

VOLUME TWO OF FOUR

STATE OF SOUTH CAROLINA

In The Supreme Court

ORIGINAL

APPEAL FROM GREENVILLE COUNTY

Larry R. Patterson, Circuit Court Judge

RECEIVED

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

FREDDIE EUGENE OWENS,

APPELLANT

RECORD ON APPEAL

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1 (Whereupon, Juror Number 202 was taken out of the
2 courtroom)

3 MR. GODFREY: May it please the court, I haven't
4 seen Wanda in over 30 years, but we all grew up together. I
5 know her brothers and I know her other sister. What she
6 just told you is a belief that she has held since she was 12
7 years old. I left in '72 and never went back to that
8 particular church and basically sort of left the community,
9 but I continued to know Randy and Becky. Obviously she's
10 not qualified for this panel.

11 THE COURT: Without further questioning I would
12 find that she's not qualified. She is staunchly entrenched
13 in her convictions, as Mr. Furmanek was in his. Mr. Godfrey
14 admits that this lady is. Thank you Mr. Godfrey. I
15 appreciate that.

16 (Whereupon, Juror Number 202 was brought into the
17 courtroom)

18 THE COURT: Ma'am, thank you so much for being
19 honest with us about your convictions. And as officer of
20 the court, Mr. Godfrey said he's known you in the past at
21 church and knowing of those convictions. I'm going to
22 excuse you in this case. You will not have to come back.

23 JUROR NUMBER 202: Thank you.

24 THE COURT: Thank you so much.

25 (Whereupon, Juror Number 202 was taken out of the

1 courtroom)

2 THE COURT: Sherry L. Gratzner.

3 (Whereupon, Juror Number 458 was brought into the
4 courtroom)

5 SHERRY L. GRATZER, #458, having been first duly
6 sworn, testified as follows:

7 VOIR DIRE EXAMINATION BY THE COURT:

8 Q. Ms. Gratzner, have you had an opportunity to review the
9 three types of jurors that I -- the form that we gave you in
10 the other courtroom?

11 A. Yes.

12 Q. If you had to classify yourself, what juror or what
13 type would you be?

14 A. Three.

15 Q. Three.

16 That means that although the guilt of the defendant,
17 Mr. Owens over here, he has been convicted of murder. You
18 would not -- you have not made up your mind concerning any
19 punishment in this case?

20 A. No, sir.

21 Q. And you would need to hear the facts of this crime,
22 circumstances in aggravation and mitigation, you would
23 listen to the instructions of the court, before you would
24 make up your mind as regarding any punishment?

25 A. Yes, sir.

1 Q. If the facts presented so warranted it, you could
2 impose a verdict of life imprisonment in regard to Mr.
3 Owens?

4 A. Yes, sir.

5 Q. And you understand that would be life in prison without
6 the possibility of parole until the death of the defendant?

7 A. Yes, sir.

8 Q. And if the facts so presented themselves, you could
9 bring in a verdict for the death penalty?

10 A. Yes, sir.

11 Q. That would be death by lethal injection or
12 electrocution. Do you understand that?

13 A. Yes, sir.

14 Q. Now, this case arises from an incident on Laurens Road
15 on November the 1st, 1997, wherein Ms. Irene Graves was
16 killed. Mr. Owens has been convicted of that murder.

17 Have you known -- this case was on television and radio
18 and in the newspaper. Have you read, heard or seen anything
19 about this case?

20 A. No, sir.

21 Q. You don't have any prior knowledge of this case at all?

22 A. No, sir.

23 Q. Now, if you were chosen as a juror, I would instruct
24 the jury this is the law. The State cannot seek the death
25 penalty in every murder. It can only be sought if they can

1 prove a statutory aggravating circumstance. In this case
2 they would have to prove, the State would, beyond a
3 reasonable doubt that this murder was committed in the
4 commission of a robbery while the defendant was armed with a
5 deadly weapon, or the murder was committed while committing
6 a larceny while armed with a deadly weapon.

7 Now, the jury would not determine any sentence until
8 the jury determined, all twelve people, that the State had
9 proven that beyond a reasonable doubt. Do you understand
10 that concept?

11 A. Yes, sir.

12 Q. Do you have any problem following those instructions?

13 A. No, sir.

14 Q. The burden -- there is no burden on the defendant to
15 prove anything. He would not have to testify and that could
16 not be held against him. Do you understand that?

17 A. Yes, sir.

18 Q. Do you have any problems with that concept?

19 A. No, sir.

20 Q. All right. Now, if the jury determined aggravating
21 circumstance - robbery or larceny while armed with a deadly
22 weapon - is proven beyond a reasonable doubt, then the jury
23 would determine what the sentence for Mr. Owens would be for
24 this crime. Do you understand that?

25 A. Yes, sir.

1 Q. All right. There would only be two possibilities.
2 After you found the statutory aggravating circumstance, then
3 you would consider evidence in aggravation and mitigation to
4 determine what the sentence should be, and it could be life
5 in prison or death. Do you understand that?

6 A. Yes, sir.

7 Q. Now, you could be fair and impartial in this case?

8 A. Yes, sir.

9 Q. And listen to all the evidence in aggravation?
10 Aggravation means to make the crime or murder worse, to
11 increase the enormity of the offense.

12 Mitigation means to reduce the severity of the crime of
13 murder, the degree of fault and responsibility.

14 Do you understand what mitigation and aggravation is?

15 A. Yes, sir.

16 Q. You would seriously and meaningfully consider those
17 factors and circumstances both of aggravation and in
18 mitigation, you could consider all the evidence and then
19 after that you could be fair and impartial and impose a
20 sentence of either life in prison or death?

21 A. Yes, sir.

22 Q. If any evidence came out about any prior bad acts or
23 crimes before this murder, or anything after this murder,
24 that would only come in for a limited purpose and I would
25 instruct you that it could only be considered as it would

1 bear on the character of Mr. Owens. It would not come in as
2 evidence of any statutory aggravating circumstance. Do you
3 understand that?

4 A. Yes, sir.

5 Q. Could you follow that instruction?

6 A. Yes, sir.

7 Q. Under your oath and on your honor you could be a fair
8 and impartial juror in the sentencing of Mr. Owens, and
9 depending upon the facts and circumstances, write a sentence
10 of life or death?

11 A. Yes, sir.

12 Q. Would race have any effect on your decision in any way?

13 A. No, sir.

14 Q. Would the religion of any person or any religious
15 training that you have had, if any at all, would you be
16 affected by religion, any Protestant, Catholic, Muslim, or
17 Islamic religion? If any evidence came out in that regard,
18 would that affect you in any way?

19 A. No, sir.

20 Q. I'm going to let you answer some questions from the
21 lawyers.

22 VOIR DIRE EXAMINATION BY MR. GIBSON:

23 Q. Good afternoon, Ms. Gratzner.

24 A. Yes.

25 Q. Ms. Gratzner?

1 A. Yes, I am.

2 Q. I'm Ken Gibson. This is Bill Godfrey, my co-counsel
3 and my client Freddie Owens. I just want to ask you a few
4 questions, please.

5 Now, as the judge began to explain to you, and I think
6 maybe has already explained to you, this situation is just a
7 little bit different from the normal death penalty type
8 situation. Normally the jury would not only consider what
9 sentence, but they would also consider the guilt of the
10 defendant involved. In this case that's already been
11 decided and Mr. Owens has been convicted of murder. Okay.
12 Do you understand that?

13 A. Yes, sir.

14 Q. The fact that he's already been convicted of murder,
15 would that in any way impair your ability to sentence him to
16 life without the possibility of parole if you deemed that to
17 be appropriate?

18 A. No, sir.

19 Q. Okay. Now, also in order for you to even consider the
20 sentence, you are going to have to find that the situation
21 has been aggravated by one of the statutory -- one, or both,
22 of the statutory circumstances that Judge Patterson just
23 told you about. Given that you will have already found that
24 this situation has been aggravated and is worse, would that
25 in any way impair your ability to give Mr. Owens a sentence

1 of life without the possibility of parole if you deemed that
2 to be appropriate?

3 A. No, sir.

4 Q. Now, do you understand what life without the
5 possibility of parole means?

6 A. Yes, sir.

7 Q. Can you tell me what your understanding of it is?

8 A. That means that you are in prison until the day that
9 you die.

10 Q. Okay. All right. Now, I don't want to make you
11 uncomfortable, but from my ignorance, I see on your
12 questionnaire you listed your faith as Pentecostal?

13 A. Yes.

14 Q. I don't know a lot about the Pentecostal faith, but I
15 just got a couple of questions to make sure there is nothing
16 in your faith which would impair your ability to give that
17 sentence of life without the possibility of parole, okay?

18 A. Yes.

19 Q. Does your faith have any religious teachings on the
20 death penalty, or the appropriateness of the death penalty,
21 or anything like that?

22 A. No, sir.

23 Q. Okay. Do you think that you could be able to be fair
24 in this situation to all the parties involved?

25 A. Yes, sir.

1 Q. Do you think that you would be able to be fair to Mr.
2 Owens in this situation?

3 A. Yes.

4 Q. Thank you Ms. Gratzner.

5 VOIR DIRE EXAMINATION BY MR. ARIAIL:

6 Q. Ms. Gratzner, my name is Bob Ariail. I'm the solicitor
7 for the Thirteenth Circuit of South Carolina, which is
8 Greenville and Pickens Counties. And the solicitor is the
9 State's prosecutor. In some other states it would be known
10 as the district attorney, but we still call them solicitors.
11 So you understand what my role would be in this case?

12 A. Yes.

13 Q. And then assisting me would be my deputy solicitor,
14 Betty Strom in the red coat, and also seated at counsel
15 table with Ms. Verdin would be assisting.

16 From your answers, I assume, and correct me if I'm
17 wrong, but that you believe that the death penalty or
18 capital punishment is an appropriate sentence under our law
19 in certain circumstances?

20 A. Yes, sir.

21 Q. And have you just recently formed that opinion, or is
22 that some opinion that you have held for some period of
23 time?

24 A. It's always been my opinion.

25 Q. Okay. And that based on that you would be able, if the

1 evidence warranted it, to impose or vote to impose a
2 sentence of death, based on the evidence that you felt that
3 was appropriate?

4 A. Yes, sir.

5 Q. Now, the judge asked you about the signing. If you
6 were sitting on a jury, the twelve jurors who decided that
7 the death penalty was appropriate, if that was the decision,
8 would have to sign a piece of paper with their name, each
9 name, and bring it back to the court. Would you have any
10 hesitancy in signing that piece of paper if that was your
11 verdict?

12 A. No, sir.

13 Q. Okay. And you understand that you would be sitting in
14 the role of a judge making the decision in this case as to
15 what would be the appropriate punishment?

16 A. Yes, sir.

17 Q. And hearing the evidence and being able to make a
18 decision as to whether life imprisonment was an appropriate
19 punishment or the death penalty?

20 A. Yes, sir.

21 Q. And you feel that you can carry that out fairly?

22 A. Yes, sir.

23 Q. And give meaningful consideration to both of those
24 things?

25 A. Yes, sir.

1 Q. Okay. Thank you.

2 MR. ARIAIL: That's all I have.

3 THE COURT: Ma'am, if you would just step outside
4 for just one minute and I'll bring you back in.

5 (Whereupon, Juror Number 458 was taken out of the
6 courtroom)

7 THE COURT: I would find Ms. Gratzner qualified.

8 MR. ARIAIL: The State would concur.

9 MR. GIBSON: Defense could concur, Your Honor.

10 THE COURT: Okay.

11 (Whereupon, Juror Number 458 was brought back into
12 the courtroom)

13 THE COURT: Ma'am, you have been qualified as a
14 juror in this case, which means that you will have to come
15 back hopefully sometime tomorrow.

16 JUROR NUMBER 458: Okay.

17 THE COURT: And bring clothes for about five days
18 in the motel, because if you are picked, you will be -- you
19 can drive your car, if you drive, or whatever, and take your
20 clothes to the motel in your automobile, or any other
21 arrangements that you want to make. If you are not picked
22 tomorrow, you can return back home.

23 JUROR NUMBER 458: Okay.

24 THE COURT: You won't have to come back.

25 JUROR NUMBER 458: Okay.

1 THE COURT: But do not discuss this case with
2 anyone, be exposed to any news media about the case, and I'm
3 going to give you this order for qualified jurors. And if
4 you would just call this number after six o'clock tonight.
5 The message will be on there to instruct the qualified
6 jurors, which you are one, potential juror, when you need to
7 come back.

8 JUROR NUMBER 458: Okay.

9 THE COURT: Thank you so much.

10 JUROR NUMBER 458: Thank you.

11 THE COURT: Have a good day.

12 JUROR NUMBER 458: You too.

13 (Whereupon, Juror Number 458 was taken out of the
14 courtroom)

15 THE COURT: Let's take at least ten minutes, or
16 so, and let me see what we can do about ordering for whoever
17 wants to order.

18 (Whereupon, proceedings were recessed)

19 (Whereupon, proceedings were reconvened)

20 THE COURT: Let's bring all twelve in.

21 (Whereupon, Jury Panel Number 6 and Jury Panel
22 Number 7 were brought into the courtroom)

23 THE COURT: Ladies and gentlemen, I'm going to
24 introduce everybody that's involved in this very serious
25 proceeding in regard to this case. We are going to continue

1 to work throughout the day and I'm going to have to make
2 arrangements for some people, at least, to go vote, but let
3 me make sure that everyone would know who all the folks are.

4 Ms. Norton.

5 Ms. Ables.

6 Mr. Manigault.

7 Ms. Breazeale.

8 Ms. Hanvy.

9 Ms. Gregg.

10 Ms. Campbell.

11 Ms. Barton.

12 Mr. Gosnell.

13 Ms. Gawrych.

14 Ms. Eastland.

15 Ms. Hunter.

16 And the attorneys in this case representing the
17 State is Mr. Ariail, Ms. Strom, his deputy, and Ms. Verdin.
18 Mr. Ariail is the circuit solicitor for Greenville and
19 Pickens Counties and prosecutes criminal cases.

20 The defense is Mr. Godfrey and Mr. Gibson.

21 Do any of you know any of these lawyers who are
22 involved in the case?

23 Ms. Ables?

24 JUROR NUMBER 1: I know Mr. Ariail.

25 THE COURT: Who?

1 JUROR NUMBER 1: Mr. Ariail.

2 THE COURT: How do you know Mr. Ariail?

3 JUROR NUMBER 1: Well, he probably doesn't know me
4 but, he knows my husband and my family. We had a situation
5 last year that he helped us through.

6 THE COURT: Okay. The fact that he helped your
7 family through the situation, would that affect your ability
8 to be a fair and an impartial juror?

9 JUROR NUMBER 1: No problem with that.

10 THE COURT: Okay.

11 The defendant in this case, Mr. Owens, is sitting
12 over here. Mr. Freddie Eugene Owens.

13 Do any of you know Mr. Owens?

14 (No response)

15 THE COURT: Okay. Now, I know y'all had
16 considerable time over there and looked over this witness
17 list. Do any of you ladies and gentlemen know any person on
18 the witness list?

19 (No response)

20 THE COURT: Okay. With that then we will just
21 move along and go on into the individual questioning. Ms.
22 Norton will be the first juror, and hopefully y'all have had
23 an opportunity to possibly order lunch. And if it comes,
24 you know, we hope that -- you can go ahead and have your
25 lunch there and we will try to work as much as we can in

1 here and continue on.

2 I'm going to let y'all go back over to the room.
3 Please review this and be prepared to tell me which type
4 juror that you feel that you may be when you come into the
5 courtroom. Y'all can step back out.

6 (Whereupon, Jury Panel Number 6 and Jury Panel
7 Number 7 left the courtroom)

8 FAWN NORTON, #467, having been first duly sworn,
9 testified as follows:

10 VOIR DIRE EXAMINATION BY THE COURT:

11 Q. Ms. Norton, have you had the opportunity to review the
12 three types of jurors document that I gave you?

13 A. Yes, sir.

14 Q. And would you classify yourself as one of those three
15 types?

16 A. The third one.

17 Q. The third one. Okay.

18 That is, even though -- and in this case Mr. Owens has
19 been convicted of murder and this is a second proceeding
20 provided under our law for the punishment in this case. Do
21 you understand that?

22 A. Uh-huh.

23 Q. Now, have you made up your mind or do you have a
24 preconceived opinion as to whether the punishment in a
25 murder case should be life in prison or death?

1 A. No.

2 Q. And you could be a fair and an impartial juror?

3 A. Yes.

4 Q. Listen to all the evidence in aggravation and in
5 mitigation in regard to this crime?

6 A. Yes.

7 Q. And you could write a verdict that would be fair to the
8 State and fair to the defendant?

9 A. Yes.

10 Q. All right. This incident occurred on 1 November 1997,
11 in Greenville County, on Laurens Road, at a Speedway. In
12 the early morning hours Ms. Irene Graves was killed. Mr.
13 Owens has been convicted of that murder.

14 Have you heard anything about this case? Do you know
15 anything about this case? This was publicized on TV, the
16 radio and the newspaper.

17 A. No.

18 Q. You have not been exposed to any publicity or knowledge
19 of this case?

20 A. No.

21 Q. That's fine.

22 Now, you have told me that you have carefully looked
23 over this list of jurors and it's pretty much -- they are
24 pretty much to the point as Court Exhibit No. 1, and you are
25 convinced that you could be a fair and impartial juror in a

1 murder case after a person has been convicted of murder and
2 impose a sentence which is fair under the facts and
3 circumstances?

4 A. Uh-uh.

5 Q. Is that correct?

6 A. Yes.

7 Q. Now, in this case the way we would proceed, before the
8 jury could sentence Mr. Owens, the State has got to prove to
9 you an aggravating circumstance permitted under the law. We
10 call that a statutory aggravating circumstance. You must
11 understand that for every murder the State cannot seek the
12 death penalty. Do you understand that?

13 A. Yes.

14 Q. They have to prove beyond a reasonable doubt a
15 statutory aggravating circumstance. In this case they would
16 have to prove to you beyond a reasonable doubt that this
17 murder was committed in the commission of an armed robbery
18 or a robbery while the defendant was armed with deadly
19 weapon, or a larceny while the defendant was armed with a
20 deadly weapon. You would have to determine that issue
21 first.

22 If all twelve people agreed, all twelve would have to
23 agree, based on the evidence presented by the State. The
24 burden is on them beyond a reasonable doubt. The defendant
25 does not have to prove anything or even testify and that

1 could not be held against him. Do you understand that?

2 A. Yes.

3 Q. Could you follow that law?

4 A. Yes.

5 Q. All right. And after the jury concluded that a
6 statutory aggravating circumstance existed, then the jury
7 would have to determine the sentence. Do you understand
8 that?

9 A. Yes.

10 Q. There are only two possible sentences at that point
11 that could be imposed upon Mr. Owens. That would be life in
12 prison without the possibility of parole until the death of
13 Mr. Owens. Do you understand that?

14 A. Yes.

15 Q. Or the jury could impose the death penalty, which means
16 death by lethal injection or electrocution. Do you
17 understand that?

18 A. Yes.

19 Q. You would have to focus on the specific facts and
20 circumstances surrounding the murder of Ms. Graves and the
21 individual characteristics of the defendant, Mr. Owens,
22 consider all the evidence in mitigation and aggravation and
23 write a sentence that was fair, based on the facts and
24 circumstances that you heard. Could you do that?

25 A. Yes.

1 Q. And you would fairly evaluate the aggravating and
2 mitigating circumstances?

3 Aggravating means to make worse, to increase the
4 enormity of the crime.

5 Mitigation means to reduce the severity of the offense
6 of murder or to make a person less responsible or at fault.
7 Do you understand what mitigating means?

8 A. Yes.

9 Q. Could you seriously and meaningfully consider the
10 aggravating circumstances and the mitigating circumstances?
11 After the jury found a statutory aggravating circumstances,
12 you could consider all the other evidence and write a
13 verdict in this case that speaks the truth, based on the law
14 and the evidence in this case?

15 A. Yes.

16 Q. Ma'am, if any evidence came in about any prior crimes
17 or bad acts before this murder or if any subsequent bad acts
18 or crimes or evidence of that came in after this murder,
19 that could not be considered as it would bear on any
20 statutory aggravating circumstance. Could you follow that
21 instruction?

22 A. Yes.

23 Q. I would instruct you that could only go to the
24 character of -- the general character of Mr. Owens. Could
25 you follow that instruction?

1 A. Yes.

2 Q. Ma'am, would the race of any party in this case have
3 any bearing on your decision in this case as to life
4 imprisonment or death?

5 A. No.

6 Q. Would any religious convictions that you may hold or if
7 any evidence came in about the religion or the faith of
8 anyone - Protestant, Catholic, Muslim, or Islam. If
9 anything came in about religion, would that affect your
10 decision?

11 A. No, sir.

12 Q. You would not be biased or prejudiced either way and
13 you would give a fair trial and honor your oath to the State
14 and to the defendant?

15 A. Yes.

16 Q. Ma'am, would you please --

17 If you determined the death sentence, I must tell you
18 this. The law would require you to sign your name to a
19 death sentence. Could you do that?

20 A. Yes.

21 Q. I'll let you answer some questions of the lawyers.

22 VOIR DIRE EXAMINATION BY MR. ARIAIL:

23 Q. Ms. Norton, my name is Bob Ariail and I'm what's called
24 the solicitor for the Thirteenth Circuit. The solicitor in
25 South Carolina is the person who is responsible for handling

1 all criminal prosecutions. And if you watch TV, that person
2 generally is referred to as the district attorney, but in
3 South Carolina we call him the solicitor, he or she. Do you
4 understand then what my role would be?

5 A. Yes.

6 Q. And in this case I would be representing the State,
7 along with my deputy Betty Strom, who is seated in the red
8 coat, and Ms. Verdin who is also seated at counsel table.

9 The case that the judge has been talking about involved
10 Mr. Owens, you understand that Mr. Owens has already been
11 convicted of the murder of Irene Graves at the Speedway on
12 Laurens Road, and that the issue or what we are concerned
13 with in this proceeding is what is the appropriate sentence
14 for Mr. Owens.

15 You said that you were a number three juror. By that
16 do you believe that the death penalty is an appropriate
17 punishment under our law?

18 A. Yes.

19 Q. And is that something that you have thought about
20 before, or is that something that just -- that you just
21 began to think about when you received your summons for this
22 case?

23 A. I have thought about it before.

24 Q. Okay. So this is something that you have either
25 discussed with other people, or had an assignment in school,

1 or something had brought about the idea that capital
2 punishment was appropriate for certain types of crimes?

3 A. Yes.

4 Q. And the judge asked you if you felt that the -- if you
5 were on the jury and you felt that the appropriate -- the
6 evidence supported that the appropriate sentence was to
7 impose a death sentence, that you could vote for the
8 imposition of the death penalty with your fellow jurors, and
9 you could also sign the form that's required at the end of
10 that, is that correct?

11 A. Yes.

12 Q. Would you have any hesitancy in signing that form
13 knowing that that document would be passed to the judge and
14 used as the piece of paper to carry to the Department of
15 Corrections to carry out the execution?

16 A. No.

17 Q. That wouldn't bother you?

18 A. No.

19 Q. What is the term you used or wrote on here? CNA, is
20 that certified nursing assistant?

21 A. Yes.

22 Q. And you are a certified nursing assistant?

23 A. Uh-huh.

24 Q. Okay. But you are not presently working at that?

25 A. No.

1 Q. When you say that you worked as a -- previously worked
2 as a certified nursing assistant, where was that? Was that
3 your last employment?

4 A. Yes.

5 Q. And where was that?

6 A. Oakmont Nursing.

7 Q. How long ago was that?

8 A. About a year ago.

9 Q. And that's the same -- your mother is also a certified
10 nursing assistant?

11 A. Yeah.

12 Q. All right.

13 MR. ARIAIL: I think that's all I have. Thank
14 you, ma'am.

15 VOIR DIRE EXAMINATION BY MR. GODFREY:

16 Q. Good afternoon Ms. Norton.

17 My name is Bill Godfrey, this is co-counsel Ken Gibson
18 and this is our client Freddie Owens.

19 If you were chosen as a juror in this case, you would
20 have to take an oath to be fair and impartial. Do you
21 believe that you could be fair and impartial?

22 A. Yes.

23 Q. Do you believe that you could be fair and impartial to
24 the State and the defense?

25 A. Yes.

1 Q. Is there anything that would cause you trouble, cause
2 you hesitation, in making a decision pertaining to that in
3 this case in making a decision for either death or life?

4 A. No.

5 Q. And you could be fair and impartial?

6 A. Yes.

7 MR. GODFREY: Nothing further.

8 THE COURT: Step out for just a minute and I'll
9 bring you back in.

10 (Whereupon, Juror Number 467 was taken out of the
11 courtroom)

12 THE COURT: Well, I have to find the juror
13 qualified, without objection from either side.

14 (Whereupon, Juror Number 467 was brought into the
15 courtroom)

16 THE COURT: Ms. Norton, you are qualified as a
17 juror in this case, a potential juror. That means that you
18 will have to report back with about 45 other people
19 hopefully sometime tomorrow.

20 JUROR NUMBER 467: Okay.

21 THE COURT: And bring with you enough clothing for
22 about five days --

23 JUROR NUMBER 467: Okay.

24 THE COURT: -- in a motel.

25 If you drive a car, you can leave your clothes in

1 your car and then drive it out to the motel, anyway that you
2 want to handle that. Okay.

3 JUROR NUMBER 467: Okay.

4 THE COURT: When you leave the court sometime
5 tomorrow.

6 In the meantime you cannot discuss the case with
7 anyone, or permit anyone to talk to you about the case, or
8 be exposed to any news media. Okay?

9 JUROR NUMBER 467: Okay.

10 THE COURT: Call this number after six o'clock
11 tonight and we will leave a message as to when you need to
12 return.

13 JUROR NUMBER 467: Okay.

14 THE COURT: Thank you.

15 (Whereupon, Juror Number 467 was taken out of the
16 courtroom)

17 THE COURT: Ms. Sonya Ables.

18 (Whereupon, Juror Number 1 was brought into the
19 courtroom)

20 SONYA K. ABLES, #1, having been first duly sworn,
21 testified as follows:

22 VOIR DIRE EXAMINATION BY THE COURT:

23 Q. Ms. Ables, I know that you returned the questionnaire
24 and we all -- the attorneys have a copy of that and I do
25 too, and all those -- I'm sure all those answers were

1 truthful to the best of your knowledge?

2 A. Yes, sir.

3 Q. And you have had a chance to review the three types of
4 jurors, the document that you had in the other courtroom?

5 A. Yes, sir.

6 Q. If you had the classify yourself as a juror in regard
7 to these three types, which type would you classify yourself
8 on?

9 A. I would classify myself as juror number two.

10 Q. Number two?

11 A. Yes.

12 Q. That means, Ms. Ables, that although the guilt of the
13 defendant has been determined, and that's true. Mr. Owens
14 here has been convicted of murder. This is just a
15 sentencing proceeding. You couldn't under no circumstances
16 ever give the death penalty?

17 A. I don't believe so.

18 Q. Well --

19 A. I thought about it a lot since October.

20 Q. Okay.

21 A. I really have. I lost a lot of sleep over it. I
22 really don't believe that I could.

23 Q. The entire purpose of this entire proceeding would be
24 for the jury to determine how Mr. Owens would be sentenced.
25 You are fully aware of that?

1 A. Right.

2 Q. Okay. And this entire proceeding would include factors
3 in aggravation and mitigation of this murder. You can't
4 seek the death penalty just for -- there is no such thing as
5 an ordinary murder. A murder is a murder.

6 A. Right.

7 Q. But the State cannot seek the death penalty in every
8 murder case. It is only if they can establish a statutory
9 aggravating circumstance.

10 In this case the State must prove beyond a reasonable
11 doubt before a jury, if you were sitting over there, before
12 you could determine the sentence. They would have to prove
13 beyond a reasonable doubt that this murder was committed in
14 the process of a robbery while the defendant was armed with
15 a deadly weapon, or a larceny while he was armed with a
16 deadly weapon.

17 If the State proved to you beyond a reasonable doubt,
18 or to the entire jury they would have to do it, that this
19 was committed, based on the statutory aggravating
20 circumstance, the law of this state says then a jury, not
21 the judge, but a jury determines how Mr. Owens is sentenced.
22 I'm sure -- do you understand that's what we are here about?

23 A. Right.

24 Q. There are only two possible sentences at that point -
25 life in prison without any possibility of parole until the

1 death of Mr. Owens, or the death penalty by lethal injection
2 or electrocution. Those would be the only two possible
3 sentences.

4 After that point you would consider the specific
5 circumstances of this murder and the individual
6 characteristics of this defendant and be called upon to
7 either write a sentence of life imprisonment or death.

8 Now, understanding the process, do you have any
9 questions about that process in what we would be doing?

10 A. No.

11 Q. Understanding that process, and if you heard evidence
12 in aggravation and mitigation, do you feel that you could
13 seriously give meaningful consideration to aggravating
14 circumstances, mitigating circumstances, and write a
15 sentence of death?

16 A. I don't think I can do it. I have -- it's that thing
17 of for me personally just believing that yes, he should get
18 the death penalty, but being the one to write that sentence,
19 personally I just don't think that I can do it.

20 Q. If that were to be the determination of the jury, based
21 on evidence and testimony in mitigation and aggravating
22 evidence, you would be called upon to sign your name to the
23 death verdict, could you do that?

24 A. I just don't believe that I could do it, you know, and
25 just be able to go forward with my life then and then -- I

1 just don't think that I can do it and live okay. It's just
2 too deep within me. I have battled it since you told us
3 that in October. I thought about it a lot. I went to my
4 pastor and talked to him about it. I really don't think
5 that I could do it.

6 Q. Okay. I'm going to let you step outside for just one
7 minute.

8 (Whereupon, Juror Number 1 was taken out of the
9 courtroom)

10 THE COURT: Ladies and gentlemen, there is a case
11 right on point that if a woman talks to her priest after
12 she's been called as a juror about capital punishment, she
13 is disqualified under the law. This juror would have to be
14 disqualified.

15 (Whereupon, Juror Number 1 was brought into the
16 courtroom)

17 THE COURT: Ms. Ables, thank you so much for your
18 honesty in answering these questions and for the time that
19 you have had to give us. I'm sorry for any inconvenience
20 for this, but it's a really very serious matter for us.

21 JUROR NUMBER 1: I understand.

22 THE COURT: I'm sorry for any imposition that may
23 have been made. Thank you so much for your answers, but you
24 are excused. You don't have to come back.

25 JUROR NUMBER 1: Thank you.

1 (Whereupon, Juror Number 1 was taken out of the
2 courtroom)

3 THE COURT: Let's go with Mr. Manigault.

4 (Whereupon, Juror Number 269 was brought into the
5 courtroom)

6 STANLEY MANIGAULT, #269, having been first duly
7 sworn, testified as follows:

8 VOIR DIRE EXAMINATION BY THE COURT:

9 Q. Mr. Manigault, you have received the document entitled
10 three types of jurors?

11 A. Uh-huh.

12 Q. And have you reviewed that?

13 A. Yes, I have.

14 Q. Can you tell me which type juror that you believe that
15 you would be in this case?

16 A. Number two.

17 Q. Number two?

18 A. Yes.

19 Q. Now, that states, Mr. Manigault, that although Mr.
20 Owens has been determined to be guilty of murder, under no
21 circumstances could you ever give the death penalty, is that
22 correct?

23 A. Yes.

24 Q. You would not need to hear any facts or circumstances
25 in aggravation or mitigation about this crime?

1 A. No.

2 Q. Facts and circumstances surrounding that crime would
3 not make any difference to you?

4 A. No.

5 Q. You would always impose life in prison if the defendant
6 were convicted of murder?

7 A. Yes.

8 Q. Regardless of any circumstances of any kind?

9 A. Yes.

10 Q. Okay. Could you step out just one minute?

11 A. All right.

12 (Whereupon, Juror Number 269 was taken out of the
13 courtroom)

14 THE COURT: I just don't know any other questions
15 to ask him to see if he could follow the instructions of the
16 court.

17 In the New York times this morning -- I'm not
18 supposed to say too much, but I saw where Tony Blair and
19 others were disagreeing with the punishment of the former
20 dictator of Iraq. And people just have that opinion and I
21 don't think there is anything we can do about it.

22 I can't see how I could qualify him as a juror.

23 MR. GODFREY: Defense agrees.

24 (Whereupon, Juror Number 269 was brought into the
25 courtroom)

1 THE COURT: Mr. Manigault, thank you so much for
2 your time. It's a very serious matter. We appreciate your
3 honesty in answering those questions.

4 JUROR NUMBER 269: Yes, sir.

5 THE COURT: And I'm going to excuse you. Thank
6 you. You don't have to come back.

7 JUROR NUMBER 269: Thank you.

8 THE COURT: Thank you so much.

9 JUROR NUMBER 269: Thank you.

10 (Whereupon, Juror Number 269 was taken out of the
11 courtroom)

12 THE COURT: Sharon Breazeale.

13 (Whereupon, Juror Number 51 was brought into the
14 courtroom)

15 SHARON BREAZEALE, #51, having been first duly
16 sworn, testified as follows:

17 VOIR DIRE EXAMINATION BY THE COURT:

18 Q. Ms. Breazeale, have you had an opportunity to review
19 the document entitled three types of jurors --

20 A. Yes, sir.

21 Q. -- in cases such as this.

22 Could you classify yourself under one of these three
23 categories?

24 A. I believe three.

25 Q. Three.

1 That states that the juror, even though Mr. Owens, who
2 is here in the courtroom over here, he's been found guilty
3 of the murder in this case. And this jury would sit to
4 determine punishment, and you would not or have not made up
5 your mind in regard to what the punishment should be in this
6 case?

7 A. (Shaking head no)

8 Q. All right. You don't have to -- you are going to have
9 to answer for them?

10 A. No, sir.

11 Q. You, as the juror, could you hear facts and
12 circumstances in regard to this crime of murder, all the
13 facts and circumstances in aggravation of the murder or
14 mitigation, and would you listen to all the evidence and
15 follow the instructions of the court before you made your
16 decision regarding punishment?

17 A. Yes.

18 Q. If the facts and circumstances presented to you in
19 regard to aggravating and mitigating circumstances warranted
20 a verdict of life imprisonment, could you write that
21 verdict?

22 A. Life in prison, yes, sir.

23 Q. If the facts and circumstances presented in the case
24 warranted a verdict of death, could you write that verdict?

25 A. I guess it's because what it is.

1 Q. Well, if the facts in aggravation --

2 A. Yes, sir.

3 Q. -- surrounding the crime -- you have to focus on the
4 murder --

5 A. Uh-huh.

6 Q. -- and the individual characteristics of Mr. Owens.

7 A. Uh-huh.

8 Q. And then considering all the evidence, if you had to
9 write a sentence, based on facts and circumstances presented
10 in regard to a murder, could you write a verdict for the
11 death penalty.

12 A. Yes.

13 Q. And would you sign your name to that verdict, your
14 personal signature to a death sentence?

15 A. I don't know.

16 Q. Sorry?

17 A. I don't know. I have -- you would have to sign your
18 name?

19 Q. You would have to sign your name to it if you voted for
20 it.

21 A. If I voted for it.

22 Q. And if under the facts and circumstances, if they
23 warranted it, if it should be imposed, you would have to
24 sign your name to it. Could you do that?

25 A. Yes.

1 Q. You would.

2 And Ms. Breazeale, you are juror number 51?

3 A. Yes.

4 Q. Now, you filled out a questionnaire?

5 A. Yes.

6 Q. And all the answers that you gave on that questionnaire
7 were truthful, I'm sure?

8 A. Yes, sir.

9 Q. As best you could answer them?

10 A. Yes, sir.

11 Q. This case arises from an incident which happened in
12 Greenville County on the 1st of November of 1997. It
13 happened at a Speedway on Laurens Road in the early morning
14 hours. Ms. Irene Graves was working there, allegedly, and
15 that she was killed, and Mr. Owens has been convicted of
16 that murder of that lady at the Speedway.

17 There has been a lot of TV or radio and newspaper at
18 the time, and maybe after that, about this case. Have you
19 read, seen or heard anything about this case from the news
20 media or from anyone else?

21 A. When it happened on the TV, yes.

22 Q. Do you remember it happening -- when it happened on the
23 TV?

24 A. Yes.

25 Q. Can you tell me what you remember about it?

1 A. I don't remember what happened. I just remember that
2 it happened on Laurens Road at a filling station.

3 Q. Do you remember anything about Mr. Owens at the time --

4 A. No, sir.

5 Q. -- about Ms. Graves?

6 A. (Shaking head no)

7 Q. Could you dismiss anything that you read or heard --
8 based on your oath, could you disregard anything that you
9 have heard about this case and be a fair and impartial juror
10 and decide it only on the evidence and testimony that you
11 heard in the courtroom?

12 A. I think so.

13 Q. I don't know if what you heard was reported accurate or
14 not accurate, but we would make sure that you would have to
15 decide it only on what you heard in the courtroom, would you
16 follow that instruction?

17 A. Yes.

18 Q. Okay. Now, in this case the State -- for every murder
19 you cannot -- the State cannot seek a death penalty. Do you
20 understand that?

21 A. Yes.

22 Q. That's the law.

23 A. Okay.

24 Q. They would have to prove to you beyond a reasonable
25 doubt that this murder was committed during the commission

1 of a robbery while the defendant was armed with a deadly
2 weapon, or a larceny while the defendant was armed with a
3 deadly weapon. The jury would have to find beyond a
4 reasonable doubt based on proof offered by the State that
5 this aggravating circumstance had been committed. That
6 would be the first thing.

7 Do you understand what I'm saying, that the State would
8 have to prove beyond a reasonable doubt an aggravating
9 circumstance of robbery and larceny while armed with a
10 deadly weapon before you could even consider the two
11 sentences with Mr. Owens? Do you understand that?

12 A. Yes, sir.

13 Q. After that was proven to you and you were convinced of
14 that beyond a reasonable doubt, based on proof from the
15 State. Mr. Owens doesn't have to prove anything. He
16 doesn't have to testify. Can you accept that proposition?
17 That could not be held against him in any way. Do you
18 understand that? Do you understand that?

19 A. Yes, sir.

20 Q. Do you have any questions about that?

21 A. No, sir.

22 Q. Okay. Now, after that you would hear evidence in
23 aggravation of this murder, which means to make the murder
24 worse, to be more severe or increase the enormity of that
25 offense.

1 Evidence in mitigation you would hear makes the degree
2 of fault or responsibility less. It reduces it. It reduces
3 the severity of the offense of murder. That's what a
4 mitigating circumstance is.

5 After that you would be required to give serious
6 consideration to aggravating circumstances and to mitigating
7 circumstances and then write a verdict of life or death for
8 Mr. Owens. Do you understand that's what you would have to
9 do?

10 A. No.

11 Q. You don't understand that?

12 A. Uh-uh.

13 Q. I'll go over it again.

14 After the jury determined an aggravating
15 circumstance --

16 A. Yes, sir.

17 Q. -- of either robbery --

18 A. Uh-huh.

19 Q. -- or larceny --

20 A. Uh-huh.

21 Q. -- while armed with a deadly weapon.

22 A. Uh-huh.

23 Q. If you are convinced of that beyond a reasonable doubt,
24 then you would hear other evidence --

25 A. Uh-huh.

1 Q. -- in the case for a day or two, or more --

2 A. Uh-huh.

3 Q. -- in regard to aggravating circumstances or mitigating
4 circumstances of this murder, to make the crime worse or
5 reduce the severity of the crime. You would consider all
6 that evidence.

7 Could you consider all that evidence meaningfully and
8 give it serious consideration?

9 A. Yes.

10 Q. And after hearing all that, based on what you heard
11 under the evidence, do you feel that you could, based on the
12 facts, either write a verdict of life or death?

13 A. Yes.

14 Q. You could?

15 A. Yes.

16 Q. All right. Now, if any evidence of any prior crimes or
17 any subsequent crimes or bad acts were to come out in the
18 case, I would tell you that that couldn't be considered as a
19 statutory aggravating circumstance. It only would bear on
20 the character of Mr. Owens. Could you follow that
21 instruction?

22 A. Yes, sir.

23 Q. Would the race of any individual affect your ability to
24 decide this case?

25 A. No, sir.

1 Q. Would religion enter into it? I don't know what faith,
2 if any, or whatever you -- have you had any training or
3 religious indoctrination about the death penalty?

4 A. No, sir.

5 Q. Any evidence came out about the Muslim or the Islamic
6 faith, would that have any effect on your consideration of
7 the verdict?

8 A. No, sir.

9 Q. I'm going to let you answer some questions from these
10 lawyers, okay?

11 A. Okay.

12 VOIR DIRE EXAMINATION BY MR. GIBSON:

13 Q. Good afternoon Ms. Breazeale.

14 A. Hi.

15 Q. I'm Ken Gibson. This is my co-counsel Bill Godfrey and
16 this is our client Freddie Owens.

17 I just want to ask you a few questions, if I might.
18 The judge just went through a fairly detailed explanation of
19 the procedures that we are in and I just want to make sure
20 that you absolutely understand what we are and that you
21 could absolutely be fair to both parties, both the State and
22 Mr. Owens, okay?

23 A. Uh-huh.

24 Q. Now, do you understand that Mr. Owens has already been
25 convicted of the murder in this case? Do you understand

1 that?

2 A. Yes.

3 Q. Based on the fact that he's been already convicted of
4 this murder, would that keep you from giving a sentence of
5 life without the possibility of parole, if you thought the
6 circumstances deemed that appropriate?

7 A. No.

8 Q. Now, as the judge explained to you, you are also going
9 to have to consider various aggravating circumstances. The
10 two statutory aggravating circumstances that the State
11 submitted in this case is that this happened in the
12 commission of an armed robbery and/or it happened in the
13 commission of a larceny.

14 If you find beyond a reasonable doubt that either of
15 those two things are present, then you go to another phase
16 where you would consider what the appropriate sentence
17 should be. You are not mandated by that finding to find
18 either way, either for a death sentence or for a sentence of
19 life without the possibility of parole. Do you understand
20 that?

21 A. Yes.

22 Q. Given that you would have found that those aggravating
23 circumstances are present in order to consider sentence,
24 would that finding in any way impair your ability to give
25 either sentence, either a sentence of life without the

1 possibility of parole or a sentence of the death penalty?

2 A. No.

3 Q. Okay. Now, you told Judge Patterson that you were a
4 number three type juror, is that correct?

5 A. Yeah.

6 Q. Okay.

7 A. From what I read, yeah.

8 Q. And that's the kind of juror --

9 MR. GIBSON: Your Honor, if you don't mind, can I
10 see that? Thank you.

11 BY MR. GIBSON:

12 Q. And that's kind of juror who has not made up your mind
13 concerning -- his or her mind concerning the punishment,
14 that you would need to hear the facts and circumstances in
15 aggravation and mitigation, you would listen to the law, and
16 that the judge is -- what the judge tells you what the law
17 is before you could make any kind of decision regarding
18 punishment in this case?

19 A. Yes.

20 Q. Is that the kind of juror that you are?

21 A. Yes.

22 Q. And based on that, after you had considered all those
23 facts and circumstances, you would, if you thought the
24 circumstances were appropriate, give the death penalty?

25 A. Yes.

1 Q. And if you thought the circumstances were appropriate,
2 you could give life without the possibility of parole?

3 A. Yes.

4 Q. Do you understand what life without the possibility of
5 parole means?

6 A. Well, you can't get out.

7 Q. Yes, ma'am. Okay.

8 Do you think that you could be fair in this case?

9 A. Yes, I could.

10 Q. Thank you. I appreciate you answering my questions.

11 VOIR DIRE EXAMINATION BY MR. ARIAIL:

12 Q. Ms. Breazeale, my name is Bob Ariail and I'm the
13 solicitor for the Thirteenth Circuit of South Carolina.
14 That means that -- solicitor is the name that South Carolina
15 uses for its state's attorney. If you watch TV, they call
16 them district attorneys, but South Carolina we call them
17 solicitors. That would be what my role would be.

18 Do you understand what I would be doing then in this
19 case?

20 A. Yes, sir.

21 Q. Okay. And assisting me in this case would be my deputy
22 Betty Strom and Ms. Verdin, who is also seated at counsel
23 table, one of my assistants.

24 Do you believe in the death penalty?

25 A. In some cases yes.

1 Q. I'm sorry?

2 A. Yes.

3 Q. All right. And do you think that the death penalty is
4 an appropriate or is the right punishment in certain types
5 of cases?

6 A. In some cases, yes.

7 Q. Certain types of cases?

8 A. Yes.

9 Q. And is that something that you have thought about
10 before you came in here or before you got your summons? Is
11 that something that you thought about before you got your
12 summons, or did you just start thinking about it when you
13 got your summons for this case?

14 A. It's something that I always thought of.

15 Q. Okay. And you have talked about it with other people
16 before?

17 A. Well, yes.

18 Q. How about when you have read about cases or heard about
19 cases that you had thought, well, maybe that one should have
20 got the death penalty, or maybe that one should have got
21 life in prison?

22 A. Yes.

23 Q. Do you think that life in prison without parole, as has
24 been described as we talked about, meaning the defendant
25 would never get out of prison, do you think that that's a

1 serious sentence?

2 A. Yes.

3 Q. Is it as serious -- do you think the death penalty is
4 also a serious sentence?

5 A. Yes.

6 Q. Do you think life imprisonment is more serious than the
7 death penalty?

8 A. It depends what the case is.

9 Q. Depends upon what case it is?

10 A. Yes.

11 Q. The judge asked you, and I made some notes that you
12 said that -- didn't know if you could sign the form. You
13 said -- the judge asked you if you could be able to sign the
14 form and you said I didn't know if I would be able to sign
15 it or not.

16 A. Well, I didn't know, you know, you had to sign
17 something.

18 Q. All right. And if -- if you are a juror on the jury
19 that you are on decided that the death penalty was the
20 appropriate sentence, you now understand that you would have
21 to sign a document at the end that said that was your
22 sentence and pass it back to the judge, who would carry it
23 forward -- that would go to the Department of Corrections to
24 be used to carry out the death sentence?

25 A. Yes.

1 Q. Would you be able to sign that?

2 A. Yes, sir.

3 Q. Okay. Any hesitancy about that?

4 A. Well, I did.

5 Q. You did have hesitancy?

6 A. Yes.

7 Q. And do you still have hesitancy?

8 A. Well, a little bit.

9 Q. And if you were in the jury room and you had -- you
10 were talking about this sentence to be imposed, would the
11 fact that you had this hesitancy, would that -- would that
12 make it harder for you to vote for the death penalty because
13 you didn't want to have to sign this form?

14 A. It might be.

15 Q. Okay. That's all I have.

16 MR. ARIAIL: Thank you, Your Honor.

17 THE COURT: Step out just for a minute, please,
18 ma'am.

19 (Whereupon, Juror Number 51 was taken out of the
20 courtroom)

21 THE COURT: Mr. Gibson, anything?

22 MR. GIBSON: I think she's qualified.

23 MR. ARIAIL: Well, I think she's got some -- my
24 impression was at first she didn't understand really what
25 was happening, what we were talking about. Then secondly I

1 think as you kind of went through it, she picked up on what
2 we were asking her, but I think the lady truly has
3 difficulty with being able to bring herself to impose the
4 death penalty. Now, she says she's able to consider it, but
5 her answers were all -- every one of them were very weak,
6 very couched in terms of I think so. First she said she
7 couldn't sign it. Now she says it would affect her ability
8 to vote for the death penalty because she is going to have
9 to sign it. So I think she's being honest with us. The
10 decision making process is going to be I think too difficult
11 for her to deal with and be fair to both sentences.

12 THE COURT: My reading of the juror was that she
13 seriously considered the questions I asked her. And a lot
14 of jurors in here, sometimes the way we phrase it, we are
15 moving along, they don't understand aggravating
16 circumstances or statutory aggravating circumstances. It
17 takes lawyers a long time for them to figure that out.

18 This lady, based on her questionnaire, pays her
19 church tithes. She likes to shop and help people. I think
20 she was as honest as she could be and she -- what impressed
21 me was she said I do believe in the death penalty for
22 certain crimes. I think that's the attitude that the courts
23 and the State depends upon the specific circumstances of the
24 crime. It can't be sought in every case.

25 I find her qualified. Okay.

1 (Whereupon, Juror Number 51 was brought into the
2 courtroom)

3 THE COURT: Ms. Breazeale?

4 JUROR NUMBER 51: Yes, sir.

5 THE COURT: You are qualified as a potential juror
6 in this case. You will have to return sometime tomorrow,
7 okay? And from your group the jury would be chosen. You
8 will need to bring enough clothes for about five days.
9 Okay?

10 JUROR NUMBER 51: When? Tomorrow?

11 THE COURT: Sometime tomorrow.

12 JUROR NUMBER 51: What time?

13 THE COURT: I'm going to let you call the number.
14 I'm going to give you a number to call and I'll leave word
15 for qualified jurors, okay? It's the fact that you are
16 going to have to serve and be -- it may be four, five days.
17 Is that some problem for you?

18 JUROR NUMBER 51: Well, I'm the only person
19 working in my -- you know, I'm a single person living in
20 household.

21 THE COURT: Who have you got living with you?

22 JUROR NUMBER 51: Nobody but myself.

23 THE COURT: Oh, okay. We will move along just as
24 much as we can. It may be an inconvenience for you, but
25 this is really, really an important case, so I'm going to

1 have to ask you to come back. Okay?

2 JUROR NUMBER 51: All right.

3 THE COURT: All right. Then you call this number
4 and we will leave a message for you. Do not talk to anybody
5 about this case.

6 JUROR NUMBER 51: Yes, sir.

7 THE COURT: Do not let anybody talk to you about
8 the case.

9 JUROR NUMBER 51: Yes, sir.

10 THE COURT: If they do, you need to tell them that
11 you are a potential juror and you cannot discuss it with
12 them.

13 JUROR NUMBER 51: Yes, sir.

14 THE COURT: And I noticed and -- from your
15 questionnaire, I don't believe that you will. I think you
16 will follow the instructions of the court.

17 JUROR NUMBER 51: Yes, sir.

18 THE COURT: Don't watch any and see it on TV, or
19 anything like that, okay?

20 JUROR NUMBER 51: Yes, sir.

21 THE COURT: Thank you. See you sometime tomorrow.

22 JUROR NUMBER 51: All right, sir.

23 THE COURT: Thank you so much.

24 JUROR NUMBER 51: All right.

25 (Whereupon, Juror Number 51 was taken out of the

1 courtroom)

2 THE COURT: We will take a recess for lunch and
3 shoot for 2:30.

4 (Whereupon, proceedings were recessed)

5 (Whereupon, proceedings were reconvened)

6 THE COURT: Are we ready to go?

7 MS. STROM: We are.

8 THE COURT: I don't guess there is no prohibition
9 without proceeding without Mr. Ariail.

10 MS. STROM: No, sir.

11 THE COURT: Donna Hanvy.

12 (Whereupon, Juror Number 184 was brought into the
13 courtroom)

14 DONNA HANVY, #184, having been first duly sworn,
15 testified as follows:

16 VOIR DIRE EXAMINATION BY THE COURT:

17 Q. Ms. Hanvy, have you had an opportunity to review the
18 three types of jurors that I gave you?

19 A. Yes, sir.

20 Q. And if you had to classify yourself, what would you
21 classify yourself as, which type juror?

22 A. Number three.

23 Q. Okay. And this case is -- if you read that question in
24 totality, the defendant has been convicted of murder by a
25 jury. And the South Carolina law requires a sentencing

1 proceeding by a jury to determine how he will be sentenced,
2 and that's the purpose of this proceeding. Do you
3 understand that?

4 A. Yes, sir.

5 Q. Now, this case arises from an incident on the 1st of
6 November of 1997, when Ms. Irene Graves was killed in the
7 early mourning hours at a Speedway on Laurens Road.

8 There was publicity on TV, the radio, and the newspaper
9 about this case. Have you read, heard or seen anything
10 about this case from any source?

11 A. No, sir. I was living in New Jersey in '97, and moved
12 back here in '98.

13 Q. Subsequent to that have you heard anything about the
14 case involving Mr. Owens here?

15 A. No, sir.

16 Q. Okay. And the question and -- the way this proceeding
17 goes is the State -- the penalty of death -- they cannot
18 seek the death penalty -- they cannot seek it for every
19 murder under our law. Do you understand that?

20 A. Yes, sir.

21 Q. Now, in order for the jury to consider a sentence of
22 life imprisonment or death, the State first has to prove an
23 aggravating circumstance listed in our statutes beyond a
24 reasonable doubt to the jury. And the burden of proof is on
25 the State to prove that beyond a reasonable doubt. The

1 defendant doesn't have to prove anything or even testify.

2 That cannot be held against him. Do you understand that?

3 A. Yes, sir.

4 Q. Now, you would consider an aggravating circumstance of
5 robbery during the commission of this murder while the
6 defendant possessed a deadly weapon, if the State can prove
7 it beyond a reasonable doubt, and larceny during the
8 commission of this murder while he was possessed with a
9 deadly weapon.

10 Now, if the State can convince all twelve jurors of one
11 of those aggravating circumstances, one or the other, then
12 the jury would have to determine a sentence of life
13 imprisonment or death. Do you understand that?

14 A. Yes, sir.

15 Q. Now, the process permitted under the law is for the
16 jury then to determine the sentence with an open mind, an
17 impartial mind, not to favor the State or the defendant, but
18 to seriously and meaningfully listen to the evidence and
19 testimony in regard to facts and circumstances of
20 aggravation or mitigation. Do you understand that?

21 A. Yes, sir.

22 Q. Do you understand what those terms mean? Aggravating
23 means to make more serious the crime of murder or to
24 increase the enormity of that crime.

25 A. Yes, sir.

1 Q. Mitigating means to reduce the severity of that crime
2 by the fault or responsibility. It can be all types of
3 facts and circumstances and we don't know what those are
4 going to be.

5 A. Okay.

6 Q. Based on the facts and circumstances, can you testify
7 to us under oath that you would be fair and impartial? You
8 would consider the factors in aggravation and mitigation.
9 And in considering the aggravating and mitigating
10 circumstances, could you write a verdict of either life
11 imprisonment or death, based on the particular facts and
12 circumstances?

13 A. Yes, sir.

14 Q. Now, you have not formed an opinion one way or the
15 other about what the sentence of Mr. Owens should be in this
16 particular case, or any death case. You would
17 conscientiously honor your oath and follow the instructions
18 of the court?

19 A. Yes, sir.

20 Q. Now, if any evidence came out and I told you that if
21 there were evidence of prior bad acts or crimes or anything
22 subsequent to this murder, you could only consider that as
23 it would bear on the characteristics of the defendant, not
24 as to proof of any statutory aggravating circumstance, could
25 you do that?

1 A. Yes, sir.

2 Q. You would be required under our law to focus on the
3 circumstances of this crime and the individual
4 characteristics of the defendant and consider evidence in
5 extenuation, mitigation and aggravation. Do you fully
6 understand that procedure?

7 A. Yes, sir.

8 Q. And you could be an honest and fair juror?

9 A. (Shaking head yes)

10 Q. Okay. And would race enter into your decision in any
11 way at all --

12 A. No, sir.

13 Q. -- in regard to the defendant, or victims, or anything
14 of that nature?

15 A. No, sir.

16 Q. Have you had any religious training or anything of that
17 nature in regard to the death penalty or --

18 A. Only --

19 Q. -- any religious convictions or feelings enter into
20 your sentence in this case?

21 A.. Only what I have learned in church growing up. I
22 believe in the death penalty. I don't think it's for all
23 cases, but --

24 Q. Okay. Would the fact -- if any evidence came out that
25 any person was of the Islamic or Muslim faith, would that

1 have any effect on you?

2 A. Not without any -- not without additional information
3 as to what have they done or --

4 Q. If it was -- if it was just --

5 A. No.

6 Q. -- the fact that someone may be of that faith.

7 A. No.

8 Q. All right. I'm going to let you answer some questions
9 for the lawyers.

10 A. Certainly.

11 Q. I need to ask you one more question.

12 A. Yes, sir.

13 Q. If you reached the point of a death sentence, and I'm
14 not saying that you would, and what I say is not any
15 comments on the facts. I can't do that. It's just to make
16 sure that we have a fair and impartial jury.

17 A. Yes, sir.

18 Q. You would have to sign your name personally, along with
19 all the other jurors, to the sentence of death. If you
20 arrived at that under the facts and circumstances, could you
21 sign your name there?

22 A. Yes, sir.

23 Q. All right. Please answer any questions.

24 A. Certainly.

25

1 VOIR DIRE EXAMINATION BY MR. ARIAIL:

2 Q. Ms. Hanvy, my name is Bob Ariail and I'm the solicitor
3 for the Thirteenth Circuit. That means that in South
4 Carolina they retained the name solicitor for their district
5 attorney.

6 A. Okay.

7 Q. Anywhere else that would be district attorney, or
8 Commonwealth attorney, or something akin to that, but we are
9 still the solicitor.

10 Assisting me on this case would be my deputy solicitor
11 Betty Strom in the red coat and Ms. Verdin.

12 I'm sorry I was late. I didn't get to hear the first
13 part, but they sort of briefed me, but I had to go vote.

14 Let me start off with this question. As I understand
15 it, you believe the best characterization of you on that
16 sheet would be that you would be a number three juror?

17 A. Yes, sir.

18 Q. Do you believe then that the death penalty or capital
19 punishment is an appropriate sentence in certain cases under
20 our law?

21 A. Yes, sir.

22 Q. And is that a belief that you have held for some period
23 of time, or is that a belief that you sort of crystalized
24 after you got your summons in this case?

25 A. No, I have held that for some time.

1 Q. Okay. And the judge explained to you the process that
2 in a capital case in South Carolina, when the defendant is
3 convicted of murder -- not every case of murder the State
4 can seek the death penalty. It's only in 19 enumerated
5 situations that our legislature has approved, and they call
6 them murders accompanied by an aggravating circumstance.

7 The aggravating circumstance just means it's murder
8 under certain conditions, like murder of a police officer
9 during the line of duty, or murder of a child under the age
10 of 11. These are things that the legislature has set forth.

11 In those instances the jury becomes the sentencing
12 authority, because normally a judge would sentence them. So
13 obviously we are looking for people who can exercise some
14 degree of judicial thought and perspective, people who could
15 be fair, who could consider both sides. And obviously we
16 are not looking to put people into a situation where they
17 get in beyond what they think they can handle because they
18 are not aware up front what's going on.

19 Would you believe that you could be -- hear the
20 evidence in a case in which the State is seeking the death
21 penalty and fairly consider both verdicts, life
22 imprisonment --

23 A. Yes.

24 Q. -- and death penalty?

25 A. Yes.

1 Q. You don't know of any religious or philosophical or
2 social training that you may have or experiences in your
3 background that would interfere with your ability to
4 consider both of those sentences?

5 A. No, sir.

6 Q. I noticed -- well, the judge also asked you, and I want
7 to make sure that you understand it, that if you were on the
8 jury and all twelve jurors voted to impose the death
9 penalty, you would be required to sign a document that would
10 actually come back from the jury box, pass to the judge, and
11 follow the defendant to the Department of Corrections to be
12 used to carry out the sentence. Would having signed that
13 document in any way interfere with your ability to fairly
14 consider the imposition of the death penalty?

15 A. No, sir.

16 Q. Okay. So the physical act would not intimidate you or
17 concern you?

18 A. No.

19 Q. Okay. I noticed that on your questionnaire you said
20 your husband is an attorney with criminal defense background
21 and he practices with the Cooper Law Firm --

22 A. Yes.

23 Q. -- as a private practice attorney. Does he do criminal
24 defense work?

25 A. He doesn't any longer. He did for a period of time,

1 but he stopped that. He was the solicitor down in the lower
2 part of the state for a number of years before I met him.

3 Q. Okay.

4 A. Worked as an assistant solicitor in one of the other
5 offices down at Beaufort.

6 Q. Okay.

7 A. That's Hampton County. I'm not sure.

8 Q. Solicitor Murdaugh?

9 A. I'm sorry?

10 Q. Solicitor Murdaugh was the solicitor down there in
11 Beaufort.

12 A. Uh-huh.

13 Q. And he's in Greenville now?

14 A. Yes, sir.

15 Q. Where is the Cooper law firm located?

16 A. It's located on Pelham Road.

17 Q. And he does a civil practice now primarily?

18 A. Yes. He does primarily bankruptcy, worker's
19 compensation injury kind of things.

20 Q. So his background -- when you say he had a criminal
21 defense background, he also worked in the prosecutor's
22 office?

23 A. Yes.

24 Q. And then went out. And so before you moved to
25 Greenville, you lived in Beaufort?

1 A. I did not know him at that time. I met him in
2 Greenville.

3 Q. Okay. All right. All right.

4 MR. ARIAIL: Thank you. That's all I have. Thank
5 you, ma'am.

6 THE COURT: Mr. Godfrey.

7 VOIR DIRE EXAMINATION BY MR. GODFREY:

8 Q. Ms. Hanvy, my name is Bill Godfrey. This is co-counsel
9 Ken Gibson, and this is Freddie Owens, our client.

10 I just have a couple of questions for you.

11 In reviewing your questionnaire, there was a question
12 on there about have you or do you personally know of anyone
13 who has been the victim of a serious act of violence and
14 there is a statement "my husband's sister was murdered."
15 Then it looks like it's crossed out and put no.

