

**VOLUME THREE OF NINE**

STATE OF SOUTH CAROLINA

In The Supreme Court

---

APPEAL FROM LEXINGTON COUNTY

Lee S. Alford, Circuit Court Judge

---

**RECEIVED**

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**S.C. SUPREME COURT**

THE STATE,

RESPONDENT,

V.

NORMAN STARNES,

APPELLANT

---

RECORD ON APPEAL

---

JOSEPH L. SAVITZ, III  
Senior Appellate Defender

ELIZABETH A. FRANKLIN-BEST  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

Attorneys for Appellant

---

HENRY DARGAN MCMASTER  
Attorney General

JOHN W. MCINTOSH  
Chief Deputy Attorney General

DONALD J. ZELENKA  
Assistant Deputy Attorney General

S. CREIGHTON WATERS  
Senior Assistant Attorney General  
Office of Attorney General  
PO Box 11549  
Columbia, SC 29211

(803) 734-3727

HAROLD W. GOWDY, III  
Solicitor, Seventh Judicial Circuit  
180 Magnolia Street, 3rd Fl  
Spartanburg, SC 29306-2335  
(803) 596-2575

Attorneys for Respondent

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\*NOTE: COURT’S EXHIBIT 10 (DVD OF REENACTMENT) ARE FILED AT THE SOUTH CAROLINA SUPREME COURT

1           To be perfectly honest, I don't know specifically  
2           how they did the testing. I only know that the testing that  
3           they did do was the only testing procedure that was  
4           available in regard to amphetamine, methamphetamine, and so  
5           that is the testing procedure that we chose.

6           I don't know that they would do it by segment. I  
7           don't know if they can do it by segment. That wasn't an  
8           option whenever I discussed it with them to begin with.

9           MR. COLER: Okay. So if segmentation were to be  
10          done, that would have to be someplace other than NSM Labs,  
11          as far as you know?

12          SLED AGENT DUSTIN SMITH: As far as I know, yes.

13          THE COURT: All right. Let me -- can I interrupt  
14          just a minute. Judge Alford.

15          SLED AGENT DUSTIN SMITH: Yes, sir.

16          THE COURT: Agent Smith?

17          SLED AGENT DUSTIN SMITH: Yes, sir.

18          THE COURT: Would you call the lab up there and --  
19          I assume that they still have the sample, is that correct?

20          SLED AGENT DUSTIN SMITH: They have -- they have  
21          both hair samples and they have the dried blood samples,  
22          that's correct.

23          THE COURT: Would you please -- can you call them  
24          and ask them to run -- to see if they can run the tests that  
25          is sought by Dr. Gamble, as far as segmentation is

1 concerned, and let him talk to them about it and see if they  
2 can run the tests that he wants them to run?

3 SLED AGENT DUSTIN SMITH: Okay. Yes, I will.

4 THE COURT: If you can do that.

5 Now, what's happening is we are getting down to --  
6 we are almost finished getting the jury pool in here. We  
7 are going to get started with some testimony and evidence,  
8 so this case is moving right along.

9 SLED AGENT DUSTIN SMITH: Yes, sir.

10 THE COURT: And if we are going to be able to get  
11 results in here, we need that, and we need to get it done as  
12 soon as we can.

13 SLED AGENT DUSTIN SMITH: Yes, sir.

14 THE COURT: So, you know, rightly or wrongly, Dr.  
15 Mason is telling us he can't get anything done, they won't  
16 run any tests for him, because it's not in his account.

17 SLED AGENT DUSTIN SMITH: Right.

18 THE COURT: And, you know, I thought we had took  
19 care of that by letter from your agency, but I don't know  
20 what else we need to do, but whatever it takes, I would like  
21 to see him run whatever tests they can run.

22 SLED AGENT DUSTIN SMITH: Okay.

23 THE COURT: And if they can't run the tests, I  
24 would like for them to give it to us in writing.

25 SLED AGENT DUSTIN SMITH: Okay.

1 THE COURT: If they can't run this particular  
2 test.

3 SLED AGENT DUSTIN SMITH: Okay.

4 THE COURT: I would like to --

5 SLED AGENT DUSTIN SMITH: I will call and discuss  
6 it with them. If it's a letter that I provided essentially  
7 giving them full rights as to any of the testing procedures  
8 that we have already requested and already been performed.

9 THE COURT: Okay.

10 SLED AGENT DUSTIN SMITH: And did not provide him,  
11 you know, to advise for additional testing because then  
12 there would be the funding issues.

13 THE COURT: He's willing to pay for them out of  
14 his account.

15 SLED AGENT DUSTIN SMITH: Okay.

16 THE COURT: And so he says he has the money and  
17 he's willing -- in his account and he's willing to pay them  
18 out of his account. Am I --

19 MR. STARNES: That's correct, Your Honor.

20 THE COURT: -- saying that correctly?

21 He just needs to be able to direct them as to run  
22 what tests they can run. If it's something they can't run,  
23 I would like to see that in writing from them.

24 SLED AGENT DUSTIN SMITH: Okay.

25 THE COURT: Okay. And if it's something they can



1 run --

2 SLED AGENT DUSTIN SMITH: If you would like for me  
3 to give you a call back today, or in the morning, I would be  
4 glad to, to let you know what I learned from them.

5 THE COURT: Okay. Please call. You can call Mr.  
6 Coler. He's carrying his phone with him, or his blackberry  
7 with him, and you can perhaps call him. Of course, we are  
8 going to be tied up for probably the balance of the day of  
9 us drawing a jury.

10 SLED AGENT DUSTIN SMITH: Okay.

11 THE COURT: But if you can maybe give him a call,  
12 even a voicemail or something, he can get back with you.

13 But the main thing I would like to be sure of is  
14 that Dr. Mason would have the ability to ask them to run  
15 whatever tests he thinks he wants them to run, if they have  
16 the ability to run the test.

17 If they do not have the ability, then I would like  
18 for them maybe to put that in writing maybe to Dr. Mason, or  
19 to some someone, so we would have a record of that in case  
20 it comes up at trial.

21 SLED AGENT DUSTIN SMITH: Okay. Now, my one  
22 question that I do have is what if they will not run any  
23 tests -- they will not allow him to request testing without  
24 samples being under his account? Do you have any objection  
25 to him taking care of the evidence?

1 THE COURT: That's a bigger problem. I don't know  
2 how we are going to have a chain of evidence if we get to  
3 the trial.

4 SLED AGENT DUSTIN SMITH: Right. That's been my  
5 concern. I certainly don't mind him discussing things with  
6 them and I don't mind him asking about tests and finding out  
7 which tests that he was going to do --

8 THE COURT: Let me ask you -- let me --

9 SLED AGENT DUSTIN SMITH: -- tests performed, and  
10 he wanted the evidence to be transferred -- transferred into  
11 his account, which is something that I didn't think that we  
12 should do from my previous conversations.

13 THE COURT: All right. Let me ask you this. Is  
14 it possible -- he says that he does not -- Mr. Starnes tells  
15 us that Dr. Mason will not handle any evidence personally  
16 himself. The only thing he will do is direct testing, but  
17 he will not personally handle it. So would it be possible,  
18 even if we transfer it to his account so he can pay for it  
19 and direct the test, that the sample would be sent back to  
20 SLED, once the testing is done? We did that, I think, in  
21 one other case which regards to some clothing or something.

22 SLED AGENT DUSTIN SMITH: I can certainly ask them  
23 whenever I speak to them. I don't know specifically how  
24 that works up there, to be honest. This is the first time  
25 that I have ever had to do anything like this with having a

1 third party involved as much as they have been involved.

2 THE COURT: Okay.

3 SLED AGENT DUSTIN SMITH: But I will be glad to  
4 discuss it with them and let Mr. Coler know.

5 THE COURT: All right. Well, please see what you  
6 can do.

7 Of course, Mr. Starnes should have started a lot  
8 sooner on this, obviously, because we have been preparing  
9 for trial for two years, and -- since I have been involved  
10 in it, and we get here at the last minute. But be that as  
11 it may, I want to try to get the testing and results, if we  
12 can.

13 SLED AGENT DUSTIN SMITH: Okay.

14 THE COURT: And so -- you know, I want to do the  
15 best I can to get that done.

16 SLED AGENT DUSTIN SMITH: Right.

17 THE COURT: And so if you could accommodate us, I  
18 would surely appreciate it. And, otherwise, it's something  
19 we are going to have to deal with as an issue in the trial  
20 when we get to that part.

21 But if whatever needs to be done. If it needs to  
22 be transferred, perhaps it could be transferred to his  
23 account so he could pay for it, and go ahead and make  
24 arrangements to get it done right away, because that's what  
25 they want before they are going to run the test.

1 SLED AGENT DUSTIN SMITH: Okay.

2 THE COURT: And then see if he can put it in his  
3 account and let him direct that -- ask them to run the test  
4 that he wants them to run, if they have the ability to run  
5 them, and then --

6 SLED AGENT DUSTIN SMITH: Okay.

7 THE COURT: -- to send the evidence, whatever is  
8 left of the evidence, back to SLED.

9 SLED AGENT DUSTIN SMITH: Okay. I'll ask them.

10 THE COURT: All right. And whatever we need to  
11 do, we can do a court order on that, if we have to do it, or  
12 whatever, but the time is of the essence, so we got to do  
13 something now.

14 SLED AGENT DUSTIN SMITH: Right. Yes, sir.

15 THE COURT: I appreciate any help that you can  
16 give us on this, sir.

17 SLED AGENT DUSTIN SMITH: Yes, no problem.

18 THE COURT: Thank you.

19 MR. COLER: Thank you.

20 SLED AGENT DUSTIN SMITH: Sure.

21 (Whereupon, the phone conference was concluded)

22 THE COURT: Okay. I have done all I could do.

23 MR. COLER: Yes, sir.

24 THE COURT: I don't think they would have done it  
25 if I hadn't gotten involved in it. I don't think that they

1 would have done several things that they have done because  
2 that's not their policy and procedure to do it. You are  
3 asking them to go outside the policy and procedure, and --  
4 but I'm -- you know, I'm doing my best to get them to do it  
5 in any event. It would have been a lot easier to do --

6 MR. COLER: If we find --

7 THE COURT: -- four, five months ago.

8 MR. COLER: If we find out that it can be paid for  
9 by him without it being transferred into his account,  
10 though, I would prefer to do that just to preserve that  
11 integrity of the chain. I'm not sure we can ever know the  
12 integrity of the chain once it leaves SLED.

13 THE COURT: Unless they can send it back to SLED  
14 after it's tested. He said he doesn't handle it. So if he  
15 doesn't handle it, even though it's in his account --

16 MR. COLER: I know --

17 THE COURT: -- he can direct them to return it to  
18 SLED, it would appear to me, even if it's in his account.

19 MR. COLER: And I'm not accusing Dr. Mason of  
20 doing anything underhanded, but I know he has a personal  
21 relationship with that lab work there. When I talked to  
22 secretaries there, they referred to him by name. Once it  
23 goes to his account, I'm not sure I, as a representative of  
24 the State, can ever offer that as a chain that's not been  
25 tainted somehow somewhere along the line. I'm just

1 concerned about that, frankly.

2 MR. GOWDY: He's not doing the tests himself, is  
3 he, one would hope.

4 THE COURT: He's -- from what I understand, he's  
5 directing the testing. When he says we need this testing,  
6 need to do additional tests, he's talking about somebody  
7 else doing it. He's not talking about doing it himself.

8 MR. COLER: But I mean the impression I get is  
9 that he has a close relationship with that lab that -- and I  
10 don't know. I'm -- I just get the impression he could show  
11 up at that lab and go into the laboratory, if he wanted to.  
12 Obviously that is a bit of a concern.

13 MR. STARNES: I don't think he could get into the  
14 laboratory no different than Mr. Smith could from SLED.

15 MR. COLER: I think he could.

16 MR. STARNES: That's the laboratory that SLED  
17 uses.

18 MR. COLER: SLED is a client of NMS. I think Dr.  
19 Mason has more of relationship than just a client of NMS.  
20 I mean, the secretaries referred to him by name.

21 MR. GOWDY: Let's just wait and see what Dustin  
22 can come up with. I still don't know why Mason can't tell  
23 SLED "this is the name of the test I want done," and SLED  
24 requests it.

25 THE COURT: You know, I think their concern is, to

1 be honest with you, Dr. Mason wants to put it in his  
2 account. They have directed -- they have notified the  
3 laboratory to run whatever tests, let him have some input in  
4 running of the test, etcetera. Okay?

5 MR. STARNES: Yes, sir.

6 THE COURT: That doesn't satisfy him. That  
7 doesn't satisfy the lab, according to him.

8 He says he wants to put it -- they have to put it  
9 in his account before he can do any of this. The concern  
10 they got is put it in his account, what's to stop him from  
11 going up there and directing what tests he wants to be  
12 involved in the testing somehow up there, since he's worked  
13 there and knows all of them personally. That's their  
14 concern, and it has to be in his account in order for them  
15 to allow them to do it. That's their concern.

16 MR. STARNES: I understand that.

17 Dr. Mason advises me that he doesn't go into the  
18 laboratory. He doesn't -- he just does it over telephone.

19 THE COURT: We will see. All that better be  
20 correct. If it's not correct, some people may wind up  
21 paying a price. I'm going to tell you that.

22 MR. STARNES: Yes, sir.

23 THE COURT: Because the court will not tolerate  
24 any kind of tampering with evidence or doing anything  
25 inappropriately like that.

1 MR. STARNES: I can understand that.

2 THE COURT: Don't say falsely under oath. He  
3 certainly should understand that.

4 You may want to call him back and tell him to make  
5 sure he doesn't go to the lab or get involved actually in  
6 the lab and he doesn't handle any evidence wherever we  
7 get --

8 MR. STARNES: Yes, sir.

9 THE COURT: He can direct them as to what tests to  
10 run, that he thinks ought to be run on it, and that sort of  
11 thing and ask them to run those tests, if it's put in his  
12 account. But he by no means is to go up there and handle  
13 the evidence himself or be involved in it.

14 MR. STARNES: Your Honor, I don't have a problem  
15 drafting an order for your signature and I'll Fed Ex it to  
16 him.

17 THE COURT: We can do that, but the problem is we  
18 have got to do it now, because the tests have got to be run.

19 MR. STARNES: Yes, sir.

20 THE COURT: And if you -- if we sit around here  
21 and here wait another week, then they don't have time to run  
22 the test and get the results back.

23 MR. COLER: It may not be able to get done now.

24 THE COURT: Well, I think they probably can, if  
25 they rush it, but -- but we're getting to the point where



1 they might not be able to get it done. All right.

2 I don't know anything else to do. I have done all  
3 I know how to do.

4 MR. STARNES: Thank you, judge.

5 THE COURT: I don't represent anybody on this  
6 case.

7 MR. COLER: Yes, sir.

8 (Whereupon, the in-chambers hearing was concluded)

9 (Whereupon, the following proceedings were  
10 conducted in the courtroom)

11 THE COURT: All right. Is everybody ready to  
12 proceed?

13 MR. GOWDY: The State is, Your Honor.

14 THE COURT: Ready to proceed, Mr. Starnes?

15 MR. STARNES: Defense is ready, Your Honor.

16 THE COURT: Please bring in the next potential  
17 juror.

18 (Whereupon, Juror Number 2 entered the courtroom)

19 VOIR DIRE EXAMINATION BY THE COURT:

20 Q. All right. Ma'am, you are Margaret Albert, juror  
21 number 2, is that correct?

22 A. I am.

23 Q. Okay. And, ma'am, let me apologize for the long delay.  
24 Some things that came up we just had to take care of and  
25 they took some time to do it, but at the time that they had

1 to do done at that particular time, and I apologize for the  
2 delay, but I want to echo what Madam Clerk has said, and  
3 that is for you please to just be relaxed. This is a very  
4 informal procedure. You will be asked some questions  
5 concerning your views as to certain matters.

6 There are no right answers, no wrong answers. Nobody  
7 is going to disagree with you. Nobody is going to question  
8 you about it, nor do the third degree, or anything like  
9 that. Okay. Just be as open and honest as you can in  
10 answering those questions.

11 First of all, we have a couple of housekeeping matters.  
12 Do you remember that the full jury panel was sworn yesterday  
13 morning by the court, and you continue to be sworn and under  
14 oath with the information that you are providing the court  
15 today. Do you understand that?

16 A. Yes, sir.

17 Q. Ma'am, when you were sent a jury summons, you filled  
18 out a jury information sheet and sent it back in to the  
19 clerk's office. Has anything happened since then or any  
20 changes need to be made on that we really need to be made  
21 aware of, or any changes on that?

22 A. I don't remember exactly what all the questions were on  
23 there.

24 Q. You don't know of any significant changes, do you?

25 A. No.

1 Q. Okay. Let me ask you, do you remember seeing in the  
2 jury room there was a rather long list of potential  
3 witnesses in the case? There were names and there were  
4 numbers by those names. All of these witnesses are not  
5 going to be called, but some of them certainly would be  
6 called. Did you get a chance to look over those?

7 A. Yes.

8 Q. Ma'am, if you recognized any of those names or if you  
9 know any of those persons, I'll ask you not to identify them  
10 by name, but only by number. That's what we go by, number.

11 Did you recognize any names or do you know any of those  
12 persons?

13 A. I recognized two of the names, but I don't know them  
14 personally.

15 Q. Okay. And, ma'am, would you just give us their  
16 numbers, please, that you recognized? There is a sheet  
17 there in front of you.

18 A. Number 34 sounded familiar to me.

19 Q. Okay.

20 A. And number 73.

21 Q. Okay. Now, I'm assuming that these are the people that  
22 you think they are. If they were to be -- if they were to  
23 testify as a witness for either side in this case, would  
24 that make any difference as to your ability to be fair and  
25 impartial as to both sides in the case?

1 A. No, it should not.

2 Q. Okay. Did you see back in the jury room a sheet with  
3 three paragraphs on it that talked about three different  
4 types of jurors?

5 A. Yes.

6 Q. You should have that sheet there as well.

7 This is not all inclusive, obviously, as to any  
8 particular juror, but did you identify yourself as being  
9 more like one of those three types of jurors?

10 A. Yes.

11 Q. Which one, please, ma'am?

12 A. I would say the second.

13 Q. The second?

14 A. Yes.

15 Q. So you are the type of juror, if guilt has been  
16 determined, under no circumstances would you ever give the  
17 death penalty?

18 A. Correct.

19 Q. And, ma'am, do you not believe in the death penalty?

20 A. I do not.

21 Q. Okay. Could you not -- could you listen to the  
22 testimony and evidence and instruction by the court as to  
23 the law that applies to a case and consider all of those  
24 factors and then determine whether or not that you could  
25 give -- vote for the death penalty?

1 A. I don't know that I could do.

2 Q. Okay. Are there any circumstances under which you  
3 would vote to give the death penalty, if you were on the  
4 jury?

5 A. Is there any circumstances that I would give the death  
6 penalty?

7 Q. Yes.

8 A. No.

9 Q. All right. Thank you, ma'am. Answer any questions --

10 THE COURT: Does the solicitor have any questions?

11 MR. GOWDY: I have no questions. Thank you for  
12 coming.

13 MR. STARNES: No questions, Your Honor.

14 THE COURT: No questions. Thank you, ma'am.

15 Please wait just outside the courtroom door. We  
16 will have you back in momentarily, okay?

17 JUROR NUMBER 2: Okay.

18 (Whereupon, Juror Number 2 left the courtroom)

19 THE COURT: Position of the State?

20 MR. GOWDY: I don't think she's qualified.

21 THE COURT: All right. Defense?

22 MR. STARNES: Not qualified, Your Honor.

23 THE COURT: The court agrees that she wouldn't be  
24 qualified in this case.

25 Please ask her to come in, sir.

1 (Whereupon, Juror Number 2 entered the courtroom)

2 THE COURT: Ms. Albert, you can just stand right  
3 there, if you will.

4 We are not going to require you to sit on the jury  
5 in this case, so I'm going to go ahead and excuse you at  
6 this time. This will complete your services on this case  
7 for the week. You need not return.

8 The clerk will put a check in the mail for your  
9 service this week. I want to take this opportunity to thank  
10 you for your service and patience this week, and you are  
11 free to go at this time.

12 JUROR NUMBER 2: Thank you.

13 THE COURT: Thank you, ma'am.

14 (Whereupon, Juror Number 2 left the courtroom)

15 (Whereupon, Juror Number 19 entered the courtroom)

16 VOIR DIRE EXAMINATION BY THE COURT:

17 Q. Ma'am, you are Bonnie Bettis, juror number 19, is that  
18 correct?

19 A. Yes, sir.

20 Q. Mr. Bettis, I would echo what Madam Clerk has said and  
21 apologize for the long delay. We just got caught up with  
22 something that we had to address at that particular time,  
23 and so we are -- of course, now we got a little bit behind  
24 on it, but I'm going to echo also what she said and that is  
25 just to relax. You look pretty relaxed anyway.

1 A. Thank you.

2 Q. We are just going to ask you some general questions  
3 about your views. There are no right or wrong answers.  
4 Nobody is going to disagree with you or ask any third degree  
5 type questions of you. They just want to ask you certain  
6 questions. Just be as open and honest as you can, your  
7 answers, and that's all we ask from you.

8 A couple of housekeeping matters. First of all, do you  
9 remember that I placed the entire jury panel under oath  
10 yesterday morning and -- or afternoon, as it was, and do you  
11 understand that you still under oath for purposes of your  
12 information that you are going to provide in court today?  
13 Do you understand that?

14 A. Yes, sir.

15 Q. When the jury summons was sent out, there was an  
16 information sheet that you were asked to fill out and send  
17 back to the clerk's office. Do you recall that?

18 A. Yes, I do.

19 Q. Since that was sent back in to the clerk's office, have  
20 there been any changes that you need to make the court aware  
21 of that would reflect a change on that form?

22 A. No, sir.

23 Q. Okay. Did you see back in the jury room there was a  
24 list, a rather lengthy list, of potential witnesses in this  
25 case that had their names and also had a number by those

1 names? Did you have a chance to go over that list?

2 A. Yes, I did.

3 Q. , That list should also be in front of you.

4 If you recognized any names on the list or knew any of  
5 those persons, I would ask at this time to identify them not  
6 by name but by number. We are going by numbers to identify.  
7 Did you recognize any names? Did you know any of those  
8 persons on the list?

9 A. No, I don't.

10 Q. Did you see back in the jury room now a sheet which had  
11 three paragraphs on it which discuss three different types  
12 of jurors? Did you see that?

13 A. Yes, sir.

14 Q. Of course, it's not all inclusive. It doesn't describe  
15 any juror altogether, but did you identify any one of those  
16 three types of jurors as you would be most like?

17 A. Yes, sir.

18 Q. Which one?

19 A. Number three.

20 Q. Number three.

21 So you are the type of juror who would not make up your  
22 mind in advance, but rather you would need to hear the  
23 testimony and evidence and the instruction from the court as  
24 to the law that applies before you would render a decision  
25 in the case, is that correct?



1 A. That's correct.

2 Q. Okay. Do you understand that in this case the State is  
3 seeking the death penalty, and in that type of case we  
4 proceed as follows:

5 First there would be, of course, a trial. And at that  
6 trial the State would be required to prove the charges  
7 against you the defendant by evidence beyond a reasonable  
8 doubt. Do you understand that?

9 A. Yes, sir.

10 Q. And if the State failed to meet that burden of proving  
11 the defendant guilty beyond a reasonable doubt, the jury so  
12 found, then that would be the end of the trial and that  
13 would be the end of the role of the jury in the trial. Do  
14 you understand that?

15 A. Yes, sir.

16 Q. But if the jury were to find the State had proven  
17 beyond a reasonable doubt the element of the offense of  
18 murder, then we would proceed on to a second phase of the  
19 trial. And in the second phase of the trial, the State  
20 would present any aggravating circumstances that they wanted  
21 the jury to consider. The defense would present any  
22 mitigating circumstances that they wanted the jury to  
23 consider on the issue of punishment. Do you understand  
24 that?

25 A. Yes, sir.

1 Q. The court would also instruct you as to how to receive  
2 that evidence and also instruct you on other matters that  
3 you should consider in your determination of the appropriate  
4 punishment. Do you understand that?

5 A. Yes, sir.

6 Q. All right. And then once that's been done, the jury  
7 would be asked to render an opinion about the appropriate  
8 punishment. Do you understand that?

9 A. Yes, sir.

10 Q. Okay. And those two possible punishments would be the  
11 death penalty or life imprisonment without the possibility  
12 of parole. Do you understand that?

13 A. Yes, sir.

14 Q. Okay. Now, if you heard all of the -- if we got to a  
15 second phase of the trial and if you heard all of the  
16 aggravating circumstances and mitigating circumstances, and  
17 if you felt it was appropriate under all of those  
18 circumstances and the law as instructed by the court for you  
19 to consider that the death penalty was the appropriate  
20 penalty, could you vote for a verdict of the death penalty?

21 A. Yes, I could.

22 Q. And if you -- having all that information before you,  
23 and you considered all of that information, including the  
24 law provided by the court, given to you by the court, if you  
25 thought that the appropriate punishment under those

1 circumstances was life imprisonment without the possibility  
2 of parole, could you vote for a verdict for life  
3 imprisonment without the possibility of parole?

4 A. Yes, sir, I could.

5 Q. Okay. Thank you, ma'am.

6 Answer any questions, please, that the solicitor might  
7 have for you.

8 MR. GOWDY: May it please the court, Your Honor?

9 THE COURT: Yes, sir.

10 VOIR DIRE EXAMINATION BY MR. GOWDY:

11 Q. Good afternoon, ma'am.

12 A. Good afternoon.

13 Q. Let me start off by thanking you for filling out the  
14 questionnaire, which contains some questions that I wouldn't  
15 ordinarily ask you if we just ran into each other, but both  
16 sides benefit from that information and we grateful for you  
17 for filling it out.

18 If I read it correctly, you have been with the Wick  
19 Program for 20 some years?

20 A. Yes.

21 Q. You are currently a consultant?

22 A. Yes.

23 Q. And you have a family member that either was or is in  
24 law enforcement in the Upstate?

25 A. Yes, I do. He's at the police academy now.

1 Q. Oh, really?

2 A. Uh-huh.

3 Q. Which department -- does he work at the academy, or is  
4 he going through it?

5 A. No, he's going to the academy --

6 Q. Okay.

7 A. -- to be a police officer.

8 Q. What jurisdiction would he wind up working at?

9 A. In Easley. They live in Easley.

10 Q. Good.

11 I will be brief, because the judge covered everything  
12 that I wanted to ask you.

13 Generally if I were to walk up to you at a party and  
14 say "what with your beliefs on the death penalty or capital  
15 punishment," how would you respond?

16 A. At a party I would have to respond as a mother. I  
17 think it would be extremely stressful to have to go through  
18 a court case with my son, if he were proven guilty of a  
19 murder. That would be stressful enough. And if he were to  
20 be sentenced to death as a mother, I think it would be very  
21 difficult. If I saw you at a party, that's what I would  
22 say.

23 Q. What if I saw you somewhere else, would I get a  
24 different answer?

25 A. I agree with what I read in the jury room, but I think

1 it is based on the evidence that I could render a verdict as  
2 life imprisonment without parole or the death penalty. It  
3 just depends on the circumstances and the severity of the  
4 crime, is how I feel.

5 Q. All right. I promise I was going to be brief and I am.  
6 I'm going to ask you just a couple more questions.

7 In South Carolina you always have the option of life  
8 without parole.

9 A. Yes.

10 Q. There is not a judge, or a prosecutor, or anybody else  
11 who can tell you that you have to vote for death. You  
12 always have life without parole and you don't have to  
13 explain it to anybody.

14 With that in mind, do you still think there are  
15 circumstances where you could vote for death?

16 A. Yes.

17 Q. All right. And if you were picked for service in this  
18 case as a juror, you would still be a mom, you would still  
19 have that background, do you believe in your well of souls  
20 that you could give the State a fair hearing on both the  
21 guilt and the sentence, given your thoughts and feelings as  
22 a mother, if the defendant's mother, hypothetically, may be  
23 in the courtroom, can you be fair to the State?

24 A. I can be fair to the State.

25 Q. And you could impose the death sentence, if you thought

1 that was appropriate?

2 A. Yes, I would.

3 Q. Okay. Thank you.

4 A. Uh-huh.

5 THE COURT: Mr. Starnes.

6 MR. STARNES: May it please the court, Your Honor?

7 THE COURT: Yes, sir.

8 VOIR DIRE EXAMINATION BY MR. STARNES:

9 Q. How are you doing, Ms. Bettis?

10 A. I'm good. Thank you.

11 Q. I noticed on your questionnaire you put previously  
12 served on a civil case before?

13 A. Yes.

14 Q. Could you tell us a little bit about that?

15 A. Oh, gosh, it's been so long ago, and I may have used  
16 the wrong word. I really -- I really can't remember, but it  
17 was a very simple case in court, based on a lawsuit, if  
18 that's all it was. Now, whether that was civil or not, I  
19 don't know. It's been so long. And -- it's been over 20  
20 years ago. So that's the only time I have ever served.

21 Q. Yes, ma'am.

22 Was that here in South Carolina?

23 A. Yes, in Camden.

24 Q. Camden?

25 A. Uh-huh.

1 Q. Do you believe that all killings are murder?

2 A. Gosh, I think it's just a difference in terminology. A  
3 killing is a killing. I mean, somebody is dead. Yes.

4 Q. When you say terminology, what do you mean?

5 A. Well, I mean, to me they both result in the same,  
6 somebody is dead. I mean, if you murder somebody, if you  
7 kill -- if somebody is killed, they are still dead.

8 Q. An officer of the law discharges his duty, if he kills  
9 someone to protect the public, do you feel like that's  
10 murder?

11 A. Somebody is dead.

12 Q. So that means yes?

13 A. That just means somebody is dead. I don't --

14 Q. Would you classify that as being murder?

15 A. No.

16 Q. How about self-defense? Do you believe that one is  
17 entitled to kill in self-defense?

18 A. Yes.

19 Q. If self-defense -- if evidence of self-defense in this  
20 case was an issue, and -- you heard all of the evidence of  
21 this case, and self-defense was an issue in this case, could  
22 you be fair to the State and the defendant?

23 A. Yes.

24 Q. Could you follow the law as the trial court instructed  
25 you regarding the law of self-defense, if that was an issue?

1 A. Yes.

2 Q. Ma'am, it's my understanding that you could vote for  
3 life without the possibility of parole or the death penalty,  
4 depending upon -- after hearing all of the facts and  
5 circumstances, all of the good things and all of the bad  
6 things, is that correct?

7 A. That's correct.

8 Q. And you understand that life without the possibility of  
9 parole means until the death of the defendant?

10 A. Yes, sir.

11 Q. Have you heard or read anything about this case in the  
12 newspaper, seen anything on the Internet?

13 A. No.

14 Q. Talked about it with anyone?

15 A. No.

16 Q. In the event that we were to get into that second part  
17 and eleven jurors wanted to vote for life without parole,  
18 but you felt the death penalty was the appropriate  
19 punishment, could you vote for the death penalty?

20 A. Yes.

21 Q. Anything about your personal beliefs or religion that  
22 would hamper you from being a fair juror in this case?

23 A. No.

24 Q. Thank you Ms. Bettis. That's all we can ask of you.

25 A. Okay.



1 THE COURT: Thank you, ma'am.

2 If you will please wait just outside the courtroom  
3 door and we will have you back in momentarily, okay?

4 (Whereupon, Juror Number 19 left the courtroom)

5 THE COURT: Position of the State?

6 MR. GOWDY: I think she's qualified.

7 THE COURT: Defense?

8 MR. STARNES: Qualified, Your Honor.

9 THE COURT: The court agrees that she would be  
10 qualified.

11 Please bring her back in, sir.

12 (Whereupon, Juror Number 19 entered the courtroom)

13 THE COURT: Ms. Bettis, if you will stand right  
14 there, please.

15 The court has found you qualified to serve as a  
16 juror in this case. Now, that doesn't mean that you are on  
17 the actual jury. What we are doing right now is we are  
18 getting a jury panel together with qualifying jurors to  
19 serve on the jury panel. From that panel we will select a  
20 jury in this case.

21 So what I'm going to do at this time is -- we are  
22 continue with this process, and I'm going to excuse you at  
23 this time. You can do anything you may like in the interim,  
24 but I would like to ask you to report back to the court  
25 tomorrow, that is Wednesday, at three p.m.. Okay?

1           Now, should there be a change in the reporting  
2 time, we will put a message on the voicemail, which would be  
3 available after seven o'clock tonight. You have that card.  
4 It has a number on there?

5           JUROR NUMBER 19: Yes, I do.

6           THE COURT: You call there and you can get a  
7 voicemail, and you will want to get the message for  
8 qualified jurors. You are now a qualified juror. So if  
9 there is a message for qualified jurors, if they change the  
10 reporting time, then you would go by that, but, otherwise,  
11 you would report back.

12           The clerk also has a website. You can check the  
13 website after seven o'clock tonight. If there is a change  
14 in the reporting time, it would be put on there as well for  
15 qualified jurors. Okay.

16           So if you do not receive any information to the  
17 contrary, please report back at three o'clock tomorrow,  
18 okay?

19           JUROR NUMBER 19: Okay.

20           THE COURT: Thank you very much.

21           JUROR NUMBER 19: You are welcome.

22           (Whereupon, Juror Number 19 left the courtroom)

23           (Whereupon, Juror Number 109 entered the  
24 courtroom)

25

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. Sir, you are Darren Hamelinck, juror number 109, is  
3 that correct?

4 A. Yes, sir, that's correct.

5 Q. All right, sir. I'm going to echo what the clerk has  
6 said, and that is just ask you to be relaxed. We are going  
7 to ask you some questions to try to gauge your view as to  
8 certain issues. There are no right or wrong answers.  
9 Nobody is going to disagree with you. Nobody is going to  
10 give you the third degree. That's not the purpose. I ask  
11 that you answer the questions as honestly and openly as you  
12 can, please, sir.

13 A. Yes, sir.

14 Q. A couple of housekeeping matters before we get started.  
15 Do you remember that the full jury panel was placed under  
16 oath yesterday morning, or afternoon, as the case may be,  
17 and you are still under oath for purposes of giving  
18 information to the court today. Do you understand that?

19 A. Yes, sir.

20 Q. Do you remember filling out a juror information form  
21 and sent back to the clerk's office when you got your jury  
22 summons?

23 A. Yes, sir.

24 Q. Has anything happened since then that you need to make  
25 a -- require you to make a change on that today?

1 A. No, sir.

2 Q. Okay. Do you remember seeing back in the jury room  
3 there was a long list of potential witnesses in this case  
4 that had the names and also the numbers? Do you remember  
5 seeing that?

6 A. Yes, sir.

7 Q. Did you have a chance to look over that?

8 A. Yes, sir.

9 Q. And, of course, there is a list in front of you, if you  
10 need it, but let me ask you, if you know any of those  
11 people, please do not give me their names, but I would like  
12 for you to give me the number that's beside the name. We  
13 are just going by numbers in court today. Did you recognize  
14 anybody?

15 A. No, sir.

16 Q. Okay. Did you see back in the jury room a sheet with  
17 three paragraphs on it that talked about three different  
18 types of jurors? Did you see that, sir?

19 A. Yes, I did.

20 Q. Did you have a chance to go over it, sir?

21 A. Yes, I did.

22 Q. And if you need to, there is one there in front of you.  
23 It's not all inclusive, obviously. It doesn't describe any  
24 juror totally, but did you identify yourself as being more  
25 like one of those three types of jurors?

1 A. Yeah, being more like the third one.

2 Q. The third one?

3 A. Yes.

4 Q. So you are the type of juror who wouldn't make up his  
5 mind in advance, but rather you would need to hear the  
6 testimony and evidence and the court's instruction on the  
7 law before you would be able to decide an issue, is that  
8 correct?

9 A. Yes, sir.

10 Q. Do you understand that this is a case in which the  
11 State is seeking the death penalty? And the way that is  
12 carried out, first of all, of course, a jury is impaneled.  
13 The State is required to prove the guilt of the defendant of  
14 the charges beyond a reasonable doubt. If the State fails  
15 to meet that burden of proof, and the jury so found, that  
16 would be the end of the matter and the trial would be over  
17 with. Do you understand that?

18 A. Yes, sir.

19 Q. However, if the jury were to find that the State had  
20 proven the elements of the offense of murder beyond a  
21 reasonable doubt, then we would go to the second phase of  
22 the trial. And in the second phase of the trial, then the  
23 State would introduce any aggravating circumstances they  
24 thought the jury ought to consider on the issue of  
25 punishment. The defendant would introduce any evidence,

1 testimony and evidence, concerning mitigation factors that  
2 they think that the jury should consider in their  
3 determination of the appropriate punishment. The court  
4 would instruct the jury on how to receive that information  
5 and also other information that the jury ought to consider  
6 in making a determination as to the appropriate punishment.  
7 Do you understand that?

8 A. Yes, sir.

9 Q. All right. And the possible punishments in that case  
10 would be either the death penalty or a sentence of life  
11 imprisonment without the possibility of parole. Do you  
12 understand that, sir?

13 A. Yes, sir, I do.

14 Q. And if we got to that circumstance, sir, do you think  
15 that you could listen to all of the aggravating and  
16 mitigating circumstances and instructions by the court on  
17 the law and render a decision as to the appropriate  
18 punishment in that case?

19 A. Yes, I do.

20 Q. Okay. And after hearing all of that information if you  
21 thought the circumstances warranted it, could you enter a  
22 verdict for the death penalty, sir?

23 A. Yes, sir, I could.

24 Q. If you thought the circumstances warranted it, could  
25 you vote for a verdict of life imprisonment without the

1 possibility of parole, if you thought it was appropriate?

2 A. Yes, I could.

3 Q. Thank you, sir. Answer any questions, please that the  
4 solicitor may have.

5 MR. COLER: Thank you, Your Honor.

6 May it please the court?

7 THE COURT: Yes, sir.

8 VOIR DIRE EXAMINATION BY MR. COLER:

9 Q. Good afternoon Mr. Hamelinck. Thank you for being  
10 here. I just have a couple of brief questions. The judge  
11 covered pretty much everything that I would ask you.

12 I want to talk to you about the two phases. The judge  
13 talked about the first phase and the second phase of the  
14 trial. Did you follow and understand what he was talking to  
15 you about that?

16 A. Yes, I do.

17 Q. In the second phase, the judge asked you if after  
18 hearing all the evidence, you thought that life without  
19 parole, life in prison without parole was appropriate, you  
20 could sentence the defendant to that, right?

21 A. Yes, I could.

22 Q. And then you also told the judge if you thought that,  
23 after hearing everything with an open mind and you decided  
24 and with your own judgment determined that the appropriate  
25 sentence was the death penalty, you could sentence the

1 defendant to that too, correct?

2 A. Yes, sir.

3 Q. And could you sign a form, a verdict form, with your  
4 name on it indicating that?

5 A. Yes.

6 Q. Okay. That's all I have. Thank you.

7 MR. STARNES: If it please the court, Your Honor?

8 THE COURT: Yes, sir.

9 VOIR DIRE EXAMINATION BY MR. STARNES:

10 Q. Hi. How are you doing, sir?

11 A. Yes.

12 Q. My name is Norman Starnes. I'm the defendant in this  
13 case.

14 I notice that you are employed -- or your questionnaire  
15 that you filled out, that you were employed in Gaston, South  
16 Carolina?

17 A. Yes, I am.

18 Q. Did you ever have an opportunity to visit the Gaston  
19 Airport?

20 A. No, sir.

21 Q. No, sir.

22 Have you heard anything about this case or read  
23 anything in the paper about it?

24 A. No, I have not.

25 Q. If you could, could you tell us your views on the death



1 penalty, on capital punishment?

2 A. Well, I -- I believe in the death penalty, but I  
3 believe would it take a lot to vote for it, to be -- you  
4 know, it would to be -- I have to find it real malicious to  
5 be able to vote for the death penalty. But if proven, I do  
6 believe I could.

7 Q. Okay. So you would have to hear all the evidence, the  
8 aggravation and mitigation?

9 A. Oh, yes, sir, absolutely.

10 Q. Okay. Do you believe that all killings are murder?

11 A. No, sir.

12 Q. Do you believe that someone is entitled to kill in  
13 self-defense?

14 A. Absolutely.

15 Q. If evidence of self-defense was generated in this case,  
16 would you consider it, along with all of the other evidence?

17 A. Yes.

18 Q. Would you follow the instructions by the court if you  
19 were instructed on self-defense and follow the law on  
20 self-defense?

21 A. Yes.

22 Q. I believe that you mentioned to the solicitor that you  
23 could give the death penalty or you could give life without  
24 the possibility of parole, is that correct?

25 A. That's correct.

1 Q. Could you find somebody not guilty?

2 A. Oh, absolutely.

3 Q. Have you ever served on a jury before?

4 A. A civil. Never on a criminal. I was on a civil. I  
5 believe it was civil about ten years ago.

6 Q. Could you tell us a little about that, please?

7 A. I don't remember a whole lot about it, but basically it  
8 was people got hurt in a grocery parking lot. Somebody  
9 slipped and was trying to sue the grocery chain.

10 Q. In the event that we get to that penalty phase -- do  
11 you understand that to get into the penalty phase, the jury  
12 has to find that the defendant guilty beyond a reasonable  
13 doubt of murder?

14 A. Yes, I do.

15 Q. And in the event that we get into the penalty phase and  
16 eleven jurors wanted to vote for life without the  
17 possibility of parole, but you thought that the death  
18 penalty was the appropriate punishment, could you vote for  
19 the death penalty?

20 A. Yes.

21 Q. What if eleven jurors wanted to vote for the death  
22 penalty, but after hearing all the evidence in this case  
23 that you felt the appropriate punishment was life without  
24 the possibility of parole, could you vote for life without  
25 the possibility of parole?

1 A. Yes.

2 Q. One more question.

3 Do you understand that life without the possibility of  
4 parole means until the death of the defendant?

5 A. Yes, I do.

6 Q. In other words, you don't get out of prison?

7 A. Yes.

8 Q. Any reason why you could not serve as a fair and  
9 impartial juror on this case?

10 A. No, sir.

11 Q. Could you be fair to the defense?

12 A. Yes.

13 Q. And be equally fair to the State?

14 A. Yes, sir.

15 Q. That's all we can ask from you. Thank you, sir.

16 THE COURT: Sir, if you will wait just outside the  
17 courtroom door and we will have you back in momentarily.  
18 Okay?

19 JUROR NUMBER 109: Yes, sir.

20 (Whereupon, Juror Number 109 left the courtroom)

21 THE COURT: Position of the State?

22 MR. COLER: He's qualified, Your Honor.

23 THE COURT: Defense?

24 MR. STARNES: Qualified, Your Honor.

25 THE COURT: The court agrees he would be

1 qualified.

2 Please bring him back in, sir.

3 (Whereupon, Juror Number 109 entered the  
4 courtroom)

5 THE COURT: Sir, you can stand right there, if you  
6 will.

7 Mr. Hamelinck, the court has found that you are  
8 qualified to serve on a panel in this case. Let me explain  
9 that's not -- you haven't been picked to serve on the jury.  
10 You have been picked to serve on the panel from which the  
11 jury will be drawn. And we are still in the process of  
12 getting the panel together, and we will be working on that.

13 What I'm going to do is free you up at this time  
14 and ask you to report back to the court tomorrow, that is  
15 Wednesday, at three p.m., okay.

16 JUROR NUMBER 109: Tomorrow at three p.m.?

17 THE COURT: Yes, sir.

18 Let me explain this to you. In the event that the  
19 reporting time were to change, that would be placed on  
20 voicemail. You have a card with a number on it, a telephone  
21 number on it?

22 JUROR NUMBER 109: Yes.

23 THE COURT: You still got your pink card?

24 JUROR NUMBER 109: Yes, I do.

25 THE COURT: That's got a number on it. If you

1 call that number, you will get voicemail and you will listen  
2 for a message for qualified jurors, because you are a  
3 qualified juror.

4 JUROR NUMBER 109: Uh-huh.

5 THE COURT: And it may direct a different  
6 reporting time than three tomorrow.

7 Also the clerk has a website that you can check on  
8 the computer, if you have access to a computer. And on that  
9 website it will also tell you if there's been a change in  
10 the reporting time for qualified jurors. Now, that  
11 information will not be available until after seven o'clock  
12 tonight, okay, if we are going to change the time.

13 JUROR NUMBER 109: Okay.

14 THE COURT: So if you don't hear anything  
15 different, though, please report back tomorrow at three  
16 p.m..

17 JUROR NUMBER 109: I will do it.

18 THE COURT: Thank you, sir.

19 JUROR NUMBER 109: Yes, sir.

20 (Whereupon, Juror Number 109 left the courtroom)

21 (Whereupon, Juror Number 210 entered the  
22 courtroom)

23 VOIR DIRE EXAMINATION BY THE COURT:

24 Q. Ma'am, you are Patricia Outlaw, juror number 210, is  
25 that correct?

1 A. Yes, sir.

2 Q. And I'm going to echo what Madam Clerk has said. I  
3 apologize for the delay in making you wait this long. We  
4 appreciate your patience very much.

5 I want to again echo what she says, in that to ask you  
6 just to relax. And this is a very informal proceeding. You  
7 will be asked some questions concerning your feelings as to  
8 certain issues. There are no right or wrong answers to the  
9 questions, and no one is going to disagree with you or give  
10 you the third degree about anything, do you understand? So  
11 just relax and give open and honest answers, the most honest  
12 answers that you can give to these questions.

13 A couple of housekeeping matters before we get started.  
14 Do you remember that I placed the entire jury panel under  
15 oath yesterday, and you continue to be under oath for  
16 purposes of the information that you are going to give the  
17 court this time. Do you understand that?

18 A. Yes, sir.

19 Q. Okay. Now, you filled out a juror information form  
20 when you were summonsed in this case, sent it back to the  
21 clerk's office. Do you recall that?

22 A. Yes, sir, I do.

23 Q. And since you filled that out and sent it back in, has  
24 there been any changes that you would need to make to that  
25 form, based on anything that's happened since then?

1 A. No, sir.

2 Q. Ma'am, did you see back in the jury room a rather  
3 lengthy list of potential witnesses in this case? All of  
4 these witnesses will not be called, but some of them  
5 certainly would be called. And what I'm going to ask you to  
6 do is tell me if you recognize any names on there, if you  
7 know of any of them, potential witnesses, if you will  
8 identify them by number only, not by name, but the number.  
9 That's what we are going by in court today. Did you  
10 recognize any of those names or do you know any of those  
11 people on that list?

12 A. No, sir, not that I know of.

13 Q. Okay. Did you see back in the jury room a sheet with  
14 three paragraphs on it which talks about three different  
15 types of jurors? Did you have a chance to go over that?

16 A. Yes, sir, I did.

17 Q. Okay. And, ma'am, although, you know, this is not all  
18 inclusive as to any particular juror, but did you identify  
19 yourself as being more like any one of these three types of  
20 jurors?

21 A. I am completely and totally against the death penalty  
22 myself, so I would say probably the second one.

23 Q. Okay. So you are the type of juror who would not vote  
24 for the death penalty under any circumstances?

25 A. Correct.

1 Q. Okay. You cannot imagine any circumstances -- under no  
2 circumstances under which you would consider giving someone  
3 the death penalty?

4 A. No, sir.

5 Q. Okay. Thank you, ma'am.

6 THE COURT: Any questions from the State?

7 MR. COLER: No, sir, Your Honor.

8 THE COURT: Any questions from the defense?

9 MR. STARNES: May it please the court?

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

11 VOIR DIRE EXAMINATION BY MR. STARNES:

12 Q. Hi, Ms. Outlaw, how are you doing?

13 A. Good.

14 Q. Do you believe that all killings are murder?

15 A. No, sir.

16 Q. Do you believe that someone is entitled to act in  
17 self-defense?

18 A. Yes, sir.

19 Q. Regarding the death penalty, do you understand that  
20 some cases -- all cases are different. The facts and  
21 circumstances are not the same in all cases?

22 A. Correct.

23 Q. Some cases are worse than others. Some cases are not  
24 as worse.

25 A. Correct.



1 Q. And in a case where a crime that is really heinous and  
2 terrible, you couldn't impose the death penalty?

3 A. No, sir, I don't see it as my place to judge or be  
4 judged for someone.

5 Q. Is that from your religious beliefs?

6 A. Yes.

7 Q. And under no circumstances could you give the death  
8 penalty?

9 A. No, sir.

10 MR. STARNES: Thank you, ma'am.

11 JUROR NUMBER 210: Yes.

12 THE COURT: Thank you, ma'am.

13 If you will please wait just outside the courtroom  
14 door. We will have you back in momentarily, okay?

15 JUROR NUMBER 210: Yes, sir.

16 (Whereupon, Juror Number 210 left the courtroom)

17 THE COURT: Position of the State?

18 MR. COLER: She's not qualified, Your Honor.

19 THE COURT: Defense?

20 MR. STARNES: Not qualified.

21 THE COURT: The court agrees that she will not be  
22 qualified in this case.

23 Please ask her to come back in, sir.

24 (Whereupon, Juror Number 210 entered the  
25 courtroom)

1 THE COURT: Ms. Outlaw, you can stand right there,  
2 if you will.

3 JUROR NUMBER 210: Yes, sir.

4 THE COURT: The court is not going to require you  
5 to serve on this jury on this particular case, so we are  
6 going to excuse you at this time. This will complete your  
7 service for the week on this case. In other words, this  
8 will complete your service. The clerks office will put a  
9 check in the mail for your service thus far this week.

10 I would like to take this opportunity to thank you  
11 for your service and sacrifices that you have made this  
12 week. Thank you for being here. You are free to go at this  
13 time. Again, this will complete your service. Okay?

14 JUROR NUMBER 210: Thank you, sir.

15 (Whereupon, Juror Number 210 left the courtroom)

16 (Whereupon, Juror Number 232 entered the  
17 courtroom)

18 VOIR DIRE EXAMINATION BY THE COURT:

19 Q. Ma'am, you are Tina Rivers, juror number 232?

20 A. Yes, sir.

21 Q. And, again, I also, along with the clerk, apologize for  
22 the delay. It's just unavoidable. We appreciate your  
23 patience.

24 I want to echo also what Madam Clerk says, and that is  
25 just to urge you just to relax. This is a very informal

1 proceeding. We are going to ask you some questions  
2 concerning your views concerning certain issues. There are  
3 no right or wrong answers to this. Nobody is going to  
4 disagree with you or give you third degree or anything like  
5 that. That's not the purpose of this. We just want to find  
6 out how you feel about certain issues.

7 A. Okay.

8 Q. Just be as open and honest as you can, please, with  
9 everything.

10 A couple of housekeeping matters before we get started.  
11 Do you remember that I placed the full jury panel under oath  
12 yesterday? You continue to be under oath for the purposes  
13 of the information that you are going to provide the court  
14 at this time. Do you understand that?

15 A. Yes, sir.

16 Q. You filled out a jury information form that you sent  
17 back to the clerk's office at the time that you got your  
18 juror summons. Do you recall that?

19 A. Yes.

20 Q. Did anything happen in the meantime that would cause  
21 you to make a change in that?

22 A. No.

23 Q. Information at all?

24 A. No.

25 Q. Did you see back in the jury room a rather long list of

1 potential witnesses in this case, the names and numbers by  
2 them? Did you have a chance to go over that?

3 A. Yes.

4 Q. Ma'am, if you recognize any of those names or know any  
5 of those persons, I would ask you to identify them by  
6 number, but not by name. We are only going by numbers  
7 today. Do you recognize any of those persons, know their  
8 names or know any of the persons?

9 A. I do not recognize anyone.

10 Q. Okay. Ma'am, did you see back in the jury room a sheet  
11 with three paragraphs on it which talks about three  
12 different kinds of jurors? Did you have an opportunity to  
13 review that?

14 A. Yes.

15 Q. Of course, it doesn't -- it's not all inclusive as to  
16 any particular juror, but would you identify yourself as  
17 being more like any one of those three types of jurors?

18 A. Probably more like the first one.

19 Q. More like the first one?

20 A. Uh-huh.

21 Q. Okay. And the first type is one who, once the crime of  
22 murder has been proved by the State and the jury is  
23 considering punishment, you feel that you are required to  
24 give the death penalty in each and every case, is that  
25 correct?

1 A. Well, I kind of was questioning the third one. Maybe  
2 like a crime of passion, or something. I don't know how  
3 that would -- or, you know, I kind of understand maybe that.  
4 I was kind of between the first and third, and I thought,  
5 well, probably the first.

6 Q. Okay. Let me ask you, generally are there any cases  
7 where someone might be convicted of murder that you would  
8 feel that the appropriate sentence would be that of life  
9 without parole rather than the death penalty?

10 A. No.

11 Q. Let me ask you whether you could listen to the  
12 testimony and evidence presented in court and the court's  
13 instructions to you on the law and then decide whether the  
14 death penalty would be appropriate or not?

15 A. I could do that. I mean, like I said before, there was  
16 a crime of passion sort of situation. Depending on what the  
17 actual causes what led up to the murder.

18 Q. Okay. I'm not really clear on the answer, so I'm going  
19 to ask you a few more questions, okay?

20 A. Okay.

21 Q. If you were on the jury in this case -- if you get  
22 selected on the jury in the case, you were on the jury, how  
23 we would proceed is that once the jury was impaneled, then  
24 the State would be required to prove the charges against the  
25 defendant in this case beyond a reasonable doubt.

1 A. Yes.

2 Q. If the State failed to prove those charges beyond a  
3 reasonable doubt, and the jury so found, and then that would  
4 be the end of the case and the case would be ended at that  
5 point. Do you understand that? The jury's role would be  
6 finished and the case would be ended, because the defendant  
7 would have been found not guilty. Do you understand that?

8 A. Yes.

9 Q. But if the defendant were -- if the jury found that the  
10 State had proved the elements of the offense of murder  
11 beyond a reasonable doubt, then we would go to the second  
12 phase of the trial, in which the State would put up any  
13 aggravating circumstances that they thought the jury ought  
14 to consider as to the appropriate punishment in the case.  
15 The defense would put up any mitigating circumstances that  
16 they think the jury should consider in mitigation in  
17 determining an appropriate sentence in the case. And then  
18 the jury would be asked to -- and the court would instruct  
19 the jury as to the law that applies and how to receive that  
20 evidence and also other matters that the jury ought to  
21 consider in determining what an appropriate sentence would  
22 be. And then the jury would be asked to determine what the  
23 appropriate sentence would be. And the two possibilities  
24 would be the death penalty or life imprisonment without the  
25 possibility of parole. Do you understand that?

1 A. Yes.

2 Q. Let me ask you, if we reached that phase of the trial  
3 in the case, at that point would you be able to listen to  
4 the aggravating circumstances and mitigating circumstances,  
5 the instruction by the court on the law that applies and  
6 what other factors that you ought to consider in determining  
7 the appropriate punishment, could you listen to all that and  
8 then make a determination as to what the appropriate  
9 punishment would be?

10 A. Yes.

11 Q. Okay. And let me ask you, under those circumstances,  
12 if the defendant had been convicted of the first stage of  
13 murder, would you always impose the death penalty; or would  
14 you consider at that stage, with all that information, life  
15 imprisonment without the possibility of parole?

16 A. I would give the death penalty.

17 Q. You would still give the death penalty?

18 A. Yes, sir.

19 Q. All right. Thank you. Answer any questions the State  
20 may have.

21 VOIR DIRE EXAMINATION BY MR. GOWDY:

22 Q. Good afternoon, ma'am.

23 A. Good afternoon.

24 Q. I notice that you had a relative in law enforcement in  
25 Tennessee?

1 A. Well, they worked for the police department in  
2 Tennessee. They worked in the records division. They do  
3 not work there any longer.

4 Q. No longer?

5 A. A short period, yes.

6 Q. Would you agree with me that all homicides, all deaths  
7 at the hand of another person are not the same?

8 A. All deaths are not the same?

9 Q. Well, from a culpability standpoint. I mean, Moses --  
10 if you believe the Old Testament, Moses killed the man in  
11 the desert. His punishment wasn't punished.

12 Timothy McVay would be on another extreme. Would you  
13 punish all murders the same?

14 A. Yes.

15 Q. Irrespective of whether it's one person or Oklahoma  
16 City?

17 A. Murder is murder, in my opinion, and I do not believe  
18 in life in prison. It's a life for a life is how I feel.

19 Q. All right. Thank you.

20 A. Uh-huh.

21 THE COURT: Any questions?

22 MR. STARNES: Nothing, Your Honor.

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

24 If you will please wait just outside the courtroom  
25 door and we will bring you back in momentarily, okay?



1 (Whereupon, Juror Number 232 left the courtroom)

2 THE COURT: Position of the State?

3 MR. GOWDY: She's not qualified.

4 THE COURT: Very close, but --

5 MR. GOWDY: It's close. I thought that would have  
6 been funny, even the second time.

7 THE COURT: The defense?

8 MR. STARNES: I concur with the State on that,  
9 Your Honor.

10 THE COURT: Well, the court would concur with both  
11 of you. She would not be qualified in this case.

12 Please bring her back in, sir.

13 (Whereupon, Juror Number 232 entered the  
14 courtroom)

15 THE COURT: Ma'am, you can stand right there, if  
16 you will.

17 JUROR NUMBER 232: Uh-huh.

18 THE COURT: We are not going to require you to  
19 serve on the jury in this case, so this will complete your  
20 service for the week. We are going to excuse you. This  
21 will complete your service. The clerk will place a check in  
22 the mail for your service this week.

23 I would like to take this opportunity to thank you  
24 for your service and sacrifice this week that you have made.  
25 You are free. And, again, this will complete your service.

1 Thank you very much.

2 (Whereupon, Juror Number 232 left the courtroom)

3 (Whereupon, Juror Number 185 entered the  
4 courtroom)

5 VOIR DIRE EXAMINATION BY THE COURT:

6 Q. Ma'am, you are Josephine Menie?

7 A. Menie.

8 Q. Menie?

9 A. Yes.

10 Q. I'll try to remember that.

11 Ms. Menie, you are also juror number 185, is that  
12 correct?

13 A. Yes, sir.

14 Q. And, ma'am, I want to echo what Madam Clerk has said to  
15 you, and that is we appreciate your patience. I know that  
16 you have had a long wait. We apologize for that. We really  
17 appreciate your patience.

18 I would also ask you to just relax. We are going to  
19 ask you some questions to determine how you feel about  
20 certain issues. It, however, will not be a third degree  
21 type thing. There are no right or wrong answers. Nobody is  
22 going to disagree with you in any way like that. Do you  
23 understand that?

24 A. Yes, sir.

25 Q. We just need your open and honest answers to these

1 questions the best that you can give them.

2 Before we get started, a couple of housekeeping  
3 matters. First of all, do you remember that I placed the  
4 entire jury panel under oath yesterday, and you continue to  
5 be under oath for purposes of information provided to the  
6 court today. Do you understand that?

7 A.. Yes, sir.

8 Q. And you filled out a juror information form when you  
9 received your juror summons and sent it back to the clerk's  
10 office. Do you recall that?

