

VOLUME TWO OF EIGHT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Larry R. Patterson, Circuit Court Judge

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S.C. Supreme Court

JOHN RICHARD WOOD,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

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THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 THE DEFENDANT UNDER OUR SYSTEM DOESN'T HAVE TO PROVE
2 ANYTHING, DOESN'T HAVE TO PRESENT ANY EVIDENCE, DOESN'T HAVE
3 TO DISPROVE ANYTHING? DO YOU UNDERSTAND THAT?

4 A I UNDERSTAND THAT ALSO.

5 Q DO YOU AGREE WITH THAT?

6 A I AGREE.

7 Q THE BURDEN IS ON THE STATE AND THE STATE ONLY TO PROVE
8 GUILT BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND AND AGREE
9 WITH THAT?

10 A I UNDERSTAND AND AGREE.

11 Q OKAY. HAVE YOU ALREADY FORMED AN OPINION AS TO THE
12 FACTS OF THIS CASE?

13 A NO, SIR, I HAVEN'T FORMED AN OPINION.

14 Q YOU UNDERSTAND WHAT YOU MAY HAVE BEEN EXPOSED TO IN THE
15 MEDIA, BUT ARE YOU WILLING TO DISREGARD THAT AND APPROACH
16 JURY DUTY WITH AN OPEN MIND TO HONOR YOUR OATH?

17 A YES, SIR.

18 Q BY THE SAME TOKEN, HAVE YOU ALREADY FORMED ANY OPINIONS
19 OR PREVIOUS POSITIONS ABOUT THE GUILT OR INNOCENCE OF MR.
20 WOOD?

21 A NO, SIR, I HAVE NOT.

22 Q NOW, MS. HONEYCUTT, WE'RE GOING TO TALK ABOUT THE
23 SENTENCING PHASE PART OF A TRIAL, NOT THIS TRIAL.

24 A UH-HUH (AFFIRMATIVE).

25 Q BUT JUST THE CONCEPT OF A SENTENCING PHASE. NOW, I

THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 HESITATE TO DO THAT BECAUSE WE MAY NOT EVEN REACH THE
2 SENTENCING PHASE. WE MAY GET TO THE END OF THE FIRST PHASE
3 AND BECAUSE OF THE VERDICT BEING NOT GUILTY OF MURDER, THAT
4 ENDS THE CASE. DO YOU UNDERSTAND THAT?

5 A I UNDERSTAND.

6 Q BUT BECAUSE WE POSSIBLY COULD GO TO A SENTENCING PHASE,
7 I AM REQUIRED -- AND I'M SURE THE ATTORNEYS WOULD ALSO LIKE
8 TO ASK YOU QUESTIONS ABOUT THE SENTENCING PHASE AND HOW YOU
9 THINK ABOUT THAT AND WHAT YOUR VIEWS ARE OF THE DEATH
10 PENALTY. DO YOU UNDERSTAND THAT?

11 A I UNDERSTAND.

12 Q ALL RIGHT. LET'S TALK ABOUT THAT, NOT DEALING WITH THIS
13 CASE SPECIFICALLY BUT JUST THE CONCEPT IN GENERAL. WHEN A
14 JURY MOVES TO A SENTENCING PHASE I WANT YOU TO UNDERSTAND
15 THAT THEY HAVE ALREADY HAD THE FIRST PHASE, AND A DEFENDANT,
16 WHOEVER IT IS, HAS BEEN FOUND GUILTY OF MURDER. THAT'S
17 ALREADY ESTABLISHED WHEN YOU GO TO THE SENTENCING PHASE.

18 A UH-HUH (AFFIRMATIVE).

19 Q SO WHEN YOU GET TO THE SENTENCING PHASE, YOU DON'T ARGUE
20 ABOUT SELF-DEFENSE, ACCIDENT, ALIBI, AND ALL THESE OTHER
21 DEFENSES. THAT'S DONE AWAY WITH. WHEN YOU MOVE TO THE
22 SENTENCING HEARING, YOU'RE DEALING WITH A MURDERER. DO YOU
23 UNDERSTAND THAT?

24 A I UNDERSTAND THAT.

25 Q NOW, IN THAT SENTENCING PHASE NEW EVIDENCE IS OFFERED.

THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 A UH-HUH (AFFIRMATIVE) .

2 Q EVIDENCE OF -- WHAT I DESCRIBED TO YOU EARLIER, EVIDENCE
3 OF AN AGGRAVATING CIRCUMSTANCE PERHAPS OR EVIDENCE OF
4 MITIGATION.

5 A UH-HUH (AFFIRMATIVE) .

6 Q LET ME GIVE YOU JUST SOME EXAMPLES OF WHAT OUR STATE
7 LEGISLATURE SAYS CONSTITUTE AN AGGRAVATING CIRCUMSTANCE.
8 MURDER IN THE COMMISSION OF ARMED ROBBERY, MURDER IN THE
9 COMMISSION OF CRIMINAL SEXUAL CONDUCT, MURDER IN THE
10 COMMISSION OF KIDNAPPING, AND THERE ARE OTHERS. BUT THAT
11 SORT OF GIVES YOU A SAMPLING OF THE TYPE ISSUES WHICH OUR
12 LEGISLATURE DEFINES AS AN AGGRAVATING CIRCUMSTANCE.

13 A UH-HUH (AFFIRMATIVE) .

14 Q SO YOU MAY HEAR ADDITIONAL EVIDENCE OF THAT REGARD. BUT
15 THE LAW ALSO SPECIFICALLY AUTHORIZES AND REQUIRES A JURY TO
16 GIVE CONSIDERATION TO WHAT WE CALL MITIGATING EVIDENCE. NOW,
17 MITIGATION EVIDENCE, FOR EXAMPLE, COULD BE SUCH THINGS AS A
18 DEFENDANT'S BACKGROUND, FAMILY HISTORY, MENTAL HEALTH STATUS,
19 AND THINGS OF THAT NATURE.

20 A UH-HUH (AFFIRMATIVE) .

21 Q AND AT THE END OF THE SENTENCING PROCESS THE JURY WOULD
22 BE INSTRUCTED BEFORE YOU MAKE A FINAL DECISION YOU MUST
23 CONSIDER CAREFULLY ALL OF THESE FACTS, GIVE THOUGHTFUL AND
24 SERIOUS CONSIDERATION TO BOTH ANY CIRCUMSTANCE OF AGGRAVATION
25 AS WELL AS MITIGATION EVIDENCE. IF YOU WERE A JUROR WOULD

THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 YOU HONOR YOUR OATH IN THAT REGARD AND GIVE THOSE THINGS
2 CAREFUL CONSIDERATION BEFORE MAKING A FINAL DECISION?

3 A I WOULD. I WOULD, SIR.

4 Q ALL RIGHT. NOW, LET'S MOVE IT JUST A LITTLE BIT
5 FURTHER. WE'RE NOT TALKING ABOUT THIS CASE, AGAIN A
6 HYPOTHETICAL SITUATION. PUT YOURSELF IN A SENTENCING JURY.
7 YOU'VE HEARD THE ALL. YOU'VE HEARD THE JUDGE'S INSTRUCTIONS.
8 YOU'VE HEARD THE INSTRUCTIONS, CONSIDER THE -- ANY
9 CIRCUMSTANCE IN AGGRAVATION THAT'S PROVEN, CONSIDER THE
10 MITIGATION EVIDENCE, AND THEN MAKE A DECISION. AND IF YOU
11 ARE IN THAT SITUATION AND YOU HAVE CONSIDERED IT ALL -- THE
12 LAW, THE FACTS, THE MITIGATION EVIDENCE, CIRCUMSTANCES OF
13 AGGRAVATION, EVERYTHING -- AND YOU BELIEVED UNDER THE LAW AND
14 THE FACTS THAT LIFE IMPRISONMENT WAS THE PROPER PUNISHMENT,
15 COULD YOU VOTE FOR LIFE IMPRISONMENT?

16 A I COULD. I COULD IF I BELIEVED ALL THE FACTS WERE TRUE.

17 Q NOW, LET'S REVERSE IT. YOU HAVE LISTENED TO THIS CASE
18 AND YOU'RE SITTING IN THE JURY ROOM WITH YOUR FELLOW JURORS
19 AND YOU HAVE CAREFULLY CONSIDERED ANY CIRCUMSTANCE OF
20 AGGRAVATION, YOU HAVE CONSIDERED THE MITIGATION, AND HAVING
21 CONSIDERED IT ALL YOU DETERMINE TO VOTE FOR THE DEATH
22 PENALTY. COULD YOU VOTE FOR THE DEATH PENALTY?

23 A YES, SIR, I COULD.

24 Q ALL RIGHT. FURTHER, IN SOUTH CAROLINA WHEN A JURY --
25 AND IT MUST BE UNANIMOUS, THEY ALL VOTE FOR THE DEATH PENALTY

THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 -- THEY MUST DO SOMETHING FURTHER. THEY MUST SIGN EACH OF
2 THEIR NAMES TO THE VERDICT FORM. IF YOU HAD VOTED FOR THE
3 DEATH PENALTY, COULD YOU GO FURTHER AND SIGN YOUR NAME TO THE
4 DEATH WARRANT?

5 A YES, SIR.

6 Q OKAY. DO YOU REMEMBER, MS. HONEYCUTT, THAT -- I'VE GOT
7 ANOTHER ONE HERE IF YOU NEED TO LOOK AT IT -- SHEET OF PAPER
8 THAT LISTED THREE TYPES OF JURORS?

9 A UH-HUH (AFFIRMATIVE).

10 Q ONE WAS A JUROR WHO AS SOON AS SOMEONE HAD BEEN
11 CONVICTED OF MURDER IT'S THE DEATH PENALTY.

12 A UH-HUH (AFFIRMATIVE).

13 Q ANOTHER TYPE OF JUROR, CONVICTED OF MURDER, NEVER VOTE
14 FOR THE DEATH PENALTY, ALWAYS LIFE IMPRISONMENT.

15 A UH-HUH (AFFIRMATIVE).

16 Q AND THE THIRD ONE WAS A JUROR WHO AFTER A DEFENDANT HAD
17 BEEN CONVICTED OF MURDER STILL WOULD NOT HAVE HIS OR HER MIND
18 MADE UP BUT WOULD APPROACH SENTENCING WITH AN OPEN MIND AND
19 COULD GO EITHER WAY DEPENDING ON THE AGGRAVATING
20 CIRCUMSTANCES AND THE MITIGATING EVIDENCE.

21 A UH-HUH (AFFIRMATIVE).

22 Q WHICH OF THOSE TYPE JURORS DO YOU THINK BEST DESCRIBES
23 YOU?

24 A PROBABLY THE THIRD.

25 Q OKAY. SO WHAT I WANT TO MAKE SURE I UNDERSTAND FROM

THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 YOU, MA'AM, IS THAT IF YOU SERVE ON A JURY -- AND AGAIN WE'RE
2 NOT TALKING ABOUT THE FACTS OF THIS CASE -- BUT ASSUME THAT
3 MURDER HAS BEEN ESTABLISHED.

4 A UH-HUH (AFFIRMATIVE).

5 Q THERE IS NOTHING ELSE TO DECIDE. IT'S A MURDER. EVEN
6 THOUGH YOU ARE DEALING WITH A MURDERER, WOULD YOU STILL HAVE
7 AN OPEN MIND AS TO THE PROPER PENALTY?

8 A YES, SIR, I WOULD.

9 Q OKAY. SO IF YOU BELIEVED, CONSIDERING THE ADDITIONAL
10 EVIDENCE, ABOUT THE DEFENDANT -- BACKGROUND, MITIGATION,
11 THOSE THINGS, CIRCUMSTANCES OF AGGRAVATION -- YOU COULD STILL
12 VOTE FOR LIFE IMPRISONMENT EVEN WITH A MURDER THAT'S
13 ACCOMPANIED BY AN AGGRAVATING CIRCUMSTANCE?

14 A POSSIBLY I COULD.

15 Q OKAY. TELL ME WHY YOU USE THE WORD "POSSIBLY."

16 A WELL, IT WOULD BE SOMETHING TO THINK ABOUT. I MORE THAN
17 LIKELY COULD.

18 Q OKAY. WOULD YOU BE PREDISPOSED? SAY YOU WERE IN THAT
19 SITUATION AND YOU'RE MOVING TO THE SENTENCING PHASE. AND IN
20 THAT CASE, WHOEVER THE DEFENDANT WAS, YOU DECIDED AND THE
21 OTHERS HAD DECIDED THAT DEFENDANT WAS GUILTY OF MURDER. AS
22 YOU GO INTO THE SENTENCING PHASE ARE YOU LEANING ONE WAY OR
23 THE OTHER OR DO YOU STILL HAVE AN OPEN MIND AND CAN GO EITHER
24 WAY?

25 A UNDER THE CIRCUMSTANCES OF WHY IT OCCURRED, I COULD GO

THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 EITHER WAY, BUT POSSIBLY -- POSSIBLY AT THAT POINT I COULD
2 MAKE A DECISION.

3 Q OKAY. ONCE YOU HAD HEARD THE ADDITIONAL EVIDENCE OR
4 IMMEDIATELY AFTER THE FIRST PHASE?

5 A AFTER I'VE HEARD ALL OF THE EVIDENCE.

6 Q OKAY. WOULD YOU WANT TO HEAR THE OTHER EVIDENCE, BOTH
7 THE AGGRAVATING EVIDENCE, THE OTHER EVIDENCE FROM THE STATE,
8 AND WOULD YOU ALSO WANT TO HEAR THE EVIDENCE FROM THE
9 DEFENDANT?

10 A ALSO.

11 Q AND THERE IS NO OBLIGATION FOR THE DEFENDANT TO PRESENT
12 ANY EVIDENCE, BUT THERE MAY BE EVIDENCE IN MITIGATION. WOULD
13 YOU WANT TO HEAR THAT TYPE OF EVIDENCE?

14 A YES, I WOULD.

15 Q SO, AGAIN, TO MAKE SURE THAT I CAN UNDERSTAND AND I AM
16 COMFORTABLE WITH YOUR RESPONSES -- AND UNDERSTAND THERE IS NO
17 RIGHT OR WRONG ANSWER. WE'RE JUST TRYING TO FIND OUT WHAT
18 YOUR VIEWS ARE. THAT'S ALL.

19 A I UNDERSTAND.

20 Q SO IF YOU APPROACHED THIS SITUATION WOULD YOU DO SO WITH
21 AN OPEN MIND AND AS YOU MOVED INTO THE SENTENCING PHASE, EVEN
22 THOUGH YOU ALREADY CONVICTED SOMEONE OF MURDER, YOU WOULD
23 STILL HAVE AN OPEN MIND AND YOU COULD GO EITHER WAY, LIFE OR
24 DEATH, DEPENDING ON THE ADDITIONAL EVIDENCE YOU RECEIVED AND
25 CAREFUL CONSIDERATION OF THOSE OTHER FACTORS?

THELMA D. HONEYCUTT -- VOIR DIRE BY THE COURT

1 A YES, SIR, I COULD.

2 Q WOULD YOU THEN APPROACH JURY SERVICE WITH AN OPEN MIND
3 TO HONOR YOUR OATH, TO FIND THE FACTS FROM THE EVIDENCE AND
4 FOLLOW THE LAW AS I INSTRUCT IT?

5 A YES, SIR, I COULD.

6 Q OKAY. MS. HONEYCUTT, DO YOU KNOW -- AND I MAY NOT HAVE
7 ASKED THE RIGHT QUESTION. DO YOU KNOW OF ANY REASON WHY YOU
8 WOULD NOT BE ELIGIBLE OR QUALIFIED TO SERVE AS A JUROR IN
9 THIS CASE?

10 A NO, SIR, I DON'T.

11 THE COURT: OKAY. THE ATTORNEYS ARE GOING TO HAVE SOME
12 QUESTIONS. I MAY HAVE SOME FOLLOW-UP QUESTIONS.

13 AND THIS ROTATION WILL BE MR. MAULDIN.

14 JUROR NUMBER 174: OKAY.

15 VOIR DIRE BY MR. MAULDIN:

16 Q MS. HONEYCUTT?

17 A YES, SIR.

18 Q MY NAME IS JOHN MAULDIN, AND I'M THE PUBLIC DEFENDER. I
19 REPRESENT JOHN ALONG WITH RODNEY RICHEY.

20 A UH-HUH (AFFIRMATIVE).

21 Q AND I WANT TO ASK YOU A FEW QUESTIONS, FOLLOW-UP
22 QUESTIONS, WITH REGARD TO WHAT THE JUDGE HAS BEEN TALKING TO
23 YOU ABOUT.

24 A YES, SIR.

25 Q FIRST OF ALL, I WANT YOU TO -- I KNOW WE HAVE BEEN HERE

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 A LONG TIME TODAY, AND IT'S GETTING LATE. BUT I WANT TO
2 ENCOURAGE YOU TO DO THE TALKING. IN ORDER FOR US TO KNOW HOW
3 YOU FEEL ABOUT SOMETHING, YOU'RE GOING TO HAVE TO TELL US
4 INSTEAD OF US TELLING YOU. SO I WANT TO ENCOURAGE YOU TO
5 MAKE SURE THAT WE UNDERSTAND HOW YOU -- LET'S ACT LIKE WE'RE
6 HAVING A CONVERSATION INSTEAD OF TESTIFYING.

7 THERE ARE NO RIGHT OR WRONG ANSWERS. THE JUDGE
8 MENTIONED THAT JUST A FEW MOMENTS AGO. WHAT WE'RE IN THE
9 PROCESS OF DOING IS DETERMINING WHETHER CITIZENS IN THE
10 COMMUNITY ARE ELIGIBLE, ARE QUALIFIED TO SERVE IN THIS
11 PARTICULAR TYPE OF CASE. IF THEY AREN'T QUALIFIED OR
12 ELIGIBLE, THEY JUST GO ON. NOBODY'S VIEWS ARE ON TRIAL, IN
13 OTHER WORDS. AND I DON'T WANT YOU TO FEEL RESTRAINED THAT
14 YOU ARE SUPPOSED TO BE SAYING ANY PARTICULAR THING. YOU'RE
15 SUPPOSED TO TELL THE COURT EXACTLY WHAT YOU FEEL.

16 A I UNDERSTAND.

17 Q NOW, WITH REGARD TO THE DEATH PENALTY OR CAPITAL
18 PUNISHMENT, I WANT TO ASK YOU, MS. HONEYCUTT, IF YOU COULD
19 DESCRIBE TO ME HOW YOU FEEL OR WHAT YOU THINK ABOUT THE USE
20 OF THE DEATH PENALTY IN OUR CRIMINAL JUSTICE SYSTEM, JUST
21 GENERALLY. NOT IN ANY PARTICULAR CASE, BUT JUST IN GENERAL
22 HOW YOU FEEL ABOUT THE DEATH PENALTY.

23 A I THINK IT WOULD BE APPROPRIATE IN THE APPROPRIATE
24 CASES.

25 Q OKAY. DO YOU THINK THAT -- WHAT DO YOU THINK THE

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 PURPOSE OR THE REASON FOR HAVING THE DEATH PENALTY IN OUR
2 CRIMINAL JUSTICE SYSTEM WOULD BE? WHAT DO YOU THINK THE
3 REASON WOULD BE?

4 A WELL, I THINK IT'S THE CRIME THAT THE PARTY HAS
5 COMMITTED WOULD BE THE OBJECT OF THE DEATH SENTENCE, AND I
6 THINK THAT WOULD BE -- THE WHOLE OBJECT OF THE SENTENCE WOULD
7 BE THE CRIME.

8 Q ALL RIGHT.

9 A AND THE CIRCUMSTANCES AND THE EVIDENCE.

10 Q ALL RIGHT. AND WHEN YOU SAY "THE CIRCUMSTANCES AND THE
11 EVIDENCE," AT THIS POINT AT LEAST IN OUR DISCUSSION I'M GOING
12 TO ASSUME THAT YOU MEAN OF THE CRIME ITSELF?

13 A UH-HUH (AFFIRMATIVE). THAT'S TRUE.

14 Q AND THEN WE'LL GET BEYOND THAT IN A FEW MOMENTS. BUT AT
15 THIS POINT, I ASSUME WHEN YOU SAY "CIRCUMSTANCES AND THE
16 EVIDENCE," YOU MEAN OF THE INCIDENT?

17 A CRIME. UH-HUH (AFFIRMATIVE). THAT'S CORRECT.

18 Q ALL RIGHT. HAS YOUR VIEW OR YOUR FEELING ABOUT THE
19 DEATH PENALTY REMAINED THE SAME PRETTY CONSISTENTLY OR HAS IT
20 CHANGED DURING YOUR LIFE OR HAVE YOU FELT IT -- MADE
21 ADJUSTMENTS IN YOUR VIEWS OR WHAT?

22 A WELL, AS I SAID, IT DEPENDS ON THE CRIME. AND IT'S
23 PRETTY MUCH THE SAME -- I'VE FELT PRETTY MUCH THE SAME ABOUT,
24 YOU KNOW, THE DEATH PENALTY ALL ALONG SINCE IT HAS INCURRED.
25 AND PRETTY MUCH IT'S LIKE I SAID, THE CRIME THAT HAS BEEN

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 COMMITTED.

2 Q ALL RIGHT. LET ME ASK YOU THIS GENERAL QUESTION AND
3 THEN I'LL GET INTO THE MORE SPECIFIC SITUATION OF THIS -- OF
4 OUR PARTICULAR LAW IN SOUTH CAROLINA.

5 DO YOU BELIEVE THAT THE DEATH PENALTY NATIONALLY, NOT
6 JUST IN SOUTH CAROLINA, BUT DO YOU BELIEVE THAT THE DEATH
7 PENALTY IS USED NOT OFTEN ENOUGH, TOO OFTEN OR ABOUT RIGHT?
8 I GIVE YOU THOSE THREE. YOU CAN USE ANY CHOICE OF WORDS YOU
9 WISH. BUT DO YOU HAVE A VIEW ON HOW OFTEN WE USE THE DEATH
10 PENALTY?

11 A I THINK IT'S USED FAIRLY. OFTEN ENOUGH.

12 Q OFTEN ENOUGH?

13 A UH-HUH (AFFIRMATIVE).

14 Q AND IN A FAIR WAY YOU SAY?

15 A IN A FAIR WAY.

16 Q OKAY. IN SOUTH CAROLINA WE HAVE, AS THE COURT HAS
17 DESCRIBED TO YOU, A TWO-PHASE TRIAL. THE SAME JURY SERVES
18 BOTH PHASES. AT THE FIRST TRIAL THE ONLY -- THE ISSUE IS NOT
19 HOW THE JURY WOULD REACT TO A MURDER CONVICTION BUT WHETHER A
20 MURDER HAS BEEN COMMITTED. IT IS AN ISSUE OF WHETHER THE
21 PERSON ON TRIAL IS GUILTY OR NOT. IF THE PERSON IS NOT
22 GUILTY, THEN THERE IS NO SECOND TRIAL, AS THE COURT
23 MENTIONED.

24 BUT IN THE EVENT THE JURY FOUND THAT A MURDER HAD BEEN
25 COMMITTED -- IT WAS AN INTENTIONAL OFFENSE. IT WAS A

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 MALICIOUS ACT OF MURDER. NO ACCIDENT OF SELF-DEFENSE OR
2 MISTAKE. NO INSANITY DEFENSE. IN OTHER WORDS, ALL OF THOSE
3 ARE BY THE WAYSIDE. THE PERSON HAS BEEN CONVICTED BY THE
4 JURORS UNANIMOUSLY, A GROUP OF TWELVE, OF THE OFFENSE OF
5 MURDER. THEN AND ONLY THEN WOULD WE EVEN HAVE A SECOND
6 PHASE. RIGHT? BECAUSE THE SECOND PHASE IS TO DECIDE
7 PUNISHMENT, AND THERE ARE ONLY TWO CHOICES -- LIFE IN PRISON
8 OR DEATH.

9 NOW, WHAT THAT OBVIOUSLY MEANS, SINCE WE'RE HAVING A
10 SECOND SENTENCING HEARING, THAT NEITHER ONE OF THOSE
11 SENTENCES SHOULD NECESSARILY BE AUTOMATIC. DO YOU FOLLOW ME?

12 A I FOLLOW YOU.

13 Q OKAY. OTHERWISE WE WOULDN'T HAVE A HEARING---

14 A THAT'S TRUE.

15 Q ---IF IT WAS AUTOMATIC. SO THE LAW SAYS IT'S NOT
16 AUTOMATIC, THERE MUST BE AN EVALUATION.

17 HERE IS WHERE THE QUALIFICATION QUESTION IS CRITICAL.
18 IF A JUROR WERE TO GO INTO THAT SECOND PHASE ALREADY DECIDED
19 WHAT THEY'RE PROBABLY GOING TO DO, YOU KNOW?

20 A UH-HUH (AFFIRMATIVE).

21 Q THEN THEY REALLY SHOULD NOT BE ELIGIBLE TO SERVE AS A
22 JUROR IN THAT TYPE OF A CASE. EITHER WAY. IF THEY'RE
23 ALREADY DECIDED THAT EVERY CASE OF MURDER DESERVES THE DEATH
24 PENALTY, THEY SHOULD NOT BE QUALIFIED, DO YOU FOLLOW THAT?

25 A I FOLLOW THAT, SIR.

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 Q ALL RIGHT. THEN LET ME ASK YOU, IN EVERY CASE OF MURDER
2 WOULD YOU BELIEVE THAT THE DEATH PENALTY WAS APPROPRIATE? IN
3 EVERY CASE OF MURDER WOULD YOU BELIEVE THAT THE DEATH PENALTY
4 WAS ALWAYS AUTOMATICALLY APPROPRIATE?

5 A NO.

6 Q ALL RIGHT. AND THE REVERSE SIDE OF THAT QUESTION WOULD
7 BE, IN EVERY MURDER CASE WOULD YOU ALWAYS BELIEVE THAT A LIFE
8 SENTENCE WAS ALWAYS AUTOMATICALLY APPROPRIATE?

9 A NO.

10 Q SO YOU WOULD BE WILLING TO HEAR BOTH SIDES REGARDING THE
11 SENTENCE?

12 A I WOULD.

13 Q THE PROSECUTION WOULD HAVE AN OPPORTUNITY TO COME IN AND
14 PRESENT THE EVIDENCE OF AGGRAVATION. THE JUDGE HAS GIVEN YOU
15 SOME EXAMPLES OF THAT.

16 A YES, SIR.

17 Q AND THE DEFENDANT WOULD ALSO BE -- HAVE AN OPPORTUNITY
18 TO PRESENT WHAT IS CALLED THE MITIGATING CIRCUMSTANCES.

19 A YES, SIR.

20 Q THERE ARE SOME IN THE STATUTE, BUT YOU KNOW THE FACT IS
21 THAT A JUROR COULD GIVE A LIFE SENTENCE FOR ANY REASON AT
22 ALL, JUST OUT OF AN ACT OF MERCY, IF THEY SO CHOOSE. DO YOU
23 FOLLOW THAT?

24 A I FOLLOW THAT.

25 Q IF THE JUDGE INSTRUCTED YOU -- AND LISTEN VERY CAREFULLY

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 TO THE QUESTION. IF THE JUDGE INSTRUCTED YOU THAT THERE ARE
2 CERTAIN MATTERS IN MITIGATION THAT YOU MUST CONSIDER, WOULD
3 YOU FOLLOW HIS INSTRUCTIONS? AND THAT WOULD BE SUCH THINGS
4 AS BACKGROUND INFORMATION ON THE PERSON THAT'S BEEN CONVICTED
5 OF MURDER NOW, HIS AGE, HIS BACKGROUND, HIS MENTAL HEALTH
6 CONDITION, THINGS LIKE THAT. YOU UNDERSTAND THAT?

7 A YES, SIR.

8 Q WOULD YOU BE WILLING TO TAKE THOSE INTO CONSIDERATION?

9 A YES, SIR.

10 Q DO YOU BELIEVE THAT A LIFE SENTENCE IS A SERIOUS PENALTY
11 FOR THE OFFENSE OF MURDER?

12 A YES, SIR.

13 Q FINALLY, MS. HONEYCUTT, I WANT TO ASK YOU JUST A COUPLE
14 OF FINAL QUESTIONS. AT THAT SECOND PHASE WHEN YOU'VE HAD THE
15 CONVICTION AND THEN THE SAME JURY COMES IN AND HEARS THE
16 EVIDENCE, THE JUDGE WOULD INSTRUCT THE JURY ON HOW TO USE --
17 THE RULES THAT YOU WOULD USE TO DECIDE, BUT THE DECISION IS
18 THE JURY'S DECISION. THE JURY THEN GOES OUT AND DELIBERATES,
19 AND I'M GOING TO PUT YOU INTO THAT DELIBERATION ROOM FOR JUST
20 A MOMENT IN A HYPOTHETICAL CASE. THE JURY IS DELIBERATING.
21 THEY HAVE DELIBERATED, SAY, FOR HOURS OR DAY OR HOW -- A LONG
22 TIME.

23 A UH-HUH (AFFIRMATIVE).

24 Q EVERYBODY'S HAD A CHANCE TO TALK. EVERYBODY'S HAD A
25 CHANCE TO REVIEW WHAT THEY'VE HEARD AND SAY HOW THEY FEEL.

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 AND FINALLY AFTER VOTE AFTER VOTE THE FINAL VOTE IS TAKEN AND
2 THERE IS TEN VOTES FOR ONE PENALTY AND TWO VOTES FOR THE
3 OTHER PENALTY. AND WE CAN SWITCH THE PENALTIES. IT DOESN'T
4 MATTER FOR PURPOSES OF MY QUESTION.

5 IF THAT WERE THE CASE, MS. HONEYCUTT, AND YOU WERE ONE
6 OF THE TWO IN THE MINORITY, A HEAVY MAJORITY ON THE OTHER
7 SIDE, ARE YOU THE TYPE OF PERSON WHO WOULD CHOOSE TO SIDE
8 WITH THE MAJORITY SO THAT ALL TWELVE COULD THEN BE IN
9 AGREEMENT AND RESOLVE THE CASE OR ARE YOU THE TYPE OF PERSON
10 WHO WOULD STAND BY YOUR LIFE OR DEATH QUESTION AND STICK WITH
11 YOUR VIEW ON THAT ISSUE?

12 A I WOULD MORE THAN LIKELY -- I'M SURE I WOULD GO WITH THE
13 MAJORITY IN BELIEVING THAT THE MAJORITY CHOSE THE RIGHT
14 SENTENCE -- OR THE -- EITHER SIDE.

15 Q OKAY. AND UNDERSTANDING THAT QUESTION NOW, SO YOUR VIEW
16 WOULD BE THAT YOU WOULD GO WITH THE MAJORITY IF IT WAS A
17 HEAVY MAJORITY?

18 A IF IT WAS A HEAVY MAJORITY, I WOULD FEEL LIKE THAT WAS,
19 YOU KNOW, THE BEST WAY.

20 Q OKAY.

21 A I WOULD GIVE IT CAREFUL CONSIDERATION.

22 THE COURT: LET ME ASK YOU A QUESTION. THERE IS A TERM
23 IN THE LAW THAT WE SAY WHEN A JURY CAVES IN. I WANT TO KNOW
24 IF YOU ARE IN A JURY ROOM AND IT'S ELEVEN TO ONE AND YOU'RE
25 BY YOURSELF BUT YOU BELIEVE IN YOUR POSITION, DO YOU CAVE IN

THELMA D. HONEYCUTT -- VOIR DIRE BY MR. MAULDIN

1 TO GO HOME OR DO YOU STICK BY YOUR GUNS?

2 JUROR NUMBER 174: (PAUSE) THAT'S A HARD QUESTION. I
3 WOULD PROBABLY GO WITH THE MAJORITY. I WOULD PROBABLY -- IF
4 I WAS THE ONLY ONE THAT---

5 THE COURT: EVEN IF YOU BELIEVED IN YOUR POSITION?

6 JUROR NUMBER 174: EVEN IF I BELIEVED IN MY POSITION.

7 THE COURT: ANY FURTHER QUESTIONS?

8 MR. MAULDIN: NOTHING FURTHER, YOUR HONOR.

9 THE COURT: ANY QUESTIONS BY THE STATE?

10 SOLICITOR ARIAIL: (OFF RECORD WITH CO-COUNSEL) NO.

11 THE COURT: THANK YOU, MS. HONEYCUTT. WE APPRECIATE
12 YOU BEING HERE. YOU'RE FREE TO GO AND YOU ARE EXCUSED FROM
13 JURY DUTY.

14 JUROR NUMBER 174: THANK YOU.

15 THE COURT: THANK YOU, MA'AM. GOOD LUCK TO YOU.

16 (JUROR EXCUSED AT 8:08 P.M.)

17 THE COURT: LET'S GET MR. ROSEMOND UP HERE.

18 MS. HONEYCUTT IS NOT QUALIFIED BASED ON HER
19 UNWILLINGNESS TO STAND BY A BELIEF.

20 MR. DERRICK ROSEMOND HAS BEEN HERE FOR, I THINK, SINCE
21 EARLY THIS AFTERNOON. LAW ENFORCEMENT BROUGHT HIM IN. JUROR
22 NUMBER 318 HAS BEEN DOWNSTAIRS MOST OF THE DAY. WE'RE
23 BRINGING HIM UP. WE'RE GOING TO QUALIFY HIM.

24 SOLICITOR ARIAIL: IS HE THE SUBURBAN LODGE?

25 MS. HERVEY: NO.

RE: DERRICK P. ROSEMOND -- JUROR NUMBER 318

1 THE COURT: NO.

2 YES, MA'AM?

3 MS. HERVEY: I JUST WANT TO ASK ONE QUESTION. HE WROTE
4 ON HIS QUESTIONNAIRE THAT HIS MIDDLE INITIAL IS L. ACCORDING
5 TO THE JURY LIST HIS MIDDLE INITIAL IS P. THE ONLY REASON
6 THIS BECOMES A PROBLEM IS WE HAVE A RAP SHEET ON A DERRICK P.
7 ROSEMOND, AND I WANT TO SOMEHOW DETERMINE WHETHER OR NOT HE
8 IS THE RIGHT GUY. SO IF YOU COULD JUST INQUIRE AS TO HIS
9 MIDDLE NAME, I THINK THAT WOULD SOLVE THE PROBLEM.

10 MR. MAULDIN: AND IF COULD -- AND I APOLOGIZE IF I HAVE
11 MISSED SOMETHING. BUT I DIDN'T BRING HIS FILE. I DON'T---

12 MS. HERVEY: LAW ENFORCEMENT FOUND HIM. HE DIDN'T SHOW
13 UP MONDAY. LAW ENFORCEMENT GOT HIM AND BROUGHT HIM---

14 THE COURT: HE'S NOT IN THE PANEL---

15 MR. MAULDIN: I DIDN'T BRING MY JUROR FILE OVER HERE.

16 MS. HERVEY: WE'RE NOT GOING TO QUESTION HIM. HE'S
17 GOING TO QUALIFY HIM.

18 MR. MAULDIN: OH, I'M SORRY. I THOUGHT WE WERE GETTING
19 READY TO QUESTION HIM. I'M SORRY, JUDGE.

20 THE COURT: NO. I'M JUST GOING TO QUALIFY HIM. IF
21 HE'S QUALIFIED, HE'S GOING TO BE PUT IN A PANEL.

22 MR. MAULDIN: I'M SORRY. I -- IT'S BEEN A LONG DAY.

23 THE COURT: I DON'T HAVE THE MASTER JURY LIST BUT THE
24 ACTUAL JUROR SUMMONED WAS A DERRICK L.?

25 MS. HERVEY: NO. THE ACTUAL JUROR SUMMONED -- ON THE

RE: DERRICK P. ROSEMOND -- JUROR NUMBER 318

1 JURY LIST IT SAYS DERRICK P. ON HIS QUESTIONNAIRE HE WRITES
2 HIS NAME AS DERRICK L.

3 THE COURT: DO WE---

4 MS. HERVEY: HE ALSO SAYS HIS BIRTHDATE IS 10/82 --
5 THAT'S IT. NO 8/10/82. THE RAP SHEET BIRTHDAY IS AUGUST
6 10TH OF '82. SO I THINK WE'VE GOT THE SAME GUY, BUT IT'S
7 JUST ONE OF THOSE THINGS WHERE I DON'T WANT IT TO BECOME AN
8 ISSUE IF WE DON'T HAVE THE SAME GUY.

9 MR. MAULDIN: HAND HIM THE RAP SHEET AND LET'S JUST ASK
10 HIM.

11 THE COURT: MAY I HAVE THAT PLEASE?

12 MR. MAULDIN: IS IT A DISQUALIFYING RAP SHEET?

13 MS. HERVEY: NO. HE'S GOT PENDING CHARGES. YOU MIGHT
14 BE REPRESENTING HIM.

15 THE COURT: HE'S GOT A CURRENT CHARGE?

16 MS. HERVEY: HE WAS CHARGED IN OCTOBER OF 2001. I
17 HAVEN'T GONE TO CHECK AND SEE IF IT'S STILL ACTIVE.

18 THE COURT: WHAT KIND OF CHARGE WAS IT?

19 MS. HERVEY: IT'S JUST A DRIVING WITHOUT A LICENSE.
20 NOTHING BIG.

21 (JUROR ENTERS COURTROOM AT 8:10 P.M.)

22 THE COURT: SIR, ARE YOU MR. DERRICK ROSEMOND?

23 JUROR NUMBER 318: YES, SIR.

24 DERRICK P. ROSEMOND, HAVING BEEN
25 DULY SWORN, TESTIFIED AS FOLLOWS:

DERRICK P. ROSEMOND -- VOIR DIRE BY THE COURT

1 VOIR DIRE BY THE COURT

2 Q TELL ME YOUR FULL NAME.

3 A DERRICK ROSEMOND.

4 Q DO YOU HAVE A MIDDLE NAME?

5 A PIERRE.

6 Q L?

7 A PIERRE.

8 Q B.L.? WHAT'S THE B STAND FOR?

9 A P.

10 Q OH, I'M SORRY. P.L.?

11 A YES, SIR.

12 Q WHAT'S THE P. STAND FOR?

13 A MY NAME. THAT'S MY MIDDLE NAME.

14 MS. HERVEY: I THINK HE'S SAYING PIERRE.

15 THE COURT: OH, PIERRE. EXCUSE ME.

16 Q DID YOU FILL OUT A JUROR QUESTIONNAIRE?

17 A YES, SIR.

18 Q YOU'VE GOT DERRICK L. ROSEMOND.

19 A DERRICK L.? THAT'S MY NAME. P.L.

20 Q HOW FAR DID YOU GO IN SCHOOL, MR. ROSEMOND?

21 A HOW FAR?

22 Q YES, SIR.

23 A TENTH.

24 Q CAN YOU READ AND WRITE, SIR?

25 A NO, SIR.

DERRICK P. ROSEMOND -- VOIR DIRE BY THE COURT

1 Q WHO FILLED OUT THIS FORM?

2 A MY COUSIN.

3 Q WHO IS YOUR COUSIN?

4 A DEMETRI.

5 Q DEMETRI?

6 A (INDICATES AFFIRMATIVE RESPONSE)

7 Q WHAT'S DEMETRI'S LAST NAME, ROSEMOND?

8 A MOON.

9 Q MOON.

10 A THAT'S WHAT HE'S GOT ON THERE, AIN'T IT?

11 Q AND WHAT IS YOUR DATE OF BIRTH?

12 A MY DATE OF BIRTH, 8/82.

13 Q EXCUSE ME?

14 A I MEAN, 10/82.

15 Q EXCUSE ME. I DIDN'T HEAR YOU.

16 A I MEAN 1982.

17 Q OKAY. DO YOU REMEMBER THE MONTH YOU WERE BORN?

18 A AUGUST.

19 Q DO YOU REMEMBER THE DAY IN AUGUST?

20 A THE 10TH.

21 Q AUGUST THE 10TH OF 1982; IS THAT CORRECT?

22 A YES, SIR.

23 SOLICITOR ARIAIL: CAN WE APPROACH?

24 (OFF RECORD DISCUSSION)

25 THE COURT: MR. ROSEMOND, YOU WERE REQUIRED TO APPEAR

DERRICK P. ROSEMOND -- VOIR DIRE BY THE COURT

1 FOR JURY DUTY TO YESTERDAY. YOU DID NOT APPEAR, AND THAT'S
2 WHY YOU HAD TO COME IN TODAY. WE'VE BEEN BUSY DEALING WITH
3 THIS PARTICULAR CASE, AND THAT'S WHY WE COULDN'T SEE YOU
4 EARLIER.

5 NOW THAT I HAVE MET WITH YOU, WITH THE CONSENT --
6 COUNSEL HAS INDICATED TO ME OFF THE RECORD THEY ARE AGREEING
7 TO EXCUSE YOU FROM YOUR JURY SERVICE. SO WE THANK YOU FOR
8 BEING HERE, AND YOU ARE FREE TO GO, SIR.

9 GOOD EVENING.

10 (JUROR EXCUSED AT 8:13 P.M.)

11 THE COURT: ALL RIGHT. COUNSEL TOLD ME AT THE SIDE
12 THAT THEY AGREED TO LET THIS GENTLEMAN GO BECAUSE OF HIS
13 DIFFICULTY RESPONDING, AND WE'LL JUST LEAVE IT AT THAT.

14 WE WILL START BACK IN THE MORNING AT 8:30 WITH PANEL
15 NUMBER 6, AND THEN WE'LL HAVE THE NEXT PANEL COMING IN AT
16 11:00, AND THE FINAL PANEL COMING IN AT 3:00. THAT'S GROUPS
17 6, 7, AND 8. WE WILL DECIDE TOMORROW AFTERNOON WHERE WE GO
18 ON THURSDAY.

19 SOLICITOR ARIAIL: YOUR HONOR, I HAVE -- I KNOW -- I
20 BELIEVE I KNOW ONE IN THE MORNING, MS. WHERRY, THE FIRST ONE.
21 SHE'S AN ACQUAINTANCE, NANCY WHERRY, KNOX WHERRY'S WIFE.

22 THE COURT: OKAY.

23 (MS. PLUMLEY OFF RECORD WITH THE COURT)

24 THE COURT: OKAY. ONE OTHER THING, THERE WAS A JUROR
25 AND I CAN'T REMEMBER WHAT SHE -- HER NAME IS MS. GOODMAN.

MATTERS AND MOTIONS

1 SHE'S NUMBER TWO ON OUR FIRST LIST. SHE HAD TO GO TO COURT,
2 AND I FORGET IF IT WAS A TRAFFIC TICKET OR WHAT IT WAS.

3 MS. PLUMLEY: IT WAS A TRAFFIC TICKET.

4 THE COURT: TRAFFIC TICKET. AND SHE HAD TO BE IN COURT
5 AT TEN O'CLOCK, AND I TOLD HER WE WOULD ACCOMMODATE HER COURT
6 CONFLICT. AND IT JUST TURNED OUT WHEN THEY RANDOMLY SELECTED
7 IT, SHE WAS CHOSEN IN THE GROUP THAT WAS GOING TO BE AT THAT
8 TIME, AND NOW WE'RE DOING IT IN THE MORNING. SO WHAT I WOULD
9 SUGGEST IS WE TAKE HER FIRST, AND THAT MIGHT GET HER OUT OF
10 HERE IN TIME TO MAKE HER TRAFFIC APPOINTMENT, AND THEN WE DO
11 MS. WHERRY SECOND AND THEN FOLLOW THE ORDER.

12 SOLICITOR ARIAIL: EITHER THAT AND I'LL JUST CALL AND
13 GET IT FIXED. JUST KIDDING.

14 MR. MAULDIN: WE HAVE NO OBJECTION TO YOUR SUGGESTION.

15 THE COURT: THANK YOU. I'LL SEE YOU IN THE MORNING AT
16 8:30.

17 (COURT RECESSED FOR THE DAY AT 8:15 P.M.)
18
19
20
21
22
23
24
25

CERTIFICATE

I, THE UNDERSIGNED, DAWN V. KOFFSKEY, OFFICIAL COURT REPORTER FOR THE 13TH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 5TH DAY OF FEBRUARY, 2002.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

MARCH 20, 2003



DAWN V. KOFFSKEY
COURT REPORTER

MATTERS AND MOTIONS

1 (JURY SELECTION RESUMED AT 8:40 A.M. ON 2/6/02)

2 THE COURT: GOOD MORNING. WE JUST HAD A JUROR SHOW UP
3 A FEW MINUTES AGO AND I WANTED TO GIVE THAT GENTLEMAN FIVE
4 MINUTES TO REVIEW THE WITNESS LIST, WHICH OF COURSE HE WILL
5 BE ABLE TO REVIEW IN THE JURY BOX.

6 I DO WANT TO MENTION ONE THING. I THOUGHT ABOUT
7 SOMETHING THAT WAS SAID YESTERDAY. AND AS WE ALL LEARN NEW
8 THINGS -- AND I THINK I'M THE CAUSE OF THIS PROBLEM. I THINK
9 I'M THE ONE WHO INITIALLY USED THE TERM AGGRAVATED MURDER,
10 AND THAT IS GROSSLY MISLEADING, AND I APOLOGIZE FOR THAT.
11 AND BOTH SIDES HAVE USED THE TERM, AND THERE WILL BE NO
12 REFERENCE TO THE TERM AGGRAVATED MURDER IN QUALIFICATION. I
13 WILL DO MY BEST NOT TO FALL INTO THAT TRAP, AND IF I DO, I
14 WOULD ASK IF ONE SIDE OR THE OTHER WOULD OBJECT TO IT AND
15 KEEP ME IN LINE BECAUSE IT IS SO MISLEADING TO A JUROR.

16 AND IT -- AND THE CONCEPT OF A MITIGATING CIRCUMSTANCE,
17 IN FACT BEARS NO RELATIONSHIP TO AN AGGRAVATED MURDER.
18 SOMEONE CAN BE SHOT FIFTY TIMES, AND THAT WOULD BE PRETTY
19 AGGRAVATED, AND IT MAY NOT BE DEATH PENALTY ELIGIBLE.
20 SURREPTITIOUSLY DROP POISON IN SOMEONE'S DRINKING WATER, IT'S
21 DEATH PENALTY ELIGIBLE. WE THINK OF ONE AS AGGRAVATED AND
22 THE OTHER AS NOT FROM A COMMON SENSE STANDPOINT. BUT OUR
23 LEGISLATURE HAS DEFINED IT AS A TERM OF ART AND WE'RE GOING
24 TO COMPLY WITH THE MANNER IN WHICH THE LEGISLATURE HAS USED
25 THAT TERM AND DEFINED IT.

MATTERS AND MOTIONS

1 SO I'M GOING TO TRY TO DO A BETTER JOB IN USING THE
2 PHRASE OF AN AGGRAVATING CIRCUMSTANCE AS DEFINED BY LAW OR A
3 CIRCUMSTANCE OF AGGRAVATION. AND I KNOW I'M THE ONE THAT
4 STARTED THAT SLIPPERY SLOPE AND I APOLOGIZE FOR THAT. BUT
5 I'M GOING TO DO A BETTER JOB AND HOPEFULLY THE REST OF US
6 WILL TOO.

7 SOLICITOR ARIAIL: WELL, I CERTAINLY DON'T BLAME THE
8 COURT BECAUSE I'VE HAD NUMEROUS OTHERS, AND I KNOW WHERE I'M
9 PUTTING THE BLAME.

10 THE COURT: NO. I OPENED THE OPENED DOOR YESTERDAY. I
11 THINK I MENTIONED IT TO ONE OF THE COLLECTIVE PANELS THAT
12 CAME IN, AND I JUST USED IT AND RAN WITH IT AND---

13 MR. MAULDIN: AND I'M THE ONE THAT ACTUALLY OBJECTED TO
14 IT. SO...

15 THE COURT: I'M THE ONE THAT NEEDS TO BE TAKEN TO THE
16 WOODSHED ON THAT ONE.

17 WE'LL BRING THE PANEL IN AND WE'RE GOING TO DO MS.
18 GOODMAN, WHO IS NUMBER 2, JUST BECAUSE OF HER COURT DATE AND
19 SEE IF WE CAN GET HER -- TAKE HER FIRST. SO LET'S BRING THE
20 PANEL.

21 SOLICITOR ARIAIL: DO WE KNOW WHAT HER COURT DATE IS
22 ABOUT?

23 THE COURT: I THINK IT'S A TRAFFIC TICKET. I'LL ASK
24 HER THAT WHEN SHE GETS ON THE STAND.

25 (PANEL NUMBER 6 ENTERS COURTROOM AT 8:45 A.M.)

VOIR DIRE -- PANEL NUMBER 6

1 (PANEL 6: JUROR NUMBER 384, NANCY C. WHERRY; JUROR
2 NUMBER 129, PRACILLA A. GOODMAN; JUROR NUMBER 347, RAYMOND E.
3 STARNES; JUROR NUMBER 301, LINDA D. PRESSLEY; AND JUROR
4 NUMBER 57, JOSHUA C. COBB)

5 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN. THANK
6 YOU FOR BEING HERE. WE APPRECIATE SO MUCH THE EFFORT YOU
7 MADE TO BE WITH US AND PARTICIPATE IN THIS JURY SELECTION
8 PROCESS. I WANT TO PUT A FACE WITH A NAME, SO I'M GOING TO
9 JUST GO DOWN THE ROW HERE, AND IF YOU WOULD, JUST TELL ME
10 YOUR NAME SO I CAN CHECK IT OFF AND MAKE SURE EVERYONE IS
11 HERE.

12 JUROR NUMBER 129: PRACILLA GOODMAN.

13 THE COURT: AND YOU, SIR?

14 JUROR NUMBER 347: RAYMOND STARNES.

15 JUROR NUMBER 57: JOSH COBB.

16 THE COURT: MR. COBB. AND MS. WHERRY IS NEXT.

17 JUROR NUMBER 301: LINDA PRESSLEY.

18 THE COURT: AND MS. PRESSLEY, OKAY.

19 WE'RE GOING TO SPEAK TO YOU AS A GROUP AT FIRST, JUST
20 GIVE YOU SORT OF AN OVERVIEW OF THE PROCESS OF A CAPITAL
21 CASE, AND THEN WE'LL QUESTION EACH OF YOU INDIVIDUALLY. YOU
22 WILL KNOW AT THAT POINT WHETHER YOU ARE AN ELIGIBLE JUROR OR
23 YOU HAVE BEEN EXCUSED, AND YOU WILL BE ABLE TO LEAVE AT THAT
24 POINT. YOU WILL BE GIVEN INSTRUCTIONS, IF YOU REMAIN
25 ELIGIBLE, WHAT TO DO NEXT, WHO TO CALL, AND THINGS LIKE THAT.

VOIR DIRE -- GROUP 1

1 SO YOU WILL BE GIVEN SPECIFIC INSTRUCTIONS.

2 THE FIRST THING I NEED TO DO IS I WANT TO PUT YOU UNDER
3 OATH. SO IF EACH OF YOU -- YOU DON'T HAVE TO STAND. IF YOU
4 WOULD, JUST RAISE YOUR RIGHT HAND.

5 DO EACH OF YOU SWEAR OR AFFIRM THE RESPONSES AND
6 TESTIMONY YOU GIVE DURING THE JURY SELECTION PROCESS WILL BE
7 TRUTHFUL AND COMPLETE? IF YOU AGREE TO BE BOUND BY THIS
8 OATH, PLEASE SAY "I WILL" AT THIS TIME. (PAUSE) ALL
9 INDICATE IN THE AFFIRMATIVE.

10 AGAIN, WE THANK YOU SO MUCH FOR BEING HERE. WE, TO THE
11 EXTENT POSSIBLE, WANT TO TRY TO PUT YOU AT EASE. WE KNOW
12 THIS IS AN UNFAMILIAR AND UNCOMFORTABLE SETTING FOR MOST IF
13 NOT ALL OF YOU. WE ARE HERE TO GATHER INFORMATION, TO TELL
14 YOU A LITTLE BIT MORE ABOUT THE PROCESS, TO ENLIGHTEN YOU IN
15 THAT REGARD AND ALSO LEARN FROM YOU ABOUT YOUR VIEWS ON
16 CERTAIN ISSUES THAT COULD ARISE IN A CASE OF THIS NATURE AS
17 WE WORK DILIGENTLY TO SELECT A FAIR AND IMPARTIAL JURY, A
18 JURY THAT WOULD BE FAIR TO BOTH SIDES IN THE CASE.

19 AND I WANT YOU TO UNDERSTAND AT THE OUTSET THAT MY ROLE
20 AS THE JUDGE IS TO FOLLOW THE LAW AND DO DIFFERENT THINGS
21 THAT ARE REQUIRED OF ME AS THE TRIAL JUDGE. PLEASE
22 UNDERSTAND THAT I HAVE NO OPINION ABOUT THE FACTS OF THE
23 CASE. OUR LAW DOES NOT PERMIT ME TO HAVE AN OPINION ABOUT
24 THE FACTS OF THE CASE. SO DO NOT CONSTRUE FROM ANYTHING I
25 SAY OR INFER FROM ANYTHING I SAY THAT I HAVE ANY OPINION

VOIR DIRE -- GROUP 1

1 ABOUT THE FACTS OF THIS CASE. I DO NOT.

2 NOW, ON MONDAY I PLACED YOU AND YOUR FELLOW JURORS UNDER
3 OATH NOT TO DISCUSS THIS CASE WITH ANYONE, TO EXPOSE YOURSELF
4 TO ANY INFORMATION ABOUT THE CASE THROUGH THE MEDIA OR
5 OTHERWISE. IF YOU HAVE -- AND IT MAY HAVE BEEN
6 INADVERTENTLY, SO DON'T BE SHY ABOUT ADMITTING IT IF YOU HAVE
7 SEEN SOMETHING OR HEARD SOMETHING. BUT IF YOU HAVE BEEN
8 EXPOSED TO ANY INFORMATION ABOUT THIS CASE FROM ANY SOURCE,
9 WOULD YOU PLEASE SIGNIFY BY RAISING YOUR RIGHT HAND? (PAUSE)
10 THE RECORD WILL REFLECT NO RESPONSE.

11 I WANT YOU TO BE AWARE OF THE TWO LEGAL PRINCIPLES THAT
12 I EMPHASIZED ON MONDAY. NUMBER ONE IS THE PRESUMPTION OF
13 INNOCENCE. ANYONE IN OUR SYSTEM ACCUSED OF A CRIME IS
14 PRESUMED TO BE INNOCENT. MOREOVER, THERE IS NO BURDEN OF
15 PROOF AT ALL ON A DEFENDANT TO PROVE OR DISPROVE ANYTHING.
16 THE BURDEN IS AT ALL TIMES ON THE STATE TO PROVE GUILT BEYOND
17 A REASONABLE DOUBT.

18 LADIES AND GENTLEMEN, THIS CASE IS GENERALLY REFERRED TO
19 AS A CAPITAL CASE. IT'S A CASE IN WHICH THE STATE SEEKS THE
20 DEATH PENALTY. AND I WANT TO EXPLAIN TO YOU IN GENERAL THE
21 PROCESS OF A CAPITAL CASE.

22 ONCE A JURY IS SELECTED, WE DO WHAT IS SOMETIMES CALLED
23 THE FIRST PHASE OF THE TRIAL. AND IN THAT FIRST PHASE THE
24 JURY DETERMINES WHETHER OR NOT A DEFENDANT -- WE'RE NOT
25 TALKING ABOUT THIS CASE. WE'RE JUST TALKING ABOUT THE

VOIR DIRE -- GROUP 1

1 CONCEPT IN GENERAL -- WHETHER OR NOT A DEFENDANT IS GUILTY OR
2 NOT GUILTY OF THE CRIME OF MURDER.

3 NOW, WE MAY NEVER REACH A SECOND PHASE OR SENTENCING
4 PHASE IN THIS CASE. AND IF THE JURY DETERMINES THAT A
5 DEFENDANT IN A GIVEN CASE IS NOT GUILTY OF THE CRIME OF
6 MURDER, THAT ENDS THE JURY'S INVOLVEMENT. THERE IS NO
7 FURTHER JURY SERVICE. SO YOU DON'T KNOW GOING IN IF YOU'RE
8 EVER GOING TO REACH A SENTENCING PHASE. BUT BECAUSE THERE IS
9 THAT POSSIBILITY, WE NEED TO TALK ABOUT IT. WE NEED TO KNOW
10 WHAT ISSUES COULD ARISE, HOW YOU FEEL ABOUT CERTAIN ISSUES
11 AND HOW YOU WOULD APPROACH YOUR JURY SERVICE IN THAT REGARD.

12 IF IN A CAPITAL CASE AN INDIVIDUAL IS FOUND GUILTY OF
13 THE OFFENSE OF MURDER, THEN WE WOULD MOVE INTO THAT SECOND
14 PHASE SOMETIMES CALLED THE SENTENCING PHASE. AND AT THAT
15 SENTENCING PHASE WE WOULD HEAR ADDITIONAL EVIDENCE, NEW
16 EVIDENCE. SOMETIMES IT'S REFERRED TO AS EVIDENCE OF
17 CIRCUMSTANCES OF AGGRAVATION. EVIDENCE IN MITIGATION,
18 CIRCUMSTANCES OF MITIGATION.

19 NOW, OUR STATE LAW -- THOSE ARE TERMS OF ART DEFINED BY
20 OUR GENERAL ASSEMBLY, OUR LEGISLATURE IN COLUMBIA. AS I
21 MENTIONED TO YOU ON MONDAY, YOU CANNOT ASK FOR THE DEATH
22 PENALTY IN EVERY MURDER. UNDER OUR LAW IT MUST BE "A MURDER
23 COMMITTED IN THE COMMISSION OF" AND THEN THE STATE LAW LISTS
24 CERTAIN EXAMPLES. I'LL JUST GIVE YOU AN IDEA OF WHAT IT IS.
25 IT WOULD BE MURDER IN THE COMMISSION OF ARMED ROBBERY, MURDER

VOIR DIRE -- GROUP 1

1 IN THE COMMISSION OF A BURGLARY, MURDER IN THE COMMISSION OF
2 KIDNAPPING. SO IT'S MURDER PLUS SOME OTHER ELEMENT THAT
3 COMBINES WITH IT, AND THEY USE THE TERM "A CIRCUMSTANCE OF
4 AGGRAVATION" TO DESCRIBE THAT COMBINING OF THE MURDER WITH
5 THE OTHER INCIDENT OR FACT. THAT MAKES A CASE DEATH PENALTY
6 ELIGIBLE. A JURY IS NEVER REQUIRED TO GIVE THE DEATH
7 PENALTY. THE JURY COULD ALWAYS GIVE A LIFE SENTENCE IN ANY
8 CASE. THAT JUST MEANS IT IS ELIGIBLE TO BE ASKED FOR.

9 NOW, ON THE FLIP SIDE THERE ARE CIRCUMSTANCES OR
10 EVIDENCE IN MITIGATION, AND OUR STATE LAW RECOGNIZES THOSE
11 TYPES OF FACTORS MUST BE CONSIDERED BEFORE A SENTENCE IS
12 IMPOSED. FACTORS OF THAT NATURE MAY NOT EVEN BE REFERENCED
13 IN THE FIRST PHASE OF THE TRIAL. SO WE WANT TO MAKE SURE
14 THAT AS YOU ENTER A SENTENCING PHASE YOUR MIND IS NOT MADE UP
15 ONE WAY OR THE OTHER, THAT YOU WOULD CONSIDER A CIRCUMSTANCE
16 OF AGGRAVATION BEFORE MAKING YOUR MIND UP, THAT YOU WOULD
17 CONSIDER EVIDENCE OF MITIGATION.

18 LET ME GIVE AN EXAMPLE OF WHAT MITIGATION WOULD BE UNDER
19 OUR LAW. IT COULD BE ONE OF THE NUMEROUS ITEMS LISTED IN THE
20 STATUTE, BUT THE LAW ALSO GIVES YOU THE FLEXIBILITY OF
21 FINDING MITIGATION ANYWHERE IN THE EVIDENCE. IT'S UP TO YOU.
22 MITIGATION COULD BE SUCH THINGS AS A DEFENDANT'S BACKGROUND,
23 FAMILY HISTORY, MENTAL HEALTH STATUS, THINGS OF THAT NATURE.
24 AND THE LAW SAYS BEFORE MAKING A DECISION YOU MUST CONSIDER
25 THOSE CIRCUMSTANCES AND GIVE THEM SERIOUS CONSIDERATION.

VOIR DIRE -- GROUP 1

1 NOW, LADIES AND GENTLEMEN, WE'RE GOING TO TALK A LITTLE
2 BIT MORE ABOUT THAT PROCESS, BUT THAT'S AN OVERVIEW. AND IF
3 YOU HAVE A CONCERN OR YOU'RE CONFUSED ABOUT IT AT ALL, WE'RE
4 GOING TO DELVE INTO IT IN MORE DETAIL WHEN WE QUESTION YOU
5 INDIVIDUALLY. BUT AT THIS POINT I WANT TO KNOW IF YOU
6 UNDERSTAND THE BROAD CONCEPT THAT I HAVE OUTLINED TO YOU IN
7 TERMS OF THE PRESUMPTION OF INNOCENCE, THE BURDEN OF PROOF,
8 THE TWO PHASES OF A TRIAL, WHAT WE DO IN EACH, AND THE
9 DIFFERENT TYPES OF EVIDENCE THAT WE WOULD LOOK AT IN A SECOND
10 OR SENTENCING PHASE. AND IF YOU DO UNDERSTAND, WOULD YOU
11 PLEASE INDICATE THAT YOU DO. (PAUSE) OKAY. ALL INDICATE IN
12 THE AFFIRMATIVE.

13 NOW, YOU WERE INTRODUCED THE OTHER DAY TO THE FINE
14 ATTORNEYS IN THIS CASE. I WILL START OVER HERE. WE'VE GOT
15 MR. MAULDIN, THE PUBLIC DEFENDER, MR. RODNEY RICHEY AND MR.
16 JIM BANNISTER, AND THIS IS MR. JOHN RICHARD WOOD HERE IN THE
17 MIDDLE, THE GENTLEMAN IN THE SWEATER. THE STATE IS
18 REPRESENTED BY THE SOLICITOR, MR. ARIAIL, MR. ROBERT ARIAIL.
19 THIS IS MS. BETTY STROM, DEPUTY SOLICITOR, AND ASSISTANT
20 SOLICITOR MINDY HERVEY.

21 NOW, ARE ANY OF YOU RELATED BY BLOOD OR MARRIAGE OR
22 ACQUAINTED IN ANY WAY, SOCIALLY OR PROFESSIONALLY, WITH THE
23 ATTORNEYS TO WHOM YOU HAVE JUST BEEN INTRODUCED AND YOU WERE
24 INTRODUCED TO ON MONDAY? IF YOU ARE, RAISE YOUR RIGHT HAND.
25 (PAUSE)

VOIR DIRE -- GROUP 1

1 ALL RIGHT. MS. WHERRY, WHICH OF THESE ATTORNEYS DO YOU
2 KNOW?

3 JUROR NUMBER 384: THE SOLICITOR.

4 THE COURT: OKAY. YOU KNOW MR. ARIAIL?

5 JUROR NUMBER 384: YES, SIR.

6 THE COURT: IN WHAT CAPACITY, MA'AM?

7 JUROR NUMBER 384: JUST FROM SCHOOL BASICALLY. OUR
8 CHILDREN WERE IN THE SAME SCHOOL.

9 THE COURT: SO YOUR CHILDREN AND HIS CHILDREN WERE IN
10 SCHOOL TOGETHER AND YOU KNEW HIM IN THAT CAPACITY?

11 JUROR NUMBER 384: YES, SIR.

12 THE COURT: NOW, MS. WHERRY, IF YOU WERE SELECTED AS A
13 JUROR IN THIS CASE WOULD THE FACT THAT YOU HAD CHILDREN IN
14 SCHOOL WITH HIS CHILDREN, YOU KNEW HIM IN THAT CAPACITY,
15 WOULD THAT IN ANY WAY AFFECT YOUR ABILITY TO BE FAIR?

16 JUROR NUMBER 384: NO, SIR.

17 THE COURT: THE RECORD WILL REFLECT NO ADDITIONAL
18 RESPONSE.

19 NOW I'M GOING TO TAKE THAT A STEP FURTHER, NOT JUST
20 THESE ATTORNEYS BUT THE OFFICES THEY REPRESENT, IF YOU'RE
21 RELATED BY BLOOD OR MARRIAGE OR ACQUAINTED IN ANY WAY WITH
22 ANYONE ASSOCIATED WITH THE SOLICITOR'S OFFICE, PUBLIC
23 DEFENDER'S OFFICE, MR. RICHEY'S LAW OFFICE, MR. BANNISTER'S
24 LAW OFFICE, IF YOU ARE, WOULD YOU PLEASE RAISE YOUR RIGHT
25 HAND? (PAUSE) THERE IS NO RESPONSE.

VOIR DIRE -- GROUP 1

1 ANY OF YOU FOLKS RELATED BY BLOOD OR MARRIAGE OR
2 ACQUAINTED IN ANY WAY WITH THE ACCUSED TO WHOM YOU HAVE BEEN
3 INTRODUCED, MR. JOHN RICHARD WOOD? IF SO, RAISE YOUR RIGHT
4 HAND. (PAUSE) THERE IS NO RESPONSE.

5 IN THE INDICTMENT OF THIS OFFENSE IT IS ALLEGED THAT THE
6 VICTIM WAS AN INDIVIDUAL BY THE NAME OF ERIC NICHOLSON, WHO
7 AT THAT TIME WAS A STATE TROOPER. IS THERE ANY MEMBER OF THE
8 JURY PANEL WHO IS RELATED TO OR WAS ACQUAINTED IN ANY WAY
9 WITH ERIC NICHOLSON? IF SO, RAISE YOUR RIGHT HAND. (PAUSE)
10 THERE IS NO RESPONSE.

11 I WANT TO ASK YOU ABOUT THAT EXTENSIVE LIST OF
12 WITNESSES. YOU HAD THAT SHEET IN THE OTHER COURTROOM BEFORE
13 YOU CAME IN HERE. I ALSO HAVE A COPY OF THAT IN THE FOLDERS
14 THAT ARE WITH YOU NOW IN THE JURY BOX. I WANT TO GIVE YOU A
15 CHANCE TO REVIEW THAT LIST IF YOU NEED TO. WHAT I NEED TO
16 KNOW IS IF YOU ARE RELATED BY BLOOD OR MARRIAGE OR ACQUAINTED
17 IN ANY WAY, SOCIALLY OR PROFESSIONALLY, WITH ANY OF THOSE
18 POTENTIAL WITNESSES? IF YOU NEED MORE TIME TO REVIEW THAT
19 EXTENSIVE LIST, PLEASE FEEL FREE TO, AND I'LL JUST GIVE YOU A
20 MOMENT. AND IF YOU ARE RELATED BY BLOOD OR MARRIAGE OR
21 ACQUAINTED, JUST RAISE YOUR RIGHT HAND. (PAUSE) OKAY. I
22 HAVE TWO RESPONSES.

23 YOU ARE MR. STARNES, RIGHT?

24 JUROR NUMBER 347: CORRECT.

25 THE COURT: ALL RIGHT. MR. STARNES, TELL ME WHICH OF

VOIR DIRE -- GROUP 1

1 THESE WITNESSES YOU KNOW OR ARE RELATED TO.

2 **JUROR NUMBER 347:** WELL, SIR, I WORK WITH A MAN NAMED
3 GRADY MILLER, AND THERE IS A GRADY MILLER ON HERE AND I DON'T
4 KNOW IF IT'S THE SAME PERSON OR NOT.

5 **THE COURT:** OKAY. TELL ME A LITTLE ABOUT THE GRADY
6 MILLER YOU KNOW. WHERE DOES HE WORK, WHAT DOES HE DO?

7 **JUROR NUMBER 347"** ERNST, WINTER AND SON IN TRAVELERS
8 REST. WE WORK IN THE SAME BUILDING. WE REALLY DON'T KNOW
9 EACH OTHER, BUT IT WAS THE ONLY NAME THAT, YOU KNOW...

10 **THE COURT:** WHAT TYPE OF JOB OR BUSINESS IS THAT?

11 **JUROR NUMBER 347:** IT'S A TOOL MANUFACTURING BUSINESS.

12 **THE COURT:** TOOL MANUFACTURING. IS THAT WHAT HE DOES?

13 **JUROR NUMBER 347:** YES.

14 **THE COURT:** OKAY. GRADY MILLER. I DON'T KNOW IF IT'S
15 THE SAME ONE OR NOT. BUT LET ME JUST ASK YOU, IF YOU WERE
16 SITTING OVER THERE IN THE JURY BOX AND THIS GRADY MILLER CAME
17 IN HERE -- I DON'T KNOW FOR WHAT SIDE -- AND HE TESTIFIED
18 FROM THAT WITNESS STAND, WOULD IT MAKE A DIFFERENCE TO YOU OR
19 WOULD YOU STILL BE FAIR?

20 **JUROR NUMBER 347:** I'D BE FAIR.

21 **THE COURT:** SO EVEN IF YOU KNOW THAT GENTLEMAN YOU'D
22 STILL SERVE AS A FAIR AND IMPARTIAL JUROR?

23 **JUROR NUMBER 347:** YES.

24 **THE COURT:** OKAY. IS THERE ANYONE ELSE, MR. STARNES?

25 **JUROR NUMBER 347:** NO.

VOIR DIRE -- GROUP 1

1 THE COURT: OKAY. SOMEBODY ELSE HAD THEIR HAND UP?
2 MS. PRESSLEY, IS THAT RIGHT?

3 JUROR NUMBER 301: YES.

4 THE COURT: ALL RIGHT, MS. PRESSLEY.

5 JUROR NUMBER 301: RENE SHERBERT. I HAVE NOT SEEN HER
6 OR SPOKE TO HER IN MANY YEARS, BUT I DO KNOW WHO SHE IS.

7 THE COURT: OKAY. AND WHO IS MS. SHERBERT?

8 JUROR NUMBER 301: WELL, WE BOWLED TOGETHER, AND AT
9 THAT TIME SHE WAS A POLICE OFFICER FOR THE COUNTY. LIKE I
10 SAY, THAT WAS SEVEN OR EIGHT YEARS AGO.

11 THE COURT: OKAY. SO Y'ALL USED TO BE FRIENDS AND BOWL
12 TOGETHER?

13 JUROR NUMBER 301: WE WERE ACQUAINTANCES.

14 THE COURT: ACQUAINTANCES. WHEN IS THE LAST TIME YOU
15 HAVE SEEN HER?

16 JUROR NUMBER 301: PROBABLY SEVEN OR EIGHT YEARS AGO.

17 THE COURT: OKAY. WELL, THE FACT YOU RECOGNIZE THE
18 NAME AND YOU KNOW THAT YOU WERE AN ACQUAINTANCE OF HERS YEARS
19 AGO, IF IT IS THE SAME RENE SHERBERT AND THAT INDIVIDUAL CAME
20 AND TESTIFIED, WOULD IT AFFECT YOUR ABILITY TO BE FAIR---

21 JUROR NUMBER 301: NO, SIR.

22 THE COURT: ---OR WOULD YOU STILL BE A FAIR JUROR?

23 JUROR NUMBER 301: I'D STILL BE A FAIR JUROR.

24 THE COURT: ALL RIGHT. MS. PRESSLEY, THANK YOU. THE
25 RECORD WILL REFLECT NO ADDITIONAL RESPONSE.

VOIR DIRE -- GROUP 1

1 NOW, WHAT WE'RE GOING TO DO NOW IS WE'RE GOING TO
2 PROCEED TO THE INDIVIDUAL QUESTIONING. MS. GOODMAN, I KNOW
3 YOU HAVE A COMMITMENT AT 10:00. YOU TOLD US ABOUT THAT
4 MONDAY. WE'RE GOING TO HONOR THAT. SO WE'RE GOING TO TAKE
5 YOU FIRST, AND THEN WE'LL GET THE REST OF YOU IN THE ORDER IN
6 WHICH YOU WERE SELECTED.

7 SO, MS. GOODMAN, IF YOU WOULD BE KIND ENOUGH, JUST COME
8 HAVE A SEAT IN THE WITNESS CHAIR (MS. GOODMAN COMPLIES).

9 AND THE REST OF YOU, IF YOU WOULD, PLEASE GO BACK TO THE
10 COURTROOM DOWN THE HALL. WE'LL GET WITH YOU AS QUICKLY AS WE
11 CAN. THANK YOU.

12 (BALANCE OF PANEL EXITS COURTROOM AT 9:00 A.M.)

13 PRACILLA A. GOODMAN (BLACK
14 FEMALE), HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

15 VOIR DIRE BY THE COURT:

16 Q MS. GOODMAN, THANKS AGAIN FOR BEING HERE. YOU HAD A
17 COURT DATE?

18 A UH-HUH (AFFIRMATIVE).

19 Q WHAT TYPE OF COURT DO YOU HAVE AT TEN O'CLOCK THIS
20 MORNING?

21 A I BELIEVE IT SAID IT WAS DOWN ON NORTH MAIN STREET.

22 Q A TRAFFIC TICKET TYPE THING?

23 A NO. IT WAS SOME CHECKS WERE STOLEN OUT OF MY PURSE AND
24 THEY WROTE SOME TO A COMPANY THAT SERVED A WARRANT ON ME.

25 Q OH.

1 A I'M HAVING TO GO AND DO A HANDWRITING ANALYSIS---

2 Q SO YOU LOST YOUR CHECKS AND THEY THOUGHT YOU DID IT?

3 A YES.

4 Q I REGRET YOU ARE HAVING TO GO THROUGH THAT. WE'RE GOING
5 TO GET YOU OUT OF HERE IN TIME. THAT'S WHY WE'RE TAKING YOU
6 FIRST.

7 I'M GOING TO TELL YOU A LITTLE BIT MORE ABOUT THE
8 PROCESS. WE'RE GOING TO TALK ABOUT IT. I'M GOING TO HAVE
9 SOME QUESTIONS. THE ATTORNEYS ARE GOING TO HAVE QUESTIONS
10 TOO.

11 THIS CASE ARISES, ACCORDING TO THE INDICTMENT, FROM AN
12 INCIDENT WHICH OCCURRED IN GREENVILLE COUNTY BACK ON DECEMBER
13 THE 6TH OF THE YEAR 2000. MR. WOOD, THE DEFENDANT, IS
14 CHARGED WITH THE CRIME OF MURDER. THE VICTIM IS IDENTIFIED
15 AS ONE ERIC NICHOLSON. MR. NICHOLSON AT THE TIME WAS A
16 HIGHWAY PATROLMAN.

17 THIS CASE RECEIVED ATTENTION IN THE MEDIA, AND I WANT TO
18 KNOW IF YOU WERE EXPOSED TO ANY INFORMATION ABOUT THIS CASE
19 FROM ANY SOURCE. AND IF YOU WERE, I WANT TO KNOW
20 SPECIFICALLY WHAT YOU CAN RECALL.

21 A WELL, I WORK DOWN THE STREET A LITTLE BIT FROM WHERE THE
22 INCIDENT TOOK PLACE AT LOWE'S OF GREENVILLE. I WAS AT WORK
23 THE DAY THAT IT HAPPENED. AND THE ONLY THING THAT I KNEW AT
24 THAT POINT WAS THAT A LOT OF PEOPLE THAT WORK UNDER ME WAS
25 HAVING TO LEAVE TO GO GET THEIR CHILDREN FROM SCHOOL BECAUSE

PRACILLA A. GOODMAN -- VOIR DIRE BY THE COURT

1 OF THE CIRCUMSTANCES SURROUNDING THE INCIDENT. THAT NIGHT
2 WHEN I GOT HOME I HEARD WHAT HAPPENED FROM THE NEWS.

3 Q TELL ME WHAT YOU HEARD HAPPENED.

4 A JUST THAT A TROOPER WAS SHOT AFTER TRYING TO STOP A
5 GENTLEMAN ON A MOPED OR MOTORCYCLE OR SOMETHING, AND THAT HE
6 DROVE A CERTAIN WAY, I BELIEVE, TOWARDS ANDERSON. I THINK
7 THAT'S ALL I RECALL ABOUT IT.

8 Q OKAY. ANYTHING -- YOU MENTIONED ANDERSON. ANYTHING YOU
9 RECALL ABOUT ANDERSON?

10 A JUST THAT IT WAS, I GUESS, IN AN ATTEMPT TO FLEE THAT HE
11 HAD DRIVEN TO ANDERSON. I MEAN, I'M NOT SURE. I MAY HAVE A
12 SITUATION COMBINED. I DON'T KNOW. I JUST -- I'M JUST
13 THINKING THAT WAS THE SAME INCIDENT. I'M NOT SURE.

14 Q IS THAT THE EXTENT OF WHAT YOU CAN RECALL?

15 A YEAH. AT THIS TIME, YES, THAT'S ALL I REMEMBER.

16 Q THE REASON I ASK YOU THAT SO SPECIFICALLY IS THAT THE
17 JURY AND EACH INDIVIDUAL JUROR TAKES AN OATH TO FIND THE
18 TRUTH FROM THE EVIDENCE, NOT BE SWAYED OR INFLUENCED BY WHAT
19 YOU MAY HAVE HEARD IN THE MEDIA OR OUTSIDE THE COURTROOM.
20 AND WE NEED TO MAKE SURE THAT A JUROR WHO SERVES IS A JUROR
21 WHO CAN HONOR THEIR OATH, DISREGARD WHATEVER MAY HAVE --
22 INFORMATION MAY HAVE COME OUT OF COURT AND FIND THE TRUTH,
23 THE FACTS ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE
24 OF THE TRIAL.

25 IF YOU WERE A JUROR, COULD YOU DO THAT?

1 A YES, SIR.

2 Q WOULD YOU ALSO HONOR YOUR OATH TO FOLLOW THE LAW AS I
3 INSTRUCT IT?

4 A YES, SIR.

5 Q NOW, THE TWO LEGAL PRINCIPLES THAT ANYONE ACCUSED OF A
6 CRIME IS PRESUMED TO BE INNOCENT AND THE BURDEN OF PROOF IS
7 ON THE STATE---

8 A YES.

9 Q ---DO YOU AGREE WITH THAT?

10 A YES, I DO.

11 Q I BET YOU DO IN YOUR SITUATION.

12 A YES, I DO.

13 Q THOSE ARE VERY IMPORTANT LEGAL PRINCIPLES AND THEY APPLY
14 IN EVERY CASE, IN THIS CASE CERTAINLY AS WELL. AND YOU
15 UNDERSTAND THAT?

16 A YES, I DO.

17 Q AND YOU AGREE WITH THAT?

18 A YES, I DO.

19 Q NOW, AGAIN, AS I MENTIONED EARLIER, WE MAY NEVER REACH
20 THIS SO-CALLED SENTENCING PHASE. IT MAY BE OVER AT THE END
21 OF THE FIRST PHASE. BUT SINCE WE POSSIBLY COULD, WE'VE GOT
22 TO TALK ABOUT THE TYPE OF ISSUES THAT COULD ARISE IN A
23 SENTENCING PHASE, PARTICULARLY YOUR VIEWS ON THE DEATH
24 PENALTY. OKAY?

25 A OKAY.

PRACILLA A. GOODMAN -- VOIR DIRE BY THE COURT

1 Q WHEN A JURY MOVES TO A SENTENCING PHASE, THAT MEANS THE
2 FIRST PHASE IS OVER. AND IF THEY ARE IN A SENTENCING PHASE,
3 THAT MEANS THEY HAVE FOUND THE DEFENDANT -- WE'RE NOT TALKING
4 ABOUT THIS CASE BUT JUST THE PROCESS, JUST ANY GIVEN
5 DEFENDANT -- HAVE FOUND THAT DEFENDANT GUILTY OF MURDER.
6 IT'S BEEN ESTABLISHED. WHEN YOU MOVE TO THE SENTENCING
7 PHASE, WE DON'T HAGGLE OVER SELF-DEFENSE. WE DON'T HAGGLE
8 OVER ANY DEFENSE. IT'S DONE. IT'S A MURDER. SO WHEN YOU
9 MOVE TO A SENTENCING PHASE, I WANT YOU TO UNDERSTAND YOU ARE
10 DEALING WITH A MURDERER. AND WHAT WE NEED TO MAKE SURE IS
11 THAT ANYONE WHO IS QUALIFIED TO SERVE MUST ENTER THE SECOND
12 PROCEEDING WITH AN OPEN MIND AS TO THE APPROPRIATE
13 PUNISHMENT. DO YOU UNDERSTAND WHAT WE'RE TRYING TO DO?

14 A I DO.

15 Q OKAY. SO IN A SECOND OR SENTENCING PHASE, WE WOULD HEAR
16 THIS WHAT I'VE CALLED A CIRCUMSTANCE OF AGGRAVATION AS
17 PARTICULARLY DEFINED BY SOUTH CAROLINA LAW. ALSO, THERE ARE
18 CIRCUMSTANCES OR EVIDENCE IN MITIGATION. THAT MIGHT BE AS
19 DEFINED BY STATUTE OR AS THE JURY OTHERWISE SIMPLY FINDS
20 BASED ON THEIR VIEW. MITIGATION EVIDENCE, AS I MENTIONED
21 EARLIER, A DEFENDANT'S BACKGROUND, THINGS ABOUT THE DEFENDANT
22 PERSONALLY, MENTAL HEALTH HISTORY, THINGS LIKE THAT.

23 AND IF YOU WERE IN THAT SITUATION AND THE JUDGE AT THE
24 END OF THAT PROCEEDING INSTRUCTED YOU BEFORE YOU MADE THE
25 FINAL DECISION TO GIVE CAREFUL AND MEANINGFUL CONSIDERATION

PRACILLA A. GOODMAN -- VOIR DIRE BY THE COURT

1 TO ALL OF THE EVIDENCE, CIRCUMSTANCE OF AGGRAVATION, THE
2 CIRCUMSTANCES AND EVIDENCE OF MITIGATION AND TO CAREFULLY
3 CONSIDER IT ALL BEFORE YOU MAKE A DECISION, WOULD YOU HONOR
4 YOUR OATH IN THAT REGARD?

5 A YES, SIR, I WOULD.

6 Q IF YOU WERE A JUROR IN THAT SITUATION AND YOU CONSIDERED
7 EVERYTHING VERY CAREFULLY -- YOU FOLLOWED THE LAW --
8 CIRCUMSTANCE OF AGGRAVATION, YOU WOULD CONSIDER THAT IF IT
9 EXISTED BEYOND A REASONABLE DOUBT, YOU WOULD CONSIDER THE
10 EVIDENCE IN MITIGATION, AND IF YOU BELIEVED THAT LIFE
11 IMPRISONMENT WAS THE APPROPRIATE PENALTY -- COULD YOU VOTE
12 FOR LIFE IMPRISONMENT?

13 A YES, I COULD.

14 Q AND LET ME TELL YOU SOMETHING ELSE, AND I SHOULD HAVE
15 MENTIONED THIS TO THE WHOLE GROUP. SOMETIMES WE'RE OUT ON
16 THE STREET AND WE TALK ABOUT "OH, SO AND SO IS GOING TO BE
17 PAROLED. WHEN DOES HE OR SHE GET OUT?" LET ME TELL YOU
18 SOMETHING ABOUT A CASE OF A MURDER ACCOMPANIED BY ONE OF
19 THESE CIRCUMSTANCES OF AGGRAVATION. IN SOUTH CAROLINA A
20 MURDER ACCOMPANIED BY A CIRCUMSTANCE OF AGGRAVATION, LIFE
21 WITHOUT PAROLE. THAT PARTICULAR MURDERER WOULD DIE IN JAIL.
22 I WANT YOU TO KNOW THAT. OKAY. DO YOU UNDERSTAND THAT?

23 A YES, I DO.

24 Q OKAY. NOW LET'S PUT YOU BACK IN A SITUATION WHERE
25 YOU'RE JUST IN A HYPOTHETICAL CASE. YOU'VE LISTENED TO IT

PRACILLA A. GOODMAN -- VOIR DIRE BY THE COURT

1 VERY CAREFULLY. YOU FOLLOW THE LAW CONSCIENTIOUSLY. YOU
2 CONSIDER THE CIRCUMSTANCE OF AGGRAVATION, IF IT EXISTS. YOU
3 CONSIDER ALL THE MITIGATION EVIDENCE. AND IF YOU BELIEVED
4 THAT THE DEATH PENALTY WAS THE APPROPRIATE PUNISHMENT, COULD
5 YOU VOTE FOR THE DEATH PENALTY?

6 A YES, SIR, I COULD.

7 Q NOW, THERE IS A FURTHER STEP UNDER SOUTH CAROLINA LAW
8 THAT IS IF JURY -- IT MUST BE UNANIMOUS. ALL TWELVE MUST
9 AGREE. EACH JUROR MUST SIGN HIS OR HER NAME TO THE VERDICT
10 FORM IMPOSING THE DEATH SENTENCE. COULD YOU TAKE THAT EXTRA
11 STEP IN THAT SITUATION AND SIGN YOUR NAME TO THE VERDICT
12 FORM?

13 A YES, SIR.

14 Q I'M SORRY?

15 A YES, SIR.

16 Q OKAY. IN THE OTHER ROOM EARLIER THERE WAS A LIST OF
17 THREE TYPES OF JURORS. DID YOU GET ENOUGH OPPORTUNITY TO
18 REVIEW THAT?

19 A YES, I DID.

20 Q AND I'VE GOT ANOTHER COPY HERE IF YOU WANT TO LOOK AT
21 IT. I JUST WANT TO KNOW IF ONE OF THOSE YOU BELIEVE
22 DESCRIBES YOU, WHICH ONE FITS YOU AND HOW YOU WOULD APPROACH
23 A CASE OF THIS NATURE?

24 A THE THIRD ONE.

25 Q THE THIRD ONE?

PRACILLA A. GOODMAN -- VOIR DIRE BY THE COURT

1 A UH-HUH (AFFIRMATIVE).

2 Q SO TO MAKE SURE THAT I UNDERSTAND WHAT YOU HAVE TOLD ME
3 IS THAT IF YOU HAD PARTICIPATED IN A CAPITAL CASE AND EVEN IF
4 YOU HAD FOUND A PARTICULAR DEFENDANT GUILTY OF MURDER,
5 UNLAWFUL KILLING OF A PERSON WITH MALICE, YOU STILL WOULD
6 APPROACH SENTENCING WITH AN OPEN MIND AND YOU COULD GO EITHER
7 WAY BECAUSE YOU WOULD WANT TO HEAR ALL OF THE ADDITIONAL
8 EVIDENCE AND YOU WOULD WANT TO FOLLOW THE LAW. IS THAT
9 CORRECT?

10 A THAT IS CORRECT.

11 Q SO YOU WOULD APPROACH JURY SERVICE WITH AN OPEN MIND AND
12 SERVE WITH INTEGRITY AND BE AN IMPARTIAL JUROR?

13 A YES, I WOULD.

14 Q NOW, I MAY HAVE SOME ADDITIONAL QUESTIONS. BUT THE
15 ATTORNEYS, I'M SURE, WILL HAVE QUESTIONS TOO. AND THEN WE'LL
16 BE ABLE AT THAT POINT TO GET YOU OUT OF HERE. OKAY?

17 A ALL RIGHT.

18 THE COURT: THE LAST ONE WAS MS. HONEYCUTT LAST NIGHT.
19 MR. MAULDIN STARTED THAT ONE. SO, MR. ARIAIL, THIS IS YOURS.

20 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

21 THE COURT: YES, SIR.

22 VOIR DIRE BY SOLICITOR ARIAIL:

23 Q MS. GOODMAN, MY NAME IS BOB ARIAIL, AND I'M THE
24 SOLICITOR FOR GREENVILLE AND PICKENS COUNTIES. THE SOLICITOR
25 IS A FANCY NAME FOR THE DISTRICT ATTORNEY. THAT IS THE

PRACILLA A. GOODMAN -- VOIR DIRE BY SOLICITOR ARIAIL

1 PERSON IN SOUTH CAROLINA WHO IS RESPONSIBLE FOR PROSECUTING
2 ALL THAT CRIMINAL CASES IN THESE TWO COUNTIES. ASSISTING ME
3 ON THIS CASE WILL BE MY DEPUTY, BETTY STROM, AND MS. HERVEY,
4 WHO IS MY ASSISTANT.

5 LET ME JUST GO BACK. I WASN'T SURE IF I HEARD RIGHT OR
6 I WASN'T LISTENING CLOSELY. TELL ME WHAT YOU'RE GOING DOWN
7 THIS MORNING, THE APPOINTMENT ABOUT SOMETHING IN CITY COURT.

8 A ABOUT TWO AND A HALF YEARS AGO I CLOSED AN ACCOUNT WITH
9 AMERICAN FEDERAL. I STILL HAD ONE OF THE CHECK BOOKS.
10 APPARENTLY, AND SOMEONE GOT IT. AND EMBARRASSEDLY I SAY IT'S
11 MY SISTER. SHE GOT IT AND WROTE CHECKS AND THEY SERVED A
12 WARRANT ON ME. WHEN I WAS GOING DOWNTOWN TO GET MY JUROR
13 INFORMATION PAMPHLET, THEY LET ME KNOW THEN THAT I HAD AN
14 OUTSTANDING WARRANT. I HAD NO CLUE WHAT IT WAS ABOUT AND
15 THEY SHOWED IT TO ME. I RECOGNIZED THE HANDWRITING. I
16 APPROACHED MY SISTER ABOUT IT. SHE ADMITTED TO IT. SHE PAID
17 IT, BUT I STILL HAVE TO GO GIVE A HANDWRITING ANALYSIS TO
18 PROVE THAT IT WASN'T ME SO IT WON'T BE ON MY RECORD.

19 Q OKAY. THAT'S WHY YOU'RE GOING DOWN TO CITY COURT?

20 A YES, SIR.

21 Q ALL RIGHT. TELL ME ABOUT YOUR VIEWS ON THE DEATH
22 PENALTY. YOU SAID THAT YOU WOULD BE ABLE IF THE JUDGE
23 INSTRUCTED YOU TO FOLLOW HIS INSTRUCTIONS IF YOU THOUGHT THE
24 SENTENCE WAS APPROPRIATE TO IMPOSE THE DEATH PENALTY. IS
25 THAT SOMETHING, THAT VIEW SOMETHING THAT YOU HAVE HELD FOR

1 SOME PERIOD OF TIME OR IS THAT A RECENT VIEW OR HOW WOULD YOU
2 DESCRIBE THAT?

3 A THAT'S BEEN MY VIEW ABOUT IT ALL ALONG. I DON'T HAVE
4 ANY OPINION ABOUT IT AT THIS POINT BECAUSE I DON'T KNOW ANY
5 INFORMATION. I TRY NOT TO GET INVOLVED IN SITUATIONS THAT
6 I'M NOT INVOLVED IN.

7 Q RIGHT. I'M NOT ASKING ABOUT THIS PARTICULAR CASE.

8 A NO, JUST---

9 Q I'M JUST TALKING ABOUT YOUR VIEWS IN GENERAL ABOUT THE
10 DEATH PENALTY.

11 A I HAVE NO VIEWS ABOUT IT WHATSOEVER.

12 Q OKAY. NOW YOU TOLD THE JUDGE -- WELL, LET ME BE A
13 LITTLE BIT MORE SPECIFIC. YOU TOLD THE JUDGE YOU COULD
14 IMPOSE IT. DO YOU THINK THAT THE DEATH PENALTY IS AN
15 APPROPRIATE PUNISHMENT IN OUR COUNTRY?

16 A DEPENDING UPON THE CIRCUMSTANCES.

17 Q ALL RIGHT. DEPENDING UPON THE CIRCUMSTANCES. BUT UNDER
18 CERTAIN CIRCUMSTANCES YOU DON'T HAVE AN OPPOSITION TO THE
19 DEATH PENALTY?

20 A NO.

21 Q IT JUST NEEDS TO BE CERTAIN CIRCUMSTANCES OF THE CRIME
22 FOR YOU TO FEEL JUSTIFIED IN APPLYING IT?

23 A YES, SIR.

24 Q ALL RIGHT. AND YOU UNDERSTAND THAT THE PROCESS IS SUCH
25 THAT THE DEFENDANT IN A CASE IN WHICH THE STATE HAS ASKED FOR

PRACILLA A. GOODMAN -- VOIR DIRE BY SOLICITOR ARIAIL

1 THE DEATH PENALTY, THERE ARE TWO PHASES. IN THE FIRST PHASE
2 YOU ACTUALLY HAVE A TRIAL ON THE ISSUE OF GUILT. IT HAS
3 NOTHING TO DO WITH SENTENCING.

4 A OKAY.

5 Q THE NORMAL PROCESS IS AFTER A DEFENDANT IS FOUND GUILTY
6 OF ANY CHARGE, IN THIS STATE THE JUDGE SENTENCES. BUT IN A
7 CAPITAL CASE, THAT IS, A CASE WHERE THE STATE IS SEEKING THE
8 DEATH PENALTY, THE LEGISLATURE OF THIS STATE HAS DESIGNATED
9 THE JURY TO BE THE BODY TO IMPOSE SENTENCE.

10 SO WHAT HAPPENS IS WE HAVE A TOTALLY -- WE HAVE A BREAK,
11 AND THEN YOU HAVE A TOTALLY SEPARATE PROCEEDING IN WHICH THE
12 ONLY ISSUE BEFORE THE COURT IS SENTENCING, AND THE ONLY ISSUE
13 BEFORE THE JURY IS SENTENCING. AND SO EVIDENCE COMES IN TO
14 DETERMINE THE CIRCUMSTANCES. WE'VE ALREADY HEARD ABOUT THE
15 CRIME ITSELF AND THE MURDER, AND THAT ISSUE IS OVER.

16 A RIGHT.

17 Q SO WHAT YOU'RE TRYING TO DECIDE IS WHAT IS THE
18 APPROPRIATE SENTENCE FOR A MURDERER YOU HAVE CONVICTED. DO
19 YOU UNDERSTAND THAT'S HOW IT WORKS?

20 A YES, I DO.

21 Q ALL RIGHT. AND IN THAT PROCESS THE STATE WOULD BE
22 PRESENTING EVIDENCE TO INDICATE -- IN SUPPORT OF ITS POSITION
23 THAT THE DEATH PENALTY SHOULD BE IMPOSED. AND WHAT WE'RE
24 LOOKING FOR OBVIOUSLY IS JURORS WHO CAN BE FAIR AND CONSIDER
25 BOTH SIDES. IS THERE ANYTHING THAT YOU ARE AWARE OF, ANY

PRACILLA A. GOODMAN -- VOIR DIRE BY SOLICITOR ARIAIL

1 RELIGIOUS OR SOCIAL OR MORAL OR POLITICAL BELIEF OR
2 BACKGROUND YOU HAVE THAT WOULD LIMIT YOU FROM BEING A FAIR
3 JUROR IN CONSIDERING BOTH THE STATE'S REQUEST FOR THE DEATH
4 PENALTY AND THE DEFENSE'S REQUEST TO IMPOSE LIFE IMPRISONMENT
5 IN THAT SITUATION?

6 A NO, SIR.

7 Q ALL RIGHT. SO YOU DON'T BRING WITH YOU ANYTHING THAT
8 YOU BELIEVE WOULD CONFLICT WITH THE JUDGE'S INSTRUCTIONS?

9 A NO, SIR.

10 Q ALL RIGHT. SOME PEOPLE -- ANOTHER REASON WE ASK THAT --
11 NOTHING PERSONAL TO YOU, BUT SOME PEOPLE COME TO COURT
12 THINKING THAT THEY HAVE PERSONAL VIEWS ABOUT WHAT THE LAW IS,
13 AND WHEN THEY GET HERE THEY FIND OUT THAT'S NOT THE WAY IT
14 IS. THEN THEY DECIDE, WELL, IT SHOULD BE THIS, AND THEY
15 IMPOSE THEIR OWN PERSONAL VIEWS. THE COURT WILL INSTRUCT
16 YOU, YOU MUST FOLLOW HIS INSTRUCTIONS REGARDING THE LAW. DO
17 YOU FEEL YOU WOULD BE ABLE TO DO THAT?

18 A YES, SIR.

19 Q AND NOTHING THAT YOU ARE AWARE OF THAT WOULD PROHIBIT
20 YOU FROM DOING THAT?

21 A NO, SIR.

22 SOLICITOR ARIAIL: OKAY. (OFF RECORD WITH CO-COUNSEL)
23 THANK YOU VERY MUCH.

24 JUROR NUMBER 129: THANK YOU.

25 MR. MAULDIN: MAY IT PLEASE THE COURT.

PRACILLA A. GOODMAN -- VOIR DIRE BY MR. MAULDIN

1 VOIR DIRE BY MR. MAULDIN:

2 Q MS. GOODMAN?

3 A YES, SIR.

4 Q MY NAME IS JOHN MAULDIN. I'M THE PUBLIC DEFENDER HERE
5 IN GREENVILLE. AND I, ALONG WITH JIM BANNISTER AND RODNEY
6 RICHEY, REPRESENT JOHN IN THIS CASE.

7 I DON'T WANT TO GO BACK AND REHASH WHAT THE PROSECUTOR
8 HAS NOW TALKED TO YOU ABOUT. SOME OF THIS STUFF MAY SOUND
9 REPETITIVE TO YOU, BUT I DO WANT TO MAKE SURE I HAVE AN
10 UNDERSTANDING OF YOUR VIEWS ON LIFE IN PRISON WITHOUT PAROLE
11 FOR THE OFFENSE OF MURDER AND THE DEATH PENALTY FOR THE
12 OFFENSE OF MURDER, BECAUSE THAT'S REALLY THE ESSENCE OF THIS
13 SERIES OF QUESTIONS. THAT IS REALLY THE KEY TO WHETHER YOU
14 ARE IN FACT QUALIFIED OR NOT.

15 A OKAY.

16 Q AND I CAN'T ASSUME IT. I'VE GOT TO COME UP HERE AND ASK
17 YOU.

18 A OKAY.

19 Q I GUESS THE PLACE TO BEGIN WOULD BE -- AND OBVIOUSLY THE
20 COURT MENTIONED -- AND I BELIEVE THE PROSECUTOR ALSO
21 MENTIONED -- YOU OBVIOUSLY HAVE AN INTENSE APPRECIATION FOR
22 THE PRESUMPTION OF INNOCENCE AT THIS POINT IN YOUR LIFE?

23 A YES, I DO.

24 Q THERE HAS BEEN REFERENCES TO AGGRAVATING CIRCUMSTANCES
25 AND MITIGATING CIRCUMSTANCES DURING OUR DISCUSSION. KEEP IN

1 MIND THAT THAT HAS NOTHING TO DO WITH THE ACTUAL GUILT OR
2 INNOCENCE OF THE PERSON ON TRIAL IN A CASE LIKE THIS.

3 A OKAY.

4 Q AND FOR PURPOSES -- I'M GOING TO -- WE'RE GOING TO TAKE
5 IT OUT OF THE CASE INVOLVING JOHN WOOD AND JUST TALK ABOUT AN
6 IMAGINARY CASE WHERE THE DEATH PENALTY IS AN ISSUE.

7 A OKAY.

8 Q OKAY. AT THE FIRST PHASE OR THE FIRST TRIAL, THERE IS
9 NO PRESENTATION REGARDING AGGRAVATING CIRCUMSTANCES AND STUFF
10 LIKE THAT, NO PRESENTATION AT THAT POINT ABOUT MITIGATING
11 CIRCUMSTANCES. WHAT IS BROUGHT TO THAT JURY AT THAT FIRST
12 TRIAL IS THE QUESTION OF WHETHER THE DEFENDANT, WHOEVER HE
13 WOULD BE, IS GUILTY OR INNOCENT OF THE OFFENSE. ALL RIGHT?
14 IT IS ONLY AFTER A CONVICTION BY THE JURY THAT THE
15 AGGRAVATING CIRCUMSTANCE WOULD BE INSTRUCTED TO YOU BY THE
16 JUDGE TO CONSIDER, MITIGATING CIRCUMSTANCES WOULD BE
17 INSTRUCTED TO YOU TO CONSIDER IN DECIDING WHICH PENALTY.

18 A OKAY.

19 Q NOW, THE LAW NEVER UNDER ANY CIRCUMSTANCES REQUIRES THE
20 DEATH PENALTY. NO MATTER HOW -- NO MATTER HOW MANY
21 AGGRAVATING CIRCUMSTANCES OR NO MATTER WHAT OCCURRED WITH
22 REGARD TO THE OFFENSE, THERE IS NEVER A REQUIREMENT IN OUR
23 LAW THAT THE DEATH PENALTY BE IMPOSED MANDATORILY.

24 A OKAY.

25 Q DO YOU FOLLOW ME?

1 A YES, I DO.

2 Q WHAT THAT ESSENTIALLY MEANS IS THE REASON WE HAVE A
3 SENTENCING HEARING IS BECAUSE THERE IS NO AUTOMATIC SENTENCE.

4 A OKAY.

5 Q IN THE MOST AG-- IN A CASE WHERE AGGRAVATING
6 CIRCUMSTANCES EXIST, THE JURY CAN STILL IMPOSE A LIFE
7 SENTENCE. DO YOU FOLLOW ME?

8 A YES, I DO.

9 Q ALL RIGHT. NOW I WANT TO TAKE YOU THROUGH JUST A MOMENT
10 OF A COUPLE OF WHAT YOU MIGHT CALL SCENARIOS---

11 A OKAY.

12 Q ---AND MAKE SURE I UNDERSTAND YOUR POSITION ON
13 CONSIDERATION OF EVIDENCE.

14 A OKAY.

15 Q LET'S ASSUME THAT YOU ARE ON A JURY, AND LET'S ASSUME
16 THAT YOU AND THE OTHER ELEVEN MEMBERS OF THE JURY HAD FOUND A
17 PERSON GUILTY OF THE OFFENSE OF MURDER, THAT IS, INTENTIONAL
18 MURDER WITH MALICE. NO ACCIDENT, NO MISTAKE, NONE OF THAT
19 TYPE OF STUFF. NO DEFENSES. AND AT THE SECOND HEARING WHERE
20 YOU ARE DECIDING WHICH PENALTY, THE PROSECUTION HAS COME TO
21 YOU AND PRESENTED TO YOU EVIDENCE BEYOND A REASONABLE DOUBT
22 OF THE EXISTENCE OF ONE OF THE AGGRAVATORS THAT THE JUDGE
23 GAVE YOU EXAMPLES OF.

24 A OKAY.

25 Q MURDER WHILE IN THE COMMISSION OF ANOTHER CRIME, A

1 KIDNAPPING, A ROBBERY, A RAPE, THE KILLING OF A POLICE OFFICE
2 IN THE LINE OF DUTY, A KILLING WHERE THERE WAS TORTURE. IN
3 OTHER WORDS, THESE ARE EXAMPLES.

4 A OKAY.

5 Q WOULD YOU UNDER THOSE CIRCUMSTANCES FOLLOW THE
6 INSTRUCTIONS OF THE JUDGE AND CONSIDER THE MITIGATING
7 INFORMATION THAT WOULD BE PRESENTED TO YOU -- THE BACKGROUND,
8 MENTAL HEALTH OF THE DEFENDANT, THE AGE OF THE DEFENDANT,
9 THAT TYPE OF INFORMATION -- BEFORE YOU DECIDED ON WHICH OF
10 THE PENALTIES TO IMPOSE? EVEN THOUGH YOU HAD A MURDER AND
11 EVEN THOUGH YOU HAD AN AGGRAVATING CIRCUMSTANCE EXISTED,
12 WOULD YOU STILL BE WILLING TO GIVE REAL CONSIDERATION TO A
13 LIFE SENTENCE FOR AN OFFENSE LIKE THAT?

14 A YES, SIR, I WOULD.

15 Q DO YOU BELIEVE IN SUCH A CASE AS I HAVE DESCRIBED THAT A
16 SENTENCE OF LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE
17 IS A SERIOUS PENALTY?

18 A YES, I DO.

19 Q MS. GOODMAN, I WANT TO CONCLUDE WITH A COUPLE OF
20 QUESTIONS ABOUT THE ACTUAL DELIBERATION IN A CASE LIKE THIS.
21 AND AGAIN, I'M GOING TO SPIN YOU FORWARD KIND OF PUTTING THE
22 CART BEFORE THE HORSE, BECAUSE WE HAVEN'T EVEN HAD THE TRIAL
23 YET.

24 A OKAY.

25 Q BUT WE'VE GOT TO DETERMINE YOUR ELIGIBILITY OR

1 QUALIFICATION. YOU HAD THE FIRST TRIAL. YOU ARE PICKED AS A
2 JUROR IN A CASE WHERE THE DEATH PENALTY IS AN ISSUE. YOU'VE
3 HAD YOUR FIRST TRIAL. YOU DELIBERATE. YOU FIND THE PERSON
4 GUILTY. YOU THEN COME IN AND HAVE THE SECOND TRIAL. THE
5 PROSECUTION BRINGS EVIDENCE THAT THEY SAY SUPPORTS THEIR
6 REQUEST FOR THE DEATH PENALTY. THE DEFENDANT MAY OR MAY NOT
7 BRING EVIDENCE THAT SUPPORTS A LIFE SENTENCE. THE JURY GOES
8 IN -- AND THEN THE JUDGE INSTRUCTS YOU ON HOW TO USE THE
9 INFORMATION AND WHAT TO CONSIDER, WHAT INFORMATION AND HOW
10 YOU WEIGH THIS INFORMATION.

11 YOU GO IN AND YOU BEGIN YOUR DELIBERATIONS. AND LET'S
12 SAY YOU DELIBERATE FOR A LENGTHY PERIOD OF TIME. YOU'VE GOT
13 A NUMBER OF PEOPLE WITH DIFFERENT VIEWS ON THE TWO PENALTIES.
14 AND AFTER YOU FINISH THAT DELIBERATIONS AND VOTE AND VOTE AND
15 VOTE AND FINALLY THE LAST VOTE IS TAKEN AND THERE ARE TEN
16 PEOPLE ON ONE SIDE THAT SAY WE BELIEVE THAT THE RIGHT PENALTY
17 IS SO AND SO---

18 A UH-HUH (AFFIRMATIVE).

19 Q ---AND THE OTHER TWO SAY, WELL, WE'VE HAD PLENTY OF TIME
20 AND WE'VE THOUGHT ABOUT IT, AND WE BELIEVE THE RIGHT PENALTY
21 IS THE OTHER PENALTY.

22 IT DOESN'T MATTER. YOU CAN INTERCHANGE THEM. TEN TO
23 TWO. I'M GOING TO PUT YOU IN EACH OF THOSE POSITIONS FOR
24 JUST A MOMENT AND MAKE SURE THE COURT UNDERSTANDS HOW YOU
25 WOULD REACT OR RESPOND TO THAT.

1 IF YOU WERE ONE OF THE TWO, THAT IS THE MINORITY, AND
2 YOU HAD A BUNCH OF PEOPLE ON THE OTHER SIDE SAYING, "WELL,
3 HERE'S HOW WE FEEL AND WE THINK YOU OUGHT TO COME OVER TO OUR
4 SIDE." AND YOU'RE OVER HERE AND YOU'RE SAYING, "WELL, WAIT A
5 MINUTE. I HEARD THE SAME EVIDENCE, DELIBERATED. IT'S A LIFE
6 OR DEATH DECISION. AND I'VE MADE A MORAL, INDIVIDUAL
7 DECISION ABOUT WHAT I THINK IS RIGHT."

8 A UH-HUH (AFFIRMATIVE).

9 Q THE QUESTION IS, WOULD YOU UNDER THAT TYPE OF
10 CIRCUMSTANCE SIMPLY GIVE IN AND GO WITH THE MAJORITY OR CAVE
11 IN OR WHATEVER WITH REGARD TO YOUR VIEW OR WOULD YOU -- AND
12 SIMPLY DO THAT TO END THE CASE?

13 A UH-HUH (AFFIRMATIVE).

14 Q OR WOULD YOU STAY WITH YOUR VIEW, YOUR POSITION, AS TO
15 WHAT THE PENALTY WAS REGARDLESS OF THE NUMBERS?

16 A YES, WHATEVER I'M COMFORTABLE WITH I WOULD STAY WITH.
17 YES, SIR.

18 Q AND THE OTHER SIDE OF THE COIN, MS. GOODMAN, WOULD BE,
19 IF YOU WERE IN THAT GROUP OF TEN, A HEAVY MAJORITY---

20 A UH-HUH (AFFIRMATIVE).

21 Q ----AND YOU HAD A COUPLE OF FOLKS THAT DISAGREED---

22 A UH-HUH (AFFIRMATIVE).

23 Q ---HEARD THE SAME EVIDENCE, WOULD YOU BE WILLING --
24 WOULD YOU TRY TO FORCE THEM TO COME TO YOUR SIDE OR WOULD YOU
25 BE WILLING TO RESPECT THEIR DECISION IN A LIFE OR DEATH

1 DECISION?

2 A I RESPECT WHATEVER THEY FEEL.

3 MR. MAULDIN: THANK YOU, MA'AM,

4 JUROR NUMBER 129: YOU'RE WELCOME.

5 THE COURT: ALL RIGHT. MS. GOODMAN, THANK YOU SO MUCH.
6 THEY'RE GOING TO TAKE YOU TO A JURY ROOM JUST BRIEFLY. WE'LL
7 GET YOU BACK OUT HERE AND YOU'LL BE FREE TO GO. THANK YOU
8 MA'AM.

9 (JUROR EXITS COURTROOM AT 9:24 A.M.)

10 THE COURT: THE JUROR HAS BEEN EXCUSED. IF EITHER SIDE
11 CONTENTS SHE IS NOT QUALIFIED, I'LL BE GLAD TO HEAR FROM YOU.

12 SOLICITOR ARIAIL: YES, SIR. AND I REALLY HATE TO
13 BRING UP SOMETHING LIKE THIS, BUT WE CHECKED ON WHAT HER
14 APPOINTMENT IS ABOUT AND IT HAS NOTHING TO DO WITH WHAT SHE
15 IS SAYING. SHE IS -- THERE HAVE BEEN NO FINES PAID, AND THE
16 SISTER IS NOT INVOLVED, AND IT IS FRAUDULENT CHECKS WRITTEN
17 BY HER, AND SHE IS SCHEDULED FOR A BENCH TRIAL AT TEN
18 O'CLOCK.

19 NOW, I UNDERSTAND PROBABLY WHAT HER MOTIVE IS. AND HER
20 MOTIVE IS SHE'S PROBABLY EMBARRASSED. BUT THE FACTS ARE THAT
21 SHE'S NOT, ACCORDING TO OUR INFORMATION FROM THE CITY COURT
22 CLERK, SHE'S NOT TELLING US THE WHOLE STORY. AND THE ONLY
23 CONCERN I HAVE ABOUT IT IS THAT IF WE'RE NOT GETTING THE
24 WHOLE STORY ON THAT, I'M AFRAID WE'RE NOT GETTING THE WHOLE
25 STORY ON THE OTHER, AND I WOULD LIKE TO RAISE THE ISSUE WITH

MATTERS AND MOTIONS

1 THE COURT THAT MAYBE THERE IS ANOTHER WAY FOR THE COURT TO
2 QUESTION HER REGARDING WHY THAT DIFFERENCE EXISTS.
3 OTHERWISE, I FEEL OBLIGATED TO MOVE TO STRIKE HER FOR CAUSE,
4 THAT WHAT SHE HAS TOLD THE COURT IS NOT ACCURATE.

5 AND, OF COURSE, I'M PRESENTING SOMETHING TO THE COURT
6 THAT'S BASED ON SOMETHING THAT SOME CLERK AT THE CITY COURT
7 IS TELLING US. BUT BEFORE I GET INTO THE SITUATION OF HAVING
8 TO ACCEPT A JUROR ON SOMETHING LIKE THAT, I WANTED TO RAISE
9 THAT ISSUE. IF WE NEED TO DELVE FURTHER WITH THE CITY COURT
10 AND BRING SOMEBODY UP HERE OR WHATEVER THE COURT WANTS, I'LL
11 BE GLAD TO DO IT.

12 THE COURT: YES, SIR.

13 MR. MAULDIN: WE WILL COOPERATE WITH ANY ACTION THE
14 COURT TAKES IF THERE IS GOOD CAUSE REGARDING WHETHER A JUROR
15 IS INTENTIONALLY MISLEADING ME, THE SOLICITOR AND THE COURT.
16 HOWEVER, WE TAKE THE POSITION THAT IF SUCH AN INQUIRY IS
17 GOING TO BE MADE, AN INVESTIGATION ESSENTIALLY IS GOING TO BE
18 MADE, THAT THIS MUST BE SUSPENDED. WE ARE -- WE DON'T
19 BELIEVE THAT WE SHOULD BE REQUIRED TO PROCEED THROUGH OTHER
20 JURORS WHILE THIS JUROR IS ESSENTIALLY HELD IN ABEYANCE.

21 WE TAKE A POSITION ON THIS JUROR, AND WE DON'T HAVE THE
22 ACCESS TO EVERYBODY'S CLOSET INFORMATION LIKE THE PROSECUTOR
23 DOES. WE DO THE BEST WE CAN WITH WHAT THEY TELL US. IF HE
24 -- IF WHAT -- WHEREVER THEY ARE GETTING THIS, IF THAT IS
25 LEGITIMATE, THEN IT DISTRESSES ME TOO. BUT I DON'T KNOW

MATTERS AND MOTIONS

1 WHETHER THAT'S LEGITIMATE. SHE SOUNDED REAL LEGITIMATE TO ME
2 WHEN SHE SAID SHE HATED TO SAY IT WAS HER SISTER AND SHE'S
3 GOING DOWN THERE TO GIVE A HANDWRITING EXAMPLE TO SHOW THAT
4 IT WASN'T HER. BUT, YOU KNOW, THE FACT IS IT DOESN'T
5 DISQUALIFY EVEN IF SHE WERE CONVICTED OF IT. THAT DOESN'T
6 NECESSARILY DISQUALIFY HER EVEN IF SHE WAS GUILTY. HER
7 TELLING SOMETHING THAT'S UNTRUE DISTRESSES ME JUST LIKE IT
8 DOES ANYBODY ELSE. BUT EVEN IF SHE WERE CONVICTED, SHE COULD
9 STILL BE A QUALIFIED JUROR UNDER OUR LAW. SO I ASK THAT THE
10 MATTER BE SUSPENDED IF THE COURT FEELS THAT AN INQUIRY HAS TO
11 BE MADE.

12 SOLICITOR ARIAIL: AND I WILL REPRESENT, THE ONLY
13 CONTACT WE'VE MADE IS CERTAINLY NO CLOSET -- WE CALLED THE
14 CLERK OF THE CITY COURT TO ASK THEM WHAT THE WOMAN IS
15 SUPPOSED TO BE THERE FOR. AND JUDGE HAWLEY'S CLERK RESPONDED
16 THAT THIS WAS THE INFORMATION. SO, I MEAN, IT'S OBVIOUSLY
17 SOMETHING THE COURT -- YOU COULD DO YOURSELF IF YOU WANTED TO
18 OR WE CAN BRING SOMEBODY UP HERE.

19 MR. MAULDIN: THE INFORMATION PROVIDED BY THE SOLICITOR
20 IS NOT ONE WORD INCONSISTENT WITH WHAT THIS YOUNG LADY HAS
21 SAID. HE SAYS THAT SHE HAS A COURT DATE FOR FRAUDULENT
22 CHECKS, THAT SHE IS THE DEFENDANT. THAT'S EXACTLY WHAT --
23 SHE DIDN'T USE THOSE TERMS, BUT THAT'S EXACTLY WHAT SHE SAID.
24 SHE SAID HER CHECKBOOK HAD BEEN STOLEN. IT TURNED OUT THAT
25 HER SISTER WROTE CHECKS ON A CLOSED ACCOUNT. THAT COULD

MATTERS AND MOTIONS

1 CONSTITUTE FRAUDULENT CHECKS. IT'S HER ACCOUNT. THAT
2 CONSTITUTES HER AS A DEFENDANT. THERE IS NOTHING
3 INCONSISTENT.

4 WHETHER SHE IS MISLEADING THE COURT SOMEHOW, I DON'T
5 KNOW AND I DON'T HOW TO INVESTIGATE IT. BUT SHE IS A
6 DEFENDANT. SHE HAS SAID THAT. I DON'T KNOW WHAT WE DO ABOUT
7 IT OTHER THAN -- I DON'T THINK IT STANDS FOR A STRIKE FOR
8 CAUSE AT THIS POINT.

9 **THE COURT:** I FIND SHE IS QUALIFIED. I DON'T NEED ANY
10 FURTHER INFORMATION, EVEN ASSUMING THAT SHE IS ACTUALLY GOING
11 DOWN FOR A TRIAL. AND SO NOW WE'RE GOING TO DEAL WITH
12 WHETHER WE ACCEPT HER OR STRIKE HER.

13 TAKE YOUR TIME. LET ME KNOW WHEN YOU'VE MADE A
14 DECISION.

15 (OFF RECORD DISCUSSIONS)

16 **SOLICITOR ARIAIL:** PRESENT HER.

17 **THE COURT:** WHAT SAYS THE DEFENDANT?

18 **MR. MAULDIN:** SWEAR HER.

19 **THE COURT:** ASK MS. GOODMAN TO COME BACK IN, PLEASE.

20 **MR. MAULDIN:** I WILL WANT TO ADDRESS THE COURT BEFORE
21 THE NEXT ONE.

22 (JUROR REENTERS COURTROOM AT 9:35 A.M.)

23 **THE COURT:** MS. GOODMAN, YOU HAVE BEEN SELECTED AS A
24 JUROR IN THIS CASE. I AM GOING TO GIVE YOU AN ORDER AND
25 REVIEW IT WITH YOU BRIEFLY TO MAKE SURE YOU UNDERSTAND IT.

MATTERS AND MOTIONS

1 BEGINNING TONIGHT AFTER 8:00 P.M., YOU CALL THIS NUMBER.
2 THERE WILL BE A RECORDED MESSAGE. FOLLOW THE INSTRUCTIONS.
3 IT MAY BE VERY SIMPLY TO CALL BACK TOMORROW NIGHT AFTER 8:00,
4 BECAUSE WE'RE IN THE PROCESS OF SELECTING A SUFFICIENT NUMBER
5 OF JURORS. IT MAY BE TOMORROW. IT MAY BE THE NEXT DAY OR
6 THE DAY AFTER. WE SIMPLY DON'T KNOW AT THIS POINT. SO KEEP
7 CALLING THAT NUMBER. FOLLOW THE INSTRUCTIONS.

8 AT SOME POINT IT IS GOING TO SAY REPORT TO THE
9 COURTHOUSE AT A CERTAIN TIME AND DATE. AND ALSO THERE ARE
10 INSTRUCTIONS OF PACKING YOUR BAGS, LEAVING YOUR BAGS IN YOUR
11 CAR WHEN YOU COME. FOLLOW THE INSTRUCTIONS BOTH IN THIS
12 ORDER AND THAT YOU RECEIVE WHEN YOU CALL THIS NUMBER TO GET
13 THE RECORDED MESSAGE EACH EVENING.

14 AND THE ORDER ALSO REMINDS YOU OF THE CONTINUING OATH
15 THAT YOU TOOK, AND IT REMAINS IN EFFECT. DON'T DISCUSS THE
16 CASE WITH ANYONE. DON'T EXPOSE YOURSELF TO ANY INFORMATION
17 ABOUT THIS CASE EITHER FROM THE MEDIA OR OTHERWISE.

18 MA'AM, DO YOU UNDERSTAND THOSE INSTRUCTIONS?

19 JUROR NUMBER 129: YES, I DO.

20 THE COURT: VERY GOOD. HERE IS YOUR ORDER. GOOD LUCK
21 TO YOU AND WE'LL SEE YOU IN PROBABLY A COUPLE OF DAYS.

22 JUROR NUMBER 129: THANK YOU.

23 THE COURT: THANK YOU, MA'AM.

24 (JUROR EXITS COURTROOM AT 9:36 A.M.)

25 THE COURT: YES, SIR?

MATTERS AND MOTIONS

1 MR. MAULDIN: YOUR HONOR---

2 THE COURT: ONE SECOND.

3 MR. MAULDIN: YOUR HONOR, AS I -- IN AN ABUNDANCE OF
4 CAUTION I KNOW, OF COURSE, THAT THE SOLICITOR IN MAKING A
5 DETERMINATION AND POSITION TO TAKE ON THAT JUROR HAS
6 COMMUNICATED WITH THE CLERK OF COURT IN CITY COURT ABOUT HER
7 JUROR SITUATION HERE IN THE CIRCUIT COURT. I WOULD WANT TO
8 MAKE SURE THAT THE CITY COURT IN NO WAY DEALT WITH HER ISSUES
9 REGARDING HER INVOLVEMENT IN THIS CASE. AND I DON'T -- YOU
10 KNOW, AND I'M NOT QUESTIONING ANYBODY'S MOTIVES OR WHATEVER.
11 BUT JUST -- IF SOME SORT OF INFORMATION COULD GO TO THE CITY
12 COURT PRIOR TO HER HEARING THAT SHE IN FACT HAS BEEN
13 QUALIFIED AS A JUROR, THEN THAT SUBJECT WOULD BE OUT OF
14 BOUNDS AND OFF LIMITS AND THERE WOULD BE NO INQUIRY OR
15 DISCUSSION ABOUT IT.

16 YOU KNOW, SHE IS A JUROR. SHE IS NOT SEQUESTERED, WHICH
17 OF COURSE SUITS BOTH SIDES. BUT WE HAVE TO BE REAL CAUTIOUS
18 BECAUSE SHE -- NOW THE SUBJECT HAS COME UP AND SHE'S NOW
19 GOING DIRECTLY INTO ANOTHER COURTROOM. I WOULD WANT THAT
20 COURT TO AT LEAST BE CONSCIOUS OF HER STATUS, EVEN IF A PHONE
21 CALL TO THE COURT WAS MADE JUST SIMPLY NOT TO TELL HIM OR HER
22 WHAT TO DO BUT JUST SAY, "HERE'S WHAT HAS HAPPENED. PLEASE
23 TAKE THAT INTO CONSIDERATION IN ANY MATTERS THAT COME BEFORE
24 YOU OR ANY DISCUSSIONS THAT TAKE PLACE IN THAT COURTROOM."
25 I'M JUST SUGGESTING THAT AS A PRECAUTIONARY MEASURE, YOUR

MATTERS AND MOTIONS

1 HONOR.

2 THE COURT: AND WOULDN'T THAT CREATE THE VERY PROBLEM
3 YOU SEEK TO AVOID? WE CALL DOWN THERE AND SAY, "YOU'VE GOT A
4 JUROR COMING," AND THEN THE HUBBUB AT THE CITY COURTHOUSE,
5 "WE'VE GOT A JUROR IN A CAPITAL CASE COMING," AND ALL OF A
6 SUDDEN THEY'RE MARKED, YOU KNOW, EVERYBODY'S LOOKING AT THEM.
7 "OH, YOU'RE THE JUROR."

8 MR. MAULDIN: WELL, I THINK THAT'S PROBABLY THE
9 SITUATION THAT EXISTS RIGHT NOW. AN INQUIRY HAD TO BE MADE,
10 AND I DON'T BLAME THEM FOR MAKING THE INQUIRY. IT'S JUST
11 THERE IS A -- IT'S KIND OF LIKE A -- YOU KNOW, A SUBSEQUENT
12 CALL -- A CALL HAS BEEN MADE TO THEM. A SUBSEQUENT CALL,
13 "THIS WOMAN HAS BEEN QUALIFIED AS A JUROR IN THIS CASE," JUST
14 FOR FOLLOW-UP INFORMATION. I DON'T KNOW WHAT'S GOING TO
15 HAPPEN. BUT I WOULD HATE FOR THIS JUROR TO GO DOWN THERE AND
16 REFERENCES BE MADE OR DISCUSSION BE MADE OR SOMETHING LIKE
17 THAT. I DON'T KNOW WHAT'S GOING TO THEN HAPPEN. AND THEN IF
18 HER -- SHE'S NOT SUPPOSED TO TALK ABOUT THE CASE---

19 THE COURT: ALL RIGHT. I NEED TO MOVE ALONG.

20 MR. MAULDIN: YES, SIR.

21 THE COURT: YOU WANT ME TO CALL OR SOMEONE FROM MY
22 OFFICE TO CALL AND SAY, "HEY, PRACILLA GOODMAN IS ON HER WAY
23 DOWN THERE AND SHE'S BEEN SELECTED FOR THE JURY IN A CAPITAL
24 CASE."

25 MR. MAULDIN: WHAT I---

MATTERS AND MOTIONS

1 **THE COURT:** WHAT DO I SAY NEXT? JUST TELL ME WHAT I
2 SAY NEXT.

3 **MR. MAULDIN:** WE UNDER -- ALL RIGHT. WE UNDERSTAND
4 THAT A PRIOR CALL HAD BEEN MADE -- AND YOU WANT TO MAKE SURE
5 YOU'RE TALKING TO THE SAME PERSON WHO TOOK THAT CALL -- THIS
6 IS THE CURRENT STATUS OF THAT ISSUE.

7 **THE COURT:** SHE'S BEEN SELECTED. THAT'S THE STATUS.

8 **MR. MAULDIN:** RIGHT. AND MAYBE---

9 **THE COURT:** AND WHAT ELSE DO I SAY---

10 **MR. MAULDIN:** I'M TRYING TO READ YOU, YOUR HONOR. I'M
11 TRYING TO FIGURE OUT THE DANGER. I'M TRYING TO BE CAUTIOUS.
12 AND MAYBE I AM STEPPING INTO SOMETHING THAT'S THE OPPOSITE OF
13 CAUTIOUS. BUT I THINK THAT IF THE -- I DON'T KNOW WHO THEY
14 TALKED TO. IF ANOTHER CALL CAME IN AND SAID, "WE'RE
15 REPORTING ON THE STATUS. THE ISSUE CAME UP BEFORE THE COURT.
16 THE COURT HAS QUALIFIED HER AS A JUROR IN THE CASE AND WE
17 NEEDED TO PASS THAT INFORMATION ON TO YOU."

18 **THE COURT:** YOU TALKED TO THE CLERK DOWN IN CITY COURT?

19 **MS. HERVEY:** JACKIE. I HAVE THE NUMBER IF YOU WANT IT.
20 IT'S 467---

21 **THE COURT:** WRITE IT DOWN. 467?

22 **MS. HERVEY:** ---6636.

23 **THE COURT:** DO IT. I'LL COMPLY WITH YOUR REQUEST.
24 NEXT JUROR.

25 (JUROR NUMBER 384 ENTERS COURTROOM AT 9:40 A.M.)

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

NANCY C. WHERRY (WHITE FEMALE),
HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

VOIR DIRE BY THE COURT:

Q I'M GOING TO TELL YOU A LITTLE BIT MORE ABOUT THE
PROCESS OF A CAPITAL CASE, EXPLORE SOME OF YOUR VIEWS,
PARTICULARLY INVOLVING THE DEATH PENALTY, AND THE ATTORNEYS
WILL HAVE QUESTIONS AS WELL.

A OKAY.

Q THIS CASE ARISES, ACCORDING TO THE INDICTMENT, FROM AN INCIDENT THAT OCCURRED IN GREENVILLE COUNTY BACK ON DECEMBER THE 6TH, 2000. THE DEFENDANT, MR. WOOD, IS CHARGED WITH THE CRIME OF MURDER. THE VICTIM IDENTIFIED IN THE INDICTMENT IS ONE ERIC NICHOLSON. MR. NICHOLSON WAS AT THE TIME A STATE TROOPER.

THIS CASE RECEIVED ATTENTION IN THE MEDIA, AND I WANT TO KNOW INITIALLY FROM YOU IF YOU WERE EXPOSED TO ANY INFORMATION ABOUT THIS CASE FROM ANY SOURCE, AND IF YOU WERE WHAT YOU SPECIFICALLY RECALL.

A GOSH. I REMEMBER HEARING ABOUT IT, BUT HONEST TO GOODNESS, THAT'S ABOUT THE EXTENT OF IT. I REALLY DIDN'T PAY THAT MUCH ATTENTION TO IT.

Q OKAY. DO YOU REMEMBER ANY -- YOU SAID YOU HEARD ABOUT IT. DO YOU REMEMBER WHAT YOU HEARD ABOUT IT, LIKE WHERE, WHAT HAPPENED?

A ALL I HEARD WAS THAT A PATROLMAN WAS KILLED, AND HIS

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

1 NAME KEPT -- YOU KNOW, I WOULD HEAR HIS NAME PERIODICALLY,
2 BUT THAT'S REALLY ALL I HEARD.

3 Q OKAY. NOW, THERE MAY BE SOME REFERENCE TO AN EVENT OR
4 SERIES OF EVENTS IN ANDERSON COUNTY. HAVING MENTIONED
5 ANDERSON COUNTY, DOES THAT TRIGGER ANY MEMORY THAT YOU MAY
6 RECALL ABOUT THIS CASE?

7 A NO, SIR.

8 Q OKAY. LET ME TELL YOU, MS. WHERRY, THE REASON I ASK
9 THAT IS ANYONE WHO SERVES ON A JURY TAKES AN OATH, AND THAT
10 OATH REQUIRES THE JURY TO FIND THE TRUTH FROM THE EVIDENCE IN
11 COURT, NOT WHAT HAPPENS OUTSIDE OF COURT OR WHAT THE MEDIA
12 SAYS ABOUT SOMETHING. AND WE NEED TO MAKE SURE THAT ANYONE
13 WHO SERVES IN A CASE, THIS CASE THAT WE'RE TALKING ABOUT
14 RIGHT NOW, WOULD APPROACH JURY DUTY AND HONOR THEIR OATH TO
15 FIND THE TRUTH, THE FACTS FROM THE EVIDENCE. IF YOU WERE A
16 JUROR, WOULD YOU HONOR YOUR OATH IN THAT REGARD?

17 A YES, SIR.

18 Q WOULD YOU ALSO HONOR YOUR OATH THAT REQUIRES YOU TO
19 FOLLOW THE LAW AS INSTRUCTED?

20 A YES, SIR.

21 Q HAVE YOU ALREADY FORMED AN OPINION AS TO THE GUILT OR
22 INNOCENCE OF THIS PARTICULAR DEFENDANT?

23 A NO, SIR.

24 Q THE LEGAL PRINCIPLES I MENTIONED EARLIER -- ANYONE
25 ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT, THERE IS NO

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

1 BURDEN AT ALL ON THE DEFENDANT EVER. THE BURDEN OF PROOF IS
2 ON THE STATE TO PROVE GUILT BEYOND A REASONABLE DOUBT -- DO
3 YOU UNDERSTAND AND AGREE WITH THOSE LEGAL PRINCIPLES?

