

VOLUME ONE OF EIGHT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN CHRISTOPHER STANKO,

APPELLANT

RECORD ON APPEAL

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HAVE BEEN TRANSPORTED TO THIS COURT****

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT

3) (05-GS-26-2927)
4)

5 STATE)

6 VERSUS)

TRANSCRIPT OF RECORD

7 STEPHEN CHRISTOPHER STANKO)

November 9, 10, 11, 12, 2009
Conway, S. C.

8)
9 B E F O R E:

10 HONORABLE STEVEN H. JOHN, Judge; and a jury
11

12 A P P E A R A N C E S:

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14 SOLICITOR FOR HORRY COUNTY

15 FRANCIS A. HUMPHRIES, JR., ESQ.
16 ASSISTANT SOLICITOR FOR HORRY COUNTY

17 JIMMY A. RICHARDSON, II, ESQ.
18 ASSISTANT SOLICITOR FOR HORRY COUNTY
19 ATTORNEYS FOR STATE

20 WILLIAM I. DIGGS, ESQ.
21 BRANA J. WILLIAMS, ESQ.
22 ATTORNEYS FOR DEFENDANT

23 DIXIE COX EUBANK
24 CIRCUIT COURT REPORTER
25 FIFTEENTH JUDICIAL CIRCUIT

(THIS COURT REPORTER WAS REPLACED ON NOVEMBER 13, 2009
BY CIRCUIT COURT REPORTER, H. EUGENE BUCKNER. SEE TRANSCRIPT
PROVIDED BY MR. BUCKNER FOR THE NOVEMBER 13, 2009, PORTION OF
THESE PROCEEDINGS.)

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446	JANE C. MILLER (Court Qualified)	
	COURT	144/162
	MR. HEMBREE	154
	MR. DIGGS	157
685	STEPHEN D. WILLIAMS (Court Qualified)	
	COURT	165/176
	MR. HUMPHRIES	171
	MS. WILLIAMS	173
695	TERESA P. WOOLARD (Court Qualified)	
	COURT	179/195/197
	MR. HEMBREE	188/196
	MR. DIGGS	194
122	(OVER 65) (HOSPITALIZED) (NOT QUALIFIED)	201
	LUNCH	
22	MATTHEW J. ARBAUGH (Not Qualified)	
	COURT	201/212
	MR. HUMPHRIES	207
	(NONE)	212

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<u>NUMBER</u>	<u>NAME OF JUROR</u>	<u>PAGE/PAGES</u>
564	LISA SELLERS (Not Qualified)	
	COURT	213/217
	(NONE)	217
	(NONE)	217
231	TELIA GIBBONS (Haitian Nationality) (Not Qualified)	
	COURT	217/228
	MR. HEMBREE	225
	(NONE)	228
67	BOBBY THOMAS BRANTON, JR. (Court Qualified)	
	COURT	229/244
	MR. HUMPHRIES	239
	MR. DIGGS	240
64	BRANDON W. BOYD (Court Qualified)	
	COURT	246/258
	MR. RICHARDSON	253
	MS. WILLIAMS	255
33	MARGARET M. BARTOMEIO (Court Qualified)	
	COURT	259/271
	(NONE)	267
	MR. DIGGS	267

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<u>NUMBER</u>	<u>NAME OF JUROR</u>	<u>PAGE/PAGES</u>
53	JAMES EDWARD BERRY (Court Qualified)	
	COURT	274/285
	HEMBREE	281
	WILLIAMS	281
542	VICTOR ROMANO (Not Qualified)	
	COURT	286/294
	(NONE)	293
	DIGGS	293
479	FRANCISCO R. NUNEZ (Not Qualified)	
	COURT	295
	(NONE)	
	(NONE)	
298	ELIZABETH L. HOLTON (Court Qualified)	
	COURT	296/314
	HEMBREE	307
	DIGGS	309
466	THOMAS GARY MURRAY (Court Qualified)	
	COURT	316/328
	(NONE)	324
	DIGGS	324

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137	LONNIE DANIELS, III (Not Qualified)	
	COURT	330/337
	(NONE)	337
	(NONE)	337
522	MICHAEL S. RAY (Court Qualified)	
	COURT	338/349
	HEMBREE	346
	(NONE)	346
115	DARLENE CONSTABLE NOVAK (Not Qualified)	
	COURT	350/356
	(NONE)	356
	(NONE)	356
258	VIRGINIA A. GRISSETT (Not Qualified)	
	COURT	357/359
	(NONE)	359
	(NONE)	359
END DAY		
150	VANCE A. DEFELICE (Not Qualified)	
	COURT	361/364
	(NONE)	364
	(NONE)	364

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372	ANDREW C. LANGWAY (Not Qualified)	
	COURT	366/386/393
	HUMPHRIES	376
	WILLIAMS	381
5	LINDA ALEXANDER MORRISON (Court Qualified)	
	COURT	399/411
	HEMBEE	405
	DIGGS	408
601	WAVERLY L. STANLEY (Court Qualified)	
	COURT	414/428
	MR. RICHARDSON	424
	WILLIAMS	425
539	RYAN L. RODRIQUEZ (Not Qualified)	
	COURT	429/433
	(NONE)	433
	(NONE)	433
99	JOHNNY L. CAUSEY, JR. (Court Qualified)	
	COURT	434/445
	(NONE)	440
	DIGGS	441

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<u>NUMBER</u>	<u>NAME OF JUROR</u>	<u>PAGE/PAGES</u>
181	GERALD A. ELLIS	
	COURT	448/453
	(NONE)	453
	(NONE)	453
330	JENNIFER D. JOHNSON (Court Qualified)	
	COURT	454/473/477
	HEMBREE	463
	DIGGS	467
654	MICHAEL P. WALSH (Not Qualified)	
	COURT	481/488
	(NONE)	488
	(NONE)	488
411	SHARON L. MAPLES (Not Qualified)	489
510	JANE E. POWELL	490
377	PAUL F. LECKIE (Not Qualified)	
	COURT	491/494
	(NONE)	
	(NONE)	
510	JANE E. POWELL (Court Qualified)	
	COURT	494/510
	RICHARDSON	504
	DIGGS	505

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658	KRISTAL N. WARREN (Court Qualified)	
	COURT	512/529
	HUMPHRIES	522
	WILLIAMS	525
38	RICHARD BEASLEY (Not Qualified)	
	COURT	531/535
	(NONE)	535
	(NONE)	535
290	BRENDA L. HOLDERFIELD (Not Qualified)	
	COURT	536/540
	(NONE)	540
	(NONE)	540
448	VICKIE BRADY MILLER (Not Qualified)	
	COURT	541/545
	(NONE)	545
	DIGGS	545
251	RUSSELL M. GREEN (Not Qualified)	
	COURT	547/554
	(NONE)	550
	(NONE)	550

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90	BARBARA A. CARR (Not Qualified)	
	COURT	555
	(NONE)	
	(NONE)	
103	JOYCE ANN CHESTNUT (Court Qualified)	
	COURT	558/572
	HEMBREE	567
	DIGGS	567
208	JILL B. FOWLER (Not Qualified)	
	COURT	575
	(NONE)	
	(NONE)	
46	JAMES G. BELLAMY (Not Qualified)	
	COURT	576/591
	MR. HUMPHRIES	588
	(NONE)	591
660	SYLVIA W. WATERSTON (Not Qualified)	
	COURT	592/605
	MR. HUMPHRIES	602
	MR. DIGGS	605

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594	SANDRA M. SNYDER (Not Qualified)	
	COURT	606/608
	(NONE)	608
	(NONE)	608
690	DELPHIA M. WILSON (Not Qualified)	
	COURT	610/617
	(NONE)	617
	(NONE)	617
424	LISA DAWN McGEE MCKENZIE (Not Qualified)	
	COURT	618/623
	(NONE)	623
	(NONE)	623
480	BONNIE J. OGUIN (Court Qualified)	
	COURT	624/640
	(NONE)	634
	(DIGGS)	634
459	GLORIA L. MORRIS (Not Qualified)	
	COURT	646/654
	(NONE)	654
	(NONE)	654
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69	RANDALL W. BROUGHTON (Not Qualified)	
	COURT	655/674/676
	MR. HEMBREE	666
	MR. DIGGS	670
634	KYNA TRIPLETT (Not Qualified)	
	COURT	677/683
	(NONE)	683
	(NONE)	683
508	BEVERLY B. PITTMAN (Court Qualified)	
	COURT	684/696
	MR. HUMPHRIES	691
	MR. DIGGS	694
484	LINDA J. ORSIMARSI (Not Qualified)	
	COURT	697/703
	(NONE)	703
	(NONE)	703
347	ARIANE E. JOYCE (Court Qualified)	
	COURT	704/718
	MR. RICHARDSON	712
	MR. DIGGS	715

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157	DAVID L. DIMAIO (Not Qualified)	
	COURT	719/724
	(NONE)	724
	(NONE)	724
378	TONIA L. LEIDIG (Not Qualified)	
	COURT	725/729
	(NONE)	729
	(NONE)	729
597	JOYCE E. SPENGLER (Court Qualified)	
	COURT	730/741
	MR. HEMBREE	738
	MR. DIGGS	738
35	MARY B. BATES (Not Qualified)	
	COURT	742/745
	(NONE)	745
	(NONE)	745
608	SIOBHAN M. STEVENS (Court Qualified)	
	COURT	746/756
	MR. HEMBREE	753
	MS. WILLIAMS	754

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662	JIMMY L. WATSON (Court Qualified)	
	COURT	757/770
	MR. HEMBREE	764
	MR. DIGGS	767
19	TINA M. ANGELO (Not Qualified)	
	COURT	770/773/782
	MR. HEMBREE	772
	MR. DIGGS	773
167	LINDA C. DUPREE (Court Qualified)	
	COURT	783/795
	MR. HEMBREE	791
	MR. DIGGS	793
200	STEVEN J. FINLEY (Court Qualified)	
	COURT	797/809
	(NONE)	806
	MS. WILLIAMS	806
95	ANGEL R. CASTILLO (Not Qualified)	
	COURT	811/825
	MR. HEMBREE	821
	MR. DIGGS	819/824

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642	VELVADEAN VAUGHT (Court Qualified)	
	COURT	826/840
	MR. HUMPHRIES	834
	(NONE)	840
131	WALTER D. CUMBOW, JR. (Not Qualified)	
	COURT	840/848
	(NONE)	848
	(NONE)	848
11	WESLEY S. ALLEN (Not Qualified)	
	COURT	849/866
	MR. HEMBREE	862
	(NONE)	866
156	ROSE M. DIAZ (Not Qualified)	
	COURT	867/874
	(NONE)	874
	(NONE)	874
257	CELESTE A. GRIFFIN (Court Qualified)	
	COURT	875/885/888
	MR. HEMBREE	883
	MR. DIGGS	884

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106	ZACHARY A. CLARK (Court Qualified)	
	COURT	889/903
	MR. RICHARDSON	897
	MR. DIGGS	899
352	LISA M. KEANE (Court Qualified)	
	COURT	904/915
	MR. HEMBREE	912
	MS. WILLIAMS	912
237	KIMBERLEY B. C. GOH (Not Qualified)	
	COURT	917/922
	(NONE)	921
	(NONE)	921
337	RHONDA M. JOHNSON (Not Qualified)	
	COURT	922/930
	(NONE)	930
	(NONE)	930
275	SHANON ROSE HEADLEY (Court Qualified)	
	COURT	930/949/958
	MR. HUMPHRIES	942
	MR. DIGGS	944/956

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234	JOHN J. GIRA (Not Qualified)	
	COURT	959/963
	(NONE)	963
	(NONE)	963
380	SHARON L. LEMON (Not Qualified)	
	COURT	965/972
	(NONE)	972
	(NONE)	972
472	SARA P. NEWTON (Court Qualified)	
	COURT	973/991
	MR. HEMBREE	984
	MS. WILLIAMS	988
88	SONNY W. CANNON (Court Qualified)	
	COURT	998/1018
	MR. HEMBREE	1009
	MR. DIGGS	1013
375	MICHAEL L. LAUGHTER (Not Qualified)	
	COURT	1019/1023
	(NONE)	1023
	(NONE)	1023

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668	JEREMIE C. WEST (Not Qualified)	
	COURT	1024/1028
	(NONE)	1028
	(NONE)	1028
568	THOMAS LEE SHELLEY, II (Not Qualified)	
	COURT	1029/1033
	(NONE)	1032
	MR. DIGGS	1032
60	GINA F. BOGGS (Not Qualified)	
	COURT	1034/1038
	(NONE)	
	(NONE)	
351	BRIAN S. KEANE (Not Qualified)	
	COURT	1040/1041
	(NONE)	
	(NONE)	
329	GLENDA F. JOHNSON (Not Qualified)	
	COURT	1043/1052
	(NONE)	1051
	(NONE)	1051

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345	TIMOTHY O. JORDAN (Not Qualified)	
	COURT	1052/1056
	(NONE)	1055
	(NONE)	1055
240	DONNA J. GORE (Not Qualified)	
	COURT	1055/1070
	(NONE)	1070
	(NONE)	1070
4	ANNTANETTE D. AKLIN (Not Qualified)	
	COURT	1071/1076
	(NONE)	1076
	(NONE)	1076
224	TERRY W. GARTNER (Court Qualified)	
	COURT	1077/1090
	MR. HEMBREE	1085
	MR. DIGGS	1085
107	ANDREW J. CLAYBROOK (Not Qualified)	
	COURT	1091/1095
	(NONE)	1095
	(NONE)	1095

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615	ROBERT D. SUMMERS (Court Qualified)	
	COURT	1096/1118/1121
	MR. HEMBREE	1109
	MS. WILLIAMS	1112/1119
41	DANIEL C. BECKER (Not Qualified)	
	COURT	1126/1136
	(NONE)	
	(NONE)	
260	ROBERT WAYNE HALL (Court Qualified)	
	COURT	1137/1154
	MR. HUMPHRIES	1148
	MS. WILLIAMS	1150
393	CHRISTOPHER DANIEL LOMBARDI (Not Qualified)	
	COURT	1155/1160
	(NONE)	
	(NONE)	
215	LYNN W. FRICK (Court Qualified)	
	COURT	1160/1178
	MR. HEMBREE	1170
	MR. DIGGS	1174

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468	HATTIE M. MYERS (Court Qualified)	
	COURT	1179/1194
	MR. HEMBREE	1189
	MR. DIGGS	1190
326	AMANDA L. JOHNSON (Not Qualified)	
	COURT	1194/1198
	(NONE)	1198
	(NONE)	1198
573	DOROTHY SIMPSON (Not Qualified)	
	COURT	1200
	(NONE)	
	(NONE)	
12	JAMES B. ALLISON (Not Qualified)	
	COURT	1203/1205
	(NONE)	1205
	(NONE)	1205
3	GWENDOLYN DIANE AGRIPINO (Court Qualified)	
	COURT	1206/1223
	MR. RICHARDSON	1216
	MS. WILLIAMS	1219

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313	MELISSA A. ISAACSON (Not Qualified)	
	COURT	1224/1227
	(NONE)	1227
	(NONE)	1227
389	DAVID G. LLOYD, III (Court Qualified)	
	COURT	1227/1240
	MR. HEMBREE	1235
	MS. WILLIAMS	1236
622	BEVERLY J. THALMAN (Not Qualified)	
	COURT	1244/1248
	(NONE)	1247
	(NONE)	1247
661	BARRY W. WATSON (Not Qualified)	
	COURT	1249/1252
	(NONE)	1252
	(NONE)	1252
43	DANIEL E. BEGLEY (Not Qualified)	
	COURT	1253/1254
	(NONE)	1254
	(NONE)	1254

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134	NANCY L. CUSTARD (Court Qualified)	
	COURT	1256/1270
	MR. HEMBREE	1266
	MR. DIGGS	1267

LIST OF QUALIFIED POTENTIAL JURORS (SEE PAGE 1271)

#612	Deborah D. Stuhlemmer
#281	Tammy M. Henderson
#343	Lakenya P. Jordan
#102	Johnny Marvin Chestnut
#236	Judy C. Blymph
#446	Jane C. Miller
#685	Stephen D. Williams
#695	Teresa P. Woolard
# 67	Bobby Thomas Branton, Jr.
# 64	Brandon W. Boyd
# 33	Margaret M. Bartomeo
# 53	James Edward Berry
#298	Elizabeth L. Holton
#466	Thomas Gary Murray
#522	Michael S. Ray
# 5	Linda Alexander Morrison
#601	Waverly L. Stanley

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LIST OF QUALIFIED POTENTIAL JURORS (SEE PAGE 1271)

NUMBER NAME OF JUROR

99 Johnny L. Causey, Jr.
#330 Jennifer D. Johnson
#510 Jane E. Powell
#658 Kristal N. Warren
#103 Joyce Ann Chestnut
#508 Beverly P. Pittman
#347 Ariane E. Joyce
#480 Bonnie J. Oguin
#597 Joyce E. Spengler
#608 Siobhan M. Stevens
#662 Jimmy L. Watson
#167 Linda C. Dupree
#642 Velvadean Vaught
#200 Steven J. Finley
#257 Celeste A. Griffin
#106 Zachary A. Clark
#352 Lisa M. Keane
#275 Shanon R. Headley
#472 Sara P. Newton
88 Sonny W. Cannon
#224 Terry W. Gartner
#615 Robert D. Summers

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LIST OF QUALIFIED POTENTIAL JURORS (SEE PAGE 1271)

<u>NUMBER</u>	<u>NAME OF JUROR</u>
#260	Robert W. Hall
#215	Lynn W. Frick
#468	Hattie M. Myers
# 3	Gwendolyn D. Agripino
#389	David G. Lloyd, III
#134	Nancy L. Custard

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>
C-001	Dr. Pomeh Crawford's Report	
C-002	Dr. Thomas Sachy's Report	
C-003	Witness List and Questionnaire (Juror #612)	54
C-004	Witness List and Questionnaire (Juror #281)	77
C-005	Witness List and Questionnaire (Juror #343)	96
C-006	Witness List and Questionnaire (Juror #102)	113
C-007	Witness List and Questionnaire (Juror #199)	127
C-008	Witness List and Questionnaire (Juror #236)	143
C-009	Witness List and Questionnaire (Juror #446)	163
C-010	Witness List and Questionnaire (Juror #685)	176
C-011	Witness List and Questionnaire (Juror #695)	197
C-012	Witness List and Questionnaire (Juror #022)	212
C-013	Witness List and Questionnaire (Juror #564)	217
C-014	Witness List and Questionnaire (Juror #231)	228

1	<u>EXHIBITS</u>		
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>
3	C-015	Witness List and Questionnaire (Juror #067)	245
4	C-016	Witness List and Questionnaire (Juror #064)	258
5	C-017	Witness List and Questionnaire (Juror #033)	272
6	C-018	Witness List and Questionnaire (Juror #053)	286
7	C-019	Witness List and Questionnaire (Juror #542)	295
8	C-020	Witness List and Questionnaire (Juror #298)	316
9	C-021	Witness List and Questionnaire (Juror #466)	329
10	C-022	Witness List and Questionnaire (Juror #137)	337
11	C-023	Witness List and Questionnaire (Juror #522)	349
12	C-024	Witness List and Questionnaire (Juror #115)	356
13	C-025	Witness List and Questionnaire (Juror #258)	359
14	C-026	Witness List and Questionnaire (Juror #150)	365
15	C-027	Witness List and Questionnaire (Juror #372)	387
16	C-028	Witness List and Questionnaire (Juror #005)	411
17	C-029	Witness List and Questionnaire (Juror #601)	428
18	C-030	Witness List and Questionnaire (Juror #539)	433
19	C-031	Witness List and Questionnaire (Juror #099)	446
20	C-032	Witness List and Questionnaire (Juror #181)	453
21	C-033	Witness List and Questionnaire (Juror #330)	477
22	C-034	Witness List and Questionnaire (Juror #654)	488
23	C-035	Witness List and Questionnaire (Juror #377)	492
24	C-036	Witness List and Questionnaire (Juror #510)	510
25	C-037	Witness List and Questionnaire (Juror #658)	530

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>
C-038	Witness List and Questionnaire (Juror #038)	535
C-039	Witness List and Questionnaire (Juror #290)	541
C-040	Witness List and Questionnaire (Juror #448)	546
C-041	Witness List and Questionnaire (Juror #251)	554
C-042	Witness List and Questionnaire (Juror #090)	557
C-043	Witness List and Questionnaire (Juror #103)	572
C-044	Witness List and Questionnaire (Juror #046)	591
C-045	Witness List and Questionnaire (Juror #660)	605
C-046	Witness List and Questionnaire (Juror #594)	610
C-047	Witness List and Questionnaire (Juror #690)	617
C-048	Witness List and Questionnaire (Juror #424)	623
C-049	Witness List and Questionnaire (Juror #480)	643
C-050	Witness List and Questionnaire (Juror #459)	654
C-051	Witness List and Questionnaire (Juror #069)	676
C-052	Witness List and Questionnaire (Juror #634)	683
C-053	Witness List and Questionnaire (Juror #508)	696
C-054	Witness List and Questionnaire (Juror #484)	703
C-055	Witness List and Questionnaire (Juror #347)	718
C-056	Witness List and Questionnaire (Juror #157)	725
C-057	Witness List and Questionnaire (Juror #378)	729
C-058	Witness List and Questionnaire (Juror #597)	741
C-059	Witness List and Questionnaire (Juror #035)	745
C-060	Witness List and Questionnaire (Juror #608)	756

1	<u>E X H I B I T S</u>		
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>
3	C-061	Witness List and Questionnaire (Juror #662)	770
4	C-062	Witness List and Questionnaire (Juror #019)	782
5	C-063	Witness List and Questionnaire (Juror #167)	796
6	C-064	Witness List and Questionnaire (Juror #200)	809
7	C-065	Witness List and Questionnaire (Juror #095)	825
8	C-066	Witness List and Questionnaire (Juror #642)	840
9	C-067	Witness List and Questionnaire (Juror #131)	848
10	C-068	Witness List and Questionnaire (Juror #011)	866
11	C-069	Witness List and Questionnaire (Juror #156)	874
12	C-070	Witness List and Questionnaire (Juror #257)	888
13	C-071	Witness List and Questionnaire (Juror #106)	903
14	C-072	Witness List and Questionnaire (Juror #352)	915
15	C-073	Witness List and Questionnaire (Juror #237)	922
16	C-074	Witness List and Questionnaire (Juror #337)	930
17	C-075	Witness List and Questionnaire (Juror #275)	957
18	C-076	Witness List and Questionnaire (Juror #234)	964
19	C-077	Witness List and Questionnaire (Juror #380)	972
20	C-078	Witness List and Questionnaire (Juror #472)	992
21	C-079	Witness List and Questionnaire (Juror #088)	1018
22	C-080	Witness List and Questionnaire (Juror #375)	1023
23	C-081	Witness List and Questionnaire (Juror #668)	1028
24	C-082	Witness List and Questionnaire (Juror #568)	1033
25	C-083	Witness List and Questionnaire (Juror #060)	1038

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>
C-084	Witness List and Questionnaire (Juror #351)	1041
C-085	Witness List and Questionnaire (Juror #329)	1052
C-086	Witness List and Questionnaire (Juror #345)	1056
C-087	Witness List and Questionnaire (Juror #240)	1070
C-088	Witness List and Questionnaire (Juror #004)	1076
C-089	Witness List and Questionnaire (Juror #224)	1091
C-090	Witness List and Questionnaire (Juror #107)	1096
C-091	Witness List and Questionnaire (Juror #615)	1121
C-092	Witness List and Questionnaire (Juror #041)	1136
C-093	Witness List and Questionnaire (Juror #260)	1154
C-094	Witness List and Questionnaire (Juror #393)	1160
C-095	Witness List and Questionnaire (Juror #215)	1178
C-096	Witness List and Questionnaire (Juror #468)	1194
C-097	Witness List and Questionnaire (Juror #326)	1198
C-098	Witness List and Questionnaire (Juror #012)	1205
C-099	Witness List and Questionnaire (Juror #003)	1223
C-100	Witness List and Questionnaire (Juror #313)	1227
C-101	Witness List and Questionnaire (Juror #389)	1241
C-102	Witness List and Questionnaire (Juror #622)	1248
C-103	Witness List and Questionnaire (Juror #661)	1253
C-104	Witness List and Questionnaire (Juror #043)	1256
C-105	Witness List and Questionnaire (Juror #134)	1270

1 (THE FOLLOWING TAKES PLACE ON NOVEMBER 9, 2009, OUTSIDE
2 THE PRESENCE OF ALL OTHER JURORS SUMMONED AS POTENTIAL JURORS
3 FOR THE TRIAL OF THIS CASE.)

4 DEBORAH D. STUHLEMMER, JUROR NUMBER
5 612, being first duly sworn, states as follows:

6 BY THE COURT:

7 THE COURT: All right. And is it Ms. ---

8 A. Stuhlemmer.

9 THE COURT: ---Stuhlemmer.

10 A. Yes sir.

11 THE COURT: All right. Ma'am, what I'm going to do
12 is -- first thing I'm just going to talk to you for a minute
13 or two and give you some information, and then I'm going to
14 ask you some questions, and then the -- the Solicitor, or
15 Deputy Solicitor will ask you some questions and then either
16 Mr. Diggs or Ms. Williams will ask you some questions, all
17 right.

18 There's no right or wrong answers here. We are just
19 looking for, you know, what your answers and beliefs are.
20 Okay.

21 A. Okay.

22 THE COURT: First, did you have a chance to go through
23 those two sheets?

24 A. Uh huh (indicating positive)

25 THE COURT: Very good. Thank you, Ma'am.

1 A. You are welcome.

2 **THE COURT:** All right. In this particular matter, as I
3 indicated to you before, the State has charged Mr. Stanko with
4 murder and armed robbery. To both of those crimes he pled not
5 guilty, has requested a jury trial, and that puts the burden
6 on the State of South Carolina to prove the Defendant guilty
7 beyond a reasonable doubt of each and every element of those
8 crimes. That's the State's burden. The Defendant doesn't
9 have to prove or show anything in this matter.

10 The State has filed notice seeking the -- of intention
11 to seek the death penalty. Now, in South Carolina not every
12 case where someone is charged with a murder is a death penalty
13 case. There -- those are -- there are separate types, and
14 when that occurs -- when the State files that notice -- the
15 State can only seek the death penalty when there is a murder
16 accompanied by what is called a aggravating circumstance, and
17 there is a list of those that's in the law, and when it comes
18 time to appropriately consider those the Court would let you
19 know, if you are on the jury, what those are, but by aggravate
20 we mean to make worse or exacerbate the situation. That would
21 be in the second phase of the trial. If the Defendant, Mr.
22 Stanko, is found guilty of the -- of the murder, then when we
23 go into the second phase -- and only if he's found guilty
24 unanimously by the jury of murder. In the second phase the
25 jury also can obviously -- may impose life. This does not

1 have to be unanimous. The death sentence has to be unanimous.
2 Life does not have to be unanimous. It could be one juror
3 that wants to impose the life sentence.

4 The jury is required to consider any kind of mitigating
5 circumstance that the Court describes, and that -- mitigate
6 means to lessen or reduce fault or culpability, or reduce the
7 punishment, and the jury could impose life for no reason at
8 all, that is, that they want to have an act of mercy. Do you
9 understand that?

10 A. (NODS HEAD AFFIRMATIVE)

11 THE COURT: All right. And then -- when we ask
12 questions you will have to say yes or no because the Court
13 Reporter can't take down uh huh or whatever, okay. Thank you,
14 Ma'am.

15 All right. If the jury unanimously is going to, or
16 imposes the death penalty then another part of that is that
17 each juror is required, regarding that unanimous decision, to
18 sign their name on a verdict. So if death is the verdict,
19 unanimous verdict of all the jurors, each member of the jury
20 has to sign their name to that verdict form.

21 Now, as a member of the jury -- if you are selected as a
22 member of the jury it would be your responsibility to come
23 into the courtroom, to set aside anything that you may have
24 heard about this case, anything you may have learned about it
25 previously, set aside any kind of bias or prejudice that you

1 might have, listen carefully to the testimony and evidence
2 presented in the courtroom, and when it comes time, render a
3 verdict based -- that's solely based on the testimony and
4 evidence that you hear in the courtroom, and the law that the
5 Court will instruct you. You have to follow exactly the law
6 that I would give to the jury. Whether or not you agree with
7 it that would be your job to follow the law as the Court
8 instructs you. You don't have an independent decision in that
9 regard. All right. Do you understand that?

10 A. (NODS HEAD AFFIRMATIVE)

11 THE COURT: All right. Let me just ask you a few
12 questions then. Since Friday did you read, listen, watch,
13 look up, research anything about this case since we were here
14 on Friday?

15 A. No.

16 THE COURT: All right. Since we were here on Friday
17 did you talk to anybody about this case in any way, since
18 Friday?

19 A. No.

20 THE COURT: All right. Now, prior to Friday had you
21 heard, seen or read anything, or know anything about this
22 particular case, in the past?

23 A. Yes.

24 THE COURT: All right, Ma'am, and what might have
25 that -- what was that?

1 A. Newspaper reports and the internet.

2 THE COURT: Okay. All right. Now, as a result of that
3 did you form any kind of opinion in your mind, or express any
4 opinion to anyone when you heard or read about that stuff?

5 A. Yes.

6 THE COURT: And what was that?

7 A. The last thing that I read was about the conviction in
8 the other case, and prior to that I had -- hadn't had an
9 opinion but it's just difficult not to have an opinion when
10 somebody has been convicted once.

11 THE COURT: All right, Ma'am. You understand that the
12 matter, the prior matter that was in Georgetown is a
13 completely separate matter.

14 A. Yes sir.

15 THE COURT: It is unrelated as far as the facts of this
16 case. It will not be discussed in this particular trial. It
17 cannot be brought up in this trial. It is not part of this
18 particular matter. You understand that?

19 A. Yes.

20 THE COURT: All right, Ma'am. Based upon expressing
21 that opinion, what was the opinion? What was it that you
22 expressed?

23 A. How to put it delicately. Once somebody has been
24 convicted and they have the death penalty and they are waiting
25 for the date kind of seems redundant. I know it's not the

1 same case, but I'm very conservative in that way with funds,
2 having problems with our government right now with all the
3 money they are spending on things, and it's just -- it is hard
4 to justify more funds, more -- I realize it's a different
5 case, and that he does deserve to be heard in the other case.

6 THE COURT: Okay. In that regard, do you think that --
7 are you going to be able to set that aside in this particular
8 matter? As I told you, what you have to do is make your
9 decision based upon what you hear in this courtroom, and the
10 first thing the jury is going to have to decide is whether or
11 not the State has proved beyond a reasonable doubt that Mr.
12 Stanko committed the crimes the State has charged him with,
13 the murder and the armed robbery. That's the first thing that
14 the jury would have to decide, and obviously they can only do
15 that based upon what you have heard in this courtroom, and the
16 evidence that's in this courtroom. Are you going to be able
17 to do that, not let any of that affect your decision in any
18 way, because that's what you have to do.

19 A. I think that I could. I've had things, you know, in
20 the past, and you just kind of have to be, okay it stops here,
21 this is where this story starts, and you need to move forward
22 from that.

23 THE COURT: All right. And we will probably get back
24 to this in just a minute, but let me go over a couple of other
25 things.

1 Did you -- do you believe you have -- and I asked this
2 general question earlier on Friday and asked people to think
3 about it. Do you think you have any kind of personal,
4 political, religious or philosophical belief that you believe
5 would prevent you from being a fair and impartial juror in
6 this case?

7 A. I don't think so.

8 **THE COURT:** All right. In this category of jurors you
9 circled (A); correct?

10 A. Yes sir.

11 **THE COURT:** All right, Ma'am, and (A) is one who, once
12 the crime of murder has been proved by the State beyond a
13 reasonable doubt, and while in the sentencing phase
14 considering the punishment feels that he or she must give the
15 death penalty in each and every case, that once a murder has
16 been committed the death penalty is only appropriate
17 punishment no matter what the circumstance of the case, and
18 you indicate that you would not hear what the facts and
19 circumstances in the aggravation or mitigation in this
20 particular case are because you have already made up your mind
21 considering the punishment no matter what you heard; is that
22 correct?

23 A. Yes sir.

24 **THE COURT:** All right, Ma'am. You understand that that
25 is not the law of the State of South Carolina. You understand

1 that?

2 A. No.

3 THE COURT: All right, Ma'am. You understand that in
4 a particular case where the State seeks the death penalty
5 there -- if the jury gets to that phase of the trial the jury
6 has to find beyond the murder an aggravating circumstance,
7 something beyond the murder, and if they don't find that they
8 could not impose the death sentence.

9 A. Okay.

10 THE COURT: Even if you find -- even if the jury finds
11 an aggravating circumstance they not only have to consider the
12 mitigating circumstances, but even if they found an
13 aggravating circumstance the jury can impose a life sentence,
14 because as I told you, the jury could impose a life sentence
15 and that could be one juror, because remember, life doesn't
16 have to be unanimous, death has to be, but life doesn't,
17 because a single juror wants to extend it as an act of mercy.
18 You understand that?

19 A. Yes sir.

20 THE COURT: All right. You understand that is the law
21 of the State of South Carolina?

22 A. Yes, now.

23 THE COURT: All right. Understanding that can you set
24 aside your previous belief and listen to the facts and the
25 evidence in this case, follow the law that the Court will give

1 you, and thereafter render a verdict, despite whatever
2 previous believe you might have held?

3 A. I believe so.

4 THE COURT: All right, Ma'am. You have not circled
5 anybody in the -- on the witness list; is that correct?

6 A. No, I haven't.

7 THE COURT: All right. Thank you, Ma'am.

8 And I want to be certain. If we get to a sentencing
9 phase can you fairly and impartially consider a life sentence?

10 A. Yes. I should probably explain because I was under the
11 misunderstanding, I suppose, that if they ask for life it was
12 that or nothing, so if there ---

13 THE COURT: All right. Okay. Let's -- and I don't
14 mean to interrupt you. Just so that you understand, life
15 means exactly what it means. It means life in prison without
16 the possibility of parole. That's what life means, so that
17 you understand when we say or somebody else mean -- when we
18 talk about life that's what it means.

19 A. Okay.

20 THE COURT: All right, so tell me again -- I'm sorry.
21 I'm not sure I understood.

22 A. That's okay. I'm sorry. I probably mis-spoke, but if
23 they are seeking the death penalty and my assumption -- just
24 because I've never been through this before ---

25 THE COURT: Yes Ma'am.

1 A. ---Was that it's that or nothing, not that there was
2 another option as far as life or whatever.

3 THE COURT: Okay. All right. So, you now understand
4 that if the jury unanimously finds the Defendant guilty of
5 murder in the first phase, and they go into the second phase,
6 then the jury basically has two options. The jury must either
7 find death unanimously or then a sentence of life without the
8 possibility of parole -- and again, that doesn't have to be
9 unanimous. It could be one juror that would vote or feel that
10 particular way. You understand that?

11 A. Yes.

12 THE COURT: All right. So, understanding that to be
13 the case, did you want to look at the category of jurors again
14 and ---

15 A. We can change it to (C). I understand now.

16 THE COURT: Okay. You understand that. So looking at
17 that -- and let me hand that back to you so that -- read --
18 see again, and I want you to be clear about that. If you
19 would read that and see if that -- now that we have talked
20 about it you believe that to be what you would do.

21 A. Yes sir.

22 THE COURT: All right, Ma'am. So ---

23 Do we have another one of those forms, Madame Clerk?

24 CLERK OF COURT: They are all in the back but I can get
25 you one.

1 **THE COURT:** They are all in the back. All right.

2 Do you have a pen with you?

3 A. Yes sir.

4 **THE COURT:** All right. If you don't I have one here,
5 if you would like.

6 A. I guess you want me to just circle and initial it?

7 **THE COURT:** Yes Ma'am. If you would -- if you would
8 like to. I'm not telling you to. If you would like to change
9 your answer I'll be glad for you to do so.

10 All right. Thank you, Ma'am.

11 A. Yes sir.

12 **THE COURT:** All right. In general, do you know of any
13 reason, have any question in your mind, any doubt in your mind
14 that you believe you can't give to the State and to the
15 Defendant a fair and impartial trial, and listen to the law
16 that the Court gives you, that is, for any reason whatsoever
17 you believe you can't be fair and impartial to the State and
18 the Defendant?

19 A. No.

20 **THE COURT:** All right. I'm sure I'll probably have a
21 few more questions for you but why don't -- why don't we let
22 the Solicitor and defense attorney ask you some questions and
23 then we will go from there. All right. Thank you, Ma'am.

24 Solicitor.

25 **MR. HEMBREE:** Thank you, Your Honor.

1 Good morning.

2 BY MR. HEMBREE:

3 A. Good morning.

4 Q. Make sure I pronounce your name correctly. What is it,
5 Stuhlemmer?

6 A. Stuhlemmer.

7 Q. Stuhlemmer. Stuhlemmer.

8 A. No (y).

9 Q. Yes, Stuhlemmer. Thank you.

10 I've got a few questions. Some of it is probably going
11 to sound a bit repetitive.

12 I want to introduce myself. I'm Greg Hembree. I'm the
13 Solicitor for the Fifteenth Circuit and I, along with Fran
14 Humphries and Jimmy Richardson will be presenting the evidence
15 on behalf of the State of South Carolina in the next -- if you
16 are selected on this jury -- over the next few weeks.

17 Really going to focus on kind of three issues. The
18 first I wanted to talk with you about Judge John sort of
19 talked a little bit about it, about the media exposure you've
20 had in this case. You indicated that you had seen some
21 internet, some newspaper reports, and had formed some
22 opinions.

23 A. Uh huh (indicating positive)

24 THE COURT: Remember, Ma'am, you have to say yes or no.

25 A. Oh, yes sir. Sorry.

1 **THE COURT:** I'm sorry. Go ahead.

2 Q. And I guess let me step back one second and say there -
3 - there really aren't right answers, there are truthful
4 answers. We are not -- we are just trying to, you know, find
5 out where you really are so don't -- I don't want you to feel
6 like I'm leading you one way or another.

7 A. Okay.

8 Q. Just be as -- just give it to me -- give it to me
9 straight.

10 A. Okay.

11 Q. On the issue of media you also indicated to Judge
12 John's question that -- that you felt like you could set that
13 aside, and that you would be able to confine your analysis of
14 this case to the evidence that's presented in this courtroom.

15 A. Yes sir.

16 Q. Is that -- and you feel confident you can do that?

17 A. Yes sir.

18 Q. The second issue is really about the death penalty
19 itself. And Judge John, again, talked about this so you've
20 reviewed the form, and you indicated you didn't really
21 understand first that -- you know, how -- it's kind of legal
22 ease, and (A), and (B), and (C), and it's easy to get kind of
23 off track, but you feel like you are a type -- what -- type
24 (C) -- what we might call a type (C) juror; is that accurate?

25 A. Yes sir.

1 Q. That's the kind of juror that says, you know, I could
2 either find for death or find for life, depending on the facts
3 and circumstances in the case.

4 A. Yes sir.

5 Q. And my question is, given the sufficient facts, and the
6 appropriate circumstances, the fact that the State proves a --
7 in addition to the crime, proves a statutory aggravating
8 circumstance, Judge John talked about ---

9 A. Uh huh (indicating positive)

10 Q. ---And in that situation you would be able to vote for
11 a death verdict, if you believed it to be appropriate?

12 A. Yes sir.

13 Q. Nothing about -- and I know Judge John talked about
14 this, about your philosophy, or just your views of things that
15 would prevent you from doing that.

16 A. No.

17 Q. Now, the last issue I want to touch -- touch with you
18 on is on sequestration, and I don't know how much Judge John
19 may have covered this more on last Friday, but if you are
20 selected on this jury then you will be sequestered with the
21 other jurors. You will be -- you will actually stay in a
22 hotel room for a period of time, for the length of the trial.
23 We think the trial, actually once it starts, will probably
24 take seven, eight, nine days, something like that.

25 A. Okay.

1 Q. You will be living in a hotel. Your meals will be
2 provided for you -- your accommodations will all be provided
3 for, but you will be away from your work, you will be away
4 from your family. You will be able to talk with them on the
5 phone occasionally, but you know, you would be pretty well
6 kept separate so you can't -- keep you away from the news
7 media and things like that. ---

8 A. Right.

9 Q. ---Any outside -- would that provide any medical
10 hardship, or a hardship that was -- I know it's difficult, no
11 question about that, it's going to be difficult, it's a
12 hardship to do that, but as far as some sort of a, you know, a
13 health situation or a safety situation that would be
14 absolutely intolerable for you to bear?

15 A. No.

16 Q. And I know Judge John -- I think he touched on this as
17 well, but if you were selected on a jury, if you found that
18 death was the appropriate verdict, you would be required to
19 actually sign your own name to the verdict form. You would be
20 able to do that?

21 A. Yes sir. Yes.

22 THE COURT: All right, Mr. Diggs or Ms. Williams.

23 MR. DIGGS: Thank you, Your Honor.

24 THE COURT: Thank you.

25 BY MR. DIGGS:

1 Q. Ms. Stuhlemmer, how you are this morning?

2 A. Okay. How are you?

3 Q. I'm good.

4 You have an opinion already in this case about the
5 Defendant's guilt or innocence; is that correct?

6 A. Well, an opinion about what happened previous.

7 Q. Yes.

8 A. Yes.

9 Q. Okay. Good enough. Fair enough. We would expect
10 there to be various verdict possibilities in this case,
11 guilty, not guilty, not guilty by reason of insanity, guilty
12 but mentally ill. Would you have the ability to listen to all
13 of the evidence in the case, and make a decision as to the
14 appropriate verdict based on that evidence and the law that
15 the Judge instructs you?

16 A. Yes sir.

17 Q. Okay. You don't have any particular bias in favor of
18 how this case should be resolved as we sit here this morning?

19 A. No. I don't know anything about this particular one.

20 Q. Okay. Do you believe that there are expected
21 responses? You look around in the courtroom today you see
22 people here. The Judge asked you, could you set aside your
23 knowledge of the -- what you have heard about the case, and
24 render a verdict based on the evidence presented in the
25 courtroom. Do you feel that there's an expected response from

1 you with regard to that question?

2 A. No.

3 Q. You don't feel that the Court expects you to say yes, I
4 could set it aside?

5 A. No.

6 Q. Because you can be honest with us?

7 A. Uh huh (**indicating positive**) No. I think they are
8 just trying to find the right set of people.

9 Q. Pardon?

10 A. They are just trying to find the right set of people,
11 and I don't think that the Court way -- either way.

12 Q. Okay.

13 A. You know.

14 Q. So you are not simply trying to please the Judge, or
15 either of the attorneys by saying, oh yeah, I could set that
16 aside?

17 A. No. I don't usually just try to please the people.

18 Q. Okay. You would -- okay, based on what you thought in
19 the evidence, or -- based on the evidence in this case, that
20 would be the basis for which you would render an opinion?

21 A. Yes.

22 Q. Okay. Do you believe there is -- or do you have
23 knowledge as to whether there's a prevailing view in the
24 community with regard to this Defendant's guilt?

25 A. I'm not sure I understand completely.

1 Q. Do you think your friends and neighbors and family
2 believe he's guilty?

3 A. I have no idea. We haven't talked about it.

4 Q. Okay. You have never discussed it with anyone to your
5 memory?

6 A. No, only the article that I saw online while I was at
7 work, and was the only thing we had a discussion.

8 Q. Do you feel like you have an obligation -- and you can
9 be completely honest here and up front with us. Do you feel
10 like you have an obligation to your friends and community to
11 convict the Defendant?

12 A. No.

13 Q. Do you believe you would have any difficulty in
14 returning home? Let's say you selected a verdict in this case
15 that was other than guilty. Do you believe you could return
16 home and look them in the face and feel confident or
17 comfortable about your verdict?

18 A. Yes.

19 Q. You wouldn't feel pressured at that point?

20 A. No. I argue with people quite often.

21 Q. Okay. All right. A lot of us do in the courtroom.

22 Do you know where Mr. Stanko resides right now?

23 A. No sir.

24 Q. Okay. Do you know anything about his criminal history,
25 or lack thereof?

1 A. Only the article that I had read.

2 Q. What do you remember that article saying?

3 A. I guess the -- just that he went to trial for the
4 murder of the girlfriend, and that he was convicted and
5 waiting for a date.

6 Q. Okay. He was -- what was the sentence imposed in that
7 case; do you know?

8 A. The death penalty.

9 Q. All right. Now knowing that, and based on your
10 comments earlier when the Judge was asking you, do you feel
11 like that, in some way, lessens -- let's say if you were
12 seated on the jury and you had to make a decision about life
13 or death in this case, do you feel that the fact that you have
14 knowledge he's already under a death sentence, does that
15 undermine your sense of responsibility in this case with
16 respect to punishment?

17 A. No. It's two separate issues, and now they are waiting
18 to hear on this one.

19 Q. All right. You would understand that if you were
20 called upon to make a death verdict decision in this case that
21 that very likely could be the decision that would lead to the
22 execution of the Defendant, and not necessarily some other
23 proceeding; do you understand that?

24 A. Yes sir.

25 Q. And you would have the same sense of responsibility in

1 this case that you would have in the absence of some prior
2 death sentence?

3 A. Yes sir.

4 Q. Is that fair to say. Okay. And counsel pointed out
5 for me that you had made a comment in response to a different
6 question that it was difficult to have another opinion when
7 you have knowledge that he had already been convicted in
8 another case, but you understand now, at this point, he has
9 not be convicted of this alleged offense.

10 A. Correct.

11 Q. He has not been, and that this team of attorneys over
12 here are going to have to prove that guilt beyond a reasonable
13 doubt in this case in this County ---

14 A. Yes sir.

15 Q. ---You understand that?

16 A. Yes sir.

17 Q. And it has really nothing to do with what happened in
18 another county?

19 A. Right. That was the opinion of what happened on that.

20 Q. All right. And I want you to -- and I'm not being
21 smart about this or anything. I want you to think, and let us
22 know if you feel like that you've really tried to be honest in
23 answering our questions this morning.

24 A. Yes sir.

25 MR. DIGGS: Okay. All right. Thank you.

1 **THE COURT:** All right. One -- one follow up question,
2 Ma'am, just to -- based on all the questions that you have
3 heard the Court and the attorneys ask you, can you follow the
4 law that the Court will give you in this particular case and
5 render a verdict that is based solely upon the evidence that
6 is presented in this courtroom and not be influenced by
7 anything outside this courtroom?

8 A. Yes sir.

9 **THE COURT:** Thank you, Ma'am.
10 Further questions from the State?

11 **MR. HEMBREE:** None from the State, Your Honor.

12 **MR. DIGGS:** Your Honor, can I just follow up? Counsel
13 pointed out I missed -- forgot a couple of questions they had
14 wanted me to ask.

15 **THE COURT:** All right, sir. Go ahead.

16 **MR. DIGGS:** It's new.

17 **THE COURT:** That's all right. Go ahead.

18 **MR. DIGGS:** Okay.

19 **BY MR. DIGGS:**

20 Q. Ma'am, there were some individuals in your family that
21 were in law enforcement or victims of a crime?

22 A. Yes sir.

23 Q. Can you tell us who that -- who the victims were in
24 your family, what that related to?

25 A. Basically it was my entire family. We were still

1 children, and someone broke into our home and ransacked and
2 stole my father's gun.

3 Q. Okay. So it was a burglary?

4 A. Yes sir.

5 Q. And with respect to the law enforcement who in your
6 family ---

7 A. My nephew.

8 Q. Okay. And where does he work?

9 A. Horry County.

10 Q. Okay. That wouldn't -- or would that affect your
11 ability to be fair and impartial?

12 A. I don't believe so. I've never talked to him about
13 cases or anything so ---

14 MR. DIGGS: Okay.

15 All right. Thank, Your Honor, and thank you, Ma'am.

16 THE COURT: All right. Thank you.

17 All right. Can we have this juror go to -- I believe
18 jury room (A) is empty. It's not being used. We are not
19 having civil court, so if you could have her go -- that's the
20 end -- end jury room -- for just a moment. Okay. If you
21 don't mind, Ma'am, please.

22 Okay. Deputy, make sure that that far jury room is
23 clear. All right, sir.

24 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
25 JUROR.)

1 **THE COURT:** All right. What's the position of the
2 State on this particular juror?

3 **MR. HEMBREE:** The juror is qualified, Your Honor.

4 **THE COURT:** The Defense's position on this particular
5 juror?

6 **MR. DIGGS:** Your Honor, I would object to her and ask
7 that she be excused for cause because she had knowledge about
8 the case, she has an opinion about the guilt, and I know what
9 she responded to in the voir dire, but clearly it's just not
10 the best that we can do here. I mean the juror is a great --
11 you are looking at her questionnaire she's a great citizen of
12 the community, dependable, and has very positive attributes,
13 but that's not the type of juror that we would want to seat in
14 this case, someone who has knowledge of it, has read about it
15 on the internet, knows about the death sentence. It's just
16 too much to ask of this woman to set all of that aside and be
17 completely fair, so we would ask the Court excuse her.

18 **THE COURT:** All right.

19 Yes, Solicitor.

20 **MR. HEMBREE:** Well, Your Honor, I -- and just to
21 respond to Mr. Diggs' request, she was thoroughly, thoroughly
22 examined by the Court, somewhat by the State, and very
23 thoroughly by defense counsel on that very issue as to whether
24 or not she would be able to set aside her fairly limited
25 knowledge of the prior conviction on the other case. She

1 repeatedly and clearly answered that she could set that aside,
2 that this was a totally separate matter, that -- you know, two
3 separate issues. Again and again and again Mr. Diggs -- well,
4 myself and the Court asked her and she consistently responded
5 that that would not affect her ability to be fair and
6 impartial in this case, and that's the standard, Your Honor.
7 We would ask that she be qualified.

8 **THE COURT:** Thank you very much.

9 I find that the juror is qualified for the further
10 selection process.

11 And Madame Clerk we have numbers where we can
12 communicate with this particular juror and tell her a time and
13 date to come back?

14 **CLERK OF COURT:** Yes sir.

15 **THE COURT:** All right. The -- okay.

16 **CLERK OF COURT:** I have a home number and a work
17 number. I have no cell phone number.

18 **THE COURT:** All right. We will need to -- can you
19 print out that letter that -- sent to you?

20 **CLERK OF COURT:** Yes. I was going to do that while you
21 were doing that.

22 **THE COURT:** That's all right. Can you print out ---

23 And this might be something -- gentlemen, this is just
24 an information letter to the juror. When the Clerk prints it
25 out if y'all will come over and look at it please. Make sure

1 that y'all are in agreement with it. Make sure there is not a
2 problem with it.

3 MR. DIGGS: Oh, you want to come around, Ma'am?

4 THE COURT: Well, she's going to print it out. She's
5 going to print it out, and then she -- y'all can look at it.
6 It will probably be easier for y'all to do that.

7 In the meantime, Deputy, can you go get a cell phone
8 number from that juror, please. Thank you, sir.

9 If you -- Madame Clerk, here is the cell phone number
10 for the juror. The Deputy has it. Here it is.

11 (CONVERSATION BETWEEN COURT AND CLERK OF COURT OFF THE
12 RECORD.)

13 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

14 THE COURT: All right, Deputy, you want to hand this
15 letter to that juror in jury room (A), Stuhlemmer, and tell
16 her she is excused for now, to expect a call back from the
17 Clerk's Office. Okay. She can go home now, but expect a call
18 from the Clerk's Office. All right.

19 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
20 JUROR NUMBER 612 MARKED COURT'S EXHIBIT NUMBER 3.)

21 THE COURT: All right, Ma'am, could you come around up
22 to the witness stand.

23 Madame Clerk.

24 TAMMY M. HENDERSON, JUROR NUMBER
25 281, being first duly sworn, states as follows:

1 BY THE COURT:

2 THE COURT: All right. Ms. Henderson, first did you
3 have a chance to fill out those two forms?

4 A. Yes sir, I did.

5 THE COURT: Could you hand those to me, please Ma'am?
6 Thank you Ma'am.

7 A. Uh huh (indicating positive)

8 THE COURT: All right. Ms. Henderson, let me go over a
9 couple of things with you and then I will have some questions
10 for you, and then the representatives of the State and the
11 Defense will be able to ask you some questions, okay.

12 A. Sure.

13 THE COURT: And when you answer the questions I'm going
14 to need for you to -- don't use uh huh or uh uh because the
15 Court Reporter can't take those down. It has to be yes or no,
16 and if you need to explain the answer certainly feel free to
17 do that. There aren't any right or wrong answers here. We
18 just -- we have to find a fair and impartial juror and this is
19 how we do it. Okay.

20 A. Yes sir.

21 THE COURT: All right. Thank you, Ma'am.

22 All right, the State of South Carolina has charged the
23 Defendant, Mr. Stanko, with murder and armed robbery. To
24 those charges that the State has brought against him the
25 Defendant has pled not guilty. Now that puts the burden of

1 proof, as I have indicated before, on the State of South
2 Carolina to prove the Defendant guilty beyond a reasonable
3 doubt. The Defendant doesn't have anything to prove or show
4 to -- or to the -- to the jury.

5 In South Carolina not every case where the State charges
6 somebody with murder is there an intention to seek the death
7 penalty. The State has so served that notice in this
8 particular case. In order for the State to seek the death
9 penalty there -- the murder must be accompanied by what is
10 called an aggravating circumstance. The law has a set of what
11 are called aggravating circumstances, and if that comes to be
12 part of this case then the Court would instruct the jury what
13 those aggravating circumstances are, but in general it means
14 to aggravate or make worse, or exacerbate the situation; you
15 understand that?

16 A. I understand.

17 THE COURT: All right. Now this would be in the second
18 phase of the trial. The first phase is whether or not the
19 State proves the Defendant guilty beyond a reasonable doubt of
20 the crime of murder. If that's not the unanimous verdict of
21 the jury then obviously we don't get to the second phase. We
22 only get to the second phase if the jury unanimously finds the
23 Defendant guilty, beyond a reasonable doubt, of the crime of
24 murder.

25 Now, also in the second phase, besides the State's

1 requesting the death penalty the life -- the jury has the
2 ability to impose life. The two sentences that are before the
3 jury in the sentencing phase are death or life in prison
4 without the possibility of parole, and so when we speak about
5 life that's what we mean, life in prison without the
6 possibility of parole.

7 The jury is required to consider any kind of mitigating
8 circumstance that the Court may instruct you about -- and
9 mitigate means to lessen or reduce the fault or culpability,
10 or reduce the punishment. And again, there's a list of those
11 that the Court would give to the jury if that is appropriate,
12 all right.

13 Now, the jury can also impose life for no reason, as an
14 act of mercy. If we reach the sentencing phase or the second
15 phase of the trial the jury must unanimously find an
16 aggravating circumstance if they are to impose the death
17 sentence. There has to be an aggravating circumstance that
18 the jury unanimously finds. That sentence of death has to be
19 unanimous. It has to be every single member of the jury
20 agrees to that. Also, if that is the view of the jury, and
21 every single member of the jury agrees, then the jury, if they
22 are to impose the death sentence, must also -- each member of
23 the jury must also sign a verdict form. You actually have to
24 put your name to the piece of paper saying that is your
25 verdict. You understand that?

1 A. Yes sir.

2 THE COURT: All right. If you are selected to be a
3 member of the jury it's your responsibility to come into the
4 courtroom and set aside anything that you may have heard about
5 this case, known about this case, think you know about this
6 case, talked about this case, just set all that side, set
7 aside any kind of preconceived idea, any kind of bias or
8 prejudice, anything of that nature. You have to listen very
9 carefully to the evidence and the testimony presented in this
10 case, deliberate with your fellow jurors and come up with a
11 unanimous verdict in this particular matter -- matter in
12 both -- in both phases.

13 I will instruct you the law that you will use in
14 applying to the facts as the jury so finds them to be. The
15 law that the Court gives you you must follow that law, whether
16 or not you agree with it or don't agree with it, or you came
17 into the courtroom with any kind of idea what the law was you
18 have to take the law that I give you and apply it to the facts
19 as the jury finds to be true in this matter. You understand
20 that?

21 A. Yes.

22 THE COURT: All right. Let me go over a couple of
23 things with you then. Did you read or listen to, or watch or
24 look up anything about this case after we met on Friday?

25 A. No sir.

1 **THE COURT:** All right, Ma'am. Did you talk to anyone
2 about this particular case after we met on Friday?

3 A. No.

4 **THE COURT:** All right, Ma'am. Now, prior to Friday had
5 you heard anything about this particular matter, or related
6 matters, or Mr. Stanko or anything? Had you heard about that?

7 A. Yes sir.

8 **THE COURT:** All right, Ma'am. Can you tell me what
9 that was, or what you heard about this particular matter, as
10 best you can?

11 A. As far as the case is concerned?

12 **THE COURT:** Well, just whatever you heard, or what you
13 think you might know about the situation.

14 A. I know Mr. Stanko took Henry Turner's life, and then
15 went down to Georgetown, I think to a girlfriend's house, and
16 took either the girlfriend or the daughter's life as well, and
17 there was some other foul play involved.

18 **THE COURT:** All right. Now, you understand in this
19 particular matter that Mr. Stanko is charged with the crime of
20 murder and armed robbery of Mr. Henry Turner, correct?

21 A. Yes sir. Yes sir.

22 **THE COURT:** All right. Now, in this particular matter
23 that is merely a charge brought by the State of South Carolina
24 against Mr. Stanko. As I told you, he has pled not guilty to
25 those charges, and again, the State has to prove to any jury

1 that he committed those crimes beyond a reasonable doubt. You
2 understand that?

3 A. Yes sir.

4 THE COURT: All right. Now, understanding that --
5 whether or not anything you have heard about this case before
6 Friday was true or not true you understand you can't let that
7 affect you, you can't use that in your decision making
8 process, you can't talk about it, it can't come up, it can't
9 be part of this particular case, either verbally or even in
10 your mind; you understand that?

11 A. Yes sir.

12 THE COURT: All right. You can't use that to form any
13 kind of decision in this case; you understand that?

14 A. Yes sir.

15 THE COURT: Can you do that?

16 A. I can do that.

17 THE COURT: All right. Can you listen solely to the
18 facts and evidence in this case and make up your mind based on
19 the facts and evidence in this case and not from any other
20 source, not let anything affect you, can you do that?

21 A. Yes sir.

22 THE COURT: All right. Now, before Friday did you talk
23 about this matter or a related matter, or about Mr. Stanko
24 with anybody, just in general?

25 A. Yes sir.

1 THE COURT: All right. In general, what did you talk
2 about?

3 A. Well, when I filled out the questionnaire -- I worked
4 for five years with Henry Turner's son ---

5 THE COURT: Okay.

6 A. ---And so I'm very familiar with the first part of what
7 happened.

8 THE COURT: Okay.

9 A. And so that -- that's more what we -- what I had
10 discussed about the Stanko case prior to being called to jury
11 duty.

12 THE COURT: Okay. What kind of capacity did you -- did
13 you work with Mr. Turner's son?

14 A. Roger Turner was the manager at Dick's Pawn Shop, and I
15 worked in the jewelry room, so he was the manager on duty
16 probably two-thirds of the time that I worked there.

17 THE COURT: All right. And so when -- when Mr. Turner
18 lost his life were you still working for the son at that point
19 in time?

20 A. I don't think so, by about six months, I think. I had
21 gone on to my next job.

22 THE COURT: Okay.

23 A. Yes.

24 THE COURT: So you had already stopped employment with
25 his son at that point in time?

1 A. Correct.

2 THE COURT: All right, Ma'am. Let's talk about that a
3 little bit. Obviously you have, through Mr. Turner's son,
4 some connection in some way to that family, correct?

5 A. Yes sir.

6 THE COURT: All right. You again understand you can't
7 let that affect your decision in any way, you can't let that
8 business or personal relationship, or whatever that
9 relationship was with Mr. Turner's son affect your decision in
10 this case in any way; you understand that?

11 A. I understand that.

12 THE COURT: Can you do that?

13 A. Yes.

14 THE COURT: All right, Ma'am. In this particular
15 matter -- and I ask the juror to think about this, just kind
16 of like a general question -- do you believe you've got --
17 you've got any kind of personal or political, or religious or
18 philosophical belief that you believe would prevent you from
19 being a fair and impartial juror in this case?

20 A. No sir.

21 THE COURT: All right, Ma'am. You have circled
22 category (C) in the category of jurors; is that correct?

23 A. That's correct.

24 THE COURT: All right. And that's basically that you
25 would, as we have discussed, set everything else aside, listen

1 to the facts and evidence in this case, and make up your mind
2 based upon the facts and evidence presented in this case,
3 correct?

4 A. Yes sir.

5 THE COURT: All right, Ma'am. And looking at the
6 witness list you circled Roger Turner, and obviously you have
7 already discussed that.

8 A. Uh huh (indicating positive)

9 THE COURT: All right, Ma'am. And you also circled
10 Steve Lee from Murrells Inlet. Who might Steve Lee be in your
11 mind?

12 A. Just acquaintances, really. I used to work at Drunken
13 Jacks and Murrells Inlet is a small area, and I knew the Lee
14 boys, but not anything on a personal level.

15 THE COURT: All right. So it's somebody that you know
16 came into the restaurant establishment when you were working?

17 A. Yes. Probably know him -- if I saw him face to face I
18 would say hello, but ---

19 THE COURT: Okay. All right.

20 A. ---Just an acquaintance.

21 THE COURT: All right. Thank you, Ma'am. Now, again,
22 based upon that, and just to cover that issue, those juror --
23 those potential witnesses in this particular case, despite any
24 knowledge of them, or knowing them, relation with them,
25 whatever it might be, you would set that aside and be a fair

1 and impartial juror in this case?

2 A. Yes sir.

3 THE COURT: All right. I touched on this but I want to
4 cover it more fully with you. The Court will give you the law
5 in this particular matter. If you agree with it or disagree
6 with it you would have to follow it. Can you do that?

7 A. Yes sir.

8 THE COURT: All right, Ma'am. Now, understanding if we
9 get to the second phase, if we get to the second phase, can
10 you consider a life sentence in this matter?

11 A. I can consider a life sentence.

12 THE COURT: All right, Ma'am. Can you consider a death
13 sentence in this matter?

14 A. Yes sir.

15 THE COURT: And if you voted for death could you sign a
16 death verdict, put your name to the verdict form?

17 A. Yes sir.

18 THE COURT: All right, Ma'am. Do you know of any
19 reason, have any question in your mind, any doubt in your mind
20 that you believe you cannot give to the State of South
21 Carolina and to the Defendant a fair and impartial trial, that
22 is, for any reason whatsoever you believe you cannot be a fair
23 and impartial juror in this case?

24 A. No sir.

25 THE COURT: Thank you, Ma'am.

1 Solicitor.

2 MR. HUMPHRIES: If it please the Court.

3 THE COURT: Yes sir.

4 BY MR. HUMPHRIES:

5 MR. HUMPHRIES: Good morning, Ms. Henderson.

6 A. Good morning.

7 MR. HUMPHRIES: I'm Fran Humphries. I'm Deputy
8 Solicitor. I, along with Solicitor Hembree, and Senior
9 Assistant Jimmy Richardson, will be handling the case for the
10 State, and I've just got a few questions.

11 A. Right.

12 Q. And first of all you need to understand -- and I think
13 you do -- that what we are looking for is not necessarily
14 right answers as truthful answers because those are the right
15 answers, okay.

16 I know that the Court provided you with a form in the
17 back that talks about three types of jurors. The first type
18 of juror I think is type (A), which is the type of juror who
19 would impose the death penalty at any point where the State
20 proves the crime of murder has been committed. The second
21 type, type (B), is the type of juror who would, after a
22 conviction for murder, would impose a life sentence in every
23 circumstance, regardless of the aggravating circumstances or
24 the mitigating circumstances, and the third type of juror,
25 type (C), is the type of juror who can impose life or death,

1 depending on the facts and circumstances. Do you have an --
2 what is your opinion regarding your type, if you will?

3 A. I consider myself a (C), because I think I'm a very
4 rational, fair person, and depending on the circumstances I
5 would consider either or.

6 Q. And one of the things that the law requires is this,
7 not that there be any specific verdict, but that whatever --
8 but that not only can you consider imposing a death sentence,
9 or consider imposing a life sentence, but that under the right
10 set of circumstances, given the right amount of evidence, you
11 could actually impose the death sentence or a life sentence.
12 Can you do that?

13 A. Yes sir.

14 Q. Okay. Now, the Judge has talked to you a little bit
15 about your relationship with Roger.

16 A. Yes sir.

17 Q. And he's correct in charging you that if you were to
18 sit as a juror in this case you would have to set all that
19 aside and base your verdict only on the evidence you are
20 presented in this case, and again, looking for the right
21 answers, which are truthful answer, even if that is difficult,
22 if you are telling the parties in the case, and the Court,
23 that you can set that aside and be fair and impartial to the
24 State and the Defense, then you are a qualified juror. So I
25 ask you again, do you believe you can do that, set that aside

1 and be fair and impartial, both to the State and the Defense,
2 and base your verdicts only on the evidence that you hear in
3 this courtroom?

4 A. I -- I feel like I could. I'm a rational educated
5 person. I think I could. Yes, I do.

6 Q. Okay.

7 A. It's a hard one, but yes, I do.

8 Q. Certainly. Certainly. And this process is a hard one.

9 A. Yes.

10 Q. Let me ask you this. One of the things that -- a
11 necessity that will be required of the jurors is that, once
12 seated on this jury panel you would be sequestered, and
13 basically what that means is this, you would be required to be
14 set apart from everybody else, all of your needs would be
15 taken care of, you would be housed, you would be fed, you
16 would be kept with your fellow jurors, and there would be very
17 limited contact with anyone other than supervised for a period
18 of time, seven days, eight days. Now, we all understand that
19 that would be, you know, a terrible imposition. Trust me, we
20 know. Having said that, is there anything about sequestration
21 that would cause you a hardship to the extent that it would
22 place you in harm, either in terms of your safety or your
23 physical well-being?

24 A. No sir.

25 Q. And could you give both the State and the Defense a

1 fair trial, and could you, based on the evidence presented,
2 impose either life or death, depending on the facts and
3 circumstances of this case?

4 A. Yes sir.

5 MR. HUMPHRIES: That's all we can ask. Thank you.

6 A. Thank you.

7 THE COURT: All right, Mr. Diggs.

8 MR. DIGGS: All right. May it please the Court.

9 BY MR. DIGGS:

10 MR. DIGGS: Ms. Henderson, how are you this morning?

11 A. Good. How are you?

12 MR. DIGGS: Good.

13 Q. I believe on Friday you indicated, when the Judge asked
14 if you had doubts about being able to be fair in this case you
15 were one of probably a couple of hundred people that stood up.
16 What has changed your opinion today?

17 A. I -- well, just going through the process, and I am --
18 I am a fair, reasonable person, and you know, when I first got
19 notice for jury duty I really felt like I would be
20 automatically disqualified because of knowing Roger. I filled
21 it out on the form and then we all went through the process,
22 and just, you know, weighing in my mind could I really be
23 fair, especially if I'm in a courtroom and I see Roger, but
24 I'm a -- I'm a reasonable person and I think I could. And I
25 don't know, I guess -- I guess just in my mind I think I could

1 be fair. Maybe there's others that fit better.

2 Q. If there was some missing evidence presented at the
3 trial though, how would you prevent from filling in those
4 blanks, based on your -- what you know about the case?

5 MR. HUMPHRIES: No sir, I'm -- I'm going to have to
6 object to the form of the question. That ---

7 THE COURT: Well, let's rephrase the -- let's rephrase
8 the question, please.

9 Q. How would it be -- how would you go about not
10 considering things that you've already heard about the case if
11 they weren't presented in the trial as evidence, but you felt
12 like they were necessary in order to reach a verdict?

13 A. Well, if your case brought it to our attention, and he
14 is presumed innocent until proven guilty, I -- I would not
15 necessarily fill in the blanks automatically.

16 Q. But do you feel like you might be inclined to want to
17 do that?

18 A. I think that's probably human nature, but if I tell the
19 Judge and everybody else that I'm going to be fair when I walk
20 in that door I'm going to be fair.

