

VOLUME TWO 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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VOLUME TWO
PAGES 501-1000

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INDEX

INDEX	1
TRIAL TRANSCRIPT DATED NOVEMBER 9-12, 2009	1
JURY QUALIFICATION	30
DEBORAH D STUHLEMMER	
Examination by the Court	30
Examination by Mr Hembree	41
Examination by Mr Diggs	44
Examination by the Court	50
Examination by Mr Diggs	50
TAMMY M HENDERSON	
Examination by the Court	54
Examination by Mr Humphries	65
Examination by Mr Diggs	68
LAKENYA P JORDAN	
Examination by the Court	80
Examination by Mr Hembree	88
Examination by Ms Williams	93
Examination by the Court	95
JOHNNY MARVIN CHESTNUT	
Examination by the Court	98
Examination by Mr Humphries	105
Examination by Mr Diggs	109
WILLIAM A FILES	
Examination by the Court	115
JUDY C BLYMPH	
Examination by Mr Humphries	133
Examination by Mr Diggs	139
JANE C MILLER	
Examination by the Court	144
Examination by Mr Hembree	154
Examination by Mr Diggs	157
Examination by the Court	162

STEPHEN D WILLIAMS	
Examination by the Court	165
Examination by Mr Humphries	171
Examination by Ms Williams	173
Examination by the Court	176
TERESA P WOOLARD	
Examination by the Court	179
Examination by Mr Hembree	188
Examination by the Court	195
Examination by Mr Hembree	196
MATTHEW J ARBAUGH	
Examination by the Court	201
Examination by Mr Humphries	207
LISA SELLERS	
Examination by the Court	213
TELIA GIBBONS	
Examination by the Court	223
Examination by Mr Hembree	225
BENCH CONFERENCE	228
BOBBY THOMAS BRANTON, JR	
Examination by the Court	229
Examination by Mr Humphries	239
Examination by Mr Diggs	240
Examination by the Court	244
BRANDON W BOYD	
Examination by the Court	246
Examination by Ms Williams	255
MARGARET M BARTOMEIO	
Examination by the Court	259
Examination by Mr Diggs	267
JAMES EDWARD BERRY	
Examination by the Court	274
Examination by Ms Williams	281

VICTOR ROMANO	
Examination by the Court	286
Examination by Mr Diggs	293
Examination by the Court	294
ELIZABETH L HOLTON	
Examination by the Court	296
Examination by Mr Hembree	307
Examination by Mr Diggs	309
Examination by the Court	314
THOMAS GARY MURRAY	
Examination by the Court	316
Examination by Mr Diggs	324
Examination by the Court	328
LONNIE DANIELS, III	
Examination by the Court	330
MICHAEL S RAY	
Examination by the Court	338
Examination by Ms Williams	346
DARLENE CONSTABLE NOVAK	
Examination by the Court	350
VIRGINIA A GRISSETT	
Examination by the Court	357
VANCE A DEFELICE	
Examination by the Court	361
ANDREW C LANGWAY	
Examination by the Court	366
Examination by Mr Humphries	376
Examination by Ms Williams	381
Examination by the Court	386
COLLOQUY	388
LINDA ALEXANDER MORRISON	
Examination by the Court	399
Examination by Mr Hembree	405
Examination by Mr Diggs	408

WAVERLY L STANLEY	
Examination by the Court	414
Examination by Mr Richardson	424
Examination by Ms Williams	425
RYAN L RODRIGUEZ	
Examination by the Court	429
JOHNNY L CAUSEY, JR	
Examination by the Court	434
Examination by Mr Diggs	441
GERALD A ELLIS	
Examination by the Court	448
JENNIFER A JOHNSON	
Examination by the Court	454
Examination by Mr Hembree	463
Examination by Mr Diggs	467
Examination by the Court	473
MIHCAEL P WALSH	
Examination by the Court	481
PAUL F LECKIE	
Examination by the Court	491
JANE E POWELL	
Examination by the Court	494
Examination by Mr Richardson	504
Examination by Mr Diggs	505
KRISTAL N WARREN	
Examination by the Court	512
Examination by Mr Humphries	522
Examination by Ms Williams	525
Examination by the Court	529
RICHARD BEASLEY	
Examination by the Court	531
BRENDA L HOLDERFIELD	
Examination by the Court	536
VICKI BRADDY MILLER	
Examination by the Court	541

RUSSELL M GREEN	
Examination by the Court	547
BARBARA A CARR	
Examination by the Court	555
JOYCE ANN CHESTNUT	
Examination by the Court	558
Examination by Mr Hembree	567
Examination by Mr Diggs	567
Examination by the Court	573
JAMES G BELLAMY	
Examination by the Court	576
Examination by Mr Humphries	588
Examination by the Court	590
SYLVIA W WATERSON	
Examination by the Court	592
Examination by Mr Hembree	602
SANDRA M SNYDER	
Examination by the Court	606
DELPHIA M WILSON	
Examination by the Court	610
LISA DAWN MCGEE MCKENZIE	
Examination by the Court	619
BONNIE J OGUIN	
Examination by the Court	624
Examination by Mr Diggs	634
Examination by the Court	640
GLORIA L MORRIS	
Examination by the Court	646
RANDALL W BROUGHTON	
Examination by the Court	655
Examination by Mr Hembree	666
Examination by Mr Diggs	671
Examination by the Court	674

KYNA TRIPLETT	
Examination by the Court	677
BEVERLY PITTMAN	
Examination by the Court	684
Examination by Mr Humphries	691
Examination by Mr Diggs	694
LINDA J ORSIMARSI	
Examination by the Court	697
ARIANE E JOYCE	
Examination by the Court	704
Examination by Mr Richardson	712
Examination by Mr Diggs	715
DAVID L DIMAIO	
Examination by the Court	719
TONIA L LEIDIG	
Examination by the Court	725
JOYCE E SPENGLER	
Examination by the Court	730
Examination by Mr Hembree	738
Examination by Mr Diggs	738
MARY B BATES	
Examination by the Court	742
SIOBHAN M STEVENS	
Examination by the Court	746
Examination by Mr Hembree	753
Examination by Ms Williams	754
JIMMY L WATSON	
Examination by the Court	757
Examination by Mr Hembree	764
Examination by Mr Diggs	767
TINA M ANGELO	
Examination by the Court	770
Examination by Mr Hembree	772
Examination by Mr Diggs	773
Examination by the Court	773

LINDA C DUPREE	
Examination by the Court	783
Examination by Mr Hembree	792
Examination by Mr Diggs	793
STEVEN J FINLEY	
Examination by the Court	797
Examination by Ms Williams	806
ANGEL R CATILLO	
Examination by the Court	811
Examination by Mr Diggs	819
Examination by Mr Hembree	821
Examination by Mr Diggs	824
VELVADEAN VAUGHT	
Examination by the Court	826
Examination by Mr Hemphries	834
WALTER D CUMBOW, JR	
Examination by the Court	840
WESLEY S ALLEN	
Examination by the Court	849
Examination by Mr Hembree	862
ROSE M DIAZ	
Examination by the Court	867
CELESTE A GRIFFIN	
Examination by the Court	875
Examination by Mr Hembree	883
Examination by Mr Diggs	884
Examination by the Court	885
ZACHARY A CLARK	
Examination by the Court	889
Examination by Mr Richardson	897
Examination by Mr Diggs	899
LISA A KEANE	
Examination by the Court	904
Examination by Mr Hembree	912
Examination by Ms Williams	912

KIMBERLEY B C GOH	
Examination by the Court	917
RHONDA M JOHNSON	
Examination by the Court	922
SHANNON ROSE HEADLEY	
Examination by the Court	929
Examination by Mr Humphries	942
Examination by Mr Diggs	944
JOHN J GIRA	
Examination by the Court	960
SHARON L LEMON	
Examination by the Court	966
SARA P NEWTON	
Examination by the Court	974
Examination by Mr Hembree	985
Examination by Ms Williams	989
SONNY W CANNON	
Examination by the Court	999
Examination by Mr Hembree	1010
Examination by Mr Diggs	1014
MICHAEL L LAUGHTER	
Examination by the Court	1020
JEREMIE C WEST	
Examination by the Court	1025
THOMAS LEE SHELLEY, II	
Examination by the Court	1029
Examination by Mr Diggs	1032
GINA F BOGGS	
Examination by the Court	1034
BRIAN S KEANE	
Examination by the Court	1040
GLENDA F JOHNSON	
Examination by the Court	1043

TIMOTHY O JORDAN	
Examination by the Court	1052
DONNA J GORE	
Examination by the Court	1056
ANNTANETTE D AKLIN	
Examination by the Court	1071
TERRY W GARTNER	
Examination by the Court	1077
Examination by Mr Diggs	1085
ANDREW J CLAYBROOK	
Examination by the Court	1091
ROBERT D SUMMERS	
Examination by the Court	1096
Examination by Mr Hembree	1109
Examination by Ms Williams	1112
Examination by the Court	1118
DANIEL C BECKER	
Examination by the Court	1126
ROBERT WAYNE HALL	
Examination by the Court	1137
Examination by the Mr Humphries	1148
Examination by Ms Williams	1150
CHRISTOPHER DANIEL LOMBARDI	
Examination by the Court	1155
LYNN W FRICK	
Examination by the Court	1160
Examination by Mr Hembree	1170
Examination by Mr Diggs	1174
HATTIE M MYERS	
Examination by the Court	1179
Examination by Mr Hembree	1189
Examination by Mr Diggs	1190
AMANDA L JOHNSON	
Examination by the Court	1194

COLLOQUY	1200
JAMES B ALLISON Examination by the Court	1203
GWENDOLYN DIANE AGRIPINO Examination by the Court	1206
Examination by Mr Richardson	1216
Examination by Ms Williams	1219
MELISSA A ISAACSON Examination by the Court	1224
DAVID G LLOYD, III Examination by the Court	1227
Examination by Mr Hembree	1235
Examination by Ms Williams	1236
BEVERLY J THALMAN Examination by the Court	1244
BARRY J WATSON Examination by the Court	1249
DANIEL E BEGLEY Examination by the Court	1253
NANCY L CUSTARD Examination by the Court	1256
Examination by Mr Hembree	1266
Examination by Mr Diggs	1267

November 13, 2009

MOTIONS	1279
JURY SELECTION	1296
CHANGE OF VENUE MOTION BY DEFENSE	1335
RULING DENYING CHANGE OF VENUE MOTION	1413
OPENING REMARKS BY THE COURT	1418

OPENING STATEMENTS BY MR HEMBREE	1435
OPENING STATEMENTS BY MS WILLIAMS	1445
OPENING STATEMENTS BY MR DIGGS	1447
COLLOQUY	1463
REBECCA CALEY	
Direct Examination by Mr Hembree	1473
CHRIS POWELL	
Direct Examination by Mr Humphries	1479
Cross Examination by Mr Diggs	1483
RUSSELL JORDAN	
Direct Examination by Mr Humphries	1496
Cross Examination by Ms Williams	1500
JOHN MARVIN COOPER	
Direct Examination by Mr Humphries	1504
Cross Examination by Mr Diggs	1517
ROBERT TODD	
Direct Examination by Mr Hembree	1533
Cross Examination by Ms Williams	1545
JIMMY EDWARDS	
Direct Examination by Mr Hembree	1549
CRAIG HUTCHINSON	
Direct Examination by Mr Hembree	1559
Cross Examination by Mr Diggs	1569
JEFF CAUSE	
Direct Examination by Mr Humphries	1575
DEBBIE GALLOGLY	
Direct Examination by Mr Richardson	1598
JANE TURNER	
Direct Examination by Mr Humphries	1604
RYAN COLEMAN	
Direct Examination by Mr Hembree	1617
Cross Examination by Mr Diggs	1626

DANA PUTNAM	
Direct Examination by Mr Humphries	1634
Cross Examination by Mr Diggs	1661
JASON WATSON	
Direct Examination by Mr Hembree	1670
Cross Examination by Ms Williams	1676
November 14-19, 2009	
JAMES GORDON	
Direct Examination by Mr Hembree	1707
Cross Examination by Ms Williams	1722
NEAL JOHNSON	
Direct Examination by Mr Hembree	1725
ANNE PITTS	
Direct Examination by Mr Hembree	1728
Cross Examination by Ms Williams	1728
KIM A COLLINS	
Direct Examination by Mr Hembree	1730
NEAL LIVINGSTON	
Direct Examination by Mr Richardson	1747
JOHN CAULDER	
Direct Examination by Mr Richardson	1749
FRANK DAN DEFREESE	
Direct Examination by Mr Humphries	1751
DIRECTED VERDICT MOTION	1757
DEFENSE CASE	
BRENT E TURVEY	
Direct Examination by Ms Williams	1769
Cross Examination by Mr Hembree	1788
Redirect Examination by Ms Williams	1811
Recross Examination by Mr Humphries	1871
THOMAS SACHY	
Direct Examination by Mr Diggs	1894
Cross Examination by Mr Hembree	1899

MOTIONS	1908
BERNARD ALBINIAK	
Direct Examination by Mr Diggs	1913
Cross Examination by Mr Humphries	1952
Redirect Examination by Mr Diggs	1954
BRYAN WILSON	
Direct Examination by Ms Williams	1957
Cross Examination by Mr Hembree	1961
JAMES W THRASHER	
Direct Examination by Mr Diggs	1964
Cross Examination by Mr Hembree	1990
Redirect Examination by Mr Diggs	2007
Recross Examination by Mr Hembree	2009
REUBEN GUR	
Direct Examination by Ms Williams	2011
Cross Examination by Mr Humphries	2063
Redirect Examination by Ms Williams	2069
MARC P EINHORN	
Direct Examination by Mr Diggs	2074
Cross Examination by Mr Hembree	2079
Direct Examination by Mr Diggs	2081
Cross Examination by Mr Hembree	2090
JOSEPH L CONG-SANG WU	
Direct Examination by Mr Diggs	2105
Cross Examination by Mr Humphries	2161
Redirect Examination by Mr Diggs	2173
THOMAS SACHY	
Direct Examination by Mr Diggs	2176
Cross Examination by Mr Hembree	2179
Direct Examination by Mr Diggs	2181
Cross Examination by Mr Hembree	2207
COLLOQUY	2223
THOMAS SACHY	
Cross Examination by Mr Hembree	2229
Redirect Examination by Diggs	2248
Recross Examination by Mr Hembree	2256

COLLOQUY	2258
PAMELA CRAWFORD	
Direct Examination by Mr Hembree	2271
MOTIONS	2273
CASE- IN- REPLY	
PAMELA CRAWFORD	
Direct Examination by Mr Hembree	2277
Cross Examination by Mr Diggs	2302
WILLIAM LESTER BRANNON, JR	
Direct Examination by Mr Humphries	2320
Cross Examination by Ms Williams	2333
KENNETH M SPICER	
Direct Examination by Mr Hembree	2346
Cross Examination by Mr Diggs	2383
MOTIONS	2411
ARGUMENT BY MR HUMPHRIES	2432
ARGUMENT BY MS WILLIAMS	2448
JURY INSTRUCTIONS	2464
VERDICT	2482
JURY POLLED	2482
MOTIONS	2487
PENALTY PHASE	
MOTION IN LIMINE	2490
OPENING STATEMENTS BY MR HUMPHRIES	2499
OPENING STATEMENTS BY MS WILLIAMS	2502
ELIZABETH M BUCKNER	
Direct Examination by Mr Humphries	2512
Cross Examination by Mr Diggs	2523

DARRELL LEWIS	
Direct Examination by Mr Humphries	2533
Cross Examination by Ms Williams	2543
KATHLEEN A CROLLEY	
Direct Examination by Mr Humphries	2548
Cross Examination by Mr Diggs	2554
RICHARD S LEE	
Direct Examination by Mr Richardson	2560
Cross Examination by Mr Diggs	2567
JAMES CARSON JACKSON	
Direct Examination by Mr Richardson	2570
Cross Examination by Mr Williams	2574
DON M MCALISTER	
Direct Examination by Mr Richardson	2578
Cross Examination by Mr Diggs	2587
JOHN ROBERT GAUMER	
Direct Examination by Mr Humphries	2594
Cross Examination by Ms Williams	2601
ROBERT GERALD OWENS	
Direct Examination by Mr Hembree	2603
CHARLES PETRELLA	
Direct Examination by Mr Humphries	2608
MOTIONS	2617
WILLIAM PIERCE	
Direct Examination by Mr Humphries	2631
Cross Examination by Mr Diggs	2641
Redirect Examination by Mr Humphries	2645
KELLY WIRDZEK	
Direct Examination by Mr Hembree	2646
Cross Examination by Ms Williams	2653
SCOTT BERIN BURNS	
Direct Examination by Mr Hembree	2655
Cross Examination by Ms Williams	2672

KIM A COLLINS	
Direct Examination by Mr Hembree	2677
Cross Examination by Mr Diggs	2692
Redirect Examination by Mr Hembree	2695
CECELIA KOTSIPIAS	
Direct Examination by Mr Hembree	2696
Cross Examination by Ms Williams	2708
DEBBIE GALLOGLY	
Direct Examination by Mr Hembree	2711
ROGER TURNER	
Direct Examination by Mr Hembree	2729
DEFENSE CASE	
JAMES W THRASHER, JR	
Direct Examination by Mr Diggs	2747
WANDA REED BROOKS	
Direct Examination by Ms Williams	2751
CLARISSA WENZ	
Direct Examination by Ms Williams	2755
BARBARA BOLAND	
Direct Examination by Mr Diggs	2760
HERBERT FRANK SHEALY	
Direct Examination by Mr Diggs	2767
JOHN FULMER	
Direct Examination by Mr Diggs	2772
ROGER STEWART	
Direct Examination by Mr Diggs	2781
Cross Examination by Mr Hembree	2785
RALPH STEVEN BEARDSLEY	
Direct Examination by Ms Williams	2786
EVELYN C CALIFF	
Direct Examination by Mr Diggs	2793
Cross Examination by Mr Humphries	2813
CLOSING ARGUMENT BY MR HEMBREE	2823

CLOSING ARGUMENTS BY MS WILLIAMS	2843
CLOSING STATEMENTS BY MR STANKO	2844
CLOSING ARGUMENT BY MS WILLIAMS	2859
INSTRUCTIONS BY THE COURT	2869
CHARGE ON THE LAW BY THE COURT	2878
VERDICT	2897
JURY POLLED	2898
SENTENCING	2905
PRE TRIAL HEARING, NOVEMBER 15, 2006	2909
POST-CONVICTION RELIEF HEARING, DECEMBER 8, 2008	2929
PRE TRIAL MOTIONS HEARING, MARCH 4, 2009	2955
PRE TRIAL MOTION TO REVIEW STATUS OF COUNSEL HEARING, JUNE 5, 2009	2971
PRE TRIAL MOTIONS HEARING, AUGUST 24, 2009	3011
PRE TRIAL MOTIONS HEARING, OCTOBER 8, 2009	3024
PRE TRIAL MOTIONS HEARING, OCTOBER 23, 2009	3130
PRE TRIAL MOTIONS HEARING, OCTOBER 30, 2009	3306
PRE TRIAL HEARING, NOVEMBER 4, 2009	3365
PAMELA CRAWFORD Direct Examination by Mr Hembree	3367
STEPHEN C STANKO Examination by the Court	3375
MOTIONS	3379
REVIEW OF ROLL CALL LIST FOR PANEL	3387

PRE TRIAL HEARING, NOVEMBER 6, 2009	3421
GENERAL QUALIFICATIONS OF JURORS	3423
INDICTMENT	3506
ORDER APPOINTING COUNSEL	3508
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (CONCLUSIVE PRESUMPTION #1)	3512
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (CONCLUSIVE PRESUMPTION #2)	3514
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR #1)	3516
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR #2)	3518
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR #4)	3520
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR)	3522
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (CONCLUSIVE PRESUMPTION)	3524
MOTION TO DECLARE §§16-3-10 et seq UNCONSTITUTIONAL (INCOMPLETE EVIDENTIARY BASIS)	3526
MOTION TO DECLARE S C §16-3-10 UNCONSTITUTIONAL (VAGUENESS)	3528
MOTION TO DECLARE §§ 16-3-20 et seq UNCONSTITUTIONAL (HYPOFRONTALITY)	3530
ORDER APPOINTING COUNSEL	3532
ORDER APPOINTING SECOND CHAIR COUNSEL	3533
MOTION AND NOTICE OF MOTION TO REVIEW STATUS OF COUNSEL FOR DEFENDANT IN LIGHT OF POST CONVICTION RELIEF ACTION IN COMPANION CASE	3534
JUROR #480 QUESTIONNAIRE	3536

CERTIFICATE OF COUNSEL

3543

**** DEFENDANT'S EXHIBITS 2-19 (NORMAL BRAIN/STANKO BRAIN)
HAVE BEEN TRANSPORTED TO THIS COURT****

1 law that the Court would give to you You understand that
2 would be your job as a juror?

3 A Yes sir

4 **THE COURT** My question to you is, can you do that?

5 A Yes sir

6 **THE COURT** All right No question about it?

7 A No question

8 **THE COURT** Very good Now, more of a general
9 question Do you know of any kind of personal, political,
10 religious, philosophical beliefs that you might have that
11 would prevent you from being a fair and impartial juror in
12 this case?

13 A No sir

14 **THE COURT** All right Now, in this particular case we
15 have -- looking at the witness list you circled one person as
16 possibly you might know that one, and that one was John -- and
17 I'm going to say Gaumer, because I'm not really sure how the
18 name would be pronounced, G a u m e r , of Surfside Beach,
19 South Carolina, correct?

20 A Right

21 **THE COURT** Assume that to be the person you know --
22 the person you know what -- are they employed any way, or how
23 would you know him?

24 A I'm not sure You would have to tell me what he does,
25 because I don't -- I don't -- I recognize the name, but I -- I

1 know there can be several people that would have that name ---

2 THE COURT Okay

3 A --And I wasn't sure I served on an Advisory Board
4 several years back for the Literacy Council, the Horry County
5 Literacy Council I don't know him personally ---

6 THE COURT Okay

7 A ---But he was on our Board, I believe, if that's the
8 same person

9 THE COURT If it's the same person Okay Let's just
10 assume for the sake of this discussion it is the same person,
11 and that person, for whatever reason, is a potential witness
12 in this case, and like I said, I don't know, and we are just
13 assuming that to be the case, the fact that you had had some
14 contact with the person in the past, you understand you can't
15 let that affect your decision making process in any way You
16 understand that?

17 A Yes, I do

18 THE COURT And could you set that aside?

19 A I could

20 THE COURT All right Very good Also looking at the
21 category of juror that would best describe you you circled
22 (C), correct?

23 A Yes sir

24 THE COURT All right And just to review that real
25 briefly, that's a juror that -- and obviously we are talking

1 in hypotheticals here, because none of this has happened, and
2 may not happen, but if the jury in the case finds the
3 Defendant guilty of the crime of murder, that's been proven to
4 them beyond a reasonable doubt, and that's their unanimous
5 verdict, and we are in the second phase, the sentencing phase,
6 then the (C) type juror is the juror that says, I'm going to
7 listen to all the facts and evidence that's presented in the
8 second phase, I'm going to listen to the law that the Judge
9 gives me, I'm going to follow that law without question, I'm
10 going to apply that law to the facts and evidence I find to be
11 true, and then I'm going to fairly consider the options that
12 are open to me, and I will be open to either imposing a life
13 sentence or a death sentence based upon the facts and evidence
14 presented Is that right?

15 A Yes sir

16 **THE COURT** All right Very good Let me go a little
17 bit further in that Assume you are on the jury, you are in
18 the sentencing phase, based upon the right set of facts and
19 circumstances being presented to you can you fairly consider
20 and impose a life sentence, based upon the right set of facts
21 and circumstances?

22 A Yes sir

23 **THE COURT** All right Again, based upon the right set
24 of facts and circumstances in the sentence phase, can you
25 consider, and could you impose a death sentence, again, on the

1 right set of facts and circumstances?

2 A Yes sir

3 THE COURT All right If you are on that jury and the
4 jury unanimously votes to find the Defendant -- or I'm sorry -
5 - to oppose the death penalty, the jury unanimously does
6 that -- and it has to be by a unanimous decision, the jury has
7 unanimously decided to -- can you then take pen in hand and on
8 the form sign your name and say, yes, this is my verdict and
9 it was part of the unanimous verdict in this matter?

10 A Yes sir

11 THE COURT Thank you, Ma'am We already covered
12 sequestration, so I'm going to turn over the -- if there's any
13 questions that the State might have for you

14 All right, Mr Richardson

15 BY MR RICHARDSON

16 MR RICHARDSON Ms Powell, I don't have any
17 questions I think Judge John has covered all of them I do
18 want to introduce myself My name is Jimmy Richardson, and
19 I'm an Assistant Solicitor This is Fran Humphries He is a
20 Deputy Mr Hembree, he is the Solicitor We are going to be
21 presenting the case for the State against Mr Stanko

22 A Yes sir Yes sir

23 MR RICHARDSON Mr Diggs or Ms Williams may have
24 some questions for you Please answer any of those

25 A Okay

1 **THE COURT** Mr Diggs or Ms Williams Mr Diggs

2 **BY MR DIGGS**

3 **MR DIGGS** Your Honor, may it please the Court

4 **THE COURT** Yes sir

5 **MR DIGGS** How are you?

6 A Fine How are you?

7 **MR DIGGS** Good my name is Bill Diggs, and this is
8 Brana Williams seated over at the table, and we represent Mr
9 Stanko in this case, and given your responses to some of the
10 questions the Judge asked you I just want to follow up a
11 little bit You are aware of the prior trial?

12 A Yes sir

13 Q And you -- I believe you stated you knew that a certain
14 sentence had been imposed?

15 A I'm not really sure about that I think I do, but I
16 don't really know

17 Q And you think that what was opposed? What do you think
18 the sentence was?

19 A I thought it was the death sentence

20 Q All right Well, let me ask you this Not confirming
21 for you one way or the other, but if you were to sit on this
22 jury and that case -- or this particular case came to that
23 particular decision making process, would your belief there
24 might be another death sentence somewhere undermine your --
25 the sense of importance regarding this particular decision?

1 A No sir

2 Q Okay You wouldn't take that decision any lighter
3 because you would think, well, there might already be another
4 death sentence somewhere that ---

5 A No

6 Q Okay It wouldn't affect the seriousness and the duty,
7 sense of responsibility that you felt in this case?

8 A No sir

9 Q All right Let me ask you, do you believe that there
10 is a prevailing sense in this community that Mr Stanko is
11 guilty?

12 A I have never talked to anybody about this case, so I'm
13 not really -- I mean they've never -- except what you might
14 read in the newspaper

15 Q Okay Do you have -- has anyone talked to you, or make
16 aware -- friends, for example -- for example, friends or
17 family, do they know you are on jury duty in this case?

18 A My husband does

19 Q But you don't have any other friends that are aware of
20 it at this point?

21 A No sir I haven't talked about it

22 Q Do you feel like you are obligated to our community to
23 vote guilty in this case ---

24 A No sir

25 Q ---To convict Mr Stanko?

1 A Not necessarily, no

2 Q All right Would it be fair to say you have a sense of
3 obligation to follow the law, and uphold the juror's oath, in
4 the event that you become a juror?

5 A Certainly

6 Q Okay Let me ask you this, we anticipate that the
7 evidence in this case will probably give rise to four possible
8 verdicts, guilty, not guilty, not guilty by reason of
9 insanity, or guilty but mentally ill Do you have any
10 personal bias against being able to consider either of those
11 four verdicts?

12 A No sir

13 Q And consider and return those verdicts based upon what
14 your view of the evidence is, and the Judge's instruction on
15 the law?

16 A Yes sir

17 Q So you wouldn't have any difficulty in returning any of
18 those verdicts as you see -- or as you deem to be supported by
19 the evidence?

20 A No sir

21 MR DIGGS Okay

22 Q Let's assume for a second that there has been a guilty
23 verdict We have to discuss the sentencing phase at some
24 point, and this is the time we have to talk about it, but
25 let's assume that you are on the jury and you had just voted

1 guilty, and now we are in the sentencing phase, and at that
2 sentencing phase the State has to show an aggravating
3 circumstance beyond a reasonable doubt They've got to show
4 that in order to be qualified to seek the death penalty, and
5 if they can't show that then the Judge is going to
6 automatically impose life imprisonment Okay But let's
7 suppose that the State does present evidence -- I'm
8 hypothesizing now for this -- purpose of this proceeding, my
9 conversation with you Let's suppose that they do prove an
10 aggravating circumstance beyond a reasonable doubt, and you
11 agree that has been proven, could you still, nevertheless,
12 vote for a life imprisonment sentence based on what your view
13 of the evidence was?

14 A I'm not sure I don't know whether that the Judge has
15 given us instructions that would ---

16 Q Okay He's never going to tell you to vote death ---

17 A Right

18 Q ---Even if you find this the most reprehensible
19 evidentiary record you've ever seen He's going to say you
20 can vote life for any reason or no reason But let's assume
21 again that you've convicted him of murder, as part of the
22 jury, and that a -- an aggravating circumstance has been
23 proven beyond a reasonable doubt, making the Defendant
24 eligible for a death sentence, would you be able to view the
25 evidence under those circumstances, and nevertheless, vote

1 life imprisonment because that's what you felt would be the
2 most appropriate sentence in this case?

3 A Yes sir

4 Q Okay You wouldn't be -- you wouldn't feel like your
5 hands were tied, so to speak, because of the presence of an
6 aggravating circumstance?

7 A No sir

8 Q You see what I'm saying?

9 A Yes sir

10 Q And again, Ms Powell, I'm not saying that's present in
11 this case We'll have to wait and see what the evidence
12 shows, but I'm having to ask you these questions at this time
13 to try to kind of guess at the situations that might confront
14 us at that time, so I can have a better understanding of how
15 you, as a juror, might respond in that circumstance, and just
16 to make sure that you would be able to follow the Judge's
17 instructions on the law, you know, even if that situation
18 presented itself

19 A Yes sir

20 Q Okay Now, you have a Master's Degree?

21 A Yes, I do

22 Q And could I ask you what that -- what area that's in?

23 A Education

24 Q Education And your husband is a lawyer?

25 A Yes, he is He was in the Air-Force, U S Air Force

1 Q Did he have a practice as an attorney?

2 A No, he never did

3 Q Uh, okay Did he teach, or ---

4 A Yes sir

5 Q Okay Well, ---

6 A I taught English

7 Q How did I do?

8 A I'm not judging you

9 MR DIGGS Okay Thank you very much I appreciate
10 your time this afternoon

11 THE COURT All right Ms Powell, let me ask you --
12 as this question Based upon my discussion with you, and the
13 questions asked of you by the State and questions from the
14 Defense, can you give to the State and to the Defendant a fair
15 and impartial trial in this case? Can you be, without
16 question, a fair and impartial juror in this case?

17 A I believe I can

18 THE COURT Thank you, Ma'am All right If you would
19 go with the deputy for just a few moments, please Ma'am
20 Thank you

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JUROR)

23 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
24 JUROR NUMBER 510 MARKED COURT'S EXHIBIT NUMBER 36)

25 THE COURT What's the State's position?

1 **MR RICHARDSON** Your Honor, Ms Powell is qualified

2 **THE COURT** All right Defense?

3 **MR DIGGS** Your Honor, obviously she would be a good
4 juror under other circumstances, but I would suggest she's not
5 qualified in this case based on the knowledge she has, and you
6 know, regarding the prior death sentence, and I understood she
7 said I wasn't -- she's not sure about it, but when we get into
8 this case it's going to become apparent to her, and she's
9 going to know that there is a death sentence pending in the
10 case, so we would make the same motion at this time that we
11 made with Juror 330, and ask the Court to excuse her

12 **THE COURT** All right Thank you, sir I respectfully
13 decline to grant that motion

14 Based on the Court's observations of this juror I would
15 say that I was just completely impressed with her honesty, and
16 her commitment to be fair and impartial in this case, to
17 follow her oath, to be exactly the type of juror that the
18 Court would expect, not only expect but would want to have in
19 any circumstance, especially in this, that she can -- no
20 question she can follow her oath, she can follow the Court's
21 instructions as to the law, and there is absolutely nothing
22 that would prevent or substantially impair her performance of
23 her duties in this particular matter I find her to be
24 qualified

25 **(A DISCUSSION TAKES PLACE CONCERNING SCHEDULING OF THE**

1 **PANELS)**

2 **THE COURT** All right Then go ahead and ask Ms
3 Warren to come in, please

4 **KRISTAL N WARREN, JUROR NUMBER**
5 **658**, being first duly sworn, states as follows

6 **BY THE COURT**

7 **THE COURT** All right, Ms Warren, what I'm going to do
8 is, I'm going to go over some things with you, and I'm going
9 to ask you some questions, and when I'm maybe the
10 representative of the State and Defense may have some
11 questions for you Okay

12 A Uh huh (**indicating positive**)

13 **THE COURT** All right Now, first off, there aren't
14 any right or wrong answers, okay What I need from you --
15 what we really need is just direct, straight-forward, honest
16 answers to the questions That's all we are looking for
17 Okay

18 A Yes

19 **THE COURT** All right And in this -- and I just
20 remind every juror about this If you can remember when you
21 are answering the questions to verbally answer Sometimes we
22 have a tendency to say uh huh or whatever, and the Court
23 Reporter can't take those down

24 A Right

25 **THE COURT** So if we can just remember that Okay

1 Thank you, Ma'am

2 All right In this particular case, Ma'am, the State of
3 South Carolina has charged the Defendant with the crimes of
4 murder and armed robbery To those charges the Defendant has
5 pled not guilty, so that puts the burden of proof on the State
6 of South Carolina to prove the Defendant guilty beyond a
7 reasonable doubt The Defendant is presumed innocent The
8 Defendant doesn't have anything to prove to you, show to you
9 The State has to prove the guilt of the Defendant beyond a
10 reasonable doubt You understand?

11 A Yes

12 **THE COURT** All right Now in this particular case the
13 State has filed a notice to seek the death penalty, so that
14 means this possible case -- or this case could have two
15 possible portions The first part of the case would be that
16 the jury would be looking at whether or not the facts and
17 evidence and testimony presented in this case, which the
18 jury -- whichever that the jury believes to be true, that the
19 State has proved the guilt of the Defendant beyond a
20 reasonable doubt of the crimes charged, whereas the jury does
21 not find the Defendant guilty beyond a reasonable doubt of the
22 crime of murder, then we would never get to the second phase
23 of the trial You understand that?

24 A Yes

25 **THE COURT** And obviously the decision of the jury has

1 to be unanimous, everybody has to agree

2 Now, in the second phase, that's called the sentencing
3 phase, because what happens is, the jury actually imposes a
4 sentence, and that's different from all other cases In all
5 other cases the Judge would impose a sentence In this type
6 of case the jury actually chooses the sentence, and there
7 would be two choices, one is the death penalty, the second is
8 life in prison without the possibility of parole So if I say
9 life or the lawyers say life that's what we mean, life in
10 prison without the possibility of parole You understand that?

11 A Yes

12 **THE COURT** To vote for a death sentence the jury would
13 have to unanimously find what is called an aggravating
14 circumstance Aggravate means to make worse, or to exacerbate
15 the situation You understand that?

16 A Yes

17 **THE COURT** Also, the jury would have to, and must
18 consider any mitigating circumstances the Court would show, or
19 the Court would charge to the jury, and to mitigate means to
20 lessen, or to reduce, reduce the punishment You understand
21 that?

22 A Yes

23 **THE COURT** A jury can impose life for one of these
24 mitigating circumstances or for no reason whatsoever You
25 understand that?

1 A Yes

2 THE COURT And just because the jury finds an
3 aggravating circumstance doesn't mean they are obligated in
4 any way to impose the death penalty That just means they are
5 enabled, or they have the ability then to consider imposing
6 the death penalty, that those are the two choices, and if you
7 find, unanimously find an aggravating circumstance then both
8 those options are available Do you understand that?

9 A Yes

10 THE COURT And as a member of the jury you have to be
11 able to, in that sentencing phase, be open to either
12 possibility, that based upon the facts and circumstances
13 presented, that you could fairly consider both of them and
14 be -- have the ability to impose either a life sentence or to
15 impose a death sentence Do you understand that?

16 A Yes

17 THE COURT Another job as a juror would be to leave
18 outside of the courthouse any preconceived ideas or notions
19 that you might have about the law, or about this kind of case,
20 or the possible sentences that might be imposed, and to leave
21 outside the courthouse anything that you knew, heard, somebody
22 told you about this case, what you think you know about it
23 You have to leave all that outside of the courthouse You
24 can't bring it into this courtroom It can't be used by you
25 in any fashion in reaching a decision, or even thinking about

1 it It's not part of this particular case Do you understand
2 that?

3 A Yes

4 **THE COURT** You have to make your decision based solely
5 upon the facts and evidence presented in this case, and from
6 no other source, and follow the law that the Court gives you
7 Do you understand that?

8 A Yes

9 **THE COURT** In regards to the law, you do have to
10 follow it as the Court instructs you Whether ultimately you
11 agreed with it or disagreed with it by your oath you say, I
12 will follow that law Do you understand that?

13 A Yes

14 **THE COURT** In this -- with this let me go over a few
15 questions with you

16 Did you read, listen, watch, look up anything about this
17 case since Friday?

18 A No

19 **THE COURT** Since Friday did you talk to anybody about
20 this case?

21 A No

22 **THE COURT** Now, before Friday, and before I gave you
23 all instructions not to do that, do you remember hearing
24 anything about this case from any source, from anybody talking
25 to you about it, or reading it, or hearing about it?

1 A Yes

2 THE COURT And what is it that you remember?

3 A They said the case was coming up soon

4 THE COURT Okay And do you remember any kind of
5 description of it of any kind?

6 A No

7 THE COURT All right Do you remember hearing the
8 Defendant's name when that came up?

9 A Yes

10 THE COURT Okay All right Now, you understand
11 that's part of what you have to leave outside the courthouse
12 You can't bring into the courtroom You can't use that in any
13 way, certainly not discussing it with other jurors or even
14 thinking about it when you reach your decision You
15 understand that?

16 A Yes

17 THE COURT And can you do that?

18 A Yes

19 THE COURT All right Can you follow the law that the
20 Court would give to you -- again, whether you agreed with it
21 or disagreed with it, could follow the law that the Court will
22 give you in this case?

23 A Yes

24 THE COURT All right Kind of a general question Do
25 you know of any kind of personal, political, religious,

1 philosophical believe that you might have that will prevent
2 you from being a fair and impartial juror in this case?

3 A No

4 **THE COURT** All right And have you -- did you form
5 any kind of -- or express to anybody any kind of opinion about
6 this case before today?

7 A No

8 **THE COURT** All right Very good On the witness list
9 I see that you didn't circle any of the people on the witness
10 list, correct?

11 A Right

12 **THE COURT** All right And regarding the juror
13 category you selected type (C) Is that correct?

14 A Yes

15 **THE COURT** And to review with you, and just to make
16 sure we are on the same page, that's the juror that, if you
17 are part of the jury and in the first phase the jury has
18 considered all the facts and the evidence, and has unanimously
19 decided the State has proved the guilt of the Defendant beyond
20 a reasonable doubt of the crime of murder, so now we are in
21 the sentencing phase and the juror says, what I'm going to do
22 is listen to all the facts and evidence presented in the
23 second phase, I'm going to listen to the law that the Judge
24 gives to me, and I'm going to fairly consider both options
25 before I make my decision Is that what you are saying?

1 A Yes

2 THE COURT All right Very good In this particular
3 matter, because of the type of case it is ---

4 Well, let me -- before I talk to you about that let me
5 go over one or two other things If we are in the sentencing
6 phase, under the right set of facts and circumstances that are
7 presented, can you consider, and can you impose a life
8 sentence, under the right set of facts and circumstances being
9 presented to you?

10 A Yes

11 THE COURT Under the right set of facts and
12 circumstances being presented to you, could you consider, and
13 could you impose, under the right set of facts and
14 circumstances, a death penalty?

15 A Yes

16 THE COURT And if you were part of the jury that
17 unanimously voted to impose a death penalty could you then
18 take pen in hand and sign your name to a form indicating that
19 that would be your unanimous verdict in this matter?

20 A Yes

21 THE COURT Very good Because of the type of case
22 that this is we are going to sequester the jury and make sure
23 there aren't any outside influences, but that means once the
24 jury is selected, and the trial starts, that the jury won't be
25 going home in the evening They will be going to a motel at

1 the County's expense The meals will be provided at County's
2 expense, obviously transportation to and from the courthouse
3 But the Court understands that's a hardship There's no
4 question about that, not being able to go home, but is that
5 such an extreme hardship to you, or give you any concern about
6 your health or any family member's health that would cause you
7 pause? Would that bother you?

8 A Yes, a little, because I have the small kids at home

9 THE COURT Okay And your children are how old?

10 A Eleven, nine and nineteen months

11 THE COURT Nineteen months?

12 A Uh huh (indicating positive)

13 THE COURT Okay All right Do you work outside the
14 home?

15 A Yes

16 Q And where is it that you work?

17 A Dixie Stampede

18 THE COURT Dixie Stampede And what are your hours
19 that you work at Dixie Stampede?

20 A It varies Normally in the morning from eight to four

21 THE COURT Eight to four That's normally the hours
22 Is that like ---

23 A Yes Unlike we have like kids' shows and stuff, I have
24 to do nights

25 THE COURT Okay All right When the older -- the

1 older children are in school now?

2 A Yes

3 THE COURT All right And your younger child --
4 that's a little girl, is that right?

5 A Right

6 THE COURT How do y'all -- how do you provide for her
7 care during the day, or when you are not there, when you have
8 to work nights?

9 A She's in daycare

10 THE COURT In daycare?

11 A Uh huh (indicating positive)

12 THE COURT Okay How about when you have to works
13 nights at the Dixie Stampede, ho do you rely on?

14 A My mom

15 THE COURT Your mom?

16 A Uh huh (indicating positive)

17 THE COURT Okay She lives here in the area
18 somewhere?

19 A Yes

20 THE COURT Okay Good If you were on the jury and
21 you were sequestered would you be relying upon your mom then
22 to take care of those responsibilities while you were on the
23 jury?

24 A Yes

25 THE COURT All right Have you mentioned that to her

1 already?

2 A No

3 THE COURT All right Okay All right

4 What I'm going to do now is, I'm going to let the State
5 and the Defense ask any questions that they would have All
6 right Thank you, Ma'am

7 A Uh huh (indicating positive)

8 THE COURT All right, Solicitor

9 BY MR HUMPHRIES

10 MR HUMPHRIES Good afternoon, Ms Warren How are
11 you?

12 A Good, and you?

13 MR HUMPHRIES I'm Fran Humphries I'm the Deputy
14 Solicitor I, along with Solicitor Hembree and Senior
15 Solicitor Jimmy Richardson represent the State in this case,
16 and I just have a couple of questions

17 A Okay

18 Q You've got an eleven year old, a nine year old, and a
19 nineteen month old?

20 A Yes

21 Q Well, you are looking for a week vacation?

22 A I need one I do need one, but ---

23 Q I believe that And I know it's difficult, but that's
24 just -- it's part of the process, and there are reasons for
25 it The Court is going to take great pains to make sure that

1 the jurors are kept separate and apart so they can focus just
2 on this case, in a motel, transportation will be provided, and
3 meals, everything is taken care of, at least in respect to
4 you The question simply is, there are some folks who, either
5 because of their obligations, or quite frankly, because of
6 their attachments to those that rely on them, that they just
7 can't -- can't focus on the trial because they are apart from
8 their family But what you've indicated I believe to the
9 Court is, you think your mama is going to be able to fill in
10 the gap for you?

11 A She will

12 Q Okay Well, good Okay Let me ask you, this -- you
13 know, this is a capital case It's a death penalty case --
14 we've talked a good bit about that -- and you've indicated to
15 the Court that you are the type juror who could give either
16 life or death, depending on the facts and circumstances

17 A Right

18 Q About your -- have you given much thought to capital
19 punishment prior to being involved in this process?

20 A No

21 Q Thought about it since Friday?

22 A No

23 Q No Thought about it since you got on the stand?

24 A No

25 Q Prior to -- prior to your coming in today what -- what

1 basically was your opinion about capital punishment, if you
2 have one?

3 A Well, it's, I guess fair opportunity to listen to the
4 case and take it from there

5 Q I'm -- but there's nothing about your upbringing, your
6 education, your religion, your philosophical beliefs that
7 would prevent you, not only considering the death penalty, but
8 imposing the death penalty, given the right amount of
9 evidence, the right facts and circumstances, is that right?

10 A Right

11 Q Okay And alternatively you could also give a life
12 sentence if, based on your view of the evidence, the facts and
13 circumstances, you thought it would be warranted, is that
14 right?

15 A Yes

16 Q Okay So you are the type juror, quite frankly, who is
17 coming in with an open mind, and are just waiting to hear what
18 there is to hear before making such a decision, is that right?

19 A Yes

20 Q Okay Now, you know really the only thing that we are
21 looking for -- and we have to do this individually with each
22 juror just to make sure that we have qualified jurors
23 Qualified jurors aren't necessarily -- and I -- they are not
24 better people than unqualified jurors People just bring --
25 they have their own opinions ---

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

2 Q ---And when they come into the courtroom we've asked
3 that they be honest about it I appreciate your honest
4 answers today

5 Finally let me ask you this Is there any reason why
6 you couldn't be a fair and impartial juror, both to the State
7 and to the Defense, and fairly consider and impose either a
8 life or death verdict, depending on the facts and
9 circumstances in this case?

10 A No

11 **MR HUMPHRIES** That's all I can ask of you Thank
12 you, Ma'am

13 **THE COURT** All right, Ms Williams

14 **BY MS WILLIAMS**

15 **MS WILLIAMS** Thank you, Your Honor

16 Ms Warren, good afternoon

17 A Hi

18 **MS WILLIAMS** My name is Brana Williams, and I, along
19 with Bill Diggs, will be representing Mr Stanko in this
20 trial

21 I just want to -- a couple of quick questions What I -
22 - I just need to make sure I'm clear because I thought you
23 when you were explaining to the Court with your children
24 that -- what I heard was that I thought it would be like an
25 imposition for you to -- I understand it's a hardship, I mean,

1 more than that, but to be, of course, sequestered, because we
2 anticipate this trial taking maybe seven to nine -- who knows?
3 I mean, it's going to be a while, and you will be in there
4 sequestered That's it No outside contact And I thought I
5 heard a different answer than what I heard the Solicitor say
6 Can you tell me what you feel about that?

7 A Say that again

8 Q If you are sequestered -- because if you are chosen to
9 be on this jury once this trial starts, basically the jury is
10 alone with only the jurors, with -- not with any contact with
11 home There is not contact with the children There is no
12 contact with anybody but your fellow jurors during the
13 duration of the trial, and we anticipate this trial taking
14 seven to nine, ten days We just aren't sure But it will be
15 a stretch, there is no doubt, and what I want to know is how
16 you feel about that if you are chosen to be on this jury

17 A I have no problem with that I have help from the
18 family If I was chosen I'm able to do it

19 Q Okay Great I just -- I thought I heard a different
20 answer, and I just wanted to make sure I understood that

21 Now, let me ask you something else, when you said that
22 you had some prior knowledge of Mr Stanko can you tell me --
23 again, and let me just go ahead and say this I know the
24 Judge is going to ask you questions The State has asked you
25 questions I ask you questions I know you think, I've

1 already answered that, but sometimes we have to ask and answer
2 two or three times just to make sure we've got a complete
3 record Okay

4 A Uh huh (indicating positive)

5 Q Tell me what you know about Mr Stanko

6 A The only thing I know about Mr Stanko is, I looked up
7 the case with the -- the woman and the daughter When I
8 received the papers I was like, who is Stanko -- I never heard
9 of no Stanko -- and I found out who he was

10 Q And when you looked it up did you find out -- did you
11 determine had there been a prior trial involving Mr Stanko?

12 A Say that again

13 Q Did you learn if he had had a previous trial?

14 A Did I learn he had a previous trial Yes

15 Q And did you learn what the -- that a verdict -- what
16 the outcome of that trial was?

17 A No I can't remember it

18 Q Okay So you knew there was a trial, but not what
19 happened?

20 A Right

21 Q Okay Let me ask you this Do you think that coming
22 to court to be called onto the jury, that there are any
23 expectations for what the outcome of the trial ought to be
24 coming into this?

25 A Meaning ---

1 Q That there is an expectation that he ought to be found
2 guilty

3 A No

4 Q Okay Do you think -- let me ask you this As the
5 Judge explained to you, this is a different kind of case
6 This has the potential to be two separate parts Okay And
7 the first part involves with -- the jury makes determination
8 about the potential guilt of the Defendant, and we are
9 thinking that there's going to be four possible verdict for
10 the jury to decide, okay, guilty, not guilty, not guilty by
11 reason of insanity, and guilty but mentally ill And what
12 will happen is, if it all comes around, and the Judge explains
13 those possible verdicts to you and what they potentially mean,
14 what I need to know is if -- you coming in here today, if you
15 think you may already have some preconceived notion that might
16 make it difficult for you to really consider all four
17 possibilities, and then give us a verdict? a

18 A No

19 Q Okay That's good That's really all we can ask of
20 you

21 Let me ask you this last question Let's assume that we
22 get through the first phase, okay, and if you are a part of
23 this jury what that means if we get to the second phase -- and
24 the jury would have already found the Defendant guilty of
25 murder, okay, and then when we get to the second phase there

1 are basically two possible outcomes, life without parole, or a
2 death sentence Okay And if we impose a death sentence the
3 Court will instruct you that the State has to prove not only
4 murder but murder plus an aggravating circumstance Okay So
5 let's just assume -- and I have to say this When I ask you
6 these questions we obviously aren't conceding that, but this
7 is the only chance we get to talk to you, so I have to ask all
8 these possibilities now Okay So let's just assume that you
9 are part of the jury that found him guilty of murder, you, as
10 the jury, find that the State has proven there is, in fact, an
11 aggravating circumstance, okay, but the Judge will tell you
12 that even though you have found guilty of murder, even though
13 you've found an aggravating circumstance, you don't have to
14 find for death Okay The juror has the right to still --
15 even though you have found for an aggravating circumstance the
16 jury can still find for life Knowing that, do you think
17 coming into this that you actually lean one way or the other?

18 A No

19 MS WILLIAMS That's all I have

20 THE COURT All right, Ma'am, based upon the questions
21 that the State has asked I would ask that -- Defense asked,
22 let me just ask you this Do you believe that you can give to
23 the State of South Carolina and to the Defendant a fair and
24 impartial trial, that is, you can be a fair and impartial
25 juror in this case?

JUROR OUT - ON RECORD

1 A Yes

2 THE COURT Thank you, Ma'am If you would just
3 with the deputy for a few moments, please

4 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
5 JUROR)

6 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
7 JUROR NUMBER 658 MARKED COURT'S EXHIBIT NUMBER 37)

8 THE COURT All right State's position?

9 MR HUMPHRIES She's qualified

10 THE COURT Defense

11 MS WILLIAMS Your Honor, we would make the motion
12 that, again, that this juror is unqualified based on her prior
13 knowledge, and that -- I mean, in spite of the answers that
14 she gave that she could set it aside we just simply don't
15 think that that is -- that that's possible and that there is
16 entirely too much prior knowledge coming into this case to be
17 fair and impartial in this particular setting

18 THE COURT All right Based upon the Court's
19 observation of the -- demeanor of the witness while she was
20 answering the questions -- she was very straight-forward and
21 honest, and as regards to her answers, I find that -- I find
22 her to be one that would follow her juror's oath, follow the
23 Court's instructions, be fair and impartial, and I find
24 nothing that would prevent or substantially impair her
25 performance of her duties in this particular matter, therefore

1 she's qualified

2 Will you ask Mr Beasley to come in, Richard Beasley

3 **RICHARD BEASLEY, JUROR NUMBER 38,**

4 being first duly sworn, states as follows

5 **BY THE COURT**

6 **THE COURT** All right, Mr Beasley, I'm going to go
7 over some things with you so you can -- if you would I would
8 ask that -- all I'm asking for is some straight-forward,
9 direct honest answers, okay

10 A Okay

11 **THE COURT** All right Very good Let me go over
12 the -- first with you I see that your date of birth is July
13 30th, 1934, and you've placed your age as seventy-five, is
14 that correct?

15 A That's correct

16 **THE COURT** All right, sir The Legislature has --
17 South Carolina Legislature has determined that there is an
18 exemption for jurors over the age of sixty-five It's not
19 automatic It's up to the juror to choose if they wish to be
20 exempted or excused from jury duty, so since you qualify for
21 that I wanted to cover that with you and ask you if you wanted
22 to claim that exemption to be excused, or you wanted to waive
23 or give up that exemption

24 A I don't ---

25 **THE COURT** Okay You ---

1 A I don't need to be exempted

2 THE COURT All right So you want to give that
3 exemption up?

4 A Yes

5 THE COURT All right Very good All right, now, in
6 this particular matter -- and also in conjunction with that,
7 if you are on the jury, and selected as a juror in this case,
8 the jury is going to be sequestered in this particular matter,
9 so sequestered means that, once the jury is selected that you
10 are basically with the Court You would be housed at a motel
11 Obviously the cost is provided by the County, meals provided
12 by the County, you are transported to and from the courthouse,
13 basically as a group, so that the jurors are together, and
14 there's limited contact with back home You don't go home in
15 the evening Understanding that, does -- and I understand
16 it's a hardship -- there's no question about that -- but that
17 particular situation, does that cause some extra-ordinary
18 hardship to you, or if there was any kind of health concern
19 for a member of your family or yourself, anything like that?

20 A No

21 THE COURT All right Very good In this particular
22 matter you circled as a category of juror which best describes
23 you as category (A), is that correct?

24 A Correct

25 THE COURT All right, sir, and let me review with you

1 that so that we are both on the same page regarding that
2 Category (A) is the juror that, if the case has been presented
3 -- and a death penalty case or a capital case has two phases
4 The first phase is such that the jurors must look at all the
5 facts and evidence presented to see whether or not the State
6 of South Carolina, who has the burden of proof in this case,
7 proves the guilt of the Defendant of the crimes charged beyond
8 a reasonable doubt, and in this case the State has charged Mr
9 Stanko with the crimes of murder and armed robbery, and the
10 Defendant has pled not guilty to those, and so again, the
11 burden is on the State of South Carolina to prove the
12 Defendant guilty beyond a reasonable doubt The Defendant is
13 presumed innocent Defendant doesn't have anything to show to
14 you, prove to you The State has to prove his guilt beyond a
15 reasonable doubt So you understand that?

16 A Yes sir

17 **THE COURT** All right Now, if you are on the jury --
18 we are doing this as a hypothetical, and don't know if this
19 would even occur, but if it did occur, and the jury convicted
20 the Defendant of the crime of murder, by a unanimous verdict -
21 - and everybody had to agree -- and they find out that he was
22 guilty of that crime beyond a reasonable doubt, and we are in
23 the sentencing phase, category (A), or juror (A) says, I'm
24 going into the sentencing phase with a preconceived idea of
25 notion as to the punishment, I'm not leaving myself open to

1 the possibility of either of the two options, because the two
2 sentencing options are the death penalty or life in prison
3 without the possibility of parole Those are the only two
4 options if we are in the second phase And category (A), or
5 juror (A) says, I'm predisposed, once I have convicted
6 somebody of murder, to impose the death penalty, and would not
7 fairly consider life in prison Am I saying that correctly?

8 A Correct

9 THE COURT All right, sir Is that a belief that
10 you've had for, you know, a long period of time?

11 A Yes sir

12 THE COURT All right And does that come from your --
13 basically your past experiences? How did you come to that
14 belief, just in general? Was there anything personal that
15 happened to you, or just a life experiences?

16 A Just experience

17 THE COURT All right Very good Even if the Court
18 instructed you that the jury must go into the second phase of
19 the trial with an open mind, and can not have pre-determined
20 what they would believe the proper sentence to be, are you
21 telling me that you would listen to that but you really
22 couldn't follow that Is that what you are telling me?

23 A True

24 THE COURT All right Very good

25 Further questions from the State?

1 **MR HEMBREE** None, Your Honor

2 **THE COURT** Further questions from the Defendant?

3 **MR DIGGS** No, Your Honor

4 **THE COURT** All right, sir I would appreciate it very
5 much if you would go with the deputy for just one moment,
6 please sir

7 A Thank you

8 **THE COURT** 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 38 MARKED COURT'S EXHIBIT NUMBER 38)**

13 **THE COURT** All right, the State's position?

14 **MR HEMBREE** The juror is not qualified, Your Honor

15 **THE COURT** Defense

16 **MR DIGGS** We agree

17 **THE COURT** All right The Court finds that the juror
18 is not qualified, that he could not fairly follow the Court's
19 instructions nor obey his juror's oath, and therefore he is
20 not qualified in this particular matter

21 So, that leaves us with a little bit of a break We
22 have the next panel, panel nine, coming in at 1 45, so we've
23 got basically a half hour, so I'll see y'all in a half hour

24 Thank you very much

25 **(THE FOLLOWING TAKES PLACE AFTER A BREAK)**

1 **MR HUMPHRIES** Your Honor, this first juror, Juror
2 Number 290, expressed a belief that would prevent her from
3 being a fair and impartial juror I think specifically it
4 relates to a religious belief, which she mentions in her
5 questionnaire as well

6 **THE COURT** All right

7 **BRENDA L HOLDERFIELD, JUROR NUMBER**
8 290, being first duly sworn, states as follows

9 **BY THE COURT**

10 **THE COURT** All right, Ma'am, could you hand me the
11 forms that you filled out, please Ma'am? Thank you

12 All right Ms Holder -- it's Holderfield?

13 A **(NODS HEAD AFFIRMATIVE)**

14 **THE COURT** All right, Ms Holderfield, first off I'm
15 going to be talking about some things with you I'm going to
16 ask you some questions When I get done there may be some
17 questions from the State or the Defense in this matter, okay?

18 A Uh huh **(indicating positive)**

19 **THE COURT** All right Now, one thing I need to ask
20 for you to do is to give a verbal response to the questions,
21 because the Court Reporter is taking down everything, and the
22 Court Reporter can't take down a nod of the head or an uh huh

23 A Okay

24 **THE COURT** All right Thank you, Ma'am Appreciate
25 it

1 There aren't any right or wrong answers here What I'm
2 looking for is just direct, straight-forward, honest answers
3 to the questions Okay

4 A Uh huh (indicating positive)

5 **THE COURT** All right In this particular matter the
6 State of South Carolina has charged the Defendant, Mr Stanko,
7 with the crimes of murder and armed robbery, and to those
8 charges the Defendant has pled not guilty Now that puts the
9 burden of proof on the State of South Carolina to prove the
10 Defendant guilty beyond a reasonable doubt The Defendant is
11 presumed innocent The Defendant doesn't have anything to
12 show to you The Defendant doesn't have anything to prove to
13 you The State must prove the Defendant guilty beyond a
14 reasonable doubt You understand that?

15 A Uh huh (indicating positive)

16 **THE COURT** Right Is that a yes?

17 A Yes

18 **THE COURT** All right Very good Thank you, Ma'am
19 Now, in this particular case the State of South Carolina
20 has filed a notice to seek the death penalty, and that means
21 that the case could be in two parts One of those is, the
22 jury would be looking at the decision whether or not the State
23 has produced sufficient evidence to convict the Defendant of
24 the crimes charged beyond a reasonable doubt, and that jury
25 would be called upon to unanimously decide if the evidence

1 that is presented that they believe to be true, that they
2 could convict the Defendant of the crimes charged beyond a
3 reasonable doubt If that happens, and only if that would
4 happen, that the jury would convict Mr Stanko of the crime of
5 murder, beyond a reasonable doubt, we would proceed on to the
6 second phase That's called the sentencing phase In that
7 there are two options open to the jury, two sentences
8 available One is a death penalty, and secondly, is life
9 imprisonment without the possibility of parole

10 A Uh huh (indicating positive) Yes

11 **THE COURT** Now, as a member of the jury, and anyone
12 who is seated on the jury, must be open to both possible
13 alternatives They cannot go into the second phase of the
14 trial with any kind of preconceived ideas of what they believe
15 the punishment should be, ought to be They have to be
16 completely open to be able to consider and impose a life
17 sentence, consider and impose a death sentence, based solely
18 on the facts and evidence that are presented in the courtroom,
19 and from no other source You have to leave outside the
20 courtroom any preconceived ideas of notions, or beliefs that
21 you might have You have to accept the law that the Court
22 would give to you, and apply that to the facts and ever
23 presented in this case Do you understand that?

24 A Yes sir

25 **THE COURT** All right Now, in this particular matter

1 you have circled category (A), is that correct?

2 A Yes sir

3 **THE COURT** All right, Ma'am And let me briefly go
4 over that with you so that we -- make sure we are all on the
5 same page as to what that means, okay Category (A) is the
6 type of juror that, if they are sitting on the jury and the
7 jury has deliberated in this matter in the first phase, and
8 they have found by a unanimous decision -- because it would
9 have to be a unanimous decision, everybody would have to agree
10 -- that the Defendant is guilty of the crime of murder, and
11 that was proved to them beyond a reasonable doubt, the jury
12 decided that

13 Now, in the second phase juror (A) says, I'm going into
14 the second phase with a preconceived notion, idea of what the
15 law is, what the punishment should be in this particular
16 matter, because I've already convicted this person of murder,
17 so I am predisposed to give the death penalty Is that your
18 understanding of juror (A)?

19 A Yes sir

20 **THE COURT** Is that your personal view?

21 A Yes sir

22 **THE COURT** All right, Ma'am Is that a long-standing
23 belief that you've had?

24 A Yes sir

25 **THE COURT** And does that come from any personal

1 experiences you've had, or just your life-long experiences?

2 A Based on evidence

3 **THE COURT** Okay Evidence that you -- of your --
4 the -- your life experience, or you mean based on the evidence
5 in a case?

6 A Well, just -- it's based on my belief If you do a
7 crime such as what we are here for, I believe that is the
8 punishment

9 **THE COURT** All right, Ma'am And you are saying,
10 despite what the Court would charge to you as a member of the
11 jury you would not be able to overcome your personal belief,
12 and you would go with that rather than the law that the Court
13 would charge to you?

14 A Yes I just -- I believe in the death penalty

15 **THE COURT** All right And you believe it's
16 appropriate if a murder has been committed?

17 A Yes

18 **THE COURT** All right Very good

19 Further questions from the State?

20 **MR HEMBREE** No questions from the State, Your Honor

21 **THE COURT** Further questions from the Defense?

22 **MR DIGGS** No, Your Honor

23 **THE COURT** All right Very good Ma'am, if you would
24 go with the deputy for a few moments, please Thank you

25 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**

1 JUROR)

2 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
3 JUROR NUMBER 290 MARKED COURT'S EXHIBIT NUMBER 39)

4 THE COURT State's position?

5 MR HEMBREE The juror is not qualified, Your Honor

6 THE COURT Defense

7 MR DIGGS We agree

8 THE COURT The Court would find that this juror,
9 Number 290, Ms Holderfield, is not qualified, that she would
10 not be able to follow her oath or the Court's instructions in
11 this matter, and could not be fair and impartial to the State
12 and the Defense

13 All right, if we could have Ms Miller, please

14 VICKIE BRADY MILLER, JUROR NUMBER
15 448, being first duly sworn, states as follows

16 BY THE COURT

17 THE COURT All right, Ms Miller, what I'm going to do
18 is, I'm going to go over some matters with you I'm going to
19 ask some questions of you, and when I get done there may be
20 some questions from the State and the Defense Okay

21 A Yes sir

22 THE COURT What I'm looking for -- from you is just
23 direct, straight-forward, honest answers to some questions

24 A Okay

25 THE COURT There aren't any right or wrong answers

1 here We just need to know your opinions, your beliefs, okay?

2 A Right

3 **THE COURT** All right Very good In this particular
4 matter the State of South Carolina has charged the Defendant
5 with the crimes of murder and armed robbery To those charges
6 the Defendant has pled not guilty Now that puts the burden
7 of proof on the State of South Carolina to prove the Defendant
8 guilty beyond a reasonable doubt The Defendant is presumed
9 innocent The Defendant has nothing to prove to you, show to
10 you The State has to prove the guilty of the Defendant of
11 the crimes charged beyond a reasonable doubt You understand
12 that?

13 A Yes sir

14 **THE COURT** In this particular matter the State has
15 filed notice to seek the death penalty as against the
16 Defendant That means that there would be basically two
17 stages to the trial, or potentially two stages to the trial
18 The first stage would certainly be the facts and evidence
19 presented by the State, and the jury would be faced with the
20 question as to find that evidence which convinces them of it's
21 truth, and then weigh that evidence against the State's burden
22 to prove the Defendant guilty beyond a reasonable doubt If,
23 and only if the jury found the Defendant guilty of the crime
24 of murder would we even go into the second phase, because if
25 the Defendant was found not guilty then we wouldn't be going

1 into the sentencing phase You understand that?

2 A Right Yes sir

3 **THE COURT** Now, as to the second phase, if you were a
4 member of the jury there would be two possible sentences that
5 the jury could give, death or life in prison without the
6 possibility of parole When we talk about life that's what we
7 mean, life in prison without the possibility of parole And a
8 seated juror has to have the ability to be open, to consider,
9 and be able to impose a death penalty or life in prison based
10 upon the proper set of facts and circumstances being presented
11 to him Do you understand that?

12 A Yes sir

13 **THE COURT** In this particular case, on the list of
14 categories for a juror you have circled (B), is that correct?

15 A Yes sir

16 **THE COURT** All right, now, let's go over that and make
17 sure that you and I are on the same page as to what that
18 means

19 A Okay

20 **THE COURT** Juror (B), or category (B) means that you
21 are on a jury -- and again, we are talking hypotheticals,
22 because we have to ask these questions

23 A Right

24 **THE COURT** These things may or -- may never occur, but
25 if you are on the jury and the jury has heard the facts and

1 evidence presented in the first part of the case, and the jury
2 has found such evidence they believe to be true, and based
3 upon that -- and they believe that the State has proved the
4 Defendant guilty beyond a reasonable doubt of the crime of
5 murder, and so we are in the sentencing phase or the second
6 phase of the trial, and the jury is going to be faced with the
7 question of imposing a sentence -- because they are going to
8 actually impose the sentence This case is different from any
9 other criminal case In all other criminal cases the Court,
10 the Judge ---

11 A Right

12 **THE COURT** ---Imposes the sentence In this type of
13 case the jury actually imposes the sentence It's one of
14 those, death, or life in prison

15 Now Category (B) says, as a member of the jury I'm going
16 into the second phase of the trial predisposed to give life in
17 prison no matter what the facts and circumstances are that are
18 presented to me, no matter what the law is that the Judge
19 charges to me, I'm already predisposed that I'm going to give
20 life as the proper punishment for murder, because obviously
21 you are a part of the jury that had already found the person
22 guilty of murder

23 A Right

24 **THE COURT** Is that a correct understanding of what you
25 are saying to me?

1 A Yes sir

2 THE COURT And is that a firm belief that you have?

3 A Yes sir

4 THE COURT And have you had this belief for a long
5 period of time?

6 A Yes sir

7 THE COURT Now, in general, is that based upon some
8 personal experience, or just your life experiences, or ---

9 A Both My life experience I'm a Christian I don't
10 believe it's our right to take somebody's life, I mean, I
11 don't believe that's my personal right so ---

12 THE COURT Okay And despite what the Court would
13 tell you or instruct you the law of the State of South
14 Carolina is, you are telling me, Judge, because of my
15 religious beliefs I just can't follow that, and I couldn't
16 impose the death penalty Is that what you are telling me?

17 A Right I really don't want to have that on my
18 conscience

19 THE COURT All right Thank you, Ma'am

20 A Thank you

21 THE COURT Further questions from the State?

22 MR HEMBREE None, Your Honor

23 THE COURT Further questions from the Defense?

24 MR DIGGS Your Honor, ordinarily I would, but I just
25 perceive the witness's answers, or the juror's answers to be

1 emphatic, and I think it would be futile for me to try to
2 change those, and so I -- based on that, based her demeanor,
3 her responses, I don't have any questions

4 **THE COURT** All right And let's just be perfectly
5 clear about this, Ma'am There is -- you are telling me that
6 no matter how I instruct the jury -- and you are a part of the
7 jury -- that you are going to put your religious beliefs above
8 the law that the Court would give to you? I'm not saying that
9 to demean or, you know, indicate in any way that's wrong, but
10 I just want to understand that that is your personal belief
11 Is that right?

12 A Yes sir

13 **THE COURT** All right Thank you, Ma'am

14 A Thank you

15 **THE COURT** If you would go with the deputy, please
16 Ma'am

17 A Okay Thank you

18 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
19 JUROR)

20 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
21 JUROR NUMBER 448 MARKED COURT'S EXHIBIT NUMBER 40)

22 **THE COURT** All right The State's position in this
23 matter?