4 A YES, SIR.

5 Q NOW, MS. WHERRY, WE MAY NOT GET TO A SENTENCING PHASE,
6 AND I MENTIONED THIS TO YOU EARLIER. BUT I WANT YOU TO
7 UNDERSTAND THAT. WE'RE GOING TO TALK ABOUT IT, BUT THAT
8 DOESN'T MEAN WE GET TO IT. BUT BECAUSE WE POSSIBLY COULD, WE
9 NEED TO EXPLORE THAT. THE CASE MAY BE OVER AFTER THE FIRST
10 PHASE. IN THE FIRST PHASE THE JURY IS ASKED TO FIND WHETHER
11 OR NOT THE STATE HAS PROVEN A DEFENDANT -- AGAIN, WE'RE NOT
12 TALKING ABOUT THIS CASE, JUST THE CONCEPT -- PROVEN A
13 DEFENDANT GUILTY OF THE CRIME OF MURDER. IF A DEFENDANT IS
14 NOT GUILTY OF THE OFFENSE OF MURDER, THERE IS NO FURTHER JURY
15 INVOLVEMENT.

16 THERE IS A SENTENCING PHASE ONLY IF A JURY FIRST FINDS A
17 DEFENDANT GUILTY OF THE OFFENSE OF MURDER. SO WE'RE GOING TO
18 TALK ABOUT A POTENTIAL SENTENCING HEARING -- NOT THAT IT'S
19 GOING TO HAPPEN, BUT IT POSSIBLY COULD -- SO WE CAN KNOW UP
20 FRONT THAT WE HAVE FAIR JURORS IN CASE THE CASE DOES GO TO
21 THE SENTENCING PHASE.

22 NOW, PLEASE UNDERSTAND THAT ONCE A CASE MOVES TO A
23 SENTENCING PHASE A JURY HAS ALREADY FOUND A PARTICULAR
24 DEFENDANT GUILTY OF MURDER. SO AS YOU MOVE INTO THE
25 SENTENCING PHASE, WE DON'T KEEP ARGUING ABOUT DEFENSES OR THE

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

1 JURY DOESN'T CONCERN ITSELF WITH SELF-DEFENSE OR ALIBI OR ANY
2 OF THAT. IT'S A MURDER. THAT'S A DONE DEAL AT THAT POINT.

3 NOW, WHEN YOU MOVE TO THE SENTENCING PHASE, UNDER OUR
4 LAW OUR LEGISLATURE AND OUR LAW REQUIRES ADDITIONAL EVIDENCE
5 TO BE CONSIDERED TO DETERMINE THE APPROPRIATE PUNISHMENT.
6 WE'RE IN THIS PROCESS NOW TRYING TO FIND JURORS THAT IF THERE
7 IS A SENTENCING PHASE THEY WOULD ENTER THE SENTENCING PHASE
8 STILL WITH AN OPEN MIND AS TO THE ISSUE OF PUNISHMENT. DO
9 YOU UNDERSTAND THAT?

10 A YES, SIR.

11 Q AND IN A SENTENCING PHASE WE WOULD HEAR ADDITIONAL
12 EVIDENCE. WE WOULD HEAR EVIDENCE, PERHAPS, OF A CIRCUMSTANCE
13 OF AGGRAVATION. I MENTIONED THAT EARLIER TO YOU. IT'S
14 MURDER IN THE COMMISSION OF ARMED ROBBERY, KIDNAPPING,
15 SOMETHING LIKE THAT.

16 WE WOULD ALSO HEAR EVIDENCE THAT STATE LAWS REQUIRES
17 MUST BE CONSIDERED. IT IS WHAT WE CALL MITIGATION EVIDENCE.
18 EXAMPLES WOULD BE FAMILY BACKGROUND OF THE DEFENDANT, THE
19 CHARACTER OR MENTAL HEALTH HISTORY, THINGS OF THAT NATURE, OF
20 THAT DEFENDANT. AND STATE LAW REQUIRES THE JURY GIVE
21 MEANINGFUL CONSIDERATION TO ALL THIS NEW EVIDENCE AND FOLLOW
22 THE LAW BEFORE MAKING A DECISION.

23 IF YOU WERE A JUROR IN THAT SETTING AND THE JUDGE
24 INSTRUCTED YOU TO GIVE CAREFUL AND THOUGHTFUL CONSIDERATION
25 TO ANY CIRCUMSTANCE OF AGGRAVATION, ANY MITIGATION EVIDENCE,

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

1 EITHER FROM THE STATUTE OR AS YOU MAY FIND ELSEWHERE IN THE
2 EVIDENCE, WOULD YOU FOLLOW YOUR OATH IN THAT REGARD AND GIVE
3 ALL OF THOSE ITEMS CAREFUL CONSIDERATION BEFORE YOU MADE YOUR
4 MIND UP CONCERNING PUNISHMENT?

5 A YES, SIR.

6 Q MS. WHERRY, IN OTHER WORDS, IF YOU WERE SITTING ON A
7 JURY IN THIS FICTIONAL SENTENCING CASE THAT WE'RE TALKING
8 ABOUT AND YOU HAD HEARD ALL OF THE EVIDENCE, THE NEW EVIDENCE
9 IN THE SENTENCING PHASE, YOU HAD CAREFULLY CONSIDERED ANY
10 CIRCUMSTANCE OF AGGRAVATION, YOU HAD CAREFULLY CONSIDERED THE
11 MITIGATION EVIDENCE, AND IF AFTER CONSIDERING ALL OF IT YOU
12 BELIEVED THAT A SENTENCE OF LIFE IN PRISON WAS THE
13 APPROPRIATE PENALTY, COULD YOU VOTE FOR LIFE IN PRISON?

14 A YES, SIR.

15 Q NOW LET ME MENTION SOMETHING ELSE TO YOU, AND I DIDN'T
16 MENTION THIS WHEN YOU ALL WERE IN HERE. I SHOULD HAVE. LET
17 ME TELL YOU WHAT A LIFE SENTENCE MEANS. OFTENTIMES WE HEAR
18 ON THE STREETS OR OUT IN THE WORKPLACE, WHEREVER WE MAY BE,
19 "WELL, SO AND SO IS GOING TO GET OUT ON PAROLE. THEY'LL BE
20 OUT IN TEN YEARS. THEY'LL BE OUT IN TWENTY YEARS."

21 LET ME TELL YOU SOMETHING VERY IMPORTANT ABOUT SOUTH
22 CAROLINA LAW IN THIS PARTICULAR AREA. WHEN A MURDER IS
23 ACCOMPANIED BY AN AGGRAVATED CIRCUMSTANCE, THAT PARTICULAR
24 INDIVIDUAL WILL DIE IN JAIL. THERE IS NO POSSIBILITY OF
25 PAROLE. THE OFFENDER WOULD NEVER BE RELEASED. DO YOU

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

1 UNDERSTAND THAT?

2 A I SURE DO.

3 Q ALL RIGHT. LET'S FLIP THE COIN AND LET'S -- YOU'RE ON
4 THIS JURY AGAIN AND YOU HAVE CONSIDERED IT VERY CAREFULLY.
5 YOU CONSIDER CIRCUMSTANCES OF AGGRAVATION, IF IT'S PROVEN.
6 YOU CONSIDER ALL THE MITIGATION EVIDENCE.. YOU CONSIDER IT
7 ALL AND YOU ARE PERSUADED THAT THE APPROPRIATE PENALTY IS
8 DEATH. COULD YOU VOTE FOR THE DEATH PENALTY?

9 A I COULD.

10 Q ALL RIGHT. IN SOUTH CAROLINA THERE IS AN ADDITIONAL
11 STEP THAT MUST BE REQUIRED TO IMPOSE THE DEATH PENALTY. NOT
12 ONLY MUST THE JURY UNANIMOUSLY VOTE FOR THE DEATH PENALTY,
13 EACH JUROR WHO VOTES TO IMPOSE THE DEATH PENALTY MUST SIGN
14 HIS OR HER NAME TO THE DEATH VERDICT FORM. COULD YOU SIGN
15 YOUR NAME TO SUCH A VERDICT FORM?

16 A YES, SIR. I THINK SO.

17 Q YOU THINK SO?

18 A MAY I ASK WHY THAT IS REQUIRED?

19 Q WELL, I CAN GIVE YOU A GUESS. I TELL YOU, NUMBER ONE,
20 STATE LAW REQUIRES IT.

21 A OKAY.

22 Q I THINK THEIR REASONING IS THAT IT IS SUCH AN IMPORTANT
23 DECISION, IT'S SUCH A SERIOUS DECISION, PERHAPS THE MOST
24 IMPORTANT DECISION ONE COULD MAKE IN HIS OR HER ENTIRE LIFE.
25 AND TO IMPRESS UPON THE JUROR THE IMPORTANCE AND THE FINALITY

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

1 OF THAT DECISION TO BRING IT HOME, I THINK THAT'S THE
2 PURPOSE.

3 A THEN I COULD.

4 Q OKAY. I KNOW YOU HESITATED EARLIER. BUT YOU THINK IF
5 YOU GOT TO THAT POINT---

6 A IF I GOT TO THAT POINT.

7 Q ---YOU COULD GO AHEAD AND DO IT IF YOU THOUGHT IT WAS
8 THE RIGHT THING TO DO?

9 A YES, SIR.

10 Q OKAY. UNDERSTANDING THAT, IF A CASE MOVES TO A
11 SENTENCING PHASE, YOU'RE ALREADY DEALING WITH A MURDERER,
12 BECAUSE YOU FOUND WHOEVER IT IS, HIM OR HER, GUILTY OF MURDER
13 IN THE FIRST PHASE. AND IF YOU MOVED TO THE SENTENCING
14 PHASE, WOULD YOU STILL REMAIN OPEN TO CONSIDER FAIRLY BOTH
15 SENTENCES?

16 A YES, SIR.

17 Q WOULD YOU BE WILLING TO AND WANT TO HEAR THE ADDITIONAL
18 EVIDENCE, CIRCUMSTANCES OF AGGRAVATION AS WELL AS MITIGATION
19 EVIDENCE REGARDING THE DEFENDANT HIMSELF?

20 A ABSOLUTELY.

21 Q YOU THINK THAT'S IMPORTANT?

22 A YES, SIR.

23 Q DO YOU RECALL THERE WAS A PROFILE OF THREE TYPES OF
24 JURORS? AND I'VE GOT ANOTHER COPY HERE IF YOU WANT TO LOOK
25 AT IT, MS. WHERRY. IF YOU FIT ONE OF THOSE CATEGORIES, WHICH

NANCY C. WHERRY -- VOIR DIRE BY THE COURT

1 ONE BEST DESCRIBES YOU?

2 A THE THIRD ONE.

3 Q THE THIRD ONE?

4 A UH-HUH (AFFIRMATIVE).

5 Q SO IF YOU WERE SELECTED TO SERVE, YOU WOULD HONOR YOUR
6 OATH TO ENTER WITH AN OPEN MIND, TO BE FAIR AND IMPARTIAL,
7 BOTH IN THE FIRST PHASE OF A TRIAL, AND IF A CASE WENT TO A
8 SECOND CASE YOU WOULD STILL REMAIN OPEN AND YOU COULD IMPOSE
9 EITHER PENALTY DEPENDING ON THE PARTICULAR CIRCUMSTANCES
10 INVOLVED?

11 A YES, SIR.

12 THE COURT: MS. WHERRY, I MAY HAVE SOME ADDITIONAL
13 QUESTIONS, SOME FOLLOW-UP QUESTIONS. THE ATTORNEYS, I KNOW,
14 WILL WANT TO QUESTION YOU. AND THEN ONCE WE DO THAT, WE'LL
15 BE THROUGH WITH YOU FOR THE DAY AND WE CAN LET YOU GO.

16 JUROR NUMBER 384: OKAY.

17 THE COURT: ALL RIGHT?

18 MR. MAULDIN?

19 MR. MAULDIN: THANK YOU, YOUR HONOR.

20 VOIR DIRE BY MR. MAULDIN:

21 Q MS. WHERRY, MY NAME IS JOHN MAULDIN, AND I'M THE PUBLIC
22 DEFENDER. I'M GOING TO BE ASKING YOU A SERIES OF QUESTIONS.
23 SOME WILL RELATE TO THE CAPITAL PUNISHMENT IN GENERAL.

24 A UH-HUH (AFFIRMATIVE).

25 Q SOME WILL RELATE TO THE METHOD, THE TWO-PHASE TRIAL,

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 THAT THE JUDGE HAS DESCRIBED. AND SOME OF THE QUESTIONS THAT
2 I ASK YOU WILL BE, I GUESS, TO SOME EXTENT PRYING INTO YOUR
3 PERSONAL BUSINESS, AND I APOLOGIZE UP FRONT FOR THAT. THAT
4 IS PART OF THE RESPONSIBILITY. WE ALL HAVE AWESOME
5 RESPONSIBILITIES IN THIS MATTER, AND WE CAN'T JUST ASSUME
6 THINGS. WE HAVE TO ASK IT AND HAVE IT ANSWERED FOR US TO BE
7 ABLE TO TAKE A VIEW.

8 ANOTHER PREFACE, I GUESS, TO MY QUESTIONS WOULD BE I
9 WANT YOU TO ACT AS THOUGH YOU ARE NOT TESTIFYING. SOME
10 PEOPLE JUST YES, NO, YES, NO, YOU KNOW. I WANT YOU TO ACT AS
11 THOUGH WE'RE HAVING A CONVERSATION. I THINK WE'LL LEARN A
12 LITTLE MORE ABOUT YOU IF YOU DO THE TALKING INSTEAD OF ME.

13 A OKAY.

14 Q ALL RIGHT. LET ME TALK OR QUESTION YOU INITIALLY ABOUT
15 THE MATTER THAT YOU BROUGHT TO THE COURT'S ATTENTION ABOUT
16 YOUR ASSOCIATION WITH MR. ARIAIL. AND AGAIN, PERSONAL
17 BUSINESS. TO THE EXTENT YOU WISH TO ANSWER, I WOULD LIKE FOR
18 YOU TO.

19 A OKAY.

20 Q YOU DESCRIBED THE FACT THAT YOUR CHILDREN GO TO SCHOOL
21 OR WENT TO SCHOOL TOGETHER, I GUESS?

22 A YES, SIR.

23 Q DO YOU AND YOUR HUSBAND KNOW MR. ARIAIL AND HIS WIFE
24 SOCIALLY OR...

25 A NOT REALLY. I MEAN, WE'VE BEEN TO DINNER PARTIES --

1 WELL, NOT REALLY DINNER PARTIES -- RECEPTIONS AND THAT SORT
2 OF THINGS TOGETHER.

3 Q EVENTS?

4 A WE ARE NOT CASUAL -- GO OUT TO DINNER TOGETHER.

5 Q OKAY. BUT YOUR PATHS CROSS?

6 A THEY DO.

7 Q NOW, THE -- I GUESS THE QUESTION -- THE QUESTION THAT
8 THE JUDGE ASKED YOU ABOUT WHETHER YOU FELT LIKE THAT WOULD
9 INFLUENCE YOUR DECISION MAKING AS A JUROR IS EXACTLY ON
10 POINT. AND LET ME GIVE YOU KIND OF A FOLLOW-UP TO THAT.

11 IF YOU WERE ON A JURY AND YOU WERE BEING ASKED TO DECIDE
12 AN ISSUE -- IT COULD HAVE BEEN A MINOR ISSUE IN A CASE OR
13 EVEN THE ULTIMATE ISSUE IN A CASE -- BUT YOU ARE BEING ASKED
14 TO DECIDE AN ISSUE AND THE DECISION IN THAT ISSUE MIGHT BE
15 ESSENTIALLY IN DIRECT OPPOSITION TO WHAT MR. ARIAIL IS
16 PROPOSING. IN OTHER WORDS, YOU WOULD BE DECIDING AGAINST
17 SOLICITOR ARIAIL.

18 I NEED TO KNOW HOW YOU FEEL ABOUT ANY AWKWARDNESS,
19 BECAUSE WE ASSUME YOUR PATHS WOULD CROSS IN THE FUTURE AS
20 WELL AS THEY HAVE IN THE PAST. JUST HUMAN NATURE SAYS SO. I
21 WANT TO ASK IF YOU HAVE -- THERE IS NO REASON FOR A PERSON TO
22 PUT THEMSELVES IN AN AWKWARD POSITION BY BEING ON JURY DUTY.

23 A CERTAINLY.

24 Q BECAUSE IF IT WOULD CREATE AWKWARDNESS FOR YOU, YOU
25 COULD BE EXCUSED, SERVE ON ANOTHER CASE. BUT THE QUESTION

1 STILL REMAINS, HOW DO YOU FEEL ABOUT ANY IMPACT THAT TYPE OF
2 INTERACTION IN THE FUTURE MIGHT HAVE WITH REGARD TO DECIDING
3 AN ISSUE IN A CASE THAT WOULD BE DIRECTLY OPPOSED TO WHAT HE
4 WANTS?

5 A IT WOULD NOT BE A PROBLEM FOR ME. HIS BEING THERE DOES
6 NOT AFFECT ME ONE WAY OR ANOTHER.

7 Q AND YOU'RE COMFORTABLE?

8 A I'M VERY COMFORTABLE WITH THAT.

9 Q ALL RIGHT. AND I APPRECIATE YOU DEALING WITH PERSONAL
10 MATTERS LIKE THAT. THAT IS A PART OF MY RESPONSIBILITY TO
11 ASK YOU.

12 A CERTAINLY.

13 Q THE QUESTIONS THAT I WOULD LIKE TO ASK YOU REGARDING
14 YOUR VIEW ON THE DEATH PENALTY, IF YOU HAD TO JUST GENERALLY
15 DESCRIBE HOW YOU FEEL, NOT IN A PARTICULAR CASE, NOT IN THIS
16 CASE, NOT IN THE ESSENCE OF BEING ON POSSIBLE JURY SERVICE,
17 BUT JUST IF YOU WERE IN A COFFEE SHOP TALKING TO A FRIEND OF
18 YOURS AND YOU WERE HAVING A DEBATE ABOUT THE DEATH PENALTY,
19 HOW DO YOU FEEL ABOUT IT AND WHAT ARE YOUR REASONS FOR
20 FEELING THAT WAY?

21 A I FEEL THAT DEPENDING ON THE CIRCUMSTANCES OF THE REASON
22 A PERSON WOULD BE GIVEN THE DEATH PENALTY. I THINK IT JUST
23 DEPENDS ON THE CIRCUMSTANCES FOR WHICH THE EVENT HAPPENED.

24 Q WHAT DO YOU THINK WOULD BE -- IF YOU HAD TO SAY, WHAT DO
25 YOU THINK THE MAIN PURPOSE WOULD -- THAT THE CRIMINAL JUSTICE

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 WOULD HAVE FOR HAVING THE DEATH PENALTY? WHAT IS THE MAIN
2 PURPOSE OF THE DEATH PENALTY IN OUR SYSTEM?

3 A THAT'S A GOOD QUESTION.

4 Q AND TAKE YOUR TIME. OBVIOUSLY, YOU JURORS HAVE BEEN
5 WAITING A LOT. SO YOU KNOW EVERYBODY'S BEEN TAKING THEIR
6 TIME.

7 A GOSH, I DON'T EVEN KNOW HOW TO BEGIN TO EVEN SAY WHY WE
8 HAVE THAT.

9 Q ALL RIGHT. LET'S DO THIS. LET ME ASK YOU A COUPLE MORE
10 QUESTIONS AND THEN WE'LL COME BACK TO THAT.

11 A OKAY.

12 Q SO YOU JUST THINK -- AND IF YOU THINK OF SOMETHING IN
13 THE MIDDLE, JUST SAY, "OH, BY THE WAY BACK WHEN YOU ASKED ME
14 THAT, LET ME TELL YOU..."

15 HAS YOUR VIEW ON THE DEATH PENALTY -- IN GENERAL, HAS
16 YOUR VIEW ON THE DEATH PENALTY REMAINED PRETTY MUCH THE SAME
17 AS IT IS NOW OR HAS IT CHANGED OVER THE YEARS DURING SCHOOL
18 OR CHILD REARING OR WHATEVER? HAVE YOU HAD DIFFERENT VIEWS
19 OVER THE YEARS ABOUT THE DEATH PENALTY?

20 A NO, SIR.

21 Q OKAY. WOULD YOU SAY IF I GIVE YOU THREE CHOICES -- AND
22 AGAIN, THIS IS A LITTLE BIT OBSCURE QUESTION, BUT I'LL ASK IT
23 AND SEE WHERE WE GO. NATIONALLY, WITH REGARD TO THE USE OF
24 THE DEATH PENALTY BY OUR COURT SYSTEM DO YOU BELIEVE THAT THE
25 DEATH PENALTY IS USED NOT OFTEN ENOUGH, TOO OFTEN OR ABOUT

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 RIGHT? AND YOU CAN USE ANY OTHER TERMS YOU WISH, BUT JUST
2 THOSE THREE ARE SUGGESTIONS TO YOU.

3 A I WOULD PROBABLY HAVE TO SAY PROBABLY NOT ENOUGH.

4 Q USED NOT ENOUGH?

5 A RIGHT.

6 Q OKAY. AND NOW LET ME GO BACK AND SEE IF WE CAN GET --
7 SEE IF YOU THOUGHT ABOUT THE IDEA OF THE PURPOSE OF IT. HAVE
8 YOU GIVEN THAT ANY ADDITIONAL THOUGHT ABOUT THE PURPOSE THAT
9 YOU WOULD GIVE AS THE PURPOSE OF THE DEATH PENALTY IN YOUR
10 OWN WORDS?

11 A I GUESS THE PURPOSE WOULD BE TO RID THOSE THAT HAVE DONE
12 SUCH HEINOUS CRIMES THAT IT MAKES A POINT---

13 Q OKAY.

14 A ---TO SOCIETY.

15 Q IT MAKES A POINT TO SOCIETY, RIDS SOCIETY OF PARTICULAR
16 PEOPLE---

17 A RIGHT.

18 Q ---THAT HAVE DONE CERTAIN THINGS. ALL RIGHT.

19 LET ME ASK THIS QUESTION -- AND AGAIN THIS IS
20 GENERALLY -- GENERALLY -- DO YOU BELIEVE THAT A LIFE SENTENCE
21 FOR AN OFFENSE OF MURDER IS A SERIOUS PENALTY? WHERE A
22 PERSON HAS BEEN CONVICTED OF MURDER -- AND WE'LL GET INTO
23 MORE DETAIL WITH REGARD TO THE STATUTORY SCHEME THAT WE HAVE.
24 BUT IN GENERAL DO YOU BELIEVE THAT A LIFE SENTENCE IS A
25 SERIOUS PENALTY FOR A PERSON CONVICTED OF MURDER?

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 A IT IS IF IT'S WITHOUT PAROLE.

2 Q WITHOUT PAROLE. AND THE JUDGE HAS INSTRUCTED YOU THAT
3 THAT WOULD BE---

4 A YES.

5 Q THE CASE OF LIFE WITHOUT PAROLE, THAT IS A SERIOUS
6 PENALTY TO YOU FOR A CONVICTED MURDERER?

7 A TRUE. YES, SIR.

8 Q ALL RIGHT. LET ME ASK A FEW QUESTIONS THAT DEAL
9 DIRECTLY WITH THE TWO TRIAL SCHEME. THE LAW IN OUR STATE,
10 MS. WHERRY -- AND IT IS WHERRY; IS THAT RIGHT?

11 A UH-HUH (AFFIRMATIVE).

12 Q ---NEVER REQUIRES THE DEATH PENALTY. THERE IS NEVER A
13 CASE -- NO MATTER HOW HEINOUS OR VIOLENT OR HORRIBLE A CASE
14 MIGHT BE, THERE WOULD NEVER BE A CASE WHERE AN AUTOMATIC
15 DEATH PENALTY WOULD BE THE SENTENCE.

16 A UH-HUH (AFFIRMATIVE).

17 Q THE LAW SAYS THAT THE TRIAL OCCURS WITH REGARD TO THE
18 PERSON'S GUILT OF THE OFFENSE OF MURDER, AND THEN AFTER THAT
19 TRIAL IS OVER THE SAME JURORS COME BACK AND HEAR THE SECOND
20 TRIAL. AND THE ONLY TWO ISSUES THEN WOULD BE, IS THE
21 IMPOSITION OF THE DEATH PENALTY APPROPRIATE? IS THE
22 IMPOSITION OF A LIFE IN PRISON WITHOUT PAROLE APPROPRIATE?

23 A UH-HUH (AFFIRMATIVE).

24 Q WE'RE GOING TO SPIN FORWARD TO THE SECOND TRIAL. IF YOU
25 WERE A JUROR AND YOU HAD A PERSON CONVICTED OF MURDER AND

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 THAT MURDER WAS ACCOMPANIED BY OR WENT -- ALONG WITH THE
2 MURDER THERE WAS THE EXISTENCE OF AN AGGRAVATING
3 CIRCUMSTANCE, PROOF BEYOND A REASONABLE DOUBT OF AN
4 AGGRAVATING CIRCUMSTANCE -- AND FOR PURPOSES OF THIS
5 QUESTION, THE JUDGE GAVE YOU A NUMBER OF EXAMPLES. I'LL JUST
6 USE THE EXAMPLE OF A MURDER COMMITTED DURING THE COMMISSION
7 OF A RAPE. ALL RIGHT? WOULD -- IN GOING INTO THE SENTENCING
8 HEARING WOULD YOUR MIND BE MADE UP ABOUT THE APPROPRIATE
9 SENTENCE, AND IF SO, WHICH WOULD YOUR MIND BE MADE UP FOR?
10 AND IF NOT, WHAT WOULD YOU -- HOW WOULD YOU RESPOND TO THAT
11 QUESTION?

12 SOLICITOR ARIAIL: I'M GOING TO OBJECT TO THE FORM OF
13 THAT QUESTION.

14 THE COURT: SUSTAINED. SAME BASIS AS YESTERDAY. SAME
15 EXACT QUESTION WAS ASKED. SUSTAINED.

16 Q ALL RIGHT. LET ME -- ALL RIGHT. LISTEN TO THIS. IF
17 YOU HAD A CONVICTION OF MURDER -- WE'VE HAD THE FIRST TRIAL
18 -- AND THERE WAS AN AGGRAVATING CIRCUMSTANCE PROVEN BEYOND A
19 REASONABLE DOUBT AT THE SECOND HEARING -- AND WE'LL PUT IN --
20 WE'LL SAY THAT THERE WAS A COMMISSION -- THAT IT WAS A MURDER
21 IN THE COMMISSION OF AN ARMED ROBBERY, OF A KIDNAPPING, OF A
22 RAPE, A TORTURE, THE KILLING OF A POLICE OFFICER DURING THE
23 LINE OF DUTY -- WOULD YOUR MIND BE MADE UP FOR THE DEATH
24 PENALTY EVEN IF THE COURT INSTRUCTED YOU THAT YOU MUST
25 CONSIDER MITIGATING INFORMATION?

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 SOLICITOR ARIAIL: SAME OBJECTION.

2 THE COURT: OVERRULED.

3 A NO, SIR.

4 Q ALL RIGHT.

5 A I WOULD HAVE TO HEAR THE MITIGATING CIRCUMSTANCES.

6 Q ALL RIGHT. AND SO YOU WOULD BE WILLING TO LISTEN TO THE
7 MITIGATING INFORMATION EVEN IF AN AGGRAVATOR WAS CLEARLY
8 PROVEN?

9 A YES, SIR.

10 Q AND YOUR MIND WOULD STILL BE OPEN ABOUT WHICH PENALTY?

11 A YES, SIR.

12 Q IF THE JUDGE INSTRUCTED YOU THAT CERTAIN MATTERS THAT
13 HAVE BEEN -- EXAMPLES HAVE BEEN GIVEN BEFORE, MENTAL HEALTH,
14 BACKGROUND INFORMATION, LACK OF A PRIOR VIOLENT CRIME RECORD,
15 THOSE ARE WHAT OUR LEGISLATURE HAS LISTED AS STATUTORY
16 MITIGATING CIRCUMSTANCES. I UNDERSTAND THAT YOU WOULD BE
17 WILLING TO CONSIDER THEM AND IMPOSE A LIFE SENTENCE IF YOU
18 FELT THAT WAS APPROPRIATE UNDER THE CIRCUMSTANCES, EVEN IN A
19 MURDER ACCOMPANIED BY AGGRAVATING CIRCUMSTANCES?

20 A I WOULD CONSIDER IT.

21 Q AND FINALLY, MS. WHERRY, LET ME FINISH MY QUESTIONING
22 WITH THESE. AGAIN, WE HAVE TO SPIN FORWARD TO THE
23 DELIBERATION STAGE OF THE SECOND TRIAL, AND THE COURT, YOU
24 WILL RECALL -- AND IN FACT I KNOW YOU WILL RECALL BECAUSE YOU
25 ASKED HIM WHY DID THEY REQUIRE YOU TO SIGN A FORM -- HE SAID

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 THAT THERE IS A REQUIREMENT THAT TO IMPOSE THE DEATH PENALTY
2 ALL TWELVE JURORS MUST SIGN THEIR NAME. LET'S SAY THAT
3 YOU'VE GONE BACK INTO THE JURY ROOM, BEEN GIVEN ALL THIS
4 EVIDENCE, AGGRAVATING, MITIGATING, CONVICTED MURDERER, A LOT
5 OF DELIBERATING, VOTING, ARGUMENTS, DISCUSSIONS ABOUT WHICH
6 PENALTY. THAT'S THE ONLY CHOICE THERE, ONE OF THESE TWO
7 PENALTIES.

8 AND LET'S SAY THAT FINALLY THERE IS A VOTE. AFTER MUCH
9 DELIBERATION THERE IS A VOTE AND THE VOTE IS TEN TO TWO --
10 TEN FOR ONE PENALTY, TWO FOR THE OTHER. AND WE CAN
11 INTERCHANGE THEM. IT DOESN'T MATTER FOR THE PURPOSES OF MY
12 QUESTION.

13 LET'S PUT YOU IN THAT POSITION AND LET'S PUT YOU IN THE
14 TWO. YOU'VE GOT A HEAVY MAJORITY ON THE OTHER SIDE WHO HAS
15 HEARD THE SAME EVIDENCE. THEY HAVE HEARD THE SAME TESTIMONY.
16 BUT THERE ARE TWO OR EVEN ONE, IT DOESN'T -- IT'S A MINORITY
17 POSITION. WOULD YOU MAINTAIN YOUR POSITION -- YOU KNOW,
18 MAINTAIN YOUR POSITION AS TO WHAT YOU FELT LIKE WAS THE
19 APPROPRIATE SENTENCE OR WOULD YOU BE INCLINED TO SIDE WITH A
20 MAJORITY OR GIVE UP THAT POSITION AND SIDE WITH THE GREATER
21 NUMBER IN ORDER TO WRITE A VERDICT?

22 A I THINK IT WOULD DEPEND ON A LOT OF DIFFERENT FACTORS
23 WITHIN THE MITIGATING CIRCUMSTANCES AND THE WHOLE SITUATION.
24 I'M PRETTY MUCH A PERSON WHO WILL HOLD MY OWN GROUND, BUT IT
25 JUST DEPENDS.

NANCY C. WHERRY -- VOIR DIRE BY MR. MAULDIN

1 Q ALL RIGHT. AND IF THERE WAS ADDITIONAL DELIBERATION --
2 IN OTHER WORDS, THERE HAD BEEN FULL -- I'M TALKING ABOUT AT
3 THE VERY END. YOU HAVE HAD YOUR SAY. THEY'VE HAD THEIR SAY.
4 THE QUESTION, THE BOTTOM LINE QUESTION, I GUESS, IS WOULD YOU
5 TEND TO OR BE INCLINED TO SIDE WITH THE MAJORITY BECAUSE
6 THERE WAS A GREATER NUMBER OR WOULD YOU TEND TO SAY, "THIS IS
7 MY POSITION. I'VE DECIDED. I'VE HEARD THE SAME EVIDENCE AND
8 I'M GOING TO STAY AT THIS -- THIS IS THE SENTENCE I THINK IS
9 APPROPRIATE"?

10 A I'D PROBABLY STICK WITH MY DECISION.

11 Q ALL RIGHT. AND THE LAST QUESTION IS -- I'M GOING TO PUT
12 YOU IN THE GROUP OF TEN OR ELEVEN -- WOULD YOU -- YOU HEARD
13 THE SAME EVIDENCE AND ALL THAT, SAME SCENARIO. WOULD YOU BE
14 INCLINED TO TRY TO FORCE THAT MINORITY TO SIDE WITH THE
15 GREATER NUMBER TO WRITE THE VERDICT OR WOULD YOU RESPECT THAT
16 MINORITY VIEW REGARDING THE SENTENCE IN THE CASE OF THAT
17 NATURE?

18 A I MIGHT TRY TO SWAY THE OTHER PERSON. YOU JUST DON'T
19 KNOW UNTIL YOU GET TO THAT POINT.

20 Q ALL RIGHT. BUT YOU UNDERSTAND THOSE POSITIONS ON BOTH
21 SIDES?

22 A CERTAINLY. ABSOLUTELY.

23 MR. MAULDIN: ALL RIGHT. THANK YOU, MA'AM.

24 THE COURT: MR. ARIAIL?

25 VOIR DIRE BY SOLICITOR ARIAIL:

NANCY C. WHERRY -- VOIR DIRE BY SOLICITOR ARIAIL

1 Q GOOD MORNING, MS. WHERRY.

2 A GOOD MORNING.

3 Q I'M BOB ARIAIL, AND AS THE SOLICITOR I WILL BE ASSISTED
4 IN THE CASE BY BETTY STROM, MY DEPUTY IN THE BEIGE COAT, AND
5 MINDY HERVEY HERE IN THE GREEN.

6 I WANT TO GO BACK TO YOUR QUESTION THAT YOU ASKED THE
7 JUDGE ABOUT THE SIGNING, THE HESITANCY OF SIGNING. NOT THAT
8 I'M INTERESTED IN WHY YOU WOULD ASK THE QUESTION, I'M MORE
9 INTERESTED IN WHETHER OR NOT IF YOU WERE SELECTED AND YOU'RE
10 SITTING IN A JURY ROOM AND THE DECISION HAS COME DOWN AND
11 YOU'RE BEING SWAYED THAT THE APPROPRIATE SENTENCE IS TO
12 IMPOSE THE DEATH SENTENCE.

13 A UH-HUH (AFFIRMATIVE).

14 Q WOULD THE FACT THAT YOU HAD TO PHYSICALLY SIGN THAT
15 DOCUMENT THAT GOES TO THE DEPARTMENT OF CORRECTIONS TO CARRY
16 OUT THE EXECUTION, WOULD THE PHYSICAL ACT BE SUCH THAT YOU
17 WOULD SHY AWAY FROM IMPOSING THE SENTENCE YOU BELIEVE WAS
18 APPROPRIATE UNDER THE EVIDENCE?

19 A NO, SIR. I JUST WAS CURIOUS AS TO WHY IT WAS REQUIRED.

20 SOLICITOR ARIAIL: OKAY. ALL RIGHT. GOOD. THANK YOU.

21 THE COURT: MS. WHERRY, THANK YOU, MA'AM. THEY'RE
22 GOING TO TAKE YOU TO A JURY ROOM. WE'LL GET YOU BACK OUT
23 HERE SHORTLY AND YOU'LL BE FREE TO GO.

24 JUROR NUMBER 384: OKAY.

25 THE COURT: THANK YOU FOR YOUR PATIENCE.

NANCY C. WHERRY -- VOIR DIRE BY SOLICITOR ARIAIL

1 (JUROR EXITS COURTROOM AT 10:09 A.M.)

2 THE COURT: QUALIFIED OR NOT QUALIFIED, FROM THE STATE?

3 SOLICITOR ARIAIL: QUALIFIED, YOUR HONOR.

4 THE COURT: FROM THE DEFENDANT?

5 MR. MAULDIN: QUALIFIED, YOUR HONOR.

6 THE COURT: ALL RIGHT. Y'ALL HUDDLE UP. TAKE YOUR
7 TIME. WHEN THE STATE -- WHEN YOU'RE READY TO MAKE A
8 DECISION, YOU LET ME KNOW.

9 SOLICITOR ARIAIL: PRESENT HER.

10 THE COURT: TAKE YOUR TIME, DEFENDANT.

11 MR. MAULDIN: (OFF RECORD WITH CO-COUNSEL) EXCUSE THE
12 JUROR, YOUR HONOR.

13 THE COURT: ALL RIGHT. IS THERE A BATSON MOTION?

14 SOLICITOR ARIAIL: (OFF RECORD WITH CO-COUNSEL) YES,
15 YOUR HONOR, THERE IS.

16 THE COURT: ALL RIGHT. AND IS THE REASON THE RESPONSE
17 TO THE DEATH PENALTY IS NOT ENOUGH AND HER ASSOCIATION WITH
18 THE SOLICITOR?

19 MR. MAULDIN: YES, SIR. ESSENTIALLY, THAT'S IT. BUT I
20 RESERVE THE RIGHT TO MAKE FURTHER---

21 THE COURT: SURE.

22 MR. MAULDIN: THERE ARE -- THAT IS THE EXACT
23 COMBINATION, YOUR HONOR.

24 THE COURT: ALL RIGHT. AND WE WILL REVISIT AND GIVE
25 FURTHER DISCUSSION IF NECESSARY.

MATTERS AND MOTIONS

1 ASK MS. WHERRY TO COME BACK INTO THE COURTROOM, AND THEN
2 WE'LL GET THE NEXT JUROR, MR. STARNES, ON STANDBY.

3 (JUROR REENTERS COURTROOM AT 10:12 A.M.)

4 **THE COURT:** JUST COME HAVE A SEAT FOR JUST A MOMENT,
5 AND THEN YOU'LL BE OUT OF HERE, MS. WHERRY.

6 **JUROR NUMBER 384:** OKAY.

7 **THE COURT:** MS. WHERRY, YOU REMAIN AN ELIGIBLE JUROR.
8 YOU COULD POTENTIALLY SERVE IN THIS CASE, AND I'M GOING TO
9 GIVE YOU AN ORDER TO THAT EFFECT, BUT I JUST WANT TO REVIEW
10 IT WITH YOU BRIEFLY TO MAKE SURE YOU UNDERSTAND IT.

11 WHEN YOU LEAVE OUT IN THE HALLWAY, MS. PLUMLEY, THE JURY
12 COORDINATOR, WILL GET WITH YOU AND GET ALL YOUR PHONE NUMBERS
13 SO ONCE WE KNOW WHETHER WE NEED YOU WE CAN CONTACT YOU ANY
14 HOUR OF THE DAY AND LET YOU KNOW, SO EITHER YOU KNOW TO COME
15 IN AND BE PREPARED TO SERVE ON THIS CASE OR LET YOU OFF THE
16 HOOK AND YOU DON'T HAVE TO WORRY ABOUT IT ANYMORE.

17 ALSO, VERY IMPORTANTLY, THIS ORDER REQUIRES YOU TO
18 CONTINUE UNDER THE SAME OATH THAT YOU TOOK ON MONDAY. DO NOT
19 EXPOSE YOURSELF TO ANY INFORMATION ABOUT THE CASE. DON'T
20 DISCUSS IT WITH ANYONE. DO YOU UNDERSTAND THEN THOSE
21 INSTRUCTIONS?

22 **JUROR NUMBER 384:** YES, SIR.

23 **THE COURT:** ALL RIGHT. THANK YOU, MA'AM. APPRECIATE
24 YOU BEING HERE. AND ONCE YOU GET PHONE NUMBERS OUT THERE,
25 YOU ARE FREE TO GO.

MATTERS AND MOTIONS

1 JUROR NUMBER 384: OKAY. THANK YOU.

2 THE COURT: THANK YOU.

3 (JURY EXITS COURTROOM AT 10:14 A.M.)

4 THE COURT: ALL RIGHT. THE NEXT ONE IS A MR. STARNES.

5 MR. MAULDIN: YOUR HONOR, WE NOTICED THAT MR. STARNES
6 HAS SERVED ON A JURY, I THINK, IN THE LAST YEAR. I'M LOOKING
7 AT THE DOCUMENTATION OF THAT. AND THE QUESTION THAT I WOULD
8 HAVE UP FRONT BEFORE WE GO THROUGH THE PROCESS IS, IS HE
9 AWARE THAT HE HAS AVAILABLE -- HE DON'T HAVE TO -- THAT -- HE
10 HAS A STATUTORY EXEMPTION IF HE SO CHOSE IT, BUT I'M NOT SURE
11 HE UNDERSTOOD THAT. WE DON'T KNOW WHETHER IT'S GENERAL
12 SESSIONS, COMMON PLEAS, OR ANYTHING.

13 SOLICITOR ARIAIL: COULD I VOICE ONE FURTHER OBJECTION
14 TO THE TEN-TWO MAJORITY. I DON'T KNOW ANY LEGAL BASIS FOR
15 THAT OTHER THAN STAKING OUT SOMEBODY TO SEE IF THEY ARE A
16 LEADER OR A FOLLOWER. THE TEN-TWO MINORITY, I UNDERSTAND,
17 THE CAVE IN. BUT THE TEN-TWO MAJORITY, IN THE INTEREST OF
18 SPEEDING IT UP AND WEEDING OUT IRRELEVANT QUESTIONS, I WOULD
19 OBJECT TO THAT QUESTION IN THE FUTURE.

20 THE COURT: I PERMIT THE QUESTION.

21 MR. STARNES:

22 (JUROR ENTERS COURTROOM AT 10:15 A.M.)

23 RAYMOND E. STARNES (WHITE
24 MALE), HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
25 VOIR DIRE BY THE COURT:

1 Q MR. STARNES, I NOTICE, I BELIEVE, FROM THE INFORMATION
2 YOU PROVIDED THAT WAS SENT TO YOU INITIALLY, YOU SERVED ON
3 JURY DUTY BEFORE?

4 A I'VE SERVED ON DRIVING CASES AND THEN IN GREENVILLE
5 COUNTY, I BELIEVE, EARLY LAST YEAR, I WAS AT A MAGISTRATE'S
6 COURT---

7 Q MAGISTRATE'S COURT.

8 A ---AND IT WAS SETTLED BEFORE WE ACTUALLY HAD TO DO
9 ANYTHING.

10 Q OKAY. WELL, LET ME TELL YOU WHAT WE'RE GOING TO DO.
11 WE'RE GOING TO TALK IN A LITTLE MORE DETAIL ABOUT THE NATURE
12 OF A CAPITAL CASE. I'M GOING TO ASK YOU YOUR OPINION OF HOW
13 YOU WOULD APPROACH CERTAIN THINGS, BECAUSE WE'RE IN THE
14 PROCESS OF QUESTIONING VERY CAREFULLY EACH POTENTIAL JUROR SO
15 WE CAN HAVE A FAIR AND IMPARTIAL JURY WHERE EACH JUROR WOULD
16 COME IN AND FOLLOW THE LAW, HONOR THEIR OATH AND BE FAIR TO
17 BOTH THE STATE AND THE DEFENDANT. WE'RE JUST GATHERING
18 INFORMATION. THERE ARE NO RIGHT OR WRONG ANSWERS. WE JUST
19 WANT TO FIND OUT FROM YOU HOW YOU FEEL ABOUT CERTAIN THINGS
20 AND ALSO GIVE YOU A LITTLE BIT FURTHER EDUCATION ON THE
21 NATURE OF A CAPITAL CASE.

22 THIS PARTICULAR CASE, MR. STARNES, ARISES FROM AN
23 INCIDENT THAT OCCURRED, ACCORDING TO THE INDICTMENT, IN
24 GREENVILLE COUNTY BACK ON DECEMBER THE 6TH, 2000. MR. WOOD,
25 THE DEFENDANT, IS CHARGED WITH THE CRIME OF MURDER. THE

RAYMOND E. STARNES -- VOIR DIRE BY THE COURT

1 VICTIM IDENTIFIED IN THE INDICTMENT IS ONE ERIC NICHOLSON.

2 MR. NICHOLSON, AT THE TIME, WAS A STATE TROOPER.

3 THIS CASE RECEIVED ATTENTION IN THE MEDIA, AND I WANT TO
4 KNOW INITIALLY FROM YOU IF YOU HAVE ANY INFORMATION ABOUT
5 THIS CASE, FROM THE MEDIA OR OTHERWISE, AND IF YOU DO, TELL
6 ME SPECIFICALLY WHAT YOU RECALL.

7 A I REALLY DON'T RECALL ANYTHING ABOUT THE CASE AT ALL. I
8 HAVEN'T HEARD ANYTHING IN THE MEDIA OR KNOW ANYTHING ABOUT
9 IT. I DIDN'T EVEN KNOW HE WAS A TROOPER, YOU KNOW, UNTIL YOU
10 SAID IT THIS MORNING.

11 Q HOW LONG HAVE YOU LIVED IN GREENVILLE?

12 A ALMOST TWO YEARS.

13 Q AND THIS EVENT OCCURRED, I THINK, IN DECEMBER OF 2000.
14 AND YOU DON'T RECALL ANYTHING? DO YOU REMEMBER SOME PASSING
15 REFERENCE TO A TROOPER BEING KILLED OR ANYTHING LIKE THAT?

16 A THE NAME NICHOLS SOUNDS FAMILIAR.

17 Q NICHOLSON. SO---

18 A OH, NICHOLSON. IT SOUNDS FAMILIAR, BUT I DON'T REMEMBER
19 ANYTHING ABOUT THE CASE.

20 Q OKAY. THERE MAY BE SOME REFERENCE TO AN EVENT OR SERIES
21 OF EVENTS IN ANDERSON COUNTY. WHEN I MENTION THE TERM
22 "ANDERSON COUNTY," DOES THAT JOG YOUR MEMORY AT ALL?

23 A NO.

24 Q OKAY. THE REASON I ASK THAT, MR. STARNES, IS A JURY AND
25 EACH MEMBER OF THE JURY TAKES AN OATH, AND THAT OATH REQUIRES

RAYMOND E. STARNES -- VOIR DIRE BY THE COURT

1 THEM TO FIND THE TRUTH FROM THE EVIDENCE, NOT WHAT MAY HAVE
2 HAPPENED OUTSIDE OF COURT AND THEY HEARD ON THE T.V. OR
3 SOMETHING LIKE THAT. THEY HAVE TO FIND THE EVIDENCE FROM
4 THIS COURTROOM. AND ALSO TO FOLLOW THE LAW AS I INSTRUCT IT.
5 IF YOU WERE A JUROR, WOULD YOU HONOR YOUR OATH IN THAT
6 REGARD?

7 A YES, I WOULD.

8 Q I MENTIONED TWO LEGAL PRINCIPLES EARLIER. THE
9 PRESUMPTION OF INNOCENCE. THE DEFENDANT IS ALWAYS PRESUMED
10 TO BE INNOCENT. AND THE BURDEN OF PROOF. THERE IS NO BURDEN
11 EVER ON A DEFENDANT. THE DEFENDANT HAS THE RIGHT TO REMAIN
12 SILENT UNDER OUR LAW. IT'S VERY IMPORTANT. AND THE BURDEN
13 OF PROOF IS ON THE STATE TO PROVE GUILT BEYOND A REASONABLE
14 DOUBT. DO YOU UNDERSTAND AND PERSONALLY AGREE WITH THOSE
15 LEGAL PRINCIPLES?

16 A YES.

17 Q OKAY. NOW, MR. STARNES, AS I MENTIONED EARLIER, WE MAY
18 NOT EVEN REACH A SENTENCING PHASE. WHEN THERE IS A CASE THAT
19 PERMITS THE STATE TO ASK FOR THE DEATH PENALTY, IT'S DONE IN
20 TWO STAGES.

21 THE FIRST PHASE IS WHERE THE JURY DETERMINES WHETHER OR
22 NOT THE STATE HAS PROVEN A DEFENDANT GUILTY OF THE CRIME OF
23 MURDER BEYOND A REASONABLE DOUBT. THAT MAY END IT. A
24 VERDICT OF NOT GUILTY MEANS NO FURTHER JURY INVOLVEMENT.
25 THERE IS NEVER A SENTENCING PHASE IN THAT EVENT.

1 WE'RE GOING TO TALK ABOUT A SENTENCING PHASE JUST
2 BECAUSE IT POSSIBLY COULD OCCUR. AND BECAUSE OF THAT WE NEED
3 TO FIND OUT FROM YOU YOUR VIEWS ON THE DEATH PENALTY. DO YOU
4 UNDERSTAND?

5 A UH-HUH (AFFIRMATIVE).

6 Q OKAY. WHEN A JURY MOVES TO A SENTENCING PHASE, THAT
7 JURY HAS ALREADY FOUND THE PARTICULAR DEFENDANT GUILTY OF
8 MURDER. AND WE'RE NOT TALKING ABOUT THIS CASE. WE'RE JUST
9 TALKING ABOUT THE CONCEPT IN GENERAL.

10 SO WHEN YOU GO TO A SENTENCING PHASE, THERE IS NO OTHER
11 ISSUE ON THE MATTER OF GUILT. YOU ARE DEALING WITH A
12 MURDERER AT THAT POINT. GUILT HAS BEEN ESTABLISHED. WHAT WE
13 WANT TO MAKE SURE IS IF YOU WERE A JUROR AND YOU MOVED IN TO
14 A SENTENCING PHASE THAT YOU STILL HAD AN OPEN MIND. BECAUSE
15 A JUROR WHO ALREADY HAD HIS MIND OR HER MIND MADE UP JUST
16 BECAUSE SOMEONE IS GUILTY OF MURDER COULD NOT SERVE ON THE
17 JURY. DO YOU UNDERSTAND THAT?

18 A YES.

19 Q IN THE SECOND PHASE, OR THE SENTENCING PHASE, ADDITIONAL
20 EVIDENCE IS RECEIVED, AND THE LAW REQUIRES THAT THIS
21 ADDITIONAL EVIDENCE MUST BE CAREFULLY CONSIDERED BEFORE A
22 FINAL DECISION IS MADE. THESE ARE CALLED EVIDENCE OF
23 CIRCUMSTANCES OF AGGRAVATION -- IT'S WHAT I TALKED A LITTLE
24 BIT ABOUT EARLIER. IT'S MURDER IN THE COMMISSION OF
25 KIDNAPPING, FOR EXAMPLE. AND THERE ARE OTHER EXAMPLES.

1 BUT THE LAW ALSO SAYS YOU MUST HEAR EVIDENCE AS TO
2 MITIGATION. EXAMPLES OF MITIGATION MAY BE A DEFENDANT'S
3 BACKGROUND, THINGS ABOUT THE DEFENDANT, FAMILY HISTORY,
4 MENTAL HEALTH STATUS, THINGS OF THAT NATURE. AND AT THE END
5 THE JUDGE WOULD INSTRUCT THE JURY, YOU'VE HEARD ALL THE
6 EVIDENCE NOW. YOU'VE HEARD EVIDENCE OF A CIRCUMSTANCE OF
7 AGGRAVATION. YOU'VE HEARD EVIDENCE OF MITIGATION. YOU MUST
8 GIVE THESE CAREFUL AND THOUGHTFUL CONSIDERATION BEFORE YOU
9 MAKE A DECISION BETWEEN LIFE AND DEATH.

10 IF YOU WERE IN THAT SITUATION, WOULD YOU FOLLOW THE
11 INSTRUCTIONS AND GIVE BOTH SIDES AND ALL OF THE EVIDENCE
12 CAREFUL AND THOUGHTFUL CONSIDERATION?

13 A YES, I WOULD.

14 Q NOW LET ME MENTION SOMETHING TO YOU THAT I DIDN'T
15 MENTION EARLIER, AND THAT'S A LIFE SENTENCE. WE OFTEN HEAR
16 PEOPLE TALK ABOUT INDIVIDUALS BEING RELEASED ON PAROLE, THAT
17 A LIFE SENTENCE REALLY DOESN'T MEAN LIFE. IT'S A LITTLE
18 MISLEADING. LET ME TELL YOU WHAT THE TRUTH IS IN SOUTH
19 CAROLINA. WHEN AN INDIVIDUAL IS CONVICTED OF MURDER AND THE
20 MURDER IS ACCOMPANIED BY ONE OF THESE CIRCUMSTANCES OF
21 AGGRAVATION, LIFE MEANS LIFE -- LIFE WITHOUT THE POSSIBILITY
22 OF PAROLE. AN INDIVIDUAL IN THAT SITUATION WOULD DIE IN
23 JAIL. THERE IS NO CHANCE OF PAROLE. DO YOU UNDERSTAND THE
24 SIGNIFICANCE OF THAT?

25 A YES.

RAYMOND E. STARNES -- VOIR DIRE BY THE COURT

1 Q OKAY. NOW I WANT TO PUT YOU IN JUST A SETTING OF AT
2 TRIAL IN GENERAL. AND IF YOU WERE A JUROR AND YOU HAD BEEN
3 IN A SENTENCING PHASE -- YOU'VE BEEN THROUGH THE FIRST PHASE,
4 YOU'VE BEEN THROUGH THE SENTENCING PHASE -- AND YOU KEPT AN
5 OPEN MIND AND YOU CAREFULLY LISTENED TO ANY CIRCUMSTANCE OF
6 AGGRAVATION, YOU CAREFULLY CONSIDERED THE MITIGATION
7 EVIDENCE, AND AFTER YOU GAVE IT CAREFUL THOUGHT, IF YOU
8 BELIEVED THAT THE LIFE SENTENCE WAS APPROPRIATE, COULD YOU
9 VOTE FOR A LIFE SENTENCE?

10 A YES.

11 Q ALL RIGHT. LET'S DO THE FLIP SIDE. YOU'VE BEEN THROUGH
12 THE PROCESS. YOU HAVE CONSIDERED EVERYTHING VERY CAREFULLY,
13 CIRCUMSTANCES OF AGGRAVATION IF IT'S PROVEN, AND FIND IT'S
14 BEEN PROVEN. YOU FIND MITIGATION EVIDENCE. AND YOU CONSIDER
15 AND YOU ARE PERSUADED AND CONVINCED THAT THE APPROPRIATE
16 PENALTY IS THE DEATH PENALTY. COULD YOU VOTE FOR THE DEATH
17 PENALTY?

18 A I THINK I COULD.

19 Q OKAY. OKAY. I NEED TO TELL YOU NO ONE IS TRYING TO
20 FIND OUT UP FRONT WHICH WAY YOU'RE GOING TO GO. IT'S WIDE
21 OPEN. BUT BOTH SIDES ARE ENTITLED TO KNOW THAT THEIR
22 POSITIONS WILL BE GIVEN A FAIR CONSIDERATION. DO YOU SEE
23 WHAT I'M SAYING?

24 A (INDICATES AFFIRMATIVE RESPONSE)

25 Q SO IF YOU CONSIDERED ALL THE EVIDENCE AND YOU WERE

RAYMOND E. STARNES -- VOIR DIRE BY THE COURT

1 PERSUADED THAT THE DEATH PENALTY WAS APPROPRIATE, DO YOU
2 BELIEVE THAT IN THAT CIRCUMSTANCE YOU COULD BRING YOURSELF TO
3 VOTE FOR IT?

4 A YES.

5 Q OKAY. NOW, THERE IS A FURTHER STEP THAT A JUROR HAS TO
6 DO. IN SOUTH CAROLINA WHEN THE JURY -- IT HAS TO BE
7 UNANIMOUS. ALL TWELVE MUST AGREE. WHEN THE JURY VOTES FOR
8 THE DEATH PENALTY, EACH JUROR HAS TO SIGN HIS OR HER NAME TO
9 THE VERDICT FORM IMPOSING THE DEATH PENALTY.

10 IF YOU HAD MADE THAT DECISION, COULD YOU TAKE THE
11 ADDITIONAL STEP AND SIGN YOUR NAME TO THAT DOCUMENT?

12 A WELL, THAT IS THE -- THAT IS THE THING THAT SEEMS VERY
13 GRAVE, YOU KNOW, THAT HAS REALLY WEIGHED THE HEAVIEST ABOUT
14 THIS DECISION, AND I'VE HAD TO CONSIDER THAT. AND I SUPPOSE
15 IF I FELT, YOU KNOW, BEYOND A SHADOW OF A DOUBT THAT DEATH
16 THE PENALTY WAS APPROPRIATE, THEN I WOULD HAVE TO SIGN THE
17 CARD. BUT THAT WOULD BE THE HARDEST THING I EVER DID IN MY
18 LIFE.

19 Q AND WE APPRECIATE THAT AND WE THANK YOU FOR YOUR CANDOR.
20 BUT IF YOU HAD COME TO THAT DECISION AND YOU HAD MADE THAT
21 VOTE, COULD YOU TAKE THAT NEXT STEP AND PUT YOUR NAME ON THE
22 DOCUMENT?

23 A YES.

24 Q OKAY. MR. STARNES, TO MAKE SURE I UNDERSTAND WHAT YOU
25 HAVE TOLD ME -- AND I WANT YOU TO CORRECT ME IF I MISSTATE

RAYMOND E. STARNES -- VOIR DIRE BY THE COURT

1 SOMETHING -- IF YOU WERE A JUROR IN A CAPITAL CASE, YOU WOULD
2 BE FAIR. YOU WOULD BE OPEN MINDED. YOU WOULD PARTICIPATE IN
3 BOTH PHASES OF THE TRIAL, IF BOTH PHASES OCCURRED, WITH THAT
4 OPEN MINDED. AND PARTICULARLY IN A CAPITAL CASE, IF A CASE
5 MOVED TO THE SENTENCING PHASE, AS IT MOVED TO THE SENTENCING
6 PHASE, EVEN THOUGH YOU HAVE A MURDER, YOU WOULD STILL BE OPEN
7 TO CONSIDER BOTH PENALTIES?

8 A YES.

9 Q AND YOU WOULD WANT TO HEAR THE ADDITIONAL EVIDENCE ON
10 BOTH SIDES AND THEN MAKE A DECISION AFTER FOLLOWING THE LAW
11 VERY CAREFULLY?

12 A YES.

13 THE COURT: MR. STARNES I MAY HAVE SOME FOLLOW-UP
14 QUESTIONS FOR YOU, BUT THE ATTORNEYS WILL HAVE SOME
15 QUESTIONS. AND THEN ONCE WE CONCLUDE THAT, WE'LL BE ABLE TO
16 CUT YOU LOOSE FOR THE REST OF THE DAY. OKAY.

17 LET'S SEE. THIS WILL BE MR. ARIAIL.

18 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

19 THE COURT: YES, SIR. I'M SORRY.. ONE SECOND. (OFF
20 RECORD DISCUSSION)

21 Q I FORGOT TO ASK SOMETHING. WE ASK SO MANY JURORS, IT
22 SLIPS MY MIND. YOU HAVE TO FORGIVE ME.

23 A YES.

24 Q THERE IS A SHEET BACK IN THE OTHER ROOM AND IT LISTED
25 THREE TYPES OF JURORS.

RAYMOND E. STARNES -- VOIR DIRE BY THE COURT

1 A YES.

2 Q I'VE GOT ANOTHER SHEET HERE IF YOU WANT TO REFRESH YOUR
3 MEMORY ON IT. BUT DO YOU THINK ONE OF THOSE DESCRIBES YOU?
4 IF IT DOES, WHICH ONE?

5 A WELL, ON THAT SHEET IT WAS NUMBER THREE, I BELIEVE,
6 WHICH IS THAT I DON'T HAVE MY MIND MADE UP AT THIS TIME AND
7 WOULD NEED MY MIND MADE UP BY THE EVIDENCE THAT WAS
8 PRESENTED.

9 THE COURT: VERY GOOD. THANK YOU, SIR.

10 SORRY, SOLICITOR.

11 SOLICITOR ARIAIL: THAT'S ALL RIGHT. THANK YOU.

12 VOIR DIRE BY SOLICITOR ARIAIL:

13 Q MR. STARNES, MY NAME IS BOB ARIAIL, AND I'M THE
14 SOLICITOR FOR GREENVILLE AND PICKENS COUNTIES, WHICH IS THE
15 THIRTEENTH CIRCUIT OF SOUTH CAROLINA. SOLICITOR IS A FANCY
16 NAME FOR THE DISTRICT ATTORNEY. THAT'S WHAT SOUTH CAROLINA
17 STILL CALLS THEM BY THE OLD NAME. AND IN THIS CASE I WILL BE
18 ASSISTED BY MY DEPUTY, BETTY STROM, AND MY ASSISTANT -- ONE
19 OF MY ASSISTANTS, MINDY HERVEY.

20 WHAT I WANT TO DO IS GO BACK. THE JUDGE EXPLAINED THE
21 PROCESS TO YOU. YOU'RE ACTUALLY HAVING TWO TRIALS AND
22 THERE'S A BREAK IN BETWEEN THEM. AND THE FIRST TRIAL PHASE
23 IS A TYPICAL CRIMINAL CASE. THE DEATH PENALTY IS REALLY A --
24 A DEATH PENALTY PROCEEDING IS REALLY A MURDER -- A NORMAL
25 MURDER CASE WITH A FUNNY ENDING AND A FUNNY BEGINNING. AND

RAYMOND E. STARNES -- VOIR DIRE BY SOLICITOR ARIAIL

1 IN THIS SITUATION WHERE WE ARE FOCUSING, THAT IS, THE PART OF
2 THE DEATH PENALTY CASE PROCEEDINGS OR CAPITAL CASE
3 PROCEEDINGS, IS THE SENTENCING PHASE.

4 AND SO YOU WILL UNDERSTAND WHAT -- THE NORMAL TRIAL
5 WOULD BE THAT THE JURY WOULD RENDER A VERDICT OF GUILTY OR
6 NOT GUILTY, AND THEY WOULD FOCUS ON THE FACTS OF IS THE
7 DEFENDANT GUILTY OF THIS CRIME? AND DID THE STATE PROVE IT
8 BEYOND A REASONABLE DOUBT? ONCE THAT HAS BEEN ACCOMPLISHED,
9 THE NORMAL PROCESS IS THE JUDGE WOULD DO SENTENCING. THAT'S
10 THE WAY IT WORKS IN EVERY CASE EXCEPT WHERE THE STATE IS
11 SEEKING THE DEATH PENALTY. AND IN THAT SITUATION THE JURY
12 COMES INTO EFFECT BECAUSE THEY BECOME THE SENTENCING BODY.

13 SO REALLY WHAT HAPPENS IN THE SECOND PHASE IS YOU'RE
14 CALLED UPON AS A JUROR TO DECIDE WHAT THE APPROPRIATE
15 PUNISHMENT IS, AND THERE ARE SEVERAL STEPS THAT ARE
16 ACCOMPLISHED IN THE SECOND PHASE. WE ACTUALLY HAVE A SECOND
17 TRIAL THAT BRINGS IN EVIDENCE OF AGGRAVATION AND MITIGATION,
18 AND THE LAW SAYS THAT THE JURY CANNOT CONSIDER THE DEATH
19 PENALTY UNTIL THE JURY CONCLUDES THAT THERE IS AN AGGRAVATING
20 CIRCUMSTANCE THAT ACCOMPANIES THE MURDER. ALL RIGHT?

21 AND THE LAW HAS SET OUT -- OUR STATE LAW IN THE
22 LEGISLATURE HAS SET OUT A NUMBER OF THOSE: MURDER WHILE IN
23 THE COMMISSION OF KIDNAPPING, MURDER WHILE IN THE COMMISSION
24 OF AN ARMED ROBBERY, MURDER WHILE IN THE COMMISSION OF A
25 CRIMINAL SEXUAL CONDUCT. THOSE WOULD BE INSTANCES.

1 BUT I WANT YOU TO UNDERSTAND THAT THE MURDER IS IN THE
2 FIRST TRIAL. AND IN THE COMMISSION OF ARMED ROBBERY AND IN
3 THE COMMISSION OF CRIMINAL SEXUAL, THOSE ARE THINGS THAT HAVE
4 TO BE DECIDED IN THE SECOND PHASE. YOU DON'T DEAL WITH THOSE
5 IN THE FIRST PHASE. YOU MAY HEAR EVIDENCE ABOUT IT
6 INCIDENTALLY. BUT IN THE SECOND PHASE YOU WOULD HAVE TO
7 DECIDE IF THAT CIRCUMSTANCE OF AGGRAVATION EXISTS. AND YOU
8 WON'T DECIDE THAT -- YOU WILL NOT DECIDE THAT IN A CASE AS A
9 JURY UNTIL YOU RETURN TO THE JURY ROOM AND ALL THE EVIDENCE
10 IS IN. ALL RIGHT?

11 SO IT'S NOT LIKE YOU DECIDED IN THE FIRST FIVE MINUTES
12 OF THE PRESENTATION AND THEN YOU START LISTENING TO OTHER
13 EVIDENCE. YOU ACTUALLY GO BACK TO THE ROOM AND START
14 DELIBERATING ON THE FIRST ISSUE OF IS THERE AN AGGRAVATING
15 CIRCUMSTANCE. ONCE YOU FIND THAT THEN THE JUDGE WILL
16 INSTRUCT YOU THAT YOU CAN THEN PROCEED TO CONSIDER EVIDENCE -
17 - ADDITIONAL EVIDENCE IN AGGRAVATION, MAKING THE CASE WORSE,
18 OR ADDITIONAL EVIDENCE IN MITIGATION.

19 NOW, WHAT HE WILL TELL YOU IS WHAT YOU HAVE TO BE TO BE
20 QUALIFIED, YOU HAVE TO BE SOMEBODY WHO WOULD BE WILLING AFTER
21 YOU FOUND THAT CIRCUMSTANCE OF AGGRAVATION TO PROCEED FURTHER
22 AND CONSIDER BOTH OF THE REMAINING PIECES OF EVIDENCE IN
23 AGGRAVATION AND MITIGATION. DO YOU UNDERSTAND THAT?

24 A YES.

25 Q ALL RIGHT. NOW, THAT'S WHAT WE'RE LOOKING FOR.

1 NOW, YOU SAID IN YOUR RESPONSES THAT IN THAT FINAL PHASE
2 WHEN YOU'RE IN IT THAT THERE WAS A HESITATION THAT -- YOU
3 WERE HESITATING -- YOU WOULD HESITATE TO VOTE OR -- I'VE
4 FORGOTTEN EXACTLY HOW YOU EXPRESSED IT, BUT THERE WAS A
5 HESITATION. YOU THOUGHT YOU COULD DO THAT. YOU THOUGHT YOU
6 COULD TO THAT.

7 THE QUESTION I WANT TO ASK YOU IS, IF THE EVIDENCE WAS
8 CORRECT IN YOUR VIEW THAT THIS WAS AN APPROPRIATE CRIME TO
9 HAVE THE DEATH PENALTY IMPOSED, COULD YOU DO THAT AND VOTE --
10 COULD YOU VOTE FOR THE DEATH PENALTY?

11 A YES, I COULD.

12 Q ALL RIGHT. NOW I WANT TO GO -- TAKE A LITTLE REVERSE TO
13 THAT. WOULD THE FACT THAT YOU HAVE THIS HESITANCY OR IT
14 WOULD BE -- AND I UNDERSTAND THE HESITANCY MAY BE BASED ON
15 THE SEVERITY OF THE PUNISHMENT, AND WE UNDERSTAND THAT. WHAT
16 MY CONCERN IS, IS TO EXPLORE WHETHER OR NOT YOUR CONCERN IN
17 THE END, THAT IS, THE BACK END, THAT THE PUNISHMENT IS SO
18 SEVERE AND IT WOULD BE SUCH A DIFFICULT DECISION AND YOU
19 WOULD HAVE TO SIGN THIS DOCUMENT, AND AS YOU SAID THAT WOULD
20 BE A GRAVE STEP. WOULD THE SERIOUSNESS OF ALL OF THAT WEIGH
21 ON YOUR ABILITY TO FAIRLY CONSIDER THE STATE'S REQUEST TO
22 IMPOSE THE DEATH PENALTY, THAT IS, WOULD YOU BE SO WORRIED
23 ABOUT THE BACK END THAT YOU WOULD NOT BE GIVING THE EVIDENCE
24 FAIR CONSIDERATION?

25 A I DON'T BELIEVE SO. MY HESITANCY IS THAT I THOUGHT I

RAYMOND E. STARNES -- VOIR DIRE BY SOLICITOR ARIAIL

1 KNEW WHERE I STOOD UNTIL I WAS ACTUALLY ASKED COULD I MAKE
2 THE DECISION.

3 Q WHERE DID THINK YOU STOOD?

4 A THAT I COULD PROBABLY EASILY SUPPORT THE DEATH PENALTY.

5 Q ALL RIGHT. AND WHEN YOU ARE FACED WITH IT, YOU NOW SEE
6 IT AS A SERIOUS AND GRAVE ACT. ALL RIGHT. AND I ASSUME AS A
7 CONSCIENTIOUS CITIZEN, YOU THEN TAKE THAT SERIOUSLY?

8 A YES.

9 Q ALL RIGHT. WELL, THAT'S WHAT WE'RE LOOKING FOR. ALL
10 RIGHT.

11 THE OTHER THING I WANT TO MAKE SURE I UNDERSTAND IS WHEN
12 YOU ENTER THAT JURY ROOM FOR A SECOND TIME AND YOU FIND THAT
13 AGGRAVATING CIRCUMSTANCE, WHICH MAY BE THAT -- YOU'VE ALREADY
14 CONVICTED THE PERSON OF MURDER, SO YOU'RE NOT DEALING WITH
15 THAT ANYMORE. BUT YOU FIND THAT IT WAS COMMITTED, SAY,
16 DURING THE COURSE OF AN ARMED ROBBERY. IN THAT SECOND PHASE,
17 AT THAT POINT, YOU STILL HAVE TO HAVE AN OPEN MIND. YOU
18 CANNOT BE A JUROR WHO SAYS, OKAY, AT THAT POINT, HE'S GOING
19 TO GET LIFE OR HE'S GOING TO GET DEATH. YOU HAVE TO BE
20 ABLE -- DO YOU FIT IN THAT CATEGORY TO CONTINUE TO ANALYZE
21 THE EVIDENCE? YOU WON'T HEAR ANYMORE. YOU WILL ALREADY HAVE
22 HEARD IT ALL, BUT YOU WILL CONTINUE TO ANALYZE. WOULD YOU BE
23 ONE THAT COULD DO THAT?

24 A YES.

25 SOLICITOR ARIAIL: THANK YOU VERY MUCH.

RAYMOND E. STARNES -- VOIR DIRE BY SOLICITOR ARIAIL

1 THE COURT: MR. MAULDIN

2 VOIR DIRE BY MR. MAULDIN:

3 Q MR. STARNES, I'M JOHN MAULDIN. I'M THE PUBLIC DEFENDER
4 FOR GREENVILLE COUNTY. I, ALONG WITH JIM BANNISTER AND
5 RODNEY, RICHEY REPRESENT JOHN IN THIS CASE.

6 I'M GOING TO BE ASKING YOU A NUMBER OF QUESTIONS AND I
7 WANT TO TELL YOU THAT SOME OF THEM YOU MAY PERHAPS FEEL ARE A
8 LITTLE BIT PRYING OR A LITTLE BIT PERSONAL, SO I'M GOING TO
9 OFFER AN EXPLANATION UP FRONT.

10 I WANT TO -- WE DON'T KNOW YOU. WE DON'T KNOW ANYTHING
11 ABOUT YOU. AND WE'RE NOT GOING TO LEARN ANYTHING ABOUT YOU
12 IF WE DO THE TALKING. SO I'M GOING TO ASK YOU TO COME
13 FORWARD WITH INFORMATION. AND IF SOME OF IT -- YOU KNOW, YOU
14 JUST ANSWER AS BEST YOU CAN.

15 I RECALL AN OCCASION WHEN I INTRODUCED MY WIFE TO A
16 PERSON THAT I KNEW AT A FUNCTION, AND LATER ON IN THE
17 EVENING, I SAID, "WHAT DID YOU THINK OF SO AND SO?" SHE
18 SAID, "I DON'T KNOW ANYTHING ABOUT HIM. YOU DID ALL THE
19 TALKING." SO I'M GOING TO ASK YOU TO DO SOME OF THE TALKING
20 SO WE CAN ACTUALLY GET TO KNOW YOU. IT'S MORE LIKE A
21 CONVERSATION INSTEAD OF TESTIMONY.

22 I WANT TO TALK A LITTLE BIT TO YOU ABOUT IN YOUR
23 QUESTIONNAIRE THAT YOU SENT IN TO THE COURT YOU SAID YOU
24 WORKED FOR ERNST WINTER?

25 A UH-HUH (AFFIRMATIVE).

1 Q AND WHAT IS YOUR -- CAN YOU DESCRIBE YOUR -- THE JOB,
2 WHAT KIND OF JOB YOU DO WITH THEM?

3 A WE ARE A DIAMOND AND CNC COATED TOOL MANUFACTURER, AND I
4 AM A DESIGN ENGINEER THERE WHO DESIGNS THE TOOLS PER THE
5 CUSTOMER'S REQUEST.

6 Q OKAY. IS THAT -- AND HOW LONG HAVE YOU WORKED FOR THEM?

7 A THREE YEARS.

8 Q AND YOUR ROLE IN THAT POSITION IS THAT A JOB THAT YOU DO
9 SOMEWHAT INDEPENDENTLY OR DO YOU SUPERVISE OTHER PEOPLE IN
10 THAT JOB OR CAN YOU GIVE ME A LITTLE IDEA OF YOUR...

11 A I AM -- THERE ARE TWO OF US IN OUR GROUP. THERE ARE
12 MULTIPLE GROUPS WITHIN THE COMPANY. THERE ARE TWO DESIGNERS
13 IN THE GROUP THAT I AM IN, AND WE WORK PRETTY MUCH SELF-
14 SUPERVISED AND, YOU KNOW, ON OUR OWN.

15 Q OKAY. I WANT TO ASK YOU, YOU SAID A REAL INTERESTING
16 COMMENT TO THE PROSECUTOR, THAT YOU THOUGHT YOU KNEW HOW YOU
17 FELT ABOUT THIS UNTIL YOU ALL OF A SUDDEN FOUND YOURSELF ON
18 POTENTIAL JURY DUTY, AND THEN YOU'VE KIND OF REHASHED IT A
19 LITTLE BIT.

20 IF I HAD BEEN SIMPLY AT THE DRUG STORE, COFFEE SHOP OR
21 SOMETHING TALKING TO YOU ABOUT THIS JUST AS A CONVERSATION
22 AND I HAD SAID, "WELL HOW DO YOU FEEL ABOUT THE DEATH
23 PENALTY?" -- AND I'M NOT TALKING ABOUT THIS CASE OR ANY
24 PARTICULAR CASE, UNLESS YOU WANT TO USE ONE AS AN EXAMPLE IN
25 DESCRIBING HOW YOU FEEL -- JUST TELL ME WHAT YOUR ANSWER IS

1 ABOUT HOW YOU FEEL ABOUT THE DEATH PENALTY.

2 A WELL, I GUESS AS A RULE I BELIEVE THAT THE LAWS OUGHT TO
3 BE VERY CLEAR, AND THE PUNISHMENT SHOULD BE, I GUESS,
4 ADEQUATE. BUT IF YOU COMMIT A CRIME THAT IT'S KNOWN THAT YOU
5 COULD DIE FOR OR WHATEVER, THEN I WOULD THINK THE PERSON
6 WOULD EXPECT THAT THAT IS PROBABLY WHAT'S GOING HAPPEN. AND
7 IF THAT'S HOW THE LAW READS, THEN I WOULD SAY THAT PERSON
8 SHOULD. AND I GUESS I WOULD HAVE BEEN -- BEFORE I WAS
9 BROUGHT HERE, I GUESS I WOULD HAVE BEEN QUICKER TO SAY THAT
10 FOR MURDERS OR FOR WHATEVER THAT THE DEATH PENALTY SHOULD BE
11 ISSUED, ESPECIALLY IF YOU WERE TO TALK ABOUT CHILDREN AND
12 DIFFERENT THINGS.

13 Q WHEN YOU SAY CHILDREN, YOU'RE TALKING ABOUT THE DEATH OF
14 CHILDREN?

15 A YEAH. YEAH.

16 Q OKAY.

17 A BUT ACTUALLY BEING CONSIDERED TO SIT ON THE CASE, FIRST
18 OF ALL I WANT TO BE A GOOD CITIZEN, AND THAT'S VERY IMPORTANT
19 TO ME. I'VE BEEN INVOLVED IN BOY SCOUTS AND WE HOME SCHOOL
20 OUR CHILDREN, AND CITIZENSHIP IS VERY IMPORTANT TO ME. I
21 WANT TO BE A GOOD CITIZEN AS A JUROR. SO I'M ALWAYS HAPPY TO
22 SERVE AS A JUROR, AND I WANT TO BE TOTALLY FAIR IN THIS CASE
23 OR ANY CASE. I'M GLAD I DON'T KNOW ANYTHING ABOUT THE CASE
24 AND BELIEVE THAT I CAN RENDER A FAIR DECISION ONE WAY OR THE
25 OTHER, BECAUSE I BELIEVE IN JUSTICE BUT I BELIEVE IN MERCY.

RAYMOND E. STARNES -- VOIR DIRE BY MR. MAULDIN

1 Q YOU BELIEVE IN JUSTICE BUT YOU BELIEVE IN MERCY?

2 A YES.

3 Q WHAT WOULD YOU SAY -- IF YOU COULD DESCRIBE, WHAT WOULD
4 YOU SAY WAS THE PRIMARY REASON OR PURPOSE FOR OUR SYSTEM TO
5 HAVE CAPITAL PUNISHMENT?

6 A I WOULD SAY THE PRIMARY REASON IS A DETERRENT TO ANYONE
7 ELSE WHO MAY CHOOSE TO DO THE SAME CRIME. BECAUSE OBVIOUSLY
8 IT'S NOT GOING TO MAKE A DIFFERENCE TO THE PERSON WHO IS PUT
9 TO DEATH.

10 Q RIGHT. WOULD YOU SAY -- AND I'LL GIVE YOU THREE
11 CATEGORIES AND YOU CAN CHANGE THEM OR INTERCHANGE THEM ANY
12 WAY YOU WISH TO MAKE SURE YOUR ANSWER IS CLEARLY EXPRESSED TO
13 YOUR THOUGHT. NATIONALLY OR JUST ACROSS THE BOARD, IF YOU
14 WILL, DO YOU BELIEVE THAT THE DEATH PENALTY IS USED BY OUR
15 CRIMINAL JUSTICE SYSTEM NOT OFTEN ENOUGH, TOO OFTEN OR ABOUT
16 RIGHT?

17 A I REALLY COULDN'T SAY. I HAVE NO IDEA HOW OFTEN IT'S
18 USED.

19 Q YOU DON'T HAVE A VIEW ON THAT?

20 A NO.

21 Q LET'S TALK THEN A MINUTE ABOUT SOUTH CAROLINA'S STATUTE
22 THAT THE LEGISLATURE HAS ENACTED THAT ALLOWS THE GOVERNMENT
23 TO REQUEST CONSIDERATION OF THE DEATH PENALTY. FIRST OF ALL,
24 THERE IS NO CASE WHERE THE DEATH PENALTY IS AUTOMATIC, NO
25 MATTER HOW HORRIBLE, NO MATTER HOW HEINOUS, VIOLENT.

RAYMOND E. STARNES -- VOIR DIRE BY MR. MAULDIN

1 YOU MENTIONED THE DEATH OF CHILDREN. YOU COULD MAKE UP
2 THE WORST POSSIBLE SCENARIO AND SOUTH CAROLINA DOES NOT
3 REQUIRE THE DEATH PENALTY. IT IS NEVER REQUIRED IN ANY CASE.
4 THE LAW ALWAYS PROVIDES THAT A LIFE SENTENCE IS AVAILABLE AS
5 AN ALTERATIVE PUNISHMENT. IN FACT, THERE ARE MANY CASES OF
6 MURDER IN SOUTH CAROLINA WHERE THE LAW DOES NOT EVEN ALLOW
7 THE GOVERNMENT TO EVEN ASK FOR THE DEATH PENALTY. IF AN
8 AGGRAVATING CIRCUMSTANCE, THAT THE JUDGE HAS GIVEN YOU SOME
9 EXAMPLES OF, IS NOT PRESENT IN A MURDER, AN INTENTIONAL
10 KILLING, THEN THE DEATH PENALTY WOULD NOT BE AVAILABLE. SO
11 YOU HAVE THESE CASES WHERE THE DEATH PENALTY IS MADE
12 AVAILABLE AS AN OPTION. DO YOU FOLLOW ME?

13 A UH-HUH (AFFIRMATIVE).

14 Q NOW, THE PROSECUTOR ASKED YOU ABOUT THIS AND HE SAID --
15 AND THE QUOTE WAS, "IF THE EVIDENCE IS," AND THEN HE TALKED
16 ABOUT THE MURDER AND THE AGGRAVATING CIRCUMSTANCES, "WOULD
17 YOU BE WILLING TO CONSIDER THE DEATH PENALTY?" AND YOU
18 RESPONDED THAT IF THE EVIDENCE SUPPORTED IT.

19 I WANT TO MAKE REAL SURE I UNDERSTAND THAT QUESTION AND
20 THAT ANSWER BECAUSE IN THIS SITUATION WE HAVE A TWO-PHASE
21 TRIAL, AND THERE ARE BASICALLY TWO DECISIONS TO BE MADE, TWO
22 DIFFERENT RESPONSIBILITIES FOR THIS JURY.

23 THE FIRST RESPONSIBILITY IS WHETHER THE EVIDENCE IS THAT
24 THE PERSON ACCUSED IS OR IS NOT GUILTY OF MURDER. THE
25 AGGRAVATING INFORMATION AND THE MITIGATING CIRCUMSTANCES ARE

1 CIRCUMSTANCES THAT THE JUDGE WOULD INSTRUCT YOU THAT YOU WILL
2 HAVE THE RESPONSIBILITY OF CONSIDERING THAT REDUCE THE LEVEL
3 OF CULPABILITY OR RESPONSIBILITY, IF YOU WILL, ON THE
4 SENTENCING ISSUE. THEY HAVE NOTHING TO DO WITH THE GUILT OF
5 THE DEFENDANT. IT HAS NOTHING TO DO WITH IT.

6 WHAT OCCURS AT THE FIRST TRIAL IS MERELY A QUESTION, IS
7 THIS PERSON GUILTY OF THE OFFENSE DESCRIBED IN SOUTH CAROLINA
8 LAW AS MURDER? AND MURDER IS THE INTENTIONAL AND MALICIOUS
9 KILLING OF ANOTHER HUMAN BEING WITHOUT JUST CAUSE OR EXCUSE.
10 SO THAT'S WHAT THE EVIDENCE IS IN THE FIRST TRIAL. IT EITHER
11 IS OR ISN'T THERE, AND THE JURY SAYS EITHER GUILTY OR NOT
12 GUILTY.

13 ARE YOU FOLLOWING ME?

14 A (INDICATES AFFIRMATIVE RESPONSE)

15 Q ONCE THAT OCCURS IS WHEN THE SENTENCE EVEN BECOMES AN
16 ISSUE, AND THAT'S WHY I WANTED TO MAKE SURE AND GO BACK AND
17 RE-DEAL WITH THIS IF THE EVIDENCE IS. SEE, SOME PEOPLE
18 BELIEVE -- MR. STARNES, SOME PEOPLE BELIEVE THAT IF THE
19 EVIDENCE IS AT THAT FIRST TRIAL WHERE THE PERSON IS GUILTY OF
20 MURDER, THEN IN THE EVENT OF A CONVICTION FURTHER, THE
21 PENALTY WOULD BE DEATH. SOME PEOPLE ACTUALLY COME INTO COURT
22 AND BELIEVE THAT. THAT PERSON IS NOT QUALIFIED TO BE ON A
23 JURY IN A CASE LIKE THIS. AND YOU UNDERSTAND WHY?

24 A YEAH.

25 Q BECAUSE THE CONVICTION IS HAD AT THE FIRST PHASE BEFORE

1 THE SENTENCING PHASE EVER COMES UP, AND IT'S AT THAT PHASE
2 THAT NEW EVIDENCE IS PRESENTED FOR CONSIDERATION. AND THE
3 QUESTION, REALLY, BOTTOM LINE, BEFORE THE COURT EVALUATES
4 YOUR QUALIFICATION, IS WOULD YOU LOOK AT BOTH THE REQUEST
5 FROM THE GOVERNMENT THAT THE IMPOSITION OF THE DEATH PENALTY
6 TAKE PLACE OR THE REQUEST OF THE DEFENDANT THAT A LIFE
7 SENTENCE BE IMPOSED? IF YOU WERE PREDETERMINED ONE WAY OR
8 THE OTHER, YOU SHOULD TELL US NOW. IF NOT, WE WILL CONTINUE
9 TO PROCEED. DO YOU FOLLOW ME?

10 A YES.

11 Q ALL RIGHT. WOULD YOU BE PREDETERMINED AS TO WHICH
12 PENALTY AT THE BEGINNING OF THAT SENTENCING PHASE?

13 A NO, I WOULDN'T.

14 Q ALL RIGHT. DO YOU -- IN THIS SITUATION THAT WE'VE JUST
15 DESCRIBED, THE PERSON HAD BEEN CONVICTED OF MURDER, AND
16 PERHAPS THE AGGRAVATING CIRCUMSTANCE THAT THE COURT HAS GIVEN
17 YOU EXAMPLES OF HAD BEEN PROVEN BEYOND A REASONABLE DOUBT, DO
18 YOU BELIEVE THAT IN THAT CASE -- IN SUCH A CASE AS THAT --
19 THAT LIFE IN PRISON WITHOUT PAROLE IS A SERIOUS PENALTY FOR A
20 PERSON CONVICTED UNDER THOSE CIRCUMSTANCES?

21 A YES, I DO.

22 Q ALL RIGHT. AND IF THE JUDGE INSTRUCTED YOU TO TAKE INTO
23 CONSIDERATION IN DECIDING THE PENALTY SUCH THINGS AS THE
24 BACKGROUND INFORMATION -- AND THIS IS NOT INFORMATION THAT
25 GOES BACK TO THE OFFENSE OF MURDER. THE MITIGATING

RAYMOND E. STARNES -- VOIR DIRE BY MR. MAULDIN

1 CIRCUMSTANCES DON'T GO BACK AND SAY INSANE OR SELF-DEFENSE,
2 MISTAKE. THAT'S OUT THE WINDOW. WE'RE TALKING ABOUT
3 PERSONAL INFORMATION ABOUT THE PERSON THAT'S BEEN CONVICTED,
4 YOU'D TAKE THAT INTO CONSIDERATION IN WEIGHING THE PROPER
5 SENTENCE?

6 A YES.

7 Q LAST QUESTION, MR. STARNES. THIS PROCESS IS TWO PHASES,
8 TWO STAGES. THE JURY DECIDES GUILT, AND THEN THE JURY MUST
9 ACTUALLY DELIBERATE TWO TIMES IN THE EVENT OF A CONVICTION
10 FOR THE OFFENSE. WHEN THE JURY FINDS ITSELF DELIBERATING ON
11 THE SENTENCE, THERE ARE ONLY TWO CHOICES, YOU KNOW.

12 WE WOULDN'T HAVE A SENTENCING HEARING IF IT WASN'T
13 ACCEPTED IN THE LAW THAT EITHER SENTENCE WAS LEGAL. SO YOU
14 HAVE THIS DELIBERATION. YOU CONSIDER THE AGGRAVATING
15 INFORMATION THAT THE PROSECUTION WOULD PUT BEFORE YOU. YOU
16 CONSIDER THE MITIGATING INFORMATION THAT THE DEFENSE MAY OR
17 MAY NOT PUT BEFORE YOU. AND YOU GO IN AND YOU DELIBERATE AND
18 YOU TALK, AND YOU DISCUSS.

19 YOU'VE GOT TWELVE POINTS OF VIEW AND DIFFERENT PEOPLE
20 HAVE INTERPRETED DIFFERENT THINGS. BUT Y'ALL HEARD THE SAME
21 EVIDENCE. VOTE, AFTER VOTE, AFTER VOTE. THE JUDGE TOLD YOU
22 THAT YOU HAVE TO SIGN A FORM TO IMPOSE A DEATH PENALTY. ALL
23 TWELVE MUST AGREE TO SIGN THE FORM. DO YOU FOLLOW ME?

24 A (INDICATES AFFIRMATIVE RESPONSE)

25 Q WE'RE AT THE POINT NOW WHERE THE LAST VOTE IS TAKEN.

RAYMOND E. STARNES -- VOIR DIRE BY MR. MAULDIN

1 YOU TAKE THE VOTE AND IT'S TEN TO TWO. YOU'VE GOT TEN PEOPLE
2 FOR ONE OF THE PENALTIES -- AND IT REALLY DOESN'T MATTER
3 WHICH PENALTY -- AND THE OTHER TWO FOR THE OTHER.

4 AND HERE IS -- WE IN THIS ROOM DON'T KNOW YOU, SO WE
5 HAVE TO GET AN IMPRESSION OF YOUR REACTION TO CONTINUE TO
6 EVALUATE YOUR QUALIFICATIONS. IF YOU WERE IN THAT ROOM AND
7 YOU WERE IN THAT MINORITY, YOU HAVE TEN PEOPLE, A HEAVY
8 MAJORITY, WHO SAY ONE PENALTY, AND YOU AND ANOTHER OR MAYBE
9 EVEN YOU BY YOURSELF OR YOU WITH TWO OTHERS, A MINORITY, SAY,
10 "WE HEARD THE SAME EVIDENCE. WE HAVE LISTENED TO THE SAME
11 WITNESSES. WE HAVE DECIDED OF OUR OWN INDIVIDUAL MORAL
12 CHOICE THAT THE RIGHT PENALTY UNDER THESE CIRCUMSTANCES IS SO
13 AND SO." AND THEY'RE NOT -- AND THE QUESTION THAT COMES DOWN
14 IS WOULD YOU TEND TO GIVE UP YOUR VIEW AND SIDE WITH THE
15 MAJORITY OR CAVE IN, IT'S BEEN DESCRIBED, AND SIDE WITH THE
16 MAJORITY SIMPLY TO RESOLVE THE CASE OR WOULD YOU STICK BY
17 YOUR VIEW THAT YOU HAD HAD AN OPPORTUNITY TO FULLY DELIBERATE
18 ON?

19 A I WOULD ANSWER FOR MY CONSCIENCE AND STICK WITH MY VIEW.

20 Q ALL RIGHT. AND FINALLY, IF WE REVERSE THAT AND YOU WERE
21 IN THE SUPER MAJORITY GROUP, BIG GROUP, WOULD YOU ATTEMPT TO
22 REQUIRE THE OTHER SIDE TO GIVE UP THEIR VIEW AND SIDE WITH
23 YOU IN THE MAJORITY OR WOULD YOU RESPECT THEIR RIGHT TO
24 LIKEWISE HAVE THEIR OWN VIEW AND THEIR OWN CONSCIENCE?

25 A I CAN THINK OF ONE CIRCUMSTANCE WHERE I WOULD BE UPSET.

RAYMOND E. STARNES -- VOIR DIRE BY MR. MAULDIN

1 AND THAT IS THAT I'VE HEARD THAT IN THE COURTS THERE HAVE
2 BEEN PEOPLE WHO COME IN AND BECAUSE OF RACE OR SEX OR
3 WHATEVER SAY, "I COULDN'T CONVICT THIS PERSON." THAT WOULD
4 UPSET ME. OKAY?

5 Q UH-HUH (AFFIRMATIVE).

6 A BUT OTHER THAN THAT, I DON'T KNOW HOW ALL THE COURTS
7 WORK, BUT IF IT HAS TO BE UNANIMOUS, THAT PERSON HAS A RIGHT
8 TO THEIR VIEW, THAT JUROR, LIKE I BELIEVE I WOULD HAVE A
9 RIGHT TO MINE.

10 Q SO YOU WOULD EXPECT THE SAME LEVEL OF RESPECT FROM THEM
11 AND YOU WOULD GIVE THEM THE SAME LEVEL OF RESPECT?

12 A YES. AND THIS IS -- THIS IS MENIAL OR WHATEVER, BUT MY
13 SON'S FRIEND RECOMMENDED HE WATCH TWELVE ANGRY MEN NOT LONG
14 AGO, AND WE WATCHED IT TOGETHER AND I BELIEVE IT CHANGED ME
15 AS A PERSON AS FAR AS HOW TO BE A GOOD CITIZEN. AND I RE-
16 WATCHED IT AGAIN AFTER RECEIVING THE NOTICE THAT I WAS --
17 THAT I COULD BE SELECTED AS A JUROR. AND I GUESS I'D LIKE TO
18 SAY THAT IT'S A LOT MORE SERIOUS -- THE CONSIDERATION OF
19 EVERYTHING IS A LOT MORE SERIOUS, AND EVERYBODY HAS TO BE
20 SURE.

21 Q IT'S MORE SERIOUS AFTER YOU GET YOUR SUBPOENA, ISN'T IT,
22 MR. STARNES?

23 A YEAH.

24 MR. MAULDIN: THANK YOU.

25 THANK YOU, JUDGE.

RAYMOND E. STARNES -- VOIR DIRE BY MR. MAULDIN

1 **THE COURT:** MR. STARNES, THANK YOU, SIR. THEY'RE GOING
2 TO TAKE YOU TO A JURY ROOM, AND, SIR, WE'LL BE BACK WITH YOU
3 MOMENTARILY. THEN YOU'LL BE FREE TO GO.

4 **JUROR NUMBER 347:** THANK YOU.

5 **THE COURT:** THANK YOU.

6 (JUROR EXITS COURTROOM AT 10:50 A.M.)

7 **THE COURT:** ALL RIGHT. QUALIFIED OR NOT QUALIFIED?

8 **SOLICITOR ARIAIL:** YES, SIR.

9 **THE COURT:** OKAY. THANK YOU.

10 **MR. MAULDIN:** QUALIFIED.

11 **THE COURT:** AND Y'ALL HUDDLE UP AND LET ME KNOW WHEN
12 YOU'RE READY. WE'LL PROCEED WITH THE STATE FIRST.

13 **SOLICITOR ARIAIL:** PRESENT HIM.

14 **THE COURT:** WHEN WE CONCLUDE WITH THIS GENTLEMAN, WE'RE
15 GOING TO TAKE A SHORT -- WE'VE BEEN GOING OVER TWO HOURS.
16 WE'RE GOING TO TAKE A FIVE-MINUTE BREAK. THE NEXT PANEL IS
17 GOING TO BE HERE. THEY MAY ALREADY BE HERE.

18 **SOLICITOR ARIAIL:** THERE'S TWO LEFT TO GO?

19 **THE COURT:** WE'VE GOT TWO LEFT TO GO IN THE FIRST
20 PANEL.

21 **MR. MAULDIN:** YOUR HONOR, IN THAT REGARD, WHILE WE'RE
22 DISCUSSING THIS, I HAVE SUGGESTED THAT THE STATE LOOK AT THAT
23 LAST FELLOW IN THE PANEL WHO HAD COME FORTH TO THE COURT ON
24 MONDAY AND SAID HE COULD NOT READ AND WRITE. I DON'T KNOW IF
25 WE'RE GOING TO WANT TO CONSIDER PASSING ON THAT JUROR UP

MATTERS AND MOTIONS

1 FRONT OR WHETHER WE WANT TO GO---

2 THE COURT: I DIDN'T HAVE ANY JUROR, I DON'T THINK,
3 THAT SAID THAT HE OR SHE COULDN'T READ OR WRITE. I HAD
4 SEVERAL THAT SAID THEY HAD DIFFICULTY OR BETTER IN ONE THAN
5 THE OTHER. AND I TOLD -- I HAD TWO OR THREE THAT SAID THAT.
6 AND IF IT'S A DOCUMENT INTENSIVE HEARING THAT REQUIRED THOSE
7 SKILLS, THEN WE'LL REVISIT THAT ISSUE. IF IT'S A TESTIMONY
8 DRIVEN CASE, THEN THOSE SKILLS ARE LESS IMPORTANT. AND THOSE
9 JURORS ALL WENT WELL BEYOND THE SIXTH GRADE.

10 MR. MAULDIN: THE CONCERN WE ACTUALLY HAD WAS NOT THAT
11 THE PRESENTATION OF THE CASE AT THE FIRST PHASE, BUT IT WOULD
12 BE THE PROVIDING OF WRITTEN INSTRUCTIONS AT THE SENTENCING
13 PHASE, AND THAT DISTURBS ME.

14 THE COURT: WE'LL ADDRESS IT THEN. LET'S DECIDE THIS
15 GENTLEMAN.

16 MR. MAULDIN: YES, SIR. (OFF RECORD WITH CO-COUNSEL)
17 SWEAR THE JUROR.

18 THE COURT: BRING MR. STARNES BACK, PLEASE.

19 (JUROR NUMBER 347 REENTERS COURTROOM AT 10:55 A.M.)

20 THE COURT: MR. STARNES, YOU HAVE BEEN SELECTED AS A
21 JUROR IN THIS CASE. I'M GOING TO GIVE YOU A WRITTEN ORDER
22 THAT DESCRIBES WHERE WE GO FROM HERE, BUT I WANT TO JUST
23 REVIEW IT WITH YOU QUICKLY. STARTING TONIGHT CALL A NUMBER
24 -- THE PHONE NUMBER IS ON HERE -- AFTER EIGHT O'CLOCK. THERE
25 WILL BE A RECORDED MESSAGE. I THINK I KNOW WHAT THE MESSAGE

MATTERS AND MOTIONS

1 IS. THE MESSAGE TONIGHT WILL PROBABLY BE CALL BACK TOMORROW
2 NIGHT. I DON'T KNOW, BUT IT COULD BE COME TOMORROW, BUT IT
3 WILL PROBABLY BE CALL BACK TOMORROW NIGHT. WHATEVER IT IS,
4 FOLLOW THE INSTRUCTIONS.

5 AT SOME POINT, ONCE WE GET ENOUGH JURORS, THEN WE START
6 THE TRIAL. SO THE MESSAGE WILL CHANGE ONCE WE HAVE ENOUGH
7 JURORS. IT WILL SAY, COME BACK TO COURT. PARK IN SUCH AND
8 SUCH A LOCATION. IN FACT, THIS WRITTEN ORDER TALKS ABOUT
9 BRINGING YOUR BAGS AND LEAVING THEM IN THE CAR. DON'T BRING
10 THEM IN THE COURTHOUSE, THINGS OF THAT NATURE

11 AND ALSO, VERY IMPORTANTLY, THE PREVIOUSLY ADMINISTERED
12 OATH REMAINS IN EFFECT. DO NOT DISCUSS THIS CASE WITH
13 ANYONE, SPECULATE ABOUT THE CASE WITH ANYONE OR EXPOSE
14 YOURSELF TO ANY INFORMATION ABOUT THIS CASE.

15 MR. STARNES, DO YOU UNDERSTAND THOSE INSTRUCTIONS?

16 JUROR NUMBER 347: YES.

17 THE COURT: VERY WELL, SIR. I LOOK FORWARD TO SEEING
18 YOU LATER.

19 JUROR NUMBER 347: THANK YOU.

20 THE COURT: THANK YOU.

21 (JUROR EXITS COURTROOM AT 10:56 A.M.)

22 THE COURT: FIVE-MINUTE BREAK, PLEASE.

23 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

24 MR. MAULDIN: CAN WE HAVE MORE THAN FIVE MAYBE? FIVE
25 GIVES ME ENOUGH TIME TO GET TO MY OFFICE AND BACK.

MATTERS AND MOTIONS

1 **THE COURT:** THE REST ROOM IS DOWN THE HALL.

2 **MR. MAULDIN:** OKAY.

3 (A RECESS WAS TAKEN FROM 10:56 TO 11:08 A.M.)

4 **THE COURT:** WE'RE BACK ON THE RECORD. DID YOU HAVE A
5 MATTER YOU WANT TO BRING TO MY ATTENTION?

6 **SOLICITOR ARIAIL:** IN THE TEN-TWO QUESTION HE IS USING
7 THE WORD "TEND". "WOULD YOU TEND TO GIVE UP YOUR POSITION?"
8 THE QUESTION PROPERLY PHRASED UNDER THE LAW IS "WOULD YOU
9 GIVE UP YOUR POSITION?" I WOULD JUST POINT THAT OUT SO WE
10 DON'T HAVE THE ARISING OF -- THAT PROBLEM ARISE AGAIN AS WELL
11 AS YESTERDAY.

12 **THE COURT:** WELL, IF YOU'RE TALKING ABOUT THE LAST
13 JUROR TODAY, SHE WAS JUST A FILLER. SHE'S JUST GOING TO CAVE
14 IN, PERIOD. IT'S NOT THE CHOICE OF THE WORD TEND TO. BUT IF
15 THE JUROR SAYS, "I TEND TO GO ALONG WITH THE OTHERS," THERE'S
16 NOTHING WRONG THAT.

17 **SOLICITOR ARIAIL:** THAT'S MY POINT.

18 **THE COURT:** YEAH.

19 **SOLICITOR ARIAIL:** TEND TO GO ALONG IS FINE.

20 **MR. MAULDIN:** WELL, WAIT THEN.

21 **THE COURT:** NO.

22 **MR. MAULDIN:** I MEAN, IS MY QUESTION OKAY?

23 **THE COURT:** YEAH.

24 **MR. MAULDIN:** OKAY.

25 **THE COURT:** BUT WE DIDN'T HAVE THAT SITUATION. WE

MATTERS AND MOTIONS

1 DIDN'T HAVE ANYBODY THAT WOULD TEND TO GO ALONG. WE HAD
2 SOMEONE THAT JUST WANTED TO GO HOME.

3 MR. MAULDIN: RIGHT.

4 THE COURT: AND THE MAJORITY RULED. SHE HAD NO CONCEPT
5 ABOUT HER DUTY TO MAKE AN INDEPENDENT DECISION.

6 ALL RIGHT. I'M MOVING TO THE NEXT ISSUE. AND I DON'T
7 MEAN TO SOUND CRUEL, AND THIS IS GOING TO COME ACROSS JUST
8 CRUEL, AND I APOLOGIZE, BUT IT AIN'T MY STYLE -- Y'ALL MIGHT
9 NOT BELIEVE THIS -- TO COME ACROSS AS MEAN SPIRITED AND
10 CRUEL. WE'RE TAKING TOO LONG. AND, MR. MAULDIN, IT'S MAINLY
11 YOU.

12 MR. MAULDIN: YES, SIR.

13 THE COURT: AND I'M -- THE PRESS ISN'T HERE, SO I
14 FIGURED I COULD SAY SOMETHING. YOU'RE JUST GOING ON AND ON.
15 YOU TAKE THREE OR FOUR MINUTES TO ASK A QUESTION THAT'S YES
16 OR NO. YOU'RE GOING OVER THE SAME THINGS I HAVE. YOU'RE --
17 IT JUST GOES ON AND ON AND -- WE'VE BEEN HERE TWO AND A HALF
18 HOURS AND WE'VE STILL GOT FORTY PERCENT OF THE FIRST PANEL TO
19 GO. YOU ASK QUESTIONS THAT ASK, "DOES HE SUPERVISE PEOPLE?"
20 WHO CARES?

21 MR. MAULDIN: I DO.

22 THE COURT: OKAY. WELL, YOU MAY CARE FOR PROFILING.

23 MR. MAULDIN: YES, SIR.

24 THE COURT: I CARE IF A JUROR IS QUALIFIED TO SERVE IN
25 A DEATH PENALTY CASE. I DON'T CARE ABOUT EVERY NUANCE OF

MATTERS AND MOTIONS

1 THEIR BACKGROUND. IN FACT, CASE LAW PROHIBITS THAT LENGTHY
2 INTERVIEWING PROCESS. THAT'S WHAT WE'RE DOING.

3 MR. MAULDIN: I'LL SPEED UP, YOUR HONOR.

4 THE COURT: AND I DON'T LIKE -- I DON'T -- I'M SO
5 HESITANT WITH THE JUROR TO UNILATERALLY OBJECT BECAUSE THAT
6 PUTS YOU IN AN AWKWARD POSITION. IF THE JUROR SEES ME SAY
7 SOMETHING TO YOU, IF I CALL YOU DOWN, FOR EXAMPLE, THAT PUTS
8 YOU IN AN AWKWARD POSITION OF CHOOSING THAT JUROR.

9 MR. MAULDIN: AND I AGREE WITH THAT.

10 THE COURT: AND I DON'T WANT TO DO THAT.

11 MR. MAULDIN: I'M GOING TO DO THE BEST I CAN TO AVOID
12 THAT, YOUR HONOR.

13 THE COURT: AND I'M NOT TRYING -- I KNOW IT'S
14 IMPORTANT. I UNDERSTAND THE GRAVITY OF THE SITUATION. SO I
15 HESITATE TO SAY IT. BUT EVEN WITH THE GRAVITY OF THE
16 SITUATION, I THINK WERE JUST TAKING SO LONG MASSAGING EVERY
17 JUROR AND PREFACING EVERY QUESTION WITH ONE OR TWO MINUTE
18 PREAMBLE. AND I DON'T MEAN THAT IN A MEAN-SPIRITED WAY. BUT
19 I'M TRYING TO BE FAIR TO BOTH SIDES AND ALSO FAIR TO THE
20 JURORS AND STILL MAINTAIN A VERY MEANINGFUL AND THOROUGH
21 EXAMINATION TO DETERMINE WHETHER ONE IS QUALIFIED OR NOT.

22 THE NEXT JUROR IS LINDA PRESSLEY.

23 (JUROR NUMBER 301 ENTERS COURTROOM AT 11:12 A.M.)

24 THE COURT: MS. PRESSLEY, I WANT TO APOLOGIZE TO YOU.

25 JUROR NUMBER 301: THAT'S OKAY.

MATTERS AND MOTIONS

1 **THE COURT:** AND WE APPRECIATE YOUR PATIENCE. BUT WE
2 NEED TO BE THOROUGH; AS I THINK YOU CAN APPRECIATE AND
3 UNDERSTAND.

4 **LINDA D. PRESSLEY (WHITE**
5 **FEMALE)**, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

6 **VOIR DIRE BY THE COURT:**

7 **Q** MS. PRESSLEY, WE'RE GOING TO TALK MORE IN DETAIL ABOUT
8 THE NATURE OF A CAPITAL CASE, ISSUES THAT COME UP, EXPLORE
9 YOUR OPINIONS ON VARIOUS ISSUES, HOW YOU WOULD APPROACH A
10 CAPITAL CASE, THE VARIOUS ASPECTS OF HOW YOU WOULD HANDLE
11 ISSUES AND IF YOU COULD BE FAIR TO BOTH SIDES.

12 THIS CASE ARISES, ACCORDING TO THE INDICTMENT, FROM AN
13 EVENT THAT OCCURRED BACK IN GREENVILLE COUNTY ON DECEMBER THE
14 6TH, 2000. THE DEFENDANT, MR. WOOD, IS CHARGED WITH THE
15 CRIME OF MURDER. THE INDICTMENT LISTS THE VICTIM AS ONE ERIC
16 NICHOLSON. MR. NICHOLSON WAS AT THAT TIME A STATE TROOPER.

17 THIS CASE RECEIVED MUCH ATTENTION IN THE MEDIA, AND I
18 WANT TO KNOW INITIALLY FROM YOU IF YOU RECALL ANYTHING ABOUT
19 THIS CASE FROM ANY SOURCE, AND IF YOU DO, BE VERY SPECIFIC IN
20 WHAT YOU RECALL.

21 **A** WELL, I REMEMBER WHEN IT HAPPENED I WAS AT WORK. IT WAS
22 ON THE TELEVISION, AND I JUST WATCHED IT UNFOLD FOR THE NEXT
23 HOUR OR SO.

24 **Q** TELL ME WHAT YOU SAY WHEN YOU SAY IT UNFOLDED. WHAT DO
25 YOU REMEMBER SEEING?

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 A I REMEMBER THEM SAYING THEY WERE CHASING HIM THROUGH --
2 I REMEMBER THEM BEING IN ANDERSON. I THINK I REMEMBER THEM
3 GOING UP 85. I REMEMBER SOMETHING ABOUT HOME DEPOT, BUT I'M
4 NOT SURE WHAT I REMEMBER -- WHAT WAS GOING ON. I REMEMBER
5 HOME DEPOT BEING STATED.

6 Q OKAY.

7 A THAT'S PRETTY MUCH ALL I REMEMBER. I REMEMBER THAT THEY
8 SAID THEY HAD HIM IN CUSTODY, AND I DIDN'T PAY MUCH ATTENTION
9 AFTER THAT.

10 Q OKAY. THAT'S THE EXTENT OF WHAT YOU CAN REMEMBER?

11 A YES, SIR. THAT'S ALL I REMEMBER RIGHT OFF.

12 Q ALL RIGHT. MS. PRESSLEY, LET ME TELL YOU WHY I ASK THAT
13 QUESTION, AND IT'S PERFECTLY OKAY FOR JURORS TO HAVE BEEN
14 EXPOSED TO MEDIA. THAT'S NOT UNUSUAL IN A CASE THAT RECEIVES
15 PUBLICITY. HOWEVER, WHEN A PERSON SERVES ON JURY DUTY IN A
16 CASE, THAT JUROR TAKES AN OATH, AN OATH NOT ONLY TO FOLLOW
17 THE LAW BUT TO ALSO FIND THE TRUTH FROM THE EVIDENCE, NOT
18 WHAT MAY HAVE BEEN SEEN ON T.V., WHAT MAY HAVE BEEN HEARD AT
19 WORK, BUT FIND THE TRUTH ONLY FROM THE EVIDENCE PRESENTED
20 DURING THE COURSE OF THE TRIAL. DO YOU UNDERSTAND THE
21 IMPORTANCE OF THAT?

22 A YES, SIR.

23 Q IF YOU WERE A JUROR IN THAT SITUATION WOULD YOU HONOR
24 YOUR OATH AND FIND THE TRUTH ONLY FROM THE EVIDENCE PRESENTED
25 DURING THE COURSE OF THE TRIAL?

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 A YES, SIR.

2 Q WOULD YOU LIKEWISE HONOR YOUR OATH AND FOLLOW THE LAW AS
3 IT IS INSTRUCTED?

4 A YES, SIR.

5 Q YOU REMEMBER THOSE TWO LEGAL PRINCIPLES WE TALKED ABOUT
6 EARLIER? ANYONE ACCUSED OF A CRIME IS PRESUMED TO BE
7 INNOCENT?

8 A RIGHT.

9 Q THERE IS NO BURDEN OF PROOF ON A DEFENDANT EVER. AND DO
10 YOU FURTHER UNDERSTAND THE LEGAL PRINCIPLE OF BURDEN OF
11 PROOF? THE STATE HAS THE BURDEN OF PROOF OF PROVING GUILT
12 BEYOND A REASONABLE DOUBT?

13 A YES, SIR.

14 Q DO YOU AGREE WITH THOSE LEGAL PRINCIPLES?

15 A YES, I DO.

16 Q OKAY. NOW, AS I SAID EARLIER, WE MAY NOT EVEN REACH A
17 SENTENCING PHASE. BUT THIS IS A CASE IN WHICH THE STATE
18 SEEKS THE DEATH PENALTY. JURY DUTY MAY BE OVER AFTER THE
19 FIRST PHASE. IN THE FIRST PHASE, WHAT WE DO IS THE STATE
20 PRESENTS EVIDENCE AND THE JURY MAKES A DECISION WHETHER OR
21 NOT THE STATE HAS PROVEN GUILT OF THE OFFENSE OF MURDER
22 BEYOND A REASONABLE DOUBT. A VERDICT OF NOT GUILTY ENDS THE
23 CASE. THERE IS NO FURTHER JURY DUTY.

24 SO I'M GOING TO TALK ABOUT A SENTENCING HEARING, BUT
25 UNDERSTAND WE MAY NEVER REACH IT. OKAY?

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 A RIGHT.

2 Q BUT SINCE WE POSSIBLY COULD, WE NEED TO EXPLORE YOUR
3 VIEWS ON ISSUES THAT COULD COME UP IN A SENTENCING HEARING.
4 IF THERE IS A SENTENCING HEARING -- AND WE'RE TALKING JUST
5 ABOUT THE CONCEPT IN GENERAL, CERTAINLY NOT THIS PARTICULAR
6 CASE -- IN THAT SITUATION, WHEN A JURY MOVES TO THE
7 SENTENCING PHASE, THE JURY HAS ALREADY FOUND THAT PARTICULAR
8 DEFENDANT GUILTY OF THE CRIME OF MURDER. SO IF THERE WAS A
9 DEFENSE -- SELF-DEFENSE, ALIBI, MISTAKE, SOMETHING LIKE
10 THAT -- THAT WOULD HAVE BEEN DEALT WITH IN THE FIRST PHASE.
11 AND BY FINDING SOMEONE GUILTY OF MURDER, YOU ARE DEALING WITH
12 A MURDERER WHEN YOU GO TO THE SENTENCING PHASE. DO YOU
13 UNDERSTAND THAT?

14 A YES, SIR.

15 Q WE'RE NOT GOING TO WRING OUR HANDS AND WORRY ABOUT
16 WHETHER THE PERSON IS A MURDERER. THAT HAS BEEN ACCOMPLISHED
17 AND DETERMINED AT THE FIRST PHASE IF A JURY MOVES TO THE
18 SENTENCING PHASE. AND THE LAW SAYS BEFORE A JURY MAKES A
19 DECISION ON PUNISHMENT -- NOT GUILT OR NOT GUILTY, BUT ON
20 ULTIMATE PUNISHMENT -- THERE IS MORE EVIDENCE THAT MUST BE
21 CONSIDERED.

22 AND THE LAW SOMETIMES REFERS TO THIS AS CIRCUMSTANCE OF
23 AGGRAVATION. AND I MENTIONED THIS EARLIER TO YOU. IT'S
24 NOT -- IT'S NOT JUST MURDER. IT'S MURDER IN THE COMMISSION
25 OF, AN EXAMPLE WOULD BE, ARMED ROBBERY, BURGLARY, KIDNAPPING.

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 BUT THE LAW ALSO SAYS THAT THE JURY BEFORE MAKING A
2 DECISION BETWEEN LIFE AND DEATH MUST GIVE CAREFUL
3 CONSIDERATION TO WHAT WE CALL EVIDENCE IN MITIGATION.
4 MITIGATION EVIDENCE IS EVIDENCE THAT DEALS WITH THE
5 DEFENDANT, THE DEFENDANT'S BACKGROUND, FAMILY HISTORY, MENTAL
6 HEALTH STATUS, THINGS OF THAT NATURE. AND THEN IN THAT
7 SITUATION THE JUDGE WOULD INSTRUCT A JURY TO GIVE CAREFUL AND
8 THOUGHTFUL CONSIDERATION TO THE NEW EVIDENCE -- CIRCUMSTANCE
9 IN AGGRAVATION, EVIDENCE IN MITIGATION -- AND CONSIDER IT ALL
10 VERY CAREFULLY. BUT ONLY AFTER CONSIDERING WOULD THE JURY
11 MAKE A FINAL DECISION BETWEEN LIFE AND DEATH. DO YOU
12 UNDERSTAND THAT CONCEPT?

13 A YES, SIR.

14 Q SO WHAT WE'RE LOOKING FOR IS JURORS THAT COME IN THAT
15 ARE PREDISPOSED, THAT HAVE ALREADY GOT THEIR MIND MADE UP
16 ONCE THEY GET INTO THE SENTENCING PHASE. WE WANT JURORS WHO
17 COULD BE FAIR TO BOTH THE STATE AND CAREFULLY AND SERIOUSLY
18 CONSIDER THEIR REQUEST FOR THE DEATH PENALTY AND BE ABLE TO
19 DO IT, AND JURORS WHO WOULD SERIOUSLY CONSIDER MITIGATION AND
20 OTHER FACTORS AND GIVE CAREFUL CONSIDERATION TO A LIFE
21 SENTENCE. DO YOU UNDERSTAND THAT?

22 A YES, SIR.

23 Q LET ME TELL YOU SOMETHING I DIDN'T MENTION EARLIER ABOUT
24 LIFE SENTENCE BECAUSE MOST PEOPLE THINK WHEN YOU HEAR LIFE
25 SENTENCE, "OH, IT DOESN'T MEAN THAT. SOMEONE IS GOING TO BE

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 PAROLED. THEY'LL BE OUT IN TEN YEARS." WE ALWAYS HEAR THAT
2 KIND OF TALK. IN SOUTH CAROLINA WHEN THERE IS A MURDER
3 ACCOMPANIED BY AN AGGRAVATED CIRCUMSTANCE, THERE IS NO
4 PAROLE. IT'S LIFE WITHOUT PAROLE. IN THAT SITUATION THAT
5 PARTICULAR OFFENDER WOULD DIE IN JAIL. DO YOU UNDERSTAND
6 THAT, MA'AM?

7 A YES, SIR.

8 Q OKAY. IF YOU WERE A JUROR THAT HAD GONE TO A SENTENCING
9 PHASE AND YOU HAD FOUND SOMEONE GUILTY OF MURDER, UNLAWFUL
10 KILLING OF ANOTHER HUMAN BEING WITH MALICE, AS YOU APPROACHED
11 THE SENTENCING HEARING, WOULD YOU ALREADY HAVE YOUR MIND MADE
12 UP ON THE ISSUE OF PUNISHMENT?

13 A NOT UNTIL I HEARD ALL THE EVIDENCE AND TESTIMONY.

14 Q OKAY. SO WOULD YOU APPROACH THE SENTENCING HEARING WITH
15 AN OPEN MIND AND WANTING TO HEAR THE ADDITIONAL EVIDENCE AS
16 THE LAW REQUIRES?

17 A YES, SIR.

18 Q OKAY. LET'S SAY YOU'RE ON THE JURY AND YOU HEAR
19 EVIDENCE THAT THE STATE SUBMITS OF AN AGGRAVATING
20 CIRCUMSTANCE. LET'S SAY YOU HEAR EVIDENCE OF MITIGATION.
21 AND YOU CONSIDER IT ALL VERY CAREFULLY. IF YOU BELIEVED THAT
22 THE LIFE SENTENCE WAS THE PROPER SENTENCE, COULD YOU VOTE FOR
23 A LIFE SENTENCE?

24 A IF THAT'S WHAT I FELT WAS PROPER, YES.

25 Q OKAY. ON THE OTHER HAND, IF YOU CONSIDERED EVERYTHING

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 VERY CAREFULLY, ANY CIRCUMSTANCE OF AGGRAVATION BEYOND A
2 REASONABLE DOUBT, EVIDENCE OF MITIGATION, AND YOU BELIEVED
3 AFTER THOUGHTFUL DELIBERATION OF ALL THAT MATERIAL AND
4 EVIDENCE THAT THE DEATH PENALTY WAS WARRANTED, COULD YOU VOTE
5 FOR THE DEATH PENALTY?

6 A YES.

7 Q OKAY. YOU HESITATED.

8 A I'D REALLY HAVE TO THINK ABOUT THAT. BUT, YES, I THINK
9 THAT IF IT DOES WARRANT THAT AND IF THE EVIDENCE AND
10 EVERYTHING DOES WARRANT TO THAT POINT, THEN, YES, I THINK I
11 COULD.

12 Q OKAY. AND YOU HESITATE BECAUSE YOU RECOGNIZE THE SOLEMN
13 NATURE OF THESE PROCEEDINGS?

14 A YES.

15 Q NOT BECAUSE YOU'RE NOT WILLING TO DO IT?

16 A NO, IT'S SOMETHING THAT I CAN LIVE WITH.

17 Q BUT YOU PAUSE BECAUSE OF THE SERIOUSNESS?

18 A YES. SEE IF IT'S SOMETHING THAT I CAN LIVE WITH.

19 Q OKAY. THERE IS AN ADDITIONAL STEP IN SOUTH CAROLINA.
20 YOU NOT ONLY RAISE YOUR HAND IN THE JURY ROOM TO VOTE FOR THE
21 DEATH PENALTY -- AND IT MUST BE UNANIMOUS, ALL TWELVE MUST
22 AGREE -- EACH JUROR MUST SIGN HIS OR HER NAME TO THE VERDICT
23 FORM IMPOSING THE DEATH SENTENCE, SOMETIMES CALLED THE
24 WARRANT OF DEATH. COULD YOU SIGN YOUR NAME TO SUCH A
25 DOCUMENT?

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 A IF I COULD VOTE FOR IT TO BE DONE THAT WAY, THEN, YES, I
2 WOULD SIGN IT. I WOULD BACK MYSELF WITH IT.

3 Q ALL RIGHT. SO IF YOU HAD MADE THE DECISION, ALTHOUGH IT
4 MAY BE DIFFICULT, IF YOU KEPT AN OPEN MIND AND YOU WERE
5 WILLING TO VOTE THAT WAY, YOU COULD TAKE THAT EXTRA STEP?

6 A IF I COULDN'T TAKE THAT EXTRA STEP, I COULDN'T HAVE
7 VOTED THAT WAY.

8 Q OKAY. I JUST WANT TO MAKE SURE I UNDERSTAND YOUR
9 POSITION. CORRECT ME IF I'M WRONG.

10 A OKAY.

11 Q YOUR APPROACH TO JURY DUTY WOULD BE TO HONOR YOUR OATH,
12 TO FIND THE TRUTH FROM THE EVIDENCE AND APPLY THE LAW
13 CONSCIENTIOUSLY; IS THAT CORRECT?

14 A YES, SIR.

15 Q AND IF IN A SITUATION YOU HAD FOUND AN INDIVIDUAL GUILTY
16 OF MURDER, YOU WOULD STILL BE OPEN AND WANT TO HEAR ALL THE
17 ADDITIONAL FACTS AND CIRCUMSTANCES AND YOU WOULD NOT HAVE
18 YOUR MIND MADE UP?

19 A RIGHT.

20 Q AND YOU WOULD ONLY MAKE A DECISION AS TO WHICH OF THESE
21 PUNISHMENTS AFTER YOU HAD HEARD EVERYTHING AND CONSIDERED
22 BOTH SIDES, CIRCUMSTANCES OF AGGRAVATION AND MITIGATION
23 EVIDENCE AS WELL; IS THAT TRUE OR NOT TRUE?

24 A THAT'S TRUE.

25 Q DO YOU REMEMBER THAT LIST BACK IN THE OTHER ROOM -- I'VE

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 GOT A COPY HERE -- IT LISTS THREE TYPES OF JURORS?

2 A YES.

3 Q AND I'VE GOT -- IF YOU NEED TO LOOK AT IT, I'LL LET YOU
4 LOOK AT IT AGAIN. DO YOU REMEMBER WHICH ONE FITS YOU, IF ONE
5 OF THEM DOES?

6 A I WOULD SAY THE THIRD ONE, THE ONE THAT ONCE THEY HEAR
7 ALL THE EVIDENCE BEFORE THEY MAKE UP THEIR MIND AND DO
8 SOMETHING WITH SOMEBODY ELSE'S LIFE.

9 Q HOW DO YOU FEEL ABOUT THE DEATH PENALTY IN GENERAL?

10 A SOME CASES WARRANT IT. SOME OTHERS DON'T. THERE AGAIN,
11 I'D LIKE TO HEAR AND KNOW EXACTLY EVERYTHING THAT WENT ON AND
12 ALL THE CIRCUMSTANCES BEHIND IT BEFORE I MADE A CHOICE,
13 BECAUSE I KNOW THAT THAT'S SOMETHING I'M GOING TO HAVE TO
14 LIVE WITH FOR THE REST OF MY LIFE, AND I HAVE TO MAKE SURE
15 THAT I CAN.

16 Q AND I WANT YOU TO UNDERSTAND THAT UNDER STATE LAW IN
17 ORDER TO MAKE THAT DECISION A JUROR WHO IS GOING TO BE IN
18 THAT POSITION MUST FOLLOW THE LAW. AND THE LAW REQUIRES
19 BEFORE MAKING THE DECISION THE JUROR HEAR AND MEANINGFULLY
20 CONSIDER ANY CIRCUMSTANCE OF AGGRAVATION AND ON THE OTHER
21 SIDE MEANINGFULLY CONSIDER ANY MITIGATION EVIDENCE THAT DEALS
22 WITH THE DEFENDANT BEFORE MAKING THAT DECISION. DO YOU
23 UNDERSTAND THAT?

24 A YES, SIR.

25 Q AND COULD YOU COMPLY WITH THAT?

LINDA D. PRESSLEY -- VOIR DIRE BY THE COURT

1 A YES, SIR.

2 THE COURT: NOW, I MAY HAVE SOME FOLLOW-UP QUESTIONS,
3 MS. PRESSLEY. BUT I'M GOING TO -- THE ATTORNEYS, I'M SURE,
4 WILL HAVE SOME QUESTIONS AS WELL.

5 MR. MAULDIN?

6 MR. MAULDIN: THANK YOU, JUDGE.

7 VOIR DIRE BY MR. MAULDIN:

8 Q MS. PRESSLEY, I'M JOHN MAULDIN. I'M THE PUBLIC DEFENDER
9 FOR GREENVILLE COUNTY. AND I, ALONG WITH JIM BANNISTER AND
10 RODNEY RICHEY, REPRESENT JOHN IN THIS MATTER. I'M GOING TO
11 BE ASKING YOU A SERIES OF QUESTIONS AS WELL, AND I WANT TO
12 FIRST OF ALL CHANGE THE METHOD BY WHICH WE ARE COMMUNICATING
13 HERE. I WANT YOU TO ACT LIKE WE'RE HAVING A CONVERSATION.

14 A OKAY.

15 Q INSTEAD OF ACTING LIKE YOU ARE A WITNESS AND TESTIFYING.
16 YOU JUST ACT LIKE WE'RE HAVING A FIRESIDE CHAT OR SOMETHING.

17 A OKAY.

18 Q I NEED TO GET TO KNOW A LITTLE BIT ABOUT HOW YOU FEEL
19 ABOUT MATTERS. AND THE NEED TO KNOW DEALS IN A COUPLE OF
20 AREAS. OBVIOUSLY, THE JUDGE HAS GOT TO ULTIMATELY MAKE A
21 DETERMINATION ABOUT YOUR QUALIFICATION AS A JUROR. AND WE
22 ALSO HAVE AWESOME RESPONSIBILITIES BOTH FOR THE PROSECUTION
23 AND FOR THE DEFENSE SIDE TO MAKE AN EVALUATION OF YOUR
24 QUALIFICATION.

25 THE JUDGE ASKED YOU ABOUT YOUR FEELINGS ABOUT THE DEATH

LINDA D. PRESSLEY -- VOIR DIRE BY MR. MAULDIN

1 PENALTY AND I WANT TO FOLLOW UP THAT QUESTION. CAN YOU TELL
2 ME IN YOUR OWN WORDS WHAT YOU THINK OR HOW YOU FEEL ABOUT THE
3 -- ABOUT CAPITAL PUNISHMENT USED IN OUR CRIMINAL JUSTICE
4 SYSTEM?

5 A WELL, I FEEL THAT -- I DON'T FEEL THAT YOU COULD MAKE A
6 DECISION ON THE LIFE SENTENCE OR THE DEATH PENALTY UNTIL YOU
7 KNOW EVERYTHING. THAT'S SOMETHING THAT YOU'RE GOING TO --
8 YOU'RE REALLY DEALING WITH THIS OTHER PERSON'S LIFE TOO. AND
9 I HAVE TO MAKE SURE THAT'S SOMETHING THAT I CAN LIVE WITH,
10 THAT I CAN GO TO SLEEP WITH AT NIGHT AFTER I MAKE THAT
11 DECISION. I DON'T THINK THAT THIS IS SOMETHING THAT SHOULD
12 BE JUST, WELL, YOU KNOW, THAT'S WHAT HE DESERVES AND BE DONE
13 WITH IT.

14 Q OKAY. HOW LONG, MS. PRESSLEY -- I KNOW WHEN YOU CAME IN
15 ON MONDAY AND STARTED HEARING A LITTLE BIT ABOUT THIS, I'M
16 SURE YOU STARTED REALLY INTENSELY EVALUATING THIS. SO LET'S
17 GO BACK BEFORE YOU GOT YOUR JURY SUMMONS.

18 A UH-HUH (AFFIRMATIVE).

19 Q HOW LONG HAVE YOU HAD THE VIEWS THAT YOU NOW HAVE ABOUT
20 CAPITAL PUNISHMENT? HAVE THEY REMAINED THE SAME PRETTY MUCH
21 THROUGH YOUR ADULT LIFE?

22 A YES, SIR.

23 Q OKAY.

24 A LIKE I SAID, YOU'RE DEALING WITH SOMEBODY ELSE'S LIFE.
25 THAT'S NOT SOMETHING TO BE TAKEN LIGHTLY WITH.

LINDA D. PRESSLEY -- VOIR DIRE BY MR. MAULDIN

1 Q HAVE YOU HAD AN OCCASION TO TALK ABOUT THE DEATH PENALTY
2 IN OUR CRIMINAL JUSTICE SYSTEM -- AND THIS IS IN GENERAL, NOT
3 AS TO ANY PARTICULAR CASE -- WITH FAMILY AND FRIENDS AND
4 OTHERS? HAVE Y'ALL HAD OCCASIONS TO JUST SAY, WELL, YOU
5 KNOW...

6 A YEAH. SOME, NOT MUCH.

7 Q AND IN THOSE CONVERSATIONS HAVE YOU FOUND YOURSELF
8 GIVING A REASON FOR OR A PURPOSE FOR OUR SYSTEM TO HAVE
9 CAPITAL PUNISHMENT? WHAT WOULD YOU SAY WOULD BE THE MAIN
10 REASON THAT CAPITAL PUNISHMENT WOULD BE ON THE BOOKS AT ALL?

11 A I'M REALLY NOT SURE ON WHY IT'S ON THE BOOKS. IT'S A
12 FORM OF PUNISHMENT THAT I GUESS HAS ALWAYS BEEN AROUND.

13 Q OKAY. WERE YOU AWARE PRIOR TO COMING IN AS A JUROR,
14 POTENTIAL JUROR, WERE YOU AWARE THAT THE LAW NEVER REQUIRES
15 THE IMPOSITION OF THE DEATH PENALTY EVEN IN A CASE OF MURDER?
16 WERE YOU AWARE OF THAT?

17 A THAT IT REQUIRES THAT YOU DO OR DO NOT?

18 Q IN OUR STATE, THE LAW NEVER REQUIRES THAT A DEATH
19 PENALTY BE IMPOSED ON A PERSON. IT NEVER REQUIRES IT.

20 A OKAY.

21 Q IN FACT, THERE ARE A LOT OF CASES WHERE A PERSON IS
22 CONVICTED OF MURDER AND THE DEATH PENALTY IS NOT EVEN
23 AVAILABLE TO BE CONSIDERED.

