

VOLUME ONE OF SIX

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

VOLUME ONE

1 - 500

Appeal from Greenville County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

RECEIVED

APR 21 2010

S.C. SUPREME COURT

BRAD KEITH SIGMON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GREENVILLE COUNTY

Joseph J. Watson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRAD KEITH SIGMON,

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1 STATE OF SOUTH CAROLINA

2 IN THE COURT OF GENERAL SESSIONS

3 COUNTY OF GREENVILLE

4
5 STATE OF SOUTH CAROLINA

:

07.15.2002

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6
7 -vs-

:

TRANSCRIPT OF RECORD

:

(VOLUME I)

8
9 BRAD KEITH SIGMON

:

10
11 July 15th, 2002

12 Greenville, South Carolina

13 B E F O R E:

14 HONORABLE JOSEPH J. WATSON, Judge.

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

16 ROBERT ARIAIL, ESQ.

17 BETTY STROM, ESQ.

18 MINDY HERVEY, ESQ.

19 LORI REESE, ESQ.

20 Attorneys for the Plaintiff

21 FRANK EPPES, JR., ESQ.

22 JOHN ABDALLA, ESQ.

23 Attorneys for the Defendant

24 MARY E. SPRAGUE

25 Court Reporter

Judge Name:

Trial Type:

Panel ID : WATSON 7/15

WATSON 7/15

#	Juror #	Juror Name	Ref. Plaintiff/Defendant		No. Chal Strk		Court	Remark
			No.		Chal	Strk		
1	300200	WHARTON, ROBERT A	375	()	()	()	()	W/M
2	194863	MILLER, BARBARA S	239	()	()	()	()	W/F
3	236544	RICHARDSON, VIVIAN M	297	()	()	()	()	B/F
4	127099	HEMBREE, REBECCA A	154	()	()	()	()	W/F
5	29523	BRAILSFORD, JOHN H	30	()	()	()	()	W/M
6	52198	CHILDRESS, MATTHEW S	63	()	()	()	()	W/M
7	273571	SULLIVAN, CHRISTINA W	338	()	()	()	()	B/F
8	209381	NORRIS, SANDRA L	261	()	()	()	()	W/F
9	170771	LINDSTROM, DENISE L	214	()	()	()	()	W/F
10	147595	JOHNSON, DOUGLAS L	189	()	()	()	()	W/M
11	104958	GILLIAM, ELMA H	125	()	()	()	()	W/F
12	91661	FLACK, LEANNE O	114	()	()	()	()	W/F
13	188045	MCDUFFEE, HERMAN S	236	()	()	()	()	W/M
14	85008	ELMORE, CYNTHIA A	103	()	()	()	()	W/F
15	131763	HILLMAN, BRENDA K	163	()	()	()	()	W/F
16	87395	EVANS, ROBERT D	106	()	()	()	()	W/M
17	120770	HARMON, LEON C	148	()	()	()	()	W/M
18	255021	SHOOPMAN, PHILLIP W	317	()	()	()	()	W/M
19	185281	MCCARTHY, TRACY N	233	()	()	()	()	W/M
20	44838	CANNON, GARVEN P	52	()	()	()	()	W/M
21	226397	POWELL, JOHN D	282	()	()	()	()	W/M
22	42123	BYRD, JUDITH K	46	()	()	()	()	B/F
23	121740	HARRIS, JOHN M	149	()	()	()	()	W/M
24	133986	HOLLAND, ROBERT W	165	()	()	()	()	W/M
25	287589	TURNER, NATHAN A	357	()	()	()	()	W/M
26	204948	MYERS, MARY D	254	()	()	()	()	W/F

1231 Type:

Panel ID : WATSON 7/15

WATSON 7/15

#	Juror #	Juror Name	Ref No.	Plaintiff		Defendant		Court	Remarks
				Chal	Strk	Chal	Strk		
27	279585	THAMES, WILLIAM H JR ✓	342	()	()	()	()	()	W/M
28	48000	CARVER, SANDRA H ✓	57	()	()	()	()	()	W/F
29	136080	HORNE, NORA RUIZ ✓	168	()	()	()	()	()	O/F
30	29435	BRAECKELAERE, JANET M ✓	29	()	()	()	()	()	W/F
31	62455	COX, BETTY C ✓	76	()	()	()	()	()	W/F
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1 MR. WICKENSIMER: Good morning.

2 JURY PANEL: Good morning.

3 MR. WICKENSIMER: That's a good response. I
4 appreciate y'all being here today. I'm Paul
5 Wickensimer. I'm the Clerk of Court in Greenville
6 County. Sorry to make y'all wait. We're still waiting
7 on a few folks to get here. That's why we've had the
8 delay, but we appreciate y'all being here, appreciate
9 your participation in the court system.

10 I know when you receive a jury summons there is
11 never a good time. You have to rearrange your
12 schedules, and your family, and business obligations,
13 and other things, but thank you sincerely for
14 rearranging all those things and others to be here
15 today. We'll get started in just a few minutes. The
16 judge will be down to give you a welcome and go through
17 the qualification process, but let me take just a couple
18 minutes to give you a few orientation things before we
19 get started, okay.

20 First, in case you find didn't find the rest rooms,
21 they're just inside the door back here to my left,
22 coming in, the mens and ladies rest rooms are located
23 back there. The lobby out here, if you'll just do us a
24 favor, when we have a break, please help us out by not
25 congregating just outside the door. I know the room

1 kind of closes in, especially when we have a crowd this
2 size that's here for jury service, but you're welcome to
3 go out to the front, or the back, or you can be here, or
4 back here. There's also a canteen area over around the
5 corner, as you go out the door way back to the right
6 straight down the hallway. Feel free to go back and
7 take a break, or get away from the room if the room
8 closes in on you a little bit in those areas, but just
9 don't congregate outside the -- in the area of the
10 security. You can imagine a group this size if
11 everybody congregates out there it could be a
12 distraction for them. I wouldn't want that to happen.
13 Security has been very good here, but you can imagine
14 the distraction of this type could slow things down and
15 hurt the process as far as the deputies being able to
16 see what they need to see and talk to those folks that
17 are coming through in an adequate way.

18 Parking, hope that you found the right place to
19 park. If you didn't bring in your little tag or have
20 one of the folks validate your parking, feel free to
21 stop by at a break in a few minutes and they'll take
22 care of that so you will not be charged for parking when
23 you leave this afternoon.

24 Pagers and cell phones. We'd like to ask you to
25 turn those to the off position at this time. If you

1 have a pager or cell phone take a second and turn it to
2 the off position. Well, you say, mine is on a vibrator,
3 it won't bother anyone. It could be a distraction for
4 you, or it could be a distraction for those who are
5 sitting around you. And you can imagine, again, with a
6 group this size if pagers or cell phones start going
7 off, it would be a very big distraction. The Chief
8 Justice of the State Supreme Court has also handed down
9 a ruling saying that the pagers and cell phones would be
10 turned off in the courthouse. So if you will do us a
11 favor and take care of that, we'd greatly appreciate
12 that. The judge will probably have a little bit more to
13 say about that too.

14 The name tags. I think all of you, or at least
15 most of the ones I see have your name tag on. We
16 appreciate that. That helps us, security-wise, here in
17 the courthouse. It helps us to keep track of your
18 attendance here too. Those folks that are not here, we
19 turn those names over to the Sheriff's Office and they
20 follow up on the people that are not here. It's
21 important that you bring those along, and that helps us
22 also to track your pay when you get that big paycheck,
23 you know, after serving -- what are y'all laughing at?

24 By the way, how many have never served on jury
25 service? Look at that, you thought you were the only

1 one, didn't you? Thank you. But anyway, bring that
2 name tag along each day, and that will help us as far as
3 that goes, okay.

4 Now that you have found your way down here and
5 found where to park and so forth, do us a favor, as the
6 time progresses in your jury service here, leave just a
7 little bit early so you can be here on a timely basis.
8 As you can imagine, court does not get started until all
9 the jurors are in place. So when it's your appointed
10 time to be here, make sure that you leave a little bit
11 early, a lot of construction as you know out on 385, the
12 western corridor, and traffic sometimes is a little
13 rough coming in, but whatever your time is to be here,
14 leave just a little bit early so you can be here on time
15 and we can get court started on time. And whatever your
16 particular responsibility is, or your appointed time to
17 be here, leave a little bit early so you can be here on
18 time and we can get started on time, okay.

19 Let me just mention, too, another thing, and that
20 is that if you would be called for jury service the
21 remainder of this calendar year of course you would not
22 need to appear. That's here at this court facility.
23 That doesn't include the Federal Court system or the
24 Magistrate's Court system. If you would receive another
25 jury summons for the remainder of this year at this

1 court facility, you would not need to appear, okay. If
2 you would receive a jury summons for 2003 or 2004, that
3 would be completely optional. If you would want to
4 appear, you can fill out your summons card and send that
5 back in, but that's up to you to decide. So I wanted to
6 give you a little information about that.

7 As I mentioned, the judge will be down here in just
8 a few minutes to get things started. Again, thank you
9 for being here, but let me just hasten to add something
10 quickly before I leave the podium here. The folks that
11 are wearing the bright colored jackets here in the red,
12 those are the bailiffs, and they'll be here to help you
13 during the process. If you need anything or have any
14 questions feel free to ask the bailiffs. If you're not
15 sure about where to be and -- or a question about how
16 the process works here, they'll answer the question or
17 they'll get you an answer to the question. So feel free
18 to ask the bailiffs and they'll be glad to help you.

19 Also, we have jury coordinators that are in the
20 room right behind this area here. That's their job too,
21 to help you, to answer your questions and walk you
22 through the process. We don't expect you to know all
23 the answers. As you can imagine with all the hands that
24 went up today there's so many people here that have
25 never served on jury service before, but we often say

1 here that we don't sell anything here, we don't make
2 anything here, we are here to provide a service to you,
3 and you're our customers, so let us know sincerely how
4 we can help you through your time on jury service as you
5 go through this process. If there's a question you
6 have, ask us, we'll be glad to help you there. But
7 again, thank you for being here. Thank for you
8 responding to that jury summons. And we'll get things
9 started in just a couple minutes, okay.

10 MS. PLUMLEY: And I just have one little
11 housekeeping matter I need to take up with you, and
12 that's the mileage ticket you were given as you came in.
13 If you would please get those out at this time, and I'm
14 going to take them up, but before you pass them up, I
15 need to just make sure, number one, that I have your
16 correct address. So if your address is different from
17 what you were actually summonsed, if you would please
18 write new at the top of this form, so I can make sure I
19 have your correct address.

20 Also, it has a place for phone numbers. There may
21 be a time that I would need to contact you, you're going
22 to be given information, but there may be a time that I
23 would have to call you, so I need to make sure that I
24 have every phone number that I could reach you at, okay.
25 So if you have a cell number, a place you hang out, or

1 something like that, you know, if you would, please
2 write that number down so that I would be able to get in
3 touch with you this week. Okay. And after you've done
4 that, if you would please pass, if you're in the center,
5 pass it to the last person on this row. And if you're
6 over on the benches, if you would just pass them down
7 this way, we'll take those up.

8 Okay. If you would, just remain in this area and
9 Judge Watson will be down shortly and we'll begin at
10 that time.

11 (A brief recess was taken, after which, the trial
12 continued as follows:)

13 THE COURT: Good morning, ladies and gentlemen.
14 Have a seat.

15 MR. EPPES: We are all use to sitting over there,
16 Judge.

17 THE COURT: Well, we got a special seat for y'all.

18 MR. EPPES: Okay.

19 THE COURT: All right. Ladies and gentlemen, by
20 now I guess you probably know that this is a little bit
21 different than the normal jury service. We are here --
22 you are special venire for one case only. We have a lot
23 to do this morning. We'll be in here for probably about
24 an hour and a half, maybe even two hours. I will
25 explain the process that we are going to go through,

1 then we will actually begin the jury selection process
2 this afternoon. The entire jury selection process in
3 this type of case usually takes about three or four
4 days. Because in this type of case there is individual
5 questioning of jurors on the issue of the death penalty,
6 but we won't even start that until this afternoon.

7 What we're going to do is, we're going to have a
8 roll call to make sure we have an accurate count of
9 who's here. Generally during the roll call, we get you
10 to give us certain information, where you're employed,
11 you're marital status things like that. Since you have
12 filled out a pretty extensive questionnaire, we already
13 have that information, so we will -- all we're going to
14 do in this first phase is just call the roll and make
15 sure we got an accurate count of who's here. Then I
16 will go a list of questions with you to actually qualify
17 you as jurors to serve. These are questions I would ask
18 any jury, whether it's a civil case or a criminal case,
19 anything like that. I will then go through a list of
20 questions about this particular case to actually qualify
21 you on this particular case.

22 In other words, I will introduce you to the people,
23 I'll review that witness list with you, ask you some
24 questions, and -- and when I ask the questions during
25 the specific qualification on this case, what we will do

1 is not get your response. In other words, I'll ask,
2 does anybody know any of the witnesses on the list, and
3 I will have anybody stand that knows any witnesses. I
4 will not then ask you who you know, we'll cover that in
5 the individual voir dire, But I'll simply make a note as
6 to how many jurors and what jurors know a certain
7 witness.

8 After we do all of that, then I think we have some
9 150 jurors, we're going to divide you into groups of
10 six. Actually we're going -- today we're going to do
11 groups of five, and then tomorrow groups of six. And
12 we're going to have jurors come every two hours. So
13 say, we start this afternoon at one o'clock, we'll have
14 a list of five people to come at one o'clock. And then
15 we'll have another list of five to come at three
16 o'clock, then at five o'clock, and then we'll start
17 tomorrow at nine o'clock, 11 o'clock, 2, 4, 6 o'clock,
18 okay.

19 You will see a couple things by what I'm explaining
20 to you. First of all, we're going to work a little bit
21 late as we go through this jury selection process. So
22 if you're on a panel that's to come in at five o'clock,
23 then you need to be prepared to stay until eight or nine
24 o'clock. The second thing you might surmise from this,
25 we are not going to go through all 150 jurors. We are

1 going to draw everybody's name out, and the first, I
2 don't know, 50, 60 or 70 will be put on one of these
3 mini-panels to come in. Then the balance of the panel,
4 which maybe, I don't know, 60 or 70 people are going to
5 be our back up people. If we run out of jurors then we
6 will call you in. And those people will be given a
7 separate instruction to call in Thursday night.

8 In other words, we will have enough panels to take
9 us through Thursday. We may have a jury by Wednesday.
10 We may have a jury by noon on Wednesday. We may have a
11 jury by, you know, Thursday morning. But in any event,
12 we have to keep the balance of the panel available in
13 case we need them. That's sort of a nutshell of how we
14 pick a jury in this case.

15 The last thing I need to tell you is when we go
16 through the individual voir dire, individual questioning
17 this afternoon and Tuesday and Wednesday, and may be
18 Thursday, we are going to get qualified jurors. We're
19 not picking our jury at this time. We are simply
20 getting a panel of 35 or 40, or 45 qualified jurors.
21 And then those qualified jurors, only those qualified
22 jurors, will be brought back and then we'll select a
23 jury of 12 jurors and two or three alternates from that
24 qualified list. So just because you are qualified, if
25 you are one of the first people and if you go through

1 the individual voir dire process, and if you are
2 qualified, that does not necessarily mean that you will
3 serve.

4 I guess I need to go ahead and tell you up front,
5 that if you are picked, then you will be sequestered.
6 You will not be sequestered until we pick the jury
7 probably again on Wednesday or Thursday. Sequestered
8 means you will be a guest of the County at a local hotel
9 and you will be feed at local restaurants, and you will
10 be chauffeured and baby-sat, there's probably a better
11 word than that, by SLED agents and you will be taken
12 care of, I can assure you.

13 So anyway, that's sort of where we're going in a
14 nutshell. First thing we're going to do, I think you've
15 already been told, if you've got cell phones or beepers,
16 you need to cut them off, and you just need to leave
17 them when you come back for individual voir dire. Don't
18 even bring them, or leave them in your car.

19 The first thing we're going to do is to call the
20 roll and then we'll administer their oath after that.
21 But if you would please call the roll.

22 When your name is called, if you would please just
23 stand and say here or present.

24 THE CLERK: Juror number 2, Helene Adams.

25 MS. ADAMS: Present.

1 THE CLERK: Number 10, John L. Baker.
2 MR. BAKER: Present.
3 THE CLERK: Number 16, David S. Bennett.
4 MR. BENNETT: Here.
5 THE CLERK: Number 23, Wayne B. Blyler.
6 MR. BLYLER: Present.
7 THE CLERK: Number 24, James A. Boling, Jr.
8 MR. BOLING: Here.
9 THE CLERK: Number 29, Janet M. Braeckelaere.
10 MS. BRAECKELAERE: Here.
11 THE CLERK: Number 30, John H. Brailsford.
12 MR. BRAILSFORD: Here.
13 THE CLERK: Number 31, Christopher R. Brannon.
14 MR. BRANNON: Here.
15 THE CLERK: Number 34, Christopher E. Brock.
16 MR. BROCK: Here.
17 THE CLERK: Number 35, Marlo B. Brody.
18 MR. BRODY: Here.
19 THE CLERK: Number 39, David B. Bruce.
20 MR. BRUCE: Here.
21 THE CLERK: Number 3- -- excuse me, number 46,
22 Judith K. Byrd.
23 MS. BYRD: Here.
24 THE CLERK: Number 50, Marion M. Campbell.
25 MS. CAMPBELL: Present.

1 THE CLERK: Number 52, Garven P. Cannon.
2 MR. CANNON: Here.
3 THE CLERK: Number 54, Robert M. Carlton.
4 MR. CALRTON: Present.
5 THE CLERK: Number 57, Sandra H. Carver.
6 MS. CARVER: Present.
7 THE CLERK: Number 354, Janice Tripp Case.
8 MS. CASE: Here.
9 THE CLERK: Number 58, Melissa G. Cason.
10 MS. CASON: Present.
11 THE CLERK: Number 59, Linda Surgenor Catlett.
12 MS. CATLETT: Here.
13 THE CLERK: Thank you. Number 62, Kenneth R.
14 Chastain.
15 MR. CHASTAIN: Here.
16 THE CLERK: Number 63, Matthew S. Childress.
17 MR. CHILDRESS: Here.
18 THE CLERK: Number 64, Sammy P. Childs.
19 MR. CHILDS: Here.
20 THE CLERK: Number 66, Betty J. Clark.
21 MS. CLARK: Present..
22 THE CLERK: Number 67, Karen D. Cobb.
23 MS. COBB: Here.
24 THE CLERK: Number 73, Wilton R. Cothran, Jr.
25 MR. COTHAN: Here.

1 THE CLERK: Number 76, Betty C. Cox.
2 MS. COX: Here.
3 THE CLERK: Number 77, Louis E. Crawford.
4 MR. CRAWFORD: Here.
5 THE CLERK: Number 78, Viola D. Crim.
6 MS. CRIM: Here.
7 THE CLERK: Number 79, Jerry L. Crisp.
8 MR. CRISP: Here.
9 THE CLERK: 80, Samuel M. Crossland.
10 MR. CROSSLAND: Here.
11 THE CLERK: 81, Evelyn K. Cruell.
12 MS. CRUELL: Present.
13 THE COURT: Where is Ms. Cruell? Okay. Thank you.
14 THE CLERK: 83, Calvin Davis.
15 MR. DAVIS: Here.
16 THE CLERK: 86, Robin C. Dean.
17 MS. DEAN: Present.
18 THE CLERK: 90, James M. DeYoung, Jr.
19 MR. DEYOUNG: Here.
20 THE CLERK: 100, Charles F. Durham, Jr.
21 MR. DURHAM: Present.
22 THE CLERK: Number 101, Lorenzo L. Eaton.
23 MR. EATON: Here.
24 THE CLERK: Number 103, Cynthia A. Elmore.
25 MS. ELMORE: Here.

1 THE CLERK: 104, Ronald A. Eskew.
2 MR. ESKEW: Here.
3 THE CLERK: 106, Robert D. Evans.
4 MR. EVANS: Here.
5 THE CLERK: 109, Sharon S. Fahnle.
6 MS. FAHNLE: Here.
7 THE CLERK: Number 110, Hussein M. Farhan.
8 MR. FARHAN: Here.
9 THE CLERK: 114, Leanne O. Flack.
10 MS. FLACK: Here.
11 THE CLERK: 115, David T. Forrester.
12 MR. FORRESTER: Here.
13 THE CLERK: 118, Joe E. Gaillard.
14 MR. GAILLARD: Here.
15 THE CLERK: 119, Erin K. Gaskin.
16 MS. GASKIN: Here.
17 THE CLERK: 121, Kelli M. George.
18 MS. GEORGE: Here.
19 THE CLERK: 124, Teresa A. Gibson.
20 MS. GIBSON: Here.
21 THE CLERK: 125, Elma H. Gilliam.
22 MS. GILLIAMS: Here.
23 THE CLERK: 126, Terele Gilmore.
24 MR. GILMORE: Here.
25 THE CLERK: 127, Derrick J. Gordon.

1 MR. GORDON: Here.

2 THE CLERK: 128, Ann H. Green.

3 MS. GREEN: Here.

4 THE CLERK: 129, Danny J. Green.

5 MR. GREEN: Here.

6 THE CLERK: Number 131, Leah A. Greer.

7 MS. GREER: (Stood up.)

8 THE CLERK: Number 134, Wayne Byron Griffin.

9 MR. GRIFFIN: Here.

10 THE CLERK: 135, Amy B. Griffith.

11 MS. GRIFFITH: (Stood up.)

12 THE CLERK: 136, Carlos D. Hall.

13 MR. HALL: (Stood up.)

14 THE CLERK: 138, Don R. Hall.

15 MR. HALL: (Stood up.)

16 THE CLERK: 139, Jennifer L. Hall.

17 MS. HALL: Here.

18 THE CLERK: 140, Patricia A. Hamby.

19 MS. HAMBY: Here.

20 THE CLERK: 143, Alexis W. Hanna.

21 MS. HANNA: Here.

22 THE CLERK: 144, Elizabeth L. Hansen.

23 MS. HANSEN: Here.

24 THE CLERK: 146, Willie Harkins.

25 MR. HARKINS: Here.

1 THE CLERK: 148, Leon C. Harmon.
2 MR. HARMON: Here.
3 THE CLERK: 149, John M. Harris.
4 MR. HARRIS: (Stood up.)
5 THE CLERK: 153, Jeannie M. Hedrick.
6 MS. HEDRICK: Here.
7 THE CLERK: 154, Rebecca A. Hembree.
8 MS. HEMBREE: Here.
9 THE CLERK: 155, Ronald Dennis Hennett.
10 MR. HENNETT: (Stood up.)
11 THE CLERK: 158, Helga C. Herring.
12 MS. HERRING: Here.
13 THE CLERK: 160, Steve L. Hester.
14 MR. HESTER: Here.
15 THE CLERK: 163, Brenda K. Hillman.
16 MS. HILLMAN: Here.
17 THE CLERK: 164, James D. Hix.
18 MR. HIX: Here.
19 THE CLERK: 165, Robert W. Holland.
20 MR. HOLLAND: Here.
21 THE CLERK: 166, Ruth Ellen Holloway.
22 MS. HOLLOWAY: Here.
23 THE CLERK: 168, Nora Ruiz Horne.
24 MS. HORNE: Here.
25 THE CLERK: 169, Justin C. Horton.

1 MR. HORTON: (Stood up.)
2 THE CLERK: 173, Craig W. Howk.
3 MR. HOWK: Here.
4 THE CLERK: 175, Duane A. Huber.
5 MR. HUBER: Here.
6 THE CLERK: 178, Eric Hughes.
7 MR. HUGHES: (Stood up.)
8 THE CLERK: 179, Roger A. Hughes, Sr.
9 MR. HUGHES: Here.
10 THE CLERK: 183, Ariel Caesar P. Jacala.
11 MR. JACALA: Here.
12 THE CLERK: 185, Carolyn L. Jackson.
13 MS. JACKSON: Here.
14 THE CLERK: 188, Camilla C. Johnson.
15 MS. JOHNSON: Here.
16 THE CLERK: 189, Douglas L. Johnson.
17 MR. JOHNSON: Here.
18 THE CLERK: 20, Bernice Bivings Jones.
19 MS. JONES: Here.
20 THE CLERK: 197, Curran L. Kay.
21 MS. KAY: Here.
22 THE CLERK: 198, Harriett L. Keaton.
23 MS. KEATON: Here.
24 THE CLERK: 204, Ronald G. Kosch.
25 MR. KOSCH: Here.

1 THE CLERK: 210, Peter A. Leventis.
2 MR. LEVENTIS: Here.
3 THE CLERK: 211, Unita S. Levy.
4 MS. LEVY: Here.
5 THE CLERK: 212, Erica M. Lewis.
6 MS. LEWIS: Here.
7 THE CLERK: 213, James A. Linderman, Jr.
8 MR. LINDERMAN: Here.
9 THE CLERK: 214, Denise L. Lindstrom.
10 MR. LINDSTROM: Here.
11 THE CLERK: 216, Robin E. Long.
12 MS. LONG: Present.
13 THE CLERK: 218, Larry C. Mahaffey.
14 MR. MAHAFFEY: Here.
15 THE CLERK: 219, Susan J. Manchester.
16 MS. MANCHESTER: Here.
17 THE CLERK: 220, Elaine B. Mangrum.
18 MS. MANGRUM: Here.
19 THE CLERK: 221, Larry G. Manning.
20 MR. MANNING: Here.
21 THE CLERK: 222, Frank M. Mansbach.
22 MR. MANSBACH: (Stood up.)
23 THE CLERK: 223, Scott A. Marcley.
24 MR. MARCLEY: Here.
25 THE CLERK: 225, Regina N. Marshall.

1 MS. MARSHALL: Here.
2 THE CLERK: 227, Michelle L. Martin.
3 MS. MARTIN: Here.
4 THE CLERK: 233 Tracy N. McCarthy.
5 MS. MCCARTHY: Here.
6 THE CLERK: 234 Kirkland L. McDonald.
7 MR. McDONALD: Here.
8 THE CLERK: 235, Loretta F. McDowell.
9 MS. McDOWELL: Here.
10 THE CLERK: 236, Herman S. McDuffee.
11 MR. McDUFFEE: Here.
12 THE CLERK: 237, Allen B. McGrew, II.
13 MR. MCGREW: Here.
14 THE CLERK: 239, Barbara S. Miller.
15 MS. MILLER: (Stood up.)
16 THE CLERK: 241, Nora L. Miller.
17 MS. MILLER: Right here.
18 THE CLERK: 249, Stephanie M. Moses.
19 MS. MOSES: Here.
20 THE CLERK: 254, Mary D. Myers.
21 MS. MYERS: Present.
22 THE CLERK: 255, Jacqueline Elgi Neely.
23 MS. NEELY: Present.
24 THE CLERK: 261, Sandra L. Norris.
25 MS. NORRIS: Present.

1 THE CLERK: 263, Michael V. OConnell.
2 MR. OCONNELL: Here.
3 THE CLERK: 266, Dwong Pardo.
4 MS. PARDO: Here.
5 THE CLERK: 267, Ana M. Parga.
6 MS. PARGA: (Stood up.)
7 THE CLERK: 272, Carol W. Petty.
8 MS. PETTY: Here.
9 THE CLERK: 275, Wallace W. Planck, III.
10 MR. PLANCK: Here.
11 THE CLERK: 282, John D. Powell.
12 MR. POWELL: Here.
13 THE CLERK: 284, Jimmy C. Pritchard.
14 MR. PRITCHARD: Here.
15 THE CLERK: 285, Henry Puckett, Jr.
16 MR. PUCKETT: Here.
17 THE CLERK: 290, Charles W. Rasor.
18 MR. RASOR: Here.
19 THE CLERK: 291, Wilma A. Redd.
20 MS. REDD: Present.
21 THE CLERK: 296, Roberta M. Richardson.
22 MS. RICHARDSON: Here.
23 THE CLERK: 297, Vivian M. Richardson.
24 MS. RICHARDSON: Here.
25 THE CLERK: 303, Henry R. Sanders, Jr.

1 MR. SANDERS: Here.

2 THE CLERK: 306, Jennifer L. Schreuders.

3 MS. SCHREUDERS: Here.

4 THE CLERK: 209, Katrice M. Seawright.

5 MS. SEAWRIGHT: Here.

6 THE CLERK: 311, Freddie J. Sexton.

7 MR. SEXTON: Here.

8 THE CLERK: 314, Scott A. Shea.

9 MR. SHEA: Here.

10 THE CLERK: 317, Phillip W. Shoopman.

11 MR. SHOOPMAN: Here.

12 THE CLERK: 328, Melissa A. Speicher.

13 MS. SPEICHER: Here.

14 THE CLERK: 330, Juanita B. Stacey.

15 MS. STACEY: Present.

16 THE CLERK: 333, Luanne K. Stevenson.

17 MS. STEVENSON: Here.

18 THE CLERK: Excuse me, it looks like I missed one,

19 313, Alice M. Sham.

20 MS. SHAM: Here.

21 THE CLERK: Thank you, ma'am. All right. Now,

22 back to 334, Thomas B. Stoddard.

23 MR. STODDARD: Here.

24 THE CLERK: Okay. 336, Paul G. Strange.

25 MR. STRANGE: (Stood up.)

1 THE CLERK: 337, Rita M. Strobel.
2 MS. STROBEL: Here.
3 THE CLERK: 338, Christina W. Sullivan.
4 MS. SULLIVAN: Here.
5 THE CLERK: 341, James W. Taylor, Jr.
6 MR. TAYLOR: Here.
7 THE CLERK: 342, William H. Thames, Jr.
8 MR. THAMES: Here.
9 THE CLERK: 343, Ahmad R. Thompson.
10 MR. THOMPSON: Here.
11 THE CLERK: 345, Martha F. Thompson.
12 MS. THOMPSON: (Stood up.)
13 THE CLERK: 353, Lavonne M. Traylor.
14 MS. TRAYLOR: Here.
15 THE CLERK: 355, John F. Turner, Jr.
16 MR. TURNER: Here.
17 THE CLERK: 356, Larry T. Turner, Jr.
18 MR. TURNER: (Stood up.)
19 THE CLERK: 357, Nathan A. Turner.
20 MR. TURNER: Here.
21 THE CLERK: 360, Ralph G. Verna, Jr.
22 MR. VERNA: Here.
23 THE CLERK: 364, Patricia B. Waldrop.
24 MS. WALDROP: Here.
25 THE CLERK: 367, John R. Watkins.

1 MR. WATKINS: Present.

2 THE CLERK: 368, Jonathan M. Watson.

3 MR. WATSON: Present.

4 THE CLERK: 374, Rosylin A. Weston.

5 MS. WESTON: Here.

6 THE CLERK: 357 -- excuse me, 375, Robert A.

7 Wharton.

8 MS. WHARTON: Here.

9 THE CLERK: 381, Ellanor D. Williams Gaines.

10 MS. BAINES: Here.

11 THE CLERK: 392, Michael G. Wooten.

12 MR. WOOTEN: Here.

13 THE CLERK: 394, Jeanne Yarborough.

14 MS. YARBOROUGH: Here.

15 THE CLERK: 395, Matthew L. Yon.

16 MR. YON: Present.

17 THE CLERK: 396, Agnes M. Young.

18 MS. YOUNG: Here.

19 THE CLERK: 299, Stephanie A. Young.

20 MS. YOUNG: Present.

21 THE COURT: Call the list that -- of 7 or 9 that

22 you said ---

23 THE CLERK: Okay. Alice Y. Bonner.

24 THE COURT: What number please?

25 MS. PLUMLEY: 26.

1 THE COURT: All right. Call the name out loud,
2 please.

3 THE CLERK: Number 26, Alice Y. Bonner.

4 (No response from the jury panel.)

5 THE COURT: All right. The next one.

6 THE CLERK: Number 75, Larry G. Cowlah.

7 THE COURT: Last name?

8 THE CLERK: Cowlah, C-o-w-l-a-h.

9 (No response from the jury panel.)

10 THE CLERK: Number 112, Christopher E. Fenske.

11 (No response from the jury panel.)

12 THE CLERK: Number 137, David J. Hall.

13 (No response from the jury panel.)

14 THE CLERK: Number 171, Tina M. Howard.

15 (No response from the jury panel.)

16 THE CLERK: 273, Duane R. Pike.

17 (No response from the jury panel.)

18 THE CLERK: Number 119 -- oh, I beg your pardon.

19 319, Crystal M. Slagle.

20 THE COURT: Last name?

21 THE CLERK: Slagle.

22 (No response from the jury panel.)

23 THE COURT: All right.

24 THE CLERK: Number 331, Debra A. Stenhouse.

25 (No response from the jury panel.)

1 THE CLERK: Number 348, Vickie S. Thompson.

2 (No response from the jury panel.)

3 THE CLERK: Is there anyone's name I did not call?

4 THE COURT: Anybody whose name we did not call, if
5 so please stand. All right. Andrea?

6 (A discussion was held off the record.)

7 THE COURT: All right. For those that did not
8 come, I need a deputy to go find these, one, two, three,
9 four, five, six, seven, eight, nine people. I want them
10 picked up and brought to me.

11 All right. Now, ladies and gentlemen, you should
12 have been given several sheets of paper when you came
13 in, and I'm not sure I even know all of them. You
14 should have been given my letter explaining a little bit
15 about what this trial is about. You should have been
16 given a witness list, and should have been given a
17 mileage slip. Anything else we gave them, Andrea,
18 mileage slip, my letter and the witness list?

19 MS. PLUMLEY: We've already taken up the mileage.

20 THE COURT: Oh, you've already got -- okay. All
21 right. Now, the next order of business is for Madam
22 Clerk to administer your oath. I will tell you that
23 this oath will -- will apply to any information you give
24 to the Court. That would include information today and
25 also information that you give during your individual

1 voir dire when we talk to you individually in the
2 courtroom. Who's administering the oath? Doesn't
3 matter, somebody -- all right. The proper response is,
4 I will. If everyone would please stand and raise their
5 right hand.

6 (The jury panel was first duly sworn.)

7 THE COURT: All right. Have a seat. Thank you.

8 Now, everyone was sent a jury questionnaire. I
9 need to know, has everyone filled out that
10 questionnaire? Anybody who has not filled out the
11 questionnaire, if so please stand.

12 Somebody said my mics not on. How do I cut my mic
13 on?

14 All right. Has anybody not filled out their
15 questionnaire, if so I need for you to stand?

16 (No response from the jury panel.)

17 THE COURT: Has anyone not sent their questionnaire
18 to the Clerk of Court's office, if so please stand?

19 (No response from the jury panel.)

20 THE COURT: I need to ask, ladies and gentlemen,
21 does any member of the jury panel, under oath, wish to
22 modify the information that's in this form? In other
23 words, I'm asking you is everything that you returned in
24 this form true and accurate? If not, I need for you to
25 please stand and you're welcome to modify these forms if

1 you need to.

2 All right. Tell me your name, please, sir.

3 MR. DEYOUNG: James DeYoung.

4 THE COURT: All right Mr. DeYoung, you're number
5 90. All right. What I need for you to do is we'll just
6 mark that and if you get upstairs in the individual voir
7 dire, then we'll ask you about that, in other words,
8 what you need to change on your form, okay.

9 MR. DEYOUNG: Okay.

10 THE COURT: All right. We'll ask you about that
11 later. All right. Anyone else need to make any changes
12 to their form?

13 MS. STROBEL: Rita M. Strobel.

14 THE COURT: All right. Ms. Strobel, you are number
15 337. All right. Thank you, ma'am. Just have a seat
16 for now.

17 MS. LEWIS: Erica Lewis.

18 THE COURT: Beg your pardon?

19 MS. LEWIS: Erica Lewis.

20 THE COURT: Number 212. Thank you, ma'am. Just a
21 seat. What's your name, the lady in the blue shirt?

22 MS. PARDO: Dwong Pardo.

23 THE COURT: Ms. Pardo. All right. Number 266.
24 Thank you, ma'am. You can have a seat. The gentleman
25 in the orange shirt.

1 MR. THOMPSON: Ahmad Thompson.

2 THE COURT: Thompson? Number 343. Is that right?

3 Yeah, 343. You can have a seat. Tell me your name,
4 please, ma'am?

5 MS. STEVENSON: Luanne Stevenson.

6 THE COURT: All right. Number 333. Thank you.
7 You can have a seat. Tell me your name, please, sir.

8 MR. KOSCH: Ronald Kosch.

9 THE COURT: Is that with a K?

10 MR. KOSCH: Yes, sir.

11 THE COURT: All right. Number 204. Thank you,
12 sir. Just have a seat. Tell me your name, ma'am.

13 MS. REDD: Wilma Redd.

14 THE COURT: All right. Number 291. Thank you,
15 ma'am. Have a seat. Tell me your name?

16 MR. STRANGE: Paul G. Strange.

17 THE COURT: All right. Number 336. Now, all you
18 people put wrong information? I'm surprised so many
19 people are standing up. My question is, anybody need to
20 change what they put in the jury questionnaire. All
21 right. Tell me your name?

22 MR. HUGHES: Eric Hughes.

23 THE COURT: Mr. Hughes. All right. Number 178.
24 Tell me your name, please, ma'am?

25 MS. GILLIAM: Elma Gilliam.

1 THE COURT: Number 125. Thank you, ma'am. Tell me
2 your name, please, sir.

3 MR. HUGHES: Roger Hughes, Sr.

4 THE COURT: Hughes? All right. Number 179. Now,
5 I can't see behind the column, is anybody else standing
6 up back there? All right. What we will do is, I'm
7 going to ask a lot of questions, and there is no need to
8 receive everybody's answers, because a lot of you people
9 we're not even going to get to during this process. So
10 what I'm going to do is, we're going to make notes, and
11 then we'll have follow-up questions during the
12 individual voir dire, if we get to that point.

13 Now, ladies and gentlemen, the next thing I need to
14 do is to generally qualify you to serve as jurors in
15 Greenville County. These are questions that I ask any
16 jury that comes in, whether it's a civil case or a
17 criminal case. It's simply a list of qualifications or
18 disqualifications.

19 Now, this list is divided into two categories.
20 First of all, I'm going to go through the
21 qualifications, or disqualifications, and then we have
22 what are known as exemptions. An exemption does not
23 mean you are not qualified, it simply means because of
24 your status you can either exempt yourself from jury
25 service or you can transfer to another week of court.

1 So exemptions are sort of divided into two categories.
2 Some exemptions allow you to exempt yourself altogether
3 and then some exemptions only allow you to transfer to
4 another week of court. So if these questions apply to
5 you, if you would please stand, give us your name, if
6 you know your juror number that would be helpful.

7 Is there anybody on the jury panel who is not a
8 citizen of the United States of America, if so please
9 stand? Anybody not a U.S. citizen?

10 (No response from the jury panel.)

11 THE COURT: Is there anybody who is not a citizen
12 and resident of Greenville County, if so please stand?
13 Anybody who is currently not a resident of Greenville?

14 Tell me your name, please, sir?

15 MR. STRANGE: Paul Strange.

16 THE COURT: All right. Number 336. I need -- I
17 need his return. Anybody got a copy of that down there?
18 Andrea, you need to come up here, please, ma'am, with
19 all the returns.

20 Where do you live, Mr. Strange?

21 MR. STRANGE: I recently moved to Anderson County,
22 16 Riley Street.

23 THE COURT: All right. Where did you live -- where
24 did you get your summons?

25 MR. STRANGE: 103 Road.

1 THE COURT: Which is in Greenville?

2 MR. STRANGE: Yes.

3 THE COURT: And how long ago did you move?

4 MR. STRANGE: Started moving this past weekend.

5 THE COURT: All right. Have you sold your
6 residence here in Greenville?

7 MR. STRANGE: Yeah.

8 THE COURT: All right. Then that would disqualify
9 you. If you would just have a seat. We're going to
10 take a break probably in about 45 minutes to an hour,
11 and we'll -- we'll excuse you.

12 All right. Tell me your name, please, sir.

13 MR. HOWK: Craig Howk.

14 THE COURT: All right. Number 173. Where do you
15 live?

16 MR. HOWK: My home is here in Greenville, Your
17 Honor. My work is in northern Virginia. I keep an
18 apartment there.

19 THE COURT: That doesn't matter. If your residence
20 is here, you're qualified. Thank you though.

21 Tell me your name, please, ma'am.

22 MS. GIBSON: Teresa Gibson.

23 THE COURT: Gibson. All right. Number 124.

24 MS. GIBSON: I live in Anderson County.

25 THE COURT: All right. What address did you

1 receive your summons at?

2 MS. GIBSON: 14 ... Drive.

3 THE COURT: Is that in Anderson?

4 MS. GIBSON: Piedmont, but it's Anderson County.

5 THE COURT: All right. Have you got her return?

6 Number 124.

7 MS. PLUMLEY: She didn't send her return back in.

8 THE COURT: Did you send a return in, a

9 questionnaire, jury questionnaire?

10 MS. GIBSON: Yes, sir.

11 MS. PLUMLEY: Here's her questionnaire, but it

12 doesn't say ---

13 THE COURT: Okay. It's 214. ... Drive?

14 MS. GIBSON: Yes, sir.

15 THE COURT: All right. And you're sure -- most of
16 Piedmont is in Greenville County. I know some of it's
17 in Anderson County. Are you sure you're in Anderson
18 County?

19 MS. GIBSON: As far as I know, it's Anderson
20 County.

21 THE COURT: Well, where are you registered to --
22 are you registered to vote?

23 MS. GIBSON: No, sir.

24 THE COURT: All right. All right. We'll confirm
25 where Drive is. If you would just have a

1 seat, we'll excuse you if that becomes necessary.

2 I need a Sheriff's Deputy to check on that, please,
3 Andrea. That was 124?

4 MS. PLUMLEY: Yes, sir.

5 THE COURT: All right. The way you are summons to
6 appear for jury duty is your name appeared on one of
7 three lists. We draw juries from voter registration
8 lists. We draw juries from driver's license lists, and
9 we draw people -- draw our juries from people who have
10 gone to the Highway Department and gotten an
11 identification card, an identification card issued to
12 them. So you should have at least one of these three
13 things. You don't have to have all three. You don't
14 have to have those items with you at this time. But is
15 there anybody on the jury panel who is not either a
16 registered voter, the holder of a driver's license, a
17 valid South Carolina driver's license, or the holder of
18 an ID card issued by the Department of Transportation,
19 if so, please stand? All right.

20 MR. HUGHES: Eric Hughes.

21 THE COURT: All right. Mr. Hughes, you're not
22 registered to vote?

23 MR. HUGHES: No, sir.

24 THE COURT: Do you have a driver's license?

25 MR. HUGHES: Yes, but the date is out due. I have

1 to get another one. It expired on me.

2 THE COURT: It expired when?

3 MR. HUGHES: November.

4 THE COURT: Okay. Is it under suspension for some
5 reason, or just expired?

6 MR. HUGHES: Just expired.

7 THE COURT: Okay. All right. You're Mr. Hughes?
8 Eric Hughes, number 178?

9 MR. HUGHES: Yes, sir.

10 THE COURT: All right. Just have a seat, I'll
11 decide. I'm not -- I'm not even sure if that's a
12 disqualification or not. Usually it's somebody who's
13 gotten their license suspended. Just because it
14 expired, I'm not sure that would disqualify you.

15 Anyone else who doesn't have at least one of those
16 three items?

17 (No response from the jury panel.)

18 THE COURT: All right. Now, is there anybody on
19 the jury panel who -- let me back up. I should have
20 said this to begin with. Some of these questions I'm
21 going to ask as far as general voir dire are of a
22 personal nature, and I will be glad to receive your
23 answer in private if you would like to respond in
24 private. So if I ask a question, you're welcome to
25 respond immediately, but then at the end I will ask you

1 generally, does anybody want to respond to me privately
2 to any of the questions, and you'll be allowed to come
3 up here and answer in private.

4 Is there anybody on the jury panel who is unable to
5 read, write, speak or understand the English language,
6 if so, please stand?

7 (No response from the jury panel.)

8 THE COURT: Is there anybody on the jury panel who
9 has less than a 6th grade education, or its equivalent,
10 if so I would need to know that?

11 (No response from the jury panel.)

12 THE COURT: Is there anybody who is employed within
13 the four walls of this courthouse complex, or employed
14 in the following occupations, clerk of court, deputy
15 clerk of court, constable, sheriff or any police
16 officer, probate judge, county commissioner -- well,
17 actually county councilman, magistrate, any other county
18 officer, if so, please stand?

19 (No response from the jury panel.)

20 THE COURT: Anybody on the jury panel who has been
21 convicted, or plead guilty in State or Federal Court,
22 and Federal Court would include a military court, of a
23 crime that was in -- punishable by imprisonment for more
24 than one year. Doesn't mean you received more than one
25 year, means that the penalty carried more than a year,

1 and your rights have not restored either by a pardon or
2 by amnesty? I would need to hear from you.

3 Do you want to respond now?

4 MR. HUGHES: Yes, sir.

5 THE COURT: All right. Tell me -- you're Mr.
6 Hughes?

7 MR. HUGHES: Yes, sir.

8 THE COURT: All right, 178?

9 MR. HUGHES: Yes, sir. I'm on parole for a 10 year
10 sentence for strong armed robbery.

11 THE COURT: Okay.

12 MR. HUGHES: I'm still on it.

13 THE COURT: All right. That would disqualify you.
14 If you would just have a seat. You -- all right. Mr.
15 Hughes, when we take a break in about 45 minutes or so,
16 come see Andrea right here in front of me, before you
17 leave.

18 MR. HUGHES: Okay.

19 THE COURT: And who's the gentleman that did not
20 live in Greenville? All right. And I excused you. So
21 you need to check out with Andrea. We need to make
22 sure -- you're going to get paid for coming today. We
23 at least need an address to send your check to, but also
24 I want you to check out with Madam Clerk.

25 All right. Tell me your name, please, sir?

1 MR. ESKEW: Ronald Eskew.

2 THE COURT: All right. Number 104. Tell me about
3 your situation, sir?

4 MR. ESKEW: Assault and battery, high and
5 aggravated nature.

6 THE COURT: How long ago was that?

7 MR. ESKEW: It's been 10 years.

8 THE COURT: All right. What was your sentence, do
9 you remember?

10 MR. ESKEW: Five years probation.

11 THE COURT: Okay. All right. Mr. Eskew, that
12 would disqualify you. Same instructions as Mr. Hughes.
13 If you would, just check out with Andrea before you
14 leave, and we'll send you a check for coming today, but
15 that would disqualify you.

16 Anyone else?

17 MR. GILLIARD: I'm not -- I wanted to make sure I
18 understood, but I did have an assault charge and I'm
19 attending anger management classes now. A couple months
20 ago.

21 THE COURT: Simple assault? Where was it handled,
22 in Magistrate's Court, or in ---

23 MR. GILLIARD: Magistrate.

24 THE COURT: Okay. That would not -- that would
25 not -- tell me your name, please, sir.

1 MR. HALL: Carlos Hall.

2 THE COURT: Hall?

3 MR. HALL: Yeah.

4 THE COURT: Carlos Hall. All right. Tell me your
5 situation.

6 MR. HALL: I'm on probation.

7 THE COURT: And what's what for?

8 MR. HALL: Grand larceny.

9 THE COURT: All right. Who was the judge? It
10 wasn't me?

11 MR. HALL: No.

12 THE COURT: All right. That would -- Mr. Hall,
13 that would disqualify you. If you would just check out
14 with Andrea before you leave, we'll send you a check for
15 coming today.

16 MS. CRUELL: Evelyn Cruell.

17 THE COURT: All right. Again, I will be glad to
18 hear these in private if you want to.

19 MS. CRUELL: I want to speak to you in person.

20 THE COURT: All right. Is it about the question I
21 just asked, Ms. Cruell?

22 MS. CRUELL: No.

23 THE COURT: Okay. Then you just need to have a
24 seat, and I'll generally answer it. Okay. The only
25 thing I'm asking now is prior criminal records.

1 MR. BRUCE: Davis Bruce.

2 THE COURT: All right. Mr. Bruce, number 39.

3 MR. BRUCE: Third degree burglary.

4 THE COURT: All right. And what was your sentence?

5 MR. BRUCE: Well, I was 17 at the time so I went to
6 Gibbons for seven months.

7 THE COURT: On a youthful offender sentence?

8 MR. BRUCE: (Nodded his head.)

9 THE COURT: Okay. Mr. Bruce, that would disqualify
10 you also. If you would, just have a seat and when we
11 take a break, you'll be free to leave. Make sure you
12 check out with the Clerk of Court. Tell me your name,
13 please, sir.

14 MR. TURNER: Nathan A. Turner.

15 THE COURT: Nathan Turner, number 357. All right,
16 Mr. Turner.

17 MR. TURNER: It was a Family Court matter, child
18 support.

19 THE COURT: No, that -- that wouldn't count.

20 MR. TURNER: Just wanted to make sure.

21 THE COURT: That's fine. I appreciate that. I'd
22 rather be safe than sorry. You couldn't have got more
23 than a year for non-support.

24 MR. TURNER: A year and a day.

25 THE COURT: A year and a day.

1 MR. TURNER: I paid it, though. I paid it.

2 THE COURT: All right. All right. Let's come to
3 order. All right. Anybody else as to the question of
4 prior record, or I'll hear from you in private.

5 (No response from the jury panel.)

6 THE COURT: Is there anybody on the jury panel who
7 for some reason, either a physical or mental infirmity,
8 is unable to render efficient jury service? Let me tell
9 you what that includes. I mean, it's a broad question,
10 and again I'll take these responses in private.

11 Somebody's got a doctor's excuse, they've got back
12 problems that prevents them from sitting for more than
13 an hour and 15 minutes to an hour and a half at a time,
14 that might be an example of an infirmity that would make
15 it difficult for you to render efficient jury service.
16 Anything of a physical nature, or a mental nature that I
17 need to know about that would keep you from rendering
18 efficient jury service, I need for you to stand or come
19 forward later.

20 Tell me your name, please, sir.

21 MR. HUGHES: Roger Hughes, 179.

22 THE COURT: All right. Mr. Hughes, do you want to
23 speak with me in private or do you want to tell me what
24 it is?

25 MR. HUGHES: I can tell you right now. I've been

1 out of work since May 13th of 2001. I've been going to
2 NIHC, which is a non-hospital intensive care. And I've
3 been being seen at the Greenville Mental Health Center.

4 THE COURT: All right. Let me -- let me speak with
5 you in private. In just a minute I'm going to ask
6 anybody that wants to respond in private. I need to get
7 into some other detail, but I don't want to ask these
8 questions ---

9 MR. HUGHES: Okay.

10 THE COURT: --- unless it's in private. Tell me
11 your name again, please, ma'am.

12 MS. CRUELL: Evelyn Cruell. I'm disabled.

13 THE COURT: All right. Do you want to tell me in
14 front of everybody what ---

15 MS. CRUELL: I'll speak to you in person.

16 THE COURT: All right. All right. Tell me your
17 name?

18 MR. HALL: Don Hall.

19 THE COURT: Don Hall?

20 MR. HALL: Yes, sir. I'd like to speak to you in
21 private.

22 THE COURT: All right. That's fine. Tell me your
23 name, please, sir.

24 MR. HUBER: Duane A. Huber, number 175. I have a
25 stiff right leg. The only problem I have is being able

1 to sit in a chair.

2 THE COURT: All right. I can handle something like
3 that. Is -- you're saying you can't sit for an hour and
4 a half?

5 MR. HUBER: The problem is physical space. As long
6 as there is room to sit.

7 THE COURT: We'll -- we'll -- we can handle that.
8 That's not a problem.

9 Tell me your name, please, sir.

10 MR. JOHNSON: Douglas Johnson.

11 THE COURT: All right, Mr. Johnson.

12 MR. JOHNSON: I can speak to you in private.

13 THE COURT: Okay. All right. Tell me your name,
14 please.

15 MS. THOMPSON: Martha Thompson. And I'm very
16 hearing impaired.

17 THE COURT: All right. Have you had any difficulty
18 hearing what's gone on so far?

19 MS. THOMPSON: I'm sorry?

20 THE COURT: Good answer. All right. Have you had
21 difficulty hearing what's gone on so far?

22 MS. THOMPSON: Yes, I have.

23 THE COURT: Okay. All right. All right. I'm
24 going to ask that you come up in just a minute and speak
25 to me privately.

1 MS. THOMPSON: Okay.

2 THE COURT: All right. Tell me your name, please,
3 ma'am.

4 MS. HOLLOWAY: Ruth Holloway.

5 THE COURT: All right, Ms. Holloway.

6 MS. HOLLOWAY: I'd like to speak to you in private,
7 please.

8 THE COURT: All right.

9 MR. DEYOUNG: Can I speak to you in private?

10 THE COURT: I got to know your name.

11 MR. DEYOUNG: James DeYoung.

12 THE COURT: DeYoung. All right. Now, this is --
13 I'm asking about infirmities, something that would keep
14 you from serving because of a physical or mental
15 infirmity. All right. Anyone else about a mental or
16 physical infirmity?

17 MR. MAHAFFEY: Physical.

18 THE COURT: All right. What's your name?

19 MR. MAHAFFEY: Chris Mahaffey.

20 THE COURT: Mahaffey?

21 MR. MAHAFFEY: It's on there as Larry Mahaffey.

22 THE COURT: All right. Number 218. Tell me your
23 name, please, sir.

24 MR. HOLING: James Boling.

25 THE COURT: Boling?

1 MR. BOLING: Yes, sir.

2 THE COURT: All right. Thank you. Have a seat.

3 MR. GAILLIARD: Joe Gilliard.

4 THE COURT: Number 118. Anyone else? Yes, sir.

5 MR. HALL: It's not about me, but about my wife, I
6 need ---

7 THE COURT: I'm going to get to something like
8 later on. Okay. The only thing I'm asking now about is
9 a physical infirmity, or a mental infirmity that's going
10 to keep you from serving jury duty.

11 COURT REPORTER: I need his name.

12 THE COURT: Okay. Since you stood up and said
13 something we need your name, the court reporter needs
14 it.

15 MR. HALL: Don R. Hall.

16 THE COURT: Mr. Hall, we'll get to you in just a
17 minute. All right.

18 Is there anybody on the jury panel who -- where are
19 the indictments? Solicitor, come up here a second.

20 (A bench conference was held.)

21 THE COURT: Has anybody served on the grand jury of
22 Greenville County in 2001? Anybody who served on the
23 grand jury of Greenville County last year, if so please
24 stand?

25 (No response from the jury panel.)

1 THE COURT: Anybody who is currently employed, I
2 don't think this applies to anyone, anybody currently
3 employed as a penitentiary guard, if so please stand?

4 (No response from the jury panel.)

5 THE COURT: Anybody served on jury duty either in
6 this courthouse or in Federal Court this calendar year,
7 2002, if so please stand?

8 (No response from the jury panel.)

9 THE COURT: All right. Ladies and gentlemen,
10 that's the list of disqualifications. Congratulations,
11 if I didn't disqualify you, you're qualified to serve on
12 jury duty this year. I will now receive information
13 from those who wanted to speak with me in private. If
14 you would, please make your way over here. I will talk
15 with you one at a time. Just form a line over on this
16 side.

17 I just need one attorney from each side. All
18 right. Everybody needs to be quiet while I'm talking to
19 each of these people. If y'all would back up a little
20 bit and form a line, please.

21 I'd like for there to be as little movement as
22 possible. I understand this might be a good time for
23 rest room breaks, but if you would, just move around
24 quietly so I can talk to these people individually.

25 (The following was held outside the presence of the

1 entire jury panel.)

2 THE COURT: All right. If you would please come up
3 here. I want you to stand over here. Madam Court
4 Reporter has got to hear you. Tell me your name,
5 please.

6 MR. GILLIARD: Joe Gilliard, G-i-l-l-i-a-r-d. I
7 have Hepatitis C.

8 THE COURT: All right. Joe Gillmore.

9 MR. GILLIARD: Gilliard.

10 THE COURT: Oh, okay. All right.

11 MR. GILLIARD: I have Hepatitis C, and I brought
12 some of the symptoms from the treatment that I'm on.

13 THE COURT: All right. How -- when were you
14 diagnosed and who's -- are currently going to the
15 doctor?

16 MR. GILLIARD: Yeah, Dr. Greer. He's a
17 gastroenterologist.

18 THE COURT: Okay. When -- when Madam Clerk -- on
19 the returns, did you ask to be excused earlier?

20 MR. GILLIARD: No, sir.

21 THE COURT: Okay. And so when were you diagnosed?

22 MR. GILLIARD: I was diagnosed in August of 2001.
23 I have been under treatment for four months. I've got
24 eight more months. Treatment consists of one shot a
25 week in the stomach and six pills a day. It does indeed

1 cause all these symptoms.

2 THE COURT: Fatigue and depression?

3 MR. GILLIARD: They've got me on antidepressants
4 now.

5 THE COURT: Let me ask you this, are you
6 contagious?

7 MR. GILLIARD: No, not unless you get my blood,
8 sir.

9 THE COURT: All right.

10 MR. GILLIARD: And also, just so you will know, I
11 know the victims' family very well.

12 THE COURT: Well, I'll get to that question in a
13 little bit. All right. Okay. We can't have any
14 private conversations up here. If you need to talk to
15 the Court, you need to talk to me, you need to get in
16 the line, please, sir.

17 All right. All right. I will excuse you. If you
18 would just have a seat. Don't talk to anybody about the
19 reason for the excuse. When you -- when we take a break
20 in just a minute, if you would d-- not just a minute, in
21 a little while, if you would just come check out with
22 Andrea, okay. All right. He is excused because of
23 medical reasons.

24 All right. Come on up. Since I'm going to be
25 doing most of the talking, I'm going to talk this way,

1 just to keep this private. She's got to take down
2 everything that is said. Tell me your name, please,
3 sir.

4 MR. HALL: Don R. Hall.

5 MS. PLUMLEY: Juror 138.

6 THE COURT: Juror 138. All right. Tell me your
7 situation.

8 MR. HALL: My wife, she fell, and she went to the
9 doctor Friday, and they think she's got a ruptured disk
10 or something about a disk problem, and they're going to
11 send her for an MRI, and I would like to be excused to
12 be with her.

13 THE COURT: All right.

14 MR. HALL: She's in bed now.

15 THE COURT: Okay. What -- you got children at
16 home, anybody ---

17 MR. HALL: No, sure don't.

18 THE COURT: So nobody is taking care of her now?

19 MR. HALL: No.

20 THE COURT: All right. When does she got -- when
21 is her next doctor's appointment?

22 MR. HALL: Well, she went Friday. They said if she
23 wasn't no better over the weekend, come back Monday.

24 THE COURT: All right. Well, here's ---

25 MR. HALL: They would set her up and schedule her

1 for an MRI.

2 THE COURT: Well, what I will have to have is a
3 doctor's excuse. So what I'm going to do is I'm going
4 to keep you on this jury panel, okay. I'm going to --
5 you will be assigned to a panel, one of the small
6 panels, or you may be assigned to a big panel, which
7 this ain't going to be a problem. Do you see what I'm
8 saying?

9 MR. HALL: Yeah.

10 THE COURT: So in other words, we're going to keep
11 you here for about an hour, hour and a half longer, and
12 then we'll figure out if you're even going to be one of
13 the first people. Then say you're on a panel for
14 Tuesday or Wednesday, you go home and assess the
15 situation. You show back up when you're supposed to
16 show up, and we'll -- if there's a problem, we'll handle
17 it at that time, okay.

18 MR. HALL: All right.

19 THE COURT: All right. Thank you, sir.

20 MS. PLUMLEY: The next one is number 90.

21 THE COURT: You're good. Yes, sir.

22 MR. DEYOUNG: I run a small business.

23 THE COURT: Okay. You got to speak up so she can
24 hear you.

25 MR. DEYOUNG: Plus, I've been in hospital with

1 heart trouble, and my hemoglobin has been extremely low
2 and they had to give me four pints of blood.

3 THE COURT: When was that?

4 MR. DEYOUNG: About three weeks ago.

5 THE COURT: Okay.

6 MR. DEYOUNG: My hemoglobin is still running low.

7 THE COURT: All right. Here's what I'm going to
8 do, when did you have your heart problem?

9 MR. DEYOUNG: About a year ago.

10 THE COURT: Okay. Why did -- are you just now
11 requesting a medical excuse? Did you not ---

12 MR. DEYOUNG: I didn't -- I had eye surgery and
13 forgot my papers from the court, and I couldn't read
14 that fine print. So it's just my fault for overlooking
15 it.

16 THE COURT: Okay. How old are you?

17 MR. DEYOUNG: Sixty-two.

18 THE COURT: Okay. Here's what I'm going to do. I
19 cannot excuse you for your business problems.

20 MR. DEYOUNG: Um-hm.

21 THE COURT: I cannot excuse you for your medical
22 problems unless I get a doctor's statement saying that
23 you cannot serve on jury duty. And I will have to call
24 that doctor, have the Clerk call to -- even if you bring
25 that in. So I'm going to assign you to a panel, and in

1 the meantime, if you come up with a doctor's excuse,
2 then I'll address it at that time. All right. Thank
3 you, sir.

4 MR. DEYOUNG: What do I do?

5 THE COURT: Just have a seat back in the back.

6 MS. PLUMLEY: Number 179.

7 THE COURT: All right. I'm Joe Watson. Tell me
8 your situation, sir.

9 MR. HUGHES: Like I said, I was -- I haven't been
10 able to work since May 13th of 2001. I'm in NHIC.

11 THE COURT: What is NHIC?

12 MR. HUGHES: Non-hospital Intensive Care.

13 COURT REPORTER: Say that one more time.

14 MR. HUGHES: Non-hospital Intensive Care.

15 THE COURT: I need y'all hold it down, okay.

16 Thanks. Go ahead.

17 MR. HUGHES: You go for problems like when you
18 commit suicide and stuff, and the reason that I think
19 people should get the death penalty ---

20 THE COURT: Wait, I'm not interested in your ---

21 MR. HUGHES: --- is that ---

22 THE COURT: No, sir. No, sir. I need to know what
23 your medical situation is.

24 MR. HUGHES: Well, I don't believe ---

25 THE COURT: I need to know your medical situation.

1 MR. HUGHES: Well, I'm mentally ill.

2 THE COURT: Okay. What is your diag- -- specific
3 diagnosis?

4 MR. HUGHES: ADHD, bi-polar.

5 THE COURT: What medication -- what medications are
6 you on?

7 MR. HUGHES: I'm on Zoloft and -- I can't think of
8 the name.

9 THE COURT: All right. All right. What I'm going
10 to is I'm going to excuse you. If you will just have a
11 seat, check out with Andrea before you leave. Okay.
12 All right. Thank you. That's by consent of both
13 parties. Next. Joe Watson.

14 MR. MAHAFFEY: Larry Mahaffey.

15 THE COURT: All right, Mr. Mahaffey, what you got?

16 MR. MAHAFFEY: Back six years ago I had thyroid
17 problem and ever since then, when I get in situations
18 like this, I get real nervous and everything, and ---

19 THE COURT: Okay.

20 MR. MAHAFFEY: I saw a doctor about six years ago,
21 but I haven't -- I don't go back for that.

22 THE COURT: Okay.

23 MR. MAHAFFEY: I just try to stay out of situations
24 like this.

25 THE COURT: Well, without -- in the last six years

1 have you been under stressful situations that caused a
2 flair up or something?

3 MR. MAHAFFEY: Frequently.

4 THE COURT: Do you go back to the doctor for it?

5 MR. MAHAFFEY: No.

6 THE COURT: Okay. All right. Without a doctor's
7 excuse, I would not be able to excuse you. Okay. I'm
8 going to put on a panel. If you think you want to try
9 to get a doctor's excuse I will entertain it at that
10 time, but -- but at this point in time I cannot excuse
11 you.

