

VOLUME ONE OF EIGHT

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY

Deadra L. Jefferson, Circuit Court Judge

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

STEPHEN C. STANKO,

APPELLANT

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GEORGETOWN) COURT OF GENERAL SESSIONS
3 2005-GS-22-918

4 STATE OF S.C.,)
5 PLAINTIFF)
6 VS.) . TRANSCRIPT OF RECORD
7 STEPHEN STANKO,)
8 DEFENDANT)

9 JULY 31 - AUGUST 4, 2006
10 GEORGETOWN, SOUTH CAROLINA

11
12
13 B E F O R E:

14 THE HONORABLE DEADRA L. JEFFERSON, JUDGE; AND A
15 JURY.

16
17 A P P E A R A N C E S:

18 GREG HEMBREE, SOLICITOR
19 FRAN HUMPHRIES, ASST. SOLICITOR
20 ATTORNEYS FOR THE PLAINTIFF

21 GERALD KELLY, ESQUIRE
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1 (WHEREUPON, DEFENDANT'S EXHIBITS NOS. 1-7 WERE
2 MARKED FOR IDENTIFICATION ONLY.)

3 THE COURT: HOW IS EVERYONE? STATE READY TO
4 PROCEED?

5 MR. HEMBREE: YES WE ARE, YOUR HONOR.

6 THE COURT: THE DEFENSE READY TO PROCEED?

7 MR. DIGGS: WE ARE.

8 THE COURT: AS I UNDERSTAND IT, AND AS A
9 PRELIMINARY MATTER, THERE IS -- AGAIN, STOP ME IF I'M
10 INCORRECT. AFTER HAVING REVIEWED THE REPORTS THAT
11 WERE SUBMITTED BOTH BY THE STATE AND THE DEFENSE,
12 THERE IS NO QUESTION REGARDING MR. STANKO'S
13 COMPETENCY. IS THAT CORRECT?

14 MR. DIGGS: NOT FROM THE DEFENSE, YOUR HONOR.

15 MR. HEMBREE: AND NOT FROM THE STATE, YOUR
16 HONOR.

17 THE COURT: IS THERE ANY EXCEPTION TO US MARKING
18 THOSE PORTIONS OF THE REPORTS AS COURT'S EXHIBITS IN
19 SUPPORT OF THAT OR DO WE NEED TO HAVE ANY HEARING IN
20 THAT REGARD?

21 MR. HEMBREE: YOUR HONOR, I THINK THAT IT'S
22 SUFFICIENT TO MARK THE REPORTS AS EXHIBITS
23 CONSIDERING THAT BOTH SIDES HAVE STIPULATED THAT
24 MR. STANKO IS COMPETENT TO STAND TRIAL.

25 MR. DIGGS: YOUR HONOR, WE AGREE TO THAT AND WE

1 DON'T HAVE ANY EVIDENCE AT THIS POINT TO SUBMIT
2 CONTRARY TO WHAT IS ALREADY BEFORE THE COURT. SO WE
3 DON'T HAVE -- WE'RE NOT GOING TO RAISE AN ISSUE ABOUT
4 THAT AT THIS TIME SIMPLY BECAUSE OF A LACK OF.

5 THE COURT: SIMPLY BECAUSE -- I'M SORRY. I
6 DIDN'T HEAR THE LAST PART.

7 MR. DIGGS: SIMPLY BECAUSE THERE IS NO EVIDENCE
8 TO THE CONTRARY THAT HE IS INCOMPETENT TO STAND
9 TRIAL.

10 THE COURT: OKAY. NOW, THE NEXT MATTER IS THE
11 MOTION IN LIMINE WHICH HAS BEEN FILED BY THE STATE
12 AND THAT IS DATED IS JULY 24TH, 2006, AND THAT MOTION
13 MOVES IN LIMINE TO EXCLUDE EVIDENCE REGARDING
14 DIMINISHED CAPACITY IN THE GUILT PHASE OF THE TRIAL,
15 AND THAT DEALS WITH THE DEFENDANT'S INTENTION TO
16 ASSERT THE AFFIRMATIVE DEFENSE OF INSANITY.

