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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

John C. Few, Circuit Court Judge

Case No. 00-CP-32-3470

GARY DUBOSE TERRY Petitioner,

v.

STATE OF SOUTH CAROLINA Respondent.

APPENDIX
VOLUME I OF VII

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STATE OF SOUTH CAROLINA

0001

In The Supreme Court

APPEAL FROM LEXINGTON COUNTY

Gary E. Clary, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

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2) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON) 95-GS-32-1670
3)
4)
THE STATE,)
5)
PLAINTIFF,)
6)
-VS-) TRANSCRIPT OF RECORD
7)
GARY DUBOSE TERRY,)
8) SEPTEMBER 15 - 21, 1997
DEFENDANT.) LEXINGTON, SOUTH CAROLINA
9
10
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11
THE HONORABLE GARY E. CLARY, JUDGE; AND A JURY.
12
A P P E A R A N C E S:
13
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21 ATTORNEYS FOR THE DEFENDANT.
22
23
ROBBIE KOON DEFREESE
24 CIRCUIT COURT REPORTER
25
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5	STATE'S EXHIBIT NO. 39 SMALL PHOTOGRAPH	1697
6	STATE'S EXHIBIT NO. 40 LETTER	1731
7	STATE'S EXHIBIT NO. 41 MAP	1731
8	STATE'S EXHIBIT NO. 42 LETTER/7/25/88	1741
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10	STATE'S EXHIBIT NO. 44 LETTER/7/5/88	1741
11	STATE'S EXHIBIT NO. 45 CONDOLENCE BOOK	1763
12	STATE'S EXHIBIT NO. 46 PHOTOGRAPH	1785, 1786
13	STATE'S EXHIBIT NO. 47 PHOTOGRAPH	1785, 1791
14	STATE'S EXHIBIT NO. 48 PHOTOGRAPH	1785, 1787
15	STATE'S EXHIBIT NO. 49 PHOTOGRAPH	1785, 1791
16	STATE'S EXHIBIT NO. 50 PHOTOGRAPH	1785, 1789
17	STATE'S EXHIBIT NO. 51 PHOTOGRAPH	1785, 1789
18	STATE'S EXHIBIT NO. 52 PHOTOGRAPH	1785, 1791
19	STATE'S EXHIBIT NO. 53 PHOTOGRAPH	1785, 1794
20	STATE'S EXHIBIT NO. 54 PHOTOGRAPH	1785
21	STATE'S EXHIBIT NO. 55 PHOTOGRAPH	1785, 1799
22	STATE'S EXHIBIT NO. 56 PHOTOGRAPH	1785
23	STATE'S EXHIBIT NO. 57 PHOTOGRAPH	1785, 1800
24	STATE'S EXHIBIT NO. 58 PHOTOGRAPH	1785, 1801
25	STATE'S EXHIBIT NO. 59 PHOTOGRAPH	1785, 1801

I N D E X (CON'T)

0022

	<u>WITNESSES/DESCRIPTION</u>	<u>PAGE NO.</u>
1		
2		
3	STATE'S EXHIBIT NO. 60 PHOTOGRAPH	1785,1802
4	STATE'S EXHIBIT NO. 61 PHOTOGRAPH	1785,1802
5	STATE'S EXHIBIT NO. 62 PHOTOGRAPH	1785,1802
6	STATE'S EXHIBIT NO. 63 PHOTOGRAPH	1785,1803
7	STATE'S EXHIBIT NO. 64 PHOTOGRAPH	1785,1803
8	STATE'S EXHIBIT NO. 65 PHOTOGRAPH	1785
9	STATE'S EXHIBIT NO. 66 VIDEOTAPE	1808,1809
10	STATE'S EXHIBIT NO. 67 STATEMENT/1/17/95	1812
11	STATE'S EXHIBIT NO. 68 STATEMENT/3 PAGES/3/24/95	1814
12	STATE'S EXHIBIT NO. 69 CHART/DERRICK	1823,1835
13	STATE'S EXHIBIT NO. 70 PHOTOGRAPH	1850
14	STATE'S EXHIBIT NO. 71 PHOTOGRAPH	1851
15	STATE'S EXHIBIT NO. 72 PHOTOGRAPH	1853
16	STATE'S EXHIBIT NO. 73 PHOTOGRAPH	1853
17	STATE'S EXHIBIT NO. 74 PHOTOGRAPH	1858

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0023

I N D E X (CON'T.)

	<u>WITNESSES/DESCRIPTION</u>	<u>PAGE NO.</u>
2		
3	DEFENDANT'S EXHIBIT NO. 1 PHOTOGRAPH	1370
4	DEFENDANT'S EXHIBIT NO. 2 STATEMENT/1/27/85	1618, 1725
5	DEFENDANT'S EXHIBIT NO. 3 GENERAL SESSIONS DOCKET SHEET	
6		1682, 1725
7	DEFENDANT'S EXHIBIT NO. 4 PHOTOGRAPH	1778
8	DEFENDANT'S EXHIBIT NO. 5 PHOTOGRAPH	1884
9	DEFENDANT'S EXHIBIT NO. 6 PHOTOGRAPH	1892
10	DEFENDANT'S EXHIBIT NO. 7 CHART/CONCLUSIONS	1957, 1993
11	DEFENDANT'S EXHIBIT NO. 8-A GENOGRAM	1960
12	DEFENDANT'S EXHIBIT NO. 8-B GENOGRAM	1960
13	DEFENDANT'S EXHIBIT NO. 9 CAT SCAN	1994, 2019
14	DEFENDANT'S EXHIBIT NO. 10 CHART	1994, 2030

15

16

17

18

19

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21

22 NOTE: ALL EXHIBITS FILED WITH THE CLERK OF COURT FOR
 23 LEXINGTON COUNTY.

24

25

00249-15-97
Date: Feb 15-97County: Jefferson

VOIR DIRE

Case No: 95-DS-32-1670Judge: ClaryPl./State: The StateState/Pl's. Atty: D. MyersF. A. Humphries, Jr.Defendant: Dary DuBose TerryDefense Atty: J. M. StoneE. C. FullwoodCourt Reporter: Robbie Koon DeFreese

Juror No.	Name	Sex	Race	*Court	Strikes		
					Plaintiff	Defense	Accept
50	Dlenda B. Clifton	F	W		S-1		
169	Charles T. Moore	M	W			D-1	
35	Howood J. Brown Jr.	M	W				(1)
163	Terigian J. Miller	F	B				(2)
185	Kay T. Reeves	F	W				(3)
164	Teresa P. Milne	F	W	C-E			
202	Jeffery W. Shaw	M	W			D-2	
188	Dawn Dolyne E. Richardson	F	B				(4)
151	James M. McCabe	M	W	CE			
From 214	Robin R. Smith	F	W				(5)
170	Karen M. Moore	F	W		S-2		
137	Cheryl H. Kuykendall	F	W		S-3		
139	Jandra J. Kyzer	F	W		S-4		
183	Ernest P. Dabney	M	W			D-3	
18	Kathryn J. Beckwith	F	W			D-4	
16	Kendall D. Beach	M	W				(6)
63	Jan M. Curtis	F	W	C-E			
148	Damrice B. Marshall	F	W			D-5	

*For the court column, please indicate who made the motion to strike the jurors "for cause" with a "C" for Court, "P" for Plaintiff or "D" for Defense.

0025

Date: 9-15-97

County: Lexington

VOIR DIRE

Case No: 95-05-32-1670

Judge: Clary

Pl./State: The State

State/Pl's. Atty: Myers / Humphreys

Defendant: Gary DuBose Terry

Defense Atty: Stone / Fullwood

Court Reporter: Gabbie Lynn DeFreese

Juror No.	Name	Sex	Race	*Court	Strikes		
					Plaintiff	Defense	Accept
68	Jeanelle E. Davis	F	W				(7)
195	Sandra J. Reunion	F	W			D-6	
197	Cheryl S. Sanders	F	W				(8)
77	Mary A. Ellis	F	W			D-7	
30	William A. Braun	M	W			D-8	
34	Louise M. Brown	F	W				(9)
94	Patricia E. Goff	F	W			D-9	
128	Jerry O. Jumper	M	W				(10)
15	Saundrea J. Bauer	F	W			D-10	
241	Larry S. Williamson	M	W				(11)
236	Allison H. Whitaker	F	W	C-E			
141	Cassandra D. Shephard	F	B		S-5		
109	Mary C. Harvey	F	W				(12)
5	Kerrin C. Anderson	M	W				A-1
43	Brandon S. Caldwell	M	W			D-1	
216	Corrie D. Sales	F	W			D-2	
20	Pat Bentley	F	W		S-1		
86	David S. Fowler	M	B	C-E			

*For the court column, please indicate who made the motion to strike the jurors "for cause" with a "C" for Court, "P" for Plaintiff or "D" for Defense.

Date:

County's

Case No:

~~4~~. /State:

Judge:

Judge: Cheng

State/Pl's. Atty:

De lendant :

Defense Atty:

Court Reporter:

uror No.

Name

Sex

Race

★ Court

Strikes

Plaintiff

Defense

Accept

87

Dennis G. Fowler

7

W

245

Gina Fajardo

f

B

69

Spencer H. Davis

W

142

Marie M. Lander

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1.

27

Bobby D. Smith

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12

With a "C" for Court, "P" for Plaintiff or "D" for Defense.

29-C

0027 1 WEDNESDAY, MAY 28, 1997.

2 (WHEREUPON, COURT CONVENED ON
3 WEDNESDAY, MAY 28, 1997, AT 2:30 P.M.)

4 THE COURT: LET THE RECORD REFLECT THAT THIS IS
5 THE CASE, THE STATE VERSUS GARY DUBOSE TERRY,
6 95-GS-32-1670 AND LET THE RECORD ALSO REFLECT THAT I'VE
7 BEEN VESTED WITH EXCLUSIVE JURISDICTION TO HEAR AND DISPOSE
8 OF THIS CASE AND ALL WARRANTS AND OTHER MATTERS PERTAINING
9 THERETO BY ORDER OF THE HONORABLE ERNEST A. FINNEY, CHIEF
10 JUSTICE OF THE SUPREME COURT OF SOUTH CAROLINA, DATED MARCH
11 27TH, 1997. AND ALSO I HAVE RECEIVED FROM JUDGE KEESLEY A
12 FAX, A COPY OF AN ORDER THAT HE HAD SIGNED ON MAY 19TH
13 REGARDING THIS MATTER.

14 AND FROM THAT ORDER, I UNDERSTAND THAT DISCOVERY
15 IS GOING TO BE COMPLIED WITH WITHIN THIRTY DAYS. IS THAT
16 RIGHT, FRAN?

17 MR. HUMPHRIES: YES, SIR, JUDGE, TO THE EXTENT
18 THAT IT'S AVAILABLE. I HAVE TRIED TO BRING MS. FULLWOOD
19 AND MR. STONE UP TO DATE ON -- SPECIFICALLY IN REGARD TO A
20 NUMBER OF QUESTIONS THEY'D POSED ABOUT THE DISCOVERY AND WE
21 HAVE PROBABLY THREE MATTERS OUTSTANDING WHICH I SHOULD BE
22 ABLE TO RESOLVE WITHIN THE NEXT THIRTY DAYS.

23 THE COURT: OKAY.

24 ANY -- WELL, I GUESS WE NEED TO REALLY WAIT UNTIL
25 YOUR CLIENT GETS HERE.

MR. STONE: THAT MIGHT BE BEST.

0028

(WHEREUPON, THE DEFENDANT ENTERS
THE COURTROOM AT THIS TIME.)

THE COURT: ALL RIGHT.

LET THE RECORD REFLECT THAT THE DEFENDANT, MR.
TERRY, IS PRESENT WITH US.

ALL RIGHT. INSOFAR AS THE DISCOVERY IS
CONCERNED, SOLICITOR, YOU SAY THAT INSOFAR AS WHAT YOU
HAVE, YOU CAN COMPLY WITHIN THIRTY DAYS.

WHAT ELSE IS THERE OUT THERE?

MR. HUMPHRIES: JUDGE, LET ME -- PROBABLY THE
BEST THING FOR ME TO DO. I'VE GOT A COUPLE OF DOCUMENTS
SENT TO ME FROM THE PUBLIC DEFENDER'S OFFICE REGARDING
DISCOVERY---

THE COURT: UH-HUH---

MR. HUMPHRIES: ---ON WHICH, BASICALLY, IS A LIST
OF THINGS THEY'VE REQUESTED. I CAN TELL -- I CAN TELL
DEFENSE COUNSEL THE STATUS OF THOSE ITEMS---

THE COURT: ALL RIGHT.

MR. HUMPHRIES: ---NOW TO THE BEST OF MY
KNOWLEDGE AND THAT MIGHT GET US BACK TO SQUARE ONE.

LET ME REFER FIRST TO YOUR LETTER OF MARCH 24,
1997. YOU INDICATE THAT YOU NEED A NUMBER OF ITEMS AND
I'LL START, NUMBER ONE, IS THE CORONER'S PHOTOS.

I'VE INSTRUCTED OUR INVESTIGATOR TO CONTACT THE

1 CORONER'S OFFICE. HE'S DONE THAT TODAY. HE SHOULD HAVE
2 THOSE BY THE END OF NEXT WEEK TO YOU.

3 MS. FULLWOOD: ALL RIGHT.

4 MR. HUMPHRIES: THEY ARE POLAROID, SO THEY WILL
5 BE PHOTOSTATIC COPIES, BUT PRETTY GOOD QUALITY.

6 AUTOPSY PHOTOS. THOSE WERE TAKEN BY THE
7 LEXINGTON COUNTY SHERIFF'S DEPARTMENT. I BELIEVE IT WAS
8 INVESTIGATOR CATO. WE ARE MAKING A DUPLICATE SET OF THOSE
9 BY NEGATIVES AND SHOULD HAVE THOSE BY THE END OF NEXT WEEK.

10 THE CRIME SCENE VIDEOTAPE YOU JUST RECEIVED A
11 COPY OF THAT.

12 MS. FULLWOOD: YES.

13 THE COURT: YOU REQUEST ANY INFORMATION REGARDING
14 AN F.B.I. PROFILE. THERE WAS NO WRITTEN REPORT ON THAT
15 CONTACT AND BASICALLY, AS I UNDERSTAND WHAT HAPPENED, I
16 TALKED TO THE LEAD INVESTIGATOR TODAY IS THAT THEY ACTUALLY
17 WENT TO THE F.B.I. ACADEMY OR QUANTICO IN ORDER TO GENERATE
18 AN F.B.I. PROFILE AND AT THAT TIME, THEY LEARNED THAT THE
19 LATENT PRINT FOUND AT THE SCENE MATCHED GARY TERRY. AND SO
20 THEY SPOKE FOR AWHILE, BUT THERE WAS NO PROFILE GENERATED
21 BECAUSE THEY HAD IDENTIFIED THE SUSPECT. SO THERE IS NO
22 DOCUMENTATION REGARDING THE F.B.I. PROFILE. ONE WAS
23 SOUGHT, BUT ONE WAS NEVER COMPILED BECAUSE WHILE THEY WERE
24 UP THERE, THEY GENERATED MR. TERRY AS A SUSPECT.

25 MR. STONE: DO YOU KNOW WHO THEY SPOKE TO WHEN

1 THEY WERE UP THERE?

2 MR. HUMPHRIES: I DON'T. I COULD FIND OUT. 0030

3 MR. STONE: OKAY. I WOULD LIKE THAT INFORMATION.

4 MS. FULLWOOD: I HAD GOTTEN THE IMPRESSION WITH
5 THE CONVERSATION I HAVE HAD WITH THE INVESTIGATOR THAT A
6 PROFILE HAD BEEN GENERATED.

7 MR. HUMPHRIES: OKAY. I TALKED WITH INVESTIGATOR
8 BUCKY PHILLIPS AND INVESTIGATOR FRIER TODAY AND THEY SAID
9 THAT NOTHING -- NO RECORD WAS ACTUALLY GENERATED OF THE
10 PROFILE, BUT THAT THEY DID TALK WITH THEM ABOUT IT AND I
11 THINK THAT THE RESULTS THEY WERE CONSISTENT WITH MR. TERRY,
12 BUT THERE WAS NO PROFILE GENERATED BECAUSE THEY HAD ALREADY
13 IDENTIFIED MR. TERRY AS THE SUSPECT.

14 MS. FULLWOOD: IF YOU COULD FIND OUT WHO GAVE---

15 MR. HUMPHRIES: OH, SURE. I'LL BE GLAD TO FIND
16 THAT OUT.

17 MS. FULLWOOD: THANK YOU.

18 MR. HUMPHRIES: AND THEN A NUMBER OF ITEMS FROM
19 S.L.E.D. A TRACE FIBER ANALYSIS. I HAVE CONTACTED THE
20 TRACE LAB AT S.L.E.D. JOE POWELL IS THE ASSIGNED SPECIAL
21 AGENT. HE HAS NOT CONTACTED ME BACK.

22 I KNOW THAT IN TERMS OF REQUESTS FOR COMPARISON,
23 THE ONLY REQUEST REGARDING TRACE WAS A HAIR COMPARISON
24 ANALYSIS. THAT REQUEST WAS MADE. I DON'T KNOW WHAT THE
25 RESULTS OF THAT REQUEST WERE. I'LL BE ABLE TO TELL YOU

0031

THAT WITHIN -- WELL, I'LL BE ABLE TO GIVE YOU A REPORT
WITHIN THE NEXT THIRTY DAYS. I'LL BE ABLE TO GIVE YOU AN
ANSWER ABOUT THAT NEXT WEEK AT THE LATEST.

ANALYSIS OF INSECTS. THERE WAS NO SUCH ANALYSIS
REQUESTED OR DONE.

AND FOR THE COURT'S INFORMATION, THAT -- THEY
FOUND SOME INSECT LARVA IN AN OPEN WOUND AND THERE WAS A
QUESTION REGARDING WHETHER OR NOT THEY COULD DATE THE
WOUND. I THINK THAT WAS ONE ACTUALLY THAT WAS -- THE
DEFENSE GENERATED AS A RESULT OF AN AUTOPSY FINDING THAT
THERE WERE LARVA IN THE WOUND. BUT NO SUCH ANALYSIS WAS
REQUESTED.

FINGERNAIL SCRAPINGS ANALYSIS, AN ANALYSIS OF
STOMACH CONTENTS. I'M NOT AWARE OF ANY ANALYSIS REGARDING
STOMACH CONTENTS. AND THE FINGERPRINT SCRAPINGS WOULD HAVE
BEEN DONE BY THE D.N.A. LAB, AND, AS I'VE INFORMED DEFENSE
COUNSEL EARLIER TODAY, LILLIE GALLMAN WAS THE ASSIGNED
SPECIAL AGENT REGARDING THE D.N.A.

SEROLOGY HAS BEEN COMPLETED.

D.N.A. WE ARE ADVISED HAS BEEN COMPLETED. THE
RESULTS WERE GIVEN TO THE SHERIFF'S DEPARTMENT'S ORALLY. I
DON'T EVEN KNOW THE -- I KNOW THAT THERE WAS A MATCH. I
DON'T KNOW THE EXTENT OF THAT MATCH. THEY'RE SUPPOSED TO
SEND ME A HARD COPY WHICH I'LL IMMEDIATELY FORWARD TO
DEFENSE COUNSEL.

1 AND I THINK THE ONLY OTHER OUTSTANDING MOTION
2 WILL BE THE STANDARD SUPPLEMENTAL MOTION FOR D.N.A. WHICH
3 THEY TYPICALLY FILE WHEN THERE ARE D.N.A. RESULTS. AND, I
4 GUESS, THAT'S PROBABLY PREMATURE AT THIS TIME BECAUSE I
5 DON'T HAVE A HARD COPY OF THE D.N.A. RESULTS. AS SOON AS
6 WE HAVE THAT, I WILL SEND THAT -- THAT DISCOVERY MOTION TO
7 S.L.E.D. AND WHAT WE TYPICALLY DO IS WE PUT THE S.L.E.D.'S
8 SPECIAL AGENT TOGETHER WITH DEFENSE COUNSEL AND THEY TELL
9 THEM ULTIMATELY WHAT THEY NEED FOR THEIR EXPERT AND WE'VE
10 BEEN -- I THINK WE'VE COOPERATED PRETTY WELL IN THAT
11 REGARD.

12 MS. FULLWOOD: YEAH, YOU DO. UH -- AND I KNOW
13 THAT YOUR GIVING US THIS STUFF HAS BEEN LIMITED BY WHAT HAS
14 BEEN GIVEN YOU, BUT WITH THE D.N.A., ESPECIALLY AS FAR AS
15 THE D.N.A. IS CONCERNED, IT'S BEGINNING TO GET TO THE STAGE
16 WHERE TIME---

17 MR. HUMPHRIES: SURE.

18 MS. FULLWOOD: ---IS GETTING SHORT. SO, IF YOU
19 COULD MAYBE ENCOURAGE WHOEVER IT IS OUT THERE AT S.L.E.D.
20 THAT NEEDS TO GENERATE THE REPORT TO DO THAT---

21 MR. HUMPHRIES: AND I'VE ALREADY GOT---

22 MS. FULLWOOD: ---IT WOULD CERTAINLY BE
23 APPRECIATED.

24 MR. HUMPHRIES: ---YEAH, I'VE GOT A CALL INTO
25 LILLIE GALLMAN. SHE'S SUPPOSE TO CALL ME BACK TODAY.

0035

1 THE COURT: TELL THEM WE ARE GOING TO CALL THIS
2 CASE SEPTEMBER 15TH---

3 MR. HUMPHRIES: I'VE DONE THAT---

4 THE COURT: ---SO---

5 MR. HUMPHRIES: ---I HAVE GIVEN THEM WRITTEN
6 NOTICE AND ORAL NOTICE.

7 THE COURT: OKAY.

8 MS. FULLWOOD: WE HAVE ALL THE INFORMATION
9 CONCERNING ALL OF THE FINGERPRINT ANALYSES THAT WAS DONE.
10 WEREN'T -- WEREN'T TWO ANALYSES DONE ON FINGERPRINTS?

11 MR. HUMPHRIES: I'M ONLY AWARE OF ONE REPORT. IN
12 REGARD TO THE IDENTIFICATION OF THE LATENT FOUND AT THE
13 CRIME SCENE MATCHING---

14 MS. FULLWOOD: THE PHONE BOX FINGERPRINT, I THINK
15 IT WAS EXAMINED TWICE. I AM NOT SURE OF THE DETAILS---

16 MR. HUMPHRIES: WELL, I'LL BE HONEST WITH YOU,
17 MS. FULLWOOD, IF IT'S EXAMINED TWICE, THEN I DON'T HAVE
18 THAT SECOND EXAMINATION EITHER.

19 AND WHAT I'VE TOLD DEFENSE COUNSEL IS I'M MEETING
20 WITH STEVE DERRICK, WHO IS THE LEAD S.L.E.D. AGENT IN THIS
21 CASE, WITHIN THE NEXT TWO WEEKS. I'LL GO THROUGH
22 EVERYTHING HE'S GOT. I'LL COLLECT WHAT REPORTS HE HAS THAT
23 I DON'T HAVE AND I'LL REPORT IT TO YOU IMMEDIATELY. I'LL
24 DO THE SAME THING WITH JOE POWELL IN TRACE.

25 MS. FULLWOOD: AND BY TWICE, I AM NOT SURE IF

1 THEY WERE ACTUALLY SAT DOWN WITH TWO SETS AND COMPARED THEM
2 OR IF THE FIRST TIME MAY HAVE BEEN RUNNING THROUGH AFIS.

3 MR. HUMPHRIES: THEY DID GO THROUGH AFIS---

4 MS. FULLWOOD: OKAY.

5 MR. HUMPHRIES: ---AND THEN WAS LATER DONE. AND
6 I DON'T KNOW THAT THEY GENERATE A REPORT ON THE AFIS HIT.
7 I CAN CHECK WITH THEM. BUT I DON'T -- TYPICALLY, I DON'T
8 THINK THEY DO A REPORT ON AN AFIS HIT.

9 MS. FULLWOOD: OKAY.

10 THE COURT: ALL RIGHT.

11 WHAT ELSE, DUFFIE? BETH?

12 MR. STONE: WE WANT -- WE WANT TO LET YOU KNOW WE
13 WANT TO TRY THIS CASE IN SEPTEMBER, TOO, BUT -- I DON'T
14 PLAN ON MAKING A CONTINUANCE. THE ONLY THING THAT I'VE
15 RECEIVED AND I'VE SPOKEN WITH MY CLIENT ABOUT THIS -- HE'S
16 VERY INTERESTED IN GETTING THIS THING TRIED AS QUICKLY AS
17 POSSIBLE, TOO. I AM CONCERNED, THOUGH, ESPECIALLY WITH THE
18 D.N.A. I KNOW CERTAINLY IT'S OUT -- TO A CERTAIN EXTENT,
19 IT'S OUT OF FRAN'S HANDS AND I UNDERSTAND THAT, BUT AT THE
20 SAME TIME, IT'S STILL THE STATE---

21 THE COURT: YEAH.

22 MR. STONE: ---AND IF WE DON'T GET IT WITHIN A
23 REASONABLE TIME, WE WON'T BE ABLE TO REACT TO IT AND THEN
24 THREE YEARS FROM NOW WE COME BACK AND THAT'S WHAT WE'LL
25 HAVE TO SAY.

0035

MR. HUMPHRIES: YOU'RE GET IT WITHIN THIRTY DAYS.

MR. STONE: THIRTY DAYS WILL MAKE IT THE END OF
JUNE.

MR. HUMPHRIES: AND I -- WHEN I SAY WITHIN THIRTY
DAYS, I EXPECT IT NEXT WEEK. I MEAN, WITHIN -- BY NEXT
WEEK.

THE COURT: WELL, FRAN, LET'S DO THIS. WHENEVER
YOU GET IT, I WANT THEM TO HAVE IT AND THIRTY DAYS IS THE
OUTSIDE.

MR. HUMPHRIES: OH, ABSOLUTELY. AND THAT'S WHY I
SAID THIRTY DAYS---

THE COURT: WE'VE GOT TO MOVE ALONG---

MR. HUMPHRIES: ---I FULLY EXPECT TO HAVE IT ALL
IN HAND NEXT WEEK.

MS. FULLWOOD: YOUR HONOR, THE ONLY ADDITIONAL
THING I CAN THINK OF RIGHT NOW AS FAR AS DISCOVERY IS
CONCERNED IS THAT WE HAVE NOT RECEIVED ANY DISCOVERY THAT
PERTAINS TO A SENTENCING PHASE OF THE TRIAL IF IT SHOULD
REACH THE SENTENCING PHASE OF THE TRIAL.

YOU KNOW BY STATUTE, WE ARE ENTITLED TO BE
INFORMED IN WRITING OF THE EVIDENCE THAT'S GOING TO BE USED
IN AGGRAVATION. WE HAVEN'T GOTTEN THAT YET. WE TYPICALLY
GET A BOILER PLATE TYPE OF NOTICE AND IF THAT'S WHAT WE GET
IN THIS CASE, WE'LL MAKE THE APPROPRIATE MOTION AT THAT
TIME. BUT I DO WANT THE COURT TO BE AWARE THAT WE HAVE

1 GOTTEN NOTHING PERTAINING TO THAT POTENTIAL PHASE OF THE
2 TRIAL.

3 MR. HUMPHRIES: THEY'LL -- THEY'LL GET THAT
4 NOTICE ALSO WITHIN THE NEXT THIRTY DAYS AND IT WILL BE
5 EXACTLY LIKE EVERY STATE---

6 THE COURT: STATE VERSUS HUMPHRIES?

7 MR. HUMPHRIES: THAT'S CORRECT.

8 THE COURT: ALL RIGHT.

9 MS. FULLWOOD: NOTHING ELSE AT THIS TIME, YOUR
10 HONOR.

11 THE COURT: OKAY.

12 MS. FULLWOOD: IF---

13 THE COURT: WHAT I WOULD LIKE FOR YOU TO DO. OF
14 COURSE, I'M IN THE THIRTEENTH CIRCUIT THROUGH THE END OF
15 JUNE AND THEN I'M GOING TO BE IN THE SEVENTH CIRCUIT. I'M
16 GOING BACK HOME THEREAFTER. I THINK THE ONLY TIME THAT I'M
17 GOING TO BE OUT IS WHEN I'M HERE, BUT WE CAN WORK AROUND
18 THAT. YOU KNOW, I CAN COME DOWN HERE VERY QUICKLY SO THAT
19 WE CAN RESOLVE THESE THINGS AND IT LOOKS LIKE MAYBE THE
20 ONLY THING THAT YOU WOULD MAYBE HAVE A MOTION ON IS IF YOU
21 RUN INTO PROBLEMS ON YOUR D.N.A. OR INSOFAR AS ANY ISSUES
22 YOU WANT TO RAISE ON SENTENCING PHASE MATTERS, WE CAN
23 HANDLE THAT. THAT SHOULDN'T TAKE TOO LONG.

24 MS. FULLWOOD: IF IT'S CONVENIENT FOR THE COURT
25 AT THIS TIME, ONCE THIS HEARING IS OVER, I WOULD LIKE TO

0037

TAKE UP SOME EX PARTE MATTERS.

THE COURT: WE CAN DO THAT. AND I'M GOING TO WANT TO TALK TO THE PEOPLE DOWN HERE SINCE I'VE NEVER BEEN TO LEXINGTON TO HOLD COURT AND FIND OUT WHAT YOU DO WITH YOUR JURIES AND THINGS LIKE THAT. SINCE IT'S STILL FRESH IN MY MIND. I GOT THROUGH WITH ONE YESTERDAY.

MR. STONE: THAT'S PRETTY FRESH, JUDGE.

THE COURT: AND I'M GOING TO SPARTANBURG TOMORROW TO WORK ON ONE I'M DOING IN OCTOBER. SO -- WE'LL TRY TO IRON OUT SOME OF THOSE THINGS.

WAS THIS A S.L.E.D. CASE---

MR. HUMPHRIES: IT WAS A LEXINGTON COUNTY SHERIFF'S DEPARTMENT CASE, BUT THE SCENE WAS PROCESSED BY S.L.E.D.

THE COURT: OKAY. ALL RIGHT.

WELL, IF Y'ALL NEED ME -- LET ME SEE IF I HAVE SOME CARDS HERE. YOU CAN GET IN TOUCH WITH ME.

(WHEREUPON, COURT RECESSED FOR THE DAY AT 2:55 P.M.)

WEDNESDAY, SEPTEMBER 3, 1997.

(WHEREUPON, COURT CONVENED ON WEDNESDAY, SEPTEMBER 3, 1997, AT 9:30 A.M. IN SPARTANBURG, SOUTH CAROLINA.)

THE BAILIFF: COURT WILL COME TO ORDER. JUST REMAIN SEATED.

1 THE COURT: THANK YOU VERY MUCH. PLEASE TAKE
2 YOUR SEATS.

3 IT'S MY UNDERSTANDING THAT THE DEFENDANT IS NOT
4 GOING TO BE HERE TODAY?

5 MR. STONE: THAT'S CORRECT, YOUR HONOR. WE ARE
6 WAIVING HIS PRESENCE FOR THIS HEARING.

7 THE COURT: ALL RIGHT. THIS IS THE MATTER OF
8 THE STATE VERSUS TERRY, A LEXINGTON COUNTY CASE. I THINK
9 WE ARE HERE ON THE DEFENSE'S REQUEST.

10 SO LET ME HEAR FROM MS. FULLWOOD OR MR. STONE.

11 MR. STONE: PLEASE THE COURT, YOUR HONOR.

12 INDEED, WE ARE HERE ON A REQUEST OF THE DEFENSE
13 AND, I THINK, THE FORMAL WAY TO DO THIS IS FOR A MOTION --
14 AS A MOTION FOR DISCOVERY ORDER OR SOME TYPE OF A RULE FIVE
15 LIMITATION.

16 HERE IS THE DEFENSE'S CONCERN. WE RECEIVED AND
17 WE ARE STILL RECEIVING MATERIALS FROM THIS CASE, FROM THE
18 INVESTIGATION OF THIS CASE WHICH, AS YOU KNOW, HAS BEEN
19 PENDING FOR QUITE SOMETIME.

20 I WAS APPOINTED ON THIS CASE, I BELIEVE, APRIL OF
21 LAST YEAR. THE MURDER ACTUALLY TOOK PLACE MAY THE 30TH OF
22 1994. YET, LAST WEEK, WE RECEIVED A NUMBER OF PHOTOGRAPHS
23 THAT WE HAVE SEEN FOR THE VERY FIRST TIME OF THE CRIME
24 SCENE.

25 SPECIFICALLY, AND I COULD CALL YOUR ATTENTION --

0039

1 YOUR HONOR, IF WE COULD MARK THIS FOR THE RECORD.

2 THE COURT: YES, SIR. GO AHEAD AND MARK THOSE.

3 COURT'S ONE---

4 MR. STONE: YES, SIR.

5 THE COURT: ---AND TWO.

6 MR. STONE: UNFORTUNATELY, THESE ARE OUR ONLY

7 COPIES.

8 (WHEREUPON, COURT'S EXHIBIT NUMBER

9 ONE, PHOTOGRAPH, AND COURT'S EXHIBIT NUMBER TWO,

10 PHOTOGRAPH, MARKED FOR THE RECORD AT THIS TIME.)

11 MR. STONE: YOUR HONOR, I'LL HAND UP TO YOU

12 COURT'S NUMBER ONE AND TWO WHICH SHOW WHAT APPEAR TO BE

13 PHOTOGRAPHS OF A HANDGUN THAT WAS LOCATED ON THE CRIME --

14 AT THE CRIME SCENE.

15 NOW, FROM WHAT I UNDERSTAND FROM THE SOLICITOR'S

16 OFFICE, IT WAS NOT COLLECTED. THERE WERE NO TESTS RUN ON

17 IT. THERE WAS SOME RUMOR THAT IT WAS AN INOPERABLE

18 HANDGUN.

19 THE POINT -- THE POINT THAT WE HAVE, HOWEVER, IS

20 THAT THIS CASE HAS BEEN PENDING FOR AS LONG AS IT'S

21 PENDING. THE MURDER TOOK PLACE IN 1994 AND THIS IS THE

22 FIRST WE'VE SEEN OF CRIME SCENE PHOTOGRAPHS WHICH WERE

23 OBVIOUSLY IN EXISTENCE SINCE MAY THE 30TH OF '94.

24 FROM OUR CONVERSATION -- WE MET WITH THE

25 SOLICITOR'S OFFICE YESTERDAY -- AND TO BE HONEST WITH YOU,

1 I DON'T KNOW THAT THIS IS NECESSARILY -- I'M NOT CLAIMING
2 THAT THE SOLICITORS HAVE HAD THINGS THAT THEY ARE NOT
3 GIVING US. UNFORTUNATELY, THERE'S A LOT OF MATERIAL THAT I
4 KNOW IS EITHER OUT THERE OR TEST SHOULD HAVE BEEN RUN, BUT
5 WEREN'T THAT THE SOLICITORS MAY NOT AT THIS TIME HAVE
6 POSSESSION OF. BUT THAT DOESN'T DO US ANY GOOD.

7 IF -- IT'S MY POSITION THAT THEY SHOULD BE AT
8 THIS POINT PUT UNDER AN AFFIRMATIVE DUTY TO COLLECT EVERY
9 BIT OF MATERIAL THAT THEY HAVE OR THAT ANY POLICE AGENCY
10 HAS AND PROVIDE THAT TO US WITHIN A REASONABLE AMOUNT OF
11 TIME AND ANYTHING THAT THEY PROVIDE TO US AFTER THAT,
12 SHOULD BE EXCLUDED NOW.

13 NOW, I HAVE A NUMBER OF ITEMS WRITTEN ON A LIST
14 THAT I DO NOT HAVE THAT I KNOW THINGS WERE TAKEN AND IF YOU
15 WILL INDULGE ME, YOUR HONOR---

16 THE COURT: YES, SIR.

17 MR. STONE: ---I'LL JUST RUN THROUGH THAT---

18 THE COURT: ALL RIGHT.

19 MR. STONE: SHOE IMPRESSIONS. WE SAW YESTERDAY
20 PHOTOGRAPHS OF THE CRIME SCENE THAT HAD SOME SHOE
21 IMPRESSIONS APPARENTLY IN THE KITCHEN WITH SOME APPARENT --
22 APPARENT SHOE MARKS IN SOME BLOOD. FIRST TIME I HAVE SEEN
23 THAT. SO I DON'T KNOW IF ANY SHOE IMPRESSION TESTS WERE
24 DONE ON THAT OR NOT AND I'M NOT REAL SURE WHERE THE STATE
25 IS PLANNING ON GOING WITH THAT. THESE ARE THE FIRST

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1 PHOTOGRAPHS I SAW YESTERDAY.

2 WE HAVE -- WE BELIEVE THAT THERE WERE AFIS
3 REPORTS DONE ON THE FINGERPRINTS. THERE WERE A NUMBER OF
4 FINGERPRINTS TAKEN FROM THE SCENE. IN FACT, YESTERDAY, WE
5 FOUND THAT THERE WERE FIVE FINGERPRINTS OR FOUR OR FIVE
6 FINGERPRINTS TAKEN FROM SOME BEER CANS THAT WERE APPARENTLY
7 RUN THROUGH AFIS WITH NO MATCH. WE WOULD LIKE TO SEE THE
8 AFIS REPORTS ON THAT.

9 THERE ARE, YOUR HONOR, TAKE -- TAKE-IN SHEETS
10 FROM S.L.E.D. THESE ARE EVIDENCE SHEETS THAT INDICATE WHAT
11 S.L.E.D. HAS TAKEN IN TO DO TESTING ON WHICH GIVES US A
12 GOOD IDEA ABOUT WHAT HAS BEEN TESTED AND WHAT HAS NOT BEEN
13 TESTED. WE DO NOT HAVE -- WE HAVE A FEW TAKE-IN SHEETS,
14 BUT, I THINK, YOUR HONOR, THOSE CAME FROM RICHLAND COUNTY.
15 I DON'T THINK WE HAVE ANY FROM S.L.E.D.

16 OF COURSE, YOU HAVE THE PHOTOGRAPHS OF THE GUN.
17 IF THAT IS INTO EVIDENCE ANYWHERE, WE WOULD LIKE TO HAVE
18 SOME ACCESS TO IT. WE HAVE GONE THROUGH THE EVIDENCE ROOM
19 AND FOUND NOTHING. WE HAVE ASKED THE EVIDENCE CUSTODIAN
20 AND HE DOESN'T KNOW ANYTHING ABOUT A GUN. MY UNDERSTANDING
21 FROM THE SOLICITOR IS THAT IT'S INOPERABLE WHICH MEANS THAT
22 THERE HAD TO BE EITHER SOME TESTS DONE OR STATEMENT
23 CONCERNING THE GUN. BUT WE DON'T KNOW IF THERE'S ANY
24 BALLISTICS ON THIS OR NOT.

25 ALONG WITH THAT, I DON'T KNOW IF ANY POWDER

1 RESIDUE TESTS WERE TAKEN FROM EITHER THE VICTIM OR THE
2 DEFENDANT OR ANYONE ELSE FOR THAT MATTER.

3 DR. CARTER, WHO WAS THE FORENSIC PATHOLOGIST ON
4 THIS CASE, INDICATED THAT HE PREPARED A NUMBER OF SAMPLES
5 THAT ALSO SHOULD HAVE BEEN TESTED.

6 ONE IS HE TOOK LARVA FROM THE BODY INDICATING --
7 AND HE WAS TRYING TO USE THAT TO ALLOW A SCIENTIST TO COME
8 IN AND DATE THE DEATH OF THE BODY. THAT -- WE DON'T HAVE
9 ANY RESULTS FROM THAT. I DON'T KNOW IF THAT'S BEEN DONE OR
10 NOT.

11 ALSO, SOME TRACE FIBER ANALYSIS. DR. CARTER
12 INDICATED THAT HE HAD TAKEN SOME FIBER. HE ALSO INDICATED
13 FINGERNAIL SCRAPINGS AND, I BELIEVE, YOUR HONOR, THAT MAY
14 BE INCLUDED IN A S.L.E.D. REPORT. WE LOOKED AT THAT
15 YESTERDAY. IF THAT'S THE CASE, THEN I'M NOT PURSUING THAT.
16 BUT I WANT TO MAKE SURE THAT'S THE SAME FINGERNAIL
17 SCRAPINGS THAT WERE TAKEN.

18 HE ALSO INDICATED THAT HE TOOK SOME STOMACH
19 CONTENTS AND SENT THOSE OFF FOR ANALYSIS AND THOSE ARE THE
20 FOUR THINGS FROM DR. CARTER.

21 THERE IS IN EVIDENCE A ROLLED-UP PIECE OF CARPET.
22 MY INDICATION FROM THE SOLICITOR'S OFFICE IS THERE WERE NO
23 TESTS DONE ON THAT. IF THAT'S THE CASE, THEN THAT'S FINE.
24 BUT I WANT TO MAKE SURE THAT THERE ARE NO TEST RESULTS FROM
25 ANY CARPET THAT WAS TAKEN FROM THE CRIME SCENE. I DON'T

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2 KNOW -- IT IS IN A BIOHAZARDOUS MATERIAL BAG. I DON'T KNOW
3 IF THAT IS THE CARPET FROM UNDERNEATH THE DECEDENT'S HEAD
4 OR FROM UNDER HER LOWER PART OF THE BODY WHICH INDICATED
5 SOME TYPE OF SEMEN MAY BE THERE. THAT WAS REFERENCED IN
6 THE PRELIMINARY HEARING, BUT WE DON'T KNOW IF THERE WAS ANY
7 TEST FOR THAT OR NOT.

8 AND, FINALLY -- AND I WILL CHECK WITH MS.
9 FULLWOOD ON THIS TO MAKE SURE IT'S FINALLY, BUT, I BELIEVE,
10 THE LAST THING IS THE F.B.I. PROFILE.

11 OUR INDICATION FROM THE SHERIFF'S DEPARTMENT IS
12 THAT A PROFILE WAS DONE IN WASHINGTON. HAVING SOME
13 EXPERIENCE IN THIS, I KNOW THAT THE FEDERAL GOVERNMENT, THE
14 F.B.I., DOESN'T DO ANY PROFILING OVER THE TELEPHONE WITHOUT
15 MAKING SOME NOTES OF IT. WHAT THE SOLICITOR'S OFFICE IS
16 TELLING US IS THAT THERE ARE NO NOTES, THERE'S NO REPORT,
17 NOTHING BLANKED-OUT FROM THAT F.B.I. PROFILE SHEET IN
18 WASHINGTON.

19 WELL, I WANT TO MAKE SURE THAT THAT'S -- THAT IS
20 THEIR POSITION, BUT I WOULD ALSO LIKE TO NOTE THE NAME OF
21 THE PROFILER IN WASHINGTON AND BE ABLE TO TALK TO THEM
22 CONCERNING THIS. THAT IS -- THAT IS THE FINAL THING AS FAR
23 AS EVIDENTIARY.

24 THE ONLY OTHER THING THAT I KNOW OF IS WE HAVE
25 TALKED TO THE SOLICITOR'S OFFICE AND THEY SAID THEY WOULD
BE GLAD TO COOPERATE WITH US SEEING THE CRIME SCENE. THE

1 -- OF COURSE, THE HOUSE IS NO LONGER IN THE POSSESSION OF
2 THE SHERIFF'S DEPARTMENT OR THE SOLICITOR'S OFFICE. IT MAY
3 BE NECESSARY FOR US TO GET A COURT ORDER TO SEE THAT. THE
4 VICTIM OR THE PERSON THAT IS LIVING THERE NOW HAS INDICATED
5 TO THE SOLICITOR'S OFFICE THEY DON'T MIND US DOING THAT IF
6 WE TAKE A POLICE OFFICER WITH US. THAT'S FINE. WE DON'T
7 HAVE ANY PROBLEM DOING THAT. I'M JUST A LITTLE CONCERNED
8 NOW THAT WE HAVE YOU HERE, WE MAY WANT TO COVER THAT BASE
9 AS WE SEE FIT.

10 IF I COULD HAVE JUST A MOMENT TO MAKE SURE I HAVE
11 COVERED EVERYTHING.

12 THE COURT: ALL RIGHT.

13 (WHEREUPON, MR. STONE CONFERS WITH
14 MS. FULLWOOD AT THIS TIME OFF THE RECORD.)

15 MR. STONE: WE ALSO SAW, YOUR HONOR -- I
16 APOLOGIZE. WE ALSO SAW YESTERDAY A NUMBER OF LETTERS THAT
17 APPARENTLY WERE SUBMITTED INTO EVIDENCE, AT LEAST ACCORDING
18 TO THE EVIDENCE CUSTODIAN, SOMETIME LAST WEEK. THESE
19 LETTERS WE DON'T HAVE COPIES OF AND WE NEED TO GET COPIES
20 OF THOSE.

21 THERE ARE SOME MATTRESS CUTTINGS THAT WERE TAKEN
22 FROM THE CRIME SCENE THAT WE DO NOT HAVE ANY REPORTS ON AND
23 THERE WERE SOME HAIR FIBERS. SPECIFICALLY, THERE WAS SOME
24 PUBIC HAIRS TAKEN FROM THE VICTIM AT THE CRIME SCENE THAT
25 WERE SENT OFF. I DON'T BELIEVE THOSE HAVE BEEN TESTED.

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1 THERE WERE ALSO HAIRS ON THE WEAPON ITSELF OR WHAT IS
2 ALLEGED TO BE THE CRIME -- THE MURDER WEAPON THAT ARE ALSO
3 OUTSTANDING.

4 AND I THINK THAT'S EVERYTHING THAT WE DO NOT HAVE
5 AT LEAST AS FAR AS WE KNOW.

6 THANK YOU.

7 THE COURT: MR. HUMPHRIES.

8 MR. HUMPHRIES: PLEASE, THE COURT, YOUR HONOR.

9 SUBSTANTIAL COMPLIANCE WITH THE DISCOVERY MOTIONS
10 WERE PROVIDED BY THE STATE SEPTEMBER OF 1996, TO DUFFIE
11 STONE DIRECTLY BY ME. THERE WERE A NUMBER OF ITEMS AT THAT
12 TIME WHICH WERE OUTSTANDING BECAUSE THE SOLICITOR'S OFFICE
13 DID NOT HAVE THEM.

14 AS A MATTER OF PRACTICE, IN CAPITAL CASES, WHAT I
15 DO IN TERMS OF DISCOVERY IS PROVIDE THE DEFENSE UPON THEIR
16 DEMAND THAT INFORMATION WHICH IS CONTAINED IN THE
17 SOLICITOR'S FILE. THE INFORMATION THAT IS CONTAINED IN THE
18 SOLICITOR'S FILE HAS NECESSARILY BEEN FORWARDED EITHER FROM
19 S.L.E.D., THE SHERIFF'S DEPARTMENT OR WHATEVER OTHER
20 INVESTIGATING AGENCY IS INVOLVED.

21 ONCE I DO THAT, HISTORICALLY, I HEAR BACK FROM
22 THE DEFENSE ATTORNEYS WHO SAY WE DON'T HAVE THESE ITEMS.
23 WHETHER I GET THAT LETTER OR NOT, PRIOR -- WELL, WELL IN
24 ADVANCE TO THE CALL OF THE CASE, I MEET WITH THE CHIEF
25 INVESTIGATING OFFICER OF THE LAW ENFORCEMENT AGENCY, ASK

1 HIM TO BRING OVER HIS ORIGINAL FILE. AT WHICH TIME, HE AND
2 I JOINTLY REVIEW THAT FILE TO MAKE SURE, NUMBER ONE, THAT
3 MY FILE IS COMPLETE; AND, NUMBER TWO, THAT IF THERE ARE
4 ITEMS WHICH ARE MISSING FROM MY FILE CONTAINED IN THE
5 ORIGINAL CASE FILE, I MAKE COPIES OF THOSE AND I PROVIDE
6 THEM TO THE DEFENSE WHICH I HAVE DONE IN THIS CASE.

7 NOW, MR. STONE HAS MADE REFERENCE TO A NUMBER OF
8 ITEMS AND I THINK I HAVE GOT A COMPLETE LIST. I'M SURE HE
9 WILL REMIND ME IF I DON'T. MR. CHASE, FROM OUR OFFICE, WAS
10 TRYING TO WRITE THEM DOWN. AND I'LL TRY TO GO ITEM BY ITEM
11 THE BEST I CAN.

12 FIRST OF ALL, LET ME SAY FOR THE RECORD, YOUR
13 HONOR, WE WERE PROVIDED NOTICE OF THIS HEARING YESTERDAY AT
14 3 O'CLOCK. I'M ADVISED THAT JUST ABOUT EVERYBODY ELSE KNEW
15 ABOUT IT AT LEAST LAST WEEK SOMETIME AND FOR THE RECORD,
16 YOUR HONOR, OBVIOUSLY, WE DON'T HAVE ANY PROBLEM IN COMING
17 TO SEE YOU AT ANY TIME IN ANY PLACE, BUT WE ARE WITHIN TWO
18 WEEKS OF THE TRIAL OF THIS CASE AND IF THERE IS ANOTHER
19 SUCH HEARING CALLED BY THE DEFENSE, WHO HAS ADEQUATE NOTICE
20 OF IT, WE WOULD LIKE THE SAME TYPE OF NOTICE. THAT BEING
21 SAID, YOUR HONOR, I WOULD GO TO THE LIST.

22 FIRST, IN REGARD TO THE PHOTOGRAPHS OF THE SCENE,
23 I WROTE MS. FULLWOOD A LETTER -- BEG THE COURT'S
24 INDULGENCE.

25 THERE WERE -- THERE WERE REQUESTS REGARDING THE

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1 PHOTOGRAPHS ALONG AND ALONG FROM THE DEFENSE. AND I WROTE
2 MS. FULLWOOD -- IF I CAN FIND THE LETTER -- IN ANY EVENT,
3 IT'S WELL IN ADVANCE OF THE TIME THEY WERE ABLE TO RECEIVE
4 THESE PHOTOGRAPHS.

5 WHAT I ADVISED HER AND WHAT WE DO IN EVERY CASE.
6 OBVIOUSLY, WE DON'T MAKE COPIES OF THE PHOTOGRAPHS.
7 S.L.E.D. DOES THAT. I WROTE ON AUGUST 5TH AFTER HER --
8 AFTER ANOTHER REQUEST FROM HER AND I ADVISED HER AT THAT
9 TIME TO CONTACT AGENT SPRAWLS DIRECTLY WHO WAS IN CHARGE OF
10 THE PHOTOGRAPH SECTION OR ONE OF THE AGENTS IN CHARGE OF
11 THE PHOTOGRAPH SECTION. I SPOKE DIRECTLY WITH AGENT
12 SPRAWLS, TOLD THEM THAT THEY NEEDED TO COMPLY WITH THE
13 REQUEST FOR THOSE PHOTOGRAPHS IMMEDIATELY. HE ASSURED ME
14 THAT HE WOULD.

15 I RECEIVED A CALL FROM MS. FULLWOOD LAST WEEK
16 INDICATING THAT -- IN FOLLOW-UP TO MY LETTER OF AUGUST 5TH,
17 SHE HAD MADE CONTACT WITH S.L.E.D., WHO INDICATED THAT SHE
18 NEEDED TO DO SOMETHING IN ADDITION TO JUST CALLING. I
19 FOUND OUT EXACTLY WHAT THAT WAS. THAT IS, THAT THEY NEED
20 TO FILE SOME MEMORANDA REGARDING REQUEST OF THOSE
21 PHOTOGRAPHS. I TOLD HER EXACTLY THE WAY THEY SAID SHE
22 NEEDED TO DO IT. YOU KNOW, THEY ARE NOT OUR POLICIES,
23 THEY'RE S.L.E.D.'S POLICIES. BUT I PROVIDED THAT
24 INFORMATION TO MS. FULLWOOD. I ASSUMED SHE COMPLIED
25 DIRECTLY THAT DAY WITH THEIR REQUESTS AND THE PHOTOGRAPHS

1 WERE AVAILABLE I'M ADVISED BY S.L.E.D. EITHER THE NEXT DAY
2 OR THE FOLLOWING DAY. I DON'T KNOW WHEN THEY PICKED THEM
3 UP, BUT THEY WERE AVAILABLE AT THAT TIME.

4 THE HANDGUN PHOTO -- IN REGARD TO THE HANDGUN,
5 YOUR HONOR, THIS KILLING IS A -- IT'S A BEATING. THERE IS
6 NO EVIDENCE WHATSOEVER THAT IT INVOLVED A HANDGUN AT ALL.
7 THE ONLY INFORMATION I'VE GOT REGARDING THAT HANDGUN IS
8 THIS. THAT PHOTOGRAPHS WERE TAKEN OF IT; THAT IT WAS NOT
9 COLLECTED BECAUSE IT WASN'T PROBATIVE AT THE TIME AND THE
10 STATE CONTENDS IT'S STILL NOT PROBATIVE. AND THE ONLY
11 OTHER INFORMATION WE HAVE REGARDING THAT HANDGUN IS FROM
12 THE DAUGHTER OF THE VICTIM WHO ADVISED LAW ENFORCEMENT THAT
13 THAT HANDGUN WAS PROVIDED TO HER BY HER FATHER SOME YEARS
14 AGO WHILE SHE STILL LIVED IN THE RESIDENCE WITH HER MOTHER,
15 THAT THE HANDGUN WAS INOPERABLE AND WHEN SHE LEFT THE
16 RESIDENCE, SHE LEFT THE HANDGUN.

17 THE STATE DOES NOT INTEND TO OFFER IT. IF THE
18 DEFENSE WISHES -- AND WE NEVER COLLECTED IT. I DON'T EVEN
19 KNOW WHERE IT IS AT THIS POINT. IF THEY WANT US TO TRY AND
20 FIND OUT WHERE THAT HANDGUN IS AND OFFER IT TO THEM FOR
21 BALLISTIC TESTING, THAT'S FINE.

22 NOW, IF THEY WILL REVIEW THE INFORMATION I'VE
23 PROVIDED THEM BACK IN SEPTEMBER OF 1996, IN J. PHILLIPS'
24 SUPPLEMENTARY REPORT, WHICH I DIDN'T HAVE TO PROVIDE, BUT I
25 DID, IT NOTES THE HANDGUN. SO THEY'VE HAD THAT INFORMATION

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AT LEAST IN WRITING -- THEY DIDN'T HAVE A PICTURE, BUT THEY
HAD IT IN WRITING BACK IN SEPTEMBER OF 1996.

YOUR HONOR, I HAVE DONE WHAT I BELIEVE IS MY DUTY
AS THE PROSECUTOR IN THIS CASE. I HAVE AFFIRMATIVELY GONE
THROUGH THE EVIDENCE, BOTH AT THE LEXINGTON COUNTY
SHERIFF'S DEPARTMENT'S EVIDENCE ROOM. I'VE ASKED THEM TO
COLLECT EVERY ITEM OF EVIDENCE WHICH THEY HAVE IN THE
EVIDENCE ROOM WHICH RELATES TO THIS CASE, I HAVE VIEWED
THAT EVIDENCE. I HAVE TOLD THE DEFENSE COUNSEL WHAT I HAVE
SEEN IN THAT EVIDENCE. I HAVE LOOKED AT THE ORIGINAL CASE
FILE WHICH I ASK EVERY TIME THAT THEY INCLUDE ANYTHING
RELATING TO THE CASE IN THE ORIGINAL CASE FILE. I'VE
REVIEWED THAT CASE FILE AND I PROVIDED ANYTHING WHICH, I
BELIEVE, IS DISCOVERABLE AND THINGS WELL OUTSIDE THE RULES
OF DISCOVERY IN MY OPINION TO THE DEFENSE.

NOW, I BELIEVE THAT IS THE EXTENT OF MY DUTY AS
THE PROSECUTOR AS IT RELATES TO DISCOVERY. SO I HAVE DONE
THAT.

THERE WERE A NUMBER OF ITEMS OR THERE IS
PARTICULARLY ONE ITEM AND THAT IS THE PUBIC HAIRS AND I'LL
ADDRESS THAT NOW.

MS. FULLWOOD BROUGHT THAT TO MY ATTENTION LAST
WEEK AND I ASKED HER AND WE HAVE DONE THIS ON A NUMBER OF
OCCASIONS WHERE THERE WAS AN ITEM IN EVIDENCE WHICH WAS NOT
EXAMINED FOR WHATEVER REASON. I ASKED HER, DO YOU WISH US

1 TO SUBMIT IT ON A CONSENSUAL BASIS; THAT IS, THAT BOTH US
2 REQUEST THAT IT BE SUBMITTED. I'LL BE GLAD TO DO THAT IF
3 YOU WANT ME TO DO THAT. SHE DECLINED SAYING WHY PUT
4 ANOTHER NAIL IN HIS COFFIN.

5 NOW, WE CAN SUBMIT IT FOR TESTING IF SHE WISHES,
6 BUT TO TAKE -- TO TAKE THE POSITION THAT IT'S SOMETHING
7 THAT WAS SUBMITTED AND WE'RE REFUSING TO ANALYZE IT AT HER
8 REQUEST IS INACCURATE.

9 THE COURT: SO WHAT YOU'RE SAYING IS THEN INSOFAR
10 AS THE PUBIC HAIR SAMPLE, THERE HAS BEEN NO TEST---

11 MR. HUMPHRIES: THERE HAS BEEN NO TEST DONE---

12 THE COURT: ---DONE. ALL RIGHT.

13 MR. HUMPHRIES: WHICH IS WHAT I ADVISED THEM LAST
14 WEEK.

15 THE COURT: OKAY.

16 MR. HUMPHRIES: AND THEY HAD THAT -- BY VIRTUE OF
17 THE S.L.E.D. ANALYSIS REPORTS, BY PROCESS OF ELIMINATION,
18 THEY COULD TELL THAT IT HAD NOT BEEN ANALYZED BECAUSE IT'S
19 NOT CONTAINED IN THAT REPORT, THAT IS THE TRACE REPORT.

20 THE COURT: ALL RIGHT.

21 MR. HUMPHRIES: FINGERPRINTS FROM THE SCENE. WE
22 ARE AWARE OF ONE IDENTIFIABLE FINGERPRINT WHICH WE'VE
23 PROVIDED THE DEFENSE AND THAT IS ON A PHONE BOX. THERE ARE
24 A NUMBER OF OTHER LATENT PRINTS WHICH THERE ARE IN EVERY
25 CRIME SCENE. THE ONES THAT THEY PARTICULARLY REFER TO ARE

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1 THE BEER CANS. THOSE WERE RUN ON AFIS. I AM UNAWARE IF
2 AFIS ACTUALLY GENERATES A REPORT IF THEY DON'T HAVE A HIT.
3 I'M ADVISED THAT THEY DO NOT. WE'VE TOLD THEM THAT THERE
4 WAS NO IDENTIFICATION. IF THERE HAD BEEN AN
5 IDENTIFICATION, WE WOULD HAVE PROVIDED IT TO THEM AND FOR
6 THE RECORD, AFIS WAS RUN ON ALL MALE FINGERPRINTS IN THE
7 AFIS SYSTEM AS RELATES TO THE BEER CANS AND THERE WAS NO
8 HIT.

9 THE COURT: ALL RIGHT.

10 MR. HUMPHRIES: NO AFFIRMATIVE MATCH.

11 THE COURT: ALL RIGHT. IF THERE ARE ANY -- AND
12 I WANT YOU JUST TO RECHECK -- IF THERE ARE ANY REPORTS THAT
13 ARE GENERATED IN THAT REGARD, I WANT THOSE TO BE PROVIDED
14 TO THEM. IF IT JUST SAYS NO ACTIVITY OR WHATEVER IT DOES,
15 THEN THAT SHOULD CLEAR THAT ISSUE UP.

16 MR. HUMPHRIES: YES, SIR.

17 THE COURT: ALL RIGHT.

18 MR. HUMPHRIES: THE IN-TAKE SHEETS FROM S.L.E.D.
19 YOUR HONOR, THOSE THINGS -- THOSE SHEETS ARE TYPICALLY NOT
20 TRANSMITTED EITHER TO THE SOLICITOR'S OFFICE OR THE
21 SHERIFF'S DEPARTMENT. NOW, THE SHERIFF'S DEPARTMENT, I
22 THINK, THEORETICALLY SHOULD HAVE A COPY OF THEM. I'VE GOT
23 SOME. I'VE PROVIDED THEM SOME. I DON'T HAVE ALL OF THOSE.

24 WHAT I TOLD MS. FULLWOOD YESTERDAY AND WHAT I
25 INTEND TO DO -- MR. CHASE AND I ARE GOING TO S.L.E.D. THIS

1 AFTERNOON AT WHICH TIME WE WILL TRY TO CONSTRUCT A PAPER
2 TRAIL OF EACH AND EVERY ITEM INCLUDING THE S.L.E.D. IN-TAKE
3 SHEETS. I TOLD HER YESTERDAY, ONCE DOING THAT, I'LL
4 COMPILE THOSE AND I'LL PROVIDE THEM A COPY OF THOSE.

5 AS RELATES TO DR. CARTER'S SAMPLES, LARVAE ARE
6 OFTEN TAKEN FROM THE BODIES OF THE DECEASED. I DO NOT
7 RECALL THE LAST TIME LARVAE ACTUALLY WERE EXAMINED.
8 S.L.E.D. DOES NOT DO THAT. AN OUTSIDE AGENCY WOULD HAVE TO
9 DO THAT.

10 BECAUSE OF THE HISTORY IN THIS CASE; THAT IS, THE
11 STATEMENTS REGARDING WHEN THE DECEASED WAS LAST SEEN AND
12 THE CONDITION OF THE BODY, WE FELT THAT WASN'T PROBATIVE.
13 I DIDN'T MAKE A SPECIFIC REQUEST THAT THE LARVAE BE
14 EXAMINED. IF THEY WISH TO DO THAT, THEN THEY MAY DO THAT.
15 AND, AGAIN, WE WOULD CONSENT TO THE EXAMINATION, BUT WE
16 HAVE NOT DONE THAT. SO THE FACT THAT THEY DON'T HAVE A
17 REPORT IS INDICATIVE OF THE FACT THAT IT HAS NOT BEEN DONE.

18 TRACE FIBER ANALYSIS. YOUR HONOR, IN THESE
19 CASES, TYPICALLY, THEY RECEIVE A LOT OF SAMPLES. HAIRS,
20 TRACE FIBERS, BUT UNTIL THEY GET COMPARATIVES, THEY DON'T
21 EXAMINE THEM BECAUSE THERE'S NOTHING TO EXAMINE THEM
22 AGAINST. AND AS IT RELATES TO THE TRACE ANALYSIS, YOUR
23 HONOR, IN THIS CASE, THE DEFENDANT WAS ARRESTED SOME SEVEN
24 TO EIGHT MONTHS LATER. SO ANY COMPARABLES WE WOULD HAVE
25 BEEN ABLE TO OBTAIN AT THAT TIME CLEARLY WOULD HAVE HAD A

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1 CHAIN PROBLEM. THEREFORE, IT'S MY UNDERSTANDING THAT NO
2 TRACE FIBER ANALYSIS WAS DONE ON THE FIBERS WHICH THEY --
3 THEY NOW BRING TO THE COURT'S ATTENTION.

4 IN TERMS OF FINGERNAIL SCRAPINGS, THEY ARE
5 CLEARLY LISTED IN THE S.L.E.D. ANALYSIS REPORTS WHICH
6 THEY'VE BEEN PROVIDED.

7 IN REGARD TO STOMACH CONTENTS, S.L.E.D. DOES NOT
8 EXAMINE STOMACH CONTENTS. AGAIN, THAT WOULD HAVE TO BE AN
9 OUTSIDE AGENCY. IT WAS NOT DONE. THE STATE DOES NOT
10 INTEND TO OFFER ANY EVIDENCE REGARDING THE STOMACH
11 CONTENTS. IF THEY WISH TO HAVE SOME INDEPENDENT ANALYSIS
12 OF THE STOMACH CONTENTS, WE'LL CONSENT TO THAT.

13 THE ROLLED-UP PIECE OF CARPET, I AM ADVISED IS
14 THE CARPET WHICH WAS UNDER THE HEAD OF THE VICTIM. CLEARLY
15 BLOOD. IT WAS NOT ANALYZED. IF THEY WISH TO HAVE IT
16 ANALYZED, AGAIN, WE'LL CONSENT TO THAT, BUT IT WASN'T -- IT
17 DIDN'T APPEAR -- IT APPEARED TO BE, IF ANYTHING,
18 CUMULATIVE.

19 THE F.B.I. PROFILE -- AND I HAVE TOLD THEM THIS
20 MORE THAN ONE TIME. WHAT I'M ADVISED BY THE SHERIFF'S
21 DEPARTMENT AND, YOUR HONOR, THAT IS THE ONLY THING I HAVE
22 TO GO ON, IS JUST PRIOR TO THE ARREST OR THE HIT, THE
23 D.N.A. HIT ON GARY TERRY, LIEUTENANT BUCKY PHILLIPS AND, I
24 BELIEVE, INVESTIGATOR SCOTTIE FRIER WENT TO QUANTICO TO
25 SPEAK WITH AN F.B.I. PROFILER. WHEN THEY WERE THERE IN THE

1 MOTEL ROOM, PRIOR TO GOING TO MEET WITH THE PROFILER, THEY
2 GOT A CALL FROM THE SHERIFF'S DEPARTMENT, WHO HAD GOTTEN A
3 CALL FROM S.L.E.D., SAYING THAT WE HAD A HIT ON GARY TERRY
4 WHICH MADE THE PROFILE UNNECESSARY.

5 NOW, WHAT THEY DID DO IS THE NEXT MORNING THEY
6 DID MEET WITH THE PROFILER. INSTEAD OF GOING THROUGH THE
7 COMPLETE PROCESS WHICH IS TIME CONSUMING, THEY BASICALLY
8 SAID THIS IS THE GUY, WE'VE GOT HIM. DOES IT SEEM TO MATCH
9 UP WITH WHAT YOUR PROFILE WOULD HAVE BEEN AND ON A
10 PRELIMINARY BASIS, HE SAID, YES. THERE WAS NO REPORT MADE.
11 I AM UNAWARE IF THERE WERE ANY NOTES MADE IN REGARD TO
12 THAT, BUT THOSE ARE NOT DISCOVERABLE.

13 NOW, IF THEY WANT ME TO FIND OUT WHO THAT F.B.I.
14 PROFILER IS, I'LL BE HAPPY TO DO THAT. WE DON'T INTEND TO
15 OFFER ANY EVIDENCE WHATSOEVER REGARDING THE F.B.I. PROFILE
16 IN THIS CASE.

17 IN VIEWING THE CRIME SCENE, I'VE TOLD THEM THAT,
18 YOU KNOW, WE WENT LAST WEEK WHICH WAS THE FIRST TIME I'VE
19 BEEN ON THE SCENE, SPOKE WITH THE OWNERS OF THE HOUSE AND
20 THEY SAID THE ONLY PROBLEM WE HAD IS THEY SHOWED UP
21 UNANNOUNCED AND WE WERE UNCOMFORTABLE WITH LETTING THE
22 DEFENSE TEAM IN. THEY CAN GO IN AS LONG AS SCOTTIE FRIER
23 IS THERE. I'VE TOLD THEM THAT. I'LL MAKE THOSE
24 ARRANGEMENTS IF THEY WISH OR THEY CAN GET A COURT ORDER.
25 AND PROBABLY AT THIS TIME, IT WOULD PROBABLY BE THE SAFER

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1 COURSE TO GET A COURT ORDER AND I'LL LEAVE IT TO THEM TO DO
2 THAT.

3 LETTERS SUBMITTED INTO EVIDENCE. YOUR HONOR,
4 THAT RELATES TO THE PENALTY PHASE. THERE ARE LETTERS IN
5 EVIDENCE AND BASICALLY THE WAY THAT OCCURRED IS WE TALKED
6 TO A LAY PERSON WHO HAD IN HER POSSESSION A NUMBER OF
7 LETTERS WHICH WERE PURPORTEDLY WRITTEN BY GARY TERRY.

8 WE ASKED HER TO DELIVER THEM TO THE SOLICITOR'S
9 OFFICE. WE THEN DID A LETTER WHICH INVESTIGATOR FRIER FROM
10 THE SHERIFF'S DEPARTMENT SIGNED INDICATING THAT HE TOOK
11 POSSESSION OF THOSE LETTERS AND PLACED THEM IN EVIDENCE.

12 WHAT WE ARE ACTIVELY DOING AT THIS TIME IS
13 COMPILING THE EVIDENCE THAT WE INTEND TO PRESENT IN THE
14 PENALTY PHASE.

15 NOW, WE COULD DO THIS ONE OF TWO WAYS, YOUR
16 HONOR, AND I'LL LEAVE IT TO THE COURT'S DISCRETION.

17 THE INFORMATION WOULD BE MUCH MORE MANAGEABLE IN
18 OUR OPINION IF WE WERE ABLE TO HAVE A CHANCE TO COMPILE IT,
19 CATEGORIZE IT AND PROVIDE IT TO THE DEFENSE WHICH IS WHAT
20 WE TRY TO DO IN EVERY CASE. IF THEY WISH TO GET IT
21 PIECEMEAL, WE STILL, NUMBER ONE, HAVE THE OPPORTUNITY AND
22 THE DUTY TO REVIEW IT TO DETERMINE IF IT'S DISCOVERABLE AND
23 NOT JUST HAND IT OVER TO THEM AS SOON AS IT HITS OUR DOOR.
24 THAT TAKES SOME TIME OF NECESSITY. BUT WE'LL BE GLAD TO DO
25 THAT PIECEMEAL OR PROVIDE IT IN BULK IN ADVANCE OF THE

1 TRIAL. I'M GOING TO LEAVE THAT TO THE COURT'S DISCRETION.
2 TYPICALLY WHAT WE DO IN THE PENALTY PHASE OF
3 THESE CASES, YOUR HONOR, IS GIVE THE DEFENSE ACTUALLY MORE
4 DISCOVERY THAN THEY ARE ENTITLED TO UNDER THE DISCOVERY
5 RULES.

6 IF THERE IS AN INCIDENT FOR WHICH THERE WAS A
7 POLICE REPORT WRITTEN, CLEARLY, WE'LL GIVE THEM THAT. IF
8 THERE ARE STATEMENTS RELATING TO THAT INCIDENT, WE'LL GIVE
9 THEM THAT. BUT MOST OF THE PENALTY PHASE EVIDENCE, IN MY
10 EXPERIENCE, COMES FROM LAY TESTIMONY FOR WHICH THERE IS NO
11 REPORT AND FOR WHICH THERE HAS BEEN NO STATEMENT TAKEN.
12 IT'S NOT DISCOVERABLE BECAUSE THERE'S NO DOCUMENTS TO
13 PROVIDE THEM IN THAT REGARD.

14 THEY WILL RECEIVE CERTIFIED TRUE COPIES OF
15 INDICTMENTS AND SENTENCING SHEETS AS RELATES TO PRIOR
16 CONVICTIONS AND ANY OTHER CHARGED CRIMES FOR WHICH THERE IS
17 NO CONVICTION OR ANY OTHER INCIDENT FOR WHICH THERE IS A
18 REPORT, THEY WILL RECEIVE THOSE REPORTS AND THEY WILL
19 RECEIVE THEM IN ADVANCE OF THE DATE OF TRIAL.

20 WE ARE STILL ACTIVELY GATHERING THIS INFORMATION.
21 AND LIKE I SAID, WE CAN PROVIDE IT PIECEMEAL OR WE CAN
22 PROVIDE IT IN BULK PRIOR TO THE CALL OF THE CASE. THE
23 COURT'S DISCRETION.

24 THE COURT: ALL RIGHT. LET ME -- LET ME ASK YOU
25 THIS. HOW ABOUT THE SHOE IMPRESSIONS IN THE KITCHEN.

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1 THAT'S ONE THING YOU DID NOT ADDRESS. HOW ABOUT---

2 MR. HUMPHRIES: NO, SIR, I HAVE NOT AND I DON'T
3 HAVE ANY INFORMATION REGARDING THAT.

4 NUMBER ONE, I DON'T KNOW WHAT -- AND HERE'S THE
5 THING, YOUR HONOR. JUST AS I'VE SAID BEFORE, THIS ARREST
6 OCCURRED SEVEN -- AT LEAST SEVEN MONTHS AFTER THE INCIDENT.
7 EVEN IF, PRESUMING THE DEFENDANT WAS WEARING THE SAME PAIR
8 OF SHOES THAT HE WAS WEARING THAT NIGHT, AFTER SEVEN
9 MONTHS, THEY WOULD BE A DIFFERENT PAIR OF SHOES FOR THE
10 PURPOSES OF SHOE IMPRESSIONS. BECAUSE THEY'VE GOT NO
11 COMPARABLES TO TEST THEM AGAINST, IT'S MY INFORMATION THAT
12 THERE WAS NO TEST DONE ON THAT SHOE IMPRESSION. WE DON'T
13 INTEND TO OFFER ANY EVIDENCE REGARDING THE SHOE IMPRESSION
14 IN THIS CASE.

15 REGARDING THE MATTRESS CUTTINGS WITH NO REPORT,
16 I WROTE MS. FULLWOOD A LETTER LAST WEEK WHEN I -- AND LET
17 ME SAY THIS IN REGARD TO THE MATTRESS CUTTINGS,
18 SPECIFICALLY. THERE IS -- HAS BEEN A REPORT. I'VE
19 PROVIDED TO MS. FULLWOOD. SHE TOLD ME YESTERDAY THAT SHE
20 APPARENTLY, I GUESS, ASSUMED SHE FORWARDED IT ON TO ANOTHER
21 EXPERT TO WHICH IT DID NOT RELATE. I TOLD HER I WOULD GIVE
22 HER ANOTHER COPY OF THAT, BE GLAD TO DO THAT, BUT I TOLD
23 HER THE RESULTS OF THAT WAS THAT THERE WAS NO BLOOD PRESENT
24 ON EITHER OF THE CUTTINGS.

25 THE COURT: HOW ABOUT THE HAIR ON THE WEAPON?

1 MR. HUMPHRIES: THAT'S ANOTHER THING. I WROTE
2 HER A LETTER LAST WEEK AND SPOKE TO HER TWO WEEKS AGO ABOUT
3 THIS SPECIFIC ISSUE AND THAT IS THAT THE SOLICITOR'S OFFICE
4 WAS REQUESTING RESUBMISSION OF A PIPE WHICH HAD CONTAINED
5 ON IT AT LEAST TWO HAIRS AND A NUMBER OF HAIRS AROUND IT
6 WHERE IT WAS FOUND BETWEEN THE MATTRESS AND BOX SPRINGS.
7 THOSE WERE NOT ANALYZED. WE RESUBMITTED THOSE AND I TOLD
8 MS. FULLWOOD THE DAY WE SUBMITTED THEM -- I TOLD HER THAT I
9 WAS REQUESTING THAT THEY BE ANALYZED EXPEDITEDLY AND THAT
10 AS SOON AS A REPORT WAS DONE, I WILL PROVIDE THAT TO HER.

11 NOW, I'M MEETING WITH JOE POWELL IN TRACE THIS
12 AFTERNOON. HE TELLS ME THAT HE SHOULD HAVE THAT REPORT
13 GENERATED TODAY. I TOLD MS. FULLWOOD THAT AND I TOLD HER I
14 WOULD PROVIDE IT TO HER TODAY.

15 THE COURT: MR. STONE.

16 MR. STONE: THANK YOU, YOUR HONOR.

17 PLEASE THE COURT. LET ME REAL CLEAR ABOUT
18 THIS. I'M NOT ACCUSING MR. HUMPHRIES OR ANYBODY IN HIS
19 OFFICE OF HOLDING MATERIAL BACK FROM US. I DON'T DOUBT
20 THAT HE GIVES US THE THINGS AS HE RECEIVES IT, BUT I ALSO
21 DO NOT DOUBT THAT DURING THIS TRIAL, I WILL ALSO BE GETTING
22 MATERIALS AS TO EITHER THE GUILT OR THE PENALTY PHASE AND
23 -- OR AT LEAST AN ATTEMPT TO GIVING ME MATERIALS.

24 YESTERDAY WE WERE TALKING AND MR. HUMPHRIES OR
25 SOMEBODY TOLD US AT THAT TIME THAT THEY EXPECTED TO BE

0059

1 GIVING US MATERIALS DURING THE TRIAL AND THAT MAY BE ON THE
2 SENTENCING, BUT THAT'S -- THAT'S NOT MY POINT. WE'RE TWO
3 WEEKS AWAY FROM STARTING THIS TRIAL AND WE HAVE GOT FIBERS
4 ON A MURDER WEAPON SUPPOSEDLY THAT HAS JUST NOW BEEN
5 SUBMITTED TO S.L.E.D.

6 NOW, I RECOGNIZE THAT THE SOLICITOR HAS A TOUGH
7 TIME GETTING ALL THE LAW ENFORCEMENT PEOPLE MOTIVATED, BUT
8 I ALSO RECOGNIZE THAT THE EASIEST WAY TO GET THEM MOTIVATED
9 IS TO PUT A DEADLINE ON WHEN THEY CAN GET THAT MATERIAL IF
10 THEY ARE PLANNING ON USING IT AT TRIAL, WHETHER IT'S FOR
11 THE GUILT OR THE SENTENCING PHASE. AND THAT'S WHAT'S
12 HAPPENING. I MEAN, IT MAY BE THAT THE SOLICITOR -- I MEAN,
13 THAT THE SHERIFF'S DEPARTMENT OR S.L.E.D. IS HOLDING THIS
14 UP OR HASN'T PREPARED IT OR WHATEVER, BUT THAT DOESN'T HELP
15 THE DEFENSE PREPARE THEIR DEFENSE OR EVEN FIGURE OUT WHAT
16 THE STATE HAS.

17 IT HAS NOT BEEN AN UNUSUAL SITUATION FOR THE
18 SOLICITOR'S OFFICE TO PROVIDE IN A DEATH PENALTY CASE
19 MATERIALS DURING THE SENTENCING PHASE, DURING THE TRIAL
20 ITSELF. I DON'T WANT THAT TO HAPPEN TO ME TO BE QUITE
21 HONEST WITH YOU. I WOULD LIKE FOR SOME CUT OFF DATE TO SAY
22 IF THIS MATERIAL IS GIVEN AT THIS TIME, FINE, BUT ANYTHING
23 AFTER THAT DATE AND IT DOESN'T MATTER IF S.L.E.D. HASN'T
24 ANALYZED IT YET OR NOT, THEY CAN'T USE IT.

25 NOW, AS FAR AS -- AND AS FAR AS THE GUN -- THE

1 GUN IS CONCERNED, I'VE LOOKED THROUGH THIS REPORT TWO OR
2 THREE TIMES AND I STILL CAN'T FIND ANY REFERENCE TO IT, BUT
3 IF MR. HUMPHRIES TELLS ME IT'S IN THERE, I TAKE HIS WORD
4 FOR IT. I DON'T HAVE ANY PROBLEM WITH WHAT HE'S TELLING
5 ME. BUT I DON'T THINK IT'S UNREASONABLE TO ASK FOR THE
6 THINGS THAT WE'VE ASKED FOR. I DON'T THINK IT'S
7 UNREASONABLE THAT WE ASK THAT WE GET THIS MATERIAL, IF THEY
8 PLAN ON USING IT EITHER IN THE GUILT OR THE SENTENCING
9 PHASE, PRIOR TO THE BEGINNING OF THE TRIAL AND THAT'S TWO
10 WEEKS AWAY.

11 THANK YOU.

12 THE COURT: ANYTHING FURTHER FROM THE STATE?

13 MR. HUMPHRIES: ONLY THIS, YOUR HONOR.

14 IN REGARD TO THE PENALTY PHASE, I CAN ASSURE THE
15 COURT THAT THERE WILL BE ADDITIONAL INFORMATION WHICH THE
16 STATE WILL PROVIDE ABSENT ANY DUTY TO DO SO IF THEY WISH.
17 NOW, IF THEY DON'T WANT IT, WE WON'T GIVE IT TO THEM.

18 WE'VE FILED OUR NOTICE OF AGGRAVATION. WE FILED
19 THAT NOTICE WHICH INDICATES TO THEM THE TYPES OF EVIDENCE
20 WE INTEND TO PUT FORTH IN THE SENTENCING PHASE.

21 NOW, IF THEY DON'T WISH TO HAVE IT, WE WON'T GIVE
22 IT TO THEM. BUT WHAT WE ATTEMPT TO DO AND WHAT WE DO DO IN
23 EVERY CASE IS ONCE WE RECEIVE THAT INFORMATION, WHICH MAY
24 OR MAY NOT BE KNOWN TO US UNTIL THAT TIME, WE'LL PROVIDE IT
25 TO THEM. IF THEY DON'T WANT IT, WE DON'T HAVE TO GIVE IT

1 TO THEM AND WE WON'T GIVE IT TO THEM.

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2 THE COURT: WELL, LET ME ASK YOU THIS. WE GOT
3 TOGETHER, AS WELL AS I REMEMBER -- I'M NOT REAL SMART, BUT,
4 I THINK, IT WAS ON OR ABOUT MAY 28TH OF THIS YEAR AND AT
5 THAT TIME I WAS TOLD THAT WE WERE -- AND I THINK THAT I
6 SAID LET'S GET ALL OF THE DISCOVERY CLEARED UP WITHIN
7 THIRTY DAYS---

8 MR. HUMPHRIES: YES, SIR.

9 THE COURT: ---NOW, I UNDERSTAND HOW THESE CASES
10 WORK, TOO, BECAUSE I HAVE DONE MORE THAN ONE, BUT BY THE
11 SAME TOKEN, I THINK THAT THE DEFENSE IS ENTITLED TO HAVE
12 AMPLE OPPORTUNITY WITH WHICH TO PREPARE FOR THEIR CASE,
13 TOO. SO THERE ARE SEVERAL THINGS THAT I WANT TO BE DONE
14 AND I'M GOING TO ORDER IT TO BE DONE.

15 THESE THINGS -- IF -- INSOFAR AS THIS GUN IS
16 CONCERNED, IF YOU WANT THAT GUN, THEN I'M GOING TO DIRECT
17 THE STATE TO HAVE IT PROVIDED TO YOU, BUT, NOW, I'M ALSO
18 GOING TO TELL THE DEFENSE IF YOU'RE GOING TO BE COMING TO
19 ME ABOUT ANY EXPERTS AND SO FORTH, I WANT TO MAKE SURE THAT
20 THIS IS SOMETHING THAT IS VALID, THAT IT'S SOMETHING THAT
21 IS NECESSARY BECAUSE JUST TO BE HIRING EXPERTS FOR -- TO BE
22 HIRING AN EXPERT IS SOMETHING THAT I TOTALLY DISAGREE WITH
23 AND I HAVE GREAT DISREGARD FOR PEOPLE WHO WANT TO DO THAT
24 BECAUSE I THINK THAT WE ARE ESTABLISHING A COTTAGE INDUSTRY
25 IN REGARDS TO THESE EXPERTS BECAUSE I SEE THE SAME ONES

1 SHOWING UP OVER AND OVER AGAIN FROM ALL PARTS OF THE GLOBE
2 AND I THINK THAT WE'VE GOT ENOUGH EXPERTS HERE IN THIS
3 STATE, AND, IF NOT IN THIS STATE, CERTAINLY IN THIS REGION
4 RATHER THAN GOING UP NORTH AND OUT WEST AND GOD KNOWS WHERE
5 ELSE TO FIND THEM. SO AS LONG AS THAT'S UNDERSTOOD, I WANT
6 THAT GUN PREPARED.

7 NOW, ANY EVIDENCE THAT -- I KNOW THAT YOU ARE
8 MEETING WITH S.L.E.D. TODAY---

9 MR. HUMPHRIES: YES, SIR, YOUR HONOR.

10 THE COURT: ---AND I WANT YOU TO GO AHEAD AND
11 PROVIDE WHATEVER YOU GET RATHER THAN HOLDING EVERYTHING TO
12 ONE POINT IN TIME. I WANT YOU TO PROVIDE IT PIECEMEAL.

13 IN REGARDS TO THE -- YOU TELL ME THAT THERE ARE
14 NO SHOE IMPRESSIONS THAT HAVE BEEN MADE, SO I WILL ACCEPT
15 THAT FROM THAT STANDPOINT AND THAT NO EVIDENCE IS TO BE
16 OFFERED.

17 ALSO, INsofar AS THESE AFIS REPORTS ARE
18 CONCERNED, I WANT YOU TO PROVIDE TO THE DEFENSE WHAT YOU
19 HAVE CONCERNING THAT.

20 ALSO, IN YOUR S.L.E.D. MEETING TODAY, THIS --
21 THESE EVIDENCE SHEETS, AS THEY REFERRED TO THEM, THE
22 TAKE-IN SHEETS, WHATEVER YOU HAVE IN THAT REGARD, LET'S
23 PROVIDE THEM.

24 IN REGARDS TO THE QUESTION ABOUT THE LARVAE FROM
25 THE BODY, ANY TRACE FIBERS, STOMACH CONTENTS, THE ROLLED-UP

0064

CARPET, THESE THINGS THAT HAVE NOT BEEN ANALYZED, IF THE
DEFENSE WANTS THOSE ANALYZED, THEN I UNDERSTAND THAT THE
STATE WOULD CONSENT TO SUCH AN ANALYSIS---

MR. HUMPHRIES: YES, SIR.

THE COURT: AND SO, IF THE DEFENSE DESIRES THAT,
THEN I WANT YOU TO PROVIDE ME AN ORDER AND I WILL ORDER
SUCH.

ALSO, IN REGARDS TO THE F.B.I. PROFILER, IF YOU
WILL PROVIDE THAT NAME---

MR. HUMPHRIES: YES, SIR.

THE COURT: ---TO THE DEFENSE AND HOW HE OR SHE
MAY BE CONTACTED.

AND THEN I THINK THAT THESE LETTERS THAT WE ARE
TALKING ABOUT, PROVIDE COPIES OF THOSE TO THEM.

AND THEN AS SOON AS THE -- ANY ANALYSIS IS
COMPLETED AND I WANT YOU TO DIRECT S.L.E.D. TO GET THIS
DONE, IF IT'S NOT ALREADY DONE, TO GET IT DONE AS QUICKLY
AS POSSIBLE ON THE HAIR ON THE ALLEGED MURDER WEAPON, TO
PROVIDE THAT ALSO.

NOW, MS. FULLWOOD, I'M GOING TO ASK YOU, HAVE YOU
MADE THE REQUEST OF AGENT SPRAWLS FOR THE PHOTOS AND HAVE
YOU RECEIVED THAT?

MS. FULLWOOD: YES, SIR. WE'VE REPEATEDLY TRIED
TO CONTACT AGENT SPRAWLS AND WE COULD NOT GET HIM TO RETURN
OUR CALLS. FINALLY, WE DECIDED TO GET S.L.E.D.'S ATTENTION

1 BY SUBPOENA OF THE PHOTOS. AT THAT TIME, WE WERE CONTACTED
2 BY SOMEONE AT THE FREEDOM OF INFORMATION OFFICE. WE WERE
3 TOLD WE HAD TO PROVIDE THEM WITH A MEMO. WE DID THAT AND
4 WE GOT THE PHOTOS LATE LAST WEEK.

5 THE COURT: OKAY.

6 ALL RIGHT. INsofar AS THE VIEW OF THE CRIME
7 SCENE IS CONCERNED, IF YOU WILL DO AN ORDER AND IF THE
8 INDIVIDUALS THAT ARE IN CONTROL OF THAT HOUSE DESIRE -- IS
9 IT SCOTTIE FRIER?

10 MR. HUMPHRIES: YES, SCOTTIE FRIER, THE
11 INVESTIGATOR, YOUR HONOR---

12 THE COURT: FRIER---

13 MR. HUMPHRIES: ---ACTUALLY, DO WE KNOW THE NAMES
14 OF THE---

15 THE COURT: YEAH, BUT I THINK THEY WANTED HIM TO
16 BE PRESENT---

17 MR. HUMPHRIES: THAT'S CORRECT, YOUR HONOR.

18 THE COURT: ALL RIGHT. THEN, LET'S MAKE THAT A
19 PART OF IT. YOU WILL KNOW WHO THE PEOPLE WHO ARE IN
20 CONTROL OF THE PROPERTY ARE CONCERNED.

21 MR. HUMPHRIES: YES, SIR.

22 THE COURT: NOW, MR. STONE, WHAT I WANT AND, MR.
23 HUMPHRIES AND MS. FULLWOOD, WHAT I WANT TO BE DONE. I
24 UNDERSTAND THAT DURING THE COURSE OF A TRIAL THAT THINGS
25 MAY COME UP THAT -- THAT YOU HAVEN'T HAD ANY CONTROL OVER.

0066

1 IF THERE'S ANYTHING LIKE THAT, THAT IS OUTSIDE OF THE FILE,
2 LET'S SAY, I UNDERSTAND THAT THAT MIGHT BE DELIVERED TO
3 THEM DURING TRIAL, BUT ANYTHING PRIOR THAT YOU HAVE NOW---

4 MR. HUMPHRIES: CLEARLY, THAT'S BEEN OUR
5 PRACTICE---

6 THE COURT: ---LET'S GO AHEAD -- LET'S GO AHEAD
7 AND GET IT TO THEM SO THAT WE'LL CLEAR THIS UP AND THAT'S
8 NOT GOING TO BE AN ISSUE.

9 MR. HUMPHRIES: YES, SIR.

10 THE COURT: NOW, JUST SO THAT EVERYBODY IS ON THE
11 SAME PAGE. I HAVE BEEN REASSIGNED TO COLUMBIA FOR NEXT
12 WEEK, SPECIFICALLY, SO THAT I WOULD BE IN THE AREA TO TAKE
13 CARE OF ANY MATTERS THAT MAY COME UP.

14 NOW, NEXT MONDAY IN COLUMBIA, I DON'T KNOW -- I
15 THINK THAT I HAVE GOT A COUPLE OF THINGS TO DO MONDAY
16 MORNING OVER THERE.

17 NUMBER ONE I'VE GOT A COMPETENCY EVALUATION IN
18 ANOTHER DEATH PENALTY CASE THAT I'M GOING TO BE DOING AND
19 THEN MY INTENT IS TO BE IN LEXINGTON AT 2:30 MONDAY
20 AFTERNOON FOR US TO DO JURY EXCUSES BECAUSE I THINK THE
21 CLERK'S OFFICE TOLD ME THAT WOULD BE OF BENEFIT TO THEM IF
22 THEY COULD GET THAT DONE EARLIER ON. I WAS COMING NEXT
23 WEDNESDAY MORNING, BUT TO MOVE IT UP TO MONDAY, I THINK
24 THAT IT WOULD HELP THEM INSOFAR AS CONTACTING THESE
25 INDIVIDUALS.

1 INSOFAR AS EXCUSES ARE CONCERNED, I DON'T KNOW IF
2 YOU HAVE ALREADY BEEN PROVIDED WITH THE PARTICULARS OF
3 PEOPLE. I HAVEN'T TALKED TO THEM DOWN IN LEXINGTON. IF
4 THEY HAVE ALREADY GIVEN YOU INFORMATION ON THE PEOPLE THAT
5 ARE SEEKING EXCUSES. IF THERE ARE THOSE INDIVIDUALS THAT
6 YOU CAN AGREE ON, YOU KNOW, I DON'T HAVE ANY PROBLEM WITH
7 THAT AND WE'LL PUT THAT ON THE RECORD NEXT MONDAY.

8 I WILL TELL YOU IN ADVANCE THAT IF SOMEONE HAS
9 LONG-STANDING VACATION PLANS THAT THEY HAVE EXPENDED MONIES
10 FOR TICKETS, FOR RENTALS AND THE LIKES, THAT I DO, AS A
11 MATTER OF COURSE, EXCUSE THEM. IF THEY HAVE EXIGENT
12 BUSINESS CIRCUMSTANCES, MY LONG-STANDING POLICY IN EACH AND
13 EVERY DEATH PENALTY CASE THAT I'VE DONE IS TO ACCOMMODATE
14 THOSE INDIVIDUALS, IF I CAN, BUT UNDERSTANDING ALL THAT, I
15 REALIZE THE FACT THAT SOMETIMES YOU CANNOT AGREE UPON
16 EXCUSING SOME INDIVIDUALS BETWEEN YOURSELVES FOR VARIOUS
17 REASONS AND THAT'S PART OF MY ROLE AND I'LL DO IT NEXT
18 MONDAY AFTERNOON AND WE'LL TAKE CARE OF THOSE THINGS.

19 MR. HUMPHRIES: YES, SIR.

20 AND AS A PRELIMINARY MATTER, YOUR HONOR, IN
21 REGARD TO JUROR EXCUSALS, WE DON'T CARE WHO IS EXCUSED AS
22 LONG AS EVERYBODY IN A LIKE SITUATION IS EXCUSED.

23 THE COURT: I FEED EVERYBODY OUT OF THE SAME
24 SPOON.

25 MR. HUMPHRIES: WE DON'T HAVE -- YOU CAN EXCUSE

0068

1 WHOMEVER YOU WISH WITH OUR CONSENT, YOUR HONOR.

2 THE COURT: THAT'S -- YOU KNOW, IF I EXCUSE ONE
3 PERSON THAT'S PAID FOR A TRIP, THIS TYPE OF THING, I'LL DO
4 EVERYBODY THAT DOES THAT.

5 WHEN I DID ONE IN RICHLAND COUNTY NOT TOO LONG
6 AGO, I HAD A LADY THAT DROVE A BUS FOR A BUNCH OF KIDS THAT
7 WERE GOING OFF FOR THREE DAYS AND SHE WAS THE ONLY ONE IN
8 THAT PRIVATE SCHOOL THAT COULD DO IT, I EXCUSED HER. YOU
9 KNOW, THOSE ARE THE TYPE OF SITUATIONS THAT I LOOK AT AND
10 I'LL HANDLE THOSE NEXT MONDAY.

11 MR. STONE.

12 MR. STONE: OF COURSE, THE TICKETS TO AIR SOUTH
13 MAY BE A LITTLE BIT DIFFERENT.

14 YOUR HONOR, THE ONLY OTHER THING, I TALKED TO MR.
15 HUMPHRIES ABOUT THIS YESTERDAY. WE ARE GOING TO MAKE A
16 MOTION FOR A CHANGE OF VENUE AND A MOTION CONCERNING EITHER
17 THE REFUSAL OR DISQUALIFICATION OF THE LEXINGTON
18 SOLICITOR'S OFFICE ON THIS. THERE'S NO REASON TO TAKE THAT
19 UP NOW, BUT I'LL JUST GO AHEAD AND PUT THAT ON THE RECORD.
20 THAT MAY BE SOMETHING THAT WE CAN TAKE UP MONDAY---

21 THE COURT: WE CAN DO THAT NEXT MONDAY AFTERNOON.
22 SO BE PREPARED TO GO FORWARD WITH IT THEN BECAUSE I'VE GOT
23 MONDAY AFTERNOON BLOCKED OUT SINCE I'M GOING TO COLUMBIA
24 NEXT WEEK. I THINK I'VE GOT A MURDER CASE TO START ON
25 TUESDAY MORNING OVER THERE. SO WE'LL JUST GO AS LONG AS WE

1 HAVE TO MONDAY.

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2 MR. HUMPHRIES: I ASSUME THAT WE WILL GET A
3 WRITTEN MOTION---

4 MR. STONE: ABSOLUTELY.

5 MR. HUMPHRIES: ---IN THAT REGARD---

6 MR. STONE: ABSOLUTELY.

7 MR. HUMPHRIES: AND, YOUR HONOR, JUST BRIEFLY,
8 SINCE WE ARE TALKING ABOUT DISCOVERY, THE STATE FILED AT
9 LEAST FOUR RECIPROCAL DISCOVERY MOTIONS. AT THIS TIME,
10 WE'VE RECEIVED NO INFORMATION WHATSOEVER FROM THE
11 DEFENSE---

12 THE COURT: ALL RIGHT.

13 MR. HUMPHRIES: ---IN RESPONSE TO ANY OF THOSE
14 MOTIONS.

15 THE COURT: IF THERE IS ANYTHING THAT THE DEFENSE
16 HAS IN RESPONSE TO THAT, I WANT THAT PROVIDED AND I WANT
17 ALL OF THIS INFORMATION PROVIDED THAT YOU HAVE BY FRIDAY---

18 MR. HUMPHRIES: YES, SIR.

19 THE COURT: ---IF YOU RUN INTO A PROBLEM WITH
20 ANYTHING FROM S.L.E.D., ALL YOU'LL HAVE TO DO IS LET ME
21 KNOW AND THEN I'M GOING TO FIND OUT WHY -- WHY IT'S NOT
22 DONE, WHERE IT IS IN THE PROCESS, BUT THE SAME WAY. YOU
23 KNOW, I FEED---

24 MR. STONE: SURE.

25 THE COURT: ---THE JURORS OUT OF THE SAME SPOON

0070

1 AND I'LL DO THAT WITH THE LAWYERS INVOLVED, TOO. SO JUST
2 GET IT DONE.

3 MR. HUMPHRIES: THAT SHOULDN'T -- FRIDAY SHOULD
4 NOT POSE ANY PROBLEM.

5 THE COURT: ALL RIGHT.

6 MR. STONE: THANK YOU, YOUR HONOR.

7 MS. FULLWOOD: THANK YOU, YOUR HONOR.

8 THE COURT: THANK YOU VERY MUCH. I'LL LOOK
9 FORWARD TO SEEING Y'ALL NEXT MONDAY AT TWO-THIRTY IN
10 LEXINGTON.

11 MR. STONE: VERY GOOD. THANK YOU, JUDGE.

12 THE COURT: ALL RIGHT.

13 AND INsofar AS THESE PHOTOGRAPHS ARE CONCERNED, I
14 CAN GET THE COURT REPORTER -- I MEAN, THE CLERK HERE TO
15 MAKE COPIES OF THESE AND THE COURT REPORTER WILL KEEP THE
16 ORIGINALS.

17 MR. STONE: THAT WILL BE FINE.

18 THE COURT: WILL YOU DO THAT FOR ME, MADAM CLERK?

19 THE CLERK: YES, SIR.

20 MR. STONE: THANK YOU, JUDGE.

21 THE COURT: AND IF YOU NEED TO, SEND THAT TO
22 LEXINGTON COUNTY, THE BILL ON THAT.

23 (WHEREUPON, COURT RECESSED FOR THE
24 DAY AT 10:15 A.M.)

25 MONDAY, SEPTEMBER 8, 1997.

1 (WHEREUPON, COURT CONVENED ON
2 MONDAY, SEPTEMBER 8, 1997, AT 2:45 P.M.)

3 THE BAILIFF: ALL RISE. COURT IS NOW IN SESSION.
4 THE HONORABLE GARY E. CLARY, PRESIDING.

5 THE COURT: THANK YOU VERY MUCH. PLEASE TAKE
6 YOUR SEATS.

7 ALL RIGHT. HOW ARE Y'ALL TODAY? SORRY FOR BEING
8 LATE. MR. SWERLING AND SOME OTHERS HAD ME HELD UP ACROSS
9 THE RIVER.

10 ALL RIGHT.

11 WHERE DO WE STAND INSOFAR AS THE STATE AND THE
12 DEFENSE ARE CONCERNED ON ANY ISSUES CONCERNING JURORS? DO
13 YOU WANT TO JUST GO DOWN THE ENTIRE LIST AND TAKE THEM UP
14 AS WE COME TO THEM?

15 MS. FULLWOOD: THAT WOULD BE FINE, JUDGE.

16 MR. HUMPHRIES: YES, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 MADAM CLERK, YOU WANT TO RUN DOWN THE LIST FOR
19 US.

20 THE CLERK: JUDGE, LET ME JUST GO AHEAD AND LET
21 YOU KNOW. WHAT WE HAVE DONE IS WE HAVE PROVIDED YOU A LIST
22 OF PROBLEMS---

23 THE COURT: UH-HUH.

24 THE CLERK: ---STATUTORY AND UNUSUAL AND ALL THE
25 NUMBERS THAT AREN'T ON THIS LIST, WE HAVE -- YOU KNOW, ARE

0072

GOING -- AS FAR AS WE KNOW ARE GOING TO BE HERE BRIGHT-EYED
AND BUSHY-TAIL ON THE 15TH.

THE COURT: OKAY.

THE CLERK: ALL RIGHT.

THE COURT: ALL RIGHT. JUROR NUMBER TWO WHERE
YOU SAY THAT THEY ARE UNABLE TO LOCATE, THAT HAS BEEN
THROUGH---

THE CLERK: YES, SIR. WE HAVE AN AFFIDAVIT OF
NON-SERVICE THROUGH THE SHERIFF'S DEPARTMENT. THEY HAVE
BEEN OUT AND THEY HAVE CHECKED WITH THE POST OFFICE FOR
FORWARDING ADDRESSES AND THERE IS NO ADDRESS, NO ONE CAN
VERIFY THIS INDIVIDUAL'S WHEREABOUTS.

THE COURT: THE STATE OR THE DEFENSE HAVE
ANYTHING TO COMMENT ABOUT THAT.

MR. HUMPHRIES: NO, SIR, YOUR HONOR.

MS. FULLWOOD: NO, SIR.

THE COURT: ALL RIGHT.

AND NUMBER FOUR, MS. ALLEN, RELIGIOUS PROBLEMS.

THE CLERK: YES, SIR. SHE DOES NOT FEEL SHE'S
QUALIFIED TO PASS JUDGMENT. SHE DOES NOT BELIEVE IN
CAPITAL PUNISHMENT. AND SHE HAS ASKED TO BE EXCUSED FOR
THAT REASON.

THE COURT: LET'S BRING HER ON IN HERE. WE'LL
TALK TO HER ON MONDAY MORNING ABOUT THAT.

THE CLERK: OKAY.

1 JUROR NUMBER SIX HAS REQUESTED TO BE EXCUSED FOR
2 FINANCIAL REASONS. HIS JOB DOES NOT PAY HIM FOR TIME OFF
3 FOR JURY DUTY. HE'S A SINGLE PARENT AND HEAD OF THE
4 HOUSEHOLD.

5 THE COURT: ALL RIGHT. WHAT SAY---

6 THE CLERK: SHE IS, EXCUSE ME.

7 THE COURT: WHAT'S SAYS THE STATE?

8 MR. HUMPHRIES: WE JUST REQUEST THAT HOWEVER YOU
9 TREAT THIS PERSON, YOU TREAT ALL WITH A SIMILAR SITUATION.

10 THE COURT: ALL RIGHT. WHAT DOES THE DEFENDANT
11 SAY?

12 MS. FULLWOOD: WITHIN THE COURT'S DISCRETION.

13 THE COURT: ALL RIGHT. I'M GOING TO HOLD OFF ON
14 NUMBER SIX UNTIL I GET A LITTLE BIT MORE OF A FEEL AS TO
15 THE NUMBER OF THESE THAT WE HAVE.

16 THE CLERK: NUMBER SEVEN, JUDGE, IS
17 71-YEARS-OF-AGE, DATE OF BIRTH 10/17/26.

18 THE COURT: HE WILL BE STATUTORILY EXCUSED.

19 MR. HUMPHRIES: FOR THE RECORD, HAS HE REQUESTED
20 TO BE EXCUSED?

21 THE CLERK: YES. ALL OF THESE THAT HAVE THAT,
22 HAVE BEEN -- HAVE REQUESTED IT.

23 NUMBER NINE IS DECEASED. WE HAVE A DEATH
24 CERTIFICATE.

25 NUMBER TEN IS ALSO AN AGE EXEMPTION.

0074

1 SIXTY-FIVE-YEARS-OF-AGE, BORN 6/25/32.

2 THE COURT: ALL RIGHT.

3 AND DO WE ALSO HAVE -- AND SHE DESIRED TO BE
4 EXCUSED BECAUSE OF HER AGE---

5 THE CLERK: YES, SIR.

6 THE COURT: ALL RIGHT. SHE WILL BE EXCUSED UNDER
7 THE STATUTE.

8 THE CLERK: NUMBER 11 IS UNABLE TO LOCATE. WE
9 HAVE AN AFFIDAVIT OF NON-SERVICE FROM THE SHERIFF'S
10 DEPARTMENT. THE CURRENT RESIDENCE -- RESIDENT BOUGHT THE
11 HOUSE SIX YEARS AGO AND THEY DON'T KNOW WHERE THE OTHER
12 FOLKS ARE AT. THEY SAY THEY THOUGHT THEY MOVED TO NEW
13 YORK.

14 THE COURT: ALL RIGHT.

15 THE CLERK: NUMBER 12 IS ALSO UNABLE TO LOCATE.
16 THE CURRENT RESIDENT---

17 THE COURT: HENRY T. BASS. THAT'S MAYBERRY,
18 ISN'T IT.

19 THE CLERK: WELL, KELLI WATTS CURRENTLY RESIDES
20 AT THE ADDRESS AND DOES NOT KNOW THE SUBJECT.

21 THE COURT: OKAY.

22 THE CLERK: NUMBER 13 IS ALSO UNABLE TO LOCATE.
23 WE HAVE AN AFFIDAVIT OF NON-SERVICE. THEY ARE UNABLE TO
24 LOCATE ANY SUCH ADDRESS ON SNELGROVE ROAD WHICH IS THE
25 ADDRESS THAT WE HAVE AND THE POST OFFICE STATES THERE'S NO

1 SUCH ADDRESS.

2 THE COURT: ALL RIGHT.

3 THE CLERK: NUMBER 14, HIS AGE -- REQUESTING AN
4 AGE EXEMPTION, 80-YEARS-OF-AGE, 1/21/17 IS THE DATE OF
5 BIRTH.

6 THE COURT: EXCUSED PER THE STATUTE.

7 THE CLERK: NUMBER 19, WE HAVE A MEDICAL
8 STATEMENT FROM DR. BLACK. MS. BEE -- EXCUSE ME, MS. BEEBE
9 HAS A MEDICAL CONDITION THAT PREVENTS HER FROM SERVING JURY
10 DUTY. IT DOES NOT SAY EXACTLY WHAT IT IS. SHE IS ON
11 MEDICAL DISABILITY.

12 THE COURT: IT SAYS THAT SHE'S BEEN ON MEDICAL
13 DISABILITY FOR THE PAST 14 YEARS.

14 HOW ABOUT IF YOU WOULD, MADAM CLERK, CONTACT DR.
15 BLACK AND SEE IF HE COULD BE A LITTLE MORE DEFINITIVE
16 INSOFAR AS THIS PERSON IS CONCERNED.

17 THE CLERK: YES, SIR.

18 NUMBER 21, NO LONGER RESIDES IN LEXINGTON COUNTY.
19 WE HAVE A COPY OF A VOTER REGISTRATION CARD SHOWING THE
20 JUROR AS A RESIDENT OF RICHLAND COUNTY.

21 THE COURT: I ASSUME THAT THAT AREA OF THE COUNTY
22 IS ONE PROBABLY LIKE WE RUN INTO IN SPARTANBURG COUNTY OVER
23 NEAR -- IN GREER. WE HAVE SOME PEOPLE THAT LIVE IN GEER
24 THAT ARE IN SPARTANBURG COUNTY AND THEN ACROSS THE STREET
25 ARE IN GREENVILLE COUNTY. SO HE WILL BE EXCUSED AS HE IS

0076 1 NOT A RESIDENT OF LEXINGTON COUNTY.