12 MR. MAHAFFEY: Okay.

13 THE COURT: All right.

14 MS. PLUMLEY: That was juror 218.

15 THE COURT: Hey. Just stand right here.

16 MS. PLUMLEY: Juror 81.

17 THE COURT: Juror Number 81, all right. What's the
18 nature of your disability?

19 MS. CRUELL: Mental.

20 THE COURT: Okay.

21 MS. CRUELL: I take nerve pills, things like that.

22 THE COURT: All right. Are you currently ---

23 MS. CRUELL: I got ---

24 THE COURT: Are you currently under a doctor's
25 care?

1 MS. CRUELL: Um-hm.

2 THE COURT: Can you tell me what the diagnosis is
3 specifically? Do you mind telling me?

4 MS. CRUELL: I got hurt a long time ago, in my
5 head.

6 THE COURT: Head? That's a head injury?

7 MS. CRUELL: Yeah, head injury. I can't -- they
8 think -- you know, I can't talk real good.

9 THE COURT: You're talking fine.

10 MS. CRUELL: I know, but I'm talking good right
11 now, but I can't pronounce things.

12 THE COURT: Other than not being able to pronounce
13 things, what about your thinking and do you ---

14 MS. CRUELL: I can't think real good.

15 THE COURT: Do you work?

16 MS. CRUELL: No, I'm disabled.

17 THE COURT: Okay. And does somebody take care of
18 you, or ---

19 MS. CRUELL: My daughter, she pay my bills and
20 things like that.

21 THE COURT: Okay. All right. Besides the head
22 injury ---

23 MS. CRUELL: I asked the doctor to give me a
24 excuse. She said if I can't stand it she'll give me one
25 today, if you want one.

1 THE COURT: Okay. What do mean if you can't stand
2 it?

3 MS. CRUELL: I can't be around a whole lot of
4 people, you know.

5 THE COURT: What happens?

6 MS. CRUELL: I just get shaky.

7 THE COURT: All right. Well, the people you will
8 be around will be nice people.

9 MS. CRUELL: I know they're nice people but I
10 just ---

11 THE COURT: Are you currently on medication?

12 MS. CRUELL: Yeah, I take whole lots of pills a
13 day.

14 THE COURT: Can you tell me some of the names of
15 them?

16 MS. CRUELL: Blood pressure pills, stomach pill, I
17 got Crohn's disease, and nerve pills. I got them in my
18 pocket. I can't pronounce the names.

19 THE COURT: Okay. All right.

20 MS. CRUELL: Arthritis pills, arthritis pills.

21 THE COURT: All right. What I'm going to need you
22 to do is I'm going to need you to bring me a doctor's
23 statement, okay. You need -- when you're let go today,
24 you need to go get a doctor's statement and bring it
25 back to Andrea. You need to come back -- okay. Try to

1 bring that by five o'clock today. But just for now have
2 a seat, okay.

3 MS. CRUELL: Okay.

4 THE COURT: All right. Tell me your name please,
5 ma'am.

6 MS. HOLLOWAY: My name is Ruth Holloway.

7 MS. PLUMLEY: 166.

8 THE COURT: All right. Ms. Holloway.

9 MS. HOLLOWAY: I'm currently taking medication for
10 depression, and I'm already having trouble with my
11 breath in here, and besides that, I think part of it is
12 due to the fact I have a doctor's appointment on
13 Wednesday. I have to have a biopsy.

14 THE COURT: Okay. All right. What I will need is
15 a doctor's statement saying you cannot serve, not for
16 the biopsy, but because of your condition, okay. So if
17 you would, go get that today. We're going to go ahead
18 and put you on a panel, okay, or you may be put on a
19 panel, or you may be in that big group, but if you would
20 bring the statement in today, down back to this room.
21 For now just have a seat, okay. All right. It's going
22 to need to say unequivocally you cannot serve, okay.

23 MS. HOLLOWAY: Thank you.

24 THE COURT: Hey. Tell me your name, please.

25 MS. THOMPSON: I'm sorry?

1 THE COURT: Your name?

2 MS. THOMPSON: Martha Thompson.

3 THE COURT: All right. Let's find your number, Ms.
4 Thompson.

5 MS. PLUMLEY: 345.

6 THE COURT: All right. Tell me your situation.

7 MS. THOMPSON: I have otosclerosis here with my
8 left ear, and my right ear has been operated on. I'm
9 losing hearing in it.

10 THE COURT: Okay. All right. You're the one that
11 stood up and said you had difficulty hearing?

12 MS. THOMPSON: Yes, sir. I heard very little of
13 what you said in the beginning.

14 THE COURT: All right.

15 MS. THOMPSON: I don't mind doing my duty, but I
16 could hear something the wrong way or not hear it at
17 all.

18 MR. EPPE: No objection.

19 THE COURT: Okay. I'm going to let you because of
20 that. All right. If you would, just have a seat.

21 MS. THOMPSON: Okay.

22 THE COURT: Then come and check in with Andrea,
23 this lady right here, before you leave. All right.

24 MS. THOMPSON: Thank you.

25 THE COURT: Hey. I'm Joe Watson. Tell me your

1 name.

2 MR. JOHNSON: Douglas Johnson.

3 THE COURT: All right. Let me find your number
4 before we start.

5 MS. PLUMLEY: 189.

6 THE COURT: 189. All right. What's your
7 situation?

8 MR. JOHNSON: Trouble with my disk and everything
9 in my back. The pads in between are sitting on top of
10 each other. It's hard for me to sit.

11 THE COURT: All right.

12 MR. JOHNSON: I have arthritis.

13 THE COURT: I'm going to need a doctor's statement.

14 MR. JOHNSON: I didn't know, I was going ---

15 THE COURT: Well ---

16 MR. JOHNSON: Because I get to squirming around a
17 lot.

18 THE COURT: Well, I mean, we can handle it if you
19 need to stand and stretch, or anything like that, but --
20 all right.

21 MR. JOHNSON: Well, that's what I was going to ask
22 you.

23 THE COURT: That's fine. Okay. That's fine.
24 You're qualified then.

25 MR. JOHNSON: Okay.

1 MR. BOLING: Good morning, Judge.

2 THE COURT: Hey. Joe Watson. What you got?

3 MR. BOLING: Insulin dependant diabetic.

4 MS. PLUMLEY: Twenty-four.

5 MR. BOLING: As long as I can eat, I'm fine.

6 THE COURT: Okay. How often do you have to eat?

7 MR. BOLING: Pretty regular as you know.

8 THE COURT: All right. Well, I know. I mean, the
9 longest you'll sit is like an hour and a half, maybe an
10 hour and 40 minutes at a time. They'll be plenty of
11 snacks available to you. If you've got a special
12 dietary needs, you can -- we can handle that.

13 MR. BOLING: Okay.

14 THE COURT: All right. That's good. Then you're
15 qualified.

16 MR. BOLING: I appreciate it.

17 THE COURT: Tell me your name, please.

18 MR. PUCKETT: My name is Henry Puckett.

19 THE COURT: All right. Let me find your number
20 first, Mr. Puckett.

21 MS. PLUMLEY: 285.

22 THE COURT: 285. All right.

23 MR. PUCKETT: Right now I'm the process of getting
24 a new job, process of losing everything because of a new
25 job. I need to work.

1 THE COURT: All right.

2 MR. PUCKETT: I got a job ---

3 THE COURT: Are you currently working?

4 MR. PUCKETT: I got a job already started today.

5 THE COURT: Where you working?

6 MR. PUCKETT: It's up there at Service
7 Transportation, up in Greer.

8 THE COURT: And when is the last time you worked?

9 MR. PUCKETT: Last time I worked would have been
10 over a week ago.

11 THE COURT: A week ago?

12 MR. PUCKETT: Yes, sir.

13 THE COURT: All right. What's your position?

14 MR. EPPE: I didn't quite understand it. He's got
15 a job ---

16 THE COURT: He's just starting a job today.

17 MR. PUCKETT: Starting today.

18 THE COURT: If he doesn't work, he's going to lose
19 everything.

20 MR. PUCKETT: I'm going to lose everything.

21 THE COURT: Solicitor, what's your position?

22 MR. ARIAIL: No objection.

23 THE COURT: All right. I'm going to let you go.

24 If you would just have a seat. In about 45 minutes to
25 an hour, we're going to take a break, okay, make sure

1 you check out with Andrea.

2 MR. PUCKETT: Okay. I appreciate that.

3 THE COURT: Yes, sir. Come on up. Joe Watson. I
4 need your name.

5 MR. WOOTEN: Michael Wooten.

6 THE COURT: All right. Let me find your number
7 before you start.

8 MS. PLUMLEY: 392.

9 THE COURT: 392.

10 MR. WOOTEN: I served time in Pickens County for
11 grand larceny back in 1980 or ---

12 THE COURT: That would disqualify you. Have you
13 got that?

14 MS. PLUMLEY: Um-hm.

15 THE COURT: Okay. That would disqualify you.
16 Before you leave check out with Andrea.

17 MR. WOOTEN: Okay.

18 THE COURT: Just have a seat. About another hour,
19 okay. Come on up. Joe Watson.

20 MS. LEWIS: Erica Lewis.

21 THE COURT: All right. Ms. Lewis, what you got?

22 MS. LEWIS: I don't have a disability, but the jury
23 coordinator told me to come talk with you.

24 THE COURT: Okay.

25 MS. LEWIS: I'm applying for a teaching position in

1 Greenville County for next year, and I have a job
2 interview.

3 THE COURT: She's applying for a teaching position,
4 and your interview is when?

5 MS. LEWIS: Thursday at 4:30.

6 THE COURT: Okay.

7 MS. LEWIS: Is that going to be a problem?

8 THE COURT: Well, not for us, but it might be for
9 you.

10 MS. LEWIS: I've been trying all summer to get a
11 job.

12 THE COURT: I know.

13 MS. LEWIS: School starts in three weeks.

14 THE COURT: Here's what I can do, I will be -- if
15 you get selected, I would personally call a
16 superintendent, whoever, and tell them that I'm going to
17 need you, your on duty, which is above that interview.

18 MS. LEWIS: Should I keep the interview in case?

19 THE COURT: Oh, yeah, definitely keep the
20 interview, Because you may be on the end of the panel
21 that we don't even -- doesn't even come in.

22 MS. LEWIS: Okay.

23 THE COURT: If you get put on an early panel, say
24 you're tomorrow ---

25 MS. LEWIS: Um-hm.

1 THE COURT: --- do you think you can call them, and
2 say -- because we won't start probably until Wednesday
3 afternoon, at the latest Thursday, and say can I move it
4 to Wednesday?

5 MS. LEWIS: I can try. The lady I talked to this
6 morning, that was the only day she was doing interviews,
7 was Thursday.

8 THE COURT: Okay. Well, again, I'll be glad to
9 call that lady.

10 MS. LEWIS: Okay.

11 THE COURT: You know, just -- let's see if you're
12 on a panel, and then see if you need to change it, if
13 you would tell Andrea, or one of the bailiffs that I
14 said I would call whoever it is, and let them know.
15 Hold on a second.

16 (A bench conference one second.)

17 THE COURT: All right. That's fine. You're
18 qualified at this point in time.

19 MS. LEWIS: Okay.

20 THE COURT: Hey. Joe Watson.

21 MR. TURNER: Larry Turner.

22 THE COURT: Mr. Turner, let me find your number.
23 Hold on.

24 MS. PLUMLEY: He's number 356.

25 THE COURT: Number 356. What you got?

1 MR. TURNER: I'm ADD, (inaudible).

2 COURT REPORTER: I'm sorry, I can't hear.

3 THE COURT: He's ADD.

4 MR. TURNER: (Inaudible).

5 COURT REPORTER: You're going to have to speak up.

6 MR. TURNER: I constantly move around and I can't
7 like, you know, just sit there and think about something
8 constantly.

9 THE COURT: Are you taking medications for it?

10 MR. TURNER: Well, yeah, Ritalin.

11 THE COURT: All right. Does that not help you
12 concentrate?

13 MR. TURNER: Well, not really. It's more -- it's
14 like speed, but it has ---

15 THE COURT: I know exactly what Ritalin is. All
16 right. That does not disqualify you. If you want to
17 try to get a doctor's statement, then you can do that,
18 but otherwise you're qualified to serve, okay.

19 MR. TURNER: All right.

20 THE COURT: Thank you. Stand over here.

21 MR. HALL: You already struck me.

22 THE COURT: That's all right. You don't need to
23 talk to us now. Just before you leave. Okay.

24 MR. HALL: See her?

25 THE COURT: Yeah, but not right now. Okay. Hey,

1 I'm Joe Watson. Tell me your name.

2 MS. GILLIAM: Elma Gilliam.

3 THE COURT: All right. Ms. Gilliam, we're going to
4 find your number real quick.

5 MS. PLUMLEY: 125.

6 THE COURT: Number 125. All right.

7 MS. GILLIAM: My husband has congestive heart
8 failure, atrial fib, and also a leaking valve, and him
9 and I are ministers for the Church of God, evangelists.
10 We are in Medicine, South Carolina, this week. We
11 travel around, and I need to be with him all the time.
12 So we're having to drive back and forth this week for me
13 to be here.

14 THE COURT: Okay.

15 MS. GILLIAM: We go out of state some too.

16 THE COURT: Unfortunately I cannot excuse you.
17 There is a chance you would not be called to serve, but
18 that would not give rise to a reason to be excused.

19 MS. GILLIAM: Okay.

20 THE COURT: All right. Thank you.

21 (The following was held in the presence of the
22 entire jury panel.)

23 THE COURT: All right. I need everyone to come on
24 back in and have a seat, please. If my bailiffs would
25 check in the back to make sure everybody is back in

1 here.

2 All right. Now, I have excused several more
3 people. Again, anybody who I have excused, when we take
4 a break in a while, then -- hold on a second. You got
5 everybody, Captain?

6 MR. MERCK: Yes, sir.

7 THE COURT: All right. Anybody that I have
8 excused, in just a little bit you will be able to leave.
9 Again, make sure you check out before you leave.

10 The next group of questions deals with exemptions.
11 Again an exemption does mean that you're -- hold on a
12 second. You got to tell me if they're all in here or
13 not. I can't be ---

14 MR. MERCK: He's gone to check a minute, Your
15 Honor.

16 THE COURT: All right.

17 MR. BOND: We're getting them from outside.

18 THE COURT: All right. Got everybody, Ben?

19 MR. JENKINS: I think so, yes, sir.

20 THE COURT: Well, you got ---

21 MR. JENKINS: There's nobody out in the hall and
22 there's nobody outside.

23 THE COURT: All right. Ms. Gibson, Teresa Gibson.
24 All right. You are in Anderson County. So you're
25 excused. Just have a seat. When we take a break in a

1 little bit, you can leave.

2 All right. Now, ladies and gentlemen, the next
3 questions deal with the exemptions. You do not need to
4 respond unless you want to exempt yourself or transfer
5 to another week of court. Is anybody on the jury panel
6 65 years of age or older and wishes to be excused? We
7 like to have our senior citizens serve. They make
8 excellent jurors, but we do give them the right to
9 exempt themselves. Anybody 65 years of age or older who
10 wishes to be excused, if so please stand?

11 All right. Ladies and gentlemen, you'll notice
12 that I ask about -- tell me your name?

13 MS. JONES: Bernice Bivings Jones.

14 THE COURT: Ms. Jones? How old are you, Ms. Jones?

15 MS. JONES: Sixty-six.

16 THE COURT: Where's my list?

17 MS. PLUMLEY: Number 20.

18 THE COURT: You got a date of birth, Andrea?

19 MS. PLUMLEY: Yes, sir.

20 THE COURT: What year?

21 MS. PLUMLEY: ---.

22 THE COURT: so you just turned -- you just
23 turned 66? All right. Ms. Jones, you don't want to
24 serve with us?

25 MS. JONES: No.

1 THE COURT: All right. That's fine. I'm going to
2 excuse you. Just have a seat. Make sure when we take
3 a break in a little bit you check out with Andrea.
4 Anyone else?

5 (No response from the jury panel.)

6 THE COURT: All right. It is a disqualification if
7 you have served on a jury this calendar year. It is an
8 exemption if you have served on jury duty in the
9 previous two calendar years. That would not apply to
10 Magistrate's court or City court. It would only apply
11 to this court or Federal court. If anyone has served on
12 jury duty in the year 2001 or 2000, and wishes to exempt
13 themselves, please stand.

14 (No response from the jury panel.)

15 THE COURT: All right. Ladies and gentlemen, is
16 there any member of the jury panel who has the child --
17 or has a child or children under the age of 7, and has
18 custody and the duty of care of that child or children,
19 and who has no other means of taking care of that child
20 or children while serving on jury duty, if so please
21 stand?

22 All right. Tell me your name, please?

23 MS. SEAWRIGHT: Katrice Seawright.

24 THE COURT: All right. Find her number, please,
25 Andrea.

1 MS. PLUMLEY: 309.

2 THE COURT: All right. How old -- Ms. Wright
3 (sic), keep standing please. How old are your children?

4 MS. SEAWRIGHT: I have a six month old and a six
5 year old.

6 THE COURT: All right. Now, you were asked that in
7 your jury return. You didn't respond to it then?

8 MS. SEAWRIGHT: Um-hm.

9 THE COURT: You did?

10 MS. SEAWRIGHT: Yes, sir.

11 THE COURT: And what did you say?

12 MS. SEAWRIGHT: I had a six month old and a six
13 year old.

14 THE COURT: Well, did you ask to be exempted
15 because of that, is my question?

16 MS. SEAWRIGHT: Oh, no.

17 THE COURT: All right, but now you want to exercise
18 that exemption?

19 MS. SEAWRIGHT: I'm a single parent.

20 THE COURT: Okay.

21 MS. SEAWRIGHT: I didn't know we were going to be
22 sequestered. I thought it was going to occur in the
23 daytime.

24 THE COURT: Gotcha. All right. You don't have
25 means of taking -- have those children taken care of if

1 you were sequestered, is that what you're telling me?

2 MS. SEAWRIGHT: I have -- yeah, my parents, but I
3 don't have a husband. I'm a single parent.

4 THE COURT: Okay. Well, the -- part of the
5 question is, do you have -- not have other means to take
6 care of them. Do you have other means to take care of
7 them?

8 MS. SEAWRIGHT: No, not really.

9 THE COURT: Okay. All right. Who's with them now?

10 MS. SEAWRIGHT: The day care.

11 THE COURT: Okay.

12 MS. SEAWRIGHT: The day care has them now.

13 THE COURT: All right. Then I will excuse you, or
14 exempt you. If you would, just have a seat. When we
15 take a break in a little while you can leave at that
16 time. Check out with Madam Clerk. All right.

17 She's going to need to sign an affidavit before I
18 can let her go. So when she checks out, you're going to
19 have to prepare an affidavit.

20 MS. PLUMLEY: Yes, sir, I have some.

21 THE COURT: All right.

22 MR. VERNA: I did not put it on my thing. I do not
23 have custody, I have her for three weeks right now. My
24 parents have her this week, shouldn't be a problem. My
25 dad has to go in for a form of chemo on Wednesday or

1 Thursday this week. It may run into problems with
2 somebody keeping her at that point, but ---

3 THE COURT: Well ---

4 MR. VERNA: You may get by without the jury pool
5 that day, so ---

6 THE COURT: Unfortunately if you don't have legal
7 custody, visitation would not excuse you. We would have
8 to make other arrangements. Hopefully that won't be a
9 problem. I need to know your name, I'm sorry.

10 MR. VERNA: Ralph Verna. Verna, V-e-r-n-a.

11 THE COURT: Thank you, sir. All right. Is there
12 anybody on the jury panel who is a student or school
13 related employee, it can be a public school, private
14 school, it can be anywhere from Kindergarten to graduate
15 level, who is currently in a school term and who wishes
16 to transfer to another week of court?

17 Tell me your name, please, ma'am?

18 MS. HILLMAN: Brenda Hillman.

19 THE COURT: All right. Number 163. You are what?

20 MS. HILLMAN: I'm the Administrator at Shannon
21 Forest Christian School.

22 THE COURT: And you're an administrator?

23 MR. HILLMAN: (Nodded her head.)

24 THE COURT: All right. What type administrator?

25 MS. HILLMAN: K through 12 curriculum.

1 THE COURT: I mean, is that like principal or ---

2 MS. HILLMAN: Yeah, like day to day operations.

3 THE COURT: Okay. You're currently in a school?

4 MS. HILLMAN: We are currently in a summer session.

5 THE COURT: All right.

6 MS. HILLMAN: I prefer to transfer during the
7 school year. It's easier to get away then.

8 THE COURT: Okay. By law I will allow you to
9 transfer. And if you would, just have a seat for now,
10 come check out with Madam Clerk. She will give you
11 another week of court, okay.

12 Gentleman in the orange shirt, tell me your name?

13 MR. THOMPSON: My name is Ahmad Thompson. I'm a
14 student at ---

15 THE COURT: Hold on, let me find you. You're a
16 student where, Mr. Thompson?

17 MR. THOMPSON: Greenville Tech, summer session.

18 THE COURT: And you're currently in a summer
19 session?

20 MR. THOMPSON: Yes, sir.

21 THE COURT: You're currently in school, you're
22 supposed to be in classes right now?

23 MR. THOMPSON: Tomorrow morning.

24 THE COURT: Is the term just starting, or ---

25 MR. THOMPSON: It's over in August.

1 THE COURT: All right. So you're in the middle of
2 a term?

3 MR. THOMPSON: Yes, sir.

4 THE COURT: How many days a week are you going to
5 school?

6 MR. THOMPSON: Twice.

7 THE COURT: Okay.

8 MR. THOMPSON: Tuesday and Thursday.

9 THE COURT: For how long?

10 MR. THOMPSON: Until August.

11 THE COURT: No, I'm mean, how many hours on
12 Tuesdays and Thursdays?

13 MR. THOMPSON: I'm sorry, two hours.

14 THE COURT: Okay. All right. And you want to
15 transfer to another week of court?

16 MR. THOMPSON: It would be helpful, yes.

17 THE COURT: Are you going to be in school next
18 fall?

19 MR. THOMPSON: No, but I may be in work training
20 class. That's in November.

21 THE COURT: Okay. So from August to November
22 you'll be able to serve on jury duty?

23 MR. THOMPSON: Yes.

24 THE COURT: Okay. All right. Then if you would,
25 I'll excuse you. If you would, just have a seat, check

1 out with Madam Clerk, and she'll give you another week
2 of court.

3 Tell me your name?

4 MS. HEDRICK: Jeannie Hedrick.

5 THE COURT: Hedrick?

6 MS. HEDRICK: Yes, sir.

7 THE COURT: 153, Ms. Hedrick.

8 MS. HEDRICK: I work at Sara Collins Elementary,
9 and we are in the middle of our cleaning time there, and
10 there is me and two other people that are working at
11 this time.

12 THE COURT: All right. What is your capacity with
13 Sarah Collins?

14 MS. HEDRICK: I work as a custodian.

15 THE COURT: Okay. All right. I'm not going to
16 find that that's a reason. I'm going to -- I'm not
17 going to be able to excuse you, okay.

18 MS. HEDRICK: Okay.

19 THE COURT: Thank you. The gentleman in the red
20 shirt.

21 MR. SHEA: Scott Shea.

22 THE COURT: Number 314, Mr. Shea.

23 MR. SHEA: I just have a question. I'm a school
24 teacher for the County. We start the 5th of August,
25 will this be over by then?

1 THE COURT: Yeah, we'll be out, I promise you that.

2 I won't be here. All right. Yes, ma'am.

3 MS. BRODY: My name is Marlo Brody.

4 THE COURT: All right. Number 35, Ms. Brody.

5 MS. BRODY: I'm a student at Greenville Tech.

6 THE COURT: You're currently enrolled?

7 MS. BRODY: Yes.

8 THE COURT: Currently in classes?

9 MS. BRODY: Um-hm.

10 THE COURT: How many days a week do you go to
11 classes?

12 MS. BRODY: Five.

13 THE COURT: What classes are you taking?

14 MS. BRODY: Sociology and Art History.

15 THE COURT: All right. And are you going to be
16 taking classes in the fall?

17 MS. BRODY: Yes.

18 THE COURT: All right. What -- how are we going to
19 transfer you to a week that's more convenient, if you're
20 going to be ---

21 MS. BRODY: I don't know.

22 THE COURT: Huh?

23 MS. BRODY: I don't know.

24 THE COURT: Well, why is this -- why is it going to
25 be more of a problem than say sometime in the fall, if

1 we transfer you to the fall?

2 MS. BRODY: I guess it won't.

3 THE COURT: Well, I can transfer you but if --
4 whatever week you're transferred to you have to serve,
5 do you understand that?

6 MS. BRODY: No, just stay here.

7 THE COURT: You just want to stay here?

8 MS. BRODY: Yeah.

9 THE COURT: Okay. Thank you. Yes, ma'am.

10 MS. LEVY: Unita Levy, number 211.

11 THE COURT: Yes, ma'am, Ms. Levy.

12 MS. LEVY: I'm a student at Greenville Tech.

13 THE COURT: All right. And the same questions, how
14 many -- how many days a week are you in class?

15 MS. LEVY: I'm taking two courses, once on
16 college-on-line and one on TV, but the course on TV I do
17 have to go in and ---

18 THE COURT: Actually be in a classroom and watch
19 the screen?

20 MS. LEVY: Yeah.

21 THE COURT: All right. And are you taking classes
22 in the fall?

23 MS. LEVY: Yes.

24 THE COURT: All right. Is this going to be more
25 convenient to miss this week as opposed to another week,

1 I mean? Tell me -- do you understand what I'm saying?
2 I can't exempt you altogether. I can transfer you, but
3 I would transfer you to a week that's more convenient.
4 Are you telling me that there is a week that's more
5 convenient or not?

6 MS. LEVY: You can only transfer me to the fall?

7 THE COURT: Yeah, I can only transfer you within
8 this calendar year?

9 MS. LEVY: This week will be fine then.

10 THE COURT: Okay. Thank you. Anyone else?

11 (No response from the jury panel.)

12 THE COURT: All right. Now, ladies and gentlemen,
13 we realize that the statutes that I have been through
14 don't cover every possible contingency. We realize that
15 jury service is a tremendous inconvenience to you, it is
16 disruptive to your home life, it is disruptive of your
17 business life. I have no ability to -- to exempt
18 someone from jury duty altogether. I do have the
19 ability upon good cause shown to actually transfer you
20 to another week of court. I can tell you that because
21 of the nature of this case it is -- it is very unlikely
22 that I will transfer you, but I will be glad to hear
23 from anyone who wishes to be transferred to another week
24 of court because of some pressing business problem or
25 personal problem. Is there anyone that wishes to be

1 heard that I've not covered already? Does anybody wish
2 to be heard with regard to transferring to another week
3 of court, if so, please stand?

4 All right. Here's what we're going to do. I'm
5 going to get your name. I'm going to get your number.
6 And I'm going to have you tell me generally what it
7 is -- why you want to be transferred, but I'm not going
8 to give you answer until we get to the individual voir
9 dire. Tell me your name, please, ma'am.

10 MS. DEAN: Robin Dean.

11 THE COURT: Ms. Dean. If you would please look up
12 the numbers, Andrea, and let me know.

13 MS. PLUMLEY: 86.

14 THE COURT: Tell me your situation?

15 MS. DEAN: I'm a dental assistance at a pediatric
16 dental office with three doctors, and we have one doctor
17 out of the office and three girls that are out, and I
18 would not be compensated for not being able to work.

19 THE COURT: All right. Unfortunately by law I
20 cannot transfer you for that reason.

21 MS. DEAN: Okay.

22 THE COURT: Okay. Tell me your name, please, sir.

23 MR. DAVIS: Calvin Davis.

24 THE COURT: Mr. Davis, number 83. Tell me your ---

25 MR. DAVIS: My mom is in St. Francis Hospital.

1 They have called the family in twice. So it could be
2 any time now that she goes.

3 THE COURT: Okay. All right. Here's what we're
4 going to do, is I will handle that if you get on a list
5 for individual voir dire, I'll handle that at that time.
6 All right. Thank you.

7 Tell me your name, please, ma'am.

8 MS. TRAYLOR: Lavonne Traylor.

9 THE COURT: Lavonne Traylor, 353. Tell me your
10 situation, please, ma'am.

11 MS. TRAYLOR: Well, I'm a nurse at St. Francis
12 Hospital. My director had previously faxed over here,
13 there's a nursing shortage, as everyone knows, and their
14 vacation schedule, it creates a real hardship on the
15 staff to have me out at this time.

16 THE COURT: I understand, and jury service is a
17 hardship, but that is -- that will not be sufficient for
18 me to excuse you. Thank you, ma'am.

19 MS. PLUMLEY: Do you want me to tell you if they've
20 been denied previously?

21 THE COURT: That's all right. All right.

22 MS. GRIFFITH: Amy Griffith.

23 MS. PLUMLEY: 135.

24 THE COURT: All right, Ms. Griffith.

25 MS. GRIFFITH: I'm 11 weeks pregnant and was hoping

1 to be a lot more comfortable in a few weeks from now.
2 I'm still having morning sickness.

3 THE COURT: Okay. Tell me -- well, how have you
4 faired this morning?

5 MS. GRIFFITH: I get it in the afternoon.

6 THE COURT: All right.

7 MS. GRIFFITH: Yesterday was bad.

8 THE COURT: All right. And about -- is it every
9 day, is it every other day, is it ---

10 MS. GRIFFITH: It's starting to get to where it's
11 not every single day, which makes me think it's going to
12 be over soon, but it's about five days a week right now.

13 THE COURT: Okay. Here's what I would like to do,
14 is I would like for you to try to serve.

15 MS. GRIFFITH: Okay.

16 THE COURT: If it becomes a problem then -- and you
17 may not even be on a -- picked.

18 MS. GRIFFITH: Right.

19 THE COURT: But between now and when you come in
20 for individual voir dire, you can assess the situation,
21 and if we pick you and it becomes a problem, we'll have
22 alternates, but at this point in time I would like for
23 you to try to serve.

24 MS. GRIFFITH: Okay.

25 THE COURT: Tell me your name, please, ma'am.

1 MS. STROBEL: Rita M. Strobel, 337.

2 THE COURT: 337?

3 MS. STROBEL: Um-hm.

4 THE COURT: All right. Tell me your situation?

5 MS. STROBEL: I have a court date next week on the
6 5th CDV, I'm a victim.

7 THE COURT: Okay. In Family Court?

8 MS. STROBEL: It's in Pickens County.

9 THE COURT: In Family Court? Is it ---

10 MS. STROBEL: Well, the person had requested a jury
11 trial.

12 THE COURT: Oh, it's actually in General Sessions
13 Court? Okay. This will take precedence over that.
14 They'll have to postpone that case, but I can assure you
15 I'll get it back on the docket as quick as we can.

16 MS. STROBEL: Okay.

17 THE COURT: Okay. All right. Tell me your name,
18 please, ma'am.

19 MS. MOSES: Stephanie Moses.

20 THE COURT: Munson?

21 MS. MOSES: Moses.

22 MS. PLUMLEY: 249.

23 THE COURT: 249, okay. Ms. Moses, tell me your
24 situation?

25 MS. MOSES: I manage a office, and my boss is out

1 of town this week, and there's only one employee. We
2 are in construction. And last week my purse got stolen
3 out of my car. I'm in kind of the middle of all that.

4 THE COURT: I'm sorry.

5 MS. MOSES: There's nothing ---

6 THE COURT: No, I can't. I can't excuse you for
7 that reason. Now, you will have some time this week. I
8 mean, when -- you know, if you're put on one of these
9 panels, then you'll be able to go back to work, and then
10 show back up when you're supposed to come, and then
11 you'll be able to leave again and then you'll come back
12 for the jury selection. And if you're -- you may be
13 picked, you may not be.

14 MS. MOSES: What is the time duration, like four
15 hours, two hours, three hours?

16 THE COURT: The -- again, what we'll do is, we are
17 going to leave, and Madam Clerk will call the roll -- or
18 pull the numbers sequentially, the first five will go
19 onto a panel for two o'clock this afternoon. The next
20 five will go on a panel for four o'clock, the next will
21 go for six o'clock. And then tomorrow we'll start at
22 9:00 and we'll increase the panels to six, and it will
23 9:00, 11:00, 2:00, 4:00, 6:00.

24 MS. MOSES: So if I was one of the 50, when would I
25 know I'm one of the 50?

1 THE COURT: You'll know -- well, you'll know
2 whenever -- you'll know if you're qualified
3 individually, and you'll know if you're on the panel.
4 And then if you serve, probably by Thursday you'll know
5 if you're going to serve.

6 MS. GRIFFITH: How long is this supposed to last?

7 THE COURT: It will last about a week once we get
8 started. Okay. Tell me your name, please, sir.

9 MR. GRIFFIN: Wayne Griffin.

10 THE COURT: You got a number?

11 MS. PLUMLEY: 134.

12 THE COURT: 134. Tell me your situation, Mr.
13 Griffin.

14 MR. GRIFFIN: I don't have anything this week, but
15 next week is when I will have a problem.

16 THE COURT: All right.

17 MR. GRIFFIN: I'm supposed to be out of town at the
18 Municipal Association next Wednesday.

19 THE COURT: To do what?

20 MR. GRIFFIN: At the Municipal Association next
21 Wednesday.

22 THE COURT: All right. For?

23 MR. GRIFFIN: I'm -- annual meeting.

24 THE COURT: All right. What's your employment, Mr.
25 Griffin?

1 MR. GRIFFIN: I'm on City Council over in Greer,
2 but I'm -- also run an insurance agency too.

3 THE COURT: Okay. Unfortunately you may have to
4 miss that meeting. We'll just have to see, Mr. Griffin,
5 I'm sorry.

6 Yes, ma'am.

7 MS. PARDO: Dwong Pardo.

8 THE COURT: Ms. Pardo, what's your number, do you
9 know?

10 MS. HERVEY: 266.

11 THE COURT: 266. Tell me your situation?

12 MS. PARDO: My problem is with fall, I'm in the
13 middle of inventory with my work. But not with that, if
14 I am chosen, my son, he's 16, but the problem would be
15 that I don't have anyone to check on him at night. I'm
16 a single parent.

17 THE COURT: Is he not capable of staying ---

18 MS. PARDO: I mean, he can but if something were to
19 happen I wouldn't have anyone to ---

20 THE COURT: There's no neighbors, no family around?

21 MS. PARDO: I don't -- all my family lives in
22 Maryland. My neighbors are in -- some of them are in
23 their 80s. I just recently moved.

24 THE COURT: How long have you been in this area?

25 MS. PARDO: I have lived in Greenville for three

1 years, but I just moved to Simpsonville.

2 THE COURT: Okay. Well, here's the situation.
3 Anybody that serves, their family members will have
4 emergency numbers, day and night. They can reach a SLED
5 agent or someone instantly if there's a problem. And we
6 will have alternates if there is a problem. So my
7 question is, is he capable of staying by himself in a
8 non-emergency situation, you know, for four, five, six
9 or seven days?

10 MS. PARDO: That's not a problem. I was just
11 worried if something happened in the middle of the
12 night, I don't know for sure what ---

13 THE COURT: If something happens in the middle of
14 the night, he can call -- he'll have a number to call,
15 and we can get in touch with you immediately.

16 MS. PARDO: Okay.

17 THE COURT: I've had this happen before. I've had
18 children go to the hospital, and I've had the parents
19 taken over by the security people, you know, to visit
20 the child. I mean, those situations arise.

21 MS. PARDO: I just didn't want to get in trouble.

22 THE COURT: All right. You're -- that's fine.
23 Tell me your name, please.

24 MS. GILLIAM: Elma Gilliam, 125, I believe.

25 THE COURT: I'd like to be transferred to the fall

1 because my husband's health right now.

2 THE COURT: Tell me his situation?

3 MS. GILLIAM: He has congestive heart failure, a
4 leaking valve, atrial fib.

5 THE COURT: Okay.

6 MS. GILLIAM: And I need to be with him right now.

7 THE COURT: And I've already talked with you about
8 that up here? All right. And y'all are the ministers?

9 MS. GILLIAM: Yes, sir.

10 THE COURT: Okay. All right. I cannot -- I cannot
11 transfer you. As I understood it, you said y'all are
12 traveling around and preaching. If he's capable of
13 doing that, then I cannot excuse you to take care of
14 him. So well just have to see if you're picked or not.
15 It shouldn't be a problem. And again, if there's an
16 emergency situation, we can get to you.

17 Tell me your name, please, sir.

18 MR. YON: Matthew L. Yon.

19 THE COURT: 395.

20 COURT REPORTER: One second, please.

21 (Court Reporter changed tapes.)

22 THE COURT: All right. Go ahead.

23 MR. YON: This is my last week of work in this
24 area. I'm moving to the Charleston County/Berkeley
25 County area at the end of this month. I'm right in the

1 middle of trying to get financing for a house, and
2 moving, all -- and trying to close out all my work here.

3 THE COURT: Okay. Again, you'll be able to do some
4 of that, you know, during the breaks. And you know, if
5 you're picked then -- then you're going to have to
6 serve. That's not going to be sufficient to excuse you
7 from jury service. I'm sorry.

8 Tell me your name, please, ma'am.

9 MS. RICHARDSON: Vivian Richardson.

10 THE COURT: All right, 297.

11 MS. RICHARDSON: 297. If I could be transferred to
12 the fall, I would prefer it. Right now I'm coordinating
13 the summer program at Phyllis Wheatley Center. We have
14 about 250 children in attendance, and we've been hit
15 pretty hard this summer with death among our staff there
16 and another one occurred this morning, a family --
17 immediate family. And this caused a shortage with our
18 counselors, so if I could be transferred to the fall it
19 be better for me.

20 THE COURT: All right. Ms. Richardson, I
21 appreciate your delima, but unfortunately I'm not going
22 to be able to transfer you for that reason. Thank you,
23 ma'am.

24 Tell me your name, please.

25 MS. STACEY: Juanita Stacey, 330..

1 THE COURT: Yes, ma'am, Ms. Stacey.

2 MS. STACEY: I have a paid vacation, and I was
3 leaving Thursday and coming back next Wednesday.

4 THE COURT: All right. Did you send in that
5 request earlier?

6 MS. STACEY: I can't remember.

7 THE COURT: Do you got it?

8 MS. PLUMLEY: No, sir, no request.

9 THE COURT: All right. Did you -- why would you
10 have not sent that in earlier, Ms. Stacey?

11 MS. STACEY: It's my class reunion, and I didn't
12 know where it was at that time.

13 THE COURT: Okay. All right. And where is the
14 class reunion?

15 MS. STACEY: In Illinois.

16 THE COURT: All right. And what type of -- you got
17 plane reservations?

18 MS. STACEY: No, no reservations.

19 THE COURT: You're driving?

20 MS. STACEY: Yes.

21 THE COURT: Okay. All right.

22 MS. STACEY: I have paid fees and things of ---

23 THE COURT: Beg your pardon?

24 MS. STACEY: I've paid fees and expenses to attend.

25 THE COURT: All right. Step up here, please,

1 ma'am. Just step right here.

2 (The following was held outside the presence of the
3 rest of the jury panel.)

4 THE COURT: What type fees have you already paid?

5 MS. STACEY: I've paid \$45 for fees
6 and (inaudible).

7 THE COURT: Can you hear her?

8 COURT REPORTER: No.

9 THE COURT: All right. You're going to have to
10 speak up.

11 MS. STACEY: I've paid \$45 dollars for fees.

12 THE COURT: Okay. All right. I would not be able
13 to excuse you unfortunately.

14 MS. STACEY: Okay.

15 THE COURT: Thank you, ma'am.

16 (The following was held in the presence of the
17 entire jury panel.)

18 THE COURT: All right. Tell me your name, please,
19 sir.

20 MR. HESTER: Steve Hester.

21 THE COURT: Last name?

22 MR. HESTER: Hester.

23 THE COURT: All right. Let me -- all right.
24 Number 160.

25 MR. HESTER: I'm the director of systems for Self

1 Regional Healthcare, and we have a -- mine is a timing
2 issue. I only found out about this last Monday. My
3 summons was sent to the incorrect address, one digit off
4 from my correct address. So I found out last Monday and
5 I had scheduled a cardiology install for this week,
6 going for the next two weeks.

7 THE COURT: Scheduled a what?

8 MR. HESTER: A cardiology install for the next two
9 weeks. I've got people from all over the United States.
10 I worked last night. I'm going in tonight, but if I'm
11 sequestered, I'm not going to be able to work around
12 that kind of a schedule, but I'll serve any time you'd
13 like.

14 THE COURT: All right. Is there anybody else that
15 can handle what you're doing?

16 MR. HESTER: Well ---

17 THE COURT: Tell me where you're employed?

18 MR. HESTER: I have staff of people -- Self
19 Regional Healthcare in Greenwood. I have a staff of
20 people that will do it, but I mean, I'm integral in the
21 installation of this project.

22 THE COURT: All right. Let me ---

23 MR. HESTER: But I can move to any week you'd like
24 other than these two. If I'm given enough notice, I can
25 schedule it.

1 THE COURT: Okay. What I'm going to do is I'm
2 going to handle that during individual voir dire. Let's
3 just see if you're even selected in one of the early
4 panels.

5 Anybody else?

6 (No response from the jury panel.)

7 THE COURT: All right. All right, ladies and
8 gentlemen, that's the list of disqualifications and also
9 the list of exemptions. Okay.

10 (A discussion was held off the record.)

11 THE COURT: All right. Now, let me tell you at
12 this point in time I need to qualify you on this
13 particular case. That entails me asking you a number of
14 questions, telling you about the case a little bit,
15 introducing you to some -- to some people, and what I'm
16 going to do is I'm going to receive your answers only by
17 having you stand and give us your name and number. And
18 then I'll have follow-up questions if you reach the
19 individual voir dire stage. I'll have individual
20 questions for you.

21 The Solicitor has called for trial this week the
22 State of South Carolina versus Brad Keith Sigmon. Mr.
23 Sigmon has been indicted for two counts of murder, and
24 also for burglary in the first degree. The first thing
25 I need to do is tell you about the -- read the

1 indictment. The first indictment, which is number 7361,
2 alleges that Mr. Sigmon, did, in Greenville County, on
3 the 27th day of April 2001, unlawfully kill with malice
4 of forethought Gladys Larke by means of beating her in
5 the head, and that she died as a result of that beating.

6 Indictment number 7630 alleges on the same day that
7 Mr. Sigmon killed David Larke, again, by means of
8 beating him in the head, and that Mr. Larke died from
9 those wounds.

10 And finally, indictment number 769 alleges burglary
11 in the first degree. Alleges on the same date that Mr.
12 Sigmon broke into the home of David and Gladys Larke,
13 located at 948 East Darby Road in Greenville County. He
14 broke in at night time, and he broke in with the intent
15 to commit a crime.

16 Now, representing Mr. Sigmon are Mr. Frank Eppes.
17 If you would please stand. Thank you, sir. Have a
18 seat. Mr. John Abdalla. Thank you. Have a seat.

19 Prosecuting for the State will be Solicitor Bob
20 Ariail. Solicitor. Also Betty Strom is assisting.
21 Also Mindy Hervey. And is Melita Graham here? Melita?
22 And Lori Reese?

23 MR. ARIAIL: Correct.

24 THE COURT: All right. Now, ladies and gentlemen,
25 again, I need to -- I need to ask you a number of

1 questions about this case. And again, if any of these
2 questions apply to you I would need for you to stand.
3 What we're going to accomplish during the next three or
4 four days is to empanel a jury that is capable of
5 listening to the testimony that's presented, listening
6 to the evidence that's presented, capable of deciding
7 the believability and the credibility of the witnesses
8 who testify, capable of applying the law -- excuse me,
9 the testimony and the evidence to the law that I
10 instruct, and capable of returning a fair verdict, fair
11 to the State and fair for the defendant in this case.
12 Also a jury that is capable of a -- rendering a sentence
13 if the defendant is convicted of either life or death,
14 but determining what sentence is appropriate in this
15 case.

16 Now, Mr. Sigmon, if you would please stand. This
17 is the defendant in the case. Y'all have a seat and
18 have just Mr. Sigmon stand, please. This is Brad Keith
19 Sigmon, the defendant in this case. You can have a
20 seat.

21 Anybody on the jury panel that is related by blood,
22 marriage, employment, are you friends with, or do you
23 know the defendant in this case, Brad Sigmon, if so,
24 please stand?

25 (No response from the jury panel.)

1 THE COURT: Now, the victims in the case again were
2 Gladys and Davis Larke. Is there any member of the jury
3 panel that was related by blood, marriage, employment,
4 are you friends with, or do you know in any way the
5 victims in this case, Gladys and David Larke, if so,
6 please stand?

7 All right. Tell me your name, please.

8 MR. BAKER: John Baker.

9 THE COURT: Last name again?

10 MR. BAKER: Baker.

11 THE COURT: You got to tell me his number. I'm not
12 looking.

13 MS. PLUMLEY: Number 10.

14 THE COURT: Number 10. All right. Mr. Baker, you
15 know the victims in the case, Gladys and David Larke,
16 you knew them? Just yes or no, you knew them?

17 MR. BAKER: Yes, sir.

18 THE COURT: All right. Have a seat. Anyone else?

19 (No response from the jury panel.)

20 THE COURT: All right. All right. Ladies and
21 gentlemen, let me ask you about the attorneys. Is
22 anybody on the jury panel related by blood, marriage, or
23 employment, are you friends with or do you know the
24 Solicitor or any of the people I introduced to you that
25 are prosecuting this case, Mr. Eppes, or Mr. Abdalla?

1 Anybody know them at all, if so please stand?

2 Anybody else? Just -- everybody stand at once.

3 All right. Now, tell me your name, please, sir.

4 MR. DEYOUNG: James DeYoung.

5 MS. PLUMLEY: Number 90.

6 THE COURT: Number 90. All right. Tell me your
7 name, please, ma'am.

8 MS. GREEN: Ann Green.

9 THE COURT: What's your number?

10 MS. PLUMLEY: 128.

11 THE COURT: 128. All right. Let me just -- if
12 I've excused anybody obviously y'all don't need to
13 stand. Anybody that's not going to be potentially on
14 this jury, you don't need to stand.

15 Tell me your name.

16 MS. STROBEL: Rita Strobel, 337.

17 THE COURT: 337.

18 MS. WESTON: Rosylin Weston.

19 THE COURT: All right. Tell -- you don't know your
20 number? Hold on a second.

21 MS. WESTON: 374.

22 THE COURT: 374, all right.

23 MR. BENNETT: Davis S. Bennett.

24 THE COURT: Hold on ---

25 MS. PLUMLEY: 16.

1 THE COURT: 16. 116 or 16?

2 MS. PLUMLEY: 16. All right. Tell me your name?

3 MS. ADAMS: Helene Adams. I think it's 2.

4 MS. PLUMLEY: 2.

5 THE COURT: All right. Anyone else know the
6 attorneys?

7 (No response from the jury panel.)

8 THE COURT: All right. Let me continue with
9 questions about the attorneys. Anybody on the jury
10 panel ever been represented by these attorneys on any
11 type of matter? Anybody ever been involved in any type
12 of lawsuit or litigation where these attorneys might
13 have been on the other side, if so, please stand?
14 Anybody got any kind of relationship whatsoever, for or
15 against, pro or con, any of these attorneys, if so,
16 please stand?

17 All right. Tell me your name, please, sir.

18 MR. SHOOPMAN: Phil Shoopman.

19 MS. PLUMLEY: Number 317.

20 THE COURT: 317. All right. You can have a seat.
21 Anyone else?

22 MR. HARMON: Judge?

23 THE COURT: I'm sorry, I didn't see you.

24 MR. HARMON: I have met these attorneys in the
25 past.

1 THE COURT: All right. Do you know your jury
2 number?

3 MR. HARMON: I believe 148.

4 THE COURT: All right.

5 MS. PLUMLEY: Harman, Leon Harmon.

6 THE COURT: All right. Anybody else?

7 (No response from the jury panel.)

8 THE COURT: All right. I can't see behind this
9 column, so if anybody is standing and I don't ask who
10 you are, then just shout out in case I miss you.

11 All right. Now, ladies and gentlemen, my next
12 question deals with the potential witnesses in this
13 case. Just so you don't get scared by looking at that
14 witness list, I can assure you that only a fraction of
15 those witnesses are going to testify, but out of an
16 abundance of precaution both sides are required to list
17 anybody that might be a potential witness. In other
18 words, you don't know what necessarily is going to come
19 up during a trial. You might have to call a witness
20 that you didn't intend to. So we've put every witness
21 down there except one. I need to add to that list the
22 name Renee Smith of Taylors, South Carolina, Renee
23 Smith of Taylors, South Carolina.

24 Has everybody had a chance to look at that list? I
25 want -- I'm just going to give you a minute, if you

1 would, please go down that list. My next question is
2 going to be, do you know anybody on this list. Now,
3 there's a chance that there might be a Bob Smith on
4 there, and you may know a Bob Smith, and it may not be
5 the same Bob Smith that's going to testify. Probably
6 won't be, but out of an abundance of precaution, if you
7 would stand when I ask if anybody knows anybody on the
8 list. We tried to put what -- where these people
9 worked, things like that.

10 Do you have a list? Okay.

11 In other words, some of them aren't even from
12 Greenville, some are from Columbia, different places,
13 Gatlinburg, Tennessee. Everybody just take a chance to
14 look at that list, and then I will ask my question.

15 (A short pause was taken, after which, the jury
16 qualification continued as follows:)

17 THE COURT: All right. My question deals with
18 these witnesses. Is anybody on the jury panel related
19 by blood, or marriage, are you friends with, do you know
20 any of these witnesses in any way, if so, please stand?

21 All right. We're going to start -- just -- we'll
22 go down the rows. And I apologize for not remembering
23 people's names. By the end of the week, I'll probably
24 know you, but tell me your name again, please, sir.

25 MR. DEYOUNG: James DeYoung.

1 THE COURT: Huh?

2 MR. DEYOUNG: DeYoung.

3 MS. PLUMLEY: Number 90.

4 THE COURT: Number 90. You know a witness?

5 MR. DEYOUNG: Yes, sir.

6 THE COURT: All right. Have a seat. Tell me your
7 name?

8 MR. GREEN: Danny Green.

9 THE COURT: Mr. Green, let me find your number.

10 MS. PLUMLEY: 129.

11 THE COURT: 129. Thank you, sir. Have a seat.

12 MR. TAYLOR: James Taylor. I think it's 341.

13 MS. PLUMLEY: 341.

14 THE COURT: Thank you. Have a seat.

15 MR. TAYLOR: How well do you need you know?

16 THE COURT: I just need --

17 MR. TAYLOR: Just know them?

18 THE COURT: Yeah. And during -- you may not even
19 reach individual voir dire. If you get to individual
20 voir dire, it's perfectly all right to know a witness.
21 There's nothing wrong with that, but I will have some
22 further instructions during individual voir dire. The
23 reason I'm not going to talk to everybody now is, we're
24 not going to reach two-thirds of you probably, and
25 there's just no need to do that.

1 MS. LONG: Number 213, I believe, Long, Robin. I
2 know a witness.

3 THE COURT: All right. Is that the right ---

4 MS. PLUMLEY: No, 216.

5 THE COURT: 216.

6 MS. LONG: I'm sorry.

7 THE COURT: That's all right. Tell me your name,
8 please, sir.

9 MR. THAMES: William H. Thames, Jr., T-h-a-m-e-s.

10 MS. PLUMLEY: 342.

11 THE COURT: 342. All right. We'll start back over
12 here. Tell me your name again, please, sir.

13 MR. BOLING: James Boling.

14 THE COURT: All right.

15 MS. PLUMLEY: 24.

16 THE COURT: All right. Thank you, sir. Have a
17 seat.

18 MR. VERNA: Verna, V-e-r-n-a.

19 MS. PLUMLEY: 360.

20 THE COURT: 3 what?

21 MS. PLUMLEY: 360.

22 THE COURT: All right. Have a seat.

23 MR. PLANK: Plank, P-l-a-n-c-k, Wallace.

24 MS. PLUMLEY: 275.

25 THE COURT: Thank you. Have a seat. Tell me your

1 name, please, again.

2 MS. STROBEL: Rita M. Strobel, 337..

3 THE COURT: 337. Everybody -- you'll realize we
4 work by numbers until we get to know you. Tell me your
5 name, please.

6 MS. WESTON: Rosylin Weston. I think it's 374.

7 MS. PLUMLEY: 374.

8 THE COURT: All right. Thank you, ma'am. All
9 right. Let me start back over here.

10 MS. ELMORE: Cynthia Elmore.

11 MS. PLUMLEY: 103.

12 THE COURT: 103. Have a seat.

13 MS. SHAM: 313, Alice Sham.

14 THE COURT: Is that the right number?

15 MS. PLUMLEY: Yes, sir.

16 THE COURT: All right. Have a seat.

17 MS. COBB: 67, Karen Cobb.

18 MS. PLUMLEY: 67.

19 THE COURT: Thank you, ma'am. Have a seat.

20 MS. CRUELL: Evelyn Cruell.

21 MS. PLUMLEY: 81.

22 THE COURT: 81, all right.

23 MR. BENNETT: Davis Bennett, 16.

24 MS. PLUMLEY: 16.

25 THE COURT: All right.

1 MS. CARVER: Sandra Carver, I believe it's 48.
2 MS. PLUMLEY: 57.
3 THE COURT: 57, close.
4 MR. CARLTON: Robert Carlton.
5 MS. PLUMLEY: 54.
6 THE COURT: Thank you.
7 MS. CASON: Melissa Cason.
8 MS. PLUMLEY: 58.
9 THE COURT: Thank you. Yes, ma'am.
10 MS. PARDO: Dwong Pardo.
11 MS. PLUMLEY: I'm sorry, I couldn't hear her.
12 MS. PARDO: Pardo.
13 THE COURT: Pardo.
14 MS. HERVEY: 266.
15 MS. PLUMLEY: 266.
16 THE COURT: All right. Thank you, ma'am. Have a
17 seat.
18 MS. HOLLOWAY: Ruth Holloway.
19 MS. PLUMLEY: 166.
20 THE COURT: Thank you, ma'am.
21 MR. CHASTAIN: Kenneth Chastain.
22 MS. PLUMLEY: 62.
23 THE COURT: Thank you.
24 MS. BRAECKELAERE: 29, Janet Braeckelaere.
25 THE COURT: Is that 29?

1 MS. PLUMLEY: 29.

2 THE COURT: Thank you, ma'am.

3 MS. RICHARDSON: Vivian Richardson, 295.

4 MS. PLUMLEY: 297.

5 THE COURT: 297.

6 MS. RICHARDSON: Oh, 97.

7 THE COURT: 297. All right.

8 MR. TURNER: Nathan Turner.

9 MS. PLUMLEY: 357.

10 THE COURT: 357, 3, 5, 7. Thank you. Have a seat.

11 MS. CROSSLAND: Sam Crossland.

12 MR. PLUMLEY: I didn't hear him.

13 THE COURT: Do it one more time.

14 MR. CROSSLAND: Sam Crossland.

15 THE COURT: Crossland.

16 MS. PLUMLEY: Number 80.

17 THE COURT: Thank you, sir. Have a seat.

18 MR. MANSBACH: Frank Mansbach.

19 MS. PLUMLEY: 222.

20 THE COURT: Anyone else?

21 (No response from the jury panel.)

22 THE COURT: All right. All right. Ladies and
23 gentlemen, apparently when this case first happened
24 there was some publicity about the case, and so I need
25 to ask about anybody who's heard anything or knows

1 anything about the case. Before I do that, as I
2 understand from some of the questions that have been
3 submitted to me, there was a manhunt that went on for
4 several days, looking for the defendant after this
5 happened. This happened in the Blue Ridge/Traveler's
6 Rest area, is that correct?

7 MR. EPPES: Taylors.

8 THE COURT: The Taylors area. Apparently when this
9 happened, and I'm just saying a little bit of this,
10 because it might spur some memory, apparently several
11 schools were closed for a day or so during the course of
12 the manhunt. There was some extensive television,
13 radio, news coverage, and of course law enforcement was
14 in that area canvassing, knocking on doors, talking to
15 people, things like that. And I've already told you
16 what the case was about. Mr. Sigmon was ultimately
17 arrested in Gatlinburg several days after these events.

18 Now, having said all that to perhaps spur some
19 memory, I need to ask, has anybody on the jury panel
20 heard anything about this case, read anything about the
21 case, seen anything on the TV about this case? And
22 again, it's perfectly all right if you did. I just need
23 to make notes of who has done that. Anybody seen a news
24 account, read a news account, heard anything about this
25 case, if so, please stand?

1 Again, there's -- I've had cases where the entire
2 jury panel has stood up. This is not unusual, but
3 again, as quickly as we can, we need to go through and
4 just get people's names and numbers.

5 All right. Tell me your name and number, please,
6 sir?

7 MR. DEYOUNG: James DeYoung.

8 MS. PLUMLEY: Number 90.

9 THE COURT: Number 90, Mr. DeYoung. Have a seat.

10 MR. GREEN: Danny Green, number 129.

11 MS. PLUMLEY: 129.

12 THE COURT: 129. Have a seat.

13 MR. DURHAM: Charles Durham.

14 THE COURT: Do you know your number?

15 MS. PLUMLEY: Number 100.

16 THE COURT: 100.

17 MS. LONG: 216, Robin Long.

18 MS. PLUMLEY: 216.

19 THE COURT: All right.

20 MR. CRAWFORD: 271, Ed Crawford.

21 THE COURT: 271, Mr. Crawford? What's your last
22 name?

23 MR. CRAWFORD: Crawford.

24 MS. PLUMLEY: 77.

25 THE COURT: 77. All right.

1 MR. THAMES: 342, William Thames.
2 MS. PLUMLEY: 342.
3 THE COURT: All right.
4 MS. JACKSON: Carolyn Jackson.
5 MS. PLUMLEY: 185.
6 THE COURT: All right. Let me just do it this way.
7 MR. WHARTON: Robert Wharton.
8 MS. PLUMLEY: 375.
9 THE COURT: Thank you. Have a seat.
10 MR. DAVIS: Calvin Davis, I think it's 83.
11 MS. PLUMLEY: 83.
12 THE COURT: Thank you, sir.
13 MS. HALL: Jennifer Hall.
14 MS. PLUMLEY: 139.
15 THE COURT: Thank you.
16 MS. TRAYLOR: Lavonne Traylor, 353.
17 MS. PLUMLEY: 353.
18 THE COURT: Thank you, ma'am.
19 MR. SANDERS: Henry Sanders
20 MS. PLUMLEY: 303.
21 THE COURT: Thank you.
22 MS. GRIFFITH: Amy Griffith.
23 MS. PLUMLEY: 135.
24 MR. TURNER: 355, John Turner.
25 MS. PLUMLEY: 355.

1 MS. VERNA: Verna, 360.
2 MS. PLUMLEY: Verna, 360.
3 MR. SEXTON: Freddie J. Sexton.
4 MS. PLUMLEY: 311.
5 THE COURT: All right. Over here.
6 MR. BOLING: James Boling, 24.
7 MS. PLUMLEY: 24.
8 THE COURT: Tell me your name, please.
9 MS. MILLER: Nora Miller.
10 MS. PLUMLEY: 241.
11 THE COURT: All right. The gentleman in the red
12 shirt.
13 MR. JOHNSON: Douglas Johnson, I think it's 189.
14 THE COURT: Yes, sir, 189.
15 MS. GREEN: Ann Green.
16 MS. PLUMLEY: 128.
17 MR. HOLLAND: Robert Holland.
18 THE COURT: Last name?
19 MR. HOLLAND: Holland.
20 THE COURT: Holland?
21 MS. PLUMLEY: 165.
22 MR. KOSCH: Ronald Kosch.
23 MS. PLUMLEY: 204.
24 THE COURT: 204.
25 MS. STROBEL: Rita M. Strobel, 337.

1 THE COURT: Yes, ma'am.
2 MS. MANGRUM: 220, Elaine Mangrum.
3 THE COURT: All right.
4 MS. FLACK: 114, Leanne Flack.
5 MS. PLUMLEY: 114.
6 MR. HALL: Don Hall.
7 MS. PLUMLEY: 138.
8 THE COURT: Thank you, sir.
9 MR. LEVENTIS: Peter Leventis.
10 MS. PLUMLEY: 210.
11 MS. NORRIS: Sandra Norris.
12 MR. EVANS: Robert Evans.
13 THE COURT: Hold on.
14 MS. PLUMLEY: 261.
15 THE COURT: Mr. Evans?
16 MS. PLUMLEY: 106.
17 MS. NEELY: Jacqueline Neely, I think it's 359.
18 MS. PLUMLEY: 255.
19 MS. WESTON: Rosylin Weston, 274.
20 THE COURT: That's right.
21 MS. PLUMLEY: 274.
22 MS. MYERS: Mary Myers.
23 THE COURT: 2, 5, 4?
24 MS. PLUMLEY: Yes, sir.
25 MS. MARTIN: Michelle Martin.

1 MS. PLUMLEY: 227.
2 MR. CANNON: Garven Cannon, 52.
3 MS. PLUMLEY: 52.
4 MS. ELMORE: 103, Cynthia Elmore.
5 MS. PLUMLEY: 103.
6 MS. HAMBY: Patricia Hamby.
7 MS. PLUMLEY: 140.
8 MS. BYRD: Judith Byrd.
9 MS. PLUMLEY: 46.
10 MS. WALDROP: Patricia Waldrop.
11 MS. PLUMLEY: I'm sorry?
12 MS. WALDROP Patricia Waldrop.
13 MS. PLUMLEY: 364.
14 MS. RICHARDSON: Roberta Richardson.
15 MS. PLUMLEY: 296.
16 MR. JACALA: Ariel Jacala, J-a-c-a-l-a..
17 MS. PLUMLEY: 183.
18 MR. BRAILSFORD: John Brailsford.
19 MS. PLUMLEY: 30.
20 MR. MAHAFFEY: Larry Mahaffey.
21 MS. PLUMLEY: 218.
22 MR. SHOOPMAN: Phil Shoopman, 317. 317, Phil
23 Shoopman.
24 THE COURT: 3, 1, 7, yes, sir.
25 MS. PLUMLEY: Yes, sir.

1 MS. CARVER: Sandra Carver, 57.
2 MS. PLUMLEY: 57.
3 THE COURT: That's correct.
4 MS. HERRING: Carol Herring.
5 MS. PLUMLEY: 158.
6 MS. KAY: Curran Kay, 197.
7 MS. PLUMLEY: 197.
8 MS. SULLIVAN: 338, Christina Sullivan.
9 MS. PLUMLEY: 338.
10 MS. CAMPBELL: Number 50, Marion Campbell.
11 MS. PLUMLEY: Number 50.
12 MS. COBB: Karen Cobb, 67.
13 MS. PLUMLEY: 67.
14 MR. MARCLEY: Scott Marcley.
15 MS. PLUMLEY: 223.
16 MR. BAKER: John Baker.
17 MS. PLUMLEY: 10.
18 MR. GORDON: Derrick Gordon.
19 MS. PLUMLEY: 127.
20 MR. TURNER: Larry Turner.
21 MS. PLUMLEY: 356.
22 MR. CARLTON: Robert Carlton, 54.
23 MS. PLUMLEY: Robert Carlton, 54.
24 MS. GILLIAM: Elma Gilliam.
25 MS. PLUMLEY: 125.