24 A RIGHT.

25 Q YOU FOLLOW THAT?

LINDA D. PRESSLEY -- VOIR DIRE BY MR. MAULDIN

1 A YES.

2 Q OKAY. AND THAT -- AND BY SAYING THAT I MEAN THAT THE
3 LAW ALWAYS ALLOWS FOR THE IMPOSITION OF A LIFE SENTENCE, EVEN
4 IN THE MOST HORRIBLE, HEINOUS, VIOLENT, EVEN THE MOST
5 TERRIBLE CRIME YOU COULD EVER IMAGINE, THE LAW ALWAYS ALLOWS
6 FOR THE IMPOSITION OF A LIFE SENTENCE.

7 A RIGHT.

8 Q ALL RIGHT? YOU FOLLOW THAT?

9 A YES. I'M SORRY.

10 Q OKAY. NOW LET'S TALK A MINUTE ABOUT THE WAY THIS TWO-
11 PHASE TRIAL THAT THE COURT TALKED TO YOU ABOUT, AT THAT FIRST
12 PHASE, THE JURY IS GOING TO BE CONCERNED WITH WHETHER THE
13 PERSON COMMITTED THE OFFENSE OF MURDER. IF IT IS -- IF THAT
14 JURY IS NOT SATISFIED WITH THE EVIDENCE, THEN THERE WOULD
15 NEVER BE A SECOND PHASE, BECAUSE THERE WOULD BE NO SENTENCE.

16 BUT LET'S -- WE'RE GOING TO HAVE TO SPEED FORWARD HERE
17 AND HAVE THE FIRST TRIAL AND THERE HAS BEEN A CONVICTION, AND
18 LET'S PUT YOU IN THE JURY BOX. IT'S NOT IN THIS CASE BUT
19 JUST SOME CASE. YOU AND ELEVEN OTHER JURORS HAVE FOUND A
20 PERSON GUILTY OF THE OFFENSE OF MURDER. THAT MEANS THAT
21 THERE WAS NO ACCIDENT OR SELF-DEFENSE OR INSANITY OR MISTAKE.
22 IN OTHER WORDS, THIS PERSON IS GUILTY OF MURDER, AN
23 INTENTIONAL, MALICIOUS ACT OF MURDER.

24 THE QUESTION THEN BECOMES -- AT THAT SECOND PENALTY
25 PHASE---

LINDA D. PRESSLEY -- VOIR DIRE BY MR. MAULDIN

1 A UH-HUH (AFFIRMATIVE) .

2 Q ---THE QUESTION THEN BECOMES IF YOU HAD A CONVICTION OF
3 MURDER AND THERE EXISTED EVIDENCE, THAT IS, THE PROSECUTION
4 HAD BROUGHT EVIDENCE OF THE EXISTENCE OF ONE OR MORE OF THESE
5 AGGRAVATING CIRCUMSTANCES. AND WE CAN USE MURDER WHILE IN
6 THE COMMISSION OF ARMED ROBBERY OR KIDNAPPING OR RAPE OR THE
7 KILLING OF A LAW ENFORCEMENT OFFICER OR THE TORTURE OF A
8 PERSON OR SOMETHING.

9 SO THERE IS AT LEAST ONE OR MORE OF THOSE. WOULD YOU
10 HAVE YOUR MIND MADE UP AS TO WHAT THE APPROPRIATE PENALTY FOR
11 A CONVICTED MURDERER WAS OR WOULD YOU FOLLOW THE COURT'S
12 INSTRUCTION AND TAKE INTO CONSIDERATION EVIDENCE THAT
13 SUPPORTED A LIFE SENTENCE INSTEAD OF A DEATH SENTENCE, EVEN
14 IN A CASE WHERE AN AGGRAVATING CIRCUMSTANCE?

15 A YES, SIR.

16 Q ALL RIGHT. SO YOU WOULD NOT HAVE YOUR MIND MADE UP AS
17 TO WHICH SENTENCE?

18 A UH-UH (NEGATIVE) .

19 Q IF THE JUDGE INSTRUCTED YOU THAT CERTAIN EVIDENCE OF
20 MITIGATION -- AND I'LL GIVE YOU A FEW EXAMPLES OF THOSE --
21 THE AGE OF THE PERSON -- AND THIS WOULD BE PERSONAL
22 INFORMATION. THIS WOULDN'T BE INFORMATION ABOUT THE NATURE
23 OF THE CRIME NECESSARILY.

24 A OKAY.

25 Q IT'S PERSONAL INFORMATION ABOUT THE DEFENDANT WHO HAS

LINDA D. PRESSLEY -- VOIR DIRE BY MR. MAULDIN

1 BEEN CONVICTED. THE AGE OF THE PERSON, HIS MENTAL HEALTH
2 SITUATION, THE LACK OF A PRIOR VIOLENT RECORD MIGHT COME INTO
3 PLAY, ANY NUMBER OF THESE, ONE OR MORE OF THESE OR ANYTHING
4 ELSE THAT THE JUROR MIGHT THINK IS APPROPRIATE.

5 IF THE JUDGE INSTRUCTED THAT CERTAIN OF THOSE TYPES OF
6 INFORMATION MUST BE CONSIDERED BY YOU IN CONSIDERING A LIFE
7 SENTENCE, WOULD YOU BE ABLE TO GIVE THOSE MEANINGFUL
8 CONSIDERATION?

9 A YES.

10 Q FINALLY, WITH REGARD TO THAT, MS. PRESSLEY, I WANT TO
11 ASK YOU IN A CASE WHERE A PERSON HAS BEEN CONVICTED OF MURDER
12 AND THERE HAS BEEN EVIDENCE OF AN AGGRAVATING CIRCUMSTANCE AS
13 DESCRIBED BY THE COURT, IN SUCH A CASE DO YOU BELIEVE THAT A
14 LIFE IN PRISON SENTENCE IS A SERIOUS PENALTY?

15 A I WOULD THINK SO, YES.

16 Q AND THAT'S LIFE WITHOUT PAROLE?

17 A RIGHT. YES, I WOULD THINK THAT'S VERY SERIOUS.

18 Q THE LAST QUESTIONS, MS. PRESSLEY, I'D LIKE TO ASK YOU
19 RELATE TO THIS PROCESS OF DELIBERATION THAT THE JUROR WOULD
20 GO THROUGH. THE JUROR WOULD DELIBERATE IN THE FIRST PHASE,
21 AND IN THE EVENT OF A CONVICTION THE JUROR WOULD THEN ONCE
22 AGAIN DELIBERATE ABOUT WHICH OF THE TWO SENTENCES. YOU
23 WOULDN'T HAVE A SENTENCING HEARING UNLESS YOU HAD A CHOICE OF
24 TWO SENTENCES.

25 A RIGHT.

LINDA D. PRESSLEY -- VOIR DIRE BY MR. MAULDIN

1 Q THAT'S THE WAY THE LAW IS SET UP. AT THAT SENTENCING
2 HEARING INFORMATION WOULD BE PROVIDED TO YOU. THE JUDGE
3 WOULD GIVE YOU INSTRUCTIONS ON THE USE OF THE INFORMATION,
4 GUIDELINES ON DELIBERATION. YOU GO IN THE JURY ROOM AND THE
5 TWELVE JURORS WOULD HAVE AN OPPORTUNITY TO DISCUSS OR DEBATE,
6 DELIBERATE, EVALUATE THE EVIDENCE, TALK ABOUT WHAT THEY HAVE
7 HEARD. ALL OF YOU HEARD THE SAME THING. AND THERE MIGHT BE
8 QUITE A BIT OF TIME MIGHT PASS, HOURS, DAYS, WHATEVER. IT
9 MAY BE VOTE AFTER VOTE. BUT AT SOME POINT AFTER LENGTHY
10 DELIBERATIONS AND FULL DISCUSSION OF THE ISSUES BY ALL THE
11 JURORS WHO WISH -- AND WHATEVER THEY WISH TO SAY, THEY CAN
12 SAY -- THE FINAL VOTE COMES IN. AND THE JUDGE MENTIONED TO
13 YOU A FEW MOMENTS AGO THAT ALL TWELVE WOULD HAVE TO SIGN A
14 FORM TO IMPOSE THE DEATH PENALTY.

15 A UH-HUH (AFFIRMATIVE).

16 Q THE FINAL VOTE COMES IN AND IT'S TEN FOR ONE PENALTY AND
17 TWO FOR THE OTHER. AND WE DON'T REALLY -- IT DOESN'T MATTER
18 WHICH OF THE PENALTIES IS ON WHICH SIDE FOR PURPOSES OF MY
19 QUESTION HERE. WE NEED TO KNOW HOW YOU WOULD REACT TO A
20 SITUATION.

21 IF THAT OCCURRED, MS. PRESSLEY, AND YOU WERE ONE OF THE
22 TWO -- AND WE COULD SAY THREE OR WE COULD SAY YOU BY
23 YOURSELF, JUST A MINORITY --

24 A UH-HUH (AFFIRMATIVE).

25 Q -- A BUNCH OF OTHER PEOPLE ON THE OTHER SIDE SAYING THIS

LINDA D. PRESSLEY -- VOIR DIRE BY MR. MAULDIN

1 AND YOU'RE SAYING THAT -- WOULD YOU UNDER THOSE CIRCUMSTANCES
2 TEND TO SIDE WITH OR SIDE WITH, IF YOU WILL, THE MAJORITY
3 SIMPLY TO RESOLVE THE CASE?

4 A NO.

5 Q ALL RIGHT. AND THE LAST QUESTION, I REVERSE THAT FOR A
6 MOMENT. LET'S SAY YOU WERE THE GROUP OF TEN OR ELEVEN OR
7 NINE. AND ONE JUROR WHO HAD HEARD THE SAME EVIDENCE,
8 DELIBERATED IN THE SAME MANNER HAS COME TO THE LIFE OR DEATH
9 DECISION ON THEIR OWN USING THE SAME MORAL CONSCIENCE THAT
10 YOU WOULD.

11 WOULD YOU ATTEMPT TO REQUIRE THAT JUROR FOR THE PURPOSES
12 OF ENDING THE CASE TO SIDE WITH THE MAJORITY OR WOULD YOU
13 RESPECT THAT JUROR'S RIGHT TO HAVE THEIR VIEW ON THAT ISSUE?

14 A I WOULD RESPECT THAT. THEY HAVE TO LIVE WITH IT, AND I
15 WOULD HAVE TO LIVE WITH MY DECISION. AND I CAN'T LIVE WITH
16 MYSELF IF I HAD TO MAKE THEM CHANGE THEIR MINDS.

17 MR. MAULDIN: THANK YOU, MA'AM.

18 THE COURT: MR. ARIAIL?

19 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

20 VOIR DIRE BY SOLICITOR ARIAIL:

21 Q MS. PRESSLEY, MY NAME IS BOB ARIAIL. I'M THE SOLICITOR
22 FOR GREENVILLE AND PICKENS COUNTIES. THAT'S A WORD THAT THE
23 STATE USES TO DEFINE THE DISTRICT ATTORNEY.

24 A RIGHT.

25 Q SOUTH CAROLINA STILL USES THE WORD SOLICITOR. ASSISTING

LINDA D. PRESSLEY -- VOIR DIRE BY SOLICITOR ARIAIL

1 ME IN THIS CASE WILL BE MS. HERVEY, WHO IS MY -- I MEAN, MS.
2 STROM, WHO IS MY DEPUTY, AND MS. HERVEY IN THE GREEN, WHO IS
3 ONE OF MY ASSISTANTS.

4 SOME JURORS COME TO COURT WITH CERTAIN IDEAS ABOUT WHAT
5 THE LAW IS OR WHAT THE LAW OUGHT TO BE OR WHAT THE LAW COULD
6 BE AND SHOULD BE AND THAT SORT OF THING. DO YOU KNOW OF ANY
7 RELIGIOUS OR MORAL OR POLITICAL OR SOCIAL OR ANY OTHER TYPE
8 VIEWS THAT YOU MAY HAVE THAT WOULD AFFECT YOUR ABILITY TO
9 FAIRLY CONSIDER THE STATE'S REQUEST TO IMPOSE THE DEATH
10 PENALTY? ANYTHING IN YOUR BACKGROUND OR...

11 A NOT THAT I CAN -- NO, I DON'T BELIEVE SO.

12 Q YOU BELIEVE THAT YOU COULD, WHATEVER YOUR VIEWS WERE
13 THAT YOU COULD LISTEN TO THE JUDGE'S INSTRUCTIONS AND PUT
14 THOSE ASIDE, AND IF HE TOLD YOU THAT THE DEATH PENALTY WAS AN
15 APPROPRIATE SENTENCE FOR YOU TO CONSIDER, YOU COULD FAIRLY
16 CONSIDER IT?

17 A YES, SIR.

18 SOLICITOR ARIAIL: THANK YOU VERY MUCH.

19 THE COURT: MS. PRESSLEY, THANK YOU SO MUCH, MA'AM.
20 WE'RE GOING TO TAKE YOU TO A JURY ROOM JUST OUT HERE IN THE
21 BACK BRIEFLY, THEN WE'LL GET YOU BACK OUT HERE IN A MINUTE OR
22 TWO AND WE WILL LET YOU GO FOR THE DAY.

23 JUROR NUMBER 301: OKAY. THANK YOU.

24 THE COURT: THANK YOU.

25 (JUROR EXITS COURTROOM AT 11:38 A.M.)

LINDA D. PRESSLEY -- VOIR DIRE BY SOLICITOR ARIAIL

1 **THE COURT:** THE JUROR HAS BEEN EXCUSED. QUALIFIED OR
2 NOT QUALIFIED?

3 **SOLICITOR ARIAIL:** QUALIFIED, YOUR HONOR.

4 **MR. MAULDIN:** QUALIFIED.

5 **THE COURT:** TAKE YOUR TIME. WHEN YOU'RE READY TO
6 PROCEED, I'LL HEAR FROM THE STATE FIRST.

7 **SOLICITOR ARIAIL:** PRESENT HER.

8 **MR. MAULDIN:** (OFF RECORD WITH CO-COUNSEL)

9 **THE COURT:** YES, SIR?

10 **MR. MAULDIN:** SWEAR THE JUROR.

11 **THE COURT:** BRING IN MS. PRESSLEY, PLEASE. AND LET'S
12 GET MR. COBB READY, PLEASE.

13 (JUROR REENTERS COURTROOM AT 11:40 A.M.)

14 **THE COURT:** MS. PRESSLEY, YOU'RE GOING TO BE BACK IN
15 HERE JUST A MOMENT. I WANT TO TELL YOU THAT YOU HAVE BEEN
16 SELECTED AS A JUROR IN THIS CASE, AND I'VE GOT A LITTLE
17 WRITTEN ORDER TO GIVE YOU TO GIVE YOU SOME HEAD'S UP ON WHAT
18 WE DO FROM HERE. BUT I'M GOING TO GO OVER IT WITH YOU AS
19 WELL.

20 THERE IS A NUMBER ON HERE TO CALL STARTING TODAY AFTER
21 8:00 P.M. JUST CALL THE NUMBER. THERE WILL BE A RECORDED
22 MESSAGE.

23 **JUROR NUMBER 301:** OKAY.

24 **THE COURT:** AND WE'RE GOING THROUGH THE PROCESS TO GET
25 A SUFFICIENT NUMBER OF JURORS WHERE WE CAN START THE TRIAL.

MATTERS AND MOTIONS

1 YOU ARE ONE OF THOSE JURORS. THE MESSAGE MAY WELL BE TONIGHT
2 TO CALL BACK TOMORROW NIGHT.

3 JUROR NUMBER 301: OKAY.

4 THE COURT: IT MAY BE TO REPORT AT SOME POINT TOMORROW.
5 I REALLY DON'T KNOW. BUT AT SOME POINT, PROBABLY IN THE NEXT
6 SEVERAL DAYS, THERE IS GOING TO BE A MESSAGE WHEN YOU CALL IT
7 TO REPORT TO BEGIN THE TRIAL.

8 JUROR NUMBER 301: OKAY.

9 THE COURT: AND FOLLOW THOSE INSTRUCTIONS. IT WILL
10 TELL YOU ON THE RECORDED MESSAGE WHERE TO PARK. PEOPLE WILL
11 BE THERE TO ASSIST YOU. IT WILL ALSO TALK ABOUT PACKING YOUR
12 CLOTHES, YOU KNOW, FOR THE SEQUESTRATION PERIOD AND TO LEAVE
13 YOUR BAG OR BAGS IN YOUR VEHICLE. DON'T BRING THEM IN THE
14 COURTHOUSE. ALL OF THAT IS SET FORTH HERE.

15 ALSO, VERY IMPORTANTLY, THE PREVIOUSLY ADMINISTERED OATH
16 REMAINS IN EFFECT. DO NOT DISCUSS THE CASE. DO NOT EXPOSE
17 YOURSELF TO ANY MEDIA COVERAGE OR OTHERWISE ABOUT THIS CASE.
18 ALL RIGHT?

19 DO YOU HAVE ANY QUESTIONS ABOUT THOSE INSTRUCTIONS?

20 JUROR NUMBER 301: NO, SIR. I DON'T THINK SO.

21 THE COURT: OKAY. AND I LOOK FORWARD TO SEEING YOU
22 SHORTLY.

23 JUROR NUMBER 301: THANK YOU.

24 THE COURT: HAVE A NICE DAY.

25 JUROR NUMBER 301: YOU TOO.

MATTERS AND MOTIONS

1 (JUROR EXITS COURTROOM AT 11:41 A.M.)

2 THE COURT: MR. COBB.

3 (JUROR ENTERS COURTROOM AT 11:41 A.M.)

4 THE COURT: MR. COBB, I FIRST WANT TO APOLOGIZE FOR THE
5 DELAY. THIS IS A LENGTHY PROCESS. I KNOW YOU HAVE BEEN
6 SITTING OVER THERE FOR QUITE A WHILE, AND I REGRET THAT AND
7 HOPE YOU ACCEPT MY APOLOGY FOR THAT. IT'S JUST A LENGTHY
8 PROCESS AND I HOPE YOU CAN APPRECIATE THE IMPORTANCE OF THE
9 MATTER THAT WE DO THIS VERY CAREFULLY AND THOROUGHLY.

10 JOSHUA C. COBB (WHITE MALE),
11 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

12 VOIR DIRE BY THE COURT:

13 Q ALL RIGHT. MR. COBB, I WANT TO SPEAK TO YOU A LITTLE
14 BIT, TELL YOU A LITTLE BIT MORE IN DETAIL ABOUT A CASE OF
15 THIS NATURE, THE ATTORNEYS LIKEWISE WILL HAVE SOME QUESTIONS.
16 AND I WANT YOU TO KEEP YOUR VOICE UP SO WE CAN HEAR YOU
17 CLEARLY.

18 WE'RE JUST GATHERING INFORMATION. WE'RE TRYING TO FIND
19 INDIVIDUALS WHO HAVE BEEN SUMMONED FOR JURY DUTY WHO WOULD BE
20 QUALIFIED TO SERVE, THAT IS, THEY WOULD BE FAIR AND
21 IMPARTIAL, FAIR TO BOTH THE STATE AS WELL AS THE DEFENDANT.
22 THAT'S THE REASON WHY I WILL BE SPEAKING TO YOU AND THE
23 ATTORNEYS AS WELL.

24 NOW, MR. COBB, THIS PARTICULAR CASE, ACCORDING TO THE
25 INDICTMENT, ARISES FROM AN INCIDENT THAT OCCURRED BACK ON

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 DECEMBER 6TH IN THE YEAR 2000. MR. WOOD, THE DEFENDANT, IS
2 CHARGED WITH THE CRIME OF MURDER. THE VICTIM IDENTIFIED IN
3 THE INDICTMENT IS ONE ERIC NICHOLSON. MR. NICHOLSON WAS A
4 STATE TROOPER AT THE TIME.

5 THIS CASE RECEIVED ATTENTION IN THE MEDIA. IT WAS ON
6 T.V., NEWSPAPER, ET CETERA. AND I WANT TO KNOW IF YOU RECALL
7 ANYTHING ABOUT THIS CASE FROM ANY SOURCE, AND IF YOU DO,
8 WOULD YOU BE VERY SPECIFIC IN WHAT YOU REMEMBER?

9 A I REMEMBER HEARING ABOUT IT ON THE NEWS.

10 Q WHAT DID YOU HEAR ON THE NEWS?

11 A THAT AN OFFICER HAD BEEN SHOT BESIDE THE CELANESE PLANT
12 OFF WOODRUFF ROAD, AND THAT'S ABOUT IT. AND THEY WERE
13 LOOKING FOR HIM. THAT'S ABOUT IT.

14 Q THAT'S THE EXTENT OF WHAT YOU CAN REMEMBER?

15 A YES, SIR.

16 Q OKAY. THERE MAY BE SOME REFERENCE TO AN EVENT OR EVENTS
17 IN ANDERSON COUNTY. NOW THAT I HAVE MENTIONED THE TERM
18 ANDERSON COUNTY, DOES THAT JOG ANY MEMORY YOU MAY HAVE?

19 A YES, SIR.

20 Q GO AHEAD AND TELL ME ABOUT THAT.

21 A I THINK I REMEMBER THAT THE GUY IN QUESTION GETTING SHOT
22 IN THE FACE OR SOMETHING LIKE THAT?

23 Q YOU HAVE SOME RECOLLECTION ABOUT THAT? YOU'RE ASKING ME
24 A QUESTION. I DON'T WANT TO RESPOND TO IT. I JUST WANT TO
25 SEE WHAT YOU REMEMBER.

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 A I THINK I REMEMBER THAT THEY SAID THAT THEY SHOT HIM IN
2 THE FACE. AND THAT'S ABOUT IT.

3 Q OKAY. THAT'S ALL YOU CAN REMEMBER?

4 A UH-HUH (AFFIRMATIVE).

5 Q IS THAT A YES?

6 A YES, SIR.

7 Q OKAY.

8 A YES, SIR.

9 Q LET ME TELL YOU THE REASON I MENTION THAT, MR. COBB, IS
10 IT'S PERFECTLY UNDERSTANDABLE THAT JURORS WOULD HAVE RECEIVED
11 INFORMATION ABOUT A CASE THAT RECEIVED A LOT OF PUBLICITY.
12 THE IMPORTANT THING, HOWEVER, IS THAT TO SERVE ON A JURY,
13 EACH JUROR WOULD TAKE AN OATH, AND THAT OATH WOULD REQUIRE
14 THE JUROR TO FIND THE TRUTH FROM THE EVIDENCE IN COURT, NOT
15 WHAT MAY HAVE BEEN SAID ON T.V. OR OTHERWISE. DO YOU
16 UNDERSTAND THE IMPORTANCE OF THAT?

17 A YES, SIR.

18 Q IF YOU WERE A JUROR COULD YOU DISREGARD ANYTHING YOU MAY
19 HAVE HEARD ABOUT THIS CASE OR SEEN OUTSIDE OF COURT AND MAKE
20 A DECISION AND FIND THE TRUTH ONLY ON WHAT IS PRESENTED IN
21 THIS COURTROOM DURING THE COURSE OF THE TRIAL?

22 A YES, SIR.

23 Q WOULD YOU ALSO FOLLOW YOUR OATH AND HONOR THE LAW AS I
24 INSTRUCT IT? DO YOU UNDERSTAND THAT?

25 A YES, SIR.

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 Q SOMETIMES A JUROR MAY HAVE A VIEW ABOUT SOMETHING THAT
2 DIFFERS FROM THE LAW. IN THAT SITUATION A JUROR TO HONOR HIS
3 OR HER OATH WOULD HAVE TO ABANDON OR DISREGARD THEIR PERSONAL
4 FEELING AND APPLY THE LAW AS STATED FROM THE JUDGE. DO YOU
5 UNDERSTAND THAT?

6 A YES, SIR.

7 Q AND IF YOU WERE A JUROR COULD YOU DO THAT?

8 A YES, SIR.

9 Q NOW, MR. COBB, HAVE YOU ALREADY FORMED AN OPINION AS TO
10 THE FACTS OF THIS CASE?

11 A NO, SIR.

12 Q HAVE YOU ALREADY FORMED AN OPINION AS TO THE GUILT OR
13 INNOCENCE OF MR. WOOD IN THIS CASE?

14 A NO, SIR.

15 Q DO YOU REMEMBER EARLIER WE TALKED ABOUT A COUPLE LEGAL
16 PRINCIPLES? PRESUMPTION OF INNOCENCE. ANYONE ACCUSED OF A
17 CRIME IS PRESUMED TO BE INNOCENT?

18 A YES, SIR.

19 Q AND WE ALSO TALKED ABOUT THERE IS NO BURDEN ON A
20 DEFENDANT EVER. THE BURDEN IS ONLY ON THE STATE TO PROVE
21 GUILT BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND THAT
22 PRINCIPLE AS WELL?

23 A YES, SIR.

24 Q DO YOU AGREE WITH THOSE TWO FUNDAMENTAL LEGAL
25 PRINCIPLES?

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 A YES, SIR.

2 Q NOW, WE'RE GOING TO TALK ABOUT A CAPITAL CASE. AND I
3 MENTIONED ON MONDAY A CAPITAL CASE POTENTIALLY HAS TWO
4 DIFFERENT STAGES OR PHASES. AND WE'RE GOING TO TALK A LOT
5 ABOUT A SENTENCING PHASE. THAT'S THE SECOND PHASE. BUT IN
6 DOING SO I WANT TO STRESS TO YOU THAT WE MAY NOT EVEN REACH A
7 SENTENCING PHASE IN THIS CASE.

8 IN THE FIRST PHASE A JURY DETERMINES WHETHER OR NOT THE
9 STATE HAS PROVEN A DEFENDANT -- AND WE'RE JUST TALKING ABOUT
10 THE CONCEPT, NOT THIS CASE -- THE STATE IS TO PRESENT
11 EVIDENCE, AND THE JURY DETERMINES WHETHER THE STATE HAS
12 PROVEN GUILT OF THE CRIME OF MURDER BEYOND A REASONABLE
13 DOUBT. A JURY THEN MAKES A DECISION, IS THE DEFENDANT GUILTY
14 OR NOT GUILTY? DO YOU UNDERSTAND THAT?

15 A YES, SIR.

16 Q SO IF A JURY FINDS A DEFENDANT NOT GUILTY OF THE CRIME
17 OF MURDER IN THE FIRST PHASE, THERE IS NO SECOND PHASE. THE
18 CASE WOULD BE OVER, AND THERE WOULD BE NO FURTHER JURY
19 SERVICE AT THAT POINT. DO YOU UNDERSTAND THAT?

20 A YES, SIR.

21 Q SO WE'RE GOING TO TALK ABOUT A SECOND PHASE JUST BECAUSE
22 IT IS POSSIBLE THERE COULD BE A SECOND PHASE IN THIS
23 PARTICULAR CASE. BUT WE DON'T KNOW. BUT IN THE EVENT THERE
24 IS, WE NEED TO KNOW WHAT YOUR VIEWS ARE, ESPECIALLY REGARDING
25 THE DEATH PENALTY, OKAY?

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 A OKAY.

2 Q WHEN A JURY MOVES TO A SENTENCING PHASE, THAT JURY HAS
3 ALREADY FOUND THAT PARTICULAR DEFENDANT GUILTY OF MURDER. SO
4 AS THE JURY GOES FORWARD NOW AND MOVES INTO THE SECOND PHASE
5 OR THE SENTENCING PHASE, THEY DON'T NEED TO REHASH THE
6 MURDER. THAT'S BEEN ESTABLISHED. THERE IS NO SELF-DEFENSE.
7 THERE IS NO ALIBI. THERE IS NO DEFENSE THE LAW RECOGNIZES.
8 MURDER HAS ALREADY BEEN FOUND, SO WE'RE BEYOND THAT.

9 WHEN WE GO TO THAT SENTENCING PHASE -- THAT'S WHAT THE
10 NAME IMPLIES, SENTENCING -- WE ARE CONCERNED WITH DETERMINING
11 WHAT IS THE RIGHT SENTENCE, WHAT'S THE PROPER PENALTY. AND
12 THERE ARE TWO OPTIONS AT THAT POINT -- LIFE IMPRISONMENT OR
13 THE DEATH PENALTY. AND THE LAW REQUIRES THAT WHEN A JUROR
14 HAS FOUND A PERSON GUILTY OF MURDER IN ORDER TO BE FAIR TO
15 BOTH SIDES THEY MUST STILL HAVE AN OPEN MIND AS TO THE ISSUE
16 OF PUNISHMENT. YOU SEE, SOMEONE WHO HAS ALREADY GOT THEIR
17 MIND MADE UP THAT THEY WOULD VOTE FOR THE DEATH PENALTY OR
18 THEY WOULD ALWAYS VOTE FOR LIFE IMPRISONMENT, THOSE JURORS
19 WOULDN'T BE FAIR TO BOTH SIDES. DO YOU UNDERSTAND THAT?

20 A YES, SIR.

21 Q SO IN A SENTENCING PHASE WE RECEIVE NEW EVIDENCE WHICH
22 THE LAW SAYS THE JURY MUST CONSIDER. ONE TYPE OF EVIDENCE IS
23 CALLED A CIRCUMSTANCE OF AGGRAVATION. THE STATE CAN ONLY
24 SEEK THE DEATH PENALTY OR ASK FOR IT WHEN A MURDER IS
25 COMMITTED IN THE COMMISSION OF -- AND THE STATUTE LISTS

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 CERTAIN THINGS. I THINK I GAVE YOU EXAMPLES EARLIER --
2 MURDER IN THE COMMISSION OF ARMED ROBBERY, BURGLARY,
3 SOMETHING LIKE THAT.

4 THE LAW ALSO SAYS TO MAKE THE APPROPRIATE DECISION THE
5 JURY MUST CONSIDER WHAT WE CALL MITIGATION EVIDENCE, EVIDENCE
6 THAT CONCERNS THE DEFENDANT. IT COULD BE -- EXAMPLES COULD
7 BE FAMILY HISTORY OF THE DEFENDANT, MENTAL HEALTH HISTORY,
8 AGE OF THE DEFENDANT, THINGS OF THAT NATURE.

9 AND AT THE END OF THE CASE THE JUDGE WOULD INSTRUCT THE
10 JURY TO GIVE CAREFUL CONSIDERATION TO THIS NEW EVIDENCE --
11 CIRCUMSTANCES OF AGGRAVATION, IF IT'S PROVEN BEYOND A
12 REASONABLE DOUBT, AND ANY MITIGATION EVIDENCE THAT MAY BE
13 FOUND IN THE RECORD. BUT TO CAREFULLY CONSIDER ALL OF THAT
14 BEFORE MAKING A FINAL DECISION.

15 IF YOU WERE A JUROR IN THAT SITUATION, WOULD YOU KEEP AN
16 OPEN MIND AND LISTEN AND FOLLOW THE LAW AND CAREFULLY
17 CONSIDER BOTH ANY CIRCUMSTANCE OF AGGRAVATION AS WELL AS ALL
18 THE MITIGATION EVIDENCE BEFORE YOU MADE A DECISION?

19 A YES, SIR.

20 Q NOW, LET ME TELL YOU SOMETHING ELSE I DIDN'T MENTION
21 EARLIER. I'VE USED THE TERM LIFE IMPRISONMENT AS AN OPTION.
22 AND YOU'VE GOT TWO OPTIONS. IN SOUTH CAROLINA WHEN AN
23 INDIVIDUAL IS CONVICTED OF MURDER AND THE MURDER IS
24 ACCOMPANIED BY ONE OF THESE AGGRAVATING CIRCUMSTANCES, LIFE
25 IN PRISON MEANS FOR THE LIFE OF THAT INDIVIDUAL. THERE IS NO

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 PAROLE. THERE IS NO POSSIBILITY OF PAROLE. THAT PERSON WILL
2 DIE IN JAIL.

3 DO YOU NOW UNDERSTAND THAT?

4 A YES, SIR.

5 Q OKAY. I WANT YOU TO PUT YOURSELF IN JUST A HYPOTHETICAL
6 SITUATION, AND YOU'RE IN A JURY, YOU'VE LISTENED TO THE FIRST
7 PHASE. YOU FOUND THE STATE PROVED GUILT BEYOND A REASONABLE
8 DOUBT, SO YOU VOTED GUILTY. EVERYBODY ELSE DID. SO YOU'VE
9 GOT A MURDERER. YOU TOLD ME YOU WOULD KEEP AN OPEN MIND AS
10 YOU MOVED TO THE SECOND PHASE, THAT YOU'D CONSIDER ALL OF
11 THIS NEW EVIDENCE. AND LET'S SAY AT THE VERY END YOU HAVE
12 DONE THAT. YOU HAVE GIVEN CAREFUL THOUGHT TO THE NEW
13 EVIDENCE. YOU HAVE ASSESSED IT AND WEIGHED IT VERY
14 CAREFULLY, AGGRAVATION CIRCUMSTANCE, MITIGATION EVIDENCE, AND
15 YOU BELIEVE THAT THE PROPER SENTENCE IS LIFE IMPRISONMENT.
16 COULD YOU VOTE FOR LIFE IMPRISONMENT?

17 A THAT'S AFTER LOOKING AT ALL THE NEW EVIDENCE?

18 Q RIGHT. WE'RE FAST FORWARDING AND WE'RE AT THE END OF
19 THE SENTENCING PHASE. YOU'VE BEEN IN THE JURY BOX. THE
20 JUDGE HAS TOLD YOU TO CONSIDER EVERYTHING. MITIGATION
21 EVIDENCE, CIRCUMSTANCES OF AGGRAVATION. YOU GO BACK TO THE
22 JURY ROOM. YOU'VE LISTENED TO YOUR FELLOW JURORS. YOU'VE
23 THOUGHT ABOUT IT. YOU GIVE IT SERIOUS THOUGHT, ALL THIS NEW
24 EVIDENCE. YOU FOLLOW THE LAW. BUT WHEN IT COMES DOWN TO IT,
25 YOU BELIEVE THE PROPER PENALTY IS LIFE IN PRISON. IF YOU

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 REACH THAT POINT, COULD YOU VOTE FOR LIFE IN PRISON?

2 A YES, SIR.

3 Q ALL RIGHT. LET'S LOOK AT THE FLIP SIDE. YOU'VE BEEN IN
4 THE JURY BOX. YOU'VE LISTENED TO BOTH THINGS. EVERYTHING.

5 YOU FOLLOW THE LAW. YOU GET BACK IN THE JURY ROOM. YOU

6 CONSIDER AGGRAVATING CIRCUMSTANCE. YOU CONSIDER THE

7 MITIGATION EVIDENCE. AND AFTER YOU HAVE CONSIDERED

8 EVERYTHING, YOU BELIEVE THE APPROPRIATE PENALTY IS DEATH.

9 COULD YOU VOTE FOR A DEATH SENTENCE?

10 A (PAUSE) YES, SIR.

11 Q OKAY. AND TELL ME WHY YOU HESITATE WHEN I ASK YOU THE
12 QUESTION ABOUT COULD YOU VOTE FOR THE DEATH PENALTY?

13 A I BELIEVE IT ALL DEPENDS ON THE EVIDENCE AND THE NATURE
14 OF HOW IT WAS DONE OR STUFF LIKE THAT.

15 Q OKAY. BUT WOULD YOU APPROACH IT WITH AN OPEN MIND AND
16 BE WILLING TO GO EITHER WAY DEPENDING ON WHAT THE FACTS AND
17 THE LAW ARE?

18 A YES, SIR.

19 Q NOW LET ME TELL YOU SOMETHING ELSE ABOUT THE DEATH
20 PENALTY. FIRST OF ALL, OF COURSE, IT MUST BE UNANIMOUS. ALL
21 TWELVE JURORS MUST AGREE. BUT IN SOUTH CAROLINA THERE IS A
22 FURTHER STEP THAT IS REQUIRED. EACH JUROR, ALL OF THEM, WHO
23 VOTE FOR THE DEATH PENALTY MUST SIGN THEIR NAMES TO THE
24 VERDICT FORM. WE SOMETIMES CALL IT THE DEATH WARRANT. IF
25 YOU HAD MADE THE DECISION AFTER CAREFUL CONSIDERATION TO VOTE

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 FOR THE DEATH PENALTY, COULD YOU TAKE THE NEXT STEP AND SIGN
2 YOUR NAME TO THE VERDICT FORM?

3 A YES, SIR.

4 Q OKAY. NOW, IN THE OTHER ROOM THERE WAS A SHEET THAT
5 LISTED THREE TYPES OF JURORS. DID YOU GET A CHANCE TO REVIEW
6 THAT?

7 A A SHORT TIME TO REVIEW IT.

8 Q OKAY. DO YOU RECALL THE THREE TYPES OF JURORS THAT WERE
9 LISTED THERE?

10 A SOMEWHAT.

11 Q TELL ME WHAT YOU RECALL ABOUT THE THREE TYPES OF JURORS.

12 A THE TYPE THAT WOULDN'T VOTE FOR THE DEATH PENALTY.

13 Q OKAY.

14 A THE TYPE THAT WOULD. AND THE TYPE THAT IS KIND OF IN
15 BETWEEN.

16 Q HOW DO YOU DESCRIBE YOURSELF?

17 A THE THIRD ONE, IN BETWEEN.

18 Q OKAY. NOW, MR. COBB, I WANT TO MAKE SURE I UNDERSTAND
19 WHAT YOU HAVE TOLD US. AND IF I SAY ANYTHING INCORRECT, I
20 WANT YOU TO JUST STOP ME AND LET ME KNOW. BUT AS I
21 UNDERSTAND FROM WHAT YOU TOLD ME, THAT YOU UNDERSTAND THE
22 SERIOUS NATURE OF JURY DUTY, THAT YOU WOULD APPROACH JURY
23 DUTY TO HONOR YOUR OATH AND WITH AN OPEN MIND; IS THAT
24 CORRECT?

25 A YES, SIR.

JOSHUA C. COBB -- VOIR DIRE BY THE COURT

1 Q AND YOU WOULD SERVE IN THAT REGARD CONSISTENT WITH YOUR
2 OATH IN THE FIRST PHASE, AND IF A CASE WERE TO GO TO A SECOND
3 PHASE, YOU WOULD STILL THEN REMAIN OPEN TO THE ISSUE OF
4 PUNISHMENT?

5 A YES, SIR.

6 Q AND AS YOU ENTER THE SENTENCING PHASE, YOU WOULD NOT
7 HAVE YOUR MIND MADE UP; IS THAT CORRECT?

8 A THAT'S CORRECT.

9 Q SO YOU COULD STILL VOTE FOR LIFE OR YOU COULD VOTE FOR
10 DEATH BUT YOU WOULD WANT TO HEAR ALL THE EVIDENCE OF ANY
11 CIRCUMSTANCE OF AGGRAVATION AND YOU WOULD WANT TO HEAR AND
12 KNOW THE EVIDENCE OF MITIGATION REGARDING THE DEFENDANT?

13 A YES, SIR.

14 Q AND YOU WOULD GIVE ALL THAT CAREFUL CONSIDERATION BEFORE
15 YOU MADE A FINAL DECISION?

16 A YES, SIR. IT'S NOT A SMALL DECISION TO MAKE.

17 Q THANK YOU, SIR.

18 THE COURT: MR. COBB, THE ATTORNEYS WILL HAVE QUESTIONS
19 OF YOU. AND ONCE WE CONCLUDE THAT, THEN YOU WILL BE JUST
20 ABOUT READY TO GO AT THAT POINT. WE THANK YOU FOR YOUR
21 PATIENCE.

22 THE COURT: ALL RIGHT. MR. ARIAIL?

23 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

24 VOIR DIRE BY SOLICITOR ARIAIL:

25 Q MR. COBB, MY NAME IS BOB ARIAIL, AND I'M THE SOLICITOR

JOSHUA C. COBB -- VOIR DIRE BY SOLICITOR ARIAIL

1 FOR THE THIRTEENTH JUDICIAL CIRCUIT OF SOUTH CAROLINA. AND
2 THAT MEANS -- SOLICITOR IS AN OLD NAME THAT THE STATE HAS
3 RETAINED THAT MEANS DISTRICT ATTORNEY, PERSON WHO PROSECUTES
4 CRIMINAL CASE. IN THIS CASE I WILL BE ASSISTED BY MY DEPUTY,
5 BETTY STROM, WHO IS SITTING IN THE BEIGE COAT, AND MY
6 ASSISTANT, MINDY HERVEY, WHO IS IN THE GREEN.

7 I THINK THE JUDGE HAS PRETTY WELL EXPLAINED TO YOU WHAT
8 THE PROCESS IS. BUT BASICALLY, THERE COULD BE TWO TRIALS, A
9 TRIAL THAT DEALS WITH GUILT, THAT IS, DID THE DEFENDANT
10 COMMIT THE ACT AND WAS IT MURDER? AND THE SECOND PHASE, OR
11 THE SECOND TRIAL, WHICH WOULD TAKE PLACE AFTER THE FIRST.

12 SO YOU WOULD HAVE DECIDE GUILT AND THEN YOU TAKE A BREAK
13 AND THERE WOULD ACTUALLY BE A SECOND TRIAL IN WHICH A
14 DIFFERENT TYPE OF EVIDENCE WOULD BE PRESENTED. THE EVIDENCE
15 WOULD BE DEALING WITH THOSE THINGS IN AGGRAVATION, THOSE
16 THINGS THAT MAKE THAT MURDER WORSE, THAT THE STATE WOULD
17 BRING TO YOU IN AN EFFORT TO SHOW THAT THE SENTENCE OF DEATH
18 WAS APPROPRIATE. THEN THERE WOULD BE EVIDENCE BROUGHT TO YOU
19 EITHER DIRECTLY OR INDIRECTLY IN REGARD TO MITIGATION, THOSE
20 THINGS THAT WOULD TEND TO MAKE THE MURDER, MAYBE, LESS.

21 NOW, YOU WOULD HEAR -- IN THAT SECOND PHASE, YOU WOULD
22 HEAR ALL OF THAT. THEN YOU WOULD RETIRE TO YOUR JURY ROOM
23 AGAIN. AND BEFORE YOU COULD CONSIDER THE EVIDENCE IN
24 AGGRAVATION AND EVIDENCE IN MITIGATION TO DETERMINE WHETHER
25 OR NOT THE DEATH PENALTY WOULD BE APPROPRIATE, YOU WOULD HAVE

JOSHUA C. COBB -- VOIR DIRE BY SOLICITOR ARIAIL

1 TO FIND THE EXISTENCE OF THIS AGGRAVATING CIRCUMSTANCE OR
2 EXISTENCE OF ONE, ONE OF THOSE THAT THE JUDGE TALKED ABOUT.

3 LET ME EXPLAIN TO YOU WHAT THAT IS. OUR LEGISLATURE HAS
4 SAID THAT THERE ARE CERTAIN MURDERS COMMITTED UNDER CERTAIN
5 CIRCUMSTANCES WHERE THE STATE CAN SEEK THE DEATH PENALTY, BUT
6 ONLY IN THOSE SITUATIONS. NOT EVERY MURDER WE CAN SEEK THE
7 DEATH PENALTY. DO YOU UNDERSTAND THAT?

8 A YES, SIR.

9 Q IT ONLY CAN BE ONES LIKE THE LEGISLATURE SAID, MURDER
10 COMMITTED DURING THE COURSE OF ARMED ROBBERY, OR MURDER
11 COMMITTED DURING THE COURSE OF CRIMINAL SEXUAL CONDUCT. JUST
12 MURDER WITHOUT THE AGGRAVATING CIRCUMSTANCE DOESN'T ENTITLE
13 US TO SEEK THE DEATH PENALTY.

14 ALL RIGHT. SO YOU UNDERSTAND HOW THAT WORKS?

15 A YES, SIR.

16 Q AND YOU ARE BACK IN THE JURY ROOM AND THE JUDGE HAS
17 GIVEN YOU YOUR INSTRUCTIONS THAT YOU SHOULD CONSIDER THE
18 EVIDENCE OF MITIGATION AND THE EVIDENCE OF AGGRAVATION TO
19 DETERMINE WHICH SENTENCE IS APPROPRIATE. WHAT I WANT TO ASK
20 YOU IS, AT THAT TIME, AFTER YOU HAVE CONCLUDED THAT THERE IS
21 AN AGGRAVATING CIRCUMSTANCE -- IT IS A MURDER AND IT HAS BEEN
22 COMMITTED DURING THE COURSE OF AN ARMED ROBBERY. YOU'VE GOT
23 THE AGGRAVATING CIRCUMSTANCE AND YOU CAN AT THAT TIME
24 CONSIDER THE DEATH PENALTY. -- WOULD YOU STILL BE WILLING TO
25 CONSIDER ALL OF THE EVIDENCE TO DETERMINE THAT A LIFE

1 SENTENCE WAS APPROPRIATE IN THAT CIRCUMSTANCE ALSO?

2 A YES, SIR.

3 Q AND DO YOU ALSO UNDERSTAND THAT UNDER THE LAW YOU CAN
4 GIVE A LIFE SENTENCE -- AS A MEMBER OF THAT JURY, YOU CAN
5 VOTE FOR A LIFE SENTENCE FOR ANY REASON YOU WANT TO, JUST AS
6 AN ACT OF MERCY? EVEN IF THE STATE HAS SHOWN YOU AN
7 AGGRAVATING CASE, YOU CAN STILL VOTE AS AN ACT OF MERCY; DO
8 YOU UNDERSTAND THAT?

9 A YES, SIR.

10 Q OKAY. AND WOULD YOU CONSIDER THAT ALSO?

11 A IT DEPENDS.

12 Q OKAY. IT DEPENDS ON THE EVIDENCE?

13 A YES, SIR.

14 Q ALL RIGHT. NOW, GOING TO A COUPLE OF QUESTIONS THAT THE
15 JUDGE HAD BROUGHT UP, AND I WANT TO -- I WANT TO GO TO ONE IN
16 PARTICULAR. IF YOU WERE IN THE JURY ROOM AND THE VERDICT WAS
17 -- ALL THE DELIBERATIONS HAVE TAKEN PLACE, AND IT WAS DOWN TO
18 THE LAST AND YOU HAD VOTED THAT YOU THOUGHT ONE SENTENCE WAS
19 APPROPRIATE. AND YOU'RE BY YOURSELF AND ALL OF THE OTHER
20 JURORS ARE VOTING TO GO ANOTHER WAY. WOULD YOU AT THAT POINT
21 STAY WITH YOUR VIEW AS TO WHAT THE APPROPRIATE SENTENCE WOULD
22 BE OR WOULD YOU JUST CAVE IN WITH THE REST AND GO HOME?

23 A NO, SIR. I WOULD STAY WITH MY DECISION.

24 Q STICK WITH YOURS.

25 SOLICITOR ARIAIL: JUST ONE SECOND. (OFF RECORD WITH

JOSHUA C. COBB -- VOIR DIRE BY SOLICITOR ARIAIL

1 CO-COUNSEL) THAT'S ALL. THANK YOU VERY MUCH, MR. COBB.

2 VOIR DIRE BY MR. MAULDIN:

3 Q MR. COBB, MY NAME IS JOHN MAULDIN, AND I'M THE PUBLIC
4 DEFENDER FOR GREENVILLE COUNTY, AND I WANT TO FOLLOW UP ON
5 SOME OF THE QUESTIONS THAT HAVE BEEN ASKED YOU BY THE
6 PROSECUTOR AND BY THE COURT.

7 I WOULD LIKE TO -- FIRST OF ALL, I'D LIKE TO SAY THAT
8 I'D LIKE TO HEAR YOU TALK INSTEAD OF JUST US. I'M TRYING TO
9 GET TO KNOW A LITTLE BIT ABOUT YOU, AND SO FAR THERE HAVE
10 BEEN A LOT OF YESES AND NOS BUT NOT A LOT OF INFORMATION. SO
11 I'M GOING TO ASK YOU TO DO ALMOST LIKE A CONVERSATION.

12 YOU -- TELL ME HOW YOU FEEL -- IF YOU HAVE HAD AN
13 OPPORTUNITY TO DECIDE THIS, TELL ME HOW YOU FEEL ABOUT THE
14 DEATH PENALTY, ABOUT CAPITAL PUNISHMENT. WE'RE NOT TALKING
15 ABOUT THIS CASE. WE'RE NOT TALKING ABOUT ANY OTHER
16 PARTICULAR CASE UNLESS YOU USE A CASE AS AN EXAMPLE. BUT
17 JUST WHAT IS YOUR VIEW ON THE DEATH PENALTY IN GENERAL?

18 AND SLIP A LITTLE CLOSER TO THAT MIKE. I'M HALF DEAF.

19 A I FEEL IT IS NECESSARY IN SOME CASES.

20 Q ALL RIGHT. AND CAN YOU GIVE ME WHAT YOU WOULD THINK
21 WOULD BE THE MAIN REASON WHY WE WOULD HAVE THE DEATH PENALTY
22 IN OUR JUSTICE SYSTEM, WHAT WOULD BE THE PURPOSE OF IT?

23 A WELL, I GUESS IT WOULD BE BECAUSE SOME CRIMES ARE
24 COMMITTED, YOU KNOW, WITH ACT OF TOTALLY JUST WRONGFULNESS
25 AND, YOU KNOW, HEINOUSNESS AND STUFF LIKE THAT.

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 Q UH-HUH (AFFIRMATIVE).

2 A SO I FEEL IF YOU DO SOMETHING LIKE THAT TO SOMEONE, THEN
3 YOU SHOULD EXPECT IT TO COME BACK TO YOU.

4 Q ALL RIGHT. AND WHEN YOU SAY WITH HEINOUSNESS OR
5 VICIOUSNESS, CAN YOU GIVE ME AN EXAMPLE OF WHAT YOU MEAN BY
6 THAT?

7 A LIKE---

8 SOLICITOR ARIAIL: OBJECTION.

9 THE COURT: SUSTAINED.

10 A WELL, LET ME SEE IF I CAN -- LET ME ASK IT THIS WAY TO
11 YOU, MR. COBB. IF A -- COMING INTO THIS ROOM TODAY, IF A
12 PERSON WERE CHARGED WITH AND CONVICTED OF THE OFFENSE OF
13 MURDER, WOULD YOU GO INTO THE PROCEEDING OF SENTENCING THAT
14 PERSON LEANING TOWARD A DEATH PENALTY OR A LIFE SENTENCE?

15 SOLICITOR ARIAIL: OBJECTION, YOUR HONOR.

16 THE COURT: OVERRULED.

17 A NO.

18 Q DID YOU UNDERSTAND THAT QUESTION?

19 A YES, SIR.

20 Q ALL RIGHT. SO GOING INTO THE PROCESS OF DECIDING HOW TO
21 PENALIZE THEM, YOU WOULD NOT BE -- YOU WOULD NOT BE ALREADY
22 DECIDED OR LEANING ONE WAY OR THE OTHER?

23 A NO, SIR.

24 Q ALL RIGHT. NOW, FOR A CASE OF MURDER -- AND, YOU KNOW,
25 WHAT WE HAVE TO DO, MR. COBB, IS WE HAVE TO MAKE SOME -- WE

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 HAVE TO PUT THE CART BEFORE THE HORSE IN ORDER TO ASK THE
2 QUESTION. THERE HASN'T BEEN A TRIAL YET AT ALL. BUT IN
3 ORDER TO ASK YOU QUESTIONS ABOUT THE PENALTY, WE'VE GOT TO
4 MAKE AN ASSUMPTION THAT A PERSON STANDS BEFORE THE JURY
5 CONVICTED OF MURDER. FOLLOW ME?

6 A YES, SIR.

7 Q ALL RIGHT. WITH THAT KIND OF AS OUR ASSUMPTION, DO YOU
8 BELIEVE IN YOUR OWN VIEW THAT A LIFE IN PRISON SENTENCE FOR A
9 PERSON CONVICTED OF MURDER IS A SERIOUS PENALTY?

10 A YES, SIR.

11 Q OKAY. SO A PERSON CONVICTED OF KILLING ANOTHER PERSON
12 WITH INTENTIONAL KILLING, MALICE, YOU KNOW, NOT ACCIDENT OR
13 SELF-DEFENSE, NO MISTAKE, A PERSON ACTUALLY CONVICTED OF
14 MURDER, A SENTENCE OF LIFE IN PRISON FOR A PERSON LIKE THAT
15 UNDER CERTAIN CIRCUMSTANCES WOULD BE APPROPRIATE FOR YOU, IS
16 THAT---

17 A UNDER CERTAIN CIRCUMSTANCES.

18 Q ALL RIGHT. AND I WANT TO FOLLOW THAT UP BECAUSE I WANT
19 TO MAKE SURE THAT WHEN YOU SAY UNDER CERTAIN CIRCUMSTANCES
20 WE'RE NOT TALKING ABOUT WHETHER OR NOT THE PERSON IS LEGALLY
21 GUILTY OF MURDER. THAT'S THE KEY. THAT'S THE KEY.

22 A OKAY.

23 Q WE'RE ASSUMING THE CONVICTION OF MURDER. YOU'VE ALREADY
24 HEARD ALL OF THE EVIDENCE. THERE IS NO DEFENSE TO THE
25 MURDER. IT'S NOT LIKE THE PERSON PROVED HE WAS SOMEWHERE

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 ELSE OR THAT HE ACCIDENTALLY MIGHT HAVE COMMITTED AN OFFENSE
2 THAT LED TO THE DEATH PENALTY. THE PROOF IS IN, THE JUDGE
3 SAID. THERE'S NOT GOING TO BE ANY HASHING OUT OF THAT AGAIN.
4 AN INTENTIONAL ACT OF MURDER. SO WE START AT THAT POINT.

5 A OKAY.

6 Q IN SUCH A CASE, IN SUCH A CASE -- AND I UNDERSTAND THAT
7 YOU BELIEVE THAT LIFE WOULD BE A SERIOUS PENALTY; IS THAT
8 RIGHT?

9 A YES, SIR.

10 Q IF THE JUDGE INSTRUCTED YOU IN YOUR DECISION ABOUT
11 WHETHER TO IMPOSE A LIFE SENTENCE OR A DEATH SENTENCE, IF THE
12 JUDGE INSTRUCTED YOU THAT YOU WERE TO GIVE CONSIDERATION,
13 REAL CONSIDERATION, TO SUCH INFORMATION -- AND THIS IS THE
14 MITIGATING CIRCUMSTANCE HE WAS TALKING ABOUT -- SUCH
15 INFORMATION AS THE BACKGROUND INFORMATION, EDUCATIONAL
16 INFORMATION, MENTAL HEALTH INFORMATION, AGE AND SO FORTH, OF
17 THE PERSON WHO HAD BEEN CONVICTED OF MURDER, WOULD YOU BE
18 ABLE TO CONSIDER THOSE TYPES OF IN -- WOULD THOSE TYPES OF
19 INFORMATION MAKE A DIFFERENCE TO YOU, OR COULD THEY, IN
20 DECIDING WHETHER A LIFE SENTENCE WOULD BE APPROPRIATE?

21 SOLICITOR ARIAIL: I'M GOING TO OBJECT TO THAT.

22 THE COURT: SUSTAINED.

23 SOLICITOR ARIAIL: THANK YOU.

24 THE COURT: IT'S NOT HIS PERSONAL PREFERENCE. IT'S HIS
25 ABILITY TO HONOR HIS OATH TO DO IT.

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 MR. MAULDIN: OKAY. ALL RIGHT.

2 THE COURT: IT'S NOT WHETHER HE WANTS TO.

3 MR. MAULDIN: YEAH, LET ME REPHRASE AND SEE IF I CAN---

4 THE COURT: OTHER THAN THAT, IT'S FINE.

5 Q ALL RIGHT. AS A JUROR -- YOU KNOW, NOTHING IN JURY
6 SERVICE, MR. COBB, IS GOING TO MAKE YOU VIOLATE HOW YOU FEEL
7 ABOUT THINGS. AND IF IT IS, THAT'S PART OF THIS PROCESS. WE
8 NEED TO KNOW THAT AND YOU WOULD BE EXCUSED, IF WE WERE
9 VIOLATING -- MAKING YOU VIOLATE SOMETHING. DO YOU FOLLOW ME?

10 A YES,

11 Q SO WE WANT TO MAKE SURE THAT YOU WOULD BE CAPABLE OF
12 FOLLOWING THE OATH THAT THE JUDGE WOULD IMPOSE ON A JUROR IN
13 A CASE. AND IF -- AND PART OF THAT OATH IS TO FOLLOW THE
14 JUDGE'S INSTRUCTIONS. IF THE JUROR SAYS, "WELL, I CAN'T
15 FOLLOW THE JUDGE'S INSTRUCTIONS ABOUT CONSIDERING THIS OR
16 THAT," THEN THAT PERSON WOULDN'T BE ABLE TO FOLLOW THAT OATH.
17 DO YOU UNDERSTAND THAT?

18 A YES, SIR.

19 Q ALL RIGHT. NOW LET ME -- WITH THAT IN MIND, LET ME TELL
20 YOU THE QUESTION. SAY THAT YOU ARE A JUROR AND THE JUDGE HAS
21 GIVEN YOU AN OATH TO FOLLOW THE INSTRUCTIONS OF THE COURT AND
22 CONSIDER THE INFORMATION THAT THE COURT INSTRUCTS AND YOU
23 HAVE SWORN TO DO THAT. AND LET'S SAY THAT YOU COME TO THE
24 SENTENCING HEARING AND THE JUDGE INSTRUCTS YOU AS FOLLOWS,
25 THE JUDGE SAYS -- HE INSTRUCTS YOU THAT CERTAIN MATTERS HAVE

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 BEEN BROUGHT INTO EVIDENCE THAT ARE CALLED MITIGATING
2 CIRCUMSTANCES -- AND HERE WE ARE -- SUCH THINGS AS THE AGE,
3 THE BACKGROUND, THE MENTAL HEALTH OF THE DEFENDANT, THE LACK
4 OF A PRIOR VIOLENT RECORD OF THE PERSON THAT'S BEEN
5 CONVICTED. THAT'S PERSONAL INFORMATION. IT HAS NOTHING TO
6 DO WITH THE CRIME. PERSONAL INFORMATION. AND THE JUDGE
7 WOULD SAY YOU HAVE AN OBLIGATION UNDER YOUR OATH TO FOLLOW --
8 TO EVALUATE AND CONSIDER THAT. AND THE QUESTION THAT I HAVE
9 IS, COULD YOU IN FACT FOLLOW THOSE INSTRUCTIONS AND CONSIDER
10 THAT TYPE OF INFORMATION? WOULD THAT TYPE OF INFORMATION
11 MAKE A SIGNIFICANT CONSIDERATION FOR YOU IN DECIDING WHETHER
12 A LIFE SENTENCE WAS APPROPRIATE?

13 SOLICITOR ARIAIL: SAME OBJECTION. SIGNIFICANT.

14 THE COURT: OVERRULED.

15 A YES, IT'D DEFINITELY HELP MY DECISION MAKING.

16 Q OKAY. SO YOU FEEL LIKE THAT WOULD BE PART OF YOUR
17 CONSIDERATION?

18 A YES, SIR.

19 Q NOW, THE OTHER QUESTION I HAVE ABOUT THAT, MR. COBB,
20 THAT I WANTED TO COME BACK TO, THE PROSECUTION ASKED YOU, HE
21 SAID THAT THERE WOULD BE THINGS THAT WOULD BE BROUGHT TO YOUR
22 ATTENTION AND THINGS THAT WOULD BE ASKED OF YOU IN DECIDING
23 WHETHER A LIFE SENTENCE WAS SUFFICIENT PENALTY, LIFE IN
24 PRISON WITHOUT PAROLE. AND HE SAID THAT IN FACT YOU COULD
25 GIVE -- UNDER OUR LAW THE JUDGE WILL TELL YOU -- AND THIS IS

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 AGAIN THIS INSTRUCTION PART -- THE JUDGE WOULD TELL YOU THAT
2 YOU COULD GIVE A LIFE SENTENCE IN A CASE OF THAT TYPE FOR NO
3 OTHER REASON THAN JUST AN EXERCISE OF MERCY. DO YOU REMEMBER
4 HIM ASKING YOU THAT?

5 A YES, SIR.

6 Q AND YOUR ANSWER WAS, WELL, IT DEPENDS WHETHER YOU COULD
7 DO THAT. WOULD YOU EXPLAIN WHAT YOU MEANT WHEN YOU ANSWERED
8 THAT THAT WAY, ABOUT THE ACT OF MERCY?

9 SOLICITOR ARIAIL: I'M GOING TO OBJECT TO THAT TOO,
10 YOUR HONOR. THAT'S PROFILING AND STAKING OUT.

11 MR. MAULDIN: I WOULD NEED TO BE HEARD ON THAT, YOUR
12 HONOR.

13 THE COURT: OVERRULED.

14 MR. MAULDIN: THANK YOU, YOUR HONOR.

15 Q DO YOU REMEMBER HIM ASKING YOU THAT AND YOU SAID, "WELL,
16 IT DEPENDS" ABOUT THE ACT OF MERCY?

17 A YES, SIR.

18 Q I JUST WANT YOU TO EXPLAIN TO THE COURT AND TO US WHAT
19 YOU MEAN WHEN YOU SAY IT DEPENDS WITH REGARD TO AN ACT OF
20 MERCY.

21 A I FEEL LIKE IF YOU DO KILL SOMEBODY, THEN, YOU KNOW,
22 DON'T EXPECT ANY MERCY. BUT IN CERTAIN CASES IF YOU DO IT
23 AND, YOU KNOW, THINGS ARE A LITTLE BIT DIFFERENT, MAYBE. BUT
24 IF YOU KILL SOMEBODY, I WOULD NOT EXPECT TO SHOW ANY MERCY.

25 Q ALL RIGHT. AND YOU UNDERSTAND NOW THAT AT THE

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 SENTENCING HEARING FOR SENTENCING EITHER LIFE OR DEATH THAT
2 THE COURT IS GOING TO BE INSTRUCTING YOU THAT YOU MUST
3 CONSIDER?

4 A YES.

5 Q AND I THINK YOU HAVE TOLD ME THAT YOU COULD CONSIDER
6 THAT. BUT THAT WOULD BE FOR A PERSON WHO HAD BEEN CONVICTED
7 OF MURDER NOW.

8 A YES.

9 Q FINALLY, MR. COBB, THE PROSECUTOR ASKED YOU IN THE EVENT
10 THERE WAS A DELIBERATION AND THERE WERE A BUNCH -- A NUMBER
11 OF PEOPLE HAD DECIDED ONE WAY AND YOU HAD DECIDED MAYBE YOU
12 ALONE OR ONE OR TWO OF YOU HAD DECIDED THE OTHER PENALTY.
13 AND YOU UNDERSTAND THE JUDGE TOLD YOU ALL TWELVE WOULD HAVE
14 TO AGREE---

15 A UH-HUH (AFFIRMATIVE).

16 Q ---TO IMPOSE THE SENTENCE OF DEATH?

17 A YES.

18 Q LET'S DON'T TALK ABOUT WHICH SIDE, THE LIFE OR DEATH.

19 A OKAY.

20 Q BUT YOU'VE GOT A BUNCH ON ONE SIDE AND YOU AND MAYBE ONE
21 OR JUST BY YOURSELF. WOULD YOU UNDER THOSE CIRCUMSTANCES
22 TEND TO SIDE WITH THE MAJORITY IN ORDER FOR ALL TWELVE TO
23 AGREE?

24 A UH-UH (NEGATIVE). NO, SIR.

25 Q ALL RIGHT. AND THE REVERSE, IF YOU WERE IN THE GROUP OF

JOSHUA C. COBB -- VOIR DIRE BY MR. MAULDIN

1 TEN OR ELEVEN AND ONE OTHER PERSON WAS ON THE OTHER SIDE,
2 WOULD YOU ATTEMPT OR TRY TO REQUIRE THAT JUROR TO SIDE WITH
3 YOU AND THE OTHERS OR WOULD YOU RESPECT THAT JUROR'S VIEW
4 THAT ANOTHER PENALTY IS APPROPRIATE?

5 A I WOULD RESPECT HIS OR HER VIEW.

6 MR. MAULDIN: ALL RIGHT. NOTHING FURTHER, YOUR HONOR.

7 THE COURT: ALL RIGHT. MR. COBB, THANK YOU FOR YOUR
8 PATIENCE. THEY'RE GOING TO TAKE YOU TO A JURY ROOM JUST
9 BRIEFLY AND WE'LL GET YOU BACK OUT HERE IN JUST A MINUTE OR
10 TWO, AND THEN YOU WILL BE FREE TO GO.

11 JUROR NUMBER 57: OKAY.

12 THE COURT: THANK YOU, SIR.

13 (JUROR EXITS COURTROOM AT 12:15 P.M.)

14 THE COURT: THE JUROR HAS BEEN EXCUSED. QUALIFIED OR
15 NOT QUALIFIED? WHAT SAYS THE STATE?

16 SOLICITOR ARIAIL: QUALIFIED.

17 THE COURT: ONE MOMENT, YOUR HONOR.

18 THE COURT: THANK YOU.

19 MR. MAULDIN: (OFF RECORD WITH CO-COUNSEL) YOUR HONOR,
20 WE QUESTION AND CHALLENGE THE JUROR'S QUALIFICATIONS ON THE
21 FOLLOWING BASIS. FIRST OF ALL, I THINK THAT THE RECORD WILL
22 CLEARLY REFLECT THAT THE QUESTIONING FROM THE PROSECUTION
23 AND, WITH ALL RESPECT, YOUR HONOR, THE QUESTIONING FROM THE
24 COURT WAS LEADING. WE ARE ALL FULLY TALENTED AND CAPABLE
25 LITIGATORS -- YOU BEFORE YOU TOOK ON THE ROBE AND YOU'VE BEEN

MATTERS AND MOTIONS

1 A TRIAL JUDGE EVER SINCE -- AND WE KNOW THE DIFFERENCE
2 BETWEEN LEADING AND OPEN-ENDED QUESTIONS. AND I DON'T
3 NECESSARILY OBJECT TO THAT AS A PROCESS, BUT THAT IS THE KIND
4 OF INFORMATION BEING GIVEN TO ALL OF THESE JURORS.

5 MR. COBB IS A -- WHAT WE, AND WITH ALL RESPECT TO HIM
6 PERSONALLY, HAVE CHARACTERIZED AS BORDERLINE INTELLECTUAL
7 FUNCTIONING ESSENTIALLY. AND WE BELIEVE THAT THE ANSWER TO
8 THE QUESTIONS CONCERNING MERCY SHOWED A -- WHAT HAPPENED WAS
9 IS WHEN HE WAS ASKED JUST TO EXPLAIN IT, HE TOLD US EXACTLY
10 HOW HE FELT, THAT IF A PERSON KILLED ANOTHER PERSON HE
11 WOULDN'T GET ANY MERCY FROM ME OR HE SHOULDN'T EXPECT ANY
12 MERCY FROM ME. I DON'T RECALL THE EXACT WORDS. THAT IS
13 REALLY HOW THIS JUROR FEELS, AND IT IS INCONSISTENT AND
14 ESSENTIALLY SUBSTANTIVELY CONTRADICTIONARY WITH THE WHOLE POINT.
15 IF THAT IS IN FACT HOW HE FEELS, HE REALLY IS NOT QUALIFIED,
16 REGARDLESS OF HOW HE RESPONDED TO A LITANY OF LEADING
17 QUESTIONS AND INFORMATION. SO I RAISE A QUESTION REGARDING
18 HIS QUALIFICATIONS THAT WAS SURFACED BY THAT SIMPLE QUESTION.

19 FURTHERMORE, YOUR HONOR, WE ON MONDAY -- AND I
20 APPROACHED THE STATE ABOUT JUST NOT EVEN VOIR DIRING MR.
21 COBB. I WROTE DOWN THAT JUROR NUMBER 57, JOSH COBB, DROPPED
22 OUT -- HE CAME TO THE COURT AND SAID HE HAD DROPPED OUT OF
23 SCHOOL IN THE EIGHTH GRADE AND THAT HE CAN'T READ. THOSE ARE
24 MY NOTES ABOUT HIM. WE DO ANTICIPATE SIGNIFICANT
25 DEMONSTRATIVE EVIDENCE. I WAS JUST NOT -- I COULDN'T ASK HIM

MATTERS AND MOTIONS

1 THAT ON -- I GUESS I COULD HAVE, BUT I REALLY DID NOT WANT TO
2 GET INTO THAT PERSONAL TYPE OF INFORMATION. I DON'T THINK HE
3 IS INTELLECTUALLY CAPABLE OF SERVING AS A FAIR AND IMPARTIAL
4 AND EFFECTIVE JUROR.

5 THE QUESTION OF WHETHER HE UNDERSTOOD THE JURORS NUMBER
6 ONE, TWO AND THREE, I WAS LISTENING, HE SAID HE DID AND HE
7 EXPLAINED IT VERY WELL. I DON'T KNOW WHETHER HE READ IT
8 HIMSELF. I DON'T KNOW WHETHER SOMEBODY ELSE READ IT TO HIM.
9 I DON'T KNOW IF THEY READ IT OUT LOUD. I DON'T KNOW WHAT'S
10 GOING ON IN COURTROOM SEVEN, SO I CAN'T MAKE A JUDGMENT ABOUT
11 THAT. I JUST ONLY KNOW WHAT HE TOLD US.

12 SO WE MOVE THAT IN THE INTEREST OF JUST INHERENT
13 FAIRNESS THAT MR. COBB BE EXCUSED OR RULED UNQUALIFIED TO
14 SERVE ON A CASE OF THIS NATURE AND THIS MAGNITUDE, THIS
15 COMPLEX, AND THAT THEN WE JUSTIFY THAT BASED ON THE
16 STATEMENTS I'VE MADE IN COURT.

17 THE COURT: THANK YOU, SIR. I FIND THE JUROR CLEARLY
18 QUALIFIED. BASED ON WHAT YOU TOLD ME EARLIER ABOUT YOUR
19 RECOLLECTION OF HIS LIMITED INTELLECTUAL FUNCTIONING, THE
20 RECORD WILL SPEAK FOR ITSELF AS TO WHAT PRECISELY HE SAID AT
21 THE TIME OF JURY QUALIFICATION ON MONDAY. BECAUSE OF WHAT
22 YOU SAID EARLIER, I DIDN'T WANT TO GIVE HIM A HEAD'S UP ON
23 WHAT THAT PIECE OF PAPER SAID. I WANTED TO KNOW IF HE KNEW,
24 AND HE KNEW EXACTLY WHAT WAS IN THERE AND HE KNEW THE ORDER
25 IN WHICH THEY APPEARED.

MATTERS AND MOTIONS

1 AND I WILL TELL YOU THAT I HAVE ORDERED THE BAILIFFS WHO
2 OPERATE COURTROOM SEVEN THAT THEY ARE TO HAND OUT THOSE
3 SHEETS. THEY ARE NOT TO SPEAK TO THE JURORS ABOUT ANYTHING
4 TO THIS CASE. NO ONE IS TO READ ANY DOCUMENT TO THEM. IN
5 FACT, THEY ARE NOT ALLOWED TO SIT IN PROXIMITY TO EACH OTHER.
6 THEY ARE NOT ALLOWED TO SPEAK TO EACH OTHER IN COURTROOM
7 SEVEN. AS AWKWARD AS THAT IS, I ORDERED THAT TO AVOID ANYONE
8 SUGGESTING THAT ONE JUROR WOULD SAY SOMETHING TO ANOTHER
9 JUROR PRIOR TO COMING TO THE COURTROOM. SO THEY HAVE BEEN
10 INSTRUCTED AND ORDERED THAT THEY ARE NOT ALLOWED TO SPEAK IN
11 COURTROOM SEVEN. AS UNFAIR AS THAT IS TO THOSE JURORS, I DID
12 IT FOR THIS VERY REASON.

13 WHAT SAYS THE STATE?

14 SOLICITOR ARIAIL: BEFORE THAT, COULD I JUST POINT OUT
15 ONE THING FOR THE RECORD ALSO THAT WON'T APPEAR IN THE RECORD
16 IS THAT HIS RESPONSES WERE VERY PERCEPTIVE EARLY ON. BEFORE
17 THE QUESTIONS WERE EVEN FINISHED, HE WAS REACTING. IT WASN'T
18 THAT HE WAS SITTING AND TAKING A LONG TIME TO ACT. HIS
19 INTELLECTUAL FUNCTION WAS CLEARLY---

20 THE COURT: I'M CONFIDENT OF THAT. I OBSERVED HIS
21 DEMEANOR, HIS AFFECT, RESPONSIVENESS. YOU KNOW, COMPARE THAT
22 WITH THE GENTLEMAN THAT DIDN'T SHOW UP MONDAY, HAD TO BE
23 PICKED UP AND BROUGHT IN. Y'ALL AGREED AFTER ABOUT A MINUTE
24 OR TWO OF TRYING, THAT'S AN EXAMPLE OF SOMEONE WITH NO
25 LIMITED ABILITY TO -- WITH NO INTELLECTUAL ABILITY TO HANDLE

MATTERS AND MOTIONS

1 A CASE OF THIS NATURE.

2 I KNOW AND RESPECT THE DEFENDANT'S OPPOSITION TO THIS.

3 I CONSIDER WHAT HAS BEEN SAID. I FIND HIM QUALIFIED.

4 WHAT SAYS THE STATE?

5 SOLICITOR ARIAIL: PRESENT HIM.

6 THE COURT: TAKE YOUR TIME AND LET ME KNOW.

7 MR. MAULDIN: (OFF RECORD WITH CO-COUNSEL) EXCUSE THE
8 JUROR.

9 THE COURT: YES, SIR.

10 ANY BATSON MOTION WITH REGARD TO MR. COBB?

11 SOLICITOR ARIAIL: NO, SIR.

12 THE COURT: EXCUSE MR. COBB. HE NEED NOT RETURN TO THE
13 COURTROOM. HE IS FREE TO GO. WE THANK HIM FOR BEING HERE.

14 ONCE THAT IS ACCOMPLISHED, BRING THE NEXT PANEL IN
15 PLEASE, ALL OF THEM IN THE JURY BOX.

16 (PANEL NUMBER 7 ENTERS COURTROOM AT 12:27 P.M.)

17 (PANEL 7: JUROR NUMBER 44, JACOB M. CAMPBELL; JUROR
18 NUMBER 330, ROSITA J. SINGLETON; JUROR NUMBER 388, LORETTA J.
19 WILLIAMS; JUROR NUMBER 306, SHIRLEY R. REDMOND; AND JUROR
20 NUMBER 329, RHONDA K. SIMS)

21 THE COURT: LADIES AND GENTLEMEN, GOOD AFTERNOON. I
22 FIRST WANT TO APOLOGIZE FOR THE DELAY. WE TRY OUR BEST TO
23 SCHEDULE THINGS IN A WAY THAT WILL MINIMIZE YOUR
24 INCONVENIENCE, BUT I KNOW YOU'VE BEEN HERE FOR AN HOUR AND A
25 HALF OR EVEN MORE. I REGRET THAT AND HOPE YOU ACCEPT MY

VOIR DIRE -- GROUP 1

1 APOLOGY. I FURTHER HOPE YOU UNDERSTAND THE IMPORTANT NATURE
2 OF THESE PROCEEDINGS AND WHY WE MUST TAKE TIME WITH OUR
3 QUESTIONING OF THE JURORS AND INFORMING YOU OF THE NATURE OF
4 THE CASE THAT IS TO BE TRIED.

5 THE FIRST THING I LIKE TO DO IS PUT A NAME WITH A FACE.
6 AND LET'S SEE. IN THIS PANEL YOU MUST BE MR. CAMPBELL; IS
7 THAT RIGHT?

8 JUROR NUMBER 44: YES, SIR.

9 THE COURT: OKAY. AND AS I GO DOWN THE LIST, IF Y'ALL
10 WOULD JUST TELL ME YOUR NAMES AS I COME TO YOU. YOUR NAME,
11 PLEASE, MA'AM?

12 JUROR NUMBER 330: ROSITA SINGLETON.

13 THE COURT: YES, MA'AM?

14 JUROR NUMBER 306: SHIRLEY REDMOND.

15 THE COURT: YES, MA'AM?

16 JUROR NUMBER 329: RHONDA SIMS.

17 THE COURT: YES, MA'AM?

18 JUROR NUMBER 388: LORETTA WILLIAMS

19 THE COURT: OKAY, MS. WILLIAMS.

20 WE'VE TRIED TO SORT OF HELP YOU OUT A LITTLE BIT. WE'VE
21 ORDERED LUNCH, AND THAT WILL BE HERE. SO WE'RE NOT GOING TO
22 TRY TO KEEP YOU COOPED UP DURING THE LUNCH PERIOD WITHOUT
23 FEEDING YOU. SO WE'LL HAVE LUNCH BROUGHT TO YOU.

24 THE FIRST THING I NEED TO DO IS PUT ALL OF YOU UNDER
25 OATH. ALL YOU NEED TO DO IS JUST RAISE YOUR RIGHT HAND. IF

VOIR DIRE -- GROUP 1

1 YOU WOULD, DO THAT FOR ME.

2 DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY YOU GIVE, YOUR
3 RESPONSES DURING THE QUESTIONING PROCESS WILL BE TRUTHFUL AND
4 COMPLETE? IF YOU AGREE TO BE BOUND BY THIS OATH, PLEASE SAY
5 I WILL AT THIS TIME. (PAUSE) ALL INDICATE IN THE
6 AFFIRMATIVE.

7 WE AGAIN THANK YOU FOR BEING HERE. WE KNOW THIS IS AN
8 UNCOMFORTABLE AND UNFAMILIAR SETTING. PLEASE UNDERSTAND WE
9 ARE JUST TRYING TO GATHER INFORMATION TO FIND QUALIFIED,
10 ELIGIBLE JURORS TO SERVE IN A CASE OF THIS NATURE.

11 I WANT TO REPEAT SOMETHING I SAID THE OTHER DAY. I
12 DON'T HAVE ANY OPINION ABOUT THE FACTS OF THIS CASE. THE LAW
13 DOES NOT PERMIT ME TO HAVE AN OPINION ABOUT THE FACTS OF THIS
14 CASE WHICH I MAY SHARE WITH YOU. SO PLEASE DO NOT INFER OR
15 CONSTRUE FROM ANYTHING I SAY THAT I HAVE ANY OPINION ABOUT
16 THE FACTS OF THIS CASE.

17 YOU WILL RECALL ON MONDAY BEFORE YOU LEFT I PUT YOU
18 UNDER AN OATH NOT TO DISCUSS THIS CASE WITH ANYONE OR BE
19 EXPOSED TO ANY INFORMATION ABOUT THE CASE FROM THE MEDIA OR
20 OTHERWISE. SOMETIMES PEOPLE INADVERTENTLY WILL BE EXPOSED TO
21 COVERAGE ABOUT A CASE. AND IF YOU HAVE, THAT'S ALL RIGHT.
22 WE'LL QUESTION YOU ABOUT IT.

23 BUT I WANT TO KNOW AT THIS POINT IF ANY OF YOU HAS
24 DISCUSSED THIS CASE WITH ANYONE OR BEEN EXPOSED TO ANY
25 INFORMATION ABOUT THIS CASE. IF YOU HAVE, WOULD YOU PLEASE

VOIR DIRE -- GROUP 1

1 RAISE YOUR RIGHT HAND? (PAUSE) THE RECORD WILL REFLECT NO
2 RESPONSE.

3 I WANT TO REPEAT THE TWO BASIC LEGAL PRINCIPLES I
4 MENTIONED ON MONDAY. ONE IS THE PRESUMPTION OF INNOCENCE.
5 IN A CRIMINAL CASE, ANY TIME ANYONE IS ACCUSED OF A CRIME,
6 THAT PERSON IS PRESUMED INNOCENT. THERE IS NO BURDEN TO
7 PROVE OR DISPROVE ANYTHING ON THE PART OF A DEFENDANT IN A
8 CRIMINAL CASE. I FURTHER INFORM YOU ONCE AGAIN THAT THE
9 BURDEN OF PROOF IS ON THE STATE AND ONLY THE STATE TO PROVE
10 GUILT BEYOND A REASONABLE DOUBT.

11 NOW, A CASE OF THIS NATURE IS GENERALLY REFERRED TO AS A
12 CAPITAL CASE. THAT'S A CASE IN WHICH THE STATE SEEKS THE
13 DEATH PENALTY. AND I'M GOING TO EXPLAIN THE PROCESS IN
14 GENERAL AND WE'RE GOING TO DISCUSS IT IN MORE DETAIL WHEN I
15 QUESTION YOU AND THE ATTORNEYS TALK WITH YOU INDIVIDUALLY.

16 WHEN A JURY IS SELECTED, THE JURY HEARS WHAT WE
17 SOMETIMES CALL THE FIRST PHASE OF THE TRIAL. IN THE FIRST
18 PHASE OF THE TRIAL OF AN INDIVIDUAL WHO IS ACCUSED OF MURDER,
19 THE JURY DETERMINES WHETHER A DEFENDANT IS GUILTY OR NOT
20 GUILTY OF THE OFFENSE. YOU SEE, WE'RE JUST DETERMINING
21 WHETHER AN INDIVIDUAL IS GUILTY OR NOT GUILTY. HAS THE STATE
22 PROVEN GUILT BEYOND A REASONABLE DOUBT?

23 IF A JURY FINDS A DEFENDANT NOT GUILTY OF MURDER, THAT'S
24 THE END OF THE CASE AS FAR AS JURY SERVICE IS CONCERNED. THE
25 CASE IS OVER. THERE IS NO SECOND PHASE OR SENTENCING PHASE.

VOIR DIRE -- GROUP 1

1 THERE MAY NOT BE A SENTENCING PHASE IN THIS CASE. BUT
2 BECAUSE THERE POSSIBLY COULD, IT IS NECESSARY THAT WE DISCUSS
3 THAT AND EXPLORE WHAT YOUR VIEWS MAY BE ON ISSUES THAT COULD
4 COME UP IN A POTENTIAL SENTENCING PHASE, SUCH AS YOUR VIEWS
5 ON THE DEATH PENALTY.

6 NOW, I WANT TO TELL YOU SOMETHING ELSE ABOUT THE OPTION
7 OF LIFE IMPRISONMENT, BECAUSE IF A CASE GOES TO A SENTENCING
8 PHASE, THAT MEANS A JURY HAS ALREADY FOUND A DEFENDANT GUILTY
9 OF MURDER. MURDER WOULD HAVE BEEN ESTABLISHED. AND AS YOU
10 MOVE TO THE SENTENCING PHASE, THE LAW SAYS THAT NEW EVIDENCE
11 MUST BE RECEIVED TO DETERMINE WHAT IS THE PROPER PUNISHMENT
12 -- LIFE IMPRISONMENT OR DEATH.

13 AND IN THAT SENTENCING PHASE WE HEAR NEW EVIDENCE. IT'S
14 CALLED EVIDENCE OF A CIRCUMSTANCE OF AGGRAVATION. MURDER
15 ALONE NEVER ALLOWS THE STATE TO ASK FOR THE DEATH PENALTY.
16 THE STATE CAN ASK FOR THE DEATH PENALTY ONLY WHEN A MURDER,
17 ACCORDING TO OUR LAW, IS ACCOMPANIED BY WHAT IS CALLED AN
18 AGGRAVATING CIRCUMSTANCE. I'LL GIVE YOU JUST A FEW EXAMPLES
19 OF THAT. MURDER IN THE COMMISSION OF ARMED ROBBERY,
20 KIDNAPPING, BURGLARY, THOSE WOULD BE AN AGGRAVATING
21 CIRCUMSTANCE WHICH WOULD ALLOW THE STATE TO ASK FOR THE DEATH
22 PENALTY. A JURY IS NEVER REQUIRED TO GIVE THE DEATH PENALTY.
23 WE HAVE A SENTENCING HEARING BECAUSE THERE ARE TWO OPTIONS.

24 BUT IN THE SENTENCING HEARING WE ALSO HEAR EVIDENCE WHAT
25 THE LAW CALLS MITIGATION EVIDENCE, AND OUR LAW REQUIRES THAT

VOIR DIRE -- GROUP 1

1 A JURY MUST CONSIDER SERIOUSLY THAT EVIDENCE AS WELL BEFORE
2 MAKING A DECISION.

3 NOW, WHAT ARE EXAMPLES OF MITIGATION EVIDENCE?
4 MITIGATION EVIDENCE WOULD BE EVIDENCE THAT DEALS WITH THE
5 DEFENDANT, FOR EXAMPLE, FAMILY BACKGROUND OF THE DEFENDANT,
6 FAMILY HISTORY, MENTAL STATUS OF THE DEFENDANT, THINGS OF
7 THAT NATURE. SO THAT'S THE TYPE OF INFORMATION THAT IS
8 RECEIVED BY THE JURY WHEN A JURY MOVES TO A SENTENCING
9 HEARING.

10 IT IS GENERALLY THOUGHT OF WHEN YOU HAVE A CIRCUMSTANCE
11 OF AGGRAVATION THAT THE AGGRAVATING CIRCUMSTANCE INCREASES
12 THE ENORMITY OF THE MURDER. IT ADDS TO THE INJURY OF THE
13 CRIME OF MURDER. NOW, ON THE FLIP SIDE, WHEN WE TALK ABOUT
14 THE MITIGATION EVIDENCE THAT IS RECEIVED AND A JURY MUST
15 CONSIDER, THESE ARE MATTERS THAT ARE THOUGHT TO REDUCE THE
16 SEVERITY OF THE OFFENSE OF MURDER AND MAY BE CONSIDERED AS
17 EXTENUATING OR REDUCING AN INDIVIDUAL'S DEGREE OF
18 RESPONSIBILITY OR CULPABILITY.

19 SO THAT'S SORT OF AN OVERVIEW OF THE PROCESS, AND WE'LL
20 SPEAK ABOUT IT IN A LITTLE MORE DETAIL WHEN I QUESTION YOU
21 AND THE ATTORNEYS SPEAK WITH YOU INDIVIDUALLY.

22 NOW, AT THIS POINT, HAVING DESCRIBED THESE TWO IMPORTANT
23 LEGAL PRINCIPLES, THE TWO-STEP PROCESS OR TWO-PHASE PROCESS
24 POTENTIALLY, GUILTY OR NOT GUILTY, IS THE INDIVIDUAL GUILTY
25 OF THE CRIME OF MURDER IN THE FIRST PHASE, AND THAT'S ALL

VOIR DIRE -- GROUP 1

1 THAT'S CONSIDERED, AND THEN AS WE GO TO THE SENTENCING PHASE,
2 GUILT'S BEEN ESTABLISHED. THE ONLY ISSUE AT THAT POINT IS
3 LIFE IMPRISONMENT OR THE DEATH PENALTY, AND WE HEAR EVIDENCE
4 REGARDING THAT.

5 NOW, I'M GOING TO MENTION SOMETHING I JUST MAY HAVE SAID
6 TWO MINUTES AGO, BUT WE'VE BEEN DOING THIS SO MUCH I FORGET
7 WHETHER I'VE TOLD YOU THIS. AND IF I HAVE, JUST BEAR WITH ME
8 AND BE PATIENT WITH ME. THE TERM LIFE IMPRISONMENT,
9 SOMETIMES WE THINK, WELL, LIFE IMPRISONMENT REALLY DOESN'T
10 MEAN THAT. SO AND SO IS GOING TO BE PAROLED IN A FEW YEARS.
11 BUT I WANT TO TELL YOU IN SOUTH CAROLINA WHEN AN INDIVIDUAL
12 IS CONVICTED OF MURDER AND THE MURDER IS ACCOMPANIED BY ONE
13 OF THESE STATUTORY AGGRAVATING CIRCUMSTANCES, IN THAT EVENT
14 LIFE MEANS LIFE. LIFE WITHOUT THE POSSIBILITY OF PAROLE. IN
15 THAT CASE THAT PARTICULAR INDIVIDUAL WOULD DIE IN JAIL. I
16 WANT YOU TO BE AWARE OF THAT WHEN YOU THINK IN TERMS OF WHAT
17 A LIFE SENTENCE MEANS.

18 NOW, I'VE EXPLAINED THE PROCESS TO YOU, FUNCTION IN THE
19 FIRST PHASE, AND IF THERE IS A SECOND PHASE GENERALLY AN
20 OVERVIEW OF WHAT HAPPENS AND WHAT THE ROLE IS OF A JURY TO
21 CONSIDER THE NEW EVIDENCE. AND I WANT TO KNOW IF YOU
22 UNDERSTAND WHAT I HAVE DESCRIBED TO YOU. IF YOU DO, WOULD
23 YOU PLEASE INDICATE THAT? (PAUSE) OKAY. ALL INDICATE IN
24 THE AFFIRMATIVE.

25 IF YOU HAVE ANY QUESTION ABOUT THAT, I WANT YOU TO ASK

VOIR DIRE -- GROUP 1

1 ME WHEN YOU ARE IN HERE INDIVIDUALLY. WE'RE GOING TO TALK
2 ABOUT IT MORE ANYWAY, BUT IF THERE IS SOME PARTICULAR ASPECT
3 THAT YOU WANT TO EXPLORE IN MORE DETAIL, IF YOU'RE CONFUSED
4 ABOUT ANYTHING, PLEASE LET ME KNOW. WE'LL BE GLAD TO ASSIST
5 YOU IN THAT REGARD.

6 NOW, YOU WERE INTRODUCED THE OTHER DAY TO THE ATTORNEYS.
7 WE HAVE SOLICITOR ARIAIL, PROSECUTOR FOR THE STATE, AND
8 DEPUTY SOLICITOR STROM, ASSISTANT SOLICITOR HERVEY. OVER
9 HERE IS MR. JOHN MAULDIN, PUBLIC DEFENDER, MR. RICHEY AND MR.
10 BANNISTER, AND WITH THE SWEATER AND THE WHITE SHIRT IS MR.
11 JOHN RICHARD WOOD, THE ACCUSED IN THE CASE.

12 IS THERE ANY MEMBER OF THIS PARTICULAR PANEL WHO IS
13 RELATED BY BLOOD OR MARRIAGE OR ACQUAINTED IN ANY WAY WITH
14 THE ATTORNEYS TO WHOM YOU'VE BEEN INTRODUCED? IF SO, RAISE
15 YOUR RIGHT HAND. (PAUSE) THE RECORD WILL REFLECT NO
16 RESPONSE.

17 YOU MAY NOT BE RELATED TO OR KNOW THESE FINE ATTORNEYS,
18 BUT IF YOU KNOW OR ARE RELATED OR ACQUAINTED IN ANY WAY WITH
19 ANYONE ASSOCIATED WITH THEIR RESPECTIVE OFFICES, PLEASE RAISE
20 YOUR RIGHT HAND. THE SOLICITOR'S OFFICE, PUBLIC DEFENDER'S
21 OFFICE, MR. RICHEY'S OFFICE, MR. BANNISTER'S OFFICE. IF SO,
22 RAISE YOUR RIGHT HAND. (PAUSE) AGAIN, THERE IS NO RESPONSE.

23 ANY MEMBER OF THE PANEL RELATED BY BLOOD OR MARRIAGE OR
24 ACQUAINTED IN ANY WAY WITH THE ACCUSED, MR. JOHN RICHARD
25 WOOD? IF SO, RAISE YOUR RIGHT HAND. (PAUSE) THERE IS NO

VOIR DIRE -- GROUP 1

1 RESPONSE.

2 THE INDICTMENT, WHICH CONTAINS THE CHARGE, LISTS THE
3 VICTIM AS ONE ERIC NICHOLSON. ANY MEMBERS OF THIS PANEL
4 RELATED BY BLOOD OR MARRIAGE OR ACQUAINTED IN ANY WAY WITH
5 ERIC NICHOLSON, PLEASE RAISE YOUR RIGHT HAND. (PAUSE) NO
6 RESPONSE.

7 NOW, I KNOW YOU HAVE BEEN IN THE OTHER ROOM. YOU'VE
8 BEEN REVIEWING THE LONG LIST OF POTENTIAL WITNESSES. AND WE
9 HAVE AN EXTRA COPY THERE FOR EACH OF YOU IF YOU NEED TO
10 REVIEW IT AGAIN, BECAUSE THERE ARE SO MANY POTENTIAL
11 WITNESSES. BUT IT IS THE SAME QUESTION, ARE YOU RELATED BY
12 BLOOD OR MARRIAGE OR ACQUAINTED IN ANY WAY WITH ANY OF THOSE
13 POTENTIAL WITNESSES? IF YOU ARE, WOULD YOU PLEASE RAISE YOUR
14 RIGHT HAND? (PAUSE) JUST TAKE YOUR TIME. LOOK AT THAT
15 DOCUMENT AS LONG AS YOU NEED TO. (PAUSE)

16 ALL RIGHT. I'VE GOT -- AND IF YOU SEE SOMEONE YOU
17 RECOGNIZE YOU'RE RELATED TO, RAISE YOUR RIGHT HAND. I'VE GOT
18 ONE LADY RIGHT HERE. ANYONE ELSE? (PAUSE) OKAY.

19 WOULD YOU GIVE ME YOUR NAME AGAIN, PLEASE, MA'AM.

20 JUROR NUMBER 306: SHIRLEY REDMOND.

21 THE COURT: OKAY, MS. REDMOND. WHICH OF THESE
22 WITNESSES DO YOU KNOW OR ARE YOU RELATED TO?

23 JUROR NUMBER 306: I REALLY DON'T KNOW NUMBER 66. HE'S
24 A FRIEND OF MY SON, DERRICK PENDERGRASS.

25 THE COURT: DERRICK PENDERGRASS. NOW, TELL ME A LITTLE

VOIR DIRE -- GROUP 1

1 BIT ABOUT HIM, LIKE HOW OLD IS HE, WHERE DOES HE WORK, THINGS
2 LIKE THAT, AND WE'LL FIND OUT IF HE'S THE SAME PERSON.

3 JUROR NUMBER 306: LIKE I SAID, I DON'T KNOW THAT MUCH
4 ABOUT HIM. I KNOW MY SON AND HE ARE FRIENDS, AND THAT'S
5 BASICALLY ALL.

6 THE COURT: OKAY. SO YOUR SON HAS A FRIEND NAMED
7 DERRICK PENDERGRASS?

8 JUROR NUMBER 306: RIGHT.

9 THE COURT: DO YOU RECOGNIZE HIM WHEN YOU SEE HIM OR
10 JUST THE NAME?

11 JUROR NUMBER 306: (NO RESPONSE)

12 THE COURT: IF YOU SAW THIS MR. PENDERGRASS WHO IS A
13 FRIEND OF YOUR SON, WOULD YOU RECOGNIZE HIM?

14 JUROR NUMBER 306: NO, I WOULDN'T.

15 THE COURT: OKAY. WELL, LET'S ASSUME THAT THAT MR.
16 PENDERGRASS IS THE SAME ONE ON THE WITNESS SHEET, AND SAY HE
17 CAME IN HERE AND TESTIFIED. IF YOU SAW THIS WITNESS
18 TESTIFYING, WOULD IT AFFECT YOUR ABILITY TO BE FAIR OR WOULD
19 YOU STILL BE FAIR?

20 JUROR NUMBER 306: I WOULD STILL BE FAIR.

21 THE COURT: VERY GOOD. THANK YOU, MS. REDMOND.
22 YES, MA'AM? AND YOUR NAME, ARE YOU MS. SINGLETON?

23 JUROR NUMBER 330: SINGLETON.

24 THE COURT: MS. SINGLETON.

25 JUROR NUMBER 330: IT ALSO APPLIES TO ME WITH DERRICK

VOIR DIRE -- GROUP 1

1 PENDERGRASS. I'M NOT SURE IF HE'S THE SAME ONE, BUT I THINK
2 HIS FAMILY ATTENDS MY CHURCH.

3 THE COURT: OKAY. TELL ME A LITTLE BIT ABOUT THIS MR.
4 PENDERGRASS THAT YOU KNOW, HOW OLD, WHAT DOES HE DO?

5 JUROR NUMBER 330: I DON'T KNOW WHAT HE DOES. I THINK
6 HE'S IN HIS MAYBE MID TO LATE TWENTIES. BUT I'M NOT SURE OF
7 WHAT HE DOES.

8 THE COURT: BUT THE NAME IS FAMILIAR BECAUSE YOU
9 RECOGNIZE IT AT CHURCH?

10 JUROR NUMBER 330: YES.

11 THE COURT: OKAY. IF YOU SAW THIS INDIVIDUAL, WOULD
12 YOU KNOW WHO IT IS?

13 JUROR NUMBER 330: YES, I WOULD.

14 THE COURT: OKAY. AND LET'S SAY IT IS THE SAME
15 INDIVIDUAL, AND, MS. SINGLETON, YOU'RE IN THE JURY AND THIS
16 PERSON THAT GOES TO THE SAME CHURCH GETS ON THE WITNESS
17 STAND, WOULD THAT PREVENT YOU FROM BEING FAIR OR WOULD YOU
18 STILL BE FAIR?

19 JUROR NUMBER 330: I WOULD STILL BE FAIR.

20 THE COURT: VERY GOOD. THANK YOU, MA'AM.

21 ANYONE ELSE? (PAUSE) THE RECORD WILL REFLECT NO
22 ADDITIONAL RESPONSE.

23 ALL RIGHT. AT THIS POINT, WE'RE GOING TO BEGIN WITH THE
24 INDIVIDUAL QUESTIONING. AND AGAIN, THANK YOU FOR YOUR
25 PATIENCE. WHEN THE LUNCH ARRIVES, PLEASE HAVE AT IT, ENJOY

VOIR DIRE -- GROUP 1

1 IT. I'M GOING TO ASK YOU, AND I KNOW IT'S UNCOMFORTABLE
2 BEING IN THE OTHER ROOM SCATTERED OUT THE WAY YOU ARE AND THE
3 RESTRICTIONS THAT ARE PLACED UPON YOU, BUT PLEASE BEAR WITH
4 US AND UNDERSTAND THAT THERE ARE REASONS WHY WE HAVE THE
5 RULES THAT WE DO AND WE FOLLOW THIS PARTICULAR PROCEDURE.

6 WE'RE GOING TO START WITH MR. CAMPBELL. HE IS FIRST ON
7 THE LIST. SO, MR. CAMPBELL, AS THE OTHERS ARE EXITING, I
8 WOULD LIKE FOR YOU TO COME HAVE A SEAT IN THIS WITNESS CHAIR
9 RIGHT HERE. (MR. CAMPBELL COMPLIES)

10 THE REST OF YOU, IF YOU WOULD, RETIRE TO THE OTHER
11 COURTROOM AND I'LL GET BACK IN HERE AS QUICKLY AS WE CAN, BUT
12 THANK YOU FOR YOUR PATIENCE.

13 JUST LEAVE THOSE FOLDERS THERE, YES, MA'AM.

14 (BALANCE OF PANEL EXITS COURTROOM AT 12:42 P.M.)

15 JACOB M. CAMPBELL (WHITE MALE),
16 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

17 VOIR DIRE BY THE COURT:

18 Q MR. CAMPBELL, I'M GOING TO TALK IN MORE DETAIL ABOUT THE
19 NATURE OF THIS TYPE CASE. THE ATTORNEYS WILL HAVE QUESTIONS
20 AS WELL. AND YOU UNDERSTAND WE'RE IN THE PROCESS OF TRYING
21 TO IDENTIFY JURORS WHO WOULD BE FAIR TO BOTH THE STATE AND
22 THE DEFENDANT THROUGHOUT THE PROCESS, HOWEVER LONG THE
23 PROCESS MAY TAKE. DO YOU UNDERSTAND THAT?

24 A YES, SIR.

25 Q THIS CASE ARISES, ACCORDING TO THE INDICTMENT, FROM AN

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 EVENT BACK ON DECEMBER THE 6TH OF 2000. MR. WOOD IS CHARGED
2 WITH THE OFFENSE OF MURDER. THE VICTIM IDENTIFIED IN THE
3 INDICTMENT IS ONE ERIC NICHOLSON. AT THAT TIME MR. NICHOLSON
4 WAS A STATE TROOPER.

5 DO YOU -- I MAY HAVE ASKED EARLIER, DID YOU EVER KNOW
6 MR. NICHOLSON? ARE YOU RELATED TO HIM?

7 A NO, SIR.

8 Q NOW, AT THAT TIME, HE WAS A STATE TROOPER, AND THIS CASE
9 RECEIVED SOME ATTENTION IN THE MEDIA. AND I WANT TO KNOW IF
10 YOU HAVE ANY INFORMATION ABOUT THIS CASE FROM ANY SOURCE FROM
11 THE TIME IT HAPPENED UNTIL TODAY. AND IF YOU DO RECALL
12 ANYTHING, I WANT YOU TO BE VERY SPECIFIC IN WHAT YOU CAN
13 RECALL.

14 A YES, SIR. THE ONLY THING THAT I HAVE HEARD OF WAS THAT
15 THERE WAS A STATE TROOPER GOT SHOT. AND THIS IS REALLY JUST
16 HEARSAY. I NEVER REALLY HEARD NOTHING OFF THE NEWS OR MEDIA
17 LIKE THAT, BUT THEY WERE SEEKING THE DEATH PENALTY. AND
18 THAT'S ABOUT ALL I'VE HEARD OF.

19 Q OKAY. WHERE DID THIS OFFENSE TAKE PLACE, DO YOU
20 REMEMBER?

21 A I WAS AT THE HOUSE WHEN MY STEP-DAD WAS TALKING ABOUT
22 IT.

23 Q OKAY. I'LL ASK YOU THAT. WHEN WERE YOU AND YOUR STEP-
24 DAD TALKING ABOUT IT?

25 A I BELIEVE IT WAS ABOUT A WEEK AND A HALF AGO. WE WAS

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 JUST IN THE LIVING ROOM, AND I HAD GOT THAT JURY NOTE. AND
2 HE SAID, "YEAH, THAT'S PROBABLY WHAT YOU'LL BE UP THERE FOR."
3 I SAID, "AIN'T NO TELLING," YOU KNOW. HE WAS LIKE, "YEAH, I
4 HEARD THEY WAS LOOKING FOR THE -- THEY WERE LOOKING FOR THE
5 DEATH PENALTY ON THIS CASE." I SAID, "WELL."

6 Q OKAY. NOW LET'S GO BACK TO WHEN YOU FIRST HEARD
7 SOMETHING ABOUT IT. YOU SAID YOU HEARD A TROOPER WAS SHOT.
8 DO YOU REMEMBER WHERE THE TROOPER WAS SHOT?

9 A NO, SIR. I JUST KNOW THAT HE WAS SHOT AND MURDERED.

10 Q ALL RIGHT. DO YOU REMEMBER ANYTHING ABOUT A REFERENCE
11 TO ANDERSON COUNTY? DOES THAT TRIGGER ANY MEMORY?

12 A NO, SIR.

13 Q THAT DOESN'T HELP YOU?

14 A I NEVER EVEN KNEW WHERE IT WAS AT.

15 Q OKAY. WELL, I'M NOT SAYING THE OFFENSE OCCURRED IN
16 ANDERSON COUNTY. I'M JUST SAYING THE TERM ANDERSON COUNTY, I
17 THOUGHT, MIGHT JOG SOME MEMORY ON YOUR PART.

18 A NO, SIR.

19 Q BUT IT DOESN'T?

20 A NO, SIR.

21 Q OKAY. LET ME TELL YOU THE REASON I ASK THAT. A JUROR
22 TAKES AN OATH TO FIND THE TRUTH, THE FACTS, FROM THE EVIDENCE
23 PRESENTED IN COURT. A JUROR CANNOT BE SWAYED OR INFLUENCED
24 BY INFORMATION OUTSIDE COURT. DO YOU UNDERSTAND THE
25 SIGNIFICANCE OF THAT?

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 A YES, SIR.

2 Q IF YOU WERE A JUROR, WOULD YOU HAVE ANY DIFFICULTY
3 HONORING YOUR OATH TO FIND THE TRUTH ONLY FROM THE EVIDENCE
4 PRESENTED DURING THE COURSE OF THE TRIAL?

5 A NO, SIR.

6 Q YOU COULD DO THAT?

7 A I COULD DO THAT.

8 Q COULD YOU FURTHER, SIR, FOLLOW THE LAW AS I INSTRUCT IT?

9 A YES, SIR.

10 Q NOW, THESE TWO LEGAL PRINCIPLES WE TALKED ABOUT EARLIER,
11 PRESUMPTION OF INNOCENCE OF ANYONE ACCUSED OF A CRIME AND THE
12 BURDEN OF PROOF BEING ONLY ON THE STATE TO PROVE GUILT BEYOND
13 A REASONABLE DOUBT, DO YOU UNDERSTAND THOSE LEGAL PRINCIPLES?

14 A NOT VERY WELL.

15 Q OKAY. WELL, LET ME GO BACK AND EXPLAIN IT IN A LITTLE
16 MORE DETAIL. AND IF YOU DON'T UNDERSTAND, DON'T BE SHY.
17 JUST ASK ME AND I'LL TRY IT AGAIN.

18 A YES, SIR.

19 Q IF I CAN'T DO IT, I'M SURE ONE OF THESE FINE LAWYERS CAN
20 DO IT.

21 A YES, SIR.

22 Q BUT IT'S IMPORTANT THAT YOU UNDERSTAND THESE CONCEPTS.
23 AND ONCE YOU UNDERSTAND, I WANT TO KNOW IF YOU AGREE OR
24 DISAGREE WITH THEM, OKAY?

25 LET'S TALK ABOUT THE PRESUMPTION OF INNOCENCE. UNDER

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 OUR LAW IT IS A SUBSTANTIAL RIGHT OF ANYONE ACCUSED OF A
2 CRIME TO BE PRESUMED INNOCENT. THERE IS NEVER ANY
3 PRESUMPTION OF GUILT. THAT'S A HALLMARK OF OUR SYSTEM OF
4 JUSTICE. WE CALL IT SOMEONE BEING CLOAKED, SURROUNDED IN THE
5 PRESUMPTION OF INNOCENCE. CHARGING SOMEBODY WITH A CRIME IS
6 NOT EVIDENCE.

7 A YEAH.

8 Q THAT'S NOT EVIDENCE OF GUILT AT ALL. THAT'S MERELY A
9 CHARGE. AND SO WE HAVE COURTS TO HEAR THESE TYPES OF
10 DISPUTES. AND WHEN A DEFENDANT IN A CRIMINAL CASE IS CHARGED
11 AND COMES INTO COURT AND THROUGHOUT THE ENTIRE PROCEEDING IS
12 PRESUMED TO BE INNOCENT, YOU SEE, THERE IS NO BURDEN ON A
13 DEFENDANT TO PROVE OR DISPROVE ANYTHING.

14 A BECAUSE HE'S INNOCENT TO START WITH.

15 Q EXACTLY.

16 A YES, SIR.

17 Q AND A DEFENDANT, MOREOVER, UNDER OUR CONSTITUTION, HAS
18 THE RIGHT TO REMAIN SILENT. SEE, A DEFENDANT DOESN'T HAVE TO
19 PUT UP ANY EVIDENCE, DOESN'T HAVE TO DO ANYTHING. THAT'S
20 PART OF THAT PRESUMPTION OF INNOCENCE.

21 A OKAY.

22 Q DO YOU THINK YOU UNDERSTAND IT PRETTY GOOD NOW---

23 A YES, SIR.

24 Q ---OR DO YOU WANT TO GO A LITTLE BIT DEEPER INTO IT?

25 A IT SOUNDS PRETTY GOOD.

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 Q OKAY.

2 A IT'S LIKE HE'S ALWAYS INNOCENT UNTIL YOU GO THROUGH THE
3 COMPLETE PROCESS OF THE JURY.

4 Q RIGHT.

5 A I MEAN, OF THE CASE.

6 Q YEAH. IN FACT, WHAT I TELL JURIES AT THE END OF THE
7 CASE, THEY'VE HEARD ALL THE EVIDENCE, I TELL THE JURY AT THIS
8 TIME THE DEFENDANT IS PRESUMED INNOCENT. THIS DEFENDANT IS
9 AN INNOCENT MAN. AND I TELL THE JURY WHEN THEY GO BACK THERE
10 THAT HE REMAINS INNOCENT WITH THAT PRESUMPTION EVEN AFTER YOU
11 GO TO THE JURY ROOM TO DO YOUR DELIBERATIONS. THAT
12 PRESUMPTION OF INNOCENCE REMAINS IN EFFECT TO THE BENEFIT OF
13 THAT PARTICULAR DEFENDANT UNLESS AND UNTIL THE JURY IN THE
14 COURSE OF ITS DELIBERATIONS DETERMINES THAT GUILT HAS BEEN
15 ESTABLISHED BY THE EVIDENCE BEYOND A REASONABLE DOUBT.

16 A YES, SIR.

17 Q DOES THAT HELP YOU UNDERSTAND IT?

18 A YES, SIR.

19 Q OKAY. NOW, RELATED TO THAT CONCEPT OF THE PRESUMPTION
20 OF INNOCENCE IS THE BURDEN OF PROOF. NOW, WE'VE TALKED ABOUT
21 THE NO BURDEN ON THE DEFENDANT.

22 A YEAH.

23 Q THE BURDEN OF PROOF IS ONLY ON THE STATE TO PROVE GUILT
24 BEYOND A REASONABLE DOUBT. THE STATE BRINGS A CHARGE.
25 THEY'VE GOT TO PROVE IT.

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 A YES, SIR.

2 Q SO WHEN THEY COME INTO COURT, THE STATE IS ON ONE SIDE
3 OF THE ROOM, THE DEFENDANT IS ON THE OTHER. THE DEFENDANT
4 HAS NO BURDEN AND IS PRESUMED INNOCENT.

5 THE STATE COMES IN AND HAS TO PROVE EVERY ELEMENT OF THE
6 CRIMINAL OFFENSE BEYOND A REASONABLE DOUBT AND THAT THAT
7 DEFENDANT DID IT. DO YOU UNDERSTAND THAT?

8 A YES, SIR.

9 Q AND THEY MUST PROVE IT BY A LEGAL STANDARD WE CALL
10 BEYOND A REASONABLE DOUBT. THAT'S SORT OF LIKE A MEASURING
11 STICK, HOW YOU MEASURE OR WEIGH THE EVIDENCE.

12 A YES, SIR.

13 Q AND I TELL YOU THAT THE PROOF BEYOND A REASONABLE DOUBT
14 IN A CRIMINAL CASE IS THE MOST STRINGENT BURDEN KNOWN TO THE
15 LAW.

16 A YES, SIR.

17 Q IF YOU SERVE IN A CIVIL CASE -- A CAR WRECK CASE, A
18 PROPERTY DISPUTE -- GENERALLY, THE PERSON WHO BRINGS THE CASE
19 MUST PROVE THAT HE OR SHE IS ENTITLED TO WIN BY THE
20 PREPONDERANCE OF THE EVIDENCE. AND YOU CAN UNDERSTAND THAT
21 BY VISUALIZING A SET OF SCALES.

22 A YES, SIR.

23 Q AND IF THE SCALES TIP SLIGHTLY IN FAVOR OR ONE SIDE,
24 THAT'S A PREPONDERANCE. FOR EXAMPLE, FIFTY-ONE PERCENT
25 VERSUS FORTY-NINE PERCENT, PRETTY CLOSE CALL.

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 A YES, SIR.

2 Q BUT YOU WIN. NO WAY IN A CRIMINAL CASE.

3 A ONE HUNDRED PERCENT IT HAS TO BE.

4 Q WELL, IT DOESN'T HAVE TO BE A HUNDRED PERCENT. IT HAS
5 TO BE PROOF BEYOND A REASONABLE DOUBT. AND THAT IS DEFINED
6 AS FOLLOWS: PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT
7 LEAVES YOU FIRMLY CONVINCED OF A DEFENDANT'S GUILT. THERE
8 ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE
9 CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE
10 PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT.

11 IF YOU WERE ON A JURY AND YOU HAD CAREFULLY CONSIDERED
12 THE EVIDENCE AND YOU WERE FIRMLY CONVINCED OF A DEFENDANT'S
13 GUILT, UNDER THAT STANDARD, YOUR OATH WOULD REQUIRE YOU TO
14 FIND A DEFENDANT GUILTY. ON THE OTHER HAND, IF YOU THOUGHT
15 THERE WAS A POSSIBILITY THE DEFENDANT WAS NOT GUILTY, THE
16 STATE HAD NOT MET THE BURDEN AND YOU WERE NOT FIRMLY
17 CONVINCED, YOU WOULD HAVE A DUTY TO FIND THAT DEFENDANT NOT
18 GUILTY.

19 THAT'S SORT OF A DESCRIPTION OF HOW YOU APPLY THAT
20 STRINGENT BURDEN KNOWN AS PROOF BEYOND A REASONABLE DOUBT.
21 DOES THAT HELP YOU OUT?

22 A YES, SIR, VERY MUCH.

23 Q NOW, WE'VE TALKED IN SOME DETAIL ABOUT THESE TWO LEGAL
24 PRINCIPLES. DO YOU AGREE WITH THOSE PRINCIPLES OR DO YOU
25 PERSONALLY DISAGREE WITH THEM?

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 A OH, I AGREE WITH THEM.

2 Q VERY GOOD, SIR.

3 NOW, MR. CAMPBELL, WE'RE GOING TO TALK ABOUT A
4 SENTENCING PHASE---

5 A YES, SIR.

6 Q ---BUT AS I SAID EARLIER, WE MAY NOT GET TO A SENTENCING
7 PHASE. BUT BECAUSE WE POSSIBLY COULD, MYSELF AND THE
8 ATTORNEYS WILL NEED TO ASK YOU SOME QUESTIONS, SPEAK WITH YOU
9 ABOUT YOUR VIEW PARTICULARLY ON THE DEATH PENALTY. DO YOU
10 UNDERSTAND?

11 A YES, SIR.

12 Q ALL RIGHT. SO WE'RE GOING TO NOT TALK ABOUT THIS CASE
13 BUT JUST THE PROCESS OF A CAPITAL CASE IN GENERAL. WHEN A
14 JURY CONCLUDES THE FIRST PHASE -- AND LET'S JUST SAY THAT THE
15 DEFENDANT IS FOUND GUILTY OF MURDER. DON'T OVERLOOK THAT,
16 BECAUSE AT THAT POINT THE DEFENDANT HAS BEEN FOUND GUILTY OF
17 MURDER. YOU DON'T GO TO THE SENTENCING PHASE AND WORRY ABOUT
18 SELF-DEFENSE, AN ALIBI, A MISTAKE AND THESE OTHER THINGS.
19 THAT'S BEEN HASHED OUT IN THE FIRST TRIAL. IF YOU FOUND A
20 DEFENDANT GUILTY OF MURDER, THAT INDIVIDUAL IS A MURDERER.

21 A YES, SIR.

22 Q AND NOW WE MOVE INTO THIS NEW PHASE, THE SENTENCING
23 PHASE. AND WE WANT TO KNOW IF A JUROR IN THAT SITUATION,
24 HAVING FOUND A DEFENDANT GUILTY OF MURDER, WOULD HAVE HIS OR
25 HER MIND ALREADY MADE UP AS TO SENTENCING. DO YOU UNDERSTAND

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 THAT?

2 A YES, SIR.

3 Q UNDER SOUTH CAROLINA LAW IN ORDER TO BE A QUALIFIED FAIR
4 JUROR, THAT JUROR MUST CONSIDER ADDITIONAL EVIDENCE BEFORE
5 MAKING A DECISION. AND THAT'S WHERE THIS CONCEPT OF EVIDENCE
6 OF A CIRCUMSTANCE OF AGGRAVATION COMES IN. THAT'S WHERE THIS
7 EVIDENCE OF MITIGATION COMES IN. YOU DON'T HEAR ANY OF THAT
8 IN THE FIRST PHASE. YOU HEAR IT ONLY IN THE SENTENCING
9 PHASE.

10 AND YOU HEAR THIS ADDITIONAL EVIDENCE ON A CIRCUMSTANCE
11 OF AGGRAVATION, MITIGATION EVIDENCE TO ENABLE THE JURY AND
12 EACH INDIVIDUAL JUROR TO MAKE A DECISION AS TO WHAT THE
13 PROPER PENALTY IS. DO YOU UNDERSTAND THAT?

14 A YES, SIR.

15 Q AND AT THE END OF THAT PROCESS, THE JUDGE WOULD INSTRUCT
16 THE JURY TO CAREFULLY AND THOUGHTFULLY CONSIDER THE NEW
17 EVIDENCE TO DETERMINE IF THERE WAS A CIRCUMSTANCE OF
18 AGGRAVATION BEYOND A REASONABLE DOUBT, ALSO LOOK IN THE
19 RECORD TO FIND THE MITIGATION EVIDENCE, AND TO CONSIDER ALL
20 OF THAT VERY CAREFULLY BEFORE MAKING A DECISION.

21 IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU FOLLOW
22 YOUR OATH IN THAT REGARD?

23 A YES, SIR.

24 Q OKAY. BACK UP A MINUTE. IF YOU WERE IN -- MOVING INTO
25 A SENTENCING HEARING -- NOW, YOU'VE ALREADY BEEN IN A FIRST

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 TRIAL. YOU FOUND -- WHOEVER THE DEFENDANT WAS, YOU FOUND
2 THAT DEFENDANT GUILTY OF MURDER. DO YOU HAVE ANY FEELINGS AT
3 THAT POINT THAT YOUR MIND IS ALREADY MADE UP?

4 A NO, SIR.

5 Q WOULD YOU BE LEANING ONE WAY OR THE OTHER BECAUSE OF
6 YOUR VIEWS?

7 A NO, SIR. I WOULD LIKE TO HEAR THE FACTS AND SEE WHAT'S
8 GOING ON BEFORE I MAKE A DECISION.

9 Q OKAY. AND DO YOU UNDERSTAND THAT A CIRCUMSTANCE OF
10 AGGRAVATION IS MERELY SOMETHING IN SOUTH CAROLINA LAW THAT
11 ALLOWS YOU TO CONSIDER IMPOSING THE DEATH PENALTY?

12 A YES, SIR.

13 Q YOU ARE NEVER REQUIRED TO. YOU CAN ALWAYS DO LIFE IN
14 PRISON.

15 A YES, SIR.

16 Q DO YOU UNDERSTAND THAT?

17 A (INDICATES AFFIRMATIVE RESPONSE)

18 Q DO YOU FURTHER UNDERSTAND THAT YOUR OATH WOULD REQUIRE
19 YOU, HOWEVER, THAT YOU WOULD HAVE TO GIVE SERIOUS
20 CONSIDERATION, THOUGHTFUL CONSIDERATION TO A CIRCUMSTANCE OF
21 AGGRAVATION BEFORE MAKING THE DECISION?

22 A YES, SIR.

23 Q ON THE OTHER HAND, YOU COULDN'T MAKE A DECISION WITHOUT
24 GIVING THOUGHTFUL CONSIDERATION, SERIOUS CONSIDERATION TO
25 THIS MITIGATION EVIDENCE, EVIDENCE DEALING WITH THE

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 DEFENDANT, HIS BACKGROUND, FAMILY HISTORY, MENTAL HEALTH
2 STATUS, THINGS OF THAT NATURE. THE LAW SAYS THAT MUST BE
3 CONSIDERED. COULD YOU DO THAT?

4 A YES, SIR.

5 Q NOW I WANT YOU TO FAST FORWARD AND PUT YOURSELF IN SUCH
6 A JURY, NOT THIS CASE BUT JUST THE CONCEPT WE ARE DEALING
7 WITH. IF YOU WERE IN A CASE -- YOU WERE ON THE JURY, YOU'RE
8 BACK IN THE JURY ROOM. YOU'VE HEARD ALL THE EVIDENCE OF A
9 CIRCUMSTANCE OF AGGRAVATION. YOU'VE HEARD ALL THE EVIDENCE
10 OF MITIGATION. YOU HAVE CONSIDERED IT VERY CAREFULLY. YOU
11 HAVE FOLLOWED THE LAW AND YOU BELIEVE THAT LIFE IMPRISONMENT
12 WAS THE PROPER PENALTY -- COULD YOU VOTE FOR LIFE IN PRISON
13 AT THAT TIME?

14 A WELL, MAYBE NOT DEPENDING ON HOW MUCH LONGER THE CASE
15 HAS TO GO, HOW MANY MORE FACTS COULD BE ADDED IN AND WHAT THE
16 MITIGATION IS AND ALL THAT.

17 Q OKAY. AND I APPRECIATE THAT, AND THAT'S MY FAULT IN NOT
18 ASKING CLEARLY.

19 IN THIS HYPOTHETICAL WE'RE TALKING ABOUT THE EVIDENCE IS
20 OVER. YOU HAVE HEARD THE FIRST PHASE AND THAT PARTICULAR
21 DEFENDANT IS GUILTY OF MURDER. YOU COME BACK IN THE
22 COURTROOM AND YOU HEAR NEW EVIDENCE, MORE EVIDENCE. THE
23 JUDGE INSTRUCTS YOU AGAIN TO CAREFULLY CONSIDER ALL OF THESE
24 THINGS, THE MITIGATION, JUST AS YOU MENTIONED, AND YOU GO
25 BACK TO THE JURY ROOM. IT'S OVER, BUT NOW YOU'RE

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 DELIBERATING. AND LET'S JUST SAY YOU HAVE CONSIDERED
2 EVERYTHING AND AFTER CONSIDERING EVERYTHING YOU BELIEVE THAT
3 LIFE IMPRISONMENT IS THE PROPER PENALTY. COULD YOU VOTE FOR
4 LIFE IN PRISON?

5 A YES, SIR.

6 Q ON THE OTHER HAND, IF YOU CONSIDERED ALL THE EVIDENCE,
7 CIRCUMSTANCE OF AGGRAVATION, ALL THE MITIGATION EVIDENCE, BUT
8 YOU BELIEVED THAT DEATH PENALTY WAS THE APPROPRIATE PENALTY,
9 COULD YOU VOTE FOR THE DEATH PENALTY?

10 A YES, SIR.

11 Q IN SOUTH CAROLINA THERE IS A FURTHER STEP IN ORDER FOR
12 AN INDIVIDUAL TO BE SENTENCED TO DEATH. NOT ONLY MUST A
13 JUROR VOTE FOR THE DEATH PENALTY, EACH MEMBER OF THE JURY
14 MUST SIGN HIS OR HER NAME TO THE VERDICT FORM IMPOSING THE
15 DEATH SENTENCE. IF YOU HAD VOTED FOR THE DEATH PENALTY
16 BECAUSE YOU THOUGHT IT WAS APPROPRIATE, COULD YOU ALSO SIGN
17 YOUR NAME TO THE VERDICT FORM?

18 A YES, SIR.

19 Q DO YOU RECALL THE SHEET THAT WAS IN THE OTHER ROOM THAT
20 YOU WERE ASKED TO READ ABOUT THE THREE TYPES OF JURORS?

21 A YES, SIR.

22 Q IF YOU RECALL -- I'VE GOT A COPY HERE IF YOU WANT TO
23 REFRESH YOUR MEMORY. IF YOU RECALL, IF YOU FIT ONE OF THOSE
24 CATEGORIES, WHICH ONE DESCRIBES YOU?

25 A THE THIRD ONE.

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 Q LET ME SEE IF I UNDERSTAND YOUR APPROACH TO JURY DUTY.
2 YOU APPROACH JURY DUTY WITH AN OPEN MIND TO HONOR AND FOLLOW
3 YOUR OATH; IS THAT CORRECT?

4 A YES, SIR.

5 Q AND THAT YOU WOULD DO THAT BOTH IN THE FIRST PHASE OF A
6 TRIAL AND IF A CASE WENT TO A SENTENCING PHASE YOU WOULD
7 ENTER THE SENTENCING PHASE, ALTHOUGH YOU KNOW YOU'VE GOT A
8 MURDERER, YOU WOULD STILL BE UNDECIDED AS TO THE PROPER
9 PENALTY?

10 A YES, SIR.

11 Q AND DEPENDING ON THE FACTS AND CIRCUMSTANCES --
12 AGGRAVATING CIRCUMSTANCE, MITIGATION EVIDENCE -- THAT YOU
13 WOULD FOLLOW YOUR OATH AND CONSIDER THOSE SERIOUSLY BEFORE
14 YOU MADE A DECISION?

15 A YES, SIR.

16 Q AND YOU WOULD DO THAT?

17 A YES, SIR.

18 Q OKAY. HAVE YOU UNDERSTOOD THE QUESTIONS I HAVE ASKED
19 YOU?

20 A YES, SIR.

21 Q DO YOU HAVE ANY QUESTIONS OF ME THAT YOU MAY HAVE
22 LINGERING IN YOUR MIND ABOUT THIS SITUATION?

23 A NO, SIR.

24 Q I KNOW WE HAVE TALKED IN DETAIL ABOUT THE PRESUMPTION OF
25 INNOCENCE, THE BURDEN OF PROOF. IS THERE ANY OTHER ASPECT OF

JACOB M. CAMPBELL -- VOIR DIRE BY THE COURT

1 OUR DISCUSSIONS THAT WE NEED TO DELVE INTO FURTHER?

2 A NO, SIR.

3 THE COURT: OKAY. I'M GOING TO GIVE YOU THAT
4 OPPORTUNITY AGAIN AT THE END. THE ATTORNEYS ARE GOING TO
5 HAVE QUESTIONS AND THEN ONCE THEY ARE THROUGH, WE'LL BE REAL
6 CLOSE TO THE END AT THAT POINT, OKAY?

7 JUROR NUMBER 44: OKAY.

8 THE COURT: THANK YOU.

9 MR. MAULDIN?

10 MR. MAULDIN: THANK YOU, JUDGE.

11 VOIR DIRE BY MR. MAULDIN:

12 Q MR. CAMPBELL?

13 A YES, SIR.

14 Q I'M JOHN MAULDIN. I'M THE PUBLIC DEFENDER IN GREENVILLE
15 COUNTY. AND I, ALONG WITH JIM BANNISTER AND RODNEY RICHEY,
16 REPRESENT JOHN IN THIS CASE.

17 I WANT TO FOLLOW UP WHAT THE JUDGE HAS TALKED TO YOU
18 ABOUT THIS MORNING -- OR THIS AFTERNOON. BUT BEFORE I DO, I
19 WANT TO CHANGE THE ENVIRONMENT A LITTLE BIT. I WANT YOU TO
20 ACT AS THOUGH WE'RE HAVING A CONVERSATION INSTEAD OF YOU, YOU
21 KNOW, KIND OF LIKE BEING QUESTIONED OR INTERROGATED.

22 A YEAH.

23 Q I WANT YOU TO ACTUALLY TALK ABOUT HOW YOU FEEL ABOUT
24 SOME OF THESE THINGS.

25 A OKAY.

JACOB M. CAMPBELL -- VOIR DIRE BY MR. MAULDIN

1 Q BECAUSE IT'S NECESSARY FOR US -- THE JUDGE HAS GOT TO
2 MAKE A DECISION ABOUT WHETHER YOU ARE QUALIFIED UNDER THE
3 LAW. EACH ONE OF OUR SIDES, THE PROSECUTOR AND OUR SIDE,
4 NEED TO MAKE A DETERMINATION ABOUT WHAT WE VIEW AS YOUR
5 QUALIFICATIONS IN ULTIMATELY SELECTING A JURY. SO WE NEED
6 INFORMATION.

7 A YES, SIR.

8 Q ALL RIGHT. NOW, A COUPLE OF THINGS I WANT TO DO FIRST
9 BEFORE I TALK TO YOU ABOUT YOUR VIEW ON THE DEATH PENALTY, I
10 WANT TO GO BACK AND I'M GOING TO MAKE SPECIFIC REFERENCE TO
11 THE CONVERSATION YOU HAD WITH YOUR STEP-FATHER.

12 A YES, SIR.

13 Q I WANT YOU TO TRY TO REMEMBER THAT AS CLEARLY AND
14 SPECIFICALLY ABOUT WHAT WAS SAID AND WHAT YOUR OPINION WAS OR
15 WHAT YOUR VIEW WAS AT THAT TIME. YOU SAID THAT WHEN YOU HAD
16 GOTTEN YOUR SUBPOENA TO BE ON THE JURY OR BE A POSSIBLE JUROR
17 ABOUT A WEEK AND A HALF AGO YOU AND YOUR STEP-FATHER WERE
18 HAVING A CONVERSATION AND THE CONVERSATION CAME UP ABOUT THE
19 STATE TROOPER BEING KILLED, AND I BELIEVE YOU SAID YOUR STEP-
20 FATHER SAID THEY'RE GOING AFTER THE DEATH PENALTY. IS
21 THAT---

22 A YES, SIR.

23 Q ALL RIGHT. I WANT TO ASK YOU IF AT THAT TIME THERE WAS
24 A DISCUSSION OR Y'ALL TALKED ABOUT WHETHER THE DEATH PENALTY
25 WAS APPROPRIATE IN THAT CASE?

1 A NO, WE DIDN'T REALLY -- I DIDN'T SAY MUCH ABOUT IT. HE
2 WAS LIKE, YOU KNOW -- I DON'T THINK IT SHOULD MATTER WHETHER
3 IF IT WAS A STATE TROOPER OR JUST A REGULAR HUMAN BEING ON
4 THE SIDE OF THE ROAD. JUST BECAUSE SOMEBODY GETS KILLED,
5 THAT DON'T AUTOMATICALLY MEAN THAT THEY GET THE DEATH
6 PENALTY.

7 Q NOW, HE SAID THAT?

8 A NO, THAT'S THE WAY I WAS THINKING.

9 Q OH, THAT'S WHAT YOU -- DID YOU SAY THAT TO HIM?

10 A YEAH.

11 Q SO THERE WAS SOME COMMUNICATION---

12 A YEAH.

13 Q ---GOING ON ABOUT IT?

14 A YES, SIR. AND THEN I, AFTER THAT, REALLY DIDN'T TALK
15 MUCH ELSE ABOUT IT. I SAID, "WELL, MAYBE THERE WON'T BE
16 NOTHING BUT -- I WON'T HAVE TO GO UP THERE BUT FOR, YOU KNOW,
17 TRAFFIC VIOLATIONS OR SOMETHING."

18 Q RIGHT. AN IMPORTANT THING ABOUT THAT IS IF YOU HAVE
19 ACTUALLY DECIDED OR FORMED AN OPINION ABOUT WHAT THE PROPER
20 VERDICT IS, WHAT THE PROPER PENALTY IS, YOU WOULD NEED TO
21 TELL THE COURT. NOW, AS A RESULT OF THE COMMUNICATION WITH
22 YOUR STEP-FATHER---

23 A YES, SIR.

24 Q ---DID YOU FORM AN OPINION AS TO WHAT THE PROPER PENALTY
25 IN THIS CASE MIGHT BE?

JACOB M. CAMPBELL -- VOIR DIRE BY MR. MAULDIN

1 A NOT AT THAT TIME BECAUSE I DIDN'T KNOW NOTHING THAT HAD
2 HAPPENED AROUND OR WHAT WAS GOING ON OR ANYTHING LIKE THAT.