24 **MR HEMBREE** The juror is not qualified, Your Honor

25 **THE COURT** Defense?

1 **MR DIGGS** Your Honor, we agree

2 **THE COURT** All right I would also state that,
3 under -- certainly under State versus Sapp, that the juror's
4 religious beliefs would prevent her from being a fair and
5 impartial juror in this case, that -- that -- and also under
6 Witherspoon versus Illinois, that she could not fairly follow
7 the Court's instructions or her juror's oath in this
8 particular matter and be fair to the State and the Defense,
9 and therefore she is not qualified

10 All right It appears that the next juror, Mr Green,
11 did not appear on Friday, so we will have -- probably have
12 some additional questions for him

13 **RUSSELL M GREEN, JUROR NUMBER 251,**
14 being first duly sworn, states as follows

15 **BY THE COURT**

16 **THE COURT** All right, Mr Green, you were not with us
17 on Friday during the initial qualification

18 A That is correct

19 **THE COURT** All right What happened?

20 A I mistakenly assumed that jury duty would begin on
21 Monday and not on Friday

22 **THE COURT** All right You didn't look real close to
23 the Summons?

24 A I didn't -- I did not pay attention to the date, no
25 sir

1 **THE COURT** All right Very good All right Well,
2 what I need to do then is ask you some additional questions,
3 and if you need to respond affirmatively to these questions
4 then I need for you to, you know, indicate, or say that that
5 pertains to you Okay

6 A Yes sir

7 **THE COURT** All right Very good Now, first, going
8 over the witness list in this matter you did circle one
9 person, and that was Don McAllister, is that right?

10 A That is correct

11 **THE COURT** All right Now, at this point in time I
12 have no idea whether the Don McAllister who might be a
13 potential witness in this case is the Don McAllister you know,
14 and that obviously wouldn't come certain until the person
15 might actually be called to testify, so we are going to have
16 to have some assumptions here First, what does the Don
17 McAllister that you know, what does he do?

18 A He is a stone mason

19 **THE COURT** All right, now, just assume that the person
20 to be called to testify is the Don McAllister you know The
21 fact that you know him, can you set that aside and base your
22 decision on this case just on the facts and evidence presented
23 in this case, and from no other source You won't put any
24 importance on the fact that you might have known this person
25 in the past?

1 A No sir, I wouldn't put any extra importance on that
2 factor

3 THE COURT All right Very good All right, now,
4 besides that particular potential or possible witness, there
5 wasn't anybody else that you recognized on then list, right?

6 A No sir

7 THE COURT All right Very good Now, are you
8 related by blood or marriage, close personal friends, in any
9 way enjoyed any kind of personal relationship with the
10 Defendant in this case, or the Defendant's family, that you
11 are aware of?

12 A Not that I'm aware of, no sir

13 THE COURT All right, sir, regarding the victim in
14 this matter, Henry Lee Turner, are you related by blood or
15 marriage, close personal friends, acquainted in any way, or
16 had any personal relationship with the victim or his family?

17 A No sir

18 THE COURT All right Very good Now, have you, or
19 any member of your immediate family, ever had any matters
20 handled by the Fifteenth Circuit Solicitor's Office? That's
21 the prosecuting office that covers Horry and Georgetown
22 Counties

23 A No sir

24 THE COURT All right Are you related by blood or
25 marriage, close personal friends of anybody employed at the

1 Fifteenth Circuit Solicitor's Office?

2 A No sir

3 THE COURT Very good

4 All right, Solicitor, if you would stand, identify
5 yourself and the fellow -- and the staff with you, please

6 MR HEMBREE Thank you, Your Honor

7 My name is Greg Hembree I'm the Solicitor for the
8 Fifteenth Circuit Seated next to me is Senior Assistant
9 Solicitor Jimmy Richardson, who will be assisting with the
10 trial of this case Coming in the back here is Deputy
11 Solicitor Fran Humphries He will also be assisting in the
12 prosecution of this case

13 THE COURT All right Thank you very much

14 All right, Mr Diggs and Ms Williams, if y'all would
15 stand and identify yourselves

16 MR DIGGS My name is Bill Diggs, and I practice Law
17 in Myrtle Beach I also have a son who is in practice at
18 Myrtle Beach also His name is Parnell Diggs

19 MS WILLIAMS My name is Brana Williams, and I have a
20 practice here in Conway

21 THE COURT Thank you very much

22 Are you related by blood or marriage, close personal
23 friends, acquaintances of, know any of these lawyers that have
24 identified themselves to you, or in regards to Mr Diggs and
25 Ms Williams, have you ever been clients of their's, currently

1 or in the past? Any of that apply to you?

2 A No sir

3 **THE COURT** All right Very good

4 All right, this particular matter that we are here
5 about, the Defendant, Mr Stephen C Stanko, the State has
6 charged him with the crimes of murder and armed robbery

7 Now, prior to coming in here and getting your juror
8 notice had you heard anything about this case, anybody talked
9 to you about it, knew anything, seen anything?

10 A Yes sir

11 **THE COURT** All right And what might that have been?

12 A I remember when the events occurred, whatever it was,
13 three or four years ago, in 2005 or so ---

14 **THE COURT** Okay

15 A ---Because I was a resident of -- I think at the time
16 actually I was a resident of Georgetown County I lived in
17 Murrells Inlet

18 **THE COURT** Okay

19 A So, it just seemed to be a hot topic

20 **THE COURT** All right, now, based upon that did you, at
21 that point in time, did you form some type of opinion about
22 this case in any way, or a belief about this case?

23 A Judging by the news reports and the rumor mail that
24 circulates, yes, you know, I would feel it was natural to form
25 an opinion

1 **THE COURT** And what might that have been?

2 A My opinion was that the person they were saying had
3 done -- committed the crime probably committed the crime

4 **THE COURT** Okay Now, based upon that, you understand
5 if you are selected as a member of the jury in this case, that
6 you have to set that aside, you have to compartmentalize that
7 You basically have to box that up, leave that outside of the
8 courthouse You can't bring that into the courtroom You
9 have to make your decision, if you are a member of the jury,
10 based upon the facts and evidence you have heard in this case,
11 and from no other source Not only can you not talk about it
12 with anybody, you can't use it mentally in your deliberations
13 or your thinking about what you might do in this case Do you
14 understand that?

15 A Yes sir

16 **THE COURT** Can you do that?

17 A I believe I could do that Yes sir

18 **THE COURT** All right And I appreciate that, and
19 that's, you know, a response that we get a lot, but
20 unfortunately this is a -- kind of like a bright line test I
21 have to have a response -- and again, nothing is right or
22 wrong here, but I have to know, if somebody is going to sit on
23 a jury, that they can, with absolute certainty -- if they've
24 heard about something about the case in the past, or they
25 think they know something about the case -- because it might

1 be true or not true -- they can set that aside As I said,
2 they leave that outside the courtroom, they don't bring it
3 with them here in court, and they can make their decision
4 completely and solely based on the facts and evidence
5 presented in this case, and from no other source So knowing
6 that to be the job of the juror, and knowing -- I need a
7 definitive answer from them, yes, Judge, I can do that, or no,
8 I can't

9 A I believe after -- upon further review I'm going to
10 have to say no, I don't know that I would be able -- I would
11 not be able to clear those from my mind

12 THE COURT Okay You believe that you would ---

13 A I think it might affect my decisions

14 THE COURT All right Despite what the Court would
15 charge you and tell you, that that would be your
16 responsibility, your oath that you would take would say that -
17 --

18 A I understand that -- yes sir, I understand that it
19 would be my oath that I would take, and I would certainly try
20 diligently to put it aside, but I can't, with a definitive
21 yes, say that I would be able to put it aside It may still
22 impact my decision

23 THE COURT All right On that particular issue,
24 before I go any further, does the State wish to question the
25 juror further, on that particular issue?

1 **MR HEMBREE** No, Your Honor

2 **THE COURT** On that particular issue, does the Defense
3 wish to question the juror further?

4 **MR DIGGS** No sir

5 **THE COURT** All right Thank you very much

6 All right, sir, if you would go with the deputy for just
7 a few moments

8 A Thank you, sir

9 **THE COURT** Thank you

10 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
11 **JUROR)**

12 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
13 **JUROR NUMBER 251 MARKED COURT'S EXHIBIT NUMBER 41)**

14 **THE COURT** What's the State's position?

15 **MR HEMBREE** It was clear, Your Honor, that juror
16 Green -- he was obviously thoughtful He -- he gave it
17 serious consideration through -- to the Court's questioning,
18 and he -- I think he was being honest in his response by the
19 way he presented himself, but he could not set aside what he
20 had heard in the media, or what he had heard in the community
21 about the case This juror is not qualified

22 **THE COURT** Very good

23 Defense

24 **MR DIGGS** Your Honor, we agree with that

25 **THE COURT** All right Very good The Court finds

1 juror number 251, Mr Russell Green, to be not qualified, that
2 -- and again, I thought the juror was very straight-forward
3 and honest, and indicated that he could not say that he would
4 be able to follow the oath, and follow the Court's
5 instructions, even knowing that would be what was required of
6 him, so he is not qualified

7 All right, the next one is Barbara Carr

8 MR HUMPHRIES She's sixty-five, Your Honor ---

9 THE COURT All right

10 MR HUMPHRIES ---Over sixty-five

11 CLERK OF COURT She did not request on her form

12 THE COURT All right But I'll go over that

13 BARBARA A CARR, JUROR NUMBER 90,

14 being first duly sworn, states as follows

15 BY THE COURT

16 THE COURT All right, Ms Carr, how are you doing,
17 Ma'am?

18 A Good, and you?

19 THE COURT Good

20 What I'm going to do is, I'm going to go over some
21 things with you, and I'm going to be asking you some
22 questions, and start off saying, there aren't any right or
23 wrong answers here What we are looking for is just direct,
24 straight-forward, honest answers to the questions Okay

25 A All right

1 **THE COURT** Thank you, Ma'am First off, and -- you
2 filled out the juror questionnaire form, and I appreciate
3 that, and you've got your date of birth here of 12/27, 1939,
4 and that puts your age at the age of sixty-nine, correct?

5 A I'll be seventy next month

6 **THE COURT** Seventy next month Congratulations

7 I've always thought there was -- you know, that's right
8 after Christmas so you probably got cheated on presents then,
9 it coming right after Christmas

10 A Yes, I did

11 **THE COURT** The State of South Carolina, through the
12 General Assembly, has given to all the jurors who are called
13 for service over the age of sixty-five an exemption It's not
14 an exclusion It's a opportunity, or it's something given to
15 the personal choice of a juror, and if they are over the age
16 of sixty-five and wish to be excused or exempted from jury
17 service they may ask to do so, so I wanted to cover that with
18 you Would you like to claim the exemption, or do you want to
19 waive it and give it up?

20 A Well, because the holidays are coming I'd like to claim
21 it I have relatives coming down for Thanksgiving and I need
22 to be with -- need to be there because I'm doing all the
23 cooking and everything for them

24 **THE COURT** All right Very good I appreciate that
25 Based upon the claimed exemption by the juror under the

1 statutes of this State, and her request, then I'm going to
2 grant that exemption Thank you, Ma'am, and I appreciate you
3 participating in the process, but I will excuse you

4 Thank you Ma'am

5 A Oh, thank you Try me again would you thought, please
6 I mean, don't try me, call me

7 **THE COURT** Thank you very much I appreciate it
8 Thank you very much, Ma'am

9 A Thank you

10 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
11 JUROR)

12 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
13 JUROR NUMBER 90 MARKED COURT'S EXHIBIT NUMBER 42)

14 **THE COURT** The Court will also note for the record
15 that the juror selected as a category which best described her
16 as category (A), which, in effect, would have disqualified her
17 anyway, but the Court find -- and I understand ---

18 Well, what was the State's position? I excused her
19 but ---

20 **MR HEMBREE** She's entitled to the exemption, Your
21 Honor

22 **THE COURT** What's the Defense's position?

23 **MR DIGGS** Your Honor, we agree that she should be
24 excused, but based on the category (A) response

25 **THE COURT** Very good All right, thank you very much

1 I found the juror to be properly excused All right Thank
2 you

3 This is Joyce Chestnut

4 **JOYCE ANN CHESTNUT, JUROR NUMBER**

5 103, being first duly sworn, states as follows

6 **BY THE COURT**

7 **THE COURT** All right I'm sorry State your full
8 name, please Ma'am

9 A Joyce Ann Chestnut

10 **THE COURT** All right, Ms Chestnut, what I'm going to
11 do is, I'm going to go over some matters with you I'm going
12 to have some questions for you, and after I'm done potentially
13 the State and the Defense may have some questions for you
14 Okay

15 A Okay

16 **THE COURT** Now, to start off, there aren't any right
17 or wrong answers here What I'm looking for from you is just
18 direct, straight-forward, honest answers to the questions
19 That's what we need Okay

20 A Okay

21 **THE COURT** Very good, Ma'am In this particular case
22 the State of South Carolina has charged the Defendant, Mr
23 Stanko, with the crimes of murder and armed robbery, and to
24 those charges the Defendant has pled not guilty, so that puts
25 the burden of proof in this case on the State of South

1 Carolina to prove the Defendant guilty of the crimes charged
2 The Defendant is presumed innocent The Defendant doesn't
3 have anything to prove to you, show to you The State must
4 prove the guilt of the Defendant of the crimes charged, beyond
5 a reasonable doubt Do you understand that?

6 A I do

7 **THE COURT** All right In this particular case the
8 State has filed a notice to seek the death penalty as against
9 the Defendant Now, that means that this case could
10 potentially have two parts In the first part the jury would
11 have the question before it as to, based on the facts and
12 evidence and testimony presented, did the State, from the
13 evidence the jury believes to be true, prove the guilt of the
14 Defendant of the crimes charged beyond a reasonable doubt, and
15 the jury would have to unanimously find In that, if the jury
16 unanimously found the Defendant guilty of the crime of murder,
17 then and only then would we proceed to the second phase,
18 because the jury would have to unanimously find the Defendant
19 guilty of the murder for us to go to the sentencing phase or
20 the second phase You understand that?

21 A Yes sir

22 **THE COURT** In the second phase the jury is basically,
23 to boil it down is -- that's -- the jury is going to
24 ultimately impose a sentence in this case That makes it
25 different from all other criminal cases In all other

1 criminal cases the judge imposes the sentence In this type
2 of case the jury actually says what the sentence is going to
3 be, and the jury would have two choices, the death penalty,
4 life in prison without the possibility of parole So if I
5 happen to say life, and the lawyers say life, that's what we
6 mean, life in prison without the possibility of parole You
7 understand that?

8 A I do

9 **THE COURT** If the jury is to impose a death penalty in
10 the case the decision has to be unanimous, and the jury has to
11 find what is called an aggravating factor, or aggravating
12 circumstance Aggravate means to make worse, or to exacerbate
13 the situation or the circumstance Now, these would be
14 statutory guidel1 -- factors that the Court would charge to
15 the jury, and if the jury chose one by a unanimous decision
16 then the jury would have available to it both options It's
17 not automatic There is no requirement The jury is never
18 required to give the death penalty The jury can impose life
19 for no reason whatsoever, but to consider the death penalty,
20 and to actually impose the death penalty the jury would have
21 to previously pick, unanimously, an aggravating circumstance
22 The jury also has to consider and look at any mitigating
23 circumstances that the Court would charge to the jury before
24 the jury imposed a sentence in this matter

25 Now, mitigate, you know, would mean to lessen, or reduce

1 the -- reduce the charge, reduce the punishment, and the jury
2 would have to look at those because, as I said, the
3 possibility of life is always open to the jury in this matter,
4 and again, they can do it because of mitigating circumstances,
5 or for no reason whatsoever

6 Another job as a member of the jury is, if the jury
7 unanimously finds that the penalty of death is the one
8 appropriate in this particular matter, based on facts and
9 circumstances, and after a unanimous decision of the jury,
10 then, as a member of the jury that was your unanimous vote,
11 you would have to take pen in hand and sign a verdict form, or
12 a form indicating that, indeed, is my unanimous verdict in
13 this matter, along with other members of the jury, to impose
14 this particular penalty Do you understand that?

15 A I do

16 **THE COURT** Another job as a juror would be that you
17 have to come into this courtroom with any kind -- without any
18 kind of preconceived ideas, of notions of what the law is, or
19 what the case is, your feelings about the particular types of
20 punishment that might be imposed in this particular matter,
21 and if you've heard anything about this case, or thought you
22 knew anything about it, or somebody told you something about
23 it, you've got to disregard all that and leave all of that
24 outside of the courthouse You can't bring any of that into
25 the courtroom You basically come in like a blank slate You

1 have to listen to the facts and evidence presented in this
2 courtroom, and make your decision solely and completely based
3 upon those facts and evidence, and the law that the Court
4 would charge to you Do you understand that?

5 A I do

6 **THE COURT** And regarding the law, ultimately even if
7 you agreed or disagreed with it you have to take the law that
8 I would give to the jury, can't have your own set of rules or
9 laws that you come in with You have to accept the law that I
10 give you, and you apply it to the facts as you so, and all the
11 rest of the members of the jury find to be true You
12 understand that?

13 A Yes

14 **THE COURT** Very good Looking at this particular
15 matter there's some questions I would like to go over with
16 you Since Friday did you read about, watch, listen, look up
17 anything about this case?

18 A No

19 **THE COURT** Did you talk to anybody about this case
20 since Friday?

21 A No

22 **THE COURT** Now, before Friday, and before you had any
23 instructions not to do that, had you heard anything about this
24 case, remember anything, the Defendant's name, anything about
25 this case at all?

1 A I have

2 THE COURT Okay And what can you tell me that you
3 remember?

4 A Well, that he was convicted for the one in Georgetown,
5 and that, you know, they thought that he had killed a man in
6 Horry County

7 THE COURT Okay Regarding the case in Georgetown, do
8 you remember if there was a verdict or a sentence in that?

9 A Death

10 THE COURT All right Now, regarding that particular
11 matter do you understand that was a completely and totally
12 separate matter, and has nothing to do with this particular
13 case You understand that?

14 A Yes Uh huh (**indicating positive**)

15 THE COURT And further, anything that you might have
16 heard, or think you know about this case, whether it's true or
17 not true, you have to set that aside You have to leave that
18 outside the courtroom

19 A Yes sir

20 THE COURT You can't bring it with you You have to
21 based your decision solely and completely on the facts and
22 evidence in the case Do you understand that?

23 A Yes

24 THE COURT Can you do that?

25 A Yes

1 **THE COURT** And I'm -- again, you can't use it even
2 mentally Certainly you can't talk about it with any other
3 member of the jury, but more importantly, you can't even use
4 it mentally to make your decision in this case It can't be
5 part of your decision-making process at all Can you do that?

6 A Yes

7 **THE COURT** All right When you heard about the matter
8 in the past, did you form any kind, or express to anybody any
9 kind of belief or opinion when that -- when you heard about
10 that at that point in time?

11 A I just read about it ---

12 **THE COURT** Okay You don't remember forming any kind
13 of belief about it at that point in time?

14 A No

15 **THE COURT** All right Very good Now, in general, do
16 you know of any kind of personal, or political, or religious,
17 or philosophical beliefs that you might have that would
18 prevent you from being a fair and impartial juror in this
19 case?

20 A No

21 **THE COURT** All right Regarding the witnesses that --
22 potential or possible witnesses in this case, you didn't
23 circle anything, correct?

24 A Yes

25 **THE COURT** Very good And regarding the juror

1 category that would describe you you circled (C), correct?

2 A Yes

3 **THE COURT** And let's go over that just to make sure we
4 are on the same page That would be -- and again, we are
5 talking hypotheticals -- this could happen, might not happen -
6 - but if you are on the jury and the jury, in the first part
7 of the case has heard facts and evidence and believes the
8 State has proved to it beyond a reasonable doubt the guilt of
9 the Defendant of the crime of murder, and we are in the second
10 phase the jury (C), or category (C) juror says, I've got an
11 open mind, I'm going to listen to all the facts and evidence
12 presented to me in the second phase of the trial, I know I
13 have before me two particular options, death penalty or life
14 in prison without the possibility of parole, I don't have any
15 preconceived ideas of one over the other, I'm open, and could,
16 based upon the right set of facts and circumstances, impose
17 either one, but I'm not inclined to do either one until I've
18 heard all the facts and evidence, and I know the law that the
19 Judge will give to me Is that what you are telling me?

20 A Yes

21 **THE COURT** All right Very good Again, if we are in
22 the sentencing phase, and you are seated as a juror in the
23 case, based upon the right set of facts and circumstances
24 being presented to you, could you consider, and could you
25 impose a life sentence?

1 A I could

2 THE COURT Based upon the right set of facts and
3 circumstances being presented to you, could you consider, and
4 could you impose a death sentence?

5 A I could

6 THE COURT And if you were on a jury that unanimously
7 decided that that was the right sentence in this case, to
8 impose a death sentence, could you then take pen in hand and
9 sign your name to the form indicating that that, indeed, is
10 your unanimous verdict in this matter?

11 A I could

12 THE COURT All right, Ma'am Now, because of the type
13 of case that this is we are going to sequester the jury Now,
14 that means that once the trial starts the jury will basically
15 be with us They will be housed at a hotel or motel or the
16 County's expense, the meals will be provided at the County's
17 expense, the -- obviously be transported to and from by
18 various officials of the County, but you won't be going home
19 at night We anticipate the -- and it's not so there will be
20 no contact, but you will have limited contact with your family
21 members, because we can't -- once the jury is sequestered they
22 can't be influenced by outside factors in a case like this
23 So, understanding this is an inconvenience, it's a hardship --
24 I know that, everybody knows that, there is no question about
25 that -- but is sequestration such an undue or extraordinary

1 hardship on you that you couldn't do it, or is there some kind
2 of health reason, for a member of your family or yourself,
3 that would keep you from doing that?

4 A No I wouldn't want to do it, but I could do it

5 THE COURT I understand that I completely understand
6 that All right Thank you, Ma'am

7 All right Questions from the State, Solicitor

8 MR HEMBREE Thank you, Your Honor

9 BY MR HEMBREE

10 MR HEMBREE Good afternoon, Ms Chestnut

11 A Good afternoon

12 MR HEMBREE I'm Greg Hembree I'm the Solicitor for
13 the Fifteenth Circuit I, along with Deputy Solicitor Fran
14 Humphries, and Senior Assistant Solicitor Jimmy Richardson,
15 will be presenting the evidence on behalf of the State in this
16 case

17 Judge John covered all the questions that I might have
18 had I don't have any questions for you I appreciate your
19 willingness to serve, and I ask that you answer any questions
20 that either Mr Diggs or Ms Williams might have for you

21 Thank you

22 THE COURT All right Mr Diggs

23 BY MR DIGGS

24 MR DIGGS May it please the Court

25 THE COURT Thank you, sir

1 **MR DIGGS** And Ms Chestnut, how are you this
2 afternoon?

3 A I'm fine

4 Q Let me ask you, do you believe there is a prevailing
5 view in the community that Mr Stanko is guilty?

6 A I don't really know I know what I feel, but ---

7 Q What do you feel?

8 A Well, I've read it, but you know, all the details I
9 don't know

10 Q All right Given that, do you feel like you have an
11 obligation to return a guilty verdict in this case to your
12 community?

13 A Not an obligation, no

14 Q Do you feel like the community would look to you for
15 that outcome though? Do you think that they would expect you
16 to return a guilty verdict?

17 A No I don't think so

18 Q You don't think so?

19 A Uh uh **(NODS NEGATIVE)**

20 Q Okay Given the fact that you know about a death
21 sentence in this case ---

22 A Yes sir

23 Q ---I believe that was your testimony ---

24 A Yes

25 Q ---Would that undermine the responsibility you would

1 feel as a juror, or a punishment decision, a reliable
2 punishment decision in this case? Do you understand what I'm
3 saying?

4 A Not really

5 Q Do you feel like -- would you go into the sentencing
6 hearing with the attitude, he's already been sentenced to
7 death, I can just do that too, because he -- he's going to be
8 killed under the other death sentence, so it doesn't matter
9 what I do

10 A No, I don't

11 Q Do you see what I'm saying?

12 A Yes

13 Q In other words, this is an important and responsible
14 function ---

15 A Yes

16 Q ---And would your knowledge about the prior case have
17 any impact on the seriousness with which you evaluated this
18 case?

19 A I would consider this separate from the other one

20 Q Okay Because Mr Stanko has not been executed ---

21 A That's right

22 Q ---And he may not be We don't know So, your
23 testimony is, you can approach this independently of any other
24 proceeding, and make a decision based on what you hear in this
25 case?

1 A Yes

2 Q And based on what the law is as instructed by the
3 Judge?

4 A Yes

5 Q Let's go to the forms of verdict that we might expect
6 to be presented here in the trial in this case, in the first
7 phase, on the issue of guilt or innocence The possible
8 verdicts that we would anticipate would be guilty, not guilty,
9 not guilty by reason of insanity, or guilty but mentally ill
10 Now, would -- do you have any predisposed bias, or -- that
11 would affect your ability to consider each of those possible
12 verdicts on their respective merits in this case?

13 A Are you asking me if I would have a problem considering
14 one of those?

15 Q Yes

16 A No

17 Q Okay That's what I'm asking So, in other words,
18 some people might not like a particular verdict, but the Judge
19 is going to say, look -- and he's already explained to you we
20 are required to take the law as it is, not as what we think it
21 ought to be, or you know, simply because we disagreed with a
22 law we still, in a criminal proceeding, have to follow the law
23 as it exists So your testimony is, you could consider -- if
24 the evidence raises either one of those verdicts as a
25 possibility for -- let's take insanity, for example, if you

1 found, based on the definition that the Judge gave you, that
2 it applied in this case, you would be bound, duty bound to
3 vote insanity, not guilty by reason of insanity Does that --
4 do you have an aversion, or does that cause a problem for you?

5 A No

6 Q Okay And that's -- that's good Let's go to the
7 sentencing phase of the case Because we -- we have to talk
8 about that at this time, so I don't want you to think that we
9 are pre-supposing there is going to be a conviction here
10 simply because we are asking you about it, but we have to ask
11 at this time because it's the only time that we get to talk
12 about it But, understand that to be in a sentencing
13 proceeding it requires the jury to have already found guilt
14 beyond a reasonable doubt, and to be eligible for a death
15 penalty verdict in this State there is a requirement of an
16 aggravating circumstance to be found beyond a reasonable doubt
17 as well Do you understand that?

18 A Yes

19 Q Now, if you were on a jury and you just found guilt as
20 to murder, plus an aggravating circumstance, would you, at
21 that point, be able to consider and impose a life imprisonment
22 sentence?

23 A Yes

24 Q And you would base that on the evidence presented in
25 the case, as a whole?

1 A Yes

2 MR DIGGS Okay Beg your indulgence just a second
3 Thank you very much That's all that I have this
4 afternoon

5 A Thank you

6 THE COURT Ms Chestnut, let me just ask you, based on
7 what you and I have discussed, and you discussed with the
8 lawyers in this case, can you give to the State of South
9 Carolina and to the Defendant a fair and impartial trial, that
10 is, can you be a fair and impartial juror in this case?

11 A I would try my best

12 THE COURT All right Now, and I appreciate your
13 saying you want to try -- try your best, but again, that's
14 sort of like the bright line test

15 A I would do my best, yes

16 THE COURT All right Thank you, Ma'am All right,
17 if you would go with the deputy for just a moment, please
18 Thank you

19 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
20 JUROR)

21 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
22 JUROR NUMBER 103 MARKED COURT'S EXHIBIT NUMBER 43)

23 THE COURT All right, the State's position?

24 MR HEMBREE Your Honor, the juror is qualified She
25 was very, very direct in responding to the Court about setting

1 aside what she had heard about the case She did it
2 repeatedly She also expressed that she had no -- there was
3 no opinion that she formed at the time

4 Likewise, in her response to Mr Diggs she was very --
5 she was very clear that she was going to consider the matter
6 of separate trials, and that she -- she knew this was separate
7 and she would confine her -- confine her decision to the
8 evidence in this case She's qualified

9 **THE COURT** All right Thank you

10 All right, Mr Diggs

11 **MR DIGGS** Your Honor, we would object to her
12 qualification on the same grounds as we interposed on Juror
13 330, and Juror 510 We would also object to this juror as
14 well based on her prior knowledge of the case, and the
15 knowledge of the prior -- and the existing death sentence

16 **THE COURT** All right Based upon my observations of
17 the juror and her demeanor, her responses to the questions,
18 and the answers that she gave, both to the Court's questioning
19 and to the questions asked by the Defense, I find that this
20 juror would be perfectly capable of following the juror's
21 oath, following the Court's instructions, would apply the law
22 that the Court would give to the facts and evidence that the
23 jury would find in this particular matter She has indicated
24 a complete desire to be fair and impartial to the State and
25 the Defendant, and I find nothing in the questioning, or in my

1 observation of her, that would prevent her, or substantially
2 impair her in any way regarding the performance of her duties
3 in this particular matter, and I find her to be qualified

4 MR DIGGS Thank you, Your Honor

5 THE COURT All right

6 (CONFERENCE TAKES PLACE CONCERNING SCHEDULING OF THE
7 JURY PANEL TO BE QUESTIONED NEXT)

8 MR HEMBREE Judge, since we've got just a minute

9 THE COURT Yes sir

10 All right Hold on one second

11 Yes sir

12 Did y'all -- come on in

13 Yes sir

14 MR HEMBREE And I feel a little bit -- I was a little
15 embarrassed about this since I was the one who had the bright
16 idea yesterday of cutting our panels down from six to five
17 today, based on how we were progressing yesterday Now we
18 are moving much quicker So I stand to suggest that perhaps
19 tomorrow we would want to consider trying to handle six panels
20 instead of five

21 THE COURT Well, I -- let's go over that and make
22 sure, Madame Clerk Can we look at what we have for tomorrow,
23 and make sure what we have All right

24 (CONTINUED CONFERENCE CONCERNING SCHEDULING OF JURY
25 PANELS FOR TOMORROW)

1 **THE COURT** If y'all would turn to panel fourteen for a
2 moment, please, counsel, panel fourteen, and look at juror
3 number 208, Jill Fowler The Clerk of Court just got an e-
4 mail -- and I'm going to read that e-mail to you verbatim --
5 and we need to discuss that matter

6 All right Counsel, the e-mail that the Clerk of Court
7 got on Ms Fowler, Juror Number 208 It was number four on
8 the panel of number fourteen The e-mails says that her
9 children get out of school at 2 30 P M , she just lost her
10 house, she just got a new job, the people -- or the job that
11 she has they work with her so she can pick up her children
12 from school She asked if she could be excused She has a
13 three year old and a twelve year old

14 What's the State's position?

15 **MR HEMBREE** She -- I take it she has no one -- I know
16 you are reading it verbatim I take it she has no one to take
17 for her children at night?

18 **THE COURT** Well, it says that her job works with her
19 to pick up her children, so whatever the new job is I mean,
20 I've just read it directly from the e-mail I don't have any
21 other information

22 And she got changed to 1 45, and the children are
23 getting out at 2 30, so that -- I think on top of all of it it
24 generated an e-mail says I've got these issues

25 **MR HEMBREE** We don't have any objection to her being

1 excused, Your Honor

2 MR DIGGS We don't either

3 THE COURT All right Very good

4 All right, Madame Clerk, we are going to -- you can
5 communicate with Ms Fowler, and tell her that she is excused

6 CLERK OF COURT Okay Thank you

7 THE COURT All right

8 (FURTHER CONFERENCE TAKES PLACE CONCERNING SCHEDULING OF
9 PANELS FOR TOMORROW)

10 THE COURT All right You said we had one of the
11 jurors from panel ten, Mr Bellamy Is he here?

12 CLERK OF COURT Yes sir

13 THE COURT All right Very good Let's have him come
14 on in

15 JAMES G BELLAMY, JUROR NUMBER 46,
16 being first duly sworn, states as follows

17 BY THE COURT

18 THE COURT All right, Mr Bellamy, I'm going to go
19 over some things with you, and what I'm going to do is talk to
20 you a little bit, and I'm going to ask you some questions, and
21 after I'm done there may be some questions from the State and
22 the Defense Okay

23 A Okay

24 THE COURT Very good No right or wrong answers here,
25 okay What I need from you are just direct, straight-forward,

1 honest answers to the questions, telling us your beliefs, your
2 opinions about the -- and the answers to the questions that
3 are asked Okay

4 A Okay

5 **THE COURT** Very good In this particular case the
6 State of South Carolina has charged the Defendant, Mr Stanko,
7 with the crimes of murder and armed robbery The Defendant
8 has pled not guilty to those crimes That puts the burden of
9 proof on the State of South Carolina to prove the Defendant
10 guilty beyond a reasonable doubt The Defendant is presumed
11 innocent The Defendant doesn't have anything to prove to
12 you The Defendant has nothing to show to you The State
13 must prove the Defendant guilty beyond a reasonable doubt Do
14 you understand that?

15 A Yes

16 **THE COURT** All right, sir In this particular case the
17 State of South Carolina has served notice to seek the death
18 penalty as against Mr Stanko Now that means that this
19 particular case could have two possible parts The first one
20 is, the jury would listen to all the facts and evidence and
21 testimony presented, find that evidence which convinces them
22 of it's truth, and then decide whether or not the State has
23 carried it's burden of proving the Defendant guilty of the
24 crimes charged beyond a reasonable doubt, because if, and only
25 if the jury finds the Defendant guilty beyond a reasonable

1 doubt of the crime of murder would we even go to the second
2 part of the trial Do you understand that?

3 A Yes

4 **THE COURT** The second part of the trial the jury, if
5 they have found the Defendant guilty beyond a reasonable doubt
6 of the crime of murder -- and they have to do that unanimously
7 -- everybody has to agree -- the jury would be facing the
8 decision of imposing the sentence, not only considering, but
9 imposing the sentence This makes this case unique because in
10 all other criminal cases the Judge imposes the sentence In
11 this case the jury has to impose the sentence And they would
12 have two choices, the death penalty, or life in prison without
13 the possibility of parole And if I say life, or the lawyers
14 say life, that's what we mean, life in prison without the
15 possibility of parole You understand that?

16 A Yes

17 **THE COURT** Now, if you are a member of the jury you
18 have to -- and we've gone into the second phase of the trial -
19 - you have to go into that without any preconceived idea,
20 notions of what the law is, or what your opinion would be, or
21 favoring one or the other, you have to be completely open to
22 considering and imposing either life in prison without the
23 possibility of parole, or the death sentence You can't have
24 any predisposition to either one You can't lean to one or
25 the other You have to listen to the facts and evidence

1 presented in the courtroom, listen to the law that the Court
2 would give to you, and then make your decision Do you
3 understand that?

4 A Yes

5 THE COURT And understand that would be your job as a
6 juror, and you would be under oath to do that You understand
7 that?

8 A Yes

9 THE COURT Let's get to the category of jury that --
10 juror which best describes you You had (C), you crossed that
11 out and you circled (A), correct?

12 A Right

13 THE COURT All right Let's make sure that you and I
14 both agree what juror (A), or category (A) is All right

15 A Okay

16 THE COURT Category (A) juror is, they are a part of
17 the jury, the jury has deliberated on the first phase, they've
18 come to a unanimous decision that the State has proved the
19 guilt of the Defendant beyond a reasonable doubt of the crime
20 of murder So now we are in the second phase, and the jury
21 has before it the two options, life in prison without the
22 possibility of parole, and the death penalty Juror (A) says,
23 I've got a predisposition, I am predisposed, before I hear any
24 of the facts and evidence in the second part of the case,
25 before I hear the law that the Judge gives to me, I'm already

1 predisposed that -- because I've convicted that person of
2 murder, I'm going to give the death penalty That's what
3 juror (A) says Is that what you are telling me you are?

4 A Yes

5 **THE COURT** All right, sir Now, is that a firm belief
6 that you have held for a long period of time?

7 A No, I just believe basically -- I mean if he -- if they
8 find him guilty, or he's found guilty, that would be the death
9 penalty, yes I mean, I have it in my mind that yes, that's
10 what I'd want to give him

11 **THE COURT** If you, in the first phase, found him
12 guilty of murder you would have that in your mind, if I'm
13 going to convict him of murder then when I go to the second
14 phase then I'm imposing the death penalty because I've
15 convicted him of murder Is that what you are telling me?

16 A I -- I guess, yes

17 **THE COURT** Well, I'm ---

18 A Yes Yes

19 **THE COURT** I'm not asking you ---

20 A Yes

21 **THE COURT** I'm not -- I don't -- I'm just trying to
22 understand what you are telling me ---

23 A Uh huh (indicating positive)

24 **THE COURT** ---Because you circled the category ---

25 A Right

1 **THE COURT** ---And I've described that category to you,
2 and that's what that category means, so let's -- let's talk
3 about this a little bit more

4 A Okay

5 **THE COURT** For the jury to impose the death penalty in
6 this case, number one, it's got to be unanimous, everybody has
7 got to agree, and number two, the jury has got to find an
8 aggravating circumstance There are certain factors that the
9 Court would charge to the jury and say, if you find one of
10 these then you can consider the death penalty It's not
11 mandatory You don't have to impose death penalty Just
12 because you find an aggravating circumstance doesn't mean you
13 impose the death penalty It just means that now that open is
14 open to you, you can now consider that to be a possible
15 punishment The jury can find life in prison without the
16 possibility of parole for any reason or no reason whatsoever
17 Just as an act of mercy the jury can impose life You
18 understand that?

19 A Yes

20 **THE COURT** The jury must, based on the Court's
21 instructions as to mitigating circumstances -- and I give
22 those factors to the jury -- the jury has to, they must
23 consider those before they impose a sentence in this matter
24 Under your oath you would say I will fairly consider those
25 before I decide on any punishment in this matter

1 Now, mitigation means to lessen, reduce the punishment,
2 the charge Do you understand that?

3 A Yes sir

4 **THE COURT** And under your oath you would be charged
5 with that responsibility, and you would have to do that You
6 understand that?

7 A Yes I know -- I understand now I got it ---

8 **THE COURT** Okay I understand that I just want to
9 make sure that -- that's the law of the State of South
10 Carolina I want us to be clear that that -- that would be
11 what I would be charging to the jury So, understanding that
12 if you were on the jury, and that was your duty and
13 responsibility, are you telling me, Judge, I have these
14 beliefs that I have formed before, and now I don't know that I
15 can follow the law If I -- if the Judge tells you the law, I
16 have to know that you can follow that law I have to know
17 that, without equivocation, you are going to follow those
18 instructions

19 A Yes, I can do that now I mean, I misunderstood the
20 question and the -- so, I mean ---

21 **THE COURT** Well, good Okay How about -- how
22 about -- why don't I give you the category of jurors back to
23 you, you take whatever time you want to, and you look at them
24 and think about it again, and you tell me what you think would
25 be -- would best describe you, and it's whatever you think

1 Again, there's no right or wrong answers here All right

2 It's whatever you think That's what we want to know

3 A It would be (C) I mean when I read it I originally
4 had it, but then it would be (C) I can do that

5 THE COURT All right All right, so based on what the
6 Court has described to you ---

7 A Uh huh (indicating positive)

8 THE COURT Now, let's be clear about what category (C)
9 is, so when we say category (C), okay

10 A All right

11 THE COURT Category (C) is, the juror -- we are
12 talking about hypotheticals It may happen, may not happen
13 But we have to talk about it to find -- to explore all these
14 issues, so category (C) is, the jury has deliberated in the
15 first phase of the trial, the jury has been convinced by the
16 facts and evidence before it that the State has proven the
17 guilt of the defendant beyond a reasonable doubt, and the jury
18 convicted that defendant of the crime of murder, so we are in
19 the second phase, and in the second phase the juror (C),
20 category (C) says, I'm open to both possibilities, I don't
21 have my mind formed to believe one is proper or the other is
22 proper, I know there's two possibilities, death or life in
23 prison without the possibility of parole, but what I'm going
24 to do is, I'm going to listen to all the facts and evidence
25 presented in this second phase, I'm going to listen to the law

1 that the Judge gives me, I'm going to apply the law that the
2 Judge gives me -- whether I agree with it or disagree with it
3 I'm going to apply it to the facts that the jury finds to be
4 true in this matter, and then and only then am I going to make
5 up my mind as to what penalty is proper in this case That's
6 category (C)

7 A That's the one I want

8 THE COURT All right That's the one that you believe
9 best describes you?

10 A Right

11 THE COURT Is that correct?

12 A Yes sir

13 THE COURT All right Very good And again, the
14 Court would never instruct the jury that they have to give the
15 death penalty I would never say that That's not what the
16 law is If there's aggravating circumstance the jury can
17 consider, but again, the jury can impose life for mitigating
18 circumstances or for no reason whatsoever, just as an act of
19 mercy You understand that?

20 A Yes

21 THE COURT And you understand that's the law of the
22 State of South Carolina?

23 A Yes

24 THE COURT All right, sir, and you can follow that
25 law?

1 A Yes sir

2 THE COURT Very good Now, as a member of a jury
3 another job that you would have is, again, if you have any
4 preconceived ideas of notions, or if anybody talked to you
5 about this case beforehand, or if you read about this case,
6 you heard about this case, or thought about this case before
7 you disregard that You leave all that outside the
8 courthouse You don't bring that into the courtroom You
9 make your decision based solely upon the facts and evidence
10 presented in this courtroom and from no other source Can you
11 do that?

12 A Yes, I believe I could

13 THE COURT All right, sir Let's go over some general
14 questions Since Friday have you read, listened, watched,
15 looked up anything about this case?

16 A No

17 THE COURT Since Friday did you talk to anybody about
18 this case?

19 A No

20 THE COURT All right Now, before Friday, and you
21 heard the Court's instructions about not doing that, had you
22 heard something about the case in the past, or remembered
23 something about it, or remembered the Defendant's name, or
24 anything like that?

25 A Yes

1 **THE COURT** Okay And tell me what you remember

2 A Well, basically after I filled out the questionnaire it
3 was the fact of I actually -- I had filled it before and my --
4 I asked my wife about it and she says, oh, you don't remember
5 everything that was happening, you know, when this situation -
6 --

7 **THE COURT** What do you remember that she told you?
8 What can you remember that she said happened?

9 A Basically she said -- basically, you don't remember
10 that he was the guy that they locked up for killing his wife,
11 originally, or something, and then actually shooting another
12 man as I -- I didn't remember at that time I filled it out,
13 but I vaguely remember it because that was actually because
14 she was a school teacher or she has a substitute teacher, and
15 she said, actually, I believe they put the school on lock-down
16 at that point or something, and that's what just made it
17 register, and then she told me, and I was like, yes, well now
18 I remember it

19 **THE COURT** All right And then you remembered it
20 after that?

21 A Yes

22 **THE COURT** All right, now You understand that's what
23 you have to set aside and leave outside the courthouse You
24 can't bring that with you You can't have it in your mind
25 when you are making your decision in this case Not only

1 can -- you don't talk about it You can't be using it,
2 thinking about it in making your decision in this case You
3 basically have to have just basically a blank slate You have
4 to make your decision based solely on what you hear in this
5 courtroom, and from no other source, and if you are a member
6 of the jury, and under the oath that's what you have to do, so
7 understanding that can you do that? And it's -- you know, and
8 again, there's no right or wrong answers here It's -- and I
9 would have to know from you, yes I can, but -- or no, Judge, I
10 don't think I could do that

11 A I don't think I could one hundred percent, I mean,
12 cause it always kind of -- it would just bounce in my head or
13 something, I guess, just ---

14 **THE COURT** Okay You think it would come back to you
15 when you are making -- when you are faced with the decision it
16 would come back to you?

17 A I think it would have some partial effect I don't --
18 you know ---

19 **THE COURT** Okay

20 A ---I mean just remembering, you know, just ---

21 **THE COURT** Okay And what do you -- do you remember
22 anything about there being any other trial in this matter?

23 A Uh uh (NODS NEGATIVE)

24 **THE COURT** All right Very good

25 All right In general, do you know of any kind of

1 personal, or political, or religious or philosophical belief
2 that you might have that would prevent you from being a fair
3 and impartial juror, in general?

4 A No, I don't think so

5 THE COURT All right, sir I'm going to let the State
6 and the Defense ask you some questions before I ask anything
7 else

8 Solicitor

9 MR HUMPHRIES If it please the Court

10 BY MR HUMPHRIES

11 MR HUMPHRIES How are you doing, Mr Bellamy?

12 A Good

13 MR HUMPHRIES I'm Fran Humphries I'm the Deputy
14 Solicitor Solicitor Hembree and Senior Solicitor Jimmy
15 Richardson are going to be representing the State in this
16 case, along with me

17 Let's talk a little bit about what you've learned about
18 the case from your wife Now obviously the Judge has
19 correctly charged you that that information that you -- that
20 you possessed from your wife -- and of course I assume her
21 basis of it was, I guess hearing it from the media or
22 whatsoever We know how that goes

23 A Right

24 Q Sometimes what you read in the paper is true and
25 sometimes it's not

1 We are all human, so, you know, what's in our minds is
2 in our minds What the standard is, Mr Bellamy, is this,
3 once you get to the point where you have to make a decision,
4 either in the first part of the case where you are determining
5 the guilt of the Defendant, or the last part of the case, the
6 second part of the case where you determine sentence, even
7 though that's in your mind you can't let it impact, or be a
8 part of your decision-making process I mean, we are not --
9 none of us, neither the Court nor the Defense or the State are
10 asking you to be a computer where you can just not look in
11 that file You know what I mean?

12 A Right

13 Q you know, because that's just who we are But it is
14 very important that you can decide this case based only on the
15 evidence that's presented in this courtroom, and nothing that
16 you've heard outside of the courtroom So understanding that,
17 do you believe that you could base your decision -- and this
18 is a big decision I know you know Understanding that,
19 understanding that is the absolute requirement of the law that
20 you base your decision only on the evidence that's presented
21 in this courtroom, and not of anything you might have heard --
22 of course you don't even know the reliability of what you
23 heard -- knowing that, can you set that aside and decide the
24 case based only on what you hear in the courtroom?

25 A I believe I can do that

1 Q Think you can?

2 A Uh huh (*indicating positive*)

3 Q Okay

4 MR HUMPHRIES Did the Court wish to go any further in
5 your questioning or do you want me to go ahead and finish?

6 THE COURT You can finish, but ---

7 MR HUMPHRIES If you are where you are, Judge, I'm
8 finished

9 THE COURT All right All right I'm just going to
10 have to follow up on that then

11 You said you think you can All right

12 A Uh huh (*indicating positive*) I mean if I -- like if I
13 was to hear -- if they proved it point blank, yes, I could
14 make a truthful decision that way I mean ---

15 THE COURT All right Well, and I appreciate it
16 Again -- I'm trying to think of the best way to describe it,
17 but it's -- again, I have to know that you can do it, not that
18 yes, I believe I can do that, I think I can do that, or maybe
19 I can, or no, I can't I have to know yes, I can, or no,
20 Judge, I don't really think I can It really has to be one or
21 the other, and you have to have that certainty, and the Court
22 has to know that you have that certainty to make sure that you
23 would be qualified, that whatever it is that you were told
24 about the case, whether or not it's true or not, whatever you
25 were told about the case you have to let it go You've got to

1 set it aside You have to say, doesn't matter what I heard
2 over there, I'm making my decision based on what I hear in
3 this courtroom, I'm not letting that over there affect my
4 decision in any way, I can do that, or no, I don't think I can
5 do that That's the question to you, and it has to be one of
6 the two

7 A I don't think I could, truthfully

8 **THE COURT** All right Thank you very much And I
9 appreciate your being honest with me That's exactly what I
10 was asking you to be, is straight-forward and honest with me
11 Further questions from the State?

12 **MR HUMPHRIES** Nothing from the State, Your Honor

13 **THE COURT** Further questions from the Defense?

14 **MR DIGGS** No, Your Honor

15 **THE COURT** Very good, sir If you would go with the
16 deputy for just a few moments, please Thank you

17 A Thank you

18 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
19 JUROR)

20 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
21 JUROR NUMBER 46 MARKED COURT'S EXHIBIT NUMBER 44)

22 **THE COURT** All right, the position of the State

23 **MR HUMPHRIES** He's not qualified

24 **THE COURT** Defense?

25 **MR DIGGS** We agree

1 **THE COURT** All right, the Court finds Juror Number 46,
2 Mr Bellamy, to be not qualified I do find that he would not
3 be able to follow the Court's instructions or the oath, and
4 that his ability to perform his duties would be prevented or
5 substantially impaired

6 All right Would the first one there, Ms Waterston,
7 Sylvia Waterston, be there?

8 **DEPUTY SHERIFF** Yes sir

9 **THE COURT** Very good

10 **SYLVIA W WATERSTON, JUROR NUMBER**
11 **660**, being first duly sworn, states as follows

12 **BY THE COURT**

13 **THE COURT** All right, Ms Waterston, what I'm going to
14 do is, I'm going to talk to you about certain things, and then
15 I'm going to ask you some questions, and when I'm done the
16 State may have some questions and the Defense may have some
17 questions for you Okay

18 A All right

19 **THE COURT** Aren't any right or wrong answers here
20 What we are looking for is just direct, straight-forward,
21 honest answers to the questions That's what we need Okay

22 A That's easy

23 **THE COURT** Very good, Ma'am In this particular case
24 the State of South Carolina has charged the Defendant, Mr
25 Stanko, with the crimes of murder and armed robbery The

1 Defendant has pled not guilty to those charges, so that puts
2 the burden of proof on the State of South Carolina to prove
3 the Defendant guilty beyond a reasonable doubt The Defendant
4 is presumed innocent He doesn't have anything to prove to
5 you or show to you The State has to prove the guilt of the
6 Defendant of the crimes charged beyond a reasonable doubt Do
7 you understand that?

8 A I do

9 THE COURT All right Now, in this particular case
10 the State of South Carolina has filed notice to seek the death
11 penalty as against the Defendant, so that puts this case in a
12 procedure that there could be two parts The first part would
13 be that the jury would be faced with the decision as to
14 whether or not the State of South Carolina has shown to it, by
15 the facts and evidence, evidence that it believes, and
16 evidence which convicts the Defendant of the crimes charged
17 beyond a reasonable doubt, because if, and only if the jury
18 finds, and convicts the Defendant of the crime of murder,
19 beyond a reasonable doubt, would we even get to the second
20 phase of this trial You understand that?

21 A Right

22 THE COURT In the second -- that's called penalty
23 phase because the jury actually imposes a penalty That makes
24 it different from any other criminal case In all other
25 criminal cases the Judge writes the sentence, but in this case

1 the jury actually imposes a penalty, and you've got two
2 possible choices, the death penalty, life in prison without
3 the possibility of parole And when I might say life, or the
4 attorneys might say life, that's what we mean, life in prison
5 without the possibility of parole

6 Now, for a jury to -- do you need a tissue or something?

7 A I've got -- my contact is bothering me

8 **THE COURT** Okay

9 A I might try to get it out

10 **THE COURT** All right

11 A Did I get it out? I don't know It's not bothering me
12 now Maybe I lost it Go ahead If I lose it I lose it

13 **THE COURT** I'm sorry All right In this particular
14 case, if the jury is going to consider the possibility of a
15 death penalty the jury has to find what's called an
16 aggravating circumstance It's a factor that is in the
17 statutes, and that the Court would charge the jury, and if the
18 jury unanimously finds an aggravating circumstance then the
19 jury could consider a death penalty A jury is never required
20 to give the death penalty, but to even consider the sentence
21 the jury has to find, unanimously, an aggravating
22 circumstance

23 A What is an aggravating circumstance?

24 **THE COURT** Aggravating circumstance -- there's certain
25 categories that the Court would provide to you, and I can't

1 give you examples because then I would be talking about the
2 case, and I can't talk about the case right now

3 A Okay

4 **THE COURT** But in general aggravate means to make
5 worse ---

6 A Right

7 **THE COURT** ---Or to exacerbate the underlying
8 situation

9 A Right

10 **THE COURT** Okay But I would charge to the jury the
11 factors to be considered, and if the jury picked one or more,
12 or whatever -- the jury has to pick one -- if they pick one
13 then they can consider the death penalty If the jury doesn't
14 pick any aggravating circumstances then the jury does not have
15 that option in front of it

16 A Okay

17 **THE COURT** The jury also has to consider mitigating
18 circumstances Again, those are factors that the Court would
19 state to the jury -- but mitigate means to reduce or to lessen
20 the punishment, lessen the charge -- but the jury would have
21 to consider all those before they impose the sentence, to --
22 to examine all of those factors, and so -- because the jury
23 obviously can impose life because of the mitigating factors,
24 or the jury can impose life for no reason whatsoever That
25 option is always open to the jury

1 Now, in this particular case if the jury found an
2 aggravating circumstance, unanimously, and the jury
3 unanimously came to the conclusion that the death penalty
4 should be imposed, because the jury is imposing a sentence the
5 members of the jury then have to take pen in hand and sign a
6 verdict form saying that that's my unanimous decision, and
7 that is the penalty that I have imposed in this particular
8 matter You understand that?

9 A Yes sir

10 **THE COURT** Also as a member of the jury a member of
11 your -- a part of your duties and responsibilities would be to
12 come into the courtroom with any kind of preconceived ideas or
13 notions of the law, or facts of the case, or your beliefs
14 about a particular penalty, and if you heard anything about
15 the case in the past, or knew anything about it, or thought
16 you knew something about it, or somebody told you something,
17 you've got to disregard all that You've got to leave all of
18 that outside the courthouse You can't bring it with you
19 You have to make your decision based solely upon the facts and
20 evidence presented in this courtroom, and from no other
21 source You take the law the Court gives to you, apply it to
22 the facts you find to be true, and then make your decision,
23 but the rest of it you can't use that You certainly can't
24 talk about it to the other members of the jury, but mentally
25 you can't use that to help you deliberate or reach your

1 decision It can't be part of your decision Do you
2 understand that?

3 A (NODS HEAD AFFIRMATIVE)

4 THE COURT All right The law this Court gives to you
5 you have to apply Whether ultimately you agree with it or
6 disagree with it when you take your oath you say, Judge, you
7 tell me what the law is and I'm going to apply it to the facts
8 that I and the other members of the jury find to be true in
9 this matter You understand that?

10 A Uh huh (indicating positive)

11 THE COURT All right Very good Please remember you
12 have to say yes or no because ---

13 A Yes Got you

14 THE COURT ---The Court Reporter can't take down Uh
15 huh

16 Okay Let me just ask you some general questions
17 Since we were here on Friday have you read, watched, looked up
18 anything about this case?

19 A No

20 THE COURT Since we were here on Friday did you talk
21 about this case with anybody?

22 A No

23 THE COURT Now, before Friday, before I gave you the
24 instructions not to do that had you heard anything about this
25 in the past in any way?

1 A A little here and there Yes

2 THE COURT Okay Can you remember anything about what
3 you heard?

4 A Basically just what's on the radio

5 THE COURT Okay And what was that? As best you can
6 remember, what was it?

7 A I think that this guy has already been convicted of a
8 crime, murder, and been sentenced to death

9 THE COURT Okay All right, now, you understand that
10 would be -- if that's true ---

11 A That's a different case

12 THE COURT That's a different case, and it's part of
13 what you have to leave outside the courthouse

14 A I understand that

15 THE COURT You can't bring it with you You can't use
16 it It can't impact your decision in any way You understand
17 that?

18 A Uh huh (**indicating positive**)

19 THE COURT Can you do that?

20 A Sure

21 THE COURT All right Very good When you heard
22 about the matter in general in the past, or whatever it is
23 that you remember about it, do you remember forming any kind
24 of belief or opinion at that point in time?

25 A Forming a belief or opinion?

1 **THE COURT** Yes Ma'am, at that point

2 A No

3 **THE COURT** Okay Very good In general, do you know
4 of any kind of personal, political, religious, philosophical
5 beliefs that you might have that would keep you from being a
6 fair and impartial juror in this case?

7 A I don't think so

8 **THE COURT** All right Regarding the witness list in
9 this matter you did not circle any of the potential witnesses,
10 correct?

11 A To my knowledge I don't know any of those people

12 **THE COURT** Very good And regarding the category of
13 juror you circled (C), correct?

14 A Correct

15 **THE COURT** And so we are on the same page about that,
16 regarding category (C) that's the jury that -- and again, we
17 are talking about these in hypotheticals -- it could happen,
18 it might not happen -- but if you are on the jury, the jury
19 has deliberated in the first phase, based on the facts and
20 evidence presented they found unanimously that the Defendant
21 was guilty of the crime of murder beyond a reasonable doubt,
22 so we are in the second phase Juror (C), or category (C)
23 juror says, I'm not going into the sentencing phase with any
24 kind of predisposition as to the sentence, I'm going to hear
25 all the facts and evidence presented in this case, I'm going

1 to listen to the law that the Judge gives to me, only after
2 all that will I then fairly consider both sentences and then,
3 along with the other members of the jury in discussions impose
4 a sentence at that point in time, is that correct?

5 A Correct

6 **THE COURT** Very good So, assume again you are in the
7 sentencing phase, under the right set of facts and
8 circumstances being presented to you in the sentencing phase
9 could you consider, and could you impose a life sentence,
10 under the right set of facts and circumstances?

11 A Yes

12 **THE COURT** Again, under the right set of facts and
13 circumstances being presented could you consider, could you
14 impose a death sentence under the right set of facts and
15 circumstances being presented?

16 A Yes

17 **THE COURT** You are in the situation where the jury has
18 reached a unanimous decision, and has said that the proper
19 punishment in the case is the death sentence, can you then
20 take pen in hand and sign your name to the form saying yes,
21 that is my verdict, I was part of the unanimous verdict in
22 that regard?

23 A Yes

24 **THE COURT** All right In this case, because of the
25 type of case it is, we are going to need to sequester the jury

1 once the jury is selected As you might imagine what that
2 means is you would be staying, obviously at the County
3 expense, at a hotel with all the other jurors, meals would be
4 provided, you would be transported to and from the courthouse
5 by County officials, but you wouldn't be going home in the
6 evening I understand, everybody understands that's a
7 hardship, no question about that, but being sequestered, is
8 that such an undue hardship, or is there any kind of health
9 concern, any member of the family or yourself, that you
10 couldn't be sequestered? And the length of time -- let me
11 tell you so -- the best I can tell you so you have a full
12 understanding -- the best we can tell you is, the length of
13 time would probably be seven to nine days That's what it
14 would be

15 A At this point my daughter is pregnant She is having
16 contractions, and I'm on call to come

17 **THE COURT** Okay

18 A In addition, I am the only one who can do my job

19 **THE COURT** Okay What is your job?

20 A I have a picture framing shop, and I'm the one that
21 makes the frames and puts them together I have a clerk who
22 can help me during the day, but not being able to work at
23 night is an issue

24 **THE COURT** Okay Okay Just regarding your daughter,
25 is it the first child?

1 A Third

2 THE COURT Third

3 A That's why it's so important They won't even let the
4 little ones in the hospital now ---

5 THE COURT Okay

6 A ---Because of the Swine flu

7 THE COURT Yes, the flu, so ---

8 A Yes So I have to get them before she has the third
9 one

10 THE COURT Okay Where is your daughter?

11 A Wilmington

12 THE COURT Wilmington, North Carolina?

13 A Uh huh (indicating positive)

14 THE COURT Okay And the other -- the other children,
15 how old are they?

16 A One is five and one is two

17 THE COURT Okay All right Very good

18 All right The State would have questions at this point
19 in time?

20 MR HEMBREE Yes, Your Honor

21 BY MR HEMBREE

22 MR HEMBREE Hey, Ms Waterston Is it Waterston?

23 A Yes

24 MR HEMBREE I'm Greg Hembree I'm the Solicitor for
25 the Fifteenth Circuit, along with Deputy Solicitor Fran

1 Humphries, and Senior Assistant Solicitor Jimmy Richardson I
2 will be presenting the evidence on behalf of the State of
3 South Carolina

4 A Uh huh (**indicating positive**)

5 **MR HEMBREE** If you are selected for this jury we will
6 be spending some time together

7 Let me ask you about your daughter's situation a little
8 bit Let me explore that a bit You say that she is having
9 contractions like as we speak?

10 A She had some yesterday She said they quieted down

11 Q How far along is she, if I may ask?

12 A She -- they first said she was going to be due the
13 first of December, but the doctor has now said that if she
14 doesn't have the baby by Thanksgiving he will induce

15 Q Okay So you say you are subject to be ---

16 A I'm there I'm it

17 Q ---Called -- I mean, if she were to go into labor today
18 ---

19 A I'm gone

20 Q ---You are gone And of course there is no way to
21 predict her ---

22 A Babies have that ---

23 Q Yes

24 A ---You know, and this is a boy child so ---

25 Q They are temperamental I take it that you are going

1 to -- you are -- your daughter is relying on you to care for
2 her other ---

3 A Correct Uh huh (indicating positive)

4 Q ---Your grandchildren while she's in the hospital

5 A Yes

6 Q How old are they?

7 A Five and two

8 Q Would -- of course the Judge has talked to you about
9 sequestration, but would the fact that you have this sort of
10 looming at any minute in any way be a distraction to you if
11 you were asked to serve on this jury?

12 A Yes, I -- yes, I mean, I'm the only one that can go and
13 take care of them

14 Q It's ---

15 A It's me

16 Q It's you So this is something that would weigh
17 heavily on your mind?

18 A Yes It's me

19 Q Do you believe it might even affect your ability to
20 serve effectively on the jury?

21 A I mean, yes, I mean I -- it bothered me just when I was
22 here on Friday I went out to the car to call her to make
23 sure she was still okay

24 Q I've got you So this is something that's ---

25 A Yes

1 Q ---Part of your life every single minute ---

2 A Right I'm talking to her every day

3 Q ---At this stage, this stage of the game?

4 A Uh huh (**indicating positive**)

5 **MR HEMBREE** I don't believe I have any further
6 questions ---

7 **THE COURT** Thank you, Solicitor

8 **MR HEMBREE** ---Of this potential juror, Your Honor

9 **THE COURT** Mr Diggs, or Ms Williams?

10 **MR DIGGS** Your Honor, we don't have any objection to
11 transferring the juror, I mean, we don't have any questions

12 **THE COURT** All right Ms Waterston, if you wouldn't
13 mind, if you would just go with the deputy for just a moment,
14 please Ma'am

15 A All right

16 **THE COURT** Thank you, Ma'am Appreciate it very much

17 (**THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
18 **JUROR**)

19 (**THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
20 **JUROR NUMBER 660 MARKED COURT'S EXHIBIT NUMBER 45**)

21 **THE COURT** What's the State's position?

22 **MR HEMBREE** Your Honor, we would ask that this juror
23 be transferred to another term also She's got a pretty
24 serious obligation that she's facing, and has indicated that
25 it might even -- even to the point that it could affect her

1 ability to serve, so we would ask that she be -- and
2 considering sequestration, we would ask that she be
3 transferred

4 **THE COURT** All right And Defense agrees with that,
5 is that correct, Mr Diggs?

6 **MR DIGGS** We do agree

7 **THE COURT** All right Very good

8 Madame Clerk, why don't you transfer this jury, and
9 let's -- why don't we -- looking at the calendar we will give
10 her plenty of time Why don't you transfer her to the week of
11 May 17th, Madame Clerk You transfer her to the week of May
12 17th, please All right Thank you, Ma'am

13 All right, let the juror know she's transferred

14 All right And could we have Ms Snyder, Sandra Snyder,
15 come in This one, apparently, is a teacher, as I understand
16 it, so we will have to talk to the juror about that when she
17 comes in

18 **SANDRA M SNYDER, JUROR NUMBER 594,**
19 being first duly sworn, states as follows

20 **BY THE COURT**

21 **THE COURT** All right, Ms Snyder, what I'm going to do
22 is, I'm going to talk to you about certain things I'm going
23 to be asking you some questions, and when I'm done the
24 representatives of the State and the Defense may have some
25 questions for you Okay

1 A Okay

2 THE COURT There are no right or wrong answers here
3 What I'm looking for are just a direct, straight-forward,
4 honest answers to the questions posed That's all that I
5 expect and would want from you Okay

6 A Okay

7 THE COURT Very good First thing, your employment
8 You are currently a teacher at one of the Horry County
9 schools Is that right?

10 A Yes, Conway High School

11 THE COURT Conway High School And what grade, or
12 what subjects?

13 A I teach nine through twelve, Art and Photography

14 THE COURT Okay What is your schedule, please?

15 A Well, I also have a second job I also teach online
16 college courses in the evening, so I do that as well, for
17 college, but during the day I'm there from eight o'clock until
18 about four o'clock, every day

19 THE COURT At Conway High School?

20 A Yes Yes

21 THE COURT Okay And that's Monday through Friday?

22 A Correct

23 THE COURT All right Very good All right, now, I
24 read these out Friday and said we would talk about them when
25 you were individually questioned, and you did mention at that

1 point in time that you are a teacher The Legislature has set
2 forth that, if you are a full time student, or a full time
3 teacher you can have your jury service transferred to another
4 time, and it's transferred, in accordance with the statute, to
5 the summer, when school is not in session, so basically you
6 are giving up some of your summer vacation to be a juror
7 That's what happens Now, that's not a mandatory requirement
8 It's an option given to a juror who finds themselves in that
9 position, summoned for jury duty, and the fact that they would
10 be a full time student or a full time teacher, and they have
11 available to them then the option to be excused for that
12 particular week, to be transferred to the summer when they are
13 not teaching school at that point in time

14 So, understanding that is an option open to you do you
15 want to exercise that option, or do you want to waive or give
16 up that option?

17 A Well, I definitely had a hard time with the whole
18 substitute issue and stuff right now because there's a
19 shortage of subs, so it was hard for that, and I thought, I
20 would like to exercise that option because I have the two
21 months every year off

22 THE COURT Okay

23 A Yes

24 THE COURT All right Very good

25 Further questions on that particular issue from the

1 State?

2 MR HEMBREE None, Your Honor

3 THE COURT From the Defense?

4 MR DIGGS No sir

5 THE COURT All right What I'm going to do is -- I
6 have a calendar in front of me Usually school is basically
7 done the first week in June?

8 A Yes, around the 9th or so

9 THE COURT Okay

10 Madame Clerk, if you would -- now we've got court the
11 14th, but I don't want to send you right into -- June 28th,
12 Madame Clerk If you will transfer the juror to the week of
13 June 28th

14 You will get another Summons from the Clerk of Court,
15 but that will be the week you are summoned to All right

16 A The 28th?

17 THE COURT 28th of June That's a Monday And you
18 will report downstairs It would be different You would
19 report downstairs in the jury assembly room, downstairs on the
20 first floor It's basically right straight off from the
21 entrance-way, but that's where you would report

22 A Okay

23 THE COURT All right

24 A Right

25 THE COURT Thank you, Ma'am

1 A That's it?

2 THE COURT Yes Ma'am

3 A All right Thank you

4 THE COURT Thank you

5 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
6 JUROR)

7 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
8 JUROR NUMBER 594 MARKED COURT'S EXHIBIT NUMBER 46)

9 MR HUMPHRIES Before the next juror comes in, she
10 expressed that she -- that she would be -- she would not be a
11 fair and impartial juror based on her beliefs ---

12 THE COURT All right That's Ms Delphia Wilson ---

13 MR HUMPHRIES ---In general qualifications

14 THE COURT ---690 All right Let's see ---

15 Unable to be impartial - victim of a crime

16 All right, ask Ms Wilson to come in, please

17 DELPHIA M WILSON, JUROR NUMBER

18 690, being first duly sworn, states as follows

19 BY THE COURT

20 THE COURT All right, Ms Wilson, what I'm going to do
21 is, I'm going to talk to you about certain things, and then
22 I'm going to be asking you some questions, and then
23 representatives of the State and the Defense might have some
24 questions to ask of you Okay

25 A Yes

1 **THE COURT** All right Now, aren't any right or wrong
2 answers here What I want from you, and what I really need
3 from you is just direct, straight-forward, honest answers to
4 the questions that I ask That's all I expect and hope to --
5 that you would honor that Okay

6 A Yes sir

7 **THE COURT** Very good Now, in this particular case
8 the State of South Carolina has charged the Defendant, Mr
9 Stanko, with the crimes of murder and armed robbery The
10 Defendant has pled not guilty to those crimes That puts the
11 burden of proof on the State of South Carolina to prove the
12 Defendant guilty beyond a reasonable doubt The Defendant is
13 presumed innocent The Defendant doesn't have anything to
14 prove to you or show to you It's the State's burden to prove
15 the Defendant guilty beyond a reasonable doubt Do you
16 understand that?

17 A Yes, I do

18 **THE COURT** All right In this particular case the
19 State of South Carolina has filed a notice to seek the death
20 penalty as against Mr Stanko Now, that makes the case such
21 that it could have two possible parts The first part would
22 be the -- based upon the facts and evidence presented the jury
23 would consider all those facts and evidence, find that
24 evidence which convinces it of it's truth, and then see
25 whether or not the State has proved the guilt of the

1 Defendant, beyond a reasonable doubt, of the crimes charged
2 The jury would have to unanimously so find If the jury does
3 not unanimously -- would not unanimously find the Defendant
4 guilty of the crime of murder then we wouldn't even go into
5 the second phase There would be no need for it You
6 understand that?