16 A. I wasn't sure how to answer that. I had never met her.
17 That happened in '83. I only met my husband in 2000, but
18 it's, you know, obviously had an impact on the family. They
19 just went back for the parole hearing for her murderer, that
20 kind of thing. So I wasn't sure exactly -- I didn't know
21 her.

22 Q. And does the experience from your family have any
23 impact on how you view the death penalty?

24 A. No, sir.

25 Q. The view that you have of the death penalty that you

1 have described for us today is something that you have held
2 for many years?

3 A. Yes, sir.

4 Q. If you were a juror in this case, do you understand
5 that you would have to take an oath to come in and be fair
6 and impartial?

7 A. Yes, sir.

8 Q. You believe that you can do that?

9 A. Yes, sir, I do.

10 Q. Would you have -- let's say the case goes all the way
11 through. Let's say that all the evidence is in and an
12 aggravating factor, or more, has been found, and you are
13 sitting as a juror and you all are going to determine the
14 sentence.

15 After all of the evidence is in and after the judge has
16 charged on the law, you apply the law to the evidence, is
17 there anything in your background - either religious, moral,
18 political, social or otherwise, that would give you any
19 hesitation at all if the vote was for death?

20 A. No, sir.

21 Q. Same question. Would there be anything like that if
22 the vote was for life?

23 A. No, sir.

24 Q. You can keep an open mind and be completely fair and
25 impartial?

1 A. Yes, sir.

2 MR. GODFREY: Nothing further.

3 THE COURT: All right. I'll let you step outside
4 just for a minute.

5 JUROR NUMBER 184: Certainly.

6 (Whereupon, Juror Number 184 was taken out of the
7 courtroom)

8 THE COURT: Do any of us know her husband? I'm
9 not sure that has any bearing on it.

10 Under the law she's qualified, without objection
11 from either side.

12 (Whereupon, Juror Number 184 was brought into the
13 courtroom)

14 THE COURT: Ms. Hanvy, thank you so much for
15 answering those questions and participating in the process.
16 You are qualified to be a potential juror in this case.

17 JUROR NUMBER 184: Okay.

18 THE COURT: You would have to report back
19 hopefully sometime tomorrow --

20 JUROR NUMBER 184: Okay.

21 THE COURT: -- with about 45 other people, and then
22 the jury of approximately 15 people would be selected from
23 that group, okay?

24 JUROR NUMBER 184: Okay.

25 THE COURT: Now, you would need to bring some

1 clothing for about five days in a motel --

2 JUROR NUMBER 184: Okay.

3 THE COURT: -- just to be safe.

4 And you can -- if you drive, you can bring your
5 personal items in your car.

6 JUROR NUMBER 184: Okay.

7 THE COURT: And you can drive your automobile to
8 the motel.

9 JUROR NUMBER 184: All right.

10 THE COURT: And leave it there, but you will be
11 transported back and forth by the SLED agents.

12 JUROR NUMBER 184: Okay.

13 THE COURT: If you are chosen as a juror.

14 If you are not chosen, get in your car and you can
15 go back home, okay?

16 JUROR NUMBER 184: Okay.

17 THE COURT: This is a very serious proceeding for
18 the State and for the defendant.

19 JUROR NUMBER 184: Yes, sir.

20 THE COURT: And your service is important to us,
21 and I'm sorry that you had to be here for awhile, but it's
22 just taken longer than I thought.

23 JUROR NUMBER 184: Okay.

24 THE COURT: I'm going to give you this order.

25 Call this number tonight after six and we will let all

1 potential qualified jurors know when to come in.

2 JUROR NUMBER 184: Okay.

3 THE COURT: Thank you so much.

4 JUROR NUMBER 184: Thank you.

5 (Whereupon, Juror Number 184 was taken out of the
6 courtroom)

7 THE COURT: Pamela Jennings Gregg.

8 (Whereupon, Juror Number 221 was brought into the
9 courtroom)

10 PAMELA JENNINGS GREGG, #221, having been first
11 duly sworn, testified as follows:

12 VOIR DIRE EXAMINATION BY THE COURT:

13 Q. You are Ms. Gregg?

14 A. Yes, sir.

15 Q. Ms. Gregg, I'm sure you have had the opportunity to
16 read this document that says three types of jurors for cases
17 like this?

18 A. Yes, sir.

19 Q. And have you determined that you may fall into one of
20 these classes?

21 A. Yes, sir.

22 Q. Which one?

23 A. Number three.

24 Q. Number three?

25 A. Uh-huh.

1 Q. Okay. You understand Mr. Owens has been convicted of
2 murder and there is a sentencing proceeding provided for or
3 mandated under our law when the State seeks the death
4 penalty and that's the reason we are here?

5 A. Yes, sir.

6 Q. And we need a fair and an impartial jury, without any
7 prior opinions or feelings about this case, to hear the
8 evidence and testimony and determine how he should be
9 sentenced. Do you understand that?

10 A. Yes, sir.

11 Q. Anything I say is not a comment on the facts or
12 anything of that nature, and I wouldn't want you to take it
13 as such, but let me ask you if you understand that -- I will
14 tell you that this case arises from an incident on November
15 the 1st, 1997, in Greenville County, on Laurens Road, early
16 in the morning. Mrs. Irene Graves was killed and Mr. Owens
17 has been convicted of that murder. Okay?

18 A. Uh-huh.

19 Q. Now, there was publicity on TV, the radio, the
20 newspapers, and otherwise, about this case. Have you heard
21 anything or seen anything about this case from any source?

22 A. Not that I remember. The only thing that I can
23 remember was the day before we came for the first jury
24 selection.

25 Q. In October.

1 A. There was just an article in the paper saying it was
2 the jury selection would start, you know, like and I said
3 "oh, gosh, I just wonder if that's what I'm going for," but
4 that was the only thing.

5 Q. Okay. Anything that you may have heard, including
6 that, would you disregard that, and under the law you can
7 only decide the facts and circumstances from the evidence
8 you hear in the courtroom?

9 A. Yes, sir.

10 Q. And you would do that?

11 A. (Shaking head yes)

12 Q. Now, this proceeding -- in every murder -- and there
13 probably is no such thing as an ordinary murder, but in
14 every murder the State of South Carolina cannot seek the
15 death penalty, okay. That's the law.

16 A. Okay.

17 Q. You can accept that?

18 A. Yes.

19 Q. Now -- of course, that's in the question in number
20 three too, but before the jury can determine a sentence, the
21 State in this proceeding has to prove to all twelve jurors
22 beyond a reasonable doubt that the murder was committed
23 pursuant to a statutory aggravating circumstance.

24 In this case the burden of proof beyond a reasonable
25 doubt is on the State to prove to the jury that this murder

1 was committed during a robbery when the defendant was armed
2 with a deadly weapon, or during a larceny when the defendant
3 was armed with a deadly weapon. You would have to consider
4 that issue and all the evidence and determine if the State
5 could prove that beyond a reasonable doubt.

6 There is no burden of proof on the defendant. The
7 defendant doesn't even have to testify in a proceeding, and
8 that cannot be held against him.

9 Do you basically understand those principles that I
10 have just gone over with you?

11 A. I do.

12 Q. And you could accept that, as I instructed you, that
13 that was our law?

14 A. Yes, just by what -- yes.

15 Q. After -- if the jury determined unanimously beyond a
16 reasonable doubt that there was an aggravating circumstance,
17 statutory aggravating circumstance - robbery or larceny as I
18 have explained it during this murder - then you would hear
19 evidence in extenuation, mitigation, or aggravation. That's
20 what the case would be about after that point. Do you
21 understand?

22 A. Uh-huh.

23 Q. As the sentencing authority you would be required to
24 focus on the circumstances of this murder and the individual
25 characteristics of the defendant in arriving at your

1 sentence. Do you understand that?

2 A. Yes.

3 Q. Could you consider all the evidence in aggravation or
4 mitigation fairly and impartially and give serious and
5 meaningful consideration to circumstances of aggravation and
6 circumstances of mitigation? You would consider both?

7 A. Yes.

8 Q. And based on your consideration, aggravating means to
9 make a situation worse, or to worsen the crime of murder, or
10 to increase the enormity of that.

11 Mitigation means to reduce the severity of the offense
12 of murder as extenuating or reducing the degree of
13 responsibility or fault.

14 Now, you would have to hear all the evidence and
15 testimony in consideration of aggravating and mitigating
16 circumstances. Could you consider all that evidence and
17 return a verdict of life imprisonment for murder?

18 A. Would you --

19 Q. Could you consider the evidence and testimony in the
20 case as to aggravating circumstances, if any, and mitigating
21 circumstances, if any, considering all of those, give
22 meaningful consideration to the evidence, and if the
23 particular facts and circumstances warranted that, could you
24 write a sentence of life imprisonment?

25 A. Yes.

1 Q. Life imprisonment in this case means life in prison as
2 long as the defendant lives, until his death, without any
3 possibility of parole.

4 A. Okay.

5 Q. Could you listen to all of the facts and circumstances
6 in the case, and, if it was warranted under the facts and
7 circumstances, write a sentence of death?

8 A. Yes.

9 Q. You can do that?

10 A. Yes.

11 Q. If you reach that point, you would have to sign your
12 name personally to the sentence. Could you do that?

13 A. Yes.

14 Q. Now, if -- I don't know what the facts would be, and I
15 can't comment on those, and will not, but if evidence came
16 in about crimes or bad acts prior to this murder, or
17 subsequent to the murder, I would instruct you that that
18 evidence could not come in in any way as evidence of the
19 statutory aggravating circumstance of this crime. It would
20 have to be in regard to this crime only, an aggravating -- a
21 statutory aggravating circumstance. Do you understand that?

22 A. Yes, I do.

23 Q. Do you have any problem with that?

24 A. No.

25 Q. This evidence would only come in as it would bear on

1 the defendant's character, okay?

2 A. Okay.

3 Q. Now, in any of your religious feelings, if any, would
4 that affect your ability to impose a sentence of life or
5 death in this case?

6 A. No, sir.

7 Q. If any evidence came out in regard to a person's
8 religion, of the Islamic faith as a Muslim, would that
9 affect your ability to render a decision in this case?

10 A. No, sir.

11 Q. I'm going to let you answer the questions from some of
12 these lawyers.

13 A. Okay.

14 VOIR DIRE EXAMINATION BY MR. GIBSON:

15 Q. Good afternoon Ms. Gregg.

16 I'm Ken Gibson. This is co-counsel Bill Godfrey. This
17 is our client Freddie Owens.

18 I just want to ask you a few questions, if you don't
19 mind?

20 A. Okay.

21 Q. I got a copy of your questionnaire form. And on your
22 questionnaire form there is an entry which talks about your
23 half brother being killed?

24 A. Yes, sir.

25 Q. Okay. And in that entry it says "my half brother was

1 killed in the eighties by his girlfriend. It was ruled
2 self-defense."

3 A. Right.

4 Q. Does that experience in any way affect or impair your
5 ability to render either sentence, either a life without
6 parole sentence or a death sentence in this case?

7 A. No, sir, it wouldn't.

8 Q. Okay. Now, as the judge alluded, Mr. Owens has already
9 been convicted of murder in this case.

10 A. Uh-huh.

11 Q. Okay. Do you understand that even though he's been
12 convicted of her murder, that does not in any way state that
13 you should or mandated that you rule a death sentence in
14 this case?

15 A. That's right.

16 Q. And do you understand that you could still, if you
17 thought circumstances were appropriate, give a sentence of
18 life without the possibility of parole?

19 A. Yes, sir.

20 Q. Do you understand what life without the possibility of
21 parole means?

22 A. Just what he was telling us, that life without parole
23 means he would stay there until his death.

24 Q. Okay. That's correct.

25 A. Okay.

1 Q. Now, in addition to that, before the jury would have a
2 chance to consider exactly what the verdict was, you would
3 also have to make a finding that there were certain
4 statutory aggravating circumstances; and in the words of the
5 judge, that by law makes the situation worse.

6 A. Okay.

7 Q. If you were to find that those aggravating
8 circumstances were present, would you still be able to
9 fairly consider a sentence of life without the possibility
10 of parole in this circumstance?

11 A. Well, would that not depend upon what the circumstances
12 were? I mean --

13 Q. Well, what I'm asking is -- well --

14 THE COURT: Depending upon the circumstances.

15 A. Yeah, depending upon the circumstances.

16 BY MR. GIBSON:

17 Q. Yes, ma'am, depending upon the circumstances.

18 A. Yes.

19 Q. Okay. Is there any doubt in your mind that if the
20 circumstances warranted it, you could render a sentence of
21 life without the possibility of parole in this case?

22 A. No, I have no doubt that I could do that.

23 Q. And if that was, in fact, your decision, could you
24 stick by that decision?

25 A. Oh, yeah.

1 Q. Thank you, Ms. Gregg.

2 VOIR DIRE EXAMINATION BY MR. ARIAIL:

3 Q. Hello, my name is Bob Ariail and I'm the solicitor for
4 the Thirteenth Circuit, which means that that's the name
5 that South Carolina retains for its district attorneys --

6 A. Uh-huh.

7 Q. -- or state prosecutor's. So you understand what my
8 role would be in this case?

9 A. Yes, sir.

10 Q. And assisting me would be Ms. Strom, deputy solicitor
11 Betty Strom, and Ms. Verdin, also seated at counsel table.

12 You said that you were what you believed best
13 classified on the list as a number three juror?

14 A. Uh-huh.

15 Q. By that I assume that -- well, let's not assume. I'll
16 just ask you. Do you believe that capital punishment or the
17 death penalty is an appropriate punishment under our law in
18 certain circumstances?

19 A. Yes, sir, I do.

20 Q. And is that a belief that you had for some period of
21 time, or is that something that you crystalized once you got
22 your summons?

23 A. No, no, that's something that I have always believed in
24 that I guess since I was old enough to understand it, yeah.

25 Q. Okay. And you understand as a juror in a capital case

1 like this what you would be asked to do is consider the
2 evidence presented by the State, who would be seeking the
3 death penalty, and to give that sentence a fair
4 consideration as the proper sentence to be imposed?

5 A. Yes, sir.

6 Q. And on the same -- on the other side, to also look at
7 all the evidence, regardless of where it comes from, and
8 make a determination of whether or not life imprisonment
9 without parole is an appropriate sentence.

10 A. Yes, sir.

11 Q. And the sentence that you determine is the appropriate
12 one, if it is the death sentence, the law requires that at
13 the end of the case you, along with your fellow jurors, sign
14 this form that comes back to the judge and is actually the
15 paper used to carry out the execution of the defendant.
16 Would you have any problem signing your name to that
17 particular form, if that was your verdict?

18 A. No.

19 Q. Okay. So the fact that you had to sign that form
20 wouldn't in any way interfere with your ability to fairly
21 consider the death penalty?

22 A. No.

23 Q. Do you know of anything in your background - religious,
24 philosophical, social, political - that might interfere with
25 your ability to consider either one of these punishments?

1 A. Nothing that I can think of, no.

2 Q. And the judge explained to you that the issue, that you
3 will be deciding solely that of sentencing of Mr. Owens has
4 already been found guilty by a previous jury as to the crime
5 of killing Ms. Graves?

6 A. Yes, sir.

7 Q. Okay. So you understand what your role would be?

8 A. Yes, sir, I do.

9 Q. Thank you. Thank you very much.

10 A. Thank you.

11 THE COURT: Ma'am, if you would just step out
12 briefly, I would bring you back.

13 JUROR NUMBER 221: Okay. Thank you.

14 (Whereupon, Juror Number 221 was taken out of the
15 courtroom)

16 THE COURT: I believe she's qualified.

17 Without objection?

18 MR. ARIAIL: The State concurs.

19 (Whereupon, Juror Number 221 was brought into the
20 courtroom)

21 THE COURT: Ms. Gregg, you are qualified to serve
22 as a juror in this case, a potential juror, so do not
23 discuss the case with anyone or be exposed to any media,
24 newspapers, or anything of that nature this evening. We
25 have some of our friends here from the press, but they know

1 not to expose your identity of you in any way.

2 JUROR NUMBER 221: Yes.

3 THE COURT: Now, you will have to come back
4 sometime tomorrow, I hope, with about 45 others. And from
5 your group the jury will be chosen to sit on this case and
6 start the trial.

7 JUROR NUMBER 221: Okay.

8 THE COURT: Call this number after six o'clock.
9 Bring with you clothes sufficient for about five days if you
10 have to stay in a motel. You can leave them in the car and
11 just come on in, any way that you want to handle that. Once
12 we release you tomorrow, you can drive the car back out to
13 the motel, if you want to.

14 JUROR NUMBER 221: Okay.

15 THE COURT: Call this number after six, all right?

16 JUROR NUMBER 221: All right.

17 THE COURT: Thank you. I thank you very much.

18 (Whereupon, Juror Number 221 was taken out of the
19 courtroom)

20 THE COURT: Susan Campbell.

21 (Whereupon, Juror Number 66 was brought into the
22 courtroom)

23 SUSAN B. CAMPBELL, #66, having been first duly
24 sworn, testified as follows:

25

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. Ms. Campbell, you have reviewed the three types of
3 jurors document that you had in the other courtroom?

4 A. I have.

5 Q. Could you identify yourself with any of these three
6 types juror?

7 A. Number three.

8 Q. Okay. And that question, it states that -- you
9 understand that Mr. Owens is here in the courtroom has been
10 convicted of murder and the purpose of this proceeding is to
11 determine how he will be sentenced?

12 A. Yes, sir.

13 Q. Okay. And that will be done by a jury selected in this
14 case. Do you understand that?

15 A. Yes, sir.

16 Q. And you have indicated that you have --

17 Let me ask you, first of all, about the case. This is
18 an incident that occurred on November the 1st of 1997, on
19 Laurens Road, at a Speedway early in the morning hours, and
20 Mrs. Irene Graves was killed. Mr. Owens has been convicted
21 by a jury of murder in that incident.

22 A. Yes, sir.

23 Q. There has been publicity on TV, the radio, and in the
24 newspaper about that. Have you read, heard or seen anything
25 about this case?

1 A. Honestly I don't remember hearing anything.

2 Q. About this case?

3 A. Yes.

4 Q. If it should occur to you at any time during the trial
5 that you may have heard something about this case, would
6 you, under your oath, dismiss that from your mind and decide
7 this case on the evidence and testimony that you heard in
8 the courtroom?

9 A. I would.

10 Q. That would be an obligation. You could not decide it
11 on something that somebody else might have said, or some
12 attorney said outside of court, or news reporter, or person.
13 You would have to decide it under our law based on only what
14 you heard in the courtroom. Could you do that?

15 A. I could do that.

16 Q. All right. Now, every murder -- for every murder the
17 case the State cannot seek the death penalty. That's our
18 law, okay?

19 A. Okay.

20 Q. But the State may seek the death penalty when they can
21 prove statutory aggravating circumstances beyond a
22 reasonable doubt. That would be the first consideration for
23 the jury in this case, can you state prove a statutory
24 aggravating circumstance.

25 In this case the State would have to prove a robbery

1 during the commission of this murder while the defendant was
2 armed with a deadly weapon. They would have to prove that
3 beyond a reasonable doubt, or a larceny in the commission of
4 this crime while the defendant was armed with a deadly
5 weapon.

6 Those are the two statutory aggravating circumstances.
7 The state would have to prove those, one of those two, at
8 least, or both to all twelve jurors, and all twelve would
9 have to agree on that before you could determine the
10 sentence. Do you understand that?

11 A. I understand that.

12 Q. There is no burden of proof upon the defendant. He
13 does not have to take the witness stand and testify and that
14 cannot be held against him. And could you accept that and
15 determine this case fairly and impartially?

16 A. I could.

17 Q. After it was determined that there was an existence of
18 a statutory aggravating circumstance, then the jury could
19 determine what Mr. Owens was going to be sentenced, based on
20 two possible sentences.

21 The only two possible sentences would be life in prison
22 without the possibility of any parole. That means until the
23 death of Mr. Owens. Do you understand what life in prison
24 means?

25 A. Yeah.

1 Q. Death means by death by lethal injection or
2 electrocution under our law. Do you understand that?

3 A. Yes.

4 Q. Now, as a juror after a statutory aggravating
5 circumstance is found, either robbery, larceny, or both,
6 while armed with a deadly weapon, then this jury would hear
7 evidence in mitigation or aggravation. You would be asked
8 to give serious and meaningful consideration to the evidence
9 in aggravation and any evidence in mitigation and determine
10 a sentence of either life imprisonment or death. Do you
11 understand that?

12 A. Yes, sir.

13 Q. Based upon your -- on the particular facts and
14 circumstances surrounding this murder, specific
15 circumstances surrounding the murder of Ms. Graves and the
16 individual characteristics of this defendant, could you,
17 depending on the circumstances, write a sentence of life
18 imprisonment?

19 A. I could.

20 Q. Depending upon the circumstances, could you write a
21 sentence of death?

22 A. I could.

23 Q. If you reached that point, that would require that you
24 sign the document personally, put your name down there that
25 you -- in regard to the sentence of death. Could you do

1 that, depending upon the circumstances?

2 A. I could.

3 Q. All right. If any evidence came out in regard to any
4 prior crimes or bad acts before this murder or after this
5 murder, that evidence could not come in as it would bear on
6 a statutory aggravating circumstance. Do you understand
7 that --

8 A. I understand.

9 Q. -- anything before this one or afterwards. That would
10 only come in, if it did, as it would bear on the individual
11 characteristics of this defendant. It could only be
12 considered by you as such. Could you do that?

13 A. I could.

14 Q. Now, would race make any difference at all in your
15 decision?

16 A. It shouldn't, no.

17 Q. Okay. Would it?

18 A. It would not.

19 Q. Would religion make any difference?

20 A. It wouldn't.

21 Q. You learned, been indoctrinated in any way in your
22 religious beliefs about the death penalty?

23 A. No, sir.

24 Q. Would the fact of anybody being of a Muslim or an
25 Islamic faith affect you in any way?

1 A. No, sir.

2 Q. I'm going to let you answer some questions for these
3 lawyers.

4 VOIR DIRE EXAMINATION BY MR. ARIAIL:

5 Q. Ms. Campbell, my name is Bob Ariail and I'm the
6 solicitor for the Thirteenth Circuit. And the solicitor is
7 the name that South Carolina retains to designate its state
8 prosecutors. If you watch TV, they would call them district
9 attorneys, but we still call them solicitors. All right?
10 So if you hear that word, I didn't want you to be confused
11 as to what we do. Our role is the same. We would represent
12 the State in any criminal prosecution and we would be
13 representing the State in this case.

14 And assisting me in this case would be my deputy,
15 solicitor Betty Strom in the red coat, and one of my
16 assistants, Ms. Verdin, seated at the counsel table.

17 The judge was kind of going over the -- and all of
18 this, I'm sure, is new to you. You probably hadn't had the
19 experience of talking about statutory aggravating
20 circumstances and things of that nature, but just so that we
21 can make sure that we are not putting you in a position that
22 you can't handle, I want to go back and ask you just a
23 couple of questions.

24 Normally when a defendant goes to trial and is
25 convicted, he would be sentenced by a judge, and that's the

1 way it is in 99.9 percent of the cases. But when the State
2 is allowed to seek the death penalty, which is in a very,
3 very, very small group of cases, the rules change. The
4 State is allowed to seek the death penalty only in about 19
5 different types of cases. All those cases have to involve
6 murder. And they have to be accompanied by what the judge
7 told you was an aggravating circumstance.

8 Now the aggravating circumstance is what the
9 legislature of this state called it. An aggravating
10 circumstance. What that means is -- I'll give you an
11 example: Murder while in the commission of -- or murder
12 committed against a law enforcement officer in the line of
13 duty; murder of two people; murder of a child under 11. So
14 it's not only just murder. Regular murder you can't seek
15 the death penalty. The State is not allowed to do that. It
16 has to be accompanied by one of these circumstances,
17 aggravated circumstances, that the legislature has defined.

18 Once that aggravating circumstance is found, then the
19 sentencing authorities passes from the judge to the jury.
20 So that's why we are asking you all these questions about
21 how you feel about things, and what your views are, and can
22 you be fair, because we are really looking for twelve
23 judges. You have got to have a judicial overview; you have
24 got to be able to consider evidence fairly; be free of
25 biases and prejudices; and, you know, be able to look at the

1 overall picture. So that is where we are coming from.

2 And as I understand what you said, you felt as a juror
3 you were number three, that -- I'm taking that to mean that
4 you believe that capital punishment or the death penalty
5 under our law is an appropriate sentence in certain
6 circumstances?

7 A. I do.

8 Q. All right. And is that a view that you have held for
9 some period of time, or did it just crystalize when you
10 found out that you were going to be involved in a case in
11 which the issue might come up?

12 A. Well, obviously I haven't thought of it much, because I
13 have never encountered this, but it's something to be really
14 serious and think about, and I have thought about it since.

15 Q. But you had thought about it beforehand?

16 A. Well, yeah, because you see it in the news and, you
17 know, on TV.

18 Q. You would see a case on TV and you would say that
19 should have got the death penalty, or I wonder why he got
20 the death penalty, or something like that?

21 A. Oh, yeah.

22 Q. So it's something that you have given thought to in the
23 past, whether or not that you have really had to focus on
24 it, and that's kind of where I want to go a little bit.

25 Although you may have focused on it, there is a difference

1 in talking about it and thinking about it and actually being
2 on the jury that decides it. Okay?

3 A. Oh, yes.

4 Q. And that's where we want to make sure that you can
5 be -- or you are able to handle that situation and that you
6 can be fair in the sense of being able to consider both of
7 those punishments, and you say that you can, you feel that
8 you can?

9 A. I do.

10 Q. And you do not -- you don't think we would be putting
11 you in a situation that would be -- even though we know that
12 you would be fair, it would be a situation that you wouldn't
13 want to be in? You feel like you can handle that situation,
14 consider the evidence as part of your jury service and make
15 a determination of what the appropriate sentence could be?

16 A. I do.

17 Q. Okay. The judge explained to you that if you and your
18 fellow jurors determine that the appropriate sentence is the
19 death sentence, that you would be required at the end of
20 that case to sign a document with your name, along with all
21 other eleven jurors, and that document would be brought back
22 to court and then transferred, to follow the defendant to
23 the Department of Corrections where the sentence would be
24 carried out. Would you have any hesitancy about signing
25 that form if your verdict had been to impose the death

1 penalty?

2 A. Explain that?

3 Q. Well, would you be concerned about having to sign that
4 document?

5 A. No, if I -- if I stated that, then I would sign it.

6 Q. Okay. And I guess the flip side of that question is
7 would the fact that you were going to have to sign the
8 document make you hesitate in voting for the death penalty?

9 A. I would think it shouldn't bear on that. I mean, I
10 know I got to sign it.

11 Q. Okay. And you would base your verdict based -- base
12 your verdict on the evidence that had been presented to you?

13 A. That's why I chose three, that's what I figured.

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

15 MR. ARIAIL: Judge, that's all I have.

16 VOIR DIRE EXAMINATION BY MR. GODFREY:

17 Q. I just got a couple of questions.

18 Good afternoon, Ms. Campbell. My name is Bill Godfrey.
19 This is Ken Gibson, and our client is Freddie Owens.

20 Now, you have testified that you would be open and fair
21 and unbiased in consideration of all the evidence in this
22 case, is that right?

23 A. Yes, sir.

24 Q. If this case went all the way to the end and you were
25 to be part of the jury and consider the evidence submitted

1 by the State and the evidence submitted by the defense, in
2 considering that evidence, is there anything in your
3 background, whether it be from religion, politics, social,
4 that would cause you to hesitate at all if the evidence
5 proved to you that Freddie Owens should be given a life
6 sentence, could you write a life sentence, or would there be
7 any hesitation?

8 A. It would be no hesitation.

9 Q. The same question regarding the death penalty?

10 A. It would be no hesitation.

11 Q. And you are certain in your own mind that there is no
12 bias or prejudice that would prevent you from fulfilling
13 your job?

14 A. No, sir.

15 Q. Thank you, ma'am.

16 THE COURT: If you would just step out for a
17 minute, I will bring you back in.

18 (Whereupon, Juror Number 66 was taken out of the
19 courtroom)

20 THE COURT: I would find Ms. Campbell qualified.
21 No objection from the defense or the State?

22 MR. GODFREY: None.

23 (Whereupon, Juror Number 66 was brought into the
24 courtroom)

25 THE COURT: Ms. Campbell, you are a qualified

1 juror, potential juror, in this case. That means that you
2 going to have to report back with about 45 other people,
3 hopefully sometime tomorrow, and sit out here and be the --
4 twelve of you, or 15 people, would be chosen to serve on
5 this jury.

6 You cannot discuss this case with anyone. Do not
7 be exposed to media coverage. We have had some, I believe.
8 Do not listen to any news accounts or see anything. Just
9 avoid that.

10 Call this number tonight after six and we will
11 tell you when to report back. You should bring your clothes
12 with you for about five days. If you are chosen, when you
13 leave tomorrow, you would be permitted to drive your car to
14 the motel and leave it there, and then you would be provided
15 transportation by SLED back and forth. Okay. So call this
16 number after six and we will leave a message.

17 JUROR NUMBER 66: Tonight?

18 THE COURT: Tonight, yeah. Thank you so much.

19 (Whereupon, Juror Number 66 was taken out of the
20 courtroom)

21 THE COURT: Patsy Ghent Barton.

22 (Whereupon, Juror Number 22 was brought into the
23 courtroom)

24 PATSY GHENT BARTON, #22, having been first duly
25 sworn, testified as follows:

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. Mrs. Barton?

3 A. Yes.

4 Q. Have you reviewed the three types of jurors on the form
5 that we gave you in the other jury room?

6 A. I have.

7 Q. If you had to classify yourself, how would you classify
8 yourself as to these three types?

9 A. Well, I would probably -- I would probably fit more
10 into class two, I guess. I never thought myself as being
11 totally against the death penalty, but when I think about
12 myself as being one, that would vote for the -- be on the
13 jury to make that decision, I don't know that that's a
14 decision that I could make, based on my belief.

15 Q. Okay. We need to explore that some. I would ask you
16 that -- and tell you that this case arises from an incident
17 which occurred in Greenville County, on November the 1st,
18 1997, on Laurens Road, and Ms. Irene Graves was killed
19 working in the Speedway. And because of this murder the
20 defendant has been convicted.

21 Now, there has been publicity regarding this case on
22 the TV, the radio and the newspaper. Have you read, heard,
23 or seen anything about this case?

24 A. Prior to coming to court in October, I had read a brief
25 clip in the newspaper that said that this case was coming up

1 to trial. And basically it didn't say much more than it was
2 a convenience store robbery, murder, and that the -- it
3 would be the sentencing phase of the trial, that it had been
4 overturned by the Supreme Court, and that was the extent of
5 what it said. It didn't go into any further detail on that.

6 Q. Okay. Now, the fact that you have been exposed to this
7 news media, the law would require that you disregard all of
8 that that you read from your mind. And this is a sentencing
9 proceeding provided for under our law where a jury would
10 determine the sentence, and you would forget about anything
11 that you read, about any prior actions, or anything of that
12 nature. Could you do that?

13 A. Yes, I think so.

14 Q. You would take an oath. Would you do that?

15 A. Yes.

16 Q. Now, the jury in this case -- the State cannot seek the
17 death penalty for any murder, unless there are statutory
18 aggravating circumstances. That's our law and I would tell
19 you that. All right?

20 A. Uh-huh.

21 Q. Now, the first thing the State would have to do would
22 be able to prove a statutory aggravating circumstance to the
23 jury beyond a reasonable doubt. They would have to prove
24 that this murder was committed during the commission of a
25 robbery while the defendant was armed with a deadly weapon,

1 or a larceny while the defendant was armed with a deadly
2 weapon. They would have to prove that beyond a reasonable
3 doubt. There is no burden of proof on the defendant and he
4 does not have to testify and none of that can be held
5 against him. Do you understand that?

6 A. Yes.

7 Q. Could you apply that law?

8 A. Yes, sir.

9 Q. Now, if the jury unanimously agrees that one of those
10 aggravating circumstances has been established, at least
11 one, or both, beyond a reasonable doubt, then a jury of
12 twelve people would have to determine how Mr. Owens here is
13 going to be sentenced.

14 There are only two possible sentences: Life in prison
15 or death without the possibility -- I mean, life in prison
16 without the possibility of parole until the death of the
17 defendant, or death by lethal injection or electrocution.
18 Those would be at that point, after the statutory
19 aggravating circumstances was found beyond a reasonable
20 doubt. Then the jury would concentrate on the specific
21 circumstances of this crime, the individual characteristics
22 of the defendant, and must be able to write a verdict of
23 either life in prison or death, depending upon the
24 particular circumstances of this case. Do you understand
25 that?

1 A. Yes, sir.

2 Q. And seriously and meaningfully considering aggravating
3 circumstances or mitigating circumstances.

4 Mitigating means less severe or to reduce the
5 culpability or the fault surrounding the crime.

6 Aggravating means to worsen or increase the enormity of
7 the crime.

8 A. Uh-huh.

9 Q. You would have to meaningfully consider all the facts
10 and circumstances in aggravation and in mitigation. And
11 based on whatever facts and circumstances that you heard,
12 you would have to be able to write a life sentence or a
13 death sentence and sign that sentence.

14 A. Uh-huh.

15 Q. Could you take an oath, follow instructions of the
16 court, and do that?

17 A. I don't know that I could write a death sentence. My
18 Christian believe, I just don't feel like that I am? That I
19 should judge -- it's kind of hard to put into words, but
20 it's just that I -- I don't feel that I could be responsible
21 for taking a life. And I understand even though that the
22 circumstances of the case may be that the person is
23 justifiably due a death sentence, I don't think that I could
24 be the one that would make that call.

25 Q. If we explored this, and maybe you could --

1 Let me ask you this question. Would the race of any
2 part make a difference in your decision?

3 A. No, none whatsoever.

4 Q. Would their religious beliefs, whether they are Islamic
5 or Muslim faith, have any bearing on it?

6 A. No.

7 Q. Okay. I'm going to let these other lawyers ask you
8 some questions.

9 VOIR DIRE EXAMINATION BY MR. GIBSON:

10 Q. Mrs. Barton, I'm Ken Gibson. This is my co-counsel
11 Bill Godfrey. This is our client Freddie Owens.

12 I just want to ask you a few things just to kind of
13 further explore what Judge Patterson was talking about.

14 Now, the judge is going -- Judge Patterson, he's going
15 to tell you what the law is in this case and he's going to
16 tell you, you know, what you should follow and those type of
17 things like that in relation to your decision regarding the
18 sentence of Mr. Owens, whether it be life or whether it be
19 the death sentence.

20 If the judge were to instruct you on the law, even if
21 you might not agree with that law, could you follow it?

22 A. If you are asking in the sense if he gave me a decision
23 to make between a life imprisonment or a death sentence --

24 Q. Yes, ma'am.

25 A. -- I'm saying that I don't know that I could vote for a

1 death sentence.

2 Q. Okay. All right. Tell me, how strongly do you believe
3 that?

4 A. Well, I have given this a lot of thought since I found
5 out, you know, that that is the circumstances that it was
6 the sentencing phase, and in my mind, I mean, my biblical
7 scriptures tells me that I'm not to judge another
8 individual, that all sin is -- you are guilty of -- death is
9 the penalty for sin. So had it not been for my savior Jesus
10 Christ, you know, I would be -- death would be imminent for
11 me, as well as anybody else, if it weren't for the grace of
12 God. And because of that I don't know that I can, in a
13 sense, take another's life for that same reason.

14 Q. Even if the circumstances in your mind were heinous
15 enough to justify that sentence?

16 A. It's not about the -- to me it's not about how heinous
17 the crime. I don't think a person with a very serious
18 heinous crime should be allowed to go free, but can I be the
19 one to say put him to death, I don't know that I can.

20 Q. Yes, ma'am. Can you -- just a second, please?

21 A. Yes.

22 (Off the record)

23 (Back on the record)

24 BY MR. GIBSON:

25 Q. Thank you Ms. Barton. I appreciate your honesty.

1 THE COURT: Okay. I'm going to let you step out
2 for just one second.

3 (Whereupon, Juror Number 22 was taken out of the
4 courtroom)

5 THE COURT: The sensing from the court and from
6 the defense counsel, it appears to me that she would be
7 substantially prevented or substantially prohibited from
8 following the instructions of the court and exercising her
9 duties in regard to a sentence. And I'm not sure that --

10 Mr. Ariail, do you feel like you have to ask any
11 questions?

12 MR. ARIAIL: No, as long as that -- I mean, I
13 understand what the lady is saying.

14 THE COURT: Okay.

15 MR. ARIAIL: Not opposed -- she thinks the case
16 may deserve the death penalty? She's just not the one
17 that -- she can't do it personally. I concur with that.

18 (Whereupon, Juror Number 22 was brought into the
19 courtroom)

20 THE COURT: Ma'am, thank you so much for your
21 honest answers in this case, and I'm going to excuse you and
22 you will not have to come back.

23 JUROR NUMBER 22: Thank you, sir.

24 THE COURT: Have a good day. Thank you.

25 (Whereupon, Juror Number 22 was taken out of the

1 courtroom)

2 THE COURT: Bryan Gosnell.

3 Mr. Gosnell, was the one that had to be excused
4 because of surveying business. I don't know if y'all --

5 MR. GODFREY: Not at the moment.

6 (Whereupon, Juror Number 457 was brought into the
7 courtroom)

8 BRYAN A. GOSNELL, #457, having been first duly
9 sworn, testified as follows:

10 VOIR DIRE EXAMINATION BY THE COURT:

11 Q. Mr. Gosnell, we had a document in the other courtroom
12 that described three types of jurors. If you -- could you
13 place yourself in one of those three categories?

14 A. Yes, sir.

15 Q. Which one?

16 A. Number one.

17 Q. Okay. Are you a juror who, once the crime of murder
18 has been proven by the State, and that exists in this case,
19 Mr. Owens has been convicted of murder, regardless of what
20 evidence may come in about the circumstances of the crime of
21 murder, you feel that every murder should -- if a person
22 commits murder, he should -- he or she should receive the
23 death penalty?

24 A. Yes, sir.

25 Q. Okay. And has that been your belief for some time?

1 A. Yes, sir.

2 Q. About how long?

3 A. 10th grade.

4 Q. Since 10th grade. Okay.

5 And you live in the -- you have always lived in the
6 Travelers Rest area?

7 A. I grew up in Taylors and moved to Travelers Rest.

8 Q. Okay. I'll let you step out for just a minute.

9 (Whereupon, Juror Number 457 was taken out of the
10 courtroom).

11 THE COURT: I will be more than happy to let y'all
12 examine this gentleman, but apparently he's hunted and
13 familiar with weapons, and -- based on his attire. And I'm
14 not sure, but if y'all want to take -- if you want to
15 examine him, I would certainly permit that, but in judging
16 his demeanor and feelings, he almost -- he convinces me that
17 he is a number one.

18 Any objection from the State?

19 MR. ARIAIL: None.

20 MR. GODFREY: None.

21 THE COURT: Okay.

22 (Whereupon, Juror Number 457 was brought into the
23 courtroom)

24 THE COURT: Mr. Gosnell, thank you so much for
25 your time and service and I'm going to excuse you from the

1 case. Thank you.

2 JUROR NUMBER 457: Thank you, sir.

3 THE COURT: Thank you.

4 JUROR NUMBER 457: All right.

5 (Whereupon, Juror Number 457 was taken out of the
6 courtroom)

7 THE COURT: Linda Gawrych.

8 (Whereupon, Juror Number 158 was brought into the
9 courtroom)

10 LINDA M. GAWRYCH, #158, having been first duly
11 sworn, testified as follows:

12 VOIR DIRE EXAMINATION BY THE COURT:

13 Q. Ms. Gawrych, in reviewing the three types of jurors
14 that's on the form, which juror or which number would you
15 place yourself in?

16 A. Third.

17 Q. Third one?

18 A. Yes, sir.

19 Q. Okay. You understand that Mr. Owens here has been
20 convicted of a murder?

21 A. Uh-huh.

22 Q. And that the purpose of this proceeding is under the
23 South Carolina law. When the State seeks the death penalty,
24 a jury, in a case such as this, determines how he will be
25 punished, and that's the reason we are here, and you

1 understand that?

2 A. Yes.

3 Q. And this was a incident on Laurens Road on November the
4 1st, 1997, when Mr. Irene Graves was killed, an operator at
5 a Speedway, early in the morning hours.

6 Now, there has been publicity about this case on TV,
7 the radio, and in the newspaper. Have you read, heard or
8 seen anything about this case from any source or from any
9 individual?

10 A. Now that you have refreshed my memory of the case, I
11 remember when it happened. You know, I remembered that
12 happening. I probably saw it on TV and the newspaper. And
13 yesterday when you said that he has already been convicted
14 and we needed another jury to sentence, to me I thought that
15 was unusual and it -- I just thought back a couple of months
16 ago when I was reading the paper -- it might not even be
17 this case, because I have a very bad memory, that there was
18 a defendant that had been convicted that was requesting a
19 separate jury, or something. That's the only thing that I
20 can remember.

21 And the odd thing about that that -- like I said, I
22 have a very poor memory, what I read about it was that he
23 was requesting another jury because -- and I'm being honest,
24 that he wanted to be put to death. Now, I'm just saying
25 that I have a poor memory with facts, but my brain brought

1 up when you said we are making a second jury. I'm not
2 trying to be excused or anything, but that's what my brain
3 came up with.

4 Q. Well, a juror having been exposed to any information
5 from any source, either the news media or from a private
6 source, as a juror could you take an oath and disregard
7 anything that you heard outside this courtroom and decide
8 this case only on the evidence and the testimony that was
9 presented in court?

10 A. Yes.

11 Q. And would you do that under your oath? You would take
12 an oath to be fair and impartial, decide it only on the
13 evidence that you heard.

14 A. Yes.

15 Q. Would you do that?

16 A. Uh-huh.

17 Q. Okay. Now, accepting the fact that a person cannot be
18 sentenced to death for any murder, which is probably no such
19 thing as an ordinary murder, but -- maybe a person could
20 shoot his spouse, or her spouse, and it would be murder, but
21 the State may not and probably could not seek the death
22 penalty. Do you understand that?

23 A. Yes.

24 Q. And it's not an appropriate penalty for every murder
25 under our law.

1 And if the State seeks the death penalty, they have to
2 prove a statutory aggravating circumstance. And in this
3 case before the jury could even determine the sentence, the
4 jury would have to find that there was an aggravating
5 circumstance of either robbery during the commission of this
6 murder, or larceny during the commission of this murder;
7 during the robbery they would have to prove that he was
8 armed with a deadly weapon, or during the larceny they would
9 have to prove that he was armed with a deadly weapon. They
10 would have to prove that beyond a reasonable doubt. The
11 defendant does not have any burden to prove anything. He
12 does not even have to testify. It cannot be held against
13 him. Do you understand that that would be the first
14 process, ma'am?

15 A. Yes.

16 Q. If a jury finds a statutory aggravating circumstance
17 under our law, then the jury can determine a sentence of
18 life in prison or death. Those are the only two
19 possibilities after a jury finds a statutory aggravating
20 circumstance. Do you understand that?

21 A. Yes, so we would decide one or the other?

22 Q. You would have to decide one or the other at that time.

23 A. Uh-huh.

24 Q. You would hear evidence in extenuation or mitigation or
25 aggravation.

1 And an aggravating circumstance is one that worsens the
2 crime of murder or increases the enormity of that crime. Do
3 you understand what an aggravating circumstance or fact may
4 be?

5 A. Say that again.

6 Q. An aggravating circumstance is a fact or incidence or
7 occurrence which would aggravate or worsens the crime of
8 murder or increase the enormity of that. It would add to
9 the injury of the crime.

10 A. Okay.

11 Q. A mitigating circumstance is one that reduces the
12 severity of the offense of murder. It may be considered as
13 extenuating or reducing the degree of responsibility or
14 fault.

15 A. Okay.

16 Q. As a juror you would have to consider meaningfully and
17 seriously circumstances of aggravation and mitigation and
18 determine a sentence of life imprisonment or death. Do you
19 understand that?

20 A. Yes, sir.

21 Q. Based on the circumstances, particular circumstances
22 that you heard, whatever they are, if you thought they
23 supported a life imprisonment sentence, could you impose a
24 life imprisonment sentence?

25 A. Yes.

1 Q. Life in prison in this case means for the life of this
2 defendant, as long as he lived until he died, without any
3 possibility of parole under our law.

4 Death means death by lethal injection or electrocution.
5 Do you understand that?

6 A. Yes, sir.

7 Q. Based on your view of the particular facts and
8 circumstances of this crime, the individual characteristics
9 of the defendant, could you impose a sentence of death?

10 A. Yes. In this case if that was the law, yes.

11 Q. You would follow the instructions of the court?

12 A. Yes.

13 Q. If the jury decided on the death penalty, all twelve
14 jurors would have to sign their names to that sentence.
15 Could you sign your individual name to that sentence?

16 A. Yes.

17 Q. Okay. If any evidence came out, and I don't know what
18 the evidence will be, but if it did about prior crimes
19 before this murder or bad acts or subsequent to this murder
20 other crimes or bad acts, those acts or crimes could not
21 come in as it would bear on the evidence of the statutory
22 aggravating circumstance for this murder. Could you --
23 would you accept that as the law?

24 A. Yes.

25 Q. And those offenses or whatever they were before this

1 crime or after that crime would only come in as they would
2 bear on the character of Mr. Owens. Do you understand that?

3 A. Say that again, please.

4 Q. The fact -- if any evidence of any crimes or bad acts
5 before this murder or after this murder were to come into
6 evidence, you would only be able to consider those as to his
7 character. Do you understand that?

8 A. Yes.

9 Q. Could you accept that?

10 A. Yes.

11 Q. Would the race of any party have any effect on your
12 decision in this case for life imprisonment or death?

13 A. No.

14 Q. Have you had any religious training of any type in
15 regard to the death penalty, and if you had, would that
16 affect your decision in this case?

17 A. No.

18 Q. If anyone were of the Islamic or Muslim faith, would
19 that affect your decision?

20 A. No.

21 Q. I'm going to let you answer some questions from the
22 lawyers, okay?

23 A. Okay.

24 VOIR DIRE EXAMINATION BY MR. ARIAIL:

25 Q. Ms. Gawrych?

1 A. Yes.

2 Q. My name is Bob Ariail and I'm the solicitor for the
3 Thirteenth Circuit of South Carolina. And what that means,
4 solicitor is the name that South Carolina retains to
5 designate its prosecuting attorneys. If you were in another
6 state or watched TV, they would probably call them district
7 attorneys, but here we call them the solicitor. And I would
8 be representing the State in this case, along with my deputy
9 Betty Strom in the red coat, and Ms. Verdin, seated at
10 counsel table also.

11 I'm going to go over a couple of things to make sure
12 that we are understand, or I understand what your answers
13 were.

14 You told the judge that you thought that you were a
15 three. That's a person who would want to hear both sides
16 and all the evidence and then fairly -- then could fairly
17 consider imposing both sentences?

18 A. (Shaking head yes)

19 Q. Do you believe that the capital punishment or the death
20 penalty is an appropriate penalty under the law of this
21 country for certain crimes or in certain circumstances?

22 A. Yes.

23 Q. Is that a belief that you have held for some time, or
24 is that a belief that you have sort of crystalized based on
25 your involvement in this proceeding?

1 A. Some time.

2 Q. You have held it for some time?

3 A. Yes.

4 Q. Now, you understand that the way the process works, the
5 defendant has already been found guilty of a crime --

6 A. Uh-huh.

7 Q. -- of murder, killing Ms. Graves, as the judge has told
8 you?

9 A. Uh-huh.

10 Q. There is no issue here about whether he's guilty or
11 not. The issue is how he would be sentenced.

12 A. Right.

13 Q. The State of South Carolina, represented by the
14 solicitor, is not allowed to seek the death penalty, except
15 in certain limited circumstances involving murder. Not all
16 murder, just certain murders. Were you aware of that?

17 A. I kind of assumed that, yes.

18 Q. Well, let me go a little further and explain that the
19 legislature says the State can seek the death penalty when
20 there is murder and it's accompanied by what they called an
21 aggravating circumstance. And the aggravating circumstance
22 would be things like -- there are 19 of these. And one of
23 them would be murder of a police officer in the line of
24 duty; murder of a child under the age of 11; murder of more
25 than one person. So it's murder, plus something.

1 A. Uh-huh.

2 Q. All right. When that occurs, when it's murder, plus
3 one of those 19 circumstances, the sentencing authority then
4 passes from the judge to the jury. For you, if you were
5 sitting -- assume that you were sitting on a case in which
6 the death penalty is involved, you actually become the judge
7 for sentencing. All right.

8 So putting yourself in that situation now, you can
9 understand why we are asking these questions about how you
10 view different things. And what I want to get to is your
11 ability to fairly consider and -- not fairly -- everybody is
12 fair. They always think they are fair. Nobody is going to
13 come into court and say I'm not going to be fair about this,
14 but I want to know about your ability to realistically
15 consider and your personal ability to impose the death
16 penalty, because you made two statements that gave me a
17 little pause.

18 A. Okay.

19 Q. The first one was when the judge asked you if you could
20 impose the death penalty, or something that effect, and you
21 said that if that was the law.

22 A. Right.

23 Q. All right. Well, let me assure you that there is
24 nobody going to tell you in this case to impose the death
25 penalty, and there is nobody going to give you a checklist

1 of what to check off and if you find A, B and C, you get the
2 death penalty. This is just going to be your individual
3 decision collectively reached in jury deliberations.

4 A. So even if it's a murder with an aggravated situation,
5 like a murder of more than one, you still don't have to
6 impose the death penalty?

7 Q. No.

8 A. You could still say life?

9 Q. You can still say life.

10 A. Okay, now I understand.

11 Q. Okay. The determination is a weighing and a balancing
12 and a consideration of each individual juror's own
13 conscience and view of the evidence, plus collective
14 reasoning. It's not going to be a checklist. The judge is
15 not going to say okay, the State could prove this, you have
16 got to do this. It's not going to be that. It's going to
17 be all of y'all getting together. All right.

18 Now, I want to go back and ask you once again, now
19 knowing that circumstance, do you believe that you could
20 fairly consider and vote for the imposition of the death
21 penalty, personally, if that was your view of the evidence?

22 A. Yes.

23 Q. Okay. So we are not -- what I'm getting to, we are not
24 putting you in a situation that you are over your head. A
25 lot of people, for example, say I think the death penalty is

1 great.

2 A. Okay.

3 Q. But you put them in a situation where they got to vote
4 for it --

5 A. Right.

6 Q. -- they can't do it.

7 A. I know what you are saying. You know, I have never
8 thought deeply about it until this point.

9 Q. Correct.

10 A. I have always been like that.

11 Q. And so I guess my question is, have you had enough time
12 to think deeply about it, and do you think that you can
13 handle that situation?

14 A. Yes, I believe so, when the -- you know, the things
15 with the facts of the case would have to be more presented
16 to me since I'm not real familiar with it --

17 Q. Correct?

18 A. -- but I do believe in the death penalty as a deterrent
19 to crime.

20 Q. Okay. And because you are going to be a judge, you got
21 to be fair from the beginning. That's why I'm getting -- I
22 don't want to put you in a situation where you can't be
23 fair. You think you are being fair now, but when you get
24 there and you say oops, I wish I would have told him
25 different.

1 A. I know.

2 Q. We don't want to do that to you.

3 Do you think we are doing that to you, or do you
4 think --

5 A. Oh, gosh --

6 THE COURT: That's not an appropriate question.

7 BY MR. ARIAIL:

8 Q. Do you believe that you could fairly consider both
9 sentences after hearing all the evidence and impose the
10 death penalty, if you thought it was appropriate, or impose
11 life imprisonment?

12 A. I feel I could.

13 Q. You could do that?

14 A. I could do that.

15 Q. Okay. And the judge told you also if you did that,
16 voted to impose the death sentence, and the other eleven
17 jurors voted with you, that you would have to sign the
18 document that said -- pass back to the judge saying we find
19 that the defendant should receive the death penalty, and
20 that document would be used to carry out the sentence.
21 Would you have any hesitancy about signing that document, if
22 that was your verdict?

23 A. No.

24 Q. And the reverse of that, would you have any hesitancy
25 about voting for the death penalty simply because you are

1 going to have to put your name on the record as signing that
2 document?

3 A. No, as long as it was -- I don't know. As long as
4 there was no problem of safety on my side, or whatever, if
5 that was --

6 Q. Well, would the fact that you might think --

7 A. It's not something that would be published, you know,
8 somewhere.

9 Q. Well, I think it would be public. That's why I'm
10 asking you the question. Would that give you concern about
11 signing it?

12 A. If my name were made public, I would be concerned about
13 that.

14 Q. Would the fact that you would be concerned about it
15 interfere with your ability to fairly weigh the evidence to
16 impose either or both -- either of the two sentences
17 available?

18 A. It might.

19 No, I take that back. If I were in that situation, I
20 would go forward and be fair. But knowing that my name
21 would be made public does concern me about being put on the
22 jury.

23 Q. Okay.

24 MR. ARIAIL: Thank you very much.

25 A. Thank you.

1 VOIR DIRE EXAMINATION BY MR. GIBSON:

2 Q. Ms. Gawrych, I'm Ken Gibson. This is my co-counsel
3 Bill Godfrey. This is our client Freddie Owens.

4 A. Hello.

5 Q. As Mr. Ariail said, we want to make absolutely certain
6 that you are going to be able to be fair to both sides,
7 okay? He's asked you a lot of questions to make sure that
8 you could impose the death penalty, if you thought that was
9 appropriate. I want to make sure that you could fairly
10 consider and impose a life sentence, if you felt that was
11 appropriate.

12 A. (Shaking head yes)

13 Q. Do you understand what we mean when we say life without
14 the possibility of parole?

15 A. He would be in jail for the remainder of his life.

16 Q. Okay. If after you listened to all the circumstances
17 and you thought that was the appropriate punishment, could
18 you come back into that jury room and say that's my finding
19 and stick with it?

20 A. Yes.

21 Q. Now, as you well know by now, this is sort of a
22 different situation. Mr. Owens has already been convicted
23 of a murder in this case.

24 A. Uh-huh.

25 Q. Even though he's been convicted of a murder already by

1 another jury, would that keep you from imposing a life
2 sentence, if you thought that was the appropriate course of
3 action?

4 A. I'm sorry, I don't understand what --

5 Q. I'm sorry.

6 A. What question is say that again?

7 Q. The mere fact that he's been convicted of a murder,
8 okay, would that keep you from imposing a life sentence, if
9 you thought that was the appropriate course of action?

10 A. No.

11 Q. And given your newfound -- or has been explained to
12 you, the understanding that the existence of an aggravating
13 factor does not require you to issue a death sentence.

14 If you were placed in that situation after you heard
15 all the circumstances and you thought that a life sentence
16 was appropriate, would you be able to impose such a sentence
17 in the case of Mr. Owens?

18 A. Okay. If I need to think specifically of this case,
19 yes, I could impose a life sentence --

20 Q. Okay.

21 A. -- depending upon the circumstances.

22 Q. Now, you had said early on that you had read some
23 pretrial publicity about this thing?

24 A. I don't even know if it was this trial at all.

25 Q. And I'm not saying that it is, because I don't know if

1 I can comment, but would you be able to put all that out of
2 your mind and decide Mr. Owens fate based on what you
3 thought the evidence was?

4 A. Yes, because, like I said, just a very poor memory.

5 Q. Okay. All right.

6 MR. GIBSON: Thank you Ms. Gawrych.

7 THE COURT: All right. Stand outside just for a
8 second, please. I'll bring you back in.

9 (Whereupon, Juror Number 158 taken out of the
10 courtroom)

11 THE COURT: I would find Mrs. Gawrych qualified,
12 without objection from either side.

13 (Whereupon, Juror Number 158 brought back into the
14 courtroom)

15 THE COURT: You can stand right there, Ms.
16 Gawrych.

17 Ms. Gawrych, you are qualified as a potential
18 juror in this case. You will have to report back hopefully
19 sometime tomorrow, along with about 45 other people, and
20 from your group the jury will be chosen.

21 Do not discuss this case with anyone and do not
22 listen to any news media or anything or be exposed to any
23 publicity about the case.

24 JUROR NUMBER 158: Okay.

25 THE COURT: I appreciate your honest answers and

1 I'm sure the lawyers do.

2 You will need to bring sufficient clothing to get
3 you through about five days. I think that's my best guess.
4 That can be left in your automobile when you drive in. You
5 can park in the Hyatt parking garage and then you will be
6 able to drive that automobile to the motel, if that's what
7 you want to do.

8 JUROR NUMBER 158: I don't understand. If I come
9 back tomorrow with 45 other jurors, that means I will be
10 sequestered already, or will there be a selection made of
11 the group?

12 THE COURT: There would be a selection made.

13 JUROR NUMBER 158: Just be prepared to be
14 sequestered.

15 THE COURT: Just be prepared to be sequestered. I
16 mean, it's not -- and if you are not selected as one of the
17 15, then you could go home.

18 JUROR NUMBER 158: Okay. How many days did you
19 say?

20 THE COURT: About five.

21 JUROR NUMBER 158: About five?

22 THE COURT: Just to be safe.

23 JUROR NUMBER 158: Okay.

24 THE COURT: And I would ask you to call this
25 number after six tonight and we will leave some message on

1 for all those jurors, like you, who have been qualified.
2 Okay.

3 JUROR NUMBER 158: Okay.

4 THE COURT: That will tell you what to do and when
5 to come back.

6 JUROR NUMBER 158: Okay. Thank you.

7 (Whereupon, Juror Number 158 was taken out of the
8 courtroom)

9 THE COURT: Wendy Eastland.

10 (Whereupon, Juror Number 120 was brought into the
11 courtroom)

12 WENDY EASTLAND, #120, having been first duly
13 sworn, testified as follows:

14 VOIR DIRE EXAMINATION BY THE COURT:

15 Q. Ms. Eastland, have you had an opportunity to review the
16 three types of jurors on the document that we left in the
17 other courtroom?

18 A. Yes, sir.

19 Q. Would you place yourself in one of those three groups?

20 A. Yes, sir.

21 Q. Which one?

22 A. Number three.

23 Q. Number three?

24 A. Yes, sir.

25 Q. Okay. That indicates that you understand if a

1 defendant has been convicted of murder, and Mr. Owens has,
2 that you could be fair and open minded, listen to all the
3 evidence and testimony in aggravation and mitigation, and
4 fairly and impartially determine a sentence of either life
5 in prison or death, is that correct?

6 A. Yes, sir.

7 Q. Now, this case arises out of an incident on Laurens
8 Road, in Greenville County, on November the 1st of 1997. In
9 the early morning hours Ms. Irene Grace was killed working
10 at a Speedway, and Mr. Owens has been convicted of this
11 murder.

12 My question is have you -- this case has been
13 publicized. Have you been exposed to any publicity from TV,
14 radio, or the newspaper? Have you read, heard or seen
15 anything about this case or been told anything about this
16 case by anyone?

17 A. Not that I can recall.

18 Q. Okay. Now, in this case it's a sentencing proceeding,
19 and we've said that a good bit with all the jurors, and you
20 may have heard it before, but this is a sentencing
21 proceeding provided under the South Carolina law
22 specifically for cases in which the State of South Carolina
23 seeks the death penalty. A jury determines how Mr. Owens
24 will be sentenced for this murder conviction. The law
25 provides two separate proceedings; one with a jury for the

1 guilt or innocence phase and one for the sentencing
2 proceeding. So this is to determine how Mr. Owens will be
3 sentenced for murder. Do you understand that?

4 A. Yes, sir.

5 Q. Now, the first thing that you must understand is you
6 cannot be -- the State cannot seek the death penalty for any
7 murder. There must be an aggravating circumstance, a
8 statutory aggravating circumstance. They can only seek the
9 death penalty if they can prove beyond a reasonable doubt a
10 statutory aggravating circumstance.

11 The first thing that you would be called upon to do is
12 to determine if this murder -- that's been proven to you
13 beyond a reasonable doubt that this murder occurred during
14 the commission of a robbery while the defendant was armed
15 with a deadly weapon. The State would have to prove that to
16 you beyond a reasonable doubt, or that it occurred during a
17 larceny while the defendant was armed with a deadly weapon.
18 The jury would have to consider that, and all twelve would
19 have to determine if the State had proven one, or both, of
20 those statutory aggravating circumstances beyond a
21 reasonable doubt. The defendant does not have to prove
22 anything in the case. He does not even have to testify.

23 Could you fairly and impartially consider that, those
24 two aggravating circumstances, whether the State has proven
25 them beyond a reasonable doubt, and reach a verdict at that

1 stage?

2 A. Yes.

3 Q. Would you be fair and impartial?

4 A. Yes.

5 Q. Now, if the jury should determine unanimously that
6 statutory aggravating circumstance had been proven, then the
7 jury would determine the sentence that Mr. Owens would
8 receive. That would be life in prison without the
9 possibility of parole until his death, or death by lethal
10 injection or by electrocution. Do you understand that?

11 A. Yes, sir.

12 Q. You would understand that you as the jury would
13 determine which of those two sentences at that point he
14 would receive, do you understand that?

15 A. Yes, sir.

16 Q. Could you fairly and impartially consider all the
17 evidence that was brought in; consider evidence in
18 aggravation, which means to aggravate or worsen the crime of
19 murder or to increase the enormity of the crime of murder or
20 the injury of the crime of murder. Do you understand what
21 aggravation is?

22 A. Yes, sir.

23 Q. Mitigation means to make less severe, reduce the
24 severity of the offense of murder. And you may consider
25 anything in extenuation or that reduces the degree of

1 responsibility or fault of this defendant. Do you
2 understand what mitigation is?