3 Q AS YOU SIT HERE NOW AT THIS MOMENT---

4 A YES, SIR.

5 Q ---HAVE YOU FORMED AN OPINION OR DECIDED WHAT THE
6 APPROPRIATE PENALTY SHOULD BE?

7 A NO, SIR, BECAUSE I HAVE NOT HEARD ANY FACTS OR ANYTHING
8 OF WHAT'S HAPPENED.

9 Q ALL RIGHT. AND THANK YOU. THANK YOU FOR THOSE
10 RESPONSES.

11 NEXT QUESTION. THE COURT ASKED YOU ABOUT YOUR
12 UNDERSTANDING ABOUT THE PRESUMPTION OF INNOCENCE AND HE THEN
13 DESCRIBED THAT TO YOU. I WANT TO ASK YOU THIS QUESTION, MR.
14 CAMPBELL: WHEN YOU WERE SITTING IN THE BIG JURY ROOM WITH A
15 BUNCH OF PEOPLE MONDAY OR AS YOU SIT HERE NOW HAVE YOU FORMED
16 AN OPINION AS TO THE LIKELIHOOD OF GUILT, THE PROBABILITY OF
17 GUILT OR GUILT IN FACT OF THE PERSON CHARGED IN THIS CASE,
18 JOHN WOOD? HAVE YOU FORMED ANY OPINION IN YOUR OWN HEAD
19 ABOUT WHETHER HE IS OR ISN'T GUILTY?

20 A NO, SIR.

21 Q ALL RIGHT. SO YOU COME IN WITH AN OPEN MIND?

22 A YES, SIR.

23 Q THANK YOU.

24 NOW LET'S TALK A MINUTE OR TWO ABOUT THE DEATH
25 PENALTY---

JACOB M. CAMPBELL -- VOIR DIRE BY MR. MAULDIN

1 A YES, SIR.

2 Q ---AND THEN I'LL BE DONE. LET ME ASK IT THIS WAY; JUST
3 STRAIGHT UP OPEN DISCUSSION, HOW DO YOU FEEL ABOUT THE USE OF
4 THE DEATH PENALTY IN OUR CRIMINAL SYSTEM?

5 A WELL, AS OF NOW, I DON'T KNOW MUCH ABOUT IT. I DON'T
6 TRY TO GET INTO THE NEWS VERY MUCH MYSELF. I TRY TO KEEP AN
7 OPEN MIND TOWARD EVERYTHING, LIKE, YOU KNOW, JUST
8 RELATIONSHIPS IN GENERAL AND SO ON.

9 BUT AS OF WHAT I KNOW RIGHT NOW, I DON'T KNOW MUCH ABOUT
10 IT. BUT WE DON'T USE THE DEATH PENALTY VERY OFTEN HERE, AND
11 THAT'S GOOD IN MY OPINION BECAUSE, YOU KNOW, -- BUT ALSO WITH
12 MY RELIGION, WHICH IS BEING A BAPTIST, THEY SAY IN THE BIBLE,
13 "AN EYE FOR AN EYE, TOOTH FOR A TOOTH," BUT, YOU KNOW, I ALSO
14 LOOK AT IT LIKE IT DEPENDS ON THE CIRCUMSTANCES AND WHAT'S
15 HAPPENED BEFORE YOU CAN DECIDE ON WHETHER YOU SHOULD KILL
16 SOMEBODY JUST BECAUSE THEY KILLED SOMEONE ELSE.

17 Q OKAY. IS IT FAIR THEN TO SAY, MR. CAMPBELL, THAT JUST
18 -- AND YOUR WORD WAS "JUST BECAUSE THEY KILLED SOMEBODY ELSE"
19 -- IS IT FAIR FOR US TO THEN UNDERSTAND THAT "JUST BECAUSE" A
20 PERSON IS GUILTY OF MURDER YOU WOULD NOT THINK THAT THE DEATH
21 PENALTY WOULD ALWAYS APPLY?

22 A NO, SIR.

23 Q ALL RIGHT. BECAUSE THAT IS EXACTLY WHAT THE LAW IS.
24 WHAT YOU JUST SAID IS EXACTLY THE WAY OUR LAW IS.

25 A OKAY. YES, SIR. THANK YOU VERY MUCH.

JACOB M. CAMPBELL -- VOIR DIRE BY MR. MAULDIN

1 Q THE LAW NEVER REQUIRES A DEATH PENALTY NO MATTER HOW
2 HORRIBLE OR JUST -- YOU IMAGINE THE WORST CASE YOU CAN
3 POSSIBLY IMAGINE. THE LAW DOES NOT SAY THIS PERSON MUST BE
4 SENTENCED TO DEATH. IT'S ALWAYS A JURY QUESTION.

5 A YES, SIR.

6 Q NOW I WANT TO ASK YOU A FOLLOW-UP THEN. YOU HEARD THE
7 JUDGE DESCRIBE THE TWO-PHASE TRIAL WHERE YOU HAVE A PHASE TO
8 DECIDE THE GUILT. AND AT THAT PHASE NOW, THE FIRST TRIAL --
9 THIS MITIGATION INFORMATION THAT HE TALKED ABOUT HAS NOTHING
10 TO DO WITH THAT FIRST TRIAL. THE FIRST TRIAL IS ONLY GUILT
11 OR NOT OF THE CRIME.

12 SO WHEN YOU GO INTO THE SECOND TRIAL, YOU'VE GOT A
13 PERSON THAT'S CONVICTED OF MURDER.

14 A YES, SIR.

15 Q AND THAT'S WHEN YOU'RE DECIDING THE AGGRAVATING
16 INFORMATION AND MITIGATING INFORMATION.

17 NOW LISTEN TO MY QUESTION. AND IF YOU HAVE A -- IF YOU
18 WANT TO ASK ME OR DON'T UNDERSTAND IT, PLEASE LET ME KNOW.
19 AT THAT SECOND TRIAL, AND YOU HAD BEEN ON THE JURY THAT HAD
20 FOUND THE PERSON GUILTY OF MURDER, AND THERE WAS EVIDENCE BY
21 THE PROSECUTOR THAT IT WAS AN AGGRAVATED -- THAT IT WAS A
22 CASE THAT HAD AGGRAVATING CIRCUMSTANCES, FOR EXAMPLE,
23 COMMISSION OF A ROBBERY AND THEN A MURDER, COMMISSION OF
24 KIDNAPPING AND A MURDER, THE KILLING OF A LAW ENFORCEMENT
25 OFFICER IN THE LINE OF DUTY, A TORTURE AND A MURDER, DO YOU

JACOB M. CAMPBELL -- VOIR DIRE BY MR. MAULDIN

1 FOLLOW?

2 A YES, SIR.

3 Q IF THAT EXISTED, PROOF OF IT, GOING INTO THE EVALUATION
4 OF THE SENTENCING, AS YOU GO INTO THAT DELIBERATION ROOM,
5 WOULD YOU HAVE YOUR MIND MADE UP ABOUT ONE PENALTY OR THE
6 OTHER OR WOULD YOU BE WILLING TO FOLLOW THE COURT'S
7 INSTRUCTION AND GIVE CONSIDERATION TO BOTH THE AGGRAVATING
8 INFORMATION AND THE MITIGATING INFORMATION? WOULD YOU BE
9 ABLE TO FOLLOW THE COURT'S INSTRUCTION ON THAT?

10 A YES, SIR. I WOULD COME INTO THE CASE, THE SECOND PHASE,
11 WITH AN OPEN MIND AND LISTEN TO BOTH SIDES OF THE STORY
12 BEFORE I MADE MY MIND UP.

13 Q LAST THING, MR. CAMPBELL, WHEN YOU GO INTO THAT SECOND
14 PHASE AND YOU GO INTO THAT DELIBERATION ROOM AND ALL OF THE
15 EVIDENCE IN BOTH CASES -- YOU'VE HEARD ALL OF IT. YOU'VE
16 BEEN THE SAME JUROR IN BOTH CASES .

17 A YES, SIR.

18 Q -- ALL OF THE EVIDENCE IS IN FRONT OF YOU ABOUT WHAT --
19 THEY'RE SAYING EXECUTE THE PERSON. THE DEFENSE MIGHT BE
20 SAYING GIVE THE PERSON LIFE IN PRISON WITHOUT PAROLE
21 SENTENCE. YOU GO IN AND YOU DELIBERATE AND YOU DISCUSS AND
22 YOU TALK UNTIL YOU'RE BLUE IN THE FACE AND EVERYBODY ELSE
23 DOES THE SAME THING. YOU TAKE VOTES AND GET HUNGRY, AND IT
24 GETS LATE, AND FINALLY THE LAST VOTE IS TAKEN. THE JUDGE
25 TOLD YOU EARLIER THAT ALL TWELVE HAVE TO AGREE TO SENTENCE

1 THE PERSON TO DEATH.

2 A YES, SIR.

3 Q WELL, THE VOTE COMES OUT A TEN FOR ONE SENTENCE, TWO FOR
4 THE OTHER. AND I'M GOING TO SAY THAT JACOB CAMPBELL IS ONE
5 OF THE MINORITY, ONE OF THE TWO OR THE ONE OR THE THREE. A
6 LOT OF PEOPLE ON THE OTHER SIDE. AFTER YOU HAVE HAD A FULL
7 OPPORTUNITY TO HEAR THE EVIDENCE AND DECIDE FOR YOUR OWN SELF
8 AND AFTER YOU HAVE DECIDED, YOU HAVE MADE AN INDIVIDUAL
9 DECISION ABOUT WHAT YOU THOUGHT WAS THE PROPER PUNISHMENT,
10 WOULD YOU TEND TO GO OVER TO THE MAJORITY SIMPLY TO BE ABLE
11 TO END THE CASE OR WOULD YOU TEND, IF YOU WILL, TO STAY WITH
12 THE POSITION THAT YOU HAD DECIDED WAS THE CORRECT PUNISHMENT?
13 WHICH ONE IS YOU?

14 A IF I FELT IF I WAS ONE HUNDRED PERCENT CORRECT IN MY
15 THOUGHT AND OPINION, I WOULD STICK WITH WHAT I THOUGHT.

16 Q EVEN IF YOU HAD A BUNCH OF OTHER PEOPLE DISAGREE WITH
17 YOU?

18 A YES, SIR.

19 Q AND THE REVERSE. IF YOU WERE IN THAT BIG GROUP AND YOU
20 HAD ONE OR TWO ON THE OTHER SIDE THAT DISAGREED WITH YOU,
21 WOULD YOU TEND TO TRY TO FORCE THEM TO AGREE WITH YOU OR
22 WOULD YOU TEND TO RESPECT THEIR RIGHT TO COME TO AN
23 INDIVIDUAL AND MORAL CHOICE ABOUT THE PUNISHMENT?

24 A WELL, I WOULD LISTEN TO THEIR SIDE AND SEE WHAT THEY HAD
25 TO SAY, AND THEN DEPENDING ON WHAT THEY HAD TO SAY ABOUT THE

JACOB M. CAMPBELL -- VOIR DIRE BY MR. MAULDIN

1 SITUATION, I WOULD EITHER STICK WITH WHAT I SAID OR GO ON
2 WHAT THEY SAID.

3 MR. MAULDIN: ALL RIGHT. THANK YOU, YOUR HONOR.

4 MS. STROM: ONE MOMENT, YOUR HONOR.

5 THE COURT: OKAY..

6 (SOLICITOR ARIAIL AND CO-COUNSEL OFF RECORD)

7 SOLICITOR ARIAIL: YOUR HONOR, COULD WE TAKE A MATTER
8 UP AT THE SIDE?

9 THE COURT: OKAY. BE WITH YOU IN JUST ONE SECOND, MR.
10 CAMPBELL.

11 (BENCH CONFERENCE OFF RECORD)

12 VOIR DIRE BY SOLICITOR ARIAIL:

13 Q MR. CAMPBELL, MY NAME IS BOB ARIAIL, AND I'M THE
14 SOLICITOR FOR THE THIRTEENTH JUDICIAL CIRCUIT. AND THE
15 SOLICITOR IS A NAME THAT IS RETAINED BY SOUTH CAROLINA TO
16 DESCRIBE THE DISTRICT ATTORNEY, THE PERSON WHO IS RESPONSIBLE
17 FOR PROSECUTING ALL THE CRIMINAL CASES IN GREENVILLE AND
18 PICKENS COUNTIES. ALONG WITH ME IN THIS CASE WILL BE MY
19 DEPUTY SOLICITOR, BETTY STROM, SEATED IN THE BEIGE COAT, AND
20 ONE OF MY ASSISTANTS, MINDY HERVEY, IN THE GREEN SUIT.

21 WHAT I WANT TO KNOW, HAVING HEARD THE JUDGE'S QUESTION,
22 WHEN YOU ARE AT THE END OF THIS CASE, THE LAST PHASE, AND
23 YOU'RE IN THE JURY ROOM DELIBERATING THE PROPER PUNISHMENT
24 THAT SHOULD BE IMPOSED, IT IS -- IS THERE ANYTHING THAT YOU
25 KNOW OF IN YOUR BELIEFS OR BACKGROUND, EITHER RELIGIOUS,

JACOB M. CAMPBELL -- VOIR DIRE BY SOLICITOR ARIAIL

1 MORAL, POLITICAL, SOCIAL, WHATEVER THAT WOULD LIMIT YOUR
2 ABILITY TO FAIRLY CONSIDER THE STATE'S REQUEST FOR THE DEATH
3 PENALTY?

4 A NO, SIR.

5 Q YOU BELIEVE YOU COULD CONSIDER THAT REQUEST BASED SOLELY
6 ON THE EVIDENCE?

7 A YES, SIR.

8 Q ALL RIGHT. AND DEPENDING UPON THE CIRCUMSTANCES OF THE
9 CASE AND THE EVIDENCE PRESENTED, YOU BELIEVE THAT THAT IS AN
10 APPROPRIATE SENTENCE?

11 A YES, SIR.

12 Q (OFF RECORD WITH CO-COUNSEL) YOU REMEMBER THE JUDGE
13 TELLING YOU ABOUT CERTAIN AGGRAVATING FACTORS THAT THE LAW
14 SAYS ENTITLES THE STATE TO SEEK THE DEATH PENALTY---

15 A YES, SIR.

16 Q ---OR MAKES A CASE ELIGIBLE FOR THE DEATH PENALTY? AND
17 THE DEFENSE LAWYER ASKED YOU ABOUT CERTAIN AGGRAVATING
18 FACTORS, IF YOU HEARD THEM, WOULD YOU STILL HAVE AN OPEN
19 MIND?

20 A YES, SIR.

21 Q MY QUESTION IS IF THE JUDGE INSTRUCTED YOU THAT AN
22 AGGRAVATING CIRCUMSTANCE -- OR THERE WAS AN AGGRAVATING
23 CIRCUMSTANCE UNDER CONSIDERATION IN THE CASE WHICH YOU'RE
24 SITTING ON, THAT IS, SAY FOR EXAMPLE THAT YOU WERE ON A CASE
25 INVOLVING MURDER IN THE COMMISSION OF ARMED ROBBERY, AND YOU

JACOB M. CAMPBELL -- VOIR DIRE BY SOLICITOR ARIAIL

1 DID NOT BELIEVE PERSONALLY THAT MURDER DURING THE COMMISSION
2 OF AN ARMED ROBBERY WAS ANY DIFFERENT THAN MURDER IN ANY
3 OTHER CIRCUMSTANCE, BUT OUR LEGISLATURE HAS SAID THAT IT IS A
4 CIRCUMSTANCE OF AGGRAVATION, COULD YOU PUT ASIDE THAT
5 PERSONAL BELIEF AND LISTEN TO THE INSTRUCTION OF THE JUDGE
6 AND FOLLOW THAT INSTRUCTION TO THE EXTENT TO DETERMINE THAT
7 THAT WAS A CIRCUMSTANCE OF AGGRAVATION THAT WOULD ENTITLE THE
8 JURY TO CONSIDER THE DEATH PENALTY?

9 A YES, SIR. I WOULD PUT MY BELIEFS ASIDE.

10 MR. MAULDIN: HOLD ON ONE MOMENT. YOUR HONOR, FOR THE
11 RECORD, WE DO OBJECT TO THE IDENTIFICATION OF ANY ONE
12 PARTICULAR AGGRAVATING CIRCUMSTANCE, REGARDLESS OF ITS
13 CONNECTION WITH THIS OR ANY OTHER CASE. THE IDENTIFICATION
14 OF ONE WE OBJECT TO.

15 THE COURT: ALL RIGHT. AND I SUSTAIN THE OBJECTION.
16 AND WE REALLY DON'T HAVE TO GIVE AN EXAMPLE. AND I DON'T
17 MEAN TO BE PRESUMPTUOUS, AND IF YOU WANT TO FOLLOW UP ON YOUR
18 OWN, YOU CAN, OR I'LL JUMP IN.

19 SOLICITOR ARIAIL: NO, THE ONLY REASON I GAVE ONE IS
20 BECAUSE HE HAD GIVEN FIVE.

21 MR. MAULDIN: AND I DID NOT IN THIS PARTICULAR JUROR,
22 YOUR HONOR.

23 SOLICITOR ARIAIL: OH.

24 THE COURT: IF YOU WANT TO FOLLOW UP, YOU'RE WELCOME
25 TO.

JACOB M. CAMPBELL -- VOIR DIRE BY SOLICITOR ARIAIL

1 **SOLICITOR ARIAIL:** I'M FINE.

2 **THE COURT:** MR. CAMPBELL, OFTENTIMES IT'S NOT UNUSUAL.
3 JURORS COME WITH CERTAIN FEELINGS ABOUT WHAT THEY THINK THE
4 LAW IS AND WHAT THE LAW OUGHT TO BE. WE MAY HAVE ALREADY
5 TALKED ABOUT THIS. THE JUROR IS SITTING OVER THERE AND THE
6 JUDGE SAYS, "WELL, YOU'VE GOT TO CONSIDER 'X' IN MAKING YOUR
7 DECISION." AND YOU'RE OVER THERE THINKING, "I DON'T THINK
8 'X' " WHATEVER IT IS, "SHOULD APPLY." AND SO WHEN YOU'RE
9 DEALING WITH YOUR PERSONAL VALUE SYSTEM OF WHAT YOU THINK IS
10 RIGHT AND WRONG AND IT DIFFERS FROM WHAT THE LAW IS, SEE,
11 YOU'VE TAKEN AN OATH, AND I NEED TO KNOW, WILL YOU DISREGARD
12 YOUR OATH AND JUST IMPOSE YOUR OWN PERSONAL VALUE SYSTEM OR
13 WILL YOU HONOR YOUR OATH AND GIVE THAT ISSUE STATED BY THE
14 COURT UNDER THE LAW CAREFUL AND MEANINGFUL CONSIDERATION?
15 WHAT WOULD YOU DO IN THAT SITUATION?

16 **JUROR NUMBER 44:** I WOULD PUT MY OWN BELIEFS ASIDE, AND
17 I WOULD TRY TO TAKE INTO CONSIDERATION EVERY ASPECT THAT WAS
18 GIVEN TO ME, AND THEN PUT THAT TO MY BETTER USE.

19 **THE COURT:** VERY GOOD. IS THERE ANY FOLLOW UP TO THAT
20 ISSUE? I'LL PERMIT IT.

21 **SOLICITOR ARIAIL:** NONE, YOUR HONOR.

22 **THE COURT:** ALL RIGHT. MR. CAMPBELL, THEY'RE GOING TO
23 HAVE YOU STEP TO A JURY ROOM JUST BRIEFLY. WE'LL GET YOU
24 BACK OUT HERE AND YOU'LL BE FREE TO GO. THANK YOU.

25 (JUROR EXITS COURTROOM AT 1:20 P.M.)

MATTERS AND MOTIONS

1 **THE COURT:** THE JUROR HAS BEEN EXCUSED. QUALIFIED OR
2 NOT QUALIFIED, FOR THE STATE?

3 **SOLICITOR ARIAIL:** QUALIFIED.

4 **MR. MAULDIN:** QUALIFIED.

5 **THE COURT:** ALL RIGHT. TAKE YOUR TIME. WE'LL HEAR
6 FIRST FROM THE STATE. LET ME KNOW WHEN YOU ARE PREPARED TO
7 PROCEED.

8 **SOLICITOR ARIAIL:** PRESENT HIM.

9 **MR. MAULDIN:** (OFF RECORD WITH CO-COUNSEL) SWEAR THE
10 JUROR.

11 **THE COURT:** WHEN HE'S THROUGH WITH ANDREA, BRING HIM
12 BACK IN, PLEASE.

13 WE'RE GOING TO DO ONE MORE AND THEN TAKE ANOTHER BREAK.

14 (JUROR RE-ENTERS COURTROOM AT 1:22 P.M.)

15 **THE COURT:** MR. CAMPBELL, YOU'LL BE IN HERE JUST
16 MOMENTARILY. YOU HAVE BEEN SELECTED AS A JUROR IN THIS
17 CASE. YOU WILL SERVE IN THIS CASE. YOU WILL BE SEQUESTERED
18 ONCE THE TRIAL BEGINS, BUT YOU WON'T BE SEQUESTERED AT THIS
19 TIME. YOU JUST HANG LOOSE AND DO WHAT YOU NORMALLY DO, GO TO
20 WORK, WHATEVER.

21 **JUROR NUMBER 44:** YES, SIR.

22 **THE COURT:** COUPLE THINGS I WANT TO BRING TO YOUR
23 ATTENTION, AND THEN I'M GOING TO GIVE YOU THIS ORDER THAT
24 SETS FORTH YOUR INSTRUCTIONS AND YOUR DUTIES.

25 BEGINNING TONIGHT AFTER 8:00 P.M., I WANT YOU TO CALL

MATTERS AND MOTIONS

1 THIS NUMBER ON HERE. THERE IS A RECORDED MESSAGE. THAT'S
2 FOR THE JURORS WHO HAVE BEEN SELECTED.

3 JUROR NUMBER 44: YES, SIR.

4 THE COURT: OKAY. THE MESSAGE MAY BE, CALL BACK
5 TOMORROW NIGHT AFTER 8:00 BECAUSE WE STILL HAVE MORE JURORS
6 THAT WE'VE GOT TO COLLECT.

7 AT SOME POINT THERE WILL BE ENOUGH, AND THEN THE MESSAGE
8 WILL CHANGE. IT MAY BE COME IN TOMORROW AFTERNOON AT 5:00.
9 IT MAY BE, COME IN FRIDAY. WHATEVER IT IS, FOLLOW THOSE
10 INSTRUCTIONS.

11 ALSO, IT WILL TELL YOU WHERE TO PARK, HOW TO COME TO THE
12 COURTHOUSE. THERE ARE ITEMS IN HERE ABOUT PACKING YOUR BAGS
13 WITH YOUR CLOTHING AND OTHER ITEMS, NOT BRINGING BEEPERS AND
14 CELL PHONES TO JURY DUTY, THINGS OF THAT NATURE.

15 JUROR NUMBER 44: YES, SIR.

16 THE COURT: AND ALSO, THE PREVIOUSLY ADMINISTERED OATH,
17 VERY IMPORTANTLY, REMAINS IN EFFECT. DO NOT DISCUSS THIS
18 CASE WITH ANYONE. DON'T SPECULATE ABOUT THIS CASE. AND DO
19 NOT EXPOSE YOURSELF TO ANY MEDIA COVERAGE ABOUT THE CASE. DO
20 YOU UNDERSTAND THOSE OBLIGATIONS?

21 JUROR NUMBER 44: YES, SIR.

22 THE COURT: I WILL GIVE YOU A COPY OF THE ORDER AT THIS
23 TIME. THANK YOU, SIR.

24 JUROR NUMBER 44: THANK YOU. . WE'LL -- THANK YOU SO
25 MUCH.

MATTERS AND MOTIONS

1 (JUROR EXITS COURTROOM AT 1:24 P.M.)

2 MR. MAULDIN: ONE QUICK MATTER, YOUR HONOR. FIRST OF
3 ALL, I WOULD LIKE TO SAY, I THINK WE'RE MAKING EXTRAORDINARY
4 PROGRESS, AND I KNOW THAT YOU ARE GETTING AFTER US FOR BEING
5 A LITTLE WINDY. BUT THE FACT IS, IS IF YOU LOOK AT THE DAY
6 OF THE WEEK AND WHERE WE ARE IN THIS PROCESS, THIS IS
7 UNBELIEVABLE.

8 THE COURT: WHAT'S YOUR POINT?

9 MR. MAULDIN: MY POINT IS THIS: IN YOUR COMMENTS TO
10 THE JURY -- JURORS IN THE INDIVIDUAL PRIOR TO OUR
11 QUESTIONING, YOU -- AND I THINK YOU'VE BEEN DOING THIS ALL
12 ALONG, BUT I'VE JUST BECOME MORE AND MORE ACUTE OF IT. WHEN
13 YOU'RE TALKING ABOUT COULD YOU VOTE LIFE, COULD YOU VOTE
14 DEATH, YOUR TERMINOLOGY IS THIS: AFTER FULL CONSIDERATION OF
15 ALL THE INFORMATION, IF YOU DECIDED THAT LIFE IN PRISON IS
16 THE APPROPRIATE PUNISHMENT, COULD YOU VOTE? AND YOU DO THE
17 SAME, IF YOU DECIDE FOR DEATH, COULD YOU VOTE?

18 THE COURT: YOU WANT ME TO JUST ASK HOW WOULD THEY
19 VOTE? COULD THEY VOTE?

20 MR. MAULDIN: RIGHT. I THINK IT SHOULD BE, AFTER
21 CONSIDERING, COULD YOU VOTE FOR A LIFE SENTENCE? BECAUSE---

22 THE COURT: I'LL DO IT.

23 MR. MAULDIN: ALL RIGHT. THANK YOU.

24 THE COURT: FINE.

25 SOLICITOR ARIAIL: THEN WHILE HE'S PICKING, I'VE GOT

MATTERS AND MOTIONS

1 ONE TO PICK ON. WHEN YOU USE THE PHRASE -- AND I'VE GOT TO
2 THINK REAL QUICK -- BUT YOU USE THE PHRASE "POSSIBLE." "IT'S
3 POSSIBLE WE MIGHT HAVE A PENALTY PHASE." THAT'S A CONTRAST
4 TO A PROBABLE. THAT IS PUTTING A STAMP OF THE JUDICIARY ON
5 WHAT THE CHANCES ARE IN THIS CASE. I THINK THE MORE
6 APPROPRIATE LANGUAGE WOULD BE MAY RATHER THAN POSSIBLE. YOU
7 CERTAINLY WOULDN'T SAY PROBABLE---

8 THE COURT: I'LL DO MY BEST.

9 SOLICITOR ARIAIL: I KNOW YOU WILL.

10 THE COURT: BUT I CAN TELL YOU THIS, I'LL SLIP. AND
11 LET'S DON'T HAVE A COW OVER IT BECAUSE I DON'T THINK IT'S
12 THAT BIG A DEAL.

13 SOLICITOR ARIAIL: IT'S NOT THAT BIG A DEAL. THIS ONE
14 ISN'T A BIG DEAL. BUT I FIGURED SINCE HE GOT TO STAND UP, I
15 NEED TO STAND UP.

16 THE COURT: I UNDERSTAND.

17 (LAUGHTER)

18 SOLICITOR ARIAIL: AND HE IS MAKING GREAT PROGRESS.
19 TEN MINUTES ON THE LAST TWO.

20 THE COURT: MS. SINGLETON.

21 (JUROR NUMBER 330 ENTERS COURTROOM AT 1:27 P.M.)

22 ROSITA J. SINGLETON (BLACK
23 FEMALE), HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

24 VOIR DIRE BY THE COURT:

25 Q AGAIN, THANK YOU FOR BEING HERE, AND THANK YOU SO MUCH

ROSITA J. SINGLETON -- VOIR DIRE BY THE COURT

1 FOR YOUR PATIENCE. WE ARE HERE TO GATHER INFORMATION TO FIND
2 JURORS WHO ARE ELIGIBLE TO SERVE ON A CASE OF THIS NATURE.
3 SO I'M GOING TO SPEAK WITH YOU A LITTLE BIT, AND THEN THE
4 ATTORNEYS ARE GOING TO TALK TO YOU AS WELL.

5 MA'AM, THIS CASE ARISES, ACCORDING TO THE INDICTMENT,
6 FROM AN INCIDENT WHICH OCCURRED IN GREENVILLE COUNTY BACK ON
7 DECEMBER THE 6TH OF 2000. THE DEFENDANT, MR. WOOD, IS
8 CHARGED WITH THE CRIME OF MURDER. THE VICTIM IDENTIFIED IN
9 THE INDICTMENT IS ONE ERIC NICHOLSON. MR. NICHOLSON WAS AT
10 THAT TIME A STATE TROOPER.

11 THIS CASE RECEIVED ATTENTION IN THE MEDIA. AND I WANT
12 TO KNOW FROM YOU IF YOU RECALL ANYTHING YOU MAY HAVE LEARNED
13 OR HEARD ABOUT THIS CASE. AND IF YOU DO, WHAT SPECIFICALLY
14 DO YOU RECALL?

15 A TO BE HONEST WITH YOU, I DON'T RECALL THIS INCIDENT AT
16 ALL.

17 Q STATE TROOPER ON THE HIGHWAY, WOODRUFF ROAD, DOES THAT
18 RING A BELL?

19 A NO. BECAUSE FOR A WHILE I WAS WORKING FULL-TIME AND
20 WORKING PART-TIME, SO I WOULD LEAVE MY FULL-TIME JOB AND GO
21 STRAIGHT TO MY PART-TIME JOB, AND THEN IT WOULD BE 11:30 OR
22 12:00 BEFORE I GOT HOME. SO FOR A LONG TIME, I DIDN'T EVEN
23 WATCH TELEVISION AT ALL.

24 Q WOULD THIS BE BACK IN THE DECEMBER 2000 TIME FRAME,
25 ABOUT 14 MONTHS AGO?

ROSITA J. SINGLETON -- VOIR DIRE BY THE COURT

1 A YES.

2 Q DOES THAT SOUND ABOUT RIGHT?

3 A YES.

4 Q OKAY. LET ME TELL YOU THE REASON THAT I ASK THAT. AND
5 YOU HAVE NO KNOWLEDGE, BUT A LOT OF JURORS WHEN SOMETHING IS
6 ON T.V., THEY SEE IT. THEY READ IT IN THE NEWSPAPER. AND
7 ONE VERY IMPORTANT ASPECT OF JURY DUTY IS A JUROR TAKES AN
8 OATH TO FIND THE TRUTH FROM THE EVIDENCE. AND IN THAT REGARD
9 A JUROR MUST DISREGARD ANYTHING HE OR SHE HEARD OUTSIDE OF
10 COURT. THEY MUST FIND THE TRUTH ONLY FROM THE EVIDENCE IN
11 THE COURTROOM. DO YOU UNDERSTAND THAT?

12 A YES, I DO.

13 Q IF YOU WERE A JUROR, COULD YOU HONOR YOUR OATH IN THAT
14 REGARD?

15 A YES, I COULD.

16 Q AND WOULD YOU ALSO FOLLOW THE LAW AS INSTRUCTED BY THE
17 COURT?

18 A YES, I WOULD.

19 Q OKAY. I KNOW YOU HAVEN'T HEARD ANYTHING ABOUT THIS
20 CASE, BUT HAVE YOU ALREADY FORMED AN OPINION AS TO THE GUILT
21 OR INNOCENCE OF THIS DEFENDANT?

22 A NO, I HAVE NOT.

23 Q OKAY. DO YOU REMEMBER THE TWO LEGAL PRINCIPLES, THE
24 PRESUMPTION OF INNOCENCE, THAT ANYONE ACCUSED OF A CRIME IS
25 PRESUMED TO BE INNOCENT?

ROSITA J. SINGLETON -- VOIR DIRE BY THE COURT

1 A YES.

2 Q AND THE INSTRUCTION ABOUT THE BURDEN OF PROOF, THERE IS
3 NO BURDEN ON THE DEFENDANT EVER. THE BURDEN IS ON THE STATE
4 TO PROVE GUILT BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND
5 THAT?

6 A YES, I DO.

7 Q DO YOU AGREE WITH THOSE LEGAL PRINCIPLES?

8 A YES, I DO.

9 Q OKAY. NOW, MS. SINGLETON, WE'RE GOING TO TALK ABOUT A
10 CAPITAL CASE, AND WE'RE GOING TO TALK MORE ON A POTENTIAL
11 SENTENCING PHASE. IN DOING SO, I DON'T WANT TO SUGGEST TO
12 YOU THAT THERE IS NECESSARILY GOING TO BE A SENTENCING PHASE
13 IN THIS PARTICULAR CASE. BUT THERE MAY BE ONE. AND SINCE
14 THERE COULD BE ONE, WE NEED TO TALK ABOUT THAT AND ABOUT THE
15 ISSUES THAT COME UP IN A SENTENCING PHASE AND WHAT YOUR VIEWS
16 ARE ON VARIOUS ISSUES, PARTICULARLY INCLUDING THE DEATH
17 PENALTY. DO YOU UNDERSTAND THAT?

18 A YES.

19 Q IN THE FIRST PHASE OF A TRIAL, A JURY DETERMINES WHETHER
20 A DEFENDANT -- AND WE'RE NOT TALKING ABOUT THIS CASE, JUST
21 THE CONCEPT -- WHETHER A DEFENDANT ON TRIAL IS GUILTY OR NOT
22 GUILTY OF THE CRIME OF MURDER. IF THE DEFENDANT IS NOT
23 GUILTY, THAT'S THE END OF THE JURY SERVICE. THERE IS NO
24 SENTENCING PHASE. ONLY IF A JURY FIRST FINDS THE DEFENDANT
25 GUILTY OF MURDER DO WE MOVE FORWARD INTO THE SENTENCING

1 PHASE. SO LET'S LOOK AT A POTENTIAL SENTENCING PHASE JUST IN
2 A GENERAL CONCEPT, BUT NOT THIS CASE.

3 IN A CAPITAL CASE WHERE A JURY FINDS A DEFENDANT GUILTY
4 OF MURDER IN THE FIRST PHASE, WHEN YOU GO TO THE SENTENCING
5 PHASE, THE ONLY ISSUE TO ADDRESS IS THE APPROPRIATE SENTENCE.
6 YOU DON'T REHASH GUILT. YOU DON'T TALK ABOUT SELF-DEFENSE
7 AND OTHER THINGS. THAT'S ALL BEEN DONE IN THE FIRST PHASE.
8 WHEN YOU MOVE TO THE SENTENCING PHASE, YOU'RE DEALING WITH A
9 MURDERER. DO YOU UNDERSTAND THAT?

10 A YES.

11 Q AND WHAT OUR LAW REQUIRES IS THAT FOR A JUROR TO BE
12 ELIGIBLE AND QUALIFIED TO SERVE IN SUCH A CASE, THAT JUROR
13 MUST ENTER THE SENTENCING PHASE WITH AN OPEN MIND TO LISTEN
14 TO THE ADDITIONAL EVIDENCE WHICH OUR LAW REQUIRES AND THEN
15 AND ONLY THEN, AFTER THAT CONSIDERATION, MAKE A DECISION AS
16 TO PUNISHMENT. DO YOU UNDERSTAND THAT?

17 A YES, I DO.

18 Q NOW, IN THIS SENTENCING PHASE THIS NEW EVIDENCE WE
19 SOMETIMES CALL -- IT COULD BE A CIRCUMSTANCE OF AGGRAVATION.
20 IN SOUTH CAROLINA THE STATE MAY SEEK THE DEATH PENALTY, ASK
21 FOR IT, ONLY IF THERE IS A MURDER ACCOMPANIED BY ONE OF THESE
22 STATUTORY AGGRAVATING CIRCUMSTANCES. AS I GAVE YOU EARLIER,
23 THERE ARE EXAMPLES, MURDER IN THE COMMISSION OF ARMED
24 ROBBERY, MURDER IN THE COMMISSION OF KIDNAPPING, THINGS OF
25 THAT NATURE. THAT'S WHAT THE LAW RECOGNIZES AS AN EXAMPLE OF

ROSITA J. SINGLETON -- VOIR DIRE BY THE COURT

1 AN AGGRAVATING CIRCUMSTANCE WHICH ALLOWS THE JURY TO CONSIDER
2 THE OPTION OF A DEATH PENALTY. THAT EVIDENCE IS GIVEN IN THE
3 SENTENCING PHASE.

4 ALSO IN THE SENTENCING PHASE WE HEAR SOMETHING CALLED
5 MITIGATION EVIDENCE. THIS IS EVIDENCE THAT DEALS PRIMARILY
6 WITH THE DEFENDANT, THE DEFENDANT'S BACKGROUND, FAMILY
7 HISTORY, MENTAL HEALTH STATUS, THINGS OF THIS NATURE. AND A
8 JURY IN THAT SITUATION WOULD LISTEN TO THIS NEW EVIDENCE IN
9 THIS SO-CALLED SENTENCING PHASE AND THE COURT WOULD THEN
10 INSTRUCT THE JURY TO GIVE CAREFUL AND MEANINGFUL
11 CONSIDERATION OF THE NEW EVIDENCE, BOTH ANY CIRCUMSTANCES OF
12 AGGRAVATION AS WELL AS ANY MITIGATION EVIDENCE. AND ONLY
13 AFTER THAT CAREFUL CONSIDERATION SHOULD THE JURY MAKE A
14 DECISION AS TO THE APPROPRIATE PENALTY. ALL RIGHT?

15 A (INDICATES AFFIRMATIVE RESPONSE)

16 Q IF YOU WERE A JUROR IN THAT SITUATION IN A HYPOTHETICAL
17 CASE, WOULD YOU KEEP AN OPEN MIND AND LISTEN TO THE EVIDENCE
18 THE LAW REQUIRES OF THE CIRCUMSTANCES OF AGGRAVATION AS WELL
19 AS THE MITIGATION EVIDENCE AND CAREFULLY CONSIDER ALL OF THAT
20 BEFORE YOU MAKE A DECISION AS TO PUNISHMENT?

21 A YES, I WOULD.

22 Q IF YOU WERE ON A JURY AND YOU HAD GONE INTO THE
23 SENTENCING PHASE AND YOU WERE THROUGH WITH THE SENTENCING
24 PHASE, AND THE JUDGE HAD SAID, "GIVE ALL THESE MATTERS
25 CAREFUL CONSIDERATION, CIRCUMSTANCES OF AGGRAVATION,

ROSITA J. SINGLETON -- VOIR DIRE BY THE COURT

1 MITIGATION EVIDENCE," COULD YOU RETURN AT SENTENCE OF LIFE
2 IMPRISONMENT?

3 A YES, I COULD.

4 Q ALL RIGHT. ON THE OTHER HAND, IF YOU CAREFULLY
5 CONSIDERED EVERYTHING, ALL THIS EVIDENCE, AND THE JUDGE
6 INSTRUCTED YOU TO CAREFULLY CONSIDER IT, COULD YOU VOTE FOR
7 THE DEATH PENALTY?

8 A YES, I COULD.

9 Q NOW, IN SOUTH CAROLINA IN ORDER TO IMPOSE THE DEATH
10 PENALTY IT'S NOT MERELY VOTING FOR THE DEATH PENALTY -- ALL
11 TWELVE MUST AGREE -- BEYOND THAT EACH JUROR MUST SIGN HIS OR
12 HER NAME TO THE VERDICT FORM IMPOSING THE DEATH PENALTY.
13 COULD YOU DO THAT?

14 A YES, I COULD.

15 Q OKAY. NOW, DO YOU RECALL THAT LIST IN THE OTHER ROOM
16 THAT LISTED THE THREE TYPES OF JURORS?

17 A YES.

18 Q IF ONE OF THOSE FITS YOU, MA'AM, WHICH ONE DESCRIBES
19 YOU?

20 A THAT WOULD BE THE PERSON WITH AN OPEN MIND DEPENDING ON
21 THE EVIDENCE AND LATER WOULD BE ABLE TO MAKE THE DECISION
22 WHETHER TO GIVE LIFE OR DEATH.

23 Q OKAY. AND YOU WOULD KEEP THAT OPEN MIND AND YOU WOULD
24 EVEN ENTER THE SENTENCING PHASE WITH THAT OPEN MIND?

25 A YES, I WOULD.

ROSITA J. SINGLETON -- VOIR DIRE BY THE COURT

1 Q AND YOU WOULDN'T HAVE YOUR MIND MADE UP ONE WAY OR THE
2 OTHER?

3 A NO, I WOULD NOT.

4 Q AND YOU WOULD GIVE FAIR CONSIDERATION AND MEANINGFUL
5 CONSIDERATION TO THE STATE'S REQUEST OF THE DEATH PENALTY AND
6 YOU WOULD GIVE MEANINGFUL CONSIDERATION FOR THE REQUEST OF
7 LIFE IMPRISONMENT; IS THAT CORRECT?

8 A THAT'S CORRECT.

9 Q AND YOU WOULD WANT TO HEAR EVERYTHING AND CAREFULLY
10 CONSIDER IT BEFORE YOU MADE THAT DECISION?

11 A THAT'S CORRECT.

12 THE COURT: OKAY. THE ATTORNEYS WILL HAVE SOME
13 QUESTIONS TO ASK YOU. I MAY HAVE SOME FOLLOW-UP. BUT ONCE
14 WE GET THROUGH WITH THAT, WE'LL ALMOST BE THROUGH WITH YOU
15 AND YOU'LL BE ABLE TO GO.

16 JUROR NUMBER 330: OKAY.

17 THE COURT: THANK YOU, MA'AM.

18 MR. ARIAIL?

19 VOIR DIRE BY SOLICITOR ARIAIL:

20 Q MS. SINGLETON, MY NAME IS BOB ARIAIL AND I'M THE
21 SOLICITOR FOR GREENVILLE AND PICKENS COUNTIES, THE THIRTEENTH
22 CIRCUIT OF SOUTH CAROLINA, WHICH MEANS THAT I'M THE CHIEF
23 PROSECUTOR. SOUTH CAROLINA STILL CALLS THEM THE SOLICITOR.
24 OTHER STATES CALL THEM THE DISTRICT ATTORNEY. ASSISTING ME
25 IN THIS CASE WILL BE MS. STROM, MY DEPUTY IN THE BEIGE COAT,

1 AND MS. HERVEY, ONE OF MY ASSISTANTS, IN THE GREEN.

2 OBVIOUSLY YOU'VE FIGURED OUT WHAT WE'RE DOING HERE,
3 TRYING TO ESTABLISH WHAT JURORS ARE FAIR OR COULD BE FAIR TO
4 BOTH SIDES WHEN WE GET -- IN THE EVENT WE GET INTO A
5 SENTENCING PHASE...

6 WHAT I'D LIKE TO KNOW, ON THE BASIS OF YOUR RESPONSE
7 REGARDING THE ABILITY TO IMPOSE THE DEATH PENALTY, HOW LONG
8 HAVE YOU HELD THE VIEW REGARDING -- YOUR VIEWS REGARDING THE
9 DEATH PENALTY?

10 A AS FAR AS HAVING AN OPEN MIND?

11 Q YES. WELL, LET ME GO BACK ONE. ASSUMING THAT IF YOU
12 HAVE AN OPEN MIND, YOU BELIEVE THAT THE DEATH PENALTY IS AN
13 APPROPRIATE PUNISHMENT IN THIS COUNTRY -- OR AS PART OF THE
14 JUDICIAL PROCESS?

15 A YES.

16 Q AND THAT -- HOW LONG HAVE YOU BELIEVED THAT IN REGARD TO
17 THE DEATH PENALTY? IS IT SOMETHING YOU GREW UP WITH OR
18 SOMETHING---

19 A YES, BASICALLY SOMETHING I GREW UP WITH.

20 Q AND THAT WAS SOMETHING YOUR BACKGROUND, YOUR PARENTS OR
21 FAMILY OR WHATEVER, THAT YOU CAME -- THROUGH EDUCATION OR
22 SOMETHING -- YOU HAVE MAINTAINED FOR SOME PERIOD OF TIME?

23 A THAT'S CORRECT.

24 Q NOT SOMETHING THAT YOU JUST CAME TO RECENTLY OR CHANGED.

25 LET ME GO BACK ONE OTHER STEP. HAS THAT VIEW OF THE

1 DEATH PENALTY AND ITS APPROPRIATENESS REMAINED THE SAME OR
2 HAVE YOU CHANGED YOUR VIEW?

3 A NO, IT'S REMAINED THE SAME.

4 Q REMAINED THE SAME. ALL RIGHT.

5 IS THERE ANYTHING THAT YOU ARE AWARE OF IN YOUR
6 BACKGROUND, EITHER WHETHER IT BE RELIGIOUS OR MORAL OR SOCIAL
7 OR POLITICAL BELIEF OR SOMETHING OF THAT NATURE THAT WOULD
8 LIMIT YOUR ABILITY OR INTERFERE WITH YOUR ABILITY TO GIVE THE
9 STATE'S REQUEST FOR THE DEATH PENALTY FAIR CONSIDERATION?

10 A NO, THERE'S NOTHING.

11 Q NO VIEW YOU HOLD THAT---

12 A NO.

13 Q AND YOU ALSO UNDERSTAND AS PART OF THAT THAT THE JUDGE
14 WILL CHARGE YOU THAT YOU MUST CONSIDER -- ONCE YOU REACH THAT
15 PHASE AND YOU DETERMINE THERE IS AN AGGRAVATING CIRCUMSTANCE
16 THAT YOU MUST CONSIDER BOTH AGGRAVATING AND MITIGATING
17 EVIDENCE TO DETERMINE WHAT SENTENCE IS APPROPRIATE?

18 A YES.

19 Q AND IN DOING THAT HE WILL ALSO INSTRUCT YOU, IF HE
20 HASN'T ALREADY, THAT YOU WOULD HAVE TO SET ASIDE ANY PERSONAL
21 BELIEFS YOU HAD, THAT YOU MAY HAVE NOW OR THAT YOU MAY LEARN
22 LATER THAT YOUR BELIEFS ARE IN CONFLICT WITH THE LAW. YOU'D
23 HAVE TO SET THOSE ASIDE.

24 A THAT'S CORRECT.

25 Q AND YOU FEEL YOU COULD DO THAT?

ROSITA J. SINGLETON -- VOIR DIRE BY SOLICITOR ARIAIL

1 A YES.

2 SOLICITOR ARIAIL: JUST ONE MOMENT. (OFF RECORD WITH
3 CO-COUNSEL)

4 Q WHAT ARE THE -- WHAT DO YOU THINK THE PURPOSE OF HAVING
5 THE DEATH PENALTY AS PART OF OUR SYSTEM OF LAWS IS?

6 A PARTIALLY DETERRENT.

7 Q PARTIALLY?

8 A YES.

9 Q ALL RIGHT. ANY OTHER REASON, ANY OTHER PARTS?

10 A AND PUNISHMENT.

11 Q AND STRAIGHT OUT PUNISHMENT?

12 A YES.

13 Q AND YOU UNDERSTAND THE STATE CANNOT SEEK THE DEATH
14 PENALTY IN EVERY MURDER?

15 A YES, I DO.

16 Q IT'S ONLY IN CERTAIN MURDERS WHICH THE LEGISLATURE SAYS
17 IT'S MURDER CONNECTED WITH ANOTHER EVENT, SUCH AS ARMED
18 ROBBERY OR CRIMINAL SEXUAL CONDUCT OR A NUMBER OF OTHERS THAT
19 HAVE BEEN DEFINED? SO IT HAS TO BE MURDER PLUS AN
20 AGGRAVATING FACTOR?

21 A YES, I UNDERSTAND.

22 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR. THAT'S ALL
23 THE QUESTIONS I HAVE.

24 THE COURT: MR. MAULDIN?

25 VOIR DIRE BY MR. MAULDIN:

ROSITA J. SINGLETON -- VOIR DIRE BY MR. MAULDIN

1 Q MS. SINGLETON, TIME OF DAY AND HOW LONG WE'VE BEEN
2 WORKING, I'LL TRY TO BE AS BRIEF AS I CAN. BUT I HAVE AN
3 AWESOME RESPONSIBILITY IN REPRESENTATION OF JOHN. AND JIM
4 BANNISTER AND RODNEY AND I ARE WORKING WITH JOHN ON THIS
5 CASE. SO I'VE GOT TO ASK SOME QUESTIONS, AND I WANT YOU TO
6 GIVE ME THE INFORMATION YOU FEEL LIKE YOU NEED TO IN
7 RESPONSE.

8 I'M GOING TO TALK TO YOU A SECOND ABOUT YOUR
9 UNDERSTANDING ABOUT THIS PROCESS AND HOW THE QUESTION IS
10 REALLY WHETHER A PERSON IS ELIGIBLE OR QUALIFIED TO BE A
11 POTENTIAL JUROR. AND THE COURT IS GOING TO HAVE TO MAKE THAT
12 CHOICE AS TO WHO IS OR ISN'T QUALIFIED. AN EXAMPLE OF A
13 PERSON WHO WOULD NOT BE QUALIFIED WOULD BE A PERSON WHO SAID,
14 "I BELIEVE IN AN EYE FOR EYE. IF A PERSON COMMITS A MURDER,
15 THEY MUST BE EXECUTED." ALWAYS DEATH PENALTY. YOU FOLLOW --
16 YOU UNDERSTAND THAT?

17 A YES, I DO.

18 Q AND EQUALLY, A PERSON WHO WOULDN'T BE QUALIFIED IS THE
19 PERSON THAT WOULD COME IN AND SAY, "I'D NEVER GIVE THE DEATH
20 PENALTY UNDER ANY CIRCUMSTANCES, NO MATTER HOW BAD THE CASE
21 IS." DO YOU FOLLOW ME?

22 A YES, I DO.

23 Q SO THE JUROR WHO WILL GIVE A LISTEN TO WHAT HE'S GOT TO
24 SAY AND WHAT I'VE GOT TO SAY AND FAIRLY DECIDE WHICH PENALTY
25 IS THE RIGHT PENALTY FOR THIS CASE -- FOR A PARTICULAR CASE

ROSITA J. SINGLETON -- VOIR DIRE BY MR. MAULDIN

1 IS THE JUROR WHO IS QUALIFIED. DO YOU UNDERSTAND THAT?

2 A YES, I DO.

3 Q THE OTHER THING THAT'S IMPORTANT, MS. SINGLETON, IS THAT
4 THE JUROR MUST ACKNOWLEDGE -- AND THE COURT HAS TOLD YOU THAT
5 THE JURY WOULD BE INSTRUCTED TO GIVE CONSIDERATION TO CERTAIN
6 THINGS AND THAT THEY WOULD HAVE TO CONSIDER THEM EVEN IF, AS
7 THE PROSECUTOR SAID, YOU MAY BE ASKED TO CONSIDER SOMETHING
8 THAT IS AGAINST WHAT YOU THINK IS EVEN IMPORTANT. DO YOU
9 UNDERSTAND THAT?

10 A YES, I DO.

11 Q SO THE BOTTOM LINE QUESTION IS, IF YOU WERE INSTRUCTED
12 IN THE DECISION ABOUT WHAT PENALTY TO IMPOSE ON A PERSON WHO
13 HAD BEEN CONVICTED OF MURDER, THE PERSON THAT STANDS BEFORE
14 THE JURY AT THAT MOMENT OF SENTENCING IS A PERSON WHO HAS BY
15 THAT JURY BEEN CONVICTED OF MURDER. AND THE PROOF OF AN
16 AGGRAVATING CIRCUMSTANCE RECOGNIZED BY OUR LAW HAS BEEN
17 OFFERED AND ACCEPTED BY THE JURY BEYOND A REASONABLE DOUBT.

18 UNDER THOSE CIRCUMSTANCES WOULD YOU FOLLOW THE COURT'S
19 INSTRUCTION AND CONSIDER THE MITIGATING INFORMATION, EVEN
20 THOUGH IT HAS NOTHING TO DO WITH WHETHER HE'S GUILTY OF
21 MURDER? THIS IS NOT LIKE SELF-DEFENSE OR ACCIDENT OR ALIBI.
22 IT'S NOT LIKE HE'S TRYING TO DEFEND HIMSELF OF MURDER. HE'S
23 BEEN CONVICTED. WOULD YOU STILL BE ABLE TO GIVE
24 CONSIDERATION TO THAT TYPE OF INFORMATION AND VOTE FOR A LIFE
25 SENTENCE IF YOU FELT LIKE IT WAS APPROPRIATE, EVEN FOR A

ROSITA J. SINGLETON -- VOIR DIRE BY MR. MAULDIN

1 CONVICTED MURDERER?

2 A YES, I WOULD.

3 Q TWO OTHER QUESTIONS, MS. SINGLETON. I WAS LOOKING AT
4 YOUR QUESTIONNAIRE, AND IT CAME IMMEDIATELY -- BECAUSE THIS
5 CASE -- THE COURT HAS TOLD YOU IN HIS INTRODUCTORY COMMENTS
6 TO YOU THAT THE CASE INVOLVED THE DEATH OF MR. NICHOLSON, WHO
7 WAS AT THE TIME A STATE TROOPER. HE WAS A LAW ENFORCEMENT
8 OFFICER. AND ACCORDING TO YOUR QUESTIONNAIRE, YOUR BROTHER,
9 YOUR OLDER BROTHER, IS A DEPUTY SHERIFF; IS THAT RIGHT?

10 A HE'S RETIRED.

11 Q HE IS RETIRED?

12 A UH-HUH (AFFIRMATIVE).

13 Q WAS IT A GREENVILLE COUNTY DEPUTY?

14 A YES, IT WAS.

15 Q I WANT -- AND THIS, OF COURSE, IS A PERSONAL QUESTION,
16 BUT WE HAVE TO DETERMINE YOUR QUALIFICATIONS. THE FACT THAT
17 YOUR BROTHER RETIRED FROM LAW ENFORCEMENT, WOULD THAT IN ANY
18 WAY OR COULD THAT IN ANY WAY INTERFERE WITH YOUR ABILITY TO
19 FAIRLY AND IMPARTIALLY JUDGE THE CASE? WOULD -- COULD THAT
20 INTERFERE WITH YOUR ABILITY TO BE FAIR IS THE QUESTION?

21 A NO, IT WOULD NOT INTERFERE.

22 Q ALL RIGHT. LAST QUESTION, MS. SINGLETON. WHEN THE
23 JURY, WHOEVER THESE TWELVE JURORS ARE, ARE IN A CASE OF THIS
24 NATURE, YOU HAVE THE TWELVE JURORS WHO DECIDE THE GUILT OF
25 THE DEFENDANT OR THE INNOCENCE. YOU MAY NOT EVEN HAVE A

1 SENTENCING HEARING. BUT LET'S ASSUME FOR MY QUESTION YOU
2 HAVE A GUILTY VERDICT AND THEY GO IN AND THEY ARE NOW
3 DELIBERATING ON THE SENTENCE ONLY, AND THERE IS ONLY TWO
4 POSSIBLE SENTENCES. IN A CASE OF THAT NATURE, THE ONLY TWO
5 POSSIBLE SENTENCES ARE EXECUTION -- OR THE DEATH SENTENCE --
6 OR LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE.

7 THE TWELVE JURORS IN THAT SITUATION WOULD HAVE HEARD ALL
8 THE SAME EVIDENCE. THEY WOULD HAVE DELIBERATED. THEY WOULD
9 HAVE DISCUSSED THEIR VIEWS AND TALKED TO EACH OTHER. AND
10 THEN AT SOME POINT THEY'RE GOING TO HAVE TO VOTE. THERE MAY
11 BE SEVERAL VOTES, BUT AT SOME POINT THERE'S GOT TO BE A FINAL
12 VOTE.

13 THE JUDGE MENTIONED TO YOU THAT IN ORDER TO IMPOSE THE
14 DEATH PENALTY THE JURORS MUST ALL TWELVE SIGN THE FORM, SIGN
15 THE SENTENCE OF DEATH. DO YOU RECALL HIM TELLING YOU THAT?

16 A YES, I DO.

17 Q WELL, LET'S SAY THAT AT THE TIME OF THE FINAL VOTE, THE
18 VOTE IS TAKEN AND THERE ARE TEN PEOPLE FOR ONE SENTENCE AND
19 TWO PEOPLE FOR THE OTHER SENTENCE. IT'S NOT UNANIMOUS.
20 THERE IS A SPLIT. BUT THERE IS A HEAVY MAJORITY ON ONE SIDE
21 AND A MINORITY ON THE OTHER. A SMALL GROUP ON THE OTHER. IT
22 COULD BE ONE, TWO OR THREE. BUT WE USE, FOR MY QUESTION,
23 TWO. AND I'M GOING TO PUT YOU IN THAT MINORITY.

24 I NEED TO KNOW HOW YOU, MS. SINGLETON, WOULD REACT TO
25 THAT SITUATION. ARE YOU -- HAVING DELIBERATED FULLY, ARE YOU

ROSITA J. SINGLETON -- VOIR DIRE BY MR. MAULDIN

1 THE TYPE OF PERSON WHO WOULD TEND TO GIVE UP THE POSITION
2 THAT YOU HAD TAKEN AND SIDE WITH THE MAJORITY SIMPLY TO
3 RESOLVE THE CASE OR WOULD YOU STICK BY THE DECISION THAT YOU
4 HAD MADE, AN INDIVIDUAL, MORAL CHOICE ABOUT THE SENTENCE IN
5 THAT CASE? WHICH IS YOU?

6 A I WOULD HAVE TO SAY I WOULD HAVE TO STICK BY MY
7 DECISION.

8 Q ALL RIGHT. AND I'M GOING TO ASK YOU TO REVERSE IT AND
9 NOW YOU'RE IN THE GROUP OF TEN AND YOU'VE GOT TWO PEOPLE THAT
10 DISAGREE WITH YOU, HEARD ALL THE SAME EVIDENCE, SAME
11 WITNESSES. THEY HAVE A DIFFERENT VIEW OF WHAT THE SENTENCE
12 OUGHT TO BE.

13 IN THAT SITUATION, MS. SINGLETON, ARE YOU -- WOULD YOU
14 ATTEMPT TO FORCE THAT ONE OR TWO JURORS TO SIDE WITH THE
15 MAJORITY OR WOULD YOU RESPECT THEIR MORAL AND INDIVIDUAL
16 CHOICE THAT THEY HAVE MADE JUST LIKE YOU DID?

17 A I WOULD RESPECT THEIR DECISION.

18 MR. MAULDIN: THANK YOU, MA'AM.

19 THANK YOU, JUDGE.

20 THE COURT: MS. SINGLETON, YOU ARE GOING TO BE EXCUSED
21 NOW JUST TO GO TO A JURY ROOM BRIEFLY. WE'LL GET YOU BACK
22 OUT HERE AND THEN YOU'LL BE FREE TO GO.

23 JUROR NUMBER 330: OKAY.

24 THE COURT: THANK YOU, MA'AM.

25 (JURY EXITS COURTROOM AT 1:50 P.M.)

MATTERS AND MOTIONS

1 THE COURT: THE JUROR HAS BEEN EXCUSED. QUALIFIED OR
2 NOT QUALIFIED, WHAT SAYS THE STATE?

3 SOLICITOR ARIAIL: QUALIFIED.

4 THE COURT: DEFENDANT?

5 MR. MAULDIN: QUALIFIED.

6 THE COURT: AND TAKE YOUR TIME, BUT ONCE YOU'VE MADE A
7 DECISION AS TO THIS PARTICULAR JUROR, PLEASE LET ME KNOW AND
8 WE'LL START WITH THE STATE.

9 SOLICITOR ARIAIL: (OFF RECORD WITH CO-COUNSEL)

10 THE COURT: ARE Y'ALL STILL CONSIDERING?

11 MR. MAULDIN: WE'RE READY.

12 THE COURT: ALL RIGHT. READY TO HEAR FROM YOU.

13 MS. HERVEY: WE'RE...

14 THE COURT: WHAT? I THOUGHT THEY SAID SWEAR THE JUROR.

15 MS. HERVEY: UH-UH (NEGATIVE).

16 THE COURT: I'M SORRY.

17 MR. MAULDIN: WE'RE READY AS SOON AS THEY HAVE
18 EXERCISED THEIR---

19 THE COURT: OH, I'M SORRY. I THOUGHT THEY ALREADY HAD.
20 I WAS WAITING ON Y'ALL.

21 MR. MAULDIN: DID YOU THINK YOU WERE WAITING ON US?

22 THE COURT: YEAH.

23 MR. MAULDIN: ABSOLUTELY NOT.

24 SOLICITOR ARIAIL: FOR THE FIRST TIME. THE FIRST TIME
25 YOU HAVEN'T HAD TO WAIT ON THEM.

MATTERS AND MOTIONS

1 MR. MAULDIN: THAT'S RIGHT. DON'T BE CONFUSED.

2 SOLICITOR ARIAIL: YOU'RE WAITING ON US.

3 (LAUGHTER)

4 SOLICITOR ARIAIL: (OFF RECORD WITH CO-COUNSEL) EXCUSE
5 HER.

6 MR. MAULDIN: WE MOVE UPON BATSON.

7 THE COURT: ALL RIGHT. I'D LIKE TO HEAR THE REASON WHY
8 THAT JUROR WAS STRUCK OTHER THAN RACE.

9 SOLICITOR ARIAIL: WELL, THAT ISN'T A REASON. SHE HAS
10 EIGHT CONVICTIONS FOR FRAUDULENT CHECK.

11 THE COURT: THAT LADY DOES?

12 SOLICITOR ARIAIL: YES.

13 MS. HERVEY: OVER A PERIOD OF TIME.

14 SOLICITOR ARIAIL: SINCE 1985, A CONSISTENT PATTERN,
15 THE LATEST BEING ONE IN 2000 AND ANOTHER IN 2001 UP TO
16 CURRENT.

17 THE COURT: WE'LL ADDRESS IT NOW AND LATER. BUT IF YOU
18 WANT TO GIVE ME SOMETHING NOW...

19 MR. MAULDIN: YOUR HONOR, THE ONLY THING WE HAVE BEEN
20 PROVIDED WITH, PURSUANT TO OUR MOTION, AN NCIC SHEET, AND WE
21 WOULD WANT THE NCIC TO BE AT SOME POINT A PART OF THIS RECORD
22 TO ACCURATELY REFLECT THE DATES OF THESE CASES.

23 THE COURT: I AGREE. IN FACT, I HAD A NOTE AND I MEANT
24 TO TELL YOU THIS MORNING. AT THE END, LET'S SEE, THE
25 INFORMATION CARD ON MR. SHARPE THAT HE HAD A BAD CHECK AT

MATTERS AND MOTIONS

1 SOME POINT, NOT A CONVICTION, JUST A CHARGE APPARENTLY.
2 THERE WAS A JUROR NUMBER 250, I WON'T SAY HER NAME,
3 APPARENTLY HAD A DUI, STRUCK BY THE DEFENDANT. THERE WAS
4 ANOTHER ONE, I THINK IT WAS -- I'LL SAY 261. I DON'T WANT TO
5 EMBARRASS ANYBODY -- THAT HAD A FAIRLY EXTENSIVE RECORD. AND
6 SO---

7 SOLICITOR ARIAIL: ANOTHER STRIKE.

8 THE COURT: RIGHT. THAT WAS A STRIKE. AT THE END,
9 WE'LL PUT THOSE IN THE RECORD AS A COURT'S EXHIBIT AND WE'LL
10 DO IT UNDER SEAL SO THE PRESS OR WHATEVER WILL NOT BE
11 FORAGING THROUGH THE PRIVATE LIVES OF THESE PEOPLE. BUT THIS
12 LADY, I HAD NO IDEA SHE HAD A PRIOR RECORD. BUT THE BATSON
13 ISSUE IS PRESERVED.

14 I FIND, OF COURSE, SHE IS QUALIFIED. I'M GOING TO GIVE
15 HER THE INSTRUCTION SHEET THAT DEALS WITH SOMEONE WHO REMAINS
16 QUALIFIED. AFTER THAT, WE'RE GOING TO TAKE A TWENTY-MINUTE
17 BREAK FOR LUNCH.

18 SOLICITOR ARIAIL: ARE YOU GOING TO LEAVE THEM?

19 THE COURT: WHAT'S THAT? WE'VE GOT LUNCH.

20 SOLICITOR ARIAIL: YOU'RE FEEDING THEM TOO. OH, GOOD.

21 THE COURT: WE BROUGHT THEM LUNCH IN.

22 SOLICITOR ARIAIL: VERY GOOD.

23 THE COURT: MS. SINGLETON.

24 (JUROR REENTERS COURTROOM AT 2:01 P.M.)

25 THE COURT: MS. SINGLETON, THANK YOU FOR YOUR PATIENCE.

MATTERS AND MOTIONS

1 I WANT YOU TO KNOW THAT YOU ARE A QUALIFIED JUROR AND YOU MAY
2 SERVE IN THIS CASE. THAT DECISION HAS NOT YET BEEN MADE.
3 I'M GOING TO GIVE YOU AN ORDER THAT DESCRIBES WHAT WE DO FROM
4 THIS POINT.

5 YOU DO REMAIN AN ELIGIBLE JUROR. I WANT YOU TO PLEASE
6 REMEMBER YOUR OATH THAT REMAINS IN EFFECT. DO NOT DISCUSS
7 THE CASE WITH ANYONE. DON'T EXPOSE YOURSELF TO ANY MEDIA
8 COVERAGE ABOUT THE CASE. AND AS YOU LEAVE, MS. PLUMLEY HERE,
9 THE JURY COORDINATOR WILL MEET YOU IN THE HALLWAY. WHAT SHE
10 IS GOING TO DO IS GET ALL YOUR PHONE NUMBERS WHERE YOU CAN BE
11 REACHED AT ANY TIME. BECAUSE WHEN THE DECISION IS MADE,
12 WE'RE GOING TO LET YOU KNOW ONE WAY OR THE OTHER, EITHER TO
13 COME IN AND BE READY TO SERVE OR TO GO AHEAD AND JUST LET YOU
14 GO. OKAY?

15 DO YOU UNDERSTAND THOSE INSTRUCTIONS?

16 JUROR NUMBER 330: YES, I DO.

17 THE COURT: ALL RIGHT. MS. SINGLETON, THANK YOU,
18 MA'AM.

19 JUROR NUMBER 330: THANK YOU.

20 (JUROR EXITS COURTROOM AT 2:02 P.M.)

21 THE COURT: ALL RIGHT. WE'RE GOING TO TAKE A BREAK.
22 LET ME JUST GIVE YOU A HEAD'S UP OF A COUPLE OTHER THINGS.

23 A JUROR WHO JUST DIDN'T REPORT AND HAD A PAINTING JOB IN
24 OHIO, CLEVELAND -- HE WAS IN CLEVELAND ON MONDAY -- HE WAS
25 CONTACTED. HE'S BACK HERE. HE WAS HERE THIS MORNING. I

MATTERS AND MOTIONS

1 EXCUSED HIM FOR LUNCH ABOUT AN HOUR AGO AND HE IS TO REPORT
2 BACK AT 4:30. WE'LL HAVE TO DEAL WITH HIM PROBABLY AT THE
3 END OF THE DAY. DON'T KNOW WHY HE DECIDED TO GO TO
4 CLEVELAND, OHIO. WE'LL FIND OUT. IF HE CAN BE QUALIFIED AND
5 RANDOMLY PUT IN A PANEL, WE'LL DO IT. IF HE IS SIMPLY NOT
6 GOING TO COOPERATE, THEN WE'LL HAVE TO DEAL WITH THAT ALSO.

7 MR. MAULDIN: DO YOU HAVE A NUMBER AT LEAST, JUDGE,
8 THAT WE CAN -- AND IF NOT, THAT'S FINE.

9 THE COURT: ANDREA WILL HAVE THAT.

10 MR. MAULDIN: ALL RIGHT.

11 THE COURT: ALSO, MAKE A NOTE -- AND I WANT Y'ALL TO
12 LOOK AT THIS -- THERE WAS A JUROR, MR. MATTHEWS, A POLICE
13 OFFICER, CERTIFIED, DIDN'T HAVE HIS CARD WITH HIM BUT HE WAS
14 A STUDENT AT USC SPARTANBURG. I GOT A STATEMENT FROM THE
15 SCHOOL. I WANT Y'ALL TO LOOK AT THAT. HE WANTS A STUDENT
16 EXEMPTION. I WANT Y'ALL -- IF YOU OBJECT TO THAT, LET ME
17 KNOW AT SOME POINT.

18 ALSO, I'VE GOTTEN A LETTER FAXED FROM DR. RUDASILL, R-U-
19 D-A-S-I-L-L, ON BEHALF OF JUROR CYNTHIA STANCIL WHO WAS
20 SELECTED TO SERVE. HE IS ASKING THAT WE CONSIDER EXCUSING
21 HER FROM JURY DUTY BECAUSE SHE HAS TO KEEP A DOCTOR'S
22 APPOINTMENT ON THERAPY FOR HER CUT FINGER.

23 MR. MAULDIN: IS THAT THAT FINGER?

24 THE COURT: FINGER. SO I'M GOING TO -- HE SAYS, CALL
25 IF YOU HAVE A QUESTION. I'M GOING TO CALL THE DOCTOR. AND

MATTERS AND MOTIONS

1 IF IT'S JUST AN APPOINTMENT NEXT WEEK OR TWO APPOINTMENTS, IF
2 THEY COULD HELP US BY SCHEDULING IT DURING A LUNCH BREAK, I
3 DON'T SEE WHY SHE COULDN'T CONTINUE TO SERVE. IT JUST
4 DEPENDS ON THE EXTENT OF WHAT HER THERAPY IS. HE'S
5 NONSPECIFIC. SO I'M GOING TO MAKE THAT CALL AND THEN ALERT
6 YOU AS TO THE CONTENTS OF THAT CONVERSATION.

7 MR. MAULDIN: NO OBJECTION AS TO MATTHEWS FROM THE
8 DEFENSE.

9 THE COURT: YOU WANT TO LOOK AT THE---

10 MS. HERVEY: NO.

11 SOLICITOR ARIAIL: NO.

12 THE COURT: OKAY. MATTHEWS---

13 SOLICITOR ARIAIL: COULD WE GET THE NUMBER OF THE NEXT
14 JUROR?

15 MR. MAULDIN: NUMBER OF THE NEXT JUROR?

16 SOLICITOR ARIAIL: THE ONE YOU'RE WAITING ON THE NUMBER
17 FROM ANDREA.

18 THE COURT: OH, THE GUY WHO WENT TO CLEVELAND OHIO.

19 MS. HERVEY: THE PAINTER.

20 THE COURT: WHAT'S HIS NUMBER?

21 MR. MAULDIN: THE PAINTER FROM OHIO.

22 MADAME CLERK: MR. ROLLER, NUMBER 317.

23 MR. MAULDIN: 317.

24 MADAME CLERK: HE IS THE OHIO GENTLEMAN.

25 THE COURT: AND I HAVE AN EMERGENCY PHONE CALL FROM DR.

MATTERS AND MOTIONS

1 NARAYAN THAT IT'S AN EMERGENCY THAT HE SPEAK WITH ME
2 IMMEDIATELY. I DON'T KNOW WHAT IT'S ABOUT.

3 SOLICITOR ARIAIL: I CAN TELL YOU WHAT IT'S ABOUT.
4 IT'S THE SUBJECT OF THAT LETTER. THEY WANT FOR THE BLAIR
5 HEARING ON THURSDAY THE RECORD -- UPDATED RECORDS FROM THE --
6 MEDICAL RECORDS FROM THE JAIL. AND HE ASKED JOHN. HE CALLED
7 JOHN AND LEFT A MESSAGE, HE SAID, TO GET A CONSENT. HE
8 HASN'T HEARD ANYTHING BACK, SO NOW HE'S CALLING YOU.

9 I TOLD HIM THAT WE WOULD FACILITATE -- WHEN I TALKED TO
10 HIM MONDAY, THEY SAID THEY NEEDED THOSE RECORDS. THEY HAD
11 GOTTEN THE ONES BEFORE. THEY WANTED THESE AND COULDN'T GET
12 THEM WITHOUT CONSENT. SO I TOLD HIM TO CALL JOHN. HE DID.
13 AND THEY WON'T CALL HIM BACK, SO HE'S CALLING YOU.

14 THE COURT: ALL RIGHT. JUST TELL ME YOUR RESPONSE.
15 THAT'S ALL I NEED TO KNOW.

16 MR. MAULDIN: I SUBPOENAED HIM. HE NEVER TALKED TO ME
17 BEFORE HE GOT THAT SUBPOENA. WHEN HE GOT THE SUBPOENA, HE
18 CALLED, I THINK, FRIDAY AFTERNOON ABOUT NEEDING PHONE NUMBERS
19 FOR PEOPLE. THEN HE CALLED AGAIN ON MONDAY MORNING AND ASKED
20 FOR THIS MEDICAL RECORD BUSINESS. I TOLD HIM I WAS INVOLVED
21 IN JURY SELECTION AND I DIDN'T HAVE TIME TO START PUTTING
22 THAT TOGETHER.

23 HE NEVER HAS GOTTEN ANY MEDICAL RECORDS. THIS IDEA THAT
24 HE GOT SOME EARLIER AND NOW WANTS MORE IS NOT THE CASE AS FAR
25 AS I'M AWARE.

MATTERS AND MOTIONS

1 **SOLICITOR ARIAIL:** HE GOT THE JAIL MEDICAL RECORDS
2 PREVIOUSLY. HE SAID HE WANTED TO GET AN UPDATE. THAT'S ALL
3 I KNOW.

4 **MR. MAULDIN:** THAT'S NOT---

5 **THE COURT:** OKAY. IS THERE AN OBJECTION TO HIM
6 REVIEWING THE MEDICAL RECORDS?

7 **MR. MAULDIN:** YOUR HONOR, IT REALLY COMES DOWN TO THE
8 FACT THAT WE'VE OBJECTED TO THE PROCESS FROM THE VERY FIRST
9 INSTANCE. AND THIS FELLOW IS EXPECTING US TO START PROVIDING
10 HIM WITH OUR FILE INFORMATION? AND WE JUST SIMPLY CANNOT
11 BE---

12 **MS. HERVEY:** YOUR HONOR,---

13 **THE COURT:** NO, NO, NO. IT'S A COMPETENCY HEARING.
14 THAT IS THE FOCUS OF HIS TESTIMONY. I'LL FIND OUT WHAT
15 INFORMATION IS NECESSARY FOR THE COMPETENCY HEARING. I KNOW
16 THAT THE DEFENDANT'S VIEW IS THAT COMPETENCY HAS NOTHING TO
17 DO WITH THE MENTAL HEALTH OF A DEFENDANT, AND IT HAS NOTHING
18 TO DO WITH THE MENTAL STATUS OF A DEFENDANT. I THINK IT
19 DOES. THAT'S BEEN MY PRACTICE WITH EVERY COMPETENCY HEARING
20 I'VE EVER DONE. AND I DON'T BELIEVE MENTAL ILLNESS AND
21 COMPETENCY ARE MUTUALLY EXCLUSIVE. I'VE HAD THESE DOCTORS
22 FROM COLUMBIA COME UP AND THEY ALWAYS TALK IN THE CONTEXT OF
23 COMPETENCY TO GIVE AN OPINION TO A REASONABLE DEGREE OF THEIR
24 FIELD OF CERTAINTY THEY KNOW THE MENTAL HEALTH STATUS AND THE
25 CIRCUMSTANCES OF THAT INDIVIDUAL. I'M GOING TO FIND OUT FROM

MATTERS AND MOTIONS

1 DR. NARAYAN WHAT HE NEEDS -- THE MINIMUM HE NEEDS TO BE ABLE
2 TO RENDER AN OPINION AS TO THE ISSUE OF COMPETENCY -- NO
3 OTHER OPINION -- AND THEN I'LL COME BACK AND WE'LL VISIT THE
4 ISSUE.

5 MR. MAULDIN: THANK YOU, JUDGE.

6 THE COURT: 2:30.

7 (A LUNCH RECESS WAS TAKEN FROM 2:08 TO 2:38)

8 THE COURT: I'LL TELL YOU TWO ISSUES, AND THEN WE'RE
9 GOING TO MOVE FORWARD. WE'RE NOT GOING TO ARGUE ABOUT THESE.
10 I'M SIMPLY GOING TO GIVE YOU FOR INFORMATION. WE'LL DEAL
11 WITH THEM LATER.

12 CYNTHIA STANCIL, I BELIEVE, CAN CONTINUE TO SERVE. I
13 DID NOT SPEAK TO THE DOCTOR. HE IS NOT IN TODAY. HE WILL BE
14 IN TOMORROW. THE NURSE AND THE OFFICE MANAGER SEEM TO THINK
15 THAT DR. RUDASILL DID NOT KNOW THAT SHE HAD ACTUALLY BEEN
16 SELECTED. SHE HAS A PHYSICAL THERAPY APPOINTMENT ON FRIDAY
17 THE EIGHTH AT 10:45. IT LASTS 45 MINUTES. ON FEBRUARY THE
18 ELEVENTH AT 1:45 SHE HAS PHYSICAL THERAPY PLUS A DOCTOR'S
19 APPOINTMENT THEREAFTER. ON FEBRUARY FOURTEENTH AT ONE
20 O'CLOCK, SHE HAS PHYSICAL THERAPY. THOSE ARE THREE
21 APPOINTMENTS, TWO OF WHICH PROBABLY WOULD TAKE PLACE DURING
22 THE COURSE OF THE TRIAL THAT APPROXIMATE THE LUNCH HOUR. AND
23 THE DOCTOR IS GOING TO ADVISE MY OFFICE ONCE HE IS INFORMED
24 OF WHETHER HE THINKS HER CUT FINGER IS SO SEVERE THAT SHE
25 COULD NOT SERVE. BUT I AT THIS POINT THINK THAT SHE IS STILL

MATTERS AND MOTIONS

1 ABLE TO SERVE.

2 DR. NARAYAN IS SIMPLY CONCERNED THAT HE CAN'T GET ANY
3 INFORMATION. HE IS CONCERNED ABOUT AN INABILITY TO TESTIFY
4 TO THE NECESSARY STANDARD AS TO COMPETENCY AT TRIAL. HE IS
5 NOT GETTING ANY COOPERATION, HE CLAIMS, FROM DEFENDANT AS TO
6 ANYTHING, MEDICAL RECORDS, THE MEDICATION THAT HE HAS BEEN
7 RECENTLY PRESCRIBED. HE WANTS TO TAKE A BLOOD TEST. HE
8 WANTS TO OBSERVE. HE WANTS TO DO OTHER THINGS THAT HE SAYS
9 ARE NECESSARY FOR HIM TO BE ABLE TO RENDER AN OPINION AS TO
10 COMPETENCY AT THIS TIME. I JUST LEFT IT WITH HIM WE'RE GOING
11 TO DO THE BEST WE CAN. AND WHEN HE COMES UP TO TESTIFY IF HE
12 CAN'T TESTIFY TO THE APPROPRIATE STANDARD AT THE TIME OF
13 TRIAL, THEN HE HAS SIMPLY GOT TO TELL US THAT.

14 MR. MAULDIN: HE'S SIMPLY GOT TO WHAT?

15 THE COURT: HE'S SIMPLY GOT TO TELL US THAT. BUT HE'S
16 QUITE FRANKLY CONCERNED AND WANTING TO GET A LOT OF
17 INFORMATION THAT HE SAYS HE MUST HAVE TO ASSESS COMPETENCY,
18 AND I TOLD HIM THAT I'M NOT IN A POSITION TO ORDER FAMILY
19 MEMBERS TO TALK TO HIM. I DON'T FEEL I'M IN A POSITION TO
20 ORDER BLOOD TESTS. AND THE MEDICATION THAT MR. WOOD IS
21 TAKING, HE WANTS TO KNOW THE BACKGROUND, HE WANTS TO KNOW THE
22 REASONS WHY, AND HE SAYS THAT'S NECESSARY INFORMATION THAT HE
23 MUST KNOW TO PUT INTO THE TOTAL PICTURE AND HAVE AN OPINION
24 ON COMPETENCY. WE'LL ADDRESS IT WHEN THE SITUATION OCCURS.

25 THE NEXT JUROR IS LORETTA WILLIAMS.

MATTERS AND MOTIONS

1 **SOLICITOR ARIAIL:** DO YOU HAVE A COPY OF THE
2 QUESTIONNAIRE?

3 **THE COURT:** I'M SURE I DO.

4 **SOLICITOR ARIAIL:** WELL, JUST FOR YOUR EDIFICATION,
5 NUMBER 54, SHE SAYS, I DON'T BELIEVE IN CAPITAL PUNISHMENT.
6 AND JUST TO MAKE SURE THE QUESTIONING PROCEEDS ACCORDINGLY.

7 (JUROR NUMBER 388 ENTERS COURTROOM AT 2:43 P.M.)

8 **THE COURT:** MS. WILLIAMS, WE APOLOGIZE FOR THE DELAY.
9 IT HAS JUST TAKEN LONGER THAN WE ANTICIPATED. WE KNOW IT'S
10 AN INCONVENIENCE. WE THANK YOU FOR YOUR PATIENCE.

11 **JUROR NUMBER 388:** THANK YOU.

12 **LORETTA WILLIAMS (BLACK**
13 **FEMALE), HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**
14 **VOIR DIRE BY THE COURT:**

15 **Q** MS. WILLIAMS, WE'RE GOING TO SHARE A LITTLE MORE
16 INFORMATION ABOUT A CASE OF THIS NATURE, ASK YOU YOUR VIEWS
17 ON ISSUES THAT MAY ARISE IN A CASE OF THIS NATURE, AND I HAVE
18 QUESTIONS AND THINGS I WANT TO DISCUSS WITH YOU AND THE
19 ATTORNEYS MAY AS WELL.

20 **A** OKAY.

21 **Q** THIS CASE ARISES FROM AN INCIDENT WHICH OCCURRED
22 ACCORDING TO THE INDICTMENT IN GREENVILLE COUNTY ON DECEMBER
23 THE 6TH, 2000. THE DEFENDANT IS CHARGED WITH THE OFFENSE OF
24 MURDER, AND THE VICTIM IDENTIFIED IN THE INDICTMENT IS ERIC
25 NICHOLSON. MR. NICHOLSON WAS AT THAT TIME A STATE TROOPER.

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 THIS CASE RECEIVED ATTENTION IN THE MEDIA. I WANT TO
2 KNOW MA'AM, IF YOU HAVE ANY INFORMATION ABOUT THIS CASE. AND
3 IF YOU DO, CAN YOU TELL ME WHAT SPECIFICALLY YOU RECALL?

4 A I REMEMBER HEARING IT WHEN IT FIRST HAPPENED ON THE
5 NEWS. BUT AFTER THAT, I NEVER DID FOLLOW IT.

6 Q DO YOU RECALL WHAT YOU HEARD WHEN IT FIRST HAPPENED?

7 A NO, NOT REALLY BECAUSE I WAS IN THE KITCHEN COOKING,
8 SO...

9 Q OKAY.

10 A I JUST KNOW THAT THE STATE TROOPER HAD GOTTEN SHOT. BUT
11 REALLY KNOWING WHO IT WAS AND WHAT HAPPENED, I DIDN'T.

12 Q OKAY. THERE MAY BE SOME REFERENCE IN THE EVIDENCE TO
13 ANDERSON COUNTY OR SOMETHING THAT HAPPENED IN ANDERSON. DOES
14 THAT TRIGGER ANY MEMORY WHEN I MENTION ANDERSON COUNTY?

15 A ONLY THING I CAN REMEMBER WITH ANDERSON COUNTY WAS THEY
16 HAD FOUND SOME GIRL THAT HAD BEEN KILLED, AND THAT'S BEEN A
17 WHILE AGO BACK.

18 Q OKAY. THAT MIGHT EVEN BE ANOTHER CASE.

19 THE REASON I ASK THESE QUESTIONS, MS. WILLIAMS, IS THAT
20 ANYONE WHO SERVES ON JURY DUTY MUST TAKE AN OATH TO FIND THE
21 TRUTH FROM THE EVIDENCE, NOT WHAT THEY MAY HAVE HEARD AT THE
22 HOUSE OR AT WORK OR WHEREVER. THEY MUST FIND THE TRUTH FROM
23 THE EVIDENCE PRESENTED IN COURT AND FOLLOW THE LAW AS
24 INSTRUCTED BY THE COURT. DO YOU UNDERSTAND THE IMPORTANCE OF
25 THAT?

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 A YES, SIR, I DO.

2 Q AND IF YOU WERE A JUROR IN ANY CASE WOULD YOU HONOR YOUR
3 OATH AND FIND THE TRUTH FROM THE EVIDENCE AND FOLLOW THE LAW?

4 A YES, SIR, I WOULD. I WOULD HAVE TO LISTEN TO THE
5 EVIDENCE BEFORE I COULD MAKE A DECISION.

6 Q YES, MA'AM. AND IN THAT REGARD, HAVE YOU ALREADY FORMED
7 AN OPINION AS TO THE GUILT OR INNOCENCE OF THIS DEFENDANT?

8 A NO, SIR.

9 Q MS. WILLIAMS, DO YOU UNDERSTAND THE LEGAL PRINCIPLES WE
10 TALKED ABOUT EARLIER, THE PRESUMPTION OF INNOCENCE AND THAT
11 THE STATE AND ONLY THE STATE HAS THE BURDEN OF PROOF TO PROVE
12 GUILT BEYOND A REASONABLE DOUBT?

13 A YES, SIR, I UNDERSTOOD WHAT YOU WERE SAYING.

14 Q DO YOU AGREE WITH THOSE LEGAL PRINCIPLES?

15 A YES, SIR, I DO.

16 Q OKAY. NOW, MS. WILLIAMS, IN A CASE OF THIS NATURE, IT'S
17 DIVIDED INTO TWO PHASES. THE FIRST PHASE IS WHERE A JURY IS
18 CALLED UPON TO FIND WHETHER OR NOT THE STATE HAS PROVEN GUILT
19 OF THE OFFENSE OF MURDER BEYOND A REASONABLE DOUBT. IF THE
20 VERDICT IS NOT GUILTY, THERE IS NO FURTHER JURY SERVICE.
21 THAT ENDS THE JURY INVOLVEMENT. BUT IN A CASE OF THIS NATURE
22 WHERE THE STATE SEEKS THE DEATH PENALTY, THERE MAY BE A
23 SECOND PHASE, WHAT WE CALL A SENTENCING PHASE. AND SO
24 BECAUSE OF THAT I'M GOING TO DISCUSS WITH YOU THINGS THAT
25 OCCUR IN A SENTENCING PHASE AND PARTICULARLY WHAT YOUR VIEWS

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 ARE ON THE DEATH PENALTY. DO YOU UNDERSTAND?

2 A YES, SIR, I DO.

3 Q OKAY. NOW, WHEN A JURY MOVES TO A SENTENCING PHASE,
4 THAT MEANS -- WE'RE NOT TALKING ABOUT THIS CASE. WE'RE JUST
5 TALKING ABOUT IN GENERAL.

6 A IN GENERAL.

7 Q WHEN A JURY MOVES TO A SENTENCING PHASE, THAT MEANS THE
8 JURY HAS ALREADY FOUND THAT PARTICULAR DEFENDANT GUILTY OF
9 MURDER. THAT'S BEEN DETERMINED. SO WHEN YOU GO TO THE
10 SENTENCING PHASE, AS THE NAME IMPLIES, YOU ARE GOING TO FIND
11 OUT WHAT THE APPROPRIATE SENTENCE IS. A MURDER HAS ALREADY
12 BEEN DETERMINED, AND NOW UNDER THE LAW WE'RE TRYING TO
13 RECEIVE ADDITIONAL EVIDENCE TO FIND OUT WHAT THE APPROPRIATE
14 PENALTY SHOULD BE, AND WE ARE GOING THROUGH THE PROCESS OF
15 QUESTIONING EACH POTENTIAL JUROR TO FIND OUT IF THAT JUROR
16 COULD SERVE FAIRLY, NOT ONLY IN THE FIRST PHASE BUT ALSO A
17 POTENTIAL SENTENCING PHASE AS WELL.

18 AND IN A SENTENCING PHASE THE JURY WOULD HEAR NEW
19 EVIDENCE. FOR EXAMPLE, THE JURY WOULD HEAR EVIDENCE OF A
20 CIRCUMSTANCE OR CIRCUMSTANCES OF AGGRAVATION. THAT'S A TERM
21 OF ART IN OUR STATE LAW. MURDER ALONE NEVER ENTITLES THE
22 STATE TO ASK FOR THE DEATH PENALTY. BUT THE STATE CAN ASK
23 FOR THE DEATH PENALTY WHERE A MURDER IS ACCOMPANIED BY ONE OF
24 THESE AGGRAVATING CIRCUMSTANCES. I'LL GIVE YOU A COUPLE OF
25 EXAMPLES. MURDER IN THE COMMISSION OF KIDNAPPING, MURDER IN

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 THE COMMISSION OF ARMED ROBBERY. THAT JUST SORT OF GIVES YOU
2 AN IDEA OF A CIRCUMSTANCE THAT COMBINES WITH A MURDER THAT
3 ALLOWS THE STATE TO ASK FOR THE DEATH PENALTY. THAT'S THE
4 TYPE OF EVIDENCE THAT WOULD BE GIVEN IN A SENTENCING PHASE.

5 AND BEYOND THAT THERE WOULD BE EVIDENCE WHICH THE LAW
6 SAYS MUST BE CONSIDERED, AND THAT IS MITIGATION EVIDENCE.
7 MITIGATION EVIDENCE COULD BE THINGS THAT INVOLVE THE
8 DEFENDANT -- FAMILY BACKGROUND, PERSONAL HISTORY, MENTAL
9 HEALTH STATUS, THINGS OF THIS NATURE. AND THE LAW REQUIRES
10 THAT A JUROR ENTER THAT SENTENCING PHASE WITH AN OPEN MIND
11 AND BE ABLE TO CONSIDER ALL OF THAT EVIDENCE BEFORE MAKING A
12 DECISION.

13 DO YOU UNDERSTAND THAT?

14 A YES, SIR, I DO.

15 Q SO AT THE END OF A SENTENCING HEARING, THE JURY IS
16 INSTRUCTED TO GIVE CAREFUL AND THOUGHTFUL CONSIDERATION TO
17 ANY CIRCUMSTANCE OF AGGRAVATION AND ANY MITIGATION EVIDENCE
18 BEFORE MAKING A DECISION. IF YOU WERE A JUROR IN THAT
19 SITUATION, WOULD YOU HONOR YOUR OATH AND LISTEN TO THE LAW
20 AND APPLY IT AND CONSIDER ALL THAT EVIDENCE BEFORE YOU MADE A
21 DECISION?

22 A YES, SIR, I WOULD HAVE TO STILL LISTEN TO THE EVIDENCE
23 BEFORE I COULD MAKE THAT DECISION.

24 Q VERY GOOD, MA'AM.

25 NOW, IF YOU WERE ON A JURY IN A CAPITAL CASE THAT HAD

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 GONE TO THE SENTENCING PHASE AND HAD HEARD ALL THE NEW
2 EVIDENCE AND YOU HAD RECEIVED THAT INSTRUCTION FROM THE COURT
3 TO CONSIDER ALL THE EVIDENCE CLEARLY AND CONSIDER A
4 CIRCUMSTANCE OF AGGRAVATION VERY CAREFULLY, SERIOUSLY, AND
5 CONSIDER MITIGATION EVIDENCE CAREFULLY AND VERY SERIOUSLY,
6 COULD YOU UNDER THAT CIRCUMSTANCE VOTE FOR LIFE IMPRISONMENT?

7 A AFTER HEARING THE EVIDENCE AND LISTENING TO IT
8 CAREFULLY, I COULD.

9 Q OKAY.. THE FLIP SIDE. YOU'VE HEARD THE EVIDENCE. YOU
10 HAVE CAREFULLY CONSIDERED THE CIRCUMSTANCES, CIRCUMSTANCES OF
11 AGGRAVATION AND MITIGATION EVIDENCE, COULD YOU VOTE FOR THE
12 DEATH PENALTY?

13 A I DON'T THINK I COULD.

14 Q ALL RIGHT. HAVING A HESITATION DOES NOT DISQUALIFY YOU.
15 AND WHAT YOU NEED TO TELL ME IS, IS THERE ANY SET OF
16 CIRCUMSTANCES UNDER WHICH YOU WOULD GIVE CAREFUL
17 CONSIDERATION AND CONSIDER VOTING FOR THE DEATH PENALTY?

18 A I WOULD ACTUALLY HAVE TO SIT AND LISTEN TO ALL THE
19 EVIDENCE THAT WAS BROUGHT INTO ME FIRST, AND THEN I WOULD
20 HAVE TO SIT AND WEIGH OUT MY OPTIONS AS TO WHAT I WOULD HAVE
21 TO SIT AND THINK ABOUT. THEN I WOULD ACTUALLY IF IT WERE TO
22 COME TO THAT CONCLUSION THAT I WOULD HAVE TO SAY GIVE A
23 PERSON THE DEATH PENALTY, I WOULD STILL WOULD HAVE TO SAY,
24 NO, LIFE IN PRISON.

25 Q AND PLEASE UNDERSTAND, MA'AM, NO ONE IS TRYING TO TELL

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 YOU UP FRONT THAT YOU HAVE TO VOTE LIFE---

2 A I UNDERSTAND THAT.

3 Q ---THAT YOU HAVE TO VOTE DEATH.

4 A I UNDERSTAND THAT.

5 Q IT'S JUST THAT THERE ARE TWO OPTIONS. AND WE'RE TRYING
6 TO DETERMINE THAT WE CAN -- AND WE'RE TRYING TO FIND JURORS
7 WHO WILL GIVE THE STATE AND THE DEFENDANT A FAIR SHAKE, FAIR
8 CONSIDERATION. THE STATE SEEKS THE DEATH PENALTY. AND IF
9 THERE IS A JUROR WHO SAYS, "I'M NEVER GOING TO VOTE FOR THE
10 DEATH PENALTY," THEN THAT JUROR WOULDN'T BE QUALIFIED. ON
11 THE SAME -- ON THE OTHER HAND, A JUROR COMES IN AND SAYS,
12 "I'D GIVE THE DEATH PENALTY EVERY CASE. I'D NEVER VOTE FOR
13 LIFE," THAT JUROR WOULDN'T BE FAIR TO THE DEFENDANT.

14 SO WE NEED, GOING IN, JURORS WHO HAVE AN OPEN MIND ON
15 THE ISSUE OF PUNISHMENT. AND THEY MAY LEAN ONE WAY OR THE
16 OTHER, AND THAT'S FINE. BUT THEY HAVE TO BE ABLE TO
17 CAREFULLY CONSIDER EACH SIDE'S POSITION, AND IF THEY BELIEVED
18 IT APPROPRIATE, VOTE FOR THAT POSITION, VOTE FOR THE DEATH
19 PENALTY, VOTE FOR LIFE IMPRISONMENT. SO DO YOU UNDERSTAND
20 WHAT THE REQUIREMENTS ARE TO BE AN ELIGIBLE JUROR?

21 A YES.

22 Q TELL ME HOW YOU FIT INTO THAT.

23 A I WOULD STILL HAVE TO GO BACK. I WOULD HAVE TO LISTEN
24 TO BOTH SIDES.

25 Q BUT WOULD YOU CONSIDER THE STATE'S POSITION IN SEEKING

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 THE DEATH PENALTY?

2 A AFTER LISTENING TO HIM, AND HE WOULD HAVE TO GIVE ME A
3 GOOD SOMETHING FROM THAT TO---

4 Q IF YOU GOT SOMETHING THAT---

5 A TICKED IN MY MIND TO CHANGE---

6 Q ---THAT TICKED IN YOUR MIND THAT WAS GOOD, COULD YOU AT
7 THAT POINT VOTE FOR THE DEATH PENALTY?

8 A YES, I COULD. I COULD.

9 Q IT MIGHT BE A DIFFICULT THING TO DO, BUT COULD YOU DO IT
10 UNDER YOUR OATH FAIRLY AND HONESTLY FOR THE STATE?

11 A YES.

12 Q AND THEIR REQUEST?

13 A I COULD.

14 Q NOW, IN SOUTH CAROLINA AN ADDITIONAL REQUIREMENT WHEN
15 THE JURY -- AND IT MUST BE UNANIMOUS, ALL TWELVE -- RAISE
16 THEIR HAND AND VOTE FOR THE DEATH PENALTY, EACH MUST THEN
17 SIGN THE VERDICT FORM IMPOSING THE DEATH SENTENCE. IF YOU
18 VOTED AND YOU GOT TO THE POINT, LIKE YOU SAID, SOMETHING
19 CLICKED AND IT WAS SOMETHING THAT TRIGGERED YOU THAT YOU
20 COULD DO IT AND YOU COULD VOTE FOR IT, COULD YOU ALSO SIGN
21 YOUR NAME TO THE DEATH WARRANT?

22 A YES, SIR, I COULD, BECAUSE I HAVE MADE MY DECISION.

23 Q ALL RIGHT. NOW, DO YOU REMEMBER THAT LIST OF JURORS --
24 AND I'VE GOT ANOTHER COPY HERE IF YOU WANT TO LOOK AT IT
25 AGAIN. -- IT LISTED THREE TYPES OF JURORS?

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

- 1 A UH-HUH (AFFIRMATIVE).
- 2 Q DO YOU REMEMBER LOOKING AT THAT?
- 3 A YES, SIR.
- 4 Q IF ONE OF THOSE DESCRIBES YOU, WHICH ONE DOES?
- 5 A I THINK IT HAD TO BE NUMBER THREE. I BELIEVE IT WAS.
- 6 Q NUMBER THREE?
- 7 A (INDICATES AFFIRMATIVE RESPONSE)
- 8 Q AND I WANT TO MAKE SURE I UNDERSTAND WHAT YOU'RE TELLING
- 9 ME. IF I'M NOT, YOU NEED TO CORRECT ME.
- 10 A OKAY.
- 11 Q YOU ARE INDICATING THAT YOU WOULD HONOR YOUR OATH, YOU
- 12 WOULD FIND THE TRUTH FROM THE EVIDENCE AND YOU WOULD SERVE
- 13 FAIRLY AND IMPARTIALLY IN THE FIRST PHASE OF THE TRIAL?
- 14 A YES.
- 15 Q AND IF THE TRIAL WENT TO A SENTENCING PHASE, AS YOU
- 16 ENTERED THE SENTENCING PHASE YOU WOULD STILL HAVE AN OPEN
- 17 MIND AS TO PUNISHMENT; IS THAT CORRECT?
- 18 A YES, SIR.
- 19 Q WOULD YOU THEN CAREFULLY CONSIDER THE ADDITIONAL
- 20 EVIDENCE AS TO CIRCUMSTANCES OF AGGRAVATION AND THE
- 21 MITIGATION EVIDENCE BEFORE MAKING A DECISION?
- 22 A I WOULD HAVE TO SEE THE EVIDENCE BEFORE I WOULD MAKE
- 23 THAT DECISION.
- 24 Q YES, YOU WOULD -- WOULD YOU CONSIDER THAT?
- 25 A YES, I WOULD.

LORETTA WILLIAMS -- VOIR DIRE BY THE COURT

1 Q ALL RIGHT. AND IF YOU GAVE CAREFUL CONSIDERATION TO
2 BOTH SIDES, COULD YOU VOTE FOR THE DEATH PENALTY IF YOU
3 THOUGHT IT WAS APPROPRIATE?

4 A YES, SIR, I COULD.

5 Q AND COULD YOU THEN VOTE FOR LIFE IMPRISONMENT IF YOU
6 THOUGHT THAT WAS APPROPRIATE?

7 A YES, I COULD.

8 THE COURT: OKAY. MS. WILLIAMS, I MAY HAVE SOME
9 FOLLOW-UP QUESTIONS. BUT THE ATTORNEYS MAY HAVE SOME
10 QUESTIONS AS WELL, OKAY?

11 JUROR NUMBER 388: OKAY.

12 THE COURT: THIS IS MR. MAULDIN.

13 VOIR DIRE BY MR. MAULDIN:

14 Q MS. WILLIAMS, MY NAME IS JOHN MAULDIN. I'M THE PUBLIC
15 DEFENDER FOR GREENVILLE COUNTY, AND I, ALONG WITH JIM
16 BANNISTER AND RODNEY RICHEY, REPRESENT JOHN IN THIS CASE.

17 A YES, SIR.

18 Q I'M GOING TO SPEND JUST A FEW MINUTES WITH YOU REGARDING
19 YOUR GENERAL VIEWS ON THE DEATH PENALTY, AND THEN THE
20 PROSECUTION, OF COURSE, WILL HAVE AN OPPORTUNITY TO ASK
21 QUESTIONS AS WELL.

22 I WANT TO GET DIRECTLY TO THE QUESTIONS REGARDING
23 CONSIDERATION OF BOTH PENALTIES. THE LAW IN SOUTH CAROLINA,
24 MS. WILLIAMS, NEVER REQUIRES THAT A JUROR IMPOSE THE DEATH
25 PENALTY. THERE IS ALWAYS -- IN FACT, I GUESS YOU COULD SAY

LORETTA WILLIAMS -- VOIR DIRE BY MR. MAULDIN

1 IN MOST MURDER CASES THE LAW DOES NOT EVEN ALLOW THAT IT EVEN
2 BE REQUESTED. BUT IN CERTAIN TYPES OF CASES WHERE AN
3 AGGRAVATING CIRCUMSTANCE -- THIS LIST THAT THE JUDGE TALKED
4 TO YOU ABOUT -- WHERE THE PROSECUTION WISHES TO PRESENT
5 EVIDENCE OF THAT TYPE OF AGGRAVATING CIRCUMSTANCE, THEN THEY
6 ARE ALLOWED TO ASK THAT THE JURY CONSIDER THE DEATH PENALTY
7 IN THAT SITUATION.

8 AND I DON'T KNOW WHETHER YOU KNEW THAT BEFORE YOU CAME
9 INTO THE COURTROOM TODAY. I DON'T KNOW WHETHER YOU KNEW ANY
10 OF THIS. SO DO YOU UNDERSTAND THAT THE LAW NEVER REQUIRES
11 THAT A JUROR VOTE FOR THE DEATH PENALTY?

12 A I UNDERSTAND THAT.

13 Q THE LAW ALLOWS THE JUROR -- IN THE SITUATION THAT THE
14 JUDGE HAS DESCRIBED TO YOU, THE LAW ALLOWS A JUROR TO LOOK AT
15 BOTH SIDES OF THE CASE DURING THE SENTENCING HEARING AND
16 DECIDE WHICH OF THE TWO POSSIBLE PENALTIES THEY WISH TO VOTE
17 ON. DO YOU FOLLOW THAT?

18 A YES, SIR.

19 Q I BELIEVE -- I BELIEVE THAT THE JUDGE TALKED TO THE
20 ENTIRE GROUP, THE GROUP OF FIVE JURORS, AND IT MAY HAVE
21 ACTUALLY BEEN INDIVIDUALLY, THAT LIFE IN PRISON MEANS LIFE
22 WITHOUT THE POSSIBILITY OF PAROLE. SO WHEN WE'RE TALKING, I
23 WANT TO MAKE SURE YOU UNDERSTAND THAT A LIFE SENTENCE IS A
24 LIFE SENTENCE WITHOUT PAROLE IN THE SITUATION WE'RE
25 DESCRIBING FOR YOU TO THINK ABOUT. DO YOU UNDERSTAND THAT?

LORETTA WILLIAMS -- VOIR DIRE BY MR. MAULDIN

1 A YES, SIR. I UNDERSTAND THAT.

2 Q SO WE'RE TALKING ABOUT THE TWO MOST SERIOUS PENALTIES
3 AVAILABLE IN OUR SYSTEM. DO YOU AGREE WHEN I SAY THAT?

4 A YES, SIR, I DO.

5 Q ALL RIGHT. NOW, WHEN YOU CAME IN THIS MORNING AND WERE
6 QUESTIONED BY THE JUDGE ABOUT THIS SYSTEM OF EVALUATION OF
7 THE PENALTIES -- YOU LOOK AT THE AGGRAVATING EVIDENCE, YOU
8 LOOK AT THE MITIGATING EVIDENCE, YOU HAVE THE OPTION OF
9 VOTING FOR THE DEATH PENALTY UNDER A LIMITED NUMBER OF
10 CIRCUMSTANCES. YOU ALWAYS HAVE THE RIGHT TO VOTE FOR A LIFE
11 SENTENCE. -- DO YOU RECALL HIS DISCUSSION ABOUT THAT?

12 A YES, I DO.

13 Q THAT OCCURRED THIS AFTERNOON. AND I'M GOING TO TAKE YOU
14 BACK TO WHEN YOU SAID IN THE QUESTIONNAIRE AND YOU HAD
15 WRITTEN THAT YOU WERE OPPOSED TO CAPITAL PUNISHMENT.

16 A YES, SIR.

17 Q I WANT TO MAKE SURE THAT I'M UNDERSTANDING YOU TODAY.
18 WHAT I UNDERSTAND WITH REGARD TO THE JUDGE'S QUESTIONS TO YOU
19 ABOUT YOUR QUALIFICATIONS TO SERVE IS THAT IF THIS PROSECUTOR
20 BRINGS EVIDENCE TO YOU OF A MURDER, OF A MURDER WITH AN
21 ADDITIONAL AGGRAVATING CIRCUMSTANCE AS OUTLINED IN OUR LAW,
22 THAT YOU COULD LEGITIMATELY CONSIDER THE DEATH PENALTY AND IN
23 FACT COULD VOTE FOR IT IF YOU DECIDED IT WAS RIGHT IN THE
24 PARTICULAR CASE? IS THAT WHAT I'M UNDERSTANDING YOU TO SAY?

25 A I HAVE TO LISTEN TO THE EVIDENCE.

LORETTA WILLIAMS -- VOIR DIRE BY MR. MAULDIN

1 Q AFTER HEARING IT ALL?

2 A AFTER HEARING IT ALL, I COULD.

3 Q ALL RIGHT. AND LIKEWISE WITH REGARD TO THE PERSON
4 REPRESENTING THE DEFENDANT YOU WOULD GIVE THE OPPORTUNITY FOR
5 THAT PERSON TO PRESENT INFORMATION TO YOU AND PLEAD WITH YOU
6 AS A JUROR TO IMPOSE A LIFE SENTENCE WITHOUT PAROLE, THAT YOU
7 WOULD WEIGH THAT AND CONSIDER THAT, GIVE IT MEANINGFUL
8 CONSIDERATION AS THE JUDGE WOULD INSTRUCT YOU TO DO?

9 A I COULD.

10 Q ALL RIGHT. AND FINALLY, THE ADDITIONAL QUESTION, MR.
11 WILLIAMS, THE JUDGE SAID THAT IN THE IMPOSITION OF THE DEATH
12 PENALTY IT REQUIRES THAT THE JURORS, ALL TWELVE JURORS, WOULD
13 HAVE TO SIGN THE FORM SAYING THAT THAT WAS THEIR DECISION.
14 AND IF YOU HAD IN FACT WEIGHED ALL THE EVIDENCE, ALL THE
15 CONSIDERATIONS HAD BEEN MADE AND YOU CAME TO THE CONCLUSION
16 THAT THE DEATH PENALTY IN YOUR VIEW WAS RIGHT UNDER THAT
17 CIRCUMSTANCE, YOU COULD SIGN THAT FORM?

18 A YES, SIR.

19 Q LAST QUESTION, MS. WILLIAMS. WHEN THE DELIBERATION
20 INVOLVING THE SENTENCE -- AND THIS IS, OF COURSE, AFTER THE
21 PERSON HAS BEEN CONVICTED OF MURDER AND YOU GO INTO THE
22 SENTENCING PHASE.

23 A YES, SIR.

24 Q AND THE JURY HEARS ALL OF THE EVIDENCE -- AGAIN,
25 WHENEVER WE SAY DELIBERATION, WE ARE ASSUMING YOU'VE HEARD

LORETTA WILLIAMS -- VOIR DIRE BY MR. MAULDIN

1 ALL YOU'RE GOING TO HEAR. THE JUDGE WOULD GIVE THE JURY
2 INSTRUCTIONS ON WHAT THEY HAVE TO CONSIDER, HOW THEY CONSIDER
3 IT, WHAT TYPE OF -- HOW THEY USE THIS INFORMATION. THE JURY
4 GOES IN AND STARTS DELIBERATING ABOUT THE TWO SENTENCES --
5 LIFE SENTENCE POSSIBILITY, DEATH SENTENCE POSSIBILITY -- AND
6 THEY TALK. ALL TWELVE TALK AND DISCUSS. THEY'VE HEARD ALL
7 OF THE SAME EVIDENCE.

8 AT SOME POINT THERE'S GOING TO HAVE TO BE A VOTE, AND
9 YOU TAKE A VOTE. AND LET'S SAY THAT THE VOTE WAS TEN PEOPLE
10 IN FAVOR OF ONE PENALTY AND TWO PEOPLE IN FAVOR OF THE OTHER
11 PENALTY. FOR PURPOSES OF MY QUESTION, MS. WILLIAMS, IT
12 DOESN'T MATTER WHICH PENALTY IS WHICH.

13 A OKAY.

14 Q NOW -- AND BY THE WAY, NOBODY IS ASKING YOU TO COMMIT TO
15 A VOTE ON EITHER PENALTY UP FRONT. IF THERE IS ANY
16 MISUNDERSTANDING, THAT IS NOT THE PURPOSE.

17 A I UNDERSTAND THAT.

18 Q SO WE HAVE TEN FOR ONE PENALTY AND TWO FOR THE OTHER,
19 AND YOU ARE ONE OF THE TWO -- OR YOU'RE BY YOURSELF EVEN.
20 BUT LET'S SAY FOR PURPOSES OF MY QUESTION YOU ARE ONE OF TWO
21 PEOPLE. IN ORDER TO JUST SIMPLY AGREE OR DECIDE OR FINISH
22 THE CASE WOULD YOU TEND TO GO OVER TO THE MAJORITY---

23 A NO, SIR.

24 Q WOULD YOU BE---

25 A I WOULD HAVE TO STICK WITH MY OWN DECISION IN MY MIND.

LORETTA WILLIAMS -- VOIR DIRE BY MR. MAULDIN

1 Q ALL RIGHT. AND THEN REVERSE THAT. LET'S SAY YOU WERE
2 ONE OF THE TEN WHO HAD ONE PENALTY IN MIND AND THE OTHER TWO
3 WERE SAYING THE OTHER PENALTY. WOULD YOU TRY TO FORCE OR
4 REQUIRE THOSE JURORS TO COME OVER TO YOUR SIDE SIMPLY BECAUSE
5 YOU HAD THE NUMBERS OR WOULD YOU RESPECT THEIR RIGHT TO MAKE
6 THAT INDIVIDUAL, MORAL CHOICE ABOUT WHAT THEY THOUGHT THE
7 RIGHT PENALTY WAS, THAT YOU WOULD EXPECT THEM TO RESPECT YOU?

8 A I WOULD STILL HAVE TO STICK TO MY OPINION.

9 Q WOULD YOU RESPECT THEIR OPINIONS?

10 A I WOULD RESPECT THEIR OPINION, AND I WOULD HAVE TO STICK
11 TO MINE.

12 MR. MAULDIN: THANK YOU, MA'AM.

13 THE COURT: MR. ARIAIL?

14 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

15 VOIR DIRE BY SOLICITOR ARIAIL:

16 Q MS. WILLIAMS, MY NAME IS BOB ARIAIL, AND I'M THE
17 SOLICITOR FOR GREENVILLE AND PICKENS COUNTIES, AND AS SUCH I
18 AM RESPONSIBLE FOR PROSECUTING ALL THE CRIMINAL CASES THAT
19 COME THROUGH THE COURTS IN BOTH GREENVILLE AND PICKENS
20 COUNTIES. IN THIS CASE I WILL BE ASSISTED BY MY DEPUTY, MS.
21 STROM IN THE BEIGE COAT, AND ONE OF MY ASSISTANTS, MS. HERVEY
22 IN THE GREEN SUIT.

23 WHAT I WANT TO DO IS GO BACK A LITTLE BIT AND GO OVER
24 WHAT HAS HAPPENED HERE AND THEN SEE IF I CAN GET A LITTLE
25 CLEARER UNDERSTANDING. WHEN YOU FILLED OUT YOUR

LORETTA WILLIAMS -- VOIR DIRE BY SOLICITOR ARIAIL

1 QUESTIONNAIRE THAT THE COURT SENT TO YOU AND ASKED YOU TO
2 FILL OUT, YOU PUT IN ITEM NUMBER 54 THAT YOU DON'T BELIEVE IN
3 CAPITAL PUNISHMENT. DO YOU REMEMBER THAT?

4 A THAT'S TRUE.

5 Q ALL RIGHT. YOU DON'T BELIEVE IN CAPITAL PUNISHMENT?

6 A WHEN I SENT THIS IN -- I WAS RAISED NOT, YOU KNOW -- I
7 WAS RAISED THAT WAY. SO I HAVE TO GO BY THE WAY I WAS
8 RAISED.

9 Q AND THE WAY YOU WERE RAISED IS THAT YOU DON'T BELIEVE IN
10 CAPITAL PUNISHMENT?

11 A I WAS RAISED -- MY GRANDFATHER ALWAYS TOLD ME IT'S
12 SOMETHING YOU CAN'T -- YOU DON'T KILL. SO...

13 Q AND YOU STILL BELIEVE THAT?

14 A YES, SIR, I DO.

15 Q ALL RIGHT. AND THE JUDGE ASKED YOU THE FIRST COUPLE OF
16 TIMES THROUGH COULD YOU VOTE TO IMPOSE THE DEATH PENALTY ON
17 SOMEONE, AND YOU SAID, "NO, I COULD NOT. I COULDN'T DO
18 THAT."

19 MR. MAULDIN: YOUR HONOR, THAT IS INCORRECT. "I DON'T
20 THINK I COULD" IS THE QUOTE.

21 THE COURT: ALL RIGHT.

22 Q "I DON'T THINK I COULD." AND THEN HE WENT OVER IT A
23 THIRD TIME CITING THE FAIRNESS TO CONSIDER BOTH SIDES, AND
24 YOU SAID THAT YOU COULD CONSIDER THAT AND VOTE FOR THE DEATH
25 PENALTY.

1 SO I'M A LITTLE CONFUSED. I WANT TO KNOW IF YOU CAN
2 VOTE FOR THE DEATH PENALTY OR YOU CAN'T VOTE FOR THE DEATH
3 PENALTY.

4 A I WOULD STILL HAVE TO GO BACK AND SAY I WOULD HAVE TO
5 LISTEN TO BOTH SIDES OF THE EVIDENCE. AND IF THERE IS
6 SOMETHING IN MY MIND THAT CLICKS TO MAKE ME CHANGE MY MIND,
7 YOU KNOW, TO MAKE ME GO THAT WAY, THEN I WOULD HAVE TO GO
8 WITH MY MIND. BUT IN OTHER WORDS, WHAT I AM SAYING, THAT IN
9 ORDER TO BE FAIR AND TRUTHFUL TO THE PERSON, I WOULD HAVE TO
10 LISTEN TO BOTH SIDES OF IT AND THEN MAKE MY JUDGMENT.

11 Q ALL RIGHT. BUT IF YOU DON'T BELIEVE IN CAPITAL
12 PUNISHMENT, WHAT IS IT THAT COULD MAKE YOU CLICK TO---

13 A IT COULD BE ONE LITTLE THING. IT COULD BE ONE LITTLE
14 PART OF EVIDENCE THAT I HEAR THAT---

15 MR. MAULDIN: ONE MOMENT, MS. WILLIAMS. I OBJECT TO
16 THE FORM OF THE QUESTION IN THAT IT IS LEAVING OUT THE
17 CRITICAL INGREDIENT, "COULD YOU FOLLOW THE COURT'S
18 INSTRUCTIONS?" WE'VE BEEN DOING THAT ALL THE TIME.

19 THE COURT: OVERRULED.

20 Q GO AHEAD. THAT MEANS YOU CAN ANSWER.

21 A I WOULD HAVE TO BE FAIR, LISTEN TO BOTH SIDES BEFORE I
22 COULD MAKE ANY KIND OF DECISION EITHER WAY.

23 Q ALL RIGHT. HERE IS WHERE I WANT TO MAKE SURE YOU AND I
24 ARE ON THE SAME -- UNDERSTAND EACH OTHER. IF YOU GO IN, SAY,
25 THE GROCERY STORE AND YOU DECIDE THAT YOU WANT TO BUY SOME

LORETTA WILLIAMS -- VOIR DIRE BY SOLICITOR ARIAIL

1 COFFEE AND THERE ARE TWO BRANDS OF COFFEE, YOU'RE GOING TO
2 LOOK AT THE TWO BRANDS OF COFFEE TO MAKE YOUR CHOICE, AND
3 YOU'RE GOING TO MAKE AN INTELLIGENT CHOICE AND DECIDE WHETHER
4 YOU WANT THIS BRAND OR THAT BRAND HOWEVER YOU COMPARE THEM.
5 BUT BEFORE YOU WENT IN -- BEFORE YOU WENT IN YOU KNEW YOU
6 WANTED TO BUY SOME COFFEE.

7 WELL, IN THIS CASE YOU'RE SITTING ON A JURY IN A CAPITAL
8 CASE. IF YOU GET TO THE SENTENCING PHASE, YOU'RE GOING TO
9 HAVE TO BE ABLE TO RECEIVE THE IDEA THAT THE PUNISHMENT OF
10 DEATH IS APPROPRIATE -- OR MAY BE APPROPRIATE, DEPENDING ON
11 THE EVIDENCE. AND, THEREFORE, YOU NEED TO BE ABLE TO
12 CONSIDER THAT FAIRLY TO BEGIN WITH. DOES THAT MAKE SENSE?

13 A THAT MAKES SENSE, BUT I STILL HAVE TO HAVE AN OPEN
14 MIND---

15 Q THAT'S WHAT I'M--

16 A ---AND LISTEN TO THE EVIDENCE.

17 Q THAT'S WHAT I'M GETTING AT. WOULD YOU HAVE AN OPEN MIND
18 TO THE EVIDENCE OR WOULD YOU BE SIMPLY SAYING AT THE END OF
19 THE CASE THAT, "I'M PRETTY MUCH AGAINST THE DEATH PENALTY,
20 AND THEY'RE GOING TO HAVE TO REALLY COME AND SHOW ME
21 SOMETHING TO GET ME OFF MY OPPOSITION TO THE DEATH PENALTY"?
22 AND IT MIGHT BE SOMETHING, BUT IT MIGHT NOT. IS THAT WHERE
23 YOU ARE NOW?

24 MR. MAULDIN: YOUR HONOR, I OBJECT TO THE FORM OF THAT
25 QUESTION. I OBJECT TO THE FORM OF THAT QUESTION. THE

LORETTA WILLIAMS -- VOIR DIRE BY SOLICITOR ARIAIL

1 QUESTION IS WHETHER SHE CAN FOLLOW THE COURT'S INSTRUCTIONS
2 AND GIVE CONSIDERATION TO BOTH PENALTIES.

3 THE COURT: RIGHT. AND SHE SAID SHE COULD. AND THE
4 ISSUE NOW IS COULD SHE VOTE FOR THE DEATH PENALTY?

5 SOLICITOR ARIAIL: RIGHT. THAT'S THE ISSUE.

6 Q WE UNDERSTAND THAT YOU WANT TO HEAR THE EVIDENCE AND YOU
7 BELIEVE YOU CAN BE FAIR IN CONSIDERING IT. THE QUESTION THAT
8 I HAVE IS, WHEN YOU GET TO THE END IS YOUR PREDISPOSITION
9 SUCH THAT YOU WOULD NOT EVER BE ABLE TO VOTE, THAT IS, HOLD
10 YOUR HAND UP WITH THE REST OF THEM AND SAY, "I VOTE FOR THE
11 DEATH PENALTY"?

12 A YOU WOULD STILL HAVE TO PUT SOME EVIDENCE OUT THERE IN
13 FRONT OF ME TO MAKE ME CHANGE MY MIND AND TO GO THAT WAY.

14 Q TO CHANGE YOUR MIND FROM BEING AGAINST THE DEATH
15 PENALTY?

16 A YES.

17 Q OKAY. SO I WOULD HAVE TO -- YOUR MIND IS YOU ARE
18 AGAINST THE DEATH PENALTY AND I'VE GOT -- THE BURDEN THAT YOU
19 WOULD WANT TO SAY IS THAT THAT'S GOING TO BE YOUR
20 PREDISPOSITION UNTIL YOU SEE EVIDENCE TO THE CONTRARY?

21 A WHAT I'M SAYING, YOU WOULD HAVE TO GIVE ME THAT EVIDENCE
22 TO MAKE ME CHANGE MY MIND OF WHAT I'M HEARING ON BOTH SIDES.
23 I CAN BE FAIR, AND I CAN BE TRUTHFUL AND VOTE ANY WAY --
24 DEATH PENALTY OR LIFE IN PRISON -- BUT YOU HAVE TO SHOW ME
25 SOMETHING FIRST IN ORDER FOR ME TO MAKE MY MIND UP THAT WAY.

LORETTA WILLIAMS -- VOIR DIRE BY SOLICITOR ARIAIL

1 Q ALL RIGHT. (OFF RECORD WITH CO-COUNSEL)

2 THE COURT: JUST ONE SECOND, MA'AM.

3 Q JUST ONE LAST THING. IF YOU WERE IN THE JURY ROOM
4 MAKING THIS DECISION REGARDING WHICH PENALTY, WOULD YOU BE
5 ABLE TO PUT ASIDE THOSE TEACHINGS THAT YOU HAD IN YOUR
6 BACKGROUND, FROM YOUR FATHER OR YOUR GRANDFATHER, IN REGARD
7 TO THE OPPORTUNITY FOR CAPITAL PUNISHMENT? WOULD YOU BE ABLE
8 TO PUT THOSE -- TRULY PUT THEM ASIDE AND HAVE A CLEAR MIND,
9 NOT IMPAIRED OR SOMEHOW AFFECTED BY WHAT YOU HAD BEEN
10 TAUGHT---

11 A YES, SIR, I COULD.

12 Q ALL RIGHT.

13 A I COULD.

14 THE COURT: MS. WILLIAMS, THANK YOU SO MUCH. RIGHT NOW
15 YOU'RE GOING TO GO TO A JURY ROOM BRIEFLY. WE'LL GET YOU
16 BACK OUT HERE IN JUST A FEW MINUTES, AND THEN YOU'LL BE FREE
17 TO GO.

18 JUROR NUMBER 388: OKAY.

19 THE COURT: THANK YOU SO MUCH.

20 (JUROR EXITS COURTROOM AT 3:13 P.M.)

21 THE COURT: THE JUROR HAS BEEN EXCUSED. THE FIRST
22 ISSUE IS, IS THE JUROR QUALIFIED OR NOT QUALIFIED? IF YOU
23 NEED TO DISCUSS THAT, PLEASE DO SO. LET ME KNOW WHEN YOU
24 HAVE MADE A DECISION.

25 SOLICITOR ARIAIL: WE WOULD SUBMIT SHE'S NOT QUALIFIED.

MATTERS AND MOTIONS

1 I MEAN -- I MEAN, I CAN GO THROUGH IT. YOU HEARD IT. I
2 SUBMIT SHE'S NOT QUALIFIED. REGARDLESS OF WHAT SHE SAYS, SHE
3 IS NOT QUALIFIED. SHE'S NOT GOING TO VOTE FOR THE DEATH
4 PENALTY. IT TOOK YOU THREE TIMES TO TALK HER INTO IT. I
5 JUST -- SHE'S NOT GOING TO DO IT.

6 MR. MAULDIN: QUALIFIED.

7 THE COURT: I FIND THE JUROR QUALIFIED. AND I'LL GIVE
8 COUNSEL AN OPPORTUNITY TO CONSIDER THEIR DECISION WITH REGARD
9 TO THIS JUROR. PLEASE LET ME KNOW WHEN YOU'RE READY.

10 SOLICITOR ARIAIL: (OFF RECORD WITH CO-COUNSEL) EXCUSE
11 HER.

12 THE COURT: WOULD THE DEFENSE LIKE THE RECORD TO
13 REFLECT A BATSON MOTION?

14 MR. MAULDIN: YES, SIR.

15 THE COURT: AND ARE YOUR REASONS AS PREVIOUSLY STATED,
16 SIR?

17 SOLICITOR ARIAIL: (INDICATES AFFIRMATIVE RESPONSE)

18 THE COURT: THANK YOU.

19 BRING THE JUROR BACK IN AND LET'S GET MS. REDMOND READY.

20 (JUROR REENTERS COURTROOM AT 3:15 P.M.)

21 THE COURT: THANK YOU SO MUCH, MS. WILLIAMS. MS.
22 WILLIAMS, YOU ARE AN ELIGIBLE JUROR, AND YOU MAY INDEED SERVE
23 IN THIS CASE. WE JUST DON'T KNOW AT THIS POINT. I'M GOING
24 TO GIVE YOU A WRITTEN ORDER AND I WANT TO EXPLAIN IT TO YOU
25 BEFORE YOU LEAVE.

MATTERS AND MOTIONS

1 THE ORDER I GAVE EARLIER ABOUT NOT TO DISCUSS THE CASE,
2 NOT TO WATCH THE MEDIA OR READ ANYTHING IN THE MEDIA ABOUT
3 THIS, PLEASE REMEMBER THAT REMAINS IN EFFECT. ALSO, AS YOU
4 LEAVE, MS. PLUMLEY, THE JURY COORDINATOR, IS OUT HERE IN THE
5 HALLWAY. SHE'S GOING TO GET ALL YOUR PHONE NUMBERS SO WE CAN
6 REACH YOU AT ANY TIME. ONCE WE KNOW WHETHER WE NEED YOU OR
7 NOT, WE'LL LET YOU KNOW. OKAY?

8 JUROR NUMBER 388: ALL RIGHT.

9 THE COURT: HERE IS THE ORDER. THANK YOU SO MUCH, MS.
10 WILLIAMS.

11 JUROR NUMBER 388: THANK YOU.

12 (JUROR EXITS COURTROOM AT 3:16 P.M.)

13 (JUROR NUMBER 306 ENTERS COURTROOM AT 3:16 P.M.)

14 THE COURT: MS. REDMOND, THANK YOU SO MUCH FOR YOUR
15 PATIENCE. WE KNOW IT'S BEEN A LONG DAY, AND WE THANK YOU FOR
16 WORKING WITH US.

17 SHIRLEY R. REDMOND (BLACK
18 FEMALE), HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:
19 VOIR DIRE BY THE COURT:

20 Q MS. REDMOND, I'M GOING TO DISCUSS IN A LITTLE MORE
21 DETAIL THE PROCESS OF A CAPITAL CASE. THE ATTORNEYS MAY HAVE
22 QUESTIONS AS WELL.

23 LET ME FIRST TELL YOU THAT THIS PARTICULAR CASE ARISES
24 FROM AN INCIDENT THAT OCCURRED IN GREENVILLE COUNTY ON
25 DECEMBER THE 6TH OF THE YEAR 2000, ABOUT FOURTEEN MONTHS AGO.

SHIRLEY R. REDMOND -- VOIR DIRE BY THE COURT

1 AND IN THAT INDICTMENT, IN THE CHARGE, THE DEFENDANT HERE,
2 MR. WOOD, IS CHARGED WITH THE CRIME OF MURDER. THE VICTIM
3 IDENTIFIED IN THE INDICTMENT IS ERIC NICHOLSON. MR.
4 NICHOLSON WAS AT THAT TIME A STATE TROOPER.

5 THIS CASE RECEIVED ATTENTION IN THE MEDIA, AND I WANT TO
6 KNOW IF YOU RECALL ANYTHING ABOUT THIS CASE IN THE MEDIA OR
7 OTHERWISE FROM THE TIME OF THE EVENT UNTIL TODAY.

8 A YES.

9 Q OKAY. TELL ME WHAT YOU CAN RECALL, AND TRY TO BE AS
10 SPECIFIC AS YOU CAN.

11 A I SAW ON THE NEWS WHERE MR. WOOD WAS, I THINK IT WAS ON
12 385, AND THE TROOPER WAS GOING TO STOP HIM, I BELIEVE, FOR
13 RIDING A MOPED.

14 Q ALL RIGHT. WHAT HAPPENED NEXT?

15 A IT WAS A CHASE AND IN THE END THE TROOPER WAS KILLED.

16 Q OKAY. AFTER THE CHASE?

17 A IT WENT ON FOR A WHILE.

18 Q OKAY.

19 A UH-HUH (AFFIRMATIVE).

20 Q WHAT ELSE DO YOU RECALL?

21 A UH...

22 Q IS THAT IT?

23 A BITS AND PIECES. YEAH.

24 Q DO YOU REMEMBER ANY OF THE BITS AND PIECES?

25 A MR. WOOD WAS ARRESTED AND INDICTED FOR THE MURDER OF THE

SHIRLEY R. REDMOND -- VOIR DIRE BY THE COURT

1 TROOPER.

2 Q ANYTHING ELSE?

3 A THAT'S ABOUT ALL.

4 Q OKAY. THERE MAY BE A REFERENCE TO AN EVENT IN ANDERSON
5 COUNTY. WHEN I SAY ANDERSON COUNTY, DOES THAT RING A BELL?
6 DOES THAT TRIGGER A MEMORY OF THIS CASE?

7 A VAGUELY, YEAH.

8 Q AND TELL ME WHAT YOU CAN RECALL ABOUT ANDERSON COUNTY.

9 A WELL, I REALLY DIDN'T KEEP UP WITH THIS CASE THOROUGHLY.
10 BUT -- I DON'T REMEMBER VAGUELY THAT MUCH ABOUT THIS CASE.

11 Q OKAY. MS. REDMOND, LET ME TELL YOU WHY I ASK YOU IN
12 SUCH DETAIL ABOUT YOUR RECOLLECTION IS THAT WE PERFECTLY
13 UNDERSTAND THAT JURORS WILL HAVE BEEN EXPOSED TO THE MEDIA
14 PUBLICITY ABOUT A CASE. BUT WHEN A CASE COMES TO COURT, IT
15 MUST BE DECIDED ON THE FACTS AND EVIDENCE IN COURT, NOT WHAT
16 SOMEONE HEARD OR SAW IN THE MEDIA. IN FACT, TO SERVE ON A
17 JURY A JUROR TAKES AN OATH TO FIND THE TRUTH ONLY FROM THE
18 EVIDENCE, TO DISREGARD WHAT HE OR SHE MAY HAVE BEEN EXPOSED
19 TO OUTSIDE OF THE COURTROOM. DO YOU UNDERSTAND THE
20 IMPORTANCE OF THAT?

21 A UH-HUH (AFFIRMATIVE).

22 Q IF YOU WERE A JUROR, WOULD YOU HONOR YOUR OATH AND FIND
23 THE TRUTH ONLY FROM THE EVIDENCE PRESENTED DURING THE COURSE
24 OF THIS TRIAL?