21 Q. Do you believe that we are expecting, or that the Judge
22 is expecting for you to say yes, I can set that aside?

23 A. I'm -- I'm not -- I'm not saying I can do it because of
24 pressure from anything.

25 Q. Uh huh (indicating positive)

1 A. I'm -- I'm not. No sir.

2 Q. You don't believe that the people here expect you to
3 say a certain thing and therefore you respond in that way?

4 A. Well, I showed up as a civic duty, and you know, I -- I
5 would not say I could set it aside if I couldn't, but like I
6 say, maybe there's somebody that fits better.

7 Q. Do you believe there is a prevailing view in the
8 community about this Defendant's guilt or innocence?

9 A. Absolutely.

10 Q. Absolutely. And let's say that in the trial of this
11 case the evidence that was presented gave you four possible
12 verdicts, guilty, not guilty, not guilty by reason of
13 insanity, or guilty but mentally ill. Given the prevailing
14 view in the community, if you felt compelled by the evidence
15 to come back with a verdict other than guilty do you feel --
16 or do you believe you would feel any pressure to the members
17 of the community to vote guilty? In other words, do you
18 feel -- would you hesitate or fear going back into your
19 community and having to face your friends and neighbors and
20 family and ---

21 A. I have a backbone. I have a backbone. It is what it
22 is. You know, I think if -- when the jury sits together,
23 given what we decide, I mean, we are going to do our very
24 best.

25 Q. And could you vote a verdict based on the law, even if

1 you didn't agree with the law ---

2 A. Yes sir.

3 THE COURT: ---Even if you felt like, that's not good
4 law, we shouldn't have that law, but the Judge says this is
5 the law, would you still be able to follow it?

6 A. As a rational person, yes sir. Yes.

7 Q. And you understand there is no right or wrong, as
8 everyone has said here, and we are simply trying to get your
9 honest responses ---

10 A. Yes sir.

11 Q. ---To these questions. So, you are aware that this
12 Defendant has a criminal history?

13 A. Yes sir.

14 Q. You know he has been -- tell me what you know about it.

15 A. It's hard to repeat it. When you hear it on the news
16 you -- you know, comes in one year and goes out the other, but
17 ---

18 Q. Okay.

19 A. I know he was -- he's already been tried and convicted.

20 Q. Okay. Do you know what his sentence was in that case?

21 A. A prison sentence but I couldn't tell you exactly. If
22 he could ---

23 Q. You don't know exactly?

24 A. ---If he was -- if he could go for parole or -- I don't
25 know.

- 1 Q. All right. Now, based on the fact that he has been
2 convicted, you know about another conviction, you know he's in
3 prison, do you believe that your -- let's say if you were
4 seated on this jury do you believe that you could make a
5 decision on the punishment in this case, free of any -- well,
6 let me strike that and put it this way. Do you feel like your
7 responsibility would be lessened in this case simply because
8 there has been another conviction in some other county?
- 9 A. No sir.
- 10 Q. You would still take your responsibilities here,
11 knowing that if you sentenced him to death this proceeding
12 might be the one that resulted in his execution.
- 13 A. Yes sir.
- 14 Q. You understand we all, in this process, have a
15 responsibility for that outcome if that's the verdict?
- 16 A. Yes sir.
- 17 Q. Do you feel like a prior prosecution on some other set
18 of circumstances undermines your responsibilities in this
19 case?
- 20 A. No sir.
- 21 Q. Now, you indicated you were a juror number (C), letter
22 (C) ---
- 23 A. Yes sir.
- 24 Q. ---And that is -- refresh my memory again. What is
25 that?

1 A. That means that, based on the circumstances we could,
2 as a jury, decide either or ---

3 Q. Okay.

4 A. ---Either life sentence without parole or death.

5 Q. All right. And life imprisonment is a verdict -- or is
6 a sentence that is possible when someone is found guilty,
7 correct?

8 A. Yes sir.

9 Q. You don't believe that -- do you have a belief -- let
10 me put it that way -- as to whether one would be appropriate
11 over the other?

12 A. Not necessarily.

13 Q. All right. It's going to depend on the facts of the
14 case?

15 A. Yes sir ---

16 Q. All right.

17 A. ---And the severity and the intention and ---

18 Q. All right. But you know that if you get to the
19 sentencing there's going to be a conviction already, there is
20 going to be a guilty verdict. That's the only way we are
21 going to be able to get to any kind of second phase. Knowing
22 that you have already decided guilt is there any hesitation in
23 your mind that you could vote for life imprisonment for that
24 person based on the evidence if -- whatever evidence is
25 presented at that sentencing hearing?

1 A. No sir.

2 Q. Could you vote for life?

3 A. I could.

4 Q. Okay. All right. And I'm just clearing that up.
5 There's not an automatic gravitation toward death simply
6 because you have found guilt on the murder charge?

7 A. No sir.

8 Q. Do you feel like you have an obligation to Henry
9 Turner's son to convict his accused?

10 A. No sir. I wouldn't be a ---

11 Q. Defendant?

12 A. No.

13 Q. You don't feel like you would be embarrassed or ashamed
14 to confront Henry Turner's son in the event you found the
15 Defendant not guilty, or not guilty by reason of insanity for
16 example?

17 A. No sir. I know his son is quite passionate about what
18 has transpired, but no, I -- I think I could be fair and put
19 everything aside, you know, and see -- see the whole picture.

20 Q. You don't feel obligated to him or others in the
21 community?

22 A. No sir.

23 Q. Do you want to sit on this jury and not -- not because
24 you want to sit on the jury, but do you feel comfortable in
25 sitting as a juror in a case where you know the victim?

1 Because of your knowledge, for example, of the victim, would
2 you prefer not to have to sit on this case?

3 A. It may -- it may ---

4 MR. HUMPHRIES: I would object to the form of the
5 question. That's not a question that would determine
6 qualifi ---

7 THE COURT: Let's rephrase the question. Let's try to
8 eliminate the second part of it.

9 Q. Does that make you feel uncomfortable?

10 A. It does make me a little uncomfortable, but I -- as I
11 said before -- I can reiterate -- I am a fair, balanced,
12 reasonable person so, you know, I can get past that because of
13 a civic duty.

14 Q. Well -- and when you commented earlier that you could
15 set aside any kind of preconceived notions about this case but
16 it would be hard -- it would be a hard one, I think were your
17 words ---

18 A. Uh huh (indicating positive)

19 Q. ---What did you mean by that?

20 THE COURT: Ma'am, remember to answer out loud, okay.

21 A. Yes sir. Yes sir.

22 THE COURT: Thank you, Ma'am.

23 A. I'm sorry. Thank you.

24 Q. What did you mean that it would be hard to do that?

25 A. Just what we spoke about, that it is a hard thing to

1 know somebody and -- but I -- again, I feel I can set that
2 aside. It's just -- I think when you come into a court of law
3 I would -- you know, you drop whatever you have at the door
4 and think as a rational person, and act as part of a jury, and
5 I'm capable of that.

6 Q. Do you think it would be better in a case to have a
7 jury comprised of members who did not know the victim?

8 MR. HUMPHRIES: No sir. I object to that question.
9 That is clearly improper.

10 THE COURT: Sustained.

11 MR. DIGGS: Your Honor ---

12 THE COURT: I ---

13 MR. DIGGS: I understand your ruling.

14 THE COURT: All right, sir.

15 MR. DIGGS: All right. That's all I have.

16 THE COURT: Thank you.

17 MR. DIGGS: Thank you, Ma'am.

18 A. Thank you.

19 THE COURT: All right. Ma'am, let me just kind of -- I
20 just want to ask you -- probably more -- rather classified as
21 a general question. Again, do you know of any reason, have
22 any question in your mind, any doubt in your mind, in this
23 particular case, knowing everything that -- the questions I
24 have asked you and the questions the State asked and the
25 Defense asked you, any question in your mind that you believe

1 you cannot give to the State and to the Defendant a fair and
2 impartial trial, that is, for any reason whatsoever that you
3 can't be a fair and impartial juror?

4 A. No sir.

5 THE COURT: Thank you, Ma'am.

6 Anything further from the State?

7 MR. HUMPHRIES: Nothing from the State, Your Honor.

8 THE COURT: Defense?

9 MR. DIGGS: Not at this time, Your Honor.

10 THE COURT: Thank you.

11 Ma'am -- Deputy, if you would take this juror to the
12 jury room for courtroom (A), please, for just a moment, Ma'am.
13 Thank you.

14 A. Yes sir. Thank you.

15 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
16 JURY.)

17 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
18 JUROR NUMBER 281 MARKED COURT'S EXHIBIT NUMBER 4.)

19 THE COURT: What's the State's position?

20 MR. HUMPHRIES: Your Honor, she is qualified much as
21 the -- much as the juror in State versus Jones, 298 S.C. 118
22 was qualified. In that case the juror indicated to the Court
23 that she was a friend of the victim, and in that case the
24 Court felt, based on the entire voir dire, that she could put
25 that aside and -- and render appropriate jury service. The

1 standard, of course, is that the mere -- or in that case the
2 finding was that the mere fact the person is a friend or
3 acquaintance of the deceased does not render that person
4 incompetent as a juror. And I think it's important to note,
5 in particular with Ms. Henderson, at every point, without
6 exception, without waiver, when asked, given this relationship
7 can you set that aside and be a fair and impartial juror, both
8 by question from the Court, from the State and from the
9 Defense she answered each and every time, I can set it aside,
10 I'm a reasonable person, I can be fair and impartial, I leave
11 everything at the door and base everything I do on what I hear
12 in the courtroom. For those reasons, Your Honor, I believe
13 she is qualified.

14 THE COURT: Thank you.

15 All right, Mr. Diggs.

16 MR. DIGGS: Your Honor, I detected a slight snicker in
17 her voice when she said, oh yes, I can set that aside, snicker
18 on her face. I don't see that we need to have this kind of
19 juror qualified in the jury pool. She knows the victim, she
20 knows about the case, she thinks the Defendant is guilty. It
21 would be a hard thing to do to set all of that aside but she
22 can do it. We don't need to have that kind of juror on the --
23 in the case, and I would submit that she's not qualified. And
24 she even works with the victim's son, or did for some time at
25 the pawn shop, and if we don't -- I don't know of anything

1 that she could do, you know, to -- I don't believe there's
2 anything else that we could do to dismiss a juror other than -
3 - than saying -- I don't know of any worse set of
4 circumstances than this with respect to qualifying a juror.
5 It's -- she should be dismissed simply based on the common
6 sense of the situation, given all of those factors that I
7 discussed earlier, or enumerated earlier.

8 **THE COURT:** All right. Thank you, sir.

9 First, based upon the Court's observations of this
10 particular witness I absolutely did not see any kind of
11 snicker or facial impression that would indicate any kind of
12 demeaning of the process, or Defendant, or anything in this
13 particular matter. I did not observe that at all. The Court
14 was extremely impressed with the quality of her answers, the
15 honesty of her answers. I see no reason, none, based upon her
16 presentation and answers to these questions that would prevent
17 her, or substantially impair her ability in any way to be a
18 fair and impartial juror, to follow the law that the Court
19 would give in this matter. I find her to be qualified.

20 **MR. DIGGS:** Your Honor, just for the record -- and Your
21 Honor didn't have a chance to see this, but as she was leaving
22 she did smile at the Solicitor's table, and when she saw that
23 I was observing that she glanced over at us and smiled too,
24 but I just want to make that statement for the record, because
25 Your Honor didn't have a chance to see her face in that

1 respect..

2 **THE COURT:** Well, you may not think I was -- whatever
3 your observations were. I will tell you, I don't think
4 anything that occurred affected her ability, or impacts her
5 ability in this matter whatsoever. I was extremely impressed
6 with her to be a fair and impartial juror.

7 Thank you very much.

8 All right. Deputy, if you would go by my office, pick
9 up that letter ---

10 **CLERK OF COURT:** I got them.

11 **THE COURT:** You got it?

12 **CLERK OF COURT:** Yes sir. And I need a cell number
13 from her as well.

14 **THE COURT:** All right. And -- all right, you will need
15 to get her -- get her cell number, if you would.

16 **(CONFERENCE BETWEEN CLERK OF COURT AND COURT.)**

17 **THE COURT:** All right. For your information, counsel,
18 the first juror that was up, Robert Simmons, the Affidavit of
19 the Sheriff's Department is -- this is somebody that didn't
20 come Friday, and they, over the weekend, have gone to the
21 address. They have talked with the parents and this
22 individual is in the State of Iowa working in construction at
23 the present time, so is not available.

24 That was juror number 572, Robert S. Simmons.

25 **THE COURT:** All right, Ma'am, could you come forward,

1 and come up here to the witness stand, please Ma'am.

2 LAKENYA P. JORDAN, JUROR NUMBER
3 343, being first duly sworn, states as follows:

4 BY THE COURT:

5 THE COURT: All right, Ms. Jordan, let me go over a few
6 things with you, and then the Court will have some questions
7 for you, as well as the -- as well as the attorneys for the
8 State and the Defense in this particular matter. All right.

9 A. Okay.

10 THE COURT: All right, Ma'am. In this particular
11 matter the State of South Carolina has charged the Defendant,
12 Mr. Stanko, with the crimes of murder and armed robbery. Now,
13 the Defendant has pled not guilty to those crimes, and that
14 puts the burden of proof on the State of South Carolina to
15 prove the Defendant guilty beyond a reasonable doubt. The
16 Defendant has nothing to prove to you or show to you. The
17 burden is on the State of South Carolina to prove him guilty
18 beyond a reasonable doubt. You understand that?

19 A. Yes.

20 THE COURT: All right. The Defendant, in this
21 particular matter, is presumed innocent until and unless the
22 jury is convinced of the evidence presented by the State of
23 the guilt of the Defendant beyond a reasonable doubt.

24 Now, in this particular case the State has filed a
25 notice to seek the death penalty as against Mr. Stanko

1 regarding the crime of murder, and that's not something that
2 is done in every case where there is a murder. What the State
3 must also prove, beyond a reasonable doubt, is some type of
4 aggravating circumstance in addition to the crime regarding
5 their intention to seek the death penalty. And by aggravate
6 we mean to make worse, or exacerbate the situation or the
7 circumstance; you understand that?

8 A. Uh huh (indicating positive)

9 THE COURT: All right. I need to ask you -- you need
10 to say yes or no because the Court Reporter won't know what Uh
11 huh means. All right. Thank you.

12 A. Okay.

13 THE COURT: Also, in this second phase of the trial --
14 and obviously the first phase would be whether or not the
15 State proves the Defendant guilty beyond a reasonable doubt of
16 the crime of murder. If the jury unanimously find that, if
17 they do, then you go to the second phase, and in the second
18 phase the jury decides the sentence to be either death or life
19 in prison without the possibility of parole. That's what we
20 mean by life. We are talking about life imprisonment without
21 the possibility of parole. The death verdict has to be
22 unanimous. The jury has to find an aggravating circumstance
23 to impose the death sentence.

24 Now the jury also has to, and is required to look at any
25 mitigating circumstances that may be presented in this

1 particular matter, and in mitigate -- and that means to
2 lessen, or to reduce the fault or the culpability, or reduce
3 the punishment, and the Court would instruct the jury about
4 that, but that's also a duty that the jury has.

5 If we reach the second phase of the trial, and a jury
6 unanimously decides to impose the verdict of death, then each
7 and every juror is required by the law to sign that verdict
8 form, put their name to that verdict form that says that is
9 the penalty or the punishment. Do you understand that?

10 A. Yes sir.

11 **THE COURT:** All right. If you are selected as a juror
12 on the case it's your responsibility to come in the courtroom
13 and set aside everything else, set aside anything you might
14 have heard about this case, think you know about it, or
15 somebody told you. You've got to set all that aside. You
16 have to base your decision on the facts and evidence in this
17 case and from no other source. You can't let anything else
18 impact you. You can't let any previous ideas, or biases, or
19 thoughts that you had before you came into the courtroom
20 affect your decision in any way. Do you understand that?

21 A. I understand.

22 **THE COURT:** All right. So when it comes time to render
23 a decision it's based solely on the facts and evidence that's
24 presented in this courtroom, and from no other source. Do you
25 understand that?

1 A. Yes.

2 THE COURT: All right. Let me -- let me ask you a
3 few -- a few other questions, understanding, of course, that
4 there aren't any right and wrong answers, okay. We need to
5 find a fair and impartial jury, and this is how we do it, and
6 we need just -- we just need people to be open and honest with
7 us, and give us the answer -- whatever the answer is that they
8 feel, okay.

9 A. Okay.

10 THE COURT: All right. Now, did you read or listen or
11 watch, or look up anything about this case after we left on
12 Friday?

13 A. No, I didn't.

14 THE COURT: All right, Ma'am, and did you talk to
15 anyone about this particular case in any way after you left on
16 Friday?

17 A. No, I didn't.

18 THE COURT: All right, Ma'am. Now, before Friday had
19 you heard anything about this particular case, or Mr. Stanko,
20 or anything that you think might have anything to do with this
21 particular matter? Have you heard anything about it before?

22 A. I just heard of it. I mean ---

23 THE COURT: Okay. Can you give me some kind of idea
24 what you -- what you believe you heard about it?

25 A. Just that -- what happened. It's been so long ago. I

1 think the -- since this happened ---

2 THE COURT: You remember hearing about it at the time
3 that it happened?

4 A. Yes, at the time it happened.

5 THE COURT: But now ---

6 A. Nothing recently ---

7 THE COURT: Okay. All right.

8 A. ---Other than he was coming up for trial. That's ---

9 THE COURT: Coming up for trial.

10 A. Yes.

11 THE COURT: All right. Okay. Do you remember talking
12 to anybody about this particular case or anything?

13 A. No sir.

14 THE COURT: All right, Ma'am. Now, you understand
15 anything that you might have heard or read about this case in
16 the past you can't let that affect your decision in this case.
17 You just have to let that go. That's not any part of this
18 particular matter. You understand that?

19 A. I understand that.

20 THE COURT: All right. Now, in general -- this is a
21 question I asked on Friday, do you believe you've got any kind
22 of personal, or political, or religious, or philosophical
23 believe that would prevent you from being a fair and impartial
24 juror in this case?

25 A. No.

1 **THE COURT:** I'm sorry.

2 A. No, I don't.

3 **THE COURT:** All right. Thank you, Ma'am. I'm sorry.

4 Now, in this particular matter you didn't circle any of
5 the witnesses, correct?

6 A. Correct.

7 Q. All right. And on the category of jurors you have
8 circled (C); is that right?

9 A. Right.

10 **THE COURT:** All right. And basically that is saying
11 that if the jury unanimously finds the Defendant guilty of the
12 crime of murder then in the sentencing phase you wouldn't have
13 your mind made up in advance; you would listen to, again, all
14 the facts and evidence and then decide the sentence of death
15 or life in prison without the possibility of parole?

16 A. Yes.

17 **THE COURT:** All right. Do you understand the law that
18 the Court will give you, you have to follow that law; if you
19 had any idea of what it was before you came in the courtroom
20 you have to, again, set that aside or let that go. You have
21 to follow the law that I give to the jury; you understand
22 that?

23 A. I understand that.

24 **THE COURT:** Whether you agree with it or you don't
25 agree with it you've got to follow it; you understand?

1 A. Right. Yes sir.

2 THE COURT: All right. And you are telling the Court
3 you can make your decision based solely on the evidence and
4 testimony presented in the courtroom and from no other source?

5 A. Yes sir.

6 THE COURT: All right. Now, if we get to the
7 sentencing phase, if the jury has unanimously found the
8 Defendant guilty of the crime of murder and we get to the
9 sentencing phase could you consider a life sentence?

10 A. Yes.

11 THE COURT: Could you consider a death sentence?

12 A. Yes..

13 THE COURT: If the jury unanimously find the sentence
14 to be death, could you sign the verdict form, because that
15 would be a responsibility of the jury to sign that. Could you
16 do that?

17 A. Depending.

18 THE COURT: All right. And under what situation? How
19 would it depend?

20 A. I guess after I hear the facts and see what happened
21 that ---

22 THE COURT: Okay. Well, this is a situation where ---
23 I'm just trying to place you in a situation where, if you are
24 part of the jury and the jury has heard all of the facts and
25 evidence in the sentencing phase ---

1 A. Uh huh (**indicating positive**)

2 **THE COURT:** And then the jury discusses it completely
3 and votes, and it's the unanimous vote of everybody on the
4 jury that the sentence ought to be death there is one step
5 beyond that, and that is, there is a sheet, and every juror
6 has to sign that sheet saying yes, my unanimous -- or my part
7 of the unanimous vote was the death sentence. My question is,
8 could you do that if that's what happened?

9 A. Yes.

10 **THE COURT:** All right, Ma'am. Kind of a general
11 question. Do you have any question, any doubt in your mind
12 at all that you believe you cannot give to the State of South
13 Carolina and to the Defendant a fair and impartial trial, that
14 is, for any reason whatsoever you believe you cannot be a fair
15 and impartial juror?

16 A. No.

17 **THE COURT:** Thank you, Ma'am.

18 All right, Solicitor, questions, please.

19 **MR. HEMBREE:** Thank you, Your Honor. May it please the
20 Court.

21 **BY MR. HEMBREE:**

22 **MR. HEMBREE:** Good morning, Ms. Jordan.

23 A. Good morning.

24 Q. I'm Greg Hembree. I'm the Solicitor for the Fifteenth
25 Circuit, Horry and Georgetown Counties. I, along with Deputy

1 Solicitor Fran Humphries, who is sitting next to me, and
2 Assistant Solicitor Jimmy Richardson will be trying this case
3 for the State, and if you happen to be selected you are going
4 to be seeing a pretty good bit of us over the next few days
5 and maybe weeks.

6 A. Okay.

7 Q. A couple -- and I'm going to -- Judge John has covered
8 almost everything that I had in my mind. May be more just to
9 clarify. One issue with regards to the signing of the death
10 verdict and the imposition of the death penalty -- and we have
11 to do this kind of in a -- as a -- in a vacuum. I mean we
12 have to sort of give you a hypothetical because -- to kind of
13 get to the main question. The hypothetical is this -- and Mr.
14 Stanko would have already been found guilty of the murder at
15 the first part of the trial, and the other jurors would have
16 had to have already reached that verdict. In the second part
17 of the trial you would consider whether there was the
18 existence of what's called a statutory aggravating
19 circumstance, something that makes the crime worse. The Judge
20 would give you that list of what those are. You would have to
21 actually find that there was a statutory aggravating
22 circumstance before you would decide on a penalty. Then you
23 would be called upon to decide whether he gets life or whether
24 he gets death. You understand that whatever you and your
25 other jurors vote to be the sentence that this Court would

1 carry out?

2 A. Yes.

3 Q. And I know that you said you could certainly consider,
4 depending on the facts and circumstances ---

5 A. Right.

6 Q. ---Consider either a life sentence or a death sentence.
7 Would you be able -- given the appropriate facts and
8 circumstances, able to impose a death sentence, to actually
9 vote for death?

10 A. Yes, I could.

11 Q. And given the appropriate facts and circumstances could
12 you actually vote for life?

13 A. Yes, I could.

14 Q. I detected a little hesitation on voting for death, and
15 that's -- that's -- I can only -- I mean that's a huge
16 question.

17 A. Yes, it is.

18 Q. It's the kind of question that, you know, probably
19 wouldn't have to be thinking about very much unless you are
20 put ---

21 A. Right.

22 Q. ---Literally, ---

23 A. Right.

24 Q. ---Literally sitting in that seat like you are today.

25 A. Right.

1 Q. Do you feel confident? Well, tell me how you feel
2 about that.

3 A. I never really thought about it. I never had to do
4 this so, I mean, just something I just never thought about,
5 so, I mean, but like you said, if -- like you said, the facts,
6 I mean, it's all according ---

7 Q. If the facts and circumstances were there you would ---

8 A. Then I could.

9 Q. ---Be able to impose it?

10 A. Yes, I could.

11 Q. And of course you've already testified about if you
12 imposed it you would be willing to sign it.

13 A. Right. Right.

14 Q. ---I mean that's just -- once you've already voted on
15 it you would be willing to sign it.

16 A. Yes.

17 Q. Let me ask you about a topic that --- I note that you
18 have several children, three children ---

19 A. Uh huh (**indicating positive**)

20 Q. ---And if you are selected for this jury, if you were
21 actually picked. What we are going to do is, we are going to
22 get a big group of you qualified and then we are going to pick
23 from there. But if you are actually selected -- picked for
24 this jury you would have to live in a hotel. You would be
25 sequestered. In other words, you would be sort of taken away

1 from your family for seven, eight days, once we actually get
2 started with the trial, something like that. You know, we
3 would cover all your expenses, food, lodging, all of that
4 would be taken -- transportation, all that would be taken care
5 of, but you would be away from your family and your job. I
6 know that's a tremendous hardship. That is a -- it's a lot to
7 ask for a fellow-citizen, but is there anything about being
8 sequestered that -- would you be able to make arrangements for
9 your kids if you were sequestered?

10 A. Yes, I could.

11 Q. Anything about being sequestered that would cause, you
12 know, a safety or a health issue for you, something, you know,
13 major issue like?

14 A. Yes, I guess so. No, I don't think so. No.

15 Q. No. I've got you. It would be a hardship, but it
16 wouldn't ---

17 A. Yes. Right.

18 Q. ---Be that big a deal. Put it that way. And you could
19 be fair both to the Defendant and the State of South Carolina?

20 A. Yes, I could.

21 MR. HEMBREE: That's all we can ask of you. I
22 appreciate your willingness to serve, and ask you to answer
23 any questions defense counsel might have for you.

24 A. Okay. Thank you.

25 THE COURT: All right. Mr. Diggs or Ms. Williams.

1 Thank you, Ma'am.

2 MS. WILLIAMS: May it please the Court.

3 THE COURT: Yes Ma'am.

4 MS. WILLIAMS: Good morning, Ms. Jordan. My name is
5 Brana Williams. It will be myself and Mr. Diggs who are
6 defending Mr. Stanko in this case.

7 As to Solicitor pointed out to you, we have to kind of
8 do this in a vacuum, and I'm sure it's uncomfortable to be
9 sitting here, and we appreciate your being here.

10 Let me ask you, you answered in some of this
11 questionnaire that your husband is with the Marshall Services;
12 is that right?

13 A. That's correct.

14 Q. And I'm going to ask you this. Do you think that you
15 being married to him, that is, being a police officer,
16 basically, will have a big impact on kind of how you come into
17 this case?

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

19 Q. And do think that when you hear the facts and the
20 evidence, and you make up your mind that whatever that
21 decision is that you can go home and tell him and it will be
22 all right with you?

23 A. Yes.

24 Q. Even if you think he disagrees with it?

25 A. Yes.

1 Q. Okay. I understand. I'm married to a police officer
2 too, so ---

3 Let me ask you this, do you believe -- you testified
4 that you are familiar with -- there's some pretrial publicity
5 in this case; is that right?

6 A. Right.

7 Q. Do you think that there is already a prevailing view in
8 this community of what the outcome of this case is probably
9 going to be?

10 A. I really don't know.

11 Q. You don't know?

12 A. Uh uh (NODS NEGATIVE)

13 Q. Okay. So you don't -- in your -- you are not very
14 familiar with this, is what you are telling me.

15 A. Right.

16 Q. Okay. I'm going to ask you this. You know, the Judge
17 has explained to you, to Solicitor has explained to you that
18 if you were to be selected in our panel would mean you get
19 sequestered.

20 A. Uh huh (indicating positive)

21 Q. Unfortunately you are going to be stuck in the group
22 with the other people, and then you guys are going to listen
23 to the evidence that comes into a courtroom, and then you guys
24 are going to make a decision, right?

25 A. Right.

1 Q. And you know, there's the possible verdicts. Obviously
2 there is guilty, there is not guilty, there might be not
3 guilty by reason of insanity, maybe not guilty by reason of
4 being mentally ill. Do you think that no matter what your
5 verdict is that when you go home and your neighbor questions
6 you about it, or your husband questions you about it, that you
7 -- you can still go back in and say, look, that's my decision?

8 A. Yes, I can.

9 Q. Okay. Do you know whether or not this Defendant has
10 any criminal history?

11 A. No, I don't.

12 Q. Do you know where he currently resides?

13 A. No.

14 Q. Do you know the outcome of -- you know that there was a
15 prior trial in this case, a prior trial involving this
16 Defendant?

17 A. I've heard about it, yes.

18 Q. Do you know what the outcome of that trial was?

19 A. No, I don't.

20 MS. WILLIAMS: That's all the questions I have.

21 Thank you, Your Honor.

22 THE COURT: All right.

23 All right, Ma'am, let me just ask you a question in
24 general. Based upon the questions I've asked you, the State
25 has asked you, the Defense has asked you, is there any

1 question in your mind, any doubt in your mind at all that you
2 believe you cannot be a fair and impartial juror in this case,
3 any question at all?

4 A. No.

5 **THE COURT:** Thank you, Ma'am.

6 All right. Deputy, if you would have the juror ---

7 If you would -- we are going to have you go to the jury
8 room in courtroom (A) for just a moment, please Ma'am. All
9 right.

10 Thank you, Ma'am.

11 A. Thank you.

12 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
13 JUROR.)

14 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
15 JUROR NUMBER 343 MARKED COURT'S EXHIBIT NUMBER 5.)

16 **THE COURT:** State's position?

17 **MR. HEMBREE:** Your Honor, the juror is qualified. The
18 only -- there were some questions about the juror's husband.
19 I would note that he -- that's her ex-husband, so I don't know
20 how much discussion they will be having about it, but ---

21 **THE COURT:** All right. Very good.

22 All right. The Defense's position, Ms. Williams.

23 **MS. WILLIAMS:** Your Honor, we don't object to this
24 juror being qualified.

25 **THE COURT:** All right. I do find this juror to be

1 qualified. Again, there is -- the Court has no doubt in it's
2 mind, based upon it's observations of the juror, that this
3 juror could be fair and impartial, follow the instructions of
4 the Court in this particular matter.

5 Again, the Court was impressed with her answers and
6 believe her to be qualified.

7 All right.

8 CLERK OF COURT: Judge, we need a cell phone number for
9 her.

10 THE COURT: Okay. Deputy, when you hand her the letter
11 will you get a cell phone number from her also, please. Okay.

12 All right. And -- okay. Go ahead and do that and --
13 the letter is out there. And if you would get that cell phone
14 number, and when you are coming back if you will bring Mr.
15 Chestnut with you. All right, sir.

16 (A DISCUSSION TAKES PLACE BETWEEN THE COURT AND THE
17 CLERK OF COURT.)

18 THE COURT: Solicitor, we've got a juror -- it was
19 juror number 89, Madame Clerk?

20 CLERK OF COURT: Yes sir.

21 THE COURT: And her name again is?

22 CLERK OF COURT: Her name is Doris Capps.

23 THE COURT: Doris Capps. And she is how old?

24 CLERK OF COURT: She is seventy years old.

25 THE COURT: Seventy years old. She is not actually on

1 a panel. She has not been on a panel but I -- for whatever
2 reason she has now determined, and asked of the Clerk to be
3 excused because of her age, and she indicates to the Clerk
4 that her health is not such that she wants to be on a jury.

5 What would be the State's position on that?

6 MR. HEMBREE: No objection to her being excused, Your
7 Honor.

8 THE COURT: Defense.

9 MR. DIGGS: Your Honor, we would object.

10 THE COURT: All right. I'm going to excuse that
11 particular juror.

12 All right, sir.

13 Mr. Chestnut, come up here and have a -- stand over
14 there next to the Bible, if you would, please.

15 JOHNNY MARVIN CHESTNUT, JUROR

16 NUMBER 102, being first duly sworn, states as follows:

17 BY THE COURT:

18 THE COURT: All right, Mr. Chestnut, did you fill out
19 those two forms?

20 A. Yes sir.

21 THE COURT: All right. Could you hand them to me?
22 Thank you very much, sir.

23 All right. Mr. Chestnut, let me -- first what I'm going
24 to do is, I'm going to just talk to you just a little bit,
25 then I'll ask you some questions, and then the Solicitor's

1 Office will ask you a couple of questions, and the Defense
2 will ask you some questions, okay.

3 A. Okay.

4 THE COURT: Now, there aren't any right or wrong
5 answers. What we are looking to find for this particular case
6 is a fair and impartial jury, and this is the way we have to
7 do it. We need to go into certain things, and we are just
8 looking for your direct and honest answer. okay.

9 A. All right.

10 THE COURT: Very good. Now, in this particular matter,
11 sir, the State has charged the Defendant, Mr. Stanko, with the
12 crimes of murder and armed robbery. Now, the Defendant has
13 pled not guilty. Now that puts the burden of proof on the
14 State to prove the Defendant guilty beyond a reasonable doubt.
15 The Defendant doesn't have anything to prove to you. The
16 Defendant doesn't have anything to show to you. The State has
17 to prove it's case that the person is guilty of the crime
18 charged beyond a reasonable doubt. You understand that?

19 A. Yes sir.

20 THE COURT: The Defendant is presumed innocent. You
21 understand that?

22 A. Right.

23 THE COURT: All right. Now, in this particular case
24 the State has served notice to seek the death penalty as
25 against Mr. Stanko. Now that doesn't happen in every murder

1 case, or when somebody is charged with murder, but the State
2 has done so in this particular case. Now this case would have
3 two parts. The first part would be whether or not the jury
4 unanimously finds whether or not the State proved the
5 Defendant guilty of the crime of murder beyond a reasonable
6 doubt, and that has to be a unanimous decision of the jury.
7 If the jury unanimously finds him guilty of the crime of
8 murder, that the State has proved that to them, based upon the
9 facts and evidence, beyond a reasonable doubt, then and only
10 then would we get to the second part of the case. And the
11 second part of it involves sentence, and the sentence can
12 either be death or life in prison without the possibility of
13 parole. When we talk about life that's what we mean, life in
14 prison without the possibility of parole.

15 Now, in the second phase for there to be a death
16 sentence imposed the State has to prove to the jury, and the
17 jury has to find unanimously -- again, the State has the
18 burden of proof beyond a reasonable doubt -- an aggravating
19 circumstance. An aggravating circumstance -- there's a list
20 of them. The Court will go over it when it's necessary, but
21 basically that means to make worse, or to exacerbate the
22 situation or the circumstance; you understand that?

23 A. Yes sir.

24 THE COURT: Also, as I told you, a jury can impose a
25 life sentence. The jury is required to consider any kind of

1 mitigating circumstances that may be presented, and the Court
2 would charge to you, and mitigate means to lessen, or to
3 reduce the fault, or to reduce the culpability, or reduce the
4 punishment; you understand that?

5 A. Yes sir.

6 THE COURT: All right. If we reach the second phase,
7 and if the jury, based -- after they've considered all the
8 evidence in the case, unanimously decides to impose the death
9 sentence, then another part of that is, there is a verdict
10 form that every single member of the jury would have to sign
11 signing yes, I voted -- and part of this unanimous verdict --
12 did vote to impose the death penalty. That's the only way the
13 death penalty could be imposed is if it's unanimous, every
14 member of the jury agrees to it. You understand that?

15 A. Yes sir.

16 THE COURT: All right. If you are on the jury -- if
17 you are part of this particular jury, then you are going to
18 have to -- it would be your responsibility to come into this
19 courtroom and set aside anything else that you might have
20 thought you knew about the case, or heard about the case, or
21 somebody told you, or what you believe, you've got to set all
22 that aside -- that can't be part of this case. You have to
23 make your decision based solely upon the facts and evidence in
24 this case, and from no other source. Do you understand that?

25 A. Yes sir.

1 **THE COURT:** All right. And it would be your job to
2 follow the law that the Court gives to you, the instructions
3 that I would give to you, you have to follow that law, whether
4 you agree with it or you don't agree with it, you've got to
5 follow it. You understand that?

6 A. Yes sir.

7 **THE COURT:** All right, sir. With all that let me go
8 over a few questions with you. When we left here on Friday I
9 asked everybody not to read, listen or look up anything about
10 this particular case. Did you follow that instruction?

11 A. Yes sir.

12 **THE COURT:** So you didn't look up or see anything, or
13 read anything about the case?

14 A. Not at all.

15 **THE COURT:** All right, sir. Did you talk to anybody
16 about this case since Friday?

17 A. No.

18 **THE COURT:** All right, sir. Now, before Friday, have
19 you ever heard anything about this case, or Mr. Stanko, or
20 anything about this in general?

21 A. I've just heard the name, that's all.

22 **THE COURT:** All right, sir. None of the circumstances
23 or facts or anything that might have happened?

24 A. Nothing at all.

25 **THE COURT:** All right, sir. Now, did you -- based on

1 that little bit, did you discuss it with anybody? Did you
2 talk to anybody about it that you can remember?

3 A. No, I haven't talked to anybody..

4 THE COURT: All right, sir. All right. This is kind
5 of a general question, but do you believe you've got any kind
6 of personal or political or religious, or philosophical belief
7 that you believe would prevent you in any way from being a
8 fair and impartial juror in this case?

9 A. No sir.

10 THE COURT: All right, sir. Looking at the things we
11 asked y'all to look at, the -- the witnesses that were here,
12 you had one that you had a question mark about, Connie Price.
13 I don't know if this is the same Connie Price that you might
14 know, but the Connie Price that you know would be who? Who
15 would that be?

16 A. That would be my niece by marriage.

17 Q. Okay. And does she have some kind of job or something
18 or do you know ---

19 A. I know very little about her.

20 THE COURT: Okay. All right.

21 A. She's the one that I heard that name from because she
22 supposedly hired him to be her attorney.

23 THE COURT: Okay. All right.

24 A. And I think I heard the name indirectly, not straight
25 from her, because I don't -- I don't associate with her

1 anyway.

2 **THE COURT:** Okay. All right. Well, let's just assume
3 this Connie Price is the one that you know and you are related
4 to, just assume she was a witness in this case, can you set
5 aside any knowledge about her, any relationship with her,
6 anything about this, and again, just base your decisions
7 solely on the facts and evidence you hear in this case, and
8 not let any else of that affect your decision in any way?

9 A. Yes sir.

10 **THE COURT:** All right. Thank you.

11 Now, on the list of categories, or the type of juror,
12 you circled (C), correct?

13 A. Right.

14 **THE COURT:** All right, sir, and that's the one that
15 basically indicates that if the crime of murder has been
16 proved by the State beyond a reasonable doubt, and the jury
17 has already found the Defendant guilty of the crime of murder
18 beyond a reasonable doubt, and they are looking at the
19 sentencing phase, you don't have any preconceived ideas, or
20 your mind made up about the sentence; it could be life or
21 death, based upon the facts and evidence that are then
22 presented to you?

23 A. Yes sir.

24 **THE COURT:** All right, sir. Again, knowing you have to
25 follow the law that the Court gives you, whether you agree to

1 it or you disagree with it, can you do that?

2 A. Yes sir.

3 THE COURT: All right, sir. If we get to a sentencing
4 phase, if that is part of this case and that happens, could
5 you consider a life sentence?

6 A. Yes sir.

7 THE COURT: Could you consider a death sentence?

8 A. Yes sir.

9 THE COURT: If you were part of a unanimous jury that
10 voted for death, could you sign the verdict form that
11 indicates that you were part of that unanimous verdict and did
12 vote that way?

13 A. Yes sir.

14 THE COURT: All right, sir.

15 All right, Solicitor, any questions you might have, sir.

16 MR. HUMPHRIES: Just a few.

17 THE COURT: Yes sir.

18 BY MR. HUMPHRIES:

19 MR. HUMPHRIES: Good morning, Mr. Chestnut. My name is
20 Fran Humphries. I'm the Chief Deputy Solicitor here in the
21 Fifteenth Circuit. I, along with Solicitor Hembree, and
22 Senior Solicitor Jimmy Richardson will be representing the
23 State in this case.

24 I've got very few questions for you. I noted on your --
25 in your responses to the Court on Friday, when we had that

1 general qualification, that there had been a matter that you
2 had had some dealings with the Solicitor's Office.

3 A. Right.

4 Q. Was that a matter that you personally dealt with, or a
5 member of your family?

6 A. A member of my family.

7 Q. Okay. A child?

8 A. Right.

9 Q. And was your child prosecuted by the Solicitor's
10 Office, or was he a victim?

11 A. I guess he was prosecuted.

12 Q. Okay. Here in the Fifteenth Circuit, in Horry County?

13 A. Yes.

14 Q. Okay. As a result of that did -- was your son found
15 guilty, or did he plead guilty? Do you recall?

16 A. He was put on probation. He worked with the Courts
17 to ---

18 Q. Oh, excellent, excellent. Okay. Good. Good.

19 I also note that you indicated, I believe, that either
20 yourself or your family had been the victim of a crime in the
21 past?

22 A. Yes. I've been robbed quite a few times.

23 Q. Quite a few times. Now you previously had a business?

24 A. Correct.

25 Q. You are disabled at this point?

1 A. Correct.

2 Q. Is that still a family business, or ---

3 A. No. No, it's dissolved now.

4 Q. And you worked with your wife as well?

5 A. Right.

6 Q. Okay. Well let me ask you this, being -- this process
7 is different than any other process in the law, in criminal
8 court. One of the things that, almost out of necessity we do,
9 is once a juror is selected as a juror on this panel, they
10 will be sequestered. Now what that means is this. It means
11 that you would be kept separate and apart from everybody else
12 as a juror, or as a jury. You are all -- you and your fellow
13 jurors would be kept in one group. You would be housed at the
14 County's expense in a hotel, all of your meals provided, all
15 your transportation. Your contact with family would be
16 supervised for a period of time, seven, eight days or so, we
17 anticipate. We understand that that's an imposition on
18 everybody. It doesn't matter whether you've got a full-time
19 job or you just rather go fishing, but my question to you is
20 this, would the fact that you would have to be sequestered if
21 chosen as a juror cause you any harm as it relates to your
22 physical well-being, or your safety?

23 A. I don't think so.

24 Q. I note also that you came out and saw the court when we
25 talked about any medical condition that you might have, and

1 whether that might impact your ability to be a juror in this
2 case, and you indicated that you had a bad back.

3 A. Right.

4 Q. That may be understated and you may have a really bad
5 back, and of course I think the Court, at that time, indicated
6 that the Court would do whatever is necessary to make you as
7 comfortable as possible. Is it your position now that -- with
8 that understanding that the Court will take that into
9 consideration, that that would not impact your ability to be a
10 fair and impartial juror to sit on this jury?

11 A. I -- I can still be a fair juror. It's the sitting
12 down. I don't know if I can take it all day. That's just the
13 problem.

14 Q. And is -- would standing at times assist you, or does
15 it just require your laying down at times?

16 A. Sitting or standing. I can do one or the other.

17 Q. Okay. But you could do them alternately ---

18 A. Yes, right.

19 Q. ---And it wouldn't be a big problem?

20 A. Right.

21 Q. Okay. All right. And that's just something we need to
22 know, because obviously we want you to be as comfortable as
23 you can so you can be as focused as you can.

24 Having said all that then, can you be a fair and
25 impartial juror both to the State of South Carolina and to the

1 Defense in this case?

2 A. Yes.

3 Q. And can you not only consider, but can you impose the
4 death sentence, given the right amount of evidence, under the
5 right circumstances?

6 A. Yes.

7 Q. And can you impose a life sentence in the same way?

8 A. Yes.

9 MR. HUMPHRIES: That's all we can ask of you, Mr.
10 Chestnut. Thank you, sir.

11 A. You are welcome.

12 THE COURT: All right, Mr. Diggs, Ms. Williams.

13 BY MR. DIGGS:

14 Q. Mr. Chestnut, how are you this morning?

15 A. Fine. Thank you.

16 Q. Good. My name is Bill Diggs, and I'm here with Brana
17 Williams this morning, representing Mr. Stanko who is on trial
18 in this case, and we appreciate your time this morning, and
19 your efforts to answer everybody's questions, and it seems --
20 your understanding is that we want you to be truthful here.
21 We are not looking for right or wrong answers. We are simply
22 looking for your opinion. You indicated that you could vote
23 either way, life or death, in a -- in a case. Do you have any
24 predisposition as to what way you would lean?

25 A. No.

1 Q. Okay. So it would be kind of down the middle, and
2 depend on the individual, the evidence concerning the
3 individual and the circumstances of the crime?

4 A. Correct.

5 Q. Okay. Now, you indicated you had heard of the
6 Defendant's name. Do you know anything about what are alleged
7 to be the facts of this case?

8 A. I know nothing about the case.

9 Q. Okay. You don't know who the alleged victim was or
10 anything else about it; is that true?

11 A. That's true.

12 Q. Do you understand that the law is passed by the
13 Legislature, and made by the Appellate Courts, and the Court
14 at this hearing level instructs us as to what the law is.
15 Your statement is, I believe, that you could follow the law
16 given in this case, whether or not you agreed with the law
17 that was being charged. Is that fair to say? Do you
18 understand what I'm saying?

19 A. I think so.

20 Q. All right. In other words, there may be four potential
21 verdicts at the initial phase in this case, guilty or not
22 guilty, or not guilty by reason of insanity, or guilty but
23 mentally ill. You may have that range to choose from given
24 the evidence in the case. Now, could you consider each of
25 those verdicts and render the appropriate verdict based on the

1 facts as you found them to be, and the law that was instructed
2 to you ---

3 A. Yes sir.

4 Q. ---Even though you didn't agree, maybe, with what that
5 law was?

6 A. Yes sir.

7 Q. Okay. Do you have any knowledge as to whether or not
8 there is a prevailing view in this community or in your
9 community as to whether this Defendant is guilty or innocent?

10 A. No sir.

11 MR. DIGGS: Okay. Thank you very much, and I apolo --
12 let me ask you one final question.

13 Q. Would you expect a Defendant to testify in a case, to
14 get up and explain what happened?

15 MR. HUMPHRIES: Your Honor, I'm going to object. That
16 is a question that the Court will charge as a matter of law,
17 and it's not appropriate to ask the juror at this time.

18 THE COURT: Can you rephrase the question, Mr. Diggs,
19 in some way, not to -- not to phrase it in that way.

20 Q. All right. Would you -- let's say that the Defendant
21 didn't testify, but if you were on the jury you really wanted
22 to hear what that person had to say, but at the close of the
23 evidence the defendant had not testified ---

24 MR. HUMPHRIES: Your Honor, I'm going to object again
25 under State versus ---

1 **THE COURT:** Well, I don't know -- I don't think that he
2 has finished his question. I'm -- think he would probably
3 follow it up with, the Court would instruct you to say -- and
4 then I would probably allow the question.

5 Q. ---And the Court said, now listen, he has that absolute
6 right, and you cannot hold it against him, do you believe you
7 could follow that law, that instruction in that setting?

8 A. I think so.

9 Q. All right. And pushing you a little more, are you
10 pretty sure that you could?

11 A. Yes, I know I can.

12 **MR. DIGGS:** Okay. All right. Thank you very much.

13 **THE COURT:** All right. Mr. Chestnut, just as a result
14 of the questions I've asked you, the ones the State has asked
15 you, the ones the Defense has asked you let me just ask you,
16 do you now have any question in your mind, any doubt in your
17 mind, any reason that you believe you cannot give to the State
18 and to the Defendant a fair and impartial trial, that is, for
19 any reason whatsoever you believe you can't be a fair and
20 impartial juror in this case?

21 A. No sir.

22 **THE COURT:** Thank you very much.

23 All right, Deputy, if you would have the juror go to
24 jury room (A) for just a little bit.

25 Thank you, sir.

1 A. Yes sir.

2 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
3 JUROR.)

4 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
5 JUROR NUMBER 102 MARKED COURT'S EXHIBIT NUMBER 6.)

6 THE COURT: What's the State's position?

7 MR. HUMPHRIES: He's qualified.

8 THE COURT: Defense.

9 MR. DIGGS: Your Honor, he's probably qualified at this
10 time.

11 THE COURT: All right. I do find that the juror is
12 qualified. I think he would be fair and impartial in this
13 particular matter. I have no question about that based upon
14 the Court's observation of him and the answers to the
15 questions.

16 All right, gentlemen, and counsel, we are going to take
17 a short break for about five minutes here.

18 I don't know if we are going to speed up or not, and if
19 we are not then obviously we need to probably make some
20 decisions about these people that are coming in this
21 afternoon. Y'all think about that and I'll hear from you when
22 we come back, and we'll make some decision about that. All
23 right.

24 MR. HUMPHRIES: Thank you, Your Honor.

25 THE COURT: Thank you very much.

1 I think you can probably expect that I'm not going to
2 speed up any more than what speed I'm going right now, so
3 y'all take that into consideration however you want to. Okay.

4 (THE FOLLOWING TAKES PLACE AFTER A BREAK.)

5 THE COURT: Thank you very much. You may be seated.
6 Thank y'all.

7 All right. What do you think we need to do as far as
8 the people coming in this afternoon and that sort of thing?

9 MR. HUMPHRIES: Judge, it's going to -- I mean, in
10 light of the fact that the first juror took about forty-five
11 minutes we have picked up substantially since then. We are
12 averaging about twenty to twenty-five minutes a juror,
13 sometimes a little less. It's going to -- we may need to drop
14 the last panel, but I think if we press through we can get
15 five.

16 THE COURT: All right.

17 MR. HUMPHRIES: That's just my opinion.

18 THE COURT: All right. So -- all right.
19 Defense?

20 MR. DIGGS: We do believe that too.

21 THE COURT: All right. Very good.

22 (COURT HAS A CONVERSATION WITH THE CLERK OF COURT.)

23 MR. HUMPHRIES: I don't have any problems starting
24 early tomorrow.

25 (FURTHER DISCUSSION BETWEEN THE COURT AND THE CLERK OF

1 COURT.)

2 THE COURT: All right. We've got the next one. I'm
3 sorry. Come on. Let's go on to the next one, please.

4 WILLIAM A. FILES, JUROR NUMBER 199,
5 being first duly sworn, states as follows:

6 BY THE COURT:

7 THE COURT: All right, sir. Did you fill out those two
8 forms, sir?

9 A. These -- these right here? I did.

10 THE COURT: Thank you very much. I appreciate it very
11 much.

12 All right. Mr. Files, what I'm going to do is go over a
13 few things with you, explain a couple of things to you, then
14 I'll be asking you some questions, and then the representative
15 of the State will ask you some questions, and the represent of
16 the Defendant's will ask -- Defendant will ask you a few
17 questions, okay.

18 A. All right.

19 THE COURT: First to start off with, there's no right
20 or wrong answers. We are looking for a fair and impartial
21 jury in this case, and this is how we do it and this is -- and
22 we need the direct and the honest answers from all the
23 potential jurors so we can make sure we've got what we have to
24 have, a fair and impartial jury, all right.

25 All right, now, in this particular case the State has

1 charged the Defendant, Mr. Stanko, with the crimes of murder
2 and armed robbery. Now, the Defendant has pled not guilty to
3 these crimes, and that puts the burden of proof on the State
4 of South Carolina to prove the Defendant guilty beyond a
5 reasonable doubt. The Defendant doesn't have anything to show
6 to you or prove to you. The burden is on the State to prove
7 the Defendant guilty beyond a reasonable doubt based upon the
8 facts and evidence presented in this case. The Defendant is
9 presumed innocent of the crimes for which he is charged. You
10 understand that?

11 A. Yes sir.

12 **THE COURT:** All right, sir. Now, regarding this
13 particular case the State has presented notice to seek the
14 death penalty as against the Defendant, Mr. Stanko, for the
15 crime of murder. If, and only if during the first phase of
16 this trial the jury finds the Defendant guilty by a unanimous
17 verdict of the crime of murder would we ever get to the second
18 phase, but assume that to be the case, if that happens then,
19 in the second phase, the sentencing phase, there has to be
20 shown by the State of South Carolina -- again, the State of
21 South Carolina has the burden of proof to prove these matters
22 beyond a reasonable doubt. There has to be proved to you an
23 aggravating circumstance in addition to the actual crime
24 committed. And aggravate means to make worse, or to
25 exacerbate the situation. For a jury to impose the death

1 penalty there has to be one of these statutory aggravating
2 circumstances. I won't go through the list. We -- at
3 appropriate time the ones that are appropriate would be read
4 to the jury, but the jury would have to find an aggravating
5 circumstance to consider or impose the death penalty, and
6 again, it has to be a unanimous verdict, every -- to get the -
7 - have the death penalty imposed it has to be done by the jury
8 unanimous, everybody has to agree. You understand that?

9 A. Yes.

10 **THE COURT:** All right, sir, now, when -- in the second
11 phase the two sentence options, as I indicated to you, are
12 death or life in prison without the possibility of parole, so
13 when we speak of life -- when we just say life that's what it
14 means, life in prison without the possibility of parole.
15 Those are the two sentence options that are open in the
16 sentence phase, one of those two.

17 A. All right.

18 **THE COURT:** In the sentence phase obviously the jury
19 would consider both of them, death or life. The jury would
20 impose death or life. The jury has to find an aggravating
21 circumstance to impose death. Even if there is an aggravating
22 circumstance the jury can impose life. There are mitigating
23 circumstances that the jury must consider if so charged by the
24 Court, and that is -- again, there is a list of those, and
25 whatever the appropriate the Court would take -- but to

1 mitigate means to lessen, or to reduce fault, or reduce
2 culpability, reduce the punishment, and those would be for --
3 that the jury would have to consider those also. You
4 understand that?

5 A. Yes.

6 THE COURT: All right, sir. If we reach the second
7 phase of the trial, the sentencing phase, and if the jury
8 decides it's the jury's unanimous decision to impose the death
9 sentence then another part of that is, there is a verdict form
10 that each member of the jury has to sign. You have to put
11 your name down indicating that yes, I am part of this
12 unanimous jury, and I did unanimous -- or part of the
13 unanimous verdict for the death sentence. That would be part
14 of what would be required of the jury in the case.

15 Now, as a member of the jury, if you are selected, it's
16 your responsibility to come in the courtroom and to set aside
17 anything else that you might have heard about this case, think
18 you know about it, somebody told you about it, you've got to
19 set all that aside. You can't let that affect your decision
20 in any way. You can't think about it, you can't talk about
21 it. It's not part of this case. You have to decide this case
22 solely on the evidence and the testimony that's presented in
23 this case and from no other source. Do you understand that?

24 A. I understand that.

25 THE COURT: All right, sir. The law that the Court

1 would give to you, you have to take the law that the Court
2 gives you and apply it to the facts and evidence that the jury
3 so finds to be true in this case. Whether you agree with the
4 law or you disagree with the law you have to take the law that
5 I would give to you and use that law. Do you understand that?

6 A. Sure.

7 THE COURT: All right, sir. Let me ask you a few
8 questions. After we left here on Friday ---

9 A. Right.

10 THE COURT: ---Did you read anything, or listen to
11 anything, watch, look up anything about this case?

12 A. No. The only thing was, Saturday morning when we were
13 watching the Today show and it went to the cut-away for the
14 local T.V. channel it flashed on the screen about this trial.

15 THE COURT: Okay.

16 A. I mean, they didn't tell me anything I didn't already
17 know.

18 THE COURT: All right. That it was coming up?

19 A. Yes. Well, that they had started jury selection ---

20 HE COURT: Oh, okay.

21 A. ---Which, I mean, I knew that.

22 THE COURT: Because you were part of that?

23 A. Yes.

24 THE COURT: All right, sir.

25 A. And it was also on the front page of the Sun News

1 yesterday ---

2 THE COURT: Okay.

3 A. ---But I didn't -- you know, I just glanced, you know,
4 at the headline and went on.

5 THE COURT: Okay. All right, now, did -- understanding
6 that -- that that happened, can you set that aside and have --
7 don't -- you would not allow that in any way to affect your
8 decision in this matter? Can you set it aside and it has no
9 impact on your decision?

10 A. Well, I mean -- you mean just that I saw this thing ---

11 THE COURT: Yes sir.

12 A. Yes. Yes, I mean, this was in the papers big time when
13 it all happened.

14 THE COURT: Yes sir. We'll get to that. We'll get to
15 that in just a second.

16 A. All right. I mean, it's not that I don't know anything
17 about this.

18 THE COURT: No. No. I understand. And as I told
19 you -- told everybody in the jury earlier, there is nothing
20 wrong ---

21 A. All right.

22 THE COURT: ---But I'll get to the part before Friday
23 in just a second.

24 A. All right.

25 THE COURT: And so after Friday did you talk about this

1 case with anybody, discuss it with anybody at all?

2 A. Just -- other than just the fact that I had to come out
3 here today, with my wife and -- because she had a medical
4 appointment or procedure I was suppose to take her to and we
5 had to get somebody else to take her to it and all that kind
6 of stuff.

7 THE COURT: Okay. So she knew where you were?

8 A. Yes. Well, yes.

9 THE COURT: Okay. All right, sir. All right, before
10 Friday -- now, you indicated before Friday you had heard
11 about, or saw, or knew something about this case, right?

12 A. Sure. Well, sure.

13 THE COURT: All right. Can you just tell me in
14 general, or tell me what it is that you heard or know about --
15 know about the case?

16 A. Well, I mean, I read the newspaper every day and ---

17 THE COURT: Okay.

18 A. ---And watch the news on television, and I have a local
19 business here so, I mean, I know people and this was a big
20 deal back when it happened.

21 THE COURT: Okay.

22 A. And I don't know how much detail you want me to tell
23 you, I mean, this guy ---

24 THE COURT: Well, just in general kind of tell me
25 what -- what you remember, or you think you know about it.

1 Just ---

2 A. Well, I mean the guy, you know, raped that girl and
3 murdered the mother and then -- and then, you know, did what
4 he did with Mr. Turner.

5 THE COURT: Okay. All right. Understanding that you
6 have heard about that -- and again, I've told you before, you
7 know, we fully expect to have -- and to understand that. But
8 what the -- a necessity of a jury is, if a juror has heard
9 about ---

10 A. Right.

11 THE COURT: ---Certain things in the past that they
12 have the ability to completely set that aside ---

13 A. Yes. I understand. Right.

14 THE COURT: ---Let that go, and then make your decision
15 on this case based upon what you hear in this courtroom alone
16 and not based on anything that you might have heard before.
17 Can you do that?

18 A. I mean ---

19 THE COURT: Again, there is no -- there's no right or
20 wrong answers.

21 A. I don't know. I mean, to be totally honest with you, I
22 don't know.

23 THE COURT: That's what we need.

24 A. I mean just -- you know, I just -- I don't know. It
25 would be hard to say. I mean I guess if it's -- I mean, one

1 would think that one could do that. I don't know.

2 THE COURT: Okay.

3 A. I mean, I don't know.

4 THE COURT: All right. The Court would instruct the
5 jury, whoever is seated as a jury in this case, that if you
6 had heard something about this case it's not part of this
7 case; you can't talk about it in the jury room; you can't
8 discuss it; you can't think because of what I think I know
9 about it in the past that's going to affect me how I vote in
10 this case. Can you follow that law?

11 A. Well, I believe I could follow that law. I mean, I
12 have some personal issues that I think will come out later
13 when we talk about some of the other things that I talked
14 about that you will think -- you might understand better where
15 I'm coming from.

16 THE COURT: Okay. All right. Well, let's -- let me
17 ask you that kind of a general question then. Do you have any
18 kind of personal or political or religious or philosophical
19 belief of any kind that you believe would prevent you from
20 being an impartial juror in this case, in this particular
21 case?

22 A. No. No, I don't at all. I mean that would not be an
23 issue.

24 THE COURT: Okay. What -- rather than me trying to
25 phrase the question, what is it that you -- you would like to

1 tell me? I know there is something that you want to ---

2 A. Well, I had two -- I mean one of the things you guys
3 brought up the other day was about victims of crime ---

4 THE COURT: Yes sir.

5 A. ---Which I was rather shocked that it looked like half
6 of the people in the room had been victims of crime ---

7 THE COURT: Yes sir.

8 A. ---And I have been a victim of two things that have a
9 bearing in this case. One was that I have been a victim of
10 armed robbery at knife point, and the other was that my son
11 was -- we had a child molestation case where he was molested
12 by a neighbor.

13 THE COURT: Okay.

14 A. And I do have a lot of bitter feelings toward rapists
15 and people of that ---

16 THE COURT: Okay. Okay.

17 A. So that's sort of my issue in a nutshell.

18 THE COURT: All right. Well, let's talk about -- and I
19 certainly understand ---

20 A. Yes.

21 THE COURT: ---Those feelings and appreciate that very
22 much.

23 A. The situation with your son, which obviously no parent
24 wants to have to have that ---

25 A. No, it's not fun.

1 **THE COURT:** That -- the facts of that don't correspond
2 to this particular case, obviously nothing like that in this
3 particular case here in Horry County has anything to do with
4 anything like that. Now, the armed robbery -- as I told you,
5 he is charged with the crime of armed robbery.

6 A. Yes. Well, he's been convicted of raping and murdering
7 that ---

8 **THE COURT:** In -- well, assuming that to be the case
9 previously ---

10 A. Right.

11 **THE COURT:** ---Again -- and that -- I guess then you
12 are telling me that goes part to the situation of putting that
13 aside, because that doesn't have anything to do with this
14 case.

15 A. Yes. And I'm saying that -- and what I'm trying to say
16 is that -- I'm just trying to be honest with you.

17 **THE COURT:** Yes sir. And I appreciate ---

18 A. I -- one would hope I could put it aside, you know.

19 **THE COURT:** Right ---

20 A. But I do have negative feelings toward people like
21 that.

22 **THE COURT:** ---Because of your personal circumstances
23 unfortunately what happened to you.

24 A. Yes. Actually, I'm sure most people would have
25 negative feelings for people like that.

1 **THE COURT:** Yes sir. Yes sir. All right. All right.
2 A. But I do have rather strong feelings along those lines.
3 **THE COURT:** Very good. Very good. All right. I tell
4 you what, what I'm going to do at this point in time, I'm
5 going to let the Solicitor ask a few questions, let the
6 Defense attorney ask a few questions, and then we will go from
7 there. Okay.
8 A. Okay.
9 **THE COURT:** Thank you very much, sir.
10 A. Thank you.
11 **BY MR. HEMBREE:**
12 **MR. HEMBREE:** Good morning, Mr. Files.
13 A. Good morning.
14 **MR. HEMBREE:** We don't have any questions for this
15 juror, Your Honor.
16 **THE COURT:** Very good.
17 All right. Defense -- the State has no questions. Does
18 the Defense have any questions?
19 **MS. WILLIAMS:** Your Honor, we don't have any questions
20 for this juror at this time.
21 **THE COURT:** All right. Thank you very much.
22 All right, Mr. Files, if you would, the Bailiff will
23 have you go to a different room for just a moment, okay, not
24 the one that you came from but a different one. Okay.
25 Thank you very much, sir. I appreciate it.

1 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
2 JURY.)

3 THE COURT: Solicitor.

4 MR. HEMBREE: Your Honor, this juror is not qualified.

5 THE COURT: Very good. Defense agrees?

6 MS. WILLIAMS: Your Honor, we agree.

7 THE COURT: All right. Very good. The Court certainly
8 so finds this juror not to be qualified in this particular
9 matter.

10 We will excuse him from the jury panel.

11 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
12 JUROR NUMBER 199 MARKED COURT'S EXHIBIT NUMBER 7.)

13 THE COURT: Come around, Ma'am, please, right up here.

14 JUDY C. GLYMPH, JUROR NUMBER 236,
15 being first duly sworn, states as follows:

16 BY THE COURT:

17 THE COURT: Thank you, Ma'am. All right. And it is
18 Ms. Glymph; is that right?

19 A. Judy Glymph.

20 THE COURT: Judy Glymph. All right. All right, Ms.
21 Glymph, what I'm going to do is, I'm going to talk to you just
22 a little bit, and then -- I'll have some questions for you,
23 then the Solicitor's Office will have some, and the Defense,
24 okay.

25 A. Okay.

1 **THE COURT:** Now, first, to start off with, there aren't
2 any right or wrong answers here, okay.

3 A. Uh huh (indicating positive)

4 **THE COURT:** We are trying to find a fair and impartial
5 jury, and so we need the straightforward honest answers to the
6 questions that are asked of you, okay.

7 A. Okay.

8 **THE COURT:** All right. Now, in this particular matter,
9 Ma'am, the State of South Carolina has charged the Defendant,
10 Mr. Stanko, with the crime of murder and armed robbery. Now,
11 to those charges the Defendant has pled not guilty, and that
12 puts the burden of proof on the State of South Carolina to
13 prove the Defendant guilty of the crimes charged. The
14 Defendant doesn't have anything to prove to you or show to
15 you. The State has the burden of proof to prove the Defendant
16 guilty beyond a reasonable doubt. The Defendant is presumed
17 innocent; you understand that?

18 A. Yes, I do.

19 **THE COURT:** Okay. Very good. Now, in this particular
20 case the State has filed notice to seek the death penalty as
21 against Mr. Stanko. Now that doesn't happen in every case
22 when somebody is charged with murder, but the State is asking
23 it in this particular case.

24 Now, there's two phases to the trial. The first one is
25 to see -- the jury would have to decide, unanimously, whether

1 or not the State has proven the Defendant guilty of the crimes
2 charged, murder, beyond a reasonable doubt. If the jury
3 doesn't find him guilty of murder then we would never get to
4 the second phase. Now if the jury unanimously find the
5 Defendant guilty of murder, beyond a reasonable doubt, then
6 you get to the second phase, and the second phase is the
7 sentencing phase, and again the State has to prove the matters
8 to you beyond a reasonable doubt. The sentence options are
9 death or life in prison without the possibility of parole, so
10 if we say life, or someone says life, that's what they mean,
11 life in prison without the possibility of parole.

12 A. I understand.

13 THE COURT: All right. Very good. To impose death as
14 a sentence a jury would have to find what is called an
15 aggravating circumstance in addition to the crime. There's a
16 list of those that are -- whatever is appropriate the Court
17 would charge to you, and the jury would have to find one of
18 those aggravating circumstances to impose a death sentence,
19 and to aggravate means to make worse or to exacerbate the
20 situation, all right.

21 A. Uh huh (indicating positive) Yes.

22 THE COURT: Also, the jury -- certainly as I told you,
23 there's two choices -- can impose life, and there are -- the
24 jury would be required to consider any kind of mitigating
25 circumstances that the evidence might present -- and again,

1 there's a list, and the Court would give those to the jury and
2 the jury would have to look at those. And mitigate means to
3 lessen or reduce fault or reduce culpability, or reduce the
4 punishment; you understand that?

5 A. Yes, I do.

6 **THE COURT:** All right. Very good. In the second phase
7 if the jury unanimously finds that the sentence ought to be
8 death then there's a verdict form that each and every member
9 of the jury would have to sign, put their name down indicating
10 that yes, this is my unanimous verdict for the particular
11 sentence of death, all right. Now, as a member of the jury it
12 would be your responsibility to come into the courtroom and if
13 you thought you knew anything about the case, heard anything
14 about it, anybody talked to you about it you've got to set all
15 that aside, you've got to forget all that and make your
16 decision based solely upon the evidence and testimony that's
17 presented in this courtroom and not from any other source.
18 You can only make your decision based upon what you hear in
19 this courtroom. You understand that?

20 A. Yes, I do.

21 **THE COURT:** All right, Ma'am. And when it comes time
22 to render a verdict it has to be based solely on the evidence
23 as presented in the courtroom. All right.

24 A. Yes.

25 **THE COURT:** All right. Now, let me go over a few

1 questions with you. After Friday did you listen to, read,
2 watch, look up anything about this case?

3 A. No, I did not.

4 THE COURT: Very good. After Friday did you talk to
5 anybody about this case in any way?

6 A. No.

7 THE COURT: All right. Very good. Now, before Friday,
8 before I told y'all on Friday not to look up anything had you
9 heard about the case in any way, seen it, read it, heard
10 anything about the case?

11 A. I've actually heard the name in relation to the case,
12 but I don't know any of the details. I have not read an
13 account.

14 THE COURT: All right. Very good. Had you discussed
15 this case or matter with anybody?

16 A. No.

17 THE COURT: All right. Very good. As I told you, you
18 have to follow the law that the Court gives to you in the case
19 if you are part of the jury, whether you agree with it or you
20 disagree with it, or whether you thought it was something else
21 you have to take the law that I would give you and follow that
22 law. Can you do that?