3 A. Yes, sir.

4 Q. Could you seriously and impartially and meaningfully
5 consider circumstances in aggravation and circumstances in
6 mitigation and render a sentence of life imprisonment or
7 death in this case?

8 A. Yes, sir.

9 Q. And if you determined -- or if the jury determined that
10 the sentence of death was appropriate, under the particular
11 facts and circumstances the jury, all twelve jurors, would
12 have to sign their name to the death sentence. Could you do
13 that?

14 A. Yes, sir.

15 Q. All right. You could fairly and impartially consider
16 all the evidence; and if the facts warranted, under your
17 oath, and the circumstances surrounding this specific case
18 and the individual characteristics of the defendant, based
19 on those facts and circumstances, you could reach a verdict
20 of either life imprisonment or death?

21 A. Yes, sir.

22 Q. Okay. If any evidence came out about prior crimes or
23 prior bad acts or subsequent crimes after this murder, those
24 could only be considered as they would bear on the character
25 of the defendant. They could not be considered as evidence

1 of a statutory aggravating circumstance. Can you accept
2 that law?

3 A. Yes, sir.

4 Q. Would race have any effect on you in this case as to
5 the race of the defendant or a victim?

6 A. No, sir.

7 Q. Would religion have any effect on you, either your
8 personal religious beliefs in imposing a sentence; or, if
9 any evidence came out in regard to a person's faith about
10 Islamic or the Muslim faith, would that affect your ability
11 in this case?

12 A. No, sir.

13 Q. All right. You would honor your oath, and I believe
14 that, and I'm going to let these lawyers ask you some more
15 questions.

16 VOIR DIRE EXAMINATION BY MR. GODFREY:

17 Q. Ms. Eastland, my name is Bill Godfrey. This is Ken
18 Gibson. This is our client Freddie Owens.

19 I just have a few questions for you.

20 A. Okay.

21 Q. You have given information to the court that you could
22 be fair and impartial if you were picked as a juror on this
23 case?

24 A. Yes, sir.

25 Q. Let me ask you. If -- you put in the questionnaire

1 that your brother was the victim of an attempted armed
2 robbery?

3 A. That's correct.

4 Q. Does that have any impact on how you feel about a case
5 like this, where one of the allegations is a completed
6 robbery?

7 A. No, sir.

8 Q. How long ago was that attempted armed robbery?

9 A. I believe it was two years, approximately.

10 Q. And have you had any religious training about the death
11 penalty?

12 A. I'm not quite sure I understand the question.

13 Q. Does your religion tell you anything about the death
14 penalty?

15 A. Yes, sir.

16 Q. And what is that?

17 A. That murderers should be put to death.

18 Q. Is that the belief of the church that you presently go
19 to?

20 A. Yes, sir, but it's also our belief that we are to
21 follow the law of the land, and that the law states that I
22 should follow the law of the land in this case.

23 Q. So if you were picked as a juror, at the close of all
24 the evidence, in other words, after the State had put in
25 their evidence and the defense had put in our evidence, then

1 the judge in this case would advise you and all the other
2 jurors what the law was. And you are telling me that you
3 could accept the law as given to you by Judge Patterson and
4 apply it to the evidence in order to come up with a
5 decision?

6 A. Yes, sir.

7 Q. Even though your church tells you that the death
8 penalty is correct, you are not leaning in that direction?

9 A. I have been taught that we are to obey the laws of the
10 land. There are rules that are definite and then there are
11 rules that are subjective to the laws under which God has
12 placed us.

13 Q. So do you lean towards the death penalty?

14 A. I would say yes, I lean towards the death penalty, but
15 I believe that I would follow what the law states..

16 Q. Do you believe that you could fairly weigh and evaluate
17 evidence of mitigation in this case?

18 A. Yes, sir.

19 Q. Do you think that you could fairly evaluate and weigh
20 evidence of aggravation in this case?

21 A. Yes, sir.

22 Q. And do you believe that you could be absolutely fair
23 and impartial?

24 A. Yes, sir.

25 Q. No doubt in your mind about that?

1 A. No doubt.

2 Q. Is there any other -- well, let me ask you this.

3 If after hearing all of the evidence and the charge on
4 the law, if you believed that the evidence showed that a
5 verdict of life should be entered, would you have any
6 hesitation to enter a verdict of life?

7 A. No, sir.

8 MR. GODFREY: Nothing further.

9 VOIR DIRE EXAMINATION BY MR. ARIAIL:

10 Q. Hey, Ms. Eastland.

11 My name is Bob Ariail and I'm the solicitor for the
12 Thirteenth Circuit. That means in South Carolina the
13 solicitor is the state's prosecutor. Other states would
14 call them district attorney or Commonwealth attorney, but in
15 South Carolina we are still known as the solicitors. So I
16 would be representing the State in this case, along with my
17 deputy Betty Strom in the red coat and also Ms. Verdin
18 seated at counsel table, who is one of my assistants.

19 You told the judge that you were a -- you felt that the
20 sheet best described or that -- or the category that best
21 described you on the sheet was number three, that is, a
22 juror that could hear the evidence and depending upon what
23 that evidence was, could either impose a sentence of life
24 imprisonment without parole or a sentence of death.

25 And after you have gone through the process, you still

1 believe that's an adequate description of what you believe
2 your ability is?

3 A. Yes, sir.

4 Q. Okay. And you understand that you would be -- if you
5 were seated on a jury in a death penalty case, you would be
6 making just that decision, that is, what is the appropriate
7 sentence to be imposed, based on the nature of the crime and
8 the character or characteristics of the defendant?

9 A. Yes, sir.

10 Q. Okay. Do you believe there is anything in your
11 background, whether it be philosophical, or ethical, social,
12 moral, religiously, politically, that would in any way
13 impair or impede your ability to weigh that evidence and
14 fairly consider both verdicts?

15 A. No.

16 Q. In other words, are you able not only to talk about
17 doing that, but can you sit on the jury and actually do that
18 and actually vote for either one of those sentences?

19 A. Yes.

20 Q. Then the judge told you that if you decided that the
21 death penalty was the appropriate sentence, that you and
22 your fellow eleven jurors would have to sign this document
23 that would bring the sentence back to the court. If that
24 was your verdict, that is death was the appropriate sentence
25 in your view, and the eleven jurors, would you have any

1 hesitancy about signing that document?

2 A. No, sir.

3 Q. You wouldn't. The fact that you had to sign that
4 document wouldn't interfere with your ability to consider
5 the death penalty?

6 A. No, sir.

7 Q. Okay. Thank you very much.

8 THE COURT: Okay. Ms. Eastland, let me let you
9 step out for just a minute and I'll bring you back in.

10 (Whereupon, Juror Number 120 was taken out of the
11 courtroom)

12 MR. GODFREY: May it please the court, I have some
13 problems with this particular potential juror. I think what
14 we have here is not just a leaning towards the death
15 penalty. I think it's a little stronger than that. If you
16 take a look at the jury questionnaire, question 23, her
17 brother was the victim of an attempted armed robbery a
18 couple, three years ago, I think based on what her testimony
19 was.

20 Also when you look at the jury questionnaire, you
21 could tell that this young lady is very devout in her
22 religious beliefs, based on the church that she goes to and
23 the number times that she goes and what she does, which is a
24 fine and wonderful thing.

25 THE COURT: Where did she say she went to church?

1 MR. GODFREY: She goes to the Church of
2 Greenville. That's number 17 in the page two.

3 And then on page 5, she indicates this is an
4 independent Baptist church and she attends services twice
5 weekly, and that she attends all youth group meetings and
6 assists with younger children.

7 On the front page of the jury questionnaire, it
8 appears that she is a graduate of Bob Jones Academy.

9 Judge, I believe that the Church of Greenville is
10 a fundamentalist church, and there is nothing wrong with
11 that. She testified that her church is in favor of the
12 death penalty. I think that even though in her heart she
13 may believe that she could be fair and unbiased, I think
14 that when you taken the combination of these things, which
15 is the religious component what her church has to say, the
16 fact that her brother had an attempted armed robbery, I
17 don't believe that in reality, in practicality that she can
18 be fair and unbiased. And for that reason I would ask that
19 she be found unqualified.

20 MR. ARIAIL: Judge, if you take that position, you
21 would have to -- you would have to absolutely find that the
22 woman was lying under oath. I mean, every answer she gave
23 was contrary to exactly what he said. And unfortunately, or
24 fortunately, we take them at their word. I mean, they are
25 under oath, they are telling the best as they can give us

1 their judgment, and that's why we have peremptory
2 challenges, if that concerns him.

3 I have got some that you qualified that concerned
4 me, so that's why we have peremptory challenges.

5 I think the women is clearly qualified and she, I
6 think, gave a very insightful answer into how her religious
7 beliefs become subservient to her obligations in civil
8 society, and I think she is absolutely capable of doing
9 that, she would put those aside.

10 THE COURT: Based on her answers, she falls within
11 the law of being qualified. In observing her demeanor, she
12 expressed, it appeared, openly and honestly that she would
13 follow the law of the land. And I believe if you take that
14 very seriously. It's not my belief -- or considering the
15 totality of the answers, I'm finding that she's legally
16 qualified.

17 (Whereupon, Juror Number 120 was brought into the
18 courtroom)

19 THE COURT: Ms. Eastland, you are qualified as a
20 potential juror in this case. From this time forward you
21 cannot discuss the case with anyone or expose yourself to
22 any publicity about this case. Okay?

23 JUROR NUMBER 120: Okay.

24 THE COURT: And you would -- as you have said, you
25 will follow all the directions and the laws of the court in

1 this case.

2 This is an order for qualified jurors and I'm
3 going to ask that you call back after six tonight. It won't
4 be long. Hopefully we can leave a message as to when you
5 should report back or call back in.

6 When you come back, you will have to bring
7 clothing for about five days in case you are picked on the
8 jury and leave that in your automobile, if you care to.
9 After we conclude here, if you are chosen, you could drive
10 your automobile to the motel. Okay?

11 JUROR NUMBER 120: Okay.

12 THE COURT: And call back this number after six
13 tonight. Thank you so much.

14 JUROR NUMBER 120: Thank you.

15 (Whereupon, Juror Number 120 was taken out of the
16 courtroom)

17 THE COURT: Rebecca Hunter.

18 MR. ARIAIL: Your Honor, if you would note
19 question 26.

20 (Whereupon, Juror Number 211 was brought into the
21 courtroom)

22 REBECCA T. HUNTER, #211, having been first duly
23 sworn, testified as follows:

24 VOIR DIRE EXAMINATION BY THE COURT:

25 Q. Mrs. Hunter, did you consider the document in regard to

1 the three types of jurors?

2 A. I did.

3 Q. And under what category would you place yourself?

4 A. Because of my moral convictions, I would rather go with
5 two.

6 Q. Okay. That means that although the guilt of this
7 defendant -- he's been convicted of murder, and this is a
8 sentencing proceeding for the jury to determine how he's to
9 be sentenced. Under no circumstances could you ever give
10 the death penalty?

11 A. No.

12 Q. You would not?

13 A. I realize that being a citizen, you are supposed to go
14 by the laws, and the law does call for it, but if I had -- I
15 mean, if I had to, I would have to go by the law.

16 But given the choice of being on a jury that would do
17 that, I would rather not.

18 Q. Could you sign your name to a sentence of death for
19 someone?

20 A. No.

21 Q. Now, based on the law -- you indicated that you would
22 follow the law. And if I instructed you as to what the law
23 was, and the law provided for the death sentence or for life
24 imprisonment, the jury could decide. You would have to
25 fairly decide it, and as a jury, that is the law. The State

1 cannot seek the death penalty in every case, but they can in
2 some cases, if they can prove a statutory aggravating
3 circumstance. And then it becomes the duty of the jury to
4 determine what Mr. Owens is sentenced to. And we need a
5 jury that would fairly and impartially -- be fair and
6 impartial and be able to sentence a person to either one,
7 life or death. Are you telling me that you could only
8 sentence someone to life in prison?

9 A. I'm telling you that I would probably not be a good
10 witness, because I would be -- I mean juror, because I would
11 be looking for reasons not to put him to death. I would try
12 maybe misinterpret something and think, well -- it's just
13 hard for me.

14 If I were chosen and if it fell under the guidelines
15 and I see that in black and white, I would sign my name to
16 it. I would not want to, because I don't know how I would
17 sleep at night, but I would, if I had to.

18 Q. Well, now, I wouldn't tell you that you had to. I
19 would say that under the law, if you considered the
20 statutory aggravating and the statutory mitigating
21 circumstances and you felt those particular circumstances
22 warranted either a death sentence or a life sentence, that
23 you should fairly consider those, and based on the
24 circumstances impose a sentence of life or death, would you
25 follow those instructions?

1 A. Yes, sir.

2 Q. Now, it's very important that even though the guilt of
3 this defendant has been determined, that you not make up
4 your mind as to what the sentence should be until you have
5 heard all the facts and circumstances. Would you do that?

6 A. Yes, sir.

7 Q. All right. Would you listen and follow the law as I
8 charged it to you before you decided what the punishment
9 should be?

10 A. Definitely.

11 Q. And if I told you under the law that either you could
12 impose, under the law, either death or life, under our law,
13 would you, depending upon the particular facts, if the facts
14 warranted it, could you impose either a life sentence or a
15 death sentence?

16 A. Yes, sir.

17 Q. Okay. Now, let me ask you this. Have you heard
18 anything about this case? This was an incident that arose
19 on Laurens Road on November the 1st, 1997. In the early
20 hours of the morning Mrs. Irene Graves was killed and she
21 was an employee in a Speedway. Do you know anything about
22 this case?

23 A. I do not know anything about it.

24 Q. Have you heard anything about it?

25 A. I really have not.

1 Q. Okay. Now, the State would have to prove an
2 aggravating circumstance; that is, the State would have to
3 prove that robbery while armed with a deadly weapon was
4 committed during the commission of this crime, or that
5 larceny while armed with a deadly weapon was committed
6 during this murder. They would have to prove beyond a
7 reasonable doubt one of those -- at least one of those
8 aggravating circumstances, and the jury would have to
9 unanimously find that in this case. Do you understand that?

10 A. Yes, sir.

11 Q. There is no burden on the defendant to prove anything.
12 He doesn't even have to testify. None of that can be held
13 against him, because that's the law. Do you understand
14 that?

15 A. Yes, sir.

16 Q. All right. Now, if you determine there is an
17 aggravating -- a statutory aggravating circumstance, then
18 you would have to determine the sentence. Okay. And you
19 would seriously and meaningfully consider the aggravating
20 and mitigating circumstances?

21 Aggravating is something that makes the murder worse.
22 It increases the enormity of the crime, those circumstances,
23 in regard to the murder.

24 Mitigating means something that reduces the seriousness
25 of the offense. It reduces the degree of responsibility or

1 fault.

2 Could you carefully and meaningfully consider
3 aggravating and mitigating circumstances before you imposed
4 a sentence?

5 A. Yes, sir.

6 Q. Okay. If I told you the law was that any evidence of
7 prior crimes before this one, or bad acts, or anything that
8 this defendant did after this crime or after -- any bad acts
9 or crimes after this crime, you could not consider that as a
10 statutory aggravating circumstance or as it would bear on
11 that offense, could you accept that?

12 A. Yes, sir.

13 Q. You would only consider any evidence of that as to his
14 character. Do you understand that?

15 A. Yes, sir.

16 Q. Now, would race have any bearing on your sentence in
17 this case?

18 A. No, sir.

19 Q. Would religion, the fact that someone may be of the
20 Islamic or Muslim faith, have any bearing on that?

21 A. No, sir.

22 Q. I'm going to let you answer some of these lawyers
23 questions, okay?

24 VOIR DIRE EXAMINATION BY MR. ARIAIL:

25 Q. Ms. Hunter, my name is Bob Ariail and I'm the solicitor

1 for the Thirteenth Circuit of South Carolina. That's
2 Greenville and Pickens Counties, and solicitor is the name
3 that South Carolina has retained to designate its states
4 attorneys, state's prosecuting attorneys. So that's what my
5 role is. The same as if you are watching television, they
6 are called the district attorneys. That's what I would be.
7 And in this case I represent the State, along with my deputy
8 Ms. Strom seated here in the red coat, and Ms. Verdin, also
9 seated at counsel table.

10 The judge went over several aspects of this, but I want
11 to go back a couple of questions. In your questionnaire it
12 says "my brother Jimmy Finley is waiting trial for
13 kidnapping and strong armed robbery."

14 A. Uh-huh.

15 Q. Is that here?

16 A. Uh-huh.

17 Q. And that's being handled by my office?

18 A. I'm assuming.

19 Q. Okay. So somebody in my office would be prosecuting
20 your brother for the crime of kidnapping and strong armed
21 robbery?

22 A. I'm sure.

23 Q. Okay. Would that fact have an impact on your ability
24 if you were on a jury to fairly consider a request for
25 sentence that I, as the solicitor, may make to you as a

1 juror?

2 A. No, I don't think so. This is a -- that case with my
3 brother is a couple years old and I think it's even going to
4 be thrown out. I don't even -- you know, I thought not to
5 even put it on there. So, you know, I don't know.

6 Q. Well, I mean --

7 A. I don't think it would affect -- no, I would not be
8 thinking of that as I was trying to decide the decision on
9 this case.

10 Q. Okay. I mean -- well, what I'm getting at is, you
11 know, if -- I just want to make sure that when --

12 Well, let me go back a little further and see if we can
13 put in it context.

14 A. Okay.

15 Q. Normally when a defendant is convicted of a crime, he
16 is sentenced by a judge. The judge passes sentence. They
17 do it all day, every day. That's what they are trained in.
18 But when the State is allowed to seek the death penalty,
19 which only occurs in very few cases, but it does occur in
20 certain cases of murder that the legislature has said if you
21 have a murder and it's accompanied by certain other
22 circumstances, you can ask for the death penalty. All
23 right.

24 Well, this is one of those cases. So if you were
25 impaneled on this jury, you would then become a judge, just

1 like Judge Patterson. I mean, you would become the
2 sentencing person, the person who has got to be fair. He's
3 got to be free of any biases or prejudices and be able to
4 see the whole big scheme of things and what would be fair
5 and the best sentence to be imposed on this defendant. All
6 right?

7 A. I understand, and I don't think that would have any
8 influence on this case.

9 Q. Well, let me proceed with just a couple questions more.

10 A. Okay.

11 Q. The first thing that you said was that -- you told the
12 judge to start with that you didn't believe you could ever
13 impose the death penalty, is that correct?

14 A. That's what I said.

15 Q. Do you still believe that?

16 A. I still believe that. Morally I do not think it's
17 right, but it is our law.

18 Q. It's the law, but you personally sitting on that jury
19 as the judge don't believe that you personally could impose
20 the death penalty? That's what I think I heard you say to
21 start with.

22 A. That's basically what I said.

23 Q. And then the second thing that I heard or read was that
24 one of my assistants who is handling my case is prosecuting
25 your brother?

1 THE COURT: Mr. Ariail, she said that wouldn't
2 have any affect on it. I think we have gone far enough into
3 that. She says she thought it was going to be dismissed and
4 she wouldn't even consider it. Yeah, she's already said --
5 testified to that. I think that --

6 A. I really don't think that it would have any influence.

7 BY MR. ARIAIL:

8 Q. I'm going to take you -- but I want to go back to the
9 part where you said you still don't believe that you could
10 believe that you could impose the death penalty, and the
11 judge asked you a few questions about it.

12 My question is if the State is seeking the death
13 penalty and you are on the jury, can you honestly, fairly
14 consider that request?

15 A. I would have to, if I was told I had to be on that
16 jury.

17 If I had a choice of not being on that jury, I would
18 not want to be, but if I was put on that jury and the case
19 was presented and it was proven to be on the guidelines of
20 the death penalty, I would have to go with it.

21 Q. Okay. Well, let me get one more --

22 A. I would have to pray a lot in the meantime, but I would
23 do it.

24 Q. All right. But the judge -- there are going to be no
25 guidelines. It's going to be your individual decision. In

1 other words, it's not going to be a checklist that you go
2 down and check offer. It's going to be your personal view
3 of what the evidence shows and whether you believe it would
4 be the appropriate sentence. Not what he's going to tell
5 you. He's not going to tell you anything. So --

6 THE COURT: I'm going to tell her something.

7 BY MR. ARIAIL:

8 Q. Well, he's going to explain the law.

9 THE COURT: I'm going to explain the law.

10 BY MR. ARIAIL:

11 Q. But he's not going to tell you what your verdict should
12 be.

13 A. Well, he's going to tell me -- when they start, they
14 are going -- he's going to tell me the guidelines to go by,
15 am I right?

16 THE COURT: I'm going to instruct you on the law
17 and the law.

18 A. If it's done this way or that way, it falls under this
19 death penalty. If not, it doesn't.

20 THE COURT: You would be obligated to apply the
21 facts that you found to the law as I explained it to you.

22 A. That's --

23 THE COURT: You take an oath to do that.

24 A. That I could do. I did not -- I would pray that I
25 wouldn't have to do that.

1 BY MR. ARIAIL:

2 Q. Well, you also said that you would be looking for
3 reasons not to find for the death penalty?

4 A. I think I probably would.

5 Q. Okay. All right. Thank you.

6 A. Okay.

7 VOIR DIRE EXAMINATION BY MR. GIBSON:

8 Q. Good afternoon, Ms. Hunter.

9 A. Good morning -- afternoon.

10 Q. I am Ken Gibson. This is Bill Godfrey. He's my
11 co-counsel, and this is Freddie Owens, our client.

12 I just want to clarify a couple of things that I heard.

13 A. Okay.

14 Q. And what I heard was that you said that you would be
15 able to follow the law in this situation, is that correct?

16 A. Yes, sir.

17 Q. And if the law led you to believe that under the
18 circumstances that the death penalty needed to be imposed,
19 you would have no problem doing that?

20 A. Well, with a lot of prayer I would do what I was
21 supposed to do by law, yes.

22 Q. And so regardless of whatever your personal beliefs
23 were, you would follow the law as explained to you by Judge
24 Patterson, is that correct?

25 A. Yes, sir.

1 Q. Okay. Thank you, Mrs. Hunter.

2 THE COURT: Ms. Hunter, you could not talk to
3 anyone else on earth about this. Do you understand that?

4 JUROR NUMBER 211: Yes, sir.

5 THE COURT: And you will not between now and then?

6 JUROR NUMBER 211: No, sir.

7 THE COURT: I'm going to let you step right
8 outside and I'll call you back in.

9 JUROR NUMBER 211: Okay.

10 (Whereupon, Juror Number 211 was taken out of the
11 courtroom)

12 THE COURT: The testimony comes out a lot
13 different ways. I know --

14 Mr. Ariail, I'll hear from you.

15 MR. ARIAIL: Well, the woman is clearly not
16 qualified. She said enough that if you want to qualify her,
17 you can, but she can't fairly -- she couldn't possibly sit
18 in that jury box and fairly -- now, she got her backbone up
19 a little bit when I started talking about her brother.

20 THE COURT: I thought she might be favorable
21 towards you. She said that you were going to dismiss the
22 case.

23 MR. ARIAIL: She was being favorable because she
24 hopes it's going to get dismissed. She wants to tell me
25 that. She said that over two years. Maybe she has been

1 talking to her lawyer. But my point is that that's too much
2 to ask for her, particularly when she said she don't want to
3 be -- it's not a question about -- I think she will clearly
4 follow the law. She will follow your charge. The problem
5 is your charge, you aren't going to tell her enough what to
6 do.

7 THE COURT: I hope it will, but it won't.

8 MR. ARIAIL: Well, it won't, judge. I mean, you
9 know full well that you are not going to provide them A, B,
10 C, D, and E, and that's what she is looking for. She wants
11 somebody to tell her if I find A and B, I'll follow the law
12 and I'll impose it, and that's what she thinks is going to
13 happen, but she's not -- she can't do that, and she's --
14 she's looking for every reason she can find not to impose
15 the death penalty, she's obviously impaired, significantly
16 impaired, to the point that she really shouldn't be
17 qualified. But, again, that's why we have peremptory
18 challenges.

19 THE COURT: What gives you any indication that she
20 is impaired?

21 MR. ARIAIL: She said she couldn't consider the
22 death penalty, unless you made her.

23 THE COURT: Oh, I thought you meant physically or
24 something.

25 MR. ARIAIL: No, no, no. Her ability to be a fair

1 juror is significantly impaired. I mean, we can stand here
2 and qualify her and use a strike, but she's impaired.

3 MR. GIBSON: Your Honor, she is Wendy Eastland
4 reversed, the last juror we had up here. Her answers were
5 that she could follow the law. If the law led her to
6 believe the death penalty should be imposed it, she could
7 impose.

8 As Mr. Ariail said, that's why we have peremptory
9 challenges. As Mr. Ariail said with Ms. Eastland, thank God
10 we take these people at their word.

11 Now she gave -- she said answers which would make
12 her qualified. Based on that, Your Honor, she should be
13 qualified.

14 THE COURT: She indicated that, from all of her
15 testimony, as I understood it, that she didn't want to be on
16 the jury and have to make this decision. And maybe a lot of
17 people could honestly say that, they don't want to be picked
18 and put in that position, but when it boils down to it, she
19 said that she would follow the law that I gave her and write
20 a verdict in this case. And based on her answers, that
21 would qualify her under the law.

22 (Whereupon, Juror Number 211 was brought into the
23 courtroom)

24 THE COURT: Ms. Hunter, you are qualified as a
25 potential juror in this case. You would have to report back

1 maybe sometime tomorrow and bring with you enough to stay in
2 a motel about five days, to be safe. Okay?

3 JUROR NUMBER 211: Okay.

4 THE COURT: If you are chosen, you would do that.
5 You have to follow the law as I tell it to you. I'm going
6 to give you this order and ask you to call back in after
7 six. That's not very long, but anytime after six. We will
8 leave a message for you as to what you should do next or
9 when you should come back.

10 JUROR NUMBER 211: Okay.

11 THE COURT: Thank you so much.

12 JUROR NUMBER 211: Thank you.

13 THE COURT: Do not discuss the case or watch it on
14 television or anything of that nature, okay?

15 JUROR NUMBER 211: All right.

16 (Whereupon, Juror Number 211 was taken out of the
17 courtroom)

18 THE COURT: Let's take a recess.

19 (Whereupon, proceedings were recessed)

20 (Whereupon, proceedings were reconvened)

21 THE COURT: We are going to bring all twelve in,
22 please.

23 (Whereupon, Jury Panel Number 8 and Jury Panel
24 Number 9 were as brought into the courtroom)

25 THE COURT: We have twelve jurors and these are

1 all that we will did deal with for the rest of the evening
2 and ask questions about in regard to this very, very
3 important matter.

4 We should have Mr. Keith Faust.

5 Debra Jones Tucker.

6 Richard Grube.

7 Scott Jeffrey Merriam.

8 Geraldine D. Blandin.

9 Randy R. Mathena.

10 Then we have Brandy Howle.

11 Lisa Gibson.

12 Carolyn R. Fowler.

13 Walter Booker.

14 Robert Noble.

15 Chadwik Carter.

16 Ladies and gentlemen, the attorneys involved in
17 this case would be Mr. Bob Ariail, the circuit solicitor for
18 Greenville and Pickens County; Ms. Betty Strom, the deputy
19 solicitor for this circuit; and Leticia Verdin, an associate
20 in that office.

21 Representing the defendant would be Mr. Bill
22 Godfrey and Mr. Ken Gibson.

23 Do any of you ladies and gentlemen know the
24 attorneys who will be participating in this case?

25 Okay, I'll start with you, ma'am.

1 JUROR NUMBER 415: 415.

2 THE COURT: You are Mrs. Tucker?

3 JUROR NUMBER 415: Tucker.

4 THE COURT: Tucker. 415.

5 Who do you know, Mrs. Tucker.

6 JUROR NUMBER 415: I know Mr. Ariail.

7 THE COURT: How do you know Mr. Ariail?

8 JUROR NUMBER 415: I have worked with him at the
9 solicitor's office years ago.

10 THE COURT: How long ago?

11 JUROR NUMBER 415: 20 years ago?

12 THE COURT: 20 years ago.

13 JUROR NUMBER 415: Uh-huh.

14 THE COURT: It's only like yesterday?

15 JUROR NUMBER 415: It was.

16 THE COURT: Would the fact -- have you had any
17 business or work relationship with him since then?

18 JUROR NUMBER 415: No, sir.

19 THE COURT: Okay. We will take that up when we
20 ask you questions. Thank you.

21 Mr. Merriam, 290.

22 JUROR NUMBER 290: Yes, probably my father has
23 known him. Not real directly, but the relationship. Know
24 who he is and he's a friend of my father.

25 THE COURT: Okay. And your father is the

1 attorney?

2 JUROR NUMBER 290: No.

3 THE COURT: He's not?

4 JUROR NUMBER 290: He is an attorney, yes.

5 THE COURT: Okay. All right. And someone else
6 raised their hand? Okay.

7 Ladies and gentlemen, you have had an opportunity
8 to --

9 This gentleman over here is Mr. Freddie Eugene
10 Owens. Of course, this is a very, very important case for
11 Mr. Owens. It's a very, very important case to the State.

12 Now, do any of you know Mr. Owens or any of his
13 relatives or anyone?

14 (No response)

15 THE COURT: Okay. You have had an opportunity to
16 look over a very lengthy list of possible witnesses? Do any
17 of you know anyone on this list of witnesses?

18 JUROR NUMBER 415: (Raised hand)

19 THE COURT: Okay, Ms. Tucker. Yes, ma'am.

20 JUROR NUMBER 415: I have a cousin who's a SLED
21 agent and he's on the list.

22 THE COURT: Okay. Which number?

23 JUROR NUMBER 415: His name is Dean Brown, number
24 29.

25 THE COURT: Dean Brown with SLED?

1 JUROR NUMBER 415: Yes.

2 THE COURT: We will go into that with you when we
3 ask you those questions.

4 Anyone else?

5 JUROR NUMBER 452: (Raised hand)

6 THE COURT: Yes, ma'am.

7 JUROR NUMBER 452: I have a son-in-law that's a
8 lieutenant.

9 THE COURT: You do?

10 JUROR NUMBER 452: Yes.

11 THE COURT: Okay. And you are Mrs. Blandin?

12 JUROR NUMBER 452: Yes.

13 THE COURT: And who is your son-in-law?

14 JUROR NUMBER 452: Curtis Early.

15 THE COURT: Curtis Early.

16 Do you remember what juror he was -- I mean what
17 number he was on the witness list?

18 JUROR NUMBER 452: But he's at Perry Correctional
19 Center.

20 THE COURT: He's at Perry.

21 We will ask you about that.

22 Okay. What we will do, I want all of you to
23 carefully reviewed this sentencing sheet -- I mean this
24 sheet, Exhibit No. 1, about what type jurors normally appear
25 for a case such as this, and be prepared to come in and tell

1 us maybe in some detail about -- we will ask you about why
2 you might be one of these type jurors, okay.

3 We will start with the individual questioning now
4 with the first person on the list, Mr. Faust, and I'll let
5 everyone else step back over to the other courtroom. When
6 we finish with you, you can leave for the evening, okay?
7 Y'all would just step back over there, please.

8 (Whereupon, Jury Panel Number 8 and Jury Panel
9 Number 9 were taken out of the courtroom)

10 KEITH G. FAUST, #133, having been first duly
11 sworn, testified as follows:

12 VOIR DIRE EXAMINATION BY THE COURT:

13 Q. Mr. Faust, have you had an opportunity to review the
14 types of jurors that I discussed?

15 A. Yes, sir.

16 Q. And what type juror do you believe that you would be?

17 A. I think A.

18 Q. A?

19 A. A.

20 Q. Does that mean number one?

21 A. Yes, sir.

22 Q. Okay. That means that as a juror in this case, the
23 crime of murder having been decided by another jury, that
24 you would not consider any other punishment other than the
25 death penalty?

1 A. Yes, sir.

2 Q. Do you believe that the death penalty is an appropriate
3 punishment, no matter what the circumstances are?

4 A. If evidence was found where he was guilty, yes, sir.

5 Q. The evidence has been found and he's been found guilty
6 of murder, but the purpose of this proceeding is to
7 determine whether his sentence would be life in prison
8 without the possibility of parole until he died, or death.
9 Those would be the two choices.

10 Do you feel that under no circumstances could you find
11 a life sentence for murder?

12 A. No, sir.

13 Q. You could not?

14 A. No, sir.

15 Q. All right. Let me let you step outside, please.

16 (Whereupon, Juror Number 133 was taken out of the
17 courtroom)

18 THE COURT: What do you want to ask him?

19 MR. ARIAIL: I would like to ask him some
20 questions.

21 THE COURT: Okay.

22 (Whereupon, Juror Number 133 was brought into the
23 courtroom)

24 THE COURT: I'm going to let the prosecutor ask
25 you a few questions.

1 VOIR DIRE EXAMINATION BY MR. ARIAIL:

2 Q. Mr. Faust, my name is Bob Ariail. I'm the solicitor
3 for the Thirteen Circuit of South Carolina. That's
4 Greenville and Pickens Counties. And the solicitor is
5 what -- if you watch TV, that's the district attorney.
6 South Carolina retains the name solicitor to designate its
7 state prosecuting attorneys, and so you understand what my
8 role would be?

9 A. Yes.

10 Q. And in this case I would be assisted by my deputy, Ms.
11 Strom, and also seated at counsel table with Ms. Verdin, one
12 of my assistants.

13 What we are looking for in this case is, as the judge
14 explained to you, a sentencing procedure. The defendant has
15 been found guilty of murder. Murder is defined as the
16 intentional killing of another human being with malice
17 aforethought.

18 The law of South Carolina says that the death penalty
19 is only available for murder in certain circumstances. It's
20 not available for every case. So when the State seeks the
21 death penalty, the jury is impaneled to be the sentencing
22 body. The judge no longer sentences. He normally sentences
23 in every criminal case, but the death penalty sought, the
24 jury is impaneled. So the jury has to be people who are
25 fair-minded and can consider both possible verdicts or both

1 possible sentences, life in prison without parole and the
2 death penalty. So that's the type of person we are looking
3 to find.

4 You are saying that you are a juror number one. I want
5 to ask you if -- now understanding how the process works and
6 what the law is, if the judge were to instruct you that if
7 you were on the jury, you would have to consider fairly both
8 life imprisonment without parole and the death sentence as
9 possible verdicts. Do you believe that you could follow his
10 instructions and proceed accordingly to listen to the
11 evidence and vote for a life sentence, if the evidence was
12 appropriate for that sentence, and vote for the -- or vote
13 for the death sentence, if that evidence was appropriate?

14 A. Yes.

15 Q. Do you believe that you could consider a life sentence?

16 A. Yes.

17 Q. Okay. And so when you told him that that was your
18 understanding or best qualified you or best described you,
19 that was in a vacuum when you came in. Understanding the
20 process, do you think that you could be fair under both
21 circumstances?

22 A. Yes, sir, if everything, you know, was explained to me
23 and I saw evidence and everything, yes, I would be open
24 mindedly about both penalties.

25 Q. Okay.

1 MR. ARIAIL: Do you want me to proceed?

2 THE COURT: Let me ask Mr. Faust a few questions.

3 CONT'D VOIR DIRE EXAMINATION BY THE COURT:

4 Q. Mr. Faust, this case arises out of an incident which
5 occurred in Greenville County on November the 1st of 1997.
6 And on that date and time Ms. Irene Graves was killed in a
7 Speedway on Laurens Road early in the morning hours. Mr.
8 Owens has been convicted of that murder. The issue in that
9 case has already been decided by another jury, which is the
10 way the procedure works in South Carolina.

11 After a jury finds a person guilty of murder, then a
12 jury determines the punishment for that crime. And during
13 that proceeding -- for every murder you indicated initially
14 that you thought the death penalty may be the right thing
15 for any murder. Well, that is not the law in South
16 Carolina. The prosecution cannot seek the death penalty for
17 every murder, only a murder accompanied by circumstances of
18 aggravation.

19 They would have to prove to the jury circumstances of
20 aggravation, statutory circumstances of aggravation. In
21 this case they would have to prove robbery in the commission
22 of this murder accompanied with the defendant having
23 possession of a deadly weapon. They would have to prove
24 larceny during the commission of this murder with the
25 defendant having possession of a deadly weapon. All of

1 those things would have to be proven beyond a reasonable
2 doubt. The jury would hear that and they would have to
3 unanimously find a statutory aggravated circumstance, in
4 addition to the murder. Only then would you seek -- would
5 the jury be able to determine whether Mr. Owens should be
6 sentenced to life in prison or death. Do you understand
7 that?

8 A. Yes, sir.

9 Q. After murder had been found, after a statutory
10 aggravating circumstance had been found, either robbery or
11 larceny while in the commission of that murder, could you
12 hear the rest of the case, mitigating circumstances and
13 aggravating circumstances, and impose a sentence of either
14 life in prison or death?

15 A. Yes, sir.

16 Q. You would not feel like you would have to impose the
17 death penalty?

18 A. No, sir, I wouldn't go in close-minded like that. I
19 would hear everything.

20 Q. Okay. And there is no burden on the defendant to prove
21 anything. The burden of proof is on the State to prove a
22 statutory aggravating circumstance, either the robbery I
23 went over or the larceny, beyond a reasonable doubt. Do you
24 understand that?

25 A. Yes, sir.

1 Q. The defendant doesn't have to prove anything. He does
2 not have to testify. You could not hold that against him in
3 any way. Do you understand that?

4 A. Yes, sir.

5 Q. Would you follow that instruction?

6 A. Yes, I would.

7 Q. And the law?

8 A. Yes, I would.

9 Q. Okay. Now, do you understand that a life sentence in
10 this case would be life until the death of the defendant
11 with no possibility of parole?

12 A. Yes, sir.

13 Q. And death would be by lethal injection or by
14 electrocution. Do you understand that?

15 A. Yes, sir.

16 Q. An aggravating circumstance is one that aggravates or
17 makes the crime or murder worse. It increases the injury or
18 the enormity of the offense.

19 A mitigating circumstance is one that reduces the
20 severity of the offense and reduces the degree of fault. Do
21 you understand that?

22 A. Yes, sir.

23 Q. Now, it's very important. You will take an oath to be
24 fair and impartial. You have to be fair to the State and
25 you have to be fair to Mr. Owens over here, do you

1 understand that?

2 A. Yes, sir.

3 Q. And under that oath you would be required to give
4 serious and meaningful consideration to all the issues of
5 aggravation and any evidence of mitigation. Do you
6 understand that?

7 A. Yes, sir.

8 Q. And you would have to consider the particular facts and
9 circumstances in evidence, and if those facts and
10 circumstances, even though it was murder and even though
11 they proved the statutory aggravating circumstance of
12 robbery and larceny, could you consider the facts and
13 circumstances of this particular case, and upon instructions
14 from this court, bring back a life sentence for Mr. Owens?

15 A. Yes, sir.

16 Q. Could you consider the facts and circumstances
17 surrounding this case and bring back a death sentence?

18 A. Yes, sir.

19 Q. You would have to sign your name personally if you did
20 that. Could you do that?

21 A. Yes, sir.

22 Q. All right. If there was evidence of any prior crimes
23 before this murder or after this murder, or bad acts before
24 or after, that that came in evidence, you couldn't consider
25 that as a statutory aggravating circumstance. Do you

1 understand that?

2 A. Yes.

3 Q. You would have to consider that only as to the
4 character of this defendant. Do you understand that?

5 A. Yes.

6 Q. Now, if -- the race of any victim or defendant or
7 anything, would that affect your ability to decide this
8 case?

9 A. No, sir.

10 Q. How about religion? If anyone was of the Muslim or
11 Islamic faith, would that affect your decision?

12 A. No, sir.

13 THE COURT: Mr. Godfrey?

14 CONT'D VOIR DIRE EXAMINATION BY MR. ARIAIL:

15 Q. Mr. Faust, I already asked you a few questions. We are
16 into -- let's jump forward to where the jury has concluded
17 that there is an aggravating circumstance; in other words,
18 the State has presented its case, the defendant has been
19 found guilty, and the first issue is whether or not this
20 aggravating circumstance exists, because as I explained to
21 you, you have to have a murder and then you have to have an
22 aggravating circumstance.

23 Let me go back and explain what those are. The
24 legislature has defined 19 different aggravating
25 circumstances in our law when the State can seek the death

1 penalty. To give you an example. It's murder -- say murder
2 of a police officer during the line of duty. That's an
3 aggravating circumstance. Murder of a child under the age
4 of 11. That's an aggravating circumstance. Murder of more
5 than one person. That's an aggravating circumstance. When
6 you have those type things, then you can seek the death
7 penalty and the jury can impose the death penalty.

8 First, the State has got to prove the existence of an
9 aggravating circumstance. Otherwise, the jury sends the
10 case back and the judge sentences. Okay.

11 But if you find that aggravating circumstance, then you
12 become the judge, the twelve of y'all become collectively a
13 judge.

14 So you understand why we are talking about can you be
15 fair, can you consider, can you see the whole picture, can
16 you consider everything before you reach a verdict?

17 A. Yes.

18 Q. All right. So we go through the aggravating
19 circumstance, and then the next part of the case would be
20 presentation of evidence that would bear on the defendant's
21 character, or characteristics, or things that the judge
22 would explain would be evidence in aggravation or evidence
23 to make the crime appear to justify the death penalty.

24 Then you might hear from the defense, although they
25 don't have to present anything, but you might hear evidence

1 from the defense that would be evidence of mitigation, tend
2 to make the crime less bad or less -- not as bad as it first
3 appears.

4 And then after hearing all of that, you would retire to
5 the jury room to discuss all that evidence amongst the
6 twelve of you to determine based on all the evidence -
7 nature of the crime, the aggravating circumstance,
8 extenuating, mitigating, aggravating evidence - what the
9 appropriate verdict would be. And that's the part of the
10 case where you have to be fair to both sides. You have to
11 be able to meaningfully consider imposing either a life
12 imprisonment sentence or a death sentence. Do you
13 understand that?

14 A. Yes, sir.

15 Q. Do you believe that you can do that?

16 A. Yes, sir.

17 Q. Give meaningful consideration. It's not -- you just
18 can't tell the judge and tell us, you know, oh, yeah, I
19 could consider life imprisonment, but not really do it. You
20 have got to be able to do it. And if I can't, we don't want
21 to put you in that situation.

22 A. I understand that.

23 Q. Can you do that?

24 A. Yes, I could.

25 Q. And the judge said -- at the end he told you about

1 having to sign, because if the twelve of you jurors
2 determine the death sentence is the appropriate sentence,
3 then you are going to have to sign your name on a piece of
4 paper, along with the other eleven. That's going to come
5 back to the judge. He's going to send it to the Department
6 of Corrections, and they are going to use that paper to
7 carry out the execution. Would the fact that you had to
8 sign that paper, if that was your verdict, would that --
9 would you be able to do that?

10 A. Yes.

11 Q. It wouldn't intimidate you or cause you to -- cause you
12 problems that you wouldn't be able to sign?

13 A. No.

14 Q. I believe the judge may have asked, but I'll ask you
15 again. You have not heard anything about this case or
16 talked to anybody or --

17 A. No, sir.

18 Q. -- recall anything about it. Nobody talked to you
19 about it?

20 A. No, sir.

21 Q. Okay. That's all I have, Mr. Faust. Thank you.

22 VOIR DIRE EXAMINATION BY MR. GODFREY:

23 Q. Good afternoon, Mr. Faust. My name is Bill Godfrey.
24 This is my co-counsel Ken Gibson, and this is Freddie Owens.
25 I just have a few questions for you.

1 When you first came into the courtroom and you were
2 asked which one of the jury people you were - one, two or
3 three - you indicated that you would be number one, that you
4 were in favor of the death penalty for all murders. Is that
5 your personal belief?

6 A. I might have been a little confused on that. What I
7 was meaning is that if evidence was there, where there was
8 like either death penalty or life imprisonment, I would be
9 open minded about that.

10 Q. Okay. Well, then you didn't understand the question
11 that Judge Patterson asked you about whether you were a jury
12 person one, two, or three?

13 A. I must have got confused on that, sir.

14 Q. Did you review that paper outside of the courtroom
15 before you came in here?

16 A. Yes, I did.

17 Q. And do you recall what number two was?

18 A. Not word for word.

19 Q. Do you remember anything about number two?

20 A. No.

21 Q. Okay. So it's -- you are now saying that it's not your
22 personal belief -- I'm not talking about the law right now.

23 Your personal belief. Your personal belief is what exactly?

24 A. I believe in fair justice.

25 Q. What does that mean in relation to murder?

1 A. I'm not exactly sure of your question.

2 Q. If someone is convicted of murder, what is your
3 personal belief that the sentence should be?

4 A. They should have a fair trial.

5 Q. But once they are convicted, what is your personal
6 belief that the sentence should be?

7 A. It depends upon what the nature was, the evidence,
8 everything.

9 Q. Well, in this case you say that you can follow the law?

10 A. Yes, sir.

11 Q. Okay. And you will follow the law that the judge has
12 given to you, or the judge will give to you?

13 A. Right.

14 Q. Now, the judge here tonight, and also Solicitor Ariail,
15 have talked to you about the fact that Freddie Owens has
16 already been found guilty of murder. Do you have any
17 predisposition about what his sentence should be?

18 A. No, sir.

19 Q. Do you now understand that an aggravating factor must
20 be found beyond a reasonable doubt before you, if you were
21 chosen as a jury person, could act as a judge in this case
22 to determine whether he received life or death. Do you
23 understand that?

24 A. Yes, sir.

25 Q. Do the fact that the jury could find an aggravating

1 factor beyond a reasonable doubt, would that be enough in
2 your mind to go ahead and go forward with the death penalty?

3 A. If all the evidence was high aggravated nature, yes, I
4 could.

5 Q. Okay. So what you are telling me is that if there is
6 an aggravating factor that is found beyond a reasonable
7 doubt, your mind is not made up at that point in time as to
8 what the sentence should be?

9 A. Yes.

10 Q. You are telling me that you will be listening to the
11 evidence presented by the State in aggravation, and you are
12 also going to listen to the evidence presented by the
13 defense in mitigation?

14 A. Absolutely.

15 Q. And then when all of the evidence is in, then what will
16 you do?

17 A. I will give my, you know, whatever I'll give -- if
18 guilty or not guilty.

19 Q. Well, you know, at this stage you understand the
20 conviction of guilt has already been occurred?

21 A. Right.

22 Q. After the evidence that I'm talking about, what you are
23 doing is determining what the sentence should be.

24 A. Yes, sir.

25 Q. So once all of the evidence is in, what will you do

1 regarding the sentence?

2 A. It would be either the death penalty or life
3 imprisonment.

4 Q. So are you telling me that you would weigh the evidence
5 in your mind --

6 A. Yes.

7 Q. -- to determine what the sentence should be?

8 A. Yes, sir.

9 Q. And you would be collaborating with your other jury
10 people --

11 A. Yes, sir.

12 Q. -- about what the sentence should be?

13 A. Yes, sir.

14 Q. And you could make your own individual decision about
15 what the sentence should be?

16 A. Yes, sir.

17 Q. Based upon your experiences in life, perhaps the
18 morality structure that you live by, the religious values
19 that you have, political values that you have, if the
20 evidence, total evidence, ones it was fairly weighed and
21 considered by you, if it led you to believe that Mr. Owens
22 should receive a life sentence, would there be any
23 hesitation on your part to give him a life sentence?

24 A. No, sir.

25 Q. By the same token, if there -- same question. If the

1 evidence showed the opposite, that he should receive the
2 death penalty, would there be any hesitance on your part to
3 do that?

4 A. No, sir.

5 Q. So you are telling me that as a juror, and if you were
6 chosen as a juror in this case, when you come in, you are
7 sworn to -- you will take an oath to be fair and impartial
8 on the case or in the case.

9 A. Yes, sir.

10 Q. Do you believe that you can do that?

11 A. Yes, sir.

12 Q. Is there any question in your mind about that?

13 A. No, sir.

14 Q. Do you have any biases or prejudices -- of course, we
15 all have biases and prejudices, but do you have any biases
16 or prejudices that would impact your ability to consider the
17 facts in this case?

18 A. No, sir.

19 Q. And you are sure about that?

20 A. Yes, sir.

21 Q. And you would be open and honest in your consideration
22 of all of the evidence?

23 A. Yes, sir.

24 MR. GODFREY: Nothing further.

25 THE COURT: If you would step out for just a

1 minute and I'll bring you back in. Okay.

2 (Whereupon, Juror Number 133 was taken out of the
3 courtroom)

4 THE COURT: Mr. Godfrey?

5 MR. GODFREY: He's qualified.

6 MR. ARIAIL: Qualified.

7 THE COURT: Okay.

8 (Whereupon, Juror Number 133 was brought into the
9 courtroom)

10 THE COURT: Mr. Faust, you are qualified to be a
11 potential juror in this case.

12 Now, you will need to report back -- you need to
13 call back. I think we set the time after twelve o'clock
14 tomorrow, this number on this order, and we will leave a
15 message for you as to when you should report back for the
16 selection of this jury.

17 You cannot discuss this case with anyone. Don't
18 let anybody talk to you about it, and do not watch any of
19 the news or anything about this case or expose yourself to
20 any news media, okay?

21 JUROR NUMBER 133: Okay.

22 THE COURT: Call back in after twelve tomorrow.

23 JUROR NUMBER 133: Okay, sir.

24 THE COURT: On that number, sir.

25 JUROR NUMBER 133: All right, sir.

1 (Whereupon, Juror Number 133 was taken out of the
2 courtroom)

3 MR. GIBSON: Before we bring the next juror in,
4 can we address a real quick matter?

5 THE COURT: Yeah.

6 MR. GIBSON: I know Mr. Ariail is not doing this
7 intentionally, but on the couple of -- probably on three
8 occasions in explaining what the aggravating factors are,
9 he's mentioning one of the aggravating factors under the
10 statute is death of more than one person. Given that we are
11 going to have that kind of evidence in here, I'm concerned,
12 that despite your cautionary question to the jurors, that
13 they may be confused later on to think that that may be an
14 aggravating factor that they may need to consider.

15 With that said, while certainly I don't want to
16 shut Mr. Ariail down as far as his discussion of some of the
17 subject aggravating factors, I would request that he refrain
18 from using that particular aggravating factor in his
19 description.

20 MR. ARIAIL: My lawyer interpreting what he is
21 saying. And I normally could agree with him, but I
22 believe -- I believe we should have never gone down the path
23 of specific instructions as to individual aggravating
24 circumstances. I think that -- we discussed that earlier.
25 We started to bring to the court's attention --

1 THE COURT: We are going down to the aggravating
2 circumstances that you have alleged. I'm not sure --

3 MR. ARIAIL: I'm --

4 THE COURT: I'm not sure we can go into any of the
5 aggravating circumstances.

6 MR. ARIAIL: I'm not sure that we have even done
7 that, because the law says you can't be specific to the
8 jury. You have got to talk in terms of hypotheticals. In
9 other words, I'm supposed to give them -- not hypotheticals,
10 but a hypothetical case. I'm not -- we are not supposed to
11 be talking about Mr. Owens case, really. We are supposed to
12 be talking about the jury in a hypothetical and we are
13 supposed to keep them in a hypothetical.

14 THE COURT: I'm not sure we are supposed to be
15 using hypotheticals, as I looked at the law.

16 MR. ARIAIL: No, no, I'm not talking about
17 hypothetical questions. I'm saying that the law does not
18 allow us to ask case specific questions. In other words, I
19 can't ask would you consider -- normally would you consider
20 an aggravating factor of being an armed robbery, would you
21 find that meaningful. That is objectionable in every case
22 that I have ever done before and that's why I asked -- I
23 stay away from those. The only thing I'm talking about is
24 giving them examples of the type of things that aggravating
25 circumstance would be. So I'm not -- I hope my question is

1 clear to them.

2 You are making it clear that two -- that we have
3 alleged are those two. I'm just saying this is the type of
4 thing that -- so that I'm not talking about. If he wants me
5 to talk about them specifically, I will, but I have
6 intentionally stayed away from that, because I think I'm
7 supposed to stay away from asking a juror would you find
8 this to be an aggravating circumstance, or talking about it
9 in specific case connotation. I don't think that I can say,
10 you know, Mr. Owens is guilty now, I want to talk to you
11 about so and so after Mr. Owens is -- aggravating
12 circumstance of Mr. Owens case. I have always read the law
13 that I was prohibited from doing that, and that's why I do
14 it that way, but if I have to change, I'll be glad to
15 change.

16 THE COURT: I'm going to have to have my law clerk
17 interpret how you respond to what his request was.

18 MR. ARIAIL: Well, okay. Do you want to talk?

19 THE COURT: You tell him.

20 MR. ARIAIL: Huh?

21 THE COURT: I want you to tell him. I mean, are
22 you going to do it or not?

23 MR. ARIAIL: No, I'm not going to do it. No
24 change.

25 THE COURT: I'm going to order you to change.

1 MR. ARIAIL: Then if you order me to change --

2 THE COURT: I'm going to say that aggravating
3 circumstances for this record. The example of killing a
4 police officer, there are different serious aggravating
5 circumstances.

6 MR. ARIAIL: Right.

7 THE COURT: And explaining to the jury that you
8 can seek the death penalty for those may be confusing. And
9 I'm directing you not to refer to any other aggravating
10 circumstances. This is my ruling, Mr. Ariail.

11 MR. ARIAIL: If he --

12 THE COURT: Mr. Ariail, the ruling is y'all are
13 going to say in opening statements aggravating circumstances
14 and you put them on notice of armed robbery -- I mean of
15 robbery. It's phrased differently. It's almost the same
16 thing as armed robbery, or larceny. You know, in a person's
17 mind larceny in the commission of a murder may be a lot
18 different than a double murder, or child murders, or things
19 of that nature. I don't think we ought to confuse these
20 jurors with about what the aggravating circumstances equate
21 to.

22 The only thing I'm going to permit is questions
23 about the aggravating circumstances in this case, period,
24 and that's the end of it.

25 Five minute recess.

1 MR. ARIAIL: If you direct me to do it, I'll do.

2 THE COURT: I'm directing you to do it.

3 MR. ARIAIL: That's fine. That's all you got to
4 do. It's his motion and I'm not objecting.

5 THE COURT: You did object, a lengthy objection,
6 and I asked you about that. That's my ruling.

7 (Whereupon, proceedings were recessed)

8 (Whereupon, proceedings were reconvened)

9 THE COURT: The objection was sustained. The only
10 evidence in this case that will come in as to any
11 aggravating circumstances in this trial. There will be
12 absolutely no evidence of any other aggravating
13 circumstances to this jury or anyone else. Any of the other
14 aggravating circumstances cannot come into evidence, cannot
15 be relevant. They are not connected with the circumstances
16 of this crime.

17 The only two aggravating circumstances connected
18 with this crime are robbery and larceny while armed with a
19 deadly weapon. The jury is going to hear that. They are
20 going to hear it a lot more than once, and they will hear it
21 from the attorneys. They will never hear any evidence of
22 any other aggravating circumstances.

23 The nature of a criminal proceeding is to focus on
24 the circumstances of this crime. The weight to be given to
25 different aggravating circumstances would carry different

1 amounts of weight. They could issue the death penalty only
2 aggravating circumstances.

3 Aggravating circumstances in this case would come
4 in have to be proven beyond a reasonable doubt.

5 They would also be aggravating circumstances
6 surrounding the crime and could be considered in sentencing
7 too.

8 The purpose of this voir dire is not to confuse
9 the jury and bring in matters way outside the rules of
10 evidence.

11 Armed robbery and larceny, as we found, some of
12 these jurors may have been -- or their family members may
13 have been the victims of a robbery of that nature. So those
14 questions have been appropriate. And that's my ruling for
15 the rest of this proceeding and throughout the trial.
16 Nothing can come before that jury that's not going to be
17 properly introduced into evidence.

18 The only two aggravating circumstances in this
19 case beyond a reasonable doubt is robbery and larceny, and
20 that's it. And that's the reason for my ruling. I sustain
21 the objection.

22 We are going to take one more juror, and I'm going
23 to let everybody else go vote who has not voted, if they can
24 get there. I think it's that important. I don't know
25 whether it's that important or not, but I think it is my

1 duty, my civic duty, to let everybody vote who wants to
2 vote.

3 MR. ARIAIL: There is a record turnout.

4 THE COURT: There is?

5 MR. ARIAIL: There is a record turnout all over
6 the state.

7 THE COURT: Debra Tucker.

8 (Whereupon, Juror Number 415 was brought into the
9 courtroom)

10 DEBRA JONES TUCKER, having been first duly sworn,
11 testified as follows:

12 VOIR DIRE EXAMINATION BY THE COURT:

13 Q. All right. The first question would probably be about
14 you working for Mr. Ariail, about if you are going to be
15 biased or prejudiced in any way in this case.

16 Could you be fair and impartial to Mr. Ariail; or the
17 fact that you worked with him, would that cause you to be
18 biased or prejudiced in any way against him?

19 A. Not against him, no, sir.

20 Q. For him?

21 A. Yes, sir.

22 Q. You would be in his favor?

23 A. Yes, sir.

24 Q. And you would -- you could not give Mr. Owens a fair
25 trial?

1 A. No, sir.

2 Q. Okay. All right. I'm sorry that you had to stay. I'm
3 going to let you go. Thank you so much.

4 A. That's all right.

5 (Whereupon, Juror Number 415 was taken out of the
6 courtroom)

7 THE COURT: We will be in recess until nine
8 o'clock in the morning.

9 (Whereupon, proceedings were adjourned to November
10 8, 2006)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 FREDDIE EUGENE OWENS,) 1998-GS-23-5220
7 Defendant.) NOVEMBER 8, 2006
8) Greenville, South Carolina

9 (VOLUME III)

10
11 B E F O R E:

12 THE HONORABLE LARRY R. PATTERSON, JUDGE. ; and a jury.

13
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1 (PROCEEDINGS, November 8, 2006)

2 THE COURT: All right, folks. We have a Dr.
3 Nickles on our panel and he was supposed to be up this
4 morning. Yesterday he rearranged his patients. He had to
5 do it today. And the clerk is really struggling and she
6 called me at home last night about this. And Dr. Nickles --
7 I don't see any reason why we can't go ahead and take him
8 this morning. And if he's qualified, just plug him in at
9 the place he would normally appear. Now, ordinarily we
10 wouldn't do that. I don't think it would prejudice anybody
11 in any way.

12 THE CLERK: He's 55.

13 THE COURT: He's 55, so what we would do is after
14 we talk to Chadwik Carter, number 54, if we didn't have
15 enough jurors, we could just plug Dr. Nickles in.

16 Does either side have any objection?

17 MR. ARIAIL: None.

18 MR. GODFREY: None, Your Honor.

19 THE COURT: Okay. Bring Dr. Nickles in.

20 (Whereupon, Juror Number 466 was brought into the
21 courtroom)

22 DANIEL A. NICKLES, #466, having been first duly
23 sworn, testified as follows:

24 VOIR DIRE EXAMINATION BY THE COURT:

25 Q. Dr. Nickles, you are number 55 on the list. We are

1 taking you out of order, hopefully. The clerk called me
2 last night and we just have been working.

3 A. I understand. I do appreciate that.

4 Q. And so we are going to do that, but let me go over a
5 couple of things with you.

6 The attorneys in this case are Mr. Bob Ariail, the
7 circuit solicitor, and Betty Strom sitting with him, and
8 maybe Leticia Verdin. Another young lady that works for Mr.
9 Ariail may come in. Do you know any of the solicitors?

10 A. No, sir.

11 Q. Okay. The defense lawyers are Mr. Bill Godfrey here
12 and Mr. Ken Gibson. This is Mr. Freddie Owens sitting here,
13 Freddie Eugene Owens. And do you know any of them?

14 A. No, sir, I do not.

15 Q. Now, Dr. Nickles, would you look at the three types of
16 jurors normally in a case? You may not have had a chance to
17 look at it.

18 A. I have.

19 Q. You have?

20 A. Yes.

21 Q. Could you classify yourself as one of those jurors?

22 A. I feel that number three would best describe me.

23 Q. Okay. Very good.

24 Now, we had a witness list. I don't know if you had a
25 chance to look it over.

1 A. Yes, sir, I have looked at it also.

2 Q. You have looked at that?

3 A. Yes, sir.

4 Q. Do you recognize anyone or know anyone on that
5 potential witness list?

6 A. To the best of my knowledge, I do not know anyone on
7 that list.

8 Q. Okay. Very good.

9 And Dr. Nickles, you understand that this is the case
10 where the State seeks the death penalty?

11 A. Yes, sir.

12 Q. The State cannot seek the death penalty for every
13 murder in this case under our law, okay?

14 A. Yes.

15 Q. Now, this case arises out of an incident which happened
16 on November the 1st of 1997, on Laurens Road, where Ms.
17 Irene Graves was killed in the early morning hours. Mr.
18 Owens has been convicted of that murder.

19 Now, this was publicized on TV, the radio and in the
20 newspapers. Have you read anything, seen anything or heard
21 anything about this case?

22 A. No, sir.

23 Q. So you don't know anything about Mr. Owens' case?

24 A. No, sir. I don't watch a lot of TV.

25 Q. Okay. And you said that you could be juror number

1 three, and that document is in evidence and we have that,
2 but I will ask you a few questions and the attorneys will
3 ask you a few questions, but let me go over the legal
4 procedure with you.