11 A. Yes.

12 Q. Has anything happened that would change the information  
13 in the interim period since you sent it in?

14 A. Not that I recall, but I can't remember all the  
15 questions.

16 Q. All right. Did you see back in the jury room a rather  
17 lengthy list of potential witnesses in this case? There  
18 were names and numbers by them. Do you recall that?

19 A. Yes, sir.

20 Q. Should be one there in front of you as well.

21 If you recognized any of those names or know any of  
22 those persons who were listed there, what I would like for  
23 you to do is identify them by number only and not by name.  
24 Do you know any of those persons, recognize any of the  
25 names?

1 A. Number 7.

2 Q. Okay.

3 A. I recognize the name.

4 Q. Any others?

5 A. No.

6 Q. Let me ask you if that potential witness were to be  
7 called as a witness by either side in this case, would that  
8 interfere in any way with your ability to give both sides a  
9 fair and impartial trial in this case?

10 A. Not at all.

11 Q. Okay. Did you see back in the jury room a sheet with  
12 three paragraphs on it that lists -- that talked about three  
13 different types of jurors? Did you see that?

14 A. Yes, sir.

15 Q. And, ma'am, did you have a chance to read over it?

16 A. Uh-huh.

17 Q. And, of course, this is not all inclusive as to any  
18 particular juror, but did you identify yourself as being  
19 more like any one of those three types of jurors?

20 A. Probably the second.

21 Q. Number two?

22 A. Yes.

23 Q. And the second type of juror is one who, although the  
24 guilt of the defendant has been determined, under no  
25 circumstances would you ever give the death penalty?

1 A. Probably, yeah.

2 Q. Probably would not?

3 A. No.

4 Q. Let me ask you if there are any circumstances in a  
5 situation under which you think that the death penalty would  
6 be appropriate?

7 A. I guess -- murder, it would definitely be appropriate.  
8 It would just depend on the nature of the crime. If it was  
9 premeditated, if it was -- I don't know, I guess all murder  
10 is ugly, but, I mean, how gruesome it was, or --

11 Q. All right. Let me ask you this. I will ask you a few  
12 additional questions about that.

13 If we were to go forward with the trial and if you were  
14 on the jury panel in the case, the way the trial would  
15 proceed is that the State would be required to prove the  
16 charges against the defendant by evidence beyond a  
17 reasonable doubt. And if the State failed to meet that  
18 burden of proof and the jury so found, in other words, the  
19 defendant was found not guilty, that would be the end of the  
20 matter and that would conclude the trial. Do you understand  
21 that?

22 A. Yes, sir.

23 Q. Okay. And but if the jury found that the State had  
24 proven the elements of the offense of murder beyond a  
25 reasonable doubt, then we would go through a second phase of

1 the trial, for lack of a better word called the penalty  
2 phase, in which it would be presented to the jury -- the  
3 State would present any aggravating circumstances that they  
4 think the jury ought to consider in their determine  
5 determination of the appropriate punishment. The defense  
6 would present any mitigation factors or issues that they  
7 think the jury ought to consider in determining the  
8 appropriate punishment. The court would instruct you on the  
9 law that applies to the issues in the case and what other  
10 factors you ought to consider in determining the appropriate  
11 punishment. And then the jury would be asked to determine  
12 the appropriate punishment. Do you understand that?

13 A. Yes, sir.

14 Q. Okay. Now, the possible punishments would be the death  
15 penalty, life imprisonment without parole, without  
16 eligibility for parole.

17 Could you listen to the testimony and evidence in that  
18 case - all the aggravating circumstances and mitigating  
19 circumstances, instruction by the court - and consider what  
20 would be the appropriate punishment in that case?

21 A. Yes.

22 Q. And let me ask you now, if you thought circumstances  
23 were appropriate, could you give the death penalty? Could  
24 you vote -- enter a verdict for the death penalty?

25 A: It would be the hardest thing that I have ever did to

1 do that. I -- I don't know that I'm capable of that.

2 Q. All right. Please answer any questions that the  
3 solicitor might have.

4 MR. COLER: May it please the court, Your Honor?

5 THE COURT: Yes, sir.

6 VOIR DIRE EXAMINATION BY MR. COLER:

7 Q. Good afternoon, ma'am.

8 A. Good afternoon.

9 Q. I want to talk to you about the two phases of the trial  
10 that the judge just described for you, just so I understand  
11 what you understood. Did you understand the judge to say  
12 that there would be a first phase, a guilt phase?

13 A. Yes.

14 Q. Then when we got to the second phase of the trial, you  
15 would be asked to do one of two things. You would be asked  
16 to impose life without parole or impose the death penalty.

17 Do you understand the judge said that?

18 A. Yes, sir.

19 Q. If -- you know, you always have the option to impose  
20 life without parole, but if the circumstances and the  
21 evidence and facts required you to impose the death  
22 sentence, could you do that?

23 A. I can't answer definitively.

24 Q. Could you sign your name on a verdict form that would  
25 be there for eternity imposing death on the defendant?

1 A. No.

2 MR. COLER: That's all. Thank you.

3 MR. STARNES: May it please the court, Your Honor?

4 THE COURT: Yes, sir.

5 VOIR DIRE EXAMINATION BY MR. STARNES:

6 Q. How are you doing today, ma'am?

7 A. Good.

8 Q. Could you just give us your views on the death penalty  
9 and how you feel about it?

10 A. I just feel that -- I do believe that maybe in some  
11 cases that it is deserved. I just don't feel that I could  
12 be the one to deliver that punishment.

13 I might feel differently if something happened to  
14 somebody that I loved. I know that everybody has someone  
15 like that. I mean, everybody has somebody that loves them,  
16 but I just don't think that I could -- I don't -- I don't  
17 think that I could just do that, though, sign any paper that  
18 willed someone dead.

19 Q. Okay. If you were selected as a juror in this case,  
20 could you follow your duty as a juror as the court  
21 instructed you?

22 A. I think I would reach that point, but I can't answer  
23 definitively whether or not I could sign my name on  
24 something that would end someone's life.

25 Q. Okay. So does that mean maybe, yes or no, or you



1 just -- it's a hard question to answer, I know.

2 A. It's a hard question to answer.

3 If the court ordered me to find -- I think I could  
4 follow the direction of the court, but I don't know if the  
5 direction of the court were for the death penalty, I don't  
6 know that I could do that, support that.

7 Q. Yes, ma'am.

8 Do you understand that in a capital case nobody can  
9 order you or make you do anything?

10 A. Yeah.

11 Q. And that as being a juror it would be your own  
12 independent decision as to determine the guilt or innocence  
13 of a defendant?

14 A. I understand that.

15 Q. Okay. Regarding the death penalty and capital  
16 punishment, do you understand as a juror, it would be your  
17 duty to consider the facts and circumstances of the case in  
18 order to vote for the proper punishment?

19 A. Yeah, I think I would need to take into consideration  
20 the facts, like I said the nature of the crime, but I don't  
21 know that I could, you know, at the end of the line, you  
22 know, if I would really wholeheartedly consider the death  
23 penalty.

24 Q. Do you believe that not all crimes are the same -- not  
25 all murders are the same?

1 A. I agree.

2 Q. And in no circumstances you couldn't -- you couldn't --  
3 no case whatsoever you couldn't vote for the death penalty?

4 A. Probably not.

5 Q. Probably not?

6 A. Uh-huh.

7 Q. If you were selected as a juror in this case, and  
8 eleven jurors felt the appropriate punishment was the death  
9 penalty, but you felt the appropriate punishment was life  
10 without the possibility of parole, could you vote for life?

11 A. Can you repeat the question?

12 Q. In other words, if you were selected as a juror on this  
13 case and eleven jurors wanted to give the death penalty, but  
14 you felt that life without the possibility of parole was the  
15 appropriate punishment, could you vote for life?

16 A. I would vote for what I believed in. If that was life,  
17 yes, I would disagree with the eleven.

18 Q. But could you vote for the death penalty? If the facts  
19 and circumstances of the case was so bad and --

20 A. Yes.

21 Q. -- you could vote for the death penalty?

22 A. If it was -- if the evidence warranted it, yes.

23 Q. Okay. So, in other words, if it's a premeditated  
24 murder and the jury convicted of murder, and if you were  
25 sitting on this jury and we were into the penalty phase, and

1 the facts and circumstances of this case were so bad, you  
2 believe that you could vote for the death penalty?

3 A. Yeah. If it was so bad, yes.

4 Q. And that would be your own independent decision?

5 A. Absolutely.

6 Q. And you wouldn't let anyone influence your decision?

7 A. Not at all.

8 Q. Let me ask you this one more time, so I -- maybe I'm  
9 not getting clear on this. We have to ask these questions.

10 So would you agree with us that not all murders are the  
11 same?

12 A. Yes.

13 Q. That some are more aggravated and some are mitigated?  
14 What I mean by mitigation, not as bad.

15 A. Yes.

16 Q. The crime of murder is not as bad in all cases, that  
17 different cases have different facts and different  
18 circumstances, but in a case that the crime was just mean,  
19 and you as the juror were in the penalty phase and you felt  
20 that the defendant deserved the death penalty, you could  
21 vote for the death penalty?

22 A. If I felt he deserved it, yeah.

23 Q. If you felt he deserved it?

24 A. Uh-huh.

25 Q. I notice that you are from Ohio?

1 A. Yes, sir.

2 Q. And you have lived in Lexington County for seven years?

3 A. Yes, sir.

4 Q. Have you ever served as juror in a criminal case  
5 before?

6 A. No.

7 Q. Never served as a juror in a criminal case?

8 A. No, sir.

9 Q. How about civil? Have you ever sat on --

10 A. I have never served as a juror.

11 Q. You have never served as a juror at all.

12 Thank you, ma'am. Answer any questions that the State  
13 may have.

14 MR. COLER: Just briefly, Your Honor.

15 THE COURT: Yes, sir.

16 RE-VOIR DIRE EXAMINATION BY MR. COLER:

17 Q. Ma'am, I'm a little bit confused, and so I just want to  
18 ask you a couple more questions.

19 When I talked to you a few minutes ago, I asked you  
20 about the second phase of the trial and -- you remember  
21 that?

22 A. Yes.

23 Q. And you told me that you could not ultimately impose a  
24 death sentence on the defendant. Did you tell me that?

25 A. I don't know.

1 Q. And nobody here is trying to change your opinion or  
2 trying to get you -- we want to know what's in your heart  
3 and what is your judgment. You are sitting there today,  
4 what are your feelings, and I thought I was understanding  
5 those when I was talking to you at first, but, again, I'm  
6 just confused now. Can you help me understand that?

7 A. That if -- I don't know. I think the death penalty is  
8 warranted. I don't know that I would -- I think there are  
9 some cases where it is warranted. And I think that if the  
10 evidence backed it up, that it would be something that I  
11 could vote for, but that -- I don't know. I have just never  
12 been in this situation. It's real hard for me to speculate.

13 Q. I'm not asking you if you think there are some cases  
14 that would warrant it. My question specifically is could  
15 you impose it when called to?

16 A. If the facts warranted it.

17 Q. If you we got to the second phase of this trial -- and  
18 you would always have two choices. You would always have  
19 the option of life without parole. That would always be an  
20 option for you.

21 Knowing that, are you telling me -- are you telling me  
22 that you could sign a verdict form imposing death on the  
23 defendant, knowing that you had that option?

24 A. If the evidence warranted the death penalty, I could do  
25 that.

1 Q. You describe --

2 A. If I believed in it, yes.

3 Q. If you believed in what?

4 A. If I -- if I believed that the evidence was so strong  
5 that it warranted the death penalty, then I could.

6 Q. Could you describe for me the type of evidence that  
7 would be so strong to sway you?

8 A. I guess probably just a murder heinous in nature;  
9 premeditated; crimes against innocent people. You know,  
10 children.

11 Q. Can you describe for me -- describe for the court why,  
12 in your opinion now, life without parole wouldn't be  
13 sufficient to punish that?

14 A. Actually I think that's more of a punishment myself.

15 Q. Okay. Then again I'm just a little bit confused with  
16 your answers. How -- can you help me understand how you can  
17 say that, but still say knowing that you had the option of  
18 life without parole, which you think even more of a  
19 punishment?

20 A. Well --

21 Q. You couldn't --

22 A. Only because I think that -- I don't know.

23 Q. I'm not trying to get to you change your answer. I'm  
24 really just trying to understand what's in your heart.

25 MR. STARNES: Your Honor, I have to object. I

1 believe she's already answered the question.

2 MR. COLER: I'll rephrase it one more time, Your  
3 Honor.

4 THE COURT: One more question.

5 BY MR. COLER:

6 Q. You said to me that if we got to the second phase, you  
7 are telling me that life without parole you think is more of  
8 a punishment than the death sentence?

9 A. In some ways, yes.

10 Q. If you had that option, you would admit with me then  
11 that you would impose life without parole over the death  
12 sentence?

13 A. I wouldn't take one into consideration any more than  
14 the other, based on what I know now about this case.

15 All I can say that if the evidence was substantial  
16 enough to me to warrant one or the other, that I could  
17 probably vote for one or the other. I mean --

18 Q. Are you now saying that you could change your --

19 MR. STARNES: Your Honor, I have to object.

20 THE COURT: I'm going let him finish up.

21 MR. COLER: I'll move along.

22 THE COURT: I'll give you another opportunity to  
23 as well.

24 Please wrap it up.

25 MR. COLER: Yes, sir.

1 BY MR. COLER:

2 Q. Are you now saying that you are changing the answer  
3 that you gave me the first time?

4 MR. STARNES: Your Honor, I have to object to  
5 that.

6 THE COURT: Okay. Objection overruled. Please be  
7 seated, Mr. Starnes.

8 Please complete your question, sir.

9 BY MR. COLER:

10 Q. Are you now saying you are changing your answer that  
11 you gave me the first time? You could and you would sign  
12 your name, which would be there forever, on a verdict form  
13 imposing death on the defendant?

14 A. If -- if the evidence warranted it, yes, I could.

15 MR. COLER: Beg the court's patience, Your Honor.

16 (Off the record)

17 (Back on the record)

18 THE COURT: Mr. Starnes.

19 MR. STARNES: Your Honor, I have no further  
20 questions.

21 THE COURT: All right. Thank you, Ms. Menie.

22 Thank you, ma'am.

23 Please wait just outside the courtroom door. We  
24 will have you back momentarily. Okay?

25 JUROR NUMBER 185: Okay.



1 (Whereupon, Juror Number 185 left the courtroom)

2 THE COURT: The reason I allowed the solicitor to  
3 ask additional questions, too, is because the court was  
4 having trouble itself, and I'm the one that's got to make  
5 the decision. I was having trouble myself trying to figure  
6 out where this lady is, so that's the reason I let him ask  
7 more questions. And as I told you, I would let you ask some  
8 additional questions, if you needed to do that, Mr. Starnes,  
9 but when a potential juror is vacillating like she  
10 vacillated back and forth, some additional questions are in  
11 order. I didn't have a problem with that, and I would let  
12 you ask some more, if you wished to do so, because she went  
13 from one point to another. She first said she could not  
14 impose the death penalty under any circumstances. She later  
15 said it might be appropriate in some circumstances, but she  
16 probably could not impose the death sentence. Then she came  
17 all the way around and saying well, if the circumstances  
18 warranted it, she could -- believe she could choose between  
19 the two. So, you know, with that in mind, the court was  
20 uncertain where we were with this particular juror, and  
21 that's the reason I allowed additional questions, but I'd be  
22 glad to hear from the State now. What's your position?

23 MR. COLER: Judge, I'm not sure she's qualified.  
24 I would submit that we are still not sure which end of the  
25 spectrum she falls under. We got polar opposite answers

1 from her.

2 I would submit to the court that her initial  
3 response, perhaps her most believable, her most sincere  
4 response was that she couldn't. She vacillated. So I think  
5 perhaps she does have an impairment, something in her  
6 judgment that would prevent her from performing her ultimate  
7 duties at the appropriate time.

8 THE COURT: Mr. Starnes?

9 MR. STARNES: Your Honor, I believe she's  
10 qualified under Wainwright v. Whitt. She said she could  
11 impose the death penalty. Mr. Coler was very adamant about  
12 asking the juror could she sign her name on a death verdict  
13 that would be there for eternity. Her answer to the court  
14 was she could do that.

15 The defense position is that this juror is  
16 qualified. I don't believe there is any question about it.

17 THE COURT: Well, I certainly won't agree with  
18 that last statement, but I'm going to find her qualified,  
19 solicitor. Her last answer was -- the last response that  
20 she gave was that she could choose between the two.

21 Her first answer concerns the court. Her answer  
22 to that she probably could not impose the death penalty that  
23 she gave to the defense causes the court concern, but her  
24 last questions and answers were that she believes she could  
25 impose the death penalty if circumstances warranted it. So

1 it's one of those that she's -- you know, it's not real  
2 clear, but I think it weighs on the side in her last  
3 responses were that she believes she could impose the death  
4 penalty, if circumstances warranted it, so I'm going to find  
5 her qualified.

6 Please bring her back in.

7 (Whereupon, Juror Number 185 entered the  
8 courtroom)

9 THE COURT: Ma'am, if you will just stand right'  
10 there, please.

11 The court finds you qualified to serve in the jury  
12 panel on this case. Now, that doesn't mean that you are  
13 actually on the jury yet. What it means is that you will be  
14 in the pool from which the jury would be selected. We are  
15 still in the process of getting a pool of jurors together  
16 from which the jury would be selected.

17 So what I'm going to ask you to do is I'm going to  
18 let you go now and ask you to report back tomorrow at three  
19 o'clock to the court. If there should be any change in  
20 reporting time, it will be put on the voicemail number that  
21 you have tonight. You can call the voicemail number  
22 sometime after seven o'clock. If there is any change in the  
23 reporting time, it will be a message on there for qualified  
24 jurors. You are now a qualified juror. So you would  
25 report. If it changes the reporting time, you would follow

1 that.

2 Now, the clerk also has a website. You can check  
3 with the website and there will be a message for qualified  
4 jurors, if there is a change in the reporting time. If  
5 there is no change in the reporting time on either the  
6 website or voicemail, you will be asked to report back at  
7 three o'clock tomorrow. Okay?

8 JUROR NUMBER 185: Just check it right before I  
9 come?

10 THE COURT: Well, yes. Well, I would -- you might  
11 want to check a little ahead of that before you come. Yeah,  
12 you can check it right before you come, if you wish to.  
13 Anytime after seven night. It won't be there on there until  
14 after seven. Okay?

15 JUROR NUMBER 185: Okay.

16 (Whereupon, Juror Number 185 left the courtroom)

17 (Whereupon, Juror Number 281 entered the  
18 courtroom)

19 VOIR DIRE EXAMINATION BY THE COURT:

20 Q. Ma'am, you are Kimberly Tebeau, juror number 182?

21 A. Yes, sir.

22 Q. Ma'am, I too would like to apologize to you for the  
23 long delay. I know that you have had a long time to wait  
24 back there and I apologize for that, but it's really  
25 unavoidable, but we appreciate your patience.

1 I would ask also that you just be relaxed. We are  
2 going to ask you some questions now to determine how you  
3 feel about certain issues. There are no right or wrong  
4 answers. Nobody is going to give you the third degree,  
5 disagree with what you say in any way. We are just  
6 interested in how you feel about certain issues, so please  
7 answer the questions as honestly and openly as you can.

8 Before we get to the questions, there are a couple of  
9 housekeeping matters. First of all, do you remember me  
10 placing the entire jury panel under oath yesterday, so you  
11 continue to be under oath for purposes of the information  
12 that you are providing the court today. Do you understand  
13 that?

14 A. Yes, sir.

15 Q. And you know that you filled out a juror information  
16 form when you originally got a summons from the clerk's  
17 office and sent that back in. Do you recall that?

18 A. I recall doing it, yes.

19 Q. Has anything happened since you sent that form back in  
20 that needs to be changed, or any changes that happened since  
21 then?

22 A. I also don't remember the form, but nothing has  
23 changed.

24 Q. Okay. Ma'am, did you see back in the jury room, did  
25 you see a rather long list of potential witnesses in this

1 case that had a bunch of names with numbers beside them?

2 Did you have a chance to go over those?

3 A. Yes.

4 Q. Now, I'm going to ask you if you recognize any of those  
5 names or if you know any of those persons who are listed, if  
6 you know them, I would like for you to identify them by  
7 number only. Not by name. We are going only by numbers in  
8 court. Did you recognize any of those names or do you know  
9 of those persons?

10 A. No.

11 Q. Okay. Did you see back in the jury room a sheet with  
12 three paragraphs on it which talk about three different  
13 types of the jurors? Did you have a chance to go over that?

14 A. Yes.

15 Q. And, ma'am, of course, they are not inclusive. They  
16 don't describe any particular juror, but did you identify  
17 yourself with any of those three particular types of jurors  
18 that were listed?

19 A. Yes.

20 Q. Which one would you say?

21 A. There were two. The first and last one.

22 Q. I beg your pardon?

23 A. There was two.

24 Q. Two?

25 A. Yeah, the first one and the last one, but I would like

1 to say that I was the last one, the third one.

2 Q. I'm getting confused me a little bit.

3 A. Sorry.

4 Q. You say that you are somewhat like the second and the  
5 third one?

6 A. The first and the --

7 Q. The first one?

8 A. The first one and the third one, but I like to say I  
9 was the third one.

10 Q. All right. I understand what you are saying. You  
11 think you are really more like the third one, but you are  
12 somewhat like the first one, which you have -- I take it  
13 pursuant to the first one, that you feel strongly about the  
14 punishment?

15 A. It's something that I questioned.

16 Q. Let me ask you some additional questions. Maybe we can  
17 understand how you feel.

18 Do you understand, of course, that this is a case in  
19 which the State is seeking the death penalty?

20 A. Yes.

21 Q. And how we would proceed in the trial is that once the  
22 jury was impaneled, the State would have to prove the  
23 defendant guilty of the offenses for which he's charged  
24 beyond a reasonable doubt. Do you understand that?

25 A. Yes.

1 Q. Now, if the State failed to meet that burden of proof  
2 and the jury found the defendant not guilty, that would be  
3 the end of the matter. The trial would be over. Do you  
4 understand that?

5 A. Yes.

6 Q. On the other hand, if the jury should find that the  
7 State had proven the elements of the offense of murder  
8 beyond a reasonable doubt, we would go to a second phase of  
9 the trial.

10 And in the second phase of the trial the State would  
11 present aggravating circumstances which they believe the  
12 jury ought to consider on the issue of punishment. The  
13 defense would present mitigating issues that they think --  
14 that are factors that they believe the jury ought to  
15 consider on the issue of punishment. The court would  
16 instruct you on the law that applies and also what other  
17 factors the court says that you are required to consider on  
18 the issue of the appropriate punishment. And then the jury  
19 would be asked to determine the appropriate punishment. Do  
20 you understand that?

21 A. Yes.

22 Q. And then the two choices that the jury would have would  
23 be for the death penalty or for life imprisonment without  
24 the possibility of parole. Do you understand that?

25 A. Yes.



1 Q. Now, I would ask you then could you listen to -- if we  
2 got to the second phase of the trial, could you listen to  
3 the aggravating circumstances, the mitigating circumstances,  
4 the court's instruction on the law that applies, and then  
5 render a decision in that case as to the appropriate  
6 punishment?

7 A. Yes.

8 Q. If the circumstances warranted it, you felt that they  
9 warranted it with all that information, do you believe that  
10 you could vote to impose the death penalty?

11 A. Yes.

12 Q. If you felt the circumstances and all the information  
13 that you had provided to you at that phase, under all those  
14 circumstances you believed the appropriate penalty was life  
15 imprisonment without the possibility of parole, could you  
16 vote for that verdict?

17 A. Yes.

18 Q. Thank you. Please answer any questions that the  
19 solicitor might have.

20 MR. BULSA: Thank you, Your Honor.

21 VOIR DIRE EXAMINATION BY MR. BULSA:

22 Q. Ms. Tebeau, good afternoon.

23 A. Hi.

24 Q. Ma'am, which of those two sentences do you feel is  
25 harsher?

1 A. Death penalty.

2 Q. Okay. And you can see yourself seated on this jury  
3 imposing the death sentence?

4 A. Yes.

5 Q. Could you also see yourself impose a life without  
6 parole?

7 A. Yes.

8 Q. Okay. So you would wait to make up your mind after you  
9 heard the entire case, as well as both the good and bad  
10 about the defendant?

11 A. Yes.

12 Q. And could you see yourself signing your name to a  
13 verdict form which would be kept in the records?

14 A. Yes.

15 Q. Thank you, ma'am.

16 MR. STARNES: May it please the court, Your Honor?

17 THE COURT: Yes, sir.

18 VOIR DIRE EXAMINATION BY MR. STARNES:

19 Q. Hi, Ms. Tebeau, how are you doing today?

20 A. Fine.

21 Q. My name is Norman Starnes. I'm the defendant in this  
22 case.

23 Ms. Tebeau, if you would, could you give us your view  
24 on the capital punishment and the death penalty?

25 A. I really don't know a whole lot about it, other than

1 it's generally lethal injection and that it's -- I really  
2 don't know how you get there.

3 Q. Have you ever sat on a jury before?

4 A. No.

5 Q. Ms. Tebeau, do you believe that all killings are  
6 murder?

7 A. No.

8 Q. What do you mean by that?

9 A. Circumstances.

10 Q. Circumstances?

11 A. Yeah, circumstances. I don't know what they would be.  
12 It would be a feeling that -- I don't know what they would  
13 be, what the circumstances would be.

14 Q. Okay. But you could listen to all the facts and  
15 circumstances in this case and apply the law as the court  
16 would give it to you to make your decision?

17 A. I believe so.

18 Q. And you could vote for life without parole or you could  
19 vote for the death penalty, is that my understanding?

20 A. I believe so.

21 Q. Okay. The first part of the trial is to determine the  
22 guilt or the innocence of the defendant. To get into the  
23 second part of the trial, the jury has to vote for or  
24 convict of murder. Do you understand that?

25 In other words, if there is no murder conviction, there

1 is no second part, there is no penalty phase to determine  
2 life or death.

3 A. Yes.

4 Q. And you could give the death penalty or you could give  
5 life without parole.

6 Could you find someone not guilty?

7 A. Circumstances.

8 Q. Circumstances.

9 Do you believe someone is entitled to kill in  
10 self-defense?

11 A. Yes.

12 Q. And if self-defense -- if evidence of self-defense was  
13 presented in this case, would you consider that?

14 A. Yes.

15 Q. And would you follow the law regarding self-defense, if  
16 the trial court give it to you?

17 A. Yes.

18 Q. Ms. Tebeau, in the event that we were to get into the  
19 penalty phase, and if say if, if eleven jurors wanted to  
20 give life without parole, but you felt that the death  
21 penalty was the appropriate punishment, could you make that  
22 on your own independent decision?

23 A. Repeat, please.

24 Q. If eleven jurors wanted to give life without the  
25 possibility of parole, but you felt the death penalty was

1 the appropriate punishment, could you render your vote on  
2 your independent decision?

3 A. Yes.

4 Q. Have you heard anything about this case or read  
5 anything in the newspaper?

6 A. No.

7 Q. I noticed on your questionnaire you have family that  
8 worked in law enforcement?

9 A. My stepmother, she was a DUI agent.

10 Q. A DUI agent?

11 A. Yes.

12 Q. So she was a deputy or a highway patrol?

13 A. Deputy. She tested for alcohol involvement. That's  
14 what she did. She didn't actually make arrests or anything.

15 Q. Do you know of any reason why you couldn't sit on this  
16 jury to give a fair decision to the defendant and the State?

17 A. Child care becomes a problem for me, because I have a  
18 three year old.

19 Q. You have a three year old.

20 A. Yeah, and I have to make sure that she's able to be  
21 taken care of.

22 Q. You wouldn't be prejudiced to the State or defense?

23 A. Prejudiced?

24 Q. Yes, ma'am.

25 A. No.

1 Q. If you were selected as a juror on this case?

2 A. No.

3 Q. Thank you Ms. Tebeau. That's all we can ask of you.

4 MR. BULSA: Nothing further, Your Honor.

5 RE-VOIR DIRE EXAMINATION BY THE COURT:

6 Q. Let me ask you in that regard, you say that you have a  
7 three year old that you want to make sure it was taken care  
8 of?

9 A. Yes.

10 Q. And, of course, you had an opportunity to do that with  
11 the general qualification process. Did you come forward at  
12 that time?

13 A. No, I didn't, because I was under the understanding it  
14 was a week, and this week I'm covered. I'm not sure if this  
15 is only going to be a week.

16 Q. Well, it's probably going to be longer than a week,  
17 okay, but let me -- but we are not going to sequester the  
18 jury, which means that we are not going to require you to  
19 stay in a motel overnight or anything. You are not going to  
20 be kept together the whole time. You will be -- in the  
21 afternoons when we finish the trial for the day, you would  
22 be allowed to go home. Do you understand that, and come  
23 back the next morning?

24 A. Yes, but I'm a stay-at-home mom, so I have limited  
25 resources during the day.

1 Q. Okay. Is there anyone who can watch your child for you  
2 while you are serving on jury duty during the day?

3 A. It would take a lot of work, but I could probably work  
4 it out, yes.

5 Q. Okay. Well, thank you, ma'am.

6 THE COURT: Any followup questions to the one I  
7 just asked from either side?

8 MR. BULSA: No.

9 MR. STARNES: Nothing, Your Honor.

10 THE COURT: All right. Ma'am, would you please  
11 wait just outside the courtroom door over here with the  
12 bailiff and we will bring you back in momentarily, okay?

13 (Whereupon, Juror Number 281 left the courtroom)

14 THE COURT: Position of the State?

15 MR. BULSA: Your Honor, she's qualified.

16 THE COURT: Defense?

17 MR. STARNES: Qualified, Your Honor.

18 THE COURT: All right. The court would agree  
19 she's qualified.

20 I think that she needs to make arrangements for  
21 her daughter. If she was going to be sequestered, I might  
22 have a little more concern about it, but I think she can do  
23 that. She didn't raise an issue with the general  
24 qualifications, so I think she would be all right.

25 Please bring her back in.

1                   (Whereupon, Juror Number 281 entered the  
2 courtroom)

3                   THE COURT: Ms. Tebeau, you can stand right there,  
4 if you will.

5                   The court has found that you are qualified to  
6 serve on the jury pool in this case. Let me explain what  
7 that means to you. You are not actually on the jury itself,  
8 but we haven't selected the jury yet. What we are doing is  
9 selecting the pool from which the jury will be selected. Do  
10 you understand?

11                  JUROR NUMBER 281: Yes.

12                  THE COURT: So we are moving along in that  
13 process. We have got a little further to go with that.

14                  But what I'm going to ask -- I'm going to free you  
15 up at this time and ask you, if you will, to please report  
16 back here to the tomorrow at three o'clock. That is  
17 Wednesday at three o'clock.

18                  Now, if there should be any change in the  
19 reporting time, there would be a message put on the  
20 voicemail number. You have your little card there that the  
21 clerk gave you. It has a number on there. If you will call  
22 that number after seven o'clock tonight. It's getting close  
23 it now, by the way. If you will call after seven, anytime  
24 after seven. Call at eleven tonight, if you want to, but on  
25 the voicemail it will tell you. You listen for a message to



1 qualified jurors. You are now a qualified juror. And the  
2 message will tell you if there has been a change in that  
3 reporting time. If there is a message on there that says  
4 report at a different time, you follow that.

5 The clerk has a website, if you have access to a  
6 computer, and you can check that on the website that she  
7 would have a message, if there is a change in the time of  
8 reporting which will be for qualified jurors. And if they  
9 change the reporting time, then you will go by that.

10 But if you don't see any change or hear any change  
11 on the voicemail or anything, then you will report back at  
12 three o'clock tomorrow. Okay?

13 JUROR NUMBER 281: Yes.

14 THE COURT: Thank you for your patience. You are  
15 free to go at this time.

16 (Whereupon, Juror Number 281 left the courtroom).

17 (Whereupon, Juror Number 238 entered the  
18 courtroom)

19 VOIR DIRE EXAMINATION BY THE COURT:

20 Q. Ma'am, you are Nancy Ross, juror number 238, is that  
21 correct?

22 A. That's right.

23 Q. I want to express my apologies to you for keeping you  
24 tied up all this time. I know it gets tiresome sitting back  
25 there like that. It's been a big delay, but it's something

1 that came up that we had to address in a timely basis. We  
2 ran out of time, but we are moving on now.

3 What I'm going to you ask you to do is just to relax.  
4 This is not third degree type situation, or anything like  
5 that?

6 A. All right.

7 Q. You will be asked some questions about how you feel  
8 about certain issues.

9 A. Uh-huh.

10 Q. There are no right or wrong answers to them. Nobody is  
11 going to disagree or argue with you, or anything like that.

12 A. All right.

13 Q. We just need to know your honest and open answers to  
14 those questions, if you will, please, ma'am.

15 Before we actually get into any questions, I want to do  
16 a little housekeeping and remind you that yesterday I placed  
17 the whole jury panel under oath, and you continue to be  
18 under oath for purposes of the information you are providing  
19 to the court today.

20 A. Correct.

21 Q. And do you remember that you got your jury summons,  
22 there was a jury information form. You filled it out and  
23 sent it back to the clerk's office. Do you recall that?

24 A. That's right.

25 Q. Has anything happened since you filled that out and

1 sent in it that would cause you to change anything  
2 somewhere?

3 A. No, sir.

4 Q: Back in the jury room did you see a rather lengthy list  
5 of potential witnesses in this case that just had a bunch of  
6 names and numbers on them?

7 A. Yes.

8 Q. You have that there in front of you, I believe, as  
9 well.

10 A. Right.

11 Q. Ma'am, if you recognize any of those names or know any  
12 of those persons, what I would ask you to do now is to give  
13 me the numbers of those persons, not their names. We are  
14 going only by numbers. So if you could just give me the  
15 number of those persons, if you know any. Do you know any  
16 of them?

17 A. I don't.

18 Q. Recognize any name?

19 A. I do not, sir.

20 Q. Okay. Ma'am, did you see back there in the jury room  
21 there was a sheet with three paragraphs on it that talked  
22 about three different types of jurors? Did you have a  
23 chance to review that?

24 A. Yes, I did.

25 Q. Ma'am, of course, they are not inclusive as to any

1 person, but could you identify yourself as being more like  
2 one of those three type jurors on the form?

3 A. Yes, sir, the third type.

4 Q. The third type?

5 A. Yes, sir.

6 Q. So you are the type of juror who would not have your  
7 mind made up in advance, but rather you would have to listen  
8 to the testimony and evidence and instruction by the court  
9 on the law that applies before you would make a decision in  
10 the case?

11 A. Uh-huh, that's correct.

12 Q. Okay. And you understand that in this case the State  
13 is seeking the death penalty in the case. And the way it  
14 would proceed, the trial would proceed, once the jury was  
15 impaneled, the State would be required to prove the  
16 defendant guilty of the charges against you beyond a  
17 reasonable doubt.

18 If the State failed to meet that burden of proof, then  
19 the matter would end at that time point and the jury's role  
20 in that and the trial itself would end at that point.

21 A. Right.

22 Q. Do you understand that?

23 A. Uh-huh.

24 Q. But, on the other hand, if the jury were to find that  
25 the State had proven the elements of the offense of murder

1 beyond a reasonable doubt, then we would go to a second  
2 phase of the trial.

3 And in the second phase of the trial, the State would  
4 present aggravating circumstances that they believed the  
5 jury ought to consider on the issue of punishment. The  
6 defense would present mitigating issues that they think the  
7 jury should consider on the issues of punishment. The court  
8 would instruct you as to how to receive that information,  
9 and also any other matters that you are to consider on the  
10 matter of appropriate punishment. And then the jury would  
11 be asked to determine the appropriate punishment.

12 The two possible punishments would be the death penalty  
13 and imprisonment for life without the possibility of parole.  
14 Do you understand those two?

15 A. I do understand.

16 Q. Okay. Ma'am, let me ask you if you were on the jury  
17 and we got to the second phase of the trial, and we may not  
18 get there, but if we do get there, would you be able to  
19 listen to the aggravating circumstances, and mitigating  
20 circumstances, the court's instruction on the law that  
21 applies in those instances and render a verdict as to the  
22 appropriate punishment?

23 A. Yes, sir, I would.

24 Q. Okay. And if you believed that the circumstances  
25 warranted it, could you vote for a verdict to impose the

1. death penalty?

2. A. Yes, sir.

3. Q. If you believed that the circumstances warranted it,  
4. could you vote for a verdict that imposed life imprisonment  
5. without the possibility of parole?

6. A. Yes.

7. Q. Okay. All right. Thank you, ma'am.

8. Please answer any questions that the solicitor may have  
9. for you.

10. A. Okay.

11. MR. BULSA: Thank you, Your Honor.

12. VOIR DIRE EXAMINATION BY MR. BULSA:

13. Q. Good afternoon, Ms. Ross.

14. A. Hey.

15. Q. Have you ever given the death penalty any thought?

16. A. I have.

17. Q. What are your views on the death penalty?

18. A. I have mixed feelings about it. I would have to listen  
19. to a whole story before I could come to a conclusion whether  
20. it was appropriate or not.

21. Q. It's fair. Do you want to hear both sides of the  
22. story?

23. A. Correct.

24. Q. Hear the good and the bad?

25. A. Right.

1 Q. I notice that you actually could have exempted from  
2 jury service this week, but you chose not to?

3 A. Right.

4 Q. Do you understand this case may last more than a week?

5 A. I do now.

6 Q. Do you want to exercise that exemption?

7 A. I'm okay.

8 Q. Okay. I see from your juror questionnaire that you  
9 listed that you had a relative that worked in the Richland  
10 County solicitor's office?

11 A. That's correct.

12 Q. Still work there?

13 A. Yes.

14 Q. Who is that?

15 A. That's David Ross. He's my brother. He's an assistant  
16 solicitor.

17 Q. Okay. How long has he been there?

18 A. He's been with Richland County maybe a couple of years.  
19 He was with Anderson County before.

20 Q. I believe I know Mr. Ross.

21 Do you think his connection to the prosecutor's office,  
22 would that influence you one way or the other?

23 A. No, I don't think so.

24 Q. Have you ever discussed this kind of topic with him  
25 before?

1 A. About?

2 Q. The death penalty.

3 A. No.

4 Q. Ma'am, would you have any problems signing a verdict  
5 form where you voted to put someone to death?

6 A. I would have to hear the whole story and then make my  
7 decision.

8 Q. I understanding that.

9 A. Right. If I decided that was appropriate, then I would  
10 have -- I wouldn't have a problem.

11 Q. You know you can never be forced to vote for the death  
12 sentence?

13 A. Yes, sir.

14 Q. You always have the option of life.

15 A. Right. Right.

16 Q. Knowing that you had that option, could you still  
17 impose the death sentence?

18 A. I could.

19 Q. Understanding --

20 A. It would be hard, right.

21 Q. It's not something that you would do every day.

22 A. No, no, no.

23 Q. But you are willing to do it, if you have to?

24 A. If I had to.

25 Q. Thank you, ma'am.



1 MR. STARNES: If it please the court, Your Honor?

2 THE COURT: Mr. Starnes, yes, sir.

3 VOIR DIRE EXAMINATION BY MR. STARNES:

4 Q. Hi, Ms. Ross. How you doing?

5 A. Hi. How are you?

6 Q. I notice you're from Seneca, South Carolina. Are you a  
7 Clemson fan?

8 A. No. I went to the University of South Carolina.

9 Q. Okay. Tell us how you feel about the death penalty and  
10 capital punishment.

11 A. It's kind of a hard subject. It's hard to think about,  
12 but it's something that is part of the law right now, so I  
13 feel like it's something that every once in a while it needs  
14 to -- it's appropriate.

15 Q. In other words, it's appropriate in certain cases?

16 A. Correct.

17 Q. Would you agree that in some cases the death penalty is  
18 not appropriate?

19 A. Yes.

20 Q. Ms. Ross, do you believe that all killings are murder?

21 A. All killings are murder?

22 Q. Yes, ma'am.

23 A. Yes.

24 Q. Do you believe that someone is entitled to take the  
25 life of another individual in self-defense?

1 A. In self-defense, that it could be something that you  
2 had to do to live, yes.

3 Q. Have you ever sat through a capital case before? I  
4 notice that you stated that you had some relatives that  
5 worked in the solicitors office. Have you ever sat through  
6 a death penalty case before?

7 A. No, I haven't.

8 Q. Have you been taught anything about capital punishment  
9 in school or anything?

10 A. I probably have in social studies. I can't remember  
11 that. I can't remember. I'm just saying I probably have  
12 been taught about it when we talked about laws and things.

13 Q. Yes, ma'am.

14 In the event that the jury convicts and we enter the  
15 penalty phase, Ms. Ross, you could give life without the  
16 possibility of parole, or you could give the death penalty,  
17 depending on what you seen and what you heard in this trial?

18 A. That's correct.

19 Q. Ms. Ross, do you understand that a life without the  
20 possibility of parole means until the death of the offender?

21 A. I understand that.

22 Q. Means dying in prison?

23 A. Right.

24 Q. No parole?

25 A. That's correct.

1 Q. In the event that you are on this case seated as a  
2 juror and eleven jurors wanted to give the defendant the  
3 death penalty, but you felt that life without the  
4 possibility of parole would be appropriate punishment, could  
5 you make that decision on your own?

6 A. Yes.

7 Q. In other words, your independent decision?

8 A. Yeah, I could.

9 Q. What if eleven jurors wanted to give life without  
10 parole, but you thought that the death penalty was  
11 appropriate?

12 A. Yeah, I could do that too.

13 Q. You could --

14 A. Uh-huh.

15 Q. -- make your own independent decision?

16 A. Uh-huh.

17 Q. Okay. Could you find somebody not guilty in the first  
18 part of the trial?

19 A. Yeah.

20 Q. Depending on the facts and the circumstances?

21 A. Right.

22 Q. Thank you, Ms. Ross.

23 A. Thank you.

24 MR. BULSA: Nothing further.

25 THE COURT: Thank you, ma'am.

1           If you will wait outside the courtroom door, we  
2 will have you back in momentarily.

3           JUROR NUMBER 238:   Okay.

4           (Whereupon, Juror Number 238 left the courtroom)

5           THE COURT:   Position of the State?

6           MR. BULSA:   Qualified, Your Honor.

7           THE COURT:   Defense?

8           MR. STARNES:   Qualified, Your Honor.

9           THE COURT:   The court agrees.

10          Please bring her back, sir.

11          (Whereupon, Juror Number 238 entered the  
12 courtroom)

13          THE COURT:   Ms. Ross, if you will stand right  
14 there, please.

15          The court finds you qualified to serve in the jury  
16 panel in this case.  What that means, of course, it's not  
17 that you on the jury itself.  We are in the process  
18 selecting a panel from which the jury would be drawn.

19          JUROR NUMBER 238:   Okay.

20          THE COURT:   And so you have been found qualified  
21 to serve in the panel.

22          JUROR NUMBER 238:   All right.

23          THE COURT:   What I would ask you to do is -- we  
24 have a little more work to do in getting the panel together,  
25 but I would ask you to return back to court tomorrow at

1 three p.m..

2 JUROR NUMBER 238: Okay.

3 THE COURT: That's Wednesday at three p.m..

4 JUROR NUMBER 238: Okay.

5 THE COURT: And I would tell you that it's getting  
6 kind of late in the day and I don't know that we made a  
7 decision on that yet, but if we were going to change the  
8 reporting time --

9 JUROR NUMBER 238: Uh-huh.

10 THE COURT: -- that would be put on the voicemail  
11 tonight after seven o'clock. Okay. You have that voicemail  
12 number on the card. You can call that number anytime after  
13 seven. You can call eleven tonight, if you want to do that,  
14 or in the morning, for that matter. If there is any change,  
15 it would be on there for qualified jurors. You are now a  
16 qualified juror.

17 JUROR NUMBER 238: Okay.

18 THE COURT: The clerk also has a website that you  
19 could check. And if there is a message for qualified jurors  
20 changing the time, you can look on there and it would be on  
21 there.

22 JUROR NUMBER 238: Okay.

23 THE COURT: If there is no change in the time, we  
24 would ask you to please report at three o'clock tomorrow.

25 JUROR NUMBER 238: Okay.

1 THE COURT: Okay?

2 JUROR NUMBER 238: It would be three, or later,  
3 right? It wouldn't be earlier?

4 THE COURT: It wouldn't be earlier.

5 JUROR NUMBER 238: No.

6 THE COURT: Okay. Thank you, ma'am.

7 And between now and then you are free to do  
8 anything that you would like to do.

9 JUROR NUMBER 238: Thank you.

10 THE COURT: Thank you for your patience.

11 (Whereupon, Juror Number 238 left the courtroom)

12 (Whereupon, Juror Number 229 entered the  
13 courtroom)

14 VOIR DIRE EXAMINATION BY THE COURT:

15 Q. Ma'am, you are Donna Richardson, juror number 229, is  
16 that correct?

17 A. That's correct.

18 Q. Okay. Ms. Richardson, let me apologize to you for the  
19 long delay. I know it's no fun sitting back there waiting.

20 We didn't intend for you to be sitting there that long.

21 Some things come up that we had to take care of at the time  
22 and sometimes it's just unavoidable and I apologize for the  
23 delay.

24 A. Thank you.

25 Q. We appreciate your patience.

1 I also wanted to ask you just to be relaxed. This is  
2 not -- it's not a kind of third degree thing. It's just an  
3 informal proceeding where you would be asked certain  
4 questions concerning your feelings about certain things. We  
5 would ask that you just answer openly and honestly. There  
6 are no right or wrong answers. Nobody is going to quibble  
7 with you about your answer, okay? Nobody is going to  
8 disagree with you about anything.

9 A. Okay.

10 Q. We just need to know your general information.

11 Before we get to any questions, though, I need to do a  
12 little housekeeping with you.

13 Do you remember that I placed the entire jury panel  
14 under oath yesterday?

15 A. Yes.

16 Q. You continue to be under oath for purposes of the  
17 information that you are providing the court today, okay?

18 A. Yes.

19 Q. Do you remember that you received the juror summons and  
20 it had juror information form that you filled out and sent  
21 back to the clerk's office?

22 A. That's correct.

23 Q. Since you have sent it back in, has there anything  
24 happened that -- any changes that have been made that you  
25 would need to modify that or you need to change it in any

1 way today?

2 A. No.

3 Q. Okay. Did you see back in the jury room there was a  
4 rather long list of potential witnesses in this case and it  
5 had a bunch of names with numbers beside them. Do you  
6 recall that? It should be in front of you as well.

7 A. Yes.

8 Q. Ma'am, if you recognized any of those names or if you  
9 know any of those persons, I would ask you at this time to  
10 identify them not by name but by number only. We are only  
11 dealing with numbers today in court.

12 A. Okay.

13 Q. So if you know any of those persons or recognize their  
14 names, I would ask you now please identify them by number  
15 only.

16 A. 38.

17 Q. 38. Okay.

18 A. 73.

19 Q. 73.

20 Any others?

21 A. That's it.

22 Q. Okay. Ma'am, let me ask you if either or both of these  
23 persons who would be called as witnesses by either side in  
24 this case, would that interfere in any way with your ability  
25 to be fair to both sides of the case?



1 A. Possibly.

2 Q. Possibly?

3 A. Yes.

4 Q. Okay.

5 THE COURT: Counsel, approach just a minute.

6 (Whereupon, the lawyers and the defendant  
7 approached the bench for an off-the-record discussion)

8 BY THE COURT:

9 Q. All right. Ma'am, let me ask you about two persons  
10 that you gave. The first one that you gave I believe was  
11 Dr. Sexton. Is that correct?

12 A. The first one.

13 Q. Dr. Sexton -- or one of them is Dr. Sexton?

14 A. That's correct.

15 Q. And, of course, he would be -- if he were called in the  
16 case -- he was the pathologist in the case and he would be  
17 the doctor, the pathologist who would testify concerning the  
18 pathology in the case.

19 A. Correct.

20 Q. If he would be called in the case to give information  
21 concerning an autopsy or pathology, you believe that would  
22 interfere in any way with your feelings to give both the  
23 plaintiff and defendant a fair and impartial trial?

24 A. I work with the pathologist at Lexington Medical  
25 Center.

1 Q. You do now?

2 A. Yes, I do.

3 Q. Okay. All right. Well, I understand that and -- okay.  
4 I understand it now.

5 But you understand, of course, the pathologist would  
6 give the testimony concerning the examination in pathology?

7 A. Correct.

8 Q. But if he would do that --

9 Well, let me ask you how that would influence your --  
10 how that might influence you as to whether you can give each  
11 side a fair trial?

12 A. Because of my knowledge of the pathology and autopsy  
13 process and working with the pathologist at Lexington  
14 Medical Center.

15 Q. Okay. Are you saying you would be more apt to accept  
16 whatever Dr. Sexton testifies to? Is that what you are  
17 saying, than not -- you would be more apt to believe what he  
18 says?

19 A. Correct.

20 Q. And his opinions?

21 A. Correct.

22 Q. Over something else?

23 A. I think that may be true.

24 Q. Okay. All right. And as to I believe the other person  
25 identified was Harry Harmon, is that correct?

1 A. That's correct.

2 Q. All right. And how do you know Mr. Harmon?

3 A. Just with my job.

4 Q. Okay. Now, he is --

5 A. I don't know him personally.

6 Q. Is he a funeral director, or -- I know -- I beg your  
7 pardon, the coroner or assistant coroner?

8 A. I believe the coroner.

9 Q. And so you work with him in your capacity as working in  
10 the pathologist's office, is that correct?

11 A. Yes.

12 Q. Okay. And so, again, if he were to testify in the  
13 case, is it your feelings that --

14 Well, you tell me how you feel about that.

15 A. The pathologist that I work for also is the medical  
16 examiner for this area.

17 Q. Okay.

18 A. Because I know them, I don't know if this case -- but I  
19 don't know if I would be completely objectionable. It may  
20 skew my opinions one way or the other.

21 Q. Okay. All right. I understand what you are saying.

22 A. Does that make sense?

23 Q. Yes , ma'am.

24 You don't know whether you can be totally objective?

25 A. That's correct.

1 Q. Okay.

2 THE COURT: Let me ask you if you would approach  
3 again just a minute and let me talk with you again.

4 Just relax for just a minute, if you will, please,  
5 ma'am.

6 (Whereupon, the lawyers and the defendant  
7 approached the bench for an off-the-record discussion)

8 THE COURT: Ms. Richardson, since you have some  
9 question about your objectivity if these witnesses were to  
10 be called, we are not going to ask you to sit on this  
11 particular case. We are going to go ahead and excuse you  
12 from the case.

13 JUROR NUMBER 229: Thank you.

14 THE COURT: So you are free to go at this time. I  
15 would like to thank you for your service thus far this week.  
16 The clerk will put a check in the mail for your service this  
17 week, and so you are free to go at this time.

18 JUROR NUMBER 229: Thank you.

19 THE COURT: Thank you, ma'am.

20 (Whereupon, Juror Number 229 left the courtroom)

21 THE COURT: Let me put on the record the State  
22 agreed that she would have a problem being objective to  
23 these witnesses because you agreed that she would not be  
24 able to proceed in the case, is that correct?

25 MR. COLER: That's correct, Your Honor.

1 MR. BULSA: That's correct, Your Honor.

2 THE COURT: Mr. Starnes, at the bench you agreed  
3 that she would have problems being objective if these  
4 persons were called as a witness and you agreed for her to  
5 be excused, is that correct?

6 MR. STARNES: Yes, sir, I concur with that, Your  
7 Honor.

8 THE COURT: She's not qualified.

9 All right. She's excused then. We will press on.  
10 Let's take five.

11 (Whereupon, proceedings were recessed)

12 (Whereupon, proceedings were reconvened)

13 MR. GOWDY: Your Honor, while the next juror is  
14 coming in -- could we borrow five seconds of your time while  
15 the next juror comes in? Could we walk up there for just a  
16 second on a housekeeping matter?

17 THE COURT: Yes, sir. Get Mr. Starnes.

18 (Whereupon, the lawyers and the defendant  
19 approached the bench for an off-the-record discussion)

20 THE COURT: All right. Bring the next one in,  
21 please, sir.

22 (Whereupon, Juror Number 34 entered the courtroom)

23 VOIR DIRE EXAMINATION BY THE COURT:

24 Q. Ma'am, you are Cynthia Brownlee, juror number 34, is  
25 that correct?

1 A. Yes, sir.

2 Q. Let me begin by apologizing the long delays. The clerk  
3 has. It's just unavoidable. Sometimes matters come up that  
4 have to be addressed in a timely basis and that has run us a  
5 little behind and we appreciate your patience.

6 A. Okay.

7 Q. Let me encourage you just to relax. This is not a  
8 third degree or anything like that. We are going to ask you  
9 generally some questions about how you feel about certain  
10 issues. There are no right or wrong answers. Nobody is  
11 going to argue with you about those answers. We just need  
12 to know how you feel about certain issues. Please be as  
13 open and honest as you can in your responses, okay?

14 A. Yes, sir.

15 Q. Now, a couple of housekeeping matters. Do you remember  
16 that I placed the entire jury panel under oath yesterday?

17 A. Yes, sir.

18 Q. And you continue to be under oath for purposes of  
19 giving your information to the court tonight. Do you  
20 understand that?

21 A. Yes, sir.

22 Q. Do you remember that when you got your juror summons,  
23 there was some information form that you sent back to the  
24 clerk's office? Do you recall that?

25 A. Yes.

1 Q. And has there anything changed in your life that you  
2 need to change any information in that form at this point?

3 A. Not that I'm aware of, no, sir.

4 Q. Ma'am, did you see back in the jury room a rather  
5 lengthy list of names and numbers? These are potential  
6 witnesses in the case. All of them are not going to be  
7 witnesses, but some of them certainly will.

8 A. Yes.

9 Q. What I would ask you to do is if you recognized any of  
10 those names, if you know personally any of those persons, if  
11 you would identify them by number, not by name. We are only  
12 dealing with numbers here. Do you recognize any of them?

13 A. The name No. 7, but I don't know the person. I'm not  
14 sure it's the person I think it is.

15 Q. Okay. Let's assume for the moment -- is that the only  
16 one that you recognize?

17 A. Yes, sir.

18 Q. Let's assume for the moment that it is the person that  
19 you think it is by the name. If that person would be called  
20 as a witness by either side in this case, would that  
21 interfere in any way with your ability to give both sides a  
22 fair and impartial trial?

23 A. No, I don't personally know the person.

24 Q. Okay. And did you see back in the jury room a sheet  
25 which had three paragraphs on it which talked about three

1 different types of jurors?

2 A. Yes, sir.

3 Q. We realize it's not an all inclusive, you can't  
4 describe a juror altogether, but did you identify yourself  
5 as being more closely related to one of those different  
6 types of jurors?

7 A. Yes, sir.

8 Q. Which one?

9 A. Number three.

10 Q. All right. So, ma'am, you would be the type of juror  
11 who would not have your mind already made up?

12 A. Yes.

13 Q. Rather you would need to listen to the testimony and  
14 evidence in a case and the court's instruction on the law  
15 that applies before you started forming opinions in a case,  
16 is that correct, ma'am?

17 A. Yes.

18 Q. Now, do you understand that this is case in which the  
19 State is seeking the death penalty?

20 A. Yes.

21 Q. Do you understand that?

22 A. Yes.

23 Q. And how that would proceed, ma'am, once the jury was  
24 selected, then we would go forward and the State would have  
25 to prove the defendant guilty of the charges against him



1 beyond a reasonable doubt. And if the State failed to meet  
2 that burden of proof and the jury so found, that would be  
3 the end of the matter and that would be the end of the case.  
4 Do you understand that?

5 A. Yes.

6 Q. The jury's role would be finished as well.

7 However, if the State should prove to the jury's  
8 satisfaction beyond a reasonable doubt that the State had  
9 proven the elements of the offense of murder, then we would  
10 proceed onto a second phase in the trial.

11 And in the second phase of the trial, if that became  
12 necessary, the State would present aggravating  
13 circumstances, which they believe ought to be considered on  
14 the issue of punishment. The defense would present  
15 mitigation issues that they think ought to be considered on  
16 the appropriate punishment in the case, and the jury would  
17 ask to decide appropriate punishment. With that -- the  
18 court also, let me say, would give you instructions with  
19 regard to how to receive that evidence and also any other  
20 matters that you ought to consider in determining what an  
21 appropriate punishment would be.

22 And then with all that information, then the jury would  
23 be asked to decide what the appropriate punishment would be.  
24 And it would be two possibilities: One would be the death  
25 penalty. The other would be a sentence of life imprisonment

1 without the possibility of parole. Do you understand that,  
2 ma'am?

3 A. Yes.

4 Q. Okay. Now, let me ask you, ma'am, if we reached the  
5 sentencing phase of this trial, and we may not reach the  
6 sentencing -- excuse me, the sentencing phase, the penalty  
7 phase is the way I described it earlier. We may not reach  
8 that, depending upon what happens in the first phase. But  
9 if we were to reach the second phase of the trial, could you  
10 listen to the aggravating circumstances presented by  
11 testimony and evidence by the State, the mitigating  
12 circumstances presented by testimony and evidence by the  
13 defense, and the court instruction on the law that applies  
14 and what other factors you should consider. Could you  
15 consider all that and then recommend what you feel to be the  
16 appropriate punishment in the case?

17 A. Yes, sir.

18 Q. And if you believed under all of those circumstances  
19 that the appropriate punishment was the death penalty, could  
20 you vote for a verdict of the death penalty?

21 A. Yes, sir.

22 Q. And if you believed that the appropriate punishment  
23 under all the facts and circumstances was a sentence of life  
24 imprisonment without the possibility of parole, could you  
25 vote for a verdict of imposing that sentence, ma'am?

1 A. Yes, sir.

2 Q. Thank you. Please answer any questions that the State  
3 may have.

4 MR. GOWDY: Very briefly, Your Honor.

5 May it please the court?

6 VOIR DIRE EXAMINATION BY MR. GOWDY:

7 Q. Good evening, ma'am.

8 A. Hi.

9 Q. First of all, thank you for your patience and also  
10 thank you for filling out the jury questionnaire, which has  
11 some questions in it that may border on the personal. And I  
12 would not ordinarily ask -- none of us would ordinarily ask  
13 these questions, but for the nature of this case. So thank  
14 you for filling that out.

15 A. You are welcome.

16 Q. Okay. What are your general beliefs or what is your  
17 opinion on capital punishment?

18 A. I believe that if the circumstances are met and the law  
19 says that could be what you would call the penalty, is then,  
20 yes.

21 Q. You used a word, a very important word in the answer  
22 that you just gave.

23 A. Uh-huh.

24 Q. The law says it could be imposed.

25 A. Uh-huh.

1 Q. The law will never tell you if X and Y exists, then you  
2 have to do it.

3 A. Right.

4 Q. You always have the option of life without parole.

5 If I hear you correctly, even knowing you always have  
6 that option, you still believe that there is some crimes  
7 that would warrant society's ultimate punishment?

8 A. Yes.

9 Q. And you could be fair to the State and the defendant?

10 A. Yes, sir.

11 Q. If you think we convicted him during the guilt phase,  
12 you will vote guilty? If you think we haven't, you will  
13 vote not guilty?