2 THE CLERK: NUMBER 22 HAS CLAIMED AN AGE
3 EXEMPTION. AGE 69, DATE OF BIRTH 8/23/28.

4 NUMBER 23---

5 THE COURT: TWENTY-TWO WILL BE EXCUSED PURSUANT
6 TO STATUTE AND ALSO SHE SAYS SHE'S A STROKE VICTIM, I
7 THINK.

8 THE CLERK: YES, SIR.

9 NUMBER 23, MOTHER OF CHILDREN AGES
10 FOUR-YEARS-OF-AGE AND NINE-YEARS-OF-AGE. SHE'S ALSO A
11 DANCE INSTRUCTOR. FROM THE INFORMATION WE'VE RECEIVED, IT
12 LOOKS LIKE THAT SHE HAS NO ONE TO TAKE CARE OF THE
13 CHILDREN. THEY MUST GO TO WORK WITH HER AND SHE SAYS SHE'S
14 AVAILABLE IN THE SUMMERTIME, BUT SHE DOES NOT HAVE ANYONE
15 TO CARE FOR THEM DURING THE WINTER MONTHS.

16 THE COURT: HAS SHE SIGNED ANY TYPE OF AN
17 AFFIDAVIT AT ALL IN THAT REGARD? DO YOU HAVE ANY TYPE OF
18 AN AFFIDAVIT THAT THESE WOMEN WITH CHILDREN SIGN?

19 THE CLERK: JUDGE -- JUDGE, WHAT SHE DID WAS SHE
20 FILLED OUT THE JUROR RESPONSE FORM THAT HAS A BLOCK---

21 THE COURT: OKAY. I SEE IT NOW.

22 THE CLERK: ---THAT REQUESTS THAT.

23 THE COURT: I SEE IT NOW.

24 WHAT SAYS THE STATE?

25 MR. HUMPHRIES: NO POSITION, OTHER THAN

1 CONSISTENT RULING.

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2 THE COURT: THE DEFENDANT?

3 MS. FULLWOOD: NO POSITION.

4 THE COURT: ALL RIGHT. I THINK THE FACT THAT SHE
5 HAS A CHILD AGE FOUR, EVEN THOUGH SHE DOES WORK OUTSIDE THE
6 HOME, GIVEN THE FACTS THAT HAVE BEEN PRESENTED TO ME, I'M
7 GOING TO ASK THAT SHE BE RESCHEDULED FOR THE MONTH OF JUNE,
8 JULY OR AUGUST OF NEXT YEAR.

9 THE CLERK: NUMBER 25, NO LONGER RESIDES IN THE
10 STATE OF SOUTH CAROLINA. THEY, PER THE POST OFFICE, LIVE
11 IN ALBEMARLE, NORTH CAROLINA.

12 NUMBER 26 IS A SCHOOL TEACHER AND HAS
13 REQUESTED---

14 THE COURT: THAT'S ALBEMARLE---

15 THE CLERK: EXCUSE ME. I WAS GOING BY THE
16 SHERIFF'S INFORMATION.

17 THE COURT: THEY JUST -- THEY JUST GAVE YOU WHAT
18 THEY GAVE YOU.

19 ALL RIGHT.

20 THE CLERK: SOMEBODY OVER THERE CAN'T SPELL,
21 JUDGE.

22 OKAY. NUMBER 26 IS A SCHOOL TEACHER AND SHE'S
23 ASKING THAT HER SERVICE BE POSTPONED UNTIL SUMMER.

24 THE COURT: I THINK UNDER THE NEW LAW THAT WAS
25 SIGNED BY THE GOVERNOR, THAT IS AN EXEMPTION THAT CAN BE

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EXERCISED BY INDIVIDUALS WHO ARE EMPLOYED WITHIN THE SCHOOL SYSTEM AND I WILL ALLOW HER TO EXERCISE THAT.

THE CLERK: NUMBER 27, LORETTA BOUKNIGHT. SHE HAS PROVIDED A DOCTOR'S STATEMENT FROM DR. LEO WALKER. SHE IS REQUESTING TO BE EXCUSED. SHE SUFFERS FROM MUSCULOSKELETAL DISABILITY, CANNOT SIT ON A HARD SEAT AT ALL, NOR CAN SHE SIT FOR MORE THAN A FEW MINUTES AT A TIME IN ANY SEAT.

THE COURT: I THINK THAT FROM THE INFORMATION THAT I HAVE FROM DR. WALKER, TOGETHER WITH THE INFORMATION THAT MS. BOUKNIGHT HAS PRESENTED, SHE IS PERMANENTLY DISABLED SINCE 1991 BECAUSE OF FIBROMYALGIA AND THE MEDICATIONS THAT SHE TAKES CAUSES HER DIFFICULTY IN HER THOUGHT PROCESS, AS WELL AS THE DOCTOR STATING THAT SHE SUFFERS FROM A SEVERE MUSCULOSKELETAL DISABILITY AND SHE CANNOT SIT ON A HARD SEAT AT ALL NOR FOR MORE THAN A FEW MINUTES AT A TIME. SO SHE WILL BE EXCUSED FOR MEDICAL REASONS.

THE CLERK: JUROR NUMBER 28, NO LONGER A RESIDENT OF SOUTH CAROLINA PURSUANT TO THE AFFIDAVIT FROM THE SHERIFF'S DEPARTMENT. THE INFORMATION IS THAT THEY NOW LIVE IN SAVANNAH, GEORGIA.

THE COURT: OKAY.

THE CLERK: JUROR NUMBER 29, REQUESTING TO BE EXCUSED. THEY HAVE THREE CHILDREN, AGES THREE, FIVE AND SEVEN-YEARS-OF-AGE AND SHE WORKS OUT OF HER HOME.

1 THE COURT: YOU SAY THAT SHE WORKS OUT OF HER
2 HOME. IS THAT SOME INFORMATION THAT SHE GAVE YOU?

3 THE CLERK: YES, SIR. SHE'S A WRITER FOR THE
4 STATE AND THE LAKE MURRAY MAGAZINE. SHE HAS ONE CHILD THAT
5 DOESN'T GO TO THE SCHOOL AT ALL.

6 THE COURT: OKAY. WHAT SAYS THE STATE IN THAT
7 REGARD?

8 MR. HUMPHRIES: CONSISTENT WITH YOUR RULING IN
9 JUROR NUMBER 23.

10 THE COURT: THE DEFENSE?

11 MS. FULLWOOD: NO POSITION.

12 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE HER
13 PRIMARILY BECAUSE OF THE FACT THAT SHE DOES HAVE A CHILD
14 THAT IS UNDER THE AGE OF SEVEN AND I ALSO SEE WHERE HER
15 HUSBAND WORKS FOR THE SONIC DRIVE-IN AND WORKS ABOUT 70
16 HOURS A WEEK. I USED TO HAVE A GUY THAT LIVED BESIDE ME
17 THAT RAN A SONIC AT HOME AND HE WORKED MORE THAN THAT. SO
18 THAT 70 HOURS IS PROBABLY CONSERVATIVE.

19 ALL RIGHT. SHE WILL BE EXCUSED PURSUANT TO
20 STATUTE.

21 THE CLERK: NUMBER 31 IS ASKING FOR AN AGE
22 EXEMPTION, 69-YEARS-OF-AGE, BORN 7/30 OF '28.

23 THEY ALSO STATE HE HAS A PRIOR FELONY RECORD. WE
24 COULD NOT VERIFY THAT, JUDGE.

25 THE COURT: HE WILL BE EXCUSED PURSUANT TO

0080

1 STATUTE OF HIS EXEMPTION, ACCORDING TO AGE.

2 THE CLERK: NUMBER 33 HAS A BUSINESS TRIP PLANNED.
3 THEY HAVE NON-REFUNDABLE TUITION FOR AN EDUCATIONAL PROGRAM
4 THEY WILL BE ATTENDING IN PHILADELPHIA. I MAY STATE, ALSO,
5 THAT THIS JUROR IS THE WIFE OF A FORMER EMPLOYEE OF THE
6 SOLICITOR'S OFFICE. SHE BROUGHT THAT TO OUR ATTENTION.

7 THE COURT: I'M SURE THE DEFENSE WILL HAVE NO
8 OBJECTION TO HER BEING EXCUSED THEN.

9 ALL RIGHT. WE'LL EXCUSE MS. BROOKS BASED UPON
10 THE FACT THAT SHE DOES HAVE A NON-REFUNDABLE TUITION AND I
11 THINK ACTUALLY SHE'S JUST SEEKING TO BE TRANSFERRED. SHE
12 WILL BE TRANSFERRED -- WHY DON'T YOU TRANSFER HER TO A
13 COMMON PLEAS TERM IF YOU HAVE ONE.

14 THE CLERK: OKAY.

15 NUMBER 36 IS A STUDENT AT MIDLANDS TECH AND HAS
16 REQUESTED TO BE TRANSFERRED OUTSIDE OF THE SCHOOL TERM.
17 THEY SENT A COPY OF HER SCHEDULE.

18 THE COURT: I THINK THAT FROM THE INFORMATION
19 THAT SHE HAS PRESENTED TO ME, THAT SHE DOES NOT TECHNICALLY
20 FIT WHAT IS KNOWN AS A FULL-TIME STUDENT; HOWEVER, I WOULD
21 NOTE THAT SHE IS REGISTERED FOR SIX HOURS THAT SHE
22 APPARENTLY TAKES AT NIGHT, AS WELL AS WORKING A FULL-TIME
23 JOB, AND, MADAM CLERK, UNLESS SHE COULD RECEIVE A REFUND OF
24 HER FEES, I'M GOING TO EXCUSE HER BECAUSE I THINK THAT IT
25 WOULD BE A HARDSHIP ON HER HAVING TO LOSE THE TIME THAT

1 SHE'S INVESTED AS WELL AS ANY MONIES THAT SHE HAS PUT IN
2 BECAUSE SHE HAS APPARENTLY BEEN GOING TO SCHOOL SINCE THE
3 25TH OF AUGUST.

4 THE CLERK: YES, SIR.

5 SHE INDICATED TO US THAT HAD SHE BEEN ABLE TO
6 CANCEL PRIOR TO THE CLASSES STARTING, SHE MAY HAVE BEEN
7 ABLE TO GET ONE---

8 THE COURT: RIGHT.

9 THE CLERK: ---BUT AFTERWARDS, SHE COULD NOT.

10 THE COURT: OKAY.

11 THE CLERK: NUMBER 39, UNABLE TO LOCATE. WE HAVE
12 AN AFFIDAVIT OF NON-SERVICE. THE -- PURSUANT TO THE
13 INFORMATION FROM THE POST OFFICE, THEY LEFT NO FORWARDING
14 ADDRESS.

15 THE COURT: ALL RIGHT.

16 THE CLERK: JUROR NUMBER 40 HAS INDICATED THAT HIS
17 CHILDREN WERE VICTIMS OF A CRIMINAL CASE AND HE CANNOT BE
18 FAIR-MINDED TO CRIMINALS.

19 HE ALSO INDICATED THAT HE WAS TO HAVE EYE
20 SURGERY, BUT HE DID TELL US THAT THAT WAS NOT HIS REASON
21 FOR WANTING TO BE EXCUSED. HE WAS VERY ADAMANT IN HIS
22 OPINION THAT HE COULD NOT BE FAIR TO ANY CRIMINAL OR ANYONE
23 CHARGED WITH A CRIME.

24 THE COURT: DO Y'ALL KNOW ANYTHING ABOUT THE
25 CRIME THAT THIS GENTLEMAN SPEAKS OF? THE SOLICITOR'S

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1 OFFICE.

2 MR. HUMPHRIES: I CAN'T TELL WITH ANY KIND OF
3 AUTHORITY, JUDGE. THE NAME SOUNDS FAMILIAR, BUT I CAN'T
4 PROVIDE THE COURT ACCURATELY.

5 THE COURT: ALL RIGHT. WHAT SAYS THE STATE IN
6 REGARD TO MR. BUNDRICK?

7 MR. HUMPHRIES: NO POSITION, YOUR HONOR.

8 THE COURT: DEFENSE?

9 MS. FULLWOOD: WE ASK THAT HE BE EXCUSED IN LIGHT
10 OF HOW ADAMANT HE IS IN HIS STATEMENT.

11 THE COURT: I'LL---

12 MR. HUMPHRIES: WELL, LET ME SAY THIS, JUDGE. I
13 GUESS -- WE NEED TO COMPARE THAT TO THE ONE WHO HAS THE
14 RELIGIOUS DIFFICULTIES.

15 THE COURT: YEAH. I THINK WHAT I'M GOING TO DO
16 IS BRING HIM IN. HE'S QUITE -- QUITE AKIN TO THE RELIGIOUS
17 DIFFICULTIES. I THINK THAT IN MY INITIAL QUESTIONING -- IN
18 MY INITIAL QUESTIONING THAT I WILL DO WITH THEM, HOPEFULLY
19 THIS WILL COME OUT RATHER THAN US GETTING INTO A PANEL TYPE
20 SITUATION. IT MAY BE THAT I WILL INDIVIDUALLY BRING HIM
21 AND THIS OTHER LADY UP ON MONDAY, THOUGH, AND TALK TO THEM
22 ABOUT THE DIFFICULTIES THAT THEY SAY THAT THEY HAVE. OKAY.

23 MS. FULLWOOD: YES, SIR.

24 THE CLERK: JUROR NUMBER 41 HAS REQUESTED A
25 MEDICAL EXCUSE. SHE SAYS SHE HAS A DISABILITY AND WE HAVE

1 A LETTER FROM DR. MCCART AND IT'S FROM THE DEPARTMENT OF
2 MENTAL HEALTH. MS. BYARS IS CURRENTLY UNDER MY CARE FOR
3 PSYCHIATRIC DEPRESSION AND ANXIETY. IN ADDITION, MS. BYARS
4 WAS ALSO DIAGNOSED BY ANOTHER PHYSICIAN WITH NARCOLEPSY AND
5 IS CURRENTLY ON MEDICATION.

6 THE COURT: I THOUGHT THAT A LOT OF JURORS HAD
7 NARCOLEPSY.

8 I THINK GIVEN WHAT MS. BYARS HAS PRESENTED WITH,
9 HER PSYCHIATRIC PROBLEMS, TOGETHER WITH THE INFORMATION
10 ABOUT THE NARCOLEPSY, I'M GOING TO EXCUSE HER.

11 THE CLERK: NUMBER 42. JUDGE, WE RECEIVED THE
12 INFORMATION BACK. WE'RE NOT SURE EXACTLY WHO FILLED OUT,
13 BUT THEY WROTE IN RED ACROSS THE INFORMATION MOVED OUT OF
14 STATE AND THAT WAS ALL THAT WE COULD -- WE -- WE COULDN'T
15 GET ANYTHING ELSE. WHOEVER GOT IT, WROTE IT ACROSS THE
16 FRONT AND SENT IT BACK.

17 THE COURT: DID THE SHERIFF ATTEMPT TO LOCATE
18 THIS INDIVIDUAL?

19 (WHEREUPON, THE CLERK NODS IN THE
20 NEGATIVE AT THIS TIME.)

21 THE COURT: COULD WE DO THAT JUST SO WE WOULD
22 HAVE IT FOR THE RECORD?

23 THE OFFICER: YES, SIR.

24 THE COURT: FROM THE INFORMATION THAT I HAVE BEEN
25 PRESENTED WITH, I THINK, THAT IF THE STATE WOULD -- I MEAN,

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1 IF THE SHERIFF WOULD JUST CONFIRM THAT.

2 THE OFFICER: YES, SIR.

3 THE CLERK: NUMBER 45 IS A RESIDENT OF SALUDA
4 COUNTY AND WE CALLED AND ASKED THAT THEY SEND US A COPY OF
5 THE DRIVERS LICENSE OR SOMETHING WITH THAT INFORMATION ON
6 IT. AND THEY ARE SUPPOSED TO BE PROVIDING THAT TO US. AND
7 THE SHERIFF'S DEPARTMENT DID GO OUT AND VERIFY THAT THAT
8 WAS A SALUDA COUNTY ADDRESS.

9 THE COURT: LEESVILLE IS IN SALUDA COUNTY?

10 MR. HUMPHRIES: PART OF IT.

11 THE COURT: PART OF IT IS. AND YOU SAY THE
12 SHERIFF'S OFFICE VERIFIED THAT?

13 THE OFFICER: WE WENT OUT THERE THIS MORNING.

14 THE COURT: JUST GO AHEAD AND INCLUDE THE DRIVERS
15 LICENSE'S COPY OF THAT IN THE RECORD---

16 THE CLERK: YES, SIR.

17 THE COURT: ---AND THAT WILL BE SUFFICIENT.

18 THE CLERK: JUROR NUMBER 46 IS UNABLE TO LOCATE.
19 WE HAVE AN AFFIDAVIT OF NON-SERVICE FROM THE SHERIFF'S
20 DEPARTMENT. THE ADDRESS IS A JAMES BRANHAM'S ADDRESS. THE
21 JUROR IS A JODI CARMELL. SUBJECT IS FRIEND OF THE
22 BRANHAMS' -- MR. BRANHAM'S WIFE. THEY MOVED TWO YEARS AGO
23 AND THERE'S NO INFORMATION OTHER THAN THE FORWARDING
24 ADDRESS WAS FISH HATCHERY ROAD AND THAT IS NOT THEIR
25 ADDRESS ANYMORE BECAUSE A WANDA DAVIS LIVES THERE.

1 THE COURT: ALL RIGHT. UNABLE TO LOCATE.

2 THE CLERK: JUDGE, JUROR NUMBER 47, MR. FOY CHALK.
3 MR. CHALK HAS A TRIP SCHEDULED. HE HAD A LITTLE TROUBLE
4 GETTING HIS INFORMATION IN. HE ACCUSED US OF HARASSING HIM
5 ALONG WITH THE SHERIFF'S DEPARTMENT HARASSING HIM FOR THIS
6 INFORMATION AND HE SAID IT DIDN'T MATTER TO HIM WHETHER HE
7 WAS EXCUSED OR NOT BECAUSE HE WAS GOING ON HIS BUSINESS
8 TRIP. SO---

9 THE COURT: WELL---

10 THE CLERK: WE HAVE SOME INFORMATION HERE THAT WE
11 CAN CALL HIS TRAVEL AGENT OR HIS ATTORNEY IF WE WANT SOME
12 -- ANYMORE INFORMATION.

13 THE COURT: LET'S CALL HIS TRAVEL AGENT AND FIND
14 OUT -- BUT I ALSO WANT TO FIND OUT EXACTLY WHAT KIND OF A
15 TRIP MR. CHALK HAS. IF IT'S A BUSINESS TRIP, THAT WOULD
16 APPEAR TO BE A FAIRLY LEGITIMATE REASON TO ME AND YOU MIGHT
17 TELL HIM THAT UNLESS HE GIVES ME A LITTLE MORE INFORMATION,
18 THEN, WHEN HE GETS BACK FROM THAT BUSINESS TRIP, HE MAY
19 HAVE A SURPRISE UNLESS WE ARE PROVIDED WITH THAT
20 INFORMATION.

21 THE CLERK: ALL RIGHT.

22 NUMBER 51 IS A RESIDENT OF FLORIDA PURSUANT TO AN
23 AFFIDAVIT. THE SHERIFF'S DEPARTMENT HAS VERIFIED THAT THE
24 JUROR HAS MOVED TO FLORIDA. THE FORWARDING ORDER DID
25 EXPIRE FROM THE POST OFFICE, BUT THAT WAS THE LAST ADDRESS

0086

1 THAT THEY HAVE.

2 THE COURT: ALL RIGHT. NO LONGER A RESIDENT
3 THEN.

4 THE CLERK: NUMBER 52 HAS A PROBLEM, A FINANCIAL
5 PROBLEM WITH SERVING. HE IS A SALESMAN AND REQUESTS THAT
6 HE BE EXCUSED BECAUSE IF HE DOES NOT MAKE SALES, HE DOES
7 NOT GET PAID.

8 THE COURT: I'LL PUT HIM IN THE SAME POSITION
9 THAT I DO JUROR NUMBER SIX AND I'LL MAKE A DECISION ON
10 THOSE AT THE END.

11 THE CLERK: ALL RIGHT.

12 JUROR NUMBER 53---

13 MR. HUMPHRIES: FIFTY-THREE?

14 THE CLERK: EXCUSE ME, 55. WE HAVE RECEIVED AN
15 AFFIDAVIT OF NON-SERVICE. THE SHERIFF'S DEPARTMENT WENT
16 OUT -- JUST TODAY WE GOT A NEW ADDRESS ON MR. COOK IN
17 LEXINGTON. THE SHERIFF'S DEPARTMENT WENT OUT AND THEY WERE
18 UNABLE TO MAKE CONTACT WITH ANYONE AT THAT ADDRESS.

19 MR. HUMPHRIES: HE'S DISQUALIFIED BY LAW.

20 THE CLERK: OKAY.

21 MR. HUMPHRIES: CONVICTION FOR VOLUNTARY
22 MANSLAUGHTER. MS. FULLWOOD AND I WERE INVOLVED IN THAT
23 CASE.

24 MS. FULLWOOD: THAT'S RIGHT, JUDGE.

25 THE COURT: YOU AGREE WITH THAT, MS. FULLWOOD.

1 MS. FULLWOOD: YES, SIR.

2 THE COURT: ALL RIGHT. MR. COOK THEN IS NOT

3 QUALIFIED DUE TO HIS CONVICTION.

4 THE CLERK: JUROR NUMBER 57 IS CLAIMING THE AGE

5 EXEMPTION, 73-YEARS-OF-AGE, DATE OF BIRTH 5/5/24.

6 THE COURT: SHE WILL BE EXEMPTED.

7 THE CLERK: JUROR NUMBER 58, CLAIMING AN AGE

8 EXEMPTION, AGE 67, DATE OF BIRTH 8/3/30.

9 THE COURT: SHE WILL BE EXEMPTED.

10 THE CLERK: JUROR NUMBER 61 IS REQUESTING A

11 MEDICAL EXEMPTION. THIS JUROR WAS INVOLVED IN A CAR

12 ACCIDENT SUNDAY A WEEK AGO AND AT THIS TIME IS CURRENTLY IN

13 THE HOSPITAL AND WE HAVE A STATEMENT HERE FROM THE MEDICAL

14 -- LEXINGTON MEDICAL CENTER SHOWING THAT THEY -- TO WHOM IT

15 MAY CONCERN. KEVIN CROUT WAS INVOLVED IN A MOTOR VEHICLE

16 ACCIDENT ON 9/1/97. HE WAS ADMITTED TO LEXINGTON MEDICAL

17 CENTER FOR -- I CAN'T MAKE OUT---

18 THE COURT: MANAGEMENT OF FACIAL, CHEST AND---

19 THE CLERK: THANK YOU.

20 THE COURT: ---UPPER EXTREMITY INJURIES.

21 THE CLERK: MR. CROUT WILL NOT ABLE TO SERVE JURY

22 DUTY DUE TO THE NATURE OF HIS INJURIES.

23 MR. MYERS: WASN'T HE THE ONE THAT WAS IN THE

24 MOTORCYCLE WRECK AND IS IN PRETTY BAD SHAPE?

25 THE CLERK: I'M NOT SURE.

AF:0088

1 THE COURT: I'M GOING TO EXCUSE HIM FOR MEDICAL
2 REASONS.

3 THE CLERK: JUROR NUMBER 62 IS REQUESTING AN AGE
4 EXEMPTION, 83-YEARS-OF-AGE, DATE OF BIRTH 8/31/13.

5 THE COURT: EIGHTY-THREE-YEARS-OF-AGE. SHE
6 SHOULD CERTAINLY BE ABLE TO MAKE HER OWN DECISION. SHE
7 WILL BE EXCUSED PURSUANT TO STATUTE.

8 THE CLERK: JUROR NUMBER 64 IS A MIDLANDS
9 TECHNICAL COLLEGE STUDENT. SHE HAS SENT IN SOMETHING
10 VERIFYING THAT SHE IS A STUDENT. SHE'S A SENIOR. SHE'S
11 HALF TIME -- HALF TIME AND SHE IS CURRENTLY IN THE FALL
12 SEMESTER FOR EIGHT HOURS.

13 THE COURT: I'LL TREAT HER JUST AS I DID THE
14 OTHER PERSON THAT WAS---

15 MR. HUMPHRIES: JUROR NUMBER 36.

16 THE COURT: YEAH. SHE WILL BE EXCUSED BECAUSE OF
17 HER EDUCATIONAL -- THE FACT THAT SHE HAS MADE THOSE
18 PAYMENTS AND SHE IS THERE.

19 THE CLERK: JUROR 65 DESIRES TO BE EXCUSED FOR AGE
20 EXEMPTION, 88-YEARS-OF-AGE, DATE OF BIRTH IS 3/9/19---

21 THE COURT: ACTUALLY, SHE SAID SHE WANTED TO BE
22 EXCUSED BECAUSE OF OLD AGE AND SICKLY. SHE'S EXCUSED.

23 THE CLERK: JUROR NUMBER 66 IS UNABLE TO LOCATE.
24 VACANT LOT. TALKED WITH BECKMANS AT 1411 WEST EAST
25 JEFFCOAT, POSSIBLY A COLUMBIA FIREMAN. PER P.O. NO

1 DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD, AND, 9:0089
2 THEREFORE, CANNOT BE SERVED AND THE DEPONENT IS NOT A PARTY
3 TO THIS ACTION.

4 THE COURT: ALL RIGHT. UNABLE TO LOCATE.

5 THE CLERK: JUROR NUMBER 67 DESIRES TO BE EXCUSED
6 FOR AGE EXEMPTION, 70-YEARS-OF-AGE, DATE OF BIRTH IS 3/14
7 OF '27.

8 THE CLERK: JUROR NUMBER 70---

9 THE COURT: BE EXCUSED PURSUANT TO STATUTE.

10 THE CLERK: OKAY.

11 IS FINANCIAL PROBLEMS. SENT IN A JUROR RESPOND
12 FORM. STATES THAT HE DESIRES -- LESLIE -- EXCUSE ME. SHE
13 DESIRES TO BE EXCUSED FROM JURY SERVICE BECAUSE OF SEVERE
14 FINANCIAL HARDSHIP AND SHE THEN GAVE AN EXPLANATION OF
15 FINANCIAL OBLIGATIONS AND THAT IT WOULD PUT HER INCOME --
16 REDUCE HER LEVEL, LUNCH LEVEL OF HER CHILDREN.

17 MR. HUMPHRIES: IT WOULD DO WHAT?

18 THE CLERK: I MUST WORK WHILE CONTINUING TO LOOK
19 FOR A PERMANENT POSITION. OUR INCOME PUTS US AT THE -- AT
20 A FREE OR REDUCED LUNCH LEVEL FOR OUR CHILDREN.

21 THE COURT: OKAY. SHE IS A -- APPARENTLY A
22 SUBSTITUTE TEACHER AND HER HUSBAND IS IN MAINTENANCE. I'LL
23 TREAT HER ALONG WITH NUMBER TWO AND NUMBER SIX AT THE
24 APPROPRIATE TIME.

25 THE CLERK: JUROR NUMBER 71 DESIRES TO BE EXCUSED

U 0090
1 FOR MEDICAL REASONS. STATES THAT I HAVE COLON CANCER AND I
2 AM UNDER TREATMENT WITH DR. BABCOCK AT BAPTIST CANCER
3 CENTER. AND WE DID RECEIVE A MEDICAL STATEMENT FROM DR.
4 BABCOCK. IT STATES WANDA IS CURRENTLY UNDERGOING
5 CHEMOTHERAPY FOR COLON CANCER BECAUSE SHE HAS SIDE EFFECTS
6 RELATED TO THE CHEMOTHERAPY INCLUDING---

7 THE COURT: MUCOSITIS.

8 THE CLERK: ---MUCOSITIS AND DIARRHEA. THE
9 PATIENT IS NOT ABLE TO PARTICIPATE IN JURY DUTY.

10 THE COURT: SHE IS EXCUSED.

11 THE CLERK: JUROR NUMBER 72 IS OUT OF -- OUT OF
12 THE COUNTY. HE CURRENTLY RESIDES IN SIMPSONVILLE, SOUTH
13 CAROLINA. WE HAVE A DRIVERS LICENSE AND HE NOW LIVES AT
14 320 GODFREY ROAD IN SIMPSONVILLE, SOUTH CAROLINA.

15 THE COURT: HE IS EXCUSED. NO LONGER A RESIDENT.

16 THE CLERK: JUROR NUMBER 73 IS DECEASED. I HAVE
17 CHECKED WITH THE PROBATE COURT IN LEXINGTON AND I DID NOT
18 GET A DEATH CERTIFICATE FROM THEIR OFFICE, BUT FURTHER
19 AFFIDAVIT IN THE LEXINGTON COUNTY SHERIFF'S DEPARTMENT,
20 HE'S DECEASED PER THE POST OFFICE.

21 THE COURT: UNLESS EITHER THE STATE OR THE
22 DEFENDANT WANTS US TO GO FARTHER THAN THAT, I WILL TAKE
23 THAT INFORMATION AND BE PLACED IN THE RECORD.

24 THE CLERK: JUROR NUMBER 75 IS FOR RELIGIOUS
25 REASONS. THEY DESIRE TO BE EX -- EXEMPTED FOR RELIGIOUS

1 REASONS. HE IS A MEMBER OF THE PHILADELPHIA CHURCH OF GOD.
2 THE COURT: I'LL BRING MR. DUFFY IN AND TALK TO
3 HIM ON MONDAY.
4 THE CLERK: JUROR NUMBER 76 IS DECEASED. PASSED
5 AWAY ON 6/14 OF '96. WE HAVE AN AFFIDAVIT, NOTARIZED
6 AFFIDAVIT FROM HIS SPOUSE, ELAINE DURST.
7 THE COURT: ALL RIGHT. WE'LL TAKE THAT AND PLACE
8 IT IN THE RECORD.
9 THE CLERK: JUROR NUMBER 78 IS UNABLE TO LOCATE
10 PER THE POST OFFICE. SUBJECT HAS MOVED AND LEFT NO
11 FORWARDING.
12 THE COURT: ALL RIGHT. UNABLE TO LOCATE.
13 THE CLERK: JUROR NUMBER 79 IS OUT OF THE STATE.
14 PER RESIDENT, SUBJECT NOW LIVES IN REDONDO BEACH,
15 CALIFORNIA.
16 THE COURT: ALL RIGHT. UNABLE TO LOCATE.
17 THE CLERK: JUROR NUMBER 80 HAS MOVED OUT OF THE
18 COUNTY. NOW RESIDES AT 112 DARTMOUTH WAY, SPARTANBURG, AND
19 WE HAVE A COPY OF HIS DRIVERS LICENSE.
20 THE COURT: ALL RIGHT. NO LONGER A RESIDENT.
21 THE CLERK: JUROR NUMBER 81 DESIRES TO BE EXCUSED
22 FOR MEDICAL REASONS. SHE HAS A DISABLED CHILD THAT SHE
23 TAKES CARE OF. SHE IS THE PRIMARY CAREGIVER. AND SHE HAS
24 A VERY DETAILED LETTER THAT SHE SENT TO US ALONG WITH A
25 DOCTOR'S STATEMENT FROM DR. KAY MOORE STATING THAT SHE

0092
1 DESIRES TO BE EXCUSED DUE TO TAKING CARE OF HER DAUGHTER.

2 THE COURT: I'M GOING TO EXCUSE HER DUE TO THE
3 SEVERE MEDICAL PROBLEMS THAT HER SON HAS AND SHE IS THE
4 PRIMARY CAREGIVER.

5 THE CLERK: JUROR NUMBER 88 IS DISQUALIFIED BY
6 LAW. WE HAVE AN INDICTMENT AND A SENTENCING SHEET FOR
7 CRIMINAL CONSPIRACY. THE PERSON RECEIVED FIVE YEARS OR
8 FIVE-THOUSAND DOLLARS UPON ONE YEAR OR FIFTEEN-HUNDRED
9 SUSPENDED WITH THREE YEARS PROBATION AND HE WENT TO COURT
10 ON 11/29 OF 1982.

11 THE COURT: HE'S EXCUSED PURSUANT TO STATUTE, NOT
12 QUALIFIED.

13 THE CLERK: JUROR NUMBER 89 DESIRES TO BE EXCUSED
14 FOR AGE EXEMPTION. THE DATE OF BIRTH IS 3/11/11.

15 THE COURT: HE IS EXCUSED PURSUANT TO HIS AGE
16 EXEMPTION.

17 THE CLERK: JUROR 91, WE HAVE A DEATH
18 CERTIFICATE. DECEASED, PASSED AWAY ON 3/29 OF '93.

19 THE COURT: ALL RIGHT.

20 THE CLERK: JUROR NUMBER 92 IS UNABLE TO LOCATE,
21 THIS IS NOW DAWN WILDER AND ANNIE ELIZABETH DAVIS'
22 RESIDENCE FOR APPROXIMATELY FOUR DAYS. SUBJECT NOT LIVING
23 HERE AND PER POST OFFICE, NO CHANGE OF ADDRESS.

24 THE COURT: UNABLE TO LOCATE.

25 THE CLERK: JUROR NUMBER 93 DESIRES TO BE EXCUSED

1 FOR AGE EXEMPTION. DATE OF BIRTH IS 9/12/20. 0093

2 THE COURT: SHE IS EXCUSED. ALLOWED TO USE HER
3 EXEMPTION.

4 THE CLERK: JUROR NUMBER 96 DESIRES TO BE EXCUSED
5 FOR AGE. THE JUROR IS 66-YEARS-OF-AGE AND HIS DATE OF
6 BIRTH IS 9/30 OF '31.

7 THE COURT: ALL RIGHT. ALSO AN AGE EXEMPTION.

8 THE CLERK: JUROR NUMBER 97 HAS AN OUT-OF-TOWN
9 PAID TRIP FROM 9/11 UNTIL 9/16. THEY DID SEND US A STATE
10 TRAVEL, A COPY OF THEIR RESERVATIONS STATING THAT IS A --
11 THEY LEAVE ON SEPTEMBER THE 11TH. THEY WILL NOT COME BACK
12 UNTIL THE 16TH. AND I DO BELIEVE THESE ARE NON-REFUNDABLE.

13 THE COURT: ALL RIGHT. THEY ARE EXCUSED.

14 THE CLERK: JUROR NUMBER 98 DESIRES TO BE EXCUSED
15 FOR AGE EXEMPTION, 86-YEARS-OF-AGE, DATE OF BIRTH IS
16 2/2/11.

17 THE COURT: SHE'S ALLOWED TO EXERCISE HER
18 EXEMPTION.

19 THE CLERK: JUROR NUMBER 102 DESIRES TO BE
20 EXCUSED FOR AGE, 72-YEARS-OF-AGE, DATE OF BIRTH IS 6/4/24.

21 THE COURT: ALL RIGHT. AGE EXEMPTION.

22 THE CLERK: JUROR NUMBER 104 HAS MEDICAL PROBLEMS.
23 THEY HAVE SENT IN A SIGNED AFFIDAVIT ALONG WITH A
24 DISABILITY STATEMENT. I THINK THIS IS WORKMAN'S COMP,
25 EXPLANATION OF PAYMENT, AND A CHIROPRACTOR, DR. B. R.

0094

1 GRANDY, SENT IN A STATEMENT STATING THAT SHE HAS BEEN A
2 PATIENT FOR SEVERAL YEARS. SHE IS CONFINED TO A WALKER OR
3 WHEELCHAIR DEPENDING ON HER ACTIVITY LEVEL. IT IS
4 DIFFICULT FOR HER TO BE UP AND MOVING FOR AN EXTENDED
5 PERIOD OF TIME.

6 THE COURT: I'M GOING TO EXCUSE HER.

7 THE CLERK: JUROR NUMBER 105 HAS A WORK PROBLEM.
8 MS. HANSON, SHE SAYS -- SHE SENT IN A LETTER SAYING THAT
9 SHE WAS RESPONSIBLE FOR MEETING THE EDUCATIONAL AND
10 PHYSICAL NEEDS OF SEVEN WELL-BOUND STUDENTS. THOSE NEEDS
11 INCLUDING FEEDING, TOILETTING, STRETCHING AND MANY OTHER
12 THINGS THAT MAY OCCUR DURING THE DAY. EACH STUDENT IS
13 REQUIRED TO BE REPOSIT DURING THE DAY. I SUPERVISE THE
14 ADULT AIDS. IT TAKES THREE ADULTS TO MAKE THE NEEDS ARE
15 MET. ONE AID OCCUPIES TWO STUDENTS OF L.H.S. FOR PART OF
16 THE DAY AND THE BEST PROGRAM. ANOTHER STUDENT IS
17 MAINSTREAMED FOR THREE-FOURTHS OF THE DAY. SOME IS
18 REQUIRED TO CHECK ON HIM. I HAVE STUDENTS COMING AND GOING
19 FROM MY CLASS THROUGH THE DAY. MOST OF THEM REQUIRE AN
20 ADULT TO GO WITH THEM. I HAVE -- I AM RESPONSIBLE FOR
21 MAKING SURE EACH TRANSACTION GOES SMOOTHLY. I KEEP
22 DOCUMENTATION ON THE EDUCATION PROCESS OF EACH STUDENT.
23 THE COURT: I THINK THAT THIS INDIVIDUAL'S
24 PARTICULAR REQUEST WOULD BE QUALIFIED UNDER THE NEW STATUTE
25 ALLOWING A SCHOOL EMPLOYEE TO BE TRANSFERRED TO ANOTHER

0095

1 TERM OF COURT. WHY DON'T YOU TRANSFER HER TO A TIME THAT
2 IT DOES NOT CONFLICT WITH HER SCHOOL DUTIES AS THAT SHE
3 WORKS AT GILBERT HIGH.

4 THE CLERK: JUROR NUMBER 108 IS UNABLE TO LOCATE
5 PER POST OFFICE. SUBJECT HAS MOVED AND LEFT NO FORWARDING
6 ADDRESS. IT IS NOW THE DAVID NORTHCUTT RESIDENCE.

7 THE COURT: UNABLE TO LOCATE.

8 THE CLERK: JUROR NUMBER 110 DESIRES TO BE
9 EXCUSED FOR AGE EXEMPTION, 65-YEARS-OF-AGE, DATE OF BIRTH
10 IS 7/1 OF '32.

11 THE COURT: AGE EXEMPTION.

12 THE CLERK: JUROR NUMBER 111 WORKS OUT OF TOWN,
13 MORE THAN 400 MILES AWAY DURING THE WEEK AND FOR THE
14 REMAINDER OF THE YEAR.

15 THE COURT: COULD YOU GET HIM TO PROVIDE US WITH
16 A LITTLE MORE INFORMATION AS TO EXACTLY WHERE THAT IS. I
17 UNDERSTAND HE WORKS OUT OF TOWN MORE THAN 400 MILES AWAY
18 AND I THINK THAT'S -- AS LONG AS I HAVE SOME MORE
19 INFORMATION CONCERNING THAT. WHERE HE'S WORKING AND WHAT
20 HE'S DOING.

21 THE CLERK: OKAY.

22 THE COURT: AND JUST PLACE THAT IN THE RECORD.

23 THE CLERK: JURY 112 DESIRES TO BE EXCUSED FOR
24 AGE EXEMPTION, 76-YEARS-OF-AGE, DATE OF BIRTH IS 6/24/21.

25 THE COURT: AGE EXEMPTION.

0096

1 THE CLERK: JUROR NUMBER 113 HAS A WORK PROBLEM.
2 STATES THEIR ENROLLMENT THAT WEEK CONFLICTS WITH JURY DUTY.
3 I AM ENROLLED FOR COLONIAL AND THAT WEEK STARTS A BIG
4 ENROLLMENT FOR MY DISTRICT. IF I DO NOT PARTICIPATE, IT
5 WILL COST ME A LOT OF MONEY. I WILL BE GLAD TO SERVE AT A
6 LATER DATE. THANK YOU.

7 THE COURT: I'LL PUT HER IN THE CATEGORY WITH
8 TWO, SIX AND SEVENTY.

9 THE CLERK: JUROR NUMBER 114 IS UNABLE TO LOCATE.
10 HOUSE VACANT PER POST OFFICE, UNDELIVERABLE AS ADDRESSED
11 AND UNABLE TO FORWARD.

12 THE COURT: UNABLE TO LOCATE.

13 THE CLERK: JUROR NUMBER 115 DESIRES TO BE EXCUSED
14 FOR AGE EXEMPTION, 75-YEARS-OF-AGE, DATE OF BIRTH IS 1/9 OF
15 '22.

16 THE COURT: AGE EXEMPTION.

17 THE CLERK: JUROR NUMBER 118 UNABLE TO LOCATE PER
18 THE POST OFFICE. SUBJECT HAS MOVED AND LEFT NO FORWARDING.

19 THE COURT: UNABLE TO LOCATE.

20 THE CLERK: JUROR NUMBER 119 WORKS OUT OF THE --
21 WORKS OUT OF TOWN IN NORTH CAROLINA. IT JUST STATES
22 WORKING OUT OF STATE, NORTH CAROLINA.

23 THE COURT: I NEED SOME MORE INFORMATION ON HIM
24 ALSO.

25 THE CLERK: JUROR NUMBER 120 IS SUMMONS TO APPEAR

1 FOR MAGISTRATE COURT IN A CIVIL CASE ON SEPTEMBER 17, 1997.
2 HE IS THE PLAINTIFF AND HE HAS SENT IN A COPY OF THE -- THE
3 -- JUDGE WOMBLE, A COPY OF HIS SUMMONS.

4 THE COURT: I BELIEVE WE CAN CONTACT JUDGE WOMBLE
5 AND SEE IF WE CAN'T GET HIM RESCHEDULED AS QUICKLY AS
6 POSSIBLE AFTER THIS TRIAL IS OVER.

7 THE CLERK: JUROR NUMBER 122 HAS NO
8 TRANSPORTATION. STATES NO TRANSPORTATION TO AND FROM
9 COURT.

10 THE COURT: THE WAY THAT I NORMALLY TREAT THESE
11 IS WE WILL PROVIDE THEM TRANSPORTATION TO GET BACK AND
12 FORTH TO COURT. SO IF THE SHERIFF'S DEPARTMENT COULD
13 PLEASE ARRANGE THAT FOR US SO THAT, IF YOU WOULD, CONTACT
14 MR. JENKINS TO MAKE SURE THAT HE'S HERE ON MONDAY MORNING
15 AND THEN WE'LL SEE THAT HE GETS BACK HOME -- AND, OF
16 COURSE, IF HE'S A JUROR, WE WON'T HAVE TO WORRY ABOUT HIS
17 TRANSPORTATION. EVERYBODY WILL BE PROVIDING THAT ANYWAY.

18 THE CLERK: JUROR NUMBER 125 IS UNABLE TO LOCATE.
19 SUBJECT NOT LIVING HERE, ANTHONY LORD'S RESIDENCE FOR SIX
20 MONTHS PER THE POST OFFICE. KNOWN ADDRESS -- PER POST
21 OFFICE NOT KNOWN AT ADDRESS GIVEN.

22 THE COURT: UNABLE TO LOCATE.

23 THE CLERK: JUROR NUMBER 126---

24 THE COURT: HOLD ON JUST ONE MINUTE.

25 THE CLERK: WE DOUBLE TEAMED YOU, JUDGE.

1 THE COURT: I KNOW YOU DID.

2 THE CLERK: WE'RE SWAPPING OFF.

3 THE COURT: OKAY.

4 THE CLERK: JUROR NUMBER 126 NOW LIVES IN
5 RICHLAND COUNTY. HE SAYS HE HAS NOT LIVED IN LEXINGTON
6 COUNTY FOR A YEAR AND A HALF AND HE HAS GIVEN US HIS NEW
7 ADDRESS AND WE HAVE COPIES OF -- IT LOOKS LIKE HIS TAX
8 NOTICES THAT SHOW HIS ADDRESS AS RICHLAND COUNTY.

9 THE COURT: ALL RIGHT. NO LONGER A RESIDENT.

10 THE CLERK: JUROR NUMBER 129 IS CLAIMING AN AGE
11 EXEMPTION, 67-YEARS-OF-AGE, DATE OF BIRTH 10/23/29.

12 THE COURT: ALLOW THE AGE EXEMPTION.

13 THE CLERK: JUROR NUMBER 131 IS UNABLE TO LOCATE.
14 I HAVE AN AFFIDAVIT OF NON-SERVICE PER THE POST OFFICE, NO
15 SUCH ADDRESS.

16 THE COURT: OKAY. UNABLE TO LOCATE.

17 THE CLERK: JUROR NUMBER 132 REQUESTING AN
18 EXEMPTION. SMALL CHILDREN UNDER THE -- HAVE ONE 11, ONE 9
19 AND ONE SIX. SHE IS A HOUSEWIFE AND DOES NOT WORK OUTSIDE
20 THE HOME. IT LOOKS LIKE SHE DOES WORK OUTSIDE THE HOME.

21 THE COURT: SHE DOES WORK---

22 THE CLERK: YES, SIR---

23 THE COURT: ---SHE WORKS WITH BEN LIPPEN.

24 THE CLERK: ---I'M LOOKING AT THIS. IT SAYS ONE
25 THING ONE PLACE AND ONE THING ANOTHER. WORKS AT THE BEN

1 LIPPEN ELEMENTARY SCHOOL FOR ONE YEAR.

2 THE COURT: I THINK IF WE WERE IN A REGULAR CASE,
3 IT WOULD BE ONE THING, BUT WHEN YOU -- NORMALLY PEOPLE THAT
4 WORK AND HAVE CHILDREN, YOU KNOW, BUT WHEN THEY'RE GOING TO
5 BE STAYING OVERNIGHT WITH US, THAT'S A TOTALLY DIFFERENT
6 MATTER AND I WOULD IMAGINE THAT MR. KILLIAN WOULD PROBABLY
7 AGREE WITH ME IN EXCUSING HER.

8 THE CLERK: JUROR NUMBER 135 IS NOW A RESIDENT OF
9 RICHMOND, VIRGINIA. WE HAVE A NOTICE FROM THE POST OFFICE
10 OF THE CHANGE OF ADDRESS.

11 THE COURT: NO LONGER A RESIDENT.

12 THE CLERK: JUROR NUMBER 136 IS REQUESTING TO BE
13 EXCUSED FOR FINANCIAL PROBLEMS. I PAY FORTY-EIGHT DOLLARS
14 TO THE FAMILY COURT EVERY WEEK FOR DAY-CARE FOR MY
15 FOUR-YEAR-OLD SON. I HAVE JOINT CUSTODY OF HIM ALSO. I
16 CANNOT AFFORD TO MISS WORK.

17 THE COURT: Y'ALL DON'T GET ANY BUSINESS OUT OF
18 THE PALACE ROYALE, DO YOU? I'LL PUT THAT PERSON IN THE
19 SAME FINANCIAL CATEGORY AND MAKE A DECISION ON THOSE BEFORE
20 I LEAVE.

21 THE CLERK: JUROR NUMBER 144 IS CLAIMING AN AGE
22 EXEMPTION, 72-YEARS-OF-AGE, DATE OF BIRTH 1/28/25.

23 THE COURT: IT SAYS HE'S PARTIALLY DEAF AND THE
24 LAST TIME HE WAS ON JURY DUTY, HE DIDN'T BELIEVE HE COULD
25 HEAR OVER TEN PERCENT OF WHAT WAS GOING ON. THAT WAS IN

0100

1 1982. SO WE'LL ALLOW HIM TO EXERCISE HIS EXEMPTION.

2 THE CLERK: JUROR NUMBER 145 CLAIMING AN AGE
3 EXEMPTION, DATE OF BIRTH 12/10/28.

4 THE COURT: ALLOW THE---

5 THE CLERK: IT LOOKS LIKE WE ALSO HAVE A MEDICAL
6 STATEMENT.

7 THE COURT: YEAH, WE DO. I'LL ALLOW THE
8 EXEMPTION.

9 THE CLERK: THANK YOU.

10 JUROR NUMBER 147 IS LIVING OUT OF THE COUNTY.
11 CURRENTLY A RESIDENT OF FOLLY BEACH, SOUTH CAROLINA, AND WE
12 HAVE A COPY OF THE LEASE, THIS PERSON'S LEASE AGREEMENT.
13 HE MOVED ON AUGUST 23RD OF THIS YEAR.

14 THE COURT: ALL RIGHT. NO LONGER A RESIDENT.

15 THE CLERK: JUROR NUMBER 150 CLAIMING AN AGE
16 EXEMPTION, DATE OF BIRTH 7/18/14.

17 THE COURT: EXEMPTION IS ALLOWED.

18 THE CLERK: NUMBER 152 IS UNABLE TO LOCATE. WE
19 HAVE AN AFFIDAVIT OF NON-SERVICE. THIS IS NOW, THE JOE
20 GODFREY RESIDENCE. TALKED WITH THIS SUBJECT'S SISTER,
21 TERESA RABON, WHO LIVES AT 207 VICTOR ROAD. SHE STATES
22 SUBJECT HAS BEEN GONE ONE AND A HALF YEARS AND SHE HAS NOT
23 SEEN HIM SINCE HE GOT OUT OF JAIL.

24 THE COURT: UNABLE TO LOCATE.

25 THE CLERK: JUROR NUMBER 154. WE HAVE AN

1 AFFIDAVIT OF NON-SERVICE, JUDGE. THE HOUSE IS VACANT AND
2 THE NEIGHBORS ARE NOT AT HOME. WE CAN'T FIND ANYBODY.

3 THE COURT: ALL RIGHT. UNABLE TO LOCATE.

4 THE CLERK: JUROR NUMBER 156 HAS AN OUT-OF-TOWN
5 CONFERENCE. IT SAYS THEY WORK FOR SARAH -- EXCUSE ME,
6 PRESIDENT OF P.Y.A. MONARCH AND THEY HAVE A CONFERENCE WITH
7 SARAH LEE -- THE SARAH LEE COMPANY FROM 9/12 TO 9/16 IN
8 WILLIAMSBURG, VIRGINIA. AND HE SAYS HE WOULD BE DELIGHTED
9 TO SERVE AT A LATER DATE. WE HAVE A LETTER FROM HIM, FROM
10 THE PRESIDENT. HE IS THE PRESIDENT OF P.Y.A. MONARCH.

11 THE COURT: LET'S DO THIS. LET'S LET HIM COME IN
12 ON THE 17TH. THAT'S WHAT HE SAYS THAT HE CAN COME IN ON
13 THE 17TH AND IF WE NEED HIM -- YOU KNOW, WE'LL GO AHEAD AND
14 GET HIM QUALIFIED THEM. I CAN WHATEVER TIME WE ARE GOING
15 TO START THAT DAY, I WANT TO GET HIM -- GET HIM IN ON THE
16 17TH. IT MAY BE THAT -- I JUST DON'T KNOW HOW MANY JURORS
17 WE ARE GOING TO HAVE.

18 THE CLERK: ALL RIGHT.

19 JUROR NUMBER 158 IS UNABLE TO LOCATE. WE HAVE AN
20 AFFIDAVIT OF NON-SERVICE. PER THE POST OFFICE, SUBJECT HAS
21 MOVED AND LEFT NO FORWARDING ADDRESS.

22 THE COURT: UNABLE TO LOCATE.

23 THE CLERK: NUMBER 159, THIS GENTLEMAN HAS
24 REQUESTED TO BE EXCUSED BECAUSE THIS IS THE FIRST DAY OF
25 BOW SEASON.

0102

1 THE COURT: HE CAN COME ON IN HERE. I'M GOING TO
2 MISS THE CLEMSON-FLORIDA STATE FOOTBALL GAME, TOO. THAT
3 MIGHT BE BOW SEASON UP THERE, TOO. PROBABLY WILL BE, THE
4 LONG BOW.

5 THE CLERK: JUROR NUMBER 160 IS NO LONGER A
6 RESIDENT OF THE COUNTY AND NOW RESIDES IN ROCK HILL, SOUTH
7 CAROLINA, AND WE HAVE A COPY -- UH, WHAT IS THIS. A COPY
8 OF THE ELECTRIC BILL IT LOOKS LIKE FROM ROCK HILL SHOWING
9 WHERE HE PAYS PRETTY GOOD RATES AND A PHONE BILL.
10 GOODNESS.

11 THE COURT: AND THAT'S 163, IS THAT---

12 THE CLERK: ONE-SIXTY, JUDGE.

13 THE COURT: EXCUSE ME, 160. NO LONGER A
14 RESIDENT.

15 THE CLERK: JUROR NUMBER 163 HAS A TRANSPORTATION
16 PROBLEM. BECAUSE I DON'T HAVE A WAY THERE; I DON'T DRIVE.
17 I RIDE THE BUS BACK AND FORTH TO WORK. I DON'T HAVE A
18 DRIVERS LICENSE.

19 THE COURT: LET'S MAKE ARRANGEMENTS TO GET MS.
20 MILLER HERE.

21 THE CLERK: ALL RIGHT.

22 JUROR NUMBER 165 IS REQUESTING TO BE EXCUSED FOR
23 MEDICAL REASONS. WE HAVE A DOCTOR'S STATEMENT FROM DR.
24 JOHN G. BLACK.

25 THE COURT: DR. BLACK MUST BE THE ONLY DOCTOR

1 AROUND HERE.

2 THE CLERK: MR. MISHOE IS A PATIENT OF MINE. DUE
3 TO PANIC ATTACKS AND ANXIETY ATTACKS, WHICH HE IS BEING
4 TREATED FOR AT THIS TIME, HE'S UNABLE TO SERVE JURY DUTY.

5 THE COURT: HE WILL BE EXCUSED FOR MEDICAL
6 REASONS.

7 THE CLERK: THANK YOU.

8 NUMBER 168 IS REQUESTING AN AGE EXEMPTION,
9 79-YEARS-OF-AGE, DATE OF BIRTH 3/8/18.

10 THE COURT: ALL RIGHT. FILE THE EXEMPTION.

11 THE CLERK: JUROR NUMBER 169 HAS A FINANCIAL
12 HARDSHIP. I AM THE SOLE PERSON WORKING IN MY COMPANY. I
13 WILL MISS WORK ON 9/6 THROUGH 9/13 FOR AN EARLY ANNIVERSARY
14 TRIP AND ADDITIONAL COURT TIME WOULD PLACE FINANCIAL
15 HARDSHIPS ON MYSELF.

16 THE COURT: PUT HIM IN THE GROUP OF FINANCIAL
17 SITUATIONS THAT I'LL DEAL WITH.

18 THE CLERK: JUROR NUMBER 172 IS UNABLE TO LOCATE.
19 I HAVE AN AFFIDAVIT OF NON-SERVICE PER THE POST OFFICE,
20 SUBJECT HAS MOVED AND LEFT NO FORWARDING ADDRESS.

21 THE COURT: ALL RIGHT. UNABLE TO LOCATE.

22 THE CLERK: NUMBER 174 IS REQUESTING A MEDICAL
23 EXEMPTION OF CHRONIC ILLNESS. TO WHO IT MAY CONCERN: MS.
24 MARIE ORR IS VERY ILL WITH CHRONIC LUNG DECEASE,
25 OSTEOARTHRITIS AND SEVERAL OTHER MEDICAL CONDITIONS THAT

0104
1 PREVENT HER FROM BEING ABLE TO SERVE AS A JUROR. PLEASE
2 EXEMPT HER FROM JURY DUTY.

3 THE COURT: SHE IS EXCUSED.

4 THE CLERK: NUMBER 175 IS REQUESTING AN AGE
5 EXEMPTION, DATE OF BIRTH 5/18/31.

6 THE COURT: FILE THAT EXEMPTION.

7 THE CLERK: JUROR NUMBER 176 IS DISQUALIFIED BY
8 LAW. WE HAVE A SENTENCING SHEET FROM AUGUST THE 18TH OF
9 '94. THE DEFENDANT PLED GUILTY TO A BURGLARY THIRD AND
10 RECEIVED A YOUTHFUL OFFENDER SENTENCE NOT TO EXCEED FIVE
11 YEARS AND ALSO PLED TO GRAND LARCENY OVER FIVE-THOUSAND
12 DOLLARS.

13 THE COURT: ALL RIGHT. HE IS NOT QUALIFIED BY
14 STATUTE.

15 THE CLERK: JUROR NUMBER 177 IS REQUESTING AN AGE
16 EXEMPTION, 73, DATE OF BIRTH 8/16/24.

17 THE COURT: ALL RIGHT.

18 WE'LL FILE THE EXEMPTION OF MR. OTTERBACHER.

19 THE CLERK: JUROR NUMBER 179. THIS JUROR IS
20 PLANNING A TRIP TO BE IN SAN FRANCISCO SEPTEMBER 24TH
21 THROUGH 28TH. THEY WEREN'T SURE WHETHER THIS WOULD
22 CONFLICT OR NOT. AND IT IS A NON-REFUNDABLE---

23 THE COURT: 24TH THROUGH THE 28TH.

24 MR. HUMPHRIES: THERE'S A POTENTIAL FOR CONFLICT.

25 THE COURT: HE AND I HAVE ABOUT THE SAME

0105

1 SCHEDULE, I BELIEVE.

2 MR. HUMPHRIES: THEN THERE ISN'T A CONFLICT.

3 THE COURT: Y'ALL JUST THINK THERE MAY BE A
4 CONFLICT.

5 THE CLERK: THERE YOU GO.

6 THE COURT: HE'S LEAVING THE 24TH AT 7:20 A.M.
7 THAT'S WEDNESDAY MORNING AT 7:20. THAT MIGHT -- WELL,
8 LET'S TALK ABOUT THAT RIGHT NOW.

9 HOW LONG IS THIS CASE GOING TO TAKE US? IF WE
10 GET A JURY, LET'S SAY BY WEDNESDAY, IF WE CAN START THE
11 CASE SOMETIME ON WEDNESDAY.

12 MR. HUMPHRIES: THE STATE PUTS UP THE CASE -- IF
13 WE GET THE JURY BY WEDNESDAY AT LUNCH TIME, WHICH IS
14 BASICALLY THE WAY IT'S BEEN IN THE LAST FEW CASES, I
15 BELIEVE, MAYBE THERE'S AN EXCEPTION OR TWO, THE STATE'S
16 CASE SHOULD BE UP AND DOWN BY AT THE LATEST THURSDAY
17 AFTERNOON, THE GUILT PHASE.

18 IN TERMS OF PENALTY, WE'LL PROBABLY GO ABOUT AS
19 LONG IN THE PENALTY PHASE AS WE DO THE GUILT PHASE. SO WE
20 ARE TALKING ABOUT PROBABLY A TOTAL OF TWO DAYS DEPENDING --
21 OBVIOUSLY, DEPENDING---

22 THE COURT: WELL, IF WE GET -- IF WE GET THROUGH
23 WITH THE CASE THEN ON FRIDAY, IF THEY FINISH ON THURSDAY,
24 DO YOU THINK YOU WOULD BE THROUGH WITH ANY DEFENSE YOU
25 MIGHT HAVE ON FRIDAY? I'M NOT TRYING TO LIMIT YOU. I'M

0106

1 JUST TRYING TO GET AN IDEA.

2 MS. FULLWOOD: I THINK SO, YES, SIR.

3 THE COURT: LET ME THINK ABOUT MR. COLEMAN PARKS
4 HERE.

5 ALTHOUGH I AM MORE INCLINED TO EXCUSE HIM SINCE
6 HE DOES HAVE A NON-REFUNDABLE TRIP.

7 MR. HUMPHRIES: THE COURT'S DISCRETION. I WOULD
8 EXPECT -- WELL, I EXPECT THE CASE TO BE OVER.

9 THE COURT: THE ONLY THING THAT I DON'T WANT TO
10 DO IS GET IN THE SITUATION WHERE HE'S SITTING ON A JURY AND
11 WE RUN INTO AND I'VE EXCUSED EVERYONE ELSE THAT'S HAD A
12 TRIP.

13 MR. HUMPHRIES: YES, SIR.

14 THE COURT: LET'S JUST GO AHEAD AND EXCUSE MR.
15 PARKS.

16 THE CLERK: JUROR NUMBER 181 HAS MOVED TO
17 TENNESSEE PER THE POST OFFICE.

18 THE COURT: ALL RIGHT. NO LONGER A RESIDENT.

19 THE CLERK: JUROR NUMBER 182. THIS JUROR IS
20 STARTING A NEW JOB ON 9/1/97. HE'S REQUESTING TO BE
21 POSTPONED. IT DOESN'T REALLY SAY -- EXCUSED.

22 THE COURT: LET'S BRING HIM IN. I'LL TALK TO HIM
23 MONDAY.

24 THE COURT: JUROR NUMBER 184. WE'VE RECEIVE AN
25 AFFIDAVIT OF NON-SERVICE. THEY WENT OUT TO THE ADDRESS AND

1 THEY HAVE BEEN UNABLE TO MAKE CONTACT WITH ANYONE.

2 THE COURT: UNABLE TO LOCATE.

3 THE CLERK: JUROR NUMBER 191, UNABLE TO LOCATE.

4 PER THE POST OFFICE, SUBJECT MOVED AND LEFT NO FORWARDING
5 ADDRESS.

6 THE COURT: UNABLE TO LOCATE.

7 THE CLERK: JUROR NUMBER 194 IS A FULL-TIME
8 STUDENT AT U.S.C. EFFECTIVE 8/21/97 THROUGH THE FALL AND
9 SPRING SEMESTER. WE HAVE RECEIVED A FAX DOCUMENT FROM THE
10 UNIVERSITY OF SOUTH CAROLINA STATING THAT THEY -- THAT
11 PERSON IS THREE-QUARTERS TIMES TEN HOURS FOR FALL OF '97.

12 THE COURT: I'M GOING TO TREAT HER LIKE I DID
13 EVERYONE ELSE. SHE'S ALREADY ENROLLED. I'M NOT GOING TO
14 REQUIRE HER TO INTERRUPT HER EDUCATION EVEN IF SHE IS A
15 THREE-QUARTER STUDENT.

16 THE CLERK: JUROR NUMBER 196 HAS AN EDUCATION
17 PROBLEM. HE CANNOT READ NOR WRITE. HE IS A CARPET
18 INSTALLER FOR SUMMER'S CARPET SERVICE.

19 THE COURT: DOES EITHER THE STATE OR THE DEFENSE
20 -- IT SAYS HERE THAT HE DOESN'T REMEMBER. HE THINKS HE
21 WENT TO THE THIRD GRADE IN SCHOOL. DOES EITHER THE STATE
22 OR THE DEFENDANT WISH FOR ME TO INQUIRE FURTHER ABOUT HIM?

23 MS. FULLWOOD: WE WOULD ASK THAT YOU WOULD,
24 JUDGE.

25 THE COURT: ALL RIGHT. BRING HIM IN. I CAN TALK

0108

1 TO HIM MONDAY MORNING.

2 THE CLERK: JUROR NUMBER 200 DESIRES TO BE
3 EXCUSED FOR AGE EXEMPTION, 68-YEARS-OF-AGE, DATE OF BIRTH
4 IS 3/11 OF '29.

5 THE COURT: ALL RIGHT. I'LL ALLOW HIM TO
6 EXERCISE HIS EXEMPTION. HE ALSO HAS A HEARING IMPAIRMENT
7 FROM WHAT I UNDERSTAND.

8 THE CLERK: JUROR NUMBER 201 IS DECEASED. PASSED
9 AWAY ON 2/15/96 AND WE HAVE A DEATH CERTIFICATE.

10 THE COURT: ALL RIGHT.

11 THE CLERK: JUROR NUMBER---

12 THE COURT: NO LONGER A RESIDENT.

13 THE CLERK: JUROR NUMBER 203 IS OUT OF THE STATE
14 PER THE POST OFFICE. MOVED TO 658 THORNBURG PLACE, TIPP
15 CITY, OHIO.

16 THE COURT: NO LONGER A RESIDENT.

17 THE CLERK: JUROR NUMBER 204 TAKES CARE OF HER
18 FOUR GRANDCHILDREN ALL DAY, A THREE-MONTH, A
19 THREE-YEAR-OLD, A TEN-YEAR-OLD AND AN ELEVEN-YEAR-OLD. SHE
20 IS RETIRED AND SHE'S 64-YEARS OLD.

21 MR. HUMPHRIES: SHE AIN'T RETIRED.

22 THE COURT: NO.

23 LET ME HOLD OFF ON HER JUST A MOMENT.

24 THE CLERK: JUROR NUMBER 206 IS DECEASED, PASSED
25 AWAY ON 12/31 OF '93.

0109

1 THE COURT: ALL RIGHT.

2 THE CLERK: JUROR NUMBER 215 DESIRES TO BE
3 EXCUSED FOR AGE EXEMPTION, 74-YEARS-OF-AGE, DATE OF BIRTH
4 IS 12/5 OF '22.

5 THE COURT: AGE EXEMPTION.

6 THE CLERK: JUROR NUMBER 218 DESIRES TO BE
7 EXCUSED FOR AGE EXEMPTION, AGE 65, DATE OF BIRTH 7/11 OF
8 '32.

9 THE COURT: AGE EXEMPTION.

10 THE CLERK: JUROR NUMBER 221 LIVES OUT OF THE
11 COUNTY, NOW RESIDES IN GREENVILLE, SOUTH CAROLINA. SHE HAS
12 PROVIDED A DRIVERS LICENSE WITH THE ADDRESS CHANGE OF 207
13 ORGAN STREET, GREENVILLE, SOUTH CAROLINA.

14 THE COURT: NO LONGER A RESIDENT.

15 THE CLERK: NUMBER 223 DESIRES TO BE EXCUSED FOR
16 AGE EXEMPTION. DATE OF BIRTH IS 9/9 OF '19.

17 THE COURT: AGE EXEMPTION.

18 THE CLERK: JUROR NUMBER 225 IS UNABLE TO LOCATE.
19 THIS IS THE ROLLIN'S RESIDENCE FOR FIVE YEARS. SUBJECT NOT
20 LIVING HERE. PER POST OFFICE NOT KNOWN AT RESIDENCE -- AT
21 ADDRESS GIVEN.

22 THE COURT: UNABLE TO LOCATE.

23 THE CLERK: JUROR NUMBER 226 IS A JOHN VANN'S
24 RESIDENCE. DO NOT KNOW SUBJECT, NOR DID THEY RECEIVE JURY
25 NOTICE. UNABLE TO LOCATE.

0110 1 THE COURT: UNABLE TO LOCATE.

2 THE CLERK: JUROR NUMBER 227 HAS SMALL CHILDREN
3 AND IS A HOUSEWIFE. HER CHILDREN ARE AGES 4-YEARS-OF-AGE
4 AND 16-MONTHS.

5 THE COURT: STATUTORY EXEMPTION.

6 THE CLERK: JUROR NUMBER 228 DESIRES TO BE
7 EXCUSED FOR MEDICAL REASONS. SHE PUT THAT SHE IS DISABLED
8 AND UNDER DOCTOR'S CARE. I AM ON MEDICATION DAILY. THIS
9 IS WHY I CANNOT WORK AND HAVE NOT WORKED SINCE 1987. SOME
10 OF MY DISABILITIES ARE CONGESTIVE HEART FAILURE---

11 THE COURT: ALL RIGHT. LET ME -- EXCUSE ME. LET
12 ME MOVE BACK TO 227. THAT IS AN EXCUSE BY THE COURT WHERE
13 SHE HAS PROVIDED THE NECESSARY INFORMATION FOR THE
14 EXEMPTION OF CHILD -- HAVING CHILDREN UNDER THE AGE.

15 NOW YOU MAY CONTINUE, I'M SORRY.

16 THE CLERK: OKAY. AND THERE HAS BEEN A DOCTOR'S
17 STATEMENT FROM -- TO EXCUSE MS. UTSEY AS BEING TREATED FOR
18 SEVERE---

19 THE COURT: SARCOIDOSIS.

20 THE CLERK: ---SARCOIDOSIS.

21 THE COURT: SHE IS EXCUSED.

22 THE CLERK: JUROR NUMBER 229 IS UNABLE TO LOCATE
23 THIS IS THE GOLDEN CROWN RESTAURANT. OWNER STATES THIS
24 SUBJECT LIVED IN ROOM FIVE AND IS THE MANAGER FOR THE
25 HOTEL. OWNER STATES THAT HE HAS NOT SEEN JUROR IN DAYS.

1 WE HAVE MADE SEVERAL ATTEMPTS SINCE AND THEY STILL HAVE NOT
2 SEEN JUROR.

3 MS. FULLWOOD: JUDGE, I THINK THAT RESTAURANT
4 RECENTLY CLOSED.

5 MR. HUMPHRIES: THE RESTAURANT -- I DON'T KNOW
6 ABOUT THAT.

7 THE OFFICER: NO. THEY HAVE ROOMS ABOVE THE
8 RESTAURANT THAT THEY RENT OUT.

9 MS. FULLWOOD: OH.

10 MR. HUMPHRIES: I DON'T KNOW IF THIS IS A
11 SEPARATE ENTITY, BUT I KNOW THE RESTAURANT HAS CLOSED.

12 MR. STONE: I'M CHECKING TO SEE IF THIS IS THE
13 SAME PLACE THEY DID THE CHICKEN DANCE, JUDGE, I'M SORRY.

14 THE COURT: UNABLE TO LOCATE.

15 THE CLERK: JUROR NUMBER 230 IS UNABLE TO
16 LOCATED. RUBY LORD'S RESIDENCE SINCE JULY OF '97, SUBJECT
17 DOES NOT LIVE HERE.

18 THE COURT: UNABLE TO LOCATE.

19 THE CLERK: JUROR NUMBER 231, DATE OF BIRTH IS
20 3/18 OF '16, 81-YEARS-OF-AGE.

21 THE COURT: AGE EXEMPTION.

22 THE CLERK: JUROR NUMBER 232 IS UNABLE TO LOCATE.
23 HOUSE APPEARS VACANT, NO POWER, MAIL BOX -- MAIL IN BOX HAS
24 NOT BEEN CHECKED FOR APPROXIMATELY ONE WEEK. NAME ON MAIL
25 JEFFREY SUMMERS.

0112

1 THE COURT: UNABLE TO LOCATE.

2 THE CLERK: JUROR NUMBER 233 DESIRES TO BE EXCUSED
3 FOR MEDICAL REASONS. IT STATES, HAS CANCER AND IS ON
4 CHEMOTHERAPY. WE HAVE DOCTOR'S STATEMENT FROM DR. MCLEVAN
5 STATING THAT PATIENT HAS -- IS IT---

6 THE COURT: BLADDER CANCER---

7 THE CLERK: ---BLADDER CANCER AND IS ON
8 CHEMOTHERAPY. SHE IS UNABLE TO SERVE JURY DUTY.

9 THE COURT: ALL RIGHT. EXCUSE MS. WATTS.

10 THE CLERK: JUROR NUMBER 235 IS A HOUSEWIFE WITH
11 SMALL CHILDREN, TWO-YEARS-OF-AGE AND EIGHT-YEARS-OF AGE.
12 BECAUSE I HAVE CUSTODY AND THE DUTY OF CARE OF CHILDREN
13 UNDER SEVEN.

14 THE COURT: SHE IS EXCUSED.

15 THE CLERK: JUROR NUMBER 239 DESIRES TO BE EXCUSED
16 FOR AGE EXEMPTION, 69-YEARS-OF-AGE, DATE OF BIRTH IS TWO --
17 I MEAN, EXCUSE ME, 6/2 OF '28.

18 THE COURT: AGE EXEMPTION.

19 THE CLERK: JUROR NUMBER 240 HAS A BUSINESS
20 PROBLEM. MY PARENTS OWN BUSY BEE. THEY WILL BE ON A
21 TEN-DAY TRIP IN THE NEW ENGLAND STATES AND I AM THE ONLY
22 ONE DURING THIS TIME AND CANNOT CLOSE THE OFFICE. AND IT'S
23 BUSY BEE BUS TOURS.

24 THE COURT: I'LL CONSIDER THIS WITH THE OTHER FEW
25 THAT I HAVE THAT I'VE SET ASIDE.

1 THE CLERK: JUROR NUMBER 242 DESIRES TO BE
2 EXCUSED FOR AGE EXEMPTION, 68-YEARS-OF-AGE, DATE OF BIRTH
3 IS 4/26 OF '29.

4 THE COURT: AGE EXEMPTION.

5 THE CLERK: JUROR NUMBER 243 IS UNABLE TO LOCATE.
6 ADDRESS IS STANLEY STONE'S RESIDENCE PER ROY GENE CARSON.
7 SUBJECT NOT LIVING HERE. PER POST OFFICE, NEW ADDRESS IS
8 P.O BOX 563, SWANSEA. PER TELETYPE NO ADDRESS SINCE
9 SEPTEMBER OF '94 WHICH WAS 713 ST. MATTHEWS ROAD, SWANSEA.

10 THE COURT: UNABLE TO LOCATE.

11 THE CLERK: NUMBER 244 IS STARTING A NEW JOB.
12 PER MY PHONE CONVERSATION ON 9/5/97, MR. WILSON WOULD LIKE
13 TO BE POSTPONED BECAUSE HE IS STARTING A NEW JOB ON 9/13
14 WITH THE UNITED STATES POSTAL SERVICE. HE STARTS ON A
15 SATURDAY, THE MONDAY BEFORE.

16 THE COURT: SET HIM ASIDE FOR JUST A MOMENT.

17 THE CLERK: JUROR NUMBER 246 IS UNABLE TO LOCATE.
18 ADDRESS IS PINE TREE MOBILE HOME PARK. TALKED WITH MANAGER
19 BILLY CHECK -- CHEEK. SUBJECT NOT LIVING IN THIS MOBILE
20 HOME PARK.

21 THE COURT: UNABLE TO LOCATE.

22 THE CLERK: JUROR NUMBER 249 HAS MOVED TO
23 FLORIDA. SHE HAS SENT IN HER INFORMATION ALONG WITH A
24 U-HAUL SELF-STORAGE RENTAL AGREEMENT. SHE IS RESIDING IN
25 ST.---

0114

1 THE COURT: ST. PETERSBURG---

2 THE CLERK: ---ST. PETERSBURG, FLORIDA.

3 THE COURT: NO LONGER A RESIDENT.

4 THE CLERK: WE HAVE 119 COMING IN---

5 THE COURT: THUS FAR.

6 THE CLERK: ---THUS FAR OTHER THAN THIS SHEET.

7 YOU KNOW, THAT YOU'VE EXCUSED. THE ONES THAT BEFORE WE

8 STARTED, WE HAD 119 COMING IN AND YOU'VE MADE SOME COME IN,

9 MAYBE TWO OR THREE.

10 THE COURT: SO WE ONLY HAD 119 BEFORE I STARTED

11 THIS?

12 THE CLERK: YES. WE HAVE 119---

13 MR. HUMPHRIES: NOT INCLUDED ON THIS LIST, I

14 THINK, IS WHAT YOU'RE SAYING.

15 THE CLERK: THAT'S RIGHT.

16 MR. HUMPHRIES: YOU'VE JUST EXCUSED 108 BY MY

17 COUNT AND THAT'S NOT INCLUDING THE ONES THAT YOU SET ASIDE

18 FOR CONSIDERATION. NOW, THAT'S A LAWYER COUNTING SO FOR

19 WHAT IT'S WORTH.

20 THE COURT: ALL RIGHT.

21 IN REGARDS TO THE REQUEST OF JUROR NUMBER SIX WHO

22 IS A SINGLE PARENT WITH FINANCIAL PROBLEMS; NUMBER 70, MS.

23 DESOTO, FINANCIAL PROBLEMS, WHO DOES NOT HAVE PERMANENT

24 EMPLOYMENT -- SHE IS A SUBSTITUTE TEACHER WITH LEXINGTON

25 SCHOOL DISTRICT AND SEEKING PERMANENT EMPLOYMENT -- AND

1 NUMBER 136, MS. KIRCHNER, I AM GOING TO EXCUSE THEM.

2 MS. KIRCHNER HAS A 48 DOLLAR A WEEK FAMILY COURT
3 OBLIGATION AND I DON'T WANT HER GOING TO JAIL FOR FAILURE
4 TO PAY CHILD SUPPORT ON THE AMOUNT OF MONEY SHE MIGHT
5 RECEIVE FROM LEXINGTON COUNTY FOR SERVING AS A JUROR.

6 NOW, INsofar AS JUROR NUMBER 169 IS CONCERNED --
7 EXCUSE ME, NUMBER 113, THAT'S MS. HOOKER, WHO IS NOW
8 SAROKUS (PHONETICALLY), IF I COULD GET SOME MORE INFORMATION
9 FROM HER. SHE IS THE ONE WHO IS AN ENROLLER FOR COLONIAL
10 LIFE AND THAT WEEK STARTS A BIG ENROLLMENT FOR HER
11 DISTRICT. I WANT TO KNOW A LITTLE MORE DETAIL INsofar AS
12 HER PARTICULAR PROBLEM IS CONCERNED. SO I UNDERSTAND THE
13 ENROLLMENT THAT SHE IS TALKING ABOUT, BUT IF SHE WOULD GIVE
14 ME SOME IDEA AS TO THE NATURE OF HER JOB. I UNDERSTAND HER
15 BEING AN ENROLLER AND HER PARTICIPATION, BUT, I THINK, THAT
16 IT ALSO TELLS ME THAT SHE DOES STATE GOVERNMENT ACCOUNTS.
17 I DON'T KNOW IF SHE IS THE ONLY ONE THAT DOES THAT, IF SHE
18 IS ONE OF A GROUP AND BASICALLY HOW THEY HANDLE THAT.

19 JUROR NUMBER TWO -- EXCUSE ME, NUMBER 169, THAT
20 WAS THE GENTLEMAN, MR. MOORE, WHO IS IN THE REMODELING
21 BUSINESS. HE SAYS THAT HE'S GOING ON A YEARLY ANNIVERSARY
22 TRIP THE WEEK BEFORE THIS AND SO I WANT HIM TO COME IN THAT
23 MONDAY MORNING. I NEED TO SEE ABOUT THE TRIP THAT HE'S
24 BEEN ON AND SEE WHY HE CAN'T MAYBE SERVE ON JURY DUTY IF HE
25 WAS ABLE TO TAKE TIME OFF TO GO ON A TRIP. MAYBE HE CAN

0116 1 GIVE ME SOME GUIDANCE THEN.

2 I ALSO ON JUROR NUMBER 204, THAT IS THE PERSON
3 THAT'S RUNNING THE BUSY BEE, I BELIEVE -- NO, EXCUSE ME.
4 NUMBER 240, MAYBE IS THE BUSY BEE.

5 THE CLERK: 240, YES, SIR.

6 THE COURT: 240 IS THE BUSY BEE. I WANT TO KNOW
7 WHEN MOTHER AND DAD'S TRIP STARTS AND STOPS AND WHO ELSE
8 WORKS AT THE BUSY BEE BESIDES MS. WILLIAMS.

9 THEN JUROR NUMBER 244 SAYS THAT HE IS STARTING A
10 NEW JOB. FROM MY LOOKING AT HIS AFFIDAVIT OR HIS
11 QUESTIONNAIRE, HE HAS BEEN WORKING FOR THE POST OFFICE FOR
12 FIVE YEARS. SO APPARENTLY, HE IS STARTING A NEW POSITION
13 WITHIN THE POST OFFICE. I'M GOING TO ALLOW -- REQUIRE HIM
14 TO COME IN. IF HE WERE STARTING A NEW JOB, THAT MIGHT BE
15 ONE THING, BUT STARTING A DIFFERENT POSITION WITHIN THE
16 POST OFFICE, LET'S GET HIM IN HERE AND DO A LITTLE MORE
17 INVESTIGATION.

18 THEN THAT BRINGS ME BACK TO JUROR NUMBER 204. I
19 CAN'T TELL FROM WHAT MS. SHEALY TELLS ME ON THIS IF SHE HAS
20 THE CUSTODY OF THESE CHILDREN. APPARENTLY SHE MUST BE
21 KEEPING THEM. I DON'T KNOW IF SHE'S KEEPING THEM FOR A
22 FAMILY MEMBER. I WOULD ASSUME THAT'S HER GRANDCHILDREN. I
23 DON'T KNOW WHAT THE STATUS OF THE PARENTS IS---

24 THE CLERK: JUDGE, SHE DOES JUST KEEP THOSE
25 CHILDREN FOR THE PARENTS TO WORK. THEY GO HOME AT FIVE

1 O'CLOCK.

2 THE COURT: I'M GOING TO EXCUSE HER. SHE'S NOT
3 GOING TO BE MUCH GOOD TO US IF SHE'S GOT HER MIND ON THESE
4 YOUNGINS ANYWAY.

5 ALL RIGHT. SO I HAVE EXCUSED SIX, 70, 113 AND
6 136 AS WELL AS 204. AND THEN WE ARE LOOKING FOR FURTHER
7 INFORMATION ON 169, 240 AND THEN 244 IS COMING IN, THE
8 POSTAL MAN.

9 THE CLERK: JUDGE, YOU WERE GOING TO GO BACK TO
10 NUMBER 52, MR. DEWEY COATS.

11 THE COURT: OKAY. THANK YOU. I HAD DROPPED HIM
12 OFF MY LIST SOMEWHERE.

13 MR. HUMPHRIES: WHAT'S HIS NUMBER?

14 THE COURT: 52, COATS.

15 HE NEEDS TO PROVIDE ME WITH SOME INFORMATION FROM
16 HIS EMPLOYER THAT NO ONE ELSE CAN DO HIS JOB FOR HIM. IF
17 HE WILL DO THAT, THEN I WILL EXCUSE HIM. I KNOW HE SAYS NO
18 SALES, NO INCOME, BUT, ALSO, I DON'T KNOW IF HE IS MAYBE
19 SOME KIND OF A ROUTE MAN OR SOMETHING LIKE THAT FOR
20 JEFFERSON PILOT. BUT LET'S SEE IF HE CAN GET ME SOME MORE
21 INFORMATION. BUT IF THIS IS GOING TO INTERFERE WITH HIS
22 INCOME, THEN I'M GOING TO EXCUSE HIM JUST LIKE I HAVE
23 ANYONE ELSE.

24 THE CLERK: JUDGE, WE ALSO HAVE 111 AND 119.
25 THEY WORK OUT OF TOWN AND YOU WERE GOING TO GO BACK TO

0118

1 THOSE.

2 THE COURT: OKAY. THAT'S RIGHT.

3 I THINK I EXCUSED -- WHAT I WAS WANTING YOU TO DO
4 IS FIND OUT EXACTLY WHERE MR. HOOD IS WORKING. I THINK
5 THAT WAS FOUR HUNDRED AND SOME ODD MILES AWAY AS WELL AS I
6 RECOLLECT.

7 THE CLERK: AND YOU ALSO WANTED MORE INFORMATION
8 ON MR. JACKSON. OKAY.

9 THE COURT: THE THING THAT I NEED TO KNOW ARE TWO
10 THINGS. IS HE COMING HOME ON THE WEEKENDS, OKAY. IF HE
11 IS, THEN I NEED TO KNOW A LITTLE BIT MORE ABOUT WHY HE IS
12 REQUIRED TO BE THERE. I KNOW HE'S THE PROJECT MANAGER FOR
13 BABCOCK AND WILCOX. HE NEEDS TO PROVIDE ME WITH SOME MORE
14 INFORMATION AS WELL AS NUMBER 119. I THINK THAT WAS
15 BASICALLY THE SAME THING.

16 THE CLERK: YES, SIR.

17 THE COURT: WORKING OUT OF STATE. I NEED TO KNOW
18 WHERE THAT IS, WHY HE CAN'T BE HERE FOR JURY SERVICE. HE'S
19 GOING TO HAVE TO PROVIDE ME WITH A LITTLE MORE INFORMATION
20 THAN THAT.

21 AND IF YOU CAN JUST LET ME KNOW OVER IN RICHLAND
22 COUNTY ABOUT THAT. WHAT I'M GOING TO DO INSOFAR AS THESE
23 PEOPLE ARE CONCERNED, IF THEY CAN PROVIDE ME WITH
24 INFORMATION THAT IT IS GOING TO INTERFERE WITH THEIR
25 LIVELIHOOD, THEN I'M GOING TO EXCUSE THEM. THEN I'LL

0119

1 FORMALLY PUT IT ON THE RECORD ON MONDAY MORNING UNLESS WE
2 HAVE TO GET TOGETHER BETWEEN NOW AND THEN.

3 MY COURT REPORTER IS WORKING WITH ME ALL WEEK SO
4 THAT WON'T BE A PROBLEM. SO LET'S -- IF YOU CAN GET THAT
5 OTHER INFORMATION FOR ME, THEN WE'LL CLEAR THAT UP.

6 THE COURT: ALL RIGHT.

7 ANYTHING ELSE THAT WE NEED TO DEAL WITH WHILE WE
8 ARE HERE THIS AFTERNOON?

9 MS. FULLWOOD: WE WOULD LIKE TO PUT SOMETHING ON
10 THE RECORD CONCERNING DISCOVERY, YOUR HONOR.

11 THE COURT: OKAY.

12 MS. FULLWOOD: YOUR HONOR, FRIDAY AFTERNOON
13 SOMETIME AFTER 4:30, MR. STONE AND I GOT 275 NEW PAGES OF
14 DISCOVERY. I HAD A CHANCE, OF COURSE, THIS WEEKEND TO GO
15 OVER THAT NEW 275 PAGES AND IN DOING SO, I FOUND -- WHEN I
16 LOOKED AT THE S.L.E.D. TAKE-IN SHEETS---

17 THE COURT: UH-HUH.

18 MS. FULLWOOD: ---THEY LIST THREE ROLLS OF COLOR
19 FILM---

20 THE COURT: OF COLOR FILM---

21 MS. FULLWOOD: ---COLOR FILM AS HAVING BEEN
22 TAKEN. NOW, WE DO HAVE SIXTY-ONE, AS I COUNT THEM,
23 PHOTOGRAPHS AND I WOULD LIKE TO ASK THE STATE -- OF COURSE,
24 I REALIZE THE STATE MIGHT NOT KNOW OFF THE TOP OF ITS HEAD,
25 IF -- DO THOSE SIXTY-ONE PHOTOGRAPHS REPRESENT THOSE THREE

01201

ROLLS OF COLOR FILM AND ALSO THE TAKE-IN SHEETS LIST ONE
ROLL OF BLACK AND WHILE FILM. WE DO NOT HAVE COPIES OF
THOSE BLACK AND WHITE PHOTOGRAPHS.

IN READING AN INCIDENT REPORT IN THAT NEW
DISCOVERY, I SEE THAT SERGEANT CATO AT THE SHERIFF'S
DEPARTMENT TOOK SOME PICTURES OF MR. TERRY'S CELL AFTER A
SUICIDE ATTEMPT. WE WOULD LIKE COPIES OF THOSE PICTURES.

OUT OF THOSE 275 PAGES, ALSO, TWENTY-ONE OF THOSE
PAGES ARE NOT LEGIBLE AND I WANT TO SAY I AM NOT COUNTING
THOSE THINGS YOU HAVE TO SQUINT TO READ. WE GOT PROBABLY
ABOUT TWENTY PAGES OF LETTERS THAT ARE ALMOST
TEN-YEARS-OLD. I AM NOT COUNTING THOSE. EXCLUDING THAT
TYPE OF THING, THERE ARE TWENTY-ONE PAGES THAT AREN'T
LEGIBLE AND I INTEND TO LET MR. HUMPHRIES AND MR. MYERS
KNOW WHAT THE NUMBERS OF THOSE PAGES ARE.

THE COURT: THOSE WERE FROM S.L.E.D., IS THAT
WHAT YOU'RE TELLING ME?

MS. FULLWOOD: NO, SIR. THESE ARE -- THIS WAS
ALL SORTS OF DISCOVERY---

THE COURT: OKAY.

MS. FULLWOOD: ---BUT OF THE WHOLE 275 PAGES, WE
HAVE TWENTY-ONE PAGES WE CAN'T READ.

THE COURT: ALL RIGHT.

MS. FULLWOOD: ON FRIDAY, MR. STONE AND I HAD A
CHANCE TO TALK TO DETECTIVE FRIER WITH THE SHERIFF'S

1 DEPARTMENT. HE TOLD ME THAT THE SHERIFF'S DEPARTMENT ALSO
2 TOOK SOME PHOTOGRAPHS. WE DON'T HAVE COPIES OF THOSE
3 PHOTOGRAPHS. SO WE DO WANT COPIES OF THOSE.

4 THIS MORNING WE RECEIVED FROM THE SOLICITOR'S
5 OFFICE A S.L.E.D. REPORT AS TO HAIR COMPARISONS. IF THAT
6 IS THE EXTENT OF THE HAIR ANALYSIS THEY ARE GOING TO DO, WE
7 NEED TO KNOW, JUDGE, BECAUSE WE DON'T NEED TO COME TO THE
8 END OF THIS WEEK FOR THERE TO BE AN ADDITIONAL HAIR
9 ANALYSIS AND THEN FOR US TO BE IN THE POSITION OF BEING AT
10 THE EVE OF TRIAL WHERE WE NEED TO GET AN EXPERT. SO I
11 WOULD LIKE TO KNOW IF THAT IS THE EXTENT OF THE HAIR
12 COMPARISONS THE STATE INTENDS TO DO BECAUSE WE JUST DON'T
13 -- WE DON'T WANT TO RUN INTO ANY TYPE OF PROBLEM ABOUT NOT
14 BEING ABLE TO PREPARE.

15 LAST WEEK WHEN WE WERE DISCUSSING DISCOVERY
16 MATTERS, MR. HUMPHRIES SAID THAT HE HAD PROVIDED TO US A
17 SEROLOGY REPORT CONCERNING ANALYSIS ON A MATTRESS AND BOX
18 SPRINGS. YOUR HONOR, I DON'T DOUBT THAT MR. HUMPHRIES---

19 MR. HUMPHRIES: THAT WAS AN OVERSIGHT. I'VE TOLD
20 THEM I WOULD GIVE THEM ANOTHER COPY AND I JUST FORGOT.
21 I'LL BE GLAD TO DO THAT.

22 MS. FULLWOOD: OKAY. WE NEED THAT.

23 AND THAT'S WHERE WE STAND NOW, YOUR HONOR,
24 INSOFAR AS DISCOVERY AND WHAT WE NEED.

25 THE COURT: ALL RIGHT.

0 0122

1 MR. HUMPHRIES, SOLICITOR, INsofar AS THE ROLLS OF
2 FILM ARE CONCERNED, ARE YOU ABLE TO ADDRESS THE THREE ROLLS
3 OF COLOR FILM, THE ONE ROLL OF BLACK AND WHITE FILM?

4 MR. HUMPHRIES: YOUR HONOR, WHAT I CAN SAY ABOUT
5 THE THREE ROLLS OF COLOR FILM IS THAT I INSTRUCTED -- WELL,
6 I REQUESTED THAT S.L.E.D. MAKE COPIES OF EVERY ROLL OF FILM
7 ASSOCIATED WITH THIS LAB NUMBER.

8 NOW -- SO I HAVE NO REASON TO DOUBT THAT THE
9 SIXTY-ONE COLOR PHOTOS WHICH THEY HAVE ARE THE SUM TOTAL OF
10 THE PHOTOS DEVELOPED FROM THOSE ROLLS OF FILM. I DON'T
11 HAVE ANY INDEPENDENT KNOWLEDGE OF THAT. I JUST KNOW THAT
12 BASED ON MY INSTRUCTIONS TO THEM, THAT SHOULD BE THE --
13 THAT SHOULD BE ALL THE PICTURES WE HAVE. I WOULD ASSUME WE
14 HAVE THE SAME ONES. I'D BE GLAD TO COMPARE MINE TO THEIRS
15 TO MAKE SURE WE -- YOU KNOW, IF WE DON'T HAVE SOMETHING,
16 THEY DON'T HAVE.

17 THE COURT: HOW ABOUT VERIFYING THAT THEN.

18 MR. HUMPHRIES: BE GLAD TO DO THAT.

19 IN REGARD TO THE BLACK AND WHITE FILM, MY OWN
20 SUSPICION ABOUT THAT IS THAT THAT WOULD HAVE BEEN -- THAT
21 WOULD HAVE BEEN FILM WHICH THEY USED TO TAKE PICTURES OF
22 MAYBE A FOOTWEAR IMPRESSION OR SOMETHING. I'VE NEVER -- I
23 HAVE NOT SEEN THOSE AND I'M NOT CERTAIN THAT THOSE GO TO
24 THE PHOTO LAB AT S.L.E.D. THEY MAY BE MAINTAINED BY THE
25 CRIME SCENE ANALYST. IN ANY EVENT, I'LL BE GLAD TO INQUIRE

1 ABOUT THAT.

2 THE COURT: CHECK ON THAT ONE ROLL OF BLACK AND
3 WHITE THEN AND LET'S FIND OUT WHERE -- WHAT IT'S ABOUT AND
4 GET THEM COPIES OF THOSE PHOTOGRAPHS.

5 MR. HUMPHRIES: BE GLAD TO.

6 NOW, THEIR EXPERT HAS MET WITH STEVE DERRICK THE
7 S.L.E.D. EXPERT REGARDING LATENT PRINTS. I DON'T KNOW IF
8 THEY ADDRESSED SPECIFICALLY THE FOOTWEAR IMPRESSIONS, BUT I
9 THINK WE TOLD YOUR HONOR AT THAT TIME WE INTENDED TO OFFER
10 NO EVIDENCE REGARDING FOOTWEAR IMPRESSIONS.

11 THE COURT: RIGHT.

12 MR. HUMPHRIES: THE PICTURES WHICH THE SHERIFF'S
13 DEPARTMENT TOOK -- IF THE SHERIFF'S DEPARTMENT -- LET ME
14 SAY THIS, I HAVE PROBABLY TEN TO FIFTEEN PHOTOS WHICH DON'T
15 BEAR THE S.L.E.D. IMPRESSION. THEY ALL RELATE, AS FAR AS I
16 KNOW, TO EITHER AUTOPSY OR TO THE COLLECTION OF THE METAL
17 BAR. I THOUGHT THEY HAD THOSE. I'LL BE GLAD TO GIVE THEM
18 COPIES OF THOSE. I KNOW THAT -- OR AT LEAST I ASSUME
19 THEY'VE SEEN DR. CARTER'S AUTOPSY PHOTOS. IF THEY HAVE
20 NOT, I CAN HAVE COPIES OF THOSE MADE.

21 THE COURT: I THINK THEY'RE NODDING THEIR HEAD
22 THAT THEY'VE SEEN DR. CARTER'S---

23 MR. HUMPHRIES: HE WOULD HAVE HAD POLAROID'S.
24 THEY SHOULD BE DUPLICITOUS, BUT I'LL BE GLAD TO GIVE THEM
25 COPIES OF THOSE AS WELL.

0124

1 THE COURT: OKAY.

2 HOW ABOUT THE INCIDENT REPORT, THE PHOTOS OF THE
3 CELL INVOLVING THE SUICIDE ATTEMPT?

4 MR. HUMPHRIES: OH, I DON'T HAVE ANY INFORMATION
5 ABOUT THAT. I'M LOOKING AT MR. CHASE WHO HAS BEEN TRYING
6 TO COORDINATE THE PENALTY PHASE MATERIAL. WE WERE JUST
7 UNAWARE OF THE EXISTENCE OF ANY PHOTOS IN THAT REGARD.
8 I'LL BE GLAD TO INQUIRE ABOUT THAT.

9 THE COURT: OKAY.

10 MR. HUMPHRIES: I HAVE NOT SEEN ANY OF THOSE
11 PHOTOS.

12 THE COURT: THEN THERE WERE---

13 MR. HUMPHRIES: AND, OF COURSE, WE DON'T HAVE
14 THEM IN OUR POSSESSION AT THIS POINT IS WHAT I'M SAYING.

15 THE COURT: OKAY.

16 MR. HUMPHRIES: WE'LL FIND OUT.

17 THE COURT: OKAY. HAIR ANALYSIS.

18 MR. HUMPHRIES: THAT IS THE EXTENT OF THE
19 ANALYSIS WE INTEND TO DO. I'M -- AND THEY DID RECEIVE THAT
20 TODAY. LET ME SAY THIS. WE MET WITH JOE POWELL, AS WE
21 INDICATED TO THE COURT WE WOULD. HE TOLD ME THAT HE WOULD
22 TRY HIS VERY BEST TO HAVE A REPORT GENERATED BY FRIDAY. I
23 RECEIVED THE REPORT BY FAX AT 10:53 THIS MORNING AND
24 DELIVERED IT TO MS. FULLWOOD WITHIN THE HOUR.

25 THE COURT: AND THEN THE INFORMATION, THE

1 SEROLOGY REPORT CONCERNING THE MATTRESS. YOU SAY THAT
2 THAT'S SOMETHING THAT YOU--

3 MR. HUMPHRIES: I'LL BE -- THAT WAS AN OVERSIGHT.
4 I TOLD THEM I WOULD GIVE THEM ANOTHER COPY AND I JUST
5 FORGOT TO DO THAT. AND I'LL BE GLAD TO DO THAT. I CAN DO
6 THAT THIS AFTERNOON.

7 THE COURT: AND THEN THESE ILLEGIBLE PAGES,
8 YOU'RE GOING TO GET WITH THEM ABOUT THOSE---

9 MR. HUMPHRIES: IF THEY'LL TELL ME WHAT NUMBERS
10 THEY ARE. I CAN'T ASSURE THEM THAT THE COPIES I'VE GOT
11 WILL BE ABLE TO MAKE THE COPIES. MY GUESS IS THEY'RE
12 PROBABLY ILLEGIBLE FOR US TOO, BUT I'LL MAKE---

13 THE COURT: WELL, WHY DON'T WE DO THIS. LET'S
14 LOOK AT YOUR COPIES AND SEE IF THEY CAN -- IF YOU CAN READ
15 THEM AND THEY CAN READ THEM AND THEN THEY CAN PUT THEM
16 TOGETHER.

17 MR. HUMPHRIES: BE GLAD TO GET TOGETHER WITH THEM
18 ON THAT.

19 THE COURT: ALL RIGHT.

20 DOES THAT TAKE CARE OF ALL OF THE ISSUES THAT
21 YOU'VE RAISED, MS. FULLWOOD?

22 MS. FULLWOOD: YES, SIR.

23 THE COURT: ALL RIGHT.

24 MR. HUMPHRIES: AND, YOUR HONOR, IN ADDITION,
25 WHEN WE GOT TOGETHER FRIDAY, MR. CHASE AND I TRIED TO

0126

1 COORDINATE ALL OF THE INFORMATION WHICH WE HAD NOT
2 PREVIOUSLY GIVEN THEM---

3 THE COURT: UH-HUH.

4 MR. HUMPHRIES: ---IN DOING SO, WE FOUND ON
5 SATURDAY ANOTHER FIVE PAGES WHICH RELATE TO AN INCIDENT
6 WHICH OCCURRED AFTER THE MURDER, BUT BEFORE MR. TERRY'S
7 ARREST WHICH WOULD RELATE TO THE GUILT PHASE. IT'S A --
8 BASICALLY FIVE PAGES REGARDING A BURGLARY, ABHAN, FAILURE
9 TO STOP. I'M SURE IT'S AN INCIDENT ABOUT WHICH THEY ARE
10 AWARE, BUT IN ANY EVENT, I WOULD LIKE TO PROVIDE THEM THESE
11 FIVE PAGES TODAY.

12 THE COURT: ALL RIGHT.

13 (WHEREUPON, THE DOCUMENTS ARE
14 HANDED TO MS. FULLWOOD AT THIS TIME.)

15 MS. FULLWOOD: THANK YOU.

16 MR. HUMPHRIES: IN REGARD TO RECIPROCAL
17 DISCOVERY, WE'VE RECEIVED NONE AND I DON'T KNOW HOW TO
18 ADDRESS THAT OTHER THAN TO SAY WE HAVE RECEIVED NONE.

19 THE COURT: OKAY. DOES THAT MEAN---

20 MS. FULLWOOD: WE ARE AWARE OF OUR OBLIGATIONS
21 UNDER THE RULE AND AT THIS TIME WE DO NOT HAVE ANY.

22 THE COURT: ALL RIGHT.

23 MR. HUMPHRIES: MY ONLY SPECIFIC POINT IN THAT
24 REGARD IS THIS, YOUR HONOR. WE DID FILE A RECIPROCAL
25 DISCOVERY AS RELATES TO ALIBI OR INSANITY. IF WE CAN JUST

1 HAVE A STATEMENT ON THE RECORD FROM THE DEFENSE TEAM
2 REGARDING WHETHER OR NOT THEY INTEND TO OFFER ALIBI OR
3 INSANITY OR MENTAL DEFECT AS A DEFENSE AND AT THIS TIME,
4 CLEARLY, WE'RE ENTITLED TO THAT IF NOTHING ELSE.

5 THE COURT: YES, SIR.

6 MS. FULLWOOD: JUDGE, WE DON'T HAVE ANY STATEMENT
7 TO MAKE AS TO WHETHER WE'RE OFFERING EITHER DEFENSE. WE
8 JUST GOT 275 PAGES OF NEW DISCOVERY.

9 THE COURT: WELL, NOW, I THINK -- I UNDERSTAND
10 THAT. BUT I THINK THAT YOU KNOW WHAT'S GOOD FOR THE GOOSE
11 IS GOOD FOR THE GANDER INsofar AS THIS IS CONCERNED. SO,
12 YOU KNOW, HERE WE ARE ON MONDAY. I UNDERSTAND YOU'RE UP
13 AGAINST THE WALL, BUT THEY'RE GOING TO BE UP AGAINST THE
14 WALL, TOO---

15 MS. FULLWOOD: YES, SIR.

16 THE COURT: ---AND INsofar AS THE RULES ARE
17 CONCERNED, I THINK THAT IT'S NECESSARY FOR YOU TO PROVIDE
18 THAT TO THEM AND I TAKE IT THAT AT THIS POINT IN TIME THAT
19 THERE IS GOING TO BE NO ALIBI OR INSANITY DEFENSE AND DO
20 YOU ANTICIPATE ONE.

21 MS. FULLWOOD: WELL, IT'S HARD TO SAY WHAT WE
22 WILL ANTICIPATE AS OUR CASE WORK PROCEEDS, YOUR HONOR.

23 I WILL SAY WE HAVE NOT DEVELOPED EITHER DEFENSE
24 AT THIS POINT IN TIME.

25 THE COURT: ALL RIGHT. MR. HUMPHRIES, ANYTHING

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1 FURTHER FROM YOU ON THAT?

2 MR. HUMPHRIES: ONLY THIS, YOUR HONOR. IF, AT
3 ANY TIME, THEY INTEND TO OFFER THAT TYPE EVIDENCE, WE WOULD
4 MOVE TO EXCLUDE THAT EVIDENCE FOR FAILURE TO COMPLY WITH
5 OUR DISCOVERY REQUEST WHICH WAS FILED AUGUST 5, 1997.

6 THE COURT: ALL RIGHT. ANYTHING ELSE?

7 MR. HUMPHRIES: NOTHING FROM THE STATE, YOUR
8 HONOR.

9 MS. FULLWOOD: NO, YOUR HONOR.

10 THE COURT: WELL, IF I DON'T SEE YOU BEFORE, SEE
11 YOU NEXT MONDAY MORNING.

12 MR. HUMPHRIES: YES, SIR.

13 THE COURT: AND WHAT TIME IS THE JURY COMING IN?

14 MR. HUMPHRIES: NINE O'CLOCK, YOUR HONOR.

15 THE COURT: AND HOW LONG DOES IT TAKE TO GET THEM
16 SQUARED AWAY?

17 MR. HUMPHRIES: NOW, I WILL TELL YOU AS A MATTER
18 OF PRACTICE HISTORICALLY, ONCE WE'VE INSTALLED THESE METAL
19 DETECTORS, THEY'RE ALL GOING TO SHOW UP BETWEEN 8:30 AND 9
20 O'CLOCK AND IT'S GOING TO TAKE A GOOD THIRTY MINUTES OR
21 PROBABLY LONGER TO GET THEM THROUGH THE METAL DETECTORS. I
22 WOULD IMAGINE WE SHOULD BE IN A POSITION TO AT LEAST START
23 QUALIFYING 9:30 PROBABLY AT THE EARLIEST.

24 THE COURT: OKAY. MORE LIKE TEN.

25 MR. HUMPHRIES: I GUESS, WE'LL JUST SORT---

1 THE COURT: I'M GOING TO BE HERE. IT DOESN'T
2 MAKE ANY DIFFERENCE TO ME.

3 THE CLERK: I'M GOING TO GO AHEAD AND LET YOU
4 KNOW THERE'S -- WITH THAT MANY JURORS, THERE'S PROBABLY
5 GOING TO BE PARKING PROBLEMS, THERE'S PROBABLY GOING TO BE
6 METAL DETECTOR PROBLEMS. THERE'S GOING TO BE, YOU KNOW, A
7 WHOLE BUNCH OF, YOU KNOW, THINGS THAT ARE GOING TO BE
8 BACKED UP BECAUSE OF THAT.

9 THE COURT: WELL, WE'LL GET STARTED AS EARLY AS
10 WE CAN NEXT MONDAY MORNING THEN AFTER 9 O'CLOCK.

11 OKAY. THANK YOU VERY MUCH.

12 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

13 MS. FULLWOOD: THANK YOU, YOUR HONOR.

14 (WHEREUPON, COURT RECESSED FOR THE
15 DAY AT 4:25 P.M.)

16 MONDAY, SEPTEMBER 15, 1997.

17 (WHEREUPON, COURT CONVENED ON
18 MONDAY, SEPTEMBER 15, 1997, AT 9:30 A.M.)

19 THE BAILIFF: ALL RISE. COURT IS NOW IN SESSION.
20 THE HONORABLE GARY E. CLARY, PRESIDING.

21 THE COURT: THANK YOU VERY MUCH. PLEASE TAKE
22 YOUR SEATS.

23 ALL RIGHT. PLEASE CALL THE ROLL OF THE JURORS.

24 THE CLERK: AS YOUR NAME IS CALLED, IF YOU WILL
25 PLEASE STAND AT YOUR SEAT. I NEED YOUR MILEAGE ONE WAY

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1 FROM YOUR HOME TO THE COURTHOUSE. PLEASE SPEAK VERY LOUDLY
2 SO THAT EVERYONE CAN HEAR YOU.

3 (WHEREUPON, THE ROLL OF THE JURORS
4 WAS CALLED AT THIS TIME.)

5 THE CLERK: IS THERE ANYONE HERE FOR JURY DUTY
6 WHOSE NAME WAS NOT CALLED, PLEASE STAND? IF YOUR NAME WAS
7 NOT CALLED.

8 (NO RESPONSE.)

9 THE CLERK: THANK YOU.

10 THE COURT: GOOD MORNING TO YOU, LADIES AND
11 GENTLEMEN OF THE JURY. MY NAME IS GARY CLARY. I'M A
12 CIRCUIT JUDGE FROM UP IN CHEROKEE COUNTY. MY HOME IS
13 GAFFNEY. I'M DELIGHTED TO BE HERE WITH YOU THIS MORNING
14 FOR A TERM OF GENERAL SESSIONS COURT. THIS IS MY FIRST
15 OPPORTUNITY TO COME TO LEXINGTON COUNTY AND ACTUALLY HOLD
16 COURT. IT'S BEEN A NUMBER OF YEARS SINCE I'VE BEEN HERE AS
17 A LAWYER AND MY FIRST OPPORTUNITY TO COME HERE. SO I'M
18 DELIGHTED TO BE HERE WITH YOU THIS MORNING.