5 First of all, you will take an oath to be a fair and
6 impartial juror and determine this case only on the evidence
7 and testimony presented in the courtroom and from the
8 instructions I give you on the law. I cannot talk to the
9 fact -- to you about the facts, and I have no feeling one
10 way or the other. That's the sole prerogative of the jury,
11 okay?

12 A. Yes, sir.

13 Q. Now, do you believe that you could take an oath and be
14 a fair and an impartial juror?

15 A. Yes, sir, I do.

16 Q. You know of no reason why you could not be fair to the
17 State and fair to the defense in this case?

18 A. No, sir.

19 Q. And you certainly not knowing anything about the case,
20 you have not formed an opinion about this case?

21 A. I have not.

22 Q. Now, before the State can seek a death penalty in a
23 murder case, they have to prove to the jury initially a
24 statutory aggravating circumstance, something that the
25 legislature has said makes the crime -- aggravates the

1 crime, worsens the crime of murder, increases the enormity
2 of the offense and makes it worse. Do you understand that?

3 A. Yes, sir.

4 Q. You know what that is?

5 A. Yes, sir.

6 Q. And there will be mitigating circumstances too.

7 Mitigating circumstances are those which reduces the
8 severity of the offense, that makes the fault or the
9 responsibility or the person less culpable or less involved.
10 Do you understand that?

11 A. Yes, sir.

12 Q. Now, initially the State would have to prove to you
13 beyond a reasonable doubt that this murder was committed
14 during a robbery while the defendant was armed with a deadly
15 weapon or during the commission of a larceny while the
16 defendant was armed with a deadly weapon. The jury would
17 have to consider that. The burden of proof would be on the
18 State as to the statutory aggravating circumstance.

19 If the jury unanimously agreed that the State had
20 proven that beyond a reasonable doubt, all twelve agreed,
21 then the jury would impose the punishment upon Mr. Owens.
22 Do you understand that?

23 A. Yes, sir.

24 Q. There are only two possible sentences for the jury, and
25 one would be life in prison until the death of the defendant

1 without the possibility of parole. The other sentence would
2 be death. And death in South Carolina is by lethal
3 injection or by electrocution. Do you understand that?

4 A. Yes, sir.

5 Q. Now, the jury -- if the State could prove that beyond a
6 reasonable doubt -- and under our law there is no burden of
7 proof on the defendant. He does not have to prove anything.
8 He does not have to testify, and that could not be held
9 against him. Do you understand that?

10 A. Yes, sir.

11 Q. Now, could you listen to all the evidence and testimony
12 and seriously and meaningfully consider evidence in
13 aggravation and mitigation and either write a verdict of
14 life imprisonment or death?

15 A. I believe so.

16 Q. Depending on your particular view of the facts and
17 circumstances?

18 A. Yes, sir.

19 Q. Now, if evidence came out as to any crimes or bad acts
20 before this murder or after this murder, those would be
21 admitted solely as it would bear on the character of the
22 defendant. That evidence could not come in as a statutory
23 aggravating circumstance for this murder. Do you understand
24 that?

25 A. Yes.

1 Q. Could you follow that?

2 A. Yes, sir.

3 Q. Would the race of any party or victim make any
4 difference to you in your decision?

5 A. No, sir.

6 Q. Would the religion of any party - Muslim, Islamic or
7 anything of that nature - have any impact upon your decision
8 in the case?

9 A. No, sir.

10 Q. Dr. Nickles, I'm going to permit the lawyers to ask you
11 a few questions.

12 A. Okay. Thank you.

13 VOIR DIRE EXAMINATION BY MR. GODFREY:

14 Q. Good morning Dr. Nickles.

15 A. Good morning.

16 Q. Again, my name is Bill Godfrey. This is co-counsel Mr.
17 Ken Gibson, and we represent Freddie Owens.

18 In reviewing your questionnaire, it's an interesting
19 questionnaire. In question 12 about have you or any family
20 or close friend ever taken a course in administration of
21 justice or studied law, you mentioned Special Agent Randy
22 Smith who --

23 A. Yes.

24 Q. -- is the with the DEA, Sergeant David Bryan, Mark
25 Pogue?

1 A. Yes, sir.

2 Q. These obviously aren't family members, are they?

3 A. No, sir.

4 Q. They are just close friends?

5 A. They were patients of mine, yes, sir.

6 Q. Patients of yours?

7 A. Yes.

8 Q. So you met them through your office?

9 A. I'm a dentist, yes, sir.

10 Q. And the same thing about Sergeant David Bryan and
11 officers Mark Perry and Greg Williams?

12 A. Yes, sir. I go to church with a couple of those guys
13 also.

14 Q. And you go to Southside Christian Fellowship?

15 A. Yes, sir.

16 Q. So you, yourself, don't have any background in law
17 enforcement?

18 A. No, sir.

19 Q. Your background is totally in --

20 A. Dentistry.

21 Q. -- medicine and dentistry?

22 A. Yes, sir.

23 Q. Now, you understand if you are chosen as a juror in
24 this case, you will be taking an oath that you can be fair
25 and impartial. If you take that oath, can you do that?

1 A. Absolutely.

2 Q. Can you be fair and impartial?

3 A. Yes, sir.

4 Q. Now, one of the things that you would have to do as a
5 juror, if this case went all the way through, the jury is
6 going to have to make the decision about whether my client
7 gets life imprisonment or whether he gets a death sentence.

8 Is making that kind of consideration going to give you
9 any kind of problems at all?

10 A. No, sir.

11 Q. You will be able to listen to all of the evidence
12 presented by the State and all of the evidence presented by
13 the defense and then fairly weigh the evidence?

14 A. Yes, sir.

15 Q. Do you have anything in your background, whether it be
16 religious, moral, political, or any other reason, that would
17 give you any hesitation whatsoever if you believe that the
18 evidence supported a conviction for life imprisonment?

19 A. No, sir.

20 Q. The same question for death.

21 A. Same, yes, sir.

22 MR. GODFREY: Nothing further.

23 VOIR DIRE EXAMINATION BY MR. ARIAIL:

24 Q. Good morning, Dr. Nickles.

25 My name is Bob Ariail. I'm the solicitor for the

1 Thirteenth Circuit of South Carolina. That's a fancy name
2 that South Carolina retains for its district attorneys.
3 Anywhere else on TV it would be a district attorney, but my
4 role would be to represent the State. And assisting me
5 would be Ms. Strom, who the judge introduced, and also Ms.
6 Verdin, who is not here yet this morning but will be later.

7 From your response I gather that you believe that
8 capital punishment or the death penalty is an appropriate
9 punishment under our law in certain circumstances?

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

11 Q. And as the judge explained to you, those circumstances
12 in South Carolina are limited to a case of murder that's
13 accompanied by aggravating circumstance?

14 A. Yes, sir.

15 Q. And you as a juror, if you were impaneled, would be
16 responsible to determine the appropriate sentence.

17 A. Yes, sir.

18 Q. And you had said that in that role that you could
19 consider the evidence to determine if the punishment for the
20 crime, based on the crime and nature of the crime and
21 characteristics of the defendant, his background, character,
22 those sorts of things is something that you could fairly
23 consider imposing a sentence of death?

24 A. Yes, sir.

25 Q. Any question about that?

1 A. No, sir.

2 Q. There is nothing related to the practice of dentistry,
3 such as Hippocratic Oath, practice of medicine, that would
4 limit you or impair that ability to impose a death sentence?

5 A. Nothing.

6 Q. Okay. And I believe the judge went over this with you.
7 At the end of the case, if you found that the appropriate
8 sentence was death, you would have to sign your name to a
9 form, along with the other eleven jurors. Do you have any
10 hesitancy in doing that?

11 A. No, sir.

12 Q. If that was your verdict?

13 A. Yes.

14 Q. Thank you, sir.

15 THE COURT: Dr. Nickles, if you would just step
16 out one minute.

17 JUROR NUMBER 466: Okay.

18 THE COURT: I'll bring you back in.

19 JUROR NUMBER 466: Thank you.

20 (Whereupon, Juror Number 466 was taken out of the
21 courtroom)

22 THE COURT: All right. I would find Dr. Nickles
23 qualified.

24 No objection from the defense and any objection
25 from the State?

1 MR. ARIAIL: The State concurs.

2 THE COURT: He's going to be qualified only in
3 slot number 55, where he's supposed to appear.

4 MR. GODFREY: Very well.

5 (Whereupon, Juror Number 466 was brought into the
6 courtroom)

7 THE COURT: Dr. Nickles, you are a qualified jury
8 in this case.

9 JUROR NUMBER 466: Yes, sir.

10 THE COURT: Potential juror. You may have to
11 report back. If we don't -- when we reach number 55 on the
12 list, we could very well have to make you come back.

13 JUROR NUMBER 466: Yes. Okay.

14 THE COURT: Call back after six tonight.

15 JUROR NUMBER 466: Okay.

16 THE COURT: We will leave a message for all those
17 people that are qualified.

18 JUROR NUMBER 466: Uh-huh.

19 THE COURT: And the instructions are in this
20 order.

21 JUROR NUMBER 466: Okay.

22 THE COURT: And do not discuss the case or be
23 exposed to any media, any publicity about it.

24 JUROR NUMBER 466: Yes, sir. Thank you, sir.

25 THE COURT: Good luck.

1 (Whereupon, Juror Number 466 was taken out of the
2 courtroom)

3 THE COURT: Richard P. Grube.

4 (Whereupon, Juror Number 459 was brought into the
5 courtroom)

6 RICHARD P. GRUBE, #459, having been first duly
7 sworn, testified as follows:

8 VOIR DIRE EXAMINATION BY THE COURT:

9 Q. Mr. Grube, I'm going to ask you a few questions about
10 the procedure, and then the attorneys will be able to ask
11 you a few questions.

12 This incident arises out of an occurrence on November
13 the 1st, 1997, on Laurens Road, in the early mourning hours
14 at Speedway there where Ms. Irene Graves was killed in the
15 Speedway.

16 This case received publicity on the radio, television
17 and newspaper. Have you heard anything or know anything
18 about this case?

19 A. I don't recall it specifically.

20 Q. Do you recall anything about a case with Mr. Owens over
21 here?

22 A. No, sir.

23 Q. Do you understand that if you recall anything when we
24 got into the case, and if you were a juror, you would be
25 required to put that aside and not consider that in any way

1 and only consider what you heard in the courtroom?

2 A. I understand.

3 Q. And you could do that under your oath, and you would do
4 that and decide it only on the evidence and testimony we had
5 here that you heard?

6 A. I would have to do that, yes.

7 Q. Okay. Now, have you had a chance to review the three
8 types of jurors? I know you have one of those sheets in
9 your hand.

10 A. Yes, sir, I have.

11 Q. Could you classify yourself as one of those jurors?

12 A. Probably two of them. Number one and three. I'm a
13 little bit mixed up there. I can see things different ways.

14 Q. You can see things different ways?

15 A. Yeah. Yeah.

16 Q. Okay. Now, number one states that a person, a juror,
17 may feel in every murder that the sentence would have to be
18 the death penalty. Is that your feelings?

19 A. Somewhat. Somewhat. But in the same instance I would,
20 you know, feel more comfortable looking at the circumstances
21 before I could actually make that decision. So I would
22 suppose number three would probably be better to suit me.

23 Q. Now, number three states the juror, although the guilt
24 of the defendant has been determined -- now, the guilt of
25 Mr. Owens has been determined, as he's been convicted of

1 murder in this case. Do you understand that?

2 A. Yes, sir, I understand.

3 Q. Now, we would -- a juror, under number three, would
4 need to be able to hear the facts and circumstances in
5 aggravation and mitigation.

6 For every murder under our law the State cannot seek or
7 ask for the death penalty. Do you understand that?

8 A. Okay, yes, sir.

9 Q. And in some cases when they can't seek the death
10 penalty, that can't even be considered as a possible
11 punishment.

12 Under our law the jury in the second proceeding
13 determines how the defendant would be sentenced to either --
14 if the State proves the statutory aggravating circumstance
15 beyond a reasonable doubt, then the jury would have to
16 impose either a life sentence or a death sentence. Do you
17 understand that?

18 A. Yes, sir, I understand that.

19 Q. A juror would have to be able to fairly and without any
20 bias or prejudice to either side, but being open-minded and
21 honest fairly and seriously consider both aggravating
22 circumstances and circumstances in mitigation.

23 In giving those due consideration, could you write a
24 sentence of life imprisonment, if the facts and particular
25 circumstances warranted that?

1 A. Yes, I could.

2 Q. Could you write a sentence of death if the facts and
3 circumstances warranted that?

4 A. Yes, I could.

5 Q. Do you understand -- is it Mr. Grube?

6 A. Grube, yes, sir.

7 Q. Grube, just one syllable?

8 A. Yes, sir.

9 Q. Do you understand that a sentence of life imprisonment
10 in this case would be life until the death of the defendant
11 without the possibility of parole?

12 A. Yes, I do understand that.

13 Q. And do you understand that death is by lethal injection
14 or electrocution?

15 A. Yes, I understand.

16 Q. Initially before the jury was able under our law to
17 impose the sentence, the State would have to prove the
18 statutory aggravating circumstance.

19 In this case the statutory aggravating circumstance,
20 you would hear evidence of a robbery committed during the
21 commission of this crime, and the State alleges by the
22 defendant while he was armed with a deadly weapon, or a
23 larceny committed by the defendant during this murder while
24 he was armed with a deadly weapon. The State would have to
25 prove that beyond a reasonable doubt before you could

1 even -- the jury could even consider the death sentence. Do
2 you understand that?

3 A. Yes, sir.

4 Q. Or before you could even consider life, or any
5 sentence.

6 And then after that you would be required to determine
7 the sentence of Mr. Owens. Do you understand that?

8 A. Yes, sir, I understand that.

9 Q. And could you be able to fairly and impartially and
10 give serious and meaningful consideration to factors in
11 mitigation, those factors that may lessen the severity of
12 the crime of murder or reduce the degree of fault or
13 culpability. Could you do that?

14 A. Could you please say that one more time, sir?

15 Q. Could you seriously consider any evidence that may come
16 in, if it comes in, in mitigation, evidence that would
17 reduce the seriousness of the offense and reduce the fault
18 of the defendant or his degree of responsibility or
19 culpability in this crime? Could you seriously consider
20 mitigation circumstances?

21 A. No, I couldn't.

22 Q. You could not. Okay.

23 Do you -- how long have you had feelings, these type
24 feelings about the death penalty, Mr. Grube?

25 A. Since probably since I was an adult, became an adult.

1 Q. And you have thought about the penalties probably since
2 you received your summons, or whatnot, that you may be
3 faced -- I mean you -- you can't have any prior knowledge
4 about this case, but in your mind you have seriously thought
5 about serving as a juror and what sentence that you may or
6 may not be able to impose?

7 A. Not until I came here on, let's see, Monday. I had no
8 idea what the case was about.

9 Q. Okay.

10 A. The facts involved, I have no information. You have
11 told me more information this morning than I had prior to
12 this.

13 Q. Well, really we want jurors that has no prior
14 information and just decide it on what they hear, because
15 anything that's relevant will come out in the trial.

16 I'm going to let you answer a few questions from the
17 lawyers, okay?

18 A. Okay.

19 VOIR DIRE EXAMINATION BY MR. ARIAIL:

20 Q. Mr. Grube, by name is Bob Ariail. I'm the solicitor
21 for the Thirteen Circuit of South Carolina and that's a --

22 A. Good morning, sir.

23 Q. Good morning. That's a fancy word that South Carolina
24 retains to designate its prosecuting attorneys, state
25 attorneys. Other places they would be called state attorney

1 or districts attorney, or something like that. South
2 Carolina calls them solicitor.

3 In this case I'll be representing the State, along with
4 my deputy Betty Strom seated at counsel table.

5 Let me go back over what little bit and see if I can
6 understand better what you were saying.

7 Reading the sheet you are a combination of a one and a
8 three?

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

10 Q. In South Carolina the State cannot seek the death
11 penalty --

12 Well, let me back up a step. In every criminal case,
13 other than when the State seeks the death penalty, when a
14 defendant is convicted, he is sentenced by a judge.
15 However, when there is a death penalty sentence being sought
16 by the State, which the State is allowed to seek the death
17 penalty only in limited circumstances, as judge told you.
18 Those circumstances are, as our legislature has defined
19 them, are called aggravating circumstances. That's murder
20 accompanied by an aggravating circumstance.

21 When a jury is impaneled, the first thing that it has
22 to find after the defendant is convicted is the existence of
23 the aggravating circumstance. And the existence of that
24 aggravating circumstance is what triggers the jury's ability
25 to become the sentencing authority.

1 If the jury were not to find an aggravating
2 circumstance, the sentencing authority would rest with the
3 judge. But if they find that aggravating circumstance, then
4 the jury becomes the sentencer. All right.

5 So if you were sitting on -- let's imagine a jury that
6 is considering the death penalty, and you found the
7 aggravating circumstance, then you become a judge. So you
8 have to -- as this process is designed to find, is people
9 that have judicial qualities: That is, you can first be
10 fair; secondly, you can be open minded; third, you can be
11 broadminded and consider all the options. You must be as
12 free of bias and prejudice as a human can possibly be that
13 can serve on a jury. So that's the type of person we are
14 looking for, so that they can consider both sentences.

15 Now, if you can't do that, in other words, if you come
16 in with a bias -- and some people come in with a bias that
17 one side says, I can't give the death penalty in any
18 circumstance. There is nothing wrong with that opinion, but
19 we just need to know that because they don't need to be on
20 the jury, because obviously they can't be fair. Do you
21 understand that?

22 A. Yes, sir, I understand where you are coming from.

23 Q. Likewise, on the other side, if you have got somebody
24 that's a number and he's going to give the death penalty in
25 every murder case, that's not our law. That would be a

1 violation of the law. You can't do that. So you couldn't
2 be on the jury because you couldn't be -- that person
3 couldn't be fair.

4 So we are looking for people who can follow the judge's
5 instruction that understands what our law is and that
6 realize they can't impose the death penalty until after,
7 number one, they find an aggravating circumstance, and only
8 then if the evidence in their view justifies the death
9 penalty. So, concurrent with that responsibility in going
10 through that, you have got to be able to fairly and
11 meaningfully consider giving a life sentence. All right.

12 After the evidence -- or part of the evidence that will
13 come in will be evidence of aggravation. It's called
14 evidence in aggravation. It would be evidence about the
15 character. The judge explained this to you. Character
16 evidence would come in, character evidence of the defendant,
17 nature of the crime, how it was committed, that sort of
18 thing.

19 On the other side, you may very well hear evidence that
20 deals with mitigation. That is things that tend to make it
21 less culpable, the defendant less culpable, or maybe that
22 make the crime appear not to deserve such a significant
23 punishment. All right. That's evidence in mitigation and
24 evidence in aggravation. Jurors have got to be able to hear
25 all that, listen to it, and fairly weigh it.

1 Do you believe that you could do that?

2 A. I believe I could.

3 Q. If you couldn't do it, it's not that we don't like you,
4 it's just that you wouldn't be a good juror. We don't want
5 to put you in that circumstance. But if you think that you
6 can do it, understanding what the process is, and you could
7 follow that judge's instruction that he's going to give you
8 about what you have got to do, then -- but we need that
9 answer. We need a committed answer so that you don't end up
10 in a situation that you are over your head.

11 A. And I -- I very well may -- could get in over my head,
12 by, you know, saying that yes, I'm a number three juror. I
13 think I would lean more towards being a number one.

14 Q. Well, it's okay to lean towards being a number one, but
15 you also got to be able to be --

16 THE COURT: Don't express your opinion, Mr.
17 Ariail. Just ask questions.

18 BY MR. ARIAIL:

19 Q. You have got to be able to consider --

20 A. Uh-huh.

21 Q. -- both?

22 THE COURT: Ask him a question, Mr. Ariail,
23 please. I think that's the purpose of this proceeding.

24 MR. ARIAIL: Thank you, judge.
25

1 VOIR DIRE EXAMINATION BY MR. GIBSON:

2 Q. Mr. Grube, how are you?

3 A. Good morning.

4 Q. I'm Ken Gibson. This is my co-counsel Bill Godfrey and
5 this is our client Freddie Owens.

6 I just want to clarify a couple of things that you
7 said. You said that you leaned towards being a number one
8 juror?

9 A. That's correct.

10 Q. One that would impose the death penalty in just about
11 every case of murder, is that correct?

12 A. (Shaking head yes)

13 Q. I believe you already said that you do not believe that
14 in this situation you could consider mitigating factors. Is
15 that also correct?

16 A. Yes.

17 Q. I need to say it for the record.

18 A. Yes.

19 Q. Thank you Mr. Grube.

20 THE COURT: How long were you in the Navy Seabees?

21 JUROR NUMBER 459: Six years.

22 THE COURT: Six years?

23 JUROR NUMBER 459: Yes.

24 THE COURT: Where was your service?

25 JUROR NUMBER 459: I did four and a half years in

1 Japan and a year in Great Lakes.

2 THE COURT: I'm going to let you step out just
3 briefly.

4 JUROR NUMBER 459: Thank you, sir.

5 (Whereupon, Juror Number 459 was taken out of the
6 courtroom)

7 THE COURT: Solicitor, at some point we crossed
8 line and you are not making any questions. You are making
9 such a long speech that -- it's just not questioning. I
10 believe we are going to have to remedy that situation in
11 some way. I think the only way that you can do it is ask
12 questions.

13 MR. ARIAIL: Yes, sir.

14 (Whereupon, Juror Number 459 was brought into the
15 courtroom)

16 THE COURT: Mr. Grube, I'm going to excuse from
17 you this case, okay?

18 JUROR NUMBER 459: Okay.

19 THE COURT: You don't have to come back.

20 JUROR NUMBER 459: Okay.

21 THE COURT: Thank you very much.

22 (Whereupon, Juror Number 459 was taken out of the
23 courtroom)

24 THE COURT: Scott Jeffrey Merriam.

25 (Whereupon, Juror Number 290 was brought into the

1 courtroom)

2 SCOTT JEFFREY MERRIAM, #290, having been first
3 duly sworn, testified as follows:

4 VOIR DIRE EXAMINATION BY THE COURT:

5 Q. Mr. Merriam, this case arises from an incident which
6 occurred on Laurens Road on November the 1st, 1997. In the
7 early morning hours Ms. Irene Graves was killed and now the
8 defendant, Mr. Owens, has been convicted of murder for that
9 offense.

10 Now, there has been TV publicity and radio and
11 newspapers publicity in regard to this case. Have you
12 heard, read, or do you know anything about this case?

13 A. Not really.

14 Q. Well, do you mean what by not really?

15 A. I just heard -- knew that there was a -- very little
16 about -- just there was a shooting at a gas station. That's
17 about all that I know.

18 Q. If you were to recall anything that you heard or read
19 or somebody had told you or seen on the news or anything of
20 this nature, if you were selected as a juror, would you
21 dismiss that from your mind and decide this case only on the
22 evidence presented in court?

23 A. Yes, sir.

24 Q. Could you serve as a fair and an impartial juror and
25 reach a verdict in a case presented at trial according to

1 the law and instructions of the court?

2 A. I believe so.

3 Q. Have you already formed any opinion in regard to the
4 sentence of the defendant Mr. Owens in this case?

5 A. No, sir.

6 Q. You realize this is totally a separate proceeding
7 provided for under our law to determine how Mr. Owens will
8 be sentenced?

9 A. Yes.

10 Q. Okay. Now, your father is an attorney?

11 A. Yes, sir.

12 Q. You certainly -- you haven't discussed it with anyone?
13 You certainly haven't discussed anything about being
14 summonsed or this case with him?

15 A. He would not discuss it with me if I tried to.

16 Q. Very good.

17 I would think most of us know your father and he may do
18 some criminal work.

19 A. Yes, he does.

20 Q. He may have been a prosecutor at one time.

21 A. He was.

22 Q. Would anything in that regard of the employment of your
23 father affect your ability to be fair and impartial one way
24 or the other?

25 A. I don't believe so.

1 Q. Could you give a fair trial to the State and a fair
2 trial for the defendant?

3 A. Yes, sir.

4 Q. If the State can prove the statutory aggravating
5 circumstance of robbery or larceny beyond a reasonable doubt
6 and prove that the defendant committed the murder in the
7 commission of a robbery or larceny while armed with a deadly
8 weapon, then the jury would impose a sentence upon Mr. Owens
9 for this crime. Do you understand the nature of this
10 proceeding?

11 A. Explain that one more time, please.

12 Q. The State would have to prove a statutory aggravating
13 circumstance, the jury would have to find unanimously, and I
14 would give you a form in that regard. The defendant does
15 not have to prove anything. He does not have to testify and
16 that cannot be held against him under our law. Do you
17 understand that?

18 A. Yeah.

19 Q. Okay. The State would first have to prove a statutory
20 aggravating circumstance before a jury can sentence this
21 defendant to life imprisonment or death.

22 A. Yeah.

23 Q. Do you understand that?

24 A. Yes.

25 Q. Now, if that was proven beyond a reasonable doubt, the

1 jury would have to fairly and honestly consider evidence and
2 circumstances in aggravation of the murder or in mitigation
3 of the murder.

4 Aggravation means to worsen the crime, make it --
5 increase its enormity, make it worse.

6 A. Yeah.

7 Q. Mitigation circumstances is to reduce the severity of
8 the offense of murder. It reduces the fault or the
9 culpability of a defendant. It's circumstances in
10 extenuation or reducing the degree of responsibility and
11 fault.

12 Could you honestly and fairly consider evidence in
13 mitigation and aggravation and write either a life sentence
14 in this case or a death sentence?

15 A. I believe so.

16 Q. You would take an oath to do that. Would you do that,
17 Mr. Merriam?

18 A. Yes.

19 Q. You would follow the instructions of the court?

20 A. Yes, sir.

21 Q. You understand in this case that life means life until
22 the death of the defendant without any possibility of
23 parole?

24 A. Yes.

25 Q. Do you understand that death means death by lethal

1 injection or electrocution?

2 A. Yes.

3 Q. If any evidence came out about any prior bad acts or
4 crimes before this murder, or anything afterwards, that
5 would be admitted solely as it would bear on the character
6 of the defendant and could not be considered by the jury as
7 evidence of statutory aggravating circumstances. Could you
8 follow that instruction?

9 A. Yes.

10 Q. Would the race of any party have any bearing on your
11 decision?

12 A. No, sir.

13 Q. Would the religion of any party have any bearing?

14 A. No.

15 Q. Would Muslim or Islam, if that came out, affect you in
16 any way if anybody was of that faith?

17 A. No.

18 Q. Okay. Answer the questions of the lawyers, please.

19 VOIR DIRE EXAMINATION BY MR. GODFREY:

20 Q. Mr. Merriam, my name is Bill Godfrey. This is Ken
21 Gibson, the co-counsel, and we represent Freddie Owens.

22 I just have a couple of brief questions for you.

23 If you were chosen to serve on the jury in this case
24 and if it came to the point where the jury had to make the
25 decision about whether my client received life or death,

1 would you be able to fairly weigh all the evidence against
2 him? Could you keep an open mind?

3 A. I think so, yes.

4 Q. Is there anything in your background, either from your
5 morals that you go by, your religion, your politics, or
6 anything else that you consider important in life, is there
7 anything out there that would hinder you or prevent you or
8 cause you any hesitation if after looking at the evidence
9 you decided that Mr. Owens should receive a life sentence,
10 could you give him a life sentence?

11 A. I think so.

12 Q. Well, what do you mean you think so?

13 A. I have never done it before, but I think -- well, I
14 guess -- repeat the question, maybe.

15 Q. All right. After all of the evidence is in and you are
16 in deliberations to determine what the sentence should be,
17 whether it should be life or death, if you believe that the
18 evidence pointed towards a life sentence, would there be
19 anything in your background that would cause hesitation on
20 your part to give him a life sentence?

21 A. No.

22 Q. Would there be any hesitation on your part if the
23 evidence pointed in the other direction, could you give him
24 a death sentence?

25 A. I think so.

1 Q. You think so?

2 A. Yes.

3 THE COURT: I understand that you are saying that
4 because you have never done it before, is that right?

5 A. Yes. Yes, to answer the question.

6 THE COURT: The jury would be required to sentence
7 an individual either to life or to death. Do you understand
8 that?

9 A. Yes, sir.

10 BY MR. GODFREY:

11 Q. As a personal matter, could you make that decision?

12 A. I think so, yes.

13 Q. Well, the judge has told you if the decision were for
14 death, you would have to sign your name on the document,
15 which is the document which would go down the road with him.
16 Could you sign your name to a death notice?

17 A. Yes.

18 Q. Now, do you believe that you can be fair and impartial?

19 A. Yes.

20 Q. And you can keep an open mind?

21 A. Yes.

22 Q. Do you believe that you could make a decision for
23 whatever in your view the evidence showed or proved?

24 A. Yes.

25 MR. GODFREY: Nothing further.

1 THE COURT: Mr. Ariail.

2 VOIR DIRE EXAMINATION BY MR. ARIAIL:

3 Q. Mr. Merriam, my name is Bob Ariail.

4 I think you indicated during the group meeting that you
5 knew me and knew that your father and I were friends, been
6 friends since college?

7 A. Yes.

8 Q. Okay. The fact that your father and I are friends and
9 been friend since college, would that in any way impact your
10 ability to be fair and impartial in this case?

11 A. No, sir.

12 Q. The judge gave you a sheet in the -- or the bailiff did
13 as to whether or not you were one, two or three juror. Did
14 you look at that sheet?

15 A. Yes.

16 Q. And do you -- which category do you think you fall
17 into, one, two or three?

18 A. I think I fall in the third category.

19 Q. Third category.

20 Okay. And reason, in fact, you fall -- you think you
21 fall in the third category, do you believe that capital
22 punishment or the death penalty is an appropriate punishment
23 under our law in certain cases?

24 A. Yes.

25 Q. All right. And the judge asked you if you had

1 discussed this case with your father. Beyond that, have you
2 ever discussed the issue of capital punishment with your
3 father?

4 A. No.

5 Q. Do you know his views on that?

6 A. I think he's in favor of it.

7 Q. Okay. But you have never had an in-depth discussion
8 with him about it?

9 A. No.

10 Q. Thank you, sir.

11 THE COURT: I'm going to find Mr. Merriam a
12 qualified juror, a potential juror in this case.

13 Do we any objection from the defense?

14 MR. GODFREY: No objection.

15 THE COURT: All right, sir, and for the State?

16 MR. ARIAIL: None.

17 THE COURT: Mr. Merriam, if you will just stand
18 up, please.

19 I have an order here for potential jurors. Now,
20 you are qualified as a potential juror in this case. That
21 means that you will come back with about 45 other people
22 and sit in the jury room and we will choose a jury from that
23 group. You may be chosen and you may not. And I thought we
24 could possibly get started today, but I don't believe that
25 we will because we haven't been able to get enough. You

1 will probably have come back tomorrow. Bring enough clothes
2 for about four or five days in a motel room.

3 JUROR NUMBER 290: Yeah.

4 THE COURT: You can drive your car and leave your
5 clothes in your car, if you want to. And once we finish
6 tomorrow, you can go to your car and either drive it to the
7 motel when we get through or drive it back home if you are
8 not chosen.

9 Do not discuss the case with anyone, again, and do
10 not expose yourself to any publicity, okay.

11 JUROR NUMBER 290: Yeah.

12 THE COURT: Thank you so much.

13 (Whereupon, Juror Number 290 was taken out of the
14 courtroom)

15 THE COURT: The next witness knew someone from
16 Perry.

17 MR. GIBSON: Yes, sir, this is Blandin.

18 THE COURT: Was related to her. It was a person
19 by the name of Curtis Early.

20 MR. GIBSON: Yes.

21 THE COURT: I do not know anybody's particular
22 involvement or what Mr. Early's involvement may be or what
23 type witness he would be.

24 MR. GIBSON: He's a -- he's a potential defense
25 witness, Your Honor.

1 THE COURT: Oh, a defense witness?

2 MR. GIBSON: Yes, Your Honor.

3 THE COURT: I'm sorry, I thought it was a
4 prosecution witness.

5 MR. GIBSON: No.

6 THE COURT: I don't know why I thought that, but
7 she said coming from Perry. All right. I thought he might
8 be -- I don't know. I was thinking that he maybe was going
9 to testify about a specific act for the prosecution and I
10 was going to -- but I don't know. We don't know what he's
11 going to testify to, and we can't know, so the only thing I
12 know is to let her ask -- ask her some questions about that.

13 It's called to my attention that also she has a
14 brother-in-law that was the victim of an attempted murder.
15 Okay. So I'll let y'all explore that too.

16 (Whereupon, Juror Number 452 was brought into the
17 courtroom)

18 GERALDINE D. BLANDIN, #452, having been first duly
19 sworn, testified as follows:

20 VOIR DIRE EXAMINATION BY THE COURT:

21 Q. We are just going to ask you some questions, which
22 there are no right or wrong answers.

23 Ms. Blandin, this case arises from an incident that
24 occurred in Greenville County, on November the 1st of 1997,
25 involving an incident where Mrs. Irene Graves was killed at

1 a Speedway on Laurens Road, and Mr. Owens has been convicted
2 of murder for that offense. Do you understand that?

3 A. Yes.

4 Q. Do you know anything, have you heard anything or scene
5 anything on TV, or the newspaper, radio, or has anybody
6 talked to you about this case?

7 A. No.

8 Q. And you indicated that you didn't know Mr. Owens and
9 you did not know Mrs. Graves either?

10 A. No.

11 Q. Now, you have reviewed the three types of jurors that
12 we have?

13 A. Yes.

14 Q. Potential possible jurors. Could you put yourself in
15 one of those three categories?

16 A. Yes.

17 Q. Which one would you put yourself in, please?

18 A. The one that I don't believe in the death penalty.

19 Q. That's number two?

20 A. Number two.

21 Q. You do not believe in the death penalty?

22 A. I realize I said I don't believe in it, but I guess it
23 depends on the circumstances to be done.

24 Q. Do you believe that there would ever be any particular
25 facts and circumstances where you could give life in prison

1 without the possibility of parole until the death of the
2 defendant?

3 A. Yes.

4 Q. Do you think that there could be facts and
5 circumstances in aggravation of a particular murder that
6 would warrant punishment by death?

7 A. I realize I said I don't believe in the death penalty,
8 but there again, I guess it depends. It really depends.

9 Q. What does it depend on? The only thing that you could
10 consider would be facts and circumstances in the case.

11 A. The act OF -- the act of the murder, how it was -- what
12 brought the murder on.

13 Q. All right.

14 A. If that makes sense.

15 Q. That's -- and we can't get into that specifically, but
16 you have to focus on the facts and circumstances that would
17 apply to murder. And under factors in aggravation or
18 mitigation, you would have to seriously consider those, if
19 you reached it -- and that would be the purpose of the jury
20 is to determine how he would be sentenced. Do you
21 understand that?

22 A. Yes.

23 Q. And you say under facts and circumstances you would
24 have no reservation about sentencing someone to life in
25 prison without the possibility of parole?

1 A. Right, yes.

2 Q. Now, in regard to factors of aggravation, which worsens
3 the crime, increases the enormity of the offense. You know
4 what an aggravated murder --

5 A. Yes.

6 Q. -- definition would be, about what an aggravating
7 circumstance would be?

8 A. Yes.

9 Q. Are there particular circumstances that where you could
10 seek or sign your name on a document giving someone the
11 death penalty for murder?

12 A. I have to say yes and no.

13 Q. Well, we need to know if you can give serious and
14 meaningful consideration to --

15 A. Yes, I would have to give consideration to that.

16 Q. And if the particular facts and circumstances warranted
17 it, could you sign your name to a death sentence?

18 A. That is a yes or no answer, isn't it? I would have to
19 say no.

20 THE COURT: Mr. Ariail, I'll give you some
21 latitude on your questioning. I don't know who is first.

22 MR. ARIAIL: I have no questions.

23 VOIR DIRE EXAMINATION BY MR. GIBSON:

24 Q. Ms. Blandin --

25 MR. GIBSON: Your Honor, just should we address

1 the witness issue?

2 THE COURT: Oh, either I could --

3 You indicated in voir dire -- that's a fancy word
4 for questioning of the jurors, asking questions, and I don't
5 like to use that term. In the questioning you said that you
6 knew a Mr. Early?

7 JUROR NUMBER 452: Yes.

8 THE COURT: From Perry. Could you tell us how you
9 know him?

10 JUROR NUMBER 452: He's my son-in-law.

11 THE COURT: He's your son-in-law?

12 JUROR NUMBER 452: Yes.

13 THE COURT: Okay. If he were a witness in the
14 case, would that have some bearing on your decision?

15 JUROR NUMBER 452: Yes. Yes.

16 THE COURT: Okay.

17 BY MR. GIBSON:

18 Q. Ms. Blandin, I just want to clarify --

19 I'm sorry, I'm Ken Gibson. This is my co-counsel Bill
20 Godfrey. This is our client Freddie Owens.

21 I just want to ask a couple of questions just to
22 confirm some things that you have said.

23 Now, clearly you are a type of juror who would tend to
24 towards not giving the death penalty, is that correct?

25 A. Yes.

1 Q. But you believe that in certain circumstances you could
2 give that punishment, if you deemed it appropriate, is that
3 right?

4 A. If I deemed it appropriate, yes.

5 Q. And if you deemed it appropriate in those certain
6 circumstances, you could also sign the death notice, if you
7 thought that that was the proper course of action?

8 A. It sounds like I'm saying yes and no, and I guess
9 that's what I'm saying. I don't feel that I'm disqualified
10 to just say whether a person should live or die.

11 Q. Yes, ma'am.

12 A. And I would really have to -- really, really consider
13 that.

14 Q. Okay. But after considering it, if you heard the
15 circumstances and you believed in your heart that the death
16 penalty was the appropriate remedy, could you do that?

17 A. Can I say possible?

18 Q. I just want you tell --

19 A. Okay, possibly. Yes, possibly.

20 Q. All right. Thank you Ms. Blandin.

21 A. You are welcome.

22 THE COURT: Since her son-in-law is going to be a
23 witness, I don't believe I could qualify her.

24 MR. GIBSON: I agree, Your Honor.

25 THE COURT: The solicitor has no objection.

1 MR. ARIAIL: No.

2 THE COURT: Ma'am, I'm going to excuse you from
3 this case. You do not have to come back.

4 JUROR NUMBER 452: Thank you.

5 THE COURT: Thank you so much.

6 JUROR NUMBER 452: Right.

7 (Whereupon, Juror Number 452 was taken out of the
8 courtroom)

9 THE COURT: Randy Mathena.

10 (Whereupon, Juror Number 274 was brought into the
11 courtroom)

12 RANDY R. MATHENA, #274, having been first duly
13 sworn, testified as follows:

14 VOIR DIRE EXAMINATION BY THE COURT:

15 Q. Mr. Mathena, have you given serious consideration to
16 the three types of jurors that we have listed?

17 A. Yes, sir.

18 Q. And you have gone over that?

19 A. Yes, sir.

20 Q. Could you classify yourself as one of those types of
21 the jurors?

22 A. I would.

23 Q. Which type would that be?

24 A. The third.

25 Q. Okay, sir. Very good.

1 And let me ask you and -- tell you that this case
2 arises out of an incident which occurred in Greenville
3 County, on November the 1st, 1997, on Laurens Road when Mrs.
4 Irene Graves was killed. Mr. Owens has been convicted of
5 murder for that.

6 Do you know anything about this case? Have you seen
7 anything, read anything, or heard anything about this case
8 from any source?

9 A. I faintly remember seeing it in the paper, maybe, but I
10 don't have any clear recollection of any of it.

11 Q. You don't remember any incident in regard to Mr. Owens
12 at all?

13 A. No, sir.

14 Q. If you did recall anything during the trial, a juror
15 would have to remove that from their minds and decide this
16 case under our law only on evidence and testimony presented
17 in the court. Do you understand that?

18 A. I do.

19 Q. Could you do that?

20 A. Yes, sir, I could.

21 Q. All right, sir. Could you serve as a fair and an
22 impartial juror and reach a verdict of sentencing in this
23 case based on evidence and testimony presented in accordance
24 with instructions on the law?

25 A. Yes, sir.

1 Q. Okay. Now, I have to instruct you on the law. It's
2 not what you think the law should be, but you are the sole
3 judges of the facts. I have no opinion about the facts or
4 circumstances. Could you just determine the facts and apply
5 those facts to the law as I gave it to you?

6 A. Yes, sir.

7 Q. Okay. And you did not know Mrs. Graves, of course, the
8 victim here?

9 A. No, sir.

10 Q. When I asked you if you know anything about the crime,
11 if you knew anything about it, or knew her, you would
12 certainly tell me that, I'm sure?

13 A. Yes, sir.

14 Q. And you have not formed an opinion one way the other
15 about what a sentence should be where a person has been
16 convicted of murder until you heard the facts and
17 circumstances?

18 A. That's true.

19 Q. Now, if the State proves an aggravating -- a statutory
20 aggravating circumstance, and this case it is -- and the
21 State would have to prove this beyond a reasonable doubt,
22 either that this murder was committed during the commission
23 of a robbery or larceny -- and/or a larceny when the
24 defendant was armed with a deadly weapon. They would have
25 to prove that beyond a reasonable doubt in order to ask the

1 jury to sentence this defendant.

2 There would be no burden of proof on the defendant. He
3 would not have to testify.

4 Would that proposition affect you in any way? Could
5 you follow the law in that regard?

6 A. Yes, sir.

7 Q. And you would hear circumstances in aggravation,
8 which -- or you would have to consider circumstances of
9 aggravation, if they came into evidence, and circumstances
10 of mitigation as a juror in this case.

11 Aggravating circumstances are facts or occurrences
12 which makes the crime worse, aggravates it, increases the
13 enormity of the crime, adds to it.

14 Mitigating circumstances are circumstances which reduce
15 the severity of the offense of murder. They may be
16 considered as extenuating or reducing the degree of
17 responsibility or fault.

18 Could you seriously and meaningfully fully give
19 consideration to circumstances of aggravation and
20 circumstances of mitigation?

21 A. Yes, sir.

22 Q. Could you, based on the facts presented, if it
23 warranted, based on the facts and circumstances, could you
24 write a sentence of life in prison?

25 A. Yes, sir.

1 Q. And you understand that life in prison means life
2 without the possibility of parole until the death of the
3 defendant?

4 A. I do.

5 Q. Based on the facts and circumstances surrounding the
6 offense of murder, could you, based on those facts, write a
7 sentence of death?

8 A. Yes, sir.

9 Q. Could you sign your name to a sentence of death?

10 A. Yes, sir.

11 Q. And you understand death is by lethal injection or
12 electrocution?

13 A. I do.

14 Q. All right, sir.

15 You would honestly and openly be fair and impartial to
16 both the State and the defense and give both sides a fair
17 trial?

18 A. Yes, sir.

19 Q. Now, if any evidence came out about any prior crimes or
20 any subsequent crimes or bad acts before this crime of
21 murder, or anything after this crime of murder, that could
22 not be considered as a statutory aggravating circumstance,
23 as it would bear on evidence of a statutory aggravating
24 circumstance. Do you understand that proposition?

25 A. I do.

1 Q. If any of that evidence came in, it would come in as it
2 may bear on the defendant's character. Do you understand
3 that proposition?

4 A. I do.

5 Q. Would the race of any party have any effect on your
6 decision?

7 A. No, sir.

8 Q. Would the religion of any party have any effect?

9 A. No, sir.

10 Q. If anything came out about anyone -- any person being
11 of the Muslim or Islamic faith, would that affect you in any
12 way?

13 A. No, sir.

14 Q. Please answer any questions by the lawyers, sir.

15 A. Yes, sir.

16 VOIR DIRE EXAMINATION BY MR. ARIAIL:

17 Q. Mr. Mathena, my name is Bob Ariail. I'm the solicitor
18 for the Thirteenth Judicial Circuit, which is Greenville and
19 Pickens Counties. And the solicitor is the name that South
20 Carolina retained for its state attorneys, state prosecuting
21 attorneys. If you watch TV, they call them district
22 attorneys or states attorneys. We are called solicitors.
23 In this case I will be representing the State. And
24 assisting me would be my deputy, Ms. Strom, seated at
25 counsel table.

1 Do you believe that capital punishment, the death
2 penalty, is an appropriate punishment under our law for
3 certain crimes?

4 A. I do.

5 Q. And is that a belief that you have held for some period
6 of time, or is that something that you sort of crystalized
7 as you received your summons or as a result of the process
8 that you have been going through?

9 A. I have held that belief for quite awhile.

10 Q. You have discussed it with other people before?

11 A. Yes, sir.

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

13 VOIR DIRE EXAMINATION BY MR. GODFREY:

14 Q. Mr. Mathena, my name is Bill Godfrey. This is Ken
15 Gibson. We are counsel for Mr. Owens, who is seated over
16 here at the left.

17 Basically I just have one question for you.

18 Is there -- if you were chosen as a juror in this case,
19 is there any reason whatsoever, whether it be from morality,
20 religion, politics, or any other basis, that would prevent
21 you from fulfilling your job as a juror?

22 A. No, sir.

23 Q. You would be completely fair and open?

24 A. Yes, sir.

25 MR. GODFREY: Nothing further.

1 THE COURT: Mr. Mathena, you are qualified to be a
2 potential juror in this case. Okay. You cannot discuss
3 this case with anyone. Do not expose yourself to any of the
4 media in regard to this case - television, radio or
5 newspaper - or permit anyone to talk to you about it.

6 And at this particular time we are having those
7 qualified call back after six this evening, okay, to find
8 out when you needed to come back. You would need to bring
9 clothes for about five days, just to be safe, okay, in a
10 motel. And you could drive your car here and you can drive
11 your car to the motel when you left the court, okay?

12 JUROR NUMBER 274: Yes.

13 THE COURT: If you wanted to do that. All right.

14 Follow this order that I'm going to give you and
15 call back after six tonight. We will leave a message for
16 you.

17 JUROR NUMBER 274: Yes, sir.

18 (Whereupon, Juror Number 274 was taken out of the
19 courtroom)

20 THE COURT: Brandy N. Howle.

21 (Whereupon, Juror Number 205 was brought into the
22 courtroom)

23 BRANDY N. HOWLE, #205, having been first duly
24 sworn, testified as follows:
25

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. Ms. Howle, have you had an opportunity to review the
3 sheet in the other courtroom in regard to the three types of
4 jurors that may appear for a case such as this?

5 A. Yes, sir.

6 Q. And could you place yourself in one of those three
7 categories.

8 A. Yes, sir.

9 Q. Which one?

10 A. Number three.

11 Q. Number three?

12 A. Yes.

13 Q. All right. Ms. Howle, this case arises from an
14 incident that occurred on November the 1st of 1997, in
15 Greenville County, in the early morning hours at a Speedway
16 on Laurens Road, where Mrs. Irene Graves was killed. Mr.
17 Owens has been convicted of that of murder in that incident.

18 Do you know anything about this case or any person
19 involved?

20 A. No, sir.

21 Q. Have you been exposed to any television, radio, or
22 newspaper? Have you read, heard, or seen anything about
23 this case from anyone?

24 A. No, sir.

25 Q. Do you understand your oath as a juror would require --

1 well, you haven't read or heard anything.

2 If it occurred to you during the trial that you did,
3 could you dismiss that from your mind and decide it only on
4 the evidence and testimony in court?

5 A. Yes, sir.

6 Q. Now, putting yourself in the third category in that
7 document that's in evidence, you could be fair and
8 impartial, and depending upon the facts and circumstances,
9 either write a sentence of life imprisonment or a sentence
10 of death for murder, is that correct?

11 A. Yes, sir.

12 Q. Now, the State would have to prove an aggravating
13 circumstance of either robbery or larceny beyond a
14 reasonable doubt, and they would have to prove beyond a
15 reasonable doubt that this defendant was armed with a deadly
16 weapon during the commission of that crime.

17 Have you been exposed to robbery or larceny and would
18 that affect your ability to be a fair and impartial juror?

19 A. No, sir.

20 Q. If the State proved that beyond a reasonable doubt, it
21 was found by all twelve jurors, then the jurors would have
22 to focus on the specific circumstances of this crime and the
23 individual characteristics of the defendant and hear
24 evidence in mitigation and aggravation and write a verdict
25 in this case for either life in prison without the

1 possibility of parole until the death of the defendant or a
2 sentence of death.

3 Could you listen to the facts and circumstances,
4 depending upon the particular facts and circumstances that
5 you heard, either write a sentence of life or death?

6 A. Yes, sir.

7 Q. And aggravating circumstance is a fact or occurrence
8 that increases the enormity of the offense of murder,
9 aggravates it or makes it worse. Do you understand what
10 that would be?

11 A. Yes, sir.

12 Q. And mitigating circumstance is something that reduces
13 the severity of the crime. It is any facts or circumstances
14 to be considered in extenuation or reducing the degree of
15 responsibility or fault for the murder. Do you understand
16 that?

17 A. Yes, sir.

18 Q. You would give serious and meaningful consideration to
19 the either -- to any aggravating or mitigating circumstances
20 in the case and either write a verdict or life or death?

21 A. Yes, sir.

22 Q. Could you sign your name -- if the jury were to
23 determine a sentence of death, could you sign your original
24 signature, along with all the other jurors, for the death
25 sentence?

1 A. Yes, sir.

2 Q. If any evidence came out about crimes before this
3 murder or bad acts or any crimes after this murder or bad
4 acts, I would instruct you that you couldn't consider that
5 as it would bear on evidence of a statutory aggravating
6 circumstance. Do you understand that?

7 A. Yes, sir.

8 Q. You may consider this evidence only as it would bear on
9 the character of the defendant. Do you understand that?

10 A. Yes, sir.

11 Q. Would race have any bearing on your decision?

12 A. No, sir.

13 Q. Would religion have any bearing on your decision?

14 A. No, sir.

15 Q. If anyone were of the Islamic or Muslim faith, would
16 that have any bearing on your decision?

17 A. No, sir.

18 Q. Please answer any these lawyers questions.

19 VOIR DIRE EXAMINATION BY MR. GIBSON:

20 Q. Good morning, Ms. Howle.

21 A. Good morning.

22 Q. I'm Ken Gibson. This is co-counsel Bill Godfrey and
23 this is our client Freddie Owens.

24 I just want to ask you a few questions to make
25 absolutely certain that you are going to be able to be fair

1 and impartial, if you were to get on this jury. Is that
2 okay?

3 A. Okay.

4 Q. Now, in this situation, Mr. Owens, our client, has
5 already been convicted of murder. Do you understand that?

6 A. Yes, sir.

7 Q. Given that he's already been convicted of murder, if
8 you, after listening to the circumstances, thought that the
9 appropriate punishment was life without the possibility of
10 parole, if you thought that was the appropriate punishment,
11 could you give that?

12 A. Yes.

13 Q. Even though the death penalty was out there, could you
14 still give life without the possibility of parole?

15 A. Yes.

16 Q. Do you understand what life without the possibility of
17 parole means?

18 A. Yes, sir.

19 Q. Can you tell me what your understanding of it is?

20 A. Life imprisonment and nothing else out of -- inside the
21 prison.

22 Q. So he would -- do you understand he would die in
23 prison?

24 A. Uh-huh.

25 Q. Now, in order for you to get to the point, if you were

1 to make it to the jury, to consider what kind of sentence he
2 would get, there would have to be certain aggravating
3 factors which would be proven. I'm not going to go into
4 those, but basically what those aggravating factors is what
5 the judge explained, they make the conditions of the murder
6 worse by law. Okay?

7 A. Uh-huh.

8 Q. Even if it was proven -- or if it was proven that this
9 was a worse situation than normal, pursuant to those
10 aggravating factors, would you still be able to give a
11 sentence of life without the possibility of parole if you
12 thought that was the appropriate sentence?

13 A. I would give that if I thought it was appropriate. I
14 wouldn't get him any worse or any less.

15 Q. Do you think that you could be fair to the State in
16 this case?

17 A. Yes, sir.

18 Q. Do you think that you could be fair to Mr. Owens in
19 this case?

20 A. Yes. Thank you Ms. Howle.

21 THE COURT: All right, solicitor.

22 VOIR DIRE EXAMINATION BY MR. ARIAIL:

23 Q. Ms. Howle, my name is Bob Ariail. I'm the solicitor
24 for the Thirteenth Circuit, which is means in South Carolina
25 state calls its state prosecutors solicitor. If you are

1 watching TV, it would be district attorney or states
2 attorney, but here we are called the solicitor. And
3 assisting me in this case would be my deputy, Betty Strom,
4 seated at the counsel table.

5 Do you believe that the death penalty or capital
6 punishment is an appropriate form of punishment under our
7 law for certain crimes?

8 A. For certain crimes, yes, sir.

9 Q. I'm sorry?

10 A. For certain crimes, yes, sir.

11 Q. For certain crimes.

12 And is that something that you have had a belief about
13 for some period of time, or is that something that you just
14 recently came to believe?

15 A. I believe the punishment is due to what you have done.
16 I haven't sat back and pondered the thought, but, yes, I
17 believe if you have committed a crime to something to that
18 extent, you need to.

19 Q. So if you were on a jury and the jury decided that the
20 death penalty was the appropriate punishment, the judge has
21 asked you or mentioned to you, you would have to sign your
22 name.

23 A. Uh-huh.

24 Q. Would the fact that you had to sign your name, along
25 with your eleven other jurors, putting on record your

1 verdict that death was the appropriate sentence, would that
2 in any way intimidate you?

3 A. No, sir.

4 Q. Would it cause you to -- would you be unable to sign
5 the form?

6 A. No, sir.

7 Q. Thank you. That's all I have.

8 THE COURT: Without objection from the State or
9 defense, I find Ms. Howle is qualified as a potential juror
10 in this case.

11 Mrs. Howle, you would cannot discuss this case
12 with anyone. Do not expose yourself to any publicity in the
13 newspaper, read anything about this case.

14 Call back after six tonight and we will leave
15 instructions for you as to when you need to come in. And
16 bring enough clothing for about five days. And if you are
17 chosen, you could drive your car to a motel when you left
18 the court. And then after that you would be sheltered by
19 the SLED agents, okay?

20 JUROR NUMBER 205: Okay.

21 THE COURT: And you can just leave your clothing
22 in your car. If you are selected, you can just take your
23 car to the motel, if that's what you want to do, or you
24 can -- if you are not selected, you will return back home
25 and be excused, okay?

1 JUROR NUMBER 205: Okay.

2 THE COURT: And I'm going to give you this order.

3 You can review it and call back in after six o'clock

4 tonight, okay?

5 JUROR NUMBER 205: Okay.

6 THE COURT: Thank you so much.

7 JUROR NUMBER 205: Thank you.

8 (Whereupon, Juror Number 205 was taken out of the
9 courtroom)

10 THE COURT: Lisa A. Gibson.

11 (Whereupon, Juror Number 456 was brought into the
12 courtroom)

13 LISA A. GIBSON, #456, having been first duly
14 sworn, testified as follows:

15 VOIR DIRE EXAMINATION BY THE COURT:

16 Q. Ms. Gibson, have you had the opportunity to review the
17 three types of jurors document that I gave you?

18 A. Yes, sir.

19 Q. Could you place yourself in one of those three types of
20 as a juror?

21 A. Number three.

22 Q. Number three?

23 A. Uh-huh.

24 Q. Okay. Ms. Gibson, this case arises out of an incident
25 on the 1st of November of 1997, on Laurens Road, at a

1 Speedway where Ms. Irene Graves was killed. And Mr. Owens
2 has been convicted of murder for that offense.

3 Do you know anything about this case?

4 A. No.

5 Q. You don't know Ms. Graves or Mr. Owens?

6 A. No.

7 Q. And have you been exposed -- this was -- there was
8 publicity about this on the TV, radio, and in the newspaper.
9 Have you read, heard, seen anything? Have you heard
10 anything from any source about this case?

11 A. I recognize the name when I got the paper, but I
12 couldn't remember the details of it. I just remember seeing
13 it on the news before. I remember the names, but I don't
14 remember the case.

15 Q. If you were selected as a juror, you would take an oath
16 that you would decide this case only on the evidence and
17 testimony that you heard in the courtroom and you would be
18 required to dismiss anything that you may have heard
19 beforehand from your mind. Could you decide this case --
20 and could you do that?

21 A. Yes.

22 Q. And decide it only on the evidence and testimony that
23 you heard in the courtroom?

24 A. Yes.

25 Q. And the thing that you would be deciding would be how

1 Mr. Owens would be sentenced in this proceeding. Do you
2 understand that?

3 A. Yes, sir.

4 Q. And all the verdicts of the jurors, the jury, would
5 have to be unanimous. Do you understand that?

6 A. Yes.

7 Q. And you feel like that you could be a fair and an
8 impartial juror in this case and you could consider evidence
9 in aggravation and mitigation and reach a fair verdict?

10 A. Yes.

11 Q. Either life imprisonment or death?

12 A. Yes.

13 Q. So you have not formed an opinion about this case and
14 what any sentence should be at this time?

15 A. No.

16 Q. All right. And do you understand that an aggravating
17 circumstance is a fact, incident, or occurrence which would
18 aggravate or worsen the crime of murder, increasing the
19 enormity of that?

20 A. Yes.

21 Q. And a mitigating circumstance would be a fact or
22 circumstance that would decrease the severity of the crime
23 of murder. It would make the person -- it would be an
24 extenuation or reduce the degree of responsibility or fault
25 for the murder. Do you understand that?

1 A. Yes.

2 Q. Now, Ms. Gibson, life in prison in this case would be
3 life in prison without the possibility of any parole until
4 the death of the defendant. Do you understand that?

5 A. Yes.

6 Q. Death would be by lethal injection or electrocution.
7 Do you understand that?

8 A. Yes, sir.

9 Q. You said -- and you would follow your oath honestly and
10 faithfully and you would give serious and meaningful
11 consideration to any evidence that came in in aggravation or
12 mitigation?

13 A. Yes.

14 Q. The State has got to prove initially beyond a
15 reasonable doubt a circumstance -- a particular statutory
16 aggravating circumstance before the jury would determine the
17 sentence. They would have to prove beyond a reasonable
18 doubt that this murder was committed in the commission of a
19 robbery while the defendant was armed with a deadly weapon,
20 or in the commission of a larceny while the defendant was
21 armed with a deadly weapon, or both. They would have to
22 prove it beyond a reasonable doubt.

23 There is no burden of proof on the defendant. He
24 doesn't even have to testify, and that could not be held
25 against him.

1 Have you had any experiences with robberies or
2 larcenies that would affect your ability to be fair and
3 impartial, if that were any evidence of that in this case?

4 A. No.

5 Q. All right. Now, after that, if the jury found that,
6 then the jury would determine the sentence that Mr. Owens
7 would receive, either life in prison or death. Do you
8 understand that?

9 A. Yes.

10 Q. And if under the particular facts and circumstances you
11 told me that you could either write a sentence of life or
12 death?

13 A. That's correct.

14 Q. Now, if you were to write a sentence of death under the
15 particular facts and circumstances, you would have to sign
16 your name, all twelve of you, to the death sentence. Could
17 you do that?

18 A. Yes.

19 Q. Okay. Now, any evidence of crimes before this murder
20 or after this murder or bad acts before this murder or after
21 this murder, that evidence would only come in as it would
22 bear on the character of the defendant. It could not come
23 in as it would bear on any statutory aggravating
24 circumstance. Do you understand that?

25 A. Yes.

1 Q. Could you follow that instruction?

2 A. Yes.

3 Q. Would race have any bearing on your decision?

4 A. No.

5 Q. Would religion?

6 A. No.

7 Q. Islamic faith, Muslim faith, anything like that have
8 any effect on your decision?

9 A. No.

10 Q. Answer some questions from these lawyers, please.

11 VOIR DIRE EXAMINATION BY MR. ARIAIL:

12 Q. Ms. Gibson, my name is Bob Ariail and I'm the solicitor
13 for the Thirteenth Circuit, which means that in South
14 Carolina the State calls its states prosecutors solicitors.
15 So my role would be the State prosecutor. If you were
16 watching TV, it would be district attorney. I will be
17 representing the State, assisted by my deputy Betty Strom.
18 She's seated at counsel table.

19 Do you believe that the capital punishment, the death
20 penalty, is an appropriate form of punishment under our law
21 for certain crimes?

22 A. Yes.

23 Q. And, in particular, murder committed with an
24 aggravating circumstance?

25 A. Yes.

1 Q. And have you held that view for sometime, or is that
2 something that you have recently --

3 A. No, I have always felt that way.

4 Q. Always felt that way?

5 A. Yes.

6 Q. And as the judge asked you, if you felt the evidence
7 was such, you would be able to impose or vote to impose a
8 sentence of death?

9 A. Yes.

10 Q. Likewise, you could vote to impose a sentence of life,
11 if you felt that was appropriate?

12 A. Yes.

13 Q. The judge mentioned to you that as a part of the
14 verdict process, if you determined that the appropriate
15 sentence was death, you would have to sign the document
16 recording that, you and your other eleven jurors.

17 Would the fact that you had to sign that in any way
18 cause you to hesitate?

19 A. No.

20 Q. You could sign the form?

21 A. Yes.

22 Q. I noticed on your questionnaire that your
23 brother-in-law is in a California prison for 26 years.

24 Would that in any way affect your ability to be fair to the
25 State in this case?

1 A. I don't think it would, no.

2 Q. When you say you don't think it would --

3 A. Well, I don't think it would. I mean, I don't think
4 that it would. I mean, I write to him and he writes to me,
5 but I don't think that would impair my judgment.