7 A Yes, I do

8 **THE COURT** In the second phase the jury would be
9 considering, and actually would be imposing a sentence in this
10 matter That makes it different than any other criminal case
11 In all other criminal cases the Judge imposes the sentence
12 In this particular case the jury actually decides the
13 sentence The jury has two choices, death penalty, life in
14 prison without the possibility of parole So if I say life or
15 the lawyers says life, that's what it means, life in prison
16 without the possibility of parole You understand that?

17 A Yes

18 **THE COURT** Very good For a jury to consider imposing
19 the death penalty the jury would have to find what is called
20 an aggravating circumstance Aggravate means to make worse,
21 or exacerbate the situation There are certain factors that
22 the Court would charge the jury If the jury found one of
23 those, picked one of those by a unanimous decision then the
24 jury could consider the death penalty There's no -- it's
25 nothing automatic That just gives the jury the ability to

1 consider the death sentence, because if they don't find an
2 aggravating circumstances can't even consider a death penalty,
3 because you have to find one of those to even -- for that to
4 even be a possibility You understand that?

5 A Yes sir

6 **THE COURT** The jury also has to consider and look at
7 all the mitigating factors that the Court would charge them
8 Again, those would be factors that would tend to reduce or
9 lessen the punishment, lessen the charge The jury would have
10 to look at all those, consider all those before they impose
11 any kind of penalty in the case Do you understand that?

12 A Yes

13 **THE COURT** A jury can impose life in this case because
14 of the mitigating circumstances, or for no reason whatsoever
15 Just as an act of mercy the jury could impose a life sentence
16 Do you understand that?

17 A Yes

18 **THE COURT** If you are a member of the jury, and the
19 jury unanimously finds an aggravating circumstance, and the
20 jury unanimously votes to impose the death penalty in the
21 case, because the jury is imposing the death sentence the jury
22 actually -- all the members of the jury have to actually take
23 pen in hand and sign a form indicating that the, indeed, is
24 their verdict, and it is the unanimous verdict of the jury to
25 impose the death penalty You understand that?

1 A Yes

2 THE COURT The law that the Court would give to you,
3 you understand that you have to apply that law -- whether
4 ultimately you agreed with it or disagreed with it you have to
5 apply that law to the facts as you would so find them to be,
6 along with all the other members of the jury You understand
7 that?

8 A Yes

9 THE COURT It would also be a job as a juror, if you
10 are a juror in the case, if you came into this courtroom with
11 any preconceived ideas of what the law is, what it ought to
12 be, what it should be, or if you came into the courtroom with
13 any preconceived notions of the facts of the case, or the
14 particular punishment, or you heard about this matter in any
15 way, you've got to set all that aside You can't bring any of
16 that into the courtroom You can't use any of that You have
17 to make your decision based solely and completely on the
18 evidence -- facts and evidence that's presented in this
19 courtroom, and the law the Court gives you, and that's the
20 only basis you can make your decision on You understand
21 that?

22 A Yes

23 THE COURT You have to let -- anything that happened
24 in the past you have to let that go You can't bring that
25 into the courtroom You can't allow that to affect your

1 decision in this matter Do you understand that?

2 A Yes

3 **THE COURT** Understand that would be your job as a
4 juror if you were selected, correct?

5 A Yes

6 **THE COURT** All right Now, in this particular matter
7 you indicated that -- well, first, have you heard anything
8 about this case, know anything about it ---

9 A Yes

10 **THE COURT** ---Anything in the past?

11 Okay Tell me what that was? Was is it you remember,
12 or think you know about it?

13 A I remember when he murdered a woman, and raped her
14 daughter, and tried to take her life also I work in the
15 area, and I remember watching all the news, and just how I
16 felt about the whole thing

17 **THE COURT** Okay And I appreciate the fact -- and I'm
18 sorry I have to explore that with you How did that make you
19 feel?

20 A It made me feel terrible for the victims

21 **THE COURT** Okay And not wanting you to explore with
22 me in any detail what happened in the past, but you did note
23 that -- in your juror questionnaire form, that -- you
24 indicated that you -- in the past you live with an abusive
25 man, correct?

1 A Yes, I did

2 THE COURT All right Does this fact -- unfortunately
3 that it did happen, do you think that would impact your
4 ability to be fair and impartial in this case?

5 A Yes, I do

6 THE COURT Okay And understanding that that is what
7 happened in the past, and knowing that the Court would expect
8 every member of the jury, whatever their past may be, that
9 they have to -- as I said, you have to leave that outside the
10 courthouse You can't let it affect your decision in this
11 way, and understanding that's what the Court would expect of a
12 juror, because of your past experiences are you telling me
13 that -- that that would carry forward with you, even into the
14 courtroom?

15 A What I know already know of the case would carry forth
16 in the courtroom

17 THE COURT Okay Would that affect your decision in
18 this matter?

19 A I believe it would

20 THE COURT All right And you are telling me you just
21 wouldn't be able to set that aside and basically
22 compartmentalize that and not let it affect your decision Is
23 that what you are telling me?

24 A In this case I have thought about it, and I don't
25 believe I can set aside

1 **THE COURT** All right Thank you, Ma'am I appreciate
2 you being very straight-forward and honest with me about that
3 Thank you

4 Solicitor, further questions?

5 **MR HEMBREE** No, Your Honor

6 **THE COURT** Defense, any further questions?

7 **MR DIGGS** No, Your Honor

8 **THE COURT** Thank you, Mr Diggs

9 All right, Ma'am, if you don't mind, if you would just
10 go with the deputy for a few moments, please

11 A Thank you

12 **THE COURT** Thank you, Ma'am

13 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
14 **JUROR)**

15 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
16 **JUROR NUMBER 690 MARKED COURT'S EXHIBIT NUMBER 47)**

17 **THE COURT** State's position?

18 **MR HEMBREE** The juror is not qualified in this case,
19 Your Honor

20 **THE COURT** Defense

21 **MR DIGGS** Your Honor, we agree, and move that he be
22 excused -- she

23 **THE COURT** All right I do find the juror is not
24 qualified I find that she would not be able to follow the
25 Court's instructions and to obey her oath to -- and would

1 allow past experiences and past information to -- or past
2 experiences to affect her decision in this matter, and would
3 not be able to comply with her oath She is not qualified

4 All right, Ms Lisa McGee

5 MR RICHARDSON Your Honor ---

6 THE COURT Yes sir

7 MR RICHARDSON ---Before she comes in, she lists as
8 her occupation a school bus driver

9 THE COURT Okay

10 MR HUMPHRIES And support staff, whatever that means

11 THE COURT All right

12 LISA DAWN MCGEE MCKENZIE, JUROR

13 NUMBER 424, being first duly sworn, states as follows

14 BY THE COURT

15 THE COURT Yes Ma'am Your full name, please Ma'am

16 A My full name is Lisa Dawn McGee McKenzie

17 THE COURT All right Thank you, Ma'am

18 All right Excuse me just one moment, please

19 All right, Ma'am, you have -- I see you've listed in
20 your juror questionnaire form -- are you currently employed as
21 a special needs bus driver for the Horry County Schools? Is
22 that your current employment?

23 A I'm currently employed, but out on sick leave

24 THE COURT All right And -- and regarding the sick
25 leave, is that something -- what's the -- without going into

1 great detail what is the nature of that?

2 A They haven't diagnosed anything yet on it

3 THE COURT Okay How long have you been seeing
4 medical professionals or doctors about it?

5 A September

6 THE COURT Since September Okay Have you -- what
7 was -- what has been the frequency of you been being -- going
8 to doctors and doing tests and that sort of thing?

9 A Up until recently I had appointments every other week

10 THE COURT Okay Have you seen doctors just locally,
11 or have you seen doctors elsewhere?

12 A I have seen basically locally, but I'm working on
13 getting in to see a specialist out of State

14 THE COURT Okay Where might that be? Just ---

15 A In Maine

16 THE COURT In Maine Okay All right But as far as
17 any diagnosis the local doctors have not been able to give you
18 a definitive diagnosis, is that what you are ---

19 A That's correct

20 THE COURT All right Again -- and I don't mean to
21 pry, and I'm sorry for having to ask you these questions, but
22 it's important that we have the information to see about a
23 person's availability to be a juror In general, what kind --
24 how does this affect your daily life, the condition that you
25 have?

1 A Well, basically with the medications that I have,
2 according to this D O T regulations, a person cannot drive
3 with narcotics in their system

4 THE COURT Okay And what is it that you take?

5 A Oxycodone, Triazidon and Prilosec

6 THE COURT How often do you take these?

7 A The Prilosec and the Triazidon is daily

8 THE COURT Okay And how about the Oxycodone?

9 A As needed

10 THE COURT Okay When was the last time, or what kind
11 of frequency have you been taking that?

12 A I'm normally one that doesn't take a lot of pain meds
13 unless I have to I think out of the whole bottle I've taken
14 four in thirty days

15 THE COURT Okay Very good All right In that
16 regard -- and assume you were a member of the jury in this
17 particular case, and understanding that, you know, we would be
18 here in the courtroom, and seated in the jury box, and you
19 would be there listening to the evidence and testimony
20 presented You would be there for, say, an hour and a half or
21 so, or maybe longer before a break would be taken There
22 would be breaks for lunch, but you know, that would be, you
23 know, consistently the whole day How -- would that affect
24 you in any way?

25 A It depends on the day

1 **THE COURT** Okay

2 A I mean that's all I can say It's an intermittent --
3 the pain that I have is an intermittent pain in the left side,
4 and it depends on the day

5 **THE COURT** Okay All right If you are a member of
6 the jury in this particular case the jury is, of necessity,
7 because of the type of case, going to be sequestered once it's
8 selected That means for a period of seven to nine days the
9 jury would be -- obviously at the County's expense -- at a
10 hotel, meals provided, obviously be transported to and from
11 the motel, to the courthouse, and wherever, but you wouldn't
12 be going home in the evening You would be with us until the
13 case was over, and the expectation is that this case would
14 take approximately from seven to nine days to finish once it
15 starts You understand that?

16 A Yes

17 **THE COURT** Understanding that would be the process --
18 and understanding it's a hardship on anybody I understand
19 that Everybody understands that How would -- would that
20 cause you any particular problems, health-wise, that you know
21 of?

22 A Not health-wise

23 **THE COURT** Okay Otherwise?

24 A The fact that I have a twelve year old, a ten year old,
25 and a seven year old

1 **THE COURT** Okay Are they attending school now?

2 A Yes, they are

3 **THE COURT** Okay Here in Conway, or at the Beach, or
4 where?

5 A In Conway

6 **THE COURT** Conway Okay Now, when they get off of
7 school who picks them up?

8 A Typically my mother picks up my daughter from school,
9 and my brother takes -- and gets my boys off the bus

10 **THE COURT** Okay All right And if you were on the
11 jury and sequestered is that what would happen?

12 A Typically

13 **THE COURT** Okay Assume you were sequestered, and
14 obviously you would not be going home, who would be taking
15 care of the three children?

16 A They would go between my mother, my brother, and on the
17 nights their father doesn't work

18 **THE COURT** Okay Where -- where does he work at?

19 A M Grande

20 **THE COURT** I'm sorry Where?

21 A The M Grande in Myrtle Beach

22 **THE COURT** M Grande in Myrtle Beach Okay All
23 right And he works there at night during the week?

24 A Mondays and Tuesdays it's three to eleven, and other --
25 the rest of the days it's twelve to eight

1 **THE COURT** Twelve to eight Okay Twelve to eight

2 Okay That's -- okay M Grande is -- that is a hotel?

3 A It's a hotel on 77th Avenue

4 **THE COURT** 77th Avenue Okay And so that would be
5 twelve noon to eight P M ?

6 A Yes

7 **THE COURT** All right Very good

8 All right, regarding those issues, any questions from
9 the State at this point in time, just as to those particular
10 issues? Do you want to explore that any further?

11 **MR HEMBREE** No, Your Honor

12 **THE COURT** Defense

13 **MR DIGGS** Not from the Defense

14 **THE COURT** All right If you could, Ma'am -- and I
15 apologize for having to get you to come in and come out, but
16 if you don't mind, could you step outside with the deputy for
17 just one moment, please

18 Thank you, Ma'am

19 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
20 **JUROR)**

21 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
22 **JUROR NUMBER 424 MARKED COURT'S EXHIBIT NUMBER 48)**

23 **THE COURT** All right Let me hear from the State

24 **MR HEMBREE** Your Honor, we ask that Juror McKenzie be
25 disqualified She's got three small children It just sounds

1 like between her illness, her medications, and the quite
2 complicated arrangements it would take to get her children
3 cared for while her husband works these night shifts, that it
4 just would be too great a hardship on her to be sequestered,
5 and we would ask that she be excused

6 **THE COURT** All right What's the Defendant's
7 position?

8 **MR DIGGS** Your Honor, we agree with that If she's
9 medically not qualified to drive a bus I would question
10 whether she would be qualified to sit on a jury of this
11 nature, in a case of this nature, so we would ask she be
12 excused

13 **THE COURT** All right Very good What I'm going to
14 do in this particular matter, based on the information that
15 has been provided to the Court by the juror under oath I'm
16 going to excuse this particular juror from service

17 All right Let's let her know that she is excused
18 Okay

19 (CONFERENCE TAKES PLACE AMONG THE COURT, CLERK OF COURT,
20 AND ALL COUNSEL CONCERNING JURORS SCHEDULED TO APPEAR)

21 (THE FOLLOWING TAKES PLACE AFTER A BREAK)

22 **THE COURT** All right If we could have then Juror
23 Bonnie Oguin come in, please, Bonnie Oguin

24 **BONNIE OGUIN, JUROR NUMBER 480,**
25 being first duly sworn, states as follows

1 **BY THE COURT**

2 **THE COURT** All right, Ms Oguin, what I'm going to do
3 is, I'm going to talk to you about certain things, and then
4 I'm going to have some questions for you, and then when I'm
5 done maybe the representatives of the State and Defense may
6 have a few questions for you Okay

7 A Okay

8 **THE COURT** Thank you Now, there aren't any right or
9 wrong answers here, okay

10 A Okay

11 **THE COURT** What I need from you are just direct,
12 straight-forward, honest answers to the questions that are
13 asked I need to know, you know, your opinions, beliefs, or
14 the responses to the questions, all we need Okay

15 A Thank you

16 **THE COURT** Very good Now, in this particular matter
17 the State of South Carolina has charged the Defendant, Mr
18 Stanko, with the crimes of murder and armed robbery To those
19 charges the Defendant has pled not guilty The Defendant,
20 therefore, is presumed innocent The State has the burden of
21 proof to prove the Defendant guilty beyond a reasonable doubt
22 The Defendant doesn't have anything to prove to you The
23 Defendant doesn't have anything to show to you The State
24 must prove the Defendant guilty beyond a reasonable doubt
25 You understand that?

1 A Yes sir

2 THE COURT Now, in this particular case the State has
3 served a notice to seek the death penalty as against Mr
4 Stanko Now that means this case could potentially have two
5 parts The first part the jury would be looking at all the
6 facts and evidence presented in this case, and making a
7 decision based upon the facts and evidence the jury finds to
8 be true to see whether or not the State has proved the guilt
9 of the Defendant of the crimes charged beyond a reasonable
10 doubt, because if, and only if the jury finds the Defendant
11 guilty of the crime of murder, beyond a reasonable doubt,
12 would we even go to the second phase of the trial You
13 understand that?

14 A Yes sir

15 THE COURT All right Now, in the second phase the
16 jury is going to be faced with imposing a sentence in this
17 matter If the jury has already found the Defendant -- and we
18 are talking about hypotheticals -- it may happen, may not
19 happen -- but if the jury finds the Defendant guilty of the
20 crime of murder, beyond a reasonable doubt, then the jury is
21 going to actually impose or decide the sentence in this case
22 That makes it different from any other criminal case In all
23 other criminal cases the Judge imposes the sentence In this
24 type of case the jury imposes the sentence And there's two
25 choices the jury has, life in prison without the possibility

1 of parole, or death Those are the two choices And when we
2 talk about life, and I might say life or the lawyers might say
3 life, that's what we mean, life in prison without the
4 possibility of parole You understand that?

5 A Yes sir

6 **THE COURT** For a jury to consider giving the death
7 penalty in the case the jury would have to find what's called
8 an aggravating circumstance, and those are certain factors
9 that the Court would charge to the jury, and if the jury
10 unanimously chose one then the jury would be able to consider
11 imposing the death penalty, because without choosing an
12 aggravating circumstance the jury would not even have before
13 it the ability to impose death penalty You understand that?

14 A Yes sir

15 **THE COURT** Just because the jury finds an aggravating
16 circumstance doesn't mean the jury is required to impose the
17 death penalty The jury is never required to do that The
18 Court would never instruct the jury to do that, because the
19 option of bringing -- or giving a life sentence, or imposing a
20 life sentence in this matter is always open to the jury The
21 jury can do it for a reason, or for no reason whatsoever the
22 jury can impose a life sentence Do you understand that?

23 A Yes sir

24 **THE COURT** Before a jury imposes a sentence in this
25 matter the jury has to -- they must consider any mitigating

1 circumstance that the Court charges to the jury Again, those
2 are factors that would tend to reduce or lesser the charge,
3 lessen the punishment in the matter The jury would have to
4 look at all those, and consider all those before they impose a
5 punishment in this matter If the jury in this particular
6 case, based upon deliberation, unanimously finds an
7 aggravating circumstance, unanimously decides to impose the
8 death penalty -- because it has to be unanimous -- to impose
9 the death penalty it has to be unanimous, everybody has got to
10 agree -- the jury unanimously decides in this particular case,
11 based on the facts and circumstances presented, that the death
12 penalty was proper, since the jury is actually imposing the
13 sentence the jury -- every member of the jury has to take pen
14 in hand and sign a form indicating that, indeed, is their
15 verdict, and they have been part of the unanimous verdict
16 imposing the death penalty in that case Do you understand
17 that?

18 A Yes sir

19 **THE COURT** Part of your job as a juror, if you are
20 selected as a juror in the case, would be to come into the
21 courtroom with any kind of preconceived ideas of what the law
22 is, any preconceived ideas about the case, about the sentences
23 to be imposed, if you heard about the case in the past, or
24 thought you knew something about it, or somebody told you
25 something, you've got to disregard all of that You've got to

1 set all of that aside You basically leave it outside the
2 courthouse You don't bring it into the courtroom You have
3 to decide this case based solely upon the facts and evidence
4 presented in this courtroom and from no other source You
5 understand that?

6 A Yes sir

7 THE COURT You also have to follow the law that the
8 Court would give you, that I would instruct the jury You
9 have to follow that law Whether ultimately you agreed with
10 it or disagreed with it, when you take your oath you are
11 saying, Judge, I'm going to follow the law that you give to
12 me, and I'm going to apply it to the facts that I, as a member
13 of the jury, and the jury finds to be true in this particular
14 matter You understand that?

15 A Yes sir

16 THE COURT All right, Ma'am Let's go over some
17 questions Since we left here on Friday have you read,
18 listened to, looked up anything about this case?

19 A No sir

20 THE COURT Have you talked to anybody about this case
21 since Friday?

22 A No sir

23 THE COURT Now, since I gave y'all those instructions
24 on Friday not to do that, beforehand you didn't know that
25 Just -- you know ---

1 A Right

2 THE COURT So there's the potential -- and you
3 possibly could have heard something about this case, and
4 that's fine, so did, in the past, before Friday, had you heard
5 anything about this case, or anybody talk to you about it? Do
6 you know anything about it whatsoever?

7 A No Just when it happened

8 THE COURT When it happened?

9 A Yes

10 THE COURT Okay What is it that you can remember
11 now?

12 A That he had murdered his girlfriend, and left the
13 daughter for dead Like I said, this has been so long ago I'm
14 not sure

15 THE COURT Okay

16 A And then came into Conway and murdered a man in Conway

17 THE COURT Okay Now, you understand that that's part
18 of what you have to leave -- if you are member of the jury you
19 have to leave all that, what you think you know about it, you
20 have to leave that outside the courthouse You can't bring
21 that with you Basically like a blank slate ---

22 A Uh huh (indicating positive)

23 THE COURT ---You are coming into the courtroom, you
24 listen to all the facts and evidence presented in this case,
25 make your decision based on the facts and evidence in this

1 case, the law the Court would give to you, and don't let
2 anything that you think you might know about it in the past
3 affect your decision in any way You understand that?

4 A Yes sir

5 **THE COURT** Can you do that?

6 A Yes sir

7 **THE COURT** All right, Ma'am Can you follow the law
8 that the Court would give to you? Even if for some reason you
9 didn't agree with it could you follow the law that the Court
10 would give to you in this case?

11 A Yes sir

12 **THE COURT** All right, Ma'am When you heard about
13 this matter in the past do you remember forming any kind of
14 opinion or belief at that point in time when you heard about
15 it in the past?

16 A No sir I really don't remember that much about it,
17 and just kind of wiped it out

18 **THE COURT** Okay Very good Thank you, Ma'am On
19 the ---

20 **MR DIGGS** Your Honor, could we get her to repeat
21 that I'm sorry I just couldn't hear

22 **THE COURT** Okay Could you repeat the answer again,
23 please Ma'am?

24 A Yes sir I said I really don't remember that much
25 about it, and I just haven't really given it any thought since

1 then

2 **THE COURT** Okay All right Thank you

3 The witness list that we have, you didn't circle
4 anybody, that you knew anybody, correct?

5 A Right I don't know anyone

6 **THE COURT** All right Very good And on the list of
7 categories of jurors which would best describe you you circled
8 (C), correct?

9 A Yes sir

10 **THE COURT** Now let's talk about that just for a second
11 so we make sure we are on the same page, and we agree what a
12 category (C) juror -- type (C) juror is

13 That's the kind of juror that -- and again, we are
14 talking in hypotheticals, you know, something may happen or
15 may not happen, but if you are on a jury in a case and in the
16 first part of the case the jury has deliberated in this
17 matter, found certain facts and evidence to be true, they have
18 found that the State has proved the Defendant guilty of the
19 crime of murder beyond a reasonable doubt, so we are in the
20 second phase of the trial, so the type (C) juror says, going
21 into the second phase of the trial I'm not predisposed to give
22 any kind of penalty or punishment in this matter, I understand
23 there's two choices, life in prison without the possibility of
24 parole, or the death penalty, but I'm not predisposed to
25 either one of them, I'll listen to both, I'll give both due

1 consideration, I could impose either one of them, but what I'm
2 going to do is, I'm going to listen to all the facts and
3 evidence in this case, I'm going to listen to the law that the
4 Judge gives to me, and then, along with my fellow members of
5 the jury I'm going to deliberate and reach my decision as to
6 what penalty should be imposed Is that what you understand a
7 juror (C) to be?

8 A Yes sir

9 THE COURT And that would describe it, correct?

10 A Yes sir

11 THE COURT Very good, Ma'am Talking about that in
12 the same vane, just again, assumptions here, assume you are on
13 the jury and we are in the second phase, based upon the right
14 set of facts and circumstances being presented to you could
15 you consider, and could you impose a life sentence?

16 A Yes sir, I could

17 THE COURT Based upon the right set of facts and
18 circumstances being presented, could you consider, and could
19 you impose a death penalty?

20 A Yes sir

21 THE COURT If you are a member of the jury and the
22 jury unanimously decides that the proper punishment is death,
23 and with that you remember, you have to take pen in hand and
24 sign the form that indicates that, indeed, is the unanimous
25 verdict of all the jurors in this case, could you do that?

1 A Yes sir

2 THE COURT Very good In this particular matter,
3 because of the type of case that it's going to be, when the
4 jury is selected -- obviously not now, but when the jury is
5 all selected the jury is going to be sequestered Now, that
6 means that the jury will be housed -- obviously all this is
7 County expense -- at a hotel, meals provided You will be
8 transported to and from -- or wherever you need to go, by
9 County officials, but you won't be going home in the evening,
10 because we have to make sure that the jury is not influenced
11 and -- by any manner that they shouldn't, and are focused
12 solely and completely on the case Understanding that's an
13 inconvenience and a hardship on anybody -- I understand that,
14 everybody understands, no question about that -- but is that
15 such an undue hardship, or exceptional hardship, or --
16 regarding any health of any family member or yourself that
17 would -- would affect your ability to be sequestered?

18 A No sir I'm just not used to being away from home, and
19 would not -- once ---

20 THE COURT Wouldn't like it I understand that, and
21 appreciate that, and -- but otherwise it's not some undue or
22 extreme hardship, it's a hardship but not an undue or extreme
23 one, correct?

24 A No sir

25 THE COURT All right Very good Thank you, Ma'am

1 Further questions from the State at this point in time?

2 MR HUMPHRIES I don't have any questions for Ms
3 Oguin

4 Thank you, Ma'am

5 THE COURT All right From the Defense, questions?
6 Mr Diggs

7 MR DIGGS If it please the Court

8 BY MR DIGGS

9 MR DIGGS Ms Oguin, how are you this afternoon?

10 A Okay

11 Q Now, let me ask you, did you say that you could set
12 aside your views concerning what you know about the case?

13 A Yes sir

14 Q Let me ask you this, do you -- are you familiar with
15 whether or not there was a trial held in this Stanko matter?

16 A I lost track of what was going on with it, and when I
17 got the Summons for jury duty someone mentioned that -- you
18 know, that he had been sentenced

19 Q Okay And that was what kind of sentence, do you know?

20 A I believe they said it was the death penalty

21 Q Okay And let's assume that's correct for a moment,
22 and you are selected to serve on this jury, would having
23 knowledge about a prior death sentence undermine your ability
24 to be responsible in terms of the -- filling the juror
25 responsibilities in this case, in other words, would you feel

1 like we are just kind of going through the motions here for no
2 good reason?

3 A No sir, because I think this is, what, an entirely
4 different matter ---

5 Q Okay

6 A ---Case

7 Q And let me ask you this, do you believe that there is a
8 prevailing view in our community that Mr Stanko is guilty of
9 this crime?

10 A I can't answer that I have not followed that closely
11 enough, and I don't know any people in Conway

12 Q Do you believe that you owe an obligation to the
13 community to convict him?

14 A If the evidence proves so, yes

15 Q All right What if the evidence doesn't prove that
16 under the instructions that you are given by the Trial Court?

17 A Well, I would have to hear the evidence, and I would --
18 I would do what I felt was right

19 Q And right with respect to what?

20 A Whether life in prison or death

21 Q Well, let me ask you this, we anticipate, based on the
22 evidence that's available to present in this case, there may
23 be -- there's likely to be four potential verdicts, guilty,
24 not guilty, not guilty by reason of insanity, or guilty but
25 mentally ill Did I go through those too quickly?

1 A No

2 Q Guilty, not guilty, not guilty by reason of insanity,
3 or guilty but mentally ill Now, if you were selected to
4 serve on this jury do you have a predisposition against, or a
5 bias against any of the foregoing verdict forms?

6 A No sir, I guess not

7 Q Do you know of any diff -- when you say you guess not,
8 can you explain to me what you mean by that?

9 A Well, I just -- I never thought there would be those
10 options, I mean, I thought it was -- I didn't realize there
11 was that many options

12 Q Yes Ma'am Okay But based on the evidence in the
13 case, and the instructions of Court, you don't have any
14 predisposition to not follow the law with respect to those
15 potential -- any of those potential verdicts?

16 A No I would follow the law

17 Q Regardless?

18 A Regardless

19 Q Even if it involved a not guilty of some sort?

20 A Yes sir

21 Q Okay Now, do you feel like there would be any
22 pressure upon you to go back into the community and face your
23 friends and family and so forth if you rendered a not guilty
24 verdict in this case for whatever reason?

25 A No sir

1 Q And would that be because you were following your oath
2 as a juror?

3 A Well, because I don't -- well, I haven't discussed it
4 with anybody, and ---

5 Q Okay

6 A ---Very few people even know that I'm here, so very few
7 people even know I was part of it

8 Q Okay So your testimony is, notwithstanding your
9 knowledge about Mr Stanko, you could consider all of the
10 evidence in this case and render any one of those four
11 verdicts that you felt was best supported by the evidence in
12 the case, under the instructions that the Judge gives at that
13 time?

14 A Yes sir

15 Q Okay Regardless of what some other jury did in some
16 other case?

17 A Yes sir

18 Q Okay Now, let me talk to you for just briefly about
19 the sentencing phase in the event that you are on the jury and
20 the jury finds guilty beyond a reasonable doubt Now you are
21 faced with a sentencing option, and in order to render a death
22 sentence, to vote for a death penalty verdict, the State has
23 got to prove an aggravating circumstance beyond a reasonable
24 doubt Even in that situation that's just to get to the point
25 where a jury can even vote on the death penalty Do you

1 follow me?

2 A I think so

3 Q Okay So, having just found murder beyond a reasonable
4 doubt, and an aggravating circumstance beyond a reasonable
5 doubt, could you still fairly consider life imprisonment
6 without parole in that circumstance?

7 A That's hard to say without hearing the circumstances

8 Q Okay But you understand, that's always going to be
9 the choice, regardless of the circumstances Every death
10 penalty can only be voted on if there's a murder beyond a
11 reasonable doubt, coupled with an aggravating circumstance
12 beyond a reasonable doubt That's always going to be the
13 fact Now, given that situation would you be predisposed to
14 vote death as opposed to life?

15 A I'm not quite sure what you are asking here It's
16 almost like you are asking me if I would say death or life?
17 Is that what you are wanting me to say, death or life?

18 Q No Ma'am I want you to tell me, once you are on the
19 jury, and you have concluded that there was guilt beyond a
20 reasonable doubt, and then we move into the sentencing phase,
21 and the State begins to present evidence of an aggravating
22 circumstance, which is what the Judge is going to tell you
23 they are required to do in order to ask for a death sentence,
24 okay, and then we get to the end of that hearing and you
25 believe the State did, indeed, present evidence in this case

1 of an aggravating circumstance, coupled with the murder, would
2 you be predisposed in that situation to vote death as opposed
3 to life imprisonment?

4 A Yes sir

5 Q Okay And would you do that -- without knowing
6 specific facts would it be fair to say you would be in that
7 position in every case?

8 A Well, that's where you said specific facts

9 Q Yes Ma'am Without any specific facts, just that
10 foundation, that two-tiered foundation, so to speak, murder
11 you found beyond a reasonable doubt, and then on top of that
12 an aggravating circumstance beyond a reasonable doubt, you
13 would -- in every case where those two factors were combined,
14 would vote death?

15 A Yes sir

16 MR DIGGS Okay Thank you very much, and that's all
17 I have

18 THE COURT Ma'am, let me ask you some questions Let
19 me see that I understand what you are telling me Okay

20 The Court would instruct the jury that to consider a
21 death penalty the jury has to find an aggravating circumstance
22 that's been proved to them beyond a reasonable doubt The
23 jury has to find that to even consider the death sentence Do
24 you understand that?

25 A Yes sir

1 **THE COURT** All right Now, just because the jury
2 finds a aggravating circumstance -- and the Court would
3 instruct the jury to this -- that doesn't mean the jury
4 automatically finds the death penalty, because the Court is
5 never going to instruct the jury that they have to find the
6 death penalty The jury can give life for a reason, or for no
7 reason whatsoever, just as an act of mercy If there is an
8 aggravating circumstance or there's more than one aggravating
9 circumstance the jury finds, the jury can decide to impose a
10 life sentence There is not an automatic situation there Do
11 you understand that?

12 A Yes sir

13 **THE COURT** All right Understanding that a life
14 sentence is always open to the jury, no matter what the facts
15 and circumstances are presented, even with aggravating
16 circumstances, understand that Now, you are on the jury, the
17 jury has voted previously to find the Defendant guilty of
18 murder beyond a reasonable doubt In the second phase the
19 jury finds, beyond a reasonable doubt, an aggravating
20 circumstance, would you then say, I've got to vote for the
21 death penalty, or would you consider, and be able to impose
22 either one?

23 A Yes sir

24 **THE COURT** Which one would that be? What would that
25 be?

1 A Either

2 THE COURT Either one of them?

3 A Either one of them

4 THE COURT All right Now, do you understand life
5 is -- life in prison without the possibility of parole is
6 always an option, no matter what the facts are presented to
7 you, and proved to you by the State beyond a reasonable doubt,
8 that's always an option Do you understand that?

9 A Yes sir

10 THE COURT All right And only if the jury finds an
11 aggravating circumstance could the jury even begin to consider
12 the death penalty Do you understand that?

13 A Yes

14 THE COURT If they find an aggravating circumstance
15 they could give death, or they can give life, because again,
16 you can give life at any point in time for any reason You
17 understand that?

18 A Yes sir

19 THE COURT All right Can you do that?

20 A Yes sir

21 THE COURT Can you follow the Court's instructions, no
22 question, no hesitation, follow the Court's instructions and
23 apply that law to the facts that you find to be true in this
24 case?

25 A Yes sir

1 **THE COURT** Without question?

2 A Right Yes sir

3 **THE COURT** All right

4 Further questions from the State?

5 **MR HUMPHRIES** No sir, Your Honor Thank you

6 **THE COURT** Further questions from the Defense?

7 **MR DIGGS** Not at this time

8 **THE COURT** All right Very good

9 All right, Ma'am, if you don't mind, if you would go
10 to -- with the deputy for just a few moments, please Thank
11 you, Ma'am

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

14 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
15 **JUROR NUMBER 480 MARKED COURT'S EXHIBIT NUMBER 49)**

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

17 **MR HUMPHRIES** Your Honor, this -- this juror, 480, is
18 qualified As has happened on a couple of occasions -- and I
19 interposed an objection at one time based on the fact that it
20 was an incomplete statement of the law -- it provides the
21 juror absolutely no context in which to respond honestly to
22 that situation Of course the Court has cured it on every
23 occasion almost without -- without exception, where that
24 question has been answered in that fashion Once further
25 questioned by the Court they've always said they could give

1 either life or death, depending on the circumstances, but
2 clearly in this case this juror, after having been fully
3 advised of the law and the context of that question has
4 indicated she would be a qualified juror

5 **THE COURT** Thank you

6 Defense Mr Diggs

7 **MR DIGGS** Your Honor, I couldn't disagree more with
8 the Solicitor What we have here, with all due respect, is a
9 juror who has set out her position, and then upon enticement,
10 with all due respect, by the Court, conformed her responses
11 again to what was needed, and with all due respect again, I
12 would submit, to what the Court was trying to elicit from her
13 Your Honor, this is a juror who has knowledge of the
14 death sentence that's pending right now against Mr Stanko,
15 and we have to object to the Court's efforts here to
16 rehabilitate this juror after she has indicated that she would
17 always vote for death in the event that there was a guilty
18 verdict coupled with a mitigating circumstances -- or excuse
19 me -- an aggravating circumstance, and so I would submit that
20 the Court -- or to the Court, she is not qualified to be in
21 this case because of her knowledge about the pending death
22 sentence

23 And in addition to that, Your Honor, we would
24 respectfully object to the Court's questioning that
25 rehabilitated this juror after she had set out a position that

1 rendered her unqualified

2 **THE COURT** All right As to the positions presented
3 by the Defense as to previous knowledge the juror clearly
4 indicated that she could set any information that she might
5 have about this case aside, follow her oath, follow the
6 Court's instructions, and fairly and impartially decide this
7 particular case

8 As to this juror's demeanor, based upon my observations
9 of her, she was very thoughtful She was very honest in her
10 answers I will state for the record, I found Mr Diggs'
11 questions to be confusing I couldn't understand what he was
12 asking, so I'm -- whether or not the juror did or not, I will
13 just state as a fact, I couldn't understand what the questions
14 were that Mr Diggs was asking

15 Based upon the Court's questioning of the juror it was
16 clear that she would follow the Court's instructions She
17 clearly said -- and without equivocation in any manner said
18 that she would fairly and impartially consider all options,
19 would not be predisposed in any way until she heard all the
20 facts and evidence in this case

21 And further I would indicate as part of the record that
22 before there were any questions posed to this juror whatsoever
23 she categorized herself as a category (C) juror, on her own,
24 looking at the form, without any input from anyone at any
25 point in time, and again reaffirmed that at the very beginning

1 of the questioning before we got into any further questions
2 There is no question that this juror is absolutely qualified
3 in this particular matter, based upon her answers -- based
4 upon the Court's observations of her there is no question in
5 the Court's mind, based upon my observations and her
6 questions, that she can fairly and impartially carry out her
7 duties in accordance with the Court's instructions, and her
8 oath, and there is nothing in the record that would show that
9 she was prevented or substantially would impair her
10 performance in her duties in this regard

11 **MR DIGGS** Thank you, Your Honor I don't have
12 anything further

13 **THE COURT** All right The juror is qualified
14 Let's have Ms Gloria Morris come in, please

15 **GLORIA L MORRIS, JUROR NUMBER 459,**
16 being first duly sworn, states as follows

17 **BY THE COURT**

18 **THE COURT** All right, Ms Morris, what I'm going to do
19 is, I'm going to talk to you and cover certain things, and
20 then I'm going to be asking you some questions, and then maybe
21 the representatives of the State and the Defense may have some
22 questions for you at that point in time Okay

23 A Okay

24 **THE COURT** What we are looking for, and what -- all
25 I'm asking you to do is just give me and the lawyers just

1 direct, straight-forward, honest answers to the questions
2 That's all There aren't any right or wrong answers here We
3 just need to know how you want to respond, and what you
4 believe regarding the questions that are asked Okay

5 A Okay

6 **THE COURT** Very good In this particular matter the
7 State of South Carolina has charged the Defendant, Mr Stanko,
8 with the crimes of murder and armed robbery To those charges
9 the Defendant has pled not guilty That puts the burden of
10 proof in this case on the State of South Carolina to prove the
11 Defendant guilty beyond a reasonable doubt The Defendant is
12 presumed innocent The Defendant doesn't have anything to
13 prove to you The Defendant doesn't have anything to show to
14 you The State must prove the Defendant guilty beyond a
15 reasonable doubt Do you understand that?

16 A Yes

17 **THE COURT** Now, in this case the State has filed a
18 notice to seek the death penalty as against Mr Stanko, so
19 that means that this case could possibly have two parts In
20 the first part the jury would be looking at all the facts and
21 evidence and testimony presented to see, and find that
22 evidence which the jury is convinced to be true, and then
23 weigh that evidence against the State's burden as to whether
24 or not the State has proved the Defendant guilty of the crimes
25 charged beyond a reasonable doubt, for if, and only if the

1 jury, by a unanimous decision, everybody agrees that the State
2 has proved the Defendant guilty beyond a reasonable doubt of
3 murder do we even get to the second phase of the trial Do
4 you understand that?

5 A Yes

6 THE COURT All right Assume -- and we've got to talk
7 about assumptions and things that may or may not happen so
8 that we fully explore all the issues -- but assume the jury
9 has well and truly deliberated in this case, and reached it's
10 unanimous decision that the State has proved the Defendant
11 guilty of the crime of murder beyond a reasonable doubt, and
12 now we've gone into the second, or sentencing phase of the
13 trial, the jury will have before it the decision to actually
14 impose a sentence That makes this case, or this type of case
15 unique, because in all other cases the Judge imposes the
16 sentence In this case, this type of case, the jury actually
17 decides the sentence, and the jury will have two choices,
18 death or life inprison without the possibility of parole, and
19 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 Now, looking at that -- and when the jury
24 is faced with those decisions and those choices, for a jury to
25 even consider the death penalty the State has to prove, and

1 the jury would have to find, beyond a reasonable doubt, an
2 aggravating circumstance Now those are certain factors that
3 the Court would charge to the jury But to aggravate means
4 to, you know, make worse, or to exacerbate the situation But
5 if the jury found one of those aggravating circumstance or
6 factors then the jury could consider the death penalty It's
7 not automatic The jury would never be charged, nor is never
8 required to give the death sentence The jury can impose life
9 for a reason or no reason whatsoever Just as an act of mercy
10 the jury can impose life You understand that?

11 A Yes sir

12 **THE COURT** So, the jury has to find an aggravating
13 circumstance just to even consider imposing the death penalty,
14 and before the jury reaches a consensus as to a verdict the
15 jury has the consider and look at any mitigating circumstances
16 that the Court would charge to the jury, and again, those
17 might be -- or would be factors that might lessen or reduce
18 the charge or the punishment, and the jury would have to look
19 at all those and consider all those before the jury imposed a
20 sentence in this particular matter Do you understand that?

21 A Yes sir

22 **THE COURT** If you are part of the jury -- and again,
23 we are talking about hypotheticals or possibilities -- if you
24 are part of the jury and the jury, as part of it's
25 deliberations, makes this unanimous decision -- because it has

1 to be unanimous to impose a death penalty -- unanimously
2 decides to impose the death sentence, the jury has unanimously
3 found an aggravating circumstance, and unanimously finds that
4 the proper punishment, knowing there's two choices, picks the
5 death penalty If you are part of the jury then all the jury
6 then, thereafter, since you are imposing a sentence, have to
7 take pen in hand and sign your name to the form saying that,
8 indeed, is my verdict, and I'm part of that unanimous verdict
9 in this particular matter Do you understand that?

10 A Yes

11 **THE COURT** All right Another part, or another job as
12 a juror in this case, or as a juror in the case would be, if
13 you came into the courtroom with any preconceived ideas of
14 what the law is, or any aspects of the trial, or the
15 punishment, or you had heard about the case in any way, or
16 somebody told you something about it, or you thought you knew
17 something about it, you've got to set all that aside You
18 have to compartmentalize that You have to leave all that
19 outside the courthouse You can't bring them into the
20 courtroom with you You have to make your decision based
21 solely and completely on the evidence that you've heard in
22 this courtroom, and the law that the Court will give to you
23 Do you understand that?

24 A I understand

25 **THE COURT** All right You understand that would be

1 your job as a juror in this case?

2 A Yes

3 THE COURT All right And we'll talk about that again
4 in just a second

5 Since Friday have you read, listened, watched, looked up
6 anything about this case?

7 A No

8 THE COURT Have you talked to anybody about this case
9 since Friday?

10 A No

11 THE COURT Now, before you had the Court's
12 instructions on Friday not to do that, beforehand, had you
13 heard anything about this case, heard, listened to, watched
14 anything, knew anything about this case?

15 A Actually, I've known quite a bit about it from back in
16 2006

17 THE COURT Okay And what is it that you can remember
18 that you know about it?

19 A I remember the first trial, and reading about it in the
20 paper and watching it on T V , and heard about this crime as
21 well

22 THE COURT Okay All right, now, do you remember what
23 -- any verdict that might have been reached in that trial? Do
24 you remember what that was?

25 A Yes, I remember

1 **THE COURT** What was that?

2 A It was guilty

3 **THE COURT** Okay And do you remember any punishment
4 that might have been associated with that?

5 A Death penalty, I believe

6 **THE COURT** Okay Now, when you heard all that, do you
7 remember at that point in time forming or expressing any
8 belief or opinion, when you heard all that? Do you remember
9 doing that?

10 A Yes

11 **THE COURT** What was that?

12 A I -- I guess I felt that there was a -- it was --
13 guilty was the right decision

14 **THE COURT** All right Based upon what you had heard
15 and read at that point in time?

16 A Uh huh (**indicating positive**) Uh huh (**indicating**
17 **positive**)

18 **THE COURT** All right Now, understanding all that, do
19 you understand that if you would be a juror in this particular
20 case you would have to set all that aside, you can't bring any
21 piece of that into this courtroom You have to leave it all
22 outside You can't -- certainly can't talk about it to any
23 other member of the jury, but even mentally, you can't use
24 that to form your opinion about this particular case in any
25 way You can't use it to make your decision in this case in

1 any way So as a juror that's what you would have to do Do
2 you understand that would be your job?

3 A I understand

4 **THE COURT** All right So then the question is, can
5 you do that?

6 A I think it would be difficulty

7 **THE COURT** All right And I appreciate that So, let
8 me understand The Court, as part of it's instructions to the
9 jury, would tell the jury if you heard anything about this
10 case, I'm telling you again, you can't have that as part of
11 your decision-making process in this case in any way You
12 can't let anything that you think you know about the case,
13 whether it's true or not true, affect your decision in this
14 case You must, you have to make your decision based solely
15 upon what you hear in this courtroom and from no other source
16 Those would be the instructions of the Court

17 Now, understanding those to be the instructions of the
18 Court, and your juror oath would require you to do that,
19 understanding that would be the case, again, can you do that,
20 or are you telling me, Judge, I don't think I can do that?

21 A I don't think I can

22 **THE COURT** All right You believe that what you've
23 heard about it in the past would ultimately affect how you
24 would decide this case?

25 A I'm afraid it would

1 **THE COURT** All right Thank you, Ma'am

2 Further questions from the State?

3 **MR HEMBREE** No questions from the State, Your Honor

4 **THE COURT** Questions from the Defense?

5 **MS WILLIAMS** None from the Defense, Your Honor

6 **THE COURT** All right Thank you very much

7 If you don't mind, Ma'am, if you would just take a
8 moment and go with the deputy, and be right back with you
9 Okay

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 459 MARKED COURT'S EXHIBIT NUMBER 50)**

16 **THE COURT** Position of the State?

17 **MR HEMBREE** Ms Morris is not qualified, Your Honor

18 **THE COURT** Defense

19 **MS WILLIAMS** We would agree, Your Honor

20 **THE COURT** All right, the Court finds that Juror
21 Number 459, Ms Gloria Morris, is not qualified I find that,
22 based upon her answers, that she would not be able to perform
23 her duties in accordance with the Court's instructions and her
24 juror's oath in this matter She is not qualified

25 All right Make sure that those are all the jurors that

1 are back there before we go, please Okay

2 DEPUTY SHERIFF That's all

3 THE COURT That's all Very good

4 All right, counsel, the jurors, again, will report

5 tomorrow morning at nine o'clock, and we will begin

6 Obviously y'all will be here ahead of time If you've got any

7 matters please feel free to bring them up

8 Is there anything at this point in time from the State?

9 MR HEMBREE Nothing from the State, Your Honor?

10 THE COURT Anything at this point in time from the

11 Defense?

12 MR DIGGS No sir

13 THE COURT All right Very good Counsel, I'll see

14 y'all tomorrow morning prior to nine o'clock Thank you

15 (THE FOLLOWING TAKES PLACE ON THE NEXT DAY, NOVEMBER 11,

16 2009)

17 THE COURT All right We are on, as I see, panel

18 eleven, so let's start off with the first one, Ms Kyna

19 Triplett

20 CLERK OF COURT Number one is not here, Judge

21 THE COURT Okay Let's -- yes, go to the next one,

22 the number two then

23 RANDALL W BROUGHTON, JUROR NUMBER

24 69, being first duly sworn, states as follows

25 BY THE COURT

1 **THE COURT** All right, Mr Broughton, what we are going
2 to do is, I'm going to talk to you about a few things, ask you
3 some questions, and then the representatives of the State and
4 Defense may have some questions for you Okay

5 A Okay

6 **THE COURT** No right or wrong answers here, just
7 looking just for direct, straight-forward honest answers to
8 the questions Okay Very good, sir

9 In this particular matter the State of South Carolina
10 has charged the Defendant, Mr Stanko, with the crimes of
11 murder and armed robbery Now, the Defendant has pled not
12 guilty to the charges, and that puts the burden of proof on
13 the State of South Carolina to prove the Defendant guilty
14 beyond a reasonable doubt The Defendant is presumed innocent
15 of the crimes which he is charged Defendant doesn't have
16 anything to prove to you or show to you The State must prove
17 the Defendant guilty beyond a reasonable doubt You
18 understand that?

19 A Yes sir

20 **THE COURT** All right, sir In this particular matter
21 the State of South Carolina has filed notice to seek the death
22 penalty That means that the case can have, essentially, two
23 parts In the first part the jury would be looking at all the
24 facts and evidence presented, find that evidence which
25 convinces it of it's truth, and then weigh that against the

1 State's burden to prove the Defendant guilty beyond a
2 reasonable doubt, because if, and only if the State proved the
3 Defendant guilty of the crime of murder would we even go into
4 the second phase You understand that?

5 A Yes

6 **THE COURT** Now in the second phase that's the -- we
7 call it the sentencing phase, because the jury actually
8 imposes the sentence That makes it different from any other
9 criminal case where the Judge normally imposes sentence Here
10 the jury imposes sentence, and there's two possibilities, the
11 death penalty, life in prison without the possibility of
12 parole So if I might happen to say life, or the lawyers say
13 life, that's what we mean, life in prison without the
14 possibility of parole

15 For a jury to consider the death penalty the State has
16 to prove, and the jury has to find, beyond a reasonable
17 doubt -- the jury has to find this unanimously -- an
18 aggravating circumstance Now that's a factor that the Court
19 would -- there's a list of them the Court will charge the
20 jury, and if the jury found one of those, unanimously found
21 one of those, then the jury could consider the death penalty
22 Just because the jury finds an aggravating circumstance
23 doesn't mean they have to find the death penalty There's
24 no -- nothing automatic The jury is never required to find
25 the death penalty The jury can always impose life, for a

1 reason, or for no reason whatsoever You understand that?

2 A Yes

3 THE COURT All right, sir Now, the jury also must,
4 before they consider a sentence and impose a sentence, must
5 look at any mitigating factors that the Court charges to the
6 jury That, again, would be a list that the Court would tell
7 the jury, and the jury would have to look at those Mitigate
8 means to lessen or reduce the charge, reduce the punishment
9 You understand?

10 A Yes

11 THE COURT All right, sir Now, if the jury -- and
12 you are part of the jury -- and obviously we are talking about
13 hypotheticals here, things that may or may not happen -- but
14 if you part of the jury and the jury has convicted the
15 Defendant guilty of murder beyond a reasonable doubt, gone
16 into the sentencing phase and the jury unanimously finds an
17 aggravating circumstance, unanimously then finds that the
18 death penalty is a proper option, since the jury is actually
19 imposing the sentence the jury would then -- members of the
20 jury would then have to, on a piece of paper, take pen in hand
21 and sign their name to this verdict form indication that,
22 indeed, is their unanimous verdict, and has imposed the death
23 penalty in the case You understand that?

24 A Yes

25 THE COURT Another job that a jury would have is --

1 and all the members of the jury would be required -- is to
2 come into the courtroom with any kind of -- without any kind
3 of preconceived ideas of what the law is, what the -- any
4 preconceived ideas about the possibilities of the sentences,
5 they have to leave outside the courthouse anything that they
6 thought they knew about the case, or somebody told them, or
7 they heard about that, because you have to decide the case
8 solely and completely based upon the facts and evidence
9 presented in the courtroom, and from no other source You
10 understand that?

11 A I do

12 **THE COURT** You understand that's the job of the jury?

13 A Yes

14 **THE COURT** All right And we'll talk about that more,
15 but you understand, being a member of the jury, that's what
16 you would be required to do You understand that?

17 A Right So -- yes, I -- yes

18 **THE COURT** All right, sir Okay All right Well,
19 I'm -- we'll talk about that in just a second

20 A Okay

21 **THE COURT** All right And you also are required to
22 follow the law that the Court would give to you, even if you
23 ultimately didn't -- or you agreed with it or disagreed you've
24 got to follow the law that I would give to the jury, and
25 without question You understand that?

1 A Yes

2 THE COURT All right Now, since Friday -- did you
3 read, listen, watch, look up anything about this case since
4 Friday?

5

6 A Tried not to If it came on T V I turned it and, you
7 know, yes, tried, you know ---

8 THE COURT Okay

9 A ---Obviously if -- it's hard to stay away

10 THE COURT Completely

11 A Yes

12 THE COURT All right Very good And did you talk to
13 anybody about this case since Friday?

14 A Not specifically Other jurors, if they got called or
15 not I knew a few people here that day, Friday, and they said
16 they got called in or not called in, and things like that, but
17 not the case itself

18 THE COURT Okay

19 A Right

20 THE COURT All right Now, before Friday, had you
21 read or heard, or knew anything about this case?

22 A Yes

23 THE COURT Okay And tell me -- and that -- there's
24 nothing wrong with that Tell me what that you can remember
25 about it, or what you believe you know about it, as best you

1 can

2 A Well, most of the circumstances of the first trial, and
3 the sentencing, and then the ---

4 THE COURT Okay So you were aware there was a
5 previous ---

6 A Henry Turner's -- right

7 THE COURT Okay And do you remember what the result
8 of that was?

9 A The first trial?

10 THE COURT Yes sir

11 A Guilty, and ---

12 THE COURT And what was the sentence that was imposed?

13 A ---And a death penalty

14 THE COURT All right, sir Now, you understand that
15 that's part of what you have to leave outside the courthouse
16 If you are a member of the jury you have to not let that
17 affect, or impact your decision in this case in any way, you
18 understand that?

19 A Yes

20 THE COURT All right, sir So my question to you is,
21 you've heard something about it in the past Can you set that
22 aside? Can you come into this courtroom and not let that
23 affect or impact your decision in any way?

24 A Yes

25 THE COURT All right, sir Now, and you understand

1 that that's obviously, you know, an important part of being
 2 fair and impartial in this case, is to treat this matter
 3 completely and totally separate from anything else that might
 4 have happened You understand that?

5 A Yes

6 THE COURT All right, sir That this case stands on
 7 it's on, all alone, it cannot be affected by any other
 8 proceeding or anything else that happened, it stands by
 9 itself You understand that?

10 A Yes

11 THE COURT All right Very good

12 A Can I ask a question?

13 THE COURT Yes sir, please, be glad for you to

14 A Personal feelings I worked at a golf shop when he was
 15 in shopping for, he said his son, and I kind of had some
 16 dealings a couple ---

17 THE COURT With Mr Turner?

18 A No, Mr Stanko

19 THE COURT Oh, with Mr Stanko -- had come in

20 A Yes Yes, just personal feelings of ---

21 THE COURT Okay So you worked at a golf store and,
 22 you know, Mr Stanko came in and when this happened you
 23 recognized that you had had some personal dealings with him?

24 A Yes

25 THE COURT All right, sir

1 A I mean, I -- you know, like not just talking He
2 picked some golf equipment out for things He talked about
3 his Jaguar, and didn't have a check to pay for everything and
4 then said I'll be back in a few days and left a number, and I
5 called that number and it wasn't valid, and then, like two or
6 three weeks after that I -- is, you know, like the news and
7 stuff, the accounts of it, and I recognized the face and
8 this ---

9 THE COURT Okay So -- all right, so -- okay Well,
10 and I appreciate ---

11 A I don't know if that -- you know, I tried to put that
12 aside, but like ---

13 THE COURT No No sir, and you needed to -- obviously
14 you know that's --

15 A ---Personal ---

16 THE COURT I appreciate that You needed to bring
17 that to the Court's attention Okay, now, you've obviously
18 had some personal contact with the Defendant Again, that's
19 something that you have to leave outside of the courthouse
20 Again, that is something that cannot, in any way, can't in any
21 way affect your decision in this particular matter, so the
22 question then, obviously is, can you do that?

23 A I -- I -- yes, I think so, but I mean, of a personal --
24 like -- like thinking back over the circumstances that
25 happened I kind of had some hard feelings of ---

1 **THE COURT** You had some hard feelings at that -- at
2 that point in time

3 A ---Hey, he's -- he was trying to -- you know, to get
4 everything and not, you know ---

5 **THE COURT** Okay All right

6 A ---But yes is the answer, I think, is ---

7 **THE COURT** Yes, that you could set that aside?

8 A Correct

9 **THE COURT** All right Very good Just in general, do
10 you know of any kind of personal, or political, or religious,
11 or philosophical belief that you have that would prevent you
12 in any way from being a fair and impartial juror, of any kind?

13 A I don't -- I don't have any, no

14 **THE COURT** All right Very good All right In this
15 particular matter you obviously did circle Mr Stanko as
16 somebody that you knew as a potential witness in this case,
17 and you've described that to me, correct?

18 A Correct

19 **THE COURT** Other than that you didn't circle anybody
20 else, right?

21 A No one else, no

22 **THE COURT** All right Very good And as far as the
23 category of juror which would best describe you you circled
24 category (C), correct?

25 A Correct

1 **THE COURT** All right And so that we are both on the
2 same page on that, category (C) is the juror that -- and
3 again, we are just talking in hypotheticals, may happen or may
4 not happen -- but you are on the jury, the jury, in the first
5 part of the case, finds evidence they believe to be true
6 They find that the State has produced evidence, they find the
7 Defendant guilty beyond a reasonable doubt of the crime of
8 murder So we are in the second phase, and in the second
9 phase the juror (C), or category (C) says, I'm not going in
10 with any kind of preconceived ideas of what the sentence will
11 be in this case, I'm open to either one, I could impose either
12 one, but I haven't made up my mind, what I'm going to hear is
13 all the facts and evidence presented in the second phase, I'm
14 going to listen to the law that the Court gives to me, and
15 then along with my fellow jurors going to make a decision as
16 to what the proper sentence in this matter is Is that what
17 you are saying?

18 A Yes

19 **THE COURT** All right And just to follow up on that,
20 you are on a jury and you are in the sentencing phase Based
21 on the right set of facts and circumstances being presented to
22 you, can you consider, and could you impose a life sentence?
23 Under the right set of circumstances being presented to you?

24 A Yes

25 **THE COURT** All right Under the right set of facts

1 and circumstances being presented to you could you consider --
2 could you impose a death sentence under the right set of facts
3 and circumstances being presented?

4 A Yes, when -- yes

5 **THE COURT** All right Very good Now, if you are
6 part of that unanimous jury that finds that the death penalty
7 is proper unanimously -- that would have to be a unanimous
8 decision -- can you then take pen in hand and sign your name
9 to the verdict form indicating that, indeed, is the unanimous
10 verdict of the jury in this case?

11 A Yes sir

12 **THE COURT** All right Thank you very much
13 Further questions from the State

14 **MR HEMBREE** Thank you, Your Honor
15 Good morning, Mr Broughton

16 A H1

17 **BY MR HEMBREE**

18 **MR HEMBREE** H1 I'm Greg Hembree I'm the Solicitor
19 for the Fifteenth Circuit I, along with Fran Humphries,
20 Deputy Solicitor ---

21 A H1

22 **MR HEMBREE** ---And Jimmy Richardson, our Senior
23 Assistant Solicitor, will be trying this case on behalf of the
24 State If you are selected on this jury we will get to spend
25 a little bit of time together, so I appreciate your being here

1 this morning Thank you for your willingness to serve

2 Just a few questions May be a bit repetitive, so I
3 apologize if I tend to go over the same things twice

4 One of the things that Judge John has asked you about
5 involves your ability to not only consider but impose life or
6 death, given the appropriate facts and circumstances Just to
7 talk a little bit about this process There is a two-stage
8 process The Judge touched on that The first stage of the
9 trial is called the guilt phase sometimes It's the trial
10 phase The question in that phase of the trial would be, did
11 Mr Stanko take the life of Henry Turner or not That's the
12 extent of the -- that's the -- that's all that the jury really
13 has to decide in the first phase If they decide that we move
14 on to a second phase There's a little break in between the
15 two, a short time, before we start the second phase The
16 second phase is the sentencing phase The jury will decide
17 what Mr Stanko's sentence would be In South Carolina,
18 before you can even consider a death penalty, you have to find
19 that there was a statutory aggravating circumstance, and the
20 Judge will tell you about that He'll give you a list of
21 them You would have to find as a jury -- you know, if you
22 decided there's no statutory aggravating circumstance then
23 life without parole is a potential sentence If there is a
24 statutory aggravating circumstance then you kind of have --
25 the next part of that analysis would be, what's the sentence

1 A Okay

2 Q In South Carolina, under our law, you don't have to
3 find for death There's not a formula under which you have to
4 find for death In other words, you can find him guilty, you
5 could find a statutory aggravating circumstance and you could
6 still say that it's appropriate -- that the sentence of life
7 is appropriate

8 A Okay

9 Q Are we clear on that?

10 A Yes

11 Q Okay I just want to make sure that you have an
12 understanding of how that works Okay

13 A Correct

14 Q It can be kind of confusing But we have to overcome
15 those first two hurdles for the jury to even consider that
16 Clear on that?

17 A Okay Yes

18 Q And I believe I've heard your testimony to be that you
19 would be -- you would be open-minded, that you would be able
20 to consider either a penalty of life without parole, or death,
21 depending upon the evidence and the facts and circumstances,
22 even if a statutory aggravating was proven Is that a fair
23 characterization of kind how you -- you are viewing this
24 thing?

25 A Yes

1 Q Okay You testified that you know a little bit about
2 it, saw something in the news, but you are able to set that
3 aside and find your decision through the evidence that's
4 presented in this courtroom?

5 A That's correct

6 Q Okay And I know you've had a -- that Mr Stanko came
7 in as a customer at some point, might of had a little -- at
8 the time you had a -- I think you said you had sort of a
9 little bit of a hard feeling, you know, when he didn't show
10 back up, and took all your time and effort and you put these -
11 - kind of looked -- looked like you were going to make a sale
12 and then he didn't come back in

13 A Yes I mean, more of like a fraudulent reasoning too
14 I mean, talking about his car being in the shop, the Jaguar,
15 and doing a benefit tournament and -- or a fundraiser in
16 Columbia, and things like that, that kind of -- you know, he
17 was using that as a reason to -- and then left his checkbook
18 in the Jaguar, and let me come back tomorrow and pay, and you
19 know, things like that Got little of a hard feeling there,
20 so ---

21 Q But you understand that if you were selected for this
22 jury you've got to leave that outside, past experiences
23 outside, and just judge Mr Stanko based solely on the
24 evidence ---

25 A On the evidence

1 Q ---On the facts, the testimony that's presented in this
2 courtroom Can you do that for us, sir?

3 A Yes

4 MR HEMBREE Very good That's all that we can ask of
5 you I appreciate your -- again, your willingness to serve
6 Please ans -- answer any questions that Defense counsel
7 might have for you

8 A Yes

9 MR HEMBREE Thank you, sir

10 A Okay Thanks

11 THE COURT All right, Mr Diggs

12 MR DIGGS May it please the Court

13 THE COURT Yes sir

14 BY MR DIGGS

15 Q Mr Broughton, you were -- you feel like you were
16 almost a victim of some kind of criminal activity committed by
17 Mr Stanko?

18 A Yes

19 Q Yes He was trying to steal golf clubs or equipment
20 from the store ---

21 A Right

22 Q ---Is that correct?

23 A Right

24 Q All right And so really you would be in a position to
25 offer testimony about his general character ---

- 1 A Yes
- 2 Q ---If need be?
- 3 A Yes
- 4 Q Okay And is there any doubt in your mind that there's
5 not a mistaken identity here? You are pretty sure it was Mr
6 Stanko?
- 7 A I'm sure
- 8 Q Okay Do you feel like there's any obligation on your
9 part to return a guilty verdict in this case?
- 10 A No It's not an obligation No
- 11 Q Okay Do you think that the community would expect you
12 to return a guilty verdict?
- 13 A No I don't think there's any expectations, no
- 14 Q You don't -- you don't perceive any expectations in the
15 community about whether he should be convicted or not?
- 16 A No, I don't
- 17 Q In the -- you had up close and personal communication,
18 interaction with Mr Stanko Do you recall the -- I know
19 you've been pretty specific ---
- 20 A Uh huh (indicating positive)
- 21 Q ---Now, you know, in some of the details, pointing out
22 some of the details, especially in the dialogue that occurred
23 Do you recall now, looking back on it, any other impressions
24 that you might have picked up on at that time?
- 25 A Well, not any more than what I'm making I mean, just,

1 you know, well-dressed, and in the -- kind of the way -- on
2 the cell phone three or four times, hey, I'm going to Columbia
3 and we are raising money for such and such charity, and just -
4 --

5 Q Okay Did you ever think back now, upon reflection,
6 that there wasn't -- something wasn't quite right about that
7 encounter?

8 A No, not -- not really At the time I didn't He had
9 mentioned his son, and like Tiger Woods, and I'm in the golf
10 business and you know, wanted all Niki, and that's -- you
11 know, wanted to play golf with his son, and all that came
12 across, and that was probably all not true, but, you know

13 Q We anticipate, initially, that the jury would be
14 hearing testimony that would give rise to possibly four
15 different verdicts, guilt -- you know, guilty, not guilty, not
16 guilty by reason of insanity, or guilty but mentally ill
17 Now, after you had a chance to hear all of the evidence from
18 the prosecution and from the defense, and hearing instructions
19 from the Judge about what the law is with respect to each of
20 those four possible verdicts, could you consider fairly each
21 of the four verdicts and render a decision based on the
22 evidence presented in the case?

23 A Yes

24 Q All right You don't have any particular aversion to
25 any -- either of those four verdict forms?

1 A I don't have any particular aversions, no

2 Q Okay In other words, you could follow the law even if
3 you felt like, I don't like this law, you know, I don't think
4 that should be the law, but even having that feeling you could
5 put it aside and follow what instructions the Judge gave you?

6 A I could Yes

7 Q Okay Now, in the sentencing phase -- and let's assume
8 now that there's been a guilty verdict returned, and you are
9 having to consider what the punishment would be that you are
10 going to vote for, either life imprisonment or the death
11 penalty As both the Judge and the Solicitor have pointed
12 out, there has to also be an aggravating circumstance in the
13 case, that accompanies the murder, okay, otherwise the State
14 can't even seek the death penalty So, having found murder
15 beyond a reasonable doubt, and the aggravating circumstance
16 that the State alleges, could you still consider a life
17 imprisonment sentence?

18 A Yes

19 Q Okay And you appeared to be a little hesitant, but
20 are you sure about that?

21 A I'm sure I thought you were going to ask me if --
22 could I consider the death sentence

23 Q Oh, okay You were waiting for me ---

24 A I was ---

25 Q Okay

1 A ---Getting ahead of you there, but I could ---

2 Q Would you ---

3 A I could consider both

4 Q Okay Could you consider both equally?

5 A Yes

6 Q Depending on all of the evidence in the case

7 A Right Life sentence with a lot of remorse, and ---

8 Q Okay I understand what ---

9 A ---Hopefully -- hopeful -- yes

10 Q All right

11 MR DIGGS That's all I have, and I appreciate your

12 time this morning

13 A Okay Okay

14 THE COURT Mr Broughton, one matter that I need to

15 cover with you, and I neglected to do so at the beginning

16 If, where -- if you are selected on the jury, and you are a

17 part of this jury, because of the type case it would be you

18 would be sequestered That means that you would be at a hotel

19 -- obviously is at the County's expense -- but you -- at a

20 hotel, the meals would be provided, transported to and from

21 the courthouse, or wherever we need to go, the -- you are not

22 going home for the evening during the trial proceedings You

23 understand that?

24 A Yes

25 THE COURT All right And the best estimation we have

1 for that would be like seven to nine days Now, understand
2 that's a hardship No question, that's a hardship on anybody,
3 but is that such an undue hardship on you, or is there any
4 kind of a health concern that a member of your family have or
5 you have that this would cause it to be more than what would
6 be a normal hardship? Not saying that you like it I
7 understand that

8 A Home life, no, no problem, and work-wise, I'm in the
9 golf business I run a golf course, and this is our busy time
10 of the year so that would ---

11 **THE COURT** Okay What golf course is that?

12 A Man-O-War Golf Course in Carolina Forest

13 **THE COURT** All right Okay And what is your
14 particular job?

15 A I'm Director of Golf I just -- I run the golf
16 operations

17 **THE COURT** For -- for the Man-O-War course?

18 A For Man-O-War, yes

19 **THE COURT** Okay Approximately how many employees
20 that -- not people that -- I'm not particularly talking about
21 people that maintain the course, but could help do the job
22 that you actually do? Who else is there that could do that?