17 AND THE STATE RELIES ON STATE VERSUS GILL AND
18 STATE VERSUS SANTIAGO, AND THAT'S JUST BASICALLY A
19 BRIEF SUMMARY OF THEIR MOTION.

20 BASED ON OUR CHAMBERS CONFERENCE, IT'S MY
21 UNDERSTANDING, MR. DIGGS, THAT YOU OBJECT TO THE
22 COURT PROCEEDING WITH THE MOTION IN LIMINE. IS THAT
23 CORRECT?

24 MR. DIGGS: WELL, YOUR HONOR, YOU HAVE A WRITTEN
25 REPORT THAT'S BEEN FILED. IT STATES THAT THE

1 DOCTOR'S OPINION HOLDS THAT HE WAS INSANE, AND WE
2 SUBMIT THAT THAT WOULD RESOLVE THE ISSUE. THAT
3 RAISES THE FACTUAL ISSUE THAT SHOULD BE SUBMITTED TO
4 THE JURY.

5 AND FOR THAT REASON WE WOULD OBJECT TO HAVING TO
6 GO FURTHER SIMPLY BECAUSE THE STATE WANTS TO LABEL
7 THE DOCTOR'S OPINION SOMETHING OTHER THAN IT IS
8 DOESN'T NEGATE THE FACT THAT THERE IS A JURY QUESTION
9 HERE, A FACTUAL QUESTION, RESOLUTION, AND IT DOESN'T
10 UNDERMINE OR NEGATE THE DOCTOR'S OPINION WHICH IS
11 CLEARLY SET FORTH IN THE WRITTEN REPORT.

12 AND SO WE WOULD SUBMIT THAT THE MOTION BY THE
13 PROSECUTION AT THIS POINT DOES NOT HAVE MERIT, WITH
14 ALL DUE RESPECT, AND IT SHOULD BE DENIED.

15 THE COURT: WOULD THE STATE LIKE TO RESPOND?

16 MR. HEMBREE: YOUR HONOR, ONE MATTER. JUST FOR
17 PURPOSES OF CLARIFICATION, THE STATE DOES NOT OBJECT
18 TO THE INTRODUCTION OF THIS PSYCHIATRIC TESTIMONY IN
19 THE PENALTY PHASE OF THE TRIAL AS MITIGATION
20 TESTIMONY. WE DO BELIEVE IT WOULD BE PROPER AT THAT
21 TIME.

22 HOWEVER, IT IS OUR POSITION THAT THE COURT
23 REMAINS THE GATEKEEPER OF ANY EVIDENCE THAT IS
24 OFFERED BY EITHER SIDE. THERE IS A LEGAL THRESHOLD
25 THAT THE DEFENSE MUST -- MUST OVERCOME TO OFFER THAT

1 EVIDENCE TO A JURY. OTHERWISE IT WOULD BE CONSIDERED
2 IRRELEVANT OR CONFUSING.

3 YOUR HONOR, IT'S OUR POSITION, AND I THINK THE
4 COURT'S ALREADY STATED THIS, THAT THE -- WE BELIEVE
5 THAT THE OPINION OF THE DOCTOR, ALTHOUGH NOT CALL --
6 HE DOES NOT DETERMINE DIMINISHED CAPACITY, THAT IN
7 ITS SUBSTANCE IS IN FACT DIMINISHED CAPACITY WHICH IS
8 NOT RECOGNIZED AS APPROPRIATE PSYCHIATRIC TESTIMONY
9 IN THE GUILT PHASE OF THE TRIAL AND THAT IT SHOULD BE
10 EXCLUDED FROM THE GUILT PHASE.