1 MS. SPEICHER: Melissa Speicher.
2 MS. PLUMLEY: 328.
3 MS. LINDSTROM: Denise Lindstrom.
4 MS. PLUMLEY: 214.
5 MS. ADAMS: Helene Adams, 2.
6 MS. PLUMLEY: Number 2.
7 MS. YARBOROUGH: Jeanne Yarborough.
8 MS. PLUMLEY: 394.
9 MR. CHASTAIN: Kenneth Chastain.
10 MS. PLUMLEY: 62.
11 MS. BRAECKELAERE: Janet Braeckelaere, 29.
12 MS. PLUMLEY: 29.
13 MR. TURNER: Nathan Turner, 357.
14 MS. PLUMLEY: 357.
15 MS. LEWIS: Erica Lewis, 212.
16 MS. PLUMLEY: 212.
17 THE COURT: All right. Let me start on the right,
18 my right, y'all's left.
19 MS. CASE: Janice Case.
20 THE COURT: Case?
21 MS. PLUMLEY: 354.
22 MS. FAHNLE: Sharon Fahnle.
23 MS. PLUMLEY: I didn't hear her.
24 THE COURT: Okay. Tell me your last name again.
25 MS. FAHNLE: Fahnle, F-a-h-n-l-e.

1 THE COURT: Okay, 109.

2 MS. CLARK: Betty Clark, 66.

3 MS. PLUMLEY: 66.

4 THE COURT: Is there anybody else standing back
5 there?

6 MS. SCHREUDERS: Right here.

7 THE COURT: I'm sorry. Last name?

8 MS. SCHREUDERS: Schreuders.

9 MS. PLUMLEY: 306.

10 THE COURT: Anyone else?

11 (No response from the jury panel.)

12 THE COURT: All right. All right. Ladies and
13 gentlemen, again, it's perfectly all right if you have
14 heard something, read something, talked about the case
15 with someone. I need to now ask, has anyone formed an
16 opinion about this case from their reading about it,
17 seeing it on TV? Have you formed an opinion as to the
18 guilt or innocence of the defendant, anything like that,
19 if so, please stand? And again, this is perfectly all
20 right, I just need to know if anybody has formed any
21 kind of opinions about this case? If so, please stand?

22 (No response from the jury panel.)

23 THE COURT: Anybody formed any opinion as to the
24 guilt or innocence of Mr. Sigmon, if so, please stand?

25 (No response from the jury panel.)

1 THE COURT: All right. Ladies and gentlemen, is
2 anybody aware of any bias or prejudice either for or
3 against the State of South Carolina, for or against the
4 defendant in this case, if so, please stand?

5 (No response from the jury panel.)

6 THE COURT: Anybody on the jury panel know of any
7 reason whatsoever they could not give the State of South
8 Carolina and the defendant, Brad Keith Sigmon, a fair
9 and impartial trial, if so, please stand?

10 All right. Tell me your name, please, ma'am.

11 MS. CASE: Janice Case.

12 THE COURT: Tell me -- what's your number, please?

13 MS. CASE: I think it's 354.

14 MS. PLUMLEY: What's her name?

15 THE COURT: 254, case? No, that's the one that
16 changed. 354.

17 MS. PLUMLEY: Yes, sir.

18 THE COURT: All right. Thank you, ma'am. Just
19 have a seat. Anybody else?

20 (No response from the jury panel.)

21 MS. HERRING: I have an opinion.

22 THE COURT: All right.

23 MS. HERRING: 158.

24 THE COURT: Okay. I don't need your opinion, I
25 just need to know your name. 158?

1 MS. PLUMLEY: Herring.

2 THE COURT: You are Ms. Herring?

3 MS. HERRING: Yes.

4 THE COURT: All right. Thank you, ma'am. Anyone
5 else?

6 MR. GREEN: Danny Green, 129.

7 THE COURT: Thank you, sir. Have a seat.

8 MR. EPPE: What's his number?

9 THE COURT: 129. All right. Now, again ladies and
10 gentlemen, I gave you a letter. Has everybody had time
11 to read that letter? It's about a two-page letter. A
12 case like this is divided into two parts. There is the
13 trial phase, the only issue at that stage is -- it's
14 like any other trial, the issue would be whether the
15 defendant is guilty or not guilty. If a defendant is
16 found not guilty, then that ends the case. Obviously
17 everybody goes home. If a defendant is found guilty,
18 then there is a waiting period, and then the same jury
19 comes back and they hear more testimony. They hear
20 testimony in aggravation, that's presented by the State,
21 reasons that the State thinks that the person should be
22 sentenced to death. And they hear evidence in
23 mitigation, that's evidence presented by the defendant.
24 And the issue is whether to sentence the defendant to
25 death either by electrocution or lethal injection in

1 South Carolina, or sentence him to life without any
2 possibility of parole.

3 So what we will be doing in the individual voir
4 dire, is I will be going over some of your responses
5 with you, making sure you understand that process, but
6 then most of voir dire will be talking with you about
7 your opinion on capital punishment. The individual voir
8 dire will probably take about 20 minutes. I mean, it
9 may take 10 minutes in some cases, it may take 25, I
10 mean, just depending on certain things. But that is
11 what we will do. Again, what we will do is qualify a
12 jury panel, and we'll qualify some 40 or so jurors, and
13 then from those 40, we will select the actual jury in
14 this case and the alternates.

15 Now, we -- the attorneys and the staff are going to
16 leave in just a minute. You will need to stay, and
17 Madam Clerk will give you further instructions as far
18 as, she'll pull names and put you on a panel. And
19 you'll be given a slip of paper that will tell you when
20 to return. And again, we're going to start at two
21 o'clock this afternoon with individual voir dire. So
22 the first five people will come at 2:00. The next five
23 at 4:00, and next five at 6:00, and then we'll start
24 back tomorrow morning.

25 It is very important for you to follow the

1 following instructions. From here on out do not discuss
2 this case with anyone, that includes amongst yourselves,
3 because what we're going to do is we're going to take
4 the jurors, the five or six that come at a time, they'll
5 tell you where to park. We got special parking for you,
6 it's not over in the Hyatt. They will -- you will be
7 escorted up the back way by the bailiffs. We'll put you
8 in courtroom 7, which is next to where we will be
9 working, courtroom 8. Then we'll bring you in one at a
10 time. But it is important that you not talk about this
11 case with anyone, including amongst yourselves when
12 you're in courtroom 7. There are a lot of reasons that
13 we tell you that, but just -- that's my admonition to
14 you.

15 Also, there will be news coverage of this case. So
16 do not read anything in the newspaper, watch anything on
17 the TV. If something comes up just cut it off.

18 Now, when I tell you, don't talk about the case,
19 obviously you're going to be going home, and obviously
20 you're going to be going to your businesses, so you can
21 tell people, I'm on a jury. You can tell people, I've
22 got to be back at so and so time. When I say, don't
23 talk about the case, I mean, don't talk about the
24 substantive facts of the case with anyone. Don't talk
25 about your opinion on capital punishment with anyone.

1 Don't watch any news accounts. Those are my admonitions
2 to you.

3 Now, let me talk with the lawyers real quick, just
4 make sure we've got everything covered. Just ---

5 (A bench conference was held.)

6 THE COURT: All right. Now, the last thing I need
7 to tell you, ladies and gentlemen, is if anybody tries
8 to contact you or to discuss this case with you, you
9 need to first immediately tell them you cannot talk
10 about it, and secondly you need to take their names and
11 inform the Court if somebody tried to talk to you about
12 the case. I will handle it from there. All right.

13 All right. With that, we are going to leave you
14 down here in the hands of the Clerk. Anyone -- I know
15 I've kept you a long time. I know she'll probably want
16 to give you a break. Anybody that needs to check out,
17 that's been disqualified, do that. But you need to get
18 back in here as quick as you can and settle down, so she
19 can call the roll and put you on your panels, that way
20 you can get out of here as quick as you can.

21 All right. I look forward to seeing some of you
22 during individual voir dire. Thank you very much.

23 (A short recess was taken, after which, the trial
24 continued as follows:)

25 THE COURT: We are here for the purpose of

1 disposing of any pending matters before we start the
2 jury selection at two o'clock. There were nine jurors
3 that did not show up. At some point in time I need to
4 put in the record the status of those nine. I can tell
5 you two showed up later. I simply transferred them to
6 the two o'clock jury panel for civil court or whatever.
7 I don't know if they've got criminal court going on.
8 But I couldn't go back and, you know, qualify them, and
9 ask them the questions. Two that did not show up. One
10 had put down that she had small children, but had not
11 requested to be excused. I went ahead and excused her.
12 One said she had sent a medical excuse. Andrea had not
13 gotten it. We told her to send it. What else -- what
14 is the status of the others? We have a doctors note.
15 In any event, we just need to put that in the record at
16 some point in time, who those people are and why -- what
17 the disposition of them is.

18 For the record, the method of selecting the jury in
19 the case will be by the struck system. We will empanel
20 at least 35 jurors. That will give us a juror of two
21 alternates. I may shoot for 43, just depending on where
22 we are on Wednesday, how much longer we think we need to
23 take, but we're going to empanel at least 35. That will
24 be 27 plus 8 for a strike -- or two strikes rather. Any
25 questions about that?

1 MR. EPPES: None, Your Honor.

2 THE COURT: All right. The Solicitor's office
3 filed two motions, I believe on -- on Friday. And the
4 first one is a motion to produce underlying data,
5 documents and facts supporting any expert testimony by
6 defense witnesses under rule 705. Have y'all considered
7 that and ---

8 MR. EPPES: Your Honor, we have considered it. We
9 believe that we can provide -- we can provide a written
10 summary of those to the extent there are actually data
11 or documents. We'll provide those to the Solicitor. I
12 would like to do it towards the end of the 24 hour
13 waiting period.

14 THE COURT: All right. Well, let's talk about you
15 could possibly have an expert with no underlying data or
16 testing, but who is going to render an opinion. Do you
17 intend to have this expert reduce that opinion to some
18 sort of report?

19 MR. EPPES: No, sir, Your Honor, we will have no
20 written reports.

21 THE COURT: I'm lost. You'll have no written
22 reports period, or no ---

23 MR. EPPES: Our experts at this time -- we've
24 discussed written reports with out experts, and at this
25 time none of them intend to produce a written report.

1 THE COURT: So what are you saying, you've agreed
2 to give them underlying data ---

3 MR. EPPES: We will provide them with a compendium
4 of underlying data, underlying information. If we
5 gave -- for example, Jim Aiken is a prison expert. If
6 we gave him SCDC records or Greenville County Detention
7 Center records, we'll tell them here's the records we
8 gave Jim Aiken. And if there was any testing that was
9 done on our client or otherwise that is being relied
10 upon, we'll tell them where that testing is.

11 THE COURT: All right, Solicitor.

12 MR. ARIAIL: Well, you know, if I don't know what
13 the opinion is, giving me the data doesn't give me a
14 whole lot of information. So ---

15 THE COURT: All right. Well ---

16 MR. ARIAIL: I'll take anything I can get, but I
17 think if we're going to avoid ---

18 THE COURT: Most of the records you're going to be
19 given are records he gave you?

20 MR. ARIAIL: Right.

21 THE COURT: I mean, if it's records and statements,
22 and ---

23 MR. EPPES: Your Honor ---

24 THE COURT: --- and things like that.

25 MR. EPPES: --- under -- under the rules he's

1 talking about, if you're talking about -- I thought you
2 were talking about the data and the background. If
3 you're talking about their opinions, I believe under the
4 rules we're required to give him a summary that provides
5 the basis and the general conclusion and the general
6 language that will allow him to prepare for it. We are
7 prepared to do something along those line.

8 THE COURT: Well, that's what I was talking about.

9 MR. EPPES: Prior to testimony, but we'd like to do
10 it after the close of the State's case in the penalty
11 phase.

12 THE COURT: All right.

13 MR. EPPES: Because we don't -- Your Honor, we
14 don't make decisions about that until towards the last
15 minute on a lot of these witnesses.

16 THE COURT: Well, the problem is, if you don't make
17 a decision until the last minute, and you don't call
18 some of your experts, you're going to be having them
19 make written reports, because we're not going to sit
20 around and have -- wait for them to put something down
21 in writing.

22 MR. EPPES: Well, that's -- yes, sir.

23 THE COURT: Okay. All right. What about the
24 timing, Solicitor?

25 MR. ARIAIL: I think -- did he say end of the

1 State's case in the penalty phase?

2 THE COURT: That's what he said.

3 MR. ARIAIL: Well, I would like -- and I thought we
4 had talked about the end of the 24 hour waiting period,
5 is what he said to begin with.

6 THE COURT: All right. Here's what I'm going to
7 do. Are y'all ready?

8 MR. EPPES: Yes, sir.

9 THE COURT: You're going to have any expert that
10 you intend to call make a written report as to their
11 conclusions, a brief summary of their conclusions, what
12 they're going to testify to, and you're also going to
13 have available any underlying documents, data or facts
14 supporting that testimony. You're going to have it
15 available -- how long do you anticipate, if we get to
16 the penalty phase, how long do you think your case is
17 going to last, in the penalty phase?

18 MR. ARIAIL: Half to three-quarters of a day.

19 THE COURT: Is that going to give you enough time
20 to get ready for their witnesses with those reports?
21 All right. I'm going to have you give it to them at the
22 beginning of -- when we reach a verdict in the case. So
23 that they'll have it during the 24 hour waiting period.
24 It does not make any sense to give it to them at the
25 last minute and not give them time to at least look at

1 it. Otherwise, it's going to cause undue delay.

2 MR. EPPES: Your Honor, I would ask you consider
3 doing it -- if we -- if we get a verdict at six o'clock
4 one day, I'd ask you to give me until half way through
5 this 24 hour period because, your know, I'm really not
6 going to be focusing. It's going to be difficult to
7 focus on it while we're working on the guilt phase. If
8 you'd give us at least part of that time to help get it
9 together. We can get it started, but I'm going to need
10 to talk to my experts. We're going to need to review
11 these materials before we hand it over to the
12 prosecution. We're going to be caught up in the guilt
13 phase. If you'd just give us half of that time, we can
14 pick a time after the verdict comes back, and I can
15 assure you while the jury is out, however long that is,
16 we'll already be working on it.

17 THE COURT: Well, I mean, if we get a verdict at
18 noon, and I give you half way through it, that's until
19 midnight. So you're telling him he's going to work on
20 this from midnight, you know, until noon the next day.
21 That's ---

22 MR. EPPES: If we give verdict -- if we get a
23 verdict at noon, for example, I would say you, Judge,
24 give us until six o'clock today.

25 THE COURT: All right. Well, my ruling is, I'm

1 going to say -- you need to start getting it ready.

2 MR. EPPES: Yes, sir.

3 THE COURT: I'm going to say have it ready when we
4 get a verdict, and then if you need some more time to
5 talk about it, something like that, I'll consider
6 delaying it a little while. But my ruling is that
7 you're going to have that -- you're going to have it by
8 the verdict in the case.

9 All right. Motion to order release of defendant's
10 medical records. And this was medical records of the
11 jail, as I recall, is that correct, Solicitor?

12 MR. ARIAIL: That's correct.

13 THE COURT: Have we reached an agreement as to
14 that, Mr. Eppes?

15 MR. EPPES: Your Honor, we have no objection to the
16 Solicitor obtaining those records.

17 THE COURT: All right. Do you want to prepare a
18 brief order? Do you ---

19 MR. ARIAIL: If it's okay with the Court, save
20 that, I'll just issue a subpoena, and they'll deliver
21 them to us provided that we ---

22 THE COURT: Assure them that I've ordered it, it's
23 okay?

24 MR. ARIAIL: Yeah.

25 THE COURT: That's fine. You're entitled ---

1 MR. ARIAIL: If I need an order I'll come back.

2 THE COURT: All right.

3 MR. EPPES: Your Honor, could I raise one issue
4 regarding experts? Our retained experts are potential
5 witnesses, they're also consulting with us. To the
6 extent they're consulting with us is work product. If
7 we provide this information at the end of the guilt
8 phase, we may decide not to call some of these experts.
9 If we do that, that should not -- because they're being
10 used basically for attorney background, they should not
11 be called as witnesses. The State shouldn't have any
12 subpoena power over them. I'd just like to say that
13 even though we give these statements, we reserve the
14 right not to call these witnesses. And because they're
15 consulting experts as well, we would argue that the
16 State has no power to put a subpoena over them.

17 THE COURT: I'll handle that if it comes. I can't
18 imagine that that would arise, but I guess I can see a
19 situation where it might arise, but I will handle that
20 issue at that time.

21 All right. The restraints, we've settled that
22 issue. Restraints?

23 MR. EPPES: Yes, sir.

24 THE COURT: All right. Sequestration. Did you
25 have a specific list of people you want to sequester?

1 From the defense? I told you not to just say sequester
2 all witnesses. I want to know who specifically you want
3 to sequester. Let me do it this way. Is there a motion
4 to sequester any witnesses?

5 MR. EPPES: There's no motion at this time to
6 sequester any witnesses, Your Honor, but we'd like to
7 reserve the chance to do that tomorrow or the next day.

8 THE COURT: Okay.

9 MR. EPPES: Thank you.

10 THE COURT: All right. The Rebecca Barbare
11 psychological records. Is that still pending?

12 MR. EPPES: Yes, sir.

13 THE COURT: All right. And is Ms. Barbare here?

14 MS. BARBARE: Yes, sir.

15 THE COURT: Okay. Tell me what that motion is,
16 please, Mr. Eppes, or Mr. Abdalla?

17 MR. ABDALLA: Your Honor, we just -- we have a
18 motion before this Court to obtain the medical records
19 and psychological records of Ms. Barbare, because it's
20 relevant to our case as see it, our defense.

21 THE COURT: All right. And what is your
22 understanding of -- what psychiatric records might be
23 out there?

24 MR. ABDALLA: Well, I'm not certain. There's
25 psychiatric -- there was a psychiatric evaluation from

1 back in the '90s. There has also been some psychiatric
2 matters since -- right before this -- or right after
3 this incident occurred and we think there might be
4 exculpatory evidence, because the entire basis of this
5 case goes to the relationship between these two parties,
6 and it's totally relevant, and we believe it's something
7 the Court should grant us.

8 THE COURT: All right. Before I hear from Ms.
9 Barbare, Solicitor, do you have a position on this?

10 MS. HERVEY: Your Honor, the State would object to
11 the presentation of these records. First of all, we
12 believe the defense is, for the most part, going on a
13 fishing expedition. The case law, specifically State v.
14 Parker, says that they have to demonstrate good cause to
15 the Court to get these records. In Parker they made a
16 similar, just it's relevant to our case and we need it,
17 type argument, which was rejected by the Court. The
18 Supreme Court held that there has to be something more
19 demonstrated and -- before you basically go into this.

20 Furthermore, the State would bring to the Court's
21 attention that in this instance Ms. Barbare is not a
22 victim in the indictments that are being presented
23 before you today, which further calls into question
24 whatever relevance they might have to the defense case.
25 Unless they can provide some basis or at least proffer

1 that it would somehow reduce murder to voluntary
2 manslaughter, that it was somehow a heat of passion
3 crime, or further articulate the relevance to their case
4 beyond ---

5 THE COURT: They've already articulated it. They
6 said it might be relevant in the penalty phase, and the
7 relationship goes to the crux of what happened.
8 Anything else?

9 MS. HERVEY: The State's position is that that is
10 not sufficient relevance or good cause shown in order to
11 engender them to get just her psychiatric records for
12 her entire life, that they need to point to some
13 specific particular basis of what they are looking for.
14 More of the case law further examines that they should
15 not be produced to the defendant, they should be
16 produced to the Court. The Court should conduct an in
17 camera review of those records, and then determine their
18 relevance before violating this third party's privacy
19 interest rights in turning them over to the defense.

20 THE COURT: Okay. All right. Now, Ms. Barbare,
21 you understand that -- you need to stand up, please,
22 ma'am. You understand that at issue here are any
23 psychiatric records that -- that may be in existence,
24 where you had been seen by a psychologist or
25 psychiatrist. Do you understand that?

1 MS. BARBARE: Yes, sir.

2 THE COURT: All right. Are you representing here
3 on this?

4 MR. KAPPEL: That's correct, Your Honor.

5 THE COURT: All right. Tell me anything you want
6 to tell me, please, sir.

7 MR. KAPPEL: Well, Your Honor, we basically would
8 piggyback our argument on what Ms. Hervey represented to
9 the Court. We would ask that the Court require the
10 defendant to make a sufficient showing of good cause and
11 that those records, Your Honor, are necessary for this
12 trial. Your Honor, we don't feel that it's in any way
13 relevant to this case. We don't feel that it is
14 necessary. We would ask Your Honor to, if you would
15 disagree with us, that those records be presented to you
16 and reviewed in camera only for independent
17 determination by the Court.

18 THE COURT: All right. Ms. Barbare, anything you
19 want to tell me other than what your attorney has
20 already said?

21 MS. BARBARE: No, sir.

22 THE COURT: Okay. All right. Thank you very much.
23 All right. I find that the defense has made a showing.
24 I will, however, have the records produced to the Court.
25 I'll review them, make a determination of whether to

1 give them to the defense or not. I need to -- I need a
2 list of any treatment -- I thought we had already agreed
3 to the limit the scope of this to 10 years or something
4 like that?

5 MR. ABDALLA: 1992, I believe it is, Your Honor.

6 THE COURT: All right. Let's go back to 1990,
7 anything -- from 1994, Mr. Kappel, I need a listing
8 today by five o'clock of any doctors and rough dates of
9 treatment. Then I will need for you to get medical
10 releases from your client and get those records and
11 provide them to the Court. The Court will pay for any
12 costs of them, of duplicating them. All right.

13 MR. KAPPEL: Very well, Your Honor.

14 THE COURT: All right. Thank you. All right.
15 Anything else from the State?

16 MR. ARIAIL: I think that's all, Your Honor.

17 THE COURT: Anything else from the defense?

18 MR. EPPES: Yes, sir, Your Honor.

19 THE COURT: All right.

20 MR. EPPES: Your Honor, I have three motions.

21 THE COURT: Did you put them in writing by chance?

22 MR. EPPES: No, sir, I apologize for that.

23 THE COURT: That's all right.

24 MR. EPPES: Your Honor, based upon on the Solicitor
25 this morning not to call the kidnapping charge, the

1 assault and battery with intent to kill charge and the
2 grand larceny of the motor home charge, I would like to
3 ask, first, for a continuance based upon surprise. I
4 would, second, like to make a speedy trial motion on
5 behalf of my defendant, because, Your Honor, we've been
6 preparing for this trial for almost a year now. I've
7 been personally involved for nine month, and at no time
8 did the Solicitor give any indication that they were
9 going to drop these charges, or try them at another
10 time. If they had, we would have made this speedy trial
11 motion sooner.

12 Finally, Your Honor, I'd make a motion to dismiss
13 these charges with prejudice. Your Honor, all these
14 charges are part and parcel of the same event. The
15 kidnapping and the assault and battery with intent to
16 kill happened within 20 minutes of the -- 20 to 45
17 minutes, we can scrap about that later, to the murders.
18 For reasons of judicial economy and others, Your Honor,
19 I'd ask that we either get a continuance today, or we
20 dismiss those other charges with prejudice.

21 THE COURT: So it's an either/or, continue or
22 dismiss?

23 MR. EPPES: Yeah.

24 THE COURT: All right. Any response?

25 MR. ARIAIL: Well, we're going to give -- the

1 speedy trial, I think we are going to start the trial.

2 THE COURT: Well, he's talking about a speedy trial
3 on the kidnapping and ---

4 MR. ARIAIL: We'll give him a speedy trial on that
5 too.

6 THE COURT: Go ahead.

7 MR. ARIAIL: There is a major distinction, in that
8 you've got different victims in different cases. And
9 although they may be a part of the same transaction,
10 that doesn't necessarily require that the State bring
11 them all at one time. For example, we just got through
12 with the last case we did, Mr. Wood. We tried part of
13 it here and part of it in Anderson. So the purpose of
14 the State selecting, and I think that's a statutory
15 power granted to the State in order to make your choice
16 as to which cases to call, we've made that decision to
17 call these cases only.

18 THE COURT: Let me ask you this, what evidence do
19 you intend to get into in the trial phase of this case
20 as to the kidnapping, assault and battery with intent to
21 kill and grand larceny? Do you intend to call the
22 victim of the kidnapping, the assault and battery with
23 intent to kill and the grand larceny?

24 MR. ARIAIL: We will call the victim of the grand
25 larceny.

1 THE COURT: It's not the same person?

2 MR. ARIAIL: No.

3 THE COURT: All right. What about the assault and
4 battery, I assume Ms. Barbare is the victim of the
5 assault and battery with intent to kill and kidnapping?

6 MR. ARIAIL: Um-hm.

7 THE COURT: All right. And do you intend to call
8 her as a fact witness as part of the res gestae of what
9 happened?

10 MR. ARIAIL: No.

11 THE COURT: Okay.

12 THE COURT: All right. That's fine. Anything else
13 you want to say on that issue?

14 MR. ARIAIL: No.

15 THE COURT: All right.

16 MR. ARIAIL: Wait a minute.

17 THE COURT: Talk to your lawyer first.

18 MR. ARIAIL: Talk to my lawyer.

19 THE COURT: Anything else?

20 MR. ARIAIL: Well, we are going to put up evidence
21 of what happened, so we can explain it. We're going to
22 start where it happened, backtrack to the murder scene.
23 The way to get to the murder scene is you have to get to
24 where the assault and battery with intent kill took
25 place and not necessarily the kidnapping, but the

1 assault and battery with intent to kill took place, and
2 witnesses were available to observe those facts, heard
3 comments, received reports from the victim herself upon
4 which they acted upon, which they acted and responded to
5 the scene to the crime of the two murders. So it will
6 be a lead-in, sort of setting the stage of how everybody
7 got to the house.

8 THE COURT: Let me ask you this, is there -- is
9 there a statement in this case by the defendant that
10 goes to the facts of these -- these crimes that we're
11 not trying?

12 MR. ARIAIL: Does the ---

13 THE COURT: Does he talk about the kidnapping,
14 assault and battery with intent to kill in his
15 statements? Do you intend to put that statement in?

16 MR. ARIAIL: Yes.

17 THE COURT: Do you intend to put that portion of
18 the statement in?

19 MR. ARIAIL: Yes.

20 THE COURT: Are you going to be able to prove any
21 kind of substantive evidence of what happened without
22 the victim to put that in?

23 MR. ARIAIL: Yes.

24 THE COURT: Okay. All right. Now -- yes, sir.

25 MR. EPPES: Your Honor ---

1 THE COURT: Your motion is for a continuance, a
2 speedy trial and dismissal with prejudice?

3 MR. EPPES: Yes, sir. Your Honor, between the
4 arguments they've already made today, they've made clear
5 what their purpose is. Their purpose is to try to
6 distinguish Ms. Barbare as not a victim in this case.
7 It has to do with strategy for the sentencing phase. It
8 is subterfuge, Your Honor, to try to restrict my
9 client's defense in the sentencing phase of this case.

10 THE COURT: Why would that restrict it?

11 MR. EPPES: I hadn't quite figured it out, Judge.

12 THE COURT: I can't -- I can't see that it would
13 either, but ---

14 MR. EPPES: Your Honor, in fact all these events
15 are part and parcel to the same situation. They've just
16 said they're going to start with the 911 tapes from the
17 assault and battery with intent to kill, I'm just
18 speculating about the Solicitor's case, but I suspect
19 that's where they'll start. They're going to start with
20 the assault (sic) tapes of the assault and battery with
21 intent the kill, they're going to work back to a
22 kidnapping, work back to the house, they're going to
23 try to get in all the evidence, but they want to use
24 this to tinker with the mechanism in the penalty phase,
25 tinker with the mechanism of how Ms. Barbare can be --

1 can be treated in examination. Your Honor, that's fine,
2 that's their right to do that, but if they're going to
3 do that, if they're going make this entire body of
4 charges into the case, if they're going to stretch it
5 out from the time of the burglary all the way to the
6 killing, all the way to the mobile home, all the way to
7 this extensive set of confessions they've got, they need
8 to either try them all now, dismiss them with prejudice,
9 or give us a continuance to talk about them, because
10 Your Honor, it's just not fair to my client.

11 THE COURT: Okay. But all that goes to whether I
12 dismiss them with prejudice as to opposed to -- tell me,
13 do you want -- is there any -- is there any prejudice to
14 me dismissing them, on your part, that you want to
15 articulate before I rule?

16 MR. EPPES: Is there any prejudice to ---

17 THE COURT: Yeah, for them not trying these cases
18 right now?

19 MR. EPPES: Yes, sir.

20 THE COURT: If I don't dismiss them?

21 MR. EPPES: Yes, sir. My client will be facing
22 these further charges down the road.

23 THE COURT: No, I said, if I don't dismiss them,
24 what prejudice is there if I go ahead and dismiss them
25 with prejudice?

1 MR. EPPES: There will be no prejudice to us if you
2 dismiss them with prejudice.

3 THE COURT: All right. Anything else? All right.
4 I respectfully decline the continuance. I will take the
5 speedy trial motion and the motion to dismiss with
6 prejudice under advisement. Do you have any other
7 motions?

8 MR. ABDALLA: Yes, sir. Your Honor, I just have
9 the motion about the jury sequestration. I understand
10 that I'm fighting an uphill battle on that, but I would
11 like that on the record to not ---

12 THE COURT: You just withdrew the sequestration, so
13 how am I ---

14 MR. ABDALLA: With the jury.

15 THE COURT: Oh, with the jury, I'm sorry.

16 MR. ABDALLA: Thank you. I just was making a
17 motion to not sequester the jury. The only thing I
18 would point out to the Court, which the Court knows the
19 arguments, is that we don't sequester juries in any
20 other cases, including serious murder cases, and I think
21 we can trust the jury to tell us the truth about not
22 watching news media while they're in a routine case. I
23 don't understand why we can't take their word for this
24 case. It's an awfully long time to be put together.
25 And I think you also tend to get a like-minded group

1 into a -- more of a mob thinking as opposed to
2 independent thought. That's why ---

3 THE COURT: Well, the difference between -- the
4 difference between this and another case, is we don't
5 have cameras in the courtroom in most other non-capital
6 cases, and there's going to be more publicity, that and
7 the fact about half the venire stood up this morning and
8 heard about the case. I'm going to sequester the jury.
9 So I respectfully deny that.

10 MR. ABDALLA: Thank you, Your Honor.

11 THE COURT: All right. Any other motions from the
12 defense?

13 MR. EPPES: None at this time, Your Honor.

14 THE COURT: All right. Now, if you would -- I've
15 got a jury letter that I'm going to give each qualified
16 panelist. Look at that see if -- we need to make one
17 other copy for the record, and this will be Court ID.
18 Look over that for a minute and make sure it meets with
19 your approval. After we go through the process and I
20 have a qualified juror, I intend to give them this
21 letter as part of my parting instructions.

22 All right. Anything from the defense as to this
23 letter?

24 MR. EPPES: Your Honor ---

25 THE COURT: I'm sorry. I thought you were through.

1 All right. Ms. Strom, anything?

2 MS. STROM: Not as to substance, Your Honor. I did
3 see a misspelling.

4 MR. ARIAIL: She majored in English.

5 THE COURT: All right. What's -- what did my
6 secretary misspell?

7 MR. ARIAIL: The final paragraph, advice, don't you
8 mean advise?

9 THE COURT: Yep.

10 MR. EPPES: Your Honor, if you're going to change
11 that, in the paragraph previous above the phone numbers,
12 no information of the -- concerning the duration of the
13 trial will available.

14 THE COURT: Will be available.

15 MR. EPPES: Will be.

16 THE COURT: All right. Redo. I thought you
17 screened that? All right. Anything else?

18 MR. EPPES: You can take judicial notice we're pin
19 heads.

20 THE COURT: All right. Has everybody gotten at
21 least today's sequence of jurors from downstairs?
22 Everybody got that?

23 MR. EPPES: Yes, sir.

24 THE COURT: All right. You got about 10 minutes
25 before we start to look over the first few. We'll be at

1 ease until two o'clock.

2 MR. EPPES: Thank you, Your Honor.

3 MR. ABDALLA: Thank you, Judge.

4 (A short recess was taken, after which, the jury
5 qualifications continued as follows:)

6 THE COURT: All right. Are we ready for Robert
7 Wharton?

8 MR. ARIAIL: Well, before we bring him in, Your
9 Honor, if I could, I think it only appropriate that I
10 make a motion that Mr. Mauldin be behind the rail. He
11 has not been introduced to any of these people. He's an
12 additional party. He could -- obviously they can have
13 whoever they want to to consult, but I don't think he
14 ought to be in front of the rail as a part of the
15 defense team, when he wasn't present this morning or
16 introduced to these jurors, unless we're going to go
17 through that with each one of them, I guess.

18 THE COURT: What do you say?

19 MR. EPPES: Your Honor, I'll take part of my time
20 and specifically introduce Mr. Mauldin and ask them ---

21 THE COURT: Well, but I didn't introduce him, I
22 didn't introduce him as part of y'all's team. What is
23 wrong with him sitting right behind? I mean, why can't
24 he just slide his chair right behind and you consult
25 right there? Is there anything wrong with that?

1 MR. MAULDIN: Your Honor, can I just speak as to
2 what I'm doing sitting here?

3 THE COURT: Sure.

4 MR. MAULDIN: In order to actually save money, it
5 was chosen not to hire a juror consultant in order -- in
6 the -- and so I am assisting in the selection of the
7 jury. I won't be doing any active role other than
8 making notes, and when Mr. Eppes or Mr. Abdalla sit
9 right here, it certainly would be easier for me to
10 communicate with them.

11 THE COURT: All right. Well, I'm going to put you
12 behind the railing. You can -- you can move your desk
13 back to be close to him, whatever, but just -- it's not
14 going to hurt you to be back there.

15 MR. MAULDIN: All right, sir.

16 THE COURT: All right. Anything else?

17 MR. ARIAIL: Not from the State.

18 THE COURT: All right. Bring in Mr. Wharton.

19 MR. EPPES: Your Honor, can we approach? Who do
20 you want to go first?

21 THE COURT: We'll alternate.

22 MR. EPPES: Thank you.

23 THE COURT: If I don't remember I'm sure you will
24 let me know.

25 (Mr. Wharton entered the courtroom.)

1 THE COURT: All right. You are Mr. Wharton?

2 MR. WHARTON: Yes, sir.

3 THE COURT: All right. If you would, come up here,
4 please, sir. This will probably be very uncomfortable
5 for you this afternoon. Just have a seat. I'm sure
6 this is a new process to you.

7 Mr. Wharton, I'm going to remind you that you're
8 under oath. You understand that?

9 MR. WHARTON: Yes, sir.

10 THE COURT: And I think from the questions I asked
11 this morning the one that you responded, the only one
12 you responded to, you said you had heard some facts
13 about this case, or seen something on the radio (sic)?

14 MR. WHARTON: That's correct, sir.

15 THE COURT: Do you recall what you read or saw?

16 MR. WHARTON: I was working for an internet company
17 here in town, and I actually wrote some copy on the
18 story. It was for a news source, a news web site,
19 Carolinachannel.com. So I was working in the news
20 industry at that time.

21 THE COURT: And where did you get your information
22 from?

23 MR. WHARTON: From the reporter.

24 THE COURT: From the reporter?

25 MR. WHARTON: Um-hm.

1 THE COURT: Greenville News reporter?

2 MR. WHARTON: No, WYFF reporter.

3 THE COURT: Okay. All right. From what you
4 have -- do you remember the facts that you recall?

5 MR. WHARTON: Very vaguely.

6 THE COURT: Okay. From the facts, did you form any
7 opinion about this case.

8 MR. WHARTON: No, sir.

9 THE COURT: All right. We're going to be asking
10 you a number of questions. We don't mean to invade your
11 privacy, but I'm sure that some of these will seem of a
12 little personal nature, but it's necessary because of
13 the nature of these proceedings. I tell you there are
14 no right answers, no wrong answers. We simply want you
15 to answer the questions as openly and honestly as you
16 can.

17 You read my two page letter this morning.

18 MR. WHARTON: Yes, sir.

19 THE COURT: All right. Was that helpful to you?

20 MR. WHARTON: Yes, sir.

21 THE COURT: Did you know much about the death
22 penalty before you read the letter? Had you -- did you
23 know we had the death penalty in South Carolina?

24 MR. WHARTON: Yes, I did, sir.

25 THE COURT: Do you understand that it is not every

1 murder case that is subject to the death penalty?

2 MR. WHARTON: Yes, sir.

3 THE COURT: All right. Do you understand that it
4 has to be what we call an aggravated murder? I think
5 the examples I gave was a murder during a rape, or
6 something like that.

7 MR. WHARTON: Yes, sir.

8 THE COURT: And you understand that even in those
9 type of murders, the penalty is by no means automatic?

10 MR. WHARTON: Correct.

11 THE COURT: That it would be up to the jury to
12 decide life or death, listening to aggravating
13 circumstances and mitigating circumstances. Do you
14 understand that?

15 MR. WHARTON: Yes.

16 THE COURT: You understand the nature of a
17 bifurcated trial? The first stage being the trial phase,
18 where the issue would be the guilt or the innocence of
19 the defendant. And obviously if the verdict is not
20 guilty, you go home. Then the second stage is the
21 penalty phase, where the jury -- the person stands
22 convicted, if we get to the second stage of a murder
23 plus something else, and then the issue would be what
24 penalty is imposed. The minimum would be life without
25 parole and the other option would be the death penalty.

1 Do you understand that?

2 MR. WHARTON: Yes, sir.

3 THE COURT: Understanding the nature of this type
4 of case, I'm sure you understand why we need to know
5 your general feelings about the death penalty. Would
6 you say generally you're for capital punishment,
7 generally against capital punishment? How do you feel?

8 MR. WHARTON: Generally against.

9 THE COURT: Okay. By that, do you mean in every
10 case you couldn't vote for the death penalty, or are
11 there some cases where you could vote for death?

12 MR. WHARTON: There are some cases I can vote for
13 it, yes, sir.

14 THE COURT: Would you listen to all of the evidence
15 in aggravation and all of the evidence in mitigation at
16 the second phase of a trial, give meaningful
17 consideration to the evidence in aggravation, meaningful
18 consideration to the mitigating evidence, and reach a
19 verdict of either life or death, depending on your view
20 of the evidence?

21 MR. WHARTON: Yes, I could.

22 THE COURT: Okay. You could vote for life if you
23 thought it was proper?

24 MR. WHARTON: Yes, sir.

25 THE COURT: You could vote for death if you thought

1 it was proper?

2 MR. WHARTON: Yes, I could.

3 THE COURT: All right. If you were on a jury, a
4 jury, and if your vote -- if your decision was that
5 death was the appropriate sentence, you would be asked
6 to sign the verdict form, in essence a death warrant if
7 you will. Could you do that if that was the appropriate
8 sentence?

9 MR. WHARTON: Yes, I could.

10 THE COURT: All right. I'm going to introduce Bob
11 Ariail to you. He's the Solicitor. And then who's
12 going to do the cross-examining for y'all.

13 MR. EPPES: I will, Your Honor.

14 THE COURT: Mr. Eppes. Okay. Solicitor.

15 QUESTIONING BY MR. ARIAIL:

16 Q Mr. Wharton, is that right, Wharton?

17 A Yes.

18 Q Good. Thank you. The Judge asked you and you
19 stated you were generally against the death penalty, yet
20 you could impose it in certain cases. What is -- what
21 do you mean you generally are against it? What does --
22 when you were asked that question, what thoughts were
23 going through your mind?

24 A I just know -- you know, just from my knowledge and
25 from being alive for 35 years and seeing -- you know,

1 seeing some cases, you know, nationally or locally, you
2 know, taken to the full extent of the death penalty,
3 that -- to me, to see that, death isn't a deterrent to
4 crime. You know, putting one individual to death
5 doesn't stop those kinds of activities. It really would
6 depend on the nature of the case itself, on the -- I
7 guess on the evidence that was presented, it would have
8 to be like absolutely concrete.

9 Q All right. Let me -- let me stop you there, and
10 then I'll let you come back. I don't mean to interrupt
11 you.

12 A Sure.

13 Q But to catch that train of thought, you're talking
14 about the -- it is not a deterrent to crime but then you
15 said if the case was -- depends on the nature of the
16 case. If the nature of the case was such then you could
17 vote for the death penalty?

18 A Yes.

19 Q Based on the crime itself, even if you had in your
20 own mind that that's not going to deter any future
21 crime?

22 A Probably so, yes, sir.

23 Q All right. Probably so or definitely so? And I
24 don't want to pin you down too far, but what I'm looking
25 for here is, what we're looking for is a juror who can

1 fairly consider the State's request to impose the death
2 penalty based on the facts of this case, and not on some
3 outside consideration, such as whether it deters crime
4 or doesn't deter crime. I believe it does deter crime,
5 some people believe it doesn't. So what I'm looking for
6 is whether or not you can focus on these facts and give
7 the State a fair -- or the facts of this particular
8 case, and give the State a fair and impartial trial on
9 its request for the death penalty?

10 A That I could do.

11 Q You could. Do you believe there are certain
12 situations in which the death penalty would be
13 appropriate based upon the nature of the case?

14 A Yes, sir.

15 Q All right. And if you were -- the Judge said to
16 you, and make sure you understand, you would have to
17 sign this document. This document is -- is actually the
18 piece of paper that's carried to the Department of
19 Corrections to carry out the execution. Would the fact
20 that you have to sign that document influence your
21 ability to be fair and impartial?

22 A No, sir.

23 Q The actually physical act, you could do that?

24 A Yes, sir.

25 Q Would the fact that you had to sign the document in

1 the beginning in any way -- knowing that in the
2 beginning, would that alter your thought process?

3 A No, sir.

4 Q Okay. What's the basis of -- you mentioned one
5 your general opposition to the death penalty was its not
6 a deterrent to crime. Are there any other reasons that
7 you're generally not in favor of the death penalty?

8 A No, sir.

9 Q Let me see if I can phrase it without putting words
10 in your mouth. Is your general opposition to the death
11 penalty that there are only limited and certain cases
12 that it should be applied in?

13 A Yeah. I mean, that's a good way of -- that's a way
14 of summing it up, yeah.

15 Q Sort of the reverse, the death penalty only applies
16 in certain cases so therefore generally it shouldn't
17 apply in most cases.

18 A That's true.

19 Q All right. Do you understand the law of this State
20 is that the State can seek the death penalty only in a
21 very limited number of cases?

22 A Yes, I do.

23 Q And that this particular case is one of those
24 cases?

25 A Yes, sir.

1 Q All right. I just have one other -- go ahead. I
2 just for my own edification, visualized world peas, your
3 bumper sticker, what does that relate to?

4 A The question was -- what was the question, have you
5 seen a bumper sticker on a car today, and that -- I
6 mean, I thought that was pretty cool.

7 Q Okay.

8 A It was nothing. It was the funniest bumper sticker
9 I think I've ever seen.

10 Q All right. But it wasn't on your car?

11 A No, no, no, I had one my car, yeah.

12 THE COURT: Okay. All right. But the visualize
13 world peace was not on yours?

14 MR. WHARTON: Peas.

15 THE COURT: World peas?

16 MR. ARIAIL: Peas.

17 THE COURT: Okay. I just -- okay.

18 MR. WHARTON: A play on words, sir.

19 THE COURT: Okay. Mr. Eppes.

20 QUESTIONING BY MR. EPPES:

21 Q Mr. Wharton, you're the first juror I've ever done
22 voir dire with in my life, so I hope you will bear with
23 me a little bit.

24 THE COURT: He won't hold that against you.

25 MR. WHARTON: It's not a problem.

1 BY MR. EPPES:

2 Q The purpose of this, as you've already gathered is
3 to talk about the penalty, talk about the death penalty,
4 talk about your views on it, make sure you can be a fair
5 and impartial juror. And in doing that, I'm not like
6 the Solicitor, I have a big ol' outline, so just bear
7 with me a little bit. What we have to do is we have to
8 learn about you, learn your views a little bit and
9 understand how you feel on things. You understand that
10 before you even get to the part where you consider the
11 death penalty, that somebody has to be found guilty of
12 murder at the end of this case.

13 A Yes.

14 Q Do you understand that?

15 A Yes, sir.

16 Q And then you understand that the prosecution will
17 present evidence of things in aggravation of murder. In
18 this, that evidence may include two murders and a
19 burglary. Do you understand that?

20 A Yes, sir.

21 Q Okay. And then after that, even though that
22 information is submitted, you're still going to hear
23 information about mitigation. Mitigation includes
24 elements that could -- not provide an explanation, but
25 provide a -- provide a reason for you to think about.

1 Do you understand that?

2 A Yes, sir.

3 Q Now, the law of South Carolina, as the Solicitor
4 alluded to, is that the law presumes life, unless you
5 find the information that you get after a conviction so
6 aggravating and the mitigation doesn't matter. Until
7 you get to that point, you know, life is the preferred
8 sentence. Do you understand that?

9 A I understand that.

10 Q Okay. Now, in addition to that as a juror in a
11 death penalty case, you have a little bit different role
12 to play than in a normal case. In a normal case you're
13 talking about guilt or innocence, proof beyond a
14 reasonable doubt, those are concepts you're familiar
15 with, correct?

16 A Correct.

17 Q Okay. But as a death penalty juror, you stand as
18 an independent judge. For a verdict to be reached, each
19 of the 12 individual judges in this jury box have to
20 come back and sign this death warrant that we've talked
21 about. Do you understand that?

22 A Right, yes, sir.

23 Q Now, I want to ask you how you would feel if you
24 reached a conclusion about the case, whether for life in
25 prison without parole or for the death penalty, if you

1 reached that conclusion and it was you by yourself, or
2 maybe with one other juror, and all of the other jurors
3 were leaning on you like all get out, saying, we've got
4 to get out of here, get back to our lives, this is what
5 we want to do, how would -- how would you react to that,
6 do you know?

7 A Not unless I was in that situation right now. I
8 mean, I couldn't begin to -- begin -- I mean, for one
9 thing, I would argue about the point to get back to our
10 every day routines and lives and things like that, I
11 would argue that that is not even relevant to the
12 argument. I mean, that's not valid ---

13 Q Um-hm.

14 A --- To take that stance when somebody's life is in
15 the balance.

16 Q Okay. Would you ---

17 A So you know, I mean, to ask me to look into the
18 future, how you would react to that, it's hard to say,
19 because the case hasn't been presented right now, so I
20 don't know.

21 Q Would you be comfortable enough in your own skin to
22 defend your views?

23 A Absolutely.

24 Q Okay. Now, I want to ask the opposite of that
25 because I think this is important as well. If you were

1 in this jury box and you and 9 or 10 of your co-jurors
2 all are in agreement one way and there is one or two
3 holdouts over here, how do you feel you would react to
4 that? Would you respect their views? Would you
5 understand that there is room for a difference of
6 opinion?

7 A Absolutely.

8 Q Have you ever -- have you ever had associations
9 with friends, family, or otherwise with people that
10 suffer from drug dependencies, alcohol dependencies or
11 mental illnesses?

12 A Yes.

13 Q Could you tell me just briefly about those? You
14 don't have name names or anything.

15 MR. ARIAIL: Your Honor, I'm going to object going
16 into that.

17 THE COURT: Sustain the objection.

18 MR. EPPES: Thank you, Your Honor.

19 BY MR. EPPES:

20 Q In determining -- in determining whether to reach
21 the death penalty, the State allows you, under the law
22 some of the statutory mitigators include mental
23 disturbances. Would you be able to consider that?

24 MR. ARIAIL: Your Honor, I'm going to object that.

25 THE COURT: Sustain the objection.

1 BY MR. EPPES:

2 Q Okay. One of the things you're going to hear about
3 in this case ---

4 THE COURT: You need to speak up, Mr. Eppes.

5 BY MR. EPPES:

6 Q One of the things you're going to hear about in
7 this case is, if it gets to the penalty phase, is what
8 we call victim impact evidence. The evidence that this
9 loss of life may have caused to family members, loved
10 ones that are still living, it's -- it's horrible to
11 hear about the loss that this family back here suffered.
12 There won't be a dry eye in the house. Will you be able
13 to consider that information fairly?

14 A Yes, sir.

15 Q Okay. You'll be able to listen to it and still
16 keep an open mind, listen to the judge charge you on the
17 law and then make your decision? Is something like that
18 going to sway you completely one way or the other in
19 your decision?

20 A No, sir.

21 Q Would -- would you be able to keep an open mind? I
22 know you have talked about -- you have talked about the
23 possibility of cases in which -- cases in which the
24 nature of the crime is such that you believe the death
25 penalty is appropriate. Okay. One of -- one of the

1 things that the State is going to dwell on that is the
2 aggravating nature of the crime. They're going to show
3 you photographs that are horrific of this crime, of the
4 results of this crime, if we get to this sentencing
5 phase. Would a photograph, would a grotesque image,
6 would that be something ---

7 MR. ARIAIL: Objection.

8 THE COURT: Sustained. I sustain the objection,
9 Mr. Eppes.

10 MR. EPPES: Thank you, Your Honor. May I have a
11 minute, Your Honor?

12 THE COURT: Yes, sir.

13 MR. EPPES: Mr. Wharton, thank you very much. I
14 appreciate it.

15 THE COURT: All right. Yes or no, if you would,
16 just anything with regard to this juror, from the State?

17 MR. ARIAIL: No.

18 THE COURT: From the defense.

19 MR. EPPES: Nothing, Your Honor.

20 THE COURT: All right. Now, Mr. Wharton, you are
21 qualified as a juror in this case. That doesn't mean --
22 let me just give you this letter and go over it with you
23 real quick. It doesn't mean you're going to serve. I
24 think you can probably understand that.

25 MR. WHARTON: I understand that.

1 THE COURT: That does mean you need to be prepared
2 to serve. You will be notified by the Clerk of Court
3 probably sometime Wednesday or Thursday, it could be
4 longer, I just don't know, as to when to come back. On
5 your way out, she'll make sure she has all your phone
6 numbers, and how to contact you day or night.

7 MR. WHARTON: Yes, sir.

8 THE COURT: You need to, when you're called to
9 return to court, obviously come and be on time, you need
10 to have in your car suitcases with clothes for 7, 8 days
11 stay. It may not take that long, but you just need to
12 be prepared. I would suggest that you wear comfortable
13 clothes. You're going to be sitting most of the day.

14 MR. WHARTON: I understand.

15 THE COURT: If you would park, not where you parked
16 just now, but park over at the Hyatt parking garage,
17 leave your suitcase in the car. Right across from the
18 garage entrance on Spring Street is our garage entrance.
19 If you will go to that entrance. Don't jaywalk. You'll
20 probably need to go to the crosswalk and come down.

21 MR. WHARTON: I understand.

22 THE COURT: I am going -- this will just keep you
23 from circulating in the public sector of the courthouse.
24 There will be bailiffs in red coats to meet you.
25 They'll bring you back up, probably put you in courtroom

1 7 until we get everybody here, and then we'll bring you
2 over and actually select the jury at that time.

3 Bring any medications. I'm trying to see what else
4 I put in here. There are some emergency numbers,
5 daytime, if you've got family members, this is for
6 emergency only, but if somebody needs to get in touch
7 with you, you can give them those two numbers. If they
8 call at night time to the motel then they just simply
9 need -- they need to say, you know, my husband or my
10 friend is on the jury, ask for a SLED agent and then
11 they'll find you.

12 MR. WHARTON: Okay.

13 THE COURT: Two admonitions. Number one, the fact
14 that we've talked about penalties, I meant to say this
15 earlier, obviously has no bearing on the guilt or
16 innocence of this defendant.

17 MR. WHARTON: Of course not.

18 THE COURT: Obviously we've got to talk about
19 penalties. The second thing is, my admonition, don't
20 read or watch anything on TV, listen to any radio
21 account, don't talk to anybody about this case,
22 including amongst your fellow jurors. Any questions?

23 MR. WHARTON: No questions, sir.

24 THE COURT: All right. You are free to go. We'll
25 see you back sometime probably Wednesday or Thursday.

1 Thank you very much.

2 (Mr. Wharton exited the courtroom.)

3 THE COURT: All right. Before we bring the next
4 juror in ---

5 MR. ARIAIL: Your Honor, I would like to ---

6 THE COURT: Hold on. Hold on. Let the door get
7 shut. Yes, sir.

8 MR. ARIAIL: --- object to -- object to any further
9 statements by the defense counsel to jurors that life is
10 the -- life is the preferred sentence.

11 THE COURT: All right. Where did you get that
12 from?

13 MR. EPPES: Your Honor, I got it from Mr. Mauldin.

14 THE COURT: Okay. All right.

15 MR. EPPES: It's only -- the death penalty is only
16 authorized when 12 jurors sign the -- sign the death
17 certificate or any other ---

18 THE COURT: All right. I sustained that objection.
19 You will not refer -- here's the problem as -- there's a
20 couple misstatements of law, and you know, if the juror
21 misstates the law, then I'm compelled to interrupt and
22 to correct his understanding of the law. When y'all
23 misstate the law, you know, you -- unless there is an
24 objection, I'm not going to interrupt somebody's talking
25 with a juror, but I will sustain that objection. You

1 are not to do that anymore.

2 MR. EPPES: Yes, sir.

3 THE COURT: Also you were asking a hypothetical
4 question about, you know, suppose you're on a jury,
5 suppose, you know, you and one other person were the
6 only ones, I don't know if you can ask that a different
7 way, but that takes too long, and I'm going to not let
8 you go in -- I'm not going to let you ask that in a
9 hypothetical question form as you did.

10 Anything else we need to hone down. You're getting
11 into case specific, I'm not going to let you do that.
12 We've already been over that. You're protected on the
13 record for that. Anything else? All right. Bring in
14 Ms. Miller.

15 (A discussion was held off the record.)

16 MR. ABDALLA: Can we get some water?

17 THE COURT: We'll get you water. Did you drink it
18 all or ---

19 MR. ABDALLA: Well, we do drink a good bit of
20 water, but this time there wasn't much in it.

21 (Ms. Miller entered the courtroom.)

22 THE COURT: All right. You are Barbara Sue Miller,
23 correct?

24 MS. MILLER: Right.

25 THE COURT: Have a seat. I am sure this will be

1 very awkward for you, but we'll try to make it as
2 comfortable for you as we can. I'll tell you again, I'm
3 Joe Watson. I'm the judge in this case. I will remind
4 you that you are under oath. That means any responses
5 you give must be truthful. I don't believe you
6 responded to having read anything about this case or
7 know anything about the case?

8 MS. MILLER: Huh-uh.

9 THE COURT: All right. The -- I'm going to ask
10 you, have you followed my instructions as far as not
11 talking to anyone about the case, as far as ---

12 MS. MILLER: I have not.

13 THE COURT: All right. And I'm going to be asking
14 you some questions, and Mr. Eppes on behalf of the
15 defendant and Mr. Ariail for the State are going to be
16 asking you questions. They may seem very personal at
17 times. We do not mean to invade your privacy, but
18 understanding the nature of this case I'm sure you
19 understand why we have to ask these things. If you
20 would just answer these questions as openly and honestly
21 and fully as you can.

22 Among other things we're going to be talking about
23 is penalty, but I tell you, the mere fact that we're
24 talking about penalty has -- doesn't indicate anything
25 about the guilt or innocence of this defendant. Do you

1 understand that? Obviously to go through this process
2 we have to talk about penalty, but he sits there
3 presumed to be innocent. You understand that?

4 MS. MILLER: Yes.

5 THE COURT: If you were a juror in a criminal case,
6 would you listen to the law and accept that law and
7 apply it to the facts as I instruct you to do?

8 MS. MILLER: Yes.

9 THE COURT: Would you do that even though you might
10 not agree with that law? In other words, would you
11 accept that I'm the law giver, maybe you had some
12 misconception of what the law was, but would you take
13 the law as I give it to you and apply that law in the
14 case?

15 MS. MILLER: Yes, I would.

16 THE COURT: All right. Could you decide this case
17 based solely on the evidence that was presented here in
18 the courtroom and not anything that you might have
19 heard? I know you said you didn't hear anything,
20 but ---

21 MS. MILLER: I could.

22 THE COURT: All right. In a criminal case the
23 State had the burden of proving guilt beyond a
24 reasonable doubt. The defendant has no burden
25 whatsoever to prove his innocence. Do you understand

1 that?

2 MS. MILLER: Um-hm.

3 THE COURT: Could you accept that and follow that
4 law?

5 MS. MILLER: I could.

6 THE COURT: Depending on the facts and the evidence
7 in the case, and the law that I instruct you, could you
8 find a defendant guilty in a case?

9 MS. MILLER: Yes.

10 THE COURT: And could you find the defendant not
11 guilty in the case, depending on your view of the facts?

12 MS. MILLER: Yes.

13 THE COURT: Now, did you read the two-page letter
14 that I gave you about this type of trial?

15 MS. MILLER: I did.

16 THE COURT: And did you know much about the death
17 penalty in South Caroline beforehand?

18 MS. MILLER: No.

19 THE COURT: Did you even know we had the death
20 penalty?

21 MS. MILLER: Not really, no.

22 THE COURT: Okay. Have you lived in South Carolina
23 all your life?

24 MS. MILLER: Um-hm.

25 THE COURT: All right. Do you understand from my

1 letter that it is not every murder case that is subject
2 to the death penalty? It's got to be what we call an
3 aggravated murder case. That is, a murder during a
4 rape, I think is the example I gave, murder during an
5 armed robbery. Do you understand that?

6 MS. MILLER: Um-hm.

7 THE COURT: And even in an aggravated murder, you
8 understand that the penalty is not automatic, that the
9 same jury that decides that issue of guilt or innocence,
10 then comes back and they decide the penalty in the case.
11 Do you understand that?

12 MS. MILLER: I understand that.

13 THE COURT: It's a bifurcated or a two-part trial.
14 The first phase is called the trial phase and that's
15 where you decide, a jury decides whether somebody is
16 guilty or not guilty.

17 MS. MILLER: Um-hm.

18 THE COURT: If they're not guilty, everybody goes
19 home. If the person is guilty, then you come back,
20 there's a waiting period, but then you come back and
21 then there's more evidence that's presented by the State
22 and by the defendant. The State presents additional
23 aggravating evidence. It might be a defendant has a bad
24 prior record. It might be any number of things like
25 that. And they would present evidence of victim impact,

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1 things like that. And then the defense would put up
2 mitigating evidence. That is evidence to show why this
3 person should not be put to death. Do you understand
4 that?

5 MS. MILLER: I understand.

6 THE COURT: And you understand that the minimum
7 penalty, if you will, is life without parole, and then
8 the other penalty would be death by electrocution or by
9 lethal injection. Do you understand that?

10 MS. MILLER: I understand.

11 THE COURT: Now, understanding that procedure, I'm
12 sure that you understand why we need to know generally
13 what your feelings are about capital punishment. Would
14 you say that you are generally for capital punishment,
15 generally against capital punishment, or how do you
16 feel?

17 MS. MILLER: I'm for it.

18 THE COURT: All right. And when you say you're for
19 it, are you for it in every aggravated murder case, or
20 would you listen to the evidence in aggravation and the
21 evidence in mitigation before you made up your mind as
22 to the penalty?

23 MS. MILLER: I think you have to know the whole
24 story, and some cases would and some wouldn't.

25 THE COURT: Okay.

1 MS. MILLER: Depending on how severe it was.

2 THE COURT: All right. When you say you're
3 generally for it, is this something you have thought
4 about before, is there a basis for that, is it a
5 religious basis, just upbringing, is it ---

6 MS. MILLER: Probably more upbringing, and how I
7 feel about things.

8 THE COURT: Okay. All right. I guess let me just
9 ask these other -- these last questions. Will you
10 listen to all the evidence and vote for guilty, if
11 you're convinced beyond a reasonable doubt of the guilt
12 of the defendant, would you do that?

13 MS. MILLER: I would.

14 THE COURT: And would you vote not guilty if you're
15 not convinced beyond a reasonable doubt of the guilt of
16 a defendant?

17 MS. MILLER: I would.

18 THE COURT: All right. And will you give
19 meaningful consideration to the mitigating evidence
20 that's presented by the defense and instructed by the
21 Court as you reach your sentence?

22 MS. MILLER: Um-hm, I would.

23 THE COURT: All right. Could you vote for life if
24 you thought that was the appropriate sentence?

25 MS. MILLER: Yes.

1 THE COURT: Could you vote for death if you thought
2 that was the appropriate sentence?

3 MS. MILLER: Yes.

4 THE COURT: If you were on a jury and if you
5 thought death was the appropriate sentence, then you
6 would be asked to sign a verdict form. In other words,
7 you would have to put your name along with the other
8 jurors. In essence, that is sometimes called a death
9 warrant. If you thought death was the appropriate
10 sentence, could you sign that form?

11 MS. MILLER: Yes.

12 THE COURT: All right. I'm going to introduce to
13 you again Frank Eppes. He's going to talk to you and
14 then Mr. Ariail will talk to you, the Solicitor.

15 MS. MILLER: Okay.

16 QUESTIONING BY MR. EPPES:

17 Q How you doing?

18 A All right, thank you.

19 Q You said you're upbringing is the reason for your
20 views on the death penalty. Could you elaborate on that
21 and tell me a little more about your upbringing?

22 A Christian upbringing. Taught wrong and right, and
23 tried to live that way, and that's basically it. Just
24 wrong and right.

25 MR. ABDALLA: Your Honor, we can't hear the

1 witness.

2 THE COURT: Sit a little bit forward and I'll try
3 and cut your mic up a little bit. Go ahead and just
4 starting talking and I'll cut it up.

5 Co-counsel said he couldn't hear.

6 MR. EPPES: Oh, okay. How is that?

7 MR. ABDALLA: No, the witness actually.

8 THE COURT: This is all the way up. Go ahead and
9 ask the question.

10 BY MR. EPPES:

11 Q You mentioned your Christian upbringing. How were
12 you brought up?

13 A Church of God, went to church regularly, still try
14 to do that. Like I said, wrong and right, I was brought
15 up that way, to know wrong and right, and I try not to
16 judge people, try to give them the benefit of the doubt.

17 Q Did you grow up in Greenville, in the Greenville
18 area?

19 A I did.

20 Q Where did you go to high school?

21 A Mauldin.

22 Q What do you think the purpose of the death penalty
23 is? Why do we have it?

24 A I think it's for mainly to send a message to
25 society that if you do something, you know, that severe

1 and if it warrants, you know, the death penalty, and if
2 it's something that's very severe then, you know, it
3 sends a message to all of us that, you know, there is
4 consequences for all of our actions.

5 Q Can you think of any other reasons?

6 A I'm a little nervous.

7 THE COURT: That's all right. There's no wrong
8 answers and no right answers. You're doing fine.

9 MS. MILLER: I think it's something we need as a
10 society to not have those people around. If -- if it's
11 something that severe and it calls for the death
12 penalty, then we don't need that person around, and if
13 they can serve their jail time, then that's fine but ---
14 BY MR. EPPES:

15 Q Do you believe the death penalty has an advantage
16 over life without parole?

17 A I don't know. It just depends. I think the person
18 who commits something that severe needs to have their
19 life taken from them.

20 Q Okay. Now -- and the Judge said this, but let me
21 just say it again. We're trying to just determine your
22 views and the basis for them, and so I'm going to let
23 you talk, and so when I follow up on a question it
24 doesn't mean that if you don't have anything that there
25 is a right or wrong answer that I'm looking for. Just

1 listen to my questions and answer them the best you can,
2 and that's really all we're hoping for here.

3 A Okay.

4 Q What kind of thing would be severe enough to
5 warrant the death penalty?

6 MR. ARIAIL: I'd object, Your Honor.

7 THE COURT: I sustain the objection.

8 BY MR. EPPES:

9 Q Has your opinion of the death penalty changed over
10 time?

11 A No, I don't think so.

12 Q Have you ever discussed it with your family and
13 friends?

14 A Sure.

15 Q What kind of discussions have you had with them?

16 A Mainly if we've watched a movie or something, we'll
17 get in a discussion, you know, of -- of how that movie
18 effected us and what we felt about it, I mean as a
19 society and as people.