23 A Well, I'm Director of golf I have a head pro that we
24 equally share responsibilities, and he could do that I
25 oversee the golf pro shop and the golf carts and the outside

1 staff, and the carts, not the golf course itself

2 THE COURT Okay Just approximately, how long has the
3 head pro been there, at Man-O-War?

4 A Three years, and dealt with the company seven years
5 At my course three years

6 THE COURT Three years Okay Great Thank you
7 Anything on that particular matter from the State?

8 MR HEMBREE No, Your Honor

9 THE COURT From the Defense?

10 MR DIGGS No, Your Honor

11 THE COURT Very good

12 Could you go with the deputy for just a few moments,
13 sir Thank you very much

14 A Okay 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 69 MARKED COURT'S EXHIBIT NUMBER 51)

19 THE COURT Position of the State?

20 MR HEMBREE Your Honor, although the juror answered
21 the questions appropriate -- he indicated he could set aside
22 his exposure to the media -- very -- had no problem with that,
23 and also indicated he could set aside his personal experiences
24 with Mr Stanko, this is such a unique situation -- and there
25 will be testimony in the penalty phase of this trial regarding

1 scams and conduct -- I mean very specific conduct, that matches
2 up so closely to the scam that Mr Stanko apparently was
3 trying to pull on Mr Broughton that it is my belief that it
4 may -- may be virtually impossible for him not to allow that
5 experience to impact his verdict, and although I'm -- I
6 respect his answers, he doesn't know what we are going to be
7 presenting, and I do, and based on that I feel like he really
8 is in a situation of being more of a witness than a juror, and
9 to put him in that role would not be the -- I just don't think
10 would protect the integrity of the process to the degree that
11 we wish to protect it, and we would ask that he be
12 disqualified

13 **THE COURT** All right

14 Defense Mr Diggs

15 **MR DIGGS** Your Honor, we would submit he's not
16 qualified He could well be a witness in the case

17 **THE COURT** I find that he's not qualified based upon
18 his personal dealings with the Defendant in this particular
19 case, and what could be presented by the parties, so I'm going
20 to find him to be not qualified in this particular matter

21 **MR HEMBREE** Thank you, Your Honor

22 **THE COURT** All right Let's check and see if Ms
23 Triplett showed up, if not, just bring the next one

24 **KYNA TRIPLETT, JUROR NUMBER 634,**
25 being first duly sworn, states as follows

1 BY THE COURT

2 THE COURT All right, Ms Triplett, what I'm going to
3 do is, I'm going to talk about some things with you, ask you a
4 few questions The State may have some questions for you, and
5 the Defense also No right or wrong answers here Just
6 looking for direct, straight-forward, honest answers to the
7 questions Okay

8 A Okay

9 THE COURT Very good In this particular matter,
10 Ma'am, the State of South Carolina has charged the Defendant,
11 Mr Stanko, with the crimes of murder and armed robbery The
12 Defendant has pled not guilty to those charges, so that would
13 put, and does put the burden of proof on the State of South
14 Carolina to prove the Defendant guilty beyond a reasonable
15 doubt The Defendant is presumed innocent The Defendant has
16 nothing to show to you or prove to you The State must prove
17 the guilt of the Defendant beyond a reasonable doubt You
18 understand that?

19 A Yes

20 THE COURT The State of South Carolina has filed
21 notice to seek the death penalty in this case, therefore this
22 case could have two parts In the first part the jury would
23 be looking at whether or not the State has produced sufficient
24 evidence for the jury -- which the jury believes to be true,
25 which the jury is convinced beyond a reasonable doubt that the

1 Defendant is guilty of the crimes charged, because if, and
2 only if the jury finds the Defendant guilty beyond a
3 reasonable doubt of the crime of murder could we even go
4 into -- would we even proceed into the second phase of the
5 trial You understand that?

6 A Yes

7 THE COURT Now, the second phase of the trial the
8 jury, in this particular matter, would actually be imposing a
9 sentence That's what makes it different from any other case
10 The Judge normally imposes sentence In this one the jury
11 imposes the sentence, and there's two possibilities, death, or
12 life in prison without the possibility of parole When we
13 talk about life that's what we mean, life in prison without
14 the possibility of parole So the jury has those two options
15 before it in the second phase To consider, to even come to
16 the point of considering a death penalty the jury has to find
17 what is called an aggravating circumstance, and those would be
18 factors the Court would charge to the jury, and if the jury
19 picked one of those, and found that aggravating circumstance
20 by a unanimous decision, then the jury could consider the
21 death penalty The jury is never required -- and I would
22 never charge the jury that they are required in any case to
23 give the death penalty, because the jury can always give life
24 for a reason, or for no reason whatsoever Those will always
25 be options and alternatives open to the jury

1 The jury also must, before they impose any sentence in
2 this case, consider and look at any mitigating circumstances
3 that the Court would charge to the jury. Mitigate means to
4 reduce or lessen the charge or the punishment. Now, in this
5 particular matter, if you are part of the jury, and the jury
6 unanimously finds that the sentence of death is the
7 appropriate penalty in this particular matter then the jury,
8 since they are imposing sentence, would have to take -- each
9 member of the jury would have to take pen in hand and sign
10 basically a verdict form, or form that indicates that, indeed,
11 is their verdict, and that they were part of the unanimous
12 jury that did that. You understand that?

13 A Yes

14 **THE COURT** Part of your job, if you are a member of
15 the jury, is to come in the courtroom with any -- without any
16 kind of preconceived ideas of what the law is, what the
17 process is, any preconceived ideas about possible sentences of
18 any kind. If you heard about this case in the past, knew
19 anything about it, somebody talked to you about it, you've got
20 to completely set all of that aside. You cannot bring that
21 into the courtroom. As a member of the jury you have to
22 decide this case completely and solely based upon the facts
23 and evidence presented in this courtroom, and from no other
24 source. Do you understand that?

25 A Yes

1 **THE COURT** All right You also have to accept the law
2 that the Court gives to you If, for some reason you either
3 agree with it or disagree with it you have to accept it and
4 use the law that the Court gives to you You understand that?

5 A Yes

6 **THE COURT** Since we left Friday did you read, watch,
7 listen to, look up anything about this case?

8 A No

9 **THE COURT** Since Friday, have you talked to anybody
10 about this particular case?

11 A No

12 **THE COURT** Now, before Friday, before I gave the
13 instructions not to do that, did you, or had you in the past,
14 heard about this case, knew anything about it whatsoever?

15 A No I had no knowledge

16 **THE COURT** No knowledge of it Okay Very good And
17 in general, do you know of any kind of personal, political,
18 religious, philosophical belief that would prevent you from
19 being a fair and impartial juror in this case?

20 A I have very strong feelings about capital punishment

21 **THE COURT** And what might those be, please Ma'am?

22 A If someone is proven, beyond a reasonable doubt, that
23 they are guilty, I believe in -- strongly in capital
24 punishment, but I do not believe in our appeal system

25 **THE COURT** Okay

1 A I believe people, if they are convicted, should be done
2 away with immediately

3 THE COURT All right, Ma'am Now, understand that is
4 a -- an opinion that you have, you understand that whatever
5 the process after trial is has nothing to do with this
6 particular case You understand that? Whatever the appeal
7 process, or whatever any process there might be after the
8 trial is concluded cannot, in any way, affect your decision in
9 this case It can't affect it at all Do you understand
10 that?

11 A I understand what you are saying I would tell ---

12 THE COURT Well then, I would have to follow up with
13 that

14 A Uh huh (indicating positive)

15 THE COURT Can you do that?

16 A I don't believe I can, because I have very strong
17 feelings about the appeal system

18 THE COURT All right In that -- and I described the
19 process, and let me talk about the first part of it with you
20 first, as far as the -- being able to consider or impose a
21 life sentence, consider or impose a death sentence Just
22 because someone is convicted of murder, and we are in the
23 second phase and the jury even finds unanimously, beyond a
24 reasonable doubt, an aggravating circumstance, that does not
25 automatically mean -- there's no automatics here -- does not

1 mean the person would -- the jury imposes the death sentence,
2 because the jury can impose a life sentence for any reason, no
3 reason whatsoever A jury could impose a life sentence as an
4 act of mercy, in the face of aggravating circumstance Do you
5 understand that?

6 A Yes

7 **THE COURT** Again, can you fairly consider that, and
8 can you do that, if you have the right set of facts and
9 circumstances?

10 A I don't think so

11 **THE COURT** All right Further questions from the
12 State?

13 **MR HUMPHRIES** No

14 Thank you, Ma'am

15 **THE COURT** Defense?

16 **MR DIGGS** No, Your Honor

17 **THE COURT** Thank you, Ma'am Go to the deputy, please
18 Ma'am Thank you

19 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
20 JUROR)

21 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
22 JUROR NUMBER 634 MARKED COURT'S EXHIBIT NUMBER 52)

23 **THE COURT** What's the position of the State?

24 **MR HUMPHRIES** She's not qualified, Judge

25 **THE COURT** Defense

1 **MR DIGGS** Your Honor, we agree

2 **THE COURT** All right The Judge would -- the Court
3 would find that this particular juror is not qualified She
4 could not follow the Court's instructions or follow her
5 juror's oath in this particular matter She is not qualified

6 All right, can we have Beverly Pittman, please

7 **MS WILLIAMS** Your Honor, may we ---

8 **THE COURT** Yes

9 **MS WILLIAMS** Can we approach?

10 **THE COURT** Certainly

11 **(BENCH CONFERENCE TAKES PLACE OFF THE RECORD)**

12 **THE COURT** All right Ask Ms Pittman to come in,
13 please Thank you

14 **BEVERLY B PITTMAN, JUROR NUMBER**

15 **508, being first duly sworn, states as follows**

16 **BY THE COURT**

17 **THE COURT** All right, Ms Pittman, what we are going
18 to do is, I'm going to be asking you some questions I'm
19 going to talk about some things When we get done the
20 representative of the State might have some questions, and the
21 Defense also Okay

22 A Right

23 **THE COURT** Now, what I'm looking for, and all we are
24 looking for is just some kind of direct, straight-forward,
25 honest answers to the questions asked That's -- no right or

1 wrong answers here Just need to know how you feel, or
2 respond to the questions Okay

3 A Okay

4 **THE COURT** Very good In this particular matter the
5 State of South Carolina has charged the Defendant, Mr Stanko,
6 with the crimes of murder and armed robbery Now, the
7 Defendant has pled not guilty to those charges, so that puts
8 the burden of proof on the State of South Carolina to prove
9 the Defendant guilty beyond a reasonable doubt The Defendant
10 is presumed innocent The Defendant doesn't have anything to
11 show to you or prove to you The State has to prove the guilt
12 of the Defendant of the crimes charged beyond a reasonable
13 doubt You understand that?

14 A Yes

15 **THE COURT** All right Now in this particular matter
16 the State has served notice to seek the death penalty as
17 against Mr Stanko Now, that means this case could have
18 potentially two parts The first part would be, the jury
19 would consider the facts and evidence presented in this
20 matter, and find that evidence which convinces it of it's
21 truth, and then weigh that evidence against the burden the
22 State has to prove the Defendant guilty beyond a reasonable
23 doubt If, and only if the jury finds the Defendant guilty
24 beyond a reasonable doubt of murder would we even go into the
25 second phase of the trial Do you understand that?

1 A Yes

2 THE COURT In the second phase -- it's what we call
3 the sentencing phase because the jury actually imposes a
4 sentence in this matter Usually, in all other cases, the
5 Court, Judge, would impose a sentence In this type of case
6 the jury actually chooses or imposes the sentence There's
7 two choices, life in prison without the possibility of parole,
8 or a death sentence And if I might say life, or the lawyers
9 say life, that's what we mean, life in prison without the
10 possibility of parole

11 For the jury to consider a death sentence in this
12 particular matter the jury has to unanimously find, and it has
13 to be proved to them by -- beyond a reasonable doubt, what's
14 called an aggravating circumstance Aggravate means to make
15 worse, exacerbate the situation But there would be factors
16 that the Court will charge to the jury, and the jury, if they
17 picked one and found that unanimously, could then consider the
18 death penalty, because if they don't find an aggravating
19 circumstance they can't even consider the death penalty as an
20 option The jury is never required -- I would not charge a
21 jury that they are required in any circumstance to give a
22 death sentence They have the ability to consider it if they
23 find an aggravating circumstance The jury could give life
24 for a reason, or for no reason whatsoever at any point in
25 time You understand that?

1 A Yes

2 THE COURT The jury also has to look at any mitigating
3 circumstance that the Court would charge to the jury And
4 mitigate means to lessen or reduce the charge or the
5 punishment, and before the jury chose any option the jury had
6 looked, and must look at those mitigating factors or
7 circumstances that the Court would charge You understand
8 that?

9 A Yes

10 THE COURT If you are part of the jury -- and
11 obviously we are talking here in hypotheticals, things may
12 happen, may not happen -- but if you are a part of the jury
13 and the jury unanimously finds the Defendant guilty of the
14 crime of murder and we are in the second phase and the jury
15 unanimously finds an aggravating circumstance, and then the
16 jury unanimously finds that the death sentence ought to be the
17 proper sentence because the jury is imposing the sentence
18 there's a form that each member of the jury has to take pen in
19 hand and sign, and saying that's their unanimous verdict and
20 they did vote -- unanimously to vote -- to impose the death
21 penalty You understand that?

22 A Yes

23 THE COURT The job as a member of the jury -- and all
24 this is part -- part of a juror's oath, and every member of
25 the jury has to come into the courtroom without any kind of

1 preconceived ideas of what the law is, any preconceived biases
2 toward any type of penalty, have to be open and be able to
3 listen to it all, open to be able to consider and impose
4 either one based upon the right set of facts and
5 circumstances If you heard about this case in the past,
6 somebody told you something about it, you've got to disregard
7 that, because you have to make your decision based solely on
8 the facts and evidence presented in this courtroom and from no
9 other source Do you understand that?

10 A Yes

11 **THE COURT** Let's go over a few questions Since
12 Friday did you read, listen, watch, look up anything about
13 this case?

14 A No

15 **THE COURT** Since Friday, did you talk to anybody about
16 this case?

17 A No

18 **THE COURT** Now, before Friday you didn't have any
19 instructions to do that, so did you happen to hear anything
20 about this case in the past, know anything about it, anything
21 at all?

22 A No

23 **THE COURT** All right Very good A question in
24 general Do you know of any kind of personal, political or
25 religious or philosophical belief that you might have that

1 would keep you from being a fair and impartial juror?

2 A No

3 **THE COURT** All right Very good On the witness list
4 you did not circle anybody as knowing any of the witnesses,
5 correct?

6 A That's correct

7 **THE COURT** Very good And as the type of category of
8 juror you circled (C), correct?

9 A Correct

10 **THE COURT** Let's go over that real briefly so we make
11 sure we are on the same page what category (C) or juror (C)
12 type is Again, hypothetically speaking, you are on the jury,
13 the jury has convicted the Defendant beyond a reasonable doubt
14 of the crime of murder We are in the second phase, you are
15 going into the second phase, juror (C), or category (C) juror
16 says, I'm not predisposed to any sentence, life or death, what
17 I'm going to do is, I'm going to listen to all the facts and
18 evidence presented in the second phase, I'm going to listen to
19 the law that the Judge gives to me and then, with discussions
20 with my fellow jurors, I'm going to come up with what I
21 believe to be the right and just punishment in this particular
22 matter Is that what you are saying?

23 A That's what I'm saying

24 **THE COURT** All right Very good So, with that just
25 a little bit, if we are in the second phase or sentencing

1 phase can you fairly consider, and could you fairly, under the
2 right set of facts and circumstances being presented, impose a
3 life sentence?

4 A Yes

5 **THE COURT** Also, based upon the right set of facts and
6 circumstances could you consider, and could you impose a death
7 sentence?

8 A Yes

9 **THE COURT** And if you are part of that unanimous jury
10 that imposes a death sentence could you then take pen in hand
11 and sign that form indicating that, indeed, is your unanimous
12 verdict in this matter?

13 A Yes

14 **THE COURT** Very good All right, the last thing I
15 need to cover with you is, because of the type of case that it
16 is once the jury is selected, we have the jury and we are
17 going to start the trial, the jury in this case needs to be
18 sequestered Now, the trial -- the best estimate that we have
19 for this trial, once it starts, would take seven, eight, nine
20 days, something in that range Being sequestered means that
21 the jury will stay -- obviously this is all at the County
22 expense -- at a hotel, the meals provided Obviously you are
23 transported to and from the courthouse by County officials
24 But obviously you are not going home during the trial because
25 we have to make sure the jury -- there's no outside influences

1 and they -- regarding this particular case So, I understand
2 that's a hardship No question about that, that's a hardship
3 on anybody, but is that such an undue hardship on you, or is
4 there any kind of health concern of any family member or
5 yourself that would cause this to be such an undue hardship on
6 you?

7 A No

8 **THE COURT** All right Thank you, Ma'am

9 All right, questions by the State

10 **MR HUMPHRIES** Good morning, Ms Pittman How are
11 you?

12 A Fine

13 **BY MR HUMPHRIES**

14 **MR HUMPHRIES** I'm Fran Humphries I'm the Deputy
15 Solicitor Solicitor Hembree, and Senior Solicitor Jimmy
16 Richardson and I will be representing the State

17 I just have a few questions

18 Q Actually, I've got a few things to say, and then I've
19 got some questions

20 This -- as the Judge has told you, this is a very unique
21 process It's unlike any other process in criminal law, in
22 that, number one, it has two parts, and the Judge has talked
23 to you a little bit about that The first part is solely the
24 question of whether or not the Defendant, Stephen Stanko, is
25 guilty of murder The second phase is the penalty phase And

1 during that phase the jury will be proved evidence from the
2 State called evidence in aggravation, basically things that
3 are bad about the Defendant, his conduct and his character
4 The Defense will have an opportunity to present evidence in
5 mitigation, things that may be good about the Defendant, or
6 things that may lessen the level of culpability, and then the
7 jurors, all twelve of them, would have to make a decision for
8 either death or life, and this is the kind of juror we want
9 The juror, going into that second phase, after there has
10 been -- already been a conviction for murder, we need a juror
11 who can go into that second phase of the trial, that is, with
12 a mind that's not made up as to whether the sentence should be
13 death or life, but have an open mind

14 Before the jurors can even consider a death verdict the
15 State would have to prove to you beyond a reasonable doubt the
16 existence of one or more aggravating circumstances They are
17 statutory, and the Judge will tell you what they are So I
18 want you to understand that you don't automatically get to
19 consider death in the sentencing phase until that's done And
20 on the other hand, you will never be asked that question, life
21 or death, unless we do that, so that's going to happen in
22 every capital case in which the jury has an opportunity to
23 sentence to death There would be a conviction for murder,
24 and there would be a finding of an aggravating circumstance
25 Okay So what -- what we really need to know is this -- and

1 honestly, the Judge has told you, and we'll all tell you,
2 there are no right or wrong answers There are only truthful
3 answers People that are unqualified as jurors are not bad
4 people People that are qualified jurors aren't necessarily
5 good people, but they are people who go into that second
6 phase, and even after a finding of an aggravating circumstance
7 in combination with a murder, then that they can vote fairly,
8 consider and impose either a death verdict or a life verdict,
9 depending on the facts and circumstance presented And of
10 course my question then you is, are you that type of juror?

11 A I think so

12 Q And you don't come into this process with any
13 predisposition about what you think the sentence should be?

14 A No

15 Q Because you really don't know anything about this case?

16 A No

17 Q And let me ask you this I think the Judge mentioned
18 this to you If the jury, the collective jury, all twelve of
19 you, were to decide that death would be the appropriate
20 verdict you would be provided a jury form called
21 "Recommendation of Death", okay Now, it's not really -- it's
22 not just a recommendation Whatever the jury decides that's
23 what this Court is going to do Okay And I think he's told
24 you that this is unique because the jury sentences as opposed
25 to the Judge Very unique If the jury collectively decides,

1 after the finding of an aggravating circumstance, that death
2 is the appropriate verdict there will be a form provided by
3 the Court to consider the recommendation of death, and it will
4 have twelve signature lines Obviously the significance in
5 the twelve signature lines is, each juror would have to sign
6 his name indicating his vote Now, would the fact that you
7 would have to sign your name to that form sentencing this
8 Defendant to death, would that substantially impair you from
9 your ability to fairly consider and impose the death penalty
10 if you thought it was the right thing?

11 A No

12 Q Let me ask you finally, can you be a fair and impartial
13 juror both to the State of South Carolina and to the Defendant
14 in this case?

15 A Yes

16 MR HUMPHRIES That's all I can ask of you, Ms
17 Pittman Thank you, Ma'am

18 THE COURT All right, Mr Diggs

19 MR DIGGS May it please the Court, Your Honor

20 THE COURT Yes sir

21 BY MR DIGGS

22 Q Ms Pittman, how are you this morning?

23 A Fine, sir Thank you

24 Q You attended C P C C

25 A Yes

1 Q I was there at one time myself I was looking -- we
2 might have been there at the same time

3 Let me ask you this, given -- the Solicitor mentioned
4 the initial phase of the trial and what the jury is going to
5 be asked to determine, you know, whether Mr Stanko killed Mr
6 Turner, and it's a little bit beyond that We expect the
7 evidence will raise potentially four different verdict
8 choices One would be guilty, two would be not guilty, three,
9 not guilty by reason of insanity, or guilty but mentally ill
10 So there could be a wider array of issues that would have to
11 be determined at that first phase other than guilt or
12 innocence Okay And what I want to ask you is, do you know
13 of any reason why you could not fairly consider either of
14 those four verdicts, if supported by evidence?

15 A No

16 Q Okay You would be willing to have an open mind about
17 it, and make a decision based on the facts that you determined
18 them to be, along with what the Court's instructions would be
19 on the law?

20 A Yes

21 Q Okay You don't feel there's an obligation on your
22 part to return a guilty verdict?

23 A No

24 Q All right And you have no obligation to the community
25 at large to do so?

1 A No

2 Q Okay Now, in the second phase, in the event that you
3 are on the jury and the jury determines that there is a --
4 that the Defendant is guilty, and that a aggravating
5 circumstance exists in the case that would make it possible
6 for the jury to consider a death penalty, do you have any
7 opinion about leaning one direction over the other? In other
8 words, would you lean more toward a life sentence, or would
9 you lean more toward a death sentence, or do you think it
10 would depend on the evidence in the case, and only at that
11 time could you make a decision?

12 A It would depend on the evidence I would be able to --
13 -

14 Q Okay In every case?

15 A Right

16 MR DIGGS Okay I don't believe I have anything
17 further at this time, and I appreciate your time this morning

18 A Thank you

19 THE COURT All right, Ms Pittman, if you don't mind,
20 if you would go with the deputy for just a few moments Thank
21 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 508 MARKED COURT'S EXHIBIT NUMBER 53)

1 **THE COURT** State's position
2 **MR HEMBREE** The jury is qualified, Your Honor
3 **THE COURT** Defense
4 **MR DIGGS** She's qualified
5 **THE COURT** All right The Court finds that this juror
6 is qualified, that she can follow the Court's instructions and
7 obey her juror's oath in this particular matter
8 All right The next one is Linda Orsimarsi
9 **LINDA J ORSIMARSI, JUROR NUMBER**
10 **484**, being first duly sworn, states as follows
11 **BY THE COURT**
12 **THE COURT** All right, Ms Orsimarsi, what I'm going to
13 do is, I'm going to talk to you about a few things I'm going
14 to have a few questions for you Then after I'm done maybe
15 the represent of the State or Defense might have some
16 questions for you Okay
17 A Uh huh (**indicating positive**)
18 **THE COURT** All right Now, one thing I'll ask for you
19 is, the Court Reporter has to take down everything that we
20 say, so I need for you to say yes or no because if she puts uh
21 huh in there no -- and somebody is reading it they don't know
22 what that means All right
23 A Okay
24 **THE COURT** Very good Thank you, Ma'am All right
25 There aren't any right or wrong answers, okay I'm just

1 looking for -- and everybody is just looking for direct,
2 straight-forward, honest answers to the questions that we ask
3 Okay

4 A Uh huh (indicating positive)

5 THE COURT Very good Is that a yes?

6 A Yes

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

17 A Yes

18 THE COURT Very good Now in this particular matter
19 the State has filed a notice to seek the death penalty in this
20 particular case, so that means this case could have two parts
21 In the first part the jury would be considering all the facts
22 and evidence presented, finding those -- finding the facts and
23 evidence that they are convinced are true, and then weigh that
24 evidence against the State's burden to prove the Defendant
25 guilty of the crimes charged beyond a reasonable doubt If,

1 and only if the jury finds the Defendant guilty unanimously --
2 everybody on the jury has to agree -- unanimously finds the
3 Defendant guilty of the crime of murder, beyond a reasonable
4 doubt, would we even get into the second phase of the trial
5 You understand that? Okay Let me explain that to you The
6 first part of it is, it's a trial where the State has
7 charged -- and they are saying, Mr Stanko, we believe you
8 have committed the crimes of murder and armed robbery, and
9 here's our facts, here is our evidence, and the jury is
10 listening to those facts and that evidence, and making a
11 decision, State, did you prove the guilt of the Defendant of
12 those two crimes beyond a reasonable doubt, based upon the
13 facts and evidence you have presented in this case That
14 would be the jury's job in the first part of the trial Do
15 you understand that?

16 A Yes

17 THE COURT All right If the jury finds the Defendant
18 guilty of the crime of murder, beyond a reasonable doubt, and
19 as I said, it has to be a unanimous decision, because
20 everybody has got to agree, but if the jury finds the
21 Defendant guilty of the crime of murder beyond a reasonable
22 doubt then we would proceed to the second phase of the trial
23 But if the jury doesn't find the Defendant guilty of the crime
24 of murder then obviously we would not go to the second phase,
25 or the penalty phase of the trial Do you understand that?

1 A Yes

2 THE COURT All right Very good Now, in the second
3 phase of the trial, as I said, the penalty phase, or
4 sentencing phase, the jury actually imposes a sentence The
5 jury decides the sentence in this particular matter That
6 makes it different from any other criminal case In all other
7 cases the Judge imposes sentence In this case the jury picks
8 the sentence, and there's two possibilities, death, or life in
9 prison without the possibility of parole And if I happen to
10 say life, or the lawyers say life, that's what we mean, life
11 in prison without the possibility of parole Those are the
12 two options that are available to the jury in the second phase
13 of the trial

14 Now, for the jury to consider imposing a death sentence
15 the jury would have to find unanimously what is called an
16 aggravating circumstance Aggravate means to make worse, or
17 exacerbate the situation But those are statutory factors the
18 Court would charge them, and if the jury picks one, and the
19 jury unanimously finds that aggravating circumstance then they
20 can consider the death penalty It's not automatic They
21 are not required -- because the jury -- and I would never
22 charge the jury -- never required to give the death sentence
23 That's an option open to the jury, but the jury is never
24 required to do so even if you find an aggravating
25 circumstance, because the jury can impose life for any reason,

1 or no reason whatsoever You understand that?

2 A Yes

3 **THE COURT** All right The jury also must consider any
4 mitigating circumstances that the Court charges to them before
5 the jury decides on a sentence Mitigate means to lessen or
6 reduce the charge, reduce the punishment The jury would have
7 to consider those before the jury imposed a sentence in this
8 matter Do you understand that?

9 A Yes

10 **THE COURT** All right Very good Now, if you are
11 part of the jury -- and again, we are speaking of
12 hypotheticals, things that may or may not happen -- but if you
13 are part of the jury and the jury unanimously finds the
14 Defendant guilty of the crime of murder, the jury unanimously
15 finds an aggravating circumstance, and then the jury
16 unanimously decides that the death penalty is the proper
17 penalty to impose in this particular matter, because the jury
18 is imposing the sentence each member of the jury has to take
19 pen in hand and sign a form indicating that that, indeed, is
20 the unanimous verdict of the jury, and the jury unanimously
21 voted to impose the death penalty in this matter Do you
22 understand that?

23 A Yes

24 **THE COURT** All right Part of your job as a juror in
25 this case would be to come into this courtroom without any

1 preconceived ideas of the law, without any preconceived ideas
2 as to what penalty to impose. If you heard about the case, or
3 knew anything about it in the past you have to set all that
4 aside. Basically you leave all that outside the courthouse.
5 You come into this courtroom, and when you take your juror's
6 oath you say, I'm going to listen to the facts and evidence in
7 this case, I'm going to follow the law that the Judge gives to
8 me, and then and only then will I make my decision, and I will
9 not be influenced by anything else, not any ideas I had, or
10 beliefs I had before I came in the courtroom, not anything I
11 might have heard about this case, I'm making my decisions
12 solely and completely on the facts and evidence presented in
13 this courtroom, and from no other source. That would be the
14 juror's job. Do you understand that?

15 A Yes

16 **THE COURT** All right. The question then is, can you
17 do that? And before you answer it, that's the question that's
18 -- this is sort of like a bright line rule here. You have to
19 be able to say yes, Judge, I can do that, or no, Judge, I
20 don't think I can do that.

21 A No, I don't think I can do that.

22 **THE COURT** And why would that be?

23 A Just because of what I've heard.

24 **THE COURT** Okay. And what is it that you've heard?

25 A From the case prior, and -- and ---

1 **THE COURT** And what was that?

2 A Just that he had murdered his girlfriend and did some
3 things to her daughter, and it just kind of -- that's what I
4 kind of remember

5 **THE COURT** Okay And are you telling me that -- and
6 understanding that you would have to set that aside, it's --
7 the best example I can give to you is, you leave it outside
8 the courthouse You don't bring it into the courtroom or the
9 jury room

10 A It's already there I don't know how to get rid of it

11 **THE COURT** All right All right Do you believe that
12 that would affect you -- when it comes time to make a decision
13 would that affect how you would decide the case?

14 A I think so

15 **THE COURT** All right
16 Questions from the State?

17 **MR RICHARDSON** No questions, Your Honor

18 **THE COURT** Questions from the Defense?

19 **MR DIGGS** No, Your Honor

20 **THE COURT** All right, if you would go with the deputy
21 for a few moments, Ma'am, 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 484 MARKED COURT'S EXHIBIT NUMBER 54)**

1 **THE COURT** State's position?

2 **MR RICHARDSON** Judge, she's not qualified

3 **THE COURT** Defense

4 **MS WILLIAMS** Your Honor, we would agree

5 **THE COURT** The Court would find this juror not to be
6 qualified in this particular matter, that it would be
7 impossible for her to set aside any preconceived ideas that
8 she had, and would not be able to follow her juror's oath in
9 this particular matter

10 All right, the next one is Ariane Joyce

11 **ARIANE E JOYCE, JUROR NUMBER 347,**
12 being first duly sworn, states as follows

13 **BY THE COURT**

14 **THE COURT** All right, Ms Joyce, what I'm going to do
15 is, I'm going to go over some things with you I'm going to
16 be asking you some questions When I get done asking the
17 questions the representative of the State or the Defense may
18 have some questions for you Okay

19 A Okay

20 **THE COURT** All right Very good There are no right
21 or wrong answers Okay What I'm looking for is just direct,
22 straight-forward, honest answers to the questions that I ask
23 Okay Very good

24 In this particular matter, Ma'am, the State of South
25 Carolina has charged the Defendant, Mr Stanko, with the

1 crimes of murder and armed robbery Now, the Defendant has
2 pled not guilty to those charges, and so that puts the burden
3 of proof on the State of South Carolina to prove the Defendant
4 guilty beyond a reasonable doubt The Defendant is presumed
5 innocent, comes into the courtroom presumed innocent The
6 Defendant doesn't have anything to show to you, prove to you
7 The State has to prove the Defendant guilty beyond a
8 reasonable doubt You understand that?

9 A Yes sir

10 **THE COURT** Very good In this particular matter the
11 State of South Carolina has filed a notice to seek the death
12 penalty as against Mr Stanko That means this particular
13 case could have two parts The first part would be that the
14 jury would be looking at all the facts and evidence presented,
15 and finding that evidence which convinces it of it's truth,
16 and then weigh that evidence against the State's burden to
17 prove the Defendant guilty beyond a reasonable doubt, because
18 if, and only if the jury finds the Defendant guilty of the
19 crime of murder, beyond a reasonable doubt, would we even go
20 into the sentencing phase of the trial You understand that?

21 A Uh huh (indicating positive)

22 **THE COURT** All right Very good And I have to ask
23 that you say yes or no because the Court Reporter is taking
24 all that down ---

25 A Okay

1 **THE COURT** ---And when you type out uh huh nobody
2 knows what that means Okay

3 A Yes sir

4 **THE COURT** Thank you, Ma'am In the second phase of
5 the trial, for the jury to consider the death penalty as an
6 option the jury would have to find unanimously what is called
7 an aggravating circumstance Aggravate means to make worse,
8 or exacerbate the situation Those are statutory factors that
9 the Court would charge to the jury, and if the jury picks one
10 unanimously then they have the ability to consider the death
11 penalty, because if they don't pick an aggravating
12 circumstance they can't even consider the death penalty You
13 understand that?

14 A Yes

15 **THE COURT** Now, the jury is never required, and I
16 would never charge the jury they are required, at any point in
17 time, to give the death penalty It's an option, but the jury
18 is never required to do so The jury can always impose life
19 for a reason, or for no reason whatsoever You understand
20 that?

21 A Yes sir

22 **THE COURT** Now, the jury also has to, before they
23 reach a decision on the punishment, has to look at any
24 mitigating circumstances that the Court would charge to the
25 jury Mitigate means to lessen, or reduce the charge, or the

1 punishment, and the jury would have to consider all those
2 before the jury would impose a sentence And we are talking
3 in hypotheticals, but if you are part of the jury, and the
4 jury, you know, has unanimously found the Defendant guilty of
5 the crime of murder, and the jury has unanimously found an
6 aggravating circumstance, and the jury unanimously decides
7 that the death penalty is the appropriate penalty in this
8 case, since the jury is actually imposing a sentence in this
9 case that makes it different from any other criminal case
10 All other criminal cases the Judge imposes sentence In this
11 case the jury imposes the sentence So since the jury is
12 imposing the sentence, you know, every member of the jury has
13 to take pen in hand and sign a form indicating yes, this is my
14 unanimous verdict, and yes, I did unanimously vote with the
15 other members of the jury to impose the death penalty You
16 understand that?

17 A Yes I understand

18 **THE COURT** All right Now, under your juror's oath
19 you have to -- every juror is required to come into the
20 courtroom without any kind of preconceived ideas of what the
21 law is, without any preconceived biases toward any kind of
22 sentence If you heard about the case in the past, or knew
23 anything about the case you -- you say, I'm going to set that
24 aside, I'm going to leave that outside the courtroom and I'm
25 going to make my decision based upon what I hear in this

1 courtroom and from no other source Do you understand that?

2 A Yes sir

3 THE COURT Very good Let me ask you a few questions,
4 if I could Since Friday have you read, looked up, talked
5 about this case in any way?

6 A No, I have not

7 THE COURT And you haven't talked to anybody about it?

8 A No sir

9 THE COURT Very good Now, before Friday, before you
10 had the instructions not to do that, do you remember hearing
11 anything about this case in any way, Defendant's name, or
12 anything about this case?

13 A The name sounds familiar I think maybe -- I think
14 I've heard it a couple of years ago I'm not sure

15 THE COURT Okay

16 A And then I did see his name in the newspaper ---

17 THE COURT Okay

18 A ---But didn't read further, so didn't bring to my
19 attention

20 THE COURT All right Very good So basically what
21 you are telling me is that the name rings a bell, but other
22 than that ---

23 A Yes

24 THE COURT ---You don't remember anything about it?

25 A No sir

1 **THE COURT** All right Very good Now, this is kind
2 of a -- just a general question Do you know of any reason
3 why -- do you have any kind of personal, or political,
4 religious, philosophical belief that would -- you believe
5 would keep you from being a fair and impartial juror?

6 A No sir

7 **THE COURT** All right On the witness list you didn't
8 circle anybody?

9 A Nobody sounds familiar

10 **THE COURT** Very good And as to the type of category
11 of juror you circled (C), correct?

12 A Yes sir

13 **THE COURT** All right And let me talk about that for
14 just a moment, make sure we are on the same page as what juror
15 (C) is Again, we are talking about hypotheticals, may
16 happen, may not happen You are on the jury, the jury, in the
17 first part of the -- first phase of the trial has unanimously
18 decided the -- based on the evidence presented that, beyond a
19 reasonable doubt, the Defendant is guilty of the crime of
20 murder Going into the second phase juror (C), or category
21 (C) juror says, I don't have any predispositions as to the
22 sentence either way, I'm going to keep an open mind, what I'm
23 going to do is, I'm going to listen to all the facts and
24 evidence presented in the second phase of the case ---

25 A Uh huh (**indicating positive**)

1 **THE COURT** ---I'm going to take the law that the Judge
2 gives to me, apply it to the facts and evidence find to be
3 true, and then reach a decision Is that correct?

4 A Yes sir I have to know the facts

5 **THE COURT** Very good So let me just follow up with
6 that just real quick You are on the jury, we are in the
7 second phase or the sentencing phase of the trial Based on
8 the right set of facts and circumstances being presented to
9 you could you consider, and could you impose a life sentence,
10 based on the right set of facts and circumstances being
11 presented to you?

12 A I could

13 **THE COURT** All right

14 A Yes

15 **THE COURT** Again, based upon the right set of facts
16 and circumstances being presented to you could you consider --
17 could you impose a death sentence, based upon the right set of
18 facts and circumstances being presented to you?

19 A Yes, I could

20 **THE COURT** All right Assume again you are on the
21 jury and you unanimously voted, with the other members of the
22 jury, that the death penalty is the proper penalty in this
23 case can you then, as I described, take pen in hand and sign
24 your name to the form indicating that that, indeed, is your
25 unanimous verdict in this matter?

1 A Yes, I could

2 THE COURT Thank you, Ma'am

3 All right The last thing I want to cover with you is,
4 because of the nature of this case once the jury is selected -
5 - we have all the jurors that are going to be on this
6 particular case -- that jury panel is going to be sequestered
7 That means -- obviously at County expense -- they will be
8 housed at a motel, meals are taken care of, provided for, you
9 are transported to and from by County officials, but in the
10 evening you are not going home You are staying at motel

11 Now, I understand -- there is no question that's a
12 hardship

13 A Yes

14 THE COURT No question about that, absolutely But,
15 is that such an undue hardship on you -- is there some kind of
16 health concern for you or a member of your family that that's
17 such an undue hardship on you?

18 A No health concern, but I do have a two year old little
19 girl that I would miss

20 THE COURT Okay Let's talk about that just -- and I
21 completely understand that Who would be caring for your
22 little girl when you are not there?

23 A Her father, or my parents, or his family

24 THE COURT Okay They are local?

25 A They are local

1 **THE COURT** So you ---

2 A Miles down the road Can't avoid them

3 **THE COURT** All right Very good All right Good

4 Thank you, Ma'am

5 Please answer any questions the State might have

6 A Yes sir

7 **THE COURT** Thank you

8 **MR RICHARDSON** Hey, Ms Joyce

9 A Hi

10 **BY MR RICHARDSON**

11 **MR RICHARDSON** My name is Jimmy Richardson, and I'm an
12 Assistant Solicitor here in Horry County This is Fran
13 Humphries, to all that -- and he's the Deputy, and Mr Hembree
14 is the elected Solicitor

15 And I don't want to go into this too much, but this is -
16 - it's a rarity, a death penalty case We -- you know, every
17 murder doesn't qualify for the death penalty case

18 A Yes sir

19 Q And just so that we are all on the same page -- of
20 course Judge John has talked with you about this, but there's
21 two parts to this trial

22 A Yes

23 Q The first part is simply whether or not Stephen Stanko
24 killed Mr Henry Turner, did he murder him, and if you, along
25 with eleven others, find that he did that then we would go to

1 part two

2 A Right

3 Q And part two, that's what Judge John was talking with
4 you about, mitigating circumstances and aggravating
5 circumstances

6 A Yes

7 Q And at some point you would have to find that there was
8 an aggravating circumstance -- and we'll give you that later
9 I'm just not at liberty to give you ---

10 A I've got to know all the facts before I even consider

11 Q Right Well, and what that is is kind of murder plus

12 A Right

13 Q Murder alone is not enough for a death penalty, but
14 murder plus an aggravating circumstance, and then you get to
15 decide, along with your fellow jurors, whether or not you want
16 -- this qualifies for the death penalty first of all, and then
17 do we give life, or do we give death ---

18 A Yes

19 Q ---And there's no right answer

20 A No

21 Q And the Judge is going to tell you, there's never a
22 circumstance where you would have to give the death penalty,
23 but what we want to make sure is that you really are that type
24 (C) juror, that I have no great heartburn with giving somebody
25 life in prison, even if there is murder and aggravating

1 circumstances, and I'm that type person that I would have no
2 great heartburn if proven murder plus an aggravating
3 circumstance, giving the death penalty

4 A Depending on what it is, I could really do it

5 Q Okay Well, have you given much consideration to the
6 death penalty, or capital cases?

7 A Never really thought about it

8 Q Okay And it's like Judge John said, at some point you
9 would have to sign and state, you know ---

10 A Right

11 Q ---I am -- not only do I find, but now that I've found
12 I'm actually signing this paperwork, one of twelve

13 A Right

14 Q Would that give you any concern if the other eleven
15 jurors decided that it was the death penalty?

16 A If I believe, myself, from the facts, that that's what
17 he deserves then I'll sign

18 Q That's perfect That's what we are looking for,
19 wanting somebody to keep an open mind, that's not predisposed
20 to say I'm going to only give life, regardless of what he
21 does, or regardless of what he does I'm going to give death
22 We don't want that

23 A I mean, I don't like to, but if I think he deserves it
24 then ---

25 MR RICHARDSON I understand And I think that's all

1 the questions that I have for you

2 I would like for you to answer any questions that the
3 Defense might have for you Okay

4 A Thank you

5 MR DIGGS May it please the Court

6 THE COURT Yes sir, Mr Diggs

7 BY MR DIGGS

8 MR DIGGS Ms Joyce, how are you this morning?

9 A Good How are you?

10 MR DIGGS My name is Bill Diggs, and this is Brana
11 Williams, and we represent Mr Stanko who is seated at the
12 table here between us

13 A Uh huh (indicating positive)

14 Q A couple of questions I want to follow up with, based
15 on the questioning that was asked of you earlier In this
16 case, at the first part of the case ---

17 A Yes

18 Q We anticipate that the evidence that's presented there
19 is going to present the possibility of four verdicts

20 A Right

21 Q One would be guilty, one would be not guilty, one would
22 be guilty -- or not guilty by reason of insanity, and one
23 would be guilty but mentally ill

24 A Yes

25 Q Do you have any predisposed feelings that would prevent

1 you from fairly considering either of those four verdicts?

2 A Not right now

3 Q Not right now?

4 A No, not right now

5 Q Okay You would be able to listen to the evidence and
6 based on what your finding of the evidence was ---

7 A I would have to before I made my mind

8 Q ---And then you would -- based on the law charged to
9 you by the Judge you would vote ---

10 A On what I ---

11 Q ---Depending on what you felt the evidence showed?

12 A Yes Right

13 Q Okay Now, do you believe that you have an obligation
14 to the community to return a guilty verdict?

15 A Not to return a guilty verdict, no

16 Q Okay And do you believe that -- let's say you were
17 chosen to sit on this jury and you returned a verdict of
18 something other than guilty, do you believe you would have an
19 obligation to go back into the community and explain that
20 verdict?

21 A No

22 Q Okay And that would be because of what?

23 A I just feel it would be my decision so ---

24 Q Okay Your decision to participate in this proceeding,
25 and follow the law that's given to you ---

1 A Right

2 Q ---Regardless of what anybody else might think?

3 A Yes

4 Q Okay Do you feel like you would be predisposed to
5 give a certain verdict in a sentencing phase?

6 A No

7 Q Do you prefer life over death, or vice versa, death
8 over life?

9 A Depending on what happened

10 Q Okay You understand what we mean by mitigating
11 circumstances, and aggravating circumstances?

12 A No Can you explain?

13 Q Well, the State has to prove a murder ---

14 A Right

15 Q ---And an aggravating circumstance That's something
16 that, by our statutory law, makes the murder a little -- makes
17 that individual ---

18 A, More harsh

19 Q ---Worse

20 A Okay

21 Q Here you go And even if the State proves that the
22 Defendant always has an opportunity to introduce what's called
23 mitigating evidence, things that might weigh in support of a
24 life sentence ---

25 A Okay

1 Q ---Notwithstanding this other evidence that you've
2 already determined and found So that's what we mean by
3 mitigating evidence

4 A Okay

5 Q Would you be able to wait and listen to all of that
6 evidence, from both sides ---

7 A Yes

8 Q ---Before you made a decision as to what to do in this
9 case?

10 A Yes

11 MR DIGGS Okay Thank you very much for your time
12 I think that's all the questions I have

13 A Thank you

14 THE COURT Ms Joyce, if you don't mind, if you would
15 go with the deputy for a few moments, please Thank you,
16 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 347 MARKED COURT'S EXHIBIT NUMBER 55)

21 THE COURT State's position?

22 MR RICHARDSON Your Honor, she's qualified

23 THE COURT Defense

24 MR DIGGS We agree

25 THE COURT The Court would find this juror to be

1 qualified, and would follow the Court's instructions and her
2 juror's oath

3 All right We go to David Dimaio

4 CLERK OF COURT He was not here ---

5 THE COURT He was not here earlier? Oh, not here
6 Friday

7 CLERK OF COURT Yes sir

8 MR DIGGS Your Honor, can I take a break for about
9 two minutes?

10 CLERK OF COURT And we do not know why

11 THE COURT All right Would it be possible to
12 continue on in your absence, or no Ms Williams is gone

13 Oh there she is Okay She was right behind you

14 MR DIGGS Your Honor, I'll be right back, probably
15 before you even get him sworn

16 THE COURT All right Very good Okay Very good
17 Good

18 DAVID DIMAIO, JUROR NUMBER 157,
19 being first duly sworn, states as follows

20 BY THE COURT

21 THE COURT All right, Mr Dimaio, first, you weren't
22 here on Friday, and you had been summoned to come here on
23 Friday What happened?

24 A Actually I was traveling cross country from Tucson,
25 Arizona, and I had called Thursday ---

1 **THE COURT** Okay

2 A ---To find out if it would be all right if I was not --

3 -

4 **THE COURT** Very good

5 A ---I was going to be late Friday

6 **THE COURT** Right And the Clerk told you that you

7 could come in whenever they instruct you to come in?

8 A Yes sir

9 **THE COURT** Very good All right, now, since you

10 weren't here on Friday there's some questions that I'm going

11 to need to ask of you, and if you need to respond to that

12 question then, you know, just tell me one way or another All

13 right

14 The witness list that you were provided, you didn't

15 circle as far as knowing any of the potential witnesses in

16 this case, correct?

17 A I don't know them personally, but I've heard of a few

18 of the names written down

19 **THE COURT** Okay Can you look through there and tell

20 me who it is that you might have heard of?

21 A The last name, Stanko, and I believe it's Jeffrey

22 **THE COURT** Okay But you've heard that name?

23 A Yes sir

24 **THE COURT** All right Very good The fact that --

25 all right Are you related by blood or marriage, close

1 personal friends, acquaintances of anybody bearing the last
2 name Stanko?

3 A No sir

4 THE COURT All right Very good Are you related by
5 blood or marriage, close personal friends, acquaintances of
6 the alleged victim in this matter, Henry Lee Turner?

7 A No sir

8 THE COURT Very good In this particular matter have
9 you ever had any matters of any kind, you or members of your
10 immediate family, have any matters of any kind handled by the
11 Fifteenth Circuit Solicitor's Office? That's the prosecuting
12 office covering Horry and Georgetown

13 A No

14 THE COURT All right Are you related by blood or
15 marriage to anybody employed at the Fifteenth Circuit
16 Solicitor's Office?

17 A No

18 THE COURT All right, Solicitor, if you could, stand
19 and identify yourself, please sir

20 MR HEMBREE Thank you, Judge John

21 Hi, Mr Dimaio I'm Greg Hembree I'm the Solicitor
22 for the Fifteenth Circuit Seated next to me is Deputy
23 Solicitor Fran Humphries, and Senior Assistant Solicitor Jimmy
24 Richardson, our legal assistant Peggy Snowden will also be
25 helping us on this case

1 **THE COURT** All right, and Mr Diggs and Ms Williams

2 **MR DIGGS** Good morning My name is Bill Diggs I
3 practice law in Myrtle Beach, and I also have a son, Parnell
4 Diggs, who practices with me, however, his office is in Garden
5 City

6 **MS WILLIAMS** My name is Brana Williams, and I have an
7 office here in Conway

8 **THE COURT** All right, sir, are you related by blood or
9 marriage, close personal friends, acquaintances of, know any
10 of these lawyers that have introduced themselves to you?

11 A None

12 **THE COURT** All right Very good I'm going to go
13 into a question now that -- whether or not you have any kind
14 of personal, religious, philosophical belief that you would
15 believe would prevent you from being a fair and impartial
16 juror, and in that I'm going to go into the category of juror
17 that you said best describes you, okay

18 A Yes sir

19 **THE COURT** You circled (A), correct?

20 A That's correct

21 **THE COURT** All right, now, in circling (A) let me kind
22 of go over that with you and make sure we are on the same page
23 then All right

24 Again, we are talking about hypotheticals that may or
25 may not happen here If you are on the jury, and the jury in

1 this particular matter hears facts and evidence in the case,
2 presented by the State, the State having the burden of proof
3 to prove the Defendant guilty beyond a reasonable doubt The
4 Defendant is presumed innocent, doesn't have anything to prove
5 to you, show to you The State has to prove the Defendant
6 guilty beyond a reasonable doubt You understand that's the
7 law?

8 A Yes sir

9 THE COURT All right So, on the jury, the jury hears
10 all the facts and evidence, weighing that evidence, finding
11 that evidence which convinces the jury of it's truth, and then
12 decides that there is sufficient evidence to convict the
13 Defendant beyond a reasonable doubt of the crime of murder
14 All right, so we are just assuming that has occurred

15 Category (A) juror, or juror (A) says, I've been a part
16 of this jury that has unanimously found the Defendant guilty
17 of the crime of murder, before I hear any other facts and
18 evidence in the sentencing phase, or the second phase of this
19 trial to decide the sentence I'm already predisposed, without
20 hearing anything, to give a death sentence, and would not
21 fairly consider imposing a life sentence or the death
22 sentence, I've already made up my mind before I heard all the
23 facts and evidence on the sentencing phase, and even before I
24 know the law that the Judge will charge to me about the
25 sentencing phase That's what juror (A) says Is that the

1 type of juror you are?

2 A Yes sir

3 THE COURT And why is that?

4 A My mother was killed in a domestic dispute

5 THE COURT Okay

6 A My father killed her

7 THE COURT All right

8 A It was my belief from that point forward that he should
9 have received the death sentence, and instead received a life
10 sentence where he did die in prison

11 THE COURT Okay

12 A So I have a strong conviction for it, and that's my
13 honest belief

14 THE COURT And I appreciate that, and certainly -- and
15 I'm -- there's nothing at all wrong with that When I asked
16 for was straight-forward and honest answers, and I appreciate
17 that, and that's what I wanted from you

18 Further questions from the State?

19 MR HEMBREE No, Your Honor

20 THE COURT Further questions from the Defense?

21 MR DIGGS No sir

22 THE COURT Thank you, sir I appreciate it very much
23 If you would go with the deputy for just a moment, please
24 Thank you

25 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE

1 JUROR)

2 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
3 JUROR NUMBER 157 MARKED COURT'S EXHIBIT NUMBER 56)

4 THE COURT State's position?

5 MR HEMBREE The juror is not qualified, Your Honor

6 THE COURT Defense

7 MR DIGGS We agree

8 THE COURT All right, the Court would find that the
9 juror is not qualified, he could not follow the Court's
10 instructions nor obey his juror's oath in this particular
11 matter

12 TONJA L LEIDIG, JUROR NUMBER 378,
13 being first duly sworn, states as follows

14 BY THE COURT

15 THE COURT All right, Ms Leidig ---

16 A Yes sir

17 THE COURT ---What I'm going to do is, I am going to
18 go over some things with you, and I'm going to be asking you
19 some questions, and when I'm done the representatives of the
20 State and the Defense may have some questions for you Okay

21 A Yes sir

22 THE COURT All right No right or wrong answers here,
23 okay I'm just looking for direct, straight-forward, honest
24 answers to the questions asked Okay, Ma'am?

25 A Yes sir

1 **THE COURT** Thank you, Ma'am In this particular case
2 the State of South Carolina has charged the Defendant, Mr
3 Stanko, with the crimes of murder and armed robbery The
4 Defendant has pled not guilty to those charges so that puts
5 the burden of proof on the State of South Carolina to prove
6 the Defendant guilty beyond a reasonable doubt The Defendant
7 is presumed innocent He doesn't have anything to show to you
8 or prove to you The State has to prove the Defendant guilty
9 beyond a reasonable doubt You understand that?

10 A Yes sir

11 **THE COURT** In this case the State has filed a notice
12 to seek the death penalty as against Mr Stanko in this case
13 That means we could have two parts to the trial The first
14 part the jury would consider the facts and evidence presented
15 by the State to see if there are enough facts and evidence
16 which the jury believes to convict the Defendant of the crimes
17 charged beyond a reasonable doubt If, and only if the jury
18 convicted the Defendant beyond a reasonable doubt of the crime
19 of murder would we even go into the second or sentencing
20 phase You understand that?

21 A Yes sir

22 **THE COURT** Now, the sentencing phase -- and it's
23 called that because the jury actually -- or the punishment
24 phase, actually the jury imposes the sentence, and it makes a
25 difference, because normally the Judge imposes sentence In

1 this here the jury picks the sentence, and there's two
2 choices, life in prison without the possibility of parole, or
3 death penalty

4 Now, for a juror to be qualified they have to be able to
5 -- and again we are talking about hypotheticals that may
6 happen or may not happen, but if the jury has convicted the
7 Defendant of murder beyond a reasonable doubt, going into the
8 second phase the jury has to -- and all the jurors have to set
9 aside any beliefs they might have They can't go into the
10 second phase with any kind of predisposed ideas of what they
11 believe about a type of penalty They have to be able to
12 fairly consider and impose a life sentence or fairly consider
13 and impose a death sentence They are open to either
14 possibility They have to hear all the facts and evidence in
15 the second phase, take the law that the Court gives to them,
16 and then, based upon their discussions, render a true and just
17 verdict Do you understand that?

18 A Yes sir

19 **THE COURT** Now, in this particular matter you circled
20 category (A) Okay All right, now, so that we are on the
21 same page here let me go over category (A) with you Category
22 (A) is a juror that says, I've been part of a jury that has
23 unanimously found the defendant guilty of the crime of murder
24 beyond a reasonable doubt, before we even get into the second
25 phase or the sentencing phase I'm already predisposed to give

1 the death penalty, even before I hear the facts and
2 circumstances to be presented in the second phase, even before
3 I know the law that the Judge is going to give me about the
4 second phase I'm already predisposed to give death sentence

5 Now, is that what you are telling me the type of juror
6 that you would be?

7 A Pretty much, because I'm for the death penalty

8 **THE COURT.** Okay

9 A I ---

10 **THE COURT** Okay

11 A ---Rather than life imprisonment If somebody commits
12 murder I'm for the death penalty

13 **THE COURT** Okay And you can certainly -- people can
14 be for or against the death penalty, and that's -- that
15 doesn't disqualify a person from being a juror What you have
16 to be able to do is, I have this opinion outside the
17 courthouse, but in the courtroom I'm going to fairly and
18 impartially consider both sentences, I'm not going to lean one
19 way or the other, I'm going to listen to all the facts and
20 evidence presented, I'm going to follow the law that the Judge
21 gives me, and then, without reference to my belief outside the
22 courthouse I'm going to make a decision based on the facts and
23 evidence in the case That's what the juror has to do, so my
24 question to you is, can you do that?

25 A I don't know if I could or not, because I am -- I'm

1 really pro death penalty as far as, if somebody commits murder
2 we are accountable for what we do

3 THE COURT All right Very good And I appreciate
4 that, Ma'am, and certainly don't take my questions in any way
5 I have to have ---

6 A I know

7 THE COURT ---Straight-forward and honest answers from
8 you, and I'm getting that, and I appreciate that very much
9 Further questions from the State?

10 MR HUMPHRIES No, Your Honor

11 THE COURT From the Defense?

12 MR DIGGS No sir

13 THE COURT Very good, Ma'am If you wouldn't mind
14 going with the deputy for one moment, please All right
15 Thank you, Ma'am

16 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
17 JUROR)

18 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
19 JUROR NUMBER 378 MARKED COURT'S EXHIBIT NUMBER 57)

20 THE COURT All right, position of the State

21 MR HUMPHRIES She's not qualified

22 THE COURT Defense

23 MR DIGGS We agree

24 THE COURT The juror -- the Court would find that the
25 juror is not qualified, could not follow the Court's

1 instructions, nor the juror's oath

2 MR HUMPHRIES Any particular reason we took her out
3 of order?

4 THE COURT Other than she walked in the door and said
5 her name was Ms Leidig

6 CLERK OF COURT I'm fixing to tell you

7 THE COURT Okay

8 (DISCUSSION BETWEEN THE COURT AND THE CLERK OF COURT)

9 THE COURT Okay Well, great They just happened to
10 call out her name That's why they -- okay That's why we
11 did it

12 JOYCE E SPENGLER, JUROR NUMBER
13 597, being first duly sworn, states as follows

14 BY THE COURT

15 THE COURT All right, Ms Spengler, what I'm going to
16 do is, I'm going to go over some matters with you I'm also
17 going to ask some questions, and when we are done with that
18 there might be some questions from the State and the Defense
19 Okay

20 A Okay

21 THE COURT All right No right or wrong answers here
22 Looking for direct, straight-forward, honest answers from you
23 Okay

24 A All right

25 THE COURT Very good The first thing I need to cover

1 with you, the State of South Carolina has set forth certain
2 exemptions, and when a juror reaches the age of sixty-five
3 they are able to claim an exemption It's not an excusal It
4 is something -- a right granted to the juror that if they want
5 to exercise that right, and want to be excused they can be, so
6 it's a personal right to the juror

7 A Uh huh (indicating positive)

8 THE COURT Since you would qualify for that, with your
9 birthday being 12/24/39 -- you get cheated out on those
10 birthday and Christmas presents, don't you?

11 A How about that? I know

12 THE COURT They -- but since that's your birthday you
13 have that option or you have that right, so I need to ask you,
14 do you want to exercise and be given that exemption or do you
15 want to waive it and give it up?

16 A I will waive it

17 THE COURT All right Thank you, Ma'am I appreciate
18 that very much

19 In this particular matter the State of South Carolina
20 has charged the Defendant, Mr Stanko, with the crimes of
21 murder and armed robbery Now, the Defendant has pled not
22 guilty to those crimes That puts the burden of proof on the
23 State of South Carolina to prove the Defendant guilty beyond a
24 reasonable doubt The Defendant is presumed innocent, doesn't
25 have anything to prove to you or show to you The State has

1 to prove the guilty of the Defendant beyond a reasonable
2 doubt You understand that?

3 A Yes

4 **THE COURT** Very good Now, in this matter the State
5 has filed notice to seek the death penalty as against Mr
6 stanko That means this case could potentially have two
7 parts The first part would be that the jury would listen to
8 all of the facts and evidence in this case, and find that
9 evidence which they believe to be true, and then weigh that
10 evidence against the State's burden to prove the Defendant
11 guilty beyond a reasonable doubt If, and only if the jury
12 finds the Defendant guilty of the crime of murder, beyond a
13 reasonable doubt, would we even go into the second or
14 sentencing phase You understand that?

15 A Yes sir

16 **THE COURT** Now in the sentencing phase -- and it's
17 called that because the jury imposes a sentence There's two
18 options, life in prison without the possibility of parole, or
19 the death sentence Those are the two options And when we -
20 - if I might happen to say life, or the lawyers might happen
21 to say life that's what we mean, life in prison without the
22 possibility of parole Those are the two options

23 Now, the jury, to even consider the death penalty,
24 decides -- already has convicted the defendant of the crime of
25 murder beyond a reasonable doubt, but also unanimously has to

1 find an aggravating circumstance Now those are factors that
2 the Court would charge to you, but aggravated general -- you
3 know, that means to make worse, or to exacerbate the situation
4 or the circumstances So the jury would have to find this
5 aggravating circumstance, or one or more, whatever, would have
6 to find it even to consider the death penalty The jury is
7 never required to impose the death sentence, and I wouldn't
8 charge the jury that, and the jury is not -- not required even
9 if they find an aggravating circumstance, because the jury can
10 impose life for a reason or no reason whatsoever at any time
11 Do you understand that?

12 A Yes

13 THE COURT Now, the jury also has to fairly consider
14 any mitigating circumstances that the Court would charge to
15 the jury, and you know, mitigate means to lessen or reduce the
16 charge, or reduce the punishment Those factors, the jury
17 would have to listen to those and consider those before they
18 decided on a sentence in this particular matter You
19 understand that?

20 A Yes

21 THE COURT Very good If you are part of a jury --
22 and again, we are talking about hypotheticals here, they may
23 or may not happen -- but if you are part of the jury and the
24 jury has unanimously found the Defendant guilty of the crime
25 of murder, and the Defendant (sic) has unanimously found an

1 aggravating circumstance, and then the jury unanimously
2 decides that the death penalty is appropriate in this case,
3 since the jury is actually imposing sentence each member of
4 the jury then has to -- there's a form that the -- each juror
5 has to sign indicating that that, indeed, is the unanimous
6 verdict, and everybody did vote to impose the death penalty
7 You understand that?

8 Q Yes

9 **THE COURT** All right As a member of the jury it
10 would be your duty and responsibility to come in the courtroom
11 without any kind of predisposition, predisposed dispositions
12 about the law, predisposed as to any kind of outcome,
13 predisposed as to any sentence that might be appropriate You
14 have to leave all that outside the courthouse If you heard
15 anything about this case, knew anything about it at all, or
16 thought you knew anything about it you've got to leave all
17 that outside the courthouse because you've got to make your
18 decision based solely and completely on the facts and evidence
19 presented in the courtroom and from no other source Do you
20 understand that?

21 A Yes

22 **THE COURT** And you also have to follow the law that
23 the Court would give to you, that I would charge to the jury
24 Whether ultimately you agreed with it or you disagreed with it
25 when you take your oath you say, Judge, I'm going to follow

1 the law that you give to me You understand that?

2 A Right

3 THE COURT Very good Let me go over a few questions
4 with you Since Friday have you read, listened to, looked up
5 anything about this case?

6 A No, I have not

7 THE COURT All right And since Friday did you talk
8 to anybody about this case?

9 A No

10 THE COURT Very good Now, before Friday, and before
11 you had the instructions not to do that, had you heard
12 anything about this case in any way? Could you remember
13 anything about it at all?

14 A I may have seen a headline but -- in the newspaper or
15 something, but that would be it

16 THE COURT Okay Can you remember anything? Does it
17 bring to mind anything right now?

18 A No

19 THE COURT Very good Okay Now, this is more of a
20 general type question Do you know of any kind of personal or
21 political, religious, philosophical belief that you might have
22 that would keep you from being a fair and impartial juror in
23 this case?

24 A No, I don't

25 THE COURT Very good The witness list -- you didn't

1 circle anybody on the witness list, correct?

2 A Correct

3 THE COURT Very good And as to the juror category
4 you circled (C), correct?

5 A Right

6 THE COURT Let's go over that briefly so we make sure
7 we are on the same page Category (C) juror, or juror (C)
8 says, you know, again, hypothetically, I'm a member of the
9 jury -- in the first part of the case, based on the evidence
10 that's been presented I'm a part of this jury that's
11 unanimously found the defendant guilty of the crime of murder,
12 so now we are in the second phase Going into the second
13 phase I've got an open mind, I can fairly consider and impose
14 either a life sentence or a death sentence, it's going to be
15 based upon the facts and evidence that are presented in the
16 second phase, and it's going to be based upon the law that the
17 Judge will give to me, and after all of that then, with my
18 fellow jurors, I'll reach a fair and just verdict in this
19 matter Is that right?

20 A Correct

21 THE COURT Very good To follow up with that just a
22 little bit We are in the sentencing phase, are you telling
23 me that you can fairly consider, and could fairly impose,
24 based upon the facts and circumstances that might be presented
25 to you, a life sentence?

1 A Yes

2 THE COURT Are you telling me that you could fairly
3 consider, you could fairly impose, based upon the facts and
4 circumstances that would be presented to you, a death
5 sentence?

6 A Yes

7 THE COURT If you are part of the jury that has
8 unanimously found that the death sentence is the proper
9 sentence could you then take pen in hand and sign your name to
10 that form that indicates this, indeed, is the unanimous
11 verdict of all the jurors in this case?

12 A Yes, I could

13 THE COURT Thank you, Ma'am

14 All right The last thing that I want to cover with you
15 is, because of the type of case this is we -- the jury is
16 going to be sequestered in this particular matter That means
17 once the jury is selected, got them all together and the trial
18 starts, then the jury will be together till the end of the
19 trial That means they will be -- obviously all this is at
20 County's expense -- house at the hotel, meals provided for,
21 you know, County officials transport you to and from the -- to
22 the courthouse, you are not going home at night, and your
23 access to family and friends is limited It's not going to
24 be, you know, completely cut off but it is limited So,
25 understanding that's a hardship, there is no question about

1 that, understand that completely ---

2 A Yes

3 THE COURT ---But is that such an undue hardship on
4 you, or undue hardship regarding, you know, the health of a
5 family member or yourself?

6 A No

7 THE COURT All right Thank you, Ma'am

8 Please answer any questions the State might have for
9 you

10 BY MR HEMBREE

11 MR HEMBREE Good morning, Ms Spengler

12 A Good morning

13 MR HEMBREE I'm Greg Hembree I'm the Solicitor for
14 Horry and Georgetown Counties I, along with Deputy Solicitor
15 Fran Humphries and Senior Assistant Solicitor Jimmy
16 Richardson, will be trying this case on behalf of the State
17 Judge John has covered all the questions that I might have I
18 just want to thank you for your willingness to serve

19 Please answer any questions Defense counsel has for you

20 THE COURT All right Mr Diggs or Ms Williams Mr

21 Diggs

22 BY MR DIGGS

23 MR DIGGS May it please the Court

24 THE COURT Yes sir

25 MR DIGGS How are you this morning?

1 A I am fine Thank you

2 MR DIGGS Good My name is Bill Diggs, and this is
3 Brana Williams seated here at the counsel table with me, and
4 we are representing Mr Stanko who is seated here between us
5 this morning

6 In response to one of the Judge's questions you
7 indicated you might have seen a headline about this case

8 A This particular case?

9 Q About Mr Stanko

10 A It was a while ago

11 Q Do you remember anything about what the headline
12 referred to?

13 A No, I do not

14 Q Okay So you can't provide me any details about Mr
15 Stanko or any former history ---

16 A No

17 Q ---Or any history involving him?

18 A No It was one of those things that you see a headline
19 in the newspaper and you are not interested so you don't read
20 it

21 Q Okay I understand Let me ask you this Do you feel
22 like knowing that there was -- I mean, at least there were
23 headlines out there Do you feel like there would be any
24 obligation on your part to return a verdict of guilty on
25 behalf of the community?

1 A No

2 Q And you don't -- would it be fair to say that you don't
3 believe the community -- that you owe an obligation to the
4 community -- let me put it that way -- to return a verdict of
5 guilty?

6 A No I owe an obligation to what I am told in here

7 MR DIGGS That's perfect

8 Q Let me ask you, we would anticipate in this case,
9 initially when the jury begins to hear evidence, that that
10 evidence might raise the possibility of four different -- one
11 of either four different verdicts Could be plain guilty,
12 could be not guilty, could be not guilty by reason of
13 insanity, could be guilty but mentally ill Do you have any
14 bias in your mind against being able to fairly consider any of
15 the foregoing verdicts?

16 A No No

17 Q Okay You would be able to fairly weigh the evidence
18 and, based on the Judge's instructions, come up with either of
19 those four verdicts if required by that evidence?

20 A Yes

21 Q Okay And with respect to a sentencing decision let's
22 assume that you are on the jury and the jury has returned a
23 verdict of guilty, and the State has proven the aggravating
24 circumstance that the Judge referred to that allows the jury
25 then to proceed to making a decision about life or death, in

1 that situation do you think you would be predisposed to vote
2 one way over the other?

3 A No

4 Q You would be able to fairly consider all of the
5 evidence in both verdicts?

6 A That's correct

7 Q Okay And would it be fair to say that you would want
8 to hear all of the evidence before you were asked to make a
9 decision about sentencing?

10 A Yes

11 Q Of course And that's something you would want to
12 hear?

13 A Definitely

14 MR DIGGS Okay Thank you very much That's all I
15 have at this time

16 THE COURT Thank you, Ma'am

17 All right, Ms Spengler, if you don't mind if you would
18 go with the deputy for just a moment, please

19 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
20 JUROR)

21 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
22 JUROR NUMBER 597 MARKED COURT'S EXHIBIT NUMBER 58)

23 THE COURT On this particular juror, the State's
24 position?

25 MR HEMBREE Ms Spengler is qualified, Your Honor

1 **THE COURT** Defense

2 **MR DIGGS** We believe so, Your Honor

3 **THE COURT** All right I find that the juror is
4 qualified

5 **(THE FOLLOWING TAKES PLACE AFTER A BREAK)**

6 **MARY B BATES, JUROR NUMBER 35,**
7 being first duly sworn, states as follows

8 **BY THE COURT**

9 **THE COURT** All right, Ms Bates, let me -- what I'm
10 going to do is go over some things with you I'm going to
11 have -- talk to you a little bit, have some questions, and
12 what I'm looking for is just -- there's no right or wrong
13 answers here I just want some direct, straight-forward,
14 honest answers to the questions Okay

15 A Okay

16 **THE COURT** Very good, Ma'am In this particular case
17 the State of South Carolina has charged the Defendant, Mr
18 Stanko, with the crimes of murder and armed robbery The
19 Defendant has pled not guilty to the charges Now that puts
20 the burden of proof on the State of South Carolina to prove
21 the Defendant guilty beyond a reasonable doubt The Defendant
22 is presumed innocent The Defendant doesn't have anything to
23 prove to you, show to you The State has to prove the
24 Defendant's guilt beyond a reasonable doubt Do you
25 understand that?