19 FIRST OF ALL, I WANT YOU TO KNOW THAT I
20 APPRECIATE THE FACT THAT YOU ARE HERE. I UNDERSTAND THAT
21 YOU DIDN'T VOLUNTEER TO COME HERE THIS MORNING AND THE FACT
22 THAT YOU WERE ISSUED A SUMMONS AND THAT YOU HAVE RESPONDED
23 TO IT, THANK YOU VERY MUCH ON BEHALF OF LEXINGTON COUNTY
24 AND THE STATE OF SOUTH CAROLINA FOR PROVIDING THIS VERY
25 VALUABLE SERVICE TO YOUR COUNTY AND STATE FOR THIS TERM OF

1 COURT.

2 IF YOU HAVE A BEEPER OR A CELLULAR TELEPHONE, I
3 WANT YOU TO PLEASE PLACE IT IN THE OFF POSITION SO THAT IT
4 WILL NOT INTERFERE WITH WHAT WE ARE ABOUT THIS MORNING
5 BECAUSE THIS IS VERY IMPORTANT BUSINESS. IT'S VERY SERIOUS
6 BUSINESS. SO THOSE THINGS ARE VERY DISTRACTING AND I
7 APPRECIATE THE FACT THAT YOU WILL ADHERE TO MY INSTRUCTION
8 AND PLACE THOSE IN AN OFF POSITION.

9 IF ANYONE HAS ANY PROBLEM HEARING ME, I WANT YOU
10 TO PLEASE LET ME KNOW DURING THE COURSE OF THE QUESTIONING
11 THAT WE ARE GOING TO BE GOING THROUGH OVER THE NEXT FEW
12 MINUTES. SO IF YOU HAVE ANY PROBLEMS WHATSOEVER IN
13 HEARING, JUST SIMPLY RAISE YOUR HAND AND I'LL TRY TO SPEAK
14 A LITTLE BIT LOUDER.

15 ALL RIGHT. IF YOU WOULD, PLEASE PLACE THE JURY
16 UNDER OATH, MADAM CLERK.

17 THE CLERK: PLEASE STAND AND RAISE YOUR RIGHT
18 HAND.

19 (WHEREUPON, THE ENTIRE JURY VENIRE
20 WAS FIRST DULY SWORN AT THIS TIME.)

21 THE COURT: NOW, LADIES AND GENTLEMEN, I'M GOING
22 TO BE ASKING YOU A SERIES OF QUESTIONS AND KEEP IN MIND
23 THAT THESE QUESTIONS ARE REQUIRED BY STATUTE. THESE
24 STATUTES HAVE BEEN ENACTED BY THE GENERAL ASSEMBLY OF OUR
25 STATE AND SOMETIMES JURORS TELL ME THAT THESE QUESTIONS

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COULD BE POTENTIALLY EMBARRASSING AND IF THEY APPEAR TO BE
TO ME, I WILL CALL YOU TO THE FRONT OF THE COURTROOM AFTER
I ASK THE QUESTION IF IT APPLIES TO YOU, AND YOU AND I WILL
DISCUSS IT PRIVATELY HERE AT THE BENCH AND WE WILL NOT
DISCUSS IT IN OPEN COURT. BUT ALSO KEEP IN MIND THAT I
DIDN'T WRITE THESE QUESTIONS. THESE HAVE BEEN WRITTEN INTO
OUR STATUTORY LAWS OF THIS STATE AND THAT IS THE REASON
THAT THEY ARE ASKED.

IS THERE ANY MEMBER OF THE PANEL WHO IS NOT A
RESIDENT OF LEXINGTON COUNTY, SOUTH CAROLINA? IF YOU ARE
NOT, I WANT YOU TO PLEASE STAND.

(NO RESPONSE.)

THE COURT: IS THERE ANY MEMBER OF THE PANEL WHO
IS NOT AT LEAST 18-YEARS-OF-AGE? IF YOU ARE NOT, I WANT
YOU TO PLEASE STAND.

(NO RESPONSE.)

THE COURT: IS THERE ANY MEMBER OF THIS PANEL WHO
IS NOT A CITIZEN OF THE UNITED STATES? IF YOU ARE NOT,
PLEASE STAND.

(NO RESPONSE.)

THE COURT: NOW, LISTEN CAREFULLY TO MY NEXT
QUESTION AND ALLOW ME TO EXPLAIN IT TO YOU BEFORE YOU
RESPOND TO IT.

IS THERE ANY MEMBER OF THE PANEL WHO IS NOT A
QUALIFIED ELECTOR, MEANING THAT YOU ARE NOT REGISTERED TO

1 VOTE; IS THERE ANY MEMBER OF THE PANEL WHO IS NOT A
2 LICENSED DRIVER AND THAT'S A LICENSE ISSUED BY THE SOUTH
3 CAROLINA DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION;
4 OR IS THERE ANY MEMBER OF THE PANEL WHO IS NOT THE HOLDER
5 OF AN IDENTIFICATION CARD ISSUED BY THE SOUTH CAROLINA
6 DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION AND
7 ELIGIBLE TO REGISTER TO VOTE?

8 NOW, THE KEY TO MY QUESTION IS SIMPLY THIS. YOU
9 HAVE TO HAVE ONE OF THOSE THREE DOCUMENTS TO SERVE AS A
10 JUROR IN THIS STATE. YOU EITHER HAVE TO BE REGISTERED TO
11 VOTE OR YOU HAVE TO HAVE A DRIVERS LICENSE ISSUED BY THE
12 SOUTH CAROLINA DEPARTMENT OF HIGHWAYS AND PUBLIC
13 TRANSPORTATION OR YOU HAVE TO HAVE AN IDENTIFICATION CARD
14 ISSUED BY THE HIGHWAY DEPARTMENT AND BE ELIGIBLE TO
15 REGISTER TO VOTE. IF YOU DO NOT HAVE AT LEAST ONE OF THOSE
16 THREE DOCUMENTS, I WANT YOU TO PLEASE STAND. YOU DON'T
17 HAVE TO HAVE ALL THREE OF THEM. YOU JUST NEED ONE OF THEM.

18 (WHEREUPON, SEVERAL JURORS STAND
19 AT THIS TIME.)

20 THE COURT: ALL RIGHT. LET ME HAVE YOUR JUROR OR
21 YOUR NAME OR YOUR NUMBER, WHICHEVER YOU CAN REMEMBER.

22 YES, SIR, LET ME START OVER HERE WITH THIS
23 GENTLEMAN.

24 THE JUROR: 122.

25 THE COURT: 122. AND YOU ARE MR. JENKINS?

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1 THE JUROR: YES, SIR.

2 THE COURT: MR. JENKINS, ARE YOU REGISTERED TO

3 VOTE?

4 THE JUROR: NO, I AM NOT.

5 THE COURT: DO YOU HAVE A DRIVERS LICENSE?

6 THE JUROR: IT'S SUSPENDED.

7 THE COURT: DO YOU HAVE AN IDENTIFICATION CARD

8 ISSUED BY THE HIGHWAY DEPARTMENT?

9 THE JUROR: NO, SIR.

10 THE COURT: ALL RIGHT. HOW ABOUT COMING FORWARD

11 THEN, PLEASE, SIR.

12 YES, MA'AM.

13 THE JUROR: NUMBER 250.

14 THE COURT: 250.

15 THE CLERK: TAMIL ZWIRBLIA.

16 THE COURT: YOU CAN COME ON UP AND GET IN LINE

17 BEHIND THIS GENTLEMAN, TOO, MS. ZWIRBLIA.

18 YES, SIR, RIGHT HERE.

19 THE JUROR: NUMBER 247.

20 THE COURT: MR. WOOTEN?

21 THE JUROR: YES, SIR.

22 THE COURT: ALL RIGHT. COME ON UP, PLEASE, SIR.

23 YES, SIR.

24 THE JUROR: CHARLES MOORE.

25 THE COURT: I'M SORRY?

1 THE JUROR: CHARLES MOORE.

2 THE CLERK: NUMBER 169.

3 THE COURT: ALL RIGHT. COME FORWARD, PLEASE,
4 SIR.

5 (WHEREUPON, THE FOLLOWING BENCH
6 CONFERENCE WAS HELD IN THE PRESENCE OF THE JURY VENIRE, BUT
7 OUT OF THE HEARING OF THE JURY VENIRE.)

8 THE COURT: RIGHT ON UP HERE.

9 (WHEREUPON, JUROR NUMBER 122, MR.
10 JENKINS, APPROACHES THE BENCH.)

11 THE COURT: NOW, YOU TELL ME THAT YOU ARE NOT
12 REGISTERED TO VOTE?

13 THE JUROR: NO, I'M NOT.

14 THE COURT: AND THAT YOU HAVE A DRIVERS LICENSE,
15 BUT IT IS SUSPENDED?

16 THE JUROR: SUSPENDED.

17 THE COURT: WHEN WAS IT SUSPENDED?

18 THE JUROR: I JUST RECENTLY FOUND OUT IT WAS
19 SUSPENDED BECAUSE SOMEBODY GOT A TICKET AND THEY SAID I GOT
20 THE TICKET.

21 THE COURT: ALL RIGHT. ARE YOU IN A PROCESS OF
22 CONTESTING THAT?

23 THE JUROR: I HAVE TO GO TO TRAFFIC COURT IN TWO
24 WEEKS.

25 THE COURT: ALL RIGHT. WOULD YOU RESUME YOUR

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1 SEAT, PLEASE, SIR?

2 (WHEREUPON, THE JUROR RETURNS TO

3 THE COURTROOM AT THIS TIME.)

4 (WHEREUPON, JUROR NUMBER 250, MS.

5 ZWIRBLIA, APPROACHES THE BENCH.)

6 THE COURT: TELL ME HOW YOU PRONOUNCE YOUR NAME.

7 THE JUROR: ZWIRBLIA.

8 THE COURT: ARE YOU REGISTERED TO VOTE?

9 THE JUROR: NO.

10 THE COURT: DO YOU HAVE A DRIVERS LICENSE?

11 THE JUROR: NO.

12 THE COURT: DO YOU HAVE AN IDENTIFICATION CARD

13 ISSUED BY THE HIGHWAY DEPARTMENT?

14 THE JUROR: NO.

15 THE COURT: HAVE YOU EVER HAD A DRIVERS LICENSE?

16 THE JUROR: YES.

17 THE COURT: YOU DON'T HAVE ONE NOW?

18 THE JUROR: IT'S SUSPENDED.

19 THE COURT: HOW LONG HAS IT BEEN SUSPENDED?

20 THE JUROR: FOR FOUR MONTHS, FOUR MONTHS.

21 THE COURT: OKAY. RESUME YOUR SEAT FOR A MOMENT,

22 PLEASE.

23 (WHEREUPON, THE JUROR RETURNS TO

24 THE COURTROOM AT THIS TIME.)

25 (WHEREUPON, JUROR 247, MR. WOOTEN,

1 APPROACHES THE BENCH.)

2 THE COURT: MR. WOOTEN, HOW ARE YOU DOING?

3 THE JUROR: PRETTY GOOD. HOW ARE YOU DOING?

4 THE COURT: FINE, THANK YOU.

5 ARE YOU REGISTERED TO VOTE?

6 THE JUROR: NO, SIR.

7 THE COURT: DO YOU HAVE A DRIVERS LICENSE?

8 THE JUROR: YES, SIR.

9 THE COURT: YOU'RE QUALIFIED TO SERVE THEN.

10 THE JUROR: THERE'S ANOTHER PROBLEM I'VE GOT.

11 I'VE GOT ANOTHER PROBLEM. I HAVE A MEDICAL CONDITION. I

12 CANNOT SIT MORE THAN 45 MINUTES AT A TIME.

13 THE COURT: DO YOU HAVE A DOCTOR'S EXCUSE?

14 THE JUROR: I CAN GET IT.

15 THE COURT: WELL, THAT'S WHAT I'M GOING TO NEED.

16 THE JUROR: WELL, I WASN'T ASKED.

17 THE COURT: TELL ME ABOUT THE CONDITION.

18 THE JUROR: IT'S A -- I'VE HAD A BACK OPERATION.

19 IT'S A FUSED DISK WHERE THEY DRILLED INTO IT AND PROLONGED

20 STANDING OR SITTING AND NO HEAVY LIFTING.

21 THE COURT: WHEN DID YOU HAVE YOUR SURGERY?

22 THE JUROR: MAY OF '95, I BELIEVE.

23 THE COURT: DO YOU WORK?

24 THE JUROR: YES, SIR.

25 THE COURT: WHERE DO YOU WORK?

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1 THE JUROR: VANDERBILT CORPORATION.

2 THE COURT: WHAT DO YOU DO FOR THEM?

3 THE JUROR: I AM A FIELD REPRESENTATIVE.

4 THE COURT: DO YOU TRAVEL IN THAT CAPACITY?

5 THE JUROR: I JUST DRIVE LOCALLY.

6 THE COURT: ALL RIGHT. HOW ABOUT RESUMING YOUR

7 SEAT. I'LL GET BACK WITH YOU IN JUST A MINUTE.

8 THE JUROR: OKAY.

9 (WHEREUPON, THE JUROR RETURNS TO

10 THE COURTROOM AT THIS TIME.)

11 (WHEREUPON, JUROR 169, MR. MOORE,

12 APPROACHES THE BENCH AT THIS TIME.)

13 THE COURT: MR. MOORE?

14 THE JUROR: YES.

15 THE COURT: MR. MOORE, ARE YOU REGISTERED TO

16 VOTE?

17 THE JUROR: YES, SIR.

18 THE COURT: YOU'RE QUALIFIED TO SERVE.

19 THE JUROR: DO YOU MEAN -- DOES THAT MEAN IF IT'S

20 IN MY POSSESSION AT THE MOMENT?

21 THE COURT: NO, JUST REGISTERED TO VOTE.

22 THE JUROR: OH. I HAVE A DRIVERS LICENSE AND---

23 THE COURT: YOU'RE QUALIFIED.

24 (WHEREUPON, THE JUROR RETURNS TO

25 THE COURTROOM AT THIS TIME.)

1 THE COURT: LET ME SEE THE LAWYERS UP HERE JUST A
2 MOMENT, PLEASE.

3 (WHEREUPON, THE ATTORNEYS APPROACH
4 THE BENCH AT THIS TIME.)

5 THE COURT: I HAVE TWO. NUMBER 122, MR. JENKINS,
6 AND NUMBER 250, MS. ZWIRBLIA, DO NOT HAVE A DRIVERS
7 LICENSE. THEY HAVE BEEN SUSPENDED.

8 ALSO, MR. WOOTEN HAS A MEDICAL CONDITION. HE HAD
9 BACK SURGERY IN MAY OF '95. HE CAN ONLY SIT OR STAND FOR
10 45 MINUTES AT A TIME.

11 I'M GOING TO EXCUSE 122 AND 250 BECAUSE THEY
12 DON'T HAVE -- ARE NOT QUALIFIED UNDER THE STATUTE.

13 AND MR. WOOTEN I'M GOING TO GET HIM TO GET ME A
14 DOCUMENT FROM HIS DOCTOR AND ONCE HE GETS ME THAT, I'LL
15 EXCUSE HIM ALSO.

16 MR. STONE: WERE THERE FOUR?

17 THE COURT: MR. MOORE. AND HE ASKED IF HE HAD IT
18 IN HIS POSSESSION. I SAID NO. HIS VOTERS CERTIFICATE.

19 ALSO, WE ARE GOING TO NEED TO PUT ON THE RECORD
20 THOSE THAT I RECEIVED FURTHER INFORMATION ON THAT JERI SENT
21 ME LAST WEEK THAT I HAD EXCUSED FOR VARIOUS BUSINESS AND
22 MEDICAL TYPE REASONS.

23 THE CLERK: I DON'T THINK I KEPT THEM SEPARATE.

24 THE COURT: I THINK I'VE GOT THEM IN MY BAG.
25 WHAT I'LL DO, WE'LL PUT THAT ON THE RECORD AFTER WE GET

0140

1 THROUGH WITH THIS BEFORE WE BREAK THEM DOWN IN PANELS AND
2 ALSO WHAT I WILL DO AFTER I GET THROUGH WITH THIS INITIAL
3 QUALIFICATIONS, I'LL GIVE THEM A SHORT BREAK BECAUSE THEY
4 WILL HAVE BEEN IN HERE AWHILE AND COME BACK AND EXPLAIN TO
5 THEM ABOUT THE CASE. LET YOU CALL THE CASE AND EXPLAIN THE
6 INDICTMENTS TO THEM AND MAYBE WE'LL GET INTO THE REAL MEAT
7 OF IT. THIS WILL TAKE ABOUT TWENTY OR THIRTY MORE MINUTES
8 DEPENDING ON THE RESPONSES. WE'VE GOT A BIGGER CROWD THAN
9 I THOUGHT.

10 (WHEREUPON, THE BENCH CONFERENCE
11 WAS CONCLUDED AT THIS TIME.)

12 THE COURT: ALL RIGHT. JUROR NUMBER 122, MR.
13 JENKINS, AND JUROR NUMBER 250, MS. ZWIRBLIA, ARE EXCUSED
14 PURSUANT TO SECTION 14-7-130. SO, IF YOU WOULD, PLEASE,
15 SEE THE BAILIFF AND THEY WILL -- ONE OF THEM WILL TAKE CARE
16 OF YOU.

17 THE COURT: NOW, IS THERE ANY MEMBER OF THE PANEL
18 WHO IS A COUNTY OFFICER OR WHO IS EMPLOYED WITHIN THE WALLS
19 OF ANY COURT HOUSE? FOR EXAMPLE, THAT WOULD BE SOMEONE
20 THAT MAY WORK IN THE CLERK OF COURT'S OFFICE, SOMEONE WHO
21 HOLDS A STATE CONSTABLES COMMISSION, SHERIFF, OR ANY POLICE
22 OFFICER, PROBATE JUDGE, COUNTY COUNCILMAN OR COMMISSIONER,
23 MAGISTRATE OR ANY OTHER COUNTY OFFICER? IF THAT APPLIES TO
24 YOU, I WANT YOU TO PLEASE STAND.

25 (WHEREUPON, SEVERAL JURORS STAND

1 AT THIS TIME.)

2 THE COURT: ALL RIGHT. IF I COULD HAVE YOUR
3 NUMBER AND NAME, PLEASE, MA'AM.

4 THE JUROR: BRYANT.

5 THE CLERK: NUMBER 37.

6 THE COURT: ALL RIGHT, MS. BRYANT.

7 YES, MA'AM.

8 THE JUROR: SANDRA RUNION.

9 THE CLERK: NUMBER 195.

10 THE COURT: ALL RIGHT.

11 YES, SIR.

12 THE JUROR: NUMBER 74.

13 THE COURT: MR. DOX?

14 THE JUROR: YES, SIR.

15 THE COURT: ALL RIGHT. MS. BRYANT, COULD YOU
16 TELL ME WHERE YOU WORK?

17 THE JUROR: THE LEXINGTON COUNTY TREASURER'S
18 OFFICE.

19 THE COURT: AND MS. RUNION?

20 THE JUROR: IT'S VERY INDIRECTLY, BUT THE OFFICE
21 TOLD ME TO LET YOU KNOW. I DO---

22 THE COURT: WAIT JUST ONE MINUTE AND I'LL JUST
23 GET YOU TO COME UP HERE AND TALK TO ME. THANK YOU VERY
24 MUCH. YOU CAN COME ON UP HERE.

25 YES, SIR, MR. DOX.

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1 THE JUROR: I'M AN F.B.I. AGENT.

2 THE COURT: ALL RIGHT. YOU TWO MAY BE SEATED FOR
3 JUST A MOMENT.

4 (WHEREUPON, THE FOLLOWING BENCH
5 CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE
6 JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

7 (WHEREUPON, JUROR NUMBER 195, MS.
8 RUNION, APPROACHES THE BENCH AT THIS TIME.)

9 THE COURT: MS. RUNION, HOW ARE YOU?

10 THE JUROR: I'M FINE. HOW ARE YOU?

11 THE COURT: FINE.

12 THE JUROR: I REALLY DO WANT TO STAY.

13 THE COURT: TELL ME ABOUT YOUR---

14 THE JUROR: I TRANSCRIBE FOR A COURT REPORTING
15 FIRM HERE IN COLUMBIA. AND SO IT'S VERY FAR EXTENDED BUT.

16 THE COURT: OKAY. TELL ME WHAT KIND OF FIRM.

17 THE JUROR: CREEL COURT REPORTING SERVICE.

18 THE COURT: ALL RIGHT. THAT IS THE WAY THAT I
19 REMEMBER IT, AN INDEPENDENT REPORTER GROUP?

20 THE JUROR: THAT'S CORRECT.

21 THE COURT: OKAY. AND THE FACT YOU MAY KNOW THE
22 LAWYERS THAT ARE INVOLVED, THAT KIND OF THING, BUT YOU DO
23 NOT ACTUALLY WORK HERE IN THE COURT HOUSE?

24 THE JUROR: THAT IS CORRECT. AND I ONLY KNOW
25 ATTORNEYS BY JUST LISTENING TO THEM.

1 THE COURT: OKAY.

2 THE JUROR: I WOULDN'T EVEN KNOW THEM IF I SHOULD

3 SEE THEM.

4 THE COURT: SO YOU JUST TRANSCRIBE. YOU DON'T

5 NECESSARILY GO TO THE DEPOSITIONS?

6 THE JUROR: THAT'S CORRECT, THAT'S CORRECT.

7 THE COURT: I THINK YOU ARE QUALIFIED TO STAY

8 WITH US FOR RIGHT NOW.

9 THE JUROR: VERY GOOD. THANK YOU.

10 THE COURT: THANK YOU, MA'AM.

11 (WHEREUPON, THE JUROR RETURNED TO

12 THE COURTROOM AT THIS TIME.)

13 THE BAILIFF: NUMBER 173, YOUR HONOR.

14 THE COURT: COME ON UP, PLEASE, MA'AM.

15 (WHEREUPON, JUROR NUMBER 173, MS. "

16 NAGY, APPROACHES THE BENCH AT THIS TIME.)

17 THE JUROR: IT'S NAGY.

18 THE COURT: HI, MS. NAGY.

19 THE JUROR: MY SON WORKS IN THE PROTECTIVE

20 SERVICES. HE WORKS IN THE GOVERNOR'S MANSION.

21 THE COURT: OKAY. THAT WILL NOT DISQUALIFY YOU.

22 I APPRECIATE YOUR BRINGING IT TO MY ATTENTION.

23 THE JUROR: I WOULD LIKE TO KNOW IF I CAN BE

24 EXCUSED. I HAVE TO PICK UP MY GRANDSON FROM GRAMMAR

25 SCHOOL. HE'S IN KINDERGARTEN. HE GOES EVERYDAY, BUT NEXT

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1 YEAR, I WILL BE -- IF YOU COULD PUT ME OFF UNTIL NEXT YEAR,
2 I WOULD GLADLY BECAUSE I WANT TO SERVE.

3 THE COURT: IS THERE ANYONE ELSE WHO CAN PICK UP
4 YOUR GRANDSON?

5 THE JUROR: WELL, MY HUSBAND CAN, BUT WE ONLY
6 HAVE ONE CAR.

7 THE COURT: WE CAN WORK AROUND THAT I THINK. I'M
8 GOING TO LET YOU STAY WITH US FOR RIGHT NOW.

9 THE JUROR: OKAY.

10 (WHEREUPON, THE JUROR RETURNS TO
11 THE COURTROOM AT THIS TIME.)

12 THE COURT: LET ME SEE THE LAWYERS UP HERE JUST A
13 MINUTE.

14 (WHEREUPON, THE ATTORNEYS APPROACH
15 THE BENCH AT THIS TIME.)

16 THE COURT: MS. RUNION TRANSCRIBES DEPOSITIONS
17 AND TAPES FOR CREEL REPORTING. THAT'S A REPORTING SERVICE
18 AND THAT'S NOT A PROBLEM. SHE DOES NOT GO TO THE
19 DEPOSITION. SHE ONLY LISTENS TO THE TAPES AND TRANSCRIBES
20 THEM.

21 MR. STONE: OH, OKAY.

22 THE COURT: OF COURSE, MS. BRYANT WORKS WITH THE
23 LEXINGTON COUNTY TREASURER AND SHE WILL BE EXCUSED AND MR.
24 DOX WORKS FOR THE F.B.I. HE WILL BE EXCUSED.

25 MS. NAGY, HER SON WORKS IN PROTECTIVE SERVICES IN

1 THE GOVERNOR'S MANSION AND SHE'S SUPPOSED TO PICK HER
2 GRANDSON UP FROM SCHOOL. I ASKED HER IF THERE WAS SOMEONE
3 ELSE AND SHE SAID, YES, HER HUSBAND, BUT WE HAVE ONLY ONE
4 CAR. I SAID THAT WON'T BE A PROBLEM. SHE WANTED TO KNOW
5 IF WE COULD POSTPONE HER UNTIL NEXT YEAR. I TOLD HER WE
6 CAN GET AROUND THAT I THINK.

7 MR. STONE: SANDRA RUNION SHE DOESN'T ACTUALLY DO
8 -- THE REASON I SAY THAT---

9 THE COURT: SHE DOESN'T WORK HERE IN THE COURT
10 HOUSE. HER CONNECTION IS SHE TRANSCRIBES DEPOSITION
11 TESTIMONY FOR CREEL REPORTING.

12 MR. STONE: YEAH. JUST TO LET YOU KNOW, WE USE
13 -- MY LAW FIRM USES CREEL ALMOST EXCLUSIVELY AND---

14 MR. HUMPHRIES: SHE KNOWS YOU USE BAD GRAMMAR.

15 THE COURT: WELL, I ASKED HER ABOUT KNOWING THE
16 ATTORNEYS AND SHE SAID SHE ONLY KNOWS THE VOICES.

17 SO WHAT I'LL DO, I'LL EXCUSE 37 AND 74, MS.
18 BRYANT AND MR. DOX.

19 (WHEREUPON, THE BENCH CONFERENCE
20 WAS CONCLUDED AT THIS TIME.)

21 THE COURT: ALL RIGHT. JUROR NUMBER 37, MS.
22 BRYANT, AND JUROR NUMBER 74, MR. DOX, ARE EXCUSED PURSUANT
23 TO SECTION 14-7-820.

24 THANK YOU VERY MUCH FOR COMING. YOU MAY SEE THE
25 BAILIFF BEFORE YOU ARE DISMISSED.

0146

1 THE COURT: NOW, IS THERE ANY MEMBER OF THE PANEL
2 WHO HAS BEEN CONVICTED OR PLED GUILTY IN A STATE OR FEDERAL
3 COURT OF A CRIME THAT IS PUNISHABLE BY IMPRISONMENT FOR
4 MORE THAN ONE YEAR AND WHOSE CIVIL RIGHTS HAVE NOT BEEN
5 RESTORED BY PARDON OR AMNESTY?

6 NOW, THE KEY TO MY QUESTION IS THIS, LADIES AND
7 GENTLEMEN OF THE JURY. IT COULD BE THAT YOU HAVE BEEN
8 CONVICTED BY A JURY OR THAT YOU HAVE PLED GUILTY TO A CRIME
9 AND YOU MAY HAVE EVEN RECEIVED A PROBATIONARY SENTENCE OR A
10 SENTENCE OF LESS THAN ONE YEAR. THE KEY IS WHETHER OR NOT
11 THE CRIME OF WHICH YOU WERE CONVICTED CARRIED A POTENTIAL
12 INCARCERATION OF MORE THAN ONE YEAR. IF THAT APPLIES TO
13 YOU OR YOU EVEN THINK THAT THAT APPLIES TO YOU, I WANT YOU
14 TO PLEASE STAND AND COME FORWARD.

15 (WHEREUPON, SEVERAL JURORS STAND
16 AT THIS TIME.)

17 (WHEREUPON, THE FOLLOWING BENCH
18 CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE
19 JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

20 THE CLERK: WHAT'S YOUR NAME?

21 THE JUROR: DONNA SIMONEAU.

22 THE CLERK: NUMBER 210, MS. SIMONEAU.

23 (WHEREUPON, JUROR NUMBER 210, MS.
24 SIMONEAU, APPROACHES THE BENCH AT THIS TIME.)

25 THE COURT: ALL RIGHT. COULD YOU TELL ME WHAT

1 KIND OF CRIME YOU HAVE BEEN CONVICTED OF?

2 THE JUROR: I PLED GUILTY TO A DRUG CHARGE HERE
3 IN THIS COURTROOM.

4 THE COURT: OKAY. WHAT KIND OF DRUG CHARGE?

5 THE JUROR: ATTEMPT TO PURCHASE POWDER COCAINE.
6 AND I HAVE ONE YEAR'S PROBATION WHICH I'VE COMPLETED.

7 THE COURT: COULD YOU TELL ME WHEN YOU PLED
8 GUILTY?

9 THE JUROR: I'M NOT SURE. IT'S BEEN QUITE
10 AWHILE. MAYBE THREE YEARS AGO.

11 THE COURT: AND YOU RECEIVED ONE YEAR'S
12 PROBATION---

13 THE JUROR: YES AND COMMUNITY SERVICE WHICH I'VE
14 ACCOMPLISHED AND I'M VERY EMBARRASSED.

15 THE COURT: I APPRECIATE YOU COMING FORWARD.
16 OKAY. I BELIEVE THAT THAT'S GOING TO DISQUALIFY HER
17 BECAUSE I THINK THAT CARRIES TWO YEARS. I'M GOING TO DO
18 THIS. I'M GOING TO LET YOU RESUME YOUR SEAT AND I'LL HAVE
19 TO LOOK THAT UP AND THEN I'LL LET YOU KNOW, OKAY.

20 THE JUROR: THANK YOU.

21 THE COURT: THANK YOU FOR COMING FORWARD. I
22 APPRECIATE IT.

23 (WHEREUPON, THE JUROR RETURNS TO
24 THE COURTROOM AT THIS TIME.)

25 THE BAILIFF: NUMBER 247, YOUR HONOR.

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(WHEREUPON, JUROR NUMBER 247, MR.

WOOTEN, APPROACHES THE BENCH AT THIS TIME.)

THE COURT: MR. WOOTEN. WHAT I NEED FOR YOU, TELL ME ABOUT THE CRIME THAT YOU PLED GUILTY OR WERE CONVICTED OF?

THE JUROR: IT WAS POSSESSION OF MARIJUANA BACK IN '76 -- '78.

THE COURT: OKAY. THAT IS NOT A DISQUALIFYING IN THAT DOESN'T CARRY MORE THAN ONE YEAR.

THE JUROR: IT CARRIED FIVE YEARS.

THE COURT: POSSESSION OF MARIJUANA?

THE JUROR: THEY SAID THEY RUN A RAP SHEET, BUT COULDN'T FIND THE CHARGE ON IT BECAUSE I BROUGHT IT UP ONCE BEFORE. I GOT FIVE YEARS PROBATION.

THE CLERK: IN RICHLAND COUNTY?

THE JUROR: NO, NO, THIS WAS IN DALLAS, TEXAS.

THE CLERK: DALLAS, TEXAS. JUDGE, WE TRIED. WE CALLED DALLAS, TEXAS, AND NOBODY IN TEXAS COULD GIVE US THAT.

THE COURT: ALL RIGHT. HERE'S WHAT I'M GOING TO DO. BECAUSE OF THAT, IF IT CARRIES UP TO FIVE YEARS OUT THERE, THAT DISQUALIFIES YOU, BUT ALSO BECAUSE OF YOUR MEDICAL CONDITION. WHAT I WAS GOING TO DO WAS GET YOU TO PROVIDE ME WITH JUST A NOTE FROM YOUR DOCTOR. THAT'S NOT GOING TO BE NECESSARY. I'M GOING TO EXCUSE YOU AS A RESULT

1 OF YOUR MEDICAL CONDITION AND THIS CHARGE. SO YOU CAN GO
2 ON ABOUT YOUR BUSINESS.

3 THE JUROR: THANK YOU, SIR.

4 THE COURT: SEE THE BAILIFF.

5 (WHEREUPON, THE JUROR RETURNS TO
6 THE COURTROOM AT THIS TIME.)

7 THE BAILIFF: NUMBER 8, YOUR HONOR.

8 THE CLERK: MR. BANKS.

9 (WHEREUPON, JUROR NUMBER 8, MR.
10 BANKS, APPROACHES THE BENCH AT THIS TIME.)

11 THE COURT: HOW ARE YOU DOING, MR. BANKS?

12 THE JUROR: DOING ALL RIGHT.

13 THE COURT: TELL ME ABOUT YOUR CHARGE THAT YOU
14 PLED GUILTY OR---

15 THE JUROR: I HAVE FRAUDULENT CHECKS.

16 THE COURT: OKAY. AND DID YOU SERVE ANY TIME?

17 THE JUROR: NO. I PAID A FINE AND I WENT TO THE
18 CITY -- THE COUNTY FOR ABOUT EIGHT HOURS.

19 THE COURT: THOSE ARE NOT DISQUALIFYING OFFENSES
20 HERE IN CIRCUIT COURT. SO YOU CAN RESUME YOUR SEAT.

21 (WHEREUPON, THE JUROR RETURNS TO
22 THE COURTROOM AT THIS TIME.)

23 THE BAILIFF: NUMBER 100, YOUR HONOR.

24 THE CLERK: NINA GRAY.

25 (WHEREUPON, JUROR NUMBER 100, MS.

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1 GRAY, APPROACHES THE BENCH AT THIS TIME.)

2 THE COURT: MS. GRAY.

3 THE JUROR: YES, SIR. I WAS CONVICTED OF

4 VIOLATION OF CHECK LAW IN 1985, ALSO CREDIT CARD FRAUD.

5 THE COURT: CREDIT CARD FRAUD?

6 THE JUROR: YES, SIR. I DID A YEAR OF TIME.

7 THE COURT: THAT CARRIES UP TO FIVE YEARS?

8 THE JUROR: YES.

9 THE COURT: WAS THAT HERE IN LEXINGTON COUNTY?

10 THE JUROR: NO, SIR, IT WAS IN HORRY COUNTY.

11 THE COURT: WHEN WAS IT?

12 THE JUROR: 1985.

13 THE COURT: 1985?

14 THE JUROR: YES, SIR.

15 THE COURT: WERE YOU PUT ON PROBATION?

16 THE JUROR: NO.

17 THE COURT: DID YOU SERVE A STRAIGHT YEAR?

18 THE JUROR: YES, SIR, AND I WAS ON PAROLE.

19 THE COURT: OKAY. RESUME YOUR SEAT. I'LL GET

20 BACK WITH YOU IN JUST A FEW MINUTES.

21 THE JUROR: THANK YOU.

22 (WHEREUPON, THE JUROR RETURNS TO

23 THE COURTROOM AT THIS TIME.)

24 THE BAILIFF: NUMBER 130, YOUR HONOR.

25 THE CLERK: MR. RONALD KANEY.

1 (WHEREUPON, JUROR NUMBER 130, MR.
2 KANEY, APPROACHES THE BENCH AT THIS TIME.)

3 THE COURT: MR. KANEY.

4 THE JUROR: YES, SIR. I PLED GUILTY TO A CHARGE
5 OF LARCENY.

6 THE COURT: WHEN WAS THAT?

7 THE JUROR: IT WAS IN LEXINGTON COUNTY.

8 THE COURT: WHEN WAS THAT?

9 THE JUROR: OH, I'M SORRY. JANUARY -- BE THREE
10 YEARS AGO. I'M STILL ON PROBATION FOR IT.

11 THE COURT: WHAT KIND OF A SENTENCE DID YOU GET?

12 THE JUROR: UH -- I DON'T REMEMBER. IT WAS WAY
13 OVER A YEAR.

14 THE COURT: WAS IT LARCENY AND WHAT DEGREE OF
15 LARCENY, DO YOU KNOW?

16 THE JUROR: NO, SIR, BUT IT WAS THREE YEARS'
17 PROBATION.

18 THE COURT: WHO WAS YOUR JUDGE?

19 THE JUROR: I DON'T KNOW. IT'S BEEN SO LONG. IT
20 WAS WAY OVER A YEAR.

21 THE COURT: OKAY. YOU CAN RESUME YOUR SEAT.
22 I'LL BE RIGHT BACK WITH YOU.

23 THE JUROR: YES, SIR.

24 (WHEREUPON, THE JUROR RETURNS TO
25 THE COURTROOM AT THIS TIME.)

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1 THE CLERK: JUDGE ONE MORE. SHE NEEDS TO SPEAK
2 WITH YOU.
3 THE COURT: BRING HER ON UP.
4 THE BAILIFF: NUMBER 163.
5 (WHEREUPON, JUROR NUMBER 163, MS.
6 MILLER, APPROACHES THE BENCH AT THIS TIME.)
7 THE COURT: MS. MILLER.
8 THE JUROR: GOOD MORNING.
9 THE COURT: GOOD MORNING, MS. MILLER, HOW ARE
10 YOU?
11 THE JUROR: FINE.
12 THE COURT: SORRY TO MAKE YOU WALK ALL THE WAY UP
13 HERE.
14 THE JUROR: THAT'S OKAY. BUT I DIDN'T KNOW
15 WHETHER THE DEPARTMENT OF REVENUE IS PART OF THE STATE.
16 THE COURT: WELL, IT IS, BUT THAT'S NOT IN THE
17 COURT HOUSE HERE.
18 THE JUROR: OKAY.
19 THE COURT: THAT DOES NOT DISQUALIFY YOU.
20 WHAT DO YOU DO WITH THE DEPARTMENT?
21 THE JUROR: DATA ENTRY.
22 THE COURT: OKAY. I'LL LET YOU RESUME YOUR SEAT.
23 THANK YOU VERY MUCH.
24 THE JUROR: YES, SIR.
25 (WHEREUPON, THE JUROR RETURNS TO

1 THE COURTROOM AT THIS TIME.)

2 THE COURT: LET ME SEE THE LAWYERS UP HERE
3 PLEASE, SIR.

4 (WHEREUPON, THE ATTORNEYS APPROACH
5 THE BENCH AT THIS TIME.)

6 MR. STONE: I DID NOT GET THOSE NUMBERS.

7 THE COURT: OKAY.

8 THE COURT: MS. SIMONEAU, NUMBER 210. SHE HAD AN
9 ATTEMPT TO POSSESS POWDER COCAINE.

10 MR. HUMPHRIES: IT DEPENDS ON WHEN IT OCCURRED I
11 GUESS. IF IT WAS PRIOR TO 1994, IT WOULD HAVE BEEN ZERO TO
12 A YEAR. IF IT'S AFTER 1994---

13 THE COURT: I'LL HAVE TO CHECK ON THAT.

14 MR. HUMPHRIES: I DON'T HAVE A PROBLEM WITH THAT.
15 I DIDN'T MEAN TO STATE THAT AS A POSITION FOR OR AGAINST.

16 THE COURT: OKAY. AFTER THAT, IT WAS TWO
17 YEARS---

18 MR. HUMPHRIES: YES, SIR, ZERO TO TWO YEARS.

19 THE COURT: ALL RIGHT. NUMBER 247, MR WOOTEN,
20 HAS A CONVICTION FOR A MARIJUANA CHARGE OUT OF TEXAS. HE'S
21 ALSO THE MAN WITH THE MEDICAL CONDITION. HE COULD HAVE
22 RECEIVED UP TO FIVE YEARS. SO I HAVE EXCUSED HIM.

23 THEN MS. BANKS, FRAUDULENT CHECKS, IS NOT A
24 DISQUALIFYING OFFENSE. I'LL PUT HER BACK IN THE POOL.

25 MR. HUMPHRIES: ARE YOU TALKING ABOUT DAVID

1 BANKS?

2 THE COURT: DAVID BANKS, I'M SORRY. NOT MS.

3 BANKS.

4 JUROR NUMBER 100, MS. GRAY, HAD A FINANCIAL CARD
5 FRAUD IN HORRY COUNTY. I'M GOING TO EXCUSE HER.

6 JUROR NUMBER 130, MR. KANEY, PLED GUILTY TO
7 LARCENY IN LEXINGTON COUNTY THREE YEARS AGO AND HE'S STILL
8 ON PROBATION. SO I'M GOING TO EXCUSE HIM.

9 MS. MILLER, NUMBER 163, SHE WORKS FOR THE
10 DEPARTMENT OF REVENUE. SHE WAS INQUIRING IF THAT WAS A
11 PART OF THE COURT HOUSE. I SAID NO, THAT DOESN'T COUNT.

12 MR. STONE: DOES FINANCIAL TRANSACTION CARD FRAUD
13 ANY TIME GO UNDER THAT -- UNDER THE CLASSIFICATION ACT?

14 THE COURT: NO.

15 MR. STONE: THAT ONE DIDN'T GO.

16 THE COURT: NO. IT'S UP TO FIVE YEARS.

17 MR. HUMPHRIES: THEY CHANGE THREE TO FIVE.

18 THE COURT: BUT THREE BEFORE.

19 MR. STONE: YOU REMEMBER ALL OF THE FINANCIAL
20 TRANSACTION CARD WAS CHANGED.

21 THE COURT: I DON'T THINK THAT ONE. IF YOU WANT
22 TO LOOK IT UP AND SEE. I'M GETTING READY TO EXCUSE HER.

23 MR. STONE: THAT'S IT.

24 THE COURT: ALL RIGHT. OKAY. THAT'S GOOD
25 ENOUGH. THANK YOU.

1 (WHEREUPON, THE BENCH CONFERENCE
2 WAS CONCLUDED AT THIS TIME.)

3 THE COURT: ALL RIGHT. JUROR NUMBER 247, MR.
4 WOOTEN, IS EXCUSED. JUROR NUMBER 100, MS. GRAY, IS EXCUSED
5 AND JUROR NUMBER 130, MR. KANEY, IS EXCUSED PURSUANT TO
6 SECTION 14-7-810.

7 AND I NEED TO SEE JUROR NUMBER 210, MS. SIMONEAU,
8 IF YOU WOULD PLEASE COME BACK UP, MA'AM.

9 (WHEREUPON, THE JUROR APPROACHES
10 THE BENCH AT THIS TIME.)

11 THE JUROR: YES, SIR.

12 THE COURT: CAN YOU TELL ME WHEN YOU WERE
13 CONVICTED OF THAT?

14 THE JUROR: IT'S BEEN ABOUT THREE YEARS AGO. I
15 DON'T KNOW THE EXACT DATE. I APOLOGIZE.

16 THE COURT: NO, THAT'S OKAY. THAT'S STILL GOING
17 TO EXCUSE YOU.

18 THE CLERK: WE'LL CHECKING ON OUR COMPUTER TO SEE
19 IF IT WAS A CONVICTION.

20 THE COURT: WHERE YOU CONVICTED?

21 THE JUROR: WHEN?

22 THE COURT: WHERE?

23 THE JUROR: HERE IN THIS COURTROOM.

24 THE COURT: HERE IN LEXINGTON. WE'LL RUN IT DOWN
25 THEN.

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1 THOSE COMPUTERS WORK ABOUT AS FAST AS MINE.
2 COULD YOU CHECK AND SEE -- IF IT WAS HERE IN
3 LEXINGTON COUNTY, CHECK AND SEE WHAT KIND OF SENTENCE SHE
4 GOT?
5 THE CLERK: THEY'RE GETTING IT RIGHT NOW.
6 SHE PLED TO ATTEMPT TO POSSESS ON 11/7/94. THAT
7 WAS THE INDICTMENT NUMBER. SHE GOT ONE YEAR SUSPENDED, ONE
8 YEAR PROBATION. SHE ALSO HAS SOME PENDING CHARGES AGAINST
9 HER AND WE'RE FINDING OUT WHAT THOSE ARE.
10 THE JUROR: THAT'S IN THIS COURT ALSO.
11 THE COURT: BUT THEY ARE JUST PENDING RIGHT NOW.
12 THE JUROR: YES, SIR.
13 THE COURT: OKAY. YOU CAN RESUME YOUR SEAT.
14 THE JUROR: THANK YOU.
15 (WHEREUPON, THE JUROR RETURNS TO
16 THE COURTROOM AT THIS TIME.)
17 (WHEREUPON, THE ATTORNEYS APPROACH
18 THE BENCH AT THIS TIME.)
19 THE COURT: OKAY. SHE GOT ONE YEAR AND ONE YEAR
20 PROBATION FOR ATTEMPT TO POSSESS CRACK.
21 MR. HUMPHRIES: WAS IT CRACK? ATTEMPT TO PROCESS
22 CRACK? IT DEPENDS ON -- JERI, WHAT WAS THE DATE?
23 THE CLERK: 11/7/94.
24 MR. HUMPHRIES: BUT PROBABLY WHAT HAPPENED IS
25 THEY GET THE BIG END OF THE LOWEST SENTENCE. WHILE IT

1 PROBABLY TECHNICALLY CARRIED ZERO TO TWO -- IT WOULD HAVE
2 BEEN ZERO TO TWO. IT WOULD HAVE BEEN AT THE LATEST JULY OF
3 '94 WHEN IT WENT INTO AFFECT. SHE WOULD HAVE GOTTEN THE
4 BENEFIT OF THE LOWER SENTENCE.

5 THE CLERK: SHE WAS ORIGINALLY CHARGED WITH
6 ATTEMPT TO POSSESS CRACK.

7 THE COURT: WHAT I DO ON THESE, WHAT THE PREVIOUS
8 MAXIMUM SENTENCE AND THAT DIDN'T HAVE A PREVIOUS MAXIMUM
9 SENTENCE -- WHY DON'T Y'ALL CHECK TO SEE WHAT YOU CAN FIND
10 ON ATTEMPT TO POSSESS CRACK AND ATTEMPT TO POSSESS POWDER
11 CARRIED.

12 MR. STONE: IN NOVEMBER OF 1994.

13 THE COURT: I THINK IT WOULD BE THE TWO. THIS IS
14 POSSESSION. I DON'T KNOW OF ATTEMPT TO POSSESS POWDER
15 CARRIED A LESSER.

16 MR. STONE: IT DIDN'T. IT WAS TREATED UNDER THE
17 SAME---

18 THE COURT: ATTEMPT TO POSSESS CRACK. THERE'S A
19 SPECIAL STATUTE ON THAT AND THAT'S HALF OF---

20 MR. HUMPHRIES: THE ATTEMPT IS INCLUDED UNDER
21 POSSESSION---

22 MR. STONE: THEY DID THAT AFTER -- '91 AND '92 IS
23 WHEN THEY SHIFTED ALL THAT.

24 THE COURT: Y'ALL AGREE THAT THE TWO YEARS?

25 MR. HUMPHRIES: YES, SIR.

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MR. STONE: YES, SIR.

THE COURT: SHE WILL BE EXCUSED.

(WHEREUPON, THE BENCH CONFERENCE
WAS CONCLUDED AT THIS TIME.)

THE COURT: JUROR NUMBER 210 IS EXCUSED. THANK
YOU VERY MUCH, MA'AM. AND THAT IS PURSUANT TO SECTION
14-7-810.

NOW, IS THERE ANY MEMBER OF THE PANEL WHO IS NOT
ABLE BY REASON OF PHYSICAL OR MENTAL INFIRMITIES TO RENDER
EFFICIENT JURY SERVICE DURING THIS WEEK? IF THAT APPLIES
TO YOU, I WANT YOU TO PLEASE STAND AND COME FORWARD.

(WHEREUPON, SEVERAL JURORS STAND
AT THIS TIME.)

THE COURT: Y'ALL JUST STAND AND COME FORWARD.
THANK YOU VERY MUCH.

(WHEREUPON, THE FOLLOWING BENCH
CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE
JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

THE BAILIFF: NUMBER 192, YOUR HONOR.

THE CLERK: MR. ROLAND ROGERS.

(WHEREUPON, JUROR NUMBER 192, MR.
ROGERS, APPROACHES THE BENCH AT THIS TIME.)

THE JUROR: GOOD EVENING, YOUR HONOR.

MY FIANCE IS IN HER NINTH-MONTH PREGNANCY. SHE
HAS ALREADY DILATED ONE AND A HALF CENTIMETERS. SHE'S DUE

1 FRIDAY. AND I WOULD ASK THE COURT TO EXCUSE ME FOR THE
2 REASON SHE'S DUE AT THIS TIME. IT'S OUR FIRST BABY, TOO.

3 THE COURT: YOU SAY SHE'S DUE FRIDAY.

4 THE JUROR: YES, SIR. ANY TIME. AT THIS TIME.

5 THE COURT: IT'S THE 20TH.

6 THE JUROR: YES, SIR.

7 THE COURT: OKAY. HOW ABOUT JUST ABOUT HAVING A
8 SEAT---

9 THE JUROR: YES, SIR.

10 THE COURT: ---AND I'LL GET WITH YOU IN A FEW
11 MINUTES.

12 THE JUROR: YES, YOUR HONOR.

13 (WHEREUPON, THE JUROR RETURNS TO
14 THE COURTROOM AT THIS TIME.)

15 THE BAILIFF: NUMBER 75.

16 THE CLERK: MR. DUFFY.

17 (WHEREUPON, JUROR 75, MR. DUFFY,
18 APPROACHES THE BENCH AT THIS TIME.)

19 THE CLERK: CORNELL DUFFY.

20 THE COURT: HOW ARE YOU DOING, MR. DUFFY?

21 THE JUROR: JUST FINE.

22 THE COURT: ALL RIGHT.

23 THE JUROR: IT'S A VIOLATION OF MY CONSCIENCE TO
24 BE INVOLVED IN THIS TYPE OF COURT SYSTEM. REVELATIONS
25 18:4. MY RELIGIOUS BELIEFS ARE SUCH THAT I AM UNABLE TO

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1 ADHERE TO THE THINGS THAT ARE IN THIS WORLD AND APPLY THE
2 LAW TO CERTAIN INSTANCES IF IT'S IN CONFLICT WITH GOD'S
3 LAW. I'M A SEVENTH DAY ADVENTIST AND OUR SABBATH IS
4 OBSERVED FROM SUNSET FRIDAY TO SUNSET SATURDAY. I AM A
5 CONSCIENTIOUS OBJECTOR HONORABLY DISCHARGED FROM THE
6 SERVICE AND I HAVE THE PAPERS HERE. I HAVE PROOF OF THAT.

7 AND ALSO MY WIFE IS A RECEPTIONIST AT A VERY
8 REPUTABLE LAW FIRM AND SHE DISCUSSES A LOT OF THINGS WITH
9 ME.

10 THE COURT: WHERE DOES SHE WORK?

11 THE JUROR: JOHNSON AND JOHNSON OFF OF ELMWOOD
12 STREET.

13 THE COURT: I KNOW THEM WELL. GOOD FELLOWS.

14 THE JUROR: YES, SIR.

15 THE COURT: LET ME ASK YOU THIS. INSOFAR AS YOUR
16 RELIGIOUS BELIEFS ARE CONCERNED, WOULD THE FACT THAT YOUR
17 RELIGIOUS BELIEFS PREVENT YOU IN ANY WAY FROM FOLLOWING THE
18 LAW AS I WOULD INSTRUCT YOU?

19 THE JUROR: SIR, I HAVE TO OBEY THE LAW UNTIL
20 IT'S VIOLATES GOD'S LAW, THEN I WILL HAVE TO FOLLOW GOD'S
21 LAW.

22 THE COURT: ALL RIGHT. HOW ABOUT RESUMING YOUR
23 SEAT. I'LL GET BACK WITH YOU.

24 THE JUROR: YES, SIR.

25 (WHEREUPON, THE JUROR RETURNS TO

1 THE COURTROOM AT THIS TIME.)

2 THE BAILIFF: 196, YOUR HONOR.

3 THE CLERK: MR. JACK HENRY RYLES.

4 (WHEREUPON, JUROR NUMBER 196, MR.
5 RYLES, APPROACHES THE BENCH AT THIS TIME.)

6 THE COURT: ALL RIGHT, MR. RYLES.

7 THE JUROR: WELL, I CAN'T READ OR WRITE OR SPELL
8 AND I'VE GOT A LOT OF PHYSICAL PROBLEMS.

9 THE COURT: HOW FAR DID YOU GO IN SCHOOL?

10 THE JUROR: THIRD GRADE. I'VE GOT LOTS OF BACK
11 PROBLEMS AND NECK PROBLEMS.

12 THE COURT: CAN YOU READ THE NEWSPAPER?

13 THE JUROR: NO.

14 THE COURT: HOW DO YOU TRANSACT YOUR BUSINESS?

15 THE JUROR: WELL, THE GUY I WORK FOR, HE LINES
16 THE JOB UP. HE GETS STARTED ON THE JOB. I JUST GO IN
17 THERE AND DO WHAT I CAN.

18 THE COURT: WHAT DO YOU DO?

19 THE JUROR: PUT CARPET DOWN.

20 AND, SIR, I ALSO HAVE A LOT OF BACK PROBLEMS,
21 LEGS, BAD NERVES, MY BLOOD PRESSURE GOES UP AND DOWN ONCE
22 IN AWHILE.

23 THE COURT: DO YOU TAKE MEDICATION?

24 THE JUROR: NO, I WAS SUPPOSED TO SEE A DOCTOR
25 ABOUT THREE MONTHS AGO, BUT I DIDN'T.

1 THE COURT: OKAY. YOU CAN RESUME YOUR SEAT.

2 (WHEREUPON, THE JUROR RETURNS TO
3 THE COURTROOM AT THIS TIME.)

4 THE CLERK: THIS IS MR. RILEY, NUMBER 189.
5 WILLIE LEE RILEY.

6 (WHEREUPON, JUROR NUMBER 189, MR.
7 RILEY, APPROACHES THE BENCH AT THIS TIME.)

8 THE COURT: WHAT HIS NUMBER AGAIN?

9 THE CLERK: NUMBER 189.

10 THE COURT: HOW ARE YOU DOING?

11 THE JUROR: I'M STILL UNDER DOCTOR'S CARE AND I'M
12 TAKING MEDICATION. I DON'T KNOW IF I CAN SIT ON THE JURY.
13 I HAVE -- PLUS I CAN'T READ.

14 THE COURT: HOW FAR DID YOU GO IN SCHOOL?

15 THE JUROR: TENTH GRADE.

16 THE COURT: CAN YOU READ THE NEWSPAPER?

17 THE JUROR: NO, MY WIFE. I LOOK AT THE
18 NEWSPAPER, BUT I DON'T READ IT. I WATCH THE NEWS EVERYDAY.

19 THE COURT: WHAT KIND OF WORK DO YOU DO?

20 THE JUROR: I DO CARPENTRY WORK. I'M UNDER A
21 DOCTOR, I'M TOTALLY DISABLED.

22 THE COURT: OKAY. TELL ME ABOUT YOUR -- ARE YOU
23 RECEIVING SOCIAL SECURITY?

24 THE JUROR: NOT YET.

25 THE COURT: HAVE YOU APPLIED FOR IT?

1 THE JUROR: I APPLIED FOR IT. I'VE GOT A
2 NUMBNESS IN MY FINGERS.

3 THE COURT: WHO IS YOUR DOCTOR?

4 THE JUROR: DR. MOCOVITCH(PHONETICALLY).

5 THE COURT: DR. MOCOVITCH.

6 AND WHAT KIND OF MEDICATION DO YOU TAKE?

7 THE JUROR: I TAKE 90 MILLIGRAMS OF
8 PERCARDIS(PHONETICALLY) AND I WAS ON -- I WAS ON -- I
9 FORGOT THE NAME OF IT. I'M ON THREE DIFFERENT MEDICATIONS.

10 THE COURT: AND WHEN YOU TAKE THESE, DO THEY HAVE
11 ANY AFFECT ON YOU?

12 THE JUROR: YES.

13 THE COURT: WHAT?

14 THE JUROR: AT FIRST, LIKE I TAKE IT IN THE
15 MORNING, I'LL BE HIGH UNTIL ABOUT ONE OR TWO O'CLOCK IN THE
16 DAY. I GOT ONE THAT CONTROLS THE BLOOD PRESSURE. I'VE
17 BEEN TO THE EMERGENCY ROOM THREE TIMES AND MY BLOOD
18 PRESSURE WAS 204.

19 THE COURT: OKAY. CAN I HAVE THIS COPY?

20 THE CLERK: YES, SIR.

21 THE COURT: THANK YOU VERY MUCH. JUST HAVE YOUR
22 SEAT AND I'LL BE BACK WITH YOU IN JUST A MINUTE.

23 (WHEREUPON, THE JUROR RETURNS TO
24 THE COURTROOM AT THIS TIME.)

25 THE BAILIFF: NUMBER 219, YOUR HONOR.

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THE CLERK: THIS IS LALCHAND TAHILIANI.

(WHEREUPON, JUROR 219, MR.

TAHILIANI, APPROACHES THE BENCH AT THIS TIME.)

THE JUROR: TAHILIANI, YES.

THE COURT: JUST ONE MOMENT, PLEASE, SIR. LET ME
MAKE SURE I GET IT SPELLED RIGHT. T-A-H-I-L-I-A-N-I.

THE JUROR: YES, SIR.

THE COURT: YES, SIR.

THE JUROR: THIS IS A QUESTION OF TRANSPORTATION.
I'M NOT ALLOWED TO DRIVE. I HAVE SEIZURES. I'M SUSPENDED
FOR SIX MONTHS. I CAN'T DRIVE. I WAS TOLD THAT I COULD
REQUEST TRANSPORTATION.

THE COURT: ARE YOU REGISTERED TO VOTE?

THE JUROR: YES.

THE COURT: WHAT KIND OF SEIZURES DO YOU HAVE?

THE JUROR: EPILEPSY.

THE COURT: OKAY. AND IS THAT CONTROLLED BY
MEDICATION?

THE JUROR: YES.

THE COURT: HOW OFTEN DO YOU TAKE YOUR
MEDICATIONS?

THE JUROR: DAILY.

THE COURT: ONCE A DAY?

THE JUROR: YES.

THE COURT: IN THE MORNING OR AT NIGHT?

1 THE JUROR: AT NIGHT.

2 THE COURT: OTHER THAN THAT, IS THERE ANYTHING
3 THAT INCREASES YOUR SEIZURES---

4 THE JUROR: NO.

5 THE COURT: ---THAT YOU KNOW OF?

6 THE JUROR: NO. I'M WORKING.

7 THE COURT: WHERE DO YOU WORK?

8 THE JUROR: N.C.R.

9 THE COURT: ALL RIGHT. I APPRECIATE YOU TELLING
10 ME ABOUT THAT. TRANSPORTATION WE CAN ARRANGE THAT.

11 THE JUROR: OKAY.

12 THE COURT: THANK YOU, MR. TAHILIANI.

13 (WHEREUPON, THE JUROR RETURNS TO
14 THE COURTROOM AT THIS TIME.)

15 THE BAILIFF: NUMBER 149, YOUR HONOR.

16 (WHEREUPON, JUROR NUMBER 149, MS.
17 MARTIN, APPROACHES THE BENCH AT THIS TIME.)

18 THE CLERK: MS. MARGARET MARTIN.

19 THE COURT: TELL ME ABOUT YOUR CONDITION, MS.
20 MARTIN.

21 THE JUROR: I HAVE RHEUMATOID ARTHRITIS AND I'VE
22 GOT A REAL NERVOUS PROBLEM. I HAD TO GO TO THE DOCTOR
23 FRIDAY AND HE GAVE ME SOME NERVE PILLS. AND HE DIDN'T
24 THINK I WOULD BE ABLE TO STAND UP OR SIT -- I CAN'T STAND
25 UP VERY LONG AT A TIME.

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1 THE COURT: CAN I KEEP THIS?

2 THE JUROR: SURE.

3 THE COURT: OKAY. YOU JUST TAKE YOUR SEAT AND

4 I'LL BE BACK WITH YOU IN JUST A FEW MINUTES.

5 THE JUROR: SURE.

6 THE COURT: THANK YOU, MA'AM.

7 (WHEREUPON, THE JUROR RETURNS TO

8 THE COURTROOM AT THIS TIME.)

9 THE BAILIFF: NUMBER 40, YOUR HONOR.

10 (WHEREUPON, JUROR NUMBER 40, MR.

11 BUNDRICK, APPROACHES THE BENCH AT THIS TIME.)

12 THE CLERK: DAVID BUNDRICK.

13 THE COURT: ALL RIGHT, MR. BUNDRICK.

14 THE JUROR: I HAVE EYE SURGERY SCHEDULED FOR

15 TOMORROW IN RICHLAND COUNTY. THEY'RE GOING TO DO LASER

16 RK---

17 THE COURT: YOU'RE GOING TO QUIT WEARING THOSE

18 GLASSES?

19 THE JUROR: YES, SIR.

20 THE COURT: I WANT TO KNOW HOW IT DOES.

21 THE JUROR: WELL, I'M REAL NERVOUS ABOUT IT.

22 THE COURT: ARE THEY GOING TO DO ONE EYE AT A

23 TIME?

24 THE JUROR: YES, SIR.

25 THE COURT: LET ME SEE WHAT YOU'VE GOT.

1 THE JUROR: SHE GAVE ME -- IT ACTUALLY SAYS I'VE
2 BEEN THERE. IT'S AN EXCUSE.

3 THE COURT: WHAT TIME IS IT SCHEDULED TOMORROW?

4 THE JUROR: I'VE GOT TO BE THERE AROUND TWO
5 SOMETHING. THEY SAID I COULD POSSIBLY BE OUT WEDNESDAY AS
6 WELL DEPENDING ON HOW IT GOES. SO PART OF TOMORROW.

7 I GUESS, IN ADDITION, SO, I WON'T HAVE TO GET UP
8 AGAIN. DEPENDING ON WHAT YOU SAY. I SENT IN -- I WAS IN
9 THIS COURT BEFORE AS A VICTIM OF A CRIME.

10 THE COURT: WHAT WAS THAT?

11 THE JUROR: MY CHILDREN WERE SEXUALLY MOLESTED.
12 IT'S THE SAME FORUM, ABOUT THIS SAME TIME, FOUR YEARS AGO.

13 THE COURT: THAT CASE HAS ENDED NOW AS FAR AS THE
14 TRIAL---

15 THE JUROR: YES. HE'S OUT OF JAIL ALREADY.

16 THE COURT: ALL RIGHT. LET ME DO THIS. CAN I
17 HANG ONTO THIS?

18 THE JUROR: YES.

19 THE COURT: IF YOU'LL JUST RESUME YOUR SEAT, I'LL
20 GET BACK TO YOU IN JUST A MINUTE, OKAY. I'LL DEAL WITH ALL
21 OF THESE AT ONE TIME.

22 THANK YOU.

23 THE JUROR: THANK YOU.

24 (WHEREUPON, THE JUROR RETURNS TO
25 THE COURTROOM AT THIS TIME.)

1 THE BAILIFF: 220, YOUR HONOR.
2 THE CLERK: MR. EDWARD TAYLOR.
3 THE JUROR: YES, MA'AM.
4 (WHEREUPON, JUROR NUMBER 220, MR.
5 TAYLOR, APPROACHES THE BENCH AT THIS TIME.)
6 THE COURT: ALL RIGHT, MR. TAYLOR.
7 THE JUROR: I HAVE PROBLEMS SITTING FOR LONG
8 PERIODS OF TIME BECAUSE OF MY BACK. I GO TO A
9 CHIROPRACTOR.
10 THE COURT: DO YOU WORK?
11 THE JUROR: YES, SIR.
12 THE COURT: WHAT KIND OF WORK DO YOU DO?
13 THE JUROR: CONSTRUCTION WORK.
14 THE COURT: YOU SAY YOU HAVE A PROBLEM SITTING
15 LONG PERIODS OF TIMES?
16 THE JUROR: YES, SIR, I WEAR A BRACE.
17 THE COURT: HOW OFTEN DO YOU GO TO THE
18 CHIROPRACTOR?
19 THE JUROR: ONCE A WEEK. THAT'S JUST SHORT
20 PERIODS OF TIME WITH MY BACK.
21 THE COURT: IF YOU STAND UP FOR AWHILE AND THEN
22 SIT DOWN, IS THAT---
23 THE JUROR: I'M ALL RIGHT.
24 THE COURT: IF YOU SIT FOR, SAY AN HOUR OR SO AND
25 THEN TAKE A BREAK, WOULD THAT HELP YOU?

1 THE JUROR: THAT WOULDN'T BE TOO BAD.

2 THE COURT: RESUME YOUR SEAT AND I'LL GET BACK
3 WITH YOU IN JUST A MINUTE.

4 THANK YOU VERY MUCH, MR. TAYLOR.

5 (WHEREUPON, THE JUROR RETURNS TO
6 THE COURTROOM AT THIS TIME.)

7 THE BAILIFF: NUMBER THREE, YOUR HONOR.

8 (WHEREUPON, JUROR NUMBER THREE,
9 MS. AIKEN, APPROACHES THE BENCH AT THIS TIME.)

10 THE JUROR: HI, HOW ARE YOU?

11 THE COURT: I'M FINE. HOW ARE YOU?

12 THE CLERK: THIS IS MS. GLORIA AIKEN.

13 THE COURT: ALL RIGHT, MS. AIKEN, TELL ME.

14 THE JUROR: I HAVE HIGH BLOOD PROBLEMS.

15 SOMETIMES IT GETS SO HIGH, I PASSES OUT SOMETIMES.

16 THE COURT: DO YOU TAKE MEDICATION FOR IT?

17 THE JUROR: YES, SIR.

18 THE COURT: EVEN WITH YOUR MEDICATION, DO YOU
19 HAVE THIS PROBLEM WITH PASSING OUT?

20 THE JUROR: SOMETIME I TAKE IT AND THEN WHEN I
21 GET REAL UPSET, YOU KNOW, THE MEDICINE DON'T DO ANY GOOD.

22 THE COURT: WHERE DO YOU WORK?

23 THE JUROR: RIKARD NURSING HOME. SOMETIMES THE
24 DOCTORS HAVE TO MONITOR IT.

25 THE COURT: WHAT KIND OF MEDICATION DO YOU TAKE?

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1 THE JUROR: I HAVE IT OUT IN THE CAR.

2 THE COURT: YOU CAN'T REMEMBER THE NAME OF IT?

3 THE JUROR: NO, SIR.

4 THE COURT: THAT'S OKAY. ALL RIGHT. IF YOU

5 WOULD JUST RESUME YOUR SEAT.

6 (WHEREUPON, THE JUROR RETURNS TO

7 THE COURTROOM AT THIS TIME.)

8 THE COURT: LET ME SEE THE LAWYERS UP HERE,

9 PLEASE.

10 (WHEREUPON, THE ATTORNEYS APPROACH

11 THE BENCH AT THIS TIME.)

12 THE COURT: ALL RIGHT. JUROR NUMBER 192, MR.

13 ROGERS, HAS A BABY DUE ON SEPTEMBER 20TH.

14 MR. HUMPHRIES: I SUPPOSED THAT WOULD COME---

15 THE COURT: HIS WIFE HAS DILATED NOW I THINK HE

16 TOLD ME -- OR HIS FIANCE. IT'S NOT HIS WIFE.

17 MR. HUMPHRIES: THAT'S 192.

18 THE COURT: UH-HUH. SO I'M GOING TO EXCUSE HIM.

19 THE LAST THING WE NEED IS TO HAVE A BABY ARRIVE IN THE

20 MIDDLE OF THE TRIAL.

21 NUMBER 75, MR. DUFFY, HE CAME FORWARD. THE

22 REASONS IN ACCORDANCE WITH REVELATIONS 18:4 THAT HE IS

23 UNABLE TO ADHERE TO THE THINGS THAT IN THIS WORLD AND AS A

24 RESULT OF THAT, HE IS UNABLE TO APPLY THE LAW TO CERTAIN

25 INSTANCES IF IT'S IN CONFLICT WITH GOD'S LAW. THAT HE WAS

1 A CONSCIENTIOUS OBJECTOR HONORABLY DISCHARGED FROM THE
2 SERVICE AND HE HAS PAPERS TO PROVE THAT.

3 HIS WIFE ALSO IS A RECEPTIONIST AT THE FIRM OF
4 JOHNSON AND JOHNSON IN COLUMBIA AND THAT THEY DISCUSS
5 THINGS VERY FREQUENTLY AS TO THINGS GOING ON THAT ARE
6 BUSINESS.

7 ONE PARTICULAR PROBLEM IS THAT HIS RELIGION, HIS
8 SABBATH IS FROM SUNSET FRIDAY TO SUNSET SATURDAY. HE'S A
9 SEVENTH DAY ADVENTIST AND THAT HE OBSERVES THAT. HE WOULD
10 NOT SERVE AS A JUROR OR WOULD NOT BE ABLE TO SERVE AS A
11 JUROR.

12 196, MR. RYLES HAS A THIRD GRADE EDUCATION AND
13 CANNOT READ AND WRITE. CANNOT EVEN READ THE NEWSPAPER. HE
14 ALSO HAS HIGH BLOOD PRESSURE AND A NERVOUS CONDITION. I'M
15 GOING TO EXCUSE HIM ON HIS EDUCATION.

16 MR. HUMPHRIES: ON MR. DUFFY, ARE YOU GOING TO
17 EXCUSE HIM?

18 THE COURT: I HAVEN'T DECIDED, BUT THE MORE I
19 THINK ABOUT EXCUSING HIM BECAUSE I JUST CAN'T SEE, YOU
20 KNOW, FROM WHAT HE'S TOLD ME. IF YOU WANT ME TO BRING HIM
21 BACK UP HERE AND DISCUSS ANYTHING FURTHER, I'LL BE GLAD TO.
22 THAT WAS BASICALLY THE CONVERSATION THAT I HAD WITH HIM.

23 JUROR NUMBER 189, MR. RILEY. HE HAS A TENTH
24 GRADE EDUCATION BUT CANNOT READ. HE -- HIS OCCUPATION WAS
25 A CARPENTER BUT HE IS TOTALLY DISABLED DUE TO CHRONIC BACK

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1 PAIN AND I'VE SEEN HIS PAPERWORK. HE HAS ACCELERATED
2 HYPERTENSION. HE IS TREATED NOW WITH THREE MEDICATIONS FOR
3 HIS BACK PAIN AS WELL AS HIS HYPERTENSION SEEMS TO BE ONE
4 OF HIS GREAT PROBLEMS ALONG WITH HIS BACK PAIN AND HE SAYS
5 THAT WHEN HE TAKES HIS BLOOD PRESSURE MEDICATION THAT HE IS
6 KIND OF ON A HIGH FOR THE FIRST PART OF THE MORNING AND
7 KIND OF BOTTOMS OUT DURING THE DAY AND SOMETIMES HE HAS
8 EMERGENCY ROOM TREATMENT. SO, I'M GOING TO EXCUSE HIM.

9 MR. HUMPHRIES: HE SOUNDS A LOT LIKE DUFFIE.

10 THE COURT: JUROR NUMBER 219, MR. TAHILIANI. HE
11 WANTED US TO KNOW HE SUFFERS FROM SEIZURES. EPILEPTIC
12 SEIZURES THAT ARE CONTROLLED BY MEDICATION. HE CANNOT
13 DRIVE SO TRANSPORTATION IS A PROBLEM.

14 I ASKED HIM IF THERE WAS ANYTHING THAT WOULD
15 INCREASE HIS SEIZURE. HE SAID HE WORKS FOR N.C.R. AND
16 FULLY CAPABLE OF WORKING. THAT HE JUST HAD HIS LICENSE
17 SUSPENDED BECAUSE OF HIS MEDICAL CONDITION AND THAT'S THE
18 REASON FOR THE MEDICATION. HE DOES NOT WANT TO BE EXCUSED.
19 HE JUST WANTED ME TO KNOW THAT.

20 THE COURT: JUROR NUMBER 149, MS. MARTIN. YOU
21 SAW HER WALK UP HERE. SHE HAS RHEUMATOID ARTHRITIS AND A
22 NERVOUS CONDITION. I HAVE A NOTE FROM HER DOCTOR ASKING
23 HER NOT BE REQUIRED TO SERVE AND I'M GOING TO EXCUSE HER.

24 THE COURT: MR. BUNDRICK, NUMBER 40 HAS TWO
25 PROBLEMS. HE HAS EYE SURGERY SCHEDULED FOR SEPTEMBER 16TH,

1 BUT HE ALSO -- HE BECAME VERY EMOTIONAL UP HERE. HE WAS --
2 HIS CHILDREN WERE THE VICTIMS OF A CHILD MOLESTATION CASE
3 FOUR YEARS AGO. HE SAID IT WAS ALMOST AT THIS TIME FOUR
4 YEARS AGO AND I'M GOING TO EXCUSE HIM. I'M NOT GOING TO
5 PUT HIM THROUGH THAT AND NOT TO RESCHEDULE HIS EYE SURGERY.

6 MR. TAYLOR, NUMBER 220, WEARS A BRACE FOR HIS
7 BACK. HE SAYS HIS BACK IS BOTHERING HIM RIGHT NOW. HE
8 GOES TO THE CHIROPRACTOR ONCE A WEEK. HE SAYS AS LONG AS
9 HE'S BEEN SITTING RIGHT NOW THAT IT CAUSES HIM PROBLEMS. I
10 ASKED HIM IF HE STOOD, YOU KNOW, THAT HELPS, BUT AS MUCH
11 SITTING AS WE DO IN HERE, I'M GOING TO EXCUSE HIM.

12 NUMBER THREE, MS. AIKEN, HAS HIGH BLOOD PRESSURE.
13 ALTHOUGH SHE WORKS AT THE RIKARD NURSING HOME, WHEN SHE
14 GETS UNDER STRESS SHE PASSES OUT AND SHE HAS TO BE
15 MONITORED BY HER DOCTOR TO GET HER REGULATED ON OCCASION.
16 I'M GOING TO EXCUSE HER.

17 NOW, DO YOU WANT ME TO TALK FURTHER TO MR. DUFFY?

18 MR. STONE: PERSONALLY I WOULD LIKE A SHOT AT HIM
19 IN THE NORMAL COURSE.

20 MS. FULLWOOD: SOME---

21 THE COURT: WELL, THE ONLY PROBLEM, WE'RE NOT
22 GOING TO OBSERVE SUNSET FRIDAY UNTIL SUNSET SATURDAY. YOU
23 KNOW, IF WE GET INTO THAT, THEN I'LL EXCUSE HIM FOR THAT
24 REASON.

25 (WHEREUPON, THE BENCH CONFERENCE

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WAS CONCLUDED AT THIS TIME.)

2 THE COURT: ALL RIGHT.

3 JUROR NUMBER 192, MR. ROGERS; JUROR NUMBER 196,
4 MR. RYLES; JUROR NUMBER 189, MR. RILEY; JUROR NUMBER 149,
5 MS. MARTIN; JUROR NUMBER 40, MR. BUNDRICK; JUROR NUMBER
6 220, MR. TAYLOR; AND JUROR NUMBER THREE, MS. AIKEN, YOU ARE
7 EXCUSED PURSUANT TO SECTION 14-7-810.

8 THANK YOU VERY MUCH FOR BEING HERE.

9 (WHEREUPON, COURT'S EXHIBIT NUMBER
10 ONE, JUROR EXCUSALS, MARKED FOR THE RECORD AT THIS TIME.)

11 THE COURT: NOW, THE FOLLOWING QUESTIONS, LADIES
12 AND GENTLEMEN, REPRESENT EXEMPTIONS WHERE YOU MAY CHOOSE
13 NOT TO SERVE IF THESE PARTICULAR QUESTIONS DO APPLY TO YOU.

14 IS THERE ANY MEMBER OF THE PANEL WHO IS MORE THAN
15 65-YEARS-OF-AGE AND DOES NOT DESIRE TO SERVE AS A JUROR
16 THIS WEEK? IF YOU ARE MORE THAN 65, I WOULD ENCOURAGE YOU
17 TO REMAIN WITH US BECAUSE YOU CAN LEND A GREAT DEAL OF
18 EXPERIENCE TO THIS PROCESS. BUT ARE THERE ANY MEMBERS OF
19 THE PANEL WHO ARE MORE THAN 65-YEARS-OF-AGE WHO DESIRE TO
20 BE EXCUSED; IF SO, PLEASE STAND?

21 (NO RESPONSE.)

22 THE COURT: FOR THOSE OF YOU WHO MIGHT BE IN THE
23 PANEL THAT ARE GREATER THAN 65, I THANK YOU VERY MUCH FOR
24 REMAINING WITH US.

25 ARE THERE ANY MEMBERS OF THE PANEL WHO HAVE

1 PREVIOUSLY SERVED AS JURORS DURING THE LAST THREE⁷ CALENDAR
2 YEARS? NOW, THAT WOULD BE A JUROR HERE IN CIRCUIT COURT.
3 NOT IN MAGISTRATE COURT, NOT IN CITY COURT, MUNICIPAL COURT
4 AND NOT IN FEDERAL COURT. IF THAT APPLIES TO YOU, I WANT
5 YOU TO PLEASE STAND?

6 (NO RESPONSE.)

7 THE COURT: NOW, WHEN YOU RECEIVED THE
8 INFORMATION FROM THE CLERK IN YOUR SUMMONS, YOU WERE GIVEN
9 INFORMATION WHICH SAID THAT IF YOU WERE A WOMAN WITH A
10 CHILD UNDER THE AGE OF SEVEN FOR WHOM YOU HAVE LEGAL
11 CUSTODY AND DUTY OF CARE THAT YOU WERE TO PROVIDE AN
12 AFFIDAVIT TO THE CLERK OF COURT.

13 ARE THERE ANY WOMEN WHO HAVE CHILDREN UNDER THE
14 AGE OF SEVEN FOR WHOM YOU HAVE LEGAL CUSTODY AND DUTY OF
15 CARE WHO HAVE NOT PROVIDED THAT AFFIDAVIT; IF SO, PLEASE
16 STAND?

17 (WHEREUPON, SEVERAL JURORS STAND
18 AT THIS TIME.)

19 THE COURT: ALL RIGHT. LADIES, PLEASE COME
20 FORWARD.

21 (WHEREUPON, THE FOLLOWING BENCH
22 CONFERENCE WAS HELD IN THE PRESENCE OF THE JURY VENIRE, BUT
23 OUT OF THE HEARING OF THE JURY VENIRE.)

24 THE CLERK: DOROTHY SILLS, NUMBER 209.

25 (WHEREUPON, JUROR NUMBER 209, MS.

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SILLS, APPROACHES THE BENCH AT THIS TIME.)

2 THE COURT: HOW ARE YOU, MS. SILLS?

3 THE JUROR: FINE.

4 THE COURT: HOW OLD ARE YOUR CHILDREN?

5 THE JUROR: THREE AND FOURTEEN---

6 THE COURT: THREE AND FOURTEEN. AND DO YOU WORK
7 OUTSIDE THE HOME?

8 THE JUROR: YES, I DO.

9 THE COURT: OKAY. WHERE DO YOU WORK?

10 THE JUROR: DOZIER, D-O-Z-I-E-R, PAINT AND BODY
11 SHOP IN BATESBURG.

12 THE COURT: OKAY. AND IS THERE ANYONE WHO CARES
13 FOR YOUR CHILDREN WHEN YOU ARE NOT THERE?

14 THE JUROR: YES. THERE'S A DAY-CARE CENTER THAT
15 I HAVE TO PICK THEM UP FROM.

16 THE COURT: WHAT TIME DO YOU PICK THEM UP THERE?

17 THE JUROR: FIVE O'CLOCK.

18 THE COURT: OKAY. AND THERE IS NO ONE ELSE TO
19 CARE FOR THE CHILDREN?

20 THE JUROR: NO, NO.

21 THE COURT: IF YOU WOULD PLEASE RESUME YOUR SEAT.
22 THANK YOU, MA'AM.

23 THE JUROR: CAN I ASK YOU A QUESTION?

24 THE COURT: SURE.

25 THE JUROR: MY EMPLOYER WILL NOT PAY WHILE I'M

1 HERE AND IT'S GOING TO BE A REAL HARDSHIP.

2 THE COURT: ALL RIGHT. THANK YOU, MA'AM. I
3 APPRECIATE THAT.

4 (WHEREUPON, THE JUROR RETURNS TO
5 THE COURTROOM AT THIS TIME.)

6 THE BAILIFF: NUMBER 155, YOUR HONOR..

7 THE CLERK: KELLY MCIVER.

8 (WHEREUPON, JUROR NUMBER 155, MS.
9 MCIVER, APPROACHES THE BENCH AT THIS TIME.)

10 THE COURT: HI, MS. MCIVER. HOW ARE YOU?

11 THE JUROR: FINE. HOW ARE YOU?

12 THE COURT: HOW OLD ARE YOUR CHILDREN?

13 THE JUROR: THREE AND A HALF AND THREE MONTHS.

14 THE COURT: AND DO YOU WORK OUTSIDE THE HOME?

15 THE JUROR: NO, I DON'T. I STAY HOME WITH MY
16 CHILDREN.

17 THE COURT: ALL RIGHT. WHO HAS YOUR
18 THREE-MONTH-OLD AND YOUR THREE-AND-A-HALF-YEAR-OLD THIS
19 MORNING?

20 THE JUROR: A FRIEND HAS THEM TODAY, BUT IF I
21 HAVE TO CONTINUE TO COME, I WILL HAVE TO PUT THEM IN
22 DAY-CARE. I DO HAVE SOMEONE TO WATCH THEM BUT I'LL HAVE TO
23 PAY TWENTY DOLLARS A DAY.

24 THE COURT: IF YOU'LL RESUME YOUR SEAT, I
25 BELIEVE, I CAN TAKE CARE OF YOU.

0178

1 (WHEREUPON, THE JUROR RETURNS TO
2 THE COURTROOM AT THIS TIME.)

3 THE COURT: LET ME SEE THE LAWYERS UP HERE.

4 (WHEREUPON, THE ATTORNEYS APPROACH
5 THE BENCH AT THIS TIME.)

6 THE COURT: JUROR NUMBER 209, SHE HAS A
7 THREE-YEAR-OLD AND WHILE SHE IS EMPLOYED OUTSIDE THE HOME,
8 SHE HAS TO PICK HER CHILDREN UP BY 5:00 P.M. AND THERE IS
9 NO ONE ELSE TO CARE FOR THE CHILDREN. SHE IS ALSO NOT PAID
10 BY HER EMPLOYER FOR JURY SERVICE. SO I'LL GOING TO EXCUSE
11 HER.

12 NUMBER 155, MS. MCIVER, IS NOT EMPLOYED. SHE HAS
13 A THREE-AND-A-HALF-YEAR-OLD AND A THREE-MONTH-OLD. SO SHE
14 IS GOING TO BE EXCUSED.

15 MR. STONE: YES, SIR.

16 (WHEREUPON, THE BENCH CONFERENCE
17 WAS CONCLUDED AT THIS TIME.)

18 THE COURT: ALL RIGHT. JUROR NUMBER 209, MS.
19 SILLS, AND NUMBER 155, MS. MCIVER, ARE EXCUSED PURSUANT TO
20 SECTION 14-7-860, AS THEY HAVE CHILDREN UNDER THE AGE OF
21 SEVEN FOR WHOM THEY HAVE LEGAL CUSTODY AND DUTY OF CARE.

22 THANK YOU, LADIES.

23 THE COURT: ARE THERE ANY FULL-TIME STUDENTS WHO
24 -- OR SCHOOL PERSONNEL WHO DESIRE TO BE TRANSFERRED TO A
25 DATE THAT DOES NOT CONFLICT WITH THEIR SCHOOL SCHEDULE? IF

1 THAT APPLIES TO YOU, I WANT YOU TO PLEASE STAND.

2 (WHEREUPON, SEVERAL JURORS STAND
3 AT THIS TIME.)

4 THE COURT: COME ON UP, LADIES

5 (WHEREUPON, THE FOLLOWING BENCH
6 CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE
7 JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

8 THE CLERK: MS. MCGEE, KAREN H. MCGEE, NUMBER
9 153.

10 (WHEREUPON, JUROR NUMBER 153, MS.
11 MCGEE, APPROACHES THE BENCH AT THIS TIME.)

12 THE COURT: OKAY, MS. MCGEE, TELL ME ABOUT YOUR
13 SITUATION.

14 THE JUROR: I'M A CLINICAL ASSISTANT AT THE
15 COLLEGE OF PHARMACY AND I HAVE NEW STUDENTS EVERY FOUR
16 WEEKS. THIS IS THEIR FIRST WEEK. IT WOULD BE HARD EXCEPT
17 IN THE SUMMER.

18 THE COURT: OKAY. WELL, WE'LL HAVE TO TRANSFER
19 HER TO THE SUMMER THEN.

20 I'M GOING TO ASK YOU TO SIT DOWN BECAUSE I HAVE
21 TO RUN THIS BY THE LAWYERS---

22 THE JUROR: OKAY.

23 THE COURT: ---SO THAT I HAVE IT PROPERLY IN THE
24 RECORD.

25 THE JUROR: OKAY.

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1 THE COURT: LET ME MAKE SURE I'VE GOT ALL THE
2 NOTES HERE. CLINICAL INSTRUCTOR IN THE COLLEGE OF
3 PHARMACY.

4 THE JUROR: YES, SIR.

5 THE COURT: OKAY.

6 THE JUROR: THANK YOU.

7 (WHEREUPON, THE JUROR RETURNS TO
8 THE COURTROOM AT THIS TIME.)

9 THE BAILIFF: NUMBER 222, YOUR HONOR.

10 (WHEREUPON, JUROR NUMBER 222, MS.
11 TAYLOR, APPROACHES THE BENCH AT THIS TIME.)

12 THE CLERK: RHONDA TAYLOR.

13 THE COURT: MS. TAYLOR, TELL ME ABOUT YOUR
14 SITUATION.

15 THE JUROR: I MANAGE THE CAFETERIA AT PELION
16 HIGH SCHOOL. I DO EVERYTHING FOR SEVEN HUNDRED KIDS. MOST
17 TEACHERS ONLY HAVE THIRTY.

18 THE COURT: WELL, YOU RUN THE MOST IMPORTANT PART
19 OF IT THEN AS FAR AS I'M CONCERNED.

20 THE JUROR: YOU BET.

21 THE COURT: AND THAT'S AT PELION?

22 THE JUROR: UH-HUH, PELION HIGH SCHOOL.

23 THE COURT: OKAY. IF YOU WILL RESUME YOUR SEAT,
24 I'LL GET BACK WITH YOU IN JUST A MINUTE.

25 THE JUROR: THANK YOU.

1 (WHEREUPON, THE JUROR RETURNS TO
2 THE COURTROOM AT THIS TIME.)

3 THE BAILIFF: NUMBER 63, YOUR HONOR.

4 (JUROR NUMBER 63, MS. CURTIS,
5 APPROACHES THE BENCH AT THIS TIME.)

6 THE COURT: GOOD MORNING.

7 THE JUROR: I WOULD VERY MUCH LIKE TO SERVE---

8 THE CLERK: JAN CURTIS.

9 THE COURT: MS. CURTIS, OKAY. YES, MA'AM.

10 THE JUROR: ---I WOULD VERY MUCH LIKE TO SERVE,
11 BUT I HAVE A QUESTION AS TO WHETHER IF I'M NOT CALLED
12 TODAY, WHETHER I WOULD BE ABLE TO GO INTO SCHOOL AND WORK
13 AND CHECK ON THINGS---

14 THE COURT: I'LL GET INTO THAT IN A LITTLE MORE
15 DETAIL. WHAT DO YOU DO, DO YOU TEACH?

16 THE JUROR: I TEACH SPECIAL ED.

17 THE COURT: IF YOU ARE NOT THERE, WHO HANDLES
18 YOUR RESPONSIBILITIES?

19 THE JUROR: I HAVE TWO INSTRUCTORIAL STUDENTS.

20 THE COURT: CAN THEY DO WHAT NEEDS TO BE DONE?

21 THE JUROR: I THINK SO, YES.

22 THE COURT: IF YOU HAD TO GIVE THEM INSTRUCTIONS
23 FOR SEVERAL DAYS, THEY COULD TAKE CARE OF THAT

24 THE JUROR: THEY SHOULD.

25 THE COURT: OKAY. WHEN WE GET THROUGH HERE, WE

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1 ARE GOING TO TAKE A BREAK RIGHT HERE IN JUST A MINUTE AND
2 I'VE GOT A LITTLE BIT MORE QUALIFICATION TO DO AND THEN
3 WE'LL BE BREAKING DOWN INTO SOME PANELS---

4 THE JUROR: UH-HUH.

5 THE COURT: ---AND IF YOU ARE NOT IN ONE OF THOSE
6 EARLY PANELS, YOU WILL BE ABLE TO GO ABOUT YOUR BUSINESS.

7 THE JUROR: OKAY. I JUST HAPPENED TO HAVE BEEN
8 OUT SEVERAL DAYS. I HAD A ROOT CANAL. I WENT THERE THIS
9 MORNING BEFORE I CAME HERE. I WOULDN'T EVEN THOUGHT TO
10 QUESTION IT. I'VE ALWAYS WANTED TO SERVE.

11 THE COURT: OKAY. WELL, I'M GOING TO LET YOU
12 STAY WITH US FOR RIGHT NOW---

13 THE JUROR: OKAY.

14 THE COURT: ---AND DURING THE QUESTION, IF ANY
15 SITUATION COMES UP, JUST LET ME KNOW.

16 THE JUROR: THANK YOU.

17 THE COURT: THANK YOU, MS. CURTIS.

18 (WHEREUPON, THE JUROR RETURNS TO
19 THE COURTROOM AT THIS TIME.)

20 THE COURT: LET ME SEE THE LAWYERS, PLEASE.

21 (WHEREUPON, THE ATTORNEYS APPROACH
22 THE BENCH AT THIS TIME.)

23 THE COURT: OKAY. MS. MCGEE, NUMBER 153, IS A
24 CLINICAL INSTRUCTOR AT THE COLLEGE OF PHARMACY AT U.S.C.
25 AND SHE GETS NEW STUDENTS EVERY FOUR WEEKS' ROTATION AND

1 SHE JUST GOT A NEW GROUP AND UNDER THE NEW AMENDMENT TO THE
2 STATUTE, SHE IS -- CAN EXERCISE HER RIGHT TO TRANSFER.
3 I'M GOING TO TRANSFER HER.

4 AND MS. TAYLOR, NUMBER 222, IS THE MANAGER OF THE
5 CAFETERIA AT PELION HIGH SCHOOL AND I'M GOING TO TRANSFER
6 HER ALSO.

7 AND MS. CURTIS, NUMBER 63, SHE IS A SPECIAL ED
8 TEACHER. SHE SAID WHAT SHE NEEDS TO DO IS IF SHE'S GOING
9 TO BE CHOSEN FOR JURY SERVICE, THAT SHE WILL NEED TO GO BY
10 HER SCHOOL AND GET THINGS LINED UP. SO WHAT I TOLD HER IS
11 AS WE GO THROUGH THE PROCESS, IF SHE HAS ANY QUESTION, TO
12 LET ME KNOW. SHE COULD SERVE IF SHE WANTED TO. SHE SAID
13 SHE WOULD LIKE TO STAY WITH US AND SERVE.

14 NORMALLY WHAT I WOULD DO IS FIRST ASK THE
15 QUESTION IF THERE IS ANYTHING ELSE. I'M NOT GOING TO DO
16 THAT BECAUSE WE ARE GOING TO BREAK THEM DOWN INTO PANELS
17 AND THAT WILL COME UP. I'M JUST GOING TO TELL THEM THAT WE
18 ARE GOING TO TAKE ABOUT A 15-MINUTE BREAK. WILL THAT GIVE
19 THEM ENOUGH TIME TO ALL GO TO THE BATHROOM?

20 THE CLERK: IT SHOULD.

21 THE COURT: OKAY. I'LL ASK THEM TO BE BACK IN
22 HERE ABOUT 11:30.

23 (WHEREUPON, THE BENCH CONFERENCE
24 WAS CONCLUDED AT THIS TIME.)

25 THE COURT: ALL RIGHT. JUROR NUMBER 153, MS.

0184

1 MCGEE; AND JUROR NUMBER 222, MS. TAYLOR, WILL BE
2 TRANSFERRED TO A LATER TERM OF COURT PURSUANT TO SECTION
3 14-7-845.

4 LADIES AND GENTLEMEN, WE ARE GOING TO TAKE A --
5 ABOUT A 15-MINUTE BREAK AT THIS TIME BECAUSE I HAVE SOME
6 FURTHER QUESTIONING TO GO OVER WITH YOU. I'M GOING TO ASK
7 THAT YOU BE BACK IN THE COURTROOM AT ELEVEN-THIRTY. PLEASE
8 REPORT DIRECTLY BACK TO WHERE YOU ARE AT ELEVEN-THIRTY.

9 THANK YOU VERY MUCH. AND WE'LL GET STARTED BACK
10 AT ELEVEN-THIRTY.

11 (RECESS.)

12 THE BAILIFF: ALL RISE.

13 THE COURT: THANK YOU VERY MUCH. PLEASE TAKE
14 YOUR SEATS.

15 THE CLERK: COME AROUND, PLEASE.

16 (WHEREUPON, THREE JURORS APPROACH
17 THE BENCH AT THIS TIME.)

18 THE COURT: GO AHEAD AND SWEAR THEM.

19 THE CLERK: RAISE YOUR RIGHT HAND.

20 (WHEREUPON, THE THREE JURORS WERE
21 FIRST DULY SWORN AT THIS TIME.)

22 THE CLERK: THIS ONE IS MR. GRAVES, NUMBER 99.

23 THE JUROR: YES, MA'AM.

24 THE CLERK: NUMBER 116, MR. HOWELL; AND NUMBER
25 141, MS. LEAPHART.

1 THE COURT: ALL RIGHT. ARE ALL OF Y'ALL
2 RESIDENTS OF LEXINGTON COUNTY?
3 THE JUROR: YES.
4 THE JUROR: YES, SIR.
5 THE JUROR: YES, SIR.
6 THE COURT: ALL RIGHT. ARE ALL OF YOU AT LEAST
7 18-YEARS-OF-AGE?
8 THE JUROR: YES, SIR.
9 THE JUROR: YES, SIR.
10 THE JUROR: YES, SIR.
11 THE COURT: AND ARE ANY OF YOU REGISTERED TO
12 VOTE.
13 THE JUROR: NO.
14 THE COURT: HAVE YOU GOT A DRIVERS LICENSE?
15 THE JUROR: I DO.
16 THE COURT: YOU DO?
17 THE JUROR: YES, SIR.
18 THE COURT: HAVE YOU GOT AN IDENTIFICATION CARD?
19 THE JUROR: YES.
20 THE COURT: THAT'S ALL I NEED TO KNOW.
21 IS THERE ANY MEMBER -- ANY OF Y'ALL WHO ARE
22 COUNTY -- WORK IN ANY OF THE COUNTY OFFICES LIKE THE CLERK
23 OF COURT, THE TREASURER'S OFFICE, ANYTHING LIKE THAT?
24 THE JUROR: NO.
25 THE JUROR: NO.

0186

1 THE COURT: WHERE DO YOU WORK?
2 THE JUROR: P.Y.A. MONARCH.
3 THE JUROR: BOBBY'S TOWING SERVICE.
4 THE JUROR: FIRST LOCK MANUFACTURING COMPANY.
5 THE COURT: FIRST WHAT?
6 THE JUROR: FIRST LOCK.
7 THE COURT: ANY OF YOU HAVE ANY TYPE OF STATE
8 CONSTABLE'S COMMISSION---
9 THE JUROR: NO, SIR.
10 THE JUROR: NO, SIR.
11 THE JUROR: NO, SIR.
12 THE COURT: ---WORK AS A RESERVE POLICE OFFICER?
13 THE JUROR: NO.
14 THE JUROR: NO.
15 THE JUROR: NO.
16 THE COURT: ANY OF YOU EVER BEEN CONVICTED OR
17 PLED GUILTY OF A CRIME PUNISHMENT BY IMPRISONMENT FOR MORE
18 THAN ONE YEAR?
19 THE JUROR: NO, SIR.
20 THE JUROR: NO, SIR.
21 THE JUROR: NO, SIR.
22 THE COURT: ANY PHYSICAL OR MENTAL INFIRMITIES
23 MIGHT CAUSE YOU TO BE UNABLE TO RENDER JURY SERVICE?
24 THE JUROR: NO, SIR.
25 THE JUROR: NO, SIR.

1 THE JUROR: NO, SIR.

2 THE COURT: OKAY. DO ANY OF YOU HAVE LESS THAN A
3 SIXTH GRADE EDUCATION OR ANY OF YOU UNABLE TO READ, WRITE,
4 SPEAK OR UNDERSTAND THE ENGLISH LANGUAGE?

5 THE JUROR: NO.

6 THE JUROR: NO.

7 THE JUROR: NO.

8 THE COURT: ANY OF YOU PREVIOUSLY SERVED AS A
9 JUROR HERE IN CIRCUIT COURT IN THE LAST THREE CALENDAR
10 YEARS?

11 THE JUROR: NO.

12 THE JUROR: NO.

13 THE JUROR: NO.

14 THE COURT: DO YOU HAVE ANY CHILDREN UNDER THE
15 AGE OF SEVEN?

16 THE JUROR: NO.

17 THE JUROR: I DO.

18 THE COURT: JUST WOMEN.

19 THE JUROR: OH.

20 THE CLERK: MR. HOWELL'S ADDRESS IS IN NORTH,
21 SOUTH CAROLINA. THAT IS NOT LEXINGTON COUNTY. HAVE YOU
22 MOVED?

23 THE JUROR: NO, BUT SEE, IT'S A NORTH ADDRESS,
24 BUT THE KIDS AND EVERYTHING GO TO LEXINGTON COUNTY SCHOOLS.

25 THE CLERK: OH, OKAY.

0188

1 THE COURT: ARE YOU -- IS NORTH PART OF LEXINGTON
2 COUNTY?
3 THE CLERK: UP THROUGH SWANSEA.
4 THE COURT: HOW FAR DID YOU HAVE TO COME?
5 THE JUROR: ABOUT THIRTY SOMETHING MILES.
6 THE CLERK: I'LL NEED TO GET YOUR MILEAGE FROM
7 EACH OF YOU.
8 THE COURT: ALL RIGHT. ANY OF YOU FULL-TIME
9 STUDENTS?
10 THE JUROR: NO.
11 THE JUROR: NO.
12 THE JUROR: NO.
13 THE COURT: OKAY. I BELIEVE THAT TAKES CARE OF
14 ALL OF Y'ALL. YOU CAN JUST HAVE A SEAT.
15 (WHEREUPON, THE THREE JURORS
16 RETURN TO THE COURTROOM AT THIS TIME.)
17 THE COURT: ALL RIGHT. LET ME POSE ONE
18 ADDITIONAL QUESTION TO YOU, LADIES AND GENTLEMEN.
19 IS THERE ANY MEMBER OF THE PANEL WHO IS UNABLE TO
20 READ, WRITE, SPEAK OR UNDERSTAND THE ENGLISH LANGUAGE OR IS
21 THERE ANY MEMBER OF THE PANEL WHO HAS LESS THAN A SIXTH
22 GRADE EDUCATION OR ITS EQUIVALENT? IF THAT APPLIES TO YOU,
23 I WANT YOU TO PLEASE STAND AND COME FORWARD.
24 (NO RESPONSE.)
25 THE COURT: NOW, IS THERE ANY MEMBER OF THE PANEL

1 WHO DID NOT RETURN THE QUESTIONNAIRE TO THE CLERK THAT YOU
2 RECEIVED IN THE MAIL ALONG WITH YOUR SUMMONS? IF YOU DID
3 NOT, I WANT YOU TO PLEASE STAND?

4 (WHEREUPON, A JUROR STANDS AT THIS
5 TIME.)

6 THE CLERK: WE HAVE ONE STANDING, YOUR HONOR.

7 THE COURT: YES, MA'AM, WHAT'S YOUR NAME?

8 THE JUROR: IRIS FAVOR.

9 THE CLERK: I'M SORRY, I DIDN'T GET THE NAME?

10 THE JUROR: IRIS FAVOR.

11 THE CLERK: WE DO HAVE A QUESTIONNAIRE FROM HER,
12 YOUR HONOR.

13 THE COURT: ALL RIGHT. WE DO HAVE A
14 QUESTIONNAIRE FROM YOU, MA'AM.

15 YES, SIR.

16 THE JUROR: DENNY KINARD.

17 THE COURT: I'M SORRY.

18 THE JUROR: DENNY KINARD.

19 THE COURT: MR. KINARD.

20 THE CLERK: NUMBER 134. WE DO HAVE A
21 QUESTIONNAIRE.

22 THE COURT: THANK YOU, SIR.

23 YES, SIR.

24 THE JUROR: JEFFREY HALL, NUMBER 103.

25 THE COURT: HALL.

0190

1 THE CLERK: WE DO HAVE A QUESTIONNAIRE.

2 THE COURT: ALL RIGHT. THANK YOU, SIR.

3 SOLICITOR, DO YOU HAVE THE INDICTMENTS IN THIS
4 CASE?

5 MR. HUMPHRIES: YES, SIR, YOUR HONOR, I DO.

6 THE COURT: ALL RIGHT. WOULD YOU PLEASE CALL
7 THE CASE THAT WE INTEND TO TRY THIS WEEK?

8 MR. HUMPHRIES: PLEASE THE COURT, YOUR HONOR.

9 THE STATE CALLS THE CASE OF THE STATE VERSUS
10 GARY DUBOSE TERRY, INDICTMENT NUMBER 95-GS-32-1670, AN
11 INDICTMENT FOR MURDER, BURGLARY IN THE FIRST DEGREE,
12 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND MALICIOUS
13 INJURY TO TELEPHONE SYSTEM. IT'S BEEN TRUE BILLED BY THE
14 GRAND JURY. THE STATE'S READY TO PROCEED TO TRIAL.

15 THE COURT: LADIES AND GENTLEMEN OF THE JURY,
16 PANEL AS THE SOLICITOR HAS INFORMED YOU, THIS IS A CASE IN
17 WHICH THE DEFENDANT, MR. GARY DUBOSE TERRY, IS CHARGED IN
18 COUNT ONE, THAT HE DID IN LEXINGTON COUNTY ON OR ABOUT MAY
19 30, 1994, WILLFULLY, FELONIOUSLY AND WITH MALICE
20 AFORETHOUGHT KILL THE VICTIM, URAI JACKSON, BY MEANS OF
21 STRIKING HER IN THE HEAD WITH A BLUNT OBJECT AND THAT THE
22 VICTIM DID DIE AS A PROXIMATE RESULT THEREOF IN LEXINGTON
23 COUNTY ON OR ABOUT MAY 30, 1994.

24 AND THEN COUNT TWO CHARGES THAT THE DEFENDANT DID
25 IN LEXINGTON COUNTY ON OR ABOUT MAY 30, 1994, COMMIT THE

1 CRIME OF BURGLARY IN THE FIRST DEGREE.

2 AND THEN COUNT THREE, THAT THE DEFENDANT, GARY
3 DUBOSE TERRY, DID IN LEXINGTON COUNTY ON OR ABOUT MAY 30,
4 1994, COMMIT THE CRIME OF CRIMINAL SEXUAL CONDUCT IN THE
5 FIRST DEGREE.

6 AND THEN COUNT FOUR CHARGES THE DEFENDANT, MR.
7 TERRY, THAT ON OR ABOUT MAY 30, 1994, MALICIOUSLY INJURED A
8 TELEPHONE SYSTEM.

9 LADIES AND GENTLEMEN OF THE JURY, I WANT YOU TO
10 KEEP IN MIND THAT THE INDICTMENT IS MERELY THE MECHANISM OR
11 VEHICLE BY WHICH A CASE IS BROUGHT INTO COURT AND IT IS NOT
12 IN ANY SENSE EVIDENCE OF ANY OF THE ALLEGATIONS THAT IT
13 CONTAINS.

14 IT IS THE BURDEN OF THE STATE OF SOUTH CAROLINA
15 TO PROVE BEYOND A REASONABLE DOUBT EACH AND EVERY ELEMENT
16 OF THE CRIME -- CRIMES THAT ARE ALLEGED TO HAVE BEEN
17 COMMITTED BY THE DEFENDANT.

18 THE DEFENDANT IN A CRIMINAL TRIAL HAS ABSOLUTELY
19 NO BURDEN TO PROVE HIMSELF INNOCENT. ONCE AGAIN, IT'S THE
20 BURDEN OF THE STATE TO PROVE BEYOND A REASONABLE DOUBT THE
21 DEFENDANT'S GUILT TO THE JURY.

22 NOW, THE STATE OF SOUTH CAROLINA IS REPRESENTED
23 IN THIS MATTER BY THE ELEVENTH JUDICIAL CIRCUIT SOLICITOR'S
24 OFFICE, IN PARTICULAR, SOLICITOR FRAN HUMPHRIES, ASSISTANT
25 SOLICITOR FRAN HUMPHRIES. IF YOU WOULD PLEASE STAND, SIR.

0192

1 (WHEREUPON, MR. HUMPHRIES STANDS
2 AND FACES THE JURY VENIRE AT THIS TIME.)

3 THE COURT: AND THE DEFENDANT, MR. TERRY, IS
4 REPRESENTED IN THIS MATTER BY ATTORNEY BETH FULLWOOD. MS.
5 FULLWOOD.

6 (WHEREUPON, MS. FULLWOOD STANDS
7 AND FACES THE JURY VENIRE AT THIS TIME.)

8 THE COURT: THANK YOU, MA'AM.

9 AND ATTORNEY DUFFIE STONE. MR. STONE.

10 (WHEREUPON, MR. STONE STANDS AND
11 FACES THE JURY VENIRE AT THIS TIME.)

12 THE COURT: NOW, LADIES AND GENTLEMEN OF THE
13 JURY, OF COURSE, THE JURY IN A CRIMINAL CASE ARE THE
14 FINDERS AND TRIERS OF FACT.

15 I, AS THE JUDGE OF THIS COURT, AM THE JUDGE OF
16 THE LAW AND WE HAVE SEPARATE AND DISTINCT RESPONSIBILITIES
17 WHICH WILL BE EXPLAINED TO YOU IN FURTHER DETAIL.

18 WE ARE GOING TO BE IMPANELING A JURY THAT IS
19 CAPABLE OF LISTENING TO THE TESTIMONY AND EVIDENCE TO BE
20 PRESENTED, ONE THAT IS CAPABLE OF DECIDING WHAT IS --
21 TESTIMONY AND EVIDENCE THAT IS TO BE BELIEVED, AND A JURY
22 THAT IS CAPABLE OF APPLYING THAT TESTIMONY AND EVIDENCE TO
23 THE LAW THAT I WILL INSTRUCT YOU AND THAT IS CAPABLE OF
24 RETURNING A FAIR VERDICT AND A RECOMMENDATION OF SENTENCE
25 IF APPROPRIATE.

1 NOW, A QUALIFIED JUROR IS ONE WHO WILL
2 CONSCIENTIOUSLY APPLY THE LAW AND FIND THE FACTS AND ONE
3 WHO IS CAPABLE OF RETURNING A VERDICT AND A RECOMMENDATION
4 OF SENTENCE BASED UPON THE EVIDENCE AND THE LAW AS IT'S
5 PRESENTED HERE IN THIS COURTROOM. AND A QUALIFIED JUROR IS
6 ONE WHO IS CAPABLE OF SETTING ASIDE HIS OR HER OPINIONS AND
7 DECIDING A MATTER BASED UPON THE LAW AND THE EVIDENCE.

8 NOW, LADIES AND GENTLEMEN, THIS IS A CASE IN
9 WHICH THE STATE OF SOUTH CAROLINA IS SEEKING THE DEATH
10 PENALTY AGAINST THE DEFENDANT, MR. TERRY, AND AS A RESULT,
11 THERE IS GOING TO BE A NUMBER OF QUESTIONS WHICH WILL BE
12 ASKED OF EACH OF YOU IN ADDITION TO THE ONES THAT I'M GOING
13 TO BE POSING.