11 THE COURT: ANYTHING FROM--

12 MR. DIGGS: WELL, NOT -- NOT REALLY, YOUR HONOR.
13 I THINK YOU UNDERSTAND WHAT OUR POSITION IS. THAT'S
14 THE VERY ISSUE THAT HAS TO BE RESOLVED FACTUALLY.
15 THE DOCTOR AGAIN IS QUITE FAMILIAR WITH WHAT
16 DIMINISHED CAPACITY IS AND WITH WHAT INSANITY IS. HE
17 QUOTES THE INSANITY STATUTE IN HIS REPORT AND HE SAYS
18 THIS MAN WAS INSANE.

19 AND THAT WOULD CERTAINLY MEET ANY THRESHOLD
20 SHOWING THE COURT MIGHT REQUIRE FOR DETERMINING THERE
21 WAS A FACTUAL RESOLUTION FOR THE JURY IN THE CASE.
22 SO, YOU KNOW, ACCEPTING THE STATE'S ARGUMENT WITH
23 RESPECT TO THE THRESHOLD SHOWING, CERTAINLY IT'S BEEN
24 MET.

25 THE COURT: I THINK AT A VERY BASIC MINIMUM WHEN

1 THE STATE OR THE DEFENSE MAKES A MOTION, IT IS
2 INCUMBENT UPON THE COURT TO HEAR THAT MOTION. I
3 DON'T THINK THAT I CAN SIMPLY DISREGARD THE STATE'S
4 MOTION.

5 I THINK THAT I HAVE TO HEAR IT AND RULE UPON IT.
6 AND I THINK THAT MR. HEMBREE IS CORRECT, THE COURT IS
7 THE GATEKEEPER OF EVIDENCE AND IT IS MY
8 RESPONSIBILITY WHEN AN ISSUE IS RAISED EN CAMERA TO
9 HEAR THAT MOTION.

10 NOW, MR. DIGGS, YOU ARE CORRECT IN YOUR
11 STATEMENT OF THE STATE OF THE LAW WHICH IS WHEN THE
12 AFFIRMATIVE DEFENSE OF INSANITY IS RAISED, IF THERE
13 IS ANY EVIDENCE TO SUPPORT IT, THE COURT BASICALLY
14 HAS TO LET IT IN.

15 I CANNOT -- I'M NOT THE FACT FINDER. IT'S NOT
16 MY PREROGATIVE TO WEIGH EVIDENCE. YOU KNOW, IT'S NOT
17 FOR THE COURT -- AND I THINK THERE'S CASE LAW ON
18 POINT THAT SAYS IT'S NOT -- DOESN'T MATTER WHETHER
19 THE COURT BELIEVES IT OR NOT, IT'S NOT FROM -- I'M
20 NOT THE FACT FINDER, AND AS I SHARED WITH YOU ALL IN
21 CHAMBERS, AFTER MY MANY YEARS IN FAMILY COURT HAVING
22 BEEN THE FACT FINDER, I KNOW WHEN I'M ACTING IN THAT
23 CAPACITY AND QUITE FRANKLY VERY READILY GIVE THAT
24 ROLE OVER TO THE JURY AS THE FACT FINDERS IN THIS
25 CASE.

1 BUT I THINK AT THE VERY MINIMUM WHERE THE STATE
2 RAISES THE MOTION, I HAVE TO HEAR IT. I DON'T THINK
3 I CAN SIMPLY DISREGARD IT. BUT I THINK THAT THE
4 COURT DOES HAVE TO, PURSUANT THE STATUTE, DETERMINE
5 AND HEAR ENOUGH OF THE EVIDENCE EN CAMERA TO SEE IF A
6 FACTUAL ISSUE ON THE AFFIRMATIVE DEFENSE IS RAISED.