20 Q When you say watched a movie, would it have been a
21 movie about the death penalty or ---

22 A Just a movie about crime, or it could be a movie
23 about the death penalty. There has certainly been a
24 lot, you know, in the -- you know, the entertainment --
25 you know, have these discussions, you know.

1 Q Do you recall any of them specifically.

2 A No, not really. Just general.

3 Q Did every see the movie Dead Man Walking?

4 MR. ARIAIL: Objection.

5 MS. MILLER: Yes, I have.

6 THE COURT: I won't even answer that. We're not
7 going to talk about Dead Man Walking.

8 BY MR. EPPES:

9 Q Did you have ever have a discussion about the death
10 penalty with relationship to that movie?

11 A Not that I recall.

12 Q How do you feel about the sentence of life without
13 parole?

14 A Well, that's fine, as long as they're not in
15 society and you know, I think it depends on, you know,
16 like I said, the crime and if it warrants that, then
17 yes.

18 Q Okay. Is one of your concerns with the death
19 penalty the possibility that if you don't give -- the
20 possibility that if someone does not receive the death
21 penalty that they might return to society? Is that one
22 of the reasons you like the death penalty?

23 THE COURT: Let me just clear this up right now.
24 If the sentence is life, it means life without parole.
25 It means a defendant in this State will die in prison.

1 There is absolutely no possibility they will get out.

2 Do you understand that?

3 MS. MILLER: Okay. Yes. Yes, that's why, I mean
4 as long as they are out of society.

5 BY MR EPPES:

6 Q That's a concern that you have as a citizen, that
7 they ---

8 A Oh of course.

9 Q --- be removed from society if they committed a
10 crime?

11 A Yes.

12 Q Okay. You understand that -- that if you are
13 selected on this jury and the jury finds the defendant
14 guilty that in the sentencing phase of the crime, the
15 judge will be instructing you about certain factors that
16 you should -- you must consider in mitigation of this
17 crime, that the Legislature has said have to be
18 considered against the death penalty. Some of those
19 include the age of the victim, mental health, background
20 of what happened leading up to the crimes.

21 THE COURT: You mean the age of the defendant not
22 the age of the ---

23 MR. EPPES: I'm sorry, Your Honor.

24 THE COURT: That's all right. I apologize, I'm
25 just trying to help you through this.

1 BY MR. EPPES:

2 Q Do you understand all that?

3 A Yes, I do.

4 Q And you would be able to fairly consider those
5 factors?

6 A I feel that I would.

7 Q Okay. And if the Judge -- the Judge is going to
8 tell you that any other factors you feel compelled to
9 consider you can consider in mitigation. Would you be
10 able to consider other factors if you heard evidence
11 from that witness stand, and the judge told you you
12 could consider them, you could consider those factors
13 regardless of the seriousness of the crime or how
14 horrible you thought the crime was?

15 A I think so.

16 Q Are there any crimes you think should always get
17 the death penalty?

18 MR. ARIAIL: I'm going to object.

19 THE COURT: I would sustain the objection.

20 BY MR. EPPES:

21 Q I'm a sympathetic person. There's going to be --
22 if we get to the penalty phase, there's going to be
23 very ---

24 THE COURT: You got to speak up.

25 BY MR. EPPES:

1 Q If we get to the penalty phase, there is going to
2 be compelling testimony from this family who's lost
3 their loved ones about this -- about this crime, it's
4 going to be very sad. Would you be able ---

5 MR. ARIAIL: Your Honor, I'm going to object to
6 that. He's being case specific and that's not
7 necessarily so.

8 THE COURT: Let me -- I'm going to ask the question
9 and this is the way you can ask it in the future.

10 MR. EPPES: Yes, sir.

11 THE COURT: Part of the evidence in aggravation is
12 also victim impact evidence. Do you understand that?

13 MS. MILLER: I understand.

14 THE COURT: And the question is, you know, would
15 you consider that fairly with all the other evidence in
16 aggravation, and all the mitigating evidence in the
17 case?

18 MS. MILLER: Yes, sir, I would.

19 THE COURT: All right.

20 MR. EPPES: I got to write it down. I'll write it
21 down later.

22 THE COURT: You're sort of a guinea pig, because
23 you're the second juror. By -- probably by mid morning
24 tomorrow we'll all sort of hit a rhythm here and -- but
25 we all are, specifically me, are sort of sputtering to

1 begin with, but we appreciate your patience.

2 BY MR. EPPES:

3 Q I noticed you've got -- excuse me, I've got a lot
4 of these questionnaires, and I may have mixed you up.
5 But what's your opinion of law enforcement?

6 A I'm in favor of law enforcement.

7 Q Okay. You put on your questionnaire generally
8 speaking your feelings about law enforcement are
9 neutral?

10 A They're what?

11 Q They're neutral. You circled that on your
12 questionnaire. What do you mean by that?

13 A I don't like to get a speeding ticket. I just had
14 one of those recently.

15 Q Okay.

16 THE COURT: I guess under that standard we are all
17 at least neutral.

18 BY MR. EPPES:

19 Q Would you be concerned with what law enforcement
20 thought or believed? Would your considerations of their
21 views on the death penalty have any effect on your
22 decision?

23 A Well, sure.

24 Q How would that effect your decision?

25 A Well, I would hope that they would be out

1 protecting us and that it was something that they cared
2 about, wanting to, you know, keep our cities safe and --
3 and thinking it was, you know, a very important job and
4 you know ---

5 Q But if you got the impression, say from the witness
6 stand, that the law enforcement officer thought that the
7 death penalty was appropriate or not appropriate in a
8 given case, would that affect your decision?

9 A No.

10 MR. ARIAIL: I would object, Your Honor.

11 THE COURT: I'll sustain the objection, but she's
12 answered the question. Go ahead.

13 MR. EPPES: Thank you.

14 BY MR. EPPES:

15 Q One of the things we've discussed is this death
16 warrant. Everybody -- if the death penalty is the
17 appropriate sentence, everyone has to sign this death
18 warrant. You're obviously, if you're selected, going to
19 have to interact with your fellow jurors. Do you feel
20 comfortable expressing your own opinion even if others
21 express an opposite opinion?

22 A Well, definitely.

23 Q Do you feel comfortable with that even if the vast
24 majority has an opposite view of you?

25 A Um-hm. I do.

1 Q Likewise, if -- if you were on the jury and you
2 were in the majority, and the minority held an opposite
3 view about a sentence of life without parole or death,
4 would you respect the views of your other jurors, or do
5 you believe that they should go along with the majority?

6 A I think I would have to respect them if I wanted
7 them to respect mine.

8 Q And you understand that's going to be an important
9 part of this case, if it goes to the penalty phase?

10 A I understand.

11 MR. EPPES: Your Honor, let me ---

12 BY MR. EPPES:

13 Q Let's talk about these two phases of the trial.
14 Let's -- if you're a juror, you stay a juror for both
15 parts of the trial. And we only get to the second part
16 of the trial if there is a conviction for murder.

17 A Um-hm.

18 Q After someone is convicted of murder, would you be
19 able to give meaningful consideration to a life sentence
20 for that murder?

21 A Yes, sir, I would.

22 THE COURT: Anything else?

23 MR. EPPES: Not right now, Your Honor.

24 THE COURT: All right. Solicitor, any questions?
25 You're up.

1 QUESTIONING BY MR. ARIAIL:

2 Q Ms. Miller, just -- I'm Bob Ariail. You have met
3 Betty Strom, my deputy, and Mindy Hervey, my assistance.
4 Mr. Eppes made reference to the fact that it was very --
5 it would be an important part of the jury deliberation
6 for you to consider other people's views. You also
7 understand that the entire jury system is very
8 important, that everybody exchange views with the goal
9 to reach a unanimous decision?

10 A Um-hm.

11 Q And that you're supposed to listen to other people
12 and not -- not just dig your heels in but try to
13 exchange views?

14 A Um-hm, I understand.

15 Q Do you know of any reason, religiously, morally,
16 personal, any reasons that would come into play that
17 would maybe impede your ability to impose the death
18 penalty if, under the facts, you thought that was the
19 appropriate sentence?

20 A No.

21 MR. ARIAIL: Thank you very much. That's all I
22 have, Your Honor.

23 THE COURT: All right. Anything from the State,
24 yes or no?

25 MS. STROM: No.

1 THE COURT: Anything from the defense, yes or no?

2 MR. EPPES: No, Your Honor.

3 THE COURT: All right. Now, Ms. Miller, you are
4 qualified to serve as a juror.

5 MS. MILLER: Okay.

6 THE COURT: I'm going to go over this letter with
7 you. It's pretty self-explanatory. That does not mean
8 you're going to actually serve on this case. You
9 understand that?

10 MS. MILLER: I understand.

11 THE COURT; It means you need to be prepared for
12 jury service.

13 MS. MILLER: Okay.

14 THE COURT: If you're selected on this case as I
15 told you this morning, you're going to be sequestered in
16 a local hotel. Of course that will be on us. As will
17 your meals at local restaurants. The Clerk of Court,
18 Andrea right here, will be calling all qualified jurors
19 when we have a panel of about 40 or so.

20 MS. MILLER: Um-hm.

21 THE COURT: They will you give plenty of notice to
22 come to court.

23 MS. MILLER: Okay.

24 THE COURT: When you come, you need to bring a
25 suitcase or suitcases with enough comfortable clothes.

1 I emphasize comfortable. You don't have to dress up to
2 serve on a jury because you're going to be sitting most
3 of the day and in a motel room at night. You want to be
4 comfortable. But bring enough for 7 or 8 days. Bring
5 any medications you may need. If you have dietary needs
6 we'll address those.

7 When you come back, don't park where you just
8 parked, but park back over in the Hyatt garage.

9 MS. MILLER: Um-hm.

10 THE COURT: Leave your suitcases in the car.
11 Directly across from the Spring Street entrance of the
12 Hyatt garage is the garage entrance for this courthouse.

13 MS. MILLER: Um-hm.

14 THE COURT: You would come to that garage entrance.
15 Don't -- if you jaywalk, be careful, otherwise go to the
16 corner and come across. But anyway, there will be
17 bailiffs in red coats down there. They will meet you.
18 I'm trying to keep you separate from the public
19 corridors. They'll bring you back up to courtroom 7.
20 Then when everybody is here, we'll bring you over here
21 and we'll select the jury.

22 MS. MILLER: Okay.

23 THE COURT: I have some emergency numbers on here
24 for you to give to your family. The top one is to my
25 office. During the day my secretary will be there, or

1 there will be a SLED agent there. And then at night
2 time, that's the motel number, but they will need to ask
3 for a SLED agent. Your -- nobody in your family will be
4 able to talk to you. If you need to get in touch with
5 them then you can give the bailiff a message, like
6 please bring to the hotel, you know, another pair of
7 slippers or stuff like that, they can make those calls
8 and they can meet your family and bring stuff to you
9 like that.

10 MS. MILLER: Okay.

11 THE COURT: And if there's an emergency, then they
12 would be able to contact you day or night. Again
13 because we've talked about penalty, that in no way
14 reflects upon the guilt or innocence of this defendant.

15 Also, my admonition, do not read about this case.
16 There will be TV coverage. There will be radio
17 coverage. But don't read about this, or watch any
18 accounts of it, and don't talk to anyone about the case.
19 All right. Do you have any questions?

20 MS. MILLER: No.

21 THE COURT: You're free to go.

22 MS. MILLER: Thank you.

23 THE COURT: We'll see you back probably about
24 Thursday.

25 MS. MILLER: All right.

1 THE COURT: Thank you.

2 (Ms. Miller exited the courtroom.)

3 THE COURT: Anything before we bring the next
4 juror?

5 MR. ARIAIL: The question regarding law
6 enforcement's feelings on the death penalty is not
7 relevant.

8 THE COURT: I agree with that. Do you understand
9 that, Mr. Eppes?

10 MR. EPPES: Yes, sir.

11 THE COURT: All right.

12 MR. ARIAIL: Also that not go back into its an
13 important part of the phase that you respect the other
14 people's opinions.

15 THE COURT: Well, that's -- you know, if you're
16 going to ask that question, you need to make sure they
17 understand, or I'm going to have to make sure they
18 understand, it's a give and take process.

19 MR. EPPES: Okay. I can do that.

20 THE COURT: So if you would make that part of
21 your ---

22 MR. EPPES: I will make that part -- I will
23 incorporate that into the question, Your Honor.

24 THE COURT: Okay. All right. Ms. Richardson,
25 Vivian Richardson. She knows a witness. She is the one

1 that works at Phillis Wheatley, is that correct?

2 MS. HERVEY: Yes, Your Honor.

3 MR. ARIAIL: She requested to be excused.

4 (Ms. Richardson entered the courtroom.)

5 THE COURT: Well -- hey, Ms. Richardson. If you
6 would, come on up here. We'll try to make this as
7 painless as possible. I understand this will be a
8 little bit awkward for you, but we need you to go ahead
9 and slide your chair up, that way you can speak directly
10 into the microphone. Okay. All right. I would remind
11 you, you're under oath. You understand that?

12 MS. RICHARDSON: Yes.

13 THE COURT: And you have followed my prior
14 instructions so far, not talking with anyone, not
15 watching any news account of this?

16 MS. RICHARDSON: I have.

17 THE COURT: All right. Now, you said that you knew
18 a witness, or witnesses, I believe was one of your
19 responses you gave downstairs, is that correct?

20 MS. RICHARDSON: I know one of them.

21 THE COURT: Who is that witness, please?

22 MS. RICHARDSON: Rick Kearns.

23 THE COURT: Kearns?

24 MS. RICHARDSON: Um-hm.

25 THE COURT: All right. Now, I'm going to have to

1 find him, H, I, J, K. He's -- all it says is
2 Greenville, South Carolina. Who is Rick Kearns?

3 MR. EPPES: He's an investigator with our office,
4 Your Honor.

5 THE COURT: Okay. And how do you know Mr. Kearns?

6 MS. RICHARDSON: Well, I know his parents, and I
7 know the family. I've known the family for many years.

8 THE COURT: Okay.

9 MS. RICHARDSON: I just know him as a child.

10 THE COURT: I don't know that he's going to be a
11 witness, he's just a possible witness in this case. Do
12 you understand that?

13 MS. RICHARDSON: I do.

14 THE COURT: A jury has to decide the credibility of
15 witnesses, do you understand that? In other words, they
16 have to -- in any case there is a dispute as to what the
17 true facts of a case are. So a jury has to decide what
18 weight to give a witness' testimony. In deciding what
19 weight to give a witness' testimony, they have to look
20 at common sense things, like a reason, did the witness
21 have a reason to give the testimony, an interest in the
22 outcome of this case, or bias, or prejudice, something
23 like that. You look at whether the testimony is
24 consistent or whether it contains inconsistencies. You
25 look at whether it is supported by the other testimony

1 and evidence in the case. Do you understand what I'm
2 saying?

3 MS. RICHARDSON: I understand.

4 THE COURT: All right. And my question is, would
5 you be able to submit Mr. Kearns' testimony to the same
6 standards of believability and credibility as you would
7 other witnesses?

8 MS. RICHARDSON: I would.

9 THE COURT: All right. In other words, you would
10 not automatically favor one side or the other because he
11 testified, is that correct?

12 MS. RICHARDSON: No.

13 THE COURT: All right. Now, I'm going to be asking
14 you a number of questions as well as the attorneys. It
15 may seem like we're invading your privacy, and I
16 apologize in advance for that. There is no right
17 answers, no wrong answers. I'm sure you understand that
18 it's necessary for us to ask these questions in order to
19 get a fair jury in this case. Do you understand that?

20 MS. RICHARDSON: I do.

21 THE COURT: And I want you to answer these
22 questions openly, and honestly and fully, and I'm sure
23 that you will. Did you have a chance to read my letter
24 about this case?

25 MS. RICHARDSON: I did.

1 THE COURT: All right. Did you know much about the
2 death penalty in South Carolina before you came to court
3 this morning?

4 MS. RICHARDSON: Well, yes, I -- I guess I knew we
5 have it.

6 THE COURT: All right. Do you understand that it
7 is not every murder case that is subject to the death
8 penalty, it has to be one of these aggravated murders?
9 In other words, a murder of a small child, or the murder
10 during the course of a rape, or murder during an armed
11 robbery, you understand that?

12 MS. RICHARDSON: Yes, after reading your letter.

13 THE COURT: Okay. And you understand that even
14 when we talk about an aggravated murder, the penalty is
15 not automatic. In other words, it's up to the jury.
16 Once they've convicted somebody of murder plus rape, it
17 would be up to the jury to decide what penalty the
18 person should face. Do you understand that?

19 MS. RICHARDSON: I understand.

20 THE COURT: Here we're talking about life without
21 absolutely no possibility of parole, or we're talking
22 about death, either by electrocution or lethal
23 injection. Do you understand that?

24 MS. RICHARDSON: I understand.

25 THE COURT: All right. You understand this

1 bifurcated trail, two-part trial. The first part is the
2 trial phase, where the jury decides guilty or not
3 guilty. Do you understand that? It's just like any
4 other trial.

5 MS. RICHARDSON: I do.

6 THE COURT: And obviously a verdict of not guilty,
7 then everybody goes home. But if the verdict is guilty,
8 then that same jury is asked to sit in the second phase.
9 And in the second phase there will be additional
10 evidence that is presented. There will be evidence,
11 what we call evidence in aggravation. That's evidence
12 put up by the Solicitor. They're going to be telling
13 you why this case is so bad. They will putting in
14 information about victim impact, things like that. And
15 they'll be trying to get you to reach a verdict of
16 death. Do you understand that?

17 MS. RICHARDSON: I do.

18 THE COURT: And then the defendant will be putting
19 up evidence in mitigation. Evidence in mitigation can
20 be a number of things. It might be the defendant has no
21 significant history of criminal behavior. It might be
22 he acted under the duress of another person. Any number
23 of things could be evidence in mitigation. Do you
24 understand that?

25 MS. RICHARDSON: I do.

1 THE COURT: All right. Understanding this concept
2 of a two-part trial, I'm sure you understand that we
3 need to get your feelings about capital punishment.
4 Would you say that you're generally for capital
5 punishment, generally against it, just what are your
6 feelings about the death penalty?

7 MS. RICHARDSON: I think I'm more undecided than --
8 I think my decision would be based on the facts, or
9 the -- whatever is presented. I don't think I can say
10 I'm for it or against it.

11 THE COURT: Okay. That's fine. And have you had
12 much chance in the past to even think about the death
13 penalty, talk to people to say, oh, -- maybe read
14 something in the paper, said, oh, gee, that sounds like
15 a horrible case, I would vote for the death penalty, or
16 maybe the converse, oh, you know, that didn't seem so
17 bad, I wonder why the jury -- anything like that?

18 MS. RICHARDSON: I guess it has. You know, I
19 haven't really thought about it, but I guess there have
20 been cases where I probably have made statements like,
21 well, that one needs to, you know, get the death
22 penalty, but I don't know whether I really meant it, you
23 know, given the circumstances.

24 THE COURT: Because you probably didn't know
25 everything ---

VIVIAN RICHARDSON

1 MS. RICHARDSON: Didn't know a whole lot about it,
2 but there have been cases that you've read and sometimes
3 you do make those statements.

4 THE COURT: All right. Let me -- let me back up
5 just a minute. I forgot to ask you -- I forgot to tell
6 you, we are talking about penalty here at this time, but
7 you understand that the fact that we're talking about
8 penalty does not indicate anything about this
9 defendant's guilt or innocence. You understand that?

10 MS. RICHARDSON: Right.

11 THE COURT: In other words, he's presumed to be
12 innocent as he sits there. Do you understand that?

13 MS. RICHARDSON: I understand.

14 THE COURT: And you agree about that concept?

15 MS. RICHARDSON: I agree with that.

16 THE COURT: All right. If you were a juror in a
17 criminal case, would you listen to the law and accept
18 the law that I give to you and apply that law to the
19 facts in reaching your verdict?

20 MS. RICHARDSON: I would. I think that would be my
21 job.

22 THE COURT: It would be. Under -- you have an oath
23 to do that. Could you do that even though you may not
24 agree with the law? In other words, sometimes people
25 come into court a preconceived notion about what the law

1 is, or they may have a preconceived notion as to what
2 the law should be. But my question is, could you set
3 aside anything like that and accept the law that the
4 judge gives to you and apply that law in the case?

5 MS. RICHARDSON: I think I could. Again, it's kind
6 of tough until you're faced with these things, but I
7 think I could.

8 THE COURT: All right. Well, I probably need a
9 better answer than I think I could. In other words, if
10 I tell you the law is this, here's the law of murder,
11 and the State must prove these elements, okay, could you
12 accept that law?

13 MS. RICHARDSON: I could accept that if that's the
14 law.

15 THE COURT: All right. And if I tell you that
16 under these circumstances you must give meaningful
17 consideration to giving the death penalty or give
18 meaningful consideration to these factors and give a
19 life sentence, could you do that, follow those -- that
20 instruction?

21 MS. RICHARDSON: Yes.

22 THE COURT: Okay. Could you decide the case based
23 solely on the evidence that was presented here in the
24 courtroom and disregard anything you might have heard,
25 read or seen outside the courtroom? I don't think you

1 said you'd seen anything, but could you do that?

2 MS. RICHARDSON: I could. I can't remember
3 anything about this case.

4 THE COURT: And again, the State has the burden of
5 proving someone guilty beyond a reasonable doubt. Could
6 you follow that proposition of law?

7 MS. RICHARDSON: Yes.

8 THE COURT: And depending on the evidence, you
9 could find somebody guilty or not guilty depending on
10 your view of the facts, is that correct?

11 MS. RICHARDSON: My view, yes.

12 THE COURT: All right. Will you give meaningful
13 consideration to the mitigating circumstances as
14 presented by the defense as instructed by the Court as
15 you reach your sentence in this case?

16 MS. RICHARDSON: Yes.

17 THE COURT: Could you vote for life if you thought
18 that was the appropriate sentence?

19 MS. RICHARDSON: I could.

20 THE COURT: Could you vote for death if you thought
21 that was the appropriate sentence?

22 MS. RICHARDSON: I guess I could.

23 THE COURT: Okay. All right. You say you guess
24 you could?

25 MS. RICHARDSON: If that were -- if I felt that

1 were appropriate.

2 THE COURT: All right. If you voted for death, you
3 would have to sign your name to the verdict form,
4 sometimes that's referred to as a death warrant. If you
5 thought that death was the proper sentence in a case,
6 could you sign that verdict form?

7 MS. RICHARDSON: If I really thought that?

8 THE COURT: Yes, ma'am.

9 MS. RICHARDSON: Then I would be obligated to do
10 it.

11 THE COURT: Okay.

12 MS. RICHARDSON: If I really, really thought it.

13 THE COURT: Okay. I understand that. All right.
14 Solicitor. Mr. Ariail.

15 MR. ARIAIL: Yes, sir, Your Honor.

16 QUESTIONING BY MR. ARIAIL:

17 Q Ms. Richardson, I'm Bob Ariail, the Solicitor for
18 Greenville, Pickens County, and as such I will be
19 representing the State along with Ms. Strom and
20 Ms. Hervey, who the judge introduced you to this
21 morning. Let me go back and just follow up a little bit
22 here on the issue of the death penalty versus life in
23 prison. The judge told you that life in prison means
24 life in prison without parole.

25 A Right.

1 Q Would the fact that if at the time -- assuming
2 you're on the jury and the jury concluded that the
3 defendant is guilty and you're in the penalty phase, if
4 you knew that the choice between penalty was life
5 imprisonment without parole versus death, would you be
6 less likely to impose the death penalty knowing that
7 life imprisonment was the ---

8 MR. EPPEES: Objection, Your Honor.

9 THE COURT: What's the objection?

10 MR. EPPEES: The objection is he's just stated the
11 law and that's -- that's -- that's the law. He's going
12 to specifics of this case. He's been on me all morning
13 for not doing specifics of the case and that absolutely
14 is a specific of the case.

15 THE COURT: All right. I'm sorry I missed the --
16 restate the question please.

17 BY MR. ARIAIL:

18 Q The question is, if you are sitting in the jury box
19 and deciding punishment, or you're going back to your
20 jury room to deliberate, because the two choices are
21 life imprisonment without parole and death, would you be
22 more inclined to consider life imprisonment as the
23 appropriate sentence rather than death?

24 THE COURT: All right.

25 MR. EPPEES: Objection.

1 THE COURT: Okay. Overruled. Go ahead. You can
2 answer.

3 MS. RICHARDSON: I might be, but again, I would
4 definitely look at all the facts that have been
5 presented to me and the circumstances, and again it's
6 hard for me to say that I would be more inclined to this
7 than the other, but I may be more inclined to life
8 imprisonment without parole.

9 BY MR. ARIAIL:

10 Q All right. You said you could sign the document
11 that the judge explained to you that if you were on the
12 jury and the jury concluded that the death sentence was
13 the appropriate sentence you would have to sign a
14 document that would be used to carry out the execution,
15 have your name on it along with every other juror, and
16 you said you -- if you really, really, really thought
17 the death sentence was the appropriate standard, you
18 could do that?

19 A If that was my conclusion and deep within my heart,
20 based on everything that I have heard, if that was the
21 way I felt, if that was the conclusion that I came to,
22 then I would, but again, I can't sit here and say how I
23 would go until I heard all the facts and the
24 circumstances, whatever.

25 Q And I understand that. My question as a follow up

1 on that though is, would you, because of the standard
2 that you're imposing, would be imposing such a high
3 standard or higher standard on the State to prove to you
4 so that you would really, really, really think that, or
5 are you going to be able to sit equally in judgement of
6 whether it's life imprisonment or is it death? Can you
7 do that fairly, or are you already going to be tilted
8 thinking life is a better sentence and the State has got
9 to prove it different?

10 MR. EPPES: Objection.

11 THE COURT: All right. I'll allow that question,
12 but that's not the standard, but I will allow that
13 question. Go ahead.

14 MS. RICHARDSON: I might be biased.

15 BY MR. ARIAIL:

16 Q As to life?

17 A As to life. I just might be.

18 THE COURT: Anything else?

19 MR. ARIAIL: Just one -- just a minute.

20 THE COURT: Sure.

21 BY MR. ARIAIL:

22 Q Let me ask you one other question. You told the
23 judge you think you could set aside your personal views
24 of the law. He was asking you if you could follow the
25 law and there was this colloquy that you and he had that

1 I think, and he said I got to have a better answer than
2 that. Do you ---

3 A Yeah, I would follow the law. I understand that.

4 Q Okay. But the law doesn't tell you which ---

5 A Which way to ---

6 Q The law doesn't tell you which sentence is
7 appropriate. You've got to make that on ---

8 A I got to make -- that's a decision that I got to
9 make. I understand that.

10 Q All right. And my question is, do you have a
11 personal view at this time that places the State at a
12 disadvantage in reaching, or in promoting its case in
13 regard to imposing the death penalty, or are you going
14 to sit back and truly, truly, fairly listen to what the
15 State's evidence is, or are you going to say at the end
16 of the guilt phase, this is pretty much a life in prison
17 case, that's the way it ought to be, and they're going
18 to have to show me something really good to change my
19 mind? Which way are you ---

20 MR. EPPES: Asked and answered.

21 THE COURT: Overruled.

22 MS. RICHARDSON: Well, I think that the -- it would
23 be the State's job to show me that this is -- that if
24 that's what you're going for, the death penalty, then I
25 think that's your job to prove to me that's the way I

1 should go.

2 BY MR. ARIAIL:

3 Q All right. My question was, are you going to give
4 that fair consideration equal to the issue of whether or
5 not to impose life imprisonment?

6 A I would give fair consideration. That would be my
7 job.

8 Q Fair and equal?

9 A Fair and equal, and yours would be to prove it to
10 me.

11 MR. ARIAIL: Okay.

12 THE COURT: Mr. Eppes.

13 QUESTIONING BY MR. EPPES:

14 Q If we get to the penalty phase in this case, and
15 the judge charges you on the law and you hear the facts
16 and circumstances of the case, you're going to give
17 consideration to the death sentence when the judge
18 charges you to do that, is that correct?

19 A That's my charge.

20 MR. EPPES: Yes, ma'am. Nothing further. Thank
21 you.

22 THE COURT: All right. Anything from the State,
23 yes or no?

24 MR. ARIAIL: No, Your Honor.

25 THE COURT: From the defense?

1 MR. EPPE: No, sir.

2 THE COURT: All right. Ms. Richardson, I'm going
3 to give you this letter. I'm going to sort of go over
4 it with you. You're qualified to serve on this jury.
5 That does not mean that you're actually going to serve,
6 but it does mean you need to be ready to serve. If
7 you're selected on this case, again, you're going to be
8 sequestered, which means kept in a hotel for six, seven,
9 eight days, and of course we'll, you know, pay for all
10 meals, and lodging, and all of that. You need to be
11 ready to return to court. The clerk will call you
12 probably some time on Wednesday or Thursday. It may
13 take longer. I really don't know exactly how long it
14 will take, but you need to have a suitcase packed and
15 bring it with you with enough clothes for about seven or
16 eight days. Bring any medications that you have. If
17 you have any special dietary needs we'll take care of
18 that.

19 When you return, go back to the Hyatt parking
20 garage. Where you parked this morning, not this
21 afternoon. Leave your suitcase in the car and then come
22 over to the Spring Street entrance to the courthouse,
23 the parking garage. In other words, right across from
24 the entrance to the Hyatt parking garage there's an
25 entrance to this courthouse parking garage. Do you

1 remember seeing that?

2 MS. RICHARDSON: Um-hm.

3 THE COURT: All right. There's will be some
4 bailiffs down there and they will meet you and they will
5 bring you upstairs to courtroom 7. And then when
6 everybody is here we'll bring you over and we'll pick a
7 jury. You need to bring comfortable clothes. You need
8 to inform -- tell your family, your employer, they will
9 be unable to talk with you or have contact with you
10 during the trial. You may be allowed if it's important
11 to send messages to them. In other words, the bailiff
12 can make a phone call for you. If they need to get in
13 touch with you then there -- on an emergency basis only,
14 then they can call the two numbers. You can give your
15 family those two numbers.

16 Finally, I admonish you, do not read about this
17 case, do not listen to anything on the radio, don't
18 watch anything on TV about this case. And don't talk
19 about this case with anyone. If someone tries to
20 contact you, then you will need to take their name and
21 give to the -- give it to one of the bailiffs, okay.
22 Any questions?

23 MS. RICHARDSON: Now, I have until when, did you
24 say Wednesday?

25 THE COURT: Well, I don't know. It could be --

1 Wednesday morning will probably be the earliest, but
2 Madam Clerk will be in touch with you. Okay.

3 MS. RICHARDSON: Okay.

4 THE COURT: Thank you very much. You can step out.
5 We'll make sure we got your telephone numbers.

6 (Ms. Richardson exited the courtroom.)

7 THE COURT: All right. Anything before the next
8 juror, yes or no?

9 MR. ARIAIL: No.

10 MR. EPPE: No, Your Honor.

11 (Ms. Hembree entered the courtroom.)

12 THE COURT: All right. Rebecca Hembree. Have a
13 seat. You're Becky Hembree?

14 MS. HEMBREE: Yes, sir.

15 THE COURT: I will remind you that you're under
16 oath. I don't believe that -- let me ask this, have you
17 followed my prior instructions not to talk to anybody
18 about this case?

19 MS. HEMBREE: Yes, sir.

20 THE COURT: I appreciate that. You did not respond
21 I believe that you knew any of the witnesses or
22 remembered anything about this case?

23 MS. HEMBREE: No, sir.

24 THE COURT: All right. Now, I'm going to be asking
25 you some questions. Mr. Eppes will for the defense and

1 Solicitor Ariail for the State will be asking you
2 questions. We do not mean to invade your privacy, but
3 it's necessary because of the nature of this case to ask
4 you these questions. There are no right or wrong
5 answers. I'm sure you'll feel a little bit
6 uncomfortable. I'm sure you've never been through
7 something like this before. But we do want you to
8 answer the questions as openly and fully, and certainly
9 honestly as you can. Did you read my letter that I gave
10 to all jurors this morning?

11 MS. HEMBREE: Yes, sir.

12 THE COURT: Explaining the nature of a death
13 penalty case?

14 MS. HEMBREE: Yes, sir.

15 THE COURT: And do you understand -- did you know
16 much about the death penalty before you came to court?

17 MS. HEMBREE: No.

18 THE COURT: Did you know we have one?

19 MS. HEMBREE: Well, yes, but I didn't know the
20 extent of it.

21 THE COURT: Okay. You understand that it's not
22 every murder case that is subject to the death penalty?

23 MS. HEMBREE: Yes, sir.

24 THE COURT: That it has to be an aggravated murder?
25 In other words, there are about eight or nine different

1 things, but like murder of a small child, or murder
2 during a rape, murder during an armed robbery, something
3 like that. Do you understand that?

4 MS. HEMBREE: Yes, sir.

5 THE COURT: You understand that even when we talk
6 about aggravated murder cases, that it's not -- the
7 penalty is not automatic. The jury decides the penalty.
8 Do you understand that?

9 MS. HEMBREE: Yes, sir.

10 THE COURT: In other words, if a -- it's a
11 bifurcated trial, or a two-part trial. The first trial
12 is the trial phase and the issue there is like any other
13 case, is the defendant not guilty or guilty, do you
14 understand that?

15 MS. HEMBREE: Yes, sir.

16 THE COURT: Obviously a verdict of not guilty, then
17 everybody goes home. If the verdict is guilty then
18 there's a waiting period, then that jury comes back,
19 that same jury, and they have to hear additional
20 evidence. They hear evidence in aggravation. That's
21 evidence that's put up by the State. And evidence in
22 aggravation are things that would -- the State is
23 arguing should enhance -- the person should receive the
24 death penalty, which is by electrocution or lethal
25 injection in South Carolina. Do you understand that?

1 MS. HEMBREE: Yes, sir.

2 THE COURT: That might be the person has a bad
3 record -- we're not talking about this case when we talk
4 about this, but it might be the person has a horrible
5 record, there will be evidence of victim impact, things
6 like that that will be introduced. So it might be
7 character evidence on the defendant, why he's a bad
8 character, things like that. Then there is evidence in
9 mitigation. And evidence in mitigation are things --
10 any number of things. It might be the person was under
11 the influence of someone else when they did it. It
12 might be that the person doesn't have any kind of
13 significant criminal history, do you understand, things
14 like that?

15 MS. HEMBREE: Yes, sir.

16 THE COURT: And they will be arguing that that
17 should leave the jury to reach a verdict of life. Do
18 you understand that?

19 MS. HEMBREE: Yes, sir.

20 THE COURT: When I say life, I mean life,
21 absolutely, without any possibility of parole. Do you
22 understand that?

23 MS. HEMBREE: Yes, sir.

24 THE COURT: Sometimes we use the term,
25 recommendation of sentence, or something like that. Do

1 you understand that whatever sentence the jury gives
2 that will be the sentence of the Court? Do you
3 understand that

4 MS. HEMBREE: Yes, sir.

5 THE COURT: All right. I'm going to back up a
6 minute. I don't know why I always forget to do this.
7 First of all, because we're talking about penalty, you
8 understand that has -- that should not indicate anything
9 about the guilt or innocence of this defendant?

10 MS. HEMBREE: Right.

11 THE COURT: Obviously we have to go through this
12 process and we have to ask these questions. Do you
13 understand that?

14 MS. HEMBREE: Yes, sir.

15 THE COURT: Now, if you are a juror on this case,
16 would you listen and -- to the law and accept the law
17 that I give to you as the proper law in this case, and
18 apply that law to the facts?

19 MS. HEMBREE: Yes, sir.

20 THE COURT: In other words, some jurors come in and
21 they may have a preconceived notion of what the law is,
22 or they may have a notion as to what they think the law
23 should be, and that's fine. My question is, can that
24 juror set aside those notions and accept the law and
25 apply the law that the judge gives, and you're telling

1 me you could do that, is that correct?

2 MS. HEMBREE: Yes, sir.

3 THE COURT: Could you decide this case based solely
4 on the evidence that was presented here in the
5 courtroom? You've already said you have not read
6 anything, or seen anything, but my question is, would
7 you judge the case solely from the facts you heard in
8 this courtroom?

9 MS. HEMBREE: Yes, sir.

10 THE COURT: All right. In a criminal case the
11 State has the burden of proving a defendant guilty
12 beyond a reasonable doubt. Do you understand that?

13 MS. HEMBREE: Yes, sir.

14 THE COURT: Could you accept that as the law?

15 MS. HEMBREE: Yes, sir.

16 THE COURT: Could you, depending on the facts and
17 evidence in the case, and the law that I instruct to
18 you, could you find a defendant guilty if you found
19 beyond a reasonable doubt that he was guilty?

20 MS. HEMBREE: Yes, sir.

21 THE COURT: Could you find him not guilty if the
22 State did not prove beyond a reasonable doubt that he
23 was guilty?

24 MS. HEMBREE: Yes, sir.

25 THE COURT: Now, understanding this process of a

1 bifurcated trial, you understand that if you get to the
2 penalty phase, the person was convicted beyond a
3 reasonable doubt of murder plus something else? Do you
4 understand that?

5 MS. HEMBREE: Yes, sir.

6 THE COURT: And you understand that then you
7 will -- we're looking for jurors that will go into that
8 phase with an open mind as to what the punishment should
9 be. Do you understand that?

10 MS. HEMBREE: Yes.

11 THE COURT: Listen to the evidence in how bad a
12 case it is and how bad the defendant is, listen to the
13 evidence in mitigation that the defense puts up before
14 you make a decision. Do you understand that?

15 MS. HEMBREE: Yes, sir.

16 THE COURT: All right. Understanding all that
17 process, you understand why we need to know generally
18 your feelings about capital punishment. Would you say
19 generally you're for capital punishment, generally
20 against it, how do you feel?

21 MS. HEMBREE: For it.

22 THE COURT: All right. When you say for it, is
23 this something that you've thought about for a while? I
24 mean, is it something your religious upbringing,
25 personal upbringing, something you thought about or

1 something that you just began to think about this
2 morning, or ---

3 MS. HEMBREE: It's -- I guess, I don't really know
4 how to explain it. It's not something I think about all
5 the time. I guess maybe it is upbringing.

6 THE COURT: All right. When you say you're for it,
7 do you think there is a proper place in our society to
8 have capital punishment?

9 MS. HEMBREE: Yes.

10 THE COURT: All right. Do you agree that it's not
11 every murder case that should be subject to the death
12 penalty?

13 MS. HEMBREE: Yes, sir, I do.

14 THE COURT: Do you agree that even every aggravated
15 murder case should not be subject to the death penalty,
16 it should go on a case by case basis?

17 MS. HEMBREE: Yes.

18 THE COURT: Depending on the aggravating evidence
19 and mitigating evidence?

20 MS. HEMBREE: Yes, sir.

21 THE COURT: All right. Will you give meaningful
22 consideration to the mitigating circumstances as
23 presented by the defense and as instructed by the Court
24 as you reach a sentence in this case?

25 MS. HEMBREE: Yes, sir.

1 THE COURT: And will you give meaningful
2 consideration to the aggravating circumstances as
3 presented by the State and as instructed by the Court in
4 reaching a verdict?

5 MS. HEMBREE: Yes, sir.

6 THE COURT: If you thought that the appropriate
7 sentence in an aggravated murder case should be life,
8 could you vote for life?

9 MS. HEMBREE: Yes, sir.

10 THE COURT: And if you thought that the appropriate
11 sentence in an aggravated murder case was death, could
12 you vote for death?

13 MS. HEMBREE: Yes, sir.

14 THE COURT: If the -- if you thought that the
15 appropriate sentence was death, you would be asked to
16 sign your name to a verdict form, sometimes we refer to
17 that as a death warrant. Do you understand that?

18 MS. HEMBREE: Yes, sir.

19 THE COURT: If you thought the appropriate
20 punishment was death, could you sign that verdict form?

21 MS. HEMBREE: Yes, sir.

22 THE COURT: Okay. I can't remember who's up. All
23 right. Mr. Eppes. Again, this is Frank Eppes. He's
24 one of the attorneys representing the defendant.
25 Solicitor Ariail is representing the State. They are

1 going to in turn ask you questions. Okay.

2 QUESTIONING BY MR. EPPES:

3 Q Hi, Ms. Hembree.

4 A Hi.

5 Q I'm going to ask you some general questions about
6 this. There's no -- there is no right or wrong answers.
7 I want to get to how your beliefs and some things like
8 that. If at any time I make you the least bit
9 uncomfortable, you stop, just stay stop, that makes me
10 uncomfortable and we'll address it and the judge will
11 decide what to do with it. Okay. Have you ever talked
12 about the death penalty with anybody?

13 A Not really. I mean, it's been in conversations,
14 but not -- not to where, you know, I have a real strong
15 or real mild opinion of it, I guess.

16 Q Do you have an opinion about how much it's used?
17 Is it used too much, not enough, about right, do you
18 have any opinion like that?

19 A I guess it goes back to how -- I don't know how to
20 put it. I guess how bad it is or the circumstance under
21 it as to if its used enough or not enough.

22 Q Well, when you say how bad it is, could you maybe
23 give an example of what you consider bad?

24 A I don't know how to say it without being --
25 sounding rude or anything. I mean, I guess if you're

1 just laying out there and just, you know -- I don't
2 know. Okay. Say somebody walks in here and you know,
3 something happens to all of us, then that's, you know,
4 yes, I think that should be punishable.

5 Q Okay. Let me take an example that I think all of
6 us are familiar with, the World Trade Center.

7 MR. ARIAIL: Your Honor, I'm going to object to
8 getting -- I should have objected earlier, but he's
9 asking her to speculate on something that's case
10 specific.

11 THE COURT: Well, I think it's more in terms of a
12 hypothetical. What -- basically he's asking what kind
13 cases would she vote for the death penalty and what
14 kind ---

15 MR. EPPES: I'm asking her -- I'm asking her, she
16 said she thinks that there is certain situations where
17 the death penalty is proper. I'm asking her what those
18 situations are, that's all.

19 THE COURT: Well, that's in the form of a
20 hypothetical, what cases would she vote for, what she
21 would not vote for. The question is, would she give
22 meaningful consideration to the circumstances.

23 MS. HEMBREE: Yes.

24 BY MR. EPPES:

25 Q Okay. I talked about being uncomfortable, I'm

1 going to be uncomfortable for just a second. I notice
2 that a friend of yours was a cashier and was killed.

3 Was that recent?

4 A No, it's been about six years ago.

5 THE COURT: Was that in Greenville County?

6 MS. HEMBREE: Yes, sir.

7 THE COURT: Was the person caught and tried, do you
8 recall?

9 MS. HEMBREE: Yes.

10 THE COURT: Was it a capital case, do you recall?

11 MS. HEMBREE: I don't remember. I don't know.

12 THE COURT: Were you a witness in it, or ---

13 MS. HEMBREE: No, sir.

14 THE COURT: Did you come to court and follow it?

15 MS. HEMBREE: No, sir. No, sir.

16 THE COURT: I'm sorry to interrupt you. Go ahead.

17 MR. EPPES: That's okay, Your Honor.

18 BY MR. EPPES:

19 Q I've got some of these written down and they --
20 part of the -- part of the evidence in this case is
21 going to be victim impact evidence. That's evidence
22 from people who have lost a loved one in the trial.
23 Will you be able to consider that evidence fairly and
24 not give it undue weight as relates to any mitigating
25 evidence that you hear, that the judge charges you

1 appropriate -- that it's appropriate to consider, or due
2 you have any thought that this loss that you've suffered
3 might sway you more towards the victims, towards what
4 your instructions are from the Court?

5 A No, sir.

6 Q Now, with all these shows on television, Law and
7 Order, and things, people think about juries I think a
8 little bit more than they used to, and jurors sit in
9 this box and hear all the evidence and go back in the
10 back and they discuss it and they argue amongst
11 themselves, or exchange ideas, and then in the guilt
12 phase of the trial they have to unanimously decide
13 beyond a reasonable doubt that the person is guilty.
14 Then on into the penalty phase of the trial, each jurors
15 stands as its own judge, as the defendant's own judge.
16 If we get to the penalty phase, each of those jurors has
17 to weigh the decision themselves between life and death,
18 and a part of that is going to be the exchange of ideas
19 and the exchange of opinions and stuff, but a part of
20 that maybe at some point a majority of the jurors
21 believe in one thing and a minority, even a very small
22 minority believe in the other. And each juror's opinion
23 is as valuable as the other one. If you were -- if you
24 were in the minority in that and there was pressure
25 being brought to bear on you, how do you think you would

1 react?

2 A Well, if I felt was I right then I would stick with
3 my opinion.

4 Q Okay. And the flip side of that is, if you were in
5 the majority and there was a small minority, how would
6 you -- how would you deal with that minority? Do you
7 have any ideas about that?

8 A Well, no.

9 Q Would you try to gang up on them, or you just ---

10 A No, no, no. I mean, everybody is their own person,
11 everybody has their own opinion. I mean, some people
12 are influential, some people aren't. I mean, that's for
13 them to decide.

14 Q But ---

15 A I don't see any reason to try to change somebody
16 else's mind just to agree with what I think.

17 THE COURT: Would you respect the opinions of
18 someone even if they are the only person that had that
19 opinion?

20 MS. HEMBREE: Yes, sir.

21 THE COURT: All right. Mr. Eppes.

22 MR. EPPES: Thank you.

23 BY MR. EPPES:

24 Q If you were considering giving the death penalty to
25 somebody, what sort of things would you want to hear

1 about?

2 MR. ARIAIL: I'm going to object to that.

3 THE COURT: I'm going to sustain the objection.

4 BY MR. EPPES:

5 Q What do you think the purpose of the death penalty
6 is?

7 A To be honest with you, I really don't know, you
8 know.

9 Q Have you ever thought about that?

10 A No.

11 Q Have you ever talked to anybody about it?

12 A Not really.

13 Q Read anything about it?

14 A (Witness shook her head.)

15 MR. EPPES: Your Honor, may I may have one moment?

16 THE COURT: All right.

17 MR. EPPES: Thank you, Your Honor. Thank you, Ms.
18 Hembree.

19 QUESTIONING BY MR. ARIAIL:

20 Q Ms. Hembree, I'm Bob Ariail, and I'm the Solicitor
21 for the 13th Circuit, which is Greenville, Pickens
22 Counties, and I along with Ms. Strom will be
23 representing the State, presenting the case against the
24 defendant. You've been through the process, you
25 understand that there are two phases of the trial.

1 First is the guilt phase, His Honor told you if we
2 find -- if you find the defendant not guilty, then there
3 is no second phase. But assuming you find the defendant
4 guilty, you go to the second phase, the penalty. There
5 really is not a difference in the way the jury operates.
6 The jury is a -- a 12 member body that exchanges
7 information and opinions.

8 A Right.

9 Q And the purpose is to exchanges ideas with each
10 other to test whether or not your ideas are the right
11 ones, or maybe your opinions are wrong. Do you
12 understand that?

13 A Yes.

14 Q Just because one person gets an opinion, doesn't
15 mean that that's the right opinion and they are entitled
16 to keep it. The jury can talk amongst itself to try to
17 get to what is the correct opinion.

18 A Okay.

19 MR. ARIAIL: All right. And that's true in both
20 cases. And at the -- that's all I have, Your Honor.

21 THE COURT: All right. Anything -- yes or no,
22 anything else from the State?

23 MR. ARIAIL: No.

24 THE COURT: From the defense?

25 MR. EPPES: Nothing, Your Honor.

1 THE COURT: All right. Ms. Hembree, let me give
2 you this letter. Okay. You are qualified as a juror in
3 this case. Okay. And I will just sort of read along.
4 That doesn't mean that you're actually going to serve,
5 but it means you need to be ready to serve. Andrea,
6 here, the clerk who's handling the jury, will call you,
7 and I don't know when it will be. My best guess it
8 would be Wednesday to Thursday, but it could be longer.
9 I don't think it would be before Wednesday, but I just
10 don't know. But in any event, when you are called,
11 obviously you need to come back at that time.

12 When you come back, you need to have a suitcase
13 packed with comfortable clothes for seven or eight days.
14 And I emphasize comfortable clothes because there's no
15 need to be in coat and ties, things like that. Bring
16 any medication that you may have. If you got any
17 dietary needs, we'll address those at that point with
18 the bailiffs at that time. Obviously you understand
19 you're going to be sequestered with others jurors if
20 you're selected?

21 MS. HEMBREE: Yes, sir.

22 THE COURT: When you come, if you would park back
23 in the Hyatt parking garage like you did this morning.
24 Come across the street, don't jaywalk, but then come to
25 the Spring Street garage entrance right below us. It's

1 right across from the Spring Street entrance for the
2 Hyatt. There will be a lot of bailiffs down there in
3 red coats. They will show y'all up here to courtroom 7.
4 When everybody is here then we'll bring you back over to
5 courtroom 8 and we'll select a jury at that time.

6 You need to inform family members and business
7 workers that they will be unable to directly contact you
8 during the course of the trial. You will be unable to
9 contact them directly. If you have a need, if you need
10 to contact somebody to say bring something to the hotel
11 or whatever, then the bailiffs can make that call for
12 you, they can relay any messages. If someone needs to
13 contact you then there are two emergency numbers, one
14 for daytime, one for night. That is not information
15 about how long you're going to be here, and how long the
16 trial will last. They just need to watch the local
17 media, because there will be media coverage of this
18 case to figure out about when we will have y'all back.
19 Okay.

20 All right. My usual admonition, that is, don't
21 read about this case, don't read anything in the paper,
22 don't talk to anyone, don't watch any TV accounts,
23 listen to radio accounts. If someone should try to
24 contact you, then you need to tell them you're on the
25 jury, you cannot talk to them, but you also need to get

1 their name and inform the bailiffs, and I'll handle
2 anything from there. Do you have any questions?

3 MS. HEMBREE: No, sir.

4 THE COURT: All right. We'll see you in a few
5 days. Thank you very much.

6 MS. HEMBREE: Thank you.

7 (Ms. Hembree exited the courtroom.)

8 THE COURT: All right. Anything before we bring
9 Brailsford?

10 MR. EPPES: Your Honor?

11 THE COURT: Yes.

12 MR. EPPES: Nope, I rethought it. Thank you.

13 THE COURT: All right. Brailsford. I need the
14 next juror.

15 (Mr. Brailsford entered the courtroom.)

16 THE COURT: All right. You're John Brailsford?

17 MR. BRAILSFORD: Yes, sir.

18 THE COURT: Come up and have a seat. Thank you.
19 Go ahead and pull you chair close up to that mic. I
20 don't think we're going to have trouble hearing you,
21 but ---

22 MR. BRAILSFORD: All right.

23 THE COURT: All right. You remember that you're
24 under oath?

25 MR. BRAILSFORD: Yes, sir.

1 THE COURT: And my prior instructions were not to
2 talk with anyone about this case. Have you followed my
3 instructions to this point?

4 MS. BRAILSFORD: Yes, sir.

5 THE COURT: All right. You indicated, I believe,
6 downstairs that you had heard some facts about this
7 case, is that correct?

8 MR. BRAILSFORD: Yes, sir. I read the paper almost
9 everyday, and I remember this taking place last year,
10 but I don't remember many pertinent facts.

11 THE COURT: All right. Just tell me briefly what
12 details, if any, you might remember?

13 MR. BRAILSFORD: I remember there was a murder and
14 that they locked down some of the schools, and I think,
15 like you said when you mentioned it this morning, it
16 reminded me that there was a manhunt for a few days,
17 there was -- they were looking up him up in the Blue
18 Ridge area, but I didn't remember any names or really
19 any other facts than that.

20 THE COURT: All right. Is it safe to say that you
21 have not formed any opinions about this case from --
22 from ---

23 MR. BRAILSFORD: Yes, sir, I have not formed any
24 opinions.

25 THE COURT: Okay. All right. I'm going to be

1 asking you a number of questions, so will the attorneys.
2 We don't mean to invade your privacy. I'm sure some of
3 these questions will seem of a personal nature, but I
4 hope you understand that because of the nature of this
5 case we need to ask these questions. Okay. There are
6 no right answers, no wrong answers. We want you to
7 answer these questions openly and of course honestly and
8 fully. Among other thing we're going to be talking
9 about penalty, and I need to tell you up front that just
10 because we're talking about penalty that should not
11 indicate anything about the guilt or the innocence of
12 this defendant. Do you understand that?

13 MR. BRAILSFORD: Yes, sir.

14 THE COURT: In other words, we have to talk about
15 penalty to qualify a jury in this case.

16 MR. BRAILSFORD Um-hm.

17 THE COURT: If you are selected for a criminal
18 case, would you listen to the law that was charged by
19 the judge and accept and apply that law as the judge
20 instructs?

21 MR. BRAILSFORD: Yes, sir.

22 THE COURT: All right. In other words, some people
23 may come to court with a notion as to what they thought
24 the law was, or they may even have a notion as to what
25 they think the law is, but the question is, could you

1 set aside any of those notions and under your oath
2 accept the law that the judges gives you and apply just
3 that law?

4 MR. BRAILSFORD: Yes, sir.

5 THE COURT: All right. Could you decide the case
6 based solely on the evidence that was presented here in
7 the courtroom and disregard anything that you might --
8 in other words, during the course of the trial some
9 testimony may come out and it may recall something that
10 you read, but could you set that aside and judge this
11 case solely on the facts that you've heard from
12 witnesses and other evidence in this courtroom?

13 MR. BRAILSFORD: Absolutely.

14 THE COURT: Okay. In a criminal case, the State
15 has the burden of proving someone guilty. That burden
16 is beyond a reasonable doubt. Do you understand that?

17 MR. BRAILSFORD: Yes, sir.

18 THE COURT: Could you follow that concept of law?

19 MR. BRAILSFORD: Yes, sir.

20 THE COURT: And depending on your view of facts and
21 evidence in the case, could you find a person guilty if
22 you found the State proved their guilt beyond a
23 reasonable doubt?

24 MR. BRAILSFORD: Yes, sir.

25 THE COURT: Could you find somebody not guilty if

1 you found the State had not met their burden of proving
2 somebody beyond a reasonable doubt (sic)?

3 MR. BRAILSFORD: Yes, sir.

4 THE COURT: All right. Did you read my letter this
5 morning?

6 MR. BRAILSFORD: Yes, I did.

7 THE COURT: And did you find it helpful in
8 understanding the death penalty in South Carolina? Did
9 you know much about the death penalty in South Carolina?

10 MR. BRAILSFORD: No, I didn't. I didn't realize
11 there was a distinction between the type of crime that
12 had to be committed prior to the death penalty.

13 THE COURT: You knew we had a death penalty?

14 MR. BRAILSFORD: Yes, sir.

15 THE COURT: So you thought perhaps every murder
16 case was subject to the death penalty?

17 MR. BRAILSFORD: Yes, sir.

18 THE COURT: All right. You understand now that
19 it's not every case, it has to be one of these
20 aggravated murders cases?

21 MR. BRAILSFORD: Yes, I understand.

22 THE COURT: And there are several statutory
23 aggravating circumstances, like killing of a child under
24 the age of I think 11 is one of the circumstances. In
25 my letter I said a circumstance might be a rape plus a

1 murder, or a murder during the rape rather, or murder
2 during an armed robbery. Do you understand that?

3 MR. BRAILSFORD: Yes, I do.

4 THE COURT: And even when we talk about these
5 aggravating murders, do you understand that it is --
6 penalty is by no means automatic. Do you understand
7 that?

8 MR. BRAILSFORD: Yes, sir. It's another jury, I
9 take it, that has to decide whether it's a death penalty
10 or not?

11 THE COURT: It's not another jury, it's the same
12 jury.

13 MR. BRAILSFORD: The same jury, okay.

14 THE COURT: It's the same jury, that's why we have
15 to talk to you about penalty, even though we haven't
16 even started this trial and we don't know what the
17 verdict is going to be in the first phase, we have to
18 talk to you about penalty. But my point is, you
19 understand that it's not every murder that is subject to
20 the death penalty, and even when we talk about a murder
21 during a rape, or a murder during an armed robbery, the
22 penalty is not automatic. Do you understand that?

23 MR. BRAILSFORD: Yes, I understand.

24 THE COURT: All right. So if a jury finds a
25 defendant guilty of let's say murder plus armed robbery,

1 murder plus rape, then there's a waiting period, then
2 they go into the second phase, it's a second trial,
3 where there is more evidence presented. And the
4 question is, can you go into that second trial with an
5 open mind as to what the punishment should be? The
6 least punishment is going to be life without any
7 possibility of parole. Do you understand that?

8 MR. BRAILSFORD: Yes, sir.

9 THE COURT: And of course the ultimate penalty
10 would be death, death by electrocution, or death by
11 lethal injection in South Carolina. Do you understand
12 that?

13 MR. BRAILSFORD: Yes, sir.

14 THE COURT: And in that penalty phase, there's two
15 types of evidence. There's evidence in aggravation
16 that's put up by the State. They may show that the
17 defendant has a really bad character, maybe he's got a
18 long history of criminal behavior. They may put
19 evidence of victim impact, the loss of the victim, what
20 it means to the family and the community, things like
21 that. And then the defense puts up evidence, evidence
22 in mitigation. Evidence in mitigation might be things
23 like the person was under the influence of someone else
24 when they did it, or it might be they got a real clean
25 record, or they might have suffered from some mental

1 defect, something like that. Do you understand that?

2 MR. BRAILSFORD: Yes, sir.

3 THE COURT: So the question is, could you go into
4 the second phase with an open mind as to punishment,
5 considering meaningful -- giving meaningful
6 consideration to the mitigating evidence, giving
7 meaningful consideration to the aggravating evidence,
8 and either vote for life or death, depending on your
9 view of the evidence? Do you understand that?

10 MR. BRAILSFORD: Yes, sir.

11 THE COURT: All right. Now, understanding that
12 procedure, I guess I need to ask you generally how do
13 you feel about capital punishment? Would you say you're
14 generally for it, generally against it, or just how do
15 you feel?

16 MR. BRAILSFORD: I would say generally I am for it.

17 THE COURT: All right. Is that -- can you tell us
18 is that from your upbringing, your religious background,
19 can you tell me how you came to these ---

20 MR. BRAILSFORD: Yeah, I believe just from my
21 upbringing and belief that people should be punished for
22 their crimes and the punishment should fit the crime.

23 THE COURT: All right. So you're saying if
24 somebody commits the ultimate crime, they should face
25 the ultimate penalty?

1 MR. BRAILSFORD: Yes, sir.

2 THE COURT: Is that in every case or is -- could
3 you listen to the evidence in mitigation and even in an
4 aggravated case vote for life if you thought that was
5 the appropriate sentence?

6 MR. BRAILSFORD: Yes, sir, if I thought that was
7 appropriate for the case.

8 THE COURT: Okay. So let me just ask you these
9 ultimate questions. Will you give meaningful
10 consideration to the mitigating circumstances in this
11 case as presented by the defense and as instructed by
12 the Court when you reach your sentence?

13 MR. BRAILSFORD: Yes, sir.

14 THE COURT: And will you give meaningful
15 consideration to the aggravating circumstances presented
16 by the State and as instructed by the Court in reaching
17 your sentence?

18 MR. BRAILSFORD: Yes, sir, I will.

19 THE COURT: Could you vote for a life sentence if
20 you thought that was appropriate?

21 MR. BRAILSFORD: Yes, sir, I could.

22 THE COURT: Could you vote for a death sentence if
23 you thought that was appropriate?

24 MR. BRAILSFORD: Yes, sir.

25 THE COURT: And if you voted for death, if you

1 thought that was the appropriate sentence -- let me tell
2 you, you probably don't understand this, but you would
3 be asked to sign the verdict form, sometimes referred to
4 as a death warrant. If you thought that death was the
5 appropriate sentence, could you sign that verdict form?

6 MR. BRAILSFORD: Yes, sir.

7 THE COURT: Okay. All right. Solicitor. Again,
8 this is Mr. Ariail, and Mr. Eppes representing the
9 defendant.

10 QUESTIONING BY MR. ARIAIL:

11 Q Mr. Brailsford, my name is Bob Ariail, and I'm the
12 Solicitor for Greenville, Pickens Counties in this State
13 as the State's prosecutor. And in this case Ms. Strom,
14 my deputy in the blue suit, and Ms. Hervey, my
15 assistant, will be assisting me. At the end, the judge
16 asked you, understanding that if reach the decision to
17 impose the death penalty, that you have to sign an
18 actual document.

19 A Yes, sir, I understand that.

20 Q All right. And maybe it was just the way I heard
21 it. Did you -- did you have some hesitancy about that
22 or would that fact that you had to sign that paper,
23 would that in any way effect your ability to -- to
24 fairly consider the imposition of a death sentence?

25 A No, I don't think so. I was just hesitant because

1 I surprised by that. I didn't realize that was a part
2 of the -- the situation.

3 Q Process?

4 A Process.

5 Q Now, realizing that is part of the process, and
6 realizing that that document is what goes with the
7 defendant, is actually used to carry out the sentence,
8 it's a piece of paper, does that cause you any concern
9 as to whether or not you would be able to vote for the
10 imposition of the death penalty?

11 A No, sir, it doesn't.

12 Q All right. You have any -- you talked about your
13 background and your upbringing, do you have anything in
14 your background, religious, moral, ethical, political,
15 whatever, that would in any way impact your ability to
16 impose the death penalty if you thought the fact were
17 appropriate?

18 A Sir, if I believe the facts are appropriate and
19 the -- you know, if the defendant is found guilty and
20 then again, if those facts, what are they,
21 aggravating ---

22 Q Um-hm.

23 A --- information afterwards proves that he's liable
24 for the death penalty, I don't believe my upbringing
25 would stop me from imposing that.

1 Q You would look at the facts and the circumstance of
2 the case and determine whether it was appropriate for
3 that punishment?

4 A Yes, sir.

5 MR. ARIAIL: All right. Thank you very much.
6 That's all I have, Your Honor.

7 THE COURT: Mr. Eppes.

8 QUESTIONING BY MR. EPPES:

9 Q Mr. Brailsford, I'm Frank Eppes. This is my
10 co-counsel, John Abdalla. That's the defendant in the
11 case, Brad Sigmon. You just said if the facts proved
12 he's liable for the death penalty. That was a statement
13 you said to the Solicitor. Do you believe there's some
14 cases where the death penalty is always appropriate?

15 A Well, sir, I've never sat on a jury before, or been
16 through this process before, so -- but according to the
17 judge if facts have to be presented and so forth like
18 that, and it was aggravated and there is enough proof
19 that, you know, only certain cases are liable for the
20 death penalty, then that's where I said if the facts
21 prove that he's liable under those rules of law, then I
22 would agree with the death penalty. If the facts don't
23 prove that out, then I wouldn't go with the death
24 penalty.

25 Q Okay. Do you understand that in addition to the

1 aggravating facts that the State's going to prove ---

2 A Um-hm.

3 Q --- that would make a decision by the jury for the
4 death penalty proper, there's also going to be a showing
5 of mitigating facts from the defense and from the
6 witnesses on the witness stand that you're -- that you
7 have to give consideration to ---

8 A Yes, sir.

9 Q --- in determining whether the death penalty
10 sentence is appropriate? You're-- you're sitting as
11 the ultimate decider of this penalty?

12 A Yes, sir.

13 Q Now, you understand that?

14 A Yes, I understand that. It's basically like the
15 original -- phase one would be to decide whether he's
16 guilty or not, and the second phase is to decide whether
17 or not it is appropriate for the death penalty based on
18 the mitigating facts or the aggravating facts, and there
19 is a definite distinction.