14 NOW, IS THERE ANY MEMBER OF THE PANEL WHO IS
15 RELATED BY BLOOD OR MARRIAGE OR WHO HAS ANY CLOSE PERSONAL
16 OR SOCIAL RELATIONSHIP WITH MR. HUMPHRIES OR ANY MEMBER OF
17 THE ELEVENTH JUDICIAL CIRCUIT SOLICITOR'S OFFICE, IN
18 PARTICULAR, MR. DONNIE MYERS; IF SO, PLEASE, STAND?

19 (WHEREUPON, A JUROR STANDS AT THIS
20 TIME.)

21 THE COURT: YES, SIR. YOU ARE JUROR---

22 THE JUROR: 48.

23 THE JUROR: 127.

24 THE COURT: ALL RIGHT. GENTLEMEN, IF YOU WILL
25 PLEASE COME FORWARD DOWN HERE.

0194

1 LAWYERS MAY APPROACH.

2 (WHEREUPON, THE FOLLOWING BENCH

3 CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE

4 JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

5 THE COURT: 48 AND 127.

6 WHAT WAS HIS NAME AGAIN?

7 THE CLERK: BOBBY JOWERS.

8 (WHEREUPON, JUROR NUMBER 127, MR.

9 JOWERS, APPROACHES THE BENCH AT THIS TIME.)

10 THE COURT: MR. JOWERS, IS THAT CORRECT?

11 THE JUROR: YES, SIR.

12 THE COURT: ALL RIGHT. COULD YOU TELL ME WHO YOU

13 HAVE A CONNECTION WITH, MR. JOWERS.

14 THE JUROR: MY BROTHER OCCASIONALLY DOES WORK

15 WITH DONNIE MYERS.

16 THE COURT: OKAY. CAN YOU TELL WHAT HE DOES?

17 THE JUROR: I'M NOT REALLY SURE. HE IS A TEACHER

18 AT SWANSEA HIGH SCHOOL---

19 THE COURT: UH-HUH.

20 THE JUROR: ---AND, I BELIEVE, IT HAS SOMETHING

21 TO DO WITH -- HE'S NOT A MEDIATOR---

22 MR. HUMPHRIES: HE WORKS WITH THE JUVENILE

23 RESTITUTION -- I'M SORRY, JUVENILE ARBITRATION. HE'S A

24 VOLUNTEER, ARBITRATOR.

25 THE JUROR: THAT'S WHAT IT IS.

1 THE COURT: ALL RIGHT. THE FACT THAT YOUR
2 BROTHER HAS THIS CONNECTION WITH THAT OFFICE, WOULD THAT IN
3 ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND
4 IMPARTIAL VERDICT FOR EITHER THE STATE OR THE DEFENDANT
5 BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT YOU WOULD
6 HEAR PRODUCED IN THIS COURTROOM?

7 THE JUROR: NO, SIR.

8 THE COURT: ARE YOU IN ANY WAY BIASED OR
9 PREJUDICED AS A RESULT OF YOUR BROTHER'S ASSOCIATION WITH
10 THAT OFFICE?

11 THE JUROR: NO, SIR.

12 THE COURT: DO YOU HAVE ANY PERSONAL CONTACT WITH
13 THAT OFFICE OTHER THAN WHAT YOU'VE TOLD ME ABOUT YOUR
14 BROTHER?

15 THE JUROR: NO, SIR.

16 THE COURT: THANK YOU, SIR. YOU MAY RESUME YOUR
17 SEAT.

18 (WHEREUPON, THE JUROR RETURNS TO
19 THE COURTROOM AT THIS TIME.)

20 THE COURT: HE WAS NUMBER 127, MR. JOWERS.

21 THIS IS NUMBER 48, MR.---

22 THE CLERK: CHAMBERS.

23 (WHEREUPON, JUROR NUMBER 48, MR.
24 CHAMBERS, APPROACHES THE BENCH AT THIS TIME.)

25 THE COURT: MR. CHAMBERS?

0196

1 THE JUROR: YES, SIR.

2 THE COURT: TELL ME WHO YOU KNOW IN THE

3 SOLICITOR'S OFFICE.

4 THE JUROR: THIS MURDER HAPPENED AT MY PARENT'S

5 HOUSE.

6 THE COURT: OKAY.

7 THE JUROR: ALL RIGHT. HOW ABOUT IF YOU WOULD,

8 JUST HAVE A SEAT RIGHT OVER THERE IN ONE OF THOSE CHAIRS,

9 PLEASE, SIR.

10 (WHEREUPON, THE JUROR RETURNS TO

11 THE COURTROOM AT THIS TIME.)

12 THE BAILIFF: JUROR NUMBER 15.

13 (WHEREUPON, JUROR NUMBER 15, MS.

14 BAUER, APPROACHES THE BENCH AT THIS TIME)

15 THE COURT: MS. BAUER.

16 THE JUROR: I WORKED IN DONNIE'S POLITICAL

17 CAMPAIGN. I DIDN'T KNOW IF I SHOULD MENTION ANYTHING OR

18 NOT.

19 THE COURT: SURE. ALL RIGHT. THE FACT THAT YOU

20 HAVE WORKED IN HIS CAMPAIGNS IN THE PAST, WOULD THAT IN ANY

21 WAY INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND

22 IMPARTIAL VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED

23 SOLELY UPON THE TESTIMONY AND THE EVIDENCE YOU HEAR

24 PRODUCED IN THIS COURTROOM?

25 THE JUROR: NO, NOT AT ALL.

1 THE COURT: ARE YOU IN ANY WAY BIASED OR
2 PREJUDICED AS A RESULT OF YOUR PREVIOUS ASSOCIATION WITH
3 SOLICITOR MYERS OR ANY OF HIS STAFF?

4 THE JUROR: NO, NOT IN ANY WAY AT ALL.

5 THE COURT: THANK YOU, MA'AM. YOU MAY RESUME
6 YOUR SEAT.

7 (WHEREUPON, THE JUROR RETURNS TO
8 THE COURTROOM AT THIS TIME.)

9 (WHEREUPON, THE BENCH CONFERENCE
10 WAS CONCLUDED AT THIS TIME.)

11 THE COURT: ALL RIGHT. JUROR NUMBER 48, MR.
12 CHAMBERS, YOU ARE EXCUSED.

13 THANK YOU VERY MUCH FOR BEING HERE THIS MORNING.

14 THE COURT: NOW, IS THERE ANY MEMBER OF THE PANEL
15 THAT'S RELATED BY BLOOD OR MARRIAGE OR HAS ANY CLOSE
16 PERSONAL---

17 MR. STONE: YOUR HONOR?

18 THE COURT: YES, SIR.

19 MR. STONE: YOUR HONOR, MAY WE APPROACH BRIEFLY?

20 THE COURT: YES, SIR.

21 (WHEREUPON, A BENCH CONFERENCE WAS
22 HELD AT THIS TIME OFF THE RECORD.)

23 THE COURT: IS THERE ANY MEMBER OF THE PANEL WHO
24 IS RELATED BY BLOOD OR MARRIAGE OR HAS ANY CLOSE PERSONAL
25 OR SOCIAL RELATIONSHIP WITH EITHER ATTORNEY, BETH FULLWOOD

0198²

OR ATTORNEY DUFFIE STONE, WHO REPRESENT THE DEFENDANT, MR. TERRY; IF SO, PLEASE, STAND?

(NO RESPONSE.)

THE COURT: AND IS THERE ANY MEMBER OF THE PANEL WHO IS CURRENTLY REPRESENTED OR HAVE YOU BEEN REPRESENTED IN THE PAST BY MS. FULLWOOD, BY MR. STONE; IF SO, PLEASE, STAND?

(NO RESPONSE.)

THE COURT: NOW, WOULD THE DEFENDANT, GARY DUBOSE TERRY, PLEASE STAND AND FACE THE JURY?

(WHEREUPON, THE DEFENDANT STANDS AND FACES THE JURY VENIRE AT THIS TIME.)

THE COURT: THANK YOU VERY MUCH, SIR. YOU MAY BE SEATED.

THE COURT: ANY MEMBER OF THE PANEL RELATED BY BLOOD OR MARRIAGE OR DO YOU HAVE ANY CLOSE PERSONAL OR SOCIAL RELATIONSHIP WITH THE DEFENDANT, GARY DUBOSE TERRY; IF SO, PLEASE, STAND?

(NO RESPONSE.)

THE COURT: NOW, IS THERE ANY MEMBER OF THE PANEL WHO IS RELATED BY BLOOD OR MARRIAGE OR HAD ANY CLOSE PERSONAL OR SOCIAL RELATIONSHIP WITH THE VICTIM IN THIS CASE, URAI JACKSON; IF SO, PLEASE, STAND?

(NO RESPONSE.)

THE COURT: IS THERE ANY MEMBER OF THE PANEL WHO

199

1 IS RELATED BY BLOOD OR MARRIAGE OR WHO ENJOYS ANY PERSONAL
2 OR SOCIAL RELATIONSHIP WITH ANY LAW ENFORCEMENT OFFICER OR
3 WHETHER THAT BE CITY, COUNTY, STATE OR FEDERAL; IF SO,
4 PLEASE STAND?

5 (WHEREUPON, SEVERAL JURORS STAND
6 AT THIS TIME.)

7 THE COURT: OKAY. WHAT I'M GOING TO ASK YOU TO
8 DO, LADIES AND GENTLEMEN. I'M GOING TO GET YOU TO COME
9 FORWARD BECAUSE I'M GOING TO HAVE TO ASK YOU A COUPLE OF
10 QUESTIONS INDIVIDUALLY. SO IF YOU WOULD, PLEASE, COME AND
11 LINEUP HERE AT THE LECTERN AND THEN I'LL CONTINUE WITH THE
12 QUESTION.

13 THE CLERK: MR. CHAMBERS.

14 THE COURT: IF YOU WOULD PLEASE COME UP HERE,
15 SIR.

16 (WHEREUPON, JUROR CHAMBERS IS
17 TAKEN TO THE GRAND JURY ROOM AT THIS TIME.)

18 (WHEREUPON, THE FOLLOWING BENCH
19 CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE
20 JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

21 THE BAILIFF: NUMBER 124.

22 THE COURT: LAWYERS, CAN APPROACH.

23 (WHEREUPON, THE ATTORNEYS APPROACH
24 THE BENCH AT THIS TIME.)

25 (JUROR NUMBER 124, MS. JONES,

0200

1 APPROACHES THE BENCH AT THIS TIME.)

2 THE CLERK: JUROR NUMBER 124, MS. JONES.

3 THE JUROR: YES.

4 THE COURT: THANK YOU, MA'AM.

5 ALL RIGHT. MS. JONES, I ASKED YOU IF YOU HAD ANY

6 CONNECTION WITH ANY LAW ENFORCEMENT. COULD YOU TELL ME WHO

7 THAT IS?

8 THE JUROR: TWO NEPHEWS.

9 THE COURT: OKAY. AND WHO DO THEY WORK FOR?

10 THE JUROR: COUNTY POLICE DEPARTMENT AND THE

11 SHERIFF'S DEPARTMENT IN TENNESSEE.

12 THE COURT: OKAY. THE FACT THAT THEY ARE

13 ASSOCIATED WITH LAW ENFORCEMENT, WOULD THAT IN ANY WAY

14 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL

15 VERDICT FOR EITHER THE STATE OR THE DEFENDANT BASED SOLELY

16 UPON THE TESTIMONY AND EVIDENCE YOU WILL HEAR IN THIS

17 COURTROOM?

18 THE JUROR: NO, SIR.

19 THE COURT: THANK YOU, MA'AM. YOU MAY RETURN TO

20 YOUR SEAT.

21 (WHEREUPON, THE JUROR RETURNS TO

22 THE COURTROOM AT THIS TIME.)

23 THE BAILIFF: NUMBER 43, YOUR HONOR.

24 (WHEREUPON, JUROR NUMBER 43, MR.

25 CALDWELL, APPROACHES THE BENCH AT THIS TIME.)

0201

1 THE COURT: COME ON UP, SIR.

2 THE CLERK: BRANDON CALDWELL.

3 THE COURT: HEY, MR. CALDWELL. HOW ARE YOU
4 DOING, SIR? COULD YOU TELL ME WHO YOU HAVE A CONNECTION
5 TO, WHO YOU ARE RELATED TO OR---

6 THE JUROR: ALL OF THEM. I'M A DISPATCHER FOR
7 THE HIGHWAY PATROL, DISTRICT ONE. CORPORAL COLLINS WHO
8 WORKS FOR LEXINGTON COUNTY HIGHWAY PATROL. JIMMY HE WORKS
9 FOR THE BUREAU DETECTIVE SERVICES. I CAN GO ON.

10 THE COURT: ALL RIGHT. LET ME ASK YOU THIS THEN.
11 THE FACT THAT YOU ARE EMPLOYED IN THAT POSITION, DO YOU
12 HOLD ANY TYPE OF A COMMISSION OR AN APPOINTMENT---

13 THE JUROR: NO, SIR.

14 THE COURT: ---AS A DISPATCHER---

15 THE JUROR: JUST AN OPERATOR.

16 THE COURT: THAT IS YOUR SOLE RESPONSIBILITY?

17 THE JUROR: YES, SIR.

18 THE COURT: ALL RIGHT. DO YOU HAVE ANY KNOWLEDGE
19 OF THIS INCIDENT THAT I HAVE BASICALLY JUST GIVEN YOU SOME
20 BASIC FACTS ON?

21 THE JUROR: NO, SIR.

22 THE COURT: THE FACT THAT YOU ARE ASSOCIATED WITH
23 THE HIGHWAY PATROL, WOULD THAT IN ANY WAY INTERFERE WITH
24 YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR
25 EITHER THE STATE OR THE DEFENSE---

0202

1 THE JUROR: NO, SIR.

2 THE COURT: ---BASED SOLELY UPON THE TESTIMONY

3 AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS

4 COURTROOM?

5 THE JUROR: NO, SIR.

6 THE COURT: ARE YOU IN ANY WAY BIASED OR

7 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH THE HIGHWAY

8 PATROL?

9 THE JUROR: NO, SIR.

10 THE COURT: THANK YOU, SIR. YOU MAY RESUME YOUR

11 SEAT.

12 (WHEREUPON, THE JUROR RETURNS TO

13 THE COURTROOM AT THIS TIME.)

14 THE BAILIFF: NUMBER 49, YOUR HONOR.

15 (WHEREUPON, JUROR NUMBER 49, MS.

16 CLARK, APPROACHES THE BENCH AT THIS TIME.)

17 THE CLERK: CYNTHIA CLARK.

18 THE COURT: HI, MS. CLARK.

19 THE JUROR: HI.

20 THE COURT: TELL ME WHO IN LAW ENFORCEMENT YOU

21 HAVE ANY TYPE OF A CONNECTION TO?

22 THE JUROR: MY HUSBAND.

23 THE COURT: OKAY.

24 THE JUROR: FEDERAL. HE'S A SENIOR SPECIAL AGENT

25 WITH ONE OF THE INSPECTOR GENERAL'S OFFICE.

1 THE COURT: I'M SORRY, I COULDN'T HEAR YOU. 0203

2 THE JUROR: HE'S A SENIOR SPECIAL AGENT WITH ONE
3 OF THE INSPECTOR GENERAL'S OFFICE.

4 THE COURT: OKAY.

5 THE JUROR: AND MY STEPSON IS A DEPUTY FOR THE
6 RICHMOND COUNTY SHERIFF'S OFFICE IN AUGUSTA.

7 THE COURT: OKAY. THE FACT THAT YOU HAVE A
8 CONNECTION TO YOUR HUSBAND AND OTHER RELATIVES TO LAW
9 ENFORCEMENT, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
10 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT TO EITHER
11 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
12 AND EVIDENCE WHICH YOU HEAR PRODUCED IN THIS COURTROOM?

13 THE JUROR: I DON'T THINK IT WOULD BE A PROBLEM.

14 THE COURT: ARE YOU IN ANY WAY BIASED OR
15 PREJUDICED AS A RESULT OF YOUR ASSOCIATION -- THE
16 ASSOCIATION THROUGH YOUR HUSBAND AND---

17 THE JUROR: NO, THAT WOULDN'T BE A PROBLEM.

18 THE COURT: THANK YOU, MA'AM. YOU MAY RESUME
19 YOUR SEAT.

20 (WHEREUPON, THE JUROR RETURNS TO
21 THE COURTROOM AT THIS TIME.)

22 THE BAILIFF: NUMBER 87.

23 THE CLERK: DENNIS FOWLER.

24 (WHEREUPON, JUROR NUMBER 87, MR.
25 FOWLER, APPROACHES THE BENCH AT THIS TIME.)

0204

1 THE COURT: MR. FOWLER, HOW ARE YOU?

2 THE JUROR: FINE. THANK YOU.

3 THE COURT: WOULD YOU TELL ME WHO YOU HAVE A

4 RELATION?

5 THE JUROR: NO RELATIONSHIP. I HAVE A LOT OF

6 SOCIAL CONTACT AND PROFESSIONAL CONTACT WITH THE POLICE---

7 THE COURT: ALL RIGHT. TELL ME ABOUT IT---

8 THE JUROR: ---THE CITY OF COLUMBIA.

9 THE COURT: OKAY. THE CITY.

10 THE JUROR: I'M RETIRED CHIEF OF COLUMBIA FIRE

11 DEPARTMENT AND I WORK CLOSELY WITH THEM ON FIRE SCENES AND

12 ON ARSON INVESTIGATIONS, AUTO WRECKS AND I KNOW SEVERAL OF

13 THEM SOCIALLY.

14 THE COURT: THE FACT THAT YOU HAVE THAT

15 CONNECTION WITH THOSE INDIVIDUALS, WOULD THAT IN ANY WAY

16 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL

17 VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY

18 UPON THE TESTIMONY AND THE EVIDENCE THAT YOU WOULD HEAR

19 PRODUCED IN THIS COURTROOM?

20 THE JUROR: NO, SIR. I WOULD JUST LOOK AT THE

21 EVIDENCE.

22 THE COURT: ALL RIGHT, SIR. ARE YOU IN ANY WAY

23 BIASED OR PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH

24 ANY OF THOSE PEOPLE?

25 THE JUROR: NO, SIR.

1 THE COURT: YOU MAY RESUME YOUR SEAT. THANK YOU
2 FOR COMING FORWARD, MR. FOWLER.

3 (WHEREUPON, THE JUROR RETURNS TO
4 THE COURTROOM AT THIS TIME.)

5 THE BAILIFF: NUMBER 44.

6 (NUMBER 44, MR. CAMPBELL,
7 APPROACHES THE BENCH AT THIS TIME.)

8 THE CLERK: RONNIE CAMPBELL.

9 THE COURT: MR. CAMPBELL, HOW ARE YOU?

10 THE JUROR: FINE.

11 THE COURT: TELL ME ABOUT YOUR ASSOCIATION.

12 THE JUROR: MY FATHER WAS A CAREER, CITY OF
13 COLUMBIA, SOUTH CAROLINA, 42 YEARS. HE RETIRED FROM THE
14 CITY.

15 THE COURT: THE FACT THAT YOUR FATHER OCCUPIED
16 THAT POSITION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
17 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
18 THE STATE OR THE DEFENSE BASE SOLELY ON THE TESTIMONY AND
19 THE EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
20 COURTROOM?

21 THE JUROR: I DON'T THINK SO.

22 THE COURT: ARE YOU IN ANY WAY BIASED OR
23 PREJUDICED AS A RESULT OF YOUR ASSOCIATION OR YOUR FATHER'S
24 ASSOCIATION IN LAW ENFORCEMENT?

25 THE JUROR: IT'S KIND OF HARD NOT TO SIDE WITH

0206

1 THE POLICE.

2 THE COURT: THE FACT THAT I THINK I EXPLAINED TO

3 YOU, OF COURSE, THE JURORS ARE THE TRIERS OF THE FACT,

4 FINDERS OF THE FACT IN THE CASE AND I'M THE JUDGE OF THE

5 LAW, WOULD YOU BE ABLE TO LISTEN TO THE TESTIMONY THAT WAS

6 PRESENTED AND APPLY THE LAW AS I WOULD INSTRUCT YOU---

7 THE JUROR: I THINK I COULD.

8 THE COURT: ---AND SET ASIDE ANY PERSONAL

9 OPINIONS THAT YOU MIGHT HAVE?

10 THE JUROR: I THINK I COULD.

11 THE COURT: I GUESS MY QUESTION IS WHETHER OR NOT

12 YOU WOULD BE ABLE TO DO THAT?

13 THE JUROR: YES, SIR.

14 THE COURT: ALL RIGHT, SIR. THANK YOU, SIR. YOU

15 MAY RESUME YOUR SEAT.

16 (WHEREUPON, THE JUROR RETURNS TO

17 THE COURTROOM AT THIS TIME.)

18 THE BAILIFF: NUMBER 190.

19 (WHEREUPON, JUROR 190, MR.

20 ROBERSON, APPROACHES THE BENCH AT THIS TIME.)

21 THE CLERK: JERRY ROBERSON.

22 THE COURT: MR. ROBERSON, HOW ARE YOU?

23 THE JUROR: FINE, SIR.

24 THE COURT: TELL ME ABOUT YOUR RELATION---

25 THE JUROR: I SERVE AS DEACON IN MY CHURCH WITH A

1 COUNTY SHERIFF.

2 THE COURT: IS THAT HERE IN LEXINGTON COUNTY?

3 THE JUROR: YES, SIR.

4 THE COURT: ALL RIGHT. AND THAT WAS -- YOU SAY
5 THAT YOU SERVED IN---

6 THE JUROR: THAT TERM ENDED THIS PAST DECEMBER.

7 THE COURT: OKAY. THE FACT THAT YOU SERVED WITH
8 HIM, WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO
9 RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR
10 THE DEFENSE BASED SOLELY UPON THE TESTIMONY AND EVIDENCE
11 THAT YOU WOULD HEAR PRODUCED IN THIS COURTROOM?

12 THE JUROR: NO, SIR.

13 THE COURT: ARE YOU IN ANY WAY BIASED OR
14 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH HIM?

15 THE JUROR: NO, SIR.

16 THE COURT: THANK YOU, SIR. YOU MAY RESUME YOUR
17 SEAT.

18 (WHEREUPON, THE JUROR RETURNS TO
19 THE COURTROOM AT THIS TIME.)

20 THE BAILIFF: NUMBER 162.

21 (WHEREUPON, JUROR NUMBER 162, MS.
22 MCNAIR, APPROACHES THE BENCH AT THIS TIME.)

23 THE CLERK: CHERYL MCNAIR.

24 THE COURT: HI, MS. MCNAIR, HOW ARE YOU?

25 THE JUROR: I'M FINE.

0208

1 THE COURT: TELL ME WHO YOU HAVE CONNECTIONS
2 WITH.

3 THE JUROR: CHARLIE MCNAIR WITH S.L.E.D. HE'S
4 MY HUSBAND.

5 THE COURT: WHAT DOES HE DO OUT THERE?

6 THE JUROR: HE'S TASK FORCE WITH D.E.A.

7 THE COURT: THE FACT THAT YOUR HUSBAND IS
8 EMPLOYED WITH S.L.E.D., WOULD THAT IN ANY WAY INTERFERE
9 WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT TO
10 EITHER THE STATE OR THE DEFENSE BASED SOLELY UPON THE
11 TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
12 COURTROOM?

13 THE JUROR: NO, SIR.

14 THE COURT: ARE YOU IN ANY WAY BIASED OR
15 PREJUDICED AS A RESULT OF YOUR HUSBAND'S OCCUPATION?

16 THE JUROR: NO, SIR.

17 THE COURT: ALL RIGHT. IN THE EVENT THAT THERE
18 WOULD BE INDIVIDUALS FROM S.L.E.D. WHO WOULD TESTIFY IN
19 THIS CASE, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
20 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
21 THE STATE OR THE DEFENDANT IN THIS CASE?

22 THE JUROR: NO, SIR.

23 THE COURT: THANK YOU, MA'AM.

24 (WHEREUPON, THE JUROR RETURNS TO
25 THE COURTROOM AT THIS TIME.)

1 THE BAILIFF: NUMBER 86.

2 THE CLERK: MR. DAVID FOULKS.

3 (WHEREUPON, JUROR NUMBER 86, MR.
4 FOULKS, APPROACHES THE BENCH AT THIS TIME.)

5 THE COURT: OKAY. MR. FOULKS, HOW ARE YOU?

6 THE JUROR: ALL RIGHT. HOW ARE YOU?

7 THE COURT: GOOD. TELL ME ABOUT YOUR
8 CONNECTIONS.

9 THE JUROR: WELL, I'VE BEEN IN VARIOUS TYPES OF
10 LAW ENFORCEMENT FOR THE LAST TWELVE YEARS. I WORKED AT
11 RICHLAND COUNTY PROBATION AND PAROLE, PUBLIC SAFETY, ALSO.
12 I KNOW QUITE A FEW OF THE OFFICERS.

13 THE COURT: IS THAT IN THE RICHLAND COUNTY OFFICE
14 -- OR COLUMBIA?

15 THE JUROR: YES. LEXINGTON AND COLUMBIA.

16 THE COURT: WHAT DO YOU DO NOW?

17 THE JUROR: RIGHT NOW I'M SECURITY WITH S.C.E.&
18 G.

19 THE COURT: OKAY. THE FACT THAT YOU HAVE
20 OCCUPIED THESE VARIOUS ROLES IN LAW ENFORCEMENT AND HAVE
21 ACQUAINTANCES THERE, WOULD THAT IN ANY WAY INTERFERE WITH
22 YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR
23 EITHER THE STATE OR THE DEFENDANT BASED SOLELY UPON THE
24 TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
25 COURTROOM?

0210

1 THE JUROR: NO, SIR.

2 THE COURT: ARE YOU IN ANY WAY BIASED OR
3 PREJUDICED AS A RESULT OF YOUR PREVIOUS ASSOCIATION WITH
4 THESE PEOPLE?

5 THE JUROR: NO, SIR.

6 THE COURT: THANK YOU, SIR. RESUME YOUR SEAT. I
7 APPRECIATE IT.

8 (WHEREUPON, THE JUROR RETURNS TO
9 THE COURTROOM AT THIS TIME.)

10 THE BAILIFF: NUMBER 24.

11 THE CLERK: NUMBER 24, THOMAS BLACKWELL.

12 (WHEREUPON, JUROR NUMBER 24, MR.
13 BLACKWELL, APPROACHES THE BENCH AT THIS TIME.)

14 THE COURT: MR. BLACKWELL, HOW ARE YOU? TELL ME
15 ABOUT THE CONTACTS THAT YOU HAVE?

16 THE JUROR: MY BROTHER IS A SERGEANT FOR THE IRMO
17 POLICE DEPARTMENT.

18 THE COURT: THE FACT THAT HE IS EMPLOYED IN SUCH
19 A CAPACITY, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
20 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
21 THE STATE OR THE DEFENDANT BASED SOLELY UPON THE TESTIMONY
22 AND THE EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
23 COURTROOM?

24 THE JUROR: NO, SIR.

25 THE COURT: ARE YOU IN ANY WAY BIASED OR

1 PREJUDICED AS A RESULT OF HIS ASSOCIATION?
2 THE JUROR: NO, SIR.
3 THE COURT: THANK YOU. RESUME YOUR SEAT.
4 (WHEREUPON, THE JUROR WAS EXCUSED
5 AT THIS TIME.)
6 THE BAILIFF: 142.
7 THE CLERK: VICKI LEWTER.
8 (WHEREUPON, JUROR NUMBER 142, MS.
9 LEWTER, APPROACHES THE BENCH AT THIS TIME.)
10 THE COURT: HI, MS LEWTER, HOW ARE YOU?
11 THE JUROR: FINE.
12 THE COURT: TELL ME ABOUT THE CONNECTION OR THE
13 CONTACTS YOU HAVE WITH LAW ENFORCEMENT.
14 THE JUROR: MY HUSBAND'S COUSIN'S HUSBAND WORKS
15 FOR S.L.E.D.
16 THE COURT: YOUR HUSBAND'S COUSIN'S HUSBAND WORKS
17 FOR WHOM?
18 THE JUROR: S.L.E.D.
19 THE COURT: OKAY.
20 THE JUROR: BUT WE ARE ALL CLOSE.
21 THE COURT: HOW -- WHAT'S DOES THAT PERSON DO OUT
22 THERE?
23 THE JUROR: I'M REALLY NOT SURE.
24 THE COURT: WHAT'S THAT'S PERSON'S NAME?
25 THE JUROR: STACEY SNOW.

0212

1 THE COURT: STACEY SNOW?
2 THE JUROR: UH-HUH.
3 THE COURT: THE FACT THAT YOU HAVE THIS RELATIVE
4 BY MARRIAGE, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
5 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
6 THE STATE OR THE DEFENDANT BASED SOLELY UPON THE TESTIMONY
7 AND EVIDENCE THAT YOU HEAR PRODUCED IN THIS COURTROOM?
8 THE JUROR: NO.
9 THE COURT: ARE YOU IN ANY WAY BIASED OR
10 PREJUDICED AS A RESULT OF THAT ASSOCIATION?
11 THE JUROR: NO, SIR.
12 THE COURT: THANK YOU, MA'AM.
13 THE JUROR: UH-HUH.
14 (WHEREUPON, THE JUROR RETURNS TO
15 THE COURTROOM AT THIS TIME.)
16 THE BAILIFF: NUMBER 18.
17 THE CLERK: KATHRYN BECKSTROM.
18 (WHEREUPON, JUROR NUMBER 18, MS.
19 BECKSTROM, APPROACHES THE BENCH AT THIS TIME.)
20 THE COURT: GOOD MORNING.
21 THE JUROR: GOOD MORNING.
22 THE COURT: IT'S AFTERNOON ALREADY.
23 ALL RIGHT, MS. BECKSTOM, TELL ME WHAT CONTACTS
24 YOU HAVE WITH LAW ENFORCEMENT?
25 THE JUROR: MY BROTHER-IN-LAW IS A D.E.A. AGENT.

1 THE COURT: AND WHERE IS HE ASSIGNED?

2 THE JUROR: RALEIGH, NORTH CAROLINA.

3 THE COURT: ALL RIGHT. THE FACT THAT HE IS
4 EMPLOYED IN THAT CAPACITY, WOULD THAT IN ANY WAY INTERFERE
5 WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT
6 FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY UPON THE
7 TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
8 COURTROOM?

9 THE JUROR: NO, SIR.

10 THE COURT: ARE YOU IN ANY WAY BIASED OR
11 PREJUDICED AS A RESULT OF HIS ASSOCIATION WITH THE D.E.A.?

12 THE JUROR: NO, SIR.

13 THE COURT: THANK YOU. RESUME YOUR SEAT.

14 (WHEREUPON, THE JUROR RETURNS TO
15 THE COURTROOM AT THIS TIME.)

16 THE BAILIFF: NUMBER 197.

17 THE CLERK: CHERYL SANDERS.

18 (WHEREUPON, JUROR NUMBER 197, MS.
19 SANDERS, APPROACHES THE BENCH AT THIS TIME.)

20 THE COURT: MS. SANDERS, GOOD AFTERNOON, HOW ARE
21 YOU?

22 THE JUROR: FINE.

23 THE COURT: MS. SAUNDERS, WHO DO YOU HAVE THAT'S
24 CONNECTED WITH LAW ENFORCEMENT?

25 THE JUROR: MY COUSIN, SHE WORKS FOR THE

0214

1 LEXINGTON COUNTY CORONER'S OFFICE AND HER HUSBAND IS AN
2 INVESTIGATOR FOR LEXINGTON COUNTY.

3 THE COURT: ALL RIGHT. WHAT ARE THEIR NAMES?

4 THE JUROR: WANDA MCNAIR AND CARLISLE MCNAIR.

5 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
6 THESE RELATIVES THAT ARE EMPLOYED IN THESE CAPACITIES,
7 WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER
8 A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE
9 DEFENSE BASED SOLELY ON THE TESTIMONY AND EVIDENCE THAT YOU
10 WOULD HEAR IN THIS COURTROOM?

11 THE JUROR: NO.

12 THE COURT: ARE YOU IN ANY WAY BIASED OR
13 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH THEM?

14 THE JUROR: NO, SIR.

15 THE COURT: THANK YOU.

16 (WHEREUPON, THE JUROR RETURNS TO
17 THE COURTROOM AT THIS TIME.)

18 THE BAILIFF: NUMBER 199.

19 THE CLERK: JAMES SCHNEIDER.

20 (WHEREUPON, JUROR NUMBER 199, MR.
21 SCHNEIDER, APPROACHES THE BENCH AT THIS TIME.)

22 THE COURT: GOOD AFTERNOON, MR. SCHNEIDER. HOW
23 ARE YOU?

24 THE JUROR: OKAY.

25 THE COURT: COULD YOU TELL ME WHO YOU HAVE A

1 CONNECTION WITH IN LAW ENFORCEMENT?

2 THE JUROR: DUANE SELLERS, HE'S A HIGHWAY
3 PATROLMAN.

4 THE COURT: HE'S WITH THE HIGHWAY PATROL HERE IN
5 LEXINGTON?

6 THE JUROR: YES.

7 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
8 THIS ACQUAINTANCE, WOULD THAT IN ANY WAY INTERFERE WITH
9 YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR
10 EITHER THE STATE OR THE DEFENSE BASED SOLELY UPON THE
11 TESTIMONY AND EVIDENCE YOU WOULD HEAR IN THIS COURTROOM?

12 THE JUROR: NO.

13 THE COURT: ARE YOU IN ANY WAY BIASED OR
14 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH HIM?

15 THE JUROR: NO.

16 THE COURT: THANK YOU, SIR. YOU MAY RESUME YOUR
17 SEAT.

18 (WHEREUPON, THE JUROR RETURNS TO
19 THE COURTROOM AT THIS TIME.)

20 THE BAILIFF: NUMBER 170.

21 THE CLERK: KAREN MOORE.

22 (WHEREUPON, JUROR NUMBER 170, MS.
23 MOORE, APPROACHES THE BENCH AT THIS TIME.)

24 THE COURT: ALL RIGHT, MS. MOORE, TELL ME WHO YOU
25 HAVE A CONNECTION WITH IN LAW ENFORCEMENT.

0216

1 THE JUROR: MY COUSIN IS A POLICE OFFICER FOR
2 BATESBURG.

3 THE COURT: BATESBURG-LEESBURG?

4 THE JUROR: RIGHT.

5 THE COURT: THE FACT THAT HE IS EMPLOYED IN THAT
6 CAPACITY, WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY
7 TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE
8 OR THE DEFENDANT BASED SOLELY UPON THE TESTIMONY AND
9 EVIDENCE YOU WOULD HEAR PRODUCED IN THIS COURTROOM?

10 THE JUROR: NO, SIR.

11 THE COURT: ARE YOU IN ANY WAY BIASED OR
12 PREJUDICED AS A RESULT OF HIS ASSOCIATION IN LAW
13 ENFORCEMENT?

14 THE JUROR: NO, SIR.

15 THE COURT: THANK YOU.

16 THE JUROR: UH-HUH.

17 (WHEREUPON, THE JUROR RETURNS TO
18 THE COURTROOM AT THIS TIME.)

19 THE BAILIFF: NUMBER 69.

20 (WHEREUPON, NUMBER 169, MR. MOORE,
21 APPROACHES THE BENCH AT THIS TIME.)

22 THE COURT: MR. DAVIS---

23 THE JUROR: MOORE, CHARLES MOORE.

24 THE COURT: OH, NUMBER 169.

25 THE JUROR: I'M SORRY. I TOLD HIM THE WRONG

1 NUMBER.

2 THE COURT: 169. I THOUGHT HE JUST SAID 69. MR.
3 MOORE, I'M SORRY.

4 COULD YOU TELL ME WHO YOUR CONNECTION IS IN LAW
5 ENFORCEMENT?

6 THE JUROR: I HAVE A NEPHEW THAT'S A POLICE
7 OFFICER WITH THE TOWN OF BATESBURG; MY WIFE'S FATHER IS A
8 DECEASED DEPUTY WITH ANDERSON COUNTY AND I WORKED TWO YEARS
9 WITH THE DEPARTMENT OF CORRECTIONS.

10 THE COURT: OKAY. THE FACT THAT YOU HAVE BEEN
11 EMPLOYED IN YOUR CAPACITY AND HAVE RELATIVES THAT ARE
12 ASSOCIATED WITH LAW ENFORCEMENT, WOULD THAT IN ANY WAY
13 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL
14 VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY
15 UPON THE TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR
16 PRODUCED IN THE TRIAL?

17 THE JUROR: NO.

18 THE COURT: ARE YOU IN ANY WAY BIASED OR
19 PREJUDICED AS A RESULT OF YOUR PREVIOUS EMPLOYMENT OR
20 ASSOCIATIONS?

21 THE JUROR: I WOULD SAY I PROBABLY HAVE SOME,
22 YES, WORKING IN THE DEPARTMENT OF CORRECTIONS. THAT IS THE
23 REASON I LEFT THERE.

24 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU CAN
25 RESUME YOUR SEAT.

1 (WHEREUPON, THE JUROR RETURNS TO
2 THE COURTROOM AT THIS TIME.)

3 THE BAILIFF: NUMBER 69.

4 THE CLERK: THIS IS SPENCER DAVIS.

5 (WHEREUPON, JUROR NUMBER 69, MR.
6 DAVIS, APPROACHES THE BENCH AT THIS TIME.)

7 THE COURT: HOW ARE YOU DOING, MR. DAVIS?

8 THE JUROR: FINE. HOW ABOUT YOU?

9 THE COURT: FINE. THANK YOU.

10 WHO DO YOU HAVE A CONNECTION WITH IN LAW
11 ENFORCEMENT?

12 THE JUROR: MY SON'S FATHER-IN-LAW IS A DEPUTY
13 SHERIFF IN LEXINGTON COUNTY.

14 THE COURT: WHAT IS THAT INDIVIDUAL'S NAME?

15 THE JUROR: HIS NAME IS W. T. SCRUBBS.

16 THE COURT: THE FACT THAT YOU HAVE THAT
17 CONNECTION WITH LAW ENFORCEMENT, WOULD THAT IN ANY WAY
18 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL
19 VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY ON
20 THE TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN
21 THIS COURTROOM?

22 THE JUROR: NO, SIR.

23 THE COURT: ARE YOU IN ANY WAY BIASED OR
24 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH MR.
25 SCRUBBS?

1 THE JUROR: NO, SIR.

2 THE COURT: THANK YOU. YOU CAN RESUME YOUR SEAT.

3 (WHEREUPON, THE JUROR RETURNS TO
4 THE COURTROOM AT THIS TIME.)

5 THE BAILIFF: NUMBER 146.

6 THE CLERK: THOMAS MAGRUDER.

7 (WHEREUPON, JUROR NUMBER 146, MR.
8 MAGRUDER, APPROACHES THE BENCH AT THIS TIME.)

9 THE COURT: HOW ARE YOU, MR. MAGRUDER?

10 THE JUROR: GOOD. HOW ARE YOU DOING?

11 THE COURT: I'M FINE.

12 MR. MAGRUDER, WHO DO YOU HAVE A CONNECTION WITH
13 IN LAW ENFORCEMENT?

14 THE JUROR: SEVERAL. THE CLOSEST IS JEFF---

15 THE COURT: AND HE WORKS---

16 THE JUROR: ---FOR COLUMBIA POLICE DEPARTMENT.
17 DAVID CALDWELL WORKS WITH S.L.E.D.

18 THE COURT: ANY OTHERS?

19 THE JUROR: VANN MCCARTY AND BILL GIBSON WHO RUNS
20 THE ACADEMY.

21 THE COURT: THE CRIMINAL JUSTICE ACADEMY?

22 THE JUROR: YES, SIR.

23 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
24 THESE CONNECTIONS, WOULD THAT IN WAY INTERFERE WITH YOUR
25 ABILITY TO RENDER A FAIR OR IMPARTIAL VERDICT FOR EITHER

0220

1 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
2 AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
3 COURTROOM?

4 THE JUROR: NO, SIR.

5 THE COURT: ARE YOU IN ANY WAY BIASED OR
6 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH ANY OF
7 THESE INDIVIDUALS?

8 THE JUROR: NO, SIR.

9 THE COURT: THANK YOU, SIR. YOU MAY RESUME YOUR
10 SEAT.

11 (WHEREUPON, THE JUROR RETURNS TO
12 THE COURTROOM AT THIS TIME.)

13 THE BAILIFF: NUMBER 17.

14 THE CLERK: KENNETH BEARDSLEY.

15 (WHEREUPON, JUROR NUMBER 17, MR.
16 BEARDSLEY, APPROACHES THE BENCH AT THIS TIME.)

17 THE COURT: HOW ARE YOU DOING, MR. BEARDSLEY?

18 THE JUROR: FINE.

19 THE COURT: MR. BEARDSLEY, COULD YOU TELL ME WHO
20 YOU HAVE AS YOUR CONNECTION IN LAW ENFORCEMENT?

21 THE JUROR: MY BROTHER IS A PRISON WARDEN.

22 THE COURT: WHERE IS THAT?

23 THE JUROR: TURBEVILLE.

24 THE COURT: ALL RIGHT. THE FACT THAT HE OCCUPIES
25 THAT POSITION WOULD THAT IN ANY WAY INTERFERE WITH YOUR

1 ABILITY TO RENDER A FAIR OR IMPARTIAL VERDICT FOR EITHER
2 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
3 AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
4 COURTROOM?

5 THE JUROR: NO.

6 THE COURT: ARE YOU IN ANY WAY BIASED OR
7 PREJUDICED AS A RESULT OF YOUR RELATIONSHIP TO HIM AND HIS
8 EMPLOYMENT?

9 THE JUROR: NO.

10 THE COURT: THANK YOU, SIR. RESUME YOUR SEAT.

11 (WHEREUPON, THE JUROR RETURNS TO
12 THE COURTROOM AT THIS TIME.)

13 THE BAILIFF: NUMBER 182.

14 THE CLERK: ROBERT PUGH.

15 (WHEREUPON, JUROR NUMBER 182, MR.
16 PUGH, APPROACHES THE BENCH AT THIS TIME.)

17 THE COURT: HOW ARE YOU MR. PUGH?

18 THE JUROR: GOOD.

19 THE COURT: MR. PUGH, COULD YOU TELL WHO YOU HAVE
20 A CONNECTION WITH IN LAW ENFORCEMENT?

21 THE JUROR: MY BROTHER-IN-LAW. HE'S A CONSTABLE
22 AT THE STATE HOUSE.

23 THE COURT: AT THE STATE HOUSE?

24 THE JUROR: UH-HUH.

25 THE COURT: THE FACT THAT HE OCCUPIES THAT

0222

1 POSITION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY
2 TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE
3 OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY AND THE
4 EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS COURTROOM?

5 THE JUROR: NO.

6 THE COURT: I'M SORRY?

7 THE JUROR: NO.

8 THE COURT: ARE YOU IN ANY WAY BIASED OR
9 PREJUDICED AS A RESULT OF HIM HOLDING THAT POSITION?

10 THE JUROR: NO.

11 THE COURT: THANK YOU, SIR. YOU MAY RESUME YOUR
12 SEAT.

13 (WHEREUPON, THE JUROR RETURNS TO
14 THE COURTROOM AT THIS TIME.)

15 THE BAILIFF: 212.

16 THE CLERK: BRYAN SMITH.

17 (WHEREUPON, JUROR NUMBER 212, MR.
18 SMITH, APPROACHES THE BENCH AT THIS TIME.)

19 THE COURT: MR. SMITH, HOW ARE YOU DOING?

20 THE JUROR: FINE.

21 THE COURT: WHOM DO YOU HAVE A CONNECTION WITH?

22 THE JUROR: TWO PEOPLE GO TO MY CHURCH. ONE IS A
23 WEST COLUMBIA-CAYCE MAGISTRATE, BRUCE RUTLAND. MY MOTHER
24 USED TO WORK FOR HIM AS A SECRETARY. THE OTHER IS A SUNDAY
25 SCHOOL TEACHER, LARRY MIXSON. I BELIEVE HE'S A MAJOR WITH

1 THE SOUTH CAROLINA HIGHWAY PATROL.

2 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
3 THESE CONNECTIONS, WOULD THAT IN ANY WAY INTERFERE WITH
4 YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR
5 EITHER THE STATE OR THE DEFENSE BASED SOLELY UPON THE
6 TESTIMONY AND EVIDENCE THAT YOU HEAR PRODUCED IN THIS
7 COURTROOM?

8 THE JUROR: NO, SIR.

9 THE COURT: ARE YOU IN ANY WAY BIASED OR
10 PREJUDICED AS A RESULT OF YOUR ASSOCIATION TO THESE TWO
11 INDIVIDUALS?

12 THE JUROR: NO, SIR.

13 THE COURT: THANK YOU, SIR.

14 (WHEREUPON, THE JUROR RETURNS TO
15 THE COURTROOM AT THIS TIME.)

16 THE BAILIFF: NUMBER 30.

17 THE CLERK: WILLIAM BRAUN.

18 (WHEREUPON, JUROR NUMBER 30, MR.
19 BRAUN, APPROACHES THE BENCH AT THIS TIME.)

20 THE COURT: HOW ARE YOU, MR. BRAUN?

21 THE JUROR: JUST FINE.

22 THE COURT: GOOD. COULD YOU TELL ME WHO YOU HAVE
23 A CONNECTION WITH IN LAW ENFORCEMENT?

24 THE JUROR: ONE IS A DETECTIVE HERE IN THE CITY
25 OF LEXINGTON AND ALSO A NEW MEMBER OF OUR CHURCH, STEVE --

0224

1 I'VE FORGOTTEN HIS LAST NAME. HE'S BEEN DISCHARGED FROM
2 THE STATE BECAUSE OF AN AUTO ACCIDENT.

3 THE COURT: WHO DOES HE WORK FOR? WAS IT THE
4 HIGHWAY PATROL?

5 THE JUROR: YES.

6 THE COURT: THE FACT THAT YOU HAVE CONNECTIONS
7 WITH THESE INDIVIDUALS, WOULD THAT IN ANY WAY INTERFERE
8 WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT
9 FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY UPON THE
10 TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR IN THIS
11 COURTROOM?

12 THE JUROR: I DON'T THINK SO.

13 THE COURT: ARE YOU IN ANY WAY BIASED OR
14 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH EITHER OF
15 THESE GENTLEMEN?

16 THE JUROR: I DON'T THINK SO.

17 THE COURT: ALL RIGHT. GIVEN THE SITUATION THAT
18 AS A JUROR YOU ARE -- WILL BE A FINDER OF THE FACTS IN THE
19 CASE AND THE EVIDENCE THAT WOULD BE PRESENTED -- FROM THAT
20 EVIDENCE THAT YOU WOULD DECIDE, I WOULD BE THE JUDGE OF THE
21 LAW AND WOULD INSTRUCT YOU AS TO THE LAW THAT WOULD APPLY
22 TO THIS MATTER, WOULD THAT -- WOULD YOU BE ABLE TO SET
23 ASIDE ANY PERSONAL BELIEFS OR OPINIONS THAT YOU MIGHT HAVE
24 AND FROM THAT RENDER A VERDICT THAT WOULD BE FAIR AND
25 IMPARTIAL FOR EITHER THE STATE OR THE DEFENDANT BASED

1 SOLELY UPON THE TESTIMONY AND THE EVIDENCE AND THE LAW AS I
2 WOULD INSTRUCT YOU?

3 THE JUROR: YES, SIR.

4 THE COURT: ALL RIGHT, SIR.

5 (WHEREUPON, THE JUROR RETURNS TO
6 THE COURTROOM AT THIS TIME.)

7 THE BAILIFF: NUMBER 236.

8 THE CLERK: ALLISON WHITAKER.

9 (WHEREUPON, JUROR NUMBER 236, MS.
10 WHITAKER, APPROACHES THE BENCH AT THIS TIME.)

11 THE COURT: HOW ARE YOU, MS. WHITAKER?

12 THE JUROR: HEY.

13 THE COURT: COULD YOU TELL ME WHO YOU HAVE IN LAW
14 ENFORCEMENT?

15 THE JUROR: KEITH STOKES.

16 THE COURT: KEITH STOKES.

17 THE JUROR: HE'S WITH S.L.E.D.

18 THE COURT: DO YOU KNOW WHAT HE DOES THERE?

19 THE JUROR: I THINK DRUG AND ALCOHOL.

20 THE COURT: ALL RIGHT. AND IS THAT A FRIEND OR A
21 RELATIVE?

22 THE JUROR: MY GIRLFRIEND'S HUSBAND.

23 THE COURT: OKAY. THE FACT THAT YOU HAVE THAT
24 CONNECTION WITH MR. STOKES, WOULD THAT IN ANY WAY INTERFERE
25 WITH YOUR ABILITY TO RENDER A FAIR OR IMPARTIAL VERDICT FOR

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1 EITHER THE STATE OR THE DEFENSE BASED SOLELY UPON THE
2 TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
3 COURTROOM?

4 THE JUROR: NO, SIR.

5 THE COURT: ARE YOU IN ANY WAY BIASED OR
6 PREJUDICED AS A RESULT OF YOUR ASSOCIATION WITH---

7 THE JUROR: NO, SIR.

8 THE COURT: THANK YOU. RESUME YOUR SEAT.

9 (WHEREUPON, THE JUROR RETURNS TO
10 THE COURTROOM AT THIS TIME.)

11 THE BAILIFF: NUMBER 187.

12 THE CLERK: DIANNE RICHARDSON.

13 (WHEREUPON, JUROR NUMBER 187, MS.
14 RICHARDSON, APPROACHES THE BENCH AT THIS TIME.)

15 THE COURT: HOW ARE YOU?

16 THE JUROR: FINE.

17 THE COURT: ALL RIGHT. MS. RICHARDSON, COULD YOU
18 TELL ME WHOM YOU HAVE A CONNECTION WITH IN LAW ENFORCEMENT?

19 THE JUROR: SHERIFF JAMES METTS IS MY
20 BROTHER-IN-LAW AND MY HUSBAND IS AN ATTORNEY WITH THE
21 ATTORNEY GENERAL'S OFFICE.

22 THE COURT: WHO IS YOUR HUSBAND?

23 THE JUROR: CHARLES RICHARDSON.

24 THE COURT: THE FACT THAT YOU HAVE THESE
25 CONNECTIONS, WOULD THEY IN ANY WAY THROUGH THEIR

1 ASSOCIATION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
2 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
3 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
4 AND EVIDENCE THAT YOU WILL HEAR PRODUCED IN THIS COURTROOM?

5 THE JUROR: NO, SIR.

6 THE COURT: ARE YOU IN ANY WAY BIASED OR
7 PREJUDICED AS A RESULT OF YOUR HUSBAND BEING AN ATTORNEY IN
8 HIS POSITION OR YOUR BROTHER-IN-LAW OCCUPYING HIS POSITION?

9 THE JUROR: NO.

10 THE COURT: THANK YOU. YOU MAY RESUME YOUR SEAT.

11 (WHEREUPON, THE JUROR RETURNS TO
12 THE COURTROOM AT THIS TIME.)

13 THE BAILIFF: 148.

14 THE CLERK: DAMMIE MARSHALL.

15 (WHEREUPON, JUROR NUMBER 148, MS. "
16 MARSHALL, APPROACHES THE BENCH AT THIS TIME.)

17 THE COURT: HOW ARE YOU?

18 THE JUROR: FINE.

19 THE COURT: ALL RIGHT. MS. MARSHALL, WITH WHOM
20 IN LAW ENFORCEMENT THAT YOU HAVE A CONNECTION WITH?

21 THE JUROR: CLAY BURKETT.

22 THE COURT: CLAY BURKETT?

23 THE JUROR: UH-HUH.

24 THE COURT: AND WHO IS HE EMPLOYED WITH?

25 THE JUROR: I'M NOT SURE IF HE'S WITH THE COUNTY

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1 OR THE TOWN OF LEESVILLE.

2 THE COURT: OKAY. SO HE WOULD EITHER BE A COUNTY

3 DEPUTY OR EMPLOYED WITH THE CITY OF LEESVILLE?

4 THE JUROR: UH-HUH.

5 THE COURT: THE FACT -- IS HE RELATED TO YOU OR

6 IS THAT A FRIEND?

7 THE JUROR: NO. HE'S A MEMBER OF OUR CHURCH SO

8 WE ASSOCIATE WITH HIM.

9 THE COURT: OKAY. THE FACT THAT YOU HAVE THAT

10 CONNECTION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR

11 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER

12 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY

13 AND EVIDENCE THAT YOU WILL HEAR PRODUCED IN THIS COURTROOM?

14 THE JUROR: NO, SIR.

15 THE COURT: ARE YOU IN ANY WAY BIASED OR

16 PREJUDICED AS A RESULT OF YOUR ASSOCIATION---

17 THE JUROR: NO, SIR.

18 THE COURT: THANK YOU, MA'AM. RESUME YOUR SEAT.

19 (WHEREUPON, THE JUROR RETURNS TO

20 THE COURTROOM AT THIS TIME.)

21 THE BAILIFF: NUMBER 193.

22 THE CLERK: MARIE ROOF.

23 (WHEREUPON, JUROR NUMBER 193, MS.

24 ROOF, APPROACHES THE BENCH AT THIS TIME.)

25 THE COURT: GOOD AFTERNOON, MS. ROOF, HOW ARE

1 YOU?

2 THE JUROR: FINE.

3 THE COURT: MS. ROOF, WITH WHOM DO YOU HAVE A
4 CONNECTION IN LAW ENFORCEMENT?

5 THE JUROR: MY GRANDSON'S FATHER. ALTHOUGH HIS
6 MOTHER AND HIM ARE NOT MARRIED, BUT HE'S A CITY OF CAMDEN
7 POLICE OFFICER IN KERSHAW COUNTY.

8 THE COURT: ALL RIGHT.

9 THE JUROR: I DIDN'T KNOW IF I WAS SUPPOSE TO
10 COME UP.

11 THE COURT: THAT'S FINE. YES, MA'AM.

12 THE FACT THAT YOU HAVE A CONNECTION WITH HIM,
13 WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER
14 A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE
15 DEFENSE BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT
16 YOU HEAR PRODUCED IN THIS COURTROOM?

17 THE JUROR: NO.

18 THE COURT: ARE YOU IN ANY WAY BIASED OR
19 PREJUDICED AS A RESULT OF HIS POSITION?

20 THE JUROR: NO, SIR.

21 THE COURT: THANK YOU, MA'AM.

22 (WHEREUPON, THE JUROR RETURNS TO
23 THE COURTROOM AT THIS TIME.)

24 THE BAILIFF: NUMBER 161.

25 THE CLERK: SANDRA MCLAURIN.

1 (WHEREUPON, JUROR NUMBER 161, MS.
2 MCLAURIN, APPROACHES THE BENCH AT THIS TIME.)
3 THE COURT: WHAT WAS THAT NUMBER AGAIN?
4 THE CLERK: 161.
5 THE COURT: YES, MA'AM. HOW ARE YOU, MS.
6 MCLAURIN?
7 THE JUROR: JUST FINE.
8 THE COURT: WOULD YOU TELL ME WITH WHOM YOU HAVE
9 A CONNECTION IN LAW ENFORCEMENT?
10 THE JUROR: YES, MY DAUGHTER WORKS AT LEXINGTON
11 COUNTY SHERIFF'S DEPARTMENT. SHE DISPATCHES.
12 THE COURT: ALL RIGHT. THE FACT THAT SHE HAS
13 THAT POSITION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
14 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
15 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
16 AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
17 COURTROOM?
18 THE JUROR: NO, SIR.
19 THE COURT: ARE YOU IN ANY WAY BIASED OR
20 PREJUDICED AS A RESULT OF HER POSITION?
21 THE JUROR: NO.
22 THE COURT: THANK YOU, MA'AM.
23 (WHEREUPON, THE JUROR RETURNS TO
24 THE COURTROOM AT THIS TIME.)
25 THE BAILIFF: NUMBER 54.

1 THE CLERK: JOHN CONRAD.

2 (WHEREUPON, JUROR NUMBER 54, MR.
3 CONRAD, APPROACHES THE BENCH AT THIS TIME.)

4 THE COURT: HOW ARE YOU, MR. CONRAD?

5 THE JUROR: DOING FINE. HOW ABOUT YOURSELF?

6 THE COURT: I'M WELL. THANK YOU. I LIKE THAT
7 TIE.

8 THE JUROR: THANK YOU.

9 THE COURT: COULD YOU TELL ME WITH WHOM YOU HAVE
10 A CONNECTION?

11 THE JUROR: I HAVE TWO FRIENDS WHO ARE WITH THE
12 LEXINGTON SHERIFF'S DEPARTMENT.

13 THE COURT: ALL RIGHT. WHAT ARE THEIR NAMES?

14 THE JUROR: LUCUS. PAM LUCAS AND EDDIE PORTER.

15 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
16 THESE FRIENDS WITH THE LEXINGTON COUNTY SHERIFF'S
17 DEPARTMENT, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
18 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
19 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
20 AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
21 COURTROOM?

22 THE JUROR: NO.

23 THE COURT: ARE YOU IN ANY WAY BIASED OR
24 PREJUDICED AS A RESULT OF YOUR ASSOCIATION---

25 THE JUROR: NO.

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1 THE COURT: THANK YOU, SIR.

2 (WHEREUPON, THE JUROR RETURNS TO

3 THE COURTROOM AT THIS TIME.)

4 THE BAILIFF: NUMBER 15.

5 THE COURT: THAT'S MS. BAUER.

6 (WHEREUPON, JUROR NUMBER 15, MS.

7 BAUER, APPROACHES THE BENCH AT THIS TIME.)

8 THE COURT: YES, MA'AM, MS. BAUER.

9 THE JUROR: MY DAUGHTER IS AN ATTORNEY AND WORKS

10 FOR A CIRCUIT COURT JUDGE.

11 THE COURT: I HAVE ALREADY REVEALED THAT TO THESE

12 INDIVIDUALS.

13 THE FACT THAT SHE WORKS IN THAT CAPACITY, WOULD

14 THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A

15 FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE

16 DEFENSE BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT

17 YOU WOULD HEAR PRODUCED IN THIS COURTROOM?

18 THE JUROR: NO, SIR, IT WOULD NOT.

19 THE COURT: ARE YOU IN ANY WAY BIASED OR

20 PREJUDICED AS A RESULT OF HER OCCUPATION?

21 THE JUROR: NOT AT ALL.

22 (WHEREUPON, THE JUROR RETURNS TO

23 THE COURTROOM AT THIS TIME.)

24 THE BAILIFF: NUMBER 84.

25 THE CLERK: ANDREA FINK.

1 (WHEREUPON, JUROR NUMBER 84, MS.
2 FINK, APPROACHES THE BENCH AT THIS TIME.)
3 THE COURT: HOW ARE YOU, MS. FINK?
4 THE JUROR: FINE. HOW ARE YOU?
5 THE COURT: FINE.
6 COULD YOU TELL ME THE INDIVIDUAL WITH WHOM YOU
7 HAVE A CONNECTION WITH LAW ENFORCEMENT?
8 THE JUROR: I HAVE SOME FRIENDS THAT WORK IN THE
9 SOLICITOR'S OFFICE---
10 THE COURT: HERE---
11 THE JUROR: JACK AND BONNIE.
12 THE COURT: ---IN LEXINGTON?
13 THE JUROR: YES.
14 THE COURT: OKAY. JACK AND BONNIE---
15 THE JUROR: HENSELL.
16 MR. HUMPHRIES: BONNIE WORKS IN THE---
17 THE JUROR: CLERK OF COURT'S OFFICE AND JACK
18 WORKS WITH US.
19 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
20 FRIENDS IN THESE CAPACITIES, WOULD THAT IN ANY WAY
21 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL
22 VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY
23 UPON THE TESTIMONY AND EVIDENCE THAT YOU WILL HEAR PRODUCED
24 IN THIS COURTROOM?
25 THE JUROR: NO, SIR.

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1 THE COURT: ARE YOU IN ANY WAY BIASED OR
2 PREJUDICED AS A RESULT OF YOUR ASSOCIATION?

3 THE JUROR: NO, SIR.

4 THE COURT: THANK YOU. RESUME YOUR SEAT.

5 (WHEREUPON, THE JUROR RETURNS TO
6 THE COURTROOM AT THIS TIME.)

7 THE BAILIFF: NUMBER 120.

8 THE CLERK: THAMES JAMISON.

9 (WHEREUPON, JUROR NUMBER 120, MR.
10 JAMISON, APPROACHES THE BENCH AT THIS TIME.)

11 THE COURT: HOW ARE YOU, MR. JAMISON?

12 THE JUROR: JUST FINE.

13 THE COURT: MR. JAMISON, COULD YOU TELL ME WITH
14 WHOM YOU HAVE A CONNECTION IN LAW ENFORCEMENT?

15 THE JUROR: INVESTIGATOR BRUCE COTTER WITH
16 RICHLAND COUNTY SHERIFF'S DEPARTMENT. HIS WIFE WAS A
17 PART-TIME EMPLOYEE OF MINE AND I DEALT WITH HIM QUITE A BIT
18 THROUGH MY BUSINESS.

19 THE COURT: ALL RIGHT, SIR.

20 THE JUROR: ALSO, I DON'T KNOW IF IT MAKES ANY
21 DIFFERENCE, BUT I'M A GOOD FRIEND OF RETIRED FAMILY COURT
22 JUDGE BOB BURNSIDE.

23 THE COURT: THE FACT THAT YOU HAVE THESE
24 CONNECTIONS, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
25 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER

1 THE STATE OR THE DEFENDANT BASED SOLELY UPON THE TESTIMONY
2 AND EVIDENCE THAT YOU WILL HEAR PRODUCED IN THIS COURTROOM?

3 THE JUROR: I DO NOT FEEL IT WOULD.

4 THE COURT: ARE YOU IN ANY WAY BIASED OR
5 PREJUDICED AS A RESULT OF YOUR PREVIOUS ASSOCIATION WITH
6 EITHER OF THESE INDIVIDUALS?

7 THE JUROR: NO, SIR.

8 THE COURT: THANK YOU, SIR. I APPRECIATE YOU
9 COMING FORWARD.

10 (WHEREUPON, THE JUROR RETURNS TO
11 THE COURTROOM AT THIS TIME.)

12 THE BAILIFF: NUMBER 75.

13 THE CLERK: CORNELL DUFFY.

14 (WHEREUPON, JUROR NUMBER 75, MR.
15 DUFFY, APPROACHES THE BENCH AT THIS TIME.)

16 THE COURT: ALL RIGHT. MR. DUFFIE, HOW ARE YOU
17 AGAIN?

18 THE JUROR: FINE.

19 THE COURT: COULD YOU TELL ME WITH WHOM YOU HAVE
20 A CONNECTION WITH LAW ENFORCEMENT?

21 THE JUROR: MY EX-WIFE. SHE'S A PRISON GUARD---

22 THE COURT: EXCUSE ME JUST A MINUTE. I'M HAVING
23 A LITTLE TROUBLE HEARING UP HERE. IF YOU COULD HOLD YOUR
24 CONVERSATIONS DOWN JUST A LITTLE.

25 THE COURT: YOUR EX-WIFE IS A PRISON GUARD---

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THE JUROR: FOR BROAD RIVER ROAD INSTITUTION.

THE COURT: ALL RIGHT. THE FACT THAT SHE OCCUPIES THAT POSITION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE DEFENDANT BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT YOU WILL HEAR PRODUCED IN THIS COURTROOM?

THE JUROR: THAT'S A TOUGH QUESTION. SHE TELLS ME QUITE A BIT ABOUT SOME OF THE THINGS THAT THEY GO THROUGH. AND ALSO BASICALLY OTHER REASONS I'VE TOLD YOU ABOUT.

THE COURT: ALL RIGHT. WHY DON'T YOU TELL ME A LITTLE BIT MORE ABOUT THAT SO THAT THE LAWYERS CAN HEAR IT.

THE JUROR: MY RELIGIOUS CONVICTIONS?

THE COURT: YES, SIR.

THE JUROR: I'M OPPOSED TO THE MANAGERS OF THIS SYSTEM. I'M A CONSCIENTIOUS OBJECTOR AND I BELIEVE -- I DON'T BELIEVE IN PASSING JUDGMENT UPON ANYONE. I DO BELIEVE IN PENALTIES AND ABIDING BY THE LAW, BUT I BELIEVE THAT THERE'S A NEW WORLD COMING AND THOSE THINGS WILL BE SET STRAIGHT. I JUST HAVE CONVICTIONS THAT WE'RE NOT TO BE PASSING JUDGMENT ON OTHERS. I BELIEVE IN GUILTY BUT I DO NOT BELIEVE IN THE DEATH PENALTY. AND THAT'S MY PERSONAL VIEW BASED ON THE LIFESTYLE THAT I LIVE.

THE COURT: ALL RIGHT. THANK YOU, SIR. YOU MAY

1 RESUME YOUR SEAT.

2 (WHEREUPON, THE JUROR RETURNS TO
3 THE COURTROOM AT THIS TIME.)

4 THE BAILIFF: NUMBER 213.

5 THE COURT: WHAT WAS THAT NUMBER?

6 THE CLERK: 213, CONNIE SMITH.

7 (WHEREUPON, JUROR NUMBER 213, MS.
8 SMITH, APPROACHES THE BENCH AT THIS TIME.)

9 THE COURT: HOW ARE YOU, MS. SMITH?

10 THE JUROR: FINE. HOW ARE YOU?

11 THE COURT: I'M FINE. THANK YOU.

12 TELL ME WITH WHOM YOU HAVE A CONNECTION IN LAW
13 ENFORCEMENT.

14 THE JUROR: I DON'T REALLY NOW, BUT ABOUT FIVE
15 YEARS AGO---

16 THE COURT: OKAY.

17 THE JUROR: ---FIVE YEARS AGO, MY DENTIST. I
18 WORKED FOR MY DENTIST AND HER HUSBAND WORKED FOR LEXINGTON
19 COUNTY.

20 THE COURT: HE'S WITH LEXINGTON COUNTY SHERIFF'S
21 DEPARTMENT?

22 THE JUROR: AS FAR AS I KNOW. IT'S BEEN FIVE
23 YEARS SINCE I'VE EVEN SEEN THEM.

24 THE COURT: AND WHAT WAS HIS NAME?

25 THE JUROR: HEYWARD DOUGLAS.

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1

THE COURT: HEYWARD DOUGLAS.

2

ALL RIGHT. THE FACT THAT YOU HAD---

3

THE JUROR: I DON'T EVEN KNOW IF HE'S STILL WITH

4

THEM OR NOT.

5

THE COURT: THE FACT THAT YOU HAD THIS CONNECTION

6

WITH HIM AT THAT TIME, WOULD THAT IN ANY WAY INTERFERE WITH

7

YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR

8

EITHER THE STATE OR THE DEFENDANT BASED SOLELY UPON THE

9

TESTIMONY AND EVIDENCE THAT YOU WILL HEAR PRODUCED IN THIS

10

COURTROOM?

11

THE JUROR: NO.

12

THE COURT: THANK YOU, MA'AM. YOU MAY RESUME

13

YOUR SEAT.

14

THE JUROR: THANK YOU.

15

(WHEREUPON, THE JUROR RETURNS TO

16

THE COURTROOM AT THIS TIME.)

17

THE BAILIFF: NUMBER 217.

18

THE CLERK: DAVID SONNEFELD.

19

(WHEREUPON, JUROR NUMBER 217, MR.

20

SONNEFELD, APPROACHES THE BENCH AT THIS TIME.)

21

THE COURT: IS THAT CORRECT, MR. SONNEFELD?

22

THE JUROR: YES.

23

THE COURT: HOW ARE YOU TODAY?

24

THE JUROR: PRETTY GOOD.

25

THE COURT: COULD YOU TELL ME WITH WHOM YOU HAVE

1 A CONNECTION IN LAW ENFORCEMENT?

2 THE JUROR: WELL, I DON'T KNOW IF IT'S A
3 CONNECTION OR NOT. MY SON IS IN THE ARMY RESERVES AND HE'S
4 ON ACTIVE DUTY AND HE WORKS AS A SUPPORT PERSON FOR
5 S.L.E.D. IN NARCOTICS---

6 THE COURT: UH-HUH.

7 THE JUROR: ---AND THAT'S IT.

8 THE COURT: OKAY. THE FACT THAT YOUR SON HAS
9 THIS CONNECTION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
10 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
11 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
12 AND EVIDENCE THAT YOU WILL HEAR PRODUCED IN THIS COURTROOM?

13 THE JUROR: I DIDN'T HEAR YOU, SIR?

14 THE COURT: THE FACT THAT YOUR SON HAS THIS
15 CONNECTION, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
16 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
17 THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
18 AND EVIDENCE THAT YOU WILL HEAR PRODUCED IN THIS COURTROOM?

19 THE JUROR: I DON'T THINK SO.

20 THE COURT: ARE YOU IN ANY WAY BIASED OR
21 PREJUDICED AS A RESULT OF HIS EMPLOYMENT?

22 THE JUROR: NO.

23 THE COURT: THANK YOU, SIR.

24 (WHEREUPON, THE JUROR RETURNS TO
25 THE COURTROOM AT THIS TIME.)

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1 THE BAILIFF: NUMBER 173.
2 THE CLERK: ANNA NAGY.
3 (WHEREUPON, JUROR NUMBER 173, MS.
4 NAGY, APPROACHES THE BENCH AT THIS TIME.)
5 THE COURT: MS. NAGY, HOW ARE YOU?
6 THE JUROR: MY SON WORKS FOR THE BUREAU OF
7 PROTECTIVE SERVICES AT THE GOVERNOR'S MANSION.
8 THE COURT: ALL RIGHT.
9 THE FACT THAT HE OCCUPIES THAT POSITION, WOULD
10 THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A
11 FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE
12 DEFENDANT BASED SOLELY UPON THE TESTIMONY AND EVIDENCE YOU
13 WOULD HEAR PRODUCED IN THIS COURTROOM?
14 THE JUROR: NO.
15 THE COURT: THANK YOU.
16 (WHEREUPON, THE JUROR RETURNS TO
17 THE COURTROOM AT THIS TIME.)
18 THE BAILIFF: 248.
19 THE CLERK: MICKENS YOUNG---
20 THE JUROR: MY NAME IS LOURINE YOUNG MICKENS.
21 THE CLERK: I'M SORRY, LOURINE YOUNG MICKENS.
22 (WHEREUPON, JUROR NUMBER 248, MS.
23 MICKENS, APPROACHES THE BENCH AT THIS TIME.)
24 THE COURT: ALL RIGHT. HOW ARE YOU, MS. MICKENS?
25 THE JUROR: FINE, JUDGE.

1 THE COURT: WOULD YOU TELL ME WITH WHOM YOU HAVE
2 A CONNECTION IN LAW ENFORCEMENT?

3 THE JUROR: MY SON IS A CORRECTIONAL OFFICER---

4 THE COURT: I'M GOING TO HAVE TO GET YOU TO SPEAK
5 UP JUST A LITTLE BIT.

6 THE JUROR: MY SON IS A CORRECTIONAL OFFICER OUT
7 AT THE TRAINING ACADEMY AND A MEMBER OF THE SWAT TEAM.

8 THE COURT: OKAY. ALL RIGHT.

9 THE FACT THAT HE OCCUPIES THAT POSITION, WOULD
10 THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A
11 FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE
12 DEFENSE BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT
13 YOU WOULD HEAR IN THIS COURTROOM?

14 THE JUROR: NO, SIR.

15 THE COURT: ARE YOU IN ANY WAY BIASED OR
16 PREJUDICED AS A RESULT OF YOUR SON'S OCCUPATION?

17 THE JUROR: NO, SIR.

18 THE COURT: THANK YOU, MA'AM. WE APPRECIATE IT.

19 (WHEREUPON, THE JUROR RETURNS TO
20 THE COURTROOM AT THIS TIME.)

21 THE BAILIFF: NUMBER 185.

22 THE CLERK: KAY REEVES.

23 (WHEREUPON, JUROR NUMBER 185, MS.
24 REEVES, APPROACHES THE BENCH AT THIS TIME.)

25 THE JUROR: GOOD MORNING.

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THE COURT: HOW ARE YOU, MS. REEVES?

THE JUROR: I'M FINE.

THE COURT: WELL, ACTUALLY IT'S AFTERNOON NOW.
I'VE BEEN SAYING GOOD MORNING, TOO. SO.

MS. REEVES, WITH WHOM DO YOU HAVE A CONNECTION IN
LAW ENFORCEMENT?

THE JUROR: THERE'S A GENTLEMAN THAT WORKS IN MY
DEPARTMENT WHO SERVES AS A LAW ENFORCEMENT OFFICER ON THE
WEEKENDS, ROBERT SHARPE OR BOB SHARPE. BETTER KNOWN AS---

THE COURT: WHERE DOES HE WORK?

THE JUROR: EITHER LEXINGTON OR CAYCE.

THE COURT: IS HE LIKE A RESERVE OFFICER OR
SOMETHING LIKE THAT?

THE JUROR: COULD BE.

THE COURT: THE FACT THAT HE IS EMPLOYED IN THAT
WEEKEND CAPACITY, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
THE STATE OR THE DEFENSE BASED SOLELY UPON THE TESTIMONY
AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
COURTROOM?

THE JUROR: NO.

THE COURT: THANK YOU, MA'AM.

(WHEREUPON, THE JUROR RETURNS TO
THE COURTROOM AT THIS TIME.)

THE COURT: OKAY. THAT'S IT.

1 (WHEREUPON, THE BENCH CONFERENCE
2 WAS CONCLUDED AT THIS TIME.)

3 THE COURT: NOW, FROM THE DESCRIPTION THAT I HAVE
4 GIVEN TO YOU CONCERNING THE ALLEGATIONS THAT ARE RAISED IN
5 THE INDICTMENT IN THIS CASE, HAS ANY MEMBER OF THE PANEL
6 FORMED OR EXPRESSED AN OPINION ABOUT THIS MATTER; IF SO,
7 PLEASE, STAND?

8 (WHEREUPON, SEVERAL JURORS STAND
9 AT THIS TIME.)

10 THE COURT: ALL RIGHT. IF YOU WOULD, PLEASE,
11 COME FORWARD.

12 (WHEREUPON, THE FOLLOWING BENCH
13 CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE
14 JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

15 THE COURT: LAWYERS MAY APPROACH.

16 (WHEREUPON, THE ATTORNEYS APPROACH
17 THE BENCH AT THIS TIME.)

18 THE BAILIFF: NUMBER 38.

19 THE CLERK: TRACI BUFF.

20 (WHEREUPON, JUROR NUMBER 38, MS.
21 BUFF, APPROACHES THE BENCH AT THIS TIME.)

22 THE COURT: HOW ARE YOU, MS. BUFF?

23 THE JUROR: HI.

24 THE COURT: COULD YOU TELL ME -- I ASKED YOU THE
25 QUESTION HAVE YOU PERFORMED OR EXPRESSED AN OPINION ABOUT

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THIS CASE. COULD YOU TELL ME ABOUT THAT?

2 THE JUROR: YES, SIR.

3 I AM ASSOCIATED, NOT PERSONAL FRIENDS, WITH
4 DIANNE SMITH, THE DEFENDANT'S EX-WIFE, AND I KNOW DETAILS
5 OF THE TRIAL.

6 THE COURT: YOU KNOW DETAILS OF THE TRIAL?

7 THE JUROR: YES.

8 THE COURT: OKAY.

9 THE JUROR: AND I, JUST BASED UPON THAT, I DON'T
10 FEEL LIKE I CAN MAKE AN UNBIASED DECISION.

11 THE COURT: OKAY. SO, LET ME ASK YOU THIS.
12 WOULD YOU BE ABLE TO SET ASIDE ANY PERSONAL OPINION OR
13 KNOWLEDGE THAT YOU MAY HAVE ABOUT THIS CASE AND RENDER A
14 VERDICT AND BASED SOLELY AND STRICTLY ON THE TESTIMONY AND
15 EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS COURTROOM?

16 THE JUROR: NO, SIR.

17 THE COURT: OKAY. ALL RIGHT. JUST ONE SECOND.
18 IF YOU WOULD STEP BACK THERE ONE MOMENT.

19 (WHEREUPON, THE JUROR RETURNS TO
20 THE COURTROOM AT THIS TIME.)

21 THE COURT: MS. BUFF, THANK YOU VERY MUCH FOR
22 COMING. YOU ARE EXCUSED.

23 THE BAILIFF: NUMBER 159, YOUR HONOR.

24 THE CLERK: CHRISTOPHER MCLANE.

25 (WHEREUPON, JUROR NUMBER 159, MR.

1 MCLANE, APPROACHES THE BENCH AT THIS TIME.)

2 THE COURT: HOW ARE YOU TODAY?

3 THE JUROR: FINE.

4 THE COURT: COULD YOU TELL ME -- I ASKED YOU THE
5 QUESTION IF YOU HAD FORMED OR EXPRESSED ANY OPINION ABOUT
6 THE ISSUES OR MATTERS INVOLVED IN THIS CASE. COULD YOU
7 TELL ME ABOUT THAT?

8 THE JUROR: MY GRANDFATHER WAS KILLED IN A
9 CONVENIENCE STORE AND I FEEL THAT MY EMOTIONS WOULD
10 PREJUDICE MY THOUGHTS.

11 THE COURT: ALL RIGHT. WELL, LET ME ASK YOU THIS
12 QUESTION THEN. WOULD YOU BE ABLE TO SET ASIDE ANY PERSONAL
13 FEELINGS OR OPINIONS THAT YOU MIGHT HAVE AND RENDER A
14 VERDICT FOR EITHER THE STATE OR THE DEFENSE THAT WOULD BE
15 FAIR AND IMPARTIAL AND WOULD BE BASED SOLELY UPON THE
16 TESTIMONY AND EVIDENCE THAT WOULD BE PRODUCED IN THIS
17 COURTROOM?

18 THE JUROR: I FEEL BECAUSE OF MY EMOTIONS, MY
19 OPINIONS WOULD BE BIASED.

20 THE COURT: YOU ARE EXCUSED. THANK YOU VERY
21 MUCH.

22 (WHEREUPON, THE JUROR WAS EXCUSED
23 AT THIS TIME.)

24 (WHEREUPON, THE BENCH CONFERENCE
25 WAS CONCLUDED AT THIS TIME.)

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1 THE COURT: HAS ANY MEMBER OF THE PANEL READ,
2 SEEN OR HEARD ANY NEWS ACCOUNT CONCERNING THIS CASE; IF SO
3 PLEASE, STAND?

4 (NO RESPONSE.)

5 THE COURT: AND IS ANY MEMBER OF THE -- DOES ANY
6 MEMBER OF THE PANEL KNOW OF ANY REASON WHATSOEVER WHY YOU
7 COULD NOT GIVE A FAIR TRIAL WHICH WOULD MEAN THAT YOU COULD
8 -- IS THERE ANY REASON WHY YOU COULD NOT RENDER A VERDICT
9 THAT WOULD BE FAIR AND IMPARTIAL TO EITHER THE STATE OR THE
10 DEFENDANT IN THIS MATTER? IF YOU CANNOT, I WANT YOU TO
11 PLEASE STAND.

12 (WHEREUPON, A JUROR STANDS AT THIS
13 TIME.)

14 THE COURT: COME ON UP, PLEASE, SIR.

15 LAWYERS MAY APPROACH.

16 (WHEREUPON, THE FOLLOWING BENCH
17 CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE
18 JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

19 (WHEREUPON, THE ATTORNEYS APPROACH
20 THE BENCH AT THIS TIME.)

21 THE BAILIFF: NUMBER 75, YOUR HONOR.

22 (WHEREUPON, JUROR NUMBER 75, MR.
23 DUFFY, APPROACHES THE BENCH AT THIS TIME.)

24 THE CLERK: CORNELL DUFFY.

25 THE COURT: ALL RIGHT, MR. DUFFY.

1 THE JUROR: I CANNOT PARTICIPATE. I CAN BE ON
2 THE PANEL, BUT I CANNOT PARTICIPATE IN PASSING JUDGMENT ON
3 SOMEONE ELSE.

4 THE COURT: I'LL EXCUSE YOU FROM CONSIDERATION OF
5 THIS CASE. THANK YOU VERY MUCH FOR BEING HERE.

6 (WHEREUPON, THE JUROR WAS EXCUSED
7 AT THIS TIME.)

8 THE CLERK: NUMBER 48, HARRY CHAMBERS.

9 (WHEREUPON, JUROR NUMBER 48, MR.
10 CHAMBERS, APPROACHES THE BENCH AT THIS TIME.)

11 THE COURT: JUST A COUPLE MORE QUESTIONS. DID
12 YOU DISCUSS THIS CASE IN ANY FASHION WHATSOEVER WITH ANY
13 JURORS AT ALL THIS MORNING?

14 THE JUROR: NO, SIR.

15 THE COURT: AND INsofar AS WHEN YOU WERE ON BREAK
16 AND THAT KIND OF THING---

17 THE JUROR: NO, SIR, NOT AT ALL. NO.

18 THE COURT: ANYTHING FURTHER?

19 MR. HUMPHRIES: NO, SIR.

20 MR. STONE: NO, SIR.

21 THE COURT: THANK YOU. YOU MAY LEAVE NOW.

22 (WHEREUPON, THE JUROR WAS EXCUSED
23 AT THIS TIME.)

24 MR. STONE: THANK YOU, JUDGE.

25 (WHEREUPON, THE BENCH CONFERENCE

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WAS CONCLUDED AT THIS TIME.)

THE COURT: HAS ANY MEMBER OF THE PANEL OR ANY MEMBER OF YOUR IMMEDIATE FAMILY BEEN THE VICTIM OF A CRIME OF VIOLENCE; IF SO, PLEASE, STAND AND COME FORWARD?

(WHEREUPON, SEVERAL JURORS STAND AT THIS TIME.)

THE COURT: IF YOU WOULD, PLEASE, COME FORWARD?

(WHEREUPON, THE FOLLOWING BENCH CONFERENCE WAS HELD AT THIS TIME IN THE PRESENCE OF THE JURY VENIRE, BUT OUT OF THE HEARING OF THE JURY VENIRE.)

(WHEREUPON, THE ATTORNEYS APPROACH THE BENCH AT THIS TIME.)

THE CLERK: CONNIE SMITH, NUMBER 213.

(WHEREUPON, JUROR NUMBER 213, MS. SMITH, APPROACHES THE BENCH AT THIS TIME.)

THE COURT: ALL RIGHT. MS. SMITH, COULD YOU TELL ME WHAT THE CRIME WAS AND WHO IT WAS?

THE JUROR: I WAS SIX MONTHS OLD WHEN THIS HAPPENED, BUT MY BROTHER WAS MURDERED.

THE COURT: WHERE WAS THAT?

THE JUROR: UH -- I COULDN'T EVEN TELL YOU ALL OF THE FACTS REALLY.

THE COURT: WAS IT IN ANOTHER STATE?

THE JUROR: YES, UTAH, I BELIEVE.

THE COURT: OKAY.

1 THE JUROR: I THINK IT WAS UTAH.

2 THE COURT: ALL RIGHT.

3 THE JUROR: HE WOULD BE LIKE CLOSE TO FIFTY NOW.

4 THE COURT: THE FACT -- EXCUSE ME---

5 THE JUROR: HE WAS NINE AT THE TIME.

6 THE COURT: HE WAS NINE AT THE TIME.

7 THE JUROR: UH-HUH.

8 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
9 HAD A FAMILY MEMBER THAT WAS INVOLVED IN SUCH A CRIME,
10 WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER
11 A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE
12 DEFENSE BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT
13 YOU WOULD HEAR PRODUCED IN THIS COURTROOM?

14 THE JUROR: NO.

15 THE COURT: ARE YOU IN ANY WAY BIASED OR
16 PREJUDICED AS A RESULT OF THAT EPISODE INVOLVING YOUR
17 BROTHER?

18 THE JUROR: NO.

19 THE COURT: THANK YOU, MA'AM. RESUME YOUR SEAT.
20 (WHEREUPON, THE JUROR RETURNS TO
21 THE COURTROOM AT THIS TIME.)

22 THE BAILIFF: NUMBER 44.

23 THE CLERK: RONNIE CAMPBELL.

24 (WHEREUPON, JUROR NUMBER 44, MR.
25 CAMPBELL, APPROACHES THE BENCH AT THIS TIME.)

1 THE COURT: GOOD TO SEE YOU AGAIN, MR. CAMPBELL.
2 COULD YOU TELL ME ABOUT THAT SITUATION?

3 THE JUROR: MY FATHER WAS SHOT BY A SUSPECT HE
4 WAS TRYING TO ARREST. MY FATHER IN TURN SHOT AND KILLED
5 THE SUSPECT.

6 THE COURT: OKAY. ALL RIGHT. WHEN DID THAT
7 OCCUR?

8 THE JUROR: IT'S BEEN, LATE '50'S.

9 THE COURT: THE FACT THAT SUCH AN INCIDENT HAS
10 OCCURRED IN YOUR FAMILY, WOULD THAT IN ANY WAY INTERFERE
11 WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT
12 FOR EITHER THE STATE OR THE DEFENDANT BASED SOLELY UPON THE
13 TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR IN THIS
14 COURTROOM?

15 THE JUROR: I DON'T THINK SO.

16 THE COURT: ALL RIGHT.

17 THE JUROR: YOU KNOW, HE GOT SHOT IN THE LINE OF
18 DUTY AND HE DID WHAT HE HAD TO DO.

19 THE COURT: ALL RIGHT. COULD YOU LISTEN TO THE
20 TESTIMONY AND EVIDENCE IN THIS CASE AND RENDER A VERDICT
21 BASED SOLELY UPON THAT AND THE LAW AS I WOULD INSTRUCT YOU
22 THAT WOULD APPLY TO THAT CASE?

23 THE JUROR: I THINK I COULD.

24 THE COURT: ALL RIGHT, SIR. YOU MAY RESUME YOUR
25 SEAT.

1 (WHEREUPON, THE JUROR RETURNS TO
2 THE COURTROOM AT THIS TIME)

3 THE BAILIFF: NUMBER 244.

4 THE CLERK: SAMUEL WILSON.

5 (WHEREUPON, JUROR NUMBER 244, MR.
6 WILSON, APPROACHES THE BENCH AT THIS TIME.)

7 THE COURT: HOW ARE YOU, MR. WILSON?

8 THE JUROR: FINE.

9 THE COURT: MR. WILSON, COULD YOU TELL ME ABOUT
10 YOUR SITUATION THAT YOU'VE COME FORWARD ABOUT?

11 THE JUROR: MY FATHER GOT KILLED IN '95.

12 THE COURT: COULD YOU TELL ME A LITTLE BIT ABOUT
13 THAT SITUATION?

14 THE JUROR: YES, SIR. HE GOT SHOT AND KILLED AT
15 HOME.

16 THE COURT: AT HOME?

17 THE JUROR: YES, SIR.

18 THE COURT: WAS IT ANOTHER FAMILY MEMBER OR---

19 THE JUROR: NO. THEY STILL HAVEN'T FOUND OUT WHO
20 DID IT.

21 THE COURT: OKAY. WAS THAT HERE IN LEXINGTON
22 COUNTY?

23 THE JUROR: NO, IT WAS IN FLORENCE COUNTY.

24 THE COURT: FLORENCE?

25 THE JUROR: YES, SIR.

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1 THE COURT: THE FACT THAT YOUR FAMILY HAS BEEN
2 AFFECTED BY SUCH A CRIME, WOULD THAT IN ANY WAY INTERFERE
3 WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT
4 FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY UPON THE
5 TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
6 COURTROOM?

7 THE JUROR: NO.

8 THE COURT: ARE YOU IN ANY WAY BIASED OR
9 PREJUDICED ABOUT -- AS A RESULT OF YOUR FATHER'S DEATH?

10 THE JUROR: WHAT DO YOU MEAN BY THAT?

11 THE COURT: ARE YOU IN ANY WAY AFFECTED, SAY ONE
12 WAY OR THE OTHER, INsofar AS YOUR OPINIONS ABOUT CRIMES
13 INsofar AS THE EFFECT THAT YOUR FATHER'S DEATH HAS HAD UPON
14 YOU?

15 THE JUROR: NOT REALLY.

16 THE COURT: ALL RIGHT. WOULD YOU BE ABLE TO
17 LISTEN TO THE TESTIMONY AND EVIDENCE AS IT WOULD BE
18 PRESENTED FROM THIS WITNESS STAND, THE LAW THAT I WOULD
19 INSTRUCT YOU IN THE CASE AND SOLELY USE THAT TO MAKE A
20 DECISION IN THIS MATTER THAT WOULD BE FAIR AND IMPARTIAL TO
21 EITHER SIDE?

22 THE JUROR: YES, SIR.

23 THE COURT: ALL RIGHT. INsofar AS -- COULD YOU
24 GIVE ME -- I KNOW YOU SAY THAT YOUR FATHER WAS KILLED, WAS
25 THAT AT HOME?

1 THE JUROR: YES, SIR.

2 THE COURT: AND WAS IT A RESULT OF ANY TYPE OF A
3 BREAK-IN OR---

4 THE JUROR: YES, SIR, A BREAK-IN, A ROBBERY.

5 THE COURT: OKAY. ALL RIGHT, SIR. THANK YOU,
6 SIR. YOU MAY RESUME YOUR SEAT.

7 (WHEREUPON, THE JUROR RETURNS TO
8 THE COURTROOM AT THIS TIME.)

9 THE BAILIFF: NUMBER 224.

10 THE CLERK: PAMELA TERRELL.

11 (WHEREUPON, JUROR NUMBER 224, MS.
12 TERRELL, APPROACHES THE BENCH AT THIS TIME.)

13 THE COURT: HI, MS. TERRELL. WHAT WAS THAT
14 NUMBER AGAIN?

15 THE CLERK: 224.

16 THE COURT: THANK YOU, MA'AM.

17 COULD YOU TELL ME A LITTLE BIT ABOUT THAT
18 SITUATION.

19 THE JUROR: MY MOTHER WAS RAPED IN HER HOME WHEN
20 I WAS A CHILD.

21 THE COURT: WAS THAT HERE IN THIS COUNTY?

22 THE JUROR: IT WAS IN RICHLAND COUNTY.

23 THE COURT: RICHLAND COUNTY.

24 THE JUROR: UH-HUH. THERE WAS NEVER ANY SOLVING
25 COMING TO THE CASE.

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1 THE COURT: ALL RIGHT. THE FACT THAT YOUR FAMILY
2 HAS BEEN AFFECTED BY SUCH A CRIME, WOULD THAT IN ANY WAY
3 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL
4 VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY
5 UPON THE TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR
6 PRODUCED IN THIS COURTROOM?

7 THE JUROR: NO, SIR.

8 THE COURT: ARE YOU IN ANY WAY BIASED OR
9 PREJUDICED AS A RESULT OF THAT PREVIOUS INCIDENT?

10 THE JUROR: NO, SIR.

11 THE COURT: YOU MAY RESUME YOUR SEAT.

12 (WHEREUPON, THE JUROR RETURNS TO
13 THE COURTROOM AT THIS TIME.)

14 THE BAILIFF: NUMBER 195.

15 THE CLERK: SANDRA RUNION.

16 (WHEREUPON, JUROR NUMBER 195, MS.
17 RUNION, APPROACHES THE BENCH AT THIS TIME.)

18 THE COURT: MS. RUNION.

19 THE JUROR: YES.

20 THE COURT: THIS IS THE LADY THAT I'VE EXPLAINED
21 TO Y'ALL THAT TRANSCRIBES FOR CREEL REPORTING.

22 TELL ME ABOUT THE SITUATION -- IF YOU WOULD STEP
23 RIGHT ON UP HERE SO THE COURT REPORTER CAN HEAR.

24 THE JUROR: OKAY. OUR HOUSE WAS BROKEN INTO,
25 VANDALIZED AND ALL MY CHECKS WERE STOLEN. THE YOUNG MAN

1 WAS CAUGHT AND WAS PROSECUTED.

2 THE COURT: OKAY. THAT WAS HERE IN LEXINGTON
3 COUNTY?

4 THE JUROR: YES, IT WAS.

5 THE COURT: AND WHEN WAS THAT?

6 THE JUROR: ABOUT THREE OR FOUR YEARS AGO.

7 THE COURT: OKAY. THE FACT THAT YOU HAVE HAD
8 JUST AN INCIDENT IN YOUR FAMILY, WOULD THAT IN ANY WAY
9 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL
10 VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED SOLELY
11 UPON THE TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR
12 PRODUCED IN THIS COURTROOM?

13 THE JUROR: I BELIEVE I COULD DO IT FAIRLY.

14 THE COURT: ALL RIGHT. ARE YOU IN ANY WAY BIASED
15 OR PREJUDICED AS A RESULT OF THAT PREVIOUS INCIDENT?

16 THE JUROR: NO, SIR.

17 THE COURT: THANK YOU, MA'AM. RESUME YOUR SEAT.

18 (WHEREUPON, THE JUROR RETURNS TO
19 THE COURTROOM AT THIS TIME.)

20 THE BAILIFF: NUMBER 94.

21 THE CLERK: PATRICIA GOFF.

22 (WHEREUPON, JUROR NUMBER 94, MS.
23 GOFF, APPROACHES THE BENCH AT THIS TIME.)

24 THE COURT: HI, MS. GOFF. COULD YOU TELL ME THE
25 INCIDENT THAT YOU'VE COME FORWARD ABOUT?

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1 THE JUROR: YES. MY FATHER WAS KILLED IN '83.
2 THE COURT: AND COULD YOU TELL ME A LITTLE BIT
3 ABOUT THAT?
4 THE JUROR: I WAS SIX-YEARS-OLD, SO I DON'T
5 REMEMBER TOO MUCH ABOUT IT. I KNOW HE WAS BEATEN TO DEATH.
6 THE COURT: WAS THAT HERE IN LEXINGTON COUNTY?
7 THE JUROR: YES, SIR.
8 THE COURT: ALL RIGHT. THE FACT THAT THAT
9 EPISODE OCCURRED IN YOUR LIFE, WOULD THAT IN ANY WAY
10 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL
11 VERDICT FOR EITHER THE STATE OR THE DEFENDANT BASED SOLELY
12 UPON THE TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR IN THIS
13 COURTROOM?
14 THE JUROR: NO.
15 THE COURT: WAS THAT -- WAS THERE A TRIAL OR
16 ANYTHING IN THAT CASE?
17 THE JUROR: YES.
18 THE COURT: AND THAT -- THAT ENDED IT?
19 THE JUROR: UH-HUH.
20 THE COURT: ARE YOU IN ANY WAY BIASED OR
21 PREJUDICED AS A RESULT OF THAT INCIDENT OCCURRING IN YOUR
22 FAMILY?
23 THE JUROR: NO.
24 THE COURT: THANK YOU, MA'AM. YOU MAY RESUME
25 YOUR SEAT.

1 (WHEREUPON, THE JUROR RETURNS TO
2 THE COURTROOM AT THIS TIME.)

3 THE BAILIFF: NUMBER 138.

4 THE CLERK: JOHN KUHN.

5 (WHEREUPON, JUROR NUMBER 138, MR.
6 KUHN, APPROACHES THE BENCH AT THIS TIME.)

7 THE COURT: HOW ARE YOU, MR. KUHN?

8 THE JUROR: I'M FINE. THANK YOU.

9 THE COURT: COULD YOU TELL ME ABOUT THE INCIDENT
10 THAT YOU'VE COME FORWARD ABOUT?

11 THE JUROR: WELL, IT WAS TWO. MY COUSIN, A FIRST
12 COUSIN VERY CLOSE TO ME WAS A VICTIM OF SPOUSAL ABUSE VERY
13 -- A NUMBER OF TIMES. HER NOW EX-HUSBAND HAS BEEN ARRESTED
14 FOR IT AND THEY ARE SEPARATED OR DIVORCED NOW.

15 THE COURT: IS THAT HERE?

16 THE JUROR: NO, THAT'S IN MASSACHUSETTS.

17 THE COURT: ALL RIGHT.

18 THE JUROR: BUT I AM VERY CLOSE TO HER ON THIS
19 AND SHE AND I TALKED ABOUT THIS A LOT.

20 THE COURT: OKAY.

21 THE JUROR: I WITNESSED SOME OF THE EFFECTS OF
22 THIS ON HER.

23 THE COURT: OKAY.

24 THE JUROR: AND THE SECOND INCIDENT, MY CURRENT
25 LIVE-IN GIRLFRIEND, HER HOUSE HAD BEEN BROKEN INTO AT ONE

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1 TIME.

2 THE COURT: WHEN WAS THAT?

3 THE JUROR: ABOUT FOUR YEARS AGO IN RICHLAND
4 COUNTY.

5 THE COURT: OKAY. THE FACT THAT YOU HAVE HAD
6 THESE INCIDENTS THAT HAVE OCCURRED IN YOUR FAMILY AND ALSO
7 YOUR GIRLFRIEND, WOULD THAT IN ANY WAY INTERFERE WITH YOUR
8 ABILITY TO RENDER A FAIR AND IMPARTIAL VERDICT FOR EITHER
9 THE STATE OR THE DEFENDANT BASED SOLELY ON THE TESTIMONY
10 AND EVIDENCE THAT YOU WOULD HEAR PRODUCED IN THIS
11 COURTROOM?

12 THE JUROR: TRUTHFULLY YOUR HONOR, I'M NOT SURE.

13 THE COURT: OKAY. LET ME ASK YOU THIS. OF
14 COURSE, THE MANNER IN WHICH THE TRIAL IS PRESENTED, THE
15 WITNESSES WOULD TESTIFY FROM THIS WITNESS STAND AND
16 TOGETHER WITH ANY OTHER EVIDENCE THAT MIGHT BE INTRODUCED
17 IN THIS CASE, WOULD YOU BE ABLE TO LISTEN TO THE TESTIMONY
18 AND EVIDENCE AND SET ASIDE ANY PERSONAL OPINIONS OR
19 EXPERIENCES THAT YOU MIGHT HAVE AND STRICTLY DECIDE THIS
20 CASE BASED UPON THAT TESTIMONY AND EVIDENCE AND THE LAW
21 THAT I WOULD INSTRUCT YOU THAT WOULD APPLY TO THIS CASE?

22 THE JUROR: WOULD THAT INCLUDE POTENTIAL VERDICTS
23 -- NOT VERDICTS, BUT SENTENCING.

24 THE COURT: YES, SIR.

25 THE JUROR: I AM VERY PRO DEATH PENALTY AND IF

1 FOUND GUILTY, I WILL BE VERY MUCH I THINK AN ADVOCATE FOR
2 THE DEATH PENALTY AND I HAVE VERY STRONG OPINIONS ON THAT.

3 THE COURT: ALL RIGHT. WELL, WE'LL GET INTO THAT
4 A LITTLE BIT MORE LATER.

5 THE JUROR: OKAY.

6 THE COURT: BUT WOULD YOU BE ABLE TO SET ASIDE
7 ANY---

8 THE JUROR: IN TERMS OF FACT?

9 THE COURT: WELL, WOULD YOU BE ABLE TO SET ASIDE
10 ANY PERSONAL OPINION THAT YOU MIGHT HAVE AND, OF COURSE,
11 I'LL GET INTO THE LAW IN THE STATE AS IT APPLIES TO
12 PENALTIES AND PUNISHMENT IN SUCH AN INCIDENT A LITTLE BIT
13 LATER ON, BUT WOULD YOU BE ABLE TO APPLY THE LAW AS I WOULD
14 INSTRUCT YOU TO THE PARTICULAR FACTS AND CIRCUMSTANCES OF
15 THE CASE?

16 THE JUROR: I THINK I COULD DO THAT.

17 THE COURT: ALL RIGHT. THANK YOU, SIR.

18 (WHEREUPON, THE JUROR RETURNS TO
19 THE COURTROOM AT THIS TIME.)

20 THE BAILIFF: NUMBER 237.

21 THE CLERK: LAURA WHITAKER.

22 (WHEREUPON, JUROR NUMBER 237, MS.
23 WHITAKER, APPROACHES THE BENCH AT THIS TIME.)

24 THE COURT: MS. WHITAKER, WOULD YOU TELL ME ABOUT
25 THAT SITUATION THAT YOU'VE COME FORWARD ABOUT?

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1 THE JUROR: YES, SIR. IT'S CONCERNING MY BROTHER
2 AND MY FATHER. THERE WAS AN INCIDENT WHERE MY BROTHER
3 KILLED MY FATHER.

4 THE COURT: WHEN WAS THAT?

5 THE JUROR: IT'S BEEN NINE YEARS AGO.

6 THE COURT: HERE IN LEXINGTON COUNTY?

7 THE JUROR: NO, SIR, IT WAS IN CAMDEN.

8 THE COURT: OKAY. AND THAT CASE HAS ENDED?

9 THE JUROR: YES, SIR.

10 THE COURT: THERE WAS A TRIAL?

11 THE JUROR: YES, SIR.

12 THE COURT: ALL RIGHT. AND THE FACT THAT YOUR
13 FAMILY HAS HAD SUCH AN INCIDENT TO OCCUR IN THAT, WOULD
14 THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A
15 FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE
16 DEFENDANT BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT
17 YOU WOULD HEAR PRODUCED IN THIS COURTROOM?

18 THE JUROR: NO, SIR, I DON'T THINK SO.

19 THE COURT: ARE YOU IN ANY WAY BIASED OR
20 PREJUDICED AS A RESULT OF HAVING THAT INCIDENT OCCUR IN
21 YOUR FAMILY?

22 THE JUROR: NO, SIR.

23 THE COURT: IS YOUR BROTHER INCARCERATED NOW?

24 THE JUROR: NO, SIR.

25 THE COURT: DID HE -- WAS HE INCARCERATED?

1 THE JUROR: YES, SIR, HE WAS.

2 THE COURT: OKAY. HOW LONG WAS HE IN JAIL?

3 THE JUROR: RIGHT AT TWO YEARS.

4 THE COURT: OKAY.

5 THE JUROR: HE WAS TRIED AS A YOUTH.

6 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU
7 CAN RESUME YOUR SEAT.

8 (WHEREUPON, THE JUROR RETURNS TO
9 THE COURTROOM AT THIS TIME.)

10 THE BAILIFF: NUMBER 134.

11 THE CLERK: DENNY KINARD.

12 (WHEREUPON, JUROR NUMBER 134, MR.
13 KINARD, APPROACHES THE BENCH AT THIS TIME.)

14 THE COURT: HOW ARE YOU, MR. KINARD?

15 THE JUROR: HEY. HOW ARE YOU?

16 THE COURT: COULD YOU TELL ME ABOUT THE INCIDENT
17 THAT YOU HAVE COME FORWARD ABOUT?

18 THE JUROR: YES. MY WIFE WAS COMMITTED FOR A
19 CRIME THAT SHE DIDN'T INTEND TO DO. SHE WAS ARRESTED FOR
20 IT. SHE KICKED TWO POLICE OFFICERS AND THEY ARRESTED HER
21 THAT NIGHT.

22 THE COURT: SHE KICKED TWO POLICE OFFICERS---

23 THE JUROR: AND THEY ARRESTED HER THAT NIGHT.

24 THE COURT: WHERE WAS THAT?

25 THE JUROR: IN BATESBURG. THE FINE WAS LIKE 13

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1 HUNDRED DOLLARS. AND I DIDN'T THINK THAT IT WAS RIGHT
2 BECAUSE AT THE TIME HE WAS DRUNK AND A GIRL WAS FIGHTING AT
3 THE TIME AND THEY DIDN'T ARREST THEM. THEY ARRESTED HER
4 AND WE HAD TO PAY A FINE OF 13 HUNDRED DOLLARS, PAY 50
5 DOLLARS EVERY WEEK.

6 THE COURT: WELL, LET ME ASK YOU THIS. AS A
7 RESULT OF HAVING SUCH AN INCIDENT TO OCCUR IN YOUR FAMILY,
8 WOULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER
9 A FAIR AND IMPARTIAL VERDICT FOR EITHER THE STATE OR THE
10 DEFENDANT BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT
11 YOU WOULD HEAR FROM THIS WITNESS STAND AND IN THIS
12 COURTROOM?

13 THE JUROR: NO, SIR.

14 THE COURT: ARE YOU IN ANY WAY BIASED OR
15 PREJUDICED AS A RESULT OF THAT INCIDENT THAT IT WOULD
16 AFFECT YOUR ABILITY TO DECIDE THIS CASE BASED SOLELY UPON
17 THE TESTIMONY AND EVIDENCE AND THE LAW THAT I WOULD
18 INSTRUCT YOU THAT APPLIES TO THIS CASE?

19 THE JUROR: NO, SIR.

20 THE COURT: THANK YOU, SIR. YOU MAY RESUME YOUR
21 SEAT.

22 (WHEREUPON, THE JUROR RETURNS TO
23 THE COURTROOM AT THIS TIME.)

24 THE BAILIFF: NUMBER 63.

25 THE CLERK: JAN CURTIS.

1 (WHEREUPON, JUROR NUMBER 63, MS.
2 CURTIS, APPROACHES THE BENCH AT THIS TIME.)
3 THE COURT: HI, MS. CURTIS.
4 THE JUROR: HI.
5 MY NEPHEW WAS SHOT IN AN ARMED ROBBERY ABOUT A
6 MONTH AGO.
7 THE COURT: WAS THAT AROUND HERE?
8 THE JUROR: IT WAS IN HAMPTON.
9 THE COURT: HE SURVIVED -- DID HE SURVIVE THAT?
10 THE JUROR: UH-HUH.
11 THE COURT: ALL RIGHT. THE FACT THAT YOUR NEPHEW
12 HAS BEEN INVOLVED IN SUCH AN INCIDENT RECENTLY, WOULD THAT
13 IN ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND
14 IMPARTIAL VERDICT FOR EITHER THE STATE OR THE DEFENSE BASED
15 SOLELY UPON THE TESTIMONY AND EVIDENCE THAT YOU WOULD HEAR
16 IN THIS COURTROOM?
17 THE JUROR: NO, SIR.
18 THE COURT: ARE YOU IN ANY WAY BIASED OR
19 PREJUDICED AS A RESULT OF THAT INCIDENT WHERE IT WOULD
20 AFFECT YOUR ABILITY TO DECIDE THIS CASE FAIRLY AND
21 IMPARTIALLY?
22 THE JUROR: NO, SIR.
23 THE COURT: THANK YOU, MA'AM.
24 (WHEREUPON, THE JUROR RETURNS TO
25 THE COURTROOM AT THIS TIME.)