23 A. Yes, I think so.

24 THE COURT: All right. Can you set aside -- you said
25 you might have heard the Defendant's name -- or anything that

1 you might have heard about the case can you set that aside
2 completely and base your decision solely on what you hear as
3 far as the evidence and facts in this case?

4 A. Yes.

5 THE COURT: All right. Thank you. Kind of a general
6 question. Do you have any kind of personal, political,
7 religious, philosophical belief that you know of that would
8 prevent you from being a fair and impartial juror in this
9 case?

10 A. I don't think so.

11 THE COURT: All right. Thank you. If we get to the
12 sentencing phase, and you have the two options, can you
13 consider a life sentence, based upon the facts and evidence in
14 the case?

15 A. Yes.

16 THE COURT: Based upon the facts and the evidence in
17 the case could you consider a death sentence?

18 A. I think so.

19 THE COURT: All right, Ma'am. If you are part of the
20 jury and the jury unanimously finds -- because to find death
21 it's got to be unanimous, everybody has got to agree to it --
22 can you then put your name -- take pen in hand and put your
23 name to the verdict form and sign your name saying, I'm part
24 of this jury that's imposing the death sentence? Can you do
25 that?

1 A. I think so.

2 THE COURT: All right. Is there -- do you have any
3 hesitancy that -- about this process in any way that you would
4 like to tell me about?

5 A. I don't think so.

6 THE COURT: Okay. All right.

7 I'm going to let the State and the Defense ask you some
8 questions and then I might have one or two follow-up after
9 that, okay.

10 A. Sure.

11 THE COURT: All right, Solicitor.

12 BY MR. HUMPHRIES: If it please the Court.

13 Good morning, Ms. Glymph, how are you?

14 A. I'm fine. How are you?

15 MR. HUMPHRIES: I'm good. I'm Fran Humphries. I'm the
16 Deputy Solicitor.

17 A. Yes sir.

18 MR. HUMPHRIES: I, along with Solicitor Hembree, and
19 Senior Solicitor Jimmy Richardson, will be representing the
20 State.

21 Let's talk about a couple of things.

22 A. Okay.

23 Q. First of all, the Court provided you with a form ---

24 A. Uh huh (indicating positive)

25 Q. ---With the types of jurors.

1 A. Uh huh (indicating positive)

2 Q. That first type, type (A) ---

3 A. Yes.

4 Q. ---Is the type juror who would always impose the death
5 sentence after the return of a conviction for murder.

6 A. Uh huh (indicating positive)

7 Q. Type (B) would be the type of juror who would always
8 impose a life sentence after returning a verdict of guilty on
9 murder, and type (C) is the type juror who could impose life
10 or death, depending on the facts and circumstances.

11 A. Uh huh (indicating positive)

12 Q. Were you able to select one of those types as
13 representing you?

14 A. I selected (C). I think that I can be impartial as far
15 as listening to all the facts.

16 Q. Very good. Because you understand that to be a
17 qualified juror -- and I guess what else -- the other thing
18 that's really important to understand in this process is,
19 there aren't any right or wrong answers as long as those
20 answers are the truth. There are certain qualifications that
21 are required of jurors, certain things they would have to do,
22 and have to be able not to do, but what we need, obviously,
23 from you is where you really fall on those issues. So let's
24 talk just a bit about that.

25 Now, I note in your questionnaire -- and I think you

1 responded in general qualifications as well -- that you are
2 familiar with Solicitor Hembree.

3 A. Yes.

4 Q. And that you have attended church ---

5 A. Yes.

6 Q. ---With him, and that -- in fact I believe your husband
7 has been a member of his Bible study.

8 A. Yes.

9 Q. Okay. Now, that in and of itself, that connection with
10 Mr. Hembree, could you set that aside and decide this case
11 based solely on the evidence presented in this courtroom?

12 A. My husband is an architect. If he came to him to do
13 business would I expect him to use our friendship? I don't
14 think so. I don't think that would be our relationship.

15 Q. Very good. And that -- and obviously that -- you know,
16 if you stay in the community long enough you would meet a lot
17 of folks.

18 A. Right.

19 Q. And I appreciate your analysis of that. That makes
20 great sense.

21 And let me ask you about this too, and I hate to bring
22 this up, but you responded on your questionnaire regarding
23 your son's murder.

24 A. That's correct.

25 Q. And while that is a bit -- some time ago surely that is

1 still an event in your life that impacts you daily.

2 A. Yes.

3 Q. With that in mind can you, for the purposes of this
4 trial ---

5 A. Uh huh (*indicating positive*)

6 Q. ---And this trial alone, obviously, but for the purpose
7 of this trial can you set that aside and again, decide this
8 case based on the evidence presented in this courtroom and the
9 law as the Court would charge it to you?

10 A. I actually think that my experiences would probably
11 make me a better juror because I've had to think about those
12 things more than someone who hadn't experienced something like
13 that.

14 Q. Sure.

15 A. I have had to deal with issues of feeling -- revengeful
16 type feelings, feeling that justice wasn't enough, and -- and
17 I've had to resolve those issues in my own way, and ultimately
18 decide to trust the judgment system, and to not allow that
19 event to manipulate or control the rest of my life.

20 Q. And further victimize you.

21 A. That's correct. And so I think that -- like I said, I
22 think I've had to think about those issues a lot more than
23 most, and come to conclusions about them, and is the Justice
24 System always right? I realize that it does the best it can
25 with facts and what it has to work with, and I think that's

1 the most we can ask for.

2 Q. When we were talking about -- when you and the Court
3 were talking about the ability to consider both a death
4 sentence and a life sentence -- what I want you to be
5 understanding of -- because I assume that that was not a death
6 penalty case when your son was killed.

7 A. It was a death penalty case, but in the end one of the
8 two perpetrators pled State's evidence and took a plea
9 bargain, and so then it was -- the sentencing was given by a
10 Judge and they did not receive the death penalty.

11 Q. Okay. Fair enough. What the Law requires ---

12 A. Uh huh (indicating positive)

13 Q. ---In a death penalty case is that, not only can the
14 juror consider a death sentence, but that that juror could
15 impose the death sentence given the right amount of evidence,
16 given the appropriate facts and circumstances. In the same
17 manner that juror would also not only have to consider a life
18 sentence, but be able to impose a life sentence.

19 Now you said you were a type (C) juror. Could you under
20 -- with that understanding impose both a life sentence or a
21 death sentence, depending on the facts and circumstances in
22 this case?

23 A. I think that I could.

24 Q. And finally let me ask you this. This -- this process
25 that we are engaged in would require that the jurors be

1 sequestered for the balance of the trial ---

2 A. Uh huh (indicating positive)

3 Q. ---Maybe seven to eight days. There really is no firm
4 way to tell -- it shouldn't be much more than that. Now,
5 understanding that that is truly an imposition on anyone,
6 sequestration would require you to be separate and apart, with
7 your fellow jurors. You would be housed in a hotel. You
8 would be taken to your meals and you would be escorted at all
9 times. All of your creature comforts would obviously be taken
10 care of but your contact with your family would be supervised,
11 and for that period of time you would be with your fellow
12 jurors, focused almost exclusively on the trial of this case.
13 My question is not so much would it inconvenience you, because
14 I think I know the answer to that, but would sequestration
15 bring about some risk to your safety or your health as a
16 result of your service?

17 A. I don't think so.

18 Q. And finally, could you be both fair and impartial to
19 the State of South Carolina and to the Defendant in this case?

20 A. I think so.

21 MR. HUMPHRIES: That's all we can ask of you. Thank
22 you.

23 A. Okay. Thank you.

24 THE COURT: All right, Mr. Diggs. For the record the -
25 - this particular juror did not circle any of the witnesses in

1 this particular case.

2 MR. HUMPHRIES: Thank you, Your Honor.

3 BY MR. DIGGS:

4 Q. Ms. Glymph, how are you today?

5 A. Fine.

6 Q. My name is Bill Diggs, and I'm here with Brana
7 Williams, and we are attorneys who represent Mr. Stanko. Mr.
8 Stanko is seated here at the table between us.

9 Respectfully, as one parent to another, given the tragic
10 circumstance that you experienced with your son ---

11 A. Uh huh (indicating positive)

12 Q. ---And I ask this question with all respect, do you
13 feel like that has undermined your ability in the right
14 circumstance, or a proper circumstance, to dispense mercy?

15 A. I'm sorry.

16 Q. Do you believe -- do you believe your experience in
17 life ---

18 A. Uh huh (indicating positive)

19 Q. ---Has undermined your either willingness or ability to
20 dispense mercy?

21 A. Definitely not.

22 Q. Okay. And I appreciate your answer.

23 You indicated that you were familiar with the name of
24 Stanko.

25 A. Uh huh (indicating positive)

1 Q. Would you tell us how you know that, and what you know
2 about it?

3 A. Actually I heard my husband mention it. We don't take
4 a newspaper, but he reads a newspaper online, and actually
5 it's been some time ago if I recall correctly, and I just
6 remembered him past -- you know, kind of mentioning that in
7 passing, but I don't even remember any details of anything he
8 might have said.

9 Q. Do you know of anything -- why the name was in the
10 news?

11 A. I know that it was connected to a murder, and that's
12 all that I know.

13 Q. Okay. Do you know where that murder supposedly
14 occurred?

15 A. No, I don't.

16 Q. And do you know the out -- was that a case that was put
17 on trial, or are you aware?

18 A. I am not aware.

19 Q. Okay. So you don't -- as we sit here this morning you
20 don't know if there has ever been a trial with respect to this
21 Defendant or not?

22 A. No, I do not.

23 Q. Okay. So would it be fair to say you don't have any
24 preconceived notions of guilt or innocence, or anything else
25 that you might be requested to decide in this case?

1 A. That would be correct.

2 Q. Okay. Now the various verdicts -- there are several
3 verdicts that might be rendered in this case, even in the
4 first proceeding. On the issue of guilt or innocence you
5 might be asked -- be permitted to consider a guilty verdict,
6 not guilty verdict, not guilty by reason of insanity, or
7 guilty but mentally ill. Now I'm not asking if you agree with
8 any of those -- the Law that forms the foundation or the basis
9 for either of those verdicts. Could you consider those
10 verdicts based upon the evidence in the case, and the
11 instructions of law that are given to you by the Judge?

12 A. Yes.

13 Q. You would consider each of those even though you might
14 or might not agree with the Law?

15 A. Even though I might not agree with the Law?

16 Q. Yes Ma'am. Even though you might say, well, you know
17 what, this Law -- I don't like this Law ---

18 A. Oh. I see. I understand.

19 Q. ---Or they shouldn't -- we shouldn't have this Law.

20 A. I understand.

21 Q. But if the Judge said, this is the Law, would you be
22 able to follow that Law ---

23 A. Yes, I ---

24 Q. ---And put aside your personal feelings about it, about
25 the wisdom of it ---

1 A. Yes.

2 Q. ---Or the fairness of it, or whatever.

3 A. Yes. I just want to make sure that I understand what
4 I'm answering.

5 Q. Right. Do you know if there's any prevailing view in
6 our community regarding this Defendant's guilt or innocence?

7 A. No, I do not.

8 Q. Okay. So you wouldn't -- would it be fair to say you
9 don't feel obligated to vote a particular way in this case
10 based on your relationship with your friends and neighbors and
11 others in the community?

12 A. No.

13 Q. And the fact that you attend church with Mr. Hembree
14 and his family, would you be able -- would that give him an
15 advantage in this case, in your mind?

16 A. I think I -- I've already answered that really.

17 Q. Okay.

18 A. I mean, you know, we know each other. We are friends.
19 We are not intimate, close friends, but we are good friends,
20 and I don't -- I don't consider that a position for
21 partiality.

22 Q. Okay. And so you wouldn't feel a need to justify your
23 verdict -- let's say you voted some way, or felt you needed to
24 vote some way other than what he was asking you to do ---

25 A. Uh huh (indicating positive)

1 Q. ---You wouldn't feel obligated to go and explain that
2 and apologize to him for your vote?

3 A. No. No, I would not.

4 Q. Okay. Ms. Glymph, I appreciate your time, and I thank
5 you very much for your questions -- or your answers to my
6 questions.

7 A. Okay.

8 THE COURT: All right. Let me just ask you one -- one
9 question based upon what the Court has discussed with you and
10 asked, and what the Solicitor's Office and Defense attorneys
11 have asked you, do you now have any question in your mind, or
12 doubt in your mind of any kind that you believe you can't be a
13 fair and impartial juror to the State and Defendant in this
14 case?

15 A. I don't think so.

16 THE COURT: All right. Thank you very much, Ma'am.

17 A. Okay.

18 THE COURT: All right, Deputy, if you would ask -- or
19 have Ms. Glymph go to that one jury room with you, please.
20 All right.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JURY.)

23 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
24 JUROR NUMBER 236 MARKED COURT'S EXHIBIT NUMBER 8.)

25 THE COURT: The State's position.

1 **MR. HUMPHRIES:** She's qualified, Your Honor.

2 **THE COURT:** Defense.

3 **MR. DIGGS:** Your Honor, we agree.

4 **THE COURT:** I find that the juror is qualified. She
5 was very honest and direct in her answers, and I would find
6 her to be fair and impartial in these proceedings, and be able
7 to follow the Law as instructed by the Court.

8 All right.

9 **THE COURT:** All right. Ms. Miller, if you would come
10 around up front, up here, please Ma'am. Thank you.

11 **JANE C. MILLER, JUROR NUMBER 446,**
12 being first duly sworn, states as follows:

13 **BY THE COURT:**

14 **THE COURT:** Thank you, Ma'am. Did you have an
15 opportunity to fill out those two sheets?

16 A. I sure did.

17 **THE COURT:** All right. Could you hand those to me?
18 Thank you, Ma'am.

19 A. I do -- I bank at Bank America and there was a woman
20 there named Janice Turner. I don't know if she's related to
21 any of the Turners. She's not there now, but -- and her name
22 was not on the list, but in case she's a relative or
23 something.

24 **THE COURT:** All right. You wanted to bring that to the
25 Court's attention?

1 A. Yes.

2 THE COURT: All right. Very good. All right. Well,
3 let's just -- I'll go over some things with you in just a
4 second, but let's -- let's start off with that. Just assume --
5 - don't even know this to be true, but just assume that Janice
6 Turner that you knew was related to the victim in this
7 particular matter -- and you worked at the bank with this
8 particular person?

9 A. No, no, no. I just banked there.

10 THE COURT: Banked there.

11 A. I don't know her personally.

12 THE COURT: Okay. All right. Very good. It was just
13 somebody that was at the bank and ---

14 A. Yes. My husband and I dealt with her a lot when we
15 had, you know, things to talk about with our banking.

16 THE COURT: Okay. Very good. All right. Could you
17 set that aside and have that such that it would not affect
18 your decision in this particular matter, the fact that you
19 might know, or happen to see this person in the future, based
20 upon your verdict in this matter, could you just set all that
21 aside and just base your decision solely on the evidence and
22 the testimony you hear in this courtroom?

23 A. Sure.

24 THE COURT: All right. Very good.

25 All right. Let me go over a couple of things with you

1 if I could, Ms. Miller. The State has charged the Defendant,
2 Mr. Stanko, with the crimes of murder and armed robbery.

3 A. Okay.

4 THE COURT: Now, the Defendant has pled not guilty to
5 those charges and what that does, that puts the burden on the
6 State of South Carolina to prove the Defendant guilty beyond a
7 reasonable doubt based upon the facts and evidence that are
8 presented in this case. The State has the burden of proof.
9 The Defendant has nothing to show to you, has nothing to prove
10 to you. The burden is on the State to prove the Defendant
11 guilty beyond a reasonable doubt. All right.

12 A. Right.

13 THE COURT: Okay. The Defendant is presumed innocent
14 of the crimes for which he is charged.

15 Now, in this particular case the State has filed notice
16 to seek the death penalty as a possible sentence as against
17 the Defendant, Mr. Stanko. Now, every time somebody is
18 charged with a murder that doesn't automatically follow. It's
19 just in this particular case, and this -- in these
20 circumstances the State has decided to charge the Defendant,
21 or serve notice of the intention to seek the death penalty.

22 In order for a jury to impose that sentence you've got -
23 - the trial is in two phases. The first phase is, the jury
24 has to unanimously decide that, based upon the facts and
25 evidence presented in the case, that the State has proved the

1 Defendant guilty beyond a reasonable doubt of the crime of
2 murder. If the jury found that then you would go to the
3 second phase. That would be the sentencing phase. And the
4 sentence can be either death or life in prison without the
5 possibility of parole. And when I might say life or someone
6 else might say life that's what we mean, life in prison
7 without the possibility of parole. Those are the two sentence
8 possibilities if the jury unanimously found Mr. Stanko guilty
9 of the crime of murder. All right.

10 Now, in that sentencing phase if the jury was to impose
11 a death sentence they have to find what is called a
12 aggravating circumstance. There's a list of those that the --
13 that are in the statute, and the ones that the Court would
14 find appropriate the Court would charge those, and then the
15 jury would have to say one of those is an aggravating
16 circumstance in this case, actually choose it if they were
17 going to impose a death sentence; you understand that?

18 A. Yes.

19 THE COURT: Obviously the jury has the ability to
20 impose a life sentence, and there are certain mitigating
21 circumstances that the Court will charge the jury and the jury
22 must consider when they are looking at the sentence, to impose
23 their sentence. They have to look at these mitigating
24 circumstances. And mitigate would mean to lessen or to reduce
25 the fault or the culpability, or reduce the punishment. You

1 understand that?

2 A. Sure.

3 THE COURT: All right. If you are in the second phase
4 of the jury trial, and you are part of the jury, and the jury
5 decides to impose the sentence of death the -- besides this
6 being unanimous -- every member of the jury has to agree -- it
7 has to be a unanimous verdict -- the jury is also required to
8 sign a verdict form, take, you know, pen in hand and sign your
9 name to the verdict form indicating that, indeed, is my
10 unanimous verdict in this particular matter. Understand that?

11 A. I do.

12 Q. All right. Very good. If you are part of the jury it
13 would be your responsibility to come in the courtroom and set
14 aside anything that you might have heard about this case,
15 think you know about it, somebody told you about something,
16 you've got to set all that aside as if that never happened and
17 base your decision solely on the facts and evidence that are
18 presented in this courtroom, make your decision based on no
19 other source other than what you hear in the courtroom; you
20 understand that?

21 A. Yes.

22 THE COURT: All right. Very good. And then you would
23 render your verdict solely on the testimony presented, and
24 follow the law that the Court would give to you in this
25 matter.

1 A. Right.

2 THE COURT: Very good. All right, let me ask you a few
3 things. Now, there's not any right or wrong answers here.
4 We've got to come to a fair and impartial jury, and so we've
5 got to have straight-forward honest answers to the questions
6 that are asked from the potential jurors in this matter.
7 Okay.

8 A. Okay.

9 THE COURT: All right, now, since we left here on
10 Friday did you read anything, listen to, look up anything
11 about this case?

12 A. No.

13 THE COURT: All right. Very good. Did you talk about
14 this with anybody in any way?

15 A. I told my husband, of course, and the people that I --
16 I play marza on Monday and Tuesdays. I told them I wasn't
17 going to be there today.

18 THE COURT: All right.

19 A. I had to tell them what -- I mean ---

20 THE COURT: All right. That you weren't going to be
21 there.

22 A. Yes, I wasn't -- I was going to be here ---

23 THE COURT: Okay. Very good. Okay.

24 A. ---And I told them that was the reason, I was being
25 selected, or maybe selected for it.

1 **THE COURT:** All right. Very good. Did you discuss it
2 any further with them, other than that you were going to be
3 here?

4 A. No, no. No.

5 **THE COURT:** All right. Very good. The fact that you
6 did, obviously, tell your husband where you were going to be,
7 or your friends, would that affect or impact your decision in
8 this case in any way?

9 A. No.

10 **THE COURT:** All right. Very good. Can you reach your
11 decision based solely on the evidence and testimony that's
12 presented in this courtroom and not from any other source?

13 A. Sure.

14 **THE COURT:** All right. Before Friday had you heard
15 about this matter in any way, or heard about Mr. Stanko, or
16 anything about this case?

17 A. Sure. I did.

18 **THE COURT:** Okay. All right. Can you just tell me
19 generally, or give me some kind of explanation what you heard
20 or read about the case.

21 A. I heard it on T.V., and I read it in the newspaper, and
22 just that he killed his girlfriend and he raped her daughter,
23 and he killed Mr. Turner. That's all I know. I don't know,
24 you know, any more particular than that.

25 **THE COURT:** Okay. Understanding that that's what

1 you've heard or read about, again, you have to make your
2 decision based solely upon the evidence in this particular
3 case ---

4 A. Yes. I understand.

5 THE COURT: ---Can you set that aside and not have that
6 impact your decision in any way?

7 A. Sure.

8 THE COURT: All right. Very good. All right. Now,
9 this is kind of a general question. Do you have any kind of
10 personal or political or religious or philosophical belief
11 that might prevent you from being a fair and impartial juror
12 in this case?

13 A. Well, that's really hard to say, you know, being a
14 mother and a grandmother, and having children and all that.
15 It does, you know, make you think, you know.

16 THE COURT: Yes Ma'am.

17 A. It's a pretty sad story, and especially for that little
18 girl, and I don't know what part Mr. Turner played in it at
19 all, but I think I could try. You know, I know we are just
20 doing the Turner part of it ---

21 THE COURT: Yes Ma'am. That's all we are here about is
22 that.

23 A. ---And I have to -- yes, and so -- and I would keep that
24 in mind.

25 THE COURT: All right. So let's follow up with that

1 then. Do you understand that to be a fair and impartial juror
2 in this particular case you have to compartmentalize this
3 matter.

4 A. Oh, absolutely. Absolutely.

5 THE COURT: You can't let anything else that doesn't
6 have anything to do with this case ---

7 A. Right.

8 THE COURT: ---Affect your decision.

9 A. Right.

10 THE COURT: You understand that.

11 A. Right. Uh huh (indicating positive)

12 THE COURT: And so that's my -- my question to you, can
13 you compartmentalize anything that you might have heard about,
14 or think about, or your personal feelings, can you
15 compartmentalize that, set it aside, and focus on the facts
16 and evidence in this case and make your decision based upon
17 what you hear here in the trial? Can you do that?

18 A. Sure. Sure.

19 THE COURT: All right. Very good. Can you follow the
20 Law that the Court will give to you, whether or not you might
21 ultimately agree or disagree with it, you understand you have
22 to follow it?

23 A. Sure. Sure.

24 THE COURT: All right. Very good. Other than the one
25 person you mentioned you didn't circle anybody else on the

1 list.

2 A. No, I don't know anybody else.

3 THE COURT: All right. Very good. And as to the
4 particular juror, category juror, you circled (C), correct?

5 A. Uh huh (*indicating positive*)

6 THE COURT: That was the one that ---

7 A. Sure.

8 THE COURT: ---If the crime had been proved by the
9 State beyond a reasonable doubt and the jury would unanimously
10 find the defendant guilty of the crime of murder then you
11 don't have your mind made up as to the second part, the
12 sentence phase, you would wait and hear all the evidence ---

13 A. Oh absolutely.

14 THE COURT: ---In that to make up your mind, correct?

15 A. Absolutely, yes.

16 THE COURT: All right. Very good. All right, assume
17 you are part of the jury and that you are in the sentencing
18 phase of the trial if -- under the right set of circumstances
19 and facts could you consider a life sentence?

20 A. Sure.

21 THE COURT: Okay. Under the right set of facts and
22 circumstances to be proved could you consider a death
23 sentence?

24 A. Sure.

25 THE COURT: Okay. If you are part of a jury and they

1 vote unanimously to impose a death sentence can you then take
2 pen in hand and sign your name to the verdict?

3 A. Sure.

4 THE COURT: All right. Very good.

5 A. That's if we both -- all agreed --

6 THE COURT: Well, yes Ma'am. It's got -- to impose
7 death -- yes Ma'am.

8 A. ---And evidence -- oh, absolutely. Yes, absolutely. I
9 have to make sure it's clear -- clear with everybody. Yes.
10 Sure, oh yes.

11 THE COURT: Oh, yes Ma'am. To impose death, again, it
12 has to be proved to you -- Yes Ma'am. It has -- I'm sorry. It
13 has to be proved to you beyond a reasonable doubt ---

14 A. Uh huh (indicating positive)

15 THE COURT: ---And it has to be a unanimous verdict ---

16 A. Sure.

17 THE COURT: ---Everybody has to agree.

18 A. Right.

19 THE COURT: Very good. I'm going to let the State and
20 the Defense ask you some questions and then I might have a
21 follow up question after that, okay. Thank you, Ma'am.

22 A. Okay. All right.

23 THE COURT: All right, Solicitor.

24 MR. HEMBREE: Thank you, Your Honor.

25 Good afternoon, Ms. Miller.

1 A. Hi.

2 MR. HEMBREE: Hi. I'm Greg Hembree. I'm the Solicitor
3 for Horry and Georgetown Counties, and I, along with Deputy
4 Solicitor, Fran Humphries, who is sitting next to me on one
5 side, and Senior Assistant Solicitor, Jimmy Richardson, the
6 three of us are going to be working on this trial on behalf of
7 the State.

8 A. Okay.

9 MR. HEMBREE: I'll be -- I'm going to be quite brief.

10 Q. You had indicated to Judge John's questions that you
11 would be able to consider the death penalty and consider the
12 penalty of life without the possibility of parole if we reach
13 that point ---

14 A. Right. Right. Uh huh (indicating positive)

15 Q. ---And you would be -- you could consider both?

16 A. Absolutely.

17 Q. But I just -- I guess I want to clarify, if necessary,
18 the -- the -- whatever verdict -- if you happen to be on this
19 jury whatever verdict this jury reaches that's the sentence
20 that would be imposed, so I guess my question would be, not
21 only can you consider life or death, can you actually impose
22 life or death given the appropriate facts, sufficient
23 circumstances?

24 A. Sure.

25 Q. Okay. I want to talk to you about sequestration a

1 little bit. That's a process, kind of unusual, but this is a
2 unique case. This is a process that the jury would be
3 sequestered during the course of the trial. In other words,
4 the jury would stay in a hotel room, there would be provided
5 meals, you know, you know, and kind of kept apart from the
6 outside world ---

7 A. Uh huh (indicating positive)

8 Q. ---So there would be no possibility that your verdict
9 would be in any way impacted or affected by some outside
10 source.

11 A. Uh huh (indicating positive)

12 Q. We anticipate that the actual trial of the case will
13 take seven or eight days once it actually starts, and you
14 would be sequestered starting -- the day you were selected you
15 would be sequestered at that point in time for about a week,
16 that's not definite but ---

17 A. Okay.

18 Q. ---Probably give you some idea. Have you ever been
19 sequestered?

20 A. No, never served.

21 Q. It's kind of unusual but probably heard of it or kind
22 of ---

23 A. Yes.

24 Q. The -- my question is this. It's -- and we know it's --
25 - and it's clearly a terrible imposition on your time, but is

1 there anything about that sequestration process that would
2 pose a risk to -- a serious risk to your health or the health
3 of someone else in your family where you would not be able to
4 do that?

5 A. No. No.

6 **MR. HEMBREE:** I appreciate your -- I appreciate your
7 direct responses. Thank you for your willingness to serve,
8 and please answer any questions defense counsel may have for
9 you.

10 **THE COURT:** Very good. Mr. Diggs. Ms. Williams. Mr.
11 Diggs, yes sir.

12 **BY MR. DIGGS:**

13 **MR. DIGGS:** Ms. Miller, how are you?

14 A. I'm fine. Thank you.

15 **MR. DIGGS:** My name is Bill Diggs, and I'm here with
16 Brana Williams ---

17 A. Uh huh (indicating positive)

18 **MR. DIGGS:** ---And we are representing Mr. Stanko who
19 is seated here next at the table between us.

20 A. Uh huh (indicating positive)

21 Q. You indicated that you had some knowledge of the prior
22 trial ---

23 A. Uh huh (indicating positive)

24 Q. ---Or prior allegations. What -- and you indicated you
25 knew what had occurred there. Do you know, or are you

1 familiar with the trial that was held in that situation?

2 A. No. I don't know too much more than that, just the
3 little bit that you see, you know, in the paper, but I didn't
4 read any more about it.

5 Q. Do you know if he was convicted or not?

6 A. I think -- yes, he was sent to jail, yes, convicted,
7 yes.

8 Q. Do you know what his sentence was?

9 A. No, I don't.

10 Q. All right. Now, the fact that he might have been
11 convicted before, does that, in any way, relieve you of the
12 sense of the responsibility you would have in this case ---

13 A. No.

14 Q. --- To make a decision based on the evidence in this
15 case?

16 A. No.

17 Q. Do you know if there is a prevailing view in the
18 community as to whether Mr. Stanko is guilty or innocent?

19 A. Oh, I can't speak for the community. No.

20 Q. Do you have an opinion as to whether he is or not?

21 A. Concerning Mr. Turner's death? No, I have no idea. I
22 have no -- I don't even know how he got -- got shot or
23 whatever.

24 Q. All right. And do you have a view concerning any other
25 alleged murder?

1 A. Well, no, I mean I just -- I mean I don't ---

2 Q. Know what you've heard?

3 A. Yes, just what I've heard.

4 Q. All right. In this case the possible verdicts are
5 likely to be whether or not Mr. Stanko is guilty or not
6 guilty, or not guilty by reason of insanity, or guilty but
7 mentally ill. Now, knowing those possible verdicts I'm
8 asking you -- and if you were seated on the jury, could you
9 consider the merits of each of those potential verdicts based
10 on the evidence in the case, and the instructions that are
11 given to you by the Court?

12 A. Yes, I could.

13 Q. Okay. Now, even though you might -- there might be
14 some area of the Law dispersed in there that you might not
15 personally agree with. You might think, for example, a
16 particular law is a bad law and it shouldn't be the Law at
17 all, but if the Judge said no, Ma'am, that's the law, could
18 you accept that and apply it to the facts as you found them to
19 be, setting aside your personal feelings about it?

20 A. I think so. That would be -- I don't know, you have to
21 give me examples. That's -- you know, it's pretty hard to
22 say. If I didn't agree with something, even though it's the
23 Law, you know, I mean, that's a hard ---

24 Q. Well, if I get into examples I might get into the facts
25 of this case.

1 A. Oh well that's ---

2 Q. I don't want to do that.

3 A. Okay. I can understand that.

4 Q. There will be an appropriate time.

5 A. Right.

6 Q. But I think it will become clear if you are seated on
7 the jury.

8 A. Uh huh (indicating positive)

9 Q. You will probably think back to what we -- our
10 discussion right now and say, yes, I understand what he's
11 saying about that, or it may be that you agree with the Law
12 one hundred percent ---

13 A. Okay. There's true.

14 Q. ---And think -- yes. But you don't feel -- I think you
15 said you don't feel an obligation to go back into the
16 community -- for example, your friends that you spoke to about
17 coming up here today ---

18 A. Uh huh (indicating positive) Uh huh (indicating
19 positive)

20 Q. ---Do you expect that they believe you should come back
21 with the particular verdict, like guilty for example? Do they
22 expect you to convict this man?

23 A. No. No.

24 Q. Okay. Because they are not on the jury and they
25 wouldn't know what you based your decision on and what you

1 didn't base it on?

2 A. Right.

3 Q. It would be fair to say that, and would be fair to wait
4 and make a decision based on the evidence in the case.

5 A. Right. Right.

6 Q. Okay. What is the Shepherd Center? I noticed you
7 worked there in Atlanta.

8 A. Yes, I worked in Atlanta. It's a spinal cord rehab
9 center.

10 Q. Could you give me your -- the benefit of your training.
11 I noticed you are a nurse.

12 A. As an R.N. we did -- people that get injured and have
13 spinal cord injuries, we could take care of them right from
14 the scene of the accident or after they've been stabilized
15 they come to Shepherd, and we teach them -- or we teach their
16 family members how to take care of them for the rest of their
17 lives. People that are partially paralyzed, for example, we
18 teach them as much as -- you know, what to do, and people that
19 are completely paralyzed we teach their families, and we teach
20 them how to direct their care, you know, too.

21 Q. I see.

22 A. But they also have neurological problems too there.
23 They have people with M.S., (unintelligible), and things like
24 that, people that are on ventilators, you know, and things ---

25 Q. Let me ask you one last question.

1 A. Uh huh (indicating positive)

2 Q. Given -- let's assume for a minute that we enter into a
3 second phase. Hypothetically, if there's a guilty verdict in
4 the case ---

5 A. Uh huh (indicating positive)

6 Q. ---Do you know whether you would be leaning one way or
7 the other with respect to life imprisonment or the death
8 penalty?

9 A. I honestly can't say because I don't know anything
10 about what happened to Mr. Turner, and I don't know, you know,
11 what the evidence is. I really can't remember too much about
12 it.

13 Q. All right.

14 A. I really don't know. I would have to listen.

15 Q. You wouldn't be predisposed ---

16 A. No, absolutely not. No.

17 Q. ---To vote one way or the other?

18 A. No.

19 MR. DIGGS: Thank you very much. That's all I have at
20 this time.

21 THE COURT: All right. Ms. Miller, let me cover real
22 briefly with you.

23 A. Okay.

24 THE COURT: I want to be clear, and have a clear
25 understanding with you. It's one of the Court's duties to

1 instruct the jury the Law that they will use, and it is the
2 jury's responsibility to accept that Law that the Court gives
3 to them and to use it based upon the facts and evidence that
4 the jury finds to be true in this particular case. But as to
5 the Law you have to accept it one hundred percent, whether you
6 agreed with it or you disagreed with it you must use that Law
7 and apply it to the facts as you so find them to be.

8 A. Right.

9 THE COURT: Can you do that?

10 A. Yes.

11 THE COURT: All right. Very good. Now, based upon all
12 the questions and everything that we asked, has that brought
13 to you -- anything to your mind that you believe -- for any
14 reason whatsoever, you believe you cannot be a fair and
15 impartial juror in this case, for any reason whatsoever?

16 A. No.

17 THE COURT: All right. Thank you much. I appreciate
18 it very much.

19 All right, Deputy.

20 Thank you.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JURY.)

23 (THREE PAGE WITNESS LIST AND QUESTIONNAIRE FOR JUROR
24 NUMBER 446 MARKED COURT'S EXHIBIT NUMBER 9.)

25 THE COURT: All right, the State's position.

1 **MR. HEMBREE:** Mrs. Miller is qualified, Your Honor.

2 **THE COURT:** Defense?

3 **MR. DIGGS:** Your Honor, we would object to the
4 qualification simply because she knew a lot about the details
5 of the case. She knew exactly what had occurred before, what
6 the allegations were, and even became emotional. I would
7 state -- it appeared that she became emotional talking about
8 the facts of the case, and again, I would submit that we have
9 enough jurors in this pool that we can sit on this jury, or
10 seat on the jury, without having to ask people to go to such a
11 fundamental level, into their core -- and no one knows that
12 they can set aside -- you know, when it comes right down to it
13 you don't know if you can set aside that or not, your
14 knowledge, and it would be almost an impossible task to not
15 fill in the gaps and the evidence if you had prior knowledge
16 of the case, and try to separate that out from the evidence
17 that's actually presented in the courtroom, and so we would
18 ask that she be excused on that basis.

19 **THE COURT:** All right. Very good. The Court would
20 find that the juror in this particular matter is qualified. I
21 was impressed with her directness, her honesty. I believe
22 that -- based upon my observations of her and her answers in
23 these particular matters that she would be fair and impartial
24 in this matter, so she is qualified.

25

1 All right. You are Mr. Wollard?

2 A. Williams.

3 THE COURT: Williams. I'm sorry, Mr. Williams, Stephen
4 Williams. Yes sir, come forward.

5 STEPHEN D. WILLIAMS, JUROR NUMBER
6 685, being first duly sworn, states as follows:

7 BY THE COURT:

8 THE COURT: All right, Mr. Williams, let me -- what I'm
9 going to do is speak to you, and then talk to you about a
10 couple of things, and I'm going to, shortly thereafter, ask
11 you a few questions, and then the State and the Defense will
12 ask you some questions.

13 Understand there are no right or wrong answers. We are
14 looking for a fair and impartial jury in this particular case,
15 and so we need direct and honest answers to the questions that
16 might be asked, okay.

17 A. Yes sir.

18 THE COURT: Very good. In this particular matter the
19 State has charged the Defendant, Mr. Stanko, with the crimes
20 of murder and armed robbery. To those crimes the Defendant
21 has pled not guilty. That puts the burden of proof upon the
22 State of South Carolina to prove the Defendant guilty beyond a
23 reasonable doubt. The Defendant is presumed innocent of the
24 crimes charged. The Defendant doesn't have anything to show
25 to you, prove to you, but the State must prove the guilt of

1 the Defendant beyond a reasonable doubt. You understand that?

2 A. Yes sir.

3 THE COURT: Very good. Now, in this particular case
4 the State of South Carolina has filed a notice to seek the
5 death penalty as against Mr. Stanko. The trial would come in
6 two phases. The first phase would be if the jury, based upon
7 the evidence and testimony presented, would find unanimously
8 the Defendant guilty of the crime of murder then we would go
9 to the second phase. If the jury does not so unanimously find
10 then obviously we would not get to the sentencing phase or the
11 second phase of a trial. If the jury unanimously finds the
12 Defendant guilty of the crime of murder then you go to the
13 sentencing phase, and in the sentencing phase there are two
14 possible sentences, one is death and the other is life in
15 prison without the possibility of parole, and when someone
16 says life, or the Court might say life, that's what we mean,
17 life in prison without the possibility of parole. Those are
18 the two potential options, sentence options in this case.

19 If the jury would impose a death sentence in this matter
20 they would have to find, unanimously, an aggravating
21 circumstance. Now aggravate means to make worse or exacerbate
22 the situation, but there are some statutory -- by Law
23 aggravating circumstances, the ones that would apply the Court
24 would -- would tell the jury, but the jury would affirmatively
25 have to find one of those, and to pick one of those if they

1 were going to impose a death sentence in this matter. Also
2 the jury can impose a life sentence in this particular matter,
3 and the jury would be required, in looking at the two options,
4 to consider any mitigating circumstances of any nature that
5 the Court would charge to the jury, and to mitigate would be
6 to -- means to lessen, or reduce the fault or the culpability,
7 or reduce the punishment. If we -- if you are on the jury and
8 you are in the sentencing phase, and the jury has found the
9 Defendant guilty beyond a reasonable doubt of the crime of
10 murder, and the jury decides unanimously to impose the
11 sentence of death so -- because to impose a sentence of death
12 it has to be a unanimous decision, a decision of all the
13 jurors in the case -- and the jury has decided to do that,
14 then each and every member of the jury would then have to take
15 pen in hand and sign their name to a verdict form indicating
16 that that is the sentence in this particular matter. You
17 understand that?

18 A. Yes sir.

19 **THE COURT:** All right. If you are part of the jury it
20 would be your job, your responsibility to come into this
21 courtroom and set aside anything else that you might have
22 heard about this case, or somebody told you, or you think you
23 know about it. You've got to set all that aside. You've got
24 to forget about that, or compartmentalize that. You can't
25 bring it into the courtroom. It's not part of this case. You

1 have to decide this case solely on the facts and evidence that
2 are presented in this courtroom, and make your decision on no
3 other source. Do you understand that?

4 A. Yes sir.

5 THE COURT: All right. The Law that the Court would
6 give to you as a member of the jury, you would have to accept
7 that Law, whether you agree with it or you disagree with it.
8 Whatever the Court tells you the law is you've got to accept
9 that and you've got to use that. You understand that?

10 A. Yes sir.

11 THE COURT: Very good. Let me ask you some questions
12 here. Since we were here on Friday did you read about,
13 listen, watch, look up anything about this case?

14 A. No sir.

15 THE COURT: Did you talk to anybody -- since we left
16 here on Friday did you talk to anybody about this case?

17 A. No.

18 THE COURT: All right. Now, before Friday, before on
19 Friday I told everybody not to listen or talk about this case
20 had you heard about this case? Had you seen anything, read
21 anything about this particular case before then?

22 A. I remembered the name Stanko just because of the name -
23 --

24 THE COURT: Okay.

25 A. ---But I couldn't tell you what he done.

1 **THE COURT:** All right. Very good. All right. What
2 then little that you might know, or even have heard the name
3 before, can you set that all aside and make your decision in
4 this case just based on the facts and evidence in this case?

5 A. Yes sir, I think so.

6 **THE COURT:** Very good. All right. Have -- you said
7 you heard a little bit. Did you talk about that with anybody?
8 Do you remember discussing that with anyone?

9 A. No sir.

10 **THE COURT:** All right. Very good. Do you remember
11 forming or expressing any opinion about this?

12 A. Well, again, only -- the only -- I wasn't sure, didn't
13 even know that he committed murder until it was in the jury
14 paperwork and it had the name of the ---

15 **THE COURT:** Victim.

16 A. ---The victim.

17 **THE COURT:** All right. Very good.

18 A. That's all I know.

19 **THE COURT:** All right. Very good. Good. Now this is
20 kind of a general question. Do you know if you have any kind
21 of personal, or political, or religious or philosophical
22 belief that you might believe would prevent you from being a
23 fair and impartial juror in this case?

24 A. No sir.

25 **THE COURT:** All right. Very good. In the paperwork

1 you did circle one of the witnesses, that's Captain Scott
2 Rutherford of the Horry County Police Department; is that
3 correct?

4 A. Yes sir.

5 THE COURT: And how do you know Captain Rutherford?

6 A. I used -- was his exterminator for about four years.

7 THE COURT: Okay. Again, this is -- part of a job of a
8 juror is any connection that you might have to anyone you
9 would set that aside. The fact that Captain Rutherford might
10 be a witness in this case can you set aside any contact you've
11 had with him and then again, just base your decision solely on
12 the facts and evidence you've heard in this case?

13 A. Yes sir.

14 THE COURT: Very good. Regarding the jury category
15 that we asked y'all to look at, one of the three, you selected
16 category (C); is that correct?

17 A. Yes sir.

18 THE COURT: And that's the one where if the murder has
19 been proved by the State beyond a reasonable doubt, the jury
20 has unanimously convicted the Defendant and found him guilty
21 of the crime of murder that when you go into the sentencing
22 phase you don't have your mind made up, you know there's two
23 possible options but you haven't made up your mind, you are
24 going to hear all the facts and evidence before you reach a
25 decision, correct?

1 A. Yes sir.

2 THE COURT: Very good. All right. If we get to the
3 sentencing phase and you are part of the jury in this
4 particular matter, under the right set of facts and
5 circumstances in this case can you consider a life sentence in
6 this matter?

7 A. Yes sir.

8 THE COURT: Under the right set of facts and
9 circumstances, the ones that are proven in the case, can you
10 consider a death sentence in this case?

11 A. Yes sir.

12 THE COURT: All right. If you are part of a unanimous
13 jury, unanimous verdict and the jury imposes a death sentence
14 in this matter, can you take pen in hand and sign your name to
15 that verdict form?

16 A. Yes sir.

17 THE COURT: Very good.

18 All right, I'm going to let the State and the Defense
19 ask some questions and I might have a follow up question after
20 that, all right.

21 Solicitor.

22 BY MR. HUMPHRIES: Good afternoon, Mr. Williams. I'm Fran
23 Humphries. I'm the Deputy Solicitor.

24 A. Yes sir.

25 MR. HUMPHRIES: Solicitor Hembree and Senior Solicitor

1 Jimmy Richardson and I will be representing the State.

2 Q. Let me ask you one thing, and just to start off with,
3 you run a business.

4 A. Yes sir.

5 Q. Now, part of this process is going to require that the
6 jurors seated in this case are going to be sequestered. Now,
7 what that means is this. It means y'all will be separate and
8 apart from everybody else. You are kept together as a jury,
9 but separate and apart from everybody else. You would be in a
10 motel room -- hotel room, your meals would be taken care of,
11 your transportation is going to be taken care of, you will
12 travel in a group, and that's going to go on for about seven
13 or eight days, give or take. Now, I know without even asking
14 that that's an imposition, but what we really need to know is
15 this. Would the fact that if you are a juror, and were being
16 sequestered, would the fact of sequestration cause any risk of
17 harm either physically or as it relates to some safety issue
18 or medically with you and your family, to the point that you
19 couldn't be a juror?

20 A. No sir.

21 Q. And let me ask you this, are you the type of jury who
22 wants to hear all of the evidence, listen to the Law as the
23 Judge charges it, and then and only then impose either a death
24 sentence or a life sentence, depending on those facts and
25 circumstances?

1 A. Well, that's the only way you can be, isn't it?

2 MR. HUMPHRIES: Yes sir. And that's all we can ask of
3 you. I appreciate it.

4 A. Yes sir.

5 MR. HUMPHRIES: Thank you.

6 THE COURT: All right. Mr. Diggs, Ms. Williams. Ms.
7 Williams.

8 MS. WILLIAMS: Thank you, Your Honor. May it please
9 the Court.

10 THE COURT: Yes Ma'am.

11 MS. WILLIAMS: Hello, Mr. Williams. My name is Brana
12 Williams, and I, along with Bill Diggs, are the defense
13 counsel in this case representing Mr. Stanko.

14 BY MS. WILLIAMS:

15 Q. Let me ask you just a few brief questions. In that
16 accepted questionnaire you filled out you've marked on there
17 that there were some matters that you had consulted with the
18 Solicitor about. Can you tell me about that?

19 A. That I consulted with the Solicitor ---

20 Q. Well, or is it someone in your family had been involved
21 with the Solicitor's Office?

22 A. Oh, my brother was in prison for a year for something
23 about six years ago.

24 Q. Okay. I thought I saw something on there about maybe
25 your child or something. Did I just not see ---

1 A. No Ma'am.

2 Q. Okay.

3 A. It was my brother.

4 Q. Just making sure about that. Now, let me ask you, you
5 testified that you are aware of Mr. Stanko's name, basically.

6 A. Yes Ma'am.

7 Q. Do you know of -- basically of any of the prior trial,
8 if there was a prior trial, anything like that?

9 A. No Ma'am.

10 Q. No?

11 A. No Ma'am.

12 Q. Okay. So, in knowing that, do you know if there is any
13 kind of prevailing view, in your opinion, that you think the
14 community expects the outcome of this trial to be?

15 A. No Ma'am.

16 Q. Okay. The Judge has asked you, the Solicitor has asked
17 you, and I ask you -- and I apologize if it sounds like we are
18 asking the same thing over and over again but sometimes we
19 have to do that to double -- you know, just double and triple
20 check, okay. Do you think that in your opinion, once you've
21 heard the facts and you've heard the circumstances and things
22 that you do hear in here, that you can base -- give us a
23 verdict that is fair and impartial?

24 A. Yes Ma'am.

25 Q. Now let me ask you, there is going to be some --

1 hopefully some different verdicts that are a possibility.
2 There's a possibility of guilty, there might be a possibility
3 of not guilty, maybe not guilty by reason of insanity, maybe
4 not guilty -- guilty but mentally ill. Do you think that
5 given those choices that you could listen to all the facts,
6 and based on the Law that the Judge tells you what each of
7 those verdicts mean, that you could select any -- one, or some
8 of those verdicts?

9 A. Yes Ma'am.

10 Q. Okay. Coming into this trial, or into this in your
11 position as a juror, if we get through the first part, and
12 actually get to the second part, then that would mean that
13 you, as the juror, as a jury, found the Defendant guilty, and
14 then we reach the second phase, and in that phase, as the
15 Judge told you, there will basically be two choices. The jury
16 could either decide to impose a death sentence or to impose
17 life without parole. Do you think you have a lean one way or
18 the other coming into this?

19 A. No Ma'am.

20 Q. One way or the other, not at all?

21 A. No.

22 Q. Finally, the Solicitor asked you if you -- you
23 understand if you are chosen as part of this you are
24 sequestered.

25 A. Yes Ma'am.

1 Q. And there is no doubt that is a hardship on anybody.

2 A. Yes Ma'am.

3 Q. He asked if you thought it would be a risk to your
4 family's health or safety. Let me ask you this, do you think
5 it's going to impose an extreme hardship on you?

6 A. No Ma'am. No Ma'am.

7 Q. So you are -- it's okay?

8 A. Yes, that's fine.

9 MS. WILLIAMS: Great. That's what we need in this
10 case. Thank you.

11 A. Thank you.

12 THE COURT: All right. Based upon all the questions
13 the Court asked of you, sir, and the State and the Defense, do
14 you have any question in your mind, any doubt in your mind of
15 any kind that you believe you cannot give to the State and the
16 Defense a fair and impartial trial, any question at all?

17 A. No sir.

18 THE COURT: Very good. Thank you.

19 If you would just go with the Deputy right now, just a
20 moment. Thank you.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JURY.)

23 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
24 JUROR NUMBER 685 MARKED COURT'S EXHIBIT NUMBER 10.)

25 THE COURT: All right, the State's position.

1 MR. HUMPHRIES: He's qualified.

2 THE COURT: Defense.

3 MS. WILLIAMS: Your Honor, we too believe that he is
4 qualified.

5 THE COURT: Very good. The Court finds that juror 685,
6 Mr. Williams, is qualified.

7 All right. We are going to have to do something with
8 that last panel, I mean, there is just -- we -- you know, I
9 know we are moving along but we've gone through two and it's
10 12:45, so we have to do something with the last panel.

11 Now, I guess there's two options and that's why I want
12 to discuss it with you. We can either have that last panel
13 come in 9 o'clock tomorrow morning and move back everybody,
14 have the Clerk get on the phone and call all those, you know,
15 all those people and move them back, or you can basically take
16 off that last panel and move it to the end, or move it to the
17 next day, depending on where we are. Does the State have any
18 position one way or another, or objection to that?

19 MR. HEMBREE: Give us one second, Your Honor.

20 THE COURT: Yes sir.

21 MR. HEMBREE: Judge John, the State's suggestion would
22 be that we definitely need to move -- and clearly -- I mean,
23 we are making progress because we are getting them qualified.
24 It takes longer to get them qualified so -- we are making good
25 progress. We are just -- it's just slow. So, take the last

1 panel, put in at nine o'clock in the morning, move all the
2 other panels in -- in sequence further down, but it would be
3 the State's recommendation that we only schedule five panels
4 for tomorrow also. That way we don't need to make two phone
5 calls, you know, a phone call today and a phone call tomorrow.
6 We could just make the one phone call and hopefully ---

7 THE COURT: All right. Very good.

8 MR. HEMBREE: ---You know, give us some -- and then we
9 can sort of assess where we are tomorrow, and see what we need
10 to do ---

11 THE COURT: At the end of tomorrow and see what we
12 need.

13 MR. HEMBREE: ---See what we need to do about
14 Wednesday, yes sir.

15 THE COURT: All right. What's the Defense's position?
16 Do you have any problem with that, or do you want to suggest
17 something else?

18 MR. DIGGS: No, that's -- that sounds fine.

19 THE COURT: All right. Very good.

20 All right, Madame Clerk, I appreciate the work it's
21 going to cause you, but -- so what you are going to do is, the
22 panel that was coming in at 4:15, you are going to have them
23 come in tomorrow morning at 9 o'clock, so the one at 9 o'clock
24 is going -- tomorrow, is going to come in at 10:15, the one at
25 10:15 is coming in at 11:30, the one at 11:30 would be 1:45,

1 and then the 1:45 would be at 3:00, and that's where we would
2 stop. That would be five of them. Right? That would be
3 five. Okay. So three, and -- the 3:00 and the 4:15,
4 basically need to tell them to hold on until the next day.
5 Just tell them don't come in, and we'll see where we are.
6 Okay.

7 (FURTHER DISCUSSION BETWEEN THE COURT AND THE CLERK OF
8 COURT.)

9 THE COURT: All right. Ask that -- ask the next juror
10 to come in, please.

11 TERESA P. WOOLARD, JUROR NUMBER
12 695, being first duly sworn, states as follows:

13 THE COURT: All right. And it is Woolard, Ma'am?

14 A. Yes.

15 THE COURT: All right. Very good. All right, what I'm
16 going to do is, I'm going to talk to you about a few things,
17 ask you a few questions, and then there will be some questions
18 that the State and the Defense will ask you, okay.

19 A. Okay.

20 THE COURT: Now, there aren't any right or wrong
21 answers here. What we are looking for is a fair and impartial
22 jury, so we've got to have direct straight-forward honest
23 answers to the questions that we ask, whatever your answer or
24 feelings might be; you understand that?

25 A. Yes.

1 **THE COURT:** Very good. All right, now, in this
2 particular matter the State has charged the Defendant, Mr.
3 Stanko, with the crimes of murder and armed robbery. The
4 Defendant has pled not guilty to those and that puts the
5 burden of proof on the State of South Carolina to prove the
6 Defendant guilty beyond a reasonable doubt. The Defendant has
7 nothing to show to you, Defendant has nothing to prove to you.
8 The Defendant is presumed innocent. The State has to prove to
9 you, if you are on the jury, that the Defendant committed the
10 crimes charged beyond a reasonable doubt based on the facts
11 and evidence presented. You understand that?

12 A. I understand that.

13 **THE COURT:** Very good. Now, in this particular case
14 there could be two possible phases to the trial. The first
15 phase is the trial on the charges of murder and armed robbery,
16 and again, the State has to prove those to whoever the jury is
17 beyond a reasonable doubt. Now -- and if the jury finds,
18 based upon their view of the facts and evidence, that the
19 Defendant is guilty of the crime of murder beyond a reasonable
20 doubt then we would get to the sentencing phase. If the jury
21 doesn't unanimously -- that means everybody -- unanimously
22 find the Defendant guilty of murder then we never get to the
23 sentencing phase. All right. So assume that has occurred,
24 that the jury has unanimously found the Defendant guilty of
25 the crime of murder, and we are in the sentencing phase.

1 Now in this particular case the State has filed a notice
2 to seek the death penalty, so that means there's two possible
3 sentences, death or life in prison without the possibility of
4 parole. And when I might say life, or somebody else might say
5 life, that's what we mean, life in prison without the
6 possibility of parole.

7 Now, if the jury is to consider death as a possible
8 punishment in this matter they would have to find an
9 aggravating circumstance. Aggravating means to make worse, or
10 exacerbate the situation -- and there's a list of those, and
11 the ones that might apply the Court would charge to the jury,
12 but the jury would have -- unanimously have to find that
13 aggravating circumstance and then obviously unanimously find a
14 death sentence if that's what they were going to impose.

15 The jury also will consider life in prison without the
16 possibility of parole, and the jury is required in making the
17 choices, in making the decisions about death or life, to
18 consider, to look at any mitigating circumstances that the
19 Court would charge the jury about, and mitigate means to
20 lessen, or to reduce fault, or reduce the culpability, reduce
21 the punishment. That would be part of the jury's job, to look
22 at those that the Court says that the Court -- that the jury
23 has to look at. Now, if the jury, based upon it's view of
24 evidence, and finding the matters to be proved to them beyond
25 a reasonable doubt decides to impose a death sentence in this

1 particular matter that decision has to be unanimous. It has
2 to be the verdict of every single member of the jury,
3 everybody has to agree. And if they do agree then each member
4 of the jury has to take pen in hand and sign their name to a
5 verdict form indicating that, indeed, was my unanimous
6 verdict, and it was to impose the death penalty; you
7 understand that?

8 A. Yes.

9 **THE COURT:** All right. Very good. Now, as a member of
10 the jury it would be your responsibility and your job to come
11 in the courtroom and to set aside anything that you think you
12 know about this case, you might have heard about this case,
13 somebody told you about it, you've got to forget all that.
14 You've got to set that aside, don't bring it into the
15 courtroom. It can't be part of this case. You have to make
16 your decision based solely upon the facts and evidence
17 presented in this courtroom. You understand that?

18 A. I understand that.

19 Q. Your job, obviously, is to listen very carefully to the
20 evidence, find that evidence which convinces you of it's
21 truth, and then base your verdict on the facts and evidence
22 presented in the courtroom, and the law that the Court will
23 charge to the jury. Whether you agree or disagree with the
24 law you have to take the Law that the Court would give to the
25 jury and apply it to the facts that the jury so finds them to

1 be. You understand that?

2 A. I understand that.

3 THE COURT: Very good. All right. Let me go over a
4 few questions with you. Since we were here on Friday did you
5 read, listen, look up anything about this particular case?

6 A. No.

7 THE COURT: Did you talk to anybody about this
8 particular case since we were here on Friday?

9 A. No.

10 THE COURT: All right. Now, before Friday, do you
11 remember hearing about, reading about anything about this
12 particular case?

13 A. Yes.

14 THE COURT: All right. What was it? What can you tell
15 me about what you heard in the past?

16 A. It was a couple of years ago.

17 THE COURT: Okay.

18 A. I live in Murrells Inlet, so it was a -- you know,
19 everybody in Murrells Inlet was talking about ---

20 THE COURT: Okay.

21 A. ---That he -- he killed his girlfriend and ---

22 THE COURT: Okay. So that -- that was obviously a talk
23 in the community at that point in time when it occurred.

24 A. Yes.

25 THE COURT: All right. Now, you understand -- first,

1 you understand that the situation that happened in Murrells
2 Inlet is not part of this case; this is a totally and separate
3 case; you understand that?

4 A. Right. Has nothing to do -- right. I understand that.

5 THE COURT: All right. Very good. And then most
6 importantly, you understand you have to set all that aside.
7 You can't bring that into the courtroom. That can't affect
8 your decision in this case. You have to make a decision in
9 this case based upon what you heard in this case, and not
10 about anything else that might have happened, or you think
11 might have happened in some other case. You understand that?

12 A. I understand that.

13 THE COURT: All right. Can you do that?

14 A. I can do that.

15 THE COURT: All right. Did you -- do you remember
16 discussing the matter with folks in general?

17 A. Not -- well, not a big deal, you know, it was -- when
18 it happened it was a big deal and it just -- I haven't really
19 thought anything about it until ---

20 THE COURT: Until now?

21 A. Yes.

22 THE COURT: Okay. And again -- if you had discussed
23 anything about it, again, you have to set that aside and make
24 your decision based on what you hear in this courtroom,
25 correct?

1 A. Correct.

2 THE COURT: Very good. All right. Kind of a general
3 question. Do you believe you have any kind of personal,
4 political, religious, philosophical belief that you believe
5 would prevent you from being a fair and impartial juror in
6 this case, to be fair to the State and the Defendant in this
7 case?

8 A. I don't think so.

9 THE COURT: All right. Based upon what you might have
10 heard about the matter in the past, have you now formed or
11 expressed any opinion about this particular case?

12 A. No.

13 THE COURT: All right. Regarding the witness list you
14 didn't circle any witnesses, correct?

15 A. Yes. I don't know them.

16 THE COURT: Very good. And regarding the juror
17 category you selected (C), correct?

18 A. Yes.

19 THE COURT: And that's the one that, if we are in the
20 sentencing phase that you wouldn't have your mind made up,
21 that you would listen to all the facts and the evidence, and
22 then do what you thought was right and just based upon the
23 facts and evidence in this particular case, and the law that
24 the Court would charge to you; is that right?

25 A. That's right.

1 **THE COURT:** Very good. If we get to the sentencing
2 phase and you are part of that jury, based upon whatever the
3 facts and circumstances that are presented to you, could you
4 consider a life sentence?

5 A. Yes.

6 **THE COURT:** Based upon the facts and evidence
7 presented, whatever they might be at that point in time, can
8 you consider a death sentence?

9 A. I think that would be harder for me, but yes.

10 **THE COURT:** All right. And then looking at that, and
11 understanding that it has to be, again, a unanimous decision
12 of the jury -- does this come from personal feelings that you
13 have, or the -- and understand it's -- it's an important
14 responsibility that we are asking the jury to -- in this
15 particular matter. Where -- what are your feelings about it?

16 A. I didn't think I had -- you know, I always thought
17 well, no, I could say it's okay until you said it on Friday,
18 and I was like, gosh, I don't know, cause I know that it would
19 -- I don't know.

20 **THE COURT:** Okay.

21 A. It just really surprised me that I had that feeling
22 like I -- see, it would be me deciding whether somebody lives
23 or dies.

24 **THE COURT:** Yes Ma'am, because you would be not only
25 considering a life sentence or a death sentence, the jury

1 would actually be making a decision, and imposing a sentence,
2 life or death. The jury would actually impose that sentence.
3 That would be part of the jury's job. So, if you sit on the
4 jury, to be fair and impartial to the State and the Defendant
5 you have to be equally open to both possibilities, based upon
6 the facts and evidence presented.

7 A. Right. I understand that.

8 THE COURT: You can't close your mind to either
9 possibility. You have to leave your mind clear and open.

10 A. Well, I'm not -- I'm not closed, my mind. It's just
11 that I was surprised that -- how much it surprised me.

12 THE COURT: Okay.

13 A. You know, it was like, wow. Not that I wouldn't do it,
14 I just -- I think it would be -- it would be ---

15 THE COURT: Yes Ma'am. It would obviously be something
16 you would have to think about and ---

17 A. There would be like more thought into that than the
18 other.

19 THE COURT: Yes Ma'am. And as we would expect and hope
20 the jury would do in -- in looking at that kind of situation.
21 Yes Ma'am. All right. Very good.

22 All right. Let's say you are part of the jury and the
23 jury unanimously decides, all the members of the jury
24 unanimously decide to impose a death sentence in the case.
25 Another part of that is, as I told you before, you have to

1 take pen in hand and sign your name to the verdict form saying
2 yes; this is my verdict, this was the unanimous verdict that
3 the jury reached. Could you do that?

4 A. I would do that. If I made that decision I would
5 follow through with the decision I made.

6 THE COURT: All right. Very good. Thank you, Ma'am.
7 All right, Solicitor. Questions.

8 BY MR. HEMBREE: Thank you, Your Honor. May it please the
9 Court.

10 THE COURT: Yes sir.

11 MR. HEMBREE: Good afternoon.

12 A. Good afternoon.

13 MR. HEMBREE: I'm Greg Hembree. I'm the Solicitor for
14 Horry and Georgetown Counties, and I, along with Deputy
15 Solicitor Fran Humphries ---

16 A. Hi.

17 Q. ---And First Assistant Solicitor Jimmy Richardson will
18 be trying this case, presenting the evidence on behalf of the
19 State.

20 First let me make it really clear. I think the Judge --
21 Judge John has already said this, but we are not looking for
22 particular answers.

23 A. Right.

24 Q. You know, we are not looking for -- we are not trying
25 to guide you in a certain way. We are truly trying to look --

1 kind of look into your heart and find out how you feel, you
2 know, when it gets right down to it, how you feel about the
3 death penalty, and, you know, are you able -- would you be
4 able to impose the death penalty in this case, given the
5 appropriate -- under the appropriate circumstances, given the
6 sufficient evidence; could you do that? Judge John already
7 talked to you some about that. He said -- and he -- you said
8 it and he agreed, and it's just this simple, it's this clear
9 cut that you -- if you are selected for this jury, you are
10 going to -- we have to believe, going to be given the
11 opportunity to decide if that Defendant right there lives or
12 dies.

13 A. Right.

14 Q. A question I'm sure you have never, ever, ever
15 considered in your life.

16 A. Ever.

17 Q. And you indicated you had difficulty when you -- you
18 said --- I think you said -- correct me if I'm wrong -- that
19 you had thought about it sort of generally, and you said, yes,
20 you know, I could consider the death penalty, but then when
21 Judge John asked you that question specifically, then you were
22 surprised that your -- in your heart you had a different
23 feeling.

24 A. Yes. It wasn't so nonchalant, you know, it -- and it's
25 not. It's not.

1 Q. Would it be beneficial -- do you need to think about
2 it some more?

3 A. I don't know. I just -- I mean, I just -- I'm
4 surprised at the way I reacted to it because I -- I mean, you
5 know, you talk it pass and, you know, when it comes up, and
6 voting and everything, you are like, oh yeah, I could do that,
7 but then when he just -- and I was like, that would be me
8 making that decision. It's a -- it's a little harder, not
9 that I couldn't make it, it's just that I was -- it really
10 surprised me that I was like, wow, you know.

11 Q. It's a tremendous burden.

12 A. Yes, it is, to think that you are -- that you are
13 deciding on life or death for somebody. I mean, I think -- I
14 think life is a precious thing, I do. I don't think anybody
15 should take the life, you know, I just -- I don't know. I was
16 just surprised because I was very nonchalant about it until
17 Friday when I came ---

18 Q. And you've just said you don't believe anybody should
19 take a life.

20 A. I don't. And I know it happens and ---

21 Q. But that's exactly what we would be calling upon you to
22 do.

23 A. I know. I know.

24 Q. And could you do that?

25 A. I don't know. Honestly, I don't know. I don't know.

1 I thought I could until -- you know.

2 Q. That's what -- and that's exactly -- I mean it's a
3 tough -- it's a tough process, and that's a -- really what --
4 you know, why we bring you in here individually, because it's
5 a real personal thing. So, I appreciate that you don't know,
6 but you have to be qualified to serve on this jury. You have
7 to know. You have to know whether you could impose it or not,
8 and if you don't know then you are not qualified to serve on
9 this jury, which is fine.

10 A. And I don't know. I mean, maybe when I've heard all
11 the facts I would have a stronger opinion. Right now I don't
12 know, because I don't know that much about the case, other
13 than what I heard -- you know, I just -- I don't know.

14 Q. Let me explore that with you, because I don't -- we
15 can't tell you about the facts. We are not going to talk
16 about that ---

17 A. Right.

18 Q. ---Because that's not really appropriate, and we are
19 not even really asking about that. I understand what you are
20 saying because you can't grasp -- it's hard to get inside
21 because we are doing this in a vacuum ---

22 A. Right.

23 Q. ---And you don't even know what we are talking about --

24 -

25 A. Exactly.

1 Q. ---And so how in the world can you say yes I can impose
2 the death penalty. I guess my question is more philosophical
3 in nature than ---

4 A. Okay.

5 Q. ---It is factual in nature. You know, we kind of think
6 of it more in -- if that makes sense.

7 A. It's -- it's very hard for me because I deal in facts,
8 I mean, you know ---

9 Q. Yes. It is ---

10 A. ---It's like, show me.

11 Q. And I'm not able to do that.

12 A. Right.

13 Q. But in philosophical terms that's where you -- that's
14 really what the question is, can you -- philosophically, can
15 you, in good conscience, with a clear conscience, given
16 sufficient facts, impose the death penalty on this -- on
17 another human being.

18 A. I think I could. I'm not positive. I don't know.
19 It's just -- I don't know. I think I could. You know, I
20 think if it was -- I mean there are some people that were put
21 to death and I thought that they should have been. There was
22 no fixing them, you know, it was just -- they didn't need to
23 be out in the public to do what they were doing again, and I
24 believe what was done was right, but I wasn't the one doing
25 it.

1 Q. Right.

2 A. You know.

3 Q. Right. Well, that's the whole difference, because it
4 could be okay if somebody else is doing the -- doing the
5 imposition. That's fine. I mean, that's okay. But whether
6 you could do it yourself is what we are asking you, and I
7 think -- I think what I clearly hear from you, philosophically
8 you just don't know if you can do it.

9 A. I just don't know. I would try to. I mean, I would --
10 I would listen to all the facts and try to make the right
11 decision.

12 Q. I have no doubt that you would be fair and impartial.
13 That's -- but that's not what I'm asking you. I'm with you on
14 that.

15 A. Okay.

16 Q. But I'm -- but mine is more -- like I said, mine is
17 more a philosophical question and I think you have answered
18 that question for me ---

19 A. Okay.

20 Q. ---And if I hear you right you just don't know.

21 A. I don't know.

22 Q. There is a -- to kind of shift gears completely ---

23 A. Okay.

24 Q. ---Something a lot more practical.

25 A. All right.

1 Q. In this case the jurors are going to be sequestered,
2 which means that the jurors will, for seven or eight days,
3 maybe -- maybe longer, probably seven or eight days, the
4 jurors will be plucked out of the community, out of their
5 homes, they will live in a hotel. They will essentially live
6 in the hotel, come to court, work on -- sit on the jury,
7 listen to evidence, and then be taken back to the hotel.
8 There will be some limited contact with your family, make a
9 phone call, things like that, occasionally, but be taken out
10 of your normal routine. I know that is a tremendous hardship
11 for you. Does it create a hardship to the extent that you
12 would be unable to serve, or unable to give your full
13 attention to the jury service?