7 ARE THERE ANY EXCEPTIONS TO THE COURT'S RULING
8 FROM THE STATE?

9 MR. HEMBREE: NO, YOUR HONOR. THANK YOU.

10 THE COURT: FROM THE DEFENSE?

11 MR. DIGGS: WELL...

12 THE COURT: OTHER THAN THAT WHICH HAS BEEN
13 STATED.

14 MR. DIGGS: WITH ALL DUE RESPECT, NONE, YOUR
15 HONOR, NO ADDITION.

16 THE COURT: OKAY. AND THEN WE'LL NOTE YOUR
17 EXCEPTION FOR THE RECORD.

18 MR. DIGGS: THANK YOU.

19 THE COURT: IS THE STATE READY TO PROCEED?

20 MR. HEMBREE: YES, YOUR HONOR.

21 THE COURT: OKAY. IS THE DEFENSE READY TO
22 PROCEED?

23 MR. DIGGS: YES, I AM.

24 THE COURT: AND I APPRECIATE YOU ALL'S PATIENCE.
25 WE HAD A LOT TO COORDINATE THIS MORNING. WE HAD SOME

1 DELAY IN BEGINNING TO -- IT'S NO ONE'S FAULT. WE
2 JUST HAD A LOT TO COORDINATE WITH THE COMPUTERS,
3 CAMERAS AND EVERYTHING ELSE, SO I APPRECIATE YOU ALL
4 BEING SO VERY PATIENT AND WE'LL GO AHEAD AND GET
5 STARTED.

6 MR. DIGGS: YOUR HONOR, I ASSUME THAT LOOK
7 DIRECTED AT ME MEANS THAT PROCEDURE WILL REQUIRE
8 US...

9 THE COURT: I THINK PROCEDURALLY PROBABLY IT IS
10 BETTER TO GO AHEAD AND START WITH YOUR WITNESS. AND
11 I WILL TELL YOU WHY. BECAUSE IF THERE IS A FACTUAL
12 ISSUE RAISED, THEN WE REALLY DON'T NEED TO GO ANY
13 FURTHER, AND IT WOULD SAVE TIME.

14 MR. DIGGS: OKAY. YOUR HONOR, WE WOULD CALL DR.
15 THOMAS SACHY.

16 THE COURT: SIR, IF YOU WOULD COME TO THE
17 WITNESS STAND AND BE SWORN. THIS WAY. SORRY.

18 DR. TOM SACHY, AFTER
19 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. DIGGS:

22 Q AND DR. SACHY, WHERE DO YOU RESIDE?

23 A GRAY, G-R-A-Y, GEORGIA.

24 Q AND WHAT IS YOUR PROFESSION, SIR?

25 A I'M A PSYCHIATRIST, FORENSIC PSYCHIATRIST AND

1 NEURO-PSYCHIATRIST.

2 Q ALL RIGHT. COULD YOU GIVE US THE BENEFIT OF YOUR
3 TRAINING AND EDUCATION, PLEASE SIR?

4 A YES. I HAVE A -- TWO BACHELOR'S DEGREES, BACHELOR OF
5 SCIENCE DEGREES FROM THE UNIVERSITY OF CALVALRY IN CANADA,
6 ONE IN GENERAL STUDIES, ONE IN ELECTRICAL AND COMPUTER
7 ENGINEERING.

8 I HAVE A MASTER'S DEGREE IN BIOLOGY FROM GEORGIA
9 STATE UNIVERSITY IN ATLANTA. I HAVE MY MEDICAL DEGREE
10 FROM THE MEDICAL COLLEGE OF GEORGIA IN AUGUSTA, WHICH I
11 COMPLETED IN 1995.

12 AND I COMPLETED MY PSYCHIATRY AND BEHAVIORAL
13 NEUROLOGY FELLOWSHIP, THE MEDICAL UNIVERSITY OF SOUTH
14 CAROLINA IN CHARLESTON. I BELIEVE I COMPLETED THAT IN
15 2000.

16 THEN I WENT TO -- I'M SORRY. I THINK I COMPLETED
17 THAT IN '99. THEN I WENT TO EMORY UNIVERSITY WHERE I
18 COMPLETED A FELLOWSHIP IN FORENSIC PSYCHIATRY. TRYING TO
19 REMEMBER. AND I BELIEVE I COMPLETED THAT IN 2000. AND I
20 HAVE BEEN IN PRACTICE AND IN PRIVATE PRACTICE FOR THE LAST
21 FIVE YEARS.