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1 THE BAILIFF: NUMBER 173.
2 THE CLERK: ANNA NAGY.
3 (WHEREUPON, JUROR NUMBER 173, MS.
4 NAGY, APPROACHES THE BENCH AT THIS TIME.)
5 THE COURT: TELL ME ABOUT YOUR SITUATION, MS.
6 NAGY.
7 THE JUROR: MY EX-HUSBAND WAS ARRESTED AND SENT
8 TO PRISON FOR SIX YEARS FOR RAPING MY TWO DAUGHTERS.
9 THE COURT: WHERE WAS THAT?
10 THE JUROR: IT WAS IN JERSEY. THEY ARRESTED HIM
11 IN FLORIDA. HE WAS AN ALCOHOLIC. SO MARCH OF THIS YEAR,
12 HE DIED, BUT HE DRANK HIMSELF TO DEATH.
13 THE COURT: ALL RIGHT. THE FACT THAT YOU HAVE
14 HAD SUCH AN INCIDENT TO OCCUR IN YOUR FAMILY, WOULD THAT IN
15 ANY WAY INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND
16 IMPARTIAL VERDICT FOR EITHER THE STATE OR THE DEFENDANT IN
17 THIS CASE BASED SOLELY UPON THE TESTIMONY AND EVIDENCE THAT
18 YOU WOULD HEAR PRODUCED IN THIS COURTROOM?
19 THE JUROR: NO.
20 THE COURT: ARE YOU IN ANY WAY BIASED OR
21 PREJUDICED INsofar AS THAT CASE IS CONCERNED WHERE IT WOULD
22 INTERFERE WITH YOUR ABILITY TO RENDER A FAIR AND IMPARTIAL
23 VERDICT IN THIS CASE?
24 THE JUROR: NO.
25 THE COURT: THANK YOU, MA'AM. YOU MAY RESUME

1 YOUR SEAT.

2 (WHEREUPON, THE JUROR RETURNS TO
3 THE COURTROOM AT THIS TIME.)

4 (WHEREUPON, THE BENCH CONFERENCE
5 WAS CONCLUDED AT THIS TIME.)

6 THE COURT: NOW, LADIES AND GENTLEMEN OF THE
7 JURY, THE DEFENDANT IN THIS CASE HAS PLED NOT GUILTY TO THE
8 CHARGES AGAINST HIM, AND AS I TOLD YOU, THAT PLEA REQUIRES
9 THAT THE STATE PROVE THAT HE IS GUILTY.

10 A DEFENDANT IN THIS STATE IS NEVER REQUIRED TO
11 PROVE HIMSELF INNOCENT BECAUSE THE LAW CONSIDERS THAT HE IS
12 INNOCENT AND, ONCE AGAIN, THE STATE MUST PROVE HIS GUILT
13 BEYOND A REASONABLE DOUBT.

14 IS THERE ANY MEMBER OF THE PANEL THAT DOES NOT
15 FEEL THAT THEY WOULD BE ABLE TO LISTEN TO THE TESTIMONY AND
16 EVIDENCE THAT WOULD BE PRODUCED IN THIS COURTROOM AND TO
17 APPLY THE LAW AS I WOULD CHARGE OR INSTRUCT YOU DURING AND
18 AT THE CONCLUSION OF THE CASE AND RENDER A VERDICT WHICH
19 WOULD BE FAIR AND IMPARTIAL TO EITHER THE STATE OR THE
20 DEFENDANT? IF YOU CANNOT, I WANT YOU TO PLEASE STAND.

21 (NO RESPONSE.)

22 THE COURT: NOW, LADIES AND GENTLEMEN OF THE
23 JURY, AS I TOLD YOU, THIS IS A TRIAL IN WHICH THE STATE OF
24 SOUTH CAROLINA IS SEEKING THE DEATH PENALTY AGAINST THE
25 DEFENDANT AND THESE TRIALS ARE BIFURCATED WHICH MEANS THEY

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1 ARE BROKEN INTO TWO PARTS.

2 THE FIRST PART OF THE TRIAL IS WHAT IS REFERRED
3 TO AS THE GUILT PHASE AND DURING THAT PHASE OF THE TRIAL,
4 THE JURY WILL DECIDE WHETHER THE DEFENDANT IS GUILTY OF THE
5 CRIMES CHARGED. AND IF THE DEFENDANT IS FOUND GUILTY OF
6 MURDER IN THE GUILT PHASE, THEN THE JURY WOULD MOVE INTO
7 THE SECOND PART OR THE PENALTY PHASE. AND IN THAT PART OF
8 THE TRIAL, THE JURY WOULD THEN DECIDE WHETHER THE DEFENDANT
9 SHOULD RECEIVE A PENALTY OF LIFE IN PRISON OR A PENALTY OF
10 DEATH WHICH IN THIS STATE IS BY ELECTROCUTION OR BY LETHAL
11 INJECTION.

12 NOW, THE MERE FACT THAT I MENTION THE WORD
13 PENALTY INDICATES ABSOLUTELY NOTHING ABOUT THE GUILT OF
14 THIS DEFENDANT. ONCE AGAIN, HE IS PRESUMED INNOCENT. I
15 SIMPLY DISCUSS PENALTY NOW WITH YOU AS A CONVENIENT MEANS
16 OF EXPLAINING THE PROCESS TO YOU.

17 NOW, WE HAVE CONCLUDED THE QUESTIONING AT THIS
18 TIME INSOFAR AS THE COURT'S QUESTIONS ARE CONCERNED.

19 ARE THERE FURTHER QUESTIONS FROM THE STATE AT
20 THIS TIME?

21 MR. HUMPHRIES: NONE FROM THE STATE, YOUR HONOR.

22 THE COURT: FROM THE DEFENDANT?

23 MS. FULLWOOD: NO, YOUR HONOR.

24 THE COURT: LADIES AND GENTLEMEN, WHAT I'M GOING
25 TO DO IS TO INSTRUCT THE CLERK TO DRAW PANELS OF SIX AND

1 FROM -- YOUR NAMES ARE GOING TO BE PLACED INTO THE JURY
2 CYLINDER AND THEY WILL BE PLACED ON INDIVIDUAL LISTS OF SIX
3 AND WHAT WE WILL DO IS YOU WILL BE BROUGHT BACK IN THESE
4 INDIVIDUAL PANELS AT VARIOUS TIMES TODAY AND INTO TOMORROW
5 AND QUITE POSSIBLY INTO WEDNESDAY. AND FROM THAT, WE WILL
6 BE ASKING QUESTIONS. I WILL ASK QUESTIONS; THE STATE, AS
7 WELL AS THE DEFENSE, AND THEN ONCE WE HAVE A PANEL OF
8 QUALIFIED JURORS WHO HAVE BEEN -- POTENTIAL JURORS WHO HAVE
9 BEEN SELECTED, THEN WE WILL DRAW A JURY IN THAT CASE WHICH
10 WILL BE SWORN TO HEAR AND CONSIDER THE TESTIMONY AND
11 EVIDENCE IN THIS MATTER

12 I ASK FOR YOUR PATIENCE IN THIS PROCESS. MADAM
13 CLERK, WHAT I INTEND TO DO IS TO BRING THE FIRST PANEL BACK
14 AT 2:30, THE SECOND PANEL BACK AT 4:30 AND THE THIRD PANEL
15 BACK AT 6:30 TODAY. AND THEN WE WILL START ANEW IN THE
16 MORNING, STARTING AT NINE.

17 SO, LADIES AND GENTLEMEN, IF YOU WOULD, PLEASE,
18 BEAR WITH US FOR JUST A MOMENT AND WE'LL GET THAT PROCESS
19 STARTED AND COMPLETED.

20 WHILE THE CLERKS ARE DOING THAT, LET ME, ONCE
21 AGAIN -- I'VE NEGLECTED TO INTRODUCE SOME OF THE OTHER
22 PARTICIPANTS HERE IN THE COURTROOM TO YOU BECAUSE WE HAD A
23 GREAT DEAL TO DO THIS MORNING.

24 OF COURSE, YOUR BAILIFFS THAT WILL BE SERVING YOU
25 THIS WEEK. ART CARLTON, MR. CARLTON, RIGHT HERE. THEN THE

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1 COURT CRIER, MR. JACK FULMER. MR. FULMER IS HERE. AND
2 THEN, ALSO BAILIFF TED WILLIS. MR. WILLIS IS OVER HERE AND
3 THESE GENTLEMEN, THE BAILIFFS ARE IDENTIFIED. THANK YOU
4 VERY MUCH. YOU MAY BE SEATED. THEY ARE IDENTIFIED BY
5 THEIR RED COATS.

6 MY COURT REPORTER THIS WEEK IS ROBBIE DEFREESE.
7 SHE WILL WORK HARDER THAN ANYONE AROUND. SHE HAS TO TAKE
8 DOWN EVERYTHING THAT IS SAID DURING THE COURSE OF THIS
9 TRIAL AND SHE IS A VERY HARD WORKING INDIVIDUAL AND I
10 APPRECIATE HER EFFORTS.

11 AND THEN THE LADIES WHO ARE SEATED DOWN IN FRONT
12 OF YOU, THE DEPUTY CLERK OF COURT IS JERI HARRISON AND
13 ASSISTING HER, HOPE FRICK; AND, THEN, OF COURSE, YOU HAVE
14 MET YOUR CLERK OF COURT, TOM COMERFORD, A LITTLE BIT
15 EARLIER THIS MORNING.

16 THE YOUNG LADY THAT'S SEATED TO MY LEFT AND YOUR
17 RIGHT IS MY LAW CLERK, ANNA MARIE MAXWELL, AND SHE WILL BE
18 IN AND OUT OF THE COURTROOM GATHERING VARIOUS THINGS THAT I
19 MAY NEED THROUGHOUT THE COURSE OF THE TRIAL AND WE'LL TRY
20 TO KEEP THAT TO A MINIMUM SO IT WILL NOT BE DISRUPTIVE TO
21 YOU, BUT SOMETIMES IT IS NECESSARY THAT SHE GO IN AND OUT
22 OF THE COURTROOM TO ASSIST ME THROUGHOUT THE COURSE OF THE
23 TRIAL.

24 LADIES AND GENTLEMEN, AS THE CLERK CALLS YOUR
25 NAME, SHE'S GOING TO GIVE YOU INSTRUCTIONS AS TO WHAT YOU

1 ARE TO DO BECAUSE YOU WILL BE PARTICIPATING IN THE PROCESS
2 THIS AFTERNOON AND EARLY THIS EVENING.

3 SO, MADAM CLERK, WOULD YOU PLEASE CALL THE NAMES
4 FOR THE PANELS AND GIVE THEM FURTHER INSTRUCTIONS.

5 THE CLERK: AS YOUR NAME IS CALLED, IF YOU WILL
6 JUST COME FORWARD. YOU CAN JUST COME RIGHT AROUND HERE, GO
7 RIGHT OUT THAT DOOR INTO THE GRAND JURY ROOM FOR ME. SO
8 JUST RIGHT ON THROUGH.

9 NUMBER 50, GLENDA CLIFTON; NUMBER 212, BRYAN
10 SMITH; NUMBER 169, CHARLES MOORE; 123, BOYD JONES; 35,
11 NORWOOD BROWN; 163, GEORGIA MILLER.

12 YOU ARE JURY PANEL NUMBER ONE.

13 THE COURT: ARE YOU GOING TO -- EXCUSE ME, ARE
14 YOU GOING TO GO BACK IN THERE AND DISMISS THEM FROM THE
15 GRAND JURY?

16 THE CLERK: YES, SIR, I WILL

17 THE COURT: OKAY.

18 BEFORE YOU GO OUT, LET ME -- LET ME DO THIS FOR
19 YOU AND ALL THE OTHER JURORS. I WANT TO CAUTION YOU THAT
20 YOU ARE NOT TO READ ANY ACCOUNT, VIEW ANY ACCOUNT OR LISTEN
21 TO ANY ACCOUNT THAT MIGHT BE IN THE NEWS MEDIA CONCERNING
22 THIS MATTER.

23 ALSO, YOU ARE NOT TO DISCUSS THIS CASE AMONG
24 YOURSELVES, YOUR FELLOW JURORS AS YOU EXIT THE COURT HOUSE,
25 WHEN YOU RECONVENE IN THE COURT HOUSE A LITTLE BIT LATER

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1 THIS AFTERNOON OR IF YOU HAPPEN TO GO TO LUNCH TOGETHER.

2 ALSO, YOU ARE NOT TO DISCUSS THIS CASE WITH YOUR
3 FAMILY, FRIENDS OR ANYONE ELSE. AND IF ANYONE SHOULD
4 ATTEMPT TO CONTACT YOU CONCERNING THIS CASE, I WANT YOU TO
5 INFORM THEM THAT YOU ARE A POTENTIAL JUROR IN THIS MATTER
6 AND THAT THEY ARE TO CEASE ANY DISCUSSIONS WITH YOU AND
7 ALSO GATHER AS MUCH INFORMATION ABOUT THAT INDIVIDUAL AS
8 YOU POSSIBLY CAN TO REPORT THAT TO ME IMMEDIATELY UPON YOUR
9 RETURN TO THE COURT HOUSE BECAUSE THAT IS A VERY SERIOUS
10 MATTER AND I WOULD DEAL WITH THE INDIVIDUAL OR INDIVIDUALS
11 WHO ATTEMPTED TO CONTACT YOU ACCORDINGLY.

12 PLEASE BE PROMPT WHEN YOU ARE TO REPORT BACK HERE AND WE'LL
13 TRY TO KEEP YOUR PARTICIPATION HERE AS BRIEF AS POSSIBLE.

14 THANK YOU VERY MUCH. YOU MAY REPORT TO THE GRAND
15 JURY ROOM.

16 (WHEREUPON, JURY PANEL NUMBER ONE
17 EXITS THE COURTROOM AT THIS TIME.)

18 THE CLERK: JURY PANEL NUMBER TWO: 185, KAY
19 REEVES; 164, TERESA MILNE; 202, JEFFERY SHAW; 188,
20 GWENDOLYN RICHARDSON; 151, JAMES MCCABE; 214, ROBIN SMITH.

21 (WHEREUPON, JURY PANEL NUMBER TWO
22 EXITS THE COURTROOM AT THIS TIME.)

23 THE CLERK: JURY PANEL NUMBER THREE: NUMBER 244,
24 SAMUEL WILSON; 170, KAREN MOORE; 137, CHERYL KIRKPATRICK;
25 139, SANDRA KYZER; 124, GAIL JONES; 183, ERNEST RAMSEY.

1 (WHEREUPON, JURY PANEL NUMBER
2 THREE EXITS THE COURTROOM AT THIS TIME.)

3 THE COURT: LADIES AND GENTLEMEN, ONCE AGAIN,
4 PLEASE, THE CLERK IS GOING TO BE GIVING YOU FURTHER
5 INSTRUCTIONS. THESE PANELS WILL BE COMING BACK THIS
6 AFTERNOON STARTING AT 2:30. THE SECOND PANEL WILL COME
7 BACK AT 4:30 AND THEN THE THIRD PANEL WILL BE BACK HERE
8 AROUND 6:30 THIS EVENING AND WE WILL WORK UNTIL COMPLETION
9 AND THE CLERK IS GOING TO GIVE YOU FURTHER INSTRUCTION
10 ABOUT HOW YOU WILL LEARN HOW YOU ARE TO REPORT BACK TO THE
11 COURT HOUSE.

12 ONCE AGAIN, ALL OF THE INSTRUCTIONS AND CAUTIONS
13 THAT I HAVE GIVEN YOU, PLEASE ADHERE TO THOSE. ALSO,
14 PLEASE BE PROMPT WHEN YOU ARE INSTRUCTED TO REPORT BACK
15 HERE. PLEASE DO SO AT THAT TIME AND WE'LL TRY TO KEEP YOUR
16 TIME HERE AT THE COURT HOUSE TO A MINIMUM.

17 THANK YOU VERY MUCH.

18 MADAM CLERK, YOU MAY CONTINUE.

19 THE CLERK: LADIES AND GENTLEMEN, THE BAILIFFS
20 ARE GIVING OUT A CARD. ON THE BACK OF THAT CARD, YOU WILL
21 SEE A PHONE NUMBER LISTED FOR GENERAL SESSIONS. THAT IS
22 OUR LEGAL MAIL SYSTEM. THE NUMBER IS 799-2001, BOX -- OR
23 EXTENSION 1701.

24 EACH OF YOU NEED TO CALL BACK AFTER SIX TONIGHT
25 TO FIND OUT WHEN YOU ARE TO RETURN. WHAT WE WILL DO IS

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1 WHEN YOU CALL THAT 799-2001, IT WILL TELL YOU, YOU HAVE
2 REACHED THE GENERAL SESSIONS JURY INFORMATION LINE OR YOU
3 HAVE REACHED LEGAL MAIL. PLEASE ENTER YOUR BOX NUMBER.
4 THE BOX NUMBER IS 1701. THEN IT WILL TELL YOU THAT YOU
5 HAVE REACHED THE GENERAL SESSIONS JURY INFORMATION LINE.
6 IF YOU ARE SERVING JURY DUTY THIS WEEK AND YOUR NAME IS
7 CALLED, PLEASE REPORT AT THE TIME LISTED. AND THEN I WILL
8 BE ON THERE AND I WILL SAY THE FOLLOWING JURORS ARE JURY
9 PANEL NUMBER FOUR OR FIVE OR SIX. YOUR NAME AND NUMBER
10 WILL BE CALLED AND I WILL TELL YOU WHEN TO RETURN.

11 IF YOUR NAME IS CALLED AND IT SAYS FOR YOU TO BE
12 BACK AT 9:30 IN THE MORNING, PLEASE BE BACK AT 9:30 IN THE
13 MORNING. YOU NEED TO REPORT TO THE GRAND JURY ROOM WHICH
14 IS IN THE LITTLE HALLWAY THAT'S BEHIND THIS COURTROOM. IF
15 YOU COME UP EITHER SIDE OF THE STEPS, THERE WILL BE
16 BAILIFFS ON EITHER SIDE AND THEY WILL CHECK YOUR NAME AND
17 CHECK YOU OFF AND SHOW YOU WHERE TO GO. PLEASE MAKE SURE
18 THAT YOU CALL THE NUMBER AFTER SIX TONIGHT, LISTEN TO ALL
19 THE INSTRUCTIONS. IF IT SAYS THERE IS MORE THAN ONE
20 MESSAGE, LISTEN TO ALL THE MESSAGES, BUT MAKE SURE THAT
21 YOU CALL BACK AFTER SIX. THIS IS A 24-HOUR NUMBER. SO IF
22 YOU CAN'T REACH IT RIGHT AT 6:10 OR 6:15, YOU CAN CALL AT
23 MIDNIGHT OR ONE OR TWO O'CLOCK IN THE MORNING, YOU KNOW,
24 WHENEVER YOU DECIDE TO PICK UP THE PHONE, YOU SHOULD BE
25 ABLE TO GET THE MESSAGE.

1 DOES ANYONE HAVE A ROTARY PHONE? THAT'S THE DIAL
2 PHONE, NOT THE PUSH BUTTON.

3 THE JUROR: I HAVE A ROTARY AND I HAVE A PUSH
4 BUTTON.

5 THE CLERK: OKAY. YOU CAN'T USE THIS ON A
6 ROTARY. SO USE YOUR PUSH BUTTON PHONE, OKAY?

7 THE JUROR: OKAY.

8 THE CLERK: ALL RIGHT.

9 ANYBODY ELSE?

10 (NO RESPONSE.)

11 THE CLERK: JUST MAKE SURE THAT YOU CALL AFTER
12 SIX, LISTEN CAREFULLY FOR YOUR NAME AND FOR YOUR NUMBER.

13 IF YOUR NAME IS NOT CALLED, IF YOU ARE NOT IN ONE
14 OF THE PANELS FOR TOMORROW, THEN YOU NEED TO CALL BACK
15 TOMORROW NIGHT AFTER SIX BECAUSE WE MAY HAVE PUT YOU IN A
16 PANEL FOR WEDNESDAY. SO MAKE SURE THAT YOU CALL BACK
17 TONIGHT AFTER SIX AND IF YOU DON'T HEAR YOUR NAME, CALL
18 BACK TOMORROW AFTER SIX AND YOU SHOULD RECEIVE SOME
19 INSTRUCTIONS THEN EITHER ON WHEN TO COME BACK OR THAT YOU
20 DON'T HAVE TO COME BACK OR THAT EVERYBODY IS COMING BACK,
21 BUT JUST LISTEN TO IT ALL, OKAY.

22 THE COURT: ALL RIGHT. THANK YOU VERY MUCH,
23 LADIES AND GENTLEMEN. YOU'VE BEEN VERY COOPERATIVE AND I
24 DO APPRECIATE THAT. I'LL LOOK FORWARD TO SEEING YOU LATER
25 ON TOMORROW OR LATER ON IN THE WEEK AFTER THAT. HAVE A

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1 VERY PLEASANT AFTERNOON AND THIS JURY IS DISMISSED.

2 PLEASE CALL THE NUMBER AS YOU HAVE BEEN
3 INSTRUCTED FOR FURTHER INSTRUCTIONS TODAY AFTER SIX. HAVE
4 A PLEASANT DAY.

5 (WHEREUPON, THE REMAINDER OF THE
6 JURY VENIRE WAS EXCUSED AT THIS TIME.)

7 THE COURT: ARE ALL THE JURORS OUT OF THE
8 COURTROOM NOW? I THINK WE STILL HAVE ONE OVER HERE OR TWO.

9 ALL RIGHT. ALL THE JURORS OUTSIDE THE COURTROOM.

10 THE BAILIFF: YES, SIR.

11 THE COURT: OKAY.

12 MR. HUMPHRIES: YOUR HONOR, JUST A BRIEF MATTER.

13 I DELIVERED ABOUT 10:30 THIS MORNING TO THE
14 DEFENSE THE SUBSTANCE OF AN ORAL STATEMENT WHICH WAS
15 UNSOLICITED, NOT THE SUBJECT OF INTERROGATION, MADE BY THE
16 DEFENDANT TO A DEPARTMENT -- A DETENTION CENTER OFFICER
17 WHICH WAS MADE SEPTEMBER 12TH AND THE 13TH OF THIS YEAR.
18 WE WERE MADE AWARE OF IT THIS SATURDAY WHICH WOULD HAVE
19 BEEN THE 13TH.

20 WE ATTEMPTED TO CALL THE PUBLIC DEFENDER'S OFFICE
21 THAT SATURDAY, WE WEREN'T ABLE TO GET AN ANSWER, BUT WE DID
22 DELIVER IT TO THEM THIS MORNING.

23 THE COURT: ALL RIGHT.

24 MR. HUMPHRIES: IT WOULD NOT RELATE TO THE GUILT
25 PHASE OF THIS CASE.

1 THE COURT: ALL RIGHT. OKAY. LET'S BE BACK HERE
2 AT 2:30 WHEN OUR FIRST PANEL WILL BE COMING IN AND THANK
3 YOU FOR YOUR COOPERATION THIS MORNING. IT'S GONE VERY
4 QUICKLY AND I'LL LOOK FORWARD TO SEEING YOU AT TWO-THIRTY.

5 LET ME SEE YOU BEFORE YOU GO, UP AT THE SIDE BAR.
6 (WHEREUPON, A BENCH CONFERENCE WAS
7 HELD AT THIS TIME OFF THE RECORD.)

8 THE COURT: ALL RIGHT. WE'LL STAND IN RECESS
9 UNTIL TWO-THIRTY.

10 (WHEREUPON, COURT RECESSED FOR
11 LUNCH AT 1:15 P.M.)

12 (WHEREUPON, COURT RECONVENED AFTER
13 LUNCH AT 2:30 P.M.)

14 THE BAILIFF: ALL RISE. COURT IS NOW IN SESSION.

15 THE COURT: THANK YOU. PLEASE TAKE YOUR SEATS.

16 ALL RIGHT. JUST SO THE RECORD WILL REFLECT, LAST
17 WEEK, LAST MONDAY WHEN WE GOT TOGETHER, I HAD THE CLERK TO
18 PROVIDE ME SOME MORE INFORMATION ON SOME JURORS THAT HAD
19 SOUGHT EXCUSES.

20 JUROR NUMBER 19 WAS EXCUSED DUE TO A MEDICAL
21 CONDITION, FIBROMYALGIA.

22 JUROR NUMBER 42 IS NO LONGER A RESIDENT. NOW A
23 RESIDENT OF CHICAGO, ILLINOIS.

24 NUMBER 45 IS NOW A RESIDENT OF SALUDA, SOUTH
25 CAROLINA, AND THAT INFORMATION WAS PROVIDED.

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1 JUROR NUMBER 47 PROVIDED INFORMATION TO CONFIRM A
2 TRIP TO MINNESOTA, I BELIEVE IT WAS. BUT ANYHOW, IT WAS
3 OUT-OF-STATE TRAVEL.

4 JUROR NUMBER 52 WAS EXCUSED CONSISTENT WITH MY
5 OTHER RULINGS FOR BUSINESS REASONS, FINANCIAL
6 CONSIDERATIONS.

7 JUROR NUMBER 56 WAS EXCUSED PURSUANT TO A --
8 INFORMATION RECEIVED FROM HER PSYCHIATRIST.

9 JUROR NUMBER 111 WAS EXCUSED DUE TO OUT-OF-STATE
10 BUSINESS RESPONSIBILITIES AS HE IS THE PROJECT MANAGER FOR
11 A DEPARTMENT OF ENERGY FACILITY IN MIAMISBURG, OHIO.

12 NUMBER 113 WAS ALSO EXCUSED FOR BUSINESS
13 HARDSHIP. AS WELL AS JUROR NUMBER 119.

14 ALL RIGHT.

15 THE STATE READY TO PROCEED?

16 MR. HUMPHRIES: THE STATE IS READY TO PROCEED,
17 YOUR HONOR.

18 THE COURT: IS THE DEFENDANT READY?

19 MS. FULLWOOD: READY, YOUR HONOR.

20 THE COURT: ALL RIGHT. LET'S BRING IN MS.
21 CLIFTON, WHO IS JUROR NUMBER 50.

22 GLENDA B. CLIFTON,

23 (JUROR NUMBER 50, WHITE FEMALE,
24 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

25 EXAMINATION

1 BY THE COURT:

2 Q GOOD AFTERNOON, MS. CLIFTON.

3 A GOOD AFTERNOON.

4 Q YOU ARE GLENDA CLIFTON, IS THAT RIGHT?

5 A RIGHT. YES, SIR.

6 Q I'M GOING TO ASK THAT YOU SPEAK INTO THAT MICROPHONE.

7 IT'S A LITTLE CUMBERSOME FOR ME TO SIT WAY UP HERE AND FOR

8 YOU TO SIT DOWN THERE. I'M GOING TO SPEAK AS LOUD AS I

9 POSSIBLY CAN AND YOU UNDERSTAND THAT YOU ARE UNDER OATH FOR

10 THESE PROCEEDINGS?

11 A YES, SIR.

12 Q AND HAS ANYONE ATTEMPTED TO CONTACT YOU CONCERNING

13 THIS CASE SINCE YOU LEFT THE COURT HOUSE ABOUT AN HOUR AND

14 A HALF OR SO AGO?

15 A NO, SIR, YOUR HONOR.

16 Q AND HAVE YOU HAD ANY DISCUSSIONS WITH ANYONE

17 CONCERNING THIS CASE?

18 A NO, SIR.

19 Q NOW, I'M GOING TO BE ASKING YOU SEVERAL QUESTIONS AND

20 THEREAFTER ONE OF THE DEFENSE LAWYERS WILL PROBABLY ASK YOU

21 SOME QUESTIONS AND ONE OF THE MEMBERS OF THE SOLICITOR'S

22 OFFICE WILL ASK YOU SOME QUESTIONS. I WANT YOU TO KEEP IN

23 MIND THAT BECAUSE OF THE NATURE OF THE PROCEEDINGS THAT WE

24 ARE ABOUT HERE, THAT'S THE REASON FOR THESE QUESTIONING,

25 THE QUESTIONS, AND PLEASE KEEP IN MIND THAT THERE ARE

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1 ABSOLUTELY NO RIGHT OR WRONG ANSWERS TO THE QUESTIONS THAT
2 YOU ARE GOING TO BE ASKED. IT'S SIMPLY THAT WE NEED TO
3 KNOW WHAT YOUR POSITION OR POSITIONS ARE IN SEVERAL AREAS.
4 NO ONE IS CHALLENGING YOUR VIEW. WE JUST NEED TO KNOW WHAT
5 THAT VIEW IS. DO YOU UNDERSTAND THAT?

6 A I UNDERSTAND.

7 Q NOW, ALSO, KEEP IN MIND THAT THE QUESTIONNAIRE THAT
8 YOU FILLED OUT AND SENT BACK IN, I HAVE A COPY OF IT AS
9 WELL AS THE LAWYERS BECAUSE IT'S VERY IMPORTANT THAT THEY
10 HAVE THAT INFORMATION. SO PLEASE, UNDERSTAND THAT IF THEY
11 ASK YOU QUESTIONS ABOUT CERTAIN QUESTIONS THAT YOU HAVE
12 PROVIDED IN YOUR QUESTIONNAIRE, THAT'S THE REASON.

13 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
14 TALKING ABOUT WILL BE THE TERM PENALTY, BUT THE MERE FACT
15 THAT I EVEN MENTION THAT WORD DOES NOT INDICATE ANYTHING
16 ABOUT THE DEFENDANT THAT'S ON TRIAL HERE THIS WEEK. HE IS
17 PRESUMED UNDER THE LAW TO BE INNOCENT. DO YOU UNDERSTAND
18 THAT?

19 A I DO.

20 Q NOW, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
21 YOU LISTEN TO THE LAW, ACCEPT AND APPLY THE LAW AS I WOULD
22 INSTRUCT YOU AS THE JUDGE OF THE COURT EVEN THOUGH YOU MAY
23 NOT AGREE WITH THAT LAW OR THINK THAT IT OUGHT TO BE SOME
24 OTHER WAY?

25 A YES, I COULD.

1 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
2 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
3 ANYTHING THAT YOU MAY HAVE HEARD, READ OR SEEN ABOUT THE
4 CASE?

5 A I COULD.

6 Q NOW, YOU UNDERSTAND THAT IN A CRIMINAL CASE, THE
7 STATE HAS THE BURDEN OF PROVING GUILT. THE BURDEN OF PROOF
8 FOR THE STATE IS BEYOND A REASONABLE DOUBT. A DEFENDANT
9 HAS NO BURDEN TO PROVE HIMSELF INNOCENT. DO YOU UNDERSTAND
10 THAT?

11 A I UNDERSTAND THAT.

12 Q NOW, COULD YOU, DEPENDING UPON THE FACTS AND EVIDENCE
13 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,
14 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

15 A YES, I COULD.

16 Q NOW, IF YOU WERE A JUROR IN A DEATH PENALTY CASE AND
17 IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER IN THE
18 FIRST PHASE -- I THINK THAT I EXPLAINED THAT TO YOU A
19 LITTLE BIT EARLIER TODAY---

20 A UH-HUH.

21 Q ---YOU UNDERSTAND THAT YOU WOULD THEN MOVE INTO THE
22 SENTENCING PHASE OF THE TRIAL?

23 A I DO. UH-HUH.

24 Q NOW, DO YOU ALSO -- I HAVEN'T EXPLAINED TO YOU THAT
25 IN THAT SENTENCING PHASE THAT THERE ARE SEVERAL TYPES OF

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1 CIRCUMSTANCES THAT YOU WOULD BE PRESENTED WITH.

2 AGGRAVATING CIRCUMSTANCES WHICH ARE FACTS,
3 INCIDENTS, DETAILS, OR OCCURRENCES WHICH OUR GENERAL
4 ASSEMBLY HAS DECLARED BY STATUTE THAT WOULD MAKE WORSE;
5 THAT IS, TO AGGRAVATE THE OFFENSE OF MURDER.

6 IN OTHER WORDS, THAT AGGRAVATING CIRCUMSTANCE
7 WHEN IT'S COUPLED WITH A MURDER, IN ESSENCE, INCREASES OR
8 ADDS TO THE INJURY OF THAT MURDER. DO YOU UNDERSTAND THAT?

9 A I UNDERSTAND THAT, YES, SIR.

10 Q AND THEN MITIGATING CIRCUMSTANCES ARE INCIDENTS,
11 DETAILS, OCCURRENCES WHICH THE GENERAL ASSEMBLY HAS
12 DECLARED BY STATUTE THAT REDUCES THE SEVERITY OF THE
13 OFFENSE OF MURDER AND MAY BE CONSIDERED AS EXTENUATING OR
14 AS REDUCING THE DEGREE OF RESPONSIBILITY. YOU UNDERSTAND
15 THAT?

16 A I UNDERSTAND THAT, TOO.

17 Q NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN THAT
18 SITUATION AND WE ARE TALKING ABOUT THE SENTENCING PHASE,
19 THAT SECOND PHASE, COULD YOU, DEPENDING UPON THE PARTICULAR
20 FACTS AND CIRCUMSTANCES OF THAT CASE AND THE LAW AS I WOULD
21 INSTRUCT YOU AT THE CONCLUSION OF THE CASE, RETURN A
22 SENTENCE OF LIFE IN PRISON?

23 A I COULD.

24 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
25 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF

1 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
2 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

3 A I THINK I COULD UNDER THOSE CIRCUMSTANCES.

4 Q NOW, IF YOU WERE CHOSEN TO SERVE AS A JUROR IN THIS
5 CASE, THE JURY WOULD BE WHAT WE CALL SEQUESTERED---

6 A UH-HUH.

7 Q ---YOU WOULD BE HOUSED IN A MOTEL DURING THE TRIAL
8 WHICH I DON'T KNOW EXACTLY HOW LONG IT WOULD BE BUT IT
9 WOULD BE ANYWHERE FROM A WEEK TO TEN DAYS. EXCEPT FOR THE
10 PERSONAL INCONVENIENCE, WOULD THIS POSE A SERIOUS DANGER TO
11 THE HEALTH OR WELL-BEING OF YOURSELF OR OF THOSE DEPENDENT
12 UPON YOU?

13 A I DON'T THINK SO, NO, SIR.

14 Q ALL RIGHT. WELL, THANK YOU VERY MUCH FOR RESPONDING
15 TO MY QUESTIONS.

16 DEFENSE. QUESTIONS, MS. FULLWOOD.

17 MS. FULLWOOD: THANK YOU, YOUR HONOR.

18 EXAMINATION

19 BY MS. FULLWOOD.

20 Q MS. CLIFTON, HI.

21 A HI.

22 Q HOW ARE YOU?

23 A FINE, THANK YOU.

24 Q AS JUDGE CLARY TOLD YOU EARLIER TODAY, I'M BETH
25 FULLWOOD. DUFFIE STONE AND I ARE REPRESENTING GARY TERRY.

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1 HE'S THE MAN IN THE WHITE SHIRT AT THE END OF THE TABLE
 2 HERE.
 3 A YES.
 4 Q THIS IS GOING TO BE OUR ONLY CHANCE TO TALK TO YOU AS
 5 A JUROR. LIKE JUDGE CLARY TOLD YOU, THERE ARE NO RIGHT OR
 6 WRONG ANSWERS TO ANY OF THESE QUESTIONS. SO NOBODY IS HERE
 7 TO JUDGE WHAT YOU HAVE TO SAY ONE WAY OR THE OTHER. IT'S
 8 JUST IMPORTANT THAT YOU TELL US WHAT YOU REALLY THINK.
 9 DON'T TELL US WHAT YOU THINK WE WANT TO HEAR. WE JUST NEED
 10 TO KNOW WHAT YOU REALLY THINK BECAUSE THAT'S WHAT'S
 11 IMPORTANT TO ALL OF US HERE TODAY.
 12 A OKAY.
 13 Q TO START OFF, YOU INDICATED TO THE JUDGE THAT YOU
 14 COULD GIVE EITHER A LIFE SENTENCE OR A DEATH SENTENCE IN AN
 15 APPROPRIATE CASE, IS THAT THE CORRECT STATEMENT?
 16 A I FEEL LIKE I COULD DEPENDING ON, YOU KNOW, CERTAINLY
 17 EVERYTHING THAT YOU HEAR AND ALL THE EVIDENCE AND THAT KIND
 18 OF THING.
 19 Q ALL RIGHT. AND LET ME -- LET ME SAY THIS AT THE
 20 OUTSET. LIKE THE JUDGE TOLD YOU, THERE'S GOING TO BE TWO
 21 DIFFERENT TRIALS.
 22 A OKAY.
 23 Q AND ONE IS TO DECIDE WHETHER MR. TERRY IS GUILTY OR
 24 NOT GUILTY; AND, IF AND ONLY IF, HE'S FOUND GUILTY, WOULD
 25 WE MOVE ON TO THE SECOND TRIAL---

1 A RIGHT.

2 Q ---OKAY? AND IN OTHER WORDS, WE HAVE GOT TO ASK YOU
3 QUESTIONS ABOUT YOUR ATTITUDE ABOUT THE DEATH PENALTY.
4 THAT DOESN'T MEAN THAT WE ARE ASSUMING, ANYONE IN THIS
5 COURTROOM IS ASSUMING THAT WE WOULD EVEN EVER GET TO THE
6 SECOND TRIAL.

7 A RIGHT.

8 Q SO, I DON'T WANT YOU TO READ ANYTHING INTO IT. LIKE
9 I SAY, THIS IS OUR ONLY CHANCE TO TALK TO YOU.

10 A SURE.

11 Q OKAY? NOW, I'VE BEEN A LAWYER FOR 18 YEARS AND IT'S
12 SOMETHING I DO EVERYDAY, BUT I REALIZE THIS IS PROBABLY NOT
13 THE TYPE OF THING YOU COME IN CONTACT WITH ON A DAY-TO-DAY
14 BASIS.

15 DO YOU UNDERSTAND THAT IF THE JURY IN THIS CASE
16 WERE TO GET TO THE POINT OF A SECOND TRIAL, THEY WOULD HAVE
17 FOUND IN THE FIRST TRIAL A VERDICT OF GUILTY OF MURDER?
18 DID YOU REALIZE IN SOUTH CAROLINA THAT MURDER IS KILLING
19 SOMEBODY WITH MALICE AFORETHOUGHT?

20 A YES.

21 Q IN OTHER WORDS, INTENTIONALLY, WITH AN EVIL HEART?

22 A YES.

23 Q DO YOU REALIZE THAT WOULD EXCLUDE SITUATIONS SUCH AS
24 SELF-DEFENSE OR HEAT OF PASSION OR AN ACCIDENT?

25 A RIGHT.

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1 Q IS THAT SOMETHING YOU ALREADY UNDERSTOOD?

2 A YES. I FEEL LIKE I UNDERSTAND THAT.

3 Q OKAY.

4 A I HAVE NEVER DONE ANYTHING LIKE THIS BEFORE. YOU

5 HAVE TO UNDERSTAND I'M A LITTLE BIT NERVOUS.

6 Q OH, SURE. I DON'T MEAN TO MAKE YOU NERVOUS. I JUST,

7 YOU KNOW, NEED TO KNOW---

8 A OKAY.

9 Q ---YOUR UNDERSTANDING OF THESE THINGS.

10 LET ME ASK YOU THIS. BEFORE TODAY, BEFORE YOU

11 CAME IN THIS MORNING AND GOT THIS POPPED ON YOU---

12 A UH-HUH.

13 Q ---HAD YOU EVER GIVEN MUCH THOUGHT TO THE DEATH

14 PENALTY?

15 A NO, I CAN'T SAY THAT I HAVE. I HAVE NEVER BEEN

16 THROWN IN A SITUATION LIKE THIS BEFORE OR HAD IT, YOU KNOW,

17 BROUGHT OUT THIS WAY TO ME BEFORE. NO, I HAD NOT.

18 Q OKAY. CAN YOU REMEMBER EVER HAVING DISCUSSIONS WITH

19 YOUR FRIENDS OR WITH YOUR FAMILY ABOUT THE DEATH PENALTY?

20 A NOT REALLY, NO.

21 Q OKAY. IF YOU WERE GOING TO TALK ABOUT IT WITH YOUR

22 FRIENDS OR FAMILY, WHAT KIND OF THINGS DO YOU THINK YOU

23 MIGHT SAY?

24 A WELL, I'M NOT SURE. I DO KNOW THAT, OF COURSE, EVERY

25 CASE IS DIFFERENT OR, YOU KNOW, YOU REALLY HAVE TO LISTEN

1 TO BOTH SIDES OF THE STORY AND JUST TRY TO MAKE THE BEST
2 JUDGE THAT YOU CAN UNDER THE CIRCUMSTANCES. AND I -- I
3 NEVER HAVE REALLY, YOU KNOW, GOT INTO A DISCUSSION WITH
4 ANYONE ABOUT THAT TO TELL YOU THE REAL TRUTH.

5 Q SURE.

6 A I JUST HAVE NOT.

7 Q I UNDERSTAND---

8 A IT'S JUST NOT SOMETHING THAT'S REALLY EVER COME UP TO
9 DISCUSS WITH ANYONE.

10 Q I CAN UNDERSTAND THAT. IN FACT, YOU AND YOUR HUSBAND
11 ARE SMALL BUSINESS OWNERS?

12 A WE ARE.

13 Q OKAY.

14 A YES.

15 Q AND SO, I IMAGINE, BUT MOSTLY YOU DEAL WITH THE
16 BUSINESS SIDE OF LIFE---

17 A RIGHT.

18 Q ---ACCOUNTING AND INVENTORY AND THINGS OF THAT
19 NATURE?

20 A YES, YES.

21 Q HAVE YOU EVER HAD MUCH EXPOSURE SAY TO THE SCIENTIFIC
22 FIELDS---

23 MR. HUMPHRIES: I'M GOING TO OBJECT AT THIS TIME,
24 YOUR HONOR.

25 THE COURT: LET'S LET HER POSE HER QUESTION AND

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THEN I'LL RULE ON YOUR OBJECTION.

MR. HUMPHRIES: YES, SIR.

MS. FULLWOOD: HAVE YOU EVER HAD ANY EXPOSURE TO SAY PSYCHIATRISTS? MAYBE NOT PERSONALLY BUT MAYBE THROUGH FAMILY OR FRIENDS OR SOMETHING LIKE THAT.

THE COURT: ALL RIGHT.

MR. HUMPHRIES: I OBJECT, YOUR HONOR.

THE COURT: I SUSTAIN THE OBJECTION.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

MS. FULLWOOD: NOW, LIKE JUDGE CLARY TOLD YOU, IF WE WERE TO REACH THE SECOND PHASE OF THE TRIAL, YOU WOULD HEAR ADDITIONAL EVIDENCE AND SOME OF THAT EVIDENCE WOULD BE WHAT WE CALL EVIDENCE IN MITIGATION. AND THAT SIMPLY MEANS IT'S EVIDENCE THAT WOULD SHOW THAT THE PENALTY SHOULD BE THE LESS SEVERE PENALTY AND SHOULD BE A LIFE SENTENCE.

NOW, THE GENERAL ASSEMBLY HAS SET FORTH IN THE LAW CERTAIN -- WHAT THEY CALL STATUTORY MITIGATING CIRCUMSTANCES THAT CAN BE CONSIDERED BY THE JURY. IN ADDITION TO THAT, THE JURY CAN CONSIDER ANY OTHER MITIGATING CIRCUMSTANCES THAT THE DEFENSE CARES TO PRESENT?

A UH-HUH.

Q ARE YOU FOLLOWING ME?

A YES.

Q OKAY.

A YES.

1 Q I FEEL YOU ARE. I'M JUST ASKING TO MAKE SURE I'M
2 BEING CLEAR.

3 A I UNDERSTAND.

4 Q FOR EXAMPLE, ONE REASON TO LESSEN THE SENTENCE UNDER
5 THE LAW IN THIS STATE IS THE MENTALITY--

6 MR. HUMPHRIES: I OBJECT, YOUR HONOR.

7 MS. FULLWOOD: YOUR HONOR, I THINK -- WELL---

8 THE COURT: WELL, MA'AM, WHAT I'M GOING TO DO IS
9 ASK THAT YOU STEP OUTSIDE FOR JUST A MOMENT WHILE I TAKE UP
10 A MATTER OF LAW WITH THE ATTORNEYS. WHILE YOU ARE OUT
11 THERE, OF COURSE, YOU WILL NOT SPEAK WITH ANYONE CONCERNING
12 THIS CASE.

13 THE JUROR: YES, SIR.

14 (JUROR OUT.)

15 THE COURT: ALL RIGHT. SOLICITOR, LET'S GO AHEAD
16 AND PUT YOUR OBJECTION ON THE RECORD, PLEASE, SIR.

17 MR. HUMPHRIES: YES, SIR, YOUR HONOR.

18 IN REGARD TO DEFENSE COUNSEL'S LAST QUESTION,
19 QUIET FRANKLY WHAT APPEARED TO BE HER FIRST QUESTION, WHICH
20 I OBJECTED, THE STATE'S POSITION IS THAT THAT QUESTION AND
21 THE RESPONSE THAT IT WILL ELICIT IS AN ATTEMPT TO STAKE OUT
22 A JUROR TO SOME COURSE OF FUTURE CONDUCT.

23 I DON'T HAVE ANY PROBLEM WITH DEFENSE COUNSEL
24 POSING THE QUESTION THERE ARE STATUTORY MITIGATING
25 CIRCUMSTANCES, WOULD YOU FOLLOW THE JUDGE'S CHARGE

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1 REGARDING THOSE AND CONSIDER THEM, BUT SPECIFYING AND
2 ASKING THEM HOW THEY FEEL ABOUT THAT I BELIEVE WOULD BE AN
3 ATTEMPT TO COMMIT THEM TO SOME FUTURE COURSE OF CONDUCT AND
4 IT'S IMPROPER.

5 MS. FULLWOOD: YOUR HONOR, I THINK I'M ENTITLED
6 TO ASK THE QUESTION UNDER MORGAN V. ILLINOIS. WE HAVE A
7 RIGHT TO ASK THE JURY ABOUT WHETHER THEY ARE GOING TO
8 CONSIDER MITIGATING EVIDENCE BEING LIMITED TO JUST ASKING
9 THE QUESTION, WELL, WILL YOU CONSIDER IT. IT'S OUR
10 POSITION THAT IT DOESN'T GO FAR ENOUGH UNDER THE FOURTEENTH
11 AMENDMENT. I THINK THAT WE ARE ALLOWED TO ASK MORE PROBING
12 QUESTIONS. I DID NOT ASK AND I DO NOT INTEND TO ASK THE
13 JURY TO COMMIT TO CONSIDERING ANY CATEGORY OF EVIDENCE.

14 THE COURT: WELL, I THINK THAT THERE ARE A COUPLE
15 OF THINGS THAT COME TO VIEW, MS. FULLWOOD.

16 NUMBER ONE, I'M AWARE OF MORGAN VERSUS
17 ILLINOIS AND THE PROPOSITIONS THAT IT STANDS FOR, BUT I
18 THINK THAT IF YOU ARE GOING TO GET INTO THE SPECIFICS OF
19 EACH AND EVERY ASPECT OF WHAT YOU ARE GOING TO TRY TO
20 PRESENT, I THINK THAT IF YOU WANT TO ASK GENERALIZED
21 QUESTIONS CONCERNING MITIGATING CIRCUMSTANCES AND WHAT
22 CERTAIN MITIGATING CIRCUMSTANCES ARE, BUT NOW WHETHER OR
23 NOT THEY ARE GOING TO CONSIDER PSYCHIATRIC TESTIMONY OR
24 THEY'RE GOING TO CONSIDER THE SOCIAL HISTORY OR ALL OF
25 THESE THINGS, YOU'RE ACTUALLY GETTING BEYOND WHAT I THINK

1 THAT MORGAN VERSUS ILLINOIS OR ANY OF THESE OTHER CASES
2 SAY FROM A STANDPOINT THAT THE KEY IS WHETHER OR NOT A
3 PROSPECTIVE JUROR CAN CONSIDER BOTH PENALTIES. CONSIDER
4 THE STATUTORY AGGRAVATING AND MITIGATING CIRCUMSTANCES.

5 NOW, IF YOU WANT TO POINT OUT SOMETHING A LITTLE
6 -- SOMETHING DIFFERENT IN MORGAN VERSUS ILLINOIS, PLEASE
7 BRING IT TO MY ATTENTION BECAUSE I'VE GOT IT HERE RIGHT IN
8 FRONT OF ME.

9 MS. FULLWOOD: IF I CAN JUST SCAN MY COPY MYSELF.
10 YOUR HONOR, WHILE I'M LOOKING, MAY I -- I
11 CERTAINLY DON'T INTEND TO ARGUE WITH THE COURT.

12 THE COURT: OH, I UNDERSTAND THAT. THAT'S WHAT
13 WE ARE HERE FOR THOUGH.

14 MS. FULLWOOD: YES, SIR.

15 MAY THE DEFENSE ASK THE PROSPECTIVE JURORS
16 QUESTIONS AS TO THEIR PRIOR EXPOSURE, SAY TO PSYCHIATRY OR
17 THEIR ATTITUDES TOWARD PSYCHIATRY OR OTHER FIELDS OF
18 SCIENCE?

19 MR. HUMPHRIES: YOUR HONOR, OF COURSE, WE WOULD
20 THEN INTERPOSE THE SAME OBJECTION. I THINK THAT ACTUALLY
21 GOES FURTHER THAN THE FIRST -- THE FIRST QUESTION.

22 THE COURT: I THINK THAT WHAT WE GET INTO IS THE
23 WHETHER OR NOT THEY ARE GOING TO LISTEN TO ALL OF THE
24 TESTIMONY AND EVIDENCE THAT'S PRESENTED. IT GETS DOWN TO
25 THAT QUESTION THAT, YOU KNOW, PEOPLE USED TO ALWAYS WANT TO

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1 ASK, WELL, WILL YOU BELIEVE A POLICEMAN MORE THAN YOU WOULD
2 BELIEVE ANYONE ELSE. AND THAT HAS BEEN HELD IMPROPER
3 THROUGHOUT THE STATE AND THE FEDERAL COURTS FROM A
4 STANDPOINT THAT WHETHER OR NOT THIS PERSON WILL CONSIDER
5 ALL OF THE TESTIMONY AND EVIDENCE PRESENTED OR WHETHER IT
6 BE SCIENTIFIC, LAY, YOU NAME IT, WHETHER OR NOT THEY ARE
7 GOING TO BE ABLE TO CONSIDER ALL THOSE THINGS. BECAUSE
8 WHAT YOU GET INTO IS IN ESSENCE THE NEXT THING THAT WE WILL
9 BE HEARING IS THERE WILL BE SOME -- MAYBE SOME HYPOTHETICAL
10 QUESTIONS THAT ARE GOING TO BE POPPING UP AND I THINK
11 UNDER STATE VERSUS PATTERSON AND SOUTH AND THOSE CASES
12 LIKE THAT, YOU KNOW, THOSE ARE IMPROPER AND THE WAY I VIEW
13 IT, THAT'S ALMOST A BACK DOOR -- A WAY TO BACK DOOR SOUTH
14 AND PATTERSON.

15 NOW, IF YOU CAN SHOW ME SOMETHING IN MORGAN
16 VERSUS ILLINOIS WITH SPECIFICITY AS TO THIS, I'LL BE GLAD
17 TO LOOK AT IT.

18 MS. FULLWOOD: YES, SIR. IS YOUR COPY OF THE
19 SUPREME COURT REPORTER, LAWYERS EDITION OR U.S. REPORTER---

20 THE COURT: 119 LAW ED. 2ND.

21 MS. FULLWOOD: OKAY. I'M IN -- I HAVE GOT THE
22 SUPREME COURT REPORTER. LET'S SEE. I DON'T KNOW IF THAT
23 PARALLEL CITES HERE OR NOT.

24 WHAT I'M LOOKING AT, YOUR HONOR, IS IN
25 SUBSECTION---

1 THE COURT: TELL WHERE YOU ARE IN THE U.S.

2 MS. FULLWOOD: WHERE AM I ON THE U.S.?

3 THE COURT: YEAH.

4 MS. FULLWOOD: I AM---

5 THE COURT: 469 WHERE?

6 MS. FULLWOOD: 469.

7 THE COURT: WHAT PAGE ARE YOU ON?

8 MS. FULLWOOD: YES, SIR, I'M LOOKING FOR THAT.

9 JUDGE, I DON'T KNOW IF I'M COMING OUT OF A
10 SUPPLEMENT OR WHAT HERE.

11 THE COURT: WELL, TELL ME WHAT---

12 MS. FULLWOOD: I MEAN, I'M TRYING TO GET TO THE
13 -- SECTION 2-C TOWARDS THE END OF THAT SECTION. THE LAST
14 TWO PARAGRAPHS BEFORE YOU GET TO SUBSECTION D, 2-D.

15 THE COURT: OKAY. 2-C

16 MS. FULLWOOD: YES, SIR.

17 THE COURT: LAST TWO PARAGRAPHS BEFORE YOU GET TO
18 D.?

19 MS. FULLWOOD: YES, SIR, WHERE THEY DISCUSS
20 THAT---

21 THE COURT: OKAY. ALL RIGHT.

22 MS. FULLWOOD: ---WHERE THE BURDEN IS ON THE
23 PARTY SEEKING TO EXCLUDE THE JUROR FOR BIAS. THE ONLY WAY
24 THAT THEY CAN PROVE THAT BIAS IS THROUGH QUESTIONING TO
25 SHOW THAT THE JUROR LACKS IMPARTIALITY.

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1 SO OUR POSITION IS IF WE CANNOT PROBE ANY DEEPER
2 THAN WILL YOU JUST CONSIDER ALL OF THE EVIDENCE YOU KNOW
3 PRESENTED IN MITIGATION, WE ARE BEING PREVENTED FROM
4 UNCOVERING SOME POTENTIAL BIAS IN THE JUROR.

5 THE COURT: HOW ABOUT READING ME THE PARAGRAPHS
6 THAT YOU ARE TALKING ABOUT TO MAKE SURE THAT I'M LOOKING AT
7 THE RIGHT ONE.

8 MS. FULLWOOD: AS WITH ANY OTHER TRIAL SITUATION
9 WHERE AN ADVERSARY WISHES TO EXCLUDE JUROR BECAUSE OF BIAS
10 -- BIAS THEN, IT IS THE ADVERSARY SEEKING EXCLUSION WHO
11 MUST DEMONSTRATE THROUGH QUESTIONING THAT THE POTENTIAL
12 JUROR LACKS IMPARTIALITY.

13 THE COURT: UH-HUH.

14 MS. FULLWOOD: AND THEN TOWARDS THE END OF THE
15 NEXT PARAGRAPH, WERE VOIR DIRE NOT AVAILABLE TO LAY BARE,
16 THE FOUNDATION OF PETITIONER'S CHALLENGE FOR CAUSE AGAINST
17 THOSE PROSPECTIVE JURORS WHO WOULD ALWAYS IMPOSE DEATH
18 FOLLOWING CONVICTION, HIS RIGHT NOT TO BE TRIED BY SUCH
19 JURORS WOULD BE RENDERED AS NEGATORY MEANINGLESS AS THE
20 STATE'S RIGHT---

21 THE COURT: YEAH, I'VE GOT EXACTLY WHAT YOU ARE
22 TALKING ABOUT AND---

23 MS. FULLWOOD: ---YES, SIR. AND---

24 THE COURT: ---AND LET ME -- EXCUSE ME, I DIDN'T
25 MEAN TO CUT YOU OFF.

1 MS. FULLWOOD: I'M SORRY, I DIDN'T MEAN TO
2 INTERRUPT THE COURT.

3 THE COURT: NO, GO AHEAD AND FINISH.

4 MS. FULLWOOD: IT'S SIMPLY OUR POSITION THAT THAT
5 LANGUAGE ALLOWS US TO ASK MORE PROBING VOIR DIRE THAN WILL
6 YOU CONSIDER ALL THE EVIDENCE IN MITIGATION.

7 THE COURT: I DISAGREE WITH YOU FROM THIS
8 STANDPOINT. I THINK THAT THE KEY THROUGH THE FEDERAL
9 CASES, AS WELL AS THE STATE CASES, ARE THE FACTS -- IS THE
10 FACT, WHETHER OR NOT A JUROR IS DEATH PRONE OR MERELY LIFE
11 PRONE, AND THE KEY IS WHETHER OR NOT THEY CAN EFFECTIVELY
12 CONSIDER BOTH OF THOSE OPTIONS. AND I THINK THAT WHEN YOU
13 TRY TO GO BEYOND THAT, THAT YOU ARE GETTING BEYOND MORGAN
14 VERSUS ILLINOIS. I BELIEVE THAT, OF COURSE, YOU KNOW,
15 WE'RE -- I THINK THAT THIS CASE SAYS IT IS THEN THE TRIAL
16 JUDGE'S DUTY TO DETERMINE WHETHER THE SITUATION, THE
17 CHALLENGE IS PROPER. THAT WAS PART OF WHAT YOU WERE
18 READING.

19 I DON'T SEE WHERE -- AND EVERYBODY TRIES TO --
20 WHEN I SAY EVERYBODY, THE NUMBER OF CASES THAT I HAVE DONE,
21 TRIES TO ELICIT ALL OF THIS TYPE OF INFORMATION FROM A
22 JUROR IN ALMOST EVERY CASE THAT I DO AND IT'S ALWAYS
23 OBJECTED TO FROM A STANDPOINT THAT WHAT THEY ARE TRYING TO
24 DO IS, IN ESSENCE, FIND OUT EXACTLY WHAT THIS JUROR'S
25 PARTICULAR THRUST IS ON A VERY MINOR ISSUE AND THAT'S NOT

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1 WHAT IT'S ALL ABOUT IN VOIR DIRE.

2 I THINK THE KEY IS WHETHER OR NOT A JUROR CAN
3 LOOK AT ALL THE EVIDENCE PRESENTED AND CAN THEY RENDER A
4 VERDICT THAT WOULD EITHER BE LIFE OR DEATH. NOT WHETHER
5 IT'S PSYCHIATRIC, NOT WHETHER IT'S FORENSIC, NOT ALL THESE
6 PARTICULAR THINGS. I THINK THAT THAT GOES BEYOND WHAT WE
7 ARE TALKING ABOUT IN MORGAN VERSUS ILLINOIS. BECAUSE
8 THEN, ONCE AGAIN, I THINK THAT YOU ARE GOING TO START
9 GETTING INTO THE ISSUES THAT I TALKED ABOUT IN PATTERSON
10 AND SOUTH. THOSE ARE ALWAYS THE NEXT QUESTIONS. WELL,
11 LET ME ASK YOU IF WE WERE HAVING -- LET'S SAY WE ARE GOING
12 TO HAVE OR THERE MAY BE TESTIMONY OF A PSYCHIATRIC NATURE
13 THAT'S GOING TO BE PRESENTED. I THINK THAT'S WHERE WE ARE
14 GETTING BEYOND THAT BECAUSE THAT'S -- THAT'S NOT
15 PERMISSIBLE.

16 MS. FULLWOOD: WELL, JUDGE, FOR THE RECORD, WE
17 WEREN'T GOING TO GO THERE. I WOULD LIKE TO STATE FOR THE
18 RECORD WHAT WE DID INTEND TO ASK THE JURORS.

19 THE COURT: ALL RIGHT.

20 MS. FULLWOOD: WE INTENDED TO ASK THEM ABOUT
21 THEIR PRIOR EXPOSURE TO THE FIELD OF PSYCHIATRY, ABOUT
22 THEIR GENERAL ATTITUDES ABOUT THE FIELD OF PSYCHIATRY---

23 THE COURT: YOU CAN'T ASK THAT QUESTION, MS.
24 FULLWOOD, ABOUT THEIR ATTITUDES TOWARD THAT.

25 MS. FULLWOOD: YES, SIR. I JUST -- FOR THE

1 RECORD, I WANT TO EXPLAIN---

2 THE COURT: OKAY.

3 MS. FULLWOOD: ---WHAT WE HAD INTENDED TO ASK.

4 WE ALSO INTENDED TO ASK THEM ABOUT THEIR
5 KNOWLEDGE OF AND OPINION OF THE FIELD OF D.N.A. TESTING,
6 GENETIC BIOLOGY. TO SAVE TIME, WE DON'T WANT TO SIT THERE
7 AND ASK EVERY JUROR THAT QUESTION AND GET THE SAME RULING,
8 OF COURSE, BUT I WANT THE RECORD TO BE CLEAR, BUT FOR THIS
9 RULING, THAT IS WHAT WE HAD INTENDED TO ASK EACH
10 PROSPECTIVE JUROR.

11 THE COURT: I UNDERSTAND THAT.

12 DOES THE STATE WANT TO BE HEARD ON THAT ISSUE?

13 MR. HUMPHRIES: JUST THAT WE WOULD OBJECT TO
14 THOSE ON THE SAME GROUNDS, YOUR HONOR.

15 THE COURT: WELL, I THINK, ONCE AGAIN, MS.
16 FULLWOOD, THAT WHEN WE START GETTING INTO QUESTIONS LIKE
17 THAT, THAT THAT IS BEYOND THE SCOPE OF VOIR DIRE AS I
18 UNDERSTAND IT UNDER THE CASE LAW THAT HAS BEEN PRESENTED BY
19 OUR STATE SUPREME COURT, AS WELL AS THE UNITED STATES
20 SUPREME COURT; AND I THINK THAT YOU CAN ASK QUESTIONS
21 CONCERNING THEIR ABILITY TO BE FAIR AND IMPARTIAL AND WILL
22 THEY CONSIDER ALL OF THE EVIDENCE AS PRESENTED BY YOUR SIDE
23 AS WELL AS OTHERS.

24 I THINK THAT WHEN WE START GETTING INTO
25 AGGRAVATING -- I MEAN MITIGATING CIRCUMSTANCES, THOSE ARE

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1 QUESTIONS THAT ARE PROPER, BUT TO ASK THEM SPECIFIC AREAS,
2 I THINK THAT THAT GETS BEYOND WHAT WE ARE TALKING ABOUT
3 HERE IN DETERMINING WHETHER OR NOT THEY ARE QUALIFIED.

4 MS. FULLWOOD: YOUR HONOR, WOULD THE COURT CONSIDER
5 WHEN IT IS IN ITS VOIR DIRE ASKING EACH -- READING THE
6 STATUTORY MITIGATING CIRCUMSTANCES TO EACH PROSPECTIVE
7 JUROR AND ASKING EACH JUROR IF HE OR SHE COULD CONSIDER
8 THAT EVIDENCE?

9 THE COURT: BE GLAD TO DO IT. BE GLAD TO DO IT.

10 MS. FULLWOOD: THANK YOU.

11 THE COURT: DOES THE STATE WANT ME TO READ THE
12 STATUTORY AGGRAVATING CIRCUMSTANCES OR ARE YOU GOING TO---

13 MR. HUMPHRIES: WELL, I WAS JUST GIVING SOME
14 THOUGHT TO THAT, JUDGE. I -- I GUESS AT LEAST THOSE WHICH
15 THE STATE IS RELYING ON. I WOULDN'T ASK FOR A COMPLETE
16 LISTING. I THINK THAT WOULD BE SUPERFLUOUS.

17 THE COURT: ALL RIGHT.

18 MR. HUMPHRIES: IF IT COULD BE DONE AT THE
19 SOMETIME AS YOU READ THE STATUTORY MITIGATING
20 CIRCUMSTANCES.

21 THE COURT: WELL, AS I UNDERSTAND, AT LEAST, I
22 ASSUME, THE STATUTORY AGGRAVATING CIRCUMSTANCES THAT YOU
23 ARE TALKING ABOUT WOULD BE C.S.C. IN ANY DEGREE, BURGLARY
24 IN ANY DEGREE. I DON'T -- IS THEIR ANY PHYSICAL TORTURE?

25 MR. HUMPHRIES: YOUR HONOR, WE HAD INITIALLY

1 ALLEGED THAT. I WOULD REQUEST THAT YOU NOT AT THIS TIME
2 MENTION THAT TO THE JURY.

3 THE COURT: ALL RIGHT.

4 AND THE MITIGATING OR STATUTORY CIRCUMSTANCES
5 THERE ARE ONE THROUGH TEN.

6 MS. FULLWOOD: WOULD YOU LIKE US TO NARROW THEM
7 DOWN, YOUR HONOR?

8 THE COURT: I'LL LEAVE THAT UP TO YOU. IF YOU
9 WOULD LIKE FOR ME TO, I WILL.

10 MS. FULLWOOD: YES, SIR, I THINK SO. TWO, SIX
11 AND SEVEN.

12 THE COURT: TWO, SIX AND SEVEN.

13 MS. FULLWOOD: YES, SIR.

14 THE COURT: OKAY.

15 MR. HUMPHRIES: AND JUST AS A LOGISTICAL POINT
16 AND NOT RELATING TO THAT AT ALL, YOUR HONOR, AND I KNOW MS.
17 FULLWOOD HAS NOT DONE THIS ON PURPOSE, BUT WHEN SHE STANDS
18 AT THE BAR, WHERE SHE IS, I CAN'T EVEN GET A GLIMPSE OF THE
19 WITNESS.

20 THE COURT: OKAY.

21 MS. FULLWOOD: I APOLOGIZE.

22 THE COURT: ALL RIGHT. IF YOU WOULD THEN---

23 MR. HUMPHRIES: AND I KNOW SHE DIDN'T DO IT ON
24 PURPOSE---

25 THE COURT: ---MAYBE IF YOU CAN JUST USE THE

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1 PODIUM OVER THERE THEN.

2 MS. FULLWOOD: YES, SIR, I WILL.

3 THE COURT: IF YOU WOULD, DO THAT.

4 MR. HUMPHRIES: THANK YOU.

5 THE COURT: ALL RIGHT.

6 LET'S BRING OUR JUROR BACK IN. I'LL ASK HER
7 ABOUT THOSE THINGS AND THEN LET YOU RESUME.

8 MS. FULLWOOD: THANK YOU, YOUR HONOR.

9 (JUROR IN.)

10 THE COURT: THANK YOU VERY MUCH, MS. CLIFTON, FOR
11 YOU ALLOWING -- FOR YOU STEPPING OUTSIDE.

12 CONTINUED EXAMINATION

13 BY THE COURT:

14 Q LET ME ASK YOU JUST A COUPLE MORE QUESTIONS BEFORE I
15 TURN THINGS BACK OVER TO MS. FULLWOOD.

16 INSOFAR AS, I THINK THAT I MENTIONED TO YOU ABOUT
17 AGGRAVATING CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES, IF
18 YOU WOULD BE ABLE TO CONSIDER THOSE THINGS IN THE VARIOUS
19 DECISIONS THAT COULD BE REACHED BY THE JURY.

20 YOU UNDERSTAND THAT WHEN I TALK ABOUT AGGRAVATING
21 CIRCUMSTANCES AND THOSE ARE THOSE PARTICULAR FACTS,
22 INCIDENTS OR DETAILS WHICH OUR GENERAL ASSEMBLY HAS ENACTED
23 INTO THE LAW THAT AGGRAVATE OR MAKE THE OFFENSE OF MURDER
24 WORSE WHEN IT IS COMBINED WITH ANOTHER CRIME THAT WE ARE
25 TALKING ABOUT. CRIMES SUCH AS CRIMINAL SEXUAL CONDUCT,

1 BURGLARY, THOSE TYPES OF THINGS?

2 A YES, SIR.

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3 Q AND THEN INSOFAR AS MITIGATING CIRCUMSTANCES ARE
4 CONCERNED, WHICH THOSE ARE INCIDENTS, DETAILS OR
5 OCCURRENCES WHICH OUR GENERAL ASSEMBLY HAS ALSO ENACTED IN
6 THE STATUTE WHICH, IN ESSENCE, REDUCES THE SEVERITY OF THE
7 OFFENSE OF MURDER AND MAY BE CONSIDERED BY THE JURY AS
8 REDUCING THE DEGREE OF RESPONSIBILITY OR MORAL CULPABILITY?

9 A RIGHT.

10 Q AND THAT THOSE WOULD BE THINGS LIKE THE MURDER WAS
11 COMMITTED WHILE THE DEFENDANT WAS UNDER THE INFLUENCE OF A
12 MENTAL OR EMOTIONAL DISTURBANCE OR THE CAPACITY OF THE
13 DEFENDANT TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR
14 TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW WAS
15 SUBSTANTIALLY IMPAIRED OR -- AND OR THE AGE OR MENTALITY OF
16 THE DEFENDANT AT THE TIME OF THE CRIME?

17 A YES, I UNDERSTAND.

18 Q YOU UNDERSTAND THAT ALL OF THOSE THINGS WOULD BE --
19 WOULD BE ABLE TO BE CONSIDERED BY THE JURY?

20 A I DO.

21 Q AND AS A RESULT OF THAT, IF YOU WERE IN SUCH A
22 SITUATION AND WE ARE TALKING ABOUT THAT SECOND PHASE, THE
23 SENTENCING PHASE, COULD YOU, DEPENDING UPON THE PARTICULAR
24 FACTS AND CIRCUMSTANCES OF THAT CASE AND THE LAW, AS I
25 WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE, RETURN A

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1 SENTENCE OF LIFE IN PRISON?

2 A YES.

3 Q OR ALTERNATIVELY, IF YOU WERE A JUROR IN THAT

4 SITUATION, COULD YOU DEPENDING UPON THE PARTICULAR FACTS

5 AND CIRCUMSTANCES OF THAT CASE AND THE LAW THAT I WOULD

6 INSTRUCT YOU THAT APPLIED AT THE CONCLUSION OF THE CASE

7 RETURN A SENTENCE OF DEATH?

8 A THAT'S -- THAT'S A HARD THING I REALIZE AND SOMETIMES

9 YOU DON'T KNOW UNTIL YOU REALLY HEAR. CAN YOU -- CAN YOU

10 ANSWER THAT WAY? BECAUSE, I MEAN, I REALLY DON'T KNOW

11 UNTIL YOU HEAR ALL THE EVIDENCE---

12 Q WELL---

13 A ---AND TAKE ALL OF THAT INTO CONSIDERATION. IT'S

14 HARD TO JUST SAY YES OR YES, I COULD OR NO, I COULDN'T.

15 Q I UNDERSTAND THAT. BUT MY QUESTION IS IF YOU WERE A

16 JUROR IN THAT SITUATION AND DEPENDING UPON THE PARTICULAR

17 FACTS AND CIRCUMSTANCES OF THAT CASE AND THE LAW THAT I

18 WOULD INSTRUCT YOU THAT APPLIES TO THAT MATTER RETURN A

19 SENTENCE OF DEATH IF YOU FELT THAT IT WAS APPROPRIATE UNDER

20 THOSE CIRCUMSTANCES?

21 A YES. I WOULD SAY YES TO THAT.

22 Q ALL RIGHT. MS. FULLWOOD, YOU WANT TO CONTINUE.

23 CONTINUED EXAMINATION

24 BY MS. FULLWOOD.

25 Q I'M GOING TO STAND OVER HERE THIS TIME---

1 A OKAY.

2 Q ---SO, I DON'T BLOCK ANYBODY'S VIEW.

3 A OKAY. THAT'S FINE.

4 Q I DON'T HAVE VERY MANY QUESTIONS, OKAY.

5 A OKAY.

6 Q IF -- IF YOU WERE A JUROR IN THIS CASE OR IN ANY
7 CASE, ONCE ALL OF THE EVIDENCE HAD BEEN PRESENTED TO YOU
8 AND THE JUDGE HAD TOLD YOU THE LAW TO BE APPLIED TO THE
9 CASE, YOU AND THE OTHER JURORS WOULD BE EXPECTED TO GO INTO
10 THE JURY ROOM AND DISCUSS THE EVIDENCE.

11 DO YOU BELIEVE YOU ARE THE KIND OF PERSON WHO IS
12 WILLING TO DISCUSS THE EVIDENCE AND LISTEN TO THE VIEWS OF
13 THE ELEVEN OTHERS BEFORE COMING TO A FINAL DECISION?

14 A YES. DEFINITELY.

15 Q OKAY. BUT NOW, ON THE OTHER HAND, IF, IF AFTER
16 HEARING THE EVIDENCE AND DISCUSSING IT, AS YOU ARE TO DO
17 UNDER THE LAW, IF YOU CAME TO A FIRM BELIEF OR CONCLUSION
18 IN YOUR OWN MIND AS TO THE MEANING OF THE EVIDENCE, WOULD
19 YOU BE ABLE TO STICK TO YOUR OPINION, YOUR CONSIDERED
20 OPINION, DESPITE THE VIEWS OF OTHERS?

21 MR. HUMPHRIES: YOUR HONOR, I WOULD OBJECT AT
22 THIS TIME TO THAT QUESTION SPECIFICALLY.

23 THE COURT: ALL RIGHT. YOU WANT TO REPEAT THE
24 QUESTION FOR ME.

25 MS. FULLWOOD: I TOLD HER -- ASKED HER IF SHE HAD

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1 COME TO A FIRM CONSIDERED OPINION AS TO THE MEANING OF THE
2 EVIDENCE, COULD SHE STICK TO THAT BELIEF DESPITE THE
3 CONTRARY BELIEFS OF OTHERS.
4 THE COURT: OVERRULED.
5 MR. HUMPHRIES: THANK YOU, YOUR HONOR.
6 MS. FULLWOOD: DO YOU WANT ME TO ASK IT AGAIN?
7 THE JUROR: I THINK YOU BETTER REPEAT THAT. YES.
8 MS. FULLWOOD: OKAY. IF YOU COME TO A DECISION,
9 AFTER TALKING WITH ALL THE OTHER JURORS---
10 A UH-HUH.
11 Q ---YOU COME TO A DECISION IN YOUR OWN MIND AND IT WAS
12 A VERY FIRM DECISION, COULD YOU HOLD ONTO THAT DECISION
13 DESPITE THE FACT THAT OTHER PEOPLE---
14 A YES.
15 Q ---HAD A DIFFERENT OPINION?
16 A YES, I COULD.
17 Q I WANT TO THANK YOU SO MUCH FOR ANSWERING THE
18 QUESTIONS.
19 A OKAY.
20 Q I KNOW IT'S A LITTLE AWKWARD. I THINK IT IS FOR ALL
21 OF US HERE BECAUSE THIS ISN'T THE WAY WE NORMALLY DO
22 THINGS, BUT IT'S A VERY IMPORTANT PART OF THE TRIAL AND I
23 APPRECIATE YOUR OPENNESS AND YOUR HONESTY.
24 A THANK YOU.
25 Q THANK YOU, MA'AM.

1 A THANK YOU.

2 THE COURT: SOLICITOR.

3 MR. HUMPHRIES: MAY IT PLEASE THE COURT.

4 EXAMINATION

5 BY MR. HUMPHRIES:

6 Q MS. CLIFTON, MY NAME IS FRAN HUMPHRIES. I'M THE
7 DEPUTY SOLICITOR HERE IN LEXINGTON. I, ALONG WITH TOM
8 CHASE, WHO IS HERE WITH ME, WILL ASSIST SOLICITOR MYERS IN
9 THE TRIAL OF THIS CASE.

10 A OKAY.

11 Q I'M NOT GOING TO GO OVER ALL THAT STUFF YOU'VE
12 ALREADY BEEN OVER, OKAY.

13 A ALL RIGHT.

14 Q I'VE JUST GOT A COUPLE OF QUESTIONS.

15 A OKAY.

16 Q AND THE FIRST QUESTION IS THIS. WITHOUT TELLING ME
17 ABOUT YOUR RELIGIOUS UPBRINGING, YOUR SOCIETAL UPBRINGING,
18 ANYTHING OF THAT NATURE. TELL ME THIS, IF YOU WILL, IS
19 THERE ANYTHING IN YOUR UPBRINGING, WHETHER RELIGIOUS OR
20 OTHERWISE, THAT WOULD PREVENT YOU UNDER THE RIGHT
21 CIRCUMSTANCES, THE RIGHT FACTS AND CIRCUMSTANCES RETURNING
22 A VERDICT OF DEATH IF YOU FELT IT WERE APPROPRIATE?

23 A I DON'T THINK SO. NO.

24 Q AND, MS. CLIFTON, THIS IS SORT OF A PROCEDURAL
25 QUESTION I NEED TO ASK YOU AND THERE'S NO REASON FOR YOU TO

0304

1 HAVE ANTICIPATED THIS QUESTION, BUT LET'S SAY, FOR
2 INSTANCE, YOU WERE A JUROR IN THIS CASE AND LET'S SAY FOR
3 ARGUMENT SAKE THAT AFTER HEARING ALL OF THE TESTIMONY IN
4 THE GUILT PHASE, THIS JURY WHICH YOU ARE A MEMBER OF
5 RETURNED A VERDICT OF GUILTY ON MURDER.

6 A UH-HUH.

7 Q WE THEN WOULD GO INTO THAT SECOND PHASE AND YOU
8 UNDERSTOOD THAT?

9 A I UNDERSTAND THAT, RIGHT.

10 Q NOW, IF AFTER HEARING ALL OF THE EVIDENCE COMBINED
11 WITH THE EVIDENCE FROM THE GUILT PHASE AND THE EVIDENCE
12 FROM THE PENALTY PHASE, THIS JURY DECIDED THAT DEATH WAS
13 THE APPROPRIATE VERDICT AND YOU UNDERSTAND THERE ARE ONLY
14 TWO VERDICTS, LIFE AND DEATH?

15 A UH-HUH.

16 Q OUR LAW REQUIRES JURORS RETURNING A VERDICT OF DEATH
17 TO SIGN ON A VERDICT FORM. NOW, THAT'S DIFFERENT THAN IN
18 MOST CASE. ESPECIALLY IN THE GUILT PHASE. PARTICULARLY IN
19 THE GUILT PHASE. BECAUSE IN THAT PHASE, THE FOREPERSON
20 WILL SIGN THEIR NAME INDICATING THE VERDICT OF ALL TWELVE
21 JURORS.

22 A UH-HUH.

23 Q AND THAT'S USUALLY THE WAY YOU HEAR IT---

24 A ALL RIGHT.

25 Q ---BUT IN THE PENALTY PHASE, IF ALL TWELVE JURORS

1 FEEL THAT DEATH IS THE APPROPRIATE VERDICT, THEN THE JUDGE
2 WILL PROVIDE YOU WITH A FORM RENDERING THAT VERDICT OF
3 DEATH AND IT WILL HAVE TWELVE LINES.

4 NOW THERE ARE SOME FOLKS WHO WILL NOT SIGN THEIR
5 NAME TO A THING. WHETHER IT'S SOMETHING AS IMPORTANT AS A
6 DEATH VERDICT OR ANYTHING ELSE. THEY JUST DON'T LIKE TO
7 SIGN THEIR NAME.

8 KNOWING THAT THAT'S A REQUIREMENT OF OUR LAW, IF
9 YOU BELIEVE THAT'S THE APPROPRIATE VERDICT; THAT IS, A
10 VERDICT OF DEATH, COULD YOU THEN SIGN THAT FORM INDICATING
11 YOUR VOTE? AND I KNOW THAT'S A PRETTY TOUGH QUESTION.

12 A THAT IS A TOUGH QUESTION.

13 Q WELL, I WANT YOU TO THINK ABOUT THAT JUST A MINUTE.

14 A I'LL HAVE TO THINK ABOUT THAT. YES.

15 Q OKAY. BECAUSE THAT ABSOLUTELY WILL BE REQUIRED IN
16 ORDER TO INDICATE A VOTE FOR THE DEATH PENALTY---

17 A UH-HUH.

18 Q ---YOU UNDERSTAND THAT?

19 A I UNDERSTAND THAT.

20 Q THAT FACT THAT YOU WOULD HAVE TO SIGN YOUR NAME TO
21 THAT FORM---

22 A UH-HUH.

23 Q ---WOULD THAT SUBSTANTIALLY IMPAIR YOUR ABILITY TO BE
24 A FAIR AND IMPARTIAL JUROR AS IT RELATES TO CONSIDERING
25 BOTH LIFE AND DEATH---

0306

1 MS. FULLWOOD: OBJECTION. THAT CALLS FOR A LEGAL
2 CONCLUSION.

3 THE COURT: HOW ABOUT LETTING HIM FINISH HIS
4 QUESTION SO THAT I CAN PROPERLY HEAR IT.

5 MS. FULLWOOD: YES, SIR.

6 MR. HUMPHRIES: WOULD THE FACT THAT YOU WOULD
7 HAVE TO SIGN YOUR NAME TO THE DEATH VERDICT---

8 THE JUROR: UH-HUH.

9 MR. HUMPHRIES: ---SUBSTANTIALLY IMPAIR YOUR
10 ABILITY TO BE A FAIR AND IMPARTIAL JUROR AND CONSIDER BOTH
11 LIFE AND DEATH?

12 THE COURT: OVERRULED.

13 MS. FULLWOOD: YES, SIR.

14 THE JUROR: I DON'T THINK IT WOULD.

15 Q SO THEN WHAT YOU ARE TELLING ME AND YOU ARE TELLING
16 THE COURT IS THAT EVEN THOUGH, IF YOU FELT DEATH WAS THE
17 APPROPRIATE VERDICT AND I'M NOT -- I'M NOT PRESUPPOSING
18 THAT FOR YOU---

19 A I UNDERSTAND.

20 Q ---BUT IF YOU BELIEVE THAT DEATH IS THE APPROPRIATE
21 VERDICT, THE FACT THAT YOU WOULD HAVE TO SIGN YOUR NAME TO
22 THE FORM, WOULD NOT PREVENT YOU FROM CONSIDERING A DEATH
23 VERDICT---

24 A RIGHT.

25 Q ---IF THE FACTS AND CIRCUMSTANCES WARRANT IT?

1 A YES.

2 Q SO YOU COULD SIGN IT IF THAT WAS YOUR VERDICT?

3 A I THINK I COULD.

4 Q OKAY. DO YOU HAVE ANY REAL QUESTIONS ABOUT THAT?

5 A NO. I UNDERSTAND WHAT YOU ARE SAYING.

6 Q WELL, I DON'T THINK I HAVE ANY FURTHER QUESTIONS OF
7 YOU. THANK YOU VERY MUCH.

8 A OKAY. THANK YOU.

9 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

10 MS. FULLWOOD: NO, SIR.

11 THE COURT: ALL RIGHT. THANK YOU, MA'AM. IF YOU
12 WOULD STEP OUTSIDE FOR JUST A MOMENT, PLEASE?

13 (JUROR OUT.)

14 THE COURT: I DIDN'T DISCUSS WITH Y'ALL --
15 NORMALLY WHAT I TRY TO DO SO THAT WE WON'T BE SENDING
16 PEOPLE IN AND OUT OF THE COURTROOM SO MUCH, WHEN I GET
17 THROUGH WITH THEM, IF YOU HAVE ANY TYPE OF OBJECTION THAT
18 YOU WANT TO MAKE, WHAT I'LL DO IS I'LL ASK YOU IF THERE'S
19 ANYTHING FURTHER FROM THE DEFENSE AND IF YOU TELL ME NO AND
20 IF YOU TELL ME NO, THEN I WILL ASSUME THAT YOU HAVE NO
21 OBJECTIONS TO HIS OR HER QUALIFICATIONS AS A JUROR IN THE
22 CASE.

23 ANYTHING FROM THE DEFENSE IN THAT REGARD?

24 MS. FULLWOOD: NO, SIR.

25 THE COURT: FROM THE STATE?

0308

1 MR. HUMPHRIES: NO, SIR.

2 THE COURT: ALL RIGHT. LET'S BRING HER BACK IN
3 AND MAYBE THAT WILL SAVE US A LITTLE TIME IN THE FUTURE.

4 (JUROR IN.)

5 THE COURT: LET ME SEE THE LAWYERS UP HERE JUST A
6 MOMENT.

7 (WHEREUPON, A BENCH CONFERENCE WAS
8 HELD AT THIS TIME OFF THE RECORD.)

9 THE COURT: MS. CLIFTON, I WANT TO THANK YOU VERY
10 MUCH FOR YOUR PARTICIPATION HERE TODAY. I FIND THAT YOU
11 ARE QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS CASE.
12 WITH THAT QUALIFICATION, COMES SEVERAL THINGS THAT I'M
13 GOING TO SHARE WITH YOU.

14 FIRST OF ALL, YOU NEED TO GO HOME, START PACKING
15 YOUR BAGS BECAUSE IF YOU ARE SELECTED TO SERVE AS A JUROR
16 IN THIS CASE, WHEN YOU COME BACK HERE ON WEDNESDAY MORNING,
17 THEN YOU WOULD BE WITH US FOR THE DURATION OF THE TRIAL
18 WHICH COULD BE ANYWHERE FROM A WEEK TO TEN DAYS. MAYBE A
19 LITTLE LESS. I DON'T KNOW. SO -- SO I'M NOT -- IF I TOLD
20 YOU THAT IT WOULD BE FIVE OR SIX DAYS AND WE WERE HERE
21 LONGER THAN THAT, THEN YOU MIGHT WANT TO HOLD ME TO THAT
22 SHORTER ESTIMATE. SO I'M GOING TO SAY ANYWHERE FROM A WEEK
23 TO TEN DAYS.

24 WHEN YOU COME BACK ON WEDNESDAY MORNING, I'M
25 GOING TO ASK THAT YOU BE BACK HERE AT 9:30 A.M. PLEASE

1 REPORT DIRECTLY TO THE COURTROOM AT THAT TIME. LEAVE YOUR
2 BAGS AND SO FORTH IN YOUR CAR AND IF YOU ARE SELECTED, THEN
3 THE JURY CUSTODIANS WILL MAKE THE PROPER ARRANGEMENTS TO
4 SEE THAT YOU ARE TRANSPORTED TO THE HOTEL AND THAT
5 EVERYTHING IS TAKEN CARE OF IN THAT REGARD.

6 BEFORE I SEND YOU AWAY, FIRST OF ALL, LET ME
7 REMIND YOU THAT YOU ARE NOT TO DISCUSS THIS CASE WITH YOUR
8 FELLOW JURORS, WITH YOUR FAMILY AND FRIENDS OR ANYONE ELSE.

9 ALSO, I'M INSTRUCTING YOU THAT YOU ARE TO REFRAIN
10 FROM READING, WATCHING OR LISTENING TO ANY NEWS ACCOUNTS
11 CONCERNING THIS CASE OR ANY GENERAL DISCUSSIONS CONCERNING
12 THIS CASE.

13 ALSO, IF ANYONE SHOULD ATTEMPT TO CONTACT YOU
14 CONCERNING THIS CASE, I WANT YOU TO GATHER AS MUCH
15 INFORMATION ABOUT THAT INDIVIDUAL OR INDIVIDUALS AS YOU
16 POSSIBLY CAN AND REPORT THAT TO ME IMMEDIATELY BECAUSE
17 THAT'S A VERY SERIOUS MATTER AND I WOULD DEAL WITH THOSE
18 PEOPLE ACCORDINGLY. SO WITH ALL THAT INSTRUCTION, HAVE A
19 NICE TIME PACKING AND I'LL LOOK FORWARD TO SEEING YOU BACK
20 HERE WEDNESDAY MORNING AT 9:30 A.M.

21 THE JUROR: OKAY. THANK YOU.

22 THE COURT: THANK YOU, MA'AM.

23 (WHEREUPON, THE JUROR WAS EXCUSED
24 AT THIS TIME.)

25 MR. HUMPHRIES: MAY I PUT A BRIEF MATTER ON THE

1 RECORD?

0310

2 THE COURT: YES, SIR.

3 MR. HUMPHRIES: AND I HATE TO INTERRUPT, BUT I
4 WANT TO DO IT BEFORE THE NEXT JUROR.

5 IN REGARD TO MY OBJECTION TO MS. FULLWOOD'S
6 QUESTION ABOUT WHETHER YOU COULD HOLD FIRMLY TO YOUR
7 CONVICTIONS AND YOUR VOTE, I WOULD CITE TO THE COURT THE
8 CASE OF THE STATE VERSUS HUNT, WHICH I RECOGNIZE IS A
9 NORTH CAROLINA CASE, AND, YOUR HONOR, IF I'M WRONG ABOUT
10 THIS, THEN, I'M SORRY, BUT I BELIEVE IT'S BEEN CITED AS
11 AUTHORITY IN SOUTH CAROLINA CASES.

12 THE COURT: YES, SIR.

13 MR. HUMPHRIES: AND IN THAT CASE, IN PARTICULAR,
14 DEFENSE COUNSEL ASKED OF ONE PROSPECTIVE JUROR IF YOU WERE
15 FIRMLY CONVINCED THE DEFENDANT WAS NOT GUILTY, WOULD YOU
16 PERMIT ANYTHING TO CHALLENGE -- OR CHANGE YOUR MIND OR
17 INFLUENCE YOU IN YOUR DECISION AS TO HOW TO VOTE. THE
18 STATE OBJECTED AND IT WAS SUSTAINED.

19 THE SECOND QUESTION, WOULD YOU ALLOW THE FACT
20 THAT A CONSIDERABLE NUMBER OF JURORS WERE VOTING
21 DIFFERENTLY FROM YOU TO INFLUENCE TO CHANGE YOUR VOTE.
22 SUSTAINED. OBJECTED AND SUSTAINED BY THE COURT.

23 AND IN THAT -- IN THIS CASE, THAT APPELLATE COURT
24 FOUND THAT THOSE TWO QUESTIONS WERE PROPERLY EXCLUDED AS
25 STAKING OUT A JUROR.

1 THAT WOULD BE MY -- THE BASIS OF MY OBJECTION,
2 YOUR HONOR.

3 THE COURT: WELL -- AND THAT WAS ONE THING THAT I
4 WAS GOING TO DISCUSS IN THIS REGARD. I THINK THAT THE --
5 IT'S A VERY FINE LINE THAT YOU HAVE TO OBSERVE AND WHILE I
6 ALLOWED THAT QUESTION WITH THAT JUROR BECAUSE I THINK -- I
7 DON'T LIKE TO HAVE -- TO HAVE TO RULE ON A LOT OF THINGS IN
8 FRONT OF A JUROR. I UNDERSTAND THAT WE ARE WITH OUR FIRST
9 JUROR AT THIS POINT IN TIME, BUT I BELIEVE AND I WAS
10 LOOKING FOR THE CASE UP HERE JUST NOW BUT I HAVEN'T FOUND
11 IT. THE ONE THAT I'M LOOKING AT HERE IN SOUTH CAROLINA. I
12 AGREE WITH THAT. I THINK THAT THE WHOLE CONCEPT OF VOIR
13 DIRE IN THIS STATE AND IN ANY OTHER STATE IS WHAT THEY CAN
14 CONSIDER, ALL THOSE THINGS AND THE FACT AS TO WHETHER OR
15 NOT THEY CAN CONSIDER THESE AGGRAVATING-MITIGATING
16 CIRCUMSTANCES, THE -- ALL THE EVIDENCE THAT'S PRESENTED TO
17 THEM AND CONSIDER BOTH OF THOSE VERDICTS AND LET'S TRY TO
18 KEEP IT AT THAT BECAUSE WHAT YOU DO, ONCE AGAIN, IN
19 ESSENCE, YOU ARE GETTING IN IN MY OPINION INTO THOSE
20 HYPOTHETICAL TYPE OF SITUATIONS IN THE JURY ROOM THEN.
21 AND, YOU KNOW, I JUST READ STATE VERSUS SOUTH AGAIN AND
22 STATE VERSUS PATTERSON BECAUSE I HAVE THEM UP HERE. THAT
23 WAS AN ISSUE IN MY LAST DEATH PENALTY CASE WHEN WE WERE
24 GOING THROUGH VOIR DIRE AND I THINK THAT THESE CASES ARE
25 VERY CLEAR AS TO WHAT YOU CAN AND CANNOT DO AND IF YOU

0312

1 HAVEN'T EVER READ THOSE APPELLATE BRIEFS, THEY ARE WELL
2 WORTH READING BECAUSE IT GIVES YOU A GREAT DEAL OF GUIDANCE
3 IN THAT AREA.

4 SO, I'M GOING TO DIRECT THAT YOU NOT ASK THOSE
5 SPECIFIC QUESTIONS BECAUSE I THINK THAT IS GETTING BEYOND
6 THE SCOPE OF VOIR DIRE. THAT YOU, IN ESSENCE, ARE ASKING
7 THEM WHAT THEY'RE GOING TO DO. WE'RE ASKING THEM THAT FROM
8 A STANDPOINT AS TO CAN YOU CONSIDER BOTH OF THESE -- BOTH
9 OF THESE VERDICTS, NOT IF YOU ARE STRONG ON ONE SIDE OR THE
10 OTHER. ARE YOU GOING TO STICK TO IT AND NOT CHANGE YOUR
11 MIND BECAUSE, YOU KNOW, WE COULD BE HERE ALL DAY WITH THAT.

12 THE KEY UNDER THE STATUTE IS WHETHER OR NOT THEY
13 CAN BE DEATH QUALIFIED. SO LET'S PLEASE LEAVE IT AT THAT.

14 WE'RE READY. ALL RIGHT. BEFORE WE BRING OUR
15 NEXT JUROR IN, I DO FIND THAT JUROR NUMBER 50, GLENDA B.
16 CLIFTON, IS QUALIFIED TO SERVE AS POTENTIAL JUROR IN THIS
17 STATE PURSUANT TO SECTION 16-320 OF OUR CODE.

18 ALL RIGHT. NEXT JUROR, BRYAN SMITH.

19 BRYAN H. SMITH,
20 (JUROR NUMBER 212, WHITE MALE,
21 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

22 EXAMINATION
23 BY THE COURT.

24 Q YOU ARE BRYAN SMITH, IS THAT CORRECT?

25 A THAT'S CORRECT.

1 Q JUROR NUMBER 212.

2 MR. SMITH, FIRST OF ALL, OF COURSE, YOU
3 UNDERSTAND THAT YOU ARE UNDER OATH FOR THESE PROCEEDINGS?

4 A RIGHT.

5 Q AND HAS THE INSTRUCTIONS THAT I GAVE YOU A LITTLE BIT
6 EARLIER ABOUT REFRAINING FROM TALKING TO ANYONE ABOUT THIS
7 CASE OR WHETHER ANYONE ATTEMPTED TO CONTACT YOU CONCERNING
8 THIS CASE AND SO FORTH, HAS THERE BEEN ANY VIOLATION OF
9 THOSE INSTRUCTIONS?

10 A NO.

11 Q NOW, I'M GOING TO BE ASKING YOU SEVERAL QUESTIONS AND
12 THE LAWYERS WILL ALSO ASK YOU SOME QUESTIONS, BUT I THINK
13 THAT YOU WILL PROBABLY UNDERSTAND THAT IT'S NECESSARY DUE
14 TO THE NATURE OF THE PROCEEDINGS THAT WE ARE ABOUT THAT
15 THESE QUESTIONS BE ASKED.

16 PLEASE KEEP IN MIND THAT THERE ARE ABSOLUTELY NO
17 RIGHT OR WRONG ANSWERS TO THE QUESTIONS THAT YOU ARE GOING
18 TO BE ASKED. PLEASE JUST ANSWER THEM OPENLY AND HONESTLY
19 AND FULLY AND ALSO KEEP IN MIND THAT NO ONE IS CHALLENGING
20 YOUR VIEW IN A PARTICULAR AREA. IT'S JUST THAT WE NEED TO
21 KNOW WHAT YOUR VIEWS ARE.

22 A RIGHT.

23 Q NOW, ALSO, PLEASE, KEEP IN MIND THAT THE LAWYERS HAVE
24 COPIES OF YOUR QUESTIONNAIRE THAT YOU FILLED OUT FOR THE
25 CLERK OF COURT AS WELL AS I HAVE A COPY OF THAT AND THESE

0314

1 ARE IMPORTANT BECAUSE OF THE QUESTIONS THEY MAY NEED TO
2 KNOW OR QUESTIONS THAT THEY NEED TO ASK YOU ABOUT MAY BE
3 SOMETHING THAT YOU HAD LISTED ON THIS SHEET, BUT PLEASE
4 UNDERSTAND WHY THEY HAVE THAT.

5 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
6 SPEAKING OF OVER THE NEXT FEW MINUTES WILL BE THE WORD
7 PENALTY. AND THE MERE FACT THAT I EVEN MENTION THAT WORD
8 OR WE EVEN TALK ABOUT THAT WORD DOES NOT INDICATE ANYTHING
9 ABOUT THIS DEFENDANT WHO IS ON TRIAL THIS WEEK. HE IS
10 PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND
11 THAT?

12 A YES, SIR.

13 Q NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN A
14 CRIMINAL CASE. COULD YOU LISTEN TO THE LAW, ACCEPT AND
15 APPLY THE LAW AS I WOULD GIVE YOU AS THE JUDGE OF THIS
16 COURT EVEN THOUGH YOU MAY NOT AGREE WITH THAT LAW OR THINK
17 THAT IT OUGHT TO BE SOME OTHER WAY?

18 A YES.

19 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
20 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
21 ANYTHING THAT YOU MAY HAVE HEARD, READ OR SEEN ABOUT THE
22 CASE?

23 A YES.

24 Q NOW, IN A CRIMINAL CASE, THE STATE HAS THE BURDEN OF
25 PROVING A DEFENDANT'S GUILT. THE BURDEN FOR THE STATE IS

1 TO PROVE THAT BEYOND A REASONABLE DOUBT AND A DEFENDANT HAS
2 ABSOLUTELY NO BURDEN TO PROVE HIMSELF INNOCENT. :YOU :
3 UNDERSTAND THAT?

4 A YEAH, I UNDERSTAND IT.

5 Q NOW, COULD YOU, DEPENDING ON THE FACTS AND EVIDENCE
6 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,
7 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

8 A YES.

9 Q NOW, AS YOU KNOW, THIS CASE THAT WE ARE ABOUT THIS
10 WEEK IS ONE IN WHICH THE STATE SEEKS THE DEATH PENALTY.
11 NOW, LET'S PRESUME THAT YOU WERE A JUROR IN A DEATH PENALTY
12 CASE AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF
13 MURDER IN THE FIRST PHASE, THAT IS, THE GUILT PHASE, DO YOU
14 UNDERSTAND THAT YOU WOULD THEN MOVE TO THE SENTENCING PHASE
15 OF THE TRIAL?

16 A YES, I DO, BUT I HAVE A HARD TIME SEPARATING THE TWO.

17 Q ALL RIGHT. YOU UNDERSTAND THAT IN THE FIRST PHASE,
18 THE GUILT PHASE, IS THE PART OF THE TRIAL WHERE THE JURY
19 MERELY DETERMINES THE GUILT OR THE INNOCENCE OF THE
20 DEFENDANT AS TO THE CRIMES WHICH ARE CHARGED AGAINST HIM?

21 A YES.

22 Q ALL RIGHT. AND THEN IF YOU MOVE INTO THAT SECOND
23 PHASE, THE SENTENCING PHASE, THAT IS ALSO WHAT WE REFER TO
24 AS THE PENALTY PHASE. DO YOU UNDERSTAND THAT AT THAT POINT
25 IN TIME THAT THE JURY WOULD BE CONSIDERING TWO DIFFERENT

0316

1 FORMS OF VERDICT WHETHER IT WOULD BE LIFE IN PRISON OR
2 DEATH?

3 A YES.

4 Q ALL RIGHT. NOW, DURING THAT PHASE OF THE TRIAL,
5 THERE WOULD BE CERTAIN AGGRAVATING CIRCUMSTANCES WHICH
6 WOULD BE PRESENTED BY THE STATE AND THESE ARE FACTS,
7 INCIDENTS, DETAILS, OCCURRENCES WHICH OUR GENERAL ASSEMBLY
8 HAS DECLARED BY LAW THAT WOULD MAKE WORSE; THAT IS, TO
9 AGGRAVATE THE OFFENSE OF MURDER.

10 IN OTHER WORDS, WHERE A MURDER OCCURS WITH --
11 ACCOMPANIED BY AN AGGRAVATING CIRCUMSTANCE, IT INCREASES
12 THE ENORMITY OR ADDS TO THE INJURY OF THE MURDER. AND WHAT
13 I'M TALKING ABOUT WHEN WE SPEAK OF AGGRAVATING
14 CIRCUMSTANCES WOULD BE WHEN A MURDER OCCURRED IN ADDITION
15 TO CRIMINAL SEXUAL CONDUCT IN ANY DEGREE OR BURGLARY IN ANY
16 DEGREE. DO YOU UNDERSTAND THAT?

17 A YES, SIR.

18 Q NOW, BY THE SAME TOKEN, OUR GENERAL ASSEMBLY HAS ALSO
19 ESTABLISHED MITIGATING CIRCUMSTANCES WHICH ARE INCIDENTS,
20 DETAILS OR OCCURRENCES WHICH HAVE BEEN DECLARED BY LAW, BY
21 OUR GENERAL ASSEMBLY THAT REDUCES THE SEVERITY OF THE
22 OFFENSE OF MURDER AND MAY BE CONSIDERED AS EXTENUATING OR
23 AS REDUCING THE DEGREE OF RESPONSIBILITY OR MORAL
24 CULPABILITY. AND WHAT I'M TALKING THEN WOULD BE -- IN
25 MITIGATING CIRCUMSTANCES WOULD BE THAT THE MURDER WAS

1 COMMITTED WHILE A DEFENDANT WAS UNDER THE INFLUENCE OF A
2 MENTAL OR EMOTIONAL DISTURBANCE OR THAT THE CAPACITY OF THE
3 DEFENDANT TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR
4 TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW WAS
5 SUBSTANTIALLY IMPAIRED AND OR THE AGE OR MENTALITY OF THE
6 DEFENDANT AT THE TIME OF THE CRIME.

7 YOU UNDERSTAND THAT THOSE ARE THE TYPES OF
8 CIRCUMSTANCES THAT A JURY MAY CONSIDER IN THAT REGARD?

9 A YES.

10 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION AND I'M
11 SPEAKING OF THAT SECOND PHASE, THAT SENTENCING PHASE OR THE
12 PENALTY PHASE, COULD YOU DEPENDING ON THE PARTICULAR FACTS
13 AND CIRCUMSTANCES OF THAT CASE AND THE LAW AS I WOULD
14 INSTRUCT YOU AT THE CONCLUSION OF THE CASE RETURN A
15 SENTENCE OF LIFE IN PRISON?

16 A YES.

17 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU
18 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
19 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
20 CONCLUSION OF THAT CASE, RETURN A SENTENCE OF DEATH?

21 A YES.

22 Q NOW, MR. SMITH, IF YOU ARE CHOSEN AS A JUROR IN THIS
23 CASE, YOU WOULD BE SEQUESTERED WHICH IS KIND OF A FANCY
24 LEGAL WORD MEANING THAT YOU ARE PUT AWAY OR HOUSED IN A
25 MOTEL DURING THE ENTIRE LENGTH OF THE TRIAL. I DON'T KNOW

0318

1 HOW LONG IT'S GOING TO LAST, BUT ANYWHERE FROM SEVEN TO TEN
2 DAYS. EXCEPT FOR THE PERSONAL INCONVENIENCE, WOULD THIS
3 POSE A SERIOUS DANGER TO THE HEALTH OR WELL-BEING OF
4 YOURSELF OR OF THOSE DEPENDENT UPON YOU?

5 A YES. IT COULD WRECK MY BUSINESS.

6 Q OKAY. TELL ME A LITTLE BIT MORE ABOUT THAT.

7 A I'M IN A SOLE PROPRIETORSHIP BUSINESS. I'M IN MY
8 FIRST YEAR. I HAVE NO EMPLOYEES. FOR ME TO BE HERE, I
9 HAVE TO CLOSE MY BUSINESS. I'M BASICALLY LIVING FROM HAND
10 TO MOUTH RIGHT NOW.

11 Q OKAY. AND I THINK YOU TELL ME OR TOLD ME THAT YOU
12 WERE, IT'S CLOCK REPAIR OF LEXINGTON?

13 A YES, SIR.

14 Q AND -- SO, WHAT YOU ARE DOING IS, IN ESSENCE,
15 REPAIRING CLOCKS, WATCHES AND THAT TYPE OF THING AND YOU'RE
16 THE SOLE MEMBER OF THAT BUSINESS?

17 A YES, SIR.

18 Q OKAY. MS. FULLWOOD, MR. STONE AND MR. HUMPHRIES, LET
19 ME SEE YOU.

20 (WHEREUPON, A BENCH CONFERENCE WAS
21 HELD AT THIS TIME OFF THE RECORD.)

22 THE COURT: MR. SMITH, GIVEN THE FACT THAT YOU
23 ARE A SOLE PROPRIETOR OF YOUR BUSINESS AND WHAT YOU HAVE
24 TOLD ME, I'M GOING TO EXCUSE YOU FROM FURTHER PARTICIPATION
25 IN THIS CASE. I APPRECIATE YOUR HONESTY IN RESPONDING TO

1 THESE QUESTIONS, BUT YOU WILL BE EXCUSED AT THIS TIME.

2 THE JUROR: THANK YOU.

3 THE COURT: BEFORE YOU GO, ANYTHING FURTHER FROM
4 THE DEFENSE IN THAT REGARD?

5 MS. FULLWOOD: NO, SIR.

6 THE COURT: THE STATE?

7 MR. HUMPHRIES: NO, SIR.

8 THE COURT: ALL RIGHT.

9 THE JUROR: THANK YOU.

10 (WHEREUPON, THE JUROR WAS EXCUSED
11 AT THIS TIME.)

12 THE COURT: AND JUST SO THE RECORD IS COMPLETE,
13 LET THE RECORD REFLECT THAT I CONFERRED WITH THE LAWYERS IN
14 A SIDE BAR AND TO BE CONSISTENT WITH MY PRIOR RULINGS IN
15 THIS CASE CONCERNING INDIVIDUALS WHO HAVE BUSINESS PROBLEMS
16 AND I AM EXCUSING HIM.

17 CHARLES T. MOORE,

18 (JUROR NUMBER 169, WHITE MALE,
19 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

20 EXAMINATION

21 BY THE COURT:

22 Q YOU ARE CHARLES MOORE?

23 A YES.

24 Q MR. MOORE, GOOD AFTERNOON TO YOU. IT'S GOOD TO SEE
25 YOU AGAIN.

0320¹

2 AS YOU KNOW, YOU ARE UNDER OATH FOR THESE
3 PROCEEDINGS AND DO YOU UNDERSTAND THAT?

4 A YES.

5 Q NOW, HAS ANYONE -- I THINK THAT I GAVE YOU A NUMBER
6 OF CAUTIONARY INSTRUCTIONS ABOUT NOT TALKING TO ANYONE
7 ABOUT THIS CASE, WHETHER OR NOT ANYONE HAD -- WOULD ATTEMPT
8 TO CONTACT YOU, THAT TYPE OF THING, OR WHETHER OR NOT
9 YOU'VE READ, SEEN OR HEARD ANYTHING ABOUT THIS CASE. HAS
10 THAT BEEN VIOLATED SINCE THE LUNCH BREAK?

11 A NO.

12 Q NOW, I'M GOING TO BE ASKING YOU SEVERAL QUESTIONS AND
13 THEN ONE OF THE DEFENSE LAWYERS AND A MEMBER OF THE
14 SOLICITOR'S OFFICE WILL ALSO PROBABLY ASK YOU SOME
15 QUESTIONS.

16 PLEASE KEEP IN MIND THAT WE NOT ATTEMPTING TO
17 INVADE YOUR PRIVACY IN ANY FASHION WHATSOEVER, BUT BECAUSE
18 OF THE NATURE OF THE CASE THAT WE ARE ABOUT THIS WEEK, IT'S
19 EXTREMELY IMPORTANT THAT CERTAIN QUESTIONS ARE ANSWERED.
20 KEEP IN MIND THAT THERE ARE ABSOLUTELY NO RIGHT OR WRONG
21 ANSWERS TO THE QUESTIONS THAT YOU WILL BE ASKED. PLEASE
22 ANSWER THEM OPENLY, HONESTLY AND FULLY AND ALSO KEEP IN
23 MIND THAT NO ONE IS CHALLENGING WHATEVER VIEW YOU MIGHT
24 HAVE IN A PARTICULAR AREA. IT'S SIMPLY THAT WE NEED TO
25 KNOW WHAT THAT VIEW IS. YOU UNDERSTAND THAT?