14 A. No, not something I'm looking forward to, but no, it
15 wouldn't be. It wouldn't. I'm sorry.

16 MR. HEMBREE: I don't believe I have any further
17 questions. I appreciate your honest answers ---

18 A. Okay.

19 Q. ---And the searching that -- of your heart that you
20 have done, and your willingness to serve.

21 If you will, please answer any questions the Defense
22 has.

23 THE COURT: Okay. Mr. Diggs or Ms. Williams.

24 MR. DIGGS: Your Honor, we don't have any questions of
25 the juror at this time.

1 **THE COURT:** All right.

2 Ms. Woolard, let me -- let me ask you a few questions,
3 based upon what the Solicitor has asked of you, and your
4 answers. Assume you are in the situation where you are part
5 of a jury that has unanimously convicted the Defendant of the
6 crime of murder, so we are into the second phase, and based
7 upon that the Court is then instructing you that the Law is
8 that the jury would look at any aggravating circumstance that
9 the Court would charge to it, and would have to find -- find
10 one, at least one, to impose the death penalty, and would also
11 look at, and must look at any mitigating circumstances,
12 looking at the other element, life in prison without the
13 possibility of parole, the Court has to know that you can
14 fairly and honestly hear all the evidence, to fairly and
15 honestly consider both options, death and life, based upon the
16 facts and evidence in the case, and have the ability, based
17 upon the jury's view of the evidence, to unanimously find
18 death or impose a life sentence, that you, as a member of the
19 jury, personally can do that, have the ability to do that, and
20 again, there aren't any right or wrong answers, but not only
21 being open to the possibility, but to know that, given the
22 proper facts and circumstances, whatever they might be,
23 whatever is presented, that I can fairly and honestly impose
24 one or the other, being fair to the State and to the Defendant
25 in this matter, and you have to know that with -- I don't say

1 with absolute certainty, but you have to be able to say yes, I
2 can do that. It's not maybe I can do that, or possibly, I
3 think so, but yes, that I can do that. Can you do it?

4 A. Yes, I can do that.

5 THE COURT: Very good. Thank you, Ma'am.

6 Further questions from the State?

7 MR. HEMBREE: Briefly, Your Honor.

8 BY MR. HEMBREE:

9 Q. Ms. Woolard, I need you -- I want to clarify one thing.
10 You are never -- you are never in a situation where you are
11 required by the Court -- you are required to follow the Law --

12 -

13 A. Right.

14 Q. ---But you are never required to make a finding of
15 death. There is not a -- there is not a formula that says
16 this plus this always equals death.

17 A. Right.

18 Q. The State can prove the murder, the State can prove the
19 statutory aggravating circumstance, and you can still, if you
20 choose, if you -- if you -- you could still choose not to
21 impose the death penalty, okay.

22 A. Okay.

23 Q. You are never going to be in a situation where, you
24 know, I -- my independent judgment doesn't figure into this.
25 Do you follow me?

1 A. Right.

2 Q. With that under -- with that understanding -- I don't
3 know if that's a better understanding, or if you already had
4 that understanding, but with that thought in mind I want to go
5 back to your philosophical view of the death penalty.

6 A. Okay.

7 Q. Would you be -- philosophically, would you be able to
8 put another human being to death?

9 A. Yes.

10 MR. HEMBREE: Thank you for your question -- thank you
11 for your answer. I appreciate it.

12 THE COURT: All right. Further questions from the
13 Defense?

14 MR. DIGGS: No, Your Honor. We appreciate the juror's
15 time, of course, but we don't have any questions of her.

16 THE COURT: All right. Very good.

17 All right, Deputy.

18 Thank you, Ma'am. If you will just accompany the Deputy
19 for a moment, please.

20 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
21 JURY.)

22 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
23 JUROR NUMBER 695 MARKED COURT'S EXHIBIT NUMBER 11.)

24 THE COURT: All right, Solicitor, the State's position.

25 MR. HEMBREE: The juror is qualified, Your Honor.

1 **THE COURT:** Defense.

2 **MR. DIGGS:** We agree.

3 **THE COURT:** All right. Very good.. The Court finds
4 that she was very open and honest, had -- was extremely
5 thoughtful, certainly can be fair and impartial. I think that
6 she is properly qualified.

7 **MS. WILLIAMS:** Your Honor, I apologize. One moment,
8 please.

9 **MR. DIGGS:** Your Honor -- okay, subject to a prior --
10 the type of objection that we've made we think the juror ---

11 **THE COURT:** I'm sorry. I don't have an idea what you
12 are saying.

13 **MR. DIGGS:** Okay. Let me ---

14 **THE COURT:** If you've got an objection you need to
15 raise it to me because I have no understand ---

16 **MR. DIGGS:** I object -- I object to the witness based
17 on the fact that she knows about the case. We don't object to
18 her based on her views on the death penalty. And as I've
19 stated in the record on a number of other occasions this
20 morning, I think it's simply asking too much to have a juror
21 come in and put aside prior knowledge about the case and say,
22 well, I can make a decision based solely on what is presented
23 in the courtroom when that's just not humanly -- I would
24 submit it's not humanly possible to do, and based on her --
25 you know, the fact that she lived in Murrells Inlet, in the

1 community at the time of the offense down in Georgetown,
2 supposedly, it's just asking too much of this person to set
3 aside all of that, and so based on her knowledge of the case
4 we object to her qualification.

5 THE COURT: So she's unqualified in that regard?

6 MR. DIGGS: In that regard.

7 THE COURT: Very good.

8 MR. DIGGS: Yes sir.

9 THE COURT: All right. The Court disagrees. She
10 certainly was very direct and honest in those responses. She
11 could clearly, and without equivocation, set aside anything
12 that she has heard in the past, she would not let those affect
13 her decision in any way, that she clearly could be fair and
14 impartial to the Defendant.

15 Further, I find that her views on the potential
16 sentences in this matter, that she can follow the Law, that
17 there was nothing in her views that would prevent or
18 substantially impair her performance of her duties, and as I
19 said, follow the Court's instructions, and therefore I do find
20 her to be qualified.

21 All right. Counsel, it's 1:20. Do you wish to break
22 for lunch or not?

23 MR. DIGGS: I would like to.

24 THE COURT: Solicitor. I mean we haven't even -- you
25 know, we haven't touched the 11:30. That was the last one of

1 the 10:15, so we would just be starting with the 11:30, and
2 the 1:45 is soon to come, and the three o'clock will come
3 thereafter.

4 MR. HEMBREE: About fifteen minutes would be about all
5 a break I would be looking for.

6 THE COURT: Why don't we ---

7 MS. WILLIAMS: Your Honor ---

8 THE COURT: Yes Ma'am.

9 MS. WILLIAMS: ---Can we at least have twenty or
10 twenty-five. I can go get my sandwich and eat it before my
11 blood sugar drops.

12 THE COURT: All right. Very good.

13 MS. WILLIAMS: I'm going to be straight-forward.

14 THE COURT: I appreciate that. All right. Why don't
15 we -- we will come back at -- we will come back at 1:45. We
16 will come back at 1:45.

17 (CLERK OF COURT RECEIVES INSTRUCTIONS CONCERNING THE
18 REMAINING JURORS WAITING.)

19 CLERK OF COURT: The second thing, Juror number 122
20 that was to come in at 4:15 today is -- which has now been
21 moved to 9 o'clock tomorrow is over sixty-five, does not want
22 to serve, and he's also in the hospital.

23 MR. HUMPHRIES: Is that all?

24 THE COURT: What is that name and what's the juror
25 number?

1 **CLERK OF COURT:** Number 122, Richard Corkum.

2 **MR. HUMPHRIES:** He's number three on panel six.

3 **THE COURT:** All right. So 122, Richard Corkum, what's
4 the State's position?

5 **MR. HEMBREE:** No objection, Your Honor.

6 **THE COURT:** Defense?

7 **MR. DIGGS:** Your Honor, given the fact he's in the
8 hospital we don't object.

9 **THE COURT:** All right. He's excused, Madame Clerk.

10 **CLERK OF COURT:** Thank you.

11 **THE COURT:** All right. 1:45. Thank you.

12 **(THE FOLLOWING TAKES PLACE AFTER A LUNCH BREAK.)**

13 **THE COURT:** All right, sir, if you would come around
14 please, right up here.

15 **MATTHEW J. ARBAUGH, JUROR NUMBER**
16 **22, being first duly sworn, states as follows:**

17 **BY THE COURT:**

18 **THE COURT:** All right, Mr. Arbaugh, what I'm going to
19 do is cover a few things with you, go over your juror category
20 question with you, and then the State and the Defense may have
21 some questions for you, okay.

22 A. Okay.

23 **THE COURT:** All right. In this particular matter the
24 State of South Carolina has charged the Defendant, Stephen
25 Stanko, with the crime of murder and armed robbery. To those

1 crimes the Defendant has pled not guilty. It is -- with that
2 the burden of proof is upon the State of South Carolina to
3 prove the Defendant guilty beyond a reasonable doubt. The
4 Defendant has nothing to show to you. The Defendant has
5 nothing to prove to you. Defendant is presumed innocent of
6 the crimes for which he is charged. The State must prove
7 those to you, if you are on the jury, beyond a reasonable
8 doubt.

9 In this particular matter we asked you to circle a
10 category of juror, (A), (B) or (C), and in this particular
11 matter you have circled (A); is that correct?

12 A. Yes.

13 THE COURT: All right. And that is a category that one
14 who, once the crime of murder has been proved by the State
15 beyond a reasonable doubt, and then you would go into the
16 sentencing phase of the matter to consider punishment, you
17 feel that you must give the death penalty in each and every
18 case, and feeling that once a murder has been committed the
19 death penalty is the only appropriate sentence, and that you
20 would not hear any facts or circumstances in aggravation or
21 mitigation, or consider life imprisonment, that you would
22 always, in every case, vote for the death penalty; is that
23 correct?

24 A. Yes.

25 THE COURT: All right, sir. What is the -- can you

1 explain to me your feelings about that a little bit, if you
2 don't mind?

3 A. Well, I feel that if you have taken the life of someone
4 else, from someone else's family, that they should have the
5 right to take his life as well.

6 THE COURT: All right, sir. And even if the Court
7 instructed you, and charged you that the Law of the State of
8 South Carolina is such that, not only does a sentence of death
9 by the jury have to be unanimous, the jury must, they have to
10 consider mitigation, mitigating factors that the Court would
11 charge to them. Do you understand that? That would be the
12 Law that the Court would tell the jury, and if you were on the
13 jury that you would have to follow that Law, that you must,
14 you have to consider those mitigating factors and consider a
15 sentence of life in prison without the possibility of parole?
16 You understand as a juror you have to follow the Law, correct?

17 A. Correct.

18 THE COURT: If I charged that to you, and you were on
19 the jury, would you follow that Law, or would you follow your
20 belief that you must impose the death penalty each time there
21 is a murder?

22 A. I would go with the Law, but I wouldn't be satisfied.

23 THE COURT: Okay. All right. Then let's -- let's
24 cover that a little bit more. All right. In this particular
25 case, the State of South Carolina has given notice to seek the

1 death penalty. For the jury to impose that as a sentence in
2 the second phase of the trial -- because the first phase is,
3 the jury would have to unanimously find the Defendant, Stephen
4 Stanko, guilty of the crime of murder. If the jury didn't
5 unanimously find that obviously we would not get to the second
6 phase. So, in the sentencing phase, for the jury to impose
7 the death sentence it has to be unanimous, and the jury has to
8 find an aggravating circumstance, that's something in
9 addition. Aggravate means to make worse, or to exacerbate the
10 situation, you understand that?

11 A. Uh huh (indicating positive)

12 THE COURT: And the Law would also be, as I told you,
13 that the jury must also consider the possibility of life in
14 prison without the possibility of parole. Those are the two
15 options, death, life in prison without the possibility of
16 parole. And the Court would charge to the jury any mitigating
17 circumstance of any nature which the Court felt was
18 appropriate in this case, and the jury would have to -- they
19 must consider that, and consider life in prison without the
20 possibility of parole. Do you understand that?

21 A. Uh huh (indicating positive)

22 THE COURT: All right, sir. You need to answer yes or
23 no ---

24 A. Okay.

25 THE COURT: ---Because the Court Reporter can't take

1 down uh huh, and doesn't know what uh huh means in -- when
2 they are transcribing it or writing it out. All right.

3 A. I'm sorry.

4 THE COURT: That's okay. Not a problem.

5 Since we were here on Friday have you heard about this
6 case, or listened to, or watched anything about this case
7 since we were here on Friday?

8 A. No, I have not.

9 THE COURT: All right. Since we were here on Friday
10 did you talk about this or discuss this with anybody?

11 A. No, I have not.

12 THE COURT: All right. Now, prior to Friday, prior to
13 the Court telling everybody, don't talk about the case, don't
14 allow anybody to talk to you, don't read anything, had you
15 heard about this in any way, from any source, read, watched,
16 looked up on the internet, anything, about this case?

17 A. I remember hearing his name on the news a couple of
18 years ago when I was still in school, and I've heard about the
19 case at work.

20 THE COURT: Okay. As a result of hearing about it did
21 you form an impressions, or did you form any belief about this
22 case?

23 A. Yes.

24 THE COURT: Okay. And what might that have been?

25 A. I was going to say that -- that he's guilty.

1 **THE COURT:** Okay.

2 A. That's the side I'm favoring.

3 **THE COURT:** Because of what you've heard in the past?

4 A. Yes.

5 **THE COURT:** Okay. Now, you understand if you are part
6 of the jury the fact that you have an opinion prior to coming
7 to court is not a problem, but what you have to do as part of
8 a jury is to set all that aside, to compartmentalize that,
9 basically not bring it into the courtroom. You have to make
10 your decision based solely upon the facts and evidence in this
11 case, and not let anything else you have heard in the past
12 affect this matter, and affect your decision in any way. You
13 understand that?

14 A. Yes sir.

15 **THE COURT:** Could you do that?

16 A. Yes sir.

17 **THE COURT:** Okay. I tell you what, I'm going to let
18 the State and the Defense ask you some questions, and then
19 I'll ask you some further questions, all right.

20 Thank you.

21 A. Okay.

22 **MR. HUMPHRIES:** Good afternoon, Mr. Arbaugh.

23 **THE COURT:** I'm sorry. For the record, the juror did
24 not circle any of the witnesses.

25 **MR. HUMPHRIES:** Thank you, Judge.

1 I'm Fran Humphries. I'm the Deputy Solicitor. I, along
2 with Solicitor Hembree, and Senior Solicitor Jimmy Richardson
3 are representing the State.

4 **BY MR. HUMPHRIES:**

5 Q. Here's the deal. You are absolutely entitled to
6 whatever opinion you have, and nobody in this courtroom is
7 trying to change your opinion. Okay. What we are interested
8 in are credible answers, and I'm certain that that's what you
9 are here for. There are no right answers, no wrong answers.
10 What you have told the Court is that you believe you are a
11 type (A) juror, of the three types, and what you've said is
12 that in a case where there is a conviction for murder you
13 believe, in every circumstance the defendant should be
14 sentenced to death.

15 Of course, let me ask you this. How much experience do
16 you have with the court system and capital cases specifically?

17 A. This is my first one.

18 Q. That's what I thought, and that's it, that's good.
19 There is nothing wrong with any opinion you hold about the
20 death penalty. You could be in favor of the death penalty.
21 You could be indifferent about the death penalty, or you could
22 be opposed to the death penalty. None of those opinions would
23 make you unqualified to serve as a juror. The question --
24 what we need to know is this, this process requires a jury be
25 seated to hear the evidence regarding the guilt or innocence

1 of the Defendant, and to come to a unanimous decision about
2 guilt or innocence, okay. And then and only then, after a
3 finding of guilt, would we even go into the penalty phase. We
4 have to talk to you about the penalty phase now because if it
5 comes to that we will need to know the information that you've
6 got for us. The kind of juror that is qualified to sit in a
7 capital case is the type of juror who, separate and apart from
8 their opinions about the death penalty, can fairly listen to
9 all the evidence, and without having formed an opinion, go
10 into that process, hear the evidence, find the facts, listen
11 to the Law as the Judge charges you the Law, and then and only
12 then make a decision regarding the sentence, either life or
13 death, depending on the facts and circumstances. So the fact
14 that you are in support of the death penalty -- and I assume
15 that you are -- and I'm sorry, that was a yes?

16 A. Yes. I'm sorry.

17 Q. The question that we've got -- and what we all want is
18 a juror who is fair and impartial. What we need to know from
19 you is that, going into that second phase could you set your
20 opinion about the death penalty aside, listen to all the
21 evidence, listen to the charge on the Law as the Judge gives
22 it to you, and then and only then impose either a life
23 sentence or a death sentence, depending on the facts and
24 circumstances? Do you feel like you could do it?

25 A. I could try.

1 Q. And I appreciate -- you know, we've sort of drug you in
2 here, made you wait -- I mean, we've been working -- but we
3 have sort of took you out of your daily life and put you up
4 here and thrown questions at you that you probably haven't
5 considered much in the past, but what we are really going to
6 have to have, to the best of your ability, is some kind of
7 statement from you that would indicate either I can do that,
8 or I can't do that. And like I said, there are no right or
9 wrong answers. If the answer is, I can't do that, that's what
10 we need to know. If the answer is, I can do that, we need to
11 know that as well. I don't know any more simple way to put
12 it. I know I've put you on the spot. But that's what we are
13 talking about. There is never a situation in the Law that's
14 going to require a death verdict. There is never a situation
15 in the Law that's going to require a life verdict. In fact,
16 you can give life for any reason or no reason at all. But
17 what we need to know is, not only can you consider life and
18 consider death, but you can impose either one, depending on
19 the facts and circumstances and the Law that the Court charges
20 you. What do you think?

21 A. I can do that.

22 Q. One of the things that would be required, and this is
23 probably -- given your responses I can't imagine this would be
24 an issue, but what the Law requires is if all the jurors
25 determine unanimously, altogether, that death is the

1 appropriate verdict, there is a verdict form with twelve
2 signature lines, obviously indicating that each and every
3 juror would have to sign their name indicating their vote.
4 Would the fact that you would have to sign that verdict form
5 indicating your vote prevent you from imposing a death
6 sentence if you thought it was the right thing under the right
7 facts and circumstances?

8 A. No, it wouldn't.

9 Q. Okay. Let's talk just a bit about sequestration. Have
10 you ever heard about that?

11 A. No, I haven't.

12 Q. All right. Well here's the deal about that. In this
13 process what the Court attempts to do is to make sure that the
14 jurors are able to focus solely on the case, okay. What that
15 means is the jurors, once selected, will be kept separate and
16 apart from everybody else, stay in a hotel, all of this is at,
17 you know, our expense. You will be provided your meals, you
18 will be provided transportation, your travel will be together,
19 back and forth with other jury members, and any communication
20 outside will be monitored, but for seven or eight days you
21 will be sort of taken out of your life. The question is not
22 so much is that an inconvenience, because it is, I mean, I
23 don't have to ask you that, but the question is, would the
24 fact that you would have to be sequestered if seated as a
25 juror in this case, would that -- would that cause such a

1 hardship that would amount to some risk of harm or -- to your
2 safety, to your physical well-being, or those that depend upon
3 you?

4 A. No, it wouldn't.

5 Q. Okay. And finally let me ask you one more time because
6 we have sort of gone back and forth, we have, not you, if
7 seated in this case as a juror could you go into that penalty
8 phase with an open mind, not having decided life or death, and
9 after hearing all the evidence in the case, impose either a
10 life sentence or a death sentence, depending on the facts and
11 circumstances? Could you do that?

12 A. No.

13 MR. HUMPHRIES: Okay. Which means what?

14 A. I would go on there with my beliefs.

15 Q. Okay. And would your beliefs regarding being in favor
16 of the death penalty prevent you from fairly considering and
17 imposing a life sentence if the circumstances warranted it?

18 A. Can you repeat that?

19 Q. Yes.

20 THE COURT: I say, rephrase that, Solicitor. That
21 was -- that was a little difficult for me.

22 Q. All right. Would your opinion, that being in favor of
23 the death penalty, prevent you from not only fairly
24 considering a life sentence for this Defendant, but under the
25 right set of circumstances, given the right amount of

1 evidence, or quite frankly, for no reason at all, impose a
2 life sentence, if you thought that was the proper thing to do?

3 A. No, I wouldn't.

4 Q. Okay. That's what I need to know. I appreciate it.

5 THE COURT: Have any questions, from the Defense?

6 MR. DIGGS: Your Honor, we don't have any questions.

7 THE COURT: Very good.

8 Why don't you step down for just a moment with the
9 Deputy, please sir.

10 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
11 JURY.)

12 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
13 JUROR NUMBER 22 MARKED COURT'S EXHIBIT NUMBER 12.)

14 THE COURT: State's position?

15 MR. HUMPHRIES: He is not qualified.

16 THE COURT: Very good. Defense agrees?

17 MR. DIGGS: Yes, we agree.

18 THE COURT: Very good. The Court so finds he is not
19 qualified.

20 (THE COURT AND THE CLERK OF COURT CONFER.)

21 MR. HUMPHRIES: Can I suggest that -- and I mean, we
22 can either do this or not. I note that the next juror, Ms.
23 Sellers, indicated that she had ---

24 THE COURT: Y'all come up here and talk to me for a
25 second.

1 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

2 LISA SELLERS, JUROR NUMBER 564,
3 being first duly sworn, states as follows:

4 THE COURT: All right, Ms. Sellers, I'm going to go
5 over a few things with you and then the Solicitor's Office and
6 the Defense may have some questions for you, okay.

7 A. Okay.

8 THE COURT: Very good. In looking through your juror
9 questionnaire form you indicated, in response to one of the
10 questions, that you basically followed this particular case
11 since the beginning or when it originated; is that right?

12 A. Correct.

13 THE COURT: All right. And you also indicated that you
14 knew Chris Ling from past -- I'm sorry -- Mr. Chris Ling from
15 past business, and his ex-wife, and the daughter of Laura; is
16 that right?

17 A. Yes sir.

18 THE COURT: All right. And that was -- what kind of
19 business did you have?

20 A. We have an advertising agency, my husband and I do, the
21 Sellers Group, and ---

22 THE COURT: Okay.

23 A. ---He, Chris Ling, worked, and/or was part owner of
24 WGTN radio in Georgetown, and a client of mine. In the
25 Nineties we did a lots of work together, so I spoke with him

1 often, a couple of times a week on radio commercials and radio
2 buys, and Laura, I believe, worked in the office also. I
3 talked with her just on the phone a few times.

4 THE COURT: Okay. So you were more, obviously then,
5 familiar with Chris than his ex-wife and the daughter,
6 correct?

7 A. Correct. Yes.

8 THE COURT: All right. Very good. But because of that
9 you paid particular attention to this particular case?

10 A. Right, because he was not only -- I mean we were
11 friends as far as workers too, co-workers ---

12 THE COURT: Right.

13 A. ---So I followed it, and plus, I live in Murrells
14 Inlet, so it was very familiar in my area with my Sunday
15 School and our church ---

16 THE COURT: Okay.

17 A. ---As far as the events.

18 THE COURT: All right. And y'all discussed those
19 events ---

20 A. Yes.

21 THE COURT: ---When they -- when they came up?

22 A. Yes, we did.

23 THE COURT: All right. Very good. I also note that
24 you filled out the jury category form, and you selected
25 category (A); is that right?

1 A. Correct.

2 THE COURT: All right. And that's basically -- to kind
3 of condense a little bit, that once a crime of murder has been
4 proven by the State beyond a reasonable doubt, and the jury
5 believed those facts and evidence, and they believe it's been
6 proved to them beyond a reasonable doubt and they convict
7 somebody of murder -- and that would be the first phase of the
8 trial ---

9 A. Right.

10 THE COURT: ---And the second phase is the sentencing,
11 and there's two options, life in prison without the
12 possibility of parole, or a death sentence.

13 A. Right.

14 THE COURT: Now you have indicated a pre-disposition to
15 favor the death penalty in every case as opposed to
16 considering life in prison without the possibility of parole;
17 is that right?

18 A. That is correct.

19 THE COURT: All right. Is that -- how long have you
20 had that belief?

21 A. Ever since I was a teenager, in high school. I've ---

22 THE COURT: Okay. Did anything happen, or it just kind
23 of formed -- formed as your opinion?

24 A. I just formed that opinion in doing some -- I remember
25 doing some papers on capital punishment when I was in high

1 school, so ninth or tenth grade.

2 THE COURT: Okay. All right. All that -- and
3 obviously there's no right or wrong answers, and I appreciate
4 your being straight-forward and direct with me.

5 When we have a jury what we have to have is -- and
6 certainly people are going to hear things and have opinions,
7 but if they are going to be on the jury they have to
8 completely and totally set that aside, basically not bring it
9 into the courtroom, compartmentalize that, leave it outside of
10 the courthouse, and basically have like a clean slate. You
11 come into the courtroom, you hear all of the evidence and
12 facts of this particular case, and make your decision, based
13 upon -- as a member of the jury, based upon the facts and
14 evidence in this case, and the Law that the Court would give
15 to you in this case. Whether you agreed with it or disagreed
16 with the Law you would have to follow that law. You
17 understand that's what a juror's job would be?

18 A. Right. Correct.

19 THE COURT: Could you do that?

20 A. I don't think I could be impartial.

21 THE COURT: All right. And the reason for that would
22 be?

23 A. Just by personal belief, already knowing the previous
24 case. I know it's a totally different case, but already
25 forming my opinion, and following it, and just being too close

1 to it.

2 THE COURT: All right. Thank you, Ma'am. I appreciate
3 it very much.

4 Questions from the State?

5 MR. HEMBREE: None, Your Honor.

6 THE COURT: Questions from the Defense?

7 MR. DIGGS: No, Your Honor.

8 THE COURT: Thank you, Ma'am. I appreciate -- Ms.
9 Sellers, appreciate your time in this matter. Thank you very
10 much.

11 A. Okay. Thank you.

12 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
13 JUROR.)

14 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
15 JUROR NUMBER 564 MARKED COURT'S EXHIBIT NUMBER 13.)

16 THE COURT: State's position.

17 MR. HEMBREE: The juror is not qualified, Your Honor.

18 THE COURT: Defense.

19 MR. DIGGS: We agree.

20 THE COURT: All right. The Court finds she is not
21 qualified.

22 TELIA GIBBONS, JUROR NUMBER 231,
23 being first duly sworn, states as follows:

24 BY THE COURT:

25 THE COURT: All right. And your last name is Gibbons

1 or ---

2 A. Gibbons, my last name. Yes.

3 THE COURT: Gibbons. All right, Ma'am. First I see
4 that you have signed the paperwork. You didn't know any
5 witnesses, correct?

6 A. No, I don't know nothing.

7 THE COURT: All right. Now, in the matter of the
8 category of juror you signed your name, and put your juror
9 number, and today's date, but you didn't circle one of the
10 categories.

11 A. No, I have no idea.

12 THE COURT: Okay. How about, can you talk to me a
13 little bit about that, as to why you did not, or could not
14 circle one of the categories.

15 A. Because I have no idea. I don't know ---

16 THE COURT: Okay. Well, let's talk about that just a
17 little bit, all right.

18 A. Okay.

19 THE COURT: In this particular case the State of South
20 Carolina has charged the Defendant, Mr. Stephen Stanko, with
21 the crimes of murder and armed robbery. To those offenses he
22 has pled not guilty. Now that puts the burden on the State of
23 South Carolina to prove him guilty beyond a reasonable doubt.
24 Okay. That's the State's burden. The Defendant is presumed
25 innocent. He doesn't have anything to show to you in this

1 case. The State, by the facts and evidence and testimony in
2 the case, must produce evidence which convinces the jury that
3 it's true, and then convinces the jury of the guilt of Mr.
4 Stanko beyond a reasonable doubt. That's what the State has
5 to do in this case; do you understand that?

6 A. Yes sir.

7 THE COURT: All right. Now, regarding that, if you
8 were a member of the jury in this particular case it would be
9 your job to listen to all the evidence and make a decision,
10 along with all the other members of the jury, whether or not
11 the State had proved the Defendant guilty beyond a reasonable
12 doubt. That would be in the first phase, at the first part of
13 the trial, did the State produce enough evidence that you find
14 to be true to convict the Defendant of the crime of murder
15 beyond a reasonable doubt. Could you do that?

16 A. Will I have to do that?

17 THE COURT: Yes Ma'am. As part of the jury you would
18 have to make that decision. Could you do that?

19 A. So -- so I have to say go on?

20 THE COURT: Yes Ma'am. Well, you have to -- you would
21 be -- you would be seated with all the other members of the
22 jury. There would be twelve, okay.

23 A. Okay.

24 THE COURT: And we have the trial of the case, people
25 would come forward, the Court and -- in the courtroom, sit in

1 the witness chair just like you are, put their hand on the
2 Bible, then swear to tell the truth, and then they would tell
3 what they know about this case, and they would be asked
4 questions, and we would go through the whole trial as to what
5 evidence there is, if there is any evidence, to convict Mr.
6 Stanko of the crime of murder beyond a reasonable doubt, and
7 at the end of that then the Court would tell you the Law, the
8 Law that you have to look at, and then the Judge -- and I
9 would send you back to your jury room, all twelve of you, and
10 you would have to make a unanimous decision, everybody would
11 have to agree, did the State prove Mr. Stanko guilty of the
12 crime of murder beyond a reasonable doubt. That would be the
13 first thing.

14 A. Okay.

15 **THE COURT:** And as part of the jury you would have to
16 make that decision.

17 A. Right now?

18 **THE COURT:** Huh? No Ma'am, but could you do that at
19 that point in time?

20 A. Yes. Yes. I'm going to do.

21 **THE COURT:** Okay. All right. If you don't -- and I
22 don't have your juror questionnaire in front of me, but just
23 tell me, how far did you go in school?

24 A. I'm come from Haiti.

25 **THE COURT:** You came -- you came from Haiti?.

1 A. Yes.

2 THE COURT: Okay. And when did you come from Haiti?

3 A. Port-O-Prince. When? You said when?

4 THE COURT: Yes, I mean, how long has -- how long has
5 it been, or how long have you been ---

6 A. Oh, like I'm fifteen years.

7 THE COURT: Fifteen years, okay.

8 A. Yes.

9 THE COURT: Great. And how long did -- did you grow up
10 in Haiti?

11 A. Yes sir.

12 THE COURT: And how old were you when you left?

13 A. I was left from 19 -- 1996.

14 THE COURT: Okay. And about how old were you in 1996?

15 A. I was twenty-six, something like that.

16 THE COURT: Something like that. Okay.

17 A. Yes.

18 THE COURT: In Haiti did you have the opportunity to go
19 to school at all?

20 A. Yes, but you have to pay.

21 THE COURT: Okay. And if you can't pay you can't go to
22 school?

23 A. No.

24 THE COURT: All right. Were you able to do that much
25 when you were there?

1 A. Yes.

2 THE COURT: Okay. How -- how many grades did you go?
3 Do you remember?

4 A. Eleven.

5 THE COURT: Eleven grades. Okay. Great. All right.
6 Now, what kind of employment have you had here? What kind of
7 jobs have you had?

8 A. No, I don't have a job.

9 THE COURT: Okay. Right now you don't have one?

10 A. No.

11 THE COURT: Okay. Have you had one in the past?

12 A. Yes. I used to work a lot of places, Florida, and we
13 moved to South Carolina like 2006.

14 THE COURT: Okay.

15 A. Now, you know, everywhere I go I worked for like four
16 or five -- four or five months, I got laid off, so I'm looking
17 for a job now.

18 THE COURT: Okay.

19 A. And I tried to go to school too. I'm going to do like
20 nursing assistant, yes.

21 THE COURT: Okay. All right. I appreciate that. Let
22 me get back now to a little bit about what your job as a juror
23 would be. Okay.

24 A. Okay.

25 THE COURT: If you were part of the jury, and

1 would be determined later on, but if you were part of a jury
2 and the jury -- everybody decided that he was guilty of
3 murder, the Defendant was guilty of murder, everybody decided
4 that, that was the decision of everybody that's on the jury,
5 that would be you included, because you would be on the jury
6 if you did that, okay, all right, so -- let's go back to that.
7 Can you make that -- do you think you can make that kind of
8 decision? Would -- is that ---

9 A. I don't know.

10 THE COURT: Okay. Okay. You understand that being on
11 the jury, that would be a decision that you would be faced
12 with. You would -- that would be something that the Court
13 would be asking of the jury to make a decision ---

14 A. Yes sir.

15 THE COURT: ---If he was guilty or not guilty.

16 A. Yes sir.

17 THE COURT: And it would have to be a unanimous
18 decision by the jury. Everybody would have to agree. Again,
19 do you -- do you feel -- do you believe you can do that?

20 A. Yes. Yes, I'm gonna try.

21 THE COURT: I'm sorry. Yes what?

22 A. Yes, I'm gonna try.

23 THE COURT: You are going to try.

24 A. Try to -- whatever.

25 THE COURT: Okay. If that happened then there would be

1 the second phase of the trial, and that's the sentence, okay,
2 and the jury would actually decide the sentence. The jury
3 would actually impose or vote for the sentence, and that would
4 either be death or life in prison without the possibility of
5 parole, okay. Those would be the two choices that the jury
6 would have to decide, okay, or they would be faced with that
7 decision, to choose one or the other.

8 Now, being a member of the jury you would have to be
9 able to be fair to the State and fair to the defense, and
10 consider both. You can't go in there thinking, I'm always
11 going to vote this way or that way without giving it fair
12 thought and consideration. Do you understand that?

13 A. Yes sir.

14 **THE COURT:** All right. If called upon could you be
15 fair to the State and fair to the Defense and impose a life
16 sentence? Could you do that? And there's right or wrong
17 answers. If you believe you can that's fine. If you believe
18 you can't that's fine. And there's no right or wrong -- it's
19 what you believe. That's what we are looking for.

20 A. I don't know.

21 **THE COURT:** Okay. And then so I need to ask you -- the
22 second part of that is, if faced with the decision could you
23 be fair to the State and fair to the defense, and give or
24 impose a death sentence?

25 A. So I've got to talk to the ---

1 **THE COURT:** All the jurors would have to make -- and
2 they would -- you would all have to decide unanimously.
3 Everybody would have to agree to the sentence. Okay.

4 A. Okay.

5 **THE COURT:** All right. Do you think you could do that?

6 A. Yes sir.

7 **THE COURT:** All right. Now, if you are the jury you
8 are going to have to -- once -- it wouldn't be now -- it would
9 be later on, but you would have to be what we call
10 sequestered, and you would have to basically stay in a hotel.
11 All the other jurors would stay, couldn't go home. You would
12 have to stay with us until the trial was over with if you got
13 on the jury. All right, knowing that to be part of it, would
14 that cause you any kind of extreme hardship to you or your
15 family in any way?

16 A. No.

17 **THE COURT:** All right. Why don't you go ahead and
18 answer some questions of the State and Defense and then I'll
19 probably have some more for you, okay.

20 Solicitor.

21 **MR. HEMBREE:** Thank you, Your Honor. May it please the
22 Court.

23 Good afternoon, Ms. Gibbons.

24 A. Good afternoon, sir.

25 Q. Are you doing okay?

1 A. Yeah, I'm doing -- I'm just scared.

2 Q. You are scared?

3 A. Yes.

4 Q. There is no -- I know it's uncomfortable, but there's
5 really no need for you to be scared, because we are -- there's
6 no -- you can't really do anything wrong.

7 A. Okay.

8 Q. And we are not trying to embarrass you or put you in a
9 bad spot. We are just trying to find out -- find out a little
10 bit about you to see if it would be appropriate for you to
11 serve on this jury, because not everybody who has come here is
12 going to serve. We are just going to find out those that are
13 most qualified to serve. okay.

14 A. Yes sir.

15 Q. Tell me, what do you -- just kind of generally, tell me
16 what you think it is you are -- what you are being called to
17 do.

18 A. What I'm gonna do?

19 Q. Why did you get -- what do you think you have been
20 called here to do?

21 A. I don't know. They just called me so I came. I don't
22 know.

23 Q. You really don't have any idea ---

24 A. No sir.

25 Q. Do you have any -- have you ever served on a jury

1 before?

2 A. No sir, first time, my first time.

3 Q. First time ever?

4 A. Yes sir.

5 Q. And you don't really have any idea about what jury
6 service is?

7 A. No.

8 Q. Do you -- do you know what a jury is?

9 A. No sir.

10 Q. Well, let me tell you a little bit, and then we'll
11 maybe get to another question. But a jury would be twelve
12 people, twelve citizens that are selected to decide a
13 question.

14 A. Yes sir.

15 Q. And the first question -- there really are two
16 questions in this case, two big questions. The first question
17 is whether that Defendant sitting over there in the white
18 shirt -- his name is Stephen Stanko ---

19 A. Okay.

20 Q. The first question is whether or not Stephen Stanko
21 murdered a fellow by the name of Henry Turner. Okay.

22 A. Okay.

23 Q. You understand he's been charged with a crime?

24 A. Okay. That mean he shot -- he ---

25 Q. That would be the -- that's right, Ms. Gibbons. There

1 would be accusations, the charge that he shot Mr. Turner, or
2 he killed Mr. Turner.

3 A. Oh, so if he -- if he killed somebody that mean -- is
4 no good.

5 Q. That's not good.

6 A. No.

7 Q. I agree with you.

8 A. You can't kill nobody.

9 MS. WILLIAMS: Your Honor, may we approach?

10 THE COURT: Yes. Y'all come up here for a second.

11 I'll be with you in just one second.

12 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

13 THE COURT: All right. Ms. Gibbons, what I'm going to
14 do is I'm going to excuse you for right now. If you would --
15 if you would just go with the Deputy Sheriff for a little bit.
16 Okay. Thank you, Ma'am.

17 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
18 JUROR.)

19 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
20 JUROR NUMBER 231 MARKED COURT'S EXHIBIT NUMBER 14.)

21 THE COURT: All right. The State's position?

22 MR. HEMBREE: May it please the Court, Your Honor. It
23 would be the State's position that Juror Number 231 is not
24 qualified. Her -- she doesn't even have the most basic
25 understanding of the process. She doesn't even understand

1 that it's a criminal -- you know, just the basics as to
2 criminal charge. The process of trying to get her educated on
3 what's happening around her I think would be a full-time job
4 and I just -- I just don't see where she would be able to
5 follow the Court's instructions adequately without an unduly
6 excessive amount of sort of remedial instruction.

7 She is not -- in all fairness, she comes from a
8 different culture, a different country, and it's not any
9 reflection on her intelligence. It's just a question of her
10 upbringing and training is so foreign from ours.

11 **THE COURT:** All right. Defense's position?

12 **MS. WILLIAMS:** Your Honor, we would -- we would agree.
13 We just don't think that this juror is qualified to serve in
14 this particular type of case.

15 **THE COURT:** All right. I agree. The Court finds her
16 not qualified, and I would agree that it -- she lacks a basic
17 understanding of the judicial process, and it would just be
18 virtually impossible to try and properly educate her, to get
19 her to follow the instructions of the law, so she is not
20 qualified.

21 All right. The next juror, please.

22 Please come around over here, sir. Thank you very much.

23 **BOBBY THOMAS BRANTON, JR., JUROR**

24 **NUMBER 67,** being first duly sworn, states as follows:

25 **BY THE COURT:**

1 **THE COURT:** All right, Mr. Branton, what I'm going to
2 do is go over some matters with you. I'll ask you some
3 questions and then representatives of the State will probably
4 ask you some questions, and the Defense also. Okay?

5 A. Okay.

6 **THE COURT:** Now, there aren't any right or wrong
7 answers here. We are trying to find a fair and impartial jury
8 so I've got to have direct, straight-forward, honest answers
9 from you to any questions that are asked. That's all --
10 that's really all that I'm asking for you, is just to be
11 direct and honest in your answers, and that way we can, you
12 know, go forward with the process. Okay?

13 A. Yes sir.

14 **THE COURT:** Very good. All right. Now, in this
15 particular matter the State has charged the Defendant, Mr.
16 Stephen Stanko, with the crimes of murder and armed robbery.
17 Now, the Defendant has pled not guilty to those offense and
18 that puts the burden of proof on the State of South Carolina
19 to prove the Defendant guilty beyond a reasonable doubt. The
20 Defendant is presumed innocent. The Defendant doesn't have
21 anything to prove to you. The State has to prove the guilt of
22 the Defendant of the crime charged beyond a reasonable doubt.
23 That's the State's burden; you understand that?

24 A. Yes sir.

25 **THE COURT:** All right. Very good. Now, in this

1 particular matter the State has served notice to seek the
2 death penalty as punishment in this particular matter. Now
3 every murder, the State does not seek that, but the State has
4 so sought it in this particular case, and the State has to
5 prove to the jury, if the jury finds the Defendant guilty of
6 the crime of murder beyond a reasonable doubt by a unanimous
7 decision, an aggravating circumstance. So you've got two
8 phases of this trial. The very first one is as I talked
9 about. There will be facts, testimony, evidence presented.
10 The jury is going to make a decision, find the evidence they
11 believe to be true, weigh it against the State's burden to see
12 if the State has proved the Defendant guilty beyond a
13 reasonable doubt. If the jury unanimously -- everybody votes
14 that he's guilty of the crime of murder then and only then do
15 you get to the sentence phase or the second phase of the
16 trial. Assume, just for the purpose of the questions, that
17 we've gotten to the second phase and the jury unanimously
18 found the Defendant guilty of the crime of murder. To impose
19 the death penalty the jury would have to find an aggravating
20 circumstance -- and the law has certain factors, and the Court
21 would tell the jury about those, but just suffice it to say,
22 when you are talking about aggravating circumstances you are
23 talking about something to make worse, or to exacerbate the
24 situation or the fact. The jury would have to find one, at
25 least one, to impose the death penalty.

1 Also, the jury has to look at any mitigating
2 circumstances, and to mitigate we mean to lessen, or to reduce
3 the fault, or reduce the punishment. The jury would have to -
4 - and I would require by my instructions that the jury look at
5 any mitigating circumstances, because the jury can impose
6 life. There is no requirement here one way or the other, and
7 you are not suppose to come in with any predisposition one way
8 or another. You fairly look at both matters, and look at them
9 to see what the verdict of the jury may be, and it has to be -
10 - if the jury is going to impose death it has to be unanimous,
11 everybody has to agree. And beyond that, if the jury
12 unanimously sentenced the Defendant to death and -- because it
13 is the jury's sentence in this particular matter -- the --
14 every member of the jury has to take pen in hand and sign a
15 verdict form and say, this is my verdict, you know, the death
16 sentence in this particular matter; you understand that?

17 A. Yes sir.

18 **THE COURT:** All right. Very good. Your job as a juror
19 in the case -- and it's your responsibility to set everything
20 aside. If you've heard anything about this case, talked about
21 this case, anybody told you anything, you've got to set all
22 that aside, if you've got any beliefs about the case you've
23 got to set all those aside. You can't bring them into the
24 courtroom. What you do is, you listen to all the facts and
25 evidence in the case and make a decision based on the facts

1 and evidence presented in the case, not letting anything else
2 affect your decision, basing it only on what you heard in the
3 courtroom; do you understand that?

4 A. Yes sir.

5 THE COURT: And the Court will tell you what the law
6 is, what the law that the jury will apply to the facts that
7 the jury finds to be true, so whatever the law is instructed
8 to the jury, whatever I tell the jury the law is, they have to
9 take that. Whether you agree with it or you disagree with
10 you've got to accept it and use the law that I give you; you
11 understand that?

12 A. Yes sir.

13 THE COURT: All right. Very good. Let me ask you some
14 questions, and again I remind you, there obviously is no right
15 or wrong answers here. Okay.

16 A. Okay.

17 THE COURT: After Friday did you read, listen, watch
18 anything, hear anything about this case?

19 A. No sir.

20 THE COURT: Okay, after Friday did you talk to anybody
21 about this case?

22 A. No sir.

23 THE COURT: All right. Very good. Before Friday,
24 before I told everybody not to do those things, had you heard
25 anything about this case, or heard about the Defendant, Mr.

1 Stanko, or anything about this matter at all?

2 A. Yes sir.

3 THE COURT: All right. And basically what was that?
4 What do you -- what did you hear?

5 A. About the trial was going to start beginning this
6 coming week and everything.

7 THE COURT: Okay. All right. And ---

8 A. That -- what the charges was for, for ---

9 Q. Okay. And you had got a Summons for jury duty ---

10 A. Yes sir.

11 THE COURT: ---And so you were paying attention to
12 that, I guess ---

13 A. Yes sir.

14 THE COURT: ---Because you had already been summoned for
15 jury duty?

16 A. Yes sir.

17 THE COURT: All right, now, did that cause you to form
18 any kind of opinion about this case, or form any kind of
19 belief about this case, what you heard?

20 A. Well, it didn't really come up. It just said that, you
21 know, what the charges were, basically the charges, you know,
22 wasn't saying that he -- you know.

23 THE COURT: All right. Regarding -- and this is kind
24 of like a general question. Do you have, or think you have
25 any kind of a personal or political or religious, or any kind

1 of philosophical belief that you believe would keep you from
2 being a fair and impartial juror in this case, anything of
3 that nature?

4 A. No sir.

5 THE COURT: All right. Is there anything about this
6 case that causes -- or that you have -- believe that you have
7 formed any kind of belief about this case ahead of time,
8 before coming in here today? Have you formed any kind of
9 opinion about this matter before you came in?

10 A. Before today?

11 THE COURT: Yes sir, before today.

12 A. I thought I would have an opinion before ---

13 THE COURT: Okay. And what was that, or what is it?

14 A. Well, before I heard on the -- about setting everything
15 else aside and all that I had formed an opinion of guilty
16 because he was charged with the crime before.

17 THE COURT: Before. Okay. Before this one, you are
18 saying he was charged ---

19 A. The previous -- yes sir.

20 THE COURT: ---With a crime previously, so that would
21 cause you to believe he was guilty of this one?

22 A. Yes sir.

23 THE COURT: All right. Now, understanding that the law
24 is, and your job as a juror is that you have to set that
25 aside.

1 A. Yes sir.

2 THE COURT: You can't come into the courtroom with that
3 kind of opinion or belief. You have to set it aside and
4 decide the case based on what you hear in the courtroom only.

5 A. Yes sir.

6 THE COURT: Can you do that?

7 A. Yes sir.

8 THE COURT: All right, sir. You have -- on the witness
9 list you have circled one person with a question mark, Russell
10 Jordan; is that right?

11 A. Yes sir.

12 THE COURT: All right. Don't know if it's the same
13 person or not but the Russell Jordan you know is -- who is
14 that?

15 A. My wife's cousin.

16 THE COURT: Okay. And what kind of work does Mr.
17 Jordan do, or what does he do?

18 A. I thought he done some kind of police work but I don't
19 know.

20 THE COURT: Okay. But you don't know?

21 A. No, I ---

22 THE COURT: Okay. Just assume it's the same person
23 that you do know, and he's a possible witness in this case ---

24 A. Correct.

25 THE COURT: ---Can you, again -- or can you set that

1 aside and not let that affect your decision in any way?

2 A. Yes sir.

3 **THE COURT:** All right. Now, on the category of juror
4 we have three types and you circled letter (C), correct?

5 A. Yes sir.

6 **THE COURT:** And that's the one that if the jury -- it's
7 been proved to the jury that the crime of murder has been
8 committed beyond a reasonable doubt, and the jury unanimously
9 convicted the Defendant of that crime of murder when we went
10 into the second phase of the trial you wouldn't have any
11 predisposition, you wouldn't be leaning one way or another on
12 either life or death; is that correct?

13 A. Yes sir.

14 **THE COURT:** And you would wait till you heard all the
15 evidence in the case, and you heard the law that the Court
16 would give to you, and then, along with the other members of
17 the jury, make your decision ---

18 A. Yes sir.

19 **THE COURT:** ---On the sentence; is that right?

20 A. Yes sir.

21 **THE COURT:** All right. Very good. Couple more. If
22 you are on the jury and we've gotten to the sentencing phase
23 or the second phase of the trial, based upon the facts and
24 circumstances that might be presented at that point in time,
25 could you consider and impose a life sentence?

1 A. Yes sir.

2 THE COURT: Based upon the facts and circumstances that
3 might be presented in the second phase could you impose --
4 could you consider a death sentence?

5 A. Yes sir.

6 THE COURT: If you are part of a jury and the jury
7 unanimously decide -- it would have to be a unanimous decision
8 to impose a death penalty -- the jury unanimously decides to
9 impose a death penalty, could you then, after that's done,
10 take pen in hand and sign your name to a verdict form and say,
11 yes, that is my verdict, I was part of the unanimous verdict
12 for a death sentence; could you do that?

13 A. Yes sir.

14 THE COURT: Very good. All right. If you are part of
15 the jury you would be sequestered. That means once the jury
16 is selected then they are basically, for want of a better
17 word, in control of the -- they are being controlled by the
18 Court in that y'all would stay at a hotel, obviously that's
19 provided, and meals would be provided, transportation to and
20 from the courthouse, but you wouldn't be going home. You
21 would be going to the motel during the course of the trial.
22 That would take about seven to eight days, something like
23 that, once it starts. It wouldn't start now, but once the
24 trial started that's when you would be sequestered.
25 Understanding that -- you know, that's a hardship, no question

1 about that, to everybody, but would that cause you some kind
2 of undue or extreme hardship, or cause some kind of problem,
3 you would -- your health, any -- your family's health,
4 anything like that?

5 A. No sir.

6 THE COURT: All right. Very good. Thank you very
7 much.

8 Answer the questions the State has for you, please.

9 BY MR. HUMPHRIES:

10 MR. HUMPHRIES: If it please the Court.

11 Hey, Mr. Branton.

12 A. Hey.

13 Q. I'm Fran Humphries. I'm the Deputy Solicitor.
14 Solicitor Hembree and Senior Solicitor Richardson and I will
15 be representing the State.

16 As I understand it what you've told this Court is that
17 nothing you have heard, nothing you have read, nothing that
18 you believe would prevent you, in this trial, from being fair
19 to the Defense, fair to the State in imposing either a life
20 sentence or a death sentence, depending on your view of the
21 evidence and the law as the Judge charges it; is that right?

22 A. Yes sir.

23 Q. No question about that?

24 A. No question.

25 Q. Now, there is one other thing. I understand that you

1 the brother of Lou Ann Wood?

2 A. Correct.

3 Q. She works at the Solicitor's Office?

4 A. Yes sir.

5 Q. Now let me ask you, the fact that she works at the
6 Solicitor's Office, would that fact prevent you from doing
7 what we've just talked about, setting aside everything
8 including how you feel about that relationship, going into
9 that second phase of the case, being fair to the State, fair
10 to the Defendant, and considering and imposing either a life
11 or a death sentence based on your view of the evidence and the
12 law as the Judge charges. Would that affect you at all?

13 A. No sir.

14 Q. Not at all?

15 A. No sir.

16 Q. Can you be fair and impartial?

17 A. Yes sir.

18 MR. HUMPHRIES: That's all we can ask of you. Thank
19 you, sir.

20 THE COURT: All right. Mr. Diggs, Ms. Williams.

21 BY MR. DIGGS:

22 MR. DIGGS: Mr. Branton, did you say you could not be
23 fair and impartial?

24 A. No sir. I said I could be fair.

25 Q. You could be fair and impartial. Okay. Let me ask you

1 -- by the way, my name is Bill Diggs, and Ms. Brana Williams,
2 she and I represent Mr. Stanko who is seated here at the table
3 with us, and I want you to tell us what it was that you knew
4 about the case before you came in the serve on jury duty.

5 A. This case in particular?

6 Q. About Mr. Stanko.

7 A. That he was charged and found guilty of -- my mind is
8 going blank. His girlfriend, murder of his girlfriend.

9 Q. Okay. And you knew that he had been convicted of that,
10 correct?

11 A. Yes sir.

12 Q. Were you aware of the sentence that was imposed in that
13 case?

14 A. If I understood correctly, was the death penalty.

15 Q. Okay. And knowing that, if you were asked to sit on
16 this jury and again consider the death penalty, or life
17 imprisonment, would your knowledge of a prior death sentence
18 impact the way you went about performing your jury service in
19 this case, and by that I mean, in your mind would it make it
20 less important to you, knowing that, hey, somebody has already
21 sentenced this Defendant to death; I don't really need to
22 worry about it? Might that be the way you would feel, or
23 would that be the way you would feel?

24 A. I would treat it as something separate, because that
25 wouldn't have nothing to do with this case.

1 Q. All right. It wouldn't make any difference to you; is
2 that your testimony?

3 A. Yes sir.

4 Q. And you would treat this with equal seriousness and
5 responsibility as any other case?

6 A. Yes sir.

7 Q. Okay. Now, do you believe that there is a prevailing
8 view in our community that Mr. Stanko is guilty of this crime?

9 A. Of this particular crime?

10 Q. Yes sir. Yes sir.

11 A. Probably yes.

12 Q. And because of that, do you think you would feel any
13 obligation to return a guilty verdict just in order to satisfy
14 your friends and neighbors' families, and other people who
15 might think he was guilty?

16 A. No sir.

17 Q. All right. So you would be able to make a decision
18 based on this evidence and not on anything that the people in
19 the community thought?

20 A. Yes sir.

21 Q. And you would be able -- you would be ready to go back
22 into the community and justify your decision if need be?

23 A. Yes sir.

24 Q. Now, among the possible verdicts at the first phase of
25 our trial would be obviously a guilty verdict or a not guilty

1 verdict, but other possible verdicts of not guilty by reason
2 of insanity or guilty but mentally ill. Now, would you be
3 able to consider if the evidence presented -- was presented to
4 support these verdicts at the trial, could you fairly consider
5 each of those verdicts, based on the evidence, and in keeping
6 with the Court's instructions given to you -- could you
7 consider each of those four verdicts?

8 A. Yes sir.

9 Q. All right. And you could do so even if there were a
10 verdict that you didn't particularly like, because you didn't
11 like that law; you follow what I'm saying?

12 A. Yes sir.

13 Q. But if the Judge told you, this is the law, and you as
14 a juror have sworn an oath to uphold the law, would you be
15 able to follow that law even though you might not agree with
16 it personally, and might not adopt that law if you were in the
17 Legislature in Columbia? Do you see what I'm saying?

18 A. Yes sir.

19 Q. Could you follow the law as instructed by the Judge?

20 A. Yes sir.

21 Q. Would you say, with respect to the punishment that's
22 being sought in a -- in this particular case, in the event
23 there was a guilty verdict, would you have a prior disposition
24 for either side, toward the death penalty or toward life
25 imprisonment? Can you say you would lean one way or the

1 other?

2 A. I -- I don't understand the question.

3 Q. Would you be predisposed in one way or another, in one
4 direction as opposed to another, or would you consider the two
5 options equally?

6 A. Equally.

7 Q. Okay. And so you would not be predisposed to giving a
8 death sentence for example?

9 A. No.

10 Q. Or predisposed to giving a life sentence?

11 A. No sir.

12 Q. Okay.

13 MR. DIGGS: Thank you for your time this afternoon.

14 Thank you.

15 THE COURT: All right. Mr. Branton, let me just ask
16 you one question. Based on the questions the Court has asked
17 you, the State and the Defense have asked you in this
18 particular matter, as you sit here now, can you think of any
19 reason, have any question in your mind, any doubt in your mind
20 that you believe you can't be a fair and impartial juror in
21 this case, for any reason whatsoever you believe you can't be
22 fair and impartial to the State and the Defense? Think -- is
23 that ---

24 A. No sir.

25 THE COURT: All right. Thank you very much. All

1 right, if you would, if you would go with the Deputy for a
2 moment, please sir.

3 A. Okay.

4 THE COURT: Thank you very much, sir.

5 A. You are welcome.

6 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
7 JUROR.)

8 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
9 JUROR NUMBER 67 MARKED COURT'S EXHIBIT NUMBER 15.)

10 THE COURT: All right, State's position.

11 MR. HUMPHRIES: He's qualified, Your Honor.

12 THE COURT: Defense?

13 MR. DIGGS: Your Honor, I think ordinarily he would be
14 qualified under **Witherspoon** but I don't think he's qualified
15 given his pretrial exposure to Mr. Stanko's charges and the
16 history of the particular case, so I would ask he be excused
17 on those grounds.

18 THE COURT: All right, I think he is qualified, not
19 only under **Witherspoon**, **Wainwright**, **Morgan** and **Specks**, all
20 U.S. Supreme Court cases, so I find, based upon his answers,
21 that he can be fair and impartial, that he can listen to the
22 law that the Court would instruct the jury, and that -- I find
23 nothing in his answers that would prevent or substantially
24 impair his performance of his duties in accordance with the
25 Court's instructions and his oath, and his demeanor and his

1 appearance on the witness stand. I was favorably impressed
2 and found him to be straightforward and could listen to
3 everything that the Court said, and could exercise his duties
4 properly, so I would find him to be qualified.

5 MR. DIGGS: Thank you, Your Honor.

6 THE COURT: Thank you very much.

7 All right, come around, sir, please. Come up front, up
8 here.

9 BRANDON W. BOYD, JUROR NUMBER 64,
10 being first duly sworn, states as follows:

11 BY THE COURT:

12 THE COURT: All right, Mr. Boyd, what I'm going to do
13 is, I'm going to go over some matters with you, and talk to
14 you a little bit, and then I'm going to ask you a few
15 questions, and then a representative of the State will ask you
16 some questions and the Defense also. Okay.

17 All right, now, first I would ask that when you answer a
18 question you need to answer out loud and say yes or no. If --
19 you know sometimes we fall into the habit of saying uh or
20 whatever. The Court Reporter can't take that down, so we need
21 to say yes or no.

22 There aren't any right or wrong answers. What we need
23 from you, and what I'm going to ask of you is that you be
24 straightforward and honest in your answers, because that's
25 what we need to find a fair and impartial jury in this case.

1 Okay.

2 All right. Very good. All right. Now, in this
3 particular matter the State of South Carolina has charged the
4 Defendant, Mr. Stanko, with the crimes of murder and armed
5 robbery. The Defendant has pled not guilty. That puts the
6 burden of proof on the State of South Carolina to prove the
7 Defendant guilty beyond a reasonable doubt. The Defendant is
8 presumed innocent. He doesn't have anything to prove to you,
9 show to you. The State has to prove his guilt beyond a
10 reasonable doubt from the facts and evidence in the case. Do
11 you understand that?

12 A. Yes sir.

13 **THE COURT:** Very good. Now, in this particular matter
14 the State has filed notice to seek the death penalty in --
15 when there is a person charged with a murder not every case
16 does the State seek the death penalty, but they have chosen to
17 do so in this particular circumstance, and the case to have
18 two parts. The first part would be the presentation of the
19 evidence, and the State would have to produce sufficient
20 evidence to convince the jury as a whole, unanimously, that
21 the Defendant is guilty of the crime of murder beyond a
22 reasonable doubt. It has to be a unanimous decision of the
23 jury. Everybody has to agree on it. If the jury agrees on
24 that, that he's guilty of the crime of murder beyond a
25 reasonable doubt, the State proved that, then and only then do

1 you go to the second phase, the sentencing phase. All right.

2 A. Yes sir.

3 THE COURT: All right. Now, in the second phase, the
4 sentencing phase, there are two sentences, death or life in
5 prison without the possibility of parole. When we talk about
6 life -- and we might just say life, or the State or the
7 Defense might say life, that's what we mean, life in prison
8 without the possibility of parole. Okay.

9 A. Yes sir.

10 THE COURT: All right. Now, those being the two
11 possibilities, the jury would have to find an aggravating
12 circumstance if they were to impose the death penalty. First
13 it has to be unanimous. Everybody has to agree to impose it.
14 It has to be proved to you beyond a reasonable doubt.

15 These aggravating circumstances, they are in the law,
16 and the ones that are appropriate the Court would read to you
17 or charge to the jury, but suffice it to say, aggravating
18 means to make worse, or to exacerbate the situation or the
19 facts, okay.

20 A. Yes sir.

21 THE COURT: The jury would also have to consider any
22 mitigating circumstances because the jury can impose life,
23 those two options. The jury can vote life. And those
24 mitigating circumstances, the jury has to look at them. The
25 Court would, again, go to the list, or tell the jury what

1 those mitigating circumstances are, and the jury would have to
2 look at those and consider those before reaching a decision in
3 this matter; you understand that?

4 A. Yes sir.

5 THE COURT: All right. And to mitigate -- and that
6 means to lessen, or to reduce the fault, or to reduce the
7 punishment.

8 Now, if we are in the second phase and the jury
9 unanimously finds that the death sentence should be imposed in
10 this particular matter there is another part to that. Each
11 member of the jury has to then take pen in hand and sign their
12 name to a verdict form indicating that that indeed was a
13 unanimous verdict and everybody agreed to that death sentence;
14 do you understand that?

15 A. Yes sir.

16 THE COURT: Very good. Now your job -- if you are a
17 member of the jury, your responsibility is to come into this
18 courtroom and set aside anything that you might have already
19 heard about this case, or somebody told you, or you read, or
20 you think you know about this case, you've got to set all that
21 aside -- you don't bring it in the courtroom, you
22 compartmentalize it and you leave it outside, and you come
23 into the courtroom and you listen to all the facts and
24 evidence in this case, and make your decision solely on the
25 facts and evidence presented in this case; you understand

1 that?

2 A. Yes sir, I do.

3 THE COURT: And the law that you would use, the Court
4 would give that to you. Whether you ultimately agree with
5 that law or you disagree with that law you have to take the
6 law that the Court would give to you and use that law and
7 apply it to the facts as the jury would so find them to be;
8 you understand that?

9 A. Yes sir.

10 THE COURT: Very good. All right. Let me just ask you
11 some questions here, and remembering, you know, again, there's
12 no right or wrong answers. We just need some straightforward
13 direct answers. Since Friday did you read, watch, listen to,
14 look up anything about this case?

15 A. No sir.

16 THE COURT: All right. Did you talk to anybody about
17 this case since Friday?

18 A. No sir.

19 THE COURT: All right. Now, obviously on Friday I told
20 y'all several times, don't look at anything, don't talk to
21 anybody about the case, but before that, before you knew that,
22 had you heard about this case? Had anybody talked to you
23 about it? Had you read anything, knew anything about this
24 case?

25 A. I didn't know nothing whatsoever about this case till

1 y'all called me for jury duty.

2 THE COURT: All right, sir.

3 A. I had never even heard of it.

4 THE COURT: Okay. So until you got that -- basically
5 that fifty question juror form you didn't know anything about
6 it at all?

7 A. Nothing whatsoever.

8 THE COURT: Very good. All right. Now, from what I
9 can hear from you, and what you are telling me, there is no
10 question in your mind that you can make your decision based
11 solely upon what you hear in this courtroom and from no other
12 source, correct?

13 A. Yes sir.

14 THE COURT: Very good. Now, kind of in general, do you
15 think you have -- or do you have any kind of personal,
16 political, religious, philosophical belief that you believe
17 would prevent you from being a fair and impartial juror in
18 this case?

19 A. No sir.

20 THE COURT: All right. In this particular matter --
21 and you -- I see there weren't any witnesses that you circled
22 or knew, correct?

23 A. That's correct.

24 THE COURT: And on the juror category you circled the
25 Type (C); is that right?

1 A. Yes sir.

2 THE COURT: And that's basically the one that if the
3 State -- and the jury has found, beyond a reasonable doubt,
4 that the State has proved the defendant guilty of the crime of
5 murder they go on into the sentencing phase, you are not
6 leaning one way or another, you are not predisposed, you are
7 going to listen to all the facts and evidence and then, along
8 with your fellow members of the jury, make up your mind as to
9 the sentence in this particular matter; is that right?

10 A. Yes sir.

11 THE COURT: All right. If we get to the sentencing
12 phase and you are part of the jury in this particular matter,
13 under the right set of facts and circumstances could you
14 consider and impose a life sentence?

15 A. Yes sir.

16 THE COURT: All right. If we are in the sentencing
17 phase and -- can -- could you, under the right set of facts or
18 circumstances, consider and impose a death sentence?

19 A. Yes sir.

20 THE COURT: All right. Now, if you are -- the jury has
21 unanimously voted to impose the death sentence, and you are
22 part of that jury, could you then sign the verdict form
23 indicating that?

24 A. Yes sir.

25 THE COURT: All right, now, if you are a member of the

1 jury, once the trial starts -- and obviously we are not done
2 with the selection process -- but once the jury is selected
3 the jury would be sequestered. That means that once the trial
4 starts you are basically with us. You would -- the whole jury
5 would stay at a hotel and you would be transported back and
6 forth, the -- provide all your meals -- I understand, and
7 everybody understands that's a hardship, no question about
8 that, but is that such an extreme hardship that that would
9 cause you a problem, or is there some kind of health issue
10 that you or a family member might have that would be an
11 extreme hardship to you?

12 A. No sir.

13 THE COURT: All right. Thank you very much.

14 Answer any questions the State has for you.

15 Yes sir.

16 BY MR. RICHARDSON:

17 Q. Hey, Mr. Boyd. My name is Jimmy Richardson, and along
18 with Mr. Humphries, Deputy Solicitor, and Solicitor Greg
19 Hembree, we are going to be trying for the State against Mr.
20 Stephen Stanko, and I guess by now you know he's charged with
21 murder and armed robbery, and you have told Judge John that
22 I'm not one of these jurors that would automatically give the
23 death penalty to anybody.

24 A. That's correct.

25 Q. And you have said, I'm not morally opposed to the death

1 penalty; I'm somewhere in the middle.

2 A. That's correct.

3 Q. Okay. So you believe that you could hear the facts of
4 the case and if those facts are there, and we can show you an
5 aggravating circumstance, that you could, in fact, find the
6 death penalty ---

7 A. That's correct.

8 Q. ---Or you could find life imprisonment?

9 A. Yes sir.

10 Q. All right. And have no problem either way with that?

11 A. No sir.

12 Q. You also -- Judge John talked with you a little bit, I
13 believe, about being sequestered; is that right?

14 A. Right.

15 Q. So you realize that once we get a jury empaneled, if
16 you are on that jury, anywhere from seven to ten days, you
17 would stay at a motel room and we would make sure you didn't
18 have any improper contact or anything like that ---

19 A. That's correct.

20 Q. ---And that wouldn't cause you any great harm or
21 disabilities?

22 A. No sir.

23 Q. Okay. Now, you have mentioned on your paperwork that
24 you knew someone in prison. Do you mind if I ask who that is?

25 A. One of my high school friends I went to school with.

1 He committed a crime and he's in prison.

2 Q. Was that here in Horry County?

3 A. Yes sir. He killed his grandmother. It happened
4 probably three years ago.

5 Q. Okay. What's his name?

6 A. Kenneth Dale Fowler.

7 Q. Okay. The fact that Mr. Fowler is in prison on a
8 murder charge, would that affect you in any way with regards
9 to this case?

10 A. No sir.

11 Q. You could separate anything that you knew about some --
12 some other case, and not let that play any role in this one?

13 A. That's correct.

14 Q. Okay.

15 MR. RICHARDSON: I have no further questions. Answer
16 any questions the Defense might have for you.

17 THE COURT: All right, Ms. Williams. Thank you, Ma'am.

18 MS. WILLIAMS: May it please the Court.

19 BY MS. WILLIAMS:

20 Q. Good afternoon, Mr. Boyd. My name is Brana Williams,
21 and it will be me and Bill Diggs who are representing Mr.
22 Stanko in this case if you are seated on our jury.

23 Let me ask you. One of the things that the Court asked
24 you was, did you have any prior knowledge of Mr. Stanko before
25 this.

1 A. No Ma'am.

2 Q. So none?

3 A. Nothing whatsoever.

4 Q. All right. And that's good. I want to ask you this --
5 now I may ask you a question that the Judge has already asked
6 you, and that the State has already asked you. It will seem
7 like I've already answered that, why are you asking me that
8 again, but sometimes we have to ask and we have to triple ask
9 because of the nature of this whole trial, okay.