22 Q OKAY. AND WHAT KIND OF -- HOW WOULD YOU DESCRIBE FOR
23 US YOUR PRACTICE?

24 A WELL, MY PRACTICE IS PROBABLY 90 PERCENT CLINICAL,
25 THAT'S TREATING PATIENTS FOR VARIOUS NEUROPSYCHIATRIC

1 DISORDERS, AND 10 PERCENT FORENSIC.

2 Q ALL RIGHT. WHAT IS THE -- YOU CLAIM EDUCATION AND
3 TRAINING IN PSYCHIATRY AND NEUROPSYCHIATRY AND FORENSIC
4 PSYCHIATRY?

5 A YES.

6 Q WHAT ARE THE DIFFERENCES IN THOSE AREAS? HOW DO THEY
7 DIFFER?

8 A PSYCHIATRY IS THAT PART OF MEDICINE THAT DEALS WITH
9 MENTAL HEALTH AND MENTAL ILLNESS. FORENSIC PSYCHIATRY IS
10 THAT SUBSECTION OF PSYCHIATRY THAT DEALS WITH PSYCHIATRY
11 IN THE LAW, WHERE THOSE TWO FIELDS COINCIDE.

12 AND NEUROPSYCHIATRY IS A SPECIALTY THAT IS ALSO KNOWN
13 AS BEHAVIORAL NEUROLOGY WHERE A PERSON IS TRAINED IN THE
14 UNDERSTANDING OF THE NEUROLOGICAL BASES FOR BEHAVIORAL
15 DISORDERS.

16 Q AND HAVE YOU EVER BEEN DECLARED AN EXPERT IN ANY
17 COURT IN THOSE AREAS?

18 A YES I HAVE, ON MANY OCCASIONS.

19 Q OKAY.

20 MR. DIGGS: YOUR HONOR, WE WOULD OFFER DR. SACHY
21 AS AN EXPERT IN THE AREA OF PSYCHIATRY,
22 NEUROPSYCHIATRY AND FORENSIC PSYCHIATRY.

23 THE COURT: ANY QUESTIONS OR OBJECTIONS?

24 MR. HEMBREE: YES, YOUR HONOR. I JUST HAVE A
25 FEW QUESTIONS.

1 THE COURT: CERTAINLY. YOU MAY PROCEED.

2 MR. HEMBREE: THANK YOU, YOUR HONOR.

3 VOIR DIRE EXAMINATION

4 BY MR. HEMBREE:

5 Q THERE IS -- DR. SACHY, THERE IS NOT AN -- THERE IS NO
6 RECOGNIZED SPECIALITY OR BOARD CERTIFICATION IN THE FIELD
7 OF NEUROPSYCHIATRY; IS THERE?

8 A I BELIEVE IT'S A RECOGNIZED SPECIALTY AND THERE SOON
9 WILL BE A BOARD SPECIALTY. THEY HAVE BEEN TRYING TO HAVE
10 IT ARRANGED FOR YEARS. BUT I COMPLETED A AUTHENTIC
11 FELLOWSHIP UNDER THE TUTELAGE OF DR. DAVID BACHMAN WHO IS
12 NOW THE CHAIRMAN OF THE DEPARTMENT OF NEUROLOGY AT THE
13 MEDICAL UNIVERSITY OF SOUTH CAROLINA AND HE IS ALSO THE
14 HEAD OF BEHAVIORAL NEUROLOGY.

15 SO I WOULD SUBMIT TO YOU THAT IT IS RECOGNIZED AND
16 LEGITIMATE. IN FACT, I HAVE A TEXTBOOK THAT I BROUGHT
17 WITH ME WHICH IS LABELED NEUROPSYCHIATRY, SO...

18 Q IT'S CERTAINLY A FIELD OF STUDY, BUT IT IS NOT A --
19 IT'S NOT A RECOGNIZED SUBSPECIALTY IN THE SENSE THAT THERE
20 IS NO BOARD CERTIFICATION.