14 A. Yes.

15 Q. And when we get to the penalty phase, you will have an  
16 open mind as you hear all the matters in aggravating and  
17 mitigation and you will decide what you think the proper  
18 punishment is to be?

19 A. Yes.

20 Q. That's all we can ask. Thank you.

21 A. Thank you.

22 MR. STARNES: If it please the court, Your Honor.

23 THE COURT: Yes, sir.

24 VOIR DIRE EXAMINATION BY MR. STARNES:

25 Q. How are you doing today, Ms. Brownlee?

1 A. Yes.

2 Q. My name Norman Starnes. I'm the defendant in this  
3 case.

4 Your views on the capital punishment, you can be open  
5 and vote for life without the possibility of parole or the  
6 death penalty, depending on the facts and circumstances of  
7 the case? Is that what you are telling me?

8 A. Yes.

9 Q. So you could be open minded and hear all the evidence  
10 hear all of the testimony that comes from the witness stand,  
11 see all the evidence to make a determination whether to give  
12 life without the possibility of parole or the death penalty?

13 A. Yes.

14 Q. Do you understand that life without the possibility of  
15 parole means until death of the offender?

16 A. Correct.

17 Q. In other words, never get out?

18 A. Right.

19 Q. You die in prison?

20 A. Yes.

21 Q. Okay. In the event that we don't get into the second  
22 part, what is described as the penalty or the sentencing  
23 phase, could you find someone not guilty?

24 A. Yes, sir.

25 Q. Okay. Do you believe that all killings are not murder?

1 A. Yes, sir. There is such a thing as self-defense.

2 Q. Self-defense?

3 A. Uh-huh.

4 Q. How do you feel about self-defense?

5 A. It depends upon the circumstances.

6 Q. Depending upon what the circumstances were?

7 A. Uh-huh.

8 Q. If evidence of self-defense in this case existed, would  
9 you consider all that evidence and hear all that evidence of  
10 self-defense, if it was an issue in this case?

11 A. I would hear the evidence, yes, sir, and consider it.

12 Q. And would you follow the law as the trial court  
13 instructed you what the law on self-defense is?

14 A. Yes, sir.

15 Q. Ma'am, have you ever served on jury duty before?

16 A. No, sir. Well, the Irmo magistrate, but the case was  
17 dropped.

18 Q. Was it a criminal case? What type of case was it?

19 A. No, it was an assault.

20 Q. Okay. In this case, if we get to the penalty phase  
21 where a decision has to be made whether the defendant gets  
22 life without the possibility of parole or the death penalty,  
23 could you make that decision independently; in other words,  
24 what you thought?

25 A. Yes, sir.

1 Q. And if eleven jurors on that panel thought that the  
2 death penalty was the appropriate punishment, but after  
3 hearing all the facts and circumstances of the case and you  
4 thought that life without the possibility of parole would be  
5 the appropriate punishment, could you vote for life without  
6 parole?

7 A. Yes.

8 Q. Do you know of any reason, any religious beliefs or any  
9 reasons why you could not serve on this jury?

10 A. No.

11 Q. You could be fair to the State and to the defense?

12 A. Yes, sir.

13 Q. Ma'am, that's all we can ask of you. Thank you.

14 A. Thank you.

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

16 If you will please wait just outside the door here  
17 with the bailiff and we will have you back in in just a  
18 moment.

19 JUROR NUMBER 34: Okay.

20 (Whereupon, Juror Number 34 left the courtroom)

21 THE COURT: Position of the State?

22 MR. GOWDY: She's qualified, Your Honor.

23 THE COURT: The defense?

24 MR. STARNES: Qualified, Your Honor.

25 THE COURT: The court agrees she would be

1 qualified.

2 Please bring her back in.

3 (Whereupon, Juror Number 34 entered the courtroom)

4 THE COURT: Ms. Brownlee, you can stand right  
5 there, if you will.

6 The court has made a determination you are  
7 qualified to serve on the jury panel in this case. Let me  
8 explain that that doesn't mean that you are on the jury yet.  
9 We are still getting the panel together from which the jury  
10 will be selected --

11 JUROR NUMBER 34: Okay.

12 THE COURT: -- of qualified jurors.

13 And so what I'm going to ask you to do is ask you  
14 to report back here tomorrow, that's Wednesday, at three  
15 p.m..

16 JUROR NUMBER 34: Three p.m.?

17 THE COURT: And we anticipate hopefully we will  
18 have the jury panel together at that time and be able to  
19 select a jury at that point from that panel.

20 JUROR NUMBER 34: Okay.

21 THE COURT: Okay. You would actually come here to  
22 the courtroom tomorrow at three o'clock. Okay. Just come  
23 on into the courtroom.

24 JUROR NUMBER 34: Don't come through the doors?  
25 Come back where we came the first day?



1 THE COURT: Yes, just come right on into the  
2 courtroom tomorrow at three o'clock.

3 JUROR NUMBER 34: Okay.

4 THE COURT: Just do that, ma'am. That's all you  
5 have to worry about. Just report back at three o'clock.  
6 Come right into the courtroom, along with the other jurors,  
7 okay?

8 JUROR NUMBER 34: Okay.

9 THE COURT: Thank you, ma'am.

10 JUROR NUMBER 34: Have a good evening.

11 THE COURT: You too.

12 (Whereupon, Juror Number 34 left the courtroom)

13 (Whereupon, Juror Number 245 entered the  
14 courtroom)

15 VOIR DIRE EXAMINATION BY THE COURT:

16 Q. All right, sir, I'll ask you, please, if you will just  
17 speak up just a little bit and into the microphone and make  
18 sure that we can all hear you, including the court reporter  
19 over here, who has to record what you say.

20 You are Michael Sawyer, juror number 245, is that  
21 correct?

22 A. Yes.

23 Q. Mr. Sawyer, I would like to begin by apologizing for  
24 the long delay. We wouldn't have had that happen if we  
25 could have avoided it, but sometimes some things come up we

1 have to address on a timely basis and it ran us behind  
2 today. We just haven't caught up, and I appreciate your  
3 patience and your willingness to wait.

4 Mr. Sawyer, I went to invite you just to relax. We are  
5 going to ask you some questions. It's not a third degree or  
6 anything like that by any means. We're simply going to ask  
7 you some questions to determine how you feel about certain  
8 issues. There are no right or wrong answers. Nobody is  
9 going to argue with you or give you any kind of third  
10 degree, or anything like that. That's not the purpose.  
11 What we would ask you to do is just give open and honest  
12 answers to these questions to the best of your ability.  
13 Just do that, if you will.

14 Now, a couple of housekeeping matters. Do you remember  
15 that I swore the entire jury panel yesterday, and you  
16 continue to be under oath for purposes of giving information  
17 to the court tonight. Do you understand that?

18 A. Yes, sir.

19 Q. Do you remember that when you got your juror summons,  
20 there was a jury information sheet that you filled out and  
21 sent back to the clerk's office?

22 A. Yes.

23 Q. Has anything happened, changed in your life that would  
24 require you to change anything that was on that form at this  
25 time?

1 A. No.

2 Q. Do you remember back in jury room you had a list of  
3 names and numbers? These are potential witnesses in the  
4 case. All of these witnesses probably will not be called  
5 but some of them certainly would be called. What I'm going  
6 to ask you is if you recognize any of those names or if you  
7 know any of those persons listed personally, if you would  
8 give the court their number, not their names. We are only  
9 dealing with numbers, but did you recognize anyone on that  
10 list?

11 A. 7.

12 Q. Okay. No. 7.

13 Any others?

14 A. No.

15 Q. Let me ask you, sir, whether if that witness would be  
16 called as a witness by either side in the case, if that fact  
17 would interfere in any way with your ability to give both  
18 side a fair and impartial trial?

19 A. No.

20 Q. Did you see back in the jury room there was a sheet  
21 there with three types of jurors who were listed in several  
22 paragraphs? Did you see that back there, have a chance to  
23 go over it?

24 A. (Shaking head yes)

25 Q. You have to answer verbally.

1 A. Yes.

2 Q. And, of course, none of these paragraphs are all  
3 inclusive as to describe any juror, but did you identify  
4 yourself as being more like one of these three types of  
5 jurors?

6 A. Yes. I feel like I'm definitely the third.

7 Probably if I had to choose from the third and the  
8 other two, I probably lean more towards the third and the  
9 second.

10 Q. All right. Let me ask you, sir, then the third type of  
11 juror to which you would lean -- I know you mentioned the  
12 second also, but the third type of juror is one who would  
13 not already have his mind made up, but he would have to  
14 listen to the testimony and evidence in the case and the  
15 court's instruction on the law before he would be able to  
16 decide the issue, is that correct?

17 A. Yes.

18 Q. All right. And you understand in this case the State  
19 is seeking the death penalty in this case?

20 A. Yes.

21 Q. All right. And the way the trial would work is that  
22 once the jury was impaneled, then we would go forward with  
23 the trial and the State would be required to prove the  
24 defendant guilty beyond a reasonable doubt of the charges  
25 against him. Do you understand that?

1 A. Yes, sir.

2 Q. And if the jury did not believe that the State met its  
3 burden of proof on the issues, then that would be the end of  
4 the matter and the jury role would be ended and the trial  
5 would be ended at that point. Do you understand that?

6 A. Yes, sir.

7 Q. But if, on the other hand, the jury were to find that  
8 the State had proven the elements of the offense of murder  
9 beyond a reasonable doubt, then we would go to a second  
10 phase of the trial.

11 And in the second phase of the trial, for want of a  
12 better word called the penalty phase, the State would  
13 present aggravating circumstances that they believe the jury  
14 ought to consider on the issue of punishment. The defense  
15 would present mitigating circumstances that they believe the  
16 jury ought to consider in mitigation. The court would  
17 instruct the jury on the law that applies and also any other  
18 matters that they ought to consider in determining what an  
19 appropriate punishment would be. Then it would be submitted  
20 to the jury to determine what the appropriate punishment  
21 would be. Do you understand that?

22 A. Yes.

23 Q. And the two possibilities would be either the death  
24 penalty or imprisonment for life without the possibility of  
25 parole. Do you understand there are two possibilities

1 there?

2 A. Yes.

3 Q. Let me ask you, sir, whether if we got to the penalty  
4 phase, and we may not get to the penalty phase in this case,  
5 but if we do, and you are on the jury, could you listen to  
6 all of the information provided with regard to aggravating  
7 circumstances, mitigating circumstances, and the court's  
8 instruction as to what you must consider in determining the  
9 appropriate punishment and determine the appropriate  
10 punishment in the case?

11 A. When you say mitigating circumstances and aggravating,  
12 could you --

13 Q. Yes, sir.

14 Aggravating circumstances would be -- that would be if  
15 the person is found guilty of the charge of murder, then the  
16 aggravating factors would be those factors which would --  
17 the State would say make the murder more aggravating or  
18 worse. Okay. The matters that would make them worse or for  
19 the jury.

20 A. How bad the crime was?

21 Q. Exactly.

22 And all the other circumstances concerning the --  
23 concerning the crime itself, and anything else about the  
24 defendant, for instance.

25 A. Now, what was mitigating?

1 Q. Mitigating would be everything that would be favorable  
2 toward the defendant in the case and it would lessen the  
3 culpability or the severity of the punishment that ought to  
4 be considered on the severity of the punishment and to -- in  
5 other words, to lessen the crime in the eyes of the jurors.

6 A. This is done in the punishment phase of the --

7 Q. There are two possibilities in the punishment phase,  
8 and that be either the death penalty or life without the  
9 possibility of parole. Those would be the two choices.

10 A. But I guess what I'm trying to learn a little bit here,  
11 but as far as, you know, before we get to that point, we  
12 heard this, or is this --

13 Q. Okay. Let me back up and go back over it, because you  
14 seem a little bit confused about it.

15 A. Okay.

16 Q. The first -- what would happen first is what we call  
17 the guilt phase of the trial. In that the State would have  
18 to prove the guilt of the defendant beyond a reasonable  
19 doubt. And we wouldn't get to the second phase unless that  
20 happened and the jury so found. Okay?

21 A. All right.

22 Q. But if that happened, then we would go to the second  
23 phase. And in the second phase the jury would have to  
24 determine the appropriate punishment. And those two choices  
25 are the death penalty or life imprisonment without the

1 possibility of parole. And the jury would be asked to  
2 consider what the State says are aggravating factors that  
3 make the crime worse and anything about the defendant that  
4 the jury ought to consider.

5 The defense would be able to present mitigation,  
6 anything that they feel like is mitigating, mitigates  
7 culpability, or makes it less bad for a better word, and  
8 anything else about the defendant that they thought the jury  
9 ought to consider in determining what the appropriate  
10 punishment would be.

11 And the court would instruct as to what must be  
12 considered also in that regard in determining what the  
13 appropriate punishment would be.

14 Now, the question is could you listen to all of that  
15 information, and if you found the circumstances warranted  
16 it, could you vote for a verdict of the death penalty?

17 A. Yes, I believe I could.

18 Q. And if you -- under the circumstances with all the  
19 information that you had from that point, if the  
20 circumstances warranted it, could you vote to impose a  
21 sentence of life imprisonment without the possibility of  
22 parole if you found it appropriate?

23 A. Yes.

24 Q. Thank you, sir. Please answer any questions that the  
25 solicitor may have.



1 MR. GOWDY: May it please the court?

2 VOIR DIRE EXAMINATION BY MR. GOWDY:

3 Q. Good evening sir.

4 First of all, thank you on behalf of all of us for your  
5 patience. It's been a long day, I am sure, and also for  
6 filling out this jury questionnaire, which actually, believe  
7 it or not, saves time, because you were good enough to  
8 provide us with some information that we ordinarily would  
9 not have. So we thank you for both of those.

10 If I understood your answers to the court correctly,  
11 you see yourself as a type three or a category C juror, but  
12 maybe leaning towards two?

13 A. Yes.

14 Q. Tell me what you mean by that exactly.

15 A. Well, I think it's something -- I would -- whatever  
16 happened I would feel very responsible for what I decided  
17 on, and it's -- I don't think I would walk away very  
18 comfortable with either decision. But, you know, I'm not  
19 sure how -- I guess when I look at the death penalty or I  
20 look at life in prison, depending on -- I guess how close it  
21 is to me, what would I be able to do, as far as, you know,  
22 like put somebody away forever or the death penalty. Is  
23 that an easy way out, or that, you know, sit in prison for  
24 something that you did. I mean, to me that would be -- that  
25 would be worse, really, to sit in prison forever. But I

1 guess this is one of those things that you don't really have  
2 to think about a whole lot until you hear about it.

3 Q. A bunch of strangers are asking you about?

4 A. Yeah. And I put myself in the first category sometimes  
5 when I say, you know, if anybody had anything to do with my  
6 family or, you know, came into my home, or anything, yeah, I  
7 would definitely, you know, take what's coming to me later  
8 after this world and deal with it. And just sometimes I'm  
9 not so sure about how I would feel about deciding somebody's  
10 fate that -- you know, within this type of arena.

11 Q. That's a very thoughtful response.

12 And as Judge Alford said, nobody could -- nobody would  
13 or can or would seek to change your deeply held views on  
14 this, or any other issue. We just simply want to know what  
15 your beliefs are. Nobody is going to try to change them.  
16 We just -- both sides have to be able to rely upon the  
17 answers that you give. And in this case it's not enough  
18 that you can consider life or death. You actually have to  
19 be able to impose it.

20 I guess that's my question to you is, absent -- I mean,  
21 this is not a crime that involves your family, or else,  
22 obviously, you wouldn't be a potential juror.

23 A. Right.

24 Q. Are there categories of crimes that you believe are  
25 serious enough and aggravated enough --

1 A. Yes.

2 Q. -- that you --

3 A. Yes.

4 Q. -- impose the death penalty?

5 A. Yes, and that's kind of why I was asking him later, you  
6 know, as I -- when you go through the guilt phase and you go  
7 onto the punishment phase, I mean, what -- you know, what  
8 you know, what you are learning about this person as a  
9 juror, then you go onto the next phase. Well, you know,  
10 what are you learning about this person in mitigation and  
11 aggravation, you know, circumstances? You know, I guess I  
12 was kind of -- you know, what I'm learning in both phases  
13 will tell me whether or not, you know, what I want to  
14 happen. And I don't know if that's wrong to have -- you  
15 know, okay, well, I have been here with -- I seen the guilt,  
16 but now I have found who this person is, or whatever, what I  
17 feel like now whether or not he should be put to death or  
18 spend his life in prison. Does that make sense?

19 Q. Yes, that's exactly the way the process works.

20 A. And I guess that's why I asked about that, because I  
21 think that is going to put some focus on what I feel like  
22 later on after it's come down to the, you know, punishment  
23 phase.

24 Q. And in the guilt phase you are presented with two  
25 different options there, perhaps more than two, but

1 certainly guilty or not guilty.

2 It's only if someone is found guilty of murder and only  
3 if it is within a certain category of murder that our state  
4 considers aggravated that we even get to the issue of life  
5 or death.

6 A. Right.

7 Q. So those hurdles have to be cleared. But what you are  
8 telling me is if you get there, you could, if you believed  
9 it was the proper punishment, impose a death sentence?

10 A. Yes.

11 Q. And if that were your judgment, you would be able to  
12 sign your name to what we call a verdict form?

13 A. Yes.

14 Q. And the same is true with life in prison, if that's  
15 what you thought was the proper punishment?

16 A. Yes.

17 Q. Okay. Fair enough. Thank you.

18 MR. STARNES: If please the court, Your Honor?

19 THE COURT: Yes, sir.

20 VOIR DIRE EXAMINATION BY MR. STARNES:

21 Q. I'm sorry, sir, I didn't catch your last name?

22 A. Sawyer.

23 Q. Hi, Mr. Sawyer. My name is Norman Starnes and I'm the  
24 defendant in this case.

25 If I hear you correctly, you would agree that not all

1 crimes are the same?

2 A. Yes.

3 Q. Not all killings are the same?

4 A. Yes.

5 Q. Okay. And would you agree that not all killings are  
6 murder?

7 A. Yes.

8 Q. Okay. Do you believe someone is entitled to take  
9 another's life in self-defense?

10 A. Yes.

11 Q. Tell me what you think about that.

12 A. Well, I guess I have never been put in that situation,  
13 but if I was, I think I would protect myself, or my family  
14 or whoever.

15 Q. You mentioned something earlier when the solicitor was  
16 questioning you about someone coming into your home. Have  
17 you ever been a victim of a crime?

18 A. No.

19 Q. If self-defense was an issue in this case or there was  
20 evidence of self-defense in this case, would you be able to  
21 consider that evidence?

22 A. Yes.

23 Q. Could you still be fair to the State and the defendant?

24 A. Yes.

25 Q. Okay. Mr. Sawyer, do you understand that life

1 imprisonment without the possibility of parole means until  
2 death?

3 A. Yes.

4 Q. In other words, dying in prison; there is no getting  
5 out?

6 A. Yes.

7 Q. Thank you, Mr. Sawyer.

8 A. Thank you.

9 THE COURT: All right.

10 MR. GOWDY: No, sir.

11 THE COURT: Thank you, sir.

12 If you will wait just outside the courtroom door  
13 with the bailiff, we will have you back in momentarily.

14 JUROR NUMBER 245: Okay.

15 (Whereupon, Juror Number 245 left the courtroom)

16 THE COURT: Position of the State?

17 MR. GOWDY: He's qualified.

18 THE COURT: Defense?

19 MR. STARNES: Qualified, Your Honor.

20 THE COURT: The court believes he's qualified  
21 also.

22 Please bring him back in, sir.

23 (Whereupon, Juror Number 245 entered the  
24 courtroom)

25 THE COURT: Mr. Sawyer, if you will stand right

1 there, if you will.

2 Mr. Sawyer, we found you qualified to serve on the  
3 jury panel, which means that -- that does not mean that you  
4 are selected on the jury, but you are on the panel from  
5 which the jury will be selected, and we are still in the  
6 process of putting that panel together of qualified jurors,  
7 so I'm going to free you up at this time.

8 What I would ask you to do is report back to the  
9 courtroom here tomorrow at three o'clock with the other  
10 members of the jury panel, and then we expect at that time  
11 to select the jury from those that have been qualified to be  
12 in the panel. We will select the jury at that time.

13 JUROR NUMBER 245: Okay.

14 THE COURT: So please report back to the courtroom  
15 here. You have to come into the courtroom tomorrow at three  
16 o'clock.

17 JUROR NUMBER 245: Okay.

18 THE COURT: Return at three o'clock. Thank you,  
19 sir.

20 JUROR NUMBER 245: Yes.

21 (Whereupon, Juror Number 245 left the courtroom)

22 (Whereupon, Juror Number 108 entered the  
23 courtroom)

24 VOIR DIRE EXAMINATION BY THE COURT:

25 Q. Ma'am, you are Linda Hair, juror number 108, is that

1 correct?

2 A. That is correct.

3 Q. And Ms. Hair, I apologize for the long delay in keeping  
4 you waiting. We wouldn't have that happen if we could avoid  
5 it, but sometimes those things happen and it's unavoidable  
6 and we apologize for that.

7 A. That's fine.

8 Q. We appreciate your patience.

9 I'm going to encourage you just to be relaxed. You are  
10 not to be -- this is an informal proceeding where we will  
11 ask you just some questions to determine how you feel about  
12 certain issues. There are no right or wrong answers.  
13 Nobody is going to take issue with you about your answers.  
14 We just ask that you be open and honest with your answers  
15 and give us -- be as honest as you can with your answers,  
16 okay?

17 A. Okay.

18 Q. There are a couple of housekeeping matters.

19 First of all, do you remember that I placed the entire  
20 jury panel under oath yesterday, and you continue to be  
21 under oath for the purposes of providing information to the  
22 court today. Do you understand that?

23 A. Yes.

24 Q. And at the time that you received your juror summons,  
25 the jury information form that you filled out and sent back



1 to the clerk's office. Do you recall that?

2 A. I do.

3 Q. And has anything happened in your life since then that  
4 would require you to change that form that, if you filled it  
5 out today?

6 A. No, sir.

7 Q. Did you see back in the jury room there was a rather  
8 lengthy list of potential witnesses in this case that were  
9 listed by name and number? You should have a copy there in  
10 front of you.

11 Ma'am, if you know any of those persons on that list,  
12 or if you recognize any names on the list, if you would just  
13 give me their number, not the name, but just the number.  
14 Did you know any of them?

15 A. No, none of them.

16 Q. Okay. Ma'am, did you see a sheet back in the jury room  
17 with three paragraphs on it which talked about three  
18 different kind of jurors?

19 A. I did.

20 Q. You had a chance to go over that?

21 A. I did.

22 Q. And, of course, it's not all inclusive. It doesn't  
23 define any juror, really, but did you identify with any of  
24 these three type jurors --

25 A. I did.

1 Q. -- as being more like you?

2 Which type did you feel that you are more like?

3 A. The third type.

4 Q. Okay. So you are the type of juror who would not have  
5 her mind made up before court, but would need to hear all  
6 the testimony and evidence and the court's instruction on  
7 the law before you would be able to decide an issue?

8 A. Absolutely.

9 Q. Okay. And do you understand that this is a case in  
10 which the State is seeking the death penalty.

11 And the way the trial would proceed is once the jury is  
12 selected, then the State would be required to prove the  
13 charges against the defendant by evidence satisfying the  
14 jury beyond a reasonable doubt. Do you understand that?

15 A. I do.

16 Q. And if the State failed to meet that burden of proof of  
17 beyond a reasonable doubt to prove the guilt, then that  
18 would be the end of the matter. That would end the trial.  
19 And, of course, that would end the jury's participation in  
20 the trial. Do you understand that?

21 A. I do.

22 Q. But if the State were -- if the jury believed that the  
23 State had proven beyond a reasonable doubt the elements of  
24 the offense of murder against the defendant, then we would  
25 proceed on with the second phase of the trial for lack of a

1 better word called the penalty phase.

2 In that phase of the trial, if we get to that phase,  
3 the State would present any aggravating circumstances that  
4 they wished the jury to consider on the issue of punishment;  
5 and the defense would present any mitigation issues that  
6 they wished the jury to consider or believe the jury should  
7 consider on the question of the appropriate punishment. The  
8 court would instruct you as to how to receive that  
9 information and also instruct you as to other matters that  
10 you should consider in determining what an appropriate  
11 punishment would be. Do you understand that?

12 A. I do.

13 Q. And would you then be able to listen to all the  
14 information, if we reach that phase of the trial and you  
15 were on the jury, all of the information, including the  
16 aggravating circumstances, the mitigating circumstances, the  
17 court's instruction on the law, and then recommend what you  
18 believe would be the appropriate punishment in the case?

19 A. That's correct.

20 Q. Do you understand that the possibilities -- if we get  
21 to that phase of the trial, the possible punishments would  
22 be the death penalty and also life imprisonment without the  
23 possibility of parole? Those would be the two  
24 possibilities. Do you understand that?

25 A. I understand.

1 Q. And, ma'am, could you listen to all of the information  
2 that was available then and instruction by the court as to  
3 what you should consider? And then if you felt the  
4 circumstances were appropriate at that time, do you believe  
5 that you could vote for a verdict of the death penalty?

6 A. After I heard all the facts?

7 Q. Yes, ma'am.

8 A. Yes.

9 Q. And if you heard all of the evidence, testimony and  
10 evidence, concerning aggravating, mitigating factors, the  
11 courts instruction on the law, and you believe that the  
12 appropriate sentence would be life imprisonment without the  
13 possibility of parole, could you vote for that verdict,  
14 ma'am?

15 A. Yes, I could.

16 Q. Thank you, ma'am.

17 Please answer any questions that the State may have,  
18 the solicitor may have.

19 MR. GOWDY: May it please the court, Your Honor?

20 THE COURT: Yes, sir.

21 VOIR DIRE EXAMINATION BY MR. GOWDY:

22 Q. Good evening, ma'am.

23 A. Good evening.

24 Q. Thank you, first of all, for your patience on behalf of  
25 all of us. I know it's been a long day. And thank you also

1 for filling out this questionnaire, which, believe it or  
2 not, saved time. I know that's hard to believe right now,  
3 but it saved time, but it did, and we appreciate your  
4 responses to it.

5 A. Okay.

6 Q. The judge covered almost everything I want to ask you.

7 I would like to know generally what are your beliefs on  
8 capital punishment?

9 A. Well, I have never been in a position where I have had  
10 to actually act on it, but I just have to know all the  
11 facts. I have to know from the end to end, and -- I don't  
12 know. Whatever is appropriate I guess, but I have to know  
13 all the facts about that.

14 Q. Accepting and appreciating the fact that you certainly  
15 can't make a decision without having all the facts;  
16 nonetheless, to be qualified, a juror has to not only be  
17 able to consider it, but actually impose either a life  
18 sentence or a death sentence.

19 Are you convinced that if you thought it was the proper  
20 punishment, you actually could vote to impose a death  
21 sentence?

22 A. There have been times that I felt it was appropriate.

23 Q. Okay. And if you felt it appropriate in this case and  
24 it were your determination, could you sign your name to a  
25 verdict form?

1 A. Yes, I could.

2 Q. Okay. Thank you.

3 MR. STARNES: If it please the court, Your Honor?

4 THE COURT: Yes, sir.

5 VOIR DIRE EXAMINATION BY MR. STARNES:

6 Q. How are you doing, Ms. Hair?

7 A. I'm good. Thank you.

8 Q. My name is Norman Starnes and I'm the defendant in this  
9 case, Ms. Hair.

10 If I heard you correctly, you said there are times that  
11 you felt that the death penalty is appropriate?

12 A. I have never been in a position where I have to really,  
13 you know, make a decision on it, but there has been a time  
14 where the circumstances with malice, or whatever, that it  
15 might have been appropriate.

16 Q. Okay. Would you agree that not all killings are done  
17 in malice?

18 A. I would agree.

19 Q. Could you give me an example?

20 A. Self-defense or aggravated circumstances. I mean --

21 Q. Self-defense?

22 A. Uh-huh, possibly.

23 Q. You feel that a defendant is entitled or an individual  
24 is entitled to take another's life in self-defense?

25 A. In self-defense, yes.

1 Q. If the facts and circumstances warranted it?

2 A. Yes.

3 Q. If self-defense was an issue or there was evidence in  
4 this case regarding self-defense, would you consider that  
5 evidence? Would you hear all the evidence as it comes from  
6 the witness stand?

7 A. Yes, I would.

8 Q. Would you follow the law as the trial court instructed  
9 you regarding self-defense, if that was an issue in this  
10 case?

11 A. Absolutely.

12 Q. Okay. And in the event that we reached the penalty  
13 phase, you could give life without the possibility of parole  
14 or the death penalty, depending on what all you see, what  
15 you all you hear, after you have gotten all the facts of the  
16 case?

17 A. Yes, I could.

18 Q. Ms. Hair, do you understand that life without the  
19 possibility of parole means until death?

20 A. Yes, I do.

21 Q. Meaning in prison for life. You don't come out for  
22 parole.

23 A. Yes, I do.

24 Q. Do you understand that?

25 A. I do.

1 Q. Could you make an independent decision as a juror on  
2 this case? If eleven jurors wanted to give the defendant  
3 the death penalty, but you felt that life without parole was  
4 the appropriate punishment, could you do that?

5 A. I think for myself, yes.

6 Q. For yourself?

7 A. Yes.

8 Q. Your own independent decision?

9 A. I do.

10 Q. Have you heard or read anything about this case?

11 A. No.

12 Q. Just a couple more questions, Ms. Hair.

13 Have you ever served on a jury before? Have you ever  
14 had juror duty?

15 A. Traffic court years ago. A thirty minute court for a  
16 traffic ticket for a violation.

17 Q. Okay. Was it here in Lexington County?

18 A. Yes.

19 Q. Are you related to anyone in law enforcement?

20 A. No.

21 Q. No one in your family in law enforcement or anything?

22 A. No, sir.

23 Q. I noticed you went to Airport High School. Did you  
24 graduate from Airport High School?

25 A. I did.



1 Q. Ms. Hair, if you were chosen as a juror in this case,  
2 do you think -- well, let me rephrase this.

3 Do you feel that you could be fair and impartial to  
4 both the defense and the State?

5 A. To the best of my ability, yes.

6 Q. To the best of your ability?

7 A. Yes.

8 Q. That's all we can ask for you. Thank you.

9 THE COURT: Thank you, ma'am.

10 If you will please wait just outside the courtroom  
11 door with the bailiff and we will have you back momentarily.  
12 Okay?

13 JUROR NUMBER 108: Okay.

14 THE COURT: Okay.

15 (Whereupon, Juror Number 108 left the courtroom)

16 THE COURT: Position of the State?

17 MR. GOWDY: She's qualified.

18 THE COURT: Defense?

19 MR. STARNES: She is qualified, Your Honor.

20 THE COURT: The court agrees.

21 Please bring her back, sir.

22 (Whereupon, Juror Number 108 entered the  
23 courtroom)

24 THE COURT: Ms. Hair, if you will stand right  
25 there, please.

1           The court finds you qualified to serve on the jury  
2 panel. That does not mean that you are on the jury, because  
3 we haven't selected the jury, but what we have been doing is  
4 qualifying a jury panel from which the jury will be picked.

5           JUROR NUMBER 108: Okay.

6           THE COURT: So what I'm going to ask you to do is  
7 report back here to court tomorrow. Come right into the  
8 courtroom and sit with the other jurors that would be here  
9 and three o'clock tomorrow.

10          JUROR NUMBER 108: Okay.

11          THE COURT: That is Wednesday.

12          JUROR NUMBER 108: Okay.

13          THE COURT: And we anticipate at this time that we  
14 will actually draw the jury from the jury pool --

15          JUROR NUMBER 108: Okay.

16          THE COURT: -- that's here at that time.

17          JUROR NUMBER 108: Okay.

18          THE COURT: So please have a pleasant night  
19 tonight and we will see you tomorrow at three o'clock.

20          JUROR NUMBER 108: Thank you.

21          THE COURT: Okay.

22          (Whereupon, Juror Number 108 left the courtroom)

23          (Whereupon, Juror Number 21 entered the courtroom)

24          VOIR DIRE EXAMINATION BY THE COURT:

25          Q. All right. Ma'am, you are Nancy Beym, juror number 21,

1 is that correct?

2 A. That is correct.

3 Q. Ms. Beym, I'm going to begin by apologizing for the  
4 long delay. We're sorry to keep you just sitting around  
5 back there. We know that's difficult for you and we  
6 apologize for that. It's just been unavoidable, but we  
7 appreciate your patience.

8 We would ask you, if you would, please, just be  
9 relaxed. You appear to be pretty relaxed, but if you will  
10 just be relaxed. This is a very informal session in which  
11 we will ask you certain questions to determine your views as  
12 to certain things. There are no right or wrong answers.  
13 Nobody is going to disagree or argue with you about that at  
14 all. This is not a third degree type of situation. We just  
15 need to know what your views are as to certain matters, and  
16 so please be as open and honest as you can in your responses  
17 to those questions.

18 A couple of housekeeping matters. Do you remember that  
19 I placed the entire jury panel under oath yesterday? Do you  
20 recall that?

21 A. Yes, I do.

22 Q. And you continue to be under oath for information that  
23 you are going to provide the court today. Do you understand  
24 that?

25 A. Yes, sir.

1 Q. Okay. You were -- when you received the jury summons,  
2 there was a jury information form that you were asked to  
3 fill out send back to the clerk's office. Do you recall  
4 that?

5 A. I do.

6 Q. Has anything happened since you sent that form in that  
7 would need to be changed on that form, if you had to fill it  
8 out today?

9 A. Just regarding my work, but nothing else.

10 Q. Okay. And have you changed work or anything?

11 A. No. No, I just -- we just had new administration come  
12 in. It was just -- it just got a little crazy.

13 Q. I understand.

14 Now, did you see back in the jury room a long list of  
15 names with numbers by them? These are potential witnesses  
16 in the case. All of these witnesses are not going to be  
17 called in the case, but some of them certainly will be  
18 called. And I'm going to ask you, if you recognized any of  
19 those names or if you know any of them, to please identify  
20 them to the court by number, but not name. We are just  
21 needing a number. Do you recognize any of those names? Do  
22 you know any of those persons listed?

23 A. I do not recognize any of the names.

24 Q. Okay. And, ma'am, did you see back in the jury room a  
25 page with three paragraphs on it which talk about three

1 different types of jurors? Did you see that back there?

2 A. Yes, sir.

3 Q. Did you have a chance to read through that?

4 A. I read it several types.

5 Q. Several times?

6 A. Yes.

7 Q. Let me ask you -- of course, this is not all inclusive.  
8 They won't particularly identify any person, really,  
9 totally, but did you identify yourself as being more like  
10 any one of these three types of jurors?

11 A. I thought -- well, the first time I read it, it was  
12 like number two. And then the second time I read it, I  
13 thought I'm probably a combination. I mean, after I read  
14 number three, I thought I was maybe more like that.

15 Q. All right. Let me ask you then in that regard that if  
16 you would get selected on the jury in this case -- of  
17 course, the State is seeking the death penalty in this case.

18 And how the case of the trial would proceed is this.  
19 The jury would be impaneled. And then the State would be  
20 required to prove the defendant guilty of the charges  
21 against him beyond a reasonable doubt. Do you understand  
22 that?

23 A. Yes, sir.

24 Q. If the State failed to meet that burden of proof of  
25 proving the defendant of the elements of the offense to

1 which he's charged, then that would be the end of the  
2 matter, and the case would be over. The trial would end at  
3 that point. Do you understand that?

4 A. Yes, sir, I do.

5 Q. On the other hand, if the jury should find that the  
6 State had proved the elements of the offense of murder  
7 beyond a reasonable doubt, then it would go to a second  
8 phase of the trial.

9 And in the second phase of the trial, the State would  
10 present any aggravating circumstances that they think the  
11 jury should consider on the issue of the appropriate  
12 punishment. The defense would present any mitigating issues  
13 or information that they believe the jury ought to consider  
14 on the issue of the appropriate punishment. The court would  
15 instruct the jury as to the appropriate law and how to  
16 consider that information and also any other matters that  
17 ought to be considered on the issue of appropriate  
18 punishment. And then the jury would be asked to determine  
19 the appropriate punishment.

20 And the two possible punishments would be the death  
21 penalty or life imprisonment without the possibility of  
22 parole. Do you understand that, ma'am?

23 A. I do understand that.

24 Q. Okay. Now, let me ask you, ma'am, if we got -- if the  
25 second phase the trial is necessary and we were in that

1 phase of the trial, could you listen to all of the  
2 information in regard to aggravating circumstances,  
3 mitigating circumstances, the court's instruction on the law  
4 that applies and render what you believe would be an  
5 appropriate punishment in the case?

6 A. I do. I think I could.

7 Q. Okay. And, ma'am, if you -- with all of that  
8 information if you believed that the appropriate punishment  
9 would be the death penalty, could you vote for that verdict  
10 of the death penalty?

11 A. Yes, I could.

12 Q. And if you believed that the appropriate -- under all  
13 those circumstances the appropriate punishment would be life  
14 imprisonment without the possibility of parole, could you  
15 vote to impose that verdict?

16 A. Yes, I could.

17 Q. Okay. Thank you, ma'am.

18 Answer any questions that the solicitor might have for  
19 you.

20 MR. GOWDY: May it please the court?

21 THE COURT: Yes, sir.

22 VOIR DIRE EXAMINATION BY MR. GOWDY:

23 Q. Good evening, ma'am.

24 A. Good evening.

25 Q. Thank you, first of all, for your patience on behalf of

1 all of us. I know it's been a long day. We are grateful  
2 for your patience, and we also appreciate you filling out  
3 the jury questionnaire which --

4 A. Okay.

5 Q. -- believe it or not, it saves time. It may be hard to  
6 believe now that we saved you any of your time, but it does.  
7 They are personal questions we all appreciate you answering.

8 The judge asked most of the questions that I wanted to  
9 ask, but I wanted to follow up, because if I understood you  
10 right, when you were back there, you found yourself maybe in  
11 category two and three initially?

12 A. Uh-huh.

13 Q. Can you tell me -- and I'm not asking you in a  
14 judgmental way. I'm just asking you in a quizzical way, why  
15 do you find yourself there?

16 A. Well, first of all, my religion is Catholic and I think  
17 that automatically makes me think that I would not be able  
18 to do the death penalty. But as I read it two or three  
19 times, I sort of started to think that I could. That was my  
20 real reason.

21 Q. Laying aside crimes of the century - Oklahoma city,  
22 9/11 - are you satisfied in your well of souls as you sit  
23 here tonight, based on religious views and all the other  
24 views and factors that have to come into your life, that you  
25 could actually impose a death sentence on someone?



1 A. I do. If I looked into all the evidence and all the  
2 circumstances, I do think I could.

3 Q. Okay. If you had the choice of life without parole -  
4 never get out of prison, stay in prison until you die -  
5 would you always pick that, or are there still circumstances  
6 that you think this crime is aggravated enough I'm going to  
7 vote for death?

8 A. I think I could vote for death, if I really felt, after  
9 listening to all the evidence, that it was the best one to  
10 be.

11 Q. Okay. Have you given a lot of thought -- I would be  
12 surprised if the answer is yes, but have you given a lot of  
13 thought to capital punishment before you were called for  
14 this?

15 A. Not really.

16 Q. And you are satisfied -- I know I have asked you this  
17 once, but I'm going to ask you about it one more time, but  
18 you are satisfied -- because if you are picked on the jury,  
19 then obviously both sides have to be able to rely on the  
20 answers that you have provided to us.

21 A. I agree, yes.

22 Q. And you are satisfied that the teachings of the  
23 Catholic church would not be whispering in the background if  
24 you were sitting on a jury?

25 A. I'm -- I'm pretty sure. I haven't always been

1 Catholic. I grew up a different religion and converted to  
2 Catholicism, so I really think I could, but I would have to  
3 be in that situation, I guess.

4 Q. Well, when we get there it's too late.

5 A. I know. I mean, I can't say that I totally don't ever  
6 believe in the death penalty, if that's what you are asking  
7 me.

8 Q. It is, but I also want to make allowances for these  
9 crimes of the century that you know, of a 9/11, an Oklahoma  
10 City.

11 A. Uh-huh.

12 Q. If, you know, those are the only instances, then I need  
13 to know that too.

14 A. No, those would not be the only instances.

15 Q. Okay. Thank you for your candor and openness and your  
16 time.

17 A. Yes, sir.

18 MR. STARNES: May it please the court, Your Honor?

19 THE COURT: Yes, sir.

20 VOIR DIRE EXAMINATION BY MR. STARNES:

21 Q. Hi, Ms. Beym, how are you doing?

22 A. I'm good. Thank you.

23 Q. Are you nervous?

24 A. Not really.

25 Q. Okay. There is no right or wrong answers. We just

1 need to know the answers to these questions so we can  
2 proceed.

3 Ms. Beym, do you agree that not all killings are  
4 murder?

5 A. That's kind of a gray question to me. I mean, do you  
6 mean like automobile accidents, or you mean really --

7 Q. How about self-defense?

8 A. I guess I could agree with that, self-defense.

9 Q. Could you agree that an individual is entitled to take  
10 another's life in self-defense?

11 A. If there is absolutely no other alternative, I would  
12 believe that.

13 Q. Okay. Could you follow the law if self-defense -- if  
14 evidence of self-defense was presented in this case, could  
15 you follow the law as the judge instructed you?

16 A. Yes.

17 Q. Mr. Solicitor asked you about life without the  
18 possibility of parole and the death penalty.

19 In the event that we are in the first part of this  
20 trial, to determine guilty or not guilty, based on the facts  
21 and circumstances of this case, if you felt that the  
22 defendant was not guilty, could you vote not guilty?

23 A. Yes, if I felt that the defendant was not guilty, I  
24 could.

25 Q. Okay. And that would be your own independent decision?

1 A. Yes.

2 Q. I noticed on the questionnaire that you filled out,  
3 could you tell us a little bit more what the Irmo Women's  
4 Club is?

5 A. The Irmo Women's Club is -- it's part of the General  
6 Federation of Women's Club, where we do projects to help  
7 raise money for the community and for children and that sort  
8 of thing.

9 Q. Have y'all ever discussed capital punishment or  
10 anything like that?

11 A. Oh, no.

12 Q. Do you know of any reason why you couldn't give the  
13 defendant and the State a fair trial in this case, do you  
14 think?

15 A. No.

16 Q. Okay. That's all we can ask of you. Thank you very  
17 much.

18 THE COURT: Thank you, ma'am.

19 If you will go with the bailiff to outside the  
20 courtroom door for just a moment, we will have you right  
21 back in. Okay?

22 (Whereupon, Juror Number 21 left the courtroom)

23 THE COURT: Position of the State?

24 MR. GOWDY: She's qualified, based on her answers.

25 THE COURT: Okay. Defense?

1 MR. STARNES: I agree.

2 THE COURT: The court would find her qualified  
3 also.

4 Please bring her back in, sir.

5 (Whereupon, Juror Number 21 entered the courtroom)

6 THE COURT: Ms. Beym, we found you qualified to  
7 serve on the jury panel on this case.

8 Let me explain what that means. We are selecting  
9 a jury panel of qualified jurors. And from that panel we  
10 will actually select the jury. We would probably do that  
11 tomorrow the way it looks.

12 What I'm going to ask you to do is to report back  
13 with the other jurors who are going to be in the panel  
14 tomorrow at three o'clock. Come right into the courtroom  
15 and have a seat with the other jurors. And from the jurors  
16 that are here, we anticipate selecting the jury tomorrow  
17 afternoon in the case. Okay.

18 So you are free to go at this time and please  
19 enjoy the night, and please be back in the jury room here at  
20 three o'clock tomorrow.

21 JUROR NUMBER 21: Okay.

22 THE COURT: Thank you, ma'am.

23 (Whereupon, Juror Number 21 left the courtroom)

24 (Whereupon, Juror Number 51 entered the courtroom)

25

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. Sir, you are Alonzo Chavis, juror number 51, is that  
3 correct?

4 A. Yes, sir.

5 Q. Mr. Chavis, I apologize for the long delay that you  
6 have had to wait before getting in here. We just got backed  
7 up and we just -- we couldn't help it. We couldn't don't  
8 anything about that.

9 A. Okay.

10 Q. We appreciate your patience on that --

11 A. No problem.

12 Q. -- in waiting for us.

13 I want to encourage you just to be relaxed. This is a  
14 very informal procedure. And what we are going to do is ask  
15 you some questions to determine how you feel about certain  
16 issues. There are no right or wrong answers. Nobody is  
17 going to disagree with you about your answers, and there's  
18 not going to be any kind of third degree or anything like  
19 that. Do you understand?

20 A. Yes.

21 Q. So just be very relaxed and give as honest and open  
22 answer as you can to the questions when you are asked them.

23 A. Okay.

24 Q. Now, a couple of housekeeping matters.

25 Do you remember that I placed the entire jury panel

1 under oath yesterday? Do you remember that?

2 A. Yes.

3 Q. You continue to be under oath for the information that  
4 you will provide the court at this time. Do you understand  
5 that?

6 A. Yes, sir.

7 Q. Now, at the time that you received a jury summons from  
8 the clerk's office, there was a jury questionnaire form that  
9 you were asked to fill out and send back in. Do you recall  
10 that?

11 A. Yes, sir.

12 Q. Has anything happened with you since you filled it out  
13 and sent it in that would require you to change it if you  
14 were filling it out today?

15 A. No, sir.

16 Q. Did you see back in the jury room there was a rather  
17 lengthy list of names and with numbers beside them,  
18 potential witnesses in this case? All of these witnesses  
19 are not going to be called, but some of them certainly will  
20 be called. And if you recognize any of those names or you  
21 know any of them, I would like for you to identify them at  
22 this time by number. There is a sheet in front of you in  
23 case you don't remember. Did you recognize any of them,  
24 sir?

25 A. No.

1 Q. Okay. Did you see back in the jury room, there was a  
2 sheet back there with three paragraphs which talked about  
3 three different types of jurors. Did you see that?

4 A. Yes, sir.

5 Q. And, of course, it doesn't accurately describe any  
6 person altogether. It's not all inclusive, but did you  
7 identify yourself as being more like one of these three  
8 types of jurors?

9 A. Kind of in between two.

10 Q. Okay. Which two is that, sir?

11 A. The second and the third.

12 Q. All right. Let me ask you some questions then with  
13 regard to that.

14 You understand that the State, of course, is seeking  
15 the death penalty in this case?

16 A. Yes.

17 Q. And how the case will proceed would be once the jury is  
18 selected and impaneled and we get started with the trial,  
19 the State would be required to prove the defendant guilty of  
20 the charges against him beyond a reasonable doubt.

21 If they failed to meet that burden of proving you  
22 guilty, then that would be the end of the matter and it  
23 would conclude the jury service and conclude the trial at  
24 that point. Do you understand that?

25 A. Yes, sir.



1 Q. Okay. But if the jury found the State had proven the  
2 elements of the offense of murder beyond a reasonable doubt,  
3 then we would proceed on with a second phase of the trial.

4 And in the second phase of the trial, the State would  
5 present aggravating circumstances that they thought the jury  
6 ought to consider on the issue of punishment. The defense  
7 would present mitigation circumstances that they think that  
8 the jury ought to consider on the issue of punishment. The  
9 court would instruct the jury with regard to how to receive  
10 that evidence and also any other matters that the jury  
11 should consider in a determination of what the appropriate  
12 punishment would be. And then the jury would -- with all  
13 that information the jury would be asked to determine what  
14 the appropriate punishment would be, and that would either  
15 be the death penalty or life imprisonment without the  
16 possibility of parole. Do you understand that?

17 A. Yes, sir.

18 Q. All right. Do you believe, sir, if you were on the  
19 jury, if we reached this penalty phase of the trial where  
20 the sentence would be determined, do you believe that you  
21 could listen to all the evidence that was presented during  
22 the course of that trial, phase of the trial, and the  
23 court's instruction on the law and make a decision with  
24 regard to the appropriate punishment?

25 A. Yes.

1 Q. If you -- after hearing all of that information,  
2 receiving all that information, if you felt that the death  
3 penalty was the appropriate sentence, sir, could you vote  
4 for a verdict for the death penalty?

5 A. Yes.

6 Q. If you felt that, with all the information that you had  
7 and the court's instruction on the law, that the appropriate  
8 sentence of life imprisonment without the possibility of  
9 parole, could you vote for that verdict, for life  
10 imprisonment without the possibility of parole?

11 A. Yes.

12 Q. Thank you. Please answer any questions that the  
13 solicitor might have.

14 MR. GOWDY: May it please the court?

15 THE COURT: Yes, sir.

16 VOIR DIRE EXAMINATION BY MR. GOWDY:

17 Q. Good evening, sir.

18 A. Good evening.

19 Q. First of all, on behalf of all of us thank you for your  
20 patience. I know today has been slow. We are grateful for  
21 your patience and any imposition it's been on you. As well,  
22 I want to thank you for completing the jury questionnaire.

23 A. Yes, no problem.

24 Q. Believe it or not, it saved time. I know it's hard to  
25 believe that right now, but it did, and we appreciate your

1 candor.

2 You told the judge that in the back you were kind of  
3 between two and three?

4 A. Yes.

5 Q. What did you mean by that?

6 A. Depending on how bad or what actually happened. I  
7 mean --

8 Q. Do you think that you are leaning towards life, or are  
9 you pretty squarely in that third category that I'm 50/50,  
10 and I just got to hear it out?

11 A. I want to say I would be more towards the second type  
12 juror.

13 Q. Which is life?

14 A. Yes.

15 Q. I don't want to put words in your mouth.

16 A. Which would be not the death penalty.

17 Q. Okay.

18 A. But if the crime was so bad and so terrible, then I  
19 might -- I might would say the death penalty, depending  
20 on --

21 Q. When you say so bad and so terrible?

22 A. Yes.

23 Q. You mean a crime committed against one of your own  
24 family members?

25 A. I mean against anyone. I mean, something is done. It

1 just would depend on, I believe, what actually went on.

2 Q. So it doesn't have to be one of these crimes of the  
3 century, likes an Oklahoma City bombing, or a 9/11? It  
4 doesn't have to be on that scale for it to be serious enough  
5 for you to consider the death penalty?

6 A. No.

7 Q. And under the law in South Carolina, no one will ever  
8 say if X and Y exists, it has to be death. Do you  
9 understand it never has to be death?

10 A. Yeah.

11 Q. Okay. You always have the option of life.

12 A. Yup.

13 Q. Between life and death. And it's life without parole.  
14 Are there still circumstances where you would pick death?

15 A. Maybe. I mean, I'm not sure.

16 Q. How about -- it's hard. It's hard.

17 A. But I would lean more towards life --

18 Q. And that's fine.

19 A. -- than death.

20 Q. Leaning is one thing. I just -- I have got to know --  
21 if you are seated on the jury, you got to be able to impose  
22 one sentence or the other. Not consider it, think about  
23 it --

24 A. Yeah.

25 Q. -- and mull it over. You have got to be capable of it.

1           And nobody is going to ask you for a commitment today  
2           on what you are going to do, but you have to be able -- in  
3           your well of souls, you have to be able to look at both  
4           sides and say yes, I can. And if you are leaning towards  
5           it, that's one thing, but if you are leaning so hard that  
6           it's going to be life, unless it's 9/11 or a family member,  
7           then I got to know that too.

8           A.    Could you repeat that?

9           Q.    I probably can't because I don't remember what I said.  
10           I think what I'm getting at is if you are leaning  
11           towards life, nobody's going to challenge that. That's not  
12           any of my business what your beliefs are.

13          A.    Yes, sir.

14          Q.    But if you are leaning so hard that way that it's  
15                really going to take one of the crimes of the century, like  
16                9/11, or Timothy McVay bombing, Oklahoma City to get you the  
17                death, then the State needs to know that.

18          A.    No, it wouldn't.

19          Q.    It's not going to have to be that?

20          A.    Nope.

21          Q.    All right. If you thought death was appropriate, would  
22                you sign your name to a verdict form?

23          A.    Yes.

24          Q.    I'm going to ask you one question and I'm going to  
25                leave you alone.

1 A. Yes.

2 Q. There are eleven names on that verdict form. It takes  
3 twelve to impose the death sentence, and you are number  
4 twelve. You can look at me and tell me that if you thought  
5 that was right, you could do it?

6 A. Yes.

7 Q. All right. Thank you.

8 MR. STARNES: May it please the court, Your Honor?

9 THE COURT: Yes, sir.

10 VOIR DIRE EXAMINATION BY MR. STARNES:

11 Q. Hi, Mr. Chavis. How are you doing, okay?

12 A. All right.

13 Q. My name is Norman Starnes and I'm the defendant in this  
14 case.

15 Mr. Chavis, let me make sure that I understand your  
16 answers. Would you agree with me that not all crimes are  
17 the same?

18 A. Yes.

19 Q. And some -- some murders are not all the same?

20 A. Yes.

21 Q. Okay. Do you believe that all killings are murder?

22 A. No.

23 Q. Can you kind of explain that to me? What do you mean  
24 by that?

25 A. It would depend on the intent of the person who

1 actually caused someone else to die.

2 Q. Do you feel like --

3 Well, let me ask you this. Do you feel that an  
4 individual can take the life of another in self-defense?

5 A. Yes.

6 Q. If self-defense was an issue in this case, or there was  
7 evidence of self-defense, would you consider that evidence,  
8 Mr. Chavis?

9 A. Yes.

10 Q. And in considering that evidence, would you be fair to  
11 the State and the defendant?

12 A. Yes.

13 Q. And you could vote for life without parole or you could  
14 vote for the death penalty, depending on what you see, what  
15 you hear? After hearing all the testimony and all the facts  
16 and circumstances of this case, you could vote for life  
17 without parole or you could vote for death?

18 A. Yes.

19 Q. Have you ever served as a juror in a criminal case  
20 before?

21 A. No.

22 Q. I noticed on your questionnaire that you have lived in  
23 Lexington County for six years. Have you lived at the same  
24 address?

25 A. No.

1 Q. Do you know of any reason why you couldn't be fair to  
2 the State and the defendant?

3 A. No.

4 Q. That's all we can ask of you, Mr. Chavis. Thank you.

5 A. Uh-huh.

6 THE COURT: All right, sir.

7 If you will please go with the bailiff. Wait just  
8 outside the courtroom door and we will have you back in just  
9 a moment. Okay?

10 (Whereupon, Juror Number 51 left the courtroom)

11 THE COURT: Position of the State?

12 MR. GOWDY: I don't know what it is that turns  
13 two's into three's when they walk through that door right  
14 there, but he's a three. He's qualified, based on his  
15 responses.

16 THE COURT: Defense?

17 MR. STARNES: I concur with Mr. Gowdy, Your Honor.

18 THE COURT: All right. The court agrees that he  
19 would be qualified.

20 Please bring him back, sir.

21 (Whereupon, Juror Number 51 entered the courtroom)

22 THE COURT: Mr. Chavis, if you will stand right  
23 there, please.

24 The court has found you qualified to serve on the  
25 panel from which the jury would be selected in this case.



1 You have not been selected on the jury.

2 What we are going to do is we are still impaneling  
3 a group from which the jury in the case will actually be  
4 selected, so I'm going to excuse you at this time and ask  
5 you to report back here into the jury room -- come back into  
6 the jury room tomorrow -- excuse me, I say jury room, I mean  
7 courtroom. I beg your pardon. Come back here into the  
8 courtroom at three o'clock tomorrow. That's Wednesday,  
9 tomorrow, at three o'clock. Okay.

10 JUROR NUMBER 51: Okay.

11 THE COURT: So please try to be on time. Be here  
12 right at three o'clock, okay?

13 JUROR NUMBER 51: Okay.

14 THE COURT: Thank you.

15 (Whereupon, Juror Number 51 left the courtroom)

16 (Whereupon, Juror Number 168 entered the  
17 courtroom)

18 VOIR DIRE EXAMINATION BY THE COURT:

19 Q. Ma'am, you are Janice Machos, are you not?

20 A. Machose.

21 Q. I'll try to pronounce it correctly.

22 Ms. Machose, you are juror number 168, is that correct?

23 A. Correct.

24 Q. Ma'am, let me begin by apologizing for the long delay.  
25 We are just getting bogged down. We apologize for the delay

1 and we appreciate your patience.

2 And let me also ask you, if you will, please, just be  
3 relaxed. You look pretty relaxed. Just be relaxed. This  
4 is a very informal proceeding, whereby you will be asked  
5 some questions to determine how you feel about certain  
6 issues. There are no right or wrong answers. Nobody is  
7 going to argue with you about your answers or anything like  
8 that. That's not the purpose. It's just simply to  
9 determine how you feel about certain issues. Please be as  
10 open and honest as you can with your responses.

11 A couple of housekeeping matters before I ask you any  
12 questions. Do you remember yesterday that I placed the  
13 entire jury panel under oath yesterday?

14 A. Uh-huh.

15 Q. And you continue to be under oath for the purpose of  
16 the information that you are providing the court today. Do  
17 you understand that?

18 A. Yes.

19 Q. Now, at the time that you got the juror summons, you  
20 were asked to fill out a jury information sheet and send  
21 that back to the clerk's office. Do you recall doing that?

22 A. Yes.

23 Q. Is anything changed in your life since you sent that in  
24 that would require you to change that form, if you were  
25 filling it out today?

1 A. I would have to look at the questions again.

2 Q. As far as you know, has there been any significant  
3 changes?

4 A. My only concern is the length of the --

5 Q. The trial?

6 A. -- the trial, because I have doctors appointments, but  
7 that doesn't physically make me unable to do it.

8 Q. Okay. All right. Ma'am, you saw -- back in the jury  
9 room did you see a list of -- a long list of potential  
10 witnesses in this case that were listed by name and also by  
11 number? And, of course, all of these witnesses will not be  
12 called in the case, but some of them certainly will be  
13 called, and what I'm going to ask you to do is if you know  
14 any of these potential witnesses or if you know them or if  
15 you recognize their names, would you please give us the  
16 number, not their name itself. We are just dealing with  
17 numbers. Do you know any of them?

18 A. Not that I'm aware of.

19 Q. Do you remember seeing a sheet in the jury room which  
20 had three paragraphs on it which talked about three  
21 different kinds of jurors?

22 A. Yes.

23 Q. Of course, these jurors are not -- this is not an all  
24 inclusive of description, but did you identify yourself as  
25 being more like one of these three types jurors?

1 A. I would hope I would be the third.

2 Q. The third one.

3 So you are type of juror that would need to listen?  
4 You wouldn't have your mind made up in advance, but you  
5 would need to listen to the testimony and evidence and the  
6 court's instruction on the law before you would be able to  
7 make a decision or make a decision in the case, is that  
8 correct?

9 A. Yes.

10 Q. And, ma'am, do you understand that this is a case in  
11 which the State is seeking the death penalty?

12 And in the way the trial would proceed would be that  
13 once a jury is selected and impaneled, then the State would  
14 have to prove the defendant guilty of the charges against  
15 him beyond a reasonable doubt. Do you understand that?

16 A. Uh-huh.

17 Q. And I want to get you to speak up a little bit because  
18 the court reporter has to record everything that you are  
19 saying.

20 A. Yes.

21 Q. And do you understand that if the State failed -- if  
22 the jury panel -- if the State failed to prove the elements  
23 of the offenses for which the defendant is charged beyond a  
24 reasonable doubt, then that would conclude the trial. It  
25 would be over with and the jury's role would be finished.