10 A. Yes Ma'am.

11 Q. So, do you believe that -- or do you have any idea --
12 do you know if there is any expectation of what the outcome of
13 this trial should be out in the community?

14 A. No Ma'am. I haven't talked to anybody about it
15 whatsoever.

16 Q. And I'll ask you this. You know, as the Judge told
17 you, if you are seated on that jury the juror have to reach a
18 verdict, okay ---

19 A. Yes Ma'am.

20 Q. ---And hopefully there will be four possibilities that
21 the jury will consider, guilty, not guilty, not guilty by
22 reason of insanity, and then guilty but mentally ill. Now, do
23 you think when the Judge gives you the law of what those
24 different things mean that you can sit here, hear all the
25 evidence, hear the facts, and then reach a decision, and then

1 equally consider all four possible verdicts?

2 A. That's correct.

3 Q. Do you think that -- or let me ask you this, as the
4 Judge pointed out, if, during the first part of the case the
5 jury decides that Mr. Stanko is guilty we then move to the
6 second part, and at that time there are really only two
7 possible verdicts. There would be a death penalty, or the
8 possibility of life without parole. Do you think you would
9 have any leaning one way or the other toward that going into
10 this?

11 A. No Ma'am.

12 Q. Do you think if you decided that you wanted -- whatever
13 you decided your -- that you have to go back out in the
14 community and explain what your decision was?

15 A. State the question one more time.

16 Q. Do you think that once -- if you are chosen on this
17 jury, that once you make a decision, and the jury reaches a
18 decision, whether it be for the death penalty, whether it be
19 for life without parole, do you think that when you go back
20 out in the community that you will have to explain your
21 verdict?

22 A. No Ma'am.

23 Q. Let me ask you this, if you did have to explain it do
24 you think whatever you decided you would be willing to do
25 that?

1 A. Sure, because it would be what I believed was right.

2 Q. And as you said, you are open to the possibility of a
3 death sentence; is that correct. ---

4 A. Yes Ma'am.

5 Q. ---And then you absolutely open to the possibility of a
6 life sentence as well?

7 A. Yes Ma'am.

8 MS. WILLIAMS: That's all the questions I have, Your
9 Honor.

10 THE COURT: Thank you, Ma'am.

11 All right, sir, let me just ask you just one other
12 question. Based upon everything that we've discussed, you and
13 I have discussed, the State and the Defense have discussed
14 with you, and thinking about it, do you know of any reason,
15 have any question in your mind at all that you believe you
16 can't be a fair and impartial juror, both for the State and
17 the Defense in this matter?

18 A. I'm going to be fair, sir.

19 THE COURT: Very good. Thank you very much. All
20 right, if you can go with the Deputy for just a moment, please
21 sir. Thank you very much.

22 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
23 JUROR.)

24 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
25 JUROR NUMBER 64 MARKED COURT'S EXHIBIT NUMBER 16.)

1 THE COURT: State's position?

2 MR. RICHARDSON: He's qualified, Your Honor.

3 THE COURT: All right. Defense?

4 MS. WILLIAMS: Your Honor, we feel this juror is
5 qualified.

6 THE COURT: The Court finds him to be so qualified. I
7 find that he would be able to follow the Court's instructions
8 on the law, to respect his oath and to be fair and impartial
9 in this matter.

10 All right. Get the next one in, please.

11 (COURT AND CLERK OF COURT CONFER.)

12 MR. DIGGS: Your Honor, could we take a brief break
13 before we get on this next panel?

14 THE COURT: Sure.. You want to just -- we'll take a
15 five minute break. That will be fine. We'll just take a five
16 minute break.. That will be fine. Sure. Absolutely.

17 (THE FOLLOWING TAKES PLACE AFTER A BREAK.)

18 THE COURT: Ask the next juror to come in, please.

19 Thank you.

20 Yes Ma'am, come right up here, please.

21 Madame Clerk.

22 MARGARET M. BARTOMEIO, JUROR NUMBER
23 33, being first duly sworn, states as follows:

24 BY THE COURT:

25 THE COURT: All right. And -- Bartomeio.

1 A. Yes sir.

2 THE COURT: All right, Ms. Bartomeio, what I'm going to
3 do is, I'm going to talk to you about a couple of things. I'm
4 going to ask you some questions, and then the State's
5 representatives might ask you some questions, and the Defense
6 also. Okay.

7 A. Okay.

8 THE COURT: And I'll just tell you, and probably will
9 tell you later on, again, there aren't any right or wrong
10 answers here. We -- what I need, really from you, is direct,
11 straightforward honest answers to the questions. That's what
12 we are looking for because, you know, we -- we have to empanel
13 a fair and impartial jury, and you know, we just need your --
14 you know, how you feel about things. Okay. Great. Thank
15 you, Ma'am.

16 In this particular matter the State of South Carolina
17 has charged the Defendant, Mr. Stephen Stanko, with murder and
18 armed robbery. Now, to those charges the Defendant has pled
19 not guilty. Now that puts the burden of proof upon the State
20 of South Carolina to prove the Defendant guilty beyond a
21 reasonable doubt. The Defendant is presumed innocent. He
22 doesn't have anything to show to you, to prove to you, but the
23 State has to prove this case beyond a reasonable doubt based
24 on the facts and evidence presented. You understand that?

25 A. Uh huh (indicating positive)

1 **THE COURT:** All right. Very good. Now, I'm going to
2 need for you to answer out and -- yes or no -- and certainly
3 you can explain the answers if you need to -- because the
4 Court Reporter can't take down nod of the head ---

5 A. Oh, I'm sorry. Okay.

6 **THE COURT:** ---Or uh huh, or you know, those types of
7 things. Okay. Thank you.

8 A. Yes.

9 **THE COURT:** In this particular case the State has
10 served notice to seek, as a sentence, the death penalty, so in
11 this particular matter there is the possibility of two phases
12 of the trial. In the first phase the State would be producing
13 evidence, testimony to see if they can convince the jury
14 beyond a reasonable doubt that the Defendant, Stephen Stanko,
15 committed the crime of murder. If the jury found the
16 Defendant not guilty of that obviously we wouldn't go to the
17 second phase. If we reach the second phase of the trial, that
18 is, the jury has unanimously, everybody, unanimously found the
19 Defendant guilty beyond a reasonable doubt of the crime of
20 murder, then we would go to the second phase and that's called
21 the sentencing phase, and there's two possible sentences,
22 death or life in prison without the possibility of parole.
23 And the Court might say life, the attorneys might say life, so
24 when we say that that's what we mean, life in prison without
25 the possibility of parole. All right.

1 A. Okay.

2 **THE COURT:** Now, in that, if the jury is to consider --
3 and then the jury would vote unanimously, because it would
4 have to be unanimous to impose a death sentence, the death
5 penalty, the jury has to find what is called an aggravating
6 circumstance. They are certain circumstances that the Court
7 would charge, and if the jury found one of them they could
8 vote for a death penalty.

9 Now, to aggravate means to make worse or to exacerbate
10 the circumstance, and again, that has to be a unanimous
11 decision, and it has to be proved to you beyond a reasonable
12 doubt.

13 Also, the jury has to consider mitigating circumstances.
14 The Court would charge those to you because the jury may
15 impose life. The -- to mitigate means to reduce, or lessen
16 the fault, reduce the punishment, but the jury would have to
17 consider any mitigating circumstances that the Court would
18 charge in reaching this decision, either death or life in
19 prison. You have to consider that.

20 Now, if the jury unanimously decides -- and again, it
21 would have to be unanimous -- unanimously decides to impose a
22 death sentence then another part of that is, each juror has to
23 take pen in hand and sign their name to a verdict form
24 indicating that that -- they are, indeed, part of that
25 unanimous verdict and that is their unanimous verdict for that

1 particular sentence of death; do you understand that?

2 A. Yes.

3 THE COURT: All right. Very good. Now, if you are a
4 member of the jury your job or your responsibility -- or part
5 of your job and responsibility would be to set aside anything
6 that you might have heard about this case, somebody told you,
7 you thought, you read, you looked up, anything that you
8 thought you knew about this case you've got to set all that
9 aside. You basically can't bring it in the courtroom. You
10 compartmentalize that, leave it outside the courthouse, and
11 you come into the courtroom and you make your decision based
12 solely on the facts and evidence in this case, that are
13 presented in this courtroom; do you understand that?

14 A. Yes.

15 THE COURT: All right. Very good. You have to take
16 the law as I would give it to the jury, as the Court would
17 give it to the jury. Whether ultimately you agreed with it or
18 disagreed with it, you have to take the law that I give you
19 and apply it to the facts as you so find to be as a member of
20 the jury; you understand that?

21 A. Yes.

22 THE COURT: Very good. Let me go over some questions
23 with you, and again, obviously there's no right or wrong
24 answers here.

25 Since we left on Friday did you read, listen, watch,

1 look up anything about this case?

2 A. No.

3 THE COURT: Did you talk to anybody about this case
4 since Friday?

5 A. No.

6 THE COURT: All right, now, before Friday -- and I told
7 everybody not to do all that, had you heard something about
8 this case? Did you know anything about it? Had you read
9 anything, knew anything, somebody talked to you about it,
10 heard the name, nothing at all?

11 A. No. I heard the name, but I couldn't place where I had
12 heard it.

13 THE COURT: Heard the name. All right. So the name,
14 Stephen Stanko, you heard that in the past?

15 A. The last name I heard, yes. Uh huh (indicating
16 positive) Yes.

17 THE COURT: Do you remember anything about it?

18 A. No.

19 THE COURT: All right. Very good. That's fine. Not a
20 problem.

21 The fact that you've heard the name in the past, does
22 that affect your decision, or you bring into court any kind of
23 predisposed ideas about the case?

24 A. No.

25 THE COURT: All right. Very good. Again, you

1 understand you have to base your decision based solely upon
2 the facts and evidence presented in this case and from no
3 other source. Can you do that?

4 A. Yes.

5 THE COURT: Very good. You have indicated -- on the
6 witness list there was one person circled, Victoria Jones; is
7 that right?

8 A. Yes. I am not sure if it's the same one I know.

9 THE COURT: And I don't know either, Ma'am, to tell you
10 the truth, but let's just assume it's the same person you
11 know. All right. Now, the same person you know, what does
12 that person do, Victoria Jones?

13 A. She's a news reporter.

14 THE COURT: Okay. Very good. All right, assuming it's
15 the same person, the fact that you might know her, and she's a
16 potential or possible witness in this case, can you set that
17 aside and not let that affect your decision in this case in
18 any way?

19 A. Yes.

20 THE COURT: Very good. We also asked you to look at
21 the category of juror which would best describe you and you
22 circled (C); is that right?

23 A. Yes.

24 THE COURT: All right. And that's basically that
25 once -- or if the crime of murder was proven to the jury, as a

1 member of the jury -- beyond a reasonable doubt, and the jury
2 convicted the Defendant of the crime of murder that in the
3 second phase, the sentencing phase, you wouldn't go into it
4 with any kind of predisposed ideas as to the punishment; you
5 would be open to the possibility of life, the possibility of
6 death; it would be based upon the evidence presented in that
7 phase of the trial; is that right?

8 A. Yes sir.

9 THE COURT: Very good. All right. If we get to the
10 sentencing phase, and you are part of the jury, based upon the
11 right set of facts and circumstances that are presented, could
12 you consider and impose a life sentence?

13 A. Yes sir.

14 THE COURT: Okay. You are a juror in the second phase
15 of the trial, and based upon the right set of circumstances
16 and facts presented in the particular matter, could you
17 consider and impose a death sentence?

18 A. Yes.

19 THE COURT: All right. Now, if you were part of that
20 unanimous verdict, part of that -- the jury that unanimously
21 voted for a death sentence, could you then take pen in hand
22 and sign your name to the verdict form indicating that's your
23 sentence?

24 A. Yes.

25 THE COURT: Very good. If you are part of the jury,

1 and you are selected -- and that's not now, but in a couple of
2 days -- if you are selected as a member of the jury and the
3 trial starts, the jurors, and the jury in this case has to be
4 sequestered, so -- to make sure that they aren't affected by
5 any outside influences of any kind. That means that you would
6 be staying at a hotel, obviously with the -- at the County's
7 expense, the meals provided, be transported back and forth to
8 the courthouse, but for an approximately seven or nine days
9 that you would be with us in that regard. Understand that's a
10 hardship, no question about that, but would that be of such an
11 extreme hardship to you, or cause you any problems with your
12 health, or the health of any of your family members?

13 A. No.

14 THE COURT: All right. Thank you, Ma'am.

15 If you would, answer any questions the State or the
16 Defense might have, please Ma'am.

17 Yes, Solicitor.

18 MR. HEMBREE: Thank you, Your Honor. May it please the
19 Court.

20 Ma'am, I don't have any questions for you. Thanks very
21 much.

22 THE COURT: All right, Defense, Mr. Diggs.

23 BY MR. DIGGS:

24 Q. How are you this afternoon?

25 A. Very good, and yourself?

1 MR. DIGGS: I'm doing great. Thank you.

2 Q. I just want to follow up on a couple of points that
3 came up when the Judge was asking you some questions.

4 A. Uh huh (indicating positive)

5 Q. By the way, my name is Bill Diggs, and I'm here with
6 Brana Williams. We are the attorneys who are representing Mr.
7 Stanko at this time, and he's seated at the table there with
8 us this afternoon.

9 You had indicated that you had heard of his name.

10 A. Yes.

11 Q. Can you tell me what you heard?

12 A. I just knew I knew the name from somewhere, but I
13 couldn't remember if I read it in the newspaper, or saw it on
14 the news.

15 Q. Do you know anything about the allegations against him?

16 A. Only what the Judge just said.

17 Q. Okay. And that's the extent of it?

18 A. Yes.

19 Q. Do you have any feeling as to whether or not there is a
20 view, a prevailing view in the community about Mr. Stanko's
21 guilt or innocence?

22 A. No. I really haven't talked to anybody about it so I
23 don't know.

24 Q. Okay. And I don't think you've ever served on a
25 criminal jury; is that correct?

1 A. No.

2 Q. You said a civil jury one time?

3 A. Yes.

4 Q. In this case, at the first proceeding that we have,
5 there are potentially four verdicts that you could render,
6 guilty, not guilty, not guilty by reason of insanity, or
7 guilty but mentally ill, and depending on the evidence in the
8 case, and the instructions of the Court, do you believe that
9 you could fairly consider each of those verdicts in this case?

10 A. I -- I assume so.

11 Q. And you could reach a verdict that you felt was
12 supported by the evidence and the law that was instructed in
13 the matter from the Judge, or by the Judge?

14 A. Yes sir.

15 Q. Would that be fair?

16 A. Uh huh (indicating positive)

17 Q. So you don't know of any particular bias that you have
18 against any one of those verdict forms over the other?

19 A. No.

20 Q. You could reach a fair verdict based on the evidence in
21 the case?

22 A. I think so, yes.

23 Q. Now, with respect to the second phase, let's assume
24 that there is a guilty verdict -- and we have to because we've
25 got to talk about the other phases in the trial. That doesn't

1 mean that I think you are going to find him guilty or any
2 other verdict at this point. I'm just talking about it
3 because this is the only time we have an opportunity to do
4 that.

5 A. Okay.

6 Q. But let's suppose you come to a situation where you are
7 asked to make a decision between a death sentence or life
8 imprisonment without parole.

9 A. Okay.

10 Q. Do you have any feelings about being predisposed toward
11 one over the other ---

12 A. No.

13 Q. ---As a matter of philosophy or anything of that
14 nature?

15 A. No.

16 Q. Because you know at that point any defendant would
17 already have been found guilty. We are just remaining here to
18 --- in that situation, to make a decision about what that
19 punishment is going to be, and simply -- do you understand
20 what I'm saying?

21 A. No, I'm not getting it.

22 Q. Okay. If you are asked to make a decision between life
23 and death ---

24 A. Okay.

25 Q. ---That means, and only means, that that's with respect

1 to someone who has been convicted.

2 A. Who was guilty of a crime?

3 Q. Yes. Yes. And who is going to be punished. It just
4 remains how, imprisonment for life, or the death penalty.

5 A. Or the death penalty. Okay.

6 Q. And I think the point I was making is, you don't -- you
7 don't believe you are predisposed to either of those in that
8 situation?

9 A. No.

10 Q. And you could comfortably, if you felt it the best
11 verdict, supported by the facts of the case, circumstances of
12 the crime, the characteristics of the Defendant, you could
13 comfortably sentence someone to life imprisonment even though
14 you had just found him guilty?

15 A. Yes.

16 Q. Okay. And you wouldn't feel a necessary justification
17 to impose death in that case. ---

18 A. No.

19 Q. ---Simply because there was a guilty verdict. Okay.

20 MR. DIGGS: That's all I have at this time, and I
21 appreciate your time.

22 A. No problem.

23 THE COURT: All right, Ma'am, let me just ask you one
24 further question. Based upon what the Court has discussed
25 with you, and the questions that they have asked, do you know

1 of any reason, have any question in your mind, any doubt in
2 your mind that you believe you cannot give to the State and
3 the Defendant a fair and impartial trial in this matter, that
4 is, for any reason whatsoever you would not be a fair and
5 impartial juror in this case?

6 A. No, I would -- yes, I would be very fair.

7 THE COURT: And you believe you would be fair and
8 impartial?

9 A. Uh huh (indicating positive)

10 THE COURT: Thank you, Ma'am. All right. Would you go
11 with the Deputy, please Ma'am.

12 A. Okay. Thank you.

13 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
14 JUROR.)

15 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
16 JUROR NUMBER 33 MARKED COURT'S EXHIBIT NUMBER 17.)

17 THE COURT: State's position?

18 MR. HEMBREE: The juror is qualified, Your Honor.

19 THE COURT: Defense?

20 MR. DIGGS: She's qualified at this time.

21 THE COURT: Very good. I -- the Court would so find
22 her to be qualified, to be able to follow the instructions of
23 the Court and to fairly and impartially decide this matter.

24 MR. HEMBREE: Your Honor, I have one additional matter.
25 It was regarding a question Mr. Diggs asked, and he's been

1 asking it, or he and Ms. Williams have been asking it
2 regularly. He changed the wording of it a bit this last time
3 and it gave me some concern. I just let it go as far as an
4 objection but for future questions, regarding the verdict
5 forms in the guilt phase, he's been asking -- or they have
6 been asking the question in this way, that depending upon the
7 evidence there may be four verdict forms in the case, which is
8 certainly -- I don't have any question or challenge to that --
9 to framing the question that way. This last time he said,
10 there will be four verdict forms in the guilt phase. That is
11 not necessarily so. We are not to a point yet that we know
12 that that insanity defense will be allowed by the Court, so I
13 think to -- again, I don't have an objection to the phrasing
14 of the question, depending upon the evidence there may be four
15 verdict forms, because that -- I believe that's a more
16 accurate statement of where we are.

17 **THE COURT:** Do you have any objection to that, Mr.
18 Diggs?

19 **MR. DIGGS:** Your Honor, we will try to be more
20 accurate, but you know we do that -- we have a tendency to do
21 that, all of us, for example, when we tell the jury how long
22 they are going to be sequestered. That's assuming there is a
23 conviction and a full blown sentencing process, so -- I
24 mean, ---

25 **THE COURT:** All right. Well, let's ---

1 MR. DIGGS: No, I understand his objection, and I'll
2 try to be more accurate, and I would suggest that we all --
3 the State and the Defense do that too.

4 THE COURT: All right, sir. Thank you very much.

5 MR. DIGGS: All right. Thank you.

6 THE COURT: Would you please come around here to the
7 Clerk, sir? Thank you very much.

8 JAMES EDWARD BERRY, JUROR NUMBER
9 53, being first duly sworn, states as follows:

10 BY THE COURT:

11 Q. All right, Mr. Berry, what the Court is going to do in
12 this particular matter is, I'm going to talk to you about
13 certain things. I'm going to be asking you some questions.
14 Thereafter the State may ask you some questions and the
15 Defense may ask you some questions. Okay.

16 A. Yes sir.

17 THE COURT: Very good. I'm going to tell you, no right
18 or wrong answers. What I'm looking for is just direct
19 straight-forward answers to the questions, because that's the
20 only way that we can pick a fair and impartial jury in this
21 case. All right, sir.

22 A. Yes sir.

23 THE COURT: Thank you.

24 Now, in this particular matter the State of South
25 Carolina has charged the Defendant, Mr. Stanko, with murder

1 and armed robbery. Now in that the Defendant has pled not
2 guilty. That puts the burden of proof on the State of South
3 Carolina to prove the Defendant guilty beyond a reasonable
4 doubt. That's the State's burden. The Defendant is presumed
5 innocent. The Defendant has nothing to show to you, prove to
6 you. The State must prove the guilt of the Defendant beyond a
7 reasonable doubt based on the facts and evidence presented in
8 the case. You understand that?

9 A. Yes sir.

10 **THE COURT:** Very good. In this particular case the
11 State of South Carolina has served notice to seek the death
12 penalty, and with that that potentially means that there will
13 be two phases to the trial. In the first phase the jury would
14 be called upon to listen to the facts and evidence, and to see
15 whether or not the State has proven the guilt of the Defendant
16 beyond a reasonable doubt. The jury would have to unanimously
17 so find if that was their decision, and if they found -- and
18 only if they found him guilty of the crime of murder would we
19 go to the second phase if the jury unanimously found that the
20 State proved that to them beyond a reasonable doubt.

21 Now, assume that to be the case, we go into the second
22 phase. The second phase is the sentencing, and there's two
23 possible sentences. One is death, the other is life in prison
24 without the possibility of parole, and if the Court just says
25 life, or the attorneys might say life, that's what we mean,

1 life in prison without the possibility of parole, so that you
2 understand that.

3 Now in this case if the jury is to consider a death
4 penalty they have to find what is called the aggravating
5 circumstance. Now, to aggravate, or aggravate means to make
6 worse, or exacerbate the situation, and those are facts that,
7 if they are in existence the Court would charge those to the
8 jury, and the jury, if they found one, could then vote or
9 consider, or impose the death penalty, but only if they found
10 an aggravating circumstance.

11 Also, the jury has to consider any mitigating
12 circumstances that the Court would charge to the jury. Now to
13 mitigate, now that would mean to lesser or reduce the fault,
14 or reduce the punishment. That would be a mitigating factor,
15 and the jury would have to consider that because, again,
16 there's two possibilities -- the jury can impose life -- so
17 you have to consider, and the jury would have to consider
18 mitigating circumstances in this particular matter.

19 If we are in the second phase and you are part of the
20 jury and the jury decides, it's been proved to it beyond a
21 reasonable doubt, and it's a unanimous decision to impose the
22 death penalty, a death sentence, then another part of that is,
23 the jury has to take pen in hand and each juror needs to sign
24 the verdict form indicating this, indeed, is the unanimous
25 verdict and it is my verdict as a juror in this particular

1 case. Do you understand that?

2 A. Yes, I do.

3 THE COURT: Very good, sir. Your job and your
4 responsibility as a juror in this case, one of the things is,
5 when you come in the courtroom you've got to set aside
6 anything that you thought about this case, or believed or
7 heard, or somebody talked to you about it, you've got to
8 decide this case solely on the facts and evidence that are
9 presented in this courtroom and make that decision based on
10 what you hear in the courtroom and from no other source. Do
11 you understand that?

12 A. Yes, I do.

13 THE COURT: All right, sir. The Law that the Court
14 will give to you -- you have to take the Law that I would give
15 to the jury. Ultimately you might agree with it or disagree
16 with it, but you have to accept it, take the law that I give
17 to you, and apply it to the facts as you would so find them to
18 be in this case, along with the other members of the jury.
19 You understand that?

20 A. Yes, I do.

21 THE COURT: Very good. Let me ask you some questions
22 here. Again, no right or wrong answers in this.

23 Since Friday, did you read, hear about, see anything,
24 research anything about this case?

25 A. No, I didn't.

1 **THE COURT:** Very good. Did you talk to anybody about
2 this case?

3 A. No sir.

4 **THE COURT:** All right. Now, before Friday, before I
5 told everybody not to do those things, before Friday, had you
6 heard anything about this particular matter? Anybody said
7 anything to you about it, heard the Defendant's name, anything
8 like that?

9 A. Friday morning I think on the news they mentioned
10 something about it, the name.

11 **THE COURT:** Okay. Okay. Can you remember anything
12 else about it other than his name?

13 A. No.

14 **THE COURT:** Okay. The fact that you heard Mr. Stanko's
15 name prior to Friday, does that affect the way you look at
16 this case, or would it affect your decision in any way in this
17 case?

18 A. No, it wouldn't.

19 **THE COURT:** All right. Very good.

20 You understand that you have to -- as I told you, you
21 have to decide the case solely on the facts and evidence
22 presented in the courtroom and from no other source. Can you
23 do that?

24 A. Yes, I can.

25 **THE COURT:** Very good. In this particular matter,

1 regarding the witness list, you didn't circle anybody on
2 there, correct?

3 A. That's right.

4 THE COURT: Good. And regarding the category of juror
5 which would best describe you you circled (C), correct?

6 A. Correct.

7 THE COURT: And that's the one that, if, as a member of
8 the jury, it's been proven to you beyond a reasonable doubt,
9 the jury found the Defendant guilty of the crime of murder,
10 that as to the possible sentence you would have an open mind.
11 You wouldn't be predisposed one way or another. You would
12 wait till all the evidence was presented, and listen to the
13 law before you made up your mind; is that right?

14 A. That's correct.

15 THE COURT: Very good, sir. If we are in the
16 sentencing phrase, under the right set of circumstances and
17 facts presented, based upon the facts and evidence presented,
18 could you consider, could you impose a life sentence in this
19 case?

20 A. Yes, I could.

21 THE COURT: Based upon the right set of facts and
22 circumstances presented to you in the case in the sentencing
23 phase could you consider, could you impose a death sentence in
24 this case?

25 A. Yes, I could.

1 **THE COURT:** If that was the unanimous will of the jury,
2 unanimous verdict of the jury in this matter to impose a death
3 sentence, and you are part of the jury, could you then take
4 pen in hand and sign the verdict form?

5 A. Yes sir.

6 **THE COURT:** Thank you, sir. Now, if you are part of
7 the jury in this particular matter, once it's selected and
8 everybody is together in this case, there's the possibility
9 that, you know, the case could last seven to nine days. In
10 that period of time you would be sequestered, okay. You would
11 be housed by the County at a motel, transported back and
12 forth, means provided, but you would basically, you know, be
13 with us for the entire time of that trial; you understand
14 that?

15 A. Yes sir.

16 **THE COURT:** And I understand that's a hardship, no
17 question about that, and everybody knows and understands that,
18 but is that such an extreme hardship to you, or would cause
19 problems with your health or a family member's health in this
20 particular matter?

21 A. Only if it was in the first week of December.

22 **THE COURT:** Well, we are -- I just can't anticipate,
23 cannot believe it would go that long. I just don't -- I'll
24 just tell you, I don't have any anticipation that the trial
25 will go that long, sir, so other than that, that would be your

1 only concern?

2 A. That would be it.

3 THE COURT: Very good. Thank you very much.

4 Please answer any questions the State might have for
5 you.

6 MR. HEMBREE: Thank you, Your Honor.

7 THE COURT: Yes sir.

8 BY MR. HEMBREE:

9 Q. Good morning, Mr. -- or good afternoon, Mr. Berry. I
10 appreciate your being here. Thank you for your willingness to
11 serve.

12 I don't have any questions for you. If you would please
13 answer any questions defense counsel might have.

14 A. Yes sir.

15 THE COURT: All right. Ms. Williams.

16 BY MS. WILLIAMS:

17 MS. WILLIAMS: Just briefly, Your Honor.

18 THE COURT: Yes Ma'am.

19 Q. Good afternoon, Mr. Berry. My name is Brana Williams,
20 and I'm an attorney, along with Bill Diggs, who is
21 representing Mr. Stanko in this trial.

22 On that juror questionnaire that you filed out there
23 were some notes that I saw. I just want to make sure I was
24 right. I think you answered that you had maybe stood up in
25 court, some affiliation with certain victims' rights groups?

1 A. My wife is part of the -- well, she's actually a
2 volunteer of the Rape Crisis Center, and I don't know if it
3 really has anything to do with the case or anything, because I
4 really don't talk to her about it, but that would really be
5 the only thing.

6 Q. Okay. So in spite of the fact that that's some of what
7 she does, and what she volunteers for, do you think that you
8 could put that aside and just deal with the facts and evidence
9 as presented in this case regardless of that?

10 A. Yes, yes, I could.

11 Q. Okay. You also noted, I think, on there that you have
12 three children at home and bills to pay.

13 A. Yes Ma'am.

14 Q. And understanding as we discussed -- and I will say
15 this -- that the Judge asked you questions, the Solicitor
16 didn't here, but -- and I may repeat some things, but
17 sometimes you have to ask and ask again just to make sure.

18 As he explained, if you are chosen on this jury you will
19 be sequestered, you know, in that little vacuum where we are,
20 and depending on how long this trial goes one of the things we
21 want to make sure of is that it wouldn't be an extreme
22 hardship, whether, as the Judge said, we hope and pray it
23 doesn't roll into the first week of December, but it could,
24 you know, take a week to two weeks to get this thing done. Is
25 that going to be okay with you?

1 A. Well, she has an operation on the first of December. I
2 mean, if it lasts until then then it does, but ---

3 Q. Okay. So you are still prepared -- you are prepared to
4 deal with it. That's what you are telling us?

5 A. Yes.

6 Q. Okay. I believe that you answered when the Judge asked
7 you about being familiar with Mr. Stanko and his name and
8 these events and you said that. ---

9 A. I've only heard it on like the news on T.V., and I
10 really don't watch a lot of news, to be honest with you. It
11 just caught me Friday morning.

12 Q. All right. So you are telling us that you aren't --
13 are you or are you not familiar with some of the prior -- the
14 history of this case, so to speak?

15 A. No Ma'am.

16 Q. Okay. Now let me ask you this, do you think that if
17 you were selected on this jury that is -- that your community,
18 when you go back into it, has an expectation of what your
19 verdict ought to be?

20 A. No. I don't discuss it with them, and I wouldn't
21 discuss it with them.

22 Q. Do you think that if you are selected, and once you've
23 heard the evidence, and once you have made up your mind as
24 part of the jury, that no matter what you decide that when you
25 go back out in the community that you think that people may

1 question you about what you did?

2 A. They will probably question me but I'm -- I wouldn't
3 discuss anything with them about it.

4 Q. Okay. I want to ask you this. Depending on how the
5 facts go -- and there may be a possibility that when -- in the
6 first part of the case that you, as a potential juror, would
7 have to decide -- there may be four possible verdicts, guilty,
8 not guilty, not guilty by reason of insanity, and guilty but
9 mentally ill, and once you've heard the facts, the evidence
10 presented, once the Judge has instructed you on what each of
11 those verdicts really can mean, do you think that you could
12 give each one of them consideration and weight before making
13 your final decision?

14 A. Yes, I could.

15 Q. All right. Now, I have another question which I think
16 is kind of odd but I think it's true. You know the Judge's
17 job in this case, probably what he'll do is, he'll tell you
18 what the law in South Carolina is, what the Courts and the
19 Legislature have decided, and there may be some of that Law
20 that you don't agree with, okay, and do you think that if the
21 Judge tells you that the law says this, but you think, you
22 know, I just don't agree with that, I don't think it ought to
23 be that, but he'll telling you this is what it is, do you
24 think you can really put that aside and make a decision based
25 on what the law is, not what it should be, but what it is?

1 A. I think I can.

2 MS. WILLIAMS: That's all the questions I have. Thank
3 you.

4 A. Yes Ma'am.

5 THE COURT: All right. Just to be real clear on that -
6 - on that last one, the Court would instruct the jury as to
7 the law, and the jury would have to follow that, whether that
8 was their belief before they came in the courtroom or not; you
9 understand that?

10 A. Yes, I do.

11 THE COURT: And you could do that?

12 A. Yes, I can.

13 THE COURT: Very good. Based on all the questions that
14 have been asked, and the statements that I've made to you, do
15 you know of any question, have any question in your mind
16 that -- well, let's just be -- be more clear about it. Can
17 you give to the State of South Carolina and to the Defendant a
18 fair and impartial trial in this particular matter?

19 A. Yes, I can.

20 THE COURT: Very good.

21 All right. If you would go with the Deputy for a few
22 moments, please. Thank you.

23 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
24 POTENTIAL JUROR.)

25 THE COURT: State's position?

1 MR. HEMBREE: The juror is qualified, Your Honor.

2 THE COURT: Defense.

3 MS. WILLIAMS: Your Honor, we agree that we think this
4 juror is qualified based on the answers he provided.

5 THE COURT: Very good. I do find that the juror is
6 qualified in this particular matter. I do find that he can
7 properly perform under his oath, follow the Court's
8 instructions in this matter. There is nothing that would
9 cause the Court concern that he would not follow the law and
10 would not consider all things fairly and impartially in this
11 matter.

12 All right.

13 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
14 JUROR NUMBER 53 MARKED COURT'S EXHIBIT NUMBER 18.)

15 THE COURT: If you could come forward around to the
16 Clerk, please sir. Thank you. Right around here. Yes sir,
17 right there. Thank you.

18 VICTOR ROMANO, JUROR NUMBER 542,
19 being first duly sworn, states as follows:

20 THE COURT: I'm sorry, gentlemen, could -- just one
21 second. Could y'all come up here for just one second, please,
22 if y'all don't mind?

23 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

24 THE COURT: All right. What I'm going to do -- is it
25 Romano?

1 A. Yes.

2 THE COURT: Mr. Romano, what I'm going to do is, I'm
3 going to talk to you about certain things, give you a brief
4 description of some things, going to ask you some questions.
5 After that the State might have some questions, the Defense
6 might have some questions of you. There aren't any right or
7 wrong answers here. I'm just looking for just direct,
8 straight-forward honest answers to the questions, okay?

9 A. Okay.

10 THE COURT: We've got to pick a -- you know, the best
11 jury we can in this matter and this is the only way that we
12 can do it. All right.

13 A. Okay.

14 THE COURT: Thank you very much, sir.

15 All right. In this particular matter the State of South
16 Carolina has charged the Defendant, Mr. Stanko, with murder
17 and armed robbery. Now in this particular case the Defendant
18 has pled not guilty. That means the State of South Carolina
19 has the burden of proof. The State must prove the Defendant
20 guilty beyond a reasonable doubt. The Defendant is presumed
21 innocent. The Defendant has nothing to show to you, has
22 nothing to prove to you. The State has to prove the Defendant
23 guilty beyond a reasonable doubt based on the facts and
24 evidence presented in this case. Do you understand that?

25 A. Yes sir.

1 **THE COURT:** All right. Now, in this particular matter
2 the State has served notice to seek the death penalty in this
3 particular matter, so that means there potentially could be
4 two parts to this trial. In the first part the State would be
5 producing the facts and evidence, and the jury would be
6 charged with deciding whether or not there are sufficient
7 facts and evidence that have been shown to it, that the jury
8 believes to be true, to convict the Defendant, beyond a
9 reasonable doubt, of the crime of murder. If the jury would
10 find the Defendant not guilty of murder then there wouldn't be
11 a need for a second phase of the trial. So, that's the first
12 phase.

13 Assume, for the purposes of these questions and us
14 talking, that we've gotten to the second phase, the jury has
15 decided that there has been sufficient evidence to convict the
16 Defendant of the crime of murder beyond a reasonable doubt,
17 the jury has so unanimously decided, because it would have to
18 be a unanimous decision, everybody has to agree. But assume
19 they've done that. In the second phase there's two possible
20 sentences, death or life in prison without the possibility of
21 parole, and if I might say life, or someone else, the
22 attorneys might say life, that's what we mean, life in prison
23 without the possibility of parole. That's what it means.
24 Those are the two possible sentences in this particular matter
25 if the Defendant is found guilty of murder.

1 Now, to impose a death sentence a jury would have to
2 find what is called an aggravating circumstance. Now, to
3 aggravate means to make worse, or to exacerbate the situation
4 or the circumstance. Now, there are certain circumstances
5 that the Court would charge, that the Court would say, these
6 are aggravating circumstance, and if the jury found one of
7 them they could impose the death sentence. It doesn't they
8 have to. It just means that then gives them the option or the
9 possibility of imposing the death sentence.

10 Also, there are things called mitigating circumstances,
11 because the jury can impose life. That's a possible sentence.
12 And the jury could -- would have to consider any mitigating
13 circumstance that the Court would charge to the jury, and the
14 jury would have to consider each of those, or any of those
15 before they imposed the sentence in this matter. Do you
16 understand that?

17 A. Uh huh (indicating positive)

18 **THE COURT:** Now, to mitigate means to lessen, or reduce
19 the fault, or reduce the punishment. All right. Now, if you
20 are part of the jury and the jury would unanimously find that
21 they would impose the death penalty -- because that's the only
22 way it can be done. It has to be proven to them beyond a
23 reasonable doubt. The jury has to vote unanimously, has to
24 find an aggravating circumstance. But if the jury did all
25 those things the next thing that would be required is, each

1 member of the jury would have to take pen in hand and sign the
2 verdict form, indicating that, indeed, is my verdict; it is
3 part of the unanimous verdict, and I did vote for the -- a
4 death sentence in this particular matter. You understand
5 that?

6 A. Yes sir.

7 THE COURT: All right. Very good. As a member of the
8 jury you would have a job and responsibility that, if you knew
9 anything about this case, heard about this case, any
10 predispositions about this case one way or another, or the
11 penalties involved, you have to set those aside. You have to
12 leave those outside the courtroom. You can't bring them into
13 the courtroom. You have to make your decision based solely
14 upon the facts and evidence in this case, and from no other
15 source. You have to decide it based upon what you hear in the
16 case and the law that the Court will charge to you. The jury
17 find the facts and evidence, the Judge charges the law and the
18 jury applies the law to the facts and evidence the jury so
19 finds to be true in this particular matter. And as a member
20 of the jury that's -- that would be what you would have to do;
21 you understand that?

22 A. Uh huh (indicating positive)

23 THE COURT: All right, sir. And if you could, if you
24 could say yes or no because the Court Reporter is taking
25 down ---

1 A. Okay. I'm sorry. Yes.

2 THE COURT: All right. Very good. All right.

3 Let me just go over some questions with you if I could.
4 All right. Since Friday, have you read, heard, looked up
5 anything about this case?

6 A. No sir.

7 THE COURT: All right. Since Friday, have you talked
8 to anybody about this case?

9 A. Well, I mentioned it to my wife.

10 THE COURT: To tell her where you were going to be?

11 A. Exactly. She knew. She was listening to the T.V..

12 THE COURT: All right. So did you discuss the case
13 with her at all, or did you ---

14 A. There is nothing to discuss, really. I mean I remember
15 when he murdered his girlfriend and that's what I remember a
16 couple of years ago.

17 THE COURT: Okay. All right. You understand that
18 would be a completely separate matter and has nothing to do
19 with this particular case. Do you understand that?

20 A. I do.

21 THE COURT: All right, sir. You understand that having
22 heard that, known about that in the past, again, that's part
23 of what you have to set aside and leave outside of the
24 courthouse; you can't bring that into this courtroom; you
25 can't let that affect your decision in any way.

1 A. How could I not?

2 THE COURT: Well, that's -- and I appreciate that, and
3 that's what I'm looking for, is straight-forward answers,
4 because I'm going to have -- I have to find jurors -- well, in
5 this particular matter if you are a member of the jury, if --
6 you have taken your oath as a jury. It says to the Court, I
7 will not -- and this is, you know, a bright line, bright line
8 test ---

9 A. Black and white.

10 THE COURT: ---I will not allow anything that I heard
11 about this case in the past, know about it, somebody told me,
12 I've thought about it, or think I know, I'm not letting any of
13 that affect me in any way; I'm making my decision solely on
14 what I hear in this courtroom and from no other source. So my
15 question to you -- understanding that's what you have to do,
16 can you do that? And again, there's no right or wrong answers
17 here.

18 A. I doubt it. I mean, if I could say what I told my wife.
19 I remember when he killed his girlfriend ---

20 THE COURT: Well, what was it?

21 A. I said they should have fried the bastard.

22 THE COURT: Okay. Very good.

23 A. That's how I feel about it.

24 THE COURT: Okay. And I appreciate that. And I
25 appreciate that. And in that you would come into the

1 courtroom with a ---

2 A. Predisposition.

3 THE COURT: ---Predisposition; predisposed as to how
4 you would feel about the case.

5 Thank you very much. I appreciate it.

6 A. Pretty much.

7 THE COURT: Questions from the State?

8 MR. HEMBREE: None from the State, Your Honor.

9 THE COURT: Questions from the Defense?

10 MR. DIGGS: Just a few. I think I need to follow up.

11 THE COURT: Very good.

12 MR. DIGGS: Unless the Court -- could we approach?

13 THE COURT: I'll be glad for you to approach, but I --
14 if you have some questions please ask them.

15 MR. DIGGS: I want to approach.

16 THE COURT: Yes sir. Well, why don't y'all come over
17 here.

18 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

19 THE COURT: Mr. Romano, I forgot -- and I should have
20 asked you one thing. We asked you to circle that category of
21 juror which best describes you, and you circled that, correct?

22 A. Uh huh (indicating positive) Yes.

23 THE COURT: Correct?

24 A. Yes.

25 THE COURT: And in that that was that you basically --

1 you have a predisposition that if a jury convicts someone of
2 murder that the death penalty is the appropriate penalty for
3 that particular crime.

4 A. I'm in favor of capital punishment.

5 **THE COURT:** All right. Very good. Now, understanding
6 that -- you can be in favor of that as being an option, that
7 being a possibility, but again, if you are a juror you have to
8 lay aside your predispositions, your ---

9 A. I understand.

10 **THE COURT:** ---Beliefs, and not allow that to affect
11 your decision in this case. Do you understand that?

12 A. Yes. Yes, I do understand that.

13 **THE COURT:** And -- and your answer to me is -- if you
14 could do that would be ---

15 A. I don't think that I can.

16 **THE COURT:** Very good. Thank you.

17 Further questions from the Defense?

18 **MR. DIGGS:** No, Your Honor. We don't have any
19 questions.

20 **THE COURT:** Thank you.

21 **MR. DIGGS:** Thank you very much.

22 **THE COURT:** You can step down, and if you would just go
23 with the Deputy for a minute, please.

24 A. Okay.

25 **THE COURT:** Thank you very much, sir.

1 A. Thank you, sir.

2 THE COURT: Thank you.

3 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
4 POTENTIAL JUROR.)

5 THE COURT: The State's position?

6 MR. HEMBREE: The juror is not qualified, Your Honor.

7 THE COURT: Defense.

8 MR. DIGGS: We agree.

9 THE COURT: All right. The Court so finds him -- that
10 he is not qualified. I find that he is unable to follow the
11 law that the Court would give and to fairly consider all
12 possibilities in this particular matter.

13 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
14 JUROR NUMBER 542 MARKED COURT'S EXHIBIT NUMBER 19.)

15 THE COURT: All right. The next juror then. The next
16 juror, 479, Francisco R. Nunez, Mr. Nunez didn't come Friday
17 and we don't have any reason why, so I'll have to explore all
18 that with him when he comes in, and also ask him the
19 qualification questions.

20 MR. HUMPHRIES: He's here now?

21 THE COURT: He's here now. The Sheriff went out and
22 found him.

23 THE COURT: I'm sorry. Are you Ms. Holton?

24 A. Yes.

25 THE COURT: Okay. Did we -- I thought we said -- if

1 you would just hold on one second.

2 Can you go out and just -- if you don't mind -- Nunez.
3 N.u.n.e.z..

4 If you can -- yes, if you will just go with the Clerk
5 for one second, Ma'am, please. Thank you.

6 All right. Could you shut the door for just one second.
7 Shut the door for one second.

8 Gentlemen and counsel, the -- Ms. Williams, the Deputy
9 informed me -- the Deputy that's present in the courtroom is
10 one of the ones that went out to try to find Mr. Nunez, and
11 informs me that the address -- the people there were
12 uncooperative and he had to go out to the house. He
13 eventually got them to communicate with him and they informed
14 him that Mr. Nunez is not there and has not been there for
15 some considerable period of time, so the Sheriff actually
16 wasn't able to locate Mr. Nunez, for y'all's information.

17 All right. Thank you very much.

18 All right. Let's ask Ms. Holton to come on in, please.
19 Thank you.

20 If you would just come around to the Clerk, please
21 Ma'am. Thank you very much.

22 ELIZABETH L. HOLTON, JUROR NUMBER
23 298, being first duly sworn, states as follows:

24 BY THE COURT:

25 Q. All right, Ms. Holton, thank you for being here.

1 A. Uh huh (indicating positive)

2 THE COURT: What I'm going to do, Ma'am, is I'm going
3 to go over some things with you, then I'll ask you some
4 questions, and then the representatives of the State and
5 Defense may have some questions for you. Okay.

6 A. Okay.

7 THE COURT: All right. Now, there aren't any right or
8 wrong answers here. What I'm looking for you and -- looking
9 to have from you is just direct, straight-forward honest
10 answers to the questions. That's what I need from you. Okay,
11 Ma'am.

12 A. Yes.

13 THE COURT: Thank you, Ma'am.

14 In this particular matter the State of State has charged
15 the Defendant, Mr. Stanko, with the crimes of murder and armed
16 robbery. The Defendant has pled not guilty to the charges.
17 That puts the burden of proof on the State of South Carolina
18 to prove the Defendant guilty beyond a reasonable doubt. The
19 Defendant is presumed innocent of the crimes charged. The
20 Defendant has nothing to show to you or prove to you. The
21 State must prove the guilt of the Defendant of the crimes
22 charged beyond a reasonable doubt. Do you understand that?

23 A. Yes sir.

24 THE COURT: All right. Very good. In this particular
25 matter the State has filed a notice to seek the death penalty

1 in this particular matter. Now, that means that there are two
2 possible phases or parts to this trial. The first part would
3 be, the jury would be listening to all the facts and the
4 evidence and would make a unanimous decision, a decision that
5 everybody agrees to, as to whether or not the State proves the
6 Defendant guilty of murder beyond a reasonable doubt, and the
7 jury would have to make that decision, the unanimous decision.
8 If the jury unanimously decided that the Defendant was guilty
9 of the crime charged, or murder, and the State has proved that
10 to it beyond a reasonable doubt then we would go into the
11 second phase of the trial, the sentencing phase, and there are
12 two possible sentences, and one of those sentences is death
13 and the other is life in prison without the possibility of
14 parole, and if I might say life, or the attorneys might say
15 life, that's what we mean, life in prison without the
16 possibility of parole.

17 Now, the jury, to impose a death penalty, must find what
18 is called an aggravating circumstance. Aggravate means to
19 make worse, or exacerbate the situation or the facts. There
20 are certain circumstances in law that the Court would charge
21 the jury and the jury would have to find one of them, would
22 have to pick one of them if they were to impose the death
23 penalty, and the death penalty must be a unanimous decision.
24 All the jurors must agree.

25 Also in the case the jury would have to consider any

1 mitigating circumstances the Court would charge to the jury.
2 The jury obviously -- there's another possibility the jury may
3 impose life, and the jury could impose life based on one of
4 those, or for no reason whatsoever. To mitigate, or a
5 mitigating circumstances means to lessen, or reduce, to reduce
6 the punishment. If you are in the -- on the jury, and we've
7 gotten into the second phase of the trial, and the jury
8 unanimously decides to impose a death sentence or a death
9 penalty in this case, and it's been proven to the jury beyond
10 a reasonable doubt and the jury so find unanimously, then
11 there's another part to that. The jury would have to -- each
12 member of the jury would have to take pen in hand and sign a
13 verdict form indicating that that, indeed, is their verdict,
14 and that they voted to impose the death sentence. Do you
15 understand that?

16 A. (NODS HEAD AFFIRMATIVE)

17 THE COURT: All right. You need to answer.

18 A. Yes.

19 THE COURT: All right. Thank you, Ma'am. And part of
20 that is, the Court Reporter can't take down shakes of the head
21 ---

22 A. Okay.

23 THE COURT: ---And needs to have an answer. Okay.

24 Thank you.

25 As a member of the jury part of your job would be to set

1 aside anything you thought you heard about this case, thought
2 you knew, read about, somebody told you about, had any beliefs
3 about. You can't come into this courtroom with any
4 predispositions of any kind. You have to base your decision
5 solely on the facts and evidence in this case. You have to
6 leave all those matters outside the courthouse. You can't
7 bring them in the courtroom. You have to come in and listen
8 solely to the facts and evidence in this case, base your
9 decision solely on the facts and evidence in this case, and
10 then reach your unanimous verdict, along with the other
11 members of the jury. Do you understand that?

12 A. Yes.

13 **THE COURT:** All right.

14 The Court would instruct you the law that the jury will
15 apply to the facts they so find to be true in this particular
16 matter. The law the Court instructs you would have to be
17 accepted by the jury, ultimately whether you liked it or
18 didn't like it, were in favor of it or were not in favor; you
19 have to accept the law that the Court gives you, and apply it
20 to the facts as you so find them to be as a member of the
21 jury. Do you understand that?

22 A. Yes.

23 **THE COURT:** You would have to set aside -- if you
24 thought the law was something coming into the courtroom, or
25 had any predisposition or ideas of what it is or what it

1 should be you have to let that go. You can't bring that into
2 the courtroom. You have to take the law that I would give to
3 you. You understand that?

4 A. Yes sir.

5 THE COURT: Very good. Again, there being no right or
6 wrong answers, let's go over some other things. Since Friday
7 did you read, listen, watch, look up anything about this case?

8 A. No.

9 THE COURT: Have you talked to anybody since Friday
10 about this case?

11 A. No.

12 THE COURT: Okay. Did you mentioned anything about it
13 to anybody?

14 A. Other than the fact that I had to be here today.

15 THE COURT: Okay. To let people know where you were?

16 A. Yes.

17 THE COURT: All right. Very good.

18 A. Yes.

19 THE COURT: All right. Other than that you haven't
20 talked about it or discussed the case in any way?

21 A. No.

22 THE COURT: All right. Very good. Now, before Friday,
23 had you ever heard about this case, or knew anything about it,
24 or anybody had talked to you about it, or heard the
25 Defendant's name or anything?

1 A. I -- the Defendant's name, not this case.

2 THE COURT: Okay. Mr. Stanko, Stephen Stanko?

3 A. Yes.

4 THE COURT: You've heard that name before?

5 A. Yes.

6 THE COURT: Do you remember anything in connection with
7 the name, anything about it?

8 A. Well, from the other case.

9 THE COURT: Okay.

10 A. I guess.

11 THE COURT: And what was that?

12 A. Just when it -- actually when it actually happened. I
13 guess when it was the headlines on the news.

14 THE COURT: Okay. So you remember that something
15 happened in the past?

16 A. I just remember the headlines in the news, yes, but I
17 never followed it.

18 THE COURT: Okay. Do you remember anything about -- as
19 to what the headlines or the news said?

20 A. Yes, just what he was charged with.

21 THE COURT: Okay. Do you remember what that was?

22 A. That he -- the murder of his girlfriend ---

23 THE COURT: Okay.

24 A. ---I guess, and the rape of somebody.

25 THE COURT: Okay.

1 A. That was about it.

2 THE COURT: All right. Now, again, you understand that
3 those are matters that have to be left outside of the
4 courthouse?

5 A. Uh huh (indicating positive)

6 THE COURT: They can't affect your decision in this
7 case in any way. Again, you have to -- that has nothing to do
8 with this particular case. You have to make your decision
9 based upon what you hear in this courtroom and not let any
10 outside information or source affect your decision in any way.
11 You understand that?

12 A. Yes.

13 THE COURT: Can you do that?

14 A. Yes.

15 THE COURT: All right. Very good. Understanding
16 that -- and this is probably more of a general question. Do
17 you know of any personal, political, religious, philosophical
18 belief that you believe would prevent you from being a fair
19 and impartial juror in any way?

20 A. No.

21 THE COURT: All right. Of the papers we handed to you
22 I note that you did not circle any of the potential witnesses,
23 correct?

24 A. Correct.

25 THE COURT: And regarding the category of juror which

1 would best describe you you circled (C), correct?

2 A. Correct.

3 THE COURT: And that would be, if you are a member of
4 the jury and the jury finds from the facts and evidence that
5 the State has proved the guilt of the Defendant beyond a
6 reasonable doubt, and the jury convicts the Defendant of
7 murder we go into the second phase, but you don't go into it
8 in any kind of predisposed idea as to the sentence. You are
9 open to life. You are open to death. You listen to all the
10 facts and evidence in the case, and the law that the Court
11 would charge to you before you make up your mind; is that
12 right?

13 A. Correct.

14 THE COURT: Very good. If we get to the sentencing
15 phase, and you are a member of the jury, based on the facts
16 and circumstances that are presented to you at that point in
17 time, could you consider, could you impose a life sentence?

18 A. It would depend on the facts presented.

19 THE COURT: Depending on the facts and circumstances
20 presented.

21 A. Uh huh (indicating positive)

22 THE COURT: But would you be able to consider and
23 impose it if the right set of facts and circumstances were
24 presented?

25 A. I could consider that, yes.

1 **THE COURT:** All right. And you understand the jury
2 could impose a life sentence for no reason whatsoever?

3 A. Say that again.

4 **THE COURT:** The jury can impose a life sentence for no
5 reason whatsoever ---

6 A. Uh huh (indicating positive) Okay. I did not know
7 that.

8 **THE COURT:** ---As an act of mercy. Do you understand
9 the jury could do that?

10 A. Okay. Now I do.

11 **THE COURT:** All right. If the jury has the right set,
12 and you as a member of the jury, have the right set of facts
13 and circumstances before you could you consider and impose a
14 death sentence?

15 A. Yes. I could consider it, based on the facts
16 presented.

17 **THE COURT:** All right. And the second part of that is,
18 could you actually vote for and impose it based upon the right
19 set of facts and circumstances? Could you actually do that?

20 A. I probably could if I had to. Again, it would have to
21 be again whatever was presented.

22 **THE COURT:** Okay. And I appreciate this, and again,
23 there aren't any right or wrong answers here.

24 The people that sit on the jury, this is sort of like a
25 bright line test in these answers. You have to be able to,

1 yes I can, or no I can't. The Court really can't accept I
2 believe I can, I think I can. I have to know from you, no,
3 Judge, I can't do that, or yes I can, one of the two. So,
4 under the right set of facts and circumstances presented to
5 you could you not only consider, but actually impose a death
6 sentence?

7 A. Yes.

8 **THE COURT:** And in doing that could you sign your name
9 to a verdict form, take pen in hand and sign your name and say
10 yes, that is my sentence, to impose death in this particular
11 case. Could you do that?

12 A. Yes.

13 **THE COURT:** All right.

14 A. And worded that way, yes, I could sign the form.

15 **THE COURT:** Very good. Very good. Now, if you are on
16 this jury and once selected, to avoid any kind of improper
17 influence on the jury, this jury is going to be sequestered.
18 That means that all the jurors would be -- obviously at the
19 County's expense -- will be put up in a hotel, motel, their
20 meals would be taken care of, obviously transported to and
21 from the courthouse, but you wouldn't be going home until the
22 trial was over. We expect that to take seven to nine days
23 once it starts. Once that sequestration starts it will take
24 about seven to nine days.

25 Now, understanding that's a hardship on anybody, and

1 everybody understands that. I understand that. But the fact
2 of sequestration, is that an exceptional or extraordinary
3 hardship to you, or does it affect your health, or the health
4 of any member of your family in any way?

5 A. No.

6 THE COURT: Thank you, Ma'am.

7 Please answer any questions the State might have for
8 you.

9 MR. HEMBREE: Thank you, Your Honor. May it please the
10 Court.

11 BY MR. HEMBREE:

12 Q. Good afternoon, Ms. Holton.

13 A. Hi.

14 Q. Thanks for your patience with us. I know y'all have
15 had to wait ---

16 A. Uh huh (indicating positive)

17 Q. It can be a slow process.

18 I want to go back and just hit a couple of the
19 highlights. I think that Judge John has, you know, taken you
20 pretty much through the entire process, but I want to kind of
21 tighten it up.

22 You understand that in a death penalty case there are
23 two potential phases. The first phase -- the first question
24 to answer would be the -- whether or not this Defendant,
25 Stephen Stanko, murdered Henry Turner. That's the first

1 question for the jury, the first part of the case, and if the
2 jury said no, then we don't move on to the second part. If
3 the jury said yes then we move on to the second part. There's
4 actually even a little break in between the two, just a very
5 short -- a one-day break between the two -- the two phases of
6 the trial. Then we would start a second part of the trial
7 which that would be called the penalty phase, or the
8 sentencing phase. But a jury in a death penalty case actually
9 gets to decide the sentence. It's unique. Typically juries
10 in South Carolina don't decide penalty; the judge decides
11 penalty, but in a death penalty case they do decide. So, is
12 that all pretty clear to you at this point?

13 A. Yes.

14 MR. HEMBREE: Very good. The -- one of the things that
15 I want to make sure you understand is that the Court is never
16 going to charge you on the law and say you must find -- find
17 for death. There is never a circumstance where -- it's not
18 that simple. It's not like one plus one equals two. The
19 Court, Judge John, will never give you an instruction that
20 says you must find death. Is that clear to you?

21 A. Yes.

22 Q. Okay. So you always have the option. Even if the
23 Defendant is proven guilty of murder and the Defendant has
24 been proven guilty of an aggravating circumstance, what's
25 called a statutory aggravating circumstance. You make that

1 finding as the jury gets into that -- gets into that, and at
2 that point you can impose death, but you don't have to. It's
3 not a must, so do you understand that?

4 A. Yes.

5 Q. Understanding, do you believe you personally -- this
6 gets right to your heart -- this is the real fundamental
7 question. We all need to know in your heart, if given
8 sufficient evidence, under the right circumstances, could you
9 vote to impose the death penalty on this Defendant?

10 A. I could.

11 Q. And likewise, given the appropriate evidence, under the
12 proper circumstances, in your view life was appropriate, could
13 you and would you impose life without the possibility of
14 parole on this Defendant?

15 A. I could.

16 MR. HEMBREE: I appreciate your time. I thank you for
17 your willingness to serve. I know it's nothing -- nothing --
18 you don't do it for fame and fortune, but we appreciate your
19 public service here.

20 Please answer any questions that Mr. Diggs or Ms.
21 Williams has for you.

22 A. Thank you.

23 THE COURT: All right. Mr. Diggs.

24 MR. DIGGS: Thank you, Your Honor.

25 THE COURT: Yes sir.

1 MR. DIGGS: May it please the Court.

2 BY MR. DIGGS:

3 Q. Ms. Holton, how are you this afternoon?

4 A. Good.

5 Q. All right. You met us earlier, or on Friday. My name
6 is Bill Diggs. This is Brana Williams, and we are the
7 attorneys who are representing Mr. Stanko in this trial, and
8 this is Mr. Stanko seated here at the table with us.

9 You had indicated that you knew a little bit about this
10 case, and I want to ask you precisely what it is that you
11 know.

12 A. I don't know anything about this case.

13 Q. You are not aware of any former -- or any past history
14 regarding Mr. Stanko?

15 A. Just the part I said about, but I know nothing about
16 this.

17 Q. Tell me what you do know about Mr. Stanko.

18 A. I don't even know what year it was in, but it was
19 just -- I watch the morning news, and it was the headlines on
20 the news.

21 Q. Okay. And you learned what about him?

22 A. That he was accused of, I guess, murdering his
23 girlfriend and raping a family member or something.

24 Q. Now, do you remember if you heard, or if -- do you know
25 if there had been a trial about that?

1 A. No. I never followed it.

2 Q. Okay. So you don't know if he's -- if he was ever put
3 on trial for those allegations?

4 A. No, I did -- I did -- after I had the jury
5 questionnaire ---

6 Q. Yes.

7 A. ---I did look it up to find out, but I didn't -- had no
8 articles to read or nothing.

9 Q. Okay. What did you find out about it?

10 A. That there was a trial.

11 Q. And do you know what the result was?

12 A. There was a guilty verdict, I believe.

13 Q. Okay. And do you remember if there was a sentence in
14 the case?

15 A. No. I didn't have a full article. I just -- the name
16 stuck out. I just wanted -- and once I read the headline and
17 what he -- the accusation of what he was charged with then I
18 remembered. That was going back two years.

19 Q. Okay. Let me ask you this, do you know if there is a
20 prevailing view in the community about whether Mr. Stanko is
21 guilty?

22 A. Can you ---

23 Q. Do you know if there is a prevailing view in your
24 community as to whether Mr. Stanko is guilty of this offense?

25 A. I don't talk to my community about anything.

1 Q. Have you ever spoken with friends or family about it?

2 A. No.

3 Q. Okay.

4 A. Like I said, when I -- yes, when I see the headlines I
5 just, you know -- it's been in the news a couple of days when
6 it was in the news when it happened and that was it.

7 Q. All right. If you were a juror on this case and served
8 and rendered a verdict in the case do you feel any sense of
9 obligation to your community to render a guilty verdict?

10 A. If the evidence proved guilty.

11 Q. Okay. So as we sit here now you don't feel any such
12 obligation?

13 A. I'm not obligated because of what I already know, no.

14 Q. Okay. That's my question. You don't feel that the
15 view among your friends and family and neighbors is such that
16 they expect you to find him guilty if you serve on this jury?

17 A. I don't think they would think about it.

18 Q. Okay. Now, if you look at the first phase of the case
19 there are possibly four verdicts that might be at play here.
20 They are guilty, not guilty, not guilty by reason of insanity,
21 or guilty but mentally ill. Now, could you fairly consider
22 each of those four verdicts should they be supported by the
23 evidence in the case?

24 A. Yes.

25 Q. And can you tell us that you would follow the law

1 regarding those verdicts, even if you didn't feel like any
2 particular law was a good law, you didn't personally agree
3 with it, but could you take the law as explained to you by the
4 Judge in that circumstance ---

5 A. Yes.

6 Q. --And render the verdict that you feel is supported by
7 the evidence?

8 A. Yes.

9 Q. Okay. Do you currently -- do you know where Mr. Stanko
10 currently resides?

11 A. No.

12 Q. Okay. Now, with respect to the penalty phase -- and I
13 ask you this question only because we have to talk about it
14 now, and I don't want you to presuppose we are going to get a
15 guilty verdict here, and so I'm going to go ahead and talk
16 about the penalty phase. We just have to talk about it at
17 some point. But should we get to the penalty phase and you
18 have to make a decision as to life or death -- let's say
19 there's a situation at the first phase of the trial you and
20 the other jurors vote for guilty, and now you are faced with
21 the verdict as to the sentence, do you feel predisposed to
22 vote for death in that situation, or for life?

23 A. No.

24 Q. Are you telling me that you feel it's kind of down the
25 center?

1 A. I guess it would determine on the evidence supporting
2 my decision.

3 Q. As to his sentence?

4 A. Yes. As to whether -- yes. Yes.

5 Q. And you wouldn't have any predisposition toward either
6 one?

7 A. No.

8 Q. Okay.

9 MR. DIGGS: Thank you very much. I think that's all I
10 have at this time.

11 A. Okay.

12 THE COURT: All right. Ms. Holton, let me just ask you
13 one -- one question. Based on everything that we have talked
14 about, and I've talked about with you, had the questions from
15 the State and the Defense, and examining all that, do you
16 believe you can give to the State of South Carolina and to the
17 Defendant a fair and impartial trial, that is, that you can be
18 a fair and impartial juror in this case?

19 A. Yes.

20 THE COURT: Thank you very much, Ma'am. If you would
21 go with the Deputy for a few moments, please.

22 Thank you, Ma'am.

23 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
24 POTENTIAL JUROR.)

25 THE COURT: All right. State's position?

1 **MR. HEMBREE:** The juror is qualified, Your Honor.

2 **THE COURT:** Defense?

3 **MR. DIGGS:** She's qualified.

4 **THE COURT:** I find that the juror is qualified in this
5 particular matter. I find that she could follow her oath, she
6 could follow the instructions of the Court and follow the law,
7 that she would be fair and impartial in all respects in this
8 particular matter.

9 **MR. DIGGS:** Your Honor, I do want to note for the
10 record, however, that she did have prior knowledge of the
11 case, and so we say she's qualified only with respect to the
12 death qualification and not -- I would ask that she be excused
13 based on her prior knowledge, but you know, that is -- to keep
14 that objection in the record, Your Honor.

15 **THE COURT:** All right, sir. So you want her excused
16 based upon her ---

17 **MR. DIGGS:** Prior knowledge.

18 **THE COURT:** ---Pretrial knowledge of the case?

19 **MR. DIGGS:** Yes sir. Yes sir.

20 **THE COURT:** Okay. All right. I find the juror was
21 extensively questioned about this, that she, in all respects,
22 said that she could be fair and impartial, that she would not
23 allow that to affect or impair her decision in this matter,
24 she would be -- listen to the facts and the evidence in the
25 case, follow the law, and that she would do everything that

1 would be required of a proper juror in this case and I do find
2 her to be properly qualified, and I find her demeanor and her
3 presentation to be such that the Court has every confidence
4 and belief that she would do all of those things.

5 Thank you.

6 MR. DIGGS: Thank you, Your Honor.

7 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
8 JUROR NUMBER 298 MARKED COURT'S EXHIBIT NUMBER 20.)

9 THE COURT: All right. Ask the next juror to come in,
10 please.

11 JUROR NUMBER 466, THOMAS GARY
12 MURRAY, being first duly sworn, states as follows:

13 BY THE COURT:

14 THE COURT: All right, Mr. Murray, what I'm going to do
15 is, I'm going to talk to you, explain a few things to you then
16 I'm going to ask you some questions, and thereafter the
17 representatives of the State and the Defense may ask you some
18 questions, okay, sir?

19 A. Sure.

20 THE COURT: Very good. The first thing I would start
21 off with, aren't any right or wrong answers here. What I need
22 from you, and what I really want from you is just direct
23 straight-forward honest answers to the questions. That's what
24 we need in this matter so that we know we have a fair and
25 impartial jury in this case. Is that okay?

1 A. Works for me.

2 THE COURT: Very good, sir.

3 All right. In this particular matter the State of South
4 Carolina has charged the Defendant, Mr. Stanko, with the
5 crimes of murder and armed robbery. Now, the Defendant has
6 pled not guilty to those crimes and that puts the burden of
7 proof on the State of South Carolina to prove the Defendant
8 guilty beyond a reasonable doubt. The Defendant is presumed
9 innocent. He doesn't have anything to show to you. He
10 doesn't have anything to prove to you. The State has to prove
11 it's case, has to prove the Defendant guilty beyond a
12 reasonable doubt of a crime for which he has been charged. Do
13 you understand that?

14 A. I do.

15 THE COURT: Very good. Now, in this particular case
16 the State has filed a notice to seek the death penalty, so
17 that means that this case could possibly have two parts. In
18 the first part the jury would be presented with the question
19 and the issue, has the State produced sufficient evidence,
20 testimony that the jury believes, and that proves the
21 Defendant guilty of the crime of murder beyond a reasonable
22 doubt. If the jury would vote not guilty on the crime of
23 murder then obviously there would be no second phase, so the
24 jury would have to unanimously -- that means everybody would
25 have to believe, vote that the Defendant is guilty of the

1 crime charged, murder, beyond a reasonable doubt, for there
2 even to be a second phase of this trial.

3 Now, in this second phase that would be the sentencing
4 phase of this particular trial. And there's two possible
5 sentences; death or life in prison without the possibility of
6 parole, and if I might say life, or the attorneys might say
7 life, that's what we mean, life in prison without the
8 possibility of parole.

9 In this particular case for a jury to consider, for a
10 jury to vote -- and again, it was have to be unanimous. It
11 would have to be proved to the jury beyond a reasonable doubt,
12 there has to be proved an aggravating circumstance.
13 Aggravating means to make worse, to exacerbate the situation
14 or the circumstance. The jury would have to find that
15 aggravating circumstance and then to vote unanimously for the
16 death penalty.