21 A THE AMERICAN ACADEMY OF MEDICAL SPECIALTIES HAS NOT
22 GIVEN IT ITS OWN BOARD CERTIFICATION YET.

23 Q AND SO YOU'RE NOT CERTIFIED -- NOT BOARD CERTIFIED AS
24 A NEUROPSYCHIATRIST?

25 A NO.

1 Q YOU'RE NOT -- THERE IS NO -- THERE'S A STUDY, I
2 UNDERSTAND, OF FORENSIC PSYCHIATRY BUT THERE IS NO BOARD
3 CERTIFICATION FOR THAT EITHER; IS IT?

4 A YES, THERE IS.

5 Q OKAY. ARE YOU BOARD CERTIFIED AS A FORENSIC
6 PSYCHIATRIST?

7 A YES, I AM.

8 Q AND ARE YOU BOARD CERTIFIED AS A NEUROLOGIST?

9 A NO.

10 Q AND WHAT WOULD BE NEUROLOGY?

11 A NEUROLOGY AND PSYCHIATRY ARE BOTH CERTIFIED BY THE
12 SAME GENERAL BOARD, IT'S THE AMERICAN BOARD OF PSYCHIATRY
13 AND NEUROLOGY. NEUROLOGISTS SPECIALIZE MORE IN THE
14 DIAGNOSIS OF AND TREATMENT OF THINGS LIKE STROKE, AND I'LL
15 GIVE -- EVALUATION OF BRAIN TUMOR, GROSS BRAIN DISFUNCTION
16 AS WELL AS GROSS PERIPHERAL NERVOUS SYSTEM DYSFUNCTION.

17 NEUROPSYCHIATRISTS, LIKE MYSELF, WE SPECIALIZE IN
18 VERY FINE -- WELL, IT CAN BE GROSS, BUT IN VERY FINE AND
19 MINUTE PROBLEMS IN THE BRAIN LEADING TO BEHAVIORAL
20 DISTURBANCE.

21 Q NOW YOUR -- YOU HAVE BEEN CERTIFIED -- I MEAN, YOU
22 ARE BOARD CERTIFIED AS PSYCHIATRIST?

23 A AND A FORENSIC PSYCHIATRIST.

24 Q AND A FORENSIC PSYCHIATRIST. VERY WELL.

25 MR. HEMBREE: YOUR HONOR, I WOULD --

1 BY MR. HEMBREE:

2 Q ARE YOU LICENSED TO PRACTICE MEDICINE IN THE STATE OF
3 SOUTH CAROLINA?

4 A NO. I WAS WHEN I WAS DOING MY RESIDENCY AND MY
5 FELLOWSHIP IN BEHAVIORAL NEUROLOGY, BUT I LET IT LAPSE
6 AFTER MOVING TO GEORGIA.

7 Q AND YOU ADMITTED YOU'VE BEEN QUALIFIED IN COURTS OF
8 RECORD IN THE FIELDS -- IN SEVERAL FIELDS OF PSYCHIATRY.
9 ARE -- HAVE YOU EVER BEEN CERTIFIED OR HAVE YOU EVER BEEN
10 QUALIFIED IN A COURT OF RECORD IN SOUTH CAROLINA?

11 A NO.

12 MR. HEMBREE: I DON'T HAVE ANY FURTHER
13 QUESTIONS, YOUR HONOR. WE WOULD OBJECT TO HIS
14 QUALIFICATIONS AS A FORENSIC PSYCHIATRIST -- EXCUSE
15 ME -- AS A -- A NEUROPSYCHIATRIST BECAUSE IT IS NOT A
16 RECOGNIZED BOARD CERTIFIED FIELD OF MEDICINE, OF
17 PSYCHIATRY.