20 Q And if you get to make that decision, you're going
21 to hear aggravating facts -- what I'm trying to get at
22 is once you hear these aggravating facts, are you going
23 to be able to give fair consideration to any mitigating
24 facts in reaching a decision, or are you going to say,
25 well, aggravating facts are there, this fellow has

1 committed the ultimate crime, he needs the ultimate
2 punishment?

3 A No. Sir ---

4 Q To use your words.

5 A Right. I think I can definitely weigh the
6 mitigating facts and would weigh all the facts of the
7 case and make the appropriate decision. And if the
8 mitigating facts outweigh the aggravation in the case
9 then, no, I would go with life without parole.

10 THE COURT: Let me just stop right now, it's not a
11 matter of weighing one against the other, you consider
12 all of them and one doesn't have to outweigh the other.
13 Do you understand that?

14 MR. BRAILSFORD: Yes, sir, I understand. You just
15 have to take in all the facts and make a truthful,
16 unbiased decision on what you deem appropriate, is that
17 correct?

18 THE COURT: Gotcha.

19 BY MR. EPPES:

20 Q How did you -- how did you come to your opinion
21 that you are generally for the death penalty?

22 A I'm really not sure when it was formed, sir. I
23 think -- I'm a 20 year military veteran, and so that the
24 idea of death probably doesn't bother me as much as it
25 may bother other people, because that's part of the job

1 there, and I just feel like the death penalty is -- is
2 appropriate when the facts prove it. And that -- you
3 know, I think it's a good deterrent to hard crime, that
4 people know that they he could lose their life if they
5 take somebody else's.

6 Q You got to a question I want to ask you. What
7 purpose do you think the death penalty serves?

8 A As a deterrent to future murders.

9 Q Are there any other purposes you think it serves?

10 A Maybe not only to other possible murders, but to
11 people in general, that the law stands firm and you are
12 going to be punished for your crimes.

13 Q Have you ever heard the phrase an eye for an eye?

14 A Yes, sir, I have.

15 Q Do you believe that that type of punishment is
16 appropriate?

17 MR. ARIAIL: I would object, Your Honor.

18 THE COURT: Well, let me just hear the answer.

19 MR. BRAILSFORD: Yes, sir, I believe so. I mean, I
20 don't believe in the -- what type of countries that they
21 catch a thief and they cut off his hand and things like
22 that, those seems very archaic to me, but in a case of
23 murder, I feel like it is appropriate to impose the
24 death penalty if the circumstances prove that, you know.

25 BY MR. EPPES:

1 Q Would it be a statement of your beliefs to say that
2 somebody committed murder deserves to die?

3 A No, sir, not absolutely, depends on the facts of
4 the case.

5 Q Part of the evidence that you will hear -- likely
6 hear in the aggravation in this case is victim impact,
7 the impact that these murders -- if a conviction takes
8 place, that these murders have had on the loved ones
9 still surviving. Would you -- would you be able to
10 consider the mitigating factors that the judge instructs
11 you to consider in light of victim impact statements, or
12 do you think people talking about their loss would have
13 an unfair weight with you?

14 A I don't think it would have an unfair weight,
15 because any time somebody loses their life, whether it's
16 natural causes or whatever, there's always going to be
17 impact on families, friends, business, what have you,
18 and that's -- though that's, you know, really hard to
19 swallow, it's part of what happens, and I don't think it
20 would overly outweigh my ideas.

21 Q You put down you're Roman Catholic. Have you ever
22 discussed with anyone in your church, or priests, or
23 anybody, the death penalty?

24 A No, sir. Honestly, I don't practice my religion
25 very much. I was raised a Catholic, but I really

1 haven't been in church much since I was a teenager.

2 Q Did you talk about it as a teenager?

3 A I'm sure I did, but that was a long time ago.

4 Q Do you remember any conversations -- did I
5 interrupt you, I'm sorry?

6 A No, I just said that was a long time ago.

7 Q Do you remember any conversations you've ever had
8 about the death penalty with anybody?

9 A Not the exact conversation, no, but I have had
10 discussions with people about it before.

11 Q Do you remember what you said about it when you
12 discussed it with people?

13 A Oh, pretty much what I've just told you, that the
14 death penalty is a good deterrent to crime, and I think
15 it should remain in place throughout the country. I
16 know not all states even have it in place, but I
17 think -- I think it works, and I think, you know, it
18 should be there.

19 Q Do you remember anything that anybody else has said
20 to you about the death penalty, that you've agreed with
21 or disagreed with?

22 A Well, I've, you know, spoken with people on both
23 sides of the fence. You know, I had one good friend who
24 is very liberal minded and he absolutely opposes the
25 death penalty, but that's just his views.

1 Q What sort of things does he say to you about it?

2 MR. ARIAIL: I'm going to object to him -- Your
3 Honor, at this time he's profiling.

4 THE COURT: Well, yeah, what he says is not
5 relevant. I'll sustain the objection.

6 BY MR. EPPES:

7 Q Do you know any reasons why people are against the
8 death penalty?

9 A Just in general ---

10 MR. ARIAIL: Same objection. He's asking him a
11 hypothetical, asking him to speculate and that's just
12 not -- that's not where we're going.

13 THE COURT: Well, say he tells you, you know, I
14 know this is what some people say and they are against
15 this, but what's the follow-up question? Do you agree
16 with that, disagree? I mean, he would obviously
17 disagree with it.

18 MR. EPPES: Well, I think I'm entitled to know the
19 things he's considered about the death penalty vis-a-vis
20 his opinions about deterrence. I think I'm entitled to
21 other issues that he has considered concerning it. You
22 know, I'm hamstrung ---

23 THE COURT: And rejects it?

24 MR. EPPES: Huh?

25 THE COURT: And rejects it?

1 MR. EPPES: Whether he's rejected them or thinks
2 they're good -- good but deterrence outweighs them, I
3 think I'm entitled to know that.

4 THE COURT: All right. I will -- with this
5 witness -- with this juror at this time I will not
6 sustain the objection, but I'm not sure I'll let you do
7 this with every juror.

8 MR. EPPES: That's fine, Your Honor.

9 MR. BRAILSFORD: Well, you know, there's also the
10 point of view that everybody makes mistake and everybody
11 has a right to be forgiven, and obviously if you take a
12 man's life after committing a crime, he doesn't have
13 time to be forgiven, I mean, maybe before his last
14 rights, but he'll never have that time brought to him to
15 prove himself as a -- prove himself out for the rest of
16 his life, you know, prove that he can go back to the
17 right side and this act was just a blurt in his
18 character or what have you. So -- and also there is a
19 problem that sometimes maybe the original conviction was
20 wrong and the man really wasn't guilty, and there is --
21 I know I've heard of numerous cases with people on death
22 row and the sentence gets overturned or changed, you
23 know, that's happened throughout history numerous times.
24 So -- and unfortunately the death penalty is once it's
25 enacted there -- you can't take it back if later on,

1 with DNA evidence or something else, he's proved
2 innocent. So you know, there are good reasons not to
3 believe in the death penalty.

4 BY MR. EPPES:

5 Q And you think those are valid considerations?

6 A Yes, sir.

7 Q But is there anything -- is there anything other
8 than this idea of deterrence that -- that outweighs
9 these two considerations, or is your major consideration
10 this issue of deterrence?

11 A I think deterrence and justice. If I were to take
12 another man's life why do I deserve to keep mine? And
13 I'm sure that the victim's family sees it that way also,
14 but you know, deterrence is the main reason for having
15 the death penalty in place.

16 A Is your general inclination then if someone commits
17 murder is guilty of ---

18 MR. ARIAIL: Your Honor, I'm going to object. He's
19 asked that three times, and his belief ---

20 THE COURT: I haven't heard the question. You
21 objected too soon. Let me hear the question. Don't
22 answer the question. We'll see if there's an objection.
23 Ask the question.

24 MR. EPPES: Is it fair to say it's your general
25 inclination -- it's your general inclination, your

1 general belief that if someone is convicted of the crime
2 of murder that more likely than not they should be
3 executed?

4 THE COURT: You got an objection?

5 MR. ARIAIL: Yes, sir.

6 THE COURT: All right. Overruled. Go ahead. I
7 think you've answered that. Go ahead.

8 MR. BRAILSFORD: I can answer?

9 THE COURT: You can answer.

10 MR. BRAILSFORD: No, sir. Obviously in the State
11 of South Carolina there are mitigating and aggravating
12 circumstances, and you have to weigh those before you
13 decide to go with the death penalty. And no, I'm not
14 steadfast to say if a man is guilty he deserves the
15 death penalty, because I don't know the facts of the
16 case.

17 BY MR. EPPES:

18 Q So you're going to weigh the facts and
19 circumstances of the case?

20 A Yes, sir.

21 Q If that's what the judge instructs you, that's what
22 you're going to do?

23 A Yes, sir.

24 Q Okay. Everybody has seen television shows about
25 juries, and you know how juries interact. I --

1 there's -- there's a lot of movies, things about it. So
2 you know that there is -- when the jury goes back for
3 consideration, in both guilt and the penalty if that's
4 the case, that they're going to have views that -- that
5 clash and you work them out over the course of time. Do
6 you understand that?

7 A Yes, sir.

8 Q Okay. Now, do you also understand that each member
9 of the jury is entitled to their full -- to the full
10 respect of the other members of the jury. How would you
11 feel if you were on the jury and you're coming down to
12 this sentence of life or death, and you've made your --
13 you've made a decision that you are not inclined to
14 change one way or the other, and the vast majority of
15 the jurors has an opposite opinion. How would you react
16 to that? Do you have -- do you know?

17 A Not exactly, sir. I've never really been in that
18 circumstance, but I do -- I think my normal personality
19 is to compromise and work with people, and to listen to
20 their points of view, you know. What I'm saying is, I
21 think my mind can be changed if you've proved to me I
22 should change my mind.

23 Q Would you react -- would you react to other
24 stimuli, would you react to them saying, come on, we
25 need to get out of here, if 10 of us are right, how can

1 you be -- why won't you go along with us?

2 A No, I don't I think I would give up my opinion just
3 in the essence of time, to save time, or to, you know,
4 just put an end to it, or whatever. But if you prove to
5 me that, you know, what I'm saying or what I'm thinking
6 is wrong or somehow mistaken, I think I can be swayed to
7 change my mind.

8 Q On the opposite of that, if you were in the
9 majority and someone else was the majority (sic), how do
10 you think you would react in that situation? If you
11 know, this is going to be a long grueling process, at
12 the end of that everybody is going to be tired and
13 grumpy, and grumpy and tired of being cooped up in this
14 environment, how do you think you would react if
15 there's, you know, one person sitting on the jury
16 saying, nope, my mind is made up, I'm never going to
17 agree with you? How would you interact with that
18 person?

19 A Well, I think I would try to sway his opinion, you
20 know, to mine, if I thought I was correct, and if after
21 so much time that was impossible, then, you know, you
22 just have to give up on a person when they get that
23 stubborn, you know.

24 Q I'm -- this may be the question here I want to ask
25 you. You were in the Navy, is that correct?

1 A Yes, sir.

2 Q What was your rank?

3 A I'm a Chief Petty Officer in the Navy Reserve right
4 now.

5 Q Okay. Were you on a ship?

6 A Yes, sir.

7 Q Which one?

8 A I was on the USS Wizerger (phonetically) in '83 and
9 '84, and USS Sprung (phonetically) from '96 -- excuse
10 me, '86 to '90.

11 MR. EPPES: Okay. Mr. Brailsford, thank you very
12 much.

13 MR. BRAILSFORD: Thank you.

14 THE COURT: All right. Yes or no, anything from
15 the State?

16 MR. ARIAIL: No.

17 THE COURT: Defense?

18 MR. EPPES: No, Your Honor.

19 THE COURT: All right. Mr. Brailsford, let me give
20 you this letter. You are qualified as a juror in this
21 case. That does not mean you're going to serve. It
22 does mean you need to be prepared to serve. As you
23 know, we're going to go through this process with other
24 jurors for several days. Probably sometime Wednesday or
25 Thursday we'll be ready to pick a jury. At that time

1 the Clerk will call all jurors who are qualified to come
2 back in. You need to bring with you clothing --
3 comfortable clothing for seven or eight days. Of course
4 you know you're going to be in a motel if you're
5 selected, and be eating at local hotel -- at local
6 restaurants. Bring any medications.

7 When you come, park in the Hyatt parking garage,
8 across the street, where you parked this morning. Don't
9 bring your suitcase in. Come to the Spring Street
10 garage entrance to the courthouse, which is directly
11 across from the Spring Street entrance to the Hyatt
12 parking garage.

13 MR. BRAILSFORD: Yes, sir.

14 THE COURT: There will be bailiffs down there, and
15 they will bring you up the back way to the back of
16 courtroom 7. I'm trying to keep y'all separated from
17 the public corridors, in other words. Then we'll bring
18 everybody over here when everybody gets here and we'll
19 select the jury. If you're not selected you go home.
20 If you are selected, then we'll sort of take you into
21 our custody at that time.

22 I have emergency numbers down here. If you would
23 tell family and friends they cannot contact you. If you
24 need to contact them, you may be allowed to through a
25 bailiff. In other words, if you need medication or

1 something you forgot, then you can get the name of the
2 person and the number to the bailiff and they will call
3 and give a message, and then somebody can bring
4 something up to the courthouse or out to the motel, but
5 just tell any co-workers or family members that you will
6 be unable to make any direct contact with them. And
7 there is the emergency number, but tell family members
8 those are only emergency numbers. In other words, they
9 can't call and say how long is the case going to last.
10 The best source there is to just watch the local news
11 media, because there will be news media covering this
12 case.

13 Finally, again, don't talk about this case with
14 anyone. If someone tries to contact you or talk to you,
15 tell them you're on the jury, but take their names and
16 report that to your bailiff. Also, don't watch anything
17 on TV or read anything in the paper.

18 MR. BRAILSFORD: Yes, sir. And I should expect a
19 call, you said, Wednesday or Thursday?

20 THE COURT: Wednesday or Thursday is my best guess,
21 but you need to be flexible. I mean, it could be
22 Tuesday. I doubt it. It might be Friday. You know,
23 just because you're not called by Thursday, don't think
24 this case has gone away. You're a qualified juror,
25 you're going to be up here at some point in time.

1 MR. BRAILSFORD: One way or the other?

2 THE COURT: That's right. That's right. Now,
3 she'll step out with you and make sure she's got all
4 your phone numbers, day and night, where to contact you.

5 MR. BRAILSFORD: Okay.

6 THE COURT: All right.

7 MR. BRAILSFORD: Thank you, sir.

8 THE COURT: Thank you very much.

9 (Mr. Brailsford exited the courtroom.)

10 THE COURT: All right. At this point we're going
11 to take a five minute break. Before we do, let me ask
12 you, is there anything with the way I'm asking the
13 questions that you would prefer I not do, or prefer that
14 I do. And Mr. Mauldin is frantically waving at you, Mr.
15 Eppes, so you can see what he wants.

16 MR. ABDALLA: Judge, can I just interject one
17 thing?

18 THE COURT: Yeah.

19 MR. ABDALLA: My client was concerned, and frankly
20 I must have missed out, so what I would ask you to do is
21 when you're questioning the witnesses about the
22 possibility of life or death, I wasn't sure whether
23 your -- whether it was clear that it's not like it's
24 just life or death, first he has to be found guilty, and
25 I may be mistaken on this criticism. So that's all.

1 I'd just like to point that out.

2 THE COURT: Good lord, I think I ---

3 MR. ABDALLA: My client had mentioned it and I just
4 wanted to bring it before the Court.

5 THE COURT: All right. Nothing? Okay. Anything?
6 Okay. A five minute break.

7 (A short recess was taken, after which, the trial
8 continued as follows:)

9 THE COURT: All right. Are you ready to proceed
10 without Mr. Eppes?

11 MR. ABDALLA: Well, we can.

12 THE COURT: Well ---

13 MR. ABDALLA: I just didn't want to hold up the
14 Court.

15 THE COURT: Is he coming in?

16 MS. HERVEY: Yes.

17 THE COURT: Okay. All right. Bring Matt
18 Childress.

19 (Mr. Childress entered the courtroom.)

20 THE COURT: Are you Matt Childress?

21 MR. CHILDRESS: Yes, sir.

22 THE COURT: Come and have a seat, please, sir. All
23 right. Mr. Childress, this will probably be a little
24 bit awkward for you. I'm sure you've never been through
25 this before. Let me remind you that you're under oath.

1 Do you understand that?

2 MR. CHILDRESS: Yes, sir.

3 THE COURT: And have you complied with my
4 instructions not to talk with anyone about this case?
5 You have to say yes or no.

6 MR. CHILDRESS: Yes, sir.

7 THE COURT: All right. There's a back-up system
8 that's got to hear your voice. You can't just nod your
9 head or shake your head. I believe when I was asking
10 questions downstairs you had not -- you don't recall
11 reading anything or seeing anything about this case?

12 MR. CHILDRESS: No.

13 THE COURT: And you didn't know any of the
14 witnesses on the witness list, is that correct?

15 MR. CHILDRESS: No, sir.

16 THE COURT: All right. I'm going to be asking you
17 some questions and the attorneys will be asking you some
18 questions. We don't mean to invade your privacy, but I
19 hope you understand that it's necessary because of the
20 type of proceeding for us to ask you these questions.
21 Now, I tell you that there are no wrong answers, there
22 are no right answers. We simply want you to answer
23 these questions as fully and honestly and openly as you
24 can. Do you understand that?

25 MR. CHILDRESS: Yes, sir.

1 THE COURT: Now, the -- I'm -- if you would speak
2 into that microphone. I imagine these others are
3 probably having trouble hearing your responses. Among
4 other things that we will be talking about is penalty.
5 Do you understand that?

6 MR. CHILDRESS: Yes, sir.

7 THE COURT: Just because we are talking about
8 penalty that does not indicate anything about the guilt
9 or the innocence of this defendant. Do you understand
10 that?

11 MR. CHILDRESS: Yes, sir.

12 THE COURT: Obviously we -- in order to get a jury
13 in this type case we have to talk about punishment. Did
14 you read my letter that I gave to you?

15 MR. CHILDRESS: Yes, sir, I did.

16 THE COURT: Did you find that helpful to
17 understanding this?

18 MR. CHILDRESS: Yes, sir.

19 THE COURT: You understand that -- let me ask you
20 this, if you are a juror in this case, would you not
21 only listen to the law that I give to you, but you
22 would -- would you accept that law and apply that law to
23 the facts as I instruct you?

24 MR. CHILDRESS: Yes, sir.

25 THE COURT: All right. In other words, some people

1 might come to court and they think, well, I know what
2 the law is in this area, but they may not be exactly
3 right, while they may have some notion as to what the
4 law should be, the question is, can you set that aside
5 and accept the law that I give you as the proper law in
6 the case?

7 MR. CHILDRESS: Yes, sir.

8 THE COURT: All right. Could you decide this case
9 based solely on the evidence that's presented in this
10 courtroom?

11 MR. CHILDRESS: Yes, sir.

12 THE COURT: In other words, you said you had not
13 heard anything or seen anything about it, but let's say
14 during the course of the trial there may be some
15 testimony and it spurs your memory, and you say, oh,
16 yeah, I remember reading this, and I remember reading,
17 you know, something else about it. Could you set aside
18 that and base the case solely on what you hear from the
19 witnesses in this case?

20 MR. CHILDRESS: Yes, sir.

21 THE COURT: All right. In a criminal case, the
22 State has the burden of proving someone guilty beyond a
23 reasonable doubt. Do you understand that?

24 MR. CHILDRESS: Yes, sir.

25 THE COURT: And could you accept that concept of

1 law?

2 MR. CHILDRESS: Yeah.

3 THE COURT: All right. Could you, based upon your
4 view of the facts, find someone guilty if you felt the
5 State had proved that person guilty beyond a reasonable
6 doubt? Could you vote for guilty?

7 MR. CHILDRESS: Yes, sir.

8 THE COURT: If you felt that the State had not
9 proved someone guilty beyond a reasonable doubt, could
10 you vote not guilty in that case?

11 MR. CHILDRESS: Yes, sir.

12 THE COURT: All right. Did you know much about the
13 death penalty before you came to court?

14 MR. CHILDRESS: No, sir.

15 THE COURT: Did you know we had a death penalty in
16 South Carolina?

17 MR. CHILDRESS: Yeah, I'd heard of it, yes, sir.

18 THE COURT: All right. Do you understand that it's
19 not every murder case that is subject to the death
20 penalty?

21 MR. CHILDRESS: Yes, sir.

22 THE COURT: It's only these aggravating murders,
23 like murder plus a rape, or murder of a small child. Do
24 you understand that?

25 MR. CHILDRESS: Yes, sir.

1 THE COURT: And even in a case of aggravated
2 murder, do you understand the penalty is not automatic?
3 The jury decides what the proper penalty is. The two
4 possible penalties are life without any possibility of
5 parole and death. Do you understand that?

6 MR. CHILDRESS: Yes, sir.

7 THE COURT: Now, do you understand this concept of
8 a two part trial, a bifurcated trial? The first part is
9 like any other trial where the issue is guilty or not
10 guilty. Do you understand that?

11 MR. CHILDRESS: Yes, sir.

12 THE COURT: And then if the verdict is not guilty
13 then everybody goes home. Do you understand that?

14 MR. CHILDRESS: Yes, sir.

15 THE COURT: If the verdict is guilty, then that
16 same jury will have a second trial. They'll listen to
17 more evidence. You'll listen to two types of evidence,
18 evidence in aggravation from the State and evidence in
19 mitigation from the defense. And evidence in
20 aggravation might be things about say the character of
21 the defendant, maybe he's just a bad person, maybe he's
22 got a long history of doing other crimes. Evidence in
23 aggravation might be victim impact. In other words, the
24 loss of the victim, what it has meant to the family and
25 the community, different things like that. Do you

1 understand that?

2 MR. CHILDRESS: Yes, sir.

3 THE COURT: And evidence in mitigation would be --
4 could be a number of things, but it might be the person
5 was under the influence of somebody when he did the
6 crime, or it might be that he suffered from sort of
7 mental problem when he committed the crime, or something
8 like that. Do you understand what I'm talking about?

9 MR. CHILDRESS: Yes, sir.

10 THE COURT: So the question is -- well, let me just
11 ask you this, understanding this concept of a two part
12 trial, understanding the concept of aggravation and
13 mitigation, do you understand that we need to get to
14 know what some of your feelings are about capital
15 punishment? Would you say that generally you are for
16 capital punishment, generally you are against capital
17 punishment, how do you feel?

18 MR. CHILDRESS: I never really thought too much
19 about it, I mean.

20 THE COURT: Have you ever talked to anybody in the
21 past about your feelings on capital punishment?

22 MR. CHILDRESS: Not really. I mean, it's nothing I
23 really ---

24 THE COURT: Have you ever read about a case in the
25 paper or seen something on TV and thought, well, gee,

1 that person probably should have gotten the death
2 penalty, or maybe they got the death penalty and you
3 thought, well, boy, they deserved it, or just the
4 opposite, have you ever seen something where somebody
5 got a life sentence and you thought, well, maybe they
6 should have gotten the death penalty, or maybe that was
7 good, I would have voted for life in that type of case?
8 Have you ever ---

9 MR. CHILDRESS: I don't think I've ever -- life
10 really wouldn't bother me, but death, I mean, the death
11 penalty I have never really, I guess, been for that. I
12 mean, I never really thought anybody really deserved it,
13 but I guess I haven't gave it too much thought.

14 THE COURT: Okay. Well, let me ask you this, if
15 you were sitting on a case and if you thought that the
16 case was aggravated enough, and if you thought the
17 person deserved the death penalty, could you vote for
18 the death penalty?

19 MR. CHILDRESS: Probably, yes, sir.

20 THE COURT: All right. And again, if you thought
21 the case -- you thought the person did not deserve to
22 die, you thought the proper punishment was life, could
23 you vote for life?

24 MR. CHILDRESS: Yes, sir.

25 THE COURT: All right. The -- you understand this

1 concept of aggravation and mitigation?

2 MR. CHILDRESS: Yes, sir.

3 THE COURT: In other words, it's a separate trial,
4 same jury, more evidence. Do you understand that?

5 MR. CHILDRESS: Yes, sir.

6 THE COURT: And of course the State will put up
7 evidence in aggravation. Will you give meaningful
8 consideration to the aggravating circumstances as
9 presented by the State and instructed by the Court in
10 reaching your sentence of life or death?

11 MR. CHILDRESS: Yes, sir.

12 THE COURT: And would you give meaningful
13 consideration to the mitigating circumstances as
14 presented by the defense and instructed by the Court as
15 you reach your sentence?

16 MR. CHILDRESS: Yes, sir.

17 THE COURT: If you thought that the proper
18 punishment was life, could you vote for life?

19 MR. CHILDRESS: Yes, sir.

20 THE COURT: If you thought the proper punishment
21 was death, could you vote for death?

22 MR. CHILDRESS: Yes, sir.

23 THE COURT: All right. If you thought the proper
24 punishment was death, then you would have to sign your
25 name to a document, that's called the sentencing -- the

1 verdict form. If you -- sometimes people call it the
2 death warrant because, you know, his name is on it. If
3 you thought the proper sentence was death, could you
4 sign that piece of paper?

5 MR. CHILDRESS: Yes, sir.

6 THE COURT: Okay. All right. I'm going to
7 introduce you to Mr. Abdalla. He is -- one of the
8 attorneys representing the defendant. He's going to ask
9 you some questions, and then Mr. Ariail, the Solicitor,
10 is going to ask you some questions.

11 MR. ABDALLA: Thank you, Your Honor.

12 QUESTIONING BY MR. ABDALLA:

13 Q Mr. Childress -- Childress.

14 A Yes, the proper way is Childress.

15 Q My name is John Abdalla. I'm representing Mr. Brad
16 Sigmon, who's seated at the counsel next to Mr. Frank
17 Eppes, who is my co-counsel. Mr. Childress, do you have
18 an opinion about what the purpose of the death penalty
19 is?

20 A Not really, I mean ---

21 Q Do you understand that there are certain cases that
22 qualify for the death penalty?

23 A Yes, sir.

24 Q All right. In this case for instance, if the
25 person -- if you found Mr. Sigmon, you are seated as a

1 juror, and you found him guilty of the crime charged,
2 you would then qualify for the next sentence -- or for
3 the next stage. You have the trial stage and then the
4 sentencing phase. Do you understand that? I believe
5 the judge spoke to you about that?

6 A Yeah.

7 Q If for instance -- well, the judge would instruct
8 you then that there are aggravating factors that have to
9 be considered, and if he met that criteria, if he met
10 those aggravating factors, and you as a juror sat there
11 and determined that those criteria were met, do you
12 understand what I mean? Criteria, for instance, like
13 killing a child, would be one aggravating factor, raping
14 somebody and then killing somebody at the same time,
15 rape during the commission of a murder.

16 A Yeah.

17 Q All right. That would be an aggravating fact.

18 A Yeah, I read that in the ---

19 Q Okay.

20 A Yeah.

21 Q So understanding that, if -- and I'm not trying to
22 intimidate you so you don't need to be nervous. This is
23 your first time here, and this is my first time
24 qualifying a witness -- a juror for a death penalty
25 case, so we're both in the same boat.

1 A All right.

2 Q Or similar boats. And if I'm coming on too strong,
3 just back up and tell me to back off. But do you
4 understand that hurdle though?

5 A Yes, sir.

6 Q When you then get to that point, can you fairly
7 evaluate the evidence that will be presented and go back
8 to the jury room and make a decision?

9 A Yes, sir.

10 Q Can you vote -- can you -- do you think life
11 without parole is a serious punishment?

12 A Yeah. Yes, sir.

13 Q Do you believe that if somebody kills that will
14 automatically qualify to be death -- to get the death
15 penalty? Would you think they automatically have to get
16 the death penalty?

17 A No. I mean, I guess life would be rough enough as
18 it is. I mean, on the -- on the qualify for the death
19 penalty.

20 Q So you don't believe in an eye for an eye, is that
21 fair?

22 A Basically.

23 Q You know the law never demands the death penalty?
24 In other words, just because you might find our client
25 qualified to get the death sentence, at that point it

1 can be either death or life without parole. Do you
2 understand that?

3 A Yes, sir.

4 Q Can you give fair consideration to each of those
5 options?

6 A Yes, sir.

7 Q If you're in a situation where you're the only one
8 holding one view, and the rest of the jury is holding
9 another, are you the type person that can stick to your
10 convictions?

11 A Yes, sir.

12 Q Everybody says they want to get home to watch the
13 Braves game, are you going to be able to stick to your
14 convictions?

15 A I'll try.

16 Q You'll try?

17 A Yes, sir. Like I said, I wouldn't know, but I
18 mean, it would be a different story if I was in that
19 position.

20 Q How so?

21 A Do what?

22 Q How so? I mean would it be -- I know it would be
23 different if it's there, but this is an important
24 decision. I mean, what would it take for you to cave in
25 and just say, well, yeah, I guess you're right, we got

1 to go home?

2 A I don't know. It probably would take a lot,
3 because I've always been one to stick to what I believe
4 in, you know, whether everyone was against me.

5 Q On the other hand, if there was a -- if you were in
6 the majority, would you be able to respect the views of
7 the others, or that one person?

8 A Yes, sir.

9 MR. ABDALLA: May I have one moment, Your Honor?

10 THE COURT: Yes, sir.

11 MR. ABDALLA: Thank you for your time, Mr.
12 Childress. I have no further questions of this witness.

13 THE COURT: Solicitor.

14 QUESTIONING BY MR. ARIAIL:

15 Q Mr. Childress, my name is Bob Ariail, and I'm the
16 Solicitor for Greenville, Pickens County, which is your
17 State attorney, State Prosecutor, District Attorney,
18 whatever you call them. May call -- in South Carolina
19 we call it Solicitor. And obviously what we are doing
20 in this process is talking to jurors to determine
21 whether or not they can be fair and impartial in regard
22 to both potential sentences that they could be asked to
23 impose. That is, if the trial goes forward and the
24 defendant is found guilty, then the same jury sits in
25 the same jury box and listens to additional evidence to

1 determine what the appropriate punishment is. And in
2 that determination there are two considerations. One
3 would be the death sentence and one would be life in
4 prison. So the question that we're focusing on is
5 whether you, if you were chosen as a juror, could give
6 fair and serious consideration to both punishments, not
7 just say you would, not just give one of them lip
8 service, but would give both serious consideration, that
9 is serious consideration for life, serious consideration
10 for death. And then based on your view vote for death
11 or vote for life. And your response earlier was that
12 you really hadn't thought about the death penalty and of
13 course from my perspective, or the concern is the last
14 place we want to find you is in a predicament where you
15 don't want to be or you're not equipped to handle it.
16 So what we're trying to get to is can you really, based
17 on the fact that you have never given much consideration
18 to the death penalty, which is certainly fine, can you
19 certainly -- can you give the State's request for the
20 death penalty, regardless of what the evidence is,
21 meaningful consideration and vote for it?

22 A Yes, sir.

23 Q You think you could?

24 A I probably could. I mean, I say I could now.

25 Q All right. What do you mean you probably could?

1 A I mean, I guess I look at it now and I would say
2 yeah, but I mean, I've never been put in that position,
3 so I couldn't really give it to you.

4 Q Can you -- is your answer more than probably that
5 you could vote for the death penalty?

6 A I'd probably lean on that, yeah, I mean ---

7 Q You would lean on what?

8 A On the death, I guess.

9 Q You think you would be more inclined to lean
10 towards the death penalty, or you're more inclined to
11 lean towards life imprisonment, which way do you think
12 you would be more inclined to lean?

13 MR. ABDALLA: Objection, Your Honor. Actually I
14 think the question should just be, can you give fair
15 consideration to both, can you give either sentence in
16 this case?

17 THE COURT: Well, you know, a person can lean one
18 way or the other, and obviously y'all's whole point is
19 to find out which way they lean, so ---

20 MR. ARIAIL: Well, he's the one who used lean.

21 THE COURT: I understand. I'm going to let you
22 follow up.

23 MR. ARIAIL: I was just trying to play it safe. I
24 didn't understand which you're talking about leaning.

25 THE COURT: You understand we're not asking you to

1 vote on a particular case. And we're certainly not
2 asking to you vote on this particular case. But the
3 question is, do you have some view for or against the
4 death penalty that would make you lean one way or the
5 other in considering all these things? Do you
6 understand what the question is? So you know, based on
7 your life experience and your views of the death
8 penalty, do you think you would lean one way or the
9 other? And if so, which way would you lean?

10 MR. CHILDRESS: I guess if I was that person, and
11 you know, that was being decided by someone else, then I
12 would probably lean more to life, I guess, if I think
13 about it harder. Yeah.

14 THE COURT: He'd lean towards life.

15 BY MR. ARIAIL:

16 Q Could you vote for the death penalty?

17 A Yeah, I guess.

18 Q If you were sitting on the jury, or a jury, you say
19 you could vote for the death penalty?

20 A I mean, I guess I could.

21 Q Probably?

22 A More than likely.

23 THE COURT: Okay. All right. Yes or no, anything
24 with regard to this juror from the State?

25 MR. ARIAIL: Yeah, we have something.

1 THE COURT: All right. I'm going to do this, I'm
2 going to ask that you step out in the hallway and let me
3 talk to the attorneys for just a minute, and then I'll
4 be back with you.

5 (Mr. Childress exited the courtroom.)

6 THE COURT: All right. From the State.

7 MR. ARIAIL: Our position is that he obviously
8 can't vote for the death penalty. He thinks he can. He
9 thinks probably one time. He ---

10 THE COURT: At one time he said he would lean that
11 way.

12 MR. ARIAIL: Well, I think he meant he was leaning
13 the other way.

14 THE COURT: Well, what do you mean, you think he
15 meant that?

16 MR. ARIAIL: Well, when I asked a follow -- that's
17 why I went to the follow-up question. He may have meant
18 he was leaning ---

19 THE COURT: I think he was so scared, and he just
20 hadn't thought about it, is my interpretation of him.
21 Anything else?

22 MR. ARIAIL: That's all.

23 THE COURT: Anything from the defense on this case?

24 MR. ABDALLA: The only thing I was say, Your Honor,
25 is I believe he did answer the question. He said he

1 could give the death penalty. I don't think it should
2 be something ---

3 THE COURT: All right. I find that this juror, his
4 views would not prevent or substantially impair his
5 performance of his or her duties as a juror in
6 accordance with his -- with my instructions and his
7 oath. I find that he will give meaningful consideration
8 to both mitigating circumstances as presented by the
9 defense and instructed by the Court, as well as the
10 aggravating circumstances. My definite impression is
11 that he would be fair in this case, and I find him
12 qualified.

13 Now, I don't know if you need to make an actual
14 objection, other than -- after my ruling or not but ---

15 MR. ARIAIL: No.

16 THE COURT: All right. Bring him back in, please.

17 (Mr. Childress entered the courtroom.)

18 THE COURT: All right. Now, let -- I'm going to
19 hand you this letter. You are qualified as a juror in
20 this case. That does not mean that you will actually
21 serve, but it means you need to be ready to serve. The
22 clerk will call you when we have a sufficient number of
23 qualified jurors to pick a jury. So you will be called
24 and told to come back up here. When you're called to
25 come, if you would bring a suitcase with about seven or

1 eight days worth of comfortable clothing.

2 When you come, if you would park in the Hyatt
3 parking garage, where you parked this morning. Come
4 across the street to the Spring Street entrance of the
5 courthouse. Right on Spring Street. There will be
6 bailiffs there that will greet you and bring you
7 upstairs. Bring with you any medications that you may
8 have. Also, if you would, please tell any family
9 members or employers that they will not be able to
10 contact you during the course of the trial. If you need
11 to contact someone, that might -- we might be able to do
12 that. The bailiffs might be able to call for you.
13 There are two emergency numbers on that letter. You can
14 give that to your family members. Those are emergency
15 numbers only, if they need to get in touch with you.

16 And the last thing I need to tell you, is do not
17 talk about this case with anyone, don't read about it in
18 the paper, watch any news accounts of it. Okay.

19 MR. CHILDRESS: Okay.

20 THE COURT: Do you have any questions?

21 MR. CHILDRESS: No, sir.

22 THE COURT: All right. Thank you. You're free to
23 go until you're called.

24 (Mr. Childress exited the courtroom.)

25 MR. ARIAIL: Your Honor, do you have the

1 questionnaires?

2 THE COURT: Yeah.

3 MR. ARIAIL: I'm just looking at the next one, the
4 answer on number 16.

5 MR. ABDALLA: What number is that?

6 THE COURT: I have a daughter who's 15 months old
7 and goes to a baby-sitter.

8 MR. ARIAIL: Right.

9 THE COURT: I'll ask her. She did not ask to be
10 excused. I asked that question in voir dire. All
11 right. Anything before I bring this juror? Bring
12 Ms. Sullivan.

13 MR. ABDALLA: Your Honor.

14 THE COURT: Hold on.

15 MR. ABDALLA: I'm just going to ask if you want
16 that -- I don't know whether that question should be
17 asked or not. If she didn't asked to be excused, why
18 should we provoke them into being excused.

19 THE COURT: I didn't say I was going to ask her,
20 did I?

21 MR. ABDALLA: No, you didn't.

22 THE COURT: Bring Ms. Sullivan.

23 (Ms. Sullivan entered the courtroom.)

24 THE COURT: You're Christina Sullivan?

25 MS. SULLIVAN: Yes.

1 THE COURT: All right. If you would, have a seat.
2 Pull your chair up and speak directly into that
3 microphone, Ms. Sullivan. All right. I will remind you
4 that you're under oath, you understand that?

5 MS. SULLIVAN: Um-hm.

6 THE COURT: This will probably be a little bit
7 awkward for you because you've probably never been in
8 this situation before, but what we want you to do is
9 just answer the questions open and honestly. I'm going
10 to ask you some questions and the attorneys will ask you
11 some questions. You, downstairs this morning said you
12 had heard about the facts of this case?

13 MS. SULLIVAN: Yes, I heard about it on the
14 television, just when you was talking about the closing
15 of the schools. That's pretty much like where they was
16 like doing it instance -- you know, right in between the
17 program of a show, that's like the only time that I
18 really just ---

19 THE COURT: Anything you remember about the case
20 besides that?

21 MS. SULLIVAN: That's about it.

22 THE COURT: Okay. What area of the county do you
23 live in?

24 MS. SULLIVAN: Greenville County.

25 THE COURT: 29607, all right. So you're not up in

1 the Blue Ridge area where it happened?

2 MS. SULLIVAN: Huh-uh.

3 THE COURT: Okay. Do you have children school age?

4 MS. SULLIVAN: Huh-uh.

5 THE COURT: Okay. So none of them would have been
6 effected when ---

7 MS. SULLIVAN: Huh-uh.

8 THE COURT: Okay. Now, having recalled seeing
9 something about this case, have you formed my opinions
10 about this case?

11 MS. SULLIVAN: No, no not really.

12 THE COURT: Okay. Well, I mean, I don't -- if
13 that's all you remember, I assume you couldn't have
14 formed any opinion.

15 MS. SULLIVAN: No.

16 THE COURT: Specifically, have you formed any
17 opinion about the guilt or the innocence of this
18 defendant in this case?

19 MS. SULLIVAN: No, not yet.

20 THE COURT: Okay. All right. Now, I'm going to
21 ask you some questions and again, if you would just
22 answer honestly and fully. You understand that we're
23 going to be talking about penalty, but just because we
24 talk about penalty doesn't indicate anything about the
25 guilt or the innocence of this defendant. Do you

1 understand that?

2 MS. SULLIVAN: Um-hm.

3 THE COURT: In order to pick a jury in this type of
4 case, we have to talk to jurors to make sure they
5 understand the type of case, and also to talk to them
6 about their feelings about capital punishment, you
7 understand that?

8 MS. SULLIVAN: Um-hm.

9 THE COURT: But as he sits there, you understand
10 he's presumed to be innocent?

11 MS. SULLIVAN: Um-hm.

12 THE COURT: Now, could you, if you were selected as
13 a juror on a case, listen to the law and accept the law
14 and apply the law that the judge gives to you?

15 MS. SULLIVAN: Yes.

16 THE COURT: And could you do that even though you
17 may not agree with the law?

18 MS. SULLIVAN: Yes.

19 THE COURT: In other words, some people come to
20 court, they may think they know what the law is, or they
21 might have some notion as to what they think the law is,
22 and that's fine, the question is, can they set that
23 aside and take the law that the judge gives them and
24 apply that law, and you're telling me you can do that?

25 MS. SULLIVAN: Yes.

1 THE COURT: And you understand that you will be
2 asked to judge this case solely on the testimony from
3 the witnesses and the evidence that is presented in this
4 courtroom. Do you understand that?

5 MS. SULLIVAN: Yes.

6 THE COURT: So during the course of the trial,
7 something might come up that might spur your memory and
8 you might remember something else you saw or heard about
9 this case. Could you set that aside and judge this case
10 solely on the facts that you heard in the courtroom?

11 MS. SULLIVAN: Yes.

12 THE COURT: All right. And you understand that the
13 State has the burden of proving a defendant guilty
14 beyond a reasonable doubt?

15 MS. SULLIVAN: Um-hm.

16 THE COURT: And can you follow that concept of law?

17 MS. SULLIVAN: Yes.

18 THE COURT: If you had a reasonable doubt as to
19 someone's guilt, could you find him not guilty?

20 MS. SULLIVAN: Yeah.

21 THE COURT: All right. And if you thought the
22 State had proved somebody guilty beyond a reasonable
23 doubt, could you find that person guilty?

24 MS. SULLIVAN: Yeah.

25 THE COURT: All right. Now, did you read my letter

1 this morning, the two-page letter?

2 MS. SULLIVAN: Yes.

3 THE COURT: Did you know we had a death penalty in
4 South Carolina?

5 MS. SULLIVAN: Not really.

6 THE COURT: Okay. All right. Do you understand
7 now from reading that letter that it's not every murder
8 case that is subject to the death penalty?

9 MS. SULLIVAN: Um-hm.

10 THE COURT: It has to be what we call an aggravated
11 murder. Obviously all murders are aggravated to
12 somebody, but it has to be a murder plus something.

13 MS. SULLIVAN: Um-hm.

14 THE COURT: Murder of a small child, murder during
15 the course of a rape, or armed robbery, things like
16 that. Do you understand that?

17 MS. SULLIVAN: Um-hm.

18 THE COURT: And when we talk about aggravated
19 murder, do you understand that it is not every
20 aggravated murder that is -- when we talk about
21 aggravate murder, excuse me, the penalty is by no means
22 automatic. Do you understand that?

23 MS. SULLIVAN: Um-hm.

24 THE COURT: If somebody is convicted of an
25 aggravated murder, a murder plus a rape, or a murder

1 plus an armed robbery, then if they've been convicted of
2 the crime then they're going to face one of two
3 penalties. They're going to face either life without
4 any possibility of parole, or they're going to face the
5 death penalty. Do you understand that?

6 MS. SULLIVAN: Yes.

7 THE COURT: In South Carolina that's death by
8 electrocution or lethal injection. Do you understand
9 that?

10 MS. SULLIVAN: Yes.

11 THE COURT: All right. Now, we have -- it's a
12 two-part trial. You have the trial phase, which is like
13 any other case, the sole issue is whether the defendant
14 is guilty or not guilty. If he's not guilty, everybody
15 goes home. If he's guilty, then before the jury
16 sentences him to life or death, they listen to more
17 evidence. They listen to evidence from the State called
18 aggravating evidence, and that might be any number of
19 things, but it might be, let's say the person is a
20 really bad character, or maybe they got a long history
21 of committing crimes, things like that. They will also
22 listen to what we call victim impact evidence, things
23 about the victim, the loss to the family, the loss to
24 the community, things like that. That's called
25 aggravating circumstances. And the State presents that

1 in order to try to convince the jury to vote for death.

2 Do you understand that?

3 MS. SULLIVAN: Um-hm.

4 THE COURT: The defense will put up mitigating
5 evidence. Mitigating evidence is evidence about the
6 defendant himself, maybe about his upbringing, maybe
7 he's got some mental health problems, maybe he was under
8 the influence of someone else when he committed the
9 crimes, any number of things in mitigation. Do you
10 understand that?

11 MS. SULLIVAN: Um-hm.

12 THE COURT: And the jury is asked to weigh all of
13 this and give meaningful consideration to the
14 aggravating circumstances and the mitigating
15 circumstances before they decide the issue of life or
16 death. Do you understand that?

17 MS. SULLIVAN: Yes.

18 THE COURT: All right. Understanding that whole
19 concept, then I'm sure you understand we have to know
20 what you're feelings are about the death penalty. Would
21 you say that you're generally for it, or generally
22 against it, or how do you feel?

23 MS. SULLIVAN: I'm for it to a certain extent.

24 I'm -- not to a certain extent, but I'm for it, but -- I
25 don't know.

1 THE COURT: All right. When you say you're for it,
2 have you thought about it before just coming to court
3 today? I'm sure you've thought it today, but ---

4 MS. SULLIVAN: Yeah, I've -- it's came up when I
5 was in school, you know, how do feel about it, and I
6 didn't put any much thought to it, but you know, if it
7 needs to be done it needs to be done.

8 THE COURT: Well, you understand that it's never --
9 it never has to be done, the jury never has to give
10 somebody death. Do you understand that?

11 MS. SULLIVAN: Yeah.

12 THE COURT: Even in a horribly aggravated case
13 the jury never has to give death. Do you understand
14 that?

15 MS. SULLIVAN: Okay.

16 THE COURT: All right. Are you telling me that you
17 think that there is a proper place in our society for
18 the death penalty in some cases?

19 MS. SULLIVAN: Yeah.

20 THE COURT: All right. Are you telling me that if
21 you thought the case was aggravated enough you could
22 vote for the death penalty if you thought it was
23 appropriate?

24 MS. SULLIVAN: Yeah.

25 THE COURT: And if you thought, even though it was

1 an aggravated case, and if you thought the proper
2 sentence was life, could you vote for a life sentence?

3 MS. SULLIVAN: Yeah.

4 THE COURT: All right. Would you give meaningful
5 consideration to the evidence in aggravation presented
6 by the State and charged by the jury (sic) in making
7 this decision?

8 MS. SULLIVAN: Um-hm.

9 THE COURT: And would you give meaningful
10 consideration to the mitigating evidence presented by
11 the defense and charged by the Court in deciding the
12 issue of life or death?

13 MS. SULLIVAN: Um-hm.

14 THE COURT: Now, you understand that the jury
15 process in reaching a verdict in -- guilt or innocence,
16 and reaching a decision of punishment is a give and take
17 proceed. Do you understand that?

18 MS. SULLIVAN: Yes.

19 THE COURT: Would you give respect and
20 consideration to the opinions of your fellow jurors
21 during the course of this deliberation process?

22 MS. SULLIVAN: Yes, sir.

23 THE COURT: If you were in the minority and the
24 majority was -- took a position different than you,
25 would you automatically vote their way just to go along

1 with the majority, or would you hold your position if
2 felt firmly about your position?

3 MS. SULLIVAN: Me, I would probably hold my
4 position.

5 THE COURT: All right. And the converse of that
6 is -- I need to ask that, if you were in the majority
7 and there was one or two people that -- that held a
8 position contrary to the majority, would you give
9 respect to their position?

10 MS. SULLIVAN: Yes.

11 THE COURT: Okay. All right. Who's turn is it?
12 All right. Solicitor. I'm sorry. This is Bob Ariail.
13 He's the Solicitor. He's going to be prosecuting the
14 case. And then Mr. Abdalla is one of the defense
15 attorneys, he's going to be asking you questions also.
16 Okay.

17 QUESTIONING BY MR. ARIAIL:

18 Q Ms. Sullivan, my name is Bob Ariail. He just
19 introduced us, and I will be representing the State in
20 this case, and since -- on TV they may call me the
21 District Attorney, but State's Prosecutor. And
22 assisting me is Ms. Betty Strom, my Deputy Solicitor,
23 and Mindy Hervey, my -- one of my assistant solicitors.
24 The judge was talking to you about this process, this
25 two-step process, and you consider guilt first, then if

1 guilt is determined, you move to what is the appropriate
2 sentence. At the end of that process, if you
3 determine -- the jury determines that the death sentence
4 is the appropriate sentence, you would need to sign a
5 document sometimes referred to as a death warrant, but
6 it is a piece of paper that each juror would have to
7 sign, that would be transmitted, or go forward to the
8 Department of Corrections to carry out the execution
9 that the jury has set forth as the proper punishment.
10 Would you be able to sign that document if you thought
11 the death penalty was the appropriate penalty?

12 A Yeah.

13 Q Okay. The mere fact that you had to sign that
14 document wouldn't prevent you from giving fair
15 consideration to whether or not the death penalty was
16 appropriate?

17 A Come at me?

18 Q Let me come at you again. When you're sitting in
19 the jury box, would you say, oh, I've got to sign that
20 form, so I'm not going to vote for the death penalty?

21 A Oh, that -- I don't think that I have anything --
22 no conflicts with that.

23 Q All right. And you said -- told the judge that you
24 thought that you could listen to the evidence and give
25 fair consideration to whether or not the death penalty

1 would be appropriate in a particular case?

2 A Um-hm.

3 Q Listen to the evidence?

4 A Um-hm.

5 Q And when you say you discussed the death penalty in
6 school, was this something that was part of a class, or
7 was it just something that you discussed with your
8 friends, or what was the environment?

9 A It was like if we wanted to write a paper and we
10 wanted to write about capital punishment, and you know,
11 something that versus that, that's the only way that I
12 can get some information off of that, just on the paper
13 that we had to write.

14 Q And at that time did you form an opinion that you
15 thought the death penalty was proper in certain
16 circumstances?

17 A Yeah.

18 MR. ARIAIL: Okay. That's all I have. Thank you.

19 THE COURT: Mr. Abdalla.

20 MR. ABDALLA: Thank you, Your Honor.

21 QUESTIONING BY MR. ABDALLA:

22 Q Ms. Sullivan?

23 A Um-hm.

24 Q My name is John Abdalla. Mr. Eppes, my co-counsel
25 and my client -- our client is Brad Sigmon, who's seated

1 at the table. I have to ask you a few questions. I
2 understand that you say that you could give the death
3 penalty. I haven't heard a lot of talk about life. And
4 maybe it's just that I didn't hear a lot ---

5 THE COURT: Would you take your hand away from your
6 mouth.

7 MR. ABDALLA: Okay. Sorry.

8 THE COURT: All right. Thank you. Just so I can
9 hear you.

10 MR. ABDALLA: Yes, sir. Thank you.

11 BY MR. ABDALLA:

12 Q Now, the judge has already explained to you, and
13 you discussed -- you listened to him when he talked
14 about aggravating factors, and about that qualifying a
15 client -- a person for the death sentence, if in fact
16 the jury had first found him guilty, correct?

17 A Um-hm.

18 Q All right. Is it your understanding that once
19 those aggravating factors are found that the death
20 sentence is pretty much automatic?

21 A Yeah. Give me that question again.

22 Q Okay. The judge will instruct you that aggravating
23 factors have to be found before a person can be
24 considered for the death penalty.

25 A Um-hm.

1 Q At that point in fact the client is eligible to
2 have one of two sentences, life without the possibility
3 of parole or death?

4 A Um-hm.

5 Q Now, at first I think you said you thought the
6 death sentence was automatic, is that your personal view
7 that it's automatic, or can you give fair consideration
8 to both?

9 A I can give fair consideration to both.

10 Q In this situation with aggrav- -- with victim
11 impact evidence, for instance if family members were to
12 get up here and talk about how much they miss people who
13 are -- who were killed, would that get to you to the
14 point where you wouldn't be able to consider a life
15 sentence?

16 A I don't think it should. I don't think it should.
17 I don't think it would.

18 Q Do you think life without parole is serious
19 punishment?

20 A To a certain extent.

21 Q To a certain extent, what does that mean? I'm
22 sorry?

23 A Well, I don't know because I haven't put really
24 thought into life sentences and the death penalty as
25 being one serious -- more serious than the other.

1 Q Okay. Well ---

2 A Well, you know ---

3 Q I understand.

4 A It's extreme ---

5 Q You know the law never demands the death penalty?
6 They will request it, but it's not demanded.

7 A Um-hm.

8 Q Can you give fair consideration ---

9 A Yes.

10 Q --- to the life sentence?

11 A Yeah.

12 Q Could you give equally fair consideration to
13 mitigation testimony? Do you know what mitigation is?
14 Stuff that would somewhat limit the aggravation. It's
15 not going to stop the aggravation but somehow counter
16 balance it. If there were certain facts about my client
17 that would explain why things happened, would you give
18 fair consideration to that type of evidence?

19 A Yeah. Yes, I would.

20 MR. ABDALLA: May I have one moment, Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. ABDALLA:

23 Q Why are you for the death penalty?

24 A Why am I for it? I've never been asked that
25 question.

1 Q What is the purpose of the death penalty, let me
2 back up and give you ---

3 A That's another question. The purpose, I can't even
4 answer that question.

5 Q Do you believe in an eye for an eye?

6 A Yes.

7 Q You do? So if somebody kills somebody, they should
8 be killed?

9 A Yeah.

10 MR. ABDALLA: One moment, Judge.

11 BY MR. ABDALLA:

12 Q Having given your last answer, if a person is
13 convicted of murder, and aggravating factors are found,
14 could you still give a life sentence?

15 A Yeah.

16 Q Well, that seems contrary to what you just said.
17 Am I missing something?

18 A I don't know.

19 Q I just asked you if you believe in an eye for an
20 eye, and you said yes. So if somebody killed somebody
21 they deserve to die is what I thought you said. Forgive
22 me I'm not saying ---

23 A Yeah, okay.

24 Q Now I'm asking you if a person were convicted of --
25 a person being what this trial is about, of murder,

1 could you still consider a life sentence when you seemed
2 to indicate that they deserve the same treatment. Could
3 you clear that up?

4 THE COURT: When you said an eye for an eye, and
5 somebody commits a murder should deserve death, are you
6 saying that that would be automatic, or would you still
7 listen to the evidence in mitigation before you decided
8 whether they should receive life or death?

9 MS. SULLIVAN: I would listen to the evidence.

10 THE COURT: Would you give meaningful consideration
11 to that evidence?

12 MS. SULLIVAN: Yes.

13 THE COURT: Thank you, ma'am. Any other questions.

14 BY MR. ABDALLA:

15 Q Yeah. Could you -- you would listen to it but
16 could you still ---

17 THE COURT: She would give meaningful consideration
18 to it.

19 BY MR. ABDALLA:

20 Q And you could vote for life?

21 A Yeah.

22 MR. ABDALLA: Thank you.

23 THE COURT: All right. Anything from the State?
24 Yes or no?

25 MR. ARIAIL: No.

1 THE COURT: Anything from the defense, yes or no?

2 MR. ABDALLA: Yes, Your Honor.

3 THE COURT: All right. Let me ask you to step out
4 in the hallway, please, ma'am. We'll be with you in
5 just a second. All right.

6 (Ms. Sullivan exited the courtroom.)

7 THE COURT: All right. What's from the defense?

8 MR. ABDALLA: Your Honor, I apologize. We take no
9 position, Your Honor.

10 THE COURT: Okay. All right. She's qualified.
11 Bring her in.

12 (Ms. Sullivan entered the courtroom.)

13 THE COURT: Come back up. Just have a seat. I'm
14 going to give you this letter, and I'm going to go over
15 it with you. You are qualified as a juror in this case.
16 That does not mean that you are going to serve, but it
17 simply means that you are qualified. We're in the
18 process of qualifying 35, 40 jurors. Once we have that
19 many jurors qualified, we're going to bring all
20 qualified jurors back, and then we'll pick a jury from
21 that panel. Do you understand that?

22 MS. SULLIVAN: Okay.

23 THE COURT: You -- I can't tell you when that will
24 be. It will probably be some time Wednesday or
25 Thursday.

1 MS. SULLIVAN: Okay.

2 THE COURT: Madam Clerk will call you. She will
3 step out with you in just a minute and make sure she has
4 all your telephone numbers. When you are -- when you
5 are told to come back, first of all come back promptly,
6 have in your car a suitcase with clothes for seven or
7 eight days, because that's about how long the case will
8 take. We'll put you up in a hotel, feed you at
9 restaurants. Bring any medications that you have.
10 Bring comfortable clothes, because there's no need to be
11 overdressed for jury service.

12 When you come back, park in the Hyatt parking
13 garage, where you parked this morning. Come across the
14 street, to the Spring Street garage entrance to this
15 courthouse. It's right across from the garage entrance
16 to the Hyatt on Spring Street. There will be bailiffs
17 down there. They will bring you back upstairs, put you
18 in courtroom 7 and then we will -- once everybody is
19 here, we'll bring you in here and we'll pick the jury.
20 You will not be allowed to have any contact with your
21 family, or employer, or employees while you're on jury
22 duty. You need to go tell them that. If you need to
23 contact them on an emergency basis, let's say you forgot
24 something, then a bailiff can call them. In other
25 words, you can give them the name and number and the

1 message, the bailiff could call and get you -- get a
2 message to those people. On this letter there are some
3 emergency numbers. If someone has an emergency and has
4 to contact you, then they can call either the day time
5 number or the night time number and then -- so you just
6 need to give those numbers. That is not an information
7 line. They won't able -- you know, they can't call and
8 say, how much longer is she going to be sequestered, how
9 much longer is the trial going to be. They just need to
10 watch the local media for that. Okay.

11 MS. SULLIVAN: Okay.

12 THE COURT: But -- all right. My admonition is,
13 again, don't talk about this case with anyone.
14 Obviously you can tell them you got to serve, just don't
15 talk about the facts of this case, don't watch anything
16 on TV, listen to the radio, read the newspaper about
17 this case. Okay. Do you have any questions?

18 MS. SULLIVAN: No.

19 THE COURT: Okay. You're qualified. We'll see you
20 in a few days.

21 MS. SULLIVAN: All right.

22 THE COURT: Thank you very much.

23 (Ms. Sullivan exited the courtroom.)

24 THE COURT: All right. Sanders, Henry Sanders.
25 You're not Henry Sanders

1 MR. EPPES: One thing I'd like to bring up before
2 Mr. Sanders comes in.

3 THE COURT: All right. I need that door shut.
4 You're fine. Yeah, it's okay.

5 MR. EPPES: Your Honor, when you talk about the
6 jury giving due consideration to the State's aggravating
7 case, you have been mentioning victim impact evidence
8 and ---

9 THE COURT: I'm mentioning stuff that y'all dwell
10 on for five minutes, to try to hone this down. So if I
11 can ask the question and get to it quicker, then ---

12 MR. EPPES: Your Honor, and that's fine. That's
13 fine. I have no problem with that, but rather than
14 victim impact and bad character, if you'd mention
15 statutory aggravators, that might -- I appreciate it.

16 THE COURT: Well, that -- victim impact is not a
17 statutory aggravating circumstance, character is not a
18 statutory aggravating circumstance. They are entitled
19 to consider all of that.

20 MR. EPPES: Okay.

21 THE COURT: All right. I don't understand what
22 you're asking me to ask them.

23 MR. EPPES: I just wanted you, when you were
24 talking about things to ask them, you're talking
25 about -- you're talking -- victim impact --

1 THE COURT: The examples I've been giving are
2 aggravating circumstances, for example, they may have a
3 bad record.

4 MR. EPPES: Exactly.

5 THE COURT: That's an aggravating circumstance.

6 MR. EPPES: In this particular case, victim impact
7 and bad character, we anticipate are going to coming
8 into the case, but then when you talk about mitigating
9 circumstances, you talk about age, and you talk about
10 things that are frankly not going to come into this
11 case. I would prefer that on both sides ---

12 THE COURT: Well, let me ask you this, does he a
13 significant history of prior crimes of violation?

14 MR. EPPES: No.

15 THE COURT: That's an aggravating circumstance I
16 have asked each juror about so that is not case
17 specific.

18 MR. EPPES: Thank you, Your Honor.

19 THE COURT: Okay. Bring the next juror in.

20 (Mr. Sanders entered the courtroom.)

21 THE COURT: All right. You are Henry Sanders?

22 MR. SANDERS: Yes, sir.

23 THE COURT: All right. Have a seat. Make yourself
24 comfortable. We'll try to make this again as gentle as
25 possible. I'm sure you're a little bit ill at ease, but

1 I tell you, that if -- go ahead and pull your chair up
2 so you can speak into the microphone. I tell you there
3 are no right answers, no wrong answers. We'll be asking
4 questions that may seem of a personal nature, but we ask
5 that you answer them openly and honestly and fully. You
6 understand of course that you're still under oath?

7 MR. SANDERS: Yes, sir.

8 THE COURT: All right. Now, downstairs -- let me
9 back up. Have you complied with my instructions not to
10 talk with anyone about this case?

11 MR. SANDERS: Yes, sir.

12 THE COURT: All right. Downstairs you indicated
13 that you had heard some facts about this case.

14 MR. SANDERS: Um-hm.

15 THE COURT: Can you tell us what you recall hearing
16 or seeing, or reading?

17 MR. SANDERS: I just remember it on the news, and
18 actually I didn't remember when it was or anything until
19 you referred to it this morning, but just the -- kind of
20 the manhunt type news story that was on then. And then
21 actually this morning I just saw it pop up on the
22 morning news that this trial was just starting to take
23 place today.

24 THE COURT: Okay. From what you saw back when the
25 offense occurred and what you saw this morning, have you

1 formed any opinions about this case? Have you formed
2 any opinions about the guilt or innocence of this
3 defendant?

4 MR. SANDERS: No, sir.

5 THE COURT: All right. Now, let me just ask you,
6 one -- the main thing we're going to be talking about is
7 penalty. Just because we're talking about penalty, you
8 understand that does not indicate anything about the
9 guilt of defendant?

10 MR. SANDERS: Yes, sir.

11 THE COURT: In other words, to pick a jury in this
12 type of case, we have to talk to you about possible
13 punishments, otherwise we wouldn't be able to get a fair
14 jury. But you understand you need to set that aside and
15 he is presumed to be innocent as he sits here. You
16 understand that?

17 MR. SANDERS: Yes, sir.

18 THE COURT: All right. Now, if you were a -- if
19 you were selected as a juror on a criminal case, could
20 you listen to the law, not only listen to the law but
21 accept the law and apply the law gives to you as the
22 proper law in the case (sic)?

23 MR. SANDERS: Yes, sir.

24 THE COURT: The reason I ask you that is sometimes
25 some people have -- they think they have some knowledge

1 as to what the law is, which is fine, and some people
2 have an opinion as to what they think the law should be,
3 which is also fine, but the question is, if you had such
4 an opinion or concept of the law, could you set that
5 aside and take the law as the proper law the judge gives
6 to you and use only that law?

7 MR. SANDERS: Yes, sir.

8 THE COURT: All right. Could you decide this case
9 based solely on the evidence presented here in the
10 courtroom?

11 MR. SANDERS: Yes, sir.

12 THE COURT: In other words, during the course of a
13 trial, you may hear some testimony that might spur some
14 further memory of what you saw in the paper, or saw on
15 TV, could you set any facts like that aside and judge
16 the case solely on the evidence presented here?

17 MR. SANDERS: Yes, sir.

18 THE COURT: All right. You understand that in a
19 criminal case the State has the burden of proving a
20 defendant guilty beyond a reasonable doubt?

21 MR. SANDERS: (Witness nodded his head.)

22 THE COURT: If you found a person guilty beyond a
23 reasonable doubt, could you vote for guilty in a case?

24 MR. SANDERS: Yes, sir.

25 THE COURT: And if you found that the State had not

1 met their burden of proof beyond a reasonable doubt,
2 could you vote not guilty in a case?