25 A YES.

SHIRLEY R. REDMOND -- VOIR DIRE BY THE COURT

1 Q OKAY.

2 A I BELIEVE I WOULD.

3 Q DO YOU HAVE ANY HESITANCY ABOUT YOUR ABILITY TO HONOR
4 YOUR OATH?

5 A NO.

6 Q OKAY. HAVE YOU ALREADY FORMED AN OPINION AS TO THE
7 GUILT OR INNOCENCE OF MR. WOOD?

8 A TRUTHFULLY, YES.

9 Q OKAY. AND WHAT OPINION IS THAT? DO YOU THINK HE'S
10 GUILTY OR DO YOU THINK HE'S INNOCENT?

11 A GUILTY.

12 Q IS THAT BECAUSE OF WHAT YOU SAW IN THE MEDIA?

13 A YES.

14 THE COURT: (PAUSE) ONE SECOND, MR. REDMOND.

15 IF I COULD SEE COUNSEL AT THE SIDE, PLEASE.

16 (BENCH CONFERENCE OFF RECORD FROM 3:21 TO 3:22 P.M.)

17 Q SORRY FOR THE DELAY, MS. REDMOND.

18 A THAT'S OKAY.

19 Q YOU'VE INDICATED THAT YOU ALREADY SORT OF HAVE AN
20 OPINION THAT MR. WOOD IS GUILTY. AND IN ORDER TO SERVE ON A
21 JURY YOUR OATH REQUIRES YOU TO FOLLOW THE LAW AND TO FIND THE
22 FACTS AND THE EVIDENCE. WELL, IF YOU TOOK THAT OATH, RIGHT
23 NOW IT WOULD BE A CLEAN SLATE BECAUSE THERE IS NO EVIDENCE.
24 DO YOU SEE WHAT I'M SAYING?

25 A (INDICATES AFFIRMATIVE RESPONSE)

SHIRLEY R. REDMOND -- VOIR DIRE BY THE COURT

1 Q DO YOU REMEMBER WE TALKED EARLIER ABOUT THOSE TO LEGAL
2 PRINCIPLES, THE PRESUMPTION OF INNOCENCE---

3 A YEAH.

4 Q ANYONE ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT.
5 DO YOU AGREE WITH THAT LEGAL PRINCIPLE?

6 A YES, I AGREE.

7 Q OKAY. DO YOU HAVE SOME HESITATION ABOUT THAT LEGAL
8 PRINCIPLE?

9 A NO, NO.

10 Q DO YOU THINK THAT'S A GOOD IDEA, TO BE PRESUMED
11 INNOCENT?

12 A WELL, YEAH. YOU ARE INNOCENT UNTIL YOU ARE PROVEN
13 GUILTY.

14 Q OKAY. AND YOU SEE MY CONCERN IS YOU HAVE INDICATED THAT
15 YOU ALREADY HAVE AN OPINION ABOUT THE GUILT OF THE DEFENDANT
16 IN THIS CASE. WELL, HE'S PRESUMED INNOCENT. AND IF HE IS
17 GOING TO BE CONVICTED, IT'S GOING TO BE BECAUSE OF EVIDENCE
18 IN THIS COURTROOM THAT ESTABLISHES GUILT BEYOND A REASONABLE
19 DOUBT, NOT BECAUSE YOU COME INTO THE PROCESS THINKING HE'S
20 GUILTY. DO YOU UNDERSTAND THAT?

21 A YES, I UNDERSTAND THAT.

22 Q AND LET ME TELL YOU, IF YOU HAD MADE YOUR MIND UP AND
23 YOU HAVE A STRONG OPINION THIS GUY IS GUILTY, YOU NEED TO
24 TELL ME THAT. AND DON'T BE EMBARRASSED TO TELL ME THAT.
25 IT'S THAT TYPE OF HONESTY THAT MAKES THE SYSTEM WORK. IF YOU

SHIRLEY R. REDMOND -- VOIR DIRE BY THE COURT

1 HAD A CASE IN COURT, YOU WOULD WANT A FAIR JURY.

2 A RIGHT.

3 Q AND IF YOU CAN'T BE FAIR TO MR. WOOD AND HONOR THAT
4 PRESUMPTION OF INNOCENCE, I NEED TO KNOW ABOUT IT. SO IF YOU
5 THINK YOU WOULD APPROACH THIS CASE WITH THAT STRONG OPINION
6 AND YOU COULDN'T OVERCOME IT, THEN YOU NEED TO TELL ME THAT.
7 BUT IF YOU THINK -- YOU SAY, "JUDGE, I CAN HONOR MY OATH, AND
8 I RESPECT THE PRESUMPTION OF INNOCENCE. AND I WILL MAKE MY
9 DECISION ONLY ON THE EVIDENCE PRESENTED AT TRIAL." WHAT DO
10 YOU THINK YOU COULD DO?

11 A WELL, I CAN HAVE AN OPEN MIND, LISTEN TO THE EVIDENCE
12 AND DRAW MY CONCLUSION FROM WHAT I AM HEARING.

13 Q AND IN THAT REGARD CAN YOU DISREGARD THIS OPINION THAT
14 YOU BRING INTO THIS COURTROOM OR WOULD THAT BE ASKING TOO
15 MUCH?

16 A (PAUSE) TRUTHFULLY, I DON'T -- TRUTHFULLY, I DON'T
17 THINK I COULD DISREGARD BECAUSE -- I DON'T KNOW. LISTENING
18 TO THE MEDIA, THE NEWS AND HEARING IT ALL, I GUESS YOU'RE
19 RIGHT. I PROBABLY DREW MY OWN OPINION RIGHT NOW. SO...

20 THE COURT: OKAY. AND I APPRECIATE YOUR HONESTY. THE
21 ATTORNEYS MAY HAVE SOME FOLLOW-UP QUESTIONS TO THAT. AND IF
22 THERE IS QUESTIONING OF MS. REDMOND, IT BEGINS WITH MR.
23 ARIAIL.

24 SOLICITOR ARIAIL: NO QUESTIONS.

25 MR. MAULDIN: JUST ONE OR TWO.

SHIRLEY R. REDMOND -- VOIR DIRE BY MR. MAULDIN

1 VOIR DIRE BY MR. MAULDIN:

2 Q MS. REDMOND?

3 A YES.

4 Q AND WE'RE GOING TO GO RIGHT DIRECTLY TO YOUR OPINION.
5 YOU KNOW THAT, IN FACT, JUST THIS PAST COUPLE OF DAYS THE
6 NEWSPAPER SAID ABOUT THIS CASE THAT THE JURY WAS NOT GOING TO
7 BE SEQUESTERED. WELL, THE JURY IS GOING TO BE SEQUESTERED.
8 AND THE POINT I MAKE IS WE REALLY CAN'T BELIEVE EVERYTHING WE
9 READ IN THE NEWSPAPER.

10 A TRUE.

11 Q ALL RIGHT. BUT I'LL TELL YOU WHAT, MS. REDMOND. I HAVE
12 A CLIENT, AND JOHN WOOD IS MY CLIENT. AND I DON'T WANT
13 ANYBODY ON THIS JURY WHO DOESN'T COME INTO THE COURTROOM WITH
14 -- AND GIVE HIM A PRESUMPTION OF INNOCENCE, NOT GUILT BUT
15 INNOCENCE. SO IF YOU IN ANSWER TO THE COURT'S QUESTION
16 BELIEVE THAT YOU WOULD BE INFLUENCED BY WHAT YOU HAVE HEARD
17 ABOUT THIS CASE BEFORE YOU CAME TO COURT, THEN I RESPECT THAT
18 AND WE'LL END THIS RIGHT NOW. BUT IF ON THE OTHER HAND YOU
19 BELIEVE YOU COULD SET IT ASIDE AND PRESUME JOHN WOOD
20 INNOCENT, THEN WE'LL CONTINUE WITH THE QUALIFICATION.

21 NOW, WHICH WOULD IT BE, MS. REDMOND, UNDER THAT
22 CIRCUMSTANCE?

23 A I THINK YOU NEED TO STOP.

24 Q THANK YOU.

25 A TO BE TRUTHFUL

SHIRLEY R. REDMOND -- VOIR DIRE BY MR. MAULDIN

1 MR. MAULDIN: THANK YOU, MA'AM.

2 THE COURT: AND I APPRECIATE YOUR HONESTY, MS. REDMOND,
3 AND WE APOLOGIZE FOR HOW WE HAVE INCONVENIENCED YOU FOR MANY
4 HOURS TODAY. BUT YOU WILL BE EXCUSED, AND YOU ARE FREE TO GO
5 AT THIS TIME.

6 JUROR NUMBER 306: THANK YOU.

7 THE COURT: THANK YOU. GOOD LUCK TO YOU.

8 JUROR NUMBER 306: THANK YOU.

9 (JUROR EXITS COURTROOM AT 3:28 P.M.)

10 THE COURT: MS. SIMS.

11 FOR THE RECORD, MS. REDMOND IS NOT QUALIFIED.

12 (JUROR ENTERS COURTROOM AT 3:29 P.M.)

13 THE COURT: HEY, MS. SIMS. WE TRULY REGRET THE DELAY.
14 WE ARE GOING THE BEST WE CAN, AND IT'S JUST TAKING MORE TIME
15 THAN WE HAD ANTICIPATED.

16 RHONDA F. SIMS (WHITE FEMALE),
17 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

18 VOIR DIRE BY THE COURT:

19 Q MS. SIMS, WE'RE GOING TO TALK A LITTLE BIT MORE ABOUT
20 THE NATURE OF A CAPITAL CASE, WHAT YOUR ROLE WOULD BE, AND
21 WE'RE GOING TO EXPLORE VARIOUS ISSUES THAT COULD ARISE IN A
22 CAPITAL CASE AND FIND YOUR VIEWS ON THOSE ISSUES AS WE SEEK
23 TO FIND JURORS WHO WOULD BE ELIGIBLE TO SERVE AND BE FAIR TO
24 BOTH THE STATE AND TO THE DEFENDANT. OKAY?

25 A (INDICATES AFFIRMATIVE RESPONSE)

RHONDA F. SIMS -- VOIR DIRE BY THE COURT

1 Q THIS CASE ARISES FROM AN INCIDENT WHICH OCCURRED IN
2 GREENVILLE BACK ON DECEMBER THE 6TH OF 2000. IN THE
3 INDICTMENT THE DEFENDANT, MR. WOOD, IS CHARGED WITH THE CRIME
4 OF MURDER. THE VICTIM IDENTIFIED IN THE INDICTMENT IS ERIC
5 NICHOLSON. MR. NICHOLSON WAS AT THAT TIME A STATE TROOPER.

6 THIS CASE RECEIVED A LOT OF ATTENTION IN THE MEDIA, AND
7 I WANT TO KNOW INITIALLY FROM YOU IF YOU WERE EXPOSED TO ANY
8 INFORMATION ABOUT THIS CASE. AND IF YOU HAVE ANY INFORMATION
9 ABOUT THIS CASE, FROM WHATEVER, SOURCE, WOULD YOU BE SPECIFIC
10 AND RELATE THAT TO US?

11 A SO BASICALLY WHAT YOU'RE ASKING ME IS WHETHER I KNEW
12 ABOUT THE CASE?

13 Q YEAH.

14 A OKAY. WELL, I WAS AT WORK WHEN IT CAME OVER THE RADIO
15 STATION ABOUT THE INCIDENT WHERE THE PATROL OFFICER WAS---

16 MR. MAULDIN: MS. SIMS, COULD YOU SIT A LITTLE CLOSER
17 TO THE MICROPHONE?

18 THE COURT: YEAH, AND SPEAK INTO THAT MICROPHONE.

19 MR. MAULDIN: I'M HAVING A HARD TIME PICKING YOU UP.
20 THANK YOU.

21 THE COURT: THERE YOU GO. SPEAK DIRECTLY INTO THAT
22 MICROPHONE.

23 A WHERE HE -- I THINK THERE WAS A CAR PULLED OVER TO THE
24 SIDE OF THE ROAD, AND HE CAME UP TO THE VEHICLE AND, IF I'M
25 NOT MISTAKEN, THE PERSON GOT OUT OF THE CAR AND SHOT. AND

RHONDA F. SIMS -- VOIR DIRE BY THE COURT

1 THAT'S BASICALLY WHAT I -- OVER THE YEARS THAT I REMEMBER
2 SINCE 2000.

3 Q ANYTHING ELSE YOU CAN RECALL?

4 A THAT THE PERSON LEFT THE SCENE. I DO REMEMBER THAT HE
5 WAS HEADING TOWARDS THE GREENVILLE AREA, THAT THEY WERE
6 SEARCHING THE AREA. HELICOPTERS WERE IN THE AREA LOOKING FOR
7 THE PERSON. I CAN TELL YOU THAT MY DAUGHTER WAS AT HOME AT
8 THE TIME. I WAS REALLY KIND OF FEARFUL FOR HER BECAUSE HE,
9 AT THAT TIME, WAS SUPPOSEDLY SUPPOSED TO BE IN OUR AREA -- IN
10 OUR HOME AREA. SO I HAD HER MAKE SURE THAT SHE LOCKED ALL
11 THE DOORS. AND, OF COURSE, I WAS IN SIMPSONVILLE, SO I
12 COULDN'T GET TO HER OR FELT LIKE I COULD BE THERE TO JUST BE
13 AN ENCOURAGEMENT TO HER OR BE CLOSE TO HER. AND THEN I LATER
14 REMEMBER THAT HE WAS FOUND, I BELIEVE, IN THE SPARTANBURG
15 AREA.

16 Q OKAY. THERE MAY BE SOME REFERENCE TO AN EVENT OR EVENTS
17 IN ANDERSON COUNTY. DOES THAT TRIGGER A MEMORY WHEN I SAY
18 ANDERSON?

19 A YES, IT DOES. YES. YES, I DO REMEMBER THAT. IT WAS
20 EITHER THE SPARTANBURG OR ANDERSON AREA, SOMEWHERE IN THAT
21 WAY.

22 Q WELL, WHAT HAPPENED IN SPARTANBURG OR ANDERSON?

23 A I REMEMBER SOMETHING ABOUT THEM LOOKING IN A FIELD, IF I
24 COULD BE REMEMBERED RIGHT. BUT THAT'S REALLY BASICALLY ALL I
25 CAN REALLY REMEMBER ABOUT THE INCIDENT, THAT HE WAS CAUGHT

1 THERE OR SOMETHING LIKE THAT. I'M NOT SURE.

2 Q SOMETHING ABOUT A FIELD?

3 A YEAH.

4 Q OKAY. THE REASON I ASK YOU SUCH PARTICULAR QUESTIONS
5 ABOUT WHAT YOU RECALL, MS. SIMS, IS THAT IT IS NOT UNUSUAL AT
6 ALL FOR JURORS TO SEE COVERAGE OF AN EVENT IN THE MEDIA.

7 A UH-HUH (AFFIRMATIVE).

8 Q AND THEN THEY COME TO JURY DUTY AND HERE IS THAT SAME
9 CASE. WHEN AN INDIVIDUAL SERVES ON A JURY, THAT INDIVIDUAL
10 TAKES AN OATH TO FIND THE TRUTH NOT FROM WHAT THE MEDIA SAID
11 BUT TO FIND THE TRUTH FROM THE EVIDENCE PRESENTED DURING THE
12 COURSE OF THE TRIAL, EVIDENCE THAT COMES OUT IN THIS VERY
13 COURTROOM.

14 AND SO IF YOU WERE A JUROR AND YOU WERE ASKED TO TAKE
15 THAT OATH AND DISREGARD ANYTHING YOU MAY HAVE BEEN EXPOSED TO
16 EARLIER, COULD YOU DO THAT AND FIND THE TRUTH BASED ONLY ON
17 THE EVIDENCE PRESENTED IN THE COURTROOM?

18 A I WOULD HOPE SO.

19 Q OKAY. HAVE YOU ALREADY FORMED AN OPINION OR ARE YOU
20 LEANING ONE WAY OR THE OTHER AS TO THE GUILT OR INNOCENCE OF
21 THIS DEFENDANT, MR. WOOD?

22 A YES.

23 Q ALL RIGHT. AND WHICH WAY ARE YOU LEANING?

24 A GUILTY.

25 Q OKAY. NOW, DO YOU UNDERSTAND THE LEGAL PRINCIPLES WE

1 TALKED ABOUT EARLIER? ONE IS THE PRESUMPTION OF INNOCENCE.

2 A YES.

3 Q ANYONE ACCUSED OF A CRIME IS PRESUMED TO BE INNOCENT.

4 A YES.

5 Q AND ALSO THERE IS NO BURDEN ON A DEFENDANT TO PROVE OR
6 DISPROVE ANYTHING. DO YOU UNDERSTAND THAT?

7 A YES.

8 Q OKAY. THE BURDEN OF PROOF IS ON THE STATE AND THE STATE
9 ALONE. THE STATE MUST PROVE GUILT BEYOND A REASONABLE DOUBT.

10 A YES.

11 Q AND SHOULD THE STATE FAIL TO DO THAT, IT WOULD BE THE
12 DUTY OF THE JURY TO FIND THIS GENTLEMAN NOT GUILTY. DO YOU
13 UNDERSTAND THAT LEGAL PRINCIPLE?

14 A YES.

15 Q NOW, THESE LEGAL PRINCIPLES, DO YOU AGREE WITH THEM?

16 A YES.

17 Q OKAY. NOW, IF YOU HAD A CASE -- IT COULD BE CIVIL OR
18 CRIMINAL. IT DOESN'T MATTER.

19 A OKAY.

20 Q -- YOU WOULD WANT A FAIR JURY, WOULDN'T YOU?

21 A YES.

22 Q AND IF YOU ARE ABLE TO SET ASIDE THIS LEANING OR THIS
23 OPINION YOU MAY HAVE ABOUT MR. WOOD AND YOU'RE CONFIDENT THAT
24 YOU CAN DO IT AND THAT YOU CAN HONOR THAT PRESUMPTION OF
25 INNOCENCE WITH INTEGRITY AND FOLLOW YOUR OATH AND DISREGARD

RHONDA F. SIMS -- VOIR DIRE BY THE COURT

1 ANY OPINION OR INFORMATION THAT YOU BROUGHT INTO THIS
2 COURTROOM, AND YOU CAN FIND THE TRUTH ONLY FROM THE EVIDENCE,
3 YOU MAY BE A QUALIFIED JUROR.

4 BUT IF YOU HAD ANY HESITATION ABOUT THAT, THEN YOU NEED
5 TO SHARE THAT. BECAUSE IT'S THAT KIND OF CANDOR THAT MAKES
6 THE SYSTEM WORK. JUST AS YOU WOULD WANT A FAIR JURY AND YOU
7 WOULD WANT JURORS IN YOUR CASE TO BE HONEST, YOU NEED TO BE
8 HONEST IN THAT REGARD.

9 IT'S OKAY TO HAVE OPINIONS. BUT IF YOU DO AND YOU CAN'T
10 SET THEM ASIDE, THEN YOU NEED TO BE FORTHRIGHT ABOUT THAT.

11 A OKAY. COULD YOU -- SO WHAT EXACTLY DO YOU WANT ME TO --
12 I'M NOT SURE I UNDERSTAND WHAT YOU'RE WANTING ME TO DO.

13 Q I RAMBLED TOO LONG, DIDN'T I?

14 A THAT'S OKAY. I'M REALLY NERVOUS. SO...

15 Q WELL, I WISH I KNEW SOMETHING TO PUT YOU AT EASE,
16 BECAUSE YOU'RE NOT ON TRIAL. OKAY?

17 WE'RE GOING THROUGH A PROCESS TO FIND FAIR JURORS. IT'S
18 A LENGTHY PROCESS. WE HAVE TO QUESTION YOU AND ALL THE
19 OTHERS VERY CAREFULLY.

20 AND THE STATE IS ENTITLED TO A FAIR TRIAL. THE STATE IS
21 ENTITLED TO HAVE JURORS WHO COME IN HERE WITH AN OPEN MIND
22 THAT WILL CONSCIENTIOUSLY LISTEN TO THE EVIDENCE THEY PRESENT
23 WITHOUT ANY BIAS OR PREJUDICE FOR OR AGAINST IT.

24 THE DEFENDANT, MR. WOOD, IS ENTITLED TO A FAIR TRIAL
25 ALSO. HE IS ENTITLED TO HAVE JURORS COME IN HERE WHO ARE

RHONDA F. SIMS -- VOIR DIRE BY THE COURT

1 FAIR AND IMPARTIAL, THAT DON'T HAVE ANY BIAS OR PREJUDICE FOR
2 OR AGAINST HIM.

3 SO BOTH SIDES ARE TREATED EQUALLY AND THE LAW IS
4 FOLLOWED WITH INTEGRITY. AND YOU'VE INDICATED WHEN I ASKED
5 YOU IF YOU WERE LEANING ONE WAY OR ANOTHER, YOU SAID, YES,
6 YOU THINK HE'S MAYBE GUILTY AND THAT'S HOW YOU WERE THINKING.
7 NOT WORDS TO THAT EXACT EFFECT, BUT THAT'S THE IMPORT OF WHAT
8 YOU SAID.

9 A YES.

10 Q AND IF YOUR OPINION IN THAT REGARD IS SUCH THAT YOU
11 CANNOT SET IT ASIDE, THEN JUST TELL ME AND WE HONOR THAT.
12 BUT IF YOU SAY, "NO, I'M CONFIDENT THAT I CAN SET THAT ASIDE,
13 AND I CAN BE FAIR, AND I WILL MAKE A DECISION ON THE
14 EVIDENCE, AND I WILL NOT PREJUDGE THIS CASE," THEN YOU CAN
15 TELL ME THAT. BUT I WANT YOU TO BE VERY CONFIDENT OF YOUR
16 ABILITY TO DO THE LATTER IF YOU ARE ABLE TO.

17 A I DON'T FEEL AS THOUGH I AM CONFIDENT ENOUGH THAT I
18 COULD SAY THAT.

19 Q OKAY. AND I APPRECIATE YOUR HONESTY. THAT'S WHY OUR
20 SYSTEM WORKS AS WELL AS IT DOES.

21 THE COURT: I WANT TO KNOW IF EITHER SIDE HAS ANY
22 QUESTIONS THEY WOULD LIKE TO ASK MS. SIMS.

23 SOLICITOR ARIAIL: NONE FROM THE STATE.

24 MR. MAULDIN: NONE, YOUR HONOR.

25 THE COURT: ALL RIGHT. MS. SIMS, THANK YOU SO MUCH.

RHONDA F. SIMS -- VOIR DIRE BY THE COURT

1 WE APPRECIATE YOU BEING HERE. WE APOLOGIZE FOR THE
2 INCONVENIENCE. YOU ARE FREE TO GO. GOOD LUCK TO YOU.

3 (JUROR EXITS COURTROOM AT 3:37 P.M.)

4 THE COURT: ALL RIGHT. THE NEXT PANEL, IF THEY'RE ALL
5 HERE.

6 SOLICITOR ARIAIL: YOUR HONOR, I'D LIKE TO PUT ON THE
7 RECORD THAT THERE WERE TWO JURORS THAT JUST CAME, MS. SHIRLEY
8 REDMOND AND RHONDA SIMS, BOTH OF WHOM EXPRESSED THAT THEY HAD
9 PRIOR OPINIONS THE DEFENDANT WAS GUILTY. BOTH WERE
10 CONSISTENT. BOTH WERE HONEST WITH THE COURT. BOTH SAID THEY
11 WOULD NOT -- COULDN'T WAIVE THOSE OPINIONS AND COULDN'T BE
12 FAIR AND COULDN'T SET THEM ASIDE.

13 THE DEFENSE QUESTIONED MS. REDMOND, WHO WAS A BLACK
14 FEMALE, IN AN ATTEMPT TO REHABILITATE HER. HE DID NOT
15 QUESTION MS. SIMS, THE WHITE FEMALE. AND I POINT THAT OUT
16 ONLY FOR THE PURPOSES OF OUR SUBSEQUENT BATSON MOTION
17 REGARDING WHAT WE THINK IS HIS SYSTEMATIC STRIKING OF WHITES.
18 AND WE WILL FURTHER FLESH THAT OUT, BUT I WANT TO GET THAT ON
19 THE RECORD. IT MIGHT NOT BE ON THE RECORD AS TO THE NATURE.

20 MR. MAULDIN: MAY I?

21 THE COURT: YOU DON'T HAVE TO RESPOND TO THAT.

22 SOLICITOR ARIAIL: NO.

23 THE COURT: I MEAN, DO YOU WANT TO RESPOND TO THAT?

24 MR. MAULDIN: NO.

25 THE COURT: YOU VEHEMENTLY DISAGREE WITH WHAT HE SAYS,

RHONDA F. SIMS -- VOIR DIRE BY THE COURT

1 RIGHT?

2 MR. MAULDIN: BECAUSE OF WHAT I HAVE IN MY HAND, YES,
3 SIR.

4 (LAUGHTER)

5 THE COURT: AND THE RECORD WILL REFLECT YOUR ADAMANT
6 OBJECTION TO HIS POSITION.

7 MR. MAULDIN: YES, SIR.

8 THE COURT: ALL RIGHT. NEXT PANEL.

9 (PANEL NUMBER 8 ENTERS COURTROOM AT 3:40 P.M.)

10 (PANEL 8: JUROR NUMBER 162, STEPHANIE D. HASELWANDER;
11 JUROR NUMBER 38, LARRY D. BUSHONG; JUROR NUMBER 51, JAMES R.
12 CHANCELLOR; JUROR NUMBER 208, PETRA M. LACKEY; AND JUROR
13 NUMBER 203, AMY J. KESSLER)

14 THE COURT: LADIES AND GENTLEMEN, THANK YOU SO MUCH FOR
15 BEING HERE. WE KNOW WE'RE RUNNING BEHIND, BUT WE'RE DOING
16 THE BEST WE CAN IN A VERY IMPORTANT SETTING AND HOPE YOU CAN
17 APPRECIATE THE SERIOUS NATURE OF WHAT WE ARE ABOUT AND WHY WE
18 NEED TO TAKE TIME AND BE VERY CAREFUL IN THE JURY SELECTION
19 PROCESS.

20 THE FIRST THING I'D LIKE TO DO IS JUST GO DOWN THE ROW
21 AND JUST GET YOUR NAME SO I CAN PUT A NAME WITH A FACE. SO
22 I'LL START WITH YOU, MA'AM. IF YOU WOULD BE KIND ENOUGH TO
23 SHARE YOUR NAME.

24 JUROR NUMBER 208: PETRA LACKEY.

25 THE COURT: YES, SIR.

VOIR DIRE -- PANEL NUMBER 8

1 JUROR NUMBER 51: ROBERT CHANCELLOR. YOU PROBABLY HAVE
2 JAMES. YOU DO HAVE JAMES.

3 THE COURT: OKAY. I'VE GOT YOU RIGHT HERE.
4 YES, MA'AM?

5 JUROR NUMBER 203: AMY KESSLER.

6 THE COURT: YES, MA'AM?

7 JUROR NUMBER 162: STEPHANIE HASELWANDER.

8 THE COURT: OKAY. YOU MUST BE MR., IS IT, BUSHONG?

9 JUROR NUMBER 38: BUSHONG.

10 THE COURT: ALL RIGHT. THE FIRST THING I NEED TO DO IS
11 I'M GOING TO PUT YOU UNDER OATH, AND I'LL JUST DO IT
12 COLLECTIVELY. SO, IF ALL FIVE OF YOU WOULD, JUST RAISE YOUR
13 RIGHT HAND.

14 DO YOU SWEAR OR AFFIRM THAT THE TESTIMONY YOU GIVE,
15 RESPONSES YOU GIVE DURING THE JURY SELECTION PROCESS WILL BE
16 TRUTHFUL AND COMPLETE? (PAUSE) ALL INDICATE IN THE
17 AFFIRMATIVE.

18 NOW, LADIES AND GENTLEMEN, I'M GOING TO SPEAK TO YOU AS
19 A GROUP INITIALLY, GIVE YOU SORT OF AN OVERVIEW OF THE
20 PROCESS OF A TRIAL OF THIS NATURE, A CAPITAL CASE, A CASE IN
21 WHICH THE STATE SEEKS THE DEATH PENALTY, DESCRIBE PARTS OF
22 THE TRIAL, A COUPLE LEGAL PRINCIPLES, AND THEN WE'LL BACK UP
23 AND I WILL QUESTION YOU AND THE ATTORNEYS WILL TALK WITH YOU
24 INDIVIDUALLY.

25 NOW, FIRST OF ALL, THANK YOU FOR BEING HERE. AND IT

1 DOES NOT ESCAPE US, THE BURDEN AND INCONVENIENCE CAUSED TO
2 YOU BY HAVING TO PARTICIPATE IN THIS PROCESS. I HOPE YOU
3 UNDERSTAND THE IMPORTANCE OF IT AND HOW IMPORTANT YOUR CIVIC
4 DUTY IS IN SERVING ON JURY DUTY.

5 AS I SAID ON MONDAY, I DON'T HAVE ANY OPINION ABOUT THE
6 FACTS OF THIS CASE. THE LAW DOES NOT PERMIT ME TO HAVE AN
7 OPINION ABOUT THE FACTS OF THIS CASE. SO AS WE TALK BACK AND
8 FORTH AND I SHARE THINGS WITH YOU, PLEASE DO NOT INFER FROM
9 ANYTHING I SAY THAT I HAVE ANY OPINION ABOUT THE FACTS OF
10 THIS CASE.

11 NOW, ON MONDAY I PLACED YOU AND YOUR FELLOW JURORS UNDER
12 OATH NOT TO DISCUSS THE CASE OR NOT TO EXPOSE YOURSELF TO ANY
13 MEDIA COVERAGE ABOUT THE CASE. SOMETIMES A JUROR WILL
14 INADVERTENTLY COME ACROSS A NEWS ARTICLE OR SEE A HEADLINE IN
15 THE PAPER. IF YOU HAVE, THAT'S FINE. I JUST NEED TO KNOW
16 ABOUT IT AND SEE IF IT HAS HAD ANY IMPACT ON YOUR ABILITY TO
17 SERVE. SO IF YOU HAVE BEEN EXPOSED TO ANY MEDIA COVERAGE OR
18 IF YOU HAVE DISCUSSED THE CASE WITH ANYONE, WOULD YOU PLEASE
19 RAISE YOUR RIGHT HAND? (PAUSE) THE RECORD WILL REFLECT NO
20 RESPONSE.

21 PLEASE REMEMBER THE TWO LEGAL PRINCIPLES WE DISCUSSED ON
22 MONDAY. NUMBER ONE, IN OUR SYSTEM, ANYONE ACCUSED OF A CRIME
23 IS PRESUMED TO BE INNOCENT. THERE IS NO BURDEN ON A
24 DEFENDANT TO PROVE OR DISPROVE ANYTHING.

25 RELATED TO THAT IS THE BURDEN OF PROOF. THE BURDEN IS

1 ON THE STATE. IT'S ON THE STATE TO PROVE GUILT BEYOND A
2 REASONABLE DOUBT.

3 NOW, A CASE OF THIS NATURE, AS I MENTIONED, IS REFERRED
4 TO AS A CAPITAL CASE. IT'S A CASE IN WHICH THE STATE SEEKS
5 THE DEATH PENALTY. AND I'M GOING TO EXPLAIN THE PROCESS OF A
6 CAPITAL CASE IN GENERAL.

7 WHEN A JURY IS SELECTED, THE JURY HEARS THE FIRST PHASE.
8 AND IN THE FIRST PART OF A TRIAL, THE JURY DETERMINES WHETHER
9 OR NOT THE DEFENDANT ON TRIAL FOR MURDER IS GUILTY OR NOT
10 GUILTY. THE JURY HEARS EVIDENCE FROM THE STATE TO SEE IF THE
11 STATE CAN PROVE THE CRIME OF MURDER BEYOND A REASONABLE
12 DOUBT. IF A JURY FIND A DEFENDANT NOT GUILTY OF THE CRIME OF
13 MURDER, THERE IS NO FURTHER JURY SERVICE. THAT ENDS THE JURY
14 PARTICIPATION.

15 IF, HOWEVER, A JURY FINDS A DEFENDANT GUILTY OF MURDER,
16 THEN WE MOVE INTO WHAT IS CALLED THE SENTENCING PHASE. IN
17 THE SENTENCING PHASE, AS THE NAME IMPLIES, WE HEAR EVIDENCE
18 THAT BEARS UPON AND RELATES TO THE ISSUE OF PUNISHMENT.

19 IN SOUTH CAROLINA, THERE ARE TWO OPTIONS AVAILABLE TO A
20 JURY -- LIFE IMPRISONMENT OR THE DEATH PENALTY. IN THE
21 SECOND OR SENTENCING PHASE, THE JURY HEARS THE EVIDENCE THAT
22 THE LAW REQUIRES THAT MUST BE CONSIDERED BEFORE MAKING A
23 FINAL DECISION AS TO PUNISHMENT.

24 EVIDENCE CAN TAKE THE FORM OF WHAT WE CALL A
25 CIRCUMSTANCE OF AGGRAVATION. YOU SEE, THE STATE CANNOT ASK

1 FOR THE DEATH PENALTY IN EVERY CRIME OF MURDER. UNDER OUR
2 STATE LAW THERE ARE SPECIFIC ENUMERATED SITUATIONS WHERE THE
3 STATE CAN ASK FOR THE DEATH PENALTY, AND I WILL GIVE YOU A
4 COUPLE OF EXAMPLES, AND THESE ARE WHAT THEY CALL
5 CIRCUMSTANCES OF AGGRAVATION. MURDER IN THE COMMISSION OF
6 ARMED ROBBERY, MURDER IN THE COMMISSION OF KIDNAPPING, MURDER
7 IN THE COMMISSION OF TORTURE, THINGS LIKE THAT ARE
8 CIRCUMSTANCES OF AGGRAVATION WHICH COMBINE WITH THE MURDER
9 WHICH ALLOW THE STATE TO SEEK THE DEATH PENALTY. THAT'S THE
10 TYPE OF EVIDENCE THAT'S OFFERED IN THE SENTENCING PHASE.

11 YOU WOULD NEVER HEAR THE PHRASE "CIRCUMSTANCE OF
12 AGGRAVATION" IN THE FIRST PHASE. THE FIRST PHASE IS LIMITED.
13 DOES THE STATE PROVE THE GUILT OF THE DEFENDANT BEYOND A
14 REASONABLE DOUBT? THAT'S THE ISSUE. BUT IN THE SENTENCING
15 PHASE, YES, YOU WOULD HEAR EVIDENCE TO A CIRCUMSTANCE OF
16 AGGRAVATION. THE STATE WOULD BE -- HAVE THE OPPORTUNITY TO
17 PRESENT EVIDENCE TO SEE IF THEY COULD CONVINCE YOU OF THAT
18 FACT BEYOND A REASONABLE DOUBT.

19 NOW, THAT'S A CIRCUMSTANCE OF AGGRAVATION. BUT THAT'S
20 NOT ALL THAT IS SUBMITTED IN A SENTENCING PHASE.

21 THE LAW ALSO REQUIRES THAT THE JURY CONSIDER EVIDENCE OF
22 MITIGATION BEFORE MAKING A DECISION AS TO PUNISHMENT.
23 MITIGATION UNDER OUR LAW -- I'LL GIVE YOU AN EXAMPLE -- OR
24 EXAMPLES. THE BACKGROUND OF THE DEFENDANT, FAMILY HISTORY OF
25 THE DEFENDANT, THE MENTAL HEALTH STATUS OF THE DEFENDANT,

VOIR DIRE -- PANEL NUMBER 8

1 THINGS OF THIS NATURE, THESE ARE THINGS WHICH OUR LAW SAY
2 MUST BE CONSIDERED VERY CAREFULLY BEFORE MAKING A DECISION.

3 SO, YOU SEE, WE'RE GOING TO TALK WITH YOU ABOUT THESE
4 THINGS TO SEE IF YOU WOULD BE A QUALIFIED JUROR AND YOU COULD
5 FOLLOW YOUR OATH AS A JUROR AND FOLLOW THE LAW AND
6 PARTICIPATE WITH INTEGRITY UNDER YOUR OATH AS A JUROR.

7 LET ME MAKE ONE COMMENT TO YOU ABOUT LIFE IMPRISONMENT.
8 AND I DON'T WANT YOU TO EVER BE WONDERING, "WELL, WHAT DOES
9 LIFE REALLY MEAN? WHAT'S HE TRYING TO TELL US? IF WE DO
10 LIFE, WHEN DOES THE GUY GET OUT? IS HE OUT IN TEN YEARS?
11 WHEN IS HE ELIGIBLE FOR PAROLE?" I WANT YOU TO PUT THAT
12 ASIDE, BECAUSE I'M TELLING YOU, UNDER SOUTH CAROLINA LAW,
13 WHEN A DEFENDANT IS CONVICTED OF MURDER AND IT'S ACCOMPANIED
14 BY AN AGGRAVATING CIRCUMSTANCE, LIFE MEANS LIFE WITHOUT
15 PAROLE. IN SUCH A CASE, THAT PARTICULAR INDIVIDUAL WOULD DIE
16 IN JAIL. THAT'S THE LAW. I WANT YOU TO BE AWARE OF THAT AS
17 YOU THINK ABOUT YOUR VIEWS ON THESE TWO PENALTIES -- THE
18 DEATH PENALTY AND LIFE IMPRISONMENT.

19 NOW I'VE EXPLAINED TO YOU THESE LEGAL PRINCIPLES,
20 PRESUMPTION OF INNOCENCE, BURDEN OF PROOF. WE'VE TALKED
21 ABOUT JUST IN GENERAL TERMS THE TWO PHASES OF A CAPITAL
22 TRIAL. THERE HAS TO BE ONE. AND IF A DEFENDANT IS FOUND
23 GUILTY, THEN WE MOVE TO THAT SENTENCING PHASE, AND JUST THE
24 TYPE OF INFORMATION THAT'S GIVEN TO ASSIST THE JURY TO MAKE
25 THE PROPER DETERMINATION AT THE END IN TERMS OF THE SENTENCE.

VOIR DIRE -- PANEL NUMBER 8

1 NOW, I'D LIKE TO KNOW AT THIS POINT, JUST LET ME KNOW IF
2 YOU UNDERSTAND THE LEGAL CONCEPTS THAT I HAVE DESCRIBED TO
3 YOU. (PAUSE) OKAY. ALL INDICATE IN THE AFFIRMATIVE.

4 NOW, IF THERE IS A -- WE'RE GOING TO GO INTO MORE DETAIL
5 WHEN WE MEET INDIVIDUALLY. IF YOU HAVE A PARTICULAR CONCERN
6 ABOUT SOMETHING I SAID, A PARTICULAR AREA, WE'LL DELVE INTO
7 IT TO ANY DEGREE YOU NEED TO FOR YOU TO FULLY UNDERSTAND SO
8 YOU CAN LET US KNOW WHETHER YOU WOULD BE ELIGIBLE TO SERVE AS
9 A JUROR.

10 NOW, THE OTHER DAY YOU WERE INTRODUCED TO THE ATTORNEYS.
11 WE HAVE OVER HERE -- THIS IS MR. JOHN MAULDIN, PUBLIC
12 DEFENDER'S OFFICE, MR. RODNEY RICHEY. THE IS MR. JOHN
13 RICHARD WOOD HERE IN THE SWEATER. JIM BANNISTER REPRESENTS,
14 BUT HE'S ON A BREAK RIGHT NOW.

15 THE SOLICITOR, MR. ARIAIL, REPRESENTS THE STATE,
16 TOGETHER WITH DEPUTY STROM AND ASSISTANT SOLICITOR MINDY
17 HERVEY, WHO WAS IN THE JURY ROOM ON MONDAY BUT IS NOT HERE.
18 SHE IS ON A BREAK AS WELL.

19 AS TO THIS GROUP OF FIVE, ARE ANY OF YOU RELATED BY
20 BLOOD OR MARRIAGE OR ACQUAINTED IN ANY WAY WITH THE ATTORNEYS
21 WHOSE NAMES I HAVE CALLED OUT? IF YOU ARE, WOULD YOU PLEASE
22 RAISE YOUR RIGHT HAND? (PAUSE) THERE IS NO RESPONSE.

23 YOU MAY NOT BE RELATED OR ACQUAINTED TO THESE ATTORNEYS,
24 BUT IF YOU ARE RELATED TO ANYONE OR ACQUAINTED WITH ANYONE IN
25 THEIR RESPECTIVE OFFICES, PLEASE RAISE YOUR RIGHT HAND.

VOIR DIRE -- PANEL NUMBER 8

1 SOLICITOR'S OFFICE, PUBLIC DEFENDER'S OFFICE, MR. RICHEY'S
2 OFFICE AND MR. BANNISTER'S LAW OFFICE. (PAUSE) AGAIN, THERE
3 IS NO RESPONSE.

4 ANY MEMBER OF THIS PANEL RELATED BY BLOOD OR MARRIAGE TO
5 THE ACCUSED, MR. JOHN RICHARD WOOD, OR ACQUAINTED IN ANY WAY
6 WITH THIS GENTLEMAN? IF SO, PLEASE RAISE YOUR RIGHT HAND.
7 (PAUSE) THERE IS NO RESPONSE.

8 IN THE INDICTMENT THE VICTIM IS ALLEGED TO BE ERIC
9 NICHOLSON. ARE ANY OF YOU RELATED BY BLOOD OR MARRIAGE OR
10 WERE YOU ACQUAINTED WITH AN INDIVIDUAL BY THE NAME OF ERIC
11 NICHOLSON? IF SO, PLEASE RAISE YOUR RIGHT HAND. (PAUSE)
12 AGAIN, THERE IS NO RESPONSE.

13 NOW, IN THE OTHER COURTROOM WHERE YOU HAVE BEEN STUDYING
14 THE WITNESS LIST AND THE THREE TYPES OF JURORS, I WANT TO
15 KNOW IF YOU ARE RELATED BY BLOOD OR MARRIAGE OR ACQUAINTED IN
16 ANY WAY POTENTIALLY WITH ANY OF THE WITNESSES LISTED ON THE
17 WITNESS SHEET. AND I HAVE A COPY OVER THERE FOR EACH OF YOU
18 IF YOU NEED TO LOOK AT IT AGAIN. SO TAKE YOUR TIME, IF YOU
19 NEED TO LOOK AT IT. OTHERWISE, RAISE YOUR HAND IF YOU ARE
20 RELATED BY BLOOD OR MARRIAGE OR ACQUAINTED WITH ANY OF THOSE
21 POTENTIAL WITNESSES. (PAUSE)

22 ALL RIGHT. MR. BUSHONG?

23 JUROR NUMBER 38: I KNOW A PERSON, A WILLIAM MCCAULEY.
24 I JUST KNEW OF HIM. I WASN'T A VERY CLOSE FRIEND OR ANYTHING
25 LIKE THAT.

VOIR DIRE -- PANEL NUMBER 8

1 **THE COURT:** OKAY. THIS WILLIAM MCCAULEY, HOW DO YOU
2 KNOW HIM -- OR DID KNOW HIM?

3 **JUROR NUMBER 38:** HE WORKED AT THE UNIVERSITY THAT I
4 WORKED AT.

5 **THE COURT:** AND HOW LONG AGO WAS THAT?

6 **JUROR NUMBER 38:** ABOUT EIGHT YEARS AGO.

7 **THE COURT:** I DON'T KNOW IF THIS IS THE SAME INDIVIDUAL
8 OR NOT, AND WE CAN FIND OUT IF WE NEED TO. BUT HERE IS MY
9 QUESTION TO YOU: IF THIS IS THE SAME WILLIAM MCCAULEY AND HE
10 TESTIFIES FOR ONE SIDE OR THE OTHER, WOULD IT MAKE A
11 DIFFERENCE TO YOU OR WOULD YOU STILL BE FAIR?

12 **JUROR NUMBER 38:** I'D BE FAIR.

13 **THE COURT:** SO IT WOULD NOT IMPACT YOUR ABILITY TO BE
14 FAIR IF THIS GENTLEMAN TESTIFIED FOR ONE SIDE OR THE OTHER?

15 **JUROR NUMBER 38:** NO.

16 **THE COURT:** OKAY. THANK YOU, MR. BUSHONG.

17 THE RECORD WILL REFLECT NO ADDITIONAL RESPONSE.

18 AT THIS TIME, WE'RE GOING TO START WITH THE INDIVIDUAL
19 QUESTIONS, AND ON THE LIST THE FIRST ONE IS MS. HASELWANDER.
20 SO, MA'AM, YOU WILL BE FIRST.

21 AND I WOULD ASK THE OTHERS, IF YOU WOULD, JUST KINDLY
22 RETURN TO THE OTHER COURTROOM AND FOLLOW THE SAME
23 INSTRUCTIONS THAT YOU HAVE BEEN RECEIVING FROM THE BAILIFFS.
24 JUST BE PATIENT WITH US. WE'LL GET TO YOU AS SOON AS WE CAN.
25 THEN ONCE WE ARE THROUGH, YOU'LL BE THROUGH FOR THE DAY.

VOIR DIRE -- PANEL NUMBER 8

1 THANK YOU SO MUCH.

2 MS. HASELWANDER, IF YOU WOULD, JUST COME AROUND TO THE
3 WITNESS STAND UP HERE NEXT TO ME.

4 JUROR NUMBER 162: (COMPLIES)

5 (BALANCE OF PANEL EXITS COURTROOM AT 3:54 P.M.)

6 STEPHANIE D. HASELWANDER (WHITE
7 FEMALE), HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

8 VOIR DIRE BY THE COURT:

9 Q WE'RE GOING TO TALK IN A LITTLE MORE DETAIL ABOUT THE
10 NATURE OF A CAPITAL CASE AND ASK YOU YOUR OPINIONS ON VARIOUS
11 ISSUES THAT WOULD COME UP IN A CAPITAL CASE. I'M GOING TO
12 TALK TO YOU AND THE ATTORNEYS WILL AS WELL.

13 MA'AM, THIS CASE ARISES, ACCORDING TO THE INDICTMENT,
14 FROM AN INCIDENT THAT OCCURRED BACK ON DECEMBER THE 6TH OF
15 2000. THE DEFENDANT, MR. WOOD, IS CHARGED WITH THE CRIME OF
16 MURDER. ACCORDING TO THE INDICTMENT, THE VICTIM WAS ERIC
17 NICHOLSON. I MENTIONED HIS NAME EARLIER. MR. NICHOLSON AT
18 THAT TIME WAS A STATE TROOPER.

19 THIS CASE RECEIVED SOME ATTENTION IN THE MEDIA, AND I
20 WANT TO KNOW INITIALLY IF YOU CAN RECALL ANYTHING YOU MAY
21 HAVE HEARD OR BEEN EXPOSED TO IN THE MEDIA OR OTHERWISE. AND
22 IF YOU DO REMEMBER ANYTHING ABOUT THIS CASE, BE AS SPECIFIC
23 AS YOU CAN IN TELLING US WHAT YOU REMEMBER.

24 A OKAY. I DON'T REMEMBER ANY DETAILS, QUITE HONESTLY.
25 WHEN I HEARD HIS NAME ON MONDAY, IT SOUNDED FAMILIAR TO ME.

STEPHANIE D. HASELWANDER -- VOIR DIRE BY THE COURT

1 BUT I HONESTLY CANNOT RECALL ANY OF THE DETAILS OR THE FACTS
2 OF THE INCIDENT.

3 Q OKAY. THERE MAY BE A REFERENCE IN THE EVIDENCE TO AN
4 EVENT IN ANDERSON COUNTY. WHEN I SAY ANDERSON COUNTY, DOES
5 THAT JOG ANY MEMORY YOU MAY HAVE?

6 A IT SOUNDS FAMILIAR. I DON'T RECALL THE DETAILS. BUT IT
7 DOES SOUND A LITTLE FAMILIAR THOUGHT.

8 Q LET ME TELL YOU WHY I ASK YOU TO SEE EXACTLY WHAT YOU
9 CAN RECALL. IT'S QUITE COMMON FOR JURORS TO HAVE SEEN
10 PUBLICITY ABOUT A CASE, AND THEN THEY COME TO JURY DUTY. TO
11 SERVE ON A CASE, A JUROR TAKES AN OATH, AND THAT OATH
12 REQUIRES THE JUROR TO FIND THE TRUTH FROM THE EVIDENCE AND
13 DISREGARD WHAT THAT JUROR MAY HAVE HEARD OUTSIDE OF COURT.
14 DO YOU UNDERSTAND THAT?

15 A YES.

16 Q IF YOU WERE A JUROR, COULD YOU FOLLOW YOUR OATH AND FIND
17 THE TRUTH ONLY FROM THE EVIDENCE?

18 A YES.

19 Q AND I KNOW YOU SAY YOU JUST CAN'T RECALL ANYTHING, BUT
20 LET ME TELL YOU WHAT HAPPENS SOMETIMES. SAY YOU ARE SELECTED
21 AS A JUROR AND YOU'RE SITTING OVER THERE IN THE JURY BOX.
22 THERE MAY BE A MENTION OF SOMETHING THAT'S INNOCUOUS TO THE
23 REST OF US BUT IT TURNS A LIGHT ON WITH YOU, AND YOU SAY, "I
24 REMEMBER IT NOW."

25 A RIGHT.

1 Q AND THEN THINGS START FLOWING IN YOUR MIND. WELL, IF
2 THAT HAPPENS, IF YOU HAVE TAKEN YOUR OATH, TO BE TRUE TO IT
3 YOU HAVE TO DISREGARD WHAT YOU HEARD PREVIOUSLY, BEEN EXPOSED
4 TO PREVIOUSLY, AND YOU MUST CONTINUE TO FIND THE TRUTH ONLY
5 FROM THE EVIDENCE. COULD YOU DO THAT?

6 A YES, YOUR HONOR.

7 Q WOULD YOU ALSO HONOR YOUR OATH TO FOLLOW THE LAW AS I
8 INSTRUCT IT?

9 A YES.

10 Q HAVE YOU ALREADY FORMED AN OPINION AS TO THE FACTS OF
11 THIS CASE?

12 A NO, I HAVEN'T.

13 Q HAVE YOU ALREADY FORMED AN OPINION AS TO THE GUILT OR
14 INNOCENCE OF MR. WOOD?

15 A NO, I HAVEN'T.

16 Q THOSE TWO LEGAL PRINCIPLES, THE PRESUMPTION OF
17 INNOCENCE, THAT WE REVIEWED, THE BURDEN OF PROOF BEING WITH
18 THE STATE, DO YOU UNDERSTAND THAT?

19 A YES.

20 Q DO YOU AGREE WITH THOSE LEGAL PRINCIPLES?

21 A YES, I DO.

22 Q MS. HASELWANDER, WE'RE GOING TO TALK ABOUT A POTENTIAL
23 SENTENCING PHASE IN A CAPITAL CASE, AND I WANT TO STRESS TO
24 YOU, THE MERE FACT THAT I TALK ABOUT IT DOESN'T MEAN THAT
25 THERE WILL BE A SENTENCING PHASE IN THIS CASE. THERE MAY BE.

1 THERE MAY NOT BE.

2 A RIGHT.

3 Q YOU SEE, IF THE JURY FINDS A DEFENDANT GUILTY, THEN
4 THERE IS A SENTENCING PHASE. BUT IF THE JURY FINDS A
5 DEFENDANT -- WE'RE NOT TALKING ABOUT THIS CASE, JUST THE
6 CONCEPT IN GENERAL -- A DEFENDANT NOT GUILTY OF MURDER, THEN
7 THERE IS NO SENTENCING PHASE. THAT'S THE END OF THE JURY'S
8 INVOLVEMENT. DO YOU UNDERSTAND THAT?

9 A YES.

10 Q BUT BECAUSE THERE MAY BE A SENTENCING PHASE, WE NEED TO
11 TALK ABOUT THAT, DISCUSS HOW IT'S HANDLED AND HOW YOU WOULD
12 APPROACH YOUR SERVICE IN A SENTENCING CASE AS A JUROR. OKAY?

13 A OKAY.

14 Q WHEN A JURY MOVES TO A SENTENCING PHASE, THAT MEANS
15 WE'VE ALREADY HAD THE FIRST PHASE. THAT MEANS THE JURY HAS
16 ALREADY FOUND A DEFENDANT GUILTY OF MURDER. SO AS YOU MOVE
17 INTO A SENTENCING PHASE, YOU'RE DEALING WITH A MURDERER.
18 YOU'RE NOT SITTING THERE WORRIED ABOUT, "OH, WAS IT SELF-
19 DEFENSE? WAS IT ALIBI?" THAT'S BEEN DECIDED IN THE FIRST
20 PHASE. SO DON'T THINK WE'RE STILL TALKING ABOUT GUILT OR
21 INNOCENCE IN THE SECOND PHASE. IN THE FIRST PHASE, IF AN
22 INDIVIDUAL IS FOUND GUILTY OF MURDER, THAT'S IT. GUILT HAS
23 BEEN ESTABLISHED.

24 NOW, WE MOVE INTO THE SENTENCING PHASE, AS THE NAME
25 IMPLIES, TO DETERMINE THE APPROPRIATE PENALTY, LIFE IN PRISON

STEPHANIE D. HASELWANDER -- VOIR DIRE BY THE COURT

1 OR THE DEATH PENALTY. AND THE LAW SAYS THAT WHEN YOU MOVE
2 INTO THE SENTENCING PHASE THE JURY MUST CONSIDER ADDITIONAL
3 EVIDENCE BEFORE MAKING A FINAL DECISION. I REFERRED TO SOME
4 OF THAT ALREADY.

5 A YEAH.

6 Q A CIRCUMSTANCE OF AGGRAVATION. THE STATE WOULD SEEK TO
7 PROVE BEYOND A REASONABLE DOUBT THAT IT WAS NOT ONLY A MURDER
8 BUT IT WAS ACCOMPANIED BY A CIRCUMSTANCE OF AGGRAVATION.

9 WE WOULD ALSO HEAR EVIDENCE THAT WE CALL THE MITIGATION
10 EVIDENCE. THAT'S WHERE YOU HEAR EVIDENCE ABOUT THE
11 DEFENDANT, THE BACKGROUND, FAMILY HISTORY, MENTAL HEALTH
12 STATUS, THINGS OF THAT NATURE.

13 AND AT THE END OF THAT PROCESS THE JUDGE WOULD INSTRUCT
14 THE JURY TO GIVE CAREFUL AND THOUGHTFUL CONSIDERATION TO ALL
15 THIS EVIDENCE IN THE SENTENCING PHASE -- ANY CIRCUMSTANCE OF
16 AGGRAVATION WHICH MAY BE FOUND, ALL THE MITIGATION EVIDENCE
17 -- AND THEN MAKE A DECISION, BUT ONLY AFTER CONSIDERING VERY
18 IMPORTANTLY AND SERIOUSLY ALL THIS NEW INFORMATION.

19 DO YOU UNDERSTAND THAT?

20 A YES.

21 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU HONOR
22 YOUR OATH AND CAREFULLY CONSIDER ALL OF THAT NEW EVIDENCE IN
23 THE SENTENCING PHASE BEFORE MAKING A DECISION?

24 A YES.

25 Q IF YOU WERE IN -- AGAIN, WE'RE NOT TALKING ABOUT THIS

STEPHANIE D. HASELWANDER -- VOIR DIRE BY THE COURT

1 CASE. BUT IF YOU WERE IN A SENTENCING JURY AND LET'S SAY YOU
2 HAD HEARD IT ALL AND YOU HAD CAREFULLY CONSIDERED ANY
3 CIRCUMSTANCE OF AGGRAVATION, YOU HAD CAREFULLY CONSIDERED THE
4 MITIGATION EVIDENCE, COULD YOU VOTE FOR LIFE IMPRISONMENT?

5 A YES.

6 Q IF YOU THOUGHT IT WAS APPROPRIATE?

7 A YES.

8 Q IF YOU SERVED IN A SENTENCING CASE AND YOU CONSIDERED
9 ALL THE EVIDENCE VERY CAREFULLY AND THOSE CIRCUMSTANCES I
10 HAVE DISCUSSED, COULD YOU VOTE FOR THE DEATH PENALTY?

11 A YES.

12 Q NOW, IN SOUTH CAROLINA, IN ADDITION TO VOTING FOR THE
13 DEATH PENALTY THE LAW REQUIRES AN ADDITIONAL STEP. EACH
14 JUROR WHO VOTES -- AND IT MUST BE UNANIMOUS -- MUST SIGN HIS
15 OR HER NAME TO THE VERDICT FORM IMPOSING THE DEATH SENTENCE.
16 IF YOU WERE IN THAT SITUATION, COULD YOU BRING YOURSELF TO
17 SIGN YOUR NAME TO THE VERDICT FORM IMPOSING THE DEATH
18 SENTENCE?

19 A YES, I COULD.

20 Q DO YOU RECALL THAT SHEET THAT WAS IN THE OTHER ROOM THAT
21 LISTED THE THREE TYPES OF JURORS?

22 A I DO.

23 Q AND IF ONE OF THOSE DESCRIBES YOU, WHICH ONE DOES?

24 A I THINK IT WAS THIRD ONE.

25 Q AND TELL ME WHAT YOU RECALL ABOUT THAT. HOW WOULD YOU

1 DESCRIBE YOURSELF IN THAT CONTEXT?

2 A I'M ONE OF THOSE THAT I HAVE TO HEAR ALL -- HEAR ALL THE
3 EVIDENCE. I WANT TO KNOW ALL THE PIECES OF THE PUZZLE BEFORE
4 I MAKE A DECISION AND SO, I THINK, AS WE WERE JUST
5 DISCUSSING, ONCE I'VE HEARD ALL THE FACTS AND THE EVIDENCE, I
6 COULD PUT IT ALL TOGETHER. SO I THINK THAT WAS NUMBER THREE
7 ON THAT PAGE.

8 Q LET ME MAKE SURE I UNDERSTAND WHAT YOU HAVE TOLD ME, AND
9 CORRECT ME IF I'M WRONG, PLEASE. YOU WOULD HONOR YOUR OATH
10 AND FIND THE TRUTH FROM THE EVIDENCE BOTH IN A FIRST PHASE
11 AND, IF A CASE WENT TO A SENTENCING PHASE, YOU WOULD CONTINUE
12 WITH THAT SAME OPENNESS IN TERMS OF FINDING THE APPROPRIATE
13 PUNISHMENT?

14 A THAT'S CORRECT.

15 Q AND IF YOU HAD FOUND A DEFENDANT GUILTY OF THE CRIME OF
16 MURDER, WOULD YOU STILL CONTINUE TO HAVE AN OPEN MIND AS TO
17 PUNISHMENT EVEN AS YOU ENTER THE SENTENCING PHASE?

18 A DEFINITELY. YES.

19 Q SO YOU WOULDN'T HAVE YOUR MIND MADE UP?

20 A NO.

21 Q WOULD YOU BE WILLING TO HONOR YOUR OATH AND WOULD YOU
22 HONOR YOUR OATH TO LISTEN TO THE ADDITIONAL EVIDENCE, FOLLOW
23 THE LAW TO GIVE ALL THIS OTHER INFORMATION CAREFUL
24 CONSIDERATION BEFORE YOU MAKE A FINAL DECISION?

25 A YES.

STEPHANIE D. HASELWANDER -- VOIR DIRE BY THE COURT

1 THE COURT: MS. HASELWANDER, THERE MAY BE ADDITIONAL
2 FOLLOW-UP QUESTIONS I NEED TO ASK.

3 JUROR NUMBER 162: OKAY.

4 THE COURT: BUT I'M GOING TO GIVE THE ATTORNEYS AN
5 OPPORTUNITY TO ASK QUESTIONS. AND ONCE WE GET THROUGH WITH
6 THAT, YOU'LL BE FREE TO GO FOR THE DAY.

7 JUROR NUMBER 162: THANK YOU.

8 THE COURT: THANK YOU.

9 MR. ARIAIL?

10 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

11 VOIR DIRE BY SOLICITOR ARIAIL:

12 Q MS. HASELWANDER, MY NAME IS BOB ARIAIL, AND I'M THE
13 SOLICITOR FOR THE THIRTEENTH CIRCUIT OF THE STATE OF SOUTH
14 CAROLINA, WHICH IS GREENVILLE AND PICKENS COUNTIES.

15 SOLICITOR IS SORT OF A FANCY, OLD TIMEY WORD FOR DISTRICT
16 ATTORNEY.

17 A OKAY.

18 Q SO THAT'S WHAT I AM.

19 A THAT HELPS.

20 Q SO NOW YOU KNOW WHAT I DO. THIS LADY RIGHT HERE IN THE
21 TAN COAT, MS. STROM, IS MY DEPUTY. SHE WILL BE ASSISTING
22 ALONG WITH ONE OF MY ASSISTANTS, MS. HERVEY, IN THE GREEN
23 SUIT.

24 I ASSUME FROM YOUR ANSWERS THAT YOU AGREE THAT CAPITAL
25 PUNISHMENT IS AN APPROPRIATE SENTENCE IN OUR CRIMINAL JUSTICE

1 SYSTEM?

2 A YES.

3 Q AND IS THAT A VIEW THAT YOU HAVE HELD FOR SOME PERIOD OF
4 TIME OR IS THAT SOMETHING RECENT OR...

5 A NO, I THINK I'VE ALWAYS HAD THAT OPINION.

6 Q ALL RIGHT. AND IS THE FACT THAT YOU HOLD THAT OPINION
7 -- YOU UNDERSTAND THAT IF YOU WERE TO BE SELECTED TO SIT ON A
8 CASE, NOT PARTICULARLY THIS CASE BUT IF WE'RE JUST TALKING IN
9 GENERALITIES, THE STATE WOULD BE THE ONE SEEKING THE DEATH
10 PENALTY UNDER THE LAW. THE LAW DOES NOT ALLOW THE STATE TO
11 SEEK CAPITAL PUNISHMENT, OR THE DEATH PENALTY, IN ALL MURDER
12 CASES, JUST CERTAIN ONES.

13 A CERTAIN ONES?

14 Q ALL RIGHT. WELL, LET ME EXPLAIN THAT SO YOU'LL
15 UNDERSTAND. THAT'S WHAT THE JUDGE WAS TALKING ABOUT AN
16 AGGRAVATING CIRCUMSTANCE. MURDER -- TO BE ELIGIBLE FOR THE
17 DEATH PENALTY, MURDER HAS TO BE ACCOMPANIED BY AN AGGRAVATING
18 CIRCUMSTANCE. SO IT HAS TO BE -- AND THE LEGISLATURE HAS
19 DEFINED WHAT THOSE ARE. THEY ARE SPELLED OUT IN A LAW THAT
20 WE KNOW EXISTS AHEAD OF TIME. THEY ARE CERTAIN THINGS SUCH
21 AS MURDER IN THE COMMISSION OF CRIMINAL SEXUAL CONDUCT,
22 MURDER IN THE COMMISSION OF ARMED ROBBERY. THINGS LIKE THAT.

23 WHEN YOU GET TO THE SENTENCING PHASE, THAT IS, THE
24 DEFENDANT IS FOUND GUILTY AND YOU'RE GOING TO BE THE
25 SENTENCING TRIBUNAL AND YOU COME TOGETHER, BEFORE YOU CAN

STEPHANIE D. HASSELWANDER -- VOIR DIRE BY SOLICITOR ARIAIL

1 CONSIDER THE PENALTY OF DEATH, YOU MUST FIND NOT ONLY THAT
2 THERE WAS MURDER BUT YOU HAVE TO FIND THAT THERE WAS AN
3 AGGRAVATING CIRCUMSTANCE. THEN YOU PROCEED, AFTER FINDING
4 THAT, TO CONSIDER THE ADDITIONAL EVIDENCE IN AGGRAVATION AND
5 THE ADDITIONAL EVIDENCE IN MITIGATION.

6 ALL RIGHT. YOU UNDERSTAND HOW THAT WORKS?

7 A YES.

8 Q ALL RIGHT. SO THAT'S WHY THE JUDGE WAS ASKING YOU IF
9 AFTER -- OR WHILE YOU WERE ON THAT JURY YOU WOULD HAVE
10 ALREADY CONCLUDED THE DEFENDANT IS GUILTY OF MURDER.

11 A RIGHT.

12 Q AND YOU WOULD HAVE ALREADY CONCLUDED, BEFORE YOU STARTED
13 TALKING ABOUT THE DEATH PENALTY, THAT NOT ONLY IS HE GUILTY
14 OF MURDER, BUT IT'S A MURDER WITH ONE OF THE STATUTORY
15 AGGRAVATING CIRCUMSTANCES.

16 A UH-HUH (AFFIRMATIVE).

17 Q IN THAT CIRCUMSTANCE, WOULD YOU STILL BE ABLE TO
18 MAINTAIN AN OPEN MIND AND CONSIDER BOTH PUNISHMENTS, THAT IS,
19 THE LIFE SENTENCE AND THE DEATH PENALTY?

20 A YES.

21 Q ALL RIGHT. IS THERE ANYTHING -- WELL, LET ME ASK YOU
22 ONE OTHER THING BEFORE WE GET TO THAT.

23 IN THE EVENT YOU WERE IN THE JURY ROOM, YOU WERE
24 DELIBERATING AND THERE WAS A DECISION AND A VOTE TAKEN, AND
25 YOU DELIBERATED AND EVERYBODY HAD HAD THEIR SAY AND IT CAME

STEPHANIE D. HASELWANDER -- VOIR DIRE BY SOLICITOR ARIAIL

1 DOWN TO MAJORITY-MINORITY, AND YOU WERE IN THE MINORITY --- IT
2 DOESN'T MATTER WHAT YOU VOTED FOR, BUT YOU WERE ONE OF TWO OR
3 ONE BY YOURSELF -- WOULD THE FACT THAT YOU WERE IN A
4 MINORITY, WOULD YOU SIMPLY CAVE IN AND GIVE UP YOUR VIEWS TO
5 ACCOMMODATE THE MAJORITY AND GET THE CASE OVER WITH OR WOULD
6 YOU STICK WITH YOUR VIEWS?

7 A I'LL STICK WITH MY VIEWS.

8 Q AND LIKEWISE, ON THE OTHER SIDE, IF YOU WERE IN THE
9 MAJORITY YOU WOULD RESPECT THE VIEWS OF THE OTHERS?

10 A YES.

11 Q ALL RIGHT. NOW, I DON'T MEAN TO IMPLY THAT YOU COULDN'T
12 HAVE FURTHER DELIBERATIONS---

13 A RIGHT. I UNDERSTAND.

14 Q ---BUT IF YOU THOUGHT IT WAS THE RIGHT VERDICT, YOU
15 WOULD STAY WITH IT.

16 IS THERE ANYTHING THAT YOU ARE AWARE OF IN YOUR
17 BACKGROUND OR EDUCATION OR WHATEVER, EITHER RELIGIOUS, MORAL,
18 SOCIAL, POLITICAL, OR ANY OTHER CIRCUMSTANCE, THAT WOULD
19 IMPAIR OR IMPEDE YOUR ABILITY TO FAIRLY CONSIDER AND VOTE FOR
20 THE DEATH PENALTY?

21 A NO.

22 Q ANY VIEWS YOU HOLD?

23 A NO.

24 Q AND IF THERE WERE ANY SUCH VIEWS THAT YOU BECAME AWARE
25 OF DURING THE COURSE OF THE TRIAL, OR DURING THE COURSE OF

1 THE DELIBERATION, WOULD YOU BE ABLE TO FOLLOW THE JUDGE'S
2 INSTRUCTIONS AND SET THOSE ASIDE?

3 A YES, I---

4 Q BECAUSE SOME PEOPLE GET HERE AND -- GO AHEAD, I'M SORRY.

5 A YEAH, I WAS GOING TO SAY, I WAS GOING TO REFER TO THAT
6 EXAMPLE.

7 Q THAT SOMEBODY MAY GET HERE WITH THE WRONG -- WITH THE
8 IDEA CONTRARY TO THE LAW?

9 A RIGHT.

10 Q ALL RIGHT. WHAT PURPOSE DO YOU THINK THE DEATH PENALTY
11 SERVES IN OUR CRIMINAL JUSTICE SYSTEM?

12 A OH, WOW.

13 Q WHAT'S THE REASON WE HAVE IT?

14 A UM...

15 Q THERE ARE NO RIGHT OR WRONG ANSWERS.

16 A I DON'T KNOW. I'M SO NERVOUS. I JUST -- I REALLY
17 THINK IT'S -- I DON'T KNOW. I DON'T KNOW THAT I CAN ANSWER
18 THAT QUESTION. YOU KNOW, I MEAN, JUST FOR LACK OF A BETTER
19 WORD, TO KEEP THE BAD PEOPLE OFF THE STREETS. BUT WE CAN
20 ALSO SAY THAT ABOUT LIFE IMPRISONMENT, I THINK. AND STILL I
21 REALLY EVEN HATE TO ANSWER THAT QUESTION BECAUSE I FEEL LIKE
22 I NEED TO KNOW A STORY TO ANSWER THAT QUESTION. I NEED TO
23 HEAR A CASE BEFORE I---

24 Q LET'S DON'T WORRY ABOUT IT. LET'S GO -- LET'S SEE IF
25 WE---

STEPHANIE D. HASELWANDER -- VOIR DIRE BY SOLICITOR ARIAIL

1 A IF THAT MAKES ANY SENSE.

2 Q THAT'S ALL RIGHT. LET'S PHRASE IT ANOTHER WAY. KNOWING
3 AS THE JUDGE HAS INSTRUCTED YOU THAT YOU HAVE A RIGHT TO
4 IMPOSE A SENTENCE OF LIFE IMPRISONMENT -- AND THE JUDGE WILL
5 TELL YOU IN CONCLUDING REMARKS, IF YOU'RE ON THE JURY, YOU
6 CAN DO IT FOR ANY REASON, BASED ON THE EVIDENCE OR SIMPLY AS
7 AN ACT OF MERCY. KNOWING YOU HAVE THAT ALTERNATIVE, DO YOU
8 STILL BELIEVE THAT YOU WOULD BE ABLE TO FAIRLY CONSIDER
9 IMPOSING THE DEATH SENTENCE?

10 A YES.

11 SOLICITOR ARIAIL: ALL RIGHT. THANK YOU. THANK YOU
12 VERY MUCH.

13 THAT'S ALL WE HAVE, YOUR HONOR.

14 THE COURT: ALL RIGHT, SIR.

15 VOIR DIRE BY MR. MAULDIN:

16 Q I'M GOING TO GIVE IT A TRY. HASELWANDER?

17 A HASELWANDER. VERY GOOD.

18 Q HASELWANDER?

19 A YES.

20 Q HASELWANDER.

21 A THANK YOU.

22 Q MY NAME IS JOHN MAULDIN, MS. HASELWANDER, AND I AM THE
23 PUBLIC DEFENDER FOR GREENVILLE COUNTY. AND I'M GOING TO ASK
24 YOU A SERIES OF QUESTIONS, AND I'M GOING TO BEGIN BY POINTING
25 OUT THAT THIS PROCESS THAT YOU'VE NEVER HAD ANY IDEA THAT

1 YOU'D BE GOING THROUGH WHEN YOU GOT YOUR SUBPOENA IS FOR THE
2 PURPOSE OF DETERMINING "QUALIFICATIONS" OF A JURY. AND
3 EACH -- THE COURT, THE GOVERNMENT, THE DEFENSE, WE ALL HAVE
4 AWESOME RESPONSIBILITIES IN EVALUATING YOUR QUALIFICATION.
5 AND SO TO SOME EXTENT, YOU KNOW, IT'S TAKEN HOURS TO GO
6 THROUGH THIS, BUT IN A MATTER OF JUST A FEW MOMENTS WE'VE GOT
7 TO TRY TO EVALUATE YOU AND KNOW A LITTLE BIT MORE ABOUT YOU.
8 AND IT REMINDS ME OF -- I INTRODUCED MY WIFE TO THIS PERSON
9 AND THEN LATER ON DURING THE EVENING I SAID, "HOW DID YOU
10 LIKE SO AND SO?" AND SHE SAID, "WELL, YOU DID ALL THE
11 TALKING." SO I DON'T KNOW -- SO I'M GOING TO ASK YOU TO DO
12 AS MUCH OF THE TALKING AS YOU CAN.

13 A OKAY.

14 Q SO WE ALL CAN HEAR YOU---

15 A OKAY.

16 Q ---AND MAKE A PROPER EVALUATION.

17 I'M GOING TO GO NOW TO THIS DEATH PENALTY ISSUE. IT IS
18 CLEAR FROM YOUR COMMENTS TO THE COURT THAT YOU AT LEAST TO
19 SOME EXTENT BELIEVE IN THE DEATH PENALTY -- BELIEVE IN THE
20 USE OF THE DEATH PENALTY?

21 A RIGHT.

22 Q WITHIN LIMITATION. AND THE QUESTION I HAVE IS, WHAT --
23 HOW WOULD YOU DESCRIBE YOUR OWN PERSONAL FEELINGS ABOUT THE
24 USE OF THE DEATH PENALTY IN OUR CRIMINAL JUSTICE SYSTEM? AND
25 I REMIND YOU, WE'RE NOT TALKING ABOUT THIS CASE---

1 A RIGHT.

2 Q ---THIS COUNTY OR ANYTHING. JUST IN GENERAL, HOW WOULD
3 YOU DESCRIBE YOUR FEELINGS ABOUT THE DEATH PENALTY?

4 A WELL, I THINK TO DESCRIBE MY FEELINGS WOULD BE TO SAY
5 THAT, YOU KNOW, I UNDERSTAND THE WHOLE CONCEPT. HOWEVER, I
6 THINK IT'S VERY IMPORTANT TO NOT PREJUDGE AND TO, OF COURSE,
7 HEAR ALL THE FACTS AND THE EVIDENCE AND AGAIN PUT ALL THE
8 PIECES TOGETHER. AND, YOU KNOW, I'M ALMOST ONE OF THOSE
9 THAT, YOU KNOW, I LEARN BY EXPERIENCE. I'VE GOT TO HAVE SOME
10 HARD EVIDENCE, SOME REAL EVIDENCE. I'VE GOT TO HEAR IT OR
11 I'VE GOT TO SEE IT OR TOUCH OR FEEL IT BEFORE I CAN COME TO
12 MY CONCLUSION.

13 Q OKAY.

14 A IS THAT WHERE YOU'RE GOING WITH THAT?

15 Q SURE. AND I -- I JUST WANT -- WE JUST WANT YOU TO GIVE
16 US YOUR FEELINGS.

17 A OKAY.

18 Q WITH REGARD TO YOUR VIEW ON THE DEATH PENALTY OR CAPITAL
19 PUNISHMENT, HAS YOUR VIEW CHANGED OVER THE PERIOD OF YOUR
20 LIFE DURING SCHOOL AND THEN NOW DURING YOUR WORK CAREER OR
21 HAS YOUR VIEW GENERALLY STAYED ABOUT THE SAME OR IN ANY OTHER
22 WAY YOU WOULD LIKE TO DESCRIBE THAT?

23 A I DON'T THINK I THOUGHT A LOT ABOUT IT WHEN I WAS A
24 TEENAGER OR WHEN I WAS IN SCHOOL OR ANYTHING. BUT AS AN
25 ADULT, I -- YOU KNOW, I LISTEN TO MORE INFORMATION ABOUT IT

1 AND THAT KIND OF THING, AND I THINK MY OPINION OF IT HAS
2 STAYED PRETTY MUCH THE SAME OVER THE PAST, YOU KNOW, TEN OR
3 FIFTEEN YEARS PROBABLY.

4 Q OKAY. SO IT'S BEEN PRETTY CONSISTENT?

5 A RIGHT.

6 Q IF YOU HAD TO -- AND I'LL GIVE YOU THREE
7 CLASSIFICATIONS. YOU DON'T HAVE TO CHOOSE AMONG THEM. YOU
8 CAN USE YOUR OWN WORDS. BUT WITH REGARD TO THE USE OF THE
9 DEATH PENALTY NATIONALLY IN THE SYSTEM, DO YOU BELIEVE THAT
10 THE DEATH PENALTY IS USED NOT OFTEN ENOUGH, TOO OFTEN, ABOUT
11 RIGHT OR ANY OTHER WAY YOU CAN DESCRIBE IT?

12 A I DON'T THINK I CAN ANSWER THAT QUESTION BECAUSE I
13 REALLY DON'T KNOW STATISTICS ON THAT.

14 Q ALL RIGHT. MR. ARIAIL ASKED YOU WHAT PURPOSE OR WHAT
15 REASON YOU CAN GIVE FOR HAVING THE DEATH PENALTY. I BELIEVE
16 THAT'S WHEN YOU SAID YOU WERE REAL NERVOUS. NOW THAT YOU'VE
17 HAD A MOMENT AND HAD A FEW OTHER QUESTIONS, LET'S REVISIT
18 THAT FOR A MOMENT. CAN YOU THINK NOW OF ANY PARTICULAR
19 PURPOSE THAT YOU BELIEVE THE DEATH PENALTY SERVES, ANY REASON
20 THAT YOU PARTICULARLY WOULD SAY WE HAVE IT? AND IF NOT,
21 THAT'S FINE. I JUST WANT TO GIVE YOU ANOTHER OPPORTUNITY AT
22 THAT QUESTION.

23 A I DON'T KNOW THAT I'M THERE YET. QUITE HONESTLY, I'LL
24 LET YOU ALL KNOW, I'VE NOT THOUGHT ABOUT IT IN QUITE A LONG
25 TIME UNTIL I WAS CALLED TO COURT ON MONDAY. SO IT'S KIND OF

1 MADE ME REALLY KIND OF HUNKER DOWN AND THINK ABOUT IT OVER
2 THE LAST COUPLE OF DAYS. SO I'M SORRY.

3 Q THAT'S ALL RIGHT. THAT'S ALL RIGHT.

4 I WANT TO TALK FOR A MINUTE WITH YOU ABOUT WHAT THE
5 JUDGE WENT THROUGH ABOUT THE SEPARATE TRIALS AND THE
6 TECHNICAL PROCEDURE THAT WE GO THROUGH IN OUR JURISDICTION
7 REGARDING CONSIDERATION OF THE DEATH PENALTY. THE FIRST
8 THING THAT YOU WOULD NEED TO GO INTO THIS WITH IS THE IDEA
9 THAT THE LAW NEVER REQUIRES THE DEATH PENALTY, NO MATTER WHAT
10 THE CASE IS ABOUT. IT CAN BE THE MOST HORRIFIC, HORRIBLE,
11 TERRIBLE, MULTIPLE WHATEVER.

12 A RIGHT.

13 Q IT COULD BE THE WORST MURDER YOU COULD EVER EVEN
14 IMAGINE, AND SOUTH CAROLINA NEVER REQUIRES THE DEATH PENALTY.
15 TO THE CONTRARY, THE FACT IS THAT THERE ARE MORE PROBABLY IN
16 NUMBERS OF MURDERS THAT HAVE NO ISSUE OF THE DEATH PENALTY---

17 A UH-HUH (AFFIRMATIVE).

18 Q ---WHERE IT'S A MURDER WHERE AN AGGRAVATING CIRCUMSTANCE
19 IS NOT CLAIMED OR DOES NOT EXIST. SO ALL MURDERS DO NOT HAVE
20 THIS ISSUE. AND NO MURDER IS A REQUIRED DEATH PENALTY CASE.

21 DID YOU KNOW THAT BEFORE YOU CAME IN?

22 A I DON'T THINK I DID, QUITE HONESTLY.

23 Q ALL RIGHT.

24 A I'VE LEARNED A LOT.

25 Q NOW, WITH THAT AS A CAVEAT, THE QUESTION THEN COMES TO

STEPHANIE D. HASELWANDER -- VOIR DIRE BY MR. MAULDIN

1 YOUR ABILITY TO CONSIDER THE POTENTIAL OF BOTH PENALTIES, AND
2 THAT REALLY IS THE ESSENCE OF YOUR QUALIFICATION.

3 A PERSON, FOR EXAMPLE, MS. HASELWANDER -- WANDER.

4 (LAUGHTER)

5 A STEPHANIE IS FINE. (LAUGHTER)

6 Q ALL RIGHT. IF A PERSON CAME TO COURT AND SAID, "IN THE
7 EVENT OF A CONVICTION OF MURDER, I WOULD ALWAYS GIVE THE
8 DEATH PENALTY, LIKE AN EYE FOR," YOU KILL THIS ONE, THEN YOU
9 DIE TYPE?

10 A RIGHT.

11 Q AND THAT PERSON IS NOT QUALIFIED. ON THE OTHER HAND, IF
12 A PERSON CAME IN AND SAID, I WOULD NEVER GIVE THE DEATH
13 PENALTY, THAT PERSON IS NOT QUALIFIED.

14 A JUROR NUMBER THREE, THAT YOU MENTIONED, ESSENTIALLY
15 SAYS, "I'D LISTEN TO BOTH SIDES." AND A LOT OF THAT HAS TO
16 DO WITH THE INSTRUCTIONS FROM THE COURT, AND I WANT TO GO
17 THROUGH A COUPLE OF SCENARIOS WITH YOU ON YOUR ABILITY TO
18 LISTEN TO THE COURT'S INSTRUCTION.

19 AT THE PENALTY PHASE OF THE CASE, THE SECOND TRIAL,
20 INFORMATION WOULD BE PROVIDED TO YOU THAT WOULD REPRESENT AN
21 AGGRAVATING CIRCUMSTANCE, FOR EXAMPLE, AND INFORMATION MAY OR
22 MAY NOT BUT MAY BE PRESENTED TO YOU THAT WOULD BE OF A
23 MITIGATING CHARACTER.

24 NOW, THE AGGRAVATING INFORMATION MIGHT BE SUCH AS MURDER
25 IN THE COMMISSION OF AN ARMED ROBBERY OR A KIDNAPPING OR A

1 RAPE, THE MURDER OF A LAW ENFORCEMENT OFFICER WHILE IN THE
2 LINE OF DUTY, A MURDER INVOLVING A TORTURE OR SOMETHING -- A
3 MULTIPLE, THE KILLING OF MORE THAN ONE PERSON. THOSE ARE
4 STATUTORY AGGRAVATING CIRCUMSTANCES.

5 NOW LET'S SPIN FORWARD AND SAY YOU HAVE A CASE WHERE A
6 PERSON HAS BEEN CONVICTED OF MURDER AND THERE IS PROOF OF AN
7 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT, ONE OR
8 MORE. WOULD YOU AT THAT POINT HAVE YOUR MIND MADE UP
9 REGARDING THE DEATH PENALTY OR LIFE IN PRISON OR WOULD YOU
10 FOLLOW THE COURT'S INSTRUCTIONS AND CONSIDER MITIGATING
11 INFORMATION REGARDING THE PERSON WHO HAD BEEN CONVICTED?
12 WOULD YOU BE ABLE TO FOLLOW THE COURT'S INSTRUCTIONS AND IF
13 YOU FELT IT APPROPRIATE GIVE A LIFE SENTENCE?

14 A YES.

15 Q EVEN FOR A CONVICTED MURDERER?

16 A YES.

17 Q ALL RIGHT. AND FINALLY ON THAT, WHEN I SAY MITIGATING
18 INFORMATION, WE'RE NOT TALKING ABOUT SELF-DEFENSE OR---

19 A RIGHT.

20 Q ---SOMETHING THAT GOES BACK TO THE ACTUAL INCIDENT.

21 WE'RE TALKING ABOUT SUCH THINGS AS THE AGE OF THE PERSON THAT
22 HAD BEEN CONVICTED OR HIS MENTAL HEALTH OR HIS EDUCATIONAL OR
23 FAMILY BACKGROUND, RIGHT?

24 A RIGHT.

25 Q AND YOU COULD CONSIDER THAT TYPE OF INFORMATION IF THE

1 COURT INSTRUCTED YOU TO?

2 A YES.

3 Q QUITE FRANKLY, IN FACT, THE LAW ALLOWS FOR THE
4 IMPOSITION OF A LIFE SENTENCE EVEN JUST OUT OF AN ACT OF
5 MERCY, EVEN IF THERE WAS NOT MITIGATING INFORMATION. DO YOU
6 UNDERSTAND THAT?

7 A I DO.

8 Q FINALLY, I WANT TO ASK YOU THE QUESTION REGARDING THE --
9 WHERE THE JURY IS IN THE SECOND TRIAL, SECOND PHASE, AND
10 THEY'VE HEARD -- THEY'VE FOUND THE DEFENDANT GUILTY AND
11 THEY'VE HEARD ALL OF THE INFORMATION ABOUT PENALTY, AND THEY
12 GO INTO THE JURY ROOM. THEY'VE GOT THE INSTRUCTIONS FROM THE
13 JUDGE. THEY GO INTO THE JURY ROOM AND THEY SAY, "OKAY.
14 WE'RE GOING TO DELIBERATE," AND WE START TALKING. AND WE
15 TALK AND TALK AND TALK AND EXCHANGE INFORMATION. YOU'VE ALL
16 HEARD THE SAME EVIDENCE, ALL HEARD THE SAME WITNESSES.

17 A GREAT DEAL OF TIME PASSES AND A LOT OF DELIBERATION
18 AND FINALLY YOU SAY, "OKAY. LET'S TAKE A VOTE." YOU TAKE A
19 VOTE AND IT'S TEN TO TWO, AND YOU'RE IN THIS MINORITY.
20 YOU'VE GOT -- FOR PURPOSES OF MY QUESTION IT'S YOU -- OR
21 MAYBE EVEN ELEVEN TO ONE.

22 AND I THINK THE SOLICITOR -- PROSECUTOR ASKED YOU ABOUT
23 THIS. I WANT TO MAKE SURE I UNDERSTAND.

24 WOULD YOU IN THAT CASE WHERE YOU HAD HAD AN INDIVIDUAL
25 AND MORAL CHOICE ABOUT WHAT YOU THOUGHT WAS THE RIGHT

STEPHANIE D. HASELWANDER -- VOIR DIRE BY MR. MAULDIN.

1 SENTENCE, IN ORDER TO RESOLVE THE CASE, IN ORDER TO JUST END
2 THE CASE, WOULD YOU SIDE WITH THE MAJORITY IN ORDER TO JUST
3 END THIS SITUATION OR WOULD YOU TEND TO STICK WITH YOUR
4 POSITION THAT YOU HAD INDIVIDUALLY MADE?

5 A I WOULD STICK WITH MY POSITION.

6 Q AND THEN I SWITCH THAT NOW AND PUT YOU IN THE MAJORITY.
7 YOU'RE IN THE MAJORITY IN TEN TO TWO, ELEVEN TO ONE, WHATEVER
8 THE NUMBERS MIGHT BE. SOMEBODY DISAGREES. SOMEBODY HAS ALSO
9 MADE A MORAL INDIVIDUAL CHOICE ON THE PUNISHMENT. WOULD YOU
10 ATTEMPT TO FORCE THEM TO SIDE WITH YOU IN THE MAJORITY OR
11 WOULD YOU RESPECT THEIR DECISION ON THAT ISSUE?

12 A I WOULD RESPECT THEIR DECISION.

13 MR. MAULDIN: THANK YOU.

14 THE COURT: MS. HASELWANDER, THANK YOU SO MUCH. WHAT'S
15 GOING TO HAPPEN NOW IS THEY'RE GOING TO TAKE YOU TO A JURY
16 ROOM BRIEFLY. WE'LL GET YOU BACK OUT HERE AND THEN YOU'LL BE
17 FREE TO GO.

18 JUROR NUMBER 162: ALL RIGHT. THANK YOU.

19 THE COURT: THANK YOU, MA'AM.

20 JUROR NUMBER 162: THANKS.

21 (JUROR EXITS COURTROOM AT 4:22 P.M.)

22 THE COURT: THE JUROR HAS BEEN EXCUSED. I'D LIKE TO
23 HEAR FROM THE PARTIES WHETHER THEY BELIEVE THE JUROR IS
24 QUALIFIED OR NOT QUALIFIED.

25 SOLICITOR ARIAIL: THE STATE SAYS SHE'S QUALIFIED, YOUR

MATTERS AND MOTIONS

1 HONOR.

2 MR. MAULDIN: QUALIFIED.

3 THE COURT: ALL RIGHT. WE'LL NOW MOVE TO THE SELECTION
4 DECISION REGARDING THIS JUROR. WHEN YOU'RE READY, JUST LET
5 ME KNOW, BUT PLEASE TAKE WHATEVER TIME YOU NEED.

6 SOLICITOR ARIAIL: THE STATE SAYS PRESENT HER.

7 MR. MAULDIN: (OFF RECORDS WITH CO-COUNSEL) SWEAR THE
8 JUROR.

9 THE COURT: ASK MS. HASELWANDER TO COME BACK IN,
10 PLEASE.

11 (JUROR REENTERS COURTROOM AT 4:25 P.M.)

12 THE COURT: MS. HASELWANDER, YOU WILL BE OUT OF HERE
13 JUST IN A MOMENT. YOU HAVE BEEN SELECTED AS A JUROR IN THIS
14 CASE. YOU WILL SERVE IN THIS CASE.

15 I HAVE AN ORDER I'M GOING TO GIVE YOU THAT OUTLINES WHAT
16 WE DO FROM HERE. I'M JUST GOING TO REVIEW IT WITH YOU
17 BRIEFLY. THERE IS A NUMBER TO CALL BEGINNING WEDNESDAY,
18 FEBRUARY 6TH -- TODAY -- AFTER 8:00 P.M. CALL THAT NUMBER.
19 I CAN TELL YOU RIGHT NOW WHAT THE MESSAGE IS GOING TO BE, BUT
20 GO AHEAD AND CALL IT. THE MESSAGE IS GOING TO BE, "CALL BACK
21 TOMORROW NIGHT," BECAUSE WE JUST DON'T HAVE QUITE ENOUGH
22 JURORS. BUT WE'RE GETTING CLOSE. WE'RE MAKING PROGRESS. SO
23 THE MESSAGE TOMORROW NIGHT MIGHT BE "CALL BACK FRIDAY NIGHT"
24 OR IT MAY SAY TO REPORT AT SOME POINT FRIDAY. IT WILL GIVE
25 YOU INSTRUCTIONS WHEN IT IS TIME, WHERE TO PARK. THIS ALSO

MATTERS AND MOTIONS

1 GIVES YOU INSTRUCTIONS ABOUT PACKING YOUR BAGS, NOT BRINGING
2 CELL PHONES OR BEEPERS. ALL RIGHT?

3 NOW, IT'S VERY IMPORTANT THAT YOU REMEMBER THE OATH THAT
4 REMAINS IN EFFECT. DO NOT DISCUSS THE CASE WITH ANYONE. DO
5 NOT EXPOSE YOURSELF TO ANY MEDIA COVERAGE ABOUT THE CASE.

6 DO YOU UNDERSTAND THESE INSTRUCTIONS?

7 JUROR NUMBER 162: I DO.

8 THE COURT: ALL RIGHT. MS. HASELWANDER, THANK YOU SO
9 MUCH. LOOK FORWARD TO SEEING YOU SOON.

10 JUROR NUMBER 162: THANK YOU VERY MUCH.

11 (JUROR EXITS COURTROOM AT 4:26 P.M.)

12 THE COURT: MR. BUSHONG.

13 (JUROR ENTERS COURTROOM AT 4:26 P.M.)

14 THE COURT: MR. BUSHONG, THANK YOU AGAIN FOR BEING HERE
15 AND THE SACRIFICE YOU HAVE MADE TO BE IN THIS JURY SERVICE.

16 LARRY D. BUSHONG (WHITE MALE),
17 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

18 VOIR DIRE BY THE COURT:

19 Q NOW, MR. BUSHONG, I'M GOING TO TALK TO YOU A LITTLE BIT
20 ABOUT A CAPITAL CASE IN A LITTLE MORE DETAIL THAN WHAT WE DID
21 EARLIER. THE ATTORNEYS WILL HAVE QUESTIONS AS WELL. WE ARE
22 IN THE PROCESS OF DETERMINING WHICH JURORS WOULD BE ELIGIBLE
23 TO SERVE AND THEN MAKING DECISIONS ABOUT POTENTIAL JUROR
24 SERVICE IN THIS CASE.

25 I WANT YOU TO KEEP YOUR VOICE UP. I KNOW YOU AND I CAN

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 TALK, BUT I WANT EVERYBODY WHO PARTICIPATES IN THIS
2 PROCEEDING TO BE ABLE TO HEAR YOU AS WELL. SO KEEP YOUR
3 VOICE UP, ALL RIGHT?

4 A OKAY.

5 Q SIR, THIS CASE ARISES FROM AN INCIDENT THAT OCCURRED IN
6 GREENVILLE COUNTY ON DECEMBER THE 6TH 2000. IN THE
7 INDICTMENT, THE DEFENDANT, MR. WOOD, IS CHARGED WITH THE
8 CRIME OF MURDER. THE VICTIM IDENTIFIED IN THE INDICTMENT IS
9 ERIC NICHOLSON, WHO AT THAT TIME WAS A STATE TROOPER.

10 THIS CASE RECEIVED ATTENTION IN THE MEDIA, AND I'D LIKE
11 TO KNOW FROM YOU INITIALLY IF YOU HAVE ANY INFORMATION ABOUT
12 THIS CASE FROM THE MEDIA OR OTHERWISE. AND IF YOU DO, BE
13 VERY SPECIFIC IN WHAT YOU CAN REMEMBER.

14 A I VAGUELY REMEMBER AT THE TIME, YOU KNOW, HEARING JUST
15 ABOUT THE MURDER ITSELF, BUT I DIDN'T REALLY PAY THAT MUCH
16 ATTENTION TO IT.

17 Q WHAT DO YOU RECALL, YOU SAY, ABOUT THE MURDER ITSELF?

18 A JUST THAT IT HAD OCCURRED. I DON'T REMEMBER ANY
19 SPECIFICS AT ALL, REALLY. AND UNTIL YOU MENTIONED IT ON
20 MONDAY, I DIDN'T EVEN REMEMBER IT.

21 Q OKAY. THERE MAY BE SOME REFERENCE TO ANDERSON COUNTY.
22 WHEN I SAY "ANDERSON COUNTY," DOES THAT JOG YOUR MEMORY ABOUT
23 THIS CASE?

24 A UH-UH (NEGATIVE).

25 Q IT DOESN'T?

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 A SORRY.

2 Q THAT'S FINE. WE'RE JUST TRYING TO FIND OUT WHAT YOU
3 KNOW ABOUT THE CASE FROM THE MEDIA, IF ANYTHING. THE REASON
4 I ASK THAT IS BECAUSE WHEN A CASE DOES RECEIVE PUBLICITY,
5 JURORS ARE OFTEN EXPOSED TO IT. AND WHEN A JUROR SERVES IN A
6 CASE, THAT JUROR TAKES AN OATH TO FIND THE TRUTH FROM THE
7 EVIDENCE NOT FROM THE MEDIA. A JUROR MUST DISREGARD ANYTHING
8 HE OR SHE HAS HEARD OR BEEN EXPOSED TO OUTSIDE OF COURT. DO
9 YOU UNDERSTAND THE IMPORTANCE OF THAT?

10 A OH, YEAH.

11 Q IF YOU WERE A JUROR, WOULD YOU HONOR YOUR OATH IN THAT
12 REGARD AND FIND THE TRUTH FROM THE EVIDENCE?

13 A YES, DEFINITELY.

14 Q WOULD YOU FURTHER FOLLOW YOUR OATH AND FOLLOW THE LAW AS
15 I INSTRUCT IT?

16 A SURE.

17 Q AT THIS POINT, MR. BUSHONG, HAVE YOU ALREADY FORMED AN
18 OPINION AS TO THE FACTS OF THIS PARTICULAR CASE?

19 A NO, NOT AT ALL.

20 Q HAVE YOU ALREADY FORMED AN OPINION AS TO THE GUILT OR
21 INNOCENCE OF THIS DEFENDANT, MR. WOOD?

22 A NO.

23 Q YOU REMEMBER THOSE TWO PRINCIPLES WE TALKED ABOUT
24 EARLIER, THE PRESUMPTION OF INNOCENCE, THAT A DEFENDANT IS
25 ALWAYS PRESUMED TO BE INNOCENT, AS WELL AS THE BURDEN OF

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 PROOF BEING ONLY ON THE STATE TO PROVE GUILT BEYOND A
2 REASONABLE DOUBT? DO YOU UNDERSTAND THOSE PRINCIPLES?

3 A YEAH.

4 Q DO YOU AGREE WITH THOSE PRINCIPLES?

5 A YES.

6 Q NOW, WE'RE GOING TO TALK ABOUT THE SENTENCING HEARING IN
7 SOME DETAIL OF A CAPITAL CASE, NOT THIS CASE BUT JUST THE
8 CONCEPT IN GENERAL. AND I WANT YOU TO UNDERSTAND THAT IN
9 TALKING ABOUT A SENTENCING HEARING IT DOESN'T MEAN THAT THERE
10 IS GOING TO BE NECESSARILY A SENTENCING HEARING IN THIS CASE.
11 MAYBE THERE WILL BE. MAYBE THERE WON'T BE. YOU SEE, IF A
12 JURY IS SELECTED AND THEY FIND A DEFENDANT NOT GUILTY OF
13 MURDER, THEN THERE IS NO SENTENCING PHASE. THAT'S IT.

14 BUT WE'RE GOING TO TALK ABOUT A SENTENCING PHASE BECAUSE
15 THIS CASE COULD INVOLVE A SENTENCING PHASE. I'M GOING TO ASK
16 YOU QUESTIONS ABOUT YOUR VIEWS THAT COULD ARISE IN A
17 SENTENCING PHASE, SUCH AS YOUR VIEWS ON THE DEATH PENALTY.
18 ALL RIGHT, SIR?

19 A OKAY.

20 Q WHEN A JURY MOVES TO THE SENTENCING PHASE PLEASE
21 UNDERSTAND THAT THAT PARTICULAR JURY HAS FOUND THAT DEFENDANT
22 GUILTY OF THE CRIME OF MURDER. SO AS YOU BEGIN THE
23 SENTENCING PROCESS, YOU'RE NOT CONCERNED WITH THE GUILT OR
24 INNOCENCE OF A DEFENDANT. THAT'S A DONE DEAL. AT THAT POINT
25 YOU'RE DEALING WITH A MURDERER. THERE IS NO SELF-DEFENSE TO

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 ARGUE ABOUT, NO ALIBI, NO MISTAKE, NONE OF THESE DEFENSES.

2 IF A DEFENDANT HAS BEEN CONVICTED OF MURDER, YOU'VE GOT
3 A MURDERER. SO AS YOU MOVE TO THE SENTENCING PHASE, THERE IS
4 ONLY ONE ISSUE TO DISCUSS THAT'S IN DISPUTE, THAT IS, WHAT IS
5 THE APPROPRIATE PUNISHMENT. IN SOUTH CAROLINA THERE ARE TWO
6 OPTIONS --- LIFE IMPRISONMENT AND THE DEATH PENALTY. AND
7 OUR LAW PROVIDES THAT WHEN A CASE MOVES FORWARD TO THE
8 SENTENCING PHASE THAT A JURY MUST GIVE CAREFUL CONSIDERATION
9 TO ANY CIRCUMSTANCE OF AGGRAVATION THAT'S FOUND IN THE
10 EVIDENCE BEYOND A REASONABLE DOUBT, AND THE JURY MUST GIVE
11 CAREFUL CONSIDERATION BEFORE MAKING A DECISION TO ANY
12 MITIGATION EVIDENCE.

13 I TALKED WITH YOU EARLIER ABOUT A CIRCUMSTANCE OF
14 AGGRAVATION. IT'S MURDER COMBINED WITH ONE OF THESE
15 ENUMERATED FACTORS IN OUR STATUTE -- MURDER IN THE COMMISSION
16 OF, AND THEN, ARMED ROBBERY, BURGLARY, THINGS OF THAT NATURE.

17 THE TERM AGGRAVATING CIRCUMSTANCE, THE TERM MITIGATING
18 CIRCUMSTANCE, IN A FIRST PHASE, YOU NEVER HEAR THOSE TERMS.
19 THE ONLY ISSUE IS GUILTY OR NOT GUILTY. NOW, MOVE TO THE
20 SENTENCING PHASE AND THOSE TERMS WOULD BE DISCUSSED.

21 AND WHAT WE NEED TO DETERMINE IS TO IDENTIFY JURORS
22 WHO WOULD APPROACH THE SENTENCING PHASE WITH AN OPEN MIND AND
23 BE ABLE TO CAREFULLY CONSIDER ALL THE EVIDENCE, CIRCUMSTANCES
24 OF AGGRAVATION, IF THEY EXIST, AND MITIGATION EVIDENCE. AND
25 THEN AFTER CAREFULLY CONSIDERING ALL THIS NEW EVIDENCE IN THE

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 SENTENCING PHASE, THEN AND ONLY THEN MAKE A DECISION AS TO
2 PUNISHMENT. DO YOU UNDERSTAND THAT?

3 A YES.

4 Q AT THE END OF A SENTENCING HEARING, ONCE ALL THIS NEW
5 EVIDENCE IS NOW BEFORE THE JURY, THE JUDGE WILL INSTRUCT THE
6 JURY TO GIVE CAREFUL AND THOUGHTFUL CONSIDERATION TO THE
7 EVIDENCE, ANY CIRCUMSTANCE OF AGGRAVATION AND THE MITIGATION
8 EVIDENCE AS WELL, AND AFTER SERIOUS AND THOUGHTFUL
9 CONSIDERATION, THEN CHOOSE BETWEEN THE TWO PENALTIES.

10 IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU HONOR
11 YOUR OATH IN THAT REGARD?

12 A YES.

13 Q IF YOU WERE A JUROR AND YOU HAD PARTICIPATED IN PHASE
14 ONE AND YOU AND YOUR FELLOW JURORS HAD FOUND AN INDIVIDUAL
15 GUILTY OF MURDER, AS YOU MOVED INTO THE SENTENCING PHASE
16 WOULD YOU HAVE YOUR MIND ALREADY MADE UP AS TO WHAT
17 PUNISHMENT YOU WERE GOING TO VOTE FOR?

18 A NO, I DON'T THINK SO.

19 Q WOULD YOU BE LEANING ONE WAY OR THE OTHER?

20 A OH, NO, I DON'T -- I MEAN, I DON'T SEE HOW YOU COULD
21 WITHOUT HEARING, YOU KNOW, THE REST OF THE EVIDENCE.

22 Q AND YOU UNDERSTAND AT THAT POINT YOU'VE GOT A MURDERER.
23 AND THE STATE IS NEVER ENTITLED AS A RIGHT TO THE DEATH
24 PENALTY, BUT IN CERTAIN CIRCUMSTANCES THEY CAN ASK FOR IT AS
25 AN OPTION. AND IF THE MURDER IS ACCOMPANIED BY AN

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT, THE JURY
2 COULD CONSIDER THE DEATH PENALTY.

3 NOW, WHAT I WANT YOU TO DO IS TO PUT YOURSELF IN JUST A
4 HYPOTHETICAL SETTING THAT YOU'RE ON A JURY, YOU'VE BEEN
5 THROUGH THE FIRST PHASE AND YOU HAVE FOUND -- WE'RE NOT
6 TALKING ABOUT THIS CASE -- BUT YOU HAVE FOUND A DEFENDANT
7 GUILTY OF MURDER. NOW YOU'VE BEEN THROUGH THE SENTENCING
8 PHASE AND YOU'VE HEARD ALL THE NEW EVIDENCE AND YOU'VE
9 LISTENED AND YOU'VE CAREFULLY CONSIDERED A CIRCUMSTANCE OF
10 AGGRAVATION. YOU HAVE CAREFULLY CONSIDERED THE MITIGATION
11 EVIDENCE THAT'S THERE. YOU GO BACK AND YOU GIVE IT CAREFUL
12 THOUGHT.

13 COULD YOU -- IN A CASE OF A MURDER ACCOMPANIED BY AN
14 AGGRAVATING CIRCUMSTANCE WITH CONSIDERATION OF MITIGATION
15 EVIDENCE, COULD YOU VOTE FOR LIFE IMPRISONMENT?

16 A YES.

17 Q OKAY. LET'S FLIP IT. SAME SITUATION. YOU'RE BACK
18 THERE. YOU CONSIDER ALL THIS EVIDENCE CAREFULLY,
19 THOUGHTFULLY, CIRCUMSTANCES OF AGGRAVATION, ALL THE
20 MITIGATION EVIDENCE. COULD YOU VOTE FOR THE DEATH PENALTY?

21 A YES, I THINK SO.

22 Q WHY COULD YOU SO QUICKLY VOTE FOR LIFE BUT YOU THINK YOU
23 COULD VOTE FOR DEATH? IS THERE A DIFFERENCE IN YOUR MIND?

24 A WELL, I'VE THOUGHT QUITE A BIT ABOUT THIS SINCE MONDAY.
25 AND I DON'T TAKE LIGHTLY THE FACT THAT, YOU KNOW, YOU ARE

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 DEALING WITH A PERSON'S LIFE. AND I THINK IT WOULD BE A LOT
2 HARDER, IN A WAY, TO VOTE FOR THE DEATH PENALTY. BUT IF THE
3 FACTS WARRANT IT AND UNDER THE LAW, YOU KNOW, AS YOU
4 DESCRIBED IT TO THE JURY, I THINK I COULD.

5 Q OKAY. I WANT YOU TO UNDERSTAND I'M NOT AND THE
6 ATTORNEYS CERTAINLY WON'T EITHER -- NO ONE IS SUGGESTING THAT
7 YOU HAVE TO VOTE A CERTAIN WAY. WE'RE JUST TRYING TO FIND
8 JURORS THAT WILL GIVE THE STATE A FAIR SHAKE AND THE
9 DEFENDANT A FAIR SHAKE, WHO WILL LISTEN TO BOTH SIDES. AND
10 IF THE EVIDENCE IS THERE AND THE LAW PERMITS IT, YOU WOULD
11 CONSIDER THE DEATH PENALTY AS THE STATE REQUESTS.

12 A RIGHT.

13 Q YOU WOULD ALSO GIVE SERIOUS CONSIDERATION TO A LIFE
14 SENTENCE.

15 A OKAY.

16 Q WOULD YOU DO THAT?

17 A YES.

18 Q NOW LET ME TELL YOU SOMETHING ELSE ABOUT THE DEATH
19 PENALTY AND SEE IF THIS GIVES YOU ANY RESERVATION. IN SOUTH
20 CAROLINA, TO IMPOSE THE DEATH PENALTY, YOU NOT ONLY VOTE FOR
21 THE DEATH PENALTY, AS YOUR FELLOW JURORS WOULD HAVE TO -- IT
22 HAS TO BE UNANIMOUS, OKAY? -- THE JURY, AND EACH MEMBER OF
23 THE JURY, HAS TO SIGN HIS OR HER NAME TO THE VERDICT FORM
24 IMPOSING THE DEATH SENTENCE.

25 IF YOU WERE IN THAT SITUATION, HAD VOTED FOR THE DEATH

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 PENALTY, COULD YOU TAKE THE FURTHER STEP AND SIGN YOUR NAME
2 TO THE VERDICT FORM?

3 A YES, I BELIEVE SO.

4 Q OKAY. DO YOU REMEMBER THAT SHEET OF PAPER IN THE OTHER
5 ROOM AND IT DEALT THE THREE TYPES OF JURORS? I MENTIONED IT
6 BRIEFLY ON MONDAY. IF ONE OF THOSE YOU THINK DESCRIBES YOU,
7 WHICH ONE?

8 A THE ONE THAT WOULD CONSIDER BOTH SIDES, YOU KNOW, AND
9 ALL THE EVIDENCE BEFORE MAKING A DECISION. I DON'T -- YOU
10 KNOW, LIKE I SAID, I THOUGHT ABOUT THIS A LOT SINCE YOU
11 DESCRIBED IT ON MONDAY, AND I DON'T SEE HOW ANYBODY COULD
12 JUST TAKE ONE SIDE OR THE OTHER DOGMATICALLY WITHOUT HEARING
13 THE EVIDENCE. THAT JUST FLOORS ME THAT SOMEBODY WOULD BE
14 DOGMATIC ONE WAY OR THE OTHER. I CAN'T UNDERSTAND WHY SOME
15 PEOPLE WOULD BE THAT WAY.

16 Q WELL, THAT'S WHY WE ASK THESE QUESTIONS. YOU SEE, IF
17 SOMEONE COMES IN AND SAYS, "WELL, I'M GOING TO VOTE FOR THE
18 DEATH PENALTY IN EVERY CASE OF MURDER. I DON'T CARE ABOUT AN
19 AGGRAVATING CIRCUMSTANCE. I DON'T CARE ABOUT MITIGATION.
20 I'M VOTING FOR THE DEATH PENALTY." WELL, SEE, THAT'S NOT
21 FAIR. IT'S NOT FAIR TO THE DEFENDANT.

22 A YEAH.

23 Q SOMEBODY ELSE COMES IN AND SAYS, "I DON'T BELIEVE IN
24 CAPITAL PUNISHMENT. I WOULD NEVER VOTE FOR THE DEATH
25 PENALTY."

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 A RIGHT.

2 Q IT'S NOT FAIR TO THE STATE.

3 SO BOTH SIDES NEED TO HAVE JURORS WITH A FAIR AND OPEN
4 MIND AND WOULD CONSIDER MEANINGFULLY BOTH SENTENCING OPTIONS
5 AFTER LISTENING TO ALL OF THE EVIDENCE IN THE SENTENCING
6 PHASE.

7 A RIGHT.

8 Q DO YOU UNDERSTAND THAT?

9 A YES.

10 Q OKAY. NOW, AS I UNDERSTAND -- AND CORRECT ME IF I'M
11 WRONG, MR. BUSHONG -- BUT AS I UNDERSTAND, YOU WOULD
12 CONSCIENTIOUSLY APPROACH JURY SERVICE WITH AN OPEN MIND TO
13 FIND THE TRUTH FROM THE EVIDENCE AND FOLLOW THE LAW AS I
14 STATE IT?

15 A YES.

16 Q AND IF A CASE WENT TO A SENTENCING PHASE, YOU WOULD
17 STILL BE OPEN AS TO THE ISSUE OF PUNISHMENT, EVEN HAVING
18 FOUND SOMEONE GUILTY OF MURDER?

19 A DEFINITELY.

20 Q AND WOULD YOU THEN WANT TO AND FOLLOW THE INSTRUCTION OF
21 THE COURT TO CAREFULLY CONSIDER THIS ADDITIONAL EVIDENCE,
22 CIRCUMSTANCE OF AGGRAVATION AND MITIGATION EVIDENCE AS WELL?

23 A YES.

24 Q AND YOU COULD BASED ON A CAREFUL CONSIDERATION OF THE
25 LAW DEPENDING ON WHAT THE FACTS AND CIRCUMSTANCES ARE AS YOU

LARRY D. BUSHONG -- VOIR DIRE BY THE COURT

1 VIEW IT, YOU COULD VOTE EITHER WAY?

2 A YES.

3 THE COURT: NOW, MR. BUSHONG, I MAY HAVE ADDITIONAL
4 QUESTIONS, BUT I'M GOING TO GIVE THE ATTORNEYS AN OPPORTUNITY
5 TO QUESTION YOU AS WELL.

6 JUROR NUMBER 38: OKAY.

7 THE COURT: THANK YOU, SIR.

8 IT'S MR. MAULDIN.

9 MR. MAULDIN: THANK YOU, YOUR HONOR.

10 VOIR DIRE BY MR. MAULDIN:

11 Q MR. BUSHONG?

12 A YES.

13 Q BUSHONG. I'M JOHN MAULDIN. I'M THE PUBLIC DEFENDER.

14 A OKAY.

15 Q AND I, ALONG WITH JIM BANNISTER AND RODNEY RICHEY,
16 REPRESENT JOHN IN THIS CASE.

17 A UH-HUH (AFFIRMATIVE).

18 Q I WANT TO ASK YOU ONE THING UP FRONT, MR. BUSHONG BEFORE
19 WE GET INTO THE SPECIFICS ON THE PENALTY ISSUES. YOU HAD --
20 YOU HAD WRITTEN A LETTER TO THE COURT REGARDING A POSSIBLE
21 EXCUSE FROM JURY DUTY?

22 A YES.

23 Q AND I KNOW -- I WANT YOU TO KNOW THAT THOSE MATTERS ARE
24 KEPT CONFIDENTIAL, BUT THE COURT, OF COURSE, SHARES THOSE
25 WITH ONLY THE LAWYERS. AND THEN AGAIN ON MONDAY, I THINK,

LARRY D. BUSHONG -- VOIR DIRE BY MR. MAULDIN

1 YOU MIGHT HAVE STEPPED UP AND MENTIONED---

2 A YES.

3 Q ---A SITUATION. WELL, WITH REGARD AND IN PARTICULAR
4 WITH REGARD TO THE LETTER INVOLVING THE EMPLOYMENT MATTER,
5 THE THING THAT I WANT TO MAKE SURE OF BEFORE WE ASK ANY
6 ADDITIONAL QUESTIONS IS, JUST LIKE THE JUDGE WAS TALKING
7 ABOUT OUTSIDE INFLUENCES, THINGS THE PEOPLE COME INTO THE
8 COURTROOM AND THEY HAVE ON THEIR MIND---

9 A RIGHT.

10 Q ---WE WOULD NEED, BEFORE DETERMINING YOUR QUALIFICATION
11 IN THIS CASE, WOULD NEED TO BE SATISFIED THAT, WHEN YOU WERE
12 SERVING AS A JUROR, THIS ISSUE BROUGHT OUT IN THIS LETTER
13 WOULD HAVE NO EFFECT IN YOUR ABILITY TO SERVE AS A JUROR. IF
14 IT WOULD, IF IT WOULD AFFECT YOUR ABILITY TO GIVE THE
15 PROSECUTION AND THE DEFENSE FULL ATTENTION, THEN YOU SHOULD
16 MAKE SURE THAT THE COURT IS AWARE OF THAT, BECAUSE THAT COULD
17 AFFECT YOUR QUALIFICATIONS, JUST LIKE PUBLICITY COULD. CAN
18 YOU GIVE ME A LITTLE INPUT ON THAT?

19 A WELL, I FEEL LIKE THAT IF I WAS SELECTED THAT IT WOULD
20 BE AN HONOR, YOU KNOW, TO BE ABLE TO BE A JUROR. SO I FEEL
21 LIKE THAT I COULD FAIRLY PUT THAT STUFF ASIDE. I DON'T FEEL
22 LIKE IT WOULD BE A PROBLEM. I FEEL LIKE THAT, YOU KNOW, I
23 COULD DO WHATEVER IT TAKES TO MEET MY FINANCIAL OBLIGATIONS.

24 I JUST -- I DIDN'T KNOW TOO MUCH ABOUT, YOU KNOW, WHAT
25 THE EXEMPTIONS -- HOW THEY AFFECTED, AND SO I WANTED TO TRY

LARRY D. BUSHONG -- VOIR DIRE BY MR. MAULDIN

1 TO MAKE THAT -- THE JUDGE AWARE OF THAT.

2 Q ALL RIGHT. AND YOU DID THE RIGHT THING WITH REGARD TO
3 THE LETTER. THE QUESTION IS -- AND YOU HAVE SATISFIED ME
4 THAT YOU WOULD NOT BE INFLUENCED AND YOUR ATTENTION WOULD NOT
5 BE DIVERTED FROM THE ISSUES IN THE COURT. IS THAT FAIR?

6 A THAT'S CORRECT. YES.

7 Q NOW, WITH REGARD TO THE DEATH PENALTY, LET ME FOLLOW UP
8 WITH THE FEW QUESTIONS ARISING OUT OF THE QUESTIONS THAT THE
9 COURT HAD FOR YOU. AND WE'RE GOING TO DO THIS AS THOUGH WE
10 WERE HAVING A CONVERSATION INSTEAD OF YOU TESTIFYING AS A
11 WITNESS.

12 A OKAY.

13 Q LET'S JUST ACT LIKE WE'RE HAVING A FIRESIDE CHAT OR
14 SOMETHING AND WE'RE TALKING ABOUT CAPITAL PUNISHMENT.

15 CAN YOU DESCRIBE TO ME OR EXPLAIN TO ME HOW YOU
16 INDIVIDUALLY FEEL ABOUT THE USE OF CAPITAL PUNISHMENT IN OUR
17 CRIMINAL JUSTICE SYSTEM TODAY?

18 A WELL, I FEEL LIKE IT HAS A DEFINITE PLACE IN CERTAIN
19 CASES, BUT I'M -- I'VE NEVER BEEN EXPOSED TO THIS ENOUGH TO
20 KNOW, YOU KNOW, ONE WAY OR THE OTHER WHICH -- YOU KNOW, WHAT
21 CIRCUMSTANCES IT WOULD BE WARRANTED. BUT I -- YOU KNOW, I
22 FEEL LIKE THERE IS DEFINITELY TIMES WHEN IT PROBABLY IS
23 APPROPRIATE.

24 Q ALL RIGHT. IF YOU HAD TO GIVE US YOUR VIEW OFF THE TOP
25 OF YOUR HEAD, MR. BUSHONG, WHAT WOULD YOU SAY WAS THE REASON

1 OR PURPOSE FOR THE DEATH PENALTY IN OUR SYSTEM? WHAT WOULD
2 YOU SAY WOULD BE THE PRIMARY PURPOSE OR REASON WHY WE WOULD
3 HAVE IT?

4 A I FEEL LIKE IT PROBABLY IS A PRETTY GOOD DETERRENT FOR
5 OTHER POTENTIAL CRIMINALS. I'VE HEARD DEBATES ON THAT THAT
6 THEY SAY IT'S REALLY NOT. BUT I STILL FEEL LIKE IT PROBABLY
7 IS. I MEAN, MYSELF, IF I WAS IN THAT SITUATION, I THINK I
8 WOULD THINK AWFULLY HARD AND LONG BEFORE I WERE TO KILL
9 SOMEBODY, KNOWING IF I DID, I WOULD, YOU KNOW, POTENTIALLY BE
10 EXECUTED.

11 Q UH-HUH (AFFIRMATIVE).

12 A SO, IN MY OWN CASE, I WOULD SEE WHY IT WOULD. I MEAN,
13 IT SEEMS TO ME THAT IT MAKES A LOT OF SENSE THAT IT WOULD BE
14 A DETERRENT.

15 Q HAVE YOU VIEWS ON CAPITAL PUNISHMENT BEEN PRETTY
16 CONSISTENT THROUGHOUT YOUR ADULT LIFE OR HAVE YOU HAD CHANGES
17 THROUGH VARIOUS INFLUENCES?

18 A I THINK IT'S BEEN PRETTY CONSISTENT. I MEAN, I JUST
19 FEEL PRETTY OPEN-MINDED TO, YOU KNOW, THAT DEFINITELY THERE
20 ARE TIMES THAT IT IS WARRANTED BUT THAT IT'S PROBABLY NOT
21 ALWAYS NECESSARY -- I MEAN, IT'S NOT ALWAYS WARRANTED.

22 Q UH-HUH (AFFIRMATIVE). DO YOU BELIEVE -- OR IF YOU HAVE
23 A VIEW ON THIS, DO YOU BELIEVE THAT THE DEATH PENALTY IS USED
24 BY OUR SYSTEM USED NOT OFTEN ENOUGH, TOO OFTEN OR ABOUT RIGHT
25 OR ANY OTHER WAY THAT YOU COULD DESCRIBE THAT IF YOU HAVE A

1 VIEW?

2 A I DON'T THINK I REALLY HAVE A VIEW ON THAT BECAUSE I'M
3 NOT FAMILIAR ENOUGH WITH HOW OFTEN IT IS USED.

4 Q ALL RIGHT. THE -- YOU MADE THE COMMENT TO THE COURT,
5 WHEN THE COURT WAS ASKING YOU, YOU WANTED TO HEAR ALL THE
6 EVIDENCE AND THEN YOUR QUOTE, I BELIEVE, MR. BUSHONG, THAT I
7 WROTE DOWN WAS "I DON'T SEE HOW ANYBODY COULD BE AUTOMATIC."

8 A DOGMATIC.

9 Q RIGHT. OH, DOGMATIC? OKAY.

10 A YEAH.

11 Q BUT DOGMATIC AND AUTOMATIC, I GUESS, WOULD BE ABOUT THE
12 SAME THING---

13 A SURE.

14 Q ---IN THAT SCENARIO, RIGHT?

15 A RIGHT.

16 Q LET ME FOLLOW UP ON THAT QUESTION -- THAT STATEMENT. I
17 WROTE IT DOWN BECAUSE IT WAS OF INTEREST TO ME IN YOUR
18 QUALIFICATION.

19 A JUROR WHO UPON THE CONVICTION OF A PERSON FOR GUILT OF
20 MURDER WHO WOULD SAY, FOR EXAMPLE -- AND I'LL GIVE YOU AN
21 EXAMPLE -- LIKE AN EYE FOR AN EYE CONCEPT, WHERE IF THE
22 PERSON IS GUILTY, THEN HE MUST DIE OR HE MUST SACRIFICE HIS
23 LIFE. NOW, IS THAT -- THAT, TO ME, WOULD CONSTITUTE A
24 DOGMATIC OR AUTOMATIC VIEW.

25 A RIGHT.

1 Q WHEN YOU SAID TO THE JUDGE, "I DON'T SEE HOW ANYBODY
2 COULD BE DOGMATIC," IS THAT THE TYPE OF DOGMATIC OR AUTOMATIC
3 VIEW THAT YOU ARE REFERRING TO?

4 A RIGHT. I MEAN, WITHOUT HEARING, YOU KNOW, LIKE HE SAID,
5 THE MITIGATING CIRCUMSTANCES, I DON'T SEE HOW YOU CAN JUST,
6 YOU KNOW, SAY ONE WAY OR THE OTHER THAT IT SHOULD BE...

7 Q OKAY. NOW LET'S SAY THAT THE CASE HAD GONE FORWARD AND
8 THE EVIDENCE THAT THE PERSON WAS GUILTY HAD BEEN CONCLUDED BY
9 DELIBERATION, JURY DELIBERATION. THE SENTENCING HEARING HAD
10 BEGUN, THE SAME JURY. AND LET'S PUT YOU IN THAT JURY, NOT IN
11 THIS CASE BUT JUST IN A HYPOTHETICAL CASE. YOU HEAR
12 INFORMATION FROM THE PROSECUTION ABOUT THE EXISTENCE OF A
13 STATUTORY AGGRAVATOR, YOU KNOW, ONE OF THE TYPE OF THINGS
14 THAT THE JUDGE WAS DESCRIBING. THEN YOU WOULD ALSO HEAR WHAT
15 THE COURT HAS DESCRIBED AND YOU HAVE JUST MENTIONED, THE
16 MITIGATING CIRCUMSTANCES. AND I WANT TO MAKE SURE THAT THERE
17 IS NO -- WE DON'T HAVE A MISUNDERSTANDING ABOUT WHAT THAT
18 REALLY MEANS.

19 A OKAY.

20 Q MITIGATING CIRCUMSTANCES HAVE NOTHING AT ALL TO DO WITH
21 GUILT OR INNOCENCE. IN OTHER WORDS, IF IT WAS SELF-DEFENSE
22 OR ACCIDENT OR INSANITY OR ALIBI, MISTAKE, ANY OF THE -- WHAT
23 YOU MIGHT CALL A DEFENSE TO THE MURDER, THEN THE PERSON WOULD
24 HAVE BEEN FOUND NOT GUILTY. DO YOU FOLLOW ME?

25 A I SEE.

LARRY D. BUSHONG -- VOIR DIRE BY MR. MAULDIN

1 Q SO WHEN WE USE THE TERM "MITIGATING CIRCUMSTANCES" BY
2 LAW, AND WHAT THE JUDGE WOULD INSTRUCT THE JURY THEY MUST
3 CONSIDER BEFORE DECIDING THE PENALTY, WE'RE NOT TALKING ABOUT
4 THAT KIND OF THING. ARE YOU WITH ME?

5 A I AM.

6 Q GIVE YOU EXAMPLES OF THE TYPES OF THINGS A JUROR IN A
7 CASE OF THIS NATURE MIGHT HEAR ARE MITIGATING -- THE AGE OF
8 THE PERSON WHO HAD BEEN CONVICTED, THE BACKGROUND, THE
9 EDUCATION, FAMILY OR SOCIAL BACKGROUND OF THE PERSON WHO HAD
10 BEEN CONVICTED, THE LACK OF A PRIOR RECORD OF VIOLENCE WOULD
11 BE. SO IT HAS NOTHING TO DO WITH THE INCIDENT. IT'S HIS
12 PERSONAL INFORMATION.

13 A RIGHT, I SEE.

14 Q NOW, THERE WE ARE. NOW WE'VE GOT A DEFINITION OF
15 MITIGATING CIRCUMSTANCE.

16 NOW I'M GOING TO ASK YOU THIS QUESTION. IF AFTER A
17 CONVICTION OF MURDER AND AFTER THE PROOF OF AN AGGRAVATING
18 CIRCUMSTANCE THE JUDGE THEN INSTRUCTED YOU AS A JUROR IN A
19 CASE OF THAT NATURE THAT THERE WERE MATTERS OF MITIGATION
20 THAT -- AND GAVE YOU THAT TYPE OF INFORMATION AND SAID IN
21 ORDER TO ABIDE BY YOUR OATH YOU HAVE TO CONSIDER THIS, WOULD
22 YOU BE ABLE TO ACTUALLY FOLLOW THOSE INSTRUCTIONS EVEN IF IT
23 HAD NOTHING TO DO WITH THE ACTUAL CRIME ITSELF?

24 A OH, YES, I THINK SO.

25 Q WOULD THAT BE THE TYPE OF INFORMATION THAT YOU WOULD

LARRY D. BUSHONG -- VOIR DIRE BY MR. MAULDIN

1 THINK WAS APPROPRIATE IN DECIDING WHETHER TO IMPOSE A LIFE
2 SENTENCE?

3 A SURE. YEAH.

4 Q A COUPLE OF FINAL QUESTIONS, MR. BUSHONG. AND I'M GOING
5 TO AGAIN SPIN YOU FORWARD TO THE PENALTY PHASE OF THE CASE.
6 THE JURY HAS FOUND THE PERSON GUILTY. THE JURY HAS FOUND AN
7 AGGRAVATING CIRCUMSTANCE. THEY HAVE HEARD THE MITIGATION
8 INFORMATION. THEY HAVE RECEIVED THE INSTRUCTIONS THAT I HAVE
9 REFERRED TO.

10 NOW THEY ARE DELIBERATING. THEY'RE DELIBERATING FULLY,
11 COMPLETELY, THOROUGHLY FOR AS LONG AS THEY NEED. YOU RECALL
12 YOU HEARD THE JUDGE SAY THAT ALL TWELVE WOULD HAVE TO SIGN
13 THE FORM TO HAVE THE PERSON SENTENCED TO DEATH?

14 A UH-HUH (AFFIRMATIVE).

15 Q RIGHT?

16 A RIGHT.

17 Q SO FINALLY, AFTER SEVERAL VOTES AND MANY HOURS OF
18 OPPORTUNITY TO DISCUSS, THEY TAKE THE LAST VOTE AND THE LAST
19 VOTE IS, SAY, TEN VOTES FOR ONE PENALTY AND TWO FOR THE OTHER
20 OR ELEVEN TO ONE OR NINE TO THREE. EITHER WAY THERE IS A
21 HEAVY MAJORITY. I'M GOING TO PUT YOU IN BOTH OF THOSE
22 SITUATIONS AND ASK HOW YOU WOULD REACT REGARDING WHETHER YOU
23 ARE QUALIFIED.

24 IF YOU WERE -- LET'S SAY YOU WERE IN THE MINORITY AND
25 THERE WERE TEN VOTES AGAINST YOUR POSITION OR ELEVEN VOTES

LARRY D. BUSHONG -- VOIR DIRE BY MR. MAULDIN

1 AGAINST YOUR POSITION. WOULD YOU TEND TO SHIFT YOUR POSITION
2 TO THAT REPRESENTED BY THE MAJORITY OR WOULD YOU MAINTAIN
3 THAT POSITION EVEN IF FACED WITH A HEAVY MAJORITY VOTE?
4 WOULD YOU MAINTAIN THAT POSITION OR WOULD YOU SHIFT TO THE
5 SIDE OF THE HEAVY MAJORITY?

6 A WELL, IN A CASE LIKE THAT, DOESN'T THE MAJORITY HAVE AN
7 OPPORTUNITY TO TRY AND GET THE OTHERS TO AGREE WITH THEM?

8 Q ABSOLUTELY.

9 A SO, IF---

10 Q AND LET ME -- BEFORE I -- THERE WILL BE THOROUGH AND
11 ABSOLUTE OPEN DELIBERATIONS BY BOTH THE MINORITY AND THE
12 MAJORITY. I APOLOGIZE. I DIDN'T MEAN TO INTERJECT THAT. SO
13 YOU ARE RIGHT.

14 A WHAT I'M SAYING IS, YOU KNOW, IF I TOOK A PARTICULAR
15 POSITION AND THEY DIDN'T HAVE A LEGITIMATE ARGUMENT, I MEAN,
16 IF I COULD BE PERSUADED IF THEY HAD A LEGITIMATE ARGUMENT
17 THAT I MAYBE HAD OVERLOOKED SOMETHING OR SOMETHING TO THAT
18 EFFECT, YES, DEFINITELY, I THINK I COULD CHANGE MY POSITION.
19 BUT, YOU KNOW, I FEEL LIKE THAT MY ORIGINAL POSITION WOULD BE
20 BASED ON THE FACTS THAT WERE PRESENTED IN THE CASE. AND IF
21 THEY DIDN'T PRESENT ANYTHING THAT SEEMED TO CHANGE, YOU KNOW,
22 THOSE -- AS I PERCEIVED THOSE FACTS, THEN I THINK I WOULD
23 STICK WITH MY POSITION -- WITH MY ORIGINAL POSITION.

24 Q SO YOU WOULD PARTICIPATE IN THE DISCUSSION AND IN THE
25 DELIBERATION?

LARRY D. BUSHONG -- VOIR DIRE BY MR. MAULDIN

1 A (INDICATES AFFIRMATIVE RESPONSE)

2 Q AND TO REPEAT THE QUESTION, WOULD YOU SHIFT TO THE
3 MAJORITY SIMPLY TO RESOLVE THE CASE?

4 SOLICITOR ARIAIL: OBJECTION. ASKED AND ANSWERED.

5 THE COURT: SUSTAINED.

6 MR. MAULDIN: ALL RIGHT. THANK YOU, YOUR HONOR.

7 THANK YOU.

8 JUROR NUMBER 38: YOU'RE WELCOME.

9 Q I'M SORRY. ONE FINAL.

10 THE COURT: DO THE FLIP SIDE.

11 MR. MAULDIN: YEAH.

12 Q I FORGOT TO PUT YOU IN THE MAJORITY VOTE THERE, MR.
13 BUSHONG. THE QUESTIONS WERE REGARDING IF YOU WERE IN THE
14 MINORITY, WOULD YOU SHIFT?