1 A Yes

2 THE COURT Very good In this particular case the
3 State has filed a notice to seek the death penalty in this
4 particular case Now, that means there -- potentially have
5 two parts to the trial The first part of the trial is as --
6 the jury would look at all the facts and evidence presented to
7 see whether or not the State has produced, in the minds of the
8 jurors, sufficient evidence to prove the guilty of the
9 Defendant of the crimes charged beyond a reasonable doubt,
10 because if, and only if the jury convicts the Defendant of the
11 crime of murder, beyond a reasonable doubt, would we even get
12 into the second phase or the sentencing phase, the punishment
13 phase of the trial Do you understand that?

14 A Yes

15 THE COURT Now, in the second phase the jurors in that
16 phase, by their oath, have to go into the second phase of the
17 trial without any predispositions of any kind, any beliefs as
18 to the law, as to the type of punishment, if they knew
19 anything about the case they've left that outside of the
20 courthouse, so they are basically -- as far as the second
21 phase what they -- what the juror's oath, and what the jurors
22 are required to do is listen to all the facts and evidence
23 presented in the courtroom, take the law that the Court gives
24 to them, and then after fair and honest deliberation, reach a
25 just verdict in this matter Do you understand that?

1 A Yes

2 THE COURT All right Now, in this particular matter
3 looking at the category of juror you have circled (B), is that
4 correct?

5 A Yes

6 THE COURT All right Now let me go over that with
7 you to make sure that we are on the same page here All
8 right We are talking about hypotheticals, may or may not
9 happen, but assume you are on the jury and in the first phase
10 the jury has deliberated and reached an unanimous decision
11 that the State has proved the guilty of the Defendant beyond a
12 reasonable doubt of the crime of murder, and the jury has
13 unanimously convicted the Defendant of that crime You
14 understand that?

15 A Uh huh (indicating positive)

16 THE COURT Now we are in the second phase In the
17 second phase, before we go into the second phase juror (B)
18 says, before I've heard any of the facts and evidence that are
19 going to be presented in this second phase, before I know the
20 law that the Judge is going to give me about this second phase
21 of the trial I'm already predisposed, in this case, to give a
22 life sentence, I will not fairly consider nor could I fairly
23 impose a death sentence in any case Is that what you are
24 telling me?

25 A Yes

1 **THE COURT** All right You are telling me that under -
2 - there are no circumstances in which you could fairly
3 consider or impose a death penalty Is that right?

4 A Right I can tell you -- I mean it's just -- I can
5 tell you why but ---

6 **THE COURT** Okay I'll be glad for you to

7 A It's just personal reasons

8 **THE COURT** Yes Ma'am

9 A I was involved in an accident in the early nineties and
10 the result was the death of somebody, and I honestly, on my
11 conscious -- every day I live with the guilt of having this
12 man killed and I just can't have another death on my mind

13 **THE COURT** Very good Thank you, Ma'am

14 Further questions from the State?

15 **MR HEMBREE** No, thank you, Your Honor

16 **THE COURT** Further questions from the Defense? Ms
17 Williams?

18 **MS WILLIAMS** No sir

19 **THE COURT** All right Thank you very much, Ma'am If
20 you would go with the deputy for just a moment, please, Ma'am
21 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 35 MARKED COURT'S EXHIBIT NUMBER 59)**

1 **THE COURT** All right State's position

2 **MR HEMBREE** Your Honor, Ms Bates is not qualified to
3 serve on this jury

4 **THE COURT** All right Defense

5 **MR DIGGS** Your Honor, we agree, and I want to state
6 for the record, we did not feel that it would be beneficial to
7 try to rehabilitate her given that history that she stated on
8 the record, and so that's why we didn't follow up

9 **THE COURT** All right And if y'all will recall, I
10 think she brought that to everyone's attention ---

11 **MR DIGGS** Yes sir

12 **THE COURT** ---That she had been involved in a
13 vehicular accident in which she had caused the death of ---

14 **MR DIGGS** Yes sir

15 **THE COURT** ---Someone, and I understand, and I do find
16 that she is not qualified in this particular case, and could
17 not fairly follow the Court's instructions or -- so she's not
18 qualified

19 **SIOBHAN M STEVENS, JUROR NUMBER**
20 **608**, being first duly sworn, states as follows

21 **BY THE COURT**

22 **THE COURT** All right, Ms Stevens, what I'm going to
23 do is, I'm going to talk to you a little bit about the matter,
24 and I'm going to ask you some questions, and when I'm done the
25 representatives of the State and the Defense may have some

1 questions for you Okay

2 A Okay

3 **THE COURT** Very good No right or wrong answers here,
4 okay I'm just looking for direct, straight-forward, honest
5 answers from you to the questions that we might ask Okay

6 A Okay

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

17 A Yes

18 **THE COURT** Now, in this particular case the State has
19 served notice to seek the death penalty as against Mr Stanko
20 Now, for the jury to consider imposing a death sentence -- and
21 let me cover that first When I say impose a sentence, that's
22 actually what's going to happen in this case The jury will
23 actually impose the sentence That makes it different from
24 any other type of case In any other case the judge would
25 impose sentence In this type of case the jury actually

1 imposes a sentence, and there will be two choices, death or
2 life in prison without the possibility of parole, and I -- if
3 I might happen to say life, the lawyers might have to say
4 life, that's what we mean, life in prison without the
5 possibility of parole You understand that?

6 A Yes

7 Q For a jury to even consider imposing the death penalty
8 the jury would have to unanimously find what is called an
9 aggravating circumstance Aggravate means to make worse, or
10 exacerbate the situation Now, there are certain statutory
11 factors that the Judge would charge to the jury if they apply,
12 and the jury would have to pick one of those and unanimously
13 find an aggravating circumstance before they could even
14 consider imposing the death penalty And the Court would,
15 obviously, never charge the jury that they are required to
16 find the death penalty, and just because the jury finds an
17 aggravating circumstance they are not required to impose the
18 death penalty The jury is never required to do that The
19 jury can impose life for a reason, or for no reason
20 whatsoever

21 The jury also must look at any mitigating circumstances
22 that the Court would charge to the jury Now, mitigate means
23 to lessen, or reduce the charge, reduce the punishment The
24 jury would have to look at all those, any one that's charged
25 by the Court, before the jury could impose any type of

1 sentence in this particular matter

2 If we reach the second phase of the trial -- you know
3 obviously we are talking about hypotheticals that could happen
4 or not happen, but if we reach the second phase of the trial,
5 and you are part of the jury and that means the jury has
6 already found the Defendant guilty of the crime of murder
7 beyond a reasonable doubt, and then the jury has unanimously
8 found an aggravating circumstance, and then the jury
9 unanimously finds that the death penalty should be the proper
10 sentence imposed in this matter, if you are part of this jury
11 each juror then has to take pen in hand and sign their name to
12 a form indicating that that, indeed, is their unanimous
13 verdict in this particular matter Do you understand that?

14 A Yes

15 **THE COURT** As a member of the jury, and by your oath
16 you would have to come into this courtroom without any
17 preconceived ideas of what the law is You would have to set
18 aside, if you had any, predisposition as to any type of
19 sentence that might be appropriate You have to set aside and
20 leave outside of the courthouse anything that you might have
21 heard or read, or think you know about this particular case,
22 because your job as a juror is to look at the facts and
23 evidence presented in this case and make your decision solely
24 and completely based upon the facts and evidence presented in
25 this case and from no other source Do you understand that?

1 A Yes

2 THE COURT You also have to take the law that the
3 Court would charge to the jury I would charge the jury, and
4 you would have to take that law and apply it to the facts as
5 you so find them to be Whether ultimately you agreed with
6 the law or you don't agree with law by your oath you say, I
7 will accept the law the Judge gives me and apply it to the
8 facts I find to be true in this matter Do you understand
9 that?

10 A Yes

11 THE COURT Let me go over a few questions with you,
12 Ma'am Since Friday have you read, watched, looked up
13 anything about this case?a

14 A No, I have not

15 THE COURT Since Friday have you talked to anybody
16 about this case?

17 A No

18 THE COURT Now, before Friday, before you had those
19 instructions not to do that, do you remember anything about
20 this case, hearing about it, reading about it, listening,
21 anything?

22 A The only thing I remember is when I got my paperwork,
23 the Summons, the name was like familiar, but no

24 THE COURT Okay And other than the name, did that
25 bring back any kind of -- any details or -- of any kind?

1 A No

2 THE COURT All right Very good All right, now, in
3 general -- this is more of a general question Do you know of
4 any kind of personal, political, religious, philosophical
5 belief that you have that might keep you from being a fair and
6 impartial juror in this case?

7 A No

8 THE COURT All right Regarding the information that
9 we have given to you, gave you the witness list, and you
10 didn't circle anybody on the witness list, correct?

11 A Yes

12 THE COURT All right And then as to the category of
13 juror which best describes you you circled category (C), is
14 that right?

15 A Yes

16 THE COURT Now let's go over that just to make sure
17 you and I are on the same page of what that means because,
18 again, we are just talking about a hypothetical that may
19 happen or may not You are on the jury and in the first phase
20 of the trial the jury has considered all the facts and
21 evidence, and based upon the facts and evidence has
22 unanimously decided that the State has proved the guilt of the
23 Defendant of the crime of murder beyond a reasonable doubt, so
24 we've gone into the second phase Going into the second phase
25 the category (C) juror, or type (C) juror says, I don't have

1 any predisposition as to the sentence, I'm open and I could
2 impose a life sentence, I'm open and I could impose a death
3 sentence, what I'm going to do is, I'm going to listen to all
4 the facts and evidence presented in the second part of the
5 trial, the sentencing phase, and then I'm going to listen to
6 the law that the Judge gives to me, and then with my fellow
7 jurors I'm going to come up with a just verdict in this
8 matter Is that what you are saying?

9 A Yes

10 **THE COURT** Covering that just a little bit more We
11 are in the sentencing phase, you are part of the jury, are you
12 telling me that, under the right set of facts and
13 circumstances being presented to you you could fairly consider
14 and impose a life sentence?

15 A Yes

16 **THE COURT** Again, based upon the right set of facts
17 and circumstances being presented to you could you consider,
18 and could you impose a death sentence?

19 A Yes

20 **THE COURT** Again, you are on the jury, the jury has
21 unanimously found the Defendant guilty of the crime of murder,
22 the jury has unanimously found an aggravating circumstance,
23 and then the jury unanimously decides that the death penalty
24 is the proper penalty in this particular case, being a part of
25 that jury could you then take pen in hand and sign your name

1 to the form indicating that that, indeed, is your unanimous
2 verdict in this particular matter?

3 A Yes, I could

4 **THE COURT** All right Because of the type of case
5 that this is, once the jury is selected, all the jurors are
6 together in the jury for this particular case, that jury is
7 going to be sequestered Now that means that once the trial
8 starts that the jury, obviously at County's expense, is going
9 to be housed at a motel, meals provided, and you are
10 transported to and from the courthouse by County officials
11 You are not going home in the evening, you are staying with us
12 during the trial The best estimation that I could give to
13 you as to the length of trial would be approximately seven,
14 eight, even nine days That would be the length of the trial
15 That is the best estimation I can give you Understand, this
16 is a hardship, no question about that's a hardship on anybody,
17 but being sequestered, is that such an undue hardship on you,
18 or is it -- does it cause any kind of health concern to a
19 member of your family or to you being sequestered?

20 A No

21 **THE COURT** All right Thank you, Ma'am
22 Please answer any questions that the State may have

23 **BY MR HEMBREE**

24 **MR HEMBREE** Thank you, Your Honor

25 Hi, Ms Stevens

1 A Hello

2 MR HEMBREE I'm Greg Hembree I'm the Solicitor for
3 the Fifteenth Circuit I, along with Deputy Solicitor Fran
4 Humphries, and Senior Assistant Solicitor Jimmy Richardson,
5 will be trying this case on behalf of the State of South
6 Carolina If you are selected on this jury and if you are
7 found -- the process is this today We are going through and
8 qualifying jurors Once they are qualified we will be
9 selecting jurors out of that panel, so you may be found
10 qualified Doesn't necessarily mean that you will sit on this
11 jury, but that's where we are at this stage

12 Judge John covered all the questions I might have I
13 don't have anything additionally for you I want to say I
14 truly appreciate your willingness to serve, and if you would
15 please give your attention to Defense counsel They may have
16 a few questions for you

17 THE COURT All right Mr Diggs Ms Williams

18 BY MS WILLIAMS

19 MS WILLIAMS Just briefly May it please the Court

20 THE COURT Yes Ma'am

21 MS WILLIAMS Good morning I still think it's
22 morning, Ms Stevens

23 My name is Brana Williams and I, along with Bill Diggs,
24 will be representing Mr Stanko in this trial

25 Just briefly There are a couple of things I just want

1 to make sure that we understand, and if I ask some things that
2 the Judge has already said I apologize We just have to
3 repeat things sometimes

4 If you are selected to be a part of this jury this case
5 will actually have -- could possibly have two different
6 phases, okay In the first part we are thinking, and we,
7 being the Defense, think that there may be four possible
8 verdicts that you, if you are part of the jury, might have to
9 consider, guilty, not guilty, guilty but mentally ill, or not
10 guilty by reason of insanity What I want to ask you is if
11 you know of anything that you may feel or believe now coming
12 into this, that might cause you to not really be able to think
13 about all four of those possibilities if they were presented
14 to you

15 A No

16 Q Okay Let me ask you -- you answered when the Judge
17 asked you about the pretrial -- anything you may have known
18 about Mr Stanko and you said you just basically knew his
19 name Is that right?

20 A That's correct

21 Q So you don't remember anything else?

22 A No, just a little bit that was on the news before I
23 came in here Friday

24 Q Can you tell me what little bit that was?

25 A Just that the case was coming up That's it

1 Q Do you remember getting ---

2 A But I didn't know what it involved, what the details
3 were

4 Q Okay That's what I was getting to, and thank you for
5 that Let me just ask you this Part of that, as I said, if
6 you get qualified to be a part of this jury -- and the
7 unqualified people aren't bad people The qualified people
8 aren't necessarily good people, but we have to have jurors who
9 can consider both a death sentence and a life sentence, okay
10 And what I want to ask you is, do you think that, coming into
11 this, that you maybe have a lean one way or the other, leaning
12 toward a life sentence or leaning toward a death sentence?

13 A No, I do not

14 MS WILLIAMS Okay That's all the questions that I
15 have Thank you

16 THE COURT All right Ms Stevens, if you don't mind
17 if you could go with the deputy for a just a moment, please
18 Ma'am

19 A Okay

20 THE COURT Thank you, Ma'am

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JUROR)

23 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
24 JUROR NUMBER 608 MARKED COURT'S EXHIBIT NUMBER 60)

25 THE COURT State's position

1 **MR HEMBREE** Ms Stevens is qualified, Your Honor

2 **THE COURT** Defense

3 **MS WILLIAMS** Your Honor, we believe that this juror
4 is qualified

5 **THE COURT** All right The Court finds that juror
6 number 608, Ms Stevens, is qualified, she would be able to
7 follow the Court's instructions, follow the terms of her oath,
8 and she is qualified

9 All right Could we have the next juror, please

10 **JIMMY L WATSON, JUROR NUMBER 662,**
11 being first duly sworn, states as follows

12 **BY THE COURT**

13 **THE COURT** All right, Mr Watson, what I'm going to do
14 is, I'm going to talk to you about a few things, then I'm
15 going to be asking you some questions, and then maybe the
16 representative of the State and the Defense may have some
17 questions for you Okay All right, sir

18 Now, there aren't any right or wrong answers here What
19 I'm looking for -- from you is just some direct, straight-
20 forward, honest answers to the questions that I ask Okay

21 A **(NODS HEAD AFFIRMATIVE)**

22 **THE COURT** All right, sir Now, I need for you to
23 answer out loud when asked a question because the Court
24 Reporter has to take down everything, and we can't put on the
25 record a shake of the head or an uh huh or something like

1 that Okay

2 A All right

3 THE COURT All right Very good Now, in this
4 particular matter the State of South Carolina has charged the
5 Defendant, Mr Stanko, with the crimes of murder and armed
6 robbery The Defendant has pled not guilty to those charges
7 That puts the burden of proof on the State of South Carolina
8 to prove the Defendant guilty beyond a reasonable doubt The
9 Defendant is presumed innocent The Defendant doesn't have
10 anything to prove or show to you You understand that?

11 A Uh huh (indicating positive) Yes

12 THE COURT All right Thank you, sir

13 In this particular case the State has filed notice to
14 seek the death penalty as against Mr Stanko Now that means
15 that this case could have two possible parts In the first
16 part the jury is going to look at and listen to all the facts,
17 evidence and testimony presented, find that evidence which
18 convinces the jury that it's true, and then weigh that
19 evidence against the State's burden to prove the Defendant
20 guilty beyond a reasonable doubt because if, and only if the
21 jury finds the Defendant guilty beyond a reasonable doubt of
22 the crimes charged would we go into the second phase, the
23 penalty phase or the sentencing phase Do you understand
24 that?

25 A Yes

1 **THE COURT** And the second phase is called the
2 sentencing phase or penalty phase because the jury actually
3 imposes the sentence This is different than any other
4 criminal case In all other criminal cases the Judge imposes
5 the sentence In this case the jury will actually impose the
6 sentence The jury will have two choices One is life in
7 prison without the possibility of parole, the second is the
8 death penalty For the jury to impose the death penalty in a
9 case the jury unanimously has to find what is called an
10 aggravating circumstance That means all the jurors find this
11 statutory factor, some factors that the Court will charge to
12 the jury, the jury will -- if they find it to be true, and
13 everybody agrees, and they unanimously pick this aggravating
14 circumstance then the jury can consider the imposition of the
15 death penalty, because the jury is never required, and the
16 Court would never tell the jury they are required in any way
17 to give the death penalty It's an option they have, but they
18 are not required to do it, so, the jury can impose life for a
19 reason, or no reason whatsoever

20 Before imposing a sentence the jury must also consider
21 any mitigating factors Now mitigate means to lessen, or
22 reduce the punishment or the charge, and the jury would have
23 to look at those before the jury imposed any sentence in this
24 particular matter

25 If you are on the jury and -- and we are talking about

1 hypotheticals here that could happen, or may not happen, but
2 for the purposes of the questions I -- we need to assume you
3 are on the jury. You are part of the jury that has
4 unanimously decided that the Defendant is guilty beyond a
5 reasonable doubt of a crime of murder, and then in the second
6 phase, as part of the jury, you had found an aggravating
7 circumstance, unanimously, and then as part of the jury the
8 jury has unanimously found that the death penalty is the
9 appropriate penalty. Since the jury is actually imposing a
10 sentence each member of the jury needs to take pen in hand and
11 sign their name to a verdict form indicating that that,
12 indeed, is their unanimous verdict in imposing the death
13 penalty in this case. Do you understand that?

14 A Yes

15 **THE COURT** As a member of the jury you would be
16 required to come into this courtroom without any preconceived
17 ideas of what the law is. If you had any predisposition as to
18 a life sentence or a death sentence you have to leave that
19 outside of the courthouse. You have to be able to fairly
20 consider and have the ability to impose either a life
21 sentence, without the possibility of parole, or a death
22 sentence, based upon the facts and circumstances being
23 presented.

24 If you knew anything about the case, or heard about the
25 case beforehand, or thought you knew anything about the case,

1 you have to leave that outside the courthouse You have to
2 make your decision based upon the facts and evidence presented
3 in this courtroom and from no other source You understand
4 that?

5 A Yes

6 THE COURT And you have to follow the law that the
7 Court would give to you, so the instructions that I would give
8 to the jury as to the law you have to follow those Whether
9 ultimately you agreed with them or disagreed with them by your
10 oath you say, Judge, I'm going to follow the law that you give
11 to me You understand that?

12 A Yes

13 THE COURT Let's go over a few questions Again, no
14 right or wrong answers here After Friday have you read,
15 listened, looked up anything about this case?

16 A No

17 THE COURT After Friday did you talk to anybody about
18 this case?

19 A No

20 THE COURT Now, before Friday, before you had those
21 instructions not to do that, do you remember hearing anything
22 about this case, or reading anything, anything that you can
23 remember about it at all?

24 A No

25 THE COURT All right There's nothing at all that

1 seems familiar to you, about -- hearing about it in the past
2 at all?

3 A No

4 **THE COURT** All right Very good A question -- it's
5 more of a general type question Do you know of any kind of
6 personal or political, or religious or philosophical belief
7 that you have that would keep you from being a fair and
8 impartial juror in this case?

9 A No

10 **THE COURT** In this particular matter regarding the
11 witness list you didn't circle anybody, correct?

12 A No

13 **THE COURT** Is that right?

14 A Right

15 **THE COURT** All right And regarding the category of
16 juror that best describes you you circled (C), is that right?

17 A Right

18 **THE COURT** All right Let me go over that with you
19 and make sure we are on the same page about a (C) juror, or a
20 category (C) juror That's a juror that, in the first part of
21 the trial they have looked at all the facts and evidence in
22 the case, and based upon the facts and evidence, and the
23 evidence they find to be true they believe, unanimously, all
24 the jurors believe that the State has proved the guilt of the
25 Defendant of the crime of murder beyond a reasonable doubt,

1 and the jury has convicted the Defendant of the crime of
2 murder beyond a reasonable doubt, and now we are in the second
3 phase Before going into the second phase or the sentencing
4 phase of the trial (C) -- the category (C) juror says, I don't
5 have any preconceived ideas of what the punishment should be
6 in this case, I am going to fairly listen to all the facts and
7 evidence in this case, I have the ability to consider and to
8 impose either a life sentence or a death sentence, what I'm
9 going to do is listen to all the facts and evidence, I'm going
10 to take the law that the Judge gives to me, going to discuss
11 the case with the fellow jurors and then come up with a just
12 verdict in this matter Is that what you are telling me?

13 A Yes

14 **THE COURT** All right, sir Let's go over that just a
15 little bit more You are on the jury, we are in the
16 sentencing phase of the trial, are you telling the Court that,
17 under the right set of facts and circumstances being presented
18 to you you can fairly consider, and could impose a life
19 sentence?

20 A Yes

21 **THE COURT** Again, based upon the right set of facts
22 and circumstances being presented to you can you fairly
23 consider, and could you impose a death sentence?

24 A Yes

25 **THE COURT** If you are part of the jury that

1 unanimously considers and imposes a death sentence can you
2 then take pen in hand and sign your name to the verdict form
3 saying, this indeed is my unanimous verdict to impose the
4 death penalty? Could you do that?

5 A Yes

6 THE COURT All right, sir Now, because of the type
7 of case that this is, when the jury is selected for this
8 particular case, at that point in time the jury would be
9 sequestered Now that means, obviously at County expense, all
10 the jurors are staying at a hotel, the meals are provided, you
11 are transported to and from by County officials, but you are
12 not going home for the evening Understand that that's a
13 hardship, no question about it, but is being sequestered such
14 an undue hardship on you, or is there any type of health
15 concern for a member of your family or yourself that this
16 would be an undue hardship on you?

17 A No

18 THE COURT Very good, sir Answer any questions the
19 State might have for you, sir

20 MR HEMBREE Thank you, Your Honor May it please the
21 Court?

22 THE COURT Yes sir

23 BY MR HEMBREE

24 MR HEMBREE Hi, Mr Watson

25 A How are you doing?

1 **MR HEMBREE** I'm doing okay How about you?

2 A All right

3 **MR HEMBREE** I'm Greg Hembree I'm the Solicitor for
4 the Fifteenth Circuit, and I, along with Deputy Solicitor Fran
5 Humphries, who is in the striped tie, and Senior Assistant
6 Solicitor Jimmy Richardson will be representing the State of
7 South Carolina in this case, and if you happen to get selected
8 for this jury then we will be spending a little bit of time
9 together

10 One thing about this process that we are in now, we are
11 in the process where we are merely qualifying jurors We are
12 kind of, you know, putting them through this questioning
13 process to determine if they are qualified Just because you
14 are qualified doesn't necessarily mean that you will serve,
15 but you might, so when you leave today you won't know until we
16 actually select the jury which situation it will be

17 I have really only one question Judge John covered
18 everything else that I would have asked about I notice in
19 your juror questionnaire that you are related to Maurice
20 Jones A Yes

21 Q ---Works at the Horry County Police Department

22 A Right

23 Q He is your brother?

24 A Right

25 Q And you know, I don't know, are y'all -- are y'all --

1 y'all stay pretty close?

2 A Across town from each other

3 Q Okay So you live in Loris?

4 A Right

5 Q And he is -- you have not heard anything about this --
6 well, you said you hadn't heard anything at all about this
7 case from the media sources

8 A No

9 Q You have not talked with Maurice about this case at
10 all?

11 A No He wouldn't have mentioned it to me no way

12 Q Hasn't mentioned it to you Got you The fact that he
13 happens to be working in law enforcement, would that have any
14 effect on your ability to be fair and impartial in this case?

15 A No

16 Q You can set that relation -- or at least -- not the
17 relationship, but the fact that he works in the Police
18 Department aside and make your judgment, your decision based
19 solely on the evidence, the facts, the testimony that are
20 presented in this courtroom?

21 A Yes

22 MR HEMBREE That's about all we can ask of you I
23 appreciate that I thank you for your willingness to serve
24 Defense counsel may have a couple of questions for you
25 Please give him your kind attention Thank you

1 **THE COURT** All right Mr Diggs Ms Williams

2 **MR DIGGS** May it please the Court

3 **THE COURT** Yes sir, Mr Diggs

4 **BY MR DIGGS**

5 **MR DIGGS** Mr Watson, how are you?

6 A I'm fine

7 **MR DIGGS** Good Good

8 My name is Bill Diggs, and this is Brana Williams, and
9 we are representing Mr Stanko who is seated here at the table
10 with us this afternoon in the courtroom

11 A couple of questions I wanted to follow up on with you
12 As we sit here this afternoon do you have any preconceived
13 opinions about Mr Stanko's guilt or innocence?

14 A No

15 Q Okay And do you feel any obligation to the community
16 to return a guilty verdict?

17 A No

18 Q And would you be able to listen to the evidence that
19 was presented in the case and return a verdict based on that
20 evidence?

21 A Yes

22 Q Now, let me tell you what I believe we are going to be
23 called upon to do at the first phase of the trial, based on
24 the evidence in the case There may be as many as four
25 possible verdicts in this case The first would be guilty, or

1 not guilty, not guilty by reason of insanity, or guilty but
2 mentally ill Now, do you have any preconceived bias that
3 would prevent you from considering fairly any of those
4 verdicts that would be supported by the evidence?

5 A No

6 Q Okay And based on the evidence presented at the
7 trial, and based on the law that's been given to you by the
8 Judge, you could consider either of those four verdicts and
9 render your decision in accordance therewith?

10 A Yes

11 Q Okay Let me move on to the sentencing phase Let's
12 suppose you are on the jury in the case, and a guilty verdict
13 is reached, at which time the jury is going to have to decide
14 what punishment to impose, and during that hearing on the
15 punishment the State presents evidence of an aggravating
16 circumstance, and you believe the circumstance has been proven
17 beyond a reasonable doubt, do you understand that then, and
18 only then would you be able to consider a death sentence?

19 A Yes

20 Q All right But even though there is an aggravating
21 circumstance that's been proven to your satisfaction you could
22 still consider a life imprisonment?

23 A Repeat that question

24 Q Would you still be able ---

25 A No, before that

1 Q ---Life imprisonment

2 A Before that

3 **THE COURT** The whole question He wants you to repeat
4 the whole question

5 Q If the State has proven the existence of an aggravating
6 circumstance beyond a reasonable doubt, in conjunction with
7 the guilt of the Defendant beyond a reasonable doubt, would
8 you be able to consider fairly a life sentence in that case?

9 A Yes

10 Q Okay Because, would it be fair to say, there might be
11 mitigating evidence that would weigh in favor of a life
12 sentence Do you understand what I'm saying?

13 A Sort of

14 Q Okay There may be some reason that you hear exists in
15 this case about this Defendant that makes you decide you want
16 to be merciful, given that circumstance Does that make
17 sense?

18 A Yes

19 Q And would you be in agreement with me that you would
20 want to wait and hear about that before you made a decision
21 about whether or not to put him to death?

22 A Yes

23 Q Would that be fair to say?

24 A Yes

25 Q So you would want to hear all of the evidence in the

1 case, both in aggravation and mitigation ---

2 A Yes

3 Q ---Of the punishment, before you made a decision?

4 A Yes

5 Q Okay And would you do that in this case?

6 A Yes

7 MR DIGGS Of course Thank you very much

8 That's all I have at this time

9 THE COURT All right If you would, Mr Watson, if
10 you could just go with the deputy for just a few minutes,
11 please Thank you, sir

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

14 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
15 JUROR NUMBER 662 MARKED COURT'S EXHIBIT NUMBER 61)

16 THE COURT What's the State's position?

17 MR HEMBREE Mr Watson is qualified, Your Honor

18 THE COURT Defense

19 MR DIGGS We believe he is qualified

20 THE COURT All right, I find the juror to be
21 qualified, he can follow the Court's instructions, and follow
22 his juror's oath in this particular matter He is qualified

23 All right Could we ask the next juror to come in,
24 please

25 TINA M ANGELO, JUROR NUMBER 19,

1 being first duly sworn, states as follows

2 **BY THE COURT**

3 **THE COURT** All right, Ms Angelo, what I'm going to do
4 is, I'm going to be asking you some questions I'm going to
5 talk to you about certain things and ask you some questions

6 Now, you were not here with us on Friday, and the reason
7 for that was?

8 A I just kind of -- was misinformed in the information
9 that was sent to me First off, I thought that I would be
10 contacted if I was needed

11 **THE COURT** Okay So you thought that they would call
12 you in when and if you were needed?

13 A Yes sir

14 **THE COURT** All right All right Very good All
15 right Well, since you weren't with us on Friday I'm going to
16 have to go and ask you some additional questions, and first
17 thing, you went through the potential or possible witnesses in
18 this case, correct?

19 A Yes sir

20 **THE COURT** And you didn't circle anybody as far as
21 knowing any of them, right?

22 A No

23 **THE COURT** All right Very good All right, now, are
24 you related by blood or marriage, close personal friends,
25 acquaintances of, know the Defendant, Stephen Stanko or his

1 family?

2 A No

3 **THE COURT** Are you related by blood or marriage, close
4 personal friends, acquaintances of, know the family of the
5 alleged victim, Henry Lee Turner, in this matter?

6 A No

7 **THE COURT** All right Now, have you, or any member of
8 your immediate family, ever had any matters of any kind
9 handled in any way by the Fifteenth Circuit Solicitor's
10 Office? That's the prosecuting office that covers Horry and
11 Georgetown Counties?

12 A No

13 **THE COURT** All right Is any member of your immediate
14 family or yourself related by blood or marriage, close
15 personal friends of anybody employed at the Fifteenth Circuit
16 Solicitor's Office?

17 A No

18 **THE COURT** All right Very good

19 All right, Solicitor, if you would stand and identify
20 yourself, and the members of your staff, please

21 **MR HEMBREE** Thank you, Your Honor

22 Hi, Ms Angelo I'm Greg Hembree I'm the Solicitor
23 for the Fifteenth Circuit Seated next to me is Fran
24 Humphries He's our Deputy Solicitor On this side is Jimmy
25 Richardson He's our Senior, one of our Senior Assistant

1 Solicitors, and Peggy Snowden is one of our Legal Assistants
2 that's going to be helping us on the case

3 **THE COURT** All right, Mr Diggs and Ms Williams

4 **MR DIGGS** Your Honor

5 My name is Bill Diggs, and I practice law in Myrtle
6 Beach, and I also have a son who practices there with me His
7 office, however, is down at Garden City

8 **MS WILLIAMS** My name is Brana Williams, and my office
9 is here in Conway

10 **THE COURT** All right, Ma'am Of the attorneys that
11 have -- that have been introduced to you, are you related by
12 blood or marriage, close personal friends, acquaintances of,
13 know any of these lawyers?

14 A No

15 **THE COURT** And regarding the private practices of law
16 of Mr Diggs and Ms Williams have you ever been clients of
17 theirs, either in the past or currently?

18 A No

19 **THE COURT** All right Very good Do you know of any
20 kind of personal, political, religious, philosophical belief
21 that you might have that would prevent you from being a fair
22 and impartial juror in this case?

23 A No

24 **THE COURT** Okay All right Were you, in any prior
25 employment, associated with law enforcement in any way?

1 A No

2 THE COURT Do you have any current family members who
3 are now in law enforcement, or were in the past in law
4 enforcement?

5 A My sister

6 THE COURT Okay And your sister is ---

7 A She was a paralegal in Ohio

8 THE COURT In Ohio?

9 A Yes

10 THE COURT Okay Very good All right Are you, or
11 any member of your immediate family, a member of any kind of
12 victim's rights or law enforcement support organizations? Let
13 me give you some examples This is not an exhaustive list of
14 any kind, but just kind of give you an example of what I'm
15 talking about, Mothers against Drunk Driving, Citizens Against
16 Violent Crime, the South Carolina Law Enforcement Officers
17 Association, South Carolina Sheriffs Association, just
18 something of that ---

19 A I believe my sister may be in Mothers Against Drunk
20 Driving

21 THE COURT Okay Very good All right, now, this
22 particular case, do you know of anything that you believe you
23 have heard about this case in the past at all?

24 A I have followed it some in the paper

25 THE COURT All right And what do you remember about

1 it?

2 A Just the -- what the -- what he's been accused of

3 **THE COURT** Okay What I'm asking you is, can you tell
4 me what you remember, what it is that you remember reading or
5 hearing about? What was it?

6 A The girlfriend being murdered, a man that was murdered
7 in Murrells Inlet, I believe

8 **THE COURT** Okay Do you remember anything else about
9 it at all?

10 A No Just what I've read in the paper I mean, I know
11 I said that before but I ---

12 **THE COURT** Okay

13 A ---Mean, verbatim, no, I can't like ---

14 **THE COURT** No No That's what I'm saying I
15 understand that you have heard about it in the past What I'm
16 trying to find is, as you sit here today, right now, what is
17 it that you can remember?

18 A Just that the girlfriend was murdered ---

19 **THE COURT** Okay And other than that you don't
20 remember any other details or anything else?

21 A ---And the man in Murrells Inlet Not -- not ---

22 **THE COURT** Okay Very good All right, now, the next
23 question I'm going to ask is either, you, yourself, or a
24 member of your immediate family, ever been the victim of a
25 crime? Now I'm not going to be asking you to give me any

1 details about that, but I want to know if you've ever been the
2 victim of a crime, or a member of your immediate family have
3 ever been the victim of a crime

4 A Like burglary

5 **THE COURT** Okay And was that yourself or a family
6 member?

7 A Myself, and several family members

8 **THE COURT** Okay All right, and when you heard about
9 this case in the past, do you remember expressing any kind of
10 opinion or belief to anybody before, forming any kind of
11 opinion or belief when you heard about it?

12 A Sure

13 **THE COURT** And what was that?

14 A That I just thought that this man was a horrible
15 person

16 **THE COURT** Okay Very good And let's talk about
17 this more in general, and I'm going to have some more specific
18 questions for you Okay

19 In this case the State of South Carolina has charged the
20 Defendant, Mr Stanko, with the crimes of murder and armed
21 robbery Now, to those charges he has pled not guilty Now
22 that means the Defendant is presumed innocent The State of
23 South Carolina must prove the Defendant guilty beyond a
24 reasonable doubt The Defendant doesn't have anything to
25 prove to you or show to you The State has to prove the

1 Defendant guilty beyond a reasonable doubt Do you understand
2 that?

3 A Yes

4 THE COURT All right In this particular case the
5 State has filed a notice to seek the death penalty Now that
6 means this case could have two parts The first part would
7 be, the jury would listen to the facts and evidence presented,
8 and based upon the facts and evidence presented, that the jury
9 finds to be true, they weigh that evidence against the State's
10 burden to prove the Defendant guilty beyond a reasonable doubt
11 of the crimes charged because if, and only if the jury finds
12 the Defendant guilty of the crime of murder, beyond a
13 reasonable doubt, would we even go into the sentencing phase
14 or the second phase of the trial You understand that?

15 A I believe so

16 THE COURT All right What question do you ---

17 A You've actually explained it pretty -- pretty good

18 THE COURT All right Now, in the second phase -- and
19 as I said, it's the sentencing phase or the penalty phase
20 because the jury actually imposes the sentence or the penalty
21 in this case Normally, in all other criminal cases, the
22 Judge imposes the sentence In this type of case the jury
23 picks the sentence, and there's two possibilities, life in
24 prison without the possibility of parole, and the death
25 sentence As a member of the jury, if you are a member of the

1 jury, you've got to come into the proceedings with an open
2 mind, and be able to fairly and impartially consider, and have
3 the ability to impose either sentence, based upon the facts
4 and circumstances presented Do you understand that?

5 A Yes

6 **THE COURT** All right For a jury to consider a death
7 penalty the State has to prove by -- beyond a reasonable
8 doubt, and the jury has to unanimously find an aggravating
9 circumstance Now those are certain factors that the Court
10 would charge to the jury, but for the jury to even consider a
11 death penalty they have to unanimously first find this
12 aggravating circumstance You know, aggravate means to make
13 worse, or exacerbate the situation You understand that?

14 A Yes

15 **THE COURT** The jury also must look at any mitigating
16 circumstances that the Court would charge to the jury The
17 jury can impose life for a mitigating circumstance, or a jury
18 can impose life for no reason whatsoever The jury is never
19 required -- even if they find an aggravating circumstance the
20 jury is never required to impose a death sentence Do you
21 understand that?

22 A Yes

23 **THE COURT** There's two options, and the jury can
24 consider both of them, but they can only consider the death
25 penalty unless they first unanimously find an aggravating

1 circumstance, and if they do that then both of the options are
2 open to the jury to consider as to which to impose Do you
3 understand that?

4 A Yes

5 **THE COURT** All right Very good If you are on the
6 jury you have to -- well, before that If you are on the jury
7 and the jury unanimously, in the first part, finds the
8 Defendant guilty of the crime of murder, and then in the
9 second phase the jury unanimously finds an aggravating
10 circumstance, and then the jury, after due deliberation,
11 unanimously finds that the death penalty is the proper
12 punishment in this case, if you are part of the jury, since
13 you are actually imposing the sentence, each member of the
14 jury has to take pen in hand and sign a form indicating that
15 that, indeed, is the juror's unanimous verdict imposing the
16 death penalty in this case Do you understand that?

17 A Yes

18 **THE COURT** If you are part of the jury you have to
19 come into the courtroom without any kind of predisposition as
20 to what the law is If you had any ideas as to what a proper
21 punishment might be you have to set that aside You have to
22 be open to be able to consider and impose either a life
23 sentence or a death sentence based upon the facts and
24 circumstances presented in that case Do you understand that?

25 A Yes

1 **THE COURT** You have to make sure that, if you heard
2 anything about this in the case (**sic**), or somebody told you
3 anything about it in the past you set that aside -- you leave
4 that outside the courthouse -- and you make your decision
5 based solely and completely upon the facts and evidence you've
6 heard in this case, and not from any other source Do you
7 understand that?

8 A Yes

9 **THE COURT** All right Let me ask you a few questions
10 You understand that you have to follow the law that the Court
11 gives to you Whether ultimately you agreed with it or
12 disagreed with it when you take your oath you say, Judge, I'm
13 going to follow the law that you give to me, and apply it to
14 the facts and evidence I find to be true in this case You
15 understand that?

16 A Yes

17 **THE COURT** And can you do that?

18 A To the best of my ability, absolutely

19 **THE COURT** All right Well, and I appreciate it, and
20 I want you to be direct and straight-forward with me, but I
21 have to know -- if you are going to be a member of the jury I
22 have to know that when I give the instructions to the jury,
23 when I give the law to the jury, that they will, without
24 question, without hesitation, follow that law and apply it to
25 the facts as the jury finds to be true in this case, so I'm

1 asking you, can you do that?

2 A Yes

3 THE COURT All right Very good As I told you,
4 anything that you think you know about the case, or you might
5 have heard sometime in the past about it, you understand you
6 have to set that aside, you have to leave that outside the
7 courthouse, you can't bring it in the courtroom with you
8 When you make your decision in this case, or any decision in
9 this case, it has to be based solely and completely on the
10 evidence, testimony presented in the courtroom, not influenced
11 by anything else Do you understand that?

12 A Yes

13 THE COURT Can you do that?

14 A I believe it would be very hard for me to

15 THE COURT Okay And why would that be?

16 A I -- I -- just from reading it I believe that -- I
17 just think that he -- the case before should have already -- I
18 don't think it should have even gotten to this point

19 THE COURT Okay All right, from what you have read
20 and heard in the past you believe that you couldn't set that
21 aside, or keep that out of your mind when you were making a
22 decision?

23 A I would do my best to as I said I know that's not the
24 best answer but I would try to

25 THE COURT Okay I understand that you would try to

1 Again, what I have to have from you is an answer that, Judge,
2 I know that as a member of the jury I'm going to be instructed
3 that -- I'm basing my decision completely on the facts and
4 evidence in this case, anything I thought I knew about this
5 case in the past I've left that outside the courtroom, it's
6 not part of this case, I won't consider it at all That's
7 what I need to know Yes, Judge, I can do that, or no, I
8 don't think I can do that

9 A I don't think I could do that

10 THE COURT All right Thank you, Ma'am
11 Further questions from the State?

12 MR RICHARDSON No questions, Your Honor

13 THE COURT Questions from the Defense?

14 MS WILLIAMS None from the Defense, Your Honor

15 THE COURT All right Very good Ma'am, if you
16 wouldn't mind, if you would go with the deputy for a few
17 moments, please Ma'am Thank you

18 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
19 JUROR)

20 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
21 JUROR NUMBER 19 MARKED COURT'S EXHIBIT NUMBER 62)

22 THE COURT All right What's the State's position?

23 MR RICHARDSON She doesn't qualify, Your Honor

24 THE COURT Defense

25 MR DIGGS She's not qualified

1 **THE COURT** All right The Court would find the juror
2 to be not qualified I do -- she could not follow the Court's
3 instructions nor her oath to be fair and impartial in this
4 matter

5 All right, could you ask Ms Dupree to come in, please

6 **LINDA C DUPREE, JUROR NUMBER 167,**
7 being first duly sworn, states as follows

8 **BY THE COURT**

9 **THE COURT** All right, what I'm going to do, Ma'am, is,
10 I'm going to talk to you a little bit about this matter I'm
11 going to ask you some questions There aren't any right or
12 wrong answers here Okay

13 A Okay

14 **THE COURT** What I'm looking for from you is just some
15 direct, straight-forward, honest answers to the questions that
16 are asked Okay

17 A Yes

18 **THE COURT** Very good In this particular matter the
19 State of South Carolina has charged the Defendant, Mr Stanko,
20 with crimes of murder and armed robbery Now, the Defendant
21 has pled not guilty to those charges Now that puts the
22 burden on the State of South Carolina to prove the Defendant
23 guilty beyond a reasonable doubt of the crimes charged The
24 Defendant doesn't have anything to prove to you, to show to
25 you The State has to prove the guilt of the Defendant of the

1 crimes charged beyond a reasonable doubt Do you understand
2 that?

3 A Yes sir

4 **THE COURT** Now, in this case the State of South
5 Carolina has filed notice to seek the death penalty That
6 means this case could possibly have two parts In the first
7 part the jury is going to look at the facts and evidence
8 presented, and to decide whether or not the State has proved
9 the guilt of the Defendant beyond a reasonable doubt of the
10 crimes charged because if, and only if the jury convicts the
11 Defendant of the crime of murder, beyond a reasonable doubt,
12 would we even get to the second -- or the second -- the
13 sentencing phase of the trial Do you understand that?

14 A Yes sir

15 **THE COURT** All right, now, we call it the second
16 phase, the penalty phase or the sentencing phase because the j
17 jury actually imposes a sentence in this case That's
18 different from any other criminal case In all other criminal
19 cases the judge imposes sentence In this type of case the
20 jury actually imposes the sentence, and there's two types, or
21 two possible penalties that can be invoked in this case One
22 is, life in prison without the possibility of parole, and the
23 other is the death penalty The jury must come into the
24 courtroom and be able to fairly consider, and have the
25 ability, based upon the right set of facts and circumstances,

1 to impose either penalty, not have any predisposition one way
2 or another, not influenced one way or another, but to be open
3 to being able to consider and impose either sentence Do you
4 understand that?

5 A Yes sir

6 **THE COURT** All right For a jury to impose a death
7 penalty the jury must first find what is called an aggravating
8 circumstance That has to be -- come from the evidence It
9 would be a factor that the Court would charge the jury, and if
10 the jury finds that to be true, it's been proved to the jury
11 beyond a reasonable doubt, and the jury picks that aggravating
12 factor or factors then the jury has the ability to consider
13 the death penalty, because if the jury doesn't find an
14 aggravating circumstance they don't even have the ability to
15 consider the death penalty Do you understand that?

16 A Yes

17 **THE COURT** The jury must, before they impose any
18 sentence, consider mitigating factors, or mitigating
19 circumstances Now those -- mitigating factors means to
20 lessen, or reduce the punishment, or reduce the charge, and
21 before the jury looks at anything the jury would have to look
22 at those mitigating factors Now, the jury is never required
23 to impose the death penalty The jury can, if they find an
24 aggravating circumstance, impose the death penalty, but they
25 are not required to The jury can impose life because of a

1 mitigating circumstances or for no reason whatsoever the jury
2 could impose life Do you understand that?

3 A Yes sir

4 **THE COURT** All right Talking in hypotheticals here
5 that may or may not happen If you are on the jury and the
6 jury has unanimously found the Defendant guilty of the crime
7 of murder beyond a reasonable doubt, and the jury has found
8 unanimously an aggravating circumstance, and then the jury
9 deliberates and unanimously finds that the death penalty is
10 the proper penalty in this case, if you are a member of the
11 jury, and you participate in that, and found all that
12 unanimously, at the end you would have to take -- since you
13 are imposing a sentence here -- you have to take pen in hand
14 and sign your name to a form that says, as part of this jury I
15 have unanimously found to impose the death penalty in this
16 case Do you understand that?

17 A Yes sir

18 **THE COURT** All right As a member of the jury, under
19 your oath, you need to come into the courtroom with any kind
20 of preconception of what the law is You cannot be
21 predisposed to any type of sentence If you heard about the
22 case in any way you've got to set all that aside, you've got
23 to leave that outside the courthouse, because you've got to
24 base your decision solely and completely on the facts and
25 evidence that are presented in this courtroom and from no

1 other source Do you understand that?

2 A Yes sir

3 THE COURT All right Let me go over some questions
4 with you Since Friday have you read, listened, watched,
5 looked up anything about this case?

6 A No sir

7 THE COURT Since Friday have you talked to anybody
8 about this case?

9 A No

10 THE COURT All right, now, before Friday, and before
11 you got the instructions not to do that do you remember
12 hearing anything about this case in any way? Do you remember
13 reading about it, hearing about it, watching it, seeing
14 anything about this case?

15 A Well, I did not remember reading anything about this
16 case until right about the time we were sending our papers
17 back

18 THE COURT Yes Ma'am

19 A There was an article in the paper and I thought, oh, I
20 remember reading that I just don't focus on those things too
21 much ---

22 THE COURT Sure

23 A ---And that was the last time I read anything about it

24 THE COURT Okay Can you recall anything about what
25 you read, anything that sticks out in your mind as you sit

1 here today that you can remember about what you read back
2 then?

3 A Nothing jumps out at me, other than that it was -- he
4 was being charged with murder

5 **THE COURT** Okay And basically, other than that, you
6 can't remember any kind of details or anything like that?

7 A Uh uh (NODS NEGATIVE)

8 **THE COURT** Okay

9 A Yes I just -- I kind of flip through the newspaper
10 I don't focus on anything too strongly

11 **THE COURT** Good Good Thank you, Ma'am

12 All right This is more -- this is more of a general
13 question Do you know of any kind of personal or political,
14 or religious or philosophical belief that you might have that
15 would keep you from being a fair and impartial juror in this
16 case?

17 A No sir

18 **THE COURT** All right Going back to when you remember
19 seeing something in the paper, do you remember at that point
20 in time forming or expressing any kind of belief of any kind,
21 or opinion about the case in any way?

22 A No Because there's so much of that that goes on

23 **THE COURT** Very good All right Good Can you --
24 and as part of your oath you would be required to do so, but I
25 need to ask you Can you follow the law that the Court would

1 give to you Whether ultimately you agreed with it or
2 disagreed with it under your oath you say, when I hear the law
3 from the Judge I am going to follow that law Can you do
4 that?

5 A Yes

6 **THE COURT** Very good Looking at the paperwork you
7 didn't circle any of the witnesses that are potentially
8 witnesses in this case You didn't circle any of them, right?

9 A Right

10 **THE COURT** Very good And as to a category of juror
11 you circled category (C), correct?

12 A Yes sir

13 **THE COURT** All right Now, let me go over that
14 briefly with you, make sure we are on the same page here
15 Category (C) says, I'm a member of the jury, and the first
16 part of the trial, based upon the facts and evidence presented
17 the jury has deliberated and found the Defendant guilty of the
18 crime charged of murder beyond a reasonable doubt based upon
19 those facts and evidence Now, going into the second phase,
20 the sentencing phase, I don't have any predisposition as to
21 the sentence at all I'm not leaning to life I'm not
22 leaning to death What I'm going to do is, I'm going to hear
23 all the facts and evidence presented in the second phase, I'm
24 going to listen to the law that the Judge gives to me, and
25 then with my fellow jurors I'm going to reach a just verdict

1 in this matter Is that what you are telling me?

2 A Yes sir

3 **THE COURT** All right Very good, Ma'am Following up
4 on that just real briefly You are a juror in the sentencing
5 phase of the trial, based upon the right set of facts and
6 circumstances being presented to you are you telling me that
7 you can fairly consider and impose a life sentence?

8 A Yes

9 **THE COURT** Again, based upon the right set of facts
10 and circumstances being presented to you can you fairly
11 consider and impose the death sentence?

12 A Yes

13 **THE COURT** If you are a member of the jury and the
14 jury unanimously votes to impose the death penalty in the case
15 can you then, as I indicated, take pen in hand, sign your name
16 to the form indicating that, indeed, is your unanimous verdict
17 in this matter?

18 A Yes sir

19 **THE COURT** All right, now, the last thing I need to
20 cover with you Because of the nature of this case the jury
21 in this case, once they are selected, once we get all the
22 jurors selected, would be sequestered Now that means during
23 the trial you would be with us, all this at the County
24 expense You would be housed at a motel, the meals would be
25 provided and you would be transported by County officials to

1 and from the courthouse, but you wouldn't be going home in the
2 evening You would have contact with your family but it's
3 limited Okay So understanding, this is a hardship, no
4 question about that It's a hardship on anybody, but is that
5 such an undue hardship on you, or is there any health concern
6 of a family member or yourself that this would cause an undue
7 hardship on?

8 A No No

9 **THE COURT** All right Thank you, Ma'am
10 Please answer any questions the State might have for
11 you

12 **BY MR HEMBREE**

13 **MR HEMBREE** Good afternoon, Ms Dupree

14 A Hi

15 **MR HEMBREE** Hi I'm Greg Hembree I'm the Solicitor
16 for Horry and Georgetown Counties

17 A Okay

18 **MR HEMBREE** At the table with me is Deputy Solicitor
19 Fran Humphries, and Senior Assistant Solicitor Jimmy
20 Richardson The three of us will be representing the State on
21 this case We will present the evidence on behalf of the
22 State, so if you happen to be selected as a juror in this case
23 we will be spending a little bit of time with you

24 One thing about this process we are going through, just
25 for clarification Today we are going through a qualification

1 process It doesn't mean -- we aren't going to have -- if you
2 are found to be qualified as a juror in this case it doesn't
3 mean that you will necessarily be selected We will actually
4 do a selection later in the week, but -- so when you walk out
5 the door today you are not in -- you might find out -- you
6 will find out whether you are qualified or not, but you won't
7 know if you are on the jury yet or not, so you will find out -
8 - we will find out in a day or two about that

9 My -- I really -- Judge John covered nearly every single
10 question that I had for you I only really have one I noted
11 in your juror questionnaire that -- I believe your husband is
12 retired Philadelphia police officer Is that correct?

13 A Yes That was after he got out of Vietnam

14 Q Okay

15 A When he came home from Vietnam, so that was around
16 Seventy -- he had only worked for two years, about two years
17 He wasn't -- he didn't retire from there

18 Q Understood He -- I've got you now

19 A He worked for Pennsylvania Department of
20 Transportation

21 Q Okay I saw that on there too, but I wanted -- I think
22 I saw that on there ---

23 A Yes

24 Q ---But I saw the police officer, and I wasn't sure, but
25 his career was not in law enforcement

1 A No No

2 Q He had a few years at that His career was in the
3 Department of Transportation So nothing about his experience
4 in law enforcement that would affect your ability to be a fair
5 and impartial juror in this case?

6 A No No

7 MR HEMBREE All right That's -- those are all the
8 questions I have Defense counsel may have a couple of
9 questions for you Please give them your kind attention

10 THE COURT All right, Mr Diggs

11 MR DIGGS May it please the Court

12 THE COURT Yes sir

13 BY MR DIGGS

14 MR DIGGS Ms Dupree, how are you?

15 A I'm good How are you?

16 MR DIGGS Pretty good Pretty good

17 We introduced ourselves on Friday, but again, I'm Bill
18 Diggs, and this is Brana Williams

19 A Hi

20 MR DIGGS We are representing Mr Stanko and he is
21 seated here at the table with us this afternoon

22 Do you remember anything else about the article that you
23 read in the newspaper? You mentioned that he was -- you knew
24 he was charged with a murder I believe that was something
25 that you remembered

1 A Yes

2 Q Do you remember if there was any other trial?

3 A I don't think so

4 Q Okay You don't -- okay Good Let me ask you this
5 Do you believe that you have an obligation in this situation
6 to return a verdict of guilty with respect to the community?
7 Do you owe the community an obligation, for example, to return
8 a guilty verdict?

9 A No

10 Q Okay And that's good, because that would be contrary
11 to everything the Judge just went over with you, correct?

12 A Uh huh (**indicating positive**) Yes

13 Q And let me ask you this, with respect to the actual
14 trial of the case, and the presentation of evidence, we
15 believe that the evidence will likely give rise to as many as
16 four possible verdicts in the case, a verdict of guilty, a
17 verdict of not guilty, a verdict of guilty but mentally ill,
18 or not guilty by reason of insanity And what I want to ask
19 you is if you have any personal feelings about either of those
20 verdicts that would prevent you from fairly considering them
21 if supported by the evidence?

22 A No

23 Q Okay With respect to the sentencing, understand that,
24 as the Judge has explained, before we get to a sentencing
25 proceeding there has to be a finding of guilt, and before you

1 can consider a death penalty there has to be a finding of an
2 aggravating circumstance

3 A Uh huh (indicating positive)

4 Q Then, and only then, do we get to the sentencing
5 decision of death or life imprisonment If we were to reach
6 that point do you believe you would be leaning toward either
7 particular sentence, or would you fairly consider each of them
8 based on the evidence in the case?

9 A Could you say that again, please sir?

10 Q Do you believe that you would lean toward the death
11 penalty, or lean toward life imprisonment?

12 A I can't tell you that right now

13 Q Okay It would depend on the evidence in the case?

14 A Yes

15 Q And you would certainly want to hear all of the
16 evidence, whether aggravating or in mitigation, of the
17 punishment to be imposed, correct?

18 A Yes

19 Q And you wouldn't be predisposed to vote either way
20 until you had heard all the evidence?

21 A That's right

22 MR DIGGS Okay That is really all I have for this
23 afternoon, and I appreciate your time

24 A You too

25 THE COURT All right, Ms Dupree, if you don't mind if

1 you would just go with the deputy for a few moments, please

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

4 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
5 JUROR NUMBER 167 MARKED COURT'S EXHIBIT NUMBER 63)

6 THE COURT All right, what's the State's position?

7 MR HEMBREE Ms Dupree is qualified, Your Honor

8 THE COURT Defense

9 MR DIGGS Your Honor, I would object to her being
10 qualified based on her knowledge of the prior murder charge
11 I would submit we simply don't need to use her in this case,
12 and so based on that I would ask that she be excused

13 THE COURT I -- based upon the witness's answers to
14 the questions there is no question in the Court's mind that
15 she can be fair and impartial to the State and the Defense,
16 that she can fairly -- and would follow the Court's
17 instructions, follow her oath There is nothing that she
18 said, nothing in her presentation, nothing from her demeanor
19 or countenance that would prevent or impair her performance of
20 her duties in this particular matter, so the Court finds her
21 to be absolutely qualified

22 All right That would be the jurors until 1 45 then, so
23 we have a little bit of a longer break today than we have had,
24 but I will see y'all again then at 1 45

25 All right Thank you very much

1 (AFTER SOME DISCUSSION OFF THE RECORD IT WAS LEARNED
2 THAT A JUROR WAS PRESENT WHO WAS SCHEDULED TO BE QUESTIONED
3 AFTER THE LUNCH BREAK)

4 **THE COURT** All right No, I mean if they are here
5 If they are here we are going to take care of them I didn't
6 think there was anybody here

7 Counsel, it appears that this is Mr Finley, Steven
8 Finley who is already here, Juror Number 200

9 **STEVEN J FINLEY, JUROR NUMBER 200,**
10 being first duly sworn, states as follows

11 **BY THE COURT**

12 **THE COURT** All right, Mr Finley, what I'm going to do
13 is, I'm going to go over some things with you and then we are
14 going to -- I'll ask you some questions, and when I'm done
15 there may be some questions from the State and the Defense for
16 you, okay

17 A Okay

18 **THE COURT** Now, not any right or wrong answers here,
19 just looking for direct, straight-forward, honest answers to
20 the questions I've asked Okay

21 A Yes sir

22 **THE COURT** Very good, sir Go over a few things with
23 you The State of South Carolina has charged the Defendant,
24 Mr Stanko, with the crimes of murder and armed robbery Now,
25 the Defendant has pled not guilty to those That puts the

1 burden of proof on the State of South Carolina to prove the
2 Defendant guilty beyond a reasonable doubt The Defendant is
3 presumed innocent The Defendant has nothing to show or prove
4 to you The State must prove the Defendant guilty beyond a
5 reasonable doubt Do you understand that?

6 A Yes sir

7 **THE COURT** In this particular case the State has filed
8 notice to seek the death penalty That means this case could
9 have two parts The first part would be that the jury would
10 look at all the evidence presented, look at that, weigh it
11 against the State's burden to prove the Defendant guilty
12 beyond a reasonable doubt and if, and only if the jury finds
13 there is sufficient evidence to convict the Defendant guilty
14 of the crimes charged would we even go into the second phase
15 or sentencing phase, because only if the jury finds the
16 Defendant guilty beyond a reasonable doubt of the crime of
17 murder would we ever get to the sentence phase You
18 understand that?

19 A Yes sir

20 **THE COURT** All right, sir We say the sentence phase
21 or penalty phase because the jury actually imposes the
22 sentence or the penalty in this case That's different from
23 any other criminal case Only a judge imposes a sentence In
24 this case the jury will actually impose the penalty and the
25 sentence in this case, and there's two possibilities, life in

1 prison without the possibility of parole, or a death sentence
2 Do you understand that?

3 A Yes sir

4 **THE COURT** For a jury to even consider imposing the
5 death penalty the jury, in the second phase of the trial, has
6 to find what is called an aggravating circumstance It has to
7 be done unanimously All the jury has to agree to it It has
8 to be proved to them beyond a reasonable doubt If the jury
9 finds an aggravating circumstance they can consider the death
10 penalty There's no automatic You don't have to impose it,
11 but the jury can then consider it Both options are then open
12 to the jury to consider, because if the jury doesn't find an
13 aggravating circumstance, you know, to make worse, to
14 exacerbate the situation, then the jury can't even consider
15 the death penalty You understand that?

16 A Yes

17 **THE COURT** Before the jury imposes any sentence the
18 jury must consider any mitigating circumstances that the Court
19 charges to the jury These are certain factors that might
20 tend to reduce or lessen the charge or the punishment, and the
21 jury would have to look at those before the jury imposed any
22 sentence The jury can impose life because of the mitigating
23 circumstance, or the jury could impose life for no reason
24 whatsoever Do you understand that?

25 A Yes

1 **THE COURT** If you are part of the jury and the jury
2 unanimously finds the Defendant guilty beyond a reasonable
3 doubt of the crime of murder the Defendant -- the jury
4 unanimously finds an aggravating circumstance, and then the
5 jury unanimously finds that the death penalty is the proper
6 penalty in this case, because the jury is imposing a penalty
7 all the members of the jury would then have to take pen in
8 hand and sign their name to a form indicating that, indeed, is
9 their unanimous verdict in this matter, to impose the death
10 penalty Do you understand that?

11 A Yes

12 **THE COURT** If you are part of the jury in this case it
13 would be your responsibility to come into the courtroom with
14 any kind of preconceived ideas of what the law is You can't
15 have any predisposition as to any particular penalty You
16 have to be open to be able to consider and impose both based
17 upon the right set of facts and circumstances If you knew
18 anything about this case, heard about this case in the past
19 you have to set that aside You have to leave that outside
20 the courthouse You can't bring it into this courtroom It
21 not only can't be talked about, you can't use it mentally in
22 making any kind of decision in this case Do you understand
23 that?

24 A Yes

25 **THE COURT** You have to make your decision based solely

1 and completely based upon the facts and evidence presented in
2 this courtroom and from no other source Do you understand
3 that?

4 A Yes

5 THE COURT You have to follow the law that the Court
6 would give to you Whether you agreed with it or disagreed
7 with it you have to, under your oath, say I will follow the
8 law that Judge gives me in this matter Do you understand
9 that?

10 A Yes

11 THE COURT All right, sir, let's go over a few
12 questions After Friday, have you read, listened, watched,
13 looked up anything about this case?

14 A No

15 THE COURT After Friday had you talked to anybody
16 about this case?

17 A No

18 THE COURT Now, before you had those instructions on
19 Friday did you hear anything about this case, or read
20 anything, or remember anything being said about this case in
21 the past?

22 A Yes

23 THE COURT Okay And as you sit here today tell me
24 what it is that you remember hearing in the past?

25 A I remember, it was a while back when it first happened,

1 that they had arrested somebody and that he was accused of
2 murdering a woman

3 **THE COURT** Okay

4 A And I believe I've heard since then that he was
5 convicted of that ---

6 **THE COURT** Of that particular offense?

7 A Yes

8 **THE COURT** Okay All right, now, you understand that
9 is part of what you would have to set aside and leave outside
10 of this courthouse If you are a member of the jury you can't
11 use that -- obviously you can't talk about it, but you can't
12 use it in any way to think about or to make your decision in
13 this particular case Do you understand that?

14 A Yes

15 **THE COURT** All right, sir Can you do that?

16 A Think so

17 **THE COURT** All right, sir And I appreciate that, and
18 I understand that's the answer that most everybody gives, but
19 this is sort of like a bright line situation here Under the
20 juror's oath you are saying to the Court, if I knew anything
21 about this, or thought I knew anything about this case,
22 whether it's true or not true, I'm leaving that outside the
23 courthouse, I'm not using it in any fashion whatsoever, I'm
24 not going to use it to make a decision in this case, I'm going
25 to make my decision solely and completely based upon the facts

1 and evidence presented in this case and not from any other
2 source So understanding that would be the job as a juror my
3 question to you then is -- and it either has to be, Judge, I
4 can do that, Judge, I don't think I can do that So, knowing
5 that to be your job, can you do that?

6 A Yes

7 THE COURT Very good When you heard about something
8 in the past do you remember forming any kind of opinion or
9 belief at that point in time, when you heard about that in the
10 past?

11 A Not other than if someone is arrested you assume that
12 they had -- someone thinks they had something to do with it

13 THE COURT Okay All right You understand that,
14 again, would be something that you would completely set aside
15 and not use that in making your decision in this case?

16 A Yes

17 THE COURT All right And you -- can you do that?

18 A Yes

19 THE COURT Very good On the witness list you didn't
20 circle any of the witnesses, correct?

21 A Right

22 THE COURT All right, sir And as a category of juror
23 you circled (C), correct?

24 A Yes

25 THE COURT And let's review that briefly to make sure

1 we are on the same page here Category (C) -- and we are
2 talking about hypotheticals, may happen or may not -- but you
3 are on the jury and in the first phase the jury has
4 deliberated in this case, based upon the facts and
5 circumstances, has unanimously decided, everybody has agreed,
6 that the Defendant is guilty of the crime of murder, and we
7 have gotten to the second phase In the second phase, and
8 before anything is presented, juror (C), or category (C) juror
9 says, I'm not predisposed to any sentence in this case, I may
10 have been part of a jury to convict the defendant of murder,
11 but going into the sentencing phase I am open, and I will
12 consider, and I could impose either a life sentence or a death
13 sentence, what I'm going to do is, I'm going to listen to all
14 the facts and evidence presented in the second phase of the
15 trial, I'm going to listen to the law that the Judge gives me,
16 and then with my fellow jurors I'm going to reach a just
17 verdict in this matter Is that what you are saying?

18 A Yes

19 **THE COURT** Very good Following up on that just a
20 little bit, we are in the sentencing phase, are you telling me
21 that based upon the right set of facts and circumstances being
22 presented to you you could fairly consider and impose a life
23 sentence?

24 A Yes

25 **THE COURT** Again, based upon the right set of facts

1 and circumstances being presented to you in the sentencing
2 phase could you consider, and could you impose a death
3 sentence?

4 A Yes

5 **THE COURT** If you are part of the jury that
6 unanimously finds that the death sentence is the proper
7 sentence in this matter can you, as a member of that jury,
8 then take pen in hand and sign your name to the form
9 indicating that, indeed, is the unanimous verdict of the jury
10 in this matter?

11 A Yes

12 **THE COURT** All right, now, because of the kind of case
13 that this is, when the jury is selected, when we have the jury
14 that's going to be in this particular case and the trial
15 starts the jury, at that point in time, is going to be
16 sequestered That means, at the County expense you are going
17 to be housed in the motel, meals provided, you are transported
18 to and from by County officials, means you are not going home
19 in the evening You would have limited contact with your
20 family I understand that's a hardship on anybody There is
21 no question about it That's a hardship But is that, in
22 your circumstance, such an undue hardship, or is there any
23 kind of health concern of any family member or yourself that
24 that would cause you an undue hardship?

25 A No

1 **THE COURT** All right, sir Thank you

2 Further questions from the State?

3 **MR HUMPHRIES** No, thank you

4 **THE COURT** All right Questions from the Defense?

5 **MS WILLIAMS** Just briefly

6 **BY MS WILLIAMS**

7 **MS WILLIAMS** Good afternoon, Mr Finley I'm Brana
8 Williams, and Bill Diggs and myself will be representing Mr
9 Stanko in this case, seated at our table

10 I just have a couple of questions When the Judge asked
11 you if you had any prior knowledge you said that you had some
12 Now tell me again what that knowledge was, please

13 A I remember that it was all over the news -- it was a
14 while back -- and that there was somebody arrested for --
15 charged with murdering a woman

16 Q Do you recall -- do you know if there was a trial in
17 that situation?

18 A I had heard at some point that he was convicted of
19 that

20 Q And do you know of any -- the sentence that might have
21 been imposed in any ---

22 A I think I heard that it was the death sentence

23 Q Okay Let me ask you, do you -- the Judge has already
24 discussed this with you, and I know that, and I'll repeat some
25 of the same things over and over again, I apologize, but this

1 is our only chance to do this, so you'll just have to kind of
2 bear with us on that, okay

3 But let me ask you, don't you think that it would be --
4 or wouldn't you -- would you agree that it would be really
5 hard to put all of that out of your mind if you were chosen to
6 be on this jury?

7 A No, I don't think it would be

8 Q You think you could do that?

9 A I think I could, yes

10 Q Okay And that's good, because what we will need for
11 you to do is to be able to base your decision, if you are a
12 part of this jury, on exactly what you hear in the courtroom,
13 and what the Judge tells you the law is, and everything -- and
14 just that limited amount of information Okay

15 A Yes

16 Q Let me ask you this, and this is a unique situation
17 because this could possibly be a two-part trial, okay, and in
18 the first part, if you are selected as part of this jury, we
19 are anticipating that there should be four possible verdicts
20 for the jury to consider, okay, guilty, not guilty, not guilty
21 by reason of insanity, and guilty but mentally ill Okay Do
22 you think, or are you aware of anything about you, or your
23 beliefs, or your philosophical beliefs that might make
24 considering all four of equally difficult for you?