17 Even if they find an aggravating circumstance the jury
18 doesn't have to vote for death. They could vote for life.
19 And that's the other possibility, the jury can impose a life
20 sentence, life in prison without the possibility of parole.
21 And the jury will actually impose a sentence. Normally that's
22 not the case, but in a death penalty case the jury actually
23 votes the sentence, death or life in prison without the
24 possibility of parole. And the jury has to look at mitigating
25 circumstances. Those would be certain factors the Court would

1 tell the jury they've been presented in the evidence, you must
2 consider them before you arrive at a verdict, and to mitigate
3 means to lessen or reduce the charge, or reduce the
4 punishment.

5 The jury in this particular matter, if the jury
6 unanimously votes for a death sentence another part of that
7 is, each member of the jury would then have to take pen in
8 hand and sign the verdict form saying, that is my verdict, I
9 voted part of the jury unanimously for the death sentence. Do
10 you understand that?

11 A. Yes sir.

12 THE COURT: Very good.

13 If you are part of the jury in the case part of your
14 responsibility and duty would be to set aside anything that
15 you think you know about the case, heard about it, somebody
16 told you, you read about, your beliefs about the particular
17 type of case, or punishment, you've got to let all that go.
18 You've got to leave all that outside the courthouse. You've
19 got to come into this courtroom and make your decision based
20 solely upon the facts and evidence that are presented in this
21 courtroom and the law that the Court will provide to you, the
22 law that the Court will charge to you, and then, based upon
23 those things, make your decision in this particular case. Do
24 you understand that?

25 A. Yes.

1 **THE COURT:** And in regards to the law, even if you
2 didn't agree with it, and the Judge -- and I would say this is
3 the law, you have to follow it, even if you thought, you know,
4 I don't really agree with that, but under your oath as a juror
5 you have to accept it and you have to apply that law to the
6 facts and evidence you would so find to be true; you
7 understand that?

8 A. Yes sir.

9 **THE COURT:** Very good. Again, there being no right or
10 wrong answers here, let's go over some questions. Since
11 Friday did you read, hear, look at, look up anything about
12 this case?

13 A. No.

14 **THE COURT:** All right. Did you talk to anybody about
15 this case?

16 A. No.

17 **THE COURT:** All right. Now, before Friday, and before
18 I told everybody, don't do those things, had you heard
19 anything about this case? Had you heard the Defendant's name,
20 or heard anybody talk about him, or say anything about this
21 particular matter?

22 A. Several years ago.

23 **THE COURT:** Okay. What is it that you can best
24 remember what you heard?

25 A. I knew that there was -- let me recall -- a death of a

1 woman, and assault on a juvenile, and possibly a subsequent
2 death of another individual.

3 THE COURT: Okay. Now, that's part of what you have to
4 leave outside the courthouse. You have to come into this
5 courtroom with any preconceived ideas or notions or
6 information and base your decision solely upon the case that's
7 presented in this particular courtroom. Understanding that to
8 be the job as a juror could you do that? Can you do that?

9 A. Yes.

10 THE COURT: All right. And very good. Now, is there -
11 - in general, do you know of any preconceived ideas that you
12 might have, or personal, political, religious, philosophical
13 beliefs that you might have that would keep you from being a
14 fair and impartial juror in this case?

15 A. I don't, but I think some do of me because I'm a
16 retired police officer.

17 THE COURT: Okay. All right. And I was going to ask
18 you about that, and let's talk about that. You were on a
19 police force in the past, correct?

20 A. Yes.

21 THE COURT: And where was that?

22 A. That was in New York State.

23 Q. Okay. How long were you a police officer?

24 A. In that particular department -- I put in a total of
25 twenty years, but at that department I was there for ten

1 years.

2 THE COURT: Okay. And where else did you serve?

3 A. In the military ---

4 THE COURT: Okay.

5 A. ---And with the New York State Division of Criminal
6 Justice Services.

7 THE COURT: Okay. And understanding that to be your
8 background, and everybody's got jobs that they have done in
9 the past, again, do you understand as a juror we all come into
10 this courtroom with different backgrounds, but we have to
11 basically set those aside and we are here to listen -- as a
12 juror to listen to the evidence that's presented, listen to
13 the law the Court gives you, and then make your decision based
14 upon the facts and evidence that you find to be true and then
15 apply that to the law that the Court gives you. Can you do
16 that?

17 A. I believe I can.

18 THE COURT: Very good, sir. In this particular matter
19 I see that you haven't circled any of the potential witnesses,
20 correct?

21 A. Correct.

22 THE COURT: Good deal. And regarding the category of
23 juror which best describes you you did circle (C), correct?

24 A. Correct.

25 THE COURT: And that is, if you are a member of the

1 jury and a crime of murder has been proven to the jury beyond
2 a reasonable doubt of that crime, when you go into the second
3 phase or the sentencing phase you don't have any
4 predisposition as to what the sentence is going to be; you are
5 open to the possibility of life, the possibility of death; it
6 depends on the facts and circumstances then presented to you;
7 is that correct?

8 A. Correct.

9 THE COURT: Very good. Assume you are part of the
10 jury, and assume we are in the sentencing phase of the trial,
11 given the right set of facts and circumstances presented could
12 you consider, and could you impose a life sentence?

13 A. Yes.

14 THE COURT: Again, that same situation. You are on the
15 jury in the sentencing phase of the trial and then again,
16 based upon the right set of facts and circumstances could you
17 consider and impose a death sentence?

18 A. Yes.

19 THE COURT: If you are a member of the jury and the
20 jury unanimously finds to impose a death sentence could you
21 then take pen in hand and sign verdict form that so indicates?

22 A. Yes.

23 THE COURT: Very good. If you are a member of the jury
24 in this particular case, to prevent undue influence from
25 outside sources, the jury is going to be sequestered once

1 everybody is selected, and that means you would be at a hotel
2 at the County's expense, the meals -- you would be taken to
3 different places for meals and obviously transported to and
4 from the courthouse. You would be with us, or together for
5 that period of time and the best approximation we can give
6 once the trial starts is even to nine days. That's the time
7 frame that we believe that it would take, the best estimate
8 that I could give you. Understanding that's a hardship and
9 imposition, no question about that, and I understand that, but
10 is that such an extreme hardship on you or your family, or
11 would cause some kind of health concern to you or you family
12 in that regard?

13 A. No.

14 THE COURT: All right. Very good, sir.

15 If you would please answer any questions the State might
16 have or the Defense. All right. Thank you.

17 Solicitor.

18 MR. HUMPHRIES: I don't have any questions. Thank you,
19 sir.

20 THE COURT: All right. Very good.

21 All right, Mr. Diggs or Ms. Williams.

22 MS. WILLIAMS: One moment, Your Honor.

23 THE COURT: Yes.

24 All right, Mr. Diggs.

25 BY MR. DIGGS:

1 MR. DIGGS: Thank you, Your Honor.

2 Q. Mr. Murray. Do I have that correct?

3 A. Yes sir.

4 MR. DIGGS: It's Thomas Murray?

5 A. Yes.

6 Q. You are employed at Time Warner Cable?

7 A. Yes.

8 Q. What is Risk Management?

9 A. Yes.

10 Q. What is that?

11 A. There's many facets to it. It predominately -- I do
12 their investigations of their accidents and their incidents.
13 I maintain their facilities to O.S.H.A. standards, from
14 Laurinburg to Hilton Head and ---

15 Q. Okay.

16 A. ---Whatever else, as to safety issues.

17 Q. Okay. Got you.

18 You -- how long were you involved in the Police Academy,
19 either in the military or outside of the military?

20 A. Twenty years.

21 Q. Twenty years. Do you consider yourself to be a law
22 enforcement person?

23 A. I consider myself to be Gary Murray who had a career in
24 law enforcement.

25 Q. Okay.

1 A. It's not my -- it's not who I am.

2 Q. But as opposed to some other career, you identify with
3 law enforcement in that respect?

4 A. Probably, yes.

5 Q. Career-wise?

6 A. Yes.

7 Q. More so than with Time Warner?

8 A. Yes.

9 Q. Okay.

10 A. Yes.

11 Q. Tell me what you know about Stephen Stanko.

12 A. I don't know anything except what was in the media
13 several years ago.

14 Q. Could you be more -- or be as specific for me as you
15 can about what you remember hearing.

16 A. I remember hearing about a -- a death of a woman. I
17 remember hearing about a death -- not a death, an assault on a
18 teenage girl, and then another death that may have been tied
19 in.

20 Q. Do you have any knowledge whether or not Mr. Stanko
21 went to trial on those charges?

22 A. Only what I heard in the jury pool the other day.

23 Q. And did I hear that too?

24 A. I'm sorry.

25 Q. Would that have been the same information that I heard?

1 A. Probably.

2 Q. Okay. That was what was said to all of the jurors?

3 A. Yes, all the jurors.

4 Q. Okay. Do you have an opinion as to whether or not
5 there is a prevailing view in the community as to Mr. Stanko's
6 guilt or innocence?

7 A. I'm not sure. I mean I -- I don't really get involved
8 in that.

9 Q. Uh huh (indicating positive)

10 A. When I got my jury notice I made sure I stayed away
11 from the media and all that when it pertained to this, and,
12 you know, I just -- that's not my thing.

13 Q. Okay. Do you -- so how do you stand on whether or not
14 you would feel obligated to return a certain verdict then
15 based on what the community expects of you, as you see it?

16 A. I -- I never took the stance like that when I was
17 working, and I don't take a stance on that now.

18 Q. Okay. All right. Now, in this case there may be
19 possibly four different verdicts that you could consider in
20 the first phase, on that issue of guilt or innocence, and
21 those verdicts would be, possibly, guilty or not guilty, not
22 guilty by reason of insanity, or guilty but mentally ill.
23 Would you be able to consider fairly each of those verdicts
24 that you thought to be supported by the evidence?

25 A. I believe I could.

1 Q. And based on the instructions of the Court, reach a
2 verdict on either one of those four ---

3 A. Yes.

4 Q. ---Based on the evidence as you saw it?

5 A. Yes.

6 Q. Now, skipping ahead, let's assume that there has been a
7 trial and Mr. Stanko was found guilty -- and we are doing this
8 only for purposes of this examination -- not conceding that
9 that's going to happen, but let's say we get at that point and
10 you have been part of the jury that has convicted Mr. Stanko,
11 and you have to begin to consider the punishment, do you feel
12 like you are predisposed in either direction, of life
13 imprisonment or death?

14 A. I do not.

15 Q. Do you feel like you could fairly consider all of the
16 mitigating evidence, and if warranted, notwithstanding the
17 guilt as to murder, impose a life sentence ---

18 A. Yes.

19 Q. ---Or death in the event that you feel, or felt that to
20 be warranted?

21 A. Yes.

22 Q. Okay.

23 MR. DIGGS: All right. I appreciate your time this
24 afternoon. I don't have any further questions.

25 THE COURT: All right. Mr. Murray, let me just ask

1 you, based on everything that you and I have discussed, and
2 with the Solicitor and Defense attorneys, do you believe that
3 you can give to the State of South Carolina and to the
4 Defendant, Mr. Stephen Stanko, a fair and impartial trial; can
5 you be a fair and impartial juror in this case?

6 A. I can.

7 THE COURT: Thank you very much, sir. If you would go
8 with the deputy for just a moment, please sir. Thank you.

9 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
10 JUROR.)

11 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
12 JUROR NUMBER 466 MARKED COURT'S EXHIBIT NUMBER 21.)

13 THE COURT: All right. The State's position?

14 MR. HUMPHRIES: He's qualified.

15 THE COURT: Defense.

16 MR. DIGGS: Your Honor, it merely -- exposure to the
17 case, his knowledge of the assault and the murder allegations
18 in Georgetown cause me to -- I have concern for his ability to
19 completely set that aside. I would object to his
20 qualification, ask that he be disqualified on his knowledge.
21 But with respect to his death penalty views, otherwise I think
22 he would be acceptable and qualified.

23 THE COURT: All right. Well, as far as his death
24 penalty views I don't think he expressed any views for or
25 against, one way or another. He said he would be open to all

1 possibilities, be fair and impartial. Now he certainly did
2 say that he had some information about the case in the past,
3 and I would say that, based upon the juror's answers to the
4 questions, and the Court's viewing of him, his demeanor, the
5 way he answered the questions, very straight-forward, very
6 honest, very direct, the Court has absolutely no question that
7 he can follow his oath; he can follow the law that the Court
8 would give to him, that he can be fair and impartial, that he
9 would be a juror that would listen to all aspects of the case,
10 and is not predisposed in any way to come up with any kind of
11 verdict in this particular matter, either in the first phase
12 or the second phase. I find him to be totally qualified in
13 this particular matter. Thank you.

14 MR. DIGGS: Thank you, Your Honor.

15 THE COURT: All right. The next juror, for y'all's
16 information, counsel, was one Mr. Lonnie Daniels, and that was
17 an individual who was on vacation and came back on November 6,
18 so he was approved to come in when called on the panel, and
19 this is his first time with us, so we will have some extra
20 questions of Mr. Daniels that we will need to go into.

21 All right. Thank you.

22 LONNIE DANIELS, III, JUROR NUMBER
23 137, being first duly sworn, states as follows:

24 BY THE COURT:

25 THE COURT: All right, Mr. Daniels, I need to -- since

1 you were not with us on the general qualification on Friday I
2 need to go over some additional questions with you, and if you
3 need to respond to these, or if you need -- if they pertain to
4 you I need for you to so indicate to me. Okay. Very good.

5 Are you, in any way, related by blood or marriage, close
6 personal friends, acquaintances of the -- anyone who is
7 currently employed with the Fifteenth Circuit Solicitor's
8 Office in this case?

9 A. No sir.

10 THE COURT: All right. And you understand that's the
11 prosecuting office for Horry and Georgetown Counties; you
12 understand that?

13 A. Yes sir.

14 THE COURT: All right, sir. And you went over the
15 witness list that was provided that -- to you, that two-page
16 witness list, and you didn't circle that you knew anybody,
17 correct?

18 A. Correct.

19 THE COURT: Very good. All right. Now, if you would,
20 Solicitor, if you would stand and identify yourself, and the
21 members of your staff and all who are here.

22 MR. HEMBREE: Good afternoon. I'm Greg Hembree. I'm
23 the Solicitor for the Fifteenth Circuit. This is Jimmy
24 Richardson. He is a Senior Assistant Solicitor with our
25 office. Fran Humphries is Deputy Solicitor with our office.

1 **THE COURT:** Very good. All right, Mr. Diggs, and Ms.
2 Williams, if y'all could identify yourselves.

3 **MR. DIGGS:** Your Honor, my name is Bill Diggs. I
4 practice law in Myrtle Beach, South Carolina. From time to
5 time also I'm associated with my son, Parnell Diggs, who is in
6 the practice of law in Myrtle Beach as well.

7 **THE COURT:** Very good. Ms. Williams.

8 **MS. WILLIAMS:** My name is Brana Williams and I have a
9 practice here in Conway.

10 **THE COURT:** All right. Thank you very much. Now, as
11 to the lawyers that have identified themselves to you, are you
12 related by blood or marriage, close personal friends,
13 acquaintances of, know any of these lawyers?

14 A. I know Mr. Diggs through -- my wife and I, through like
15 work and stuff.

16 **THE COURT:** Okay.

17 A. Not like personal friends or anything like that.

18 **THE COURT:** Okay. That was through a business
19 relationship; is that right?

20 A. Well, no. My wife used to work, and I did too, where
21 he used to come and eat all the time ---

22 **THE COURT:** Oh, okay.

23 A. ---And it's been years ago, and my wife actually
24 applied for a job, I think, for his firm at one time ---

25 **THE COURT:** Okay.

1 A. ---If I'm not mistaken.

2 THE COURT: All right. Now, as to the private practice
3 of law of Mr. Diggs or Ms. Williams, have you or members of
4 your immediate family ever been clients of their's, either in
5 the past or currently?

6 A. No sir.

7 THE COURT: All right. Very good.

8 All right. Have you, or members of your immediate
9 family ever had any matters of any type handled in any way by
10 the Fifteenth Circuit Solicitor's Office?

11 A. No sir.

12 THE COURT: All right. Very good. Do you have any
13 kind of personal, religious, philosophical belief that you
14 believe would be -- prevent you from being a fair and
15 impartial juror in this case, that you know of?

16 A. No sir.

17 THE COURT: All right, sir. Are you a former law
18 enforcement officer, or do you have any current family members
19 who are now in law enforcement, or were in law enforcement in
20 the past?

21 A. My cousin was a Highway Patrolman for years.

22 THE COURT: And here in South Carolina?

23 A. Yes.

24 THE COURT: All right. Very good. Regarding this
25 particular matter, and the case against Defendant, Mr. Stanko,

1 have you expressed any opinions this case, talked about this
2 case with anyone?

3 A. Just what I read in the paper and what my wife and I
4 discussed.

5 THE COURT: All right. Can you tell me what it is that
6 you remember that you read in the paper?

7 A. Just what he's accused of and that he was tried once
8 before if -- I'm not sure, but I think he was tried once
9 before and now he's appealed on that -- got an appeal in
10 process or something, if I'm not mistaken.

11 THE COURT: Okay. And what did you talk about to your
12 wife about this case? What did y'all discuss?

13 A. Just pretty much if something like that happened to
14 her, or something like that, or just matters like that.

15 THE COURT: Okay. And what -- and did you express a
16 feeling about that, or what you would believe if something
17 like that did happen?

18 A. Yes, of course.

19 THE COURT: And what did you say?

20 A. That -- I don't know if I can say that here.

21 THE COURT: Well, if you can, let's -- in polite terms.
22 How about expressing in polite terms.

23 A. Pretty much that I would hope that the law would find
24 him before I would.

25 THE COURT: All right. Very good. All right. In this

1 particular matter have you, yourself, or a member of your
2 immediate family, ever been the victim of a crime?

3 A. No. No sir.

4 THE COURT: All right, sir. Do you, yourself, or a
5 member of your immediate family, belong to any kind of
6 victims' rights or law enforcement support organizations? Let
7 me give you a couple of example. It's not an exhaustive list
8 but -- Mothers Against Drunk Driving, South Carolina Law
9 Enforcement Officers Association, South Carolina Sheriffs
10 Association, something like that?

11 A. No sir.

12 THE COURT: All right. Very good. All right. Do you
13 know of any reason, have any question in your mind that you
14 believe you can't give to the State of South Carolina and to
15 the Defendant a fair and impartial trial in this case?

16 A. No sir.

17 THE COURT: All right. Now, in this particular case we
18 did ask that you circle a category of juror which best
19 described you and you did that, correct?

20 A. Uh huh (indicating positive) Yes sir.

21 THE COURT: And you circled (A); is that right?

22 A. Yes sir.

23 THE COURT: All right. And (A) says, one who, once the
24 crime of murder has been proved by the State beyond a
25 reasonable doubt, as a state, and while the sentencing phase

1 considering -- and you are a member of the jury and you are in
2 the sentencing phase, because if the State seeks the death
3 penalty there's two phases. One, the State has to prove the
4 Defendant guilty of the crime charged beyond a reasonable
5 doubt. The Defendant is presumed innocent.

6 A. Uh huh (indicating positive)

7 THE COURT: The Defendant doesn't have to show anything
8 or prove anything to you.

9 A. Right.

10 THE COURT: The State has to prove their case beyond a
11 reasonable doubt; you understand that?

12 A. Uh huh (indicating positive) Yes sir.

13 THE COURT: And assuming that happened, and you are in
14 the sentencing phase, do you indicate you would be predisposed
15 to give the death penalty in any case, rather than considering
16 the possibility of life in prison without the possibility of
17 parole?

18 A. If he's guilty and he's been proven guilty then I think
19 he should get the death penalty.

20 THE COURT: All right, sir. You understand that is not
21 the law of the State of South Carolina?

22 A. Understood.

23 THE COURT: All right, sir. And you understand that
24 the Court would charge the jury that you have to look at -- if
25 there are mitigating circumstances the jury has to look at

1 those, and has to consider those before they would impose the
2 sentence; you understand that?

3 A. Right. Uh huh (indicating positive)

4 THE COURT: From what you are describing to me, could
5 you do that?

6 A. Well, I've always been raised and stuff, and taught
7 that it's pretty much if you are proven you have done the
8 crime it's pretty much an eye for an eye, the way I've
9 always -- and I believe that.

10 THE COURT: All right. Very good. And I appreciate
11 that. That's what I -- as I told you, that's what I'm looking
12 for, direct and honest answers, and I appreciate that very
13 much.

14 A. Yes.

15 THE COURT: Questions from the State?

16 MR. HEMBREE: No questions, Your Honor.

17 THE COURT: Questions from the Defense?

18 MR. DIGGS: No, Your Honor.

19 THE COURT: All right. Very good, sir. Thank you very
20 much. Appreciate it if you would go with the Deputy for just
21 a moment, please. Thank you.

22 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
23 JUROR.)

24 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
25 JUROR NUMBER 137 MARKED COURT'S EXHIBIT NUMBER 22.)

1 **THE COURT:** The State's position?

2 **MR. HEMBREE:** The juror is not qualified, Your Honor.

3 **THE COURT:** Defense.

4 **MR. DIGGS:** We agree.

5 **THE COURT:** All right. Very good. I do find the juror
6 is not qualified in this particular matter. I do find that he
7 would not follow the instructions of the Court in this
8 particular matter and not be open to all the possibilities
9 that are proper in this particular matter. He is not
10 qualified.

11 All right. The next one that I have is Michael Ray.

12 **MICHAEL RAY, JUROR NUMBER 522,**
13 being first duly sworn, states as follows:

14 **BY THE COURT:**

15 **THE COURT:** All right, Mr. Ray, what I'm going to do
16 is, I'm going to go over some things with you. I'm going to
17 ask you some questions, and when I'm done the representative
18 of the State and the Defense will probably have some questions
19 for you, okay.

20 A. Okay.

21 **THE COURT:** No right or wrong answers. We are just
22 looking for direct, straight-forward, honest answers to the
23 questions that are asked. Okay.

24 A. Yes sir.

25 **THE COURT:** Very good. In this particular matter the

1 State of South Carolina has charged the Defendant, Mr. Stanko,
2 with the crimes of murder and armed robbery. The Defendant
3 has pled not guilty to those charges. Now that puts the
4 burden of proof on the State of South Carolina to prove the
5 Defendant guilty beyond a reasonable doubt. The Defendant is
6 presumed innocent. He doesn't have to show anything to you.
7 He doesn't have to prove anything to you. The State must
8 prove the guilt of the Defendant beyond a reasonable doubt.
9 Do you understand that?

10 A. Yes sir.

11 THE COURT: Very good. Now, in this particular matter
12 the State has filed a notice to seek the death penalty. Now
13 that means that there could be possibly two phases or parts of
14 this case. The first one would be, the jury that's empaneled
15 would hear all the facts and evidence of the case, find that
16 evidence which convinces them of it's truth, and then decide
17 whether or not the State has proved the guilt of the Defendant
18 of the crime charged beyond a reasonable doubt. The jury
19 would have to unanimously -- that means everybody would have
20 to vote and agree the Defendant is guilty of the crime of
21 murder beyond a reasonable doubt before you would even go to a
22 second phase. You understand that?

23 A. Uh huh (indicating positive) Yes sir.

24 THE COURT: Very good. Now, in this second phase the
25 law of the State of South Carolina provides that before the

1 jury can consider a death penalty or a death sentence they
2 have to find, affirmatively find that there is an aggravating
3 circumstance. Now aggravate means to make worse, or
4 exacerbate the situation or the facts. And the jury would
5 affirmatively have to find an aggravating circumstance -- and
6 there would be a list that the Court would give to the jury --
7 the jury would have to find at least one of those before they
8 could even consider the death penalty, and even if they find
9 an aggravating circumstance the jury could still impose a life
10 sentence. Do you understand that?

11 A. Yes sir.

12 **THE COURT:** And to be clear, when we talk about life --
13 there being the two possibility of the sentences, death or
14 life imprisonment -- life means life in prison without the
15 possibility of parole. That's what it means. If I just say
16 life, or the attorneys say life, that's what we are talking
17 about. You understand that?

18 A. Yes sir.

19 **THE COURT:** Very good. Now, the jury would also, and
20 must consider any mitigating circumstances. The Court, again,
21 would provide that -- those to the jury, whatever they might
22 be, and the jury would have to look at those and consider
23 those before they imposed any penalty in this particular
24 matter, because obviously the jury can impose -- as I told
25 you, could impose life in this particular matter.

1 Mitigate means to lessen, or to reduce the fault, or
2 reduce the punishment. All right. Now, in the second phase,
3 if you are a member of the jury, and the jury finds, based
4 upon the facts and evidence presented, and it's been proved to
5 them beyond a reasonable doubt, and they have all voted
6 unanimously to impose the death penalty, the jury, members of
7 the jury would have to do one other thing. They have to take
8 pen in hand and sign the verdict form indicating that that,
9 indeed, is my verdict; it's the unanimous verdict of all of
10 us, and we did vote to impose the death penalty in this case;
11 do you understand that?

12 A. Yes sir.

13 THE COURT: Very good. Now, as a member of the jury in
14 the case one of your jobs and responsibilities is to come into
15 this courtroom basically with a clean slate. If you've heard
16 about anything about this case, knew anything about it, looked
17 up anything, somebody told you about it, if you have any
18 preconceived ideas of beliefs about the case or the punishment
19 you have to leave all those outside the courthouse; you can't
20 bring them into the courtroom; you have to come into the
21 courtroom and make your decision based solely upon the facts
22 and evidence presented in this case, and the jury that the
23 Court would give to you, and apply that law to the facts and
24 evidence you find to be true in this particular case; do you
25 understand that?

1 A. Yes sir.

2 THE COURT: All right. And in regards to the law, you
3 have to accept the law that the Court gives to you, that I
4 would instruct the jury, this is the law; you have to accept
5 that. Whether you agreed with it or disagreed with it you
6 would have to accept it and use it; you understand that?

7 A. Yes sir.

8 THE COURT: Very good. Again, there being no right or
9 wrong answers here, let's go through some questions. Since
10 Friday did you read or listen to, watch, hear anything, look
11 up anything about this case?

12 A. No sir.

13 THE COURT: Have you talked to anybody about this case?

14 A. No sir.

15 THE COURT: All right. Very good. Now, before Friday,
16 before I told everybody not to do those things, had you heard
17 about this case in any way, the Defendant's name, anything
18 about it, somebody talked to you about it?

19 A. To be honest, the jury slip is the only thing I ever
20 knew about this case.

21 THE COURT: Okay. And what -- when was that, or what
22 was that?

23 A. When I received the information in the mail about being
24 on the jury panel, I got the Defendant's name off of that.

25 That's it.

1 **THE COURT:** Okay. So when you got that -- those
2 questions, basically those fifty questions that you had to
3 answer, that's when you first heard about the Defendant?

4 A. Correct.

5 **THE COURT:** All right. Very good. And did that cause
6 you to go and look up anything, or research anything about it?

7 A. No sir. I'm a busy man.

8 **THE COURT:** All right, sir. Very good. I understand
9 that. Very good.

10 All right. Now, understanding that you have to make
11 your decision based upon what you hear in the courtroom, no
12 other source, can you do that?

13 A. Yes sir.

14 **THE COURT:** All right. Do you have any kind of
15 personal, political, religious, or philosophical belief that
16 would -- that you believe would prevent you from being a fair
17 and impartial juror in the case?

18 A. No sir.

19 **THE COURT:** All right. Regarding the witnesses, you
20 didn't circle anybody that you knew, correct?

21 A. Correct.

22 **THE COURT:** And regarding the juror category you
23 circled (C), correct?

24 A. Yes sir.

25 **THE COURT:** And basically, again, that's the -- when

1 the -- if you are a member of the jury and the crime of murder
2 has been proved to you beyond a reasonable doubt, the jury
3 unanimously votes to convict the Defendant of murder, and
4 you've gone into the sentencing phase, you don't have any
5 predisposition one way or another; you are open to the
6 possibility of life, open to the possibility of the death
7 sentence, you would listen to all the facts and evidence, you
8 would listen to the law that the Court gives you, and then you
9 make up your mind after that?

10 A. Yes sir.

11 THE COURT: Very good. All right. If you are part of
12 the jury and we've gotten to the sentencing phase, under the
13 right set of facts and circumstances that have been presented
14 to you as a member of the jury, could you consider, and could
15 you impose a life sentence?

16 A. Yes sir.

17 THE COURT: As a member of the jury, sitting over
18 there, under the right set of facts and circumstances that
19 have been presented to you, could you consider, could you
20 impose a death sentence?

21 A. Yes sir.

22 THE COURT: And if you are a member of that jury, and
23 they unanimously vote for a death sentence could you, as I
24 described, take pen in hand and sign your name to the verdict
25 form indicating that, indeed, is your verdict?

1 A. Yes sir.

2 THE COURT: All right. Now -- and you indicated that
3 you are a busy man, and I appreciate that. In this particular
4 case, so as to reduce and hopefully eliminate the possibility
5 of any undue influences in this particular case the jury, once
6 they are all selected, would have to be sequestered. That
7 means you would be at the County's expense, at a hotel, meals
8 provided. You would be transported to and from the
9 courthouse. Basically your activities would be controlled in
10 that regard. You understand that?

11 A. Yes sir.

12 THE COURT: Now -- and we anticipate -- our best
13 estimation is that would take approximately seven to nine
14 days. That's our best approximation that we can give the
15 jurors about this. Understanding that's a hardship, no
16 question about that -- and everybody understands that to be
17 the case -- would that cause you any kind of extraordinary
18 hardship, or would it cause you any kind of challenge to your
19 health or any family member's health?

20 A. No sir.

21 THE COURT: All right. Very good.

22 Please answer any questions that the Solicitor might
23 have for you.

24 MR. HEMBREE: Thank you, Your Honor.

25 Good afternoon, Mr. Ray.

1 A. Good evening.

2 BY MR. HEMBREE:

3 Q. I appreciate your patience with us. Thank you for you
4 responses. Based on Judge John's questions I don't have any
5 further questions for you. I just am thankful for your
6 willingness to serve.

7 Please answer any questions Defense counsel might have
8 for you.

9 A. Yes sir.

10 THE COURT: All right. Mr. Diggs or Ms. Williams. Ms.
11 Williams. Thank you.

12 MS. WILLIAMS: Thank you, Your Honor. May it please
13 the Court.

14 THE COURT: Yes Ma'am.

15 BY MS. WILLIAMS:

16 Q. Mr. Ray, my name is Brana Williams, and I, along with
17 Bill Diggs, will be representing Mr. Stanko in this trial.

18 Just briefly, when the Judge asked you about your
19 knowledge about this case you said you really didn't know
20 anything at all until you got your jury Summons, right?

21 A. Correct. Yes Ma'am.

22 Q. So you are not familiar with Mr. Stanko or maybe that
23 there was a prior trial or anything like that?

24 A. No Ma'am.

25 Q. Okay. Let me ask you this, do you think coming in here

1 that maybe that there is any kind of expectation on what the
2 community expects you to find as far as your verdict is?

3 A. An expectation of the community itself?

4 Q. Uh huh (indicating positive)

5 A. I guess that's all relative to the part of the
6 community you are speaking to.

7 Q. In general.

8 A. In general, being a murder trial, I'm assuming there is
9 an expectation that the community would expect you to find a
10 guilty verdict.

11 Q. All right. Let me ask you this. Do you think that, if
12 you are selected to be a part of this jury ---

13 A. Yes.

14 Q. ---And you are here, you are part of the panel -- there
15 may be four possible verdicts you have to consider, okay ---

16 A. Uh huh (indicating positive)

17 Q. ---Possibly guilty, not guilty, not guilty by reason of
18 insanity, guilty but mentally ill.

19 A. Uh huh (indicating positive)

20 Q. Based on what the Judge tells you, as he describes it
21 and explains those possibilities to you if it comes to that,
22 and you as the jury make a decision on something other than
23 guilty, and you go back out in the community, would you
24 anticipate anybody questioning your decision?

25 A. No Ma'am.

1 Q. If they did question it would you be willing and able
2 to explain -- you know, be okay with what you decided?

3 A. Yes Ma'am.

4 Q. All right. As the Judge explained, this is a unique
5 case because could possibly have two potential parts to it.
6 Once the jury makes the decision regarding a guilt phase, if
7 you will, you know, if you decide -- if the jury decides, as a
8 whole, that Mr. Stanko is, indeed, guilty, and we move into
9 what we call the penalty phase, okay, as the Judge explained,
10 there are only two possible verdicts, a death sentence, or
11 life without parole. Do you think that today that you maybe
12 lean one way or the other as to which you would impose?

13 A. No Ma'am. I mean, obviously -- I've never been on a
14 jury panel before, so it would be -- I'm coming into this with
15 the precedence of evaluating the facts that are given to me,
16 and making a decision based off those.

17 Q. And so when the Judge gives you the law you think you
18 can follow that?

19 A. Yes Ma'am.

20 Q. Is that right?

21 A. Yes Ma'am.

22 Q. How about, even if the Judge tells you what the law is
23 and you think, I can't believe it is that; I think that's the
24 right law, I don't agree with that, do you think, even if the
25 Judge tells you that this is the law, and even though I don't

1 think that's what it ought it be, you could follow it based on
2 everything that you learn in here?

3 A. Yes Ma'am.

4 MS. WILLIAMS: Okay. That's all the questions that I
5 have. Thank you.

6 A. Okay. You are welcome. Thank you.

7 THE COURT: All right. If you can, Mr. Ray, let me
8 just ask you one question. Based on everything we have talked
9 about, and the lawyers have discussed with you, as you sit
10 here now, do you believe that you can give to the State of
11 South Carolina and to the Defendant, Stephen Stanko, a fair
12 and impartial trial, that is, you can be a fair and impartial
13 juror in this case?

14 A. Yes sir.

15 THE COURT: Thank you very much.

16 If you don't mind, if you would go with the deputy for a
17 moment, please.

18 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
19 JUROR.)

20 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
21 JUROR NUMBER 522 MARKED COURT'S EXHIBIT NUMBER 23.)

22 THE COURT: The State's position?

23 MR. HEMBREE: Mr. Ray is qualified, Your Honor.

24 THE COURT: Very good. And the Defense?

25 MR. DIGGS: He's qualified.

1 **THE COURT:** Very good. And the Court so finds him to
2 be qualified. I do find that he would properly follow the
3 terms of his oath, follow the instructions of the law, that he
4 would be fair and impartial and do everything that is required
5 of him in this particular case.

6 All right. Then we would go on then to Darlene Novak.

7 **MR. HUMPHRIES:** Your Honor, before she comes in, this
8 is also a juror who expressed that she had a belief that would
9 prevent her from being a fair and impartial juror in the
10 general qualification. That may be something that the Court
11 wants to visit early on.

12 **THE COURT:** Very good. Okay. We'll try and visit that
13 early on. All right. Thank you.

14 **DARLENE CONSTABLE NOVAK, JUROR**

15 **NUMBER 115,** being first duly sworn, states as follows:

16 **BY THE COURT:**

17 **THE COURT:** All right, Ms. Novak, I'm going to go over
18 certain things with you, and then I'll probably ask you some
19 questions, and there may be some questions of you from the
20 State and the Defense.

21 There aren't any right or wrong answers here, okay.
22 What I'm looking for, what I want from you is direct,
23 straight-forward honest answers to the questions that are
24 posed. That's what we need, okay.

25 A. Uh huh (indicating positive) Okay.

1 **THE COURT:** All right. Thank you.

2 And I have to ask, when I ask you a question, or a
3 question is asked, if you could answer out loud, because the
4 Court Reporter has to take all this down and she can't take a
5 nod of the head or a your -- or know what uh uh mean, okay.
6 Thank you, Ma'am.

7 A. I understand.

8 **THE COURT:** I appreciate it. Thank you.

9 Now, let me go over a few things with you. The first
10 one -- or let's talk about this matter. The State of South
11 Carolina has charged the Defendant, Mr. Stanko, with murder
12 and armed robbery. The Defendant has pled not guilty to these
13 matters. He further -- in that plea of not guilty that puts
14 the burden of proof on the State of South Carolina to prove
15 the Defendant guilty beyond a reasonable doubt. The Defendant
16 is presumed innocent. He doesn't have anything to prove to
17 you, show to you. The State must prove the guilt of the
18 Defendant beyond a reasonable doubt. Do you understand that?

19 A. Yes sir.

20 **THE COURT:** All right. Very good. In this particular
21 matter the State has served a notice to seek the death penalty
22 on -- or in this particular case. That means there are two
23 potential parts of this case. The first part -- first part of
24 the trial would be an evidentiary portion where the State
25 produces facts and evidence, the jury considers all that, the

1 jury finds those facts and evidence which are considered to be
2 true, and applies that to the burden of proof, that is, the
3 State has to prove the Defendant guilty beyond a reasonable
4 doubt of the crimes charged. Only, and until the jury finds
5 the Defendant guilty of the crime of murder beyond a
6 reasonable doubt could we even go into the second phase. The
7 jury would have to unanimously, everybody -- has to be a
8 unanimous verdict, everybody has to agree that the Defendant
9 is guilty of the crime of murder and it has been proved to
10 them beyond a reasonable doubt, and if they so decide then we
11 go on to the second phase which is the sentencing phase of
12 this particular matter, imposing the punishment, and in this
13 particular type of case, death penalty case, the jury actually
14 imposes a sentence, and the two possibilities are death, or
15 life in prison without the possibility of parole, and if I say
16 life, or the attorneys might say life, that's what we mean,
17 life in prison without the possibility of parole.

18 To find death the jury would have to find an aggravating
19 circumstance, would have to affirmatively state that -- and
20 those are a list of things the Court might tell the jury --
21 would tell the jury about, and the jury would have to pick one
22 if they were going to impose the death penalty, and that would
23 have to be unanimous, everybody would have to agree on that
24 particular matter.

25 The jury has to consider mitigating circumstances that

1 the Court would charge to the jury. The jury has to consider
2 those. The jury -- obviously there's two choices -- the jury
3 can impose life. The jury -- to mitigate would mean to reduce
4 fault or lesser, or reduce the punishment. If you are a
5 member of the jury and the jury decides to vote for the death
6 penalty, unanimously finds that, it's been proven to them
7 beyond a reasonable doubt, the jury has to take -- every
8 member of the jury has to take pen in hand and sign the
9 verdict form indicating that, indeed, is their verdict, and
10 that, indeed, is their penalty, to sentence the Defendant to
11 death. Do you understand that?

12 A. Yes.

13 THE COURT: As a member of the jury you have to come
14 into this courtroom without any preconceived ideas or notions.
15 You have to come into this courtroom free of any kind of bias
16 or prejudice. If you thought you knew anything about this
17 case, heard anything about this case, somebody told you about
18 this case, you can't bring that into this courtroom. You have
19 to base your decisions solely upon what you hear in this
20 courtroom, and take the law that the Court will give you,
21 apply it to the facts as you so find them to be, and then
22 render a true and just verdict in this matter. Do you
23 understand that?

24 A. I understand that.

25 THE COURT: Let's go over a couple of things. In this

1 particular matter you have indicated, regarding the witness
2 list, that you didn't know any potential jurors, correct?

3 A. There was just one. I wrote a question mark because
4 it's probably a fairly common name, but I wasn't sure if it's
5 the same person.

6 THE COURT: Okay. I don't -- I don't see the question
7 mark.

8 A. Second page.

9 THE COURT: Oh, very -- down at the bottom. Okay.
10 Wanda Brooks.

11 A. Uh huh (indicating positive)

12 THE COURT: Okay. That's -- the Wanda Brooks you know,
13 what does she do?

14 A. She works at our Wound Center in ---

15 THE COURT: At what now?

16 A. At our Wound Center.

17 THE COURT: Okay. All right. Let's just assume -- I
18 don't know. It might be the same Wanda Brooks or it might be
19 a completely different person. Just assume it's the same
20 person you know. That's part of what you have to set aside,
21 that you can't bring into the courtroom, you would have to --
22 just assume this is the person you know and they are a witness
23 in this case. You have to make your decision based upon what
24 you hear in the courtroom, and not what you might know about
25 on the outside. You understand that?

1 A. Yes.

2 THE COURT: Can you do that?

3 A. That I'm not sure.

4 THE COURT: All right. And ---

5 A. If you want me to be honest, I'm being honest.

6 THE COURT: And I want you -- and I want you to be, and
7 we will get to the category of juror in just a minute, but
8 explain that to me.

9 A. Because of a previous case with him, and because of my
10 own personal life, I just -- I could not set that aside. I'm
11 being honest with you.

12 THE COURT: Okay. All right. Well, let's talk about
13 the previous case, and you mean the Defendant, Mr. Stanko?

14 A. Yes sir.

15 THE COURT: All right. What do you know, or what have
16 you heard, or what do you think you know?

17 A. Well, what I think I know, heard or read is that, you
18 know, he killed his girlfriend and raped her daughter.

19 THE COURT: Okay.

20 A. Having been brought up in an abusive household I cannot
21 put that aside. I'm sorry. I just -- I don't believe I could
22 be fair, because I cannot put that aside.

23 THE COURT: All right. And you understand what I've
24 described to you, that that would be your job as a juror.
25 That would be ---

1 A. I know.

2 THE COURT: ---Part of what you have to leave outside
3 the courthouse.

4 A. I know.

5 THE COURT: You can't bring that in the courtroom; you
6 understand that?

7 A. Yes, I do.

8 THE COURT: All right. Very good. All right.
9 Further questions from the State?

10 MR. HEMBREE: None, Your Honor.

11 THE COURT: Further questions from the Defense?

12 MR. DIGGS: No, Your Honor.

13 THE COURT: Very good. All right, Ma'am, if you would
14 go with the deputy for a few moments, please.

15 A. Thank you.

16 THE COURT: Thank you, Ma'am.

17 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
18 JUROR.)

19 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
20 JUROR NUMBER 115 MARKED COURT'S EXHIBIT NUMBER 24.)

21 THE COURT: I want the record to reflect that the juror
22 circled category (C) in her list, but looking at how she
23 answered the questions of the Court, her facial demeanor, her
24 reaction, just saying very briefly about her own history of
25 abuse, what's the State's position?

1 **MR. HEMBREE:** Your Honor, it was quite clear from her
2 demeanor, as well as responses, that she was not -- she's not
3 qualified to sit on this jury, and we would ask she be
4 excused.

5 **THE COURT:** Defense?

6 **MR. DIGGS:** We agree. We agree.

7 **THE COURT:** All right. Very good. And I agree, and I
8 do find that she is not qualified to be a juror in this
9 particular case.

10 All right.

11 **MR. HUMPHRIES:** Your Honor, regarding the next juror,
12 this is a juror who indicated at general qualification -- she
13 had not previously requested an excusal, but she indicated she
14 was a teacher and you advised her that you would take that
15 matter up.

16 **THE COURT:** Well, we'll talk about that first thing
17 then.

18 **MR. HUMPHRIES:** Very good. Thank you, Your Honor.

19 **THE COURT:** Thank you very much.

20 **VIRGINIA A. GRISSETT, JUROR NUMBER**
21 258, being first duly sworn, states as follows:

22 **BY THE COURT:**

23 **THE COURT:** All right. Thank you, Ma'am. Ms.
24 Grissett, I'm going to talk to you about certain things and I
25 may have some questions for you, and want to first start off

1 with, there aren't any right or wrong answers here. What I
2 need from you, what I'm looking for you is just direct,
3 straight-forward honest answers to the questions. That's what
4 I'm looking for. Is that all right?

5 A. Okay.

6 THE COURT: Very good. Now, you indicated -- when we
7 had the qualification on Friday you indicated to me that one
8 of the matters about being a student or a teacher; is that
9 right? What is your situation?

10 A. I work with the Conway High School, and I work with
11 Special Needs. I am an assistant.

12 THE COURT: Okay. Regarding the special needs. Okay.
13 So, the Legislature has determined that this can be an
14 exemption. If the juror wants to be -- well, for students and
15 teachers it's more a postponement than an exemption. It's not
16 really an exemption. It postpones jury duty, and it postpones
17 it to the summer when you are not in school, so if you are,
18 you know, a full time student, teacher, then you can ask to be
19 transferred if you want to, but that's up to you, so my
20 question to you is, do you want the Court to consider that or
21 no?

22 A. Yes.

23 THE COURT: All right, Ma'am, so you would like to be
24 transferred then to the summer for your jury duty rather than
25 serving now? Is that what you are telling me?

1 A. Yes.

2 THE COURT: All right.

3 Any further questions about that from the State?

4 MR. HEMBREE: No, Your Honor.

5 THE COURT: From the Defense?

6 MR. DIGGS: No, Your Honor.

7 THE COURT: All right. I find that, pursuant to
8 statute, that the juror should be transferred to the summer.

9 Madame Clerk, you will find a term of court, and why
10 don't we -- schools ends usually the first week of June,
11 correct?

12 A. Correct.

13 THE COURT: All right. Why don't we -- why don't we
14 pick the week of June 28th, Madame Clerk. We will pick the
15 week of June 28th. That will be a couple of weeks after
16 school ends. All right.

17 A. Okay.

18 THE COURT: Thank you, Ma'am. You will get another
19 summons from the Clerk. Thank you very much. If you want to
20 just leave your pad with the Deputy Sheriff.

21 You are transferred. Thank you, Ma'am.

22 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
23 JUROR.)

24 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
25 JUROR NUMBER 258 MARKED COURT'S EXHIBIT NUMBER 25.)

1 **THE COURT:** All right, Deputy, would that be all of the
2 jurors that we have out there? Could you check to make sure?
3 I believe that to be the case, but would you look and make
4 sure.

5 Was there any objection to the transfer by the State?

6 **MR. HEMBREE:** No, Your Honor.

7 **THE COURT:** Any objection to the transfer by the
8 Defense?

9 **MS. WILLIAMS:** None, Your Honor.

10 **THE COURT:** Thank you very much. Very good.

11 That's it. All right. Nine o'clock tomorrow morning.
12 We are going to have before us what was labeled as panel six.
13 Panel six that was suppose to be at 4:15 today. That's the
14 one. And remember that the third juror on that list, number
15 one twenty-two, was previously excused already.

16 All right. Anything further from the State at this
17 point in time?

18 **MR. HEMBREE:** No, Your Honor.

19 **THE COURT:** Anything further from the Defense at this
20 point in time?

21 **MR. DIGGS:** No sir.

22 **THE COURT:** Very good. I'll see y'all -- we'll get
23 started right at nine o'clock in the morning.

24 Thank you very much.

25 **(THE FOLLOWING TAKES PLACE ON THE NEXT DAY, OUTSIDE THE**

1 PRESENCE OF ANY JURORS.)

2 MR. HUMPHRIES: Judge, this first juror is one that
3 indicated they had a belief that would prevent them from
4 giving impartial jury service ---

5 THE COURT: All right.

6 MR. HUMPHRIES: ---At the general qualification.

7 THE COURT: All right. Thank you very much.

8 All right. Let's bring the first juror in, please.

9 JUROR NUMBER 150, VANCE A.

10 DEFELICE, being first duly sworn, states as follows:

11 BY THE COURT:

12 THE COURT: All right, Mr. Defelice, I'm going to go
13 over some things with you and ask you -- ask you some
14 questions, and just want to tell you in the very beginning,
15 there aren't any right or wrong answers. What I need from you
16 are honest, straight-forward answers to my questions, okay.

17 A. Right.

18 THE COURT: Very good. All right. In this particular
19 matter the State of South Carolina has charged the Defendant, Mr.
20 Stephen Stanko, with the crimes of murder and armed robbery.
21 The Defendant has pled not guilty to those charges. That puts
22 the burden of proof on the State of South Carolina to prove
23 the Defendant guilty beyond a reasonable doubt. The Defendant
24 is presumed innocent. The Defendant has nothing to prove to
25 you. The Defendant has nothing to show to you. The State

1 must prove the Defendant guilty beyond a reasonable doubt.
2 That's the State's burden. You understand that?

3 A. I understand.

4 **THE COURT:** Very good. In this particular matter the
5 State has filed a notice to seek the death penalty, and that
6 would potentially cause us to have two parts to this trial.
7 The first part would be presentation of evidence and a jury's
8 decision, unanimous decision, to decide whether or not the
9 State has proved the Defendant guilty of the crimes charged.
10 If the jury would unanimously find the Defendant guilty of the
11 crime of murder then we would proceed, and only then would we
12 proceed to the second phase. The jury would have to unanimous
13 find, if it has been proven to them, beyond a reasonable
14 doubt. In that second phase that is called basically the
15 penalty phase, and there are two options that would be open to
16 the jury, death penalty, or life in prison without the
17 possibility of parole. Those are the only two choices. And
18 when we talk about life, or I might say life, or the attorneys
19 may say life, that's what we mean, life in prison without the
20 possibility of parole. That's what -- how those terms are
21 defined.

22 In this particular matter, for a jury to impose a death
23 penalty the jury would have to find an aggravating
24 circumstance. That is one of the statutory circumstances that
25 the Court may charge to the jury, and the jury would have to

1 find one of those. If they did not find one of those then
2 obviously they could not impose the death penalty. Even if
3 the jury finds an aggravating circumstance it's not automatic.
4 The jury obviously has two options. The jury can impose life
5 in prison without the possibility of parole. This case is
6 somewhat unusual in that the jury actually imposes the
7 sentence. By the jury's verdict they would actually impose
8 the sentence in this particular matter. The jury would have
9 to consider, before imposing any sentence, any mitigating
10 circumstances that the Court would charge them. Now, mitigate
11 means to lessen or reduce the charge, or reduce the
12 punishment. If those exist the jury must, under it's oath,
13 consider those before imposing any sentence. A vote to impose
14 the death penalty has to be unanimous, every single juror must
15 agree, and thereafter take pen in hand and sign their name to
16 a verdict form indicating that that, indeed, is their
17 unanimous verdict in this particular matter.

18 As to the law, the Court would instruct you the law.
19 Whether you agree with it or disagree with it, under your oath
20 you have to follow the law. That would be part of your
21 juror's oath in this particular matter. You understand that?

22 A. I believe I do.

23 THE COURT: All right. Very good. We've asked you to
24 circle the category juror which best describes you and you
25 circled (A); is that correct?

1 A. That is correct.

2 THE COURT: All right. Now, that indicates that, if
3 the jury unanimously finds the Defendant was guilty of the
4 crime of murder, and we proceeded into the sentencing phase,
5 that despite the Court's instructions to you as to the law,
6 you would have already had your mind made up; you would not be
7 open to the possibility of life in prison without the
8 possibility of parole, that you had already made up your mind
9 that once you, as a member of the jury, convicted the
10 Defendant of the murder that you would automatically vote for
11 the death penalty and not consider anything else, despite the
12 Court's instructions. Is that what you are telling me?

13 A. With all due respect, I believe that's correct.

14 THE COURT: Why would that be?

15 A. Because I have predetermined -- in this particular
16 instance I have pre-determined understanding. Secondly, in
17 any case where there is the taking of a life, and the
18 differences are someone staying in prison for the life time,
19 or being executed, versus the cost of doing so, I cannot
20 forgive someone that takes someone else's life.

21 THE COURT: All right, sir.

22 Solicitor, questions from the State?

23 MR. HEMBREE: None, Your Honor.

24 THE COURT: Questions from the Defense?

25 MR. DIGGS: No sir.

1 **THE COURT:** Very good. Thank you, sir. Appreciate it
2 very much. If you would go with the deputy for a few moments.

3 A. Okay. So, one moment, Your Honor. You had stated that
4 if there are some other circumstances to be acknowledged at
5 this time this would be the time to bring those up. Would
6 that be with ---

7 **THE COURT:** I understand that, but I don't think you
8 need to do that.

9 A. All right. Thank you very much, sir.

10 **THE COURT:** I appreciate it very much, and I appreciate
11 your bringing that to my attention. Thank you very much.

12 Just go with the deputy. Thank you, sir.

13 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
14 **JUROR.)**

15 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
16 **JUROR NUMBER 150 MARKED COURT'S EXHIBIT NUMBER 26.)**

17 **THE COURT:** What's the State's position?

18 **MR. HEMBREE:** The jury is not qualified, Your Honor.

19 **THE COURT:** Defense.

20 **MR. DIGGS:** We agree.

21 **THE COURT:** All right. The Court finds the Defendant
22 (sic), Juror Number 150, to be not qualified in this
23 particular matter, obviously would not follow the instructions
24 of the Court or the dictates of Law in this particular matter
25 and could not be fair and impartial.

1 All right. Is Andrew Langway back there, the next
2 juror?

3 Did y'all also indicate the next one -- that he was ---

4 MR. HUMPHRIES: Yes sir.

5 THE COURT: All right. Very good.

6 ANDREW LANGWAY, JUROR NUMBER 372,
7 being first duly sworn, states as follows:

8 BY THE COURT:

9 THE COURT: All right, Mr. Langway, let me -- what I'm
10 going to do is go over a few things with you, ask you a couple
11 of questions, tell you there's no right or wrong answers here.
12 What I need for you to give me are direct straight-forward
13 honest answers, okay.

14 A. Yes sir.

15 THE COURT: Very good. All right, in this particular
16 matter the State of South Carolina has charged the Defendant,
17 Mr. Stephen Stanko, with the crimes of murder and armed
18 robbery. The Defendant has pled not guilty. That puts the
19 burden of proof on the State of South Carolina to prove the
20 Defendant guilty beyond a reasonable doubt. The Defendant has
21 nothing to show to you or prove to you. The State must prove
22 the Defendant guilty beyond a reasonable doubt. You
23 understand that?

24 A. Yes sir.

25 THE COURT: All right. Very good. Now, in this matter

1 the State has served notice to seek the death penalty in this
2 particular case. In this particular matter there -- the law
3 provides that if a jury is to consider that they have to find
4 an aggravating circumstance. Now they would only get into
5 that in the second phase of the trial, if there is one. The
6 first phase of the trial is, based upon the facts and evidence
7 presented the jury has to decide whether or not the State has
8 carried it's burden of proof to prove the Defendant guilty
9 beyond a reasonable doubt of the crimes charged. If the jury
10 finds Mr. Stanko guilty of murder unanimously -- everybody has
11 to vote unanimously, everybody agrees -- then and only then do
12 we go to the sentencing phase, or the second phase, and in the
13 second phase there's two options, death penalty or life in
14 prison without the possibility of parole. When we say life
15 that's what we mean, life in prison without the possibility of
16 parole. To impose the death penalty there has to be a
17 unanimous decision of the jury. They find to find an
18 aggravating circumstance. There are certain circumstances
19 that the Court would charge the jury that if they so believe
20 that to have occurred, and they unanimously find that, and
21 chose that, then they can consider the death penalty. It
22 doesn't automatically mean they impose it. It just means then
23 they have the ability to consider it, because if they didn't
24 find aggravating circumstance they can't even consider it.

25 The jury also has to look at mitigating circumstances,

1 meaning to lessen, reduce the punishment, and before they
2 chose any option they have to consider and look at all those
3 mitigating circumstances. A juror has to be open in the
4 second phase, before they go into the second phase, to both
5 possibilities, for death penalty or life in prison without the
6 possibility of parole. They can't go in there with any
7 preconceived ideas or predisposition to vote one way or
8 another. You have to listen to the facts and evidence
9 presented, and listen to the law that the Court will give to
10 you and then make your decision.

11 Now, in this you have circled -- as far as the category
12 of juror which best describes you you circled (B); is that
13 correct?

14 A. That is correct, sir.

15 **THE COURT:** All right. And that states that one who,
16 although the crime of murder has been proved by the State
17 beyond a reasonable doubt, and you've gone into the sentencing
18 phase, you believe that the death penalty is never
19 appropriate, no matter what the circumstances are, that you
20 basically would have your mind made up going into the
21 sentencing phase that I'm going to give life in prison without
22 the possibility of parole, and no matter what's told to me I'm
23 not going to consider the death penalty. You've also
24 indicated, and wrote on your category, that if you were forced
25 to choose one ---

1 A. Correct.

2 THE COURT: ---That you would choose (B), and that
3 would be the closest that would come to your personal and
4 religious beliefs; is that correct?

5 A. That is correct, sir.

6 THE COURT: All right, sir. How I have described this,
7 as far as if you are sitting on that jury, and obviously as a
8 member of the jury wrote -- doing a hypothetically here -- you
9 -- the jury has unanimously found the Defendant guilty of the
10 crime of murder, so we are in the second phase, the sentencing
11 phase, are you indicating to me that despite what the Court
12 would instruct you the law of the State of South Carolina is,
13 that your predisposition is to give life in prison.

14 A. If I was in that position I don't know if -- I don't
15 know. Based on my religious beliefs and State Law -- you
16 know, State rights ---

17 THE COURT: Right.

18 A. ---I may have -- I don't know if my decision will be
19 swayed based on that. I don't know until I'm in that position
20 to make the decision of life imprisonment.

21 THE COURT: And that sort of indicates ---

22 A. I want to make -- you know, I want to be honest to say
23 there may be -- there may be a situation -- you know, my
24 decision may be swayed based on my religious beliefs, perhaps,
25 and knowing that someone in a different state committing the

1 same offenses may not also have their life taken from them.

2 THE COURT: Okay. All right. And obviously we are not
3 asking you to abandon your personal beliefs.

4 A. Absolutely.

5 THE COURT: Obviously we are not asking you to do that.
6 What we are trying to do is find a jury that will follow the
7 Court's instructions as to what the law of the State of South
8 Carolina is, and the juror has to be open to say, whether I
9 agree with it or disagree with it, Judge, you are telling me
10 this is the law of the State of South Carolina so I'm going to
11 follow it; I might not think it's the right way to do things,
12 but you are telling me that's what it is so I'm going to
13 follow it. That's what -- the jurors have to have that
14 ability and that mindset, not to then fall back on their own
15 convictions and say, despite what you are telling me, my
16 personal convictions don't allow me to do that so I'm not
17 going to do that.

18 A. Sure. I would do my best to follow the instructions.
19 Yes sir.

20 THE COURT: Okay. And I appreciate that, and I know
21 this is a touch situation, and I appreciate that very much. I
22 have to honestly have a more definitive answer from you.

23 A. Okay.

24 THE COURT: I really need to know from you that you can
25 either -- and again, there's obviously no right or wrong

1 answer here. Everybody is different.

2 A. Sure. I understand.

3 THE COURT: You say to me, Judge, my beliefs are such
4 that I understand what you are saying, and I appreciate it,
5 but I can't follow that, or yes, I do have my personal beliefs
6 and they are very strong, and they guide how I conduct my
7 daily affairs, but in this courtroom I will follow the law
8 that is given to me and correctly, you know, follow that
9 despite my personal feelings or beliefs. Again, whether you
10 agree or disagree with the law you have to be able to sit --
11 as a juror over there, you have to say, despite whether I
12 agree with it or disagree with it I will follow it, and it has
13 to be yes, I will do that, or no, I can't do that.

14 A. Okay.

15 THE COURT: I understand that's tough. I appreciate
16 that, but that's the kind of answer I need to get from you.

17 A. Okay. Yes, I think I -- yes, I will follow the
18 directions you give me.

19 THE COURT: All right. Let's talk about a few other
20 things, okay. In this particular matter, again, as I have
21 told you, the jury, in the second phase, would be faced with
22 the decision of not only making the decision, but you are
23 actually, in effect, imposing a penalty. By the jury's choice
24 it imposes the penalty in this particular matter. It makes it
25 different than any other case that is tried, only the Court

1 will impose a sentence. In this, the jury imposes the
2 sentence. If the jury, therefore, unanimously -- and it has
3 to be unanimous -- votes to impose a death penalty the jurors
4 have to take pen in hand and sign a verdict form that says,
5 that is my verdict, it is part of the unanimous verdict and I
6 did vote for the death penalty, just as the Judge would sign
7 his name in imposing any sentence that I might impose in a
8 criminal case, so you are actually -- that would be part of
9 the responsibility; do you understand that?

10 A. Yes sir.

11 THE COURT: All right. Very good. Let's -- again --
12 and I know I've covered this a little bit, but part of your
13 job as a juror, and part of your responsibility as a juror, is
14 to come into this courtroom and -- you know, we all carry our
15 own personal beliefs and experiences and framework when we
16 come in the courtroom, but as best you can you come into the
17 courtroom basically as a blank slate. You leave your personal
18 feelings, as best you can, the -- anything that you might have
19 heard about the case, or somebody told you about it, or you
20 thought you knew about it, you leave all that outside the
21 courthouse, and you make your decision based solely upon the
22 facts and evidence that you hear in the courtroom, and you
23 take the law that the Court gives to you, apply it to the
24 facts that you and the jury so find to be true, and then make
25 your decision. That would be a job or responsibility of a

1 juror. Do you understand that?

2 A. Yes sir.

3 THE COURT: All right. Very good. These are probably
4 more basic questions. Since we were here on Friday did you
5 read, listen, watch, look up anything about this case?

6 A. No sir.

7 THE COURT: Since Friday did you talk about it or
8 discuss this case with anybody?

9 A. No sir.

10 THE COURT: All right. Now, before Friday, and before
11 I gave everybody instructions not to do those kind of things
12 had you heard about this case?

13 A. Yes sir.

14 THE COURT: Okay. Just tell me very -- and certainly
15 nothing wrong with that. We basically expect that. What do
16 you remember hearing about the case?

17 A. My family is involved somewhat in it prior to Mr. Diggs
18 getting involved.

19 THE COURT: Okay.

20 A. I believe Tommy Brittain, who is my father-in-law, was
21 appointed to the case ---

22 THE COURT: Okay.

23 A. ---Originally, and I believe Scott Bellamy may have
24 been also involved.

25 THE COURT: Okay. Did you have any discussions with

1 Mr. Brittain or Mr. Bellamy about the case? Did they sound
2 you out in any way or ---

3 A. My mother also worked for Tommy Brittain, so I may have
4 been around the office and hearing conversation.

5 THE COURT: Do you remember anything?

6 A. I believe -- what I remember hearing is that Mr. Stanko
7 may have had an issue with Mr. Bellamy, whether ---

8 THE COURT: Okay.

9 A. To be general about it.

10 THE COURT: Okay. That's -- nothing more than that.
11 That's what you -- that's what you heard?

12 A. Yes.

13 THE COURT: Okay. All right. Now, with that, could
14 you set that aside? Could you, again, compartmentalize that,
15 leave it outside the courthouse, and not let that affect you
16 or influence your decision in this case in any way?

17 A. I believe I could, yes sir.

18 THE COURT: All right, sir. Now, in this -- in this
19 particular matter -- and I know we are probably covering some
20 ground that I already covered, but I want to give you another
21 opportunity to talk about it if you want to. Do you believe
22 you have any personal or political, religious, philosophical
23 belief that would prevent you in any way from being a fair and
24 impartial juror in this case?

25 A. I would hope not.

1 **THE COURT:** All right. I'm trying to -- you understand
2 we are not asking you questions to be personal, but I have to
3 ask these questions such that, you know, we have a -- know
4 that we have a fair and impartial jury in this case; you
5 understand that?

6 A. Yes sir.

7 **THE COURT:** All right. If you don't mind me asking ---

8 A. Yes sir.

9 **THE COURT:** ---What is your religious affiliation?

10 A. I am a Christi -- Methodist, Christian.

11 **THE COURT:** All right, sir. Now, based upon that
12 particular branch of Christianity ---

13 A. Yes sir.

14 **THE COURT:** ---And the teachings that you have learned
15 in that -- in the church ---

16 A. Yes sir.

17 **THE COURT:** ---Does that give you pause as serving as a
18 member on this jury, knowing what choices the jury may
19 ultimately be faced with in this case?

20 A. Absolutely.

21 **THE COURT:** All right. Do you think that, when faced
22 with a decision -- again, it's all hypothetical, but you are
23 in the jury room and the jury is discussing the matter as to
24 the particular penalty to be imposed, do you think you would
25 lean more heavily on your religious experience and training or

1 the law that the Court would have charged you?

2 A. I would do my best to follow the direction of the
3 Judge.

4 THE COURT: Okay. All right. If we are in the
5 sentencing phase are you telling me that, based upon the facts
6 and circumstances presented to you, that is, the right set of
7 circumstances and facts, that you can fairly, both to the
8 State and to the Defendant, fairly consider, and under the
9 right set of circumstances, impose a life sentence?

10 A. I would do my best to do so.

11 THE COURT: All right. And under the right set of
12 facts and circumstances, assuming those were presented to you,
13 could you consider and impose a death sentence?

14 A. I would -- I would do my best to, again, follow
15 direction of the Judge.

16 THE COURT: All right, sir.

17 I'm going to let you answer a few questions by the State
18 and Defense, and then I might have a few for you. Okay.

19 A. Yes sir. Thank you. Thank you, Judge.

20 THE COURT: Thank you very much.

21 BY MR. HUMPHRIES:

22 MR. HUMPHRIES: Good morning, Mr. Langway.

23 A. Good morning. How are you doing, sir?

24 MR. HUMPHRIES: I'm the Deputy Solicitor. I, along
25 with Solicitor Hembree, and Senior Solicitor Richardson, we

1 represent the State. I'm going to let you off the hook ---

2 A. Thank you, sir.

3 MR. HUMPHRIES: ---Because here's the deal.

4 A. Yes sir.

5 MR. HUMPHRIES: What you need to understand is this.
6 And I know this is a -- this is sort of a -- this is a novel
7 process. It's not just novel to you, it's novel in criminal
8 law.

9 A. Absolutely.

10 MR. HUMPHRIES: It's unlike any other kind of criminal
11 case that we have in this courtroom. But the process,
12 basically, is this. To be a qualified juror -- and the Court
13 has been over this with you, so I'm not going to belabor it --
14 but to be a qualified juror you have to be able to not only
15 fairly consider, but be able to impose the death penalty,
16 under the right set of circumstances, given the right amount
17 of evidence. Likewise, you have to be able to, not only
18 consider, but impose a life sentence, under the right
19 circumstances.

20 But here's something else that you need to understand,
21 and that is this, that there is never any situation in the law
22 -- there will never be a charge from the Court which says if
23 the jury finds, one, the Defendant committed murder, and two,
24 the Defendant committed an aggravating circumstance, that the
25 juror must give life. I'm mean, let's get that.

1 A. Uh huh (indicating positive)

2 MR. HUMPHRIES: Okay. A juror can give life for any
3 reason or no reason at all, regardless of anything else they
4 find in regard to this Defendant. Okay.

5 A. Yes.

6 MR. HUMPHRIES: So, the point I am making is this,
7 there will always be that choice. You can give life for any
8 reason or no reason at all. Okay. So it's not a situation
9 where the Court is going to say you have to give death. Okay.
10 Always be your choice. So the point I am making is this,
11 understanding that you can always give life, always,
12 understanding your religious convictions -- and also I detect
13 that you've got some basic philosophical issues with -- and I
14 understand your position, that there are some states clearly,
15 a number of states in the Union where the death penalty is not
16 available, and -- but it is here in South Carolina ---

17 A. It is, yes sir.

18 Q. ---And that you have some difficulty with the manner in
19 which the death penalty is employed across the Union; is that
20 true?

21 A. Yes. I think that's ---

22 Q. And let me tell you this.

23 A. Uh huh (indicating positive)

24 Q. Nobody, not the Judge, not the Defense, not the State,
25 nobody is trying to change your opinions, and nobody is trying

1 to squeeze you or shoehorn you into a particular position in
2 which you don't fit. Okay. We are looking for qualified
3 jurors. Unqualified jurors are not bad people. They are just
4 people who don't meet the legal requirements ---

5 A. Sure.

6 Q. ---To be a juror. To be a qualified juror you have to
7 be able, not only to fairly consider, but impose the death
8 penalty. Okay.

9 Now, what we really need to know is this, do you believe
10 -- and this is purely your beliefs -- do you believe that your
11 religious beliefs, your philosophical beliefs, would
12 substantially impair your ability to fairly consider and
13 impose the death penalty, when you know that you can always
14 give life? Can you fairly consider and impose the death
15 penalty?

16 A. I would think I could.

17 Q. Well, I get you ---

18 A. I know ---

19 Q. Well, listen, you know, we ---

20 A. Until I'm -- yes. Until I'm in that situation ---

21 Q. Sure. We've drug in out of your life and put you up
22 here and we are asking you questions in a vacuum, because
23 you've not heard anything. But what we really need is -- and
24 it's tough to definite. I understand that.