15 A RIGHT.

16 Q NOW I HAVE TO ASK YOU THE -- TO BE FAIR, I'VE GOT TO
17 SHIFT YOU OVER. IF YOU WERE IN THE MAJORITY, YOU HAVE TEN
18 FELLOW JURORS THAT AGREE WITH YOU, WHATEVER THE PENALTY IS --
19 IT DOESN'T MATTER WHICH IS WHICH -- YOU HAVE ONE JUROR, MAYBE
20 TWO JURORS, YOU'VE GOT A HEAVY MAJORITY ON YOUR SIDE. WOULD
21 YOU ATTEMPT TO FORCE THAT JUROR TO SIDE WITH THE HEAVY
22 MAJORITY THAT YOU WERE ON OR WOULD YOU RESPECT THE INDIVIDUAL
23 AND MORAL CHOICE THAT THEY HAD MADE ABOUT WHAT THEY THOUGHT
24 THE RIGHT PENALTY WAS?

25 A I WOULD DEFINITELY RESPECT THEIR OPINION. BUT IF IT WAS

LARRY D. BUSHONG -- VOIR DIRE BY MR. MAULDIN

1 POSSIBLE TO, YOU KNOW, BY GIVING THE REASONS FOR MY DECISION,
2 SWAY THEM, THEN I THINK YOU'RE OBLIGATED TO TRY AND GET A
3 DECISION ONE WAY OR THE OTHER -- A UNANIMOUS DECISION ONE WAY
4 OR THE OTHER.

5 MR. MAULDIN: THANK YOU.

6 THE COURT: MR. ARIAIL?

7 VOIR DIRE BY SOLICITOR ARIAIL:

8 Q MR. BUSHONG, MY NAME IS BOB ARIAIL. I AM THE SOLICITOR
9 FOR THE THIRTEENTH CIRCUIT, WHICH IS GREENVILLE AND PICKENS
10 COUNTIES. THE SOLICITOR IS THE PERSON WHO IS -- THAT'S JUST
11 AN OLD RETAINED NAME FOR THE DISTRICT ATTORNEY.

12 A OKAY.

13 Q AND OUR RESPONSIBILITY WILL BE TO PRESENT EVIDENCE IN
14 THIS CRIMINAL CASE. I WILL BE ASSISTED BY MY DEPUTY
15 SOLICITOR, BETTY STROM IN THE BEIGE COAT, AND ONE OF MY
16 ASSISTANTS, MINDY HERVEY, IN THE GREEN SUIT.

17 WE HAVE NO QUESTIONS. THANK YOU VERY MUCH.

18 A OKAY.

19 THE COURT: MR. BUSHONG, THEY'RE GOING TO TAKE YOU
20 RIGHT NOW JUST TO A JURY ROOM OUT HERE IN THE HALLWAY, AND
21 WE'LL GET YOU BACK HERE VERY SHORTLY. THEN YOU'LL BE FREE TO
22 GO.

23 JUROR NUMBER 38: OKAY.

24 THE COURT: THANK YOU, SIR.

25 (JUROR EXITS COURTROOM AT 4:55 P.M.)

MATTERS AND MOTIONS

1 **THE COURT:** THE JUROR HAS BEEN EXCUSED, MR. BUSHONG.
2 FROM BOTH SIDES, QUALIFIED OR NOT QUALIFIED?

3 **SOLICITOR ARIAIL:** QUALIFIED.

4 **MR. MAULDIN:** QUALIFIED, YOUR HONOR.

5 **THE COURT:** ALL RIGHT. TAKE WHATEVER TIME YOU
6 REASONABLY NEED, AND WE'LL BEGIN WITH THE STATE WHEN THE
7 STATE IS READY TO MAKE A DECISION ON THE SELECTION OF THIS
8 JUROR.

9 **SOLICITOR ARIAIL:** PRESENT HIM.

10 **MR. MAULDIN:** (OFF RECORD WITH CO-COUNSEL) ONE MOMENT,
11 YOUR HONOR.

12 **THE COURT:** TAKE YOUR TIME. WE'RE OKAY.

13 **MR. MAULDIN:** (OFF RECORD WITH CO-COUNSEL) EXCUSE THE
14 JUROR.

15 **THE COURT:** ANY BATSON MOTION ON MR. BUSHONG?

16 **SOLICITOR ARIAIL:** YES, SIR.

17 **THE COURT:** AND IF YOU DON'T MIND, JUST SUCCINCTLY
18 STATE A REASON WHY.

19 **MR. MAULDIN:** YES, SIR. I'LL BE GLAD TO, YOUR HONOR.
20 WE HAVE A NUMBER, AS YOU CAN OBSERVE, A NUMBER OF PEOPLE
21 MAKING INDEPENDENT EVALUATIONS AS TO THE DEATH VIEWS OF THESE
22 JURORS. THAT'S THE PURPOSE OF WHAT I CONSIDER A TEAM. AND
23 THERE ARE -- THERE IS CONSISTENTLY A HIGH RATING ON DEATH
24 VIEWS. NOW, IT IS A COMBINATION OF GENERALLY THE FOLLOWING:
25 NUMBER ONE, THE PURPOSE OF THE DEATH PENALTY IN THIS MAN'S

MATTERS AND MOTIONS

1 VIEW IS A DETERRENT. THAT WAS THE PRIMARY. AND HIS QUOTE
2 WAS -- HIS QUOTE WITH REGARD TO SUPPORT OF THE DETERRENCE
3 WAS, "FOR EXAMPLE, IF I KILLED SOMEBODY, I WOULD KNOW WHAT TO
4 EXPECT." WELL, THAT IS THE ULTIMATE STATEMENT REGARDING THE
5 REASON FOR A DETERRENT AS A PURPOSE OF THE DEATH PENALTY.
6 AND DETERRENT IS -- ACROSS THE BOARD, PRO-DEATH JURORS GIVE
7 THAT AS THE REASON.

8 THE ADDITIONAL REASON, YOUR HONOR, THAT I MIGHT ADD IS
9 THAT IN THIS PARTICULAR CASE THE SOLICITOR ASKED NO
10 QUESTIONS. WE STRIKE A JUROR UNDER THOSE CIRCUMSTANCES AT
11 THIS PARTICULAR POINT. IF THEY ARE THAT SATISFIED THAT THIS
12 JUROR IS ON THEIR SIDE THAT THEY DON'T EVEN HAVE TO DO
13 ANYTHING BUT INTRODUCE THEMSELVES, NO RACE OR GENDER PROBLEM
14 WITH THAT, WE DON'T WANT SOMEBODY LIKE THAT. SO THAT WOULD
15 ALSO BE AN ADDITIONAL SUPPORT.

16 THE COURT: ALL RIGHT. LET'S SEE. MR. ARIAIL IS NEXT
17 ON THE NEXT JUROR. IF THERE ARE NO QUESTIONS ASKED OF MR.
18 CHANCELLOR, HE'S OUT OF HERE. NO, I'M NOT GOING TO DO THAT.
19 I JUST KNOW THE FALLACY OF THAT APPROACH.

20 (LAUGHTER)

21 THE COURT: BUT I UNDERSTAND WHAT YOU'RE SAYING. THE
22 RECORD WILL REFLECT YOU MADE A BATSON MOTION. YOU PRESERVED
23 IT AND WE'RE GOING TO REVISIT IT AT AN APPROPRIATE TIME.

24 SOLICITOR ARIAIL: I HOPE SO. BUT I SURE HOPE THE FACT
25 THAT I DON'T ASK QUESTIONS IS NOT SOMETHING RELEVANT. AFTER

MATTERS AND MOTIONS

1 I'VE LISTENED TO THIRTY MINUTES ON CROSS EXAMINATION ON EVERY
2 POSSIBLE SUBJECT, THERE WASN'T ANYTHING LEFT TO ASK THE MAN.

3 THE COURT: ALL RIGHT. ASK MR. BUSHONG TO COME BACK
4 IN. THE NEXT ONE JUST HOLD TIGHT. WE'RE GOING TO TAKE A
5 FIVE-MINUTE BREAK AFTER WE EXCUSE MR. BUSHONG. I'M GOING TO
6 GIVE HIM THE SHEET I GIVE TO THE BATSON JURORS.

7 (JUROR REENTERS COURTROOM AT 5:05 P.M.)

8 THE COURT: MR. BUSHONG, YOU ARE AN ELIGIBLE JUROR IN
9 THIS CASE AND YOU MAY EVENTUALLY BE REQUIRED TO SERVE. I'M
10 GOING TO GIVE YOU AN ORDER THAT SETS FORTH YOUR DUTIES FROM
11 THIS POINT, AND I WANT TO REVIEW IT WITH YOU BRIEFLY.

12 WHEN YOU LEAVE OUT IN THE HALLWAY, MS. PLUMLEY -- SHE
13 WAS JUST HERE. SHE'S WALKING OUT THE OTHER DOOR. -- SHE'S GO
14 TO GET ALL OF YOUR PHONE NUMBERS, SO ONCE WE KNOW WHETHER OR
15 NOT WE NEED YOU FOR SERVICE IN THIS CASE, YOU'LL BE CALLED.
16 WE'LL LET YOU KNOW EITHER WAY.

17 BECAUSE YOU POTENTIALLY COULD SERVE AS A JUROR IN THIS
18 CASE, REMEMBER THE EARLIER ORDER REMAINS IN EFFECT. DO NOT
19 DISCUSS THIS CASE WITH ANYONE, SPECULATE ABOUT THE CASE OR
20 EXPOSE YOURSELF TO ANY MEDIA COVERAGE.

21 WE APPRECIATE SO MUCH YOU BEING HERE TODAY AND GOOD LUCK
22 TO YOU, SIR. WE'LL BE BACK IN TOUCH.

23 JUROR NUMBER 38: HOW LONG DOES IT TAKE TO---

24 THE COURT: PROBABLY IN A COUPLE OF DAYS. SO YOU GO TO
25 WORK TOMORROW---

MATTERS AND MOTIONS

1 JUROR NUMBER 38: TONIGHT. I GO TO WORK TONIGHT.

2 THE COURT: TONIGHT?

3 JUROR NUMBER 38: YEAH.

4 THE COURT: TONIGHT, TOMORROW, AND WE'LL CALL YOU.

5 THAT'S WHY I WANT TO GET EVERY NUMBER -- WORK, HOME, CELL --

6 WHATEVER IT IS, WE WANT TO BE ABLE TO CONTACT YOU. AND WE'LL

7 LET YOU KNOW AS SOON AS WE KNOW SOMETHING. OKAY?

8 JUROR NUMBER 38: OKAY.

9 THE COURT: THANK YOU, SIR.

10 JUROR NUMBER 38: THANK YOU.

11 (JUROR EXITS COURTROOM AT 5:06 P.M.)

12 THE COURT: LET'S TAKE A SHORT RECESS, PLEASE.

13 (A RECESS WAS TAKEN FROM 5:06 TO 5:18 P.M.)

14 THE COURT: ALL RIGHT. MR. CHANCELLOR, PLEASE?

15 (JUROR ENTERS COURTROOM AT 5:20 P.M.)

16 SOLICITOR ARIAIL: JUDGE, WOULD YOU ASK HIM -- THERE'S

17 SOME CONFUSION ON HIS QUESTIONNAIRE, NUMBER 29. HE STATES

18 ARRESTED IN 1978 FOR ARMED ROBBERY, ATTEMPTED MURDER, MURDER

19 AND ASSAULT WITH INTENT TO KILL. I DON'T KNOW IF THAT

20 APPLIES TO HIM OR IT APPLIES TO IMMEDIATE FAMILY OR A CLOSE

21 PERSONAL FRIEND. IF YOU DON'T MIND CLARIFYING THAT. ONE OF

22 US COULD DO IT, BUT IF YOU DON'T MIND, SINCE HE DIDN'T

23 SPECIFY WHICH IT WAS.

24 THE COURT: MR. CHANCELLOR, THANK YOU SO MUCH FOR

25 WAITING. WE APPRECIATE... (INTERRUPTION)

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 JAMES R. CHANCELLOR (BLACK
2 MALE), HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

3 VOIR DIRE BY THE COURT:

4 Q MR. CHANDLER (SIC), WE THANK YOU, TOGETHER WITH ALL THE
5 OTHER JURORS, FOR THE PATIENCE YOU HAVE DEMONSTRATED IN
6 WAITING. I HOPE YOU CAN UNDERSTAND THE IMPORTANCE OF THIS
7 PROCESS, AND THAT'S WHY WE'RE BEING VERY CAREFUL AND
8 METICULOUS AS WE QUESTION EACH JUROR.

9 I'M GOING TO SPEAK TO YOU IN A LITTLE MORE DETAIL ABOUT
10 THIS TYPE OF CASE. THE ATTORNEYS WILL SPEAK TO YOU AS WELL.
11 AND WE WILL EXPLORE YOUR OPINIONS ON ISSUES THAT COULD ARISE
12 IN A CASE OF THIS NATURE.

13 MR. CHANCELLOR, THIS PARTICULAR CASE ARISES, ACCORDING
14 TO THE INDICTMENT, FROM AN INCIDENT THAT OCCURRED IN
15 GREENVILLE COUNTY BACK ON DECEMBER THE 6TH OF 2000. THE
16 DEFENDANT, MR. WOOD, IS CHARGED WITH THE CRIME OF MURDER.
17 THE INDICTMENT IDENTIFIES THE VICTIM AS ERIC NICHOLSON. MR.
18 NICHOLSON WAS AT THE TIME A STATE TROOPER.

19 THIS CASE RECEIVED ATTENTION IN THE MEDIA. AND I WANT
20 TO KNOW IF YOU RECALL ANYTHING YOU MAY HAVE BEEN EXPOSED TO
21 OR HEARD OR READ OR SAW IN THE NEWS ABOUT THIS CASE OR FROM
22 ANY OTHER SOURCE. AND IF YOU DO HAVE SOME RECOLLECTION, I'D
23 LIKE FOR YOU TO BE SPECIFIC AS TO WHAT YOU RECALL.

24 A NO, SIR. I DON'T RECALL. I DON'T RECALL THIS
25 PARTICULAR INCIDENT AT ALL.

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 Q OKAY.

2 A I DON'T RECALL HEARING OR READING OR SEEING ANYTHING
3 ABOUT THIS INCIDENT. I'M NOT SAYING THAT I DIDN'T. I JUST
4 DON'T RECALL ANYTHING.

5 Q RIGHT. IF I MENTION ANDERSON COUNTY, DOES THAT TRIGGER
6 ANY MEMORY ABOUT THIS CASE?

7 A NO, SIR.

8 Q OKAY. LET ME TELL YOU THE REASON I ASK THAT. JURORS
9 OFTENTIMES WILL HAVE SEEN SOMETHING IN THE MEDIA ABOUT A
10 CASE. AND WHEN A JUROR TAKES AN OATH, THAT JUROR TAKES AN
11 OATH TO FOLLOW THE---

12 BAILIFF: HE CAN'T HEAR. WOULD YOU PULL YOUR CHAIR UP?

13 JUROR NUMBER 51: OKAY.

14 Q THAT'S A GOOD POINT. YOU AND ME ARE TALKING. WE NEED
15 FOR EVERYBODY TO HEAR US.

16 (LAUGHTER)

17 Q JURORS OFTENTIMES WILL BE EXPOSED TO MEDIA COVERAGE
18 ABOUT A CASE, MR. CHANCELLOR. AND WHEN A JURY SERVES ON A
19 CASE, THAT JUROR TAKES AN OATH TO FIND THE TRUTH FROM THE
20 EVIDENCE PRESENTED DURING THE COURSE OF THE TRIAL. AND IN
21 THAT REGARD A JUROR WOULD HAVE TO DISREGARD ANYTHING HE OR
22 SHE MAY HAVE BEEN EXPOSED TO OUTSIDE OF THE COURTROOM. DO
23 YOU UNDERSTAND THE IMPORTANCE OF THAT?

24 A I DO.

25 Q JUST SAY, FOR EXAMPLE, YOU'RE OVER HERE IN THE JURY BOX

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 IN THIS CASE. YOU DON'T REMEMBER ANYTHING NOW, BUT THERE MAY
2 BE SOME REFERENCE TO SOMETHING THAT IS SAID IN THE TESTIMONY,
3 AND IT MAY BE SOMETHING THAT'S INNOCUOUS TO US BUT TRIGGERS A
4 MEMORY WITH YOU, AND YOU MAY RECALL SOMETHING ABOUT AN
5 ALLEGED FACT OR EVENT. AND SEE, IF THAT WERE TO OCCUR, UNDER
6 YOUR OATH YOU WOULD BE REQUIRED TO DISREGARD THAT AND FIND
7 THE TRUTH ONLY FROM THE EVIDENCE. DO YOU UNDERSTAND THAT?

8 A I DO.

9 Q AND COULD YOU FOLLOW YOUR OATH IN THAT REGARD?

10 A YES, I COULD.

11 Q COULD YOU FURTHER FOLLOW YOUR OATH TO FOLLOW THE LAW AS
12 I INSTRUCT IT?

13 A YES, SIR.

14 Q NOW, THE TWO PRINCIPLES THAT WE DISCUSSED EARLIER, THE
15 PRESUMPTION OF INNOCENCE OF ANYONE ACCUSED OF A CRIME, AS
16 WELL AS THE BURDEN OF PROOF BEING ON THE STATE TO PROVE GUILT
17 BEYOND A REASONABLE DOUBT, DO YOU UNDERSTAND THOSE LEGAL
18 PRINCIPLES?

19 A I DO.

20 Q DO YOU AGREE WITH THEM?

21 A I AGREE WITH THEM.

22 Q NOW WE'RE GOING TO TALK ABOUT A CAPITAL CASE, AND WE'RE
23 GOING TO TALK PRIMARILY ABOUT THE SECOND PHASE OF A CAPITAL
24 CASE. NOW, IN DOING SO, PLEASE UNDERSTAND, WE MAY NOT REACH
25 A SENTENCING PHASE IN THIS CASE. BUT SINCE WE MIGHT, THEN WE

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 NEED TO DISCUSS THE ISSUES THAT WOULD COME UP SO WE CAN FIND
2 OUT WHAT YOUR VIEWS WOULD BE ON THOSE VARIOUS MATTERS, SUCH
3 AS YOUR VIEW OF THE DEATH PENALTY. DO YOU UNDERSTAND, SIR?

4 A I DO.

5 Q ALL RIGHT. IN THE FIRST PHASE OF A TRIAL, AS I
6 DISCUSSED WITH YOU AND YOUR FELLOW JURORS EARLIER, THE JURY
7 IS CONCERNED WITH DETERMINING WHETHER THE DEFENDANT IS GUILTY
8 OR NOT GUILTY. THE SENTENCE HAS NOTHING TO DO WITH THAT
9 FIRST PHASE. AND BY THE SAME TOKEN, BEING GUILTY OR NOT
10 GUILTY HAS NOTHING TO DO WITH THE SENTENCING PHASE. YOU SEE,
11 WHEN YOU MOVE TO THE SENTENCING PHASE, YOU'VE ALREADY FOUND A
12 DEFENDANT GUILTY OF THE CRIME OF MURDER. SO THERE IS NOTHING
13 TO ARGUE ABOUT IN TERMS OF SELF-DEFENSE, ALIBI, MISTAKE.
14 WHEN YOU MOVE TO THE SENTENCING PHASE IN A CAPITAL CASE, YOU
15 ARE DEALING WITH A MURDERER. DO YOU UNDERSTAND THAT?

16 A I DO.

17 Q AND SO WE NEED TO EXAMINE WHAT DOES THE LAW REQUIRE OF A
18 JUROR TO SERVE IN SUCH A CASE AND WHETHER YOU WOULD MEET
19 THOSE QUALIFICATIONS. IN A SENTENCING PROCEEDING, THE JURY
20 WOULD HEAR NEW EVIDENCE, EVIDENCE WE CALL EVIDENCE IN
21 AGGRAVATION, A CIRCUMSTANCE OF AGGRAVATION. OUR LAW
22 DESIGNATES THAT THE STATE MAY SEEK THE DEATH PENALTY ONLY IN
23 CERTAIN ENUMERATED SITUATIONS AS SET FORTH IN THE LAWS OF
24 SOUTH CAROLINA. AS I SAID EARLIER, MURDER ALONE IS NO BASIS
25 TO SEEK THE DEATH PENALTY. IT'S MURDER COMBINED WITH SOME

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 OTHER ACT, MURDER IN THE COMMISSION OF ARMED ROBBERY,
2 BURGLARY, KIDNAPPING. AND THERE IS A LIST OF THOSE
3 CIRCUMSTANCES.

4 SO WHEN A MURDER IS COMBINED WITH AN AGGRAVATING
5 CIRCUMSTANCE, THAT'S WHAT WOULD BE TALKED ABOUT AND EVIDENCE
6 PRESENTED IN THE SENTENCING PHASE. UNDER THE LAW, THE JURY
7 WOULD HAVE TO GIVE SERIOUS CONSIDERATION TO THAT AGGRAVATING
8 CIRCUMSTANCE IN CONSIDERING THE STATE'S REQUEST FOR THE DEATH
9 PENALTY.

10 CONVERSELY, THE LAW FURTHER MANDATES THAT MITIGATION
11 EVIDENCE BE CONSIDERED. MITIGATION EVIDENCE IS EVIDENCE THAT
12 DEALS WITH THE DEFENDANT. IT MAY BE THE DEFENDANT'S
13 BACKGROUND, FAMILY HISTORY, MENTAL HEALTH STATUS, THINGS OF
14 THAT NATURE. AND THE LAW SAYS A JURY MUST GIVE CAREFUL
15 CONSIDERATION TO THOSE FACTORS AS WELL BEFORE MAKING A
16 DECISION.

17 DO YOU UNDERSTAND THAT?

18 A I DO.

19 Q ALL RIGHT. SO AT THE END OF THE CASE A JUDGE IS
20 INSTRUCTING THE JURY AFTER THE SENTENCING PHASE AND TELLS THE
21 JURY THAT "YOU HAVE NOW HEARD THE EVIDENCE. THERE IS NO
22 OTHER EVIDENCE TO PRESENT. YOU HAVE HEARD THE CIRCUMSTANCE
23 OF AGGRAVATION. YOU'VE HEARD THE EVIDENCE IN MITIGATION.
24 AND NOW YOU MUST CAREFULLY AND MEANINGFULLY CONSIDER ALL THIS
25 EVIDENCE AND CHOOSE BETWEEN TWO PUNISHMENTS -- LIFE

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 IMPRISONMENT OR DEATH."

2 IF YOU WERE A JUROR IN THAT SITUATION, WOULD YOU FOLLOW
3 AND HONOR YOUR OATH AND LISTEN CAREFULLY TO THE EVIDENCE AND
4 CONSIDER THOSE CIRCUMSTANCES OF AGGRAVATION, THAT MITIGATION
5 EVIDENCE BEFORE YOU MADE A FINAL DECISION?

6 A YES, SIR, MOST DEFINITELY.

7 Q IF YOU WERE IN THAT SITUATION, MR. CHANCELLOR, AND YOU
8 WERE ON A JURY AND YOU HAVE LISTENED TO THE JUDGE'S CHARGE
9 AND NOW YOU'VE GONE BACK TO THE JURY ROOM AND YOU HAVE
10 CAREFULLY CONSIDERED THAT THERE HAS BEEN A MURDER, AND LET'S
11 SAY, FOR EXAMPLE, THERE WAS AN AGGRAVATING CIRCUMSTANCE
12 PROVED BEYOND A REASONABLE DOUBT. AND YOU CONSIDER THAT, AND
13 YOU CONSIDER THE MITIGATION EVIDENCE. COULD YOU VOTE FOR
14 LIFE IMPRISONMENT?

15 A YES, SIR.

16 Q IF YOU BELIEVED IT WAS APPROPRIATE?

17 A IF I BELIEVED IT WAS APPROPRIATE.

18 Q OKAY. LET'S FLIP THAT. YOU HAVE LEFT THE COURTROOM.
19 YOU HAVE GONE BACK TO THE JURY ROOM AND YOU HAVE CONSIDERED
20 EVERYTHING -- CIRCUMSTANCE OF AGGRAVATION, MITIGATION
21 EVIDENCE -- AND YOU HAVE CAREFULLY CONSIDERED IT AND FOLLOWED
22 THE LAW. COULD YOU VOTE FOR THE DEATH PENALTY?

23 A IF I FELT THAT TO BE APPROPRIATE, YES, SIR.

24 Q OKAY. NOW, IN SOUTH CAROLINA THERE IS AN ADDITIONAL
25 REQUIREMENT. TO IMPOSE THE DEATH PENALTY THE JURY

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 UNANIMOUSLY NOT ONLY VOTES FOR THE DEATH PENALTY, EACH JUROR
2 WOULD HAVE TO SIGN HIS OR HER NAME TO THE VERDICT FORM
3 IMPOSING THE DEATH PENALTY. IF YOU HAD MADE THE DECISION TO
4 VOTE FOR THE DEATH PENALTY, WOULD YOU THEN BE ABLE TO SIGN
5 YOUR NAME TO THE VERDICT FORM?

6 A YES, SIR, IF THAT'S WHAT THE REQUIREMENT IS AND I MADE
7 THAT DECISION.

8 Q ALL RIGHT. DO YOU RECALL THAT SHEET THAT WAS IN THE
9 OTHER COURTROOM THAT LISTED THE THREE TYPES OF JURORS?

10 A YES, SIR.

11 Q IF ONE OF THOSE DESCRIBES YOU, WHICH ONE?

12 A THAT WOULD BE THE THIRD ONE.

13 Q OKAY. SO IF I UNDERSTAND YOUR POSITION, MR. CHANCELLOR,
14 YOU WOULD APPROACH JURY SERVICE WITH AN OPEN MIND TO FOLLOW
15 YOUR OATH TO FIND THE TRUTH FROM THE EVIDENCE AND FOLLOW THE
16 LAW AS I INSTRUCT IT?

17 A YES, SIR.

18 Q AND EVEN IF A CASE WERE TO GO TO THE SENTENCING PHASE,
19 EVEN THOUGH YOU'VE GOT A MURDERER, YOU WOULD STILL BE OPEN AS
20 TO WHAT THE PROPER PUNISHMENT WOULD BE?

21 A YES, SIR.

22 Q AND YOU WOULD WANT -- AND YOU WOULD FOLLOW THE
23 INSTRUCTIONS TO LISTEN TO ANY CIRCUMSTANCE OF AGGRAVATION AND
24 MITIGATION EVIDENCE BEFORE YOU MADE A DECISION?

25 A YES, SIR.

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 Q AND YOU COULD -- DEPENDING ON THE CIRCUMSTANCES, YOU
2 COULD VOTE FOR EITHER LIFE OR YOU COULD VOTE FOR DEATH; IS
3 THAT CORRECT?

4 A THAT IS CORRECT.

5 Q I NOTICED SOMETHING ON YOUR QUESTIONNAIRE, AND THIS IS
6 JUST INFORMATION THAT IS TO ME AND THE ATTORNEYS, AND IT
7 DEALS WITH QUESTION NUMBER 29. AND RATHER THAN JUST ME
8 BLURTING IT OUT HERE ON THE RECORD, I WANT YOU TO LOOK AT
9 NUMBER 29 AND TELL ME IF THAT'S A FAMILY MEMBER, A FRIEND OR
10 YOU, AND TELL ME THE CIRCUMSTANCES.

11 A THAT IS ME. I WAS ARRESTED. I SAID '78. IT MAY HAVE
12 BEEN '79 OR '80. IT WAS NOT '78 NOW THAT I RECALL. IT WAS
13 NOT '78. IT WAS PROBABLY '79.

14 I WAS -- I WAS ACTUALLY ARRESTED AT -- I WAS ATTENDING
15 GREENVILLE TECH AT THE TIME, AND I WAS ARRESTED FOR A MURDER
16 AND AN ARMED ROBBERY AND AN ASSAULT WITH INTENT. IT WAS
17 THREE CAPITAL CHARGES. AND I -- I DIDN'T KNOW ANY OF THE
18 GUYS INVOLVED. I KNEW ONE OF THE GUYS THAT WAS -- THAT KNEW
19 THE OTHER GUYS THAT WERE INVOLVED. WE HAD A FRIENDSHIP,
20 PERSONAL FRIENDSHIP. AND HIS GIRLFRIEND, THE WAY I
21 UNDERSTOOD IT, HIS GIRLFRIEND HAD SIGNED A STATEMENT STATING
22 THAT I WAS INVOLVED. AND SO I WAS HELD OVER AT THE COUNTY
23 FOR, I THINK IT WAS ABOUT TWO MONTHS, MAYBE A LITTLE MORE
24 THAN TWO MONTHS. AND I WAS FINALLY LET OUT ON BAIL. AND
25 AFTER SOME, I GUESS, FURTHER INVESTIGATION WITH MY ATTORNEY,

JAMES R. CHANCELLOR -- VOIR DIRE BY THE COURT

1 THE CHARGES AGAINST ME WERE THROWN OUT.

2 Q OKAY. SO YOU NEVER WENT TO COURT? THEY WERE DROPPED?

3 A THE CHARGES WERE DROPPED. I NEVER WENT TO COURT.

4 Q WELL, I THINK YOU CAN UNDERSTAND WHY WE WANT TO ASK YOU
5 ABOUT THAT RESPONSE ON THE QUESTIONNAIRE.

6 A YEAH. I FIGURED I WOULD BE ASKED ABOUT THAT. THAT'S
7 LONG AGO, AND I WAS ABLE TO GET MY LIFE BACK TOGETHER AFTER
8 SOME TIME. I REJOINED THE AIR FORCE AND FINISHED OUT MY
9 TWENTY YEARS THERE.

10 THE COURT: VERY GOOD, SIR. I APPRECIATE YOU SHARING
11 THAT WITH US.

12 I MAY HAVE SOME FOLLOW-UP QUESTIONS, MR. CHANCELLOR.
13 BUT THE ATTORNEYS WILL HAVE QUESTIONS TO ASK YOU. AND ONCE
14 WE COMPLETE THAT, THEN WE'LL BE CLOSE TO THE END AND THEN
15 YOU'LL BE ABLE TO GO.

16 JUROR NUMBER 51: OKAY.

17 THE COURT: THANK YOU.

18 THIS IS MR. ARIAIL.

19 VOIR DIRE BY SOLICITOR ARIAIL:

20 Q MR. CHANCELLOR, MY NAME IS BOB ARIAIL, AND I AM THE
21 SOLICITOR FOR THE THIRTEENTH JUDICIAL CIRCUIT, WHICH IS
22 GREENVILLE AND PICKENS COUNTIES. THE SOLICITOR IS THE OLD
23 TIMEY NAME THAT SOUTH CAROLINA HAS RETAINED FOR THE DISTRICT
24 ATTORNEY OR PROSECUTING ATTORNEY.

25 A RIGHT.

1 Q ASSISTING ME ON THIS CASE WILL BE MY DEPUTY, BETTY
2 STROM, AND MS. HERVEY, ONE OF MY ASSISTANTS.

3 I, LIKEWISE, WOULD LIKE TO GO BACK TO THE LAST QUESTION
4 THE JUDGE ASKED YOU ABOUT, YOUR ARREST IN 1978, NOT BECAUSE
5 I'M INTERESTED IN THE CIRCUMSTANCES PARTICULARLY, BUT FOR TWO
6 REASONS. NUMBER ONE, I WAS ON STAFF IN THE PROSECUTOR'S
7 OFFICE IN 1978, AND I ALSO REALIZE THAT THIS CASE, IF YOU
8 WERE QUALIFIED AND SELECTED AS A JUROR, THE CASE WOULD
9 INVOLVE PRESENTATION BY LAW ENFORCEMENT AND WITNESSES. AND
10 MY QUESTION WOULD BE, WOULD THAT PRIOR EXPERIENCE CAUSE YOU
11 TO -- OR IMPACT YOUR ABILITY TO FAIRLY CONSIDER THE EVIDENCE
12 EITHER IN THE GUILT PHASE OR THE PUNISHMENT PHASE OF THIS
13 CASE? AND THE REASON I ASK THAT IS NOT REALLY TO DELVE INTO
14 YOUR PERSONAL THINGS, BUT NOT TO PUT YOU IN AN AWKWARD
15 SITUATION THAT YOU DON'T NECESSARILY HAVE TO BE IN.

16 A RIGHT.

17 Q BUT IF YOU'RE COMFORTABLE BEING IN IT AND YOU CAN GIVE -
18 - YOU FEEL YOU CAN GIVE A GOOD, FAIR, HONEST APPROACH TO IT,
19 I JUST WANT TO MAKE SURE WE'RE NOT CROSSING OVER THE LINE
20 WITH YOU.

21 A OKAY. I'M SURE I COULD STILL GIVE IT AN HONEST
22 APPROACH.

23 (LAUGHTER)

24 Q OKAY. ALL RIGHT. WELL, I'M NOT SURE I COULD, BUT I'M
25 GLAD THAT WE DON'T HAVE TO DEAL WITH THAT.

1 LET ME ASK YOU JUST A COUPLE OF OTHER QUESTIONS. THE --
2 I GATHER FROM YOUR RESPONSES THAT YOU BELIEVE THAT CAPITAL
3 PUNISHMENT OR THE DEATH PENALTY IS AN APPROPRIATE SENTENCE AS
4 A PART OF OUR CRIMINAL JUSTICE SYSTEM IN THIS COUNTRY?

5 A THAT'S CORRECT.

6 Q AND HOW LONG HAVE YOU HELD THAT? IS THAT SOMETHING
7 RECENT OR DID YOU GROW UP BELIEVING THAT OR GAINED IT IN THE
8 MILITARY OR...

9 A I DID GAIN A LOT OF THINGS IN THE MILITARY (LAUGHING).
10 BUT I THINK THAT AS YOU MATURE AND -- YOU KNOW, AS YOU GROW
11 UP AND MATURE, YOU UNDERSTAND WHAT THE CONSTITUTION AND LAW
12 IS ALL ABOUT, AND THAT'S A PART OF OUR LAW.

13 Q AND YOU DON'T HAVE ANY REASONS YOU ARE AWARE OF, EITHER
14 RELIGIOUS OR MORAL OR SOCIAL OR POLITICAL OR OTHERWISE, THAT
15 WOULD LIMIT YOUR ABILITY TO IMPOSE THE DEATH PENALTY, SOME
16 VIEW THAT YOU HOLD THAT MIGHT BEAR ON THAT AT THE TIME IT
17 CAME TO MAKE THAT DECISION?

18 A NO.

19 Q ALL RIGHT. SO YOU THINK YOU WOULD BE ABLE TO CONSIDER
20 IT FREELY AND FAIRLY AFTER HEARING ALL THE EVIDENCE?

21 A YES.

22 Q ALL RIGHT. DO YOU ALSO BELIEVE THAT YOU COULD --
23 KNOWING THAT LIFE IMPRISONMENT MEANS LIFE IMPRISONMENT
24 WITHOUT PAROLE IN THIS STATE, IN THE EVENT THAT YOU -- THE
25 DEFENDANT IN THIS HYPOTHETICAL CASE THAT YOU WERE IN IS

1 CONVICTED AND THERE IS AGGRAVATING CIRCUMSTANCE, WOULD YOU BE
2 ABLE TO GIVE AN EQUAL CONSIDERATION OR TREAT AS FAIRLY THE
3 CONSIDERATION OF THE STATE TO IMPOSE THE DEATH PENALTY OR
4 WOULD YOU BE PRONE TOWARDS LIFE IN PRISON?

5 A I THINK IT WOULD PROBABLY HINGE ON THOSE OTHER FACTORS,
6 THOSE OTHER FACTORS BEING THE AGGRAVATING CIRCUMSTANCES AND
7 THE MITIGATING CIRCUMSTANCES.

8 Q THE NATURE OF THE CRIME?

9 A RIGHT.

10 Q EVIDENCE?

11 A RIGHT.

12 Q WHATEVER COMES TO LIGHT DURING THE COURSE OF THE CASE?

13 A (INDICATES AFFIRMATIVE RESPONSE)

14 Q OKAY. SO YOU'RE NOT PREDISPOSED ONE WAY OR THE OTHER
15 GOING IN TO MAKE IT MORE DIFFICULT FOR EITHER SIDE?

16 A NO.

17 Q IT DEPENDS ON WHAT THE EVIDENCE PRODUCES. ALL RIGHT.

18 HAVING THE VIEWS WE'VE TALKED ABOUT ABOUT CAPITAL
19 PUNISHMENT, THAT IS, YOU BELIEVE IT'S APPROPRIATE, WHAT DO
20 YOU THINK THE PURPOSE FOR CAPITAL PUNISHMENT IS WITHIN OUR
21 CRIMINAL JUSTICE SYSTEM OR WHAT FUNCTION DOES IT PERFORM?

22 A CAPITAL -- AND YOU'RE TALKING ABOUT---

23 Q THE DEATH PENALTY.

24 A THE DEATH PENALTY?

25 Q YES.

JAMES R. CHANCELLOR -- VOIR DIRE BY SOLICITOR ARIAIL

1 **A** STRICTLY THE DEATH PENALTY?

2 **Q** STRICTLY THE DEATH PENALTY.

3 **A** IN OTHER WORDS, WHY DO I THINK THE DEATH PENALTY IS
4 NECESSARY?

5 **Q** OR WHY DO YOU THINK WE HAVE IT?

6 **A** WHY DO I THINK WE HAVE IT?

7 **Q** WHY DO YOU THINK WE HAVE IT AND WHAT FUNCTION DO YOU
8 THINK IT SERVES?

9 **A** WELL, THE DEATH PENALTY IS DEFINITELY A DEFINITE --
10 OKAY? -- MEANING THAT THAT PERSON WILL NEVER BE INTRODUCED TO
11 SOCIETY. IT'S OVER. THEIR LIFE IS DONE. THAT'S A DEFINITE.
12 AND IF THE -- I DON'T KNOW. I DON'T KNOW WHAT OUR
13 FOREFATHERS WAS THINKING AS TO THE PURPOSE. HOWEVER, IN, YOU
14 KNOW -- SOME CRIMES ARE SO HORRENDOUS THAT THERE'S JUST NO --
15 THERE'S NO OTHER -- THERE'S NOTHING ELSE YOU CAN DO EXCEPT TO
16 FIND THAT PERSON -- MAKE THE DEATH PENALTY BE APPROPRIATE.

17 **Q** OKAY. DO YOU BELIEVE THAT ONE OF THE FUNCTIONS OF THE
18 DEATH PENALTY IS A DETERRENT?

19 **MR. MAULDIN:** YOUR HONOR, I DO OBJECT TO THE FORM OF
20 THAT QUESTION. I KNOW WHERE THAT QUESTION IS GOING, AND I
21 OBJECT TO IT. THE---

22 **THE COURT:** HE ASKED HIM IF HE THOUGHT IT WAS A
23 DETERRENT?

24 **MR. MAULDIN:** THE JUROR WAS ASKED THE PURPOSE AND HE
25 GAVE IT, AND NOW MR. ARIAIL IS ASKING HIM IF HE BELIEVES THAT

JAMES R. CHANCELLOR -- VOIR DIRE BY SOLICITOR ARIAIL

1 IT IS A DETERRENT, AND THAT IS AN IMPROPER QUESTION FOR A
2 PROSPECTIVE JUROR ON A CASE. THAT IS ESSENTIALLY STAKING OUT
3 THE JUROR IF NOTHING ELSE. OTHERWISE, IT RELATES TO A PRIOR
4 MATTER. IT RELATES TO A PRIOR MATTER ON A PREVIOUS---

5 THE COURT: Y'ALL STEP OVER HERE AND HELP ME OUT.

6 (BENCH CONFERENCE OFF RECORD FROM 5:40 TO 5:41 P.M.)

7 SOLICITOR ARIAIL: MAY I PROCEED, YOUR HONOR?

8 THE COURT: THE OBJECTION IS OVERRULED. YOU MAY
9 PROCEED, MR. ARIAIL.

10 Q DO YOU BELIEVE THAT THE DEATH PENALTY HAS ANY DETERRENT
11 EFFECT? OR HAVE YOU EVER GIVEN THAT CONSIDERATION?

12 A I BELIEVE AT ONE TIME THE DEATH PENALTY MAY HAVE HAD A
13 DETERRENT EFFECT. I DO NOT BELIEVE THAT IT IS A DETERRENT.
14 I DON'T THINK IT DETERS ANYTHING, BECAUSE IT STILL HAPPENS.
15 SO -- AND I DON'T KNOW IF IT'S BECAUSE OF THE DEATH PENALTY.
16 I DON'T THINK IT'S BECAUSE OF THE DEATH PENALTY. I THINK
17 THAT'S JUST THE WAY SOCIETY IS, AND IT HAPPENS IN COUNTRIES
18 THAT DON'T HAVE THE DEATH PENALTY. I MEAN, WE'RE ONE OF THE
19 FEW COUNTRIES THAT DO.

20 Q UH-HUH (AFFIRMATIVE).

21 A SO IN THAT ASPECT, I DON'T THINK IT TO BE A DETERRENT --
22 A DETERRENT FACTOR.

23 SOLICITOR ARIAIL: THANK YOU VERY MUCH. ANSWER ANY
24 QUESTIONS THAT MR. MAULDIN, THE PUBLIC DEFENDER, MIGHT HAVE.
25 VOIR DIRE BY MR. MAULDIN:

JAMES R. CHANCELLOR -- VOIR DIRE BY MR. MAULDIN

1 Q I AM MR. MAULDIN, PUBLIC DEFENDER.

2 A OKAY.

3 Q I'VE GOT A FEW QUESTIONS, MR. CHANCELLOR, OUT OF YOUR
4 QUESTIONNAIRE, AND THEN A FEW FOLLOW-UP QUESTIONS TO WHAT YOU
5 HAVE BEEN ASKED ABOUT THE DEATH PENALTY.

6 WITH REGARD TO MY POSSESSION OF YOUR QUESTIONNAIRE, THE
7 COURT HAD YOU ANSWER THESE QUESTIONS AND PROVIDED COPIES
8 CONFIDENTIALLY. THEY WILL BE RETURNED TO THE COURT AFTER
9 THIS PROCEDURE. SO I WANT YOU TO BE COMFORTABLE WITH THAT.

10 THERE WAS A QUESTION ON -- IT WAS ACTUALLY QUESTION
11 NUMBER 36. AND YOU MAKE REFERENCE TO A RELATIVE. AND I'LL
12 HAND YOU THE QUESTIONNAIRE JUST SO -- JUST TO REFERENCE THE
13 QUESTION.

14 MR. MAULDIN: QUESTION NUMBER 36, YOUR HONOR.

15 SOLICITOR ARIAIL: OH.

16 Q NOW, THAT IS WHAT I'M REFERRING TO.

17 A OKAY.

18 Q WAS THAT -- WAS THAT A MATTER OF A CRIMINAL ACT OR AN
19 UNLAWFUL ACT INVOLVED IN THAT?

20 A I DO BELIEVE IT WAS.

21 Q ALL RIGHT. I'M CURIOUS AS TO WHETHER A PERSON WAS
22 SUBSEQUENTLY ARRESTED AND PROSECUTED.

23 A I DON'T THINK THAT PERSON WAS EVER ARRESTED OR
24 PROSECUTED OR ANYTHING. I WAS A YOUNG FELLOW THEN, PROBABLY
25 LESS THAN TEN YEARS OLD.

JAMES R. CHANCELLOR -- VOIR DIRE BY MR. MAULDIN

1 Q RIGHT.

2 A AND WE NEVER GOT ANYTHING ELSE ON THAT MATTER AS TO
3 SOMEONE BEING ARRESTED OR PROSECUTED.

4 Q OKAY. AND LET ME EXPLAIN, IF AN EXPLANATION IS
5 NECESSARY. THE POINT IS THAT A PERSON WHO COMES IN AS A
6 JUROR NEEDS TO COME IN UNAFFECTED BY OUTSIDE MATTERS OR
7 INFLUENCES. THEY HAVE TO BE ABLE TO SET MATTERS ASIDE. AND
8 THE QUESTION IS, IF THERE WAS A RESIDUAL OR A MATTER OF ANY
9 BITTERNESS OR ANYTHING LIKE THAT, THEN THAT WOULD BE
10 SOMETHING THAT PERHAPS COULD AFFECT SERVICE AS A JUROR. THAT
11 IS NOT THE CASE. IS THAT---

12 A THAT IS NOT THE CASE.

13 Q ALL RIGHT. ANOTHER QUESTION, MR. CHANCELLOR, IS I
14 NOTICE THAT YOU HAVE RETIRED FROM THE AIR FORCE. BUT CAN YOU
15 -- DUE TO THE NATURE OF THIS CASE WHERE THERE IS A MATTER OF
16 LAW ENFORCEMENT INVOLVEMENT, WHAT WERE YOUR -- AND THAT'S THE
17 ONLY REASON I'M ASKING. WHAT WERE YOUR RESPONSIBILITIES
18 DURING YOUR TIME IN THE AIR FORCE? WERE YOU INVOLVED IN ANY
19 SECURITY OR LAW ENFORCEMENT BRANCH OF THE AIR FORCE?

20 A NO, SIR.

21 Q ALL RIGHT. SO YOU WERE OTHERWISE IN THE MILITARY BUT
22 NOT IN LAW ENFORCEMENT?

23 A NOT IN LAW ENFORCEMENT.

24 Q ALL RIGHT. NOW, LET ME ASK A FEW FOLLOW-UP QUESTIONS
25 REGARDING THE MATTERS OF THE DEATH PENALTY.

1 IF I HAVE UNDERSTOOD YOUR COMMENTS TO THE COURT AND TO
2 THE PROSECUTOR, YOU UNDERSTAND THAT BEFORE THE MATTER OF
3 WHICH PENALTY -- OR WHICH OF THE TWO PENALTIES WILL BE
4 IMPOSED, THE PERSON MUST HAVE ALREADY BEEN CONVICTED OF
5 MURDER. AND IN THE PROCESS OF DECIDING WHICH JURORS ARE
6 QUALIFIED, THAT IS, THAT WOULD GO INTO THE GROUP FROM WHICH
7 THE JURY IS CHOSEN, ONE OF THE QUESTIONS IS -- I'LL GIVE YOU
8 AN EXAMPLE OF A PERSON WHO ISN'T QUALIFIED, IF A PERSON CAME
9 INTO THIS COURTROOM AND SAID, "IF A PERSON IS CONVICTED OF
10 MURDER," AND IT'S AN AUTOMATIC EYE FOR AN EYE DEATH PENALTY
11 ISSUE. EQUALLY UNQUALIFIED WOULD BE A PERSON THAT SAID, "IF
12 THE PERSON IS CONVICTED, I'D NEVER SENTENCE HIM TO DEATH. I
13 WOULD ALWAYS BE LIFE WITHOUT PAROLE."

14 A OKAY.

15 Q AND SO THAT'S WHAT ALL THIS QUESTIONING IS ABOUT. IT'S
16 THE CONSIDERATION. NOBODY IS ASKING FOR A VOTE. WE'RE JUST
17 ASKING IF YOU'LL CONSIDER BOTH PENALTIES FOR A PERSON
18 CONVICTED OF MURDER.

19 A YES.

20 Q ARE YOU SATISFIED WITH YOUR VIEWS THAT IF INSTRUCTED BY
21 THIS COURT YOU WOULD GIVE MEANINGFUL CONSIDERATION TO A LIFE
22 SENTENCE FOR A PERSON WHO HAD BEEN CONVICTED OF MURDER AND
23 THERE EXISTED AGGRAVATING CIRCUMSTANCES, ONE OR MORE? EVEN
24 UNDER THOSE CIRCUMSTANCES, IF THE COURT INSTRUCTED, WOULD YOU
25 BE ABLE TO FOLLOW THOSE INSTRUCTIONS AND GIVE MEANINGFUL

1 CONSIDERATION TO A LIFE SENTENCE, LIFE WITHOUT PAROLE,
2 INSTEAD OF THE DEATH SENTENCE FOR A CONVICTED MURDERER?

3 A WELL, YOU SAID AGGRAVATING.

4 Q AGGRAVATING CIRCUMSTANCES, JUST LIKE THE JUDGE
5 DESCRIBED.

6 A NOT THE MITIGATING CIRCUMSTANCES. OR HE WOULD ALSO GIVE
7 ME---

8 Q ALL RIGHT. ALL RIGHT. AND THAT RAISES A GOOD QUESTION,
9 MR. CHANCELLOR.

10 LET ME PUT IT THIS WAY. THE DEATH PENALTY IN THIS STATE
11 IS NEVER A REQUIRED PENALTY. THE LAW DOES NOT REQUIRE THE
12 IMPOSITION OF THE DEATH PENALTY EVEN IN A CASE WHERE A PERSON
13 IS CONVICTED OF MURDER, CONVICTED OF -- AND THERE IS PROOF OF
14 -- EVIDENCE OF AGGRAVATING CIRCUMSTANCES, A BUNCH OF THEM
15 EVEN. AND EVEN IF THERE WAS NOT ONE SINGLE PIECE OF EVIDENCE
16 IN MITIGATION, THAT WOULD NOT REQUIRE THE DEATH PENALTY.

17 A OKAY.

18 Q THE JUROR COULD STILL SAY, "I'M GOING TO GIVE A LIFE
19 SENTENCE JUST OUT OF MERCY." DO YOU -- SO DID YOU KNOW THAT?

20 A I GUESS I WAS A LITTLE CONFUSED OVER THE -- THE
21 JUDGE'S---

22 Q AND LET ME SAY, I GUESS THE BEST WAY TO DESCRIBE THIS,
23 DO YOU REMEMBER WHEN THE JUDGE SAID A DEFENDANT, A PERSON
24 CHARGED, NEVER IS REQUIRED TO PROVE OR DISPROVE ANYTHING?

25 A RIGHT.

1 Q DO YOU RECALL HIM SAYING THAT? AND YOU AGREE WITH THAT
2 PRINCIPLE?

3 A YES.

4 Q WELL, THE SAME THING APPLIES IN A SENTENCING PHASE. THE
5 DEFENDANT WOULD NOT BE COMPELLED OR FORCED---

6 A OKAY.

7 Q ---TO BRING PROOF OF A LIFE SENTENCE.

8 A OKAY.

9 Q THE JUROR COULD IMPOSE A LIFE SENTENCE FOR NO OTHER
10 REASON THAN JUST SIMPLY A MERE ACT OF MERCY ON THEIR PART.

11 A OKAY.

12 Q ALL RIGHT. NOW, AND THE FINAL POINT ON THAT IS, IF
13 MITIGATING CIRCUMSTANCES WERE PRESENTED -- AND LET ME MAKE
14 SURE WE'VE GOT THIS IDEA OF MITIGATION UNDERSTOOD. THE
15 OFFENSE OF MURDER HAS BEEN PROVEN. AT THAT POINT IT'S BEEN
16 PROVEN BEYOND A REASONABLE DOUBT. THAT MEANS THERE IS NOT
17 ANY SELF-DEFENSE. THERE IS NOT ANY ACCIDENT. THERE IS NOT
18 ANY ALIBI, MISTAKE, WRONG GUY, WHATEVER. NONE OF THAT'S --
19 ALL OF THAT HAS BEEN ELIMINATED.

20 A OKAY.

21 Q THE JURY IS CONVINCED BEYOND A REASONABLE DOUBT THAT IT
22 IS THE RIGHT PERSON CONVICTED OF THE RIGHT CRIME, AND THE
23 CRIME WAS MURDER, INTENTIONAL, MALICIOUS OFFENSE OF MURDER.

24 AT THAT SECOND PHASE BOTH SIDES WOULD HAVE AN
25 OPPORTUNITY TO PRESENT EVIDENCE IN SUPPORT OF A SENTENCE.

JAMES R. CHANCELLOR -- VOIR DIRE BY MR. MAULDIN

1 THE PROSECUTION, OF COURSE, WOULD SAY, "WE BELIEVE THAT HE
2 SHOULD BE EXECUTED, AND HERE ARE THE AGGRAVATING
3 CIRCUMSTANCES," AND THE COURT WOULD INSTRUCT YOU ON THE
4 CONSIDERATION OF THOSE.

5 THE DEFENSE, IF HE SO CHOSE, COULD AND WOULD HAVE AN
6 OPPORTUNITY TO PRESENT MITIGATING.

7 A OKAY.

8 Q MITIGATION HAS NOTHING TO DO WITH GUILT. IT DOESN'T GO
9 BACK TO SELF-DEFENSE, ACCIDENT.

10 A RIGHT.

11 Q IT IS -- EXAMPLES WOULD BE THE AGE, THE MENTAL STATE OF
12 THE PERSON WHO'S BEEN CONVICTED, BACKGROUND, HISTORY, FAMILY,
13 EDUCATION, ABSENCE OF A PRIOR RECORD OF VIOLENCE, ALL -- ANY
14 OF THOSE OR ALL OF THEM COULD BE AVAILABLE TO THAT JURY TO
15 CONSIDER.

16 IN THAT EVENT, THE COURT WOULD INSTRUCT YOU THAT OUR LAW
17 -- FOR A JUROR TO OBEY THEIR OATH, OUR LAW REQUIRES THAT
18 THOSE MATTERS BE GIVEN CONSIDERATION AS A JUROR IN DECIDING
19 THE SENTENCE. IF THE JUDGE INSTRUCTED YOU TO DO THAT, COULD
20 YOU FOLLOW THE JUDGE'S INSTRUCTIONS AND SO CONSIDER A LIFE
21 SENTENCE?

22 A YES.

23 Q FINALLY, MR. CHANCELLOR, I ASK YOU, IN THIS DELIBERATING
24 PROCESS IT'S TWO DIFFERENT DELIBERATIONS. OF COURSE, YOU
25 ONLY HAVE A SECOND IF HE'S CONVICTED AT THE FIRST ONE. IN

JAMES R. CHANCELLOR -- VOIR DIRE BY MR. MAULDIN

1 THAT SECOND DELIBERATIONS WHAT -- THE ONLY TWO CHOICES ARE A
2 SENTENCE, AND NEITHER SENTENCE IS OBVIOUSLY AUTOMATIC OR WE
3 WOULDN'T BE HAVING THAT HEARING. DO YOU FOLLOW?

4 A RIGHT.

5 Q WHEN THAT JURY GOES BACK INTO THAT JURY ROOM, THE JURY
6 CAN DELIBERATE FULLY AND MUST DELIBERATE FULLY, OPENLY,
7 CANDIDLY AND DISCUSS THE EVIDENCE THAT THEY HAVE HEARD, WHAT
8 THEY HAVEN'T HEARD, WHAT THEY -- HOW THEY FEEL ABOUT THE
9 PENALTIES. AND THEY CAN -- THEY CAN TAKE AS LONG AS THEY
10 NEED TO. BUT JUDGE MENTIONED THAT AN IMPORTANT -- IN ORDER
11 TO IMPOSE A DEATH SENTENCE, ALL TWELVE MUST SIGN THE FORM.
12 IN THAT EVENT, THERE IS GOING TO HAVE TO BE VOTES TAKEN.

13 A UH-HUH (AFFIRMATIVE).

14 Q NOW, LET'S SAY YOU VOTE AND YOU VOTE AND YOU VOTE, AND
15 FINALLY THE FINAL VOTE COMES DOWN, MR. CHANCELLOR, AND THE
16 VOTE IS TEN TO TWO. AND WE'RE NOT GOING TO SAY WHICH
17 SENTENCE BECAUSE IT REALLY DOESN'T MATTER FOR PURPOSES OF
18 THIS QUESTION. YOU'VE GOT TEN ON ONE SIDE FOR A SENTENCE AND
19 THE OTHER TWO ON THE OTHER SIDE FOR A DIFFERENT SENTENCE.
20 AND WE NEED TO KNOW HOW YOU AS AN INDIVIDUAL WOULD REACT TO
21 THAT IN ORDER TO DETERMINE QUALIFICATIONS AS A JUROR. IF
22 THAT WERE THE CASE AND YOU WERE ONE OF TWO, HEAVY MAJORITY ON
23 THE OTHER SIDE, PLENTY OF DELIBERATING, TALKING, DISCUSSING
24 THE CASE, IN THAT SITUATION, WOULD YOU ESSENTIALLY JUST IN
25 ORDER TO AGREE CAVE IN, ESSENTIALLY, OR GIVE UP YOUR VIEW

1 THAT YOU HAVE DECIDED AND GO WITH THE MAJORITY SOLELY FOR THE
2 PURPOSE OF ENDING THE CASE?

3 A I DON'T THINK SO.

4 Q ALL RIGHT. AND THE QUESTION IS WOULD YOU MAINTAIN A
5 POSITION THAT YOU HAD PERSONALLY AND MORALLY DECIDED WAS
6 RIGHT?

7 A YES.

8 Q SO WHEN YOU SAY, "I DON'T THINK SO," I'VE GOT TO---

9 A OKAY. NO, I WOULD NOT. IF IT'S TEN TO ONE AND I'M THAT
10 ONE THAT'S HOLDING OUT, THEN I'M HOLDING OUT BECAUSE OF THE
11 EVIDENCE THAT I CONSIDERED AND---

12 Q ALL RIGHT.

13 A ---SO THAT'S NOT GOING TO SWAY ME ONE WAY OR THE OTHER.

14 Q IN OTHER WORDS, FULL DELIBERATION IS EXPECTED AND
15 REQUIRED.

16 A RIGHT.

17 Q BUT WE NEED TO KNOW IF YOU WOULD SIMPLY GO TO THE
18 MAJORITY JUST SIMPLY TO AGREE.

19 A THEY WOULD HAVE TO CONVINCE ME OF SOMETHING THAT I
20 MISSED.

21 Q ALL RIGHT. FINAL QUESTION. IF YOU WERE IN THE GROUP OF
22 TEN AND THERE WERE TWO ON THE OTHER SIDE WHO DISAGREED WITH
23 YOU, WOULD YOU ATTEMPT TO FORCE THEM TO COME TO YOUR SIDE OR
24 WOULD YOU RESPECT THEIR INDIVIDUAL AND MORAL CHOICE THAT THEY
25 HAVE MADE REGARDING WHAT THEY THOUGHT WAS AN APPROPRIATE

JAMES R. CHANCELLOR -- VOIR DIRE BY MR. MAULDIN

1 SENTENCE?

2 A YES, I WOULD RESPECT THEIR CHOICES. AND I'M SURE WE
3 WOULD DISCUSS THE REASONS FOR THEM COMING TO THAT CONCLUSION
4 JUST AS WE WOULD DISCUSS THE REASONS FOR ME COMING TO MY
5 CONCLUSION.

6 MR. MAULDIN: THANK YOU.

7 THE COURT: MR. CHANCELLOR, THANK YOU SO MUCH. THEY'RE
8 GOING TO TAKE YOU TO A JURY ROOM JUST BRIEFLY, AND THEN WE'LL
9 GET YOU BACK OUT HERE IN JUST A COUPLE OF MINUTES, AND THEN
10 YOU'LL BE FREE TO GO.

11 JUROR NUMBER 51: OKAY.

12 THE COURT: THANK YOU, SIR.

13 JUROR NUMBER 51: THANK YOU.

14 (JUROR EXITS COURTROOM AT 5:55 P.M.)

15 THE COURT: QUALIFIED OR NOT QUALIFIED? THE JUROR HAS
16 BEEN EXCUSED.

17 SOLICITOR ARIAIL: QUALIFIED.

18 MR. MAULDIN: QUALIFIED.

19 THE COURT: WE NOW MOVE TO THE CHOICE OF SELECTION OF
20 THIS JUROR. I'LL HEAR FIRST FROM THE STATE WHEN THE STATE IS
21 READY.

22 SOLICITOR ARIAIL: PRESENT HIM.

23 MR. MAULDIN: (OFF RECORD WITH CO-COUNSEL) SWEAR THE
24 JUROR.

25 THE COURT: ASK MR. CHANCELLOR TO COME BACK IN, PLEASE.

MATTERS AND MOTIONS

1 (JUROR REENTERS COURTROOM AT 5:57 P.M.)

2 THE COURT: THANK YOU, MR. CHANCELLOR. MR. CHANCELLOR,
3 YOU HAVE BEEN SELECTED AS A JUROR IN THIS CASE. I'M GOING TO
4 GIVE YOU A WRITTEN ORDER THAT DESCRIBES WHAT WE DO FROM THIS
5 POINT, BUT I'M GOING TO OUTLINE IT FOR YOU NOW.

6 YOU ARE TO CALL A CERTAIN NUMBER. AND IT SAYS, "START
7 CALLING WEDNESDAY, FEBRUARY 6TH." THAT'S TODAY. IT SAYS
8 AFTER 8:00 P.M. GO AHEAD AND CALL IT JUST TO GET IN THE
9 HABIT OF CALLING IT. I'M PRETTY CONFIDENT THE MESSAGE
10 TONIGHT WILL BE, "CALL BACK TOMORROW NIGHT." JUST FOLLOW
11 THOSE INSTRUCTIONS. THE MESSAGE TOMORROW NIGHT MAY BE
12 DIFFERENT. THE MESSAGE THURSDAY NIGHT MAY BE "REPORT FRIDAY
13 MORNING, REPORT FRIDAY AFTERNOON." FOLLOW THOSE
14 INSTRUCTIONS. THEY'RE VERY IMPORTANT.

15 THERE WILL ALSO BE INSTRUCTIONS WHEN IT TELLS YOU TO
16 COME IN FOR THE JURY SERVICE AS TO WHERE TO PARK, AND THERE
17 ARE INSTRUCTIONS HERE ABOUT PACKING YOUR BAGS AND NOT HAVING
18 A BEEPER OR CELL PHONE WITH YOU FOR THE PURPOSE OF THE
19 SEQUESTRATION. ALL RIGHT, SIR?

20 JUROR NUMBER 51: OKAY.

21 THE COURT: ALSO, THE PREVIOUS OATH THAT I HAVE
22 ADMINISTERED REMAINS IN EFFECT. CONTINUE WITH THAT. DO NOT
23 DISCUSS THE CASE WITH ANYONE. DON'T SPECULATE ABOUT THE
24 CASE. AND DO NOT EXPOSE YOURSELF TO ANY MEDIA COVERAGE ABOUT
25 THE CASE OR INFORMATION FROM ANY OTHER SOURCE.

MATTERS AND MOTIONS

1 DO YOU UNDERSTAND THOSE INSTRUCTIONS, MR. CHANCELLOR?

2 JUROR NUMBER 51: I DO.

3 THE COURT: THANK YOU SO MUCH. WE LOOK FORWARD TO
4 WORKING WITH YOU. HAVE A NICE EVENING.

5 (JUROR EXITS COURTROOM AT 5:59 P.M.)

6 (JUROR NUMBER 208 ENTERS COURTROOM AT 5:59 P.M.)

7 THE COURT: MS. LACKEY, THANK YOU SO MUCH FOR YOUR
8 PATIENCE. WE'RE MOVING AS FAST AS WE CAN, BUT WE NEED TO BE
9 DELIBERATE AND CAREFUL IN THE JURY SELECTION PROCESS.

10 PETRA M. LACKEY (WHITE FEMALE),
11 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

12 VOIR DIRE BY THE COURT:

13 Q. MS. LACKEY, I'M GOING TO SPEAK TO YOU A LITTLE BIT MORE
14 ABOUT THE PROCESS OF A CAPITAL CASE, ISSUES THAT COULD COME
15 UP. AND THE ATTORNEYS, I'M SURE, WILL WANT TO ASK YOU SOME
16 QUESTIONS AS WELL AND SPEAK WITH YOU.

17 THIS CASE, MA'AM, ARISES FROM AN INCIDENT WHICH OCCURRED
18 IN GREENVILLE COUNTY ON DECEMBER THE 6TH OF THE YEAR 2000.
19 THE DEFENDANT, MR. WOOD, IS CHARGED WITH THE CRIME OF MURDER.
20 IN THE INDICTMENT THE VICTIM IS IDENTIFIED AS ERIC NICHOLSON,
21 WHO WAS AT THAT TIME A STATE TROOPER.

22 THIS CASE RECEIVED ATTENTION IN THE MEDIA. I WANT TO
23 KNOW FROM YOU, MA'AM, IF YOU RECALL ANYTHING ABOUT THIS CASE
24 FROM THE MEDIA OR OTHERWISE. AND IF YOU DO, BE VERY SPECIFIC
25 IN WHAT YOU SHARE WITH ME.

PETRA M. LACKEY -- VOIR DIRE BY THE COURT

1 A NOTHING. I DON'T RECALL ANYTHING.

2 Q YOU DON'T RECALL IN DECEMBER OF 2000 ANY INFORMATION
3 ABOUT A TROOPER BEING SHOT OR A LOCATION OR ANYTHING LIKE
4 THAT?

5 A NO.

6 Q IF I MENTION ANDERSON COUNTY, DOES THAT TRIGGER ANY
7 MEMORY ABOUT THIS CASE, ANY EVENT HAPPENING IN ANDERSON
8 COUNTY?

9 A NO.

10 Q OKAY. THE REASON I ASK YOU THAT IS MANY JURORS WILL
11 HAVE SEEN PUBLICITY ABOUT A CASE, THIS ONE AND OTHERS WE TRY.
12 AND BEING EXPOSED TO PUBLICITY DOES NOT DISQUALIFY A JUROR.
13 BUT WE NEED TO MAKE SURE THAT A JUROR UNDERSTANDS THAT WHEN
14 HE OR SHE TAKES AN OATH AS A JUROR THAT JUROR MUST FIND THE
15 TRUTH, THE EVIDENCE -- THE TRUTH FROM THE EVIDENCE IN COURT
16 AND NOT WHAT THEY HAVE HEARD OR LEARNED OUTSIDE OF COURT. DO
17 YOU UNDERSTAND THE IMPORTANCE OF THAT?

18 A UH-HUH (AFFIRMATIVE).

19 Q YOU NEED TO ANSWER OUT LOUD SO WE CAN TAKE IT DOWN.

20 A YES.

21 Q OKAY. IF YOU WERE A JUROR, WOULD YOU HONOR YOUR OATH
22 AND FIND THE TRUTH AND THE FACTS ONLY FROM THE EVIDENCE
23 PRESENTED DURING THE COURSE OF THIS TRIAL?

24 A YES.

25 Q WOULD YOU FOLLOW THE LAW AS I INSTRUCT YOU TO FOLLOW IT?

1 A YES.

2 Q DO YOU REMEMBER THOSE TWO LEGAL PRINCIPLES? THE
3 PRESUMPTION OF INNOCENCE, ANY ACCUSED IS PRESUMED TO BE
4 INNOCENT?

5 A RIGHT.

6 Q AND THE BURDEN OF PROOF IS ON THE STATE NOT A DEFENDANT.
7 AND THE STATE MUST PROVE GUILT BEYOND A REASONABLE DOUBT. DO
8 YOU UNDERSTAND THAT LEGAL PRINCIPLE?

9 A I DO.

10 Q DO YOU AGREE WITH THESE LEGAL PRINCIPLES?

11 A YES.

12 Q NOW, WE'RE GOING TO TALK ABOUT THE PROCESS OF A CAPITAL
13 CASE. WHEN WE DO SO, WE'RE NOT GOING TO TALK ABOUT THIS CASE
14 BUT JUST THE CONCEPT IN GENERAL. AND WE'RE GOING TO TALK
15 PRIMARILY ABOUT ISSUES THAT COME UP IN A SENTENCING PHASE.
16 PLEASE UNDERSTAND THERE MAY NOT BE A SENTENCING PHASE IN THIS
17 CASE. BUT MAYBE THERE WILL.

18 A UH-HUH (AFFIRMATIVE).

19 Q SO BECAUSE IT MAY OCCUR, WE NEED TO ADDRESS WITH YOU
20 THOSE ISSUES AND YOUR VIEWS ON THOSE ISSUES, SUCH AS YOUR
21 VIEWS OF THE DEATH PENALTY. ALL RIGHT?

22 A OKAY.

23 Q NOW, IN THE FIRST PHASE OF THE TRIAL, AS I MENTIONED
24 EARLIER, THE JURY DETERMINES WHETHER OR NOT A DEFENDANT IS
25 GUILTY OR NOT GUILTY OF THE CRIME OF MURDER. IN THE FIRST

PETRA M. LACKEY -- VOIR DIRE BY THE COURT

1 PHASE, THE JURY IS NOT CONCERNED AT ALL WITH PUNISHMENT. THE
2 JURY'S ONLY CONCERN, HAS THE STATE PROVEN GUILT BEYOND A
3 REASONABLE DOUBT? DO YOU UNDERSTAND THAT?

4 A YES, I DO.

5 Q AND IF A JURY FINDS A DEFENDANT GUILTY, THEN WE MOVE TO
6 THE SENTENCING PHASE.

7 A UH-HUH (AFFIRMATIVE).

8 Q PLEASE UNDERSTAND THAT WHEN YOU MOVE TO THE SENTENCING
9 PHASE GUILT HAS ALREADY BEEN DETERMINED.

10 A RIGHT.

11 Q SO IN THE BACK OF YOUR MIND DON'T THINK YOU'RE GOING TO
12 A SENTENCING PHASE TO HEAR SELF-DEFENSE, ALIBI, MISTAKE.
13 THAT'S BEEN DONE IN THE FIRST HEARING. AND IF AN INDIVIDUAL
14 HAS BEEN CONVICTED OF MURDER, YOU'RE DEALING WITH A MURDERER
15 WHEN YOU GO TO THE SENTENCING PHASE. DO YOU UNDERSTAND THAT?

16 A I DO UNDERSTAND.

17 Q NOW, SOUTH CAROLINA LAW REQUIRES BEFORE A JURY MAY
18 PROPERLY IMPOSE EITHER LIFE IMPRISONMENT OR THE DEATH PENALTY
19 TO CONSIDER ADDITIONAL EVIDENCE THAT DEALS WITH THE ISSUE OF
20 SENTENCING. SO THAT'S THE PURPOSE OF THIS SENTENCING
21 HEARING, TO HEAR THIS NEW EVIDENCE.

22 YOU WOULD HEAR EVIDENCE -- DO YOU HAVE A QUESTION ABOUT
23 THAT?

24 A NEW EVIDENCE UNRELATED TO THE SPECIFIC MURDER CASE?

25 Q IT MAY BE RELATED TO THE SPECIFIC MURDER CASE, AND IT

PETRA M. LACKEY -- VOIR DIRE BY THE COURT

1 WILL BE RELATED TO IT AND UNRELATED TO IT.

2 A OKAY.

3 Q I'LL GIVE YOU AN EXAMPLE. THE STATE ALLEGES THAT THIS
4 MURDER WAS ACCOMPANIED BY A CIRCUMSTANCE OF WHAT WE CALL
5 AGGRAVATION. THAT'S A TERM OF ART IN THE LAW. IF YOU OPEN
6 THE CODE BOOK OF LAWS, IT LISTS THE CIRCUMSTANCES OF
7 AGGRAVATION. YOU SEE, THE STATE CAN'T SEEK THE DEATH PENALTY
8 IN EVERY CRIME OF MURDER. IT'S ONLY IN CERTAIN SPECIFIED
9 ONES. I THINK I GAVE YOU SOME EXAMPLES EARLIER. IT'S MURDER
10 IN THE COMMISSION OF ARMED ROBBERY, KIDNAPPING, CRIMINAL
11 SEXUAL CONDUCT, KILLING BY POISON. SO IT'S THE MURDER
12 COMBINED WITH THAT CIRCUMSTANCE THAT THE LAW CALLS
13 AGGRAVATING THAT ALLOWS THE JURY TO CONSIDER THE OPTION OF
14 THE DEATH PENALTY.

15 NOW, THAT CIRCUMSTANCE OF AGGRAVATION MAY BE CONNECTED
16 TO AND RELATED TO THE UNDERLYING CRIME ITSELF WHICH WAS
17 CONSIDERED IN THE FIRST PHASE. BUT THERE WILL BE OTHER
18 EVIDENCE OFFERED THAT IS COMPLETELY UNRELATED TO THE ACTUAL
19 EVENT OF THE CRIME THAT IS DEALT WITH IN THE FIRST PHASE. AN
20 EXAMPLE OF THAT MAY BE WHAT THE LAW REQUIRES THAT MUST BE
21 CONSIDERED IS EVIDENCE OF MITIGATION. THIS WOULD BE THINGS
22 ABOUT A DEFENDANT, FOR EXAMPLE, THAT DO NOT RELATE TO THE
23 CRIME. THEY RELATE TO A DEFENDANT'S BACKGROUND, FAMILY
24 HISTORY, SCHOOL RECORDS, MENTAL HEALTH STATUS, THINGS OF THAT
25 NATURE THAT DEAL WITH THE PARTICULAR INDIVIDUAL INVOLVED.

PETRA M. LACKEY -- VOIR DIRE BY THE COURT

1 AND THE LAW SAYS THAT WHEN YOU ENTER THAT SENTENCING PHASE TO
2 BE A FAIR JUROR AND A QUALIFIED JUROR YOU MUST DO SO WITH AN
3 OPEN MIND AND BE WILLING TO IMPOSE EITHER PUNISHMENT AND HAVE
4 THE ABILITY TO IMPOSE EITHER PUNISHMENT.

5 AT THE END OF A SENTENCING PHASE A JUDGE INSTRUCTS THE
6 JURY TO GIVE CAREFUL CONSIDERATION, MEANINGFUL CONSIDERATION
7 TO ANY CIRCUMSTANCE OF AGGRAVATION THAT IS PROVED BEYOND A
8 REASONABLE DOUBT AS WELL AS ANY MITIGATION EVIDENCE THAT IS
9 FOUND IN THE RECORD OF EVIDENCE. AND ONCE ALL OF THOSE
10 FACTORS ARE CONSIDERED, THEN DECIDE WHAT THE APPROPRIATE
11 PENALTY IS. OKAY?

12 A OKAY.

13 Q NOW, AGAIN, NOT THIS CASE BUT JUST PUT YOURSELF IN THE
14 SITUATION OF A SENTENCING JURY AND LET'S SAY YOU HEARD THE
15 SENTENCING PHASE. THE JUDGE HAS INSTRUCTED YOU TO GIVE
16 CAREFUL AND MEANINGFUL CONSIDERATION TO A CIRCUMSTANCE OF
17 AGGRAVATION AND THE MITIGATION EVIDENCE. AND YOU GO BACK IN
18 THE JURY ROOM AND YOU CAREFULLY CONSIDER IT, CONSCIENTIOUSLY
19 DO IT. COULD YOU VOTE FOR LIFE IMPRISONMENT?

20 A (PAUSE) YES.

21 Q IF YOU THOUGHT IT WAS APPROPRIATE?

22 A YES.

23 Q THE FLIP SIDE. YOU CONSIDER ALL THE EVIDENCE, ANY
24 CIRCUMSTANCE OF AGGRAVATION, MITIGATION, EVERYTHING. COULD
25 YOU VOTE FOR THE DEATH PENALTY?

PETRA M. LACKEY -- VOIR DIRE BY THE COURT

1 A YES.

2 Q WOULD THAT BE A DIFFICULT THING TO DO BY THE WAY YOU ARE
3 LOOKING AT ME?

4 A (PAUSE) I'M A FLIGHT ATTENDANT. AND AS A RESULT OF
5 9/11 I NOW FEEL THAT THERE ARE EVIL PEOPLE OUT THERE. AND
6 SOMEBODY WHO IS OUT THERE TO HURT SOMEBODY ELSE, I COULD GIVE
7 THEM THE DEATH PENALTY.

8 Q OKAY. SO YOU COULD---

9 A BUT IT WOULD BE VERY DIFFICULT, BUT I NOW FEEL THAT I
10 COULD DO SOMETHING LIKE THAT, YES.

11 Q OKAY. BECAUSE OF YOUR EMPLOYMENT AS A FLIGHT ATTENDANT
12 AND GIVEN THE EVENTS OF SEPTEMBER 11TH, DO YOU THINK YOU
13 WOULD BE PREDISPOSED TO GIVE ONE PENALTY OR THE OTHER?

14 A NO. IT'S JUST OPENED MY THINKING MORE THAN BEFORE THAT
15 EVENT.

16 Q OKAY. LET'S SAY YOU WERE WITH A JURY THAT VOTED FOR THE
17 DEATH PENALTY -- AND IT MUST BE UNANIMOUS, ALL TWELVE.

18 A OKAY.

19 Q ALL TWELVE MUST AGREE. IN SOUTH CAROLINA THE LAW
20 REQUIRES SOMETHING ADDITIONAL. IN ORDER TO IMPOSE THE DEATH
21 PENALTY, EACH JUROR MUST SIGN HIS OR HER NAME TO THE DEATH
22 VERDICT.

23 A UH-HUH (AFFIRMATIVE).

24 Q IF YOU HAD VOTED FOR THE DEATH PENALTY, COULD YOU TAKE
25 THAT FURTHER STEP AND SIGN YOUR NAME TO THE VERDICT FORM?

PETRA M. LACKEY -- VOIR DIRE BY THE COURT

1 A YES, I COULD.

2 Q DO YOU REMEMBER THAT LIST IN THE JURY ROOM, MS. LACKEY,
3 IT DEALT WITH THREE KINDS OF JURORS?

4 A RIGHT.

5 Q IF ONE OF THOSE FITS YOU, WHICH ONE?

6 A THE THIRD ONE.

7 Q OKAY. NOW I WANT TO SEE IF I UNDERSTAND HOW YOU WOULD
8 APPROACH JURY SERVICE AND HOW YOU WOULD CONDUCT YOURSELF.
9 WOULD YOU APPROACH JURY SERVICE WITH AN OPEN MIND AND FOLLOW
10 YOUR OATH WITH INTEGRITY TO FIND THE TRUTH FROM THE EVIDENCE
11 AND FOLLOW THE LAW AS I INSTRUCT IT?

12 A YES, THAT WOULD BE MY INTENT.

13 Q AND IF A CASE WERE TO MOVE TO THE SENTENCING PHASE,
14 REMEMBERING YOU'RE DEALING WITH A MURDERER, WOULD YOU STILL
15 BE OPEN AND WILLING TO HONOR YOUR OATH TO CAREFULLY CONSIDER
16 THE NEW ADDITIONAL EVIDENCE BEFORE MAKING A DECISION AS TO
17 THE APPROPRIATE PUNISHMENT?

18 A YES.

19 Q AND IF YOU BELIEVED THAT UNDER THE LAW AND FACTS,
20 CAREFUL CONSIDERATION GIVEN TO EVERYTHING, THAT LIFE IN
21 PRISON WERE THE PROPER SENTENCE, YOU COULD VOTE FOR LIFE?

22 A I COULD.

23 Q ON THE OTHER HAND, IF YOU BELIEVED THAT THE DEATH
24 SENTENCE WERE APPROPRIATE, YOU COULD IN FACT VOTE FOR THE
25 DEATH PENALTY. IS THAT TRUE OR NOT TRUE?

1 A YES, I COULD.

2 Q AND YOU MAY WANT SOME CLARIFICATION, IF I DIDN'T EXPLAIN
3 IT WELL. WHEN YOU TALKED ABOUT THE EVIDENCE IN THE
4 SENTENCING PHASE, DOES IT RELATE BACK TO THE CRIME. DO YOU
5 REMEMBER ASKING ME THAT? I TRIED TO EXPLAIN THAT A
6 CIRCUMSTANCE OF AGGRAVATION MAY BE CONNECTED TO THE CRIME AND
7 PART OF IT, BUT IT MAY BE NEW EVIDENCE RECEIVED IN THE
8 SENTENCING PHASE AS WELL THAT IS UNRELATED TO THE ACT OF THE
9 CRIME ITSELF.

10 A MAYBE PREVIOUS ARREST OR THINGS LIKE THAT?

11 Q YEAH. OR THE ABSENCE OF A PRIOR RECORD FOR VIOLENCE.
12 THAT'S LIKE A MITIGATING CIRCUMSTANCE.

13 A RIGHT.

14 Q AN INDIVIDUAL'S NEVER HAD A -- I'M JUST TALKING ABOUT A
15 HYPOTHETICAL CASE.

16 A UH-HUH (AFFIRMATIVE).

17 Q THERE IS A MITIGATING FACT IN THE STATUTE THAT SAYS
18 ABSENCE OF A PRIOR RECORD FOR VIOLENCE, SOMETHING LIKE THAT.
19 SO THAT'S A MITIGATING CIRCUMSTANCE.

20 A RIGHT.

21 Q SEE, THAT'S AN EXAMPLE OF SOMETHING THAT'S UNCONNECTED
22 TO THAT PARTICULAR EVENT.

23 A RIGHT.

24 Q BUT THE LAW REQUIRES THAT THOSE FACTORS BE GIVEN SERIOUS
25 AND MEANINGFUL CONSIDERATION. WOULD YOU HONOR YOUR OATH IN

PETRA M. LACKEY -- VOIR DIRE BY THE COURT

1 THAT REGARD AND DO THAT?

2 A OH, ABSOLUTELY.

3 THE COURT: NOW, MS. LACKEY, I MAY HAVE SOME FOLLOW-UP
4 QUESTIONS. BUT THE ATTORNEYS, I'M SURE, WOULD LIKE TO ASK
5 SOME QUESTIONS AS WELL AND SPEAK WITH YOU.

6 JUROR NUMBER 208: OKAY.

7 THE COURT: MR. MAULDIN?

8 MR. MAULDIN: MAY IT PLEASE THE COURT.

9 VOIR DIRE BY MR. MAULDIN:

10 Q MS. LACKEY, MY NAME IS JOHN MAULDIN, AND I'M THE PUBLIC
11 DEFENDER FOR GREENVILLE COUNTY. AND I, ALONG WITH JIM
12 BANNISTER HERE AND RODNEY RICHEY, REPRESENT JOHN IN THIS
13 MATTER.

14 A UH-HUH (AFFIRMATIVE).

15 Q I'M GOING TO HAVE SOME FOLLOW-UP QUESTIONS, AND I WANT
16 TO JUST -- I'M GOING TO THROW CAUTION TO THE WIND, I GUESS
17 YOU COULD SAY, AND TALK TO YOU ABOUT THE 9/11 EXPERIENCE.

18 A OKAY.

19 Q AND I'M GOING TO TELL YOU WHY AHEAD OF TIME. IN ORDER
20 TO QUALIFY AS A JUROR IN A CASE -- AND THE JUDGE'S
21 RESPONSIBILITY HERE IS TO DETERMINE QUALIFICATION. THEN THE
22 JURY IS SELECTED FROM THE QUALIFIED GROUP. IN ORDER TO BE A
23 QUALIFIED JUROR THE PERSON WOULD NEED TO BE COMFORTABLE AND
24 CONFIDENT THAT THEY WOULD BE UNAFFECTED BY OUTSIDE INFLUENCE.

25 YOU RECALL WHEN THE JUDGE WAS ASKING YOU WHETHER YOU

PETRA M. LACKEY -- VOIR DIRE BY MR. MAULDIN

1 KNEW MEMBERS OF THE WITNESS LIST, SAW PEOPLE, THAT WOULD BE
2 SOMETHING -- THAT COULD LEAD TO AN OUTSIDE INFLUENCE, FOR
3 EXAMPLE.

4 A UH-HUH (AFFIRMATIVE).

5 Q AND IT WOULD BE IMPROPER. IT'S SOMETHING THAT'S
6 INNOCENT. THERE'S NOTHING WRONG WITH HAVING OPINIONS AND
7 OUTSIDE INFLUENCES. BUT IN A CASE YOU HAVE TO BE FREE FROM
8 THEM OR BE ABLE TO NOT BE AFFECTED BY IT.

9 A UH-HUH (AFFIRMATIVE).

10 Q THE SAME THING APPLIES WITH PUBLICITY. HE TALKED ABOUT
11 WHETHER YOU KNEW ABOUT THE CASE. I'LL SET THAT ASIDE.

12 NOW LET'S TALK JUST A MOMENT ABOUT 9/11 AND YOUR
13 CONNECTION WITH AMERICAN AIRLINES.

14 AND ALSO THE FACT THE JUDGE HAS MENTIONED TO YOU THAT IN
15 THE INDICTMENT THE VICTIM IN THIS CASE THAT WE'RE DEALING
16 WITH IS A -- WAS A LAW ENFORCEMENT OFFICER. AND THAT ALSO
17 MUST BE -- YOU MUST BE ABLE TO FEEL CONFIDENT THAT YOU WOULD
18 NOT BE AFFECTED BY OUTSIDE INFLUENCE.

19 SO, THE QUESTION IS THIS, MS. LACKEY. REALIZING YOUR
20 CONNECTIONS WITH THIS TRAGEDY, THE 9/11 TRAGEDY, ARE YOU
21 CONFIDENT THAT YOU COULD SERVE AS A FAIR AND IMPARTIAL JUROR
22 IN A CASE THAT INVOLVES AN ALLEGED MURDER OF A LAW
23 ENFORCEMENT OFFICER AND INVOLVES A POSSIBLE CONSIDERATION OF
24 A DEATH SENTENCE? DO YOU FEEL CONFIDENT THAT YOU COULD TO
25 THAT?

1 A I DO.

2 Q AND YOU SAY THAT WITH CONFIDENCE?

3 A I DO.

4 Q ALL RIGHT. NOW, LET ME TALK A LITTLE BIT ABOUT THE
5 CAPITAL PUNISHMENT ISSUE. YOU MENTIONED TO THE COURT THAT
6 SINCE THE 9/11 EXPERIENCE, YOUR QUOTE WAS, "IT HAS OPENED MY
7 THINKING ABOUT CAPITAL PUNISHMENT."

8 A RIGHT.

9 Q I WANT TO ASK YOU IF YOU CAN DESCRIBE TO THE COURT HOW
10 YOU WOULD DESCRIBE YOUR FEELINGS BEFORE 9/11 ABOUT CAPITAL
11 PUNISHMENT AND HOW YOU FEEL NOW.

12 A WELL---

13 Q AND IF THERE IS A CHANGE, FINE. IF THERE ISN'T A
14 CHANGE, FINE.

15 A THERE IS A CHANGE. I WOULD HAVE FELT UNCOMFORTABLE
16 SENTENCING SOMEONE TO DEATH, BECAUSE I HAVE ALWAYS BELIEVED
17 IN THE GOODNESS OF PEOPLE, THEIR INHERENT GOODNESS. NOW I
18 FEEL LIKE THERE IS EVIL OUT THERE, AND WE NEED ADDRESS IT.
19 EACH INDIVIDUAL PROBABLY NEEDS TO ADDRESS IT.

20 Q OKAY. WITH REGARD TO YOUR FEELINGS IN GENERAL, AND
21 OBVIOUSLY AN ADJUSTMENT WAS MADE AFTER THE 9/11 EXPERIENCE,
22 BUT WITH REGARD TO THE EVOLUTION OF YOUR FEELINGS, HAVE YOU
23 HAD -- THE VIEWS THAT YOU HAVE EXPRESSED HAVE YOU HAD THEM
24 OVER PRETTY MUCH YOUR ADULT LIFE OR HAVE YOU GONE IN AND OUT
25 OF DIFFERENT VIEWS ABOUT CAPITAL PUNISHMENT?

1 A INTERESTING THAT YOU SHOULD ASK ME THAT. ACTUALLY, WHEN
2 I WAS IN COLLEGE, I DID FEEL CAPITAL PUNISHMENT WAS OKAY, AND
3 THEN I KIND OF DRIFTED AWAY FROM THAT AGAIN, AND NOW I'M
4 REEVALUATING THAT.

5 Q SO YOU HAVE GONE THROUGH SOME CHANGES?

6 A I HAVE.

7 Q DO YOU -- CAN YOU TELL ME -- OTHER THAN WHAT IS OBVIOUS
8 FROM THE ANSWER THAT YOU GAVE A MOMENT AGO, CAN YOU GIVE THE
9 COURT WHAT YOU WOULD SAY WOULD BE THE PRIMARY REASON OR
10 PURPOSE FOR HAVING THE INSTRUMENT OF THE DEATH PENALTY IN OUR
11 CRIMINAL JUSTICE SYSTEM? AND BY THE WAY, IF YOU HAVE -- I
12 KNOW YOU'RE JUST THINKING ABOUT IT AS I'M ASKING. SO...

13 A SAY THAT AGAIN. YOU...

14 Q IF YOU WERE -- AND I'M ASKING IF YOU HAVE THOUGHTS
15 REGARDING WHAT THE PRIMARY PURPOSE OR REASON WHY WE WOULD
16 HAVE -- OTHER THAN WHAT YOU'VE ALREADY EXPRESSED, AND THAT IS
17 THIS PRESENCE OF EVIL---

18 A UH-HUH (AFFIRMATIVE).

19 Q DO YOU HAVE ANY OTHER REASONS OR PURPOSES THAT YOU CAN
20 IMAGINE FOR THE CAPITAL PUNISHMENT IN OUR SYSTEM?

21 A NO.

22 Q OKAY. HAVE YOU FOUND IN -- SINCE YOUR EXPERIENCE WITH
23 THE AMERICAN AIRLINES AND 9/11, HAVE YOU FOUND YOURSELF
24 DISCUSSING THE SUBJECT OF CAPITAL PUNISHMENT WITH FRIENDS OF
25 FAMILY OR OTHERS? AND IF SO, WHAT HAVE YOU FOUND YOURSELF

PETRA M. LACKEY -- VOIR DIRE BY MR. MAULDIN

1 SAYING IN THOSE DISCUSSIONS?

2 A I ACTUALLY HAVEN'T DISCUSSED IT.

3 Q ALL RIGHT. NOW LET ME TALK JUST A MINUTE -- AND IF
4 SOMETHING COMES TO MIND, BY THE WAY, ON THIS SUBJECT, JUST
5 FEEL FREE TO---

6 A OKAY.

7 Q IN OUR SYSTEM -- AND THE COURT HAD DESCRIBED THE TWO
8 TRIALS, THE TWO TRIALS.

9 A THE TWO PHASES.

10 Q RIGHT.

11 A RIGHT.

12 Q IN THE FIRST TRIAL, THE SUBJECT OF THE PENALTY SHOULD
13 NOT BE AN ISSUE. IN OTHER WORDS, WE SET THAT ASIDE AND THE
14 ONLY ISSUE IS THE GUILT OR INNOCENCE OF THE PERSON CHARGED.
15 AND FOR A MOMENT, IN MY QUESTIONS, WE'RE GOING TO BE TALKING
16 ABOUT A HYPOTHETICAL SITUATION, NOT THE CASE BEFORE THE COURT
17 IN THIS MATTER.

18 A OKAY.

19 Q WE'RE TALKING ABOUT JUST AN IMAGINARY CASE. IN THAT
20 FIRST PHASE, THE ONLY ISSUE IS THE GUILT OR INNOCENCE OF THAT
21 PERSON, AND THE EVIDENCE MUST BE PROVEN BEYOND A REASONABLE
22 DOUBT, AND IT'S ONLY UPON THE CONVICTION OF THE OFFENSE OF
23 MURDER WOULD A SECOND PHASE EVEN TAKE PLACE.

24 NOW, YOU FOLLOW THE PROCEDURE?

25 A YES, I DO.

1 Q IN THAT SECOND TRIAL -- AND YOU ASKED THE COURT ABOUT
2 WHEN HE SAID OTHER EVIDENCE, AND YOU ASKED HIM WHETHER IT WAS
3 RELATED OR UNRELATED, THAT'S EXACTLY THE FOCUS. BECAUSE SOME
4 OF THE AGGRAVATING CIRCUMSTANCES AND FRANKLY SOME OF THE
5 MITIGATING INFORMATION OR CIRCUMSTANCES THAT WOULD COME
6 BEFORE THAT SENTENCING JURY MAY VERY WELL HAVE DIRECT
7 CONNECTION WITH THE ACTUAL INCIDENT.

8 A UH-HUH. (AFFIRMATIVE).

9 Q THEY WOULD NOT CONSTITUTE SELF-DEFENSE OR ALIBI OR
10 INSANITY AT THE TIME OF THE OFFENSE OF MISTAKE. THAT'S NOT
11 THE TYPE THAT WE'RE TALKING ABOUT. WHAT WE'RE TALKING ABOUT,
12 THE COURT MENTIONED IT MIGHT HAVE BEEN THE KILLING DURING THE
13 COMMISSION OF ANOTHER CRIME OR ROBBERY OR KIDNAPPING. IT
14 COULD BE THE KILLING OF A POLICE OFFICER WHILE HE WAS IN THE
15 LINE OF DUTY, THE KILLING OF MORE THAN ONE PERSON.

16 A UH-HUH (AFFIRMATIVE).

17 Q THOSE ARE LISTED AGGRAVATOR TYPE THINGS.

18 A RIGHT.

19 Q SO THEY ARE OBVIOUSLY CONNECTED. BUT WHEN THAT JURY
20 RECEIVES THE INFORMATION FOR SENTENCING, TO CONSIDER THE TWO
21 SENTENCES, THE PROSECUTION WOULD COME BEFORE THAT JURY, THE
22 SAME JURY THAT HAD FOUND THE PERSON GUILTY, AND THEY WOULD
23 SAY, "NOT ONLY IS IT A MURDER, BUT IT'S THIS ADDITIONAL BAD
24 STUFF." AGGRAVATING CIRCUMSTANCES IS WHAT THE LAW CALLS IT.

25 THE DEFENDANT WOULD HAVE THE OPPORTUNITY TO PRESENT

PETRA M. LACKEY -- VOIR DIRE BY MR. MAULDIN

1 MITIGATING INFORMATION, MS. LACKEY, BUT HE WOULD NOT BE
2 REQUIRED TO DO SO. THAT'S REAL CRITICAL FOR YOUR
3 UNDERSTANDING OF THE PROCEDURE. THAT SENTENCING JURY COULD
4 BE FACED WITH A CONVICTED MURDERER WITH EVIDENCE OF
5 AGGRAVATION BUT NOT ONE SINGLE OUNCE OF MITIGATION BEFORE IT.

6 A OKAY.

7 Q NOW, THE QUESTION IS, WOULD YOU STILL CONSIDER OR COULD
8 YOU IF INSTRUCTED BY THE COURT -- IF INSTRUCTED BY THE COURT,
9 COULD YOU STILL CONSIDER THE IMPOSITION OF A LIFE SENTENCE?
10 AND BEFORE YOU ANSWER, I WILL TELL YOU THAT OUR LAW -- OUR
11 LAW SAYS THAT A JURY CAN GIVE A LIFE SENTENCE FOR NO OTHER
12 REASON THAN SIMPLY AN ACT OF MERCY, JUST AN ACT OF MERCY.

13 A MERCY. OKAY.

14 Q COULD YOU STILL CONSIDER A LIFE SENTENCE UNDER THE
15 CIRCUMSTANCES THAT I HAVE DESCRIBED?

16 A YES.

17 Q NOW, IN ADDITION, OBVIOUSLY, IF EVIDENCE WAS PRESENTED
18 IN MITIGATION AND THE JUDGE INSTRUCTED YOU TO CONSIDER THAT
19 INFORMATION, YOU LIKewise WOULD OBVIOUSLY CONSIDER
20 INFORMATION -- PERSONAL INFORMATION SUCH AS BACKGROUND,
21 MENTAL STATE AT THE TIME, AGE, LACK OF A PRIOR RECORD? THAT
22 KIND OF THING COULD BE PUT BEFORE YOU AND YOU WOULD TAKE THAT
23 INTO CONSIDERATION IN DECIDING WHICH PENALTY; IS THAT---

24 A IT WOULD BE DUMB NOT TO.

25 Q WELL, THAT'S WHY THE LAW IS WRITTEN THE WAY IT IS, MS.

PETRA M. LACKEY -- VOIR DIRE BY MR. MAULDIN

1 LACKEY, BECAUSE THAT'S THE WAY IT SHOULD BE.

2 A UH-HUH (AFFIRMATIVE).

3 Q AND YOU'RE RIGHT, IT WOULD BE DUMB NOT TO. BUT THE LAW
4 IS WRITTEN THAT WAY SO THAT EACH SIDE WOULD HAVE AN
5 OPPORTUNITY AND A FAIR TRIAL.

6 A I SEE. OKAY.

7 Q NOW, THE LAST QUESTIONS I WOULD ASK YOU, MS. LACKEY, ARE
8 THESE. IF YOU WERE CHOSEN ON A JURY -- AND AGAIN, THIS IS A
9 HYPOTHETICAL JURY -- AND YOU RECEIVED EVIDENCE OF GUILT, AND
10 YOU FOUND THE PERSON GUILTY, AND YOU GO TO THE SECOND TRIAL
11 AND THE PROSECUTION PRESENTS THEIR EVIDENCE IN AGGRAVATION,
12 AND THE DEFENSE WOULD HAVE AN OPPORTUNITY TO PRESENT THEIR
13 EVIDENCE IN MITIGATION, THE JUDGE WOULD INSTRUCT THE JURY
14 ABOUT HOW TO USE THAT INFORMATION.

15 A RIGHT.

16 Q YOU THEN WOULD GO TO THE JURY ROOM AND COULD DELIBERATE
17 AS LONG AS NECESSARY TO DETERMINE A PROPER SENTENCE. THERE
18 ARE TWO CHOICES, AND OBVIOUSLY THAT INDICATES THAT NEITHER IS
19 AUTOMATIC.

20 A UH-HUH (AFFIRMATIVE).

21 Q THERE IS ALWAYS TWO CHOICES.

22 A UH-HUH (AFFIRMATIVE).

23 Q WHEN YOU DELIBERATE, YOU COULD DELIBERATE FOR HOURS OR
24 DAYS OR HOWEVER LONG IT TOOK. THE JUDGE MENTIONED TO YOU A
25 MOMENT AGO THAT ALL TWELVE WOULD HAVE TO SIGN THE SENTENCE IF

PETRA M. LACKEY -- VOIR DIRE BY MR. MAULDIN

1 THE SENTENCE WAS DEATH. ALL TWELVE WOULD HAVE TO SIGN IT.

2 A UH-HUH (AFFIRMATIVE).

3 Q LET'S SAY THAT AFTER LENGTHY DELIBERATIONS, FULL
4 DISCUSSIONS, OPEN CONVERSATIONS ABOUT WHAT EVIDENCE HAD BEEN
5 PRESENTED, WHAT EVIDENCE HADN'T BEEN PRESENTED, WHAT YOU HAD
6 HEARD, WHAT THE WITNESSES HAD TESTIFIED TO, YOU COME TO THE
7 POINT WHERE YOU TAKE NUMEROUS VOTES AND YOU COME TO THE POINT
8 WHERE YOU TAKE A FINAL VOTE, AND THAT FINAL VOTE IS TEN FOR
9 ONE SENTENCE AND TWO FOR ANOTHER.

10 NOW, IN ORDER TO DETERMINE -- TO MAKE THE DECISIONS THAT
11 THE COURT AND THE LAWYERS IN THIS MATTER HAVE TO MAKE, WE
12 HAVE TO KNOW HOW YOU, MS. LACKEY, WOULD RESPOND TO SUCH A
13 SITUATION.

14 IF YOU -- AND I'M GOING TO PUT YOU IN BOTH SCENARIOS.
15 IF YOU IN A HYPOTHETICAL CASE HAD FULLY AND COMPLETELY
16 DETERMINED WHAT YOU THOUGHT WAS THE PROPER PUNISHMENT AND YOU
17 WERE IN THE MINORITY -- LIKE THERE WERE TWO PEOPLE FOR THE
18 SENTENCE THAT YOU BELIEVED WAS RIGHT AND TEN FOR THE OTHER
19 SENTENCE -- AND YOU -- WOULD YOU IN ORDER TO RESOLVE THE CASE
20 -- IN ORDER TO FINALLY COME TO A CONCLUSION, IN ORDER TO END
21 THE MATTER AND GO HOME -- WOULD YOU CAVE IN AND GO WITH THE
22 MAJORITY OR WOULD YOU REMAIN FIRM WITH REGARD TO WHAT YOU HAD
23 DECIDED WAS A PROPER INDIVIDUAL AND MORAL CHOICE THAT YOU HAD
24 MADE? WHICH WOULD YOU DO?

25 A (PAUSE)

1 Q DO YOU UNDERSTAND THE QUESTION?

2 A I DO.

3 Q ALL RIGHT.

4 A I DO. (PAUSE) WELL, TO BE WITH INTEGRITY, I WOULD HAVE
5 TO STAY WITH WHAT I VOTED.

6 Q AND I'M NOT SAYING TO STOP DELIBERATIONS. IN OTHER
7 WORDS, OBVIOUSLY, THERE WOULD BE AN ATTEMPT TO BE UNANIMOUS.

8 A UH-HUH (AFFIRMATIVE). SO WE WOULD HAVE TO KEEP
9 COMMUNICATING.

10 Q SURE. BUT THE QUESTION IS, WOULD YOU SIDE WITH THE
11 MAJORITY SIMPLY TO END THE CASE AND GIVE UP A POSITION YOU
12 BELIEVED IN? AND I UNDERSTAND YOUR ANSWER IS THAT YOU WOULD
13 NOT.

14 A I WOULD NOT.

15 Q ALL RIGHT. AND THEN I PUT YOU INTO THE GROUP OF TEN.
16 WOULD YOU, IF YOU WERE IN THAT SUPER MAJORITY GROUP, TRY TO
17 FORCE THE MINORITY OF TWO TO SIDE WITH THE MAJORITY TO
18 RESOLVE THE CASE OR WOULD YOU RESPECT THEIR VIEW?

19 A WELL, WHAT DO YOU MEAN BY FORCE? WOULD I VERBALLY---

20 Q WELL, OBVIOUSLY, YOU'RE NOT GOING TO---

21 A NO. VERBALLY---

22 Q DELIBERATE, DISCUSS, NEGOTIATE AND REVIEW THE EVIDENCE
23 IS CERTAINLY WHAT THE COURT EXPECTS AND REQUIRES OF A JURY.

24 A RIGHT.

25 Q SO WHEN I SAY "FORCE," I'M TALKING ABOUT WOULD YOU

PETRA M. LACKEY -- VOIR DIRE BY MR. MAULDIN

1 ATTEMPT TO REQUIRE---

2 A JUST---

3 Q YEAH. WOULD YOU ATTEMPT TO REQUIRE THE JUROR TO SIDE
4 WITH YOU OR WOULD YOU RESPECT THE JUROR'S VIEW JUST AS YOU
5 WOULD HAVE EXPECTED TO BE RESPECTED?

6 A EXACTLY, YES.

7 MR. MAULDIN: ALL RIGHT. THAT'S ALL. THANK YOU, YOUR
8 HONOR.

9 THE COURT: MR. ARIAIL?

10 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR.

11 VOIR DIRE BY SOLICITOR ARIAIL:

12 Q MS. LACKEY, MY NAME IS BOB ARIAIL, AND I'M THE SOLICITOR
13 FOR THE THIRTEENTH CIRCUIT OF SOUTH CAROLINA. AND WHAT THAT
14 MEANS IS THAT THE SOLICITOR IS AN OLD WORD THAT MEANS
15 DISTRICT ATTORNEY IN COMMON PRACTICE.

16 A UH-HUH (AFFIRMATIVE).

17 Q WE HAVE MAINTAINED THE OLD ENGLISH SYSTEM.

18 I WILL BE ASSISTED BY MY DEPUTY SOLICITOR, BETTY STROM
19 IN THE BEIGE, AND ONE OF MY ASSISTANTS, MINDY HERVEY IN THE
20 GREEN.

21 I JUST WANT TO ASK ONE QUESTION -- OR CLARIFICATION.
22 YOU INQUIRED OF THE JUDGE WHEN HE ASKED YOU ABOUT THE
23 MITIGATING CIRCUMSTANCES GETTING INTO THE SENTENCING PHASE, A
24 VERY SPECIFIC QUESTION. YOU ASKED ABOUT WOULD THE EVIDENCE
25 OF THE -- WOULD THERE BE ADDITIONAL EVIDENCE? AND I WANT TO

1 MAKE SURE THAT WE HAVE CLARIFIED THAT.

2 THE EVIDENCE OF THE ORIGINAL CASE WOULD STILL BE
3 AVAILABLE FOR THE JURY TO CONSIDER IN THE SENTENCING PHASE.

4 A OKAY.

5 Q IT WOULDN'T JUST GO AWAY.

6 A OKAY.

7 Q IT WOULDN'T NECESSARILY BE REPEATED, BUT IT WOULD BE ALL
8 THERE AND, THE COURT WOULD INSTRUCT YOU, YOU COULD CONSIDER
9 THE NATURE OF THE CRIME AND WHAT YOU HAD ALREADY DONE BEFORE.
10 YOU WOULDN'T HAVE TO WASH YOUR MIND OUT AND---

11 A UH-HUH (AFFIRMATIVE).

12 Q ---THROW IT ALL WAY. ALL RIGHT?

13 ON THAT -- JUST ONE OTHER THING. (OFF RECORD WITH CO-
14 COUNSEL) DO YOU KNOW OF ANYTHING IN YOUR BACKGROUND OR --
15 NOT BACKGROUND NECESSARILY BUT ANY EITHER RELIGIOUS, MORAL,
16 SOCIAL, POLITICAL VIEW THAT YOU MAY HAVE THAT WOULD IMPEDE OR
17 AFFECT YOUR ABILITY TO FAIRLY CONSIDER THE IMPOSITION OF THE
18 DEATH PENALTY THAT THE STATE WOULD REQUEST?

19 A NO.

20 Q AND IF YOU HAD SUCH A VIEW OR SOMETHING DEVELOPED DURING
21 THE COURSE OF THE TRIAL THAT BROUGHT A VIEW TO MIND, WOULD
22 YOU BE ABLE TO FOLLOW THE JUDGE'S INSTRUCTION AND SET ASIDE
23 THAT VIEW AND FOLLOW WHAT HE TOLD YOU THE LAW WAS?

24 A YES.

25 Q RATHER THAN ASSERTING YOUR OWN PERSONAL VIEW?

PETRA M. LACKEY -- VOIR DIRE BY SOLICITOR ARIAIL

1 A YES.

2 SOLICITOR ARIAIL: THANK YOU VERY MUCH. THAT'S ALL I
3 HAVE, YOUR HONOR.

4 THE COURT: MS. LACKEY, THANK YOU VERY MUCH, MA'AM.
5 YOU'RE GOING TO GO TO A JURY ROOM JUST BRIEFLY, AND THEN
6 WE'LL GET YOU BACK OUT HERE AND GIVE YOU FURTHER INSTRUCTIONS
7 AND YOU'LL BE FREE TO GO. APPRECIATE YOUR PATIENCE.

8 JUROR NUMBER 208: OKAY.

9 (JUROR EXITS COURTROOM AT 6:30 P.M.)

10 THE COURT: THE JUROR HAS BEEN EXCUSED. QUALIFIED OR
11 NOT QUALIFIED?

12 SOLICITOR ARIAIL: QUALIFIED FROM THE STATE.

13 MR. MAULDIN: QUALIFIED.

14 THE COURT: ALL RIGHT. JUST TAKE YOUR TIME. LET ME
15 KNOW WHEN YOU'RE READY TO PROCEED. WE'LL START WITH THE
16 STATE FIRST.

17 SOLICITOR ARIAIL: PRESENT HER.

18 MR. MAULDIN: (OFF RECORD WITH CO-COUNSEL) SWEAR THE
19 JUROR.

20 THE COURT: ASK MS. LACKEY TO COME BACK, PLEASE.

21 MR. MAULDIN: AND, YOUR HONOR, I THINK WE HAVE TO --
22 ACCORDING TO YOUR---

23 THE COURT: THAT'S RIGHT. HOLD A SECOND. HOLD A
24 SECOND. THANK YOU, SIR.

25 BEFORE I ADVISE HER -- SHE WOULD BE NUMBER TWELVE. AND

MATTERS AND MOTIONS

1 I THANK YOU, MR. MAULDIN. I INDICATED BEFORE WE IDENTIFIED
2 NUMBER TWELVE AND RECEIVED THAT JUROR THAT WE WERE GOING TO
3 REVISIT, TO THE EXTENT THE PARTIES WISH, ANY BATSON ISSUE.
4 WE WILL DO IT AGAIN IN THE CONTEXT OF ANY ALTERNATES. BUT I
5 DID NOT WANT TO SO TO SPEAK LOCK IN THE TWELVE BEFORE GIVING
6 AN ADDITIONAL OPPORTUNITY TO RAISE BATSON MOTIONS. AND SO
7 I'M GOING TO GO DOWN THE LIST OF THE ONES THAT I HAVE
8 INDICATED, AND IF I HAVE OVERLOOKED SOMETHING, I WANT YOU TO
9 BRING IT TO MY ATTENTION.

10 JUROR 385 -- AND I'LL JUST USE THE LAST NAME, WHITE.
11 THERE WAS NO BATSON MOTION.

12 JUROR 320, LAST NAME RUSSELL, EXCUSED BY DEFENDANT,
13 BATSON MOTION FILED. SO IF THE STATE WANTS TO PURSUE THAT,
14 MAKE A NOTE OF IT.

15 JUROR 250, LAST NAME MCKINLEY, STRUCK BY DEFENDANT, NO
16 BATSON MOTION.

17 JUROR 353, STUBER, STRUCK BY DEFENDANT, BATSON MOTION
18 WAS FILED.

19 JUROR 374, WADE, STRUCK BY DEFENDANT, BATSON MOTION WAS
20 FILED.

21 MR. MAULDIN: WAIT, I---

22 THE COURT: DID I MISS ONE? 374.

23 MR. MAULDIN: THERE HE IS. OKAY.

24 THE COURT: BATSON MOTION FILED.

25 JUROR 11, BAILEY, STRUCK BY THE STATE, BATSON MOTION

MATTERS AND MOTIONS

1 FILED.

2 JUROR 261, MILLER, STRUCK BY THE STATE, BATSON MOTION
3 MADE.

4 JUROR 316, ROGERS, STRUCK BY DEFENDANT, NO BATSON
5 MOTION.

6 JUROR 384, WHERRY, STRUCK BY DEFENDANT, BATSON MOTION
7 MADE.

8 JUROR 57, COBB, STRUCK BY DEFENDANT, NO BATSON MOTION.

9 JUROR 330, SINGLETON, STRUCK BY THE STATE, BATSON MOTION
10 FILED.

11 JUROR 388, WILLIAMS, STRUCK BY THE STATE, BATSON MOTION
12 FILED.

13 JUROR 38, BUSHONG, STRUCK BY DEFENDANT, BATSON MOTION
14 FILED.

15 TO THE EXTENT EITHER SIDE -- IF I -- IF I MISSED ONE AND
16 A BATSON MOTION WAS FILED, PLEASE EDUCATE ME ON THAT. IF
17 NOT, WE CAN MOVE FORWARD. AND TO THE EXTENT EITHER SIDE
18 WANTS TO REVISIT A BATSON MOTION AT THIS TIME, IN LIGHT OF
19 THE MANNER IN WHICH THE STRIKES WERE EXERCISED AND THE
20 COMPOSITION OF THE JURY AND THAT WE NOW HAVE A TWELFTH JUROR
21 READY TO BE SEATED, I'D BE GLAD TO HEAR FULLY FROM BOTH
22 SIDES.

23 WOULD Y'ALL LIKE ME TO GO DOWN INDIVIDUALLY AND WHEN ONE
24 WAS FILED AND JUST ASK THE MOVING PARTY IF THEY WANT TO
25 PURSUE IT? WOULD THAT BE EASIER?

MATTERS AND MOTIONS

1 **SOLICITOR ARIAIL:** WELL, I THINK WHAT I'M HAVING A
2 DISCUSSION IS WHY -- WHAT DIFFERENCE DOES IT MAKE WHETHER WE
3 JUST GO ON AND TELL THE JUROR THAT SHE IS INCLUDED. WE
4 HAVEN'T TOLD THEM ANY NUMBER. SO SHE COULD BECOME A MEMBER
5 AND THEN BACK UP AND BE AN ALTERNATE. I JUST WORRY ABOUT HER
6 STANDING IN THE HALLWAY AND...

7 THE SECOND REASON IS I'D LIKE TO HAVE A LIT -- I MEAN, I
8 CAN TELL YOU WHICH ONES I WANT TO PURSUE, BUT I WOULD LIKE TO
9 ALSO FLESH OUT RATHER THAN JUST STANDING UP AND WANDERING
10 AROUND HERE AT THIS LATE HOUR, IF THAT COULD BE DONE. YOU
11 TELL ME, AND THEN I'LL---

12 **THE COURT:** NO. AND I'LL HEAR YOUR SUGGESTIONS. WHAT
13 ABOUT THAT?

14 **MR. MAULDIN:** I AM IN GENERAL AGREEMENT. THE PROBLEM
15 WITH THAT IS WE HAVE ONE MORE MEMBER OF THIS PANEL. NOW, I
16 DON'T KNOW WHERE THE RULINGS WOULD GO. IT SEEMS LIKE THE
17 RULINGS -- I DON'T KNOW WHETHER WE -- YOU KNOW, WHAT ARE WE
18 GOING TO DO WITH THE NEXT JUROR IN THE MEANTIME? IF WE CALL
19 IT A NIGHT, WE JUST MAKE HER COME BACK OR -- SO THAT'S PUTS
20 US IN A LITTLE BIT OF A---

21 **THE COURT:** NO. WE'RE GOING TO DEAL WITH THE NEXT
22 JUROR. AND ALSO, WE HAVE A JUROR WHO HAS BEEN HERE ALL DAY
23 WHO DIDN'T SHOW UP MONDAY THAT WE'RE GOING TO QUALIFY
24 TONIGHT.

25 **MR. MAULDIN:** RIGHT. BUT THAT WOULD JUST BE THE

MATTERS AND MOTIONS

1 GENERAL COURT QUALIFICATION AT THIS LEVEL?

2 THE COURT: RIGHT. AND IF QUALIFIED, PLACE IN A PANEL.

3 MR. MAULDIN: RIGHT. SO THAT'S THE ONLY DOWN SIDE TO
4 DELAY, I GUESS. AND I AGREE, I WOULD LOVE TO BE ABLE TO GO
5 BACK AND THOROUGHLY REVIEW SO I CAN MAKE A MEANINGFUL
6 STATEMENT.

7 THE COURT: Y'ALL HUDDLE UP AND TELL ME WHAT YOU WANT
8 TO DO.

9 SOLICITOR ARIAIL: WE'RE CERTAINLY NOT ASSERTING THAT
10 HE IS WAIVING ANY BATSON BY YOU TELLING THIS PERSON SHE IS
11 QUALIFIED.

12 THE COURT: RIGHT. AND IF WE DO IT NOW, WE'LL REVISIT
13 IT IN THE CONTEXT OF THE ALTERNATES. BUT YOU'RE EXACTLY
14 RIGHT, THIS JUROR DOESN'T KNOW WHETHER IT'S ONE TO TWELVE OR
15 AN ALTERNATE. THAT'S A VALID POINT.

16 MR. MAULDIN: I WOULD SAY THE SAFEST THING, WE COULD
17 EITHER JUST SIMPLY SAY SHE'S A JUROR AND THEN SHE EITHER ENDS
18 UP BEING AN ALTERNATE BECAUSE SOMEBODY ABOVE HER GETS IN OR
19 YOU COULD DO THE SAME THING YOU DO ON OTHER JURORS THAT WERE
20 QUALIFIED AND SUBJECT TO BATSON CHALLENGES, THAT IS, TELL HE
21 SHE IS IN THE POOL FROM WHICH THE JURY WILL BE SELECTED. SHE
22 IS QUALIFIED, PLEASE STAY IN TOUCH. IT DOESN'T MATTER TO ME
23 WHICH WAY.

24 THE COURT: SHE IS A JUROR. THE QUESTION IS, IS SHE A
25 MEMBER OF THE TWELVE OR BECAUSE OF SOME BATSON VIOLATION THAT

MATTERS AND MOTIONS

1 MAY SURFACE IS SHE AN ALTERNATE?

2 MR. MAULDIN: IT WOULDN'T MATTER, YOUR HONOR. JUST
3 JUROR IS ENOUGH FOR US.

4 SOLICITOR ARIAIL: I AGREE. I MEAN, SHE IS A JUROR.

5 THE COURT: ALL RIGHT. THANK YOU. WE'LL LET MS.
6 LACKEY GO.

7 BRING HER IN, PLEASE, AND WE'LL DISMISS HER.

8 (JUROR REENTERS COURTROOM AT 6:43 P.M.)

9 THE COURT: MS. LACKEY, THANK YOU FOR YOUR PATIENCE.
10 YOU HAVE BEEN SELECTED AS A JUROR IN THIS CASE.

11 JUROR NUMBER 208: OH, OKAY.

12 THE COURT: YOU'RE NOT GOING TO BE SEQUESTERED AT THIS
13 TIME, AS I MENTIONED ON MONDAY. WE'RE GOING TO WAIT UNTIL
14 THE ACTUAL TRIAL BEGINS.

15 NOW, I HAVE AN ORDER HERE THAT I'M GOING TO GIVE YOU.
16 IT WAS TYPED UP A WHILE BACK, AND I BELIEVE IT IS SELF-
17 EXPLANATORY, BUT I'M GOING TO REVIEW IT WITH YOU BRIEFLY.

18 IT SAYS BEGINNING WEDNESDAY, FEBRUARY 6TH, TODAY, CALL A
19 PARTICULAR NUMBER AFTER EIGHT O'CLOCK. I WANT YOU TO CALL
20 THE NUMBER EVEN THOUGH I'M GOING TO TELL YOU THE MESSAGE IS
21 TO CALL BACK TOMORROW NIGHT. I JUST WANT YOU TO GET IN THE
22 HABIT OF FOLLOWING THESE INSTRUCTIONS.

23 JUROR NUMBER 208: ALL RIGHT.

24 THE COURT: THE MESSAGE TONIGHT WILL BE TO CALL BACK
25 TOMORROW NIGHT AFTER 8:00. I IMAGINE THAT THE MESSAGE WILL

MATTERS AND MOTIONS

1 BE TOMORROW NIGHT TO REPORT AT SOME POINT ON FRIDAY. THE
2 MESSAGE WILL TELL YOU WHERE TO PARK, THINGS OF THAT NATURE.
3 IN FACT, THIS WRITTEN ORDER TALKS ABOUT PACKING YOUR BAGS AND
4 LEAVING THEM IN YOUR VEHICLE, NOT BRINGING BEEPERS AND CELL
5 PHONES WITH YOU, THINGS OF THAT NATURE.

6 AND ALSO, VERY IMPORTANTLY, IT REMINDS YOU OF THE
7 CONTINUING EFFECT OF THE ORDER I HAVE GIVEN YOU NOT TO
8 DISCUSS THE CASE, NOT TO SPECULATE ABOUT THE CASE AND DO NOT
9 EXPOSE YOURSELF TO ANY MEDIA COVERAGE ABOUT THE CASE.

10 DO YOU UNDERSTAND THOSE INSTRUCTIONS?

11 JUROR NUMBER 208: I DO.

12 THE COURT: ALL RIGHT. THANK YOU SO MUCH. LOOK
13 FORWARD TO SEEING YOU PROBABLY ON FRIDAY.

14 JUROR NUMBER 208: OKAY.

15 THE COURT: THANK YOU, MA'AM.

16 JUROR NUMBER 208: THANK YOU.

17 (JUROR EXITS COURTROOM AT 6:45 P.M.)

18 THE COURT: MS. KESSLER?

19 (JUROR ENTERS COURTROOM AT 6:46 P.M.)

20 THE COURT: MS. KESSLER, I WANT TO THANK YOU FOR BEING
21 HERE AND APOLOGIZE FOR THE DELAY. WE APPRECIATE SO MUCH YOUR
22 PATIENCE. IT'S JUST TAKING A LONG TIME TO GET THROUGH THE
23 PROCESS. IT'S VERY IMPORTANT, AND IT'S IMPORTANT THAT WE DO
24 IT THOROUGHLY AND PROPERLY, AND I HOPE YOU CAN APPRECIATE
25 THAT.

MATTERS AND MOTIONS

1 JUROR NUMBER 203: I DO.

2 AMY J. KESSLER (WHITE FEMALE),
3 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 VOIR DIRE BY THE COURT:

5 Q I'M GOING TO TALK TO YOU A LITTLE BIT MORE ABOUT A
6 CAPITAL CASE, WHAT'S INVOLVED, YOUR VIEWS THAT COULD COME UP
7 IN A CAPITAL CASE. AND THE ATTORNEYS WILL HAVE QUESTIONS AS
8 WELL BECAUSE WE'RE IN THE PROCESS OF DETERMINING AND
9 IDENTIFYING JURORS WHO WOULD QUALIFY AND BE FAIR TO BOTH
10 SIDES. OKAY?

11 A RIGHT.

12 Q THIS CASE ARISES FROM AN INCIDENT THAT OCCURRED IN
13 GREENVILLE COUNTY ON DECEMBER THE 6TH, 2000. THE INDICTMENT
14 CHARGES THE DEFENDANT, MR. WOOD, WITH MURDER. THE VICTIM
15 IDENTIFIED IN THE INDICTMENT IS ERIC NICHOLSON, WHO WAS AT
16 THAT TIME A STATE TROOPER.

17 THIS CASE RECEIVED SUBSTANTIAL ATTENTION IN THE MEDIA.
18 I WANT TO KNOW INITIALLY FROM YOU, MS. KESSLER, IF YOU WERE
19 EXPOSED TO ANY MEDIA COVERAGE ABOUT THE CASE OR HAVE ANY
20 OTHER INFORMATION ABOUT THIS CASE. AND IF YOU DO, BE
21 SPECIFIC IN WHAT YOU CAN RECALL.

22 A OKAY. I DO REMEMBER HEARING ABOUT THE CASE ON T.V. I
23 THINK IT WAS THE DAY THAT IT HAPPENED, AND I GUESS IT HAD
24 JUST HAPPENED. I GUESS THE THING THAT I REMEMBER MOST ABOUT
25 THE CASE IS THAT MY HUSBAND WAS ON HIS WAY TO LUNCH AT THE

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 CALIFORNIA DREAMING, SO I WAS JUST WORRIED ABOUT HIM AND IF
2 -- SO THAT'S WHAT I REMEMBER MOST ABOUT THE CASE.

3 I DON'T WATCH THE NEWS VERY MUCH AND DON'T READ THE
4 NEWSPAPER VERY MUCH, SO I DON'T HAVE A LOT OF EXPOSURE TO THE
5 CASE. I DO REMEMBER -- I RECALL -- AND THIS MAY NOT EVEN BE
6 TRUE -- YOU KNOW, THAT THE PERSON WHO -- I DON'T EVEN KNOW
7 THE NAME OF IT. BUT HE WAS FOUND IN ANDERSON. SO I --
8 THAT'S ABOUT ALL I REMEMBER. MAYBE THAT WAS A DAY OR TWO
9 AFTER. BUT THAT'S ABOUT ALL I REMEMBER FROM THE CASE.

10 Q WHAT HAPPENED IN ANDERSON?

11 A I THINK HE WAS CAUGHT.

12 Q THAT'S WHAT YOU THINK?

13 A THAT'S WHAT I THINK.

14 Q OKAY.

15 A LIKE I SAID, I DON'T REMEMBER VERY MUCH.

16 Q OH, THAT'S FINE. AND LET ME TELL YOU THE REASON I ASK.
17 IN A CASE THAT GETS PUBLICITY, IT'S NOT UNCOMMON AT ALL FOR
18 JURORS TO HAVE SEEN SOMETHING, TO HAVE HEARD SOMETHING, AND
19 THAT'S FINE. WHAT'S IMPORTANT TO UNDERSTAND IS THAT IF
20 SOMEONE SERVES ON A JURY, THAT INDIVIDUAL TAKES AN OATH TO
21 FOLLOW THE LAW AND TO FIND THE TRUTH FROM THE EVIDENCE, AND
22 DISREGARD ANY EXPOSURE TO INFORMATION OUT OF COURT, AND FIND
23 THE TRUTH ONLY FROM EVIDENCE PRESENTED DURING THE COURSE OF
24 THE TRIAL... DO YOU UNDERSTAND THE IMPORTANCE OF THAT?

25 A RIGHT. YEAH, I DO.

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 Q IF YOU WERE A JUROR, WOULD YOU HONOR YOUR OATH IN THAT
2 REGARD AND FIND THE TRUTH ONLY FROM THE EVIDENCE PRESENTED
3 DURING THE COURSE OF THIS TRIAL?

4 A YES.

5 Q WOULD YOU FOLLOW THE LAW AS I INSTRUCT IT?

6 A YES.

7 Q HAVE YOU FORMED AN OPINION AS TO THE FACTS OF THIS CASE?

8 A NO, BECAUSE I CAN'T REMEMBER THEM.

9 Q OKAY. HAVE YOU FORMED ANY OPINIONS AS TO THE GUILT OR
10 INNOCENCE OF THE ACCUSED, MR. WOOD?

11 A NO.

12 Q YOU REMEMBER THOSE TWO LEGAL PRINCIPLES WE TALKED ABOUT
13 EARLIER? A DEFENDANT IS ALWAYS PRESUMED INNOCENT OF THE
14 CRIME FOR WHICH HE HAS BEEN INDICTED?

15 A RIGHT.

16 Q AND ALSO, THERE IS NO BURDEN ON A DEFENDANT, THE BURDEN
17 IS ONLY ON THE STATE, AND THE STATE MUST PROVE GUILT BEYOND A
18 REASONABLE DOUBT?

19 A RIGHT.

20 Q DO YOU AGREE WITH THOSE TWO LEGAL PRINCIPLES?

21 A YES.

22 Q NOW WE'RE GOING TO TALK ABOUT A CAPITAL CASE, AND WE'RE
23 GOING TO SPEND MOST OF OUR TIME TALKING ABOUT WHAT I'VE
24 REFERRED TO AS THE SECOND PHASE OR THE SENTENCING PHASE. I
25 DON'T WANT TO OVERLOOK THE FIRST PHASE. I WANT YOU TO

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 UNDERSTAND THE FIRST PHASE IS DEVOTED TO DETERMINING WHETHER
2 OR NOT AN INDIVIDUAL IS GUILTY OF THE OFFENSE OF MURDER. AND
3 IF A JURY FINDS A DEFENDANT NOT GUILTY OF MURDER, THEN THERE
4 IS NOT EVEN A SECOND PHASE. THAT'S THE END OF IT.

5 A OKAY.

6 Q SO THERE MAY NOT BE A SECOND PHASE. BUT MAYBE THERE
7 WILL BE. DON'T KNOW. SO BECAUSE THERE MIGHT BE, WE NEED TO
8 DISCUSS THE ISSUES THAT COULD COME UP IN A POTENTIAL
9 SENTENCING HEARING AND EXPLORE THOSE ISSUES AND FIND OUT YOUR
10 VIEWS, PARTICULARLY AS TO THE DEATH PENALTY. DO YOU
11 UNDERSTAND?

12 A YES.

13 Q OKAY. WHEN A JURY MOVES TO A SENTENCING PHASE, THE JURY
14 HAS ALREADY FOUND THAT DEFENDANT -- NOW, WE'RE NOT TALKING
15 ABOUT THIS CASE. WE'RE JUST TALKING ABOUT THE PROCESS IN
16 GENERAL. -- FOUND THAT DEFENDANT GUILTY OF MURDER. AND I
17 WANT YOU TO UNDERSTAND THAT VERY CLEARLY. GUILT HAS BEEN
18 DETERMINED IN THE FIRST PHASE IF THE JURY FINDS THE DEFENDANT
19 GUILTY. SO IF WE MOVE INTO THE SENTENCING PHASE, WE'RE NOT
20 GOING TO WORRY ABOUT, WELL, DID HE DO IT? DID SHE DO IT?
21 WAS THERE SELF-DEFENSE? YOU SEE, WE'VE ALREADY DONE THAT IN
22 THE FIRST PHASE.

23 A RIGHT.

24 Q SO I WANT YOU TO UNDERSTAND PERFECTLY THAT WHEN YOU MOVE
25 INTO THIS SENTENCING PHASE YOU'RE DEALING WITH A MURDERER.

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 DO YOU UNDERSTAND THAT?

2 A I UNDERSTAND THAT.

3 Q NOW, SOUTH CAROLINA LAW SAYS IN ORDER TO MAKE A DECISION
4 ON THE PUNISHMENT OF TWO OPTIONS, LIFE IN PRISON OR THE DEATH
5 PENALTY, THAT ADDITIONAL EVIDENCE IS ABLE TO BE INTRODUCED
6 AND RECEIVED AND, IF IT IS, CONSIDERED BY THE JURY BEFORE
7 MAKING A DECISION. YOU SEE WHAT I'M SAYING?

8 A YES.

9 Q IF THERE IS A JUROR WHO COMES IN AND SAYS, "WELL, FOR
10 EVERY CRIME OF MURDER, I'M VOTING FOR THE DEATH PENALTY. I
11 DON'T CARE WHAT THE OTHER FACTS ARE," THAT JUROR COULDN'T
12 SERVE.

13 A RIGHT.

14 Q THAT WOULDN'T BE FAIR TO A DEFENDANT.

15 A RIGHT.

16 Q CONVERSELY, IF SOMEONE COMES IN AND SAYS, "I WOULD NEVER
17 VOTE FOR THE DEATH PENALTY. I WOULDN'T CONSIDER IT," THAT
18 JUROR WOULDN'T BE FAIR TO THE STATE.

19 A RIGHT.

20 Q UNDER THE LAW IN THE SENTENCING PHASE, ADDITIONAL
21 EVIDENCE IS RECEIVED. EXAMPLES. CIRCUMSTANCE OF
22 AGGRAVATION. IN SOUTH CAROLINA YOU CANNOT SEEK THE DEATH
23 PENALTY FOR EVERY CRIME OF MURDER. YOU HAVE TO LOOK TO THE
24 STATUTES OF SOUTH CAROLINA AND IT LISTS THE CIRCUMSTANCES IN
25 WHICH THE STATE MAY ASK FOR THE DEATH PENALTY. I THINK I

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 GAVE YOU EXAMPLES EARLIER -- MURDER IN THE COMMISSION OF
2 ARMED ROBBERY, KIDNAPPING, BURGLARY. THAT'S THE MURDER
3 COMBINING WITH ANOTHER INCIDENT OR FACT THAT CONSTITUTES AN
4 AGGRAVATING CIRCUMSTANCE. AND WHEN THAT EXISTS BEYOND A
5 REASONABLE DOUBT, THE JURY MAY CONSIDER AND IN FACT IMPOSE A
6 DEATH SENTENCE.

7 BUT THAT'S NOT THE ONLY KIND OF EVIDENCE THAT MAY BE
8 SUBMITTED AT A SENTENCING HEARING. WE ALSO HEAR EVIDENCE
9 CALLED MITIGATION. THAT COULD BE EVIDENCE THAT DEALS WITH
10 THE DEFENDANT PARTICULARLY. IT COULD BE HIS OR HER
11 EDUCATIONAL BACKGROUND, FAMILY HISTORY, MENTAL HEALTH STATUS,
12 THINGS OF THAT NATURE. AND THE LAW SAYS IF SUCH EVIDENCE IS
13 RECEIVED, THE JURY MUST GIVE IT CAREFUL AND THOUGHTFUL
14 CONSIDERATION BEFORE MAKING A DECISION ON THE ISSUE OF
15 PUNISHMENT. DO YOU UNDERSTAND THAT?

