 THE COURT: All right. Now, a second hypothetical
21 question, if you're a juror in the second phase of the
22 trial, guilt is already decided as to murder, could you,
23 depending upon the particular facts and circumstances of
24 the case and including all the aggravating and mitigating
25 circumstances and the law I would give you, could you

1 return a sentence of death?

2 JUROR #389, JOHN WILLIAMSON: The death penalty?

3 THE COURT: Yes.

4 JUROR #389, JOHN WILLIAMSON: I believe under certain
5 circumstances, yes.

6 THE COURT: Okay.

7 JUROR #389, JOHN WILLIAMSON: If that makes any
8 sense.

9 THE COURT: It certainly does.

10 All right. And in the event that the jury agreed on
11 a death sentence, and it would have to be unanimous, the
12 law requires that everyone sign their name to the verdict
13 form. Could -- in that event, could you sign your name to
14 a death sentence verdict form?

15 JUROR #389, JOHN WILLIAMSON: I believe I could, yes,
16 sir.

17 THE COURT: All right. Thank you.

18 Now, do you recall the sheet with the three types of
19 jurors on it?

20 JUROR #389, JOHN WILLIAMSON: The three types of
21 jurors?

22 THE COURT: Yes, that I had back --

23 JUROR #389, JOHN WILLIAMSON: I read it. I'm nervous.

24 THE COURT: That's all right.

25 JUROR #389, JOHN WILLIAMSON: I remember reading some

1 of it, yes, sir.

2 THE COURT: Do you know which type you would be?

3 JUROR #389, JOHN WILLIAMSON: No, sir. I'm nervous.
4 I'd have to read it again, really.

5 THE COURT: All right. Well, let me just kind of
6 summarize it for you.

7 Would you rather read it yourself?

8 JUROR #389, JOHN WILLIAMSON: No. That's fine. Go
9 ahead.

10 THE COURT: All right. I don't know why I
11 volunteered to do that, I've been talking for three days
12 straight, but here I go.

13 The first type of juror is one who once the crime of
14 murder has been proved by the State and the juror is
15 considering punishment feels that he or she would give the
16 death penalty in each and every case. The juror feels
17 that once a murder has been committed, the death penalty
18 is the appropriate punishment no matter what the
19 circumstances. That's the first type.

20 The second type is a juror who, although the guilt of
21 the Defendant has been determined, under no circumstances
22 could ever give the death penalty. This juror would need
23 not hear the facts and the circumstances in aggravation in
24 that particular case, because the juror would have his
25 mind -- his or her mind made up concerning punishment no

1 matter what they heard. That's the second kind.

2 The third kind is a juror, who, although the guilt of
3 the Defendant has been determined, would not have his or
4 her mind made up concerning punishment. This juror would
5 need to hear the facts and circumstances in aggravation
6 and in mitigation and would want to listen to and follow
7 the law as the Judge charges the jury before he or she
8 could make a decision regarding punishment. And if the
9 facts so warranted, the juror could bring in a verdict of
10 life imprisonment or if the facts so warranted, he or she
11 could bring in a sentence of death.

12 Now, of those three, which you would consider
13 yourself to be?

14 JUROR #389, JOHN WILLIAMSON: I would say the last
15 one.

16 THE COURT: You would want to hear everything before
17 you made a decision?

18 JUROR #389, JOHN WILLIAMSON: Yeah.

19 THE COURT: Now, let me ask you, finally, if you were
20 selected, would you honor your oath to serve as a fair and
21 impartial juror and approach jury service with an open
22 mind and find the truth from the evidence and apply the
23 law as I instructed it?

24 JUROR #389, JOHN WILLIAMSON: Yes, sir.

25 THE COURT: All right. Do you know of any reason why

1 you could not serve as a juror in this case?

2 JUROR #389, JOHN WILLIAMSON: Just that I get nervous.

3 THE COURT: All right.

4 JUROR #389, JOHN WILLIAMSON: No. I don't see why.

5 THE COURT: All right. Well, let me just tell you
6 that if you are qualified, we're going to be bringing all
7 the qualified jurors back probably tomorrow sometime and
8 select the jury. And we anticipate -- and the jury that's
9 selected will be sequestered from five to seven days is
10 what we anticipate. So if you are qualified and you are
11 called to come back -- and you'll know if you're qualified
12 today -- you need to be prepared. So when you come back,
13 you need to be packed and ready to go.

14 JUROR #389, JOHN WILLIAMSON: Yes, sir.

15 THE COURT: I'll let the lawyers question you at this
16 time.

17 EXAMINATION

18 BY MR. BOGGS:

19 Q Hello, Mr. Williamson.

20 A Hello.

21 Q I've been doing this for 28 years and I still get
22 nervous, so you're not alone.

23 A Okay.

24 Q I appreciate your candor about the questions the
25 Judge was asking you, specifically, about information you

1 might have heard before you came to court.