25 The Court talked to you a little bit about the jury, and

1 what their role is, but what I want to impress upon you is
2 this, that the role of the jurors, collectively, not just you,
3 but collectively, will sentence the Defendant, that is -- now
4 the form would say recommendation of. Every juror would sign
5 their name to it. Okay. But what -- whatever that
6 recommendation is the Court is going to do.

7 A. Uh huh (indicating positive)

8 Q. Okay. So, what I'm saying is this. If your personal
9 reliefs, your religious beliefs, your philosophical beliefs
10 are such that you believe, going into that second phase, that
11 you would be impaired -- your ability to fairly consider and
12 impose the death penalty, based on those things, would be
13 impaired to the extent that you couldn't fairly consider and
14 impose it we just need to know. We are talking to a lot of
15 folks.

16 MR. DIGGS: Your Honor, it's been asked and answered.

17 THE COURT: I appreciate that. Thank you. I'm going to
18 allow it. Thank you.

19 A. I would probably err on the side of caution in choosing
20 because I really think it may, but I would do my best to
21 follow the Judge's direction and -- but it very well could --
22 and until I'm in that situation -- I think you've got three
23 hundred other people that might be better than me.

24 Q. And I appreciate that, and understand that the Judge is
25 never going to say you would have to sentence Stephen Stanko

1 to death.

2 A. Absolutely. I understand.

3 Q. Well, I'm --- you know, I apologize for having ---

4 A. No apology needed.

5 Q. ---Talked to you in the fashion that I have.

6 A. No. I appreciate your explanation.

7 MR. HUMPHRIES: I appreciate it.

8 A. Thank you, Mr. Humphries. I appreciate it.

9 THE COURT: All right. Mr. Diggs or Ms. Williams.

10 Ms. Williams.

11 BY MS. WILLIAMS:

12 Q. Good morning. My name is Brana Williams.

13 A. Good morning, Ms. Williams.

14 Q. I, along with Bill Diggs, will be representing Mr.
15 Stanko in this case. Obviously you've been asked and answered
16 -- asked several times. I ask questions. We have to kind of
17 jump through these little things.

18 A. I understand.

19 Q. Let me ask you this.

20 A. Yes Ma'am..

21 Q. I'm going to change gears for just a minute. When the
22 Judge asked you had you heard anything about this case, and
23 you said that because you are married to ---

24 A. Tommy Brittain's daughter.

25 Q. ---Tommy Brittain's daughter, and married, and so you

1 some familiarity, but is there any other knowledge that you
2 have of this case, or maybe a prior case, or anything that you
3 may know about Stephen Stanko?

4 A. As far as facts of the matter?

5 Q. Yes. Anything. Absolutely.

6 A. I mean, from what I believe I remember is that he has
7 allegedly killed his, either girlfriend or wife, raped her
8 daughter and slit her throat, stole a car from a brother or
9 a -- I'm sorry -- best friend, and killed him, or -- I think
10 they are some of the facts of the case, allegedly.

11 Q. Now let me ask you, knowing that do you think coming in
12 here that there might -- that there is a -- basically, let's
13 say, a preconceived notion of what the outcome of this case
14 ought to be?

15 A. A preconceived notion, no Ma'am. Probably not.

16 Q. Like from the community?

17 A. Oh, from the community. I thought you were ---

18 Q. Not you, from the community.

19 A. I don't know how the community feels about it. I
20 haven't spoken to anyone, really, else about it ---

21 Q. Okay.

22 A. ---Just a few defense attorneys.

23 Q. Okay. Let me ask you this.

24 A. Uh huh (indicating positive)

25 Q. If you were picked to be a part of this jury ---

1 A. Yes Ma'am.

2 Q. ---One of the questions that the Judge asks you is
3 that, do you think -- you know, this case has -- it could have
4 two separate parts. It's a unique kind of case. You know the
5 first case decides, you know, what the verdict may be in
6 regards to guilt, okay, and in this case there might be four
7 possible verdicts that you may have to consider. That might
8 be guilty, not guilty, not guilty by reason of insanity, and
9 then guilty but mentally ill. Do you think that you could
10 evaluate all four of those possible verdicts, if they come in,
11 based on what the Judge explains to you that they each mean,
12 and then give us a fair verdict?

13 A. I would do my best to -- to follow the Judge's orders
14 in doing that, and making a decision. Again, as I said to Mr.
15 Humphries, until I'm really in that position I may have -- I
16 guess my thoughts on how the ultimate -- you know, if I
17 couldn't -- if I couldn't choose one of those options ---

18 Q. Well, I understand, but I'm talking about the first
19 phase of the case, because in the first phase of the case ---

20 A. I'm sorry.

21 Q. ---Well, the reality of it is, as the Judge explained
22 to you, that depending on what happens in the first phase
23 there may not even be a second phase.

24 A. Correct.

25 Q. There may or may not be.

1 A. Uh huh (**indicating positive**)

2 Q. And of course when we talk about the second phase don't
3 presume that we are automatically passing the first phase and
4 jumping to the second phase, but because of the nature of this
5 we have to kind of discuss all possibilities.

6 A. Sure. Okay.

7 Q. So with regard to the first phase ---

8 A. Uh huh (**indicating positive**)

9 Q. ---Do you think that you could actually consider all
10 four of those possible verdicts were they in front of you, and
11 can actually truly consider them, weigh the evidence, weigh
12 everything that was presented to you, and then present -- give
13 us your part of the jury as a fair and impartial verdict?

14 A. Yes, I think I could do that.

15 Q. Okay. And then, depending on if we get to a second
16 phase ---

17 A. Uh huh (**indicating positive**)

18 Q. ---Then obviously there are only two possible outcomes.
19 That's what we've been discussion.

20 A. Right.

21 Q. If we have to get to that second phase there could only
22 be life without the possibility of parole, or a death sentence
23 ---

24 A. Correct.

25 Q. ---And I just want you to realize that -- I think what

1 the Judge has tried to explain, and what Mr. Humphries has
2 tried to explain, is the reality of it is, you don't have --
3 all you've got to be able to do is to consider it, to fairly
4 consider it, and if you decide, if the facts are such that you
5 and your fellow jurors decide on one or the other, you have to
6 be able to be okay with your verdict. And so the question
7 is ---

8 MR. HUMPHRIES: Your Honor, I'm going to object.
9 That's an incomplete statement of the law. They have to
10 consider and impose -- be able to consider and impose.

11 THE COURT: All right. Just continue on.

12 MS. WILLIAMS: Well, I'll rephrase ---

13 THE COURT: I'm going -- you hadn't finished your
14 statement, so I'm going to allow you to continue.

15 MS. WILLIAMS: Thank you, Your Honor.

16 Q. What you have to realize is exactly as we've said,
17 nobody is going to require you to impose the death penalty.
18 Your role in this is to be able to say, in spite of what I
19 personally believe, in spite of my presumptions, if the --
20 based on what the Judge has told me if I believe, as part of
21 this jury, that the facts arise to a level where I think that
22 the death penalty is appropriate I could choose it and impose
23 it; I may not do it, but I could consider it, and if I thought
24 it was the right thing then I could do it and I could impose
25 it, and that's really the question for you.

1 A. Okay. Yes, I think I could.

2 Q. You believe that you could.

3 A. I would hope I -- I would hope so, I mean, yes.

4 Q. Yes?

5 A. Yes.

6 Q. Okay.

7 MS. WILLIAMS: That's all the questions that I have.

8 THE COURT: Thank you.

9 Mr. Langway, let me -- since they've had some
10 opportunity to question you, and now you've -- I've talked to
11 you and you have obviously had to think about this some more.

12 A. Uh huh (indicating positive)

13 THE COURT: I'm not asking you to change anything. I
14 want you to look at the category of jurors and look at it and
15 see if you want to continue to have (B) as your choice, or you
16 want to change it or you don't. I'm not asking you to do
17 anything, but I want you to look at it and think about it and
18 see, and then tell me. Okay. And just take whatever time you
19 need.

20 Yes sir.

21 A. I guess in knowing that I don't have to choose death in
22 part two of the trial, maybe (C) may be more appropriate then,
23 that is ---

24 THE COURT: Okay.

25 A. ---If they have to follow the ---

1 **THE COURT:** All right.

2 A. ---Follow direction ---

3 **THE COURT:** Of the Court?

4 A. Yes.

5 **THE COURT:** All right. Very good.

6 All right. I appreciate it very much. If you don't
7 mind, if you would just go with the deputy for a few moments
8 and let me talk to the lawyers. Thank you.

9 A. Thank you, Your Honor.

10 **THE COURT:** Thank you, sir.

11 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
12 **JUROR.)**

13 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE OF**
14 **JUROR NUMBER 372 MARKED COURT'S EXHIBIT NUMBER 27.)**

15 **THE COURT:** And for the record, the potential juror did
16 not circle any of the potential witnesses in this case,
17 indicating he did not know any of them. All right.

18 All right, what's the State's position?

19 **MR. HUMPHRIES:** Your Honor, he's unqualified. I think
20 it was telling at the very last question of the Court
21 regarding his choice of type of juror. He responded to the
22 Court's inquiry and said, well, I guess knowing that I don't
23 have to give the death penalty I would be a type (C). He is
24 the classic vacillating juror.

25 And let me say this. I think he was entirely

1 thoughtful, his integrity was intact throughout, and he was
2 struggling to come to terms with the instructions of the
3 Court, and the questions of the Court, and the attorneys. He
4 is also that juror, under **Sapp**, whose religious views would
5 interfere with his jury duty. In fact there are a number of
6 areas that he has expressed some concern, philosophically, his
7 religious beliefs, and personal beliefs. He said numerous
8 times, I think so, I hope I can. He never definitively said,
9 yes, I can. In every response he qualified it. I think there
10 was some confusion very early on where he felt as though that
11 he would have to impose the death penalty under a certain set
12 of circumstances, and said he would follow the Judge's charge
13 and instructions on that. I believe that he would. The
14 problem, of course, with that is, there is never any
15 instruction that's going to require him to impose the death
16 penalty. And when I asked him specifically would his
17 religious and/or philosophical and personal beliefs
18 substantially impair his ability to fairly consider and impose
19 the death penalty he said I think it would, but I would try to
20 follow the Judge's charge on the law. Well, we don't get
21 there, because until he's qualified there's no issue about
22 following the law. The law that we are talking about now is
23 whether or not your ability to fairly consider and impose the
24 death penalty could be substantially impaired based on your
25 personal views. So he is the classic vacillating juror,

1 religious views would interfere in his duty as a juror, his
2 answers -- although I don't believe, quite frankly, that the
3 basis of his answers was ever inconsistent. I believe he
4 feels the same thing start to finish. I believe he was in the
5 same position in terms of his beliefs when he sat down as when
6 he walked out the door, but in terms of expressing it he was
7 inconsistent, and he certainly never definitely said yes, I
8 can. He said yes -- he said, I think I can, I hope I can,
9 well, I'll do what the Judge tells me to do. He's not
10 qualified.

11 THE COURT: All right. Ms. Williams.

12 MS. WILLIAMS: Your Honor, our position is that this is
13 exactly what the law requires. It requires someone who would
14 consider it, and as His Honor told him, he doesn't have to
15 impose it, Solicitor Humphries told him that, and he
16 consistently said, I would consider it, I can consider it, I
17 can do it, I can do what I'm suppose to do. He even changed
18 from definite to where I can consider it.

19 Your Honor, I mean, we have allowed people have come in
20 and said, you know, I knew the victim, I knew the victim's
21 son, but I can set that aside; I can fairly consider it. He
22 said he could set aside his beliefs and consider it. The law
23 doesn't require -- I don't believe that the law requires that
24 we have people on there who are so predisposed to death that
25 we have to pull them back to life. The law requires that

1 somebody be in the middle, or at least be willing to consider
2 it, and I think he answered the questions appropriately when I
3 specifically said, can you follow the Judge's instructions and
4 do it. He said, I believe that I can. And Your Honor, you
5 know, I think that he's there. I think that he is exactly
6 that (C) juror that we are entitled to have on this jury, as
7 at least a part of the jury pool.

8 **MR. HUMPHRIES:** You know, let me just -- we need to --
9 I think we need to be clear for the record. The law is not
10 that he can just consider it, but under the right set of
11 circumstances, given the right amount of evidence, he can
12 consider and impose it, and I also think we need to say for
13 the record that at this point this juror has clearly been
14 exposed to significant pretrial information, and there has
15 been no objection by the Defense in that regard.

16 **MR. DIGGS:** We haven't gotten to that point yet, Your
17 Honor.

18 **MR. HUMPHRIES:** They didn't object.

19 **THE COURT:** Are you going to raise it? I mean, this is
20 now the time to raise it, and it was something I was going to
21 discuss with y'all. He obviously had contact with Mr. Stanko's
22 -- I'm more concerned about that. He had contact with Mr.
23 Stanko's previous defense attorneys.

24 **MS. WILLIAMS:** Well, actually technically, Your Honor -
25 --

1 **MR. DIGGS:** Before we get into the motion -- I mean, I
2 have a motion I want to make, but I want you to settle -- not
3 meaning I won't -- I was waiting until this particular
4 qualification issue was settled. ---

5 **THE COURT:** It's not going to be settled until we
6 discuss all the issues. No. I'm not going to do that.

7 **MR. DIGGS:** Well, all right, then here's my motion. My
8 motion is to disqualify all of the other jurors that the Court
9 has qualified who had prior knowledge of this case.

10 **THE COURT:** No. It's not prior knowledge, Mr. Diggs.

11 **MR. DIGGS:** That's my motion.

12 **THE COURT:** Okay. Well, then it's -- that's dismissed.
13 This -- that's not the point with this juror.

14 **MR. DIGGS:** Right. That's why I was waiting.

15 **THE COURT:** The point with -- no sir. The point with
16 this juror is, he had contact with the Defendant's prior
17 attorneys.

18 **MR. DIGGS:** And you know what, Your Honor, if you are
19 going to ---

20 **THE COURT:** That's what he said.

21 **MR. DIGGS:** I don't have any objection, and I don't
22 think Ms. Williams does, if the Court wants to excuse this
23 juror because of that contact, okay, because -- I mean, that's
24 why I say I was waiting until we finished ---

25 **THE COURT:** I'm more concerned about that than anything

1 else.

2 MS. WILLIAMS: And if I may, Your Honor, just to be
3 clear, while the juror may believe that that was the case, I
4 think the juror is actually misinformed, just for technical
5 correction. The Court -- and Mr. Stanko -- Mr. Brittain was
6 never appointed. Scott Bellamy has never been appointed. He
7 has never discussed it.

8 There are some other -- there's another death penalty
9 pending that I think that family is involved in, and Mr.
10 Langway may have those confused, but technically there has
11 never been any contact, however, if he believes that -- and
12 that's the other part of that. I think from his point of view
13 as a -- from a death qualification and the imposition of that,
14 I think he's qualified, however, we have consistently said
15 that the jurors who have prior knowledge of this case, there's
16 so much about it, that we do not believe that they can be fair
17 and impartial and set it aside. So I think from the death
18 qualifi -- with his answers he would be qualified, however,
19 based on his prior knowledge of the murder, the prior murder,
20 the prior rape he talked about, this murder he knows about, I
21 just don't think that he would be able to set that aside and
22 be a fair and impartial juror.

23 THE COURT: All right. Again, that's not the point
24 with this juror. The prior knowledge is not -- not an issue.
25 He said he could set that aside. What I've got an issue with

1 is, he says that Mr. Stanko, prior to y'all representing him,
2 he says he was in the presence of attorneys who represented
3 Mr. Stanko. Whether or not that's the case, he says he was,
4 and they discussed the case.

5 MR. DIGGS: He thinks he -- he thinks he was.

6 THE COURT: Ask Mr. Langway to come back in for a
7 minute, please. Y'all sit down.

8 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF JUROR
9 NUMBER 372, ANDREW C. LANGWAY.)

10 THE COURT: Mr. Langway, could you come back up here. I
11 need to ask you one or two other questions if I could, please
12 sir.

13 A. Yes sir.

14 THE COURT: Thank you. And I apologize for bringing
15 you back, but this is -- this is probably my fault, and I
16 should have explored this more fully with you.

17 When you were talking with me about prior knowledge, or
18 information about Mr. Stanko, and obviously the Court knew
19 that you were, you know, Tommy Brittain's son-in-law, but you
20 had indicated that you were in the office and there was some
21 discussion at that point in time by office personnel involving
22 Mr. Stanko at a point in time when he might have been
23 represented by them; is that -- is that right?

24 A. This is years ago ---

25 THE COURT: Okay.

1 A. ---And I don't -- and it's been -- my mother has been
2 back up in Maryland for several years now ---

3 THE COURT: Okay.

4 A. ---And I honestly don't know if it was -- I honestly
5 have no idea in what setting it may have been said in, but I
6 those are some of the -- some of the information I remember
7 from it.

8 THE COURT: Okay. And -- but it clearly involved the
9 Defendant in this case, Mr. Stanko?

10 A. I may have been getting it confused with another case.
11 I'm not a hundred percent sure, but I believe ---

12 THE COURT: Okay. All right. Well, that's what I --
13 that's what I want to know.

14 A. There's a few -- I believe you have a few capital cases
15 on ---

16 THE COURT: Different cases.

17 A. Yes. So I may be getting them confused.

18 THE COURT: Okay. So ---

19 A. Or one of -- you know, maybe it was the Scott Bellamy
20 part, and maybe the facts that I said about the other -- about
21 the people involved may be one or the other or both, or
22 neither, so I believe those are correct, but I don't -- I'm
23 not sure.

24 THE COURT: All right. All right. I guess since you
25 are here ---

1 A. Yes sir.

2 THE COURT: ---I'm going to -- just so that I'm clear,
3 since this is ultimately a decision that I need to make.

4 A. Yes sir.

5 THE COURT: When -- and assume that you are a part of
6 the jury in this case ---

7 A. Yes sir.

8 THE COURT: ---You have gotten to the second phase of
9 it. I need to know from you -- and again I really -- I have
10 to have an absolute answer from you, and I know you've had a
11 lot of time now, even more, to think about this. Not only
12 following the Court's instructions, but to fairly and
13 impartially, both to the State and the Defendant, and under
14 the right set of facts and circumstances, consider and impose
15 a life sentence; can you do that? And basically I'm looking
16 for a yes or a no answer.

17 A. Yes.

18 THE COURT: Okay. Now, the other option is the death
19 penalty. Can you be both fair to the State and to the
20 Defendant, and under the right set of facts and circumstances,
21 consider and impose the death penalty?

22 A. Yes sir.

23 THE COURT: Thank you very much. Please go with the
24 deputy.

25 A. Thank you, Your Honor.

1 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
2 JUROR.)

3 THE COURT: The issue about contact, the juror cleared
4 up for me, and so I no longer have the concern that I did
5 about contact with any counsel that might have represented Mr.
6 Stanko in the past, and there was no objection to that from
7 the Defense, and the Defense indicated that that, indeed, was
8 not true, that Mr. Brittain and Mr. Bellamy never represented
9 Mr. Stanko, and therefore never had the opportunity to have
10 any contact with Mr. Stanko about this case, so no information
11 could have been gained by this particular juror from Mr.
12 Bellamy or Mr. Brittain. That's an impossibility.

13 I understand the issue about prior general knowledge
14 about the case, and again, the juror said he could set that
15 aside, and I don't find that to be an issue in this case. I
16 understand the Defense feels it's an issue but I don't. He is
17 qualified.

18 As to the issue of his ability to follow the Court's
19 instructions, to follow the law, to fairly impartially
20 consider and impose the possibility of either sentence being
21 imposed, I find that he can do that. I find instructive basic
22 tenet of the law that U.S. Supreme Court announced -- and this
23 has been many years ago, 1971, Specks versus Illinois, so I am
24 going to find this juror to be qualified.

25 MR. DIGGS: Your Honor, could I make one statement ---

1 THE COURT: Yes sir.

2 MR. DIGGS: ---Or complete the motion. We had made a
3 motion to -- for the Court to reconsider and exclude the
4 jurors that had heretofore been qualified ---

5 THE COURT: And I denied that motion.

6 MR. DIGGS: Okay. I wanted to make sure that ---

7 THE COURT: I said it was dismissed. It's denied.

8 MR. DIGGS: Okay.

9 And Your Honor, we also want to include this juror in
10 that motion.

11 THE COURT: Based upon his prior knowledge ---

12 MR. DIGGS: Yes sir. Correct.

13 THE COURT: ---But you have told me that that is
14 impossible ---

15 MR. DIGGS: No. No. Beg ---

16 THE COURT: You have told me it's impossible for him to
17 have gained knowledge about this case from Mr. Brittain and
18 Mr. Bellamy because they never represented the Defendant. You
19 told me that. Now are you changing that?

20 MR. DIGGS: No sir. I'm not -- I'm not ---

21 THE COURT: All right. So that's impossible for him to
22 have gained prior knowledge about this case from Mr. Bellamy
23 and from Mr. Brittain ---

24 MR. DIGGS: Your Honor, that's ---

25 THE COURT: ---Because they never represented him.

1 MR. DIGGS: That's not my position. He -- he stated
2 when he was recounting the facts ---

3 THE COURT: All right. No. I'm not caring about his
4 position. I'm caring about the information you are giving me.

5 MR. DIGGS: That's not my issue.

6 THE COURT: Yes sir. You told me, you told me, and Ms.
7 Williams told me, it's impossible for this juror to have
8 gained any information about this case from Mr. Bellamy and
9 Mr. Brittain because they had no contact with Mr. Stanko,
10 never represented him. Are you telling me that is now not
11 true?

12 MR. DIGGS: Your Honor, I'm saying that's not relevant
13 to my motion.

14 THE COURT: It's relevant to my decision. I want to
15 know whether that's true or not.

16 MR. DIGGS: That's fine. I don't know of any contact
17 they ever had, however, he made a statement from the stand
18 that he knew all about this case.

19 THE COURT: I understand that, and I understand you
20 want to include him. I understand you want to include him in
21 the other jurors.

22 MR. DIGGS: Correct.

23 THE COURT: Your motion is denied. I've denied it now
24 three times.

25 MR. DIGGS: Thank you very much.

1 THE COURT: Good. Next juror.

2 LINDA ALEXANDER MORRISON, JUROR

3 NUMBER 5, being first duly sworn, states as follows:

4 BY THE COURT:

5 THE COURT: All right, Ms. Morrison, let me go over a
6 few things with you. I'm going to talk to you about a few
7 things, ask you some questions. The State and the Defense are
8 going to ask you some questions. Okay. There aren't any
9 right or wrong answers here. What I need from you are direct,
10 straight-forward honest answers to the questions that are
11 asked, okay.

12 A. Okay.

13 THE COURT: All right. And just to remind you as I do
14 everybody, when a question is asked I do need, or we would
15 need an answer rather than an un huh or a shake of the head
16 because everything is being taken down by the Court Reporter
17 and she can't record those kind of things. All right.

18 A. Okay.

19 THE COURT: Very good. All right. In this particular
20 case, Ma'am, the State of South Carolina has charged the
21 Defendant, Mr. Stanko, with the crimes of murder and armed
22 robbery. To that the Defendant has pled not guilty. That
23 puts the burden of proof on the State of South Carolina to
24 prove the Defendant guilty beyond a reasonable doubt. The
25 Defendant has nothing to show to you. The Defendant has

1 nothing to prove to you. The State must prove the Defendant
2 guilty beyond a reasonable doubt. Do you understand that?

3 A. Yes.

4 THE COURT: All right. Now in this case the State has
5 served notice to seek the death penalty as against the
6 Defendant, so that means that there are potentially two parts
7 to this trial. The first part would be that there would be
8 testimony, facts, evidence presented, and the jury would be
9 faced with the decision to find that evidence which convinces
10 them of it's truth, and then weigh that against the State's
11 burden to prove the Defendant guilty beyond a reasonable
12 doubt. The jury would then consider that and decide if the
13 jury -- if the State has met that burden to prove the
14 Defendant guilty of the crimes charged beyond a reasonable
15 doubt. The jury finds the Defendant guilty of murder, and
16 only if they do so, by a unanimous decision -- everybody has
17 to agree -- then we would go to the second phase or the
18 sentencing phase. If the jury would find the Defendant not
19 guilty obviously we would not get to the second phase.

20 Now, in the second phase -- it's the sentencing phase --
21 there are two possible options, life in prison without the
22 possibility of parole, or a death penalty. And when we say
23 life, if somebody says life, that's what we mean, life in
24 prison without the possibility of parole, so that you
25 understand that. If the jury is to consider the death penalty

1 they must find as -- before they would even consider it, an
2 aggravating circumstance. Now aggravate means to make worse
3 or exacerbate the situation. Now, just because the jury finds
4 -- unanimously finds an aggravating circumstance doesn't mean
5 that they have to impose the death penalty. It means they
6 have to find that to be able to consider imposing the death
7 penalty. Even if the jury finds an aggravating circumstance
8 they -- the jury can impose life. The jury can always impose
9 a life sentence in this particular matter.

10 This case is a little bit different than all the other
11 criminal cases because the sentence that the jury imposes is
12 the sentence that will be carried out. In all other cases the
13 Court imposes sentence. In this particular circumstance the
14 jury actually chooses and imposes the sentence. So you would
15 have to be able to fairly consider, and have the ability to
16 impose either life in prison without the possibility of
17 parole, or the death penalty, and that would be part of your
18 job as a juror in this particular case. Do you understand
19 that?

20 A. Yes sir.

21 **THE COURT:** Very good. Another job as a juror that you
22 would have is to basically come into the courtroom and be able
23 to set aside any preconceived ideas that you might have about
24 the law, or the penalties to be faced, or anything that you
25 might have heard about this case, or somebody told you about,

1 or you think you know about it. You've got to set all that
2 aside, and basically you don't bring that into the courtroom.
3 You make your decision based solely upon the facts and
4 evidence presented in this courtroom, and the law that the
5 Court would charge the jury to follow in this particular
6 matter. Do you understand that?

7 A. Yes sir.

8 THE COURT: And you have to have the ability to follow
9 the law that the Court gives you, even if you agree with it or
10 disagree with it. Do you understand that?

11 A. Yes sir.

12 THE COURT: All right. Let me ask you a few questions
13 if I could. Again, telling you again, there's obviously no
14 right or wrong answers.

15 Since we left Friday did you read, listen, watch, look
16 up, research anything about this case?

17 A. No, I didn't. I saw a headline and I turned the page
18 on the paper.

19 THE COURT: Very good. And did you talk to anyone
20 about this case, or discuss anything about this case with
21 anybody since Friday?

22 A. No sir.

23 THE COURT: All right. Now, before Friday, and before
24 I told everybody not to do those things, had you heard
25 anything about this case in any way? Do you remember anything

1 about it?

2 A. I remember -- when I got here I remember, when I heard
3 the name, seeing it go across probably the T.V. screen. I
4 haven't lived here very long, so I really hadn't -- there's so
5 many crimes I don't pay much attention to it on the news.

6 THE COURT: That's fine.

7 A. I just change the channel.

8 THE COURT: Very good. That's good. All right. As I
9 explained to you, you have to make your decision based upon
10 the facts and evidence that you hear here in the courtroom,
11 and follow the law that the Court would give to you. Can you
12 do that?

13 A. Yes sir.

14 THE COURT: All right. And do you know of any reason,
15 have any -- have any -- do you think you have got any
16 personal, political, religious, philosophical beliefs that you
17 believe would prevent you in any way from being a fair and
18 impartial juror in this case?

19 A. No sir.

20 THE COURT: All right. Now you have indicated --
21 regarding the witness list you didn't circle any of the
22 witnesses, correct?

23 A. Right.

24 THE COURT: And regarding the category of juror, you
25 selected (C); is that right?

1 A. Yes sir.

2 **THE COURT:** And that's basically that, if you are on
3 the jury and if the crime of murder has been proven to the
4 jury beyond a reasonable doubt, based on the facts and
5 circumstances, and they have unanimously voted that the
6 Defendant was guilty of the crime of murder, that going into
7 the second phase you wouldn't have any preconceived ideas as
8 to what would occur as to the sentence; you would be open to
9 both possibilities; you could impose both possibilities; you
10 are just going to have to listen to all the facts and evidence
11 presented, and then along with your fellow jurors, and along
12 with the law that the Court would give to you, make your
13 decision in that particular matter; is that right?

14 A. Yes sir.

15 **THE COURT:** Very good. If we are in the second phase,
16 or sentencing phase -- and we have to ask these hypothetical
17 or assume type questions to get the answers, so assume that
18 the jury has convicted the Defendant of the crime of murder,
19 and you are in the sentencing phase, and the law has been
20 given to you, and y'all are discussing the case, under the
21 right set of facts and circumstances could you consider and
22 impose a life sentence?

23 A. If I felt it was warranted, yes.

24 **THE COURT:** All right. Very good. Based upon the
25 facts that had been presented?

1 A. Yes sir.

2 THE COURT: All right. And based upon the facts and
3 evidence that's been presented to you, could you fairly
4 consider and impose a death sentence?

5 A. Yes sir.

6 THE COURT: All right. And a part of the jury -- and a
7 death sentence in a case has to be unanimous. Everybody on
8 the jury has to agree if the death sentence is going to be
9 imposed. One part of that is that, since you are actually
10 imposing a sentence, that the jury would have to take pen in
11 hand and sign a verdict form indicating that, indeed, is the
12 verdict, and they did vote unanimously to -- vote to impose
13 the death penalty. Could you do that?

14 A. If I agreed I would sign, yes.

15 THE COURT: You would do that. All right. Very good.
16 Thank you, Ma'am.

17 All right. I'm going to let you answer a few questions
18 from the State and the Defense, and then I might have a
19 question after that, all right. Thank you, Ma'am.

20 All right, Solicitor.

21 MR. HEMBREE: Thank you, Your Honor. May it please the
22 Court.

23 THE COURT: Yes sir.

24 BY MR. HEMBREE:

25 MR. HEMBREE: Good morning, Ms. Morrison.

1 A. Good morning.

2 MR. HEMBREE: I'm Greg Hembree. I'm the Solicitor for
3 Horry and Georgetown County, and along with Deputy Solicitor
4 Fran Humphries, who is sitting next to me on one side, and
5 Senior Assistant Solicitor Jimmy Richardson over here, we will
6 be representing the State in this case, presenting the
7 evidence on behalf of the State.

8 I've got just a few questions and then I'll wrap it up.
9 The first is more maybe just to tell you a little bit about
10 the process we are in now, maybe just to set your mind at ease
11 a bit. We are going through this jury qualification process
12 and kind of interviewing y'all individually, you know that.
13 If you are found to be qualified that doesn't necessarily mean
14 that you will be on this jury. What we are going to do is, we
15 are going to have kind of a -- you know, we are starting with
16 a bigger group and we are going to have a group of qualified
17 jurors, probably pick about forty-five, qualify about forty-
18 five folks, and then from that forty-five we will select the
19 jury that will actually serve on this case, so it's kind of
20 a -- I just don't want you walking out of here thinking
21 definitely you are going to be on the jury or definitely you
22 are not. It's still yet to be decided. So that's one issue
23 just to kind of set your mind at ease with that. Okay.

24 A. Okay.

25 Q. Another thing that we are going to be asking our jurors

1 we pick involves sequestration. This case should take about
2 seven or eight days to try once we actually begin the trial,
3 and because of the nature of the case, and the media that is
4 involved and so forth, we are going to keep the jury separate.
5 We are going to actually keep the jury that's selected in a
6 hotel, and this is after the jury is picked. They will be
7 staying in a hotel room, their meals will be provided by the
8 County, all their expenses will be taken care of by the
9 County, and they will be kept separate and apart from their
10 families and work, so forth. I know that's a terrible
11 imposition and a hardship to ask anybody to do that, but my
12 question to you is this. Does it create -- does that
13 requirement of sequestration create any risk to your health or
14 safety, or to the health or safety of any of your family
15 members at least to such a large degree that you couldn't
16 serve?

17 A. No sir.

18 Q. And I think finally -- you know, Judge John has already
19 really covered this with you, but you have indicated that you
20 are a juror type (C).

21 A. Yes sir.

22 Q. And you've got a chance to read all three of those and
23 kind of study them a little bit.

24 A. Right.

25 Q. And that's the kind of juror that says, I could -- you

1 know, we have the Defendant -- use this as a hypothetical --
2 we have found the Defendant guilty, you know, we have found
3 that there is a statutory aggravating circumstance, as a jury
4 now we are considering penalty, and as a juror I am the kind
5 of juror that wants to hear all the facts, all the evidence,
6 consider all the circumstances, and then and only then decide
7 whether life is appropriate or the death penalty is
8 appropriate, and that's the kind of juror you have indicated
9 you are. Is that an accurate statement?

10 A. Yes sir.

11 MR. HEMBREE: All right. That's all we can ask of you.
12 We really appreciate your willingness to serve. Please answer
13 any questions Defense counsel might have for you.

14 Thank you, Ma'am.

15 A. Okay.

16 THE COURT: All right, Mr. Diggs, or Ms. Williams.
17 Mr. Diggs.

18 MR. DIGGS: May it please the Court.

19 THE COURT: Yes sir.

20 BY MR. DIGGS:

21 Q. Is it Morrison or Alexander?

22 A. It's Morrison. I got married in May, so it's Morrison.

23 Q. All right. Well, how are you this morning?

24 A. I'm fine. Thank you.

25 Q. Good. My name is Bill Diggs and I, along with Brana

1 Williams, represent Mr. Stanko. Now he is seated here at the
2 table between us. I understand you are fairly new to the area
3 ---

4 A. Yes sir.

5 Q. ---So don't have a lot of knowledge about this case via
6 the news media?

7 A. Correct.

8 Q. But you thought you had heard the name?

9 A. I remembered seeing it run across -- when I got here
10 last Friday somebody -- I hadn't heard the name and I didn't
11 remember what was on the papers I got.

12 Q. Okay.

13 A. But I remember the night before seeing on the news a
14 little -- you know, they always have something else going on
15 while they are talking.

16 Q. Right. Yes. And that's the extent of it. You don't
17 have any other information about it?

18 A. No sir.

19 Q. Okay. Let me ask you, when we get to the actual
20 presentation of evidence in the case -- and understand we --
21 we are having to combine all of our questions now, whether
22 they relate to the first -- you know, the issue of guilt or
23 innocence, or whether they relate to the issue of punishment,
24 and simply because we are talking about punishment doesn't
25 mean that we are -- we know we are automatically going to get

1 to that question. Okay. The jury might find Mr. Stanko not
2 guilty. And what I wanted to talk to you about is the
3 possible verdicts that would be -- that are likely to be
4 supported by the evidence, or some evidence in this case. The
5 possible -- there are four possible verdicts, we believe, that
6 are going to be presented for the jury's consideration, after
7 the close of the evidence in the case, that's guilty, not
8 guilty, not guilty by reason of insanity, or guilty but
9 mentally ill. Now, do you have any beliefs that you are aware
10 of that would prevent you from fairly considering each of
11 those verdicts that you feel are supported by the evidence in
12 the case?

13 A. I don't know of anything that would ---

14 Q. Okay.

15 A. ---That would make a difference.

16 Q. All right. And so if you felt the facts supported a
17 particular verdict, and based on the law that the Judge gave
18 you, and read at the end of the case, you could fairly
19 consider either of those verdicts?

20 A. Yes sir.

21 Q. All right. Now, with respect to a punishment -- let's
22 suppose we get to that point -- remember, in order to consider
23 punishment at all there must be a finding of guilt prior to
24 that consideration. Do you believe that you would go into
25 that decision making process favoring one sentence over the

1 other? Would you be predisposed, for example, to vote a death
2 sentence given the fact you had just found a defendant guilty
3 of murder?

4 A. It would depend on the evidence.

5 Q. Okay. And it would -- are you saying it would be
6 dependant upon the evidence presented for your sentencing
7 consideration?

8 A. Yes.

9 MR. DIGGS: Okay. I don't think I have anything
10 further, and I appreciate your time.

11 A. Okay.

12 THE COURT: All right, Ms. Morrison, let me just ask
13 you, based on the discussion that the Court has had with you,
14 and the questions that have been asked of you by the State and
15 the Defense, can you give to the -- if you are a member of the
16 jury in this particular matter could you give to the State and
17 to the Defendant, Mr. Stanko, a fair and impartial trial; can
18 you be a fair and impartial juror in this case?

19 A. I believe I could.

20 THE COURT: Thank you, Ma'am. All right. If you would
21 go with the deputy, please.

22 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
23 JUROR.)

24 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
25 JUROR NUMBER 5 MARKED COURT'S EXHIBIT NUMBER 28.)

1 **THE COURT:** What's the State's position?

2 **MR. HEMBREE:** Juror number five is qualified, Your
3 Honor.

4 **THE COURT:** Defense?

5 **MR. DIGGS:** Your Honor, even though the juror did say
6 she believes she could, we agree that she is qualified.

7 **THE COURT:** Do you wish me to re-question the juror?

8 **MR. DIGGS:** No sir. No, I believe she is qualified.

9 **THE COURT:** All right. So -- that you believe she is
10 qualified. Okay. Very good.

11 I do find that she is qualified in this matter, and
12 could follow the Court's instructions in this matter, and
13 would be fair and impartial, and would fairly consider all the
14 matters, would fairly consider all possible options available.

15 Thank you.

16 The next juror, please.

17 **MR. HUMPHRIES:** Your Honor, before the next juror comes
18 in, this was -- this is juror 601.

19 **THE COURT:** Yes sir.

20 **MR. HUMPHRIES:** He ---

21 **THE COURT:** I got no responses.

22 **MR. HUMPHRIES:** Well, he approached, in the general
23 qualification, about -- a concern about a prior convicted.

24 **THE COURT:** Oh, okay.

25 **MR. HUMPHRIES:** To advise the Court, there is a -- the

1 only thing he's got on his criminal record is an arrest for
2 criminal domestic violence. That may have been disposed but
3 if -- under any circumstances it wouldn't disqualify him as a
4 juror.

5 THE COURT: All right. Very good. All right. So, Mr.
6 Diggs, Ms. Williams, y'all -- y'all have that information
7 then, correct, about the prior conviction?

8 MS. WILLIAMS: We don't have a copy of any N.C.I.C.,
9 Your Honor.

10 THE COURT: Well, I don't think they do either. It's
11 just that he had come up and indicated that he had that prior
12 conviction, so ---

13 MS. WILLIAMS: That was our understanding, that we ---

14 THE COURT: So, if y'all want to ask him about it I'll
15 be glad for y'all to ---

16 MR. DIGGS: We had the same information that the
17 Solicitor had.

18 THE COURT: Okay. Very good. All right.
19 Yes Ma'am.

20 (CONFERENCE BETWEEN THE JUDGE AND THE DEPUTY CLERK.)

21 THE COURT: Mr. Langway has informed the Clerk, and
22 apparently under the stress of the circumstances forgot to
23 bring this up when he was in here. He's in a wedding this
24 weekend. He's part of a wedding in West Virginia, and he
25 forgot to bring that up, and he wants to go to West Virginia

1 and participate in this wedding.

2 What's the State's position?

3 MR. HUMPHRIES: No objection from the State.

4 THE COURT: Defense?

5 MS. WILLIAMS: One moment, Your Honor, please.

6 THE COURT: If y'all will recall, I think he mentioned
7 something last Friday ---

8 MR. DIGGS: He did.

9 THE COURT: ---But -- he did. He forgot, in the stress
10 of all the questions that we were giving him, to bring it up,
11 and when he got back there then he remembered that he forgot
12 to tell us that he wanted to be gone.

13 MR. DIGGS: Your Honor, we don't object if the Court
14 chooses to excuse him, based on that -- based on that ---

15 THE COURT: All right. Well, what I'm going to --
16 based on the fact that he's in this wedding I'm going to --
17 what I'm going to do is transfer him.

18 Madame Clerk, we will transfer him to another term of
19 court based upon the fact that he is in this wedding and would
20 like to participate in that. All right. Please let him know,
21 and just tell him you will send him another notice in the
22 future about being transferred. All right.

23 All right. Mr. Stanley.

24 WAVERLY L. STANLEY, JUROR NUMBER
25 601, being first duly sworn, states as follows:

1 BY THE COURT:

2 THE COURT: All right, sir. Mr. Stanley, what I'm going
3 to do is, I'm going to talk to you about this matter a little
4 bit, then I'm going to have some questions for you. There
5 aren't any right or wrong answers here. What I'm looking
6 for -- from you is direct, straight-forward, honest answers to
7 the questions that we ask. Is that all right?

8 A. All right..

9 THE COURT: Very good, sir. In this particular matter
10 the State of South Carolina has charged the Defendant, Mr.
11 Stanko, with the crimes of murder and armed robbery. Now, the
12 Defendant has pled not guilty to these charges, and that puts
13 the burden of proof on the State of South Carolina to prove
14 the Defendant guilty beyond a reasonable doubt. The Defendant
15 is always presumed innocent. The State has the burden to
16 present the facts and evidence, and to prove the guilty of the
17 Defendant beyond a reasonable doubt. You understand that?

18 A. Yes sir.

19 THE COURT: All right. Very good. Now, in this
20 particular matter the State has filed notice to seek the death
21 penalty as a sentence in this particular matter, so that means
22 there could be two potential parts to this case. The first
23 part would be presentation of facts and evidence and
24 testimony, and the jury would be faced with the decision to
25 find that evidence which convinces them that it's true, and

1 see whether or not the State has carried it's burden of proof
2 to prove the Defendant guilty of the crimes charged beyond a
3 reasonable doubt. The jury would have to unanimously find Mr.
4 Stanko guilty of the crime of murder, you know, beyond a
5 reasonable doubt, before we would even get to the second
6 phase. You understand that?

7 A. Yes sir.

8 **THE COURT:** All right. Now, in the second phase if the
9 jury did make that unanimous finding then the jury is then
10 faced with the imposition of a penalty, and there's two
11 potential choices for the penalty, and that would either be a
12 death sentence or life in prison without the possibility of
13 parole. And when we talk about life that's what we mean, if
14 we just say life it means life in prison without the
15 possibility of parole. Do you understand that?

16 A. Yes sir.

17 **THE COURT:** Very good. Now, for a jury to impose the
18 death sentence they -- it has to be unanimous, and they also
19 have to find what's called an aggravating circumstance.
20 Aggravate means to make it worse, or to exacerbate the
21 situation, and there are certain circumstances, a list that if
22 they are appropriate the Court would charge the jury, and if
23 they unanimously find one of those then they can consider the
24 death penalty. It doesn't mean they automatically have to
25 impose it. It just means then they have the ability to

1 consider the death sentence, because without finding the
2 aggravating circumstances they can't even consider it.

3 So, there's also what's called mitigating circumstances,
4 and that means to lessen, or reduce, or reduce the punishment,
5 and if those are in the facts and evidence, and the Judge
6 charges those to the jury the jury has to consider those.
7 They must consider those before they would impose a sentence,
8 choosing between one -- one or the other, so that -- because
9 the jury can always impose a life sentence, you know, for
10 those mitigating circumstances, or for no reason whatsoever.
11 That's always an option open to the jury. You have to be able
12 to follow the law that the Court gives to the jury, whether
13 you ultimately agreed with it or disagreed with you, you came
14 in the courtroom and say, I might not really agree with that,
15 but you have to be able to say, I'm going to put that aside
16 and I'm going to follow the law that the Judge gives me, and
17 apply it to the facts and evidence I find to be true in this
18 case. Do you understand that?

19 A. Yes sir.

20 **THE COURT:** Very good. All right, now we asked you to
21 circle a category of juror which best describes you, and you
22 circled (A); is that right?

23 A. Yes sir.

24 **THE COURT:** All right, sir. Now, basically what that
25 indicates is, if somebody is on a jury and the crime of murder

1 has been proven to the jury, and it's a unanimous decision,
2 it's been proven to them beyond a reasonable doubt, and the
3 jury unanimously finds that, and we go into the sentencing
4 phase, there is a predisposition to -- or a likelihood to
5 impose the death penalty and not consider life in prison
6 without the possibility of parole, so when you circle (A)
7 that's basically what you are saying; I've been part of this
8 jury that's unanimously convicted this person of murder, and
9 my feeling is that the appropriate penalty is the death
10 sentence, despite what the Court might tell me the law is, or
11 despite the facts and evidence I might hear in the second
12 phase I'm already predisposed to impose the death sentence,
13 but when you circle (A) that's what you are saying. Is that
14 correct? Is that what you meant to do when you circled (A)?
15 A. I think I didn't understand exactly fully -- exactly --
16 or understand fully ---

17 **THE COURT:** Okay. All right. Well then let me kind of
18 go over the three categories, and then you can tell me which
19 one you think best describes you. Okay.

20 A. Okay. Okay. Sorry about that.

21 **THE COURT:** No. No. As I told you, there's no right
22 or wrong answers. We are just trying to find jurors that are
23 going to be -- that will listen to the Court's instructions,
24 be fair and impartial, and basically, you know, not bring any
25 preconceived ideas into the courtroom. You are going to

1 listen to what's here in the courtroom, and make your decision
2 based upon what's here in the courtroom. Okay.

3 So let me go over the categories and afterward then you
4 can tell me which one you think best describes you now. Okay.
5 So again, (A) is -- and we have to talk about these sort of
6 with assumptions. We are just assuming we are in the second
7 phase here, that the jury has already convicted the Defendant,
8 that he's guilty of murder, unanimous decision, and we are in
9 the second phase. We are just assuming that. So, (A) means,
10 I'm already predisposed; when there is a murder I'm going to
11 give the death penalty no matter what, no matter what I hear
12 in that second phase, no matter what the Judge tells me,
13 that's what I'm predisposed to do. (B) says, in that
14 circumstance I'm predisposed to give a life sentence, no
15 matter what they tell me about in the second phase of the
16 trial, the facts and evidence, no matter what the law is that
17 the Judge gives to me, I'm already predisposed to give a life
18 sentence; I'm not going to consider the possibility, or
19 wouldn't impose a death penalty. That's the (B) type. Okay.
20 A. Okay. Okay.

21 **THE COURT:** The (C) type is, I'm willing, as a juror,
22 to hear all the facts and evidence and testimony in the second
23 phase. I'm willing to listen to the law that the Judge gives
24 to me, discuss the matter with my fellow jurors, and then make
25 up my mind regarding the imposition of a penalty; I am open to

1 both possibilities, under the right set of facts and
2 circumstances I could give a life sentence, under the right
3 set of facts and circumstances I could impose a death
4 sentence, either one of them; my mind is open to it; I have to
5 hear the facts and evidence, hear the law, and then I'll make
6 my decision. Okay. That's the (C) type.

7 So understanding (A), (B) and (C) again as I have
8 described it to you, which one might you pick?

9 A. (C).

10 THE COURT: Okay.

11 A. Right. Hear it out ---

12 THE COURT: You would hear everything out?

13 A. Yes. Yes.

14 THE COURT: All right. Very good. Very good. Okay,
15 let me go over a few questions with you, if I could, and since
16 Friday, since we were here on Friday did you hear about, or
17 read about, or look up anything about this case since Friday?

18 A. No sir, and took the oath, and you said not to do it,
19 so ---

20 THE COURT: All right. Very good, sir. And did you
21 talk to anybody about this case since Friday?

22 A. No.

23 THE COURT: All right. Very good. Now, before Friday,
24 and before, obviously, the Court told everybody, you know, not
25 to hear, read or, you know, have anything to do with this

1 case, had you heard anything about this case, or matter, or
2 heard the name of the Defendant, Mr. Stanko, or anything?

3 A. No sir.

4 THE COURT: Okay. All right. As a general -- kind of
5 a general question, do you know of any kind of personal or
6 religious, or philosophical, political beliefs that you might
7 have that would keep you from being a fair and impartial juror
8 to the State and to the Defense?

9 A. No sir.

10 THE COURT: All right. Very good. I also note that
11 you didn't circle any of the witnesses, so you don't know any
12 of those people that might be witnesses in this case, right?

13 A. No sir.

14 THE COURT: All right. Very good. All right. And
15 understanding that you would need to follow the law that the
16 Court gives to you, could you do that, listen to the Court and
17 follow the law that I give to you?

18 A. Yes sir.

19 THE COURT: All right. Very good. Now, again, this
20 kind of goes back to what we were asking before, but I just
21 want to cover it one more time. If we are in the sentencing
22 phase and, depending upon the right set of facts and
23 circumstances that are presented in that second phase, could
24 you fairly consider and impose a life sentence?

25 A. Yes sir.

1 **THE COURT:** Just depends on the facts and
2 circumstances?

3 A. Yes sir, the facts and ---

4 **THE COURT:** All right. All right. Depending upon the
5 facts and circumstances that are presented in that second
6 phase could you fairly consider and impose a death sentence?

7 A. Yes sir.

8 **THE COURT:** All right. Now, part of that is, if a
9 death sentence is imposed it has to be unanimous, every member
10 of the jury has to agree, and since you are actually imposing
11 a sentence -- that's different than any other criminal case --
12 usually the Court, the Judge will impose a sentence, but in
13 this type of case the jury imposes sentence, so the jury has
14 to take pen in hand on a verdict form and sign their name
15 saying this is my -- I'm part of the unanimous decision, I did
16 vote to impose the death penalty. Could you do that?

17 A. Yes sir.

18 **THE COURT:** All right. Very good. Now, a part of this
19 case is, since it's the type of case that it is, and the
20 jurors would have to be sequestered, basically, to make sure
21 there's not any kind of, you know, contact, or undue influence
22 from the outside during the case, so what that means is, once
23 the jury is actually selected, for approximately seven or nine
24 days you would be sequestered. That means that you would be

1 at a motel with the fellow jurors. You would be taken to your
2 meals. You would come back and forth to the courthouse. You
3 are not going home, basically, not going home at night. All
4 right. Doesn't mean you are not going to have any contact
5 with your family and friends but it's going to be limited, you
6 know. You can't have any, you know, great discussions with
7 them, you know, about what's going on, because they can't have
8 any contact with you about the case, can't have any contact
9 with anybody about the case if you are actually on the jury.
10 That's the purpose of sequestration, is to set the jury aside
11 during the case once they are selected. Understand that's a
12 real inconvenience, that's a real hardship on anybody. I
13 understand that. There is no question about that. But is
14 that such an extreme hardship on you, or is there some kind of
15 health concern for you or your family that you need to bring
16 up to me, if that -- if you are part of the jury and you have
17 to be sequestered?

18 A. Well, you know what I'm saying, like anybody, you know,
19 that got to work.

20 THE COURT: Nobody is going to like it. I understand
21 that.

22 A. I've got to work, you know.

23 THE COURT: Okay.

24 A. I've got to provide for my family, you know.

25 THE COURT: What kind of -- what kind of job do you

1 have?

2 A. Well, I'm a garbage man, driver.

3 THE COURT: Do you work for the County or for a private

4 ---

5 A. For a private -- private company.

6 THE COURT: Private company. Okay. All right. And
7 basically your work -- your hours are Monday through Friday,
8 or do they go on the weekend, or what are your work days?

9 A. Monday through Friday, overtime, so forth.

10 THE COURT: Okay. And what kind of hours do you
11 normally work?

12 A. Like from five to five, five to six, some hours like
13 that.

14 THE COURT: All right. All right. What I'm going to
15 do is, I'm going to let the State and the Defense ask some
16 questions, then I might have a question for you after that.
17 Okay.

18 A. All right.

19 THE COURT: Thank you, sir.

20 All right. Mr. Richardson.

21 BY MR. RICHARDSON:

22 Q. Mr. Stanley, I'm Jimmy Richardson. I don't really have
23 any questions. I think Judge John has covered it. I do want
24 to introduce myself. I'm a prosecutor here in Horry County.
25 This is Fran Humphries. You probably saw Mr. Hembree as you

1 were coming in. He had to step out a minute. But we are
2 going to be representing the State, and you know, the purpose
3 of this whole thing is just to make sure that you are a
4 qualified juror. I think that you have answered that you
5 could listen to both sides and if there -- if Mr. Stanko was
6 found guilty of murder, and there was a qualifying aggravating
7 circumstance, that you could, in fact, look at both life or
8 death, consider either one.

9 A. Yes. Yes sir.

10 MR. RICHARDSON: And that's all we can ask of you. I
11 appreciate your time.

12 Please answer any questions that the Defense might have.

13 A. Okay. Yes sir.

14 THE COURT: All right. Mr. Diggs or Ms. Williams.

15 All right, Ms. Williams.

16 MS. WILLIAMS: Thank you, Your Honor.

17 THE COURT: Yes Ma'am.

18 BY MS. WILLIAMS:

19 MS. WILLIAMS: Good morning, Mr. Stanley. My name is
20 Brana Williams, and I, along with Bill Diggs, we are
21 representing Mr. Stanko in this trial.

22 A. Good morning.

23 MS. WILLIAMS: He is seated at the defense table with
24 us.

25 A. Yes.

1 Q. Let me just go ahead and you tell you this. There are
2 questions the Judge had asked you, some of the things -- the
3 Solicitor did, some things I'll say and I'll repeat, but I
4 apologize for that. We kind of have to ask and ask and re-ask
5 again on things.

6 A. Yes. Yes.

7 Q. Okay. The Judge asked you about any pre-trial
8 knowledge. You said you really did not have any at all.

9 A. No. I never -- this is the first time I ever did this
10 right here.

11 Q. Did this. But are you familiar ---

12 A. Oh, no. No, I'm not familiar -- no, not familiar with
13 the case at all.

14 Q. Okay. That's just -- wanted to double check and make
15 sure about that. Now, just one or two brief things. As the
16 Judge explained to you this case is extremely unique. This
17 actually can be a two-part trial if you will. There is the
18 first case -- the first part where the jury actually decides
19 the verdict, and we are anticipating there will be four
20 possible verdicts in front of the jury to decide, and if you
21 are on there you might get the opportunity to consider whether
22 you can find the Defendant guilty ---

23 A. Uh huh (indicating positive)

24 Q. ---Not guilty ---

25 A. Yes.

1 Q. ---Not guilty by reason of insanity, or guilty but
2 mentally ill. If it comes to it the Judge will explain what
3 those mean to you, what -- you know, what they mean, and then
4 my question is, do you think -- do you have anything in your
5 past, your beliefs, any type of philosophy or anything like
6 that that might stop you from fairly considering all four of
7 those verdicts, and all four of those possible verdicts given
8 to you?

9 A. No.

10 Q. Okay.

11 A. No Ma'am.

12 Q. I have another question. If we get to the second
13 part -- and we have to say that. Obviously I'm assuming that
14 we get there, but all we can do is ask just in case, okay. If
15 we get to the second part, and as the Judge explains -- has
16 explained to you, there really are only two possible verdicts
17 at that point, for the second part, two possible sentences
18 that could be imposed. One is the death sentence, the other
19 is life without the possibility of parole. My question to you
20 is, do you think sitting here today that if -- if you get to
21 the second -- if you are on the jury and you get to that
22 second part, that you really lean one way or the other?

23 A. Well, like he said, listen to all the facts and you
24 know, all the facts and possibilities, and I make my decision
25 then.

1 Q. And then make a decision. That's right?

2 A. Yes.

3 MS. WILLIAMS: Thank you, sir. I appreciate your time.

4 THE COURT: All right, Mr. Stanley, I have just
5 basically one final question then, based on everything that
6 I've discussed with you, and the lawyers have discussed with
7 you, do you believe that you can give to the State of South
8 Carolina and to the Defendant in this case a fair and
9 impartial trial, that is, you can be a fair and impartial
10 juror?

11 A. Yes sir.

12 THE COURT: Thank you, sir. Appreciate it very much.
13 If you would go with the deputy for a few moments,
14 please. Thank you.

15 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
16 JUROR.)

17 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
18 JUROR NUMBER 601 MARKED COURT'S EXHIBIT NUMBER 29.)

19 THE COURT: All right. The State's position.

20 MR. RICHARDSON: Your Honor, he's qualified.

21 THE COURT: All right. Defense?

22 MS. WILLIAMS: Your Honor, we would agree that he is a
23 qualified juror.

24 THE COURT: Very good. I find that the juror is
25 qualified, that he would fairly impartially consider all

1 possibilities, follow the Court's instruction and the law, and
2 would properly perform his duties and follow his oath.

3 All right. The next one we've got is Ryan Rodriguez.

4 **RYAN L. RODRIGUEZ, JUROR NUMBER**

5 539, being first duly sworn, states as follows:

6 **BY THE COURT:**

7 **THE COURT:** All right, Mr. Rodriguez, let me go over a
8 few things with you, and then I'll probably have some
9 questions for you, and then the representatives of the State
10 and Defense might have some questions for you. Okay.

11 A. All right.

12 **THE COURT:** Very good. First I'll start off and tell
13 you, no right or wrong answers here. What I'm looking for you
14 -- from you is some direct, straight-forward, honest answers
15 to the questions that I ask. Okay.

16 A. All right.

17 **THE COURT:** Very good. In this particular matter the
18 State has charged the Defendant, Mr. Stanko, with the crimes
19 of murder and armed robbery. The Defendant has pled not
20 guilty to those and that puts the burden of proof on the State
21 of South Carolina to prove the Defendant guilty beyond a
22 reasonable doubt. The Defendant is presumed innocent. He
23 doesn't have anything to prove to you or show to you. The
24 State must prove it's case, and prove the Defendant guilty
25 beyond a reasonable doubt. You understand that?

1 A. I do.

2 THE COURT: All right. Very good. Now, in this
3 particular matter the State has served notice to seek the
4 death penalty, so that means that there is potentially two
5 parts to the trial. The first part is, if you are a member of
6 jury that the jury would be -- have a decision -- if the State
7 produced sufficient evidence which the jury believes to be
8 true, to convict the Defendant beyond a reasonable doubt of
9 the crimes charged, and if, and only if the jury finds the
10 Defendant guilty of the crime of murder would we even go to
11 the second phase, because if they found him not guilty then
12 obviously you wouldn't go to the second phase, which is the
13 sentencing phase. And the second phase, as I said, the
14 sentencing phase, the jury actually imposes a sentence.
15 That's different from every other situations. In all other
16 cases the Judge would impose the sentence. In this case the
17 jury imposes sentence, and they've got two choices, death
18 penalty, life in prison without the possibility of parole, and
19 so if I might say life, or the lawyers might say life that's
20 what we mean, life in prison without the possibility of
21 parole. You understand that?

22 A. Yes sir.

23 THE COURT: All right. Very good. For the jury to
24 find or impose the death sentence it has to be a unanimous
25 decision of the jury, everybody has to agree, and they also

1 have to find what is called an aggravating circumstance.
 2 Those are some circumstances that would make the situation
 3 worse, or exacerbate the situation, and the Court would give
 4 those to the jury, and if the jury picked one of those then
 5 they could consider the death penalty. It doesn't mean they
 6 automatically impose the death penalty. It just means now
 7 they have the ability to consider the death penalty as the --
 8 one of the two options; you understand that?

9 A. Yes sir.

10 THE COURT: All right. Very good. Now, the jury also
 11 must consider, if the Court charges them, mitigating
 12 circumstances. Mitigate means to lessen or reduce the charge,
 13 reduce the punishment. If the Court charges those to the jury
 14 the jury has to, and must consider those before they would
 15 consider which penalty to impose.

16 Now, in this particular case, as a member of the jury,
 17 it would be your job to basically set aside anything that
 18 somebody might have told you about this case, heard about this
 19 case, you think you know about the case. You set all that
 20 aside, if you've got any predispositions as to -- a belief as
 21 to one punishment is more proper than the other you have to
 22 set all those aside and basically come into this courtroom and
 23 listen to the facts and evidence, listen to the law that the
 24 Court gives, accept the law that the Court gives to you --
 25 whether you agree with it or disagree with it you've got to

1 accept the law that I will give to the jury and then make your
2 decision, setting aside all other things that you thought or
3 believed about it. You have to leave those outside the
4 courthouse. You understand that? You understand that's ---

5 A. I understand the concept, but I ---

6 THE COURT: ---That's what is required. I -- and we
7 will get to that in just one second. But you understand that
8 is what is required of a juror?

9 A. I understand.

10 THE COURT: All right. Very good. All right. Now, in
11 circling the categories you circled category (A), correct?

12 A. Right.

13 THE COURT: All right. And so that we are both on the
14 same page, and clear about what category (A) is, that's a
15 juror that says, okay, I'm part of this jury and we are just
16 assuming that the jury had unanimously voted to find the
17 Defendant guilty of the crime of murder, and so now we are in
18 the second phase. Before we get to the second phase juror (A)
19 is predisposed to give a death sentence because the jury has
20 already voted to convict the defendant of the crime of murder
21 despite whatever might be presented in the second phase,
22 despite whatever law that the Court might give to the jury,
23 you are already predisposed to that penalty, the death
24 penalty. Would that be a correct ---

25 A. Absolutely.

1 **THE COURT:** All right. And that's -- and not asking
2 you to change any beliefs, but is that a correct explanation
3 of your belief, and how you believe?

4 **A.** I mean, I believe if -- if you are convicted of murder
5 then yes, you should be put to death.

6 **THE COURT:** All right. Very good. All right.
7 Further questions from the State at this point in time?

8 **MR. HUMPHRIES:** No sir. Thank you, Your Honor.

9 **THE COURT:** Further questions from the Defense?

10 **MR. DIGGS:** No, Your Honor.

11 **THE COURT:** All right. Mr. Rodriguez, if you would, if
12 you would just go with the deputy for one moment, and we will
13 be right with you. Thank you, sir.

14 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
15 **JUROR.)**

16 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
17 **JUROR NUMBER 539 MARKED COURT'S EXHIBIT NUMBER 30.)**

18 **THE COURT:** All right. Position of the State.

19 **MR. HUMPHRIES:** He's not qualified.

20 **THE COURT:** Defense?

21 **MR. DIGGS:** We agree.

22 **THE COURT:** All right. I find the juror is not
23 qualified. He obviously indicated he could not follow the
24 Court's instructions, would come into the situation with
25 preconceived ideas, and would not be able to follow his

1 jurors's oath.

2 All right. The next one then is Johnny Causey, Jr..

3 JOHNNY L. CAUSEY, JR., JUROR NUMBER
4 99, being first duly sworn, states as follows:

5 BY THE COURT:

6 THE COURT: All right, Mr. Causey, what I'm going to do
7 is, I'm going to go over some things with you. I'm going to
8 ask you some questions, and then maybe the State and Defense
9 will have some questions for you. Okay.

10 A. All right.

11 THE COURT: Aren't any right or wrong answers here.
12 What I'm looking for -- from you is some direct, straight-
13 forward, honest answers to the questions that I ask. Okay.

14 A. Right, sir.

15 THE COURT: Very good. In this particular matter the
16 State has charged the Defendant, Mr. Stanko, with the crimes
17 of murder and armed robbery. Now, the Defendant has pled not
18 guilty to those so that puts the burden of proof on the State
19 of South Carolina to prove the Defendant guilty beyond a
20 reasonable doubt. The Defendant is presumed innocent, doesn't
21 have anything to prove to you, doesn't have anything to show
22 to you. The State has to prove the Defendant guilty beyond a
23 reasonable doubt. Do you understand that?

24 A. Right, sir.

25 THE COURT: Very good. Now, in this particular case

1 the State has served notice to seek the death penalty, so that
2 means there's potentially two parts to this particular case.
3 In the first part the jury would be hearing the facts and
4 evidence, and would make a decision, a unanimous decision as
5 to whether or not the State has proved it's case, beyond a
6 reasonable doubt, to prove the Defendant guilty of the crimes
7 charged, and if, and only if the jury finds the Defendant
8 guilty of the crime of murder would we even proceed to the
9 second phase, so he would have to be found guilty of the
10 murder by a unanimous decision by the jury to get to the
11 second phase.

12 A. Yes sir.

13 THE COURT: Now, in the second phase the jury is
14 actually imposing a sentence. That's different from any other
15 criminal case. All the other criminal cases the Court imposes
16 sentence. In this one the jury is going to impose the
17 sentence, and the two possibilities are, death penalty, life
18 in prison without the possibility of parole, so, when we talk
19 about life, when we just say life, it means life in prison
20 without the possibility of parole. You understand that?

21 A. Yes sir.

22 THE COURT: All right. So, for the jury to consider
23 the death penalty the decision has to be unanimous, and they
24 have to find what is called an aggravating circumstance, means
25 to make worse, or to exacerbate the situation. There are

1 factors that the Court would give to the jury, and if the jury
2 picked one of those and said, yes, that's an aggravating
3 circumstance, then they could consider the death penalty. It
4 doesn't mean they automatically impose it. It just means now
5 they have the ability to consider that as a potential option.
6 You understand that?

7 A. Yes sir.

8 **THE COURT:** The jury can impose life for any reason or
9 no reason whatsoever. The jury has to, before they impose any
10 sentence, has to also consider mitigating circumstances.
11 Mitigate means to lessen or reduce, or reduce the punishment.
12 The Court charges those to the jury, the jury has to listen to
13 those, consider those before they would impose any punishment
14 in this matter. All right.

15 A. Yes sir.

16 **THE COURT:** Now, if you are on the jury and the jury
17 has unanimously decided to impose the death sentence, since
18 they are actually imposing the sentence, the jury has to take
19 pen in hand and sign a form indicating that that, indeed, is
20 their verdict, it is unanimous, and they were part of the jury
21 that imposed the death penalty. You understand that?

22 A. Yes sir.

23 **THE COURT:** All right. Part of your job as a juror in
24 the case is to set aside any kind of preconceived ideas or
25 notions that you might have about the law or any punishment.

1 If you thought you knew something about the case, or heard
2 something about it, or somebody told you about that you've got
3 to set all that aside, leave it outside the courthouse. You
4 can't bring it into the courtroom. You've got to make your
5 decision, if you are part of the jury, based upon what you
6 hear of the facts and evidence in this case, and the law that
7 the Court gives to you, and from no other source. Do you
8 understand that?

9 A. Yes sir.

10 THE COURT: All right. Let me kind of go over some
11 questions with you. Since Friday did you read, listen, look
12 up anything about this case?

13 A. No sir.

14 THE COURT: Did you talk to anybody about this case
15 since Friday?

16 A. No sir.

17 THE COURT: Now, before Friday, before, you know, you
18 had the Court's instructions not to do that, do you remember
19 hearing anything about this case, or anything about Mr.
20 Stanko, or anything about it at all?

21 A. Very vaguely. It was -- I don't even remember when it
22 happened. It was a couple of years ago, I guess, but very
23 vague.

24 THE COURT: Okay. But you remember ---

25 A. I remember the name.

1 **THE COURT:** ---Something happened ---

2 A. Yes sir.

3 **THE COURT:** ---Some time in the past. You remember his
4 name? Did you remember his name at all?

5 A. Yes sir.

6 **THE COURT:** Okay. Remembered his name. Okay. Very
7 good. Now, you understand that's part of what you have to
8 leave outside the courthouse.

9 A. Correct. Yes sir.

10 **THE COURT:** If you are on the jury that can't be part
11 of your decision making process at all. You understand that?

12 A. Yes sir.

13 **THE COURT:** All right. And could you do that?

14 A. Yes sir.

15 **THE COURT:** All right. Now, the law that the Court
16 gives to you, whether ultimately you disagreed with it or
17 disagreed with it, you have to be able, as a member of the
18 jury, to accept the law that the Court will give to you,
19 follow it, apply it to the facts that you would find to be
20 true, but you would be saying in your oath as a juror, that
21 I'm going to follow the law that the Court gives you. Could
22 you do that?

23 A. Yes sir.

24 **THE COURT:** All right. You have circled category (C)
25 on the category juror which best describes you. Is that

1 right?

2 A. Yes sir.

3 THE COURT: And just to review that briefly, that's the
4 type of juror that, if they are on the jury and the jury has
5 unanimously found the Defendant guilty of the crime of murder
6 then -- and we are in the second phase, that the juror would
7 wait until they've heard all the facts and evidence in the
8 second phase, they've heard the law that the Court will give
9 to them, and then with the other members of the jury, would
10 fairly consider a life sentence, will fairly consider a death
11 sentence, and then impose one of the two. Is that correct?