1 Do you understand that?

2 A. Yes, sir.

3 Q. On the other hand, if the jury should find that, the  
4 State had proved the elements of the offense of murder  
5 beyond a reasonable doubt, then we would go to the second  
6 phase of the trial.

7 In the second phase of the trial the State would  
8 present any aggravating circumstances they wished the jury  
9 to consider on the issue of punishment. The defense would  
10 present any mitigating issues that they wanted the jury to  
11 consider on the issue of punishment. The court would  
12 instruct you, the jury, as to how that information is to be  
13 received and also instruct the jury on any other matters  
14 that they ought to consider on the issue of punishment as  
15 well. Do you understand that?

16 A. Yes, sir.

17 Q. Okay. And once that has been done, then the jury would  
18 be asked to determine the appropriate punishment with that  
19 information. And the possible punishments would be the  
20 death penalty or life imprisonment without the possibility  
21 of parole. Do you understand that, ma'am?

22 A. Yes.

23 Q. And do you believe if you were on the jury and we had  
24 to go to a second phase of the trial, that was necessary, do  
25 you believe that you could listen to all of the information

1 concerning aggravating circumstances, mitigating  
2 circumstances, and the law as instructed by the court and  
3 decide on what an appropriate punishment would be under the  
4 circumstances?

5 A. Yes.

6 Q. Do you believe, after listening to all that  
7 information, had all that information, if you believed that  
8 the death penalty was the appropriate sentence, could you  
9 vote for a verdict to impose the death penalty in that?

10 A. I think I could.

11 Q. Okay. And if you believed, with all that information,  
12 that the appropriate sentence would be life imprisonment  
13 without the possibility of parole, could you vote for a  
14 verdict for life imprisonment without the possibility of  
15 parole?

16 A. Yes.

17 Q. Thank you. Please answer any questions that the  
18 solicitor may have.

19 MR. GOWDY: May it please the court?

20 THE COURT: Yes, sir.

21 VOIR DIRE EXAMINATION BY MR. GOWDY:

22 Q. Good evening, ma'am.

23 A. Good evening.

24 Q. First on behalf of all of us, thank you for your  
25 patience. Thank you for filling out the jury questionnaire.

1           The court covered almost every question I wanted to ask  
2   you. The last two questions he asked you I want to go back  
3   to.

4           He asked you if you could give death and you said "I  
5   think I could," or "I think I can."

6           He asked you if could give life, and you just said  
7   "yes."

8           Why the difference in the responses?"

9   A. Well, it goes back to my religion.

10 Q. Catholicism?

11 A. Yes. I mean, I feel somebody should pay for -- you  
12 know, if they done something they should be punished.

13 Q. Life without parole is punishment.

14 A. Oh, yes.

15 Q. And you will always have the option of life without  
16 parole. Nobody will ever tell you that death has to be  
17 imposed.

18 A. Uh-huh.

19 Q. You still think that you can impose death?

20 A. I can. I would hope I could. I don't know if comes  
21 down to it if I can.

22 Q. I know the judge said this and I'm stressing to you  
23 again, there are no right or wrong answers.

24 A. Thank you.

25 Q. Nobody would begin to tell you what your belief on any

1 issue should be, but it is important that we whatever it is,  
2 it's important that we know it, because if you are sitting  
3 in the jury, it has to be more than I think I can, or I  
4 would consider it, or maybe. You can't have that echo of  
5 the Catholic church. I mean, we have to know before you are  
6 qualified that you can actually impose it, if you think it  
7 is warranted. Can you get there?

8 A. I think I could. That's about -- until I'm faced with  
9 it, I'm not going to be able to say yes or no.

10 Q. As you sit here tonight --

11 Let me phrase it another way. Is it fair to say that  
12 you do not know as of tonight whether you could impose the  
13 death penalty?

14 A. Correct.

15 Q. All right.

16 MR. GOWDY: Thank you.

17 THE COURT: Mr. Starnes.

18 MR. STARNES: May it please the court, Your Honor?

19 THE COURT: Yes, sir.

20 VOIR DIRE EXAMINATION BY MR. STARNES:

21 Q. How are you doing, Ms. Machose?

22 A. Good.

23 Q. My name is Norman Starnes. I'm the defendant in this  
24 case.

25 Let me see if I understand you correctly. Would you



1 agree with me that not all crimes are the same?

2 A. Correct.

3 Q. And would you agree that not all murders are the same?

4 A. Correct.

5 Q. If you were seated as a juror in this case and you  
6 heard all the facts and circumstances and you felt the case  
7 was bad enough and the death penalty was warranted, could  
8 you vote for the death penalty?

9 A. I would have to see the facts.

10 Q. But you would have to see the facts --

11 A. Before I could say yes, I could.

12 Q. -- and the circumstances and all the testimony as it's  
13 taken from the witness stand and hear all the evidence  
14 before you could make that decision?

15 A. (Shaking head yes)

16 Q. But if the facts and circumstances in this case, or any  
17 case, warranted it, you could impose the death penalty? Is  
18 that what I'm hearing?

19 A. I would hope that I could, if I felt it warranted it.

20 Again, until I'm actually in that position, I cannot  
21 tell you why because --

22 Q. Okay.

23 A. -- I have never been faced with any life and death  
24 situations like that.

25 Q. And there is no right or wrong answers. We just need

1 to know your feelings on it.

2 Tell me your views on capital punishment, if you could  
3 do that for us.

4 A. I don't have a problem with it. I don't know for sure  
5 if I can impose it.

6 Q. Yes, ma'am.

7 Would you listen to all the evidence in the case?

8 A. Yes.

9 Q. All the bad stuff, all the good stuff?

10 A. Well, I would have to.

11 Q. Yes, ma'am.

12 And after hearing all the evidence --

13 Oklahoma City, heinous crimes, do you believe crimes  
14 like that warrant the death penalty?

15 A. Saying Oklahoma City, when the building was --

16 Q. Yes, ma'am. When Timothy McVay blew the Federal  
17 Building up and killed all those innocent people. Do you  
18 believe that case warranted the death penalty?

19 A. That's been so long that I -- I don't even remember all  
20 the facts about that, but I'm going to say yes, because I  
21 did at the time the amount of life that were lost.

22 Q. Yes, ma'am.

23 How about 9/11, when they flew those planes into the  
24 building? That was pretty bad. Do you agree with me?

25 A. Yes.

1 Q. And would you agree with me a defendant in that case  
2 should get the death penalty?

3 A. I don't think I would have any problem giving them the  
4 death penalty.

5 Q. You don't think that you would have any problem giving  
6 them the death penalty?

7 A. No.

8 Q. But on a case like that, from what I'm hearing, and  
9 correct me if I'm wrong, you would have to sit and hear all  
10 the evidence before you could make that decision?

11 A. Correct.

12 Q. But you could give the death penalty?

13 A. I would like to think I could.

14 Again, until I'm faced with it, I cannot.

15 Q. Yes, ma'am. But if you sat on the jury, such as a 9/11  
16 case --

17 MR. GOWDY: Your Honor --

18 THE COURT: You have gone over that. Let's move  
19 onto something else, please, sir.

20 BY MR. STARNES:

21 Q. Could you give life without parole?

22 A. Yes.

23 Q. You feel like life imprisonment without the possibility  
24 of parole is worse than the death penalty?

25 A. I would hope it is.

1 Well, no, it's not worse. No. I mean, it depends on  
2 the person.

3 Q. Yes, ma'am.

4 Have you ever served on jury duty before?

5 A. No.

6 Q. Never served on jury duty?

7 A. No.

8 Q. In any case -- could you give the death penalty in any  
9 case?

10 A. Not until I listened to the facts and then I would not  
11 know until that time.

12 Q. You would not know until that time?

13 A. No.

14 Q. If you listened to the facts of the case and you felt  
15 that it warranted the death penalty and that was your  
16 decision, could you sign your name to a verdict form to  
17 impose the death penalty?

18 A. I think I could.

19 Q. You think you could?

20 A. (Shaking head yes)

21 Q. If you felt the facts and circumstances warranted the  
22 death penalty and it come down to that, do you believe that  
23 you could sign your name?

24 A. I would have to. I mean, why would it be on the jury  
25 if I can't make a decision?

1 Q. So you could give --

2 Let me see if I understand this right. You could give  
3 life without the possibility of parole, or you could give  
4 the death penalty, depending on what you see and what you  
5 heard and after these hearing all the facts and  
6 circumstances?

7 A. I hope I could.

8 Q. And would that be your own independent decision?

9 A. Yeah. I mean, I would make my own decisions.

10 Q. I noticed on your questionnaire you were a supervisor?

11 A. Correct.

12 Q. You have supervisory authority?

13 A. Yes.

14 A. Limited, but yes.

15 Q. Do you know of any reason why you couldn't give the  
16 defendant and the State a fair trial in this case, if you  
17 were chosen as a juror?

18 A. My only concern is I have got some medical issues that  
19 I got to make sure I get with my doctors. Other than that,  
20 no.

21 Q. Thank you, Ms. Machose.

22 A. Okay.

23 RE-VOIR DIRE EXAMINATION BY THE COURT:

24 Q. Ms. Machose, let me ask you about the issues about your  
25 doctors. You had some doctors appointments and that sort of

1 thing?

2 A. Yeah.

3 Q. What type of -- I don't want to get personal about it,  
4 but are these doctors appointments that could be  
5 rescheduled?

6 A. Yes and no. I have got a couple coming up and --  
7 monthly -- I get a monthly shot that relates to my illness.

8 Q. Okay. And --

9 A. Well, I'll be afraid -- well, I can't even explain it.

10 Q. Well, let me just -- maybe I can help you out with  
11 that. If you were on the jury and you were serving on the  
12 jury, you would be serving from in the morning until the  
13 evening. Of course, the jury would not be sequestered in  
14 this case, which means that the jurors would be allowed to  
15 go home at night. But if what you have to do is go to the  
16 doctor and get a shot, if that could be worked out for you,  
17 would that be acceptable?

18 A. As long as it's not too very -- I guess from the date I  
19 have it scheduled because I get it on that date every month.

20 Q. Okay. Well, let's say if you could get it scheduled in  
21 the morning and the trial could start a little bit later in  
22 the morning, if you were on the jury, do you think that  
23 could be worked out? Would that be acceptable?

24 A. Yes.

25 Q. Okay. Let me ask you -- I need to ask you a couple

1 more questions, because I'm not satisfied in my own mind and  
2 I need to be.

3 Ma'am, what I have heard you say is that you would like  
4 to believe that you would be able to listen to all the  
5 information that you need to listen to. And if you think  
6 the death penalty was the appropriate sentence in this case,  
7 that you could sign a verdict imposing -- voting for the  
8 death penalty. You would like to believe that you could do  
9 that. You think that you could do that, but you are not  
10 sure.

11 A. Correct.

12 Q. And I need to ask you what is your hesitation about  
13 saying if the circumstances were -- if you felt the  
14 circumstances were appropriate, could you vote for the death  
15 penalty, if you felt like it was appropriate? Could you  
16 sign your name to a verdict form which made that finding?

17 A. I think I could.

18 Q. Okay.

19 A. But that's the best I can --

20 Q. All right. Do you know of anything that would prevent  
21 you from being able to -- prevent you from doing that?

22 A. Just if I didn't feel the facts were --

23 Q. Well, as long as -- if you heard the facts and evidence  
24 which in your mind you thought the death sentence was the  
25 appropriate sentence, you could vote for that, is that

1 correct? You could sign your name on a verdict form to that  
2 effect?

3 A. I think I could.

4 Q. And if you felt like life imprisonment without the  
5 possibility of parole was the appropriate sentence, you  
6 could sign your name on a verdict form to that effect, is  
7 that correct?

8 A. Correct.

9 Q. Or agree to that.

10 All right. Thank you, ma'am. I think I understand.

11 THE COURT: Any followup questions to the  
12 questions I asked?

13 MR. GOWDY: No, sir.

14 THE COURT: Mr. Starnes?

15 MR. STARNES: No, sir, Your Honor.

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

17 If you will please follow with the bailiff here  
18 and wait just outside the courtroom door for a minute, we  
19 will have you right back in, okay?

20 JUROR NUMBER 168: Okay.

21 (Whereupon, Juror Number 168 left the courtroom)

22 THE COURT: Position of the State?

23 MR. GOWDY: Your Honor, I would base -- I would  
24 rely on State v. Elmore. A person's opposition to the death  
25 penalty does not have to be shown with unmistakable clarity.



1 And in Elmore the juror never could say they could impose  
2 the death penalty. And even when the court asked her, lay  
3 aside the advocates, the best we got was I think I could.  
4 And to be sitting in a jury and ask the State to have to sit  
5 someone on the jury who has never said they could do it.  
6 There have been other jurors that clearly leaned towards  
7 life, and we agreed they were qualified, because they said  
8 in some fact pattern they could do it.

9           Aside from 9/11, and she never even said she could  
10 do that. She just said she thought it was the proper  
11 punishment. She certainly didn't say she could impose it.  
12 She's yet in 20 minutes colloquy has not said I can vote to  
13 impose the death sentence, and as a result she's not  
14 qualified.

15           THE COURT: Mr. Starnes?

16           MR. STARNES: Your Honor, I don't agree with Mr.  
17 Gowdy on that. She unequivocally said in the 9/11 case, and  
18 Oklahoma City she could vote --

19           THE COURT: This is not the 9/11 case. It's not  
20 Oklahoma City, Mr. Starnes. This is a different type case  
21 than that.

22           MR. STARNES: I understand that.

23           THE COURT: So I understand she said that. I  
24 understand she said she thought it was appropriate in those  
25 cases. And even if that she vacillated a little bit what

1 they thought was appropriate. But, you know --

2 All right, go ahead, I will let you --

3 MR. STARNES: Thank you, Your Honor.

4 THE COURT: -- say whatever.

5 MR. STARNES: I believe under Wainwright, the U.S.  
6 Supreme Court decision, these type cases are very difficult  
7 for any juror, but I would have to say under Wainwright,  
8 Your Honor, that she would be qualified. She did not  
9 definitely say that she could not give the death penalty.  
10 She was hesitant in some of her answers, and I believe it's  
11 apparent, you know, from the last few jurors that's been in  
12 that, you know, they are kind of hesitant.

13 The death penalty is a serious punishment. I  
14 mean, if I was on a jury, I believe I would be hesitant too,  
15 but I believe, Your Honor, under Wainwright she's qualified  
16 by her responses.

17 MR. GOWDY: Your Honor, the standard is prevent or  
18 substantially impair. I'm not convinced that her views  
19 don't prevent it.

20 When I asked her if she could guarantee me that  
21 the Catholic church would not be whispering in the  
22 background if she was seated on the jury, she can't answer  
23 that. So to say that her beliefs are not -- that her  
24 ability to vote the death sentence is not substantially  
25 impaired, it just defies the last 25 minutes.

1 With the last several jurors that were leaning  
2 towards life, we said they were qualified because they said  
3 the talismanic words. She never said it.

4 THE COURT: Well, I have read Elmore. It's a  
5 little bit different in Elmore. In that case the juror said  
6 she couldn't sign her name to the verdict.

7 She said she could. She believes she could do  
8 that, so it's a close question, solicitor, but I think she's  
9 qualified. You know, I understand your reservation. I got  
10 my own reservations about it, but she never said she could  
11 and she said she thought she could, all I can tell you, so  
12 I'm going to find her qualified.

13 She said she thought she could sign a verdict  
14 form. I specifically asked her. The last thing I asked  
15 her, she said she thought she could do that. She thought  
16 she could make that finding, so --

17 MR. GOWDY: I don't disagree with the court. I  
18 just -- when other jurors say they think they can put aside  
19 things that they read in the newspaper or they think they  
20 could put aside their relationship with the witness, the  
21 court always makes them go further than that.. Thinking you  
22 can do it is not enough, and that's all we got from her is I  
23 think I can do it. And she said I won't know until I get  
24 there.

25 We are not talking about this specific case. That

1 would be the right answer in this specific case. What she  
2 is talking about is I don't know in general until I get  
3 there. And, you know, opposition to the death penalty  
4 doesn't have to be I am opposed to it, period. Vacillating  
5 responses.

6 Now, you know, I respect the court's -- we have  
7 had plenty of life-leaning jurors and I hadn't stood up and  
8 asked that they be disqualified, but if she said she could  
9 impose the death penalty, I didn't hear it. I heard her say  
10 I think I can, but --

11 THE COURT: Let me bring her back in and I'll ask  
12 her one more time.

13 MR. GOWDY: All right.

14 THE COURT: Her last response to me I thought were  
15 that she thought she would be able to do that, but let me  
16 bring her back in one more time.

17 Please bring her back, please.

18 (Whereupon, Juror Number 168 entered the  
19 courtroom)

20 RE-VOIR DIRE EXAMINATION BY THE COURT:

21 Q. Please come back over into the same seat, if you will  
22 just a minute. I need to ask you a couple more questions.

23 Ms. Machose, let me ask you a couple more questions.

24 A. Okay.

25 Q. I need the best answer that you can give me to this

1 question as honest as you can to these questions, okay? Let  
2 me ask you -- and I have asked you this before, but let me  
3 ask it just a little different way.

4 If you were on the jury and we went through what I have  
5 described for you as the penalty phase and you received  
6 the -- was presented the aggravating circumstances, the  
7 mitigating circumstances, the court's instruction on the  
8 law, and you were given a choice between the sentence of the  
9 death penalty or life imprisonment without parole, if you  
10 had all that information before you, you were given a  
11 choice, you always -- in a case in which the State is  
12 seeking the death penalty, you can always impose life  
13 imprisonment without the possibility of parole for any  
14 reason, or no reason at all, just simple as an act of mercy.  
15 You have the right to do that. You are never bound to give,  
16 regardless of the circumstances, the death penalty. Do you  
17 understand that?

18 A. Correct.

19 Q. Okay. But let me ask you if you -- are there any  
20 circumstances which would be presented to you upon which you  
21 believe you can -- not just believe, but you know that you  
22 could under proper circumstances vote -- sign your name to a  
23 verdict which would find for the death penalty, impose the  
24 death penalty, could you do that, ma'am?

25 A. I think I could.

1 Q. Okay. The problem I got, I guess, I'm getting I think  
2 I could, but are there any circumstances which that you know  
3 that you could?

4 A. It would have to be pretty heinous.

5 Q. Is there anything about your religious beliefs or any  
6 other about your -- what you believe generally about life  
7 that would prevent you from being able -- if you found it  
8 was in an appropriate circumstance to make a finding of --  
9 or vote for a verdict in favor of the death penalty?

10 A. Could you repeat the question, please?

11 Q. Yeah, if I can. It's getting late in the day too.

12 Is there anything about your religious background, your  
13 religious beliefs, or any other thing about your life  
14 experiences or your beliefs that would prevent you from  
15 being able to sign your name to the verdict form -- a death  
16 penalty, if you -- if it was an appropriate circumstance?

17 A. If I felt it was appropriate circumstances, no.

18 Q. Okay. And so if you were on the jury and if you  
19 felt -- if you believed that the circumstances warranted it,  
20 could you sign your name to a verdict for the death penalty?

21 A. If I felt all the circumstances met it, yes.

22 Q. All right. Thank you, ma'am. I'm not going to bother  
23 you anymore with any other question. Thank you.

24 You please -- you can go back with the bailiff just  
25 outside the courtroom. We will have you back momentarily,

1       okay?

2               JUROR NUMBER 168:   Okay.

3               (Whereupon, Juror Number 168 left the courtroom)

4               THE COURT:   Solicitor, I'm going to find her  
5       qualified.

6               MR. GOWDY:   She is.   She is.   Based on those last  
7       three answers, she is qualified.   I don't object.   I just --  
8       I certainly wasn't able to get the level of clarity out of  
9       her that you were.

10              THE COURT:   Well, you know, and none of us know  
11       what's in her mind, solicitor, but she answered that she  
12       could do it.

13              As far as I'm concerned, she may lean one way, but  
14       she said she could do it, and so I'm going to find her  
15       qualified.   All right.

16              MR. GOWDY:   Yes, sir.

17              THE COURT:   Please bring her in.

18              (Whereupon, Juror Number 168 entered the  
19       courtroom)

20              THE COURT:   Ms. Machose, the court finds you  
21       qualified to serve on the jury panel.   That does not mean  
22       that you are on the jury.

23              What we are going to do is we are in the process  
24       getting a group of qualified jurors together into a panel  
25       from which the jury would be selected, and we would do

1 that -- if everything goes well, we will do that tomorrow at  
2 three o'clock.

3 So what I'm going to ask you to do, please, is to  
4 return back into the courtroom here. Just come right on in  
5 and have a seat with the other jurors that would be here  
6 tomorrow. And from that panel we anticipate drawing a jury  
7 tomorrow in the case.

8 So please have a pleasant night tonight. Again, I  
9 apologize for the long delay and your wait. Please have a  
10 pleasant night and be back here in the courtroom and have a  
11 seat out here tomorrow at three o'clock.

12 JUROR NUMBER 168: Okay.

13 THE COURT: Thank you, ma'am.

14 (Whereupon, Juror Number 168 left the courtroom)

15 (Whereupon, Juror Number 5 entered the courtroom)

16 VOIR DIRE EXAMINATION BY THE COURT:

17 Q. Sir, you are Phillip Arms, juror number 5, is that  
18 correct?

19 A. Yes, sir, that's correct.

20 Q. Mr. Arms, let me begin by apologizing for the long  
21 delay in your wait. I appreciate your patience very much.  
22 We just got behind and we just haven't been able to get  
23 caught up and I apologize.

24 I would encourage you just to be relaxed. You appear  
25 to be pretty relaxed. This is just an informal session by



1 which you are going to be asked certain questions and how  
2 you feel about certain things. There are no right or wrong  
3 answers. Nobody is going to disagree with you in any way.  
4 And, as I say, it's not any kind of third degree. It's not  
5 like that at all. It's just very informal. We would  
6 encourage you to be open and honest in your responses. Just  
7 give as honest a response as you can, please, sir.

8 A. Yes.

9 Q. A couple of housekeeping matters before we get started  
10 with that. Do you remember that I placed the entire jury  
11 panel under oath yesterday?

12 A. Yes.

13 Q. And you continue to be under oath for the information  
14 that you are providing the court today. Do you understand  
15 that, sir?

16 A. Yes, sir.

17 Q. You had filled out a juror information form and sent it  
18 back to the clerk's office, correct?

19 A. That's correct.

20 Q. Has anything happened since you sent that in that would  
21 cause you to fill it out differently today?

22 A. No, sir.

23 Q. Do you remember seeing a rather lengthy list of  
24 potential witnesses in this case back in the jury room? Do  
25 you remember seeing that and going over it?

1 A. Yes, sir.

2 Q. Sir, I'm going to ask you if you recognize any of those  
3 names or know any of those persons, I would ask you to  
4 identify them, not by name, but by number. We are just  
5 dealing with the number. Did you recognize any of those  
6 folks?

7 A. The only one I recognized number 79.

8 Q. 79?

9 A. Yes.

10 Q. All right, sir. Let me -- any others that you  
11 recognized, sir?

12 A. No.

13 Q. Let me ask you about that particular witness would be  
14 called as a witness by either side in this case, would that  
15 fact interfere in any way with your ability to give both  
16 sides a fair and impartial trial in this trial?

17 A. It would not.

18 Q. Okay. Did you see back in the jury room a sheet which  
19 had three paragraphs which talked about three different  
20 types of jurors? Have you had a chance to review that, sir?

21 A. Yes, sir.

22 Q. And do you understand this is not all inclusive or  
23 doesn't really define any person, but did you identify  
24 yourself as being more like any one of those three types of  
25 jurors?

1 A. Possibly the third one.

2 Q. So you would be the type of juror who would not make up  
3 your mind in advance, but rather you would want to hear all  
4 the testimony and evidence and this court's instruction on  
5 the law that applies before you start forming an opinion in  
6 the case, is that correct, sir?

7 A. Yes, sir.

8 Q. Do you understand that in this case the State is  
9 seeking the death penalty?

10 And the way that the trial would work would be this.  
11 Once a jury is selected and impaneled, then the State would  
12 be required to prove the charges against the defendant  
13 beyond a reasonable doubt. If the State failed to meet  
14 their burden of proof and the jury so found, that would be  
15 the end of the trial and that would be the end of the matter  
16 and the jury's function. Do you understand that?

17 A. Yes, sir.

18 Q. However, if the jury were to determine that the State  
19 had proven the elements of the offense of murder beyond a  
20 reasonable doubt, then we would go to a second phase of the  
21 trial.

22 And in the second phase of the trial, the State would  
23 present any aggravating circumstances that they thought the  
24 jury ought to consider on the issue of punishment. The  
25 defense would present any mitigating factors that they think

1 the jury should consider in the determination of appropriate  
2 punishment. And the court would then instruct the jury as  
3 to how to receive that evidence and consider it and also as  
4 to any other matters that the jury ought to consider on the  
5 issue of the appropriate punishment. And then the jury  
6 would be asked to determine the appropriate punishment.

7 The two choices the jury would have in that situation  
8 would be the death penalty or life imprisonment without the  
9 possibility of parole. Do you understand that?

10 A. Yes, sir.

11 Q. Let me ask you, sir -- we may not -- in this trial we  
12 may not reach the second phase of the trial.

13 If we were to reach the second phase of the trial and  
14 you were on the jury, could you listen to all of the  
15 information provided to you by means of aggravating  
16 circumstances, mitigating circumstances, the court's  
17 instruction as to what you should consider, and then render  
18 a verdict which would recommend the appropriate punishment  
19 in the case?

20 A. I can, yes, sir.

21 Q. Okay. And if you had all that information available to  
22 you and if you thought the appropriate punishment would be  
23 the death penalty, would you be able to impose -- or sign  
24 your name on the verdict imposing the death penalty, sir?

25 A. Yes, sir, I could.

1 Q. And if you felt the appropriate punishment under the  
2 circumstances, with all the information that you had, was  
3 life imprisonment without the possibility of parole, could  
4 you vote for that verdict, sir?

5 A. Yes, sir, I could.

6 Q. Thank you. Please answer any questions that the  
7 solicitor may have.

8 MR. COLER: Just briefly, Your Honor.

9 May it please the court?

10 VOIR DIRE EXAMINATION BY MR. COLER:

11 Q. Good evening, Mr. Arms. Thank you for being here so  
12 late.

13 Just a couple of questions to go over what the judge  
14 has talked to you about. At the end of the evidence, after  
15 you heard everything with an open mind, you told the judge  
16 if you thought it was appropriate, you could impose life  
17 without parole, life in prison without parole?

18 A. That's correct.

19 Q. And, of course, if you heard everything with an open  
20 mind and decided that the death sentence was appropriate,  
21 you could impose the death sentence on the defendant?

22 A. Yes, I could.

23 Q. And you sign a verdict form to that effect?

24 A. Yes, sir.

25 Q. Thank you, Mr. Arms.

1 MR. STARNES: If it please the court?

2 THE COURT: Yes, sir.

3 VOIR DIRE EXAMINATION BY MR. STARNES:

4 Q. Hi, Mr. Arms. How are you doing?

5 A. Good.

6 Q. Mr. Arms, my name is Norman Starnes and I'm the  
7 defendant in this case.

8 I noticed on your jury questionnaire that you filled  
9 out, and we thank you for doing that, you put on there that  
10 you have a family member that works for the Sumter City  
11 victim advocate?

12 A. My wife was the Sumter County victim's advocate, but it  
13 was prior to my knowing her.

14 Q. Okay.

15 A. I was just trying to be as honest as I could.

16 Q. I understand.

17 Mr. Arms, do you agree that not all killings are  
18 murder?

19 A. It could be considered, yes.

20 Q. What do you mean by that?

21 A. I have to think about that for a minute.

22 It could be accidental. I really just have to look at  
23 the circumstances.

24 Q. You have to look at the facts and circumstances of the  
25 case?

1 A. Yes.

2 Q. How about self-defense? Do you believe that one is  
3 entitled to take the life of another human being in  
4 self-defense?

5 A. Under certain circumstances, yes.

6 Q. Under certain circumstances?

7 A. Yes.

8 Q. And if evidence of self-defense was introduced into  
9 this case, along with all of the other evidence in this  
10 case, would you give it fair consideration?

11 A. Absolutely.

12 Q. Okay. Would you follow the law as the judge instructed  
13 you, if he instructed you on self-defense?

14 A. Yes, sir.

15 Q. In other words, you would follow what the trial court's  
16 instruction on the law and not what you think the law should  
17 be?

18 A. That's correct.

19 Q. Mr. Solicitor asked you about the penalty phase, about  
20 could you give life and could you give death.

21 In the merits phase, at the first part of this trial,  
22 could you find the defendant not guilty?

23 A. I don't think I understand you.

24 Q. In other words, could you find someone not guilty in  
25 the first part?

1 A. I could.

2 Q. You could.

3 Do you understand that if you unless a murder verdict  
4 is rendered, we don't go into that second part?

5 A. That's correct.

6 Q. Do you understand that?

7 A. Yes.

8 Q. Mr. Arms, do you understand that life imprisonment  
9 means life without the possibility of parole?

10 A. Yes, sir.

11 Q. In other words, until the offender dies?

12 A. Yes.

13 Q. Have you heard anything about this case or read  
14 anything?

15 A. I have not read anything at all.

16 Q. In the event that we get into the penalty phase, would  
17 you have a problem signing your name to your verdict?

18 A. No, sir.

19 Q. And that would be your own independent decision?

20 A. Yes, sir.

21 Q. That's all we can ask of you, Mr. Arms. Thank you.

22 A. Thank you.

23 THE COURT: Sir, if you would wait just outside  
24 the courtroom door and we will have you back in just  
25 momentarily, okay?



1 JUROR NUMBER 5: Okay.

2 (Whereupon, Juror Number 5 left the courtroom)

3 THE COURT: Position of the State?

4 MR. COLER: He's qualified, Your Honor.

5 THE COURT: Defense?

6 MR. STARNES: Qualified, Your Honor.

7 THE COURT: The court agrees.

8 Please bring him back.

9 (Whereupon, Juror Number 5 entered the courtroom)

10 THE COURT: Mr. Arms, the court has found you  
11 qualified to be in the jury pool in this case. What that  
12 means is, of course, you are not on the jury, but you are on  
13 the pool from which we will select the jury.

14 And so what I'm going to ask you to do is return  
15 into the courtroom here tomorrow at three o'clock.

16 JUROR NUMBER 5: Oh, okay.

17 THE COURT: Please try to be here at three  
18 o'clock. Just come in and have a seat with the other  
19 qualified jurors. And from that jury panel it's expected  
20 that we will have a jury tomorrow around three o'clock, or  
21 soon thereafter.

22 JUROR NUMBER 5: Okay.

23 THE COURT: Okay. Please have a pleasant night  
24 tonight. Thank you again for your patience and we will see  
25 tomorrow at three o'clock.

1 JUROR NUMBER 5: Thank you, Your Honor.

2 THE COURT: Thank you.

3 (Whereupon, Juror Number 5 left the courtroom)

4 (Whereupon, Juror Number 301 entered the  
5 courtroom)

6 VOIR DIRE EXAMINATION BY THE COURT:

7 Q. Ma'am, you are Melissa Watson, juror number 301, is  
8 that correct?

9 A. Yes, sir.

10 Q. Ms. Watson, I would like to thank you for your  
11 patience. We apologize for the long delay. We got behind  
12 and we just haven't been able to catch up. We deeply  
13 appreciate your patience and sorry about the inconvenience  
14 to you.

15 I'm going to ask you just to be relaxed. This is a  
16 very informal setting, in which you will be asked certain  
17 questions concerning how you feel about certain issues.  
18 There are no right or wrong answers. Nobody can is going to  
19 argue with you about your answers, and there is nothing like  
20 a third degree. We just ask you to be open and honest about  
21 your answers. Be as honest as you can.

22 And if you will speak right that microphone, because  
23 everybody has to hear you and the court reporter has to  
24 record your responses.

25 A. Yes.

1 Q. Now, a couple of housekeeping matters. Do you remember  
2 that I placed the entire jury panel under oath yesterday?  
3 And you continue to be under oath for the information that  
4 you are going to provide the court at this time. Do you  
5 understand that?

6 A. Yes, sir.

7 Q. Do you remember that when you got your jury summons,  
8 there was a jury information form that you filled out and  
9 sent back to the clerk's office?

10 A. Uh-huh.

11 Q. Has anything happened since you filled that out and  
12 sent it in that would cause you to fill it out differently,  
13 if you were to fill it out today?

14 A. Not that I can think of.

15 Q. Okay. Ma'am, back in the jury room there was a long  
16 list of person's names and numbers of potential witnesses in  
17 this case. All of these witnesses are not going to be  
18 called, but some of them certainly will be called.

19 What I'm going to ask you, if you know any of these  
20 witnesses or recognize the names of any of these witnesses,  
21 I would ask that you identify them by number, not by name,  
22 but only by number. A sheet should be there in front of  
23 you.

24 Did you recognize or know any of these potential  
25 witnesses?

1 A. Number 7.

2 Q. Number 7.

3 Any others, ma'am?

4 A. Number 61.

5 Q. 61.

6 Any others ma'am?

7 A. Uh-uh.

8 Q. Let me ask you, ma'am, if either or both of these  
9 potential witnesses were called as a witness by either side  
10 in this case, would that interfere in any way with your  
11 ability to give both sides a fair and impartial trial in  
12 this case?

13 A. No.

14 Q. Did you see back in the jury room a page with three  
15 paragraphs on it which describe three different types of  
16 jurors?

17 A. Yes, sir.

18 Q. Did you have a chance to look that over, ma'am?

19 A. Yes, sir.

20 Q. Of course, it's not all inclusive. It doesn't totally  
21 describe any person as a juror, but did you identify  
22 yourself as being more like any one of these three types of  
23 jurors?

24 A. The third.

25 Q. The third type?

1 A. Yes.

2 Q. So you are the type of juror who would not make up your  
3 mind in advance, but you would need to hear the testimony  
4 and evidence presented and also the court's instruction to  
5 you on the law that applies before you start forming  
6 opinions in the case?

7 A. Yes, sir.

8 Q. Is that correct?

9 A. Yes.

10 Q. Ma'am, do you understand that in this case the State is  
11 seeking the death penalty?

12 And the way the trial would work is this, that once a  
13 jury was selected and impaneled, the State would be required  
14 to prove the defendant guilty of the charges against him  
15 beyond a reasonable doubt. If the State failed to meet that  
16 burden, and the jury so found, then that would be the end of  
17 the trial and the end the jury's role in the trial. Do you  
18 understand that?

19 A. Yes.

20 Q. Now, on the other hand, if the jury should find that  
21 the State proved the elements of the offense of murder  
22 against the defendant beyond a reasonable doubt, they proved  
23 it beyond a reasonable doubt, we would then move to a second  
24 phase of the trial.

25 In the second phase of the trial the State would

1 present any aggravating circumstances that they wished the  
2 jury to consider on the appropriate punishment. The defense  
3 would present any mitigation issues that they think the jury  
4 should consider in determining what an appropriate  
5 punishment would be. The court would instruct the jury as  
6 to law that applies and any other matters that the jury  
7 should consider on the issue of the appropriate punishment,  
8 and the jury would be asked to determine the appropriate  
9 punishment.

10 And the possible punishments in that situation would be  
11 either the death penalty or life imprisonment without the  
12 possibility of parole. Do you understand that, ma'am?

13 A. Yes, sir.

14 Q. Let me ask you, if you were on the jury, would you be  
15 able, if we reached the second phase, the penalty phase of  
16 the trial, if we reached it, if you were on the jury, could  
17 you listen to all of the information concerning the  
18 aggravating circumstances, the mitigating circumstances, the  
19 court's instruction on the law, and then render a decision  
20 of what the appropriate punishment would be?

21 A. Yes, sir.

22 Q. Okay. And so if you listened to all the information  
23 during the second phase of the trial, if you were on the  
24 jury, and you found that the appropriate punishment would be  
25 the death penalty, could you sign your name on a verdict

1 finding for the death penalty?

2 A. Yes, sir.

3 Q. If you found from all the information that you had,  
4 including the aggravating circumstances, the mitigating  
5 circumstances, the court's instruction on the law, that the  
6 appropriate sentence would be life imprisonment without the  
7 possibility of parole, could you vote for that verdict,  
8 ma'am?

9 A. Yes, sir.

10 Q. Okay. Thank you.

11 Please answer any questions that the solicitor may  
12 have.

13 MR. COLER: May it please the court?

14 THE COURT: Yes, sir.

15 VOIR DIRE EXAMINATION BY MR. COLER:

16 Q. Ms. Watson, thank you very much for being here so late.

17 Judge Alford covered pretty much everything that I  
18 wanted to ask you, so I'll be brief.

19 Just so I understand what you told him, at the end of  
20 the trial, if after listening to everything with an open  
21 mind, you determined that the appropriate sentence was life  
22 imprisonment without parole, you can impose that?

23 A. Yes, sir.

24 Q. And, again, after listening to everything and you  
25 determined that the appropriate sentence was the death

1 penalty, you could impose that?

2 A. Yes, sir.

3 Q. And you could sign a verdict form to that effect?

4 A. Yes, sir.

5 Q. That's all I have. Thank you.

6 MR. STARNES: May it please the court, Your Honor?

7 THE COURT: Yes, sir.

8 VOIR DIRE EXAMINATION BY MR. STARNES:

9 Q. Hi, Ms. Watson. How are you doing?

10 A. Fine, thank you.

11 Q. My name is Norman Starnes and I'm the defendant in this  
12 case.

13 I just got a couple of questions that I wanted to ask  
14 you, Ms. Watson.

15 Ms. Watson, do you believe that all killings are  
16 murder?

17 A. Yes.

18 Q. You believe that all killings are murder.

19 How about self-defense?

20 A. Yes.

21 Q. Do you believe that --

22 A. It's defensible murder, though.

23 Q. You still think it's murder?

24 A. Yes.

25 Q. If self-defense was an issue in this case or there was



1 evidence of self-defense, could you find somebody not  
2 guilty?

3 A. Yes.

4 Q. And you could follow the law as the judge instructed  
5 you, give you the law on self-defense, you could follow that  
6 law, even though you may not believe that the law -- that's  
7 what law should be, you would follow the law as the court  
8 would give it to you?

9 A. Right.

10 Q. In the event that we got into the penalty phase, Ms.  
11 Watson, and eleven jurors wanted to give me --

12 THE COURT: Avoid personal reference, please, sir.

13 MR. STARNES: I'm sorry.

14 BY MR. STARNES:

15 Q. Give the defendant the death penalty -- eleven wanted  
16 to give the defendant the death penalty, but you felt the  
17 facts and circumstances of this case warranted life without  
18 the possibility of parole, could you vote for life without  
19 parole?

20 A. Yes, sir.

21 Q. You could do that?

22 A. Yes, sir.

23 Q. Do you know of anything that would prevent you from  
24 serving as a juror in this case and give the defendant and  
25 the State a fair trial, Ms. Watson?

1 A. No.

2 Q. That's all we can ask. Thank you, Ms. Watson.

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

4 If you will please wait just outside the courtroom  
5 door with the bailiff and we will have you back just  
6 momentarily, okay?

7 JUROR NUMBER 301: Yes.

8 (Whereupon, Juror Number 301 left the courtroom)

9 THE COURT: Position of the State?

10 MR. GOWDY: She's qualified.

11 THE COURT: Position of the defendant?

12 MR. STARNES: Qualified, Your Honor.

13 THE COURT: The court agrees.

14 Please bring her back.

15 (Whereupon, Juror Number 301 entered the  
16 courtroom)

17 THE COURT: If you will just stand right there,  
18 please.

19 Ma'am, we have found you qualified to serve on the  
20 panel in this case, the jury panel in this case. And what  
21 that means, of course, is you are not selected on the jury  
22 yet. We are selecting a panel from which the jury will be  
23 drawn, qualified jurors.

24 I'm going to ask you, if you will, to return here  
25 to the courtroom tomorrow at three o'clock. Please come in

1 and have a seat with the other qualified jurors. From that  
2 group we will pick a jury. We expect to pick a jury  
3 tomorrow afternoon to begin this case. Okay.

4 Please have a pleasant night tonight and please be  
5 on time and be here in the courtroom at three o'clock  
6 tomorrow. Okay?

7 JUROR NUMBER 301: Yes, sir.

8 THE COURT: Thank you.

9 (Whereupon, Juror Number 301 left the courtroom)

10 (Whereupon, Juror Number 147 entered the  
11 courtroom)

12 VOIR DIRE EXAMINATION BY THE COURT:

13 Q. Sir, you are John Kennerly, juror number 147, is that  
14 correct?

15 A. That is correct.

16 Q. Mr. Kennerly, I apologize for the long delay. I  
17 apologize for keeping you waiting all this time. It's just  
18 been unavoidable. We apologize and appreciate your  
19 patience. Okay?

20 A. Not a problem.

21 Q. Now, sir, let me invite you just to be relaxed where  
22 you are. This is a very informal proceeding. We just  
23 simply are going to ask you some questions to determine how  
24 you feel about certain issues.

25 There are no right answers or wrong answers. Nobody is

1 going to disagree with you. Nobody is going to give a third  
2 degree. All we want you to do is answer the questions as  
3 open and honestly as you can, giving honest answers how you  
4 feel to those questions.

5 Before we get started with the questions there are a  
6 couple of housekeeping matters. Do you remember that I  
7 placed the entire jury panel under oath yesterday?

8 A. Yes.

9 Q. And you continue to be under oath for the purpose of  
10 providing information to the court at this time. Do you  
11 understand that, sir?

12 A. I understand.

13 Q. All right. Sir, when you got your juror summons, you  
14 filled out a juror questionnaire form and sent it back to  
15 the clerk's office. Do you recall that?

16 A. Yes, sir.

17 Q. And since you sent that back in, has anything happened  
18 in your life that would cause you to change it, if you had  
19 to fill it out today?

20 A. No, it hasn't.

21 Q. Sir, did you see a rather lengthy list of names and  
22 numbers of potential witnesses in this case back in the jury  
23 room? Did you have a chance to go over that?

24 A. I saw the list.

25 Q. Okay. And there should be one there in front of you.

1           Let ask you, sir, if you recognized any of those  
2 persons or if you know any of those persons, I would ask  
3 that you please identify them to the court by number, but  
4 not by name. Only by number.

5           Did you know any of them?

6       A.   No, I didn't. I did learn that number 7 is on TV.

7       Q.   Okay. All right. All right, sir.

8           Let me ask you, sir, if that potential witness would be  
9 called as a witness by either side in the case, would that  
10 interfere in any way with your ability to give both sides a  
11 fair and impartial trial in this case?

12      A.   No, it would not.

13      Q.   Sir, did you see a sheet back in the jury room which  
14 had three paragraphs on it which talked about three  
15 different kinds of jurors?

16      A.   Yes, I did.

17      Q.   Did you have a chance to look that over, sir?

18      A.   Yes, I did.

19      Q.   And, of course, this is not all inclusive or describe  
20 any particular person as a juror, but did you identify  
21 yourself as being more like any one of these three types of  
22 jurors?

23      A.   Yes, I did.

24      Q.   Which one, sir?

25      A.   The third one.

1 Q. All right. So you are the type of juror who would not  
2 form an opinion in advance, but rather you would need to  
3 wait until you have heard all the testimony and evidence in  
4 the case and the court has instructed you upon the law that  
5 applies before you make a decision in the case?

6 A. That is correct.

7 Q. Sir, do you understand that in this case the State is  
8 seeking a death penalty in this case?

9 And the way that the proceeding would work is this.  
10 Once a jury has been selected and impaneled, we would begin  
11 the trial, and the State would have to prove the defendant  
12 was guilty of the charges against him beyond a reasonable  
13 doubt. If the jury found that the State had failed to  
14 prove, to meet that burden of proof of the guilt of the  
15 defendant beyond a reasonable doubt, then that would end the  
16 trial. That would be the end of it. Do you understand  
17 that? That would conclude the jury's role in the trial? Do  
18 you understand that?

19 A. Yes, I do, sir.

20 Q. Now, if the jury should find that the State had proven  
21 the element of the offense of murder beyond a reasonable  
22 doubt, then we would enter a second phase of the trial, in  
23 which the State would present aggravating circumstances,  
24 which they believe the jury should consider on the issue of  
25 punishment. And the defense would present any mitigating

1 issues that they believed the jury should consider on the  
2 issue of punishment. The court would instruct the jury on  
3 how to receive that information and also as to other matters  
4 that ought to be considered on the issue of appropriate  
5 punishment. And then the jury would be asked to decide the  
6 appropriate punishment in the case. Do you understand that?

7 A. Yes, I do.

8 Q. And the possible punishments in the case at that point  
9 would either be the death penalty or life imprisonment  
10 without the possibility of parole. Do you understand that?

11 A. Yes, I do.

12 Q. Now, let me ask you, sir, if you were on the jury and  
13 if the trial should proceed to the second phase -- of  
14 course, it may not proceed to the second phase, but if it  
15 did, would you be able to listen to the aggravating  
16 circumstances presented, the mitigating circumstances  
17 presented, the court's instruction on the law that applies,  
18 and reach a decision as to what the appropriate punishment  
19 in the case would be?

20 A. Yes, I would.

21 Q. All right. And if after receiving all of that  
22 information, if you believed that the death penalty was the  
23 appropriate punishment, could you sign your name on the  
24 verdict for the death penalty, sir?

25 A. Yes, I could.

1 Q. And if you believed that life imprisonment without the  
2 possibility of parole was the appropriate punishment, could  
3 you vote for that verdict, sir, if you were on the jury?

4 A. Yes, I could.

5 Q. All right. Thank you.

6 Please answer any questions that the solicitor may  
7 have.

8 VOIR DIRE EXAMINATION BY MR. BULSA:

9 Q. Thank you, Mr. Kennerly. We appreciate you being here  
10 this late.

11 If I heard you and understand you, you would have no  
12 problem passing judgment in this case?

13 A. That's correct.

14 Q. Okay. Thank you, sir.

15 MR. STARNES: May it please the court, Your Honor?

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

17 VOIR DIRE EXAMINATION BY MR. STARNES:

18 Q. How are you doing, Mr. Kennerly?

19 A. Pretty good.

20 Q. My name is Norman Starnes and I'm the defendant in this  
21 case.

22 Mr. Kennerly, do you believe that all killings are  
23 murder?

24 A. All killings are murder? No, I don't. I do not  
25 believe that all killings are murder.



1 Q. Could you have explain that, please?

2 A. There is killings in self-defense. There is killings  
3 in war, and etcetera, stuff like that.

4 Q. Yes, sir.

5 If there was evidence of self-defense in this case,  
6 would you consider that evidence?

7 A. Yes, I would.

8 Q. And would you follow the law? If the judge instructed  
9 you on self-defense in this case, would you follow the law  
10 as he give it to you?

11 A. Yes, I would.

12 Q. Give us your views on capital punishment. What do you  
13 think about the death penalty?

14 A. I'm not against it.

15 Q. Have you ever served on a jury before?

16 A. Yes, I have.

17 Q. And that was a criminal case?

18 A. Yes, I have.

19 Q. Could you tell us a little bit about it and --

20 A. Okay. I am allowed?

21 THE COURT: Yes, sir.

22 A. Okay. It was a murder trial. It was for life only --  
23 life or manslaughter was the two issues after proven guilty  
24 or not.

25 BY MR. STARNES:

1 Q. So it was a murder trial and -- it wasn't a death  
2 penalty case?

3 A. It was not a death penalty.

4 Q. But you had to decide whether it was murder or  
5 manslaughter?

6 A. That's correct.

7 Q. Could you tell us what the verdict was?

8 A. It was life.

9 Q. Meaning murder?

10 A. Murder.

11 Q. Okay. Was that here in Lexington County?

12 A. It was in Richland County.

13 Q. Richland County.

14 About how long ago was that?

15 A. I'm thinking it was around probably 14 years ago, 15.

16 Q. Okay. Mr. Kennerly, do you know any reason why you  
17 couldn't give the State and the defendant a fair trial?

18 A. None at all. I don't know of any reason why I  
19 couldn't.

20 Q. Okay. Yes, sir.

21 In the event that we get to that penalty phase, and,  
22 for instance, if eleven jurors wanted to give the defendant  
23 the death penalty, but you felt like life imprisonment  
24 without the possibility of parole was the appropriate  
25 punishment, could you vote for life?

1 A. Yes, I could.

2 Q. How about if it was the other way, could you vote for  
3 death?

4 A. Yes, I could.

5 Q. Okay. That's all we can ask from you, Mr. Kennerly.  
6 Thank you.

7 A. You are welcome.

8 THE COURT: Thank you, sir.

9 If you can follow the bailiff out, just outside  
10 the courtroom door, we will have you back in momentarily.

11 JUROR NUMBER 147: Okay. Thank you.

12 (Whereupon, Juror Number 147 left the courtroom)

13 THE COURT: Position of the State?

14 MR. BULSA: Qualified, Your Honor.

15 THE COURT: Defense?

16 MR. STARNES: Qualified, Your Honor.

17 THE COURT: The court agrees.

18 Please bring him back.

19 (Whereupon, Juror Number 147 entered the  
20 courtroom)

21 THE COURT: Mr. Kennerly, if you could stand right  
22 there, if you will.

23 JUROR NUMBER 147: Okay.

24 THE COURT: The court has found you qualified to  
25 serve on the jury panel in this case from which the jury

1 will be selected.

2 So what I'm going to ask you to do is to report  
3 back here into the courtroom tomorrow at three o'clock.

4 JUROR NUMBER 147: Tomorrow at three?

5 THE COURT: Tomorrow at three o'clock. And you  
6 are to report and have a seat with the other qualified  
7 jurors. From that pool of qualified jurors we are going to  
8 select the jury tomorrow.

9 JUROR NUMBER 147: Okay.

10 THE COURT: So please have a pleasant night  
11 tonight and please be on time and be here at three o'clock  
12 tomorrow into the courtroom.

13 JUROR NUMBER 147: Three o'clock, courtroom, I'll  
14 be here.

15 THE COURT: Thank you, sir.

16 (Whereupon, Juror Number 147 left the courtroom)

17 (Whereupon, Juror Number 200 entered the  
18 courtroom)

19 VOIR DIRE EXAMINATION BY THE COURT:

20 Q. Sir, you are Trent Muldrow, is that correct, juror  
21 number 200?

22 A. Yes, Your Honor.

23 Q. Sir, let me apologize for the long delay in your wait  
24 back there. I know that's not fun. We have been working as  
25 hard as we could. We had just gotten behind and hadn't

1 caught up, so I apologize for that and appreciate your  
2 patience.

3 Let me encourage you just to be relaxed. This is a  
4 very informal session and you are going to be asked certain  
5 questions just to determine your views as to certain  
6 matters. There are no right answers, no wrong answers. No  
7 one is going to disagree with your answers. Not going to be  
8 any kind of third degree. It's not like that at all. Do  
9 you understand that?

10 A. Yes.

11 Q. Please be as honest and open as you can with your  
12 answers and just give us your honest answers, okay?

13 A. Yes.

14 Q. A couple housekeeping matters before we get started  
15 with the questions. Do you understand -- do you remember  
16 that I placed the entire jury panel under oath yesterday and  
17 you continue to be under oath for the purposes of your  
18 information that you are going to provide the court at this  
19 time.

20 A. Yes, Your Honor.

21 Q. Do you recall that when you received the juror summons,  
22 you also received a questionnaire that you filled out and  
23 sent back to the clerk's office?

24 A. Yes, Your Honor.

25 Q. Has anything changed since you sent that back in? If

1 you were to fill it out today, that you would make any  
2 changes in it?

3 A. No.

4 Q. Sir, did you see back in the jury room there was a long  
5 list of names with numbers by them of potential witnesses in  
6 this case? Did you recognize any of those witnesses or know  
7 any of those potential witnesses? All of them are not going  
8 to go called in the case, but some of them certainly will be  
9 called. And if you know of any of them, I would ask that  
10 you please identify them by number, but not by name.

11 Did you recognize any of these persons?

12 A. I recognized the name.

13 Q. No, just give us the number.

14 A. Number 2.

15 Q. Number 2.

16 All right, sir. Any others that you recognized by  
17 number?

18 A. Number 7.

19 Q. Number 7.

20 Any others?

21 A. No, that is all.

22 Q. Just those two.

23 Sir, let me ask you whether if these potential  
24 witnesses would be called as witnesses by either side in  
25 this case, would that fact interfere in any way with your

1 ability to give both sides a fair and impartial trial in the  
2 case?

3 A. No, Your Honor.

4 Q. Okay. Sir, did you see back in the jury room a sheet  
5 with three paragraphs on it which talked about three  
6 different types of jurors?

7 A. Yes, sir.

8 Q. Did you have a chance to go over that information, sir?

9 A. Yes, sir.

10 Q. It's not inclusive. Of course, it doesn't totally  
11 describe any potential juror, but did you identify yourself  
12 with any of those three different types of jurors?

13 A. Yes, sir.

14 Q. Which one, sir?

15 A. The third.

16 Q. All right. So you are the type of juror that wouldn't  
17 make up his mind in advance, but rather you would need to  
18 hear the testimony and evidence in the case and the court's  
19 instruction to you with regard to the law that applies  
20 before you would make a decision in the case, is that  
21 correct, sir?

22 A. Yes, sir.

23 Q. Do you understand, sir, that in this particular case  
24 the State is seeking the death penalty?

25 And the way that the trial would proceed is this. That

1 once a jury was selected and impaneled, then we would go  
2 forward with the trial, and the State would be required to  
3 prove the defendant guilty of the charges against him beyond  
4 a reasonable doubt.

5 If the jury did not believe the State had met its  
6 burden and proved the defendant guilty beyond a reasonable  
7 doubt, then that would be the end of the matter and then  
8 that would conclude -- that would end the trial and that  
9 would conclude the jury's service. Do you understand that  
10 in the trial?

11 A. Yes, sir.

12 Q. However, if the jury should find that the State had  
13 proven the defendant guilty of the elements of the offense  
14 of murder beyond a reasonable doubt, then we would go to a  
15 second phase of the trial.

16 And in the second phase of the trial, the State would  
17 present any aggravating circumstances that they believed the  
18 jury ought to consider on the issue of punishment. The  
19 defense would present any mitigating circumstances that they  
20 feel the jury should consider on the issue of punishment.  
21 The court would instruct the jury as to how to receive that  
22 information and any other information that the jury ought to  
23 consider on the issue of punishment, and then the jury would  
24 be asked to make a decision as to what the appropriate  
25 punishment would be.



1           Those possibilities would be either for the death  
2 penalty or life imprisonment without the possibility of  
3 parole. Do you understand that, sir?

4           A. Yes, sir.

5           Q. All right. Let me ask you, sir, if you were on a jury  
6 and that went into the second phase of the trial -- of  
7 course, it may not go to the second phase, but if it did,  
8 and you were on the jury, could you listen to all the  
9 information concerning aggravating circumstances, mitigating  
10 circumstances, the court's instruction on the law that  
11 applies, and make a decision as to what the appropriate  
12 punishment would be in the case?

13          A. Yes, sir.

14          Q. If you believed, based on all the information that you  
15 had available, that the circumstances in that case would  
16 warrant the imposition of the death penalty, could you sign  
17 your name on the verdict form which would provide for the  
18 death penalty, in favor of the death penalty?

19          A. Yes, sir.

20          Q. If I believed that all the facts and circumstances and  
21 information that you had that the appropriate punishment was  
22 life imprisonment without the possibility of parole, could  
23 you vote for the verdict of life imprisonment without the  
24 possibility of parole, sir?

25          A. Yes, sir.

1 Q. Okay. Thank you.

2 Answer any questions, please, that the solicitor might  
3 have for you.

4 VOIR DIRE EXAMINATION BY MR. BULSA:

5 Q. Thank you for your patience, Mr. Muldrow.

6 You don't have any preconceived notions one way or the  
7 other, do you?

8 A. No, sir.

9 Q. So you could wait and hear all the facts and  
10 circumstances and make a perfect decision?

11 A. Yes, sir.

12 Q. You wouldn't have any problems signing your name to a  
13 verdict form?

14 A. No, sir.

15 Q. Thank you.

16 MR. STARNES: If it please the court, Your Honor?

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

18 VOIR DIRE EXAMINATION BY MR. STARNES:

19 Q. Hi, Mr. Muldrow.

20 My name is Norman Starnes and I'm the defendant in this  
21 case.

22 Mr. Solicitor just asked you, you wouldn't have a  
23 problem signing your name to a death verdict.

24 Would you have a problem finding someone not guilty?

25 A. No, sir.

1 Q. Okay. Do you believe that all killings are murder?

2 A. No, sir.

3 Q. Can you explain that to us, if you could?

4 A. I believe that if an accidental death occurs, then it's  
5 not necessarily murder. It could be manslaughter.

6 Q. How about self-defense?

7 A. Self-defense could also not be considered murder, I  
8 suppose, yes.

9 Q. So, in other words, you believe an individual is  
10 entitled to take the life of another individual in  
11 self-defense, if the facts and circumstances warranted it?

12 A. Yes.

13 Q. Okay. If evidence of self-defense in this case was an  
14 issue, could you be fair to the defense and the State?

15 A. Yes, sir.

16 Q. And you would be able to consider that evidence?

17 A. Yes, sir.

18 Q. You would be able to follow the law as the trial court  
19 instructed you?

20 A. Yes, sir.

21 Q. Mr. Muldrow, do you understand that life without parole  
22 means until death; in other words, the prisoner dies in  
23 prison? There is no -- there is no parole. That means  
24 never comes out of prison?

25 A. Yes, sir.

1 Q. Mr. Muldrow, I noticed on your jury questionnaire that  
2 you filled out you had a bumper sticker, it had Free Kevin.  
3 Could you explain that to us a little bit, sir?

4 A. The Kevin is Kevin Mitnick, and he was a hacker, I  
5 believe. He was being held in prison in California. I  
6 believe basically there were some companies had alleged that  
7 he had stolen several million dollars worth of software,  
8 where allegedly what he did was just make copies of source  
9 code or the codes that run computer programs. So there was  
10 a question of well, was anything actually stolen or not.

11 Q. Okay. One more question and you had Mickey Manney,  
12 Clerk of Court. Do you know Mr. Manney's first name?

13 A. I do.

14 Q. Do you know that he was in law enforcement?

15 A. Yes.

16 Q. Do you know of any reason why you couldn't serve as a  
17 juror on this case?

18 A. No, sir.

19 Q. That's all we can ask of you, Mr. Muldrow. Thank you  
20 very much.

21 A. Thank you.

22 THE COURT: Sir, I'm going to ask you, if you  
23 would, wait just outside the courtroom door with the bailiff  
24 for just a minute. We will have you right back in. Okay?  
25 Please wait out there with him.