2 A Okay.

3 Q And one of the questions, I think you mentioned
4 something about you heard something about Cleveland Park.
5 Was that another case that you heard about?

6 A It must have been, but it must have been in the same
7 paper. I don't know. It might have been somewhere in
8 there.

9 Q Same article or something?

10 A Yeah. I may have heard it.

11 Q Well, tell me -- as best as you can remember, tell me
12 what you remember hearing about that.

13 A I know I read something not too long ago or heard
14 something. I don't exactly remember how it happened or
15 what. But for some reason, I thought it was linked
16 together.

17 Q Okay. So whatever it was you heard about Cleveland
18 Park was linked to the case --

19 A That's what I thought.

20 Q And when the Judge asked you could you put that out
21 of your mind, if -- that's technically what you're
22 supposed to do, but it's kind of like also saying
23 disregard that last statement when you've already heard
24 it; right?

25 So, realistically -- and you're human, like all of us

1 are, unless you're a psychic or something, it might be
2 pretty difficult. But just what I need to know -- and,
3 again, this is purely you, just how you feel about it. Do
4 you really think you could put it out of your mind that
5 you had heard some information that might link one to the
6 other, or put it out of your mind that you even heard
7 anything about this case, period?

8 A I can't say that I could, because I've already heard
9 it.

10 Q Sure.

11 A I've already seen it.

12 Q I mean, like I said, you're human just like the rest
13 of us. But what we really need is somebody that serves on
14 the jury that's not -- that hasn't been already exposed to
15 it. Okay. So that whatever the jury hears and makes the
16 decision is what they hear in the courtroom, not what was
17 in the paper, on the news, or they heard at the barbershop
18 or something like that. So you didn't do anything wrong
19 with keeping up with the news, you understand. It's just
20 that we need somebody that hasn't been exposed to it or
21 who can put it out of their mind.

22 So my question, again, is to think about it, can you
23 realistically put it out of your mind that you've already
24 gained information about this case and another situation
25 that is linked to this case? And if you can't, then

1 that's fine.

2 A I mean, I've already heard it.

3 Q I understand.

4 A I don't know. I mean, I really -- I probably --

5 Q Well, let me ask it a different way. Just the fact
6 that you heard it and even if you were trying to put it
7 out of your mind, just the fact that it is in your mind,
8 do you think that can impair maybe your ability to be as
9 completely unbiased as you would if you had never heard it
10 in the first place? Did you follow that question?

11 A Yeah. I mean, I'd try to be fair.

12 Q I understand that.

13 A But putting it out of my mind, I don't know.

14 Q So you think you would have a problem being --

15 A I mean, I'd still remember it. I mean, I don't know
16 if it -- I don't know if it would effect the way I felt.
17 That's a hard question.

18 Q I know. And I'm not trying to make it hard. And if
19 you'd rather me rephrase it or -- but you kind of get the
20 gist of what I'm looking for?

21 A Yeah. I don't think it would make me -- I don't
22 think it would persuade me one way or the other, no.

23 Q And I'm glad you said that, but I'm not really asking
24 whether you'd make a decision on it. What I'm asking is,
25 would it impair your ability to be, you know, kind of

1 leaning one way or the other? And if you think there's
2 that possibility, that's what we need to know.

3 A There may be a possibility.

4 Q Okay. Well, let me ask you this, if you were on the
5 jury and another juror brought up something he or she had
6 heard in the news, would you bring that to the attention
7 of the Judge?

8 A Say that again.

9 Q You're not supposed to bring in anything to the jury
10 room that you've heard on the outside.

11 A Yeah.

12 Q What would you do if another juror brought up some
13 information that he had heard or she had heard in the
14 news? Like sitting back there and saying, oh, I remember
15 reading about that in the paper a year and a half ago.
16 What do you think you would do?

17 A I mean, I wouldn't take it to heart or nothing as far
18 as -- you know, if I hadn't heard it from being in the
19 courtroom or seeing it on TV or reading it in the news, I
20 wouldn't pay as much attention to it.

21 Q Precisely. Now that you have gotten some information
22 before and another juror says, yeah, I remember that, I do
23 remember that --

24 A What do you mean what would I do? I don't
25 understand.

1 Q Well, if you were put on the jury, that means that
2 you've already told this Judge under oath that that prior
3 knowledge you have would have no effect on you at all?

4 A Uh-huh.

5 Q Okay. So if you got on the jury and then you're
6 sitting back in the jury room and then another juror says,
7 I remember something about this. Again, bringing in
8 information that's not supposed to be brought in. How do
9 you think that would effect you?

10 A I mean, as far as -- I wouldn't let it effect me no
11 way as far as the case was going.

12 Q Okay. But do you think that would be the kind of
13 information that the jury should even hear?

14 MR. ANTHONY: I'd object. Because that's not his
15 decision whether that's the kind of information that the
16 jury should hear.