12 A. Yes sir.

13 THE COURT: Very good. As I told you, if the jury --
14 if you are part of the jury and you are part of the jury that
15 unanimously imposes a death sentence, again, you would have to
16 take pen in hand and sign a form indicating that was your
17 verdict. Could you do that?

18 A. Yes sir.

19 THE COURT: All right. Is there any question in your
20 mind or -- let's just -- let me be more direct. If you are on
21 the jury and, based upon the right set of facts and
22 circumstances, could you consider and impose a life sentence,
23 based upon the right set of circumstances being presented to
24 you?

25 A. Yes sir.

1 **THE COURT:** Based upon the right set of facts and
2 circumstances being presented to you, could you impose a death
3 sentence?

4 A. Yes sir.

5 **THE COURT:** All right, sir, now, if you are on this
6 jury, the -- to basically prevent any kind of outside
7 influences, or to make sure that the jurors don't have any
8 improper contact with anybody, the jury would have to be
9 sequestered once they are selected, and the case would
10 probably go somewhere from like maybe seven to nine days.
11 That's the best estimation, that it might go that long, and
12 so, understanding that's a hardship on anybody, no question
13 about that, and we know that, but is that such an extreme
14 hardship on you, or anything regarding your health, your
15 family's health, that would cause you concern about being
16 sequestered?

17 A. No sir.

18 **THE COURT:** All right. Very good. And as far as the
19 witnesses, there were not any witnesses that you circled,
20 correct?

21 A. That's correct. Yes sir.

22 **THE COURT:** Very good.

23 All right. Questions from the State?

24 **MR. HUMPHRIES:** I don't have any questions of Mr.
25 Causey.

1 Thank you, sir.

2 **THE COURT:** All right. Questions from the Defense?

3 **MR. DIGGS:** Yes. May it please the Court?

4 **THE COURT:** Yes sir, Mr. Diggs.

5 **BY MR. DIGGS:**

6 Q. Mr. Causey, how are you this morning?

7 A. Just fine.

8 Q. Good. My name is Bill Diggs, and I'm here with Brana
9 Williams, seated over at counsel table. We represent Mr.
10 Stanko in this case, and of course he is seated here between
11 us at counsel table, and we have just a couple of -- or maybe
12 just a few follow-up questions picking up on some of the
13 issues that the Judge brought up.

14 A. Okay, sir.

15 Q. Let me ask you, when the -- if you were to serve on the
16 jury, and the evidence has been presented by both of the
17 parties in this case, we expect there could be potentially
18 four verdicts that could be reached in this case. One is
19 guilty, two is not guilty, three is not guilty by reason of
20 insanity, or four, guilty but mentally ill. Now, do you have
21 a bias of which you are aware, do you have any bias that would
22 prevent you from considering the evidence in the case,
23 receiving the instructions of -- from the Court regarding the
24 law, and reaching either of those four verdict according to
25 your view of the evidence?

1 A. No sir, not -- I mean, as long as I hear the evidence
2 first, yes sir.

3 Q. Okay. So you wouldn't -- you wouldn't have any bias
4 against any of those possible verdicts, depending on the
5 evidence in the case?

6 A. No sir.

7 Q. Okay. Now, can you tell me with any detail what it was
8 that you knew about Mr. Stanko? Can you remember anything at
9 all about the facts in any way?

10 A. No sir. Like I told the Judge, I really don't. It's -
11 - I don't even -- I guess it was two or three years ago and I
12 don't remember the details of it. I really don't.

13 Q. All right. At that time did you form any kind of
14 opinion about the case, or did you pretty much just dismiss
15 it?

16 A. No. I pretty much just dismissed it. I read the paper
17 every day, and I read what's in there and then the next day
18 goes on.

19 Q. Okay. And if we get to the sentencing phase,
20 understand that to consider a verdict in the case then there
21 would have to be a finding of guilt, follow me?

22 A. That's correct.

23 Q. Do you think that you would be predisposed toward
24 either the death penalty or to life imprisonment once you get
25 to that sentencing stage?

1 A. No. I really can't comment at this time without
2 hearing the facts.

3 Q. Okay. So you don't believe you would be predisposed to
4 either verdict? It would depend on the evidence ---

5 A. That's correct, sir.

6 Q. ---Regarding the sentence?

7 A. Yes sir.

8 Q. All right. Would you have any hesitation, or would it
9 cause you pause to sentence an individual to life imprisonment
10 that you had just found guilty of murder?

11 A. Would I impose on doing that?

12 Q. Would you have -- would it cause you pause to impose
13 life imprisonment on someone you had just found guilty of
14 murder?

15 A. Versus what? I mean ---

16 Q. Well, versus the death penalty.

17 A. I don't quite understand the question. I'm sorry.

18 Q. All right. Understand ---

19 A. I want to make sure I give you the correct answer.

20 Q. Yes sir. That's what we want. You've just found a
21 defendant guilty ---

22 A. Correct.

23 Q. ---Of murder, let's say, there's no doubt in your mind
24 that that act was committed and the defendant was guilty,
25 could you still, under those circumstances, impose a life

1 sentence on that defendant?

2 A. I could, yes sir.

3 THE COURT: Okay. What if even there were an
4 aggravating circumstance in that situation, could you still
5 sentence the defendant to life?

6 A. That I couldn't answer, I mean, it depends.

7 Q. Okay. Understand that in order to be eligible for the
8 death sentence at all a defendant has to be guilty of murder
9 that's accompanied by an aggravating circumstance.

10 A. Yes sir.

11 Q. Okay. Now, let's suppose you are in a situation where
12 the State has proved to you, to your satisfaction, beyond a
13 reasonable doubt, guilt of murder, and an aggravating
14 circumstance, could you -- having found both of those things,
15 in agreement with the State's position, still impose a life
16 sentence on that defendant?

17 A. I couldn't answer that at this time, sir.

18 Q. All right. I want you to try real hard and let me know
19 -- what if the Judge told you that, even in those situations
20 you would have to not only be able to consider life
21 imprisonment but actually impose it if you felt that was
22 warranted by the evidence of the case?

23 A. Yes sir, I could do that.

24 Q. Okay. All right.

25 MR. DIGGS: That's all I have. Thank you very much.

1 **THE COURT:** All right. Thank you.

2 All right, Mr. Causey, let me just ask you one question,
3 based upon what I have discussed with you and the attorneys
4 have discussed with you. Can you give to the State of South
5 Carolina and to the Defendant, if you are member of the jury
6 in this case, a fair and impartial trial, can you be a fair
7 and impartial juror in this case?

8 A. Yes sir.

9 **THE COURT:** Very good. Thank you very much, sir. If
10 you would go with the deputy.

11 **MR. DIGGS:** Your Honor, there is one question that
12 we've -- that I overlooked, and that has to do with his dad.

13 **THE COURT:** Yes sir.

14 **MR. DIGGS:** Of course -- yes. His ---

15 Your dad works over at North Myrtle Beach, or did for
16 a ---

17 A. No. He's passed away about eight years ago.

18 **MR. DIGGS:** Okay. I'm sorry. I wasn't aware of that.
19 But I was just looking at your sheet ---

20 A. Yes sir.

21 **MR. DIGGS:** ---You know, the questionnaire, that he had
22 been an employee there in the Police Department for forty-one
23 years.

24 A. That's correct.

25 **MR. DIGGS:** Okay. And that -- would that fact affect

1 your ability to be fair and impartial in the case?

2 A. No sir.

3 MR. DIGGS: Okay. I wanted to clear that up, and I
4 apologize about the -- I was ---

5 A. No. That's okay.

6 MR. DIGGS: Thank you very much.

7 THE COURT: Not a problem.

8 Go ahead, sir. If you would just go with the deputy.
9 Thank you very much.

10 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
11 JUROR.)

12 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
13 JUROR NUMBER 99 MARKED COURT'S EXHIBIT NUMBER 31.)

14 THE COURT: All right, the State's position.

15 MR. HUMPHRIES: He's qualified.

16 THE COURT: Defense.

17 MR. DIGGS: Your Honor, I would argue that he's not
18 qualified because of the hesitation that he had to impose a
19 life sentence in the face of a murder conviction, and one that
20 was accompanied by an aggravating circumstance. I understand
21 what the juror said, that when I put -- rephrased the question
22 and put it to him in a different way, but I would -- I would
23 submit, just based on his demeanor from my perspective, that
24 he would be predisposed to impose death in that situation, and
25 actually every case that would be accompanied by an

1 aggravating circumstance, which is what you are going to have
2 to have in order to be eligible for a death sentence in the
3 first place. So I would ask you to find him not qualified.

4 **THE COURT:** As to the juror's demeanor or response to
5 the questions, I -- what the Court observed was that he was
6 confused by the question. I don't think it was a hesitation.
7 I think he was confused by the question, did not understand
8 the question, and when it became clear to him what you were
9 asking he gave a clear and straight-forward answer to the
10 question.

11 I find the juror to be qualified. I find that he can be
12 fair and impartial. I find that he will follow the Court's
13 instructions, he will honor his oath. There is nothing that
14 would indicate that -- that would impair his ability in any
15 way to be a fair and impartial juror in this case, and I find
16 him to be qualified.

17 **MR. HUMPHRIES:** Your Honor, there's -- can we take up
18 one matter briefly before we bring the next juror in?

19 **THE COURT:** Sure.

20 **MR. HUMPHRIES:** And this is just for -- you know, it
21 doesn't matter as to Mr. Langway at this time, but we've
22 communicated directly with Mr. Brittain. Mr. Brittain was
23 appointed by Judge Jefferson, and for a period of
24 approximately ten days was the appointed counsel for the
25 Defendant. He was later excused because of a conflict due to

1 prior representation of the victim, Henry Turner.

2 THE COURT: All right. Very good.

3 The next one is Gerald Ellis.

4 GERALD A. ELLIS, JUROR NUMBER 181,

5 being first duly sworn, states as follows:

6 BY THE COURT:

7 THE COURT: All right, Mr. Ellis, what I'm going to do
8 is, I'm going to go over some things with you. I'm going to
9 ask you some questions. Thereafter maybe the State and the
10 Defense might have some questions for you. Okay.

11 A. Yes sir.

12 THE COURT: What I'm going to be -- what I want from
13 you basically is just direct, straight-forward, honest answers
14 to my questions. Not any right or wrong answers here. I just
15 need you to basically directly answer the questions as best
16 you can. Okay.

17 A. Yes sir.

18 THE COURT: Very good. Now in this particular case the
19 State of South Carolina has charged the Defendant, Mr. Stanko,
20 with the crimes of murder and armed robbery. The Defendant
21 has pled not guilty to those matters, and therefore that puts
22 the burden of proof on the State of South Carolina to prove
23 the Defendant guilty beyond a reasonable doubt. The Defendant
24 is presumed innocent, doesn't have anything to prove to you or
25 show to you. The State has to prove the Defendant guilty

1 beyond a reasonable doubt. You understand that?

2 A. Yes sir.

3 THE COURT: All right, sir. Now, in this particular
4 case the State has served a notice to seek the death penalty,
5 so that means this case could potentially have two parts. The
6 first part would be that the jury would be listening to the
7 facts and evidence presented in the case, and would make a
8 unanimous decision as to whether or not the facts and evidence
9 they find to be true, that the State -- whether or not the
10 State has carried it's burden of proof to find the Defendant
11 guilty beyond a reasonable doubt. So, would -- the jury
12 would, to even get into the second phase, would have had to
13 have considered all the facts and the evidence, and reached a
14 unanimous conclusion that the Defendant is guilty of the crime
15 of murder beyond a reasonable doubt. You understand that?

16 A. Yes sir.

17 THE COURT: In the second phase the jury would be
18 considering, and actually imposing a sentence. That's
19 different from every other case. In all other cases the Court
20 imposes the sentence. In this case the jury actually decides
21 the sentence, and there's two choices, the death penalty, life
22 in prison without the possibility of parole. So, if I say
23 life, or the lawyers say life, that's what it means, life in
24 prison without the possibility of parole; you understand that?

25 A. Yes sir.

1 **THE COURT:** All right. For a jury to impose the death
2 penalty the decision has to be unanimous, and the jury has to
3 find what is called an aggravating circumstance. Aggravate
4 means to make worse, or exacerbate the situation, and if the
5 jury finds an aggravating circumstance -- and the Court would
6 give a list, or point those out to the jury that they could
7 consider, and if the jury found one of those, and picked one
8 of those, then they could consider the death penalty. It
9 doesn't mean they would automatically impose it. It just
10 means then they have the ability to consider that as a
11 sentence option.

12 The jury also has to consider, before they impose any
13 sentence in this matter, any mitigating circumstances.
14 Mitigate means to lessen, or reduce, or reduce the charge, and
15 the jury would have to listen to those mitigating
16 circumstances before they could impose any penalty in this
17 particular matter, because the jury obviously can impose life,
18 and can impose life for no reason whatsoever. You understand
19 that?

20 A. Yes sir.

21 **THE COURT:** If you are part of the jury, and the jury
22 unanimously finds that they would impose the death sentence in
23 this particular matter, the jury would have to take -- each
24 member of the jury would have to take pen in hand and sign a
25 form, verdict form, indicating that that, indeed, was their

1 unanimous verdict, and they did choose to impose the death
2 penalty. You understand that?

3 A. Yes

4 THE COURT: If you are on a jury one of your jobs as a
5 juror is to come into this courtroom and set aside any ideas,
6 predispositions that you might have about the law, or possible
7 sentence. If you knew anything about the case, or heard
8 anything about the case, or think you know anything about it
9 you have to disregard that, basically you leave it outside the
10 courthouse. You don't bring it into the courtroom. Your job
11 as a juror is to listen to all the facts and evidence
12 presented in this case, listen to the law that the Court gives
13 to you, and then make your decision based upon the facts and
14 evidence presented in this case, and the law that the Court
15 gives to you. Do you understand that?

16 A. Yes sir.

17 THE COURT: Very good. Let me go over some questions
18 with you. After we left here on Friday did you read, listen,
19 watch, look up anything about this case?

20 A. No sir.

21 THE COURT: Did you talk to anybody about this case
22 after we left on Friday?

23 A. No sir.

24 THE COURT: Now, before Friday, and before I told
25 everybody not to do those kind of things, had you heard

1 anything about this case, remember anything about it, heard
2 the Defendant's name, anything like that?

3 A. Yes sir.

4 THE COURT: Okay. As best you can, tell me what you
5 heard or remember, knew about it.

6 A. Just what I read in the newspaper.

7 THE COURT: And what was that, as best you can recall?

8 A. That the Defendant was locked up for murdering people.

9 THE COURT: Okay. Is that basically what you remember
10 about it?

11 A. Yes sir.

12 THE COURT: All right. Now, you understand that's part
13 of what you have to leave outside of the courthouse. You
14 can't let that affect your decision in any way. When you are
15 here in the courtroom and you are part of the jury that's not
16 part of your decision making process at all. It doesn't come
17 up. It's not talked about. It's not thought about. You make
18 your decision based upon what you hear in the courtroom and
19 the law that the Court gives to you. Could you do that?

20 A. No sir.

21 THE COURT: You can't do that?

22 A. No sir.

23 THE COURT: All right, sir. And why would that be?

24 A. I'm a retired police officer. Get out in the street
25 for a lot of years, see what's going on, see how lawyers and

1 everything twist things around, and I just couldn't do it,
2 sir.

3 THE COURT: All right, sir. You would -- and again, I
4 appreciate your being straight-forward and honest, and the
5 fact that you had this information before, it basically would
6 be impossible for you to forget it if you are sitting on a
7 jury in this case. Is that what you are telling me?

8 A. Correct, Your Honor.

9 THE COURT: All right. Very good.
10 Further questions from the State?

11 MR. HEMBREE: None, Your Honor.

12 THE COURT: Further questions from the Defense?

13 MR. DIGGS: No, Your Honor.

14 THE COURT: Very good, sir. If you would go with the
15 deputy for a few moments, please. Thank you very much, sir.

16 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
17 JUROR.)

18 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
19 JUROR NUMBER 181 MARKED COURT'S EXHIBIT NUMBER 32.)

20 THE COURT: Just so the record is clear, the juror did
21 circle category (C).

22 What's the State's position?

23 MR. HEMBREE: The juror is not qualified, Your Honor.

24 THE COURT: Defense.

25 MR. DIGGS: We agree.

1 **THE COURT:** I find and agree that the juror is not
2 qualified in this particular matter, that he would not have
3 the ability to follow his oath and correctly follow the law,
4 and would be predisposed to render a decision.

5 All right. The next one is Jennifer Johnson.

6 **JENNIFER D. JOHNSON, JUROR NUMBER**
7 **330**, being first duly sworn, states as follows:

8 **BY THE COURT:**

9 **THE COURT:** All right, Ms. Johnson, what I'm going to
10 do is, I'm going to talk to you about some things. I'm going
11 to be asking you some questions, and after I'm done maybe the
12 State and the Defense may have some questions for you. Okay.

13 A. Okay.

14 **THE COURT:** What I'm looking for is just direct,
15 straight-forward and honest answers to the questions. There
16 are not any right or wrong answers here. We need to find a
17 jury that is fair and impartial, and through the honest
18 answers that's how we find a proper jury for this case. Okay.

19 A. Okay.

20 **THE COURT:** All right, in this particular matter the
21 State of South Carolina has charged the Defendant, Mr. Stanko,
22 with the crimes of murder and armed robbery. Now, the
23 Defendant has pled not guilty to those crimes so that puts the
24 burden of proof on the State of South Carolina to prove the
25 Defendant guilty beyond a reasonable doubt. The Defendant is

1 presumed innocent, doesn't have anything to prove to you, to
2 show to you. The State has to prove the Defendant guilty
3 beyond a reasonable doubt of the crimes charged. You
4 understand that?

5 A. I do.

6 **THE COURT:** All right. Now, the State has served
7 notice of an intention to seek the death penalty in this
8 particular case, so that means that this case could
9 potentially have two parts. The first part would be, if you
10 are a member of the jury, you listen to the facts and evidence
11 in this case, and would be deciding, based on the facts and
12 evidence you found to be true, whether or not the State
13 carries it's burden to prove the Defendant guilty of the
14 crimes charged beyond a reasonable doubt. If the jury found
15 unanimously -- and everybody would have to find it unanimously
16 -- found the Defendant guilty of the crime of murder, beyond a
17 reasonable doubt, then and only then would we get into the
18 second phase, because if the jury found him not guilty then
19 obviously would couldn't get to the second phase. The second
20 phase is a sentencing phase, and this case is unique in that
21 the jury actually imposes a sentence. Usually the Court
22 imposes a sentence, but in this case the jury would impose the
23 sentence, and there's two possibilities. One is the death
24 penalty and the other is life in prison without the
25 possibility of parole, and when you say life, or the attorneys

1 might say life, that's what we mean, life in prison without
2 the possibility of parole.

3 Now, for the jury to impose a death sentence it has to
4 be unanimous, everybody has to agree, and the jury has to find
5 what is called an aggravating circumstance. Aggravate means
6 to make it worse, or to exacerbate the situation, and if the
7 Court would charge to the jury certain aggravating
8 circumstance, and the jury picked one and said that that --
9 everybody agreed, unanimously agreed to that aggravating
10 circumstance, then the jury could consider the death penalty.
11 It doesn't mean you automatically impose it. It just means
12 then they have that as a possible sentence option, one of the
13 two.

14 The jury also must consider any mitigating circumstances
15 that the Court would charge to them. Again, mitigate means to
16 lessen, or reduce, reduce the -- reduce the punishment, and
17 the jury would have to consider those before they decided to
18 impose a sentence in this matter because the jury could impose
19 life, you know, for no reason whatsoever. You understand
20 that?

21 A. I do.

22 THE COURT: All right. Now, if you are a member of the
23 jury, and the jury has unanimously decided to impose a death
24 penalty in this case, since the jury is actually imposes the
25 sentence the jury -- jurors, members of the jury, has to take

1 pen in hand, and there's a verdict form, or a form that they
2 have to sign their name to saying, yes,, that, indeed, is the
3 unanimous verdict and I did vote to impose this penalty in
4 this case. You understand that?

5 A. I do.

6 THE COURT: All right. Now, part of your job as a
7 juror is to come into this courtroom and to set aside any
8 predispositions that you might have, any thoughts you might
9 have about what kind of case, the penalty that might be
10 imposed, if you thought you knew anything about this case, or
11 heard about this case you set all that aside and you leave
12 that outside the courthouse; you don't bring it in the
13 courtroom. You make your decision in the courtroom, as a
14 member of the jury, based upon what you hear, the facts and
15 evidence that you hear, and the law that the Court gives to
16 the jury. That would be a job as a juror that you have if you
17 are a member of that jury. Do you understand that?

18 A. I do.

19 THE COURT: All right. Now, let me go over some of the
20 -- some of these questions with you. Since we left here on
21 Friday did you read, watch, listen to, look up anything about
22 this case?

23 A. No.

24 THE COURT: Did you talk to anybody about this case?

25 A. No, I did not.

1 **THE COURT:** Now, before Friday, before you knew not to
2 do that, do you remember hearing anything about this case, or
3 somebody talking about it, or hearing the Defendant's name, or
4 anything like that?

5 A. I do.

6 **THE COURT:** All right. What do you remember?

7 A. I actually remember the -- when it took place.

8 **THE COURT:** Okay.

9 A. And ---

10 **THE COURT:** What is it that you can remember about
11 that?

12 A. I remember the Defendant being accused of taking the
13 lives of two individuals, and I believe he has already been
14 tried for one of those, and that she was a librarian, I
15 believe. I don't recall all of the circumstances, of course,
16 but I do know the names and ---

17 **THE COURT:** Okay. All right. Now, you understand
18 that's part of what you have to leave outside of the
19 courthouse.

20 A. I do.

21 **THE COURT:** You can't let that affect your decision,
22 impact your decision in any way. If you are a member of this
23 jury you have to make your decision based upon what you hear
24 in this courtroom and from no other source. So knowing that
25 to be your job as a juror can you do that?

1 A. I think I can.

2 THE COURT: Okay. And I appreciate that, and I know
3 it's a hard question, but this really is kind of like a bright
4 line test. You have to have that ability -- and it's fine if
5 you don't. There is no issue or problem with that. But if --
6 to be part of the jury, if you are going to be a juror you
7 have to be able to, and the Court has to know, as a certainty,
8 that you can set all that aside, that you won't let that
9 affect you in any way, when it comes time to make a decision
10 that won't be part of your thought process, you won't let that
11 impact you. Okay.

12 A. Okay.

13 THE COURT: And so again, I need to ask you, do you
14 think you can do that, or no, I don't really think I can do
15 that?

16 A. I think I could, yes.

17 THE COURT: All right. Now, I need to -- but -- and I
18 said think. I shouldn't have said think.

19 A. Okay.

20 THE COURT: I really need to know, can you do that or
21 no, I can't do that?

22 A. Yes, I can.

23 THE COURT: All right. Now, I don't want to be talking
24 you into anything. Is that your decision?

25 A. Yes.

1 **THE COURT:** No question about that?

2 A. No.

3 **THE COURT:** Are you telling me that anything that you
4 heard, or read, or think you know about what happened in the
5 past -- because that might be true or not true -- you are not
6 going to let that affect you in any way when you come in this
7 courtroom as a juror?

8 A. No, I will not.

9 **THE COURT:** All right. Will you base your decisions
10 solely on the facts and evidence presented in this case, and
11 from no other source?

12 A. Yes sir.

13 **THE COURT:** Will you follow the law that the Court will
14 give you and, even if you agreed or disagreed with it, you
15 would follow the law that the Court would give you in this
16 matter?

17 A. Yes, I would.

18 **THE COURT:** All right. When you heard about this case
19 in the past did you form any kind of opinion at that point in
20 time? Do you remember forming an opinion?

21 A. Yes, I do.

22 **THE COURT:** Okay. What was that?

23 A. I was leaning toward that he was guilty of it.

24 **THE COURT:** Okay. Again, -- and again, there's not any
25 right or wrong answers -- can you completely and totally set

1 that aside?

2 A. Yes sir.

3 **THE COURT:** And you are basically coming into this --
4 what I'm asking you is, you are coming into this courtroom
5 like a blank slate, you are not going to let that affect you
6 in any way, can you do that?

7 A. Yes sir.

8 **THE COURT:** All right. In general, do you think you
9 have any kind of personal, political, religious, philosophical
10 belief that you believe would prevent you from being a fair
11 and impartial juror?

12 A. No.

13 **THE COURT:** Okay. Now, in this case, regarding the
14 potential witnesses in this matter -- and you didn't circle
15 any of the witnesses, right?

16 A. No.

17 **THE COURT:** All right. And as far as the juror
18 category you circled category (C), correct?

19 A. That's correct.

20 **THE COURT:** And to go over that again is that, if you
21 are on a jury and -- we have to talk in assumptions, I mean,
22 none of this has happened, or may not, but if you are on a
23 jury and the jury finds the Defendant guilty of the crime of
24 murder by a unanimous decision, they believe that the State
25 has proved that to them beyond a reasonable doubt, and we are

1 in the second phase, the sentencing phase, that -- you are
2 saying that I'll listen to all the facts and evidence in this
3 case, I'll set anything else aside, I'm going to listen to
4 just the facts and evidence in this case, and I'm going to be
5 open to either option, life in prison without the possibility
6 of parole, the death sentence, I'll listen to the law that the
7 Court will give to me as a juror, and then based upon my
8 discussions with the other jurors I'll then make my decision
9 at that point in time.

10 A. That's correct.

11 THE COURT: All right. Very good. So, again, go over
12 it one more time. If we are in the sentencing phase, based
13 upon the right set of facts and circumstances, can you fairly
14 consider and impose a life sentence based upon the right set
15 of facts and circumstances?

16 A. Yes sir.

17 THE COURT: Based upon the right set of facts and
18 circumstances, can you fairly consider and impose, based upon
19 the right set of facts and circumstances, a death penalty?

20 A. Yes.

21 THE COURT: If you are a member of the jury and y'all
22 unanimously vote to impose a death sentence, can you then take
23 pen in hand and sign your name to a form indicating that,
24 indeed, is my unanimous verdict in this particular matter?

25 A. Yes, I can.

1 **THE COURT:** Thank you, Ma'am. All right. What I'm
2 going to do now is let the State and Defense ask a few
3 questions. Okay. Thank you, Ma'am.

4 A. Uh huh (*indicating positive*)

5 **BY MR. HEMBREE:**

6 **MR. HEMBREE:** Good morning, Ms. Johnson.

7 A. Good morning.

8 **MR. HEMBREE:** I'm Greg Hembree. I'm the Solicitor for
9 the Fifteenth Circuit, and I, along with Deputy Solicitor Fran
10 Humphries, and Senior Assistant Solicitor Jimmy Richardson,
11 sitting at the table with me, we will be presenting the
12 evidence on behalf of the State.

13 A. Yes.

14 Q. I have a couple of questions. Some of it is going to
15 be a bit repetitive. First I want to talk to you -- maybe set
16 your mind at ease about one part of this process that we are
17 engaged in right now. We are qualifying jurors for the panel,
18 so just because you are qualified doesn't mean necessarily
19 that you will be selected for this jury, but we are going to
20 go through a process -- we sort of start with this many, and
21 we kind of get to a smaller group, and then from that smaller
22 qualified group we will actually select the jury, so you may
23 sit, you may not, if you are qualified.

24 A. Okay.

25 Q. The second thing is -- and I don't recall -- Judge John

1 may have asked you this. If I'm repeating myself I'm sorry.
2 One of the issues that we will be dealing with in this trial,
3 if you are selected, is sequestration, and sequestration is a
4 process where a jury is actually separated. They stay in a
5 hotel room, they have their meals provided for them, and the
6 expenses are, of course, taken care of by the County. We
7 expect the trial of this case -- you wouldn't be sequestered
8 until we actually start the trial, but when we start the trial
9 the trial will take about seven to eight days, something like
10 that. I know -- I don't have to ask you if that's a hardship,
11 because that's a hardship, and it's a lot to ask of the
12 citizens, in doing your public duty, to give us that much,
13 however, my question to you is this. Would that pose any risk
14 to your health, to your safety, or to the health or safety of
15 a close family member if you were to be called for this jury
16 and sequestered for that seven day period?

17 A. No, it wouldn't.

18 Q. Thank you. You are in the legal field?

19 A. Yes, I am.

20 Q. And you are a legal assistant with the Anderson Law
21 Firm. And your responsibilities there include -- what do you
22 typically do?

23 A. Draft legal documents, review materials, get things
24 ready for trial.

25 Q. And what type of -- what type of law does your firm

1 practice? What type of matters do you work on?

2 A. It's criminal and civil.

3 Q. Criminal and civil. I wouldn't -- I don't know that
4 we've had a death penalty case -- I don't think y'all have
5 been involved in a death penalty case ---

6 A. No.

7 Q. ---Our office or anybody else?

8 A. No.

9 Q. You have some pretty -- I would gather that you have a
10 pretty good sense of the legal concepts -- from just being
11 around the office and working on these kind of matters you
12 have a pretty good sense of some of the legal concepts that
13 Judge John has discussed with you, and things you might hear
14 in this trial.

15 A. I do.

16 Q. You have a full understanding about the exposure to the
17 media that you -- that you have had in this case. If you are
18 unable -- if you are unable to absolutely, you know, set that
19 aside, that that's okay. We just need to know because if
20 that's going to influence you in some way then you are really
21 not qualified to sit on the jury.

22 A. Uh huh (**indicating positive**)

23 Q. And you can say with certainty as you sit here today,
24 having given it some consideration, or judged -- you can say
25 with certainty that you can set that information aside, or

1 that -- what you may or may -- what you may have heard in the
2 media or other sources, you can set that aside and confine
3 your decisions solely based on the evidence presented in this
4 courtroom?

5 A. Yes, I can.

6 Q. As far as -- you have indicated there is no -- nothing
7 philosophically that you have that would prevent you from
8 sitting on this case. Specifically, I want to ask you about
9 the death penalty, and I know that's probably a familiar
10 question. I don't know how much time you have had to consider
11 that, but certainly you have never been asked to be on a death
12 penalty jury before.

13 A. No, I have not.

14 Q. So you have certainly never considered it in that
15 context. What are your thoughts about that? Just go ahead
16 and tell me what your feeling is about the death penalty.

17 A. I am not opposed to it. I take it very much into
18 consideration because it is someone's life that you are
19 putting on the line, but I am not opposed to it in certain
20 situations.

21 Q. So, depending on the facts and circumstances you could
22 impose the death penalty, other facts and circumstances you
23 could impose a life sentence ---

24 A. Yes.

25 Q. ---Which is what you told Judge John and indicated by

1 being a type (C) juror.

2 A. Yes.

3 MR. HEMBREE: Okay. That's all we can ask of you.

4 Thank you for your willingness to serve, and I
5 appreciate your time today, and I would ask you to answer any
6 questions Defense counsel might have for you.

7 THE COURT: All right, Mr. Diggs.

8 MR. DIGGS: May it please the Court.

9 THE COURT: Yes sir.

10 BY MR. DIGGS:

11 MR. DIGGS: Ms. Johnson, how are you this -- yes, it's
12 still morning -- this morning.

13 A. I'm fine. Thank you.

14 MR. DIGGS: Good. My name is Bill Diggs, and this is
15 Brana Williams seated over here, and we represent Mr. Stanko
16 who is seated here between us at counsel table.

17 And how long did you work in the Clerk's Office?

18 A. I was in the Clerk's Office in Rowan County for two
19 years.

20 Q. For how long?

21 A. Two years.

22 Q. So you really got a good background of the legal
23 system?

24 A. I believe so.

25 Q. And it's good. How does our Clerk stack up?

1 A. Well, this ---

2 Q. You don't have to answer. Listen, tell me, if you
3 would, please Ma'am, exactly, the best that you can recall,
4 what it was you heard about Mr. Stanko?

5 A. Just from the several years ago, the news accounts of
6 the two murders, and of course the America's Most Wanted where
7 he had run, supposedly.

8 Q. Okay. And I believe you mentioned that you knew he had
9 been tried?

10 A. Yes.

11 Q. You remember the outcome of that trial?

12 A. He was found guilty.

13 Q. All right. Do you know if he was sentenced?

14 A. He was.

15 Q. And do you know what that sentence was?

16 A. I believe it was death.

17 Q. All right. And let me ask you this -- and I'm not
18 saying -- I'm not confirming anything that you said, but if
19 you were to sit on this jury, knowing that this is a capital
20 case, the State is seeking the death penalty in this case
21 against Mr. Stanko. Would your knowledge, prior knowledge of
22 the case, undermine your sense of responsibility for making
23 a -- an independent determination in this case with regard to
24 the proper sentence?

25 A. No.

1 Q. All right. You understand my question?

2 A. I do.

3 Q. Because any time a juror is asked to make a decision
4 about life or -- life imprisonment or a death penalty it's an
5 important and serious decision. Your opinion is that any
6 information that you have about Mr. Stanko would not undermine
7 the serious nature of your -- of the decision that we are
8 calling upon you to make in this case?

9 A. That's correct.

10 Q. All right. Let me ask you this. Do you think that
11 there is a prevailing view in the community as to whether or
12 not Mr. Stanko is guilty?

13 A. I don't know. I'm not -- I'm not familiar enough with,
14 you know, other people's perspectives on it.

15 Q. All right. If you were to sit on this jury and come
16 back with a verdict of not guilty ---

17 A. Uh huh (**indicating positive**)

18 Q. ---Do you feel like you would have to go out into the
19 community and either apologize for your verdict, or explain
20 your verdict?

21 A. No, I don't.

22 Q. All right. And do you feel like you are obligated to
23 vote guilty because of some duty that you owe to the
24 community?

25 A. No, I don't.

1 Q. Now, in this case there are going to be, we
2 anticipate -- in the first phase of the trial, with respect to
3 the issue of guilt or innocence we anticipate there might be
4 about four verdicts that you could reach, independent of the
5 other, each one in it's own right. That would be guilty, not
6 guilty, not guilty by reason of insanity, or guilty but
7 mentally ill. Thinking about those potential verdicts that
8 might arise in this case, are you predisposed in any way, to
9 your knowledge, so as to not be able to consider each of those
10 verdicts?

11 A. I have to be honest, of course, and say yes. I have --
12 I have some issue with the insanity plea.

13 Q. And can you explain that for us?

14 A. I think that in today's society it is used entirely too
15 much. There are people, I have no doubt, that are -- who have
16 mental health issues, but I think that entirely too many
17 people use it just to get out of the situations.

18 Q. Okay. Now, what would it -- can you give us an
19 overview, perhaps, of what it would take in your mind ---

20 MR. HEMBREE: Object, Your Honor. He's taking ---

21 THE COURT: Well, I haven't heard the question. I
22 don't ---

23 MR. HEMBREE: Well, he's staking out the juror -- what
24 it would take ---

25 All right. I'll wait for the question.

1 **THE COURT:** You probably need to rephrase your
2 question.

3 Q. Is that a view that's probably -- that's entrenched, or
4 would it take some effort to alter your view on that part?

5 A. He would have to prove it to me that he -- that someone
6 was, without a doubt, insane, that they did not know what they
7 were doing. I just -- it's hard for me to get past that.

8 Q. Okay. I understand. Would you be able to follow the
9 law that the Judge instructed with regard to insanity?

10 A. Yes, I would.

11 Q. Even if it was contrary to what you felt, or what your
12 personal beliefs were about insanity?

13 A. Yes, I would.

14 Q. Any doubt, any hesitation in your mind about that?

15 A. Not if I'm following the instructions that I'm given.
16 I can ---

17 Q. Because, you know, the Judge is going to say, now Ms.
18 Johnson, you don't have to worry about what the law is because
19 I'm going to tell you, and I'm going to tell you insanity
20 means this, and if you find this to be the case you have a
21 duty to return that verdict. Now, do you believe that you
22 could do that?

23 A. Yes, I do.

24 Q. Even though you are telling me now what you are telling
25 me, you could follow the law and uphold that -- and fulfil

1 that duty if it's supported by the evidence?

2 A. Yes, if it's supported by the evidence.

3 MR. DIGGS: Okay. And that's only fair.

4 Q. Are you sure?

5 A. Yes.

6 Q. Okay. Let me ask you this. Now we might get to the
7 sentencing phase. I have to ask you about this now. It
8 doesn't mean that I think that Mr. Stanko is guilty, but if we
9 don't ask you now we will never have an opportunity.

10 A. Uh huh (indicating positive)

11 Q. When we get into the sentencing phase you know in order
12 to be there a jury, with you on it if you are a juror, will
13 have to have already found guilty, correct?

14 A. Correct.

15 Q. And in order to be a death penalty case, as the Judge
16 has explained to you, there's got to be a guilty verdict as to
17 murder, and an aggravating circumstance. Okay. Remember when
18 the Judge was telling you that?

19 A. Yes.

20 Q. Now, if you are on the jury and you've just found guilt
21 as to murder, and then in that sentencing phase you say, well,
22 you know what, I think there's also an aggravating
23 circumstance here, could you impose a life sentence at that
24 point if you felt it was supported by the evidence?

25 A. I could.

1 Q. You understand what I'm saying?

2 A. Yes, I do.

3 Q. All right. And could you impose a life sentence even
4 though you were asked to do so in the face of a finding of an
5 aggravating circumstance?

6 A. No.

7 Q. All right. And do you understand the question I'm
8 asking you?

9 A. You are asking me, if there is an aggravating
10 circumstance if I could find for life as opposed to the death
11 penalty?

12 Q. Correct. And what was your response?

13 A. I said no.

14 Q. No, meaning what?

15 A. That I would find for the death penalty instead.

16 Q. All right. And in that case, if the State proved to
17 you an aggravating circumstance, beyond a reasonable doubt,
18 accompanied a murder, then you would all -- in that case, vote
19 death?

20 A. If there is the aggravating circumstance, yes.

21 Q. All right.

22 MR. DIGGS: Thank you. That's all I have.

23 A. Okay.

24 MR. HEMBREE: Your Honor, I've got a ---

25 THE COURT: You will have an opportunity when I get

1 done.

2 Ms. Johnson, let me ask you some questions, please
3 Ma'am.

4 A. Yes sir.

5 THE COURT: First, the Anderson Firm, that's a North
6 Carolina firm?

7 A. Yes, it is.

8 THE COURT: All right. And so you are familiar with
9 North Carolina Law?

10 A. I'm fairly new to the law firm ---

11 THE COURT: Okay.

12 A. ---So I am just in the midst of everything currently,
13 but I did work for the North Carolina Clerk's Office.

14 THE COURT: All right. And so your familiarity with
15 laws would more tend to what is the law of the State of South
16 Carolina?

17 A. Yes.

18 THE COURT: All right. You understand there could very
19 well be differences between the laws of the State of North
20 Carolina's and the State of South Carolina?

21 A. Yes sir.

22 THE COURT: All right, now, in regards to this
23 particular matter the Court will instruct you the law of the
24 case, and if you are on the jury you would have to follow that
25 law whether you agree with it or you disagree with it. Do you

1 understand that?

2 A. Yes sir.

3 THE COURT: And can you do that without hesitation,
4 without question?

5 A. Yes sir.

6 THE COURT: The Court will tell you, and the Court
7 would instruct you that even if the jury finds an aggravating
8 circumstance -- because all the aggravating circumstance does
9 is, it gives the ability to the jury to consider the death
10 penalty. Doesn't mean it's automatic. If the jury doesn't
11 find unanimously an aggravating circumstance they can't even
12 consider the death penalty.

13 A. Uh huh (indicating positive)

14 THE COURT: Do you understand that?

15 A. I do.

16 THE COURT: So, you understand that an aggravating
17 circumstance gives the ability to the jury to consider the
18 death penalty?

19 A. Yes sir.

20 THE COURT: It does not require -- the jury is never
21 required, and the Court would never instruct the jury they are
22 required to find the death penalty; you understand that?

23 A. Yes, I do.

24 THE COURT: The jury can impose life, based on a
25 mitigating circumstances, or for no reason whatsoever; you

1 understand that?

2 A. Yes.

3 THE COURT: And the Court would instruct you that, if
4 the jury unanimously finds an aggravating circumstance they
5 can still impose life, as an act of mercy the jury can impose
6 life. Do you understand that?

7 A. Yes sir.

8 THE COURT: Can you follow that law?

9 A. Yes sir.

10 THE COURT: Without hesitation, without question, can
11 you follow that law?

12 A. Yes.

13 THE COURT: You obviously had, and expressed a belief
14 that, if there is an aggravating circumstance I'm going to
15 vote for the death penalty, but I'm telling you, that gives
16 you the ability to consider -- there is nothing automatic.

17 A. Okay.

18 THE COURT: You understand that?

19 A. I do.

20 THE COURT: I'm never going to tell the jury that there
21 is anything automatic as far as the death penalty. That's --
22 I'm never going to tell the jury they have to impose the death
23 penalty if they find (X), (Y) or (Z). Do you understand that?

24 A. Yes sir.

25 THE COURT: Because the jury can impose life for a

1 mitigating circumstances or, as I told you, for no reason
2 whatsoever, just as an act of mercy. You understand that?

3 A. Yes sir.

4 THE COURT: You understand that to be the law?

5 A. Yes sir.

6 THE COURT: And you will follow that completely and
7 without question?

8 A. Yes sir.

9 THE COURT: Questions, Solicitor?

10 MR. HEMBREE: Your Honor, I don't need to ask any
11 follow-up.

12 THE COURT: All right. Very good. If you would go
13 with the deputy, please.

14 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
15 JUROR.)

16 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
17 JUROR NUMBER 330 MARKED COURT'S EXHIBIT NUMBER 33.)

18 THE COURT: State's position.

19 MR. HEMBREE: The juror is qualified, Your Honor. I -
20 - and the only point I would really note, in response to Mr.
21 Diggs' -- one of his last questions that required follow-up he
22 -- he asked the question one way and she -- she said she would
23 listen to all the facts and circumstances, and then he really
24 left her with a different form of the question where if -- if
25 this plus this then would you do this. He didn't -- he didn't

1 inject the element of, do you want to listen to the facts and
2 circumstances. It was not a -- a complete statement of the
3 law. It implied that one plus one equaled two, and that she -
4 - I fear that the juror did not understand that she would not
5 be required to find for the death penalty in that
6 circumstance, and of course when the Court explained that to
7 her her response changed and she falls back into the situation
8 of being a qualified juror at that point.

9 THE COURT: All right. Very good.

10 All right, Mr. Diggs, be glad to hear from you, sir.

11 MR. DIGGS: Your Honor, I would argue, and we would
12 submit that she's not qualified. I mean, this former Deputy
13 Clerk of Court fully understands what -- within the context of
14 this dialogue, what we were saying, and stated that it would
15 always be a death sentence if it was a murder accompanied by
16 an aggravating circumstance in her mind, so we would say she
17 is not qualified. Plus, given the extra baggage of all of the
18 knowledge that she brings in with respect to the case, prior
19 case, and the fact that he had -- is even under a death
20 sentence we would suggest that she's not qualified.

21 THE COURT: Very good. Under Wainwright versus Witt,
22 Witherspoon versus Illinois, and Morgan versus Illinois I
23 would find the juror to be qualified. I find, based upon the
24 Court's instructions and questioning of her, that she will
25 follow the law that the Court will instruct her, that she will

1 honor her oath.

2 She was, as far as her demeanor and her response to the
3 question, she was extremely straight-forward, honest. The
4 Court got the distinct impression from her that she would
5 absolutely follow the law that the Court gives to the jury,
6 and would follow that without hesitation or question, and
7 would set aside any personal beliefs or opinions that she had,
8 and would follow the Law of the State of South Carolina as the
9 Court would charge her, and I have no question, based upon all
10 that, that she is -- would be fair and impartial, and I, in no
11 way, would -- her, what she has expressed, prevent or
12 substantially impair her performance or her duties in this
13 matter.

14 MR. DIGGS: Thank you, Your Honor.

15 I also want to state an additional ground though, just
16 for the record, and being complete on our objection here, that
17 given the knowledge of the prior death sentence that it's an
18 Eighth Amendment violation to -- it just goes -- it's too much
19 for invasion, I would submit, of the Eighth Amendment
20 procedure with respect to the imposition of the death penalty
21 verdict to be able to do that in a fashion that requires
22 heightened degree of reliability and dependability, knowing
23 that the Defendant is already under a death sentence. It just
24 -- the human nature there would be to say, it's not going to
25 really matter what I do in this case because there's another

1 death sentence, and it's not -- I'm not aware of any case that
2 we've ever had where a sentence of death was sought as against
3 a defendant who was under a death sentence. I might be wrong
4 on that but I just don't recall one.

5 MR. HUMPHRIES: Say again. I'm -- would he say that
6 again?

7 MR. DIGGS: So based on those grounds I don't have
8 any -- I mean, we would ask that the Court excuse the
9 witness -- the juror.

10 MR. HUMPHRIES: Let me just -- just so we can clear
11 that point up for the record. If what I heard is that no
12 juror is qualified that was previously under the knowledge
13 that they were under a death sentence that's entirely untrue.
14 In Raymond Patterson two and three, both of which I had some
15 involvement in, the majority of the jurors, not only knew --
16 some of them in three knew he had been convicted and sentenced
17 to death twice.

18 MR. DIGGS: That's not my point, with all due respect.
19 Under a death sentence that is presently being moved forward
20 to be carried out wasn't the case in Patterson. Those death
21 sentences had been set aside.

22 THE COURT: Thank you, sir. You've stated your
23 grounds. The Court denies your motion.

24 MR. DIGGS: Thank you. Thank you for the time.

25 THE COURT: Bring in Mr. Walsh. We'll take a break

1 after we go through Mr. Walsh.

2 MICHAEL P. WALSH, JUROR NUMBER 654,
3 being first duly sworn, states as follows:

4 BY THE COURT:

5 THE COURT: All right, Mr. Walsh, what I'm going to do
6 is, I'm going to go over some matters with you. I'm going to
7 have some questions for you, and after I'm done maybe the
8 State and the Defense might have some questions for you.
9 Okay.

10 A. Yes sir.

11 THE COURT: All right. Now, there aren't any right or
12 wrong answers here. What I'm looking for from you is just
13 some direct, straight-forward, honest answers to the
14 questions. You understand that?

15 A. Yes sir.

16 THE COURT: Very good. In this particular matter the
17 State of South Carolina has charged the Defendant, Mr. Stanko,
18 with the crimes of murder and armed robbery. To those crimes
19 the Defendant has pled not guilty. That puts the burden of
20 proof on the State of South Carolina to prove the Defendant
21 guilty beyond a reasonable doubt. The Defendant is presumed
22 innocent. The Defendant doesn't have anything to show to you.
23 The Defendant doesn't have anything to prove to you. The
24 State must prove the guilt of the Defendant of the crimes
25 charged beyond a reasonable doubt. You understand that?

1 A. Yes sir.

2 **THE COURT:** All right, sir. In this particular case
3 the State has charged the -- or rather, the State has filed a
4 notice to seek a death penalty, so that means that this case
5 could potentially have two parts. One would be, the jury
6 would be looking at the facts and evidence presented in this
7 case, and find those facts and evidence that convince them of
8 their truth, and decide whether or not the State has carried
9 it's burden of proof to prove the Defendant guilty of the
10 crimes charged beyond a reasonable doubt. If, and only if the
11 jury finds the Defendant guilty beyond a reasonable doubt of
12 the crime of murder would you we even get to the second phase.
13 You understand that?

14 A. Yes sir.

15 **THE COURT:** Now, in the second phase the jury is going
16 to be considering all these matters and actually impose a
17 sentence, and that's different from every other matter in
18 criminal court because in all other matters the Judge imposes
19 sentence. In this one the jury will actually impose a
20 sentence, and they have the choice between two sentences. One
21 is the death penalty, or life in prison without the
22 possibility of parole. And when we say life, or I might say
23 life, the lawyers might say life, that's what we mean, life in
24 prison without the possibility of parole. For the jury to
25 consider a death penalty the State has to prove, beyond a

1 reasonable doubt, what is called an aggravating circumstance,
2 and you know, aggravate means to make worse, or exacerbate the
3 situation, and the Court would give to the jury in the
4 instructions any list of those that might be appropriate, and
5 if the jury finds one, and only if the jury finds one could
6 they then consider the death penalty. Just because the jury
7 finds an aggravating circumstance is not -- there's nothing
8 automatic -- the jury can always impose life for any reason,
9 or no reason whatsoever, but to even consider a death penalty
10 the jury has to find, unanimously find, this aggravating
11 circumstance. You understand that?

12 A. Yes sir.

13 THE COURT: The jury also has to consider any
14 mitigating circumstance that the Court would charge to the
15 jury. And you know, mitigate means to lessen or reduce the
16 charge, reduce the punishment, and the jury would have to
17 listen to those and consider all those mitigating
18 circumstances before they would reach a decision as to the
19 punishment in this particular matter.

20 In this particular case, if you are on the jury and the
21 jury reaches a unanimous decision to impose the death penalty,
22 since the jury is actually imposing the sentence, the -- every
23 member of the jury has to take a pen in hand and sign their
24 name to a form indicating that that, indeed, is their verdict,
25 and that they have unanimously imposed the death penalty in

1 this case. You understand that?

2 A. Yes sir.

3 THE COURT: As a member of the jury it would be your
4 job to set aside any kind of preconceived ideas or notions
5 that you might have about the case, or the law, or the
6 possible punishments. If you thought you knew anything about
7 the case, or heard about it, or somebody told you something
8 about it you've got to set all that aside. You've got to
9 leave that outside the courthouse. You can't bring that into
10 the courtroom. You can't use that, or have that affect your
11 decision in any way. You understand that?

12 A. I do.

13 THE COURT: You make your decision based solely upon
14 the facts and evidence presented in this courtroom, take the
15 law that the Court will give to you, and then reach your
16 decision. You understand that?

17 A. Yes.

18 THE COURT: And as to the law, you have to accept the
19 law that the Court gives to you. I would instruct the jury --
20 you have to take that whether ultimately you agreed with it or
21 you disagreed with it, you have to accept that law and use it,
22 and apply it to the facts as you so find them to be in this
23 case. You understand that, sir?

24 A. Yes.

25 THE COURT: All right, sir. Let's go over a few

1 questions. Since we left here on Friday did you reach, watch,
2 listen, look up anything about this case?

3 A. No.

4 THE COURT: Did you talk to anybody about this case
5 since Friday?

6 A. Just to say that I -- I was in jury duty for ---

7 THE COURT: Okay. So they would know where you were?

8 A. Yes.

9 THE COURT: Okay. All right, now, before Friday,
10 before you knew not to look up or have anything to do with the
11 case, do you remember hearing anything about this case?

12 A. Yes sir.

13 THE COURT: Okay. What can you remember about it?

14 A. The previous case, guilty verdict. I don't know if
15 there was life or a death sentence in that particular case,
16 but -- and then this particular case, stories being that there
17 was a murder, stolen truck to get out of town. That's about
18 all I remember from that.

19 THE COURT: All right, sir. That's what you remember?

20 A. Yes.

21 THE COURT: Okay. Now, you understand that's part of
22 what you have to leave outside this courthouse. You
23 understand that?

24 A. Yes. Yes.

25 THE COURT: You understand that you can't let that

1 affect your decision in any way. You can't use it. You can't
2 think about it. Obviously it can't be talked about in the
3 jury room, but even mentally, you can't use that in any way to
4 make your decision in this case. Do you understand that?

5 A. Yes, I do.

6 THE COURT: Can you do that?

7 A. Yes, I can. Since Friday when you were asking the
8 question if anybody is a sole caregiver of a child under
9 seven.

10 THE COURT: Yes.

11 A. I'm -- just to save some time. My wife is -- you know,
12 we are together but ---

13 THE COURT: Yes sir.

14 A. ---She works a different schedule than I do, and I have
15 a five month old and a nine year old ---

16 THE COURT: Okay.

17 A. ---And so I don't know if that makes me the sole
18 caregiver, because when she's not home I'm home.

19 THE COURT: Okay. Well, let's talk about that. The
20 type of employment ---

21 A. I didn't know about sequestering. That's why ---

22 THE COURT: That's Okay. I appreciate your bringing it
23 up.

24 The type of work that you have right now is?

25 A. I'm a manager of a wholesale bakery.

1 **THE COURT:** And your hours of work again are?

2 A. Tuesday through Saturday, seven A.M. to five, six.

3 **THE COURT:** Okay. And your wife, where is she working?

4 A. Debordieu, down in -- almost in Georgetown, Debordieu
5 Colony.

6 **THE COURT:** Okay. Right. Okay. And what are her
7 hours of work, and when does she go to work?

8 A. When I get home in the afternoon about -- I'll try and
9 get out at four, four-thirty, right now, while the baby is
10 young ---

11 **THE COURT:** Right.

12 A. ---But normally I work later. Then she goes off to
13 work ---

14 **THE COURT:** Okay.

15 A. ---But she only goes Thursday through Sunday nights,
16 Thursday, Friday, Saturday and Sunday nights.

17 **THE COURT:** Okay. All right. And other than yourself
18 and your wife, do you have any outside ---

19 A. We are from New Jersey so my parents live up there, and
20 we get brief help from a friend that, you know, owns an
21 alterations shop that's right next to where I work.

22 **THE COURT:** Okay.

23 A. So that's convenient for an hour or so but ---

24 **THE COURT:** Very good.

25 A. ---That's about as far as ---

1 **THE COURT:** All right. Good.

2 All right, as to that particular issue, does the State
3 wish to question the juror as to the employment and child care
4 issue?

5 **MR. HEMBREE:** (NODS HEAD NEGATIVE)

6 **THE COURT:** Does the Defense wish to question the juror
7 as to that particular issue, as to the ---

8 **MR. DIGGS:** No. No additional questions.

9 **THE COURT:** ---Child care and the employment.

10 **MR. DIGGS:** No, Your Honor.

11 **THE COURT:** All right. If you don't mind, sir, if you
12 don't -- if you would go with the deputy for just a moment or
13 two, outside. Okay.

14 A. Sure. All right. Thank you very much.

15 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
16 **JUROR.)**

17 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
18 **JUROR NUMBER 654 MARKED COURT'S EXHIBIT NUMBER 34.)**

19 **THE COURT:** I didn't ask the sequestration question,
20 but it seems to me obvious what his answer was going to be if
21 I asked the sequestration question.

22 As to that obviously being what appears to be a
23 hardship, and potentially even qualifies under the statute,
24 what is the State's position?

25 **MR. HEMBREE:** We would ask that this juror be excused,

1 Your Honor.

2 THE COURT: Defense?

3 MR. DIGGS: Yes, Your Honor. I would move he be
4 transferred to another term.

5 THE COURT: All right. What I'm going to do, Madame
6 Clerk, I'm -- since he has -- he is engaged in this process
7 through the written answers, and came Friday and he came
8 today, I'm just going to excuse him from jury service rather
9 than transferring this particular juror. All right.

10 All right, we are going to take a short break and then
11 we will go into panel number eight.

12 (CONFERENCE BETWEEN THE CLERK AND THE COURT CONCERNING
13 JUROR NUMBER 411, SHARON L. MAPLES.)

14 THE COURT: All right. Solicitor, did you hear that
15 information from the Clerk?

16 MR. HEMBREE: Yes, Your Honor. We have no objection to
17 Ms. Maples being excused.

18 THE COURT: Defense, did you hear that information from
19 the Clerk?

20 MR. DIGGS: Yes sir. Of course we don't have any
21 objection.

22 THE COURT: All right. So we will excuse that
23 particular juror, Madame Clerk.

24 That's Sharon Maples, 411, is excused. All right.

25 All right, if y'all ---

1 (THE FOLLOWING TAKES PLACE ON RECORD AS TO JANE POWELL,
2 JUROR NUMBER 510.)

3 MR. HUMPHRIES: Your Honor, there is -- the other one,
4 since we are talking about that panel, 510, Jane Powell, she
5 indicated she was over sixty-five. Is there any word from her
6 as to whether or not she intends to ---

7 CLERK OF COURT: I scanned the paperwork on her
8 yesterday and she did not mark the box that she wanted to be
9 excused.

10 MR. HUMPHRIES: Okay. I know she stood up but -- and
11 maybe she doesn't want -- I hope she doesn't, but ---

12 CLERK OF COURT: She did not, because I rechecked it
13 yesterday when I finished with the over sixty-five, and she
14 did not check that she wanted the exemption to be excused so I
15 didn't put her in the ---

16 THE COURT: All right. Well, let me ---

17 MR. HUMPHRIES: I mean, the only reason I bring it up
18 is because you mentioned it in the context of exemptions, and
19 asked if anybody was sixty-five.

20 THE COURT: And I did and ---

21 MR. HUMPHRIES: And then we just said we would put them
22 in the panels and deal with it later.

23 CLERK OF COURT: And I did find your note.

24 MS. WILLIAMS: Your Honor ---

25 THE COURT: She did -- she did say she was over sixty-

1 five.

2 MS. WILLIAMS: She approached -- and she approached
3 about the medical. I believe she was one of the ones that
4 approached about maybe a ---

5 THE COURT: I tell you what, when she comes in I will
6 go over -- I don't have anything about a medical ---

7 MR. HUMPHRIES: I don't either.

8 THE COURT: ---But what I'll do is, when she comes in -
9 - what I'll do is, first thing, I'm going to go over the age
10 issue with her and ask her if there's anything else that she
11 wants to tell the Court at that point in time, and then we
12 will see what it is that she says, and then we will go from
13 there. All right. Thank you very much.

14 We will take a break for about five or ten minutes.
15 Thank you.

16 (THE FOLLOWING TAKES PLACE AFTER A BREAK.)

17 THE COURT: Ask Mr. Leckie to come in, please.

18 PAUL F. LECKIE, JUROR NUMBER 377,
19 being first duly sworn, states as follows:

20 BY THE COURT:

21 THE COURT: All right.

22 A. Could I say something before we start?

23 THE COURT: Please.

24 A. On March 3rd my wife and I signed up for an anniversary
25 cruise ---

1 THE COURT: Okay.

2 A. ---And the cruise starts next Saturday. We were
3 leaving for Florida on Thursday.

4 THE COURT: Okay. So you -- you were going to leave --
5 let's see, let's look at the calendar here.

6 A. The date is on there.

7 THE COURT: The 19th.

8 A. Yes sir.

9 THE COURT: The cruise actually goes out on the 21st,
10 and you were going to start traveling on the 19th?

11 A. Yes sir.

12 THE COURT: All right. Well ---

13 A. You know, I certainly want to do my civic duty ---

14 THE COURT: I appreciate that, and I'm -- I tell you
15 what, this is going to mean you are going to get up and down
16 more than once, but how about -- if you don't mind, will you
17 just go with the deputy. Step outside the door for a second.
18 Let me talk to the lawyers and I'll be right back with you.
19 Okay. Thank you, sir.

20 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
21 JUROR.)

22 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
23 JUROR NUMBER 377 MARKED COURT'S EXHIBIT NUMBER 35.)

24 THE COURT: All right. What -- you heard the dates and
25 the times. What's the State's position?

1 **MR. HEMBREE:** Judge, it's going to be kind of close,
2 quite frankly. I think we will be done by Saturday.
3 Personally I think that we will be finished -- should be
4 finished by Saturday, but there's always that -- you know,
5 that sort of wild card situation where we have to delay for a
6 witness or for some other reason, and it could -- we could --
7 it's ---

8 **THE COURT:** And he did indicate he wanted to leave on
9 Thursday. Now the cruise doesn't go out of the port until ---

10 **MR. HEMBREE:** Oh, oh Thursday. Oh, that's too close,
11 Judge. Now I ---

12 **THE COURT:** It goes out, I believe at noon on the --
13 Saturday the 21st. It goes out at noon. I mean obviously
14 they have to be -- or they have to be there at noon to -- I
15 guess to check in before that. So, that's when it goes out,
16 but they were going to -- he said they were going to leave
17 Thursday so ---

18 Anyway, what's the State's position?

19 **MR. HEMBREE:** We have no objection to this juror being
20 transferred to another term of court.

21 **MR. DIGGS:** No objection.

22 **THE COURT:** All right.

23 Madame Clerk, based on the information provided, going
24 to transfer this particular juror to another term, and if you
25 would, why don't you -- we'll transfer him to next -- next

1 year. Why don't you transfer him to the week of January 11th,
2 Madame Clerk.

3 CLERK OF COURT: Yes sir.

4 THE COURT: All right.

5 All right. You want to -- I'm just going to send my law
6 clerk around and let her tell the deputy ---

7 And just get the next one too. That one is transferred.
8 All right.

9 JANE E. POWELL, JUROR NUMBER 510,
10 being first duly sworn, states as follows:

11 BY THE COURT:

12 THE COURT: All right, Ms. Powell, what I'm going to do
13 is, I'm going to go over some things with you, and the very
14 first thing that I'm going to go over with you -- and you've
15 brought it to the Court's attention, I believe on Friday, and
16 I said that we would talk about it when you came in.

17 By your birthday you are over the age of sixty-five, and
18 you have set forth -- hope you don't mind me saying that you
19 set forth the age of seventy-three, correct?

20 A. That's correct.

21 THE COURT: All right. You understand that, if you
22 would like, the Legislature has determined that any citizen
23 called for jury duty who is over the age of sixty-five may
24 claim an exemption if they want to, so they may ask to be
25 excused from jury service. It's the juror's choice. It's

1 nothing automatic there, but it's certainly the juror's
2 choice, and I wanted to cover that with you. Understanding
3 you have that exception do you want to claim that exemption or
4 do you want to waive it?

5 A. I want to waive it.

6 THE COURT: All right. Thank you very much.

7 Is there -- let me just go through this real quick, if
8 there's anything else I didn't to talk to you about that.

9 Now -- and I want to talk to you about this. It's
10 probably a little bit out of order than I normally would, but
11 in conjunction with that, if you are selected on this jury
12 then basically our procedure is, in these types of cases, is
13 to sequester the jury. Now that means that once the jury is
14 selected whoever is on the jury will be housed at a local
15 hotel, transported to and from the hotel to the courthouse,
16 the meals would be provided by the County, but basically you
17 would be with us and sequestered, and not going home for the
18 period of that trial, and the best estimation that I can give
19 you at this point in time is some time period from seven to
20 nine days. That's how long that would take. So, again,
21 understanding that if you are part of the jury -- I know
22 sequestration is a hardship no matter. It's an absolute
23 hardship, but understanding the situation, would sequestration
24 be unduly hard on you, or is there any type of -- either for
25 yourself or any family member, any type of health concern that

1 you need to bring to the Court's attention, understanding that
2 the jury would be sequestered?

3 A. No sir.

4 **THE COURT:** All right. Thank you very much, Ma'am.
5 Great.

6 Let me -- again, I'm going to go over some things now
7 with you and as to the matters that -- and when I ask you some
8 questions there aren't any right or wrong answers here. What
9 we are looking for is just direct, straight-forward, honest
10 answers from the potential jurors.

11 A. Okay.

12 **THE COURT:** Very good. In this particular matter the
13 State of South Carolina has charged the Defendant, Mr. Stanko,
14 with the crimes of murder and armed robbery. Now, the
15 Defendant has pled not guilty to those charges and that puts
16 the burden of proof on the State of South Carolina to prove
17 the Defendant guilty beyond a reasonable doubt. The Defendant
18 is presumed innocent. The Defendant doesn't have anything to
19 prove to you or show to you. The State has to prove the
20 Defendant guilty of the crimes charged beyond a reasonable
21 doubt. Do you understand that?

22 A. Yes sir.

23 **THE COURT:** All right. Now, in this particular case,
24 Ma'am, the State has filed a notice to seek the death penalty,
25 so that means this trial could potentially have two parts.

1 Now the first part would be where the facts and evidence and
2 testimony would be presented, and the jury would be faced with
3 the question to find that evidence which convinces them of
4 it's truth, and then to weigh that against the burden the
5 State has to see whether or not the State has proved that
6 defendant guilty beyond a reasonable doubt of the crimes
7 charged. If, and only if the jury find the defendant guilty
8 of a crime of murder by a unanimous decision -- everybody has
9 got to agree -- if they find that's been proven to them by --
10 beyond a reasonable doubt, then and only then will we get to
11 the second phase. The second phase is called -- basically
12 called the sentencing phase because the jury actually imposes
13 a sentence, and that sets it apart from any other type of
14 criminal case, because normally the Court, the Judge imposes
15 the sentence, but in this case the jury will actually impose
16 the sentence, say what the sentence is, and there will be two
17 choices, death penalty, or life in prison without the
18 possibility of parole, and any member of the jury that is
19 sitting on the jury has to be able to fairly and equally
20 consider both of those and be -- based upon the right set of
21 facts and circumstances, be ready to impose that sentence,
22 whatever one it might be. Do you understand that?

23 A. Yes sir.

24 THE COURT: To impose a death penalty in this State the
25 jury, by unanimous decision, has to find an aggravating

1 circumstance, and that would be a list of factors that the
2 Court would provide to the jury, and if the jury finds one of
3 those then they have the ability to consider the death
4 penalty. It's not automatic. The jury can vote for life in
5 prison for any reason or no reason whatsoever, but to be able
6 to consider the death penalty the jury has to find an
7 aggravating circumstance. You understand that?

8 A. Yes sir.

9 **THE COURT:** All right. As I said, the jury can impose
10 life for any reason, no reason whatsoever. Before the jury
11 imposes sentence they also have to, and must look at any
12 mitigating circumstances that the Court would charge to the
13 jury, and you know, mitigate means to reduce or lessen the
14 charge, lessen the punishment, and the jury would have to look
15 at those and consider them before they would decide any
16 punishment in this case. You understand that?

17 A. Yes sir.

18 **THE COURT:** If you are a member of the jury and the
19 jury unanimously decides to impose a death penalty in the case
20 then, as a member of the jury, since you are actually imposes
21 the sentence, the jury has to take pen in hand and sign their
22 name to a form indicating that that, indeed, is their
23 unanimous verdict, and that they did vote to impose that death
24 penalty. You understand that?

25 A. Yes sir.

1 **THE COURT:** Now, as a member of the jury, if you are a
2 member of the jury, part of your job is to set aside any kind
3 of preconceived ideas or notions you might have about the
4 case, or the possible punishment, or if you heard anything
5 about the case, or thought you knew anything about the case,
6 or somebody told you something, you've got to forget all that.
7 You've got to leave all that outside the courthouse. You
8 can't bring it in the courtroom. You have to make your
9 decision based solely on the facts and the evidence that are
10 presented in this courtroom, follow the law that the Court
11 gives you, and then reach your unanimous decision in this
12 matter; you understand that?

13 A. Yes sir.

14 **THE COURT:** As to the law, you understand that you have
15 to follow the law that the Court gives you, whether ultimately
16 you agreed with it or you disagreed with it, if I -- the Court
17 tells you what the law is you have to follow that and use it,
18 and apply it to the facts as you so find them to be in this
19 case. You understand that?

20 A. Yes sir.

21 **THE COURT:** All right. Very good. Let me go over some
22 questions. Since we left here on Friday did you read, listen,
23 watch, look up anything about this particular case?

24 A. No sir.

25 **THE COURT:** All right. Very good. And did you talk to

1 anybody since Friday about this case?

2 A. No.

3 THE COURT: All right. Now, before Friday, before you
4 knew that you weren't suppose to be doing these things, and
5 obviously we expected it, that -- had you heard anything about
6 the case? Did you remember anything about it, the Defendant's
7 name, anything at all?

8 A. Yes sir.

9 THE COURT: What is it that you can remember?

10 A. I know there was another trial.

11 THE COURT: Okay.

12 A. I don't know a lot of the facts about it though.

13 THE COURT: Okay. Do you remember the result of it, or
14 anything or what happened?

15 A. I think -- I'm not sure, but I think they imposed the
16 death penalty.

17 THE COURT: Okay. All right. Now, you understand
18 that's part of what you have to leave ---

19 A. Right.

20 THE COURT: ---Outside this courthouse.

21 A. I understand.

22 THE COURT: You can't let that affect you in any way.
23 It can't be part of your decision making process, either
24 verbally or even mentally. That's -- you have to make it
25 based solely on the facts and evidence in this case, and the