25 A No Ma'am

1 Q Okay So you could consider all four of them if the
2 circumstances are presented, and the facts and evidence are
3 presented to you, right?

4 A Yes

5 Q Okay Great And let's just assume now that we get to
6 the second part of this, and we aren't going -- you know, I --
7 we just have to talk about it because we are here, but if we
8 get to the second part of it obviously what it means is that
9 the jury has found Mr Stanko guilty, and then we go to the
10 second part, and there are only two possible outcomes in that
11 part, okay, either a death sentence or life without parole,
12 okay, and to get to a death sentence the State is going to
13 have to prove to you that you have murder plus an aggravating
14 circumstance Okay And let's just assume that they have
15 done that to you, as part of this jury, satisfaction, and the
16 Judge is going to tell you that even if they prove murder,
17 plus the aggravating circumstance, that you, as a juror, still
18 have the opportunity to consider and impose life without the
19 possibility of parole Okay What I want to ask you is, if
20 you think sitting here now that you have a lean one way or the
21 other If you are part of this jury, and that you think that
22 the State has proven to you murder plus the aggravating
23 circumstance, that you would lean toward death or toward life?

24 A I would probably lean toward life

25 Q You think so?

1 A I think so

2 Q Okay But you are telling me though that when the
3 Judge instructs you, based on all the circumstances and
4 everything, you could consider the death penalty, and could
5 impose it if you thought it were appropriate?

6 A Yes

7 Q And you could lean, and impose a life without parole if
8 you thought it was appropriate?

9 A Yes

10 MS WILLIAMS That's all the questions I have Thank
11 you

12 THE COURT All right, Mr Finley, if you would, if you
13 would go with the deputy for a few moments, please sir Thank
14 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 200 MARKED COURT'S EXHIBIT NUMBER 64)

19 THE COURT State's position?

20 MR HUMPHRIES He's qualified

21 THE COURT Defense

22 MR DIGGS Your Honor, this illustrates a dilemma that
23 we are in here We object We don't think he's qualified
24 Ordinarily in a capital case this would be the type of juror
25 that we are looking for, someone who would be, so-called, soft

1 on capital punishment, inclined to vote life, but he knows
2 about the death sentence that was imposed in the case He
3 would know that a jury had already heard our -- the type of
4 evidence we would have in support of an insanity verdict, and
5 would know it was rejected, and I would submit there is no way
6 this juror should be qualified and sit on a jury panel, or be
7 part of this jury, and based on those reasons we would ask the
8 Court to disqualify him

9 **THE COURT** All right, first, there was absolutely no
10 information here, that's been presented, that he knows
11 anything about any kind of defense of any kind that was
12 presented in the other trial He knows there was another
13 trial He knows there was an outcome to that trial, but he
14 expressed absolutely no information about what was presented,
15 so there's nothing that would indicate that he would know what
16 was presented in the past That's just not part of the
17 evidence that's -- regarding this particular juror, but be
18 that as it may, this juror has said, without question, that he
19 can fairly and impartially follow the Court's instructions,
20 follow his juror's oath, that he would be fair and impartial
21 to the State and the Defense There is nothing in the juror's
22 answers in any way that would prevent him, or substantially
23 impair him in any way in the performance of his duties as a
24 juror in this case He was very straight-forward, his
25 demeanor, the way he presented himself was direct, open,

1 honest, and this Court has no question that he is qualified

2 We are going to take a break and we will come back
3 approximately 1 45 Thank you

4 (THE FOLLOWING TAKES PLACE AFTER LUNCH)

5 THE COURT All right I believe we have Mr Angel
6 Castillo out there

7 ANGEL R CASTILLO, JUROR NUMBER 95,
8 being first duly sworn, states as follows

9 BY THE COURT

10 THE COURT All right, Mr Castillo, could you hand me
11 the paperwork that you have, please sir Thank you, sir

12 All right, sir, what I'm going to do is, I'm going to
13 talk to you about a few things, and then I'm going to ask you
14 a few questions, and then the representatives of the State and
15 the Defense may have some questions for you Okay, sir?

16 A Okay

17 THE COURT Very good Now, there are no right or
18 wrong answers here, okay

19 A Okay

20 THE COURT The -- what I need from you are just
21 direct, straight-forward, honest answers to the questions or
22 the matters that have to be talked about, okay Very good

23 In this particular matter the State of South Carolina
24 has charged the Defendant, Mr Stanko, with the crimes of
25 murder and armed robbery To those charges the Defendant has

1 pled not guilty That puts the burden of proof on the State
2 of South Carolina to prove the Defendant guilty beyond a
3 reasonable doubt The Defendant is presumed innocent The
4 Defendant doesn't have anything to show to you The Defendant
5 doesn't have anything to prove to you The State must prove
6 the Defendant guilty beyond a reasonable doubt Do you
7 understand that?

8 A Yes sir

9 **THE COURT** All right, sir In this particular case
10 the State of South Carolina has filed notice to seek the death
11 penalty as against Mr Stanko That means that the trial
12 could be in two parts The first part would be -- the first
13 part of the trial would be where the jury would look at all
14 the facts and evidence presented, testimony presented, to see
15 what evidence the jury believes to be true, and then weighing
16 that evidence against the State's burden to prove the
17 Defendant guilty beyond a reasonable doubt If, and only if
18 the jury finds the Defendant guilty of a crime of murder,
19 beyond a reasonable doubt, would we go to the second phase or
20 the sentencing phase of the trial You understand that?

21 A Yes sir

22 **THE COURT** Now, we call it the sentencing phase or the
23 penalty phase because the jury actually imposes a sentence,
24 and actually imposes the penalty, which makes it different
25 from any other criminal case In all other cases the Judge

1 imposes sentence In this one the jury imposes the sentence,
2 and there's two possibilities, life in prison without the
3 possibility of parole, the death penalty Those are the only
4 two choices that are open and are available to the jury in the
5 sentencing phase of the trial You understand that?

6 A Yes sir

7 **THE COURT** Now, for a jury to consider the death
8 penalty the jury first unanimously has to find what is called
9 an aggravating circumstance Now, aggravate means to make
10 worse, or to exacerbate the situation, and there would be
11 certain factors that the Court would charge to the jury, and
12 if the jury picked one of those, found one of those
13 unanimously then the jury could consider the death penalty
14 It's not automatic The jury is not required to give the
15 death penalty It just means that now the jury can consider
16 both options, because if the jury doesn't find aggravating
17 circumstance they can't even consider the death penalty Do
18 you understand that?

19 A Yes sir

20 **THE COURT** So, before the jury imposes a sentence in
21 this matter the jury also must consider any mitigating
22 circumstance, and mitigate means to reduce or lessen the
23 punishment or the charge, and the Judge would charge the jury
24 those factors, and the jury would have to look at those before
25 they impose any sentence in this case You understand that?

1 A Yes sir

2 THE COURT Now, the jury can impose life because of
3 those mitigating circumstances, or the jury can impose life
4 for no reason whatsoever You understand that?

5 A Yes sir

6 THE COURT The jury cannot impose the death penalty
7 until the jury finds an aggravating circumstance, and that
8 just means they have the ability to do so Not a requirement
9 at any point in time, ever, to find the death penalty You
10 understand that?

11 A Yes sir

12 THE COURT All right, sir Now, if you are part of
13 the jury and the jury has unanimously found the Defendant
14 guilty of the crime of murder, beyond a reasonable doubt, and
15 we go to the sentencing phase, and the jury finds an
16 aggravating circumstance, unanimously, and then the jury,
17 after deliberating, finds that the death penalty is the
18 appropriate penalty in this matter, and so unanimously finds
19 for that sentence at that point in time, since the jury is
20 actually imposes the sentence, the jury will take pen in hand
21 and each member of the jury will sign a form indicating that,
22 indeed, is the unanimous verdict of the jury, imposing the
23 death penalty You understand that?

24 A Yes sir

25 THE COURT All right, sir If you are a juror in this

1 particular case you have to come into this courtroom without
2 any kind of preconceived ideas of what the law is You have
3 to take the law that I give to you, that the Judge gives, and
4 accept it Whether you agree with it or disagree with it or
5 disagree with it you have to accept it You understand that?

6 A Yes sir

7 **THE COURT** You can't come into the courtroom with any
8 predisposition as to a potential sentence As a member of the
9 jury you have to be open to consider and impose either life or
10 death You don't have any predisposition, or lean to one or
11 the other You base your decision based on the facts and
12 evidence presented in the sentencing phase, and the law that
13 the Court charges you, but you don't go in there with any
14 predisposition You understand that?

15 A Yes sir

16 **THE COURT** All right Let's go over a few questions
17 Since Friday have you read, listened, watched, looked up
18 anything about this case?

19 A No

20 **THE COURT** Since Friday, have you talked to anybody
21 about this case?

22 A No

23 **THE COURT** Now, before Friday, before you had the
24 instructions not to do that do you remember reading anything,
25 or hearing anything, or seeing anything about this case

1 sometime in the past?

2 A Not that I can recall No

3 **THE COURT** All right Very good Does the name of
4 the Defendant ring any bells with you at all?

5 A No

6 **THE COURT** All right Very good On the witness list
7 you didn't circle anybody as knowing any of the possible or
8 potential witnesses, right?

9 A Right

10 **THE COURT** All right A question in general, do you
11 know of any kind of personal, political, religious,
12 philosophical belief that you might have that would keep you
13 from being a fair and impartial juror in this case?

14 A No

15 **THE COURT** All right Very good Regarding the
16 category of juror which best describes you you circled (C),
17 correct?

18 A Yes sir

19 **THE COURT** All right And let's talk about that for
20 just a second, and make sure we are on the same page here
21 Category (C) juror -- we are talking about hypotheticals here,
22 that could happen or not happen -- but regarding the jury, the
23 jury finds the Defendant guilty of the crime of murder beyond
24 a reasonable doubt and we are here in the sentencing phase of
25 the trial, the category (C) juror, or type (C) juror says, I'm

1 not going into the sentencing phase with any predisposition as
2 to the sentence, I know there's two possible sentences, life
3 or death, but I'm not predisposed to either one, what I'm
4 going to do is, I'm going to listen to the facts and evidence
5 presented in the second phase, I'm going to listen to the law
6 that the Judge gives to me, and then with my fellow jurors I'm
7 going to come up with a just verdict in this matter

8 A Yes sir

9 THE COURT All right That's what you are telling me?

10 A Yes sir

11 THE COURT Very good Follow up with that just a
12 little bit Again, assume we are in the sentencing phase,
13 based upon the right set of facts and circumstances being
14 presented to you could you consider, and could you impose a
15 life sentence?

16 A Yes

17 THE COURT Based upon the right set of facts and the
18 right set of circumstances being presented could you impose a
19 death sentence?

20 A Yes, I could

21 THE COURT Now, assume you are part of the unanimous
22 jury that agrees, aggravating circumstance, unanimously votes
23 for the death penalty, the death sentence, could you then take
24 pen in hand and sign your name to the form indicating that
25 that, indeed, is the unanimous verdict of the jury in this

1 matter?

2 A Yes, I could

3 **THE COURT** All right Very good Now, in this
4 matter, because of the type of case that it is the jury is
5 going to be sequestered in this matter once they are
6 ultimately selected, once we have a jury that's going to hear
7 this case That means when the trial starts this jury is
8 going to be -- this is obviously at County expense -- housed
9 at a motel, meals provided They are transported by County
10 officials to and from the courthouse, but you are not going
11 home in the evening You have to stay with us during the
12 trial The best estimate I can give you for the length of the
13 trial, once it starts it's going to be seven, eight to nine
14 days That's the best estimate I can give you as to the
15 length of the trial once it starts Now, understanding this
16 is a hardship on anybody -- I know that, everybody knows that
17 and understand that -- but is being sequestered such an undue
18 hardship on you, or is there some kind of health concern of
19 any family member or yourself that would cause this to be an
20 undue hardship on you?

21 A No

22 **THE COURT** All right Thank you, sir

23 Answer any questions the State may have, please sir

24 **BY MR HEMBREE**

25 **MR HEMBREE** Good afternoon, Mr Castillo

1 A Good afternoon

2 MR HEMBREE I'm Greg Hembree I'm the Solicitor for
3 the Fifteenth Circuit I, along with Fran Humphries who is
4 seated right over here -- he's our Deputy Solicitor -- and
5 Jimmy Richardson who's right here, he's one of our Senior
6 Assistant Solicitors We will be trying the case together on
7 behalf of the State

8 Judge John covered all the questions that I might have
9 had for you, so I don't have any questions for you I just
10 want to let you know that we really appreciate your
11 willingness to serve, and if you would, give your attention to
12 Defense counsel They may have a few questions for you

13 Thank you, Mr Castillo

14 THE COURT All right, Mr Diggs

15 MR DIGGS May it please the Court

16 THE COURT Yes sir

17 BY MR DIGGS

18 MR DIGGS Mr Castillo, what was your response to the
19 Court's question about whether you had had an knowledge about
20 the case?

21 A My response was, I didn't really have any knowledge
22 about the case or ---

23 Q Okay You don't remember hearing Mr Stanko's name at
24 any time?

25 A No

1 Q Okay Do you feel in this situation that you are
2 obligated to return a guilty verdict on behalf of the
3 community?

4 A Yes

5 Q You understand what I'm asking you?

6 A Yes

7 Q Do you think that the community looks to you and
8 expects you to return a guilty verdict?

9 A Well, I think they look to me as part of a
10 representative of the community ---

11 Q Okay

12 A Okay ---As a citizen of this County Again, you
13 know, before anybody is proven guilty you do have to listen to
14 all the facts

15 Q Okay Let me ask you this We might see evidence in
16 the first case, the first part of the trial that raises the
17 possibility of four different verdicts That would be guilty,
18 not guilty, not guilty by reason of insanity, and guilty but
19 mentally ill Are you aware of any bias that you have that
20 would prevent you from reaching either of those verdicts that
21 you felt would be supported by the evidence and the law as
22 instructed by the Court?

23 A No

24 Q Okay You don't have any aversion to either of those
25 verdicts, possible verdicts that I mentioned?

1 A No

2 Q Okay Now, with respect to the sentencing phase of the
3 case, should there be a guilty verdict you would have to
4 proceed, if you were on the jury, to the next phase of the
5 trial wherein the State would have to convince you beyond a
6 reasonable doubt that an aggravating circumstance existed in
7 the case That would entitle them to seek a death sentence
8 Follow me?

9 A Yes

10 Q Now, at that point would you feel obligated to return a
11 death sentence?

12 A Yes

13 Q Okay And do you expect that the community would be
14 looking to you in that regard because the State is, indeed,
15 seeking the death penalty in the case?

16 A Yes, I believe so

17 MR DIGGS Okay All right, that's all I have at this
18 time, and thank you very much for your answers

19 A Okay

20 THE COURT Solicitor, since you didn't ask any
21 questions any questions you would like to ask?

22 MR HEMBREE Yes, Your Honor, I would like to go back
23 a few more

24 THE COURT All right Very good

25 BY MR HEMBREE

1 Q Mr Castillo ---

2 A Yes sir

3 Q ---Couple of questions Mr Diggs asked you I fear --
4 it was difficult for me to follow him, and I don't know that
5 you know -- I don't know if he got to exactly how you feel ---

6 A Okay

7 Q ---So I just want to sort of pursue these a little
8 more

9 A Okay

10 Q The first is about the community's expectation in
11 rendering a guilty verdict

12 A Okay

13 Q I'm going to ask it a different way

14 A Okay

15 Q Do you -- you said that -- if I understood your
16 testimony you said that you believed the community expected
17 you to serve sort of as their representative?

18 A Yes

19 Q And that you needed to hear all the facts and evidence?

20 A That's right

21 Q Now Mr Diggs -- I think what Mr Diggs was trying to -
22 - or at least the way I interpret his question was -- do you
23 feel like there is pressure on you from, you know, the public,
24 or the community -- do you feel like there's pressure on you
25 to decide this case a particular way, or do you think that the

1 expectation is for you to be fair and impartial and listen to
2 everything and then render a verdict?

3 A I think to be fair and impartial, to listen to all
4 evidence, and then render a verdict

5 Q Do you feel any pressure at all ---

6 A No

7 Q ---Either one way or the other?

8 A No No

9 Q And now I'm talking about the sentence One of the
10 things that might -- Mr Diggs might not have made so clear is
11 that when it comes to sentencing, even if there is a finding
12 of an aggravating circumstance -- Judge John talked a little
13 bit about aggravating circumstance -- Mr Diggs just touched
14 on it -- but Judge John would tell you, if you were on this
15 jury, that you never have to find for death, you always have
16 the option to vote for life ---

17 A Right

18 Q ---Even if he's found guilty you can vote for life If
19 he's found guilty and you find there is an aggravating
20 circumstance you can vote for life?

21 A Yes

22 Q Would you be able -- understanding that would you be
23 able to follow that principal of law?

24 A Yes

25 Q You would keep an open mind and be able to vote for

1 life even if there's an aggravating circumstance, if you
2 thought that's the right thing to do?

3 A Yes

4 Q Okay Based on the evidence ---

5 A Based ---

6 Q Based on the facts ---

7 A Exactly

8 Q ---Based on the whole issue?

9 A What is presented, you know, to us, or the jurors,
10 facts and evidence that -- you know, everything is laid out on
11 the table

12 Q Do you -- one -- and I know this is kind of a similar
13 question, but do you feel any pressure whatsoever to vote for
14 death or for life from any source ---

15 A No

16 Q ---A little clean slate right now?

17 A Yes

18 MR HEMBREE Very good That's all I can ask of you
19 I appreciate your responses

20 Mr Diggs may have some more questions for you The
21 Court may also

22 THE COURT Mr Diggs

23 MR DIGGS Just very briefly

24 THE COURT Yes sir

25 BY MR DIGGS

1 **MR DIGGS** Mr Castillo, in the event that the State
2 has proved guilt beyond a reasonable doubt, and they have
3 convinced you beyond a reasonable doubt that an aggravating
4 circumstance existed in the case, at that point would you feel
5 obligated to return death sentence?

6 A Yes

7 **THE COURT** All right And to follow up on that
8 question then, Mr Castillo, even though knowing that you
9 don't have to you would feel obligated to do so?

10 A Yes sir

11 **THE COURT** Very good All right Thank you If you
12 would go with the deputy for a few moment, please

13 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
14 **JUROR)**

15 **(THREE PAGE WITNESS LIST AND JUROR QUESTIONNAIRE FOR**
16 **JUROR NUMBER 95 MARKED COURT'S EXHIBIT NUMBER 65)**

17 **THE COURT** State's position

18 **MR HEMBREE** Your Honor, although I think Mr Castillo
19 is -- became confused by the way the questions were asked by
20 Mr Diggs, and then he seemed to be rehabilitated, and kind of
21 went back to his initial question, I'm not -- you know, it's
22 possible that he really does feel some obligation to vote for
23 death if there was an aggravating circumstance, and out of an
24 abundance of caution we would ask that he be excused

25 **THE COURT** Mr Diggs

1 **MR DIGGS** We agree

2 **THE COURT** All right I would find that the juror is
3 not qualified There is some question as to whether he can
4 faithfully follow out the Court's instructions and follow his
5 juror's oath, so therefore I find he's not qualified

6 All right, Ms Velvadean, please, Velvadean Vaught I'm
7 sorry, Velvadean Vaught

8 **VELVADEAN VAUGHT, JUROR NUMBER 642,**
9 being first duly sworn, states as follows

10 **BY THE COURT**

11 **THE COURT** All right, Ms Vaught, what I'm going to do
12 is now, I'm going to talk to you a little bit, and I'm going
13 to be asking you some questions, and then the representative
14 of the State and the Defense may have some questions for you,
15 okay All right Is that all right, Ma'am?

16 A Yes sir

17 **THE COURT** All right Thank you, Ma'am Now, first I
18 need to tell you, everything that we say and do is being
19 recorded by the Court Reporter right there, and so all the
20 answers that you give have to be out loud, have to be like yes
21 or no You can certainly explain it, but we can't have a nod
22 of the head or something like uh huh because the Court
23 Reporter doesn't know what that means, okay

24 A Okay

25 **THE COURT** Thank you, Ma'am In this particular case

1 the State of South Carolina has charged the Defendant, Mr
2 Stanko, with the crimes of murder and armed robbery To those
3 charges the Defendant has pled not guilty 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 The Defendant has nothing to show to you
7 or to prove to you The State must prove the guilt of the
8 Defendant beyond a reasonable doubt Do you understand that?

9 A Yes sir

10 **THE COURT** In this case the State of South Carolina
11 has filed notice to seek the death penalty as against Mr
12 Stanko With that, the jury in this case will actually impose
13 the sentence That makes it different from any other case
14 In any other criminal case the Judge would impose the
15 sentence In this particular case, in this type of case, the
16 jury imposes the sentence So in that, regarding the
17 imposition of a sentence there could be two possibilities,
18 life in prison or death Do you understand that?

19 A Yes sir

20 **THE COURT** Now, we don't even get to that second phase
21 or that sentencing phase of the trial unless and until, in the
22 first phase of the trial the jury would find the Defendant
23 guilty of the crimes charged beyond a reasonable doubt, based
24 upon the evidence presented, and that the jury believes to be
25 true, the jury finds from that evidence that the Defendant

1 committed the crimes and finds the Defendant guilty beyond a
2 reasonable doubt Do you understand that?

3 A Yes sir

4 **THE COURT** If the jury finds the Defendant guilty
5 beyond a reasonable doubt of the crime of murder then the jury
6 would go into the sentencing or the penalty phase of the
7 trial In the sentencing or the penalty phase of the trial
8 the jury could only consider the option of a death penalty if
9 it finds an aggravating circumstance Now that's a factor
10 that means to make worse, or to exacerbate If the jury finds
11 this mitigating -- I'm sorry -- this aggravating circumstance,
12 then the jury could consider the death penalty It doesn't
13 mean that the jury automatically imposes a death penalty It
14 just means that that gives the jury the ability to consider
15 imposing the death penalty Do you understand that?

16 A Yes sir

17 **THE COURT** The jury must look at any mitigating
18 circumstances that the Court tells the jury about or charges
19 the jury Before the jury imposes any sentence in the case
20 they have to consider any mitigating circumstance Do you
21 understand that?

22 A Yes sir

23 **THE COURT** The jury can always impose life The jury
24 can impose life because of a mitigating circumstances, or
25 could impose life for no reason whatsoever Do you understand

1 that?

2 A Yes sir

3 **THE COURT** The jury can only consider the death
4 penalty if they find an aggravating circumstance, and that
5 means then that both life and death are a possible option at
6 that point in time Do you understand that?

7 A Yes sir

8 **THE COURT** If you are part of the jury and in the
9 first phase being part of the jury -- and we are just talking
10 about a hypothetical that could happen or may not happen --
11 but you are part of the jury, in the first phase the jury
12 unanimously finds the defendant guilty of the crime of murder
13 beyond a reasonable doubt, so we've gone into the second phase
14 or the sentencing phase, and the jury in that phase found an
15 aggravating circumstance, unanimously, everybody agreed, and
16 then the jury unanimously -- everybody agreed that the death
17 penalty was a proper penalty in this matter, if you are part
18 of that jury could you then take pen in hand and sign your
19 name to the verdict form saying that that, indeed, is your --
20 part of the jury's unanimous verdict, and it is your verdict,
21 to impose the death penalty in this case? Could you do that?

22 A Yes sir

23 **THE COURT** All right, Ma'am As a member of the jury
24 it's your job to come into the courtroom without any
25 preconceived ideas of what the law is You have to accept the

1 law as the Court would give it to you Do you understand
2 that?

3 A Yes sir

4 **THE COURT** You can't have any predisposition as to a
5 proper sentence You have to listen to all the facts and
6 evidence presented, find that evidence which convinces you of
7 it's truth, and then, based upon the facts and evidence, and
8 the law the Court will give to you, decide a proper penalty if
9 the defendant has been found guilty of the murder beyond a
10 reasonable doubt You understand that?

11 A Yes sir

12 **THE COURT** If you heard about this case before, or you
13 knew anything about it, or anybody had talked to you about
14 this you understand you have to set that aside You can't
15 bring that into the courtroom You understand that?

16 A Yes sir

17 **THE COURT** It can't be part of your decision in this
18 case It can't be part of your thinking about this case in
19 any way Do you understand that?

20 A Yes sir

21 **THE COURT** All right, Ma'am, let me ask you some
22 questions then, some other questions Since Friday, have you
23 read, listened, looked up anything about this case?

24 A No sir

25 **THE COURT** Have you talked to anybody about this case

1 since Friday?

2 A No sir

3 **THE COURT** Now, before Friday, had you heard anything
4 about this case, heard the Defendant's name, anything that you
5 -- someone said happened, or read that might have happened in
6 this case?

7 A No sir

8 **THE COURT** All right Is the name of the Defendant
9 familiar to you at all?

10 A Not at all

11 **THE COURT** All right, Ma'am, do you know of any kind
12 of personal, or political, or religious or philosophical
13 belief that you believe would prevent you from being a fair
14 and impartial juror in this case?

15 A No sir

16 **THE COURT** All right In this particular case you did
17 not circle any witnesses as far as knowing any of the
18 particular possible witnesses, correct?

19 A Right

20 **THE COURT** And then as far as the category of juror
21 you circled category (C), correct?

22 A Yes sir

23 **THE COURT** All right, Ma'am, and let's go over that
24 real briefly and make sure we are on the same page here

25 A Okay

1 **THE COURT** Category (C) juror is -- and again, it's a
2 hypothetical, may or may not happen -- but you are on the jury
3 and in the first phase of the trial the jury has heard the
4 facts and evidence, and based on the facts and evidence, has
5 unanimously decided that the Defendant is guilty of the crime
6 of murder beyond a reasonable doubt, and then we've gone into
7 the second phase In the second phase the type (C) juror
8 says, I'm not predisposed to give any particular sentence, I
9 know that I can sentence the Defendant to life, I know that I
10 can sentence the Defendant to death, I have taken an oath and
11 said that I would fairly consider both, and based on the right
12 set of facts and circumstances I would impose either one, but
13 I'm not predisposed or leaning to one or the other, I'm open
14 to either one, and I'm going to listen to all the facts and
15 circumstances in the second part of the case, and I'm going to
16 listen to the law that the Judge gives me, and then with my
17 fellow jurors I'm going to reach a just verdict in this
18 matter Is that what you are telling me?

19 **A** Yes sir

20 **THE COURT** All right, Ma'am, let me go over that --
21 follow up on that just a little bit Assume again you are a
22 juror on the case and you are in the sentencing phase or the
23 second phase of the trial, are you telling me that based upon
24 the right set of facts and circumstances being presented to
25 you you could consider, and you could impose a life sentence?

1 A Yes, I can

2 THE COURT All right, Ma'am, again, based upon the
3 right set of facts and circumstances being presented to you in
4 the second part of the trial, could you consider, and could
5 you impose a death sentence?

6 A Yes, I could

7 THE COURT All right, Ma'am, and it seemed to me that
8 you hesitated more when I asked you about death than I did
9 with life, and that's certainly understandable When and if
10 you are a member of a jury you have to -- and to be part of
11 the jury -- you understand that it depends on the facts and
12 circumstances presented When you go into the second part of
13 a trial -- assuming that you are a juror and you are in the
14 second part of the trial -- that you are open, and you would
15 not only consider, but you could impose, that is, give either
16 one of them, you could give a life sentence, you could give
17 the death sentence Can you do that?

18 A Yes, I can

19 THE COURT Very good Now, if you are part of a
20 unanimous jury that decides that the death penalty is the
21 proper sentence in this matter can you then take pen in hand
22 and sign your name to the verdict form saying that you are a
23 part of this jury and I have unanimously, with the other
24 members of the jury, decided that the death penalty is the
25 proper sentence in this case, could you do that?

1 A Yes, I could

2 THE COURT Very good Now, because of the type of
3 case that this is once the jury is selected the jury is going
4 to be sequestered That means at the County expense you are
5 going to be housed at a motel, the meals will be provided, you
6 will be transported to and from by County officials, but you
7 won't be going home at night You are going to be with the
8 Court until the case is over with once the jury is selected
9 The best estimate, how long that's going to be, that I can
10 give you is seven, eight, nine days Understanding that's a
11 hardship -- that's a hardship on anybody, and I understand
12 that, everybody understands that -- but is that such an undue
13 or great hardship on you, or is there any kind of health
14 concern of any family member or yourself that that would be an
15 undue hardship on you, being sequestered?

16 A No sir

17 THE COURT Thank you, Ma'am
18 Further questions from the State?

19 MR HUMPHRIES Just briefly Thank you, Judge

20 THE COURT Thank you, sir

21 BY MR HUMPHRIES

22 MR HUMPHRIES Well, good afternoon, Ms Vaught How
23 are you doing?

24 A I'm doing fine

25 MR HUMPHRIES I'm Fran Humphries I'm the Deputy

1 Solicitor Solicitor Hembree and Senior Solicitor Jimmy
2 Richardson and I will be representing the State in this trial,
3 and this is just an opportunity for us to talk a little bit

4 It's unusual in criminal cases -- have you ever served
5 on a criminal jury?

6 A I've never been a juror in my life

7 **MR HUMPHRIES** Never?

8 A Never

9 **MR HUMPHRIES** Well, it's a great honor, and it's also
10 a great burden, but it's very important, and I know that you
11 know that Well this is different than any other criminal
12 case that we have, number one, because you and I are talking
13 here together, and that doesn't happen in other criminal
14 cases, so that's unusual The other thing is, in this kind of
15 case, unlike any other case, the jurors themselves will be the
16 ones that hand down the sentence In most cases the Judges
17 hand down the sentences, and the jurors just determine the
18 guilt of the accused

19 But in this case we've got two parts, and the Judge has
20 talked to you a little bit about it First part of the case
21 the only thing the jurors consider is whether or not the
22 Defendant, Stephen Stanko, killed Henry Turner Once that is
23 decided, and if it's decided that he did, we go to that second
24 trial within this trial, and that's the sentencing phase, and
25 of course we have to talk to you right now about your feelings

1 about the death penalty because we can't stop in the middle of
2 the trial and say, well, we know you found him guilty now
3 let's talk a little bit about whether or not you are qualified
4 to serve in the sentencing phase, so we have to do it ahead of
5 time

6 Now, what we are trying to determine is whether or not
7 you are a qualified juror Now, when I say qualified that
8 doesn't mean that if you were unqualified that you would be a
9 bad person, or that you are a better person for being
10 qualified It really has to do with how you feel, and so
11 that's why we talk to you

12 Now, let me ask you a little bit about the death
13 penalty Have you given much thought over your life to the
14 death penalty or capital punishment?

15 A No I ain't never thought about it one way or another

16 Q Never did?

17 A No sir

18 Q And let me ask you, since you got your -- you know, got
19 those papers -- because you know -- let me ask you this, when
20 you got those papers to fill out for the juror information ---

21 A Uh huh (**indicating positive**)

22 Q ---Did you know this was going to be a death penalty
23 case then?

24 A No, I did not

25 Q What about Friday, when you came in on Friday?

- 1 A No, I did not
- 2 Q Okay How about after Friday? Once he -- once the
3 Judge talked to you did you know then?
- 4 A I know when he started discussing it Friday ---
- 5 Q Now let me ask you this ---
- 6 A ---But ---
- 7 Q ---Over the weekend have you thought about it?
- 8 A No sir
- 9 Q Haven't?
- 10 A No
- 11 Q Well, tell me, can you share with me what your thoughts
12 are on the death penalty or capital punishment?
- 13 A No
- 14 Q You just don't have any particular thoughts about it?
- 15 A No sir
- 16 Q Okay Well, that's fair That's fair Now, the Judge
17 has told you that once you get into that sentencing phase you
18 have to be able to either give the death penalty or life in
19 prison, not just consider them, but under the right set of
20 circumstances, with the right amount of evidence, be able to
21 consider and impose either life or death, depending on your
22 view of the evidence Do you understand that?
- 23 A Do I feel like I could?
- 24 Q Do you feel like you could do either one?
- 25 A Yes

1 Q Okay Now, when we talk about imposing sentence what
2 we are talking about is -- well, I'll put it this way Let's
3 say, for instance, you are sitting on the jury, and you and
4 the other members of the jury have returned a verdict of
5 guilty in the first part, guilty of murder, we move on into
6 the second phase, and the State -- that's us -- we present
7 enough evidence in aggravation -- that's things that are bad
8 about the Defendant -- and other evidence which would prove to
9 you that there is an aggravating circumstance -- and the Judge
10 will tell you what those are -- they are all statutory and in
11 our law -- but there will be some for you to consider, and
12 let's say that you and the other jurors decide that an
13 aggravating circumstance exists, that we have proved that to
14 you, okay, then, and only then will you and the other jurors
15 be able to even consider giving a death verdict Okay Are
16 you with me so far?

17 A Yes sir

18 Q Okay Because I know this is different so, you know,
19 stop me if I'm telling you too much

20 Now, once we get to that point the jurors will
21 deliberate -- of course you will get an opportunity to hear
22 evidence in mitigation, if the Defense offers it, which may be
23 things that are good about the Defendant, or things that might
24 lessen his level of responsibility or culpability, and let's
25 say after you've considered all of that -- and of course the

1 Court is going to have to tell you you have to consider all,
2 particularly the mitigating circumstances, once you do all
3 that you and the other eleven members of the jury decide we
4 believe that the death verdict is the appropriate verdict for
5 this Defendant for his crimes, based on his character, what
6 the Court will provide you with is a form, and there's this
7 form that's called Recommendation of Death On that form
8 there are twelve signature lines Now, that form says
9 Recommendation of Death, but I can tell you, whatever this
10 jury recommends to the Court that's what is going to happen,
11 okay, so what I need to be sure of is this Knowing that you
12 would have to sign your name to a verdict form that would
13 sentence this Defendant to death do you believe, understanding
14 that, that you could do that, under the right set of
15 circumstances, given the right amount of evidence, knowing all
16 along that there is never anything to bind you or require you
17 to vote for death, you can always pick life, do you think that
18 you could do that, sign your name to that recommendation form?

19 A Yes, I could

20 Q And can you be fair both to the State of South Carolina
21 and to the Defendant in this case?

22 A Yes, I can

23 **MR HUMPHRIES** Ms Vaught, that is all we can ask of
24 you I really do appreciate it Thank you, Ma'am

25 A Uh huh (**indicating positive**)

VELVADEAN VAUGHT - NO QUESTIONS BY DEFENSE/JUROR OUT/ON RECORD
WALTER D CUMBOW, JR - BY THE COURT

1 THE COURT All right, Mr Diggs or Ms Williams

2 MS WILLIAMS No sir We don't have any questions

3 Thank you

4 THE COURT All right Thank you

5 All right, if you would, Ms Vaught, if you don't mind,
6 if you would go with the deputy for a few moments, please

7 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
8 JUROR)

9 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
10 JUROR NUMBER 642 MARKED COURT'S EXHIBIT NUMBER 66)

11 THE COURT State's position

12 MR HUMPHRIES She's qualified, Your Honor

13 THE COURT Defense

14 MR DIGGS Your Honor, we believe she's qualified

15 THE COURT The Court would find her to be qualified,
16 that she could follow the Court's instructions She is
17 qualified

18 (DISCUSSION BETWEEN THE CLERK OF COURT AND THE COURT
19 CONCERNING SCHEDULING OF A POTENTIAL JUROR FOR VOIR DIRE)

20 THE COURT Our next one is Walter Cumbow

21 WALTER D CUMBOW, JR , JUROR NUMBER
22 13, being first duly sworn, states as follows

23 BY THE COURT

24 THE COURT All right, Mr Cumbow, what I'm going to do
25 is, I'm going to go over some things with you and I'm going to

1 talk to you about a couple things I'm going to ask you some
2 questions, and when I'm done the representatives of the State
3 and Defense may have some questions for you Okay, sir?

4 A Yes sir

5 **THE COURT** There aren't any right or wrong answers
6 here Okay I'm just looking for direct, straight-forward,
7 honest answers to the questions or the things we talk about,
8 okay

9 A Right

10 **THE COURT** Very good In this particular matter the
11 State of South Carolina has charged the Defendant, Mr Stanko,
12 with the crimes of murder and armed robbery Now, that -- to
13 those charges the Defendant has pled 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, doesn't have anything to prove to you,
17 doesn't have anything to show to you The State has to prove
18 the Defendant guilty beyond a reasonable doubt You
19 understand that?

20 A Yes sir

21 **THE COURT** The State in this case has served notice to
22 seek the death penalty as against Mr Stanko in this
23 particular matter Now, that means this case could have two
24 parts The first part would be that the jury would consider
25 all the facts and evidence in the case and find that evidence

1 which the jury believes to be true, weigh that evidence
2 against the State's burden to prove the Defendant guilty
3 beyond a reasonable doubt, and if, and only if the jury
4 convicts the Defendant of the crimes charged beyond a
5 reasonable doubt would we go into the second phase or the
6 sentencing phase of the trial You understand that?

7 A Yes sir

8 **THE COURT** Now if the jury finds the Defendant guilty
9 of the crime of murder, beyond a reasonable doubt, then the
10 jury would be looking at the sentencing phase or the penalty
11 phase, and we call it that because the jury has to impose the
12 sentence or the penalty in this case There's two choices,
13 life in prison without the possibility of parole, the death
14 sentence Those are the two choices And if I might just say
15 life, or the attorneys might just say life, what we mean is
16 life in prison without the possibility of parole You
17 understand that?

18 A Yes sir

19 **THE COURT** When the jury is faced with those
20 sentencing options for the jury to even consider the death
21 penalty the jury first has to find unanimously -- everybody
22 has to agree -- to an aggravating circumstance Aggravating
23 circumstance is one to make worse, to exacerbate the
24 situation Now there are certain factors that the Court will
25 charge to the jury and if the jury picked one of those factors

1 and said unanimously yes, that's an aggravating circumstance
2 and find in this case, then the jury could consider the death
3 penalty Not automatically required to The jury is never
4 required to give the death sentence The jury could give life
5 for a reason or for no reason whatsoever, but until the jury
6 finds, unanimously, an aggravating circumstance they can't
7 even consider the death penalty That just means, once
8 they've found an aggravating circumstance, both options are
9 now open to the jury to decide

10 The jury also has to look at any mitigating
11 circumstances that the Court charges to the jury before the
12 jury imposes any sentence in the matter, and you know,
13 mitigate means to reduce or lessen the punishment or the
14 charge in the matter Now, if you are a member of the jury in
15 this particular matter -- and we are talking about
16 hypotheticals here that could happen or may not happen -- but
17 if you are a member of the jury, and the jury has unanimously
18 found the Defendant guilty of the crime of murder beyond a
19 reasonable doubt, and we are here in the sentencing phase, and
20 the jury finds unanimously an aggravating circumstance, and
21 then after deliberating the jury unanimously decides to impose
22 the death penalty in this particular case, it's the
23 responsibility of the jury, since they are imposing the
24 sentence, to take pen in hand, take the verdict form and sign
25 their name to the verdict form indicating that, indeed, is the

1 unanimous verdict of the jury in this particular matter to
2 impose the death penalty You understand that?

3 A Yes

4 **THE COURT** If you are part of the jury you can't come
5 into the courtroom with any preconceived ideas of what the law
6 is You have to follow the law that the Court gives to you
7 Whether ultimately you agree with it or disagree with it
8 you've got to follow the law that the Court gives you You
9 understand that?

10 A Yes sir

11 **THE COURT** You can't have any predispositions as to
12 any possible sentence or outcome of this case You can't --
13 you have to be open -- in the second phase you have to be open
14 to consider, and have the ability to impose life You have to
15 be open, and be able to consider and impose death, based upon
16 the facts and circumstances You are not predisposed to one
17 or the other You listen to all the facts and evidence
18 presented in the case, you listen to the law that the Court
19 gives to you, and then make up your mind based on that

20 Let's go over some questions After Friday, did you
21 read, listen, watch, look up anything about this case?

22 A No sir

23 **THE COURT** Since Friday did you talk to anybody about
24 this case?

25 A No sir

1 **THE COURT** All right, now, before Friday, and before
2 you had the instructions not to do that, do you remember
3 seeing anything about this case, hearing anything about this
4 case, anything about this case?

5 A Quite a bit

6 **THE COURT** All right, sir, and what I need for you to
7 do is, as you are sitting here today, tell me what you
8 remember

9 A I remember mostly the news accounts of the first trial,
10 and the sentence that was imposed from the first trial
11 Basically I remember most all the news coverage and the
12 allegations ---

13 **THE COURT** Okay

14 A ---And something that I didn't realize until we got
15 into court Friday When my original questionnaire asked if I
16 knew the Defendant ---

17 **THE COURT** Right

18 A ---The name did not ring a bell ---

19 **THE COURT** Okay

20 A ---But once I saw the face it did

21 **THE COURT** Okay Do you recognize that from the news
22 reports?

23 A Well, no, from actually the convenience store where my
24 wife works

25 **THE COURT** Okay

1 A That's a place that I've frequented, well, basically
2 every day that I was on my way to work ---

3 THE COURT Okay

4 A ---And I remember running into Mr Stanko there several
5 times

6 THE COURT Okay What kind of interaction did you
7 have with Mr Stanko at the convenience store?

8 A Mostly just passing by, nodding, or hello every once in
9 a while, which I do with everybody

10 THE COURT Okay All right Any impressions or beliefs
11 from that interactions in any way?

12 A Not really, no

13 THE COURT Okay Nothing sticks out in your mind about
14 those occurrences in any way?

15 A No sir

16 THE COURT All right, sir, now, that would be part
17 of -- we'll go back to what you might have heard about the --
18 anything about the case, but those interactions, you
19 understand you have to set that aside You can't have that
20 impact or influence your decision in any way Do you
21 understand that?

22 A I understand but ---

23 THE COURT Okay Well, and I appreciate that, but
24 under your oath as a juror, if you are a juror, you have to be
25 saying to the Court, you know, I had these interactions but

1 I'm leaving that outside the courthouse, I'm not using it in
2 making my decision, I'm not thinking about it, I'm not letting
3 it affect my decision in any way whatsoever So, knowing that
4 would be your job, could you do that?

5 A I'm not sure I don't know how -- I don't know how to
6 answer that

7 **THE COURT** Okay All right How about let's talk
8 about what you heard about this case, or anything else in the
9 past Again, you have to be able to completely and totally
10 set that aside It's basically like you compartmentalize it
11 and you leave it outside the courthouse When you are
12 deciding this case it certainly can't come up with any other
13 juror, but even then you can't be using it, you can't be
14 thinking about it, referring back to it to make your decision
15 in this case And that's -- it's basically like a bright line
16 test here If -- again, no right or wrong answers, but if --
17 to be a member of the jury you have to be able to say, well, I
18 heard that stuff in the past, Judge, but I'm leaving it
19 outside the courthouse, I'm not going to think about it, I'm
20 not going to use it, it's not going to be part of my decision
21 in any way, so yes, I can do that, or no, Judge, I don't think
22 I can do that So what would you -- what is your answer to
23 me?

24 A I'm not sure I could do that

25 **THE COURT** Okay All right Do you believe that

1 because of the interactions that you might have had with Mr
2 Stanko at the convenience store, and what you heard in the
3 past, that that would tend to impact how you would decide this
4 case?

5 A It's quite possible, yes

6 THE COURT All right Very good

7 Questions from the State?

8 MR HEMBREE We have no questions, Your Honor Thank
9 you

10 THE COURT Questions from the Defense?

11 MR DIGGS No sir

12 THE COURT All right If you would, sir, if you don't
13 mind, just go with the deputy for just a moment

14 A All right

15 THE COURT All right Thank you very much

16 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
17 JUROR)

18 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
19 JUROR NUMBER 131 MARKED COURT'S EXHIBIT NUMBER 67)

20 THE COURT All right, the State's position

21 MR HEMBREE The juror is unqualified, Your Honor

22 THE COURT Defense

23 MR DIGGS Not qualified

24 THE COURT Very good I -- the Court finds that Juror
25 Number 131, Mr Cumbow, is not qualified based upon his past

1 interaction with the Defendant, and that would cause him to
2 not be -- be able to follow the Court's instructions and his
3 juror's oath

4 All right The next group was at 3 o'clock You want
5 to see if there's anybody here?

6 WESLEY S ALLEN, JUROR NUMBER 11,
7 being first duly sworn, states as follows

8 BY THE COURT

9 THE COURT All right, Mr Allen, what I'm going to do
10 is, I'm going to talk to you about some things I'll be
11 asking you some questions When I'm done the representatives
12 of the State and the Defense may have some questions for you
13 Okay

14 A Okay

15 THE COURT One thing I want to cover first, in the
16 initial qualification you had brought up that you thought you
17 had served within the last three years The Clerk of Court
18 looked that up and your jury duty that you served was actually
19 in August of 2005, so ---

20 A Okay

21 THE COURT ---That would fall without the three years,
22 but I wanted to tell you, we did look it up and the Clerk went
23 to the records and that was when you served Okay

24 A Okay Not a problem

25 THE COURT Very good No right or wrong answers here,

1 okay What I'm looking for is just direct, straight-forward,
2 honest answers to the questions and the things we've talked
3 about That's all -- all we need Okay Very good

4 In this particular case the State of South Carolina has
5 charged the Defendant, Mr Stanko, with the crimes of murder
6 and armed robbery The Defendant has pled not guilty to those
7 charges, so that puts the burden of proof on the State of
8 South Carolina to prove the Defendant guilty beyond a
9 reasonable doubt The Defendant is presumed innocent The
10 Defendant doesn't have anything to prove to you, show to you
11 The State has to prove the Defendant guilty beyond a
12 reasonable doubt Do you understand that?

13 A Yes sir

14 **THE COURT** All right Now in this particular case the
15 State has served notice to seek the death penalty as against
16 Mr Stanko, so that means that this particular case could have
17 two parts In the first part the jury would be looking at the
18 facts and evidence to see if -- to find that evidence that the
19 jury believes to be true, and then weigh that evidence against
20 the State's burden to prove the Defendant guilty beyond a
21 reasonable doubt because if, and only if the jury finds the
22 Defendant guilty of the crimes charged beyond a reasonable
23 doubt will we get to the second phase or the sentencing phase
24 of the trial You understand that?

25 A Yes sir

1 **THE COURT** Now, assume that the jury has found the
2 Defendant -- because that's -- you know, we've got to talk in
3 hypotheticals here, you know, nothing is happening and may not
4 happen -- but assume the jury has found the Defendant guilty
5 of the crime of murder beyond a reasonable doubt, and we are
6 in the sentencing phase. We call it that because the jury
7 actually imposes the sentence. That makes this case, or this
8 kind of case different from any other criminal case. In all
9 other criminal cases the Judge imposes the sentence. In this
10 type of case the jury actually imposes the sentence. And the
11 sentence possibilities are two, life in prison without the
12 possibility of parole, or the death penalty. Those are the
13 only two options. And if I might happen to say life when I'm
14 talking to you, or the lawyers say life, that's what we mean,
15 life in prison without the possibility of parole. Understand
16 that?

17 A Yes sir

18 **THE COURT** Now, regarding those two options that are
19 available to the jury, for the jury to even consider the death
20 penalty, to have that as an option, the jury has to first
21 unanimously -- means everybody -- agree on an aggravating
22 circumstance. Aggravate means to make worse, or exacerbate
23 the situation, but those are certain -- there are certain
24 statutory factors that the Court would charge to the jury, and
25 if the jury picked one, found one unanimously, then the jury

1 could consider the death penalty, would have both options open
2 to it Nothing automatic Doesn't mean the jury has to find
3 the death penalty It just means that they can then consider
4 the death penalty You understand that?

5 A Yes sir

6 **THE COURT** The jury has to look at any mitigating
7 circumstances Now mitigate means to lessen or reduce the
8 charge or the punishment and the Court would charge those to
9 the jury, and the before the jury imposed any kind of sentence
10 in this case the jury would have to look at those mitigating
11 circumstances Do you understand that?

12 A Yes sir

13 **THE COURT** Assume you are a member of the jury and the
14 jury has convicted the Defendant of the crime of murder beyond
15 a reasonable doubt Going into the sentence phase the jury
16 has found an aggravating circumstance beyond a reasonable
17 doubt, and then the jury, after deliberating, unanimously
18 finds that the death penalty is the proper sentence in this
19 case, if you are part of that jury that has so found one of
20 the requirements is, since you are actually imposing the
21 sentence the jury, on a form, has to take pen in hand and sign
22 their name saying that, indeed, is the unanimous verdict and I
23 did vote to impose the death penalty in this case Do you
24 understand that?

25 A Yes sir

1 **THE COURT** If you are part of the jury one of your
2 jobs is that you come into the courtroom without any
3 predetermination as to what the law is You take a law that
4 the Court gives you and apply it to the facts as you so find
5 them to be You understand that?

6 A Yes sir

7 **THE COURT** You can't be predisposed as to any outcome
8 You can't be predisposed as to any particular sentence You
9 have to be open to -- if you are in the sentencing phase you
10 have to be open to consider and impose a life sentence, or
11 open to consider or impose the death sentence, don't lean one
12 way or the other, you are not predisposed one way or the
13 other What you do is, you listen to all the facts and the
14 evidence, listen to the law and then, with the other fellow
15 members of the jury, make up your mind Do you understand
16 that?

17 A Yes, I do

18 **THE COURT** Since Friday, have you read, listened,
19 watched, looked up anything about this case?

20 A I just basically avoided what was coming on T V , and
21 you know, of course kind of hard to see what's popping up, but
22 no, I have not read anything

23 **THE COURT** All right Good deal And have you talked
24 to anybody since Friday about this case?

25 A No sir

1 **THE COURT** All right, now, before Friday, obviously
2 before you had the instructions not to do that, do you
3 remember anything about this in the past, coming up, remember
4 reading about it, or hearing about it, or watching it, seeing
5 anything about this?

6 A Yes, I do

7 **THE COURT** Okay Now, as you sit there today I want
8 you to tell me the best you can what you remembered hearing or
9 seeing What was that?

10 A Recalling that -- from what I remember he was convicted
11 of, I believe murdering his girlfriend, and sexually
12 assaulting, I believe the girlfriend's daughter, and that this
13 up and coming trial that he was also accused of this
14 particular case of murder

15 **THE COURT** Okay All right Now, understand that
16 regarding that information, which could be correct or not
17 correct, whatever it is, you have to set that aside You have
18 to box that up You have to leave that outside the
19 courthouse You can't bring it with you in the courtroom As
20 a juror you take your oath and say, I'm going to make my
21 decision based solely and completely on the facts and evidence
22 presented in this courtroom and from no other source, I'm not
23 going to let anything else affect my decision other than what
24 I hear in this courtroom Do you understand that?

25 A Yes, I do

1 **THE COURT** And my question to you is, understanding
2 that would be your job as a juror, can you do that?

3 A Yes, I can

4 **THE COURT** All right Very good Now, when you heard
5 something in the past about the particular matter do you
6 remember forming an opinion at that point in time, or a belief
7 at that point in time?

8 A Certainly

9 **THE COURT** Okay And what was that?

10 A Of course what anyone would say normally, at least in
11 the back of their mind, you know, oh my God, you know, what
12 has this guy done

13 **THE COURT** Okay

14 A You know, just shock and disgust

15 **THE COURT** Okay Very good Understanding, again,
16 regarding that particular feeling, opinion, whatever it might
17 be, again, that's something you have to box up You have to
18 completely leave that outside the courthouse If you are
19 here, you are part of this jury, when you take your oath you
20 say to the Judge, doesn't matter what I might have been
21 exposed to in the past, that's not going to affect my decision
22 in any way, I take my oath and I will listen to the facts and
23 evidence in this case, make my decision solely and completely
24 on the facts and evidence in this case Understanding that to
25 be the job of the juror can you do that?

1 A Yes, I can

2 THE COURT Very good, sir Now, kind of a general
3 question Do you know of any kind of personal, political,
4 religious, philosophical belief that you might have that would
5 prevent you from being a fair and impartial juror in this
6 case?

7 A No, I do not

8 THE COURT All right Regarding the witnesses in this
9 case, you didn't circle any of the witnesses, correct?

10 A That's correct

11 THE COURT All right Very good And regarding the
12 category of juror which best described you you circled (C),
13 correct?

14 A That is correct

15 THE COURT All right Let's go over that real briefly
16 and make sure we are on the same page as juror (C) What
17 juror (C) says, I'm a member of the jury and in the first part
18 of the trial I, along with all the other members of the jury
19 unanimously had convicted the defendant guilty of the crime of
20 murder beyond a reasonable doubt, now we are in the sentencing
21 phase In the sentencing phase I didn't bring any
22 predispositions of any kind, I'm not leaning to life, I'm not
23 leaning to death, I'm open to either possibility, I will
24 fairly consider and could impose a life sentence, I will
25 fairly consider and could impose a death sentence, but that's

1 going to be based upon the facts and evidence presented in the
2 second part of the trial, and not based on any other
3 consideration Is that correct?

4 A That's correct

5 **THE COURT** All right Very good To follow up on
6 that just a little bit here You are on the jury, you are in
7 the sentencing phase Are you telling me you can, based upon
8 the right set of facts and circumstances being presented to
9 you you could fairly consider and impose a life sentence?

10 A Yes, I could

11 **THE COURT** Based upon the right set of facts and
12 circumstances being presented to you you could fairly consider
13 and impose a death sentence?

14 A Yes, I could

15 **THE COURT** Now, if you are part of the jury that would
16 unanimously agree and impose a death sentence can you, as I
17 describe, take pen in hand and sign your name to the form
18 indicating that that, indeed, is the unanimous decision of the
19 jury in this matter?

20 A Yes, I could

21 **THE COURT** All right The last thing I need to cover
22 with you is, because of the type of case that this is the jury
23 in this matter is going to be sequestered That means once
24 the jury is selected, we have the jury that's going to hear
25 this case, then they would, obviously at County expense, be

1 housed at a motel, meals taken care of, transported to and
2 from by County officials, but you are not going home in the
3 evening You are with us for the trial The best estimate as
4 to how long that will take, the best estimate I can give you
5 is, once it starts, seven, eight, nine days That's the best
6 estimate that I can give you Understanding that's a hardship
7 -- there is no question about that, everybody knows that and
8 understands it, it's a hardship to do that, but is being
9 sequestered such an undue hardship on you, or is there some
10 kind of health concern of a family member or yourself that
11 would be -- being sequestered would be an undue hardship on
12 you?

13 A Something has come up relatively recently

14 THE COURT Okay

15 A When I first signed the papers stating that I would be
16 available for jury duty I had no problems at all with that I
17 came back from Iraq in the middle of May

18 THE COURT Okay

19 A And my -- the nature of my employment is a defense
20 contractor

21 THE COURT Okay

22 A Not wanting to, you know, undergo another hardship of
23 another year or so overseas the wife and I decided that I
24 should find work at home

25 THE COURT Okay Good

1 A Up till that point I really had no opportunity
2 Something has come about in about the past two weeks with
3 another company I used to work for DineCorp This is a
4 different company, and the way the system works is, if you are
5 accepted they pretty much say, okay, you need to be here at
6 this particular orientation and training on this particular
7 date, can you be there, can you not If I cannot be there,
8 and especially if I cannot respond then I'm by-passed in the
9 entire process They won't put it on a back burner They
10 won't say ---

11 THE COURT They would just let you go

12 A They won't -- yes They won't say that, you know,
13 well, I'm going to go ahead and hold this guy's application
14 for another month, they move on to the next person, and I'm
15 still out of work

16 THE COURT Okay

17 A So that is somewhat of a hardship, yes sir

18 THE COURT Okay Now, have -- has that come up? Have
19 they ---

20 A Yes

21 THE COURT They have told you -- and when -- have they
22 told you to report, or asked you to come, or when is it?

23 A My resume was accepted last Wednesday through a company
24 called AeroTech, and that's the -- the search agent,
25 basically, and the company that I would be going to work for

1 is located up in Wisconsin as far as for training

2 THE COURT Okay

3 A Once the training is completed, between three and six
4 weeks, I would be stationed down in Charleston

5 THE COURT Okay

6 A But as I said before, once my application or my resume
7 is accepted -- I already have let him know, the agent, of the
8 jury duty and the fact that I needed to speak in this
9 particular forum

10 THE COURT Okay

11 A Because I had already accepted the application for the
12 jury duty ---

13 THE COURT Right So when -- when would you be
14 expected to report to Wisconsin if they gave you the job?

15 A If I was to go home tonight and say I'm available he
16 would contact the company, they would finalize the offer, the
17 offer would come through, and at that point they would tell me
18 you need to be here at this particular point in time, here is
19 your plane ticket, or they would say, you need to finalize
20 your medical report, your clearance certificates, etcetera,
21 etcetera It's hard to say It's not like going to work at
22 your local eatery down the street

23 THE COURT Right

24 A It's more of a situation where, once they accept you
25 there's -- there's a phone interview You go through the

1 phone interview, they send you a packet, then you have a
2 certain amount of time to complete that packet, get that
3 basically back off to them, the medical is cleared, this is
4 cleared, and then they say, okay, you are going to be in this
5 particular class and that's it

6 THE COURT And so if you are sequestered you wouldn't
7 be able to take the phone interview and the paperwork?

8 A Especially not knowing -- right, especially not
9 knowing, you know, when the trial would start, and how long it
10 would take, etcetera, etcetera It could come down and they
11 could say -- they could be nice people and say, well, we'll
12 consider you for next month

13 THE COURT Right

14 A But especially if I'm sequestered, not able to
15 respond ---

16 THE COURT That would be an issue

17 A ---That's just like walking out and saying I don't want
18 the job

19 THE COURT Right Okay

20 A But once -- if I had not had a response at this point I
21 would still be up for it I'm more than happy to do this,
22 with the understanding that if I didn't have this -- if I was
23 declined I would say, I'm here ---

24 THE COURT Right

25 A ---But I'm kind of in the middle of it right now, so --

1

-

2

THE COURT Right I understand I appreciate that

3

All right Solicitor, would you like to ask some

4

questions of the juror at this time?

5

MR HEMBREE Yes sir Yes sir

6

THE COURT Very good

7

BY MR HEMBREE

8

MR HEMBREE Just a couple, and let me focus

9

Hey, Mr Allen, how are you?

10

A I'm doing fine

11

Q Good I'm Greg Hembree I'm the Solicitor in the

12

Fifteenth Circuit, and I'll be trying the case on behalf of

13

the State along with Deputy Solicitor Fran Humphries, and

14

Senior Assistant Solicitor Jimmy Richardson

15

A All right

16

MR HEMBREE But as to the job offer -- and

17

congratulations It sounds like it's -- that's a good ---

18

A Well, tough market

19

Q ---So far so good, but I -- let me tell you when I

20

think the case may start and when it may end, and ask you if

21

that may alter your view of this We -- my best guess the

22

case would start on Friday, this coming Friday, and would

23

conclude ---

24

A Two days from now, sir?

25

Q Yes sir

1 A Okay

2 Q ---Would conclude in seven to eight, nine -- maybe nine
3 days after that

4 A Right

5 Q Okay Is that -- is that do-able -- I guess my
6 question to you is, not really understanding how this process
7 works would you be able to complete your jury service and
8 still be available to apply for the job?

9 A Well, I guess I have one question of you, and also the
10 system

11 **THE COURT** Yes sir

12 A When you say -- I've never been sequestered before
13 I've served on juries before

14 Q Right

15 A Does sequestering mean that I won't be able to talk to
16 my wife, I won't be able to respond to any e-mails, I won't be
17 able to have my computer with me? Again, that's the kind of -
18 --

19 **THE COURT** Well, it's not that you ---

20 A If I can't respond then I'm going to have to say --
21 then I'm going to have to say no, but if I was to get an e-
22 mail and be able to respond to it, to the potential employer,
23 I don't think I would have a problem with that It's just,
24 you know, if I'm going to be out, like I said, it's just like
25 someone calling to say, hey, you have won the lottery but you

1 have to call us back in five minutes, and you know, if you
2 can't call back in five minutes then I'm back on the
3 unemployment line, so ---

4 **THE COURT** The situation would be -- your contact with
5 family and friends is limited. Now, the use of a computer,
6 you wouldn't have the unlimited use of it because obviously
7 then that would allow somebody to research certain things, or
8 go into certain databases to find information, or look up news
9 reports, so it would have to be -- I don't know what the right
10 word would be -- I guess monitor would be more than anything
11 else, to make sure that the -- not you particularly, but if
12 you were doing it, to make sure that the juror is not doing
13 something that is prohibited, obviously looking up anything
14 about the case, going into news reports, watching anything, or
15 trying to do any research on their own, so that would be the
16 situation, so -- and that would be -- and by monitoring most
17 likely that would mean a -- you know, an agent of the County
18 or the State that's obviously not associated with the case in
19 any way, but would be with you when you were doing that. So
20 that would be the situation, so that's probably the best
21 answer that I can give you. It just wouldn't be free and
22 unlimited access like you normally would have. That just --
23 that couldn't happen.

24 **A** As long as -- to answer your question, sir, as long as
25 I would be able to respond to a work-related e-mail, or even

1 possibly discuss with my wife over a telephone call I possibly
2 -- again, this is something which I would consider if I were
3 to be an employer, they might be looking for somebody with
4 less baggage at that point, if you understand what I'm saying
5 In other words, I don't -- if I were running a company and an
6 employee applicant was saying, hey, I'm going to be
7 unavailable, contact my wife, I would kind of say that's
8 rather unprofessional, but if I was able to respond to things
9 myself I -- I would be able to, I think, stay clear for the
10 trial Hopefully that's -- that will answer your question

11 **MR HEMBREE** And it does, it does answer my question

12 A I would rather, personally, be unhindered during
13 something like this than have my mind, you know, somewhere
14 else, plus, should the employer, or potential employer, ask
15 for immediate response as far as records, references, whatever
16 else, then I wouldn't be able to supply that to him, and
17 again, it kind of looks bad for me even applying to the job,
18 so I guess what I'm asking you is, put yourself in my shoes

19 **MR HEMBREE** Well, I know it's a terrible hardship to
20 ask you to consider this at all, so I can appreciate that
21 That's ---

22 A I appreciate your understanding

23 **MR HEMBREE** Yes, yes, I do

24 **THE COURT** Anything else, Solicitor?

25 **MR HEMBREE** Not on those lines, Your Honor

1 **THE COURT** All right, sir Any questions from the
2 Defense? Ms Williams, Mr Diggs
3 **MR DIGGS** Your Honor, we don't have any questions at
4 this time
5 **THE COURT** Very good All right
6 **MR DIGGS** We may have a matter ---
7 **THE COURT** If you don't mind -- understand
8 Understand
9 If you don't mind, sir, if you would just take a moment
10 and go with the deputy and let me discuss a couple of things
11 Okay If you don't mind
12 A Certainly
13 **THE COURT** Thank you, sir Appreciate it very much
14 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
15 **JUROR)**
16 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
17 **JUROR NUMBER 11 MARKED COURT'S EXHIBIT NUMBER 68)**
18 **THE COURT** Solicitor
19 **MR HEMBREE** Judge, I don't have any objection to
20 transferring him to another term
21 **THE COURT** He's -- he's going to be distracted
22 **MR HEMBREE** Yes sir
23 **MS WILLIAMS** We agree, Your Honor
24 **MR DIGGS** We agree I think it would be unfair to
25 him to make him serve here and miss an employment opportunity

1 **THE COURT** And certainly probably would be -- the
2 Court's concern has got to be, is he going to devote his time
3 and attention to this matter without being distracted or
4 concerned about other matters, and I just don't think that
5 will be the case in this particular matter

6 So, Madame Clerk, if you would -- this is Juror Number
7 11, Mr Allen Let's transfer him to another term, and we are
8 going to give it some period of time Why don't you transfer
9 him to May 17th, Madame Clerk, May 17th Thank you

10 **ROSE M DIAZ, JUROR NUMBER 156,**
11 being first duly sworn, states as follows

12 **BY THE COURT**

13 **THE COURT** All right, Ms Diaz, what I'm going to do
14 is, I'm going to talk to you about certain things I'm going
15 to be asking you some questions After I'm done asking some
16 questions the State may have some questions for you or the
17 Defense Okay

18 Now, in this particular matter there aren't any right or
19 wrong answers What I'm looking for are direct, straight-
20 forward, honest answers to the questions and the matters we
21 talked about Is that acceptable to you?

22 A Yes

23 **THE COURT** Very good In this particular matter the
24 State of South Carolina has charged the Defendant with the
25 crimes of murder and armed robbery To those charges the

1 Defendant has pled not guilty That puts the burden of proof
2 on the State of South Carolina to prove the Defendant guilty
3 beyond a reasonable doubt The Defendant is presumed
4 innocent The Defendant doesn't have anything to prove to
5 you, show to you The State must prove the guilt of the
6 Defendant of the crime charged beyond a reasonable doubt

7 Now, in this particular matter the State of South
8 Carolina has filed notice to seek the death penalty as against
9 Mr Stanko That means this case could have two parts One
10 is, in the first part, that the jury would look at all the
11 facts and evidence presented to see if there are enough facts
12 and evidence that the jury believes to be true to convict the
13 Defendant of the crimes charged beyond a reasonable doubt If
14 the jury convicts the Defendant of the crime of murder beyond
15 a reasonable doubt we would go to the second phase or the
16 sentencing, or penalty phase of the trial You understand
17 that?

18 A Uh huh (**indicating positive**)

19 **THE COURT** All right And I need for you to -- when
20 you answer please say yes or no because the ---

21 A Yes

22 **THE COURT** ---Court Reporter has to take all this
23 down

24 A Yes

25 **THE COURT** Thank you, Ma'am Now, we call it the

1 sentence or penalty phase because the jury actually imposes
2 the sentence or the penalty in this type of case That's
3 different from any other criminal case In any other criminal
4 case the Judge imposes sentence In this one the jury imposes
5 the penalty, and there's two possibilities, life in prison
6 without the possibility of parole, the death penalty, and the
7 jury has both of those options open to it

8 For the jury to consider imposing the death penalty the
9 jury has to first unanimously find an aggravating
10 circumstance, that is, a factor that would make the matter
11 worse, or exacerbate the situation. The Court would charge
12 those statutory factors, and -- those factors to the jury, and
13 if the jury finds one unanimously then the jury could consider
14 the death penalty Doesn't mean it's automatic or the jury is
15 required, because obviously the jury is never required to
16 impose the death penalty, but that just means the jury has now
17 both options open to it It now can consider the death
18 penalty Do you understand that?

19 A Yes

20 **THE COURT** The jury must also consider any mitigating
21 circumstances that the Court charges to the jury before the
22 jury reaches any sentence in this matter Mitigate means to
23 lessen or reduce the punishment, the charge in the matter, and
24 the jury would have to consider those before imposing any
25 sentence in this matter The jury can impose life because of

1 those mitigating circumstances, or the jury could impose life
2 for no reason whatsoever Do you understand that?

3 A Yes

4 **THE COURT** If you are part of the jury -- and again we
5 are talking hypotheticals, it may happen, may not happen If
6 you are part of the jury and the jury has unanimously found
7 the Defendant guilty of the crime of murder beyond a
8 reasonable doubt, then in the sentence phase the jury has
9 unanimously found an aggravating circumstance, and then the
10 jury, after deliberating, unanimously decides that the death
11 penalty is the proper sentence, if you are part of that jury,
12 since you are imposing a sentence, every member of the jury
13 has to take pen in hand and sign their name to a form
14 indicating that that, indeed, is their unanimous verdict to
15 impose the death penalty You understand that?

16 A Yes

17 **THE COURT** If you are a member of the jury you cannot
18 come into the courtroom with any kind of predisposition as to
19 the law You have to take the law that the Court gives to
20 you, apply it to the facts and evidence you so find to be true
21 -- but whether you agree or disagree with the law you have to
22 take the law that the Court gives to you Do you understand
23 that?

24 A Yes

25 **THE COURT** You can't come into the courtroom with any

1 predisposition or belief leaning toward one sentence or
2 another You can't lean toward life or lean toward death
3 You have to be open to both possibilities You have to be
4 able to fairly consider and impose, under the right set of
5 facts and circumstances, a life sentence You have to be able
6 to fairly consider and impose, under the right set of facts
7 and circumstances, a death sentence Do you understand that?

8 A Yes

9 **THE COURT** Let me go over some questions with you
10 Since Friday did you read, listen, watch, look up anything
11 about this case?

12 A I have seen some, just remarks on the T V about it
13 It's kind of hard to watch T V without something splashing
14 across or being done on the bottom

15 **THE COURT** Did you pay attention to it?

16 A There really was nothing to pay attention to It just
17 said that he was on trial, you know, cause ---

18 **THE COURT** Okay Which you knew already because you
19 were here Friday?

20 A Right Right

21 **THE COURT** All right Since we were here Friday did
22 you talk about this case with anybody?