1 JUROR NUMBER 200: Okay.

2 THE COURT: Thank you.

3 (Whereupon, Juror Number 200 left the courtroom)

4 THE COURT: Position of the State?

5 MR. BULSA: Qualified, Your Honor.

6 THE COURT: Defense?

7 MR. STARNES: Qualified, Your Honor.

8 THE COURT: I agree.

9 Please bring him back in.

10 (Whereupon, Juror Number 200 entered the  
11 courtroom)

12 THE COURT: Mr. Muldrow, you can stand right  
13 there, please, sir.

14 You have been found qualified to be on the panel  
15 from which the jury will be selected. While I'm going to  
16 free you up at this time, I'm going to ask you that you  
17 report back here to the courtroom at three o'clock tomorrow  
18 and sit with the other jurors here. From the qualified  
19 panel of pool of jurors we will select a jury. We  
20 anticipate doing that tomorrow afternoon, but please be here  
21 on time at three o'clock. Have a seat here in the courtroom  
22 with the other jurors. Okay?

23 JUROR NUMBER 200: Thank you.

24 (Whereupon, Juror Number 200 left the courtroom)

25 (Whereupon, Juror Number 131 entered the

1 courtroom)

2 VOIR DIRE EXAMINATION BY THE COURT:

3 Q. Ma'am, you are Kathy Hynes-Roberson, juror number 131,  
4 is that correct?

5 A. That's correct.

6 Q. Now, ma'am, I apologize for the long delay in waiting  
7 that you have had. Nobody enjoys that. I enjoy it least of  
8 anybody, in sitting and waiting like that, but we have been  
9 working hard. We had just gotten behind and haven't been  
10 able to catch up. We apologize for your wait and appreciate  
11 your patience.

12 I'm going to ask if you will just be as relaxed as you  
13 can. This is a very informal proceeding. We are going to  
14 ask you certain questions to determine how you feel about  
15 certain issues. There are no right or wrong answers and  
16 nobody is going to disagree with your answers. It's not  
17 going by let anybody put you through a third degree or  
18 anybody like that. Do you understand?

19 A. Yes.

20 Q. Before we get into the questions, a couple of  
21 housekeeping matters. Do you recall that I placed the  
22 entire jury panel under oath yesterday?

23 A. Yes.

24 Q. And you continue to be under oath for the purpose of  
25 providing information to the court at this time. Do you

1 understand that?

2 A. Yes, sir.

3 Q. Okay. You filled out -- when you got your juror  
4 summons, you filled out a questionnaire and sent it back  
5 into the clerk's office. Do you recall that?

6 A. Yes.

7 Q. Has anything happened to you in your life since you  
8 filled that out, if you had to fill it out over again today,  
9 would there be any changes that you need to make today?

10 A. No.

11 Q. Did you see back in the jury room there was a long list  
12 of names with numbers by them of potential witnesses in this  
13 case? All of them are not going to be called as witnesses,  
14 but some of them certainly will be called. And I'm going to  
15 ask you if you recognized any of those names or know any of  
16 those persons that were listed there, if you could identify  
17 them by number, but not name. Just give us their number.  
18 You should have that list in front of you.

19 Did you recognize any of those persons?

20 A. No, sir.

21 Q. Okay. Ma'am, let me ask you, did you see back in the  
22 jury room a page with three paragraphs on it which describe  
23 three different types of jurors? Did you see that and have  
24 a chance to review it?

25 A. Yes.

1 Q. And, ma'am, of course, these types of jurors are not  
2 all inclusive, but did you identify yourself as being more  
3 like one of these three types of jurors?

4 A. Yes.

5 Q. Okay. Which one, please, ma'am?

6 A. I would have to say the third type.

7 Q. The third type.

8 So you are the type of juror who would not make up your  
9 mind in advance, but rather you would need to listen to the  
10 testimony and evidence in the case and the court's  
11 instruction on the law that applies to the issues in the  
12 case before you would make a decision, is that correct?

13 A. That's correct.

14 Q. Okay. Let me ask you, ma'am, do you understand that  
15 this is a case in which the State is seeking the death  
16 penalty? Do you understand that?

17 A. Yes, sir.

18 Q. And the way the trial would proceed is once the jury is  
19 selected and impaneled, then the State would proceed and be  
20 required to prove the defendant guilty of the charges  
21 against him beyond a reasonable doubt.

22 And if the State failed to meet that burden, the jury  
23 found that the State failed to meet its burden of proof in  
24 the case, then that would end the trial. That would be the  
25 end of the matter and that would conclude the jury's



1 function in the case. Do you understand that?

2 A. Yes, sir.

3 Q. Just like any regular criminal trial.

4 However, if the jury should find that the State had  
5 proved the elements of the offense of murder beyond a  
6 reasonable doubt, and the jury so found, then we would move  
7 to a second phase of the trial.

8 And in the second phase of the trial, the State would  
9 present any aggravating circumstances that they believed the  
10 jury should consider on the issue of punishment. The  
11 defense would present any mitigation information that they  
12 think that the jury should consider on the issue of  
13 punishment. The court would instruct the jury on the law  
14 that applies and also instruct them as to other matters that  
15 they should consider in deciding what would be an  
16 appropriate punishment in the case. Do you understand that?

17 A. Yes, sir.

18 Q. And then the jury would be asked to determine what the  
19 appropriate punishment would be.

20 And the two choices for the jury to consider would be  
21 the death penalty or life imprisonment without the  
22 possibility of parole. Do you understand that?

23 A. Yes, sir.

24 Q. Now, let me ask you, ma'am, if you were on the jury in  
25 the case and if we got through the first phase and got into

1 the second phase -- we may not get to the second phase, but  
2 if we got to the second phase, let me ask you whether you  
3 could listen to the testimony and evidence regarding  
4 aggravating circumstances, mitigating circumstances, and  
5 instructions by the court as to what to consider on the  
6 issue of appropriate punishment, and could you then  
7 determine what the appropriate punishment would be?

8 A. Yes, sir.

9 Q. Okay. And so if you believed under all the facts and  
10 circumstances that was available to you that you heard at  
11 that time, that phase of the trial, that the appropriate  
12 punishment would be the death penalty, could you sign your  
13 name on the verdict form which provided for the death  
14 penalty, ma'am?

15 A. No, sir.

16 Q. You could not do that?

17 A. Not for the death penalty.

18 Q. Okay. Are there any circumstances with regard to a  
19 crime of murder upon which you could sign your name on the  
20 verdict which would impose the death penalty? Any  
21 circumstances that you can think of?

22 A. I -- you are looking for a yes or no answer?

23 Q. Yes, ma'am.

24 A. I would have to say no, sir, not for the death penalty.

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

1           Please answer any questions -- does the solicitor have  
2 any questions?

3           MR. BULSA: No, sir.

4           THE COURT: Mr. Starnes?

5           MR. STARNES: No questions, Your Honor.

6           THE COURT: Thank you, ma'am.

7           If you will please wait just outside the courtroom  
8 with the bailiff for a moment, we will have you back in just  
9 momentarily, okay?

10          (Whereupon, Juror Number 131 left the courtroom)

11          THE COURT: Position of the State?

12          MR. BULSA: Not qualified, Your Honor.

13          THE COURT: Defense?

14          MR. STARNES: Not qualified, Your Honor.

15          THE COURT: The court agrees that she would not be  
16 qualified in this particular case.

17          Please ask her to come back in, sir.

18          (Whereupon, Juror Number 131 entered the  
19 courtroom)

20          THE COURT: Ms. Roberson, I'm not going -- we are  
21 not going to require you to serve on the jury in this  
22 particular case. I'm going to excuse you at this time and  
23 it will complete your service for the week.

24          The clerk will put a check in the mail for your  
25 services this week, and I would like to take this

1 opportunity to thank you for your service and your  
2 sacrifices that you have made this week to be able to serve  
3 on the jury, but this will conclude your service for the  
4 week and you are free to go and you don't have to come back.  
5 Okay?

6 JUROR NUMBER 131: Thank you, sir.

7 THE COURT: Thank you, ma'am.

8 (Whereupon, Juror Number 131 left the courtroom)

9 (Whereupon, Juror Number 275 entered the  
10 courtroom)

11 VOIR DIRE EXAMINATION BY THE COURT:

12 Q. Ma'am, you are Tiffany Swinford, juror number 275, is  
13 that correct?

14 A. Yes, sir.

15 Q. Let me apologize for the long delay. Nobody hates  
16 waiting like that back there worse than I do, and so I  
17 apologize for that. It's been unavoidable. We have been  
18 working hard. We just got behind and we haven't been able  
19 to catch up, so we apologize and we appreciate your  
20 patience.

21 I would ask that you please be relaxed at this time.  
22 This is a very informal session. Nobody is going to give  
23 you a third degree or anything like that.

24 You will be asked some questions to determine how you  
25 feel about certain issues. Again, there are no right or

1 wrong answers. Nobody is going to disagree with you. We  
2 just need to know how you honestly feel about these issues.  
3 Please give us open and honest answers as you can to the  
4 questions that you might be asked.

5 And before we begin those questions, a couple of  
6 housekeeping matters. Do you remember that I placed the  
7 entire jury panel under oath yesterday?

8 A. Yes.

9 Q. And you continue to be under oath for purposes of  
10 providing information to the court today. Do you understand  
11 that?

12 A. Yes, sir.

13 Q. Do you remember when you received your jury summons,  
14 that you had a questionnaire that asked you to fill out and  
15 send back in. Do you recall that?

16 A. Yes, sir.

17 Q. Ma'am, has there anything changed since you filled it  
18 out and sent it in? If you were to fill it out today, would  
19 you make any changes in it today?

20 A. No, sir.

21 Q. Did you see back in the jury room a long list of names  
22 of numbers by them of potential witnesses in this case?

23 A. Yes, sir.

24 Q. Of course, all of those witnesses are not going to be  
25 called in the case, but some of them certainly would be

1 called in the case. What I'm going to ask you is if you  
2 recognize any of them or know any of them, if you could  
3 identify them by number, but not by name, if you recognized  
4 any of them. There should be a list there in front of you.  
5 Do you recognize any of them or know any of them, just give  
6 us the number, if you did.

7 A. Number 7.

8 Q. Okay.

9 A. That's all.

10 Q. Okay. Ma'am, let me ask you if that potential witness  
11 would be called as a witness by either side in this case,  
12 would that interfere in any way with your ability to give  
13 both sides a fair and impartial trial in this case?

14 A. No, sir.

15 Q. Ma'am, did you see a sheet back in the jury room which  
16 had three paragraphs on it which describe three different  
17 types of jurors?

18 A. Yes, sir.

19 Q. Of course, this is not all inclusive in describing a  
20 juror, but did you identify yourself as being more like one  
21 of these three different types of jurors?

22 A. The third.

23 Q. The third one.

24 So you are the type of a juror who would not make up  
25 your mind in advance, but you would need to listen to the

1 testimony and evidence and instruction by the court on the  
2 law that applies to the issues in the case before you would  
3 make a decision in the case, is that correct?

4 A. Yes, sir.

5 Q. Let me ask you, ma'am, do you understand that this is a  
6 case in which the State is seeking the death penalty? Do  
7 you understand that?

8 A. Yes, sir.

9 Q. And how that would proceed would be this. We would  
10 select a jury that would be impaneled and then the State  
11 would be required to prove the defendant guilty of the  
12 charges against him beyond a reasonable doubt.

13 If the jury panel -- if the State failed to meet that  
14 burden of proof, then that would be the end of the matter  
15 and the trial would be over and the jury's role would be  
16 over with as well. Do you understand that?

17 A. Yes, sir.

18 Q. Do you understand also that if the jury should find  
19 that the State had met its burden of proof on the elements  
20 of the offense of murder, then we would proceed on with the  
21 second phase of the trial.

22 And in the second phase of the trial, the State would  
23 introduce any aggravating circumstances they think the jury  
24 should consider on the issue of punishment. The defense  
25 would present any mitigating issues that they think the jury

1 should consider on the issue of punishment. And then the  
2 jury would asked to be determined -- oh, excuse me, the  
3 court would also instruct you as to the law that applies and  
4 that consideration and any other matters that ought to be  
5 considered in determining what appropriate punishment would  
6 be. And then the jury would be asked to make a decision as  
7 to what the appropriate punishment would be, and that would  
8 either be the death penalty or life imprisonment without the  
9 possibility of parole. Do you understand that?

10 A. Yes, sir.

11 Q. And, ma'am, if you were on that jury and we got through  
12 the first phase and actually got to the second phase of the  
13 trial, and with all the information that was available to  
14 you at that time, if you believed that the appropriate  
15 punishment was the death penalty, could you sign a verdict  
16 form which provided for the death penalty in the case?

17 A. Yes, sir.

18 Q. If you -- with all that information, if you believed  
19 with all that information available to you that the  
20 appropriate punishment was life imprisonment without the  
21 possibility of parole, could you vote for a verdict in favor  
22 of life imprisonment without the possibility of parole?

23 A. Yes, sir.

24 Q. Thank you, ma'am.

25 Please answer any questions that the solicitor may



1 have.

2 VOIR DIRE EXAMINATION BY MR. BULSA:

3 Q. Ms. Swinford, I appreciate you being here. I'm sorry  
4 you probably missed your daughter's bedtime.

5 A. Yes.

6 Q. I'm not going to keep you any further. You answered  
7 everything the judge said. Thank you.

8 A. Yes.

9 MR. STARNES: If it please the court, Your Honor?

10 THE COURT: Yes, sir.

11 VOIR DIRE EXAMINATION BY MR. STARNES:

12 Q. Hi, Ms. Swinford, how are you doing?

13 A. Good.

14 Q. My name is Norman Starnes and I'm the defendant in this  
15 case.

16 Just a few questions. Would you agree with me that not  
17 all killings are murder?

18 A. I'm not sure how to answer that question. I guess not  
19 all. Depending on the circumstances, I guess.

20 Q. You would have to hear all the facts and circumstances?

21 A. Yes.

22 Q. Do you believe that someone is entitled to take the  
23 life of another individual in self-defense?

24 A. In self-defense, yes.

25 Q. You do believe that?

1 A. In self-defense?

2 Q. Yes, ma'am.

3 A. Uh-huh.

4 Q. Okay. If self-defense was an issue in this case, along  
5 with all the other evidence, of course, could you follow the  
6 law as the trial court instructed you on self-defense?

7 A. I believe I could, yes.

8 Q. Tell us how you feel about the death penalty and  
9 capital punishment.

10 A. I guess it is suitable punishment, depending if it does  
11 fit the crime.

12 Q. Pretty much the punishment that fits the crime?

13 A. Uh-huh.

14 Q. Have you ever served on a jury before?

15 A. No, I have not.

16 Q. Never been called for jury duty?

17 A. No.

18 Q. Okay. Thank you very much for your time.

19 A. Thank you.

20 THE COURT: Thank you, ma'am.

21 If you will please wait just outside the courtroom  
22 door for a minute, we will have you back in just a moment.

23 JUROR NUMBER 275: Okay.

24 (Whereupon, Juror Number 275 left the courtroom)

25 THE COURT: Position of the State?

1 MR. BULSA: Qualified, Your Honor.

2 THE COURT: Defense?

3 MR. STARNES: I concur with the State, Your Honor.

4 THE COURT: The court agrees that this juror would  
5 be qualified.

6 Please bring her in, sir.

7 (Whereupon, Juror Number 275 entered the  
8 courtroom)

9 THE COURT: Ms. Swinford, if you will stand right  
10 there.

11 The court finds you qualified to serve on the jury  
12 pool in this case of qualified jurors. What that means is  
13 I'm going to ask you to report back here to the courtroom  
14 tomorrow at three o'clock.

15 JUROR NUMBER 275: Okay.

16 THE COURT: Okay. Just come right on in the  
17 courtroom and have a seat. There will be some other jurors  
18 in here and have a seat with them.

19 From the pool of qualified jurors tomorrow we  
20 expect tomorrow afternoon to draw a jury for this case. We  
21 will draw that jury from the qualified pool. You will be in  
22 that pool. Okay?

23 So please have a pleasant night. Again, thank you  
24 for your patience. Please return back and we'll see you  
25 tomorrow at three o'clock here in the courtroom. Thank you.

1 (Whereupon, Juror Number 275 left the courtroom)

2 THE COURT: That does it. I don't believe we will  
3 need to do anymore. We have two more panels that are  
4 scheduled to come in the morning. We are not going to have  
5 them come in the morning. We are going to have them come  
6 tomorrow at three and have them wait in a separate jury room  
7 downstairs in case we need them. I don't believe that we  
8 will need them. I believe we have got plenty.

9 Madam Clerk, have you kept count?

10 THE CLERK: 48.

11 THE COURT: I believe we have 48, is that correct?

12 THE CLERK: I have 48.

13 THE COURT: We have 48 jurors who have been found  
14 qualified, so we will select from that group of jurors.

15 Now, let me get you to approach for just a minute.  
16 Both sides, if you would.

17 (Whereupon, the lawyers and the defendant  
18 approached the bench for an off-the-record discussion)

19 (Whereupon, proceedings were adjourned to November  
20 7, 2007)

21

22

23

24

25

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF LEXINGTON ) IN THE COURT OF GENERAL SESSIONS

3  
4 THE STATE )  
5 -vs- ) TRANSCRIPT OF RECORD  
6 NORMAN EDWIN STARNES, ) 1996-GS-32-3339  
7 Defendant. ) NOVEMBER 7, 2007  
8 ) Lexington, South Carolina

9 (VOLUME III)

10 B E F O R E:

11 THE HONORABLE LEE S. ALFORD, JUDGE. ; and a jury.  
12

13  
14 A P P E A R A N C E S:

15 HAROLD "TREY" GOWDY, III, SOLICITOR  
16 ROBERT P. COLER, ASSISTANT SOLICITOR  
17 DERRICK BULSA, ASSISTANT SOLICITOR  
18 ATTORNEYS FOR THE STATE

19 MR. NORMAN EDWIN STARNES,  
20 DEFENDANT APPEARING PRO SE

21 JOHN DELGADO, ESQUIRE  
22 APPEARING WITH THE DEFENDANT

23 WILLIAM NETTLES, ESQUIRE  
24 APPEARING WITH THE DEFENDANT

25  
Michael R. Watts  
Circuit Court Reporter

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| 20 | S-64     | PHOTOGRAPH                   |     | 1585 |
| 21 | S-65     | PHOTOGRAPH                   |     | 1585 |
| 22 | S-66     | PHOTOGRAPH                   |     | 1585 |
| 23 | S-67     | PHOTOGRAPH                   |     | 1585 |
| 24 | S-68     | FIREARMS PURCHASE RECORD     |     | 1595 |
| 25 | S-69     | PICTURES OF DRIVER'S LICENSE |     | 1605 |

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|          | NO.  | DESCRIPTION      | ID.  | EV.  |
| 1        |      |                  |      |      |
| 2        |      |                  |      |      |
| 3        | S-70 | LETTER - 8/21/96 |      |      |
| 4        | S-71 | LETTER - 8/19/96 |      |      |
| 5        | S-72 | LETTER - 8/11/96 |      |      |
| 6        | S-73 | TRAFFIC TICKETS  |      | 2523 |
| 7        | S-74 | TRAFFIC TICKETS  |      | 2513 |
| 8        | S-75 | TRAFFIC TICKETS  |      | 2426 |
| 9        | S-76 | TRAFFIC TICKETS  |      | 2439 |
| 10       | S-77 | TRAFFIC TICKETS  |      | 2523 |
| 11       | S-78 | INDICTMENT       |      | 2436 |
| 12       | S-79 | PHOTOGRAPH       |      | 2620 |
| 13       | S-80 | PHOTOGRAPH       |      | 2620 |
| 14       | S-81 | PHOTOGRAPH       |      | 2620 |
| 15       | S-82 | PHOTOGRAPH       |      | 2620 |
| 16       | S-83 | PHOTOGRAPH       |      | 2620 |
| 17       | S-84 | PHOTOGRAPH       |      | 2620 |
| 18       | S-85 | PHOTOGRAPH       |      | 2620 |
| 19       | S-86 | PHOTOGRAPH       | 2379 |      |
| 20       | S-87 | PHOTOGRAPH       | 2379 |      |
| 21       | S-88 | PHOTOGRAPH       | 2379 |      |
| 22       | S-89 | PHOTOGRAPH       |      | 2620 |
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| 24       | S-91 | PHOTOGRAPH       |      | 2620 |
| 25       | S-92 | PHOTOGRAPH       |      | 2620 |

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|    | NO.   | DESCRIPTION     | ID. | EV.  |
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| 1  |       |                 |     |      |
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| 3  | S-93  | PHOTOGRAPH      |     | 2649 |
| 4  | S-94  | PHOTOGRAPH      |     | 2649 |
| 5  | S-95  | PHOTOGRAPH      |     | 2637 |
| 6  | S-96  | PHOTOGRAPH      |     | 2637 |
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|    | EXHIBITS |                           |     |      |
|----|----------|---------------------------|-----|------|
|    | NO.      | DESCRIPTION               | ID. | EV.  |
| 1  |          |                           |     |      |
| 2  |          |                           |     |      |
| 3  | D-1      | POSTERBOARD CALENDAR      |     | 1089 |
| 4  | D-2      | PHOTOGRAPH                |     | 1101 |
| 5  | D-3      | PHOTOGRAPH                |     | 1101 |
| 6  | D-4      | PHOTOGRAPH                |     | 1110 |
| 7  | D-5      | PENCILLED DRAWING         |     | 2071 |
| 8  | D-6      | PENCILLED DRAWING         |     | 1345 |
| 9  | D-7      | TELEPHONE RECORD          |     | 1401 |
| 10 | D-8      | PENCILLED DRAWING         |     | 1440 |
| 11 | D-9      | PHOTOGRAPH                |     | 1510 |
| 12 | D-10     | AUTHORIZATION FOR AUTOPSY |     | 2071 |
| 13 | D-11     | AUTHORIZATION FOR AUTOPSY |     | 2071 |
| 14 |          |                           |     |      |
| 15 |          |                           |     |      |
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|    | NO.   | DESCRIPTION                      | ID.  | EV. |
|----|-------|----------------------------------|------|-----|
| 1  |       |                                  |      |     |
| 2  |       |                                  |      |     |
| 3  | CT-1  | JUROR TYPE INFORMATION SHEET     | 148  |     |
| 4  | CT-2  | NEWSPAPER ARTICLE                | 148  |     |
| 5  | CT-3  | JURY PANEL SHEETS                | 1012 |     |
| 6  | CT-4  | SELECTED JURY LIST               | 1012 |     |
| 7  | CT-5  | JUROR NOTE                       | 1646 |     |
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| 9  | CT-7  | LETTER (4 PAGES)                 |      |     |
| 10 | CT-8  | NEWSPAPER                        | 1773 |     |
| 11 | CT-9  | JUROR NOTE                       | 1773 |     |
| 12 | CT-10 | DVD                              | 2094 |     |
| 13 | CT-11 | DEFENDANT'S MEMO FOR REQUEST FOR | 2330 |     |
| 14 |       | IMPERFECT SELF-DEFENSE           |      |     |
| 15 | CT-12 | DEFENDANT'S REQUEST TO CHARGE #A | 2330 |     |
| 16 | CT-13 | DEFENDANT'S REQUEST TO CHARGE #B | 2330 |     |
| 17 | CT-14 | DEFENDANT'S REQUEST TO CHARGE #C | 2330 |     |
| 18 | CT-15 | DEFENDANT'S REQUEST TO CHARGE #D | 2331 |     |
| 19 | CT-16 | DEFENDANT'S REQUEST TO CHARGE #1 | 2331 |     |
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| CT-29 | DEFENDANT'S REQUEST TO CHARGE #14 | 2332 |     |
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## EXHIBITS

| NO.   | DESCRIPTION                                                                                        | ID.  | EV. |
|-------|----------------------------------------------------------------------------------------------------|------|-----|
| CT-46 | DEFENDANT'S REQUEST TO CHARGE #32                                                                  | 2333 |     |
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| CT-60 | JURY SHEET OF NO FINDING OF STATUTORY<br>AGGRAVATING CIRCUMSTANCES AS TO VICTIM<br>WILLIAM WELBORN | 2838 |     |
| CT-61 | JURY SHEET OF RECOMMENDATION OF LIFE<br>IMPRISONMENT AS TO VICTIM WILLIAM WELBORN                  | 2838 |     |

1 (PROCEEDINGS, November 7, 2007)

2 THE COURT: All right. Is everybody ready to  
3 proceed this morning?

4 MR. GOWDY: Yes, sir, Your Honor.

5 THE COURT: We want to take up any pretrial  
6 motions in limine, motions that we can do it at this time,  
7 I'll be glad to.

8 MR. GOWDY: Your Honor, may it please the court,  
9 the State, initially, my concern is two-fold under the  
10 general conundrum of character of the victim. In the  
11 previous trial there was a lot of testimony, most of it  
12 hearsay, but, nevertheless, a lot of testimony about  
13 supposed alleged either drug use or drug discussions by the  
14 victims what I'm convinced was an attempt to setting them up  
15 in front of the jury.

16 If there is evidence of drug use on January the  
17 8th, which is the day that they were killed, that is one  
18 thing. That's a separate analysis, but weeks or days  
19 before, particularly when there is no evidence to support  
20 it, you have clean tox tests on both the victims. To allow  
21 anybody to testify from a hearsay standpoint, "this victim  
22 asked me could I go find him some methamphetamine or some  
23 cocaine," it's just irrelevant. South Carolina case law is  
24 pretty clear on that. I couldn't do it with him, with his  
25 drug past, and they shouldn't be able to do it with respect

1 to the victims, who frankly have no drug past. There is no  
2 evidence of drug past. There are clean tox tests. That's  
3 all the evidence that we have at this point, so that's on  
4 drug use.

5 On the issue of violence, there is no evidence,  
6 and I don't believe that there is going to be any evidence.  
7 I don't think that the defendant is going to allege any  
8 prior violent acts between he and the victims before January  
9 the 8th. I'm not talking about the incident in the bathroom  
10 or any of that, prior to January the 8th.

11 Under South Carolina law prior animus or bad  
12 feelings or violence between the decedent and the defendant  
13 is admissible. We don't have that here.

14 Prior violence by the decedent, period, not  
15 involving the defendant is admissible, if it's not too  
16 remote.

17 Well, it's ten years old, with respect to Jared  
18 Champlin. It has nothing to do with this defendant. And  
19 even if it does come in, South Carolina case law says you  
20 can't go into the facts and the details. You can't say  
21 "well, he knocked an old woman down in the parking lot and  
22 stole her purse." The details are irrelevant and  
23 inadmissible.

24 So, the threshold I think with prior violent acts,  
25 number one, it didn't involve this defendant; and number

1 two, is it remote in time or not? Ten years, pretty remote  
2 in time. And even if the court concluded it were not too  
3 remote in time, the details do not come in. And I am happy  
4 to share the case law with the court that we have found on  
5 both these issues.

6 THE COURT: All right, sir. Let me hear from Mr.  
7 Starnes.

8 MR. STARNES: Your Honor, if he would be kind  
9 enough to share the case law with the defendant, that would  
10 be nice. I didn't know exactly what all he was going to  
11 argue.

12 THE COURT: He hasn't shown it to me either yet,  
13 Mr. Starnes.

14 MR. STARNES: I didn't know that he was going to  
15 be making these motions today. I mean, I have not seen  
16 anything reduced in writing, other than verbally what the  
17 solicitor said.

18 Now, as far as bad acts with Jared Champlin, there  
19 was a time on January the 8th, within an hour and a half of  
20 this incident when we were at a bar in Pelion, and Mr.  
21 Champlin disclosed to me that he had been in the  
22 penitentiary before. He disclosed to me the reasons behind  
23 that. He didn't go into great detail, but I believe, Your  
24 Honor, that it goes to the state of the mind of the  
25 defendant and to self-defense. We are talking an hour and a

1 half, two hours at the most, before I shot and killed these  
2 individuals. That's a total different ball game.

3 I think State v. Amburgey, I believe that's a 1945  
4 case, discusses this issue. I have not done a lot of  
5 research recently on it, but I will be glad to do that at  
6 the appropriate time.

7 THE COURT: All right. Let me -- solicitor, my  
8 understanding --

9 I understand your point.

10 I think what he is entitled to present, if it goes  
11 to his state of mind, what he knew at the time the incident  
12 occurred or just prior to it occurring, what he knew that  
13 could have affected his knowledge with regard to any  
14 propensity of the victims he is entitled to get in.

15 If it was something that he would have been aware  
16 of, that he knew about it, that could have affected his  
17 frame of mind as to the propensity of the victim or what he  
18 considered at the time the incident occurred as to the issue  
19 of self-defense, I think he's entitled to do that.

20 It can't be -- if it's not anything that he knew  
21 anything about that could have influenced his state of mind  
22 as to whether he needed to defend himself, or any attributes  
23 of the victims that could have affected his decision as to  
24 whether self-defense -- the appearance of self-defense, I  
25 think he's entitled to get that in.

1           Details of it that he was unaware of, I don't  
2 think that he can introduce any details under the law of  
3 exactly what happened, but if this is something that could  
4 have affected his frame of mind at the time, I think under  
5 the law he's entitled to get that in, if he was aware of it.

6           MR. GOWDY: I don't disagree with that, judge. If  
7 it happened on January the 8th, and he's going to testify  
8 that he was told that, I don't think the details of knocking  
9 an old woman down in a parking lot, I just -- you know,  
10 defendants can testify to just about whatever they want to  
11 and that's why we get to cross-examine them. The more  
12 detail, the harder it is, you know.

13           Mr. Champlin is not here to say "I didn't tell him  
14 that." So if his testimony is going to be "Mr. Champlin an  
15 hour and a half earlier told me that he served time for an  
16 assault," I'm fine with that.

17           If he's going to go into the details of it, I'm  
18 fine with it for a reason, because even with that knowledge  
19 he took him to his house, so apparently he wasn't that  
20 troubled by it. I'm fine with that.

21           I'm really concerned about the drug use and --

22           THE COURT: Well, let's deal with the violence  
23 aspect first.

24           I think that he would be able to testify  
25 concerning if Jared -- is it Champlin? If he told him that



1 he had been to jail for an assault, if he told him that,  
2 particularly within two or three days that this occurred, I  
3 think he's entitled to testify to that. It comes in,  
4 because it goes to his state of mind at the time the  
5 incident occurred. So, you know he can testify as to "he  
6 told him he went to -- that he had done some prison time or  
7 jail time or for an assault. He can do that.

8 MR. GOWDY: Yes, sir.

9 THE COURT: All right. Now, anything else on the  
10 issue of violence?

11 MR. GOWDY: I don't believe there is any -- any  
12 allegations of violence prior to January the 8th between  
13 victim Welborn and Mr. Starnes.

14 THE COURT: Of course, anything that -- I think  
15 there is some -- he could go into anything that happened  
16 within a relatively short period of time, within two or  
17 three days the incident occurred as between he, himself, and  
18 the alleged victims in the case.

19 MR. GOWDY: Yes, sir.

20 THE COURT: He can get into that, obviously.

21 MR. GOWDY: Yes, sir.

22 THE COURT: Of a violent nature, or whether it's  
23 violent or not, any kind of altercation or assault that  
24 occurred between the two of them, or, you know, any of the  
25 alleged victims and Mr. Starnes.

1 MR. GOWDY: Yes, sir.

2 THE COURT: Now, as to the drug use, what else do  
3 you want to bring up about the drug use?

4 MR. GOWDY: Nothing. I just think it's character  
5 evidence. It's irrelevant. We certainly couldn't do it  
6 with respect to the defendant, and I don't think it ought to  
7 be done to the victims.

8 THE COURT: All right. Mr. Starnes, your  
9 position?

10 MR. STARNES: Your Honor, as far as the drug use,  
11 I believe it's a known fact and I believe there is expert  
12 testimony to support it, that methamphetamine makes  
13 individuals violent.

14 Looking at the evidence from the State's side of  
15 the case, from their witnesses, there is individuals -- and  
16 one of the State's key witnesses is Ms. Gwendolyn Bailey.  
17 Ms. Bailey testified she had never seen these individuals in  
18 this state of mind before. She gives a statement to the  
19 lead investigator in this case at the sheriff's office, said  
20 that they were out of their mind that night; that she had  
21 never seen them like that before.

22 As far as drug use or drug past of either Mr.  
23 Welborn or Mr. Champlin, I don't have a problem not going  
24 into that.

25 Now, as far as January the 8th, their actions,

1 their demeanor, I believe that I'm entitled to go into that.

2 THE COURT: Well, obviously you are entitled to  
3 get into their demeanor, but he's talking about prior drug  
4 use.

5 MR. STARNES: As to how far back?

6 Methamphetamine has an effect not just in a 24  
7 hour period, but people who use methamphetamine, Your Honor,  
8 can stay awake for weeks at a time.

9 THE COURT: Well, you are not going to be able to  
10 testify to that, Mr. Starnes. You are not an expert as to  
11 drugs and their effects.

12 If you have an expert that's going to testify to  
13 that, the expert can testify to that, if you have somebody  
14 that's qualified as an expert that's qualified to give  
15 testimony about drug use and its effects. You, yourself,  
16 obviously are not going to be able to testify to that  
17 because you are not qualified, are you?

18 MR. STARNES: No, sir, I'm not going to even  
19 attempt to be qualified as a methamphetamine expert or  
20 anything, Your Honor, but I'm just saying as far as the time  
21 line here, methamphetamine is a very powerful drug.  
22 Individuals who use methamphetamine can easily stay awake  
23 seven to two weeks -- seven days to two weeks at a time, and  
24 the effects that it has on the body and to keep someone  
25 awake that long --

1 THE COURT: Well, Mr. Starnes, you know, I don't  
2 know if that's true or not. My thoughts are that somebody  
3 would have to continue to use it over that period of time to  
4 stay awake for days and weeks under the effects of  
5 amphetamine.

6 Go ahead. I tell you folks to go ahead and do  
7 what you need to do. Don't worry about us.

8 But you would have to have testimony on that. I  
9 mean, I don't think somebody could take some amphetamine  
10 today and stay up for weeks, based on taking a couple of  
11 tablets of methamphetamine. You know, people do that who  
12 are trying to lose weight and that sort of thing. They  
13 don't stay up for weeks at a time, I mean, so I don't know  
14 where you are going with that.

15 I think if you can establish whatever their  
16 demeanor was at that time, you certainly can address that.  
17 You certainly can produce testimony on that, evidence on  
18 that, but I don't think that you can introduce evidence of  
19 methamphetamine, if you have no proof that they were using  
20 methamphetamine.

21 MR. STARNES: Your Honor, I can establish that.  
22 One of the individuals in this case used methamphetamine on  
23 January the 4th, January the 5th, and that testimony would  
24 corroborate what an expert qualified in the use of  
25 methamphetamine; in addition, to the evidence presented by

1 the State and numerous witnesses that will testify as to the  
2 actions and the demeanor of these two individuals, I believe  
3 Your Honor, I have a right to go into it.

4 THE COURT: You will have an expert to testify  
5 what the effects of methamphetamine are?

6 MR. STARNES: Yes, sir, that's correct.

7 And I also have an individual that will testify  
8 that this individual did methamphetamine with one of the  
9 alleged victims in this case on January the 4th and January  
10 the 5th. Actually there is more than one witness.

11 THE COURT: All right. Well, solicitor, that  
12 probably comes in.

13 MR. GOWDY: He didn't call them last time. If he  
14 wants to call them this time, that's fine. My concern is  
15 the hearsay.

16 THE COURT: Well, it's not -- we can't go into  
17 hearsay about that.

18 If you got an actual witnesses who is going to  
19 come in and testify as to what they actually did, not what  
20 somebody said, but what they actually did themselves or saw  
21 themselves with their own eyes, you can do that.

22 MR. STARNES: Yes, sir.

23 THE COURT: Anything else would be hearsay.

24 MR. STARNES: I totally agree with Your Honor on  
25 that. I totally agree with that.

1 MR. GOWDY: If he's got witnesses, that's a  
2 different analysis.

3 THE COURT: All right. And if it's in fairly  
4 close proximity, and particularly if he's got an expert  
5 that's going to say that you use methamphetamines on the 4th  
6 and 5th and still affect you on the 8th. I don't know if  
7 he's got anybody that going to say that or not, but if he  
8 does, it would be relevant, I guess.

9 All right. Anything else?

10 But you are not going beyond that, as I understand  
11 it, with regard to actual drug use?

12 MR. STARNES: No, sir, I haven't --

13 THE COURT: Before January the 4th?

14 MR. STARNES: No, sir, nothing beyond that. I'm  
15 not going to attempt to go into their past or anything --

16 THE COURT: All right.

17 MR. STARNES: -- as far as that.

18 MR. GOWDY: That's all I have, Your Honor, in  
19 terms of motions in limine.

20 THE COURT: All right. Mr. Starnes, do you have  
21 any motions in limine that we need to take up while we have  
22 an opportunity to do that?

23 MR. STARNES: Your Honor, I think we have had  
24 about 16 or 17 pretrial hearings in this case. I believe  
25 I'm just about give out on pretrial hearings.

1           The only thing that I'm concerned about is we took  
2 up a matter, Your Honor, probably two or three hearings ago  
3 relating to Rule 106. Ms. Bailey gives a -- she gives  
4 various statements in this case when she comes forward to  
5 the sheriff's office.

6           Her initial statement, Your Honor, is given to a  
7 Detective Darren Amick and it was videotaped. Later on that  
8 videotape was reduced to writing by a certified court  
9 reporter. And I believe there is information in that  
10 transcript that is not admissible.

11           Ms. Bailey comes to the sheriff's office and when  
12 she talks to the investigator, her mother is with her. She  
13 discusses things about our personal past, about domestic  
14 violence between her and I. She discusses my prior drug  
15 use. That's clearly not admissible. It goes to character.  
16 And in all fairness, Your Honor, I don't believe that that  
17 should come in in the first part of this trial. And what I  
18 have endeavored to do is work something out with the  
19 solicitor's office to take this matter up before we get into  
20 the trial. And I understand his point that rulings can  
21 change, depending on the way things develop at trial, and I  
22 certainly understand that, but what I don't want to happen  
23 is to have a jury seated and to be arguing this later on,  
24 when we could take this matter up now.

25           As far as the drug use and stuff, and the domestic

1 violence, I believe that that should come out and --

2 THE COURT: All right. To clarify the record, so  
3 that the record would be clear where are you going with  
4 this, in the first place -- I understand Ms. Bailey will  
5 testify, is that correct?

6 MR. GOWDY: Yes, sir, Your Honor.

7 THE COURT: And so the statements would only come  
8 in -- is the State offering the statements?

9 MR. GOWDY: No, sir. It only comes in as an  
10 inconsistent statement, and we don't know whether it's  
11 inconsistent yet or not.

12 THE COURT: All right. And so she's going to  
13 testify. The State will not seek to offer the statements.  
14 Rather they will have her testify.

15 The defense -- and I'm anticipating where you are  
16 going with this is if she testifies, whether you could  
17 impeach her with these prior statements, if she makes -- if  
18 she testifies differently than those statements, to try to  
19 impeach her with a prior inconsistent statement.

20 Now, of course, until she testifies, we won't know  
21 about that. So -- but if there is something in her  
22 statement that's different than her testimony, the defense  
23 would seek to impeach her with any prior inconsistent  
24 statements. Is that where you are going?

25 MR. STARNES: Yes, sir.



1 THE COURT: All right. And then the question is  
2 whether the State could get the whole statements in? Is  
3 that what it is?

4 MR. GOWDY: Well, judge, the State does not  
5 concede that the word statements is correct.

6 The chronology is she comes to the police station.  
7 She is told by Officer McNair "we are going to hit the  
8 highlights first, and then we are going to go give a  
9 detailed statement." I think the career Cabrera statement  
10 teaches us that's one statement. You can't separate the  
11 two. It's not fair to her to do so. She did exactly what  
12 she was told to do, so it is one single statement.

13 The first part is videotaped, where she says "this  
14 is where the body is. This is who did it."

15 She then, following instructions of law  
16 enforcement, comes back and gives a very detailed statement  
17 that same day, probably within the hour. So it is a single  
18 statement.

19 If the video comes in, then, yes, the written  
20 statement has to come in under Cabrera, or else it's just  
21 not fair. 106 notwithstanding, it's not fair.

22 I don't think -- none of it comes in, unless her  
23 testimony is inconsistent. If her testimony is inconsistent  
24 with what's in that statement, it's a prior inconsistent  
25 statement and he can follow the rules either for impeachment

1 or substantive evidence, however he wants to, he can do it,  
2 but the whole videotape doesn't come in under any scenario  
3 that I can see. Only what individual assertions or  
4 statements that are inconsistent.

5 But an issue came up last time, and I -- you know,  
6 there were lot of things that happened last time that may or  
7 may not be correct, but they were curious from an  
8 evidentiary standpoint.

9 The videotape -- if the videotape comes in, which  
10 I don't think it should, then, yes, the written statement  
11 has to come in under Cabrera.

12 It's all one statement.

13 MR. STARNES: Your Honor, I don't agree with that.  
14 The video statement is taken, and the prior record I believe  
15 reflects that the written statement happens four or five  
16 hours later and it's a totally different statement.

17 The video statement is Ms. Bailey comes to the  
18 sheriff's office. She sits down and she talks with  
19 Investigator McNair. They videotape this statement. Then  
20 later she gives another statement. About four hours later,  
21 five hours later she gives a written statement. There were  
22 things in the written statement that are not in the video  
23 statement, or I should say the video transcript, and I  
24 believe there is some things in there that are inconsistent.

25 I don't believe under 106, State v. Taylor, that

1 if the video transcript comes in, that they are entitled to  
2 bring the total separate statement that is taken four hours  
3 later that gets to come in.

4 State v. Taylor stands for the proposition that  
5 not all of the statement comes in, if the defendant is the  
6 proponent or the one offering it into evidence. I believe  
7 that's what State v. Taylor says, Your Honor.

8 MR. GOWDY: Your Honor, that's talking about  
9 confessions. That's not talking about statements by  
10 witnesses.

11 Your Honor, this is the most probative part of  
12 this analysis, from my vantage point. When I saw -- she  
13 comes into the police station. She's videotaped. On page  
14 nine of the videotape transcript, right after the  
15 introductions, she is told by the officer "what I would like  
16 to do, Gwen, is hit on the highlights right now. And then  
17 we will get into it. Let's hit on something we can sink our  
18 teeth into. If you know where the bodies are, let's go  
19 ahead and send somebody out there and start trying to find  
20 them. Then we will talk some more. Then what I'm going to  
21 do is want you to do is sit down and write out a detailed  
22 statement." That is exactly what the law enforcement told  
23 her to do.

24 We have got to keep in mind, they didn't know  
25 where the bodies were when she first came in. They had no

1 idea who did what to who, or where the bodies were, so they  
2 take a -- just what they said, a highlight; "where are the  
3 bodies? Who was involved? Tell me all the names, and then  
4 we are going to come back and take a detailed statement,"  
5 and that's exactly what she did. And to represent to a jury  
6 that this is two different statements and she had an  
7 opportunity to think about it some more, or Donnie Myers or  
8 somebody told her what to say in the second, which is what  
9 came up in the last trial that she was somehow coached into  
10 adding there is not fair to her. She did exactly what the  
11 detective told her to do - highlights and then detailed  
12 statement. It is one statement.

13 THE COURT: Why is it important whether it's one  
14 or two?

15 MR. GOWDY: Because he should not be able to  
16 cross-examine or impeach her and say "Ms. Bailey, isn't it  
17 true that on May 27th you didn't tell law enforcement that I  
18 urinated on the body," which is a very big point, because  
19 it's not mentioned in the video. It is mentioned in the  
20 written statement. And to leave the impression with the  
21 jury that she didn't do it -- she did exactly what the  
22 police told her to do, and I think the State would -- at  
23 that point would be able to come in and say, "wait a minute.  
24 It's not in the videotaped transcript because she wasn't  
25 asked about it. It is in the written statement that she

1 gave 30 minutes, two hours, whenever it was is when she was  
2 asked to do it." It's the same day.

3 THE COURT: Couldn't you go into that as a prior  
4 consistent statement then?

5 MR. GOWDY: Well, Your Honor, you could.

6 I think the rules with respect to prior consistent  
7 statements are if you are offering it as substantive  
8 evidence, I think it has to be under oath, which it wasn't.

9 If you are offering it to rehabilitate a witness,  
10 then you have to -- I have to prove that her motive to  
11 fabricate came -- I mean, the -- I guess, yes, I could.

12 I think the fair thing to do is if we are going to  
13 put part of the statement in, put it all in. It's not two  
14 separate statements. She was -- she was not asked "tell me  
15 everything that you know when you walked in." They didn't  
16 have the bodies yet. They didn't have a clue that this man  
17 had shot them.

18 She comes in and says "let me tell you what  
19 happened." Their first priority is to go get the bodies and  
20 find out where they are.

21 And then "who all is involved?" Norman Starnes,  
22 his friend Jody Fogle, his uncle. "Tell me who was  
23 involved."

24 But on page nine of that videotaped transcript,  
25 Carlisle McNair says "we will come back and I will get a

1 detailed statement."

2 That detective right there, Darren Amick, will  
3 testify that's exactly what they do today. They say "give  
4 me a broad --

5 Imagine not having the bodies. They have been  
6 missing for five months. Somebody walks in and says "I can  
7 tell you where the two missing skydivers are, and I can tell  
8 you who did it." Their first thing they are going to want  
9 to know is where are the bodies and who did it, and then  
10 later you are going to come back and go into the details.

11 He wants in front of a jury to make her seem like  
12 she made stuff up, that it wasn't in her first statement,  
13 and it was, the very day she came in. It just wasn't in the  
14 part of the highlights. And I think a jury needs to know  
15 that it was in the first statement. So if the video comes  
16 in, I think the written statement ought to come in.

17 THE COURT: Mr. Starnes, I'm looking now at State  
18 v. Cabrera, which is 361 S.C. 372, 605 S.E. 2d 522, a 2004  
19 case. And in that opinion it cites State v. Jackson, which  
20 held -- State v. Jackson which held as follows:

21 Of course, State v. Jackson is 265 S.C. 284, 217  
22 S.E. 2d, at 797. And quoting from the opinion, it says  
23 "when part of a conversation is put into evidence, an  
24 adverse party is entitled to prove the remainder of the  
25 conversation, so long as it is relevant, particularly when

1 it explains or gives new meaning to the part initially  
2 recited. All statements made in the conversation in  
3 relation to the same subject or matter are to be supposed to  
4 have been intended to explain or qualify each other, and,  
5 therefore, the plainest principles of justice requires that  
6 if one of the statements is used against a party, all of the  
7 other statements tending to explain it or to qualify this  
8 use should be shown and considered in connection with it."

9 MR. STARNES: Your Honor, it's a separate  
10 statement. It's not the same statement. It is a total  
11 separate event that happens. This second statement happens  
12 four hours later.

13 Now, Mr. Gowdy says that they are the same  
14 statement. They are not.

15 In her video statement she says nothing about  
16 premeditation. She says nothing about Norman Starnes going  
17 and getting a gun and killing two individuals. She says  
18 nothing about that.

19 THE COURT: All right, let me ask you -- Mr.  
20 Starnes, let me ask you this, though. The solicitor says  
21 that they made the statement to her "just give us the  
22 highlights right now and let us check on that. Then we will  
23 come back and get the full detailed statement from you." So  
24 they were seeking basically just the highlights so they  
25 could, I guess, verify something that she was telling them,

1 and they come back in little while and get the same  
2 statement on the same day. What about that? A more  
3 detailed statement. They were only getting basically the  
4 highlights.

5 MR. STARNES: They could bring that out to put the  
6 first statement in context, Your Honor.

7 THE COURT: All right, listen. It says here in --  
8 I'm quoting to you again from Cabrera Pena.

9 MR. STARNES: Could you give me that cite?

10 THE COURT: Pardon me?

11 MR. STARNES: I'm sorry, could you give me that  
12 cite?

13 THE COURT: 361 S.C. 372, 605 S.E. 2d 522, a 2004  
14 case.

15 Quoting again from the opinion here, "Cabrera-Pena  
16 was interviewed during a one hour period at four a.m..  
17 During this interview he made oral statements to Officer  
18 Membrino and gave a written statement. At trial the State  
19 elected not to call to the stand in the abundance of  
20 eyewitness testimony to call Officer Membrino to the stand  
21 and question him concerning the statements made to him by  
22 Cabrera-Pena. The trial court then prohibited Cabrera-Pena  
23 from cross-examining Membrino as to the remaining  
24 self-serving statements made to them from Membrino. This  
25 was error."



1 MR. STARNES: That's of the same statement, Your  
2 Honor.

3 THE COURT: No, he made an oral statement. Then  
4 he gave a written statement. They are two different  
5 statements.

6 But if it was an oral statement, they said this  
7 was all -- he should have been allowed to cross-examine him  
8 on the rest of it as well, ask him about that other part as  
9 well, the oral statement. Then also the written statement.

10 MR. STARNES: But that statement was given at the  
11 same time.

12 THE COURT: This was given on the same day, but  
13 this was a different time, but on the same day.

14 Well, I'm going to look at it. My inclination is  
15 to treat them as a second as explanation of the first plea  
16 and completely explain the first, and to make it -- to allow  
17 them to go into it, if we go into the first. That's my  
18 inclination. I'm going to take one more look at it. I  
19 don't have to rule on it finally just yet. This so -- I'll  
20 make a final ruling before we get into it.

21 MR. STARNES: Yes, sir. Thank you, Your Honor.

22 THE COURT: Anything else?

23 MR. STARNES: Your Honor, as far as character  
24 evidence, if there is anything that the State is going to  
25 offer in regards to any Lyle evidence, State v. Lyle,

1 anything under character, 404, that they intend to offer --

2 Beg the court's indulgence just one moment.

3 (Off the record)

4 (Back on the record)

5 MR. STARNES: Any evidence that they are going to  
6 offer under 404, any character evidence that they are going  
7 to go into, I would ask that they notify me of that.

8 THE COURT: Any plans at this time -- are you  
9 talking about case in chief or --

10 MR. STARNES: Yes, sir.

11 THE COURT: If we got to the second phase.

12 MR. STARNES: The case in chief. Anything that  
13 they are going to rely on under Lyle. Any of the five  
14 points that Lyle discuss, if they are going to rely on any  
15 of that, I would like to know that, Your Honor.

16 MR. GOWDY: Your Honor, I don't have any at this  
17 point.

18 If drug use in the days leading up to this  
19 incident does become an issue, and there is evidence that  
20 Mr. Starnes himself was using drugs in the days leading up  
21 to this incident, I will notify him immediately of that.

22 MR. STARNES: Thank you.

23 THE COURT: If you open the door, it comes in,  
24 yes, sir.

25 MR. STARNES: Thank you, Your Honor.

1           Your Honor, we took up a matter. I'm not sure if  
2 we done it on the record about witnesses -- sequestering the  
3 witnesses. We are going to do that?

4           THE COURT: We are going to sequester the  
5 witnesses, yes.

6           MR. STARNES: Does that count now, or --

7           THE COURT: No, when we start the trial.

8           MR. STARNES: Okay. When we are start the trial.  
9 When we start taking testimony.

10           Any objection to witnesses being present when we  
11 are doing opening statements, counsel?

12           MR. GOWDY: No, sir.

13           THE COURT: All right. We will say it would start  
14 when the first witness starts testifying.

15           MR. STARNES: I just need some clarification. I  
16 just had someone walk in.

17           THE COURT: Okay.

18           MR. STARNES: Your Honor, I believe that's it.

19           THE COURT: Okay.

20           MR. GOWDY: That's it from the State, Your Honor.

21           THE COURT: All right. If you think of anything  
22 else we need to address, let me know. We have the jury.

23           What I would like to do today is we are going to  
24 bring the jury in and try to get them -- if they are all  
25 here at three, I would like to get started promptly at three

1 and select the jury.

2 Once we get the jury selected, my plan is to give  
3 them an instruction, beginning instruction, informative  
4 instruction, and go directly into opening statements. So we  
5 will probably do opening statements before we quit.

6 As a matter of fact, probably will work -- if we  
7 need to, we can work a little bit later this evening, 5:30  
8 or 6:00, if we need to do that, but I would at least like to  
9 get that done.

10 We will get the jury sworn, get opening statements  
11 in, and that's probably where we will end today. I don't  
12 see us going to be able to go beyond that. Just for your  
13 preparation purposes.

14 MR. GOWDY: Does Your Honor prefer to do a dry  
15 strike before the real strike and deal with Batson issues  
16 then? I have seen judges do it both ways.

17 (Whereupon, a cellphone began ringing in the  
18 courtroom)

19 THE COURT: If that's a phone, please instruct  
20 who -- you can't have phones in the courtroom. I'll let  
21 that go this time, but we can't have phones going off in the  
22 courtroom.

23 All right.

24 MR. GOWDY: I have had it done both ways. I'm  
25 sure Mr. Nettles and Mr. Delgado have too, where judges say

1 1:30 or 2:00 they have the parties do a dry strike, take up  
2 Batson issues, or Evans issues, or anything related to the  
3 jury, so that when you start at 3:00 and do it for real,  
4 there is no delay. And I don't care. I just alert the  
5 court that that is an option.

6 THE COURT: Well, you know, if you do it dry -- I  
7 have never heard of that before. If you do dry strikes, are  
8 you bound by that then, when you get to the actual strike?

9 MR. GOWDY: Yes, sir.

10 THE COURT: So basically you have already had  
11 struck the jury.

12 MR. GOWDY: Just on paper.

13 It does not matter to me. It's a timesaver. I  
14 have seen it done more -- I see the clerk nodding her head.

15 THE COURT: Dry strike?

16 THE CLERK: Yes.

17 THE COURT: I don't have any problem. I am  
18 certainly not opposed to it if it would save some time.

19 MR. GOWDY: I'm not trying to get an advantage.

20 If Mr. Nettles or Mr. Delgado don't want to do it,  
21 I mean, I don't care. It's purely a timesaver, so we don't  
22 argue about Batson at four o'clock. We can do it at two  
23 o'clock.

24 THE COURT: All right. It's Mr. Starnes decision.  
25 Certainly any input, if he needs to input from standby

1 counsel, but what's your position, Mr. Starnes?

2 MR. STARNES: Your Honor, I have never heard of  
3 it. I have never read a transcript where it's ever done  
4 that way. It totally new to me.

5 I would rather just stay on focus on what we are  
6 doing. Talking about saving time, my position was strike as  
7 we go, but --

8 THE COURT: Well, let me explain that. You  
9 probably didn't understand what he said.

10 MR. STARNES: Yes, sir, I understand.

11 THE COURT: Well, what he's talking about doing is  
12 we have our list. We know in what order we are going to  
13 call the jurors. And then each side will go ahead and  
14 strike the ones that they are going to strike. And then we  
15 would know who the jurors are going to be.

16 However, each side then, if you wanted to object  
17 to the reasons that the other side struck them, or maybe  
18 give an explanation for it, then we could do that without  
19 having to do it after we select the jury and have them there  
20 in the box, we can go ahead and take those issues up now on  
21 the record. And if there's a problem with that, then we  
22 could correct it and go over the actual -- before we  
23 actually select the jury.

24 I don't have any -- it does not matter to me if  
25 both parties agree to do that. It would be nice to save us

1 a little time this afternoon when we actually pick the jury,  
2 but it's up -- you know, I have no -- either way -- I have  
3 no preference either way.

4 MR. STARNES: Your Honor, whatever the court  
5 decides. I'm not going to object to it.

6 THE COURT: Solicitor, the only problem I got with  
7 that -- I'm trying to think it through because I have not  
8 done it before. I have not seen it done before.

9 The only problem is what if -- by the time the  
10 jury comes in at three o'clock, we find out we are going to  
11 have to excuse a juror for some reason, and -- but they are  
12 already on the one that we have to redo it.

13 MR. GOWDY: I have no ownership to that idea  
14 whatsoever. It's come from circuit court judges, and I wish  
15 I hadn't brought it up, because it is no strategic advantage  
16 to either party.

17 THE COURT: Well -- and I understand that. What  
18 it allow you to do, if somebody actually wants an  
19 explanation for why a juror is struck, challenges that, and  
20 they could get it and maybe we could get all that done.

21 And, you know -- and if we do that, we do have  
22 time to do it and we could go ahead and do that, thinking it  
23 through. But in the event that one of those jurors that are  
24 actually going to be selected on the jury then, if we had to  
25 excuse them, I guess we would have to go to the next one on

1 the list and we go through the same thing, if that happened  
2 so -- I'll do whatever you want to do.

3 Mr. Starnes, let me leave it up to you. I don't  
4 have any preference one way or the other. The solicitor,  
5 he's not -- you know, of course not -- he is just suggesting  
6 it as a possibility. He's not recommending it either way.  
7 It has some advantages. The only disadvantage would be if  
8 we get somebody on the jury that we then had to excuse, once  
9 they got here at three o'clock, we still would -- we would  
10 go back to the next juror and start and exercise whatever  
11 the strikes are left. Whatever you want to do.

12 MR. STARNES: I have never -- I'm not familiar. I  
13 have never really, like I said, read a transcript that was  
14 done that way, Your Honor. I'm not trying to delay or stall  
15 anything, but I would --

16 THE COURT: Let's just wait. Let's just wait.

17 And let me suggest this. If a Batson issue -- if  
18 a motion is made, what we will do is simply move down to my  
19 to the chambers and take that up down there. We can do it  
20 that way. Since the jurors would be here in the courtroom,  
21 we can do it down there.

22 All right. We will just wait to do that.

23 Anything else that you think of that we need to  
24 address at this time?

25 MR. STARNES: No, Your Honor.



1 MR. GOWDY: I believe we are okay.

2 THE COURT: Let me ask you, do you want to take up  
3 the issue with regard to the video, the computer video  
4 matter, at this time?

5 MR. STARNES: Which one are we talking about, Your  
6 Honor?

7 THE COURT: The one that you sought to introduce.  
8 The computer --

9 MR. STARNES: Animation?

10 THE COURT: -- animation.

11 MR. STARNES: Yes, sir.

12 I haven't had any contact with any of my experts  
13 or anything because we have been in court. And when I get  
14 back to the detention center, it's difficult for me to make  
15 calls at eleven o'clock at night.

16 THE COURT: You haven't been able to make whatever  
17 redactions would be necessary, in any event?

18 MR. STARNES: No, sir. I did send Mr. Taylor an  
19 E-mail and he sent me an invoice for his time for in  
20 Spartanburg. And the costs, whatever it would cost is  
21 minimal, to remove the click, click, and the word "whoa"  
22 from it.

23 And as far as taking the text narrative off that,  
24 that won't be a problem.

25 THE COURT: I just need to see it in its final

1 form, because I haven't made a decision whether I am going  
2 to allow it to be used or not. And I want to look at it one  
3 more time before I make that decision. I only had a chance  
4 to briefly look at it in Spartanburg when I first saw it on  
5 Thursday, and I would like to look at it as it appears in  
6 its form with what I have asked you to delete from it. Look  
7 at it then and let me make a decision. So I need to see it  
8 one more time before I decide whether I'm going to allow it  
9 to be used or not.

10 I have ruled that I'm not going to allow in as  
11 demonstrative evidence. I'm not going to let it be  
12 admitted. We will make it a Court Exhibit one way or  
13 another, if you wish to do that, but I'm not going to -- and  
14 if it's going to be used at all, it's going to have to be  
15 made a Court's Exhibit --

16 MR. STARNES: Yes, sir.

17 THE COURT: -- but I haven't made a definite  
18 decision on using it at all or not. I want to look at it  
19 one more time.

20 I'm kind -- I'm leaning towards a proper  
21 instruction to the jury about how they are to consider it  
22 and letting you just go through your testimony on it and not  
23 use it for any other purposes. That would be the only way  
24 that I would allow it in.