17 THE COURT: Let's move on. I've instructed them all
18 not to discuss that.

19 BY MR. BOGGS:

20 Q I guess, in summary, what I'm asking is, when the
21 Judge asked you the question about whether or not your
22 prior information about this case would affect you, you
23 said it would be hard to put it out of your mind what you
24 had heard. And that's, basically, it. You don't think --
25 your position is that it would be real hard for you to put

1 whatever you've heard out of your mind; is that correct?

2 A Yes, sir.

3 MR. BOGGS: Just a minute, Mr. Williamson.

4 (Pause.)

5 MR. BOGGS: I think that's all the questions I have.

6 Thank you, Mr. Williamson.

7 EXAMINATION

8 BY MR. ANTHONY:

9 Q Mr. Williamson, how are you doing?

10 A Good.

11 Q My name is John Anthony. I work for the Solicitor.

12 I'm an attorney with the Solicitor's Office. This is

13 Barry Barnette, and this is Trey Gowdy. We're the

14 attorneys that will be representing the State in this

15 case. I have just a couple questions that I want to ask

16 you.

17 You were asked a few minutes ago about the death

18 penalty and about whether you thought you could impose it

19 in a case. And as I recall -- and I don't want to put

20 words in your mouth. But as I recall what you told the

21 Judge is that there would be circumstances where you could

22 impose it?

23 A Yeah, certain circumstances.

24 Q Okay. And if you would, just tell me what your

25 thought process is, you know, how you look at things to

1 come to the opinion that there would be circumstances
2 where you could impose the death penalty?

3 A If it was maybe -- one of the things was if it was
4 planned or thought out. It's hard to say the certain
5 things. A lot of it would have to be like if it was
6 planned or had a -- you know, thought out, you know,
7 beforehand or -- I don't really think spur of the moment
8 or something. I don't know. Mainly, if it was planned
9 out and, I guess, you would call it aggravated or
10 whatever.

11 Q Okay. So what you're saying -- and I don't want to
12 put words in your mouth.

13 A I'm just so nervous that I can't really think anymore
14 than that.

15 Q Sure. I don't want to put words in your mouth. But
16 is what you're saying is that there would be some
17 circumstances that if you heard about a particular crime
18 that you would think, well, this is the kind of crime that
19 a person needs to get a death sentence?

20 A Yeah, you know, hearing about evidence and hearing
21 about the case and everything.

22 Q Okay. And then you also would be willing -- or let
23 me know if you couldn't. But would you also be willing to
24 listen to the evidence that the Defense puts up, what's
25 called the mitigating evidence, to try and show the death

1 penalty wouldn't be appropriate in this case and that a
2 life without parole sentence is what's appropriate?

3 A Could I go that way also, is that what you're asking
4 me?

5 Q Yes, sir.

6 A Depending on the evidence and the way the case goes,
7 yes, sir, I could go either way.

8 Q And if you have an option in a case, which is --
9 assuming this goes to the sentencing phase, there will be
10 an option of either a death sentence or life without
11 parole sentence, would you always chose the life without
12 parole sentence if that were the option?

13 A What was the other one?

14 Q Or the death sentence. What I'm asking is, if you
15 have an option between the two, life without parole or
16 death, would you always choose life without parole?

17 A Would I always, no, sir, depending on the way the
18 case goes and the evidence.

19 Q Okay. And it's like the Judge told you, before a
20 death warrant can go into effect, every member of a jury
21 has to sign it. So if you thought that a death sentence
22 was the right sentence to impose, would you be willing to
23 put your name down on a line saying, I agree that this man
24 needs to receive the death penalty?

25 A If that's what I chose, yeah, I guess I could.

1 MR. ANTHONY: If I could have one moment.

2 (Pause.)

3 MR. ANTHONY: That's all the question from the State.

4 Thank you very much, Mr. Williamson.

5 THE COURT: Mr. Williamson, would you step into the
6 hallway for me for just a few minutes?

7 JUROR #389, JOHN WILLIAMSON: Yes, sir.

8 THE COURT: Thank you, sir.

9 (Pause.)

10 THE COURT: All right. Any objections?

11 MR. ANTHONY: Not from the State.

12 MR. BOGGS: I thought they would object and I was
13 going to join in, because the last time somebody limited
14 the only way he could give the death penalty was on just
15 one case -- but we object to him, Your Honor, primarily
16 because --

17 THE COURT: Spill over?

18 MR. BOGGS: Yes, sir.

19 You know he wanted to try to please and whatnot, but
20 it's obvious that he's effected and he can't get it out of
21 his mind. And it would be bad enough were it just this
22 case.

23 THE COURT: Okay. Anything you've got to -- do you
24 want to respond to that? He said he couldn't get it out
25 of his mind about the case.