6 Q. Okay. And your brother was put in prison by the State
7 of California by some prosecutor?

8 A. My brother-in-law -- it was before I was married into
9 the family. I never met him other than writing him.

10 Q. Okay. And you don't believe that would impair your
11 judgment if the prosecutor was asking you for a certain
12 sentence in the case that you were on?

13 A. No.

14 Q. All right. Thank you. That's all I have. Thank you,
15 ma'am.

16 VOIR DIRE EXAMINATION BY MR. GODFREY:

17 Q. Ms. Gibson, my name is Bill Godfrey. This is Ken
18 Gibson and this is our client Freddie Owens.

19 If you were a juror on this case, could you be fair and
20 open throughout the entire proceeding?

21 A. Yes, sir.

22 Q. Is there anything in your background from religion,
23 morals, politics, or anything else personal to you that
24 would cause you any trouble in your service on this jury?

25 A. No.

1 Q. If it became the duty of the jury to determine the
2 sentence, to determine whether Freddie Owens got a life
3 sentence without the possibility of parole, or death, is
4 there anything - any bias or any problem - that you would
5 have in rendering a verdict for life in prison?

6 A. No.

7 Q. The same question, for death?

8 A. No.

9 MR. GODFREY: Nothing further.

10 THE COURT: Anything additionally from the State?

11 MR. ARIAIL: No.

12 THE COURT: From defense?

13 MR. GODFREY: Nothing from the defense.

14 THE COURT: Okay. I would find that Ms. Fowler --

15 JUROR NUMBER 456: Gibson..

16 THE COURT: Ms. Gibson is qualified as a potential
17 juror in this case.

18 All right, ma'am, you would need to call back in
19 after six o'clock tonight.

20 JUROR NUMBER 456: Yeah.

21 THE COURT: And then we would leave a message as
22 to when you need to report back.

23 Do not discuss the case with anyone or permit
24 anyone to talk to you about it, okay?

25 JUROR NUMBER 456: Okay.

1 THE COURT: Now, as a potential juror you may be
2 selected and would have to -- in other words, you should
3 bring sufficient clothes for about five days.

4 JUROR NUMBER 456: So when I call after six, I
5 will know.

6 THE COURT: You will know when you are coming
7 back.

8 JUROR NUMBER 456: Okay.

9 THE COURT: You will have to sit here and the jury
10 would be selected from this group of people. You may be a
11 juror and you may not. We have to treat you as if you may
12 be.

13 JUROR NUMBER 456: Yeah.

14 THE COURT: Do not expose yourself to any
15 publicity about this case in any way.

16 Now, I'm going to give you an order and just ask
17 you to call this number after six and we will give
18 instructions to you.

19 JUROR NUMBER 456: Yeah.

20 THE COURT: You can leave your clothes in your car
21 when you drive in here tomorrow. And if you are selected,
22 you can drive it out there to the motel.

23 JUROR NUMBER 456: Thank you.

24 (Whereupon, Juror Number 456 was taken out of the
25 courtroom)

1 THE COURT: Carolyn R. Fowler.

2 (Whereupon, Juror Number 143 was brought into the
3 courtroom)

4 CAROLYN R. FOWLER, #143, having been first duly
5 sworn, testified as follows:

6 VOIR DIRE EXAMINATION BY THE COURT:

7 Q. Ms. Fowler, you have had an opportunity to review the
8 document called the three types of jurors?

9 A. Yes, sir.

10 Q. Could you place yourself in one of those three types of
11 jurors?

12 A. I would hope I would be the third one.

13 Q. Okay. Now, you phrased that as a hope, but could you
14 be more emphatic as to why you say that you would be a
15 three?

16 A. Well, I think I want to be fair and honest and do the
17 right thing. I believe I could give someone a life
18 sentence. It would be hard to give someone the death
19 penalty. I could do it, but it would be extremely hard.

20 Q. Okay. This case arises out of an incident on Laurens
21 Road on November the 1st of 1997, when Mrs. Irene Graves was
22 killed, and Mr. Owens has been convicted of murder for that
23 offense.

24 Do you know anything about this case?

25 A. No, sir.

1 Q. This was publicized on television, radio and the
2 newspapers. So you have not seen, heard, or know anything
3 about this case from any source in regard to Mr. Owens?

4 A. No.

5 Q. And certainly if you knew Mrs. Graves, you would know
6 something about the case?

7 A. No, I do not.

8 Q. You would take an oath to serve as a fair and an
9 impartial juror and would reach your verdict based only on
10 the facts and circumstances that you heard in the courtroom
11 and presented at trial.

12 Could you be a fair and impartial juror and follow the
13 instructions of law from the court?

14 A. Yes, I believe I could.

15 Q. All right. You have not formed any opinion about what
16 sentence Mr. Owens should receive, if you had to decide
17 that?

18 A. No.

19 Q. Now, the State would have to prove a statutory
20 aggravating circumstance of either robbery or larceny that
21 was committed during the course of this murder. They would
22 have to prove that the defendant was armed with a deadly
23 weapon in the commission of a robbery or a larceny during
24 this murder, either one or both of these things, beyond a
25 reasonable doubt before the jury would determine the

1 sentence.

2 Could you make a fair decision on that? Have you been
3 exposed to any robberies or larcenies that would affect your
4 decision on that?

5 A. Our house was broken into about eight years ago. I
6 don't think that would affect my reasoning or deliberation
7 on it.

8 Q. You would disregard that and just consider the facts
9 and circumstances in this case?

10 A. Right.

11 Q. All right. Now, the State would have to prove that
12 statutory aggravating circumstance beyond a reasonable
13 doubt. The defendant doesn't have to prove anything or even
14 testify. Could you accept that statement of the law?

15 A. Yes, sir.

16 Q. All right. Now, if you reached the point and the jury
17 unanimously found one of those statutory aggravating
18 circumstances, the jury would have to determine what
19 sentence Mr. Owens would receive. That would be just two
20 choices. The defendant could be sentenced to life in prison
21 without the possibility of parole until his death, or he
22 could be sentenced to death by lethal injection or
23 electrocution. Do you understand that?

24 A. Yes, sir, I do.

25 Q. And that would be the only two possibilities that the

1 jury could consider.

2 In determining that, you would be required to consider
3 any aggravating circumstances that you heard; that is,
4 circumstances that would make the crime or murder worse, or
5 that would increase the severity or enormity of that crime.
6 Do you understand what an aggravating circumstance is?

7 A. Yes, sir.

8 Q. A mitigating circumstance would be a circumstance or a
9 fact that would reduce the severity of the crime of murder.
10 It would be facts or circumstances to be considered in
11 extenuation or those that would bear on reducing the degree
12 of responsibility or fault of the defendant. Do you
13 understand what a mitigating circumstance may be?

14 A. Yes.

15 Q. Could you seriously and meaningfully give consideration
16 to statutory aggravating circumstances and any mitigating
17 circumstances and write a verdict in this case based on the
18 evidence and the law?

19 A. Yes.

20 Q. And that would -- and you could consider particular
21 facts and circumstances and give either a life sentence in
22 prison or a death sentence?

23 A. I say yes, but there it goes back to the same thing, it
24 would be a very difficult decision.

25 Q. Okay. If the facts and circumstances of the particular

1 case warranted a death sentence, all the jurors, all twelve,
2 are required to sign their name to the verdict.

3 A. Yes, sir.

4 Q. You would have to do that if you reached that point.
5 Could you do that?

6 A. Yes.

7 Q. Okay. Now, if any evidence came in of any crimes or
8 bad acts that happened before this murder or after this
9 murder, they would only come in for a specific purpose, and
10 that is how they may bear on the character of the defendant.
11 It would not come in as to any evidence of a statutory
12 aggravating circumstance. Could you follow that
13 instruction?

14 A. Yes.

15 Q. Now, would race have anything to do with your decision?

16 A. No.

17 Q. Would religion have anything to do with your decision?

18 A. Yes.

19 Q. Okay. Is that your personal training and your personal
20 faith or what you may or may not have been taught?

21 A. It's my personal -- it's the way I was brought up and
22 it's the way I live.

23 Q. Would that prevent you from either writing a life
24 sentence or a death sentence?

25 A. No.

1 Q. I understand from the context of your answer is that
2 you are guided in many things in life by your religion?

3 A. Yes.

4 Q. And if any evidence came out about anyone being of the
5 Muslim or Islamic faith, would that bear in any way on your
6 decision?

7 A. No.

8 Q. Okay. Now, ma'am, I'm going to ask you to answer a few
9 questions from these lawyers.

10 A. Okay.

11 VOIR DIRE EXAMINATION BY MR. GIBSON:

12 Q. Good morning Ms. Fowler.

13 A. Good morning.

14 Q. I'm Ken Gibson. This is Bill Godfrey and this is our
15 client Freddie Owens. I just want to ask a few questions,
16 if I may.

17 And the purpose of this whole voir dire proceeding is
18 to make sure that we get jurors that can be fair to both
19 parties. Okay. Not just my client, but also fair to the
20 State as well.

21 I just want to confirm some things that I hear you
22 saying. My understanding is from what you said it would be
23 difficult for you to give the death penalty?

24 A. I think it would be for anyone. I mean, it's something
25 that you don't take lightly and it's something that I would

1 to live with for the rest of my life.

2 Q. Yes, ma'am.

3 A. And I believe that I can do it, if the evidence points
4 in that direction.

5 Q. Okay. So if the circumstances, after you reviewed
6 them, warranted it, you could give a death penalty sentence?

7 A. Yes. It would be difficult, but I could do it.

8 Q. And if you felt, based on your review and everything
9 about the facts, that a death penalty sentence was
10 warranted, you could sign your name to the death sentence as
11 well?

12 A. Yes.

13 Q. And I understand it would be difficult, but you could
14 do it?

15 A. Yes, I could do it.

16 Q. Now, do you believe -- I take it from your answers that
17 you believe, at least in certain circumstances, the death
18 penalty might be warranted?

19 A. Yes, sir.

20 Q. Now, I see from your questionnaire that you are a
21 former probation agent?

22 A. No, I worked in the Laurens County probation and parole
23 office as a secretary there.

24 Q. Okay.

25 A. Which was, of course, affiliated with the General

1 Sessions courts in Laurens County.

2 Q. So nothing in relation to that employment would keep
3 you in any way from fulfilling your responsibilities in this
4 case?

5 A. No, that was back in the seventies. I mean, that was
6 30 years ago, or longer.

7 Q. Okay.

8 A. And I don't think that anything would.

9 Q. All right. Just to finish, you were certain that you
10 could be fair to both parties in this situation, is that
11 right?

12 A. Yes, sir.

13 Q. Okay. Thank you Ms. Fowler.

14 A. You are welcome.

15 THE COURT: Solicitor Ariail.

16 VOIR DIRE EXAMINATION BY MR. ARIAIL:

17 Q. Ms. Fowler, my name is Bob Ariail and I'm the solicitor
18 for Greenville and Pickens Counties, Thirteenth Circuit of
19 South Carolina. That means solicitor in this state means
20 state prosecutor. We retained that old name.

21 A. Yes, sir.

22 Q. Just to make sure you understand what -- the same as
23 the district attorney.

24 A. Yes, sir.

25 Q. I will be representing the State in this case, along

1 with my deputy Ms. Strom, and also one of my assistants, Ms.
2 Verdin, seated at the counsel table.

3 Before I go into any questions about substance, I
4 noticed that your mailing address is in Belton, South
5 Carolina?

6 A. It's Greenville County.

7 Q. That is a Greenville County --

8 A. Yes.

9 Q. -- location?

10 A. Most of those addresses down there are messed up.

11 Q. That's all right. That's all right. I just want to
12 make sure that we --

13 And I also noticed that your husband underwent heart
14 surgery in July --

15 A. Yes.

16 Q. -- and you had indicated some concern about his health.
17 Has that pretty well resolved itself now?

18 A. He's doing well, yes. He still has doctors
19 appointments and that type of thing, but he's doing well.

20 Q. Okay. Now, I heard what you said about the difficulty.
21 It would be hard to give the death penalty and would be a
22 difficult decision to make, and I heard those answers.

23 At the end you said -- the judge was asking you about
24 religion, and you said that guided a lot of your decision
25 making, and then you said that the difficulty -- or as I

1 understood you said, the difficulty in doing the death
2 sentence would be that it would just be a difficult
3 decision. Not necessarily difficult for you, but that's
4 just a difficult issue for anybody.

5 A. Uh-huh.

6 Q. Okay. Do you have any personal predisposition that
7 makes it more difficult for you than it would be for just a
8 normal situation?

9 A. No, I just -- it's just -- I think as a human being we
10 are not -- or I think that myself as a human being, it's --
11 I'm not geared that way to take somebody's life.

12 Q. Correct.

13 A. And I understand that that happens and I understand
14 that. It is just one of those things that I think when you
15 do that, you have to be extremely cautious and careful and
16 you have to study. I mean, you really have to look at all
17 the facts --

18 Q. Okay.

19 A. -- and understand that you are, in essence, putting a
20 man to death. And that's not in my -- so far that hasn't
21 been in my makeup. By the grace of God I have not been
22 confronted with that, nor have I committed that act. And I
23 just think that for anybody that's human that should be a
24 very difficult and, for lack of a better word, painful
25 decision to have to make for somebody else's life.

1 Q. All right. But you told the judge you think you can do
2 that?

3 A. I think so, because that's the way our country has been
4 founded. And at some point in time somebody has to do it,
5 and it may not be the most welcome of tasks that we do in
6 our life, but as an American citizen and as a citizen of
7 this state, at some point in time we are all called on to
8 have to make that difficult decision.

9 Q. Then do you believe that capital punishment or the
10 death penalty is an appropriate punishment under our law in
11 certain cases?

12 A. In certain cases, yes, sir.

13 Q. Okay. And is that a view that you have held for some
14 period of time, or is that something that you recently --

15 A. I have always had that view.

16 Q. Okay. Thank you very much.

17 THE COURT: Without objection from the defense or
18 the State, I would find that Ms. Fowler is qualified as a
19 potential juror.

20 Ms. Fowler, that means that you will come back and
21 sit in this courtroom with other people --

22 JUROR NUMBER 143: Yeah.

23 THE COURT: -- who have been qualified. It does
24 not mean that you will sit, but there is a possibility that
25 you could sit on this jury.

1 JUROR NUMBER 143: Yeah.

2 THE COURT: You are not to discuss this case with
3 anyone again, and I have to tell you that.

4 JUROR NUMBER 143: Okay.

5 THE COURT: I don't believe that you would. And
6 you are not to expose yourself to any publicity in regard to
7 this case --

8 JUROR NUMBER 143: Yes, sir.

9 THE COURT: -- in any way, the news media or
10 otherwise.

11 And you would have to bring clothes just to be
12 safe for about five days, I would say.

13 JUROR NUMBER 143: Yeah. I mentioned also this
14 morning that there is a name on that list. I didn't think
15 it necessary to mention it yesterday, but it has the same
16 last name as my mother's maiden name. I don't think I'm
17 related. I don't remember that name being mentioned before
18 in my family.

19 THE COURT: Okay.

20 JUROR NUMBER 143: But just so you know, there is
21 somebody there with the same last name as my mother's maiden
22 name.

23 THE COURT: Okay. And that would be -- what was
24 the name.

25 JUROR NUMBER 143: Powell.

1 THE COURT: Joe Powell?

2 JUROR NUMBER 143: Yes. And the name is not
3 familiar, but he does have the same last name as my mother's
4 maiden name.

5 THE COURT: He's listed as a SLED agent.

6 JUROR NUMBER 143: I don't -- I don't think -- I
7 don't remember having any SLED in our family, no. Just so
8 you are aware.

9 THE COURT: Would either the defense or the State
10 like to ask her anything about the knowledge of Mr. Powell?
11 She says she doesn't think it's the same person.

12 JUROR NUMBER 143: I don't think it's the same
13 family, but --

14 THE COURT: Okay.

15 JUROR NUMBER 143: Just so you know.

16 THE COURT: We appreciate that. Thank you so
17 much.

18 And you can drive your car, if you drive a car
19 when you come to the courthouse and park it. And then when
20 you leave tomorrow, you -- or I'm not sure it would be
21 today, but you can drive your car to the motel, if you are
22 chosen as a juror.

23 JUROR NUMBER 143: Yeah.

24 THE COURT: And leave it there. Okay?

25 JUROR NUMBER 143: Okay.

1 THE COURT: Take this order just for your guidance
2 and call that number. As of right now, call it after six
3 today.

4 JUROR NUMBER 143: Yeah.

5 THE COURT: Thank you so much.

6 JUROR NUMBER 143: Thank you.

7 (Whereupon, Juror Number 143 was taken out of the
8 courtroom)

9 THE COURT: Y'all need to take a break?

10 MR. ARIAIL: I'm just going to take one. Ms.
11 Strom is much stronger than I am and she can handle it.
12 I'll be right back.

13 MR. GODFREY: I could use five minutes.

14 THE COURT: Let's take a ten minute recess.

15 MR. GODFREY: Thank you, Your Honor.

16 (Whereupon, proceedings were recessed)

17 (Whereupon, proceedings were reconvened)

18 THE COURT: Walter Booker.

19 (Whereupon, Juror Number 453 was brought into the
20 courtroom)

21 WALTER E. BOOKER, #453, having been first duly
22 sworn, testified as follows:

23 VOIR DIRE EXAMINATION BY THE COURT:

24 Q. Mr. Booker, you have had an opportunity to read this
25 document called three types of jurors for a case such as

1 this? Have you done that?

2 A. Yes, sir.

3 Q. Could you put yourself into one of these three
4 qualifications?

5 A. Yeah.

6 Q. Which one? How would you classify yourself?

7 A. One.

8 Q. Number one?

9 A. Yeah.

10 Q. Now, number one states the juror who, once the crime of
11 murder has been proved by the State and the juror is
12 considering punishment, feels that he or she would give the
13 death penalty in each and every case. Is that the way that
14 you feel?

15 A. Yeah.

16 Q. You feel that once a murder has been committed, the
17 death penalty is the appropriate punishment, no matter what
18 the circumstance?

19 A. Yes, sir.

20 Q. So you feel if someone is convicted of murder, you
21 couldn't hear anything that would permit you to give a
22 person a life sentence?

23 A. No, sir.

24 Q. Okay. Mr. Booker, do you know anything about this
25 case? This incident occurred on the 1st of November of

1 1997, on Laurens Road at a Speedway, when Ms. Irene Graves
2 was killed. Mr. Owens has been convicted of murder for that
3 offense. Do you know anything about this case?

4 A. No, sir.

5 Q. You hadn't seen anything on TV, radio, or in the
6 newspaper?

7 A. No.

8 Q. Okay. Now, how long have you had the feelings that
9 anyone convicted of a murder should be sentenced to death?

10 A. I don't know. I had an ex-wife died in December and
11 she was killed point blank.

12 Q. This year.

13 A. Yeah, well, December would be a whole year.

14 Q. Yeah, in this December would be a year?

15 A. Yeah. Yeah.

16 Q. All right. That was your ex-wife?

17 A. Yeah, it was my ex-wife. We -- we had just gotten
18 divorced in November, so she died in December.

19 Q. And because of that you feel like that --

20 A. Yeah.

21 Q. -- any person convicted of murder should receive the
22 death penalty?

23 A. Yeah.

24 Q. Regardless of any circumstances?

25 A. Yeah.

1 Q. Under our law if a juror couldn't sit and carefully
2 consider the facts and circumstances of aggravation and
3 mitigation and give either a sentence of life or death, I
4 would have to disqualify you.

5 A. Yeah.

6 Q. And that's nothing -- we have jurors that feel both
7 ways.

8 A. Yeah.

9 Q. There is nothing wrong. Some people just absolutely
10 don't believe in the death penalty, period.

11 A. Yeah.

12 Q. So we appreciate your honest answers, sir.

13 A. Yeah.

14 Q. I would excuse you and you do not have to come back,
15 Mr. Booker.

16 A. Thank you.

17 (Whereupon, Juror Number 453 was taken out of the
18 courtroom)

19 THE COURT: Robert Noble.

20 (Whereupon, Juror Number 311 was brought into the
21 courtroom)

22 ROBERT J. NOBLE, #311, having been first duly
23 sworn, testified as follows:

24 VOIR DIRE EXAMINATION BY THE COURT:

25 Q. Mr. Noble, you have had the opportunity to review the

1 document which we have here?

2 A. Yes, sir.

3 Q. And it indicates the possibility of three types of
4 jurors. If you had to classify yourself, which one would
5 you be?

6 A. One.

7 Q. Number one?

8 A. Yes, that's correct.

9 Q. Is there any special reason why you would feel that the
10 death penalty is warranted in every case?

11 A. I believe if a man is convicted of the crime, he should
12 be also punished by the same.

13 Q. And how long -- have you held that belief for some
14 time?

15 A. Yes, sir. Yes, Your Honor.

16 Q. Do you believe that there is any circumstances of a
17 murder that could exists that would warrant the service of
18 life in prison without the possibility of parole until the
19 death of a defendant?

20 A. No, I do not.

21 Q. You hold to the belief that regardless of what the
22 circumstances are?

23 A. That's correct, Your Honor.

24 Q. That it would be --

25 A. Yeah, death.

1 Q. -- death.

2 A. That's correct.

3 Q. And you held that before you were summonsed for this
4 jury duty?

5 A. I did.

6 THE COURT: Mr. Ariail, do you want to ask some
7 questions?

8 MR. ARIAIL: No.

9 MR. GODFREY: No.

10 THE COURT: All right. Based on that, we would
11 need a jury of twelve people who could consider life and
12 could consider death. Do you understand that?

13 JUROR NUMBER 311: I understand that, Your Honor.

14 THE COURT: We appreciate your honesty, and we
15 have had people that absolutely do not believe in the death
16 penalty. We have had both, and that's -- that's clearly
17 appropriate in our society, and we appreciate your honesty
18 and I'm going to excuse you. You won't have to come back.

19 JUROR NUMBER 311: Thank you. Your Honor.

20 (Whereupon, Juror Number 311 was taken out of the
21 courtroom)

22 THE COURT: Chadwik Carter.

23 (Whereupon, Juror Number 73 was brought into the
24 courtroom)

25 CHADWIK CARTER, #73, having been first duly sworn,

1 testified as follows:

2 VOIR DIRE EXAMINATION BY THE COURT:

3 Q. Sorry, Mr. Carter, we have a long list of names.

4 A. I understand.

5 Q. Mr. Carter, have you had an opportunity to review the
6 three types of jurors --

7 A. Yes.

8 Q. -- in a case such as this?

9 A. Yes.

10 Q. Could you tell us if you fall into one of those three
11 categories?

12 A. I feel like one.

13 Q. One?

14 A. Yes.

15 Q. Do you remember what one is?

16 A. If it's the one we had before, yes.

17 Q. Okay. The juror who, once the crime of murder has been
18 proved by the State -- and murder has already been proved to
19 the jury and this is a sentencing proceeding. Do you
20 understand that?

21 A. Yes.

22 Q. And you would feel that in every case of murder,
23 regardless of the circumstances, you would impose the death
24 penalty?

25 A. If it's of those two options, yes.

1 Q. How about three options.

2 A. Oh, I think there were two options on there.

3 No, I understand that there are three things on here
4 but there are only between --

5 Q. Right.

6 A. -- life imprisonment or the death penalty.

7 Q. There would be two options, if you -- when you reach
8 the sentencing stage. And if you did that, you could -- the
9 sentence could be life in prison without the possibility of
10 parole until the death of the defendant, or death.

11 A. Right.

12 Q. And would you impose the death penalty in every single
13 case.

14 A. As far as I have been able to tell for the past couple
15 of days, yes, since I read that last night.

16 Q. You took it home with you and read it.

17 A. No, I mean I read it last night when I was here. And
18 in thinking about it and it's been -- I guess it's caused me
19 to think of a bunch of things, but if it's between those two
20 things, then I would -- I think in every case I would choose
21 one.

22 Q. Okay. Now, the juror -- in a case such as this under
23 the law the juror would take an oath and would have to be
24 capable of considering all the facts and circumstances
25 surrounding the crime, consider the circumstances and facts

1 in aggravation and in mitigation, and would not have made up
2 his mind as to what the sentence or punishment should be.
3 And then after hearing all the evidence and testimony and
4 the circumstances in aggravation and in mitigation, that
5 juror must be able to either write a sentence of life
6 imprisonment or death. Do you understand what the law
7 requires?

8 A. Yes.

9 Q. And it's your firm conviction that you could not do
10 that, that if you -- there are no facts and circumstances in
11 regard to a murder that you could hear that would warrant
12 the sentence of life imprisonment without the possibility of
13 parole until the death of the defendant?

14 A. I would be willing to listen to everything. I just
15 think looking at those two options, I don't know. I guess I
16 have some convictions myself that I have had to deal with
17 after reading that. I would always be honest, you know, and
18 listen to everything, but I just I think -- the more I think
19 about it, that -- I guess the resources, the time, the
20 money, and -- I don't know. It's tough decision. I mean --

21 Q. Well, this is very serious matter. It would be a tough
22 decision for anyone on the jury panel, but every jury in a
23 case, and particularly when you have life or death involved.
24 It's a very serious decision and we need jurors that can
25 weigh -- consider the factors in both.

1 Have you heard anything or do you know anything about
2 an incident on the 1st of November, 1997, on Laurens Road
3 where Ms. Irene Graves was killed in the early morning hours
4 and Mr. Owens had been convicted of that murder?

5 A. I didn't live here then.

6 Q. You didn't live here then?

7 A. No.

8 Q. There was a lot of television, radio, and newspaper
9 coverage of this case. So you have not seen or heard
10 anything from any source about it?

11 A. Just --

12 Q. Mr. Owens here.

13 A. Just what you told us in court Monday.

14 Q. How long have you been living in Greenville?

15 A. I moved here in '98, and then I lived overseas for two
16 and a half years, and I have lived here again since 2004.

17 Q. So you left here after '98, and lived overseas, and
18 then you come back?

19 A. Yeah.

20 Q. Okay. I may ask you a few more questions, but before I
21 do, I think I'll permit the attorneys to ask you some
22 questions.

23 Before Mr. Ariail getting -- I mean, I'll let him
24 continue to come forward.

25 Could you elaborate on the facts and circumstances that

1 you have considered since being summonsed as a juror in this
2 case?

3 A. Sir?

4 Q. About how your sentencing may be?

5 A. The facts.

6 Q. I mean elaborate on -- you said that you had thought
7 about it and --

8 A. Well.

9 Q. -- things had gone through your mind that caused you
10 to --

11 A. And --

12 Q. -- think about these types of jurors.

13 A. It's something that I thought about I guess yesterday
14 before I was here, you know, after discussion -- or the
15 information you gave us on Monday. And then I was surprised
16 to see it was actually split out on a piece of paper. You
17 now the things that I thought about, there are either one or
18 two types. And there is a third type. And then I look at I
19 guess all the stuff we hear about. You know, things get
20 caught up in the legal system, the time and everything else,
21 and then you have got these two options here. And I don't
22 know. I just -- in my heart I think that's the way I would
23 go.

24 Q. Okay. Now, in all fairness, there is three types of
25 jurors. This questionnaire has been used by courts for a

1 long time, probably just when the State seeks the death
2 penalty.

3 Now, I'm going to let Mr. Ariail, since he was ready to
4 go ahead and ask you a few more questions.

5 VOIR DIRE EXAMINATION BY MR. ARIAIL:

6 Q. Mr. Carter, my name is Bob Ariail and I'm the solicitor
7 for the Thirteenth Circuit. Solicitor is South Carolina's
8 person designated as states prosecutor. That's the name
9 that South Carolina uses. TV or elsewhere they call them
10 district attorneys.

11 The judge has told you about the process in a death
12 penalty case where the jurors become the sentencing
13 authority in the case. Normally the judge would be
14 responsible for sentencing, but in a death penalty case a
15 juror takes on that responsibility. So that's why we are
16 interested in asking you about what type of juror category
17 you might put yourself in.

18 Do you believe that capital punishment is an
19 appropriate form of punishment under our law?

20 A. Yes.

21 Q. For certain crimes?

22 A. Yes.

23 Q. All right. That's a view that you have held for some
24 time?

25 A. Yes.

1 Q. All right. On the other side, do you believe that life
2 imprisonment without parole is a significant punishment,
3 serious punishment?

4 A. Not in many cases.

5 Q. Not in many, but can you envision some cases?

6 A. I don't -- I'm not exposed enough to, you know, these
7 kind of things to really know. I just -- everything, you
8 know, when I think about it, if it's, you know, between
9 those two, it seems like it needs to be the ultimate
10 punishment.

11 Q. Now, if there were a circumstance that you haven't
12 thought about and it were presented to you, would you be
13 able to consider the imposition of a sentence of life
14 imprisonment without parole?

15 A. If it was a new scenario of information that I hadn't
16 considered, would I consider it?

17 Q. Right.

18 A. Yes.

19 Q. Would you be fair-minded, open-minded to consider the
20 option of life imprisonment without parole in a case after
21 you have heard it, if it fell into a scenario that you had?

22 A. Like I said, I would always be willing to think and
23 consider everything. I'm not close-minded about situations.

24 Q. That was my next question.

25 Just because somebody has been convicted of murder, do

1 you still have an open mind as to the sentence, or is your
2 mind already closed and the only available sentence is
3 death?

4 A. No, I don't believe that all the murders should be
5 subject to the death penalty.

6 Q. That there would be certain circumstances under which a
7 murder could -- in your view you could see imposing a life
8 imprisonment without parole sentence?

9 A. That's where it comes to -- you know, there is some
10 murders that are either accidental or of the nature that are
11 not always a conscious decision. And I don't know if there
12 is always, you know, tail life in prison without parole. I
13 just don't know how those deem.

14 Q. Well, under the law of this state murder is defined as
15 the intentional killing with malice aforethought. So there
16 wouldn't be a murder that wasn't intentional.

17 A. Okay.

18 Q. That would by the very nature of the conviction, it
19 would have been an intentional act accompanied by a
20 malicious state of mind at the time it was committed.

21 So the issue of murder is not before you. It would be
22 the issue of the punishment.

23 A. Right.

24 Q. And the question is, could you consider both forms of
25 punishment - life imprisonment and the death penalty -

1 fairly and meaningfully?

2 A. Meaningfully? I don't know about -- fairly is where
3 I'm having the problem, because what I have been, I guess,
4 working out myself is I would always lean towards the death
5 penalty, but -- and that's where I say fairly, because there
6 are -- like I say, there may be cases that I just don't know
7 that -- I'm new to all of this, you know.

8 Q. Correct.

9 A. As long as I say, this is just things that I have had
10 to work out myself.

11 I -- I don't know, I guess it's eye for an eye, tooth
12 for a tooth kind of thing. And there is -- I think -- I see
13 a lot of cases in the news -- not in South Carolina, because
14 I don't see a lot here, but just states around the country
15 and in other countries where I feel like the death penalty
16 should be enacted and it's not.

17 Q. You see cases where you think life imprisonment should
18 be imposed and the death penalty shouldn't?

19 A. Those are the ones where they end up life in prison,
20 and I -- just, you know, hearing everything that I have
21 heard around the cases, or whatever I have seen, you know,
22 it seems unfair.

23 Q. You say it's what?

24 A. It seems unfair, and that's -- that's where I guess my
25 decision is coming from. But like I said, I can't foresee

1 every possible circumstance to tell you that, you know,
2 I'm -- I'm not close-minded about it, like I said.

3 Q. You are open-minded.

4 A. I'm open-minded, but I tend to lean one way.

5 Q. You would be predisposed to impose the death penalty,
6 but you are open-minded to hear it?

7 A. I guess that's the best way to put it, yeah.

8 Q. Okay.

9 VOIR DIRE EXAMINATION BY MR. GODFREY:

10 Q. Good morning Mr. Carter. My name is Bill Godfrey.
11 This is Ken Gibson, co-counsel, and this is our client
12 Freddie Owens.

13 I just have a few questions for you.

14 Somewhat I believe you were talking or answering a
15 question from the court. You had mentioned in relation to
16 the capital punishment resources, time, and money. Could
17 you explain to me what you were talking about?

18 A. There is a punishment that's handed down, and if it's
19 life in prison, then we are paying for the life in prison.

20 Q. Well, if the court told you as a matter of law that you
21 could not consider that, could you keep that out of your
22 mind?

23 A. In other words, just the punishment and not, I guess,
24 the resources involved in --

25 Q. Right.

1 A. -- either punishment?

2 Possibly. I haven't even thought about that before.

3 Q. So is it one of the reasons that you are in favor of
4 capital punishment is economical?

5 A. I think it's emotional and economic.

6 Q. I'm sorry, what, sir?

7 A. I think it's emotional and economic.

8 Q. Well, what is the emotional component?

9 A. Well, there are lives and families that were destroyed
10 at some point in the past. And, you know, you have got
11 these people -- and I guess we as society have to take that
12 into account too.

13 Q. Right.

14 So is that why that you advised the court that you were
15 like a juror number one, that was always seeking the death
16 penalty?

17 A. That's where my -- I guess my feelings are drawn from
18 or my thoughts to lead up to that decision.

19 Q. If you were a juror on this case, could you take an
20 oath, and you will be given an oath if you are a juror on
21 this case, to be fair and impartial throughout the entire
22 case? Do you believe that you could be fair and impartial?

23 A. If I took an oath to, I would to the best of my
24 ability.

25 Q. But when you say to the best of your ability, does that

1 mean that some of your personal thoughts may overtake your
2 fairness and impartiality?

3 A. I think they may, but I think that's, you know, what
4 makes my opinion my opinions, because it is incorporated
5 from past and, you know, what I'm, I guess, feeling, hearing
6 and experiencing. I have always tried to be fair, but I
7 just don't know. I have never been put in that situation.

8 Q. Now, you also mentioned when you were talking with
9 Solicitor Ariail that, you know, perhaps if there was a
10 murder that was an accident that you might consider
11 something different.

12 Do you understand that in this case our client has been
13 convicted of murder, which is the unlawful killing of
14 another with malice aforethought, either express or
15 inferred.

16 And malice is defined as a black and evil heart
17 socially bent on mischief, void of all social
18 responsibility. It's an intentional murder.

19 If you were sitting on a jury with someone convicted of
20 an intentional murder, and if it was your job to determine
21 or make a decision of life or death, could you be fair and
22 impartial, or are you going to go directly to the death
23 penalty?

24 A. I guess I should say that's the first, you know,
25 talking about the first time I have heard it explained fully

1 that way. And that would, I guess, slant me towards the
2 death penalty. Knowing that it was someone's conscientiable
3 decision to proceed in that way, then I think my feelings
4 through everything that I heard would still have that in the
5 back of my mind that type of evil was present and put that
6 in motion.

7 Q. So I take it from what you are saying that you would
8 have hesitation, if not resistance, to considering a life
9 sentence or giving a life sentence verdict?

10 A. I guess hesitance is a good way to put it.

11 MR. GODFREY: Beg the court's indulgence.

12 (Off the record)

13 (Back on the record)

14 BY MR. GODFREY:

15 Q. In this particular case I believe the court and the
16 solicitor have explained the death penalty is not allowed in
17 all murders in South Carolina.. It's not part of our law.

18 A. Okay.

19 Q. For a case to be considered as a death penalty case,
20 the jury would have to find beyond a reasonable doubt that
21 there was an aggravating factor, at least one, not more, but
22 at least one aggravating factor in this murder.

23 If you were sitting on a jury that involved an
24 intentional murder and if the jury had found beyond a
25 reasonable doubt that there were aggravating factors, could

1 you ever consider a life sentence?

2 A. Can you give me an example of an aggravating factor?

3 Q. In this case armed robbery, or robbery that involves a
4 larceny --

5 A. Okay.

6 Q. -- and someone gets killed. An aggravation is
7 something which makes a murder worse.

8 A. Okay. The question is would that sway my -- would that
9 influence my opinion?

10 Q. In that situation could you even consider a life
11 sentence?

12 A. I think it would be the same. I mean, I think it's
13 really just the end result.

14 Q. What is the end result to you?

15 A. Well, that someone was murdered.

16 Q. And what do you believe the punishment should be?

17 A. As I said before, I have always felt it's the death
18 penalty.

19 MR. GODFREY: Nothing further.

20 THE COURT: Mr. Carter, I appreciate your honest
21 answers up to this point. Let me let you step out just for
22 a minute, okay?

23 JUROR NUMBER 73: Okay.

24 (Whereupon, Juror Number 73 was taken out of the
25 courtroom)

1 MR. GODFREY: Judge, may it please the court, I
2 believe that this juror is disqualified from service.

3 He indicated in one of his answers to your
4 question that he thought capital punishment was appropriate
5 because of resources, time, and money. And when I
6 questioned him about that, he was talking about taxpayers
7 having to keep up someone for life.

8 I also asked him if he could follow the law given
9 to him by the court and not consider that and he said
10 possibly.

11 We have someone here who is not leaning towards
12 death penalty. We have someone here who is substantially
13 going to give death penalty. I don't see any way that this
14 juror can't be fair and impartial. When I asked him
15 questions about fairness and impartiality, there was a great
16 deal of hedging I believe on his part.

17 I believe his answers are completely honest. I
18 believe that he's not trying to hide anything from anyone,
19 but I really don't believe that he will be able to fairly
20 and accurately weigh the evidence that he's going to hear in
21 this case in order to make a decision.

22 We believe he's disqualified.

23 MR. ARIAIL: The State concurs.

24 (Whereupon, Juror Number 73 was brought into the
25 courtroom)

1 THE COURT: Mr. Carter, thank you so much for your
2 honesty and truthful answers. We have had that from all the
3 jurors that have come in, and people have different feelings
4 and we appreciate that.

5 Based on your answers, I'm going to excuse you
6 from the services of this case.

7 When did you live in Europe? When you were over
8 there?

9 JUROR NUMBER 73: Where? I lived in Germany for
10 six months, England for roughly two years.

11 THE COURT: What part of Germany?

12 JUROR NUMBER 73: Munich.

13 THE COURT: Munich. Okay. I was in Nuremburg a
14 couple of years. Thank you so much.

15 JUROR NUMBER 73: Thank you.

16 THE COURT: You do not have to come back.

17 JUROR NUMBER 73: Thank you.

18 (Whereupon, Juror Number 73 was taken out of the
19 courtroom)

20 THE COURT: We better identify these five. I
21 think we only have five, is that right?

22 THE CLERK: Yes.

23 THE COURT: And let y'all see who they are and let
24 me see who they are and see if they know any witnesses.

25 (Whereupon, Jury Panel Number 10 was brought into

1 the courtroom)

2 THE COURT: The jurors in this group, we have
3 Deborah P. Reno.

4 Christopher M. Poteat.

5 Rodney A. Wilson.

6 Michael A. Shaffer.

7 Tommy L. Coleman.

8 All right. Ladies and gentlemen, participating in
9 this case will be the solicitor for Greenville and Pickens
10 Counties Mr. Bob Ariail, who is here. His deputy is Ms.
11 Strom, and Ms. Verdin will be assisting them.

12 Representing the defense is Mr. Bill Godfrey and
13 Mr. Ken Gibson.

14 And the defendant in this case is Freddie Eugene
15 Owens, who is seated at the table. Mr. Owens.

16 Do any of you know any of the attorneys or Mr.
17 Owens?

18 (No response)

19 THE COURT: Ladies and gentlemen, do any of you
20 have any close friends or relatives who work in the office
21 of the circuit solicitor?

22 (No response)

23 THE COURT: Okay. Have you been able to review
24 the list of possible witnesses in this case? If you have,
25 if you know anyone on that list, would you raise your hand

1 please?

2 (No response)

3 THE COURT: None of these potential witnesses.

4 I would ask then that each of you review this
5 three types of jurors case and see -- and tell us what
6 category that you may fall under when you come in. You
7 would be able to testify to that. And I would ask if any of
8 you -- well, I'll ask you individually if you know anything
9 personally and explain this case to you.

10 Now that we know each other, I'm going to bring
11 you in individually and we will start with Ms. Reno, and I
12 would ask the others if y'all would just step out. We will
13 bring you back in.

14 (Whereupon, Jury Panel Number 10 was taken out of
15 the courtroom)

16 DEBORAH P. RENO, #344, having been first duly
17 sworn, testified as follows:

18 VOIR DIRE EXAMINATION BY THE COURT:

19 Q. If you reviewed the three types of jurors document,
20 could you tell us which juror that you may be?

21 A. Number three.

22 Q. Number three?

23 A. Yes.

24 Q. Okay. And you read that carefully?

25 A. Yes, I did.

1 Q. And considered it?

2 A. Yes.

3 Q. All right. Ms. Reno, this case arises from an incident
4 which occurred on Laurens Road, in Greenville County, on
5 November the 1st of 1997, when Mrs. Irene Graves was killed,
6 and Mr. Owens has been convicted of the murder of Ms.
7 Graves.

8 Do you know anything about this case?

9 A. No, I do not.

10 Q. So by answering that you would not have known Ms.
11 Graves?

12 A. No.

13 Q. And this case has received publicity on TV, the radio,
14 and the newspapers. So you have not heard anything about
15 this case from any source?

16 A. Last night on the news they had a teaser about it being
17 a third time to trial or something and I took off out of the
18 room when it came on, so I don't know what was said after
19 that, but that's all I heard.

20 Q. That's all you heard?

21 A. Uh-huh.

22 Q. And you were -- yesterday was election day?

23 A. No, not -- yeah, it was -- no, it wasn't yesterday. It
24 was the day before. I take that back, because I was here
25 last night, so it was the night before. It was Monday

1 night.

2 Q. Okay. Well, would you dismiss that from your mind?

3 That has no bearing on the case.

4 A. Yeah.

5 Q. On what your decision would be.

6 A. I have no problem with that as far as --

7 Q. You would dismiss it from your mind.

8 Now, there has been a prior proceeding before a jury as
9 permitted under our law and that jury found Mr. Owens guilty
10 of the murder of Ms. Graves. Do you understand that?

11 A. Uh-huh.

12 Q. This is a sentencing proceeding before a jury, which is
13 permitted under our law when the State seeks the death
14 penalty.

15 A. Yeah.

16 Q. And your role, if you were chosen as a juror, would be
17 to participate as a juror with at least with twelve. It
18 would have to be twelve other people hearing evidence in the
19 case and determine how Mr. Owens would be sentenced. Do you
20 understand that's how we would proceed?

21 A. Yes.

22 Q. Now, you have indicated that you would -- you have not
23 formed any opinions at all, not knowing anything about this
24 case, as to what the sentence in this case should be?

25 A. I don't know what was done so --

1 Q. Okay. Well --

2 A. -- other than what you have told me.

3 Q. All right, ma'am.

4 And in this case -- in every murder case the State
5 cannot seek the death penalty under our law. In a case
6 where there may be statutory aggravating circumstances the
7 State can seek the death penalty. All right?

8 A. Yeah.

9 Q. Now, statutory aggravating circumstances alleged in
10 this case is that this murder was committed in the
11 commission of a robbery when the defendant was armed with a
12 deadly weapon and/or a larceny when the defendant was armed
13 with a deadly weapon on the date and time of this offense.

14 Have you had any experiences with armed robberies or
15 larcenies and would that affect your ability to be fair and
16 impartial in this case?

17 A. No dealings with an armed robbery. My grandfather -- I
18 used -- I'm from Miami, Florida and my grandfather had two
19 guys come to their door in the middle of Coconut Grove,
20 knock on the door and they shot him through the neck, but
21 they didn't steal anything, so -- he later died from this
22 incident.

23 Q. Okay. The fact that your grandfather -- he was
24 murdered?

25 A. I don't know that they called it murdered, because he

1 was in the hospital for several months afterward, but he was
2 paralyzed from the neck down because of it and he ended up
3 dying in the hospital later on, several months later.

4 Q. Could you remove that incident -- would that incident
5 have any bearing on the sentence -- if you were called upon
6 to impose a sentence on Mr. Owens, would that have any
7 bearing on that?

8 A. I don't think so. You know, I don't see that it would,
9 but, I mean, it happened so long ago. I was only like 11
10 years old, I guess, at the time.

11 Q. Now, the State would have to prove one of those
12 aggravating circumstances, or both, either the robbery
13 and/or the larceny during the commission of this murder
14 beyond a reasonable doubt, and if they proved one of those
15 that it occurred and he was armed with a deadly weapon, then
16 you would go -- you would have to determine the sentence of
17 Mr. Owens --

18 A. Yeah.

19 Q. -- if you were on the jury. Do you understand that?

20 A. Uh-huh.

21 Q. Now, the burden of proof in that regard for the
22 statutory aggravating circumstances is on the State beyond a
23 reasonable doubt. The defendant does not have to prove
24 anything or even testify. Do you understand that?

25 A. Yes.

1 Q. Now, if the jury found unanimously the existence of a
2 statutory aggravating circumstance, then the jury would
3 determine whether Mr. Owens would receive life in prison or
4 the death sentence. Do you understand that?

5 A. Yes.

6 Q. Now, the law would require you to focus on the specific
7 circumstances of this crime and the individual
8 characteristics of the defendant and seriously and
9 meaningfully consider any evidence in aggravation and
10 mitigation and write a verdict in this case for either life
11 imprisonment or death.

12 A. Yeah.

13 Q. Could you honestly and fairly listen to the facts and
14 circumstances presented in this case? And circumstances of
15 aggravation are those that make the crime or murder worse or
16 more severe.

17 Crimes of -- or circumstances of mitigation are those
18 facts and circumstances that would reduce the severity of
19 murder and may be considered as extenuating or reducing the
20 degree of responsibility or fault.

21 Could you with an open mind listen to any evidence in
22 aggravation or mitigation and impose a sentence of life
23 imprisonment?

24 A. Yes.

25 Q. If the particular facts and circumstances warranted a

1 life imprisonment sentence?

2 A. Yes.

3 Q. Okay, Ms. Reno, life in prison means life until the
4 death of the defendant without any possibility of parole.
5 Do you understand that?

6 A. Yes.

7 Q. Okay. And death means death be lethal injection or by
8 electrocution. Do you understand that?

9 A. Yes.

10 Q. And you would fairly consider all the evidence and the
11 facts and circumstances as surrounding this case and you
12 would give all those serious and meaningful consideration?

13 A. Yes.

14 Q. And you could either write a sentence of life in prison
15 for Mr. Owens, or death, if you reach that point?

16 A. Yes.

17 Q. Ma'am, in our state if the death penalty is reached,
18 all the jurors are required to sign a sentencing sheet.
19 Their own personal name has to be signed, all twelve of
20 them, in regard to the death penalty. If you reach that
21 point, could you sign your original signature to that
22 sentence?

23 A. Yes.

24 Q. Now, if any evidence should come out about any crimes
25 or bad acts before this murder or any crimes or bad acts

1 after this murder, I would instruct you that that could not
2 be evidence of a statutory aggravating circumstance. That
3 evidence could only come in as it would bear on Mr. Owens'
4 character. Do you understand that?

5 A. Yes.

6 Q. Could you follow that instruction?

7 A. Yes.

8 Q. You would focus on the specific circumstances of this
9 crime and the individual characteristics of the defendant
10 and any evidence in extenuation, aggravation, or mitigation
11 and write a sentence of either life or death?

12 A. Yes.

13 Q. Okay. Would the race of any person affect you in any
14 way?

15 A. No.

16 Q. Would the religion of any person?

17 A. No.

18 Q. The Islamic faith or the Muslim faith affect you in any
19 way?

20 A. No.

21 Q. Please answer questions from these lawyers.

22 THE COURT: Mr. Gibson.

23 VOIR DIRE EXAMINATION BY MR. GIBSON:

24 Q. Hi, Ms. Reno.

25 A. Hi.

1 Q. I'm Ken Gibson. This is co-counsel Bill Godfrey and
2 this is our client Freddie Owens.

3 I just want to ask you some questions to make
4 absolutely certain that you could be fair to both sides, but
5 particularly this case for Mr. Owens, because that's my
6 client. Is that okay?

7 A. That's fine.

8 Q. Now, the judge has explained to you what life -- what a
9 life sentence would mean in this case.

10 A. Uh-huh.

11 Q. And do you understand that?

12 A. Yes.

13 Q. And you understand that it would mean he would spend
14 the right of his life in jail?

15 A. Yes.

16 Q. And he would never be released?

17 A. No chance of parole.

18 Q. Excellent. Okay.

19 Now, with that said in this case, sort of different,
20 okay, a jury in another case, as the judge explained to you,
21 has already found that Mr. Owens is guilty of murder.

22 A. Okay.

23 Q. Given that he's already been convicted of murder, could
24 you still -- under circumstances after you have reviewed
25 them and you thought those the appropriate punishment, could

1 you still find and render a sentence of life in this case?

2 A. Yes, because I don't know any of the facts of the case
3 so I would need to know what happened to determine what I
4 decided.

5 Q. But the mere fact that he's been convicted of murder
6 already, that wouldn't predispose you in any way whatsoever?

7 A. No, because I don't know what he did, I mean, as far as
8 I don't know the circumstances of the case, as far as what
9 all was done.

10 Q. And we are actually intentionally trying to keep it
11 that way to make sure that you only hear what you need to
12 hear, okay?

13 A. Okay.

14 Q. Now, the judge also talked about two aggravating
15 factors which are at issue in this case. And under the law,
16 the law says that aggravating factors by law make a
17 situation worse, make the crime worse.

18 A. Okay.

19 Q. In this case those two aggravating factors, as the
20 judge told you, are that this murder was committed in the
21 commission of a robbery.

22 A. Uh-huh.

23 Q. And this murder was committed in the commission of a
24 larceny. Now --

25 A. Can I have the definition of larceny?

1 THE COURT: Stealing.

2 A. Okay.

3 BY MR. GIBSON:

4 Q. Now, with that said, if you were to find beyond a
5 reasonable doubt that either --

6 THE COURT: In this case it's stealing while armed
7 with a deadly weapon.

8 A. Okay.

9 BY MR. GIBSON:

10 Q. If you were to find in this case beyond a reasonable
11 doubt that either of those two aggravating factors occurred
12 and this was by law a worse situation, would that in any way
13 impair your ability after considering the circumstances and
14 if you thought it was appropriate to render a life sentence
15 in this case?

16 A. No.

17 Q. Okay. Do you think that you could be absolutely fair
18 to both parties in this case?

19 A. Yes, I do.

20 Q. Do you think that you could be fair to Mr. Owens in
21 this case?

22 A. Yes, I do.

23 Q. Thank you Ms. Reno.

24 A. You are welcome.

25

1 VOIR DIRE EXAMINATION BY MR. ARIAIL:

2 Q. Ms. Reno, my name is Bob Ariail and I'm the solicitor
3 for Thirteenth Circuit of South Carolina, Greenville and
4 Pickens Counties, and that is the name that South Carolina
5 retains to designate its state prosecutors. So if you watch
6 TV, that would be district attorney, but here when you hear
7 me refer to as solicitor, that's what that means.

8 Assisting me in this case would be my deputy, Betty
9 Strom, who is seated at the table with the black coat, and
10 Ms. Verdin also seated at the counsel table.

11 Do you believe that capital punishment, the death
12 penalty, is an appropriate form of punishment under our law
13 in certain cases of murder?

14 A. Yes. In certain cases, yes.

15 Q. Okay. And have you held that view for a lengthy period
16 of time, or is that something that you recently?

17 A. Just recently started thinking about it because of this
18 case, you know, how I would feel about this.

19 Q. Had you ever talked about it before?

20 A. No, not really.

21 Q. Never thought about it before?

22 A. No.

23 Q. So as a part of this process is when it first came up?

24 A. Correct.

25 Q. Okay. But you believe that you would be able to vote

1 to impose the death penalty? Is that what you told the
2 court?

3 A. Yes, if I felt that it weighed heavy enough to receive
4 that, yes.

5 Q. All right. And the judge explained to you if, in fact,
6 the jury concluded that the appropriate sentence was the
7 death penalty, that you would have to sign the document and
8 put your name on it, along with the other eleven jurors.
9 Would you have any difficulty in signing your name to a
10 document that would be public record as to the carrying out
11 of the sentence?

12 A. No.

13 Q. All right. That wouldn't cause you to hesitate in
14 reaching your verdict --

15 A. No.

16 Q. -- or imposing the death penalty?

17 A. No.

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

19 THE COURT: Okay. Let me let you step out just
20 briefly and I'll bring you right back in.

21 (Whereupon, Juror Number 344 was taken out of the
22 courtroom)

23 THE COURT: Whatever she knows about the killing
24 of her grandfather, it appears to me that from her demeanor
25 and whatnot, I do not believe that's going to affect her one

1 way or the other. It was a long time ago. She was 11.

2 So what's the position?

3 MR. GIBSON: We think she's qualified, Your Honor.

4 THE COURT: Okay.

5 MR. ARIAIL: State concurs.

6 THE COURT: Okay.

7 (Whereupon, Juror Number 344 was brought into the
8 courtroom)

9 THE COURT: Ms. Reno, you are a qualified juror
10 for this case. That means that you will come back and sit
11 out here and from 45 people, approximately, the jury would
12 be selected. You may be selected and may not.

13 JUROR NUMBER 344: Yeah.

14 THE COURT: Do not discuss this case with anyone.
15 And like you did the other night, do not be exposed to any
16 news media or publicity about this case, okay?

17 JUROR NUMBER 344: Okay.

18 THE COURT: And you would have to return. Call
19 after six o'clock tonight and we will leave a message as to
20 when you return, and bring enough clothing for four or five
21 days in the motel.

22 JUROR NUMBER 344: Yeah.

23 THE COURT: And drive your car and you can just
24 leave anything that you want to in your car. And then once
25 you leave here tomorrow, you can drive your car to the

1 motel, if that's what you want.

2 JUROR NUMBER 344: Yeah.

3 THE COURT: Okay?

4 JUROR NUMBER 344: All right.

5 THE COURT: Thank you so much.

6 (Whereupon, Juror Number 344 was taken out of the
7 courtroom)

8 THE COURT: Christopher M. Poteat.

9 (Whereupon, Juror Number 331 was brought into the
10 courtroom)

11 CHRISTOPHER M. POTEAT, #331, having been first
12 duly sworn, testified as follows:

13 VOIR DIRE EXAMINATION BY THE COURT:

14 Q. Mr. Poteat, in reviewing the three types of jurors
15 document that you had in the other courtroom, how would you
16 classify yourself as to these three types of jurors?

17 A. Number three.

18 Q. Number three?

19 A. Yes, sir.

20 Q. Okay. Now, this incident -- an incident occurred on
21 Laurens Road, in Greenville County, on or about November the
22 1st of 1997, at the Speedway, and Ms. Irene Graves was
23 killed. Mr. Owens has been convicted by a jury of that
24 crime of murder. Do you understand that?

25 A. Yes, sir.

1 Q. There was publicity on television, the radio, and in
2 the newspapers about that case. Have you read, heard or
3 seen anything about this case from any source?

4 A. No, sir.

5 Q. By that answer you certainly didn't know Ms. Graves nor
6 Mr. Owens?

7 A. No, sir.

8 Q. Now, you would take an oath to be a fair and an
9 impartial juror and reach a verdict based on the facts
10 presented in this courtroom only in accordance with the
11 instructions on the law. Could you do that?

12 A. Yes.

13 Q. All right. So by that you have not formed an opinion
14 in any way as to what Mr. Owens should be sentenced to?

15 A. No, sir.

16 Q. All right. Now, Mr. Poteat, in every case of murder
17 the law in South Carolina does not permit the death penalty.
18 The State can only seek the death penalty -- in this case
19 the State is seeking the death penalty. They can only seek
20 the death penalty if they can prove beyond a reasonable
21 doubt a statutory aggravating circumstance.

22 In this case the statutory aggravating circumstances
23 alleged by the State are robbery in the commission of a
24 murder while armed with a deadly weapon, or larceny in the
25 commission of a murder while armed with a deadly weapon.

1 I don't know if you have had any personal experiences
2 with armed robbery or larceny that would affect your ability
3 to be a juror in this case. Have you?

4 A. Not personally, no, sir.

5 Q. Any close friends or family members that have had those
6 experiences that might affect your ability to be fair and
7 impartial?

8 A. Close friends, yes.

9 Q. And who was that and when was that?

10 A. This was in Aiken County, so it was probably about
11 eight years ago when I lived there.

12 Q. And that was a robbery?

13 A. Yes, sir, a robbery.

14 Q. Deadly weapon?

15 A. Not with a deadly weapon, no.

16 Q. Just a robbery?

17 A. Yes, sir.

18 Q. Could you remove that from your mind and just consider
19 the evidence and testimony in this case and be fair and
20 impartial to Mr. Owens and the State?

21 A. Yes, sir.

22 Q. You would?

23 A. Yes, sir.

24 Q. Now, if the State proves either robbery or larceny, one
25 of the statutory aggravating circumstances, or both, beyond

1 a reasonable doubt, and they have the burden of proof. The
2 defendant doesn't have to prove anything or doesn't even
3 have to testify in that regard, and that could not be held
4 against him. Do you have any problems with that?

5 A. No, sir.

6 Q. Now, if the State -- if the jury found beyond a
7 reasonable doubt the existence of one, or more, more
8 statutory aggravating circumstances, then under our law the
9 jury determines the sentence for Mr. Owens. Do you
10 understand that?

11 A. Yes, sir.

12 Q. The only two possible sentences at that point would be
13 life imprisonment without the possibility of parole until
14 the death of the defendant. The other possibility would be
15 death, which is in South Carolina now by lethal injection or
16 electrocution. Do you understand that?

17 A. Yes, sir.

18 Q. At that point you would have to consider all the
19 evidence in the case fairly and impartially, focused on the
20 specific circumstances of this crime and the individual
21 characteristics of the defendant and write a verdict of
22 either life imprisonment or death. Do you understand that?

23 A. Yes, sir.

24 Q. Based on the particular facts and circumstances of the
25 case, you would consider the statutory aggravating

1 circumstances and mitigating circumstances. Given those
2 serious consideration, aggravating circumstances or facts
3 and circumstances that aggravates or worsens the crime of
4 murder, makes it more enormous or increases the injury of
5 the crime of murder.

6 Mitigating circumstances are those facts and
7 circumstances that reduces the severity of the offense of
8 murder and may be considered as extenuating or reducing the
9 degree of responsibility or fault for the murder. Do you
10 understand that?

11 A. Yes, sir.

12 Q. Would you give serious and meaningful consideration to
13 any circumstances of aggravation and mitigation?

14 A. Yes, sir.

15 Q. And based on your serious consideration of those, could
16 you write a sentence of life imprisonment without the
17 possibility of parole until the death of the defendant?

18 A. Yes, sir.

19 Q. Based on particular facts and circumstances, based on
20 what you heard, could you write a sentence of death?

21 A. Yes, sir.

22 Q. Could you sign your name to that sentence?

23 A. Yes, sir.

24 Q. If evidence of any prior crimes or bad acts before this
25 murder or any crimes or bad acts after this murder came into

1 evidence, they would be admitted only as they would bear on
2 the character of the defendant, not as evidence of a
3 statutory aggravating circumstance. Could you accept that?

4 A. Yes, sir.

5 Q. Focus on specific circumstances and individual
6 characteristics in regard to Mr. Owens and the specific
7 circumstances of this crime?

8 A. Yes, sir.

9 Q. Now, would race have any affect on your decision?

10 A. No, sir.

11 Q. Would religion -- if evidence came out a person was
12 Islamic or of the Muslim faith, would that have any affect
13 on it?

14 A. No, sir.

15 Q. All right, Mr. Poteat, I'm going to let you answer some
16 questions from the attorneys.

17 VOIR DIRE EXAMINATION BY MR. ARIAIL:

18 Q. Mr. Poteat, I'm Bob Ariaail, the solicitor for the
19 Thirteenth Circuit, and I gathered from the answers in your
20 questionnaire that you understand what the solicitor is and
21 what he does?

22 A. Yes, sir.

23 Q. All right. And that that term is not unfamiliar with
24 you as it may be to other people not from South Carolina?

25 A. Yes, sir.

1 Q. Okay. And from your answers I gather also that you
2 believe that -- hold the belief that capital punishment or
3 the death penalty is an appropriate punishment under our law
4 for under certain circumstances or certain cases of murder?

5 A. Under certain circumstances, yes.

6 Q. And is that a view that you have held for some period
7 of time, or is that one that you have just recently --

8 A. Held for a good period of time.

9 Q. And is one that you have discussed or compared with
10 other cases or talked about in regard to how it's been
11 applied in the different cases across the country?

12 A. Yes.

13 Q. And the judge asked you regarding your ability to
14 impose the death penalty and you responded that, it's my
15 understanding, that you would be able to fairly consider the
16 evidence supported voting for and imposing the death
17 penalty?

18 A. Yes, sir.

19 Q. And also signing the requisite document necessary to do
20 that?

21 A. Yes, sir.

22 Q. Okay. Any questions about that?

23 A. No, sir.

24 Q. All right. Let me ask you, you remembered response to
25 number 48?

1 A. If you could show it to me, yes, sir.

2 Q. About your relation -- your ex-wife and her employment?

3 A. Yes, sir.

4 Q. Okay. Would the comments set forth in answer 48 impair
5 or impede your ability to fairly consider a request by the
6 State, represented through the solicitor's office, to impose
7 the death penalty?

8 A. No, sir.

9 Q. Okay. That would be -- would I be fair in
10 characterizing those as statements that would apply in a
11 general sense, but would not interfere with you in a
12 specific case?

13 A. In a general sense, yes, sir.

14 Q. Okay. You still hold these particular --

15 A. After being married to an ex-chief public defender,
16 yes, sir, for -- that's been for nine years, yes, sir.

17 Q. If that fact or one of those particular facts were to
18 come out in this case, would that in any way bother or cause
19 you concern?