A YES, SIR.

1 Q AND ALSO, YOUR JUROR QUESTIONNAIRE, I HAVE A COPY OF
2 THAT AS WELL AS THE LAWYERS BECAUSE THAT'S IMPORTANT IN
3 FORMULATING CERTAIN QUESTIONS.

4 NOW, AMONG THE THINGS THAT WE'RE GOING TO BE
5 SPEAKING OF WE'LL BE USING THE WORD PENALTY, BUT THE MERE
6 FACT THAT I EVEN MENTION THAT WORD DOES NOT IN ANY WAY
7 INDICATE ANYTHING ABOUT THE DEFENDANT THAT'S ON TRIAL HERE
8 THIS WEEK. HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO
9 YOU UNDERSTAND THAT?

10 A YES.

11 Q NOW, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
12 YOU LISTEN TO THE LAW, ACCEPT AND APPLY THE LAW AS I WOULD
13 INSTRUCT YOU AS THE JUDGE OF THE COURT EVEN THOUGH YOU
14 MIGHT NOT AGREE WITH THAT LAW OR THINK THAT IT OUGHT TO BE
15 SOME OTHER WAY?

16 A YES, I COULD.

17 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
18 EVIDENCE THAT YOU WOULD HEAR PRESENTED HERE IN THIS
19 COURTROOM?

20 A YES.

21 Q NOW, IN A CRIMINAL CASE, THE STATE HAS THE BURDEN OF
22 PROVING GUILT. THE BURDEN OF PROOF FOR THE STATE TO MEET
23 IS BEYOND A REASONABLE DOUBT. AND A DEFENDANT HAS
24 ABSOLUTELY NO BURDEN TO PROVE HIMSELF INNOCENT. DO YOU
25 UNDERSTAND THAT?

1 A YES.

2 Q NOW, DEPENDING UPON THE FACTS AND EVIDENCE AND THE

3 LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE, COULD YOU

4 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

5 A YES, I COULD.

6 Q NOW, LET'S SUPPOSE FOR A FEW MOMENTS THAT YOU WERE A

7 JUROR IN A DEATH PENALTY CASE AND IF THE JURY HAD FOUND THE

8 DEFENDANT GUILTY OF MURDER IN THE FIRST PHASE, THE GUILT

9 PHASE, YOU UNDERSTAND THAT YOU WOULD THEN MOVE TO THE

10 SECOND PHASE, THE SENTENCING PHASE OF THE TRIAL?

11 A YES, I DO.

12 Q NOW, AT THAT TIME, THERE WOULD BE INFORMATION

13 PRESENTED IN THE FORM OF -- BY THE STATE IN THE FORM OF

14 AGGRAVATING CIRCUMSTANCES.

15 NOW, AGGRAVATING CIRCUMSTANCES BY WAY OF

16 EXPLANATION ARE FACTS, INCIDENTS, DETAILS OR OCCURRENCES

17 WHICH THE GENERAL ASSEMBLY OF THIS STATE HAS DECLARED BY

18 LAW WOULD MAKE WORSE; THAT IS, TO AGGRAVATE THE OFFENSE OF

19 MURDER.

20 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE

21 INCREASES THE ENORMITY OR ADDS TO THE INJURY OF THE MURDER.

22 NOW, FOR EXAMPLE I'M TALKING ABOUT WHERE A MURDER WOULD

23 OCCUR MAYBE IN A CRIMINAL SEXUAL CONDUCT CASE OR IN

24 BURGLARY OF ANY DEGREE. YOU UNDERSTAND THAT?

25 A YES.

1 Q NOW, BY THE SAME TOKEN, THERE ARE MITIGATING
2 CIRCUMSTANCES WHICH ARE INCIDENTS, DETAILS OR OCCURRENCES
3 WHICH OUR GENERAL ASSEMBLY HAS ALSO DECLARED BY LAW THAT
4 REDUCES THE SEVERITY OF THE OFFENSE OF MURDER AND MAY BE
5 CONSIDERED BY THE JURY AS EXTENUATING OR AS REDUCING THE
6 DEGREE OF RESPONSIBILITY OR MORAL CULPABILITY. AND FOR
7 EXAMPLE, THAT WOULD BE WHERE A MURDER IS COMMITTED WHILE A
8 DEFENDANT WAS UNDER THE INFLUENCE OF EMOTIONAL OR MENTAL
9 DISTURBANCE OR WHERE THE CAPACITY OF A DEFENDANT TO
10 APPRECIATE THE CRIMINALITY OF HIS CONDUCT OF TO CONFORM HIS
11 CONDUCT UNDER THE LAW WAS SUBSTANTIALLY IMPAIRED, AS WELL
12 AS THE AGE OR MENTALITY OF THE DEFENDANT AT THE TIME OF THE
13 CRIME. DO YOU UNDERSTAND WHAT I'M TALKING ABOUT BY
14 MITIGATING CIRCUMSTANCES?

15 A YES, I DO.

16 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION, I'M
17 TALKING ABOUT THE SENTENCING PHASE, COULD YOU DEPENDING
18 UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF THAT CASE,
19 CONSIDERING AGGRAVATING AND MITIGATING CIRCUMSTANCES AND
20 THE LAW AS I WOULD INSTRUCT YOU AT THE CONCLUSION OF THE
21 CASE RETURN A SENTENCE OF LIFE IN PRISON?

22 A DEPENDING UPON THE MITIGATING CIRCUMSTANCES?

23 Q DEPENDING UPON ALL THE FACTS AND CIRCUMSTANCES---

24 A OR---

25 Q ---INVOLVED, AGGRAVATING AND MITIGATING

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1 CIRCUMSTANCES?

2 A YES.

3 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU
4 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
5 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
6 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

7 A YES, I COULD.

8 Q NOW, MR. MOORE, IF YOU ARE CHOSEN AS A JUROR IN THIS
9 CASE, YOU WOULD BE SEQUESTERED WHICH MEANS YOU WOULD BE
10 HOUSED IN A MOTEL FOR THE DURATION OF THE TRIAL. I REALLY
11 DON'T HAVE ANY WAY TO KNOW HOW LONG THAT WOULD BE---

12 A UH-HUH.

13 Q ---BUT IT COULD BE ANYWHERE FROM A WEEK TO MAYBE TEN
14 DAYS. IT COULD BE LESS THAN THAT. I JUST DON'T KNOW.
15 EXCEPT FOR THE PERSONAL INCONVENIENCE THAT YOU WOULD
16 SUFFER, WOULD THIS POSE A SERIOUS DANGER TO THE HEALTH OR
17 WELL-BEING OF YOURSELF OR THOSE DEPENDENT UPON YOU?

18 A NO. I AM SELF-EMPLOYED AND I HAVE JUST RETURNED FROM
19 AN ANNIVERSARY WEEK WITH MY WIFE. I AM THE SOLE PROPRIETOR
20 OF MY BUSINESS AND THAT WOULD BE THE ONLY DETRIMENTAL
21 ASPECT OF IT. BEING AWAY FROM MY BUSINESS MORE THAN
22 ALREADY A WEEK AND POSSIBLY FROM WHAT YOU'RE TALKING ABOUT
23 TWO WEEKS OR MORE.

24 Q YES, SIR.

25 A THAT WOULD BE THE ONLY THING I CAN THINK OF.

1 Q ALL RIGHT.

2 A NOT -- I'M SORRY, GO AHEAD.

3 Q I DIDN'T MEAN TO INTERRUPT YOU.

4 A NOTHING DETRIMENTAL, BUT.

5 Q IS IT SOMETHING THAT WOULD KEEP YOU FROM BEING ABLE
6 TO PERFORM YOUR DUTIES AS A JUROR?

7 A NO, I WOULD -- WOULD DO THAT REGARDLESS.

8 Q ALL RIGHT, SIR. THANK YOU VERY MUCH.

9 MR. STONE.

10 MR. STONE: THANK YOU, JUDGE.

11 EXAMINATION

12 BY MR. STONE:

13 Q MR. MOORE, MY NAME IS DUFFIE STONE. I THINK I WAS
14 INTRODUCED TO YOU EARLIER. THIS IS BETH FULLWOOD AND ALONG
15 WITH MS. FULLWOOD, WE ARE REPRESENTING GARY TERRY TODAY.

16 A UH-HUH.

17 Q I'M JUST GOING TO ASK YOU A FEW QUESTIONS TO SEE IF I
18 CAN CLARIFY SOMETHING -- SOME THINGS. WE HAVE YOUR
19 QUESTIONNAIRE THAT YOU SENT IN SO I'M NOT GOING TO GO OVER
20 A BUNCH OF STUFF LIKE THAT. BUT I NOTICED, IN YOUR
21 QUESTIONNAIRE YOU SAID YOU USED TO WORK FOR THE DEPARTMENT
22 OF CORRECTIONS, IS THAT---

23 A THAT'S CORRECT.

24 Q WHERE DID YOU WORK?

25 A I WORKED ONE YEAR AT THE CANTEEN WAREHOUSE OFF OF

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2 BROAD RIVER ROAD WHERE WE SUPPLIED THE SATELLITE CANTEENS
3 FOR THE INSTITUTIONS AROUND THE STATE AND ONE YEAR WITH
4 STEVENSON CORRECTIONAL INSTITUTION AS A CORRECTIONAL
5 OFFICER.

6 Q YOU WERE A CORRECTIONAL OFFICER ACTUALLY IN
7 STEVENSON?

8 A YES.

9 Q ALL RIGHT, SIR. NOW, I THINK WE TALKED AND I KNOW WE
10 ALL CAME UP HERE, BUT THE COURTROOM IS FAIRLY CLOSED OFF
11 RIGHT NOW SO. WHEN WE TALKED EARLIER, YOU HAD INDICATED
12 THAT YOU HAD LEFT WORKING WITH THE DEPARTMENT OF
13 CORRECTIONS AND I DON'T WANT TO MISQUOTE YOU, BUT IT WAS
14 SOMETHING THAT HAD DISTURBED YOU OR BOTHERED YOU OR
15 SOMETHING. WOULD YOU TELL ME WHAT THAT WAS? AM I RIGHT
16 ABOUT THAT?

17 A YOU -- WELL, I DIDN'T PARTICULARLY CARE FOR THE LINE
18 OF WORK BASICALLY. IT ALWAYS APPEARED TO ME THAT THE
19 CORRECTIONAL OFFICERS' ARMS WERE STAYED PRETTY MUCH WITH
20 THE RED TAPE AND THE PAPERWORK THAT HAD TO TAKE PLACE IN
21 ORDER TO; FOR INSTANCE, LOCK AN INMATE UP.

22 Q OKAY. AND DID YOU GET THAT IMPRESSION WHEN YOU WERE
23 WORKING---

24 A IN SEGREGATION THAT IS.

25 Q I'M SORRY, EXCUSE ME---

A IN SEGREGATION FROM THE GENERAL POPULATION.

1 Q DID YOU GET THAT IMPRESSION WHEN YOU WERE WORKING AT
2 STEVENSON?

3 A THAT IT WAS DIFFICULT?

4 Q YES, SIR.

5 A WELL, IT WAS THE GENERAL IMPRESSION I THINK FROM --
6 AND I DON'T WANT TO SPEAK FOR OTHER CORRECTIONAL
7 OFFICERS---

8 Q SURE.

9 A ---BUT, I THINK, FROM A LOT OF THE CORRECTIONAL
10 OFFICERS. THE DIFFICULTIES THAT WE HAD WITH CODDLING --
11 THAT'S WHAT I CALLED IT -- OF THE INMATES.

12 Q SURE. SURE. DID -- AND WE TALKED A LITTLE BIT ABOUT
13 THAT AND I THINK THE JUDGE ASKED YOU, BUT WE DIDN'T GET A
14 CHANCE TO TALK ABOUT IT, BUT THE JUDGE ASKED YOU EARLIER, I
15 THINK, WHETHER OR NOT THAT WOULD -- I DON'T WANT TO PUT
16 WORDS IN HIS MOUTH EITHER, BUT WOULD THAT CONCERN YOU,
17 WOULD THAT CAUSE YOU SOME PAUSE IN CONSIDERING THE EVIDENCE
18 IN THIS CASE?

19 A NOT IF SOMEONE IS NOT A CONVICTED FELON. I GUESS
20 THAT WAS MORE DIRECTED TOWARDS SOMEONE THAT FROM MY
21 POSITION WHERE I WAS WITH -- WORKING WITH PEOPLE WHO WERE
22 ALREADY CONVICTED. NO, NOT IN THE SENSE THAT SOMEBODY IS
23 ON TRIAL. I WOULD NEVER LOOK EXCEPT AT THE FACTS IN THE
24 CASE AND THAT'S IT.

25 Q SO---

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1 A IN GOOD CONSCIENCE, I COULDN'T DO THAT. I DO BELIEVE
2 IN RIGHT AND WRONG.

3 Q SO IT'S DIFFERENT IF THEY'VE ALREADY BEEN CONVICTED?

4 A WELL, I GUESS, THE CIRCUMSTANCES. I DON'T MEAN TO
5 SAY THAT I'M PREJUDICED AGAINST THOSE PEOPLE THAT I WORK
6 WITH. I WORKED WITH THEM AND TRIED TO BE AS FAIR AS I
7 COULD. I THINK IT'S THE ONLY WAY YOU WORK WITH PEOPLE, BUT
8 I GUESS THAT'S WHAT I MEANT---

9 Q NO, I---

10 A ---NOT FROM SOMEONE THAT IS ON TRIAL. I WOULD LIKE
11 TO BE SHOWN THE SAME TYPE OF CONSIDERATION IF I WERE ON
12 TRIAL SAY, FOR INSTANCE, THE PERSON WOULD DO THE RIGHT
13 THING.

14 Q YES, SIR. THE -- IN A DEATH PENALTY CASE, I'M
15 ASSUMING -- HAVE YOU EVER SAT ON A DEATH PENALTY CASE
16 BEFORE?

17 A NO, I HAVEN'T.

18 Q I'LL REPEAT A LITTLE BIT ABOUT WHAT THE JUDGE SAID.
19 A DEATH PENALTY CASE IS A LITTLE BIT DIFFERENT BECAUSE IT'S
20 TWO SECTIONS. IT'S TWO DIFFERENT TRIALS. IF SOMEONE IS
21 CONVICTED IN THE FIRST TRIAL, THEN IT GOES TO THAT SECOND
22 PENALTY PHASE. AND SO THIS IS, OF COURSE, OUR ONLY
23 OPPORTUNITY. SO WE HAVE TO ASK YOU ABOUT THE PENALTY PHASE
24 AS WELL AS THE GUILT PHASE.

25 BUT IF SOMEONE IS CONVICTED AND THEY ARE A

1 CONVICTED FELON AND IN THIS CASE, THEY WOULD HAVE TO BE
2 CONVICTED OF MURDER AND EITHER RAPE OR BURGLARY. AT THAT
3 POINT, THEY ARE A CONVICTED PERSON. THEN YOU WILL ALSO
4 HAVE TO SIT IN THE JURY PANEL BOX AND DETERMINE A SENTENCE,
5 EITHER LIFE OR DEATH.

6 WHAT I'M GETTING FROM YOU A LITTLE BIT, FROM YOUR
7 EXPERIENCE IN THE DEPARTMENT OF CORRECTIONS IS THAT IT'S A
8 LITTLE BIT DIFFERENT AFTER THEY'RE CONVICTED. IS THAT FAIR
9 OR NOT? I DON'T WANT TO PUT WORDS IN YOUR MOUTH AND PLEASE
10 CORRECT ME IF I'M WRONG. IS THAT WHAT -- IS THAT BASICALLY
11 MY UNDERSTANDING?

12 A WELL, YEAH, AND IT'S NOT FOR ME TO MAKE THE DECISION
13 ONCE I'M -- I GUESS, I'M WORKING THERE, IT IS DIFFERENT I
14 BELIEVE THAN SOMEBODY BEING ON A TRIAL.

15 Q YES, SIR.

16 A OBVIOUSLY. THEY HAVE NOT BEEN CONVICTED YET. AND
17 THAT'S WHAT I BELIEVE AND THAT'S WHERE MY CONSCIENCE IS.
18 AND NOT KNOWING THE FACTS OF THE CASE WHICH I WOULDN'T HAVE
19 NO IDEA OF WHAT THE FACTS OF THE CASE ARE. I WOULD HAVE TO
20 LISTEN AND DRAW A CONCLUSION FROM THAT.

21 Q AND THAT'S WHAT -- THAT'S THE LITTLE BIT OF THING
22 THAT'S CONFUSING, I THINK, ABOUT A DEATH PENALTY CASE IS
23 THAT YOU HAVE TWO TRIALS BASICALLY. IF THE PERSON IS
24 CONVICTED, THEN YOU HAVE A SENTENCING PHASE. WOULD YOU
25 HAVE A PROBLEM SITTING IN THE SENTENCING PHASE AFTER YOU

1 HAVE FOUND SOMEBODY GUILTY? WOULD YOU HAVE A PROBLEM
2 CONSIDERING THAT PERSON FOR LIFE IN PRISON?

3 A NO. DEPENDING ON WHAT THE MITIGATING CIRCUMSTANCES
4 WERE LEADING UP TO IT, NO. I CAN'T SAY THAT I WOULD HAVE A
5 PROBLEM.

6 Q DID -- AND JUST A FEW MORE QUESTIONS AND I'LL QUIT
7 BECAUSE YOU'VE BEEN VERY HONEST WITH ME AND I APPRECIATE
8 THAT. DOES -- IF WE WERE TALKING ABOUT, FOR INSTANCE, YOUR
9 TIME AT STEVENSON OR ANYTHING LIKE THAT OR ANY OTHER
10 BACKGROUND INFORMATION, AGAIN, HAVE YOU FORMED ANY
11 SUBSTANTIAL OPINION ABOUT THE DEATH PENALTY OR LIFE IN
12 PRISON ONE WAY OR THE OTHER?

13 A AS TO WHETHER I BELIEVE IN THE DEATH PENALTY---

14 Q YES, SIR.

15 A ---OR DO NOT BELIEVE IN THE DEATH PENALTY?

16 Q YES, SIR.

17 A I DO BELIEVE IN THE DEATH PENALTY WHEN IT'S
18 APPROPRIATE.

19 Q YES, SIR.

20 A BASICALLY.

21 Q ALL RIGHT. LIFE IN PRISON, I TAKE IT, THAT WOULD BE
22 THE SAME WAY?

23 A YES, I DO, DEPENDING ON THE CIRCUMSTANCES.

24 Q AND YOUR TIME AT STEVENSON HASN'T CHANGED THAT
25 OPINION OR ANYTHING?

1 A NO, NOT -- NOT FOR SOMEONE WHO HAS NOT BEEN CONVICTED
2 OF A CRIME, NO. I DON'T HARBOR ANY ILL FEELINGS TOWARD---

3 Q YES, SIR.

4 A ---A PERSON ON TRIAL.

5 Q YES, SIR. EXCUSE ME JUST A MOMENT, YOUR HONOR.

6 THE COURT: CERTAINLY..

7 MR. STONE: JUST A FEW MORE QUESTIONS.

8 YOU UNDERSTAND -- YOU UNDERSTAND WHAT MURDER IS
9 OR AT LEAST WHAT THE -- IF SOMEBODY IS CONVICTED OF MURDER,
10 IT MEANS THAT THEY KILLED SOMEONE WITH MALICE AFORETHOUGHT,
11 AN EVIL MIND. THEY PLANNED IT, VARIOUS THINGS LIKE THAT.
12 YOU UNDERSTAND THAT, DON'T YOU?

13 A YES.

14 Q ALL RIGHT. ONCE -- IF YOU ARE IN A SITUATION WHERE
15 YOU HAVE HEARD THE GUILT PHASE OF THE TRIAL AND YOU AND THE
16 ELEVEN OTHER JURORS ARE UNANIMOUS THAT THIS PERSON ACTUALLY
17 COMMITTED MURDER AND AN AGGRAVATING CIRCUMSTANCE, RAPE,
18 BURGLARY, WHATEVER, YOU REALIZE THAT YOU ARE NOW GETTING
19 INTO A SECOND STAGE WHERE YOU, AS A JURY, HAVE ALREADY
20 DECIDED THE PERSON IS GUILTY?

21 A YES.

22 Q AND SENTENCING IS TOTALLY DIFFERENT. YOU DON'T HAVE
23 TO CONSIDER AT ANY POINT OF TIME WHETHER OR NOT YOU THINK
24 THAT PERSON IS GUILTY OR NOT. YOU UNDERSTAND THAT?

25 A YES.

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Q IT'S STRICTLY NOW LIFE OR DEATH. YOU UNDERSTAND
THAT? DO YOU UNDERSTAND THAT DISTINCTION?

A YES.

Q AT THAT POINT, DO YOU FEEL LIKE YOU CAN STILL TREAT
THE STATE AND THE DEFENSE FAIRLY AND CAN, IN FACT, STILL
USE THE SAME PARAMETERS THAT YOU USED FOR THE GUILT WHEN IT
COMES TO DETERMINING WHETHER OR NOT IT'S APPROPRIATE TO
GIVE SOMEBODY LIFE OR DEATH OR DO YOU -- OR IS IT DIFFERENT
BECAUSE YOU'VE ALREADY FOUND THEM GUILTY? I GUESS---

A NO, I THINK I CAN DIFFERENTIATE BETWEEN THE TWO
ASPECTS OF THE GUILTY PHASE AND THE SENTENCING PHASE OF IT.
I THINK I UNDERSTAND THAT COMPLETELY.

Q SO IN OTHER WORDS, IF SOMEBODY IS FOUND GUILTY, YOU
CAN STILL CONSIDER GIVING HIM LIFE IN PRISON?

A YES.

Q ALL RIGHT, SIR. ANYTHING MORE OR LESS LIFE OR DEATH?

A COULD -- COULD -- COULD I---

Q WOULD YOU CONSIDER LIFE OR DEATH MORE AFTER YOU'VE
ALREADY FOUND SOMEBODY GUILTY?

A YOU MEAN, AM I PREJUDICED---

MR. HUMPHRIES: I OBJECT TO THE FORM OF THE
QUESTION, YOUR HONOR---

THE JUROR: ---AM I PREJUDICED---

THE COURT: EXCUSE ME JUST A MINUTE. WHAT'S YOUR
OBJECTION?

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

3 THE COURT: I'LL SUSTAIN THE OBJECTION. IF YOU
4 WANT TO REPHRASE IT, YOU MAY DO SO.

5 MR. STONE: I THINK -- I AGREE WITH YOU, IT WAS A
6 BAD FORM, BUT I THINK THE JUROR ACTUALLY UNDERSTOOD IT.

7 I WAS EXACTLY ASKING YOU ABOUT YOUR PREJUDICES,
8 WHETHER OR NOT THEY WOULD CHANGE IF YOU, IN FACT, HAD
9 ALREADY FOUND SOMEBODY GUILTY? I MEAN, YOU UNDERSTOOD WHAT
10 I WAS ASKING. YOU WERE ABOUT TO ANSWER.

11 THE JUROR: YES, I DID UNDERSTAND. NO. WOULD I
12 FEEL PREJUDICED TOWARDS AFTER---

13 Q YES, SIR. AFTER YOU FOUND HIM GUILTY---

14 A ---THE GUILTY PHASE, NO.

15 Q THANK YOU.

16 THE COURT: SOLICITOR.

17 EXAMINATION

18 BY MR. HUMPHRIES:

19 Q I'VE JUST GOT ONE QUESTION.

20 MR. MOORE, I'M FRAN HUMPHRIES. I'M THE DEPUTY
21 SOLICITOR. I, ALONG WITH TOM CHASE, WHO IS SEATED BESIDE
22 ME, ARE GOING TO ASSIST SOLICITOR MYERS IN TRYING THIS CASE
23 FOR THE STATE. I'M NOT GOING TO GO OVER ALL OF THE OTHER
24 THINGS THAT JUDGE CLARY AND MR. STONE HAVE ALREADY ASKED
25 YOU ABOUT. I'VE GOT ONE SPECIFIC QUESTION AND THAT'S

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2 YOU DIDN'T KNOW AND IT'S PROBABLY SOMETHING YOU SHOULDN'T
3 HAVE KNOWN.

4 BUT LET'S ASSUME FOR THE MOMENT THAT YOU WERE
5 SEATED ON THIS JURY AND THAT YOU ALONG WITH ELEVEN OTHER
6 JURORS HAD RETURNED A VERDICT OF GUILTY OF MURDER. AND WE
7 GO INTO THAT SECOND PHASE. DURING THAT SECOND PHASE, AFTER
8 YOU HEAR ALL OF THE EVIDENCE AND LISTEN TO THE JUDGE'S
9 CHARGE, YOU, ALONG WITH THE OTHER MEMBERS OF THE JURY, WILL
10 REACH A VERDICT OF DEATH. WE'RE ASSUMING A LOT OF THINGS,
11 OKAY, BUT I NEED TO GET US TO THAT POINT.

12 A RIGHT.

13 Q AT THAT STAGE, IN ORDER TO INDICATE YOUR VOTE OF
14 DEATH, THE JUDGE WILL PROVIDE YOU A FORM WHICH CONTAINS
15 TWELVE SIGNATURE LINES AND ONE OF THOSE LINES WILL BE FOR
16 YOU.

17 NOW, DOES THE MERE FACT, THE MINISTERIAL DUTY OF
18 SIGNING YOUR NAME TO INDICATE YOUR VOTE, IF THAT WAS YOUR
19 VOTE, WOULD THAT CAUSE YOU ANY HARDSHIP OR IN SOME WAY
20 PREVENT YOU FROM CONSIDERING DEATH AS THE APPROPRIATE
21 SENTENCE?

22 A NO.

23 Q YOU UNDERSTAND WHAT I'M SAYING. SOME PEOPLE SAY I
24 WOULDN'T PUT MY NAME TO ANYTHING. IN THIS CASE, THE MERE
25 FACT THAT YOU WOULD HAVE TO SIGN YOUR NAME TO INDICATE YOUR

1 VOTE WOULDN'T INTERFERE AT ALL IN YOUR PERFORMANCE AS A
2 JUROR, WOULD IT?

3 A NO, NO.

4 Q THANK YOU VERY MUCH, MR. MOORE.

5 A YOU'RE WELCOME.

6 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

7 THE STONE: NOT AS FAR AS THE WITNESS IS
8 CONCERNED, YOUR HONOR.

9 MR. HUMPHRIES: NO, SIR, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MR. MOORE, I FIND THAT YOU ARE QUALIFIED TO SERVE
12 AS A POTENTIAL JUROR IN THIS CASE AND WITH THAT
13 QUALIFICATION, A COUPLE OF THINGS THAT I'M GOING TO DISCUSS
14 WITH YOU.

15 FIRST OF ALL, I'M GOING TO BE SENDING YOU AWAY
16 AND ASK THAT YOU COME BACK HERE ON WEDNESDAY MORNING AT
17 NINE-THIRTY. YOU NEED TO HAVE YOUR BAGS PACKED AND LEAVE
18 THEM IN YOUR CAR AND ONCE YOU COME TO THE COURTROOM AND WE
19 SELECT A JURY IN THIS CASE, IF YOU ARE SELECTED, THEN, YOU
20 ARE GOING TO STAY WITH US FOR THE BALANCE OF THE TRIAL. IF
21 NOT, YOU'LL BE GOING BACK HOME AND GO ON ABOUT YOUR
22 BUSINESS AND WE'LL THANK YOU VERY MUCH FOR YOUR
23 PARTICIPATION.

24 BUT BEFORE I SEND YOU AWAY, THERE ARE A COUPLE OF
25 THINGS THAT I WANT TO REMIND YOU OF.

MR. HUMPHRIES: DOES THE DEFENSE HAVE A MATTER?

1 I JUST THOUGHT BASED ON MR. STONE'S COMMENTS, HE MIGHT HAVE
2 A MATTER.

3 THE COURT: WELL, I THINK THAT THE WAY THAT I
4 TOOK IT THAT THERE WAS NOT. IF YOU HAVE A MATTER, JUST SAY
5 WE NEED TO HAVE SOMETHING THAT WE NEED TO TAKE UP---

6 MR. STONE: THAT'S FINE.

7 MR. HUMPHRIES: AND I WASN'T PRESUPPOSING THAT
8 FOR THE DEFENSE. I DID HAVE ONE THING AND I DIDN'T OBJECT,
9 BUT WHEN MR. STONE ATTEMPTED TO GIVE A LAYMAN'S DEFINITION
10 OF MURDER, I JUST---

11 THE COURT: I THINK THAT WHEN WE START TALKING
12 ABOUT MURDER, OF COURSE, IN THIS STATE THAT PREMEDITATION
13 ISSUE IS ONE THAT IF YOU WANT TO TALK ABOUT MURDER, I THINK
14 THAT MAYBE YOU NEED TO LOOK AT THE DEFINITION THAT'S IN THE
15 STATUTE AND THEN WHEN YOU TALK ABOUT MALICE, YOU KNOW,
16 THOSE ARE THINGS THAT SPRINGS FROM AN EVIL HEART, A
17 DEPRIVED HEART OR A HEART FATALLY BENT UPON MISCHIEF AND
18 THAT IT NEED NOT BE IN THE MIND ANY PARTICULAR LENGTH OF
19 TIME IN ORDER TO RENDER THAT KILLING MURDER.

20 YOU KNOW, I ALWAYS -- I HAVEN'T TOLD THEM AND I
21 DON'T WANT TO GET INTO A LOT OF THAT, THAT, YOU KNOW, ABOUT
22 ME BEING -- I'VE TOLD THEM THAT I'M THE JUDGE OF THE LAW
23 AND -- BUT NORMALLY I'LL ALWAYS SAY THAT IF THE LAWYERS SAY
24 SOMETHING ABOUT THE LAW AND IT DIFFERS WITH WHAT I SAY,
25 THEN, YOU KNOW, YOU ARE TO FOLLOW ME AND NOT THEM AND ALL

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1 THOSE THINGS. BUT I THINK THAT -- I UNDERSTAND WHERE
2 YOU'RE GOING WITH IT, BUT I THINK THAT YOU NEED TO BE A
3 LITTLE PARTICULAR WITH IT.

4 MR. HUMPHRIES: MY ONLY -- THE ONLY OBJECTIONABLE
5 LANGUAGE IN MY MIND WAS THE LANGUAGE ABOUT HE MUST HAVE
6 PLANNED IT. AND I THINK WHAT THEY WERE TRYING TO DO IS
7 JUST BASICALLY JUXTAPOSE IT AGAINST SELF-DEFENSE OR
8 VOLUNTARY. I DON'T HAVE ANY PROBLEM WITH THAT, BUT WHEN IT
9 GETS INTO THE ELEMENTS OF MURDER, I'VE GOT A PROBLEM THERE.

10 MR. STONE: LET ME -- LET ME -- I DON'T WANT TO
11 CONFUSE ANYBODY. OF COURSE, THE PROBLEM THAT I HAVE WITH
12 MOST OF THE JURORS, AS WE ALL KNOW, HAVE NO CLUE EXACTLY
13 WHAT AN UNLAWFUL KILLING WITH MALICE AFORETHOUGHT MEANS.
14 CERTAINLY, I DIDN'T MEAN TO MISSTATE MURDER, BUT I THINK IT
15 IS IMPORTANT FOR THEM TO UNDERSTAND THE DIFFERENCE BETWEEN
16 MURDER AND AN INVOLUNTARY MANSLAUGHTER OR SOMETHING LIKE
17 THAT WHICH I THINK A GOOD MANY JURORS PROBABLY CONSIDER
18 THAT TO BE MITIGATING CIRCUMSTANCES. IT'S SOMETHING WE MAY
19 FOLLOW UP WITH LATER. AND I WANT TO MAKE SURE THEY
20 UNDERSTAND THAT ONCE THEY HAVE FOUND GUILT OF MURDER, THAT
21 THAT'S NOT A MITIGATING -- WE ARE NOT GOING TO COME IN
22 LATER AND SAY, OH, BY THE WAY, THIS WAS AN ACCIDENT. AND
23 THAT'S THE ONLY CONCERN I HAVE WITH THAT.

24 THE COURT: WELL, MAYBE YOU NEED TO PHRASE IT
25 THAT WAY.

1 MR. STONE: I JUST DIDN'T WANT TO DRAG THE
2 PROCEEDINGS OUT.

3 THE COURT: I UNDERSTAND.

4 ALL RIGHT. LET THE RECORD REFLECT THAT PURSUANT
5 TO SECTION 16-320, I FIND THAT JUROR NUMBER 169, CHARLES
6 MOORE, IS QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS
7 CASE.

8 BRING MR. JONES IN.

9 BOYD E. JONES,
10 (JUROR NUMBER 123, WHITE MALE,
11 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

12 EXAMINATION

13 BY THE COURT:

14 Q GOOD AFTERNOON, MR. JONES, HOW ARE YOU DOING?

15 A HEY.

16 Q NOW, MR. JONES, YOU ARE AWARE THAT YOU HAVE BEEN
17 SWORN FOR THIS PROCEEDING?

18 A YES.

19 Q NOW, I ALSO GAVE YOU CERTAIN INSTRUCTIONS THAT YOU
20 WEREN'T TO TALK ABOUT THIS CASE WITH ANYONE, THAT NO ONE
21 WAS TO TALK ABOUT -- WAS TO TALK TO YOU ABOUT THIS CASE AND
22 THAT YOU WERE NOT TO READ, WATCH OR LISTEN TO ANY NEWS
23 ACCOUNTS CONCERNING THIS CASE. HAVE THERE BEEN ANY
24 VIOLATIONS OF THOSE INSTRUCTIONS SINCE---

25 A NO, SIR.

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Q ---EARLIER TODAY?

A NO, SIR.

Q NOW, MR. JONES, I'M GOING TO ASK YOU SOME QUESTIONS AND THEN THE LAWYERS FOR THE DEFENDANT, AS WELL AS THE STATE, WILL ASK YOU SOME QUESTIONS AND THAT'S NECESSARY BECAUSE -- AND WE ARE NOT ATTEMPTING TO INVADE YOUR PRIVACY IN ANY WAY, BUT BECAUSE OF THE TYPE OF CASE THAT WE ARE DEALING WITH THIS WEEK, IT'S EXTREMELY NECESSARY THAT WE DO ASK CERTAIN QUESTIONS.

I WANT YOU TO KEEP IN MIND THAT THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE QUESTIONS. SO PLEASE JUST ANSWER THEM OPENLY AND HONESTLY AND FULLY. AND ALSO KEEP IN MIND THAT WE ARE NOT CHALLENGING YOUR VIEW IN A PARTICULAR AREA. IT'S JUST THAT WE NEED TO KNOW WHAT YOUR VIEW IS. YOU UNDERSTAND THAT?

A I THINK SO.

Q ALL RIGHT, SIR. NOW, THE LAWYERS HAVE COPIES OF YOUR JURY QUESTIONNAIRE, JUROR QUESTIONNAIRE, SO THEY'LL PROBABLY BE -- OR MAY ASK YOU SOME QUESTIONS AS A RESULT OF SOME ANSWERS THAT YOU HAVE GIVEN THERE.

NOW, AMONG THE THINGS THAT WE ARE GOING TO BE TALKING ABOUT OVER THE NEXT FEW MINUTES WILL BE THE WORD PENALTY, BUT THE MERE FACT THAT I EVEN MENTION THAT WORD DOES NOT IN ANY WAY INDICATE ANYTHING ABOUT THIS DEFENDANT WHO IS ON TRIAL HERE THIS WEEK. HE IS PRESUMED IN THE LAW

1 TO BE INNOCENT. DO YOU UNDERSTAND THAT?

2 A HE'S INNOCENT UNTIL HE'S PROVEN GUILTY.

3 Q YES, SIR.

4 NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN A
5 CRIMINAL CASE. COULD YOU LISTEN TO THE LAW, ACCEPT AND
6 APPLY THAT LAW THAT I WOULD GIVE YOU AS THE JUDGE OF THIS
7 COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH THAT LAW OR
8 THINK THAT IT OUGHT TO BE SOME OTHER WAY?

9 A I DON'T QUITE UNDERSTAND WHAT YOU'RE ASKING ME.

10 Q OKAY. LET ME -- LET ME REPHRASE THE QUESTION FOR
11 YOU.

12 IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
13 LISTEN TO THE LAW AS I WOULD EXPLAIN IT TO YOU AND INSTRUCT
14 YOU THAT YOU WERE TO FOLLOW THAT LAW EVEN THOUGH YOU MAY
15 PERSONALLY DISAGREE WITH THAT LAW AND THINK THAT IT OUGHT
16 TO BE SOME OTHER WAY? WOULD YOU STILL BE ABLE TO FOLLOW MY
17 INSTRUCTIONS?

18 A I THINK SO.

19 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
20 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

21 A YES, SIR, I THINK SO.

22 Q NOW, IN A CRIMINAL CASE, THE STATE HAS THE BURDEN OF
23 PROVING A DEFENDANT GUILTY. THE BURDEN OF PROOF FOR THE
24 STATE IS TO PROVE IT BEYOND A REASONABLE DOUBT. A
25 DEFENDANT HAS ABSOLUTELY NO RESPONSIBILITY OR BURDEN TO

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PROVE HIMSELF INNOCENT. DO YOU UNDERSTAND THAT?

A UH-HUH.

Q NOW, COULD YOU, DEPENDING UPON THE PARTICULAR FACTS AND EVIDENCE AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE -- I KNOW WE ARE TALKING ABOUT SOMETHING THAT WE JUST IMAGINE -- COULD YOU FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY DEPENDING ON THE FACTS AND CIRCUMSTANCES OF THAT CASE?

A YEAH, I COULD FIND -- I THINK I COULD DECIDE ON WHETHER HE WAS GUILTY OR NOT. I MEAN.

Q ALL RIGHT, SIR. NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN A DEATH PENALTY CASE AND YOU UNDERSTAND THAT A DEATH PENALTY CASE HAS TWO SEPARATE PROCEEDINGS OR BASICALLY TWO SEPARATE TRIALS.

THE FIRST TRIAL IS WHAT WE CALL THE GUILT PHASE WHERE THE JURY DETERMINES WHETHER OR NOT THE DEFENDANT IS GUILTY OF THE CRIMES WITH WHICH HE IS CHARGED. GUILTY OR NOT GUILTY. YOU UNDERSTAND THAT?

A YES.

Q MEANING THAT THERE WOULD EITHER BE A VERDICT OF GUILTY OR NOT GUILTY AS TO MURDER OR ANY OTHER CHARGES THAT WERE AGAINST THAT PERSON. DO YOU UNDERSTAND THAT?

A YES.

Q AND DO YOU THEN UNDERSTAND THAT THERE IS A SEPARATE TRIAL THAT IF THE JURY FINDS THE DEFENDANT GUILTY IN THAT

1 FIRST PHASE OF MURDER, THAT THERE WOULD THEN BE A SECOND
2 TRIAL AS TO THE SENTENCING PHASE OR THE PENALTY PHASE
3 WHEREIN THE JURY WOULD DECIDE WHETHER OR NOT THE DEFENDANT
4 WOULD BE SENTENCED TO LIFE IN PRISON OR TO DEATH?

5 A WELL, I COULDN'T SAY -- I COULDN'T SAY GIVE NOBODY
6 DEATH.

7 Q WELL, LET ME -- LET ME MAKE -- I'M GOING TO GET TO
8 SOME QUESTIONS LIKE THAT. YOU UNDERSTAND THAT THERE IS A
9 SECOND PART OF THAT TRIAL?

10 A YES.

11 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION, THE JURY
12 HAS ALREADY FOUND THE DEFENDANT GUILTY OF MURDER---

13 A UH-HUH.

14 Q ---AND YOU'VE MOVED TO THAT SECOND PHASE OF THE
15 TRIAL. YOU UNDERSTAND THAT DURING THAT PART OF THE TRIAL,
16 THAT THE STATE AND THE DEFENDANT WOULD PRESENT WHAT'S KNOWN
17 AS EITHER AGGRAVATING CIRCUMSTANCES FROM THE STATE AND
18 MITIGATING CIRCUMSTANCES FROM THE DEFENSE AND IN THAT
19 REGARD, WHEN WE TALK ABOUT AGGRAVATING CIRCUMSTANCES, THOSE
20 ARE FACTS, INCIDENTS OR DETAILS WHICH OUR GENERAL ASSEMBLY
21 OF THIS STATE HAS MADE A LAW THAT MAKES THE OFFENSE OF
22 MURDER WORSE; THAT IS, IT AGGRAVATES THE OFFENSE OF MURDER
23 WHEN A MURDER IS COMMITTED IN COMBINATION WITH ANOTHER
24 CRIME SUCH AS CRIMINAL SEXUAL CONDUCT OR BURGLARY. YOU
25 UNDERSTAND THAT?

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A NOT REALLY.

Q OKAY. WELL, IN THAT REGARD, WHEN A MURDER IS COMMITTED AND YOU ARE IN THAT SECOND PHASE OF THE TRIAL, THE STATE WOULD INTRODUCE EVIDENCE OF A CRIME THAT WOULD AGGRAVATE OR A CIRCUMSTANCE THAT WOULD AGGRAVATE OR MAKE WORSE THE MURDER THAT WAS COMMITTED. THAT COULD BE IN CONNECTION WITH CRIMINAL SEXUAL CONDUCT OR BURGLARY. YOU UNDERSTAND THAT THERE ARE CERTAIN CRIMES IN THIS STATE THAT OUR GENERAL ASSEMBLY HAS STATED WOULD MAKE WORSE THE OFFENSE OF MURDER?

A YES. GOT MURDER AND ALL THE REST OF IT ADDED ON TOGETHER, IS THAT WHAT YOU'RE TRYING TO TELL ME?

Q THAT'S RIGHT, YES, SIR.

A UH-HUH.

Q AN AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES.

NOW, BY THE SAME TOKEN, THERE ARE CIRCUMSTANCES WHICH ARE CALLED MITIGATING CIRCUMSTANCES. THOSE ARE INCIDENTS, DETAILS OR OCCURRENCES WHICH OUR GENERAL ASSEMBLY HAS ALSO DECLARED BY LAW. MEANING THAT THEY'VE PASSED A LAW WHICH SAYS THESE PARTICULAR FACTS OR CIRCUMSTANCES REDUCE OR LESSON THE OFFENSE OF MURDER AND MAY BE CONSIDERED AS REDUCING THE DEGREE OF RESPONSIBILITY OF THE PERSON THAT COMMITS THAT MURDER. THESE ARE THINGS THAT YOU WOULD CONSIDER WHICH COULD POSSIBLY BE -- THAT THE DEFENDANT COMMITTED THE MURDER OR THE PERSON COMMITTED THE

1 MURDER UNDER THE INFLUENCE OF MENTAL OR EMOTIONAL
2 DISTURBANCES. IT COULD ALSO MEAN THAT THE PERSON WHO
3 COMMITTED THE MURDER WAS UNABLE TO APPRECIATE EXACTLY WHAT
4 HE WAS DOING, UNABLE TO APPRECIATE WHAT WE CALL THE
5 CRIMINALITY OF HIS CONDUCT OR BEING ABLE TO, IN ESSENCE,
6 CONFORM HIS CONDUCT TO OUR LAW AND ALSO THE AGE OR THE
7 MENTALITY OF THE DEFENDANT AT THE TIME THE CRIME WAS
8 COMMITTED. THOSE ARE THINGS THAT OUR GENERAL ASSEMBLY HAS
9 SAID WOULD MAKE -- WOULD ALLOW A JURY TO CONSIDER AS
10 MITIGATING OR LESSENING THE OFFENSE OF MURDER. DO YOU
11 UNDERSTAND THAT?

12 (WHEREUPON, THE WITNESS NODS IN
13 THE AFFIRMATIVE AT THIS TIME.)

14 Q YOU NEED TO ANSWER OUT LOUD SO THAT LADY CAN TAKE IT
15 DOWN.

16 A YES, MA'AM.

17 Q NOW, LET'S ASSUME THAT YOU WERE A JUROR IN THAT
18 SITUATION. I'M TALKING ABOUT THAT SECOND PART OF THE DEATH
19 PENALTY TRIAL. THE JURY HAS ALREADY FOUND THE DEFENDANT
20 GUILTY OF MURDER. COULD YOU, DEPENDING UPON THE PARTICULAR
21 CASE AND FACTS AND CIRCUMSTANCES AND THE LAW THAT I WOULD
22 INSTRUCT YOU THAT APPLIED TO THAT CASE, RETURN A SENTENCE
23 OF LIVE IN PRISON?

24 A YES, SIR.

25 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION, COULD

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1 YOU, DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES
2 OF THAT CASE AND THE LAW THAT I WOULD INSTRUCT YOU, RETURN
3 A SENTENCE OF DEATH?

4 A NO, SIR, I DON'T -- I COULDN'T SAY KILL NOBODY.

5 Q YOU COULD NOT -- YOU COULDN'T---

6 A I DON'T -- NO---

7 Q ---IMPOSE THE DEATH PENALTY ON ANYONE---

8 A NO, SIR, I DON'T BELIEVE IN KILLING PEOPLE.

9 Q ---REGARDLESS -- REGARDLESS OF THE FACTS AND
10 CIRCUMSTANCES---

11 A NO, SIR. I'D SAY GIVE HIM LIFE IN PRISON OR HARD
12 LABOR OR SOMETHING LIKE THAT, BUT I CAN'T SAY KILL NOBODY.

13 Q ALL RIGHT.

14 A I DON'T THINK THAT'S RIGHT.

15 THE COURT: MS. FULLWOOD, MR. STONE.

16 EXAMINATION

17 BY MS. FULLWOOD:

18 Q HI, MR. JONES.

19 A HEY.

20 Q AS JUDGE CLARY TOLD YOU, I'M BETH FULLWOOD. DUFFIE
21 STONE AND I ARE REPRESENTING GARY TERRY, WHO IS SITTING
22 OVER AT THE END OF THE TABLE THERE.

23 NOW, AS I UNDERSTAND IT, FROM HEARING YOU TALK TO
24 JUDGE CLARY, YOU ARE NOT REAL STRONG IN FAVOR OF THE DEATH
25 PENALTY, IS THAT CORRECT?

1 A WELL, MY BELIEFS IS NOT TO TAKE NOBODY'S LIFE UNLESS
2 YOU REALLY HAVE TO IN SELF-DEFENSE OR SOMETHING LIKE THAT
3 TO PROTECT YOUR OWN LIFE. I DON'T BELIEVE IN TAKING
4 NOBODY'S LIFE.

5 Q OKAY. THAT'S FINE. AND YOU UNDERSTAND THERE ARE NO
6 RIGHT OR WRONG ANSWERS. NOBODY IS HERE TO ARGUE WITH YOU
7 ABOUT WHAT YOU BELIEVE. BUT YOU UNDERSTAND THAT THE LAW IN
8 THIS STATE DOES ALLOW FOR THE DEATH PENALTY?

9 A YES, I UNDERSTAND THAT.

10 Q OKAY. AND YOU UNDERSTAND THAT ALL OF US HAVE CERTAIN
11 OBLIGATIONS UNDER THE LAW?

12 A YES, I UNDERSTAND THAT.

13 Q FOR EXAMPLE, YOU ARE HERE ON JURY SERVICE AND THAT'S
14 AN OBLIGATION THAT ALL CITIZENS HAVE, CORRECT?

15 A RIGHT.

16 Q OKAY. AND IN THE COURT SYSTEM, THE JURIES DECIDE THE
17 FACTS OF THE CASE AND THE JUDGE TELLS THE JURY WHAT THE LAW
18 IS?

19 A YES.

20 Q OKAY. AND, OH, IN ANY KIND OF CASE, WHETHER IT WOULD
21 BE IN A CRIMINAL CASE OR A CAR WRECK, A CIVIL CASE, WHEN
22 THE JURY HEARS ABOUT THE LAW, IT'S FROM THE JUDGE AND THEY
23 HAVE TO TAKE FROM THE JUDGE WHAT THE LAW IS NO MATTER WHAT
24 THEY THINK THE LAW SHOULD BE. YOU AGREE WITH THAT?

25 A YES, I AGREE WITH THAT.

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1 Q OKAY. AND DO YOU AGREE THAT SOMETIMES YOU HAVE TO
2 PUT ASIDE YOUR PERSONAL OPINIONS IN ORDER TO FOLLOW THE
3 LAW?

4 A THAT'S NOT AN OPINION. IT'S SOMETHING I BELIEVE IN.

5 Q OKAY. IF THE JUDGE TOLD YOU THAT THE LAW ALLOWS THE
6 JURY TO CONSIDER, JUST CONSIDER A DEATH PENALTY IN CERTAIN
7 CIRCUMSTANCES, COULD YOU---

8 MR. HUMPHRIES: I WOULD OBJECT AT THIS TIME---

9 MS. FULLWOOD: ---MAKE THAT CONSIDERATION?

10 THE JUROR: YES, I COULD MAKE IT.

11 MR. HUMPHRIES: I WOULD OBJECT. STATE VERSUS
12 PLATH REGARDING CONSIDERATION OF A DEATH PENALTY VERDICT.

13 THE COURT: I SUSTAIN THE OBJECTION.

14 MS. FULLWOOD: OKAY. BUT DID I UNDERSTAND YOU TO
15 SAY THAT YOU COULD CONSIDER?

16 THE JUROR: YEAH, I COULD, BUT THAT'S AGAINST MY
17 WISHES. I DON'T BELIEVE IN TAKING ANYBODY'S LIFE.

18 Q OKAY. OKAY. AND WE ALL RESPECT YOUR BELIEF.

19 YOU UNDERSTAND IN A TRIAL BOTH SIDES PUT UP
20 EVIDENCE?

21 A YES.

22 Q ALL RIGHT. AND IN THIS PARTICULAR TYPE OF TRIAL, THE
23 PROSECUTION WOULD PUT UP EVIDENCE ABOUT ANYTHING BAD THEY
24 COULD THINK ABOUT ABOUT MR. TERRY, ALL RIGHT?

25 A YES.

1 Q COULD YOU CONSIDER THAT EVIDENCE?

2 A YES, I'LL CONSIDER IT.

3 Q COULD YOU CONSIDER GIVING MR. TERRY A SENTENCE OF
4 DEATH IN LIGHT OF THAT EVIDENCE?

5 MR. HUMPHRIES: THE SAME OBJECTION. I
6 UNDERSTAND.

7 THE JUROR: I CAN'T SENTENCE NOBODY TO DEATH.
8 I'M NOT GOING TO TAKE ANYBODY'S LIFE. I'M NOT GOING TO
9 GIVE MY WORD TO SAY TAKE THAT'S MAN'S LIFE. NO, I'M NOT
10 GOING TO DO THAT.

11 MS. FULLWOOD: I APPRECIATE YOUR OPENNESS WITH
12 US. THANK YOU, MR. JONES.

13 A ALL RIGHT. THANK YOU.

14 THE COURT: ANY---

15 MR. HUMPHRIES: NO QUESTIONS, YOUR HONOR.

16 THE COURT: ALL RIGHT. ANYTHING ELSE FROM THE
17 DEFENDANT?

18 MS. FULLWOOD: NO, SIR.

19 THE COURT: FROM THE STATE?

20 MR. HUMPHRIES: NO, SIR.

21 THE COURT: ALL RIGHT. MR. JONES, I WANT TO
22 THANK YOU VERY MUCH FOR YOUR PARTICIPATION HERE. I
23 APPRECIATE YOUR OPENNESS IN ANSWERING QUESTIONS THAT HAVE
24 BEEN PRESENTED TO YOU. THIS IS GOING TO CONCLUDE YOUR
25 RESPONSIBILITIES IN THIS CASE. THANK YOU VERY MUCH ON

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1 BEHALF OF LEXINGTON COUNTY AND THE STATE OF SOUTH CAROLINA
2 FOR BEING HERE.

3 THE JUROR: THANK YOU.

4 THE COURT: YOU ARE EXCUSED.

5 THE JUROR: THAT MEANS I DON'T COME BACK NO MORE?

6 THE COURT: THAT'S RIGHT. YOU CAN GO HOME.

7 THANK YOU VERY MUCH.

8 (WHEREUPON, THE JUROR WAS EXCUSED
9 AT THIS TIME.)

10 THE COURT: ALL RIGHT. LET THE RECORD REFLECT
11 THAT JUROR NUMBER 123, MR. JONES, IS NOT QUALIFIED
12 PURSUANT TO SECTION 16-320 AS HE WOULD BE UNABLE TO FOLLOW
13 THE LAW OF THIS STATE.

14 WE NEED TO GET SOMETHING OUT OF MY OFFICE.
15 EXCUSE ME JUST ONE MINUTE.

16 (PAUSE.)

17 THE COURT: ALL RIGHT. LET'S BRING OUR NEXT
18 JUROR.

19 NORWOOD J. BROWN, JR.,

20 (JUROR NUMBER 35, WHITE MALE,
21 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

22 EXAMINATION

23 BY THE COURT:

24 Q GOOD AFTERNOON.

25 A YOU ARE MR. NORWOOD BROWN, IS THAT CORRECT?

1 (WHEREUPON, THE WITNESS NODS IN
2 THE AFFIRMATIVE AT THIS TIME.)

3 Q YOU NEED TO ANSWER OUT LOUD.

4 A OH, YES.

5 Q THANK YOU, SIR.

6 MR. BROWN, YOU UNDERSTAND THAT YOU ARE UNDER OATH
7 FOR THESE PROCEEDINGS THIS AFTERNOON?

8 A YES.

9 Q AND I ALSO GAVE YOU CERTAIN INSTRUCTIONS BEFORE YOU
10 LEFT THE COURT HOUSE THAT YOU WERE NOT TO DISCUSS THIS CASE
11 WITH ANYONE, IF ANYONE ATTEMPTED TO DISCUSS THE CASE WITH
12 YOU OR THAT YOU WERE ALSO NOT TO READ, WATCH OR LISTEN TO
13 ANY NEWS ACCOUNTS CONCERNING THIS CASE. HAVE ANY OF THOSE
14 INSTRUCTIONS BEEN VIOLATED?

15 A NO, SIR.

16 Q NOW, MR. BROWN, I'M GOING TO BE ASKING YOU A FEW
17 QUESTIONS AND THEN ONE OF THE LAWYERS FOR THE DEFENDANT, AS
18 WELL AS ONE FOR THE STATE, WILL BE ASKING YOU SOME
19 QUESTIONS. PLEASE KEEP IN MIND THAT WE ARE NOT ATTEMPTING
20 TO INVADE YOUR PRIVACY IN ANY FASHION WHATSOEVER, BUT
21 BECAUSE OF THE CASE THAT WE ARE ABOUT THIS WEEK, IT'S
22 NECESSARY THAT WE DO HAVE CERTAIN QUESTIONS ANSWERED.

23 ALSO KEEP IN MIND THAT THERE ARE NO RIGHT OR
24 WRONG ANSWERS TO THESE QUESTIONS. PLEASE ANSWER THEM
25 OPENLY, HONESTLY AND FULLY AND ALSO KEEP IN MIND THAT WE

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1 ARE IN NO WAY ATTEMPTING TO CONTEST OR CHALLENGE THE VIEW
2 THAT YOU MIGHT HAVE, BUT SIMPLY THAT WE NEED TO KNOW WHAT
3 THAT VIEW IS. YOU UNDERSTAND?

4 A YES, SIR.

5 Q NOW, THE LAWYERS HAVE COPIES OF THE QUESTIONNAIRE
6 THAT YOU FILLED OUT FOR THE COURT AND THEY MAY BE REFERRING
7 TO THAT DURING THEIR QUESTIONING.

8 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
9 TALKING ABOUT OVER THE NEXT FEW MINUTES WILL BE THE WORD
10 PENALTY. THE MERE FACT THAT I EVEN MENTION THAT WORD DOES
11 NOT INDICATE IN ANY WAY ANYTHING ABOUT THE DEFENDANT
12 BECAUSE HE IS PRESUMED TO BE INNOCENT IN THE LAW. DO YOU
13 UNDERSTAND THAT?

14 A YES, SIR.

15 Q NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN A
16 CRIMINAL CASE. COULD YOU, AS A JUROR, LISTEN TO THE LAW,
17 ACCEPT AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE
18 JUDGE OF THIS COURT, EVEN THOUGH YOU MIGHT NOT AGREE WITH
19 THAT LAW OR THINK THAT IT OUGHT TO BE SOME OTHER WAY?

20 A YES, SIR.

21 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
22 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

23 A YES, SIR.

24 Q NOW, IN A CRIMINAL CASE, THE STATE HAS THE BURDEN OF
25 PROVING GUILT. THE BURDEN OF PROVE FOR THE STATE IS BEYOND

1 A REASONABLE DOUBT. YOU UNDERSTAND THAT A DEFENDANT HAS
2 ABSOLUTELY NO BURDEN OR RESPONSIBILITY TO PROVE HIMSELF
3 INNOCENT?

4 A RIGHT, YES, SIR.

5 Q NOW, COULD YOU, DEPENDING ON THE FACTS AND EVIDENCE
6 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,
7 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

8 A YES, SIR.

9 Q IF YOU WERE A JUROR IN A DEATH PENALTY CASE, DO YOU
10 UNDERSTAND THAT THERE ARE TWO PARTS TO THAT CASE.

11 THE FIRST PART IS THE GUILT PHASE WHERE THE JURY
12 STRICTLY DEALS WITH THE GUILT OR INNOCENCE OF THE DEFENDANT
13 AS TO THE CRIME OF MURDER AND ANY OTHER CRIMES WITH WHICH
14 HE IS CHARGED?

15 A YES, SIR.

16 Q YOU UNDERSTAND THAT YOU WOULD THEN, IF YOU -- IF THE
17 JURY FOUND THE DEFENDANT GUILTY OF MURDER IN THE FIRST
18 PHASE, THAT YOU WOULD THEN MOVE INTO THE SECOND PHASE, THE
19 SENTENCING PHASE OF THE TRIAL?

20 A YES, SIR.

21 Q NOW, DURING THAT PART OF THE TRIAL, THERE ARE
22 CIRCUMSTANCES THAT WOULD BE BROUGHT TO LIFE TO THE JURY.

23 THE FIRST TYPE OF CIRCUMSTANCE THAT WE'LL TALK
24 ABOUT ARE AGGRAVATING CIRCUMSTANCES AND THOSE ARE FACTS,
25 INCIDENTS, DETAILS, OCCURRENCES WHICH OUR GENERAL ASSEMBLY

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1 HAS ENACTED IN LAW THAT MAKE WORSE; THAT IS, TO AGGRAVATE
2 THE OFFENSE OF MURDER WHEN THAT MURDER OCCURS IN THE
3 PRESENCE OF A FACTOR SUCH AS CRIMINAL SEXUAL CONDUCT OR
4 BURGLARY, SOMETHING LIKE THAT. DO YOU UNDERSTAND THAT?

5 A YES.

6 Q NOW, DO YOU ALSO UNDERSTAND THAT THERE ARE MITIGATING
7 CIRCUMSTANCES WHICH WOULD ALSO BE INTRODUCED AND THOSE ARE
8 INCIDENTS, DETAILS, OCCURRENCES WHICH OUR GENERAL ASSEMBLY
9 HAS ALSO ENACTED IN THE STATUTE OR PASSED A LAW THAT
10 REDUCES THE OFFENSE OF MURDER, THE SEVERITY OF THE MURDER
11 AND CAN BE CONSIDERED AS WHAT WE CALL EXTENUATING OR
12 REDUCING THE DEGREE OF RESPONSIBILITY BY THE PERSON
13 COMMITTING THE MURDER. AND WHAT WE ARE TALKING ABOUT IN A
14 SITUATION LIKE THAT, THAT A MURDER WAS COMMITTED WHILE THE
15 PERSON WAS UNDER THE INFLUENCE OF A MENTAL OR EMOTIONAL
16 DISTURBANCE OR THAT THE MURDER WAS COMMITTED AND THAT THE
17 PERSON HAD THE CAPACITY TO APPRECIATE -- DIDN'T HAVE THE
18 CAPACITY TO APPRECIATE THE CONDUCT IN WHICH HE WAS ENGAGING
19 OR THAT YOU WOULD CONSIDER THE AGE OR MENTALITY OF THE
20 PERSON WHO COMMITTED THE MURDER. THOSE ARE WHAT WE CALL
21 MITIGATING CIRCUMSTANCES. DO YOU UNDERSTAND THAT?

22 A YES, SIR.

23 Q NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN THAT
24 SITUATION. I'M TALKING ABOUT THE SENTENCING PHASE, THAT'S
25 THE SECOND PHASE OF THAT TRIAL. COULD YOU, DEPENDING UPON

1 THE PARTICULAR FACTS AND CIRCUMSTANCES OF SUCH A CASE AND
2 THE LAW THAT I WOULD INSTRUCT YOU AT THE CONCLUSION OF THAT
3 CASE, RETURN A SENTENCE OF LIFE IN PRISON?

4 A YES.

5 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
6 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
7 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
8 CONCLUSION OF THAT CASE, RETURN A SENTENCE OF DEATH?

9 A YES.

10 Q NOW, MR. BROWN, IF YOU ARE CHOSEN AS A JUROR IN THIS
11 CASE, YOU WOULD BE HOUSED. WE CALL IT SEQUESTERED. THAT'S
12 KIND OF A FANCY WORD FOR BEING HOUSED AT A MOTEL FOR THE
13 LENGTH OF THE TRIAL. I DON'T KNOW HOW LONG IT'S GOING TO
14 LAST. IT COULD BE ANYWHERE FROM A WEEK TO TEN DAYS AT THE
15 OUTSIDE. IT COULD BE LESS THAN THAT. EXCEPT FOR THE
16 PERSONAL INCONVENIENCE THAT YOU WOULD SUFFER, WOULD THIS
17 POSE A SERIOUS DANGER TO THE HEALTH OR WELL-BEING OF
18 YOURSELF OR OF THOSE DEPENDENT ON YOU?

19 A NO.

20 Q THANK YOU FOR RESPONDING TO MY QUESTIONS. NOW I'LL
21 ALLOW YOU TO ANSWER QUESTIONS FROM MR. STONE.

22 MR. STONE: THANK YOU, YOUR HONOR.

23 EXAMINATION

24 BY MR. STONE:

25 Q MR. BROWN, MY NAME IS DUFFIE STONE. I WAS INTRODUCED

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1 EARLIER. THIS IS BETH FULLWOOD AND GARY TERRY. THIS IS
2 THE GENTLEMAN THAT WE'RE REPRESENTING HERE TODAY.

3 WE HAVE GOT THIS NEAT LITTLE FORM HERE THAT YOU
4 FILLED OUT SO WE'VE GOT A PRETTY GOOD AMOUNT OF VALID
5 INFORMATION ABOUT YOU ANYWAY. I'M GOING TO ASK YOU A FEW
6 QUESTIONS THAT THIS DOESN'T EXACTLY ANSWER.

7 IT SAYS HERE THAT YOU HAVE A DAUGHTER
8 26-YEARS-OLD?

9 A YES.

10 Q WHAT DOES SHE DO?

11 A SHE WORKS FOR A TELEPHONE COMPANY, TELEPHONE CO-OPT
12 IN THE BIG TOWN OF JEFFERSON UP NEAR CHARLOTTE.

13 Q IS THAT JEFFERSON -- WOULD THAT BE IN NORTH CAROLINA?

14 A SOUTH CAROLINA.

15 Q SOUTH CAROLINA.

16 A CHESTERFIELD COUNTY.

17 Q OH, OKAY. ALL RIGHT. WHAT DOES SHE DO WITH THEM
18 EXACTLY?

19 A PAYROLL OR PAY RECEIVABLE, PAY THE BILLS.

20 Q I SEE. OKAY. AND YOU'VE GOT ONE SON THAT WAS -- IS
21 HE CURRENTLY A POLICE OFFICER WITH ANDREWS?

22 A NO, SIR.

23 Q USED TO BE?

24 A USED TO BE.

25 Q OKAY. HOW LONG -- HOW LONG WAS HE A POLICE OFFICER?

- 1 A UNTIL HE FIGURED OUT HE WASN'T -- COULDN'T DO IT.
- 2 Q I GOT YOU.
- 3 A LESS THAN SIX MONTHS.
- 4 Q OKAY. WHERE IS HE NOW? WHAT IS HE DOING NOW?
- 5 A HE DRIVERS A TRUCK IN CALIFORNIA.
- 6 Q I SEE. AND THE OTHER SON, WOULD THAT BE THE YOUNGER
- 7 SON, I GUESS?
- 8 A MIDDLE SON. YES, YOUNGER SON.
- 9 Q AND WHAT DOES HE DO?
- 10 A HE WORKS AT WENDY'S, MANAGER.
- 11 Q ALL RIGHT. I'VE GOT TO ASK YOU THIS BECAUSE IT'S ON
- 12 HERE AND I'M CONFUSED. WHAT IS AN EVALUATOR? THIS IS YOUR
- 13 SPOUSE'S OCCUPATION?
- 14 A YOU DID GOOD---
- 15 Q DID I DO WELL, OKAY, GOOD. WHAT IS THAT?
- 16 A SHE -- SHE WORKS FOR THE STATE AND THEY PRIVATIZED
- 17 HER JOB AND SHE WENT WITH THE PEOPLE THAT PRIVATIZED IT.
- 18 THEY HAVE LAYOFFS. COMPANIES GO OUT OF BUSINESS AND SHE
- 19 GOES IN AND TRIES TO FIGURE OUT -- THE COMPANY THAT SHE
- 20 WORKS FOR NOW STUCK IT TO YOU, WHAT ARE SOME THINGS YOU'D
- 21 LIKE TO DO ON YOUR NEXT JOB.
- 22 Q OH, OKAY. SO SHE BASICALLY PUTS PEOPLE IN OTHER JOBS
- 23 AFTER THEY'VE GOTTEN LAID OFF---
- 24 A YES.
- 25 Q OH, OKAY. ALL RIGHT. I UNDERSTAND NOW. THANK YOU.

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1 I APPRECIATE IT BECAUSE I WAS CONFUSED ABOUT THAT.

2 WHAT THE JUDGE TALKED ABOUT A LITTLE BIT EARLIER
3 WAS THAT THIS IS A BIFURCATED TRIAL OR TWO -- POTENTIALLY
4 THIS COULD BE TWO TRIALS. WHAT HE EXPLAINED TO YOU WAS
5 THAT THE FIRST PART OF THE TRIAL WOULD BE THE GUILT AND
6 INNOCENCE.

7 NOW, THE PROBLEM WE'VE GOT AS LAWYERS IS WE'VE
8 GOT TO ASK YOU QUESTIONS ABOUT ONE PART OF THE TRIAL AND
9 EVEN ABOUT A SECOND PART OF THE TRIAL THAT MAY NEVER
10 HAPPEN. BUT I'M GOING TO ASK YOU SOME OF THOSE QUESTIONS
11 ANYWAY JUST BECAUSE I'M NOT GOING TO HAVE ANOTHER
12 OPPORTUNITY TO TALK TO YOU, ALL RIGHT, SIR.

13 NOW, THE JUDGE INDICATED THAT THE FIRST TRIAL IS
14 TO DETERMINE WHETHER OR NOT MR. TERRY IS GUILTY OR
15 INNOCENT. AND IF HE IS FOUND GUILTY OF MURDER AND IF HE IS
16 FOUND GUILTY OF EITHER RAPE OR BURGLARY OR BOTH, THEN WE GO
17 TO THE SENTENCING PHASE. DOES THAT -- DOES THAT MAKE
18 SENSE?

19 A YES, SIR.

20 Q I'M NOT SURE IT MAKES SENSE TO ME ALL THE TIME, BUT
21 OKAY.

22 MURDER IN THIS CASE IS -- IF YOU WERE TO FIND
23 THAT AND THEN GO INTO THAT SECOND PART OF THE TRIAL,
24 MURDER WOULD NOT BE A VOLUNTARY MANSLAUGHTER. IT WOULD NOT
25 BE A HEAT OF PASSION TYPE THING. IT WOULD NOT BE AN

1 ACCIDENT. IT WOULD BE A MURDER. DO YOU UNDERSTAND THAT?

2 A YES, SIR.

3 Q ALL RIGHT, SIR. NOW, THAT BEING THE CASE, IF YOU ARE
4 IN A POSITION OF SITTING ON A JURY AND YOU GET IN THE
5 POSITION OF FINDING SOMEBODY GUILTY OF MURDER AND ANOTHER
6 -- LIKE A RAPE OR A BURGLARY -- AND THEN YOU GET INTO A
7 SENTENCING PHASE, CAN YOU BE FAIR TO BOTH THE STATE AND THE
8 DEFENSE AND CONSIDER THOSE AGGRAVATING AND MITIGATING
9 CIRCUMSTANCES THAT THE JUDGE TALKED ABOUT EARLIER WITH YOU?

10 A YES, SIR.

11 Q SO YOU COULD CONSIDER LIFE AND YOU COULD CONSIDER
12 DEATH, EITHER WAY, EVEN AFTER YOU FOUND SOMEBODY GUILTY?

13 A YES, SIR.

14 Q ALL RIGHT. DO YOU HAVE ANY STRONG FEELINGS ONE WAY
15 OR THE OTHER ABOUT THAT? HAVE YOU EVER THOUGHT ABOUT IT A
16 GOOD BIT?

17 A NO, SIR.

18 Q ALL RIGHT, SIR. BUT IF THE SITUATION IS RIGHT, YOU
19 WOULD FIND FOR THE DEATH PENALTY?

20 A YES, SIR.

21 Q AND IF THE SITUATION WAS RIGHT, YOU WOULD FIND FOR
22 LIFE?

23 A YES, SIR.

24 Q ALL RIGHT, SIR. THANK YOU, YOUR HONOR.

25 MR. CHASE: MAY IT PLEASE THE COURT?

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THE COURT: YES, SIR, MR. CHASE.

EXAMINATION

BY MR. CHASE:

Q MR. BROWN, HI. I'M TOM CHASE. I ALONG WITH DEPUTY SOLICITOR HUMPHRIES WILL BE TRYING THIS CASE FOR THE PROSECUTION ALONG WITH SOLICITOR DONNIE MYERS.

I'M NOT GOING TO GO BACK OVER WHAT WE'VE ALREADY COVERED. I THINK YOU UNDERSTAND THE PROCEDURE THAT WE ARE GOING TO BE FOLLOWING. I JUST WANT TO ASK YOU ONE QUESTION AND IT'S BASICALLY A PROCEDURAL QUESTION.

ONCE AGAIN, I WANT YOU TO ASSUME THAT YOU ARE ON THE JURY AND THE JURY AS A WHOLE HAD FOUND THE DEFENDANT GUILTY AND MOVED INTO THE PENALTY PHASE. AND AT THE END OF THAT PENALTY PHASE, AFTER CONSIDERING ALL OF THE EVIDENCE BOTH IN MITIGATION AND IN AGGRAVATION, THAT YOU AS A WHOLE, COLLECTIVE WHOLE, DECIDED THAT DEATH WAS THE APPROPRIATE SENTENCE.

NOW, UNDER THE LAWS OF OUR STATE, IF THE JURY FINDS THAT SENTENCE IS APPROPRIATE, WHAT IT HAS IS A REQUIREMENT. IT'S A PROCEDURE REQUIREMENT WHERE EACH INDIVIDUAL JUROR, THERE ARE TWELVE LINES ON THAT VERDICT SHEET, EACH INDIVIDUAL JUROR HAS TO SIGN THAT FORM. SO YOUR NAME WOULD HAVE TO BE PLACED ON THAT FORM. WOULD THE MERE FACT THAT YOU HAD TO SIGN THAT FORM PREVENT YOU FROM RENDERING A VERDICT OR A SENTENCE OF DEATH?

1 A NO, SIR.

2 Q THANK YOU, MR. BROWN, I APPRECIATE IT.

3 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

4 MR. STONE: NO, SIR.

5 THE COURT: FROM THE STATE?

6 MR. HUMPHRIES: NO, SIR.

7 THE COURT: MR. BROWN, I FIND THAT YOU ARE
8 QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS CASE AND
9 WITH THAT QUALIFICATION COMES SOME MORE INSTRUCTIONS THAT
10 I'M GOING TO BE GIVING YOU.

11 FIRST OF ALL, YOU ARE TO LEAVE HERE AND GO HOME
12 AND START PACKING AND IN THE EVENT THAT YOU ARE SELECTED AS
13 A JUROR IN THIS CASE, THEN YOU WOULD REMAIN WITH US. I ASK
14 YOU TO REPORT BACK WEDNESDAY MORNING AT NINE-THIRTY.

15 IN THE EVENT THAT YOU ARE NOT CHOSEN AS A JUROR
16 IN THIS CASE, THEN YOU WOULD BE SENT HOME AT THE CONCLUSION
17 OF THAT PROCESS AND THANKED VERY MUCH FOR BEING HERE AND
18 YOU WOULD NOT HAVE ANYMORE RESPONSIBILITIES IN THIS MATTER.
19 BUT IF YOU ARE SELECTED, ONCE AGAIN, YOU WOULD BE WITH US
20 THROUGHOUT THE DURATION OF THE TRIAL.

21 NOW, BEFORE I SEND YOU AWAY, LET ME REMIND YOU
22 THAT YOU ARE NOT TO DISCUSS THIS CASE WITH YOUR FELLOW
23 JURORS IF YOU HAPPEN TO SEE ANY OF THEM, WITH YOUR FAMILY,
24 FRIENDS OR ANYONE ELSE. AND, ALSO, IF ANYONE SHOULD
25 ATTEMPT TO CONTACT YOU CONCERNING THIS CASE, THEN YOU

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1 SHOULD GATHER AS MUCH INFORMATION ABOUT THAT INDIVIDUAL AS
2 YOU CAN AND REPORT THAT TO ME IMMEDIATELY BECAUSE THAT'S A
3 VERY SERIOUS MATTER.

4 ALSO, I'M GOING TO CONTINUE TO INSTRUCT YOU THAT
5 YOU ARE NOT TO READ, WATCH OR LISTEN TO ANY NEWS ACCOUNTS
6 CONCERNING THIS CASE. SIMPLY PUT, ALL I WANT YOU TO
7 CONSIDER IN THE MATTER IF YOU ARE SELECTED AS A JUROR IS
8 WHAT YOU SEE AND HEAR IN THIS COURTROOM. ABSOLUTELY
9 NOTHING MORE OR NOTHING LESS.

10 SO WITH ALL THAT INSTRUCTION, PLEASE HAVE A VERY
11 PLEASANT AFTERNOON AS YOU GO AWAY FROM HERE, BUT GO HOME
12 AND START PACKING AND BE PREPARED TO STAY WITH US FOR THE
13 DURATION OF THE TRIAL ONCE YOU COME BACK. LEAVE YOUR
14 BAGGAGE IN YOUR CAR WHEN YOU COME BACK ON WEDNESDAY MORNING
15 AND IF YOU ARE SELECTED, THEN THE JURY CUSTODIANS WILL TAKE
16 THE NECESSARY STEPS TO GET EVERYTHING COLLECTED FOR YOU.

17 THANK YOU, SIR.

18 THE JUROR: THANK YOU.

19 THE COURT: WE'LL SEE YOU ON WEDNESDAY MORNING AT
20 9:30.

21 (WHEREUPON, THE JUROR WAS EXCUSED
22 AT THIS TIME.)

23 THE COURT: LET THE RECORD REFLECT THAT JUROR
24 NUMBER 35, NORWOOD BROWN, IS QUALIFIED PURSUANT TO SECTION
25 16-320 OF OUR CODE.

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ALL RIGHT.

GEORGIA G. MILLER,

(JUROR NUMBER 163, BLACK FEMALE,

FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

EXAMINATION

BY THE COURT:

Q GOOD AFTERNOON, MS. MILLER, HOW ARE YOU?

A FINE. HOW ARE YOU?

Q I'M FINE. GOOD TO SEE YOU AGAIN THIS AFTERNOON.

A UH-HUH.

Q NOW, YOU UNDERSTAND THAT YOU HAVE BEEN PLACED UNDER
OATH FOR THIS.

A YES.

Q AND ALSO I GAVE YOU SOME INSTRUCTIONS BEFORE YOU LEFT
THE COURT HOUSE THIS AFTERNOON THAT YOU WERE NOT TO DISCUSS
THIS CASE WITH ANYONE. ALSO, WHETHER OR NOT ANYONE
ATTEMPTS TO CONTACT YOU THAT YOU WERE TO REPORT THAT TO ME
AND ALSO THAT YOU WERE NOT TO READ, WATCH OR LISTEN TO ANY
NEWS ACCOUNTS CONCERNING THIS CASE. HAVE THERE BEEN ANY
VIOLATIONS OF THOSE INSTRUCTIONS?

A NO.

Q NOW, I'M GOING TO ASK YOU A FEW QUESTIONS OVER THE
NEXT FEW MINUTES AND THEN ONE OF THE LAWYERS FOR THE
DEFENDANT WILL BE ABLE TO ASK YOU SOME QUESTIONS AS WELL AS
ONE OF THE SOLICITORS.

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1 A OKAY.

2 Q PLEASE KEEP IN MIND THAT WE ARE NOT IN ANY WAY
3 ATTEMPTING TO INVADE YOUR PRIVACY---

4 A OKAY.

5 Q ---BUT BECAUSE OF THE TYPE CASE THAT WE ARE ABOUT TO
6 TRY THIS WEEK, IT'S NECESSARY THAT WE DO ASK CERTAIN
7 QUESTIONS.

8 A OKAY.

9 Q ALSO, KEEP IN MIND THAT THERE ARE NO RIGHT OR WRONG
10 ANSWERS TO THE QUESTIONS THAT WE ASK. PLEASE ANSWER THESE
11 QUESTIONS OPENLY AND HONESTLY AND FULLY; AND ALSO KEEP IN
12 MIND THAT NO ONE IS CHALLENGING YOUR VIEW. IT'S SIMPLY
13 THAT WE NEED TO KNOW WHAT YOUR VIEW IS. AND ALSO KEEP IN
14 MIND THAT THE LAWYERS, AS WELL AS THE COURT, HAS COPIES OF
15 YOUR INFORMATION THAT YOU PROVIDED TO THE CLERK OF COURT.

16 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
17 TALKING ABOUT OVER THE NEXT FEW MINUTES WILL BE PENALTY.
18 BUT THE MERE FACT THAT I EVEN MENTION THAT WORD PENALTY
19 DOES NOT IN ANY WAY INDICATE ANYTHING ABOUT THE DEFENDANT,
20 MR. TERRY. HE IS PRESUMED TO BE INNOCENT IN THE LAW. DO
21 YOU UNDERSTAND THAT?

22 A YES.

23 Q NOW, LET'S SUPPOSE FOR A FEW MINUTES THAT YOU WERE A
24 JUROR IN A CRIMINAL CASE. COULD YOU LISTEN TO THE LAW,
25 ACCEPT AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE

1 JUDGE OF THIS COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH
2 THAT LAW OR THINK THAT IT OUGHT TO BE SOME OTHER WAY?

3 A COULD I LISTEN TO IT FAIRLY AND JUDGE IT FAIRLY?

4 Q COULD YOU LISTEN TO THE LAW AND ACCEPT IT AND APPLY
5 IT AS I WOULD INSTRUCT YOU?

6 A YES.

7 Q EVEN THOUGH YOU MIGHT NOT AGREE WITH THAT LAW---

8 A YES.

9 Q ---OR THINK THAT IT OUGHT TO BE SOME OTHER WAY?

10 A YES.

11 Q ALL RIGHT. NOW, COULD YOU DECIDE THIS CASE BASED
12 SOLELY ON THE EVIDENCE PRESENTED HERE IN THIS COURTROOM?

13 A THE EVIDENCE? YES.

14 Q NOW, YOU UNDERSTAND IN A CRIMINAL CASE, THE STATE HAS
15 THE BURDEN OF PROVING A DEFENDANT GUILTY. THE BURDEN OF
16 PROOF THAT THE STATE MUST MEET IS TO PROVE THE ELEMENTS OF
17 THE CRIME BEYOND A REASONABLE DOUBT. NOW, YOU UNDERSTAND
18 THAT A DEFENDANT HAS ABSOLUTELY NO RESPONSIBILITY OR BURDEN
19 TO PROVE HIMSELF INNOCENT?

20 A OKAY.

21 Q YOU UNDERSTAND THAT?

22 A YES. OKAY.

23 Q NOW, COULD YOU, DEPENDING ON THE PARTICULAR FACTS AND
24 EVIDENCE AND THE LAW AS I WOULD INSTRUCT YOU IN A CASE,
25 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

1 A OH, YES.

0366 2 Q NOW, YOU UNDERSTAND THAT IN A CASE IN WHICH THE STATE
3 SEEKS THE DEATH PENALTY, THERE ARE TWO PARTS TO THAT TRIAL.

4 THE FIRST PART IS THE GUILT PHASE WHERE THE JURY
5 DETERMINES THE GUILT OR THE INNOCENCE OF THE DEFENDANT OF
6 THE CRIME OF MURDER AND ANY OTHER CRIMES THAT MIGHT BE
7 CHARGED AGAINST THAT PERSON. YOU UNDERSTAND THAT?

8 A YES.

9 Q AND YOU UNDERSTAND THAT IF THE JURY FINDS THE
10 DEFENDANT GUILTY OF MURDER IN THAT FIRST PHASE THAT YOU
11 WOULD THEN MOVE TO THE SECOND PART OR THE SECOND PHASE OF
12 THAT TRIAL?

13 A YES.

14 Q WHICH IS CALLED THE SENTENCING PHASE?

15 A (WHEREUPON, THE WITNESS NODS IN THE AFFIRMATIVE AT
16 THIS TIME.)

17 Q NOW, IN THAT PORTION OF THE TRIAL, THERE ARE --
18 THERE'S CERTAIN INFORMATION THAT WOULD BE PRESENTED TO THE
19 JURY IN THE FORM OF AGGRAVATING CIRCUMSTANCES AND
20 MITIGATING CIRCUMSTANCES.

21 NOW, TO EXPLAIN THAT TO YOU, AGGRAVATING
22 CIRCUMSTANCES ARE FACTS OR INCIDENTS OR DETAILS WHICH OUR
23 GENERAL ASSEMBLY HAS ENACTED IN THE LAW. MEANING THAT THEY
24 HAVE PASSED A LAW AND DECLARED BY STATUTE THAT MAKES THE
25 CRIME OF MURDER WORSE. IT AGGRAVATES THE OFFENSE OF

1 MURDER. AND WHAT WE ARE TALKING ABOUT IS WHEN THE MURDER
2 IS COUPLED WITH SOME OTHER CRIME SUCH AS CRIMINAL SEXUAL
3 CONDUCT OR BURGLARY, SOMETHING LIKE THAT. YOU UNDERSTAND
4 THAT?

5 A YES.

6 Q NOW, BY THE SAME TOKEN, MITIGATING CIRCUMSTANCES
7 WOULD ALSO BE PRESENTED; AND, ONCE AGAIN, THESE ARE
8 INCIDENTS, DETAILS OR OCCURRENCES WHICH OUR GENERAL
9 ASSEMBLY HAS ALSO DECLARED BY LAW THAT REDUCES THE SEVERITY
10 OF THE OFFENSE OF MURDER AND THAT THEY CAN BE CONSIDERED BY
11 THE JURY AS EXTENUATING OR CIRCUMSTANCES OR REDUCING THE
12 RESPONSIBILITY OF ONE WHO HAS COMMITTED A MURDER.

13 FOR EXAMPLE, THAT COULD BE SOMEONE WHO COMMITTED
14 A MURDER WHILE UNDER THE INFLUENCE OF MENTAL OR EMOTIONAL
15 DISTURBANCES; SOMEONE WHO FAILS TO APPRECIATE THE CONDUCT
16 THAT THEY'VE ENGAGED IN; AND THE AGE OR MENTALITY OF A
17 PERSON WHO COMMITS THE CRIME OF MURDER. YOU UNDERSTAND
18 THOSE MITIGATING CIRCUMSTANCES?

19 A YES, YES.

20 Q NOW, LET'S ASSUME THAT YOU WERE A JUROR IN THAT
21 SITUATION. WE'RE TALKING ABOUT THAT SECOND PHASE, THE
22 SENTENCING PHASE, AFTER THE JURY HAS PREVIOUSLY CONVICTED A
23 DEFENDANT OF MURDER. COULD YOU, DEPENDING UPON THE
24 PARTICULAR FACTS AND CIRCUMSTANCES OF THAT CASE AND THE
25 LAW, AS I WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE,

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1 RETURN A SENTENCE OF LIFE IN PRISON?

2 A YES, I COULD.

3 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
4 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
5 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
6 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

7 A DEPENDING ON THE SITUATION, YES.

8 Q NOW, IF YOU ARE CHOSEN AS A JUROR IN THIS CASE, MS.
9 MILLER, YOU WOULD BE WHAT WE CALL SEQUESTERED. THAT'S KIND
10 OF A FANCY WORD MEANING THAT YOU WOULD BE HOUSED IN A MOTEL
11 FOR THE LENGTH OF THE TRIAL. I DON'T KNOW EXACTLY HOW LONG
12 IT WILL LAST, BUT IT WOULD BE ANYWHERE FROM A WEEK TO TEN
13 DAYS. IT COULD BE A LITTLE BIT LESS THAN THAT, BUT I
14 ALWAYS TRY TO ESTIMATE IT A LITTLE BIT LONGER. YOU
15 UNDERSTAND THAT THE STATE WOULD BE -- THE COUNTY WOULD BE
16 RESPONSIBLE FOR PROVIDING FOR ALL OF YOUR NEEDS IF YOU WERE
17 CHOSEN. EXCEPT FOR THE PERSONAL INCONVENIENCE, WOULD THIS
18 POSE A SERIOUS DANGER TO THE HEALTH OR WELL-BEING OF
19 YOURSELF OR OF OTHERS.

20 A NO.

21 Q THANK YOU, MA'AM. I APPRECIATE YOU RESPONDING TO MY
22 QUESTIONS.

23 I'M GOING TO LET MR. STONE ASK YOU SOME QUESTIONS
24 NOW.

25 A OKAY.

1 MR. STONE: THANK YOU, YOUR HONOR.

2 EXAMINATION

3 BY MR. STONE:

4 Q HEY, MS. MILLER---

5 A HEY.

6 Q ---MY NAME IS DUFFIE STONE. THIS IS BETH FULLWOOD
7 SITTING HERE---

8 A HELLO.

9 Q ---AND WE'RE REPRESENTING THE GENTLEMAN AT THE FAR
10 END OF THE TABLE. I DON'T KNOW IF YOU CAN SEE HIM OR
11 NOT---

12 A YES.

13 Q ---THAT'S GARY TERRY---

14 A UH-HUH.

15 Q ALL RIGHT. I WANT TO ASK YOU JUST A FEW QUESTIONS.
16 YOU FILLED OUT -- YOU REMEMBER FILLING OUT THAT
17 QUESTIONNAIRE AND SENDING IT IN?

18 A YES.

19 Q IT TOOK A LONG TIME TO GET THROUGH ALL OF THAT,
20 DIDN'T IT? I'VE READ ALL OF THAT SO I DON'T HAVE TO GO
21 THROUGH ALL OF THAT. I SEE THAT YOU WERE BORN ACTUALLY IN
22 BROOKLYN, NEW YORK?

23 A YES, I WAS BORN IN BROOKLYN.

24 Q YOU'VE BEEN HERE IN LEXINGTON FOR QUITE AWHILE,
25 THOUGH, HAVEN'T YOU?

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- 1 A I WENT TO SCHOOL HERE. I WAS RAISED HERE.
- 2 Q ALL RIGHT. WHAT THE JUDGE ASKED YOU EARLIER, I'M
- 3 JUST GOING TO GO OVER JUST TO MAKE SURE THAT I UNDERSTAND
- 4 IT.
- 5 THE JUDGE EXPLAINED TO YOU THAT THIS CASE MIGHT
- 6 BECOME A TWO CASE INSTEAD OF JUST ONE.
- 7 A YES.
- 8 Q IN OTHER WORDS, AT FIRST WE HAVE TO FIRST DETERMINE
- 9 WHETHER OR NOT MR. TERRY IS GUILTY?
- 10 A UH-HUH.
- 11 Q IF THE JURY COMES BACK AND FINDS THAT MR. TERRY IS
- 12 GUILTY, THEN WE HAVE TO DECIDE OR THE JURY HAS TO DECIDE
- 13 LIFE OR DEATH. YOU UNDERSTAND THAT, DON'T YOU?
- 14 A YES.
- 15 Q NOW, THE DISADVANTAGE OR I HAVE GOT TO COME UP HERE
- 16 AND ASK YOU QUESTIONS ABOUT BOTH SIDES OF -- REGARDLESS OF
- 17 WHETHER WE MAY NEVER EVEN GET TO THAT SENTENCING PHASE, YOU
- 18 UNDERSTAND?
- 19 A YES.
- 20 Q BUT I'M GOING TO ASK YOU SOME QUESTIONS JUST IN CASE
- 21 WE DO AND ASSUMING THAT JUST FOR A SECOND, OKAY?
- 22 A UH-HUH.
- 23 Q THE JUDGE TOLD YOU THAT THE LAW IN SOUTH CAROLINA
- 24 ALLOWS YOU TO CONSIDER SOME AGGRAVATING CIRCUMSTANCES,
- 25 THINGS THAT MAKE THE CRIME REALLY BAD?

1 A UH-HUH.

2 Q AND SOME MITIGATING CIRCUMSTANCES WHICH MAY NOT MAKE
3 THE CRIME REALLY BAD OR MAY MITIGATE, MAKE THE DEFENDANT
4 LESS CULPABLE. DO YOU UNDERSTAND THAT?

5 A YES.

6 Q NOW, IF YOU, AS A JUROR, DECIDE THAT MR. TERRY IS
7 GUILTY AND WE GET TO A SENTENCING PHASE, IT MEANS THAT YOU
8 WOULD HAVE FOUND HIM GUILTY OF MURDER. AND DO YOU
9 UNDERSTAND WHAT MURDER IS?

10 A YES.

11 Q IT MEANS IT'S NOT AN ACCIDENT, IT'S NOT ANY KIND OF
12 HEAT OF PASSION THING. IT'S A MURDER?

13 A YES.

14 Q OKAY. AND IN ORDER FOR US TO GET TO A SENTENCING
15 PHASE, YOU WOULD ALSO HAVE TO FIND HIM GUILTY OF EITHER
16 RAPE OR BURGLARY. YOU UNDERSTAND THAT?

17 A OKAY.

18 Q OKAY. IF THAT'S THE CASE, IF YOU WERE TO FIND MR.
19 TERRY GUILTY OF MURDER AND GUILTY OF RAPE OR BURGLARY AND
20 THEN YOU GET TO A SENTENCING STAGE, COULD YOU GIVE HIM
21 DEATH? COULD YOU SAY THAT HE IS SOMEBODY APPROPRIATE FOR
22 THE DEATH PENALTY?

23 A IS SOMEBODY APPROPRIATE FOR THE DEATH PENALTY?

24 Q YES, MA'AM.

25 A I DON'T KNOW. I MEAN, I WOULD JUST HAVE TO WAIT AND

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1 SEE WHAT THEY.

2 Q AND THAT'S FAIR. SO IF YOU GET THE EVIDENCE THAT
3 SHOWS YOU THAT HE IS APPROPRIATE---

4 A IF HE WAS -- IF HE DID IT INTENTIONALLY MURDER
5 SOMEBODY AND KNEW THAT HE DID IT AND HE KNEW IT WAS WRONG,
6 I DON'T WANT TO GIVE HIM DEATH, BUT THAT'S WHAT WOULD
7 HAPPEN. BUT I CAN'T SAY NOW BECAUSE I DON'T KNOW.

8 Q THAT'S FAIR. THANK YOU. THANK YOU, MS. MILLER, I
9 APPRECIATE IT. THAT'S FAIR.

10 AND, YOU KNOW, KEEP IN MIND THERE'S NO RIGHT OR
11 WRONG ANSWER. WE JUST NEED TO GET YOUR OPINION. BUT I
12 APPRECIATE THAT HONESTY.

13 IN SOUTH CAROLINA, WE REQUIRE YOU TO SIGN THE
14 VERDICT IF YOU FIND SOMEBODY GUILTY OF AGGRAVATING
15 CIRCUMSTANCES. YOU COULD DO THAT, COULDN'T YOU?

16 A YES, I COULD.

17 Q OKAY. WHEN IT COMES TO -- ON THE OTHER HAND, IF YOU
18 FIND THAT IT IS APPROPRIATE FOR WHATEVER REASON, IF YOU
19 FIND SOMEBODY GUILTY OF MURDER AND GUILTY OF RAPE OR
20 BURGLARY, BUT THERE ARE SOME OTHER THINGS THAT COME IN THAT
21 MITIGATE IT, COULD YOU IN THAT CASE LISTEN TO THAT AND
22 POTENTIALLY GIVE SOMEBODY LIFE?

23 A I HAVE TO LISTEN TO IT, YES.

24 Q YES, MA'AM.

25 A YES.

1 Q BUT IF YOU LISTEN TO IT, YOU COULD DO EITHER ONE?

2 A YES.

3 Q THANK YOU, MS. MILLER. I APPRECIATE IT.

4 A UH-HUH.

5 THE COURT: SOLICITOR.

6 EXAMINATION

7 BY MR. HUMPHRIES:

8 Q MS. MILLER, MY NAME IS FRAN HUMPHRIES. HOW ARE YOU
9 DOING?

10 A OKAY.

11 Q I'M THE DEPUTY SOLICITOR HERE IN LEXINGTON. I'M
12 GOING TO BE TRYING THE CASE FOR THE STATE WITH MR. CHASE
13 AND DONNIE MYERS---

14 A OKAY.

15 Q ---THE SOLICITOR.

16 NOW, WITHOUT GETTING INTO WHAT YOUR BELIEFS ARE
17 BECAUSE THAT'S REALLY NONE OF MY BUSINESS, BUT I NOTE THAT
18 ON YOUR FORM, AT LEAST, YOU INDICATE THAT YOU GO TO THE
19 BAPTIST CHURCH?

20 A YES, I DO.

21 Q NOW, LET ME ASK YOU THIS. WITHOUT TELLING ME WHY, IS
22 THERE ANYTHING IN YOUR BACKGROUND, WHETHER RELIGIOUS,
23 WHETHER YOUR PERSONAL UPBRINGING, ANYTHING THAT WOULD
24 PREVENT YOU IN THE APPROPRIATE CASE OF RENDERING A DEATH
25 VERDICT?

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- 1 A WOULD THERE BE ANYTHING?
- 2 Q THAT WOULD PREVENT YOU?
- 3 A NO. I MEAN -- NO.
- 4 Q OKAY. SO YOU COULD---
- 5 A I'VE GOT TO LISTEN TO IT.
- 6 Q SURE.
- 7 A UH-HUH.
- 8 Q YOU WOULD LISTEN TO THE EVIDENCE IN AGGRAVATION OR
- 9 THE THINGS THAT MAKE THE CRIME WORSE---
- 10 A WORSE.
- 11 Q ---YOU'D LISTEN TO THE EVIDENCE IN MITIGATION---
- 12 A UH-HUH.
- 13 Q ---THE THINGS THAT MAKE THE -- MAYBE LESSEN THE
- 14 RESPONSIBILITY, I GUESS, OF MR. TERRY IN THE CASE?
- 15 A OKAY.
- 16 Q YOU'D LISTEN TO ALL OF THAT BEFORE RENDERING YOUR
- 17 VERDICT?
- 18 A OH, YES.
- 19 Q WOULD YOU GO INTO THAT SECOND PHASE, WOULD YOU GO
- 20 INTO IT BENT TOWARDS GIVING MR. TERRY LIFE OR BENT TOWARDS
- 21 GIVING MR. TERRY DEATH OR WOULD YOU WANT TO LISTEN TO ALL
- 22 THAT EVIDENCE BEFORE YOU MAKE THAT DECISION?
- 23 A I'D HAVE TO LISTEN TO EVERYTHING FIRST. I CAN'T.
- 24 Q NOW, LET'S GO BACK JUST A MOMENT---
- 25 A OKAY.

1 Q ---AND WE'VE PROBABLY BEEN THROUGH THIS, BUT LET'S DO
2 IT FOR ME BECAUSE I'M A LITTLE SLOW THIS AFTERNOON.

3 LET'S ASSUME FOR THE MOMENT THAT YOU WERE SITTING
4 ON THIS JURY---

5 A OKAY.

6 Q ---OKAY?

7 A OKAY.

8 Q AND WE WERE IN THE FIRST PART OF THE TRIAL JUST LIKE
9 ANY OTHER CRIMINAL CASE, OKAY?

10 A OKAY.

11 Q AND YOU, ALONG WITH THE OTHER MEMBERS OF THE JURY,
12 HAVE FOUND MR. TERRY GUILTY OF NOT ONLY MURDER---

13 A OKAY.

14 Q ---BUT BURGLARY AND OR CRIMINAL SEXUAL CONDUCT AND
15 ANY OTHER CHARGE, PERHAPS, THAT THE STATE WOULD BRING?

16 A OKAY.

17 Q LET'S ASSUME THAT---

18 A FOUND HIM GUILTY.

19 Q ---GOING INTO THE SECOND PHASE, OKAY?

20 A OKAY.

21 Q SO YOU HAVE ALREADY FOUND THE DEFENDANT GUILTY OF
22 MURDER, BURGLARY AND OR CRIMINAL SEXUAL CONDUCT, OKAY?

23 A OKAY.

24 Q THAT'S THE WAY -- THAT'S THE WAY YOU'RE TAKING THE
25 DEFENDANT IN THAT SECOND PHASE AND YOU'RE GOING TO HEAR

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1 SOME MORE EVIDENCE IN AGGRAVATION. THEN YOU'LL HEAR SOME
2 EVIDENCE IN MITIGATION. YOU WILL LISTEN TO ALL OF THAT
3 BEFORE YOU MAKE YOUR DECISION, IS THAT CORRECT?

4 A UH-HUH.

5 Q NOW, MR. STONE ADDRESSED THIS POINT BRIEFLY. LET ME
6 MAKE SURE I UNDERSTAND. OUR LAW REQUIRES -- IT'S A
7 PROCEDURAL REQUIREMENT THAT IF THE JURY DECIDES THAT DEATH
8 IS THE APPROPRIATE VERDICT---

9 A UH-HUH.

10 Q ---AND YOU UNDERSTAND WE ARE NOT TALKING ABOUT
11 CONSIDERING THE DEATH VERDICT---

12 A YES, I DO.

13 Q ---IT'S THE ABILITY TO ACTUALLY RENDER A DEATH
14 VERDICT---

15 A UH-HUH.

16 Q AND YOU HAVE THAT ABILITY UNDER THE RIGHT
17 CIRCUMSTANCES, IS THAT CORRECT?

18 A UH-HUH.

19 Q YOU WOULD GET A FORM, TWELVE SIGNATURE LINES---

20 A UH-HUH.

21 Q ---YOU MAY BE THE FOREPERSON. I DON'T KNOW. BUT YOU
22 WOULD HAVE TWELVE -- WOULD THAT GIVE YOU SOME CONCERN IF
23 YOU WERE THE FOREPERSON?

24 A I DON'T KNOW. LIKE I SAID, I'LL JUST HAVE TO WAIT.
25 THIS IS MY FIRST TIME.

1 Q SURE.

2 A AND I'M JUST.

3 Q WELL, YOU KNOW, WE DON'T HAVE PROFESSIONAL JURORS AND
4 THAT'S A GOOD THING. SO IT'S GOING TO BE A LOT OF PEOPLE
5 THE FIRST TIME.

6 OUR LAW, IF THE JURY OF WHICH YOU WOULD BE ONE
7 DETERMINES THAT DEATH IS THE APPROPRIATE VERDICT, TO RENDER
8 THAT VERDICT, YOU'D HAVE TO SIGN YOUR NAME---

9 A YES.

10 Q ---ON THE LINE SAYING THAT'S MY VOTE. WOULD THAT
11 FACT, THE FACT THAT YOU WOULD HAVE TO SIGN YOUR NAME TO
12 THAT DEATH VERDICT, WOULD THAT PROHIBIT YOU IN ANY WAY FROM
13 FULLY CONSIDERING AND IMPOSING A DEATH VERDICT?

14 A AFTER LISTENING TO ALL THINGS, NO, I COULD SIGN IT
15 FREELY. AFTER LISTENING TO ALL OF THE EVIDENCE.

16 Q WELL, THAT'S ALL WE CAN ASK OF YOU. THANK YOU SO
17 MUCH.

18 A YOU'RE WELCOME.

19 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

20 MR. STONE: NO, SIR.

21 THE COURT: FROM THE STATE?

22 MR. HUMPHRIES: NO, SIR.

23 THE COURT: MS. MILLER, I FIND THAT YOU ARE
24 QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS CASE AND
25 WITH THAT QUALIFICATION, THERE'S GOING TO COME CERTAIN

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1 INFORMATION THAT I'M GOING TO HAVE TO SHARE WITH YOU.

2 FIRST OF ALL, I'M GOING TO SEND YOU AWAY TODAY
3 WITH THE INSTRUCTIONS THAT YOU ARE TO GO HOME AND START
4 PACKING YOUR BAGS BECAUSE IF YOU ARE CHOSEN AS A JUROR IN
5 THIS CASE, WHEN YOU COME BACK ON WEDNESDAY MORNING AT
6 NINE-THIRTY, THEN YOU WOULD BE STAYING WITH US FOR THE
7 REMAINDER OF THE TRIAL AND YOU WOULD NOT BE GOING BACK
8 HOME.

9 IF YOU ARE NOT CHOSEN, THEN YOU WOULD BE GOING
10 BACK ABOUT YOUR REGULAR ACTIVITIES WITH OUR THANKS FOR
11 PARTICIPATING IN THIS PROCESS.

12 NOW, WHEN YOU COME BACK ON WEDNESDAY MORNING, I
13 WANT YOU TO PLEASE BRING YOUR BAGS PACKED AND IF YOU DRIVE
14 YOURSELF HERE---

15 THE JUROR: THE COURT.

16 THE COURT: ---YOU'RE BEING PROVIDED WITH
17 TRANSPORTATION---

18 THE JUROR: THE COURT, YES.

19 THE COURT: ALL RIGHT. YOU JUST PUT YOUR BAGS IN
20 THE CAR THAT COMES AROUND FOR YOU AND THEN WE'LL SEE THAT
21 THEY ARE PROPERLY TAKEN TO THE MOTEL IF YOU STAY WITH US.
22 AND IF NOT, WE'LL SEE THAT YOU GET BACK HOME.

23 THE JUROR: YES.

24 THE COURT: AS I SEND YOU AWAY, I WANT TO REMIND
25 YOU THAT YOU ARE NOT TO DISCUSS THIS CASE WITH YOUR FELLOW

1 JURORS, WITH YOUR FAMILY, FRIENDS OR ANYONE ELSE.

2 ALSO, IF ANYONE SHOULD ATTEMPT TO CONTACT YOU
3 CONCERNING THIS CASE, ONCE AGAIN, GATHER AS MUCH
4 INFORMATION ABOUT THAT INDIVIDUAL AS YOU POSSIBLY CAN AND
5 REPORT THAT TO ME IMMEDIATELY BECAUSE THAT'S A VERY SERIOUS
6 MATTER AND I WILL DEAL WITH THAT OTHER PERSON ACCORDINGLY.

7 ALSO, I INSTRUCT YOU THAT YOU ARE NOT TO READ,
8 WATCH OR LISTEN TO ANY NEWS ACCOUNTS CONCERNING THIS CASE.
9 ALL I WOULD WANT YOU TO CONSIDER IN THIS CASE IS WHAT YOU
10 SEE AND HEAR IN THIS COURTROOM. ABSOLUTELY NOTHING MORE OR
11 NOTHING LESS. SO THAT JUST MEANS THAT IF YOU -- YOU SHOULD
12 AVOID WATCHING ANY NEWS BROADCAST OR READING ANY NEWSPAPERS
13 OR LISTENING TO ANY RADIO BROADCAST CONCERNING THIS CASE.
14 ALL I WANT YOU TO CONSIDER IN THIS MATTER IS WHAT YOU SEE
15 AND HEAR IN THIS COURTROOM. NOTHING MORE AND NOTHING LESS.

16 SO IF YOU WOULD, PLEASE BE BACK HERE WEDNESDAY
17 MORNING AT NINE-THIRTY. I HOPE YOU HAVE A VERY PLEASANT
18 DAY AND I'LL LOOK FORWARD TO SEEING YOU BACK HERE WEDNESDAY
19 MORNING.

20 THE JUROR: ALL RIGHT. THANK YOU, SIR.

21 THE COURT: AND YOU NEED TO GO OUT THE FRONT DOOR
22 AND CATCH THE ELEVATOR I UNDERSTAND.

23 THE JUROR: ALL RIGHT.

24 THE COURT: THANK YOU VERY MUCH.

25 (WHEREUPON, THE JUROR WAS EXCUSED)

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1 AT THIS TIME.)

2 THE COURT: ALL RIGHT.

3 LET THE RECORD REFLECT JUROR NUMBER 163, MS.

4 MILLER, IS QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS

5 CASE.

6 WE ARE GOING TO TAKE ABOUT FIVE MINUTES BEFORE WE

7 MOVE INTO OUR NEXT PANEL AND THEN WE'LL JUST KEEP ON

8 TRUCKING.

9 THANK YOU VERY MUCH.

10 MR. STONE: THANK YOU, YOUR HONOR.

11 MR. HUMPHRIES: THANK YOU.

12 (RECESS.)

13 THE BAILIFF: ALL RISE.

14 THE COURT: THANK YOU. PLEASE BE SEATED.

15 ALL RIGHT. LET'S BRING IN MS. REEVES, JUROR

16 NUMBER 185.

17 KAY T. REEVES,

18 (JUROR NUMBER 185, WHITE FEMALE,

19 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

20 EXAMINATION

21 BY THE COURT:

22 Q YOU ARE KAY REEVES, IS THAT CORRECT?

23 A YES, I AM.

24 Q AND, MS. REEVES, YOU UNDERSTAND THAT YOU ARE UNDER

25 OATH FOR THIS PROCEEDING?

1 A YES, SIR.

2 Q AND I ALSO GAVE YOU CERTAIN INSTRUCTIONS BEFORE YOU
3 LEFT HERE EARLIER THIS AFTERNOON THAT YOU WEREN'T TO
4 DISCUSS THIS CASE WITH ANYONE WHETHER IT BE FAMILY, FRIENDS
5 OR ANYONE ELSE AND NOT TO READ, WATCH OR LISTEN TO ANY NEWS
6 ACCOUNTS AND ALSO IF ANYONE CONTACTED YOU, THAT YOU WERE TO
7 REPORT THAT TO ME. HAVE THERE BEEN ANY VIOLATIONS OF THOSE
8 INSTRUCTIONS?

9 A NO, SIR.

10 Q NOW, I'M GOING TO ASK YOU A FEW QUESTIONS AND
11 THEREAFTER ONE OF MR. TERRY'S LAWYERS WILL ASK YOU SOME
12 QUESTIONS AND THEN ONE OF THE STATE'S LAWYERS WILL ASK YOU
13 SOME QUESTIONS. I WANT YOU TO KEEP IN MIND THAT WE ARE NOT
14 IN ANY WAY ATTEMPTING TO INVADE YOUR PRIVACY, BUT BECAUSE
15 OF THE NATURE OF THE CASE THAT WE ARE ABOUT, IT'S NECESSARY
16 THAT WE DO ASK CERTAIN QUESTIONS.