3 MR. SANDERS: Yes, sir.

4 THE COURT: All right. Did you have a chance to
5 read my two-page letter this morning?

6 MR. SANDERS: I did.

7 THE COURT: Did you find that helpful in
8 understanding how a death penalty case proceeds?

9 MR. SANDERS: Yes.

10 THE COURT: Did you know we had the death penalty
11 in South Carolina?

12 MR. SANDERS: Yes, sir.

13 THE COURT: Do you understand that it's not every
14 murder case that is subject to the death penalty, it has
15 to be one of those aggravating cases. Did you know that
16 before, or you ---

17 MR. SANDERS: I understand it now.

18 THE COURT: Okay. And the examples I gave are a
19 murder during an armed robbery, murder during a rape,
20 something like that. You also understand even when we
21 talk about aggravating murder, the penalty is not
22 automatic? Do you understand that?

23 MR. SANDERS: Yes, sir.

24 THE COURT: In other words, if someone is convicted
25 of a murder plus a rape, then there -- it's a bifurcated

1 trial. There's a second trial and the jury is asked to
2 decide the penalty. The least penalty is life without
3 parole, no parole absolutely. Do you understand that?

4 MR. SANDERS: Yes, sir.

5 THE COURT: And then the worst penalty would be
6 death, which in South Carolina is by electrocution or by
7 lethal injection. Do you understand that?

8 MR. SANDERS: Yes, sir.

9 THE COURT: All right. If you are on a jury and if
10 you're going into the penalty phase, the person stands
11 convicted of the murder plus something else, what the
12 jury is asked to do is to listen to further evidence
13 from the State and from the defense. And there are two
14 types of evidence. There is evidence in aggravation,
15 which might be a number of things. Evidence in
16 aggravation might be the person has a significant
17 history of other violent crimes, things like that.
18 There might be evidence of the defendant's character
19 that is presented, that the State wants -- thinks the
20 jury should consider and vote for death. There would
21 likely be evidence of victim impact that is -- that is
22 introduced by the State. All these things the State --
23 the State is introducing to try to convince the jury the
24 proper sentence is death. Do you understand that?

25 MR. SANDERS: Yes, sir.

1 THE COURT: And then after that, the defense puts
2 up evidence in mitigation. And evidence in mitigation,
3 I mean, the sky is the limit. It could be the person
4 was suffering from some mental deficiency at the time of
5 the crime. It might be that he was under the influence
6 of someone else when he committed the crime. It could
7 be a poor upbringing. It could be all kind of things.
8 Do you understand that?

9 MR. SANDERS: Yes, sir.

10 THE COURT: And the jury is asked to look at the
11 evidence in aggravation and look at the evidence in
12 mitigation, not only look at it but give meaningful
13 consideration to both aggravation and mitigation before
14 they reach a decision of life or death. Do you
15 understand that?

16 MR. SANDERS: Yes, sir.

17 THE COURT: Does that seem like a good concept to
18 you? Would you not only want to know about the crime,
19 but also want to know everything you could about this
20 defendant before you made that decision of life or
21 death?

22 MR. SANDERS: Yes, sir.

23 THE COURT: All right. Understanding that process,
24 let me ask you this, do you understand we need to get to
25 know your feelings about capital punishment. Would you

1 say that you are generally for the death penalty,
2 generally against it, how do you feel?

3 MR. SANDERS: I'm actually fairly strongly against
4 it.

5 THE COURT: Okay. And is that something you
6 thought about a lot?

7 MR. SANDERS: Yeah. Yeah, I mean, not just today.

8 THE COURT: Not in the -- not in the last three or
9 four hours?

10 MR. SANDERS: Not in the last day or so.

11 THE COURT: All right. And is it based on any kind
12 of -- something in your upbringing, is it based on
13 religion, is it ---

14 MR. SANDERS: Probably both, upbringing and just
15 religious background.

16 THE COURT: Okay. I haven't looked at your jury
17 questionnaire. What religion are you brought up as?

18 MR. SANDERS: Presbyterian.

19 THE COURT: Okay. I don't know this, does the
20 church have any official position or do you know of any
21 official ---

22 MR. SANDERS: I don't know. Actually I thought
23 about that today when I was -- just as we were sitting
24 in there. I'm not sure actually what the official
25 position is, but I know ---

1 THE COURT: I didn't -- I didn't look to see what
2 church you went to, but if they had an official position
3 would that influence your personal -- would that
4 influence you in a ---

5 MR. SANDERS: It may, but I think mine would be
6 more a personal decision.

7 THE COURT: Okay. All right. Do you think -- you
8 say you're generally against it -- or rather strongly
9 against it, do you think there is a proper place in our
10 society for capital punishment in some aggravated cases?

11 MR. SANDERS: There may be a place for it, but I
12 don't know if I would be able to say that -- if I would
13 be able to make the call for it. I'm -- I don't know if
14 I could convince myself it was okay enough to say it was
15 okay.

16 THE COURT: All right. Let me ask you this, would
17 you give -- would you give meaningful consideration to
18 the mitigating circumstances as presented by the defense
19 and instructed by the Court in reaching your sentence?

20 MR. SANDERS: Yes, sir.

21 THE COURT: All right. Would you give meaningful
22 consideration to the aggravating circumstances presented
23 by the State and as instructed by the Court in reaching
24 your decision?

25 MR. SANDERS: Yes, sir.

1 THE COURT: Then could you vote for death if you
2 thought that was the appropriate sentence?

3 MR. SANDERS: If at that point I thought that it
4 was, then I guess I could.

5 THE COURT: All right. Could you vote for life if
6 you thought it was the appropriate sentence?

7 MR. SANDERS: Yes, sir.

8 THE COURT: All right. Now, the last thing I need
9 to ask you is, if you thought that death was the
10 appropriate sentence, after looking at all -- how bad
11 the case is, and the victim impact and all that, and
12 looking at all the mitigating evidence, if you thought
13 that death was the appropriate sentence, you would be
14 asked to sign the verdict form. Each juror has to sign
15 it. Sometimes that is referred to as a death warrant,
16 but it's the verdict form. If you thought that was the
17 proper verdict, could you sign that form?

18 MR. SANDERS: Yes, sir.

19 THE COURT: Okay. All right. Whose go is it?
20 All right. This is Mr. Abdalla. He's going -- he
21 represents -- he's one of the attorneys representing the
22 defendant. Then Mr. Ariail, the Solicitor, is
23 representing the State. They're going to ask you
24 questions in turn.

25 MR. SANDERS: All right.

1 QUESTIONING BY MR. ABDALLA:

2 Q Mr. Sanders?

3 A Yes, sir.

4 Q My name is John Abdalla. I represent Brad Sigmon,
5 who's seated at the table next to Frank Eppes, my
6 co-counsel. Nice to have you here today. Now, let me
7 talk to you a little bit about what you will be facing
8 if you were to be selected on the jury if that's all
9 right. You understand that the jury phase is you 12 in
10 the jury box will deliberate whether the person --
11 person here being Mr. Sigmon is guilty?

12 A Yes, sir.

13 Q And that's a unanimous decision?

14 A Yes.

15 Q Then after the guilt phase, you'll then be told by
16 the judge you have to consider certain aggravating
17 factors when you go into the sentencing phase?

18 A Yes.

19 Q And if you do find those sentencing -- aggravating
20 factors you say that you can give careful consideration
21 to either a life sentence or a death sentence, is that
22 correct?

23 A Correct.

24 Q And if they meet those criteria, you could sign the
25 death warrant if you had it, if it met that high and

1 aggravated ---

2 A Yes, if I had to, yes.

3 Q But you could be fair and give consideration to
4 both sides, is that correct?

5 A Correct.

6 Q Is there a reason you wouldn't give fair
7 consideration to both sides?

8 A No, sir.

9 MR. ABDALLA: One moment, please. That's all I
10 have, Your Honor.

11 THE COURT: Mr. Ariail.

12 QUESTIONING BY MR. ARIAIL:

13 Q Mr. Sanders, my name is Bob Ariail, and I'm the
14 Solicitor for Greenville, Pickens Counties. That's the
15 person who does the prosecution of criminal cases, and
16 in this case, or in any case in which the State seeks
17 the death penalty, it's my responsibility along with my
18 staff, Ms. Strom, in the blue suit, and Ms. Hervey, one
19 of my assistants, to represent the State in a case that
20 we believe is appropriate for the death penalty. And
21 now the first thing I noticed in your questionnaire was
22 that you said, in answer to question number 34, said,
23 I'm against the death penalty?

24 A Yes, sir.

25 Q All right. Now, I've -- I kind of heard as we got

1 started I heard that, and then as the judge kept asking
2 you questions it kind of -- it kind of got a little
3 different, and what I want to do is -- what we don't
4 want to have happen is put you in a situation where
5 you're going to violate your conscience or be put in
6 such a situation that you're going to have violate your
7 conscience to get back out of the jury ---

8 MR. ABDALLA: Objection, Your Honor. It seems to
9 me that he's already answered he'd give fair
10 consideration, now he's getting into his conscience.

11 THE COURT: Overruled. Go ahead.

12 BY MR. ARIAIL:

13 Q The question is, and we've said it in many
14 different ways, one is, if the State is seeking the
15 death penalty based upon the nature of the crime, and
16 certain aggravating circumstances, this is after guilt
17 has been determined.

18 A Um-hm.

19 Q Would you, in light of your feelings, your answer
20 to number 34, I am against the death penalty, and in
21 light of the fact that you say that's part of your
22 upbringing, whether it be personal or religious, but
23 that's something that obviously you, at the fairly young
24 age of 37, have come to a conclusion about, where you
25 could write it down, I am against the death penalty,

1 would you really be able to fair, I'm talking being
2 fair, not just give lip service to it, but fairly say
3 and look yourself in the mirror and say, I gave fair
4 consideration to the State's request for the death
5 penalty, could you do that? Or would we be putting you
6 in a situation to where you were going to violate your
7 conscience to do that?

8 A Yeah, it will be a tough situation. That's why I
9 guess I answered one where you know if in my mind, you
10 know, I somehow changed my opinion between the beginning
11 of the case and the end of the case ---

12 Q Right.

13 A --- but going into the case I would be pretty
14 firmly against it.

15 Q You would be against the death penalty?

16 A Yes, sir.

17 Q And it would be -- would it be most likely or most
18 probable that you're not going to vote to impose the
19 death opinion?

20 MR. ABDALLA: Objection, Your Honor, because he
21 said he would give fair consideration. I don't think
22 you could ask whether he's going -- how he's going to
23 vote on the case.

24 THE COURT: Overruled.

25 MR. SANDERS: Say it one more time, please.

1 THE COURT: Ask the question again, please.

2 BY MR. ARIAIL:

3 Q Would it be most likely or most probable throughout
4 the entire case that you are going to vote against the
5 death penalty?

6 A Yes, very much so.

7 MR. ARIAIL: All right. Very much so. Thank you.

8 THE COURT: Let me just ask you again, would your
9 feelings about capital punishment render you unable to
10 render a verdict of death, or would you under some
11 circumstances be able to render a death sentence?

12 MR. SANDERS: As I sit here right now, I would say
13 that I'm probably unable to render a death sentence,
14 unless something just very big were to happen that were
15 to change my mind over the course of, you know, a period
16 of time, then I would say that -- right now it would be
17 very unlikely I would be able to vote for a death
18 sentence.

19 THE COURT: All right. Well, then I guess I'm
20 going go back to a question I asked earlier. I asked
21 you could you give meaningful consideration to the
22 aggravating circumstances, how bad a case is, as
23 presented by the State when you reach your sentence?
24 Could give meaningful, not just I'll listen to it, but
25 could you give meaningful consideration to that?

1 MR. SANDERS: I guess I would hope that I could,
2 but honestly, sitting here now, I'm not exactly sure
3 that I could.

4 THE COURT: All right.

5 MR. SANDERS: I'm fairly strongly against it.

6 THE COURT: All right. And then my next question
7 is, I asked you earlier, could you vote for death if you
8 thought that was the appropriate sentence?

9 MR. SANDERS: I know I answered yes, and kind of
10 contradicted myself, but if for some reason I were to
11 change my mind and find it appropriate, then of course
12 at that time I would be able to, but sitting here right
13 now, then I guess the answer is no.

14 THE COURT: All right. Are there cases that would
15 be aggravating enough where you could vote for the death
16 penalty?

17 MR. SANDERS: Not that I know of as of right now.

18 THE COURT: All right. Let me ask this, there was
19 nothing on this questionnaire about the death penalty,
20 why on question 34 did you make a statement about the
21 death penalty? Did you know this might be a death
22 penalty case?

23 MR. SANDERS: No, I had no idea. I didn't even --
24 I was actually very surprised this morning walking into
25 it. In just kind of being honest and putting, you know,

1 just I guess about as much information as I could on
2 there.

3 THE COURT: All right. Let me ask you to step
4 outside for just a minute. We'll be with you very
5 shortly.

6 (Mr. Sanders exited the courtroom.)

7 THE COURT: All right. From the State?

8 MR. ARIAIL: Move that he's not qualified.

9 THE COURT: All right. Anything from the defense?

10 MR. ABDALLA: Yes, Your Honor. The only thing I
11 can say is that I believe there are facts that he can
12 give the death penalty on. I understand he is most
13 likely not going to give it, but I would say to the
14 Court that we don't want a situation where people are
15 eager to give the death penalty. I think the State does
16 have such a high burden that this would not be an
17 improper juror. I think he is qualified.

18 THE COURT: Well, you know, leaning or leaning
19 strongly one way is not disqualification, but the
20 question is would his values prevent or substantially
21 impair his performance of his duties, and I find that it
22 would in this case. I find that he would not be able to
23 give meaningful consideration to the aggravating
24 circumstances, and it's my definite impression that his
25 beliefs on capital punishment would render him unable to

1 return a verdict according to the law, so I am going to
2 disqualify Mr. Sander. If you'd bring him back in,
3 please.

4 (Mr. Sanders entered the courtroom.)

5 THE COURT: You don't even need to sit down. I'm
6 going to disqualify you in this case, which don't take
7 that personally. You know, your views are just as right
8 as anybody else's, but obviously we have to take jurors
9 who are not so pro-death that they could not give
10 meaningful consideration to the defense, or so pro-life
11 that they could not give meaningful consideration to the
12 State. We need to, you know, find people in the middle
13 ground. So this will disqualify you from this case.
14 You're free to go. You've done your service.

15 MR. SANDERS: Thank you.

16 THE COURT: Thank you very much.

17 (Mr. Sanders exited the courtroom.)

18 MR. ABDALLA: Your Honor?

19 THE COURT: Yes.

20 MR. ABDALLA: I'm sorry. The next person in,
21 Sandra Norris, it says on number 25, have you or do
22 personally know of anyone who has seen -- who has been a
23 victim of a serious act of violence. It says, yes, my
24 daughter, beaten by her boyfriend.

25 THE COURT: So you want me to inquire into it as

1 opposed to you? I mean, what are you telling me about
2 that?

3 MR. ABDALLA: Yes, Your Honor.

4 THE COURT: All right. All right. Anything else?
5 Bring in Ms. Norris.

6 (Ms. Norris entered the courtroom.)

7 THE COURT: All right. How you doing?

8 MS. NORRIS: I'm doing fine, thank you.

9 THE COURT: You're Sandra Norris?

10 MS. NORRIS: Yes, sir.

11 THE COURT: All right. If you would, have a seat,
12 make yourself comfortable. But as you make yourself
13 comfortable, got ahead and slide forward so that you are
14 able to speak directly into that microphone. All right.
15 I will remind you, Ms. Norris, that you're under oath.
16 Do you understand that?

17 MS. NORRIS: Um-hm.

18 THE COURT: And I ask you, have you followed my
19 instructions and not discussed this case with anyone so
20 far?

21 MS. NORRIS: No, I have not.

22 THE COURT: All right. Have -- you said downstairs
23 earlier today that you had heard some facts of this
24 case, or heard something about this case?

25 MS. NORRIS: If it's the one I'm thinking about. I

1 don't know for sure.

2 THE COURT: All right. Tell me what you recall
3 about the case, if -- and I'll tell you if you're right
4 or not, how about that?

5 MS. NORRIS: That a son had his friend kill his two
6 parents.

7 THE COURT: No, that is not that case.

8 MS. NORRIS: Then I don't know about it.

9 THE COURT: All right. That's a case that happened
10 more recently, I believe, that's -- the thing where they
11 were arrested in Texas, maybe, or something like that.

12 MS. NORRIS: I don't remember where they were
13 arrested, but they found the parents somewhere in the
14 woods or something.

15 THE COURT: Okay. That is not this case.

16 MS. NORRIS: Okay.

17 THE COURT: All right. We're going to asking you
18 some questions, and some these are going to seem like,
19 and they are, of a personal nature, but I ask you to
20 bear with us. I ask you to answer the questions
21 honestly, and openly and fully. There are no right
22 answers. There are no wrong answers. I will ask you
23 some questions, and then the Solicitor, Mr. Ariail will
24 ask you some, and then Mr. Abdalla, who's representing
25 the defendant, will ask you some. Most of the questions

1 or a lot of the questions we will be asking deal with
2 the death penalty. Just because we talk about the
3 penalty in this case that should not indicate anything
4 about the guilt of this defendant. Do you understand
5 that?

6 MS. NORRIS: Um-hm.

7 THE COURT: In other words, as he sits there he is
8 presumed to be innocent. Do you understand that?

9 MS. NORRIS: Um-hm.

10 THE COURT: Obviously to get a jury in this type of
11 case we have to talk about the death penalty with the
12 jurors. Do you understand that?

13 MS. NORRIS: Yes.

14 THE COURT: Now, if you were picked as a juror in a
15 criminal case, would you listen to the law and accept
16 the law and apply the law that the judge gives to you?

17 MS. NORRIS: Yes, I would.

18 THE COURT: All right. And the reason I ask that
19 is, some jurors sometimes think they know what the law
20 is when they come in, or some jurors have a notion as to
21 what they want the law to be or think it should be, and
22 both of those are fine as long as the juror can set
23 aside any preconceived notions and accept the law that
24 the judge gives. Do you understand that?

25 MS. NORRIS: Um-hm.

1 THE COURT: And you're telling me you could do
2 that?

3 MS. NORRIS: Yes, I could.

4 THE COURT: You understand that the State has the
5 burden of proving a defendant guilty beyond a reasonable
6 doubt?

7 MS. NORRIS: Yes, I do.

8 THE COURT: All right. Now, depending on the facts
9 and circumstances of the case, could you find a
10 defendant guilty if you thought the State had proved
11 their case beyond a reasonable doubt?

12 MS. NORRIS: Yes, I could.

13 THE COURT: Would you find the defendant not guilty
14 if you thought the State had not proved him guilty
15 beyond a reasonable doubt?

16 MS. NORRIS: Yes, I would.

17 THE COURT: All right. And the last thing, I know
18 that we have determined that you have not heard about
19 this case, but there might be something that occurs
20 during the course of the trial that may spur some
21 memory, that you may say, oh, well, you know, I really
22 did read about this case and I remember such and such.
23 If that happens, could you set that aside and judge the
24 case solely on the evidence you heard from the witnesses
25 that were here and other evidence?

1 MS. NORRIS: I think I could.

2 THE COURT: Okay. In other words, if you -- well,
3 let me -- if you remembered you read something in the
4 paper, that wouldn't necessarily be true what you read
5 in the paper.

6 MS. NORRIS: That's right.

7 THE COURT: All right. Now, did you read my letter
8 this morning, my two-page letter?

9 MS. NORRIS: Yes, I did.

10 THE COURT: Did you know that we had the death
11 penalty in South Carolina?

12 MS. NORRIS: Yes, I did.

13 THE COURT: All right. Did you understand before
14 today that it is not every murder case that is subject
15 to the death penalty, it's only aggravated murder cases?

16 MS. NORRIS: Right.

17 THE COURT: You knew that before?

18 MS. NORRIS: Um-hm.

19 THE COURT: Okay. A lot of people didn't know
20 that. A lot of people think it applies to every murder
21 case. So you understand this concept of aggravated
22 murder?

23 MS. NORRIS: Yes.

24 THE COURT: Murder during a rape, murder during an
25 army robbery, or something? And you also understand

1 that when we talk about aggravated murder, the penalty
2 is not automatic, okay. If someone is convicted of an
3 aggravated murder, then the jury will decide either life
4 without any possibility of parole, or death, which is
5 death by electrocution or lethal injection. Do you
6 understand that?

7 MS. NORRIS: Um-hm.

8 THE COURT: And before a jury decides that issue of
9 life or death, they sit and they listen to more
10 testimony in the second phase, called the penalty phase,
11 and they would listen to two types of evidence. They
12 would listen to evidence in aggravation. Evidence in
13 aggravation can be a number of things. It can be maybe
14 the defendant has a significant prior history of crimes
15 of violence or something like that. They would listen
16 to what we call victim impact evidence. In other words
17 the loss of a victim, what it means to the family, the
18 community. They would listen to things like that
19 presented by the State. Do you understand that?

20 MS. NORRIS: Right.

21 THE COURT: The State is presenting this
22 information trying to convince a jury to vote for death.
23 Do you understand that?

24 MS. NORRIS: Yes.

25 THE COURT: Then the defense would present evidence

1 in mitigation. And evidence in mitigation, again, can
2 be a number of things. But it might be the person has
3 absolutely no prior record, or it might be that he's
4 suffering some -- from some mental deficiency when the
5 crime occurred, or it might be he was under the
6 influence of some person when he committed the crime.
7 Again, there are a number of different things that might
8 be presented in mitigation, the background, the
9 upbringing, things like that. Do you understand that?

10 MS. NORRIS: Yes, I do.

11 THE COURT: All right. And what the jury is asked
12 to do, what a fair jury is asked to do is to go into
13 that penalty phase with an open mind as to what the
14 punishment should be and listen to and give meaningful
15 consideration to both the aggravating evidence and the
16 mitigating evidence before they make up their mind. Do
17 you understand that?

18 MS. NORRIS: Yes, I do.

19 THE COURT: All right. What do you think about
20 that process?

21 MS. NORRIS: I think it's fair.

22 THE COURT: All right. Would you want to know how
23 bad the crime was before you made the decision of life
24 and death?

25 MS. NORRIS: Yes, I would.

1 THE COURT: Would you want to know everything you
2 could about the victim -- excuse me, the defendant
3 before you made that decision of life and death?

4 MS. NORRIS: Yes, I would.

5 THE COURT: All right. Understanding this process,
6 you understand that we need to get to know your opinions
7 on capital punishment. Can you tell me, Ms. Norris,
8 would you say you're generally for it, generally against
9 it, just how do you feel?

10 MS. NORRIS: I'm really kind of mixed about it. I
11 am for it, but yet part of me, with my Christian
12 upbringing, is against it, but there are a part of me
13 where I think some people deserve that to be done.

14 THE COURT: Okay. So a part of you, from your
15 Christian upbringing, thinks that you should not
16 participate, or the State should not participate in the
17 killing of someone, is that fair?

18 MS. NORRIS: I'm not saying the State, I'm saying
19 that me as a person deciding on whether someone should
20 have a death penalty or not.

21 THE COURT: Okay.

22 MS. NORRIS: But then a part of me thinks that it
23 is fair.

24 THE COURT: All right. Do you think there is a
25 proper place in our society for capital punishment if

1 Q All right. Well, I know you will be fair.
2 Everybody -- were not questioning that. The question
3 would be more, would this background, this feeling that
4 you have that is personal, that causes you to have mixed
5 feelings about the death penalty, would it be such that
6 it would cause you to be impaired somehow, or limited,
7 or unable to -- to carry through on what you have --
8 thought was the right decision?

9 A No.

10 Q You think you could listen to the facts and set
11 aside this me as a person, this mixed feeling you had,
12 if you were picked on this jury?

13 A Yes, I would.

14 Q And you could listen to what the facts were, and
15 based on the facts determine what the appropriate
16 punishment should be?

17 A Yes.

18 Q And if the case were such that the defendant had
19 been found guilty and the circumstances of aggravation
20 had been proved to the extent that you felt the death
21 penalty was appropriate, you could vote for the death
22 penalty?

23 A Yes, I could.

24 Q Could you sign that document ---

25 A Yes, I would.

1 Q --- to carry it out?

2 A Um-hm.

3 MR. ARIAIL: Okay. Thank you very much.

4 THE COURT: Mr. Abdalla.

5 MR. ABDALLA: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 QUESTIONING BY MR. ABDALLA:

8 Q Ms. Norris, my name is John Abdalla, and I
9 represent Mr. Sigmon who is seated over there next to
10 Frank Eppes, who is the co-counsel. Now, I understand
11 there's been a few question raised about your mixed
12 feelings about the death penalty. So it seems you could
13 give the death penalty. What I would like to know is
14 what do you think the purpose of the death penalty is in
15 our society?

16 A Well, that's kind of hard to say. I mean I have
17 always believed that if things are done and they're done
18 wrong, then you should have a punishment. People in
19 society should know that if they do something wrong,
20 they're going to have to a punishment. And some things
21 I think are mean and hateful and evil, and it should be
22 taken care of.

23 Q Um-hm. Does that mean that you believe in an eye
24 for an eye?

25 A Yes.

1 Q So if a person is convicted of murder, and an
2 aggravating fact is found, does that mean that he would
3 automatically be sentenced to death, to follow along
4 with the eye for an eye, or am I misstating your
5 beliefs?

6 A Well, it depends on how it was done. You know, if
7 somebody walked in my house and I killed them, I
8 wouldn't think I should get the penalty. But if I
9 turned and just went over there and did it, I think I
10 should.

11 Q Sure. All right.

12 A Is that what you were asking me?

13 Q Yeah. Well, the trial phase of this would be to
14 find the defendant, Mr. Sigmon, either guilty or not
15 guilty.

16 A Yes.

17 Q If you then found him guilty of murder and of
18 aggravating factor, the judge talked to you about
19 aggravating facts, do you remember that?

20 A Yes.

21 Q In other words, if it was during the course of an
22 armed robbery, during the commission of a rape -- while
23 in the commission of a rape. Okay?

24 A Okay.

25 Q If you were on a jury during a sentencing phase and

1 then found those aggravating factors, where would you
2 be?

3 A The death penalty.

4 Q So you would -- it sounds like to me you would not
5 give consideration to life without parole?

6 A You said if it was found with an aggravating ---

7 Q Right. Now, do you know that the aggravating
8 factor does not mean it's death penalty automatically,
9 it just qualifies for the death penalty?

10 A No, I didn't understand that.

11 Q Well, that's -- I apologize for that. At that
12 point you get to the juncture, you then have two choices
13 if you found aggravation, you can go with life without
14 parole or you can go with the death penalty.

15 A Then that would depend on how I felt at that time,
16 and what I had heard in the previous court.

17 Q Sure. Do you think that life without the
18 possibility of parole is a strict sentence, is a serious
19 sentence?

20 A Yes, as long as he can't get out.

21 THE COURT: I will tell you he cannot get out.

22 MS. NORRIS: Okay. Then yes.

23 THE COURT: If the sentence is life in this case,
24 he will die in prison. Do you understand that?

25 MS. NORRIS: Yes. Okay. Then I could go that way

1 too.

2 BY MR. ABDALLA:

3 Q And even if while sitting in that jury box, there
4 will be victim impact witness present -- victim impact
5 witnesses presented, and they may testify, the family
6 members to the severe loss they're suffering and how
7 horrible this was. Can you still give serious
8 consideration to life without parole when earlier you
9 said you believe in an eye for an eye?

10 A Yes, I think I could.

11 Q And you could vote for life without parole?

12 A Um-hm.

13 Q And I'm not trying to get you to change your mind.

14 A I know.

15 Q I want to make sure, so I hope this doesn't sound
16 rude, I just want to make sure I really understand where
17 you're come down on and that's what I was trying ---

18 A I would just try my best to be fair, which ever one
19 I thought he deserved.

20 MR. ABDALLA: That's all I could ask for. Let me
21 just have one moment. I need to ---

22 BY MR. ABDALLA:

23 Q I forgot, I had something written down that I
24 forgot to ask you about. I do believe you would give
25 fair consideration, however the one thing on your

1 questionnaire, number 25, you indicate your -- and I
2 hate to embarrass you, but your daughter was beat by her
3 boyfriend?

4 A Yes.

5 Q And would -- if the facts came out in a certain way
6 in this case, would you still give fair consideration to
7 our client?

8 A What do you mean by that?

9 Q I mean if -- if the situation -- I don't want to
10 get into your personal situation, but if our facts of
11 this case resembled in any way what happened to your
12 daughter, would you be able to still give fair
13 consideration in this sentence, or would that set up ---

14 A I think I could, because he's not the one who was
15 involved with my daughter.

16 MR. ABDALLA: Thank you.

17 MS. NORRIS: Um-hm.

18 MR. ABDALLA: All right. Thank you. I have no
19 further questions.

20 THE COURT: All right. Anything, yes or no, from
21 the State?

22 MR. ARIAIL: No, Your Honor.

23 THE COURT: From the defense?

24 MR. ABDALLA: No, Your Honor.

25 THE COURT: All right. Now, let me give you that.

1 MS. NORRIS: Um-hm.

2 THE COURT: Ms. Norris, you are qualified to serve
3 as a juror.

4 MS. NORRIS: Okay.

5 THE COURT: That does not mean that you will serve,
6 but it simply means that you need to be prepared to
7 serve. You're free to go at this time. Madam Clerk
8 will call you, my best guess is it will be sometime
9 Wednesday, maybe Thursday, and she will instruct you as
10 to when to return to court.

11 MS. NORRIS: Okay.

12 THE COURT: When you return to court, bring a
13 suitcase and be prepared to stay for about seven or
14 eight days in a local motel. Bring any medications you
15 may have. We can address any dietary concerns, anything
16 like that.

17 When you came back, park over in the Hyatt parking
18 garage, where you probably parked this morning. Leave
19 your suitcase in the car, because we'll have 40
20 something jurors, we're going to only end up with 12 or
21 14, so we don't need a courtroom full of suitcases. But
22 anyway, leave your things in the car. Go to the Spring
23 Street entrance to this courthouse, which is directly
24 across from the Spring Street entrance to the Hyatt
25 garage. There are two entrances to the Hyatt garage.

1 One is on College Street, across from the big bank
2 building. Then the other one is the entrance right --
3 did you park there this morning?

4 MS. NORRIS: I parked across the street this
5 morning, yes.

6 THE COURT: Okay. In the Hyatt parking garage?

7 MS. NORRIS: Yes. And when I come straight out
8 this -- towards ---

9 THE COURT: On Spring Street, right. Then right
10 across the street will be the garage entrance to our
11 building.

12 MS. NORRIS: Oh, okay.

13 THE COURT: Okay. Don't jaywalk across, go to the
14 corner and come across, but in any event, what I'm
15 trying to do is I'm trying to keep y'all separate from
16 the public corridors. I'm going to bring you up the
17 back way and then put you in courtroom 7, and then when
18 everybody is here, we'll bring everybody to courtroom 8
19 and we'll pick a jury. Okay?

20 MS. NORRIS: Okay.

21 THE COURT: Now, you will not be able to contact
22 any family members during the course of this trial. You
23 can get a message to them if you need to, if it's an
24 emergency. You can give the bailiff a number of the
25 person to be called, their name and the message. In

1 other words, you may forget something, or need something
2 at the hotel, where they can -- they can -- they'll get
3 a message from a bailiff and they can bring it to the
4 hotel and give it to one of the bailiffs at the hotel.
5 Do you understand what I'm saying?

6 MS. NORRIS: Um-hm.

7 THE COURT: There are two emergency numbers. If
8 somebody in your family needs to contact you, there is a
9 day time number and a night time number, but that's only
10 for emergencies. It's not an information hotline. They
11 can't call and say how long, you know, is mama going to
12 be on this jury, how long is she going to be there, how
13 long is this trial going to last.

14 My last admonition to you is, don't read anything
15 in the paper. There will be news coverage of this case.
16 Don't watch anything on TV. Don't discuss this case
17 with anyone, including fellow jurors. Okay?

18 MS. NORRIS: Okay.

19 THE COURT: Do you have any questions for me?

20 MS. NORRIS: No, I don't think I do.

21 THE COURT: All right. Andrea will step out with
22 you, she'll make sure she has your current phone
23 numbers, where to get you at any time, and we'll be in
24 touch with you in a few days.

25 MS. NORRIS: All right. Thank you.

1 (Ms. Norris exited the courtroom.)

2 THE COURT: All right. Lindstrom. And I
3 apologize. I had it marked on the page, and I forgot to
4 ask her that last question.

5 MR. ABDALLA: Oh, that's fine. We took care of it.

6 THE COURT: Is there something on Lindstrom?

7 MR. ABDALLA: Yes, number 20, Tim Siminon, close
8 personal friend, a police officer in Illinois, shot and
9 killed in the line of duty, best man in wedding.

10 THE COURT: Okay. All right. Bring in Mr.
11 Lindstrom -- Ms. Lindstrom.

12 (Ms. Lindstrom entered the courtroom.)

13 THE COURT: Okay. Are you Ms. Lindstrom?

14 MS. LINDSTROM: Yes, I am.

15 THE COURT: All right. If you would, come have a
16 seat. Okay. Just make yourself comfortable. Slide
17 your chair close to the microphone because you probably
18 have a soft voice and we need to amplify your voice.

19 MS. LINDSTROM: Okay.

20 THE COURT: All right. Ms. Lindstrom, again, I'm
21 Joe Watson. I will remind you that you're under oath.
22 So obviously we need your honest answers to these
23 questions. Have you complied with me instructions not
24 to talk with anyone about this case?

25 MS. LINDSTROM: Yes, I have.

1 THE COURT: All right. And I notice I think you
2 said you had heard something about the facts of this
3 case?

4 MS. LINDSTROM: Right.

5 THE COURT: Can you tell us what you recall reading
6 or seeing about it?

7 MS. LINDSTROM: All I saw basically was a little
8 bit of what was in the paper this morning.

9 THE COURT: Okay. So ---

10 MS. LINDSTROM: Before I came.

11 THE COURT: When you read it this morning, did you
12 recall seeing anything back when it happened?

13 MS. LINDSTROM: No, I really didn't.

14 THE COURT: Okay. That's fine. Can you set aside
15 what was in the paper this morning? I didn't even read
16 the article so I don't know what was in it, but could
17 you judge the facts solely from what you hear in this
18 courtroom?

19 MS. LINDSTROM: I can.

20 THE COURT: And based on what you saw in the paper
21 this morning, have you formed my opinions about this
22 case?

23 MS. LINDSTROM: No.

24 THE COURT: Specifically have you formed any
25 opinions about the guilt or the innocence of the

1 defendant in this case?

2 MS. LINDSTROM: No.

3 THE COURT: All right. I'm going to ask you
4 questions and so will the attorneys, and these will of
5 some -- will be somewhat of a personal nature. If it
6 upsets you, hold it against me, don't hold it against
7 them. There are no right or wrong answers, I will tell
8 you that.

9 MS. LINDSTROM: Okay.

10 THE COURT: In other words, we'll just be talking
11 to you and trying to get your open and honest answers
12 about some matters. And one of the main things we'll be
13 talking about of course is the death penalty. And I
14 need to first of all tell you that just because we are
15 talking about possible penalties, life and death, that
16 does not indicate anything about the guilt or innocence
17 of this defendant. Do you understand that?

18 MS. LINDSTROM: Right.

19 THE COURT: In other words, as he sits there he is
20 presumed to be innocent.

21 MS. LINDSTROM: Um-hm.

22 THE COURT: Obviously we have to take talk about
23 penalty in order to get fair a jury in this type of
24 case. Do you understand that?

25 MS. LINDSTROM: Yes.

1 THE COURT: If you were selected as a juror on a
2 criminal case, could you listen to the law that the
3 judge gives you and apply that law to the facts?

4 MS. LINDSTROM: Yes, I could.

5 THE COURT: And the reason I sort of -- the reason
6 I ask that is some people come into court and they have
7 a preconceived notion about what the law is, which is
8 fine. And some people come into court with a notion as
9 to what they think the law should be, which is also
10 fine. The question is, can they set that aside and
11 accept the law that the judge gives. And I understand
12 you said you could do that?

13 MS. LINDSTROM: I could.

14 THE COURT: All right. Could you base this case
15 solely on the evidence, I think I already asked this,
16 but presented in the courtroom? In other words, if
17 during the course of the trial you heard evidence that
18 maybe made you recall something that you did in fact
19 read a while back and you recall some fact, could you
20 set that aside and judge the case solely on the evidence
21 and the testimony in the courtroom?

22 MS. LINDSTROM: Yes, I could.

23 THE COURT: Now, in a criminal case the State has
24 the burden of proving a defendant guilty beyond a
25 reasonable doubt. Do you understand that?

1 MS. LINDSTROM: Yes, I do.

2 THE COURT: Depending on the facts of the case, if
3 you found that the State had failed to meet their burden
4 of proving somebody guilty beyond a reasonable doubt,
5 could you vote not guilty? Would you vote not guilty?

6 MS. LINDSTROM: Yes, I would.

7 THE COURT: If you found that they had proved
8 somebody guilty beyond a reasonable doubt, would you
9 vote guilty?

10 MS. LINDSTROM: Yes, sir, I would.

11 THE COURT: All right. Did you read my letter this
12 morning, my two-page letter?

13 MS. LINDSTROM: Yes.

14 THE COURT: And did you know much about the death
15 penalty in South Carolina before you read it?

16 MS. LINDSTROM: No, not in South Carolina.

17 THE COURT: All right. So -- and are you from
18 South Carolina originally?

19 MS. LINDSTROM: No.

20 THE COURT: Okay. How long have you been in South
21 Carolina?

22 MS. LINDSTROM: Eleven years.

23 THE COURT: Okay. Did you know we had the death
24 penalty in South Carolina?

25 MS. LINDSTROM: Yes, I did.

1 THE COURT: Do you understand this concept of an
2 aggravated murder? In other words, it's not every
3 murder case that is subject to the death penalty. And
4 the example I gave is a murder plus a rape, would be an
5 aggravated case, or a murder plus an armed robbery. Do
6 you understand that?

7 MS. LINDSTROM: Um-hm.

8 THE COURT: And even when we talk about aggravated
9 murder, do you understand the penalty is not automatic?

10 MS. LINDSTROM: Right.

11 THE COURT: Okay. It's up to the jury to decide
12 if -- if they convict somebody of an aggravated murder.

13 MS. LINDSTROM: Um-hm.

14 THE COURT: Then the penalty is still open, and
15 it's up to the jury to decide either life without any
16 possibility of parole. Do you understand that?

17 MS. LINDSTROM: Yes.

18 THE COURT: Or death, which in South Carolina is by
19 electrocution or lethal injection. Do you understand
20 that?

21 MS. LINDSTROM: Yes.

22 THE COURT: All right. Now, do you understand this
23 concept of a bifurcated or two-part trial? The first
24 phase is like any other trial, it's called the trial
25 phase, and the issue there is, is the person guilty or

1 not guilty. Do you understand that?

2 MS. LINDSTROM: Um-hm.

3 THE COURT: And if the person is not guilty, then
4 everybody goes home. If they're guilty, we go to the
5 penalty phase. In the penalty phase there will be
6 more -- there's a little waiting period, and then there
7 will be more evidence that's presented. There is
8 evidence in aggravation, that's presented by the State.
9 That is evidence of things like maybe the person -- the
10 defendant has a significant history of crimes of
11 violence. Maybe he's just got a mean character. There
12 will be victim impact evidence that would be presented,
13 things from the family members about the loss to them,
14 the loss to the community. All this evidence in
15 aggravation is presented by the State and they are
16 hoping to convince a jury that death is the proper
17 sentence.

18 And then after that the defense puts up evidence in
19 mitigation. And evidence of mitigation can be any
20 number of things. It could be the person was under the
21 influence of someone else when they did something. It
22 could be the person was suffering from some mental
23 deficiency when they committed the crimes. It could be,
24 you know, poor upbringing. It could be a number of
25 things. Do you understand that?

1 MS. LINDSTROM: Right.

2 THE COURT: And what a jury is asked to do is to
3 give meaningful consideration to both the aggravating
4 circumstances and meaningful consideration to the
5 mitigating circumstances before they reach the decision
6 of life or death. Do you understand that process?

7 MS. LINDSTROM: Yes, I do.

8 THE COURT: Understanding that process, I'm sure
9 you understand why we have to understand, or get to know
10 your feelings about capital punishment. Can you tell us
11 do you generally favor capital punishment, generally
12 against capital punishment, how do you feel?

13 MS. LINDSTROM: I generally favor it.

14 THE COURT: Okay. Is that something that you -- an
15 opinion you formed a long time ago?

16 MS. LINDSTROM: A long time ago.

17 THE COURT: And is it based on religious
18 upbringing, personal upbringing, what's ---

19 MS. LINDSTROM: Both.

20 THE COURT: Okay.

21 MS. LINDSTROM: I believe it's Biblical and it is a
22 personal feeling.

23 THE COURT: Okay. When you say it's Biblical, and
24 I haven't read your questionnaire, are you a member of
25 any particular church that takes a particular stand on

1 that?

2 MS. LINDSTROM: No.

3 THE COURT: Okay.

4 MS. LINDSTROM: It's personal.

5 THE COURT: All right. Now, when you say that
6 you're for it, I guess -- I take it that is a pretty
7 strong feeling that you think it's a proper place in
8 society?

9 MS. LINDSTROM: Yes.

10 THE COURT: Are you telling me you think it's
11 appropriate in every aggravated murder case, or are you
12 telling me that you would listen and give meaningful
13 consideration to the mitigating evidence before you made
14 that decision?

15 MS. LINDSTROM: I would listen.

16 THE COURT: Okay. Would you give meaningful
17 consideration?

18 MS. LINDSTROM: Yes, I would.

19 THE COURT: All right. If you thought after -- you
20 understand that a person is convicted of an aggravated
21 murder, plus something else, after you have heard all
22 the evidence in aggravation and mitigation, if you
23 thought that the proper sentence was death, could you
24 vote for death?

25 MS. LINDSTROM: Yes, I could.

1 THE COURT: If after hearing all the evidence in
2 aggravation and mitigation you thought the proper
3 sentence was life, could you vote for life?

4 MS. LINDSTROM: Yes, I could.

5 THE COURT: Would you automatically vote one way or
6 the other?

7 MS. LINDSTROM: No.

8 THE COURT: You would listen to all the evidence
9 and give meaningful consideration before you did that?

10 MS. LINDSTROM: Yes, I would.

11 THE COURT: Now, if you thought that death was the
12 appropriate sentence, you would be asked to sign the
13 verdict form. Each juror would sign their name
14 individually.

15 MS. LINDSTROM: Um-hm.

16 THE COURT: Sometimes that's referred to as the
17 death warrant. If you thought the proper punishment was
18 death, could you sign that verdict form?

19 MS. LINDSTROM: Yes, I could.

20 THE COURT: Okay. All right. Who's up? Mr.
21 Abdalla. I'm sorry. There was something else I wanted
22 to ask you about. I apologize. I noticed on your
23 answer to number 20, you had a good friend, Tim
24 Siminon, who was a best man in your wedding?

25 MS. LINDSTROM: My wedding, um-hm.

1 THE COURT: He was a police officer in Illinois?

2 MS. LINDSTROM: Um-hm.

3 THE COURT: He was shot and killed in the line of
4 duty?

5 MS. LINDSTROM: In the line of duty.

6 THE COURT: Did they catch the person that did
7 that?

8 MS. LINDSTROM: They did. It was two people
9 involved.

10 MS. LINDSTROM: And does Illinois have the death
11 penalty?

12 MS. LINDSTROM: Yes, they do.

13 THE COURT: Did they seek the death penalty in that
14 case?

15 MS. LINDSTROM: One received it. They're still
16 actually working on a sentence on the other.

17 THE COURT: Okay. Did you go to court and follow
18 that case?

19 MS. LINDSTROM: We followed it through his wife.

20 THE COURT: Through his wife. Okay.

21 MS. LINDSTROM: But no, it's in Illinois.

22 THE COURT: Okay. You were down here when it
23 happened?

24 MS. LINDSTROM: Right.

25 THE COURT: Okay. Would that personal experience,

1 being I guess somewhat involved in a death penalty case,
2 affect your ability to be fair and impartial in this
3 case?

4 MS. LINDSTROM: I don't think so.

5 THE COURT: All right. This is Mr. Abdalla, who is
6 one the attorneys representing the defendant. He's
7 going to ask questions first, and then Solicitor Ariail
8 will ask you some questions.

9 MS. LINDSTROM: Okay.

10 THE COURT: Mr. Abdalla.

11 QUESTIONING BY MR. ABDALLA:

12 Q Good afternoon, Ms. Lindstrom. As the judge told
13 you, I'm John Abdalla, and I represent Mr. Sigmon, who's
14 seated at the table, and my co-counsel, Frank Eppes.

15 A Um-hm. Okay.

16 Q Now, you understand the judge has asked you about a
17 personal friend who was shot and killed, and I'm very
18 sorry.

19 A Um-hm.

20 Q But could you really sit and give meaningful
21 consideration to the information in this case?

22 A I think I could.

23 Q You think you could?

24 A Um-hm.

25 Q It concerns me if you say you think you could, and

1 I understand it if you can't, because this isn't a test.

2 A Right.

3 Q But it's somebody's life on the line potentially?

4 A Right, but I think I could separate the situation.

5 Q And you could divorce yourself from that other
6 situation and be totally objective in this?

7 A Um-hm.

8 Q Do you believe an eye for an eye?

9 A I do.

10 Q You do?

11 A I do.

12 Q So if somebody is convicted of killing then do you
13 think they should get the death penalty?

14 A Generally I think that.

15 Q Generally?

16 A Um-hm.

17 Q If somebody is convicted a killing, in this case if
18 you found my client guilty of murder, and you found an
19 aggravating factor, whether it was rape or whatever,
20 that would therefore put in him the qualification for
21 either life or death, are you saying that you think you
22 would go with death because it follows the eye for an
23 eye?

24 A Yes, I would.

25 Q It doesn't sound to me, you correct me if I'm

1 wrong, that you could give meaningful consideration to a
2 life sentence if those factors are found? Am I
3 misstating your beliefs?

4 A No, I would give meaningful conversation, but if it
5 also feel into that category, then that would be a
6 possibility.

7 Q That would be a possibility?

8 A The death penalty.

9 Q Because you understand when you get to that
10 juncture, you don't have to vote for death, it just
11 means he's qualified for it?

12 A I understand that.

13 Q You could vote life without parole or death.

14 A Right.

15 Q What do you believe the purpose of the death
16 penalty to be?

17 A The purpose of it?

18 Q Yes?

19 A As far as just due, as far as what is -- what
20 is ---

21 Q Why do we have it in society? As a tool of law
22 enforcement? I don't know if you want to call it
23 punishment? What is your view about death penalty?

24 A Possibly controlling these things from happening
25 all the time.

1 Q So you see it as a deterrent, is that fair?

2 A Right, that would be fair to say that.

3 Q As opposed to life without parole, do you think
4 life without parole is a deterrent?

5 A Yes, I do.

6 Q Pardon?

7 A Yes, I do.

8 Q Okay. If you're in the situation where my client
9 has been convicted, you're then in the jury box
10 listening to testimony in the form of the aggravation
11 evidence, and then they get to what's called victim
12 impact evidence.

13 A Um-hm.

14 Q Which means the family would come up and talk about
15 their loss.

16 A Um-hm.

17 Q And are you saying to me that if you listen to that
18 testimony coming from the witness stand, and people, you
19 know, crying about their loss, then you would still be
20 able to vote for life without parole?

21 A It might be hard for me. It might be hard for me
22 just because of our situation that we've gone through.

23 Q That's what I was concerned with, and my concern is
24 you really -- I know you want ---

25 A But if I was chosen, right, I would -- I would have

1 to be fair. And I would do so as much as I could. And
2 I would hope I would be fair.

3 Q Right. And I think you're struggling to be fair,
4 but I think you're looking at this as something you have
5 to do as opposed to if you don't feel qualified to make
6 this type of decision that's not a sin.

7 A Um-hm.

8 Q There is nothing wrong with it.

9 A I see what you're saying.

10 Q It's not illegal.

11 A Right. I see what you're saying.

12 Q And my concern is my client ---

13 A Would he have a fair ---

14 Q --- my client couldn't get a fair trial from you,
15 and I think you're a decent person, but I think as -- it
16 seems like you have this bias that you can't overcome,
17 and I understand it.

18 A Um-hm.

19 Q I might be in the same boat.

20 A It could be a problem.

21 Q It would be a problem? It sounds like it would be
22 a problem.

23 A It probably would be a problem, I suppose.

24 MR. ABDALLA: Let me just see if there's -- thank
25 you very much your candor, your honesty. I do

1 appreciate that.

2 THE COURT: Solicitor -- let me ask you this.
3 Sometimes you're asked a question in a vacuum and you're
4 only asked one side of the question, and the questions
5 imposed, again, were if it were an aggravated murder,
6 you know, would it be an uphill battle for you,
7 basically. Would you be more disposed to vote for death
8 than life, and I think your answer was you would be.

9 MS. LINDSTROM: Um-hm.

10 THE COURT: But the question is, before you made
11 that decision, would you also give -- he only asked
12 about aggravated circumstances, the questions is, would
13 you give meaningful consideration to the mitigating
14 circumstances before you made that decision of life or
15 death?

16 MS. LINDSTROM: I believe I would.

17 THE COURT: And I don't mean, you know, would you
18 just say, okay, well, I'll listen to it, but would you
19 weigh it and give meaningful consideration before you
20 made that decision?

21 MS. LINDSTROM: I believe I would.

22 THE COURT: Okay. And again, if you thought the
23 appropriate sentence was life, could you vote for life?

24 MS. LINDSTROM: Yes.

25 THE COURT: And if you thought the appropriate

1 sentence was death, could you vote for death?

2 MS. LINDSTROM: Yes.

3 THE COURT: All right. Solicitor Ariail.

4 MR. ARIAIL: Ms. Lindstrom, my name is Bob Ariail
5 and I'm the Prosecutor, or the Solicitor for this
6 circuit. And in this case I would be assisted by Betty
7 Strom, my Deputy. And I don't have any questions.

8 Thank you very much.

9 THE COURT: All right. Anything, yes or no, from
10 the State?

11 MR. ARIAIL: No.

12 THE COURT: Anything from the defense?

13 MR. EPPES: Yes, Your Honor.

14 THE COURT: All right. If you would just step out,
15 please, ma'am. We'll be with you very shortly.

16 (Ms. Lindstrom exited the courtroom.)

17 THE COURT: Okay. From the defense?

18 MR. ABDALLA: Thank you, Your Honor. Your Honor, I
19 believe when I asked the question of her, would you be
20 effected by what happened to you personally, and she
21 clearly said yes, I think she was struggling to be fair,
22 because she just feels like that's her duty, but I -- my
23 belief is she tipped her hat that she really didn't
24 think she could be fair, probably not. I don't want to
25 put words in her mouth, because I don't remember the

1 exact words, but I don't believe she could be, Judge. I
2 think she should be disqualified.

3 THE COURT: All right.

4 MR. ABDALLA: Wait, Your Honor. That's right. I
5 forgot. I had asked her about the victim impact, and I
6 said, if you were sitting there listening to this, could
7 you still give fair consideration, and my impression of
8 her answer was she could not, Your Honor.

9 THE COURT: Well, it's going to be like a lot of
10 jurors that we're going to see in the next couple days,
11 they're going to answer questions both ways. Just
12 like, you know -- and we've had jurors before that have
13 said, I'd lean for death and then say I'd lean for life,
14 but -- anything else?

15 MR. ABDALLA: Well, to be fair, Your Honor, when I
16 was even questioning her, when I said we come to this
17 juncture, I said, can you give consideration to both. I
18 don't think I slanted it where I just tried to box her
19 in. Surely I was trying to get her -- and -- well,
20 you've heard our position. I don't want to belabor the
21 point anymore.

22 THE COURT: All right. It's my finding this
23 juror's views will not prevent or substantially impair
24 her performance of her duties as a juror in accordance
25 with -- in accordance with her instructions and oath.

1 She will give meaningful consideration to the mitigating
2 circumstance as presented by the defense and instructed
3 by the Court. It's my definite impression that this
4 juror's beliefs on capital punishment would not render
5 her unable to return a verdict according to the law, so
6 I find her qualified, subject to the objection of the
7 defense.

8 If you would, bring her in please.

9 (Ms. Lindstrom entered the courtroom.)

10 THE COURT: All right. Just go ahead and have a
11 seat. Let me go over some things with you.

12 MS. LINDSTROM: Okay.

13 THE COURT: Ms. Lindstrom, I find that you are
14 qualified to serve as a juror in this case. That does
15 not mean that you will serve. It simply means that you
16 need to be prepared to serve. By that I mean, we're
17 picking a panel of some 40 jurors. After we get that
18 panel, which will probably be sometime Wednesday or
19 Thursday, Madam Clerk will call each juror and tell them
20 to return to court. When you receive that call you need
21 to come prepared to stay for seven or eight days. In
22 other words, go ahead and pack your suitcase. Have
23 comfortable clothes with you, bring any medications,
24 things like that that you need.

25 When you come back, park in the Hyatt garage, where

1 you parked this morning. You probably went in the
2 Spring Street entrance to ---

3 MS. LINDSTROM: I did.

4 THE COURT: Okay. Directly across from that
5 entrance is the entrance to -- the garage entrance to
6 this courtroom. I don't know if you -- this courthouse.
7 I don't know if you noticed it.

8 MS. LINDSTROM: No.

9 THE COURT: Okay. But in any event, I don't want
10 you to jaywalk, but I want you to come to the garage
11 entrance. The reason I'm having jurors do that is I
12 don't want them going into the public hallways, because
13 there will be people out there, press, things like that.
14 I want you to come to the garage entrance. There will
15 be bailiffs there waiting on you. They'll escort all
16 the jurors up. We'll put you in courtroom 7. Wait
17 until everybody is here, and then we'll bring you over
18 and we'll pick a jury in this case.

19 Now, you will not have any contact with family or
20 co-employees, or anything like that while you're on this
21 jury. You will be sequestered. Do you understand that?

22 MS. LINDSTROM: Okay.

23 THE COURT: You will be able to get a message to
24 them, if it's an emergency. In other words, you could
25 tell the bailiff, give them a message, the name and

1 number, and they could call and give the message, you
2 know, oh, I remembered somebody needed to be picked up
3 at a certain time, or I forgot something, please bring
4 it to the motel. If they bring it to the motel, you
5 won't be able to see them. They'll just give it to one
6 of the SLED agents.

7 And also on here are emergency numbers if someone
8 needs to get in touch with you. They're not going to be
9 able to talk with you, but there is a day time number
10 and a night time number and instructions. That's for
11 emergency use only. It's not an information, you know,
12 how long will mama be on the jury, things like that.
13 For any information on the trial, their best bet is just
14 to watch the local media coverage of the trial.

15 My last admonition is, do not look at anything on
16 TV, do not read anything, listen to the radio, anything
17 about this case. Also don't talk with anyone about this
18 case. Okay. Do you have any questions of me?

19 MS. LINDSTROM: No, I don't.

20 THE COURT: Okay. I will see you probably on
21 Wednesday or Thursday. You're free to go at this time.

22 MS. LINDSTROM: Okay.

23 THE COURT: Thank your very much. All right.
24 We'll take a five minute break, come back and do the
25 next panel.

1 (A short recess was taken, after which, the trial
2 continued as follows:)

3 THE COURT: Have a seat.

4 MR. ABDALLA: Your Honor?

5 THE COURT: Yes.

6 MR. ABDALLA: Not to be contentious or anything,
7 but if I may raise one more issue about that last juror?

8 THE COURT: All right. Ms. Lindstrom?

9 MR. ABDALLA: Yes, Your Honor. My belief is the
10 Court, and I hope -- I'm not trying to be offensive,
11 rehabilitated her on the issue of can she
12 philosophically give life versus death. Where I believe
13 the real crux of it lies in the fact that her personal
14 experience in conjunction with her inability, as she
15 said, to listen to victim impact evidence, I believe
16 disqualifies her. Like I said, I don't want to belabor
17 the point, but I will really wish the Court would take
18 that into consideration, and reconsider its decision.

19 THE COURT: All right. You're protected, and I
20 respectfully deny the reconsideration.

21 MR. ABDALLA: Thank you, Judge.

22 THE COURT: Go ahead and bring Mr. Turner.

23 MR. ARIAIL: Have you read his last question?

24 THE COURT: No.

25 MR. ARIAIL: You know he didn't sign it.

1 (Mr. Turner entered the courtroom.)

2 THE COURT: All right. You're Larry Turner?

3 MR. TURNER: Yes, sir.

4 THE COURT: Okay. If you would, slide your chair
5 close, and I'm going to ask you some questions. You
6 understand that you're still under oath. Do you
7 understand that?

8 MR. TURNER: Yes, sir.

9 THE COURT: All right. Now, have you complied with
10 my prior instructions not to talk with anyone about this
11 case?

12 MR. TURNER: Yes, sir.

13 THE COURT: All right. And you noted downstairs
14 that you had heard facts about the case before, is that
15 correct?

16 MR. TURNER: Well, I hadn't heard facts about it,
17 it's just ---

18 THE COURT: You read something in the newspaper, or
19 saw something on TV?

20 MR. TURNER: Well, my -- when it happened, my
21 friends, he told me, he lived in Blue Ridge, and he told
22 me that there was a guy running.

23 THE COURT: Okay. Did he know any of the parties,
24 do you recall? Did he know the victim in the case, or
25 did he know the suspect at the time?

1 MR. TURNER: No, sir, he just -- he told me about
2 it. He told me and another friend about it.

3 THE COURT: All right. Other than that, have
4 you -- do you remember reading anything in the paper or
5 seeing anything on TV about it?

6 MR. TURNER: Huh-uh.

7 THE COURT: Okay. Now, other than what your friend
8 said to you -- well, let me, in spite of what your
9 friend said to you, can you judge the case solely on
10 what you hear in this courtroom? In other words, I
11 don't know what your friend told you, but could you set
12 that aside and judge this case solely on the facts you
13 hear in the courtroom?

14 MR. TURNER: Yeah.

15 THE COURT: Okay. We're going to be asking you
16 some questions. There are no right answers or no wrong
17 answers to these questions. We simply need to know how
18 you feel about some things. We want you to answer
19 openly, and honestly and fully to those questions.

20 Now, I noticed on your questionnaire that you had
21 not signed the declaration. So I'm going to ask you,
22 did you fill this questionnaire out yourself?

23 MR. TURNER: Yes.

24 THE COURT: And all the answers are truthful on the
25 questionnaire?

1 MR. TURNER: Yes.

2 THE COURT: Okay. Did you just forget to sign it?

3 MR. TURNER: Yes, sir.

4 THE COURT: Okay. That's fine. We're going to be
5 talking about a number of things, including penalty, but
6 just because we talk about penalty, we're going to be
7 talking about the death penalty, we're going to be
8 talking about life in prison. And when we talk about
9 life in prison, we're talking about life without any
10 possibility of parole. Do you understand that?

11 MR. TURNER: Yes.

12 THE COURT: All right. Now, just because we talk
13 about penalty, Mr. Turner, that does not indicate
14 anything about the guilt or the innocence of this
15 defendant. Do you understand that?

16 MR. TURNER: Yes.

17 THE COURT: In other words, we have to talk about
18 penalty to make sure we get a fair jury in this case.
19 Do you understand that?

20 MR. TURNER: Yes, sir.

21 THE COURT: All right. As he sits there, he's
22 presumed to be innocent. Do you understand that?

23 MR. TURNER: Yes, sir.

24 THE COURT: All right. Now, if you were selected
25 as a juror on a criminal case, would you listen to the

1 law that the judge gave you and would you accept that
2 law and apply that law in the case?

3 MR. TURNER: What kind of law do you mean?

4 THE COURT: Well, any law I give you. If I'm the
5 judge and I tell the law is something, would you accept
6 that law? Here's the reason I ask that. Some people
7 might think they know what law is.

8 MR. TURNER: Yeah, well, a law is the law.

9 THE COURT: Well, but some people may have a
10 misconception of what the law is, okay? And that's
11 okay. The question is, can they set aside what they
12 thought the law was and accept the law that the judge
13 gives them. Could you do that?

14 MR. TURNER: Yes, sir.

15 THE COURT: All right. Some people come to court
16 and think they know what they want the law to be. In
17 other words, they know the law is something, but I
18 believe the law should be -- for instance, someone might
19 think, well, I think marijuana should be legal, okay.
20 And they're put on a jury and the question is, it's fine
21 if they think marijuana should be legal, but could they
22 said that aside and accept the law that the judge gives
23 them, that marijuana is illegal and follow that law. Do
24 you understand what I'm saying?

25 MR. TURNER: Yes, sir.

1 THE COURT: All right. Could you accept the law
2 and apply the law that I give to you even if you thought
3 it was something else, or thought it should be something
4 else?

5 MR. TURNER: Yes, sir.

6 THE COURT: All right. Now, can you -- I think
7 I've already asked this, but can you judge the case
8 solely upon what you hear in the courtroom?

9 MR. TURNER: Yes, sir.

10 THE COURT: Now, something may happen during the
11 course of the trial that may spur your memory, and you
12 say, oh, yeah, I remember, oh, my friend told me this
13 about this case too. If that happened, could you set
14 that aside and ignore it and accept -- and only apply
15 the facts that you hear in the courtroom?

16 MR. TURNER: Yes, sir.

17 THE COURT: Okay. Because obviously something your
18 friend told you may not be right, or something you read
19 in the newspaper might not be right. Do you understand
20 that?

21 MR. TURNER: Yes, sir.

22 THE COURT: All right. Now, you understand that a
23 defendant is presumed innocent and he is -- the State
24 has to prove him guilty beyond a reasonable doubt. Do
25 you understand that?

1 MR. TURNER: Yes, sir.

2 THE COURT: If you found that the State had not
3 proved somebody guilty beyond a reasonable doubt, would
4 you vote for not guilty?

5 MR. TURNER: Yes, sir.

6 THE COURT: All right. That would be your oath.
7 Do you understand that?

8 MR. TURNER: Yes, sir.

9 THE COURT: And if you found that the State had
10 proved somebody guilty beyond a reasonable doubt, could
11 you vote for guilty?

12 MR. TURNER: Yes, sir.

13 THE COURT: All right. Now, did you read my letter
14 about a capital case this morning, the two-page letter?

15 MR. TURNER: Yes, sir.

16 THE COURT: Did you know we had the death penalty
17 in South Carolina?

18 MR. TURNER: No, I didn't.

19 THE COURT: Okay. Have you ever thought much about
20 the death penalty?

21 MR. TURNER: No.

22 THE COURT: Okay. That's fine. Do you understand
23 that South Carolina is one of the states that has the
24 death penalty?

25 MR. TURNER: Yes, sir.

1 THE COURT: All right. Do you understand that it's
2 not every murder Case that is subject to the death
3 penalty, it has to be one of these aggravated murder
4 cases?

5 MR. TURNER: Yes, sir.

6 THE COURT: It has to be a murder, I think the
7 example I had in my letter, was murder plus a rape, or a
8 murder plus and armed robbery.

9 MR. TURNER: Yes, sir.

10 THE COURT: In other words, it could be the murder
11 of a small child, something like that. Do you
12 understand that?

13 MR. TURNER: Yes, sir.

14 THE COURT: And even when we talk about aggravated
15 murder cases, do you understand that the penalty is not
16 automatic? If somebody is convicted of an aggravated
17 murder, then the penalty will either be life without any
18 possibility of parole or death. Do you understand that?

19 MR. TURNER: Yes, sir.

20 THE COURT: And before the decision is made of life
21 or death there is a second trial where the same jury
22 comes back in and they hear more testimony and more
23 evidence. They hear two types of evidence. They hear
24 evidence in aggravation. That's evidence that the State
25 puts up about -- it might be how bad this person is,

1 maybe he's got a bad prior record for being violent. Do
2 you understand what I'm saying? Or maybe -- well, you'd
3 hear victim impact evidence, evidence from the victims
4 (sic) about the loss of the victim and what it means to
5 them and the community. You may hear character evidence
6 about the defendant. Things like that. And this
7 evidence is presented by the State in hopes of
8 convincing a jury to vote for death. Do you understand
9 that?