20 A. No, sir.

21 Q. Thank you, sir.

22 VOIR DIRE EXAMINATION BY MR. GODFREY:

23 Q. Mr. Poteat?

24 A. Yes, sir.

25 Q. My name is Bill Godfrey. This is Ken Gibson,

1 co-counsel. This is our client Freddie Owens.

2 Basically I just have one question. Is there anything
3 that would prevent you from being fair and impartial if you
4 served as a juror on this case?

5 A. No, sir.

6 Q. Thank you, sir.

7 THE COURT: All right. Mr. Poteat, you are
8 qualified as a juror in this case. That means that you
9 cannot discuss the case, as I have told you before, or do
10 not permit anyone to talk to you about the case. And do not
11 expose yourself to any publicity, either in the newspaper,
12 or on television, or radio, or from any source.

13 And you will be required to call back after six
14 o'clock tonight and we will give you instructions to return
15 to the courthouse. You will sit out here with 45 other
16 people, approximately, and from that group the jury would be
17 selected. Okay?

18 JUROR NUMBER 331: Yes, sir.

19 THE COURT: You will need to bring clothes with
20 you to stay in the motel. And you can bring them in your
21 car when you return and I believe that's going to be in the
22 morning?

23 JUROR NUMBER 331: Yes, sir.

24 THE COURT: And after we finish tomorrow, you can
25 drive your car to the motel and leave it, if that's what you

1 want to do.

2 JUROR NUMBER 331: Yes, sir.

3 THE COURT: If you are not chosen, of course, you
4 can -- you will be excused.

5 JUROR NUMBER 331: Yes, sir.

6 THE COURT: All right. I'm going to give you this
7 order and ask you to call back after six tonight.

8 JUROR NUMBER 331: Okay. Thank you.

9 THE COURT: Thank you Mr. Poteat.

10 JUROR NUMBER 331: Thank you.

11 (Whereupon, Juror Number 331 was taken out of the
12 courtroom)

13 THE COURT: I didn't want ask to him about his
14 ex-wife, who was the public defender. Who would that have
15 been?

16 MS. STROM: Aiken County.

17 THE COURT: I'm sorry?

18 MS. STROM: It was in Aiken County, Your Honor.

19 His ex-wife was the public defender.

20 THE COURT: Rodney A. Wilson.

21 (Whereupon, Juror Number 436 was brought into the
22 courtroom)

23 RODNEY A. WILSON, #436, having been first duly
24 sworn, testified as follows:

25

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. Mr. Wilson, have you been able to review the document
3 entitled three types of jurors on this particular case?

4 A. Yes.

5 Q. If you had to classify yourself, what type juror do you
6 think that you would be?

7 A. Two.

8 Q. Number two?

9 A. Yes, sir.

10 Q. Are you unalterably opposed to the death penalty?

11 A. Yes, sir.

12 Q. There is no way under any facts or circumstances that
13 you could write a verdict of death?

14 A. Correct.

15 Q. You could not sign your name to that verdict?

16 A. Correct.

17 Q. Have you always held those beliefs?

18 A. Yes, sir.

19 Q. And you had those beliefs before you were subpoenaed as
20 a juror in this case?

21 A. Correct.

22 Q. And regardless of when you were brought into court or
23 at any time in private conversations, did you tell people
24 that you are not in favor of the death penalty?

25 A. Yes, sir.

1 Q. And there could never be any set of circumstances,
2 regardless of the severity of the offense of murder?

3 A. Correct.

4 Q. Whatever it was?

5 A. Yes, sir.

6 Q. You could not sign a sentence of death?

7 A. Yes, sir.

8 Q. Okay. If a person could not fairly -- and Mr. Gibson
9 has no questions -- and give either one of the two
10 sentences, then we have to disqualify them, but we have no
11 problem with answers to your questions, because we have had
12 people who would always give it and some people who would
13 never give it. That's the reason we ask you that.

14 If those are your strong firm absolute feelings, then
15 both sides agree that you can be excused and would not have
16 to come back, Mr. Wilson.

17 A. Yeah.

18 Q. Thank you so much.

19 A. Thank you.

20 (Whereupon, Juror Number 436 was taken out of the
21 courtroom)

22 THE COURT: Mr. Gibson indicated he had no
23 questions and I don't believe the State objected to that.

24 MR. ARIAIL: No objection.

25 THE COURT: Michael A. Shaffer.

1 (Whereupon, Juror Number 364 was brought into the
2 courtroom)

3 MICHAEL A. SHAFFER, JR., #364, having been first
4 duly sworn, testified as follows:

5 VOIR DIRE EXAMINATION BY THE COURT:

6 Q. Mr. Shaffer, have you reviewed the document for the
7 three types of jurors that normally appear in a case such as
8 this?

9 A. I have.

10 Q. How would you classify yourself?

11 A. I'm -- I would classify myself as a type person who
12 believes in, if the crime is right, for the death penalty,
13 if the crime constitutes.

14 Q. By the crime is right -- under the law of the South
15 Carolina the death penalty cannot be sought in every case of
16 murder. Do you understand that?

17 A. Yes, sir, I do.

18 Q. And in a case where there is a statutory aggravating
19 circumstance, the legislature passed the law that says a
20 jury can consider the sentence, considering all the facts
21 and circumstances, and either impose a sentence of life in
22 prison, which is means life in prison without the
23 possibility of parole until the death of the defendant, or
24 else impose the death penalty, depending on the particular
25 facts and circumstances of the crime. And do you understand

1 that is the law?

2 A. I do.

3 Q. Okay. You would take an oath as a juror to be fair and
4 impartial and follow the law in this state.

5 Would you impose the death penalty in every murder
6 case?

7 A. No, I wouldn't.

8 Q. For a murder, which is an intentional killing with
9 malice aforethought, and Mr. Owens has been convicted of
10 that. Could you impose -- you could impose a sentence of
11 death or life imprisonment without the possibility of
12 parole, depending on the circumstances of the murder?

13 A. I could.

14 Q. Okay. Now, this case arises from an incident which
15 occurred in Greenville County on November the 1st of 1997.
16 Ms. Irene Graves was killed at a Speedway on Laurens Road in
17 the early morning hours, and Mr. Owens has been convicted of
18 that murder by another jury.

19 Our law provides for a jury to find guilt or innocence.
20 The law provides for a jury to determine how Mr. Owens is
21 going to be sentenced. Do you understand that?

22 A. I do.

23 Q. Okay. Do you know anything about this case involving
24 the death of Ms. Graves in 1997?

25 A. I know nothing about it.

1 Q. Okay. So you wouldn't -- there was publicity about
2 this case on the TV, the radio, and the newspaper, but you
3 haven't been exposed to any publicity?

4 A. I haven't.

5 Q. And you don't have any prior knowledge of this case?

6 A. I don't.

7 Q. Okay. And you would take an oath to be fair and
8 impartial and decide this case only on the evidence and
9 testimony that comes into this courtroom. Could you do
10 that?

11 A. Yes, sir, I could.

12 Q. All right. And the State, as I told you, would have to
13 prove aggravating -- a statutory aggravating circumstance
14 before the jury could determine the sentence, and they have
15 to prove that beyond a reasonable doubt.

16 In this case the State asserts that this murder was
17 committed during the commission of a robbery while the
18 defendant was armed with a deadly weapon and/or that this
19 murder was committed during the commission of a larceny
20 while the defendant was armed with a deadly weapon. The
21 state would have to prove one, or two, or both of those to
22 the jury. Y'all would have to agree that that had been
23 proven beyond a reasonable doubt by the State before you
24 could consider or determine the sentence. Do you understand
25 that?

1 A. I do.

2 Q. Have you had any experiences or any close personal
3 friends with experiences of armed robbery or larceny of that
4 nature that would affect your ability to be fair and
5 impartial?

6 A. No, I haven't.

7 Q. Now, the defendant in that regard does not have to
8 prove anything or even testify. Could you accept that?

9 A. Yes, I could.

10 Q. All right. And then if the State were to determine the
11 existence of one, or more, of the statutory aggravating
12 circumstances of those two, then the jury would have to
13 determine his sentence. And that determination by the jury
14 would be followed by the court, and that would be either
15 life imprisonment or death. Do you understand that?

16 A. Yes, I do.

17 Q. Now, life imprisonment means life in prison without the
18 possibility of any parole until the death of the defendant
19 in South Carolina. Do you understand that?

20 A. I do.

21 Q. Death means death be lethal injection or by
22 electrocution. Do you understand that?

23 A. Yes, I do.

24 Q. Now, you would consider evidence of aggravating
25 circumstances or facts or incidents or occurrences which

1 aggravate or worsens the crime of murder. They aggravate,
2 increase the enormity of that offense. Do you understand
3 that?

4 A. Yes, I do.

5 Q. Mitigating circumstances means facts or circumstances
6 that would reduce the severity of the offense of murder.
7 They are facts and circumstances that would be considered in
8 extenuating or reducing the degree of responsibility
9 involved. Do you understand that?

10 A. Yes, sir.

11 Q. Could you fairly and honestly consider any evidence in
12 aggravation and mitigation and give meaningful consideration
13 to that and write a verdict in this case corresponding to
14 the evidence and testimony?

15 A. I would.

16 Q. And based on the particular facts and circumstances, if
17 it was warranted, you could write a sentence of life in
18 prison?

19 A. Yes.

20 Q. And you could write a sentence of death?

21 A. Yes.

22 Q. In South Carolina, if that were reached, all twelve
23 jurors would have to sign their name personally to the
24 sentence of death. Could you do that?

25 A. Yes, I could.

1 Q. Okay. If evidence came out of any prior crimes or bad
2 acts before this murder or if any evidence came out of
3 subsequent crimes or acts, that evidence could only be
4 considered as it would bear on the individual
5 characteristics of the defendant for sentencing purposes and
6 not as to evidence of any statutory aggravating
7 circumstance. Do you understand that?

8 A. Yes, sir, I do.

9 Q. The race of any party have any effect on your decision?

10 A. No, it wouldn't.

11 Q. Would the religious faith of any party - Muslim,
12 Islamic faith - have any effect on your decision?

13 A. No.

14 Q. Okay. Mr. Shaffer, I'm going to let you answer some
15 questions that these lawyers have.

16 A. Sure.

17 VOIR DIRE EXAMINATION BY MR. GODFREY:

18 Q. Good afternoon Mr. Shaffer.

19 A. Good afternoon.

20 Q. My name is Bill Godfrey. This is Ken Gibson,
21 co-counsel, and this is our client Freddie Owens.

22 In reviewing your questionnaire, I believe it was
23 question 27. "Do you have a family member or personal
24 friend that is employed in law enforcement? This may mean
25 people who are prison guards, officers, secretaries,

1 investigators in any way at all anywhere in the U.S.."

2 Your answer was yes. Who was employed with and how?

3 A. I have some cousins who are police officers. An uncle
4 who's a state police officer in the State of Pennsylvania.
5 And another uncle who's a chief of police in Pennsylvania.

6 Q. And all the folks that you know involved in law
7 enforcement are in Pennsylvania?

8 A. Yes, that's correct.

9 Q. Do you have any relatives or friends that presently
10 work for the Greenville County detention center or the
11 Greenville County sheriff's office?

12 A. No, I don't.

13 Q. You don't have any friends that work in any law
14 enforcement agencies down here?

15 A. No, I don't.

16 Q. Now, in this particular case you believe that you could
17 be fair and impartial if you were a juror on the case?

18 A. Yeah.

19 Q. I'm a little bit confused. When you first came in you
20 seemed to be very strongly in favor of the death penalty.

21 A. Yes.

22 MR. ARIAIL: Your Honor, I would object to the
23 form of that question.

24 THE COURT: I'll sustain that objection to that.

25 BY MR. GODFREY:

1 Q. When you first came in and indicated what type of juror
2 that you were, what type of juror was it, one, two, or
3 three?

4 A. I believe I still stand in the one category. If -- I
5 believe that if a person is in the right state of mind when
6 they commit a serious murder, or something in that nature,
7 that -- that I stand behind myself and I do believe that the
8 death penalty should be imposed, if the crime is -- if the
9 crime is right and the person is in the right state of mind
10 at the time.

11 Q. Well, what does the right state of mind mean?

12 A. To me the right state of mind is any -- if you are with
13 it, if -- what I mean is if you are -- you know, don't have
14 a psychological problem or -- you know, I believe that
15 medications can also factor into the way people act. And I
16 believe if medications play a role and you are psychological
17 in the right state of mind and go and commit a serious
18 crime, then I believe that the death penalty should be
19 imposed for that crime.

20 Q. Do you believe that it should be imposed in every case?

21 A. I don't believe it should be imposed in every case.
22 However, I believe that if somebody's life was taken while
23 they were doing some type of work, or, you know, just trying
24 to make ends meet and somebody came and took that person's
25 life and that person who had killed the innocent was in the

1 right frame of mind at the time of that crime, I believe
2 that they should go on trial for the death penalty.

3 Q. Well, if you were sitting as a juror in a case like
4 that, would you be able to fairly weigh any evidence
5 presented by the defense in mitigation?

6 A. Absolutely I would.

7 Q. Even though you believe that that person should get the
8 death penalty, that would be your initial impression?

9 A. I would listen to all the evidence, as I know nothing
10 about the case. I'm a fair person, so I would listen to any
11 evidence and determine a fair analysis from there.

12 Q. Well, you understand then in this case that our client
13 has already been found guilty of murder?

14 A. Yes.

15 Q. And you understand that it is an intentional murder?

16 A. Yes.

17 Q. And you have already been advised by the court that if
18 the jury considers the aggravation in this case, which is
19 robbery while armed with a deadly weapon and larceny while
20 armed with a weapon, if the jury finds beyond a reasonable
21 doubt that that aggravation existed, then if you were a jury
22 person you would be then considering the sentence of either
23 life or death. Do you understand that?

24 A. Yes, I do.

25 Q. The fact that this murder is potentially considered an

1 aggravated murder, knowing that, would you be able to give
2 full fair consideration to all the evidence in the case?

3 A. Yes, I could.

4 Q. Do you have -- if you were to be in that stage of the
5 trial where the jury was determining the actual sentence, if
6 the evidence pointed to a life sentence, would you have any
7 trouble in returning that particular verdict?

8 A. No, I wouldn't.

9 Q. If the -- same question, but this time evidence
10 pointing to a death sentence, could you do that?

11 A. I could.

12 Q. Is there anything in your background - your morals,
13 religious views, your political views, or anything else -
14 that would prevent you from fulfilling your responsibilities
15 as a juror?

16 A. No.

17 Q. And you believe you could be fair and impartial?

18 A. Yes, I do.

19 Q. Thank you very much.

20 A. You are welcome.

21 VOIR DIRE EXAMINATION BY MR. ARIAIL:

22 Q. Mr. Shaffer, my name is Bob Ariail and I'm the
23 solicitor for the Thirteenth Circuit. In South Carolina the
24 State's attorney is designated as a solicitor. That's what
25 we call them. In Pennsylvania it's probably the

1 Commonwealth attorney or the district attorney.

2 A. Yes.

3 Q. Commonwealth, TV, district attorney. That's what our
4 role is.

5 A. Yes.

6 Q. I would be representing the State, along with my
7 deputy, Betty Strom, seated at counsel table, and Ms.
8 Verdin, one of my assistants. We will be bringing the case
9 on behalf of the State.

10 On your questionnaire it showed that the question about
11 where you work was left blank. Are you presently employed?

12 A. I am.

13 Q. And where do you employed?

14 A. I work for Apria Health Care.

15 Q. Thank you very much.

16 A. You are welcome.

17 THE COURT: Okay, Mr. Shaffer, I'm going to let
18 you step just outside the door and I'll bring you back in in
19 just a minute.

20 (Whereupon, Juror Number 364 was taken out of the
21 courtroom)

22 THE COURT: I have to find he's qualified.

23 No objection from the defense or the State?

24 MR. GODFREY: Defense agrees.

25 MR. ARIAIL: State agrees.

1 (Whereupon, Juror Number 364 was brought into the
2 courtroom)

3 THE COURT: Mr. Shaffer, you are qualified as a
4 potential juror in this case.

5 JUROR NUMBER 364: Yeah.

6 THE COURT: And you will have to come back. I'm
7 going to ask you to call after six o'clock tonight. We will
8 leave a message for all potential jurors in the case. You
9 will sit here with about 45 people and the jury would be
10 selected from that group.

11 Do not discuss the case with anyone or expose
12 yourself to any publicity about the case, and bring
13 clothing, whatever you would need, for about four or five
14 days.

15 JUROR NUMBER 364: Okay.

16 THE COURT: Thank you so much.

17 JUROR NUMBER 364: Thank you.

18 (Whereupon, Juror Number 364 was taken out of the
19 courtroom)

20 THE COURT: Tommy L. Coleman.

21 (Whereupon, Juror Number 85 was brought into the
22 courtroom)

23 TOMMY L. COLEMAN, #85, having been first duly
24 sworn, testified as follows:

25

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. Mr. Coleman, you have reviewed the three types of
3 jurors --

4 A. Yes, sir.

5 Q. -- sheet?

6 A. Yes, sir.

7 Q. Okay. Which type juror do you believe that you would
8 be?

9 A. I believe I would be the number three.

10 Q. Number three?

11 A. Yes, sir.

12 Q. That means that you could be fair and impartial and you
13 have not made up your mind as to what the sentence for Mr.
14 Owens would be, who has been convicted of murder, and you
15 would hear the facts and circumstances fairly and
16 impartially and determine what the sentence should be?

17 A. Yes, sir, I believe I could.

18 Q. If you reached that point?

19 A. Yes, sir.

20 Q. Now, Mr. Coleman, this incident occurred on November
21 the 1st of 1997, on Laurens Road in Greenville County, in
22 the early hours of the morning. Ms. Irene Graves was killed
23 and Mr. Owens had been convicted for that murder.

24 Have you seen anything or heard -- there has been
25 publicity about this case on television, the radio and in

1 the newspapers. Have you read, seen or heard anything about
2 this case?

3 A. No, sir, not -- not lately. I remember when it
4 happened, but I don't recall anything about it. Somebody
5 said there was something on TV the other day about the case
6 but I missed it. I didn't get to see it. That's really all
7 I know.

8 Q. If anything were to come to you during this trial if
9 you were a juror about what you may have heard before you
10 came to court, do you understand that a juror could not
11 consider anything heard outside this courtroom?

12 A. Yes, sir, Your Honor, I understand that.

13 Q. Would you dismiss any pretrial publicity or anything
14 that you may have heard about this case from your mind and
15 only decide this case if you were a juror on the evidence
16 and testimony that you hear?

17 A. Yes, sir, I believe I could decide on the facts that I
18 hear in this courtroom.

19 Q. Okay. And, of course, you didn't know Ms. Graves or
20 you don't know anything about this case?

21 A. No, sir.

22 Q. Okay. Now, Mr. Coleman, the State cannot seek the
23 death penalty for every murder in South Carolina. Do you
24 understand that? The State can only seek the death penalty
25 if statutory aggravating circumstances exists.

1 A. Okay.

2 Q. Okay. Now, in this case the State would have to prove
3 beyond a reasonable doubt that this murder was committed
4 when the defendant was committing the crime of robbery while
5 armed with a deadly weapon, or he was committing the crime
6 of larceny while armed with a deadly weapon. The State
7 would have to prove that beyond a reasonable doubt.

8 The defendant doesn't have to prove anything. He does
9 not even have to testify under our law. Do you have any
10 problem with that?

11 A. No, sir.

12 Q. Now, have you had any -- have you had any experiences
13 with or any members of your family or close relatives had
14 any experiences with armed robbery or larceny that would
15 affect your ability to be fair and impartial?

16 A. No, sir.

17 Q. Now, if the jury determined beyond a reasonable doubt,
18 all twelve jurors, that a statutory aggravating circumstance
19 exists, either one, or both, either robbery or larceny,
20 while armed with a deadly weapon in the commission of a
21 murder, if that was decided by a jury proven beyond a
22 reasonable doubt, then the jury would have to determine the
23 sentence of Mr. Owens. Do you understand that?

24 A. Yes, sir.

25 Q. There would be only two possible sentences at that

1 point, either life in prison without the possibility of any
2 parole until the death of the defendant, or a sentence of
3 death by lethal injection or electrocution. Do you
4 understand that those would be the only two sentences?

5 A. Yes, sir.

6 Q. At that time the jury would be called upon to consider,
7 give meaningful consideration and serious consideration to
8 aggravation and mitigation evidence in this case. Could you
9 do that?

10 A. Yes, sir.

11 Q. Aggravating evidence is facts or circumstances or
12 evidence that would make the crime of murder worse. It
13 would increase the enormity of the offense or aggravate the
14 crime. Do you understand what an aggravating circumstance
15 or facts may be?

16 A. I believe I do.

17 Q. Mitigating facts or circumstances would be facts and
18 circumstances or evidence of that that would reduce the
19 severity of the offense of murder and may be considered as
20 extenuating, reducing the degree of fault or responsibility.
21 Do you understand what mitigating circumstances are?

22 A. Yes, sir.

23 Q. Could you fairly and honestly give consideration to the
24 evidence in extenuation and mitigation and write a verdict
25 of life imprisonment in the case?

1 A. If the jury comes down to it, yes, sir, I could.

2 Q. If the particular facts and circumstances warranted it,
3 were there, could you write a sentence of death in the case?

4 A. Yes, sir, I believe I could.

5 Q. Would you be able to sign your name to a verdict of
6 death, if that were the decision of the jury?

7 A. Yes, sir, if the jury decided that, I believe I could.

8 Q. Okay. Now, if there was any evidence of any prior
9 crimes or bad acts before this murder or any evidence of any
10 crimes or bad acts after the murder, that evidence could not
11 come in to support a statutory aggravating circumstance.

12 That evidence would only be admissible as it may bear on the
13 character of the defendant. Do you understand that?

14 A. Yes, sir.

15 Q. And you could honestly and seriously consider the
16 mitigating and aggravating circumstances surrounding this
17 murder, specific characteristics of the defendant, and reach
18 a verdict which is fair and impartial and that could be the
19 life in prison or death?

20 A. Yes, sir.

21 Q. I'll let you -- oh, would race make any difference in
22 your decision in this case, either way?

23 A. No, sir.

24 Q. If evidence came out that a person was of the Islamic
25 or the Muslim faith, would that affect your decision?

1 A. No, sir.

2 Q. All right, sir.

3 VOIR DIRE EXAMINATION BY MR. ARIAIL:

4 Q. Mr. Coleman, my name is Bob Ariail. I'm the solicitor
5 for the Thirteenth Circuit of South Carolina. That's
6 Greenville and Pickens Counties. And in case you are not
7 familiar with what the solicitor is, that's the same as
8 districts attorney on TV programs. In this state we call
9 them the solicitor.

10 We are responsible for handling all criminal
11 prosecutions, and in this case we would be representing the
12 State in bringing the evidence to the jury. Assisting me in
13 this case would be my deputy, Betty Strom, seated at counsel
14 table, along with Ms. Verdin, also seated at counsel table.

15 I gather from your answers that you believe that the
16 death penalty or capital punishment is a proper form of
17 punishment under our law in certain circumstances?

18 A. Yes, sir, in certain circumstances.

19 Q. And you have believed that for some period of time?

20 A. From the beginning, yes, sir.

21 Q. And that wasn't something that you just came to during
22 the course -- after you received your summons?

23 A. No, uh-uh.

24 Q. And if you were on a jury, the judge has explained to
25 you that there would be two options. The death penalty is

1 not mandatory. In fact, it's an obligation of the jury to
2 determine the sentence.

3 Do you believe that you could be able to fairly
4 consider both sentences - life imprisonment without parole,
5 death penalty - depending upon the evidence produced
6 surrounding the circumstances of the murder and the
7 character and characteristics of the defendant?

8 A. Yes, sir, I think it could go either way. It would
9 depend upon the trial, what come out at trial.

10 Q. Okay. That's all I have. Thank you very much.

11 A. Thank you.

12 VOIR DIRE EXAMINATION BY MR. GIBSON:

13 Q. Mr. Coleman?

14 A. Yes, sir.

15 Q. How are you?

16 A. Fine. How are you?

17 Q. Good. Thank you.

18 I'm Ken Gibson. This is co-counsel Bill Godfrey, and
19 this is our client Freddie Owens. Okay.

20 I just want to ask you a couple of questions just to
21 make sure that you can be absolutely fair to everybody in
22 this case. Okay?

23 A. Yes, sir.

24 Q. Now, in this case, Mr. Coleman, another jury has
25 already proved -- or already found, rather, that Mr. Owens

1 was guilty of murder. So that would not be in your purview
2 in this case. You would only be deciding the sentence.

3 Now, if it were proven that this was a deliberate and
4 an intentional murder, would you still under those
5 circumstances be able to give a life sentence?

6 A. To honestly answer that question, I really don't know.
7 I would have to hear the whole trial before I can answer
8 that question. I probably can, but I don't know enough
9 about the case to really answer that question.

10 Q. Okay. Now, there are certain aggravating factors which
11 are going to be alleged and attempted to be proven by the
12 State in this case as well. Okay. And what those
13 aggravating factors are are that this murder occurred in the
14 commission of an armed robbery and/or in the commission of a
15 larceny with a deadly weapon.

16 A. Yes, sir.

17 Q. Okay. Now, as the judge told you, aggravating
18 circumstances by law or under our law make us consider the
19 murder to be worse than normal.

20 A. Right.

21 Q. If those were proven to you beyond a reasonable doubt,
22 could you still give a life sentence in this case?

23 A. Yes, sir, I could.

24 Q. Okay. Now, I see from your questionnaire that you
25 have -- at least you put on question 23, that there are a

1 couple of situations where you have, I guess, been at least
2 exposed to crime. What I mean by that is this. On number
3 23 you put down there was a store robbery --

4 A. Yes, sir.

5 Q. -- 25 years ago?

6 A. Yes.

7 Q. Can you tell me about that?

8 A. That was my wife's uncle that lives right below us.

9 Q. Yes, sir.

10 A. And this was on Christmas eve day. It was a Mr.
11 Southern's pottery store was the name of it. And now I
12 didn't witness it or nothing. I was there right after it
13 happened and I walked in and they was all tore up and
14 everything but.

15 Q. Okay.

16 A. As far as witnessing the robbery, I didn't witness the
17 robbery.

18 Q. Okay. Well, let me ask you this. The circumstances
19 then in this case are probably going to be sort of similar
20 to that. Would that in any way affect your ability to give
21 a life sentence in this case?

22 A. No, sir.

23 Q. All right. Let's talk about this second thing. There
24 was a house break-in at your next door neighbor five years
25 ago?

1 A. Yes, sir. That was my next door neighbor, Mr. Jimmy
2 Banks.

3 Q. Yes, sir.

4 A. And somebody walked -- broke in just tore the -- tore
5 the door down and just ransacked his house. Just took some
6 stuff and just tore the house up. As far as I know, they
7 have never caught whoever had done it. I don't have any
8 idea if they ever caught whoever don't know it.

9 Q. Would that in any way affect your ability to give a
10 life sentence in this case?

11 A. No, sir, that's a whole different ball of wax.

12 Q. I got you.

13 Now, another question that I had about your
14 questionnaire, and I needed to delve into this just to make
15 sure I understand exactly what your beliefs are. In
16 question 48 they asked? Is there any other information that
17 you believe might be important for the court or lawyers to
18 know about you as a possible juror," and you placed "I
19 believe in the capital punishment."

20 A. Yes, sir, that means I believe in the death penalty.

21 Q. What do you mean by that?

22 A. Well, it is just -- it's circumstances. If the
23 circumstances warranted the death penalty, then I could give
24 the death penalty. Otherwise, I could give life
25 imprisonment.

1 Q. Okay.

2 A. It would depend upon the circumstances and what was
3 brought before us.

4 Q. So you are assuring us under oath that you could fairly
5 consider both sentences in this case?

6 A. Yes, sir.

7 Q. Okay. Thank you.

8 THE COURT: Okay. With no objection you are a
9 qualified juror in this case, Mr. Coleman.

10 JUROR NUMBER 85: Yes, sir.

11 THE COURT: That means that you will have to come
12 back maybe in the morning and sit with 40, or so, other
13 people out here and from those people a jury is going to be
14 selected.

15 Do not discuss this case. Do not watch any
16 television, be exposed to any news media about this case.

17 And call back in after six tonight and we will
18 tell you exactly when you need to be here. And bring
19 sufficient clothing so that you can go to the motel stay,
20 okay.

21 JUROR NUMBER 85: That's tomorrow.

22 THE COURT: Tomorrow probably. Probably tomorrow.

23 JUROR NUMBER 85: Yeah.

24 THE COURT: Okay. And you can drive your car and
25 leave your clothes in the car. And if you are picked, you

1 can drive your car to the motel. And if you are not chosen,
2 of course, you can be released, okay?

3 JUROR NUMBER 85: Can I ask you a question?

4 THE COURT: Yes.

5 JUROR NUMBER 85: How long should we be in this
6 motel? You got any idea?

7 THE COURT: About four or five days.

8 JUROR NUMBER 85: Okay. Starting tomorrow?

9 THE COURT: Probably, if you are picked.

10 JUROR NUMBER 85: Yeah.

11 THE COURT: Okay. Thank you so much.

12 JUROR NUMBER 85: All right. Thank you.

13 (Whereupon, Juror Number 85 was taken out of the
14 courtroom)

15 THE COURT: All right. The next panel comes in at
16 two o'clock.

17 Mr. Meek, the gentleman whose wife has had the
18 biopsy, we don't know the results, but he's meeting with the
19 surgeon in the morning, I think. I'm not sure that he will
20 be able to be here. He's going -- he's told the clerk he
21 will fax us a doctor's statement which we can look at to see
22 how long that is going to take, or whatever. Okay. We will
23 look at that whenever he comes in.

24 We have got 35 with Mr. Meek and 34 without Mr.
25 Meek. And we have got two more panels coming in, scheduled

1 to come in today. So we may have to call and bring one more
2 panel in. I'm not sure. It depends upon how it goes. All
3 right. About two o'clock is when the panel will be here.
4 Thank you.

5 (Whereupon, proceedings were recessed)

6 (Whereupon, proceedings were reconvened)

7 MR. ARIAIL: Judge, if I could take a minute,
8 talking over the break, it looks like we are going to be
9 fairly close to getting enough people this afternoon, and so
10 I was thinking about in preparation to getting witnesses
11 lined up for tomorrow, talking about what schedule we might
12 be on and what we would do in the morning, and put out some
13 suggestions but I would certainly -- you know, on a time
14 frame so we can get these people. Some of -- several of
15 them are from out of town that we needed to get in here.
16 And just assuming that we got enough for this afternoon, in
17 the past what we have done is do a dry strike like first
18 thing in the morning with just the lawyers and the court
19 personnel. And then if that dry strike presents any Batson
20 issues or any jury issues, then we could handle those
21 without contaminating the jury panel. And then if we took
22 care of all those, then bring the jury in say ten o'clock,
23 strike -- do the real strike, like we normally do, and then
24 if they were going to -- the SLED people were going to take
25 them to their motel, get them in the room, get them checked

1 in, get their cars straight and then feed them lunch, so we
2 could start on time with opening statements, say, at one
3 o'clock and then run the entire afternoon. If that --
4 that's just one suggestion. I mean, I'm just throwing that
5 out to look forward to. In other words, for planning on
6 when I would have my people here.

7 MR. GODFREY: Judge, the defense has no problems
8 with his proposed idea.

9 THE COURT: I hadn't thought about that before. I
10 was thinking about starting in the morning. I know that
11 this -- what we are doing today pretty much indicates to you
12 how y'all you want to strike. I don't really perceive much
13 of a problem in striking the jury, but -- I don't know if
14 you can strike without seeing the jurors or not.

15 MR. GODFREY: Well --

16 THE COURT: If you can remember them all.

17 MR. GODFREY: We have made some notes, and perhaps
18 seeing them would help, but Ken and I obviously need some
19 time to sit down and review people that are qualified before
20 we could strike. That's what we are going to do tonight.

21 MR. GIBSON: Your Honor, I just feel like we need
22 some time to sit down and discuss who we think is good for
23 us and who we think needs to be stricken.

24 THE COURT: I think we will be through by five or
25 so today.

1 MR. GODFREY: I would hope so.

2 THE COURT: I think if get 42 people, we can
3 select a jury. We have got 35.

4 MR. ARIAIL: We lost Mr. Meeks.

5 THE COURT: We lost him. Did you see that?

6 MR. GODFREY: Yes, Your Honor.

7 THE COURT: Apparently his wife has got not good
8 news, but I don't know how it works out.

9 I tell you, with these jurors staying in motel
10 over the weekend, normally when I try a case, I can't work a
11 whole lot around convenience of the witnesses when we are
12 tying up all these people from their families and everybody
13 that are sequestered.

14 MR. ARIAIL: Well, it won't be problem with
15 convenience to the witnesses. We are going to -- in other
16 words, we have got everything arranged. If we were to start
17 say one o'clock tomorrow, we will be through Friday.

18 THE COURT: I know that, but then we have got to
19 work Saturday and Sunday.

20 MR. ARIAIL: Right.

21 We have got our people lined up to be in here
22 tomorrow and Friday, so we will be ready to go.

23 THE COURT: If you will bring out the six we have.

24 (Whereupon, Jury Panel Number 11 was brought into
25 the courtroom)

1 THE COURT: If we could identify everyone, we have
2 Franklin Autrey.

3 Erica Sharper.

4 Dorothy Lowe.

5 Anita Stevens Stiles.

6 Kathy Wright.

7 Jeffery Ethridge.

8 Okay. Now, representing the State will be the
9 solicitor Bob Ariail, and he just stepped out for a minute.
10 Betty Strom is the deputy solicitor, and Ms. Verdin. She's
11 an assistant solicitor.

12 Representing the defendant is Mr. Bill Godfrey and
13 Mr. Ken Gibson.

14 The defendant is Mr. Freddie Eugene Owens sitting
15 here.

16 Do any of you know Solicitor Ariail, Ms. Strom,
17 Ms. Verdin, Mr. Godfrey, Mr. Gibson, or Mr. Owens? Do any
18 of you know any of these folks?

19 (No response)

20 THE COURT: All right. Ladies and gentlemen, you
21 were given a witness list when you came in. And if you have
22 had time to look over this list, and you probably have, it's
23 a lengthy list, do any of you know anyone who is listed as a
24 possible witness in this case?

25 JUROR NUMBER 470: I'm not sure. I don't know.

1 Number 43. I don't know if it's the same guy I went to high
2 school with or not, but --

3 THE COURT: Centell.

4 JUROR NUMBER 470: Yeah, I went to a high school
5 with a William Centell at Mauldin. I haven't seen him since
6 '89.

7 THE COURT: If he were a witness in this case,
8 would that affect your ability to be fair and impartial?

9 JUROR NUMBER 470: No, it wouldn't.

10 THE COURT: Thank you.

11 Ladies and gentlemen, I would ask you to review
12 the sheet that I gave you in regard to three possible --
13 three types of the jurors. And I would ask you that when
14 you come in for your individual questioning, if you can
15 identify yourself in one of these three, we will probably
16 ask you to do that. Okay.

17 I'll ask y'all to step back into the other
18 courtroom and we will start the questioning with Mr. Autrey.
19 You can come up here, Mr. Autrey.

20 (Whereupon, Jury Panel Number 11 was taken out of
21 the courtroom)

22 FRANKLIN L. AUTREY, JR., #13, having been first
23 duly sworn, testified as follows:

24 VOIR DIRE EXAMINATION BY THE COURT:

25 Q. Mr. Autrey, if you have reviewed the three types of

1 possible jurors in a case, could you tell me if you could
2 identify with one of those three groups?

3 A. Probably number three.

4 Q. Number three?

5 A. Yes, sir.

6 Q. Okay. And that is a person who has not made up their
7 mind, if the person has been convicted of a murder, could
8 consider all the facts and circumstances and write a verdict
9 of either life imprisonment or death?

10 A. Yes, sir.

11 Q. Mr. Autrey, this case arises out of an incident on the
12 1st of November of 1997, on Laurens Road, in Greenville
13 County in the early morning hours. Mrs. -- Irene Graves. I
14 have said that a hundred times, but it just slipped my mind.
15 Ms. Irene Graves was killed and Mr. Owens has been convicted
16 of murder for that.

17 There has been publicity regarding that incident and
18 that shooting on TV, radio, and in the newspapers. Have you
19 read, heard or seen anything about this case?

20 A. Years ago when it happened, I remember it, but did not
21 see anything or read anything, hear anything between that
22 time and actually Monday evening on the news.

23 Q. Okay. Did you watch the news on Monday evening?

24 A. Bits and pieces.

25 Q. Okay. Did you see something about this case?

1 A. Very little. I did see some. But very little.

2 Q. Okay. Now, what was the -- do you remember what you
3 saw about the case? Can you tell me?

4 A. The main thing I remember is talking about jurors and
5 the case starting once again.

6 Q. Okay. Now, Mr. Owens has been tried by a jury and
7 convicted of murder. And our law of South Carolina provides
8 if the State seeks the death penalty, the trial -- the first
9 trial or proceeding is whether he is guilty or innocent, and
10 that's been conducted. The second one is to determine how
11 he would be sentenced. Do you understand that?

12 A. Right.

13 Q. Mr. Autrey, let me ask you this now. Anything that you
14 may have heard or read or seen about this, and if you were a
15 juror, could you disregard any of that -- all of that, not
16 consider anything that you have seen or heard outside the
17 courtroom, on the news, or any other way, and would you
18 decide this case based on the evidence and testimony that
19 you heard in the courtroom?

20 A. Yes, sir.

21 Q. Now, Mr. Autrey, in this proceeding -- I need to tell
22 you that the State cannot seek the death penalty in every
23 murder in South Carolina. The State can only seek the death
24 penalty for a murder accompanied by statutory circumstances
25 of aggravation, where the statute has listed and put in the

1 law what would be aggravating circumstances warranting the
2 State asking for the death penalty. Okay.

3 In this case the State will have to prove beyond a
4 reasonable doubt that this murder was committed while a
5 robbery was being committed while the defendant was armed
6 with a deadly weapon, or -- and/or a larceny was being
7 committed while the defendant was armed with a deadly
8 weapon.

9 Now, have you had any experiences in your life or
10 knowing any close personal friends or relatives who had
11 experiences with armed robberies or larcenies such that it
12 would affect your ability to be fair and impartial?

13 A. No, sir.

14 Q. You have never been the victim of a robbery?

15 A. No, sir.

16 Q. If the State convinces twelve jurors that this murder
17 was committed with one, or both, of those aggravating
18 circumstances beyond a reasonable doubt, then the jury would
19 determine the sentence. Do you understand that?

20 A. Yes, sir.

21 Q. And at that particular point there would only be two
22 possible sentences: Life imprisonment or death. Okay. Do
23 you understand that?

24 A. Yes, sir.

25 Q. Now, as to the proof in regard to that, statutory

1 aggravating circumstances, there is no burden on the
2 defendant to prove anything or to even testify and that
3 could not be held against him. Would you follow that
4 instruction of law?

5 A. Yes, sir.

6 Q. Now, if the jury found beyond a reasonable doubt one of
7 those, or both of those, statutory aggravating
8 circumstances, then you would hear evidence in regard to the
9 specific circumstances surrounding this crime and individual
10 characteristics of this defendant and then the jury would
11 have to impose a sentence of life imprisonment or death. Do
12 you understand that?

13 A. Yes, sir.

14 Q. And you could focus on the circumstances of this crime
15 and individual characteristics of the defendant and write a
16 verdict of either life or death?

17 A. Yes, sir.

18 Q. And I may have said this. I have been over it a good
19 bit with jurors. Life here means life in prison for as long
20 as the defendant lives, without any possibility of parole.
21 Do you understand what life means?

22 A. Yes.

23 Q. Death means death by lethal injection or electrocution.
24 Do you understand that?

25 A. Yes, sir.

1 Q. Now, a juror would need to hear facts and circumstances
2 in aggravation and mitigation and seriously consider those.

3 Circumstances of aggravation are facts and
4 circumstances to aggravate or worsen the crime of murder.
5 Make it worse, make it larger than it is.

6 Mitigating circumstances would reduce the severity of
7 the crime and they may be considered as extenuating or as
8 reducing the degree of responsibility or fault. Do you
9 understand what mitigating circumstances are?

10 A. Yes, sir.

11 Q. In listening to the evidence and testimony, if the
12 particular facts warranted that in aggravation and
13 mitigation, or for reason any under the evidence that you
14 have heard, could you write a sentence of life imprisonment
15 in this case, based on the facts and circumstances?

16 A. Yes, sir.

17 Q. Could you write a sentence of death in this case, based
18 on the facts and circumstances?

19 A. Yes, sir.

20 Q. If you were to reach the point where you had the write
21 to sentence, all of the jurors would have to sign their name
22 to the verdict and the sentence. Could you do that?

23 A. Yes, sir.

24 Q. Okay, sir. Now, if any evidence came in about any bad
25 acts before this crime -- I mean this -- before this murder

1 or if there were any bad acts or crimes after this murder,
2 that could come in not as evidence of a statutory
3 aggravating circumstance, but only as it would bear on the
4 character of the defendant in this case. Do you understand
5 that?

6 A. Yes, sir.

7 Q. Would race have any bearing or influence on your
8 verdict?

9 A. No, sir.

10 Q. Would religion have any influence or bearing on your
11 verdict?

12 A. No, sir.

13 Q. If there was any evidence of the Muslim faith or the
14 Islamic faith, would that bear in any way on your verdict?

15 A. No, sir.

16 Q. I'm going to let you answer some questions from the
17 attorneys, okay?

18 VOIR DIRE EXAMINATION BY MR. GODFREY:

19 Q. Good afternoon, Mr. Autrey.

20 My name is Bill Godfrey. This is Ken Gibson, and our
21 client is Freddie Owens.

22 In reviewing the jury questionnaire that you filled
23 out, you indicated on it that you did have a family member
24 or friend who was employed in law enforcement. And, of
25 course, that means -- everything is included: Prison

1 guards, officers, secretaries, investigators. Who do you
2 have, a friend or family member employed with law
3 enforcement?

4 A. My wife's uncle is a police officer for the county.

5 Q. He works for the Greenville County sheriff's office?

6 A. He does, yes, sir.

7 Q. And have you --

8 THE COURT: Your wife's uncle?

9 A. Wife's uncle.

10 BY MR GODFREY:

11 Q. Wife's uncle?

12 A. Uh-huh.

13 Q. Is there anybody else in the family?

14 A. No, sir.

15 Q. Do you know anyone at the -- other than your relative,
16 do you know anybody else at the Greenville County sheriff's
17 office that you would consider a friend?

18 A. I work with a gentleman that his son-in-law also works
19 for sheriff's department.

20 Q. And do you know anyone who works for the Greenville
21 County detention center?

22 A. No, sir.

23 Q. Have you heard anything about this case from any of the
24 folks that work with the sheriff's office?

25 A. No, sir.

1 Q. Now, if you were chosen as a juror in this case, and
2 you would be taking an oath to be fair and impartial. Could
3 you do that?

4 A. Yes, sir.

5 Q. And you believe that you could keep an open mind
6 throughout?

7 A. Yes, sir.

8 Q. One of the first responsibilities that the jury would
9 have, one the first decisions that the jury would have to
10 make, is about whether or not there is an aggravating --
11 aggravated circumstance. And once -- or if that is found,
12 then the jury becomes actually the body who determines the
13 sentence in this case. Do you understand that?

14 A. Yes, sir.

15 Q. And at the end of the cases, both the State's case and
16 the defense case, all the evidence would be in. If the
17 evidence that you saw supported a verdict of life in prison
18 without the possibility of parole, could you grant that
19 verdict?

20 A. Yes, sir.

21 Q. Would there be any hesitation on your part whatsoever?

22 A. That depends on other circumstances.

23 Q. And when you mean -- when you say other circumstances,
24 what are you speaking of?

25 A. Well, personal circumstances, or -- I guess mainly

1 personal circumstances.

2 Q. Let me make sure that I'm understanding your answer.
3 If the evidence you believed supported a verdict for life in
4 prison, you would be able to do that?

5 A. Yes, sir.

6 Q. And -- I'm sorry to repeat. I'm just confused. Would
7 there be hesitation on your part, or would there be some
8 hesitation on your part?

9 THE COURT: Well, are you asking him -- I'm not
10 quite sure I understand you. He said sit depended on the
11 circumstances.

12 MR. GODFREY: Okay. Well, I'm confused.

13 THE COURT: He could write a verdict of life
14 imprisonment. That's what I understood him to say.

15 But now then you asked him -- I have forgotten
16 what that last question was. He said depending upon the
17 circumstances.

18 BY MR. GODFREY:

19 Q. What I was -- well, I understand. Okay. Obviously if
20 the evidence supported a life imprisonment, you say that you
21 could enter a verdict of life in prison?

22 A. Yes, sir.

23 Q. Would there be -- would you have any qualms or
24 hesitation about doing that, if that's what the evidence
25 indicated?

1 A. No, sir.

2 Q. Okay. So would you have -- is there any reason, either
3 moral, religious, political, or any other reason, that could
4 possibly interfere with your ability to be fair and
5 impartial in this case?

6 A. No, sir.

7 Q. Thank you.

8 VOIR DIRE EXAMINATION BY MR. ARIAIL:

9 Q. Mr. Autrey, my name is Bob Ariail. I'm the solicitor
10 for Greenville and Pickens Counties, Thirteenth Circuit.
11 And the word solicitor is the term that South Carolina uses
12 to designate its state prosecutors. If you watch TV, it
13 would be the district attorney or Commonwealth attorney,
14 elsewhere, but here it's the solicitor, so just so you
15 understand what my role would be. And I would be
16 representing the State and be assisted by my deputy
17 solicitor, Betty Strom, and also Ms. Verdin, who has been in
18 and out during your questioning.

19 Do you believe that capital punishment, the death
20 penalty, is an appropriate form of punishment under our law
21 in certain circumstances?

22 A. Yes, sir.

23 Q. And have you held that belief for some period of time
24 before your involvement in this case?

25 A. Yes, sir.

1 Q. All right. So that's not something a view that you
2 came to have as a result of being summonsed to come in for
3 this case?

4 A. No, sir.

5 Q. All right. And you indicated to the court pursuant to
6 the questioning that if the evidence supported a verdict
7 that you and your fellow jurors felt was appropriate to
8 impose a sentence of death, that you could vote for that?

9 A. Yes, sir.

10 Q. All right. And you could sign the form that would be
11 required to record that that verdict was the death penalty?

12 A. Yes, sir.

13 Q. And you wouldn't have any problem with the mere fact --
14 or the fact that you would have to sign that, put your name
15 on record would not concern you?

16 A. No, sir.

17 Q. If that was your verdict?

18 A. No, sir.

19 Q. Okay. Thank you very much.

20 MR. ARIAIL: That's all I have.

21 THE COURT: Without objection from the State or
22 defense, I would qualify Mr. Autrey as a potential juror in
23 this case.

24 Mr. Autrey, you cannot discuss the case with
25 anyone. Do not permit anyone to talk to you about it. Do

1 not be exposed to any publicity about it of any type.

2 Call back after six o'clock tonight and we will
3 tell you exactly what time that you need to be here
4 tomorrow. Okay?

5 JUROR NUMBER 13: Yes, sir.

6 THE COURT: And you would need to bring some
7 clothes with you to stay in a motel four or five days, okay?
8 And you will -- if you are chosen, you will be there. If
9 not, you will be excused, okay?

10 JUROR NUMBER 13: Okay.

11 THE COURT: We have got about 42 of them.

12 JUROR NUMBER 13: Bring those items just in case?

13 THE COURT: You can leave them in your car.

14 JUROR NUMBER 13: I'll need to bring those items
15 tomorrow.

16 THE COURT: Be ready and we would permit you to
17 drive your car to the motel. It would seem that would work
18 easier if you had your clothes in the car. You can leave
19 your car there, okay?

20 JUROR NUMBER 13: Yes, sir.

21 THE COURT: I'm going to give you this order. If
22 you will just read it and call back on that number after
23 six. Okay? Thank you.

24 (Whereupon, Juror Number 13 was taken out of the
25 courtroom)

1 THE COURT: Erica Sharper.

2 (Whereupon, Juror Number 365 was brought into the
3 courtroom)

4 ERICA D. SHARPER, #365, having been first duly
5 sworn, testified as follows:

6 VOIR DIRE EXAMINATION BY THE COURT:

7 Q. Ms. Sharper, have you reviewed the three types of
8 jurors listed on the sheet that you had with you in the
9 other courtroom?

10 A. Yes, sir.

11 Q. Could you put yourself in one of these three
12 categories?

13 A. Yes.

14 Q. Which one would that be?

15 A. Three.

16 Q. Three?

17 A. Uh-huh.

18 Q. Okay. You could -- do you know that Mr. --

19 Well, Mr. Owens has been found guilty of murder, and
20 this proceeding is to determine how he would be punished.
21 You do not have your mind made up concerning punishment in
22 this case?

23 A. No.

24 Q. And you would need to hear the facts and circumstances
25 in aggravation and mitigation of this offense or this crime;

1 you would want to listen to this and follow the law as I
2 explained it to you before you made your decision regarding
3 punishment?

4 A. Right.

5 Q. Okay. And you could bring in a verdict of either life
6 imprisonment or death, based on the facts as you heard them?

7 A. Correct.

8 Q. Okay. Now, Ms. Sharper, this case arises out of an
9 incident that occurred on Laurens Road, in Greenville, on
10 November the 1st of 1997, wherein Mrs. Irene Graves was
11 killed, and Mr. Owens has been convicted of that of murder.

12 Do you know anything about this case?

13 A. No.

14 Q. This case received some TV, newspaper and radio
15 publicity, so you have not read, heard or seen anything
16 about this case?

17 A. If I did, not recently. If I did back in 1997, I don't
18 remember.

19 Q. Okay. But if anything were to come up that you
20 remembered from any of the news accounts, could you dismiss
21 it from your mind as a juror and decide it only on the
22 evidence and testimony that you heard?

23 A. Yes, sir.

24 Q. Okay. Now, the State cannot seek the death penalty for
25 every murder in South Carolina under our law. The law

1 requires them to prove a statutory aggravating circumstance
2 before they can seek the death penalty. Okay?

3 A. Yeah.

4 Q. Now, the statutory aggravating circumstances that is
5 alleged in this case are the commission of this murder while
6 a robbery was being committed and the defendant was armed
7 with a deadly weapon, or a larceny was being committed at
8 the time of this murder while the defendant was armed with a
9 deadly weapon.

10 Have you had any personal experiences with armed
11 robbery or larceny that would affect or have any impact on
12 you sitting as a juror in this case?

13 A. No.

14 Q. You have never been the victim of that or neither your
15 close relatives or friends been the victims of any
16 robberies?

17 A. No.

18 Q. Maybe larceny, that it wouldn't?

19 A. No.

20 Q. So based on that, you hadn't formed an opinion at all
21 about what the sentence ought to be in this case or what the
22 decision ought to be?

23 A. No.

24 Q. All right. Now, if the State -- the State would have
25 to prove one of those or both of those things beyond a

1 reasonable doubt. The defendant doesn't have to prove
2 anything or even testify. Do you understand that principle
3 of law?

4 A. Yes.

5 Q. Do you have any problems with that?

6 A. No.

7 Q. Now, if the jury found beyond a reasonable doubt that
8 one of those statutory aggravating circumstances existed at
9 the time of this murder, then the jury would have to
10 determine the sentence. And whatever that sentence was
11 would be followed by the court. There would only be two
12 possibilities. One is life in prison without the
13 possibility of parole until the death of the defendant. The
14 other sentence would be death by lethal injection or
15 electrocution.

16 Do you understand that that would be the duty on the
17 jury, if the statutory aggravating circumstance was found?

18 A. Yeah.

19 Q. That jury would have to be fair and impartial, listen
20 to all of the evidence and testimony surrounding the
21 specific circumstances of this crime on November the 1st,
22 1997, and consider the general -- the individual
23 characteristics of this defendant and impose either a life
24 sentence or a death sentence. Could you do that?

25 A. Yes.

1 Q. Could you seriously and meaningfully consider
2 aggravating circumstances; that is, facts, incidents or
3 occurrences which aggravate or worsen the crime of murder?
4 In other words, an aggravating circumstance increases the
5 enormity of the crime and adds to the injury of the crime.
6 Could you carefully and seriously consider aggravating
7 circumstances?

8 A. Yes.

9 Q. Could you carefully and seriously consider any
10 mitigating evidence in the case?

11 A. Yes.

12 Q. Mitigating evidence is evidence which would reduce the
13 severity of the offense of murder and may be considered as
14 extenuating or reducing the degree of responsibility or
15 fault. Could you seriously consider those?

16 A. Yes, sir.

17 Q. Seriously considering the aggravating and mitigating
18 circumstances, could you, if the facts warranted it, write a
19 sentence of life imprisonment?

20 A. Yes.

21 Q. Could you, if the facts warranted that, write a
22 sentence of death?

23 A. Yes.

24 Q. You would be required to sign your name to the verdict
25 of death, all twelve jurors would, if that was the decision

1 of the jury. Could you do that, sign?

2 A. Is that a public records?

3 Q. Well, I can't tell you how much is going to be found.

4 I cannot tell you that it would not be seen.

5 During this trial, and under the news media, they can't
6 identify you in any way, but when you sign your name to it,
7 you will be signing it with all eleven other people --

8 A. Yeah.

9 Q. -- if you are a juror.

10 And it may go down to the Department of Corrections
11 and -- I'm not -- I don't know who has access to those or
12 who sees those, but it would not be -- it would not be a
13 private concealed record after this proceeding is over. Do
14 you have any problem with that?

15 A. No.

16 Q. Now, if evidence of any crimes or bad acts that
17 happened before this murder or any evidence of crimes or bad
18 acts that happened after this murder were to come in, they
19 could not be considered by you as evidence of a statutory
20 aggravating circumstance. Do you understand that?

21 A. Yes.

22 Q. That evidence would only come in as it would bear on,
23 if any, on the defendant's character. Do you understand
24 that?

25 A. Yes.

1 Q. Would the race make any -- have any impact on your
2 decision, the race of any victims or defendant, in any way?

3 A. No.

4 Q. Would the religious feelings or faith of another
5 person, whether it be the Islamic or Muslim faith, would
6 that have any effect on your decision?

7 A. No.

8 Q. Please answer these lawyers questions.

9 A. Okay.

10 VOIR DIRE EXAMINATION BY MR. ARIAIL:

11 Q. Ms. Sharper, my name is Bob Ariail and I'm what's known
12 as the solicitor of the Thirteen Circuit in South Carolina,
13 and the solicitor is the name that the State has retained to
14 designate its state prosecutors. Other states call them
15 Commonwealth attorneys or district attorney, but in South
16 Carolina we are still called solicitors. It's a little
17 funny name, so I want to make sure that you understood what
18 we did.

19 I will be representing the State in this case, along
20 with my deputy, Ms. Betty Strom, seated at counsel table and
21 Ms. Verdin at counsel table.

22 Do you believe in capital punishment, the death
23 penalty?

24 A. Yes.

25 Q. And is that something, a belief, that you have held for

1 some time, or was it something that sort of crystalized when
2 you got your summons to come to this case?

3 A. No, for some time.

4 Q. For some time?

5 A. Yes.

6 Q. So you believe that capital punishment or the death
7 penalty is an appropriate sentence to be imposed under
8 certain circumstances?

9 A. Right.

10 Q. Okay. And the judge asked you if you were on the jury
11 could you vote to do that if you felt that the evidence was
12 established that that was the appropriate sentence and you
13 responded that you could?

14 A. Right.

15 Q. So you don't have any -- I'm assuming then you don't
16 have any personal views or moral, religious views that would
17 impede or interfere with your ability to vote for the death
18 penalty?

19 A. Right, no.

20 Q. The court asked you about signing and you indicated --
21 or I think you asked question about it being a public
22 record?

23 A. Right.

24 Q. Would the fact that you needed to sign the document,
25 would that interfere with your ability to consider fairly

1 the death penalty?

2 A. No.

3 Q. If that was your verdict, you would be able to sign it?

4 A. Right.

5 Q. Thank you, ma'am.

6 VOIR DIRE EXAMINATION BY MR. GIBSON:

7 Q. Good afternoon Ms. Sharper.

8 A. Thank you.

9 Q. This is Bill Godfrey, my co-counsel, and this is our
10 client Freddie Owens.

11 I just want to ask you a few questions to make
12 absolutely certain that you are going to be able to be fair
13 to both parties, if you get on this jury, okay?

14 A. Okay.

15 Q. Now, the solicitor has asked you a number of questions
16 to make sure that if you felt the circumstances were
17 appropriate, that you could give the death penalty.

18 I want to ask some questions to make sure that if you
19 felt the circumstances were appropriate, you could also
20 sentence my client to life.

21 Now, in this case we are going to be asking for life
22 without the possibility of parole. Do you understand what
23 that means?

24 A. Yes.

25 Q. Do you understand it means he will never get out of

1 jail, okay?

2 A. Right.

3 Q. Now, this case it's sort of a little different, I think
4 as the judge alluded to. In this case Mr. Owens has already
5 been convicted by another jury of murder, a deliberate
6 intentional murder, okay. Would that fact, and that fact
7 alone, keep you from being able to give him a life sentence,
8 if you felt that was appropriate?

9 A. No.

10 Q. Now, in this case there are also going to be some
11 aggravating factors, and particularly we are talking about
12 two. One is that this murder occurred in the commission of
13 an armed robbery. The second is that it occurred in the
14 commission of a larceny while using a deadly weapon.

15 If that is proven beyond a reasonable doubt, would that
16 in any way impair your ability to give my client a life
17 sentence, if you felt the circumstances justified it?

18 A. No.

19 Q. Do you have any questions whatsoever that you would be
20 able to be fair to both parties in this case?

21 A. No.

22 Q. Thank you, Ms. Sharper.

23 A. You are welcome.

24 THE COURT: Without objection from either side,
25 I'm going to qualify Ms. Sharper as a potential juror in

1 this case.

2 Ms. Sharper, that means that you will have to come
3 back tomorrow. If you will call after six o'clock tonight,
4 we will inform you as to what time that you need to be here.

5 JUROR NUMBER 365: Yeah.

6 THE COURT: You will need to bring sufficient
7 clothes for four or five days in a hotel --

8 JUROR NUMBER 365: Yeah.

9 THE COURT: -- if you are chosen as a juror.

10 JUROR NUMBER 365: Yeah.

11 THE COURT: Okay. And do not discuss the case
12 with anyone or permit anyone to talk to you about the case,
13 and do not watch any television or read about it in the
14 paper or on the news, or anything like that. Okay?

15 JUROR NUMBER 365: Okay.

16 THE COURT: And just report back. Call this
17 number tonight after six and we will leave a message for all
18 those jurors who have been qualified as potential jurors in
19 this case. And you will sit here in the courtroom with
20 about 42, or 43, or 44 other people and the jury would be
21 selected from that group.

22 JUROR NUMBER 365: Yeah.

23 THE COURT: I'm going to give you this order.
24 Thank you so much.

25 JUROR NUMBER 365: Can I ask you -- my job is

1 asking something that I can present to my job.

2 THE COURT: A statement?

3 JUROR NUMBER 365: Yeah.

4 THE COURT: Yeah.

5 JUROR NUMBER 365: So they can --

6 THE COURT: We can give you a statement.

7 JUROR NUMBER 365: Yeah.

8 THE COURT: All right. She needs a statement to
9 show her employer that she's been here.

10 THE CLERK: Go down to the first floor and the
11 clerk will take care of it for her. We have one down there.

12 THE COURT: Could you give her directions and
13 guide her to the first floor as to who she should see?

14 THE CLERK: And to get a statement, yes, sir.

15 THE COURT: And to get a statement?

16 THE CLERK: Yes, sir.

17 THE COURT: She will give you any statement that
18 you need. Thank you.

19 JUROR NUMBER 365: Thank you.

20 THE COURT: Excuse or statement for her
21 employment.

22 (Whereupon, Juror Number 365 was taken out of the
23 courtroom)

24 THE COURT: Dorothy Lowe.

25 (Whereupon, Juror Number 266 was brought into the

1 courtroom)

2 DOROTHY L. LOWE, #266, having been first duly
3 sworn, testified as follows:

4 VOIR DIRE EXAMINATION BY THE COURT:

5 Q. Ms. Lowe, I know from your questionnaire that you
6 submitted to the court that you had a friend who was killed
7 at a convenience store?

8 A. Yes.

9 Q. Is that right?

10 A. Yes.

11 Q. Was that an accidental killing or was it a robbery, or
12 what?

13 A. A robbery.

14 Q. A shotgun robbery?

15 A. Yes.

16 Q. And when and where was that?

17 A. It was in Simpsonville I think around '94, in February.

18 Q. And who was the friend?

19 A. Dickie Smith.

20 Q. Now, if the facts or circumstances that arose in this
21 case were similar to that, would the fact that your friend
22 was killed that way have an influence on your decision in
23 the case?

24 A. No.

25 Q. How close a friend was it?

1 A. Well, he was my husband's, one of his best friends.

2 Q. He was?

3 A. Yes.

4 Q. Okay. And could you tell me what the circumstances
5 were or how that event happened?

6 A. This guy and another one came in and Dickie and another
7 lady was working in the store. Dickie owned the store. And
8 the other guy took the lady to the back and held her and,
9 you know, he told Dickie it was a holdup and he wanted money
10 and Dickie tried to pull a gun on him. When he did, he shot
11 him.