1 MR. GOWDY: I don't want to violate the two-lawyer
2 rule. And I don't want to violate what the Court said
3 earlier about not comparing the contrasting jurors. But I
4 think it's more than ironic that Juror #246 knew much more
5 about the facts of the Huff murder than this one and not
6 one word was said by the Defense attorneys about her
7 qualifications.

8 So the only thing I'm saying is, whatever the
9 standard is, it ought to be equally applied. She was
10 found qualified and she knew far more about the Huff
11 murder than this juror, who doesn't even know what park it
12 took place in.

13 THE COURT: All right. What do you say about that?

14 MR. BOGGS: She said she could put it out of her mind
15 and it wouldn't have any bearing. This fellow says he
16 doesn't know. And -- no, I think he said it would be
17 awfully hard. And he never did say, yes, I can serve on
18 this jury and not be effected by the prior information
19 that I had.

20 MR. GOWDY: Your Honor, the standard is not can they
21 put it out of their mind. I mean, you cannot have a
22 frontal lobotomy and have that part of your mind removed.
23 The question is, is it going to impact you?

24 THE COURT: And I think I asked him, would it
25 substantially impair your ability to decide the case?

1 Could you look and see if you have the question?

2 MR. GOWDY: He was asked if another juror brought it
3 up, what impact would it have on him. And he said, I
4 wouldn't consider it because I'm not supposed to.

5 THE COURT: I liked him as a juror. Let's just see
6 what he said.

7 Well, you know in that juror comparison, you all did
8 not object to Juror #246 or did you?

9 MR. GOWDY: No, sir.

10 THE COURT: You didn't?

11 MR. GOWDY: No, sir. We haven't objected to any
12 jurors that had prior knowledge of the Huff murder. We've
13 been consistent on that.

14 MR. BOGGS: Imagine that.

15 MR. GOWDY: Your Honor, in talking to Mr. Anthony, in
16 his notes, he has no definitive from this juror on his
17 ability for it to not impact him. And strange as it may
18 be for me to be fair, if he can't say that, then we are
19 not opposed to his disqualification. I don't remember it.
20 Mr. Anthony's notes --

21 THE COURT: Let's see what he said when I asked him
22 that.

23 MR. GOWDY: If he said that, we're not opposed to his
24 disqualification. I think, upon reviewing Mr. Anthony's
25 notes, that if he did not definitively say that it would

1 not impair -- not that he can't put it out of his mind, I
2 don't think that's the standard, but he would not say that
3 it would not impact his judgment. So I think -- I don't
4 feel comfortable saying he's qualified under those
5 circumstances.

6 THE COURT: Okay. Bring him back in, please.

7 (Pause.)

8 THE COURT: Mr. Williamson, I want to thank you for
9 your service today. And I hope that wasn't as bad as you
10 thought it was going to be. I know you wouldn't want to
11 do it again. I am going to -- I've made the decision to
12 excuse you from service. The fact that you've been
13 exposed and that you could not say for sure that you
14 could -- you know, it wouldn't impact you, for that reason
15 I'm going to excuse you from service in this case. But we
16 certainly appreciate the sacrifices you've made in this
17 case.

18 JUROR #389, JOHN WILLIAMSON: All right.

19 THE COURT: Thank you very much.

20 (Juror #389, John Williamson, was excused from the
21 courtroom.)

22 THE COURT: Bring the next juror in.

23 (Juror #137, Charley Gwinn, a white male, was
24 seated.)

25 THE COURT: Mr. Gwinn, how are you doing?

1 JUROR #137, CHARLEY GWINN: Fine.

2 THE COURT: We're going to run through some questions
3 with you, if that's all right. I just want you to
4 understand before we get started there are no right or
5 wrong answers or anything like that. You need to answer
6 these questions as truthfully as you possibly can. And I
7 promise you there are no right or wrong answers and nobody
8 is going to embarrass you in any way.

9 JUROR #137, CHARLEY GWINN: I've done that for
10 myself.

11 THE COURT: Okay. Well, you're like me then.

12 Let me just -- I'm going to read these indictments to
13 you and remind you that they're not evidence. Okay. And
14 they shouldn't be considered as evidence. They're just
15 allegations. Okay.

16 And the first one alleges that Mr. Fredrick Antonio
17 Evins did in Spartanburg County on or about February 13th,
18 2003, feloniously, willfully, and with malice aforethought
19 kill Rhonda Marie Ward by stabbing. The next indictment
20 is kidnapping. It alleges that Mr. Evins did on or about
21 the same date unlawfully confine or kidnap Rhonda Marie
22 Ward. The next indictment is for criminal sexual conduct.
23 And it alleges that Mr. Evins did on or about the same
24 day, February 13th of 2003, willfully and unlawfully
25 commit a sexual battery upon the victim, Rhonda Marie