10 MR. TURNER: Yes, sir.

11 THE COURT: And then the defense puts up evidence
12 in mitigation. And again, evidence in mitigation can be
13 any number of things. It might be that the person has
14 some mental deficiency that they were suffering from at
15 the time of the crime. It might be that they had a real
16 bad upbringing. It might be that they were under the
17 influence of somebody else when they did the crime. Do
18 you understand what I'm saying?

19 MR. TURNER: Yes, sir.

20 THE COURT: And what the jury is asked to do, what
21 the jury must do is give meaningful consideration to
22 both the aggravating circumstances and the mitigating
23 circumstances before they decide on life or death. Do
24 you understand that?

25 MR. TURNER: Um-hm.

1 THE COURT: All right. Understanding that process,
2 you probably understand now that we need to know how you
3 feel about capital punishment. Would you say that
4 you're generally for the death penalty, generally
5 against the death penalty, how do you feel?

6 MR. TURNER: Well, I go to church, so I mean I am
7 not at liberty to, you know, judge what should happen to
8 a man.

9 THE COURT: All right. What church do you go to?

10 MR. TURNER: I go to the Church of God.

11 THE COURT: And where is that?

12 MR. TURNER: Off of Wade Hampton in Greer.

13 THE COURT: Who -- it's just -- what type of church
14 is that, Church -- Assembly of God?

15 MR. TURNER: Yes, sir.

16 THE COURT: Who's the pastor there?

17 MR. TURNER: Barry Hatley.

18 THE COURT: All right. And you're saying that you
19 can't judge people?

20 MR. TURNER: No, it -- I can't judge a person. I
21 mean, I can't judge a man should he live or should he
22 die, you know.

23 THE COURT: All right.

24 MR. TURNER: That's -- that's not up to me.

25 THE COURT: That's part of -- your church tells you

1 that?

2 MR. TURNER: Yes, sir.

3 THE COURT: All right. And you go -- this is a
4 pretty deep bred feeling?

5 MR. TURNER: Yes, sir.

6 THE COURT: All right. So -- well, let me ask you
7 this, say you're not the one judging it, okay, we're not
8 asking you to judge at this point in time, just tell me,
9 do you generally -- are you generally for the death
10 penalty or generally against the death penalty?

11 MR. TURNER: I am generally against the death
12 penalty.

13 THE COURT: Okay. All right. When you say you
14 cannot judge does that mean you cannot judge guilt or
15 innocence, or you cannot judge what penalty somebody
16 should suffer or both?

17 MR. TURNER: Well, both, I mean ---

18 THE COURT: Okay. So is it the doctrine of your
19 church that you cannot come and sit in judgment of
20 someone, is that what you're saying?

21 MR. TURNER: Yes, sir.

22 THE COURT: All right. So if this wasn't a death
23 penalty case, just a DUI case or a burglary case, are
24 you telling me you could not serve as a juror?

25 MR. TURNER: That's not up to me.

1 THE COURT: Okay. All right. I'm going to ask,
2 does anybody want to be heard on that particular issue?
3 Does anybody want to question this witness about that?
4 Not about penalty but about that issue?

5 MR. ARIAIL: (Shook his head.)

6 QUESTIONING BY MR. EPPES:

7 Q Mr. Turner?

8 A Yes, sir.

9 Q If -- if the judge asked you to set aside your
10 personal religious views and listen to the law and apply
11 the law as he instructed you, would you be able to do
12 that?

13 A Well, the law is the law, you know. I mean,
14 everybody you should abide by the law, but I mean, to
15 my -- but, you know, some people are not going to, some
16 people are.

17 Q Okay. Do you have any beliefs as to your duties as
18 a citizen of this country to serve on a jury or not?

19 A Come again?

20 Q Most people -- a lot of people think that as a
21 citizen, one of the things citizens are obligated to do
22 is serve on a jury. Do you have any views about that
23 opinion?

24 A I've really never even gave it much thought to be
25 on a jury, you know.

1 Q Thank you. Have you discussed being on a jury with
2 your pastor? Did you do that prior to coming here?

3 A No.

4 Q Have they ever -- you've never had a discussion
5 with your pastor about it?

6 A No, sir.

7 Q Then how do you know that it's against your
8 religion? Where did you get that information?

9 A Well, because you know, it's not for me to judge if
10 a guy should live or not. It's up to God.

11 MR. EPPES: Can I just get my arms around that one
12 for a second?

13 THE COURT: No.

14 BY MR. EPPES:

15 Q Well, do you understand that there's laws of --
16 there's laws of God and there's laws of men on this
17 earth, correct?

18 A Yeah.

19 Q And you understand that men must apply the laws of
20 this earth, correct?

21 A Yeah.

22 Q And is there anything wrong with the government
23 applying the laws of the earth?

24 A No.

25 Q Okay. Well, if part of the government doing that

1 is putting you on a jury, is it impossible for you to do
2 that? I mean, what if the judge said, today you're
3 qualified to be on the jury and you got plopped down in
4 that jury box?

5 A It's like I said, I'm -- I'm -- I cannot judge
6 should a man die or should a man live. See what I'm
7 saying? It's not my right.

8 Q What would you do if someone said you have to
9 decide?

10 A I'm not going to.

11 MR. EPPES: You're just not going to? Okay. All
12 right.

13 THE COURT: All right. As I understood it, it not
14 only applied to life or death, you're saying that you
15 could not judge guilt or innocence according to your
16 doctrine, is that correct?

17 MR. TURNER: Yes, sir.

18 THE COURT: Okay. All right. Let me ask you to
19 step outside for just a minute.

20 (Mr. Turner exited the courtroom.)

21 THE COURT: Anyone want to be heard on the issue of
22 his faith, his ability to sit on a jury, not on life or
23 death, but just on the issue of not being able to judge
24 another person? Your position is he's qualified or
25 unqualified?

1 MR. ARIAIL: Our possession is he's not qualified.

2 MR. EPPES: Your Honor, there is no reason to argue
3 about that.

4 THE COURT: Okay. All right. Now, as I understand
5 the law at this point in time I do not have to give you
6 the opportunity to voir dire him on death, that I can go
7 ahead and disqualify him. Does anybody think they have
8 the right to be heard on life or death at this time?
9 Okay. I mean, I don't even think I had to let you voir
10 dired him on the issue of that.

11 MR. ARIAIL: Right. He's just like somebody you
12 disqualified downstairs.

13 MR. EPPES: Your Honor, as far as we're concerned,
14 he's already said his opinion on death as well as the
15 guilt phase.

16 THE COURT: All right. Bring him back in.

17 (Mr. Turner entered the courtroom.)

18 THE COURT: All right. You don't even need to sit
19 down. Mr. Turner, I'm going to disqualify you from
20 serving on this case based on your religious background,
21 which is fine. Nobody is challenging you on that.

22 MR. TURNER: Yes, sir.

23 THE COURT: It would not be fair to either side to
24 place you on this jury. I think you understand that.

25 MR. TURNER: Yes, sir.

1 THE COURT: You're free to go at this time. Let me
2 thank you for your service.

3 MR. TURNER: Okay.

4 (Mr. Turner exited the courtroom.)

5 THE COURT: All right. Douglas Johnson. Anything
6 on his questionnaire I need to be aware of? You're
7 laughing.

8 MR. ARIAIL: It's got all kind of things in there.

9 (Mr. Johnson entered the courtroom.)

10 THE COURT: Hey, come on up Mr. Johnson. You are
11 Douglas Leroy Johnson?

12 MR. JOHNSON: Yes, sir.

13 THE COURT: Have a seat. All right. You
14 understand you're still under oath?

15 MR. JOHNSON: Yes, sir.

16 THE COURT: All right. And have you followed my
17 prior instructions not to talk about this case with
18 anyone?

19 MR. JOHNSON: Yes, sir.

20 THE COURT: All right. Now, a couple things we
21 talked about downstairs, one thing is that said you had
22 heard some of the facts about this case, is that
23 correct?

24 MR. JOHNSON: Yes, sir, just a little bit. I don't
25 really remember none of it. I just know -- remember

1 hearing something about it.

2 THE COURT: And through the news media, TV?

3 MR. JOHNSON: Yes, sir.

4 THE COURT: Okay. And have you formed any opinions
5 about the case from what you recall, any opinions about
6 the guilt or innocence of this defendant?

7 MR. JOHNSON: No, sir, because I hadn't -- you
8 know, I just heard a little bit here and there.

9 THE COURT: Okay. Now, you've got back problems as
10 I recall from downstairs?

11 MR. JOHNSON: Yes, sir.

12 THE COURT: All right. And tell me a little bit
13 more about those, if you would?

14 MR. JOHNSON: Just my disk in the lower part of my
15 back are sitting on top of each other. There ain't no
16 padding in between them. It's degenerating.

17 THE COURT: Okay. Are you currently under a
18 doctor's care about that?

19 MR. JOHNSON: Oh, no, sir.

20 THE COURT: Okay. Do you think that that would
21 interfere with your ability to perform your duties?

22 MR. JOHNSON: No, sir, it's just I squirm a good
23 bit.

24 THE COURT: Okay. That's fine. What I can do is I
25 can put you on one end, or -- and you know, even if you

1 need to stand up, or something like that, we can handle
2 something like that. All you have to do is just raise
3 your hand and I would address that problem.

4 MR. JOHNSON: Yes, sir.

5 THE COURT: All right. Now, I'm going to ask you
6 some questions, and the attorneys are going to ask you
7 some questions. And some of them are going to seem of a
8 personal nature, so please doesn't be upset. If you're
9 going to hold it against anybody, hold it against me.
10 Don't hold it against the State or don't hold it against
11 the defendant in this case. But we do need your full
12 and honest answers and candid answers to these
13 questions. And I tell you up front there are no right
14 answers. There are no wrong answers. Do you understand
15 that?

16 MR. JOHNSON: Yes, sir.

17 THE COURT: Whatever opinions you may have, we will
18 certainly respect those opinions. Do you understand
19 that?

20 MR. JOHNSON: Yes, sir.

21 THE COURT: Now, did you read my letter this
22 morning?

23 MR. JOHNSON: Yes, sir.

24 THE COURT: The two-page letter? Did you know much
25 about the death penalty in South Carolina before you

1 read it?

2 MR. JOHNSON: No, sir.

3 THE COURT: All right. Did you know we had the
4 death penalty in South Carolina?

5 MR. JOHNSON: Yes, sir.

6 THE COURT: All right. Do you understand now that
7 that it's not every murder case that is subject to the
8 death penalty?

9 MR. JOHNSON: Yes, sir.

10 THE COURT: And do you understand that it's only
11 these aggravated murders where the State can even seek
12 the death penalty. Do you understand that?

13 MR. JOHNSON: Yes, sir.

14 THE COURT: And I think the example I used was a
15 murder during a rape, or a murder during an armed
16 robbery, something like that. Do you understand that
17 even when we talk about an aggravated murder, the
18 penalty is not automatic? Do you understand that?

19 MR. JOHNSON: Yes, sir.

20 THE COURT: In other words, if somebody is
21 convicted of an aggravated murder plus a rape, then the
22 possible penalties would be life without parole, no
23 parole whatsoever. Do you understand that?

24 MR. JOHNSON: Yes, sir.

25 THE COURT: And death. Do you understand that?

1 MR. JOHNSON: (Witness nodded his head.)

2 THE COURT: Now, before you -- and you understand
3 the jury decides that issue of life and death?

4 MR. JOHNSON: Yes, sir.

5 THE COURT: The same jury? It's a two-part trial.
6 The first part is just like any other trial. It's
7 called the trial phase, and the issue is did the person
8 commit the crime or not. If the verdict is not guilty
9 everybody goes home. If the verdict is guilty, then
10 there is a waiting period and then the same jury comes
11 back and there's a second trial. And at that trial more
12 evidence is introduced by the State and more evidence is
13 introduce by the defense. Do you understand that?

14 MR. JOHNSON: Yes, sir.

15 THE COURT: And a jury is asked to listen to and
16 give meaningful consideration to all that new evidence
17 before they decide the issue of life and death. Do you
18 understand that?

19 MR. JOHNSON: Yes, sir.

20 THE COURT: All right. And there are two types of
21 evidence that are introduced. The state introduces
22 evidence in aggravation. That can be a number of
23 things. It might be about the character of the
24 defendant. He's just a mean person. It might be he's
25 got a significant prior record of violence or something

1 like that. The State may also introduce victim impact
2 evidence. In other words evidence about the loss of the
3 victim. What it meant to the community. What it means
4 to the family, things like that. And they're
5 introducing that evidence in an attempt to persuade the
6 jury to reach a verdict of death. Do you understand
7 that?

8 MR. JOHNSON: Yes, sir.

9 THE COURT: And the defense puts up evidence in
10 mitigation. Evidence in mitigation can be any number of
11 things. It might be the person suffers from a mental
12 deficiency, or something. It might be that the person
13 was under the influence of some other person when he
14 committed the crime. Any number of things might be
15 evidence in mitigation. They might have a perfectly
16 clean record. Do you understand what I'm saying?

17 MR. JOHNSON: Yes, sir.

18 THE COURT: And of course they're introducing that
19 evidence, saying that they want the jury to give a life
20 without parole sentence. Do you understand that?

21 MR. JOHNSON: Yes, sir.

22 THE COURT: All right. Do you understand that even
23 if it's an aggravated murder case, the jury never has to
24 give the death penalty. Do you understand that? They
25 can always give a life sentence.

1 MR. JOHNSON: Yes, sir.

2 THE COURT: All right. Now, understanding that
3 whole concept, I'm sure you understand that we need to
4 know your feelings about capital punishment. And I've
5 done most of the talking, now you're going to do some
6 talking, but we need to know, generally would you say
7 you're for the death penalty, generally would you say
8 you're against the death penalty, generally how did you
9 feel?

10 MR. JOHNSON: Well, really I'm for it.

11 THE COURT: Okay.

12 MR. JOHNSON: I mean honestly, but ---

13 THE COURT: We want honest answers. All right.
14 And when you say you're generally for it, is that -- is
15 this something you've thought about for a long time, is
16 this something in your religious upbringing, something
17 that you have talked about with friends? I mean, how
18 have you come to this position of generally for the
19 death penalty?

20 MR. JOHNSON: Well, we used to talk about it, well,
21 when I was around 20, 21. A bunch of us used to just
22 talk about it, about we thought certain people deserved
23 it and certain people didn't.

24 THE COURT: Okay. All right. Could you -- or
25 would you give meaningful consideration to the

1 aggravating circumstances that are presented by the
2 State and charged by me the judge in reaching your
3 decision in this case? In other words, they're going to
4 be putting up aggravating circumstances, saying, you
5 know, we think you should give the death penalty for
6 this reason. Would you give meaningful consideration to
7 that in reaching your decision?

8 MR. JOHNSON: Yes, sir, I would think about all of
9 it.

10 THE COURT: All right. Would you give meaningful
11 consideration to evidence of mitigation that's put up by
12 the defense?

13 MR. JOHNSON: Yes, sir.

14 THE COURT: Okay. In other words, you wouldn't
15 automatically vote one way or the other, is that what
16 you're saying?

17 MR. JOHNSON: No, sir.

18 THE COURT: All right. If you thought that the --
19 the appropriate sentence was death, could you vote for a
20 death sentence?

21 MR. JOHNSON: Yes, sir.

22 THE COURT: If you thought the appropriate sentence
23 was life, could you vote for a life sentence?

24 MR. JOHNSON: Yes, sir.

25 THE COURT: All right. If you thought the

1 appropriate sentence was death, then you would be asked
2 to sign your name to the verdict form. Sometimes people
3 refer to that as the death warrant, because all the
4 jurors have to sign their name. Do you understand that?

5 MR. JOHNSON: Yes, sir.

6 THE COURT: If you thought that was the appropriate
7 sentence, could you sign your name to that form?

8 MR. JOHNSON: Yes, sir.

9 THE COURT: Okay. Now, who's up?

10 MR. ARIAIL: It's me, Your Honor. We didn't
11 question the last one, so I assume I'm still up. I
12 just ---

13 THE COURT: Were you first or last the last time?
14 You -- oh.

15 MR. ARIAIL: I was to be first the last time.

16 THE COURT: We didn't ask that one.

17 MR. ARIAIL: What about the time before, who was
18 up?

19 MR. ARIAIL: He was.

20 THE COURT: Okay. Then it's your turn. All right.
21 This is Solicitor Ariail. He's going to ask you some
22 questions. That's Frank Eppes, he's going to ask you
23 some questions after Mr. Ariail gets done.

24 QUESTIONING BY MR. ARIAIL:

25 Q Mr. Johnson, I'm Bob Ariail, the Solicitor for

1 Greenville, Pickens Counties. And I will be
2 representing the State of South Carolina in this case,
3 along with my Deputy Betty Strom, who's in the blue
4 suit, and Mindy Hervey one of my assistants. The judge
5 asked you, and I just want to follow up on a couple of
6 questions, that if at the time the case comes to where
7 the -- a defendant in any capital case, just take a
8 hypothetical, been convicted, he's guilty of murder, got
9 to the next phase, which is the sentencing phase, and
10 aggravating information is presented and mitigating
11 information is presented, and the judge instructs you
12 that you must consider -- meaningfully consider all of
13 that. Would you, as part of that, consider the nature
14 and circumstances of the case, the crime itself?

15 A Yes, sir.

16 Q All right. And if you felt that all of that
17 information was such that the penalty of death was the
18 more appropriate penalty, could you vote for that?

19 A Yes, sir.

20 Q And could you, as he talked about, sign the death
21 warrant?

22 A Yes, sir.

23 Q Wouldn't have any hesitancy about that?

24 A No, sir.

25 MR. ARIAIL: That's all I have. Thank you.

1 THE COURT: Mr. Eppes.

2 MR. EPPES: I might try this little corner too.

3 THE COURT: You got to speak up.

4 QUESTIONING BY MR. EPPES:

5 Q Mr. Johnson, you said you were for the death
6 penalty, and when you were to 20 or 21 you used to talk
7 about it?

8 A Yes, sir.

9 Q With your friends? Can you tell me how you came to
10 talk about it?

11 A No, sir, it was just something that come up. I
12 mean, we would get together and just talk about
13 different things.

14 Q What did you say about it?

15 A I will be honest with you, I can't exactly
16 remember. Just that a few of us agreed that certain
17 people did deserve the death penalty.

18 Q Okay. Why? Why do people -- certain people
19 deserve the death penalty?

20 A To me, myself, if they committed it and it's proven
21 100 percent and there is no mental problem or anything,
22 I'd say that they deserve the death penalty.

23 Q So if somebody is found guilty of murder, you think
24 they would probable deserve to die?

25 A It depends on what the other side of it is. They

1 might have some kind of mental or something like that, I
2 would take all of that into consideration.

3 Q You would take the facts and the circumstances of
4 the crime into consideration?

5 A Yes.

6 Q What do you think the purposes of the death penalty
7 are?

8 A To me it's more or less, I hate to put it this way,
9 but it's more or less for the grievance of the family
10 and stuff, to me.

11 Q Because of the families of the people that die?

12 A Yes, sir.

13 Q Have you ever known anybody that died in a
14 murder?

15 A No, sir.

16 Q Okay. There is very likely in this case to be
17 victim impact evidence, evidence from the family of
18 the deceased, provided, you know, there's a guilty
19 finding before that. Is that evidence -- is that
20 evidence going to be something you're going to look at
21 and you're going to rely on more than other evidence in
22 the case?

23 MR. ARIAIL: I'm going to object to the form of
24 that question, Your Honor.

25 THE COURT: I will sustain that as to that form.

1 BY MR. EPPES:

2 Q Okay. Will you be able -- if you hear from victims
3 in this case that have lost of a loved one -- a loved
4 one, will you be able to -- to keep a fair mind
5 regarding all other evidence that you might hear from
6 the defendant in the case about mitigation, meaning
7 reasons that he might not ought to die?

8 A Yes, sir.

9 Q You would be able to listen to all of that?

10 A Yes, sir.

11 Q Okay. Let me ask you something specific. We will
12 give you a list of stuff, okay, alcohol, drugs, poverty,
13 background, person's age, mental problems, you've
14 already talked about mental problems. Would you be
15 willing to consider every one of those things as a
16 reason ---

17 MR. ARIAIL: Objection, Your Honor.

18 MR. EPPES: --- not to sentence somebody to die?

19 THE COURT: I sustain the objection. The question
20 is, generally would you be able to give meaningful
21 consideration to those factors. I'm not going to have
22 him say how he would feel about each those factors. The
23 question is, generally would you consider mitigating
24 factors?

25 MR. JOHNSON: Yes, sir.

1 THE COURT: All right.

2 BY MR. EPPES:

3 Q Would you generally consider those factors if the
4 Court instructed you to?

5 A Yes, sir

6 Q When you spoke with your friends, this is when you
7 were 20 or 21 -- I'm sorry, how old are you now?

8 A I'm thirty-four.

9 Q So this is 9 or 10 -- 10 or 15 years ago?

10 A Yes.

11 Q Where are your friends from? Is it a group you
12 went to high school with, or grade school or something?

13 A Well, it's just a group of people I used to work at
14 Slater Mill, and people I graduated with.

15 Q So y'all would ride back and forth to work and talk
16 about the world?

17 A Yes, sir, some of us did.

18 Q Yeah. When y'all talked about that, were there any
19 people that y'all said, yeah, they ought to die, any
20 specific people you remember?

21 A No, sir.

22 Q Do you know a little bit about jury service?

23 A No, sir, this is the first time I've ever served.

24 Q Ever watch courtroom stuff on television?

25 A Yes, sir, I watch it a little.

1 Q Okay. You know how the jury goes back and they
2 deliberate, and it has to be a unanimous decision?

3 A Yes, sir.

4 Q Okay. Now, that's true when we talk about the
5 guilt or innocence of the defendant, and it's, it sounds
6 funny to say, more true when you talk about the death
7 penalty, but if you get to the sentencing phase, you get
8 to the phase where a jury has to decide the sentence,
9 each of the jurors serves as an independent judge. Each
10 one of them has to decide for him or herself that he
11 is -- he or she is convinced that this person needs to
12 either stay in jail the rest of their life, life without
13 parole, you don't get out when it's like that, or die.
14 Do you understand that?

15 MR. ARIAIL: I'm going to object to be form of that
16 question.

17 THE COURT: Well, go ahead and answer that.

18 MR. JOHNSON: Yes, sir, I understand.

19 BY MR. EPPES:

20 Q Okay. Now, when you're in that jury room and
21 you're discussing things and you get to give and take
22 back and forth, at some point you're going to make up
23 your mind. You know, you're going to reach a decision
24 yourself. Now, how would you feel if everybody else in
25 the jury panel was opposite of you? How do you think

1 you'd react to that if they all said, well, you know, if
2 you agree with us, we can all go home? What you do
3 think you would do, regardless of which side you were
4 on?

5 A I don't know to be honest with you.

6 Q If everybody was bearing down on you, do you think
7 you would might just say, oh, well, if everybody else
8 thinks it's okay, I'm going to say it's okay too?

9 A I'll be honest with you, I couldn't answer that
10 because I really don't know until I'm put in that
11 position.

12 Q Have you every been in a position like that that
13 you recall?

14 A No, sir.

15 Q Okay. But you understand that each juror is
16 entitled to the respect of the other jurors as far as
17 their opinion?

18 A Yes, sir.

19 Q And if you were in the majority side, and there
20 were one or two people holding out, for either sentence,
21 life without parole or death, would you respect the
22 opinion of the people that disagree with you?

23 A Yes, sir.

24 MR. EPPES: Okay. Thank you, Your Honor.

25 THE COURT: You understand that the jury decision

1 is a give and take process, that you're to listen to
2 other people's opinions and you're to express your own
3 opinions. Do you understand that?

4 MR. JOHNSON: Yes, sir.

5 THE COURT: And would you give respect to and
6 consider the opinions of your fellow jurors as you reach
7 a verdict?

8 MR. JOHNSON: Yes, sir.

9 THE COURT: Okay. All right. Anything, yes or no,
10 from the State?

11 MR. ARIAIL: No.

12 THE COURT: From the defense?

13 MR. EPPES: Yes, Your Honor.

14 THE COURT: All right. Let me ask you to step
15 outside, please, sir. We'll be with you very shortly.

16 (Mr. Johnson exited the courtroom.)

17 THE COURT: All right. What is it, Mr. Eppes?

18 MR. EPPES: Your Honor, he said when asked if was
19 in the minority that he didn't know what he would do,
20 and I probably should have asked him if he would cave
21 in, but I think the implication on that answer is that
22 he would might cave in and just go in with the majority.
23 He said he doesn't know, he's never been faced with that
24 position.

25 THE COURT: Okay. Anything else? You think he's

1 disqualified because of that?

2 MR. EPPES: Yes, sir.

3 THE COURT: All right. Bring him back in.

4 (Mr. Johnson entered the courtroom.)

5 THE COURT: Come back up and have a seat.

6 MR. JOHNSON: Yes, sir.

7 THE COURT: All right. Mr. Johnson, one of the
8 questions that was asked was if you are on the jury and
9 if you found yourself in a minority position, in other
10 words let's say, you know, you and one or two others
11 thought the person was not guilty and everybody else
12 thought they were guilty, of course again what a jury is
13 to do is to exchange ideas and give their reason why
14 they think that way. Do you understand that?

15 MR. JOHNSON: Yes, sir.

16 THE COURT: And you're supposed to give respect and
17 consideration to other people's opinions. Do you
18 understand that?

19 MR. JOHNSON: Yes, sir.

20 THE COURT: But if you were convinced that your
21 opinion was true, would you hold to that opinion and not
22 compunctulate just because the other jurors, or the
23 majority of jurors wanted to get out early, or wanted to
24 get you to vote their way? In other words, would you be
25 able to hold to your convictions in the case?

1 MR. JOHNSON: I'll be honest, I haven't been put in
2 that position. It would be hard for me to say yes or
3 no. I mean, I'm being honest with you.

4 THE COURT: Well, I really need an answer,
5 because -- I mean, I understand nobody -- you haven't
6 been able -- you haven't ever served on a death penalty
7 case, I assume either, but you thought you could vote
8 for life or death.

9 MR. JOHNSON: Yes.

10 THE COURT: So not having been put in that
11 position, you know, if you found yourself in a minority
12 on an issue, again understand that you would listen to
13 the other people and give due consideration to their
14 opinions, you would do that, would you not?

15 MR. JOHNSON: Yes, sir.

16 THE COURT: If they did not convince you that their
17 opinion was the correct opinion, and if you felt
18 strongly and firmly that your opinion was the correct
19 one, would you hold to that opinion and compunctulate
20 because they wanted, I think the question was, get out
21 of there early, or something like that?

22 MR. JOHNSON: Yes, sir.

23 THE COURT: Okay. Are you -- okay. Then what
24 you're saying is you would not just vote for the
25 majority just because the majority -- you wouldn't go

1 along with the majority just because for going along
2 with majority's sake, is that what you're saying?

3 MR. JOHNSON: Yes, sir.

4 THE COURT: All right. Thank you. All right. You
5 are qualified to serve on this case. What I'm going to
6 do is give you a letter. I'm going to go over it with
7 you. You have been qualified to serve. That does not
8 mean that you are going to serve. It means you need to
9 be prepared to serve if it comes down to -- when you're
10 called to come back to the court. If you're selected as
11 a juror in this case you will be sequestered in a motel,
12 and be fed at local restaurants. What we're going to do
13 is we're going to qualify a panel of some 40 something
14 jurors. Once we get all those jurors qualified, then
15 Madam Clerk is going to call, and is going to tell
16 everybody to come back. Now, it will probably be
17 sometime on Wednesday, possibly on Thursday, I guess
18 possibly on Friday. I don't know how long it is going
19 to take. Do you understand that?

20 MR. JOHNSON: Yes, sir.

21 THE COURT: When you're called, you need to come
22 back with a suitcase packed with seven or eight days
23 worth of casual clothes, comfortable clothes. Bring any
24 medications you may have, things like that. You will be
25 asked to go park in the Hyatt garage, where you parked

1 this morning. Then come right across the street from
2 the Hyatt garage to the Spring Street garage entrance to
3 this courthouse.

4 MR. JOHNSON: Yes, sir.

5 THE COURT: And what I want you to do is there will
6 be bailiffs there, come to that entrance and then those
7 bailiffs will take all the jurors upstairs, and we'll
8 put you back in courtroom 7. And then once all the
9 jurors are here, we'll bring you back over to courtroom
10 8 and pick a jury. Do you understand that?

11 MR. JOHNSON: Yes, sir.

12 THE COURT: Now, you will not be able to contact
13 your family or your work people while you're on jury
14 service. You need to go ahead and tell them that. If
15 there is an emergency and they need to contact you,
16 there are two phone numbers on this letter, emergency
17 numbers. A day time number and a night time number that
18 they can contact you. They won't be able to talk to you
19 but they'll be able to talk to some court personnel, and
20 we can handle any emergency that comes up.

21 MR. JOHNSON: Yes, sir.

22 THE COURT: Likewise, you will not be able to
23 contact them. If you need something, you can tell a
24 bailiff a phone number and a person's name and a
25 message, and they can call and handle any situation like

1 that.

2 While you're waiting to be called back, do not
3 discuss this case with anyone. Do not watch any news
4 accounts. Don't watch TV. Don't listen to the radio.
5 Ready anything in the paper about it. Okay?

6 MR. JOHNSON: Yes, sir.

7 THE COURT: Do you have any questions?

8 MR. JOHNSON: No, sir.

9 THE COURT: All right. You're free to go. We'll
10 see you in a couple days. Thank you.

11 (Mr. Johnson exited the courtroom.)

12 THE COURT: Mr. Eppes.

13 MR. EPPES: Your Honor, I want to object to the
14 Court rehabilitating this witness. After my questions
15 it's our position that he was disqualified from serving
16 because he said he didn't know whether he would be able
17 to withstand the pressure ---

18 THE COURT: Are you saying the Court can't clarify
19 a witness' answer?

20 MR. EPPES: I don't think it was clarifying, Your
21 Honor. I think it was -- it was aggressively trying to
22 qualify from your neutral position, and I -- I don't
23 think that's proper.

24 THE COURT: Okay. All right. Anything else?

25 MR. EPPES: No, sir.

1 THE COURT: All right. I find that this juror's
2 views will not prevent or substantially impair the
3 performance of his duties as a juror in accordance with
4 his instructions and oath. I find that he will give
5 meaningful consideration to the mitigating circumstances
6 as presented by the defense and instructed by the Court.
7 It is my definite impression from talking to him and
8 looking at all the answers to his question, that he
9 could render an appropriate verdict either for life or
10 death as he saw fit. All right. Douglas Johnson --
11 excuse me, that was Douglas Johnson. All right.
12 Roberta Richardson.

13 (Ms. Richardson entered the courtroom.)

14 THE COURT: Hey, Ms. Richardson. You are Roberta
15 Richardson?

16 MS. RICHARDSON: I am.

17 THE COURT: All right. If you would, just have a
18 seat, please, ma'am. Slide your chair forward so you
19 can speak directly into that microphone. All right.
20 Ms. Richardson, you understand you're still under oath?

21 MS. RICHARDSON: Yes, sir.

22 THE COURT: And have you followed my instructions
23 thus far not talk with anyone about this case?

24 MS. RICHARDSON: Yes, sir.

25 THE COURT: All right. Now, you noted -- or I

1 noted downstairs that you said you had heard something
2 about this case before, is that correct?

3 MS. RICHARDSON: Reading the newspaper this
4 morning.

5 THE COURT: Okay. That was it?

6 MS. RICHARDSON: That was it.

7 THE COURT: All right. You don't recall reading
8 anything or seeing anything on TV back when these events
9 occurred?

10 MS. RICHARDSON: I do not watch the news.

11 THE COURT: Okay. Well, you read the paper, I
12 guess there was something in the paper. You don't
13 recall reading it back when it was ---

14 MS. RICHARDSON: I do not.

15 THE COURT: That's fine. From reading the article
16 this morning, have you formed any opinion about this
17 case?

18 MS. RICHARDSON: No.

19 THE COURT: Have you formed any opinion about the
20 guilt or the innocence of the defendant in this case?

21 MS. RICHARDSON: No, sir.

22 THE COURT: All right. We are going to be asking a
23 number of questions. We don't mean to invade your
24 privacy, but it is necessary for us to ask these
25 questions in order to get a qualified jury in this case.

1 There are no right answer. There are no wrong answers.
2 We simply request that you answer the questions fully
3 and honestly. We will be talking mainly about the
4 penalty. And the penalties we will be talking about are
5 life without any possibility of parole, and also the
6 death penalty, excuse me, which in South Carolina is
7 either by electrocution or lethal injection. Do you
8 understand that?

9 MS. RICHARDSON: Um-hm.

10 THE COURT: Because we're talking about penalty,
11 you should not infer anything about the guilt or the
12 innocence of this defendant. Do you understand that?

13 MS. RICHARDSON: Yes, sir.

14 THE COURT: Obviously as he sits there he is
15 presumed to be innocent. Do you understand that?

16 MS. RICHARDSON: Yes, sir.

17 THE COURT: It's necessary because of this process
18 that we talk to you about penalty. Do you understand
19 that?

20 MS. RICHARDSON: Right.

21 THE COURT: Let me back up and ask you a few
22 questions. If you are asked to serve as a juror on this
23 case, would you be able to listen to the law and accept
24 the law that I give to you and apply that law in this
25 case?

1 MS. RICHARDSON: Yes, sir.

2 THE COURT: The reason I ask that is sometimes
3 people come into court with a preconceived notion about
4 what the law is, and some people come to court with a
5 notion what they feel the law should be. And both of
6 those instances are fine as long as you can set aside
7 any preconceived notions and follow the law that the
8 judge gives you. Do you understand that?

9 MS. RICHARDSON: Yes, sir.

10 THE COURT: And you're telling me you can do that?

11 MS. RICHARDSON: I can do that.

12 THE COURT: All right. Now, I don't know -- you
13 said you don't recall anything about this case other
14 than the paper this morning. If something came up
15 during the course of the trial and you perhaps recalled
16 reading something or seeing something about the case,
17 would you be able to set that aside and judge the case
18 solely from the facts you hear in this courtroom?

19 MS. RICHARDSON: I believe I could.

20 THE COURT: Okay. Well, in other words if you saw
21 something on TV or recall seeing something in the paper,
22 that necessarily wouldn't be true. Do you understand
23 that?

24 MS. RICHARDSON: Right.

25 THE COURT: Okay.

1 MS. RICHARDSON: Yes.

2 THE COURT: All right. You understand the State
3 has the burden of proving a defendant guilty beyond a
4 reasonable doubt?

5 MS. RICHARDSON: I do.

6 THE COURT: And depending on your view of the
7 evidence in the case and the facts of the case, could
8 you vote guilty in a case where you felt the State had
9 proved a defendant guilty beyond a reasonable doubt?

10 MS. RICHARDSON: Yes.

11 THE COURT: And would you vote not guilty if you
12 felt the State had not proved the defendant guilty
13 beyond a reasonable doubt?

14 MS. RICHARDSON: Yes, sir.

15 THE COURT: All right. Did you have a chance to
16 read my two-page letter about capital cases in general?

17 MS. RICHARDSON: I did.

18 THE COURT: Now, did you know much about the death
19 penalty in South Carolina before you read that letter?

20 MS. RICHARDSON: I did not.

21 THE COURT: Did you know we had a death penalty in
22 South Carolina?

23 MS. RICHARDSON: Not really.

24 THE COURT: Okay. You understand now from reading
25 that letter that it is not every murder case that is

1 subject to the death penalty?

2 MS. RICHARDSON: Right.

3 THE COURT: You understand this concept of an
4 aggravated murder, a murder plus something?

5 MS. RICHARDSON: Yes, sir.

6 THE COURT: And the example I gave in my letter is
7 a murder plus a rape, or murder plus an armed robbery?

8 MS. RICHARDSON: Yes.

9 THE COURT: It could be a murder of a small child.
10 There are a number of aggravating circumstances.

11 MS. RICHARDSON: Right.

12 THE COURT: Do you understand that when we talk
13 about an aggravated murder that penalty is not
14 automatic? It -- there's two choices a jury would have
15 if they convicted somebody of an aggravated murder,
16 would be life without parole or death. Do you
17 understand that?

18 MS. RICHARDSON: Yes.

19 THE COURT: Before a jury makes a decision of life
20 or death, they -- they've already convicted the person
21 in the trial phase of a case. That's like any other
22 trial. The issue is guilty or not guilty. If the
23 verdict is not guilty, you go home. If the verdict is
24 guilty then you go to the second phase. But before the
25 jury decides penalty in that second phase, it's -- it's

1 a -- another trial. You will hear more testimony and
2 evidence. Do you understand that?

3 MS. RICHARDSON: Um-hm.

4 THE COURT: And the testimony and evidence that you
5 will hear comes in two forms. The State puts up what is
6 known as aggravated evidence -- aggravated circumstance.
7 That can be a number of things. It could be about the
8 character of the defendant. Perhaps he was of a bad
9 character. Perhaps he had a prior history of crimes of
10 violence, things like that. The State would also put up
11 evidence of victim impact. In other words, evidence
12 about the loss of the victim. What it meant to the
13 family, to the community, things like that. This type
14 of evidence the State would be putting up hoping to
15 convince a jury the appropriate sentence would be
16 death.

17 And then the defense would put up evidence in
18 mitigation. And again, evidence in mitigation can be
19 any number of things. It might be a very poor
20 upbringing. It might be the fact that the defendant was
21 suffering from some mental deficiency at the time of the
22 crime. It might be that the defendant was under the
23 influence of some other person in committing the crime.
24 Any number of things like that. Do you understand that?

25 MS. RICHARDSON: Yes, sir.

1 THE COURT: All right. Understanding this process
2 of a bifurcated trial, this aggravating and mitigating
3 circumstances, I'm sure you understand we need to know
4 what your feeling are about capital punishment. Would
5 you -- and I've done most of the talking so far, but now
6 you're going to have to do some of the talking. Would
7 you say generally you're for capital punishment,
8 generally you're against capital punishment, just how do
9 you feel?

10 MS. RICHARDSON: I am against capital punishment.

11 THE COURT: All right. Are you absolutely against
12 it in every case?

13 MS. RICHARDSON: Yes, sir.

14 THE COURT: All right. If a case was aggravated
15 enough, if a case was bad enough, could you vote for the
16 death penalty?

17 MS. RICHARDSON: I might be able to.

18 THE COURT: All right. Well, let me ask you this.
19 You understand that the State is going to be putting up
20 evidence in aggravation?

21 MS. RICHARDSON: Yes, sir.

22 THE COURT: And they're going to be attempting to
23 convince you of the fact that the defendant should
24 suffer death. Do you understand that?

25 MS. RICHARDSON: (Witness nodded her head.)

1 THE COURT: Would you give meaningful consideration
2 to the evidence they put up, and when I say meaningful
3 consideration, I mean not just, okay, I will listen to
4 it, but I'm going to vote for life every time, but would
5 you give meaningful consideration, and if the case was
6 aggravating enough, could you vote for death?

7 MS. RICHARDSON: I don't think I could.

8 THE COURT: All right. Are you telling me then
9 that no matter how aggravated the case is, you would
10 vote for life? If you had a choice between life or
11 death, you would vote for lie every time?

12 MS. RICHARDSON: If it were life without any
13 possibility of parole.

14 THE COURT: It is. That is ---

15 MS. RICHARDSON: Then I would vote ---

16 THE COURT: Every time?

17 MS. RICHARDSON: Yes, sir.

18 THE COURT: No matter how aggravated the case was?

19 MS. RICHARDSON: Right. I don't believe that I
20 have the right to say somebody should die.

21 THE COURT: All right. Is that based on some sort
22 of religious background, or just personal feelings
23 that ---

24 MS. RICHARDSON: I guess it could be both, personal
25 feelings and religious feelings as well.

1 THE COURT: Okay. I didn't notice your brochure
2 (sic), are you active in church?

3 MS. RICHARDSON: Yes, sir, I am.

4 THE COURT: Does your church take a position on the
5 death penalty as far as you know?

6 MS. RICHARDSON: Not as far as I know.

7 THE COURT: All right. All right. Whose turn is
8 it? Mr. Eppes?

9 MR. EPPES: Yes, sir.

10 THE COURT: All right. I'm sorry. This is Frank
11 Eppes. He's one of the attorneys representing the
12 defense, and then Mr. Ariail, who might ask you some
13 questions also.

14 QUESTIONING BY MR. EPPES:

15 Q And I work with Mr. Abdalla, we're co-counsel. I
16 represent Mr. Sigmon over there. You believe you have
17 duties as a citizen?

18 A I do.

19 Q Okay. Among those duties would you consider the
20 duty to vote an important one?

21 A Um-hm.

22 Q How about the duty to serve on a jury?

23 A I believe it's important.

24 Q It's important. You understand that, correct?

25 A I do.

1 Q Okay. So, if you were selected for a jury and the
2 judge told you that as a juror it was your duty and your
3 obligation to listen to the law and apply it to the
4 facts and circumstances of the case, and if the judge
5 further instructed you after -- say the jury found --
6 convicted -- found somebody guilty of murder, and the
7 judge further instructed you, you have to listen to the
8 law, you have to listen to the prosecution present you
9 with aggravating circumstances that the law requires
10 them to present, and you have to find those beyond a
11 reasonable doubt, then you have to listen to the defense
12 give you mitigating circumstances. And then you have to
13 make a decision based upon meaningful consideration of
14 both of those, of the aggravating circumstances and the
15 mitigating circumstance. You have to make a decision
16 about life without parole or death. And if the Court
17 gave you that instruction, could you give meaningful
18 consideration to all those factors and make a decision
19 for yourself for life or death?

20 A Yes, sir, I believe I can.

21 Q Okay. And could there be circumstances, based upon
22 the Court's instruction, where you would sentence
23 someone to death?

24 A No, sir.

25 Q No circumstances whatsoever?

1 A I really don't think so.

2 Q Okay. There is nothing wrong -- there is nothing
3 wrong with that, okay. You're entitled to your
4 opinions.

5 THE COURT: Nobody is going to challenge your
6 opinions. A lot of people have that opinion. That's
7 perfectly all right.

8 BY MR. EPPES:

9 Q And there's nothing wrong with it. I'm not being
10 critical of you one way or the other. I don't want you
11 to get upset. We just -- we have to get information
12 about you to decide whether or not we want you to serve
13 on this jury.

14 A Right. Um-hm.

15 MR. EPPES: I appreciate your being so honest.
16 Thank you.

17 THE COURT: Any other questions, Solicitor?

18 MR. ARIAIL: No.

19 THE COURT: All right. Ms. Richardson, I'm going
20 to find that you're disqualified. Don't be offended by
21 that.

22 MS. RICHARDSON: I'm not.

23 THE COURT: Okay. You understand that we are
24 seeking jurors who can give meaningful consideration to
25 both life and death?

1 MS. RICHARDSON: I do.

2 THE COURT: That would not automatically vote one
3 way or the other.

4 MS. RICHARDSON: Right.

5 THE COURT: Do you understand that?

6 MS. RICHARDSON: I do.

7 THE COURT: All right. I'm going to excuse you at
8 this time. You're free to go. Thank you.

9 MS. RICHARDSON: All right. Thank you.

10 (Ms. Richardson exited the courtroom.)

11 THE COURT: All right. Anything about this juror
12 from the State or the defense? All right. You agree
13 she was disqualified, Mr. Eppes?

14 MR. EPPES: Your Honor, I will agree she's
15 disqualified.

16 THE COURT: All right. Jeanne Yarborough, anything
17 before we bring her in? All right. Bring Ms.
18 Yarborough in.

19 (Ms. Yarborough entered the courtroom.)

20 THE COURT: Hey, Ms. Yarborough, come on up. Have
21 a seat. As you make yourself comfortable in that chair,
22 go ahead and slide it forward so you can speak directly
23 into that microphone, okay.

24 MS. YARBOROUGH: Okay.

25 THE COURT: You followed my instructions too well.

1 Now, I need to ask you a number of questions. First of
2 all, you understand you're still under oath?

3 MS. YARBOROUGH: Yes, sir.

4 THE COURT: You complied with my instructions not
5 to talk to anyone about this case?

6 MS. YARBOROUGH: Yes, sir.

7 THE COURT: All right. You downstairs this morning
8 indicated that you had heard some of the facts of this
9 case when it happened, you heard something, saw
10 something on TV, is that right?

11 MS. YARBOROUGH: Right, you know, when you
12 mentioned Blue Ridge and having to close several
13 schools, that jarred my memory, but quite frankly I
14 don't remember a lot of details about the case though.

15 THE COURT: Okay.

16 MS. YARBOROUGH: I just remember having read about
17 it briefly.

18 THE COURT: All right. Have you formed any
19 opinions from what you have read about this case?

20 MS. YARBOROUGH: No.

21 THE COURT: Have you specifically formed any
22 opinions about the guilt or the innocence of the
23 defendant in this case?

24 MS. YARBOROUGH: No.

25 THE COURT: All right. I'm going to ask you some

JEANNE YARBOROUGH

1 question and the attorneys are going to ask you some
2 questions. We do not mean to be invading your privacy,
3 but because of the nature of this case we need to ask
4 you these questions. We need your honest and full and
5 complete answers to these questions. And I will tell
6 you up front there are no right answer. There are no
7 wrong answers. Do you understand that?

8 MS. YARBOROUGH: (Witness nodded her head.)

9 THE COURT: And I need you to say yes or no because
10 if you nod your head or shake your head the back up ---

11 MS. YARBOROUGH: Yes.

12 THE COURT: --- sound system doesn't pick up
13 anything. So you just need to say yes or no. Most of
14 the questions that we'll be talking to you about deal
15 with penalty. Do you understand that?

16 MS. YARBOROUGH: Yes.

17 THE COURT: Just because we talk about penalty that
18 does indicate anything about the guilt or the innocence
19 of this defendant. Do you understand that?

20 MS. YARBOROUGH: Yes.

21 THE COURT: All right. In other words we would not
22 be able to pick a jury in this case without talking
23 about penalty, but you understand that he is presumed to
24 be innocent as he sits there?

25 MS. YARBOROUGH: Yes.

1 THE COURT: All right. Now, the first thing I need
2 to ask you, if you were selected as a juror on this
3 case, would you listen to the law and would you accept
4 and apply the law that I give to you to the case?

5 MS. YARBOROUGH: Yes.

6 THE COURT: The reason I ask that, Ms. Yarborough,
7 is sometimes someone might have an opinion as to what
8 the law was, or they might even have an opinion as to
9 what they think the law should be. And there's nothing
10 wrong with that, but the question is, could that person
11 set aside their opinions and accept the law that the
12 judge gives them. And what you're saying is that you
13 could, is that correct?

14 MS. YARBOROUGH: Yes.

15 THE COURT: All right. Now, if you, during the
16 course of the trial, hear some testimony that might make
17 you recall something that you did read about the case,
18 or heard about the case, would you be able to set aside
19 anything that you heard outside the courtroom and only
20 judge this case on the facts you heard from the
21 witnesses and the evidence in court?

22 MS. YARBOROUGH: Yes.

23 THE COURT: All right. You understand the State
24 has the burden of proving a defendant guilty beyond a
25 reasonable doubt?

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1 MS. YARBOROUGH: Yes.

2 THE COURT: That's their burden. And depending on
3 the facts and circumstances of the case, if you thought
4 the State had proved someone guilty beyond a reasonable
5 doubt, would you vote for guilty?

6 MS. YARBOROUGH: Yes.

7 THE COURT: And if you thought the State had not
8 proved someone guilty beyond a reasonable doubt, would
9 you vote not guilty?

10 MS. YARBOROUGH: Yes.

11 THE COURT: All right. Now, I'm going to move onto
12 death penalty questions. You read the letter I gave you
13 this morning?

14 MS. YARBOROUGH: Yes.

15 THE COURT: And did you find that helpful? Did you
16 know we had the death penalty in South Carolina?

17 MS. YARBOROUGH: Yes.

18 THE COURT: All right. And did you -- do you
19 understand now the concept of an aggravated murder, that
20 it's not every murder that is subject to the death
21 penalty?

22 MS. YARBOROUGH: Yes.

23 THE COURT: Did you know that before or ---

24 MS. YARBOROUGH: Yes.

25 THE COURT: Okay. Most people don't. Most people

1 think that every murder case is subject to the death
2 penalty. It's only aggravated murders, murders
3 involving a small child. I think the example I gave,
4 murder during a rape or something like that. And do you
5 understand that even when we talk about an aggravated
6 murder, the penalty is by no means automatic, but the
7 jury decides life or death in a case of aggravated
8 murder. Do you understand that?

9 MS. YARBOROUGH: Yes.

10 THE COURT: Before a jury decides life or death,
11 you go to the second phase of the trial which is known
12 as the penalty phase, where additional evidence is
13 presented. In other words, it's a whole trial. It may
14 last a couple days, or even longer, but in that phase
15 the State puts up what's called evidence in aggravation.
16 And the defense puts up what's called evidence in
17 mitigation. Evidence in aggravation can be a number of
18 things. It might be about the character of the
19 defendant. In other words, you already know that he's
20 been convicted of a murder plus a rape, or something
21 like that, but they may put up evidence that he's got a
22 long history, a prior record of violence, or something
23 like that. Do you understand?

24 MS. YARBOROUGH: Yes.

25 THE COURT: And they would put up evidence, or they

1 could put up evidence of victim impact. In other words,
2 what the death of a victim means to the community, to
3 the family. All this type of evidence they put up
4 hoping to convince a jury to vote for death. Do you
5 understand that?

6 MS. YARBOROUGH: Yes.

7 THE COURT: And then the defense puts up evidence
8 in mitigation. Mitigation is evidence, it can be any
9 number of things. It might be the person suffers from
10 some mental deficiency. It might be that the defendant
11 was under the influence of somebody else when they
12 committed the crimes, something like that. It might be
13 that they have a completely clean record. Do you
14 understand that?

15 MS. YARBOROUGH: Yes.

16 THE COURT: It might be a particularly youthful
17 person, any number of things might be mitigating
18 evidence. Do you understand that?

19 MS. YARBOROUGH: Yes.

20 THE COURT: And they're trying to convince the jury
21 that the appropriate sentence is life without parole.
22 Do you understand that?

23 MS. YARBOROUGH: Yes.

24 THE COURT: All right. Understanding that whole
25 concept, then I'm sure you understand we need to know

1 what your feelings are about capital punishment. Would
2 you say you're generally for the death penalty,
3 generally against the death penalty, how do you feel?

4 MS. YARBOROUGH: I am generally against the death
5 penalty.

6 THE COURT: All right. And is that a feeling
7 you've had for a long time?

8 MS. YARBOROUGH: Yes.

9 THE COURT: All right. Can you tell me what the
10 basis of that opinion is? Is it from a religious
11 background, from your upbringing from your parents, just
12 how did you come about to that opinion?

13 MS. YARBOROUGH: No, I'd say it's just been a
14 process of evolution, from a child learning values
15 from family, going through the process of reasoning
16 myself, coming to the conclusion, just as an
17 evolutionary process of intellect, and knowledge, and
18 investigation ---

19 THE COURT: All right.

20 MS. YARBOROUGH: -- that I'm imposed to it.

21 THE COURT: Have you talked to people about it
22 before?

23 MS. YARBOROUGH: No, not in many years.

24 THE COURT: Okay. Are you telling me -- well, let
25 me ask you this. If you were sitting on a jury and if

1 you thought the case was aggravated enough and if you --
2 is there a circumstance where you would find that death
3 was the appropriate sentence? In other words, could it
4 be aggravated enough that you could vote for death?

5 MS. YARBOROUGH: No.

6 THE COURT: Under no circumstances?

7 MS. YARBOROUGH: No.

8 THE COURT: All right. Are you telling me that no
9 matter how -- now matter what evidence the State puts up
10 as far as aggravating circumstances, that you if you're
11 given a choice between life or death, you're always
12 going to vote for life?

13 MS. YARBOROUGH: Yes.

14 THE COURT: Okay. Nothing the State could do to
15 convince you to vote for death?

16 MS. YARBOROUGH: No.

17 THE COURT: All right. Whose go is it? You got
18 any questions?

19 MR. ARIAIL: None.

20 THE COURT: All right.

21 QUESTIONING BY MR. EPPES:

22 Q Hi, Ms. Yarborough. I'm Frank Eppes. This is John
23 Abdalla my co-counsel. This is Brad Sigmon, he's the
24 defendant in this case. If you're on Osama Bin Laden's
25 jury would you vote for death?

1 MR. ARIAIL: Object.

2 THE COURT: I'm going to sustain the objection.

3 We're not going to start voting on specific cases.

4 BY MR. EPPES:

5 Q You understand as a citizen of the country you have
6 certain duties, is that correct?

7 A Yes.

8 Q Okay. And let me just start by saying, because
9 you're looking at me like I'm a bad guy, but ---

10 A No, I'm just nervous.

11 Q I'm sorry you're nervous. You shouldn't be
12 nervous. There is no ---

13 THE COURT: That's all right. No, you should be,
14 everybody that sits up there is nervous, but you're
15 doing fine. All right.

16 BY MR. EPPES:

17 Q There's no wrong answers. We're trying to get
18 information from you to help Mr. Sigmon pick a fair
19 jury. And the main thing you need to do is just listen
20 to the questions and honestly answer them. But anyway,
21 you know, you have a duty to vote as a citizen, correct?

22 A Yes.

23 Q You know you got a duty -- a duty to be on a jury,
24 correct?

25 A Yes.

1 Q Okay. Now, if the judge charged you the law and he
2 said the law of South Carolina is, and this is after
3 someone is convicted of murder, that would have to come
4 first, and I saw you've worked in the courthouse, so I
5 think you understand what happens with a guilty verdict,
6 but if the judge charged you that the law of South
7 Carolina is if someone is convicted of murder, and the
8 juror chooses the -- the solicitor chooses to seek the
9 death penalty, that the jury must be empaneled to
10 consider aggravating circumstances, and the judge
11 charged you to consider those circumstances, and then
12 choose -- and then considered mitigating circumstances,
13 and after considering all that reach a verdict you
14 thought was appropriate in the case, would you be able
15 in the right circumstances, after hearing the judge's
16 charge, and his instruction, to consider a death penalty
17 in a case?

18 A No.

19 Q No way, no how?

20 A No.

21 MR. EPPES: Thank you, ma'am.

22 THE COURT: All right. Nobody is challenging your
23 beliefs. There are certainly a whole lot of people that
24 have that same belief, Ms. Yarborough, but because of
25 that I'm going to disqualify you as a juror in this

1 case. Don't be offended. But you're free to go at this
2 time. Thank you very much.

3 MR. EPPES: Thank you, Ms. Yarborough.

4 (Ms. Yarborough exited the courtroom.)

5 THE COURT: All right.

6 MR. ARIAIL: Wants to change her questionnaire.

7 THE COURT: Who does?

8 MR. ARIAIL: This one.

9 MS. STROM: She stood up.

10 THE COURT: How many people stood up to that
11 question? Good Lord.

12 MR. ARIAIL: They found out it's a death penalty
13 too soon.

14 THE COURT: All right. Is there anything else
15 besides what she answered downstairs I need to
16 specifically ask that you would rather I ask than y'all
17 ask?

18 MR. EPPES: Your Honor, this -- questions 25 and
19 26, Ms. Gilliam stated that her brother -- her
20 brother-in-law's mother was brutally murdered.

21 THE COURT: Right.

22 MR. EPPES: Okay.

23 THE COURT: I will ask her about that.

24 MR. EPPES: Thank you.

25 THE COURT: All right. Bring in Ms. Gilliam.

1 MR. EPPE: And a church member, Your Honor.

2 THE COURT: All right. Go ahead and bring Ms.
3 Gilliam in. Is this the last one for the night?

4 MR. EPPE: Yes, sir, Your Honor.

5 MS. PLUMLEY: Yes, sir.

6 (Ms. Gilliam entered the courtroom.)

7 THE COURT: Come on up, Ms. Gilliam. And as you
8 get comfortable, go ahead and slide your chair close to
9 the microphone so that your voice will be amplified.
10 All right. You're Elma Katherine Harris Gilliam, is
11 that correct?

12 MS. GILLIAM: Yes, sir.

13 THE COURT: And you understand that you're still
14 under oath?

15 MS. GILLIAM: Yes, sir.

16 THE COURT: And I need to ask you, first of all,
17 have you complied with my instructions not to discuss
18 this case with anyone?

19 MS. GILLIAM: Yes, sir.

20 THE COURT: All right. You indicated several
21 things downstairs that I need to go over with you.
22 First of all, you said had heard some -- something about
23 this case before?

24 MS. GILLIAM: The brother to the -- David ---

25 THE COURT: --- Larke, the victim?

1 MS. GILLIAM: --- the victim, he's a Church of God
2 minister, and my husband is a Church of God minister,
3 and we're not personal friends, but, you know, I have
4 heard a little bit through the grapevine, you know.

5 THE COURT: All right. And you indicated that
6 y'all travel as ministers. Do you also have a church
7 or ---

8 MS. GILLIAM: No, sir, we just run revivals.

9 THE COURT: Okay. And what about the brother of
10 the victim, is it your understanding he had a church or
11 is he ---

12 MS. GILLIAM: He did have a church, but he's
13 retired now.

14 THE COURT: Okay. And have you ever personally
15 talked to that brother?

16 MS. GILLIAM: No, I've just seen him like at
17 meetings, camp meetings and different things like that.

18 THE COURT: Okay. To your knowledge has your
19 husband ever personally talked to the brother about the
20 case?

21 MS. GILLIAM: No, not about the case.

22 THE COURT: Okay. All right. And so what facts
23 have you heard, other than that was the brother of the
24 victim? In other words, did you hear anything about the
25 facts itself, what happened, why it happened, things

1 like that, do you recall?

2 MS. GILLIAM: I just recall something about the
3 daughter of the victims.

4 THE COURT: What about it?

5 MS. GILLIAM: That it was her ex-boyfriend or
6 friend. That's all.

7 THE COURT: Okay. All right. Now, that's fine.
8 The question is, based on what you've heard, have you
9 formed any opinions about this case?

10 MS. GILLIAM: No. No, sir.

11 THE COURT: Have you formed any opinions about the
12 guilt or innocence of this defendant because of what
13 you've heard?

14 MS. GILLIAM: No. No, sir.

15 THE COURT: All right. Now, you also said you
16 wanted to modify your questionnaire. Can you tell
17 me ---

18 MS. GILLIAM: Well, I was just wanting to -- I
19 wasn't wanting to change anything on it, I was just
20 wanting to let you know that -- you know, my husband's
21 health and all.

22 THE COURT: Okay. Okay. I gotcha. I talked to
23 you about your husband's health.

24 MS. GILLIAM: Yeah.

25 THE COURT: And tell me just a little bit more

1 about that. I know you said he was sick and you wanted
2 to be with him.

3 MS. GILLIAM: The first of May he had a heart --
4 congestive heart failure, and I took him to Greenville
5 Memorial Hospital, and they got him under their care.
6 He has congestive heart failure, a leaky valve, and also
7 he has irregular heart beat. And so he's -- see, we're
8 by ourselves when we travel, and so just like tonight,
9 he had to go to the revival by himself, because I wasn't
10 able to go with him. And he could have this congestive
11 heart failure at any time.

12 THE COURT: Right. When he goes, are there other
13 preachers there or ---

14 MS. GILLIAM: Well, we usually -- we have a travel
15 trailer, and we usually go to the church and stay in the
16 travel trailer, you know, for the week that we're there.

17 THE COURT: Um-hm.

18 MS. GILLIAM: Then we travel to the next place.

19 THE COURT: Okay. So you just go from church to
20 church doing revivals?

21 MS. GILLIAM: Right.

22 THE COURT: Where are the revivals this week?

23 MS. GILLIAM: Okay. This week he's up at Madison,
24 which is above Westminster, going towards Toccoa,
25 Georgia, which is about 80 miles one way.

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1 THE COURT: All right. And is he going to stay
2 over there during the week?

3 MS. GILLIAM: No, because I'm ---

4 THE COURT: --- here, he's going to come back. All
5 right. Where is the revival next week?

6 MS. GILLIAM: Okay. Next week he'll be over at
7 Cedar Lane Church of God.

8 THE COURT: Okay. All right.

9 MS. GILLIAM: But the next week he'll be out of
10 state, up in North Carolina.

11 THE COURT: The week after next?

12 MS. GILLIAM: Um-hm.

13 THE COURT: Okay. We'll be done by then, you
14 understand that?

15 MS. GILLIAM: Um-hm.

16 THE COURT: Okay. All right. I'm going to be
17 asking you some questions and these attorneys are going
18 to be asking you some questions. We do not mean to
19 invade your privacy at all, but we will be asking
20 personal opinion questions. If any of this offends you,
21 then hold it against me, don't hold it against the State
22 of South Carolina, and don't hold it against the
23 defendant. There are no right answers. There are no
24 wrong answers. Everybody respects people's opinions
25 that come into this courtroom, but we do need for you to

1 openly, honestly and fully answer the questions. Okay?

2 MS. GILLIAM: Um-hm. Yes, sir.

3 THE COURT: Now, mainly these questions are going
4 to deal with penalty. I need to tell you up front that
5 just because we're talking about penalty that should
6 indicate nothing about the guilt or the innocence of
7 this defendant. Do you understand that?

8 MS. GILLIAM: Yes, sir.

9 THE COURT: In order to get a jury in this type of
10 case, you have to talk to the jury about penalty. Do
11 you understand that?

12 MS. GILLIAM: Yes, sir.

13 THE COURT: Let me ask you this, I'm going to get
14 back to penalty in just a minute, but as a general rule,
15 if you are selected on a criminal case, would you listen
16 to the law that the judge gives to you and would you
17 accept that law and apply that law to the case?

18 MS. GILLIAM: Yes, sir.

19 THE COURT: Now, and the reason I ask that, let me
20 ask you this, even -- would you do that even if you
21 thought the law ought to be some other way? In other
22 words, some people come into court and they think they
23 know what the law is and when they come to court and
24 they find out it's a little bit different. Then some
25 people come to court and they have a preconceived notion

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1 as to what they think the law should be. And both of
2 those situations are fine, as long as they can set that
3 opinion aside and accept the law that the judge gives
4 them as the proper law. Do you understand that?

5 MS. GILLIAM: Yes, sir.

6 THE COURT: Could you do that?

7 MS. GILLIAM: Yes, sir.

8 THE COURT: All right. Could you base your
9 decision in this case solely on the evidence you heard
10 in this courtroom?

11 MS. GILLIAM: Yes.

12 THE COURT: All right. In a criminal case, the
13 State has the burden of proving a defendant guilty
14 beyond a reasonable doubt. Do you understand that?

15 MS. GILLIAM: Yes, sir.

16 THE COURT: If you heard the facts of a case and if
17 you are convinced beyond a reasonable doubt that the
18 defendant was guilty, would you vote for guilty?

19 MS. GILLIAM: Yes, sir, without a doubt.

20 THE COURT: All right. And -- well, beyond a
21 reasonable doubt, it's not all doubt, you understand
22 that?

23 MS. GILLIAM: I think so.

24 THE COURT: Okay. That's fine. And if you were
25 not convinced beyond a reasonable doubt that he was

1 guilty, would you vote not guilty?