12 Q. Okay. And what time of day or night was this?

13 A. It was like seven in the morning.

14 Q. Seven.

15 A. They first opened up and there was nobody else in
16 there.

17 Q. Nobody else in there.

18 Okay. Let me -- let me let you step out.

19 Was that case -- has it been disposed of, or did they
20 catch whoever may have done it?

21 A. Yeah, it's been -- he's been executed.

22 Q. Was he executed?

23 A. He was executed a year ago.

24 Q. Okay. And do you remember who that was?

25 A. Shawn Paul Humphries.

1 Q. Okay. I'm going to let you step out just for a minute.
2 Don't go too far, but you can step outside and let me cover
3 this with the attorneys.

4 (Whereupon, Juror Number 266 was taken out of the
5 courtroom)

6 MR. ARIAIL: She's right. John Paul Humphries was
7 executed for killing Dickie Smith. This office prosecuted
8 him, and also Dickie Smith's brother was killed in
9 Spartanburg County two years ago and that defendant was also
10 given the death penalty. That family owns a chain of
11 supermarkets. I don't see how this woman could possibly --
12 I mean, she is going to know we prosecuted him. We gave him
13 the death penalty. We went through all the appeals and he
14 was executed. Got a co-defendant. The co-defendant -- the
15 co-defendant got off.

16 THE COURT: What I'm thinking about is it just --
17 I'm sure they are going move that she can't sit.

18 MR. ARIAIL: I agree. She couldn't sit.

19 THE COURT: I agree.

20 (Whereupon, Juror Number 266 was brought into the
21 courtroom)

22 THE COURT: Under the facts and circumstances of
23 this case, it would be so similar to that one, I'm going to
24 have to excuse you, okay?

25 JUROR NUMBER 266: Yeah.

1 THE COURT: You do not have to come back.

2 JUROR NUMBER 266: All right.

3 THE COURT: Thank you.

4 JUROR NUMBER 266: Thank you.

5 (Whereupon, Juror Number 266 was taken out of the
6 courtroom)

7 THE COURT: Anita Stevens Stiles.

8 (Whereupon, Juror Number 470 was brought into the
9 courtroom)

10 ANITA STEVENS STILES, \$470, having been first duly
11 sworn, testified as follows:

12 VOIR DIRE EXAMINATION BY THE COURT:

13 Q. Ms. Stiles, of the three types of jurors that have been
14 listed on the document that you had in the other courtroom,
15 could you tell us which juror that you may be in this case?

16 A. The third one.

17 Q. The third one?

18 A. Yes, sir.

19 Q. Okay. Now, Ms. Stiles, this case arises out of an
20 incident on 1st of November of 1997, on Laurens Road in
21 Greenville County at the Speedway.

22 A. Uh-huh.

23 Q. In the early morning hours Ms. Irene Graves was killed,
24 and Mr. Owens has been convicted of murder for that, which
25 our state law has two proceedings for when the State seeks

1 the death penalty.

2 A. Uh-huh.

3 Q. Now, there was publicity in regard to this incident on
4 TV and the radio and in the newspapers. Have you read,
5 heard or seen anything about this case from any source?

6 A. No, other than --

7 Q. Court?

8 A. Other than the court.

9 Q. In here?

10 A. You know, I heard something about the jury being
11 selected. But other than that, no.

12 Q. Okay. If anything were to occur that you heard outside
13 the courtroom, as a juror you would have to dismiss anything
14 that you have heard out of your mind and decide it only on
15 the evidence and testimony that you heard in court. Could
16 you do that?

17 A. Yes, sir.

18 Q. Okay. Now, the State cannot seek the death penalty in
19 for every murder, and the State must prove a statutory
20 aggravating circumstance before they can ask for the death
21 penalty.

22 So the State would have to prove in this case that the
23 murder was committed during a robbery while the defendant
24 was armed with a deadly weapon, or during a larceny while
25 the defendant was armed with a deadly weapon. They would

1 have to prove that beyond a reasonable doubt.

2 There is no burden of proof on the defendant. He
3 doesn't even have to testify. Do you understand that?

4 A. Yes, sir.

5 Q. Okay. Now, have you been affected by any armed
6 robberies or any person that you know of in your life or any
7 robberies when a person possessed a deadly weapon or
8 larcenies when a person possessed a deadly weapon, or
9 been -- I'll just ask you of any crime that would affect
10 your ability to be fair in this case?

11 A. No, sir.

12 Q. Particularly robberies and larcenies?

13 A. I just had a petty larceny a few months ago, but
14 nothing. It was taken from my old house --

15 Q. Okay.

16 A. -- but I wasn't there.

17 Q. Okay. Now, if the State convinces all twelve jurors
18 that there was a statutory aggravating circumstance, one of
19 the two, they have to prove one, two, or both, and if the
20 jury finds that beyond a reasonable doubt, then it would be
21 up to the jury to determine the sentence for Mr. Owens.

22 A. Uh-huh.

23 Q. And that sentence could -- it can only be two
24 possibilities. One would be life in prison without the
25 possibility of parole until his death, and the other

1 sentence would be -- could be death. The jury would have to
2 determine one of those two. The jury would have to
3 determine that from the facts and circumstances, specific
4 circumstances surrounding this crime and the individual
5 characteristics of the defendant. You would focus on that.
6 Do you understand that?

7 A. Yes, sir.

8 Q. And you would have to seriously and meaningfully
9 consider aggravating circumstances and mitigating
10 circumstances. Could you do that?

11 A. Yes, sir.

12 Q. And you know that an aggravating circumstance is a
13 circumstance that makes worse or aggravates the crime of
14 murder. It increases the enormity of that offense. Do you
15 understand --

16 A. Yes.

17 Q. -- what an aggravating circumstance would be?

18 A. Yes, sir.

19 Q. And you would be required to consider mitigating
20 circumstances. Mitigating circumstances are those facts or
21 circumstances that reduces the severity of the crime of
22 murder.

23 A. Uh-huh.

24 Q. And these facts or circumstances -- or any evidence in
25 the case may be considered by you as extenuating or reducing

1 the degree of responsibility or fault of the defendant. Do
2 you understand what a mitigating circumstance is?

3 A. Yes, sir.

4 Q. Could you seriously and meaningfully consider any
5 circumstances of aggravation and any mitigation evidence in
6 the case and write a verdict of life imprisonment, depending
7 upon the particular facts and circumstances of the murder?

8 A. Yes, sir.

9 Q. Could you consider the particular facts and
10 circumstances of the murder and write a death sentence?

11 A. Yes, sir.

12 Q. If you should do that, the jury would be required --
13 all twelve jurors would have to sign their names to the
14 sentence document. Could you do that?

15 A. Yes, sir.

16 Q. Now, if any evidence came in about other crimes or bad
17 acts before this murder or after this murder, that evidence
18 could not be considered in regard to a statutory aggravating
19 circumstance. Do you understand that?

20 A. Yes, sir.

21 Q. That evidence could only be considered as it may go to
22 the character of the defendant.

23 A. Uh-huh.

24 Q. All right. Would race have any bearing on your
25 decision?

1 A. No, sir.

2 Q. Would religion have any bearing on your decision?

3 A. No, sir.

4 Q. If any person was of the Muslim or Islamic faith, would
5 that affect you?

6 A. No, sir.

7 Q. Please answer these lawyers questions.

8 A. Okay.

9 VOIR DIRE EXAMINATION BY MR. GIBSON:

10 Q. Hi. Good afternoon, Ms. Stiles.

11 A. Good afternoon.

12 Q. I'm Ken Gibson. This is Bill Godfrey, co-counsel.

13 This is our client Freddie Owens.

14 I just want to ask you a few questions and make
15 absolutely certain from our point of view that you can be
16 fair --

17 A. Okay.

18 Q. -- if you are placed on this jury.

19 A. Okay.

20 Q. I want to ask you first about some things that are on
21 your questionnaire, okay?

22 A. Okay.

23 Q. Now, according to go your questionnaire, you are a
24 member of the Catholic church, is that correct?

25 A. Yes, sir.

1 Q. But you placed also on your questionnaire -- I'm going
2 to show you what I'm talking about. In response to number
3 48, that you don't always adhere to the teachings of the
4 Catholic church?

5 A. Right. I mean, certain things that the Catholic church
6 is teaching us is -- you know, you are not supposed to
7 believe in abortion. You know, those items and --

8 Q. Okay.

9 A. -- certain circumstances I would agree --

10 Q. Okay.

11 A. -- that it would be all right for someone to -- it's
12 their choice.

13 Q. Okay. Does that also apply to the Catholic church's
14 teachings in regard to the death penalty?

15 A. Yes, sir.

16 Q. Now, Mr. Ariail is going to ask you some questions.
17 I'm sure he's going to ask you a number of questions to make
18 sure that if you thought circumstances were appropriate, you
19 could give a sentence of death in this case.

20 A. Okay.

21 Q. I want to make sure that if you thought the
22 circumstances were appropriate, you could give a sentence of
23 life in this case.

24 A. Uh-huh, yes, sir.

25 Q. Now, what we are asking for is when we are asking for

1 life, we are asking for a sentence of life without the
2 possibility of parole.

3 A. Okay.

4 Q. Do you have an understanding as to what that means?

5 A. Yes, sir.

6 Q. Can you tell me what it is?

7 A. That he would be in a correctional facility for the
8 rest of his life.

9 Q. Exactly right.

10 Now, in this case a jury has already determined that
11 Mr. Owens is guilty of murder.

12 A. Uh-huh.

13 Q. And by statute and law that means that it was a
14 deliberate and intentional act.

15 A. Uh-huh.

16 Q. Given that prior finding, and we are going to be stuck
17 with that prior finding, could you still, after listening to
18 the circumstances, give Mr. Owens a sentence of life, if you
19 thought that was appropriate?

20 A. Yes, sir.

21 Q. And in this case there are also going to be allegations
22 of some aggravating factors. And the court has already told
23 you about two that are going to be at issue here. That's
24 going to be an armed robbery and larceny while having a
25 deadly weapon.

1 A. Okay.

2 Q. Now, the only way that the jury will get a chance to
3 consider a sentence in this case is if those aggravating
4 factors are proven beyond a reasonable doubt.

5 A. Yes, sir.

6 Q. If those factors are proven, do you think that you
7 could still, after listening to the circumstances and if you
8 thought the circumstances were appropriate, could you still
9 give a sentence of life without the possibility of parole to
10 Mr. Owens?

11 A. Yes, sir.

12 Q. Is there any question in your mind that would make you
13 think that you would not be able to be fair to both parties
14 in this situation?

15 A. No.

16 Q. Thank you.

17 VOIR DIRE EXAMINATION BY MR. ARIAIL:

18 Q. Ms. Stiles?

19 A. Yes, sir.

20 Q. Is it Stiles or Stevens?

21 A. Well, I was Stevens, and I just got recently married,
22 and so --

23 Q. So you are a Stiles?

24 A. I was in the process of changing everything.

25 Q. That's all right. I just didn't want to call you by

1 the wrong name.

2 My name is Bob Ariail and I'm the solicitor for the
3 Thirteenth Circuit in South Carolina. That means in South
4 Carolina a solicitor is the name that the State uses to
5 designate its state prosecutors.

6 A. Uh-huh.

7 Q. Other states call them district attorneys, Commonwealth
8 attorneys, but we have such a funny name, I like to tell
9 people so they know what we do.

10 Assisting me in this case will be my deputy, Betty
11 Strom, and also Ms. Verdin, seated at counsel table.

12 Do you believe that capital punishment, the death
13 penalty, is an appropriate punishment under our law for
14 certain crimes of murder?

15 A. Yes, but it would depend upon what the circumstances
16 were whether or not which way to go.

17 Q. Correct. But the punishment is an acceptable
18 punishment in your view for certain types of murders?

19 A. Yes.

20 Q. And have you held that view for some time or --

21 A. Yes, sir, most of my life.

22 Q. Okay. Most of your life?

23 A. My adult life, at least.

24 Q. All right. And even though the Catholic church may
25 have contrary views, that is not going to interfere with

1 your ability to fairly consider imposing that punishment,
2 depending on what the facts are in a case that you were
3 sitting on?

4 A. No, sir.

5 Q. Okay. If you were on a jury and the jury decided that
6 the appropriate punishment was the death penalty, you would
7 be required to sign your name on a piece of paper --

8 A. Uh-huh.

9 Q. -- that confirms that and pass it back to the court
10 confirming that your sentence was the death penalty. Would
11 you have any problem signing that piece of paper?

12 A. No, sir.

13 Q. If that was your verdict?

14 A. If that was our verdict.

15 Q. Okay. Thank you.

16 THE COURT: Without any objection from the State
17 or the defense, I would qualify Ms. Stiles as a potential
18 juror in this case.

19 Ms. Stiles, that means that you would have to call
20 us back tonight after six and we would leave a message on
21 there as to where all the qualified jurors were to report.

22 JUROR NUMBER 470: Yeah.

23 THE COURT: That means that you are eligible to
24 sit on this jury and you would come in here with about 40
25 other people in the morning.

1 JUROR NUMBER 470: Yeah.

2 THE COURT: And the jury would be picked from that
3 group.

4 JUROR NUMBER 470: Yeah.

5 THE COURT: You cannot discuss the case with
6 anyone still, nor could you be exposed to any publicity
7 about this.

8 JUROR NUMBER 470: Yeah.

9 THE COURT: Okay. And bring sufficient clothing
10 for a few days in the motel, according to this order. Thank
11 you so much.

12 JUROR NUMBER 470: Thank you.

13 THE COURT: If you would just leave your clothes
14 in your automobile when you come in tomorrow, or whatever.
15 And if you are chosen, you would have the opportunity to
16 drive your car to the motel.

17 JUROR NUMBER 470: Yeah.

18 THE COURT: Thank you.

19 JUROR NUMBER 470: Thank you very much.

20 (Whereupon, Juror Number 470 was taken out of the
21 courtroom)

22 THE COURT: Kathy B. Wright.

23 (Whereupon, Juror Number 444 was brought into the
24 courtroom)

25 KATHY B. WRIGHT, #444, having been first duly

1 sworn, testified as follows:

2 VOIR DIRE EXAMINATION BY THE COURT:

3 Q. Ms. Wright, have you had the opportunity to look at the
4 document three types of jurors?

5 A. Yes, I have.

6 Q. And could you classify yourself in regard to one of
7 these three?

8 A. Yes, I believe in the death penalty.

9 Q. You believe in the death penalty?

10 A. I do.

11 Q. Okay. Would you be more likely to be a one, a two, or
12 a three?

13 A. A one.

14 Q. A one?

15 A. Uh-huh.

16 Q. Well, the question on one is not whether you believe in
17 the death penalty or not, but do you believe that the death
18 penalty should be imposed for every murder?

19 A. If there is proof beyond a shadow of a doubt, I do.

20 Q. Okay. Well, now that -- the proof is not beyond a
21 shadow of a doubt. It's beyond a reasonable doubt. But be
22 that as it may, we are not concerned with that today.

23 Mr. Owens has been convicted of murder, okay?

24 A. Yes.

25 Q. That's by another jury.

1 Under South Carolina law the State can seek the death
2 penalty if they can prove statutory aggravating
3 circumstances accompanied this murder. They can ask for it.

4 Now, a jury determines whether or not the death penalty
5 is administered in this case.

6 A. Uh-huh.

7 Q. Not the judge, but a jury, and that's the reason we are
8 having this sentencing proceeding, to determine how he will
9 be sentenced. Do you understand that Ms. Wright?

10 A. I do.

11 Q. Now, a jury -- if the State can prove an aggravating
12 circumstance beyond a reasonable doubt, then the jury would
13 sit and hear evidence and testimony and they would have to
14 determine the sentence to be imposed upon Mr. Owens. Do you
15 understand that?

16 A. Uh-huh.

17 Q. There would only be two possibilities: Life in prison
18 without the possibility of parole, or death. Do you
19 understand that?

20 A. Yes, I do.

21 Q. Now, realizing that, we would need a jury who could
22 hear all the evidence and testimony in regard to the
23 circumstances of this murder and be fair and impartial and
24 impose the sentence of life or death. Do you feel like you
25 could do that?

1 A. I believe I could.

2 Q. Well, you are going to take an oath that you can follow
3 the law. Based on my instructions and the evidence and
4 testimony that you hear, and you would hear evidence in
5 aggravation of the circumstances.

6 Aggravating means to make worse or aggravate the crime
7 of murder. It is something that increases the enormity of
8 the offense of murder. It adds to the injury of murder. Do
9 you understand what an aggravating circumstance would be? A
10 circumstance involving the murder that would aggravate that
11 murder. Do you understand what that would be?

12 A. Could you explain that?

13 Q. An aggravating circumstance?

14 A. Uh-huh.

15 Q. An aggravating circumstance would be facts or incidents
16 that occur. We don't know what they are until we hear the
17 testimony and evidence in the case. And you, the jury,
18 would have to determine what facts and circumstances
19 occurred at the time of this murder.

20 A. Uh-huh.

21 Q. Do you understand that?

22 A. Yes.

23 Q. All right. And any circumstances that aggravated this
24 crime of murder would be aggravating circumstances.

25 A. Okay.

1 Q. Now, mitigating circumstances would be any evidence you
2 heard that would reduce the seriousness or severity of the
3 offense of murder and it may be considered as extenuating or
4 reducing the degree of responsibility or fault. Do you
5 understand that?

6 A. Yes, sir.

7 Q. Understanding what aggravating and mitigating
8 circumstances are, you would be called upon to seriously
9 consider all those circumstances of aggravation and
10 mitigation that surrounded this crime and consider the
11 individual characteristics of the defendant and either write
12 a sentence of life imprisonment, based on those facts and
13 circumstances, or death.

14 Could you seriously consider aggravating and mitigating
15 circumstances and write a sentence of life imprisonment, if
16 the circumstances warranted that?

17 A. I'm just not sure about that.

18 Q. Could you consider the facts and circumstances
19 surrounding this and write a sentence of death?

20 A. I'm really not sure. It's just very difficult to
21 answer that question.

22 Q. Okay. Well, let me ask you this. If I instructed you
23 that if you were sitting as a juror -- and I'm going to let
24 these attorneys ask you some more questions.

25 Well, before I ask those three, I think I'll let the

1 attorneys see if they can explore these areas a little bit
2 more.

3 VOIR DIRE EXAMINATION BY MR. ARIAIL:

4 Q. Ms. Wright, my name is Bob Ariail and I'm the solicitor
5 for the Thirteenth Circuit in South Carolina. That means --
6 that's an old name that South Carolina has retained to
7 designate its state prosecutors. If you watch TV, it would
8 be a district attorney or a Commonwealth attorney, but in
9 South Carolina we still call them solicitors. So that would
10 be my role, would be to represent the State in this case, if
11 you were chosen on this jury.

12 Assisting me in this case would be Ms. Strom, my deputy
13 seated at counsel table, along with Ms. Verdin, also seated
14 at counsel table.

15 A. Uh-huh.

16 Q. As the judge told you, the defendant has already been
17 convicted of the crime of murder by another jury. The issue
18 before the jury we were seeking to pick is what is the
19 appropriate sentence for that crime.

20 And in doing so, the jury becomes the person or body
21 responsible for sentencing, just like a judge normally would
22 sentence in any other case. So what we are looking for is
23 people who have that judicial ability - fair, see the big
24 picture, look at all the options that are available, review
25 the facts and determine what the appropriate punishment

1 should be. All right. So that's why we are asking and
2 judge has been through these questions for you.

3 A. Right, I understand.

4 Q. Now, to be an -- or one of the questions the judge
5 asked -- and I'll go back. Do you believe that the death
6 penalty or capital punishment is an appropriate sentence
7 under our law in certain murder cases?

8 A. I do.

9 Q. You do.

10 And is that an opinion that you have held for some
11 time, or is that an opinion that you have recently come to
12 hold because of your involvement in this particular case?

13 A. It's just something that I have felt my entire adult
14 life.

15 Q. And under the law of South Carolina, the judge
16 explained to you, not every case is eligible for the death
17 penalty. And even if a case is eligible for the death
18 penalty, a jury is never required to impose the death
19 penalty. The requirement that's placed on the jury is to
20 consider both sentences under the evidence fairly to
21 determine what sentence is appropriate.

22 A. Uh-huh.

23 Q. Do you believe that you could fairly consider imposing
24 both a life imprisonment sentence or a death sentence if
25 that was -- if you were chosen on this jury and that's what

1 the judge instructed you to do?

2 A. I believe that I could be fair.

3 Q. All right. And in addition to fair, do you believe
4 that you could consider both sentences under a charge given
5 by the judge that you must consider whether life
6 imprisonment is appropriate or the death sentence is
7 appropriate?

8 A. I think I can.

9 Q. All right. And if you found that the sentence of death
10 was appropriate, you would be required to sign a document,
11 along with your fellow jurors, indicating that that was your
12 sentence.

13 A. Uh-huh.

14 Q. Would you be able to sign that document?

15 A. Yes, I could.

16 Q. And just to go back. You understand that just because
17 an individual has been convicted of murder, he does not
18 automatically receive the death penalty in South Carolina?

19 A. Yes, I understand that.

20 Q. And you would function as a juror to determine what the
21 appropriate sentence was.

22 A. (Shaking head yes)

23 Q. And you feel you can do that?

24 A. I think I can.

25 Q. Thank you, ma'am.

1 VOIR DIRE EXAMINATION BY MR. GODFREY:

2 Q. Good afternoon Ms. Wright.

3 I'm Bill Godfrey. This is Ken Gibson. And our client
4 is Freddie Owens.

5 I just have a few questions for you.

6 You understand now, I believe, that not every murder in
7 South Carolina is eligible for the death penalty?

8 A. Yes.

9 Q. And you understand that the jury that potentially you
10 would be on in this case is a murder that would be eligible
11 for the death penalty?

12 A. Yes, I understand.

13 Q. Now, you believe that you could be fair and impartial
14 to both the State and to the defense?

15 A. I think I can.

16 Q. Do you understand that, you know, there is a whole
17 class of murders that do not invoke the death penalty, that
18 the State cannot ask for the death penalty?

19 A. (Shaking head yes)

20 Q. In this case the jury is going to have to make a
21 determination beyond a reasonable doubt if there is an
22 aggravating factor. And if the jury finds that there is an
23 aggravating factor beyond a reasonable doubt, then the jury
24 will actually sit and determine the sentence, whether it be
25 life or whether it be death.

1 So in a case where you have a murder that has
2 aggravating factors in it that have been found by the jury,
3 can you at that point in time be fair and impartial to the
4 State and defense and consider all of the evidence to
5 determine a sentence?

6 A. I think I can. I would do my best to do that.

7 Q. Do you have any -- if the evidence -- after you have
8 heard all of the evidence, if the evidence indicated to you
9 that the verdict should be a life without parole verdict,
10 could you return that verdict?

11 A. I don't know. I think I could. I don't know.

12 Q. If after you have heard all of the evidence, if you
13 believe that the sentence should be death, could you return
14 a death verdict?

15 A. Yes, I could.

16 Q. So you could return a death verdict, but you are not
17 quite sure if you could return a verdict of life?

18 A. That's just the way I feel.

19 Q. Okay. Thank you very much.

20 A. You are welcome.

21 THE COURT: All right. Let me let you step out
22 just for a minute, Ms. Wright. I will bring you back in.

23 (Whereupon, Juror Number 444 was taken out of the
24 courtroom)

25 MR. GODFREY: May it please the court, based on

1 the testimony of Ms. Wright, I believe that she is not
2 qualified to serve as a juror in this case.

3 When she first came in and the court was
4 questioning her, she indicated she did believe in the death
5 penalty. She has been sort of, at best, wishy-washy about
6 whether or not she could consider either life or death. And
7 my questions of her, the last questions, she does not know
8 whether she could return a verdict of life, if the evidence
9 supported a verdict of life, but she said very clearly that
10 she could support a verdict of death.

11 It appears to me that we don't have a mere leaning
12 in this situation. It appears to me that we have someone
13 who is, for lack of a better term, death prone. I don't
14 believe, based on what we have heard, that she would be or
15 could be fair and impartial to both sides, in particular the
16 defense.

17 MR. ARIAIL: I concur. She's not qualified.

18 THE COURT: Our courts mentioned many times it's
19 good for the trial judge to see the demeanor of the
20 witnesses and I concur in that. I could not see any way of
21 how she would participate, if she would participate in the
22 discussions or what they would be. She did indicate -- and
23 both sides agree. I'm going to -- she also brought a
24 medical statement in from Dr. Jennings that she had to have
25 handicap, and we are not disqualifying her for that. Both

1 the sides agree.

2 Bring her in.

3 (Whereupon, Juror Number 444 was brought into the
4 courtroom)

5 THE COURT: Ms. Wright, we appreciate your honest
6 answers and I'm going to excuse you from this case. You
7 will not have to come back. Okay.

8 JUROR NUMBER 444: Yeah.

9 THE COURT: Thank you.

10 JUROR NUMBER 444: Thanks.

11 (Whereupon, Juror Number 444 was taken out of the
12 courtroom)

13 THE COURT: Jeffery Lee Etheridge.

14 MR. ARIAIL: Two pages of his questionnaire are
15 blank.

16 MR. GIBSON: It's in two parts.

17 (Whereupon, Juror Number 127 was brought into the
18 courtroom)

19 JEFFERY LEE ETHRIDGE, #127, having been first duly
20 sworn, testified as follows:

21 VOIR DIRE EXAMINATION BY THE COURT:

22 Q. Mr. Ethridge, have you had a chance to review the three
23 types of jurors that are normally seated in a case such as
24 this?

25 A. Yes, sir.

1 Q. Which category would you fall under?

2 A. I would think that I would fall under category three,
3 but I'm not sure that I could render it when I got down to
4 it, but I think three.

5 Q. Okay. All right. Well, under our South Carolina law
6 the sentencing authority in this case would be the jury and
7 not the judge. It would be twelve jurors who would have to
8 hear the evidence and testimony in mitigation and
9 aggravation for the crime and be able, based on the facts,
10 if it warranted, bring back a sentence of life imprisonment;
11 and if the facts and circumstances warranted it, bring back
12 a death sentence.

13 Now, you indicated that you didn't know whether you
14 could do that or not, is that right?

15 A. At the point of sentencing someone to death, I'm not
16 sure. I -- I think I can, but I'm not sure.

17 Q. Okay. All right. Let me ask you a few things about
18 this case and -- not about this case, but first of all,
19 about the incident that occurred on or about the 1st of
20 November of 1997.

21 Ms. Irene Graves was killed in a Speedway on Laurens
22 Road in the early morning hours, and that was in Greenville
23 County, and Mr. Owens has been convicted of murder for that.

24 Do you know anything -- there was TV, radio, and
25 newspaper publicity about this case. Have you read, heard

1 or seen anything about this case?

2 A. No, sir.

3 Q. Okay. Now, in this proceeding the State -- the death
4 penalty is not -- cannot be asked for or sought in every
5 murder case. All murders are a little bit different.

6 A. Uh-huh.

7 Q. Different weapons and different ways and things.
8 Circumstances surrounding every crime I found as a judge are
9 a little bit differently.

10 You would be called upon as the sentencing authority
11 and a juror, with eleven other people, if you were selected,
12 to focus on the circumstances of this crime and the
13 individual characteristics of the defendant and consider all
14 the circumstances surrounding the crime - circumstances in
15 aggravation of the crime, in mitigation of the crime - and
16 write a verdict of life imprisonment or death.

17 You would take an oath that you would be fair and
18 impartial and could do it. Could you take that oath and
19 could you do that?

20 A. I think so, yes, sir.

21 Q. All right. Now, the State would have to convince the
22 jury beyond a reasonable doubt of an aggravating, a
23 statutory aggravating circumstance, before the jury would
24 determine the sentence. But you would have to determine if
25 they could prove an aggravating circumstance beyond a

1 reasonable doubt first.

2 In this case the State alleges a robbery was being
3 committed at the time of this murder and that the defendant
4 was armed with a deadly weapon. They alleged that either a
5 robbery and/or a larceny was being committed at this time
6 and the defendant was armed with a deadly weapon.

7 If the State proved one, or both, of those to you
8 beyond a reasonable doubt, then the jury would determine how
9 Mr. Owens is going to be punished. Do you understand that?

10 A. Yes, sir.

11 Q. Have you had any experiences with armed robbery or
12 larceny that would affect your ability to be fair and
13 impartial in this case, if you heard that evidence?

14 A. No, sir.

15 Q. And the State would have to prove that beyond a
16 reasonable doubt. There would be no burden of proof upon
17 the defendant. He wouldn't have to prove anything or even
18 testify, and you could not hold that against him. Do you
19 understand that?

20 A. Yes, sir.

21 Q. Now, if the jury found beyond a reasonable doubt one,
22 or both, of those aggravating circumstances, then you would
23 consider all the evidence that came in in regard to the
24 circumstances of this crime and the individual
25 characteristics of the defendant. You would consider

1 circumstances in aggravation and mitigation.

2 Aggravation means to aggravate, to make worse, to
3 increase the enormity of the crime.

4 Mitigation means facts or circumstances that reduces
5 the severity of the offense of murder and/or is evidence to
6 be considered in extenuation or reducing the degree of fault
7 and responsibility.

8 Do you understand what aggravation and mitigation
9 circumstances are?

10 A. Yes, sir.

11 Q. Would you give serious and meaningful consideration to
12 any aggravation evidence and any mitigation evidence and
13 could you write a verdict of either life imprisonment or
14 death?

15 A. Yes, sir.

16 Q. Life imprisonment means life in prison until the death
17 of the defendant, without any possibility of parole. Do you
18 understand that?

19 A. Yes, sir.

20 Q. Death means by lethal injection or by electrocution.
21 Do you understand that?

22 A. Yes, sir.

23 Q. Okay. If evidence of any crimes or bad acts before
24 this crime or any evidence of crimes or bad acts after this
25 crime on November the 1st, 1997, I would instruct you that

1 that could not be considered in any way as evidence of a
2 statutory aggravating circumstance. Do you understand that?

3 A. Yes, sir.

4 Q. That would only come in as it would bear on the
5 individual characteristics of the defendant.

6 A. Yes, sir.

7 Q. Would race have any effect on your decision?

8 A. No, sir.

9 Q. Would religion have any effect on your decision, or
10 influence you in any way?

11 A. No, sir.

12 Q. If evidence came out that the person was of the Muslim
13 or Islamic faith, would that affect you in any way?

14 A. No, sir.

15 Q. All right. I'm going to ask you to answer some
16 questions from the lawyers in the case.

17 VOIR DIRE EXAMINATION BY MR. GIBSON:

18 Q. Good afternoon, Mr. Ethridge.

19 I'm Ken Gibson. This is co-counsel Bill Godfrey, and
20 this is our client Freddie Owens.

21 In this case, if you were to get on this jury, it's
22 essential that you are able to be fair to both parties,
23 okay?

24 A. I understand.

25 Q. Now, with that said, I need to ask you some questions

1 regarding your views on the death penalty.

2 A. Okay.

3 Q. Okay. Now, you said earlier to Judge Patterson, or in
4 response to his question, that you felt that you were a
5 number three juror?

6 A. Yes, sir.

7 Q. What do you understand a number three juror to be?

8 A. To be someone that could first understand the facts and
9 then determine upon the facts without any emotion going one
10 way or the other, either determining the life sentence or
11 the death penalty, just based solely upon the facts and
12 leaving the emotion outside of it.

13 Q. Do you believe that you can do that?

14 A. I have respect for human life, so I'm not sure.

15 Q. Okay. And when you say you are not sure, you are not
16 sure that you can do what part of it?

17 A. I'm sure I can make the analysis and I'm sure that I
18 can determine what the law -- or what I should do based upon
19 the instructions that I'm given. I'm not sure that I would
20 feel good about that.

21 Q. Okay. All right. So you think that you could do it,
22 but you are not sure that you could feel good about it, is
23 that correct?

24 A. Yes, sir.

25 Q. So if after reviewing the circumstances, if you thought

1 the appropriate punishment was the death penalty, you could
2 give that sentence?

3 A. I could say so, yes.

4 Q. Now, I believe the judge explained to you as part of
5 this you are also going to have to sign a death sentence in
6 this case, if you come to that conclusion.

7 A. Yes, sir, I understand.

8 Q. If you came to that conclusion, could you sign that
9 death sentence?

10 A. Yes, sir.

11 Q. All right. Now, given that you have stated that you
12 believe that you can consider circumstances and give a
13 sentence of death, you need to also make sure that you can
14 consider the circumstances and give the sentence of life,
15 okay?

16 A. Yes, sir.

17 Q. Now, in this situation our client, Mr. Owens, has
18 already been convicted by another jury of murder, and to
19 some extent we are stuck with that ruling, okay?

20 A. Uh-huh.

21 Q. Would the mere fact that he's been convicted of a
22 murder, which by law is an intentional deliberate act, would
23 that keep you or impair your ability in any way from giving
24 a life sentence, if you thought the circumstances warranted
25 it?

1 A. No, sir, I'm an analyst by trade and I can make an
2 analytical decision.

3 Q. Do you think that you could be fair to both parties in
4 this situation?

5 A. Yes, sir.

6 Q. Okay. Thank you, Mr. Ethridge.

7 VOIR DIRE EXAMINATION BY MR. ARIAIL:

8 Q. Mr. Ethridge, my name is Bob Ariail and I'm the
9 solicitor for the Thirteenth Circuit of South Carolina.
10 With that explanation of that, the solicitor is the term
11 that's retained by South Carolina to designate its state
12 prosecutors. Elsewhere or on TV they would be called
13 district attorneys or Commonwealth attorneys. We still call
14 ours solicitors.

15 And in this case I would be representing the State,
16 assisted by my deputy solicitor Betty Strom and one of my
17 assistants, Ms. Verdin, seated at counsel table.

18 The answer that you gave in regard to the difficulty of
19 the decision making, wouldn't be comfortable with it, I
20 believe that was the word that you used wouldn't -- maybe it
21 would trouble you or you wouldn't be happy with it or --
22 that wasn't exactly what you said, but you know what I'm
23 talking about, that part of the questioning?

24 A. Yes, sir.

25 Q. As to making -- did that apply --

1 Well, before that you used the phrase respect for human
2 life.

3 A. Uh-huh.

4 Q. Would your concern be as to your ability to vote to
5 impose the death penalty?

6 A. No.

7 Q. Okay. You -- then what -- tell me what you were
8 concerned about there that you made the statement that you
9 thought it would be difficult or --

10 A. I can make the decision?

11 Q. Sure.

12 A. I would just think about it for a long time.

13 Q. Okay. Now, if -- and it would be a difficult decision.

14 A. Yes.

15 Q. Obviously we all recognize that.

16 Before you came in here or before you were summonsed
17 for this case had you thought about the death penalty?

18 A. Not deeply, no.

19 Q. All right. Do you believe that the death penalty is an
20 appropriate form of punishment under our law in certain
21 murder cases?

22 A. Yes, sir.

23 Q. Had you thought about that before you came in here?

24 A. Yes, sir, it's a deterrent.

25 Q. All right. And so in that context you thought about it

1 in those terms?

2 A. Uh-huh.

3 Q. Okay. Let me ask you. You completed on page 4 -- or
4 page 5 of your questionnaire, number 41. And let me ask you
5 the answer or the information that you supplied there, would
6 that be at this point a potential interference or
7 distraction with your ability to serve on a jury?

8 A. That's the exact word I would. It's a distraction.

9 Q. A distraction?

10 A. Uh-huh.

11 Q. And would you think it would be a distraction to the
12 point that it may interfere with or take your mind off of or
13 divert your attention from what you were here to do?

14 A. Yes, sir, it's possible.

15 Q. Okay. Thank you for that answer.

16 A. Uh-huh.

17 THE COURT: Your parents were in the military and
18 you moved around a good bit?

19 JUROR NUMBER 127: Yes.

20 THE COURT: It doesn't have a whole lot to do with
21 this, but you have -- where is the University of West
22 Florida?

23 JUROR NUMBER 127: In Pensacola, Florida, in the
24 extreme west.

25 THE COURT: The northern part?

1 JUROR NUMBER 127: Yes.

2 THE COURT: Not the southern part of Florida.

3 Okay.

4 JUROR NUMBER 127: Yes, sir.

5 THE COURT: Let me let you step outside the door
6 just for a minute and then I'll bring you back in.

7 JUROR NUMBER 127: Okay.

8 (Whereupon, Juror Number 127 was taken out of the
9 courtroom)

10 MR. GIBSON: We think he's qualified, Your Honor.

11 MR. ARIAIL: I don't think there is any doubt he's
12 qualified. I just think his -- as sort of an act of mercy,
13 we ought to excuse him. This man is clearly emotional.
14 He's got some problems he needs to deal with, that he needs
15 to be elsewhere than in this jury box for twelve, fourteen
16 hours a day. And he -- when I started asking him by making
17 that decision, it was -- it's the emotional part that's
18 bothering him. It doesn't have anything to do with his
19 belief in the death penalty. I believe it has to do with
20 his belief of being distracted to be taking care of the
21 problems that he's identified for us. So I would -- even
22 though he's qualified, I would have no concern if the court
23 felt it appropriate to treat him in sort of the same manner
24 that we treated Mr. Meeks, that he's got -- he got more
25 important personal business than being in here.

1 THE COURT: Well, he -- I would note that on
2 August the 19th of 2006, so he's been involved in this for
3 some time. He has a Masters Degree. And I understand that
4 enough and -- he is working every day, and that's just --
5 something this serious -- with his answers, I think he would
6 be focused, and I would -- I could not disqualify him
7 legally for that.

8 I can't speak for the State, but do y'all agree to
9 go along with the motion of the solicitor, or --

10 MR. GIBSON: We do not, Your Honor. I think if he
11 can work, he can come.

12 THE COURT: Okay.

13 (Whereupon, Juror Number 127 was brought into the
14 courtroom)

15 THE COURT: Mr. Ethridge, you are qualified to
16 serve on this jury and I'm going to have to ask you to call
17 back after six o'clock tonight and you would need to come
18 back.

19 JUROR NUMBER 127: Okay.

20 THE COURT: You may be seated on the jury and you
21 may not. We will have almost little over 40 of you here
22 tomorrow and the jury would be selected from that group.

23 JUROR NUMBER 127: Yeah.

24 THE COURT: If you are selected to sit, you would
25 need to bring sufficient clothing for a few days in a motel.

1 JUROR NUMBER 127: So do that tomorrow?

2 THE COURT: Yes, sir. If you would bring them in
3 your automobile, and after we finish, if you are selected,
4 you could drive your car to the motel. If you are not
5 selected, you would be free to go.

6 Thank you so much. Call that number after six
7 tonight.

8 JUROR NUMBER 127: Okay. Thank you, sir.

9 THE COURT: Thank you.

10 (Whereupon, Juror Number 127 was taken out of the
11 courtroom)

12 THE COURT: We have 38. We have got six ready and
13 I need to know what to tell the next group. I think out of
14 an abundance of caution I should bring them in a little
15 later on today and make sure. I'm not sure we can get four
16 or five out of the six, so bring in the next group. Let's
17 have them here at five, just -- it looks like they would be
18 our last group.

19 THE CLERK: Okay.

20 THE COURT: We will just tell them 5:15.

21 THE CLERK: Thank you.

22 THE COURT: While she's making that and doing that
23 let's -- we will take a short recess.

24 (Whereupon, proceedings were recessed)

25 (Whereupon, proceedings were reconvened)

1 THE COURT: I was looking as quickly as I could on
2 the Batson thing. I don't think there is any evidence for a
3 dry strike. My feeling is a dry strike would give one side
4 or the other an indication of how I would rule on the Batson
5 motions. I think it's possibility it could be reversible
6 error. I have known it being done in a case, and I can't
7 find one, so we will have no dry strikes. We are playing
8 the real game here. Everybody knows what the law is about
9 pretextual strikes, and hopefully we will all be fair to
10 deal with that.

11 I do not mind starting the case at one o'clock,
12 Ms. Strom. And just as an administrative thing -- we
13 discussed it just briefly as I was coming in, and from an
14 administrative standpoint selecting the jury in the morning
15 is fine. Letting them get to the motel and get settled in
16 and get some lunch outside the courthouse and then coming
17 back prepared to go to trial at one o'clock sounds very
18 reasonable to me. It would give y'all a chance to think
19 about the case a little bit. You have been working on the
20 jury all -- for the last three days, and give all of us a
21 chance to focus more on the trial itself. That is my
22 rulings in limine, or otherwise.

23 MS. STROM: Yes, sir.

24 THE COURT: Okay. Let's bring these jurors in.
25 Let's introduce them to everybody.

1 (Whereupon, Jury Panel Number 12 was brought into
2 the courtroom)

3 THE COURT: John T. Adams.

4 James S. Howell.

5 Ana M. Wolfe.

6 Keith J. Lorenzen.

7 Donald C. Beaman.

8 Lori C. Center.

9 Okay. Ladies and gentlemen, the attorneys in this
10 case will be Mr. Ariail, the circuit solicitor for
11 Greenville and Pickens Counties. He will be representing
12 the State. Ms. Betty Strom, his assistant, and Ms. Leticia
13 Verdin, their assistant. Ms. Strom is the deputy and Ms.
14 Verdin is the assistant.

15 For the defense would be Mr. Bill Godfrey and Mr.
16 Ken Gibson.

17 And the defendant is Mr. Freddie Eugene Owens, who
18 is sitting here in the courtroom.

19 Do any of you know any of the lawyers involved or
20 Mr. Owens? If you do, would you raise your hand?

21 Yes, sir,.

22 JUROR NUMBER 265: I want to double check. Mr.
23 Godfrey, I'm not sure if our sons played football together
24 for Wade Hampton last year or not. You look familiar.

25 MR. GODFREY: Wade Hampton Athletic Youth

1 Association?

2 JUROR NUMBER 265: Yeah.,

3 MR. GODFREY: Red Wood is the coach?

4 JUROR NUMBER 265: Yes.

5 MR. GODFREY: They did.

6 JUROR NUMBER 265: I thought so.

7 THE COURT: So you know him from the Wade Hampton
8 Football Association?

9 JUROR NUMBER 265: Yes.

10 THE COURT: Based on your knowledge and
11 association with him, would that affect your ability to be
12 fair and impartial? Would you be biased or prejudiced in
13 any way because of your knowledge of Mr. Godfrey?

14 JUROR NUMBER 265: No, I wouldn't.

15 THE COURT: The attorneys may ask you a little bit
16 about more about that on individual questioning, but I
17 appreciate that, sir.

18 JUROR NUMBER 265: Sure.

19 THE COURT: Now, ladies and gentlemen, there was a
20 long list of potential witnesses. Do any of you know anyone
21 on that witness list?

22 Yes, sir.

23 JUROR NUMBER 204: I know Dora Mason.

24 THE COURT: What number is that?

25 JUROR NUMBER 204: Number 11.

1 THE COURT: Number 11, Dora Mason from Greenville,
2 South Carolina.

3 If Dora Mason were a witness in this -- I'll tell
4 you what. I don't know anything about what the testimony is
5 going to be from these witnesses right now, so let me let
6 them ask you about that on their individual questions.
7 Okay?

8 Now, ladies and gentlemen, you not only had a
9 witness list there, and I hope you had time to go over it.
10 If you didn't, you can continue to look at it for a few
11 minutes when you go back, but also you had a sheet called
12 three types of jurors. I would ask you to read those three
13 types of jurors carefully and be able to tell us if you feel
14 like you fall into one of the three categories.

15 Now that we know each other, we are going to have
16 individual questions. I'm going to ask everybody to step
17 back, except Mr. Adams. If all of you would step back over
18 to the room, we will take you one at a time in order.

19 (Whereupon, Jury Panel Number 12 was taken out of
20 the courtroom)

21 JOHN T. ADAMS, #2, having been first duly sworn,
22 testified as follows:

23 VOIR DIRE EXAMINATION BY THE COURT:

24 Q. Mr. Adams, let me ask you. The first question that you
25 state on your questionnaire that you had an aunt who was

1 shot and killed in the Cross Hill grocery store where she
2 ran the store in 1979?

3 A. That's correct.

4 Q. Were you there or near there and knew about the facts
5 and circumstances?

6 A. I was not there. I did know what happened because of
7 my parents told me what happened.

8 Q. Okay. And if anything were to come out in a case such
9 as this in regard to a person being killed in a Speedway, a
10 convenience store?

11 THE COURT: Convenience store, is that right?

12 MS. STROM: Yes.

13 BY THE COURT:

14 Q. Would that -- would you be affected by this incident
15 that happened to your aunt?

16 A. No, I would not.

17 Q. You would not be influenced one way or the other as to
18 what the sentence would be, and you could be fair and
19 impartial to both sides?

20 A. That's correct.

21 Q. Okay. Mr. Adams, what type juror do you think that you
22 would be of those three?

23 A. As much as I would like to be number three, given the
24 circumstances of the case, I would lean towards number two.

25 Q. When you say circumstances of the case, what

1 circumstances are you talking about?

2 A. The death penalty.

3 Q. The death penalty?

4 A. Yes.

5 Q. So you believe that you are a person who would always
6 give life imprisonment and not be able to give the death
7 sentence?

8 A. That's correct.

9 Q. Are you firmly convinced of that?

10 A. Yes, sir.

11 Q. Has that always been your conviction?

12 A. It always has been.

13 Q. And under no circumstances would you give the death
14 penalty, regardless of how the death occurred?

15 A. That's correct.

16 Q. You think it's -- would you tell me if there is any
17 specific reason?

18 A. Well, it's just my upbringing and religious beliefs. I
19 just don't feel like it's the right of mankind to punish
20 anyone to that extent.

21 Q. Okay.

22 THE COURT: Would you like to ask him any
23 questions?

24 MR. GODFREY: No, Your Honor.

25 MR. ARIAIL: No.

1 THE COURT: We appreciate the honesty of your
2 answers, and we need jurors who could consider or give
3 either one, and I appreciate that. We have jurors that feel
4 both ways and that's the reason we are going through these
5 proceedings. Thank you.

6 JUROR NUMBER 2: Okay.

7 THE COURT: Thank you for coming and we needed to
8 take up your time because this is a very, very important
9 matter.

10 JUROR NUMBER 2: Sure.

11 THE COURT: You are excused. You will not have to
12 come back. Thank you.

13 JUROR NUMBER 2: Thank you.

14 (Whereupon, Juror Number 2 was taken out of the
15 courtroom)

16 THE COURT: Mr. Howell.

17 (Whereupon, Juror Number 204 was brought into the
18 courtroom)

19 JAMES S. HOWELL, #204, having been first duly
20 sworn, testified as follows:

21 VOIR DIRE EXAMINATION BY THE COURT:

22 Q. We are going to ask you some questions to which there
23 are no right or wrongs answers. Okay.

24 And in reviewing the three types of jurors, which class
25 do you believe that you would fall under?

1 A. The third one.

2 Q. Third one?

3 A. Yes, sir.

4 Q. And you read these carefully?

5 A. Yes, sir.

6 Q. And you understand that in this case the defendant, Mr.
7 Owens, has been convicted of murder, and there -- if the
8 State seeks the death penalty, there is two proceedings; one
9 to determine guilt or innocence. That's already been done
10 by a jury. And this proceeding, which is the second
11 proceeding under our law, to determine how he should be
12 sentenced.

13 And you fully understand the magnitude of that and
14 that's why we are here?

15 A. Yes, sir.

16 Q. All right, sir. Now, Mr. Howell, this incident
17 occurred on November the 1st, 1997, on Laurens Road, in
18 Greenville County, at a Speedway early in the morning. Mrs.
19 Irene Graves was killed. Mr. Owens has been convicted of
20 murder for that. And you would have to focus on the
21 specific circumstances of that murder, okay, and the
22 individual characteristics of Mr. Owens in all matters in
23 extenuation, mitigation, and aggravation in order to
24 determine a sentence. Okay?

25 A. Yes, sir.

1 Q. And could you do that?

2 A. I believe so.

3 Q. Have you -- this case has been publicized on TV, the
4 radio, and in the newspaper. Have you read, heard or seen
5 anything about this case from any source?

6 A. Not that I can remember. I'm familiar with it from his
7 mother.

8 Q. From whose mother?

9 A. From the defendant's mother.

10 Q. How do you know the defendant's mother?

11 A. She worked for me.

12 Q. Oh, she did?

13 A. Yes, sir.

14 Q. Okay. And when was that?

15 A. I can't remember specifically, but she worked at -- she
16 was a supervisor of housekeeping at Heywood Mall and she
17 worked for a company, Garrison's Janitorial. And we just
18 had words about it. Judge, I don't remember the specific
19 time frame or anything else.

20 Q. Okay. But do you know Mr. Owens?

21 A. I don't believe so. I don't believe I have ever met
22 him.

23 Q. Now, I have no -- of course, we have no idea about what
24 you and his mother talked about, but having learned about
25 this from the defendant's mother, would what you heard or

1 learned from her have any affect on your ability to be fair
2 and impartial in this case?

3 A. I don't believe so.

4 Q. About how many times would you say that y'all discussed
5 this?

6 A. Probably four or five, but I also ended up firing her
7 twice for skipping out on work to come to -- to go to, you
8 know, whatever court proceeding, or you know -- I mean, I
9 remember all that.

10 Q. Okay. All right. Let me let you step out for just a
11 minute and let me talk to the lawyers, okay?

12 A. Yes, sir.

13 (Whereupon, Juror Number 204 was taken out of the
14 courtroom)

15 MR. GIBSON: Your Honor, we would submit that he's
16 not qualified. I mean, he's discussed the case four or five
17 times with the mother of the defendant. He's fired her, so
18 clearly he has some sort of opinion about her character.
19 She's a potential witness in the case. I mean, he's just
20 way too close to this thing in order to be able to even
21 consider it.

22 Dora Mason, Your Honor.

23 THE COURT: What's her name?

24 MR. GIBSON: Dora Mason.

25 She's actually I believe on the State's part.

1 THE COURT: Okay. He did indicate he knew Dora
2 Mason. I didn't realize that was the defendant's mother.
3 I'm sorry.

4 What's the State's position?

5 MR. ARIAIL: Well, I guess we didn't ask him what
6 impact any of that would have on him or could he set it
7 aside.

8 THE COURT: I did ask him if it would have an
9 impact on him one way or the other, and I think he said he
10 didn't think so.

11 MR. ARIAIL: I'm talking about the firing part. I
12 didn't know about the firing part.

13 I think that's probably the part you are more
14 worried about is the firing part.

15 MR. GIBSON: That's correct. Well, immediately
16 worried about both, but based on his answers thus far my
17 biggest concern at this point is the fact that he has fired
18 a potential witness in this case, and that potential witness
19 happens to be the mother of the defendant.

20 And also, Your Honor, he may have undue sway with
21 the jurors considering his relationship, if that were to in
22 any way get out in the jury room.

23 MR. ARIAIL: We don't object.

24 THE COURT: We are walking on dangerous ground.

25 (Whereupon, Juror Number 204 was brought into the

1 courtroom)

2 THE COURT: Mr. Howell, based on the fact that she
3 may be a witness in this case, I'm going to have to excuse
4 you. You did tell us that. I had no knowledge that that
5 was his mother, but I think the attorneys did. Okay?

6 JUROR NUMBER 204: Yeah.

7 THE COURT: You are excused. You won't have to
8 come back. Thank you so much. I appreciate your answers.
9 Thank you.

10 JUROR NUMBER 204: Thank you.

11 (Whereupon, Juror Number 204 was taken out of the
12 courtroom)

13 THE COURT: Ana M. Wolfe.

14 (Whereupon, Juror Number 439 was brought into the
15 courtroom)

16 ANA M. WOLFE, #439, having been first duly sworn,
17 testified as follows:

18 VOIR DIRE EXAMINATION BY THE COURT:

19 Q. Ms. Wolfe, have you reviewed the sheet about the three
20 types of jurors?

21 A. I did.

22 Q. Would you be one of those three types?

23 A. Probably the third one.

24 Q. Probably the third one?

25 A. Yes.

1 Q. Okay. Ms. Wolfe, this case arises out of an incident
2 on Laurens Road on November the 1st of 1997, where Mrs.
3 Irene Graves was killed, and Mr. Owens has been convicted of
4 murder for that crime.

5 This was publicized on TV, the radio and in the
6 newspapers. Have you heard, read or seen anything about
7 this case?

8 A. Probably some. We don't watch TV that often. We read
9 the papers but --

10 Q. You don't watch TV?

11 A. No, not that much.

12 Q. Well, if you did, do you remember anything specifically
13 about Mr. Owens' case?

14 A. At the time I don't remember. Maybe if it's spoken
15 some more, maybe I would.

16 Q. If you remember anything about it, could you remove
17 that from your mind and decide this case only on the
18 evidence and testimony that you heard in the courtroom?

19 A. I would have to hear everything.

20 Q. You would hear everything?

21 A. Yes, I need to hear in order to make a better judgment.

22 Q. To make a better judgment?

23 A. Yes.

24 Q. But if you will recall anything that you heard on news
25 or anything, you could not consider that?

1 A. No. No.

2 Q. You would not do that?

3 A. No.

4 Q. Just what you heard in court?

5 A. Yes.

6 Q. The whole thing?

7 A. And follow the law.

8 Q. You would follow the law. All right.

9 So you are convinced that you could give Mr. Owens a
10 fair and an impartial trial in this case?

11 A. I think so.

12 Q. Now, this case is, of course, a special case and the
13 State is seeking the death penalty in this case.

14 Now, the State cannot seek the death penalty for every
15 murder that's committed. Do you understand that?

16 A. Yes.

17 Q. The State can only seek the death penalty if they can
18 prove a statutory aggravating circumstance and the jury
19 finds that beyond a reasonable doubt.

20 Now, they alleged the statutory aggravating
21 circumstance is robbery when this murder was committed and
22 that the defendant was armed with a deadly weapon, or they
23 alleged that this murder was committed during a larceny or
24 stealing when this defendant was armed with a deadly weapon.

25 Have you had any experiences with armed robbery or

1 larceny or with someone using a deadly weapon in a crime
2 personally in your life?

3 A. No, thank God.

4 Q. All right. Now, the State would have to prove one of
5 those things, that this murder was committed under one of
6 those circumstances, statutory circumstances, beyond a
7 reasonable doubt, and you would have to determine if they
8 could prove that beyond a reasonable doubt. Could you be a
9 fair and impartial juror in considering those statutory
10 aggravating circumstances?

11 A. I think so.

12 Q. Okay. Now, if you found -- if the jury found there was
13 one of those circumstances existed, then the jury would have
14 to sentence -- determine his sentence and sentence him. Do
15 you understand that?

16 A. Yes, sir, I do.

17 Q. There is only two things the sentence could be. One
18 would be life imprisonment without the possibility of parole
19 until the death of the defendant. The other one would be
20 the death penalty, which would be administered by lethal
21 injection or electrocution. Do you understand that?

22 A. Yes, sir, I do.

23 Q. You would have to weigh all the evidence in aggravation
24 or mitigation -- or you would have to consider them, not
25 weigh them. There is no standard for weight. You could

1 consider all the evidence, or any evidence in mitigation,
2 and you would have to consider the evidence in aggravation.
3 And in considering those, based on your view of the facts
4 presented in their entirety, could you write a sentence of
5 death for murder?

6 A. If all the facts there and the law says, I think I
7 could.

8 Q. You could?

9 A. Uh-huh.

10 Q. All right. If the facts presented indicated or if you
11 determined -- or could you determine from facts and
12 circumstances, if you felt it was warranted, could you
13 sentence the defendant to life in prison?

14 A. Would you repeat that again, please?

15 Q. If the facts and circumstances that you considered in
16 the entire case, and after you heard the entire case, could
17 you give or administer a sentence of life imprisonment in
18 this case?

19 A. If that's what he needs, according to the law, yes.

20 Q. According to the law. And I would instruct you that
21 you would have to consider aggravating circumstances,
22 circumstances that makes the crime worse; or mitigating
23 circumstances, circumstances that reduces the severity of
24 the crime. There are circumstances that would bear on the
25 crime and on the characteristics of the defendant that you

1 could consider that would reduce the degree of
2 responsibility for the defendant in this case.

3 Could you consider those, and if you felt the
4 circumstances and facts warranted that, or indicated that,
5 could you write a sentence of life imprisonment?

6 A. I would try to follow the law. Whatever the law
7 applies to any case is, whatever the case it is, I have to
8 follow by what the law says.

9 Q. Okay. Now, would the race of an individual have any
10 bearing on what your sentence might be?

11 A. No.

12 Q. Would the religion of any person have any bearing on
13 your sentence?

14 A. No.

15 Q. If anything came out about the Islamic faith or the
16 Muslim faith, would that affect you in any way on your
17 sentencing?

18 A. No.

19 Q. And you feel confident that you could follow your oath
20 as a juror, consider all the facts and circumstances, and if
21 the case warranted it, you could give the defendant life in
22 prison, or death, either one?

23 A. (Shaking head yes)

24 Q. And you could sign your name to a death sentence, if
25 the facts warranted that?

1 A. If it facts go with the law, yes.

2 Q. Okay. I'm going to let you answer some questions for
3 these attorneys, okay?

4 VOIR DIRE EXAMINATION BY MR. ARIAIL:

5 Q. Ms. Wolfe, my name is Bob Ariail and I'm the solicitor
6 of the Thirteen Circuit of South Carolina, which is composed
7 of Greenville County and Pickens County. And solicitor is
8 the word that South Carolina retained to describe its
9 prosecuting attorneys. If on TV you watch, they would be
10 called district attorneys or Commonwealth attorneys, but in
11 South Carolina we still call them solicitors, so I would be
12 representing the State. Do you understand that role?

13 A. Yes.

14 Q. And assisting me in this case would be my deputy
15 solicitor, Betty Strom, seated in the black jacket, and then
16 Ms. Verdin, who would be one of my assistants also
17 assisting.

18 Do you believe in the death penalty?

19 A. When the case requires that, then I do.

20 Q. Okay. So would you say then that the death penalty is
21 an appropriate punishment under our law in certain cases?

22 A. In certain cases.

23 Q. Certain cases.

24 All right. Now, is that a view that you have held for
25 some time, or is that something that you have recently --

1 A. No, I held for some time.

2 Q. And have you discussed it with other people before
3 or --

4 A. No.

5 Q. No.

6 This is something that you have come to on your own?

7 A. Right.

8 Q. And you told the judge that if you were on a jury and
9 you heard the facts and the nature of the crime, the
10 character and characteristics of the defendant, and you felt
11 under the law that those facts were sufficient to impose the
12 death penalty, you could vote to impose the death penalty?

13 A. If all the facts --

14 Q. Uh-huh?

15 A. -- and under the law, yes, I could. I should.

16 Q. I want to make sure that you understand that the law --
17 there is no law going to be given to you that you just check
18 off. It's going to be your individual decision --

19 A. Right.

20 Q. -- based on what the evidence is.

21 A. Right.

22 Q. For your individual decision as to whether or not to
23 impose a sentence of life in prison or the death sentence.

24 A. Right.

25 Q. So you understand you would be hearing the evidence and

1 making the decision as to whether or not the evidence points
2 to one verdict or one punishment as opposed to another?

3 A. Right.

4 Q. And you believe that you can do that?

5 A. With God's help I think can. God is just and we are
6 here in a way to follow the law and for things to accomplish
7 for the good of the country.

8 Q. And to discuss it with your fellow jurors you would?

9 A. If that's what I'm required to do. I don't think we
10 should -- I don't think we are supposed to talk to anybody.
11 I have to follow the instructions, whatever they are given
12 to me.

13 THE COURT: You cannot talk to anybody until I
14 tell you to talk about it in the jury room.

15 A. Right.

16 BY MR. ARIAIL:

17 Q. But in the jury process, there would be discussions
18 among the group when you -- back in your jury room --

19 A. Right.

20 Q. -- do you understand that?

21 A. Yes, and I'm not supposed to talk about it, if I don't
22 supposed to.

23 Q. And if you voted or found that the death penalty was
24 the appropriate punishment, you would have to sign a
25 document with your name, along with your other eleven

1 jurors, saying that's the verdict that you found. Could you
2 sign your name and say this is my verdict, the death
3 penalty?

4 A. If that's what I know by everything that has been
5 occurred and the evidence and everything, I have to sign.

6 Q. Okay. So the fact that you had to sign wouldn't bother
7 you?

8 A. If I know I'm doing the right thing, I have to.

9 Q. That that's your verdict?

10 A. Yes.

11 Q. Okay. Thank you.

12 VOIR DIRE EXAMINATION BY MR. GODFREY:

13 Q. Good afternoon, Ms. Wolfe.

14 A. Good afternoon.

15 Q. My name is Bill Godfrey. This is Ken Gibson,
16 co-counsel in the case, and this is our client Freddie
17 Owens.

18 I just have a few questions for you.

19 You believe that you can be fair and impartial to both
20 the State and defense in this case?

21 A. I hope so. This is my first time that I would be doing
22 that and I would like to.

23 Q. There is no doubt in your mind that you are going to
24 try real hard, right?

25 A. I'm going to try hard to do right. And by God's hope

1 by God's grace I could. Like we swear to by the Bible and
2 we have a God who is right.

3 A. Yes.

4 Q. Solicitor Ariail asked you this, and I want to also ask
5 you, you made it very clear that you want to follow the law?

6 A. Yes, I do.

7 Q. And do you understand that if this case goes all the
8 way, if you are in the jury and you have heard all of the
9 evidence and it is now your job and your other jury peoples
10 job to determine sentence, do you understand that there is
11 no magic formula? There is no checklist. It's a personal
12 decision based on your view of the evidence in the case. Do
13 you understand that?