23 A Well, I have a spouse at home, of course was kind of
24 curious as to what went on ---

25 **THE COURT** Okay

1 A ---So I just -- yes, I just told him what went on, that
2 we were here for so many hours and whatsoever

3 THE COURT Okay And you told him you had to come
4 back?

5 A Right

6 THE COURT All right Now, before Friday, before we
7 were all here on Friday, do you remember ever hearing about
8 this matter in any way?

9 A Yes

10 THE COURT Okay As you sit there right now, I want
11 you to tell me the best you can what you remember hearing
12 about it in the past?

13 A Well, I heard of the name, and actually went to the
14 internet to see what the story was ---

15 THE COURT Okay

16 A ---Because I knew I was coming in for the jury ---

17 THE COURT Okay

18 A ---About the previous case

19 THE COURT And what do you remember reading?

20 A That he was on death row and that he killed his
21 girlfriend, or they convicted him, and that he raped the
22 daughter

23 THE COURT Okay All right Now, understanding that
24 you read that information in the past, your job as a juror
25 would be to completely and totally set that aside, basically

1 have to box it up, leave it outside the courtroom You can't
2 bring it into the courtroom You can't use it to make up your
3 mind on anything You certainly can't talk about it with
4 anybody else, but you can't use it mentally to make a decision
5 in this case You can't mentally use it to formulate an
6 opinion in this case You have to make your decision on this
7 case completely and solely on the facts and evidence presented
8 in this courtroom and from no other source, so when you take
9 your oath as a juror that's what you are saying

10 Understanding that's your job if you are a juror my question
11 to you is, can you do that? And this is a -- this is a bright
12 line test You have to be able to say, Judge, yes, I can do
13 that, Judge, no, I don't think I can do that

14 A I don't think I could do that

15 **THE COURT** All right You are telling me that what
16 you have looked at in the past would affect your ability to
17 render a decision in this matter

18 A I think so

19 **THE COURT** All right You are telling me you -- it is
20 not possible for you to set that aside and keep that out of
21 this courthouse?

22 A I don't know if I could, to be honest with you

23 **THE COURT** And that's exactly what I'm looking for
24 I'm -- I'm telling you, there are no right or wrong answers
25 here That's what I'm looking for That's what I need to

1 know, because the job as a juror -- if you've heard about
2 anything in the past that's what you have to do You can't
3 let that affect you in any way You can't let that impact the
4 decision in this case in any way It has to be based on what
5 you do in this courtroom, and what you hear, and know and find
6 in this courtroom, not from something that you might have read
7 in the newspaper or online, and not knowing where -- whether
8 that's true or not, to begin with So, what you are telling
9 me is, you don't believe that you can do this?

10 A I don't believe I could

11 **THE COURT** All right Thank you
12 Further questions from the State?

13 **MR HEMBREE** No, Your Honor

14 **THE COURT** Further questions from the Defense?

15 **MR DIGGS** No sir

16 **THE COURT** All right Ma'am, if you don't mind, if
17 you would go with the deputy for just a few moments

18 A Okay

19 **THE COURT** Thank you

20 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
21 **JUROR)**

22 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
23 **JUROR NUMBER 156 MARKED COURT'S EXHIBIT NUMBER 69)**

24 **THE COURT** Position of the State

25 **MR HEMBREE** The juror is unqualified, Your Honor

1 **THE COURT** Defense

2 **MR DIGGS** Not qualified

3 **THE COURT** All right The Court would agree that the
4 juror is not qualified, and as she stated, would not be able
5 to follow the Court's instructions in this matter

6 All right, the next one is Celeste Griffin

7 **CELESTE A GRIFFIN, JUROR NUMBER**

8 **257**, being first duly sworn, states as follows

9 **BY THE COURT**

10 **THE COURT** All right, Ms Griffin, what I'm going to
11 do is, I'm going to talk to you about a few things I'm going
12 to ask you some questions, and when I'm done the State and the
13 Defense may have some questions for you Okay

14 A Uh huh (**indicating positive**)

15 **THE COURT** Very good Now, one thing I need to tell
16 you is, I have to have an answer from you, yes or no, or you
17 can explain it, but everything you do and say is taken down by
18 the Court Reporter, so I have to have an answer from you
19 Shaking your head yes or no, or uh uh, the Court Reporter
20 can't take those down All right So, do you understand
21 that?

22 A Yes sir

23 **THE COURT** Very good There you go All right, good
24 deal

25 Now, there are no right or wrong answers here, okay

1 I'm not expecting an answer one way or another What I want
2 from you is just a direct, straight-forward, honest answer to
3 the question or the matters we talked about Do you agree?

4 A Agree

5 **THE COURT** Very good, Ma'am All right Now, in this
6 particular case the State of South Carolina has charged the
7 Defendant, Mr Stanko, with the crimes of murder and armed
8 robbery To those charges the Defendant has pled not guilty
9 That puts the burden of proof on the State of South Carolina
10 to prove the Defendant guilty beyond a reasonable doubt
11 That's the State's burden The Defendant is presumed
12 innocent The Defendant doesn't have anything to prove to
13 you, doesn't have anything to show to you The State has to
14 prove the Defendant guilty beyond a reasonable doubt Do you
15 understand that?

16 A Yes

17 **THE COURT** All right In this particular case the
18 State has filed notice to seek the death penalty as against
19 Mr Stanko Now, what that means is, this case could have two
20 parts In the first part the jury will look at the facts and
21 evidence presented to see whether or not there are enough
22 facts that the jury believes to convict the Defendant of the
23 crimes charged beyond a reasonable doubt, because if, and only
24 if the jury convicts the Defendant of the crime of murder
25 beyond a reasonable doubt would we even get to the second

1 phase or the sentencing phase of the trial Do you understand
2 that?

3 A Yes

4 **THE COURT** All right Now, we call it the sentencing
5 phase because the jury actually imposes a sentence in this
6 kind of case Normally the Judge imposes the sentence In
7 this kind of case the jury imposes the sentence, and the two
8 sentence possibilities are life in prison without the
9 possibility of parole, the death penalty, and to be a member
10 of the jury the juror has to be able to fairly consider, and
11 be able to impose, based on the right set of facts and
12 circumstances being presented, either life or death Do you
13 understand that?

14 A Yes

15 **THE COURT** Now, for a jury to consider the death
16 sentence, to have that option open to them they first have to,
17 in the sentencing phase, find what is called an aggravating
18 circumstance Aggravate means to make worse, to exacerbate
19 the situation Now, the Court would charge certain
20 aggravating circumstance to the jury that they could consider
21 If the jury picks one unanimously, everybody picks that fact
22 unanimously, then the jury has the ability to consider the
23 death penalty It's not automatic The jury is never
24 required to find the death penalty, wouldn't charge the jury
25 that That just means that the jury has the ability then to

1 consider imposing the death penalty Do you understand that?

2 A Yes

3 **THE COURT** The jury also -- and must look at any
4 mitigating circumstances that the Court would charge to the
5 jury Mitigate means to lessen or reduce the charge or the
6 punishment, and the jury would have to look at those before
7 the jury imposed any sentence in the case The jury can
8 impose life because of those mitigating circumstances, or for
9 no reason whatsoever Do you understand that?

10 A Yes

11 **THE COURT** Talking in hypotheticals here that may
12 happen or may not You are on the jury, the jury, based on
13 the facts and evidence presented, finds the Defendant guilty
14 of the crime of murder beyond a reasonable doubt In the
15 second phase the jury then unanimously finds an aggravating
16 circumstance, then the jury unanimously, after deliberation,
17 decides to impose the death penalty, give the death penalty to
18 the Defendant, being a member of the jury you would have to be
19 able to -- since you are imposing a sentence, you have to be
20 able to take pen in hand and sign your name to the verdict
21 form saying that, indeed, is the unanimous verdict and the
22 unanimous decision of the jury to impose the death penalty
23 Do you understand that?

24 A Yes

25 **THE COURT** All right If you are a member of the jury

1 you have to come into the courtroom without any preconceived
2 ideas of what the law is You have to take the law that the
3 Court gives you and follow it without question Do you
4 understand that?

5 A Yes

6 **THE COURT** You can't have any predisposition as to a
7 possible punishment in the second phase You can't be
8 predisposed to give life, or predisposed to give death You
9 have to be able to fairly consider both of them, and to be
10 able to impose life and to impose death, based upon the right
11 set of facts and circumstances Do you understand that?

12 A Yes

13 **THE COURT** Since Friday, have you read, listened,
14 watched, looked up anything about this case?

15 A No

16 **THE COURT** Since Friday, have you talked to anybody
17 about this case?

18 A No

19 **THE COURT** All right, now, before Friday do you
20 remember hearing anything at all, reading it, listening to it,
21 somebody telling you something about this case sometime in the
22 past?

23 A Yes Yes, I mean

24 **THE COURT** Okay As you sit there today tell me, as
25 best you can, what you remember

1 A It was like -- it wasn't the media It was just people
2 talking in the neighborhood ---

3 THE COURT Okay

4 A ---And they was like saying they thought that the trial
5 done started, they ain't got the jury yet, or something like
6 that It weren't, you know ---

7 THE COURT Okay All right

8 A They was worrying about the court part They weren't -
9 --

10 THE COURT Okay And as best you can remember, that's
11 all you can remember?

12 A That's all they said It wasn't nothing ---

13 THE COURT All right Nothing else?

14 A Uh uh (NODS NEGATIVE)

15 THE COURT Okay All right

16 A No

17 THE COURT When the people in the community were
18 talking about it do you remember at that point in time forming
19 any kind of opinion or belief when people were talking about
20 it? Do you remember that at all?

21 A I didn't say nothing about it because I don't really
22 know nothing about the case

23 THE COURT Okay Very good Very good A question in
24 general, do you know of any kind of personal or political, or
25 religious or philosophical belief that you might have that

1 would affect your ability to be a fair and impartial juror in
2 this case in any way?

3 A No, I don't

4 **THE COURT** Okay Good On the witness list I see
5 that you didn't circle anybody on there, right?

6 A Right, because I don't know nobody

7 **THE COURT** You don't know anybody Good And on the
8 category of juror which best describes you you circled (C),
9 correct?

10 A Right

11 **THE COURT** All right, now, let's talk about that for a
12 second and make sure we are on the same page Juror (C), or
13 type (C) juror is, I'm on the jury and in the first part of it
14 the jury has deliberated, based on the facts and evidence, and
15 the jury has unanimously decided that the Defendant is guilty
16 of the crime of murder beyond a reasonable doubt, so now we
17 are in the second phase, and in the second phase I'm not
18 leaning to any particular sentence, I'm not leaning to life,
19 I'm not leaning to death, I can consider, and based on the
20 right set of facts and circumstances could impose life, I
21 could impose death, but I'm not leaning either way, I'm going
22 to hear the facts and circumstances presented in this case,
23 I'm going to listen to the law that the Judge gives to me and
24 then, with my other fellow jurors I'm going to reach a just
25 verdict in this matter Is that what you are telling me?

1 A Yes

2 THE COURT Very good Follow along on that a little
3 bit, you are on the jury, you are in the sentencing phase,
4 based on the right set of facts and circumstances being
5 presented to you could you consider and impose a life
6 sentence?

7 A Yes

8 THE COURT Based on the right set of facts and
9 circumstances being presented to you in the sentencing phase
10 could you consider, could you impose a death sentence?

11 A Yes

12 THE COURT You are a member of the jury, and the jury
13 has unanimously found the Defendant guilty of the crime of
14 murder, the Defendant (sic) has unanimously found an
15 aggravating circumstance, the jury has deliberated and
16 unanimously decided the death penalty is the proper penalty in
17 this case could you then take pen in hand and sign your name
18 to the form indicating that is the unanimous verdict of the
19 jury in this matter?

20 A Yes

21 THE COURT Very good The last thing I need to cover
22 with you Ma'am is, because of the kind of case this is, when
23 the jury is selected they are going to be sequestered, and
24 that means, obviously at the County's expense, they are going
25 to be in a motel, the meals are going to be provided, you are

1 going to be transported to and from by County officials, but
2 in the evening you are not going home, you are going to stay
3 with us till the case is over The best estimate that I have
4 for how long the trial will be when it starts will be seven,
5 eight, nine days That's my best estimate as to how long it
6 will take from beginning to end

7 Understanding being sequestered, that's a hardship -- no
8 question about that -- on anybody, but is it such an undue
9 hardship on you, or is there some health concern of a family
10 member or yourself that that would be -- being sequestered
11 would be such an undue hardship on you?

12 A No

13 **THE COURT** Thank you, Ma'am

14 Questions from the State?

15 **BY MR HEMBREE**

16 **MR HEMBREE** Hi, Ms Griffin

17 A Hi

18 **MR HEMBREE** How are you doing this afternoon?

19 A I don't know

20 **MR HEMBREE** You don't know You are doing fine I
21 never would have guessed you were nervous

22 I'm Greg Hembree I'm the Solicitor for the Fifteenth
23 Circuit, and along with Fran Humphries who is sitting on this
24 side -- he's our Deputy Solicitor -- and Senior Assistant
25 Solicitor Jimmy Richardson, we will be presenting the case on

1 behalf of the State

2 And you may get picked on this jury, you may not
3 It's -- this process we are going through now is just to
4 qualify you to get you kind of into a larger group that we
5 will select the jury from, so even if you are found qualified
6 today you might or might not be on the jury, but that's kind
7 of -- that's -- hopefully that -- that gets you a little bit
8 of knowledge about what you will -- about where you might --
9 you might be headed with us

10 Ms Griffin, I don't have any questions for you Judge
11 John covered everything that I would have asked you I just
12 appreciate your willingness to serve We understand it's
13 not -- you know, you didn't necessarily volunteer for it, we
14 came and got you, but we appreciate your willingness to serve

15 Defense counsel may have a few questions for you
16 Please answer their questions if they do

17 **THE COURT** Mr Diggs, Ms Williams

18 **MR DIGGS** May it please the Court?

19 **THE COURT** Yes sir

20 **BY MR DIGGS**

21 Q Ms Griffin, how are you?

22 A Uh -- nervous

23 Q That -- same

24 **MR DIGGS** My name is Bill Diggs and this is Brana
25 Williams, and we represent Mr Stanko who is seated here at

1 the table between us While we are on topic of signing the
2 paper let's assume that you are on the jury and all of the
3 juror -- the twelve members have unanimously concluded that
4 there is an aggravating circumstance in the case, the law
5 requires, and the Judge is going to tell you, you have to sign
6 a form indicating that you have unanimously agreed there is an
7 aggravating circumstance, but at that point would you still be
8 able to vote for a life sentence if you felt like it was
9 warranted under the evidence?

10 A Yes Yes

11 Q Okay So signing a paper wouldn't put undue pressure
12 on you to go ahead and vote for death, having to acknowledge
13 in writing that all of the requirements for the death sentence
14 have been met You wouldn't feel obligated at that point to
15 go ahead and vote death?

16 A Say that again

17 Q Okay You wouldn't -- see, the law requires you, not
18 only to sign that death verdict, okay, if you want to sentence
19 the Defendant to death, but if you find an aggravating
20 circumstance, if the jury does, unanimously, you also have to
21 sign a form saying that was found unanimously, even if you
22 wanted -- vote for life imprisonment Now, having -- being
23 required to sign that form, could you still vote for life?

24 A Yes Yes

25 THE COURT Yes Okay All right, because you

1 understand, no matter what forms you have to sign you can
2 still vote life?

3 A Yes

4 Q Okay And I just wanted to check with that That
5 wouldn't, in your mind, put any additional pressure on you to
6 vote death ---

7 A No, it wouldn't put no pressure on me

8 Q ---Having to -- you know, okay

9 A Yes Uh huh (**indicating positive**)

10 Q You understand?

11 A I understand now Yes

12 Q Now let me ask you, going back -- and we talk about
13 this death sentence only because we have to talk about it now,
14 because as, I think it was the Solicitor -- he might not
15 have -- but once we get at that point we can't stop and then
16 start asking you about the penalty, you know, because that
17 will already be in the middle of the trial, so we have to ask
18 you now before everything starts

19 In the presentation of the evidence we anticipate
20 there will be probably four potential verdicts, guilty, not
21 guilty, not guilty by reason of insanity, or guilty but
22 mentally ill Now, do you have any personal animosity or bias
23 against being able to fairly consider, or to keep you from
24 being able to fairly consider any of those four possible
25 verdicts?

1 A No

2 Q Okay So whatever the evidence was you could freely
3 vote that way, you know, following the instructions of the
4 Court?

5 A Yes, that's right

6 Q Is that true?

7 A True

8 Q Now you mentioned there had been a little bit of
9 discussion in your community about the trial, don't think they
10 have a jury yet but they think it's been started, do you feel
11 like there's a prevailing view in your community that Mr
12 Stanko is guilty?

13 A I don't know I don't know

14 Q Okay All right And do you feel any obligation on
15 behalf of the community to come back with a guilty verdict?

16 A Yes

17 Q Okay I want you to be sure you understand what I'm
18 saying

19 A Yes, I understood

20 Q Okay If you are sitting there in the jury
21 deliberation room, and you've listened to the evidence, and
22 you want to vote either not guilty, or you want to vote life
23 imprisonment, would you hesitate to do so simply because, or
24 because of what you felt the community might want you to do?

25 A No

1 Q Now you understand what I'm saying?

2 A Now I understand Uh huh (**indicating positive**)

3 Q Okay And would it be fair to say that you want to
4 vote based on the evidence in this case?

5 A That's correct

6 Q And based on all of the evidence?

7 A Yes

8 MR DIGGS Okay Okay I understand what you are
9 saying I appreciate your time I think that's all I have
10 for you right now

11 THE COURT All right Ms Griffin, if you could, if
12 you could go with the deputy for just a moment, please Ma'am
13 Thank you

14 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
15 JUROR)

16 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
17 JUROR NUMBER 257 MARKED COURT'S EXHIBIT NUMBER 70)

18 THE COURT State's position?

19 MR HEMBREE The jury is qualified, Your Honor

20 THE COURT Defense

21 MR DIGGS Your Honor, she's qualified

22 THE COURT All right The Court finds that the juror
23 is qualified, that she could follow the Court's instructions,
24 follow the juror's oath, and would set aside anything that she
25 might have heard in this particular case She's qualified

1 All right, the next one we have is Zachary Clark

2 ZACHARY A CLARK, JUROR NUMBER 106,
3 being first duly sworn, states as follows

4 BY THE COURT

5 THE COURT All right, what I'm going to do, Mr Clark
6 is, I'm going to talk to you about some things I'm going to
7 ask you some questions After I get done maybe the
8 representative of the State or Defense might have some
9 questions for you Okay

10 A All right

11 THE COURT Very good Now, there's no right or wrong
12 answers here Okay What I'm looking for from you is just
13 some direct, straight-forward, honest answers to the questions
14 I asked for the things we talk about Okay

15 A All right

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 charges
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 He doesn't have anything to show to you, prove to
23 you The State has to prove the Defendant's guilt beyond a
24 reasonable doubt Do you understand that?

25 A Yes sir

1 **THE COURT** In this case the State has filed a notice
2 to seek the death penalty as against Mr Stanko Now that
3 means this case could have two parts The first part would
4 be, the jury would look at all the facts and evidence in the
5 case to see if there is evidence that the jury believes to be
6 true, and weigh that evidence against the State's burden to
7 prove the Defendant guilty beyond a reasonable doubt If, and
8 only if the jury finds the Defendant guilt of the crimes
9 charged beyond a reasonable doubt would we even get into the
10 second phase or the sentencing phase of the trial You
11 understand that?

12 A Yes

13 **THE COURT** Now we call the second phase the sentencing
14 phase or the penalty phase because the jury actually imposes a
15 sentence in this matter That's different from any other
16 criminal case Any other criminal case the Judge imposes
17 sentence In this type of case the jury imposes the sentence,
18 and there's two possible sentences the jury could impose in
19 the second phase, life in prison without the possibility of
20 parole, death penalty And if I happen to say life, the
21 lawyers say life it means life in prison without the
22 possibility of parole Do you understand that?

23 A Yes sir

24 **THE COURT** All right, now, for a jury to even consider
25 the death penalty the jury has to find, and unanimously find

1 what is called an aggravating circumstance Those would be
2 factors that the Court would charge to the jury The jury
3 would have to consider those and if the jury unanimously found
4 that aggravating circumstance to exist then the jury could
5 consider the death penalty It's not automatic The jury is
6 never required to impose a death sentence It just means that
7 if the jury unanimously finds an aggravating circumstance both
8 options are now open to them, death or life

9 The jury also must consider any mitigating circumstances
10 the Court charges to the jury Now mitigate means to lessen
11 or reduce the charge, the punishment, and the jury would have
12 to consider those before the jury imposed any sentence in this
13 matter The jury can impose life because of those mitigating
14 circumstances or for no reason whatsoever Do you understand
15 that?

16 A Yes sir

17 **THE COURT** All right, now, talking about
18 hypotheticals, may happen, may not You are on the jury, the
19 jury, by unanimous decision, based on facts and evidence,
20 finds the defendant guilty of the crime of murder beyond a
21 reasonable doubt, in the second phase the jury unanimously
22 finds an aggravating circumstance, then the jury, after
23 deliberating, unanimously finds for the death penalty, now, if
24 you are part of that jury, because you are imposing the
25 sentence, the jury has a form that each juror has to take pen

1 in hand and sign their name to indicating that that, indeed,
2 is their unanimous verdict to impose the death penalty in this
3 case Do you understand that?

4 A Yes sir

5 **THE COURT** All right, sir Now, if you are a member
6 of the jury you must come into this courtroom without any
7 preconceived ideas of what the law is You have to accept the
8 law that the Court would give to you, that I would give to the
9 jury, and whether you agreed with it or disagreed with it
10 you've got to accept it Do you understand that?

11 A Yes sir

12 **THE COURT** You can't come into the courtroom with any
13 predisposition as to -- in the second phase, as to a potential
14 sentence You can't lean toward life, you can't lean toward
15 death You have to be open to consider and impose either life
16 or death based upon the facts and circumstances presented in
17 this courtroom and from no other source Do you understand
18 that?

19 A Yes sir

20 **THE COURT** If you heard about this case in the past
21 from anybody, or read anything, or think you know anything
22 about it you've got to set that aside You've got to leave
23 that outside the courtroom You can't bring it with you It
24 can't be part of this case at all It can't be part of your
25 decision making Obviously you can't talk about it with

1 anybody else, but you can't even use it to make a decision in
2 this case It can't be part of the case Do you understand
3 that?

4 A Yes sir

5 **THE COURT** All right, sir Let's go over a few
6 questions here Since Friday did you read, listen, watch,
7 look up anything about this case?

8 A No sir

9 **THE COURT** Since Friday, did you talk about this case
10 with anybody?

11 A No sir

12 **THE COURT** Now, before Friday, do you remember hearing
13 anything about this case, reading about it, listening to it,
14 somebody said anything about this case at all? Do you
15 remember anything?

16 A Not really too much Never knew any facts about it

17 **THE COURT** Okay As best you can recall sitting here
18 today what do you recall, if anything?

19 A A murder happened, I mean -- Murrells Inlet That's
20 pretty much all about now

21 **THE COURT** Okay And other than that you don't
22 remember anything else?

23 A No sir

24 **THE COURT** All right Now, you understand that would
25 be part of what you have to leave outside the courthouse?

1 A Yes sir

2 THE COURT Basically you are boxing that up, you are
3 leaving it outside You are not using that in any way in
4 making your decision in this particular case You understand
5 that?

6 A Yes sir

7 THE COURT And understanding that would be your job as
8 a juror can you do that?

9 A Yes sir

10 THE COURT All right, sir, now, when you heard
11 something about this case in the past do you remember forming
12 any kind of belief, or expressing any kind of opinion at that
13 point in time?

14 A I mean, not necessarily I can't necessarily recall
15 It was about four years ago, you know what I mean

16 THE COURT Okay

17 A So I mean ---

18 THE COURT All right So you don't recall ---

19 A Not knowing many facts about it, you know what I mean,
20 can't necessarily draw, you know, assumption about it, about
21 what should happen

22 THE COURT All right So you don't remember doing
23 that at that point in time?

24 A No sir

25 THE COURT All right Very good In general, do you

1 know of any kind of personal or political or philosophical
2 belief that you might have that would prevent you from being a
3 fair and impartial juror in this case?

4 A No sir

5 **THE COURT** All right Regarding the possible
6 witnesses in this particular case I see that you didn't circle
7 anybody

8 A Nope

9 **THE COURT** All right Very good And regarding the
10 jury category that best describes you you circled (C),
11 correct?

12 A Yes sir

13 **THE COURT** All right Let's go over that briefly to
14 make sure we are on the same page here Again, assume you are
15 on the jury, the jury in the first phase has deliberated, by
16 unanimous decision has found the Defendant guilty of the crime
17 of murder beyond a reasonable doubt and we are in the second
18 phase, you are saying that, I'm not going into the second
19 phase with any predisposition as to possible sentence in any
20 way, I'm not leaning to life, I'm not leaning to death, I can,
21 and I am open to considering and imposing either life or
22 death, what I'm going to do is, I'm going to listen to all the
23 facts and evidence presented in the second phase, I'm going to
24 listen to the law that the Judge gives me, and then with my
25 fellow jurors I'm going to reach a just verdict in this

1 matter Is that what you are telling me?

2 A Yes sir

3 **THE COURT** All right, sir Following up on that a
4 little bit You are on the jury, you are in the sentencing
5 phase, are you telling me that you could, under the right set
6 of facts and circumstances being presented to you, fairly
7 consider and impose a life sentence?

8 A Yes sir

9 **THE COURT** Again, under the right set of facts and
10 circumstances being presented to you in the second phase could
11 you fairly consider and impose a death sentence?

12 A Yes sir, if -- if they proved beyond a reasonable
13 doubt, and give me the right facts and everything like that I
14 could

15 **THE COURT** All right Very good And assume that's a
16 unanimous decision of the jury to impose the death penalty
17 could you then, as I indicated, take pen in hand and sign your
18 name to the form indicating that that, indeed, is your
19 unanimous verdict to impose the death penalty?

20 A Yes sir

21 **THE COURT** All right, sir The last thing that I need
22 to cover with you is, because of the kind of case that this is
23 when the jury is selected, we have the jury for this case,
24 they will then be sequestered That means you will be with
25 the Court, that the jury, obviously at County expense, is

1 going to be put up in a hotel, meals are going to be provided,
2 you are going to be transported to and from the courthouse by
3 County officials You are not going home at night You are
4 going to be with us during the trial Now, I understand
5 that's a hardship, no question about that, I understand that
6 to be the case The best estimate I can give you about how
7 long this is going to be is once it starts, seven, eight, nine
8 days That's the best estimate I can give you All right
9 Understanding that, and understanding -- I know it's a
10 hardship, but is it such an undue hardship on you to be
11 sequestered, or is there some health concern that you have, or
12 some family member has that this would be an undue hardship to
13 be sequestered?

14 A No sir

15 **THE COURT** Thank you, sir Answer any questions the
16 State might have for you, sir

17 **BY MR RICHARDSON**

18 **MR RICHARDSON** Mr Clark, my name is Jimmy
19 Richardson I'm an Assistant Solicitor Over in my right is
20 Mr Fran Humphries -- he's the Deputy Solicitor -- and this is
21 Mr Greg Hembree -- he's the Solicitor -- and together we will
22 be trying this case against Stephen Stanko

23 I think Judge John has gone over the most part of this,
24 but this is a little bit different type of trial, so I just
25 wanted to go over a few things with you Of course he told

1 you about it being a two-part trial The first part is just
2 you, along with your fellow jurors, would determine whether or
3 not Stephen Stanko killed Henry Turner All right And
4 that's just, did he do it or not, and if you did find him
5 guilty of that you go on to part two of the trial, and that's
6 the penalty phase, whether or not he should get the death
7 penalty or he should get life imprisonment, and for that part
8 it's actually -- if you think about the first part being guilt
9 or innocence the second part is guilt plus something We
10 would have to prove to you an aggravating circumstance,
11 something that makes it a little bit worse, and I'm not at
12 liberty to go through those with you, but Judge John will tell
13 you about them later So do you believe that if we could
14 prove him guilty of murder, and armed robbery, and then showed
15 you an aggravating circumstance, would you be able at that
16 time to consider and impose the death penalty?

17 A Yes sir

18 Q Would you be able to consider and impose life
19 imprisonment ---

20 A Yes sir

21 Q ---Depending on the facts?

22 A (NODS HEAD AFFIRMATIVE)

23 Q All right How long have you had to think about the
24 death penalty?

25 A I mean, when I was in school, I mean, it's been

1 presented to us and stuff, and you know, thought about it I
2 mean, I guess it's fair under the certain -- right
3 circumstances and stuff like that, so I mean I completely and
4 fully understand it, so ---

5 Q But it wouldn't cause you any problem signing your name
6 to it and saying, yes, he deserves the death penalty, or yes,
7 he deserves life imprisonment Neither -- one wouldn't weigh
8 more heavily than the other with you?

9 A No sir

10 MR RICHARDSON I believe that's all the questions
11 that I have If you would answer any questions that the
12 Defense might have

13 A Right

14 MR RICHARDSON Thank you

15 THE COURT Mr Diggs, Ms Williams Mr Diggs

16 BY MR DIGGS

17 MR DIGGS May it please the Court

18 Mr Clark, my name is Bill Diggs, and seated over here
19 with me is Brana Williams, and we represent Mr Stanko in this
20 case, and he is seated here at the table with us this
21 afternoon

22 I want to go back to what you read about the murder you
23 mentioned in Murrells Inlet Do you remember anything about
24 it?

25 A Not necessarily, I mean, that he had murdered someone,

1 and possibly raped a girl

2 Q Okay Do you remember if there was a trial or not?

3 A No, not necessarily, no

4 Q Well, when you say not necessarily ---

5 A I mean, I've heard recently on the news, I mean, that
6 he is going to trial, but I didn't tune into it I changed
7 the channel, you know what I mean, I didn't ---

8 Q Okay You mean since Friday?

9 A Yes I noticed it was on the channel and I had changed
10 it

11 Q Okay But you don't have any knowledge as to whether
12 or not there's been a trial yet in that other case?

13 A No sir

14 Q Okay Now, do you feel any sense of obligation on
15 behalf of the community to convict Mr Stanko in this case?

16 A No sir

17 Q And are you telling us that you could make a verdict --
18 decide a verdict based on the evidence presented here in this
19 trial?

20 A Yes sir

21 Q Now, in the case itself we anticipate, at least from
22 our perspective, the possibility of four verdicts, only one of
23 which you would be able to choose, but one would be not
24 guilty, one would be guilty, one would be not guilty by reason
25 of insanity, or guilty but mentally ill Do you have any bias

1 against any of those particular verdicts?

2 A No, not necessarily I mean, if he can prove that, you
3 know, he's insanity (sic) or mentally ill, I mean, beyond a
4 reasonable doubt, I can understand

5 Q Would you be able to freely and fairly consider those
6 verdicts if the evidence required it, in your opinion?

7 A Yes If the right evidence was brought up, yes, I
8 could

9 Q Okay And of course under the prop -- the instructions
10 of the Judge?

11 A Yes

12 Q All right And with respect to the sentencing phase I
13 believe you indicated you would go into that process without
14 leaning in either direction

15 A Yes sir

16 Q That would be, you know, life or death, you wouldn't
17 lean, you would wait and listen to the evidence in the case
18 And you understand that just to ask for the death^{ly} sentence the
19 State has to prove guilt and an aggravating circumstance
20 It's going to be -- that's going to be a given in every death
21 penalty case in which the death penalty can legally be sought
22 You follow me there?

23 A Yes sir

24 Q Okay So in your opinion the fact that every death
25 penalty case is going to have an aggravating circumstance

1 connected with it, is it still fair to say that you can
2 consider a life sentence in that situation?

3 A Can you repeat that again?

4 Q Given the fact that every death penalty case is going
5 to have with it an aggravating circumstance in order to
6 qualify to be a death penalty case could you still,
7 nevertheless, vote for life imprisonment?

8 A Yes, I mean -- I'm having a hard time quite
9 understanding what you are saying here

10 Q Okay

11 A With the right evidence put up I could ---

12 Q Right Every murderer does not qualify for the death
13 penalty Only certain murderers would qualify even to allow
14 the State to seek the death penalty, and in order to be such a
15 case it has to be accompanied by an aggravating circumstance,
16 so by that definition, when you start to consider the
17 punishment in this case it's going to have a murder and an
18 aggravating circumstance Now, knowing that, would you still
19 be able to be in a position -- can you still say you are in a
20 position to consider a life sentence ---

21 A Yes

22 Q ---Under those circumstances?

23 A Yes, I believe so

24 Q Okay And would that be based on the fact that you can
25 always dispense mercy You understand that?

1 A Yes

2 Q And there may be mitigating evidence by the Defendant
3 that would be introduced to -- in an effort to justify a life
4 sentence Would it be fair to say you would want to hear all
5 of that evidence before you made up your mind?

6 A Yes

7 Q Okay

8 MR DIGGS Thank you very much That's all I have

9 A No problem, sir

10 THE COURT All right If you would, sir, Mr Clark,
11 if you would go with the deputy for just a moment, please sir

12 A All right

13 THE COURT Thank you very much

14 A No problem

15 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
16 JUROR)

17 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
18 JUROR NUMBER 106 MARKED COURT'S EXHIBIT NUMBER 71)

19 THE COURT All right, the State's position?

20 MR HEMBREE The juror is qualified, Your Honor

21 THE COURT Defense

22 MR DIGGS Your Honor, he -- he knows about the murder
23 in Murrells Inlet, and I would submit that based on that
24 knowledge he should be disqualified

25 THE COURT All right, sir The juror clearly

1 indicated that -- based on all the questioning, Judge, State
2 and Defense, that he could set aside anything that he had
3 heard in the past, that would not impact his decision here in
4 any way I find that he can follow the Court's instructions,
5 obey his juror's oath There is absolutely nothing from the
6 juror's answers, and from my personal observation of him that
7 would prevent or substantially impair him in any way in the
8 performance of his duties in this case He is qualified

9 Ms Lisa Keane, please

10 LISA M KEANE, JUROR NUMBER 352,,

11 being first duly sworn, states as follows

12 BY THE COURT

13 THE COURT Now, what I'm going to do, Ms Keane, is
14 I'm going to be going over some things with you I'm going to
15 ask you some questions When I'm done the State may have some
16 questions from -- for you, the Defense may have some questions
17 for you Okay

18 A Okay

19 THE COURT All right Now, there aren't any right or
20 wrong answers here, okay I'm just looking for direct,
21 straight-forward, honest answers to anything that I might ask
22 or we might talk about, okay

23 A Yes sir

24 THE COURT Very good In this particular case the
25 State of South Carolina has charged the Defendant, Mr Stanko,

1 with the crimes of murder and armed robbery To those charges
2 the Defendant has pled not guilty That puts the burden of
3 proof on the State of South Carolina to prove the Defendant
4 guilty beyond a reasonable doubt The Defendant is presumed
5 innocent He doesn't have anything to show to you, doesn't
6 have anything to prove to you The State must prove the
7 Defendant's guilt beyond a reasonable doubt Do you
8 understand that?

9 A Yes sir

10 **THE COURT** The State in this particular matter has
11 served notice to seek the death penalty as against Mr Stanko
12 Now, that means this case could have two parts In the first
13 part the jury would be looking at the facts and evidence
14 presented to see if there are sufficient facts and evidence
15 that the jury believes to be true, they weigh that evidence
16 against the State's burden to prove the Defendant guilty
17 beyond a reasonable doubt, and based upon that the jury could
18 find Mr Stanko guilty or not guilty If the jury, and only
19 if the jury finds the Defendant guilty of the crime of murder
20 beyond a reasonable doubt would we even go into the second
21 phase or the sentencing phase of this trial You understand
22 that?

23 A Yes sir

24 **THE COURT** Now, regarding the sentencing phase of this
25 trial, the sentencing phase or penalty phase -- it's called

1 that because the jury actually imposes the sentence in this
2 type of case Normally a Judge imposes the sentence, but in
3 this kind of case the jury imposes the sentence Do you
4 understand that?

5 A Yes sir

6 **THE COURT** There's two possibilities, life in prison
7 without the possibility of parole, the death penalty Those
8 are the two options that are available to the jury, based upon
9 the right set of facts and circumstances

10 Now, for the jury to even consider the death penalty the
11 jury would have to find unanimously -- everybody would have to
12 agree -- on an aggravating circumstance Aggravate means to
13 make worse, and the Judge -- and I would charge to the jury
14 certain aggravating circumstance, if they exist, and if the
15 jury finds one, picks one unanimously then the jury could
16 consider the death penalty It's not automatic The jury is
17 never required to give the death penalty It just means if
18 the jury unanimously finds an aggravating circumstance they
19 could consider the death penalty as an option, both options
20 are open You understand that?

21 A Yes sir

22 **THE COURT** The jury must also look at any mitigating
23 factors that the Court would give to the jury Mitigate means
24 to lessen or reduce the charge, the punishment The jury
25 would have to look at those before the jury imposed any

1 penalty in this case The jury could impose a life sentence
2 because of those mitigating circumstances, the jury can impose
3 a life sentence for no reason whatsoever You understand
4 that?

5 A Yes sir

6 **THE COURT** Talking in hypotheticals Assume you are
7 on the jury, in the first part the jury has deliberated, found
8 the Defendant guilty of the crime of murder beyond a
9 reasonable doubt, in the second phase the jury, based on facts
10 and circumstances, has unanimously found an aggravating
11 circumstance, the jury then deliberates and decides the death
12 penalty is the proper penalty in this particular matter, and
13 by a unanimous decision decided that since the jury is
14 imposing this penalty each member of the jury has to take pen
15 in hand and sign a form indicating that, indeed, is a
16 unanimous decision to impose the death penalty in this case
17 Do you understand that?

18 A Yes sir

19 **THE COURT** All right If you are a member of the jury
20 you have to come into this courtroom without any preconceived
21 ideas of what the law is, you have to accept the law that the
22 Court gives you, that I would charge to the jury, and follow
23 that without question or hesitation Do you understand that?

24 A Yes sir

25 **THE COURT** You can't come into the courtroom without -

1 - you can't have any predisposition as to any -- in the
2 sentencing phase, any particular penalty You can't be
3 leaning toward life, you can't be leaning toward death You
4 have to be open to consider and be able to impose life, open
5 to consider and impose death, either one, based upon the facts
6 and circumstances presented You understand that?

7 A Yes sir

8 **THE COURT** If you had any information about this case
9 in the past, somebody talked about it, you knew anything about
10 it, thought you knew anything about it, you have to leave that
11 outside the courthouse You can't bring that into the
12 courtroom It's not part of this case You have to make your
13 decision based solely and completely on the facts and evidence
14 presented in this case, and from no other source Do you
15 understand that?

16 A Yes sir

17 **THE COURT** Regarding -- let me ask some questions
18 Since Friday have you looked up, watched, listened to anything
19 about this case?

20 A No sir

21 **THE COURT** Have you talked to anybody about this case?

22 A No sir

23 **THE COURT** Now, before Friday, do you remember hearing
24 about the case in any way, anything?

25 A No sir No

1 **THE COURT** Nothing whatsoever?

2 A No

3 **THE COURT** The name of the Defendant doesn't ring a

4 bell with you at all?

5 A No

6 **THE COURT** Very good All right In general, do you

7 believe, or think you have any kind of personal, political,

8 religious, philosophical believe that you believe would

9 prevent you from being a fair and impartial juror to the State

10 and the Defense?

11 A No sir

12 **THE COURT** All right Very good Regarding the

13 potential witnesses in this particular matter I see you didn't

14 circle anybody All right Very good

15 That was right, correct?

16 A Right

17 **THE COURT** All right Very good And regarding the

18 category of juror that you described, or best describes you

19 you circled (C), is that right?

20 A Yes sir

21 **THE COURT** And let's talk about that for a second,

22 make sure we are on the same page then Juror (C) is on the

23 jury and in the first part the jury deliberates, based on the

24 facts and evidence presented, finds that there is sufficient

25 evidence to convict the Defendant of the crime of murder

1 beyond a reasonable doubt, so we are going into the sentencing
2 phase or the second phase of the trial Category (C) juror,
3 juror (C) type says, I'm not predisposed to give either
4 sentence, I know there's two possible sentences, life or
5 death, but I'm not predisposed to either one of them, I'm not
6 leaning to one or the other, what I'm going to do is, I'm
7 going to listen to all the facts and evidence presented in the
8 second phase of the trial, then I'm going to listen to the law
9 that the Judge gives me, and then, along with my fellow
10 jurors, I will come up with a just verdict in this matter Is
11 that what you are saying?

12 A Yes

13 **THE COURT** All right Follow up on that just a little
14 bit You are a juror in the sentencing phase, the second
15 phase of the trial, are you telling me that based upon the
16 right set of facts and circumstances being presented to you
17 you could fairly consider and could impose a life sentence?

18 A Yes sir

19 **THE COURT** Again, based upon the right set of facts
20 and circumstances being presented to you you could fairly
21 consider and could impose a death sentence?

22 A Yes sir

23 **THE COURT** Assume you are on the jury and the jury has
24 unanimously decided -- it would have to be -- unanimously
25 decided to impose the death sentence in this case, can you, as

1 I described, take pen in hand and sign your name to the form
2 that indicates that, indeed, is a unanimous decision of the
3 jury to impose the death penalty in this case?

4 A Yes sir

5 **THE COURT** All right, Ma'am, now, the last thing I
6 need to talk to you about is, because of the kind of case that
7 this is the jury in this case, once it's selected, once we
8 have the jury in this case ---

9 A Uh huh (indicating positive)

10 **THE COURT** ---Is going to be sequestered

11 A Yes

12 **THE COURT** Now that means, obviously at County
13 expense, the jury is going to be housed at a hotel, meals
14 provided, they are going to be transported to and from by
15 County officials, but you are not going home in the evening,
16 you are going to stay with us during the trial, we expect it -
17 - the best estimate I can give you is seven, eight, nine days,
18 that's the best estimate I can give you how long it's going to
19 be from beginning to end I understand, everybody understands
20 that's a hardship, no question about that, but is that --
21 being sequestered such an undue hardship on you, or is there
22 some kind of health concern that a family member has, or you
23 have that that would be an undue hardship on you?

24 A No sir

25 **THE COURT** Thank you, Ma'am

1 Answer any questions the State may have

2 **BY MR HEMBREE**

3 **MR HEMBREE** Good afternoon, Ms Keane

4 A Hello

5 **MR HEMBREE** I'm Greg Hembree I'm the Solicitor for
6 Horry and Georgetown Counties I, along with Fran Humphries,
7 Deputy Solicitor, and Jimmy Richardson, one of our Senior
8 Assistant Solicitors, will be trying this case on behalf of
9 the State You may be selected on this jury The process we
10 are in right now is the jury qualification, so we are
11 essentially determining -- or get a group of qualified jurors
12 and then select from that group of qualified jurors, so you
13 may end up being -- if you are qualified you may end up on
14 this jury, may not We will know something in the next day or
15 so

16 But Judge John covered all the questions that I might
17 have for you I want to thank you for your willingness to
18 serve, and ask that you give your attention to the Defense
19 counsel They may have some questions for you, Ms Keane
20 Thank you

21 **THE COURT** All right, Mr Diggs, Ms Williams

22 **BY MS WILLIAMS**

23 **MS WILLIAMS** Good afternoon, Ms Keane My name is
24 Brana Williams and I, along with Bill Diggs, will be
25 representing Mr Stanko in this trial

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

2 Q Just briefly The Judge asked you when you -- if you
3 had any prior knowledge and you said no

4 A Right

5 Q So you don't recall Mr Stanko's name?

6 A No

7 Q Great And that's good Let me ask you, this -- when
8 I look at your juror questionnaire you are a pre-school
9 teacher, right?

10 A Yes

11 Q And I think the Judge covered with you, because you
12 have small children, if you are selected on this jury you will
13 be -- the jury will be sequestered

14 A Yes

15 Q Okay And your answer was -- I believe that you can do
16 it, even though it's going to be not fun ---

17 A Right

18 Q ---But you can do it okay Let me tell you, this is a
19 unique process here, okay There may be actually two parts to
20 this trial The first part the jury will be called upon to
21 make a decision to decide the verdict We anticipate that
22 there will be four possible verdicts that will be available to
23 decide one, guilty, not guilty, not guilty by reason of
24 insanity, or guilty but mentally ill What I would like to
25 know is if you think coming into this there is anything, you

1 know, in your past, your beliefs, anything like that, that
2 might stop you from equally considering all four of those
3 verdicts if the evidence is there, and based on what the Judge
4 explains to you that they are?

5 A No

6 Q Okay So you are open to consider them if you think
7 that they are what you -- let me change that So you are open
8 to considering them if the facts meet it for you?

9 A Yes

10 Q Okay Let me take a step forward If the jury
11 decides, and you are a part of that jury, that Mr Stanko is
12 indeed guilty, then we move on to the sentencing phase Okay
13 And we have to talk about this now even though we may or may
14 not get there This is the only opportunity we get to talk
15 about it But if we get to that sentencing phase there are
16 really only two possible outcomes, life without parole or the
17 death sentence Okay And to even consider the death
18 sentence the State is going to have to prove murder plus an
19 aggravating circumstance Okay So it's got to -- and it's
20 more than just murder It's murder plus

21 A Uh huh (**indicating positive**)

22 Q All right So what I want to ask you is, the Judge
23 will explain to you that even if you are on the jury and you
24 find that the jury has found there was murder, the jury
25 decides that there is an aggravating circumstance that even in

1 spite of that, when you could consider the death penalty you
2 can also impose life It's not mand -- death is not
3 mandatory Okay So what I want to ask you is, do you think
4 that if you are a part of the jury and the jury has found
5 murder plus the aggravating circumstance that you could then
6 actually consider life?

7 A Yes

8 Q Last question, do you think coming into this that you
9 may be even lean one way or the other, I lean more toward
10 death, I lean more toward life?

11 A No

12 MS WILLIAMS All right That's all the questions I
13 have for you

14 THE COURT All right, if you would, Ma'am, if you
15 don't mind, if you would just go with the deputy for a few
16 moments, please Ma'am Thank you

17 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
18 JUROR)

19 (THREE PAGES WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
20 JUROR NUMBER 352 MARKED COURT'S EXHIBIT NUMBER 72)

21 THE COURT All right State's position

22 MR HEMBREE Ms Keane is qualified, Your Honor

23 THE COURT Defense

24 MS WILLIAMS Your Honor, we would agree that she is

25 THE COURT All right, the Court finds that Ms Keane,

1 Juror Number 352, is qualified, could follow Court's
2 instructions and follow her oath

3 I'm going to take a short break, five, ten minutes, or
4 something like that, and then we'll come back and do the next
5 panel That's panel sixteen

6 I think we will have added to it -- isn't that right,
7 Madame Clerk, one juror from eighteen Who is that?

8 **CLERK OF COURT** Number 237, Kimberley Goh, Dr
9 Kimberley Goh

10 **THE COURT** G o h It's juror number 237 Because of
11 the juror's patients that she had planned on coming in at 4 15
12 and arranged her schedule such that, so she will be here in
13 addition All right Thank you

14 **(THE FOLLOWING TAKES PLACE AFTER A BREAK)**

15 **MR HUMPHRIES** Judge, this -- I understand that we are
16 doing Dr Goh next She expressed at general qualification
17 that she had strong ---

18 **THE COURT** Sorry What I was trying to do is shut the
19 door, is what I was trying ---

20 **MR HUMPHRIES** ---That she had strong beliefs that
21 would impair her ability to be fair and impartial, and she was
22 a victim of crime herself, so ---

23 **THE COURT** Well, I -- one of the reasons I decided to
24 take her first was that -- from the notes the Clerk had that
25 she stated she could not be impartial, so I figured we needed

1 to explore that with her first off

2 All right Thank you

3 Now bring her in

4 KIMBERLEY B C GOH, JUROR NUMBER

5 237, being first duly sworn, states as follows

6 BY THE COURT

7 THE COURT All right, Ms Goh, what I'm going to do
8 is, I'm going to ask you some questions We are going to talk
9 about some matters and when I get done the representatives of
10 the State and the Defense may have some particular questions
11 for you Okay

12 A Okay

13 THE COURT Very good Now, there aren't any right or
14 wrong answers here, all right

15 A Okay

16 THE COURT I'm just looking for direct, straight-
17 forward, honest answers to the questions being asked That's
18 all I'm looking for Okay

19 A Uh huh (indicating positive)

20 THE COURT Very good All right, now, in this
21 particular case -- you were -- you were here Friday, correct?

22 A Yes

23 THE COURT And you indicated -- I had a general
24 question about being fair and impartial and you indicated some
25 response to that Is that correct?

1 A Yes

2 THE COURT All right Very good And I note in your
3 juror questionnaire form that you answered in response to
4 question number six that if the death penalty were involved it
5 would be difficult to you because of your sister's work, and
6 your sister's work is what?

7 A My sister was a Public Defender in the State of
8 California, arguing against the death penalty before the State
9 Supreme Court She is currently working as a consultant for
10 the California Appellate Project, and I just got back from a
11 visit with her and she and I had several long discussions
12 about the death penalty and she has given me all these books
13 trying to influence me, called the -- let's see, I think one
14 of them is *In Spite of Innocence*, and so she has been --
15 basically has spent her whole life fighting the death penalty,
16 so it would make it very difficult for me if the death penalty
17 were involved

18 THE COURT All right Well, in this case there is no
19 question that the State has filed notice to seek the death
20 penalty in this case The death penalty is involved,
21 potentially, in this particular case, so that is clear with
22 you All right

23 A Uh huh (indicating positive)

24 THE COURT All right And also you indicated that it
25 would potentially be difficult because of your beliefs, and

1 you referred back to another question, and let me go to that
2 one Was that again because of the matter with your sister?

3 A Yes, and I've been like the -- like the guy who got put
4 to death in Texas, that I'm really having doubts about whether
5 or not his trial was proper, the one who was put to death for
6 the -- for his son, for setting fire to the house where his
7 son -- and apparently there was some evidence withheld, and I
8 started really thinking about that you can't take it back, and
9 as a physician it's -- you think about it You think about
10 it I haven't come to -- I used to be quite the advocate for
11 the death penalty but after probably two and a half decades
12 with my sister working on me, and some of the more prominent
13 cases recently I'm having a harder time with it

14 THE COURT All right Let's talk about it in general,
15 and a juror's specific job in this particular case A juror
16 who is on this case under their oath -- and must come into the
17 courtroom and say, number one, I'm setting aside any beliefs
18 or opinions that I might have personally, I'm setting those
19 aside, I'm not coming into the courtroom with any preconceived
20 ideas, opinions, beliefs one way or another, I'm going to be
21 like a blank slate, I'm not going to let anything from the
22 outside, no matter what that might have been, affect my
23 decision in any way because as a juror I have to make my
24 decision based upon the facts and evidence presented in this
25 courtroom, and the law the Judge gives to me -- whether I

1 agree with it or not I have to accept it completely and
2 without hesitation or reservation That would be the juror's
3 job Understanding that would be the juror's job, from what
4 you are telling me can you do that?

5 A I don't really think that I can because I do have some
6 preconceived ideas I was on a -- I was a juror on a murder
7 trial about four years ago and it was not the death penalty
8 case, but I've kind of been -- it kind of perked my interest
9 up for all this stuff so I've been actually paying attention
10 to this case ---

11 THE COURT Okay

12 A ---And I feel probably closer attention than most
13 people have, and I have obeyed my oath I haven't talked to
14 anybody, I haven't listened to anybody since Friday

15 THE COURT Since Friday

16 A Since Friday

17 THE COURT But beforehand you had paid close attention
18 to the case?

19 A Until I got the notice

20 THE COURT Until you got the notice

21 A Yes, because I didn't want to, you know ---

22 THE COURT Do any -- do anything further?

23 A Yes Yes, but I had already done quite a bit, and as a
24 physician, you know, some of the previous arguments in his
25 previous trial, you know, I kind of have a lot of opinions

1 I did -- I did a lot of -- I did general surgery before
2 I did plastic surgery, and I've taken care of a lot of people
3 with head injuries, and I have a lot of patients that have
4 mental disturbances, and I really don't feel, even if the
5 death penalty were not -- like if you took that off the table
6 I don't know that I could really be very objective and -- I'm
7 trying to think how to put this The juror needs to be more
8 objective than I am in this particular case

9 **THE COURT** All right

10 A And I was -- I was for my other one, but this one I
11 have pretty strong feelings about

12 **THE COURT** All right Very good And so what you are
13 telling me is, understanding what the job of a juror would be,
14 and despite the Court's instructions that your personal
15 opinions and beliefs, and research into this case would --
16 would tend to impact your decision in this matter, even if I
17 told you you couldn't do that?

18 A It would be tough not to

19 **THE COURT** All right And I would have to have from
20 you to say, Judge, I can set that aside, I won't let it affect
21 my decision, or no, I don't think I can do that

22 A No, I don't think I can set it aside

23 **THE COURT** Thank you, Ma'am

24 Further questions from the State?

25 **MR HEMBREE** No We have no questions, Your Honor

KIMBERLEY B C GOH - NO QUESTION BY DEFENSE/JUROR OUT/ON RECORD
RHONDA M JOHNSON - BY THE COURT

1 Thank you, Dr Goh

2 THE COURT Questions from the Defense?

3 MS WILLIAMS No questions from the Defense, Your
4 Honor

5 THE COURT All right Thank you

6 Doctor, if you don't mind, if you would just go with the
7 deputy for just a moment, please Ma'am Thank you

8 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
9 JUROR)

10 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
11 JUROR NUMBER 237 MARKED COURT'S EXHIBIT NUMBER 73)

12 THE COURT State's position?

13 MR HEMBREE The juror is not qualified, Your Honor

14 THE COURT Defense

15 MS WILLIAMS Your Honor, we would agree based on her
16 testimony from the stand

17 THE COURT All right The Court would find that that
18 juror, 237, Kimberley Goh, is not qualified She would not be
19 able to faithfully follow the Court's instructions or her oath
20 as described in her testimony before the Court

21 All right, let's go to Ms Rhonda Johnson

22 RHONDA M JOHNSON, JUROR NUMBER
23 337, being first duly sworn, states as follows

24 BY THE COURT

25 THE COURT All right, Ms Johnson, what I'm going to

1 do is, I'm going to go over some things with you, talk about
2 some things, ask you some questions, and if I -- when I'm done
3 asking you some questions I'm going to ask some questions of -
4 - or some questions may be asked of you by the State and the
5 Defense Okay

6 A Sure

7 **THE COURT** Very good Aren't any right or wrong
8 answers here What I want are direct, straight-forward,
9 honest answers to the questions I ask or the matters I put to
10 you Do you agree?

11 A I reckon

12 **THE COURT** All right You'll do that

13 A I'll try

14 **THE COURT** Well, I need for you to be completely and
15 totally honest with me

16 A I am I'm going to try

17 **THE COURT** Well, that's good All right, now, in this
18 particular matter the State of South Carolina has charged the
19 Defendant, Mr Stanko, with the crimes of murder and armed
20 robbery To those charges the Defendant has pled not guilty
21 That puts the burden of proof on the State of South Carolina
22 to prove the Defendant guilty beyond a reasonable doubt of the
23 crimes charged The Defendant is presumed innocent The
24 Defendant doesn't have anything to show to you The Defendant
25 doesn't have anything to prove to you The State has to prove

1 his guilt beyond a reasonable doubt in this particular matter
2 You understand that? You need to answer out loud

3 A Yes

4 **THE COURT** All right Very good Since the Court
5 Reporter has to take down everything we say, and she can't
6 take a nod of the head so I have to -- have to get a verbal
7 answer from you All right Thank you, Ma'am

8 A Okay

9 **THE COURT** Now, in this case the State of South
10 Carolina has served notice on the Defendant, Mr Stanko, to
11 seek the death penalty That means that this particular case
12 could have two parts The first part the jury would be
13 looking at the facts and evidence presented to see if there
14 are sufficient facts and evidence if the jury -- that if the
15 jury finds to be true to convict the Defendant of the crimes
16 charged beyond a reasonable doubt because if, and only if the
17 jury finds the Defendant guilty of the crime of murder beyond
18 a reasonable doubt -- if they find him guilty we would proceed
19 on to the second phase, the sentencing phase of the trial If
20 they find him not guilty then obviously we don't go to the
21 second phase of the trial You understand that?

22 A Yes sir

23 **THE COURT** In the second phase of the trial the jury
24 will be faced with imposing the sentence in this matter The
25 jury will actually impose the penalty That's different from

1 any other criminal case In any other criminal case the Judge
2 imposes the penalty In this case, in this type of case the
3 jury imposes the penalty The jury has two choices, life in
4 prison without the possibility of parole, the death penalty
5 Those are the two choices for the jury Do you understand
6 that?

7 A Yes

8 **THE COURT** For the jury to consider the death penalty
9 the jury would have to find unanimously, all the members of
10 the jury would have to find unanimously an aggravating
11 circumstance in addition to the murder -- that means to
12 aggravate -- aggravate means to make worse or exacerbate the
13 situation and facts That means the jury could consider the
14 death penalty if they find an aggravating circumstance The
15 jury doesn't have to find the death penalty The jury is
16 never required to find the death penalty Do you understand
17 that?

18 A Not really

19 **THE COURT** All right Well, let me try and be more
20 clear with you then When the jury is looking at the
21 sentencing phase, first the jury can impose life for a reason
22 or no reason whatsoever, the jury can impose life as a
23 possible punishment As an act of mercy the jury could impose
24 life Do you understand that?

25 A Yes sir

1 **THE COURT** All right The jury has also the
2 possibility of imposing a death penalty, but a jury is never
3 required, and I would never charge a jury under any
4 circumstances they are required to impose a death penalty
5 They can if they chose to do so, but they are never required
6 to do so Do you understand that?

7 A Yes sir

8 **THE COURT** Now, to be able to consider imposing a
9 death penalty there are a certain set of facts or factors that
10 are in our State laws, and if they are proved in the case
11 beyond a reasonable doubt I would charge to the jury these are
12 the aggravating circumstances you may consider If the jury
13 picks one of those aggravating circumstances by a unanimous
14 decision of the jury, then and only then could the jury
15 consider the death penalty It doesn't mean just because
16 they've picked the aggravating circumstances they've got to
17 automatically give the death penalty It just means now both
18 options, both penalties are now open to them Both death and
19 life are now open to the jury to consider Do you understand
20 that?

21 A Yes sir

22 **THE COURT** All right Very good Now, the jury must
23 also consider, before it imposes any sentence in a case,
24 mitigating circumstances Again, those are facts -- factors
25 that, by statute, that the Court would charge to the jury if

1 they are in the facts and evidence of the case, and the jury
2 would have to listen to those, would have to consider them
3 before they imposed a sentence in this matter Do you
4 understand that?

5 A Yes

6 **THE COURT** And again, the jury could impose life
7 because of those mitigating circumstances, or the jury, again,
8 can impose life for no reason whatsoever You understand
9 that?

10 A Yes

11 **THE COURT** All right Talking hypothetically here,
12 that may or may not happen If you are on the jury, the jury
13 has convicted the Defendant of the crime of murder beyond a
14 reasonable doubt, the jury in the second phase, the sentencing
15 phase, has found by a unanimous decision an aggravating
16 circumstance, then the jury, after they deliberate,
17 unanimously finds, everybody, unanimously finds that the death
18 sentence should be imposed if you are a member of the jury,
19 because you have actually imposed the sentence you would have
20 to take pen in hand and sign a form indicating, with your
21 name, that you have, indeed, along with other members of the
22 jury, imposed the death penalty in this case Do you
23 understand that?

24 A Yes

25 **THE COURT** All right As a member of the jury it

1 would be your job to come in the courtroom without any
2 preconceived ideas of what the law is You have to take the
3 law that the Court gives you and follow it without question
4 Whether you agree with it or you disagree with it you have to
5 follow it without question Do you understand that?

6 A - You would have to come into the courtroom without any
7 predisposition as to a possible sentence I'm going to talk
8 about that in just a second, but that's your job You come
9 into the courtroom not predisposed to give any sentence
10 whatsoever You listen to the facts and evidence presented in
11 the courtroom and then you make your decision You understand
12 that's your job?

13 A Yes

14 THE COURT All right Now, you circled category (A)
15 on your list, correct?

16 A Yes

17 THE COURT All right Now, let's go over that and let
18 me make sure we are on the same page as to what that means
19 That means you are on the jury, the first phase of the trial,
20 and the jury has considered the evidence in the case, they've
21 deliberated, they have unanimously decided that the Defendant
22 is guilty of the crime of murder beyond a reasonable doubt, so
23 now we are in the second phase The juror, category (A), (A)
24 type juror says -- just convicted the Defendant of the crime
25 of murder beyond a reasonable doubt, before we've gotten into

1 now the second phase of the trial -- I am predisposed to give
2 the death penalty before I've heard any of the facts and
3 evidence in the second phase of the trial, before I've heard
4 the Judge give me the law that I need to apply to the facts
5 and evidence in this case, I'm already predisposed to give the
6 death penalty in this case That's what juror, category (A)
7 says Is that what you are telling me?

8 A Pretty much

9 THE COURT All right, Ma'am, now, is that a belief
10 that you've had for a long period of time?

11 A Well, I hadn't thought about it a long period of time

12 THE COURT Okay All right

13 A I've never been faced with it

14 THE COURT And I appreciate that, and very few people,
15 honestly, ever have to be actually faced with making that
16 decision But as a member of the jury you would actually be
17 faced, potentially, in this case with making that decision, so
18 assume that to be the case, and you are in the second phase of
19 the trial, and you are going to be faced, as a member of the
20 jury, with making a decision as to the penalty in this case,
21 are you coming into the process, beforehand, before you are
22 faced with making that decision, leaning toward imposing the
23 death penalty already?

24 A Yes

25 THE COURT All right

RHONDA M JOHNSON - NO QUESTIONS BY STATE OR DEFENSE/JUROR
OUT/ON RECORD/SHANON ROSE HEADLEY - BY THE COURT

1 Does the State want to question the juror on that
2 particular issue?

3 MR HUMPHRIES No

4 THE COURT Defense?

5 MR DIGGS No sir

6 THE COURT Thank you very much

7 All right, Ma'am, if you don't mind, if you would just
8 go with the deputy for just one moment, please All right
9 Thank you, Ma'am

10 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
11 JUROR)

12 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
13 JUROR NUMBER 337 MARKED COURT'S EXHIBIT NUMBER 74)

14 THE COURT State's position

15 MR HUMPHRIES She's not qualified

16 THE COURT Defense

17 MR DIGGS Not qualified

18 THE COURT All right The Court would find that juror
19 number 337, Ms Rhonda Johnson, is not qualified, she would
20 not be able to follow the Court's instructions or follow her
21 juror's oath in this matter

22 Ms Shanon Headley

23 SHANON ROSE HEADLEY, JUROR NUMBER
24 275, being first duly sworn, states as follows

25 BY THE COURT

1 **THE COURT** All right, Ms Headley, what I'm going to
2 do is I'm going to talk to you about certain things I'm
3 going to be asking you some questions, and when I'm done the
4 representatives of the State and Defense may have some
5 questions for you Okay

6 A Okay

7 **THE COURT** Very good There aren't any right or wrong
8 answers here Okay

9 A Yes

10 **THE COURT** What I'm looking for from you is just
11 straight-forward, direct, honest answers to the questions that
12 -- that we ask Okay

13 A Yes sir

14 **THE COURT** Very good In this particular matter the
15 State of South Carolina has charged the Defendant, Mr Stanko,
16 with the crimes of murder and armed robbery Now to those
17 charges the Defendant has pled not guilty That puts the
18 burden of proof to prove the Defendant guilty beyond a
19 reasonable doubt on the State of South Carolina The
20 Defendant is presumed innocent The Defendant doesn't have to
21 prove anything to you, show anything to you The State has to
22 prove the Defendant guilty beyond a reasonable doubt Do you
23 understand that?

24 A I do

25 **THE COURT** In this particular case the State has

1 served notice to seek the death penalty against Mr Stanko
2 Now that means this case could have two parts The first part
3 would be, the jury is going to look at the facts and evidence
4 presented and find that evidence that the jury believes is
5 true and weigh that against the State's burden to prove the
6 Defendant guilty of the crimes charged beyond a reasonable
7 doubt If, and only if the jury finds the Defendant guilty of
8 the crime of murder beyond a reasonable doubt would we even go
9 into the second phase or the sentencing phase of the trial
10 Do you understand that?

11 A I do

12 **THE COURT** Now, we call it the sentencing phase or
13 penalty phase because the jury actually imposes a sentence in
14 this particular matter It's different than any other
15 criminal case In all other criminal cases the Judge imposes
16 the sentence In this type of case the jury decides the
17 sentence There's two possible sentences, life in prison
18 without the possibility of parole, the death sentence Do you
19 understand that?

20 A I do

21 **THE COURT** For the jury to consider the death penalty
22 in this case the jury has to find, by a unanimous decision, an
23 aggravating circumstance In addition to the murder there has
24 to be an aggravating circumstance Aggravate means to make
25 worse, or exacerbate the situation And if the jury

1 unanimously finds an aggravating circumstance, and there are
2 certain factors the Court would charge to the jury, and the
3 jury picks one unanimously, then they can consider the death
4 penalty Just because the jury picks an aggravating
5 circumstance doesn't mean automatically now we've got to vote
6 for the death penalty It just means then now that's an
7 option open to the jury, both possibilities, life or death,
8 are now open to the jury for the jury's decision You
9 understand that?

10 A I do

11 **THE COURT** The jury also has to consider, before it
12 imposes any sentence, any mitigating circumstances Mitigate
13 means to lessen or reduce the punishment, the charge, and any
14 of those that the Judge would charge to the jury the jury
15 would have to consider those before the jury imposed the
16 sentence in this matter The jury can impose life because of
17 those mitigating circumstances, or the jury can impose life
18 for no reason whatsoever, just as an act of mercy You
19 understand that?

20 A I do

21 **THE COURT** All right, Ma'am Now, obviously we are
22 talking in hypotheticals here that may or may not happen, but
23 assume you are on the jury and the jury has deliberated in the
24 first phase, they've found the Defendant guilty of the crime
25 of murder beyond a reasonable doubt and we are here in the

1 second phase, and in the second phase the jury finds an
2 aggravating circumstance by a unanimous decision, and then the
3 jury deliberates and says, unanimously, everybody agrees that
4 the death penalty is a proper sentence in this particular
5 case, since the jury is actually imposing a sentence there is
6 a form that each and every member of the jury has to take pen
7 in hand and sign their name to that form indicating that,
8 indeed, is the unanimous decision to impose the death penalty
9 in this case Do you understand that?

10 A I do

11 **THE COURT** You are a mem -- as a member of the jury
12 part of your job is not to have any preconceived ideas of what
13 the law is You have to accept the law that the Court gives
14 you without question, and you follow that law and use that in
15 conjunction with the facts that the jury finds to be true in
16 this case You understand that?

17 A I do

18 **THE COURT** Also, you can't come into the courtroom
19 with any kind of preconceived ideas regarding the sentencing
20 phase as to the punishment that might be imposed You can't
21 be leaning toward life, you can't be leaning toward death
22 You have to be open to both possibilities You have to be
23 able to fairly consider and impose a life -- impose a life
24 sentence or fairly and -- consider and impose a death
25 sentence, either one of them You have to be open to both

1 Do you understand that?

2 A I do

3 THE COURT If you knew anything about this case, or
4 heard about this case in the past, if somebody told you
5 something about this, part of your oath as a juror is, I'm
6 going to set that aside, I'm putting that in the box and
7 leaving it outside the courtroom, it's not coming with me, I
8 know, under my oath as a juror, that I am going to listen to
9 the facts and evidence in this case and make my decision based
10 solely and completely on the facts and evidence in this case
11 and not from any other source Do you understand that?

12 A I do

13 THE COURT Very good Since Friday have you read,
14 listened, watched, looked up anything about this case?

15 A No

16 THE COURT Since Friday, have you talked to anybody
17 about this case?

18 A No

19 THE COURT Now, before Friday and you had that
20 instruction do you remember hearing anything about this case,
21 listening, talking about it, anything about this particular
22 case?

23 A Just when I received the form to come to jury trial my
24 husband informed me what the case was -- a summary of what the
25 case was about

1 **THE COURT** Okay And your husband works for the Horry
2 County Police Department, correct?

3 A Correct

4 **THE COURT** All right What did he tell you?

5 A He told me that Mr Stanko was charged for two counts
6 of murder

7 **THE COURT** Okay Do you remember him telling you
8 anything else?

9 A No Other than the fact that he was picked up in
10 Georgia

11 **THE COURT** Picked up in Georgia?

12 A Correct

13 **THE COURT** Okay Now, other than that, can you
14 remember anything else whatsoever?

15 A No

16 **THE COURT** All right Very good Now, you understand
17 that that is part of what you have to leave -- if you are
18 juror you have to leave that outside the courtroom?

19 A Correct

20 **THE COURT** You can't use that You can't think about
21 that You can't consider that in any way in reaching your
22 decision in this case Do you understand that?