2 MS. GILLIAM: Yes, sir.

3 THE COURT: All right. Now, did you read my
4 two-page letter?

5 MS. GILLIAM: Um-hm.

6 THE COURT: Did you understand that we had the
7 death penalty in South Carolina?

8 MS. GILLIAM: Um-hm.

9 THE COURT: Did you know that before you came here?

10 MS. GILLIAM: No.

11 THE COURT: Okay.

12 MS. GILLIAM: But I have read the letter.

13 THE COURT: You understand that now?

14 MS. GILLIAM: Yes, sir.

15 THE COURT: Understanding that it's not every
16 murder case that is subject to the death penalty, it's
17 only aggravated murder cases. And even when we talk
18 about an aggravated murder case, the penalty is not
19 automatic. Do you understand that?

20 MS. GILLIAM: Um-hm.

21 THE COURT: The jury in a capital case, the first
22 phase is called the trial phase, and they -- it's just
23 like any other case. They decide guilt or innocence.
24 Do you understand all that?

25 MS. GILLIAM: Yes.

1 THE COURT: If the verdict is not guilty, then
2 everyone goes home. But if the verdict is guilty, the
3 same jury comes back and it's like a whole new trial,
4 because more testimony is presented and more evidence is
5 presented. And there are two types of evidence and
6 testimony that is presented. The State presents
7 evidence in aggravation. And they present this trying
8 to convince a jury that death is the appropriate
9 sentence. Do you understand that?

10 MS. GILLIAM: Yes, sir.

11 THE COURT: Then the defense puts up evidence in
12 mitigation. They're trying to convince the jury, no,
13 that the proper sentence is life without parole. Do you
14 understand that?

15 MS. GILLIAM: Yes, sir.

16 THE COURT: Evidence in aggravation might be things
17 about the defendant. Maybe he's got a real mean
18 character. Maybe he's got a long history of prior
19 violent acts. You might also hear evidence of what we
20 call victim impact. In other words, the victims may get
21 up -- or the family members, or community members may
22 get up and testify about what the death has meant to
23 them and meant to the community. Do you understand
24 that?

25 MS. GILLIAM: Yes, sir.

1 THE COURT: And then the defense would put up,
2 again, mitigating evidence, and it can be any number of
3 things. It can be the fact that the person suffered
4 from a mental defect at the time of the murder. Do you
5 understand? Or ---

6 MS. GILLIAM: Yes, sir.

7 THE COURT: --- it might be that the defendant is a
8 very young age. It might be that the defendant has a
9 very clean record, he's never been in trouble. It might
10 be that the defendant was under the influence of some
11 one else, something like that. Do you understand that?

12 MS. GILLIAM: Yes.

13 THE COURT: What we seek to have is jurors who
14 would -- would go in to that with an open mind as to
15 punishment. Do you understand that?

16 MS. GILLIAM: Yes, sir.

17 THE COURT: And give meaningful consideration to
18 the evidence in aggravation and give meaningful
19 consideration to the evidence in mitigation. Do you
20 understand that?

21 MS. GILLIAM: Yes, sir.

22 THE COURT: Understanding this procedure, I'm sure
23 you understand that we need to know generally how you
24 feel about the death penalty. Would you say that you
25 are generally for it? Would you say you're generally

1 against it. How do you feel?

2 MS. GILLIAM: Well, I'm for it, you know, if
3 they're proven guilty without a doubt.

4 THE COURT: Okay. All right. You understand that
5 in a case where guilt is proved beyond any reasonable
6 doubt, even though -- it's not just guilt of murder,
7 guilty of murder, say plus a rape, an aggravated murder,
8 you understand that even in those cases, the penalty is
9 not automatic, you understand that?

10 MS. GILLIAM: Yes.

11 THE COURT: You understand the jury never has to
12 vote for the death penalty?

13 MS. GILLIAM: Yes, sir.

14 THE COURT: All right. Could you or would you give
15 meaningful consideration to the evidence in mitigation
16 before you decide to issue of life or death?

17 MS. GILLIAM: Yes, sir.

18 THE COURT: In other words when the defense puts up
19 evidence, like, you know, he's very young, or he's got a
20 clean record, things like that, would you give
21 meaningful consideration to that?

22 MS. GILLIAM: Yes, sir.

23 THE COURT: Would you automatically vote for life
24 or automatically vote for death in a case, or would you
25 listen to all the evidence before you made a decision?

1 MS. GILLIAM: Yes. Yes, I would listen.

2 THE COURT: All right. Why are you generally for
3 the death penalty? Is it something that your church
4 teaches you, or just something from your background,
5 upbringing, or how have you come to form that opinion?

6 MS. GILLIAM: I just feel like it's not right, one,
7 to take somebody else's life, you know, and if they've
8 proven that they did the crime, then I feel like they
9 should be punished.

10 THE COURT: All right. Well, you know the
11 punishment -- the only two punishments would be life
12 without any possibility of parole or death. Do you
13 understand that?

14 MS. GILLIAM: Yes, sir.

15 THE COURT: Are you telling me that you believe
16 that death is the proper punishment in all cases like
17 that?

18 MS. GILLIAM: I'm not sure.

19 THE COURT: Okay.

20 MS. GILLIAM: I mean ---

21 THE COURT: Well, would you want to hear the
22 evidence in mitigation, would you want to hear things
23 about the defendant before you made up your mind as to
24 life or death?

25 MS. GILLIAM: Yes.

1 THE COURT: Does that seem like a good procedure to
2 you?

3 MS. GILLIAM: Yes, sir.

4 THE COURT: Okay. Who's up? All right. Mr.
5 Eppes. This is Frank Eppes. He's one of the attorneys
6 representing the defendant. Then Mr. Ariail will ask
7 you some questions. He's the Solicitor prosecuting for
8 the State.

9 QUESTIONING BY MR. EPPES:

10 Q Hey, Ms. Gilliam.

11 A Hey.

12 Q How you doing?

13 A Fine.

14 Q This is my co-counsel, John Abdalla, and Brad
15 Sigmon at the end, the defendant. Okay.

16 A Yes, sir.

17 Q Has anybody that you know through the Church of God
18 told you that Brad Sigmon committed these crimes?

19 A Oh, no, sir.

20 Q What did you hear about the crimes generally?

21 A Just what I saw on TV, you know, on the news.

22 Q What did you hear on the news, do you remember?

23 A That about the -- that it was the ex-boyfriend of
24 their daughter.

25 Q Um-hm.

1 A That's all I know.

2 Q What -- why do you say it was an ex-boyfriend of
3 daughter, what ---

4 A Who they thought was -- did the murder.

5 Q Okay. And you think when you heard that on the
6 news that they thought that, do you think that that is
7 probably -- means he did it?

8 A I don't know.

9 Q You don't know? Do you think it's more likely than
10 not if you heard it on the news?

11 A I guess if I've heard it on the news, you know, it
12 could be him.

13 Q Okay. It could very well be him, correct?

14 A Yes, sir.

15 Q And do you think if the police arrest him it's more
16 likely than not he's guilty?

17 A Yes, sir.

18 Q You do think that?

19 A Yes, sir.

20 Q Okay. And then if the jury finds him guilty, if
21 the jury finds him guilty of murder or like they used to
22 say, murder most fowl, murder, if the jury finds him
23 guilty beyond a reasonable doubt of committing the crime
24 of murder, do you believe that he ought to be punished
25 by the death penalty?

1 A Is that the same as without a shadow of a doubt?

2 THE COURT: Well, say it is, but the real question
3 is, would you also consider the mitigating factors
4 before you made that decision? I mean, he's saying if
5 he's convicted of aggravated murder would you vote for
6 death?

7 MS. GILLIAM: Yes.

8 BY MR. EPPES:

9 Q You would? If he was found guilty of murder, I
10 didn't say aggravated murder, the judge said that, I did
11 not say that. If he's found guilty of murder, you would
12 believe -- you would vote for the death penalty,
13 correct?

14 A What's the difference, aggravated and just
15 murder?

16 THE COURT: Well, all murder -- all murder is
17 aggravated to somebody, but an aggravated murder is the
18 murder plus something, like my example was murder plus
19 armed robbery, murder plus rape, another aggravating
20 circumstances would be murder plus -- murder -- killing
21 a small child, something like that. And so it's only
22 these aggravated murders that are even subject to the
23 death penalty. Do you understand that?

24 MS. GILLIAM: Yes, sir.

25 THE COURT: Okay. Go ahead, Mr. Eppes.

1 BY MR. EPPES:

2 Q If you have found somebody guilty of aggravated
3 murder, would you think they ought to die?

4 A Yes.

5 Q And you'd sentence them to die?

6 A Yes, sir.

7 Q Okay. I want to talk a little bit about your
8 husband. I'm sorry he's sick.

9 A Yes.

10 Q My dad is sick, I think about it a lot. Have y'all
11 ever -- I know some couples when they're married, they
12 say together every night of their lives, are y'all that
13 kind of couple, or do y'all sometimes travel apart from
14 one another?

15 A No, we stay together.

16 Q About every night?

17 A Yes, sir.

18 Q How long have y'all been married?

19 A This August will be 32 years.

20 Q Has it been that way throughout your marriage?

21 A Yes, sir, except when I was in the hospital having
22 our children.

23 Q Other than that, have you ever spent a night apart
24 from him?

25 A Oh, yeah, some, you know, off and on, but we

1 really ---

2 Q Have you ever spent a week apart?

3 A No, sir.

4 Q Never?

5 A Not a whole week, no.

6 Q Not in 32 years?

7 A Well, we may have too, because he has went to
8 meetings that would last a week.

9 Q Okay. Do you realize if you serve on this jury you
10 wouldn't be able to talk to your husband for a week,
11 call him, nothing? Do you realize that?

12 A No, sir.

13 Q Okay. If I told you that, would your concern for
14 your husband effect your ability to concentrate on this
15 case and do your job as a juror?

16 A Probably so with him sick.

17 Q Does he take ---

18 THE COURT: Let me stop you right there. Now, you
19 understand that if you need to get a message to him that
20 there will be a procedure for you to get a message to
21 him?

22 MS. GILLIAM: Yes, sir.

23 THE COURT: You understand that if there is any
24 type of emergency that he can contact you day or night
25 through the Court or through your motel? He cannot talk

1 to you directly but he can contact you through the
2 agents, and SLED agents. Do you understand that?

3 MS. GILLIAM: Yes, sir, I understand that.

4 THE COURT: All right. Thank you.

5 BY MR. EPPES:

6 Q But if you just were fretting about him, you
7 couldn't call him and speak to him. Do you understand
8 that as well?

9 A Yes, sir.

10 Q All right. Okay, and that -- would that affect
11 your concentration? Would you worry about it?

12 A Probably so.

13 Q Okay.

14 THE COURT: Would it affect your ability to be fair
15 and impartial in this case?

16 MS. GILLIAM: Well, I just might have him on my
17 mind.

18 THE COURT: I understand that, but if something
19 happened, you understand that we have alternates that we
20 could replace you if we had to, if something ---

21 MS. GILLIAM: Yes, sir.

22 THE COURT: --- happened. Do you understand
23 that?

24 MS. GILLIAM: Yes, sir.

25 THE COURT: All right. Go ahead.

1 BY MR. EPPES:

2 Q You will be able to listen to the facts for four
3 days and concentrate on them fully, or would your
4 concentration be elsewhere?

5 A I would try my best to concentrate on it.

6 THE COURT: All right. That's enough with this
7 line of questioning, Mr. Eppes.

8 MR. EPPES: Yes, sir, Your Honor.

9 BY MR. EPPES:

10 Q How long have y'all been affiliated with the Church
11 of God?

12 A Since 1981, '80, '81.

13 Q It's possible that members of the Church of God, or
14 ministers or former ministers of the Church of God might
15 testify in this case. Would you give their testimony
16 any more weight than the other witnesses?

17 MR. ARIAIL: Objection, Your Honor.

18 THE COURT: Sustain the objection. Don't answer
19 that question.

20 BY MR. EPPES:

21 Q Do you believe there's any excuse for committing
22 murder?

23 A No.

24 Q Is there any reason that can rationalize murder?
25 Is there any reason that it's okay to commit a murder?

1 A No, sir.

2 MR. ARIAIL: I'm going to object to it, it's
3 profiling, or staking around to find out what would be
4 important to her.

5 THE COURT: Overruled. She's answered the
6 question. Any other questions?

7 MR. EPPES: Thank you, ma'am, I really appreciate
8 it.

9 THE COURT: All right, Solicitor.

10 QUESTIONING BY MR. ARIAIL:

11 Q Ms. Gilliam, my name is Bob Ariail, and I'm the
12 solicitor for Greenville and Pickens Counties. That
13 means I'm the State's prosecutor. We would represent, I
14 along with Mrs. Strom, who is my Deputy Solicitor, and
15 Ms. Hervey, who is one of my assistants, represent the
16 State in bringing this case to you. And if you were on
17 a jury in a capital case, the Judge talked to you
18 earlier about the fact that after the defendant is
19 convicted, assuming he's convicted and you go into the
20 penalty phase, that the jury is going to decide what
21 penalty is appropriate. Two choices, the jury has two
22 choices, life or death. And the judge asked you, if you
23 were so instructed, told -- that is, told by him, he
24 told you as part of your duties you would need to
25 consider, before you made a decision, the evidence --

1 what we call evidence in aggravation, it's really the
2 evidence that would make the murder worse, and the
3 evidence in mitigation, evidence that would be brought
4 that would tend to make the murder maybe not so bad,
5 that you would have to consider all of that evidence
6 before making a decision on what penalty was
7 appropriate. And the real question is, could you fairly
8 consider both of that -- both groups of evidence before
9 making your decision? Would you want to hear all of
10 that evidence before you made your decision on what the
11 proper punishment was?

12 A Yes, sir.

13 Q All right. Now, after you made a decision, let's
14 assume you made a decision that death -- the death
15 penalty was appropriate. The law requires that you sign
16 the document, that is sign the piece of paper that --
17 the rest of the jurors would sign it too, everybody
18 would sign this document to send back to the Court to
19 carry forth sentence. Would you be able to sign that
20 document if you felt that the sentence of death was the
21 appropriate sentence?

22 A I would try too.

23 Q I know it would be a hard decision, but if you
24 thought that was the right decision?

25 A Yes, sir.

1 Q You could sign it?

2 A I believe so.

3 MR. ARIAIL: All right. Just a minute, Your Honor.
4 Thank you, ma'am. That's all the questions I have.

5 THE COURT: All right. Let me just ask you one
6 more time, Ms. Gilliam, if, after hearing all the
7 evidence in a penalty phase, you thought that the proper
8 sentence was the death penalty, could you vote for the
9 death penalty?

10 MS. GILLIAM: That's just a hard question.

11 THE COURT: I understand that. I'm not asking you
12 to vote, but I'm -- I do have to ask you if you could
13 vote for it. You've heard all the evidence in
14 aggravation, you know how bad a case it was and things
15 like that. You've heard all the evidence in mitigation,
16 that would be evidence that would mitigate the
17 punishment, that would be presented to try to convince
18 you to vote for a life sentence. After you heard all of
19 that evidence, if you thought that the penalty should be
20 death, could you vote for the death penalty?

21 MS. GILLIAM: I believe so.

22 THE COURT: And if you thought the appropriate
23 sentence was life, could you vote for a life sentence?

24 MS. GILLIAM: Yes, sir.

25 THE COURT: Okay. And -- all right. Anything from

1 the State?

2 MR. ARIAIL: No.

3 THE COURT: Anything from the defense?

4 MR. EPPES: Yes, sir, Your Honor.

5 THE COURT: Yes?

6 MR. EPPES: Yes.

7 THE COURT: All right. Let me ask you to step out,
8 please, Ms. Gilliam, out that door. We'll be with you
9 very shortly.

10 (Ms. Gilliam exited the courtroom.)

11 THE COURT: All right, Mr. Eppes.

12 MR. EPPES: Your Honor, she said the penalty for
13 murder is death. She said the penalty for aggravated
14 murder is death. She said if she heard about a murder
15 she would believe death was appropriate. She further
16 said that there was no reason to excuse murder and
17 the ---

18 THE COURT: She also said that she would have a
19 real hard time signing ---

20 MR. EPPES: She might have a hard time signing the
21 death warrant, Your Honor, but at the same time you're
22 coming back, she's saying, you die if you kill somebody,
23 that's ---

24 THE COURT: All right. Anything else?

25 MR. EPPES: No, sir, Your Honor.

1 THE COURT: She's qualified, subject to your
2 objection. Let me just tell you something, she ain't
3 even a close case, Mr. Eppes. If you're going to argue
4 about every person in her category, we're going to have
5 a lot of arguments. Bring her back in.

6 (Ms. Gilliam entered the courtroom.)

7 THE COURT: Go ahead and have a seat. I'm going to
8 hand you this letter, and I'm going to give you some
9 instructions. Ms. Gilliam, you have been qualified to
10 serve on this jury. That does not mean that you will
11 serve. That simply means you are going to be one of a
12 number of people who are going to come back and we're
13 going to pick the jury from that -- that panel. You
14 need to be ready to come back. When we have 40 or so
15 jurors, Madam Clerk will call that panel and tell you to
16 come back.

17 When you come back, you need to have a suitcase
18 packed, with clothes for seven or eight days. I would
19 suggest you wear comfortable clothes, because you just
20 don't need to be dressed up for this. You need to bring
21 any medications you may have, things like that.

22 When you come back, I will ask that you park over
23 in the Hyatt garage, where you parked this morning.
24 Leave your suitcase in the car. Come across the Street
25 to the Spring Street garage entrance for this

1 courthouse. In other words, you -- did you park in the
2 Hyatt garage this morning?

3 MS. GILLIAM: My husband brought me this morning,
4 so ---

5 THE COURT: Okay. All right. And when you came
6 back this afternoon, you came yourself?

7 MS. GILLIAM: Back side, yeah.

8 THE COURT: Okay. Well, the Hyatt garage is across
9 the street this way, across Spring Street, and what you
10 would do, is park over there and then come to the
11 garage entrance downstairs. The reason I'm asking you
12 to come in the garage entrance is so I can keep you out
13 of the public corridors. I don't want you to be
14 amongst the people that have something to do with this
15 case.

16 Could you hold it down, please?

17 MR. MAULDIN: Yes, sir.

18 THE COURT: Then the bailiffs will escort you
19 upstairs. We'll put you in courtroom 7, and then when
20 all the jurors are here, we'll bring you over here and
21 we'll select a jury.

22 Now, during the course of the trial you will not be
23 able to contact any business people, or any family
24 members, but if there -- if you have a need to
25 contact -- you won't be able to personally contact

1 them, but if you have a need to contact him, then the
2 bailiffs can take a number, and name, and message and
3 they can call your husband, or whoever, okay, and give
4 them any message. Also, on this piece of paper are two
5 emergency numbers. If anybody needs to contact you,
6 they can contact the SLED agents or the bailiffs, and we
7 can get a message to you, and we can handle any
8 situation that comes up.

9 Now, the last thing I need to tell you, is don't
10 talk to anyone about this case. Don't watch any news
11 accounts, don't watch TV about the case, read anything
12 in the paper, okay? Do you have any questions of me?

13 MS. GILLIAM: No, I don't think so.

14 THE COURT: All right. We'll see you in a couple
15 days. All right. Thank you. You're free to go.

16 MS. GILLIAM: Thank you.

17 (Ms. Gilliam exited the courtroom.)

18 THE COURT: All right. Yes, sir.

19 MR. EPPES: With all due respect, Judge, you know,
20 this juror stated that the wages of murder is death.
21 She said that on the record. In addition to that, Your
22 Honor, this process ---

23 THE COURT: Well, let me ask you this. Every juror
24 that gives an inconsistent answer, you say I should
25 disqualify them?

1 MR. EPPES: No, sir. Your Honor, let me address
2 that a little bit, because what happens when the
3 Solicitor comes back, and more importantly, when you
4 come back and try to re-qualify them, I know we're in a
5 hurry, Your Honor, but golly bum, when you ask them if
6 they're going to be fair, and you know, fair is not ---

7 THE COURT: No, I ask them if they will give
8 meaningful consideration to aggravating circumstances,
9 and I ask them if they will give meaningful
10 consideration to mitigating circumstances.

11 MR. EPPES: And all you're doing is asking them if
12 they're going to be fair. If they think when somebody
13 commits a murder that they ought to die, they can't be
14 fair. They're not going to be fair, they're going to
15 say, yeah, I'll think about it. Just like the people --
16 just like the fellow ---

17 THE COURT: So if they say 10 times that they can
18 be fair and one time they would more than likely vote
19 for death, I should take that as the honest answer and
20 disregard the other two answers?

21 MR. EPPES: Your Honor, she did not say more than
22 likely she would vote death. She said in the case of
23 any murder they ought to die. That was what she said.
24 Then she said -- you said, well, what about aggravated,
25 and she said, in the case of aggravated murder they

1 ought to die. And then the prosecutor came back and you
2 came back, and you both said, well, you could listen to
3 all the evidence and give a fair result, that's all you
4 really said. When you said all this meaningful
5 consideration, all you're saying is, will you listen to
6 all the evidence. You're not saying, if somebody
7 commits murder, should they die. If you say, will you
8 listen to all the evidence and after all the evidence,
9 isn't it true that you're going to think that if
10 somebody commits murder, they ought to die ---

11 THE COURT: And you don't think it's more fair
12 for -- to ask the question will you look at aggravating
13 and mitigation ---

14 MR. EPPES: Your Honor ---

15 THE COURT: --- as opposed to you just asking
16 you're going to look at an aggravated murder and vote
17 for death?

18 MR. EPPES: You can ask them that, but if you're
19 going to ask them that, say, after you hear all that
20 information, don't you think you'll probably still vote
21 for them to die. Ask it that way. Ask that way and see
22 what they say. But -- but, Your Honor, I'm trying to --
23 I'm trying to work with the qualif- -- with the
24 Solicitor trying to qualify them, now I got you
25 qualifying them, I got two people qualifying the jury --

1 a juror that is clearly ---

2 THE COURT: Well, I think it's part of my job to
3 qualify a jury, find out if they're qualified. All
4 right. As to Ms. Gilliam, I find that her views will
5 not prevent or substantially impair her from performance
6 of her duties as a juror in accordance with my
7 instructions and with her oath. The juror will give
8 meaningful consideration, I find, as to the mitigating
9 circumstances presented by the defense and instructed by
10 the Court. You know, she's not even close, Mr. Eppes,
11 to being disqualified. It is my definite impression
12 from listening to all her answers that she can be fair,
13 she can discharge her duty.

14 COURT REPORTER: Just one second.

15 (The court reporter changed paper.)

16 MR. EPPES: Your Honor, could I ask one more thing?

17 THE COURT: Yes, sir.

18 MR. EPPES: Your Honor, I appreciate the Court's
19 indulgence this afternoon. We argued this and I think
20 we're making progress, getting better at it, but when
21 I'm doing a line of questioning with a juror, if you
22 think something is inappropriate, the Solicitor can
23 object, and you obviously can stop me or something else,
24 but like with her health, would you mind waiting until
25 I'm done and then if you want to follow up and ask the

1 questions about it ---

2 THE COURT: Not if I think you're staking around
3 and giving her information that is completely false, I
4 will stop you, yes, sir.

5 MR. EPPES: Okay. Thank you.

6 THE COURT: All right. Anything else?

7 MR. EPPES: No, sir.

8 THE COURT: All right. I asked the question
9 earlier as to the way I'm asking the questions as to the
10 point of when I asked them what their opinion is on the
11 death penalty, is there any other way that you want me
12 to ask it, or is that -- are we getting the best most
13 honest answer from them by asking it that way? And I
14 mean as opposed to giving them three categories, which a
15 lot of judges do. You know, some people are absolutely
16 against it, that's category one, you know, what category
17 do you fit in. Is there any other fine tuning of the
18 way I ask the questions that y'all want to be heard on?
19 Mr. Eppes?

20 MR. EPPES: Your Honor, if there's something we
21 think of, we'll talk to you about it in the morning.

22 THE COURT: Well, I need to think about it so I can
23 work it into, you know, the way I'm asking questions.
24 Let me ask the Solicitor, is there any ---

25 MR. ARIAIL: No, I think -- I think the

1 responses -- you don't have the third response. You
2 just have the one or two, and I think the people who are
3 opposed to the death penalty have clearly come out and
4 said the -- the one fellow, who, you know, kind of
5 vacillated, we -- you know, but he was -- he came out.
6 But the others clearly came out and told you they were
7 opposed to it.

8 THE COURT: Well, I think the way that it's asked
9 is the way to get the most honest answer, and -- but I
10 will be glad to consider some other way of doing it.

11 MR. EPPES: Your Honor?

12 THE COURT: Yes, sir.

13 MR. EPPES: Could you -- is it possible you could
14 ask them as part of your general questioning that if you
15 had the statutory aggravators and there were no
16 mitigating factors submitted to them, if they could
17 still give meaningful consideration to a life sentence?

18 THE COURT: Well, I mean I can tell them that they
19 don't have to find any mitigating circumstances, they
20 can still give life. If I ask ---

21 MR. EPPES: Is it ---

22 THE COURT: If I ask them that cold, you know, the
23 presumption is that they can't do that. So I mean, if I
24 get into that, that's telling them more law.

25 MR. EPPES: I have no objection to you telling them

1 a little bit more law.

2 THE COURT: All right. I will try to work that in.

3 MR. EPPE: Thank you.

4 MR. ARIAIL: One other thing, while we're doing it,
5 if I could just suggest, I do think what this lady got
6 confused about, when we start talking about aggravated
7 murder, you know, you and I and the rest of us know what
8 we're talking about, they don't. They think that means
9 a heinous killing, not a murder with an aggravating
10 circumstance. And so when we start using that word
11 colloquially, particularly in your questioning,
12 sometimes that's where they get led off. So I would
13 just urge that if we do that, let's stay away from the
14 phrase, aggravated murder, because the next one is going
15 to say, well, yeah, I'm going to give the death penalty
16 in aggravated murder that's what I'm supposed to do.

17 THE COURT: Right. Okay. Nine o'clock in the
18 morning.

19 MR. EPPE: Thank you, Your Honor.

20 MR. ABDALLA: Thank you. Your Honor.

21 (A discussion was held off the record.)

22 MS. STROM: I was just going to inquire as to
23 the -- of the judge if he received from Matt Kappel, the
24 list of doctors?

25 THE COURT: I did. And I'm going to get Mr. Kappel

1 up here. I'm going to need him to get those medical
2 records rather than me track them down.. She signed
3 releases on several doctors. I will get the records.

4 MS. STROM: Yes, sir.

5 THE COURT: All right. But I did get that.
6 Anything else?

7 MS. STROM: No, sir.

8 THE COURT: All right.

9 MR. EPPES: Thank you, Your Honor.

10 MS. STROM: Thank you.

11 THE COURT: All right. Nine o'clock.

12 (Court recessed for the evening.)
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1 (The following proceedings were held on July 16,
2 2002, as follows:)

3 THE COURT: All right. Anything before we get
4 started?

5 MR. ABDALLA: Yes, Your Honor, if I may just put a
6 motion on the record, please?

7 THE COURT: Okay.

8 MR. ABDALLA: Your Honor, not to offend the Court
9 or anything, I just wanted to say that my client is
10 obviously entitled to a fair trial according to the
11 United States and South Carolina Constitutions. It's my
12 position that -- of course a death qualified jury, which
13 I understand is Constitutional, already calls into
14 question the ability to get a fair trial, as far as a
15 jury of his peers, and the since we're left with the
16 aforementioned, I'd ask the Court to indulge us in
17 farrowing out those who are pro-death. As attorneys, of
18 course, it's our duty to pull the perspective jurors our
19 way, but I believe it's the Court's duty to provide a
20 fair trial. To provide that, I believe the Court must
21 be alert to those who say they could give life versus
22 those who say they could give death.

23 COURT REPORTER: Mr. Abdalla, pull your hand away,
24 please.

25 MR. ABDALLA: For, after all. The death penalty --

1 speak up -- is reserved for the worst of the worst, and
2 I think if the Court -- or not the Court, whomever, if
3 there's going to be an error, I'd ask the Court to
4 consider erroring more in favor of the defendant as
5 opposed to the State, because I believe that's the only
6 way our client can get a fair trial. Thank you, Your
7 Honor.

8 THE COURT: Okay. I'm not sure I follow that. Do
9 you want anymore specific with that?

10 MR. ABDALLA: Yeah. Jurors who -- yesterday there
11 were several jurors running the gamut, those who were
12 totally pro-life and those who appeared to me to be
13 totally pro-death. And in both -- in some instances
14 they'd say, upon stroking, well, I could give the death
15 penalty, or I could give a life sentence. And I think
16 if there is an error to be made in qualifying those
17 jurors, the error should be in favor of the defendant,
18 because that's what the Constitution provides. It
19 doesn't say an error should favor the defendant, but
20 obviously the Constitutional protections are for the --
21 for the death. And the death sentence -- I mean, in a
22 death -- capital trial, we already have a jury that's
23 unique to any other trial. There are no other trials
24 where the jury understands what the perspective sentence
25 is. In an armed robbery, an -- nothing, even in a

1 murder case, short of a death penalty case, and to take
2 it to the point where they could give the death penalty,
3 and make sure all of them are on board for that, and
4 then to still further end up possibly with those on the
5 jury who are most likely going to give the death
6 penalty, it's just my view that that's not going to
7 provide us a fair trial.. And I hope I have made myself
8 clear and more importantly, brought the Court to my side
9 of the argument.

10 THE COURT: Okay. All right. Anything else before
11 we bring in Leanne Flack? Bring Ms. Flack. Anything
12 about this juror?

13 MS. STROM: Only thing, Your Honor, she stood up
14 when you asked about pretrial publicity.

15 THE COURT: All right.

16 (Ms. Flack entered the courtroom.)

17 THE COURT: Come in. Good morning.

18 MS. FLACK: Good morning.

19 THE COURT: Have a seat. Make yourself
20 comfortable. If you would, slide your chair close to
21 the microphone so you can speak into the microphone.
22 Okay. You're Leanne Flack?

23 MS. FLACK: Yes.

24 THE COURT: All right. I will remind you that
25 you're still under oath.

1 MS. FLACK: Okay.

2 THE COURT: And have you complied with my
3 instructions not to talk about this case with anyone?

4 MS. FLACK: Yes.

5 THE COURT: All right.

6 THE COURT: You indicated downstairs yesterday that
7 you had heard some of the facts of this case. Can you
8 tell us what you might recall having read, or seen,
9 or ---

10 MS. FLACK: Yeah. I was -- up until about three
11 months ago I worked in Marietta, South Carolina.

12 THE COURT: Um-hm.

13 MS. FLACK: And I remember the case because they
14 closed a lot of schools up there, and a lot of people
15 that work for me at Milliken at the time had to leave
16 early to go pick up their kids from school.

17 THE COURT: Okay. Living in that area, did you
18 come to find out that you knew any members of the
19 victims' family or anything like that?

20 MS. FLACK: Well, I don't really live -- I live in
21 Simpsonville, I did at the time.

22 THE COURT: You just worked up there?

23 MS. FLACK: I just worked up there. So I didn't
24 know anybody involved, but I did hear a lot about the
25 case because of working up there.

1 THE COURT: Was there a lot talk about it at work
2 after it happened?

3 MS. FLACK: Yeah, there was a lot of talk.

4 THE COURT: Okay. From your conversations with
5 other people, from seeing stuff in the paper and on TV,
6 have you formed any opinions about this case?

7 MS. FLACK: I guess I have in some respects but ---

8 THE COURT: Let me ask you this, have you -- can
9 you tell us what those opinions are? Let me do it that
10 way.

11 MS. FLACK: Well, after hearing news reports and
12 things of that nature, and after the hearing that the
13 person had run away, it made me think more along the
14 lines he might be guilty, but that was just the way I
15 thought at the time. I don't know if that really is the
16 case, but ---

17 THE COURT: All right. So you have formed an
18 opinion that the defendant may be guilty in this case?

19 MS. FLACK: At the time of -- when I hear the news
20 reports, that's what I thought.

21 THE COURT: All right. Let me ask you this, can
22 you set that opinion aside and judge this case solely on
23 the facts that you have heard in this courtroom?

24 MS. FLACK: Yeah, I can probably do that.

25 THE COURT: All right. Well, I need more than

LEANNE FLACK

1 probably. I mean, you understand ---

2 MS. FLACK: It definitely would depend on the
3 facts. I think I could look at the facts of the case
4 and make ---

5 THE COURT: Well, could you set aside anything that
6 someone might have told you, could you set aside
7 something you read in the newspaper, judge the facts
8 solely on the testimony and evidence in the case? In
9 other words, what somebody may have told to you may not
10 be true.

11 MS. FLACK: True.

12 THE COURT: And something in the paper may not be
13 true. So the question is, could you set aside anything
14 extraneous and go ahead and judge the facts just on the
15 evidence that is presented in court?

16 MS. FLACK: I'm not sure.

17 THE COURT: All right. Well, I mean, I guess if
18 you can't tell me that ---

19 MS. FLACK: I'm not sure.

20 THE COURT: You're telling me that you would
21 consider something that happened -- that you read in the
22 paper as being true and judge the case on those facts?

23 MS. FLACK: No, not necessarily, no.

24 THE COURT: Well, would -- if somebody told you
25 something, you wouldn't be able to set that aside and

1 judge the case on the facts?

2 MS. FLACK: I think that -- I guess if I were just
3 to judge the case based on the facts of the court I
4 think I can do that.

5 THE COURT: All right. And going back to the
6 question about forming an opinion, can you set aside any
7 opinion that you may have formed, and again, judge this
8 case solely on the facts of what you hear in the
9 courtroom? In other words, it's okay to have an
10 opinion, but the question is, can you set it aside
11 and -- and judge the case solely on the testimony and
12 evidence that's presented in court?

13 MS. FLACK: Yes.

14 THE COURT: All right. Now, we are going to ask
15 you some questions. We don't mean to invade your
16 privacy. I will ask you some questions. The attorneys
17 will then ask you some questions. We want your open and
18 honest and full answers to these questions. Among other
19 things, we're going to be talking about penalty. You
20 understand that?

21 MS. FLACK: Yeah.

22 THE COURT: Just because we talk about penalty that
23 does not indicate anything about the guilt or the
24 innocence of this defendant. Do you understand that?

25 MS. FLACK: Yes.

1 THE COURT: In other words, we wouldn't be able to
2 pick a fair jury unless we talk to people about penalty,
3 but -- all right. Let me just back up. If you were
4 picked as a juror on a criminal case, would you listen
5 to the law and accept and apply the law the judge gave
6 to you as the proper law in the case?

7 MS. FLACK: Yes.

8 THE COURT: Could you do that even though you might
9 have thought the law was something else, or you might
10 disagree with what the law is?

11 MS. FLACK: Yes.

12 THE COURT: Could you -- I've already asked this,
13 but during the course of the trial if you hear testimony
14 that might spur some memory of some conversation you had
15 with somebody, or something you read in the paper, again
16 could you set that aside, some conversation you had or
17 something you read or saw in the media, and judge this
18 case solely the facts that you hear in the courtroom
19 from testimony and from other evidence that's presented?

20 MS. FLACK: Yes.

21 THE COURT: All right. You understand that the
22 State has the burden of proving a defendant guilty
23 beyond a reasonable doubt?

24 MS. FLACK: Yes.

25 THE COURT: And do you believe in that proposition?

1 MS. FLACK: Yes.

2 THE COURT: And if the State did not prove somebody
3 guilty beyond a reasonable doubt, could you vote -- or
4 would you vote not guilty?

5 MS. FLACK: Yes.

6 THE COURT: And if they proved somebody guilty
7 beyond a reasonable doubt, would you vote guilty?

8 MS. FLACK: Yes.

9 THE COURT: All right. Did you read my letter,
10 that two-page letter describing ---

11 MS. FLACK: (Witness nodded her head.)

12 THE COURT: Did you know much about the death
13 penalty before?

14 MS. FLACK: No, not really, no.

15 THE COURT: Did you know South Carolina had a death
16 penalty?

17 MS. FLACK: Yes.

18 THE COURT: Do you understand the -- the -- that
19 it's not every murder case that is subject to the death
20 penalty, it has to be one of these aggravated cases?

21 MS. FLACK: I didn't know that prior to the letter.

22 THE COURT: But you understand that now?

23 MS. FLACK: Yeah.

24 THE COURT: I think the example I used is murder
25 during the course of a rape, or something like that.

1 You understand that?

2 MS. FLACK: Yes.

3 THE COURT: The -- do you understand this concept
4 of a two-part trial, the trial phase and then the
5 penalty phase?

6 MS. FLACK: Um-hm.

7 THE COURT: All right. Do you understand that when
8 we talk about an aggravated murder, a legally aggravated
9 murder, a murder plus a rape, or a murder plus an armed
10 robbery, something like that, a murder of a small child,
11 the penalty is not automatic, you understand that? That
12 the jury that decides the guilt or innocence, if they
13 vote innocent or not guilty, then you go home, but if
14 they vote guilty, if they convict that person of a
15 murder plus the aggravated circumstance, then you have a
16 second trial. It's called the penalty phase, and that
17 same jury sits, and they decide what the proper
18 punishment should be. The only choices are life without
19 any possibility of parole and death, which in South
20 Carolina is by electrocution or lethal injection. Do
21 you understand that?

22 MS. FLACK: Yes.

23 THE COURT: In that penalty phase, before a jury
24 reaches the decision of life or death, the State would
25 put up evidence in aggravation and the defense would put

1 up evidence in mitigation. Aggravating evidence is
2 evidence about the defendant himself, perhaps he has a
3 long record of prior violence. They would put up
4 evidence of victim impact, the loss of the victim, what
5 it means to the family and the community, things like
6 that. And they would be putting in this aggravating
7 evidence in an effort to convince the jury to reach a
8 verdict of death. Do you understand that?

9 MS. FLACK: (Witness nodded her head.)

10 THE COURT: And then the defense would be putting
11 in mitigating evidence. And that could be any number of
12 things. It could be the person was suffering from a
13 mental deficiency when -- when the crimes occurred. It
14 could be that the defendant was under the influence of
15 someone else. It could be that the defendant has a very
16 clean record. It could be he has a poor upbringing,
17 things like that. Do you understand that?

18 MS. FLACK: Um-hm.

19 THE COURT: And what a jury is asked to do is look
20 at the evidence in aggravation and look at the evidence
21 in mitigation, and reach a verdict of either life or
22 death. Do you understand that?

23 MS. FLACK: Yes.

24 THE COURT: All right. A jury cannot reach a
25 verdict of death unless they found aggravating

1 circumstances. A jury can always give life. It is
2 never required to give death. Do you understand that?

3 MS. FLACK: Right.

4 THE COURT: And if there is no mitigating evidence,
5 or even if the jury rejects the mitigating evidence,
6 they can still give a life sentence. You understand
7 that?

8 MS. FLACK: Yes.

9 THE COURT: All right. Understanding this
10 procedure, then let me let you do some of the talking.
11 We need to understand what your position is about
12 capital punishment. Would you say you're generally for
13 capital punishment, you're generally against capital
14 punishment? What is your position on the death penalty?

15 MS. FLACK: I'm generally for it.

16 THE COURT: All right. When you say you're
17 generally for it, does that mean you would automatically
18 vote for the death penalty in every aggravated murder
19 case?

20 MS. FLACK: No.

21 THE COURT: Would you give meaningful consideration
22 to the mitigating evidence that the defense puts up and
23 the judge charges you in reaching your decision of life
24 or death?

25 MS. FLACK: Yeah, I would consider that.

1 THE COURT: All right. And when I say consider, I
2 mean, giving meaningful consideration, not just lip
3 service. I mean, would you want to know about the
4 defendant, as much as you could, before you made the
5 decision of what punishment would be proper?

6 MS. FLACK: Right. I would want to know everything
7 I could.

8 THE COURT: All right. If you were on a jury, if
9 you thought that a life sentence was the appropriate
10 seasons, could you vote?

11 MS. FLACK: Yes.

12 THE COURT: And if you were on a jury and you
13 thought that the appropriate sentence was death, could
14 you vote for death?

15 MS. FLACK: Yes.

16 THE COURT: All right. If you were on the jury --
17 a jury, we're not talking this case, but if you were on
18 a jury and if you thought the appropriate sentence was
19 death, you would be required to sign a verdict form.
20 Each individual juror has to sign their name. Do you
21 understand that?

22 MS. FLACK: Um-hm.

23 THE COURT: Could you do that, if you thought that
24 was the appropriate sentence?

25 MS. FLACK: Yes.

1 THE COURT: Okay. Who's up?

2 MS. STROM: Mr. Ariail.

3 THE COURT: All right. This is Solicitor Ariail.
4 You may not remember him from yesterday. Solicitor
5 Ariail is prosecuting the case. Mr. Abdalla is the
6 gentleman with the mustache, at that table. That's --
7 he's one of the attorneys that's representing the
8 defendant.

9 MS. FLACK: Okay.

10 QUESTIONING BY MR. ARIAIL:

11 Q Ms. Flack, my name is Bob Ariail. I'm the
12 Solicitor for Greenville and Pickens Counties, the 13th
13 judicial circuit. And the judge has pretty well gone
14 over what the process is about, and what I want to make
15 sure we understand is that at the time that -- and this
16 is a hypothetical case we're talking about, not this
17 case.

18 A Right.

19 Q But just this hypothetical case, the process of a
20 death penalty case, after a defendant has been found
21 guilty of murder, the next step that the jury must
22 determine is make a finding that there is an aggravating
23 circumstance, not that the murder was necessarily
24 aggravated, but that the -- there is an aggravating
25 circumstance. Aggravating circumstance is defined in

1 our law as one of a number of different things. So you
2 would be given a choice and you would have make a
3 decision. If you concluded that there had been in fact
4 an aggravated circumstance, then at that time you would
5 be entitled to consider the imposition of the death
6 penalty, but not up until that time. You have to have
7 that aggravating circumstance first. Prior to finding
8 that aggravating circumstance, however, you're going to
9 have heard the second part of the case, you're going to
10 hear the testimony in aggravation, that is to try to
11 make the case appear to work -- to be worse, as the
12 State would be advocating the death penalty. Then the
13 defense would be presenting evidence of mitigation, that
14 is to make it less aggravated hopefully, and that would
15 be the process. Then you go back, you sit down and you
16 decide was it aggravated or is there an aggravating
17 factor, number one, and then number two, is the case
18 such, considering both mitigation and aggravation, what
19 is the appropriate sentence. So it's really a two step
20 process in the second part. And so you're not going to
21 be asked to decide up front, based on aggravated, is it
22 an aggravated murder, do I give the death penalty,
23 you're going to have heard everything. Do you
24 understand that?

25 A Yes.

1 Q Okay. And if you believe that you would be able,
2 if the facts were sufficient and the case is a certain
3 nature, you could impose the death penalty?

4 A Yes.

5 Q You could vote for the death penalty?

6 A Um-hm.

7 Q And that you could sign your name to carry out the
8 death penalty?

9 A (Witness nodded her head.)

10 Q And you don't know of any -- anything in your
11 religious, moral, or educational, or professional
12 background that would put any kind of limitation on you
13 that would say in the back of your brain at the time
14 you're doing this, well, maybe this I ought not -- this
15 is not what I want to be doing, anything of that nature?

16 A No.

17 Q You would base it strictly on the facts and the
18 evidence?

19 A Yes.

20 MR. ARIAIL: Great. Thank you very much.

21 THE COURT: Mr. Abdalla.

22 MR. ABDALLA: Thank you, Your Honor.

23 QUESTIONING BY MR. ABDALLA:

24 Q Ms. Flack?

25 A Yes.

1 Q My name is John Abdalla and I represent Mr. Brad
2 Sigmon, seated at the table next to Frank Eppes, who's
3 my co-counsel. It's nice to see you this morning. I
4 hope you're not nervous. It seems like all the jurors
5 yesterday were nervous. There is nothing to be nervous
6 about. We're the ones who need to be nervous because I
7 want to make sure I ask the right questions and don't
8 intimidate you. Do you understand -- and I don't want
9 to take a lot for granted, because I know I do this is
10 for a living, and there are things that I might take for
11 granted that you know that you in fact don't know.
12 There are two phases to a capital trial, what's called
13 the trial phase and then what's called the sentencing
14 phase. And do you understand that when you sit there as
15 a jury, if you convict my client, then you would move
16 onto the sentencing phase, if you find there are
17 aggravating factors?

18 A Yes.

19 Q Do you understand an aggravating factor might be
20 something like a murder while in the commission of an
21 armed robbery?

22 A Yes.

23 Q Or a rape, something of that magnitude?

24 A Yes.

25 Q And if -- if you find aggravating factors, do you

1 know what sentence would be at that point, or could be?

2 A It could be a death penalty.

3 Q All right. Actually it could be either the death
4 penalty or life in prison without parole. Did you
5 understand that before or is that something ---

6 A I just learned -- well, basically from the letter
7 that he sent yesterday that was when I realized I could.
8 I didn't understand that that -- there was the -- that
9 the difference between with a death penalty case is
10 basically that it has to be aggravated, like you have to
11 have a rape, or aggravated like armed robbery. I didn't
12 realize that that was what pretty much made that the
13 difference between just being imprisonment and -- versus
14 just a regular murder.

15 Q Right. I guess what I'm asking then is, now that
16 you understand that, are you saying you could give --
17 excuse me, you can consider either a life or death
18 sentence at that point?

19 A Yeah, I could do either one.

20 Q Tell me a little bit about what your views on the
21 death penalty are? I understand you say you could give
22 the death penalty, you could give a life sentence?
23 Would you share some of your views about that?

24 A Well, I don't necessarily think the death penalty
25 is the answer in every particular crime, but in the case

1 of say, multiple murder, and where it's not, you know,
2 self-defense, things of that nature, then I could
3 consider that. I don't -- never been put in that
4 position, where I ever had to, but I probably would
5 consider it, because it's different than -- the way I
6 look at it is if you commit one murder you may have made
7 a mistake, you may not have been thinking, but when you
8 commit multiple murders, then that is something that I
9 would look at and maybe look at a little differently

10 Q All right. Now you raised an interesting issue.
11 You said if there was no self-defense. Now, please
12 understand that if you convict my client of murder ---

13 A Um-hm.

14 Q --- and if you move onto the second phase, that
15 already eliminates the possibility of self-defense,
16 accident, and all of those types of things. Do you
17 understand that?

18 A Right, based on what I learned today and yesterday.

19 Q I know it's confusing, and again, I'm not trying to
20 put you in a corner, but I really need to make sure that
21 you do understand that, because the last thing I want to
22 do is find out you think that it's automatic death once
23 he's in that position.

24 A No.

25 Q So if, as you see it, he's then been convicted and

1 you're now considering what the sentence should be,
2 you've already found the aggravating factors, now you're
3 saying we're now going to consider life or death, you're
4 not going to be able to consider self-defense, things
5 such as that, accident. The only thing you'll be
6 provided with, and this is isn't something we have to
7 do, is mitigating factors. By that we mean somehow
8 explaining why this happened. Now, can you vote for
9 life if there are mitigating factors, something like
10 self-defense? I'm not asking if that's the only thing
11 you would do, but is that something you could do?

12 A I mean there other factors, yeah, I guess -- I
13 would take that into consideration I'm sure, just -- I
14 don't know. I mean, I've never been in that position,
15 so I don't know really what I would do.

16 Q Can you give fair consideration and at least go
17 that way? Is it something you would consider strongly
18 as death?

19 A Looking at the factors of the case, I would pretty
20 much take the facts and evidence and just make my
21 decision based on that.

22 Q All right. You've raised another interesting
23 point. If you're making your decision, would you be
24 able to stick to your convictions if you're out numbered
25 by the rest of the jurors?

1 A Yes.

2 MR. ABDALLA: Okay. Can I have one moment, please?

3 BY MR. ABDALLA:

4 Q Okay. One thing I'm not clear on, whether I've
5 asked this already, if there was -- you said something
6 about the fact that if there was -- if there were
7 multiple murders you would thought that would be the
8 death penalty, pretty much automatic, and again, I don't
9 want to put words in your mouth.

10 MR. ARIAIL: Your Honor, I'm going to object to
11 them getting specific. He asked a specific question.
12 She gave a specific answer, but I don't think that going
13 beyond that he's got a right to follow up, to ask her
14 about specifics. And while we're at it, I would also
15 object to the continuing use of the word, after you have
16 convicted my client. You're not supposed to be case
17 specific, gets too personal.

18 THE COURT: All right. You're objection is noted
19 for the record. Go ahead.

20 MR. ABDALLA: Thank you, Your Honor.

21 BY MR. ABDALLA:

22 Q Would you just explain that position, because I may
23 have misunderstood it, where you said something if there
24 were multiple murders, et cetera.

25 A Well, the way I view crimes in general, is some --

1 people can make mistakes. They might not mean to kill
2 somebody, but when you go out and kill multiple people
3 then there is a little bit more of -- maybe there's -- I
4 don't know the right way to put it. It wouldn't look
5 like an accident, you know, if you killed more than one
6 person. Obviously there was some intent to kill
7 multiple people if you do do that, so then I would
8 definitely take about that consideration because
9 everybody can make mistakes, nobody is perfect, but I
10 think in this -- in a case where you have multiple
11 murders, then I would definitely think very long and
12 hard about imposing the death penalty because I would
13 think that there was some intent to do that. I think
14 that the person set out to kill those people.

15 Q All right. I'm not going to be beat a dead horse
16 here, but first, do you believe that life without
17 parole, without the possibility of parole is a serious
18 sentence?

19 A Yes.

20 Q Do you think it's serious enough for -- excuse me,
21 a person who commits a multiple murder?

22 MR. ARIAIL: Object.

23 MR. ABDALLA: Your Honor, she ---

24 THE COURT: What was the question, I'm sorry?

25 MR. ABDALLA: I asked if she thought that was a

1 sentence that could be imposed if somebody committed a
2 multiple murder, because she mentioned the fact ---

3 THE COURT: No, overruled -- I mean sustained.

4 BY MR. ABDALLA:

5 Q What do you think the purpose of the death penalty
6 is?

7 A Punishment.

8 Q Punishment? What would the purpose of a life
9 sentence without parole be?

10 A Punishment, but obviously to a lesser degree than
11 death, still punishment. You know, take all their
12 rights away is still a form of punishment I think.

13 MR. ABDALLA: Thank you so much.

14 THE COURT: Ms. Flack. We try not to be case
15 specific, but one of your answers brought up, you know,
16 somebody that kills more than one person. My question
17 is, in a case like that, you indicated that that would
18 weigh heavily in your decision on the death penalty. In
19 a case like that, would you still give meaningful
20 consideration to the mitigating evidence and consider it
21 in deciding whether the proper punishment was life or
22 death?

23 MS. FLACK: Yes.

24 THE COURT: Okay. All right. Anything from the
25 State?

1 MR. ARIAIL: Nothing.

2 THE COURT: Anything from the defense?

3 MR. ABDALLA: Yes, Your Honor.

4 THE COURT: All right. Let me ask you to step out
5 in the hallway, please, ma'am.

6 (Ms. Flack stepped out into the hallway.)

7 THE COURT: All right. Let me hear from you.

8 MR. ABDALLA: Can I have one moment, Your Honor?

9 Your Honor, my concern is about the pretrial publicity.
10 She was referring to multiple killings, and I don't know
11 if she can give meaningful consideration. I know she
12 said she could to a life sentence, but if there are
13 multiple killings then it was not an accident, she had
14 to have some type of mitigation. And that's my only
15 concern.

16 THE COURT: Okay. All right. I find this juror is
17 qualified. I find that her views will not prevent or
18 substantially impair her performance in her duties as a
19 juror in accordance with her instructions and her oath.
20 I find that she clearly will give meaningful
21 consideration to mitigating circumstances in this case
22 in reaching her decision. And it is my definite
23 impression that she could follow her oath and return a
24 verdict according to the law. She's qualified. Bring
25 her in.

1 (Ms. Flack entered the courtroom.)

2 THE COURT: Ms. Flack, come on up and have a seat.
3 I'm going to give you a sheet of paper.

4 MS. FLACK: Okay.

5 THE COURT: You are qualified to sit on this case.
6 That does not mean that you will sit, but it does mean
7 you need to be prepared to serve as a juror.

8 MS. FLACK: Okay.

9 THE COURT: We are in the process of impaneling
10 approximately 40 jurors. We'll bring them back when we
11 have 40 qualified jurors, and pick a jury from -- from
12 that group, 12 jurors with either two or three
13 alternatives. Madam Clerk will call the jurors probably
14 sometime Wednesday or Thursday, tell them when to be
15 back.

16 When you come back, if you would, first of all,
17 pack a suitcase for seven or eight days stay, pack
18 comfortable clothes. You'll be sitting in a jury box or
19 at a local restaurant, or hotel at night.

20 If you would, park across where you did yesterday
21 morning, in the Hyatt parking garage. Come directly
22 across to the garage entrance for this building on
23 Spring Street. There will be bailiffs down there, and
24 they'll escort you up the back way and put everybody in
25 courtroom 7 until everybody is here. Then we'll move

1 you over here and we'll pick a jury and then go from
2 there. Bring any medications that you need, anything
3 like that. You will not be able to have contact with
4 your family or employees. If you need to get a message
5 to someone, that can be accomplished by giving the name,
6 the number and the message to a bailiff. They can make
7 the call for you, say you forgot something and you
8 wanted something delivered to the motel or something.
9 Also your family will not be able to contact you, but
10 there are emergency numbers that they can call if
11 something should come up and we can handle any
12 emergencies.

13 My usual admonitions, don't read anything about
14 this case. There will be media coverage. Don't watch
15 any TV. Don't talk with anyone about the case. If
16 someone tries to talk with you, tell them you're a
17 juror, you can't talk about it, get their name and refer
18 it to the bailiff.

19 MS. FLACK: Okay.

20 THE COURT: Do you have any questions?

21 MS. FLACK: Nope.

22 THE COURT: All right. You're free to go. We'll
23 see you sometime tomorrow or Thursday.

24 MS. FLACK: All right. Thank you.

25 (Ms. Flack exited the courtroom.)

1 THE COURT: All right. Amy Griffith.

2 MS. ARIAIL: Remember, she had morning sickness.

3 THE COURT: I do remember.

4 (Ms. Griffith entered the courtroom.)

5 THE COURT: Good morning.

6 MS. GRIFFITH: Good morning.

7 THE COURT: As you make yourself comfortable, slide
8 your chair close to the microphone so we can amplify
9 your voice. How are you feeling this morning?

10 MS. GRIFFITH: Okay.

11 THE COURT: How did you feel yesterday afternoon?

12 MS. GRIFFITH: Not too good.

13 THE COURT: Oh no. Well, let's go ahead and just
14 let me back up. You understand you're still under oath?

15 MS. GRIFFITH: Yes, sir.

16 THE COURT: All right. What -- you talked to me
17 about your pregnancy and the fact you were having
18 afternoon sickness?

19 MS. GRIFFITH: Yeah.

20 THE COURT: What -- is this your first child?

21 MS. GRIFFITH: It's my first child. I've been
22 pregnant before, so I know that my morning sickness does
23 usually end.

24 THE COURT: Okay. That's what I was getting at,
25 and you're 11 weeks pregnant?

1 MS. GRIFFITH: Yes.

2 THE COURT: And about when did it end last time, do
3 you recall?

4 MS. GRIFFITH: About 13 or 14 weeks.

5 THE COURT: Okay. Well, what -- as I indicated to
6 you yesterday, let me just ask, is that going to
7 interfere to your -- can you tell us, do you think that
8 will interfere with your service as a juror on this
9 case, or can tell you us that?

10 MS. GRIFFITH: I would try to make it not, but I
11 can't guarantee that.

12 THE COURT: I don't want to get graphic, but how
13 does the sickness manifest itself? Is it queasiness, or
14 is it much more than ---

15 MS. GRIFFITH: It's just queasiness, but it's
16 pretty extreme.

17 THE COURT: Okay. All right. Let me let you just
18 step outside for just a minute, okay. Let me talk to
19 the attorneys, and then we'll be right back with you.

20 (Ms. Griffith stepped out into the hallway.)

21 THE COURT: All right. What's the State's
22 position?

23 MR. ARIAIL: Excuse her.

24 MR. ABDALLA: Excuse her, Judge.

25 THE COURT: Okay. Bring her back in.

1 (Ms. Griffith entered the courtroom.)

2 THE COURT: All right. Ms. Griffith, I'm going to
3 go ahead and excuse you. You don't even need to sit
4 down. And I apologize for making you come back in. I
5 probably should have gone ahead and done that yesterday,
6 but we'll have some alternates, but there's really no
7 need of putting you through this. So we're going to let
8 you go.

9 MS. GRIFFITH: Okay. Thank you.

10 THE COURT: Thank you.

11 (Ms. Griffith exited the courtroom.)

12 THE COURT: All right. Herman McDuffee. All
13 right.

14 (Mr. McDuffee entered the courtroom.)

15 THE COURT: Thanks. If you will have a seat right
16 here, please. Good morning, sir.

17 MR. MCDUFFEE: Good morning.

18 THE COURT: As you get comfortable, go ahead and
19 slide your chair up to the microphone so that ---

20 MR. MCDUFFEE: Okay?

21 THE COURT: All right. That's nice and loud. Mr.
22 McDuffee, you understand you're still under oath?

23 MR. MCDUFFEE: Yes, sir.

24 THE COURT: And have you complied with my
25 instructions yesterday not to talk about this case with

1 anyone?

2 MR. MCDUFFEE: Yes, sir.

3 THE COURT: All right. Now, I don't believe you
4 said you recall seeing anything about this case or
5 hearing anything about this case?

6 MR. MCDUFFEE: No, at the time I had not.

7 THE COURT: All right. I'm going to ask you a
8 number of questions and the lawyers will be asking you
9 some questions. We do not mean to invade your privacy,
10 but by the nature of this case we need to ask these
11 questions to make sure that we get a fair jury in this
12 case. There are no rights answers. There are no wrong
13 answers. Everyone will respect your opinions and
14 positions, but we do need your open, honest and full
15 answers to these questions.

16 MR. MCDUFFEE: Okay.

17 THE COURT: One of thing, or -- that we're going to
18 be talking about, or the majority of things we're going
19 to talk to you go about is the possible penalties in a
20 case like this. And the possible penalties if someone
21 was convicted in a case like this are either life
22 without any possibility of parole or death, which in
23 South Carolina is by electrocution or lethal injection.
24 But I need to tell you up front that just because we're
25 talking about penalty that does not indicate anything

1 about the guilt or the innocence of the defendant in
2 this case. You understand that?

3 MR. MCDUFFEE: Yes, sir.

4 THE COURT: It's just we have to talk about these
5 things up front. Now, before I get into a death penalty
6 case, let me ask you generally, sir, if you were a juror
7 on a criminal case, would you listen to and accept and
8 apply the law that the judge gives to you?

9 MR. MCDUFFEE: Yes.

10 THE COURT: Would you do that even though you might
11 disagree with the law, or might have come to court
12 thinking the law was something else?

13 MR. MCDUFFEE: Yes.

14 THE COURT: Okay. In other words, some people, you
15 know, come to court and they may think the law is
16 something else, or they may have some position that they
17 think the law should be, and that's fine as long as they
18 can set that aside and accept the law that the judge
19 gives as the proper law, and you tell me you could do
20 that?

21 MR. MCDUFFEE: Yes..

22 THE COURT: In a criminal case you understand that
23 the State must prove a defendant guilty beyond a
24 reasonable doubt?

25 MR. MCDUFFEE: Yes, sir.

1 THE COURT: And if you were sitting on a case and
2 you found that the State had met their burden of proving
3 someone guilty beyond a reasonable doubt, would you vote
4 guilty in that case?

5 MR. MCDUFFEE: Yes, I would.

6 THE COURT: If you thought the State had not proved
7 their case beyond a reasonable doubt, would you vote not
8 guilty?

9 MR. MCDUFFEE: Yes, I would.

10 THE COURT: All right. Mr. McDuffee, did you read
11 my letter yesterday about a capital case?

12 MR. MCDUFFEE: Yes.

13 THE COURT: Did you know much about the death
14 penalty in South Caroline before coming to court?

15 MR. MCDUFFEE: No, I didn't.

16 THE COURT: Did you know we had a death penalty?

17 MR. MCDUFFEE: Yes.

18 THE COURT: All right. Did you know, or do you
19 understand now -- let me just do it this way, do you
20 understand now that it is not every murder case that is
21 subject to the death penalty?

22 MR. MCDUFFEE: Correct.

23 THE COURT: It has to be an aggravated murder,
24 which my example was murder plus a rape, or murder plus
25 an armed robbery, it could be a murder of a small child,

1 there are a number of statutory aggravating
2 circumstances that our State Legislature sets a part
3 from, I guess you could say regular old murder cases,
4 and says that they are subject to the death penalty. Do
5 you understand that?

6 MR. MCDUFFEE: Yes, sir.

7 THE COURT: You also understand that even when we
8 talk about an aggravated murder case, the penalty is
9 not automatic, that the jury that sits and decides guilt
10 or innocence, if they find someone guilty, then they
11 decide what the punishment would be. Do you understand
12 that?

13 MR. MCDUFFEE: Yes.

14 THE COURT: Before the jury decides the punishment
15 in a case of aggravated murder, they move to a second
16 trial. In other words, the trial is a two part trial, a
17 bifurcated trial, and in the penalty phase, that second
18 trial, they would hear additional testimony and
19 evidence. They would hear evidence in aggravation,
20 that's evidence put up by the State that -- and the
21 State's putting that evidence in to try to convince the
22 jury to vote for death. And they would hear evidence in
23 mitigation, that's evidence put up by the defense, and
24 the defense is putting that evidence in saying -- they
25 are trying the convince the jury to vote for life

1. without parole. Do you understand that?

2. MR. MCDUFFEE: Yes..

3. THE COURT: Examples of aggravating evidence might
4. be victim impact evidence. In other words, family
5. members might talk about the loss of the victim, what it
6. meant to them, what it meant to the community. The
7. State might put in character evidence on the defendant.
8. In other words, if the defendant had a significant
9. history of violence, a conviction for violence, they
10. would put in evidence like that to, again, try to
11. convince the jury to vote for death. Mitigating
12. evidence is any number of things. It can be the fact
13. that the person was suffering from a mental problem at
14. the time of the killing. It might be that the person
15. had a terrible upbringing. It might be that the person
16. -- the defendant was under the influence of someone else
17. when he committed the crimes. The sky is the limit. Do
18. you understand?

19. MR. MCDUFFEE: Yes.

20. THE COURT: All right. Now, understanding that
21. procedure, I'm sure you understand that we need to
22. generally get your feelings about capital punishment.

23. MR. MCDUFFEE: Right.

24. THE COURT: Would you say generally you're for
25. capital punishment, generally you're against capital

1 punishment, just how do you feel generally?

2 MR. MCDUFFEE: Generally I'm for it.

3 THE COURT: Okay. If you were on a jury, would you
4 give meaningful consideration to the mitigating evidence
5 as put up by the defense, as instructed by the judge, in
6 making your decision of a sentence of life or death?

7 MR. MCDUFFEE: Yes.

8 THE COURT: All right. In other words, would you
9 automatically vote for death in every case of aggravated
10 murder?

11 MR. MCDUFFEE: No.

12 THE COURT: All right. Let me ask you this, Mr.
13 McDuffee, you probably don't know this, because I don't
14 think it was in my letter, but first of all, a jury can
15 not vote for death unless they find beyond a reasonable
16 doubt the existence of an aggravating circumstance,
17 again, like an armed robbery or something like that. Do
18 you understand that?

19 MR. MCDUFFEE: Yes.

20 THE COURT: And do you also understand that a jury
21 is never required to vote for the death penalty, they
22 can always give life for any reason or no reason. Do
23 you understand that?

24 MR. MCDUFFEE: Yes.

25 THE COURT: So even in a case where there is