25 MR. STARNES: I understand, Your Honor, and --

1 THE COURT: I don't think it by any means is  
2 anything other than something that you have proposed a  
3 written script for. And it's your version. I understand  
4 that.

5 MR. STARNES: Yes.

6 THE COURT: So -- but at any rate, I want to look  
7 at it one more time before I make that final decision.

8 MR. STARNES: Yes, sir.

9 Your Honor, if security was not going to let me  
10 make a call to the Department of Corrections. I'm trying to  
11 get some inmate records. I served a subpoena back in August  
12 and for some reason they are just now processing that  
13 request this morning. If they would be kind enough to let  
14 me use the telephone, I could call Mr. Taylor. I will get  
15 this expedited and maybe he can get it done today and get it  
16 Fed Ex'd so we can get it down here to be here at 10:30 in  
17 the morning.

18 THE COURT: Well, of course, you know, the State  
19 is going to use up some period of time, so we can do it  
20 later. We just have a few minutes now. I want to try to  
21 take advantage of all the time that we do have.

22 MR. STARNES: I understand.

23 THE COURT: We can do it later. Obviously it  
24 won't take long to do that, but we can do it later. It  
25 wouldn't be offered until later anyway when you get to your

1 part of the case, so --

2 MR. STARNES: I do need to get in touch with Mr.  
3 Taylor to let him know.

4 THE COURT: I would ask, please, if the detention  
5 folks would allow him to use the phone. We have done that a  
6 couple of times this week. If you would do that, I would  
7 appreciate it.

8 They will stand by and not repeat anything that's  
9 said during your conversation, whoever you talk to or  
10 whoever you have talking to.

11 MR. STARNES: Yes, sir. Thank you.

12 THE COURT: All right. Anything else we can  
13 address? If not, we will take a recess.

14 What I would ask you to do then is be back about  
15 2:45, I guess, and the jury would be here. They were  
16 instructed to be here at three. I would like to get started  
17 promptly at three. If we got all the jurors. We'll have to  
18 call the roll and make sure that they are all here. And if  
19 they are, we will go ahead and get started.

20 MR. GOWDY: Yes, sir.

21 MR. STARNES: Okay.

22 THE COURT: And in the meantime if something comes  
23 up, I will be in chambers. We will probably go out and get  
24 a bite to eat lunch. But, otherwise, I'll be in chambers.  
25 When we get back together we can do that.

1 MR. GOWDY: Yes, sir.

2 MR. STARNES: Your Honor, I just -- before we  
3 leave today, I just have some funding orders, if Your Honor  
4 would consider.

5 THE COURT: Oh, yeah, all right. If you want to  
6 hand those up. You got them now?

7 MR. STARNES: I don't have them. I believe they  
8 are en route. Mr. Walker is doing them.

9 THE COURT: When they get here, just let somebody  
10 know. Maybe one of the detention officers can let us know  
11 or bring them to us. I'll be down in chambers.

12 MR. STARNES: Thank you, Your Honor.

13 THE COURT: Or somebody. Maybe one of the  
14 bailiffs can bring it. Whoever is available, or if you get  
15 them to my clerk, she will bring them to me. All right.  
16 I'll look at them.

17 All right. Nothing else then, we will be  
18 adjourned until three. I would ask everybody to try to be  
19 here at 2:45 and we will be ready to go.

20 MR. GOWDY: Thank you, judge.

21 (Whereupon, proceedings were recessed)

22 (Whereupon, proceedings were reconvened)

23 (Jury Panel Sheets marked as Court's Exhibit No. 3  
24 for identification)

25 (Selected Jury List marked as Court's Exhibit No.

1 4 for identification)

2 THE COURT: Madam Clerk, we have all 48 qualified  
3 jurors present?

4 THE CLERK: I believe we do, Your Honor.

5 THE COURT: All right. Counsel, are you ready to  
6 proceed to strike?

7 MR. GOWDY: The State is, Your Honor.

8 THE COURT: Defense ready?

9 MR. STARNES: Defense is ready, Your Honor.

10 THE COURT: All right. Let's begin the strike.  
11 Please call the first juror.

12 Counsel, approach just a minute. Each side  
13 approach just a minute.

14 (Whereupon, the lawyers and the defendant  
15 approached the bench for an off-the-record discussion)

16 THE COURT: All right.

17 Juror number 263, Marti Sox, could you come  
18 forward, please?

19 (Whereupon, on on-the-record bench conference was  
20 held with Juror Number 263, Marti Sox, all parties present)

21 THE COURT: You had requested to be excused  
22 because of distress and that because of your family  
23 situation and --

24 JUROR NUMBER 263: Yes, sir.

25 THE COURT: -- divorce situation and that kind of

1 stuff?

2 JUROR NUMBER 263: Yes.

3 THE COURT: Taking medication and that kind of  
4 thing?

5 JUROR NUMBER 263: Yes, sir.

6 THE COURT: And you are requesting to be excused  
7 for that?

8 JUROR NUMBER 263: Yes, sir.

9 THE COURT: Because you don't think that you could  
10 deal with it emotionally?

11 JUROR NUMBER 263: Yes, sir.

12 THE COURT: All right. Anything else that you  
13 want to tell me?

14 JUROR NUMBER 263: No, sir. I mean, I just -- I  
15 don't think that I can actually devote my full attention for  
16 everything that's going on right now.

17 THE COURT: All right.

18 JUROR NUMBER 263: I talked to my attorney this  
19 morning and he's also given me some information on my court  
20 case.

21 THE COURT: Your divorce case you mean?

22 JUROR NUMBER 263: Yes.

23 THE COURT: All right. Just stand over here just  
24 a minute, if you will. Just stand right back over there, if  
25 you would just a minute.

1 (Off the record)

2 (Back on the record)

3 THE COURT: All right.

4 THE CLERK: Van is her attorney and we need for  
5 the file to get her to have him fax us a letter if she is  
6 actually in litigation.

7 THE COURT: Ms. Cox, you can come back up just a  
8 minute. Let me ask you one other thing. All right. Come  
9 up just a little bit.

10 Who is our attorney in your Family Court matter.

11 JUROR NUMBER 263: Van Strickland.

12 THE COURT: Would you get him to fax something to  
13 the clerk's office saying that, in fact, he's representing  
14 you in a divorce action at the present time?

15 JUROR NUMBER 263: Yes, sir.

16 THE COURT: Will you do that?

17 JUROR NUMBER 263: Yes, sir.

18 THE COURT: All right. With that we are going to  
19 go ahead and excuse you.

20 JUROR NUMBER 263: Thank you.

21 THE COURT: Make sure that he faxes something to  
22 the clerk's office so we will have a record of it.

23 JUROR NUMBER 263: Yes, sir.

24 THE COURT: Okay.

25 THE CLERK: If you don't calling me, he knows me



1 quite well. It would be really for him to shoot me  
2 something pretty fast, if you don't mind.

3 JUROR NUMBER 263: Thank you.

4 (Whereupon, the bench conference was concluded)

5 THE COURT: The record will reflect that Juror  
6 Number 263, Marti Sox, has been excused by the court.  
7 Neither side had any objection to her being excused. She  
8 was a qualified juror. It appears she's number 20 on the  
9 list, so when we get to her, we will just move onto the next  
10 one.

11 Everybody, are you ready now to proceed?

12 MR. GOWDY: The State is, Your Honor.

13 MR. STARNES: Defense is ready, Your Honor.

14 THE COURT: All right. We will proceed. Please  
15 call the first juror.

16 THE CLERK: Ladies and gentlemen, as I call your  
17 name, if you would please come forward. Bring all your  
18 personal belongings and you need to stand right here. Face  
19 your peers until I either ask you to have a seat in the jury  
20 box or return to your seat. Please bring all of your  
21 personal belongings with you.

22 Juror 268, James Stone.

23 What say you for the State?

24 MR. GOWDY: Present the juror.

25 THE COURT: What say you for defense?

1 MR. STARNES: Present the juror.

2 THE CLERK: Mr. Stone, if you will have a seat to  
3 the right to the jury box, please.

4 Juror number 288, Diane Turkett.

5 What say you for the State?

6 MR. GOWDY: Present the juror.

7 THE CLERK: What say you for the defense?

8 MR. STARNES: Present.

9 THE CLERK: If you will have a seat in the jury  
10 box, Ms. Turkett, to my right.

11 Juror number 82, Theo Elmore.

12 What say you for the State?

13 MR. GOWDY: Present the juror.

14 THE CLERK: What say you for defense?

15 MR. STARNES: Please excuse Mr. Elmore.

16 THE CLERK: Mr. Elmore, if you will return to your  
17 seat, please.

18 Juror number 171 is Paula Mallory.

19 What say you for the State?

20 MR. GOWDY: Present the juror.

21 THE CLERK: What say you for the defense?

22 MR. STARNES: Please seat Ms. Mallory.

23 THE CLERK: Ms. Mallory, if you will take a seat  
24 in the jury box to the right, please.

25 Juror number 305 is Claude Wessinger.

1 What say you for the State?

2 MR. GOWDY: Present the juror.

3 THE CLERK: What say you for the defense?

4 MR. STARNES: Please excuse Mr. Wessinger.

5 THE CLERK: Mr. Wessinger, if you please return to  
6 your seat, please.

7 Juror number 213, Jean Paquin.

8 What say you for the State?

9 MR. GOWDY: Present the juror.

10 THE CLERK: What say you for defense?

11 MR. STARNES: Please excuse Ms. Paquin.

12 THE CLERK: Ms. Paquin, if you will please return  
13 to your seat, ma'am.

14 Juror number 84, Everett Ernst.

15 What say you for the State?

16 MR. GOWDY: Present the juror.

17 THE CLERK: What say you for the defense?

18 MR. STARNES: Please seat.

19 THE CLERK: Mr. Ernst, you can have a seat in the  
20 jury box. Thank you, sir.

21 Juror number 176, H.L. McCart.

22 What say you for the State?

23 MR. GOWDY: Present the juror.

24 THE CLERK: What say you for defense?

25 MR. STARNES: Please seat Mr. McCart.

1 THE CLERK: Mr. McCart, if you will have a seat to  
2 the right in the jury box, please.

3 Juror 117 is Rodney Heatly.

4 What say you for the State?

5 MR. GOWDY: Please excuse this juror from service  
6 in this case.

7 THE CLERK: Mr. Heatly, you can return to your  
8 seat, please.

9 Juror number 212 is Eric Pantsari.

10 What say you for the State?

11 MR. GOWDY: Present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STARNES: Please excuse.

14 THE CLERK: Mr. Pantsari, you can return to your  
15 seat, please.

16 Juror 298 is Daniel Wallace.

17 What say you for the State?

18 MR. GOWDY: Present the juror.

19 THE CLERK: What say you for defense?

20 MR. STARNES: Present Mr. Wallace.

21 THE CLERK: Mr. Wallace, if you would have a seat  
22 in the jury box to my right, please.

23 Juror number 135 is Catherine Johnson.

24 What say you for the State?

25 MR. GOWDY: Present the juror.

1 THE CLERK: What say you for defense?

2 MR. STARNES: Please seat Ms. Johnson.

3 THE CLERK: Ms. Johnson, if you will have a seat  
4 in the jury box to the right, please.

5 Juror number 141 is Jo Ann Kappauf.

6 What say you for the State?

7 MR. GOWDY: Please excuse the juror from service  
8 in this case.

9 THE CLERK: Thank you very much, Ms. Kappauf. You  
10 can return to your seat.

11 Juror number 233 is Charles Roberson.

12 What say you for the State?

13 MR. GOWDY: Present the juror.

14 THE CLERK: What say you for defense?

15 MR. STARNES: Please excuse Mr. Roberson.

16 THE CLERK: Mr. Roberson, you can return to your  
17 seat.

18 Juror number 3 is Laura Alexander.

19 What say you for the State?

20 MR. GOWDY: Present the juror.

21 THE CLERK: What say you for the defense?

22 MR. STARNES: Please present Ms. Alexander.

23 THE CLERK: Ms. Alexander, take a seat in the jury  
24 box.

25 Juror number 136, Harry Johnson.

1 What say you for the State?

2 MR. GOWDY: Present the juror.

3 THE CLERK: What say you for defense?

4 MR. STARNES: Please present Mr. Johnson.

5 THE CLERK: Mr. Johnson, take a seat in the jury  
6 box, please.

7 Juror number 165 is Deanna Lucas.

8 What say you for the State?

9 MR. GOWDY: Present the juror.

10 THE CLERK: What say you for defense?

11 MR. STARNES: Please present.

12 THE CLERK: Ms. Lucas, have a seat in the jury  
13 box.

14 Juror number 255 is Bernice Smith.

15 What say you for the State?

16 MR. GOWDY: Please excuse this juror from the  
17 service in this case.

18 THE CLERK: Ms. Smith, you can return to your  
19 seat.

20 Juror number 112 is Steven Hanes.

21 What say you for the State?

22 MR. GOWDY: Present the juror.

23 THE CLERK: What say you for defense?

24 MR. STARNES: Please excuse Mr. Hanes.

25 THE CLERK: Mr. Hanes, you can return to your

1 seat.

2 Juror number 40 is David Butz.

3 What say you for the State?

4 MR. GOWDY: Please excuse the juror from service  
5 in this case.

6 THE CLERK: Thank you, Mr. Butz.

7 Juror number 325 is Thomas Zobel.

8 What say you for the State?

9 MR. GOWDY: Present the juror.

10 THE CLERK: What say you for defense?

11 MR. STARNES: Please excuse Mr. Zobel.

12 THE CLERK: Mr. Zobel, you can return to your  
13 seat.

14 Juror number 134 is Murray Jeffers.

15 What say you for the State?

16 MR. GOWDY: Present the juror.

17 THE CLERK: What say you for the defense?

18 MR. STARNES: Please present Mr. Jeffers.

19 THE CLERK: Mr. Jeffers, you can have a seat to  
20 the right in the jury box, please, sir.

21 Juror Number 44 is Kellydawn Gamble.

22 What say you for the State?

23 MR. GOWDY: Present the juror.

24 THE CLERK: What say you for defense?

25 MR. STARNES: Please excuse Ms. Gamble.

1 THE CLERK: Ms. Gamble, you can return to your  
2 seat, please, ma'am.

3 Juror number 42 is William Camlin.

4 What say you for the State?

5 MR. GOWDY: Present the juror.

6 THE CLERK: What say you for the defense?

7 MR. STARNES: Please excuse Mr. Camlin.

8 THE CLERK: Mr. Camlin, you can return to your  
9 seat.

10 Juror number 182 is Charles McKinney.

11 What say you for the State?

12 MR. GOWDY: Present the juror.

13 THE CLERK: What say you for the defense?

14 MR. STARNES: Please excuse Mr. McKinney.

15 THE CLERK: Mr. McKinney, return to your seat,  
16 please.

17 THE COURT: Counsel, checking on the strikes, I  
18 have four for the State and ten for the defense.

19 THE CLERK: That's correct, Your Honor.

20 Juror number 87 is James Farrell.

21 What say you for the State?

22 MR. GOWDY: Please excuse the juror from the  
23 service in this case.

24 THE CLERK: Mr. Farrell, you can return to your  
25 seat.



1 Juror 251 is Thomas Shumpert.

2 What say you for the State?

3 MR. GOWDY: Present the juror.

4 THE CLERK: What say you for defense?

5 MR. STARNES: Present.

6 THE CLERK: Thank you. Mr. Shumpert, you can have  
7 a seat to my right in the jury box.

8 Juror number 158 is Peggy Leaphart.

9 THE COURT: This is for the first alternate, is  
10 that correct?

11 THE CLERK: Yes, sir.

12 THE COURT: Counsel, strikes are two for the  
13 defense and one for the State on each of the alternates.

14 THE CLERK: What say you for the State?

15 MR. GOWDY: Please excuse the juror from the  
16 service in this case.

17 THE CLERK: You may return to your seat, Ms.  
18 Leaphart.

19 Juror number 241 is Frank Tyler.

20 What say you for the State?

21 MR. GOWDY: Present the juror.

22 THE CLERK: What say you for the defense?

23 MR. STARNES: Please excuse Mr. Tyler.

24 THE CLERK: Mr. Tyler, you can return to your  
25 seat.

1 Juror number 14 is Bennie Bass.

2 What say you for the State?

3 MR. GOWDY: Present the juror.

4 THE CLERK: What say you for the defense?

5 MR. STARNES: Present Mr. Bass.

6 THE CLERK: Mr. Bass, you can have a seat to the

7 right to the jury box, please.

8 THE CLERK: Alternate number one, Your Honor.

9 Juror number 216 is Eugene Petrey.

10 What say you for the State?

11 MR. GOWDY: Present the juror.

12 THE CLERK: What say you for the defense?

13 MR. STARNES: Please present Mr. Petrey.

14 THE CLERK: Mr. Petrey, you can have a seat in the  
15 jury box to your right.

16 Alternate number two, Your Honor.

17 THE COURT: Okay.

18 THE CLERK: Juror number 19 is Bonnie Bettis.

19 What say you for the State?

20 MR. GOWDY: Present the juror.

21 THE CLERK: What say you for the defense?

22 MR. STARNES: Please excuse.

23 THE CLERK: Return to your seat, please, ma'am.

24 Juror number 109 is Darren Hamelinck.

25 What say you for the State?

1 MR. GOWDY: Present the juror.

2 THE CLERK: What say you for the defense?

3 MR. STARNES: Present.

4 THE CLERK: Mr. Hamelinck, you can have a seat in  
5 the jury box to my right. That is your lucky day.

6 We have alternate number three.

7 THE COURT: Let me ask you whether there is any  
8 questions concerning the selection process, from the State?

9 MR. GOWDY: Not from the State, Your Honor, no,  
10 sir.

11 THE COURT: From the defense?

12 MR. STARNES: No, sir. None from the defense,  
13 Your Honor.

14 THE COURT: All right. Ladies and gentlemen of  
15 the jury panel who were not selected, you may be glad, you  
16 may not be glad. In any event, this is going -- you are not  
17 picked for this jury. This is going to conclude your  
18 service on this case and also for the week. So this will  
19 conclude your entire service.

20 The clerk's office will put a check in the mail  
21 for your service this week. I would like to take this  
22 opportunity to thank you for your service and sacrifices  
23 that you have made this week to help make our justice system  
24 work. We do not take that service for granted. We deeply  
25 appreciate it. And we realize that you made sacrifices to

1 participate, and we appreciate it very much. You are free  
2 to go at this time with our thanks. You are welcome to  
3 stay, if you wish, but you are free to go now.

4 THE CLERK: Y'all don't get too excited about it  
5 now.

6 (Whereupon, the jury venire panel was discharged)

7 THE COURT: Madam Clerk, would you please swear  
8 the jury panel.

9 THE CLERK: Please stand and raise your right  
10 hand.

11 You shall well and truly try and a true  
12 deliverance make between the State and the defendant at the  
13 bar whom you shall have in charge and render a true verdict,  
14 according to the laws and evidence, so help you God. Please  
15 respond by I do.

16 JURY PANEL: (Collectively I do)

17 THE CLERK: Please be seated.

18 THE COURT: Ladies and gentlemen of the jury  
19 panel, if you would give me your attention, please, I'm  
20 going to give you what I call a preliminary charge or  
21 instruction as to what to expect as we go through the trial,  
22 what everybody's role is in the trial in the trial,  
23 including what your role is in the trial, and hopefully this  
24 information will help you feel a little bit more comfortable  
25 in these unfamiliar surroundings.

1           The first thing that will happen after I have  
2 completed this instruction to you is that the attorney for  
3 the State, who is an assistant solicitor -- excuse me,  
4 perhaps the solicitor, or an assistant, will make an opening  
5 statement to you. And then Mr. Starnes, who is acting as  
6 his own -- conducting his own defense in this case will have  
7 the same opportunity to address you in an opening statement.

8           Now, these opening statements are not evidence,  
9 but you should pay close attention, because they are, in  
10 essence, going to identify to you what they perceive or say  
11 the issues in the case are.

12           After they have made their opening statements to  
13 you, then the State will proceed by presenting the testimony  
14 and evidence they want you to consider.

15           The reason the State goes first is that the State  
16 has the burden of proof in this case. There is no burden of  
17 proof upon the defendant to prove his innocence. The burden  
18 of proof is upon the State of South Carolina to prove the  
19 charges against this defendant by evidence that satisfies  
20 you, the jury, beyond a reasonable doubt before you can  
21 return a verdict of guilty. If the State fails to meet that  
22 burden of proof, then your verdict must be not guilty.

23           After the solicitor has presented to you the  
24 evidence that they want you to consider on behalf of the  
25 State, then the same opportunity will be afforded to the

1 defense. The defendant may, but is not required, to present  
2 any testimony or evidence, because the State has the burden  
3 to prove the defendant guilty beyond a reasonable doubt.  
4 The defendant does not have to prove he is innocent. He is  
5 presumed innocent, and that presumption stays with him  
6 throughout the trial and may only be removed if the State  
7 meets its burden of proving the guilt of the defendant  
8 beyond a reasonable doubt.

9 Now, what is evidence in the case? Evidence is a  
10 sworn testimony you will hear from the witness stand,  
11 exhibits admitted into the record for your consideration by  
12 me, the presiding judge, and any stipulation of fact by  
13 counsel.

14 Now, exhibits may take many forms, such as  
15 documents, pictures, videotape, maps, diagrams, and so  
16 forth.

17 Stipulations are agreements of facts by the  
18 parties. If the parties enter into a stipulation, that will  
19 be made known to you, and you can consider that stipulation  
20 of fact, along with all of the other testimony and the  
21 evidence in the case. Give it such weight as you deem  
22 appropriate when you begin your deliberations.

23 Now, sworn testimony, exhibits and stipulations  
24 are the only evidence you may consider in your deliberation  
25 of the innocence or the guilt of the defendant. You may not

1 consider anything that you heard from any other source about  
2 this case in making your decision, because that is not  
3 evidence.

4 After you have heard all the evidence, then the  
5 State and the defendant will once again appear before you  
6 and make what we call closing arguments. And we call them  
7 arguments because they are allowed at that time to argue  
8 their positions, will attempt to persuade you as to their  
9 view or position as to the facts.

10 When you have heard final arguments, I will then  
11 charge you, which simply means to instruct you, as to the  
12 law that applies to the issues in this case. You will then  
13 retire to the jury room to deliberate and reach your  
14 verdict.

15 That's how a case is tried in General Sessions  
16 Court, whether it be this case, or any other case. Some  
17 cases take a half a day or a day. Some cases take weeks,  
18 but the same format applies in every case.

19 As the trial judge I have three functions to  
20 perform during the trial. I am the presiding officer, and,  
21 therefore, must see that the trial is run in an orderly  
22 manner. I decide, based on rules of civil and criminal  
23 procedure, whether testimony and exhibits are admissible  
24 into evidence for your consideration. And at the conclusion  
25 of the trial, I instruct you as to the law you must apply to

1 the facts in this case in reaching your verdict.

2           You, ladies and gentlemen, are also judges in this  
3 case. You are the judges of the facts. In other words, you  
4 determine the truth of the facts in this case. Under our  
5 Constitution I am not permitted as the judge of the law to  
6 have an opinion about the facts, so I do not get into  
7 whether I believe a witness or not. That is not my  
8 function. I'm not even permitted to express an opinion, if  
9 I had one, as to the facts in this case. So you, the  
10 jurors, determine what is the truth of the facts.

11           Now, I do not permit jurors to take notes during  
12 the trial, because it is my experience that while writing  
13 notes you may miss something very important for you to hear  
14 and you may fail to observe a witness when testifying. It  
15 is important that you pay careful attention to all testimony  
16 and introduction of evidence, since you must judge the  
17 credibility or believability of the witnesses and the weight  
18 to give all evidence introduced in this case in determining  
19 the truth of the facts.

20           Now, during the trial the attorneys may object to  
21 the admissibility of certain testimony or other evidence. I  
22 will either sustain the objection, which means I agree and  
23 the testimony or evidence may not be made part of the record  
24 for your consideration; or, I will overrule the objection,  
25 which means as the judge of the law I have determined that



1 it is admissible as part of the record for your  
2 consideration. The mere fact that I have admitted it does  
3 not mean that you must believe it or disbelieve it. I have  
4 simply determined that it is admissible under our rules.  
5 And it is up to you then to believe it or disbelieve it and  
6 to assign such weight to it as you deem to be appropriate.

7 At the conclusion of the trial when we send you to  
8 the jury room, every exhibit that is admitted into evidence  
9 will be sent to the jury room for you to examine further and  
10 to consider.

11 I remind you that one of the most important  
12 aspects of your duty as a jury lies essentially in the oath  
13 that you have just taken, to well and truly try this case  
14 and to determine the truth of the facts in this case. That  
15 oath, once again, in a very essential way says that you are  
16 the sole judges of the facts in this case.

17 As jurors in this case, it will be your exclusive  
18 duty to determine the facts in this matter through your  
19 evaluation of the evidence that was received during the  
20 course of the trial and to give such evidence whatever  
21 value, weight, or effect as you deem appropriate, with the  
22 goal of reaching the truth in this matter. In doing so, you  
23 will have fulfilled your obligations as jurors, and that is  
24 to give both the State and the defendant a fair and  
25 impartial trial in this matter.

1 Ladies and gentlemen of the jury panel, whatever  
2 your verdict in this case, it must be your unanimous  
3 verdict. All twelve jurors must agree on the verdict which  
4 the foreperson would be authorized to write on behalf of the  
5 jury.

6 Now, ladies and gentlemen, you are not to discuss  
7 this case -- this is extremely important. You are not to  
8 discuss this case at any time during the trial, until I tell  
9 you, and that will not occur until you have received all of  
10 the evidence and I have instructed you upon the law. You  
11 should not discuss the case among yourselves. And you  
12 should not discuss it with your family, friends, or anyone  
13 else you might see on a recess from court. You might say  
14 well, what's wrong with our discussing the case as we go  
15 along, or, what's wrong with discussing it with family,  
16 friends, or someone that finds out that you are on the jury  
17 and wants to know something about the case? The problem  
18 with discussing the case is once you start discussing the  
19 case, you start forming opinions. And you wouldn't be fair  
20 to both sides in this case if you didn't wait until you have  
21 heard all the testimony and the evidence and I have  
22 instructed you upon the law that applies to the issues in  
23 this case before you start forming opinions. Until then,  
24 you should keep an open mind and wait until you have all the  
25 information that you need before you start making decisions.

1           Now, if you should overhear the parties, their  
2 attorneys, or witnesses talking about the case outside of  
3 the courtroom, you should not listen to them and move away.

4           If anyone should deliberately try to discuss the  
5 case with you, you should not discuss it with them, but  
6 leave and report that attempt to me through the bailiff or  
7 clerk of court and I will deal appropriately with that  
8 person.

9           No one should try to discuss the case with you.  
10 If they do, I certainly wish to be made aware of it.

11           If there should be media coverage of this trial,  
12 and I'm almost certain there will be some, because of the  
13 interests we have already had, so there are certain to be  
14 some media coverage. And whether it be media that you have  
15 access -- normally have access to, or not, I have no way of  
16 knowing. This is extremely important. Extremely important.  
17 Please do not read, listen to, or watch any media account of  
18 this trial until after the trial is over. It's extremely  
19 important. There is no way we can guarantee the accuracy of  
20 any accounts of this trial, other than the sworn testimony  
21 and evidence that comes in during the trial. And so,  
22 please, do not read, listen to, or watch any media account  
23 of this trial until after the trial is over. That includes  
24 newspapers, TV, radio. A lot of people get their  
25 information now over the Internet. That includes the

1 Internet, so don't get on the Internet and try to find out  
2 anything about this case, please. Make sure that you don't  
3 do that. That's extremely important.

4 If there should be media coverage of this trial  
5 and it should come to the attention of the court, I may very  
6 well ask you if you have read, listened to, or watched any  
7 media account of this trial. And if you have to tell me  
8 that you have, under your oath, then that's going to cause  
9 us some major problems in this trial. So please do not  
10 read, listen to, or watch any media account of this trial  
11 until after the trial is over.

12 If there should be media coverage and someone  
13 wanted to save it for you until after the trial is over, you  
14 are welcome to read, listen to, or watch any media account  
15 after the trial is over and the verdict is in. In the  
16 meantime, please do not do that.

17 Now, it's extremely important in this case,  
18 because oftentimes we sequester the jury and you are in a  
19 motel, so you don't get to go back home perhaps for days,  
20 and you stay in motel, and that's all. We are not doing  
21 that in this case. We are not sequestering the jury, which  
22 means when we conclude at the end of the day, you are going  
23 to be able to go home and you are going to be able to come  
24 back the next morning. Okay. So that's not too much, I  
25 don't think. If you were sequestered, we make sure that you

1 didn't get access to any news media. Okay. We can't do  
2 that. We have to trust you not to do that when you go home,  
3 so that's a tradeoff. I'm certain that you would welcome  
4 that tradeoff.

5 Now, I'm concerned about your comfort and your  
6 ability to see and hear the testimony and evidence so you  
7 can properly do your job. I try to take a break about every  
8 hour and a half. If you need a break before the time a  
9 break is taken, just raise your right hand and let me know,  
10 and then you know I will take a break as quickly after that  
11 as I can.

12 Now, if you cannot hear or see something you need  
13 to hear or see during the course of the trial, I will try to  
14 anticipate that, but if I fail to do so, please then -- you  
15 know, the jury box -- you know, you may not be able to hear  
16 it because I'm closer to it. If you can't hear or see  
17 something that you need to hear, just don't hesitate to  
18 raise your right hand and let me know and I'll make sure  
19 that you are able to hear or see so you can properly do your  
20 job.

21 If you wish to communicate with the court, other  
22 than needing a break or the inability to see or hear, please  
23 write the message down on a tablet that will be provided for  
24 you back in the jury room. Give that to the bailiff. The  
25 bailiff will bring it to me and I will probably correspond

1 in like manner, or I will bring you back out in the  
2 courtroom to respond, as the case need be.

3 I thank you for your kind attention, ladies and  
4 gentlemen. I hope this information will be of some help to  
5 you. Again, we appreciate your presence and we are actually  
6 ready now to start with the trial, and I ask you now,  
7 please, to listen attentively as to the opening statements.

8 MR. COLER: May it please the court?

9 THE COURT: Yes, sir.

10 MR. COLER: May we just approach the court for  
11 about ten seconds?

12 THE COURT: Yes, sir.

13 (Whereupon, the lawyers and the defendant  
14 approached the bench for an off-the-record discussion)

15 THE COURT: Ladies and gentlemen of the jury  
16 panel, if you give me your attention. We were planning to  
17 go right into opening statements. There is just a couple of  
18 technical things need to do and a couple of other things  
19 that have come up. We are going to take a brief recess.  
20 It's going to take about five minutes only.

21 So, please, sir, if you will take them to the jury  
22 room. You can refresh yourselves quickly during this break,  
23 if you would like. We will have you back in momentarily.  
24 Just bear with us. Thank you.

25 (The following takes place outside the presence of

1 the jury panel)

2 (Poster Board Calendar marked as State's Exhibit  
3 No. 1 for identification)

4 (Poster Board Calendar marked as State's Exhibit  
5 No. 2 for identification)

6 (Poster Board Calendar marked as State's Exhibit  
7 No. 3 for identification)

8 (Poster Board Calendar marked as State's Exhibit  
9 No. 4 for identification)

10 (Poster Board Calendar marked as State's Exhibit  
11 No. 5 for identification)

12 (Poster Board Map marked as State's Exhibit No. 6  
13 for identification)

14 (Poster Board Calendar marked as State's Exhibit  
15 No. 7 for identification)

16 THE COURT: Are we ready to proceed?

17 MR. COLER: The State is ready, Your Honor.

18 THE COURT: Counsel, approach for just one second,  
19 please.

20 (Whereupon, the lawyers and the defendant  
21 approached the bench for an off-the-record discussion)

22 THE COURT: Are we ready?

23 MR. COLER: The State is ready.

24 THE COURT: Let's check on the jury just a minute.  
25 Some of them are making phone calls.

1 (Off the record)

2 (Back on the record)

3 THE CLERK: Ready for them, Your Honor?

4 THE COURT: Yes, sir.

5 (The following takes place in the presence of the  
6 jury panel)

7 THE COURT: All right, ladies and gentlemen of the  
8 jury panel, if you would give me your attention again,  
9 please.

10 A couple of things I didn't tell you is you are  
11 not allowed to have cellphones or beepers while you are on  
12 the jury, so please do not bring beepers or cellphones with  
13 you when you come to court. If you do bring them, however,  
14 you can secure those before you come in; or, if you are  
15 going to bring them in, you need to give them to the clerk's  
16 staff or bailiffs. When you come in and let them hold them  
17 for you until we take a break for court. But I prefer  
18 you -- to be better for you not to be bring them. If you  
19 have them, maybe secure them in your automobile or something  
20 like that. If you are going to bring them in, please give  
21 them to the bailiff or the clerk. You are not allowed to  
22 have those with you while you are on the jury, please.

23 A couple of other things I didn't tell you. One  
24 is in this case I think generally you were told when we  
25 started when you were in the full jury panel. The defendant



1 in this case, Norman Starnes, has chosen to represent  
2 himself pro-se in this case.

3 I would tell you that any person charged with any  
4 criminal offense has a Constitutional Right to represent  
5 himself or herself in their case on a pro-se basis.  
6 Everyone has that right.

7 Now in a case in which the case is seeking the  
8 death penalty, a defendant is entitled to have two  
9 experienced qualified criminal defense attorneys to  
10 represent them. Even if they couldn't afford one, they  
11 would be appointed to represent them.

12 In this case, Mr. Starnes has chosen instead to  
13 represent himself, which he has a Constitutional Right to  
14 do, and the court has appointed qualified, very qualified,  
15 two of most qualified experienced criminal attorneys in the  
16 state, Mr. William Nettles and Mr. John Delgado, who will be  
17 what we call standby counsel. They will be -- you will see  
18 them sitting there with Mr. Starnes, and they can answer  
19 procedural and other questions that he might have while they  
20 are sitting there. If he has a question, he can have access  
21 to them and ask them questions about procedure rules and  
22 that sort of thing. He would have that available. He will  
23 conduct his own defense and trial, as he has a  
24 Constitutional Right.

25 I tell you that you are not to consider that in

1 any way, the fact that he's representing himself in this  
2 case. You will not consider it in his favor. You will not  
3 consider it against him. It makes absolutely no difference,  
4 and you will not give it any consideration whatsoever. The  
5 same as any other trial. The only thing that you are  
6 concerned about is listening to the testimony and evidence,  
7 the sworn testimony and evidence and the court's instruction  
8 on the law in deciding the truth of the facts in this case.  
9 That is your only concern.

10 I would tell you one other thing. You are going  
11 to hear, probably from the opening statement on, from the  
12 witnesses that the events out of which these charges arose  
13 occurred in 1996, sometime ago. And I would tell you that  
14 you should not be concerned at all about when the events  
15 occurred and the case coming to trial now. It should not be  
16 a concern, but that is of no concern. It's not relevant in  
17 the case at all.

18 Again, the only thing that you are concerned about  
19 in this case is listening to the sworn testimony and  
20 evidence, the court's instruction on the law, and making a  
21 decision in this case, which would be fair and impartial as  
22 to both the State and the defendant. That's your only  
23 concern. Don't be concerned with anything else, because  
24 it's not of any concern to you and not relevant in any way.

25 Hopefully you -- I thought you might be little

1 confused about that as we go along, so I wanted to explain  
2 those things to you.

3 Now I ask that you please listen attentively as  
4 the solicitor, assistant solicitor, presents their opening  
5 statement to you.

6 MR. COLER: Thank you Your Honor.

7 May it please the court?

8 THE COURT: Yes, sir.

9 MR. COLER: Good afternoon, ladies and gentlemen.

10 Before we get started I want to take about three  
11 seconds to introduce the attorneys that will be prosecuting  
12 this case to you on behalf of the State of South Carolina.

13 My name is Bob Coler. I'm an assistant solicitor  
14 from the Seventh Judicial Circuit. That's in Spartanburg,  
15 South Carolina. Assisting me will be assistant solicitor  
16 Derrick Bulsa and the solicitor in the Seventh Circuit, Trey  
17 Gowdy.

18 You will also see a number of our staff from the  
19 Seventh Circuit in Spartanburg here helping us present the  
20 case to you.

21 I want to thank you for your attention now, the  
22 attention that you have given up to this point, and the  
23 attention that you continue to give us as we present our  
24 case to you.

25 Back on January the 8th of 1996, two men - Bill

1 Welborn and Jared Champlin - went missing, disappeared,  
2 vanished. And these two guys were not the kind of guys that  
3 would just up and disappear, would go missing. They were  
4 responsible people.

5 Bill Welborn was 51 years old, a former military  
6 man, a Viet Nam veteran, and he ran his own business. He  
7 ran a skydiving business, and it was the love of his life.  
8 He loved skydiving more than anything in the world.

9 Jared Champlin was 26 years old. The young man  
10 had his life in front of him. He was from the Upstate  
11 originally and he came down here to work with Bill Welborn.  
12 He came down here skydiving one weekend and fell in love.  
13 He came down here every weekend he possibly could afford to  
14 come down and skydive and decided he wanted to become a  
15 skydiver and instructor. He idolized Bill like a father.  
16 Bill took him under his wing and the two of them became  
17 close friends.

18 These two men just up and disappeared.

19 The hours after January 8th of 1996, passed  
20 slowly. They slowly turned into days and there was no sign  
21 of the men. No relief for the family, who wondered where  
22 could these two men be. These guys aren't the kind of guys  
23 that just disappeared.

24 The days turned slowly, each day agonizing for the  
25 family, into weeks. No relief at all for the family, who

1 sat, wondered, anguished where these two men were.

2 The weeks turned slowly into months, and that  
3 agony, as you can imagine, just grew worse. The agony of  
4 just not knowing where are these men. The last time they  
5 were seen, they were healthy, vibrant young men, and they  
6 are gone.

7 On May 27th of 1996, about four months after the  
8 two men went missing, the agony, the despair of simply not  
9 knowing, just wondering where these two men were was  
10 replaced. It was replaced by a lifetime of sorrow. It was  
11 replaced by a lifetime of heartache. There was a tiny bit  
12 of relief, because the family now knew where the two men  
13 were, but there was a lifetime of sorrow ahead for the  
14 family and friends of Bill and Jared.

15 The Lexington County sheriff's office  
16 investigators recovered the bodies of Bill Welborn and Jared  
17 Champlin from a shallow grave on the property on a farm  
18 owned by the defendant Norman Starnes' uncle. The farm is  
19 just over the county line in Aiken County, a stone's throw  
20 from where the last time the men were seen, where Mr.  
21 Starnes lived, in the Pelion area.

22 The investigators recovered an unrecognizable mass  
23 of decomposition, of decay, of two bodies of dirt, of flesh,  
24 of clothing, of bones. But when that mass was brought to a  
25 forensic pathologist, they were able to identify Bill and

1 Jared and also start making some determinations about what  
2 happened to Bill and Jared.

3 And the investigators were finally able to able to  
4 begin piecing together what happened on January the 8th of  
5 1996. They discovered in their investigation that Bill had  
6 become acquaintances, had befriended, had met Norman Starnes  
7 about a month, month and a half before Bill and Jared went  
8 missing. Bill had done a skydiving exposition. Mr. Starnes  
9 saw that and became interested. Bill was one of the most  
10 affable guys you will hear about, that a friend of  
11 everybody. He met Mr. Starnes. He took him into his circle  
12 and they became acquaintances.

13 On the night of the murder, Bill, Jared and  
14 Jared's girlfriend Karen Pratt were at the Drop Zone. It's  
15 the place where the skydiving business was run out of at the  
16 Gaston Airport. At about 6:30 Bill and Jared and Karen, who  
17 had been working that day, they were improving an office at  
18 the Drop Zone, decided they were hungry and decided to go  
19 get some sandwiches, so they went to Mr. Starnes'  
20 restaurant. It was a little sandwich shop called the  
21 Panther Parlor in downtown Pelion.

22 The three of them went in, got something to eat,  
23 were kind of hanging around, mingling, when Jared and Bill  
24 and the defendant, Mr. Starnes, decided to go down to a  
25 little bar, pool hall, bar and grill, sandwich shop, called

1 C.J.'s, on 302, and shoot some pool, get a beer and hang  
2 out. Karen stayed at the Panther Parlor with then Mr.  
3 Starnes' girlfriend Gwen Ott.

4 The three men - Bill, Jared, and Mr. Starnes -  
5 stayed at the Panther Parlor for a couple of hours. Now,  
6 Mr. Starnes had come and go -- I mean stayed at C.J.'s for a  
7 couple of hours. Mr. Starnes had come and gone from the  
8 C.J.'s several times. He went back to the Panther Parlor a  
9 number of times that night getting money out of the cash  
10 register, back and forth.

11 When the three of the men finally left C.J.'s for  
12 the last time that night, the defendant, Mr. Starnes,  
13 brought Bill and Jared to his home on Forts Pond Road in  
14 Lexington County. If you can see this map, just for  
15 demonstrative purposes, this is C.J.'s, that little bar and  
16 grill up here on 302. Here is Mr. Starnes' residence at 375  
17 Forts Pond Road. It's just a couple of miles away.

18 Not only -- well, after Mr. Starnes brought the  
19 two men there. He left them at his house and he returned to  
20 the Panther Parlor, to the restaurant he owned, and he  
21 retrieved a 38-caliber five-shot revolver handgun.  
22 Something had apparently upset him. And when he encountered  
23 his then girlfriend Gwen Ott when he was getting the  
24 handgun, he told Gwen "I'm going to kill them."

25 He left out of the Panther Parlor and went back to

1 his home at 375 Forts Pond Road here, just off of Highway  
2 302.

3 When he got there, he did shoot and kill Bill and  
4 Jared; premeditated, cold-blooded. He shot Bill three  
5 times. Shot him once in the neck and twice in the chest.  
6 He shot Jared Champlin one time in the back, and left the  
7 two men there to die. He didn't call anybody - authorities,  
8 911, ambulance, anybody.

9 He then went to the Panther Parlor to pick his  
10 then girlfriend, Gwen, who was closing up the restaurant and  
11 was cleaned up and was shutting down, and he brought her  
12 back to the house to show her what he had just done. And he  
13 told her on the way over to -- in the car ride over, he told  
14 her, you will hear this in this trial, "I killed Bill and I  
15 killed Jared." He told her "you are not going to like what  
16 you see when we get home." And, of course, when they got  
17 there, Gwen walked in with him and she saw the two men lying  
18 dead in her living room, the victims of gunshot wounds.  
19 Three shots to Bill in the chest, and one shot in the back  
20 to Jared.

21 After he and Gwen got home, the defendant loaded  
22 the bodies of the two men into the trunk of his mother's  
23 car. He was driving her car at the time. It was a  
24 full-sized Chevy, a Chevrolet Caprice, and he took the  
25 bodies in the car down 302 to his uncle's farm and dumped



1       them on the ground on a cold January night in 1996.

2               Later that night he returned to his uncle's  
3       property. This time with a pickup truck that he borrowed  
4       from his friend Tony Tindal. Mr. Tindal's home is located  
5       right here, a stone's throw from his home on Forts Pond  
6       Road. He loaded the bodies in the pickup truck, drove them  
7       further, deeper into the woods, and that's when he buried  
8       them in a shallow grave, where they stayed until May 27th of  
9       1996; where they would have stayed forever, if Gwen Ott had  
10      not mustard the strength and the courage and the conviction  
11      to come forward and tell the police what she knew; let the  
12      investigators begin their investigation; let the family of  
13      Bill and Jared get some kind of relief.

14              For his actions on January 8th of 1996, the  
15      defendant is charged with two counts of murder - one count  
16      of murder for killing Bill Welborn and one count of murder  
17      for killing Jared Champlin.

18              And the judge is going to tell you what murder is  
19      at the end of this trial, but I wanted to point out to you  
20      just a few things.

21              Those are the elements that the State must prove  
22      to establish murder. Three elements. They must prove there  
23      was an unlawful killing, it was of another person, and it  
24      was with malice aforethought.

25              Nowhere in there will you see the word motive. We

1 may never know the real reason for motive, the thing that  
2 caused Norman Starnes to go over the edge and kill these two  
3 men, but the State will establish and prove to you each and  
4 every one of those elements of murder.

5 Dr. Joel Sexton, a forensic pathologist, will  
6 testify that each man died as a result of the gunshot wounds  
7 that they testified.

8 As far as the other element - another person - ask  
9 anybody in the gallery if Bill was a person. They will tell  
10 you that he was. Ask anybody if Jared Champlin was a person  
11 and they will tell you that he was.

12 And then, finally, the State will prove that  
13 malice aforethought that this incident occurred. And malice  
14 aforethought is a legal term. You may have heard it before,  
15 you may not have. The judge is going to talk to you and  
16 instruct you what malice means, but essentially it's looking  
17 into somebody's heart. It's a dark heart. It's a black  
18 heart devoid of social responsibility, fatally bent on  
19 mischief, without regard for social responsibility.

20 I cannot imagine a better example of malice than  
21 killing these two men, loading their bodies into a car,  
22 taking them to his uncle's farm and burying them and then  
23 lying to everybody about it. Mr. Starnes lied to the  
24 investigators who began a missing person's report, a  
25 bald-faced lie. He put that lie in writing to investigators

1 as he continued the missing person's investigation. He lied  
2 to the family and the friends of Bill and Jared. He even at  
3 one point took missing person posters and put them up in the  
4 window of his restaurant, knowing all along, adding insult  
5 to injury, that he was the one responsible for their death  
6 and where they were. That suffering was unnecessary. The  
7 family didn't need to do it, but it was at the hands of Mr.  
8 Starnes.

9 One other thing you may hear about and we may talk  
10 about in this case is self-defense. And at the end of the  
11 trial the judge is going to talk to you about it, but I want  
12 to mention it briefly now.

13 There are circumstances when the law says it's  
14 okay to kill another human being. Those circumstances are  
15 few and far between. They are rare, and the law requires  
16 that certain things are met, certain things are proven.

17 The law says you must have no fault in bringing on  
18 the difficulty. You have got to have clean hands before you  
19 can take a gun and end another human life.

20 The law also says that you have got to be in  
21 imminent fear of losing your life. Imminent means immediate  
22 fear, instantaneously fearing that you are going to lose  
23 your life in a split second.

24 And law says that that fear has got to be  
25 reasonable. An ordinary person of regular firmness and

1 courage must hold that same belief.

2 You may see as we go along that those elements  
3 simply don't apply to this case. And, remember, each one of  
4 those has to be true. If any of those fail, self-defense is  
5 not available to anybody. We will talk more about that in  
6 the case.

7 I want to thank you for your attention to my  
8 opening statement. I'm going to thank you for the attention  
9 that I know that you will give to each and every witness  
10 that's presented in this case.

11 It was ten years ago. The family has waited a  
12 long time for closure to the suffering and the agony and  
13 that this is part of that closing. I want to thank you for  
14 your attention and look forward to presenting our case.  
15 Thank you.

16 MR. STARNES: If it please the court, Your Honor?

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

18 MR. STARNES: Good afternoon, ladies and gentlemen  
19 of the jury. My name is Norman Starnes and my standby  
20 counsel is Mr. William Nettles and Mr. John Delgado.

21 On January the 8th of 1996, it is undisputed that  
22 I did take the life of Bill Welborn and Jared Champlin.  
23 That is undisputed, but not all killings are murder and not  
24 all killings are done with malice aforethought.

25 Mr. Coler mentioned to you all about malice, but

1 it also has to be a forethought, premeditation and  
2 deliberation, an evil intent to take another's life without  
3 just cause or excuse.

4 I met Bill Welborn and Jared Champlin in  
5 mid-December of 1995, about a month before this incident  
6 happened. They did a skydiving demo in Swansea during the  
7 Christmas parade. I thought it was really nice, so I met  
8 Bill Welborn and asked him to do that in Pelion, and he  
9 agreed to.

10 Bill Welborn and Jared Champlin and myself become  
11 real good friends. We spent a lot of time together in the  
12 very short period of time that we got to know one another.

13 The evidence in this case is going to show that I  
14 did take their life. I lied to everybody in the community  
15 when this was a missing person's case. I lied to the  
16 investigators. I lied to the family. I lied to everybody.  
17 I lost my control, because I did something that I have never  
18 done before, and I killed two individuals, but it wasn't  
19 premeditated. It wasn't with malice, and it wasn't with a  
20 wicked heart.

21 There was not just three people on 375 Forts Pond  
22 Road that night. There was a fourth individual that was  
23 there and was in that house. Mr. Coler was not there. None  
24 of the solicitors were there, so they can't testify as to  
25 what happened, but there is a witness that you will hear

1 from in this case that will testify that was not there on  
2 January the 8th, and that is Ms. Gwendolyn Ott. She's now  
3 Ms. Gwendolyn Bailey.

4 Ms. Bailey did see Mr. Champlin and Mr. Welborn's  
5 body in our house at 375 Forts Pond Road.

6 On May the 27th of 1996, Gwen comes to the  
7 sheriff's office and she gives a statement. She gives  
8 numerous statements. And in her statement she tells the  
9 Lexington County sheriff's office that I shot Bill Welborn  
10 and Jared Champlin.

11 As a result stemming from her original statement,  
12 the sheriff's investigators obtained arrest warrants and  
13 they arrested me.

14 But that's not enough. Ms. Bailey tells them, the  
15 sheriff's investigators, that Norman Starnes abused the  
16 bodies of Bill Welborn and Jared Champlin while they were  
17 laying dead in our house on 375 Forts Pond Road. She says I  
18 physically slapped the bodies and then I took a pistol and  
19 pistol whipped the dead bodies of Bill Welborn and Jared  
20 Champlin.

21 But that's not enough. You will hear allegations,  
22 and these are just allegations, Ms. Ott tells the  
23 investigators at the Lexington County sheriff's office that  
24 after they are deceased, that I urinated on them. That's  
25 what you will hear from from Ms. Bailey, and that's what she

1 told the Lexington County sheriff's office.

2 Ms. Bailey cannot testify as to things that  
3 happened inside that house on January the 8th. Her  
4 testimony will be emotional, but she can only testify to  
5 things that happened after this homicide took place.

6 Now, during the voir dire process we asked each  
7 and every one of y'all about killings, did you believe that  
8 all killings were murder. And in South Carolina not all  
9 killings are murder. Not all killings are done with malice  
10 aforethought and with a wicked heart fatally bent on  
11 mischief.

12 On January the 8th, 1996, while I was working at a  
13 restaurant that I owned in Pelion, a little sandwich shop  
14 called the Panther Parlor, where Bill Welborn and Jared  
15 Champlin and I got to know each other, I was jumping out of  
16 their airplanes, they were eating at my sandwich shop, we  
17 become good friends. Unexpectedly, on January the 8th they  
18 showed up at my restaurant to get something to eat.

19 Prior to January the 8th, on January the 6th,  
20 which was a Saturday, I was out at the Gaston Airport at the  
21 Drop Zone watching them skydive. Bill Welborn asked if  
22 myself and some of the employees that worked at the  
23 restaurant with me, would we join them in a place called  
24 Wings & Ale to get something to eat, drink a few beers,  
25 shoot some pool, and just do things that people do in the

1 community and have a good time. So we took Mr. Welborn up  
2 on that offer and we went to Wings & Ale.

3 While we were at Wings & Ale shooting pool, Mr.  
4 Welborn placed \$200 in my back pocket. He placed \$200 in my  
5 back pocket for a reason; something that Mr. Welborn wanted;  
6 and he asked me to get something for him, and I declined.

7 Later on that evening, after we left Wings & Ale,  
8 we went to the Sheraton Motel to a little club, a little  
9 dance club, and I returned that \$200 to Mr. Welborn, but Mr.  
10 Welborn claimed that he was \$40 short, that \$40 was missing  
11 out of his \$200, and it began to bug him. It begin to  
12 bother him real bad. It bothered him later on into the  
13 night and that next morning.

14 I didn't see Mr. Welborn on Sunday. The Drop Zone  
15 was closed due to snow. There was no skydiving. I had no  
16 contact with Mr. Welborn, or any of the skydivers, or  
17 anybody in his group on Sunday.

18 Still angry over that \$40, unexpectedly Mr.  
19 Welborn shows up at the Panther Parlor restaurant. He's  
20 angry about that money. I go into the restaurant and I give  
21 him \$40 out of the restaurant till to please Mr. Welborn,  
22 and we go to a place called C.J.'s Bar & Grill, which was in  
23 Pelion. And you are going to hear from some witnesses that  
24 were at C.J.'s Bar & Grill that night. They are going to  
25 testify as the demeanor of Mr. Welborn and Mr. Champlin and



1 their actions and demeanor on January the 8th of 1996.

2 While leaving C.J.'s and heading back to the  
3 Panther Parlor to close my restaurant with Mr. Welborn and  
4 Mr. Champlin, Mr. Welborn asked me to do him a favor. There  
5 was something that Mr. Welborn wanted, and I knew an  
6 individual that could get it for him. And that's where an  
7 individual by the name of Jody Fogle comes into play of this  
8 scenario.

9 Mr. Champlin and his girlfriend, which is Karen  
10 Pratt, had had an argument. They had been arguing on  
11 January the 8th prior to them coming to the restaurant.  
12 They were working out at the Drop Zone, arguing and drinking  
13 alcohol.

14 After we left C.J.'s, I took Mr. Welborn and Mr.  
15 Champlin to my house to go pick up Jody Fogle, to bring Jody  
16 to my house and provide what Mr. Welborn had been asking me  
17 to do since January the 6th. When Mr. Fogle and myself walk  
18 into the house, Mr. Champlin pulls a gun on Jody Fogle. He  
19 chambers a round into the gun and points it at Mr. Fogle's  
20 chest, makes some explicit comments and said he would kill  
21 him, for better words.

22 Seeing that this went on, I ran into my bedroom.  
23 I ran into my bedroom to arm myself. I picked up the gun  
24 off the headboard of my bed, but something happened that I  
25 didn't see when I was in the bedroom, that Mr. Welborn had

1 went and taken the gun from Jody -- from Jared Champlin.  
2 When I come out of the bedroom, he turned it on me. And  
3 that was the beginning to the end of this. I feared for my  
4 life and in a split second I had a decision to make, and  
5 that was either to shoot or be killed.

6 I trusted Mr. Welborn with my life. We jumped out  
7 of airplanes together, but on January the 8th, I felt that  
8 Mr. Welborn was going to take my life. And believing that  
9 Jared Champlin was still armed, after shooting Mr. Welborn,  
10 within a split of a second or two, I shot Jared Champlin.

11 I take full responsibility for what happened  
12 afterwards. I don't agree to some of the facts and some of  
13 the evidence that's going to come into play.

14 Ms. Bailey will testify and tell y'all that I  
15 urinated on the dead bodies of Bill Welborn and Jared  
16 Champlin. And ladies and gentlemen of there jury, there is  
17 no scientific evidence that can prove that.

18 The State's case that they will present to you  
19 will be mainly on facts that happened after this shooting.  
20 They are not going to present this case on what led up to  
21 all of this.

22 I believe Mr. Coler made a comment that Ms. Bailey  
23 said that I come by the restaurant and armed myself and told  
24 her that I was going to down and kill them, or "I'm going to  
25 kill them." That is the State's entire case on

1 premeditation. You can fit that premeditation in a thimble,  
2 and that's their case of malice aforethought. And that  
3 malice aforethought and premeditation will only come from  
4 the testimony of Ms. Gwen Ott.

5 Ladies and gentlemen of the jury, I had no evil  
6 intent to take the life of two individuals who I had just  
7 become to know real good, two guys who I trusted, and two  
8 guys that I thought were pretty good fellas, but some of us  
9 have a dark side to us, and Mr. Champlin and Mr. Welborn had  
10 a side to their life that I didn't know. But I seen that  
11 side of their life on January the 8th of 1996, and I had --  
12 in a heartbeat I had to make a decision.

13 At the conclusion of this evidence I believe that  
14 the trial court will instruct you regarding the law on  
15 self-defense. I believe the trial court will instruct you  
16 on the burden of proof.

17 Now, I'm not an attorney, and I don't have a law  
18 degree, and I don't have twelve years of education and nine  
19 years of law school, but I believe, I believe that I know  
20 this case better than any attorney that can present it,  
21 because no lawyer was there. None of the State prosecutors  
22 were there on January the 8th of 1996. And I truly believe  
23 that if you, as jurors, do your duty and pay close attention  
24 to all of the evidence, and not part of the evidence, you  
25 hear all of the testimony, you review all of the documents

1 that come into play in this case, I believe that you all  
2 will see a side of this case that the State doesn't.

3 I believe the Lexington County sheriff's office,  
4 and I believe the evidence will show that the Lexington  
5 County sheriff's office did a pretty good job investigating  
6 this case, but I believe that they turned their head to some  
7 of the evidence. I believe they concentrated on certain  
8 things and didn't investigate matters regarding  
9 self-defense.

10 There is a burden of proof regarding self-defense,  
11 and there is a burden of proof I believe in every criminal  
12 case. Mr. Coler mentioned to you all about the burden of  
13 proof in self-defense and that all of the elements have to  
14 exist. I am asking y'all to please, please pay very close  
15 attention at the end of this trial when the trial court  
16 instructs you on the law regarding self-defense, because the  
17 defendant doesn't have to prove self-defense. Once  
18 self-defense evidence comes into this case, the State of  
19 South Carolina, the prosecutors, have the burden to disprove  
20 it.

21 When we talked to you y'all on voir dire, I  
22 believe each and every one of you said that you would  
23 consider the evidence of self-defense, along with all of the  
24 evidence in this case, and I'm going to ask y'all to do  
25 that. I'm going to ask you to pay attention to all of the

1 evidence.

2 On January the 8th of 1996, I did not with malice  
3 aforethought kill Bill Welborn and Jared Champlin. This  
4 case is not malice, and this case, ladies and gentlemen, is  
5 not murder. It's something else. And we want you to tell  
6 us what that case is about and what it is. The State  
7 alleges it's murder, but we believe it's something else.

8 Who had malice in their heart? Wicked words?  
9 Meanness? Someone pulling a gun on the individual? I'm  
10 asking y'all to listen to all of the evidence.

11 I trusted Jared Champlin. I trusted Bill Welborn.  
12 I trusted them with my life, until January the 8th of 1996,  
13 when they tried to take my life. Thank you.

14 THE COURT: Let's take about a five minute break  
15 and then we will resume and take the first witness in the  
16 case, so we will take a short recess.

17 I'll remind those of counsel on each side, remind  
18 you that we have the sequestration rule in effect, as far as  
19 the witnesses, and which takes effect beginning now. Thank  
20 you.

21 Ladies and gentlemen of the jury panel, we are  
22 going to take just about a five minute recess. We will come  
23 back and then resume the case.

24 I ask you to retire to the jury room at this time.  
25 Of course, do not begin discussing the case. Thank you.

1           (The following takes place outside the presence of  
2 the jury panel)

3           THE COURT: Everyone else please remain seated.

4           Ladies and gentlemen who are observing the trial,  
5 I do not allow anyone to get up and move around when the  
6 jury is going out or coming in. So when they are going out  
7 or coming in, please keep your seat. You are free now to  
8 get up and move about as you please, and we will be in  
9 recess for about five minutes. Thank you.