16 A I UNDERSTAND.

17 Q A JUDGE AT THE END OF THE SENTENCING PHASE WOULD TELL
18 THE JURY, "LADIES AND GENTLEMEN, YOU'VE HEARD THE EVIDENCE.
19 YOU'VE HEARD EVIDENCE OFFERED BY THE STATE OF A CIRCUMSTANCE
20 OF AGGRAVATION. YOU'VE HEARD EVIDENCE OF MITIGATION. YOU
21 MUST GIVE THESE CAREFUL AND THOUGHTFUL CONSIDERATION IN
22 REACHING YOUR DECISION." IF YOU WERE A JUROR IN THAT
23 SITUATION, WOULD YOU HONOR YOUR OATH AND GIVE ALL OF THOSE
24 MATTERS THAT WE'VE DISCUSSED CAREFUL AND MEANINGFUL
25 CONSIDERATION BEFORE YOU MADE A FINAL DECISION?

1 A I WOULD.

2 Q IF YOU WERE A JUROR AND YOU HAD FOUND AN INDIVIDUAL
3 GUILTY OF MURDER AND AS YOU MOVE INTO THE SENTENCING PHASE --
4 AND REMEMBER WE'RE DEALING WITH A MURDERER IN THAT SITUATION.
5 WE'RE NOT WRINGING OUR HANDS OVER WHAT WE'RE DEALING WITH.
6 WE'RE DEALING WITH A MURDERER. THE ISSUE AT THAT POINT IS
7 SENTENCE. AS WE MOVE INTO THE SENTENCING PHASE, WOULD YOU
8 ALREADY HAVE YOUR MIND MADE UP AS TO PUNISHMENT?

9 A IF WE HAVE ALREADY -- IF WE JUST...

10 Q YEAH. AND I'M SORRY. IT'S OBVIOUSLY NOT A GOOD
11 QUESTION. LET ME TRY IT AGAIN. OKAY?

12 A OKAY.

13 Q WE'RE BACKING UP. YOU'RE A JUROR IN A CAPITAL CASE AND
14 YOU AND THE OTHER ELEVEN JURORS FOUND THIS DEFENDANT, WE'LL
15 CALL JANE DOE, JANE DOE GUILTY OF MURDER. AND YOU KNOW JANE
16 DOE IS A MURDERER. ALL RIGHT? NOW YOU'RE STARTING THE
17 SENTENCING PHASE. AT THAT POINT HAVE YOU ALREADY MADE UP
18 YOUR MIND AS TO WHAT THE PENALTY SHOULD BE?

19 A NO.

20 Q WOULD YOU BE LEANING ONE WAY OR THE OTHER BASED ON YOUR
21 VIEWS OF DEATH PENALTY?

22 A I DON'T THINK SO.

23 Q OKAY. IF YOU WERE A JUROR IN THAT SITUATION. OKAY.
24 WE'RE GOING TO FAST FORWARD TO THE END OF THE SENTENCING
25 PHASE. YOU'VE HEARD THE JUDGE'S INSTRUCTIONS. YOU HAVE TOLD

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 ME THAT YOU WOULD FOLLOW YOUR OATH AND GIVE THOSE MATTERS
2 CAREFUL CONSIDERATION. COULD YOU VOTE FOR LIFE IN PRISON IN
3 THAT SITUATION?

4 A YEAH.

5 Q IF YOU BELIEVED IT WAS APPROPRIATE?

6 A YES.

7 Q OKAY. NOW, THE OTHER SIDE OF THAT. LET'S SAY YOU
8 CONSIDERED ALL OF THE EVIDENCE VERY CAREFULLY, ANY
9 CIRCUMSTANCE OF AGGRAVATION, MITIGATION, COULD YOU VOTE FOR
10 THE DEATH PENALTY?

11 A I THINK SO.

12 Q OKAY. AND NO ONE IS ASKING YOU TO COMMIT UP FRONT.
13 THAT'S NOT RIGHT.

14 A RIGHT.

15 Q ALL WE WANT TO KNOW IS THAT YOU WOULD BE OPEN TO BOTH
16 SIDES, THAT YOU COULD CONSIDER AND YOU COULD VOTE FOR LIFE.
17 BUT UNDER THE RIGHT CIRCUMSTANCES YOU COULD, IT MAY BE
18 DIFFICULT BUT YOU COULD VOTE FOR THE DEATH PENALTY?

19 A YES, THAT'S TRUE.

20 Q IS THAT A DESCRIPTION OF HOW YOU WOULD APPROACH THIS?

21 A YES.

22 Q LET ME TELL YOU ANOTHER STEP AND SEE IF IT AFFECTS YOUR
23 ABILITY TO VOTE FOR THE DEATH PENALTY. IN SOUTH CAROLINA --
24 ONE SECOND -- IT'S BEEN A LONG DAY. -- IN ORDER TO IMPOSE
25 THE DEATH PENALTY, A JURY -- AND IT MUST BE UNANIMOUS, ALL

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 TWELVE -- NOT ONLY VOTE FOR THE DEATH PENALTY, THE LAW
2 REQUIRES EACH JUROR TO SIGN HIS OR HER NAME TO THE VERDICT
3 FORM THAT IMPOSES DEATH. IF YOU HAD MADE THAT DECISION,
4 COULD YOU TAKE THAT ADDITIONAL STEP AND SIGN YOUR NAME TO
5 THAT DOCUMENT?

6 A YES.

7 Q OKAY. DO YOU RECALL THAT SHEET IN THE OTHER COURTROOM
8 THAT LISTED THE THREE TYPES OF JURORS?

9 A YES.

10 Q I'VE GOT ANOTHER ONE HERE IF YOU WANT TO REFRESH YOUR
11 MEMORY. IF ONE OF THOSE CATEGORIES DESCRIBES YOU, WHICH ONE?

12 A I BELIEVE IT WAS THE LAST ONE, WHERE IT WAS OPEN, THAT
13 YOU...

14 Q GO AHEAD AND TELL ME WHAT -- YOU DON'T HAVE TO REPEAT
15 IT. BUT DESCRIBE HOW YOU WOULD APPROACH IT AND HOW IT FITS
16 THAT DESCRIPTION.

17 A I GUESS THAT I COULD -- I THINK IT WAS DEALING WITH THE
18 DEATH PENALTY, RIGHT? AND THAT I COULD CONVICT ON THE DEATH
19 PENALTY OR I COULD NOT. I MEAN, I GUESS I WOULD BE OPEN TO
20 EITHER POSITION. I'M OPEN TO IT. I GUESS MY MIND ISN'T MADE
21 UP THAT I WOULD WANT TO DO IT WALKING IN OR I WOULD NOT WANT
22 TO DO IT WALKING IN.

23 Q ALL RIGHT. MS. KESSLER, JUST TO MAKE SURE I UNDERSTAND
24 HOW YOU WOULD APPROACH JURY SERVICE IN A CASE OF THIS NATURE,
25 LET ME SEE IF I UNDERSTAND. AND IF I SAY SOMETHING WRONG,

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 PLEASE INTERRUPT ME, OKAY?

2 A OKAY.

3 Q BASED ON WHAT YOU HAVE TOLD ME, YOU HAVE INDICATED THAT
4 YOU WOULD APPROACH JURY SERVICE WITH AN OPEN MIND. YOU WOULD
5 HONOR YOUR OATH AND FIND THE TRUTH FROM THE EVIDENCE
6 PRESENTED HERE IN COURT; IS THAT CORRECT?

7 A THAT IS CORRECT.

8 Q AND YOU WOULD FOLLOW THE LAW AS I INSTRUCTED IT?

9 A THAT IS CORRECT.

10 Q AND IF YOU HAD FOUND A DEFENDANT -- WE JUST USED THE
11 NAME JANE DOE -- GUILTY OF MURDER AND YOU WENT TO THE
12 SENTENCING PHASE YOU STILL WOULD BE UNDECIDED AS TO PENALTY?

13 A THAT IS CORRECT.

14 Q EVEN THOUGH YOU ARE DEALING WITH A MURDERER?

15 A THAT IS CORRECT.

16 Q AND THAT YOU WOULD BEFORE MAKING A DECISION LISTEN
17 CAREFULLY AND GIVE CAREFUL AND THOUGHTFUL CONSIDERATION BOTH
18 TO ANY CIRCUMSTANCE OF AGGRAVATION AS WELL AS ANY MITIGATION
19 EVIDENCE; IS THAT CORRECT?

20 A THAT IS CORRECT.

21 Q AND YOU COULD VOTE FOR LIFE OR YOU COULD VOTE FOR DEATH
22 DEPENDING ON THE CIRCUMSTANCES?

23 A THAT IS CORRECT.

24 THE COURT: NOW, I MAY HAVE SOME ADDITIONAL QUESTIONS
25 TO FOLLOW UP WITH YOU.

AMY J. KESSLER -- VOIR DIRE BY THE COURT

1 JUROR NUMBER 203: OKAY.

2 THE COURT: BUT THE ATTORNEYS WILL HAVE SOME QUESTIONS,
3 AND THEN AFTER THAT WE'LL BE REAL CLOSE TO BEING THROUGH.
4 THANK YOU FOR YOUR PATIENCE, AGAIN, MA'AM.

5 JUROR NUMBER 203: YOU'RE WELCOME.

6 THE COURT: MR. ARIAIL, I BELIEVE THIS IS YOUR TURN?

7 SOLICITOR ARIAIL: THANK YOU, YOUR HONOR. I BELIEVE
8 THAT'S RIGHT.

9 VOIR DIRE BY SOLICITOR ARIAIL:

10 Q MS. KESSLER, MY NAME IS BOB ARIAIL. I'M THE SOLICITOR
11 FOR THE THIRTEENTH JUDICIAL CIRCUIT OF SOUTH CAROLINA.
12 THAT'S AN OLD TIMEY NAME FOR WHAT IS COMMONLY CALLED THE
13 DISTRICT ATTORNEY.

14 A OKAY.

15 Q AND I AM RESPONSIBLE FOR PROSECUTING THOSE CASES IN
16 GREENVILLE AND PICKENS COUNTIES THAT ARE HELD IN CRIMINAL
17 COURT. ASSISTING ME IN THIS CASE WILL BE MY DEPUTY, BETTY
18 STROM SEATED THERE WITH THE TAN COAT, AND MINDY HERVEY, ONE
19 OF MY ASSISTANTS, IN THE GREEN SUIT.

20 A OKAY.

21 Q I WANT TO GO BACK TO -- I THINK YOU UNDERSTAND THE
22 PROCESS. WE'VE GOT A TWO-STEP PROCESS.

23 A RIGHT.

24 Q ACTUALLY, WE HAVE TWO TRIALS. WE HAVE A TRIAL ABOUT
25 GUILT WHICH IS YOUR NORMAL CRIMINAL CASE. AND THEN THE

1 SECOND PHASE DEALS WITH SENTENCING. NORMALLY, A JUDGE WOULD
2 BE RESPONSIBLE FOR SENTENCING. BUT WHEN THE STATE SEEKS THE
3 DEATH PENALTY, OUR LAW SAYS THE JURY SHOULD DO THAT. SO
4 THAT'S WHY IT WORKS THAT WAY.

5 YOU RESPONDED TO THE JUDGE'S QUESTION ABOUT THE DEATH
6 PENALTY, AND HE ASKED YOU COULD YOU IMPOSE THE DEATH PENALTY
7 OR VOTE FOR THE DEATH PENALTY. AND YOUR RESPONSE, AS I HEARD
8 IT, WAS I THINK SO. COULD YOU TELL ME WHY YOU THINK SO?

9 A I GUESS IT'S A PRETTY BIG DEAL FOR, YOU KNOW -- FOR ME
10 TO BE IN CHARGE OF SOMEBODY ELSE'S LIFE OR DEATH. I GUESS
11 THAT'S WHY I SAID I THINK SO.

12 Q ALL RIGHT.

13 A BUT I'VE OFTEN THOUGHT ABOUT IT THOUGH, IF MAYBE ONE OF
14 MY CLOSE FAMILY WAS MURDERED OR, YOU KNOW, PUT IN THE SAME
15 KIND OF SITUATION, JUST, YOU KNOW, IF I COULD DO THAT. AND I
16 THINK THAT I COULD. I MEAN, I THINK THAT I WOULD. SO I
17 GUESS THAT'S WHY I SAID I THINK SO.

18 Q THAT'S FINE. THE "I THINK SO" -- IF THE "I THINK SO"
19 ARISES OUT OF THE SEVERITY AND THE SERIOUSNESS OF THE
20 RESPONSIBILITY, THEN IF THAT'S WHERE IT'S COMING FROM, THAT'S
21 CERTAINLY AN ACCEPTABLE EXPLANATION.

22 WHAT I WANT TO MAKE SURE IS FROM THE STATE'S VIEWPOINT
23 THAT THE FACT THAT YOU HAD TO MAKE THIS SERIOUS DECISION THAT
24 YOU WOULD NOT -- THAT THAT FACT OF HAVING TO MAKE THE
25 DECISION WOULD NOT SOMEHOW AFFECT YOUR ABILITY TO FAIRLY VIEW

AMY J. KESSLER -- VOIR DIRE BY SOLICITOR ARIAIL

1 THE STATE'S PRESENTATION OF AGGRAVATION AND ITS REQUEST FOR
2 THE DEATH PENALTY?

3 A I GUESS THAT'S WHY I SAID I THINK SO. IF I REALLY FELT
4 LIKE THAT SHOULD BE THE SENTENCE, THEN I KNOW I COULD DO -- I
5 COULD SAY THAT.

6 Q ALL RIGHT. AND YOUR DECISION AS TO WHETHER OR NOT THAT
7 WOULD REALLY BE THE SENTENCE, IT'S MY UNDERSTANDING, WOULD BE
8 BASED ON THE EVIDENCE---

9 A YES, SIR.

10 Q ---THAT WAS PRESENTED?

11 A YES, SIR.

12 Q AND IF YOU FELT THE EVIDENCE WAS SUFFICIENT AND
13 APPROPRIATE TO JUSTIFY THE DEATH PENALTY, THEN THE FACT THAT
14 IT WAS A SERIOUS DECISION AND THAT IT WAS A DIFFICULT
15 DECISION, THAT IT WOULD BE ONE THAT YOU HAD NEVER ANTICIPATED
16 YOU WOULD DO, THAT WOULD NOT STOP YOU FROM RENDERING THE
17 CORRECT DECISION BASED ON YOUR VIEW OF THE EVIDENCE?

18 A THAT'S CORRECT.

19 Q DO YOU KNOW OF ANY VIEW ARISING OUT OF RELIGIOUS, MORAL,
20 SOCIAL OR POLITICAL IN YOUR BACKGROUND THAT WOULD SOMEHOW
21 IMPEDE OR AFFECT YOUR ABILITY TO FAIRLY CONSIDER THE STATE'S
22 REQUEST TO IMPOSE THE DEATH PENALTY?

23 A NO, SIR.

24 Q ANYTHING YOU KNOW OF THAT WOULD IMPEDE YOUR ABILITY TO
25 VOTE FOR THE DEATH PENALTY?

AMY J. KESSLER -- VOIR DIRE BY SOLICITOR ARIAIL

1 A NO, SIR.

2 Q AND DID YOU UNDERSTAND THE JUDGE'S INSTRUCTIONS OR
3 INFORMATION THAT ONCE YOU HAD DECIDED, ONCE YOU HAD VOTED,
4 YOU WOULD ALSO HAVE TO SIGN THE DOCUMENT?

5 A YES, SIR.

6 Q ALONG WITH THE OTHER ELEVEN JURORS, EACH ONE WOULD HAVE
7 TO SIGN IT?

8 A YES.

9 Q THAT GIVE YOU ANY PROBLEM?

10 A NO. I MEAN, IF I HAD DECIDED THAT THAT---

11 Q AND THE DECISION WOULD BE BASED ON THE EVIDENCE?

12 A THAT'S CORRECT.

13 Q (OFF RECORD WITH CO-COUNSEL) JUST ONE FOLLOW UP. I
14 UNDERSTAND -- I UNDERSTOOD YOUR ANSWER ABOUT THAT YOU HAD
15 THOUGHT ABOUT IT AS ONE OF YOUR FAMILY MEMBERS. LET ME
16 PURSUE THAT JUST A MINUTE.

17 IF IT WASN'T ONE OF YOUR FAMILY MEMBERS, COULD YOU STILL
18 LOOK AT THE EVIDENCE FAIRLY AND CONSIDER IT EQUALLY AND REACH
19 THE SAME APPROPRIATE DECISION?

20 A YEAH. THE WAY THAT I THOUGHT ABOUT IT IS I WOULD WANT
21 TO TAKE MYSELF OUT OF IT, AND I WOULD WANT TO JUST LOOK AT
22 THE EVIDENCE AND NOT REALLY, YOU KNOW, PERSONALLY BRING
23 ANYTHING TO IT SINCE I'M NOT RELATED TO ANYBODY IN THE CASE.

24 Q RIGHT.

25 A AND SO BY ME SAYING THAT I JUST THOUGHT ABOUT THE

AMY J. KESSLER -- VOIR DIRE BY SOLICITOR ARIAIL

1 CLOSEST THING TO ME WOULD BE ONE OF MY FAMILY. AND I WOULD
2 WANT -- I WOULD WANT TO THINK OF -- I WOULD WANT SOMEONE TO
3 REGARD MY FAMILY, SO I WOULD REGARD THEIR FAMILY IN THE SAME
4 WAY.

5 Q I UNDERSTAND.

6 A SO BY SAYING THAT, I JUST MEAN THAT I WOULD TRY TO TAKE
7 MYSELF OUT OF IT AND JUST KIND OF BE IMPARTIAL. BUT THAT IS
8 A BIG DECISION, SO TAKING MYSELF OUT OF IT, I JUST THOUGHT OF
9 MY FAMILY AND WHAT WOULD I WANT TO BE DONE. AND, YES, I
10 THINK I WOULD. SO...

11 Q YOU WOULD WANT A JUROR SITTING ON A FAMILY MEMBER IN
12 YOUR CASE TO CONSIDER IT FAIRLY?

13 A YES.

14 Q SO YOU'RE JUST STEPPING OUT OF IT AND DOING THE SAME?

15 A RIGHT.

16 SOLICITOR ARIAIL: ALL RIGHT. THAT'S FINE. THANK YOU.
17 THAT'S ALL I HAVE, YOUR HONOR.

18 THE COURT: YES, SIR?

19 VOIR DIRE BY MR. MAULDIN:

20 Q IS IT KESSLER?

21 A YES, SIR.

22 Q MS. KESSLER, MY NAME IS JOHN MAULDIN, AND I'M THE PUBLIC
23 DEFENDER IN GREENVILLE COUNTY. THIS IS JIM BANNISTER AND
24 RODNEY RICHEY, AND WE REPRESENT JOHN IN THIS CASE.

25 I WANT TO ASK A FEW QUESTIONS. THE FIRST QUESTION COMES

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 OUT OF YOUR QUESTIONNAIRE.

2 A OKAY.

3 Q AND IT SAYS THAT YOU ARE EMPLOYED BY B.C.O.P, AND YOUR
4 HUSBAND IS EMPLOYED BY N.E.C.P.

5 A YEAH.

6 Q CAN YOU GIVE ME ANY GUIDANCE AS TO WHAT ALL THOSE
7 LETTERS MEAN?

8 A YEAH. I WORK FOR BOISE CASCADE OFFICE PRODUCTS.

9 Q ALL RIGHT. AND YOU ARE A SALES---

10 A I'M A SALES REP.

11 Q SO OFFICE SUPPLIES AND---

12 A PENS, PENCILS, NOTEBOOKS.

13 Q OKAY.

14 A ANYTHING YOU CAN USE IN AN OFFICE.

15 Q N.E.C.P.?

16 A NATIONAL ELECTRICAL CARBON PRODUCTS. MY HUSBAND IS AN
17 ENGINEER.

18 Q OKAY. ALL RIGHT. THAT TAKES CARE OF ALL THE INITIALS
19 I'M GOING TO BE ASKING YOU ABOUT.

20 A SORRY ABOUT THAT. IT'S EASIER TO WRITE THOSE INITIALS
21 THAN TO WRITE IT ALL DOWN.

22 Q I'M GOING TO ASK YOU A NUMBER OF QUESTIONS, MS. KESSLER.
23 AND SOME WILL RELATE TO THE ANSWERS THAT YOU HAVE ALREADY
24 PROVIDED. SOME MAY BE A LITTLE BIT DIFFERENT.

25 A OKAY.

1 Q AND I'M GOING TO ASK THAT YOU -- INSTEAD OF TESTIFYING,
2 I WANT TO ACT AS THOUGH WE'RE HAVING A CONVERSATION.

3 A ALL RIGHT.

4 Q AS THOUGH THIS WAS A DISCUSSION. BECAUSE THE POINT HERE
5 IS THAT WE'RE TRYING TO FIND WHAT WE -- WHAT YOU WOULD
6 CLASSIFY AS QUALIFIED JURORS. CERTAIN PEOPLE, BECAUSE OF
7 THEIR VIEWS, WOULD BE UNQUALIFIED TO SERVE ON THIS CASE.
8 THEY'RE QUALIFIED TO SERVE ON ANOTHER CASE, BUT NOT THIS ONE.

9 A RIGHT.

10 Q AND IN ORDER TO MAKE THAT DECISION, WE NEED TO HEAR FROM
11 YOU NOT FROM OURSELVES.

12 A OKAY.

13 Q SO I'M GOING TO ASK YOU TO SPEAK UP AND MAKE SURE THAT
14 YOUR VIEWS ARE CLEAR TO ALL IN THE ROOM.

15 A OKAY.

16 Q WITH REGARD TO CAPITAL PUNISHMENT, I WANT YOU TO
17 DESCRIBE, IF YOU CAN, OR EXPLAIN, IF YOU CAN, HOW YOU FEEL
18 ABOUT CAPITAL PUNISHMENT.

19 A NOT BEING A JUROR ON A CASE---

20 Q RIGHT.

21 A ---I WOULD -- AN EYE FOR AN EYE. YOU KNOW, THAT'S HOW I
22 WOULD FEEL. BUT WHEN I WAS PUT ON THIS CASE AND I THOUGHT
23 THAT, YOU KNOW, NOW I'VE GOT TO MAKE A DECISION ON THAT, I
24 WOULD LOOK AT THINGS A LITTLE MORE TEDIOUSLY AND REALLY LOOK
25 AT THE EVIDENCE. SO---

1 Q ALL RIGHT. AND WHEN YOU SAY AN EYE FOR AN EYE WOULD
2 HAVE BEEN JUST A GENERAL VIEW, WOULD THAT -- AND IF I'M
3 MISTAKEN NOW, CORRECT ME. WOULD THAT MEAN THAT IF A PERSON
4 WERE CONVICTED OF MURDER THEY WOULD AUTOMATICALLY BE---

5 A NO, SIR.

6 Q OKAY. THEN EXPLAIN WHAT YOU MEAN BY EYE FOR AN EYE A
7 LITTLE BETTER.

8 A I MEAN, SAY THAT SOMEBODY CAME UP TO SOMEBODY ELSE AND
9 JUST FOR WHATEVER HATED THEM AND SHOT THEM IN COLD BLOOD, I
10 WOULD GUESS THAT WOULD BE AN EYE FOR AN EYE.

11 Q UH-HUH (AFFIRMATIVE).

12 A MAYBE A NEIGHBOR HATED ANOTHER NEIGHBOR. I DON'T KNOW.
13 SOMETHING THAT WAS MALICIOUS AND, YOU KNOW, THEY WERE IN
14 THEIR RIGHT STATE OF MIND, JUST PURE HATRED OR WHATEVER AND
15 JUST HURT SOMEONE LIKE THAT.

16 Q OKAY. WELL, LET ME GIVE YOU A CERTAIN SITUATION SO
17 YOU'LL UNDERSTAND WHERE WE ARE WITH REGARD TO THE
18 CONSIDERATION OF VARYING SENTENCES. IN SOUTH CAROLINA THE
19 OFFENSE OF MURDER -- AND I'M NOT GOING TO NECESSARILY GO
20 THROUGH ALL THE DEFINITION, BUT THE DEFINITION OF MURDER IS
21 THAT IT IS MALICIOUS. IT HAS TO BE MALICIOUS TO BE MURDER.
22 IT HAS TO BE AFORETHOUGHT, WHICH MEANS IT HAS TO HAVE BEEN
23 NOT -- THERE HAS TO HAVE BEEN A LEAST A MOMENT OF THOUGHT.
24 THAT IT WAS INTENTIONAL. IT CAN'T BE BY MISTAKE. IT CAN'T
25 BE BY ACCIDENT. THOSE ARE DEFENSES. SELF-DEFENSE, ALIBI,

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 WRONG GUY, ALL THAT, THOSE ARE DEFENSES.

2 SO BEFORE A SENTENCING HEARING EVER TAKES PLACE, THE
3 JURY IN A CASE THAT INVOLVES A REQUEST FOR THE DEATH PENALTY
4 WOULD HAVE ALREADY FOUND AN ACT OF MALICIOUS, INTENTIONAL
5 MURDER.

6 A OKAY.

7 Q ALL RIGHT? YOU'RE WITH ME?

8 A I'M WITH YOU.

9 Q SO, NOW, WHEN THE JUDGE WAS SAYING TO YOU, YOU HAVE
10 ALREADY FOUND THE PERSON GUILTY OF MURDER, THE QUESTION THEN
11 BECOMES WOULD YOU HAVE ALREADY -- UNDER THAT CONCEPT THAT YOU
12 WERE DESCRIBING TO ME, WOULD YOU HAVE ALREADY DECIDED WHAT
13 THE APPROPRIATE PENALTY WAS?

14 A AND I DON'T THINK I WOULD.

15 Q ALL RIGHT.

16 A I KNOW I WON'T.

17 Q AND THAT'S -- WELL, AND THAT'S WHAT WE NEED TO HEAR FROM
18 YOU. YOU DON'T THINK YOU WOULD?

19 A I WOULDN'T. I WOULD KEEP AN OPEN MIND.

20 Q YOU WOULD -- BECAUSE IF YOU WOULD KEEP AN OPEN MIND AND
21 HOPE THAT THE QUOTE -- LET'S SAY, YOU WOULD HOPE JANE DOE, I
22 THINK WAS THE EXAMPLE THE COURT WAS USING, THAT JANE DOE
23 WOULD COME IN AND SHOW YOU SOME REASON WHY SHE SHOULDN'T BE
24 PUT TO DEATH. AND THAT'S NOT THE WAY THE LAW WORKS IN OUR
25 STATE. THAT'S NOT THE WAY IT WORKS.

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 A RIGHT.

2 Q WHAT HAPPENS IS ONCE A PERSON IS CONVICTED, THEN A
3 SECOND TRIAL PHASE OCCURS WHERE THE ONLY ISSUE IS WHICH
4 PENALTY. AND DURING THAT PHASE OF THE TRIAL, WHERE THE JURY
5 HAS ALREADY FOUND THE PERSON GUILTY OF MURDER, THE JURY WOULD
6 RECEIVE INFORMATION FROM THE GOVERNMENT SHOWING THAT THERE IS
7 AN EXISTENCE OF AN AGGRAVATING CIRCUMSTANCE.

8 BUT THE JURY MAY NOT HEAR A WORD FROM A DEFENDANT, THIS
9 JANE DOE PERSON, BECAUSE THERE IS NO LAW -- THE LAW -- IN
10 FACT, THE COURT MENTIONED THAT THE DEFENDANT IN A CRIMINAL
11 CASE OF THIS NATURE DOES NOT HAVE TO PROVE OR DISPROVE
12 ANYTHING.

13 A RIGHT.

14 Q SO LET'S TAKE THAT SCENARIO -- AND YOU'RE FOLLOWING ME?

15 A UH-HUH (AFFIRMATIVE).

16 Q THE PERSON IS CONVICTED. YOU HAVE A SECOND HEARING.
17 THE GOVERNMENT PRESENTS EVIDENCE OF AGGRAVATION THAT'S PROVEN
18 TO YOU BEYOND A REASONABLE DOUBT. UNDER THOSE CIRCUMSTANCES,
19 UNDERSTANDING THAT YOU WOULD GIVE CONSIDERATION TO THE
20 SENTENCE OF DEATH, THE QUESTION IS, WOULD YOU ALSO GIVE
21 CONSIDERATION, CONTINUING CONSIDERATION, TO A SENTENCE OF
22 LIFE EVEN IF ONLY FOR A MATTER OF MERCY?

23 A MOST DEFINITELY.

24 Q PARDON ME?

25 A MOST DEFINITELY.

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 Q YOU WOULD?

2 A YES.

3 Q ALL RIGHT. AND SO WHEN YOU SAY I -- THE CONFUSION I GOT
4 WAS EYE FOR AN EYE. THAT'S ALMOST LIKE AUTOMATIC SOUNDING TO
5 ME.

6 A I'M SORRY. I DIDN'T MEAN IT LIKE THAT.

7 Q OKAY. SO YOU WOULD LISTEN TO THE MITIGATING
8 INFORMATION?

9 A YES.

10 Q THE BACKGROUND INFORMATION, THE HISTORY OF THE PERSON
11 WHO HAD BEEN CONVICTED, THE LACK OF A PRIOR VIOLENT RECORD,
12 THAT TYPE OF INFORMATION COULD MEAN SOMETHING TO YOU IN
13 DECIDING WHICH PENALTY?

14 A (INDICATES AFFIRMATIVE RESPONSE)

15 Q NOW, MS. KESSLER, YOU UNDERSTAND THAT THE TWO PENALTIES
16 ARE EXECUTION -- OR DEATH, THE SENTENCE OF DEATH -- OR A
17 SENTENCE OF LIFE IN PRISON WITHOUT EVER THE POSSIBILITY OF
18 PAROLE?

19 A I UNDERSTAND THAT.

20 Q A COUPLE OF OTHER QUESTIONS. AND THIS QUESTION, MS.
21 KESSLER, COMES DIRECTLY FROM YOUR RESPONSE TO THE GOVERNMENT.
22 WHEN YOU WERE ASKED ABOUT YOUR VIEWS ON THE DEATH PENALTY,
23 THE FIRST -- ONE THING YOU SAID WAS IT WOULD BE A BIG DEAL
24 FOR ME TO HAVE SOMEONE ELSE'S LIFE, ESSENTIALLY, IN MY HANDS.

25 A IT WOULD.

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 Q AND THEN YOU SAID, "BUT IF THAT TYPE OF THING HAD
2 HAPPENED TO A MEMBER OF MY FAMILY, I WOULD WANT," DO YOU
3 RECALL THAT STATEMENT?

4 A WHEN I FOUND OUT ABOUT THE CASE, I MEAN, I THOUGHT, I
5 CAN'T -- YOU KNOW, I CAN'T DO THIS, LIKE THE JUDGE SAID. NO,
6 I COULD NEVER SENTENCE SOMEONE TO DEATH. BUT THEN I THOUGHT,
7 WELL, THAT'S NOT FAIR. AND THEN I STARTED THINKING ABOUT IT
8 AND I SAID, WELL, YES, I CAN BECAUSE I'M NOT EMOTIONALLY
9 INVOLVED IN THIS CASE. I DON'T -- LIKE I SAID, I DON'T KNOW
10 VERY MANY OF THE FACTS. I DIDN'T KEEP UP WITH THE CASE WHEN
11 IT HAPPENED. IF I WAS A JUROR AND BECAME EMOTIONALLY
12 INVOLVED, YOU KNOW, I COULD. AND THAT'S HOW I THOUGHT ABOUT
13 MY FAMILY, IT'S THE CLOSEST THING TO ME. COULD I DO THAT?
14 YEAH, I COULD. IT'S PROBABLY NOT WHAT YOU WANT TO HEAR.
15 BUT...

16 Q ALL RIGHT. NO. AND THIS IS INFORMATION THAT THE COURT
17 NEEDS TO DETERMINE QUALIFICATION.

18 LET ME FOLLOW UP WITH THIS ONE OR TWO QUESTIONS ABOUT
19 THIS IDEA OF IF IT WERE A MEMBER OF MY FAMILY. IN A CASE OF
20 THIS NATURE WHERE A PERSON HAS BEEN CONVICTED OR WOULD HAVE
21 BEEN CONVICTED AT THE FIRST PHASE AND YOU GO INTO THE
22 SENTENCING PHASE, THEN THE GOVERNMENT OR THE PROSECUTION IS
23 ALLOWED THE OPPORTUNITY TO PRESENT AGGRAVATING CIRCUMSTANCES.
24 THAT MAY INCLUDE TESTIMONY OR EVIDENCE FROM MEMBERS OF THE
25 FAMILY OF THE VICTIM. DO YOU FOLLOW?

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 **A** I FOLLOW.

2 **Q** IN OTHER WORDS, THAT KIND OF EVIDENCE COULD COME FROM
3 THE WITNESS STAND.

4 **A** RIGHT.

5 **Q** IT WOULD BE EXTRAORDINARILY COMPELLING, EXTRAORDINARILY
6 EMOTIONAL. NOW, AND HERE IS MY QUESTION, HAVING HEARD YOUR
7 TESTIMONY AND YOUR VIEW, WOULD YOU BE ABLE TO STILL REMAIN
8 FAIR TO THE DEFENDANT IN A CASE OF THAT NATURE EVEN WITH THE
9 PRESENTATION OF THIS -- I MEAN, THERE WON'T BE A DRY EYE IN
10 THE COURTROOM?

11 **SOLICITOR ARIAIL:** YOUR HONOR, I'M GOING TO OBJECT TO
12 THAT QUESTION. NUMBER ONE, IT IS STAKING HER OUT. NUMBER
13 TWO, PROFILING HER. AND IT'S GOT TO DO -- THERE IS NO
14 REQUIREMENT TO REMAIN FAIR TO THE DEFENDANT. THE QUESTION
15 IS, CAN SHE CONSIDER THE EVIDENCE?

16 **MR. MAULDIN:** I'LL REPHRASE THE QUESTION IF THE COURT
17 WISHES.

18 **THE COURT:** UM---

19 **MR. MAULDIN:** ALL RIGHT. GO AHEAD, YOUR HONOR.

20 **THE COURT:** NO. I DON'T HAVE A PROBLEM WITH THE AREA
21 GIVEN---

22 **MR. MAULDIN:** YES, SIR.

23 **THE COURT:** ---SHE TALKED ABOUT HOW SHE WOULD VIEW IT
24 VIS A VIS HER FAMILY MEMBER.

25 **MR. MAULDIN:** RIGHT.

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 THE COURT: I THINK IT'S FAIR TO ASK HER IF SHE HEARD
2 FROM A FAMILY MEMBER WOULD SHE THEN---

3 MR. MAULDIN: BE ABLE---

4 THE COURT: ---BE NO LONGER NEUTRAL AND CHANGE AND BE
5 ONE SIDED. I THINK THAT'S A FAIR QUESTION.

6 MR. MAULDIN: ALL RIGHT. AND LET ME MAKE SURE -- I'LL
7 TRY TO REPHRASE THAT.

8 Q UPON HEARING THAT TYPE OF INFORMATION, WHICH WE MUST
9 ANTICIPATE COULD BE---

10 A YES, SIR.

11 Q ---THE LAW ALLOWS IT, HAVING SAID WHAT YOU HAVE SAID, I
12 AM TRYING TO MAKE SURE THAT THAT TYPE OF PRESENTATION WOULD
13 NOT THEN CREATE FOR YOU A SITUATION WHERE YOU COULD NOT THEN
14 FAIRLY AND REASONABLY CONTINUE TO CONSIDER A LIFE SENTENCE
15 EVEN HAVING HEARD FROM THE FAMILY OF THE VICTIM?

16 A I DON'T THINK THAT HEARING THE STORY OF THE FAMILY OR
17 EVIDENCE OF THE FAMILY OF THE VICTIM WOULD SWAY ME ONE WAY OR
18 THE OTHER. WE PROBABLY ALL KNOW WHAT SHE'S GONE THROUGH.
19 BUT I THINK THAT I WOULD BE ABLE TO SIT DOWN AND LOOK AT THE
20 EVIDENCE AND HOPEFULLY GO BEYOND THE EMOTIONS TO FIND THE
21 RIGHT -- THE RIGHT ANSWER.

22 Q THANK YOU. LAST QUESTION, MS. KESSLER.

23 WHEN THAT SECOND PHASE WOULD BEGIN -- OBVIOUSLY YOU'VE
24 BEEN THROUGH THE FIRST PHASE. AND WE'RE TALKING ABOUT THE
25 JANE DOE CASE STILL.

1 A RIGHT.

2 Q YOU'RE IN THE SECOND PHASE. THE PROSECUTION BRINGS IN
3 THE EVIDENCE OF AGGRAVATION. THE DEFENDANT HAS THE
4 OPPORTUNITY, IF HE WISHES -- OR IF SHE WISHES -- TO PRESENT
5 THE MITIGATION INFORMATION. THE JUDGE INSTRUCTS THE JURY ON
6 THE USE -- OR HOW THEY ARE TO CONSIDER WHAT IS REQUIRED TO BE
7 CONSIDERED AND SO FORTH. AND YOU SAID THAT YOU COULD FOLLOW
8 YOUR OATH AND FOLLOW THE INSTRUCTIONS?

9 A YES.

10 Q GO INTO THE JURY ROOM AND BEGIN DELIBERATIONS, AND IT IS
11 A LOT OF DISCUSSION AND TALK AND WHO HEARD THIS, AND HERE'S
12 WHAT I THINK, AND HERE'S HOW I FEEL. EVERYBODY WOULD BE
13 PARTICIPATING. THE LAW REQUIRES THAT. AND IT COULD GO --
14 YOU KNOW, YOU GO ON AND IT MAY GET LATE IN THE DAY AND OVER
15 INTO THE EVENING. EVERYBODY'S TIRED, TAKING VOTES, AND
16 VOTES.

17 THE JUDGE MENTIONED THAT IN ORDER TO IMPOSE THE DEATH
18 PENALTY ALL TWELVE MUST BE IN AGREEMENT. IT MUST BE
19 UNANIMOUS.

20 NOW, HERE IS THE QUESTION. LAST VOTE COMES UP AND IT'S
21 TEN TO TWO, AND I'M GOING TO PUT YOU IN BOTH GROUPS FOR THE
22 PURPOSE OF THIS QUESTION. LET'S PUT YOU IN THAT SITUATION
23 WHERE YOU'VE HAD FULL DELIBERATIONS AND YOU'RE IN THE GROUP
24 OF TWO, THE MINORITY. YOU HAVE DECIDED WHAT YOU BELIEVE IS
25 THE PROPER PUNISHMENT FOR THIS CASE. YOU HAVE HEARD ALL THE

1 EVIDENCE, THE SAME EVIDENCE. WOULD YOU UNDER THAT
2 CIRCUMSTANCE TEND TO SIMPLY SIDE -- GIVE UP YOUR VIEW AND
3 SIDE WITH THE MAJORITY IN ORDER TO RESOLVE THE CASE OR WOULD
4 YOU TEND TO STICK BY THAT POSITION THAT YOU HAD DECIDED IN
5 YOUR INDIVIDUAL AND MORAL CHOICE ON A SENTENCE? WHICH WOULD
6 BE YOU?

7 A THE ONE THING I'M PROUD OF IN MY LIFE IS THAT I DO STICK
8 WITH MY DECISIONS. SO I WOULD NOT BE SWAYED.

9 Q YOU WOULD NOT---

10 A I WOULD STAY WITH THE MINORITY. I WOULD---

11 Q AND YOU UNDERSTAND THAT YOU ARE SUPPOSED TO DELIBERATE?
12 I'M NOT SAYING YOU JUST WOULDN'T---

13 A SURE.

14 Q ALL RIGHT.

15 A BUT IF I FELT SOME WAY, I WOULD NOT -- I MEAN, IF I --
16 IF WE TALKED ABOUT IT AND I WAS -- YOU KNOW, SOMEBODY SAW
17 SOMETHING DIFFERENTLY THAN I SAW, IF WE TALKED ABOUT IT THAT
18 WAY. BUT IF I HAD MADE MY MIND UP WITH ALL THE INFORMATION
19 PRESENT, I WOULD STAND WITH WHAT I BELIEVED WHETHER I WAS IN
20 THE MAJORITY OR THE MINORITY..

21 Q ALL RIGHT. AND THEN IF YOU WERE IN THE MAJORITY, WOULD
22 YOU ATTEMPT TO REQUIRE -- AND I USE THE TERM FORCE, BUT
23 OBVIOUSLY I'M NOT TALKING ABOUT BEATING SOMEBODY UP. I'M
24 TALKING ABOUT WOULD YOU TRY TO COMPEL THE MINORITY TO SIDE
25 WITH THE MAJORITY OR WOULD YOU RESPECT THEIR RIGHT TO HAVE

AMY J. KESSLER -- VOIR DIRE BY MR. MAULDIN

1 THEIR OWN MORAL AND INDIVIDUAL CHOICE ABOUT A SENTENCE, JUST
2 LIKE YOU WOULD HAVE RESPECTED---

3 A I GUESS IF THEY WERE LIKE ME, IF THEY HAD MADE THEIR
4 DECISION AND THEY DIDN'T WANT TO TALK ABOUT IT ANY FURTHER,
5 THEN I WOULD UNDERSTAND THAT.

6 MR. MAULDIN: THANK YOU, MA'AM.

7 THE COURT: MS. KESSLER, THANK YOU SO MUCH. WHAT WE'RE
8 GOING TO DO NOW IS ASK YOU TO STEP TO A JURY ROOM.

9 JUROR NUMBER 203: OKAY.

10 THE COURT: AND THEN WE'LL GET YOU BACK OUT HERE IN
11 JUST A COUPLE MINUTES AND YOU'LL BE FREE TO GO.

12 JUROR NUMBER 203: OKAY.

13 THE COURT: THANK YOU, MA'AM.

14 JUROR NUMBER 203: THANK YOU.

15 (JUROR EXITS COURTROOM AT 7:22 P.M.)

16 THE COURT: THE JUROR HAS BEEN EXCUSED. QUALIFIED OR
17 NOT QUALIFIED?

18 SOLICITOR ARIAIL: QUALIFIED FROM THE STATE.

19 MR. MAULDIN: QUALIFIED, YOUR HONOR.

20 THE COURT: SINCE WE ARE DEALING WITH AN ALTERNATE, THE
21 STRIKES ARE ONE AND TWO.

22 MR. MAULDIN: DOES THAT -- YOUR HONOR, I'M STARTING --
23 MY HEAD IS SPINNING. YOU'RE RIGHT. IS THAT GOING TO MAKE
24 ANY -- IS THERE ANY WAY THAT WE COULD GET KIND OF SCREWED UP
25 IF THESE BATSON THINGS? IS THAT GOING TO BLOW OVER INTO THE

MATTERS AND MOTIONS

1 PROBLEM?

2 THE COURT: I'LL BE GLAD TO DISCUSS IT WITH YOU. I
3 THOUGHT ABOUT THAT. I DON'T THINK SO. IT'S MY HOPE TO MAYBE
4 SELECT FIVE ALTERNATES, BRING BACK SEVENTEEN. I'M THINKING,
5 WORST CASE SCENARIO, WE'D LOSE ONE OR TWO. I'D LIKE TO START
6 THE TRIAL WITH TWELVE PLUS THREE.

7 MR. MAULDIN: RIGHT.

8 THE COURT: I'LL TAKE FOUR. I DON'T WANT A FIFTH ONE.
9 IF EVERYBODY IS STILL CLEAN WHEN THEY COME BACK AND ABLE TO
10 SERVE, THE LAST JUROR PROBABLY WOULD BE EXCUSED. THAT ALSO
11 ALLOWS ATTRITION FOR BATSON. BUT WE'RE GOING TO ADDRESS THAT
12 AND FINALIZE THAT BEFORE WE SIT ON A NUMBER. SO WE'RE JUST
13 ONE AND TWO ON ALTERNATES, BACK AND FORTH, ONE AND TWO, UNTIL
14 WE HAVE A SUFFICIENT NUMBER. IN MY JUDGMENT, THAT ENURES TO
15 YOUR BENEFIT BECAUSE YOU'RE GETTING TWO BITES AT THE APPLE---

16 MR. MAULDIN: RIGHT.

17 THE COURT: ---AND YOU'RE DOWN TO THE BARE MINIMUM IF
18 WE GO BACK TO THE OTHER WAY.

19 MR. MAULDIN: RIGHT. I KEEP FORGETTING THAT IF A
20 BATSON IS SUCCESSFUL -- I'M JUST TALKING TO MYSELF, YOUR
21 HONOR.

22 THE COURT: IF YOU WANT TO BE HEARD ON THAT METHOD, I'M
23 TREATING IT AS AN ALTERNATE BECAUSE WE HAVE TWELVE WHO HAVE
24 BEEN QUALIFIED.

25 SOLICITOR ARIAIL: WELL, I ASSUME IN THE MORNING YOU'RE

MATTERS AND MOTIONS

1 GOING TO DEAL WITH THE BATSON. WELL, WE WERE GOING TO DEAL
2 WITH IT THIS AFTERNOON AND YOU DIDN'T LIKE IT, AND SO WE
3 SWITCHED AND, YOU KNOW, MAYBE THE MORNING IS NOT THE RIGHT
4 TIME TO DO IT.

5 SOLICITOR ARIAIL: NO, I THINK---

6 THE COURT: SOME APPROPRIATE TIME.

7 SOLICITOR ARIAIL: I THINK WE'RE GOING TO HAVE TO. AND
8 THE REASON I SAY THAT IS -- I MEAN, I'M---

9 THE COURT: WE CAN DEAL WITH IT IN THE MORNING. I'LL
10 DEAL WITH IT IN THE MORNING.

11 SOLICITOR ARIAIL: NO, I'M NOT SO MUCH CONCERNED ABOUT
12 THAT. I'M JUST WORRIED ABOUT THIS ONE AND TWO. HE'S GOT ONE
13 LEFT AND---

14 MR. MAULDIN: NO, I HAVEN'T. I'VE GOT ONE ORIGINAL ONE
15 LEFT, BUT WE'RE NOW ONE AND TWO.

16 THE COURT: OKAY. YOU PUT YOUR EXCEPTION ON THE
17 RECORD.

18 SOLICITOR ARIAIL: WELL, IT'S NOT REALLY AN EXCEPTION.
19 I'M JUST THINKING OUT LOUD. IF SOMETHING HAPPENS TO ONE OF
20 THESE PEOPLE, YOU KNOW, WE'VE GOT TO DEFINE WHERE WE STOP AT
21 SOME POINT HERE. IF ONE OF THEM FALLS OUT, DOES HE GET---

22 THE COURT: YOU SEE, ONE COULD FALL OUT AND ONE COULD
23 COME IN. WE'RE LOOKING AT BOTH ENDS.

24 SOLICITOR ARIAIL: RIGHT.

25 THE COURT: ALL RIGHT? IF ONE FALLS OUT, THAT'S THE

MATTERS AND MOTIONS

1 PURPOSE OF AN ALTERNATE. IT WOULD NATURALLY FLOW---

2 SOLICITOR ARIAIL: THAT'S THE WAY YOU'RE DOING IT.
3 OKAY. WELL, IF THAT'S THE WAY WE'RE DOING IT, THEN WE'RE
4 THROUGH.

5 THE COURT: IF IT'S A BATSON AND SAY JUROR NUMBER
6 TWELVE IS NOW JUROR NUMBER THIRTEEN---

7 MR. MAULDIN: RIGHT.

8 THE COURT: ---WELL, WE STILL MAINTAIN THE INTEGRITY OF
9 THE PROCESS IN SELECTING TWELVE SUBJECT TO PRESERVING BATSON
10 ISSUES.

11 SOLICITOR ARIAIL: ALL RIGHT. AND IF I FIND A BATSON
12 VIOLATION, SAY, ON TWO INDIVIDUALS, AND I PUT TWO PEOPLE BACK
13 ON THE JURY, WELL, JURORS ELEVEN AND TWELVE WOULD THEN BE
14 ALTERNATE ONE AND TWO.

15 MR. MAULDIN: RIGHT.

16 SOLICITOR ARIAIL: GOT IT. THAT'S FINE.

17 THE COURT: AND I'LL ADDRESS IT WHENEVER YOU GENTLEMEN
18 THINK IT'S APPROPRIATE TO ADDRESS.

19 SOLICITOR ARIAIL: I THINK WE ADDRESS IT FIRST THING IN
20 THE MORNING.

21 PRESENT HER.

22 THE COURT: OKAY.

23 MR. MAULDIN: DID WE EVER SAY SHE WAS QUALIFIED?

24 THE COURT: Y'ALL BOTH DID.

25 MR. MAULDIN: ALL RIGHT. (OFF RECORD WITH CO-COUNSEL)

MATTERS AND MOTIONS

1 THE COURT: I'M SORRY.

2 MR. MAULDIN: SWEAR THE JUROR. SWEAR HER AS THE FIRST
3 ALTERNATE AT THIS POINT.

4 THE COURT: ALL RIGHT. LET'S SEE. ASK MS. KESSLER TO
5 STEP BACK IN, PLEASE.

6 (JUROR REENTERS COURTROOM AT 7:28 P.M.)

7 THE COURT: MS. KESSLER, WE'RE IN THE PROCESS OF
8 SELECTING AN ADEQUATE NUMBER OF JURORS, AND THAT'S A TWELVE-
9 PERSON JURY PLUS A SUFFICIENT NUMBER OF ALTERNATES. YOU HAVE
10 BEEN SELECTED TO SERVE IN THIS CASE IN ONE OF THOSE
11 CAPACITIES.

12 I'M GOING TO GO OVER AN ORDER WITH YOU. I'M GOING TO
13 GIVE IT TO YOU. IT EXPLAINS WHAT YOU DO FROM HERE. BUT I
14 WANT TO REVIEW IT WITH YOU AND MAKE SURE YOU UNDERSTAND.

15 THIS MAY SOUND SILLY TO YOU BUT ONE OF THE FIRST THINGS
16 IT SAYS IS BEGINNING WEDNESDAY, FEBRUARY 6TH, TODAY, CALL A
17 CERTAIN NUMBER AT 8:00 P.M.

18 JUROR NUMBER 203: DO I NEED TO DO THAT?

19 THE COURT: I'M GOING TO ASK YOU TO DO IT.

20 JUROR NUMBER 203: OKAY.

21 THE COURT: AS SILLY AS THAT MAY SOUND. I'M GOING TO
22 TELL YOU WHAT IT SAYS, BUT I WANT YOU TO GET IN THE HABIT OF
23 CALLING THAT NUMBER.

24 JUROR NUMBER 203: ALL RIGHT.

25 THE COURT: THE MESSAGE TONIGHT WILL BE CALL BACK

MATTERS AND MOTIONS

1 TOMORROW NIGHT AFTER 8:00, BECAUSE WE'RE STILL LOOKING FOR
2 ENOUGH JURORS, REGULAR JURORS PLUS ALTERNATES, IN ORDER TO
3 PROCEED WITH THE TRIAL. PROBABLY -- DON'T KNOW FOR A FACT,
4 BUT PROBABLY TOMORROW NIGHT THE MESSAGE WILL BE TO REPORT AT
5 SOME TIME ON FRIDAY TO BEGIN THE CASE AND BEGIN THE PROCESS
6 OF BEING SEQUESTERED.

7 JUROR NUMBER 203: OKAY.

8 THE COURT: IT WILL TELL YOU IN THE RECORDED MESSAGE
9 WHERE TO PARK, HOW TO ENTER THE COURTHOUSE, VERY SPECIFIC.
10 PEOPLE WILL BE HERE TO ASSIST YOU. IT TALKS ABOUT PACKING
11 YOUR BAGS, LEAVING YOUR BAGS IN YOUR CAR. DON'T BRING A CELL
12 PHONE OR BEEPER, THINGS OF THAT NATURE.

13 JUROR NUMBER 203: OKAY.

14 THE COURT: AND ALSO IT SAYS THE PREVIOUSLY
15 ADMINISTERED OATH REMAINS IN EFFECT. THAT MEANS THE OATH
16 THAT I GAVE YOU THE OTHER -- DO NOT DISCUSS THE CASE. DO NOT
17 SPECULATE ABOUT THE CASE, AND DON'T EXPOSE YOURSELF TO ANY
18 INFORMATION, MEDIA OR OTHERWISE, ABOUT THE CASE. OKAY?

19 JUROR NUMBER 203: YES, SIR.

20 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT THAT MA'AM?

21 JUROR NUMBER 203: YOU PROBABLY WON'T BE ABLE TO ANSWER
22 THIS. BUT SO IT WILL PROBABLY BE FRIDAY, SO WILL I BE
23 SEQUESTERED ON FRIDAY? WILL I---

24 THE COURT: YOU WILL BE SEQUESTERED. IT MAY BE FRIDAY.
25 IT MIGHT BE SATURDAY. WE'RE GETTING CLOSE. WE'RE GETTING

MATTERS AND MOTIONS

1 SOME JURORS.

2 JUROR NUMBER 203: SO THAT MEANS I'LL SPEND THE WEEKEND
3 AWAY FROM HOME MOST POSSIBLY?

4 THE COURT: A WEEKEND?

5 JUROR NUMBER 203: THIS WEEKEND.

6 THE COURT: ABSOLUTELY. AND A GOOD BIT IF NOT ALL NEXT
7 WEEK. YOU NEED TO BE PREPARED FOR TEN TO FOURTEEN DAYS.

8 JUROR NUMBER 203: OKAY. THAT'S WHAT I WANTED TO BE
9 ABLE TO TELL MY EMPLOYER.

10 THE COURT: OKAY.

11 JUROR NUMBER 203: THAT'S NO CHECKING VOICE MAIL OR
12 CHECKING E-MAIL? I WORK---

13 THE COURT: OH, YES. ABSOLUTELY.

14 JUROR NUMBER 203: I CAN DO THAT?

15 THE COURT: I'VE GOT SEVERAL JURORS WHO CONTACT
16 CUSTOMERS, MAKE REPORTS TO THEIR EMPLOYERS IN THE EVENING ON
17 THE COMPUTER.

18 JUROR NUMBER 203: SO I CAN---

19 THE COURT: YEAH.

20 JUROR NUMBER 203: OKAY.

21 THE COURT: THE OFFICERS WHO WILL BE IN CHARGE WILL
22 MAKE SURE THAT, YOU KNOW, YOU'RE NOT ON THE WEB OR INSTANT
23 MESSAGING FRIENDS ABOUT THE CASE. AND I'M JUST SAYING --
24 THAT'S SILLY. BUT WE HAVE TO MAINTAIN THE INTEGRITY OF THE
25 PROCESS.

MATTERS AND MOTIONS

1 JUROR NUMBER 203: I UNDERSTAND THAT.

2 THE COURT: BUT IN CONDUCTING BUSINESS AND USING YOUR
3 COMPUTER, THAT'S NOT A PROBLEM AT ALL.

4 JUROR NUMBER 203: OKAY.

5 THE COURT: SO YOU WILL BE ABLE TO E-MAIL YOUR BOSS,
6 CHECK IN ON EMPLOYMENT MATTERS, THINGS OF THAT NATURE.

7 JUROR NUMBER 203: WHAT ABOUT IF SOME OF MY WORK IS ON
8 THE INTERNET?

9 THE COURT: I HAVE NO PROBLEM WITH YOU GOING ON THE
10 INTERNET.

11 JUROR NUMBER 203: JUST -- OKAY.

12 THE COURT: DON'T GO TO WFOX.COM

13 JUROR NUMBER 203: I UNDERSTAND.

14 THE COURT: YOU KNOW WHAT I'M SAYING?

15 JUROR NUMBER 203: I UNDERSTAND.

16 THE COURT: THANK YOU, MA'AM. APPRECIATE YOU BEING
17 HERE. SEE YOU IN A COUPLE OF DAYS PROBABLY.

18 (JUROR EXITS COURTROOM AT 7:31 P.M.)

19 (OFF RECORD DISCUSSION)

20 MR. MAULDIN: WHAT TIME, YOUR HONOR, ARE WE---

21 SOLICITOR ARIAIL: WE'VE GOT A QUALIFICATION.

22 THE COURT: WE'RE GOING TO START AT 8:30 IN THE
23 MORNING. THE PANEL IS COMING IN. BUT WE'LL DEAL WITH BATSON
24 FIRST. AND QUITE FRANKLY, I DON'T THINK THAT'S GOING TO TAKE
25 A LONG TIME.

MATTERS AND MOTIONS

1 MR. MAULDIN: LET'S SEE. WE'RE GOING TO DO A NEW
2 JUROR?

3 THE COURT: A JUROR WHO DIDN'T -- SENT A QUESTIONNAIRE
4 IN, DIDN'T SHOW UP, HE'S BEEN HERE FOR TEN HOURS PROBABLY OR
5 EIGHT---

6 MR. MAULDIN: THAT'S ENOUGH OF A PENALTY.

7 SOLICITOR ARIAIL: BUT YOU'RE GOING TO QUALIFY HIM?

8 THE COURT: I'M GOING TO QUALIFY HIM.

9 SOLICITOR ARIAIL: BUT WE'RE NOT QUESTIONING HIM?

10 THE COURT: NO. OH, NO. HE'S IN GROUP 27.

11 SOLICITOR ARIAIL: MS. HERVEY IS GOING TO STAY FOR THE
12 STATE TEAM, AND I'M GOING TO EXCUSE MYSELF TO GO---

13 THE COURT: DO YOU WANT ME TO EXCUSE HIM?

14 MR. MAULDIN: SUITS ME.

15 THE COURT: BOTH OF YOU LOOK RESIGNED AS TO THIS JUROR.

16 MS. HERVEY: I CAN TELL YOU, YOU DON'T WANT HIM. HE'S
17 A BOB JONES GRADUATE.

18 MR. MAULDIN: YEAH, I DON'T WANT HIM.

19 THE COURT: HE'S IN PANEL 27.

20 MR. MAULDIN: HE'S IN PANEL 27?

21 THE COURT: UH-HUH (AFFIRMATIVE).

22 MR. MAULDIN: WHICH IS THREE PAGES DOWN FROM WHERE WE
23 ARE NOW? I AM WILLING TO SAY WE'LL NEVER REACH HIM.

24 THE COURT: THIS IS THE FELLOW WHO IS THE PAINTER.

25 SOLICITOR ARIAIL: I CONSENT.

MATTERS AND MOTIONS

1 **MR. MAULDIN:** THANK YOU, JUDGE. WHAT TIME TOMORROW?

2 **THE COURT:** 8:30. BRING MR. ROLLER IN. HAVE HIM SIT
3 IN THE JURY BOX.

4 I'VE GOT THREE PANELS TOMORROW. 8:30, 11:30 AND 4:00.

5 (OFF RECORD DISCUSSION)

6 (JUROR NUMBER 317 ENTERS COURTROOM AT 7:31 P.M.)

7 **THE COURT:** SIR, ARE YOU MR. FRED ROLLER?

8 **JUROR NUMBER 317:** YES.

9 **THE COURT:** YOU WERE SUMMONED FOR JURY DUTY TO APPEAR
10 IN THIS COURTHOUSE ON MONDAY, FEBRUARY 4TH, IN THE JURY
11 ASSEMBLY ROOM, AND YOU DID NOT APPEAR. IN FACT, I WAS
12 INFORMED THAT YOU HAD LEFT GREENVILLE AND GONE TO CLEVELAND,
13 OHIO. IS THAT TRUE?

14 **JUROR NUMBER 317:** I WAS WORKING THERE ALL LAST WEEK
15 AND -- YES.

16 **THE COURT:** AND WHAT DID YOU --

17 **FRED C. ROLLER, III, HAVING**
18 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

19 **EXAMINATION BY THE COURT:**

20 **Q** TELL ME WHY YOU DIDN'T HONOR YOUR SUBPOENA AND APPEAR IN
21 COURT AS ORDERED?

22 **A** WELL, I'VE GOT NO EXCUSES. IT'S 650 MILES BACK. I WAS
23 GOING TO GET DONE WITH THE JOB TODAY, AND I SHOULD HAVE BEEN
24 BACK TOMORROW.

25 **Q** I'M NOT GOING TO HOLD YOU IN CONTEMPT, AND I'M GOING TO

FRED C. ROLLER, III -- EXAMINATION BY THE COURT

1 DIRECT THE CLERK TO TRANSFER YOU TO ANOTHER TERM OF COURT.
2 AND, MR. ROLLER, I KNOW JURY SERVICE IS INCONVENIENT, BUT
3 OVER 160 PEOPLE HAD THEIR LIVES TURNED UPSIDE DOWN BY SHOWING
4 UP ON MONDAY. AND IF EVERYBODY HAD THE ATTITUDE YOU HAD
5 ABOUT JURY DUTY, THE SYSTEM WOULDN'T WORK. AND WHEN YOU'RE
6 ORDERED TO REPORT BACK FOR ANOTHER TERM OF COURT, IF YOU DO
7 NOT APPEAR, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST
8 AND YOU WILL BE PUT IN JAIL. DO YOU UNDERSTAND THAT, SIR?

9 A YES.

10 THE COURT: PLEASE TAKE ADVANTAGE OF THIS OPPORTUNITY
11 THAT YOU'RE NOT BEING HELD IN CONTEMPT, TAKE ADVANTAGE OF THE
12 SECOND OPPORTUNITY TO COMPLY AND PARTICIPATE IN JURY SERVICE,
13 AND THAT WILL CONCLUDE THIS MATTER.

14 YOU'RE FREE TO GO. THANK YOU, SIR.

15 (JUROR EXITS COURTROOM AT 7:36 P.M.)

16 (COURT RECESSED FOR THE DAY AT 7:36 P.M.)

17 (COURT RESUMED AT 8:38 A.M. ON 2/7/02)

18 THE COURT: IF COUNSEL IS STILL SO INCLINED AND WANTS
19 TO ADDRESS THE BATSON ISSUES, I'M GLAD TO DO SO AT THIS TIME.
20 IF Y'ALL HAVE CONFERRED AND HAVE SOME OTHER ARRANGEMENT, THEN
21 I'LL BE GLAD TO ENTERTAIN THAT AND SEE WHAT IT IS.

22 MS. STROM: THE STATE WITHDRAWS ITS BATSON MOTION.

23 THE COURT: ALL OF THEM?

24 MS. STROM: YES, SIR.

25 THE COURT: OKAY. (OFF RECORD WITH MS. PLUMLEY)

MATTERS AND MOTIONS

1 ONCE THE DEFENDANT HAS HAD AN OPPORTUNITY TO DECIDE HOW
2 IT WANTS TO PURSUE ITS BATSON MOTIONS -- ALL, SOME,
3 WHATEVER -- PLEASE ADVISE AND WE WILL PROCEED.

4 **MR. MAULDIN:** ONE MOMENT, YOUR HONOR.. (OFF RECORD WITH
5 CO-COUNSEL)

6 YOUR HONOR, WITH REGARD TO MATTERS ARISING UNDER BATSON
7 IN THE JURY SELECTION PROCESS, WE DO REAFFIRM OUR CHALLENGES.
8 AND IN THAT REGARD WE POINT OUT TO THE COURT THE FOLLOWING ON
9 ITS FACE, GOING DOWN THE JURY LIST, AND I'LL USE THE NUMBERS
10 ON THE LEFT SIDE, WHICH ARE ACTUALLY THE DRAWN NUMBERS---

11 **THE COURT:** OKAY.

12 **MR. MAULDIN:** ---POOL NUMBERS.

13 JUROR NUMBER 4, WHO WAS DISQUALIFIED, WAS CHALLENGED BY
14 THE STATE AND DISQUALIFIED BY THE COURT. HE IS A BLACK MALE.

15 JUROR NUMBER 18 WAS CHALLENGED BY THE STATE AND THE
16 CHALLENGE WAS REJECTED, AND THE STATE STRUCK THAT JUROR.
17 THAT WAS THEIR FIRST STRIKE. HE IS A BLACK MALE.

18 JUROR NUMBER 21 WAS CHALLENGED BY THE STATE. HIS
19 QUALIFICATION -- HE WAS THEN QUALIFIED BY THE COURT. HE WAS
20 THEN STRUCK BY THE STATE. HE WAS A BLACK -- OR HE IS A BLACK
21 MALE.

22 JUROR NUMBER 32, IF I'M NOT MISTAKEN, THAT JUROR WAS
23 CHALLENGED BY THE STATE REGARDING THE PRIOR FRAUDULENT CHECK
24 RECORD, BUT I CAN'T BE ABSOLUTELY SURE WHETHER THERE WAS AN
25 OFFICIAL CHALLENGE ON HER QUALIFICATIONS.

MATTERS AND MOTIONS

1 THE COURT: NO, THEY CONCEDED HER QUALIFICATIONS.

2 MR. MAULDIN: ALL RIGHT. ALL RIGHT. AND THAT ONE I
3 WASN'T---

4 THE COURT: LET ME BACK UP. I HAD THAT IT WAS ADMITTED
5 THAT SHE WAS QUALIFIED.

6 MR. MAULDIN: ALL RIGHT.

7 THE COURT: DID Y'ALL -- IS THAT WRONG?

8 MS. HERVEY: NO.

9 MR. MAULDIN: ALL RIGHT. THEN I STAND CORRECTED. I
10 WASN'T REAL SURE ON THAT ONE, BUT I AM ON THE OTHER ONES.

11 BUT THEY DID STRIKE HER. SHE IS A BLACK FEMALE.

12 THE COURT: RIGHT.

13 MR. MAULDIN: JUROR NUMBER 33, THEY DID CHALLENGE THAT
14 JUROR'S QUALIFICATIONS. THE JUROR WAS QUALIFIED BY THE COURT
15 AND THEY STRUCK HER AS THEIR FOURTH STRIKE. THEY EXERCISED A
16 TOTAL OF FOUR STRIKES. ALL FOUR WERE AFRICAN-AMERICAN, TWO
17 FEMALES, TWO MALES.

18 AND I WILL BE GLAD TO RESPOND WITH REGARD TO PRIOR
19 RECORDS AND SO FORTH THAT WE HAVE BEEN ABLE TO DETERMINE OR
20 IF YOU WISH TO HEAR FROM THE STATE---

21 THE COURT: WELL, YOU MADE THE MOTION, AND I'M GOING TO
22 FOLLOW STATE v. ADAMS, WHICH ADOPTS PERKITT v. ELAM, AND
23 THAT'S GOING TO REQUIRE THE PROPONENT OF THE STRIKE TO COME
24 FORWARD WITH A RACIALLY OR GENDER NEUTRAL EXPLANATION. AND
25 THEN ONCE WE HEAR THAT, I'LL COME BACK TO YOU. BECAUSE UNDER

MATTERS AND MOTIONS

1 THE LAW IF THEY STATE A RACIAL OR GENDER NEUTRAL EXPLANATION,
2 THEN THE OPPONENT OF THE STRIKE HAS THE BURDEN OF PROVING
3 PURPOSEFUL DISCRIMINATION.

4 MR. MAULDIN: YES, SIR.

5 THE COURT: YOU KNOW, YOU MAY BE ABLE TO DEMONSTRATE
6 THAT THE PROFFERED REASON IS A PRETEXT OR OTHER JURORS WITH
7 THE SAME SITUATION OF ANOTHER RACE WERE SEATED. BUT WE'LL
8 DEAL WITH THAT AT THAT TIME.

9 I'D LIKE TO HEAR FROM THE STATE. I REALLY DON'T THINK I
10 NEED TO HEAR FROM THE STATE REGARDING NUMBER 4 ON THE PANEL
11 LIST. HE IS JUROR NUMBER 92, AND THAT'S THE NUMBER I'M GOING
12 TO REFER TO BECAUSE THAT'S WHAT THE APPELLATE COURT WILL LOOK
13 AT. JUROR 91, BLACK MALE, I FOUND NOT QUALIFIED. THE STATE
14 DID NOT EXERCISE A STRIKE, AND THE RECORD WILL REFLECT YOUR
15 EXCEPTION TO MY RULING.

16 THE FIRST ONE IS NUMBER 18 ON THE PANEL LIST BUT HE'S
17 JUROR NUMBER 11 ON THE VENIRE. I'D LIKE TO HEAR AS TO THAT
18 JUROR THE REASONS FOR EXERCISING A PEREMPTORY CHALLENGE.
19 SOME OF THESE YOU'VE ALREADY GIVEN SOME INFORMATION WHEN WENT
20 THROUGH THE PROCESS EARLIER.

21 SOLICITOR ARIAIL: YOUR HONOR, HE IS -- MR. BAILEY IS
22 THE INDIVIDUAL WHO KNEW MR. RICHEY, WENT TO HIGH SCHOOL WITH
23 HIM, PLAYED FOOTBALL WITH HIM, SPOKE TO HIM, WAVED TO HIM AS
24 HE CAME INTO THE JURY ASSEMBLY ROOM, AND HE WAS INTERVIEWED
25 BY MR. RICHEY ON THOSE POINTS. I MEAN, THOSE WERE REAFFIRMED

MATTERS AND MOTIONS

1 DURING THE COURSE OF THE EXAMINATION.

2 AND ACCORDING TO MY NOTES, HE DID TWO THINGS IN ADDITION
3 TO THAT -- ONE THING IN ADDITION TO THAT, HIS HESITATION ON
4 THE DEATH PENALTY, BUT THAT WAS NOT A BASIS FOR THE STRIKE.
5 THE STRIKE IS THE CLEAR CONNECTION BETWEEN MR. RICHEY AND THE
6 JUROR, WHICH --

7 SINCE THAT STRIKE, FORTUITOUSLY, WE HAVE ALSO CONFIRMED
8 THROUGH ANOTHER SOURCE THAT THOSE TWO -- THE JUROR AND MR.
9 RICHEY -- ARE IN FACT VERY CLOSE FRIENDS AND HAVE KNOWN EACH
10 OTHER AND ASSOCIATE WITH EACH OTHER TO THIS DAY.

11 THE COURT: ALL RIGHT. I'M ONLY -- AND THAT MAY BE
12 TRUE, AND I DON'T DOUBT WHAT YOU HAVE TOLD ME. I THINK MY
13 ANALYSIS SHOULD BE, WHAT WAS YOUR STATE OF MIND AT THE TIME
14 YOU EXERCISED THE STRIKE?

15 SOLICITOR ARIAIL: I UNDERSTAND THAT. AND THE STATE OF
16 MIND AT THE TIME OF TRIAL -- AT THE TIME OF THE STRIKE WAS
17 THAT HE KNEW MR. RICHEY, HAD NO CONNECTION TO BALANCE THAT
18 OUT. THAT'S WHAT WE TOOK MR. STEWART -- I MEAN, MR. RUSSELL.
19 MR. RUSSELL WAS FAIR TO BOTH SIDES. HE KNEW EVERYBODY ON
20 BOTH SIDES. HE WASN'T GOING TO BE SWAYED EITHER WAY. BUT
21 THIS ONE WAS AN INDIVIDUAL WHO KNEW ONLY ONE SIDE, AND HE WAS
22 JUST TOO CLOSE.

23 THE COURT: I UNDERSTAND THAT.

24 SOLICITOR ARIAIL: ALL RIGHT.

25 THE COURT: I JUST WANT YOU TO KNOW THAT WHEN I

MATTERS AND MOTIONS

1 CONSIDER IT I'M NOT GOING TO TAKE THIS EXTRA INFORMATION.

2 IF YOU WOULD, TELL ME ABOUT MR. MILLER.

3 SOLICITOR ARIAIL: MR. MILLER HAD A VERY EXTENSIVE
4 RECORD, AS YOU MAY RECALL.

5 THE COURT: AND THAT'S -- ALL THESE RECORDS AND
6 WHATEVER ARE GOING TO HAVE TO BE HANDED TO ME, AND I'M GOING
7 TO SEAL THEM AS A COURT'S EXHIBIT.

8 SOLICITOR ARIAIL: HE HAD EIGHT CONVICTIONS, ALL IN
9 MAGISTRATE COURT. BUT THERE WERE SEVERAL, TWO IN PARTICULAR,
10 FAILURE TO COMPLY WITH A COURT ORDER. AND THERE WAS A THIRD
11 ONE, WHICH WAS A BREACH OF TRUST, AND A FOURTH ONE, WHICH WAS
12 A PETIT LARCENY, WHICH ARE -- IN MY VIEW, ARE CRIMES OF MORAL
13 TURPITUDE. THEREFORE, THE FAILURE TO HONOR A COURT ORDER AND
14 FAILURE TO -- OR COMMISSION OF CRIMES INVOLVING MORAL
15 TURPITUDE WOULD BE THE BASIS FOR STRIKING HIM -- AND THE
16 EXTENT OF HIS LENGTHY RECORD.

17 THE COURT: ALL RIGHT. THE NEXT ONE, I BELIEVE, ON
18 WHICH THERE IS A CHALLENGE, LOOK AT NUMBER 32. THAT'S JUROR
19 330 IN THE VENIRE. I BELIEVE THIS IS THE ONE YESTERDAY THAT
20 I HAD NO IDEA AND YOU TOLD ME SHE HAD A RECORD.

21 SOLICITOR ARIAIL: RIGHT. EIGHT CHARGES -- I BELIEVE
22 EIGHT CHARGES AND SEVEN CONVICTIONS FOR FRAUDULENT CHECK.

23 THE COURT: ANYTHING ELSE ON MS. SINGLETON? I'M SORRY,
24 JUROR 330?

25 SOLICITOR ARIAIL: NO.

MATTERS AND MOTIONS

1 **THE COURT:** OKAY. THE NEXT ONE IS JUROR 33 IN THE
2 VENIRE PANEL. IN THE VENIRE OVERALL IT'S 388.

3 **SOLICITOR ARIAIL:** MS. WILLIAMS IS THE LADY WHO WROTE
4 ON HER QUESTIONNAIRE SHE OPPOSED THE DEATH PENALTY. SHE WAS
5 NOT IN FAVOR OF CAPITAL PUNISHMENT. SHE RESPONDED TO YOUR
6 FIRST TWO QUESTIONS THAT SHE COULD NOT VOTE FOR CAPITAL
7 PUNISHMENT. THE COURT PERSISTED WITH ITS EXAMINATION AND WAS
8 ABLE TO REHABILITATE HER TO A QUALIFIED JUROR.

9 WE DID OBJECT TO HER QUALIFICATIONS ON THE BASIS THAT I
10 DIDN'T BELIEVE THAT SHE REALLY COULD DO THAT. I FELT THAT
11 YOU HAVE A VERY PLEASING FACE AND PLEASING DEMEANOR, AND I
12 THOUGHT SHE WAS PLEASING THE COURT. I OBVIOUSLY DIDN'T HAVE
13 AS PLEASING A DEMEANOR. SHE DIDN'T WANT TO PLEASE ME. SHE
14 STUCK WITH ANSWERING YOUR QUESTIONS.

15 I JUST FELT THAT SHE WAS NOT -- WOULD NEVER CONSIDER THE
16 DEATH PENALTY AND SO STATED ON HER -- HAD WRITTEN IN HER
17 QUESTIONNAIRE. SO I DIDN'T THINK THERE WAS ANY WAY SHE WAS
18 GOING TO BE FAVORABLE OR BE ABLE TO GIVE FAIR AND EQUAL
19 CONSIDERATION.

20 **THE COURT:** ALL RIGHT.

21 **SOLICITOR ARIAIL:** SWEET LADY, BUT JUST NOT GOING TO DO
22 IT.

23 **THE COURT:** ALL RIGHT. THAT'S THE STATE'S REASONS. I
24 FIND THOSE REASONS TO BE RACIALLY NEUTRAL. SO I'M GOING TO
25 COME BACK TO YOU, MR. MAULDIN, AND HEAR FURTHER FROM YOU.

MATTERS AND MOTIONS

1 **MR. MAULDIN:** YES, SIR. IF THE COURT PLEASE, LET ME GO
2 TO JUROR NUMBER 33 ON THE PANEL, 388 ON THE JURY VENIRE LIST.
3 I WILL, TO THE EXTENT NECESSARY, CONCEDE THAT MS. -- THAT
4 THAT JUROR, IF TAKEN IN AN ISOLATED QUESTION-ANSWER SCENARIO,
5 CLEARLY WOULD HAVE BEEN A JUROR THE STATE WOULD NOT HAVE
6 WANTED REGARDLESS OF HER RACE. AND SO I ACKNOWLEDGE THE
7 LEGITIMACY OF THAT STRIKE IN AN ISOLATED WAY. THE PROBLEM IS
8 THAT SHE IS ALSO OF THE SAME RACIAL CLASS THAT ALL OF THE
9 OTHER STRIKES -- THEY DIDN'T EXERCISE ANY OTHER STRIKES. SO
10 THE SYSTEMATIC NATURE IS WHAT I WOULD RELY UPON AS TO MS.
11 WILLIAMS.

12 NOW, AS TO JUROR NUMBER 32 ON THE PANEL, 330, JUROR
13 NUMBER 330, I BRING TO THE COURT'S ATTENTION AND WOULD LIKE
14 THE RECORD TO CONTAIN THE ACTUAL N.C.I.C. THAT WAS PROVIDED
15 TO US ON COURT ORDER.

16 **THE COURT:** OKAY. WELL, I DON'T HAVE EITHER ONE. SO
17 AT SOME POINT I'M GOING TO NEED TO LOOK AT THAT.

18 **MR. MAULDIN:** RIGHT. WE'LL BE GLAD TO PASS IT UP TO
19 THE COURT, THE ONE WE WERE GIVEN.

20 **SOLICITOR ARIAIL:** I'LL PASS IT.

21 **THE COURT:** YES, SIR. AND I'LL LOOK AT YOURS TOO.

22 **MR. MAULDIN:** WELL, WE DIDN'T GET WHAT THEY JUST HANDED
23 UP.

24 **THE COURT:** WELL, I'LL LET YOU LOOK AT IT.

25 (LAUGHTER)

MATTERS AND MOTIONS

1 **MS. HERVEY:** THAT'S ALL OF THEM.

2 **SOLICITOR ARIAIL:** HE HAS THE EXACT SAME THING I HAVE.

3 **MS. HERVEY:** HERS IS THE SECOND ONE. THOSE ARE ALL OF
4 THEM FROM THE JURY POOL---

5 **THE COURT:** YEAH, I WANTED ALL OF THEM.

6 **MS. HERVEY:** ---SO THERE'S NO QUESTION THAT SOMEBODY
7 HAD A QUESTION THAT WE DIDN'T STRIKE. IT PROVES THE ONES WE
8 DIDN'T STRIKE AS WELL ALSO DIDN'T HAVE A RECORD. SHE IS -- I
9 PULLED THOSE FIRST TWO. ISSIAC MILLER IS THE FIRST ONE IN
10 THAT PACKET. HE'S THE OTHER ONE WITH THE RECORD. AND THEN
11 ROSITA SINGLETON IS THE SECOND ONE IN THE PACKET.

12 **THE COURT:** OKAY. SO THAT'S EVERYBODY IN THE POOL
13 THEN. OKAY. THANK YOU.

14 **MS. HERVEY:** DO YOU WANT THE ONES THAT WE TOOK AS WELL?
15 THOSE ARE THE OTHER ONES THAT WERE STRUCK.

16 **THE COURT:** YEAH, IF YOU HAVE ONE THAT YOU ACCEPTED
17 THAT HAD A RECORD, I'D LIKE TO HAVE THAT, AND I'LL PUT IT IN
18 THIS BATCH.

19 **MR. MAULDIN:** AND I'M GOING TO TALK ABOUT THAT, YOUR
20 HONOR.

21 **THE COURT:** OKAY. SO I'LL GET THAT INFORMATION.
22 GO AHEAD, MR. MAULDIN.

23 **MR. MAULDIN:** YOUR HONOR, WITH REGARD TO THIS
24 PARTICULAR JUROR, THE FRAUDULENT CHECK DISPOSITIONS, THERE
25 WERE SIX THAT WE COULD READ. THESE THINGS ARE DIFFICULT FOR

MATTERS AND MOTIONS

1 ME TO READ, BUT WE READ SIX. NUMBER 330 JUROR. DECEMBER OF
2 '85, JULY OF '86, FEBRUARY OF '88, FEBRUARY OF '98, MARCH OF
3 '98 AND NOVEMBER OF 2000. THAT'S THE WAY I READ THAT
4 DOCUMENT. EACH WAS APPARENTLY A SEPARATE FRAUDULENT CHECK.

5 NOW, THE QUESTION THAT COMES UP IS, IN MY MIND, WHETHER
6 THE STATE PRESENTED JURORS FOR US TO ACT ON THAT HAD PRIOR
7 RECORDS. THAT'S THE WAY I'M GOING TO APPROACH THIS.

8 JUROR NUMBER 2 ON THE PANEL, 385 ON THE VENIRE, WAS OUR
9 FIRST STRIKE. WE CHALLENGED THAT JUROR. THE CHALLENGE WAS
10 DENIED. WE STRUCK THAT JUROR WITH A PEREMPTORY. AND THAT
11 JUROR HAD A PRIOR CRIMINAL DOMESTIC VIOLENCE ON HIS RECORD.

12 THE COURT: ALL RIGHT. LET ME -- A CDV. DOES
13 ANYBODY -- WITHOUT ME HAVING TO SEARCH, WHAT WAS THE DATE,
14 WAS IT LAST YEAR, TEN YEARS AGO?

15 MR. MAULDIN: MAY OF '97.

16 THE COURT: ALL RIGHT.

17 MR. MAULDIN: AND THAT WAS A -- THAT JUROR IS A WHITE
18 MALE.

19 THE COURT: I'VE GOT IT.

20 MR. MAULDIN: RIGHT. JUROR NUMBERS -- AND WE STRUCK
21 THAT JUROR.

22 JUROR NUMBER 7 ON THE PANEL, 250 ON THE VENIRE, WE
23 CHALLENGED THAT JUROR. UPON DENIAL OF THE CHALLENGE, WE
24 STRUCK THAT JUROR---

25 THE COURT: SHE HAS A DUI.

MATTERS AND MOTIONS

1 MR. MAULDIN: NOVEMBER OF '01, WHICH WAS TWO MONTHS AGO
2 -- THREE MONTHS AGO.

3 THE COURT: ALL RIGHT.

4 MR. MAULDIN: SHE HAD A -- IF I NEED -- DRIVING UNDER
5 THE INFLUENCE, I THINK.

6 THE COURT: RIGHT. I HAD THAT ONE DOWN.

7 MR. MAULDIN: ALL RIGHT. AND SHE IS A WHITE FEMALE.

8 JUROR NUMBER 30 ON THE PANEL, NUMBER 57 ON THE VENIRE.
9 WE CHALLENGED THAT JUROR. WE THEN EXERCISED OUR EIGHTH
10 PEREMPTORY ON THAT JUROR. IN JANUARY OF '01, WE HAVE A
11 CONVICTION FOR PUBLIC DISORDERLY CONDUCT AND, ADDITIONALLY, A
12 CHARGE FOR ASSAULT AND BATTERY WHICH SHOWS, QUOTE, A
13 NONCONVICTION.

14 THE COURT: WHAT WAS THE DISPOSITION OF THE DISORDERLY?

15 MR. MAULDIN: DISORDERLY CONDUCT WE SHOW A CONVICTION.

16 THE COURT: CONVICTION.

17 MR. MAULDIN: AND THAT WAS JANUARY OF '01, A YEAR AGO.
18 HE -- THAT JUROR IS A WHITE MALE.

19 JUROR -- LET ME GET THIS RIGHT NOW. ALL RIGHT. AND I'M
20 NOT REAL SURE HOW THIS -- WE HAVE A JUROR WHO THE STATE
21 ACCEPTED THAT IS A BLACK FEMALE WHO HAS A PRIOR CONVICTION.
22 SO TO THE EXTENT THAT IS A CONSIDERATION TO THE COURT AS TO
23 THE CLAIM THAT IT'S PRIOR CONVICTIONS THAT THEY WERE USING,
24 WE BRING THAT TO THE COURT'S ATTENTION. AND THAT WAS JUROR
25 NUMBER 27 ON THE PANEL.

MATTERS AND MOTIONS

1 THE COURT: 27.

2 MR. MAULDIN: JUROR NUMBER 129 ON THE VENIRE.

3 THE COURT: OKAY.

4 MR. MAULDIN: IS A BLACK FEMALE.

5 THE COURT: WHAT WAS HER RECORD?

6 MR. MAULDIN: CRIMINAL DOMESTIC VIOLENCE, JULY OF 1995.

7 THE COURT: LET ME GET THAT DOWN. ONE SECOND.

8 MR. MAULDIN: AND IT MAY BE THAT I'M MISREADING -- AM I
9 MISREADING IT? (PAUSE) BUT THAT'S WHAT MY READING OF THE
10 N.C.I.C.s THAT I WAS PROVIDED INDICATE ON THE PRIOR RECORDS.
11 SO WE TAKE THE POSITION THAT TO CLAIM A PRIOR RECORD --
12 PARTICULARLY IN THIS PARTICULAR CASE WITH REGARD TO THE ONE
13 THEY DID STRIKE AND ARE NOW CLAIMING WAS RACE NEUTRAL. THIS
14 WAS A NONVIOLENT PRIOR RECORD THAT EXTENDED OVER A LENGTHY
15 PERIOD OF TIME. THE ONES WE BROUGHT OUT, YOUR HONOR, IN FACT
16 SHOW ACTS THAT WOULD BE CONSIDERED ACTS OF PERSONAL VIOLENCE
17 THAT WERE RECENT. SO WE THINK THAT IS A PRETEXT.

18 NOW---

19 MS. HERVEY: DO YOU WANT -- THIS IS THE PANEL. THIS IS
20 THE ACTUAL JUROR'S RECORD THAT HE WAS REFERRING TO. I DIDN'T
21 HAND THIS TO YOU BEFORE.

22 THE COURT: OH, THESE ARE---

23 MS. HERVEY: JURORS THEMSELVES, THEIR RECORDS.

24 THE COURT: ALL THE JURORS SELECTED. OKAY.

25 MS. HERVEY: SO FAR.

MATTERS AND MOTIONS

1 THE COURT: YES, SIR?

2 MR. MAULDIN: NOW, WITH REGARD TO -- AND SO THAT WAS AS
3 TO NUMBER 32. THAT WAS MY CLAIM THAT THAT WAS PROTECTION ON
4 THEIR 32.

5 NOW WE GO BACK TO JUROR NUMBER 21. THEY EMPHASIZE, YOUR
6 HONOR -- AND AGAIN, THIS IS A PRIOR RECORD ISSUE. BUT THEY
7 EMPHASIZE THE SIGNIFICANCE OF THE FAILURE TO COMPLY IN
8 MAGISTRATE'S COURT.

9 NOW, IT'S DIFFICULT AND --

10 GIVE ME THAT FILE PLEASE. EXCUSE ME ONE MINUTE. (OFF
11 RECORD WITH CO-COUNSEL)

12 NOW, REGARDING JUROR -- PANEL NUMBER 21, VENIRE NUMBER
13 261, THE ALLEGED -- OR THE SIGNIFICANCE OF THE FAILURE TO
14 COMPLY IS THIS, YOUR HONOR, WHILE THESE ARE -- THESE FORMS
15 ARE SOMETIMES DIFFICULT -- ALWAYS DIFFICULT FOR ME TO READ,
16 LET ME ASSURE YOU THAT IN MAGISTRATE'S COURT OR MUNICIPAL
17 COURT THE FIRST IMPRESSION -- BECAUSE OUR OFFICE ACTUALLY
18 GETS APPOINTED TO REPRESENT PEOPLE ON FAILURE TO COMPLY --
19 AND IT IS 99 PERCENT OF THE TIME IT IS WHERE A DEFENDANT HAS
20 RECEIVED A SUSPENDED SENTENCE OF SOME SORT WITH AN IMPOSITION
21 OF A FINE OR THE IMPOSITION OF A PUBLIC SERVICE TYPE. IT'S
22 LIKE PROBATION, LIKE A VIOLATION OF PROBATION. FAILURE TO
23 COMPLY IS WHEN THEY DON'T PAY THE MONEY ON TIME. FAILURE TO
24 COMPLY IS WHEN THE DON'T GO THEIR PUBLIC SERVICE EMPLOYMENT
25 ON TIME. IMPOSSIBLE FOR ME TO SAY FROM THIS RECORD THAT

MATTERS AND MOTIONS

1 THAT'S WHAT THAT MEANS. BUT I FAIL TO SEE WHY THAT TYPE OF
2 ALLEGATION OR THAT TYPE OF OFFENSE ON A PERSON'S RECORD CAN
3 BE CLAIMED TO BE SO EXTRAORDINARILY INSIGNIFICANT. IT'S NOT
4 LIKE CONTEMPT OF COURT. IT'S NOT LIKE A VIOLATION OF THE
5 INTEGRITY OF THE JUDICIARY. IT IS A QUESTION OF A CLIENT --
6 OR A DEFENDANT NOT FOLLOWING UP ON SOMETHING UNDER A
7 SUSPENDED SENTENCE. SO I TAKE ISSUE WITH REGARD TO THE
8 SIGNIFICANCE OF THE CLAIMS THAT FAILURE TO COMPLY SOMEHOW
9 HAVE SOME EXTRAORDINARY VALUE WITH REGARD TO THE
10 QUALIFICATION OF A JUROR.

11 NOW, AS TO JUROR NUMBER 18 ON THE PANEL, 11 ON THE
12 VENIRE, IT IS OBVIOUSLY IT'S ALMOST GOTTEN IMPOSSIBLE TO PICK
13 JURORS WITHOUT RUNNING INTO PEOPLE YOU KNOW. NOW, THE
14 SOLICITOR SAYS THAT THE REASON, THE ONLY REASON, OTHERWISE
15 THAT JUROR WOULD ABSOLUTELY QUALIFY, HE WAS NOT CHALLENGED
16 FOR NOT BEING QUALIFIED BY EITHER SIDE THAT I RECALL -- NO,
17 I'M SORRY. HE WAS CHALLENGED BY THE STATE. HE WAS
18 CHALLENGED -- HIS QUALIFICATIONS WERE CHALLENGED BY THE
19 STATE. THE -- HE ACKNOWLEDGED WHEN HE SAT IN THE JURY BOX
20 THAT HE KNEW MR. RICHEY. HE ON HIS TESTIMONY FROM -- AND THE
21 REASON WE -- I ASKED RODNEY TO HANDLE HIS VOIR DIRE IS
22 BECAUSE I DIDN'T WANT ANY HIDING OF ANYTHING. I WANTED
23 RODNEY TO BE THE ONE ASKING HIM THE QUESTIONS, "WOULD THAT
24 AFFECT YOUR ABILITY TO BE FAIR THAT YOU KNEW ME, THAT WE WENT
25 TO SCHOOL TOGETHER --"

MATTERS AND MOTIONS

1 MR. RICHEY: TWENTY-FIVE.

2 MR. MAULDIN: "---TWENTY- FIVE, TWENTY YEARS AGO?"
3 HOWEVER LONG IT WAS. I MEAN, THAT'S THE WHOLE POINT OF
4 SENDING RODNEY TO THE PODIUM ON THAT PARTICULAR JUROR.

5 AND HERE IS THE MIX THOUGH. MR. RUSSELL KNEW MR. ARIAIL
6 AND HIS CHILDREN, I BELIEVE HE SAID. I ASSUME MILLS BEING A
7 LAWYER THAT THEY MIGHT OR MIGHT NOT KNOW EACH OTHER. BUT I
8 THINK THERE WAS REFERENCE TO THAT. REFERENCE THAT HE KNEW
9 EVERYBODY BUT ME. I KIND OF FEEL LEFT OUT OF THE PARTY. BUT
10 THE FACT IS HE SEEMED TO KNOW EVERYBODY.

11 NOW, THEY TOOK HIM AND WE STRUCK HIM. SO THERE IS NO
12 QUESTION, KNOWING PEOPLE CUTS BOTH WAYS. IF YOU KNOW
13 SOMEBODY, YOU DO KNOW HOW THEY FEEL ABOUT SOMETHING. I KNOW
14 MANY JURORS THAT COME ALONG, AND I'VE GOT A LOT OF FRIENDS
15 THAT I WOULDN'T WANT ON MY JURY THAT ARE GOOD FRIENDS OF
16 MINE.

17 MR. ARIAIL HAD NO PROBLEM PRESENTING MS. WHERRY, WHO
18 KNOWS HE AND HIS FAMILY AND THE CHILDREN, AND THEY GO TO --
19 THEY HAVE BEEN TO SOCIAL EVENTS TOGETHER. I EVEN ASKED HER
20 WOULD SHE BE UNCOMFORTABLE IF SHE WAS ASKED TO RULE ON
21 SOMETHING IN OPPOSITION TO MR. ARIAIL

22 SO THE IDEA THAT KNOWLEDGE OF A LAWYER IS GOING TO
23 NECESSARILY BE A DISQUALIFYING FACTOR WHEN THE JUROR HIMSELF
24 SAYS THAT WOULDN'T HAVE -- I MEAN, THAT'S THE ONLY WAY THEY
25 -- IF THAT'S THE CASE AND IF THEY CAN GET AWAY WITH THAT IN A

MATTERS AND MOTIONS

1 SYSTEMATIC PATTERN OF STRIKING FOUR AFRICAN-AMERICANS IN THIS
2 CASE, THEN WHAT WE NEED TO DO, JUST LIKE I MADE A MOTION
3 PRETRIAL, DISCLOSE THE ACQUAINTANCES AND THE KNOWLEDGE OF THE
4 PEOPLE THAT WE KNOW AND TAKE THEM OUT OF THE PANEL. DON'T
5 LET THEM EVEN BRING THEM IN THE COURTROOM IF THAT'S GOING TO
6 BE THE EXCUSE THEY'RE GOING TO BE ALLOWED TO USE IN THIS
7 CASE.

8 ONE MOMENT, YOUR HONOR. (OFF RECORD WITH CO-COUNSEL)
9 THANK YOU, YOUR HONOR.

10 THE COURT: I'D LIKE TO HEAR FROM THE STATE. I'LL USE
11 THE NUMBER HERE. NUMBER 33 ON THE PANEL BUT NUMBER 388
12 OVERALL, THE ONLY CHALLENGE THAT REALLY REMAINS IN EFFECT IS
13 IN THE OVERALL MAKEUP OF THE STRIKES, NOT HER INDIVIDUALLY
14 GIVEN WHAT SHE PUT ON HER QUESTIONNAIRE. SO THE BATTLE WITH
15 HER IS SPECIFICALLY IN TERMS OF THE OVERALL EXERCISE OF THE
16 FOUR STRIKES.

17 LET'S SEE. JUROR 330, NUMBER 32 ON THE PANEL, AND JUROR
18 261, 21 IN THE PANEL, IS WHERE THE ARGUMENT IS MADE THAT
19 THERE WERE OTHER JURORS OF THE WHITE RACE WHO HAD A RECORD
20 AND THEY WERE APPROVED BY THE STATE. SO I'D LIKE TO HEAR THE
21 STATE'S RESPONSE TO THAT. AND I GUESS THE THING WITH MR. --
22 JUROR NUMBER 18, NUMBER 11 IN THE OVERALL VENIRE, IS THE
23 RELATIONSHIP WITH MR. RICHEY. SO, I WANT TO GIVE YOU A
24 CHANCE TO RESPOND TO THEIR POSITION.

25 SOLICITOR ARIAIL: ALL RIGHT. LET ME -- FIRST LET ME

MATTERS AND MOTIONS

1 SEE IF I CAN -- THE ENTIRE MOTION, BATSON IDEA, THAT HE MAKES
2 IN HIS CASE RISES OUT OF HIS MISCONCEPTION AS TO WHAT THE
3 STATE IS DOING. TO BEGIN WITH, LET ME ASSURE THIS COURT
4 THERE IS NO INTENT OR DESIRE ON THE STATE'S BEHALF TO
5 SYSTEMATICALLY EXCLUDE BLACK JURORS.

6 THE COURT: AND I'M NOT SUGGESTING THERE IS. I DIDN'T
7 MEAN---

8 SOLICITOR ARIAIL: I KNOW THAT. BUT I WANT TO PUT IT
9 ON THIS RECORD BECAUSE IT'S JUST -- IT GETS TO THE POINT
10 WHERE -- I MEAN, I HAVE TO SIT HERE AND LISTEN TO THIS JUNK
11 ALL THE TIME. I UNDERSTAND WE HAVE A LEGAL GAME THAT WE
12 PLAY, BUT SOMETIMES IT CROSSES THE BOUNDS OR PROPRIETY.

13 WE ADAMANTLY SUPPORT THE IDEA THAT BLACK JURORS SHOULD
14 BE ON THIS JURY, AND THAT'S WHY THERE ARE TWO ON HERE. BUT
15 WE'RE NOT GOING TO PUT ANYBODY ON THIS JURY THAT HAS --
16 BECAUSE WE BELIEVE AND OUR EXPERIENCE REVEALS TO US THAT THEY
17 ARE EXTREMELY COMPETENT JURORS IN DEATH PENALTY CASES, AND WE
18 HAVE INFORMATION TO BACK THAT UP. SO WE'RE NOT INTERESTED IN
19 SYSTEMATICALLY EXCLUDING THEM.

20 WHAT WE ARE INTERESTED IN SYSTEMATICALLY EXCLUDING --
21 BECAUSE WE ONLY HAVE FIVE STRIKES AND BECAUSE THE LEGISLATURE
22 OF THIS STATE HAS NOT DEEMED IT APPROPRIATE TO INCREASE THAT
23 NUMBER TO MAKE THE PLAYING FIELD LEVEL, AND BECAUSE THE
24 LEGISLATURE OF THIS STATE HAS FAILED TO RECOGNIZE THE DAMAGE
25 THAT IS DONE IN EXPANDING THE BASE OF THE JURORS TO DRIVER'S

MATTERS AND MOTIONS

1 LICENSES, WE REALIZE THAT WE WILL HAVE TO TAKE ON THIS JURY
2 NOT ONLY PEOPLE WHO HAVE CRIMINAL RECORDS BUT PEOPLE WHO HAVE
3 PENDING CHARGES, PENDING IN MY OFFICE THAT I AM PRESENTLY
4 PROSECUTING. I'M GOING TO HAVE TO TAKE THEM.

5 SO WE HAVE TO SET A THRESHOLD, AND THAT THRESHOLD IS, IF
6 YOU'VE GOT A SYSTEMATIC OR LONGSTANDING RECORD OF CRIMINAL
7 CONVICTIONS, WE'RE NOT GOING TO TAKE YOU BECAUSE THAT
8 INDICATES A DIFFERENT BREED OF INDIVIDUAL TO US THAN SOMEBODY
9 WHO HAS HAD A ONE-TIME FIGHT WITH HIS WIFE THAT EVERYBODY IN
10 THE COUNTY IS GOING TO GET OR A ONE-TIME BAD CHECK OR A ONE-
11 TIME DUI. THOSE ARE ISOLATED INCIDENCES THAT CAN HAPPEN TO
12 ANYONE. BUT SOMEBODY WHO'S GOT EIGHT CONVICTIONS, REFUSES TO
13 COMPLY WITH AN ORDER, I DON'T CARE IF IT'S HE DIDN'T DO HIS
14 COMMUNITY SERVICE, HE IS NOT FOLLOWING THE RULES. AND I
15 SURELY HOPE THE LAW IS NOT THAT I AM GOING TO HAVE TO PUT
16 SOMEBODY ON A JURY BECAUSE HE IS BLACK AND HE DOESN'T
17 REFUSE -- WHEN HE REFUSES TO COMPLY WITH A COURT ORDER.

18 I DON'T CARE WHAT THE COURT ORDER IS. IT COULD HAVE
19 BEEN THIS GUY LAST NIGHT. HE DIDN'T COME TO THE JURY. HE
20 JUST FLAUNTED IT TO THE JUDGE THAT HE DIDN'T COME. AND THAT
21 SORT OF BEHAVIOR IS WHAT'S NOT SUPPOSED TO BE INSIDE THAT
22 BOX, AND THAT'S WHERE WE DRAW OUR THRESHOLD. IT DOESN'T
23 MATTER IF THEY'RE BLACK OR WHITE. IF THEY HAVE LONG RECORDS,
24 WE'RE GOING TO EXCLUDE THEM BECAUSE IT'S AN INDICATION --
25 CLEAR INDICATION TO US.

MATTERS AND MOTIONS

1 AND LET ME GO BACK TO ONE. I WANT TO MAKE THIS CLEAR.
2 HE DOESN'T POINT OUT BECAUSE HE WANTS TO MAKE THIS ARGUMENT
3 IN A VACUUM AND HE WANTS TO MISCONSTRUE AND PUT IT OUT OF
4 FOCUS. BUT MR. CHANCELLOR -- MR. CHANCELLOR WAS PROSECUTED
5 BY MY OFFICE WHEN I WAS IN THE OFFICE FOR THE MOST HEINOUS OF
6 CRIMES -- MOST HEINOUS OF CRIMES -- AND I PUT HIM ON THE
7 JURY, BECAUSE HE DOESN'T HAVE A LONG, EXTENSIVE RECORD. HE
8 GOT A BAD CHARGE. TERRIBLE CHARGE. I DON'T KNOW IF HE'S
9 TELLING THE TRUTH ABOUT IT. I HOPE HE IS. BUT THE POINT IS,
10 I BELIEVED HIM. AND HE'S GOT NO EXTENSIVE RECORD, AND HE'S
11 BLACK AND HE'S ON THE JURY. AND THAT TO ME IS AN INDICATION
12 TO SUPPORT.

13 AND NOT ONLY THAT, JUROR NUMBER TWENTY -- MS. GOODMAN,
14 SHE'S ON THE JURY. SHE'S BLACK AND SHE HAS A ONE-TIME
15 CONVICTION FOR CDV, JUST LIKE MR. COBB FOR DISORDERLY
16 CONDUCT, JUST LIKE MR. WHITE FOR CDV, AND JUST LIKE MS.
17 MCKINLEY, A ONE-TIME DUI.

18 WE DON'T STRIKE ONE-TIMERS BUT -- I'D LOVE TO STRIKE
19 ONE-TIMERS. THEY WON'T GIVE ME TEN. SO I'VE GOT TO REALIZE
20 GOING IN I'M GOING TO GET THEM WHETHER I LIKE IT OR NOT. SO
21 THE ONE-TIMERS ARE THE ONES I TAKE. EVEN THE ONE-TIMERS LIKE
22 MR. CHANCELLOR, I TAKE HIS WORD FOR IT.

23 NOW, AS TO MS. WILLIAMS, MS. WILLIAMS DIDN'T HAVE
24 ANYTHING TO DO WITH A RECORD. MS. WILLIAMS HAD TO DO WITH
25 THE FACT THAT SHE COULDN'T GO ALONG WITH -- SHE COULDN'T GO

MATTERS AND MOTIONS

1 ALONG WITH THE DEATH PENALTY, CLEARLY.

2 AND I THINK IT'S A LITTLE BIT UN -- YOU KNOW, LET ME SAY
3 IF I HAD TEN STRIKES AND WE WANT TO TALK ABOUT THE SYSTEMATIC
4 ISSUE, BUT WHEN I'VE ONLY GOT FOUR THAT I USED -- I'VE GOT
5 FIVE AND I DIDN'T USE THEM ALL, AND I ONLY GOT FIVE TOTAL.
6 -- IT'S HARD TO GET A REAL SYSTEMATIC APPROACH TO IT.
7 UNFORTUNATELY, THEY FALL IN THE CATEGORY, BUT EVERY ONE OF
8 THEM EITHER HAS A LONG RECORD OR OPPOSED THE DEATH PENALTY OR
9 WAS A FRIEND OF MR. RICHEY'S. SURELY TO GOODNESS I'M NOT
10 REQUIRED TO TAKE SOME FRIEND OF SOME LAWYER THAT'S ON THE
11 OTHER SIDE, EVEN IF HE IS BLACK. I MEAN, I HOPE THE LAW
12 HASN'T GOTTEN TO THAT POINT. BUT THAT'S WHY WE STRUCK THOSE
13 TWO, AND IT WASN'T SYSTEMATIC OR SYSTEMIC.

14 THE COURT: ALL RIGHT. MR. MAULDIN, IF YOU WANT TO
15 RESPOND TO THAT, I'LL GIVE YOU THE OPPORTUNITY.

16 MR. MAULDIN: NO, YOUR HONOR.

17 THE COURT: THE BATSON MOTIONS ARE RESPECTFULLY DENIED.
18 I FIND THAT DEFENDANT HAS FAILED TO CARRY ITS BURDEN OF
19 PURPOSEFUL DISCRIMINATION. I FIND THE REASONS ARTICULATED BY
20 THE STATE ARE REASONABLE, LEGITIMATE AND IN NO CIRCUMSTANCE
21 IS A PRETEXT FOR DISCRIMINATION. THE STATE CONSISTENTLY
22 ACCEPTED AND APPROVED OF JURORS WITH A MINOR RECORD, SUCH AS
23 ONE OFFENSE. THEY EVEN ACCEPTED A BLACK FEMALE WHO FIT INTO
24 THAT CATEGORY AS DID SEVERAL WHITE JURORS.

25 WITH REGARD TO MR. MILLER AND MS. SINGLETON, THEY HAD

MATTERS AND MOTIONS

1 MULTIPLE CONVICTIONS OVER A PERIOD OF TIME, AND I FIND NO
2 BATSON VIOLATION. MS. WILLIAMS WAS OBVIOUSLY HEAVY PRONE
3 TOWARD LIFE AS OPPOSED TO THE DEATH PENALTY. HER RESPONSES
4 WERE CONSISTENT WITH THAT. I DO FIND SHE WAS QUALIFIED, BUT
5 HER RESPONSES MADE IT VERY CLEAR HER LIKELY LEANING. THAT
6 COUPLED WITH HER QUESTIONNAIRE WHERE SHE SAID SHE WOULD NOT
7 IMPOSE THE DEATH PENALTY CLEARLY SUPPORTS A REASONABLE BASIS
8 FOR THE EXERCISE OF THAT STRIKE.

9 MR. BAILEY, I FIND, IS A REASONABLE BASIS TO EXERCISE A
10 STRIKE THAT'S NONDISCRIMINATORY. A JUROR WHO DID NOT KNOW
11 THE DEFENDANT BUT KNEW MR. ARIAIL, JUROR NUMBER 384, MS.
12 WHERRY, A WHITE FEMALE WAS STRUCK BY THE DEFENDANT, PERHAPS
13 FOR THE REASON OF THAT RELATIONSHIP WITH THE SOLICITOR,
14 PERHAPS OTHER REASONS AS WELL.

15 BUT I UNDERSTAND BUT RESPECTFULLY DENY THE BATSON
16 MOTIONS. THANK YOU.

17 DO WE HAVE EVERYBODY HERE?

18 BAILIFF: YES, SIR. I'LL SEE.

19 MR. MAULDIN: YOUR HONOR, WE HAVE TWO MATTERS, ONE
20 DEALING WITH MR. BANNISTER BEFORE WE BRING THE FIRST PANEL
21 IN. THE QUESTION CAME UP AS WE WERE PREPARING OUR
22 PRESENTATION THIS MORNING, THE QUESTION CAME UP ABOUT WHETHER
23 WE SHOULD MAKE AN INQUIRY AS TO WHAT HAPPENED WITH REGARD TO
24 THE COURT APPEARANCE THAT THE JUROR WHO WAS QUALIFIED AND IS
25 IN FACT ON THE JURY NOW WHETHER AN INQUIRY FROM THIS COURT

MATTERS AND MOTIONS

1 SHOULD BE MADE TO MAKE SURE THAT THERE IS NOT GOING TO BE
2 SOME INTERFERENCE REGARDING THAT PENDING MATTER. AND I DON'T
3 KNOW HOW -- IN OTHER WORDS, I HAVE NO CLUE AS TO WHAT
4 HAPPENED OR WENT ON OR -- SO WE DON'T KNOW.

5 THE COURT: YOU SORT OF LOST ME.

6 SOLICITOR ARIAIL: GOODMAN, HE WANTS TO KNOW IF SHE
7 WENT TO JAIL.

8 THE COURT: OH.

9 MR. MAULDIN: I DON'T THINK THAT'S EXACTLY WHAT I
10 WANTED TO KNOW, AND I THINK THAT -- THE LEAST HE COULD DO IS
11 STAND UP WHEN HE MAKES STATEMENTS LIKE THAT.

12 THE COURT: I'LL TRY TO -- DO YOU WANT ME TO FIND OUT,
13 THE CITY COURT?

14 MR. MAULDIN: I THINK IT WOULD BE---

15 THE COURT: I'LL TRY TO FIND OUT.

16 MR. MAULDIN: I THINK IT WOULD BE APPROPRIATE TO
17 DETERMINE THE STATUS, TO DETERMINE IF IT WOULD INTERFERE OVER
18 THE NEXT WEEK OR SO.

19 THE COURT: AND LET ME -- I'M GOING TO DO TWO THINGS.
20 I'M GOING TO MARK THIS -- THESE ARE ALL THE N.C.I.C. RAP
21 SHEETS OF ALL THE JURORS WHO WERE QUALIFIED AND/OR SEATED.
22 I'M GOING TO ASK MS. KOFFSKEY -- IT WILL BE A COURT'S
23 EXHIBIT. I WANT IT PLACED IN AN ENVELOPE AND UNDER SEAL.

24 AND LET ME MENTION THIS, I HAVE RULED ON BATSON TO THE
25 POINT WHERE WE ARE RIGHT NOW, HAVING SEATED TWELVE, SO WE

MATTERS AND MOTIONS

1 WOULD HAVE AN UNDERSTANDING. YOU -- COUNSEL WANTED TO
2 ADDRESS IT THIS MORNING. IT'S STILL OPEN. WE MAY BE AT
3 ALTERNATE NUMBER THREE WHO HAS AN EXTENSIVE RECORD, AND IF A
4 STRIKE IS AVAILABLE, THEN IT MAY SURFACE. SO MY RULING IS
5 NOT WITH FINALITY

6 MR. MAULDIN: YES, SIR.

7 THE COURT: WE STILL HAVE STRIKES TO EXERCISE, AND THEY
8 -- I'M -- I HAVE NO REASON TO THINK THEY WOULDN'T BE
9 EXERCISED IN A LAWFUL MANNER. BUT THE RULES STILL APPLY AND
10 I WILL VISIT ANY ISSUE THAT IS BROUGHT TO MY ATTENTION IN
11 CONNECTION WITH BATSON.

12 (N.C.I.C. RECORDS OF JURORS WHO WERE QUALIFIED AND/OR
13 SEATED PLACED IN AN ENVELOPE UNDER SEAL OF THE COURT AND
14 MARKED AS COURT'S EXHIBIT NUMBER 4)

15 (A PORTION OF THE TRANSCRIPT IS OMITTED AT THIS POINT AS
16 NONE OF THE REMAINING JURORS QUESTIONED HEREAFTER WERE
17 INVOLVED IN THE DELIBERATIONS OF THIS TRIAL)

18 THE COURT: IS THERE ANY OTHER ISSUE REGARDING BATSON
19 THAT EITHER SIDE WOULD LIKE TO BRING TO MY ATTENTION BEFORE I
20 FINALIZE THAT RULING? ANYTHING FROM THE STATE?

21 SOLICITOR ARIAIL: NO, YOUR HONOR.

22 THE COURT: ANYTHING FROM DEFENDANT?

23 MR. MAULDIN: ONLY TO REAFFIRM OUR CHALLENGE AS TO THE
24 ORIGINAL TWELVE JURORS.

25 THE COURT: VERY GOOD. THANK YOU, SIR. THE RULING IS

MATTERS AND MOTIONS

1 THE SAME.

2 MS. PLUMLEY, I'M GOING TO GIVE YOU INSTRUCTIONS. WE'RE
3 GOING TO RELEASE THE BALANCE OF PANEL 11 WITH INSTRUCTIONS
4 THAT I'VE WRITTEN OUT. THEY ARE NOT EXCUSED. THEY WILL CALL
5 BACK TOMORROW NIGHT AFTER 6:00 JUST IN CASE. I'M ALSO HAVING
6 PANELS 12 THROUGH 28 CALL BACK FRIDAY NIGHT AFTER 6:00 FOR
7 POTENTIAL FURTHER JURY SERVICE IN THIS CASE. IF WE ARE ABLE
8 TO PROCEED, THE REST OF THE PANELS WILL BE EXCUSED AT THAT
9 TIME. I AM FURTHER AUTHORIZING MS. PLUMLEY TO CONTACT THOSE
10 JURORS, THE SUBJECT OF THE BATSON MOTION. ALL OF THEM ARE
11 RELEASED FROM THEIR JURY SERVICE.

12 MR. MAULDIN, I KNOW THAT DR. NARAYAN WANTS TO MEET WITH
13 MR. WOOD. IS THERE GOING TO BE AN OBJECTION TO THAT? AND IF
14 YOU WANT TO BE PRESENT, I HAVE NO OBJECTION TO THAT.

15 MR. MAULDIN: YOUR HONOR, WE WOULD -- I'LL TAKE IT UP
16 RIGHT NOW WITH COUNSEL AND MY CLIENT. MY INITIAL GUT
17 REACTION IS YOU'RE GOING TO HAVE DR. NARAYAN HERE AT A
18 CERTAIN TIME IN THE MORNING, IS THAT...

19 THE COURT: YES. AND I'M TELLING YOU IF YOU TELL ME
20 YOU OBJECT TO IT, I'M NOT GOING TO LET HIM MEET WITH HIM.

21 MR. MAULDIN: WELL, AND LET ME MAKE A DETERMINATION
22 ABOUT WHAT OUR POSITION -- I WOULD THINK RIGHT NOW OFF THE
23 TOP OF MY HEAD THAT IF THE CLIENT COULD BE BROUGHT -- I
24 ASSUME MEETING AT THE COURTHOUSE, IS THAT OKAY?

25 THE COURT: YES.

MATTERS AND MOTIONS

1 **MR. MAULDIN:** IF THE CLIENT COULD BE BROUGHT UP IN THE
2 MORNING PRIOR TO DR. NARAYAN'S ARRIVAL, IF THERE IS A CHANGE
3 FROM THE POSITION WE TAKE TONIGHT THAT IT WOULD COME TO THE
4 COURT'S ATTENTION.

5 **THE COURT:** ALL RIGHT. THE JURY WILL BE HERE AT 9:30
6 IN THE MORNING. WE'LL BE READY TO GO AT 9:00 IN CASE THERE
7 ARE ISSUES THAT WE NEED TO ADDRESS. I'M NOT SAYING THERE
8 ARE. THERE COULD BE. SO THE COURT REPORTER, COURT STAFF
9 WILL BE AVAILABLE AT NINE O'CLOCK. MAYBE THAT IS AN
10 OPPORTUNITY TO DISCUSS THIS PARTICULAR ISSUE. I WILL TELL
11 YOU THE JURY -- A PLAN IS IN EFFECT FOR THEM TO BE ESCORTED
12 FROM THE PARKING GARAGE TO COURTROOM 7. THEY WILL NOT ENTER
13 THIS COURTROOM UNTIL WE HAVE ASSEMBLED AND ARE PREPARED FOR
14 THEM.

15 **MR. MAULDIN:** AND THAT IS AT 9:30?

16 **THE COURT:** THEY WILL ARRIVE AT 9:30 AND BE ASSEMBLED
17 IN COURTROOM 7.

18 **MR. MAULDIN:** WOULD THE COURT -- IF THE COURT HAS AN
19 ACTUAL IDEA OF THE PLANS IN TERMS OF TIMING, WE'VE GOT A
20 NUMBER OF EVENTS, I GUESS, THAT WOULD HAVE TO HAPPEN?

21 **THE COURT:** YES. I'LL GIVE YOU A ROUGH OUTLINE. IT'S
22 A WORK IN PROGRESS.

23 **MR. MAULDIN:** YES, SIR.

24 **THE COURT:** I'LL BE GLAD TO HEAR YOUR VIEWS.

25 THE JURY WILL BE SEATED AND NOT SWORN. THE BAILIFFS

MATTERS AND MOTIONS

1 WILL BE SWORN IN THE PRESENCE OF THE JURY. THE CUSTODIANS
2 WHO HAVE BEEN COMMISSIONED BY THE COURT WILL BE SWORN IN THE
3 PRESENCE OF THE JURY. THE JURY WILL BE INSTRUCTED TO GO TO A
4 JURY ROOM AND SELECT A FOREPERSON, BUT THEY WILL NOT HAVE
5 BEEN GIVEN THE OATH AT THAT TIME. THEY WILL THEN GET WITH
6 THE CUSTODIANS FOR THE PURPOSE OF OBTAINING THEIR LUGGAGE AND
7 HAVING THEIR CARS RETURNED TO SOMEONE THEY DESIGNATE. THEY
8 WILL THEN CHECK INTO THE HOTEL. THERE IS ONE JUROR WHO WE
9 TALKED ABOUT EARLIER WHO HAS A PHYSICAL THERAPY APPOINTMENT
10 AT 10:45. A S.L.E.D. -- AN AGENT WILL TAKE THAT JUROR TO
11 THAT OFFICE. ANYONE WHO MEETS WITH THAT JUROR WILL HAVE TO -
12 - WILL BE PRESENTED WITH AN ORDER THAT THEY ARE NOT TO
13 DISCUSS THE CASE. THE AGENT WILL BE WITH THE PATIENT AT ALL
14 TIMES.

15 WHILE ALL OF THIS IS GOING ON AND THEY ARE ARRANGING THE
16 JURY'S STUFF, WE WILL ADDRESS LEGAL ISSUES, JACKSON v. DENNO,
17 MOTIONS THAT YOU HAVE FILED, FOR EXAMPLE, TO REQUIRE THE
18 STATE TO PUT THEIR EVIDENCE UP FIRST IN A PROFFER MANNER SO
19 WE CAN DETERMINE ITS ADMISSIBILITY. AND THERE ARE SEVERAL
20 MOTIONS LIKE THAT. THERE ARE OTHER MOTIONS THAT HAVE BEEN
21 SERVED BUT NOT FILED. I WILL INSURE THAT THOSE MOTIONS, ONCE
22 THE JURY IS SWORN, ARE FILED WITH THE COURT.

23 THERE MAY BE A MYRIAD OF OTHER MATTERS, BUT I WANT TO
24 ACCOMPLISH THAT. AND MY GAME PLAN IS HOPEFULLY TO COMMENCE
25 THE TRIAL TOMORROW AFTERNOON.

MATTERS AND MOTIONS

1 **MR. MAULDIN:** ALL RIGHT, SIR.

2 **THE COURT:** ANYTHING FURTHER?

3 **MR. MAULDIN:** NOW, WE'VE GOT THE FOUR REMAINING
4 PROSPECTIVE JURORS IN THE PANEL THAT WERE BROUGHT IN ARE THE
5 ONES THAT YOU'RE GOING TO HAVE BROUGHT -- ARE THEY AMONG THE
6 CROWD THAT WOULD COME BACK IN THE EVENT OF SOME JURY
7 CATASTROPHE?

8 **THE COURT:** PANEL 11 BALANCE WILL BE THANKED FOR THEIR
9 SERVICE AND COMING IN TODAY. THEY WILL BE EXCUSED BUT ASKED
10 TO CALL BACK TO THE RECORDED MESSAGE ON THE NUMBER THEY HAVE
11 AFTER 6:00 P.M. TOMORROW JUST IN CASE WE NEED TO PURSUE
12 FURTHER QUALIFICATION. THEY WILL NOT BE EXCUSED AT THIS
13 TIME. IS THAT SATISFACTORY?

14 **MR. MAULDIN:** YES, SIR.

15 DOES THE COURT INTEND TO -- DID YOU SAY YOU WERE GOING
16 TO RETAIN A COUPLE OF OTHER PANELS TO ALSO MAKE THAT SAME
17 CALL?

18 **THE COURT:** PANELS 12 THROUGH 20-SOMETHING WILL CALL IN
19 TONIGHT, BECAUSE -- AND THEY'RE GOING TO BE TOLD, EVERY ONE
20 OF THEM, CALL BACK TOMORROW NIGHT.

21 **MR. MAULDIN:** ALL RIGHT.

22 **SOLICITOR ARIAIL:** AND YOU HAVE DIRECTED ME TO CALL DR.
23 NARAYAN?

24 **THE COURT:** JUST TO ALERT HIM. AND IF HE TESTIFIES,
25 I'M GOING TO -- I KNOW THAT YOU HAVE BEEN SENSITIVE TO THAT.

MATTERS AND MOTIONS

1 SOLICITOR ARIAIL: YES.

2 THE COURT: BUT I'M GOING TO SIGN THE ORDER. IT
3 STARTED IN ANDERSON. WE'RE NOT GOING TO REHASH ALL THAT.
4 I'M GOING TO QUESTION HIM INITIALLY, AND IF EITHER SIDE WANTS
5 TO CROSS EXAMINE HIM, THEY MAY DO SO.

6 SOLICITOR ARIAIL: TELL HIM TO BE HERE? HE SENT THE
7 LETTER. YOU KNOW WHAT HE WANTS. AND I COMMUNICATED THAT TO
8 HIM.

9 THE COURT: RIGHT. AND YOU CAN ASK HIM ABOUT HIS
10 CONVERSATIONS. HE HAS TOLD ME BECAUSE HE HAS NOT BEEN ABLE
11 TO GET WHAT HE WANTS HE'S -- HIS WORRY IS THAT HE IS NOT
12 GOING TO HAVE AN OPINION FOR THE COURT ON THIS PARTICULAR
13 ISSUE. I TOLD HIM NOT TO WORRY ABOUT IT AND LOSE SLEEP, JUST
14 TO DO WHAT HE COULD DO, TAKE THE OATH AND TELL THE TRUTH. IF
15 HE COULD HAVE AN OPINION, HE HAS AN OPINION. IF HE DOESN'T,
16 THERE IS NO HARM TO HIM. HE IS WORRIED ABOUT THAT.

17 MR. MAULDIN: AND IF I CAN JUST ASK THAT JOHN BE
18 BROUGHT UP HERE, SAY, BETWEEN 8:00 AND 8:30, THEN BY THE TIME
19 THE DOCTOR GETS HERE AT TENISH OR WHATEVER, ALL OF THAT'S
20 GOING TO HAVE -- THE DECISION ABOUT THE APPROACH FROM THE
21 DEFENSE WILL THEN BE OBVIOUS.

22 THE COURT: ALL RIGHT. WELL, MAYBE HE'LL BE HERE
23 BEFORE 10:00.

24 MS. STROM: HE WILL. HE'LL BE HERE AT 9:00 THAT'S WHAT
25 WE TOLD HIM.

MATTERS AND MOTIONS

1 **THE COURT:** LET'S HAVE MR. WOOD HERE ABOUT 8:30.

2 **MR. MAULDIN:** YES, SIR.

3 **THE COURT:** IF THAT'S REASONABLE FOR THE DEPUTIES. IF
4 IT'S NOT, I'LL DEAL WITH THEM AND WE CAN GET LATER BECAUSE
5 THEY'VE GOT A LOT OF OTHER ISSUES. WE ALL HAVE
6 RESPONSIBILITIES THAT WE'RE AWARE OF, BUT WE ALL HAVE
7 RESPONSIBILITIES THAT NONE OF THE OTHERS ARE AWARE OF.

8 **MR. MAULDIN:** AND THE ONLY CONCERN I HAVE IS THAT I'M
9 GOING TO HAVE -- I'M GOING TO BE CALLED UPON TO BE IN TWO
10 PLACES AT ONE TIME, SO I WANT TO MAKE SURE I'M AS FLEXIBLE AS
11 POSSIBLE.

12 **THE COURT:** YEAH. AND THAT'S WHY I'M TRYING TO CREATE
13 A WINDOW OF TIME FROM 9:00 TO 9:30. AND ALSO, IF THE JURY
14 HAS TO SIT OVER THERE UNTIL 10:00, THAT'S FINE. BUT THE ONE
15 JUROR WITH THE PHYSICAL THERAPY APPOINTMENT IS EITHER 10:45
16 OR 11:00. AND HOPEFULLY THAT -- WE'LL BE ABLE TO PICK THE
17 JURY, GET THAT DONE AND THEN SEGUE INTO HER APPOINTMENT
18 WITHOUT ANY INCONVENIENCE TO ANYONE.

19 **SOLICITOR ARIAIL:** COULD WE HAVE ONE MATTER ON THE SIDE
20 JUST A MINUTE?

21 (BENCH CONFERENCE OFF RECORD FROM 5:36 TO 5:40 P.M.)

22 **THE COURT:** UNLESS THERE IS ANYTHING FURTHER, WE'LL BE
23 IN RECESS UNTIL 9:00 A.M. IF NECESSARY.

24 I WOULD LIKE, BEFORE WE ADJOURN, FOR YOU TO TAKE TIME TO
25 GIVE ME AN INDICATION OF WHETHER YOUR CLIENT WILL MEET WITH

MATTERS AND MOTIONS

1 DR. NARAYAN IN THE MORNING. IF YOU ALREADY KNOW THE ANSWER,
2 TELL ME.

3 MR. MAULDIN: OH, YOU WANT ME TO TELL YOU THAT TONIGHT?

4 THE COURT: YOU TOLD ME EARLIER YOU WERE GOING TO GIVE
5 AN INDICATION TONIGHT---

6 MR. MAULDIN: OH. OKAY. YEAH. ALL RIGHT.

7 THE COURT: ---AND THEN YOU WERE GOING TO TELL ME IF
8 THERE WAS A CHANGE IN THE MORNING.

9 MR. MAULDIN: ALL RIGHT.

10 THE COURT: WOULD YOU RATHER JUST WAIT UNTIL THE
11 MORNING? IT MAKES NO DIFFERENCE TO ME. THAT WAS JUST YOUR
12 SUGGESTION.

13 MR. MAULDIN: WELL, I WOULD THINK -- YOUR HONOR, WE'RE
14 GOING TO GO DOWNSTAIRS. I ASKED THE OFFICERS TO HOLD HIM,
15 AND WE'RE GOING TO GO MEET.

16 THE COURT: YOU WANT TO JUST TELL ME IN THE MORNING?

17 MR. MAULDIN: SO IF TOMORROW MORNING EARLY WOULD BE
18 OKAY?

19 THE COURT: THAT'S FINE. I'LL BE HERE AT 8:30. WE'RE
20 IN RECESS.

21 (COURT RECESSED FOR THE DAY AT 5:41 P.M.)
22
23
24
25

CERTIFICATE

I, THE UNDERSIGNED, DAWN V. KOFFSKEY, OFFICIAL COURT REPORTER FOR THE 13TH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 6TH AND 7TH DAYS OF FEBRUARY, 2002.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

MARCH 20, 2003



DAWN V. KOFFSKEY
COURT REPORTER

MATTERS AND MOTIONS

1 (COURT RESUMED AT 9:38 ON 2/8/02)

2 THE COURT: LET ME JUST TELL YOU WHERE WE ARE IN TERMS
3 OF THE NUMBER OF JURORS WHO ARE PRESENT. WE ARE STILL
4 MISSING TWO. WE ARE GOING TO BEGIN THE PROCESS OF CALLING
5 THE NUMBERS BECAUSE WE ARE JUST A LITTLE BIT PAST THE
6 DEADLINE FOR THEM TO BE HERE. IF THERE ARE MISSING JURORS,
7 WE'LL DEAL WITH IT ON THE RECORD AND HOW WE'RE GOING TO
8 PROCEED TO LOCATE ANY SUCH JURORS.

9 ONCE WE ARE READY TO PROCEED, I'M GOING TO GO INTO
10 COURTROOM 7 AND ASK IF ANY JUROR HAS BEEN EXPOSED TO ANY
11 INFORMATION ABOUT THIS CASE OR HAS DISCUSSED THIS CASE OR
12 ANYTHING HAS ARISEN SINCE THE ACTUAL SELECTION OF THAT JUROR
13 THAT NEEDS TO BE BROUGHT TO MY ATTENTION INDIVIDUALLY. THEY
14 WILL RESPOND BY RAISING HANDS. I WILL THEN RECORD THOSE
15 NAMES.

16 WE WILL THEN -- I WILL THEN COME BACK OVER HERE. WE
17 WILL CALL EACH INDIVIDUAL JUROR, IF ANY, ON THE WITNESS
18 STAND. THEY WILL BE QUESTIONED IN REGARD TO ANY AFFIRMATIVE
19 RESPONSE.

20 ONCE THAT PROCESS IS COMPLETE I'M GOING TO BRING THOSE
21 JURORS AS A UNIT INTO THE COURTROOM AND THEY WILL SIT ON THIS
22 SIDE OF THE COURTROOM BEGINNING ON THE SECOND OR THIRD ROW.
23 THIS SIDE OF THE COURTROOM WILL BE VACANT EXCEPT FOR JURORS.
24 I WILL THEN ASK THE QUESTION AGAIN ON THE RECORD IF ANYONE
25 NEEDS TO SPEAK WITH ME FURTHER ABOUT ANY ISSUE OR WHETHER

MATTERS AND MOTIONS

1 ANYONE HAS DISCUSSED THE CASE OR BEEN EXPOSED TO ANY MEDIA
2 COVERAGE SO THAT FACT IS A PART OF THE RECORD.

3 ONCE WE ACCOMPLISH THAT, I'M GOING TO HAVE MS. MORRIS
4 CALL THE JURORS IN THE ORDER IN WHICH THEY WERE SELECTED.
5 THEY WILL BE SEATED. IT IS MY HOPE THAT WE HAVE A SUFFICIENT
6 NUMBER TO HAVE THE JURY PLUS FOUR ALTERNATES. IF WE HAVE
7 LESS THAN THAT, THEN WE WILL REVISIT THAT ISSUE, HOW TO
8 PROCEED, AT THAT TIME. THAT'S THE PROCESS. THAT'S WHY I
9 WANTED COUNSEL HERE AT 9:30, AND HOPEFULLY WE CAN PROCEED
10 FAIRLY QUICKLY WITH THAT PROCESS.

11 ONCE THAT'S COMPLETED AND IF THE JURY IS SEATED, THEY
12 WILL NOT BE SWORN. THE CUSTODIANS AND THE BAILIFFS WILL BE
13 SWORN. THEY WILL THEN BE IN CHARGE OF THE JURY AND WE WILL
14 BE ABLE TO PROCEED WITH ANY OTHER PRETRIAL MOTIONS AND
15 MATTERS FOR THE BALANCE OF THE MORNING.

16 MR. MAULDIN: YOUR HONOR, TWO SUGGESTIONS? NUMBER ONE,
17 WHEN YOU ADDRESS THE JURY IN THE OTHER ROOM YOU USE THIS
18 LANGUAGE, AND I'M GOING TO ASK YOU ABOUT IT. YOU SAID YOU
19 WILL ASK THEM IF THEY'VE BEEN EXPOSED TO ANY MEDIA,
20 INFORMATION, CONTACTS THAT NEEDS TO BE BROUGHT TO YOUR
21 ATTENTION. I DON'T THINK YOU NEED -- SHOULD SAY THAT.