23 A I do

24 **THE COURT** Understanding that would be your job as a
25 juror my question to you is, can you do that?

1 A Yes, I can

2 THE COURT Very good Now, when your husband told you
3 about he had been charged with the crimes and picked up in
4 Georgia do you remember forming any kind of opinion or belief
5 at that point in time?

6 A No

7 THE COURT All right Very good General question
8 Do you know of any personal or political or religious or
9 philosophical belief that you might have that would keep you
10 from being a fair and impartial juror to the State and the
11 Defense in this case?

12 A No

13 THE COURT All right Very good Now, in this
14 particular matter, looking at the witness list you circled one
15 individual, Sergeant Jimmy Edwards of the Horry County Police
16 Department Is that correct?

17 A Yes He is now Captain Edwards

18 THE COURT All right Very good Is he in any
19 supervisory role of your husband?

20 A He was the Sergeant of my husband's Squad, and now he's
21 the Captain of the Squad

22 THE COURT Okay Very good Now, again, you
23 understand that is a relationship, whatever that might be,
24 that is outside of this courtroom

25 A Correct

1 **THE COURT** It can't affect your decision in any way
2 You have to reach your decision completely independently of
3 any of that type of relationship You understand that?

4 A I do

5 **THE COURT** Can you set that aside completely and not
6 let it affect your decision in any way?

7 A Yes

8 **THE COURT** All right In this particular matter do
9 you think that -- you served on the jury and you've reached
10 and rendered whatever verdicts, whatever they might be, and
11 you go home and your husband is on the Horry County Police
12 Department, do you think you are going to need to explain or
13 defend, or talk about your decision in any way?

14 A No

15 **THE COURT** All right Do you feel any pressure
16 because your husband is on the Horry County Police Department
17 to reach any decision, whatever that might be in this case?

18 A No

19 **THE COURT** All right Very good You selected
20 category (C) as a -- the type of juror that best describes
21 you, correct?

22 A Correct

23 **THE COURT** All right Now, let's talk about that for
24 a second and make sure we are on the same page Category (C)
25 is, the juror is on the jury, in the first part the jury

1 deliberates, based on the facts and evidence the jury has
2 concluded that the defendant should be found guilty of the
3 crime of murder beyond a reasonable doubt, so now we are in
4 the second phase of the trial and the juror -- juror then
5 says, I'm not predisposed to impose either sentence, I know
6 that the option is life or death, I'm not leaning toward life,
7 I'm not leaning toward death, I'm open to either possibility,
8 I can consider both, I could impose both based upon a right
9 set of facts and circumstances being proved to me in the
10 second phase of the trial, and I'm going to follow the law
11 that the Judge gives to me Is that what you are telling me?

12 A Correct

13 **THE COURT** All right Again, you are on the jury, you
14 are in the sentencing phase, under the right set of facts and
15 circumstances being proved to you can you fairly consider and
16 impose a life sentence?

17 A Yes

18 **THE COURT** Based upon the right set of facts and
19 circumstances being proved to you could you fairly consider
20 and impose a death sentence?

21 A Yes

22 **THE COURT** As I described to you, if you are on the
23 jury and they unanimously decide -- because it would have to
24 be a unanimous decision to impose the death penalty -- can you
25 then take pen in hand and sign your name to the form

1 indicating that that, indeed, is the unanimous verdict of this
2 jury to impose the death penalty?

3 A Yes

4 **THE COURT** All right Let me talk about one last
5 thing with you and that is, because of the type of case that
6 this is the jury in this particular matter is going to be
7 sequestered and that means -- obviously at the County's
8 expense -- the jury, once it's selected, is going to be housed
9 at a motel, the meals are going to be taken care of, they will
10 be transported to and from, but you are not going home in the
11 evening, you have to stay with us during the course of the
12 trial The best estimate I can give you for the length of the
13 trial will be, once it starts, seven, eight, maybe nine days
14 That's the length of the trial, the best estimate I can give
15 you I understand that's a hardship, no question about that
16 Knowing that's a hardship, but is being sequestered such an
17 undue hardship on you, or is there any health concern of any
18 family member or yourself that that's going to be an undue
19 hardship on you?

20 A Yes I have an eight week old child

21 **THE COURT** You have an eight week old child Okay
22 Do you work now, or have you worked?

23 A I have worked, but the business went into foreclosure
24 and I've been out of a job since October 12th

25 **THE COURT** Okay And October 12th Well, without

1 trying to calculate -- was that -- was that before or after
2 the birth of your child?

3 A It was after the birth of my child ---

4 **THE COURT** Okay All right

5 A ---But I was on maternity leave during that time

6 **THE COURT** During that time

7 A Yes

8 **THE COURT** So you were away from the work anyway?

9 A Exactly

10 **THE COURT** All right So now you have an eight week
11 old child?

12 A Yes

13 **THE COURT** All right Now, understanding the hardship
14 that that would create, being away from a child, your child
15 that young age, do you have -- besides your husband,
16 understanding he's employed, do you have any family members
17 who could help if you are on this jury and sequestered?

18 A Yes

19 **THE COURT** And who might that be?

20 A Both my mother and my mother-in-law

21 **THE COURT** Okay They both live here in Horry County?

22 A Actually my mother lives in Charleston My mother-in-
23 law lives here in Horry County

24 **THE COURT** Okay Have you broached the subject, or
25 talked about the subject with your mom to see if she would be

1 willing to come help you?

2 A No, but my mother is unemployed

3 **THE COURT** All right So she -- you feel certain that
4 if you called her and said you need help she would come help
5 you?

6 A Yes

7 **THE COURT** All right Very good

8 All right, further questions from the State?

9 **BY MR HUMPHRIES**

10 **MR HUMPHRIES** Good afternoon

11 A Hi

12 **MR HUMPHRIES** I'm Fran Humphries I'm the Deputy
13 Solicitor Solicitor Hembree, Senior Solicitor Jimmy
14 Richardson and I will be representing the State in this case
15 Eight weeks old?

16 A Yes

17 **MR HUMPHRIES** Congratulations

18 A Thank you

19 Q First child?

20 A First child

21 Q Let me talk to you for just a minute about the process
22 The Judge has done a great deal with that already, but just so
23 we are certain Once we get into the penalty phase, that's
24 the second phase, you understand, of course, that the State
25 would have to prove, beyond a reasonable doubt, at least one

1 aggravating circumstance before the jury could even consider
2 the death penalty

3 A Correct

4 Q So a qualified juror would, even in that case,
5 convicted of murder, a finding of aggravating circumstance,
6 even at that point a qualified juror would be one who would
7 say, I could give either life or death, depending on the facts
8 and circumstances

9 A Right

10 Q And of course my question then to you is, are you that
11 type of juror?

12 A Yes

13 Q And finally, talking about your child, obviously --
14 well, I don't know how -- obviously it is to me, I'm a father,
15 although I waited a little while in life, so I -- I love my
16 babies a lot, but having said that, it is going to be a
17 significant period of time where your contact would be very
18 limited The question I guess for us, that is, the parties
19 and the Court is, would that separation from your child -- we
20 won't even talk about your husband, but your child, would that
21 be such a distraction to you that you believe your ability to
22 be a fair and impartial juror might be substantially impaired?

23 A No

24 Q And can you be fair both to the State and the Defense
25 in this case?

1 A Yes, I can

2 MR HUMPHRIES That's all we can ask of you Thank
3 you, Ma'am

4 THE COURT All right, Mr Diggs, Ms Williams

5 MR DIGGS Thank you, Your Honor

6 THE COURT Yes sir, Mr Diggs

7 MR DIGGS May it please the Court

8 BY MR DIGGS

9 Q Ms Headley, how are you this afternoon?

10 A I'm doing fine

11 Q My understanding is you choose not to exercise the
12 right of exemption based on the birth of your child?

13 A Correct

14 Q Okay And your husband is employed with the -- one of
15 the State's witnesses in this case?

16 A Correct

17 Q And he works -- what is their relationship exactly
18 within the police department that's prosecuting the case?

19 A I'm sorry You are asking about Captain Edwards and my
20 husband?

21 Q Yes

22 A Okay Captain Edwards was my husband's Sergeant at one
23 point, but it's strictly a business relationship

24 Q Okay Tell me exactly, the best you can -- I
25 understand it's difficult to recall precisely -- but when the

1 Summons came for the juror service in this case, and your
2 husband was talking to you about the case, can you tell me
3 specifically, the best you can, what he told you?

4 A Actually he told me that it would be a very interesting
5 case for me to take if I was able to be able to get on being
6 that he was a police officer, and that -- I said, well who is
7 this Stanko, and he said he was picked up in Georgia and he
8 was charged for two counts of murder

9 Q Did he give you any more information about that?

10 A No

11 Q Did you ask him anything further about it?

12 A No

13 Q Were you curious about it when he gave you that
14 information?

15 A Not necessarily I wasn't particularly thinking I was
16 even going to be here so ---

17 Q Okay So you didn't feel, at that point, it just
18 didn't -- you weren't in a mood to ask any additional
19 questions about it, to find out more detail about it?

20 A No My husband talks enough about police stuff I
21 don't need any more

22 Q Okay So you try and put him off -- okay

23 But you know about a murder that's not part of the case
24 that's being prosecuted here, a alleged murder?

25 A I just know that he was charged with two counts,

1 correct

2 Q All right, do you feel obligated to return a verdict of
3 guilty in this case based on a sense of obligation to the
4 community?

5 A No

6 Q Is there a prevailing view in our community, to your
7 knowledge, as to whether Mr Stanko is guilty?

8 A I am not sure

9 Q Okay Is that something you've ever thought about and
10 just haven't come to a conclusion, or do you mean you are not
11 sure because you don't have any knowledge about it?

12 A I just don't have any knowledge

13 Q Okay In this case we believe that the evidence is
14 going to raise the possibility of perhaps four different
15 verdicts that the jury could render on the issue of guilt or
16 innocence It would be guilty, not guilty, not guilty by
17 reason of insanity, or guilty but mentally ill Now, what I
18 want to ask you is if you have any personal beliefs or
19 opinions that would prevent you from fairly considering any of
20 those four verdicts should they be supported by your view of
21 the evidence?

22 A No

23 Q All right, let's move to the second phase, and I'm
24 asking you about this -- and the Judge talks about it because
25 we have to ask you about sentencing now We can't just stop

1 in the middle of the trial and say, oh by the way, we want to
2 discuss some additional stuff with you and we want to talk
3 about your views on the sentencing, so that's why we are doing
4 it now I don't, by any means, suggest to you that we are
5 assuming this is a guilty case and so we are going to go ahead
6 and talk about sentencing, we are just going to -- we have to
7 talk about it at this point

8 But, if there is a conviction of guilt, you know, a
9 determination of guilt by the jury, and we get into a
10 sentencing proceeding and the jury determines there is an
11 aggravating circumstance, okay, that qualifies this particular
12 murder to be a death penalty case, and what sets it apart from
13 any other murder, okay, that does not have an aggravating
14 circumstance, would you be able to view the evidence in the
15 case and impose a life sentence in that situation in the event
16 you thought it was warranted?

17 A I'm kind of confused what you are asking

18 Q Okay In the sentencing phase you've got to consider
19 two sentences, possibly, or there will be two possible
20 sentences, life imprisonment without parole, or the death
21 penalty Okay Now, even to get to that point, however, the
22 State is going to have to prove guilt beyond a reasonable
23 doubt, and they are going to have to show, beyond a reasonable
24 doubt, an aggravating circumstance that makes this murder
25 worse

1 A Correct

2 Q Okay Given that, can you tell us that you would be
3 willing to fairly consider imposing a life sentence?

4 A Yes

5 Q Okay And what -- could I ask you what that would be
6 based upon?

7 A Based on the facts and the law that the Judge gives me
8 on the case

9 Q Okay Would you put any kind of a burden of proof on
10 the Defense to justify a life sentence?

11 MR HUMPHRIES I'm going to object to that question
12 That question is a question ---

13 THE COURT Rephrase your question, Mr Diggs

14 MR HUMPHRIES Thank you, Your Honor

15 Q Okay I'm thinking about how to do that

16 Do you understand that the Defense has no burden of
17 proof with respect to the sentence that the jury returns?

18 A I'm not sure if you are asking if I'm just aware that
19 he doesn't have to prove anything to me, or ---

20 Q Yes Certainly -- and I think everybody understands
21 that with respect to the guilt or innocence phase, every
22 defendant has a right to remain silent and therefore you can't
23 put upon that person a burden of proof How about in the
24 sentencing phase? Would you look ---

25 A I'm still confused

1 **MR HUMPHRIES** Your Honor, it is an improper question
2 in that it asks questions about the law, which is the provence
3 of the Court

4 **MR DIGGS** Well, I ---

5 **MR HUMPHRIES** The proper question ---

6 **THE COURT** Gentlemen Gentlemen All right Don't -
7 - don't argue the question Don't argue the matter

8 Ms Headley, if you don't mind, could you step outside
9 for just a moment, please Ma'am Thank you

10 A Can I leave my things here?

11 **THE COURT** Yes Ma'am, because you are going to come
12 right back in just a minute Thank you, Ma'am I appreciate
13 it very much

14 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
15 **JUROR)**

16 **THE COURT** Yes, Solicitor

17 **MR HUMPHRIES** Your Honor, this is a question that is
18 not allowed on voir dire State versus Tucker It's matters
19 that are covered in the charge, the presumption of innocence,
20 reasonable doubt, right not to testify, these are questions
21 that are not proper for voir dire They are the Court's
22 provence This juror could not possibly be in a position to
23 answer the question, do you know whether or not the defense
24 has a burden in the penalty phase

25 **MR DIGGS** That's not what I asked

1 **MR HUMPHRIES** That is what you asked, and I'm
2 talking
3 **THE COURT** Gentlemen Let's stop this
4 Mr Diggs, turn and face me
5 Solicitor, let's stop this right now I'm not going to
6 have this in this trial at all This is the last time it's
7 going to happen If you have a matter -- gentlemen, just be
8 quiet If you have a matter you are going to address it to
9 the Court You are not going to have discussions among
10 yourselves I'm directing this to both tables You are not
11 going to have any discussions among yourself You will direct
12 the matters to the Court, and to the Court only I'm giving
13 you a warning now, it will not happen in this trial If it
14 happens in this trial after the matters are concluded I will
15 take it up with you Are we clear about that?
16 **MR HUMPHRIES** Yes sir
17 **THE COURT** Solicitor Hembree?
18 **MR HEMBREE** Yes, Your Honor
19 **THE COURT** Solicitor Richardson?
20 **MR RICHARDSON** Yes sir
21 **THE COURT** Solicitor Humphries?
22 **MR HUMPHRIES** Yes sir
23 **THE COURT** Mr Diggs?
24 **MR DIGGS** Yes sir
25 **THE COURT** Ms Williams

1 MS WILLIAMS Yes sir

2 THE COURT Very good All right Any other matters
3 that you want to argue in response to the question?

4 MR HUMPHRIES No, Your Honor Thank you

5 THE COURT Yes sir, Mr Diggs

6 MR DIGGS Your Honor, the reason I turned around was
7 because I have a copy of State vs Tucker on my desk ---

8 THE COURT It wasn't a matter ---

9 MR DIGGS ---And I was going to get it

10 THE COURT It wasn't a matter of you turning around
11 It's the matter of y'all having an interaction discussion

12 MR DIGGS I understand that

13 THE COURT We are not having that

14 MR DIGGS And I understand that's wrong, and I
15 apologize to the Court

16 THE COURT That's all right If you want to go get
17 the case please go do that

18 MR DIGGS That's what I was going to do

19 THE COURT Yes sir, please do that

20 MR. DIGGS Okay My response would be, and I believe
21 that I'm correct on this, that ---

22 THE COURT How about -- since you've got it in front
23 of you, how about tell me the Southeast cite real quick

24 MR DIGGS It is -- okay, hold on a second 512 S E

25 2d 99

1 **THE COURT** 512 99 Is that right?

2 **MR DIGGS** Yes sir And Your Honor, let me make sure
3 this is the right -- is there another **Tucker**, Your Honor, that
4 I'm -- I mean, I just want to make sure this is the case

5 **THE COURT** It's the State versus James Neil Tucker
6 Is that correct, Solicitor?

7 **MR HUMPHRIES** 334 S E 1 199 --

8 **THE COURT** Yes, 334 S C 1

9 **MR DIGGS** Yes sir

10 **THE COURT** Yes That's it All right Very good

11 **MR DIGGS** The way I read that case is, there's a
12 limitation on the voir dire regarding their -- the jury's
13 knowledge of another trial I don't think -- and I think --
14 with all due respect, I believe the Solicitor mis-cites the
15 case, and it may be just an oversight

16 **MR HUMPHRIES** It's not

17 I'm sorry I'm sorry, Your Honor I apologize

18 **THE COURT** Y'all are experienced, extremely
19 experienced trial attorneys, you know that when one side is
20 arguing you let that side argue, and the Court is going to
21 give the other side full opportunity to respond, and I would
22 also ask, let's just confine ourselves to the arguments
23 Let's not characterize what we think the other person is
24 saying Just say, I think it says this, this is what I
25 believe We will deal with it that way and then we can avoid

1 these kinds of things I -- you know, we are just not going
2 to do that We are not going to display that kind of activity
3 in front of a jury in this case It's just not going to
4 happen

5 All right, go ahead, Mr Diggs

6 **MR DIGGS** Well, the way I read that case, it
7 addresses an attempt by counsel to talk about another case,
8 another trial that had occurred in a different county, and
9 there's some general language in there about the manner in
10 which questions can be pursued, but it comes right down to
11 whether or not a question is required by fundamental fairness
12 In other words, if the Judge -- if the Court were to permit me
13 to inquire about that matter would it be fundamentally unfair
14 And I would argue that it would be fundamentally unfair
15 because of -- I can't remember the specific language that the
16 juror used, but based on her response it raised a question in
17 my mind as to whether or not she would look to the defense to
18 kind of convince her that a life sentence should be imposed,
19 and that's what I was trying to get at with this particular
20 line of question

21 **THE COURT** All right Well, assume the Defense asked
22 that particular question, Solicitor, what would your
23 objection, if any, be?

24 **MR HUMPHRIES** My objection would be this, Your Honor,
25 the question for the juror is, can she follow the law as the

1 Judge charges it The matter of a burden is in the provence
2 of the Court It is the law To place this juror in a
3 position -- because she's already said, in her voir dire, I
4 will follow the Judge's charge on the law She did that
5 explicitly, without any question whatsoever Now, to put her
6 in a position of telling her, are you going to place a burden
7 on the Defense, that's in contravention of the Court's
8 question, number one, and number two, it's unfair to this
9 juror, because what she's already said is whatever the Court
10 says, that's what I'm going to do To ask the juror about
11 things like reasonable doubt, presumption of innocence,
12 burdens of proof, which the Court is going to charge her, the
13 question is, can you follow the law as the Judge charges it
14 She's answered that question, but to ask her questions about
15 specific laws and burdens and presumptions is improper because
16 it doesn't give the proper context for an honest answer

17 **THE COURT** I had a problem with how you were trying to
18 ask the question, Mr Diggs I am trying to allow you to
19 explore the issue with her Do you have a suggestion as to
20 how you might rephrase it?

21 **MR DIGGS** Well, I started out -- maybe I could get
22 some help here

23 **MR HUMPHRIES** And Your Honor, if I could be heard
24 just one more time at the appropriate time

25 **THE COURT** All right Go ahead

1 **MR. HUMPHRIES** I'm sorry

2 **THE COURT** If you want -- I'm sorry, go ahead

3 **MR HUMPHRIES** Okay My point is this, if the
4 question was posed in this fashion, understanding that the law
5 of South Carolina is, there is no burden on the defense in
6 order to establish a mitigating offense, or to prove anything
7 to you, would you then still require the defense to do that in
8 order to come to some decision regarding life That gives the
9 juror a complete statement of the law as opposed to something
10 in a complete vacuum

11 **THE COURT** Do you have a problem with that, Mr Diggs?

12 **MR DIGGS** I don't have a problem with that If he
13 could say that again I'll ask -- I'll read that language

14 **THE COURT** Can the Court Reporter read it back? How
15 about that?

16 **MR HUMPHRIES** I can do it again

17 **MR DIGGS** Yes A little more slowly, Your Honor, if
18 he could

19 **MR HUMPHRIES** Understanding that the law in South
20 Carolina is that the Defendant has no burden to establish a
21 mitigating circumstance, or to prove anything in order to
22 support a life verdict, would you still require the Defense to
23 prove something in order to return a life verdict

24 **MR DIGGS** Would you still require the Defense to
25 present evidence ---

1 **THE COURT** ---To secure a life verdict

2 **MR DIGGS** Okay

3 **THE COURT** All right Very good Ask the -- Ms
4 Headley to come back in, please Thank you

5 Thank you, gentlemen

6 **MR HUMPHRIES** Yes sir

7 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
8 **JUROR)**

9 **THE COURT** Yes Ma'am If you would just come back up
10 here Thank you very much

11 Very good All right, Mr Diggs

12 **BY MR DIGGS CONTINUED**

13 Q Ms Headley, thank you for your patience I think I
14 just have one more question It's kind of where we were
15 before we took our break

16 But understanding that the law in South Carolina would
17 never place on the Defendant any kind of burden to establish
18 either a defense or to support a life sentence in a sentencing
19 proceeding would you still require the Defense to present
20 evidence to secure a life verdict, once you get at that final
21 stage where, you know, the State has completed it's tendering
22 of the evidence?

23 A No

24 Q Okay You would not require that of the Defense?

25 A No

1 Q Okay That answers my question I appreciate it, and
2 I think that's all I have at this time

3 THE COURT Okay Again, Ms Headley, if you don't
4 mind, if you would just go outside for just a moment, please
5 Thank you very much

6 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
7 JUROR)

8 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
9 JUROR NUMBER 275 MARKED COURT'S EXHIBIT NUMBER 75)

10 THE COURT State's position

11 MR HUMPHRIES She's qualified, Judge

12 THE COURT Defense's position, Mr Diggs

13 MR DIGGS Your Honor, we would ask that she be
14 excused because of her knowledge about, not only this case,
15 but her knowledge of another murder that is supposedly to have
16 been committed by Mr Stanko I understand that she said she
17 could put that out of her mind, but Your Honor, it would be a
18 difficult thing to do, and I would argue to the Court that ---

19 THE COURT Can you shut the door

20 MR DIGGS Secondly, we've had information showing
21 that her husband has an employment relationship with the
22 agency that's investigating this case, with one of the
23 witnesses who will be testifying in the case, perhaps I
24 would suggest that that's too close for this particular juror
25 to serve on this particular case

1 Also, it's a strange circumstance, or an unusual
2 circumstance, let me put it that way She has a very young
3 infant, two weeks old at the time she filled out the
4 questionnaire That, it just seems to me to be -- I would
5 suggest, Your Honor, that she doesn't really know at this
6 point whether it would be something she could do or not I
7 think that it would be safe not to require her to be
8 sequestered away from her family and her child at this point
9 in time

10 Your Honor, given all of those circumstances with
11 respect to this particular juror I would ask the Court to
12 excuse her

13 **THE COURT** All right Based upon the matters
14 presented, the Court's observation of this particular witness,
15 I do find her to be qualified As to any prior knowledge that
16 she had it is very limited in scope She has clearly said she
17 would not use that in any fashion, she would set that aside,
18 it would not impact her decision in any way, she would follow
19 the Court's instructions, she would follow her oath The
20 Court questioned her about the employment of her husband,
21 whether that would impact her decision in any way She
22 clearly said it would not, that it would not affect her
23 decision in any way, she wouldn't have to explain it to him in
24 any way

25 Further, the Court and counsel discussed all those

1 matters with her, and discussed with her about her young
2 child, and she clearly stated she doesn't want to claim the
3 exemption She has -- besides her husband she has, as she
4 stated, the assistance of her mother-in-law, her mother, both
5 of whom she said will help her out She hasn't claimed the
6 exemption I can't force her to claim the exemption That's
7 her choice And in all other respects there is no question
8 that she is duly qualified She would follow the Court's
9 instructions, she would obey the oath There is nothing that
10 would prevent or substantially impair her in the performance
11 of her duties in any way She's qualified

12 All right Mr John Gira, please

13 **JOHN J GIRA, JUROR NUMBER 234,**
14 being first duly sworn, states as follows

15 **BY THE COURT**

16 **THE COURT** All right, Mr Gira, what I'm going to do
17 is, I'm going to talk to you about certain things I'm going
18 to be asking you some questions When I'm done the State and
19 the Defense may have some questions for you No right or
20 wrong answers here, okay I'm just looking for direct,
21 straight-forward, honest answers to the questions and the
22 matters we talked about, okay

23 A Okay Yes sir

24 **THE COURT** Very good, sir All right, now, in this
25 matter the State of South Carolina has charged the Defendant,

1 Mr Stanko, with the crimes of murder and armed robbery That
2 puts the burden of proof on the State of South Carolina to
3 prove the Defendant guilty beyond a reasonable doubt The
4 Defendant is presumed innocent The Defendant doesn't have
5 anything to show to you, doesn't have anything to prove to
6 you, but the State has to prove his guilty beyond a reasonable
7 doubt Do you understand that?

8 A Yes

9 THE COURT All right, sir, in this particular matter
10 the State has filed notice to seek the death penalty That
11 means there is going to potentially be two parts to the trial
12 The first part the jury would be looking at the facts in
13 evidence to see if there is sufficient facts and evidence that
14 the jury believes that would convict the Defendant of the
15 crimes charged beyond a reasonable doubt If, and only if the
16 jury convicts the Defendant of the crime of murder, beyond a
17 reasonable doubt, would we even go into the second or
18 sentencing phase of the trial Do you understand that?

19 A Yes

20 THE COURT All right Very good Now, the sentencing
21 phase of the trial, penalty phase, called that because the
22 jury imposes the penalty in this case It's different from
23 any other criminal case Any other criminal case the Judge
24 imposes sentence In this type of case the jury imposes the
25 sentence They have two options, and they have to be able to

1 fairly and impartially consider both options, life in prison
2 without the possibility of parole and the death penalty So
3 when a juror comes into the courtroom and takes their oath
4 they are saying to the Court, I don't have any preconceived
5 ideas, I don't have any preconceived notions, I can fairly
6 consider both options, I will wait for all the facts and
7 evidence to be presented, I will listen to the law that the
8 Judge gives to me Whether I agree with it or disagree with
9 it I'm going to follow the law that the Judge gives to me and
10 I'm not going to be predisposed to impose either sentence, I
11 could, based upon the right set of facts and circumstances,
12 impose a life sentence, I could, based on the right set of
13 facts and circumstances, impose the death sentence, but I'm
14 not predisposed either way That's what a juror says when
15 they take their oath Do you understand that?

16 A Yes, I understand

17 **THE COURT** All right, you understand that All right,
18 now, you have circled category (A) as the juror which best
19 describes you, correct?

20 A Correct

21 **THE COURT** All right, let's go over that and let's be
22 on the same page as to what juror (A), or category (A) juror
23 means, all right

24 The person is on the jury The first phase of the trial
25 the jury deliberates, they find from the evidence presented,

1 they find from the evidence that they've been convinced is
2 true, that the defendant is guilty of the crime of murder
3 beyond a reasonable doubt, and they convict the defendant of
4 that crime

5 Going to the sentencing phase In the sentencing phase
6 juror (A) says, before we get to the sentencing phase, before
7 I hear any of the facts and evidence about the sentence,
8 before I hear the law from the Judge as to what the sentence
9 should be and how I should look at this particular matter I'm
10 already predisposed to impose the death penalty, I'm already
11 leaning to give the death penalty because I'm part of this
12 jury that unanimously found this defendant guilty of the crime
13 of murder Is that what you are telling me?

14 A Yes, Your Honor

15 **THE COURT** All right When you circled (A) that's
16 what you are telling me All right Very good

17 A And -- I mean, if ---

18 **THE COURT** Okay Go ahead Please

19 A If I can

20 **THE COURT** Yes, I would like for you to, please

21 A That's based upon information that I currently have
22 with regard to Mr Stanko and ---

23 **THE COURT** Okay Regarding this particular case

24 A Well, once ---

25 **THE COURT** Or him ---

1 A Once we've proven him guilty of murder, in this
2 particular case ---

3 THE COURT Right

4 A I'm aware of the fact that he's already been proven
5 guilty of murder in another case, and he's already been
6 sentenced to die in that particular case

7 THE COURT Okay In that particular case And
8 understanding that if you take an oath as a juror that you
9 have to completely, totally set that aside, you can't use that
10 -- not only can you not talk about it with the other members
11 of the jury, you can't use that to make your decision in this
12 case whatsoever You can't think about it, you can't use it
13 as foundation to make a decision in this case, either in the
14 first part of the case or the penalty phase of the case
15 That's the job of a juror Understanding that's the job of
16 the juror could you do that?

17 A And from my personal ---

18 THE COURT Yes sir

19 A Personally

20 THE COURT Yes sir, you personally

21 A I would have a very difficult time doing that

22 THE COURT Very good All right

23 Questions from the State?

24 MR HEMBREE We have no questions, Your Honor Thank
25 you

1 **THE COURT** Questions from the Defense?

2 **MR DIGGS** No sir

3 **THE COURT** All right Mr Gira, if you don't mind, if
4 you would just take a moment to go with the deputy and I'll be
5 right with you okay

6 A Can I bring one other matter to your attention?

7 **THE COURT** Well, you can Honestly I don't believe
8 it's going to be necessary, but if there's something ---

9 A I submitted a letter along with it I have a personal
10 conflict

11 **THE COURT** I tell you what If we call you back in
12 for further questioning I'll ask you about that

13 A Okay

14 **THE COURT** How about that

15 A Thank you

16 **THE COURT** Very good, sir Thank you Just go with
17 the deputy just a second Thank you

18 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
19 **JUROR)**

20 **(THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR**
21 **JUROR NUMBER 234 MARKED COURT'S EXHIBIT NUMBER 76)**

22 **THE COURT** Position of the State

23 **MR HEMBREE** Mr Gira is not qualified, Your Honor

24 **THE COURT** Defense

25 **MR DIGGS** He's not qualified

1 **THE COURT** The Court finds that Juror Number 234, Mr
2 Gira, is not qualified He would not be able to follow the
3 Court's instructions or obey his juror's oath in this matter

4 All right, the next one is Sharon Lemon, hopefully who's
5 going to be coming in

6 Sharon Lemon, if you want to bring her in

7 **SHARON L LEMON, JUROR NUMBER 380,**
8 being first duly sworn, states as follows

9 **BY THE COURT**

10 **THE COURT** All right, Ms Lemon, what I'm going to be
11 doing is, I'm going to be talking to you about certain things
12 I'm going to be asking you some questions, and after I'm done
13 the representatives of the State and of the Defense may have
14 some questions for you You understand that?

15 A Yes

16 **THE COURT** Ma'am?

17 A Yes

18 **THE COURT** Very good I need for you to answer out
19 loud Everything we say and do in this courtroom is being
20 recorded by the Court Reporter, so we have to speak out loud
21 I have to be able to hear your answers and she has to be able
22 to take down your answers All right, Ma'am

23 A Okay

24 **THE COURT** All right Very good Why don't you try
25 and pull closer to the microphone so -- and speak up where we

1 can hear you, because everybody has got to hear you

2 All right, Ma'am, in this particular matter the State of
3 South Carolina has charged the Defendant, Mr Stanko, with the
4 crimes of murder and armed robbery To those charges the
5 Defendant has pled not guilty Now that puts the burden of
6 proof on the State of South Carolina to prove the Defendant
7 guilty beyond a reasonable doubt The Defendant has nothing
8 to prove to you, show to you The Defendant is presumed
9 innocent The State must prove the Defendant guilty beyond a
10 reasonable doubt Do you understand that?

11 A Yes

12 **THE COURT** In this particular matter the State of
13 South Carolina has filed notice to seek the death penalty in
14 this particular case That means this case could have two
15 parts The first part would be, if you are a member of the
16 jury the jury would be listening to the facts and evidence to
17 decide whether or not the State has proved the Defendant
18 guilty beyond a reasonable doubt of the crimes charged If,
19 and only if the jury finds the Defendant guilty of the crime
20 of murder beyond a reasonable doubt would we even go into the
21 second or sentencing phase of the trial You understand that?

22 A Yes Yes

23 **THE COURT** In the sentencing phase -- and we call it
24 that because the jury would actually impose a sentence in this
25 matter That makes it different from any other criminal case

1 In all other criminal cases the Court would impose the
2 sentence In this case, this type of case, the jury imposes
3 the sentence There are two possibilities, life in prison
4 without the possibility of parole, or the death penalty Do
5 you understand that?

6 A Yes

7 **THE COURT** In this particular matter for the jury to
8 consider imposing a death penalty the jury has to find an
9 aggravating circumstance, unanimously Every member of the
10 jury would have to find this particular circumstance And
11 aggravate means to make worse or exacerbate, something more
12 than murder Do you understand that?

13 You don't? All right Very good All right Let me
14 try and explain it We are in the second phase of the trial
15 The jury has already -- we are talking about hypotheticals
16 It could happen, might not happen, don't -- assume the jury
17 has found the Defendant guilty of the crime or murder beyond a
18 reasonable doubt, we are here in the second phase, the jury
19 has to hear facts and evidence presented in the second phase,
20 hear the law that the Court gives to it, and then the jury is
21 going to be faced with making a decision as to the sentence
22 The jury will impose a sentence, one of two possibilities,
23 life in prison without the possibility of parole or the death
24 penalty Do you understand that part?

25 A Yes

1 **THE COURT** All right Now, for the jury to even
2 consider imposing the death penalty there has to be an
3 additional step in the second phase There are certain facts,
4 factors that our law has that the Judge would charge to the
5 jury that if the jury finds one of those facts -- it's called
6 an aggravating circumstance -- the jury could then consider
7 the death penalty Doesn't means the jury has to give the
8 death penalty, doesn't mean the jury is required to, it just
9 means the jury can now consider imposing the death penalty
10 Do you understand that?

11 A Yes

12 **THE COURT** All right The jury also has to consider
13 any mitigating circumstance Mitigate means to lessen or
14 reduce the charge, or reduce the punishment The Judge would
15 charge those to the jury The jury would have to consider
16 those before the jury imposed a sentence in this matter Do
17 you understand that?

18 A Yes

19 **THE COURT** All right, now, the jury can impose life
20 because of one of those mitigating circumstances, or the jury
21 can impose life for no reason whatsoever, just as an act of
22 mercy Do you understand that?

23 A Yes

24 **THE COURT** All right If you are part of the jury and
25 again, talking hypotheticals, the jury has convicted the

1 Defendant of the crime of murder beyond a reasonable doubt,
2 the jury has then also unanimously found an aggravating
3 circumstance, the jury has then also unanimously, everybody
4 agreeing that the death penalty should be imposed, if you are
5 part of that jury one of your responsibilities will be to take
6 pen in hand and sign your name to the verdict form saying that
7 you were, indeed, part of this unanimous decision to impose
8 the death penalty in this case Do you understand that?

9 A Yes, I think so, yes

10 **THE COURT** Okay Understanding that would be part of
11 your job as a juror, if you were part of the jury and
12 unanimously found a death penalty could you do that? Could
13 you actually do that, take the pen in hand and sign your name
14 and saying I'm imposing the death penalty?

15 A I guess so

16 **THE COURT** Okay And I appreciate that being your
17 direct response ---

18 A Yes or no, right?

19 **THE COURT** Yes Ma'am It has to be a yes, Judge, I
20 can do that, or no, Judge, I don't think I can do that

21 A Yes

22 **THE COURT** All right, Ma'am Now, part of your job as
23 a juror is to come into the court without any kind of
24 preconceived ideas of what the law is You would accept the
25 law that I would give to the jury, the Judge would give to the

1 jury, and you follow it Whether you agreed with it or you
2 disagreed with it under your oath you have to follow it Do
3 you understand that?

4 A Yes

5 THE COURT And could you do that? Even if you
6 disagreed with it, if I told you -- whatever I said, and you
7 said, that shouldn't be the law, I don't understand what
8 that's the law, but under your oath you are going to say, even
9 with that, I'm going to follow it, I'm going to obey it, I
10 will do that, can you do that? And again, this is a yes I
11 can, or no I can't

12 A Yes, I can, I guess Yes

13 THE COURT Okay

14 A Yes

15 THE COURT All right All right Now, in this
16 particular matter you also have to not have any predisposition
17 to impose any kind of sentence if there is a second phase
18 You can't lean toward life, you can't lean death, you have to
19 be open not only to consider both possibilities, but under the
20 right set of circumstances be able to impose life sentence,
21 impose death sentence Understanding that would be your job
22 as a juror could you do that?

23 A We are speaking about this case only, right?

24 THE COURT Well, being a juror in this case, Yes

25 Ma'am

1 A Uh huh (**indicating positive**) Probably not

2 **THE COURT** Okay, and tell me why, please Ma'am

3 A Because I think that someone who has committed a crime
4 in the circum -- let's see, I don't know how to word it
5 because I've never had to do this

6 **THE COURT** That's okay Just however you want to tell
7 me, Ma'am, please, just any way you want to tell me

8 A I think this particular crime warrants the death
9 penalty

10 **THE COURT** Okay And this is based upon you hearing
11 about this case in the past or knowing something about this?

12 A Uh huh (**indicating positive**) Yes

13 **THE COURT** All right And that's basically -- is that
14 like from newspapers, or T V , or any of ---

15 A Sure Sure

16 **THE COURT** All right And you followed that case in
17 the past?

18 A Sure I mean not every day or anything like that, but
19 I mean, it was all over the news It was all over the news

20 **THE COURT** All right Based upon that ---

21 A But regardless of -- I'm sorry

22 **THE COURT** No No

23 A Regardless of whether it was this case or another case,
24 if it's a horrendous crime they should be -- I agree with
25 being put to death

1 THE COURT All right

2 A I mean, our law system is not ---

3 THE COURT So you have -- and understand, and it's
4 fine You can have a disagreement with the law, not a
5 question about that, and I understand that you do have a
6 disagreement with how the law is, what you are telling me
7 though is, understanding that I would tell you that, even if
8 you disagree with the law you have to follow it when I explain
9 it to you you are telling me that would be ---

10 A I said yes, and then I'm telling you now, right

11 THE COURT ---That would be difficult

12 A I guess so

13 THE COURT All right Further questions from the
14 State?

15 MR HEMBREE None from the State, Your Honor

16 THE COURT Further questions from the Defense?

17 MR DIGGS No, Your Honor

18 THE COURT Thank you, Ma'am If you don't mind, if
19 you would step out with the deputy for just a moment, please
20 Ma'am Thank you very much

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JUROR)

23 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
24 JUROR NUMBER 380 MARKED COURT'S EXHIBIT NUMBER 77)

25 THE COURT State's position?

1 **MR HEMBREE** The juror is not qualified, Your Honor

2 **THE COURT** Defense

3 **MR DIGGS** She's not qualified

4 **MS WILLIAMS** Your Honor, may I ask, was she a -- what
5 did she mark, (A), (B) or (C)?

6 **THE COURT** What did she mark?

7 **MS WILLIAMS** Yes sir

8 **THE COURT** She marked (C)

9 **MS WILLIAMS** (C)

10 **THE COURT** Yes Ma'am

11 **MS WILLIAMS** Okay

12 **THE COURT** She certainly did

13 **MS WILLIAMS** Okay

14 **THE COURT** Despite the fact that this juror marked
15 (C), based upon the Court's observations of her -- not only
16 her answers, but the Court's observations, and how she
17 answered the questions, the way she would answer them, there
18 is no question in my mind this juror is not qualified She
19 couldn't follow the Court's instructions She would not obey
20 her juror's oath in this matter, there is no question She is
21 not qualified

22 Sara Newton

23 **SARA P NEWTON, JUROR NUMBER 472,**

24 being first duly sworn, states as follows

25 **MR HUMPHRIES** Your Honor, may we approach very

1 briefly?

2 THE COURT Sure Y'all come around to the side,
3 please

4 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

5 THE COURT Ms Newton, let me go over very first --
6 one thing with you here Noted on your juror questionnaire
7 that you work for the Horry County Schools and it says a
8 "Learning Specialist" Are you assigned to the whole school
9 system, a particular school, or what is -- how is it?

10 A I work for the School District in general, and I'm
11 assigned to nine elementary schools

12 THE COURT Okay All right Now, in your job as a
13 "Learning Specialist" it looks like basically you are there
14 during the school hours ---

15 A Right

16 THE COURT ---Eight to four or four-thirty

17 A Right

18 THE COURT Just regular school hours, correct?

19 A Uh huh (indicating positive)

20 THE COURT All right Now, the Legislature -- and
21 it's not really an exemption It's more like a transfer The
22 juror has -- the Legislature has set out that a juror who is a
23 full-time employee as a teacher or a full-time student can
24 request to be transferred to the time when school is not in
25 session, that is, during the summer, so -- if the juror wants

1 to It's not -- doesn't mean that they are excused It means
2 that if the juror wants to be transferred they can be -- they
3 can ask to be transferred, so you have that ability, if you
4 want to be, to be transferred from this particular court
5 session to a week during the summer to fulfill your jury duty
6 requirement Understanding you have that ability to claim the
7 exemption do you want to claim it, or do you want to give it
8 up?

9 A Well, my summer is two weeks, and I prefer not to at
10 this time

11 **THE COURT** Very good And I -- absolutely, that's
12 fine, but I had to go over that with you because that's your
13 choice

14 A That's fine That's fine

15 **THE COURT** Okay Very good

16 All right Let's talk about this particular case Now
17 I'm going to be asking you some questions We are going to
18 talk about this matter After I'm done maybe the State and
19 the Defense may have some questions for you, okay There
20 aren't any right or wrong answers here All I'm asking of you
21 is to please just give me direct, straight-forward, honest
22 answers to the questions, and that's all that I need Okay

23 A Okay

24 **THE COURT** Very good In this particular matter the
25 State of South Carolina has charged the Defendant, Mr Stanko,

1 with the crimes of murder and armed robbery Now to those
2 charges the Defendant has pled not guilty, so that puts the
3 burden of proof on the State of South Carolina to prove the
4 Defendant guilty beyond a reasonable doubt The Defendant is
5 presumed innocent The Defendant doesn't have anything to
6 prove to you, show to you The State has to prove the
7 Defendant guilty beyond a reasonable doubt Do you understand
8 that?

9 A Yes

10 **THE COURT** All right Now in this particular case the
11 State has filed notice to seek the death penalty as against
12 the Defendant, Mr Stanko Now that means this case could
13 have two parts The first part would be, the jury would look
14 at the facts and evidence presented, and to decide -- find
15 that evidence which the jury believes to be true, and then
16 decide, weighing that evidence against the State's burden to
17 prove the Defendant guilty beyond a reasonable doubt whether
18 or not the Defendant would be guilty or not guilty of the
19 crimes charges Only if the jury finds the Defendant guilty
20 of the crimes charged would we even go to the second phase or
21 the sentencing phase of the trial You understand that?

22 A Yes

23 **THE COURT** Now, we call it the sentencing phase or the
24 punishment phase because if the jury finds the Defendant
25 guilty of the crime of murder beyond a reasonable doubt, and

1 we are in the sentencing phase, the jury actually imposes the
2 sentence That makes it different than any other criminal
3 case Any other criminal case the Judge imposes the sentence
4 In this type of case the jury actually sentences -- imposes
5 the sentence There's two possibilities, life in prison
6 without the possibility of parole, the death penalty Those
7 are the two options And if I might happen to say life, or
8 the attorneys might say life, that's what we mean, life in
9 prison without the possibility of parole Okay

10 A Okay

11 **THE COURT** Now, if the jury is to consider imposing a
12 death penalty, they are in the second phase, they have to do
13 one thing first They have to unanimously find an aggravating
14 circumstance Now those are certain facts or factors that our
15 statute has, and the Court would charge to the jury, and if
16 the jury picks one then they can consider the death penalty
17 It's something beyond murder, something to make worse or
18 exacerbate the situation

19 A Okay

20 **THE COURT** So the jury would have to find that
21 aggravating circumstance to even be able to consider to impose
22 the death penalty It doesn't mean automatically if we find
23 this aggravating circumstance that we are going to give the
24 death penalty

25 A Uh huh (indicating positive)

1 **THE COURT** What this means, you get to consider it
2 then The two options then become open to the jury, life or
3 death The jury also has to consider any mitigating
4 circumstance the Court would charge to the jury Mitigate
5 means to lessen, reduce the charge or the punishment The
6 jury would have to consider either one of them, they would
7 have to consider those before the jury would impose any
8 sentence, because the jury could impose life because of those
9 mitigating circumstances, or the jury can impose life for no
10 reason whatsoever Just as an act of mercy the jury could
11 impose life Do you understand that?

12 A Yes

13 **THE COURT** Even if the jury finds an aggravating
14 circumstance the jury could impose life Do you understand
15 that?

16 A Yes

17 **THE COURT** All right Very good Now, obviously we
18 are talking hypotheticals, may happen, may not happen

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

20 **THE COURT** You are on the jury, the jury convicts the
21 Defendant of the crime of murder beyond a reasonable doubt
22 In the second phase the jury finds aggravating circumstance,
23 unanimously, then the jury, after deliberation, unanimously,
24 everybody agrees that the death penalty should be imposed
25 You are in that situation Because you are imposing the

1 sentence every member of the jury has to take pen in hand and
2 sign their name to a form indicating that that indeed is --
3 that the jury has made a unanimous decision to impose the
4 death penalty in this case Do you understand that?

5 A Uh huh (indicating positive)

6 THE COURT All right You need to answer out loud,
7 yes ---

8 A Oh, yes I'm sorry

9 THE COURT ---Because the Court Reporter has to take
10 down your answers

11 A Okay Yes

12 THE COURT Okay Thank you, Ma'am I appreciate it
13 very much

14 Now, if you are a member of the jury in this case you
15 can't come into the courtroom with any kind of preconceived
16 ideas ---

17 A Right

18 THE COURT ---Of what the law is All right You
19 have to accept the law that the Judge -- that I would give to
20 the jury and follow it Even if you agreed with it or
21 disagreed with it in your oath you say, when the Judge gives
22 me the law I'm going to follow that law

23 A Yes

24 THE COURT Okay You understand that?

25 A Yes

1 **THE COURT** All right And you can't have any -- when
2 you come in the courtroom you can't have any predisposition as
3 to impose any type of verdict, or predisposition to impose any
4 type of penalty in the second phase You know there's two
5 options in the second phase, life or death, and you are open
6 to either possibility You could consider and impose, based
7 upon the right set of facts and circumstances, a life
8 sentence You could consider and impose, on the right set of
9 facts and circumstances the death sentence, but you don't lean
10 one way or another You wait for all the evidence to be
11 presented and you heard the law

12 A I understand Yes

13 **THE COURT** All right Also, if you heard about this
14 case in the past, knew anything about it, somebody told you
15 something about it, you have to leave that outside the
16 courthouse

17 A Uh huh (**indicating positive**)

18 **THE COURT** You can't bring it in the courtroom You
19 certainly -- you not only -- you can't talk about it with any
20 other member of the jury, mentally you can't use that to reach
21 a decision in this case Do you understand that?

22 A I understand, yes

23 **THE COURT:** Very good Let's go over some questions
24 Since Friday did you read, watch, listen, talk about this case
25 in any way?

1 A No, I did not

2 THE COURT All right Very good Now, before Friday,
3 did you remember hearing about this case in any fashion,
4 listening, seeing it, anything about this case at all?

5 A No, and I'm embarrassed to say I didn't

6 THE COURT: No That's all right That's perfectly
7 fine No, that's not ---

8 A No

9 THE COURT So you don't know a thing about this case
10 whatsoever?

11 A I hate to say I don't, but I really don't

12 THE COURT That's great Well, honestly that's what -
13 - No Ma'am, that's great That's good Okay Because if you
14 did know something about it then you would be faced with the
15 decision you have to set that aside and not use it in the
16 case, but you don't know anything about it at all?

17 A No

18 THE COURT Great

19 A Sorry

20 THE COURT All right No Ma'am No, that's -- no,
21 that's really good It really is

22 Now, just in general, do you have any kind of personal,
23 political, religious, philosophical belief that you believe
24 would prevent you from being a fair and impartial juror in
25 this case?

1 A No

2 THE COURT All right On the witness list you didn't
3 circle that you knew anybody, correct?

4 A Right

5 THE COURT And on the category of juror which best
6 describes you you circled (C), correct?

7 A Right

8 THE COURT And let's -- let me talk about that for a
9 second so we make sure we are on the same page Again, using
10 a hypothetical, you are on the jury, in the first part of the
11 case the jury has deliberated, based on the evidence they've
12 found the Defendant guilty of the crime of murder beyond a
13 reasonable doubt, so now we're in the second phase, the
14 sentencing phase What you are saying to the Court is, I'm
15 not going into the second phase with any kind of preconceived
16 ideas of any kind, I'm not leaning to life, I'm not leaning to
17 death, I'm going to listen to all the facts and evidence
18 presented in the second phase of the trial, I'm going to
19 listen to the law that the Judge gives me, and then with my
20 other fellow members of the jury I'm going to reach a just
21 verdict

22 A Exactly, yes

23 THE COURT Very good Very good Just to follow up
24 very briefly with that You are in the sentencing phase of
25 trial Are you telling me that you could fairly consider and

1 impose, under the right set of facts and circumstances being
2 presented to you, a life sentence?

3 A Yes

4 **THE COURT** Again, could you fairly consider and
5 impose, based upon the right set of facts and circumstances
6 being presented to you, a death sentence?

7 A Yes

8 **THE COURT** And if you are part of the jury that
9 unanimously votes for a death sentence could you then take pen
10 in hand and sign that form and say, this is the unanimous
11 verdict of the jury to impose the death sentence?

12 A Yes

13 **THE COURT** All right Now, the last thing that I have
14 to cover with you is, because of the kind of case that this
15 is, when the jury is selected, when we know who the jury is
16 going to be in this case, that jury will be sequestered That
17 means that -- obviously at County expense -- they will be put
18 up at a hotel, meals will be provided, you will be transported
19 to and from by the -- by County officials, but you won't be
20 going home at night The jury will be with us during the
21 trial Now, the best estimate I can give you for the length
22 of trial will be, when it starts, seven, eight, maybe nine
23 days That's the best estimate I can give you as to the
24 length of trial I understand, everybody understands that's a
25 hardship, no question about that being a hardship All right

1 But, is being sequestered such an undue hardship on you, or is
2 there some kind of health concern that you might have, or of a
3 family member that that would be an undue hardship on you to
4 be sequestered?

5 A No

6 THE COURT Thank you, Ma'am

7 Please answer any questions that the State might have

8 A Okay

9 THE COURT Thank you, Ma'am

10 BY MR HEMBREE

11 MR HEMBREE Thank you, Your Honor

12 MR HEMBREE Good evening, Ms Newton

13 A Hi How are you?

14 MR HEMBREE I'm good How are you today?

15 A Fine Thank you

16 MR HEMBREE Thanks for your patience with us today

17 A Sure

18 MR HEMBREE I understand you are the last juror ---

19 A I know you are glad

20 MR HEMBREE We are suppose to be here so ---

21 Let me introduce a couple of folks I'm Greg Hembree

22 I'm the Solicitor for the Fifteenth Circuit Sitting next to

23 me is Fran Humphries He's our Deputy Solicitor

24 A Hi

25 MR HEMBREE And sitting right over here is Jimmy

1 Richardson He's one of our Senior Assistant Solicitors The
2 three of us will be presenting the evidence on behalf of the
3 State of South Carolina in the case against Mr Stanko

4 A Okay

5 MR HEMBREE I want us to review one particular area -
6 --

7 A All right

8 MR HEMBREE ---That Judge John already touched on
9 In talking about the phases of the trial -- and as Judge John
10 touched on, we have a trial phase, the first phase The
11 question for the jury in the first phase is simply, did
12 Stephen Stanko take the life of Henry Turner It's, did he do
13 it or not That's the fundamental question The jury finds
14 that he committed that crime, then we move into the second
15 phase That's a different question It's really two
16 questions It's in one proceeding but it's two questions
17 The first question is, in the process of committing that
18 murder did -- was there the presence of a statutory
19 aggravating circumstance Now the statutory aggravating
20 circumstances are a list of things that are in our State Law
21 that basically say, if you've committed a murder along with
22 this particular circumstance then that qualifies for a death
23 penalty case, it can be a death penalty case Does that --
24 does that make sense? It's a foreign concept to most folks,
25 and that's why ---

1 A It semi-makes sense right now

2 Q Okay That's fair enough So what we would do in that
3 second phase, what the State would do is, we would be
4 presenting evidence about the statutory aggravating
5 circumstance That would be one other thing we would do

6 A Okay

7 Q Now, assuming that you have to reach that sort of
8 hurdle The first hurdle is guilt, the second hurdle is,
9 there's the presence of a statutory aggravating circumstance,
10 the jury decides, yes, there's a statutory aggravating
11 circumstance, at that point the jury then moves into a
12 consideration of punishment, and there would actually be a --
13 would be evidence presented ---

14 A Right

15 Q ---About mitigating factors ---

16 A Uh, huh (indicating positive)

17 Q ---Things that the Defense might -- they don't have to,
18 but they could choose to present on behalf of the Defendant,
19 to try to lessen the severity of the crime We might present
20 evidence that makes it even -- it makes it worse

21 A Uh huh (indicating positive)

22 Q And so we would be presenting that sort of evidence in
23 that last part of the case My question to you is -- I guess
24 I'm going to share a legal concept with you, and Judge John
25 already did this, but when you enter that last phase even if

1 the State has presented, has proven the statutory aggravating
2 circumstance, the jury has a right to find for death and for
3 life It's not like guilt plus extra aggravating circumstance
4 equals death penalty It's not that scientific It's not
5 that mathematical It -- one plus one equals you can consider
6 the death penalty, or consider life, either one Did you
7 follow that -- that legal concept?

8 A I don't quite understand where you are ---

9 Q If I could explain that legal principal you might could
10 follow it?

11 A Right Right Right I think there's going to have
12 to be a lot more involved in the case for me to totally
13 understand what you are saying I'm sorry, I just -- I
14 don't ---

15 **THE COURT** No Ma'am No Ma'am That's quite all right

16 **MR HEMBREE** That's not your fault That's my fault

17 A Okay

18 **THE COURT** We'll blame that on the Solicitor, not
19 being able to explain it

20 Q I guess maybe to cut to the chase, can you keep an open
21 mind ---

22 A Yes

23 Q ---About the penalty, about what penalty you might
24 impose, and until -- after you have heard evidence about
25 statutory aggravating, and heard all the other evidence, can

1 you wait till the very, and keep an open mind until that
2 point in time?

3 A I can keep an open mind because I, at this point, don't
4 know anything, and I don't even know who that other person was
5 that you were talking about I -- so ---

6 Q Okay That's -- and that's essentially what we are
7 looking for, for folks that could keep an open mind, can be
8 fair and impartial to the Defendant Can you do that for us?

9 A Yes

10 Q Can be fair and impartial to the State of South
11 Carolina?

12 A Of course

13 MR HEMBREE Thank you very much Once again, thank
14 you for your willingness to serve

15 Defense counsel may have some questions for you Please
16 give them your kind attention

17 A Okay

18 THE COURT All right Ms Williams

19 BY MS WILLIAMS

20 MS WILLIAMS Thank you, Your Honor

21 Ms Newton, my name is Brana Williams, and it will be
22 me, along with Bill Diggs, who will be defending Mr Stanko
23 during this trial, who is seated at the table with us

24 A Okay

25 Q Just a few questions and now I'll say this to start out

1 with The Judge has asked you some questions, the Solicitor
2 has talked to you about some things, and I'm going to have to
3 say some of the same things over again

4 A Okay That's fine

5 Q We have to say it and say it, and say it again just
6 to ---

7 A Okay That's fine

8 Q ---Cover all our bases Let me ask you, if I took my
9 notes right when the Judge was asking folks, I guess it was on
10 Friday, if anybody had ever been a victim of a crime, or a
11 family member of a crime, I have noted that you responded

12 A Yes Yes

13 Q Can you tell me about that

14 A My daughter was assaulted when she was in college by a
15 gentleman, and he had a knife It was an African-American
16 person, and he didn't hurt her, but it went to trial, and he
17 got two years, and so that's what happened, so anyway

18 Q So let me ask you, based on your experience with that
19 do you think that you can basically come in here, put that
20 aside, and be a fair and impartial ---

21 A Yes

22 Q ---Juror ---

23 A Yes

24 Q ---To both the State and the Defense?

25 A Right Yes, I can

1 Q Now, as we've explained, this is a very unique case,
2 and there might possibly be two actual parts to this trial

3 A Uh huh (**indicating positive**)

4 Q The first phase will be what we call the guilt phase,
5 and you are determining the guilt may be in there, and what we
6 think, there are going to be four possible verdicts for the
7 jury to consider The Judge will explain to you what each --
8 which is -- what each of them is -- easy for everybody ---

9 A Right

10 Q ---What each of them mean legally, okay, and then the
11 jury will have to consider We are thinking that the jury
12 will be able to consider guilty, not guilty, not guilty by
13 reason of insanity, or guilty but mentally ill

14 A Okay

15 Q Now what I want to ask you is, do you know of any
16 reason coming into this case that for some reason, if the
17 facts and circumstances are there and once the Judge has
18 explained to you what those things can mean, that there is any
19 reason you couldn't truly consider all four of those
20 possibilities?

21 A No

22 Q One last question As the Judge has explained, if we
23 get to the second part of this trial -- and I have to say, we
24 aren't assuming that we get there, but if we don't ask you
25 about it now we don't get another opportunity

1 A Right

2 Q So we just have to talk about all kinds of
3 possibilities If we get to the second part of that trial
4 there's going to be two possible verdicts, okay, a death
5 sentence or the pos -- life without the possibility of parole

6 A Uh huh (indicating positive)

7 Q And to even get to the possibility of the death
8 sentence the State is going to have to prove murder plus an
9 aggravating circumstance, okay, so it is that murder plus
10 Okay If you are a part of this jury and the jury
11 collectively decides yes, it was murder, yes, there is an
12 aggravating circumstance, but the Judge has instructed you
13 that, even if you found murder plus ---

14 A Uh huh (indicating positive)

15 Q ---You, as the jury, can still decide life without
16 parole You don't have to impose death You can decide life
17 without parole Do you think you could still make a -- you
18 know, come into it and basically look at both options?

19 A Yes

20 MS WILLIAMS That's what I need Okay Thank you

21 A Okay

22 THE COURT All right, Ms Newton, if you don't mind,
23 if you would just go out in the hallway with the deputy for
24 just one moment, please

25 A Okay

1 THE COURT Okay Thank you, Ma'am

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

4 (THREE PAGE WITNESS LIST AND CATEGORY QUESTIONNAIRE FOR
5 JUROR NUMBER 472 MARKED COURT'S EXHIBIT NUMBER 78)

6 THE COURT All right, State's position?

7 MR HEMBREE Ms Newton is qualified, Your Honor

8 THE COURT Defense

9 MS WILLIAMS Your Honor, we feel that Ms Newton is
10 qualified

11 THE COURT The Court finds Ms Newton, Juror Number
12 472, to be qualified She could follow the Court's
13 instructions and her juror's oath, and she is qualified

14 All right So that's all the jurors that are back
15 there, correct?

16 DEPUTY SHERIFF Yes sir

17 THE COURT All right Very good

18 All right Yes sir, Solicitor

19 MR HEMBREE Well, Judge, just as we are sort of
20 getting on the short end of this part of the process we would
21 like to talk a little bit about scheduling

22 THE COURT Okay

23 MR HEMBREE It appears that we have -- we have
24 qualified twelve jurors today and we are at thirty-five

25 MR HUMPHRIES Thirty-six

1 **THE COURT** Thirty-six altogether is what -- is that --
2 the Clerk has thirty-six

3 All right, Defense, is that the number you have?

4 **MS WILLIAMS** I have thirteen today, but I -- thirty-
5 six, yes sir

6 **THE COURT** Thirty-six All right Very good All
7 right

8 **MR HEMBREE** Nevertheless, Your Honor, the -- it
9 appears we will need about nine more to have the minimum
10 number of forty-three, plus a couple of spares

11 **THE COURT** Right

12 **MR HEMBREE** That was sort of the number we had -- had
13 ---

14 **THE COURT** Had talked about, correct?

15 **MR HEMBREE** ---Vaguely discussed, or kind of loosely
16 discussed

17 **THE COURT** Yes

18 **MR HEMBREE** It also appears that it would -- at the
19 pace we are going that it will likely take most of the day
20 tomorrow to get those nine

21 **THE COURT** To get all those Yes

22 **MR HEMBREE** And in addition -- I'm just thinking
23 about hotel rooms and soforth, to try to -- I mean we can try
24 to strike tomorrow late in the day and get them in -- but we
25 wouldn't be able to -- we virtually be unable to get any

1 work ---

2 **THE COURT** Done

3 **MR HEMBREE** My suggestion would be that we finish
4 qualifying tomorrow, strike first thing on Friday morning,
5 allow S L E D to take the jurors to let them check into the
6 hotel, put their stuff up, and bring them back in the late
7 morning or about the middle of the day, and we can begin the
8 trial of the case

9 **THE COURT** All right What's the position of the
10 Defense?

11 **MR DIGGS** Was that the trial of the case beginning
12 mid-day or early afternoon Friday?

13 **THE COURT** Yes

14 **MR DIGGS** Okay And Your Honor, would we be safe in
15 assuming we wouldn't need any of Defense witnesses at least
16 until Sunday?

17 **THE COURT** I don't know I mean, I have no idea how
18 long the State's case is going to take I wouldn't ---

19 **MR DIGGS** Okay

20 **THE COURT** I wouldn't assume anything I just --
21 y'all should know much better how long you think the case is
22 going to go than I would I really have no earthly idea how
23 long the State's case might take, truthfully

24 **MR DIGGS** Okay And Your Honor, we had made a motion
25 earlier in this case to require the State to present it's

1 evidence of lack of sanity in it's case in chief, and I'm
2 renewing that motion at this point, or I will renew it, Your
3 Honor, and if you want to ---

4 **THE COURT** Well, why don't you renew it at the time
5 that we have the jury in this case I think that would
6 probably be the more appropriate time to do that

7 **MR DIGGS** Okay

8 **THE COURT** Solicitor, what I'm going to do is, most
9 likely -- you are right, we are not going to start this case
10 un -- obviously until Friday I would like to start it as
11 early as possible, so hopefully, you know, we will get them
12 all tomorrow and we could have them here I guess early Friday
13 morning, assembled and ready to go, and go get checked in and
14 then -- and then come back, but I would like to try and do
15 that as quickly and as expeditiously as possible

16 Madame Clerk, what do you want to tell me?

17 **CLERK OF COURT** Are you going to bring everybody back
18 in when you strike, and we call them up like we do in a
19 regular criminal case, or are we just going to strike ---

20 **THE COURT** No Ma'am We are going to call all forty-
21 three back

22 **CLERK OF COURT** Okay Well, do you want us to go
23 ahead and have them to come in at a certain -- go ahead and
24 call the ones that are qualified, have them to be here at a
25 certain time Friday, somewhere, with their luggage packed and

1 then the ones ---

2 **THE COURT** Yes The ones that are already qualified
3 we probably ought to be telling them, you need to be here
4 Friday morning

5 Now, do you think it's such an imposition on them to
6 have them here Friday morning at 8 30, Solicitor, packed and
7 ready to go?

8 **MR HEMBREE** It's fine with me, Judge I think that
9 would be fine

10 **THE COURT** Defense

11 **MR DIGGS** Do we have to be here at 8 30 too?

12 **THE COURT** Well, ---

13 **MR DIGGS** No, Your Honor, that's fine

14 **THE COURT** All right I think what you need to do is
15 the one -- the thirty-six that are already qualified, you need
16 to be telling them, you are in the selection process, you
17 could potentially be picked, so you've got to go ahead and
18 bring what you need for the seven to ten days and be here
19 Friday morning at 8 30

20 **CLERK OF COURT** And then the ones that are qualified
21 tomorrow we can tell them ---

22 **THE COURT** We are going to have to tell them -- you
23 are going to have to tell them when they leave and say, come
24 back tomorrow morning, 8 30, packed, ready to go, and then --
25 let me talk about this We are going to have the forty-three

1 come here by 8 30 packed and ready to go What we then have
2 to do then would be to go through the selection process, pick
3 the twelve, pick the four, and then let them go get checked
4 in, correct?

5 MR HEMBREE Yes sir

6 MR HUMPHRIES And the S L E D guys, they'll pack
7 them all up, they'll make sure they take care of their
8 vehicles

9 THE COURT Right

10 MR HUMPHRIES Take them on That usually take -- it
11 depends on what we do with them If we are struck by, you
12 know, 9 15, which is what I think reasonable, you know, an
13 hour it's really not -- I mean that's not -- you know, we are
14 not talking about -- it wouldn't be a convenient time to feed
15 them, I guess is what I'm saying

16 THE COURT Right

17 MR HUMPHRIES Take them about an hour and a half to
18 get in, get settled, get back to the courthouse We could
19 start at eleven or eleven-thirty

20 THE COURT Let's just see -- when we get the forty-
21 three down to the twelve and four we'll see what time it is
22 and we'll make a decision then Okay But tell them 8 30

23 CLERK OF COURT Is it okay if we call them tomorrow,
24 or do you want me to call them tonight?

25 THE COURT No, you don't have to call them tonight I

1 don't see any -- you can call them -- just have your office
2 start calling them first thing in the morning

3 **CLERK OF COURT** I will call the hotel again tonight
4 and tell them that it will be Friday

5 **THE COURT** Yes Ma'am That will be fine, but then it
6 will be ---

7 (THE FOLLOWING TAKES PLACE ON THE NEXT DAY, NOVEMBER 12,
8 2009)

9 **THE COURT** All right Is the State ready to proceed?

10 **MR HEMBREE** Yes, Your Honor

11 **THE COURT** Defense?

12 **MR DIGGS** Yes sir

13 **THE COURT** Very good Ask the first juror to come in,
14 please

15 **SONNY W CANNON, JUROR NUMBER 88,**
16 being first duly sworn, states as follows

17 **BY THE COURT**

18 **THE COURT** All right, Mr Cannon, what I'm going to do
19 is, I'm going to talk to you about a few things, going to be
20 asking you some questions After I'm done you may have some
21 questions from representatives of the State and the Defense
22 Okay

23 A Yes sir

24 **THE COURT** Now, no right or wrong answers here, okay,
25 just looking for just direct, straight-forward, honest answers

1 to the questions That's all I'm asking for Okay

2 A All right, sir

3 **THE COURT** Very good In this particular matter the
4 State of South Carolina has charged the Defendant, Mr Stanko,
5 with the crimes of murder, armed robbery Now, the Defendant
6 has pled not guilty to those charges, so that puts the burden
7 of proof on the State of South Carolina to prove the Defendant
8 guilty beyond a reasonable doubt The Defendant is presumed
9 innocent The Defendant doesn't have anything to show to you,
10 prove to you The State has to prove the Defendant guilty
11 beyond a reasonable doubt You understand that?

12 A Yes sir

13 **THE COURT** Very good Now, in this particular case
14 the State has filed notice to seek the death penalty as
15 against Mr Stanko That means this case would have two
16 parts The first part would be that the jury would hear the
17 facts and evidence, testimony, and find that evidence that
18 convinces them that it's true, and then weigh that evidence
19 against the State's burden to prove the Defendant guilty
20 beyond a reasonable doubt If, and only if the jury finds the
21 Defendant guilty of the crimes charged, beyond a reasonable
22 doubt, would we even go into the second phase, or sentencing
23 phase of the trial You understand that?

24 A Yes sir

25 **THE COURT** Now, if the jury unanimously finds the

1 Defendant guilty of the crime of murder beyond a reasonable
2 doubt then we would then go to what's called the sentencing or
3 the penalty phase It's called that because the jury actually
4 imposes the sentence in this case That makes it different
5 from any other criminal case In all others the Judge imposes
6 sentence In this one the jury imposes the sentence, so --
7 and there's two choices, one is life in prison without the
8 possibility of parole, the other possibility is the death
9 penalty

10 Now, for a jury to even consider giving the death
11 penalty the jury has to unanimously find what is called
12 an aggravating circumstance Now aggravate means to make
13 worse or exacerbate There are some factors that our State
14 Law has that the Judge would charge to the jury if they apply,
15 and if the jury picks one of those unanimously then the jury
16 can consider the death penalty It's basically murder plus
17 this aggravating circumstance, and if the jury finds that then
18 they have both options open, the death penalty and life in
19 prison The jury must also look at any mitigating factors
20 that the Court would charge to the jury Mitigate means to
21 reduce, or lessen the charge or the punishment, and the jury
22 would have to look at those before the jury imposed any
23 sentence in this case You understand that?

24 A Yes sir

25 THE COURT Now, the jury can impose life because of