10           (Whereupon, proceedings were recessed)

11           (Whereupon, proceedings were reconvened)

12           THE COURT: All right, counsel, we ready to  
13 proceed?

14           MR. GOWDY: The State is, Your Honor.

15           Please bring the jury in.

16           (The following takes place in the presence of the  
17 jury panel)

18           THE COURT: All right. Counsel, ready to proceed?

19           MR. GOWDY: Yes, sir, Your Honor.

20           THE COURT: Please call your first witness.

21           MR. GOWDY: May it please the court, the State  
22 would call Ms. Dawn Holrath.

23           DAWN MARIE HOLRATH, having been first duly sworn,  
24 testified as follows:

25           THE CLERK: Please state your name for the record,

1 spelling your last name.

2 THE WITNESS: My name is Dawn Marie Holrath,  
3 H-O-L-R-A-T-H.

4 DIRECT EXAMINATION BY MR. GOWDY:

5 Q. Good afternoon, ma'am.

6 I want you to speak up good and loud so the last two  
7 gentlemen in the jury box can hear you, okay?

8 A. Yes, sir.

9 Q. All right. Introduce yourself. Tell them where you  
10 currently live.

11 A. My name is Dawn Marie Holrath, formerly known as  
12 Brudose. I currently live in Fort Walton Beach, Florida.

13 Q. How long have you lived in Florida?

14 A. Since June.

15 Q. And where did you live before that?

16 A. Los Angeles, California.

17 Q. Who do you live with in Florida?

18 A. My husband Mike.

19 Q. Are you also a mother?

20 A. Excuse me?

21 Q. Are you also a mother?

22 A. Yes, sir.

23 Q. How many children do you have?

24 A. Two.

25 Q. What are their ages?

1 A. They are 20 and 22.

2 Q. All right. Where do you work in Florida? What do you  
3 do for a living?

4 A. I work for Jacobs Technology. It's a defense  
5 contractor. We work on electronic warfare for that.

6 Q. When you say defense contractor, is that -- my mind  
7 thinks more towards the military. Am I thinking the right  
8 way?

9 A. Yes, sir.

10 Q. Is it fair to say that you work with the government,  
11 but not for the government?

12 A. Yes, sir.

13 Q. All right. Do you work on a military base?

14 A. Yes, I do.

15 Q. Can you give the jury the benefit of your educational  
16 background?

17 A. I have a degree in electrical engineering.

18 Q. From?

19 A. The University of South Carolina.

20 Q. Do you have previous service in our country's Armed  
21 Forces?

22 A. Yes, sir.

23 Q. How long?

24 A. I served in the United States Air Force for 15 years.

25 Q. When did you leave your service with the Air Force?



1 A. April of 2007.

2 Q. This year?

3 A. Yes, sir.

4 Q. All right. You got a degree in electrical engineering  
5 from the University of South Carolina?

6 A. Yes, sir.

7 Q. When did you get that?

8 A. I graduated in 1997.

9 Q. All right. So I know that you were living in South  
10 Carolina in 1997. When did you move to South Carolina?

11 A. I moved to South Carolina in 1992.

12 Q. And when did you leave South Carolina?

13 A. 1997.

14 Q. From 1992 to 1997, can you tell the jury what counties  
15 that you were living in while you were in South Carolina?

16 A. I lived in Sumter County and Lexington County.

17 Q. When did you move to Lexington?

18 A. December, 1995.

19 Q. December of 1995.

20 Ms. Holrath, let me ask you if you knew two men by the  
21 name of Bill Welborn and Jared Champlin?

22 A. Yes, sir.

23 Q. Let's take Bill Welborn first.

24 When did you meet Bill Welborn?

25 A. The spring of 1993.

1 Q. All right. And how did you meet them him?

2 A. He was co-owner of a drop zone in Orangeburg, South  
3 Carolina, and I went to start jumping with them.

4 Q. I don't have any idea what a drop zone is. Tell me  
5 what a drop zone is?

6 A. A drop zone is an airport that's designated. We get  
7 authorization to skydive at that airport, so that the pilots  
8 of the other aircraft around know that people will be in the  
9 air.

10 Q. Are you a pilot?

11 A. Yes, sir.

12 Q. Was Bill Welborn a pilot?

13 A. Yes, sir.

14 Q. So the Drop Zone is where folks go to jump out of  
15 airplanes?

16 A. Yes, sir.

17 Q. For fun?

18 A. Yes.

19 Q. All right. You met him in Orangeburg. What year did  
20 you meet him?

21 A. It was 1992 or '93, I'm not sure.

22 Q. All right. Let me ask you a personal question, and I  
23 apologize in advance for asking this, but what was the  
24 nature of your relationship with Bill Welborn?

25 A. We were very good friends. He was a retired chief and

1 I was working on toward commission program in the Air Force,  
2 and that mutual respect gave us a bond there. We were real  
3 great friends for a long time and eventually became a  
4 romantic relationship.

5 Q. When you say he was a chief, tell me what that meant.

6 A. The chief master sergeant of the Air Force is the  
7 highest enlisted rank that you can hold in the United States  
8 Air Force.

9 Q. Do you know how long he served in the Air Force?

10 A. I know that he retired and had served at least 20  
11 years, but he may have gone over 20 years.

12 Q. You have to serve 20 years to be able to retire?

13 A. Yes, sir.

14 Q. Okay. Let me move to Jared Champlin. How well did you  
15 know Jared?

16 A. I had met Jared in December. I probably met him before  
17 then. I remember Jared in December '95, when he came to  
18 work for the Drop Zone, to help us with some classrooms and  
19 offices.

20 Q. All right. I want to make sure the jury is oriented  
21 properly.

22 Bill Welborn had a Drop Zone business in Orangeburg  
23 County, in South Carolina, at some point?

24 A. Yes, sir.

25 Q. And he wanted to move that business to Lexington

1 County, is that correct?

2 A. Yes, sir.

3 Q. You knew him in Orangeburg?

4 A. Yes.

5 Q. And over the course of time your relationship  
6 progressed from friendship to something romantic?

7 A. Yes, sir.

8 Q. All right. Give the jury a sense -- I'm moving to  
9 Lexington now, the Drop Zone at Lexington.

10 Give the jury a sense of what Bill Welborn's  
11 responsibilities were at the Lexington County Drop Zone.

12 A. At the Lexington County Drop Zone he was the safety and  
13 training advisor. He was co-owner.

14 Q. Let me stop you there.

15 A. Yes, sir.

16 Q. What is the safety and training advisor?

17 A. A safety and training advisor is an appointed position  
18 by the United States Parachute Association. And each drop  
19 zone has to have someone who is responsible for the safety  
20 of the operation and -- just to make sure that everyone is  
21 safe and that all procedures that they follow are followed  
22 to the guidelines given by the United States Parachute  
23 Association.

24 Q. And that was Bill's job?

25 A. Yes.

1 Q. Did he also have an ownership interest in the Drop  
2 Zone?

3 A. Yes, sir.

4 Q. Was he a pilot?

5 A. He was.

6 Q. Did he also jump?

7 A. Yes, sir, he was an instructor.

8 Q. The jury probably knows this, and I probably don't, but  
9 can you tell them what a tandem jump is?

10 A. Yes, sir, a tandem skydive is when an instructor takes  
11 a student that gets strapped to the front of them and they  
12 jump out of the plane together and the student hangs below  
13 the instructor and the instructor pulls the ripcord and --  
14 it's kind of like a carnival ride. It's not where you have  
15 to learn to skydive, but you get to try it and see if you  
16 like it.

17 Q. All right. Let's go to December, 1995.

18 A. Yes, sir.

19 Q. Where were you living?

20 A. Gaston, South Carolina.

21 Q. All right. And who was living at your home?

22 A. Karen Pratt, Jared Champlin, Bill Welborn, myself and  
23 my two children.

24 Q. All right. So you and Bill, Jared and Karen, and your  
25 two sons were living in your home in Lexington?

1 A. Yes, sir.

2 Q. Okay. Why were Karen and Jared there?

3 A. Karen and Jared were moving from the Upstate down to  
4 Gaston to help with the Drop Zone. They were going to work  
5 there.

6 Q. And why was Bill -- aside from the obvious, why was  
7 Bill at your home? Where was his primary residence?

8 A. Bill also had an apartment in Charleston, South  
9 Carolina, but he was preparing to move to Gaston as well,  
10 and he had purchased a trailer to put out at the airport so  
11 that he could stay there.

12 Q. All right. So December of 1995, in Lexington,  
13 everybody was living in Dawn Brudose's home, now Horath's  
14 house?

15 A. Yes, sir.

16 Q. Let me switch gears, Dawn, and ask you when you met the  
17 defendant Norman Starnes?

18 A. I met him in December. He first called the Drop Zone  
19 December 13th, 1995.

20 Q. He called the Drop Zone?

21 A. Yes, sir.

22 Q. You had no prior knowledge of who Norman Starnes was  
23 before he called the Drop Zone?

24 A. No, sir.

25 Q. All right. And what did he want?

1 A. He had seen a skydiving demonstration if Swansea, South  
2 Carolina. Each year we did numerous parades and Santa would  
3 skydive at the end of the parade.

4 Q. Who would?

5 A. Santa Clause.

6 Q. All right.

7 A. And Norman saw the demonstration jump and wanted -- he  
8 was heading up the parade in Pelion and wanted us to do the  
9 demonstration at his Pelion parade.

10 Q. The Swansea Christmas parade is in December. Y'all  
11 give Santa Clause a lift, he jumps out of your airplane,  
12 Norman Starnes sees it, is that correct?

13 A. Yes, sir.

14 Q. Who is Santa Clause?

15 A. Burke Fitzpatrick. He works for the Department of  
16 Safety -- Department of Public Safety.

17 Q. Do you know who was piloting that airplane?

18 A. I believe it was Scott Berry. He was another one of  
19 our pilots.

20 Q. Was Bill also involved? Was he involved in holiday?

21 A. Yes, Bill also jumped in the demonstration.

22 Q. Okay. All right.

23 Mr. Starnes called the Drop Zone. Let's just call it a  
24 cold call, because there was no prior relationship, correct?

25 A. Correct.

1 Q. And he wants to know if y'all can drop jump in Pelion?

2 A. Yes, sir.

3 Q. And when was the Pelion parade?

4 A. That Saturday, the 16th, I believe.

5 Q. And he called you on what day?

6 A. The 13th.

7 Q. All right. What all is involved in getting permission  
8 to jump in a parade in South Carolina?

9 A. Normally we file paperwork with the FAA. It's required  
10 to be filed at least 45 days prior to the event. They do  
11 make exceptions, but we -- we had to use one earlier than  
12 that year to try and get someone else, and I was very  
13 reluctant to try and ask for another, but we did. We worked  
14 real hard in two days to get permission to jump in the  
15 Pelion parade.

16 Q. So you and Bill, at Mr. Starnes request, were able to  
17 get permission to jump in the Pelion Christmas parade?

18 A. Yes, sir.

19 Q. All right. That takes us to December the 16th?

20 A. Yes, sir.

21 Q. All right. After December the 16th, did you, Bill,  
22 Jared, Karen ever do anything with Mr. Starnes socially?

23 A. Yes, we did.

24 Q. On how many occasions?

25 A. Many occasions.



1 Q. Did you on one occasion let him spend the night at your  
2 home?

3 A. Yes, I did.

4 Q. Did he leave anything at your home when he spent the  
5 night?

6 A. Yes, sir, he left a gun.

7 Q. A what?

8 A. A gun.

9 Q. What did you do with the gun that you found?

10 A. I gave it to Bill and asked him to get it out of the  
11 house, because my boys were there. Later we saw Norman that  
12 night and we gave it back to him.

13 Q. Okay. Did you ever socialize with him in terms of  
14 going to a restaurant, or anything like that?

15 A. Yes, sir.

16 Q. Do you know who Norman was involved with romantically  
17 in December of 1995?

18 A. Gwen Ott-Bailey.

19 Q. Okay. And did Gwen Ott-Bailey, Norman Starnes, you,  
20 Bill Welborn, Jared Champlin, Karen Pratt ever do anything  
21 socially?

22 A. Yes, sir.

23 Q. Okay. I'll move to January the 6th, which I believe  
24 would have been a Saturday?

25 A. Yes, sir.

1 Q. All right. Tell the jury the best you can recall about  
2 Saturday, January the 6th.

3 A. Saturday, January the 6th, we had been skydiving all  
4 day, which was normal on Saturday. And the next day the  
5 weather was not expected to be -- I'm sorry?

6 Q. When you say we, I want you to let the jury know who we  
7 is.

8 A. Bill Welborn, Jared Champlin. We had students that  
9 day, tandem students, which Bill took on tandem. We had  
10 first jump students, and we -- Norman Starnes had come out  
11 to watch, and -- just other people that normally came in. A  
12 lot of skydivers from Shaw Air Force base in the Columbia  
13 area that would come and jump on weekends.

14 Q. Did Bill ever take Norman up in an airplane?

15 A. Yes, sir.

16 Q. Did he do a jump with him?

17 A. Yes, he did a tandem set with Norman Starnes and Bill  
18 Welborn.

19 Q. All right. On January the 6th, the Drop Zone is open,  
20 folks are jumping out of airplanes. Who is flying this  
21 airplane?

22 A. I was.

23 Q. You are the pilot. Who is jumping out with the suits?

24 A. Bill Welborn.

25 Q. Okay. The evening of January the 6th, where did you

1 go?

2 A. We went to a restaurant, pool hall, called Wings & Ale.

3 Q. Okay. Tell the jury who was there.

4 A. Norman Starnes; Gwen Ott-Bailey; Evelyn, who was a  
5 waitress at the Panther Parlor; a couple other gentlemen I  
6 didn't know that came with or met Norman and Gwen there;  
7 Bill Welborn; myself; and then there were people that there  
8 that we knew as well but they didn't come with us.

9 Q. Where were Karen and Jared?

10 A. They were watching my two boys.

11 Q. Did Bill seem normal?

12 A. Yes, sir.

13 Q. Nothing out of the ordinary?

14 A. No.

15 Q. Was everybody seeming to enjoy themselves?

16 A. Yes.

17 Q. All right. At some point did you and Bill go your  
18 separate ways from Norman and Gwen?

19 A. Yes, sir.

20 Q. Did Bill notice something about his money?

21 A. Yes, sir. He was counting it and I believe there was  
22 \$40 missing.

23 Q. All right. And what did he do when he thought he was  
24 missing \$40?

25 A. He asked me to count it, and I confirmed there was \$40

1 missing, and he tried to call Norman Starnes.

2 Q. How much money did he think that he had?

3 A. He thought he had \$200.

4 Q. Now, at Wings & Ale was there -- is there a pool table  
5 there?

6 A. Yes, sir.

7 Q. Is there pool being shot?

8 A. Yes.

9 Q. Do you know if Norman and Bill shot pool?

10 A. Yes, they did.

11 Q. Do you know if they ever wagered on those pool matches?

12 A. I -- I know that Bill used to goof around about trying  
13 to get people to play him. He was a good pool player,  
14 but --

15 Q. I think they call a pool shark, if I'm not mistaken.

16 He was a good pool player?

17 A. Yes, sir.

18 Q. Okay. Bill counts his money when you go separate ways  
19 and he thinks he's missing \$40 and he asked you to confirm  
20 it?

21 A. Yes, sir.

22 Q. What was his demeanor, his mood, when he thought that  
23 he was missing \$40?

24 A. At first he felt like Norman had taken the money. And  
25 I explained to him that I had seen Norman and Gwen settling

1 up their bill. It was around \$80, and Gwen had 40 and she  
2 was asking Norman Starnes for \$40. So I told Bill that I  
3 thought maybe Norman had taken the money from the wrong  
4 pocket, or, you know, maybe had accidentally given that  
5 money to Gwen and didn't realize it when he gave Bill the  
6 rest of the money back.

7 Q. Trying to allow for an innocent mistake?

8 A. Correct.

9 Q. Okay. And when y'all got back home what did Bill do?

10 A. He called Norman Starnes house. Gwen Bailey answered  
11 the phone and said that Norman Starnes was sleeping, so Bill  
12 asked Gwen about the money. He asked her different amount  
13 of money and I don't remember if it was 65 or \$85, something  
14 like that, and I thought "why did you say that? It was, you  
15 know, \$40." And he said, "oh, I just wanted to see if he  
16 knows how much it was."

17 Q. Did Bill have a sense of humor?

18 A. He did.

19 Q. Did he like to joke?

20 A. Yes, sir.

21 Q. Is it hard to tell when he was serious and when he was  
22 joking?

23 A. It was, yes, sir.

24 Q. All right. This is Saturday night. Did you ever get  
25 the defendant on the phone?

- 1 A. No, sir.
- 2 Q. Had you ever had any trouble getting him on the phone
- 3 in the past? Was he a frequent caller?
- 4 A. Yes, he was.
- 5 Q. Y'all left a message.
- 6 Did you ever hear from him on that Sunday?
- 7 A. No, sir.
- 8 Q. He didn't call on Sunday?
- 9 A. Not that I recall, no, sir.
- 10 Q. All right. January the 8th -- the 6th is Saturday.
- 11 The 7th is a Sunday.
- 12 Is the Drop Zone open on Sunday?
- 13 A. No, sir, it was snowing that day.
- 14 Q. Who did you spend Sunday with?
- 15 A. Karen Pratt, Jared Champlin, Bill Welborn and myself
- 16 and my two boys.
- 17 Q. All right. Snowing on Sunday?
- 18 A. Yes, sir.
- 19 Q. January the 7th.
- 20 Let's move to Monday, January the 8th.
- 21 A. Yes, sir.
- 22 Q. Spring break -- Christmas break is over?
- 23 A. Right.
- 24 Q. The boys are going back to school?
- 25 A. Yes.

1 Q. Tell the jury about your morning.

2 A. I got my boys off to school and I also had school that  
3 morning, so I went to school. I came back -- Karen and  
4 Jared and Bill stayed at the house. And I came back around  
5 lunchtime, and Karen and Jared went down to the Drop Zone  
6 and Bill and I went down a little bit later.

7 Q. You are at school in the morning. When you come back  
8 home from school where is Bill?

9 A. At my house.

10 Q. What is he doing?

11 A. He and Karen and Jared were just sitting in the kitchen  
12 talking.

13 Q. All right. At some point do you and Bill go to the  
14 Drop Zone?

15 A. Yes, sir.

16 Q. What time?

17 A. Around three o'clock.

18 Q. Okay. What did y'all go there for?

19 A. I was just taking Bill down to drop him off, because he  
20 had ridden up with Karen and Jared the day before, or me, I  
21 don't remember, and so I dropped him off back down there to  
22 work on the -- on the offices and the classroom.

23 Q. When you say work on the offices and the classroom,  
24 this is a down day, it snowed the day before. What were  
25 y'all trying to do at the Drop Zone?

1 A. We were trying to get ready for the spring. Bill  
2 anticipated a big spring and he was trying to see -- he had  
3 bought a mobile home that we had got it in and we were  
4 building classrooms and an office, just to make it a more  
5 decent place to have people come and learn to jump.

6 Q. Were Karen and Jared contemplating a move out of your  
7 house to some place of their own?

8 A. They were. I had told them all that they were welcome  
9 to stay through Christmas vacation, but that once school  
10 started, you know, my boys needed stability and all the --  
11 you know, had to do their homework and eat at home and  
12 stuff. So we did a lot through December, but once school  
13 was back in session, it was time to buckle down and get  
14 going.

15 Q. All right. From three to four did you stay at the Drop  
16 Zone?

17 A. Yes, sir.

18 Q. Dawn, did you notice anything whatsoever different  
19 about Bill Welborn or Jared Champlin the hour that you were  
20 around them, from three to four, on Monday, January the 8th?

21 A. No, sir.

22 Q. Nothing?

23 A. Nothing.

24 Q. You leave at four o'clock. How do you leave it with  
25 Bill? What are the future plans?



1 A. I was going home to make dinner for the boys. They  
2 were welcome to come there or not, and they -- and they had  
3 also had a lot of laundry and stuff at the house, so they  
4 were coming by later to -- possibly to eat, but probably to  
5 just pick up their laundry and things.

6 Q. All right. They all still had belongings at your home?

7 A. Yes, sir.

8 Q. And they were planning on coming by to pick up their  
9 laundry?

10 A. Yes.

11 Q. Is that fair to say?

12 A. Right.

13 Q. Okay. When is the next time that you heard from Bill  
14 Welborn?

15 A. It was -- my clock said ten p.m., but it was probably  
16 9:55, because I had my clock set five minutes fast. He  
17 called me on the phone.

18 Q. And how did he seem?

19 A. He was fine.

20 Q. What did he say?

21 A. He said that they hadn't been able to get by to get  
22 their laundry yet. He didn't know when it would be, would  
23 it be okay if they came by late, and I said that was fine,  
24 and he went on. He started to whisper and I thought he was  
25 joking around, so I was laughing -- I started laughing. And

1 he asked Jared if he could hear him, so I thought there  
2 where he said -- telling they were just goofing around. And  
3 he said he would call me back in ten minutes and we hung up  
4 the phone. And that's why I looked at the clock, because  
5 usually when he calls me back, I know it won't be ten  
6 minutes.

7 Q. You said he was whispering?

8 A. Yes, sir.

9 Q. Was he whispering in a playful way? How did you take  
10 it?

11 A. It was very quiet, and I -- he just said that they were  
12 listening to him, and I thought he meant -- and he said  
13 that -- he asked -- he said "Jared, can you hear me?" And I  
14 started laughing. I don't know, I was just laughing because  
15 I thought he was being funny. It was you -- he didn't  
16 sound --

17 Q. Is that out of the norm for Bill Welborn, the Bill  
18 Welborn that you knew?

19 A. No, I just thought he was goofing around. He used to  
20 like to pretend that he was sneaking out or something, so I  
21 just thought he was there with Karen and Jared saying -- you  
22 know, pretending he was going to sneak over.

23 Q. 9:55. Ten o'clock on your clock, but you said your  
24 clock was five minutes fast. 9:55?

25 A. Yes.

1 Q. He says he is going to call back in a little while?

2 A. In ten minutes.

3 Q. Did you ever hear from him again?

4 A. No, sir.

5 Q. When did you start getting worried?

6 A. When Karen Pratt came to my house around midnight.

7 Q. All right. At some point did you call law enforcement?

8 A. We did. I'm not sure exactly when. They told us we  
9 had to wait 24 hours before we could file a missing person's  
10 report. So that next day we waited. It was late at night,  
11 so we thought, well, this is 24 hours, but I had school in  
12 the morning, so we thought well, I'll go to school. If we  
13 don't hear from them by the time I get back from school,  
14 then we would go file a report.

15 Q. Now, you had testified earlier, you told the jury that  
16 Bill -- actually you didn't because I didn't ask you.

17 I want to go back to Wings & Ale.

18 A. Yes, sir.

19 Q. January the 6th. We talked about shooting pool?

20 A. Yes.

21 Q. Did Bill make any appointments that night?

22 A. Yes, sir, he did.

23 Q. For what?

24 A. He made two appointments for tandem skydives on  
25 Tuesday, January 9th.

1 Q. He made appointments with customers for Tuesday, the  
2 9th?

3 A. Yes, sir. There was a -- Wings & Ale used to have what  
4 they call a wing fling, and the whole restaurant -- the  
5 owner would bring everybody down, and anyone who wanted to  
6 skydive, he would pay for them to go skydive. And one of  
7 the waitresses would come every year, but she just couldn't  
8 do it, but she wanted to, so finally she said "I'm ready. I  
9 just have to save my money." So Bill had told her "don't  
10 worry about the money. Come on down. You can make  
11 payments." He did that often. He just did it for fun.

12 Q. Do you remember what time the appointments were made  
13 for on Tuesday, January the 9th?

14 A. Yes, sir, I was supposed to fly there at one and three.

15 Q. You were going to fly and he was going to jump?

16 A. Yes, sir.

17 Q. One and three on the 9th.

18 All right. January 8th passes. You don't hear from  
19 Bill Welborn?

20 A. No, sir.

21 Q. You called law enforcement and you file a missing  
22 person's report -- or you call law enforcement and you are  
23 told to wait 24 hours and then you initiate it.

24 Did you call Norman Starnes?

25 A. I did.

1 Q. Did you ask Mr. Starnes whether or not he had seen or  
2 heard from Bill Welborn or Jared Champlin?

3 A. On Tuesday I called numerous times and no one answered  
4 either phone, the sandwich shop or at his home. And when I  
5 finally did get through, Gwen Ott-Bailey had answered the  
6 phone and she said Norman Starnes was unavailable.

7 I don't know when I actually got to speak to him, but  
8 it wasn't on Tuesday. It may have been late in the day on  
9 Tuesday, but it was quite awhile after.

10 Q. Had he ever been unavailable before when you were  
11 calling him?

12 A. No, sir.

13 Q. Did you finally get the chance to talk to Mr. Starnes?

14 A. Yes.

15 Q. Did you ask him whether or not that he knew anything  
16 about Bill and Jared's whereabouts?

17 A. Yes, sir.

18 Q. What did he tell you?

19 A. He told me that he had no idea, that if he knew, he  
20 would tell me, but he had no idea. That he had left them  
21 at C.J.'s at the pay phone and that was the last thing he  
22 saw of them.

23 Q. The last he saw of them was where?

24 A. At C.J.'s Bar & Grill at the pay phone.

25 Q. At a pay phone.

1           And the days and weeks after Bill and Jared went  
2 missing, did any of Bill's family members come to Lexington  
3 County?

4       A.    Yes, sir.

5       Q.    To look for him?

6       A.    Yes, sir.

7       Q.    Do you know whether or not the defendant took Bill  
8 Welborn's family members around Lexington County to look for  
9 him?

10      A.    Yes, sir, he did.

11           MR. GOWDY: Your Honor, just a moment of the  
12 court's time to set up an easel so I can display something?

13           THE COURT: Yes, sir.

14           MR. GOWDY: State's Exhibit 7, Your Honor, which  
15 is a calendar from the December of 1995?

16           MR. STARNES: No objection, Your Honor.

17           THE COURT: Are you offering it?

18           MR. GOWDY: I'm offering it into evidence, but it  
19 is going to be amended. I'm going to add notes to it as we  
20 go and --

21           THE COURT: Okay.

22           BY MR. GOWDY:

23       Q.    All right. December of 1995. You told me that you  
24 first came into contact with Norman Starnes on what day?

25       A.    December 13th.

1 Q. All right.

2 MR. STARNES: Your Honor, if I may, may I see what  
3 he is placing on this calendar?

4 THE COURT: Sure. Let Mr. Starnes see what you  
5 are putting on before you put it on the board, please, sir.

6 MR. GOWDY: Sure.

7 MR. STARNES: No objection, Your Honor.

8 THE COURT: You may proceed then, counsel.

9 MR. STARNES: Thank you.

10 MR. GOWDY: Thank you, Your Honor.

11 Permission to publish?

12 THE COURT: Yes, sir.

13 BY MR. GOWDY:

14 Q. December 13th?

15 A. Norman Starnes call the Drop Zone asking if we could do  
16 a skydiving demonstration.

17 Q. All right. And the Pelion Christmas parade was on what  
18 day?

19 A. That Saturday, December 16th, I believe.

20 Q. All right. Let's move to --

21 MR. GOWDY: January of 1996, Your Honor, State's  
22 Exhibit 1.

23 MR. STARNES: Your Honor, I don't have an  
24 objection. Just the days are -- the dates are, but there is  
25 no, like Friday, Saturday, Sunday, and so forth. If the

1 solicitor wouldn't mind writing those days in.

2 MR. GOWDY: I will be delighted to do that.

3 MR. STARNES: Like the other one.

4 BY MR. GOWDY:

5 Q. Now, you said the 8th was a Monday, right?

6 A. Yes, sir.

7 MR. GOWDY: I think I spelled all those right.

8 Your Honor, State's 1 we would move in and  
9 permission to publish.

10 THE COURT: Any objection, Mr. Starnes?

11 MR. STARNES: No objection, Your Honor.

12 THE COURT: Admitted without objection. You may  
13 publish, counsel.

14 MR. GOWDY: Thank you, Your Honor.

15 BY MR. GOWDY:

16 Q. Ms. Holrath, let me go over this.

17 January 6th, Wings & Ale, you testified Bill made  
18 appointments at what time?

19 A. One and three on the 9th. Tuesday, the 9th.

20 Q. Do you know the first day that you called Mr. Starnes  
21 looking for Bill and Jared?

22 A. I don't know if we called him after the 9th when Karen  
23 came back to my house, but we definitely called on Tuesday,  
24 January the 9th.

25 MR. STARNES: Your Honor, I have no objection to



1 these, as long as the defendant can do the same.

2 THE COURT: Yes, sir, you can mark them when you  
3 are ready.

4 MR. STARNES: Yes, sir. Thank you, Your Honor.

5 MR. GOWDY: Do you have an objection to that?

6 BY MR. GOWDY:

7 Q. Tell me again what day that you first recall absolutely  
8 calling the defendant looking for Bill and Jared.

9 A. Tuesday, January 9th.

10 MR. STARNES: Your Honor, may I, --

11 BY MR. GOWDY:

12 Q. Your testimony was you received a telephone call on  
13 January the 8th, at 9:55?

14 A. 9:55 p.m..

15 Q. Okay. Dawn, after 9:55 on January the 8th, 1996, did  
16 you ever hear from Bill Welborn again?

17 A. No, sir.

18 Q. Did Norman Starnes ever indicate to you in January,  
19 February, March, or April of 1996, what had happened to Bill  
20 or Jared?

21 A. No, sir, he told me he didn't know.

22 Q. Thank you, Ms. Holrath. Please answer any questions  
23 that the defendant may have for you.

24 A. Yes, sir.

25 MR. STARNES: If it please the court, Your Honor?

1 THE COURT: Yes, sir.

2 MR. STARNES: If I may move this podium over here?

3 THE COURT: Yes, sir.

4 MR. STARNES: Your Honor, if I may, may I take  
5 this off the easel, please?

6 THE COURT: Would you take that down, solicitor,  
7 please?

8 MR. GOWDY: Yes.

9 MR. STARNES: Leave the easel.

10 THE COURT: Please leave the easel.

11 MR. GOWDY: No objection.

12 (Poster Board Calendar marked as Defendant's  
13 Exhibit No. 1 for identification)

14 THE COURT: Are you offering that into evidence?

15 MR. STARNES: Demonstrative purposes at this time  
16 just for I.D..

17 THE COURT: All right. I.D. only.

18 CROSS EXAMINATION BY MR. STARNES:

19 Q. Dawn, how are you doing?

20 A. I'm fine.

21 Q. How do you pronounce your last name?

22 A. Holrath.

23 Q. Holrath?

24 A. Yes, sir.

25 Q. Would it be okay if I called you Dawn, or would you

1       rather me address you as Holrath?

2       A.     It's up to you.

3       Q.     Okay. Dawn, on December the 13th, 1995, that is when  
4       y'all did the demo jump in Swansea?

5       A.     December 9th, yes.

6       Q.     December -- what was the date? I'm sorry, I didn't  
7       hear you.

8       A.     December 9th.

9             I'm not sure. No, that was the day after the Christmas  
10       party. Maybe before that.

11       Q.     Around -- how about December 13th? Was that --  
12       December 13th of 1995, was that what you previously  
13       testified to?

14       A.     The day that we did the demo in Swansea?

15             The day that you called me was December 13th, 1995.

16       Q.     Okay. That's the day that I called you in reference to  
17       doing the demo in Pelion?

18       A.     Yes, sir.

19       Q.     Okay. And y'all did this demo on the 16th --

20       A.     Yes.

21       Q.     -- of December?

22       A.     Yes, December 16th.

23       Q.     Of 1995?

24       A.     Yes.

25       Q.     That was in Pelion?

1 A. Yes, it was.

2 Q. Okay. And at that time did you all pretty much do the  
3 same demo jump in Pelion that you did in Swansea?

4 A. Yes, sir. It was in a different location.

5 Q. Right.

6 Santa Clause was there?

7 A. Yeah.

8 Q. Okay. December 17th, 1995, Dawn, do you remember what  
9 you were doing on that date?

10 A. What date?

11 Q. December the 17th. I believe that was on a Sunday.

12 A. Yes, sir.

13 Q. Could you tell the jury what you were doing on that  
14 date?

15 A. Yes. You brought enough chicken and drinks and  
16 barbecue for everyone at the Drop Zone. There were only 15  
17 people there, but you must have brought enough food for  
18 about 50 people.

19 Q. So everybody was at the Drop Zone on the 17th of  
20 December, on a Sunday, eating chicken and having a good  
21 time.

22 A. Yes.

23 Q. Okay. On December the 19th of 1995, Dawn, which would  
24 have been a Tuesday?

25 A. That was Bill's birthday, yes.

1 Q. That was Bill's birthday?

2 A. Yes, it was.

3 Q. Do you recall Bill Welborn, Jared Champlin, and I doing  
4 anything on that date?

5 A. Yes, I do.

6 Q. Would you tell the jury what we were doing?

7 A. You went and looked at various airports, Larry Salley  
8 airport and other airports. You had talked about the  
9 airstrip at your home and being able to bury the power lines  
10 and extend the runway in order for Bill Welborn to move the  
11 Drop Zone out to your home. So you were looking at various  
12 airports in the area that you knew of that, you were showing  
13 him.

14 Q. Previous to the 19th, was Mr. Welborn looking to  
15 relocate that business?

16 A. Not actively, but he would have. There was a lot of  
17 farm equipment and things like that in the area that weren't  
18 conducive to skydiving.

19 Q. In other words, not safe? Is that what you are telling  
20 us?

21 A. No, it wasn't in the landing area. It just looked  
22 horrible. And when people came, it just didn't look very  
23 aesthetic, but it wasn't his property, so we couldn't move  
24 that equipment.

25 Q. And that was out at the airport in Gaston?

1 A. Yes, Lexington County Airport.

2 Q. Could you explain to the jury where that location of  
3 the airport is in Lexington County, as far as where it  
4 physically is?

5 A. At the time the airport was designated 7 Juliette 1.  
6 It is the old Lexington County Airport on Highway 321 South,  
7 in Gaston, just north of Swansea.

8 Q. Yes, ma'am.

9 And that was on December the 19th of 1995, that Bill  
10 Welborn, Jared Champlin, and the defendant Norman Starnes  
11 was riding around looking for different airports? Looking  
12 at different airports?

13 A. Yes.

14 Q. The next day, on December the 20th, Dawn, which would  
15 have been a Wednesday, do you recall what you and Bill  
16 Welborn were doing on that day?

17 A. I don't recall specifically. I know it was Iris King's  
18 birthday, but I -- I don't remember exactly what we did on  
19 December 20th.

20 Q. Okay.

21 A. Sorry.

22 Q. Now, who is Iris King? Could you tell the jury who  
23 that is?

24 A. It's not Iris King. It's Iris -- I don't know what her  
25 last name is. It is Iris King. She was Tommy Moore's

1 girlfriend at the time.

2 Q. On December the 29th, 1995, Dawn, which would have been  
3 a Friday, that was the night that I spent the night at your  
4 house?

5 A. Yes.

6 Q. On the next day, Saturday, which would have been  
7 December the 30th, can you tell the jury what we were doing  
8 on that day?

9 A. It was Tommy Moore's birthday. We -- they were having  
10 a pig roast at the community center in Swansea, and Tommy  
11 Moore had opened the party up to -- and Iris. They had  
12 opened the party up to any of the skydivers that wanted to  
13 come, and Bill Welborn had extended that invitation to you  
14 and Gwen Bailey-Ott, and we went to Tommy Moore's party at  
15 the community center.

16 Q. Okay. The following day, on the 31st, can you tell the  
17 jury what we were doing on that day?

18 A. December 31st, Bill Welborn was going to go to -- with  
19 Iris and Tommy Moore, but you called -- on numerous  
20 occasions you called me asking for Bill, and I kept telling  
21 you he was not there, but you continued to call. So I  
22 called Bill and asked him to call you, and you invited us up  
23 to your sandwich shop for a New Year's Eve party. And you  
24 explained that you -- that -- I told you I couldn't come  
25 because of the boys, and you assured me that Gwen

1 Bailey-Ott's son would be there and that you would have  
2 fireworks and video games. And when we got there, Gwen  
3 Ott's son was not there, and you had no video games and you  
4 had no fireworks. But other than that it was a great party.

5 Q. We didn't have it at the restaurant? It was actually  
6 in the building next door?

7 A. As far as I know, they were joined.

8 Q. There was two businesses there, is that correct?

9 A. If you say so. I -- I know we were right next to the  
10 sandwich shop, and you could go through and get into the  
11 sandwich shop.

12 Q. Okay. But what I'm saying is we weren't actually in  
13 the restaurant where the party was at?

14 A. No, I assumed it was an extra room, but I didn't  
15 know -- I didn't know it was any different.

16 Q. Okay.

17 A. Sorry.

18 Q. And that was on the 31st.

19 Then on January the 6th, could you explain to the jury  
20 what we were doing on that day?

21 A. January the 6th, we went to -- you had come out to the  
22 Drop Zone and watched some jumps, and Bill invited you to  
23 Wings & Ale with everyone. And you and Gwen and Evelyn and  
24 a couple of friends of yours came to Wings & Ale with Bill  
25 and I, and there were other people there, some others that



1 used to go there.

2 Q. Did there come a time in December, mid December, around  
3 December the 20th of 1995, that you and Bill Welborn come by  
4 the restaurant, the Panther Parlor, to borrow a 4 X 8  
5 lighted sign?

6 A. We did. If that was December 20th, we came by. You  
7 had a display, one of those big 4 X 8 signs, or so, with the  
8 arrow on it, and we came by and picked it up with the boys  
9 and took it to the -- it was the mall. I don't remember  
10 which one it was. Around the county line there. It wasn't  
11 -- I don't remember. But, anyway, we took the sign so that  
12 we could sell gift certificates for skydiving.

13 Q. So from January -- or, excuse me, from December 13th of  
14 1995, to January 6th, 1996, we spent a lot of time together,  
15 all of us did, didn't we?

16 A. We did.

17 Q. Did you ever detect a problem? Did you ever notice  
18 Bill Welborn and I having any problems, altercations, or  
19 anything?

20 A. No.

21 Q. Jared Champlin?

22 A. No.

23 Q. Never detected a problem between me and Jared Champlin?  
24 Ever have a problem, argument?

25 A. Not that I remember, no.

1 Q. No harsh words?

2 A. No.

3 Q. Could you tell us when you met Bill Welborn, would that  
4 have been around June of 1993?

5 A. Yes.

6 Q. And you become a skydiver out at the Orangeburg  
7 airport, is that correct?

8 A. I was a skydiver, but I started to jump there at  
9 Orangeburg, yeah.

10 Q. So, in other words, you met Bill Welborn in June of  
11 1993, when y'all started skydiving together?

12 A. Right.

13 Q. Prior to that business being located at Orangeburg, did  
14 you know that Bill Welborn was operating that business out  
15 of the Walterboro County airport?

16 A. Bill had equipment at Walterboro. He was an instructor  
17 there. He did not own an aircraft there, but he had his own  
18 equipment and paid for the slots on the airplane and rented.  
19 I guess ran kind of a jump school out of Walterboro.

20 Q. So he moved the business -- or moved from Walterboro  
21 then to Orangeburg?

22 A. Yes, he did.

23 Q. Then after Orangeburg he moved to Gaston?

24 A. Yes.

25 Q. Can you tell us when that was, Dawn?

1 A. When it was?

2 Q. Yes, ma'am.

3 A. I am not sure. I started to fly when they moved to  
4 Gaston. When I went down and flew there was maybe January  
5 of '95, is when I started going to Gaston. I'm not sure  
6 when they left Orangeburg exactly.

7 Q. So you didn't know the exact date when they left  
8 Orangeburg to move to Gaston? That's what I'm asking.

9 A. No, I don't know.

10 Q. Okay. How long was that business located out at the  
11 Gaston Airport?

12 A. I don't know when they moved there, so I can't tell  
13 you. They were there until 1996.

14 Q. And did Bill Welborn start to try to relocate that  
15 business in December of 1995?

16 A. He was talking to you about it, yes.

17 Q. What did he tell you about relocating that business,  
18 Dawn?

19 A. What do you mean?

20 Q. Why was he wanting to relocate?

21 A. Well, you know, I honestly don't remember him bringing  
22 it up much before you guys went out on the 19th, but he said  
23 that Mr. Moore had -- Mr. Moore had gotten upset about us  
24 jumping at night. And it was just a little frustrating to  
25 have Mr. Moore come out and say -- and that's -- that's what

1 he said. You know, he said "well, you know, Mr. Moore is  
2 getting a little indifferent about us being here." I mean,  
3 we weren't paying much to rent the property, so Mr. Moore  
4 didn't have a great thing of us being there, but Tommy Moore  
5 had let us start there, but it wasn't really Tommy's  
6 property.

7 Q. The solicitor asked you about the Christmas parade  
8 and --

9 A. Which Christmas parade?

10 Q. The one in Swansea.

11 A. Okay.

12 Q. Did y'all have one in Gaston also?

13 A. No. We did one in -- it was a shopping center in -- I  
14 don't know the area. It was a shopping center out in --  
15 Burke Fitzpatrick did that demo too, and he gave away little  
16 snippets of material there. But, no, I don't think we did  
17 one in Gaston. There's not really a city there.

18 Q. When you say the parade, so did you y'all have a float  
19 in the parade?

20 A. I don't think we did that year, no.

21 Q. Not that year.

22 A. Swansea parade New Years.

23 MR. STARNES: Your Honor, would it be possible, I  
24 would like to show her these photographs.

25 THE COURT: Yes.

1 MR. STARNES: I will mark them.

2 THE COURT: You can show them to her.

3 MR. STARNES: Do I need to mark them or anything  
4 first?

5 THE COURT: Not to show them to her to see if she  
6 can identify them, no, sir.

7 No, you can't -- no, sir, not like that. You can  
8 hand them up to her and let her see if she recognizes them.

9 MR. STARNES: May I approach, Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. STARNES:

12 Q. Can you identify these photographs, Dawn?

13 A. I'll look.

14 Yes, that is Vickie. She was one of our skydiving  
15 students. That started with us in Orangeburg.

16 Q. Okay.

17 MR. STARNES: Your Honor, I would like to mark  
18 this one at this time.

19 THE COURT: Yes, sir.

20 BY MR. STARNES:

21 Q. Do you recognize that photograph?

22 A. That also is Vickie, and her father is following  
23 behind.

24 Q. Okay.

25 A. And they are on the float.

1 (Photograph marked as Defendant's Exhibit No. 2  
2 for identification).

3 (Photograph marked as Defendant's Exhibit No. 3  
4 for identification).

5 THE COURT: Now, are you offering those? You  
6 marked them for identification. Are you offering those, Mr.  
7 Starnes?

8 MR. STARNES: Yes.

9 THE COURT: Any objection, counsel?

10 MR. GOWDY: Well, I don't know what year it is. I  
11 didn't hear that.

12 THE COURT: Can you clarify that? Lay your proper  
13 foundation.

14 MR. STARNES: May I show them?

15 THE COURT: No, bring them back over here and show  
16 them. If she knows what year it is.

17 You have to lay your foundation when they was  
18 made, please.

19 MR. STARNES: Yes.

20 BY MR. STARNES:

21 Q. Do you know what year that is, Dawn?

22 A. I honestly don't know. I didn't get to attend the  
23 parade, because I was flying, so I couldn't tell you.

24 Vickie jumped with us starting in Orangeburg, so it  
25 could have been any time from 1993 until '96.

1 Q. Okay.

2 THE COURT: What's the relevance, Mr. Starnes?

3 MR. STARNES: Just her testimony to the parade and  
4 everything.

5 THE COURT: What's relevance to the case, though?

6 MR. STARNES: I mean, it's relevant to her  
7 testimony, Your Honor.

8 THE COURT: How? What's it relevant to the case?  
9 What does it go towards?

10 MR. STARNES: Your Honor, I won't offer them at  
11 this time.

12 THE COURT: You won't offer them?

13 MR. STARNES: No.

14 THE COURT: Please proceed.

15 BY MR. STARNES:

16 Q. Dawn, you said I believe in your previous testimony  
17 that Bill Welborn had a co-owner?

18 A. Yes.

19 Q. Who is that individual?

20 A. Donna Benson.

21 Q. How many airplanes did they have in that business?

22 A. They had two airplanes.

23 Q. And what type of aircraft was that?

24 A. They are both Cessna 182's.

25 Q. Mr. Tommy Moore owns the property out at the Gaston

1 Airport?

2 A. I don't know if it was Tommy or -- I believe it was his  
3 mother and father that owned it, but I'm not sure.

4 Q. Dawn, what year did you become a pilot to Bill Welborn?

5 A. Probably 1995.

6 Q. 1995.

7 A. I believe so.

8 Q. The type of plane that you flew up there you said was a  
9 Cessna 182?

10 A. Yes, sir.

11 Q. Were you compensated for your time for flying?

12 A. No, sir.

13 Q. What would a normal pilot get paid for flying a Cessna  
14 182?

15 A. I don't know what a normal pilot would get for flying a  
16 Cessna 182. I know what it would cost to rent a Cessna 182.

17 Q. Were you flying to build your hours?

18 A. Yes.

19 Q. So basically you were flying for Bill Welborn for free  
20 to build your hours as a pilot?

21 A. Yes.

22 Q. Was Jared Champlin employed by Bill Welborn?

23 A. Jared was in the process of moving down. He was  
24 helping us at the time in the Drop Zone. Whether he had  
25 been hired or was helping through Christmas, I'm not sure,



1 but he was going to be working for the Drop Zone by the  
2 spring. I'm not sure what the arrangement was at the time.

3 Q. What was his job duties, Dawn?

4 A. He was doing carpentry work in the -- in the office  
5 buildings and the classroom. He also worked as ground crew  
6 sometimes.

7 Q. He worked as ground crew?

8 A. Yes.

9 Q. Was he a pilot?

10 A. No. I mean, he would help recover skydivers.

11 When you land in tandem, you always have people  
12 available to help them, once they land. You have somebody  
13 capture their parachute, and somebody helps them stand up,  
14 and all the different things, so Jared would help with that  
15 occasionally.

16 Q. During your time when you worked for Bill Welborn, did  
17 you ever witness Bill Welborn give Jared Champlin a payroll  
18 check?

19 A. Not a payroll check. I did see him give Karen and  
20 Jared a check. I don't remember the exact amount, to help  
21 them with their moving expenses to move from Liberty down to  
22 Gaston.

23 Q. How much work was Jared Champlin doing for Bill  
24 Welborn? In other words, how much would he do while he was  
25 there?

1 A. Quite a bit. We worked most of the days through  
2 Christmas break. All of us did together.

3 Jared wasn't there the whole time. He had gone to back  
4 to Liberty a couple of times with his mom at Christmas and  
5 New Years.

6 Q. Now, you mentioned a lady by the name of Karen Pratt.  
7 Was Karen Pratt employed by Bill Welborn?

8 A. She was not at the time, no. She was going to do some  
9 office work and work the -- with the call manifest. You can  
10 only put so many people on the plane and so you have to  
11 schedule that properly so get a full load each time to make  
12 a load manifest.

13 Q. So at the time Ms. Pratt wasn't employed, but she was  
14 going to be employed later with Bill Welborn?

15 A. Right.

16 Q. During the time that you knew Mr. Bill Welborn, did you  
17 ever know him to own a home in Lexington County?

18 A. No, sir.

19 Q. Did you ever know him to have a house payment anywhere?

20 A. You mean besides rent?

21 Q. House payment. I mean owning property.

22 A. Owning property? Before -- way before I knew him. Not  
23 in the recent time, no. Not in around December, 1995, no.

24 Q. Okay. During the entire time that you knew him?

25 A. No. Not -- I mean not to the say that he didn't, but I

1 didn't know if he did. I wouldn't know.

2 Q. Did Mr. Welborn have a roommate in Charleston?

3 A. He did.

4 Q. He stayed in an apartment down in Charleston?

5 A. Yes, sir.

6 Q. Could you tell us who that roommate is?

7 A. Nina Gene Thurston.

8 Q. And would she go by a nickname?

9 A. Yes, sir.

10 Q. Could you tell the jury what the nickname is?

11 A. Her name was Storm.

12 Q. That's what everybody called her is Storm?

13 A. Stormy.

14 Q. Okay. Prior to Bill Welborn and Jared Champlin and  
15 Karen Pratt moving in at your home there in Gaston, where  
16 did they stay at?

17 A. Well, Bill had an apartment in Charleston, and Karen  
18 and Jared lived in Liberty.

19 We had all stayed at the Knights Inn for awhile. My  
20 home was supposed to be ready on December 8th, and it wasn't  
21 ready until about the 16th, so we had all stayed at the  
22 Knights Inn for a week or so.

23 Q. And that was the Knights Inn motel over in Cayce?

24 A. I believe it's Cayce.

25 Q. Okay.

1 A. The University of South Carolina is down that road.  
2 It's been a long time.

3 Q. Now, did you stay at the Knights Inn there also?

4 A. I did.

5 Q. And why were you staying at the Knights Inn?

6 A. I was waiting for my home to be ready.

7 Q. And then when your home got ready, you mean mobile  
8 home?

9 A. Yes.

10 Q. So they were setting up a mobile home in Gaston?

11 A. Correct.

12 Q. And you bought a new trailer?

13 A. Yes.

14 Q. Mobile home?

15 MR. GOWDY: Your Honor, I have tried to be  
16 patient, but whether it's a new or used mobile home, I don't  
17 know the relevance of that.

18 THE COURT: Well --

19 MR. STARNES: I'll move on, Your Honor.

20 THE COURT: Let's do move on, please.

21 BY MR. STARNES:

22 Q. Let me make sure I understand this right, Dawn. So  
23 y'all were at the Knights Inn in Cayce and then you moved to  
24 Gaston?

25 A. Yes, sir.

1 Q. Bill Welborn, Jared Champlin and Karen Pratt follow you  
2 to your place in Gaston, is that correct?

3 A. Yes.

4 Q. Was any one of those three individuals paying you rent?

5 A. No, sir.

6 Q. So Bill Welborn, Jared Champlin and Karen Pratt were  
7 all living with you on January the 8th of 1996?

8 A. On January 8th my boys had gone back to school, and  
9 they were supposed to be securing other places to live.  
10 Karen and Jared were going to move to Tommy Moore's house on  
11 the airfield, and Bill was in the process of purchasing a  
12 trailer to put out there as well.

13 Q. So they all supposed to be moving on the 8th.

14 A. On or about. I just told them that they could -- once  
15 the boys went to school, I had to get back in the routine  
16 and that they couldn't stay much past when they returned to  
17 school. And I think they had actually gone back to school  
18 on Thursday or so. Thursday or Friday.

19 Q. I believe that you testified that Bill was going to be  
20 getting a trailer the next day?

21 A. Yes. I don't think I testified to that, but, yes, he  
22 was -- Lou Ridley was going to bring a camper trailer that  
23 he had that Bill was purchasing.

24 Q. I'm sorry, who was that individual?

25 A. Lou Ridley.

1 Q. Lou Ridley.

2 Now, who is Lou Ridley?

3 A. Lou Ridley was an air traffic controller at the C.A.E.  
4 Airport and he flew for us occasionally at airborne.

5 Q. So was this kind of like a camper?

6 A. Yes.

7 Q. Dawn, can you tell us Bill Welborn's mode of  
8 transportation?

9 A. He had a van. I think it was a Ford van.

10 MR. STARNES: May I approach the witness, Your  
11 Honor?

12 THE COURT: Yes, sir.

13 BY MR. STARNES:

14 Q. Do you recognize that photo, Dawn?

15 A. Yes, I do.

16 Q. Do you recognize the individual in the photo?

17 A. Yes.

18 Q. Tell the jury who that individual is.

19 A. That is Bill Welborn many years ago standing outside of  
20 his Ford van.

21 Q. And that's Bill Welborn's van that he's by?

22 A. I believe it is.

23 Q. Okay. Is that the van that he was driving in 1996?

24 A. I believe so.

25 Q. Okay.

1 (Photograph marked as Defendant's Exhibit No. 4  
2 for identification)

3 BY MR. STARNES:

4 Q. Dawn, I believe that you previously testified that Bill  
5 Welborn was retired from the military?

6 A. Yes, sir.

7 Q. During the time that Mr. Welborn come up missing, did  
8 you have an opportunity to open some of his mail?

9 A. I don't think so, unless it was from the Drop Zone, and  
10 Donna would have told me to open it to tell her what was in  
11 it.

12 Q. Did you ever open any phone bills, open any phone  
13 records?

14 A. We did.

15 Q. We, now who is --

16 A. Donna Benson, and probably Karen was probably there,  
17 and myself.

18 Q. Did you ever have the opportunity to open any of his  
19 financial statements?

20 A. I don't -- I honestly don't remember.

21 Q. You don't recall?

22 A. I don't recall. I -- we went through a lot of stuff,  
23 but it was always Donna Benson, or her boys, or -- I didn't  
24 just go through his things for no reason.

25 We went through a lot of things looking for ATM

1 charges, or anything, to see if they were using calling  
2 cards, or credit cards, or anything like that.

3 Q. You say ATM, you mean bank cards and things of that  
4 nature?

5 A. Correct.

6 Q. So you had an opportunity to look at some of his  
7 financial statements, correct?

8 A. We all did, yes.

9 Q. We all did.

10 And did you have an opportunity to do that?

11 A. You know, I don't remember which ones I looked at. I  
12 don't know which ones Karen looked at, or which ones Donna  
13 looked at. It was always by the direction of Donna Benson  
14 for business or Bill's family.

15 Q. Did you have an opportunity to look at a financial  
16 statement from Heritage Trust Financial Group?

17 A. I don't know.

18 Q. Did you ever receive a returned check after Bill  
19 Welborn went missing?

20 A. Not that I know of.

21 Q. Okay. Dawn, I believe that you said that Bill Welborn  
22 had a co-owner. Who was that individual, one more time?

23 A. It was Donna Benson, B-E-N-S-O-N.

24 Q. Did you ever take an opportunity to take any pictures  
25 of Bill Welborn and Donna Benson together?



1 A. Did I?

2 Q. Yes, ma'am.

3 A. Probably. I knew them for many years.

4 THE COURT: Mr. Starnes, I'm going to ask you what  
5 the relevance of all of this is? You need to show me what  
6 the relevance is. Just having pictures of people and that  
7 you know and having pictures, it doesn't tell me it's  
8 relevant to this case, so tell me how it's relevant.

9 MR. STARNES: It shows the identification of Mr.  
10 Welborn.

11 THE COURT: Why is that necessary, Mr. Starnes?  
12 How is that relevant to this case?

13 MR. STARNES: Well, Your Honor, he's an alleged  
14 victim in this case.

15 THE COURT: Okay.

16 MR. STARNES: I believe the jury should be allowed  
17 to see his identity.

18 THE COURT: I don't know how that's relevant to  
19 his death, sir.

20 MR. STARNES: It's relevant to how he was living,  
21 Your Honor.

22 THE COURT: Well, how is that relevant to his  
23 death of how he died, sir?

24 MR. STARNES: His identification.

25 THE COURT: Well, nobody has questioned his

1 identity, I don't believe.

2 MR. GOWDY: We are willing to stipulate that he  
3 lived and died, Your Honor.

4 Those pictures aren't dated. We don't know when  
5 they were taken and they are irrelevant. I -- I --

6 MR. STARNES: It's not that important, Your Honor.  
7 I'll move on.

8 THE COURT: Well, let's move on. Stay with what's  
9 relevant to the trial, sir.

10 BY MR. STARNES:

11 Q. Did Ms. Benson live in Savannah, Georgia, Dawn?

12 A. Yes, sir.

13 Q. You mentioned that Bill Welborn had a mobile home at  
14 the airport they were fixing up for a classroom?

15 A. Yes.

16 Q. Can you tell us a little bit about that?

17 A. Wayne Saylor and his wife had a mobile home that they  
18 had sold. It was the first one that they owned when they  
19 were married. They were much older now, because Vickie in  
20 those pictures was their daughter.

21 And, anyway, he had purchased it back from the people  
22 when they were done with it and had it just sitting out on  
23 his property, so he -- Wayne Saylor was scared to death of  
24 skydiving, but he loved to do it. It sounds crazy, but he  
25 would come out and do tandems with Bill occasionally, just

1 to get up and jump.

2 So, anyway, I don't know how it call about that Bill  
3 asked about the trailer, but they brought the trailer from  
4 Wayne Saylor's property to the Drop Zone and Bill purchased  
5 the trailer, and they placed it out there at the 7 Juliette  
6 1 at the Lexington County Airport.

7 Q. Did a gentleman by the name of Jim Larue help him at  
8 that time?

9 A. Yes, sir. He was the truck driver.

10 Q. And Jared Champlin was helping Mr. Welborn put this  
11 trailer together? Y'all were using it for a classroom, I  
12 believe?

13 A. Correct, a classroom and an office.

14 Q. And it was a pretty big trailer?

15 A. Yes, it was a regular mobile home, like the one people  
16 live in.

17 Q. Three bedroom?

18 A. It was gutted, or we gutted it. I don't know what it  
19 would have had.

20 Q. I would like to ask you some questions about January  
21 6th.

22 A. Okay.

23 Q. What time did y'all get up that Saturday morning?

24 A. I -- I don't know exactly. We got up and went to the  
25 Drop Zone. It was probably eight -- I have no idea.

1 Q. Okay. What time -- I'm sorry.

2 What time did you y'all go to the airport?

3 A. I don't know exactly. Maybe six -- maybe nine, but I  
4 don't know for sure.

5 Q. Nine that morning?

6 A. Right. I'm not sure, though. That was the usual time,  
7 but it was winter, so it may have been later. If we had  
8 classes, it could have been earlier.

9 Q. No nighttime skydiving, I guess. That's what I'm  
10 asking.

11 A. No, not that night.

12 Q. And you were with Bill Welborn all day on January the  
13 6th?

14 A. As far as I remember, yes.

15 Q. Was Jared Champlin and Karen Pratt at the airport on  
16 the 6th?

17 A. Yes, they were.

18 Q. Were they there all day?

19 A. Probably not all day, no.

20 Q. And y'all were open for business on January the 6th?

21 A. Yes.

22 Q. What time did y'all start jumping?

23 A. I don't recall.

24 Q. You don't recall.

25 Did you work all day?

1 A. We -- yes, we worked until we went home and got changed  
2 and went to Wings & Ale.

3 Q. Okay. How was business that day?

4 A. Decent. We did a tandem. I don't remember the details  
5 of that day.

6 Q. Do you remember giving previous testimony, back in  
7 1997, that you worked all day on January the 6th?

8 A. Not 1997, no.

9 January 6th, 1996 --

10 Q. Okay.

11 A. -- we would have worked all day. It was the same as  
12 any other day, as far as I know. We had -- as I said, we  
13 had a tandem student. We had people from the Air Force base  
14 come out. It was just a normal day, a normal winter day.

15 Q. Did you previously testify that business was good that  
16 day?

17 A. Yes, I said it was a decent day. I told you it was a  
18 decent day, and I said it was a good day. That's the same  
19 to me.