14 A. Yes, I understand.

15 Q. In reviewing all the evidence from the State and the
16 defense, if you found the evidence to support a verdict of
17 life in prison, could you give that verdict?

18 A. Yes.

19 Q. And the same question if it was a death sentence?

20 A. Yes.

21 Q. Could you do that?

22 A. Yes.

23 Q. And is there anything that would prevent you from being
24 fair and impartial? For example, do you have any religious
25 views, any moral views, any political views that could

1 hinder you from doing your job as a juror?

2 A. I don't think so. I am a Christian, but at the same
3 time we follow our country. Now that's my country. I
4 became a U.S. citizen ten years ago and we follow the rule
5 and God has made us, and he knows what our best -- he loves
6 us, everybody, and the best and the worst, the worst sinner,
7 is what he does. But we have -- God also commands us that
8 we got to follow the law, obey the law. And we -- as
9 citizens we have -- that's why we have laws. As good
10 citizens, we are supposed to have the law reign in this
11 country.

12 Q. So if I understand you, what you are telling me is
13 that -- and I believe you go to Hampton Park?

14 A. Yes, I do.

15 Q. That you serve God, you serve your church, but your
16 religion tells you to obey the laws of the country that you
17 are in and you believe that's what you are supposed to do?

18 A. Yes, obey God first. The Bible tells us obey the laws
19 in the country.

20 MR. GODFREY: Nothing further.

21 THE COURT: All right. Without objections from
22 either side -- Mrs. Wolfe, is that right?

23 JUROR NUMBER 439: Yes.

24 THE COURT: You are a qualified potential juror in
25 this case. You will need to come back tomorrow morning. If

1 you will call after six o'clock tonight, we are going to
2 leave a message on the answering machine as to when you need
3 to come back.

4 JUROR NUMBER 439: Yeah.

5 THE COURT: You will need to bring some clothes to
6 stay in a motel.

7 JUROR NUMBER 439: Yeah.

8 THE COURT: And you would -- you can drive, if you
9 drive, and bring your car and leave your things in your car
10 when you come in tomorrow morning, okay?

11 JUROR NUMBER 439: Okay.

12 THE COURT: And I'm going to give you this order.

13 Do not talk to anyone about the case. You are
14 absolutely right. You cannot talk about this case with
15 anybody.

16 JUROR NUMBER 439: Right.

17 THE COURT: But if you were selected to serve on
18 the jury after the case was over, then you would go back
19 here, after the case was over, and then you and the jury
20 would talk about it and come up with a verdict at that time.
21 So you understand about that?

22 JUROR NUMBER 439: Right.

23 THE COURT: So don't discuss it with your husband,
24 or anyone you see tonight, or anybody.

25 JUROR NUMBER 439: Yeah.

1 THE COURT: And do not watch any TV or read about
2 this case or anything.

3 JUROR NUMBER 439: Right.

4 THE COURT: And you will report back sometime
5 tomorrow, but we will leave the time at this number, so you
6 call this number back.

7 JUROR NUMBER 439: Okay.

8 THE COURT: Thank you.

9 JUROR NUMBER 439: Thank you.

10 (Whereupon, Juror Number 439 was taken out of the
11 courtroom)

12 THE COURT: Keith Lorenzen.

13 (Whereupon, Juror Number 265 was brought into the
14 courtroom)

15 KEITH J. LORENZEN, #265, having been first duly
16 sworn, testified as follows:

17 VOIR DIRE EXAMINATION BY THE COURT:

18 Q. What type juror do you believe that you would be, Mr.
19 Lorenzen?

20 A. I believe I would be most like juror number two.

21 Q. Okay. Do you believe that you could not administer the
22 death penalty under any circumstances?

23 A. I think I would have a very tough time administering
24 the death penalty, yes.

25 Q. Do you feel that regardless of the circumstances of the

1 murder, the death penalty is never appropriate in a murder
2 case?

3 A. Well, I can't say that it's not appropriate. I just
4 can't see myself assigning it.

5 Q. You would have to sign the death sentence, if that was
6 the decision of the jury. You would have to put your name
7 down there, along with eleven others, if they put their name
8 down. You were telling the court that you could not do
9 that?

10 A. I don't believe I can.

11 Q. Okay. Well, after you heard the facts and
12 circumstances of the case, you don't think that you could
13 award a decision and be fair, based on the law, make a
14 decision one way or the other?

15 A. Well, again, I just -- I can only say that I would have
16 a very difficult time signing a death penalty vote in the
17 case.

18 Q. Do you know anything about the incident that brings us
19 here, which was on November the 1st, 1997, Ms. Irene Graves
20 was killed at a Speedway in the early mourning hours on
21 Laurens Road in Greenville County. Do you know anything
22 about this case?

23 A. Not really, not a thing.

24 Q. Have you seen anything on the radio or television or
25 read anything in the newspapers about it?

1 A. No.

2 Q. Okay. Based on your view here I'm going to give the
3 attorneys a chance to ask you some questions about that.

4 Okay.

5 A. Sure.

6 VOIR DIRE EXAMINATION BY MR. GIBSON:

7 Q. Good afternoon, Mr. Lorenzen.

8 A. Good afternoon.

9 Q. I'm Ken Gibson. I think you know my co-counsel Bill
10 Godfrey. This is our client Freddie Owens.

11 A. Uh-huh.

12 Q. In this procedure or in this case it's extremely
13 important that we have jurors that can be fair to both
14 sides, okay?

15 A. Uh-huh.

16 Q. Not just my client, but the State as well, okay?

17 A. Uh-huh.

18 Q. Now, I want to explore for just a little bit what your
19 feelings are about this death penalty issue, okay?

20 A. Uh-huh.

21 Q. And I believe you have already said that you feel like
22 that it would be very difficult for you to find a death
23 sentence?

24 A. Yes.

25 Q. Okay. Do you believe that in certain circumstances the

1 death penalty may be appropriate?

2 A. Yes.

3 Q. If this were one of those cases and you found those
4 circumstances, could you find that there was -- that there
5 should be a death sentence in this case?

6 A. I just with my conscience can't believe that I can vote
7 for the death penalty.

8 Q. Okay. Thank you, Mr. Lorenzen. I appreciate your
9 honesty.

10 THE COURT: Any problem with that?

11 All right, sir, I appreciate your honesty. We
12 have got jurors that think it's appropriate, and we have got
13 a lot of people in this country that do not believe in the
14 death penalty, but -- some states have it and some don't.

15 JUROR NUMBER 265: Right.

16 THE COURT: We appreciate your honesty and I'm
17 going to excuse you from this case. You don't have to come
18 back, sir.

19 JUROR NUMBER 265: Okay. Thank you.

20 THE COURT: Thank you so much.

21 JUROR NUMBER 265: You are very welcome.

22 (Whereupon, Juror Number 265 was taken out of the
23 courtroom)

24 THE COURT: Donald C. Beaman.

25 (Whereupon, Juror Number 24 was brought into the

1 courtroom)

2 DONALD C. BEAMAN, #24, having been first duly
3 sworn, testified as follows:

4 VOIR DIRE EXAMINATION BY THE COURT:

5 Q. Mr. Beaman, there are three types of jurors normally in
6 a case like this. You have read those. Could you fit into
7 one of those three categories?

8 A. Yes, sir.

9 Q. Which one would that be?

10 A. It would be three.

11 Q. Okay, sir. And you have had I know more than
12 sufficient time to look those over.

13 Now, this case arises from an incident that occurred on
14 Laurens Road, in Greenville County, on the 1st of November
15 of 1997. Mrs. Irene Graves was killed, and Mr. Owens has
16 been convicted of that murder, which is, under our law, is
17 done by a jury. And then our law prescribes that you have a
18 second proceeding, a sentencing proceeding by a jury, and
19 that's the reason we are here.

20 This case received publicity on TV, radio, and in the
21 newspaper. Have you read, heard, or seen anything about
22 this case?

23 A. I recall it in the past.

24 Q. You do?

25 A. Yes.

1 Q. Okay. And what do you recall about that?

2 A. It was a convenience store robbery and death.

3 Q. All right, sir. And the fact that you have heard
4 something about it, the law would require that you decide
5 the issues in this sentencing proceeding based on the
6 testimony that you have heard, you would hear in the
7 courtroom, and not anything that you may have heard outside
8 the courtroom. Do you understand that?

9 A. I do.

10 Q. Could you do that? Could you dismiss anything that you
11 heard about it and decide the case only on what you have
12 heard in the courtroom?

13 A. Could I dismiss what I have heard about it?

14 Q. Outside the courtroom.

15 A. Yes.

16 Q. Okay, sir. Now, you would be required to do that under
17 oath and only decide it on the evidence and testimony that
18 you heard in court.

19 We haven't -- at this particular juncture we don't have
20 any idea what you have heard, but we don't know really what
21 you may hear here, but what you heard here would be
22 appropriate for you to consider. Do you understand that?
23 You may have heard something outside the courtroom that may
24 not be appropriate for you to hear. Do you understand that?

25 A. I understand that, but there has been a guilty verdict,

1 correct?

2 Q. Well, that's right. There is no -- he has been
3 convicted of murder. This is just a sentencing proceeding,
4 and you would consider -- if you were a juror -- Mr. Beaman?

5 A. Correct.

6 Q. Mr. Beaman, you would consider the specific
7 circumstances of this crime, the murder of Mrs. Graves, and
8 the individual characteristics of the defendant. That's
9 what the trial would focus on. That's what the sentencing
10 authority and jury would focus on in this case. It's
11 different than the other proceeding --

12 A. Yeah.

13 Q. -- to a great degree.

14 This jury would have to be the sentencing authority and
15 consider aggravating circumstances and consider any
16 mitigating evidence that came in and have to be able to
17 fairly consider that and write an appropriate verdict, which
18 would -- if the jury sentences Mr. Owens, it can only be
19 life in prison without the possibility of parole until the
20 death of Mr. Owens, or the sentence could be death by lethal
21 injection or electrocution.

22 If the jury sentences Mr. Owens, those are the only two
23 possible sentences. Do you understand that?

24 A. Yes.

25 Q. Now, could you be fair and open-minded and consider all

1 the evidence in aggravation and mitigation at either write a
2 verdict of life in prison or death?

3 A. Yes.

4 Q. Okay. Now, the State cannot seek the death penalty for
5 every murder in South Carolina. That's our law. Okay. And
6 the State can only seek the death penalty if the murder is
7 committed under circumstances of aggravation. Okay?

8 A. (Shaking head yes)

9 Q. Now, the statutory circumstances of aggravation must be
10 proved to you beyond a reasonable doubt.

11 In this case the State asserts that this murder was
12 committed during a robbery, that the defendant was armed
13 with a deadly weapon and/or during a larceny when the
14 defendant was armed with a deadly weapon at the time of the
15 murder. The State has got to prove one, or two, or both of
16 those things to the jury beyond a reasonable doubt. And
17 then if that's done, the jury would determine the sentence
18 of the defendant.

19 Do you understand the process of the proceeding as I
20 just explained it to you?

21 A. Yes.

22 Q. The only two possible sentences that the jury could
23 determine would be life in prison without the possibility of
24 parole until his death, or the death penalty by
25 electrocution or lethal injection.

1 Could you listen to all the facts and circumstances
2 surrounding this murder, consider all the evidence in
3 aggravation and mitigation, give serious consideration to
4 those things?

5 Now, aggravating circumstances are what makes the crime
6 worse. It increases the enormity of the murder.

7 Mitigating circumstances are circumstances of facts
8 that reduce the seriousness of the offense of murder; that
9 is, there is any evidence that you could consider in
10 extenuation or mitigation that reduces the defendant's
11 degree of fault and responsibility.

12 Do you feel that you understand aggravating
13 circumstances or mitigation circumstances?

14 A. Yes.

15 Q. Could you give serious and meaningful consideration to
16 aggravating and mitigating circumstances, and if those facts
17 warranted it, under these circumstances, could you write a
18 sentence of life in prison without parole?

19 A. Yes.

20 Q. Could, under the facts and circumstances, if they
21 warranted it, in your mind required it, could you write a
22 death penalty?

23 A. Yes.

24 Q. Could you sign your name to that verdict?

25 A. Yes.

1 Q. All right. If any evidence came in about crimes or bad
2 acts that happened before this murder or after this murder,
3 you could only consider those as it would bear on the
4 characteristics of the defendant. You couldn't consider
5 that as a statutory aggravating circumstance. Do you
6 understand that?

7 A. I'm not sure.

8 Q. You can only consider the circumstances surrounding
9 this murder in regard to statutory aggravating
10 circumstances. Okay?

11 A. Okay.

12 Q. You have to focus on the circumstances of the murder of
13 Mrs. Graves. And I would tell you that any bad acts or
14 crimes before November the 1st, or after November the 1st,
15 after this was committed, if any evidence of that came in,
16 you could only consider that as it would bear on his
17 individual character. Okay?

18 A. Yes, sir.

19 Q. Is that better?

20 A. Yes.

21 Q. Now, would race make any -- have any bearing --

22 A. No.

23 Q. -- on your decision.

24 Would religion have on any bearing on your decision?

25 A. No.

1 Q. If the evidence came out about the Islamic faith or the
2 Muslim faith, would that have any effect on your decision?

3 A. No.

4 THE COURT: Okay. Mr. Ariail.

5 VOIR DIRE EXAMINATION BY MR. ARIAIL:

6 Q. Mr. Beaman, my name is Bob Ariail and I am the
7 solicitor of what South Carolina designates as the
8 Thirteenth Judicial Circuit. In South Carolina we still
9 retain the name solicitor to designate who our prosecuting
10 attorneys are. Elsewhere that person would probably be
11 known as the district attorney or Commonwealth attorney, but
12 in South Carolina we still have this somewhat older name of
13 solicitor. So I didn't want to confuse you. My role would
14 be the prosecuting attorney. And assisting me in this case
15 would be my deputy, Betty Strom, and Ms. Verdin, one of my
16 assistants seated at counsel table.

17 Do you believe that the death penalty, capital
18 punishment, is an appropriate form of punishment under our
19 law in certain murder cases?

20 A. Yes.

21 Q. And is that a belief that you have held for some period
22 of time, or is that something that has maybe crystalized as
23 being a part of that case?

24 A. No, I have had that belief prior to.

25 Q. Prior to.

1 And that's a belief that you have given thought to and
2 have discussed with other people or thought about it,
3 compared other cases when you would see them, that sort of
4 thing?

5 A. Yes.

6 Q. And if you were on a jury in which the State would seek
7 the death penalty, or was seeking the death penalty, as the
8 judge explained, your whole job would be to consider the
9 evidence and come to an individual, as well as a through
10 collective reasoning of a jury decision, as to what the
11 appropriate punishment would be - death or life
12 imprisonment.

13 Could you fairly consider in your role as a juror both
14 of those possible punishments, until such time as you
15 reached a decision in your own mind?

16 A. Yes.

17 Q. And the judge asked you if you came to that decision
18 that the death penalty was the appropriate sentence, you
19 would have to sign a document, along with your fellow
20 jurors, acknowledging that that was your verdict and bring
21 that document back to the court. Would the fact that you
22 had to sign a document of that type in any way intimidate or
23 hinder your ability to fairly consider imposing the death
24 penalty?

25 A. No, sir.

1 Q. Okay. Thank you very much.

2 VOIR DIRE EXAMINATION BY MR. GIBSON:

3 Q. Mr. Beaman, how are you?

4 A. I'm fine.

5 Q. I'm Ken Gibson. This is co-counsel Bill Godfrey and
6 this is our client Freddie Owens.

7 I just want to try to get some information from you,
8 try to ask you a few questions to make sure that you can be
9 absolutely fair to everybody in this case, okay?

10 A. Yes, sir.

11 Q. Now, when the judge was asking you some questions
12 before, he asked you a question about whether or not you
13 could give a -- I think it was a life sentence, I think you
14 made a comment, "well, hasn't there already been a guilty
15 verdict?" Do you remember saying that?

16 A. Yes, sir.

17 Q. And what did you mean by that? What -- why did you ask
18 that question, or why was that important to you?

19 A. Why was that important to me?

20 Q. Was there a reason why you asked it?

21 A. Well, I had been told that -- I just wanted to confirm
22 that that was the situation.

23 Q. Well, that is, in fact, the situation. In this case
24 Mr. Owens, our client, has already been convicted by another
25 jury of murder, okay?

1 A. Yes.

2 Q. Now, based on that evidence and under the law, that
3 jury, based on the evidence that they saw, they felt that
4 the killing of Ms. Graves was an intentional and deliberate
5 act. That's our statute for murder. Do you understand all
6 that?

7 A. Yes.

8 Q. Now, given that and given that prior finding, do you
9 still believe that after you considered the evidence, you
10 could actually come back with a sentence of life without
11 parole in this case, as opposed to the death sentence?

12 A. Sure. If the evidence is there, yes.

13 Q. Okay. Now, you also understand that the State is going
14 to be trying to prove some aggravating factors, which under
15 the law makes this situation worse. At least that's the way
16 the law looks at it, okay?

17 A. Yes.

18 Q. Those aggravating factors in this case are going to be
19 that this murder happened in the commission of an armed
20 robbery and/or that it happened in the commission of a
21 larceny while using a deadly weapon. Okay?

22 A. (Shaking head yes)

23 Q. The only way that you as a jury member would get to
24 consider sentence is if those aggravating factors are proven
25 beyond a reasonable doubt.

1 Assuming that those aggravating factors are found,
2 would you still be able to give a life sentence in this
3 case, if you deemed it was appropriate?

4 A. No.

5 Q. And you are sure about that?

6 A. Yes.

7 Q. Thank you.

8 THE COURT: I'm going to let you step out just
9 briefly, Mr. Beaman.

10 (Whereupon, Juror Number 24 was taken out of the
11 courtroom)

12 MR. ARIAIL: I don't think -- I don't think he
13 understands the process in that last question. I think it
14 probably would be best if you clarify that, because when he
15 answered you to start with, he went through it, and I'm
16 concerned that he may have thought what we are talking about
17 once you found it's aggravated, been all the way through it,
18 not just that second step.

19 THE COURT: Bring him back in.

20 (Whereupon, Juror Number 24 was brought into the
21 courtroom)

22 RE-VOIR DIRE EXAMINATION BY THE COURT:

23 Q. Mr. Beaman, I know -- there are no right or wrong
24 answers to these questions. If -- let me review that.
25 Maybe -- it was my responsibility to cover it with you.

1 The State cannot seek the murder -- they cannot seek or
2 ask for the death penalty if every murder case. You are
3 aware of that?

4 A. Yes.

5 Q. I'm telling you that that's the law, and you can accept
6 that?

7 A. Yes.

8 Q. Now, maybe I didn't -- they have to prove -- before the
9 jury can even sentence Mr. Owens, they have to prove
10 aggravating circumstances beyond a reasonable doubt. Okay.

11 And aggravating circumstances are that Mr. Owens
12 committed a robbery during this murder, armed with a deadly
13 weapon and/or that he committed larceny during this murder
14 while armed with a deadly weapon.

15 If they have proved that and convinced you and all the
16 other jurors that that happened, and they do that beyond a
17 reasonable doubt, then at that time the jury would be --
18 would sentence Mr. Owens, based on all the evidence that
19 they heard. You would hear evidence in addition to that,
20 other evidence, along with that evidence. Do you understand
21 that?

22 A. Yes.

23 Q. Now, your answer was -- I don't want to repeat it. I
24 might not say it properly, but could you consider the fact
25 that you found that statutory aggravating circumstance, that

1 alone, you could sentence the defendant -- or the jury could
2 sentence the defendant to life in prison without parole,
3 even though those -- if those statutory aggravating
4 circumstances were proven under our law. Do you understand
5 that?

6 There is a statutory aggravating circumstance, which
7 the State has got to prove beyond a reasonable doubt. Now
8 there is -- the law refers to other aggravating
9 circumstances in addition to those. You can consider the
10 statutory aggravating circumstances and you can consider any
11 other aggravating circumstances. And just on those
12 considerations alone you could sentence Mr. Owens under our
13 law to life, or you could sentence him to death. Do you
14 understand that that would be the authority of the jury?

15 A. Yes.

16 Q. All right. Also if there was evidence of mitigating
17 circumstances, you would have to seriously consider those,
18 along with any aggravating circumstances, and then determine
19 what the sentence would be - either life or death.

20 Is your testimony to the court that if they have proved
21 robbery or larceny with a deadly weapon, you could not
22 consider anything else? You would just give the sentence of
23 life? Is that your testimony?

24 A. No.

25 Q. That's not your testimony?

1 A. No.

2 Q. You would consider the statutory aggravating
3 circumstances of robbery and larceny armed with a deadly
4 weapon, along with anything else in the case, and you would
5 then give a sentence based on all the evidence that you
6 heard, is that correct?

7 A. I'm confused.

8 MR. GIBSON: Your Honor, I'm sorry.

9 THE COURT: Yes, sir.

10 MR. GIBSON: You asked him the question that based
11 on all these circumstances if he made that finding, would he
12 only be able to consider a sentence of life. I think his
13 earlier testimony was that under those circumstances he
14 would only be able to consider a sentence of death.

15 THE COURT: You are right.

16 I'm going to let you ask him a couple more
17 questions, Mr. Gibson, and then I'll let Mr. Ariail do that,
18 okay? I think that I confused him with statutory
19 aggravating circumstances and just aggravating
20 circumstances. I think that could have been my fault.

21 RE-VOIR DIRE EXAMINATION BY MR. GIBSON:

22 Q. All right. Mr. Beaman?

23 A. Yes.

24 Q. Let me try to -- do you understand, based on what the
25 judge told you, what the process would be, as far as when

1 you would get to consider the sentence on Mr. Owens?

2 A. Yes.

3 Q. Okay. And you understand that basically what would
4 happen is you would -- as a jury you would have to find
5 beyond a reasonable doubt that those aggravating
6 circumstances that we talked about before existed?

7 A. Yes.

8 Q. And that, therefore, this was a murder that was worse
9 than other kind of murders by law, okay?

10 A. Yes.

11 Q. Now, after that would happen, you would get a whole lot
12 more information, okay. Like you would get some stuff that
13 mitigated, or we would hope would mitigate and lessen the
14 type of murder that it was; and the State may bring in some
15 more information which may make it even worse.

16 Given those circumstances and given that possibility of
17 both types of information, okay, after you had found as a
18 juror beyond a reasonable doubt that those aggravating
19 circumstances occurred, would you be able to give a sentence
20 of life?

21 A. No.

22 Q. Okay. And you are absolutely certain about that?

23 A. Yes.

24 Q. And you understand the process completely?

25 A. Yes.

1 Q. Okay. Thank you Mr. Beaman.

2 RE-VOIR DIRE EXAMINATION BY MR. ARIAIL:

3 Q. Let me make sure I'm following you.

4 The State would prove -- the defendant has already been
5 convicted. That's step one.

6 Step two is the State would have to prove what the
7 judge has charged you as aggravating circumstances.

8 Aggravating circumstance is a circumstance where our
9 legislature has said if you have a murder and it's
10 accompanied by an aggravating circumstance, then the State
11 can seek the death penalty.

12 So the first step is before the jury can even consider
13 the death penalty is it has to find that that aggravating
14 circumstance existed.

15 In this case the judge told you that two aggravating
16 circumstances that the State has alleged and we will have to
17 prove is that the murder was committed during an armed
18 robbery and that armed robbery was accompanied by the use of
19 a deadly weapon, or that the murder was committed during a
20 larceny, accompanied by the use of a deadly weapon.

21 So the first thing the jury, you as a jury, would do
22 would go back and decide did the State prove the aggravating
23 circumstance. All right. Do you understand that?

24 A. Yes.

25 Q. If the jury says no, they didn't, then you bring it

1 back and you give it to the judge and that's the end of it.

2 All right.

3 But if you find, yes, the State did prove that beyond a
4 reasonable doubt, then you would proceed to consider the
5 additional evidence that was presented, such as other
6 evidence as the character and characteristics of the
7 defendant, the nature of the crime, etcetera, etcetera, and
8 mitigating evidence that the defendant might present through
9 witnesses he may have, things to make it better or make the
10 crime appear to be less punishable.

11 After you have found the aggravating circumstance, that
12 is the armed robbery, or the larceny, could you listen to
13 the additional evidence and consider whether or not that
14 evidence justifies the imposition of a life sentence?

15 A. Could I give him life, no is my answer.

16 Q. After the aggravating circumstances?

17 A. After the aggravating -- yes, after the aggravating.
18 After the mitigating, no.

19 Q. Okay. All right. Thank you.

20 THE COURT: Mr. Beaman, let me let you step out.
21 I'm going to go over this with the attorneys. We do this in
22 every case, and I'll bring you back in.

23 (Whereupon, Juror Number 24 was taken out of the
24 courtroom)

25 MR. GIBSON: Your Honor, my sense is that he's not

1 qualified. Either one of two things is going on.

2 MR. ARIAIL: We will concur. We concur.

3 THE COURT: We went back and forth on that one.

4 (Whereupon, Juror Number 24 was brought into the
5 courtroom)

6 THE COURT: Mr. Beaman, thank you so much. I'm
7 going to excuse you for this case. You will not have to
8 come back. Thank you.

9 JUROR NUMBER 24: Thank you.

10 (Whereupon, Juror Number 24 was taken out of the
11 courtroom)

12 THE COURT: Lori Center.

13 (Whereupon, Juror Number 74 was brought into the
14 courtroom)

15 LORI P. CENTER, #74, having been first duly sworn,
16 testified as follows:

17 VOIR DIRE EXAMINATION BY THE COURT:

18 Q. Ms. Center, of the three types of jurors, which type
19 juror do you think that you might be?

20 A. Number three.

21 Q. Okay. Now, Ms. Center, this case arises from an
22 incident on Laurens Road, on November the 1st, 1997, in
23 Greenville County. Mrs. Irene Graves was killed. Mr. Owens
24 has been convicted of the murder for that offense. Okay?

25 A. Yes, sir.

1 Q. Now, have you heard anything or seen anything on TV or
2 read anything in the newspaper, on television, or heard
3 anything about this case from any source?

4 A. On Monday I was in my kitchen preparing my meal and I
5 thought I heard a brief story on the TV, but then I turned
6 the TV off, because I remember what you had instructed us.

7 Q. Okay. If you heard anything about that, could you
8 dismiss that from your mind and decide this case only on the
9 evidence that you heard in the courtroom?

10 A. Yes, sir.

11 Q. Now, you realize that Mr. Owens has been convicted of
12 murder and that's not the issue in this case. Another jury
13 has decided that.

14 Our state law provides that a second proceeding be
15 conducted and that that jury determines how Mr. Owens will
16 be sentenced. Do you understand that?

17 A. Yes, sir.

18 Q. All right. And every -- for every murder the State
19 cannot ask for or seek the death penalty in South Carolina.
20 That's the law.

21 Before they can seek the death penalty, they have to
22 prove to the jury an aggravating circumstance, a statutory
23 aggravating circumstance.

24 In this case they would have to prove to you, the jury,
25 beyond a reasonable doubt that this murder was committed

1 during a robbery with the defendant armed with a deadly
2 weapon, or during a larceny with the defendant armed with a
3 deadly weapon. They would have to prove that to you beyond
4 a reasonable doubt.

5 The defendant has no burden of proof. He doesn't even
6 have to testify.

7 Have you had any personal experiences with armed
8 robbery or robbery or larceny with a deadly weapon?

9 A. No, sir, not with a deadly weapon.

10 Q. Okay. Have you -- well, have you had experiences with
11 a crime that might affect your ability to be fair and
12 impartial in this case?

13 A. No, sir.

14 Q. Okay. Once the jury -- if the jury were convinced
15 beyond a reasonable doubt that a statutory aggravating
16 circumstance existence, either the robbery with a deadly
17 weapon or a larceny with a deadly weapon, then that jury,
18 the twelve people, would determine the sentence of Mr. Owens
19 for murder. Okay?

20 A. Yes, sir.

21 Q. Now, that sentence would only be life in prison without
22 the possibility of parole until the death of Mr. Owens, or
23 death by lethal injection or electrocution. Okay?

24 A. Yes, sir.

25 Q. Now, the jury would have to focus on the circumstances

1 of the murder for Mrs. Graves, that particular case, and the
2 characteristics of this defendant. Those would be what you
3 would consider, along with evidence in extenuation,
4 mitigation and aggravation of that murder, and you would
5 either write a sentence of life in prison or death.

6 Do you think that under the facts or circumstances that
7 you would give serious consideration to aggravating
8 circumstances and mitigating circumstances, would you
9 consider the whole case?

10 A. Yes, sir.

11 Q. Would you seriously consider the aggravating
12 circumstances and the mitigation evidence, and under the
13 circumstances if you felt that it was warranted, could you
14 write a sentence for life in prison?

15 A. Yes, sir.

16 Q. Without the possibility of parole?

17 A. Yes, sir.

18 Q. Until his death?

19 A. Yes, sir.

20 Q. If under the facts and circumstances of the particular
21 case could you write a verdict of death?

22 A. Yes, sir.

23 Q. And could you sign your name to that verdict?

24 A. Yes, sir.

25 Q. If evidence came out, as I told you -- now, you would

1 be focusing on the circumstances of this crime and the
2 characteristics of Mr. Owens.

3 If evidence should come out of any crimes or bad acts
4 either before November the 1st, or after November the 1st,
5 after this murder, if that evidence came out, it could not
6 be considered as evidence of an aggravating circumstance.
7 Do you understand that?

8 A. Yes, sir.

9 Q. It could only be considered as to his individual
10 character. Okay?

11 A. Okay.

12 Q. Would you do that?

13 A. Yes, sir.

14 Q. Okay. Would race in any way influence your decision as
15 to the defendant, or the victim, or anyone else that may be
16 involved in this case?

17 A. No, sir.

18 Q. Would religion influence your decision in any way?

19 A. No, sir.

20 Q. If evidence came out about the Islamic faith or the
21 Muslim, would that affect you in any way?

22 A. I would have to think about that for a second. Could
23 you ask me that again, please?

24 Q. If there should be evidence that persons involved in
25 this case was of the Islamic faith or the Muslim faith,

1 would that affect your ability or bear on the sentence in
2 any way?

3 A. Honestly it could, maybe.

4 Q. It could?

5 A. Yes, sir.

6 Q. I'm going to let the lawyers ask you some individuals
7 questions about that, all things, and that too. Okay?

8 A. Okay.

9 VOIR DIRE EXAMINATION BY MR. GIBSON:

10 Q. Ms. Center?

11 A. Yes, sir.

12 Q. How are you?

13 A. Fine, thank you.

14 Q. Good. I'm Ken Gibson. This is co-counsel Bill
15 Godfrey, and this is our client Freddie Owens.

16 I'm going to try to ask you some questions, try to get
17 a better understanding of what you believe about some things
18 in order to make sure that you could be fair, okay?

19 A. Yes, sir.

20 Q. Let's start, I guess, with the end of your questioning
21 with Judge Patterson. He asked you a question regarding
22 whether or not if one or any of the parties was Islamic that
23 might affect your decision?

24 A. Yes, sir.

25 Q. Can you tell me how you think it would affect your

1 decision?

2 A. Well, I am still -- I still struggle with that
3 particular order of faith, if that's the correct
4 terminology, and I don't understand a lot of it, to be
5 honest.

6 Q. Yes, ma'am.

7 A. So, therefore, I don't know if I would be able to make
8 an intelligent decision.

9 Q. Okay. All right. So are you certain about that?

10 A. That I wouldn't be able to make an intelligent
11 decision?.

12 Q. Yes, ma'am.

13 A. Yes, because I'm too confused by the faith and beliefs
14 and the reasons that they do the things that they do in
15 practicing their faith.

16 Q. So if -- what if it had nothing to do with the murder
17 itself, it's just that a person had that type of belief,
18 would that still affect your decision in that way?

19 A. Possibly.

20 Q. Okay. Can you think about it just a little bit and
21 give me a --

22 A. I'm not sure I understand your question.

23 Q. Okay. Well, let me ask you this. If it turns out, and
24 I'm just going to use an example. If it turned out that Mr.
25 Owens was of the Islamic faith, okay, there is going to come

1 a time in this case, possibly, that you are going to have
2 his life in your hands, all right, and you are going to be
3 sitting in that -- it won't be in there, but it would be in
4 the jury room and you will be thinking about whether or not
5 you should give a sentence of life or whether or not you
6 should give a sentence of death. Knowing, or if you knew
7 that Mr. Owens was Muslim, would that affect your decision
8 in any way?

9 A. It could.

10 Q. Okay.

11 A. Yes, sir.

12 Q. All right. And can you tell me if it would or not, or
13 you just don't know?

14 A. I just don't know, because I'm still confused a lot
15 about their beliefs.

16 Q. Okay. And how long have you been thinking about that
17 issue, or how long has those feelings been around for you?

18 A. Honestly, my daughter was dating -- my daughter is a
19 high school student and she was dating a young man and he
20 was from that background.

21 Q. Yes, ma'am.

22 A. And my family, we had some issues with particular
23 family issues and ways that they conducted things and
24 different things, in all honesty.

25 Q. Yes.

1 A. I didn't understand a lot of things, and it was very
2 uncomfortable for my family while the two were dating.

3 Q. And --

4 A. Who are no longer dating.

5 Q. How long ago was that?

6 A. Just -- probably about nine months ago.

7 Q. Okay. So you have been -- this is an issue that you
8 have been thinking about for at least the last nine months?

9 A. Yes.

10 Q. Okay. Now, let me ask you some other questions. I see
11 in your transcript -- or not transcript, but your
12 questionnaire that you have a brother who is in law
13 enforcement?

14 A. Yes, that's correct. He's a police officer.

15 Q. In Tennessee?

16 A. In Tennessee, in Knoxville.

17 Q. Would your brother being a police officer, would that
18 in any way affect your ability to consider the evidence in
19 this case?

20 A. No, I can be fair.

21 Q. Okay. All right. Let me check with my co-counsel and
22 make sure there is nothing else I need to clarify with you,
23 all right, Ms. Center?

24 A. Sure.

25 (Off the record)

1 (Back on the record)

2 BY MR. GIBSON:

3 Q. Thank you, Ms. Center. He assures me that we have
4 covered everything.

5 A. Okay.

6 Q. Thank you.

7 A. You are welcome.

8 VOIR DIRE EXAMINATION BY MR. ARIAIL:

9 Q. Mrs. Center, my name is Bob Ariail and I'm the
10 solicitor for the Thirteenth Circuit of South Carolina,
11 which is Greenville and Pickens Counties. The solicitor is
12 the old name that South Carolina still retains to designate
13 its prosecuting attorneys. If you watch TV, they call them
14 district attorneys, where here we are still the solicitor.
15 And so the name won't confuse you, I want to explain. We
16 would be representing the State. I would be in this case,
17 if you were on the jury.

18 Ms. Strom, my deputy seated there would also be
19 representing -- assisting me in representing the State.

20 Let's go back to the question about the Islamic faith,
21 Muslim.

22 A. Yes, sir.

23 Q. Here, I think, as simple as I can ask it, if you were
24 on a jury and the defendant had been convicted of murder --
25 don't worry about this case. Let's just use any case. And

1 you were determining the sentence. That's what the jury is
2 supposed to do, based on what the evidence showed. Would
3 you give a sentence of death because somebody was a Muslim,
4 as opposed to somebody who's a Baptist?

5 A. No, sir.

6 Q. All right. Then tell us what it is that is concerning
7 you, and particularly what we would like to know is how
8 would -- a defendant being before you being a Muslim, how
9 would that affect your ability to be fair in determining a
10 sentence for a particular crime that that individual has
11 committed?

12 A. Well, with the limited knowledge I have of their faith
13 and their practices, and maybe some of their things I'm
14 assuming are incorrect, I don't claim to know everything,
15 but sometimes, from what I understand, and practicing their
16 faith, their goal is to kill people, to destroy people,
17 based on a particular practice that maybe some of them may
18 have, and that could be an incorrect assumption on my part,
19 but I'm speaking honestly in that I don't understand it well
20 enough.

21 Q. All right. And knowing that you don't understand it
22 well enough, could you set it aside and have it not be a
23 factor in your deliberations as a juror?

24 A. I would not -- I would not feel comfortable trying to
25 make a decision if I had confusion left, because I would

1 want to make a decision a hundred percent and be confident
2 in my decision.

3 Q. Okay. Thank you.

4 THE COURT: Thank you very much. I'm going to ask
5 you to step out just for a minute and I'll call you back.

6 (Whereupon, Juror Number 74 was taken out of the
7 courtroom)

8 MR. GIBSON: We do not believe she's qualified,
9 Your Honor.

10 THE COURT: Due to her testimony and what she
11 stated, realizing -- taking judicial notice of the
12 circumstances in the world, the court -- well, I have
13 actually been to Saudi Arabia and Iraq and I know that those
14 people, they are taking them to their mosques on Friday
15 and -- but her understanding is that they maybe like -- I
16 shouldn't maybe, but she said they were killing people or
17 something of that nature. They were like suicide bombers,
18 or what have you. And we have asked a number of witnesses
19 this question and she's honestly answered it, and I think
20 that she would -- could be influenced by that. And most of
21 us know that that would not be the case, but she was
22 honestly answering those questions, and I would have to not
23 qualify her.

24 MR. ARIAIL: Thank you. The State concurs.

25 THE COURT: Okay.

1 (Whereupon, Juror Number 74 was brought into the
2 courtroom)

3 THE COURT: Okay. Ms. Center, I am going to
4 excuse you from the case. Do not talk to anyone about the
5 case or anything about what we have went into in here. We
6 have asked a number of people the same questions and gotten
7 different responses, but Mr. Owens, as I understand it, is
8 of the Islamic or Muslim faith, so we would have to excuse
9 you from this case. Okay?

10 JUROR NUMBER 74: Yes.

11 THE COURT: Thank you so much.

12 JUROR NUMBER 74: You are welcome.

13 THE COURT: Appreciate it.

14 (Whereupon, Juror Number 74 was taken out of the
15 courtroom)

16 THE COURT: She's called the other panel in.
17 Let's take a short recess and we need four more jurors, at
18 least, hopefully.

19 As to our questions, it seems like a lot of people
20 are understanding the questions. I thought that the Wofford
21 graduate didn't understand the questions in economics, but I
22 believe he did at the time.

23 MR. ARIAIL: I believe he did.

24 THE COURT: The one that we really made an effort,
25 I finally -- I believe he did understand the questions.

1 MS. STROM: I think he did too.

2 MR. ARIAIL: I think he did. That's why you got
3 to spend time asking them.

4 THE COURT: That was Mr. Beaman.

5 Let's take a short recess.

6 (Whereupon, proceedings were recessed)

7 (Whereupon, proceedings were reconvened)

8 (Whereupon, Jury Panel Number 13 was brought into
9 the courtroom)

10 THE COURT: Ladies and gentlemen, I appreciate
11 y'all coming in and we wanted to continue on to try to move
12 through the process. I wanted to make sure that we all
13 identify each other.

14 Anna D. Lapointe.

15 Robert M. Allen.

16 Stephen Grose.

17 Thomas Foster.

18 Richard Reid.

19 Joel Irvine.

20 Now, ladies and gentlemen, I'm going to ask you --
21 the lawyers in this case, Mr. Ariail, he sits in that empty
22 chair there. He will be back in in just a minute. And Bob
23 Ariail, he's the circuit solicitor. I'm going to ask you if
24 you know him and Ms. Betty Strom? She is the deputy
25 solicitor. And Ms. Verdin, she is the assistant solicitor.

1 Mr. Godfrey is the defense lawyer, and Mr. Gibson
2 is the defense lawyer in this case.

3 And this is Freddie Eugene Owens sitting here.
4 He's the defendant in the case.

5 Do any of you jurors know Mr. Ariail, or Ms.
6 Strom, or Ms. Verdin?

7 JUROR NUMBER 251: Yes.

8 THE COURT: Yes, ma'am.

9 Mr. Godfrey and Mr. Gibson and Mr. Owens.

10 Do any of you know Mr. Godfrey, Mr. Gibson?

11 Yes, ma'am.

12 JUROR NUMBER 251: I have a question. Is his
13 first name Bill Godfrey?

14 THE COURT: Bill Godfrey, yes.

15 How do you know him, ma'am?

16 JUROR NUMBER 251: He worked at Liberty Life years
17 ago and I worked at Liberty Life.

18 THE COURT: Okay. How long ago was that, ma'am?

19 More than fifteen?

20 THE DEFENDANT: I'm sorry?

21 THE COURT: More than fifteen?

22 JUROR NUMBER 251: Yes.

23 THE COURT: The fact that you knew him at Liberty
24 Life, would that affect your ability to be fair and
25 impartial for both sides in this case?

1 JUROR NUMBER 251: No, sir.

2 THE COURT: All right. Now, do any of you know
3 Mr. Freddie Eugene Owens?

4 (No response)

5 THE COURT: Ladies and gentlemen, you had a very
6 lengthy witness list. Now, some of you have had a little
7 bit more time than others, I think. Mr. Foster, I know that
8 we called you late today and we appreciate you being here,
9 but if you have had time to review this list? Do any of you
10 know anyone on the list?

11 (No response)

12 THE COURT: Any of these possible witnesses?

13 (No response)

14 THE COURT: Very good.

15 Now that we have gone through that, what we will
16 do is start the individual questioning and we will start
17 with Mrs. Lapointe. I would ask the others to wait over
18 there and I'll bring you in individually. But before you
19 go, look over, if you haven't already done it, the three
20 types of jurors normally in a case like this and be prepared
21 when you come in to tell us if you feel like you might be
22 juror number one, two, or three. Okay. If y'all would just
23 step out, please.

24 (Whereupon, Jury Panel Number 13 was taken out of
25 the courtroom)

1 THE COURT: Mrs. Lapointe, if you would come
2 around and we will let you come up here in this chair.

3 ANNA D. LAPOINTE, #251, having been first duly
4 sworn, testified as follows:

5 VOIR DIRE EXAMINATION BY THE COURT:

6 Q. Ms. Lapointe, have you reviewed the three types of
7 jurors on this page?

8 A. Yes, I have.

9 Q. Do you have an opinion as to what type juror that you
10 would be?

11 A. I think I could be three.

12 Q. You would be number three?

13 A. Yes.

14 Q. All right. Mrs. Lapointe, this case arises out of an
15 incident on the 1st of November of 1997, on Laurens Road in
16 Greenville County, at a Speedway where Mrs. Irene Graves was
17 killed, and Mr. Owens has been convicted of murder. That
18 was before another jury. And the purpose of this is solely
19 to determine how Mr. Owens will be sentenced. Okay?

20 A. Yes, sir.

21 Q. Do you understand that?

22 A. Yes.

23 Q. This is the second proceeding before a jury, which our
24 law requires. Do you understand that?

25 A. Yes.

1 Q. All right. There has been publicity about this on TV,
2 radio, and in the newspaper. Have you read, heard, seen
3 anything about this case?

4 A. Can I make a statement --

5 Q. Yes.

6 A. -- before I answer that question.

7 Monday when we were in here my husband was at the
8 doctor and he has a problem that the doctor said should be
9 taken care of immediately. He went to a surgeon today and
10 the surgeon is sending him for a CAT scan. So I don't know
11 what's going to happen or when it's going to happen, but the
12 doctor -- our family doctor said that he needs to be taken
13 care of immediately.

14 Q. Okay. He's had a CAT scan?

15 A. No, it's scheduled for tomorrow.

16 Q. Scheduled for tomorrow?

17 A. Yes.

18 Q. Okay. Do you feel like you are going to be required to
19 be there? What -- can you tell me what the CAT scan is
20 about?

21 A. Our family doctor thought it was a hernia. The surgeon
22 said that it's little too high to be a hernia. And before
23 they do an operation, they would want to see what they are
24 really going after. It's in his abdomen area.

25 Q. Okay. Well, what time is that CAT scan scheduled for?

1 A. I think my husband told me this afternoon it was like
2 11:00 or 11:15 tomorrow.

3 Q. Were you going to be with him?

4 A. Not for the CAT scan, but if they have to put him in
5 the hospital, you know, if there is anything surgery, I most
6 certainly would want to be there.

7 Q. Okay. Okay. Very good. But if he were just
8 undergoing a CAT scan, you could be here tomorrow, is that
9 correct?

10 A. Yes.

11 Q. All right. Let me let you step out just for a minute
12 and we will see.

13 A. Okay.

14 (Whereupon, Juror Number 251 was taken out of the
15 courtroom)

16 THE COURT: I don't know. I have no idea what
17 that could be.

18 MS. STROM: My thought is it's concerning her
19 enough that, you know, that was one of the first things she
20 told you. I mean, my impression was that it's something
21 that's preying on her. I would have no objection if you
22 thought it best to excuse her.

23 MR. GODFREY: If it pleases the court, and I
24 haven't seen Ann since 1985, I would think. She worked in
25 the same department where I did. She worked in the

1 underwriting department and I was the director of national
2 underwriting at that time. I don't know her well, and I
3 don't think there would be any problem regarding that, but I
4 know Ann to be a very responsible person. This is
5 concerning her so much, I'm in agreement to let her go.

6 THE COURT: Okay.

7 (Whereupon, Juror Number 251 was brought into the
8 courtroom)

9 THE COURT: Mrs. Lapointe, because of the
10 condition of your husband we are going to excuse you in this
11 case, because it may come up that you would not be able to
12 serve. Thank you so much.

13 JUROR NUMBER 251: Thank you.

14 (Whereupon, Juror Number 251 was taken out of the
15 courtroom)

16 THE COURT: This next juror says he does not
17 believe in the death penalty or abortion. Ask Robert M.
18 Allen to come in.

19 (Whereupon, Juror Number 7 was brought into the
20 courtroom)

21 ROBERT M. ALLEN, #7, having been first duly sworn,
22 testified as follows:

23 VOIR DIRE EXAMINATION BY THE COURT:

24 Q. Based on the three types of jurors that we designate on
25 this sheet, which type juror would you be, Mr. Allen?

1 A. Definitely not number 1, but more than likely number
2 three.

3 Q. Number three?

4 A. Yeah.

5 Q. Okay. All right. Mr. Allen, do you believe that if
6 you heard the case, the facts and circumstances -- the State
7 cannot seek the death penalty in every case. Only in a case
8 that involves statutory aggravating circumstances.

9 If you seriously considered all the circumstances
10 surrounding this case, could you write a verdict in the case
11 for death?

12 A. I'm not sure, to be honest with you. I would have to
13 do a lot of praying with about it. I know what the Bible
14 says. I can't give you an exact answer. I -- I -- it's
15 different when you are sitting here and you are saying, you
16 know, you have to make the decision. I have always believed
17 in the death penalty, but it's a different story when you
18 are sitting here.

19 Q. Okay. All right, sir. Mr. Allen, this incident arises
20 out of an incident on Laurens Road in Greenville where Ms.
21 Irene Graves was killed on November the 1st, 1997. Mr.
22 Owens has been convicted of murder for that.

23 That has been on TV and the radio and the newspaper.
24 Have you read, heard or seen anything about this case?

25 A. Not that I'm aware of, no. Not recently.

1 Q. Now, do you understand as a juror your oath would
2 require you to disregard anything, if you had heard that,
3 and decide this case only on the evidence and testimony that
4 you heard?

5 A. Yes, sir.

6 Q. Do you understand that your oath would require you to
7 be fair and impartial to both sides and to be able to write
8 a verdict of death or life in prison, if the circumstances
9 warranted that?

10 A. Yes.

11 Q. Could you honor your oath and be fair and impartial and
12 do that?

13 A. Yes.

14 Q. Okay. Now, the State would have to prove an
15 aggravating circumstance of robbery during the commission of
16 this murder while the defendant was armed with a deadly
17 weapon, or larceny while the defendant was armed with a
18 deadly weapon during the commission of this murder. If
19 that's proven beyond a reasonable doubt, and all of you
20 agree that the State has proven that beyond a reasonable
21 doubt, then it would become the duty of the jury, the
22 sentencing authority, would have to sentence Mr. Owens to
23 either life in prison until his death without the
24 possibility of parole, or to the death penalty, which would
25 be by lethal injection or electrocution. Do you understand

1 that?

2 A. Yes, I do.

3 Q. After that was proven to you beyond a reasonable
4 doubt -- the defendant doesn't have to prove anything. He
5 does not have to take the witness stand. You could not hold
6 that against him in any way. Do you understand that?

7 A. Yes.

8 Q. After that was proven, then the jury would have to
9 focus on the circumstances of this crime for Ms. Graves and
10 that individual characteristics of Mr. Owens and determine
11 whether he should receive life in prison until he dies in
12 prison without any possibility of parole, or whether he
13 should receive the death sentence. Do you understand that?

14 A. Yes.

15 Q. If the facts and circumstances -- you would have to
16 seriously consider facts in aggravation and mitigation, any
17 evidence in mitigation. Considering all the evidence, you
18 would, as a juror, would have to determine if the sentence
19 should be life in prison or death. Do you understand that?

20 A. Yes.

21 Q. If the sentence were death, could you sign your name to
22 the death sentence?

23 A. It's a tough question. I mean, I really would have to
24 do a lot of praying about it and I would have to hear the
25 facts and everything. It would be very difficult for me,

1 but I would say I could do it.

2 Q. All right. Now, if evidence came out about any prior
3 crimes before this crime of murder or any crimes or bad acts
4 after the crime of murder, that evidence could not come in
5 as it would bear on a statutory aggravating circumstance and
6 you could not consider that for that. Do you understand
7 that?

8 A. Yes.

9 Q. You could consider that evidence as it would bear on
10 Mr. Owens individual character, all right, sir?

11 A. Okay. I could.

12 Q. Would race make any difference in your decision?

13 A. No.

14 Q. Would the fact that a person may be of the Islamic
15 religion or Muslim affect you in any way?

16 A. Not at all.

17 Q. All right. Please answer questions from the attorneys,
18 sir.

19 THE COURT: Ms. Strom.

20 VOIR DIRE EXAMINATION BY MS. STROM:

21 Q. Good evening Mr. Allen.

22 A. How are you?

23 Q. I'm fine. Thank you.

24 Again, my name is Betty Strom and I'm the deputy
25 solicitor. And I know I have already been introduced, but

1 Solicitor Ariail I think was out --

2 A. Right.

3 Q. -- when all the panel was there. Solicitor Ariail.
4 Leticia Verdin.

5 A. Right.

6 Q. And the solicitor is just sort of an old name for
7 district attorney. You see it on TV the district attorney.
8 That's what we are. We represent the State.

9 So what I want to find out is -- and understand, first
10 of all, that no one is here to challenge your views or make
11 you change your mind one way or the other, okay?

12 A. Right.

13 Q. But I want to make sure that I understand if, in fact,
14 you, Mr. Allen, could impose the death penalty. I know
15 that's a hard question.

16 A. It's a very difficult question. You know, I know what
17 the Bible says, thou shall not kill. It also says an eye
18 for an eye.

19 Personally I think that I could do it, yeah.

20 Q. Okay. If the facts were there?

21 A. Right, if the facts were there.

22 Q. Do you believe that the death penalty is an appropriate
23 penalty under certain circumstances for murder?

24 A. Yes.

25 Q. And, there again, I'm not trying to challenge you. I

1 have your questionnaire and I just wanted to point out
2 something to you that gave me some concern in relation to
3 what you have already said today.

4 A. Okay.

5 Q. Would you look at question 49.

6 A. Okay. That was -- yeah, that's my remark about the
7 Bible part, yeah.

8 Q. I guess what I'm trying to get to is why is it
9 different today than when it's --

10 A. It's not really different. You are forcing me to make
11 an answer and I can't really tell you I don't know. I feel
12 like I can't say I don't know, but personally I think that
13 if somebody kills somebody they should die, but according to
14 the Bible I don't know, you know, exactly if that's what the
15 Bible says. That would give me some trouble.

16 Q. Okay.

17 A. So I am a Christian and I don't believe in killing
18 somebody. I don't believe in abortion, so it is hard. It's
19 very difficult.

20 Q. And knowing your beliefs are religious based and faith
21 based --

22 A. Yeah.

23 Q. -- are you going to be able to set that aside and give
24 fair consideration to our request for the death penalty?

25 A. It would be very difficult for me to do that. I don't

1 know. I can't say yes or no. I mean, it's very difficult
2 for me to say. I would be doing a lot of praying and
3 probably reading the Bible and talking -- you know, I don't
4 know if I could talk to anybody about it, but I would talk
5 to some people about it, you know. I don't -- I don't want
6 to be responsible for somebody's death.

7 Q. And His Honor will charge you that other than at the
8 time of deliberations, when the jury actually goes back to
9 deliberate, that is the time that you can discuss what the
10 penalties should be and shouldn't be.

11 A. Right.

12 Q. I don't believe the judge is going to allow you to talk
13 to other people about what you should do or shouldn't do.
14 That's got to be your decision.

15 A. Right.

16 Q. Okay. So that's why -- and I know that I'm sort of
17 putting you in a box because you have never been faced with
18 this before.

19 A. Right. Right.

20 Q. But what I'm trying to get to is as the State, as the
21 prosecutor, are you going to fairly and seriously consider
22 my request for the death penalty?

23 A. I would, yes.

24 Q. You would consider that?

25 A. Yes.

1 Q. And if you felt it were the appropriate sentence, based
2 on the facts -- after you have heard all the facts and all
3 the law, if you felt that was the sentence that the
4 defendant deserved, would you impose it?

5 A. I could, yes.

6 Q. And I know the judge talked to you very briefly about
7 part of that, when a jury comes back with a sentence of
8 death, all twelve members have to sign the document that
9 goes to the Department of Corrections that says the
10 defendant got the death penalty. If that were your
11 decision, could you sign that document?

12 A. Yes.

13 Q. Okay. It would be difficult?

14 A. Yeah, it is very difficult.

15 Q. But you believe that you could do it, if that were your
16 decision in the jury room?

17 A. Yes.

18 Q. Okay.

19 MS. STROM: Court's indulgence, Your Honor.

20 (Off the record)

21 (Back on the record)

22 MS. STROM: Thank you.

23 VOIR DIRE EXAMINATION BY MR. GIBSON:

24 Q. Mr. Allen, I'm Ken Gibson. I'm going to be asking you
25 a few questions. I just need a moment of your time, if

1 that's okay, just to talk to my co-counsel. Is that okay?

2 A. Yeah.

3 Q. Thank you.

4 (Off the record)

5 (Back on the record)

6 BY MR. GIBSON:

7 Q. Mr. Allen, like I said, I'm Ken Gibson.

8 A. Hi.

9 Q. This is my co-counsel Bill Godfrey and this is our
10 client Freddie Owens.

11 A. Right.

12 Q. Okay. Now, after conferring with my co-counsel, I just
13 got one question to ask you, okay?

14 A. Okay.

15 Q. It's essential that we get a jury that is able to be
16 fair. After hearing all the evidence in this case, do you
17 think that you could be fair to both parties?

18 A. Yes.

19 Q. Okay. Do you think you could be fair to the State?

20 A. I think so, yes.

21 Q. Do you think that you could be fair to Mr. Owens?

22 A. Yes.

23 Q. Okay. Thank you. Thank you, Mr. Allen.

24 THE COURT: Mr. Allen, there is one thing that I
25 got to make sure that you understand is that as the judge of

1 the law you cannot discuss this case with anyone.

2 JUROR NUMBER 7: Okay. I understand that.

3 THE COURT: And you can't even discuss anything
4 about the death penalty or what you should do.

5 JUROR NUMBER 7: I understand that.

6 THE COURT: Or get any advise from anybody.

7 JUROR NUMBER 7: I understand that.

8 THE COURT: Once you leave here today, do not
9 discuss this with anybody. Don't discuss it with any
10 ministers or anything of that nature.

11 JUROR NUMBER 7: Right.

12 THE COURT: Okay. If you are a juror, the only
13 time that you can discuss this case is after the case is
14 over and you start discussing it with your fellow jurors,
15 okay?

16 JUROR NUMBER 7: Yes.

17 THE COURT: Do you understand that?

18 JUROR NUMBER 7: Yes.

19 THE COURT: Now, I just want to make that point.
20 Let me let you step outside just for a minute.

21 JUROR NUMBER 7: Thank you.

22 (Whereupon, Juror Number 7 was taken out of the
23 courtroom)

24 MS. STROM: Your Honor, my concern is --

25 THE COURT: We saw that before he came in. I

1 know.

2 MS. STROM: Right. And also I think his ability
3 is substantially impaired. He is sitting here saying I am
4 going to have to ask other people. I know that you have
5 instructed him that he can't, but he has said, you know, I'm
6 going to have to talk to other people.

7 I think based upon his initial response in his
8 juror questionnaire and the fact that he is talking about
9 how difficult a decision this would be and that he would
10 have to pray a lot, I think his ability to give the State
11 fair consideration is substantially impaired.

12 THE COURT: I believe he answered all the
13 questions. He's uptight, and I could observe that, and he
14 is -- and we have seen his response, but he did make two
15 statements in regard to the Scripture in regard to both
16 ways. I am going to have find him qualified. Okay.

17 MS. STROM: Okay.

18 (Whereupon, Juror Number 7 was brought into the
19 courtroom)

20 THE COURT: Mr. Allen, you are a qualified juror
21 in this case.

22 JUROR NUMBER 7: Okay.

23 THE COURT: And you would need to be back at 9:30
24 tomorrow morning.

25 JUROR NUMBER 7: Tomorrow morning.

1 THE COURT: Downstairs, and please do not discuss
2 this case with anyone.

3 JUROR NUMBER 7: I won't.

4 THE COURT: Okay. And do not discuss the death
5 penalty.

6 JUROR NUMBER 7: Okay.

7 THE COURT: Or anything.

8 JUROR NUMBER 7: I understand, okay.

9 THE COURT: And do not read anything in the
10 newspaper or TV about this case.

11 JUROR NUMBER 7: Yeah. All right.

12 THE COURT: Thank you.

13 JUROR NUMBER 7: Thank you.

14 THE COURT: You have to be back at 9:30 in the
15 morning.

16 JUROR NUMBER 7: 9:30?

17 THE COURT: And read that order.

18 JUROR NUMBER 7: I will.

19 (Whereupon, Juror Number 7 was taken out of the
20 courtroom)

21 THE COURT: Stephen Grose.

22 (Whereupon, Juror Number 174 was brought in the
23 courtroom)

24 STEPHEN F. GROSE, #174, having been first duly
25 sworn, testified as follows:

1 VOIR DIRE EXAMINATION BY THE COURT:

2 Q. In reviewing the three type jurors, which type juror do
3 you think that you would be?

4 A. Frankly, Your Honor, I looked at the list. I want to
5 say I would be number three, but I have never faced this
6 question before, so I'm not exactly sure.

7 Q. Okay.

8 A. Well, that's my honest answer.

9 Q. Of course, this is a very, very important proceeding.

10 A. Yes, I understand that.

11 Q. And that's the reason that all of us have put this much
12 time into it, because -- Mr. Owens has been convicted of
13 murder.

14 A. Yes, sir.

15 Q. The incident occurred on November the 1st of 1997, on
16 Laurens Road at a Speedway early in the morning. Ms. Irene
17 Graves was killed, and he had been convicted of that murder.

18 A. Yes.

19 Q. This is a separate sentencing proceeding, which our law
20 requires.

21 A. Yes, sir.

22 Q. A person can commit murder in this case and the State
23 cannot seek the death penalty.

24 A. Right.

25 Q. They can only seek the death penalty if there are

1 statutory aggravating circumstances, okay?

2 A. Yes, sir.

3 Q. Do you know anything about this incident on Laurens
4 Road at the Speedway where Ms. Graves was killed on November
5 the 1st, 1997?

6 A. No, sir, I do not.

7 Q. There was TV coverage, radio coverage, newspaper
8 coverage. You haven't heard anything?

9 A. I haven't heard anything, no, sir.

10 Q. Okay. Or seen anything on the news about it?

11 A. No, sir.

12 Q. Okay. Now, the law requires after he's been convicted
13 by a jury, a separate proceeding before a jury to determine
14 how he should be sentenced. That jury would have to hear
15 the evidence in regard to the aggravating circumstances,
16 which are robbery in this case or larceny while armed with a
17 deadly weapon during the commission of this crime of murder.
18 State would have to prove that beyond a reasonable doubt.

19 Have you had any personal experience with armed robbery
20 or larceny that might affect your ability to be fair and
21 impartial?

22 A. No, sir, I have not.

23 Q. Okay. If the State can prove one of those factual will
24 circumstances -- aggravating -- statutory aggravating
25 circumstances beyond a reasonable doubt, or both of them,

1 then it would become necessary for the jury to determine the
2 sentence for Mr. Owens for this murder. Do you understand
3 that?

4 A. Yes, sir.

5 Q. There would only be two possibilities: Life
6 imprisonment for as long as the defendant lived until his
7 death without possibility of parole, and the death penalty.
8 Those would be the two possible penalties. Do you
9 understand that?

10 A. Yes, sir.

11 Q. After that evidence was in about the statutory
12 aggravating circumstances, then you would hear all the
13 evidence and testimony presented in this case. And under
14 the law you would be instructed that you would have to give
15 serious and meaningful consideration to all the
16 circumstances in the case and to the individual
17 characteristics of the defendant, and you would have to make
18 a decision as to life in prison or death. Do you understand
19 that?

20 A. Yes, sir.

21 Q. Based on your particular view of the aggravating
22 circumstances and any evidence of mitigating circumstances,
23 could you give a sentence of life in prison for murder?

24 A. Yes.

25 Q. Based on your consideration of the evidence and