17 ALSO, KEEP IN MIND THAT THERE ARE ABSOLUTELY NO
18 RIGHT OR WRONG ANSWERS TO THE QUESTIONS THAT YOU ARE ASKED.
19 SO PLEASE JUST ANSWER THESE QUESTIONS OPENLY AND HONESTLY
20 AND FULLY AND ALSO KEEP IN MIND THAT NO ONE IS CHALLENGING
21 YOUR VIEW. WE JUST NEED TO KNOW WHAT YOUR VIEW IS.

22 NOW, THE LAWYERS ALSO, I WOULD INFORM YOU THAT
23 THEY HAVE, AS WELL AS I HAVE, COPIES -- A COPY OF YOUR
24 INFORMATION THAT YOU PROVIDED TO THE COURT FROM THE
25 QUESTIONNAIRE.

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2 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
3 TALKING ABOUT OVER THE NEXT FEW MINUTES WILL BE PENALTY.
4 BUT THE MERE FACT THAT I EVEN MENTION THAT WORD OR BRING UP
5 THAT WORD DOES NOT IN ANY WAY INDICATE ANYTHING ABOUT THIS
6 DEFENDANT WHO IS HERE ON TRIAL. HE IS PRESUMED IN THE LAW
7 TO BE INNOCENT. DO YOU UNDERSTAND THAT?

8 A (WHEREUPON, THE WITNESS NODS IN THE AFFIRMATIVE AT
9 THIS TIME.)

10 Q YOU NEED TO ANSWER OUT LOUD---

11 A YES, SIR, I'M SORRY.

12 Q ---FOR THE COURT REPORTER.

13 NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN A
14 CRIMINAL CASE, COULD YOU LISTEN TO THE LAW, ACCEPT AND
15 APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE JUDGE OF THIS
16 COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH THAT LAW OR
17 THINK THAT IT OUGHT TO BE SOME OTHER WAY?

18 A YES.

19 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
20 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

21 A NOT NECESSARILY.

22 Q ARE YOU TELLING ME THAT THERE WOULD BE SOMETHING
23 OUTSIDE OF THE COURTROOM THAT YOU WOULD BASE IT ON?

24 A NO, NO. I GUESS MY ANSWER WOULD BE YES.

25 Q ALL RIGHT. ARE YOU TELLING ME THAT YOU COULD LISTEN
TO THE TESTIMONY AND EVIDENCE PRESENTED AND FROM THAT AND

1 THE LAW, AS I WOULD INSTRUCT YOU, RENDER A VERDICT IN THIS
2 CASE THAT WOULD BE FAIR AND IMPARTIAL TO THE STATE AS WELL
3 AS THE DEFENDANT?

4 A YES.

5 Q NOW, DO YOU UNDERSTAND THAT IN A CRIMINAL CASE THE
6 STATE HAS THE BURDEN OF PROVING A DEFENDANT GUILTY?

7 A YES, SIR.

8 Q AND THAT BURDEN OF PROOF IS TO PROVE THE ELEMENTS OF
9 THE CRIME BEYOND A REASONABLE DOUBT. NOW, A DEFENDANT HAS
10 ABSOLUTELY NO BURDEN TO PROVE HIMSELF INNOCENT. DO YOU
11 UNDERSTAND ALL THESE PRINCIPLES?

12 A YES.

13 Q NOW, COULD YOU, DEPENDING ON THE FACTS AND THE
14 EVIDENCE AND THE LAW AS I WOULD INSTRUCT YOU IN A
15 PARTICULAR CASE, FIND A DEFENDANT EITHER GUILTY OR NOT
16 GUILTY?

17 A (NO RESPONSE.)

18 Q YOU WANT ME TO REPEAT THAT FOR YOU?

19 A YES, PLEASE.

20 Q COULD YOU, DEPENDING ON THE FACTS AND EVIDENCE AND
21 THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE, FIND
22 A DEFENDANT EITHER GUILTY OR NOT GUILTY?

23 A YES, SIR.

24 Q NOW, LET'S SUPPOSE FOR JUST A MOMENT THAT YOU WERE A
25 JUROR IN A DEATH PENALTY CASE WHICH IS THE KIND OF CASE

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1 THAT WE ARE ABOUT THIS WEEK. YOU UNDERSTAND THAT IN SUCH A
2 CASE THAT IT'S REALLY TWO TRIALS IN ONE.

3 THE FIRST PART OF THE TRIAL IS THE GUILT PHASE
4 WHEREIN THE JURY SIMPLY DECIDES WHETHER THE DEFENDANT IS
5 GUILTY OR NOT GUILTY OF THE CRIME OF MURDER AND ANY OTHER
6 CHARGES THAT HE MAY HAVE AGAINST HIM. YOU UNDERSTAND THAT?

7 A YES, SIR.

8 Q AND IF THE JURY DETERMINES THAT THE DEFENDANT IS
9 GUILTY OF MURDER IN THAT INSTANCE, DO YOU UNDERSTAND THAT
10 YOU WOULD THEN MOVE INTO THE SECOND PHASE WHICH IS THE
11 SENTENCING PHASE OF THE TRIAL?

12 A YES, SIR.

13 Q NOW, IN SUCH A PHASE, INFORMATION WOULD BE PRESENTED
14 TO THE JURY IN THE FORM OF AGGRAVATING CIRCUMSTANCES AS
15 WELL AS MITIGATING CIRCUMSTANCES.

16 NOW, AS A WAY OF EXPLANATION, AGGRAVATING
17 CIRCUMSTANCES ARE FACTS, INCIDENTS, DETAILS, OCCURRENCES
18 WHICH OUR GENERAL ASSEMBLY HAS DECLARED BY LAW THAT WOULD
19 MAKE WORSE; THAT IS, TO AGGRAVATE THE OFFENSE OF MURDER
20 WHEN IT OCCURS WITH SOME OTHER CRIME. FOR EXAMPLE, WHEN A
21 MURDER OCCURRED IN CONNECTION WITH A CRIMINAL SEXUAL
22 CONDUCT OFFENSE OR WITH A BURGLARY OFFENSE. YOU UNDERSTAND
23 WHAT WE MEAN BY AGGRAVATING CIRCUMSTANCES?

24 A YES.

25 Q IT MEANS THAT IT ADDS TO THE INJURY OF THE MURDER.

1 NOW, MITIGATING CIRCUMSTANCES ARE INCIDENTS,
2 DETAILS, OCCURRENCES WHICH OUR GENERAL ASSEMBLY HAS ALSO
3 DECLARED BY STATUTE THAT REDUCES THE SEVERITY OF THE
4 OFFENSE OF MURDER. IT CAN BE CONSIDERED BY THE JURY AS
5 REDUCING THE DEGREE OF RESPONSIBILITY OF THE PERSON WHO
6 COMMITTS THE CRIME OF MURDER. AND WHEN I TALK ABOUT THAT,
7 I'M TALKING ABOUT, FOR INSTANCE, WHERE A MURDER HAS BEEN
8 COMMITTED BY A PERSON THAT WAS UNDER THE INFLUENCE OF
9 MENTAL OR EMOTIONAL DISTURBANCES, WHERE A PERSON DOES NOT
10 HAVE THE CAPACITY TO APPRECIATE THE CONDUCT IN WHICH HE IS
11 ENGAGED AND WAS SUBSTANTIALLY IMPAIRED AND ALSO THE AGE AND
12 MENTALITY OF THE DEFENDANT AT THE TIME OF THE CRIME. THOSE
13 WOULD BE EXAMPLES OF MITIGATING CIRCUMSTANCES. DO YOU
14 UNDERSTAND THAT?

15 A YES.

16 Q AND YOU UNDERSTAND THAT YOU WOULD CONSIDER ALL OF
17 THOSE THINGS IF YOU WERE AT THAT PARTICULAR POINT OF THE
18 TRIAL?

19 A YES, SIR.

20 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION, THE
21 SENTENCING PHASE, COULD YOU, DEPENDING UPON THE PARTICULAR
22 FACTS AND CIRCUMSTANCES OF THAT CASE AND THE LAW AS I WOULD
23 INSTRUCT YOU AT THE CONCLUSION OF THE CASE, RETURN A
24 SENTENCE OF LIFE IN PRISON?

25 A YES, SIR.

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1 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
2 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES AND
3 THE LAW AS I WOULD INSTRUCT YOU AT THE CONCLUSION OF THE
4 CASE, RETURN A SENTENCE OF DEATH?

5 A NO, SIR.

6 Q NOT UNDER ANY CIRCUMSTANCES?

7 A YES.

8 Q ALL RIGHT. IF I INSTRUCTED YOU THAT THE LAW OF THIS
9 STATE IS THAT IF THE DEFENDANT WERE FOUND GUILTY OF MURDER
10 IN THE FIRST PHASE OF THE TRIAL, THE GUILT PHASE, AND THAT
11 IF YOU, THE JURY, CONSIDERED THE AGGRAVATING CIRCUMSTANCES
12 AS WELL AS THE MITIGATING CIRCUMSTANCES AND THE LAW THAT I
13 WOULD INSTRUCT YOU CONCERNING THAT, THAT IF YOU FOUND THE
14 PRESENCE OF CERTAIN CIRCUMSTANCES, THAT YOU COULD THEN
15 IMPOSE A PENALTY OF DEATH IF YOU FOUND THAT TO BE PRESENT,
16 COULD YOU CONSIDER THAT?

17 A YES.

18 Q NOW, IF YOU ARE CHOSEN TO SERVE AS A JUROR IN THIS
19 PARTICULAR CASE, MS. REEVES, YOU WOULD BE SEQUESTERED OR
20 HOUSED IN A MOTEL FOR THE DURATION OF THE TRIAL. I DON'T
21 KNOW EXACTLY HOW LONG THE TRIAL WILL LAST, BUT IT WILL BE
22 SOMEWHERE BETWEEN A WEEK TO TEN DAYS. EXCEPT FOR THE
23 PERSONAL INCONVENIENCE, WOULD THIS POSE A SERIOUS DANGER TO
24 THE HEALTH OR WELL-BEING OF YOURSELF OR OF THOSE DEPENDENT
25 ON YOU?

1 A NO, SIR.

2 Q THANK YOU, MA'AM. PLEASE RESPOND TO MS. FULLWOOD'S
3 QUESTIONS AT THIS TIME.

4 MS. FULLWOOD: THANK YOU, YOUR HONOR.

5 EXAMINATION

6 BY MS. FULLWOOD:

7 Q GOOD AFTERNOON, MS. REEVES.

8 A HI.

9 Q AS JUDGE CLARY TOLD YOU, I'M BETH FULLWOOD. DUFFIE
10 STONE SEATED OVER AT COUNSEL'S TABLE AND I ARE REPRESENTING
11 GARY TERRY, WHO IS SEATED AT THE END OF THE TABLE.

12 I'M GLAD TO HAVE A CHANCE TO TALK TO YOU THIS
13 AFTERNOON. IT'S IMPORTANT TO BE ABLE TO TALK TO YOU EVEN
14 THOUGH NEITHER TRIAL HAS BEGUN. THIS IS THE ONLY CHANCE
15 WE'RE GOING TO HAVE TO TALK TO YOU AND GET INFORMATION THAT
16 IS VERY IMPORTANT FOR US TO KNOW.

17 I BELIEVE JUDGE CLARY TOLD YOU ABOUT, TOLD YOU
18 THAT THERE ARE NO RIGHT OR WRONG ANSWERS. WE NEED TO KNOW
19 WHAT YOU REALLY THINK AND EVERYBODY'S OPINION IS RESPECTED.

20 NOW, I GATHER FROM WHAT YOU TOLD JUDGE CLARY,
21 THAT YOU'RE NOT REAL STRONGLY IN FAVOR OF THE DEATH
22 PENALTY, IS THAT CORRECT?

23 A THAT'S CORRECT.

24 Q OKAY. BUT DID I UNDERSTAND YOU TO TELL HIM THAT
25 THERE WERE SOME CIRCUMSTANCES IN WHICH YOU COULD IMPOSE THE

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1 DEATH PENALTY?

2 A THAT'S RIGHT.

3 Q ALL RIGHT. AND ARE YOU ABLE TO SET ASIDE ANY BIAS OR
4 ANY LEANING YOU MIGHT HAVE ONE WAY OR THE OTHER AND LISTEN
5 TO JUDGE CLARY WHEN HE TELLS YOU WHAT THE LAW IN THIS STATE
6 IS?

7 A YES.

8 Q OKAY. AND REGARDLESS OF WHICH WAY YOU LEAN, YOU ARE
9 CAPABLE OF LISTENING TO ALL THE EVIDENCE IN THIS CASE?

10 A YES.

11 Q AND YOU COULD LISTEN TO THE EVIDENCE IN THE FIRST
12 TRIAL, IS THAT CORRECT?

13 A YES, MA'AM.

14 Q AND IF WE HAD A SECOND TRIAL, YOU COULD LISTEN TO THE
15 EVIDENCE IN THAT TRIAL?

16 A YES.

17 Q ALL RIGHT. AND AM I RIGHT IN UNDERSTANDING THAT YOU
18 COULD LISTEN TO THE LAW AS PROVIDED BY THE JUDGE AND IF YOU
19 THOUGHT THE CIRCUMSTANCES WERE RIGHT, YOU COULD IMPOSE THE
20 DEATH PENALTY?

21 A I COULD.

22 Q ALL RIGHT.

23 A YEAH.

24 Q AND ON THE OTHER HAND, IF YOU THOUGHT THE
25 CIRCUMSTANCES DID NOT JUSTIFY THE DEATH PENALTY, YOU COULD

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1 IMPOSE A LIFE SENTENCE?

2 A YES.

3 Q ALL RIGHT. SO AS I UNDERSTAND IT, YOU ARE TELLING ME
4 THAT YOU ARE WILLING TO LISTEN TO THE EVIDENCE?

5 A YES.

6 Q AND YOU COULD VOTE EITHER WAY DEPENDING ON HOW YOU
7 SAW THE EVIDENCE?

8 A YES.

9 Q AND YOU ARE WILLING TO LISTEN AND ABIDE BY WHAT THE
10 COURT TELLS YOU THE LAW IS?

11 A YES.

12 Q THANK YOU, MA'AM.

13 A UH-HUH.

14 Q I APPRECIATE IT.

15 THE COURT: MR. HUMPHRIES.

16 EXAMINATION

17 BY MR. HUMPHRIES:

18 Q MS. REEVES, I'M FRAN HUMPHRIES. I'M THE DEPUTY
19 SOLICITOR HERE IN LEXINGTON. I, ALONG WITH TOM CHASE, WHO
20 IS SEATED HERE, WILL BE ASSISTING DONNIE MYERS IN THE TRIAL
21 OF THE CASE. DONNIE MYERS, THE SOLICITOR.

22 THESE ARE -- THESE ARE SOME TOUGH QUESTIONS,
23 AREN'T THEY?

24 A THEY ARE REAL TOUGH.

25 Q YOU PROBABLY HAVE NOT HAD AN OCCASION---

1 A YOU HAVE TO THINK -- YOU HAVE TO THINK ABOUT IT.

0390 2 Q WELL, SURE. AND I NOTICED THAT YOU WERE. AND
3 PROBABLY HAVEN'T HAD AN OCCASION TO THINK ABOUT IT IN THIS
4 WAY?

5 A NO, NO.

6 Q IN THE PAST, HAVE YOU?

7 A NO.

8 Q AND I UNDERSTAND THAT AND THAT'S WHY I'M GOING TO
9 TAKE A LITTLE BIT OF TIME, OKAY. BECAUSE IT'S REALLY
10 IMPORTANT THAT WE KNOW TRULY HOW YOU FEEL, OKAY. AND I
11 DON'T KNOW IF YOU UNDERSTOOD THIS AND IF I'M TELLING YOU
12 SOMETHING YOU ALREADY KNOW, YOU JUST LET ME KNOW.

13 UNDER NO CIRCUMSTANCES IS THE JUDGE GOING TO TELL
14 YOU THAT BECAUSE YOU FOUND GARY TERRY GUILTY OF MURDER AND
15 BECAUSE THERE'S SOME AGGRAVATING CIRCUMSTANCE OF BURGLARY
16 OR CRIMINAL SEXUAL CONDUCT THAT BECAUSE OF A PLUS B, YOU
17 HAVE TO DO C, OKAY, GIVE HIM THE DEATH PENALTY?

18 A THAT'S RIGHT.

19 Q THAT'S NOT THE LAW, OKAY.

20 A UH-HUH.

21 Q AND YOU UNDERSTOOD THAT?

22 A UH-HUH.

23 Q THE JUDGE WILL NOT INSTRUCT YOU TO IMPOSE THE DEATH
24 PENALTY. IT'S ONE OF TWO CHOICES, LIFE AND DEATH AND THOSE
25 ARE THE ONLY TWO CHOICES. DID YOU UNDERSTAND THAT?

1 A YES.

2 Q OKAY. AND AS I UNDERSTAND WHAT YOU SAID BOTH TO
3 JUDGE CLARY AND MS. FULLWOOD, YOU WOULD BE WILLING TO GO
4 INTO THAT SECOND PHASE, ASSUMING THAT YOU HAD ALREADY FOUND
5 HIM GUILTY OF MURDER, GO INTO THAT SECOND PHASE AND
6 CONSIDER ALL OF THE EVIDENCE BEFORE MAKING UP YOUR MIND
7 REGARDING A SENTENCE?

8 A YES.

9 Q IS THAT CORRECT?

10 A THAT'S RIGHT.

11 Q AND WHAT YOU'VE SAID IS THAT YOU WOULDN'T JUST
12 CONSIDER A DEATH VERDICT, BUT YOU COULD ACTUALLY IMPOSE A
13 DEATH VERDICT UNDER THE RIGHT FACTS AND CIRCUMSTANCES, IS
14 THAT RIGHT?

15 A YES.

16 Q OKAY. LET ME ASK YOU THIS. WELL, LET ME TELL YOU
17 THIS AND THEN LET ME ASK YOU SOMETHING. THERE'S A
18 REQUIREMENT IN OUR LAW THAT BASICALLY SAYS THIS. IF THE
19 JURY IN THAT SECOND PHASE FINDS THAT DEATH IS THE
20 APPROPRIATE VERDICT, THAT EACH MEMBER OF THAT JURY HAS TO
21 SIGN ON THAT DEATH FORM, TWELVE LINES.

22 NOW, THERE ARE SOME FOLKS WHO SAY I'M NOT SIGNING
23 MY NAME TO ANYTHING. WHETHER IT'S A DEATH VERDICT OR A
24 CREDIT CARD RECEIPT. OBVIOUSLY, THIS IS MUCH MORE SERIOUS.
25 BUT WOULD THE MERE FACT THAT YOU WOULD HAVE TO SIGN THAT

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1 FORM INDICATING YOUR VOTE, WOULD THAT IMPAIR YOU OR PREVENT
2 YOU FROM FULLY CONSIDERING AND IMPOSING THE DEATH
3 PENALTY---

4 A NO.

5 Q ---UNDER THE RIGHT FACTS AND CIRCUMSTANCES?

6 A NO.

7 Q YOU COULD DO THAT?

8 A I -- YES.

9 Q NOW, AND I DON'T WANT TO KNOW THE BASIS OF YOUR
10 BELIEFS. IT'S NOT MY BUSINESS. I SHOULDN'T BE ASKING.
11 BUT I DO NEED TO ASK THIS. IS THERE ANYTHING, WHETHER IT'S
12 YOUR CHURCH, IF YOU HAVE ONE AND QUITE FRANKLY I HAVEN'T
13 RECOLLECT FROM THE QUESTIONNAIRE, YOUR CHURCH, THE WAY YOU
14 WERE BROUGHT UP, YOUR FEELINGS ABOUT MORALS AND ETHICS, IS
15 THERE ANYTHING ABOUT YOU AND ABOUT YOUR BACKGROUND THAT
16 WOULD PREVENT YOU FROM FULLY CONSIDERING THE DEATH PENALTY
17 UNDER THE RIGHT FACTS AND CIRCUMSTANCES?

18 A NO.

19 Q WELL, THAT IS TRULY ALL WE CAN ASK OF YOU. THANK YOU
20 SO MUCH.

21 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

22 MS. FULLWOOD: NO, YOUR HONOR.

23 THE COURT: FROM THE STATE?

24 MR. HUMPHRIES: NO, THANK YOU.

25 THE COURT: WELL, FIRST OF ALL, MS. REEVES, LET

1 ME THANK YOU VERY MUCH FOR YOUR PARTICIPATION HERE TODAY.
2 I FIND THAT YOU ARE QUALIFIED TO SERVE AS A POTENTIAL JUROR
3 IN THIS CASE AND WITH THAT QUALIFICATION, THERE COMES SOME
4 FURTHER INSTRUCTIONS THAT I'M GOING TO BE GIVING YOU.

5 FIRST OF ALL, I'M GOING TO INSTRUCT YOU THAT YOU
6 ARE NOT TO DISCUSS THIS CASE WITH YOUR FAMILY, FRIENDS,
7 FELLOW JURORS OR ANYONE ELSE AS I SEND YOU AWAY HERE THIS
8 AFTERNOON.

9 ALSO, YOU ARE NOT TO READ, WATCH OR LISTEN TO ANY
10 NEWS ACCOUNTS CONCERNING THIS CASE. AND ALSO IF ANYONE
11 SHOULD ATTEMPT TO CONTACT YOU CONCERNING THIS CASE. I
12 THINK THAT I HAVE GIVEN YOU INSTRUCTIONS ABOUT THAT AS TO
13 WHAT YOU ARE TO DO WHEN YOU -- AND I WANT YOU TO REPORT
14 THAT TO ME IMMEDIATELY IF ANYONE SHOULD ATTEMPT TO CONTACT
15 YOU.

16 SIMPLY PUT, ALL I WOULD WANT YOU TO CONSIDER IN
17 THIS MATTER IS WHAT YOU SEE AND HEAR IN THIS COURTROOM.
18 ABSOLUTELY NOTHING MORE OR NOTHING LESS IF YOU ARE CHOSEN
19 AS A JUROR IN THIS CASE.

20 NOW, SINCE YOU HAVE BEEN QUALIFIED AS A POTENTIAL
21 JUROR IN THIS CASE, I'M GOING TO SEND YOU HOME WITH THE
22 INSTRUCTION THAT YOU ARE TO START PACKING YOUR BAG AND
23 REPORT BACK HERE ON WEDNESDAY MORNING AT NINE-THIRTY. AND
24 WHEN YOU COME BACK, LEAVE YOUR BAG IN YOUR CAR.

25 IF YOU ARE SELECTED AS A JUROR IN THIS CASE, THE

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2 JURY CUSTODIANS WILL ASSIST YOU IN GETTING THAT TO YOUR
3 MOTEL THAT YOU WOULD HOUSED IN FOR THE REMAINDER OF THE
4 TRIAL AND ALSO IF YOU NOT CHOSEN, THEN YOU WOULD BE ALLOWED
5 TO LEAVE AND GO ABOUT YOUR MERRY WAY WITH OUR THANKS FOR
6 BEING HERE AND PARTICIPATING IN OUR PROCESS.

7 SO WHAT I NEED FOR YOU TO DO IS GO HOME AND GET
8 READY TO COME BACK HERE AT NINE-THIRTY ON WEDNESDAY MORNING
9 AND, ONCE AGAIN, IF YOU ARE SELECTED, THEN YOU WOULD STAY
10 WITH US. IF NOT, THEN YOU WOULD GO BACK HOME.

11 THANK YOU VERY MUCH FOR BEING HERE AND I'LL LOOK
12 FORWARD TO SEEING YOU AGAIN ON WEDNESDAY MORNING.

13 THE JUROR: THANK YOU.

14 (WHEREUPON, THE JUROR WAS EXCUSED
15 AT THIS TIME.)

16 THE COURT: LET THE RECORD REFLECT THAT JUROR
17 NUMBER 185, MS. REEVES, IS QUALIFIED TO SERVE AS A
18 POTENTIAL JUROR IN THIS CASE PURSUANT TO SECTION 16-320.

19 TERESA P. MILNE,

20 (JUROR NUMBER 164, WHITE FEMALE,
21 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

22 EXAMINATION

23 BY THE COURT:

24 Q NOW, YOU ARE TERESA P. MILNE, IS THAT CORRECT?

25 A THAT'S CORRECT.

Q AND, MS. MILNE, YOU UNDERSTAND THAT YOU HAVE BEEN

1 PLACED UNDER OATH FOR THESE PROCEEDINGS?

2 A YES.

3 Q NOW, I ALSO GAVE YOU SOME INSTRUCTIONS BEFORE YOU
4 LEFT THE COURT HOUSE THIS AFTERNOON FOR THE LUNCH HOUR THAT
5 YOU WERE NOT TO DISCUSS THIS CASE WITH ANY OF YOUR FELLOW
6 JURORS, FAMILY, FRIENDS OR ANYONE ELSE AND ALSO THAT ANY
7 ATTEMPTS WERE MADE TO CONTACT YOU, THAT YOU SHOULD REPORT
8 THAT TO ME. AND I ALSO ASKED YOU TO REFRAIN FROM READING,
9 WATCHING OR LISTENING TO ANY NEWS ACCOUNTS CONCERNING THIS
10 CASE. HAVE ANY OF THOSE INSTRUCTIONS BEEN VIOLATED?

11 A NO.

12 Q NOW, I'M GOING TO ASK YOU SOME QUESTIONS AND THEN
13 AFTER I GET THROUGH, ONE OF THE LAWYERS FROM THE
14 DEFENDANT'S SIDE AND ALSO FROM THE STATE'S SIDE WILL BE
15 ALLOWED TO ASK YOU SOME QUESTIONS. PLEASE KEEP IN MIND
16 THAT WE ARE NOT IN ANY WAY ATTEMPTING TO INVADE YOUR
17 PRIVACY, BUT BECAUSE OF THE CASE THAT WE ARE ABOUT THIS
18 WEEK, IT'S EXTREMELY NECESSARY THAT CERTAIN QUESTIONS ARE
19 ASKED. ALSO, KEEP IN MIND THAT THERE ARE ABSOLUTELY NO
20 RIGHT OR WRONG ANSWERS TO THESE QUESTIONS. PLEASE ANSWER
21 THEM OPENLY AND HONESTLY AND FULLY AND ALSO KEEP IN MIND
22 THAT NO ONE IS CHALLENGING YOUR VIEW. IT'S SIMPLY THAT WE
23 NEED TO KNOW WHAT YOUR VIEW IS.

24 AND I ALSO TELL YOU THAT WE ARE PROBABLY GOING TO
25 ASK YOU SOME QUESTIONS THAT YOU'VE NEVER HAD TO CONSIDER

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1 BEFORE. SO PLEASE KEEP THAT IN MIND AS WE GO THROUGH THIS
2 PROCESS.

3 ALSO, THE INFORMATION THAT YOU PROVIDED TO THE
4 COURT, THE LAWYERS HAVE COPIES OF THAT WHICH WILL AID THEM
5 IN MAKING THEIR DECISIONS IN ASKING YOU QUESTIONS AND SO
6 FORTH. SO PLEASE KEEP THAT IN MIND.

7 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
8 TALKING ABOUT WILL BE THE TERM PENALTY, BUT THE MERE FACT
9 THAT I EVEN MENTION THAT WORD DOES NOT IN ANY WAY INDICATE
10 ANYTHING ABOUT THE DEFENDANT, MR. TERRY. HE IS PRESUMED IN
11 THE LAW TO BE INNOCENT. YOU UNDERSTAND THAT?

12 A YES.

13 Q NOW, LET'S SUPPOSE FOR A FEW MINUTES THAT YOU WERE A
14 JUROR IN A CRIMINAL CASE. COULD YOU LISTEN TO THE LAW,
15 ACCEPT AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE
16 JUDGE OF THIS COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH
17 THAT LAW OR THINK THAT IT OUGHT TO BE SOME OTHER WAY?

18 A YES.

19 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
20 EVIDENCE AS IT'S PRESENTED HERE IN THIS COURTROOM?

21 A YES.

22 Q NOW, IN A CRIMINAL CASE, THE STATE HAS THE BURDEN OF
23 PROVING A DEFENDANT GUILTY. THE BURDEN OF PROOF THAT THE
24 STATE MUST MEET IS BEYOND A REASONABLE DOUBT. PROVING THE
25 ELEMENTS OF THE CRIME BEYOND A REASONABLE DOUBT.

1 NOW, A DEFENDANT HAS ABSOLUTELY NO BURDEN OR
2 RESPONSIBILITY TO PROVE HIMSELF INNOCENT. YOU UNDERSTAND
3 THAT?

4 A YES.

5 Q NOW, COULD YOU, DEPENDING ON THE FACTS AND EVIDENCE
6 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,
7 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

8 A YES.

9 Q NOW, YOU UNDERSTAND THAT THE CASE THAT WE ARE ABOUT
10 THIS WEEK IS ONE IN WHICH THE STATE SEEKS THE DEATH
11 PENALTY. AND IN SUCH CASES, THESE CASES ARE DIVIDED REALLY
12 INTO TWO PARTS. THEY ARE WHAT WE CALL BIFURCATED TRIALS,
13 MEANING THAT IT'S SPLIT INTO TWO PARTS. AND YOU UNDERSTAND
14 THAT IF THE JURY FINDS THE DEFENDANT GUILTY IN THE FIRST
15 PHASE, THAT YOU WOULD THEN MOVE INTO THE SECOND PHASE, THE
16 SENTENCING PHASE.

17 A UH-HUH.

18 Q HOWEVER, IF THE JURY FOUND THE DEFENDANT NOT GUILTY,
19 THAT WOULD END THE TRIAL AND THERE WOULD BE NO NEED FOR THE
20 SECOND PHASE?

21 A UH-HUH.

22 Q LET'S SUPPOSE THAT YOU WERE A JUROR IN SUCH AN
23 INCIDENT AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF
24 MURDER IN THE FIRST PHASE, YOU WOULD THEN MOVE TO THAT
25 SECOND PHASE AND YOU FULLY UNDERSTAND THAT?

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1 A YES.

2 Q NOW, IN THAT SECOND PHASE, EVIDENCE WOULD BE
3 PRESENTED IN THE FORM OF AGGRAVATING CIRCUMSTANCES AS WELL
4 AS MITIGATING CIRCUMSTANCES.

5 NOW, TO GIVE YOU A LITTLE BIT OF BACKGROUND ON
6 THAT, AGGRAVATING CIRCUMSTANCES ARE FACTS, INCIDENTS,
7 DETAILS OR OCCURRENCES WHICH OUR GENERAL ASSEMBLY HAS
8 DECIDED AND ENACTED BY STATUTE THAT WOULD MAKE WORSE; THAT
9 IS, TO AGGRAVATE THE OFFENSE OF MURDER.

10 IN OTHER WORDS, THAT AGGRAVATING CIRCUMSTANCE
11 WHEN PRESENT WITH MURDER INCREASES THE ENORMITY OR ADDS TO
12 THE INJURY OF THE CRIME OF MURDER. AND, FOR EXAMPLE, I'M
13 TALKING ABOUT WHEN A MURDER MAY BE COMMITTED ALONG WITH A
14 CRIMINAL SEXUAL CONDUCT OR COMMITTED WITH A BURGLARY. YOU
15 UNDERSTAND WHAT I MEAN---

16 A YES.

17 Q ---BY AN AGGRAVATING CIRCUMSTANCE.

18 NOW, A MITIGATING CIRCUMSTANCE, BY THE SAME
19 TOKEN, ARE CIRCUMSTANCE ARE INCIDENTS, DETAILS, OCCURRENCES
20 WHICH OUR GENERAL ASSEMBLY HAS ALSO ENACTED BY LAW THAT
21 DECLARES OR REDUCES THE SEVERITY OF THE OFFENSE OF MURDER.
22 IT MAY BE CONSIDERED AS EXTENUATING OR REDUCING THE DEGREE
23 OF RESPONSIBILITY FOR THE MURDER. FOR EXAMPLE, THAT WOULD
24 BE -- POSSIBLY BE A MURDER THAT WAS COMMITTED WHILE THE
25 DEFENDANT WAS UNDER THE INFLUENCE OF A MENTAL OR EMOTIONAL

1 DISTURBANCE, WHERE THE DEFENDANT FAILED TO APPRECIATE THE
2 CONDUCT WHILE HE WAS SUBSTANTIALLY IMPAIRED OR THE CAPACITY
3 OF THE DEFENDANT OR THE AGE OR MENTALITY OF THE DEFENDANT
4 AT THE TIME OF THE CRIME COULD ALSO BE CONSIDERED. YOU
5 UNDERSTAND THOSE MITIGATING CIRCUMSTANCES?

6 A YES.

7 Q NOW, LET'S SUPPOSE THAT YOU WERE A JUROR IN THAT
8 SITUATION, THE SENTENCING PHASE, COULD YOU, DEPENDING UPON
9 THE PARTICULAR FACTS AND CIRCUMSTANCES OF THAT CASE AND THE
10 LAW AS I WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE,
11 RETURN A SENTENCE OF LIFE IN PRISON?

12 A YES.

13 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
14 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
15 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
16 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

17 A YES.

18 Q NOW, MS. MILNE, IF YOU ARE CHOSEN TO SERVE AS A JUROR
19 IN THIS CASE, YOU WOULD BE HOUSED OR SEQUESTERED IN A MOTEL
20 FOR THE DURATION OF THE TRIAL. I DON'T KNOW HOW LONG THAT
21 WILL BE. IT COULD BE ANYWHERE FROM A WEEK TO TEN DAYS. IT
22 COULD BE LESS THAN THAT EVEN, BUT I'D GIVE YOU THE WEEK TO
23 TEN DAYS AS KIND OF AN OUTSIDE FIGURE. EXCEPT FOR THE
24 PERSONAL INCONVENIENCE, WOULD THIS POSE A SERIOUS DANGER TO
25 THE HEALTH OR WELL-BEING OF YOURSELF OR OF THOSE DEPENDENT

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1 UPON YOU?

2 A IT COULD.

3 Q TELL ME A LITTLE BIT ABOUT THAT. PLEASE.

4 A I WOULD HAVE TO DO A LOT OF THINGS TO TAKE CARE OF MY
5 CHILDREN. MY SCHEDULE IS VERY HECTIC. I'M A STAY-AT-HOME
6 MOM, BUT I'M NEVER AT HOME.

7 Q UH-HUH.

8 A THEIR SCHEDULES ARE REAL HECTIC. I'M INVOLVED IN
9 THEIR SCHOOL. I JUST HAVE A LOT OF THINGS COMING UP. I --
10 WELL, YOU'RE PROBABLY CONSIDERING THAT JUST EVERYBODY'S
11 SCHEDULE IS HECTIC.

12 THE COURT: YES, MA'AM.

13 ONE THING THAT I WOULD TELL YOU IS THAT A JURY
14 WOULD NOT BE SELECTED IMMEDIATELY. AND IF YOU WERE GIVEN A
15 DAY OR SO TO ARRANGE THESE EVENTS, WOULD THAT GIVE YOU SOME
16 HELP IN THAT REGARD?

17 A OR SO.

18 Q OKAY. ALL RIGHT. I'M GOING TO ALLOW MR. STONE TO
19 ASK YOU SOME QUESTIONS AND THEN EITHER MR. HUMPHRIES OR MR.
20 CHASE.

21 MR. STONE: THANK YOU, YOUR HONOR.

22 EXAMINATION

23 BY MR. STONE:

24 Q IS IT MS. MILNE?

25 A MILNE.

1 Q MILNE?

2 A MILNE.

3 Q MILNE. I'M SORRY. MY NAME IS DUFFIE AND NOBODY GETS
4 THAT RIGHT EITHER, OKAY. THIS IS BETH FULLWOOD. SHE IS
5 CO-COUNSEL. WE ARE BOTH REPRESENTING GARY TERRY AND I
6 THINK WE WERE BRIEFLY INTRODUCED A LITTLE BIT, BUT I JUST
7 WANTED TO MAKE SURE YOU UNDERSTOOD THAT.

8 WE'VE GOT YOUR QUESTIONNAIRE SO I'M NOT GOING TO
9 GO THROUGH THAT AGAIN. BUT I DID WANT TO ASK YOU A COUPLE
10 OF QUESTIONS THAT THIS BROUGHT UP JUST TO MAKE SURE I
11 UNDERSTAND.

12 ARE YOU CURRENTLY -- WHERE -- ARE YOU CURRENTLY
13 TEACHING?

14 A NO, I'M NOT.

15 Q OKAY. WHEN WAS THE LAST TIME YOU WERE A TEACHER?

16 A IN SAN ANTONIO, TEXAS IN 1983.

17 Q SO YOU WERE NOT A TEACHER AT -- IS IT THE BEN LIPPEN
18 SCHOOL?

19 A NO, I JUST DO A LOT OF WORK THERE. IT'S VOLUNTEER
20 WORK.

21 Q OH, I SEE. OKAY. WHERE -- WHERE IS THAT SCHOOL?

22 A ON MONTICELLO ROAD OFF I-20 AT THE COLUMBIA
23 INTERNATIONAL UNIVERSITY CAMPUS.

24 Q I SEE.

25 A IT'S A CHRISTIAN PRIVATE SCHOOL.

0402

- 1 Q OKAY. THAT'S -- THAT'S WHAT I WAS GOING TO GET AT.
2 IT'S A CHRISTIAN PRIVATE SCHOOL. DO YOU DO -- YOU DON'T DO
3 ANY TEACHING, YOU JUST DO VOLUNTEER WORK THERE?
4 A RIGHT.
5 Q I ALSO NOTICED THAT YOU HAVE SERVED ON A CRIMINAL
6 CASE BEFORE, IS THAT RIGHT?
7 A YES, I HAVE.
8 Q OKAY. WAS THAT A DEATH PENALTY CASE?
9 A YES, IT WAS.
10 Q THE -- SO YOU UNDERSTAND A LITTLE BIT ABOUT HOW THAT
11 HAPPENS -- HOW EVERYTHING WORKS?
12 A TOO MUCH, UH-HUH.
13 Q TOO MUCH?
14 A UH-HUH.
15 Q DID YOU GET AWAY FROM THAT THINKING A PARTICULAR WAY
16 ABOUT THE CRIMINAL JUSTICE SYSTEM OR ANYTHING?
17 A NO.
18 Q OKAY. DID THAT GO TO A PENALTY PHASE?
19 A IT DID.
20 Q IT DID?
21 A UH-HUH.
22 Q OKAY. AND DO YOU REMEMBER WHAT THAT VERDICT WAS?
23 A ABSOLUTELY. IT WAS THE DEATH PENALTY.
24 Q SO YOU UNDERSTAND A LITTLE BIT ABOUT THE PROCESS WE
25 HAVE HERE?

1 A UH-HUH.

2 Q THE JUDGE ASKED YOU EARLIER IF -- AND HE LISTED SOME
3 AGGRAVATING CIRCUMSTANCES AND SOME MITIGATING AND NOW I'VE
4 GOT AN IDEA -- WAS THAT IN SOUTH CAROLINA?

5 A NO, IT WAS TEXAS.

6 Q THAT WAS IN TEXAS?

7 A UH-HUH.

8 Q OKAY. WAS THAT SYSTEM PRETTY SIMILAR TO WHAT WE HAVE
9 GOT HERE?

10 A YEAH, SO FAR, UH-HUH.

11 Q ALL RIGHT. WHAT YOU'VE LEARNED OF IT SO FAR?

12 A UH-HUH.

13 Q IN A CRIMINAL CASE AND IN THIS -- IN SOUTH CAROLINA
14 THE WAY WE'VE GOT THIS, THE JUDGE TOLD YOU EARLIER THAT THE
15 FIRST THING YOU MAY HAVE TO DO WOULD BE DETERMINE GUILT?

16 A RIGHT.

17 Q AND AT THE END OF THAT, THEN THERE MAY BE ANOTHER
18 CASE WHERE YOU DETERMINE SENTENCE, EITHER LIFE OR DEATH.

19 DO YOU UNDERSTAND THAT?

20 A YES.

21 Q IS THAT PRETTY MUCH THE SAME AS YOU HAD BEFORE?

22 A UH-HUH.

23 Q OKAY. IF IN SOUTH CAROLINA AND IT MAY BE DIFFERENT
24 IN TEXAS, IN SOUTH CAROLINA, IF YOU HAVE FOUND GUILT AND
25 YOU'RE GOING INTO A SENTENCING PHASE, THEN YOU WILL HAVE

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- 1 FOUND SOMEBODY GUILTY OF MURDER---
- 2 A RIGHT.
- 3 Q ---FIRST OF ALL. NOT -- NOT ANY KIND OF ACCIDENTAL
- 4 MURDER OR NOT ANY KIND OF VOLUNTARY MURDER -- INVOLUNTARY
- 5 MURDER OR SOME KIND OF HEAT OF PASSION OR ANYTHING LIKE
- 6 THAT. YOU UNDERSTAND THAT?
- 7 A YES.
- 8 Q OKAY. AND THEN YOU'VE ALSO FOUND SOMETHING ELSE.
- 9 YOU ALSO FOUND A RAPE OR A BURGLARY, YOU FOUND BOTH OF
- 10 THOSE. YOU UNDERSTAND THAT?
- 11 A YES.
- 12 Q OKAY. IN A SITUATION LIKE THAT, CAN YOU THEN GO TO A
- 13 SENTENCING PHASE, HAVING ALREADY DECIDED SOMEBODY WAS
- 14 GUILTY OF MURDER AND EITHER RAPE OR BURGLARY OR BOTH, CAN
- 15 YOU THEN GO TO A SENTENCING PHASE AND CONSIDER GIVING
- 16 SOMEONE LIFE?
- 17 A I GUESS SO. THE EVIDENCE WOULD HAVE TO PRESENT
- 18 ITSELF.
- 19 Q OKAY. AND THAT'S THE CONFUSING PART ABOUT IT FOR ME
- 20 AND I WANT TO MAKE SURE THAT I'M CLEAR ON THAT. THE
- 21 EVIDENCE FROM THE STANDPOINT OF GUILT OR INNOCENCE HAS
- 22 ALREADY BEEN DECIDED. YOU UNDERSTAND THAT?
- 23 A YES.
- 24 Q AND THEN THIS IS JUST EITHER AGGRAVATING OR
- 25 MITIGATING CIRCUMSTANCES?

1 A UH-HUH.

2 Q OKAY. SO YOU UNDERSTAND THAT IN THAT SECOND PHASE,
3 YOU COULD VERY WELL DETERMINE LIFE OR DEATH?

4 A RIGHT.

5 Q ALL RIGHT. DO YOU ALSO UNDERSTAND AND THIS MAY BE
6 SOMETHING THAT'S THE SAME. DO YOU ALSO UNDERSTAND THAT IN
7 THIS FIRST PHASE, THE GUILT PHASE, THAT YOU STILL HAVE TO
8 DETERMINE WHETHER OR NOT SOMEBODY'S GUILTY OF MURDER IN
9 ORDER TO GET TO THE SENTENCING PHASE?

10 A RIGHT.

11 Q IN OTHER WORDS, IF YOU FIND HIM NOT GUILTY OF MURDER
12 OR SOMETHING OTHER THAN THAT, YOU DON'T GET TO THE SENTENCE
13 PHASE. YOU UNDERSTAND THAT?

14 A RIGHT.

15 Q OKAY.

16 A I THINK HERE THE JUDGE CALLED IT THE GUILT PHASE. I
17 WAS USED TO CALLING IT THE GUILT-INNOCENCE PHASE BECAUSE---

18 Q OH, I SEE.

19 A ---THAT'S JUST HOW THEY DID IT.

20 Q OKAY. THAT WAS JUST THE DIFFERENCE?

21 A UH-HUH.

22 Q OKAY. EXCUSE ME JUST A MOMENT, YOUR HONOR. EXCUSE
23 ME JUST A MOMENT.

24 THE COURT: YES, SIR.

25 MR. STONE: MS. MILNE, THANK YOU, MA'AM. I

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1 APPRECIATE YOU ANSWERING MY QUESTIONS.

THE JUROR: YOU ARE WELCOME.

3 THE COURT: MR. HUMPHRIES.

4 MR. HUMPHRIES: JUST BRIEFLY.

5 EXAMINATION

6 BY MR. HUMPHRIES:

7 Q I'M FRAN HUMPHRIES. I'M THE DEPUTY SOLICITOR HERE IN
8 LEXINGTON.

9 IN TEXAS WHEN YOU RENDERED THAT DEATH VERDICT,
10 DID YOU HAVE TO SIGN YOUR NAME TO THAT FORM OR DID JUST THE
11 FOREMAN SIGN HIS NAME OR HER NAME? DO YOU RECALL?

12 A I DO NOT RECALL. WE -- WE SIGNED A LOT OF DIFFERENT
13 THINGS. THE TRIAL WENT ELEVEN DAYS. I CAN'T REMEMBER IF I
14 ACTUALLY SIGNED THAT.

15 Q WELL, LET ME ASK YOU THIS WAY.

16 IN SOUTH CAROLINA -- WE ARE ASSUMING A LOT OF
17 THINGS, BUT LET'S ASSUME THAT WE HAVE REACHED THE SECOND
18 PHASE AND THAT YOU AND THE OTHER ELEVEN JURORS HAVE DECIDED
19 THAT DEATH IS THE APPROPRIATE VERDICT---

20 A UH-HUH.

21 Q ---WOULD THE SIMPLE MINISTERIAL DUTY OF SIGNING YOUR
22 NAME TO INDICATE YOUR VOTE ON THAT DEATH VERDICT PROHIBIT
23 YOU FROM FULLY CONSIDERING THE DEATH VERDICT IN THIS CASE?

24 A NO.

25 Q YOU COULD INDICATE YOUR VOTE BY SIGNING YOUR NAME?

1 A YES.

2 Q THANK YOU.

3 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

4 MR. STONE: NO, SIR.

5 THE COURT: FROM THE STATE?

6 MR. CHASE: NO, SIR.

7 THE COURT: MS. MILNE, I WANT TO THANK YOU VERY
8 MUCH FOR YOUR PARTICIPATION HERE TODAY AND I FIND THAT YOU
9 ARE QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS CASE.

10 WITH THAT QUALIFICATION, SEVERAL THINGS THAT I'M
11 GOING TO TELL YOU.

12 NUMBER ONE, I'M GOING TO CONTINUE THE INSTRUCTION
13 THAT YOU ARE NOT TO DISCUSS THIS CASE WITH YOUR FAMILY,
14 FRIENDS OR FELLOW JURORS OR ANYONE ELSE; AND ALSO, IF
15 ANYONE SHOULD ATTEMPT TO CONTACT YOU CONCERNING THIS CASE
16 WHILE YOU ARE AWAY FROM THE COURT HOUSE, THAT YOU SHOULD
17 GATHER AS MUCH INFORMATION ABOUT THAT PERSON AND REPORT
18 THAT TO ME IMMEDIATELY BECAUSE THAT'S A VERY SERIOUS MATTER
19 AND I WOULD DEAL WITH THAT INDIVIDUAL OR INDIVIDUALS
20 ACCORDINGLY.

21 ALSO, I'M GOING TO, ONCE AGAIN, ASK THAT YOU AND
22 INSTRUCT YOU THAT YOU ARE TO REFRAIN FROM READING, WATCHING
23 OR LISTENING TO ANY NEWS ACCOUNTS CONCERNING THIS CASE.

24 SIMPLY PUT, IF YOU WERE SELECTED AS A JUROR IN
25 THIS CASE, THE ONLY THING THAT I WOULD WANT YOU TO CONSIDER

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1 IS WHAT YOU SEE AND HEAR IN THIS COURTROOM---

2 THE JUROR: UH-HUH.

3 THE COURT: ---NOTHING MORE OR NOTHING LESS. I
4 UNDERSTAND THAT YOU HAVE SOME THINGS THAT YOU NEED TO
5 ATTEND TO AND I CAN APPRECIATE THAT SEEING THE AGES OF YOUR
6 CHILDREN. I'M GOING TO ASK THAT YOU BE -- REPORT BACK HERE
7 ON WEDNESDAY MORNING AT NINE-THIRTY WITH YOUR BAGS PACKED
8 AND IN THE EVENT THAT YOU ARE CHOSEN TO PARTICIPATE IN THIS
9 CASE, BE PREPARED TO STAY WITH US FOR THE DURATION OF THE
10 TRIAL.

11 NOW, WHEN YOU COME BACK, DO NOT BRING YOUR BAGS
12 INTO THE COURTROOM WITH YOU BECAUSE IF YOU ARE NOT SELECTED
13 TO SERVE AS A JUROR IN THIS CASE, THEN YOU WOULD BE SENT
14 HOME WITH OUR THANKS FOR PARTICIPATING IN OUR PROCESS AND
15 GO ON ABOUT YOUR DAILY ACTIVITIES BECAUSE I KNOW YOU DO
16 HAVE A VERY BUSY SCHEDULE. BUT IN THE EVENT THAT YOU ARE
17 SELECTED, THEN YOU WOULD REMAIN WITH US AND YOU WOULD BE
18 HOUSED IN A MOTEL FOR THE DURATION OF THE TRIAL.

19 SO WITH THAT, I'M GOING TO SEND YOU AWAY---

20 THE JUROR: MY BAGS ARE PACKED FOR HOW LONG?

21 THE COURT: I'M SORRY?

22 THE JUROR: MY BAGS ARE PACKED FOR HOW LONG?

23 THE COURT: I'D WOULD SAY A WEEK, OUTSIDE TEN
24 DAYS. AND I'LL SEE YOU WEDNESDAY MORNING AT NINE-THIRTY---

25 THE JUROR: NINE-THIRTY IN HERE?

1 THE COURT: YES, MA'AM. IF YOU WOULD PLEASE
2 REPORT BACK TO THE COURTROOM AT THAT TIME.

3 THE JUROR: ALL RIGHT.

4 THE COURT: THANK YOU VERY MUCH. APPRECIATE YOUR
5 BEING HERE.

6 (WHEREUPON, THE JUROR WAS EXCUSED
7 AT THIS TIME.)

8 THE COURT: ALL RIGHT. LET THE RECORD REFLECT
9 THAT JUROR NUMBER 164, TERESA MILNE, IS QUALIFIED PURSUANT
10 TO SECTION 16-320 OF THE CODE OF LAWS OF THE STATE OF SOUTH
11 CAROLINA, 1976 AS AMENDED, TO SERVE AS A POTENTIAL JUROR IN
12 THIS CASE.

13 JEFFERY W. SHAW,

14 (JUROR NUMBER 202, WHITE MALE,
15 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

16 EXAMINATION

17 BY THE COURT:

18 Q YOU ARE MR. JEFFREY WILSON SHAW, IS THAT CORRECT?

19 A THAT'S CORRECT.

20 Q MR. SHAW, YOU ARE AWARE THAT YOU ARE SWORN FOR THESE
21 PROCEEDINGS?

22 A YES, SIR.

23 Q AND I ALSO GAVE YOU SOME INSTRUCTIONS BEFORE YOU LEFT
24 THE COURT HOUSE AROUND LUNCH TIME THAT YOU WERE NOT TO
25 DISCUSS THIS CASE WITH ANYONE. ALSO, IF ANYONE ATTEMPTED

1 TO CONTACT YOU, THAT YOU WERE TO REPORT THAT TO ME AND ALSO
04110 THAT YOU WERE TO REFRAIN FROM READING, WATCHING OR
3 LISTENING TO ANY NEWS ACCOUNTS CONCERNING THIS CASE. HAVE
4 THERE BEEN ANY VIOLATIONS OF THOSE INSTRUCTIONS?

5 A NO, SIR.

6 Q NOW, I'M GOING TO ASK YOU SOME QUESTIONS AND
7 THEREAFTER ONE OF THE LAWYERS FOR THE DEFENDANT AND ONE FOR
8 THE STATE WILL BE ALLOWED TO ASK YOU SOME QUESTIONS, BUT
9 KEEP IN MIND THAT WE ARE NOT IN ANY WAY ATTEMPTING TO
10 INVADE YOUR PRIVACY, BUT BECAUSE OF THE PROCEEDINGS THAT WE
11 ARE ABOUT HERE TODAY, IT'S NECESSARY THAT WE DO ASK YOU
12 CERTAIN QUESTIONS. KEEP IN MIND THAT THERE ARE NO RIGHT OR
13 WRONG ANSWERS TO THESE QUESTIONS. JUST ANSWER THEM OPENLY
14 AND HONESTLY AND FULLY AND ALSO KEEP IN MIND THAT NO ONE IS
15 CHALLENGING YOUR VIEW. WE JUST NEED TO KNOW WHAT YOUR VIEW
16 IS.

17 ALSO, I WANT YOU TO KEEP IN MIND THAT I AM GOING
18 TO -- OR THAT YOU ARE PROBABLY GOING TO BE ASKED SOME
19 QUESTIONS THAT YOU HAVE NEVER CONSIDERED BEFORE. SO PLEASE
20 KEEP THAT IN MIND ALSO AS WE GO THROUGH THIS PROCESS.

21 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
22 DISCUSSING AND TALKING ABOUT WILL BE USING THE TERM OR THE
23 WORD PENALTY.

24 NOW, THE MERE FACT THAT I EVEN MENTION THAT WORD
25 DOES NOT INDICATE ANYTHING ABOUT THE DEFENDANT, MR. TERRY.

1 HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU
2 UNDERSTAND THAT?

3 A YES, SIR.

4 Q NOW, LET'S SUPPOSE FOR A MOMENT THAT YOU WERE A JUROR
5 IN A CRIMINAL CASE. COULD YOU LISTEN TO THE LAW, ACCEPT
6 AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE JUDGE OF
7 THIS COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH THAT LAW OR
8 THINK THAT IT OUGHT TO BE SOME OTHER WAY?

9 A YES, SIR.

10 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
11 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

12 A YES, SIR.

13 Q NOW, IN A CRIMINAL CASE, MR. SHAW, THE STATE HAS THE
14 BURDEN OF PROVING A DEFENDANT'S GUILT AND THEY MUST MEET
15 THAT BURDEN OF PROOF BY PROVING THE ELEMENTS OF THE CRIME
16 BEYOND A REASONABLE DOUBT. A DEFENDANT HAS ABSOLUTELY NO
17 RESPONSIBILITY OR BURDEN TO PROVE HIMSELF INNOCENT. YOU
18 UNDERSTAND THIS?

19 A YES, SIR.

20 Q NOW, COULD YOU, DEPENDING ON THE FACTS AND EVIDENCE
21 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,
22 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

23 A YES, SIR.

24 Q NOW, YOU UNDERSTAND THAT THE CASE THAT WE ARE TALKING
25 ABOUT, A DEATH PENALTY CASE IS ONE THAT IS DIVIDED INTO TWO

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1 PARTS.

2 THE FIRST PHASE IS THE -- WHAT WE REFER TO AS THE
3 GUILT PHASE WHEREIN THE JURY MAKES A DECISION AS TO THE
4 GUILT OR INNOCENCE OF THE DEFENDANT AS TO MURDER AND ANY
5 OTHER CHARGES THAT MAY BE FILED AGAINST HIM. DO YOU
6 UNDERSTAND THAT?

7 A YES, SIR.

8 Q AND DO YOU UNDERSTAND THAT IF THE JURY FOUND A
9 DEFENDANT GUILTY OF MURDER IN THE FIRST PHASE, THAT YOU
10 WOULD THEN MOVE TO THE SECOND PHASE, THE SENTENCING PHASE,
11 OF THE TRIAL?

12 A YES, SIR.

13 Q NOW, IN THAT PHASE OF THE TRIAL, EVIDENCE WILL BE
14 PRESENTED IN THE FORM OF AGGRAVATING CIRCUMSTANCES AS WELL
15 AS MITIGATING CIRCUMSTANCES.

16 NOW, AGGRAVATING CIRCUMSTANCES ARE FACTS,
17 INCIDENTS, DETAILS OR OCCURRENCES WHICH OUR GENERAL
18 ASSEMBLY HAS DECLARED BY STATUTE WOULD MAKE WORSE; THAT IS,
19 TO AGGRAVATE THE OFFENSE OF MURDER.

20 IN OTHER WORDS, THE PRESENCE OF THE AGGRAVATING
21 CIRCUMSTANCE OR CIRCUMSTANCES INCREASES THE ENORMITY OR
22 ADDS TO THE INJURY OF MURDER.

23 NOW, WHAT WE ARE TALKING ABOUT; FOR EXAMPLE,
24 WOULD BE A MURDER WHEREIN THE OFFENSE OF CRIMINAL SEXUAL
25 CONDUCT IS ALSO COMMITTED AND OR THE OFFENSE OF BURGLARY.

1 YOU UNDERSTAND THAT?

2 A YES, SIR.

3 Q NOW MITIGATING CIRCUMSTANCES ARE INCIDENTS, DETAILS
4 OR OCCURRENCES WHICH OUR GENERAL ASSEMBLY HAS DECLARED ALSO
5 BY STATUTE REDUCES THE SEVERITY OF MURDER AND MAY BE
6 CONSIDERED AS EXTENUATING OR REDUCING THE DEGREE OF
7 RESPONSIBILITY OR MORAL CULPABILITY. AND EXAMPLES OF THAT
8 WOULD BE A MURDER COMMITTED WHILE A PERSON WAS UNDER THE
9 INFLUENCE OF MENTAL OR EMOTIONAL DISTURBANCES; A MURDER
10 THAT WAS COMMITTED WITH THE CAPACITY OF THE DEFENDANT TO
11 APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR EVEN TO
12 CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW WERE
13 SUBSTANTIALLY IMPAIRED AND ALSO CONSIDERING THE AGE OR
14 MENTALITY OF THE DEFENDANT AT THE TIME OF THE CRIME. YOU
15 UNDERSTAND THOSE EXAMPLES OF MITIGATING CIRCUMSTANCES?

16 A YES, SIR.

17 Q LET'S SUPPOSE THAT YOU WERE A JUROR IN THAT SITUATION
18 AND WE ARE TALKING ABOUT THE SECOND PART OF THE TRIAL, THE
19 SENTENCING PHASE, WHEREIN THE PERSON HAD BEEN FOUND GUILTY
20 OF MURDER IN THE FIRST PHASE. COULD YOU, DEPENDING UPON
21 THE PARTICULAR FACTS AND CIRCUMSTANCES OF THAT CASE AND THE
22 LAW AS I WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE,
23 RETURN A SENTENCE OF LIFE IN PRISON?

24 A YES, SIR.

25 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,

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1 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
2 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
3 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

4 A YES, SIR.

5 Q NOW, MR. SHAW, IF YOU WERE CHOSEN TO SERVE ON THE
6 JURY IN THIS CASE, YOU WOULD BE SEQUESTERED, MEANING THAT
7 YOU WOULD BE HOUSED IN A MOTEL FOR THE DURATION OF THE
8 TRIAL.

9 NOW, I DON'T KNOW EXACTLY HOW THAT'S GOING -- HOW
10 LONG THAT'S GOING TO BE, BUT IT COULD BE A WEEK, TEN DAYS
11 AT THE MOST. IT COULD BE LESS THAN THAT. I DON'T KNOW,
12 BUT I'LL TELL YOU WHAT IT COULD BE AT THE MOST UP-FRONT.
13 EXCEPT FOR THE PERSONAL INCONVENIENCE THAT YOU WOULD
14 SUFFER, WOULD THIS POSE A SERIOUS DANGER TO THE HEALTH OR
15 WELL-BEING OF YOURSELF OR OF THOSE DEPENDENT UPON YOU?

16 A NO, SIR.

17 Q THANK YOU VERY MUCH FOR RESPONDING TO MY QUESTIONS.
18 I'LL ALLOW YOU TO BE ASKED SOME QUESTIONS BY MS. FULLWOOD
19 AND THEN ONE OF THE SOLICITORS.

20 MS. FULLWOOD: THANK YOU, YOUR HONOR.

21 EXAMINATION

22 BY MS. FULLWOOD:

23 Q GOOD AFTERNOON.

24 A GOOD AFTERNOON.

25 Q AS JUDGE CLARY TOLD YOU, I'M BETH FULLWOOD. DUFFIE

1 STONE AND I ARE REPRESENTING GARY TERRY, THE MAN IN THE
2 WHITE SHIRT SEATED AT THE TABLE OVER THERE.

3 IT'S -- IT'S -- THIS IS DIFFERENT THAN THE USUAL
4 TYPE OF TRIAL THAT ALL OF US ARE USED TO. BECAUSE NORMALLY
5 WE DON'T HAVE A CHANCE TO ASK JURORS QUESTIONS. IT'S BEEN
6 EXPLAINED TO YOU THAT THERE MAY BE UP TO TWO TRIALS IN THIS
7 CASE. AND A LOT OF MY QUESTIONS ARE MORE ABOUT THE SECOND
8 TRIAL IF IT HAPPENS THAN THE FIRST AND I DON'T WANT YOU TO
9 READ ANYTHING INTO ASKING ABOUT THE SECOND TRIAL BECAUSE,
10 OF COURSE, WE DON'T KNOW HOW THE FIRST TRIAL WILL COME OUT.
11 THE POINT OF IT IS THIS IS THE ONLY TIME EITHER SIDE HAS TO
12 ASK YOU QUESTIONS. AND WE DON'T MEAN TO BE INTRUSIVE OR
13 RUDE, BUT WE DO JUST NEED YOUR HONEST ANSWERS BECAUSE IT'S
14 IMPORTANT TO ALL OF US TO HAVE THIS INFORMATION.

15 BEFORE YOU CAME TO COURT THIS MORNING, HAD YOU
16 EVER GIVEN MUCH CONSIDERATION TO THE DEATH PENALTY?

17 A NOT REALLY.

18 Q EVER HAVE ANY DISCUSSIONS WITH FAMILY MEMBERS OR
19 FRIENDS OR CO-WORKERS ABOUT IT?

20 A MAYBE IN PARTICULAR CASES THAT WE HEARD ABOUT ON THE
21 NEWS WE MAY HAVE SAID, WELL, WE THOUGHT IT WAS JUSTIFIED OR
22 NOT.

23 Q WHAT ARE SOME OF THE THINGS THAT YOU MAY HAVE SAID
24 ABOUT THE DEATH PENALTY IN GENERAL?

25 A WELL, BE IN DIFFERENT CONVERSATIONS, THERE HAVE BEEN

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1 TIMES WHEN WE THOUGHT IT WAS JUSTIFIED AND TIMES WHEN WE
2 THOUGHT IT WASN'T JUSTIFIED.

3 Q OKAY. AND WE BEING YOU AND YOUR FAMILY?

4 A FAMILY OR AT WORK.

5 Q JUST WHEREVER YOU HAVE DISCUSSIONS---

6 A YEAH.

7 Q ALL RIGHT. DO YOU FEEL THAT YOU HAVE COME IN HERE
8 TODAY LEANING TOWARD ONE SIDE OR THE OTHER IN PARTICULAR?

9 A NO.

10 Q ALL RIGHT. I REALIZE THAT YOU GRASPS THE IDEA THAT
11 THERE MIGHT BE TWO TRIALS. ALL RIGHT. NOW -- AND THE
12 JUDGE HAS TOLD YOU THAT WE WOULD ONLY HAVE THE SECOND TRIAL
13 IF YOU CONVICTED MR. TERRY OF MURDER AND POSSIBLY OTHER
14 CRIMES IN THE FIRST TRIAL.

15 I DEAL WITH THE LAW EVERYDAY, BUT I UNDERSTAND
16 THAT YOU DON'T. SO, I DON'T MEAN TO ASK YOU QUESTIONS THAT
17 YOU MIGHT ALREADY KNOW. I'M NOT TRYING TO BE INSULTING---

18 A THAT'S ALL RIGHT.

19 Q ---BUT DO YOU UNDERSTAND THAT WHEN WE TALK ABOUT --
20 WHEN WE TALK ABOUT IF WE HAD A SECOND TRIAL, YOU WOULD HAVE
21 CONVICTED HIM OF MURDER. MURDER MEANS KILLING SOMEBODY
22 ELSE WITH MALICE AFORETHOUGHT?

23 A YES.

24 Q OKAY. DO YOU REALIZE THAT THAT EXCLUDES THINGS LIKE
25 SELF-DEFENSE, ACCIDENT OR SOME KIND OF VEHICULAR HOMICIDE

1 OR HEAT OF PASSION?

2 A YES.

3 Q OKAY. BASICALLY, MURDER MEANS KILLING SOMEBODY ELSE
4 ON PURPOSE?

5 A RIGHT.

6 Q OUT OF MEANNESS. CAN YOU CONSIDER A LIFE SENTENCE
7 FOR SOMEONE CONVICTED OF MURDER?

8 A YES.

9 Q OKAY. AND ON THE OTHER HAND, CAN YOU CONSIDER THE
10 DEATH SENTENCE FOR SOMEBODY?

11 A YES.

12 Q ALL RIGHT. THE JUDGE TOLD YOU ABOUT HEARING EVIDENCE
13 IN AGGRAVATION AND IN MITIGATION IF WE HAD A SECOND TRIAL.

14 A YES.

15 Q YOU'RE PRETTY CLEAR ON WHAT HE MEANS BY THAT?

16 A I THINK SO.

17 Q OKAY. ARE YOU WILLING TO LISTEN TO BOTH KINDS OF
18 EVIDENCE?

19 A OH, YES.

20 Q OKAY. COULD YOU GIVE A SENTENCE OF DEATH AFTER
21 LISTENING TO AGGRAVATING AND MITIGATING EVIDENCE?

22 A YES.

23 Q CAN YOU GIVE A SENTENCE OF LIFE AFTER LISTENING TO
24 AGGRAVATING EVIDENCE AND MITIGATING EVIDENCE?

25 A YEAH, YES.

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1 Q ALL RIGHT. BEG THE COURT'S INDULGENCE.

2 THE COURT: YES, MA'AM.

3 MS. FULLWOOD: MR. SHAW, I BELIEVE THAT'S ALL THE
4 QUESTIONS THAT I HAVE FOR YOU RIGHT NOW. AGAIN, WE THANK
5 YOU FOR BEING PATIENT WITH US AND FOR SO KINDLY ANSWERING
6 THE QUESTIONS. THANK YOU, SIR.

7 THE JUROR: YOU'RE WELCOME.

8 THE COURT: MR. CHASE.

9 EXAMINATION

10 BY MR. CHASE:

11 Q HI, MR. SHAW.

12 A HEY. HOW ARE YOU DOING?

13 Q MY NAME IS TOM CHASE AND I WILL BE ASSISTING DEPUTY
14 SOLICITOR FRAN HUMPHRIES AND SOLICITOR DONNIE MYERS IN
15 TRYING HIS CASE FROM THE PROSECUTION'S STANDPOINT.

16 AND I WANT TO SAY I THINK YOU'VE BEEN VERY CLEAR
17 ABOUT YOUR ANSWERS. I JUST WANTED TO ASK YOU A COUPLE OF
18 QUESTIONS. ONE LITTLE TWIST ON ONE AND THEN JUST ASK YOU
19 ABOUT THE PROCEDURAL STEPS THAT HAVE TO BE FOLLOWED IN THE
20 CASE.

21 THE FIRST IS, ANYTHING IN YOUR PAST, WHETHER IT'S
22 YOUR RELIGION OR YOUR UPBRINGING OR SOMETHING THAT MIGHT
23 HAVE HAPPENED TO YOU ALONG THE WAY THROUGHOUT YOUR LIFE,
24 THAT WOULD PREVENT YOU FROM EITHER IMPOSING A LIFE SENTENCE
25 OR A DEATH SENTENCE UNDER THE APPROPRIATE CIRCUMSTANCES?

1 A NO.

2 Q SECOND IS, IN SOUTH CAROLINA, ASSUMING THAT WE WERE
3 TO GET FROM THE GUILT STAGE WHERE ALL TWELVE JURORS HAVE
4 FOUND THAT THE PERSON IS GUILTY OF MURDER, MOVE ON AND THEN
5 IN THAT SENTENCING PHASE, ALL TWELVE JURORS DECIDE THAT
6 DEATH IS THE APPROPRIATE SENTENCE, UNDER THE LAW OF OUR
7 STATE, BEFORE THAT SENTENCE CAN BE IMPOSED AND BEFORE THAT
8 VERDICT CAN BE IMPOSED, EACH JUROR LITERALLY HAS TO SIGN
9 HIS OR HER NAME ON THE VERDICT FORM.

10 WOULD THE MERE FACT THAT YOU HAD TO SIGN YOUR
11 NAME ON THAT VERDICT FORM IMPOSING A SENTENCE OF DEATH
12 PREVENT YOU FROM IMPOSING THAT VERDICT?

13 A NO.

14 Q THANK YOU, MR. SHAW, WE APPRECIATE YOUR TIME.

15 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

16 MS. FULLWOOD: NO, SIR.

17 THE COURT: FROM THE STATE?

18 MR. CHASE: NO, SIR.

19 THE COURT: MR. SHAW, I WANT TO THANK YOU VERY
20 MUCH FOR YOUR PARTICIPATION HERE TODAY. I FIND THAT YOU
21 ARE QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS CASE.

22 WITH THAT QUALIFICATION, COMES SOME FURTHER
23 INSTRUCTIONS. FIRST OF ALL, YOU ARE INSTRUCTED THAT YOU
24 ARE NOT TO DISCUSS THIS CASE AS YOU LEAVE THE COURT HOUSE
25 OR WHILE YOU ARE AWAY WITH YOUR FELLOW JURORS, FAMILY,

1 FRIENDS OR ANYONE ELSE.

2 ALSO, IF ANYONE SHOULD ATTEMPT TO CONTACT YOU

3 CONCERNING THIS CASE, I WANT YOU TO GATHER AS MUCH

4 INFORMATION ABOUT THAT INDIVIDUAL AS YOU POSSIBLY CAN AND

5 REPORT THAT TO ME IMMEDIATELY BECAUSE THAT'S A VERY SERIOUS
6 MATTER AND I WOULD DEAL WITH THAT INDIVIDUAL ACCORDINGLY.

7 ALSO, I'M GOING TO FURTHER INSTRUCT YOU, REMIND

8 YOU THAT YOU ARE NOT TO READ, WATCH OR LISTEN TO ANY NEWS

9 ACCOUNTS CONCERNING THIS CASE.

10 VERY SIMPLY PUT, IF YOU ARE SELECTED AS A JUROR

11 IN THIS CASE, ALL I WOULD WANT YOU TO CONSIDER IS WHAT YOU
12 SEE AND HEAR IN THE COURTROOM. NOTHING MORE AND NOTHING

13 LESS.

14 NOW, AS YOU GO AWAY THIS AFTERNOON, I'M GOING TO

15 DIRECT YOU THAT YOU ARE TO GO HOME AND START PACKING YOUR

16 BAGS BECAUSE YOU ARE GOING TO NEED TO BE BACK HERE

17 WEDNESDAY MORNING AT 9:30 A.M.

18 WHEN YOU COME BACK, PLEASE LEAVE YOUR BAGS IN

19 YOUR CAR. IF YOU ARE SELECTED AS A JUROR IN THIS CASE,

20 THEN THE JURY CUSTODIANS WOULD SEE THAT YOU AND ALL OF YOUR

21 BELONGINGS ARE PROPERLY TAKEN CARE OF TO GO TO THE MOTEL.

22 IF YOU ARE NOT SELECTED AS A JUROR IN THIS CASE,

23 THEN WE WOULD SEND YOU BACK HOME ABOUT YOUR BUSINESS WITH

24 OUR THANKS FOR PARTICIPATING IN OUR PROCESS.

25 SO WITH ALL OF THAT INSTRUCTION, YOU GO HOME AND

1 GET READY AND BE BACK HERE WEDNESDAY MORNING AT
2 NINE-THIRTY. BE HERE IN THE COURTROOM AND WE'LL PROCEED AT
3 THAT TIME. THANK YOU VERY MUCH.

4 THE JUROR: THANK YOU.

5 THE COURT: AND I'LL SEE YOU WEDNESDAY MORNING.

6 (WHEREUPON, THE JUROR WAS EXCUSED
7 AT THIS TIME..)

8 THE COURT: LET THE RECORD REFLECT THAT JUROR
9 NUMBER 202, JEFFREY SHAW, IS QUALIFIED TO SERVE AS A
10 POTENTIAL JUROR IN THIS CASE PURSUANT TO SECTION 16-320 OF
11 OUR CODE.

12 GWENDOLYN E. RICHARDSON,

13 (JUROR NUMBER 188, BLACK FEMALE,
14 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

15 EXAMINATION

16 BY THE COURT:

17 Q GOOD AFTERNOON, MS. RICHARDSON. HOW ARE YOU?

18 A I'M FINE. THANK YOU.

19 Q YOU ARE GWENDOLYN RICHARDSON?

20 A THAT'S RIGHT.

21 Q NOW, MS. RICHARDSON, YOU UNDERSTAND THAT YOU ARE
22 UNDER OATH FOR THESE PROCEEDINGS?

23 A YES.

24 Q AND I ALSO GAVE YOU CERTAIN INSTRUCTIONS BEFORE YOU
25 LEFT THE COURT HOUSE AROUND LUNCH TIME THAT YOU WERE NOT TO

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1 DISCUSS THIS CASE WITH YOUR FELLOW JURORS, WITH YOUR FAMILY
2 AND FRIENDS OR ANYONE ELSE AND THAT IF ANYONE ATTEMPTED TO
3 CONTACT YOU CONCERNING THIS CASE, THAT YOU WERE TO REPORT
4 THAT TO ME AND ALSO THAT YOU WERE TO REFRAIN FROM READING,
5 WATCHING OR LISTENING TO ANY NEWS ACCOUNTS CONCERNING THIS
6 CASE. HAVE ANY OF THOSE INSTRUCTIONS BEEN VIOLATED?

7 A NO, SIR.

8 Q NOW, I'M GOING TO BE ASKING YOU SOME QUESTIONS AND
9 THEN THE LAWYERS FROM EACH SIDE WILL BE ALLOWED TO ASK YOU
10 SOME QUESTIONS. PLEASE KEEP IN MIND THAT WE ARE NOT IN ANY
11 WAY ATTEMPTING TO INVADE YOUR PRIVACY, BUT IT'S NECESSARY
12 DUE TO THE NATURE OF THE PROCEEDINGS THAT WE ARE ABOUT THIS
13 WEEK THAT WE DO ASK CERTAIN QUESTIONS.

14 ALSO, KEEP IN MIND THAT THERE ARE NO RIGHT OR
15 WRONG ANSWERS TO THE QUESTIONS THAT YOU ARE GOING TO BE
16 POSED. PLEASE ANSWER THESE QUESTIONS OPENLY AND HONESTLY
17 AND FULLY. AND ALSO KEEP IN MIND THAT NO ONE IS
18 CHALLENGING YOUR VIEW. IT'S JUST THAT WE NEED TO KNOW WHAT
19 YOUR VIEW IS.

20 NOW, YOU'RE PROBABLY GOING TO BE ASKED SOME
21 QUESTIONS THAT YOU HAVE NEVER CONSIDERED BEFORE COMING TO
22 COURT HERE TODAY SO PLEASE KEEP THAT IN MIND AS WE GO
23 THROUGH THE PROCESS.

24 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
25 TALKING ABOUT OVER THE NEXT FEW MINUTES WILL BE THE WORD

1 PENALTY, BUT THE MERE FACT THAT I EVEN MENTION THAT WORD
2 DOES NOT IN ANY WAY INDICATE ANYTHING ABOUT THE DEFENDANT,
3 MR. TERRY. HE IS PRESUMED IN THE LAW TO BE INNOCENT. YOU
4 UNDERSTAND THAT?

5 A YES, SIR, I DO.

6 Q NOW, LET'S SUPPOSE FOR A FEW MOMENTS THAT YOU WERE A
7 JUROR IN A CRIMINAL CASE. COULD YOU LISTEN TO THE LAW,
8 ACCEPT AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE
9 JUDGE OF THIS COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH
10 THAT LAW OR THINK THAT IT OUGHT TO BE SOME OTHER WAY?

11 A YES, I COULD.

12 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
13 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

14 A YES.

15 Q NOW, IN A CRIMINAL CASE, MS. RICHARDSON, THE STATE OF
16 SOUTH CAROLINA HAS THE BURDEN OF PROVING A DEFENDANT'S
17 GUILT. THE BURDEN OF PROOF THE STATE MUST MEET IS TO PROVE
18 THE ELEMENTS OF THE CRIME BEYOND A REASONABLE DOUBT. A
19 DEFENDANT HAS ABSOLUTELY NO BURDEN OR RESPONSIBILITY TO
20 PROVE HIMSELF INNOCENT. YOU UNDERSTAND THAT?

21 A YES, I DO.

22 Q NOW, COULD YOU, DEPENDING UPON THE FACTS AND THE
23 EVIDENCE AND THE LAW AS I WOULD INSTRUCT YOU IN A
24 PARTICULAR CASE, FIND A DEFENDANT EITHER GUILTY OR NOT
25 GUILTY?

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1 A YES.

2 Q NOW, YOU UNDERSTAND THAT THE CASE THAT WE ARE TALKING
3 ABOUT THIS WEEK IS ONE IN WHICH THE STATE SEEKS THE DEATH
4 PENALTY AND YOU UNDERSTAND THAT THOSE CASES ARE DIVIDED
5 INTO TWO PARTS.

6 THE FIRST PART IS WHAT WE CALL THE GUILT PHASE.
7 THE SECOND PART IS THE SENTENCING PHASE.

8 AND IN THE FIRST PART, THE JURY IS STRICTLY TO
9 DETERMINE THE GUILT OR THE INNOCENCE OF THE DEFENDANT AS TO
10 THE CHARGE OF MURDER OR ANY OTHER CHARGES WHICH MAY BE
11 LODGED AGAINST HIM. YOU UNDERSTAND THAT?

12 A YES, SIR.

13 Q AND YOU UNDERSTAND THAT IF A DEFENDANT WERE FOUND NOT
14 GUILTY IN THAT FIRST PHASE, THAT THERE WOULD BE NO SECOND
15 PHASE. HOWEVER; IF THE JURY FOUND THE DEFENDANT GUILTY IN
16 THE FIRST PHASE OF MURDER, YOU UNDERSTAND THAT YOU WOULD
17 THEN PROCEED INTO THAT SECOND PHASE OR THE SENTENCING
18 PHASE?

19 A YES.

20 Q NOW, LET'S ASSUME FOR A FEW MOMENTS THAT YOU WERE A
21 JUROR IN SUCH A CASE AND IF THE JURY HAD FOUND THE
22 DEFENDANT GUILTY OF MURDER AND YOU WOULD THEN MOVE INTO THE
23 SECOND PHASE, THE SENTENCING PHASE, THAT THERE WOULD BE TWO
24 TYPES OF EVIDENCE OR SEVERAL TYPES OF EVIDENCE THAT WOULD
25 BE INTRODUCED. ONE IN THE FORM OF AGGRAVATING

1 CIRCUMSTANCES AND ANOTHER IN THE FORM OF MITIGATING
2 CIRCUMSTANCES.

3 NOW, AGGRAVATING CIRCUMSTANCES ARE INCIDENTS,
4 DETAILS OR OCCURRENCES WHICH OUR GENERAL ASSEMBLY HAVE
5 ENACTED IN THE LAW AND DECLARED BY STATUTE THAT MAKE WORSE;
6 THAT IS, TO AGGRAVATE THE OFFENSE OF MURDER.

7 IN OTHER WORDS, THE PRESENCE OF THAT AGGRAVATING
8 CIRCUMSTANCE INCREASES OR ADDS TO THE INJURY OF THE MURDER.

9 NOW, FOR EXAMPLE, WHEN I'M TALKING ABOUT AN
10 AGGRAVATING CIRCUMSTANCE, IT WOULD BE A MURDER THAT WAS
11 COMMITTED IN CONJUNCTION WITH A CRIMINAL SEXUAL CONDUCT AND
12 OR A MURDER COMMITTED IN CONJUNCTION WITH THE CRIME OF
13 BURGLARY. THOSE ARE JUST EXAMPLES THAT I WOULD GIVE YOU.

14 NOW, MITIGATING CIRCUMSTANCES, ON THE OTHER HAND,
15 ARE INCIDENTS, DETAILS OR OCCURRENCES WHICH OUR GENERAL
16 ASSEMBLY HAS DECLARED BY STATUTE REDUCES THE SEVERITY OF
17 THE OFFENSE OF MURDER AND THAT THEY MAY BE CONSIDERED AS
18 EXTENUATING OR AS REDUCING THE DEGREE OF RESPONSIBILITY OR
19 MORAL CULPABILITY OF THE DEFENDANT.

20 AND EXAMPLES OF THAT WOULD BE A MURDER COMMITTED
21 WHILE THE PERSON WAS UNDER THE INFLUENCE OF A MENTAL OR
22 EMOTIONAL DISTURBANCE; A MURDER WHEREIN THE CAPACITY OF THE
23 DEFENDANT TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR
24 TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW WERE
25 SUBSTANTIALLY IMPAIRED OR A MURDER COMMITTED WHERE THE AGE

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1 OR MENTALITY OR -- CONSIDERING THE AGE OR MENTALITY OF THE
2 DEFENDANT AT THE TIME OF THE CRIME. YOU UNDERSTAND THOSE
3 EXAMPLES?

4 A YES.

5 Q NOW, LET'S ASSUME THAT YOU WERE A JUROR IN THAT
6 SITUATION. WE ARE TALKING ABOUT THAT SECOND PHASE, THE
7 SENTENCING PHASE, COULD YOU, DEPENDING UPON THE PARTICULAR
8 FACTS AND CIRCUMSTANCES OF THAT CASE AND THE LAW THAT I
9 WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE, RETURN A
10 SENTENCE OF LIFE IN PRISON?

11 A YES.

12 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
13 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
14 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
15 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

16 A YES.

17 Q NOW, MS. RICHARDSON, IF YOU ARE CHOSEN TO SERVE ON
18 THIS JURY, YOU WOULD BE SEQUESTERED, MEANING THAT WE WOULD
19 HOUSE YOU IN A MOTEL FOR THE DURATION OF THE TRIAL. I
20 DON'T KNOW EXACTLY HOW LONG THAT'S GOING TO LAST. IT COULD
21 BE ANYWHERE FROM A WEEK TO TEN DAYS AT THE OUTSIDE. IT
22 COULD BE LESS THAN THAT, BUT I HAVE NO WAY OF KNOWING.
23 EXCEPT FOR THE PERSONAL INCONVENIENCE THAT YOU WOULD
24 SUFFER, WOULD THIS POSE A SERIOUS DANGER TO THE HEALTH OR
25 WELL-BEING OF YOURSELF OR OF THOSE DEPENDENT UPON YOU?

1 A NO, SIR.

2 Q THANK YOU FOR RESPONDING TO MY QUESTIONS. I'M GOING
3 TO ASK THAT YOU ANSWER ANY QUESTIONS THAT MR. STONE MIGHT
4 POSE TO YOU AT THIS TIME.

5 MR. STONE: THANK YOU, YOUR HONOR.

6 EXAMINATION

7 BY MR. STONE:

8 Q HEY, MS. RICHARDSON. MY NAME IS DUFFIE STONE. I,
9 ALONG WITH MS. FULLWOOD OVER HERE, ARE REPRESENTING GARY
10 TERRY.

11 I'M JUST GOING TO ASK YOU A FEW QUESTIONS. I'VE
12 ALREADY READ YOUR -- THAT FORM THAT YOU SENT IN SO I'VE GOT
13 A PRETTY GOOD IDEA. YOU'VE GOT A MASTERS DEGREE IN
14 NURSING, IS THAT RIGHT?

15 A THAT'S RIGHT.

16 Q YOUR HUSBAND WORKS AS -- IS IT SECURITY?

17 A UH-HUH.

18 Q OKAY. AND HE HAS GOT AN ASSOCIATE DEGREE IN WHAT?

19 A UH -- IT'S IN -- I THINK IT'S SOCIAL -- SOMETHING
20 RELATED TO SOCIAL. HE TOLD ME.

21 Q ALL RIGHT. I ALSO NOTICED ON THERE THAT YOU HAVE
22 SERVED ON A CRIMINAL CASE BEFORE, IS THAT RIGHT?

23 A UH-HUH.

24 Q WAS THAT A DEATH PENALTY CASE AS WELL?

25 A NO.

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- 1 Q OKAY. WHAT KIND OF COURT WAS THAT IN?
- 2 A OH, GOSH! IT'S BEEN A GOOD MANY YEARS. I DON'T
- 3 REMEMBER.
- 4 Q WAS IT HERE IN SOUTH CAROLINA?
- 5 A YEAH, IT WAS IN RICHLAND COUNTY.
- 6 Q IT WAS IN RICHLAND COUNTY?
- 7 A UH-HUH.
- 8 Q A LITTLE BIT DIFFERENT ABOUT THIS. AND YOU PROBABLY
- 9 DIDN'T HAVE ANY QUESTIONS ASKED OF YOU AT ALL WHEN YOU DID
- 10 THAT, DID YOU?
- 11 A I DON'T REMEMBER. IT'S BEEN MORE THAN TEN YEARS,
- 12 MAYBE FIFTEEN YEARS.
- 13 Q THIS IS A LITTLE BIT DIFFERENT IN THAT WE GET TO ASK
- 14 YOU QUESTIONS TRYING TO FIND STUFF OUT, BUT WE ALSO MAY BE
- 15 ASKING YOU QUESTIONS ABOUT SOMETHING THAT MAY NEVER HAPPEN.
- 16 IN OTHER WORDS, THE SENTENCING PHASE. WE NEED TO
- 17 ASK YOU QUESTIONS ABOUT WHAT YOU WOULD DO IN A PARTICULAR
- 18 SENTENCING THAT MAY NEVER TAKE PLACE BECAUSE IF YOU, ON THE
- 19 JURY, AND ELEVEN OTHER PEOPLE FIND MR. TERRY NOT GUILTY,
- 20 THEN THERE IS NO SENTENCING PHASE OF THE TRIAL. DO YOU
- 21 UNDERSTAND THAT?
- 22 A YES.
- 23 Q OKAY. WHAT I'M GOING TO DO -- LET ME JUST ASK YOU
- 24 BRIEFLY ABOUT THE SENTENCING PHASE AND I THINK THE JUDGE
- 25 COVERED THE GUILT PHASE PRETTY WELL.

1 IN A DEATH PENALTY CASE, IF YOU GET TO A
2 SENTENCING PHASE, THAT MEANS YOU AND ELEVEN OTHER PEOPLE ON
3 THE JURY HAVE FOUND SOMEBODY GUILTY OF MURDER. OKAY. NOT
4 GUILTY OF SELF-DEFENSE. THERE'S NO SELF-DEFENSE IN THERE.
5 THERE'S NO RECKLESS HOMICIDE. THERE'S NO ACCIDENTAL
6 KILLING, ANYTHING LIKE THAT. IT'S A MURDER.

7 A OKAY.

8 Q PLUS A JURY HAS ALSO FOUND SOMEBODY GUILTY OF NOT
9 ONLY OF MURDER, BUT OF RAPE OR -- AND OR BURGLARY. DO YOU
10 UNDERSTAND THAT?

11 A (WHEREUPON, THE WITNESS NODS IN THE AFFIRMATIVE AT
12 THIS TIME.)

13 Q TAKING THAT INTO CONSIDERATION, IF YOU HAVE SAT ON A
14 JURY AND YOU ALONG WITH ELEVEN OTHER PEOPLE HAVE DETERMINED
15 THAT SOMEBODY WAS GUILTY OF MURDER AND RAPE AND EVEN -- AND
16 EVEN BURGLARY, CAN YOU STILL CONSIDER MITIGATION AND CAN
17 YOU STILL CONSIDER SOMEBODY ELIGIBLE FOR A LIFE SENTENCE IN
18 THAT CASE?

19 A YES.

20 Q AND LIKEWISE, CAN YOU CONSIDER SOMEBODY IN THAT
21 SITUATION ELIGIBLE FOR THE DEATH PENALTY?

22 A YES.

23 Q NOW, IN SOUTH CAROLINA, WHEN YOU FIND SOMEBODY AND
24 YOU RECOMMEND -- YOU FIND SOMEBODY GUILTY AND YOU RECOMMEND
25 THE DEATH SENTENCE, IN SOUTH CAROLINA, THE JUDGE IS GOING

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1 TO ASK YOU TO SIGN YOUR NAME TO A PIECE OF PAPER THAT SAYS
2 THAT. DOES THAT GIVE YOU ANY PROBLEMS?

3 A NO.

4 Q SO, WHATEVER YOUR DECISION IS, YOU'RE COMFORTABLE
5 WITH WHETHER YOU WRITE IT DOWN OR NOT BASICALLY?

6 A THAT'S RIGHT.

7 Q HAVE YOU HAD MUCH DISCUSSION WHETHER IT WOULD BE WITH
8 YOUR HUSBAND OR ANY KIND OF -- ANYTHING ELSE ABOUT THE
9 DEATH PENALTY AND YOUR OPINIONS ON IT?

10 A UH -- I'VE -- WE'VE DISCUSSED IT FROM TIME TO TIME.

11 Q OKAY.

12 A YEAH, WE'VE DISCUSSED IT.

13 Q WHAT ARE YOUR FEELINGS CONCERNING THIS?

14 A WELL, I THINK IT'S -- I THINK THAT IT'S, YOU KNOW,
15 BASED ON -- WHEN I THINK ABOUT THE DEATH PENALTY, I THINK
16 ABOUT, YOU KNOW, LOOKING AT THE EVIDENCE THAT'S PRESENTED
17 AND YOU KNOW IF THERE IS ENOUGH EVIDENCE THERE, YOU KNOW, I
18 MEAN I COULD AGREE WITH THE DEATH PENALTY.

19 ON THE OTHER HAND, YOU KNOW, IF THE EVIDENCE, YOU
20 KNOW, SUPPORTS THE OTHER DIRECTION, I THINK THAT, YOU KNOW,
21 THAT A LIFE SENTENCE.

22 Q OKAY. YOU UNDERSTAND IN SOUTH CAROLINA THE WAY THEY
23 DO THIS IS THAT YOU HAVE ALREADY DETERMINED THE EVIDENCE
24 FROM THE STANDPOINT OF GUILT OR INNOCENCE. IT'S JUST --
25 YOU MAY GET SOME MORE EVIDENCE, BUT IT'S NOT GOING TO BE

1 GUILT OR INNOCENCE. YOU UNDERSTAND THAT?

2 A YES.

3 Q OKAY. I JUST WANTED TO MAKE SURE WE'RE ON THE SAME
4 PAGE.

5 A OKAY.

6 Q AND THAT EVIDENCE IS WHAT YOU'RE TALKING ABOUT WHEN
7 YOU TRY TO DECIDE?

8 A YES.

9 Q SO IN YOUR OPINION, SOME CASES ARE APPROPRIATE, SOME
10 CASES AREN'T?

11 A YES.

12 Q DEPENDING ON WHAT YOU HEAR?

13 A EXACTLY.

14 Q THANK YOU, MA'AM. I APPRECIATE IT.

15 A UH-HUH.

16 EXAMINATION

17 BY MR. HUMPHRIES:

18 Q MS. RICHARDSON, I'M FRAN HUMPHRIES. I'M THE DEPUTY
19 SOLICITOR. I, ALONG WITH TOM CHASE, WHO IS SEATED HERE,
20 WILL BE TRYING THE CASE WITH SOLICITOR MYERS FOR THE STATE.
21 AND I'M ONLY GOING TO ASK YOU A COUPLE OF QUESTIONS.

22 OF COURSE, MR. STONE HAS ALREADY TOLD YOU THAT IN
23 SOUTH CAROLINA IF -- ASSUMING YOU ARE SITTING ON THIS JURY
24 AND ASSUMING THAT YOU AND THE OTHER ELEVEN MEMBERS OF THE
25 JURY RETURN A VERDICT OF GUILTY WHEN YOU GO INTO THAT

0432

1 SECOND PHASE AND THEN ASSUMING BASED ON HAVING HEARD ALL
2 THE EVIDENCE AND LISTENING TO THE LAW AS THE JUDGE CHARGED
3 YOU, YOU AND THE OTHER MEMBERS OF THE JURY DETERMINED THAT
4 DEATH WAS THE APPROPRIATE VERDICT, OUR LAW WOULD REQUIRE
5 AND I WANT TO MAKE THIS CLEAR.

6 THE JUDGE IS NOT GOING TO REQUIRE ANYBODY, ANY OF
7 THESE JURORS, YOU BEING ONE, TO FIND MR. TERRY GUILTY AND
8 SENTENCE HIM TO DEATH. YOU UNDERSTAND THAT?

9 A YES.

10 Q THERE'S NO LAW THAT SAYS YOU MUST FIND HIM GUILTY AND
11 SENTENCE HIM TO DEATH?

12 A YES.

13 Q BUT THAT YOU MUST CONSIDER ALL OF THE EVIDENCE AND
14 YOU'LL BE ABLE TO CONSIDER THE EVIDENCE FROM THE GUILT
15 PHASE IN COMBINATION WITH THE EVIDENCE FROM THE PENALTY
16 PHASE IN DECIDING WHAT THE APPROPRIATE VERDICT IS, WHETHER
17 IT'S LIFE OR DEATH. DID YOU UNDERSTAND THERE WERE ONLY TWO
18 CHOICES?

19 A YES.

20 Q ASSUMING ALL THAT, ASSUMING HAVING HEARD ALL THE
21 EVIDENCE, LISTENING TO THE LAW, YOU AND THE OTHER MEMBERS
22 OF THE JURY DETERMINE THAT DEATH IS THE APPROPRIATE
23 VERDICT---

24 A OKAY.

25 Q ---YOU PHYSICALLY WOULD HAVE TO AFFIX YOUR NAME TO A

1 DOCUMENT BASICALLY STATING THE DEATH PENALTY, THAT THE
2 DEATH PENALTY IS THE APPROPRIATE VERDICT FOR GARY TERRY?

3 A YES.

4 Q WOULD THAT FACT, IF YOU BELIEVED DEATH IS THE
5 APPROPRIATE VERDICT, WOULD THAT FACT, IF YOU BELIEVED DEATH
6 IS THE APPROPRIATE VERDICT, WOULD THAT SUBSTANTIALLY IMPAIR
7 YOU FROM FULLY CONSIDERING AND IMPOSING THE DEATH PENALTY?

8 A IT WOULD NOT IMPAIR ME, NO.

9 Q THAT WOULD BE JUST SOMETHING YOU COULD DO TO INDICATE
10 YOUR VOTE? IT WOULD BE A MINISTERIAL DUTY?

11 A IT WON'T BE -- IT WOULD BE NOT SOMETHING THAT I WOULD
12 TAKE LIGHTLY, NO---

13 Q CERTAINLY---

14 A ---NO.

15 Q ---CERTAINLY.

16 A ---BUT, YOU KNOW, IF -- YES, I COULD.

17 Q BUT HAD YOU REACHED -- HAD YOU GONE THROUGH THE---

18 A RIGHT.

19 Q ---THE MENTAL DELIBERATION OF DETERMINING THAT DEATH
20 WAS THE APPROPRIATE VERDICT---

21 A YES.

22 Q ---THAT LAST HURDLE OF SIGNING YOUR NAME; HOWEVER,
23 IMPORTANT IT IS, AND CLEARLY IT IS---

24 A YES.

25 Q ---WOULD NOT STOP YOU FROM IMPOSING THAT APPROPRIATE

1 VERDICT?

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2 A NO.

3 Q IS THERE ANYTHING IN YOUR BACKGROUND -- AND I DON'T
4 WANT TO KNOW WHAT IT IS -- EITHER ABOUT YOUR RELIGIOUS
5 UPBRINGING, YOUR FAMILY TIES OR SOMETHING THAT MAY HAVE
6 HAPPENED TO YOU OR DIDN'T HAVE HAPPEN TO YOU IN YOUR PAST,
7 IS THERE ANYTHING ABOUT YOU THAT WOULD PREVENT YOU FROM
8 FULLY CONSIDERING AND IMPOSING EITHER LIFE UNDER THE RIGHT
9 CIRCUMSTANCES OR DEATH UNDER THE RIGHT CIRCUMSTANCES IN
10 THIS CASE?

11 A NO.

12 Q THAT'S ALL I CAN ASK OF YOU. THANK YOU VERY MUCH.

13 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

14 MR. STONE: NO, SIR.

15 THE COURT: FROM THE STATE?

16 MR. HUMPHRIES: NO, SIR.

17 THE COURT: MS. RICHARDSON, I WANT TO THANK YOU
18 VERY MUCH FOR YOUR PARTICIPATION IN OUR PROCESS TODAY AND
19 INFORM YOU THAT YOU ARE QUALIFIED TO SERVE AS A POTENTIAL
20 JUROR IN THIS CASE.

21 WITH THAT QUALIFICATION, I WOULD REMIND YOU THAT
22 YOU ARE NOT TO DISCUSS, AS YOU LEAVE THE COURT HOUSE TODAY
23 AND WHILE YOU ARE AWAY, YOU ARE NOT TO DISCUSS THIS CASE
24 WITH YOUR FAMILY, FRIENDS OR ANYONE ELSE NOR ARE YOU TO
25 DISCUSS IT IN ANY FASHION WHATSOEVER WITH ANYONE WHO SHOULD

1 ATTEMPT TO CONTACT YOU AND IF THAT PERSON OR PERSONS
2 ATTEMPT TO MAKE ANY CONTACT WITH YOU, THAT YOU ARE TO
3 GATHER AS MUCH INFORMATION ABOUT THEM AS YOU POSSIBLY CAN
4 AND REPORT THAT TO ME IMMEDIATELY BECAUSE THAT'S A VERY
5 SERIOUS MATTER AND I WOULD DEAL WITH THAT INDIVIDUAL OR
6 INDIVIDUALS ACCORDINGLY.

7 ALSO, YOU'RE NOT TO READ, WATCH OR LISTEN TO ANY
8 NEWS ACCOUNTS CONCERNING THIS CASE. ALL I WANT YOU TO
9 CONSIDER IN THIS CASE IF YOU ARE SEATED AS A JUROR IS WHAT
10 YOU SEE AND HEAR IN THIS COURTROOM. NOTHING MORE AND
11 NOTHING LESS.

12 SO WITH THAT INSTRUCTION, I'M GOING TO ASK THAT
13 YOU HEAD HOME AND START PACKING YOUR BAGS BECAUSE I'M GOING
14 TO ASK THAT YOU BE BACK HERE WEDNESDAY MORNING AT 9:30
15 A.M.; THAT IS, WEDNESDAY MORNING AT 9:30. PLEASE LEAVE
16 YOUR BAGS IN YOUR CAR. IF YOU ARE SELECTED AS A JUROR IN
17 THIS CASE, THEN THE JURY CUSTODIANS WOULD TAKE CARE OF
18 GETTING ALL OF YOUR GOODS TO THE MOTEL WHERE YOU WOULD STAY
19 DURING THE COURSE OF THE TRIAL; HOWEVER, IF YOU NOT
20 SELECTED AS A JUROR IN THIS CASE, WE'D SEND YOU ALONG
21 WEDNESDAY MORNING WITH OUR BEST WISHES AND THANKS FOR YOUR
22 PARTICIPATION IN OUR PROCESS.

23 SO WITH ALL THAT INSTRUCTIONS, I'LL SEE YOU
24 WEDNESDAY MORNING AT 9:30 A.M.

25 THANK YOU VERY MUCH. APPRECIATE YOUR BEING HERE.

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(WHEREUPON, THE JUROR WAS EXCUSED

AT THIS TIME.)

THE COURT: LET ME SEE THE LAWYERS OVER HERE AT
THE SIDE BAR, PLEASE.

(WHEREUPON, THE FOLLOWING BENCH
CONFERENCE WAS HELD AT THIS TIME.)

THE COURT: WHAT SHE'S GOING TO DO. SHE'S GOING
TO CHECK AND SEE WHAT SHE CAN WORK OUT. THE PROBLEM IS HER
CHILD. THIS IS MS. MILNE. HER HUSBAND IS AN ORTHODONTIST
AND HE IS ON EMERGENCY CALL BASICALLY FOR THE MONTH OF
SEPTEMBER. SHE'S CONCERNED THAT HER CHILDREN WOULD BE LEFT
WITHOUT EITHER PARENT FOR A PERIOD OF TIME. SHE'S GOING TO
LET ME KNOW TOMORROW IF SHE CAN WORK ANYTHING OUT WITH HER
FAMILY AND NEIGHBOR. IT'S A BIG PROBLEM, GETTING KIDS TO
SCHOOL. SHE HAS TO CAR POOL. BUT SHE IS GOING TO CALL
JERI TOMORROW AND LET ME KNOW IF SHE'S BEEN ABLE TO WORK
OUT ANYTHING. SHE WAS CALM AND SO FORTH. SHE WAS
CONCERNED ABOUT CAUSING AN INCONVENIENCE TO EVERYTHING. SO
SHE IS GOING TO GET IN TOUCH WITH JERI TOMORROW SOMETIME
AND I'LL MAKE A DECISION FROM THERE. IF SHE WORKS IT OUT,
SHE WILL PARTICIPATE. IF NOT, THEN I'LL JUST HAVE TO EXCUSE
HER.

MARK THIS AS A COURT'S EXHIBIT, PLEASE.

(WHEREUPON, COURT'S EXHIBIT NUMBER
TWO, JUROR NOTE/MILNE, MARKED FOR THE RECORD AT THIS TIME.)

1 THE COURT: AND HOW ABOUT DISCUSSING THAT WITH
2 YOUR CLIENT, IF YOU WOULD, WHAT'S---

3 MR. STONE: YES, SIR.

4 MS. FULLWOOD: YES, SIR.

5 (WHEREUPON, THE BENCH CONFERENCE
6 WAS CONCLUDED AT THIS TIME.)

7 (WHEREUPON, MS. FULLWOOD AND MR.
8 STONE CONFER WITH THE DEFENDANT AT THIS TIME OFF THE
9 RECORD.)

10 MR. STONE: THANK YOU.

11 THE COURT: ALL RIGHT.

12 MR. TERRY, YOU UNDERSTAND WHAT YOUR LAWYERS TOLD
13 YOU?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: ALL RIGHT.

16 OKAY. LET'S BRING IN JUROR NUMBER 151, MR.
17 MCCABE.

18 JAMES M. MCCABE, JR.,

19 (JUROR NUMBER 151, WHITE MALE,
20 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

21 EXAMINATION

22 BY THE COURT:

23 Q YOU ARE JAMES M. MCCABE, JR.?

24 A THAT'S CORRECT.

25 Q AND YOU ARE JUROR NUMBER 151. MR. MCCABE, YOU

0438

1 UNDERSTAND THAT YOU ARE UNDER OATH FOR THESE PROCEEDINGS?

2 A YES, SIR.

3 Q NOW, I GAVE YOU CERTAIN CAUTIONARY INSTRUCTIONS WHEN
4 YOU LEFT THE COURT HOUSE AT LUNCH TIME THAT YOU WERE NOT TO
5 DISCUSS THIS CASE WITH ANYONE, IF ANYONE ATTEMPTED TO
6 CONTACT YOU CONCERNING THIS CASE AND ALSO THAT YOU WERE NOT
7 TO READ, WATCH OR LISTEN TO ANY NEWS ACCOUNTS CONCERNING
8 THIS CASE. HAVE THERE BEEN ANY VIOLATIONS OF THOSE
9 INSTRUCTIONS?

10 A NO, SIR.

11 Q NOW, I'M GOING TO BE ASKING YOU SOME QUESTIONS AND
12 THEN ONE OF THE DEFENSE LAWYERS AS WELL AS ONE OF THE
13 STATE'S LAWYERS WILL BE ALLOWED TO ASK YOU SOME QUESTIONS.
14 PLEASE KEEP IN MIND THAT WE ARE NOT IN ANY WAY ATTEMPTING
15 TO INVADE YOUR PRIVACY, BUT DUE TO THE NATURE OF THIS CASE,
16 THERE ARE CERTAIN QUESTIONS THAT MUST BE ASKED AND
17 ANSWERED.

18 ALSO KEEP IN MIND THERE ARE ABSOLUTELY NO RIGHT
19 OR WRONG ANSWERS TO THESE QUESTIONS. SO PLEASE ANSWER THEM
20 OPENLY AND HONESTLY AND FULLY AND ALSO KEEP IN MIND THAT NO
21 ONE IS CHALLENGING THE VIEW THAT YOU MIGHT HAVE. SIMPLY,
22 WE NEED TO KNOW WHAT THAT VIEW IS.

23 ALSO, YOU'RE PROBABLY GOING TO BE ASKED SOME
24 QUESTIONS THAT YOU HAVE NEVER EVEN CONSIDERED BEFORE SO
25 PLEASE KEEP THAT IN MIND THROUGHOUT THE QUESTIONING.

1 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
2 TALKING ABOUT OVER THE NEXT FEW MINUTES WILL BE THE WORD
3 PENALTY. AND THE MERE FACT THAT I EVEN BRING THAT WORD UP
4 OR MENTION IT SHOULD NOT IN ANY WAY INDICATE ANYTHING ABOUT
5 THE DEFENDANT, MR. TERRY. HE IS PRESUMED IN THE LAW TO BE
6 INNOCENT. YOU UNDERSTAND THAT?

7 A YES, SIR.

8 Q NOW, LET'S SUPPOSE FOR A FEW MINUTES THAT YOU WERE A
9 JUROR IN A CRIMINAL CASE. COULD YOU LISTEN TO THE LAW,
10 ACCEPT AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE
11 JUDGE OF THIS COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH
12 THAT LAW OR THINK THAT IT SHOULD BE SOME OTHER WAY?

13 A YES, SIR.

14 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
15 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

16 A YES, SIR.

17 Q NOW, MR. MCCABE, IN A CRIMINAL CASE, THE STATE HAS
18 THE BURDEN OF PROVING GUILT AND THE BURDEN OF PROOF FOR THE
19 STATE IS TO PROVE THE ELEMENTS OF THE CRIME WITH WHICH THE
20 DEFENDANT IS CHARGED BEYOND A REASONABLE DOUBT. A
21 DEFENDANT HAS ABSOLUTELY NO BURDEN OR RESPONSIBILITY TO
22 PROVE HIMSELF INNOCENT. DO YOU UNDERSTAND THAT?

23 A YES, SIR.

24 Q NOW, COULD YOU, DEPENDING UPON THE FACTS AND EVIDENCE
25 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,

1 FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

2 A YES, SIR.

0440

3 Q NOW, YOU UNDERSTAND THAT THE CASE THAT WE ARE TALKING
4 ABOUT HERE THIS WEEK IS ONE IN WHICH THE STATE SEEKS THE
5 DEATH PENALTY AND IT'S WHAT WE CALL A BIFURCATED TRIAL,
6 MEANING THAT IT'S SPLIT INTO TWO PARTS. THE GUILT PHASE
7 AND THE SENTENCING PHASE. AND YOU UNDERSTAND THAT IF THE
8 JURY FOUND THE DEFENDANT NOT GUILTY IN THE FIRST PHASE, THE
9 GUILT PHASE, THERE WOULD BE NO NECESSITY FOR THE SECOND
10 PHASE?

11 A YES, SIR.

12 Q HOWEVER, IF YOU WERE A JUROR IN A DEATH PENALTY CASE
13 AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER IN
14 THAT PHASE, DO YOU UNDERSTAND THAT YOU WOULD THEN MOVE INTO
15 THE SENTENCING OR SECOND PHASE OF THE TRIAL?