22 THE COURT: I AGREE. I HAVEN'T WRITTEN IT OUT.

23 MR. MAULDIN: RIGHT.

24 THE COURT: IN FACT, I HAVE NO PROBLEM WITH A
25 REPRESENTATIVE FROM EACH SIDE GOING IN WITH ME.

MATTERS AND MOTIONS

1 MR. MAULDIN: AND THAT'S FINE TOO.

2 THE COURT: YEAH.

3 MR. MAULDIN: BUT I THINK THEY -- ANY CONTACT, WHETHER
4 THEY THINK THEY NEED TO---

5 THE COURT: AGREED.

6 MR. MAULDIN: RIGHT.

7 THE OTHER THING, YOUR HONOR, IS, WHEN YOU BRING THEM IN
8 HERE AND THEY'RE CALLED ONE AT A TIME, I THINK WE SHOULD ACT
9 ON THEM, AND THE REASON -- THAT IS, PRESENT THEM, SWEAR THEM,
10 PRESENT THEM, SWEAR THEM. THE REASON THAT I THINK THAT IS
11 BECAUSE THEY HAVE GONE THROUGH AN ARDUOUS TASK JUST LIKE WE
12 HAVE AND I THINK THAT OFFICIALLY -- THAT'S WHAT REALLY IS
13 HAPPENING EVEN THOUGH THEY HAVEN'T SEEN IT, AND I'D LIKE -- I
14 THINK THEY OUGHT TO SEE IT.

15 THE COURT: THAT'S A GOOD POINT. I'M GOING TO DO THAT
16 ONE TOO.

17 ANYTHING ELSE YOU WANT ME TO DO?

18 MR. MAULDIN: NO, SIR, NOT AT THIS TIME.

19 THE COURT: ALL RIGHT. ANYTHING FROM THE STATE?

20 SOLICITOR ARIAIL: NOTHING.

21 THE COURT: ALL RIGHT. WE'RE GOING TO BE AT EASE. I'M
22 JUST GOING TO BE MONITORING THE FLOW OF THE NUMBER OF JURORS
23 AND MAKE SURE WE HAVE EVERYONE. I'D SAY TWENTY MINUTES FROM
24 NOW, IF WE DON'T HAVE EVERYONE, WE'RE GOING TO -- I'M GOING
25 TO DIRECT LAW ENFORCEMENT TO FIND THEM ASAP.

MATTERS AND MOTIONS

1 **SOLICITOR ARIAIL:** OKAY.

2 **THE COURT:** THANK YOU FOR YOUR PATIENCE.

3 (A RECESS WAS TAKEN FROM 9:42 TO 9:50 A.M.)

4 **THE COURT:** THE RECORD WILL REFLECT THAT I ADDRESSED
5 WITH THE JURY THE ISSUES I MENTIONED EARLIER IN THE PRESENCE
6 OF COUNSEL. THERE WAS ONE RESPONSE. IT WILL BE REPEATED IN
7 THIS COURTROOM.

8 AND THERE WAS SOMETHING THAT I MEANT TO SHARE YESTERDAY
9 THAT I FOUND OUT JUST AS -- FOR INFORMATION. A PARTICULAR
10 JUROR HAD A MATTER IN CITY COURT AND WE ACCOMMODATED THAT
11 JUROR'S SCHEDULE. AND IN CONTACTING THE CITY COURT, THAT
12 INDIVIDUAL WENT DOWN FOR THE PURPOSE OF GIVING A HANDWRITING
13 SAMPLE. IT WAS NOT THAT INDIVIDUAL. THE CHARGES WERE
14 PROMPTLY DISMISSED.

15 I THINK BOTH SIDES HAD WANTED TO KNOW THE RESOLUTION OF
16 THAT MATTER. AND I THINK BOTH SIDES ARE AWARE OF WHICH JUROR
17 THAT IS, AND NOTHING FURTHER NEED BE SAID.

18 ANYTHING BEFORE WE PROCEED?

19 **MR. MAULDIN:** YOUR HONOR, AT THIS TIME FOR PURPOSES OF
20 THE RECORD WE WOULD LIKE TO RENEW EACH OF OUR MOTIONS
21 REGARDING JUROR SELECTION REGARDING ANY MATTER THAT RELATED
22 TO THE METHODS BY WHICH THE JURY WAS SELECTED. I DO HAVE MY
23 MOTIONS NOTEBOOKS WITH ME. SO IF THE COURT FELT IT NECESSARY
24 FOR THIS RECORD THAT I ENUNCIATE EACH SPECIFIC MOTION, I
25 WOULD. OTHERWISE, I SIMPLY WOULD RENEW ANY MOTION WHICH WAS

MATTERS AND MOTIONS

1 RULED ADVERSELY PRETRIAL REGARDING THE METHOD OF HANDLING AND
2 SELECTION OF THE JURY.

3 THE COURT: VERY GOOD, SIR. THE RECORD WILL REFLECT
4 THAT.

5 MR. MAULDIN: ALL RIGHT, SIR. WE ALSO, YOUR HONOR,
6 RENEW -- LET ME -- LET'S SEE HERE. WE RENEW EACH OF OUR
7 CHALLENGES TO THE QUALIFICATIONS OF JURORS THAT WERE RULED
8 ADVERSELY TO US EVEN THOSE WHO WERE SUBSEQUENTLY STRUCK AND
9 THEREFORE ARE NOT IN THIS GROUP. IF WE MADE A CHALLENGE AND
10 YOU RULED ADVERSELY TO US AND THEN WE STRUCK HIM, WE RENEW
11 THOSE MOTIONS FOR THE RECORD BECAUSE THAT OBVIOUSLY CHANGES
12 THE DYNAMICS OF THE SUBSEQUENTLY CHOSEN JURY. I HOPE THAT
13 MAKES SENSE ON THE RECORD.

14 WE RENEW OUR BATSON CHALLENGES TO THE METHOD BY WHICH
15 THE STATE EXERCISED THEIR PEREMPTORIES.

16 WE RENEW OUR MOTION FOR ADDITIONAL PEREMPTORIES THAT WAS
17 DENIED.

18 AND WE RENEW EVERY OTHER MOTION, YOUR HONOR, THAT IN ANY
19 WAY WAS RULED ADVERSELY TO US REGARDING THE METHOD OF
20 SELECTION OF THE JURY.

21 THE COURT: THE RECORD WILL SO REFLECT. I ALSO WANT TO
22 AT THIS TIME FINALIZE THE MATTER INVOLVING JUROR INFORMATION,
23 MEDICAL EXCUSES, SCHOOL NOTICES, THINGS INVOLVING RECORDS OF
24 INDIVIDUALS. MS. PLUMLEY HAS ASSEMBLED THAT. IT IS AN
25 EXTENSIVE EXHIBIT. IT WILL BE RECEIVED AND I'M GOING TO

MATTERS AND MOTIONS

1 ORDER THAT INFORMATION -- PERSONAL INFORMATION REGARDING
2 JURORS BE PART OF THE RECORD BUT SEALED, AND I'LL SIGN THE
3 ORDER AT THIS TIME.

4 MR. MAULDIN: WE ARE ASSUMING THAT THE N.C.I.C.s THAT
5 WERE GIVEN TO US ARE ALSO THE SAME AS THE ONES THAT WERE
6 GIVEN TO THE COURT?

7 THE COURT: YES. AND IF YOU WANT TO LOOK AT THAT,
8 THAT'S FINE. I HAVE PLACED THAT AS A COURT EXHIBIT---

9 MR. MAULDIN: YES, SIR.

10 THE COURT: ---SINCE IT DEALS WITH SPECIFIC OBJECTIONS
11 THAT WERE MADE DURING THE SELECTION PROCESS.

12 MR. MAULDIN: RIGHT.

13 THE COURT: IF YOU WOULD LIKE TO REVIEW IT, FEEL FREE
14 TO. I'VE SEALED IT, BUT IT'S AVAILABLE TO COUNSEL. AND THAT
15 IS A SEPARATE COURT'S EXHIBIT.

16 ALL RIGHT. BRING THE JURY PLEASE AND HAVE THEM SEATED
17 IN THE COURTROOM.

18 (JURY ENTERS COURTROOM AT 9:56 A.M.)

19 THE COURT: THE JURY IS NOW ASSEMBLED. LADIES AND
20 GENTLEMEN, I'M GOING TO ASK YOU THE SAME QUESTIONS THAT I
21 POSED TO YOU IN THE PRESENCE OF COUNSEL IN THE OTHER
22 COURTROOM. WE WILL DO SO NOW ON THE RECORD.

23 IF THERE IS ANY MEMBER OF THE JURY WHO HAS BEEN EXPOSED
24 TO ANY INFORMATION FROM THE MEDIA OR OTHERWISE OR HAS
25 DISCUSSED THIS CASE IN ANY MANNER SINCE YOU WERE IN COURT FOR

MATTERS AND MOTIONS

1 THE SELECTION PROCESS, WOULD YOU PLEASE RAISE YOUR RIGHT
2 HAND? (PAUSE) THERE IS NO RESPONSE.

3 IS THERE ANY MEMBER OF THE JURY PANEL WHO NEEDS TO BRING
4 ANY MATTER TO MY ATTENTION ABOUT HIS OR HER SERVICE IN THIS
5 CASE? IF SO, RAISE YOUR RIGHT HAND. (PAUSE) AGAIN, THERE
6 IS NO RESPONSE.

7 WE WILL NOW PROCEED WITH THE OFFICIAL SELECTION OF THIS
8 JURY.

9 MADAME CLERK, I WOULD REQUEST THAT YOU CALL THE NAMES OF
10 THE JURORS IN THE APPROPRIATE ORDER AND THE PARTIES WILL THEN
11 PROCEED WITH THE SELECTION.

12 MADAME CLERK: YOUR HONOR, NUMBER 325, WILL M. SHARPE.

13 THE COURT: PLEASE STAND, SIR. AS YOUR NAME IS CALLED,
14 STAND. THANK YOU.

15 WHAT SAYS THE STATE?

16 SOLICITOR ARIAIL: PRESENT HIM.

17 THE COURT: WHAT SAYS THE DEFENDANT?

18 MR. MAULDIN: SWEAR MR. SHARPE.

19 THE COURT: COME FORWARD, PLEASE.

20 MADAME CLERK: COME FORWARD PLEASE, SIR, AND HAVE A
21 SEAT IN THE JURY BOX TO YOUR RIGHT.

22 NUMBER 344, CYNTHIA B. STANCIL.

23 THE COURT: WHAT SAYS THE STATE?

24 SOLICITOR ARIAIL: PRESENT MS. STANCIL.

25 THE COURT: WHAT SAYS THE DEFENDANT?

MATTERS AND MOTIONS

1 MR. MAULDIN: SWEAR THE JUROR.
2 THE COURT: COME FORWARD, PLEASE, MA'AM.
3 MADAME CLERK: HAVE A SEAT IN THE JURY BOX, PLEASE,
4 MA'AM.
5 NUMBER 298, NORMA B. PITTS.
6 THE COURT: WHAT SAYS THE STATE?
7 SOLICITOR ARIAIL: PRESENT MS. PITTS.
8 THE COURT: WHAT SAYS THE DEFENDANT?
9 MR. MAULDIN: SWEAR HER.
10 THE COURT: COME FORWARD, PLEASE, MA'AM.
11 MADAME CLERK: NUMBER 233, TERRY B. MARSHALL.
12 THE COURT: WHAT SAYS THE STATE?
13 SOLICITOR ARIAIL: PRESENT MR. MARSHALL.
14 THE COURT: WHAT SAYS THE DEFENDANT?
15 MR. MAULDIN: SWEAR MR. MARSHALL.
16 THE COURT: COME FORWARD, PLEASE, SIR.
17 MADAME CLERK: NUMBER 47, ANNE CASEY SMITH.
18 THE COURT: WHAT SAYS THE STATE?
19 SOLICITOR ARIAIL: PRESENT MS. SMITH.
20 THE COURT: WHAT SAYS THE DEFENDANT?
21 MR. MAULDIN: SWEAR THE JUROR.
22 THE COURT: COME FORWARD, PLEASE, MA'AM.
23 MADAME CLERK: NUMBER 129, PRACILLA A. GOODMAN.
24 THE COURT: WHAT SAYS THE STATE?
25 SOLICITOR ARIAIL: PRESENT MS. GOODMAN.

MATTERS AND MOTIONS

1 THE COURT: WHAT SAYS THE DEFENDANT?
2 MR. MAULDIN: SWEAR MS. GOODMAN.
3 THE COURT: COME FORWARD, PLEASE.
4 MADAME CLERK: NUMBER 347, RAYMOND E. STARNES.
5 THE COURT: WHAT SAYS THE STATE?
6 SOLICITOR ARIAIL: PRESENT MR. STARNES.
7 THE COURT: WHAT SAYS THE DEFENDANT?
8 MR. MAULDIN: SWEAR MR. STARNES.
9 THE COURT: COME FORWARD.
10 MADAME CLERK: NUMBER 301, LINDA D. PRESSLEY.
11 THE COURT: WHAT SAYS THE STATE?
12 SOLICITOR ARIAIL: PRESENT MS. PRESSLEY.
13 THE COURT: WHAT SAYS THE DEFENDANT?
14 MR. MAULDIN: SWEAR MS. PRESSLEY.
15 THE COURT: COME FORWARD.
16 MADAME CLERK: NUMBER 44, JACOB M. CAMPBELL.
17 THE COURT: WHAT SAYS THE STATE?
18 SOLICITOR ARIAIL: PRESENT MR. CAMPBELL.
19 THE COURT: WHAT SAYS THE DEFENDANT?
20 MR. MAULDIN: SWEAR HIM.
21 THE COURT: COME FORWARD, PLEASE, SIR.
22 MADAME CLERK: NUMBER 162, STEPHANIE D. HASELWANDER.
23 THE COURT: WHAT SAYS THE STATE?
24 SOLICITOR ARIAIL: PRESENT MS. HASELWANDER.
25 THE COURT: WHAT SAYS THE DEFENDANT?

MATTERS AND MOTIONS

1 MR. MAULDIN: SWEAR MS. HASELWANDER.
2 THE COURT: COME FORWARD, PLEASE.
3 MADAME CLERK: NUMBER 51, JAMES R. CHANCELLOR.
4 THE COURT: WHAT SAYS THE STATE?
5 SOLICITOR ARIAIL: PRESENT MR. CHANCELLOR.
6 THE COURT: WHAT SAYS THE DEFENDANT?
7 MR. MAULDIN: SWEAR THE GENTLEMAN.
8 THE COURT: COME FORWARD, PLEASE.
9 MADAME CLERK: NUMBER 208, PETRA M. LACKEY.
10 THE COURT: WHAT SAYS THE STATE?
11 SOLICITOR ARIAIL: PRESENT MS. LACKEY.
12 THE COURT: WHAT SAYS THE DEFENDANT?
13 MR. MAULDIN: SWEAR MS. LACKEY.
14 THE COURT: COME FORWARD, PLEASE.
15 TWELVE JURORS HAVE BEEN SEATED. MADAME CLERK, WE'LL NOW
16 MOVE TO THE SELECTION OF THE ALTERNATES. THE FIRST
17 ALTERNATE, PLEASE.
18 MADAME CLERK: NUMBER 203, AMY J. KESSLER.
19 THE COURT: WHAT SAYS THE STATE?
20 SOLICITOR ARIAIL: PRESENT MS. KESSLER.
21 THE COURT: WHAT SAYS THE DEFENDANT?
22 MR. MAULDIN: SWEAR MS. KESSLER.
23 THE COURT: COME FORWARD, PLEASE.
24 LET'S MOVE FORWARD WITH ALTERNATE NUMBER 2, MADAME
25 CLERK.

MATTERS AND MOTIONS

1 MADAME CLERK: NUMBER 271, BEVERLY A. MORROW.

2 THE COURT: WHAT SAYS THE STATE?

3 SOLICITOR ARIAIL: PRESENT MS. MORROW.

4 THE COURT: WHAT SAYS THE DEFENDANT?

5 MR. MAULDIN: SWEAR MS. MORROW.

6 THE COURT: COME FORWARD PLEASE AS ALTERNATE NUMBER 2.

7 MADAME CLERK: NUMBER 194, LAURA A. JUMPER.

8 THE COURT: WHAT SAYS THE STATE?

9 SOLICITOR ARIAIL: PRESENT MS. JUMPER.

10 THE COURT: WHAT SAY THE DEFENDANT?

11 MR. MAULDIN: SWEAR MS. JUMPER.

12 THE COURT: COME FORWARD PLEASE AS ALTERNATE NUMBER 3.

13 MADAME CLERK: NUMBER 7, DIANNE L. ALPAUGH.

14 THE COURT: WHAT SAYS THE STATE?

15 SOLICITOR ARIAIL: PRESENT MS. ALPAUGH.

16 THE COURT: WHAT SAYS THE DEFENDANT?

17 MR. MAULDIN: SWEAR HER.

18 THE COURT: COME FORWARD PLEASE AS ALTERNATE NUMBER 4.

19 THE JURY PLUS FOUR ALTERNATES ARE NOW SEATED. AT THIS
20 TIME I WOULD LIKE THE BAILIFFS WHO ARE INVOLVED IN THIS CASE
21 TO ALL COME FORWARD AND STAND IN FRONT OF THE BAR. (PAUSE)

22 ALL BAILIFFS ASSIGNED TO THIS CASE ARE PRESENT. I WOULD
23 ASK EACH BAILIFF TO RAISE HIS OR HER RIGHT HAND. (JAMES
24 BOND, DAVID LYNCH, BEN JENKINSON, MAMIE OWENS, DORIS DAILEY
25 AND AUSTIN MERCK ALL COMPLY)

MATTERS AND MOTIONS

1 DO EACH OF YOU SWEAR OR AFFIRM THAT TO THE EXTENT YOUR
2 DUTIES REQUIRE YOU TO HAVE CONTACT WITH THE JURY IN THIS CASE
3 THAT YOU WILL ALLOW NO PERSON TO SPEAK TO THEM WITHOUT LEAVE
4 OF THE COURT, THAT YOU WILL NOT SPEAK TO THEM REGARDING THIS
5 CASE NOR PERMIT THEM TO SPEAK WITH ONE ANOTHER ABOUT THIS
6 CASE, THAT YOU WILL ASSIST THE COURT SECURITY OFFICERS IN THE
7 DISCHARGE OF THEIR DUTIES TO THE EXTENT REQUIRED OF YOU, AND
8 THAT YOU WILL FOLLOW THE INSTRUCTIONS OF THIS COURT? IF YOU
9 AGREE TO BE BOUND BY THIS OATH, PLEASE SAY "I WILL" AT THIS
10 TIME. (PAUSE) ALL BAILIFFS ACCEPT THE OATH. THANK YOU.

11 PLEASE BRING INTO THE COURTROOM THE ASSIGNED COURT
12 SECURITY OFFICERS FOR THIS CASE. (PAUSE) IF THE COURT
13 SECURITY OFFICERS WOULD, PLEASE LINE UP IN FRONT OF THE BAR.
14 (RICK MCLEOD, VANCE BOONE, BUCK COCKRELL, RANDALL STEWARD,
15 JIM ROGERS AND DOROTHY JONES-BEEKS ALL COMPLY)

16 ALL COURT SECURITY OFFICERS ARE PRESENT. I WOULD ASK
17 THE COURT SECURITY OFFICERS TO PLEASE RAISE YOUR RIGHT HAND.
18 DO EACH OF YOU SWEAR OR AFFIRM THAT YOU WILL KEEP THE JURY IN
19 THE APPOINTED HOUSING, THAT YOU WILL ALLOW NO PERSON TO SPEAK
20 TO THEM WITHOUT LEAVE OF THIS COURT, THAT YOU WILL NOT SPEAK
21 TO THEM REGARDING THIS CASE NOR PERMIT THEM TO SPEAK TO ONE
22 ANOTHER ABOUT THIS CASE, THAT YOU WILL PRESENT THEM AT THIS
23 COURT AT THE APPOINTED TIMES AND SEE TO THEIR CARE AND SAFETY
24 WHILE THEY ARE IN YOUR CHARGE? IF YOU AGREE TO BE BOUND BY
25 THIS OATH, WILL YOU PLEASE SAY, "I WILL," AT THIS TIME?

MATTERS AND MOTIONS

1 (PAUSE) (ALL COMPLY) ALL COURT SECURITY OFFICERS ACCEPT THE
2 OATH. THANK YOU.

3 (OFFICERS EXIT COURTROOM AT 10:07 A.M.)

4 THE COURT: LADIES AND GENTLEMEN OF THE JURY, YOU TOO
5 WILL RECEIVE AN OATH IN THIS CASE WHEN THIS CASE BEGINS WITH
6 THE RECEIPT OF TESTIMONY LATER TODAY. I WILL INSTRUCT YOU AT
7 THIS TIME TO REMAIN UNDER YOUR EXISTING OATH NOT TO DISCUSS
8 THIS CASE AMONG YOURSELVES OR WITH ANYONE ELSE.

9 LADIES AND GENTLEMEN, LET ME JUST MAKE A COUPLE OF
10 COMMENTS TO YOU AT THIS TIME, THEN I WILL DISCHARGE YOU TO
11 THE COURT SECURITY OFFICERS WHO WILL MAKE THE ARRANGEMENT FOR
12 YOUR HOUSING AND SEE TO YOUR CARE.

13 YOU WILL NOTICE THAT THERE WILL BE A CAMERA. THERE WILL
14 BE A PRESENCE OF THE MEDIA IN THIS COURTROOM DURING THE
15 COURSE OF THIS TRIAL. I WANT YOU TO BE AT EASE AND
16 UNDERSTAND THAT THE LAW PROHIBITS ANY IDENTIFYING FEATURE OF
17 ANY JUROR, NO PICTURE, NO NAME, NO REFERENCE TO A JUROR WILL
18 APPEAR IN ANY MEDIA BROADCAST. I HAVE MET WITH THE MEDIA
19 REPRESENTATIVES. THEY UNDERSTAND FULLY THE LAW IN THAT
20 REGARD, AND THEY WILL SCRUPULOUSLY HONOR THAT. DO NOT
21 CONCERN YOURSELF WITH THE PRESENCE OF ANY MEDIA IN THE
22 COURTROOM.

23 IN JUST A MOMENT YOU ARE GOING TO GO TO A JURY ROOM, A
24 JURY ROOM THAT YOU WILL BE USING THROUGHOUT THE COURSE OF
25 THIS TRIAL. WHEN YOU GET BACK TO YOUR JURY ROOM, I WANT YOU

MATTERS AND MOTIONS

1 TO DO ME A FAVOR. I WANT YOU TO GO AHEAD AND SELECT A
2 FOREPERSON FOR THIS JURY. PLEASE UNDERSTAND A FOREPERSON HAS
3 NO GREATER RIGHTS THAN ANYONE ELSE. OF THOSE WHO DELIBERATE
4 EACH WILL HAVE ONE VOTE AND ONE VOTE ONLY. BUT A FOREPERSON
5 IS NECESSARY TO HELP FACILITATE COMMUNICATION BETWEEN THE
6 COURT AND THE JURY.

7 ANYONE OF THE TWELVE OF YOU INITIALLY SELECTED IS
8 ELIGIBLE TO SERVE. AS ALTERNATES, THESE FOUR INDIVIDUALS ARE
9 NOT ELIGIBLE TO SERVE AS THE FOREPERSON. BUT PLEASE
10 UNDERSTAND THE ALTERNATES HAVE AN ABSOLUTE RIGHT TO
11 PARTICIPATE IN THE SELECTION OF YOUR FOREPERSON.

12 NOW, AS FAR AS SEATING GOES, WHEN YOU COME BACK LATER
13 TODAY TO BEGIN THIS TRIAL, THE TWELVE-MEMBER JURY WILL SIT AS
14 THEY WERE ORIGINALLY SEATED. THERE IS NO RESERVED SEAT
15 EXCEPT FOR ONE PERSON. THAT WOULD BE THE FOREPERSON. AND IT
16 IS NEAR THE END OF THE FRONT ROW. MS. GOODMAN IS NOW SEATED
17 IN THE CHAIR WHERE THE FOREPERSON WILL SIT. YOU SEE THE TWO
18 END CHAIRS BOTH ON THE FRONT ROW AND THE BACK ROW ARE
19 RESERVED FOR THE ALTERNATES AS LONG AS THEY SERVE AS
20 ALTERNATES. SO THESE FOUR CHAIRS ARE FOR THE ALTERNATES, THE
21 BALANCE ARE FOR THE REST OF THE JURY.

22 EXCEPT FOR THE FOUR ALTERNATES AND WHOMEVER YOU SELECT
23 AS YOUR FOREPERSON THAT WILL SIT AT THIS OTHER CHAIR WHERE
24 MS. GOODMAN PRESENTLY IS, THERE IS NO RESERVED SEATING.
25 UNLESS YOU HAVE ONE OF THOSE RESERVED SEATS AS I HAVE .

MATTERS AND MOTIONS

1 DESIGNATED, I WOULD SUGGEST TO YOU THAT WHEN YOU COME IN THE
2 COURTROOM, PLEASE FILL UP THE ROW SO THAT NO ONE HAS TO CLIMB
3 OVER YOU TO FIND AN EMPTY CHAIR.

4 PLEASE REMEMBER MY EARLIER INSTRUCTION AND THE OATH NOT
5 TO DISCUSS THIS CASE AMONG YOURSELVES OR WITH ANYONE ELSE.
6 AT THIS TIME, I WOULD ASK IF YOU WOULD PLEASE FOLLOW THE
7 BAILIFF TO THE JURY ROOM, SELECT A FOREPERSON, AND THEN COURT
8 SECURITY OFFICERS WILL THEN ASSUME CONTROL. THANK YOU.

9 (JURY EXITS COURTROOM UNSWORN AT 10:10 A.M.)

10 THE COURT: THE JURY HAS BEEN EXCUSED. THE FIRST ORDER
11 OF BUSINESS, I BELIEVE, IS TO ADDRESS THE ISSUE OF THE
12 TESTIMONY OF A STATE PSYCHIATRIST -- OR A PSYCHIATRIST THAT
13 MAY BE PRESENT, AND WE WILL PROCEED TO THAT.

14 ALSO, THE TWO OTHER ALTERNATES, I'M GOING TO ASK IF YOU
15 GENTLEMEN WOULD COME FORWARD, PLEASE. JUST MEET ME HERE ON
16 THE SIDE. (OFF RECORD DISCUSSION WITH ALTERNATES 5 AND 6)

17 (ALTERNATES 5 AND 6 DISMISSED AT 10:12 A.M.)

18 THE COURT: I UNDERSTAND THERE ARE INDIVIDUALS FROM THE
19 STATE HOSPITAL WHO ARE HERE IN THE EVENT THAT THERE WILL BE
20 AN INTERVIEW OR MEETING WITH THE DEFENDANT. THE RECORD WILL
21 REFLECT I DID RECEIVE MR. MAULDIN'S LETTER THAT MR. WOOD WILL
22 NOT MEET WITH THE STATE PSYCHIATRIST. I'M GOING TO TAKE
23 TESTIMONY FROM ONE, PERHAPS MORE, OF THE STATE PSYCHIATRISTS.
24 AND IF THERE ARE ANY ADDITIONAL QUESTIONS FROM THE ATTORNEYS,
25 WE WILL PURSUE IT AT THAT TIME.

MATTERS AND MOTIONS

1 I KNOW ONE OF THE INDIVIDUALS IS A FELLOW BY THE NAME OF
2 DR. NARAYAN.

3 SOLICITOR ARIAIL: YES, SIR.

4 THE COURT: AND HE'S THE ONE WHO HAS WRITTEN MR.
5 MAULDIN. HE HAS CALLED MY OFFICE. AND I'M -- JUST BECAUSE I
6 HAVEN'T HAD CONTACT WITH THE OTHERS, HE MAY BE WHO I NEED TO
7 START WITH, AND HE MAY BE SUFFICIENT BY HIMSELF. IS HE
8 PRESENT?

9 MS. STROM: YES, SIR.

10 SOLICITOR ARIAIL: THEY ARE IN MY -- THEY ARE RIGHT OUT
11 HERE. THEY CAME TO THE OFFICE THIS MORNING. WHY DON'T I ASK
12 THEM WHICH IS APPROPRIATE? I BELIEVE IT IS DR. NARAYAN. DR.
13 CRAWFORD IS HERE AS IS ANOTHER DOCTOR. I THINK IT'S TEZZA,
14 WHO ALSO IS HERE.

15 THE COURT: ALL RIGHT. IT'S WHATEVER ONE IS MOST
16 FAMILIAR, AND I THINK WE CAN GET THAT DONE FAIRLY QUICKLY AND
17 MOVE ON.

18 (PAUSE)

19 THE COURT: I MENTIONED TO THE STATE, COURTROOM 7 NOW
20 RELIEVED OF THE JURY RESPONSIBILITIES WILL BE USED FOR
21 SEQUESTRATION. DURING THE STATE'S CASE IT WILL BE AVAILABLE
22 TO THE STATE. DURING THE DEFENDANT'S CASE, AVAILABLE TO ANY
23 DEFENSE WITNESSES. SO IT WILL BE SHORT FROM THERE TO THE
24 COURTROOM.

25 MS. STROM: AND, YOUR HONOR, IF WE COULD INFORM THE

MATTERS AND MOTIONS

1 DEPUTY THAT'S SITTING OUTSIDE COURTROOM 7 SO THAT WAY THEY
2 WILL ALLOW OUR WITNESSES IN THERE. OBVIOUSLY, THEY WERE TOLD
3 AT THIS POINT NOT TO ALLOW ANYONE IN THERE.

4 THE COURT: WILL YOU TAKE CARE OF THAT, MR. BOND? MS.
5 OWENS CAN TAKE CARE OF IT. COURTROOM 7, I DON'T NEED THE
6 FRONT DOOR SECURE ANYMORE SINCE THE JURY IS NOT THERE. SO
7 THE GUARD CAN LEAVE. IT CAN BE OPENED UP FOR WITNESSES,
8 STATE WITNESSES.

9 SOLICITOR ARIAIL: YOUR HONOR, THIS IS DR. NARAYAN.

10 THE COURT: DR. NARAYAN, HOW ARE YOU, SIR?

11 DR. NARAYAN: NICE TO MEET YOU, JUDGE.

12 PRATAP NARAYAN, M.D., HAVING BEEN
13 DULY SWORN, TESTIFIED AS FOLLOWS:

14 EXAMINATION BY THE COURT:

15 Q DR. NARAYAN, FIRST OF ALL, I WANT TO THANK YOU FOR BEING
16 HERE. AND THE OTHERS WHO HAVE TRAVELED FROM COLUMBIA, I
17 APPRECIATE THEIR EFFORTS AS WELL.

18 DR. NARAYAN, I'M GOING TO JUST ASK YOU SOME QUESTIONS
19 BOTH ABOUT YOU, SOME OF YOUR BACKGROUND, AND ABOUT YOUR
20 EVALUATION OF THIS DEFENDANT PURSUANT TO THE ORIGINAL COURT
21 ORDER. TELL ME FOR WHOM YOU WORK, SIR.

22 A I WORK FOR THE DEPARTMENT OF MENTAL HEALTH. I WORK AT
23 THE WILLIAM S. HALL PSYCHIATRIC INSTITUTE IN COLUMBIA.

24 Q AND WHAT IS YOUR POSITION?

25 A I'M A STAFF PSYCHIATRIST THERE.

PRATAP NARAYAN, M.D. -- EXAMINATION BY THE COURT

1 Q AND DO YOU HAVE ANY PARTICULAR TITLE, STAFF
2 PSYCHIATRIST?

3 A I BELIEVE IT IS SENIOR PHYSICIAN.

4 Q SO YOU ARE A MEDICAL DOCTOR?

5 A YES, SIR.

6 Q WHAT ARE DUTIES AT WILLIAM S. HALL?

7 A OUR DUTIES CHANGE FROM TIME TO TIME, BUT IT'S PRIMARILY
8 THE EVALUATION AND REPORT WRITING FOR COURT-ORDERED
9 EVALUATIONS, AND SOMETIMES THE TREATMENT AND ASSESSMENT OF
10 INPATIENTS WHO ARE ADMITTED TO THE FACILITY.

11 Q IF YOU WOULD, JUST STARTING WITH YOUR MEDICAL EDUCATION,
12 WHERE DID YOU GO TO SCHOOL? WHAT DID YOU DO AFTER THAT?
13 JUST BRING US UP TO DATE WITH A SUMMARY OF YOUR PROFESSIONAL
14 CAREER.

15 A SURE. I WENT TO MEDICAL SCHOOL IN INDIA BETWEEN 1978
16 AND '83. AFTER GRADUATING MEDICAL SCHOOL I FINISHED A YEAR
17 OF INTERNSHIP. I DID A POSTGRADUATE COURSE AT THE NATIONAL
18 INSTITUTE OF MENTAL HEALTH. I GOT A DIPLOMA AND A DOCTOR
19 DEGREE IN INDIA. I WORKED AS A STAFF PSYCHIATRIST AT THE
20 NATIONAL INSTITUTE OF MENTAL HEALTH FOR TWO YEARS, AND I
21 MOVED TO THE UNITED STATES IN 1992. I DID A RESIDENCY IN
22 GENERAL PSYCHIATRY AGAIN AT THE MEDICAL COLLEGE OF VIRGINIA
23 AND UNIVERSITY OF FLORIDA FROM '92 TO '96. FROM '96 TO '97 I
24 FINISHED A FORENSIC PSYCHIATRY FELLOWSHIP AT THE UNIVERSITY
25 OF FLORIDA. AND SUBSEQUENT TO THAT, I'VE BEEN INVOLVED IN

PRATAP NARAYAN, M.D. -- EXAMINATION BY THE COURT

1 THE PRACTICE OF FORENSIC PSYCHIATRY. I AM BOARD CERTIFIED IN
2 GENERAL PSYCHIATRY AND FORENSIC PSYCHIATRY.

3 Q HAVE YOU EVER TESTIFIED AS AN EXPERT WITNESS IN THE
4 FIELD OF PSYCHIATRY OR FORENSIC PSYCHIATRY?

5 A YES, I HAVE, YOUR HONOR.

6 Q AND IN DOING SO HAVE YOU RENDERED EXPERT OPINIONS IN
7 THAT REGARD?

8 A YES, I HAVE, YOUR HONOR.

9 THE COURT: I UNDERSTAND THE LIMITATIONS GIVEN THERE IS
10 NO FOLLOW-UP TODAY WITH ANY INTERVIEW, BUT AS A COURTESY, IF
11 EITHER SIDE WOULD LIKE TO VOIR DIRE THE WITNESS AS TO HIS
12 QUALIFICATIONS, I WILL CERTAINLY PERMIT IT.

13 SOLICITOR ARIAIL: NONE FROM THE STATE.

14 MR. MAULDIN: NONE, YOUR HONOR.

15 Q DID YOU CONDUCT AN EVALUATION PURSUANT TO COURT ORDER OF
16 MR. JOHN RICHARD WOOD TO DETERMINE AMONG OTHER THINGS WHETHER
17 HE WAS COMPETENT?

18 A YES, YOUR HONOR, WE DID.

19 Q OKAY. I WANT TO LIMIT OUR DISCUSSION TO THE ISSUE OF
20 COMPETENCY. AND TO MAKE SURE WE UNDERSTAND WHAT THE LEGAL
21 STANDARD IS, UNDER SOUTH CAROLINA LAW THE STANDARD FOR
22 COMPETENCY IS WHETHER THE DEFENDANT HAS THE ABILITY TO
23 CONSULT WITH HIS ATTORNEY WITH A REASONABLE DEGREE OF
24 RATIONAL UNDERSTANDING, AND WHETHER A DEFENDANT HAS A
25 RATIONAL AS WELL AS FACTUAL UNDERSTANDING OF THE PROCEEDINGS,

1 THE NATURE OF THE PROCEEDINGS AGAINST HIM. IS THAT LIKEWISE
2 YOUR UNDERSTANDING OF COMPETENCY?

3 A YES, YOUR HONOR. YES, IT IS.

4 Q OKAY. WHEN YOU UNDERTAKE TO CONDUCT A COMPETENCY
5 EVALUATION, JUST SHARE WITH ME HOW YOU APPROACH IT. WHAT
6 PROCESS DO YOU FOLLOW? WHAT TYPE OF INFORMATION DO YOU WANT
7 TO KNOW ABOUT THAT INDIVIDUAL?

8 A WELL, FIRST OF ALL, WE REVIEW THE RECORDS THAT ARE
9 AVAILABLE TO US. WE REVIEW THE COURT ORDER AND TRY TO TAILOR
10 OUR EVALUATION AS WELL AS REPORT TO THE SPECIFIC QUESTIONS
11 ASKED BY THE COURT, AND THAT CAN VARY FROM CASE TO CASE. WE
12 REVIEW BACKGROUND RECORDS. WE TRY TO GET AS MUCH INFORMATION
13 FROM COLLATERAL SOURCES THAT WE CAN. WE GET ARREST WARRANTS.
14 WE GET INCIDENT REPORTS. WE GET WRITTEN STATEMENTS, IF
15 THAT'S AVAILABLE. AND THEN WE INTERVIEW THE DEFENDANT ON AS
16 MANY OCCASIONS AS WE FEEL WOULD BE RELEVANT TO COMING UP WITH
17 A CONCLUSION. IF FURTHER TESTS ARE INDICATED, WE ORDER THEM.
18 IF CONSULTATIONS ARE REQUIRED, WE DO THOSE. AND ONCE WE HAVE
19 MOST OR ALL OF THE INFORMATION WE THINK WOULD BE RELEVANT TO
20 WRITING THE REPORT AND WE'RE ABLE TO COME UP WITH SOME
21 CONCLUSIONS AND WE HAVE ADDRESSED THE QUESTIONS THE COURT HAS
22 POSED, THEN WE WILL FORMULATE A REPORT AND THEN SEND IT TO
23 THE COURT.

24 Q AND THAT'S SORT OF AN OVERVIEW OF THE PROCESS---

25 A YES, SIR.

1 Q ---THAT YOU WOULD FOLLOW WHEN A COURT ASKS YOU TO
2 DETERMINE THE ISSUE OF COMPETENCY?

3 A YES, IT IS, YOUR HONOR.

4 Q WOULD YOU WANT TO KNOW AS MUCH ABOUT THAT INDIVIDUAL AS
5 YOU COULD?

6 A AS MUCH AS POSSIBLE, YES, YOUR HONOR.

7 Q WOULD YOU WANT TO KNOW THE MENTAL HEALTH HISTORY AND THE
8 BACKGROUND OF THAT INDIVIDUAL?

9 A ABSOLUTELY, YOUR HONOR.

10 Q WOULD YOU WANT TO KNOW THAT INDIVIDUAL'S EXPERIENCE AND
11 FAMILIARITY WITH THE CRIMINAL JUSTICE SYSTEM?

12 A YES, WE WOULD.

13 Q I NOTICED IN THE REPORT, THE REPORT WHICH HAS BEEN FILED
14 WITH THE CLERK'S OFFICE, THAT FOR THE INTERVIEWS CONDUCTED OF
15 MR. WOOD THAT HE WAS ADVISED OF HIS RIGHTS, PRESENTED WITH
16 HIS RIGHTS. IT INDICATES HE UNDERSTOOD HIS RIGHTS AND WAIVED
17 HIS RIGHTS.

18 A THAT'S CORRECT.

19 Q I HAVE DEALT ON MANY OCCASIONS WITH STATE PSYCHIATRISTS
20 IN THIS SETTING ON HOW THAT IS DONE. I'M FAMILIAR WITH IT AS
21 A MATTER OF POLICY AND PRACTICE. BUT I DON'T KNOW
22 SPECIFICALLY WHAT WAS DONE IN THIS CASE TO ACCOMPLISH THAT.
23 AND IF YOU ARE AWARE OF HOW THAT WAS DONE TO ADVISE HIM OF
24 HIS RIGHTS, THE EXTENT OF THE ADVISEMENT OF RIGHTS, IF YOU
25 HAVE THAT INFORMATION, WOULD YOU SHARE IT WITH ME. AND IF

1 YOU NEED TO DEFER TO THE OTHER DOCTORS WHO ARE HERE, PLEASE
2 FEEL FREE TO DO SO, SIR.

3 A YES, YOUR HONOR. THANK YOU. I HAD THE OPPORTUNITY TO
4 MEET WITH MR. WOOD ON TWO SEPARATE OCCASIONS, ON SEPTEMBER
5 THE 25TH AND OCTOBER THE 29TH. ON BOTH OCCASIONS WE
6 DISCUSSED INITIALLY THE REASON FOR HIS PRESENCE AT THE
7 EVALUATION SITE, AND WE ADVISED HIM ALSO OF THE SPECIFIC
8 RIGHTS THAT HE HAD. TYPICALLY WE USE THE MIRANDA RIGHTS
9 FORMAT TO INSURE THAT PEOPLE ARE ADVISED OF THEIR RIGHTS, AND
10 WE ALSO USUALLY ELICIT INFORMATION FROM THE DEFENDANT. AND
11 IN THIS CASE WE DID ASK MR. WOOD TO PARAPHRASE WHAT HE
12 UNDERSTOOD FROM THE RIGHTS THAT HE READ. AND THE ANSWERS HE
13 GAVE LED US TO UNDERSTAND OR LED US TO BELIEVE THAT HE HAD A
14 GOOD UNDERSTANDING OF WHAT HIS RIGHTS WERE AND THAT HIS
15 SIGNATURE WOULD BE VALID.

16 AFTER THAT WE DISCUSSED WITH HIM THE ROLE OF THE
17 EXPERTS, WHAT WE WOULD BE DOING IN TERMS OF COLLECTING
18 INFORMATION, WHERE THE REPORTS WOULD BE SENT, WHO WOULD HAVE
19 ACCESS TO THE REPORT, AND ALSO IN TERMS OF HOW THAT REPORT
20 COULD BE USED AT TIMES OTHER THAN THE COMPETENCY AND IN
21 CERTAIN CIRCUMSTANCES IN THE PAST WE FOUND THAT SOME
22 INFORMATION IN THE REPORTS HAS BEEN USED AT THE TIME OF
23 SENTENCING. AND WE ADVISED MR. WOOD OF THOSE BITS OF
24 INFORMATION.

25 WE ALSO HAD HIM READ A WAIVER OF RIGHTS FORM THAT WE

PRATAP NARAYAN, M.D. -- EXAMINATION BY THE COURT

1 HAVE AS A STANDARD PROCEDURE, AND THAT GIVES HIM THE
2 OPPORTUNITY TO EITHER STATE THAT HE WISHED TO CONFER WITH HIS
3 ATTORNEY PRIOR TO SIGNING IT OR THAT HE DECIDED TO WAIVE
4 THAT. ON BOTH OCCASIONS HE WAIVED THE RIGHT TO CONFER WITH
5 HIS ATTORNEY OR HAVE THE ATTORNEY PRESENT AT THE TIME OF THE
6 EVALUATION. HE SIGNED THE FORM IN THE PRESENCE OF TWO
7 WITNESSES, WHOSE SIGNATURES ARE ALSO ON THE FORM.

8 ON THE THIRD OCCASION THAT HE MET WITH DR. TEZZA FOR
9 PSYCHOLOGICAL EVALUATION. I BELIEVE SHE WENT THROUGH THE
10 SAME PROCESS AND HAD HIM SIGN THE FORMS AGAIN.

11 Q LET ME FOLLOW UP ON TWO POINTS YOU MADE, DOCTOR.

12 A YES, YOUR HONOR.

13 Q DO YOU HAVE THE FILE THAT HAS THOSE FORMS THAT YOU HAVE
14 REFERRED TO?

15 A YES, YOUR HONOR, I DO.

16 Q I KNOW THIS IS GOING TO BE INCONVENIENT, DR. NARAYAN,
17 BUT I'M GOING TO ASK IF YOU WOULD REMOVE THESE TWO SHEETS
18 FROM THE FILE, AND WE WILL MAKE COPIES BEFORE YOU LEAVE.

19 A NO PROBLEM, YOUR HONOR. ABSOLUTELY.

20 Q BUT I WOULD LIKE TO GET -- AND I NOTICE THERE IS
21 INFORMATION ON THE BACK. IN FACT, THAT IS WHERE THE WAIVER
22 IS SIGNED?

23 A YES, YOUR HONOR.

24 Q AND WITNESSES. IF YOU WOULD REMOVE THOSE TWO SHEETS,
25 I'M GOING TO HAVE THEM MARKED AS A COURT'S EXHIBIT AND AT THE

PRATAP NARAYAN, M.D. -- EXAMINATION BY THE COURT

1 APPROPRIATE TIME GIVE COUNSEL AN OPPORTUNITY TO REVIEW THEM
2 AS WELL.

3 A (COMPLIES)

4 THE COURT: MS. KOFFSKEY, IF YOU WOULD MAKE THESE
5 PLEASE AS A COURT'S EXHIBIT. ONE EXHIBIT IS FINE.

6 (WILLIAM S. HALL YOUR RIGHTS FORM, TWO PAGES MARKED AS
7 COURT'S EXHIBIT NUMBER 16)

8 Q DR. NARAYAN, I HAD THESE TWO DOCUMENTS AND COPIES WILL
9 BE MADE SO YOU WILL HAVE THEM FOR YOUR FILE. THIS IS COURT'S
10 EXHIBIT 16. IT CONSTITUTES TWO PAGES BOTH BACK AND FRONT ON
11 EACH. IT'S CAPTIONED "WILLIAM S. HALL PSYCHIATRIC INSTITUTE
12 FOR PSYCHIATRIC SERVICES, COLUMBIA, SOUTH CAROLINA." IT
13 BEGINS WITH "YOUR RIGHTS." IT'S SELF-EXPLANATORY. IT
14 ADVISES AN INDIVIDUAL OF HIS RIGHTS. AND THIS DOCUMENT, DID
15 YOU REVIEW EACH ASPECT OF THIS DOCUMENT ON EACH OF THESE TWO
16 OCCASIONS WITH MR. WOOD?

17 A YES, YOUR HONOR. I DID ON THE FIRST TWO, AND I BELIEVE
18 DR. TEZZA DID ON THE THIRD.

19 Q OKAY. I WAS GOING TO ASK YOU SPECIFICALLY, AND I SEE IT
20 ON THE FORM, THAT IF YOUR ADVISEMENT OF RIGHTS TO MR. WOOD
21 INFORMED HIM THAT ANY INFORMATION GAINED MAY BE USED IN ANY
22 DECISION ABOUT HIS ULTIMATE SENTENCE. NOW, THERE IS A
23 PROVISION IN THIS -- THESE DOCUMENTS THAT ADDRESSES THAT.
24 WAS THAT REVIEWED WITH MR. WOOD?

25 A YES, IT WAS, YOUR HONOR.

1 Q AND DID HE INDICATE TO YOU THAT HE UNDERSTOOD HIS RIGHTS
2 AND THE ASPECTS SET FORTH IN THESE DOCUMENTS?

3 A YES, HE DID.

4 Q THE REAR OF EACH PURPORTS TO HAVE A SIGNATURE OF THE
5 DEFENDANT, MR. WOOD?

6 A YES, SIR.

7 Q DID HE SIGN THESE DOCUMENTS ON THESE TWO OCCASIONS IN
8 YOUR PRESENCE?

9 A YES, HE DID, YOUR HONOR.

10 Q WE'VE TALKED ABOUT THE STANDARD FOR COMPETENCE. YOU'VE
11 TALKED ABOUT THE WIDE RANGE OF INFORMATION THAT YOU LIKE TO
12 HAVE TO MAKE A DECISION. AND WHEN YOU RENDER A DECISION AS
13 TO THE ISSUE OF COMPETENCY WHEN YOU CONDUCTED YOUR
14 EVALUATION, DID YOU RENDER THAT OPINION WITHIN A REASONABLE
15 DEGREE OF FORENSIC PSYCHIATRY?

16 A YES, I DID, YOUR HONOR.

17 Q AT THAT TIME -- I KNOW YOU'RE NOT TALKING ABOUT NOW. AT
18 THAT TIME DID YOU DETERMINE WITH A REASONABLE DEGREE OF
19 FORENSIC PSYCHIATRY THAT MR. WOOD WAS COMPETENT AND MET THE
20 COMPETENCY TEST?

21 A YES, THAT'S WHAT WE CONCLUDED.

22 Q AND THOSE FINDINGS ARE SET FORTH IN THE OFFICIAL REPORT
23 WHICH HAD BEEN FILED WITH THE CLERK UNDER SEAL.

24 WHEN A FORENSIC PSYCHIATRIST SEEKS TO CONDUCT COMPETENCY
25 TESTS AND PERHAPS OTHER EVALUATIONS, SUCH AS CRIMINAL

1 RESPONSIBILITY, TESTS UNDER MCNAUGHTON, SOMETHING OF THAT
2 NATURE, IS MUCH OF THE SAME INFORMATION NEEDED TO DETERMINE
3 OR REACH AN OPINION AS TO THESE OTHER AREAS WITH COMPETENCY
4 OR IS THE -- IF I'M NOT SAYING IT CLEARLY, PLEASE---

5 A I UNDERSTAND, YOUR HONOR.

6 Q I WANT TO KNOW IS THE AREA OF INFORMATION THAT YOU NEED
7 TO HAVE FOR YOU TO MAKE AN OPINION WITHIN A REASONABLE DEGREE
8 OF PSYCHIATRIC CERTAINTY FOR COMPETENCY, IS THAT THE SAME
9 TYPE OF INFORMATION YOU NEED TO RENDER AN OPINION AS TO
10 CRIMINAL RESPONSIBILITY, INSANITY, THINGS OF THAT NATURE?

11 A THE DEGREE OF -- OR THE AMOUNT OF INFORMATION THAT WE
12 REQUIRE FOR EACH WOULD BE -- THE NATURE OF THE INFORMATION, I
13 WOULD SAY, IS PROBABLY A LITTLE DIFFERENT BECAUSE THE ISSUE
14 OF COMPETENCY IS AT THE TIME OF THE EVALUATION. THE ISSUE OF
15 CRIMINAL RESPONSIBILITY IS AS IT PERTAINS TO WHEN THE ALLEGED
16 EVENTS OCCURRED. SO TO THAT EXTENT WE WOULD REQUIRE CERTAIN
17 OTHER BITS OF INFORMATION. BUT THE GENERAL MASS OF
18 INFORMATION WOULD BE PRETTY MUCH SIMILAR.

19 Q SO WHEN YOU'RE LOOKING TO CRIMINAL RESPONSIBILITY YOUR
20 FOCUS IS ON CONDUCT AT OR NEAR THE TIME OF THE ALLEGED
21 OFFENSE?

22 A THAT'S CORRECT, YOUR HONOR.

23 Q AND COMPETENCY IS MEASURED AT THE TIME OF THE
24 EVALUATION?

25 A THAT'S CORRECT, YOUR HONOR.

1 Q AND THAT'S THE DIFFERENCE?

2 A THAT PRETTY MUCH WOULD BE THE DIFFERENCE, YES.

3 Q NOW, I THANK YOU FOR COMING UP TODAY, BUT I JUST WANT TO
4 MAKE SURE IT'S CLEAR THAT YOU ATTEMPTED -- AND I HAVE
5 LETTERS, I THINK, YOU WROTE MR. MAULDIN. IN FACT, YOU CALLED
6 ME AND WE SPOKE, I THINK, A COUPLE OF DAYS AGO IF I'M NOT
7 MISTAKEN?

8 A YES, YOUR HONOR.

9 Q THAT YOU WERE CONCERNED THAT YOU HAD MADE EFFORTS TO
10 BRING YOUR INFORMATION ABOUT MR. WOOD CURRENT SO YOU WOULD BE
11 IN A POSITION TO RENDER AN OPINION AT THIS TIME AS TO HIS
12 COMPETENCY; IS THAT CORRECT?

13 A THAT'S CORRECT, YOUR HONOR.

14 Q AND IF YOU WANT TO GO INTO DETAIL, YOU MAY. BUT IS IT
15 CORRECT TO STATE THAT YOUR EFFORTS WERE UNAVAILING AND YOU
16 WERE NOT ALLOWED ACCESS TO MR. WOOD OR INFORMATION ABOUT HIM?

17 A THAT'S CORRECT, YOUR HONOR.

18 Q AND BECAUSE OF THAT YOU SIMPLY DON'T HAVE AN OPINION
19 TODAY ABOUT HIS COMPETENCY AT THIS TIME?

20 A THAT'S CORRECT, YOUR HONOR, WE DO NOT HAVE AN OPINION.

21 Q (PAUSE) AND TO SUMMARIZE YOUR EVALUATION SEVERAL MONTHS
22 AGO WHEN IT WAS CONDUCTED, YOU WERE OF THE OPINION WITHIN A
23 REASONABLE DEGREE OF FORENSIC PSYCHIATRY CERTAINTY THAT MR.
24 WOOD HAD THE ABILITY AT THAT TIME TO CONSULT WITH COUNSEL
25 WITH A REASONABLE DEGREE OF RATIONAL UNDERSTANDING AND THAT

PRATAP NARAYAN, M.D. -- EXAMINATION BY THE COURT

1 HE HAD RATIONAL AS WELL AS FACTUAL UNDERSTANDING OF THE
2 NATURE OF THE PROCEEDINGS AGAINST HIM AT THAT TIME?

3 A YES, YOUR HONOR.

4 THE COURT: OKAY. I'M GOING TO GIVE OPPORTUNITY TO
5 COUNSEL IF THEY WOULD LIKE QUESTION MR. -- EXCUSE ME, DR.
6 NARAYAN, YOU MAY DO SO.

7 CROSS EXAMINATION BY SOLICITOR ARIAIL:

8 Q DR. NARAYAN, AT THE TIME THAT YOU EVALUATED MR. WOOD WAS
9 HE, TO YOUR KNOWLEDGE, ON ANY TYPE OF MEDICATION?

10 A NOT TO MY KNOWLEDGE, NO, SIR.

11 Q DID YOU DISCUSS THAT WITH HIM?

12 A YES, SIR, WE DID.

13 Q AND DID HE ACKNOWLEDGE TO YOU THAT HE NEEDED MEDICATION
14 OR THAT HE WAS ON MEDICATION OR THAT HE HAD BEEN ON
15 MEDICATION?

16 A NO. HIS RESPONSE INDICATED THAT HE DID NOT THINK HE
17 NEEDED MEDICATION NOR HAD HE EVER BEEN ON MEDICATION BEFORE
18 OF A PSYCHOTROPIC NATURE.

19 Q AND DURING THE COURSE OF THE STAFF EVALUATION AND YOUR
20 PERSONAL INTERVIEWS WITH HIM AND OTHER INTERVIEWS BY OTHER
21 STAFF MEMBERS WAS THERE NOTED ANY NEED TO MEDICATE MR. WOOD
22 WHILE HE WAS AT THE STATE HOSPITAL OR ANY CONDITION NOTED
23 THAT YOU FELT WAS IN NEED OF MEDICATION?

24 A NO, WE DID NOT IDENTIFY ANY SUCH NEED.

25 Q AND ARE YOU IN POSSESSION OF ANY INFORMATION SINCE YOUR

PRATAP NARAYAN, M.D. -- CROSS BY SOLICITOR ARIAIL

1 REPORT THAT WOULD CHANGE YOUR OPINION THAT HE IS COMPETENT TO
2 ASSIST HIS ATTORNEY, UNDERSTAND THE PROCEEDING AND
3 PARTICIPATE IN IT?

4 A WE HAVE COME INTO POSSESSION OF SOME INFORMATION THAT
5 THE PSYCHIATRIC STATUS AS WE HAD SEEN IT IN OCTOBER MAY HAVE
6 CHANGED. NOW, WHETHER OR NOT THAT WOULD MAKE A DIFFERENCE IN
7 OUR OPINION ABOUT COMPETENCY, I AM UNABLE TO STATE AT THIS
8 POINT BECAUSE I CANNOT -- I HAVE NOT HAD OPPORTUNITY TO
9 REVIEW WHATEVER INFORMATION IS AVAILABLE THAT MIGHT TELL US
10 MORE ABOUT THE NATURE OF THE CHANGE IN HIS PSYCHIATRIC
11 STATUS. SO I CAN'T TELL YOU IF IT'S GOING TO CHANGE OUR
12 OPINION OR NOT.

13 Q AND THAT INFORMATION IS WHAT?

14 A THAT INFORMATION IS THAT HE HAS BEEN SEEN BY A
15 PSYCHIATRIST AT THE DETENTION CENTER STARTING IN JANUARY OF
16 THIS YEAR AND HE HAS BEEN STARTED ON TWO DIFFERENT
17 PSYCHOTROPIC MEDICATIONS.

18 Q AND WHERE DID YOU RECEIVE THAT INFORMATION FROM?

19 A WE RECEIVED IT FROM THE STAFF AT THE DETENTION CENTER.

20 Q AND IS IT THE PHYSICIAN AT THE DETENTION CENTER OR A
21 PHYSICIAN OUTSIDE THE DETENTION CENTER WHO CAME TO THE
22 DETENTION CENTER?

23 A TO MY UNDERSTANDING IT IS A PHYSICIAN THAT IS NOT ON
24 CONTRACT TO PROVIDE SERVICES AT THE DETENTION CENTER ON A
25 ROUTINE BASIS. OUR PRESUMPTION WAS THAT HE WAS HIRED BY

1 SOMEBODY ELSE TO EVALUATE THE PATIENT AND TREAT HIM.

2 Q AND YOU HAD REQUESTED THAT INFORMATION SO THAT YOU COULD
3 PLUG IT INTO YOUR EVALUATION?

4 A YES, SIR, WE HAVE DONE THAT.

5 Q AND YOU HAVE BEEN DENIED ACCESS TO THAT?

6 A WE RECEIVED INFORMATION FROM THE DETENTION CENTER STAFF
7 THAT MR. WOOD HAD REFUSED TO RELEASE THAT INFORMATION TO US.

8 Q IF THE INFORMATION CONTAINED IN THE RECORDS AT THE
9 DETENTION CENTER WERE SUBPOENAED TO THIS COURTROOM FOR YOU TO
10 EXAMINE TODAY WOULD YOU BE ABLE TO RENDER AN OPINION?

11 A WITHOUT HAVING HAD THE OPPORTUNITY TO EXAMINE MR. WOOD
12 AGAIN, NO, SIR, WE WOULD NOT BE ABLE TO DO THAT.

13 SOLICITOR ARIAIL: ALL RIGHT. THAT'S ALL.

14 THE COURT: OKAY. MR. MAULDIN?

15 MR. MAULDIN: WE WILL HAVE QUESTIONS, YOUR HONOR, IF
16 YOU GIVE US A MOMENT.

17 THE COURT: TAKE YOUR TIME, SIR.

18 (DEFENSE COUNSEL OFF RECORD)

19 CROSS EXAMINATION BY MR. MAULDIN:

20 Q DR. NARAYAN, I'VE GOT A SERIES OF QUESTIONS I WANT TO
21 ASK YOU, PLEASE, SIR. LET ME BEGIN PRETTY MUCH WHERE THE
22 GOVERNMENT ENDED FOR CONTINUITY'S SAKE.

23 YOU SAID THAT YOU HAD BEEN PROVIDED INFORMATION FROM THE
24 DETENTION CENTER STAFF IN GREENVILLE AT THE GREENVILLE COUNTY
25 JAIL THAT MR. WOOD HAD BEEN PUT ON TWO DIFFERENT MEDICATIONS?

1 A THAT'S CORRECT.

2 Q WAS THAT INFORMATION THAT WAS PROVIDED TO YOU BY THE
3 DETENTION CENTER STAFF PROVIDED IN THE FORM OF RECORDS
4 REGARDING MY CLIENT OR WAS THIS A TELEPHONE CALL?

5 A IT WAS A TELEPHONE CONVERSATION.

6 Q ALL RIGHT. AND IT WAS A TELEPHONE CALL FROM YOU TO THE
7 JAIL? IS THAT HOW -- I'M JUST GOING TO MAKE---

8 A WELL, THERE WERE TWO TELEPHONE CALLS FROM ME TO THE
9 JAIL, AND I BELIEVE DR. TEZZA CALLED ALSO.

10 Q ALL RIGHT.

11 A AND WE PUT ALL THE INFORMATION TOGETHER.

12 Q AND THE -- AND SO THERE WERE TELEPHONE CONVERSATIONS
13 WITH JAIL PERSONNEL RELATING TO THE CONTENTS OF THE JAIL
14 RECORDS REGARDING THIS PARTICULAR INMATE?

15 A THAT'S CORRECT.

16 Q AND THAT -- THOSE TELEPHONE CALLS WERE NOT -- AND IF --
17 LET ME -- I DON'T KNOW HOW TO DESCRIBE THIS OTHER THAN USE
18 THESE TERMS, SO YOU HELP ME. BUT THOSE TELEPHONE CALLS WERE
19 NOT ACCOMPANIED BY ANY COMMUNICATION WITH THE CLIENT, ANY
20 COMMUNICATION -- OR THE DEFENDANT IN THIS CASE, THE PERSON,
21 THE PATIENT, ANY RELEASE OF INFORMATION FORM, ANY
22 COMMUNICATION WITH ANY ONE OF HIS NUMBER OF LAWYERS OR
23 ANYTHING, RIGHT?

24 A NOT AT THIS TIME. HOWEVER, WHEN MR. WOOD WAS THERE FOR
25 THE EVALUATION ON THE TWO OR THREE PREVIOUS OCCASIONS, WE

1 HAVE DISCUSSED AT THAT TIME THAT A PART OF THE EVALUATION
2 WOULD INVOLVE GETTING IN TOUCH WITH OTHER PEOPLE. THAT IS
3 SOMETHING THAT HE HAD AGREED TO AT THAT POINT.

4 Q SO HE HAD PROVIDED -- LET ME SEE IF I UNDERSTAND THAT
5 NOW. HE HAD PROVIDED TO THE STATE HOSPITAL STAFF OR DOCTORS
6 OR SOMEBODY A RELEASE FOR MEDICAL INFORMATION?

7 A NO. HE HAD NOT PROVIDED A SIGNED RELEASE.

8 Q ALL RIGHT. WHAT DID -- YOU SAY HE HAD BEEN TOLD THAT
9 THERE WOULD BE INFORMATION OBTAINED FROM OTHER PEOPLE?

10 A AND THAT WAS ON THE FORM OF HIS RIGHTS THAT HE SIGNED.
11 IT IS PRINTED THERE, WHICH HE READ IT AND REVIEWED IT AND WAS
12 AWARE THAT THAT WOULD BE DONE.

13 Q ALL RIGHT.

14 A AT THAT TIME HE DID NOT RAISE ANY OBJECTIONS.

15 Q HE DID NOT RAISE AN OBJECTION TO INQUIRIES REGARDING
16 MEDICAL INFORMATION---

17 A OR ANY OTHER INFORMATION.

18 Q ---OR ANY OTHER INFORMATION?

19 A THAT'S CORRECT.

20 Q NOW, DID THE STATE HOSPITAL RECEIVE THROUGH TODAY ANY
21 DOCUMENTATION REGARDING MR. WOOD FROM THE DETENTION CENTER OR
22 ANY OTHER SOURCE? ANY RECORDS OR REPORTS OR INFORMATION
23 PROVIDED TO YOU WITH THE EXCEPTION, I MIGHT ADD, OF THE LIST
24 OF MATERIALS THAT ARE IN YOUR REPORT BACK TO THE COURT?

25 A NOT IN DOCUMENTATION FORM.

1 Q ALL RIGHT.

2 A WE HAVE NOT BEEN GIVEN ACCESS TO THAT.

3 Q ALL RIGHT. NOW, DR. NARAYAN, YOU HAVE WITH YOU YOUR
4 FILE?

5 A I DO.

6 Q I WANT YOU TO LOOK IN YOUR FILE AND SEE IF THERE IS A
7 RELEASE EXECUTED BY MR. WOOD DIRECTING THE RELEASE OF YOUR
8 FILE CONTENTS TO ME. TO ME, HIS LAWYER.

9 A NO, SIR, THERE IS NOT. NOT DIRECTING US TO GIVE MY FILE
10 TO YOU. ALTHOUGH I THINK THAT WE DO HAVE A SUBPOENA THAT WAS
11 RECEIVED BY THE MEDICAL RECORDS DEPARTMENT OF THE STATE
12 HOSPITAL---

13 Q RIGHT.

14 A ---THAT DID GET SUCH A REQUEST LAST WEEK.

15 Q RIGHT. AND THAT'S NOT THE ONE I'M TALKING ABOUT, BUT---

16 A OKAY.

17 Q ---THAT SUBPOENA IS IN THERE. WELL, I SUBPOENAED YOU.

18 A NO, NO. THAT WASN'T IT. I WAS TALKING ABOUT A SUBPOENA
19 FOR DOCUMENTATION---

20 Q RIGHT.

21 A ---THAT WAS ISSUED TO THE MEDICAL RECORDS DEPARTMENT,
22 NOT THE ONE I RECEIVED.

23 Q RIGHT. WHAT I'M PARTICULARLY INTERESTED IN IS IF YOUR
24 FILE -- I MEAN, WHEN YOU SAY YOUR -- IS THERE A YOUR FILE AND
25 THERE IS SOMEBODY ELSE'S FILE ABOUT MR. WOOD?

1 **A** TYPICALLY THERE IS A RECORD THAT WAS GENERATED AT THE
2 TIME OF THE EVALUATION THAT GOES TO THE MEDICAL RECORDS
3 DEPARTMENT. AND THEN THERE IS SOME OTHER INFORMATION THAT I
4 HAVE IN MY POSSESSION---

5 **Q** ALL RIGHT.

6 **A** ---WHICH DOES NOT GO INTO THAT RECORD.

7 **Q** SO IF WE SEND YOU A REQUEST FOR OUR CLIENT'S FILE, WHAT
8 DO WE GET?

9 **A** I DO NOT KNOW THE ANSWER TO THAT BECAUSE THAT, I
10 BELIEVE, IS HANDLED BY THE MEDICAL RECORDS DEPARTMENT.

11 **Q** WELL, I'M GOING TO GIVE YOU JUST A VISUAL DEMONSTRATION.

12 **A** OKAY.

13 **Q** THAT'S WHAT I GOT UPON MY DEMAND FOR THE CONTENTS OF MY
14 CLIENT'S FILE FROM THE STATE HOSPITAL.

15 **SOLICITOR ARIAIL:** YOUR HONOR, I -- ALL OF THIS IS VERY
16 INTERESTING, BUT UNLESS IT'S GOT SOMETHING TO DO WITH THE
17 COMPETENCY OF THE DEFENDANT, I WOULD OBJECT TO JUST THIS SHOW
18 AND TELL THING, AND LET'S MOVE ON. I WOULD OBJECT TO THIS.

19 **THE COURT:** YES, SIR.

20 **MR. MAULDIN:** YOUR HONOR, YOU HAVE ENTERED -- OR A
21 DOCUMENT HAS BEEN ENTERED INTO THIS RECORD---

22 **THE COURT:** RIGHT.

23 **MR. MAULDIN:** ---THAT I DEMANDED MY CLIENT'S FILE AND
24 I'VE NEVER SEEN THIS DOCUMENT BEFORE TODAY.

25 **THE COURT:** OKAY.

PRATAP NARAYAN, M.D. -- CROSS BY MR. MAULDIN

1 MR. MAULDIN: NOW, THAT'S WHAT -- WHERE I'M GOING IS
2 WHO'S GOT RECORDS AND WHAT ARE THEY? I HAVE THE RIGHT TO
3 THEM.

4 THE COURT: YOU CAN ASK THE QUESTION. OVERRULED.

5 Q DR. NARAYAN, ARE YOU PERSONALLY AWARE -- AND IF YOU
6 AREN'T, THAT'S FINE. BUT ARE YOU PERSONALLY AWARE THAT A
7 FILE PURPORTING TO BE THE RECORDS OF THE SOUTH CAROLINA STATE
8 HOSPITAL REGARDING JOHN RICHARD WOOD WITH A COVER LETTER BY A
9 WOMAN BY THE NAME OF KAY YENNEY (PHONETIC), HEALTH
10 INFORMATION SERVICES DIRECTOR, THAT A FILE WAS DELIVERED TO
11 THE LAWYERS FOR MR. WOOD SOMETIME PRIOR TO TODAY? ARE YOU
12 AWARE OF THAT?

13 A I'M AWARE THAT SOMETHING WAS SENT, YES, SIR.

14 Q ALL RIGHT. BUT WHAT WASN'T SENT IS WHAT YOU'VE BROUGHT
15 TO COURT TODAY.

16 A I DON'T KNOW WHAT THEY SENT YOU, SO I CAN'T ANSWER THAT
17 QUESTION.

18 MR. MAULDIN: WELL, AND, YOUR HONOR, THE PROBLEM THAT I
19 WOULD HAVE WITH PROVIDING THIS TO THE WITNESS IS THIS IS
20 NOT -- I'M NOT ASKING -- I DON'T WANT THE COURT NECESSARILY
21 TO SEE IT OR PARTICULARLY THE GOVERNMENT. IF I COULD SHOW IT
22 TO HIM TO SEE IF THIS IS OVERLAP OR IF THIS IS ALL THE FILE,
23 FINE.

24 THE COURT: THAT'S FINE. YOU CAN ASK HIM.

25 MR. MAULDIN: BUT I DON'T WANT TO DISCLOSE IT.

PRATAP NARAYAN, M.D. -- CROSS BY MR. MAULDIN

1 THE COURT: UNDERSTAND. GO AHEAD.

2 Q ALL RIGHT. I WANT YOU TO TAKE A LOOK AT THIS. THAT IS
3 THE MATERIAL THAT WAS PROVIDED TO ME, HIS LAWYER.

4 A (REVIEWS FILE)

5 Q ALL RIGHT. YOU'VE HAD AN OPPORTUNITY TO JUST EXAMINE
6 THAT.

7 A YES, I HAVE, YOUR HONOR.

8 Q NOW, IS -- THIS MATERIAL THAT YOU JUST LOOKED AT THAT
9 WAS PROVIDED TO US ON JANUARY THE 28TH OF THIS YEAR, IS THAT
10 THE SAME MATERIAL THAT YOU HAVE IN YOUR FILE THAT YOU BROUGHT
11 TO COURT TODAY?

12 A I HAVE ALL OF THAT IN MY FILE TODAY, YES, SIR.

13 Q ALL RIGHT. LET ME CHECK THIS ANSWER. YOU HAVE ALL OF
14 WHAT I HAVE SHOWED YOU. DO YOU HAVE MORE?

15 A I BELIEVE I DO.

16 Q WELL, LET'S---

17 A BECAUSE OBVIOUSLY---

18 Q WHY DON'T YOU -- WE'LL JUST HOLD UP THESE THINGS AND
19 SEE.

20 A UH-HUH (AFFIRMATIVE). ABSOLUTELY.

21 Q IT APPEARS THAT YOU'VE GOT MORE THAN I'VE GOT.

22 A ALL RIGHT.

23 THE COURT: YOUR POINT IS MADE. WHAT ARE YOU GOING TO
24 DO ABOUT IT? SO WHAT?

25 MR. MAULDIN: YOUR HONOR, WE REQUEST THAT THE STATE

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1 HOSPITAL PERSONNEL, WHO IN THIS CASE IS THE DOCTOR, BE
2 REQUIRED TO PROVIDE THAT FILE TO US SO THAT WE CAN COPY IT.

3 THE COURT: I'LL BE GLAD TO ORDER THAT YOU HAVE A COPY
4 OF THE TREATING PSYCHIATRIST'S FILE.

5 MR. MAULDIN: THANK YOU, YOUR HONOR.

6 Q ALL RIGHT.

7 A ALL RIGHT. HERE IS SOMETHING I PRESUME THAT YOU WOULD
8 WANT, SO I TOOK THE LIBERTY OF MAKING A COPY, FROM YOUR
9 SUBPOENA TO BE HERE ON MONDAY.

10 MR. MAULDIN: YOUR HONOR, NOW, IF I MAY---

11 THE COURT: YOU'RE ENTITLED TO THE FILE. WE'RE GOING
12 TO MOVE ALONG AND DR. NARAYAN IS GOING -- OR SOMEONE AT HIS
13 OFFICE IS GOING TO MAKE A COPY OF HIS ENTIRE FILE FOR YOU TO
14 SUBMIT TO YOU. IF YOU WANT ME TO SIGN AN ORDER TO THAT
15 EFFECT, I'LL BE GLAD TO.

16 MR. MAULDIN: I JUST THINK AN ORAL ORDER FROM THE COURT
17 AND -- I MEAN, YOU KNOW, WE'RE GETTING IT PIECEMEAL, BUT I'LL
18 MOVE ON. I'LL MOVE ON ON THIS ISSUE, YOUR HONOR.

19 Q I WANT TO ASK YOU, DR. NARAYAN, IF YOUR FILE BACK IN
20 SEPTEMBER AROUND THE 25TH, OCTOBER AROUND THE 29TH OR ANY
21 DATES THEREAFTER PRIOR TO THE SERVICE OF THE SUBPOENA ON YOU
22 LAST WEEK IF YOUR FILE INDICATES THAT AN EFFORT WAS MADE
23 EITHER BY YOU OR SOMEBODY ON YOUR BEHALF TO CONTACT THE
24 GREENVILLE COUNTY PUBLIC DEFENDER'S OFFICE EITHER DIRECTLY,
25 BY PHONE OR ANY OTHER WAYS FOR JOHN MAULDIN, JIM BANNISTER OR

1 RODNEY RICHEY IN ANY FASHION REGARDING EVALUATION OF MR.
2 WOOD?

3 A I DON'T BELIEVE WE HAVE.

4 Q ALL RIGHT. SO PRIOR TO THE DATE OF SERVICE OF THE
5 SUBPOENA -- YOU HAVE THAT SUBPOENA WITH YOU, PLEASE, SIR?

6 A I THINK I DO. I HAVE A COPY HERE.

7 Q AND THE DATE OF THAT SUBPOENA WAS WHAT?

8 A JANUARY THE 31ST.

9 Q SO SOMETIME JANUARY 31ST OR THEREAFTER IS WHEN YOU WOULD
10 HAVE BEEN SERVED WITH IT?

11 A THAT'S CORRECT.

12 Q AND SUBSEQUENTLY, IN FACT, ON FRIDAY, FEBRUARY THE 1ST
13 AT 11:59 A.M., YOU LEFT A PHONE CALL MESSAGE ON MY PHONE
14 REQUESTING TO SPEAK TO ME ABOUT OBTAINING RECORDS ABOUT MR.
15 WOOD; IS THAT CORRECT?

16 A THAT IS CORRECT.

17 Q ALL RIGHT. AND THAT IS THE FIRST TIME YOU OR ANYBODY
18 ELSE AT THE STATE HOSPITAL TRIED TO GET ANY INFORMATION FROM
19 ME OR ANY OF MR. WOOD'S GREENVILLE LAWYERS IN THIS CASE,
20 RIGHT?

21 A THAT'S CORRECT.

22 Q NOW, AND THE EVALUATION FOR COMPETENCY TO STAND TRIAL
23 REGARDS THE CLIENT'S UNDERSTANDING OF THE CHARGES AGAINST HIM
24 AND HIS EFFORT TO ASSIST IN HIS OWN DEFENSE OR HIS ABILITY TO
25 ASSIST IN HIS OWN DEFENSE, RIGHT?

1 A THAT'S CORRECT.

2 Q IS IT RELEVANT TO YOU WHETHER THE PERSON CHARGED IS
3 CAPABLE OF ASSISTING HIS LAWYERS IN HIS OWN DEFENSE?

4 A VERY RELEVANT.

5 Q AND WHEN YOU FORM AN OPINION BACK IN SEPTEMBER OR
6 OCTOBER WITHOUT EVER MAKING ANY EFFORT BY PHONE, MAIL OR
7 OTHERWISE TO SPEAK TO THE LAWYERS FOR THE PERSON YOU ARE
8 EVALUATING ABOUT WHETHER HE CAN COMMUNICATE IN ASSISTING IN
9 HIS OWN DEFENSE, IS THAT A RELEVANT CONSIDERATION?

10 A IT IS A RELEVANT CONSIDERATION. AND DURING AN INTERVIEW
11 MR. WOOD ON OCTOBER THE 29TH, HE VERY SIMPLY MADE A STATEMENT
12 TO US THAT HE WAS PLANNING TO FIRE HIS ATTORNEYS IN
13 GREENVILLE AND THAT HE WOULD PREFERABLY HAVE HIS ANDERSON
14 ATTORNEY BE THE ATTORNEY OF RECORD ON THIS CASE. HE ALSO
15 TOLD US THAT HE HAD WRITTEN A LETTER TO THE CLERK OF COURT
16 ABOUT THIS MATTER ASKING THAT MR. MAULDIN AND MR. BANNISTER
17 NOT REPRESENT HIM IN THIS -- IN THESE CHARGES. SO WE DID NOT
18 GET IN TOUCH WITH THE PUBLIC DEFENDER'S OFFICE.

19 Q SIR, IF I'M UNDERSTANDING THAT CORRECTLY, THE PERSON FOR
20 WHOM YOU HAVE BEEN CHARGED WITH THE RESPONSIBILITY OF
21 EVALUATING TOLD YOU HE WAS GOING TO FIRE HIS LAWYERS AND
22 THEREFORE YOU FELT IT UNNECESSARY TO TALK TO HIS LAWYERS
23 ABOUT WHETHER HE COULD ASSIST IN HIS OWN DEFENSE; IS THAT
24 YOUR---

25 A NOT NECESSARILY ONLY BECAUSE OF THAT, BUT THAT WAS

1 DEFINITELY A FACTOR THAT PLAYED INTO OUR DECISION.

2 Q AND DOES YOUR FILE INDICATE THAT YOU RECEIVED
3 INFORMATION OR HAD TELEPHONE CONTACT WITH THE LAWYER IN
4 ANDERSON ABOUT HIS ANDERSON CHARGES?

5 A YES, WE HAVE HAD CONTACT WITH HIM.

6 Q YOU HAVE HAD CONTACT WITH MR. BRUCE BYRHOLDT?

7 A THAT'S CORRECT.

8 Q YOU HAVE?

9 A YES, SIR.

10 Q ALL RIGHT. AND THAT'S IN THE FILE THAT'S THERE ON THAT
11 TABLE?

12 A IT'S ACTUALLY IN THE FILE THAT YOU TOLD ME, IN THE STACK
13 OF PAPERS THAT YOU SHOWED ME FIRST.

14 Q HOLD ON. I'M GOING TO SHOW YOU. ARE YOU SURE ABOUT
15 WHAT YOU'RE SAYING?

16 A ABSOLUTELY.

17 Q ALL RIGHT.

18 A DO YOU HAVE THE FIRST PAGE?

19 Q YES, SIR. ALL RIGHT. I WANT YOU TO -- THAT'S WHERE
20 ATTEMPTS TO CONTACT INFORMANTS; IS THAT WHAT YOU'RE REFERRING
21 TO?

22 A NO, I'M TALKING ABOUT CALL PATIENT'S ATTORNEY AND SPOKE
23 WITH APRIL, SECRETARY.

24 Q YEAH. ALL RIGHT. HANG ON. I WANT YOU TO --

25 MR. MAULDIN: AGAIN, YOUR HONOR, I'M HANDING UP

1 MATERIAL ASSUMING IT'S NOT GOING TO NOW BE SUBSEQUENTLY
2 DISCLOSED, IF I COULD DO THAT.

3 THE COURT: IS IT THE SAME DOCUMENT YOU DID EARLIER?

4 MR. MAULDIN: YES, SIR.

5 THE COURT: THAT'S FINE.

6 MR. MAULDIN: ALL RIGHT.

7 Q I HAND YOU THAT DOCUMENT AND I ASK YOU TO REFER TO THE
8 PAGE WE HAVE TURNED THERE, HANDWRITTEN NOTES.

9 A UH-HUH (AFFIRMATIVE).

10 Q THESE ARE THE NOTES OF THE SOCIAL WORKER; IS THAT RIGHT?

11 A THAT IS CORRECT.

12 Q MR. TORRES? TORREZ? (PHONETIC)

13 A THAT'S CORRECT.

14 Q ALL RIGHT. AND THE LAST PARAGRAPH, PARAGRAPH ENTITLED
15 ATTEMPTS TO CONTACT INFORMANTS.

16 A UH-HUH (AFFIRMATIVE).

17 Q ALL RIGHT. AND I WANT YOU TO READ THE PORTION OF THAT
18 PARAGRAPH THAT YOU ARE NOW SAYING RELATES TO THE INFORMATION
19 THAT YOU OBTAINED FROM ATTORNEY BRUCE BYRHOLDT IN ANDERSON.

20 A NOW, IF YOU COULD TELL ME THE PAGE NUMBER ON THAT.

21 Q WELL, I MEAN, IT'S THE FIRST PAGE OF HANDWRITTEN NOTES.

22 A OH. THIS SAID -- IT'S DATED 9/29 2001, AND IT SAYS,
23 "CALLED PATIENT'S ATTORNEY AND SPOKE WITH APRIL, SECRETARY,
24 ABOUT NEXT OF KIN INFORMATION. APRIL STATED SHE REFERRED THE
25 MESSAGE TO PATIENT'S ATTORNEY. CALLED DIRECTORY ASSISTANCE

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1 FOR NUMBER TO PATIENT'S PARENTS, GARY AND RUBY WOOD IN FORT
2 MYERS, FLORIDA, AND THE NUMBER IS UNPUBLISHED. THE PATIENT
3 STATED HIS SISTER ELIZABETH MARTINEZ IN ANDERSON, SOUTH
4 CAROLINA, HAS NO PHONE."

5 Q ALL RIGHT. SO WITH REGARD TO THE ANSWER TO MY QUESTION,
6 THERE WAS A CALL MADE TO A SECRETARY NAMED APRIL?

7 A THAT'S CORRECT.

8 Q AND APRIL TOLD YOU THAT SHE WOULD GIVE MR. BYRHOLDT THE
9 MESSAGE?

10 A THAT'S CORRECT.

11 Q BUT NOBODY EVER TALKED TO MR. BYRHOLDT ABOUT THE ABILITY
12 OF THIS PERSON TO ASSIST IN HIS OWN DEFENSE, DID THEY?

13 A NO, SIR. I DID TALK TO MR. BYRHOLDT. HOWEVER, I TALKED
14 TO HIM IN THE LAST WEEK.

15 Q OKAY.

16 A AND I DID NOT SPECIFICALLY ASK HIM ABOUT HIS
17 RELATIONSHIP WITH MR. WOOD OR MR. WOOD'S ABILITY TO ASSIST
18 HIM. BUT WE WERE TRYING TO GET MORE INFORMATION AFTER WE
19 FAILED TO DO SO FROM YOUR OFFICE.

20 Q AND IS THE NOTES REGARDING THAT CONTACT IN THE FILE THAT
21 HAS NOT BEEN PROVIDED TO ME?

22 A IT IS NOT IN THIS FILE, NO, SIR. IT'S NOT.

23 Q ARE THERE NOTES REGARDING THAT CONVERSATION IN SOME FILE
24 I'M UNAWARE OF?

25 A IT'S IN MY FILE RIGHT HERE.

1 Q WELL, ALL RIGHT. I JUST --

2 MR. MAULDIN: YOUR HONOR, THE REQUEST FROM ME IS THAT
3 ALL FILES BE PROVIDED TO US BECAUSE I DON'T KNOW WHICH FILES
4 DO OR DON'T CONTAIN THIS MATERIAL.

5 THE COURT: SO ORDERED.

6 MR. MAULDIN: THANK YOU, JUDGE.

7 Q ALL RIGHT. WITH REGARD TO THE MATERIAL THAT YOU BROUGHT
8 TO COURT TODAY AND THE OTHER MATERIAL CONTAINED IN THE STATE
9 HOSPITAL FILE UNDER MY CLIENT'S AND YOUR PATIENT'S NAME, I
10 WANT TO ASK YOU WHO HAS HAD ACCESS TO THAT INFORMATION.

11 A TO MY KNOWLEDGE, IT'S THE PEOPLE THAT EVALUATED MR.
12 WOOD, THE DIRECTOR OF THE FACILITY AND THE MEDICAL RECORDS
13 DEPARTMENT.

14 Q ALL RIGHT.

15 A I BELIEVE SOME SECRETARIAL STAFF WOULD ALSO HAVE ACCESS
16 TO IT.

17 Q REGARDING THE NARROW ISSUE OF COMPETENCY, THE JUDGE
18 ASKED YOU IF YOU, WITHIN A REASONABLE DEGREE OF FORENSIC
19 PSYCHIATRY, HAD FORMED AN OPINION AS TO HIS COMPETENCY BACK
20 IN SEPTEMBER THE 25TH AND OCTOBER THE 29TH OF 2001, RIGHT?

21 A YES.

22 Q BECAUSE YOUR EFFORT TO UPDATE YOUR INFORMATION HAS BEEN
23 NOT AVAILABLE TO YOU?

24 A THAT'S CORRECT.

25 Q ALL RIGHT. SO YOUR OPINION AS TO COMPETENCY WOULD HAVE

1 TO DATE BACK TO SEPTEMBER AND OCTOBER EVALUATION TIME
2 PERIODS?

3 A YES, SIR, IT WOULD.

4 Q ALL RIGHT. AND YOUR RECENT CONTACTS WITH THE COURT AND
5 WITH MY OFFICE AND, I THINK, WITH THE PROSECUTOR HAVE BEEN TO
6 UPDATE YOUR INFORMATION?

7 A THAT'S CORRECT.

8 Q ALL RIGHT. I WANT YOU TO LOOK IN YOUR FILE, AND TAKING
9 INTO CONSIDERATION WHAT WE ALREADY KNOW YOU HAD, AND THAT IS
10 THAT LONG LIST OF THE WARRANTS AND THE INCIDENT REPORTS AND
11 STATEMENTS FROM THE GOVERNMENT'S WITNESSES AND PHOTOGRAPHS
12 AND ALL OF THAT STUFF THAT WERE PROVIDED TO YOU BY THE
13 PROSECUTOR, I WANT YOU TO TELL ME WHAT OTHER THAN THE
14 STATEMENTS FROM THE PATIENT WHAT INFORMATION DID YOU USE TO
15 FORM YOUR OPINION AS FAR AS INFORMANT INFORMATION REGARDING
16 THE PATIENT'S HISTORY, MEDICAL RECORDS, INTERVIEWS OR
17 ANYTHING.

18 A I THINK WE USED INFORMATION THAT WAS OBTAINED IN THE
19 INTERVIEW AS WELL AS THE RESULTS OF PSYCHOLOGICAL TESTING.

20 Q ALL RIGHT. SO YOU USED THE SELF-REPORTED INTERVIEW OF
21 THE PATIENT AND AT-THAT-MOMENT PSYCHOLOGICAL EVALUATIONS TO
22 FORM THE DIAGNOSES THAT ARE LISTED ON PAGE 1 OF THE REPORT
23 BACK TO THE COURT UNDER AXES 1, 2, AND 3---

24 A THAT IS CORRECT.

25 Q ---YOU USED THE PATIENT'S SELF-REPORTED INFORMATION---

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1 A WE ALSO HAD SOME RECORDS FROM THE HOSPITALS HE HAD BEEN
2 TREATED IN. WE HAD THE INFORMATION THAT WAS FORWARDED TO US
3 BY THE SOLICITOR'S OFFICE, INCLUDING STATEMENTS MADE BY
4 SEVERAL PEOPLE, AND ONE OF THEM, I BELIEVE, WAS MS. KAREN
5 MCCALL. AND WE USED ALL OF THAT INFORMATION, YES.

6 Q ALL RIGHT. AND ALL OF THAT INFORMATION THAT YOU HAVE
7 JUST TESTIFIED TO IS WHAT YOU USED TO FORM THE DIAGNOSIS THAT
8 YOU REPORTED BACK TO THE COURT?

9 A THAT'S CORRECT.

10 Q YOU CAN'T NOW GIVE AN ADDITIONAL UPDATE OR DIAGNOSIS
11 BECAUSE WE HAVEN'T PROVIDED YOU WITH ADDITIONAL INFORMATION?

12 A THAT'S CORRECT.

13 Q YOU COULD FORM AN OPINION BACK IN SEPTEMBER BUT YOU
14 CAN'T FORM AN OPINION TODAY?

15 A NOT IN THE LIGHT OF INFORMATION AVAILABLE TO US THAT THE
16 SITUATION MAY HAVE CHANGED.

17 Q ALL RIGHT.

18 A AND WITHOUT HAVING THE ACCESS OR THE ABILITY TO ASSESS
19 WHAT THESE CHANGES MIGHT ENTAIL, WE WOULD NOT BE ABLE TO DO
20 JUSTICE.

21 MR. MAULDIN: ONE MOMENT, YOUR HONOR.

22 THE COURT: YES, SIR.

23 MR. MAULDIN: (OFF RECORD WITH CO-COUNSEL)

24 Q A COUPLE OF FINAL QUESTIONS, DR. NARAYAN.

25 A SURE.

1 Q SINCE THE SERVICE OF THE SUBPOENA DID YOU ADVISE ME, I
2 THINK MAYBE BY A FAX, AND FURTHERMORE DID YOU ADVISE THE
3 COURT AS TO THE PARTICULAR MATERIALS THAT YOU FELT NECESSARY
4 TO MAKE A COMPETENCY EVALUATION? DID YOU PROVIDE THE COURT
5 WITH SPECIFIC TYPES OF INPUT AND INFORMATION THAT YOU FELT AS
6 A PROFESSIONAL WOULD BE NECESSARY FOR YOU TO MAKE A
7 COMPETENCY DETERMINATION?

8 A PARTLY WHAT WE THOUGHT WOULD BE NECESSARY FOR US TO BE
9 READY TO EVALUATE MR. WOOD AGAIN TODAY TO MAKE THAT
10 DETERMINATION, YES.

11 Q RIGHT. AND YOU DID PROVIDE THAT TO THE COURT EITHER---

12 A YES, WE DID.

13 Q ---I THINK EITHER BY FAX OR PHONE OR SOMEHOW INFORMATION
14 WENT TO THE COURT?

15 A YES, I DID.

16 Q ALL RIGHT. AND NOW THE LAST QUESTION, AND THIS RELATES
17 SPECIFICALLY TO THIS FILE MANAGEMENT SITUATION, YOU DO NOT
18 HAVE MY DEMAND AND RELEASE FORM FROM MY CLIENT REQUIRING THE
19 STATE HOSPITAL TO PROVIDE HIS FILE TO ME? AND IT WOULD HAVE
20 BEEN BACK IN LATE 2001. YOU DON'T -- YOU DO NOT HAVE THAT?

21 A NO, I DO NOT.

22 Q CAN YOU TELL ME WHO I NEED TO TELEPHONE CALL AND ASK TO
23 BE RESPONSIVE REGARDING ALL OF THE FILES? IS THERE IS A
24 NAME?

25 A I BELIEVE YOU CAN TALK TO MS. YENNEY.

PRATAP NARAYAN, M.D. -- CROSS BY MR. MAULDIN

1 Q MS. YENNEY?

2 A WELL, YOU ALREADY DID. BUT I GUESS THE BEST WAY TO DO
3 IT WOULD BE TO GET IN TOUCH WITH THE DIRECTOR OF THE
4 FACILITY, AND THAT WOULD BE A DR. LANDE.

5 Q DR. WHO?

6 A LANDE. THAT'S L-A-N-D-E.

7 Q L-A-N-D-E?

8 A THAT'S CORRECT.

9 MR. MAULDIN: YOUR HONOR, I HAVE NO FURTHER QUESTIONS,
10 BUT I DO ASK THAT THE COURT ISSUE AT LEAST AN ORAL ORDER THAT
11 DR. LANDE SEE TO IT THAT EVERY PIECE OF PAPER UNDER MY
12 CLIENT'S NAME IN POSSESSION OF THE STATE HOSPITAL, IF IT'S
13 TWO OR THREE DIFFERENT PHYSICIANS OR WHATEVER, BE PACKAGED --
14 WE WILL PAY FOR THE COPYING IF WE COULD JUST GET THE
15 INFORMATION.

16 THE COURT: ANY PROBLEM WITH THAT, DR. NARAYAN?

17 DR. NARAYAN: I DON'T ANTICIPATE ANY PROBLEM.

18 THE COURT: IF THERE IS, JUST LET ME KNOW. I'VE ASKED
19 YOU TO LEAD INTERFERENCE ON THAT AND SEND THE BILL TO MR.
20 MAULDIN.

21 ANY REDIRECT?

22 SOLICITOR ARIAIL: NO, WE WOULD JUST JOIN IN THE
23 REQUEST IF THE FILE IS GOING TO BE COPIED THAT WE ALSO BE
24 PROVIDED A COPY OF THE INFORMATION. ALSO, PARTICULARLY SINCE
25 HE -- IF IT'S BEING USED AS A BASIS FOR HIS OPINION TODAY OR

1 IT MIGHT BE USED AS A BASIS OF HIS OPINION IN THE FUTURE, WE
2 ALSO REQUEST ALL THE -- ALTHOUGH THE COURT HAS SORT OF GIVEN
3 AN ADVISORY RULING WE COULDN'T HAVE IT, IF HE'S BEEN HANDED
4 DOCUMENTS TO BE ASKED ABOUT HIS OPINION, WE WOULD LIKE TO
5 HAVE A COPY OF THOSE ALSO.

6 THE COURT: I'LL TELL YOU WHAT. MAKE A COPY FOR MY
7 OFFICE AS WELL. COULD WE DO THAT?

8 DR. NARAYAN: ABSOLUTELY, YOUR HONOR.

9 THE COURT: AND I'M GOING TO DENY THE REQUEST AT THIS
10 TIME WITHOUT PREJUDICE.

11 REEXAMINATION BY THE COURT:

12 Q DR. NARAYAN, JUST A COUPLE OF FOLLOW-UPS. HOW MANY
13 PEOPLE DO YOU THINK YOU HAVE EVALUATED FOR COMPETENCY?

14 A IT'S WELL OVER 100.

15 Q OKAY. HAVE YOU EVER HAD A LAWYER CALL YOU UP AND TELL
16 YOU THAT I REPRESENT SO AND SO WHO IS BEING EVALUATED AND DO
17 YOU NEED ANY ASSISTANCE FROM ME?

18 A PLENTY OF TIMES. AND MANY TIMES WE ALSO HAVE THE LAWYER
19 WISHING TO BE PRESENT, ESPECIALLY ON CHARGES THAT ARE OF A
20 VERY SERIOUS NATURE, YES, SIR.

21 Q DID ANYONE FROM MR. JOHN RICHARD WOOD'S DEFENSE TEAM
22 EVER CONTACT YOU AND SEEK TO OFFER ASSISTANCE IN YOUR
23 COMPETENCY EVALUATION?

24 A NO, YOUR HONOR.

25 Q YOU HAVE INFORMATION -- YOU TALKED ABOUT HOSPITAL

1 RECORDS, INTERVIEW WITH A FEMALE, I BELIEVE A MS. MCCALL,
2 INTERVIEWS WITH MR. WOOD, AND A BATTERY OF PSYCHOLOGICAL
3 TESTING?

4 A WE DID NOT HAVE AN INTERVIEW WITH MS. MCCALL WHEN WE --
5 WHEN THE REPORT, NO, SIR.

6 Q OH, YOU -- OKAY. DID YOU READ A STATEMENT? I THOUGHT
7 YOU MENTIONED HER NAME.

8 A WE HAD A STATEMENT THAT SHE HAD GIVEN TO THE
9 AUTHORITIES.

10 Q OKAY.

11 A WE HAVE A COPY OF THAT.

12 Q SO YOU READ STATEMENTS AND THINGS THAT CAME OUT OF THE
13 FILE?

14 A THAT'S CORRECT.

15 Q AND DID YOU GIVE PSYCHOLOGICAL TESTING?

16 A YES, SIR. DR. TEZZA DID ADMINISTER SOME TESTS.

17 Q OKAY. DO YOU FEEL LIKE YOU HAD SUFFICIENT INFORMATION
18 AT THAT TIME TO RENDER AN OPINION AT THAT TIME?

19 A ABSOLUTELY, YOUR HONOR.

20 THE COURT: ALL RIGHT. I'D LIKE TO BRIEFLY HAVE THE
21 TESTIMONY OF THE OTHER DOCTOR REGARDING THE WAIVER FORM. I
22 THINK THERE WAS A THIRD FORM, AND I WANT TO LAY THE
23 FOUNDATION FOR THAT AND MAKE THAT A PART OF THE RECORD AS
24 WELL. AND THAT WILL BE THE EXTENT---

25 A I BELIEVE IT'S ON THE SAME FORM WITH JUST ANOTHER DATE

PRATAP NARAYAN, M.D. -- REEXAMINATION BY THE COURT

1 ON IT.

2 Q (REVIEWS DOCUMENT) WELL, I'VE GOT TWO, THE TWO
3 INTERVIEWS YOU TALKED ABOUT. I THINK THEY HAVE YOUR
4 SIGNATURE ON BOTH OF THEM. I THOUGHT YOU SAID THERE WAS A
5 THIRD ONE?

6 A YES, SIR. THIS WAS THE THIRD ONE WHERE IT SAYS 11/5.
7 11/5 IS WHEN SHE GOT THAT INFORMATION.

8 Q OH. OKAY.

9 A SO WE HAVE TWO SIGNATURES HERE AND A SIGNATURE ON THAT
10 DATE.

11 Q OH, I SEE. ONE DOCUMENT WAS USED ON TWO OCCASIONS?

12 A YES, SIR.

13 Q THE TIME, THE DATE IS REFERENCED---

14 A YES, YOUR HONOR.

15 Q IT IS SIGNED TWICE. WERE YOU THERE ON THE SECOND
16 OCCASION OR JUST THE FIRST ONE YOU SIGNED ON?

17 A JUST THE FIRST ONE, YOUR HONOR.

18 Q OKAY. WELL, I WANT TO LAY THE FOUNDATION FOR THAT AND
19 HAVE HER SIGNATURE AUTHENTICATED. AND THAT'S -- IS IT
20 DOCTOR...

21 A TEZZA.

22 Q TEZZER?

23 A TEZZA.

24 Q TEZZA?

25 A YES, SIR.

PRATAP NARAYAN, M.D. -- REEXAMINATION BY THE COURT

1 Q T-E-Z-Z...

2 A A.

3 Q A. ALL RIGHT.

4 SOLICITOR ARIAIL: SHE'S RIGHT HERE, YOUR HONOR.

5 DR. NARAYAN: THANK YOU, YOUR HONOR.

6 THE COURT: THANK YOU, SIR.

7 (WITNESS STEPS DOWN AT 11:11 A.M.)

8 CAMILLA TEZZA, Ph.D., HAVING

9 BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

10 EXAMINATION BY THE COURT:

11 Q DR. TEZZA, THANK YOU ALSO FOR BEING HERE AND MAKING THE
12 EFFORT TO TRAVEL TO GREENVILLE FOR THIS HEARING.

13 A YOU'RE WELCOME.

14 Q I DO WANT TO DO JUST A LITTLE BIT OF BACKGROUND, BUT
15 YOUR PRIMARY PURPOSE IS I WANT TO TALK ABOUT THIS FORM WHERE
16 YOU WERE PRESENT AND IF IT'S TRUE YOU CAN AUTHENTICATE THE
17 SIGNATURES.

18 I TAKE IT YOU WORK FOR THE WILLIAM S. HALL INSTITUTE AS
19 WELL?

20 A YES.

21 Q AND WHAT IS YOUR JOB TITLE, MA'AM?

22 A I'M A FORENSIC PSYCHOLOGIST THERE.

23 Q AND WHAT IS YOUR BACKGROUND, EDUCATION AND PROFESSION?

24 A I HAVE A Ph.D. IN CLINICAL PSYCHOLOGY FROM U.S.C. I
25 HAVE BEEN EMPLOYED IN ACUTE CARE INPATIENT PSYCHIATRIC

CAMILLA TEZZA, Ph.D. -- EXAMINATION BY THE COURT

1 SETTINGS SINCE '95. I'VE BEEN EMPLOYED AT HALL SINCE, OH,
2 I'D SAY, ABOUT TWO YEARS, FOUR MONTHS, TWO YEARS, FIVE
3 MONTHS.

4 Q DO YOU HOLD ANY LICENSES OR DESIGNATIONS AS A---

5 A YES. I AM INDEPENDENTLY LICENSED BY THE BOARD OF
6 EXAMINERS IN SOUTH CAROLINA.

7 Q OKAY. AND IT'S BEEN REFERENCED BY DR. NARAYAN THAT YOU
8 PARTICIPATED TO SOME DEGREE IN THE EVALUATION PROCESS OF MR.
9 WOOD; IS THAT CORRECT?

10 A YES.

11 Q THERE IS ONE FORM HERE THAT WAS APPARENTLY USED ON TWO
12 OCCASIONS, AND I BELIEVE WE'RE TALKING ABOUT NOVEMBER THE
13 5TH. THIS IS PART OF COURT'S EXHIBIT NUMBER 16. I WOULD ASK
14 IF YOU WOULD REVIEW THIS AND SEE IF THIS IS A DOCUMENT IN
15 WHICH YOU PARTICIPATED ON THAT DATE.

16 A (REVIEWS DOCUMENT) YES. 10/29 OF 2001 WAS OUR FIRST
17 EXAM. I DID PARTICIPATE IN THE REVIEW. I DID WITNESS THESE
18 SIGNATURES. YOU WILL SEE THAT NOVEMBER THE 5TH OF 2001 -- I
19 LIKE TO USE THE SAME FORM TO KEEP THE INFORMATION ALL IN THE
20 SAME PLACE. SO AGAIN, THE SIGNATURES ARE THERE AGAIN. THAT
21 IS WHEN WE HAD GONE BACK FOR FOLLOW-UP TESTING.

22 Q OKAY. I NOTICE THAT THERE IS A SIGNATURE PURPORTEDLY OF
23 MR. WOOD ON BOTH DATES AND A DATE BY EACH SIGNATURE. WOULD
24 HE HAVE SIGNED IN YOUR PRESENCE?

25 A YES. THERE ARE HIS.

1 Q AND DID YOU LIKEWISE SIGN THAT DOCUMENT ON THOSE
2 OCCASIONS AS A WITNESS?

3 A YES, I DID.

4 Q TELL ME IF ON THOSE OCCASIONS YOU WERE PRESENT WHEN THAT
5 FORM WAS PRESENTED TO HIM, THE MANNER IN WHICH IT WAS
6 PRESENTED, HOW HIS RIGHTS WERE PRESENTED AND HOW THAT
7 DOCUMENT WAS REVIEWED WITH HIM.

8 Q WE DO THIS -- JUST STANDARD PRACTICE, WE DO THIS WITH
9 EVERYONE THAT COMES IN. THERE IS A MIRANDA IN THE FIRST
10 SECTION, THEN THERE IS SOMETHING OF AN INFORMED CONSENT
11 FOLLOWING, AND THEN THERE IS A WAIVER. WE GO THROUGH EACH
12 PART OF THIS FORM, MAKE SURE THAT THE DEFENDANT UNDERSTANDS
13 EACH COMPONENT. AND THEN IF THEY ARE COMFORTABLE, THEN THEY
14 SIGN. IF NOT, THEN WE CALL THE ATTORNEYS RIGHT AWAY.

15 Q ON BOTH OCCASIONS IN WHICH YOU PARTICIPATED IN THE
16 PRESENTATION OF THAT FORM DID YOU REVIEW OR IN YOUR PRESENCE
17 WAS EACH ITEM REVIEWED WITH MR. WOOD?

18 A YES, IT WAS.

19 Q DID HE INDICATE HE UNDERSTOOD EACH OF HIS RIGHTS AND THE
20 ISSUES CONTAINED IN THAT DOCUMENT?

21 A YES, HE DID.

22 Q FOLLOWING THAT PRESENTATION DID HE INDICATE THAT HE
23 WISHED TO WAIVE HIS RIGHTS AND SPEAK WITH YOU REGARDING THIS
24 MATTER?

25 A YES, HE DID. WE ALWAYS MAKE SURE THAT SOMEONE -- IF

CAMILLA TEZZA, Ph.D. -- EXAMINATION BY THE COURT

1 THEY WANT THEIR ATTORNEY THERE, THEY ARE ASKED, "DO YOU WANT
2 YOUR ATTORNEY HERE?" WE GIVE THEM THE OPPORTUNITY TO SAY YES
3 OR NOT.

4 Q AND WAS THAT OPPORTUNITY GIVEN TO MR. WOOD?

5 A YES, IT WAS.

6 Q AND WHAT WAS HIS RESPONSE?

7 A HE DECLINED.

8 THE COURT: AGAIN, THIS IS COURT'S EXHIBIT 16. IF
9 EITHER SIDE HAS QUESTIONS ABOUT THE AUTHENTICITY OF THE
10 DOCUMENT...

11 SOLICITOR ARIAIL: NO QUESTIONS FROM THE STATE.

12 MR. MAULDIN: ONE MOMENT, YOUR HONOR.

13 MR. MAULDIN: (OFF RECORD WITH CO-COUNSEL) NO
14 QUESTIONS AS TO THAT MATTER, YOUR HONOR.

15 THE COURT: OKAY. DR. TEZZA, THANK YOU SO MUCH. AND
16 IF YOU WOULD, JUST HAND ME THAT EXHIBIT.

17 DR. TEZZA: SURE.

18 THE COURT: I APPRECIATE YOU BEING HERE. YOU CAN STEP
19 DOWN NOW. NO OTHER QUESTIONS.

20 (WITNESS STEPS DOWN AT 11:16 A.M.)

21 THE COURT: ANYTHING FURTHER REGARDING THE VARIOUS
22 PSYCHIATRISTS AND EXPERTS FROM THE STATE HOSPITAL? IF SO,
23 I -- ABSENT THAT, I'M GOING TO GO AHEAD AND EXCUSE THEM AT
24 THIS TIME.

25 SOLICITOR ARIAIL: NOT UNLESS YOUR HONOR HAS SOMETHING.

MATTERS AND MOTIONS

1 **THE COURT:** I HAVE NOTHING FURTHER.

2 **MR. MAULDIN:** THE ONLY THING I REQUEST WHILE THEY ARE
3 PRESENT, YOUR HONOR, IS ARE YOU GOING TO GIVE ANY TIME FRAME
4 WITH REGARD TO PROVIDING THE DEFENSE WITH OUR CLIENT'S FILE?

5 **THE COURT:** YEAH. DR. NARAYAN, DR. CRAWFORD, DR.
6 TEZZA, JUST GIVE ME A HEAD'S UP ON HOW LONG WILL IT TAKE TO
7 ACCOMPLISH THAT? YOU KNOW, WE'RE SORT OF ON A TIGHT
8 SCHEDULE.

9 **MR. MAULDIN:** WE CAN GO TO -- HAVE SOMEBODY IN COLUMBIA
10 BRING IT TO US.

11 **DR. CRAWFORD:** I THINK IT CAN BE DONE FAIRLY QUICKLY.
12 THE ISSUE IS GOING TO BE THAT WE -- THE HOSPITAL IS NOT
13 ALLOWED TO RELEASE RECORDS UNLESS THEY ARE RECORDS THAT WERE
14 GENERATED BY THE HOSPITAL. THAT IS WHY THE CHART IS MUCH
15 THINNER, FOR EXAMPLE. THE HOSPITAL DOESN'T RELEASE RECORDS
16 THAT WE HAVE OBTAINED FROM OTHER HOSPITALS. AND IN ADDITION
17 TO THAT, THE DEPARTMENT CONSIDERS DR. NARAYAN'S NOTES, WHICH
18 ARE PART OF ANOTHER FILE, TO BE HIS PERSONAL FILE, AND SO WE
19 NEED A DIRECT SUBPOENA DIRECTLY TO EACH PERSON TO GET THAT
20 INFORMATION IS USUALLY WHAT IT REQUIRES. SO IT IS GOING TO
21 BE SORT OF A LEGAL BACK AND FORTH WITH OUR DEPARTMENTS. I
22 JUST WANTED TO SAY THAT UP FRONT.

23 **THE COURT:** DO YOU THEN NEED A WRITTEN ORDER THAT THE
24 ENTIRE FILE AND ANY INFORMATION FROM ANY SOURCE REGARDING
25 JOHN RICHARD WOOD BE DISCLOSED BOTH TO THE DEFENDANT AND TO

MATTERS AND MOTIONS

1 THE COURT?

2 DR. CRAWFORD: I WOULD SAY THAT. AND I WOULD SPECIFY
3 INCLUDING RECORDS THAT THE HOSPITAL OBTAINS FROM OTHER
4 HOSPITALS, BECAUSE THEY WILL NOT DO THAT.

5 THE COURT: GIVE ME A FAX NUMBER WHERE I CAN FAX -- I
6 WILL TRY TO DO SOMETHING TODAY AND GET AN ORDER TO YOUR
7 OFFICE TODAY OR ONE OF YOUR OFFICES.

8 DR. CRAWFORD: HOLD ON ONE SECOND.

9 MR. MAULDIN: I'VE GOT THE LETTERHEAD HERE.

10 THE COURT: OH, I'VE GOT THE LETTERHEAD TOO.

11 MR. MAULDIN: IT DOESN'T HAVE IT ON THERE, JUDGE.

12 THE COURT: I'VE GOT A FAX NUMBER OF---

13 DR. CRAWFORD: I'VE GOT A FAX NUMBER. IT'S phone number

14

15 THE COURT: 1557.

16 DR. CRAWFORD: I'M SORRY, 1357.

17 THE COURT: YEAH. phone number AND YOU WANT THE ORDER
18 FOR YOUR PROTECTION TO SAY ALL RECORDS FROM ANY SOURCE,
19 INCLUDING BUT NOT LIMITED TO----

20 DR. CRAWFORD: YEAH. INCLUDING BUT NOT LIMITED TO
21 RECORDS RECEIVED FROM OTHER HOSPITALS TO D.M.H.

22 THE COURT: HOSPITALS OR OTHER INDIVIDUALS OR ENTITIES.
23 WE WILL MAKE IT AS BROAD AS WE CAN.

24 ANY OTHER THING TO GIVE YOU---

25 DR. CRAWFORD: SPECIFICALLY PERSONAL RECORDS OF --

MATTERS AND MOTIONS

1 PERSONAL NOTES OF PHYSICIANS WITH REGARDS TO THIS CASE -- AND
2 PSYCHOLOGISTS. THE OTHER ISSUE IS THE PSYCHOLOGICAL TESTING.
3 IF THEY WANT THE RAW DATA, THAT CAN ONLY BE RELEASED TO A
4 LICENSED PSYCHOLOGIST.

5 THE COURT: DO YOU WANT THE UNDERLYING TEST DATA?

6 MR. MAULDIN: YES, SIR. AND WE WILL PROVIDE THEM WITH
7 A NAME OF ANOTHER PSYCHOLOGIST TO WHOM THEY CAN PROVIDE IT
8 THEN FROM WHOM WE CAN OBTAIN IT. SO -- AND WE'VE GONE
9 THROUGH THAT BEFORE. WE KNOW HOW THAT WORKS, AND WE
10 UNDERSTAND THAT LIMITATION. AND, YOUR HONOR, IF YOU WANT
11 TO -- WOULD IT BE WORTHWHILE, PERHAPS, JUST TO FACILITATE
12 THIS IF THE PSYCHOLOGIST -- WE GIVE HER THE NAME, SHE
13 WOULDN'T NECESSARILY EVEN HAVE TO BE UNDER THIS ORDER, IS
14 THAT OKAY, THAT SHE NOT BE UNDER THIS ORDER?

15 DR. CRAWFORD: WELL, SHE CAN BE UNDER THAT ORDER.
16 THAT'S NOT AN ISSUE. THIS WILL COVER -- IF YOU SAY "ANY
17 MEDICAL PROVIDER," IT WILL COVER HER.

18 MR. MAULDIN: WE'LL GIVE A NAME OF A---

19 THE COURT: MEDICAL PROVIDERS. ALL RIGHT. THAT'S A
20 SUFFICIENT TERM?

21 DR. CRAWFORD: THAT'S GOOD.

22 THE COURT: ANYTHING ELSE I CAN DO FOR YOUR END TO MAKE
23 IT EASIER?

24 DR. CRAWFORD: NO. OTHER THAN PAGER NUMBER -- OR DO
25 YOU WANT MY PAGER NUMBER IN CASE THERE IS SOME PROBLEM WITH

MATTERS AND MOTIONS

1 THE FAXING SO WE CAN MAKE SURE WE GET THIS DONE IMMEDIATELY.

2 THE COURT: WELL, I WANT THE COPY OF THE INFORMATION.
3 THE THING THAT MUST GO TO THE PSYCHOLOGIST, YOU KNOW, I'M NOT
4 FIGHTING THAT BATTLE. BUT IT MAY WELL BE THAT IF THE STATE
5 HAS AN EXPERT, THE STATE -- I MAY HAVE TO REQUIRE THAT
6 INFORMATION TO BE SENT TO THE STATE'S EXPERT AT SOME TIME.
7 I'M GOING TO REVISIT THAT ISSUE WITH THE STATE.

8 OKAY. ANYTHING ELSE IN TERMS OF GETTING THE FILE?

9 MR. MAULDIN: NO, SIR.

10 THE COURT: I THINK WE'RE MOVING IN THE RIGHT DIRECTION
11 WITH REGARD TO THAT.

12 ALL RIGHT. THANK YOU SO MUCH. I REALLY APPRECIATE
13 Y'ALL COMING UP. I'LL TRY TO GET AN ORDER DRAFTED AS QUICKLY
14 AS POSSIBLE, SIGN IT AND HAVE IT FAXED TO YOU, OKAY?

15 DR. CRAWFORD: WE'LL GET IT RIGHT TO YOU.

16 THE COURT: THANK YOU. (PAUSE) ALL RIGHT. THE
17 DOCTORS FROM THE STATE HOSPITAL HAVE BEEN EXCUSED. IS THERE
18 ANYTHING ELSE FROM EITHER SIDE REGARDING THE ISSUE OF
19 COMPETENCY?

20 SOLICITOR ARIAIL: THE ONLY ISSUE I HAVE IS THROUGH
21 CROSS EXAMINATION HAS THE ISSUE OF COMPETENCY BEEN
22 QUESTIONED?

23 THE COURT: NO.

24 SOLICITOR ARIAIL: THAT'S YOUR RULING. IT HAS NOT BEEN
25 RAISED TO THE EXTENT THAT THIS COURT HAS GOT TO HAVE A

MATTERS AND MOTIONS

1 FINDING AND A FURTHER EVALUATION AS OF NOW---

2 THE COURT: I THINK I'M PREPARED TO RULE. LET ME SEE
3 WHAT MR. MAULDIN HAS. DO YOU HAVE ANYTHING ON THE ISSUE OF
4 COMPETENCY AT THIS TIME?

5 MR. MAULDIN: NOT AT THIS TIME, YOUR HONOR.

6 THE COURT: ALL RIGHT. I FIND THAT MR. WOOD IS
7 COMPETENT. I AM FIRMLY CONVINCED THAT HE WAS COMPETENT AT
8 THE TIME OF THE EVALUATION. I FURTHER RELY ON THE LAW
9 THROUGHOUT OUR CASE LAW THAT AN INDIVIDUAL IS PRESUMPTIVELY
10 COMPETENT, AND ONE ASSERTING INCOMPETENCE HAS A BURDEN.
11 THERE HAS BEEN NO EFFORT TO ESTABLISH OR ANY SUGGESTION THAT
12 MR. WOOD IS INCOMPETENT. I RELY ON WHAT'S BEEN PRESENTED,
13 AND I RELY ON THE LEGAL PRESUMPTION OF COMPETENCE. AND
14 CERTAINLY, I'M NOT GOING TO PERMIT A DEFENDANT TO PREVENT AND
15 PROHIBIT STATE -- COURT-ORDERED STATE PSYCHIATRISTS FROM
16 HAVING ANY ACCESS TO A DEFENDANT AND RELEVANT INFORMATION AND
17 THEN PERMIT A DEFENDANT TO COME IN AND PRESENT A ONE-SIDED
18 PRESENTATION OF COMPETENCE. AND THEY HAVEN'T ATTEMPTED TO
19 CHALLENGE COMPETENCE, AND I RESPECT THAT. I HONOR THE LEGAL
20 PRESUMPTION OF COMPETENCE.

21 WHAT I'D LIKE TO DO IS -- WE'VE BEEN GOING FOR A WHILE
22 NOW. LET'S TAKE ABOUT A TEN-MINUTE BREAK. WE'LL COME BACK
23 AND WE'LL SEE WHAT ISSUES WE HAVE TO ADDRESS. I KNOW THERE
24 ARE SEVERAL EVIDENTIARY MATTERS AND JUST SOME HOUSEKEEPING
25 MATTERS ON OTHER MOTIONS.

MATTERS AND MOTIONS

1 **SOLICITOR ARIAIL:** COULD I PUT ONE MORE MATTER ON THE
2 RECORD, JUST TO RETURN TO COMPETENCY. I UNDERSTAND YOUR
3 HONOR'S RULING. BUT I'D LIKE TO ALSO PUT ON THE RECORD AND
4 OF COURSE TAKE JUDICIAL NOTICE OF THE FACT THAT THROUGHOUT
5 THE ENTIRE JURY PROCESS, SELECTION PROCESS, THAT MR. WOOD
6 OVERTLY CONSULTED WITH HIS ATTORNEYS ON NUMEROUS OCCASIONS
7 ABOUT WHICH JURORS TO TAKE AND WHICH JURORS NOT TO TAKE.
8 THAT'S NOT A PART OF THE RECORD, BUT IT IS READILY OBSERVABLE
9 BY EVERYONE INSIDE THE COURTROOM.

10 **THE COURT:** AND QUITE FRANKLY, I WAS VERY SENSITIVE
11 WHEN I SAW DR. NARAYAN PUSHING TO GET UPDATED INFORMATION AND
12 NOT BEING ALLOWED. AND I HAVE KNOWN THAT FOR -- SINCE WE
13 STARTED JURY SELECTION AND BEFORE, AND BECAUSE OF THAT I'VE
14 TRIED TO TAKE VERY CAREFUL NOTE OF HIS DEMEANOR, HIS AFFECT.
15 AND IF I HAD SEEN ANYTHING THAT GAVE ME ANY SUSPICION THAT HE
16 WASN'T COMMUNICATIVE, THAT WOULD RAISE AN ISSUE OF
17 COMPETENCY, I WOULD NOT HAVE GONE THAT FAR IN THE PROCESS AND
18 I WOULD HAVE ORDERED ACCESS TO HIM.

19 I'M ALSO GOING TO MARK -- AND THERE MAY BE OTHER
20 EXHIBITS -- AND IF YOU GENTLEMEN WANT TO SUPPLEMENT, THAT'S
21 FINE -- I HAVE -- I'M GOING TO PUT MR. MAULDIN'S LETTER TO ME
22 THIS DATE ABOUT THE DECISION NOT TO MEET WITH THE STATE
23 PSYCHIATRIST; THE FEBRUARY 6 LETTER FROM DR. NARAYAN TO MR.
24 MAULDIN; A FEBRUARY 4TH LETTER FROM MR. ARIAIL TO ME, COPY TO
25 MR. MAULDIN; FEBRUARY 4TH LETTER TO MR. ARIAIL FROM DR.

MATTERS AND MOTIONS

1 NARAYAN THAT HE FURNISHED TO MR. MAULDIN. THIS IS JUST A
2 SAMPLING, I THINK. I DON'T KNOW IF IT'S AN EXCLUSIVE LIST,
3 BUT IT'S A SAMPLING OF WHAT'S TRANSPIRED IN THIS PARTICULAR
4 ISSUE, AND I WANT THAT MARKED AS A COURT'S EXHIBIT AS WELL.
5 (PAUSE) ALL RIGHT. THAT WILL BE THE NEXT COURT'S EXHIBIT.

6 LET'S TAKE A TEN-MINUTE BREAK, THEN WE'LL COME BACK AND
7 ASSESS THE VARIOUS ISSUES WE NEED TO RESOLVE.

8 (LETTERS REGARDING DR. NARAYAN'S ATTEMPT TO EVALUATE MR.
9 WOOD MARKED AS COURT'S EXHIBIT NUMBER 17)

10 (A RECESS WAS TAKEN FROM 11:28 TO 11:40 A.M.)

11 (QUESTIONNAIRES OF SEATED AND ALTERNATE JURORS MARKED AS
12 COURT'S EXHIBIT NUMBER 5)

13 (QUESTIONNAIRES OF EXCUSED OR NOT QUALIFIED JURORS
14 MARKED AS COURT'S EXHIBIT NUMBER 6)

15 (QUESTIONNAIRES OF NOT INTERVIEWED JURORS MARKED AS
16 COURT'S EXHIBIT NUMBER 7)

17 (DOCTOR'S STATEMENTS, CRIMINAL CONVICTIONS OF EXCUSED
18 JURORS MARKED AS COURT'S EXHIBIT NUMBER 8)

19 (DENIED REQUESTS TO BE EXCUSED MARKED AS COURT'S EXHIBIT
20 NUMBER 9)

21 (SHERIFF'S OFFICE AFFIDAVITS OF SERVICE AND NONSERVICE
22 MARKED AS COURT'S EXHIBIT NUMBER 10)

23 (JUROR INFORMATION CARDS MARKED AS COURT'S EXHIBIT
24 NUMBER 11)

25 (QUESTIONNAIRES OF JUROR EXCUSED ON MONDAY AT 2:00 P.M.)

MATTERS AND MOTIONS

1 MARKED AS COURT'S EXHIBIT NUMBER 12)

2 (PROOF OF ENROLLMENT MARKED AS COURT'S EXHIBIT NUMBER
3 13)

4 (POSTAL RETURNS OF DECEASED AND UNABLE TO LOCATE MARKED
5 AS COURT'S EXHIBIT NUMBER 14)

6 (OVER 65 OR NOT GREENVILLE COUNTY RESIDENTS MARKED AS
7 COURT'S EXHIBIT NUMBER 15)

8 (COURT'S EXHIBITS 5 THROUGH 15 ARE MARKED AND PLACED
9 UNDER SEAL BY ORDER OF THE COURT)

10 THE COURT: ALL RIGHT. WE'RE BACK ON THE RECORD. I
11 WILL ADDRESS THE MOTIONS OR WHATEVER WE HAVE LEFT IN ANY
12 ORDER YOU WANT TO. I KNOW THAT I WANT TO JUST TO MAKE SURE
13 THAT IF THERE IS ANY FURTHER CONTROVERSY OR ISSUE THAT NEEDS
14 TO BE ADDRESSED REGARDING WHAT WE HAVE BROADLY DISCUSSED AS
15 THE ANDERSON EVIDENCE. AND I RECEIVED, I THINK IT MIGHT HAVE
16 BEEN MONDAY, A NOTICE FROM DEFENSE COUNSEL THAT IT WISHED TO
17 RESCIND ITS ORIGINAL OBJECTION TO THE ADMISSIBILITY OF THAT
18 EVIDENCE IN THE FIRST PHASE.

19 MR. MAULDIN: AND WE INTEND TO ADDRESS THAT
20 SPECIFICALLY, YOUR HONOR.

21 THE COURT: OKAY. I KNOW THAT THERE IS A MOTION THAT
22 DEFENDANT HAS FILED TO REQUIRE THE STATE TO PROFFER ALL
23 EVIDENCE IN ADVANCE, AND I READ THAT TO ALSO INCLUDE ON THE
24 FIRST PHASE AS WELL AS THE VICTIM IMPACT THAT WE ALREADY
25 ADDRESSED A COUPLE OF WEEKS AGO.

MATTERS AND MOTIONS

1 MR. MAULDIN: WE'LL ADDRESS THAT, YOUR HONOR.

2 THE COURT: ALL RIGHT. WHAT ELSE?

3 MR. MAULDIN: I MADE A LIST OVER THE EVENING. I WENT
4 THROUGH THE MULTITUDE OF MOTIONS TO SEE WHERE YOU HAVE --
5 WHERE WE WERE AND WHETHER THEY NEEDED TO BE UPDATED OR
6 REVIEWED OR REVISITED.

7 THE COURT: ALL RIGHT, SIR. WELL, JUST GIVE ME --
8 REALLY ANY ORDER YOU -- COUNSEL WANT TO PROCEED SUITS ME
9 FINE.

10 MR. MAULDIN: ALL RIGHT, SIR. YOUR HONOR, THE FIRST
11 MATTER THAT WE WOULD LIKE FOR THE COURT TO UPDATE OR REVISIT
12 IS OUR MOTION THAT WAS FILED ON JANUARY THE 30TH OF 2001
13 INVOLVING A REQUIREMENT THAT THE GOVERNMENT REVEAL TO THE
14 DEFENDANT ANY GRANT OF IMMUNITY OR ANY OTHER CONCESSIONS TO
15 ANY STATE'S WITNESS.

16 SOLICITOR ARIAIL: CAN I INTERJECT HERE? THERE IS NO
17 WAY I'M GOING TO BE ABLE TO RESPOND TO THESE THINGS. I MEAN,
18 IF HE'S GOING TO GO BACK -- WE DON'T HAVE ALL THOSE HERE AND
19 WE'RE NOT PREPARED TO PICK THEM UP AND READ THEM UNLESS, YOU
20 KNOW, YOU'RE JUST GOING TO LET US TALK OFF THE TOP OF OUR
21 HEAD.

22 THE COURT: I THOUGHT WE HAD ALREADY ADDRESSED THAT,
23 THAT PARTICULAR ONE.

24 MR. MAULDIN: AN ORDER WAS ISSUED BACK ON FEBRUARY THE
25 28TH, BUT WE ARE -- WE'VE GOT TO KNOW BEFORE THE TRIAL OF THIS

MATTERS AND MOTIONS

1 CASE IF THEY HAVE, IN FACT, DONE ANYTHING. WE NEED THEM TO
2 STATE ON THE RECORD WHETHER THEY'VE DONE ANYTHING OR NOT.

3 SOLICITOR ARIAIL: I DON'T THINK THAT'S WHAT THE ORDER
4 SAYS. THE ORDER SAYS THAT IF I DO SOMETHING, I'VE GOT TO
5 TELL HIM. AND I DON'T THINK I'M REQUIRED TO STATE ON THE
6 RECORD IF I HAVE OR HAVEN'T DONE ANYTHING. I'M UNDER A
7 COURT'S OBLIGATION TO DO IT IF I DO SOMETHING. AND WE JUST
8 DON'T HAVE ALL THESE RECORDS. THAT'S WHAT I'M WORRIED ABOUT.

9 THE COURT: YEAH. I DON'T HAVE THAT ORDER IN FRONT OF
10 ME. DO YOU MIND IF LOOK AT IT?

11 MR. MAULDIN: WELL, YOUR HONOR, I'VE GOT MY NOTES AND
12 YOUR WRITTEN ORDER IS IN MY FILE, SO I CAN GO GET IT.

13 THE COURT: OKAY. WE CAN GET IT PRETTY QUICKLY.

14 MR. MAULDIN: YES, SIR. BUT I WANT THAT REVISITED, THE
15 MATTER OF WHETHER ANY CONCESSIONS HAVE BEEN GRANTED TO ANY
16 STATE'S WITNESSES PRIOR TO THIS TRIAL, I BELIEVE THAT THE
17 DEFENSE IS ENTITLED TO KNOW IT. UNDER THE TERMS OF YOUR
18 ORDER THAT WAS WRITTEN AND ISSUED, I ASK THAT THE STATE BE
19 REQUIRED TO COMPLY IF THEY AREN'T IN COMPLIANCE. I DON'T
20 KNOW WHETHER THEY ARE OR NOT. IF THEY HAVEN'T MADE ANY
21 OFFERS OR GRANTS OR DEALS THAT HAVE BEEN AGREED UPON, THEN
22 OBVIOUSLY THEY ARE IN COMPLIANCE.

23 THE COURT: OKAY.

24 MR. MAULDIN: ALL RIGHT. THE SECOND MOTION, YOUR
25 HONOR, THAT WE WANT THE COURT TO BE CONSCIOUS OF AND REVISIT

MATTERS AND MOTIONS

1 TO THE EXTENT THE COURT FINDS NECESSARY, IS A MOTION FILED
2 AUGUST THE 14TH OF 2001. I WOULD JUST CAPTION IT AS THE
3 SECOND BRADY MOTION. AND IN THAT SECOND BRADY MOTION WE
4 IDENTIFIED FIVE SPECIFIC AREAS OF EVIDENCE THAT WE FELT LIKE
5 WE WERE ENTITLED TO AND EXPLAINED WHY -- CELL PHONE RECORDS,
6 PHOTOS OF MOTORCYCLE---

7 SOLICITOR ARIAIL: HOLD ON. OKAY.

8 MR. MAULDIN: I'LL GIVE HIM THE PAGE. THERE ARE FIVE
9 RIGHT THERE, FIVE PARAGRAPHS. ---PHOTOS OF MOTORCYCLE
10 EVIDENCE, SERIAL NUMBERS OF MONEY, PHOTOS OF ROBBERIES AND
11 EVIDENCE REGARDING DESCRIPTIONS OR PHOTOS OF HELMETS. THAT
12 MOTION WAS COMPLETELY ORIENTED TOWARD THIS PUBLIC IMPRESSION
13 THAT THIS INVOLVES SOME SORT OF CONNECTION WITH BANK
14 ROBBERIES, MOTORCYCLISTS ROBBING BANKS. WE KNEW THEY DIDN'T
15 HAVE THAT EVIDENCE. MR. ARIAIL SAID AT THE HEARING, "WE
16 DON'T HAVE ANY EVIDENCE OF ANY CONNECTION WITH ANY BANK
17 ROBBERIES." AND ALL I WAS SAYING WAS, IF HE'S GOT IT, HE
18 NEEDS TO GIVE IT TO ME. AND WE NEVER GOT ANYTHING, SO WE ARE
19 ASSUMING THAT -- WE'RE REVISITING THAT BECAUSE IT'S BEEN, YOU
20 KNOW, EIGHT MONTHS SINCE THAT HEARING WAS HELD. (PAUSE)

21 IN FACT, YOUR HONOR, YOU HEARD THAT MOTION ON NOVEMBER
22 THE 20TH. AND AT THE TIME OF THE HEARING YOU SAID ON THE
23 BENCH THAT YOU WOULD ISSUE A WRITTEN ORDER. I DON'T EVEN
24 REMEMBER IF A WRITTEN ORDER ACTUALLY WAS SUBSEQUENTLY ISSUED
25 OR NOT. BUT YOU RULED ON IT FROM THE BENCH. THE STATE SAID