20 Q. Okay. What would be a good day, a good business day,  
21 at the Drop Zone? That's what I'm asking.

22 A. You know, it depends. In the winter a good day could  
23 be, you know, took the plane up three times.

24 In the summer it would be up, down, up, down, up, down,  
25 fuel, up, down, up, down, up, down, fuel. So it just

1 depends upon what time of year, if what the weather was  
2 like. If it was bad weather, you could still have a good  
3 day for that type of weather. It was pretty cool that day,  
4 as I remember.

5 Q. Okay. Were you piloting the plane all day on January  
6 the 6th?

7 A. Probably.

8 Q. Was Bill Welborn doing any flying?

9 A. I don't recall. He flew occasionally, but not very  
10 often.

11 Q. Did y'all have any fuel deliveries that day?

12 A. I know we had a -- we had a mobile, like a big fuel  
13 tank -- a big drum on the trailer. The planes were TCO'd.  
14 They were certified to use as a car fuel, low lead, 87, so  
15 we could go down to Swansea and fill up at the tank and  
16 bring it back.

17 Q. On Saturday, January the 6th, 1996, did you see Bill  
18 Welborn give anybody any money at the Drop Zone?

19 A. I don't recall. Not that I know of, no.

20 Q. You don't recall seeing him give anybody any cash  
21 money?

22 A. No. If somebody got gas that day, he probably gave the  
23 guy some money for picking up the gas, or maybe somebody to  
24 go get lunch. He always did that.

25 Q. Did you y'all fly until dark that day?

1 A. Probably until an hour before sundown. If there was  
2 people out there we did. I know it was dark when we got to  
3 Wings & Ale.

4 Q. Did you collect any money from any customers that day,  
5 on January the 6th, at the Drop Zone?

6 A. We did.

7 Q. When you say we, meaning?

8 A. Somebody did. If I was on the plane, I wouldn't have  
9 collected money. If I was on the ground, I may have been  
10 collecting the money.

11 Q. Do you --

12 A. At the end of the day we had \$200 in cash, and Bill  
13 always made sure that people knew we didn't leave cash  
14 there, because he didn't want anyone trying to break into  
15 the trailer trying to get the money. So he would always  
16 make clear the cash never stayed in the Drop Zone.

17 Q. Was Donna Benson working on January 6th at the Drop  
18 Zone?

19 A. No, sir.

20 Q. What type of plane were you flying on that date?

21 A. Cessna 182.

22 Q. Y'all had two planes out there at the airport, is that  
23 correct?

24 A. We did.

25 Q. If you could, Dawn, explain to the jury the number of

1 jumpers that you could take up in a Cessna 182. Kind of  
2 explain to them what a Cessna 182 is, being a complex  
3 aircraft.

4 A. A Cessna 182 is a -- it's a Cessna.

5 We had -- it's got a variable pitch prop, and we can  
6 take five skydivers, and they all sit -- we remove all the  
7 seats. There is one seat in the Cessna 182. One person  
8 sits with their back to the pilot, and someone in front of  
9 them between their legs. Someone sits in the back of the  
10 plane facing forward, and someone in between their legs.  
11 And then someone sits right next to the pilot facing the  
12 rear of the plane. And so you got five -- you can have five  
13 jumpers. You don't have to. You can't have any more than  
14 five.

15 Q. Was it often that you took five jumpers up in the  
16 airplane at one time?

17 A. Was it what?

18 Q. Was it often that y'all did that?

19 A. Yes.

20 Q. Did y'all do that on January the 6th?

21 A. I don't know. I would have to look at the manifest. I  
22 don't remember.

23 Q. Can you remember how many loads that you took up on  
24 that date, Dawn?

25 A. I can't. It was ten years ago.



1 Q. I understand.

2 Some jumpers go up multiple times?

3 A. Yes.

4 Q. Do you remember how many hours that you piloted on that  
5 day?

6 A. No. I can get my log books, if you really need to  
7 know, but they are in Florida.

8 Q. Do you remember if Bill did any tandems on that date?

9 A. Yes, he did one tandem.

10 Q. He did one tandem on that date?

11 A. Yes.

12 Q. Did you do any accelerated free falls on that date?

13 A. I don't remember.

14 Q. Could you explain to the jury what an accelerated free  
15 fall is, Dawn?

16 A. An accelerated free fall is a skydiver, where you have  
17 a student -- there is two ways -- there is three ways now,  
18 but they were -- at the time we were doing two different  
19 ways. You can do the static line, which was where the  
20 parachute was attached to the airplane. When a student  
21 would exit, the parachute would automatically open. They  
22 didn't have to do anything except grab the toggles and  
23 navigate to the ground.

24 The second way was an accelerated free fall, which  
25 required -- I wasn't an instructor, but it was five to seven

1 jumps. I don't remember. And you first free jump with two  
2 instructors, but you would do free fall in the first jump,  
3 that's where you jump out and you don't have a parachute for  
4 the first so many seconds.

5 And accelerated free fall you have skills that you must  
6 perform. There is an instructor on each side of the student  
7 as they free fall. If that student doesn't perform, you  
8 have a main side and a reserve side instructor. The reserve  
9 side instructor stays with the student the longest. The  
10 main side instructor, if the student doesn't perform, will  
11 pull the main parachute. If that main side instructor is  
12 not with the student, the reserve instructor, he actually  
13 free falls with that reserve handle in his hand, that as he  
14 falls away, the reserve parachute will open.

15 Q. What does it cost to do a tandem, Dawn?

16 A. Now, or back then?

17 Q. Both.

18 A. I -- I don't remember exactly. I know at the end of  
19 the day we had \$200 cash. That may all have been from the  
20 tandem jumpers, but I'm not sure.

21 Nowadays it's upwards of \$300 to do a tandem.

22 Q. Three hundred for a tandem?

23 A. Sometimes, yes. As low as 150, but --

24 Q. An accelerated free fall, how much does that cost,  
25 Dawn?

1 A. It depends which stage that you are in. The first  
2 three jumps cost more than the last four, because you only  
3 have one instructor the last four. So that first jump is  
4 usually three or \$400.

5 Q. Okay. I'm a student at Gaston. I come out. I want to  
6 do an accelerated free fall my first jump. Could you tell  
7 the jury how much that cost?

8 MR. GOWDY: Your Honor --

9 A. That was ten years ago, Mr. Starnes.

10 MR. GOWDY: Your Honor, I hate to interrupt. I  
11 just cannot see the relevance of the cost of an accelerated  
12 free fall.

13 THE COURT: I'm about to ask him that.

14 Is this leading somewhere?

15 MR. STARNES: Yes, it is.

16 THE COURT: You know, if you are just trying to  
17 inform the jury, but if it's leading somewhere, please  
18 proceed, but let's get there, please, sir.

19 MR. STARNES: She's previously testified, Your  
20 Honor, that the business at the Drop Zone was good that day.  
21 She's previously testified --

22 A. We did --

23 THE COURT: Wait, wait.

24 THE WITNESS: Yes, sir.

25 MR. STARNES: She's previously testified that they

1 business was good that day and that Bill Welborn had \$200,  
2 only \$200 cash money on him, and that's the relevancy of it.

3 THE COURT: Is there a dispute with that  
4 somewhere? Has that got something to do with the case?

5 MR. STARNES: Yes, sir, it does.

6 THE COURT: All right, proceed, but let's move on.

7 BY MR. STARNES:

8 Q. Do you remember how many tandems were done that day,  
9 Dawn?

10 A. As far as I remember only, one.

11 Q. Okay. How about accelerated free falls, do you  
12 remember how many was done that day?

13 A. I don't remember.

14 Q. Do you remember how many static lines were done that  
15 day?

16 A. No.

17 Q. Would Bill Welborn have had a tandem in the aircraft --  
18 in the plane? Could he do an accelerated free fall at the  
19 same time?

20 A. No.

21 Q. He couldn't?

22 A. He was the tandem master or he had a tandem -- there  
23 were tandems students in there.

24 Q. In other words, if someone is doing a AFF in the  
25 airplane, can there be someone else in another group doing a

1 tandem?

2 A. Yes.

3 Q. After you left the Drop Zone with Bill Welborn on  
4 January the 6th, where did y'all go?

5 A. Wings & Ale.

6 Q. Did you go by your house and shower and changes, or did  
7 you go straight to Wings & Ale?

8 A. We probably went and changed. We -- Karen and Jared  
9 went to the house, and we would have gone by and changed and  
10 went to Wings & Ale.

11 Q. You said Bill Welborn doesn't leave cash money out at  
12 the Drop Zone?

13 A. No.

14 Q. Do you know why he didn't leave it at the house?

15 A. We didn't normally leave cash at the house either. He  
16 would keep it with him until he went to the bank. That was  
17 normally what he did, as far as I know.

18 Q. So, in other words, he would just carry the business  
19 money on his person until he got to the bank, whenever the  
20 bank was open?

21 A. Unless he had a lot of money. \$200 was probably the  
22 maximum amount he would carry around with him. If it had  
23 been anymore than that, he would have put it in a bank bag  
24 and that bank bag would have been locked somewhere, but he  
25 never told anyone where he would -- he didn't leave it in

1 the trailer, but he would either take it with him or -- I  
2 don't know if he left in the car or put it where he was  
3 staying.

4 Q. So Bill Welborn had the day's revenue with him on  
5 January the 6th of 1996?

6 A. The cash, yes, sir.

7 Q. And he had that money on him when he was at Wings & Ale  
8 on that Saturday?

9 A. Correct.

10 Q. Did he count that money at any point in time after he  
11 left the Drop Zone?

12 A. He did. He told me that he had \$200, and he said "I  
13 put in it this pocket. I have got \$200 right here of the  
14 Drop Zone money. Don't let me spend this money." And I  
15 said okay, and we went on to Wings & Ale.

16 Q. Where did that happen at?

17 A. I don't know. It was somewhere between the time we  
18 left the Drop Zone and the time we got to Wings & Ale.

19 Q. Did Mr. Welborn have any money on him, his personal  
20 money?

21 A. Probably.

22 Q. Do you know how much money he had on him, his personal  
23 money?

24 A. Somewhere between around 120 to \$160.

25 Q. How did you know that?

1 A. I don't remember.

2 Q. You don't remember?

3 A. No.

4 Q. So let me understand now, if I hear you correctly,  
5 Dawn.

6 Mr. Welborn had \$200 of his business money that day?

7 A. Correct.

8 Q. And approximately \$160 of his personal money?

9 A. Correct. 120 to 160. I'm not sure.

10 Q. Did you see --

11 A. Or maybe it was 60 to 80. I don't remember, but, yeah,  
12 he had his own money.

13 Q. Did you see Mr. Welborn count that money?

14 A. Which money?

15 Q. The 200 of the Drop Zone money.

16 A. Yes.

17 Q. Did you all count it while you were going into Wings &  
18 Ale?

19 A. I don't remember.

20 Q. You don't remember.

21 A. It was somewhere between the Drop Zone and Wings & Ale.

22 Q. Do you remember giving the sheriff's office a written  
23 statement?

24 A. I do.

25 Q. Would you remember that statement if you seen it?

1 A. Yes, I would.

2 MR. STARNES: Your Honor, may I approach the  
3 witness?

4 THE COURT: Yes, sir.

5 MR. STARNES: Thank you.

6 BY MR. STARNES:

7 Q. Do you recognize that statement, Dawn?

8 A. Yes, I do.

9 Q. Could you tell the jury what that statement is?

10 A. This is the written statement that I made to the  
11 Lexington County Sheriff's Department.

12 Q. Midway down that statement, Dawn, right under \$200 cash  
13 there, it says "when we got to Wings." Could you read that  
14 to the jury, please?

15 A. "When we got to Wings, he counted money and put it in  
16 his back left pocket. He told me it was the Drop Zone cash  
17 from the day and was putting it in a separate pocket so not  
18 to confuse it with his own money."

19 Q. "Not to confuse it with his own money"?

20 A. Correct.

21 Q. So he had a special -- Bill Welborn had a special  
22 pocket for that money, is that correct?

23 A. Normally, yes.

24 Q. He carried that money in his special pocket?

25 A. As far as I know, yes.



1 Q. But he did not want to confuse that money with his  
2 personal money?

3 A. Correct.

4 Q. Dawn, at any time while Mr. Welborn was at Wings & Ale,  
5 did you notice him do anything with the \$200 of the Drop  
6 Zone money?

7 A. I know that he gave it to you.

8 I know that he had it out when he approached the table  
9 with some of the people that he had talked to about coming  
10 out to the Drop Zone.

11 I don't remember if I saw him give it to you or not,  
12 honestly, but I know -- I remember -- I know now that he  
13 gave it to you, but I'm not sure if I saw that.

14 Q. You are not sure if you saw that?

15 Do you remember giving previous testimony back in 1997,  
16 in which you stated you saw Bill Welborn give Norm the \$200  
17 from the Drop Zone?

18 A. I probably did in a statement, yes. And so in that  
19 case, yes, I did see him give it to you.

20 Q. So you did see that?

21 A. If that's what my statement said, yes, sir.

22 MR. STARNES: May I approach the witness, Your  
23 Honor?

24 THE COURT: Yes.

25 BY MR. STARNES:

1 Q. Dawn, if you could, would you please turn to page  
2 1,293?

3 A. Okay.

4 Q. Now, you were discussing or talking to the solicitor  
5 about a pool game that took place at Wings & Ale while we  
6 were there, is that correct?

7 A. Correct.

8 Q. On line 3 it starts off, "I didn't know what." Could  
9 you read that the jury?

10 A. "I didn't know what they were doing, but I did see Bill  
11 give him the money."

12 Q. Okay. So you seen and observed Bill Welborn give me  
13 \$200?

14 A. Like I said, at this point I don't remember, but if  
15 that's what my statement said. And then I see here that I  
16 said I didn't see you him give it to you, and -- I honestly  
17 don't remember whether I saw him give it to you or not.

18 MR. GOWDY: Your Honor, I'm going to ask that  
19 under Rule 106 that the entire paragraph be read to put it  
20 in context. That's one fragment of a sentence and --

21 THE COURT: Yes.

22 MR. GOWDY: -- it's very important that the  
23 context be given.

24 THE COURT: Yes, sir, under Rule 106, the rest --  
25 she may read the rest of the paragraph.

1 MR. STARNES: I have no objection to that.

2 THE COURT: Yes, sir.

3 MR. GOWDY: I would ask that she start at the top  
4 of the page and read the entire paragraph.

5 THE COURT: It's relevant to the question that's  
6 been asked, she may do that.

7 A. So I start with the beginning of the answer?

8 MR. GOWDY: Yes, ma'am.

9 A. "He had given it to Norm. They were playing pool and I  
10 had seen him give it to Norm, but I didn't know why. I  
11 figured Bill was a good pool player and I figured they were  
12 just trying to show that Norm beat Bill, so someone else  
13 would play them, or -- I don't know -- I didn't know what  
14 they were doing, but I did see Bill give him the money."

15 BY MR. STARNES:

16 Q. Do you remember how Bill Welborn give me that money?

17 A. Like I said, at this point I don't remember whether I  
18 saw it or not. If I said I saw it, I saw it, but I honestly  
19 don't remember at this point.

20 Q. But that was the same money that he didn't want to  
21 confuse with his personal money?

22 A. Yes.

23 Q. \$200 of the Drop Zone money?

24 A. Right.

25 Q. The same \$200 that Bill had in his special pocket, is

1 that correct?

2 A. Yes.

3 Q. Did you tell Bill Welborn to give me that money?

4 A. No, I did not.

5 Q. At some point later on in that night did I return the  
6 money to Bill?

7 A. As far as I know, yes.

8 Q. When did I return that money to Bill, Dawn?

9 A. At the Sheraton.

10 Q. At the Sheraton?

11 A. I think that's what it was called. It was a dance  
12 place across from Wings & Ale.

13 Q. Can you explain to the jury what we were doing at the  
14 Sheraton?

15 A. We were dancing, having a good time.

16 Q. Now, when you say we, who are you talking about?

17 A. You, Gwen Bailey -- Gwen Ott-Bailey, Evelyn, Bill and  
18 myself.

19 Q. So we were all out dancing?

20 A. Yes, we were.

21 Q. Having a good time?

22 A. We were.

23 Q. No harsh words between Norman Starnes and Bill Welborn  
24 that night?

25 A. No, sir. You were a little nervous. You kept asking

1 him if you had given him back his money.

2 Q. During the times that we were at Wings & Ale, was there  
3 an individual there by the name of Stan the Man?

4 A. I didn't know him as Stan the Man. I know he was Stan.  
5 I believe his last name was Barfield. I didn't know that at  
6 the time either. And he was a used car salesman that we  
7 knew. Bill had gotten him to help store a vehicle a few  
8 months prior.

9 Q. In March of 1997, did the sheriff's office  
10 investigators question you about Bill Welborn's drug use?

11 MR. GOWDY: Your Honor?

12 THE COURT: Approach just a minute.

13 (Whereupon, the lawyers and the defendant  
14 approached the bench for an off-the-record discussion)

15 BY MR. STARNES:

16 Q. Dawn, on January 6th, we were all at the Wings & Ale?

17 A. Yes.

18 Q. Did you ever have an opportunity to frequent a bar  
19 called Johnny B's?

20 A. No, I did not.

21 Q. Now --

22 A. That had nothing to do with January 6th, but I've never  
23 been there.

24 Q. You have never been to Johnny B's?

25 A. No.

1 Q. Did you know where it was at?

2 A. No.

3 Q. At some point on January the 6th was Mr. Welborn  
4 wandering around Wings & Ale flashing a bunch of money?

5 A. He had the money out and he was walking toward a table,  
6 and was watching him walk over there. And I was just about  
7 to tell him to put the money away, because he had it out.  
8 And he stopped by a table and was talking to some people,  
9 and I figured as long as he was down there, he was fine with  
10 it, and he put it away before he left that table.

11 Q. Do you know what he was doing with that money?

12 A. I don't know. He was just talking to some people who  
13 were thinking about coming to skydive.

14 Q. Mr. Welborn was worried about confusing his money?

15 A. Yes.

16 Q. He had that money in his pocket, the \$200 in his back  
17 pocket, because he didn't want to confuse it with his other  
18 money, is that correct?

19 A. Correct.

20 Q. He give me that money at some point while we were at  
21 Wings & Ale?

22 A. Yes.

23 Q. Then at some point later that night I returned the  
24 money to Mr. Welborn, is that correct?

25 A. Yes, as far as I know.

1 Q. Then at some point did Mr. Welborn get to talk with Lou  
2 Ridley while we were at Wings & Ale?

3 A. Yes, he did.

4 Q. Did you hear that conversation?

5 A. Some of it, yes. He talked to him many times that  
6 night, but --

7 Q. At some point on January the 6th, Dawn, did you walk up  
8 on Lou Ridley and Mr. Welborn and they just immediately quit  
9 talking?

10 A. Yes. They were talking about Storm.

11 Q. How do you know that, Dawn?

12 A. I don't remember. I don't -- I don't know if Bill told  
13 me, or if I heard what they were saying, but it was none of  
14 my business, so I walked away.

15 Q. But you didn't hear the conversation?

16 A. I don't think so, no.

17 Q. At some point on or about January 6th of 1996, did you  
18 write Lou Ridley a \$400 check?

19 A. I believe it was January 8th. I'm not sure, but I  
20 think on January 8th we were at the Drop Zone. I had  
21 dropped Bill off. Lou Ridley came out to the Drop Zone to  
22 get the check, because had looked at the trailer on January  
23 the 6th. He told him he wanted it. Lou Ridley came out and  
24 got the check that afternoon, and I wrote him a check for  
25 \$400 for the travel trailer, which he was going to deliver

1 on Tuesday.

2 Q. Now, prior to you writing Mr. Ridley this check, had  
3 Bill Welborn made a bank deposit?

4 A. I don't remember.

5 Q. You don't remember.

6 Do you remember if he still had that \$200 on him?

7 A. He only had 160 of it. He was missing \$40.

8 Q. What time of the day was it when you wrote Mr. Ridley  
9 that \$400 check?

10 A. It was between three and four p.m..

11 Q. Dawn, did you previously testify that business at the  
12 Drop Zone on Saturday, January the 6th, was a good business  
13 day at airborne skydiving?

14 A. As far as I remember.

15 Q. As far as you remember.

16 A. Like I say, it's been ten years. I know he left with  
17 \$200 in cash, that's -- you can only remember so much.

18 Q. Did you previously testify that Bill Welborn give Norm  
19 \$200 of Drop Zone cash money at Wings & Ale?

20 A. Yes.

21 Q. On January the 8th, 1996, is when you wrote Lou Ridley  
22 that \$400 check?

23 A. Yes, I did.

24 MR. GOWDY: Your Honor, I don't know the relevance  
25 of that. I don't know that the date -- I don't know she has



1 testified to the date. I don't know the relevance of  
2 writing a check to a third party. I don't know that the  
3 foundation has been laid that that's in evidence.

4 MR. STARNES: Your Honor, she testified to it.  
5 She testified that she wrote the \$400 check on January the  
6 8th.

7 MR. GOWDY: Well --

8 MR. STARNES: I'm just --

9 MR. GOWDY: I understand that, Your Honor.

10 She also testified what an accelerated jump was,  
11 but that's not relevant. So, I mean, my question is if he's  
12 going to publish evidence to the jury, what's the relevance  
13 of it?

14 THE COURT: Well, I'm assuming he's going  
15 somewhere with it. I'll allow it. Go ahead.

16 BY MR. STARNES:

17 Q. Now, this individual, Lou Ridley, that you wrote the  
18 check to, this is the same individual that you walked up on  
19 Bill Welborn talking to at Wings & Ale, is that correct?

20 A. Yes, and I also went with Lou Ridley and Bill Welborn  
21 to Lou Ridley's home that night to look at a travel trailer  
22 that Bill wanted to purchase, and they agreed on the price  
23 of \$400 on January 6th.

24 THE COURT: Unless you are going with some  
25 imagination or innuendo, let's move on, counsel. You can't

1 tie this in, Mr. Starnes, let's move on.

2 MR. STARNES: I understand.

3 BY MR. STARNES:

4 Q. Did you ever see a letter from Lou Ridley stating that  
5 he was going to charge Mr. Welborn \$800 for that trailer for  
6 a personal debt?

7 A. I don't remember. I know that we were going to give  
8 him \$400 on that Monday for the travel trailer.

9 I know that Donna Benson and Lou Ridley had some issues  
10 afterwards after Bill and Jared were gone, but I didn't get  
11 involved with that, with Donna Benson and Lou Ridley.

12 Q. So you didn't know that Mr. Welborn was trying to hide  
13 a debt?

14 A. I don't think he was trying to hide a debt. It's been  
15 ten years ago.--

16 MR. GOWDY: Objection to the form of the question.

17 THE COURT: Hold it, ma'am. An objection is made.

18 Counsel, approach just a minute. Mr. Starnes, you  
19 approach. Counsel, you approach.

20 (Whereupon, the lawyers and the defendant  
21 approached the bench for an off-the-record discussion)

22 BY MR. STARNES:

23 Q. Dawn, I believe that you previously testified that you  
24 saw Gwen pay \$40 of the money at Wings & Ale?

25 A. Yes.

1 Q. And that you seen me put in \$40 to pay the bill?

2 A. About, yes.

3 Q. And the bill was about \$80?

4 A. Right.

5 Q. And at the time that we paid the bill, that was when we  
6 were leaving Wings & Ale?

7 A. Yes. .

8 Q. And at the time that we paid the bill and we were  
9 leaving Wings & Ale was after Mr. Welborn had given me that  
10 \$200, is that correct?

11 A. Yes, it was.

12 Q. And I returned that money to Mr. Welborn at the  
13 Sheraton Motel?

14 A. Right. Where we went dancing, yes.

15 Q. Did Mr. Welborn count that money?

16 A. After we left there, yes.

17 Q. And when did he count that money?

18 A. On the way back to my home.

19 Q. And at some point when he got to the house, did he  
20 count it?

21 A. Did he count it?

22 Q. Yes, ma'am.

23 A. Yes.

24 Q. And did you have an opportunity to count that money?

25 A. Yes, I did.

1 Q. And how much money was there, Dawn?

2 A. \$160.

3 Q. \$160.

4 And did Mr. Welborn make any comments to you about that  
5 \$160?

6 A. He did.

7 Q. Would you tell the jury the comments that he made,  
8 Dawn?

9 A. He wanted to know why someone would take \$40, when if  
10 they had asked, he would have given it to them. And that's  
11 when I explained to him that I had seen you guys settling  
12 your bill and it might have been accidental.

13 Q. But Mr. Welborn thought that it wasn't accidental, is  
14 that correct?

15 A. He wasn't sure.

16 Q. He wasn't sure?

17 A. That's why he called and said a different amount. He  
18 thought maybe that you would know or not know.

19 Q. Did Bill Welborn tell you that he was really upset  
20 about that money?

21 A. No, he didn't tell me that. I think -- I think that I  
22 said he was really upset, as in he felt like a friend had  
23 taken him for \$40. He was more hurt. He didn't understand  
24 why you wouldn't have just asked for the \$40.

25 Q. Now, you say a friend. Do you mean that Bill Welborn

1 and I were friends?

2 A. Probably, yes.

3 Q. Probably.

4 But you an opportunity to count that money, Dawn?

5 A. I did.

6 Q. Okay. Dawn, what date was that that you counted that  
7 money?

8 A. It was the night of January 6th, or the early morning  
9 of the 7th when we got home that night.

10 Q. You previously give a statement to the Lexington County  
11 sheriff's office?

12 A. Yes, sir.

13 Q. Is that correct?

14 A. Yes.

15 Q. And in that statement did you say that Bill Welborn had  
16 thought that I took him for \$40?

17 A. Yes, I did.

18 Q. Okay. And in that statement did you say that at some  
19 point later that Bill Welborn went back thinking that I took  
20 him for that \$40 after y'all had talked about it?

21 A. He was thinking about it. He was wondering, since you  
22 wouldn't come to the phone.

23 Q. All right. So on January the 6th he thought that I had  
24 took him for \$40?

25 A. Right.

1 Q. And he was still thinking that on January the 7th, is  
2 that what I'm hearing?

3 A. Well, he didn't mention it on the 7th. I just meant  
4 that night when we got home, the 6th to the 7th.

5 Q. Early morning, right?

6 A. Right, but he didn't mention it the next day. He  
7 wondered why you hadn't called back, but he didn't talk  
8 about the money.

9 Q. So that would have been Sunday, early morning Sunday,  
10 on the 7th?

11 A. Yeah, right.

12 Q. Around 5:30 in the morning?

13 A. What was 5:30 in the morning?

14 Q. When he made the comment about the money.

15 A. I don't think it was that late. I don't remember. I  
16 don't know.

17 Q. All right. What time was it when we left the Sheraton?  
18 Wasn't it --

19 THE COURT: Wait just a minute. Just -- you need  
20 a break, sir?

21 UNKNOWN JUROR: Restroom, please, sir.

22 THE COURT: We are going to do that in just one  
23 moment, okay. All right, sir.

24 MR. STARNES: I'm about finished, Your Honor.

25 BY MR. STARNES:

1 Q. You left the Sheraton, the Sheraton had already closed,  
2 is that correct, Dawn?

3 A. I don't know, but they were playing New York New York,  
4 because we went out the door. We were all doing the  
5 Can-Can. That's all I remember. I don't know if it was  
6 closing, but we were leaving.

7 Q. But after we left the Sheraton, did you and Bill  
8 Welborn try to find another bar?

9 A. We headed somewhere, but it was closed.

10 Q. And --

11 A. I don't know where that was, though.

12 Q. Did Gwen, myself and Evelyn meet y'all at a bar and it  
13 was closed?

14 A. Yes, you followed us there and we left from there.

15 Q. And then left from there.

16 When we left, you and Mr. Welborn went looking for  
17 another bar that night, or early that morning?

18 A. No, I think he said he was going to, but we didn't. We  
19 went a different way and we went home.

20 Q. Okay. And Sunday, on January the 7th, I did not call  
21 you all, is that correct?

22 A. I don't remember. I don't remember that you did. I  
23 remember thinking that you did not.

24 Q. Okay. Did you mention in your statement that Mr.  
25 Welborn was impatient all day because I hadn't called?

1 A. I remember saying that, yes.

2 Q. Do you remember stating that in your statement?

3 A. Yes.

4 Q. Did it appear to you that I was trying to avoid Mr.  
5 Welborn?

6 A. We had never had any difficulty getting in touch with  
7 you before, and you had called very often, every day, up  
8 until that point, but --

9 THE COURT: Excuse me, go ahead and finish your  
10 answer. I thought that you were through.

11 THE WITNESS: That's all.

12 THE COURT: Let's take a break, Mr. Starnes.  
13 Let's take a short break.

14 Ladies and gentlemen of the jury, we will take a  
15 brief -- we are not going to be here much longer. Honestly  
16 we are not. We're trying to finish with this witness before  
17 we quit. We are not going to be here much longer, but let's  
18 take a just short break. Refresh yourselves and in about  
19 five minutes or so we will come right back. Thank you.

20 THE COURT: Please be seated everyone. Thank you.

21 Sir, do you know what being seated means?

22 UNKNOWN PERSON: I apologize. I apologize  
23 profusely.

24 (The following takes place outside the presence of  
25 the jury panel)



1 THE COURT: All right. Now I had asked everyone.  
2 It's just a rule. I don't want people bothering the jury  
3 while they are going out or coming in or making any kind of  
4 motions and that sort of thing. I asked you to be seated  
5 previously. It's about the only rule that I have in court  
6 is I ask the everybody stay seated while the jury is coming  
7 in and going out. That's all I ask, and I asked you to do  
8 that earlier. I just asked you and you continued to stand  
9 and talk, and so I'm going to ask you once, again please,  
10 observe that rule.

11 Thank you. We will take just a quick five  
12 minutes. If you will refresh yourselves and come right  
13 back, we are going to try to finish with this witness before  
14 we leave. I know we are not going to be much longer,  
15 hopefully. All right.

16 (Whereupon, proceedings were recessed)

17 (Whereupon, proceedings were reconvened)

18 THE COURT: Approach just a minute, if you will,  
19 please.

20 (Whereupon, the lawyers and the defendant  
21 approached the bench for an off-the-record discussion)

22 THE COURT: All right. Ready to proceed now?

23 MR. GOWDY: State is, yes, sir.

24 THE COURT: Please bring them in.

25 (The following takes place in the presence of the

1 jury panel)

2 THE COURT: All right. We are ready to proceed,  
3 Mr. Starnes.

4 MR. STARNES: If it please the court, Your Honor?

5 THE COURT: Yes.

6 BY MR. STARNES:

7 Q. Dawn, when we took a break, we were talking about  
8 January the 7th --

9 A. Yes.

10 Q. -- early that morning. Mr. Welborn was upset over \$40,  
11 is that correct?

12 A. He was wondering what happened to it, yes.

13 Q. Okay. And in your written statement that you give, did  
14 you state that "Mr. Welborn went back. He was really upset  
15 with Norm about the \$40 and impatient because Norm had not  
16 called today"?

17 A. I did.

18 Q. And when was that?

19 A. That was January 7th.

20 Q. That would have been that Sunday?

21 A. Yes.

22 Q. And on the 6th, the previous day, you all had a pretty  
23 good day at the Drop Zone?

24 A. Like I say, as far as I remember. I know we left with  
25 \$200 cash. That's all I can say. I tried to remember the

1 relevant information.

2 Q. Dawn, on January the 8th, you received a telephone call  
3 from Mr. Welborn?

4 A. I did.

5 Q. And he was whispering on the phone when he was talking  
6 to you?

7 A. Yes, he was.

8 Q. Did he tell you where he was at?

9 A. No, he did not.

10 Q. Did you ask him where he was at?

11 A. No, I did not.

12 Q. In your written statement did you state that Mr.  
13 Welborn was -- on January the 8th was going to mess with  
14 Norm's head?

15 A. I didn't say he was doing that on January 8th. I said  
16 on January 6th, when he called Norman Starnes, he was  
17 messing with his head, when he called and told Gwen that  
18 "why were you mentioning the 65 or \$85," whatever he said to  
19 Gwen. And I asked him what that -- why he said a different  
20 amount.

21 Q. Okay. And did you state in your statement that "I  
22 believed that's what he went to do Monday when he went to  
23 see Norm. He wanted to find out why Norm took the \$40"?

24 A. That was just my opinion, because I was -- I wanted to  
25 know where they were. I -- I wanted to tell the detectives

1 anything that I knew that could possibly be any kind of  
2 truth.

3 Q. And your opinion was that Mr. Welborn was upset over  
4 that \$40?

5 A. Not necessarily. I just knew that that might be  
6 something that he would have gone to check on.

7 Q. That telephone call that you received from Mr. Welborn,  
8 did you ever receive a phone call like that before?

9 A. Yes.

10 Q. Just joking around little thing?

11 A. Yes, sir.

12 Q. Did Mr. Welborn keep a firearm at your house?

13 A. No.

14 Q. Did you know Mr. Welborn to own a -- to have a  
15 9-millimeter handgun?

16 A. I do. I don't know if I knew that before this event or  
17 after, but, yes, I know he had a 9-millimeter handgun.

18 Q. Did you ever see that firearm?

19 A. No.

20 Q. On January the 10th, when you filed the missing  
21 person's report, were you all pretty hesitant about filing  
22 the report?

23 A. No, we were going to file the report when I got home  
24 from school on Wednesday. We had to wait 24 hours, so  
25 Tuesday was 24 hours, and it was late on Tuesday, and I had

1 school the early the next morning, so I had told -- Karen  
2 and I had talked about it and I said when I got home from  
3 school on Wednesday, we would -- and if we hadn't heard from  
4 them by then, we would go report it.

5 Q. You said that you and Karen talked about it. Was there  
6 a reason why y'all were hesitant, other than waiting 24  
7 hours?

8 A. No.

9 Q. Did Karen tell you that she didn't want to contact the  
10 police because Mr. Champlin had outstanding warrants?

11 MR. GOWDY: Your Honor, hearsay, relevance. Those  
12 are the two objections that leap to mind. It's irrelevant.  
13 It's hearsay as to what Karen Pratt said.

14 It's irrelevant.

15 THE COURT: Well, it would be hearsay if the  
16 person who allegedly made the statement is not here in court  
17 to testify.

18 MR. STARNES: There is no problem, Your Honor. We  
19 can move on.

20 THE COURT: Okay.

21 BY MR. STARNES:

22 Q. On January the 8th of 1996, Mr. Welborn was upset with  
23 Norman Starnes, is that correct?

24 A. I don't know if he was. I -- when they didn't come  
25 home, I -- and Karen said they were at your place, that was

1 my own opinion that possibly he had come to see you.

2 Q. Okay. Dawn -- I'm sorry were you finished?

3 A. Yes.

4 Q. At any point on January the 8th did I contact you and  
5 ask Mr. Welborn and Jared Champlin to come to Pelion to  
6 visit me?

7 A. Not that I know of, no.

8 Q. Okay. So other than that telephone call -- did you  
9 receive a telephone call from Karen Pratt on January the  
10 8th?

11 A. Yes, I did.

12 Q. And did she tell you where she was at?

13 A. Yes, she did.

14 Q. And what time did you receive that telephone call?

15 A. Approximately 20 minutes after Bill had called me, so  
16 it was around 10:20, 10:15.

17 Q. And what did Ms. Pratt tell you?

18 A. She asked if I had heard or seen Bill and Jared,  
19 because she was at the Panther Parlor and they had left with  
20 you and she hadn't seen them since and had I heard from  
21 them.

22 Q. Other than that telephone call, did you receive any  
23 phone calls from Ms. Pratt?

24 A. No, she came to my house around midnight.

25 Q. And at no time on January the 8th did I call Mr.

1 Welborn at your house and ask him to come and see me?

2 A. I was at school in the morning, so I don't -- I don't  
3 know what happened in the morning.

4 Q. Okay. How about when you were at the house, Dawn?

5 A. I don't remember. I don't remember hearing from you.

6 Q. Okay. Thank you.

7 THE COURT: Yes, sir.

8 MR. GOWDY: Your Honor, very briefly. I know the  
9 hour is late.

10 REDIRECT EXAMINATION BY MR. GOWDY:

11 Q. Ms. Holrath, do you still have your transcript from a  
12 previous hearing in front of you?

13 A. Yes, sir.

14 Q. Would you start, please, ma'am, on page 1,293? Mr.  
15 Starnes had asked you to read a portion of the sentence and  
16 I ask you to read the rest of it.

17 I want you to start at line 5 and go to line 13, which  
18 is the question and answer right after the one he asked you  
19 about.

20 A. 5 to 13?

21 Q. Yes, ma'am.

22 A. Okay. "And did Norman ever give him the money back?  
23 Norman Starnes?"

24 And I said "I didn't see him give it to him, but he --  
25 Norm had come over to Bill a couple of times telling him

1       come on, I need to talk to you, and Bill said you can say it  
2       in front of her. I don't care. And he said did I give you  
3       your money back and Bill said no. And then I guess later  
4       Norm gave him his money back, but I didn't see Norm actually  
5       give it to him."

6       Q.     So it was Norman Starnes coming to get Bill Welborn  
7       away, as I understand your answer correctly?

8       A.     Yes, sir.

9       Q.     All right. Ms. Holrath, Mr. Starnes put something up  
10      "Welborn is really upset with Norm."

11             There are different kind of upstedness. What was he  
12      most disappointed in?

13      A.     That he felt Norman was becoming a friend or was a  
14      friend and that he had taken the \$40. So he -- he was more  
15      disappointed --

16             (Whereupon, a cell phone went off in the  
17      courtroom).

18      A.     -- that possibly Norm had taken the money. And Bill  
19      thought that, you know, if he had just asked me, I would  
20      have given to it him. So he was kind of hurt, that he  
21      didn't understand why Norm would have taken it, rather than  
22      ask for it. He didn't dwell on it.

23      Q.     Mr. Starnes asked you about -- Mr. Welborn was a 20  
24      year -- at least a 20 year military veteran, correct?

25      A.     Yes, he was.



1 Q. In the Air Force.

2 Did you ever see him carry a firearm?

3 A. No, sir.

4 Q. And you knew him from when to when?

5 A. 1993 to 1996.

6 Q. 1993 to 1996, and you never saw Bill Welborn carry a  
7 firearm?

8 A. No, sir.

9 Q. And the one night Norman Starnes spent at your house,  
10 if I remember correctly, he left a firearm?

11 A. Yes, sir.

12 Q. Mr. Starnes asked you about filing police reports and  
13 whether you really were concerned or really weren't  
14 concerned?

15 A. Correct.

16 Q. You testified that he made appointments for Tuesday,  
17 January the 9th, at one and three, correct?

18 A. Yes, sir.

19 Q. Have you ever known Bill Welborn to miss a work  
20 appointment?

21 A. Never.

22 Q. Is that when you realized something was wrong?

23 A. That's when I knew, yes, sir.

24 Q. I have only got two more questions. I apologize for  
25 taking as long as I have.

1 He asked you about opening Bill Welborn's mail?

2 A. Yes, sir.

3 Q. Were you opening his mail because you were concerned  
4 about what his ATM bank balance was, or were you looking for  
5 some sign of life?

6 A. We were looking for some sign of life.

7 Q. Did you still hold out hope that he might be alive and  
8 just somewhere else?

9 A. Of course, up until they found him.

10 Q. My last question to you.

11 The defendant asked you a question. I'm going to ask  
12 you another one. You knew him for years?

13 A. Yes, sir.

14 Q. The friendship, to ultimately an intimate relationship?

15 A. Yes, sir.

16 Q. You testified he was a 20 year veteran of the Air  
17 Force?

18 A. Yes, sir.

19 Q. Was he athletic?

20 A. Yes, sir.

21 Q. Did he run?

22 A. Yes, sir.

23 Q. Did he try to take care of himself?

24 A. Yes, he did.

25 Q. Was he the safety instructor at an airport?

1 A. He was a safety and training advisor, yes, sir.

2 Q. Was he a pilot?

3 A. He was.

4 Q. Did he jump out of airplanes?

5 A. He did.

6 Q. Have you ever seen any indication of drug use from Bill  
7 Welborn?

8 A. No, sir.

9 Q. Ever?

10 A. Never.

11 MR. GOWDY: That's all I have.

12 MR. STARNES: Your Honor, could I please?

13 THE COURT: Counsel, do you want to approach me,  
14 or did you --

15 MR. STARNES: Redirect.

16 THE COURT: Okay.

17 RECROSS EXAMINATION BY MR. STARNES:

18 Q. Dawn, you testified to Bill Welborn's whereabouts.  
19 Were you with him on the 4th of January?

20 A. No, I was not.

21 Q. Were you with him on the 5th of January?

22 A. I believe at the evening of the 5th, yes.

23 Q. What time in the evening of the 5th?

24 A. Donna Benson told me he left Charleston around eight,  
25 and -- probably around 9:30 or so.

1 Q. Donna Benson told you that they had left -- he had left  
2 around eight?

3 A. I believe so, yeah.

4 Q. Did Donna Benson tell you that they were together?

5 A. I knew they were together, yes.

6 Q. On the 5th?

7 A. Yes.

8 Q. On the 4th?

9 A. Yes.

10 Q. Thank you.

11 THE COURT: All right. Thank you, ma'am. You may  
12 stand down.

13 A. Thank you.

14 THE COURT: All right, we are going to adjourn for  
15 the night and resume in the morning.

16 Ladies and gentlemen of the jury, we are going to  
17 go ahead and recess for the evening. What I'm going to ask  
18 you to do is to be back in the jury room ready to go in the  
19 morning at 9:15. 9:15. So if you would please be back at  
20 9:15.

21 On the overnight recess I want to remind you,  
22 please, not to discuss this case among yourselves or with  
23 anyone else you might see.

24 If there should be any media coverage of this  
25 trial, and there may very well be. If there is, please do

1 not read, listen to, or watch any media account of the trial  
2 until after it's over. If there should be any, and I become  
3 aware of it, I may very well ask you if you read, watched or  
4 listened to it, so please do not do that.

5 I believe that is all I have for evening. I  
6 appreciate your patience. I know it's been a long day for  
7 you. . It has been for all of us as well, but we appreciate  
8 you being here and your patience.

9 Please have a pleasant night's sleep tonight and  
10 be back in the jury room ready to go at 9:15 in the morning.  
11 Thank you.

12 Wait, let me tell you one other thing. Excuse me,  
13 the bailiff will show you where to come. You will actually  
14 come back in -- if I said the courtroom, I misspoke. I mean  
15 the jury room. The jury room is where you will come, and he  
16 will show you how to get there, or he will be meet you out  
17 there and bring you back there. This time you will not come  
18 in the courtroom. You will actually go into the jury and be  
19 called in.

20 Let me tell you one other thing. There are a  
21 number of people who are involved in this trial who have a  
22 number of conflicts on Saturday, and so I have decided not  
23 to hold court on Saturday. And we are going to take Sunday  
24 off so everyone can go to church and do what you do with  
25 your families normally on Sunday. So we will take Saturday

1 and Sunday off, and we will --

2 Now, Monday is Veterans' Day. It is a holiday,  
3 but a tradeoff there is we are going to go ahead and work on  
4 Monday, because we are going to need to keep moving on this  
5 trial. And so we will -- just so you can plan ahead and  
6 know what you are going to be doing, we are going to take  
7 Saturday and Sunday off, but we will be working on Monday.  
8 So if you would kind of make any plans, I kind of had some  
9 plans, but -- for Veterans Day, but we really need to work  
10 and move on with this case, so we are going to do that.

11 All right. Let's see. Now, do all of you know  
12 that you have assigned parking in the lot and -- please  
13 explain that. I think you can do that better than I can.  
14 Please, ma'am, I'm not familiar with it. Madam Clerk.

15 THE CLERK: There is parking for the jurors on the  
16 top level where the entrance of the courthouse is. There  
17 should be --

18 Y'all put cones out?

19 There should be cones out for all. The bailiff is  
20 out there. So when you see the cones, just -- that's --  
21 y'all can park in those spots.

22 UNKNOWN JUROR: Where did you say that was? On  
23 the --

24 THE CLERK: The top at the entrance of the -- when  
25 you go out -- when you go out the door, that's the parking

1 spot that you need to be at.

2 THE COURT: Can you show them that?

3 THE BAILIFF: Just a few words. We will go down  
4 with you tonight and show you where the parking spaces are.  
5 There will be cones. We'll be there in the morning waiting  
6 on you. We will escort you up from that area up escalators  
7 to the glass doors to the jury room.

8 THE COURT: All right. That will be good.

9 Okay. Have a pleasant night. We will see you in  
10 the morning. Okay?

11 (The following takes place outside the presence of  
12 the jury panel)

13 THE COURT: All right. Is there anything we need  
14 to address tonight before we adjourn, from either side?

15 MR. GOWDY: Not from the State, Your Honor.

16 MR. STARNES: None from the defense, Your Honor.

17 THE COURT: Okay. I said 9:15. I hope there is  
18 no problem with Mr. Starnes getting here and be set up and  
19 all that. If y'all be able to be here, and we will probably  
20 work a pretty long day tomorrow, so just be planning to do  
21 that, okay, because we are going to try to make up for the  
22 time we will not be able to get in on Saturday. All right.  
23 Thank you.

24 MR. GOWDY: Yes, sir.

25 THE COURT: We'll see you in the morning.

1 (Whereupon, proceedings were adjourned to November  
2 8, 2007)  
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1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF LEXINGTON ) IN THE COURT OF GENERAL SESSIONS

3

4 THE STATE )  
5 -vs- ) TRANSCRIPT OF RECORD  
6 NORMAN EDWIN STARNES, ) 1996-GS-32-3339  
7 Defendant. ) NOVEMBER 8, 2007  
8 ) Lexington, South Carolina

9

(VOLUME IV)

10

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11

THE HONORABLE LEE S. ALFORD, JUDGE. ; and a jury.

12

13

14

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

15

HAROLD "TREY" GOWDY, III, SOLICITOR  
ROBERT P. COLER, ASSISTANT SOLICITOR  
DERRICK BULSA, ASSISTANT SOLICITOR  
ATTORNEYS FOR THE STATE

16

17

18

MR. NORMAN EDWIN STARNES  
DEFENDANT APPEARING PRO SE

19

20

JOHN DELGADO, ESQUIRE  
APPEARING WITH THE DEFENDANT

21

22

WILLIAM NETTLES, ESQUIRE  
APPEARING WITH THE DEFENDANT

23

24

Michael R. Watts  
Circuit Court Reporter

25

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| 13 | S-80 | PHOTOGRAPH       |      | 2620 |
| 14 | S-81 | PHOTOGRAPH       |      | 2620 |
| 15 | S-82 | PHOTOGRAPH       |      | 2620 |
| 16 | S-83 | PHOTOGRAPH       |      | 2620 |
| 17 | S-84 | PHOTOGRAPH       |      | 2620 |
| 18 | S-85 | PHOTOGRAPH       |      | 2620 |
| 19 | S-86 | PHOTOGRAPH       | 2379 |      |
| 20 | S-87 | PHOTOGRAPH       | 2379 |      |
| 21 | S-88 | PHOTOGRAPH       | 2379 |      |
| 22 | S-89 | PHOTOGRAPH       |      | 2620 |
| 23 | S-90 | PHOTOGRAPH       |      | 2620 |
| 24 | S-91 | PHOTOGRAPH       |      | 2620 |
| 25 | S-92 | PHOTOGRAPH       |      | 2620 |

## EXHIBITS

|    | NO.   | DESCRIPTION     | ID. | EV.  |
|----|-------|-----------------|-----|------|
| 1  |       |                 |     |      |
| 2  |       |                 |     |      |
| 3  | S-93  | PHOTOGRAPH      |     | 2649 |
| 4  | S-94  | PHOTOGRAPH      |     | 2649 |
| 5  | S-95  | PHOTOGRAPH      |     | 2637 |
| 6  | S-96  | PHOTOGRAPH      |     | 2637 |
| 7  | S-97  | PHOTOGRAPH      |     | 2637 |
| 8  | S-98  | PHOTOGRAPH      |     | 2637 |
| 9  | S-99  | PHOTOGRAPH      |     | 2637 |
| 10 | S-100 | PHOTOGRAPH      |     | 2649 |
| 11 | S-101 | PHOTOGRAPH      |     | 2649 |
| 12 | S-102 | PHOTOGRAPH      |     | 2649 |
| 13 | S-103 | LIST OF TICKETS |     | 2432 |
| 14 | S-104 | PICTURES        |     | 2613 |
| 15 |       |                 |     |      |
| 16 |       |                 |     |      |
| 17 |       |                 |     |      |
| 18 |       |                 |     |      |
| 19 |       |                 |     |      |
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| 24 |       |                 |     |      |
| 25 |       |                 |     |      |

|    | EXHIBITS |                           |     |      |
|----|----------|---------------------------|-----|------|
|    | NO.      | DESCRIPTION               | ID. | EV.  |
| 1  |          |                           |     |      |
| 2  |          |                           |     |      |
| 3  | D-1      | POSTERBOARD CALENDAR      |     | 1089 |
| 4  | D-2      | PHOTOGRAPH                |     | 1101 |
| 5  | D-3      | PHOTOGRAPH                |     | 1101 |
| 6  | D-4      | PHOTOGRAPH                |     | 1110 |
| 7  | D-5      | PENCILLED DRAWING         |     | 2071 |
| 8  | D-6      | PENCILLED DRAWING         |     | 1345 |
| 9  | D-7      | TELEPHONE RECORD          |     | 1401 |
| 10 | D-8      | PENCILLED DRAWING         |     | 1440 |
| 11 | D-9      | PHOTOGRAPH                |     | 1510 |
| 12 | D-10     | AUTHORIZATION FOR AUTOPSY |     | 2071 |
| 13 | D-11     | AUTHORIZATION FOR AUTOPSY |     | 2071 |
| 14 |          |                           |     |      |
| 15 |          |                           |     |      |
| 16 |          |                           |     |      |
| 17 |          |                           |     |      |
| 18 |          |                           |     |      |
| 19 |          |                           |     |      |
| 20 |          |                           |     |      |
| 21 |          |                           |     |      |
| 22 |          |                           |     |      |
| 23 |          |                           |     |      |
| 24 |          |                           |     |      |
| 25 |          |                           |     |      |

## EXHIBITS

|    | NO.   | DESCRIPTION                      | ID.  | EV. |
|----|-------|----------------------------------|------|-----|
| 1  |       |                                  |      |     |
| 2  |       |                                  |      |     |
| 3  | CT-1  | JUROR TYPE INFORMATION SHEET     | 148  |     |
| 4  | CT-2  | NEWSPAPER ARTICLE                | 148  |     |
| 5  | CT-3  | JURY PANEL SHEETS                | 1012 |     |
| 6  | CT-4  | SELECTED JURY LIST               | 1012 |     |
| 7  | CT-5  | JUROR NOTE                       | 1646 |     |
| 8  | CT-6  | JUROR NOTE                       | 1646 |     |
| 9  | CT-7  | LETTER (4 PAGES)                 |      |     |
| 10 | CT-8  | NEWSPAPER                        | 1773 |     |
| 11 | CT-9  | JUROR NOTE                       | 1773 |     |
| 12 | CT-10 | DVD                              | 2094 |     |
| 13 | CT-11 | DEFENDANT'S MEMO FOR REQUEST FOR | 2330 |     |
| 14 |       | IMPERFECT SELF-DEFENSE           |      |     |
| 15 | CT-12 | DEFENDANT'S REQUEST TO CHARGE #A | 2330 |     |
| 16 | CT-13 | DEFENDANT'S REQUEST TO CHARGE #B | 2330 |     |
| 17 | CT-14 | DEFENDANT'S REQUEST TO CHARGE #C | 2330 |     |
| 18 | CT-15 | DEFENDANT'S REQUEST TO CHARGE #D | 2331 |     |
| 19 | CT-16 | DEFENDANT'S REQUEST TO CHARGE #1 | 2331 |     |
| 20 | CT-17 | DEFENDANT'S REQUEST TO CHARGE #2 | 2331 |     |
| 21 | CT-18 | DEFENDANT'S REQUEST TO CHARGE #3 | 2331 |     |
| 22 | CT-19 | DEFENDANT'S REQUEST TO CHARGE #4 | 2331 |     |
| 23 | CT-20 | DEFENDANT'S REQUEST TO CHARGE #5 | 2331 |     |
| 24 | CT-21 | DEFENDANT'S REQUEST TO CHARGE #6 | 2331 |     |
| 25 | CT-22 | DEFENDANTS' REQUEST TO CHARGE #7 | 2331 |     |

## EXHIBITS

| NO.   | DESCRIPTION                       | ID.  | EV. |
|-------|-----------------------------------|------|-----|
| CT-23 | DEFENDANT'S REQUEST TO CHARGE #8  | 2331 |     |
| CT-24 | DEFENDANT'S REQUEST TO CHARGE #9  | 2331 |     |
| CT-25 | DEFENDANT'S REQUEST TO CHARGE #10 | 2331 |     |
| CT-26 | DEFENDANT'S REQUEST TO CHARGE #11 | 2331 |     |
| CT-27 | DEFENDANT'S REQUEST TO CHARGE #12 | 2332 |     |
| CT-28 | DEFENDANT'S REQUEST TO CHARGE #13 | 2332 |     |
| CT-29 | DEFENDANT'S REQUEST TO CHARGE #14 | 2332 |     |
| CT-30 | DEFENDANT'S REQUEST TO CHARGE #15 | 2332 |     |
| CT-31 | DEFENDANT'S REQUEST TO CHARGE #16 | 2332 |     |
| CT-32 | DEFENDANT'S REQUEST TO CHARGE #17 | 2332 |     |
| CT-33 | DEFENDANT'S REQUEST TO CHARGE #18 | 2332 |     |
| CT-34 | DEFENDANT'S REQUEST TO CHARGE #19 | 2332 |     |
| CT-35 | DEFENDANT'S REQUEST TO CHARGE #20 | 2332 |     |
| CT-36 | DEFENDANT'S REQUEST TO CHARGE #22 | 2332 |     |
| CT-37 | DEFENDANT'S REQUEST TO CHARGE #23 | 2332 |     |
| CT-38 | DEFENDANT'S REQUEST TO CHARGE #24 | 2332 |     |
| CT-39 | DEFENDANT'S REQUEST TO CHARGE #25 | 2332 |     |
| CT-40 | DEFENDANT'S REQUEST TO CHARGE #26 | 2333 |     |
| CT-41 | DEFENDANT'S REQUEST TO CHARGE #27 | 2333 |     |
| CT-42 | DEFENDANT'S REQUEST TO CHARGE #28 | 2333 |     |
| CT-43 | DEFENDANT'S REQUEST TO CHARGE #29 | 2333 |     |
| CT-44 | DEFENDANT'S REQUEST TO CHARGE #30 | 2333 |     |
| CT-45 | DEFENDANT'S REQUEST TO CHARGE #31 | 2333 |     |

## EXHIBITS

|    | NO.   | DESCRIPTION                               | ID.  | EV. |
|----|-------|-------------------------------------------|------|-----|
| 1  |       |                                           |      |     |
| 2  |       |                                           |      |     |
| 3  | CT-46 | DEFENDANT'S REQUEST TO CHARGE #32         | 2333 |     |
| 4  | CT-47 | DEFENDANT'S REQUEST TO CHARGE #33         | 2333 |     |
| 5  | CT-48 | DEFENDANT'S REQUEST TO CHARGE #34         | 2333 |     |
| 6  | CT-49 | DEFENDANT'S REQUEST TO CHARGE #35         | 2333 |     |
| 7  | CT-50 | DEFENDANT'S REQUEST TO CHARGE #36         | 2333 |     |
| 8  | CT-51 | DEFENDANT'S REQUEST TO CHARGE #37         | 2333 |     |
| 9  | CT-52 | DEFENDANT'S REQUEST TO CHARGE #38         | 2334 |     |
| 10 | CT-53 | JURY NOTE                                 | 2334 |     |
| 11 | CT-54 | PHOTOGRAPH                                | 2614 |     |
| 12 | CT-55 | PHOTOGRAPH                                | 2615 |     |
| 13 | CT-56 | PHOTOGRAPH                                | 2615 |     |
| 14 | CT-57 | JURY NOTE                                 | 2821 |     |
| 15 | CT-58 | JURY SHEET OF NO FINDING OF STATUTORY     |      |     |
| 16 |       | AGGRAVATING CIRCUMSTANCES AS TO VICTIM    |      |     |
| 17 |       | JARED CHAMPLIN                            | 2838 |     |
| 18 | CT-59 | JURY SHEET OF RECOMMENDATION OF LIFE      | 2838 |     |
| 19 |       | IMPRISONMENT AS TO VICTIM JARED CHAMPLIN  |      |     |
| 20 | CT-60 | JURY SHEET OF NO FINDING OF STATUTORY     | 2838 |     |
| 21 |       | AGGRAVATING CIRCUMSTANCES AS TO VICTIM    |      |     |
| 22 |       | WILLIAM WELBORN                           |      |     |
| 23 | CT-61 | JURY SHEET OF RECOMMENDATION OF LIFE      | 2838 |     |
| 24 |       | IMPRISONMENT AS TO VICTIM WILLIAM WELBORN |      |     |
| 25 |       |                                           |      |     |

1 (PROCEEDINGS, November 8, 2007)

2 (Photograph marked as State's Exhibit No. 8 for  
3 identification)

4 (Photograph marked as State's Exhibit No. 9 for  
5 identification)

6 (Photograph marked as State's Exhibit No. 10 for  
7 identification)

8 (Photograph marked as State's Exhibit No. 11 for  
9 identification)

10 (Photograph marked as State's Exhibit No. 12 for  
11 identification)

12 (Photograph marked as State's Exhibit No. 13 for  
13 identification)

14 (Photograph marked as State's Exhibit No. 14 for  
15 identification)

16 (Photograph marked as State's Exhibit No. 15 for  
17 identification)

18 (Voluntary Statement Form marked as State's  
19 Exhibit No. 16 for identification)

20 (Photograph marked as State's Exhibit No. 17 for  
21 identification)

22 (Photograph marked as State's Exhibit No. 18 for  
23 identification)

24 MR. GOWDY: Your Honor, literally five seconds,  
25 and I'm not exaggerating on that one.



1 Can we approach for five seconds?

2 THE COURT: Sure, solicitor, come on up)

3 (Whereupon, the lawyers and the defendant  
4 approached the bench for an off-the-record discussion)

5 (Photograph marked as State's Exhibit No. 19 for  
6 identification)

7 THE COURT: All right. Any matter we need to take  
8 up before we bring the jury in, from the State?

9 MR. GOWDY: Not from the State, Your Honor.

10 THE COURT: From the defense?

11 MR. STARNES: Yes, sir, Your Honor.

12 THE COURT: All right.

13 MR. STARNES: We spoke earlier off the record in  
14 reference to relevant evidence in this case, and I would  
15 like to take that matter up on the record, if we could, so  
16 that the record reflect --

17 THE COURT: I intended to do it anyway. I want to  
18 put on the record what I instructed at the bench. We were  
19 at the bench because the solicitor wanted to ask questions  
20 at the same time. What I told you -- what I told you then  
21 I'm going to put on the record in just a minute, so we will  
22 get a record of it, but I'll be glad to hear anything that  
23 you wish to say as well.

24 Yes, sir.

25 MR. STARNES: Your Honor, during the course of