16 A YES, SIR.

17 Q NOW, IN THAT PHASE OF THE TRIAL, THERE WOULD BE
18 EVIDENCE PRESENTED IN THE FORM OF AGGRAVATING CIRCUMSTANCES
19 AS WELL AS MITIGATING CIRCUMSTANCES.

20 NOW, AGGRAVATING CIRCUMSTANCES, BY WAY OF
21 DEFINITION, ARE FACTS, INCIDENTS, DETAILS, OCCURRENCES
22 WHICH OUR GENERAL ASSEMBLY HAS DECLARED BY STATUTE WOULD
23 MAKE WORSE; THAT IS, TO AGGRAVATE THE OFFENSE OF MURDER.

24 IN OTHER WORDS, THE PRESENCE OF THAT AGGRAVATING
25 CIRCUMSTANCE INCREASES OR ADDS TO THE INJURY OR ENORMITY OF

1 THE MURDER. AND, FOR EXAMPLE, THAT WOULD BE WHEN A MURDER
2 OCCURS ALONG WITH AN OFFENSE OF CRIMINAL SEXUAL CONDUCT AND
3 OR THE OFFENSE OF BURGLARY. THAT WOULD BE AN EXAMPLE OF
4 THAT. YOU UNDERSTAND?

5 A YES, SIR.

6 Q NOW, MITIGATING CIRCUMSTANCES, ON THE OTHER HAND, ARE
7 INCIDENTS, DETAILS OR OCCURRENCES WHICH THE GENERAL
8 ASSEMBLY HAS DECLARED BY STATUTE REDUCES OR LESSENS THE
9 SEVERITY OF THE OFFENSE OF MURDER AND MAY BE CONSIDERED AS
10 EXTENUATING OR REDUCING THE DEGREE OF RESPONSIBILITY OR
11 MORAL CULPABILITY.

12 NOW, EXAMPLES OF THAT WOULD BE THE MURDER BEING
13 COMMITTED BY A PERSON UNDER THE INFLUENCE OF A MENTAL OR
14 EMOTIONAL DISTURBANCE; MURDER THAT WAS COMMITTED WHEN THE
15 DEFENDANT LACKED THE CAPACITY TO APPRECIATE THE CRIME WITH
16 WHICH HE IS CHARGED OR THE CRIMINALITY OF HIS CONDUCT OR TO
17 CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW BEING
18 SUBSTANTIALLY IMPAIRED; AND ALSO TO BE CONSIDERED WOULD BE
19 THE AGE OR MENTALITY OF THE DEFENDANT AT THE TIME OF THE
20 CRIME. THOSE ARE EXAMPLES OF MITIGATING CIRCUMSTANCES,
21 CIRCUMSTANCES WHICH LESSON OR REDUCE THE OFFENSE OF MURDER.
22 DO YOU UNDERSTAND THAT?

23 A YES, SIR.

24 Q NOW, LET'S ASSUME FOR A FEW MINUTES THAT YOU WERE A
25 JUROR IN THAT SITUATION. I'M TALKING ABOUT THAT SECOND

1 PHASE, THE SENTENCING PHASE, COULD YOU, DEPENDING UPON THE
 2 PARTICULAR FACTS AND CIRCUMSTANCES OF THAT CASE AND THE LAW
 3 AS I WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE,

4 RETURN A SENTENCE OF LIFE IN PRISON?

5 A YES, SIR.

6 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,

7 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
 8 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
 9 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

10 A YES, SIR.

11 Q NOW, IN THE EVENT THAT YOU ARE CHOSEN TO SERVE ON

12 THIS JURY, YOU WOULD BE HOUSED -- WE CALL IT, USE KIND OF A
 13 FANCY WORD, SEQUESTERED IN A MOTEL DURING THE COURSE OF THE
 14 TRIAL AND IT COULD BE ANYWHERE FROM A WEEK TO TEN DAYS. I

15 DON'T KNOW HOW LONG IT WOULD BE. IT COULD BE LESS THAN

16 THAT. BUT THAT'S KIND OF AN OUTSIDE NUMBER THAT I'M

17 DEALING WITH. EXCEPT FOR THE PERSONAL INCONVENIENCE, WOULD
 18 THIS POSE A SERIOUS DANGER TO THE HEALTH OR WELL-BEING OF
 19 YOURSELF OR OF THOSE DEPENDENT UPON YOU?

20 A NO, SIR.

21 Q THANK YOU FOR ANSWERING MY QUESTIONS. WOULD YOU

22 ANSWER MS. FULLWOOD'S QUESTIONS AT THIS TIME.

23 EXAMINATION

24 BY MS. FULLWOOD:

25 Q GOOD EVENING, MR. MCCABE.

1 A GOOD EVENING.

2 Q HOW ARE YOU DOING?

3 A FINE.

4 Q GOOD. AS JUDGE CLARY TOLD YOU, I'M BETH FULLWOOD.
5 DUFFIE STONE AND I ARE REPRESENTING GARY TERRY, WHO IS
6 SEATED AT THE COUNSEL TABLE ON THAT SIDE OF THE ROOM.

7 THIS IS A LITTLE BIT OF A DIFFERENT SITUATION FOR
8 ALL OF US HERE BECAUSE THIS IS ONE OF THE FEW TIMES THAT
9 THE LAWYERS ACTUALLY GET TO ASK POTENTIAL JURORS QUESTIONS.

10 AS JUDGE CLARY EXPLAINED TO YOU, THERE'S THE
11 POSSIBILITY THAT TWO TRIALS MIGHT BE HAD IN THIS CASE. A
12 LOT OF MY QUESTIONS ARE GOING TO BE FOCUSING ON YOUR
13 ATTITUDES ABOUT THE SECOND TRIAL. BUT YOU UNDERSTAND THAT
14 WE MAY OR MAY NOT HAVE A SECOND TRIAL IN THIS CASE,
15 DEPENDING ON HOW THE FIRST TRIAL COMES OUT.

16 THE REASON I'M ASKING YOU ABOUT YOUR OPINIONS
17 CONCERNING ISSUES IN THE SECOND TRIAL IS BECAUSE THIS IS
18 THE ONLY CHANCE THAT I OR ANY OF THE LAWYERS IN HERE WILL
19 GET TO TALK WITH YOU ABOUT THESE THINGS AND THEY ARE THINGS
20 THAT ARE IMPORTANT FOR US TO KNOW. BUT I DON'T WANT YOU TO
21 READ ANYTHING INTO HAVING TO ASK YOU THESE QUESTIONS. AND
22 I CERTAINLY DON'T MEAN TO BE INTRUSIVE WITH THESE QUESTIONS
23 OR GET TOO PERSONAL. I'M JUST ASKING YOU FOR INFORMATION
24 THAT WE BELIEVE WE NEED TO KNOW.

25 NOW, I NOTICED ON YOUR JURY QUESTIONNAIRE THAT

0444

- 1 YOU INDICATED YOU HAD SERVED ON A CRIMINAL JURY BEFORE?
- 2 A YES, MA'AM.
- 3 Q DO YOU REMEMBER WHEN THAT WAS?
- 4 A I BELIEVE IT WAS MAY OF '92.
- 5 Q '92. AND IN WHAT COUNTY?
- 6 A IT WAS LEXINGTON.
- 7 Q WHAT TYPE OF CASE WAS THAT?
- 8 A IT WAS -- IT WAS A MURDER CASE.
- 9 Q A MURDER CASE. WAS IT A DEATH PENALTY CASE?
- 10 A NO, MA'AM.
- 11 Q OKAY. WAS IT ONE OF MY CASES?
- 12 A NO, MA'AM.
- 13 Q OKAY. I DIDN'T THINK I RECOGNIZED YOU.
- 14 HAVING BEEN ON THAT JURY, HOW DID YOU COME AWAY
- 15 FEELING ABOUT OUR CRIMINAL JUSTICE SYSTEM?
- 16 A I FELT PROUD. I MEAN, JUST -- I KNOW BEING, YOU
- 17 KNOW, A JUROR THAT I WOULD WANT TO BE TREATED -- IF I WAS
- 18 IN THE SAME CIRCUMSTANCE, I WOULD WANT A FAIR AND IMPARTIAL
- 19 JURY AND I FELT LIKE I WAS AT THE TIME.
- 20 Q OKAY.
- 21 A AND I LISTENED TO THE FACTS---
- 22 Q OKAY.
- 23 A ---AND LIKE I SAID, IF I'M IN THE SAME CIRCUMSTANCE
- 24 AS THE DEFENDANT, I SURE WOULD WANT AN HONEST TWELVE
- 25 JURORS.

Q ALL RIGHT. ALL RIGHT. HAVE YOU EVER HAD ANY

EXPERIENCE WITH CIVIL COURT?

A NO, MA'AM.

Q HAVE YOU EVER TESTIFIED AS A WITNESS IN CIVIL COURT?

A NO, MA'AM.

Q BEFORE TODAY, DID YOU EVER GIVE MUCH THOUGHT TO THE

DEATH PENALTY?

A YES, MA'AM.

Q OKAY. AND CAN YOU TELL US IN GENERAL WHAT YOUR VIEWS

ARE ABOUT THE DEATH PENALTY?

A DEPENDING UPON THE CRIME. IF IT'S A HEINOUS CRIME

AND IT WAS BEYOND A SHADOW OF A DOUBT IN MY MIND, THAT,

YES, I BELIEVE IN THE DEATH PENALTY.

Q OKAY. SO ARE YOU SAYING IF THE CRIME IS BAD AND

YOU'RE CONVINCED WITHOUT DOUBT THE PERSON DID IT, THAT YOU

WOULD AUTOMATICALLY VOTE TO INFLECT THE DEATH PENALTY?

A IF THERE ARE OTHER CIRCUMSTANCES.

Q WELL, I GUESS WHAT I'M GETTING AT IS -- THERE ARE TWO

TRIALS. NOW, THE SECOND TRIAL IS ONLY TO DECIDE WHAT THE

SENTENCE IS GOING TO BE, OKAY.

THE FIRST -- IN THE FIRST TRIAL, THE JURY HAS TO

DECIDE WHETHER OR NOT IT THINKS BEYOND A REASONABLE DOUBT

THAT THE DEFENDANT IS GUILTY, OKAY, OR NOT GUILTY. DO YOU

UNDERSTAND THAT THAT'S THE ONLY TWO QUESTIONS, GUILTY OR

NOT GUILTY AT THE FIRST TRIAL?

0446

- 1 A YES, MA'AM.
- 2 Q OKAY. DO YOU UNDERSTAND THAT YOU WOULD ONLY GO INTO
- 3 A SECOND TRIAL IF THE JURY FOUND THE DEFENDANT GUILTY
- 4 BEYOND A REASONABLE DOUBT OF MURDER AND SOME OTHER CRIME?
- 5 A YES, MA'AM.
- 6 Q SUCH AS CRIMINAL SEXUAL CONDUCT OR BURGLARY?
- 7 A YES, MA'AM.
- 8 Q OKAY. DO YOU UNDERSTAND THAT MURDER -- WELL, YOU'VE
- 9 BEEN ON A JURY BEFORE. YOU KNOW THAT MURDER MEANS KILLING
- 10 SOMEONE WITH MALICE AFORETHOUGHT?
- 11 A YES, MA'AM.
- 12 Q OKAY. YOU UNDERSTAND THAT THAT RULES OUT ANYTHING
- 13 LIKE SELF-DEFENSE, RULES OUT HEAT OF PASSION. IT RULES OUT
- 14 ACCIDENT. IT RULES OUT INVOLUNTARY MANSLAUGHTER, SOMETHING
- 15 LIKE THAT?
- 16 A YES, MA'AM.
- 17 Q OKAY. CAN YOU VOTE TO GIVE A LIFE SENTENCE TO
- 18 SOMEONE THAT YOU HAVE ALREADY DECIDED BEYOND A REASONABLE
- 19 DOUBT IS GUILTY OF MURDER AND SOME OTHER CRIME?
- 20 MR. HUMPHRIES: OBJECTION--
- 21 A I THINK SO.
- 22 MR. HUMPHRIES: I WITHDRAW MY OBJECTION.
- 23 MS. FULLWOOD: DO YOU THINK THAT IN THAT
- 24 SITUATION WHERE YOU HAVE ALREADY DECIDED GUILTY OF MURDER
- 25 AND SOME OTHER CRIME, DO YOU THINK THAT THE DEATH PENALTY

1 IS USUALLY THE RIGHT PUNISHMENT?

2 MR. HUMPHRIES: YOUR HONOR, I'M GOING TO HAVE TO
3 OBJECT TO THE FORM OF THE QUESTION. WE HAVE GOT TWO TYPES
4 OF EVIDENCE TO CONSIDER IN THE PENALTY PHASE. WE'RE
5 FOCUSING ONLY ON ONE. I OBJECT TO THE FORM OF THE
6 QUESTION.

7 THE COURT: IF YOU WANT TO REPHRASE, PLEASE, DO
8 SO.

9 MS. FULLWOOD: OKAY.

10 ALL RIGHT. IF YOU GOT TO A SECOND TRIAL, IF YOU
11 GOT TO THAT POINT, THE JURY WOULD HAVE DECIDED BEYOND A
12 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF MURDER AND
13 SOME OTHER CRIME, OKAY. THEY WOULD THEN GET TO HEAR EXTRA
14 EVIDENCE IN AGGRAVATION OF PUNISHMENT AND IN MITIGATION OF
15 PUNISHMENT. AFTER HEARING THAT EVIDENCE, DO YOU BELIEVE
16 THAT THE DEATH PENALTY IS THE APPROPRIATE PUNISHMENT FOR
17 SOMEONE YOU HAVE ALREADY DECIDED IS GUILTY OF MURDER AND
18 SOME OTHER CRIME?

19 THE JUROR: YES, MA'AM.

20 Q YOU WOULD AUTOMATICALLY VOTE FOR THE DEATH PENALTY IN
21 THAT SITUATION?

22 A IF THE CIRCUMSTANCES WARRANTED IT, YES.

23 Q CAN YOU EXPLAIN A LITTLE MORE ABOUT WHAT YOU MEAN?

24 A IF I FELT LIKE THE DEFENDANT WAS GUILTY AND WE GO
25 INTO THE SECOND PHASE, CORRECT?

0448

1 Q THAT'S RIGHT.

2 A THAT'S IF THE CRIME WAS SO BAD, YES, I THINK I WOULD
3 IMPOSE THE DEATH PENALTY. I MEAN THIS -- I GUESS THE ONLY
4 WAY I CAN EXPLAIN IT IS LIKE OVERKILL. I MEAN.

5 Q OKAY. OKAY. AND, AGAIN, YOU KNOW, THEY ARE NOT
6 RIGHT OR WRONG ANSWERS AND I'M JUST TRYING TO GET IT CLEAR
7 IN MY MIND EXACTLY WHAT YOU'RE TELLING ME, ALL RIGHT.

8 IS THE FACT THAT -- DO YOU CONSIDER BEING GUILTY
9 OF MURDER PLUS SOME OTHER CRIME IN CONNECTION WITH IT TO BE
10 THAT TYPE OF HEINOUS SITUATION WHERE YOU AUTOMATICALLY
11 THINK THE DEATH PENALTY IS APPROPRIATE?

12 A WILL YOU REPEAT THAT AGAIN?

13 Q OKAY. DO YOU THINK THE DEATH PENALTY IS ALWAYS THE
14 APPROPRIATE PUNISHMENT WHEN A PERSON HAS BEEN CONVICTED OF
15 MURDER AND ANOTHER CRIME IN CONNECTION WITH THAT MURDER?

16 A ALWAYS?

17 Q UH-HUH.

18 A NO.

19 Q OKAY. OKAY. CAN YOU THINK OF SOME SITUATION -- CAN
20 YOU TELL ME ABOUT SOME SITUATIONS WHERE IT WOULD NOT BE---

21 MR. HUMPHRIES: NO, SIR. I OBJECT.

22 THE COURT: I SUSTAIN THE OBJECTION.

23 MS. FULLWOOD: WOULD YOU BE ABLE TO LISTEN TO THE
24 EVIDENCE IN MITIGATION OF PUNISHMENT DESPITE THE FACT THAT
25 YOU WERE ALREADY CONVINCED THAT THE DEFENDANT WAS GUILTY OF

1 MURDER AND, PERHAPS, SOME OTHER CRIME?

2 THE JUROR: YES.

3 Q OKAY. I GUESS, I'M A LITTLE CONFUSED BECAUSE YOU'VE
4 TOLD ME THAT YOU PRETTY MUCH THOUGHT THE DEATH PENALTY WAS
5 THE RIGHT PUNISHMENT IN THOSE KIND OF SITUATIONS SO I GUESS
6 WHAT I'M TRYING TO GET CLEAR IN MY MIND, ARE YOU WILLING TO
7 LISTEN TO THE EVIDENCE IN MITIGATION IN PUNISHMENT AND ONCE
8 YOU'VE MADE UP YOUR MIND THE PERSON IS GUILTY OF MURDER?

9 A I DON'T QUITE UNDERSTAND THE QUESTION.

10 Q WELL, IT GOES BACK TO THE TWO TRIAL TYPE OF THING AND
11 YOU TOLD ME -- AND IF -- I'M TELLING YOU WHAT I'VE HEARD.
12 SO IF I'M WRONG, PLEASE CORRECT ME---

13 A RIGHT.

14 Q ---OKAY? THE WAY I HEARD IT IS IF YOU THOUGHT
15 SOMEBODY WAS GUILTY OF MURDER AND SOME OTHER AGGRAVATING
16 TYPE OF CRIME, THAT THAT WOULD BE A SITUATION WHERE YOU
17 WOULD AUTOMATICALLY THINK THAT THEY SHOULD GET THE DEATH
18 PENALTY.

19 MR. HUMPHRIES: YOUR HONOR, THAT'S BEEN ASKED AND
20 ANSWERED AT LEAST TWICE.

21 THE COURT: I UNDERSTAND THAT. I'M GOING TO
22 ALLOW HIM TO ANSWER IT AGAIN.

23 MS. FULLWOOD: AND IF I'M NOT RIGHT, IF I'M
24 MISUNDERSTANDING YOU, LET ME KNOW.

25 THE JUROR: I'M SORRY. COULD YOU REPEAT THE

0450

- 1 QUESTION AGAIN? I'M SORRY, I'M A LITTLE BIT NERVOUS ANY
2 WAY.
- 3 Q I'M SORRY IF I'M NOT BEING CLEAR ENOUGH, OKAY.
- 4 AS I UNDERSTOOD IT, YOU TOLD ME THAT IF YOU WERE
5 CONVINCED A PERSON HAD COMMITTED MURDER AND ANOTHER SERIOUS
6 CRIME IN CONNECTION WITH THE MURDER -- EXCUSE ME, I'VE GOT
7 A COLD -- YOU'D AUTOMATICALLY THINK THE DEATH PENALTY WAS
8 THE RIGHT PUNISHMENT?
- 9 A IF I SAID YES BEFORE, I'M SORRY, I MEAN NO.
- 10 Q OKAY. OKAY. WELL, I'M NOT TRYING TO TRIP YOU UP. I
11 JUST---
- 12 A NO.
- 13 Q ---WANT TO KNOW CLEARLY WHAT YOU MEAN?
- 14 A I UNDERSTAND. OH, I TOTALLY UNDERSTAND.
- 15 Q OKAY. AND SO YOU DON'T -- YOU DON'T AUTOMATICALLY
16 THINK THAT'S THE APPROPRIATE PUNISHMENT?
- 17 A CORRECT.
- 18 Q OKAY. SO ARE THERE SITUATIONS WHERE A PERSON HAS
19 BEEN CONVICTED OF MURDER AND ANOTHER CRIME THAT YOU WOULD
20 THINK A LIFE SENTENCE WAS THE CORRECT SENTENCE?
- 21 A COULD BE, YES.
- 22 Q OKAY. OKAY. POSSIBLY?
- 23 A YES, MA'AM.
- 24 Q OKAY. THANK YOU SO MUCH. AGAIN, AS I SAY, I DON'T
25 MEAN TO BE INTRUSIVE. I JUST -- I JUST NEED TO KNOW YOUR

1 ANSWERS.

2 A NO PROBLEM. I UNDERSTAND.

3 Q THANK YOU SO MUCH.

4 THE COURT: SOLICITOR.

5 EXAMINATION

6 BY MR. HUMPHRIES:

7 Q MR. MCCABE, I'M FRAN HUMPHRIES. I'M THE DEPUTY
8 SOLICITOR HERE IN LEXINGTON. I, ALONG WITH MR. CHASE, AND
9 WE WILL BE ASSISTING DONNIE MYERS IN THE TRIAL OF THIS
10 CASE.

11 I'VE JUST GOT ONE QUESTION FOR YOU. IT HAS TO DO
12 WITH PROCEDURE. I'VE HEARD ALL OF YOUR ANSWERS. I'M
13 SATISFIED WITH THEM.

14 LET'S ASSUME THAT YOU WERE ON THIS JURY. THAT
15 YOU AND THE OTHER ELEVEN MEMBERS OF THE JURY FOUND MR.
16 TERRY GUILTY OF MURDER AND OTHER CRIMES, WENT TO THE
17 PENALTY PHASE. YOU HEARD THE EVIDENCE IN AGGRAVATION AND
18 THE EVIDENCE IN MITIGATION AND AFTER CONSIDERING ALL THAT
19 EVIDENCE, YOU AND THE OTHER ELEVEN MEMBERS OF THAT JURY
20 DETERMINED THAT THE DEATH WAS THE APPROPRIATE VERDICT. THE
21 LAW OF SOUTH CAROLINA REQUIRES IF THAT JURY BELIEVES THAT
22 DEATH IS THE APPROPRIATE VERDICT, THE LAW OF SOUTH CAROLINA
23 REQUIRES THAT EACH AND EVERY JUROR SIGN THAT VERDICT FORM
24 INDICATING THEIR VERDICT OF DEATH. TWELVE SIGNATURE LINES.
25 WOULD THE FACT THAT YOU WOULD HAVE TO SIGN YOUR

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1 NAME TO INDICATE YOUR VOTE, YOUR VOTE, CAUSE YOU TO BE
2 HESITATE OR WOULD IT CAUSE YOU NOT TO FULLY CONSIDER AND
3 RENDER A DEATH VERDICT?

4 A NO, SIR.

5 Q YOU COULD SIGN YOUR NAME TO INDICATE YOUR VERDICT
6 VOTE?

7 A YES, SIR.

8 Q AND AS I UNDERSTOOD THE ENTIRE DISCUSSION THUS FAR
9 AND YOU TELL ME IF I'M RIGHT. I BELIEVE WHAT YOU'VE SAID
10 IS THAT YOU WOULD LISTEN TO ALL OF THE EVIDENCE IN
11 AGGRAVATION AND MITIGATION AND ONLY AFTER HEARING ALL THAT
12 EVIDENCE, YOU COULD EITHER RENDER A VERDICT OF LIFE UNDER
13 CERTAIN CIRCUMSTANCES OR DEATH UNDER CERTAIN CIRCUMSTANCES,
14 IS THAT CORRECT?

15 A YES, SIR.

16 Q COULD YOU BE A FAIR AND IMPARTIAL JUROR TO BOTH THE
17 STATE AND THE DEFENSE IN THIS CASE, MR. MCCABE?

18 A I THINK SO.

19 Q THANK YOU VERY MUCH. THAT'S ALL WE CAN ASK OF YOU.

20 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

21 MS. FULLWOOD: NO, SIR.

22 THE COURT: FROM THE STATE?

23 MR. HUMPHRIES: NO, SIR.

24 THE COURT: MR. MCCABE, THANK YOU VERY MUCH FOR
25 YOUR PARTICIPATION HERE THIS AFTERNOON. I FIND THAT YOU

1 ARE QUALIFIED TO SERVE AS A POTENTIAL JUROR IN THIS CASE
2 AND WITH THAT QUALIFICATION, COMES SOME FURTHER
3 INSTRUCTION.

4 FIRST OF ALL, YOU ARE, ONCE AGAIN, NOT TO DISCUSS
5 THIS CASE WITH YOUR FELLOW JURORS, FAMILY, FRIENDS OR
6 ANYONE ELSE FROM THE TIME THAT YOU STEP OFF THE WITNESS
7 STAND TO THE TIME THAT YOU COME BACK TO THE COURT HOUSE ON
8 WEDNESDAY MORNING. I'M GOING TO ASK THAT YOU GO HOME AND
9 PACK YOUR BAGS AND BE BACK HERE AT 9:30 A.M. WEDNESDAY
10 MORNING WITH FURTHER INSTRUCTION THAT YOU ARE, OF COURSE,
11 IN NOT DISCUSSING THE CASE WITH ANYONE WHATSOEVER. THAT IF
12 ANYONE SHOULD ATTEMPT TO CONTACT YOU CONCERNING THIS CASE,
13 THAT YOU ARE TO GATHER AS MUCH INFORMATION ABOUT THAT
14 INDIVIDUAL OR INDIVIDUALS AS YOU POSSIBLY CAN. REPORT THAT
15 TO ME IMMEDIATELY BECAUSE THAT'S A VERY SERIOUS MATTER AND
16 I WOULD DEAL WITH THAT INDIVIDUAL OR INDIVIDUALS
17 ACCORDINGLY.

18 ALSO, YOU ARE NOT TO READ, WATCH OR LISTEN TO ANY
19 NEWS ACCOUNT CONCERNING THIS CASE. VERY SIMPLY PUT, ALL I
20 WOULD WANT YOU TO CONSIDER IN THIS CASE IS WHAT YOU SEE AND
21 HEAR IN THIS COURTROOM. NOTHING MORE AND NOTHING LESS.

22 NOW, I'M GOING TO ASK THAT, ONCE AGAIN, THAT YOU
23 BE BACK HERE WEDNESDAY MORNING AT 9:30. PLEASE LEAVE ALL
24 OF YOUR BELONGINGS IN YOUR VEHICLE THAT YOU COME IN.

25 IF YOU ARE SELECTED AS A JUROR IN THIS CASE, THE

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JURY CUSTODIANS WOULD PROPERLY TAKE CARE OF YOUR PERSONAL
NEEDS AND ALL OF YOUR BELONGINGS AND SO FORTH AND GET YOU
AND THEM RELOCATED TO THE MOTEL.

IN THE EVENT THAT YOU ARE NOT SELECTED TO SERVE
AS A JUROR IN THIS CASE, THEN WE WOULD THANK YOU VERY MUCH
FOR YOUR PARTICIPATION AND SEND YOU ALONG WITH YOUR
REGULARLY SCHEDULED ACTIVITIES. BUT IF YOU ARE SELECTED AS
A JUROR IN THIS CASE, THEN YOU WOULD STAY WITH US UNTIL THE
TRIAL IS COMPLETED.

WITH ALL THAT INSTRUCTION, I'LL LOOK FORWARD TO
SEEING YOU WEDNESDAY MORNING AT 9:30 A.M. I'LL SEE YOU
THEN.

THE JUROR: I GUESS I CAN GO TO WORK TOMORROW?

THE COURT: YES, SIR, YOU CAN GO TO WORK TOMORROW
CERTAINLY. AS LONG AS YOU PACK BEFORE WEDNESDAY.

THE JUROR: NINE-THIRTY WEDNESDAY---

THE COURT: NINE-THIRTY WEDNESDAY MORNING, YES,
SIR.

(WHEREUPON, THE JUROR WAS EXCUSED
AT THIS TIME.)

THE COURT: ALL RIGHT. LET THE RECORD REFLECT
THAT JUROR NUMBER 151, JAMES MCCABE, IS FOUND QUALIFIED
PURSUANT TO SECTION 16-320 OF THE CODE OF LAWS OF THE STATE
OF SOUTH CAROLINA, 1976 AS AMENDED.

ROBIN R. SMITH,

1 (JUROR NUMBER 214, WHITE FEMALE,
2 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

3 EXAMINATION

4 BY THE COURT:

5 Q YOU ARE ROBIN RICHIE SMITH, IS THAT CORRECT?

6 A CORRECT.

7 Q NOW, MS. SMITH, YOU UNDERSTAND THAT YOU HAVE BEEN
8 PLACED UNDER OATH FOR THESE PROCEEDINGS?

9 A YES.

10 Q AND I ALSO GAVE YOU SOME INSTRUCTIONS BEFORE YOU LEFT
11 HERE AROUND LUNCH TIME THAT YOU WERE NOT TO DISCUSS THIS
12 CASE WITH ANYONE, NOR WERE THEY TO DISCUSS IT WITH YOU AND
13 IF ANYONE ATTEMPTED TO CONTACT YOU, THAT YOU WERE TO REPORT
14 THAT TO ME AND ALSO THAT YOU WERE TO REFRAIN FROM READING,
15 WATCHING OR LISTENING TO ANY NEWS ACCOUNTS CONCERNING THIS
16 CASE.

17 A YES.

18 Q HAVE ANY OF THOSE INSTRUCTIONS BEEN VIOLATED?

19 A NO.

20 Q NOW, MS. SMITH, I'M GOING TO BE ASKING YOU SOME
21 QUESTIONS AND THEREAFTER ONE OF THE LAWYERS FOR THE
22 DEFENDANT, MR. TERRY, WILL BE ALLOWED TO ASK YOU SOME
23 QUESTIONS AS WELL AS ONE OF THE SOLICITORS. PLEASE KEEP IN
24 MIND THAT WE ARE NOT IN ANY WAY ATTEMPTING TO INVADE YOUR
25 PRIVACY, BUT BECAUSE OF THE PROCEEDINGS THAT WE ARE ABOUT

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1 THIS WEEK, IT'S NECESSARY THAT CERTAIN QUESTIONS BE ASKED
2 AND ANSWERED.

3 ALSO KEEP IN MIND THAT THERE ARE ABSOLUTELY NO
4 RIGHT OR WRONG ANSWERS TO THE QUESTIONS THAT YOU ARE GOING
5 TO BE POSED. PLEASE ANSWER THEM OPENLY AND HONESTLY AND
6 FULLY AND ALSO KEEP IN MIND THAT NO ONE IS CHALLENGING YOUR
7 VIEW. WE JUST NEED TO KNOW WHAT YOUR VIEW IS IN CERTAIN
8 AREAS.

9 A OKAY.

10 Q NOW, ALSO KEEP IN MIND THAT YOU'RE PROBABLY GOING TO
11 BE ANSWERING QUESTIONS THAT YOU HAVE MAYBE NEVER EVER
12 CONSIDERED BEFORE. SO KEEP THAT IN MIND AS WE GO THROUGH
13 THE QUESTIONING.

14 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
15 DISCUSSING OVER THE NEXT FEW MINUTES WILL INCLUDE THE WORD
16 PENALTY, BUT THE MERE FACT THAT I EVEN USE THAT WORD OR
17 TALK ABOUT THAT WORD DOES NOT IN ANY WAY INDICATE ANYTHING
18 ABOUT THE DEFENDANT, MR. TERRY. HE'S PRESUMED IN THE LAW
19 TO BE INNOCENT. DO YOU UNDERSTAND THAT?

20 A YES.

21 Q NOW, LET'S SUPPOSE FOR A FEW MINUTES THAT YOU WERE A
22 JUROR IN A CRIMINAL CASE. COULD YOU LISTEN TO THE LAW,
23 ACCEPT AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE
24 JUDGE OF THIS COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH
25 THAT LAW OR THINK THAT IT MIGHT OUGHT TO BE SOME OTHER WAY?

1 A COULD I APPLY THE LAW, YES.

2 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
3 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

4 A YES.

5 Q NOW, IN A CRIMINAL TRIAL, THE STATE OF SOUTH CAROLINA
6 HAS THE BURDEN OF PROVING GUILT. THE BURDEN OF PROOF THAT
7 THE STATE MUST MEET IS TO PROVE THE ELEMENTS OF THE CRIME
8 WITH WHICH THE DEFENDANT IS CHARGED BEYOND A REASONABLE
9 DOUBT.

10 NOW, A DEFENDANT HAS ABSOLUTELY NO BURDEN OR
11 RESPONSIBILITY TO PROVE HIMSELF INNOCENT. YOU UNDERSTAND
12 THAT?

13 A YES, I DO.

14 Q NOW, COULD YOU, DEPENDING UPON THE PARTICULAR FACTS
15 AND CIRCUMSTANCES AND THE LAW AS I WOULD INSTRUCT YOU IN A
16 CASE, FIND A DEFENDANT EITHER GUILTY OR NOT GUILTY?

17 A YES.

18 Q NOW, YOU UNDERSTAND THAT THE CASE THAT WE ARE ABOUT
19 THIS WEEK IS ONE IN WHICH THE STATE OF SOUTH CAROLINA SEEKS
20 THE DEATH PENALTY AND AS RESULT OF THAT, THE CASE IS --
21 IT'S WHAT WE CALL A BIFURCATED TRIAL, MEANING THAT IT'S
22 SPLIT INTO TWO PARTS.

23 THE FIRST PHASE IS CALLED THE GUILT PHASE. AND
24 IF THE DEFENDANT WERE FOUND NOT GUILTY OF THE CRIME OF
25 MURDER, THEN THERE WOULD BE NO NECESSITY TO HAVE A SECOND

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1 PHASE; THAT IS, THE SENTENCING PHASE. DO YOU UNDERSTAND
2 THAT?

3 A YES.

4 Q HOWEVER, IF YOU WERE A JUROR IN SUCH A TRIAL AND IF
5 THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER, YOU
6 UNDERSTAND THAT YOU WOULD THEN MOVE INTO THE SENTENCING
7 PHASE, THE SECOND PHASE OF THE TRIAL?

8 A YES.

9 Q NOW, AT THAT POINT IN THE TRIAL, THERE WILL BE
10 EVIDENCE WHICH WOULD BE PRESENTED TO THE JURY IN THE FORM
11 OF AGGRAVATING CIRCUMSTANCES AS WELL AS MITIGATING
12 CIRCUMSTANCES.

13 NOW, AGGRAVATING CIRCUMSTANCE ARE FACTS,
14 INCIDENTS, DETAILS OR OCCURRENCES WHICH OUR GENERAL
15 ASSEMBLY HAS DECLARED BY STATUTE WOULD MAKE WORSE; THAT IS,
16 TO AGGRAVATE THE OFFENSE OF MURDER.

17 IN OTHER WORDS, WHEN THE AGGRAVATING CIRCUMSTANCE
18 IS PRESENT WITH THE CRIME OF MURDER, IT INCREASES THE
19 ENORMITY OR ADDS TO THE INJURY OF THE MURDER.

20 NOW, SOME EXAMPLES OF THAT WOULD BE WHERE A
21 MURDER IS COMMITTED IN CONJUNCTION WITH THE OFFENSE OF
22 CRIMINAL SEXUAL CONDUCT OR THE OFFENSE OF BURGLARY. THOSE
23 ARE EXAMPLES OF THE AGGRAVATING CIRCUMSTANCES THAT WE ARE
24 TALKING ABOUT.

25 NOW, BY THE SAME TOKEN, MITIGATING CIRCUMSTANCES

1 ARE INCIDENTS, DETAILS, FACTS OR OCCURRENCES WHICH OUR
2 GENERAL ASSEMBLY HAS ALSO DECLARED BY STATUTE THAT REDUCES
3 THE SEVERITY OF THE CRIME OF MURDER AND MAY BE CONSIDERED
4 BY THE JURY AS EXTENUATING OR AS REDUCING THE
5 RESPONSIBILITY OR MORAL CULPABILITY OF THAT CRIME.

6 AND SOME EXAMPLES OF THAT WOULD BE WHEN A MURDER
7 IS COMMITTED WHEN A PERSON IS UNDER THE INFLUENCE OF MENTAL
8 OR EMOTIONAL DISTURBANCE, WHEN THE CAPACITY OF AN
9 INDIVIDUAL TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR
10 TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF LAW WAS
11 SUBSTANTIALLY IMPAIRED OR CONSIDERING THE AGE OR MENTALITY
12 OF THE DEFENDANT AT THE TIME OF THE CRIME. THOSE ARE
13 EXAMPLES OF MITIGATING CIRCUMSTANCES. YOU UNDERSTAND THAT?

14 A YES.

15 Q NOW, LET'S ASSUME FOR A FEW MOMENTS THAT YOU WERE A
16 JUROR IN THAT SITUATION AND WE ARE TALKING ABOUT PHASE TWO
17 OF THE TRIAL, THE SENTENCING PHASE. COULD YOU, DEPENDING
18 UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF THAT CASE
19 AND THE LAW AS I WOULD INSTRUCT YOU AT THE CONCLUSION OF
20 THE TRIAL, RETURN A SENTENCE OF LIFE IN PRISON?

21 A YES.

22 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
23 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
24 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
25 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

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- 1 A YES.
- 2 Q NOW, MS. SMITH, IF YOU ARE CHOSEN TO SERVE AS A JUROR
- 3 IN THIS CASE, YOU WOULD BE HOUSED -- WE USE KIND OF A FANCY
- 4 WORD CALLED SEQUESTERED IN A MOTEL FOR THE DURATION OF THE
- 5 TRIAL. I DON'T REALLY KNOW HOW LONG IT'S GOING TO LAST,
- 6 BUT I'VE GOT AN IDEA THAT IT MAY BE SEVEN TO TEN DAYS AT
- 7 THE OUTSIDE. IT COULD BE LESS THAN THAT. EXCEPT FOR THE
- 8 PERSONAL INCONVENIENCE THAT YOU WOULD SUFFER, WOULD THIS
- 9 POSE A SERIOUS DANGER TO THE HEALTH OR WELL-BEING OF
- 10 YOURSELF OR OF THOSE DEPENDENT UPON YOU?
- 11 A YES.
- 12 Q OKAY. TELL ME ABOUT THAT.
- 13 A I'M A SINGLE MOTHER AND I HAVE A 13-YEAR-OLD SON.
- 14 Q OKAY. AND BY HAVING THOSE RESPONSIBILITIES, ARE
- 15 THERE -- THERE'S NO ONE ELSE WHO COULD CARE FOR HIM OR HIS
- 16 NEEDS?
- 17 A GOSH! YOU'VE GOT ME IN A -- I'M THINKING HERE
- 18 WHETHER I CAN MAKE ARRANGEMENTS. HIS FATHER LIVES IN TOWN
- 19 NEAR, BUT I'VE ALWAYS HAD HIM. IF I HAD TO, I PROBABLY
- 20 COULD MAKE ARRANGEMENTS SOMEHOW.
- 21 Q OKAY. I'LL DISCUSS THAT WITH YOU A LITTLE BIT MORE
- 22 IN A FEW MINUTES.
- 23 A OKAY.
- 24 Q MR. STONE---
- 25 A IT JUST STARTLED ME.

1 Q OKAY. I'M SORRY, I DIDN'T MEAN TO STARTLE YOU.

2 MR. STONE: THANK YOU, YOUR HONOR.

3 THE COURT: YES, SIR.

4 EXAMINATION

5 BY MR. STONE:

6 Q MS. SMITH, MY NAME IS DUFFIE STONE. THIS IS MS.
7 FULLWOOD AND I BELIEVE WE'VE BEEN INTRODUCED BEFORE, BUT I
8 WANTED TO---

9 A HI. HOW ARE YOU DOING---

10 Q ---DO IT AGAIN. AND THAT IS GARY TERRY, WHO WE
11 REPRESENT.

12 A HELLO.

13 Q OKAY. WE'VE GOT YOUR QUESTIONNAIRE SO I WON'T GO
14 OVER ALL OF THAT, BUT THERE ARE SOME QUESTIONS IN HERE THAT
15 DIDN'T LOOK LIKE -- THAT I DON'T UNDERSTAND.

16 DO YOU HAVE ANY FAMILY MEMBERS THAT ARE WITH LAW
17 ENFORCEMENT OR ANYTHING LIKE THAT?

18 A NO.

19 Q OKAY. YOU WERE BORN ON SHAW AIR FORCE BASE IN
20 SUMTER?

21 A CORRECT.

22 Q OKAY. IS YOUR MOTHER OR FATHER MILITARY?

23 A MY FATHER IS A RETIRED COLONEL IN THE AIR FORCE.

24 Q THAT'S THERE -- THAT'S SUMTER. WHERE DID YOU LIVE?
25 ARE YOU FROM SUMTER? LIVED IN SUMTER FOR AWHILE AND THEN

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LEXINGTON?

2 A WELL, UP UNTIL I WAS SEVENTEEN, I LIVED IN MANY
3 DIFFERENT PLACES. THEN I WENT TO CAROLINA---

4 Q I SEE.

5 A ---AND GRADUATED FROM CAROLINA AND I HAVE LIVED HERE
6 EVER SINCE.

7 Q OKAY. DO YOU TEACH?

8 A YES.

9 Q YOU'RE AN ENGLISH TEACHER?

10 A YES.

11 Q IF I SAY SOMETHING GRAMMATICALLY INCORRECT, PLEASE
12 DON'T CORRECT ME?

13 A I'LL TRY NOT TO.

14 Q ACTUALLY YOU CAN, IF YOU'D LIKE.

15 AND WHERE DO YOU TEACH?

16 A WHITE KNOLL MIDDLE SCHOOL.

17 Q ALL RIGHT. IS THAT IN LEXINGTON COUNTY?

18 A YES, LEXINGTON ONE.

19 Q OKAY. I WON'T ASK YOU ABOUT YOUR CHILD. I'LL LET
20 YOU DEAL WITH THE JUDGE ON THAT.

21 A OKAY.

22 Q BUT I DO WANT TO TALK TO YOU A LITTLE BIT ABOUT THIS
23 BEING A DEATH PENALTY CASE. HAVE YOU EVER HAD ANY -- I
24 NOTICED THAT YOU -- YOUR HOUSE HAS BEEN ROBBED BEFORE. IS
25 THAT RIGHT?

1 A YES, UH-HUH.

2 Q OKAY. OTHER THAN THAT, HAVE YOU EVER HAD ANY
3 DEALINGS WITH THE CRIMINAL JUSTICE SYSTEM?

4 A NO.

5 Q DID -- AND THOSE WERE TWO ROBBERIES, IS THAT CORRECT?

6 A YES, WITHIN FOUR MONTHS.

7 Q WITHIN FOUR MONTHS?

8 A UH-HUH.

9 Q WERE BOTH OF THOSE IN GASTON?

10 A YES.

11 Q WERE -- DID THAT LEAVE ANY TYPE OF IMPRESSION ON YOU?

12 DID THAT GIVE YOU ANY TYPE OF FEELING TOWARD THE CRIMINAL
13 JUSTICE SYSTEM?

14 A NO. THEY FOUND -- I DON'T KNOW IF THAT WAS IN THERE,
15 BUT THEY DID FIND WHO DID THIS AND THEY WERE SENTENCED.

16 Q I SEE. OKAY.

17 IN A DEATH PENALTY CASE---

18 A UH-HUH.

19 Q ---AND THE JUDGE HAS HIT ON THIS A LITTLE BIT, BUT IN
20 A DEATH PENALTY CASE, THE LAWYERS -- WE HAVE TO COME UP AND
21 ASK YOU ABOUT THINGS THAT MAY NOT EVEN HAPPEN. FOR
22 INSTANCE, THE SENTENCING PHASE. IF YOU FIND THAT -- IF YOU
23 ARE ON THE JURY AND YOU FIND GARY TERRY NOT GUILTY, THEN WE
24 DON'T HAVE A SENTENCING PHASE. BUT WE HAVE TO ASK YOU
25 QUESTIONS ABOUT THAT ANYWAY AND JUST ASSUME THAT IT DID IN

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- 1 ORDER FOR US TO GET THE ANSWERS.
- 2 A OKAY.
- 3 Q IN A SENTENCING PHASE, AS A JUROR, YOU HAVE ALREADY
- 4 DETERMINED AND I'M TALKING ABOUT THE SECOND STAGE OF THE
- 5 TRIAL, YOU HAVE ALREADY DETERMINED THAT SOMEBODY IS GUILTY
- 6 OF MURDER---
- 7 A RIGHT.
- 8 Q OKAY.
- 9 A OKAY.
- 10 Q NOW, IN SOUTH CAROLINA, MURDER IS -- IT'S NOT AN
- 11 ACCIDENT. THERE'S NO SELF-DEFENSES. THERE'S NO
- 12 INVOLUNTARY ACTION. THERE'S NO RAGE OR HEAT OF PASSION
- 13 TYPE THING. IT'S MURDER. YOU UNDERSTAND THAT?
- 14 A YES.
- 15 Q AND AS A JUROR, YOU HAVE FOUND SOMEBODY GUILTY OF
- 16 MURDER AND YOU HAVE FOUND SOMEBODY GUILTY OF AN AGGRAVATING
- 17 CIRCUMSTANCE AND THAT COULD BE A RAPE OR BURGLARY OR BOTH.
- 18 YOU UNDERSTAND THAT?
- 19 A YES.
- 20 Q OKAY. AND THAT'S THE ONLY WAY YOU GET TO A
- 21 SENTENCING PHASE. SO WHEN I'M TALKING ABOUT A SENTENCING
- 22 PHASE, YOU'VE ALREADY, AS A JUROR, ALREADY DECIDED SOMEBODY
- 23 IS GUILTY OF MURDER AND GUILTY OF RAPE OR BURGLARY OR BOTH.
- 24 YOU UNDERSTAND?
- 25 A OKAY. UH-HUH.

1 Q OKAY. IN THAT SITUATION AND YOU SITTING IN THE JURY
2 NOW AS A SENTENCING -- IN THE SENTENCING PHASE---

3 A UH-HUH.

4 Q ---CAN YOU CONSIDER SOMEONE APPROPRIATE FOR A LIFE
5 SENTENCE AT THAT POINT?

6 A YES.

7 Q AND IN THE SAME WAY, CAN YOU CONSIDER THAT PERSON
8 APPROPRIATE FOR A DEATH SENTENCE?

9 A YES.

10 Q AND IT DEPENDS ON THE AGGRAVATING AND MITIGATING
11 EVIDENCE THAT YOU HEAR?

12 A RIGHT. EXACTLY.

13 Q OKAY. BUT REMEMBER THE QUESTION OF GUILT AND
14 INNOCENCE IS NO MORE. WE'RE JUST TALKING ABOUT---

15 A RIGHT.

16 Q OKAY.

17 A UH-HUH.

18 Q NOW, IN THIS SITUATION AS -- HAVE YOU GIVEN A LOT OF
19 THOUGHT TO THE DEATH PENALTY? HAS IT BEEN SOMETHING THAT
20 YOU'VE THOUGHT ABOUT OR DISCUSSED WITH FAMILY OR FRIENDS,
21 CHURCH OR ANYTHING LIKE THAT?

22 A UH -- YES, I'M SURE I HAVE OVER, YOU KNOW, A PERIOD
23 OF TIME. I TEACH SCHOOL AND THAT HAS COME UP, YOU KNOW, IN
24 MANY DIFFERENT SHORT STORIES AND DIFFERENT THINGS THAT I
25 DO.

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- 1 Q I DO, TOO, AND YES, IT DOES. YOU'RE RIGHT.
- 2 A YOU KNOW, I'VE DEALT WITH THAT.
- 3 Q WHAT'S YOUR OPINION ON THAT?
- 4 A ON THE DEATH PENALTY?
- 5 Q YES, MA'AM.
- 6 A I BELIEVE WHERE IT IS APPROPRIATE, YOU KNOW, IT'S
- 7 NEEDED.
- 8 Q OKAY. DO YOU FEEL YOURSELF LEANING ONE WAY OR THE
- 9 OTHER TOWARD LIFE OR DEATH?
- 10 A NO.
- 11 Q JUST DEPENDING ON THE EVIDENCE THAT YOU HEAR?
- 12 A RIGHT. EXACTLY.
- 13 Q OKAY.
- 14 A EVERY CASE IS DIFFERENT.
- 15 Q ALL RIGHT. I DON'T THINK I HAVE ANYTHING ELSE. I
- 16 JUST WANT TO MAKE SURE.
- 17 EXCUSE ME JUST A MOMENT.
- 18 THE COURT: YES, SIR.
- 19 MR. STONE: THANK YOU VERY MUCH. I APPRECIATE
- 20 YOUR ANSWERS. THANK YOU, MA'AM.
- 21 THE JUROR: UH-HUH.
- 22 THE COURT: MR. CHASE.
- 23 MR. CHASE: MAY IT PLEASE THE COURT, YOUR HONOR.
- 24 THE COURT: YES, SIR.
- 25 EXAMINATION

1 BY MR. CHASE:

2 Q HI, MS. SMITH.

3 A HELLO.

4 Q MY NAME IS TOM CHASE. I'M AN ASSISTANT SOLICITOR
5 HERE IN LEXINGTON. I'LL BE ASSISTING THE DEPUTY SOLICITOR,
6 FRAN HUMPHRIES, AND SOLICITOR, DONNIE MYERS, IN THE
7 PROSECUTION OF THIS CASE.

8 A OKAY.

9 Q I THINK YOUR ANSWERS TO ALL OF THE QUESTIONS HAVE
10 BEEN VERY CLEAR. I JUST WANTED TO ASK YOU ABOUT ONE
11 PROCEDURAL STEP IN THIS PROCESS.

12 A OKAY.

13 Q THE LAW IN SOUTH CAROLINA HAS ONE PROVISION THAT YOU
14 MIGHT NOT HAVE KNOWN ABOUT AND I JUST WANT TO ASK YOU ABOUT
15 IT.

16 ASSUMING -- WE'RE GOING TO TAKE A BIG JUMP -- YOU
17 SAT ON THE JURY, FOUND MR. TERRY GUILTY OF MURDER AND SOME
18 ADDITIONAL CRIMES AND YOU WENT INTO THE PENALTY PHASE---

19 A YES.

20 Q ---IF ALL TWELVE JURORS FELT THAT AFTER HEARING THE
21 EVIDENCE IN MITIGATION AND THE EVIDENCE IN AGGRAVATION, IF
22 ALL TWELVE JURORS FELT THAT A DEATH SENTENCE WAS THE
23 APPROPRIATE VERDICT IN THIS CASE, IF YOU GOT TO THAT POINT,
24 UNDER THE LAW OF SOUTH CAROLINA, IN ORDER FOR A DEATH
25 SENTENCE TO BE IMPOSED, ALL TWELVE JURORS HAVE TO SIGN THE

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1 VERDICT FORM. IT LITERALLY WILL BE TWELVE LINES ON THE
2 FORM THAT WILL BE SIGNED TO IMPOSE THAT SENTENCE.

3 WOULD THE MERE PROCEDURAL DUTY OF YOU SIGNING
4 THAT VERDICT FORM IMPOSING THAT DEATH SENTENCE PREVENT YOU
5 FROM IMPOSING THAT SENTENCE?

6 A LET ME -- I NEED SOMETHING EXPLAINED. ARE YOU SAYING
7 THAT IF IT'S UNANIMOUS -- IT HAS TO BE UNANIMOUS---

8 Q YES, MA'AM.

9 A ---HERE?

10 Q YES, MA'AM.

11 A SO EVERYONE HAS AGREED TO IT---

12 Q YES, MA'AM.

13 A ---SO I'M AGREEING TO SOMETHING THAT I HAVE -- I'M
14 SIGNING THAT I'VE AGREED TO.

15 Q IF YOU GOT TO THAT ONE POINT, YOU -- THERE IS NO --
16 LET ME CLARIFY ONE THING, MAKE SURE YOU UNDERSTAND.
17 THERE'S NOTHING IN OUR LAW WHERE THERE WILL BE
18 CIRCUMSTANCES WHERE THE JUDGE WILL TELL YOU A PLUS B, YOU
19 MUST FIND A DEATH SENTENCE. YOU UNDERSTAND THAT?

20 A YES.

21 Q IT'S ALWAYS COMPLETELY WITHIN YOUR CHOICE ON WHETHER
22 TO IMPOSE A SENTENCE OF LIFE OR A SENTENCE OF DEATH. AND
23 IN ORDER FOR A DEATH SENTENCE TO BE IMPOSED, IT WOULD
24 REQUIRE AN UNANIMOUS DECISION BY ALL TWELVE JURORS, YES.

25 A OKAY.

1 Q IF YOU REACHED THAT DECISION BOTH BY YOURSELF AND
2 WITH THE OTHER---

3 A OH, OKAY.

4 Q ---ELEVEN JURORS---

5 A ALL RIGHT.

6 Q ---THAT A DEATH SENTENCE WAS THE APPROPRIATE
7 SENTENCE, WOULD THE MERE FACT THAT YOU AS ONE OF THOSE
8 TWELVE JURORS HAD TO SIGN YOUR NAME ON THAT VERDICT FORM,
9 PREVENT YOU FROM IMPOSING THAT SENTENCE?

10 A NO.

11 Q THANKS. THAT'S ALL WE NEED TO KNOW. THANK YOU,
12 MA'AM.

13 THE COURT: ANYTHING FURTHER FROM THE DEFENSE,
14 MR. STONE?

15 MR. STONE: NO, SIR, THANK YOU.

16 THE COURT: FROM THE STATE?

17 MR. HUMPHRIES: NO, SIR.

18 THE COURT: NOW, MS. SMITH, I KNOW WHEN I
19 DISCUSSED THE MATTER OF YOUR CHILD WITH YOU A LITTLE BIT
20 EARLIER THAT I HAD SHOCKED YOU AND, ONCE AGAIN, I
21 APOLOGIZE---

22 THE JUROR: WELL, I MEAN, SEQUESTERED, I HAD NO
23 IDEA.

24 THE COURT: OKAY. I APOLOGIZE.

25 THE JUROR: I THOUGHT I COULD GO HOME AND TAKE

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1 CARE OF MY SON.

2 THE COURT: MY INSTRUCTIONS ARE AS FOLLOWS.. YOU
3 WOULD NOT BE NEEDED BACK HERE UNTIL WEDNESDAY MORNING AT
4 NINE-THIRTY. AND IF I SEND YOU HOME TODAY WITH THAT
5 INSTRUCTION, DO YOU FEEL THAT THAT WOULD GIVE YOU
6 SUFFICIENT TIME TO MAKE SOME ARRANGEMENTS, TO SEE IF YOU
7 CAN MAKE SOME ARRANGEMENTS FOR YOUR SON?

8 THE JUROR: YES.

9 THE COURT: ALL RIGHT.

10 SO WITH THAT INSTRUCTION, I'M GOING -- OR WITH
11 THAT UNDERSTANDING, I'M GOING TO DO A COUPLE OF THINGS.
12 INSTRUCT YOU FURTHER THAT, NUMBER ONE, YOU ARE NOT TO
13 DISCUSS THIS CASE WHEN YOU LEAVE HERE TODAY WITH YOUR
14 FELLOW JURORS, FAMILY, FRIENDS OR ANYONE ELSE.

15 ALSO, IF ANYONE SHOULD ATTEMPT TO CONTACT YOU
16 CONCERNING THIS CASE, I WANT YOU TO GATHER AS MUCH
17 INFORMATION ABOUT THAT PERSON OR PERSONS AS YOU POSSIBLY
18 COULD AND REPORT THAT TO ME IMMEDIATELY BECAUSE THAT'S A
19 VERY SERIOUS MATTER AND I'LL DEAL WITH THOSE INDIVIDUALS OR
20 THAT INDIVIDUAL ACCORDINGLY.

21 ALSO, YOU ARE TO CONTINUE TO REFRAIN FROM
22 READING, WATCHING OR LISTENING TO ANY NEWS ACCOUNTS
23 CONCERNING THIS CASE.

24 VERY SIMPLY PUT, IF YOU ARE A JUROR IN THIS CASE,
25 ALL I WOULD WANT YOU TO CONSIDER IN THIS MATTER IS WHAT YOU

1 SEE AND HEAR IN THIS COURTROOM, NOTHING MORE AND NOTHING
2 LESS.

3 THE JUROR: UH-HUH.

4 THE COURT: I'M GOING TO FURTHER INSTRUCT YOU
5 THAT, OF COURSE, YOU ARE TO MAKE THE ARRANGEMENTS FOR YOUR
6 CHILD AND ALSO THAT YOU ARE TO HAVE YOUR BAGS PACKED AND BE
7 BACK UP HERE WEDNESDAY MORNING AT NINE-THIRTY. WHEN YOU
8 COME, JUST LEAVE YOUR BELONGINGS IN YOUR VEHICLE. IF YOU
9 ARE SELECTED TO SERVE AS A JUROR IN THIS CASE, THEN THE
10 JURY CUSTODIANS WILL SEE THAT YOU AND ALL OF YOUR
11 BELONGINGS ARE PROPERLY CARED FOR AND YOU WOULD BE TAKEN TO
12 THE MOTEL FOR THE DURATION OF THE TRIAL.

13 IF YOU ARE NOT SELECTED, THEN YOU WOULD BE GOING
14 HOME BACK TO YOUR SON AND ALL OF YOUR RESPONSIBILITIES AT
15 SCHOOL AND SO FORTH AND WE WOULD THANK YOU VERY MUCH FOR
16 HAVING BEEN HERE AND PARTICIPATED IN OUR PROCESS. BUT IN
17 THE EVENT THAT YOU ARE CHOSEN, YOU WOULD BE STAYING WITH US
18 UNTIL THE TRIAL IS COMPLETED.

19 SO I'M GOING TO ASK THAT YOU DO THIS. MAKE THOSE
20 ARRANGEMENTS. IF YOU RUN INTO ANY PROBLEMS, I'M GOING TO
21 GET THE CLERK TO GIVE YOU THE NUMBER THAT YOU SHOULD CALL
22 SO THAT I WOULD BE ADVISED OF THAT, BUT I WOULD ENCOURAGE
23 YOU THAT IF YOU POSSIBLY CAN TO MAKE THOSE ARRANGEMENTS
24 BECAUSE JURY SERVICE IS SOMETHING THAT, AS YOU HAVE
25 ACKNOWLEDGED, IS VERY IMPORTANT TO OUR SYSTEM.

1 SO I'LL SEND YOU AWAY WITH THE IDEA THAT YOU ARE
2 GOING TO TRY TO MAKE ARRANGEMENTS FOR YOUR SON AND I'LL SEE
3 YOU BACK HERE WEDNESDAY MORNING AT 9:30.

4 THE JUROR: OKAY. AND I DON'T HAVE TO RETURN
5 TOMORROW THEN.

6 THE COURT: YOU DO NOT HAVE TO RETURN TOMORROW.
7 WE'RE GOING TO GIVE YOU ALL DAY TOMORROW---

8 THE JUROR: OKAY.

9 THE COURT: ---TO GET READY FOR WEDNESDAY MORNING
10 AT 9:30.

11 THE JUROR: THANK YOU.

12 THE COURT: THANK YOU VERY MUCH. HAVE A PLEASANT
13 EVENING.

14 (WHEREUPON, THE JUROR WAS EXCUSED
15 AT THIS TIME.)

16 THE COURT: ALL RIGHT. WE'RE GOING TO HOLD UP
17 JUST A MINUTE BEFORE WE DO OUR NEXT. WE ARE GOING TO TAKE
18 A BREAK BECAUSE WE HAVE COMPLETED PANEL TWO.

19 LET THE RECORD REFLECT THAT I FIND THAT JUROR
20 NUMBER 214 IS QUALIFIED TO SERVE AS A POTENTIAL JUROR IN
21 THIS CASE IN ACCORDANCE TO SECTION 16-320 OF THE CODE OF
22 LAWS OF THE STATE OF SOUTH CAROLINA, 1976 AS AMENDED.

23 LET'S TAKE FIVE MINUTES AND BE BACK AT 7 O'CLOCK.

24 (RECESS.)

25 THE BAILIFF: ALL RISE.

1 THE COURT: THANK YOU. PLEASE TAKE YOUR SEATS.

2 ALL RIGHT. 244, SAMUEL WILSON.

3 SAMUEL WILSON, JR.,

4 (JUROR NUMBER 244, BLACK MALE,

5 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

6 EXAMINATION

7 BY THE COURT:

8 Q GOOD EVENING TO YOU, MR. WILSON.

9 A GOOD EVENING.

10 Q YOU ARE JUROR NUMBER 244, SAMUEL WILSON, JR., IS THAT
11 CORRECT?

12 A YES, SIR.

13 Q NOW, MR. WILSON, YOU UNDERSTAND THAT YOU ARE SWORN
14 FOR THESE PROCEEDINGS THIS EVENING?

15 A YES, SIR.

16 Q AND EARLIER TODAY, BEFORE YOU LEFT THE COURT HOUSE
17 FOR WHAT WE CALL THE LUNCH BREAK, YOU WERE GIVEN CERTAIN
18 INSTRUCTIONS THAT YOU WERE NOT TO TALK WITH ANYONE, NO ONE
19 WAS TO TALK WITH YOU ABOUT THIS CASE AND THAT YOU WERE NOT
20 TO READ, WATCH OR LISTEN TO ANY NEWS ACCOUNTS CONCERNING
21 THIS CASE. HAVE THERE BEEN ANY VIOLATIONS OF THOSE
22 INSTRUCTIONS?

23 A NO, SIR.

24 Q NOW, I'M GOING TO ASK YOU SEVERAL QUESTIONS AND THEN
25 ONE OF THE DEFENSE LAWYERS, AS WELL AS ONE OF THE

0474

1 SOLICITORS WILL ASK YOU SOME QUESTIONS. PLEASE KEEP IN
2 MIND THAT WE ARE NOT IN ANY WAY ATTEMPTING TO INVADE YOUR
3 PRIVACY, BUT BECAUSE OF THE TYPE OF CASE THAT WE ABOUT HERE
4 THIS WEEK, IT'S NECESSARY THAT CERTAIN QUESTIONS BE ASKED
5 AND AS A RESULT, WE ARE ASKING THAT YOU RESPOND TO THESE
6 QUESTIONS OPENLY AND HONESTLY AND FULLY. KEEPING IN MIND
7 THAT THERE ARE ABSOLUTELY NO RIGHT OR WRONG ANSWERS TO THE
8 QUESTIONS THAT YOU ARE BEING ASKED. NO ONE IS CHALLENGING
9 ANY VIEW THAT YOU MIGHT HAVE. WE JUST NEED TO KNOW WHAT
10 YOUR VIEW IS IN CERTAIN AREAS.

11 AND ALSO KEEP IN MIND THAT YOU ARE PROBABLY GOING
12 TO BE ASKED SOME QUESTIONS THAT YOU HAVE MAYBE NEVER EVER
13 CONSIDERED BEFORE. SO PLEASE REMEMBER THAT AS WE GO
14 THROUGH THIS PROCESS.

15 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
16 TALKING ABOUT OVER THE NEXT FEW MINUTES WILL BE THE TERM
17 PENALTY. BUT THE MERE FACT THAT I EVEN MENTION THAT WORD
18 OR USE THAT WORD IN ANY FASHION WHATSOEVER DOES NOT IN ANY
19 WAY INDICATE ANYTHING ABOUT THE DEFENDANT, MR. TERRY,
20 BECAUSE HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU
21 UNDERSTAND THAT?

22 A YES, SIR.

23 Q NOW, LET'S ASSUME FOR A FEW MINUTES THAT YOU WERE A
24 JUROR IN A CRIMINAL CASE. COULD YOU LISTEN TO THE LAW,
25 ACCEPT AND APPLY THE LAW THAT I WOULD CHARGE OR INSTRUCT

1 YOU AS THE JUDGE OF THIS COURT EVEN THOUGH YOU MIGHT NOT
2 AGREE WITH THAT LAW OR THINK THAT IT OUGHT TO BE SOME OTHER
3 WAY?

4 A YES, SIR.

5 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
6 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

7 A YES, SIR.

8 Q NOW, MR. WILSON, IN A CRIMINAL CASE, THE STATE OF
9 SOUTH CAROLINA HAS THE BURDEN OF PROVING GUILT. THE BURDEN
10 OF PROOF THAT THE STATE MUST MEET IN PROVING THE GUILT OF
11 THE DEFENDANT IS TO PROVE THE ELEMENTS OF EACH CRIME BEYOND
12 A REASONABLE DOUBT.

13 A DEFENDANT HAS ABSOLUTELY NO BURDEN OR
14 RESPONSIBILITY TO PROVE HIMSELF INNOCENT. YOU UNDERSTAND
15 THAT?

16 A YES, SIR.

17 Q NOW, COULD YOU, DEPENDING ON THE FACTS AND EVIDENCE
18 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,
19 FIND A DEFENDANT GUILTY OR NOT GUILTY?

20 A YES, SIR.

21 Q NOW, YOU UNDERSTAND THAT THE CASE THAT WE ARE TALKING
22 ABOUT HERE TODAY IS ONE IN WHICH THE STATE OF SOUTH
23 CAROLINA IS SEEKING THE DEATH PENALTY AGAINST THE DEFENDANT
24 AND THOSE CASES ARE DIVIDED INTO TWO PARTS.

25 THE FIRST PART IS WHAT WE CALL THE GUILT PHASE

0476

1 AND DO YOU UNDERSTAND THAT IF THE JURY WERE TO FIND THE
2 DEFENDANT NOT GUILTY OF MURDER IN THAT PART OF THE TRIAL,
3 THAT THERE WOULD BE NO NECESSITY TO HAVE THE SECOND PART?

4 A YES, I DO.

5 Q AND DO YOU UNDERSTAND THAT IF YOU WERE A JUROR IN
6 SUCH A CASE, A DEATH PENALTY CASE, AND THE JURY HAD FOUND
7 THE DEFENDANT GUILTY OF MURDER IN THE GUILT PHASE OR THE
8 FIRST PART, THAT YOU WOULD THEN PROCEED TO THE SENTENCING
9 PHASE OR THE SECOND PART OF THE TRIAL?

10 A YES, SIR.

11 Q NOW, IN THAT PORTION OF A TRIAL, YOU WOULD BE, AS A
12 JUROR, PRESENTED WITH EVIDENCE IN THE FORM OF AGGRAVATING
13 CIRCUMSTANCES AS WELL AS MITIGATING CIRCUMSTANCES.

14 NOW, AGGRAVATING CIRCUMSTANCES ARE INCIDENTS,
15 DETAILS OR OCCURRENCES WHICH OUR GENERAL ASSEMBLY OF THIS
16 STATE HAS DECLARED BY STATUTE WOULD MAKE WORSE; THAT IS, TO
17 AGGRAVATE THE CRIME OF MURDER.

18 IN OTHER WORDS, THE PRESENCE OF THE AGGRAVATING
19 CIRCUMSTANCE OR CIRCUMSTANCES INCREASES OR ADDS TO THE
20 ENORMITY OR INJURY OF THAT CRIME OF MURDER.

21 NOW, TO GIVE YOU AN EXAMPLE OF WHAT I'M TALKING
22 ABOUT WITH AN AGGRAVATING CIRCUMSTANCE, WE ARE TALKING
23 ABOUT A MURDER THAT IS ACCOMPANIED BY A CRIME OF CRIMINAL
24 SEXUAL CONDUCT OR A MURDER THAT IS ACCOMPANIED BY A CRIME
25 OF BURGLARY OR THERE COULD BE BOTH OF THEM OR ANY -- OR

1 SOME OTHER EXAMPLES. THAT'S JUST AN EXAMPLE THAT I GIVE
2 YOU OF THAT. DO YOU UNDERSTAND THAT?

3 A YES, SIR.

4 Q NOW, MITIGATING CIRCUMSTANCES, ON THE OTHER HAND, ARE
5 INCIDENTS, DETAILS OR OCCURRENCES WHICH OUR GENERAL
6 ASSEMBLY HAS ALSO DECLARED BY STATUTE REDUCES THE SEVERITY
7 OF THE OFFENSE OF MURDER AND MAY BE CONSIDERED BY THE JURY
8 AS EXTENUATING OR AS REDUCING THE DEGREE OF MORAL
9 RESPONSIBILITY OR CULPABILITY FOR THAT CRIME.

10 NOW, WHAT I AM TALKING ABOUT AS A WAY OF EXAMPLE
11 BY MITIGATING CIRCUMSTANCES WOULD BE WHEN A MURDER IS
12 COMMITTED WHILE THE PERSON WAS UNDER THE INFLUENCE OF
13 MENTAL OR EMOTIONAL DISTURBANCES, WHERE THE CAPACITY OF THE
14 DEFENDANT TO APPRECIATE HIS CONDUCT OR CONFORM HIS CONDUCT
15 WAS SUBSTANTIALLY IMPAIRED AND THE AGE OR MENTALITY OF THE
16 DEFENDANT AT THE TIME THAT THE CRIME WAS COMMITTED. THOSE
17 WOULD BE EXAMPLES OF MITIGATING CIRCUMSTANCES.

18 NOW, IF YOU WERE A JUROR IN THAT SITUATION AND WE
19 ARE TALKING ABOUT THAT SECOND PHASE OF THE TRIAL, THE
20 SENTENCING PHASE, COULD YOU, DEPENDING UPON THE PARTICULAR
21 FACTS AND CIRCUMSTANCES OF THAT CASE AND THE LAW THAT I
22 WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE, RETURN A
23 SENTENCE OF LIFE IN PRISON?

24 A YES, SIR.

25 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,

0478

- 1 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
2 THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
3 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?
- 4 A NO, SIR.
- 5 Q UNDER NO CIRCUMSTANCES COULD YOU DO THAT?
- 6 A NO CIRCUMSTANCES.
- 7 Q EVEN IF I INSTRUCTED YOU THAT THE LAW OF THIS STATE
8 REQUIRED YOU TO CONSIDER THE IMPOSITION OF THE DEATH
9 PENALTY OR LIFE IMPRISONMENT, COULD YOU NOT IN ANY FASHION
10 CONSIDER A DEATH PENALTY?
- 11 A I COULD CONSIDER IT, BUT I DON'T THINK I WOULD.
- 12 Q YOU DON'T THINK YOU WOULD?
- 13 A NO, SIR.
- 14 Q ALL RIGHT. MR. STONE.
- 15 ALL RIGHT, MR. STONE.
- 16 MR. STONE: YES, SIR.
- 17 EXAMINATION
- 18 BY MR. STONE:
- 19 Q MR. WILSON, MY NAME IS DUFFIE STONE. THIS IS BETH
20 FULLWOOD. AND WE'RE REPRESENTING GARY TERRY, WHO IS AT THE
21 END OF THE TABLE.
- 22 THIS IS MR. FRAN HUMPHRIES. HE'S PROBABLY GOING
23 TO HAVE SOME QUESTIONS AFTER I AM, BUT LET ME JUST GO OVER
24 A FEW THINGS THAT THE JUDGE HIT ON.
- 25 NOW, YOU UNDERSTAND THAT YOUR CAPACITY TODAY AND

1 IF YOU GET SELECTED ON THIS JURY, THE ENTIRE WEEK OR TEN
2 DAYS, HOWEVER LONG IT LASTS, IS SOMEONE WHO IS TO FOLLOW
3 THE LAW AS IT IS GIVEN BY THE JUDGE. DO YOU UNDERSTAND
4 THAT?

5 A YES, SIR, I UNDERSTAND IT.

6 Q AND YOU UNDERSTAND HE IS GOING TO EXPLAIN TO YOU
7 VARIOUS ELEMENTS OF THE LAW, VARIOUS ELEMENTS OF CRIMES,
8 VARIOUS THINGS THAT YOU SHOULD CONSIDER OR COULD CONSIDER
9 OR MAY NOT CONSIDER, BUT HE IS THE MAN WHO GIVES YOU THE
10 LAW AND AS A JUROR, YOU ONLY FIND THE FACTS. DO YOU
11 UNDERSTAND THAT?

12 A YES, I UNDERSTAND THAT.

13 Q AND THAT'S EVEN IF YOU DON'T AGREE WITH THAT. IF YOU
14 DON'T AGREE WITH THE LAW AS HE CHARGES IT, YOU, AS A JUROR,
15 SHOULD STILL -- ARE STILL IN A POSITION OF HAVING TO TAKE
16 THAT AS HE CHARGES YOU, AS HE EXPLAINS IT. DO YOU
17 UNDERSTAND THAT?

18 A YES, SIR, I UNDERSTAND.

19 Q CAN YOU DO THAT? CAN YOU SIT IN A JURY BOX AND BE
20 THE FINDER OF THE FACTS AND ACCEPT THE LAW AS THE JUDGE
21 GIVES IT TO YOU?

22 A YES, I CAN.

23 Q NOW, PART OF THAT LAW THE JUDGE WILL GIVE TO YOU IS
24 THAT -- AND JUST LIKE YOU SPOKE JUST A FEW MINUTES --
25 AGGRAVATING CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES.

04801

1 NOW, FIRST OF ALL, LET ME BE REAL CLEAR ABOUT
2 THIS. IN A DEATH PENALTY CASE -- HAVE YOU EVER BEEN
3 INVOLVED IN A DEATH PENALTY CASE BEFORE?

4 A NO, I HAVEN'T.

5 Q OKAY. HAVE YOU DONE ANY -- HAVE YOU SERVED AS A
6 JUROR ON A CRIMINAL CASE BEFORE?

7 A NO, SIR, IT'S MY FIRST TIME.

8 Q OKAY. WELL, A DEATH PENALTY CASE IS A LITTLE BIT
9 DIFFERENT THAN A LOT OF OTHER CRIMINAL CASES BECAUSE WHAT
10 HAPPENS IS AS LAWYERS WE HAVE TO COME UP AND ASK YOU SOME
11 QUESTIONS ABOUT SOMETHING THAT MAY NEVER TAKE PLACE, THAT
12 BEING A SENTENCING PHASE. AND AS A JUROR, YOU HAVE TO
13 IMAGINE THAT YOU HAVE ALREADY FOUND SOMEBODY GUILTY OF
14 MURDER AND YOU'VE ALREADY FOUND SOMEBODY GUILTY OF ANOTHER
15 CRIME LIKE RAPE OR BURGLARY AND THEN YOU, AS A JUROR, YOU
16 ARE A FACT FINDER IN THE SENTENCING PHASE. AND SO WHAT WE
17 HAVE TO DO AS LAWYERS IS ASK YOU QUESTIONS ABOUT SOMETHING
18 THAT MAY NEVER HAPPEN BECAUSE IF YOU FIND SOMEBODY NOT
19 GUILTY, YOU DON'T GET TO A SENTENCING PHASE. YOU
20 UNDERSTAND THAT?

21 A I UNDERSTAND.

22 Q OKAY. NOW, THE JUDGE TOLD YOU EARLIER THAT IN A
23 PENALTY PHASE, IN THE SENTENCING PHASE, THAT HE WILL CHARGE
24 THAT YOU MAY CONSIDER AGGRAVATING CIRCUMSTANCES AND YOU MAY
25 CONSIDER MITIGATING CIRCUMSTANCES. AND THEN YOU, AS A

1 JUROR, ALONG WITH THE OTHER ELEVEN JURORS ARE TO MAKE A
2 DECISION OF WHETHER OR NOT SOMEBODY SHOULD RECEIVE DEATH OR
3 LIFE. YOU UNDERSTAND THAT?

4 A YES, SIR, I UNDERSTAND.

5 Q AND THAT IS THE LAW IN SOUTH CAROLINA THAT THERE IS A
6 DECISION TO BE MADE, LIFE OR DEATH, YOU UNDERSTAND THAT?

7 A YES, SIR, I UNDERSTAND.

8 Q AS A JUROR, SOMEBODY THAT IS A FACT FINDER WHETHER
9 YOU AGREE WITH THE LAW OR NOT, COULD YOU SIT THERE AS A
10 JUROR AND TAKE THAT LAW AS THE JUDGE CHARGES YOU AND FIND
11 SOMEBODY IF IT'S AN APPROPRIATE SITUATION, THE FACTS AND
12 CIRCUMSTANCES ARE APPROPRIATE, COULD YOU FIND THE DEATH
13 PENALTY?

14 A NO, SIR.

15 Q UNDER NO CIRCUMSTANCES COULD YOU---

16 A NO CIRCUMSTANCES.

17 Q OKAY. DESPITE THE FACT THAT THE JUDGE MAY TELL YOU
18 THAT THE LAW ALLOWS THAT?

19 A I UNDERSTAND.

20 Q ALL RIGHT, SIR. THANK YOU FOR YOUR TIME, SIR.

21 MR. HUMPHRIES: NO QUESTIONS, YOUR HONOR.

22 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

23 MR. STONE: NO, SIR.

24 THE COURT: MR. WILSON, I WANT TO THANK YOU FOR
25 YOUR PARTICIPATION HERE TODAY AND THIS EVENING AND THE FACT

0482

1 THAT YOU HAVE BEEN VERY OPEN AND HONEST AND CANDID IN THE
2 ANSWERS THAT YOU HAVE GIVEN TO THE QUESTIONS THAT HAVE BEEN
3 POSED TO YOU BY ME AS WELL AS THE LAWYERS THAT ARE INVOLVED
4 HERE. THIS IS GOING TO CONCLUDE YOUR RESPONSIBILITIES IN
5 THIS CASE. I WANT TO THANK YOU VERY MUCH ON BEHALF OF
6 LEXINGTON COUNTY AND THE STATE OF SOUTH CAROLINA FOR HAVING
7 BEEN HERE TODAY. I HOPE THAT WE HAVEN'T INCONVENIENCED YOU
8 TOO MUCH, BUT YOU UNDERSTAND THAT THIS IS A VERY IMPORTANT
9 PROCESS AND I THINK THAT YOU UNDERSTAND FROM THE QUESTIONS
10 AND SO FORTH THAT YOU'VE BEEN ASKED TODAY AND ALL THE
11 PROCEDURES THAT YOU'VE BEEN THROUGH THAT IT'S A VERY
12 THOROUGH PROCESS. YOU WILL NOT BE REQUIRED TO REPORT BACK
13 TO JURY DUTY DURING THIS WEEK. SO THANK YOU VERY MUCH AND
14 YOU MAY GO ON ABOUT YOUR BUSINESS.

15 THE JUROR: THANK YOU.

16 THE COURT: APPRECIATE YOU BEING HERE.

17 (WHEREUPON, THE JUROR WAS EXCUSED
18 AT THIS TIME.)

19 THE COURT: LET THE RECORD REFLECT THAT JUROR
20 NUMBER 244, MR. WILSON, IS NOT QUALIFIED PURSUANT TO
21 SECTION 16-320 OF THE CODE OF LAWS OF THE STATE OF SOUTH
22 CAROLINA, 1976 AS AMENDED, AS HE STATED THAT HE WOULD BE
23 UNABLE TO IMPOSE A SENTENCE OF DEATH IN ACCORDANCE WITH THE
24 STATUTE.

25 ALL RIGHT. KAREN MOORE, 170.

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KAREN M. MOORE,

(JUROR NUMBER 170, WHITE FEMALE,

FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:)

EXAMINATION

BY THE COURT:

Q GOOD EVENING. HOW ARE YOU?

A FINE.

Q YOU ARE KAREN MOORE, CORRECT?

A YES, SIR.

Q JUROR NUMBER 170.

MS. MOORE, YOU UNDERSTAND THAT YOU ARE SWORN FOR
THESE PROCEEDING THIS EVENING?

A YES, SIR.

Q AND YOU ALSO REMEMBER THAT I GAVE YOU CERTAIN
INSTRUCTIONS EARLIER TODAY THAT YOU -- WHILE YOU WERE AWAY
FROM THE COURT HOUSE, THAT YOU WERE NOT TO DISCUSS THIS
CASE WITH ANYONE AND THAT IF ANYONE ATTEMPTED TO CONTACT
YOU CONCERNING THIS CASE, THAT YOU WERE TO REPORT THAT TO
ME AS WELL AS THE FACT THAT YOU ARE NOT TO READ, WATCH OR
LISTEN TO ANY NEWS ACCOUNTS CONCERNING THIS CASE?

A YES, SIR.

Q HAVE ANY OF THOSE INSTRUCTIONS BEEN VIOLATED?

A NO, SIR.

Q NOW, I'M GOING TO ASK YOU SEVERAL QUESTIONS AND
THEREAFTER THE LAWYERS OR ONE OF THE LAWYERS FOR THE

0484

1 DEFENDANT AS WELL AS ONE OF THE SOLICITORS WILL ASK YOU
2 SOME QUESTIONS.

3 PLEASE KEEP IN MIND THAT WE ARE NOT IN ANY WAY
4 ATTEMPTING TO INVADE YOUR PRIVACY, BUT BECAUSE OF THE
5 PROCEEDINGS THAT WE ARE ABOUT THIS WEEK THAT IT IS
6 NECESSARY FOR US TO ASK CERTAIN QUESTIONS.

7 ALSO KEEP IN MIND THAT THERE ARE ABSOLUTELY NO
8 RIGHT OR WRONG ANSWERS TO THE QUESTIONS THAT ARE BEING
9 POSED TO YOU. PLEASE ANSWER THEM OPENLY, HONESTLY AND
10 FULLY AND ALSO KEEP IN MIND THAT NO ONE IS CHALLENGING YOUR
11 VIEW. WE SIMPLY NEED TO KNOW WHAT YOUR VIEW IS.

12 ALSO, PLEASE UNDERSTAND THAT YOU ARE PROBABLY
13 GOING TO BE ASKED SOME QUESTIONS THAT YOU HAVE NEVER BEEN
14 ASKED TO CONSIDER BEFORE. SO KEEP THAT IN MIND AS WE GO
15 THROUGH THE PROCESS.

16 NOW, AMONG THE THINGS THAT WE ARE GOING TO BE
17 DISCUSSING OVER THE NEXT FEW MINUTES WILL INCLUDE THE WORD
18 PENALTY. BUT THE MERE FACT THAT WE EVEN MENTION THAT WORD
19 DOES NOT INDICATE ANYTHING AT ALL ABOUT THE DEFENDANT, MR.
20 TERRY. HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU
21 UNDERSTAND THAT?

22 A YES, SIR.

23 Q NOW, LET'S CONSIDER FOR A MOMENT IF YOU WERE A JUROR
24 IN A CRIMINAL CASE, COULD YOU LISTEN TO THE LAW, ACCEPT AND
25 APPLY THE LAW AS I WOULD INSTRUCT YOU AS THE JUDGE OF THIS

1 COURT EVEN THOUGH YOU MIGHT NOT AGREE WITH THAT LAW OR
2 THINK THAT IT SHOULD TO BE SOME OTHER WAY?

3 A YES, SIR.

4 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
5 EVIDENCE PRESENTED HERE IN THIS COURTROOM?

6 A YES, SIR.

7 Q NOW, IN A CRIMINAL CASE, THE STATE HAS THE BURDEN OF
8 PROVING GUILT. THE BURDEN OF PROOF THAT THE STATE MUST
9 MEET IN THIS CASE IS TO PROVE THE ELEMENTS OF THE CRIMES
10 WITH WHICH THE DEFENDANT IS CHARGED BEYOND A REASONABLE
11 DOUBT. A DEFENDANT HAS ABSOLUTELY NO BURDEN TO PROVE
12 HIMSELF INNOCENT OF THE CHARGES. DO YOU UNDERSTAND THAT?

13 A YES, SIR.

14 Q NOW, COULD YOU, DEPENDING ON THE FACTS AND EVIDENCE
15 AND THE LAW AS I WOULD INSTRUCT YOU IN A PARTICULAR CASE,
16 FIND A DEFENDANT GUILTY OR NOT GUILTY?

17 A YES, SIR.

18 Q NOW, YOU UNDERSTAND THAT THE CASE THAT WE ARE TALKING
19 ABOUT HERE THIS WEEK IS ONE IN WHICH THE STATE OF SOUTH
20 CAROLINA SEEKS THE DEATH PENALTY AND YOU UNDERSTAND THAT IN
21 SUCH A CASE THAT IF THE JURY FOUND THE DEFENDANT NOT GUILTY
22 OF MURDER IN THE FIRST PHASE, WHICH IS CALLED THE GUILT
23 PHASE OF THE TRIAL, THERE WOULD BE NO NECESSITY OF HAVING
24 THE SECOND PHASE, THE SENTENCING PHASE?

25 A YES, SIR.

0486

1 Q HOWEVER, IF YOU WERE A JUROR IN A DEATH PENALTY CASE
2 AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER IN
3 THE FIRST PHASE, YOU UNDERSTAND THAT YOU WOULD THEN MOVE TO
4 THE SECOND OR SENTENCING PHASE OF THE TRIAL?

5 A YES, SIR.

6 Q NOW, IN THAT PHASE OF THE TRIAL, MS. MOORE, EVIDENCE
7 WOULD BE PRESENTED TO THE JURY IN THE FORM OF AGGRAVATING
8 CIRCUMSTANCES AS WELL AS MITIGATING CIRCUMSTANCES.

9 NOW, BY WAY OF EXPLANATION, AGGRAVATING
10 CIRCUMSTANCES ARE FACTS, INCIDENTS, DETAILS OR AN
11 OCCURRENCE WHICH OUR GENERAL ASSEMBLY HAS DECLARED BY LAW
12 WOULD MAKE WORSE; THAT IS, TO AGGRAVATE THE CRIME OF
13 MURDER.

14 IN OTHER WORDS, THE PRESENCE OF AN AGGRAVATING
15 CIRCUMSTANCE INCREASES OR ADDS TO THE ENORMITY OR INJURY OF
16 THE MURDER.

17 NOW, FOR EXAMPLE, IF A MURDER OCCURS AND IT IS
18 ACCOMPANIED BY THE CRIME OF CRIMINAL SEXUAL CONDUCT AND OR
19 BURGLARY, THOSE WOULD BE AGGRAVATING CIRCUMSTANCES THAT
20 ACCOMPANY THAT MURDER. THAT BEING CRIMINAL SEXUAL CONDUCT
21 AS WELL AS THE BURGLARY. DO YOU UNDERSTAND THAT?

22 A YES.

23 Q NOW, MITIGATING CIRCUMSTANCES ARE INCIDENTS, DETAILS
24 OR OCCURRENCE WHICH OUR GENERAL ASSEMBLY HAS DECLARED ALSO
25 BY STATUTE OR BY LAW THAT REDUCE THE SEVERITY OF THE CRIME

1 OF MURDER AND THAT THEY MAY BE CONSIDERED BY THE JURY AS
2 EXTENUATING OR REDUCING THE DEGREE OF RESPONSIBILITY OR
3 MORAL CULPABILITY OF THE PERSON COMMITTING THE MURDER.

4 NOW, AS A WAY OF EXAMPLE, THAT WOULD BE WHEN A
5 MURDER IS COMMITTED BY SOMEONE WHO IS UNDER THE INFLUENCE
6 OF MENTAL OR EMOTIONAL DISTURBANCES, WHERE THE CAPACITY OF
7 A PERSON TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR TO
8 CONFORM HIS CONDUCT TO THE REQUIREMENTS OF LAW WAS
9 SUBSTANTIALLY IMPAIRED OR WHERE THE AGE -- OR CONSIDERING
10 THE AGE OR THE MENTALITY OF THE DEFENDANT AT THE TIME THAT
11 THE CRIME WAS COMMITTED. THOSE ARE EXAMPLES OF WHAT WE
12 CALL MITIGATING CIRCUMSTANCES. DO YOU UNDERSTAND THAT?

13 A (WHEREUPON, THE WITNESS NODS IN THE AFFIRMATIVE AT
14 THIS TIME.)

15 Q NOW, LET'S ASSUME THAT YOU ARE A JUROR IN THAT
16 SITUATION. WE ARE TALKING ABOUT THE SENTENCING PHASE OF
17 THE TRIAL. THE JURY HAS DETERMINED FOR PURPOSES OF OUR
18 DISCUSSION HERE THAT THE DEFENDANT WAS GUILTY OF MURDER.
19 COULD YOU, DEPENDING UPON THE PARTICULAR FACTS AND
20 CIRCUMSTANCES OF THAT CASE AND THE LAW AS I WOULD INSTRUCT
21 YOU AT THE CONCLUSION OF THE TRIAL, RETURN A SENTENCE OF
22 LIFE IMPRISONMENT?

23 A YES, SIR.

24 Q NOW, IF YOU WERE A JUROR IN THAT SITUATION, COULD
25 YOU, DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES

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1 OF THAT CASE AND THE LAW AS I WOULD INSTRUCT YOU AT THE
2 CONCLUSION OF THE CASE, RETURN A SENTENCE OF DEATH?

3 A YES, SIR.

4 Q NOW, MS. MOORE, IF YOU ARE CHOSEN FOR SERVICE ON THIS
5 JURY, YOU WOULD BE HOUSED OR WHAT WE CALL SEQUESTERED IN A
6 MOTEL THROUGHOUT THE COURSE OF THE TRIAL. I DON'T KNOW
7 EXACTLY HOW LONG THAT'S GOING TO BE, BUT I ESTIMATE THAT IT
8 WOULD BE A WEEK TO TEN DAYS, MAYBE LESS THAN THAT. BUT
9 I'LL GIVE YOU THE WEEK TO TEN DAYS AS AN EXAMPLE. EXCEPT
10 FOR THE PERSONAL INCONVENIENCE THAT YOU WOULD SUFFER, WOULD
11 THIS POSE A SERIOUS DANGER TO THE HEALTH OR THE WELL-BEING
12 OF YOURSELF OR OF THOSE DEPENDENT UPON YOU?

13 A NO, SIR.

14 Q THANK YOU FOR ANSWERING MY QUESTIONS. PLEASE ANSWER
15 ANY OF MS. FULLWOOD'S QUESTIONS.

16 EXAMINATION

17 BY MS. FULLWOOD:

18 Q GOOD EVENING, MS. MOORE?

19 A HEY.

20 Q HOW ARE YOU?

21 A FINE. HOW ARE YOU?

22 Q AS JUDGE CLARY TOLD YOU, MY NAME IS BETH FULLWOOD.
23 ALONG WITH DUFFIE STONE, WHO IS SEATED AT THE TABLE, WE
24 REPRESENT GARY TERRY, WHO IS SEATED AT THE END.

25 THIS IS DIFFERENT FROM THE USUAL PROCEDURE WE

1 FOLLOW IN THIS COURT BECAUSE IN THIS CASE THE LAWYERS AS
2 WELL AS THE JUDGE GET TO ASK YOU SOME QUESTIONS ABOUT YOUR
3 VIEWS.

4 A LOT OF THE QUESTIONS THAT WE HAVE TO ASK YOU
5 HAVE TO DO WITH A SECOND TRIAL THAT MIGHT OR MIGHT NOT BE
6 HELD IN THIS CASE?

7 A UH-HUH.

8 Q IT MIGHT SEEM THAT WE ARE PUTTING THE CART BEFORE THE
9 HORSE ASKING QUESTIONS ABOUT IT BEFORE WE KNOW IF WE ARE
10 EVEN GOING TO HAVE THAT TRIAL, BUT WE HAVE TO DO IT THIS
11 WAY BECAUSE THIS IS -- THIS IS THE ONLY TIME THAT WE GET TO
12 DO IT. IT CAN'T -- YOU CAN'T COME BACK AND DO IT LATER.
13 SO THAT'S WHY IT'S IMPORTANT FOR US TO BE ABLE TO TALK TO
14 YOU AND GET YOUR FRANK AND HONEST ANSWERS TO OUR QUESTIONS
15 BECAUSE THERE'S NO RIGHT, THERE'S NO WRONG HERE AND
16 EVERYBODY'S OPINION IS RESPECTED.

17 FIRST OFF, I WANT TO FOLLOW-UP A LITTLE ON THE
18 JUROR QUESTIONNAIRE. I NOTICE YOU ARE AN R.N.?

19 A UH-HUH.

20 Q YOU'RE WORKING AT PROVIDENCE?

21 A UH-HUH.

22 Q I KNOW PROVIDENCE USED TO BE THE CARDIAC HOSPITAL,
23 BUT I KNOW IT'S CHANGED NOW WITH ALL THESE HOSPITAL
24 MERGERS. DO YOU WORK ON ANY PARTICULAR WARD OVER AT
25 PROVIDENCE?

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- 1 A THE CARDIAC FLOOR.
- 2 Q OH, YOU DO WORK ON THE CARDIAC FLOOR---
- 3 A UH-HUH.
- 4 Q SO YOU TAKE CARE OF THE HEART ATTACKS AND THE
- 5 POST-SURGERY TYPE OF PATIENTS?
- 6 A UH-HUH.
- 7 Q I SEE. OKAY.
- 8 MS. MOORE, BEFORE YOU CAME HERE THIS MORNING, HAD
- 9 YOU EVER GIVEN MUCH THOUGHT TO THE DEATH PENALTY?
- 10 A OH, YES, I HAVE.
- 11 Q OKAY. COULD YOU TELL US IN GENERAL WHAT YOUR VIEWS
- 12 ARE ON THE DEATH PENALTY?
- 13 A I THINK IT JUST DEPENDS ON THE CIRCUMSTANCES MAINLY.
- 14 JUST DEPENDS ON WHAT I HEAR TO WHAT I WANT-- MY DECISION
- 15 WOULD BE.
- 16 Q OKAY.
- 17 A ON SOMETHING LIKE THAT.
- 18 Q OKAY.
- 19 A THERE ARE CIRCUMSTANCES FOR DIFFERENT THINGS.
- 20 Q OKAY. HAVE YOU EVER HAD DISCUSSIONS WITH YOUR
- 21 FAMILY OR FRIENDS ABOUT THE DEATH PENALTY?
- 22 A MOST OF THEM ARE FOR IT.
- 23 Q MOST OF THEM ARE FOR IT?
- 24 A UH-HUH.
- 25 Q OKAY. ARE YOU IN LINE WITH YOUR FRIENDS AND FAMILY?

1 A IT JUST DEPENDS ON THE CIRCUMSTANCES. I COULDN'T SAY
2 NO AND I COULDN'T SAY YES.

3 Q ALL RIGHT. ALL RIGHT.

4 NOW, YOU AND I WORK IN DIFFERENT FIELDS AND IF I
5 TRY TO STEP ONTO YOUR WARD, I WOULDN'T HAVE THE SLIGHTEST
6 IDEA OF WHAT'S GOING ON. YOU PROBABLY KNOW A LITTLE MORE
7 ABOUT THE JUSTICE SYSTEM THAN I DO ABOUT THE FIELD OF
8 MEDICINE. BUT I WANTED TO MAKE SURE THAT SOME THINGS ARE
9 CLEAR IN YOUR MIND, OKAY.

10 WE HAD TALKED ABOUT TWO TRIALS. ONE WOULD BE A
11 TRIAL FOR MURDER AND RAPE AND BURGLARY AND THEN THE OTHER
12 TRIAL WOULD BE FOR PENALTY. YOU UNDERSTAND THAT IF WE EVER
13 GOT TO THE POINT THAT WE NEEDED TO HAVE A SECOND TRIAL, YOU
14 WOULD HAVE ALREADY FOUND MR. TERRY GUILTY OF MURDER AND,
15 PERHAPS, BURGLARY AND RAPE. YOU UNDERSTAND THAT?

16 A YOU'RE TALKING ABOUT THE DEATH PENALTY, THE SECOND?

17 Q YES, MA'AM.

18 A UH-HUH, I UNDERSTAND.

19 Q AND YOU -- DO YOU REALIZE THAT UNDER THE LAW OF THIS
20 STATE MURDER IS DEFINED AS KILLING ANOTHER PERSON WITH
21 MALICE AFORETHOUGHT?

22 A YES, MA'AM.

23 Q IN OTHER WORDS, IT MEANS KILLING SOMEONE WITH AN EVIL
24 HEART WHILE THINKING ABOUT IT AT LEAST A LITTLE BIT BEFORE
25 HAND?

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1 A (WHEREUPON, THE WITNESS NODS IN THE AFFIRMATIVE AT
2 THIS TIME.)

3 Q OKAY. DO YOU UNDERSTAND THAT MURDER DOESN'T MEAN
4 SELF-DEFENSE. IT DOESN'T MEAN HEAT OF PASSION. IT DOESN'T
5 MEAN AN ACCIDENT?

6 A YES.

7 Q OKAY. CAN YOU -- COULD YOU IMPOSE A LIFE SENTENCE ON
8 SOMEBODY WHO HAD BEEN CONVICTED OF MURDER AND MAYBE RAPE
9 AND MAYBE BURGLARY?

10 A YES.

11 Q ON THE OTHER HAND, COULD YOU IMPOSE A DEATH PENALTY
12 ON SOMEBODY WHO HAD BEEN CONVICTED OF MURDER AND MAYBE RAPE
13 AND MAYBE BURGLARY?

14 A I COULD, YES.

15 Q ALL RIGHT. LET ME ASK YOU THIS. ANOTHER THING THAT
16 OUR LAW SAYS IS THAT -- WELL, FIRST OF ALL, THE LAW SAYS
17 THAT YOU NEVER HAVE TO GIVE THE DEATH PENALTY. DO YOU
18 UNDERSTAND THAT?

19 A UH-HUH.

20 Q OKAY. BUT THE LAW ALSO SAYS THAT IF THE JURY
21 DECIDES, ALL TWELVE OF YOU DECIDE THAT THAT'S THE RIGHT
22 PUNISHMENT, THEY ALL HAVE TO SIGN A SENTENCING SHEET SAYING
23 THAT THAT'S THE PUNISHMENT THAT THEY AGREED UPON?

24 A UH-HUH.

25 Q IF YOU DECIDED THAT THE DEATH PENALTY WAS THE RIGHT

1 PUNISHMENT, COULD YOU SIGN THAT SENTENCING SHEET?

2 A I COULDN'T ANSWER THAT.

3 Q YOU COULDN'T ANSWER THAT?

4 A NO.

5 Q OH.

6 A IF THAT WAS SOMETHING -- DEPENDING ON THE

7 CIRCUMSTANCES AND THAT'S WHAT I WAS FOR, DEPENDING ON THE

8 CIRCUMSTANCES, I COULD.

9 Q OKAY. YOU UNDERSTAND THAT IT WOULD NEVER COME TO

10 THAT POINT UNLESS ALL TWELVE AGREED---

11 A YES.

12 Q ---THAT EACH INDIVIDUAL AGREED THAT---

13 A UH-HUH.

14 Q ---WAS THE PENALTY?

15 A UH-HUH.

16 Q AND COULD YOU PERFORM THAT, WHAT WE CALL, A

17 MINISTERIAL FUNCTION OF SIGNING YOUR NAME SAYING THAT YOU

18 WERE IN AGREEMENT?

19 A IF I WAS IN AGREEMENT, YES.

20 Q OKAY. OKAY. THAT'S ALL THE LAW REQUIRES. I

21 APPRECIATE YOUR BEING UP HERE THIS EVENING. I APPRECIATE

22 YOUR FRANKNESS IN ANSWERING MY QUESTIONS. THANK YOU VERY

23 MUCH.

24 A OKAY.

25 THE COURT: MR. HUMPHRIES.

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EXAMINATION

BY MR. HUMPHRIES:

Q MS. MOORE, I'M FRAN HUMPHRIES, THE DEPUTY SOLICITOR. I'M GOING TO BE TRYING THIS CASE ALONG WITH MR. CHASE AND DONNIE MYERS, THE SOLICITOR.

AND I HESITATE EVEN TO DO THIS, BUT BECAUSE MS. FULLWOOD SORT OF ELICITED IT FROM YOU, LET ME ASK YOU THIS. WHEN SHE ASKED IF YOU HAD HAD DISCUSSIONS WITH FRIENDS AND FAMILY ABOUT THE DEATH PENALTY---

A UH-HUH.

Q ---YOU INDICATED THAT YOU HAD?

A YES, WE HAVE.

Q ON A NUMBER OF OCCASIONS. YOU VOLUNTEERED THAT MOST OF YOUR FAMILY AND FRIENDS, I ASSUME, ARE FOR THE DEATH PENALTY?

A (WHEREUPON, THE WITNESS NODS IN THE AFFIRMATIVE AT THIS TIME.)

Q BY SAYING THAT, WERE YOU INDICATING THAT YOU WERE SOMETIMES AT ODDS WITH YOUR FRIENDS AND FAMILY ABOUT THE DEATH PENALTY?

A WELL---

Q DO YOU KNOW WHAT I'M SAYING---

A YOU MEAN LIKE DEPENDING ON THE CIRCUMSTANCES?

Q YES, MA'AM.

A YES.

1 Q OKAY. SO IN EVERY CIRCUMSTANCE WHERE YOU'VE GOT A
2 MURDER AND AN AGGRAVATING CIRCUMSTANCE, YOU WOULDN'T ALWAYS
3 VOTE FOR THE DEATH PENALTY?

4 A NOT ALWAYS.

5 Q WHERE I ASSUME YOUR FAMILY OR FRIENDS MAY?

6 A YES, SOME OF THEM---

7 Q IS THAT BASICALLY?

8 A YES, SOME OF THEM ARE MORE -- THAT'S -- THEY'RE NOT
9 CHANGING THEIR MINDS.

10 Q I'VE GOT YOU. AND WE'RE NOT HERE TO CHANGE YOUR
11 MIND, OKAY. WE ARE JUST TRYING TO DECIDE WHAT YOUR MIND IS
12 AT LEAST AS IT RELATES TO THAT.

13 I DON'T GUESS IT'S ODD THAT YOUR FAMILY MEMBERS
14 WOULD BE AT ODDS ABOUT ANYTHING BECAUSE THEY'RE FAMILY.
15 PARTICULARLY ABOUT THE DEATH PENALTY. IS THERE ANYTHING
16 ABOUT YOU -- AND I DON'T WANT TO KNOW WHAT IT IS, OKAY --
17 ABOUT THE WAY YOU WERE BROUGHT UP, PERHAPS, YOUR RELIGION,
18 YOUR FAMILY TIES, THAT WOULD PREVENT YOU FROM RENDERING A
19 VERDICT OF DEATH?

20 A NO.

21 Q BECAUSE REALLY WHAT WE'RE LOOKING FOR IS A JUROR THAT
22 CAN BE FAIR AND IMPARTIAL TO BOTH THE STATE AND GARY TERRY.
23 YOU UNDERSTAND THAT?

24 A UH-HUH.

25 Q WHEN YOU GO INTO THAT SECOND PHASE -- LET'S ASSUME

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1 FOR THE MOMENT THAT YOU ARE ON THIS JURY, THAT YOU AND THE
2 OTHER ELEVEN MEMBERS OF THE JURY HAVE RETURNED A VERDICT OF
3 GUILTY ON MURDER AND SOME OTHER OFFENSES, BURGLARY,
4 CRIMINAL SEXUAL CONDUCT AND WE GO INTO THAT SECOND PHASE.
5 COULD YOU IN THAT SECOND PHASE CONSIDER BOTH THE
6 AGGRAVATING CIRCUMSTANCES AND THE MITIGATING CIRCUMSTANCES
7 BEFORE YOU FORM AN OPINION IN YOUR MIND ABOUT WHAT THE
8 SENTENCE SHOULD BE?

9 A I'M NOT SO SURE OF THAT.

10 Q WHAT WOULD BE YOUR QUESTION ABOUT THAT?

11 A IT WOULD JUST DEPEND ON THE CIRCUMSTANCES FROM THE
12 FIRST TRIAL.

13 Q OKAY. AND I THINK I SEE WHERE YOU'RE GOING. AND
14 LET'S ASSUME FOR -- AND I THINK MS. FULLWOOD TRIED TO MAKE
15 THIS CLEAR AND WE'RE LAWYERS, THAT'S SOMETIMES THE LAST
16 THING WE CAN DO IS MAKE SOMETHING CLEAR. THAT'S NO
17 REFLECTION ON MS. FULLWOOD. I'M EQUALLY AS BAD AT IT.

18 IN THE FIRST PHASE, YOU WOULD, ASSUMING THERE'S A
19 VERDICT OF GUILTY, YOU WOULD HAVE FOUND THE DEFENDANT
20 GUILTY OF MURDER AND SOME OTHER OFFENSE OR OFFENSES, RAPE,
21 BURGLARY. OKAY. THAT'S THE WAY YOU RECEIVE THE DEFENDANT
22 INTO THE SECOND PHASE, GUILTY OF THOSE CHARGES, OKAY?

23 A UH-HUH.

24 Q MURDER AND THE AGGRAVATING CIRCUMSTANCES. ARE YOU
25 SAYING THEN THAT YOU -- WELL, WHAT ARE YOU SAYING ABOUT

1 THAT? IF THE GUILT PHASE IS SO BAD, YOU MAY BE PREDISPOSED
2 IN THE PENALTY PHASE REGARDLESS OF WHAT THE MITIGATING
3 CIRCUMSTANCES ARE OR THE AGGRAVATING CIRCUMSTANCES ARE?

4 A MORE OR LESS THE AGGRAVATING CIRCUMSTANCES.

5 THE COURT: I'M SORRY, I COULDN'T HEAR YOUR
6 ANSWER.

7 THE JUROR: THE AGGRAVATING CIRCUMSTANCES.

8 MR. HUMPHRIES: HELP ME OUT THERE. WHAT DO YOU
9 MEAN BY THAT?

10 A WELL, I MEAN, IF -- IF SOME PEOPLE ARE -- HAVE MENTAL
11 PROBLEMS AND THINGS SUCH AS THAT, THAT MAY, YOU KNOW, CAUSE
12 THEM TO DO THINGS LIKE THAT.

13 Q AND THAT WOULD BE MITIGATING IN YOUR MIND---

14 A UH-HUH.

15 Q ---IS THAT WHAT YOU'RE SAYING?

16 A UH-HUH.

17 Q OKAY. NOW, YOU ALSO SAID AND, I THINK, WHEN MS.
18 FULLWOOD ASKED YOU AND SHE TOLD YOU AND IT'S CORRECT. IF
19 ALL TWELVE JURORS DETERMINED THAT THE VERDICT SHOULD BE
20 DEATH AND YOU KNOW THERE ARE ONLY TWO CHOICES, LIFE AND
21 DEATH, THEN OUR LAW REQUIRES FOR YOU TO SIGN -- PHYSICALLY
22 AFFIX YOUR NAME NOT TO A SENTENCING SHEET, BUT A VERDICT
23 FORM THAT SAYS, WE, THE JURY, FIND THAT THE DEFENDANT
24 SHOULD BE SENTENCED TO DEATH. COULD YOU DO THAT OR WOULD
25 THAT SUBSTANTIALLY IMPAIR YOUR ABILITY TO CONSIDER AND

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- 1 IMPOSE THE DEATH PENALTY?
- 2 A IT COULD.
- 3 Q IT COULD SUBSTANTIALLY---
- 4 A UH-HUH.
- 5 Q ---IMPAIR YOUR ABILITY TO IMPOSE THE DEATH PENALTY?
- 6 A UH-HUH.
- 7 Q WELL, THAT'S WHAT WE NEED TO KNOW. IS THERE
- 8 SOMETHING ELSE YOU WISH TO SAY ABOUT THAT?
- 9 A NO, NO, THAT'S. NO.
- 10 Q THANK YOU VERY MUCH.
- 11 A THANK YOU.

12 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

13 RE-EXAMINATION

14 BY MS. FULLWOOD:

15 Q I JUST WANTED TO MAKE SURE THAT WE ARE ALL KIND OF ON "

16 THE SAME PAGE HERE.

17 YOU UNDERSTAND OR DO YOU UNDERSTAND THAT YOU

18 WOULD NOT BE ASKED TO SIGN ANYTHING UNLESS AND UNTIL YOU

19 HAD INDIVIDUALLY MADE UP YOUR MIND AS TO WHAT WOULD BE THE

20 RIGHT PUNISHMENT AND THE WAY YOU'VE MADE UP YOUR MIND

21 AGREED WITH THE WAY ELEVEN OTHER PEOPLE MADE UP THEIR MIND?

22 A (WHEREUPON, THE WITNESS NODS IN THE AFFIRMATIVE AT

23 THIS TIME.)

24 Q OKAY. IN YOUR JOB, DON'T YOU HAVE TO DO A LOT OF

25 ADMINISTRATIVE TYPE OF WORK LIKE MAKING NOTES ON YOUR