18 WE DON'T HAVE ANY OBJECTION TO HIS
19 CERTIFICATIONS AS A FORENSIC PSYCHIATRIST OR AS A
20 PSYCHIATRIST.

21 THE COURT: TELL ME AGAIN WHAT YOU'RE OFFERING
22 HIM AS AN EXPERT IN, MR. DIGGS.

23 MR. DIGGS: PSYCHIATRY AND NEUROPSYCHIATRY AND
24 FORENSIC PSYCHIATRY.

25 THE COURT: FORENSIC PSYCHIATRY -- SAY IT ONE

1 MORE TIME FOR ME. FORENSIC PSYCHIATRY.

2 MR. DIGGS: FORENSIC AND NEUROPSYCHIATRY. AND
3 YOUR HONOR, HE WOULD BE AN EXPERT--

4 THE COURT: WAIT. WAIT. DON'T GET AHEAD OF ME.
5 FORENSIC PSYCHIATRY AND NEUROPSYCHIATRY, AND
6 PSYCHIATRY; CORRECT?

7 MR. DIGGS: YES, MA'AM.

8 THE COURT: ALL RIGHT. YOU MAY PROCEED.

9 MR. DIGGS: THANK YOU. DR. SACHY--

10 THE COURT: WELL, NO. I NEED TO RESPOND TO HIS
11 MOTION, HIS OBJECTION TO THE ADMISSION AS AN EXPERT.

12 MR. DIGGS: YOUR HONOR, THE FACT THAT THERE IS
13 NO BOARD CERTIFICATION WOULDN'T BE CONTROLLING.
14 CONSIDERATION WOULD BE BY TRAINING AND STUDY AND HIS
15 EXPERTISE.

16 CLEARLY BY HIS EXPERIENCE AND EXPERTISE AND HIS
17 TRAINING HE HAS AN EXPERT STANDARD OR QUALITY OF
18 KNOWLEDGE CONCERNING NEUROPSYCHIATRY. HE HAS SOME...

19 THE WITNESS: YOUR HONOR?

20 THE COURT: YES, SIR.

21 THE WITNESS: I DID COMPLETE AN ACTUAL
22 FELLOWSHIP AND I'M CERTIFIED IN IT AND ON IT, WHICH I
23 RECEIVED FROM THE MEDICAL UNIVERSITY OF SOUTH
24 CAROLINA SIGNED BY THE CHAIRMAN OF THE DEPARTMENT OF
25 NEUROLOGY THEN AND DR. DAVID BACHMAN, WHO IS THE HEAD

1 OF THE BEHAVIORAL NEUROLOGY PROGRAM.

2 I AM CERTIFIED AND HAVE COMPLETED A ONE-YEAR
3 FELLOWSHIP. MANY MEDICAL SPECIALTIES, BEFORE THEY
4 BECAME FORMALLY, YOU KNOW, GIVEN AMERICAN BOARD
5 STATUS, THEY WERE STILL LEGITIMATE AREAS OF SPECIALTY
6 THAT YOU COULD BE CERTIFIED IN. IT JUST TAKES TIME.

7 AND NEUROPSYCHIATRY -- ACTUALLY, THOUGH IT'S
8 KIND OF ANCIENT, IS KIND OF NEW AS WELL. BUT I DO
9 HAVE LEGITIMATE CERTIFICATION. I DID COMPLETE ONE
10 YEAR OF TRAINING AT THE MEDICAL UNIVERSITY OF SOUTH
11 CAROLINA IN MEDICINE.

12 THE COURT: ALL RIGHT. WITH THAT FURTHER
13 EXPLANATION, THE STATE STILL HAVE AN OBJECTION?

14 MR. HEMBREE: NO, YOUR HONOR. I JUST -- MY
15 CONCERN -- I GUESS HERE'S MY -- GO TO THE CRUX OF MY
16 OBJECTION AND THEN I GUESS I CAN SAVE MY OBJECTIONS
17 FOR PARTICULAR QUESTIONS.

18 BUT I HAVE SOME CONCERN THAT THIS WITNESS MAY
19 OFFER EVIDENCE THAT WOULD BE MORE APPROPRIATELY
20 ANSWERED BY A NEUROLOGIST, NOT A -- BECAUSE THE
21 MECHANICAL ASPECTS OF THE BRAIN. THAT'S THE
22 NEUROLOGIST'S SPECIALTY, WHERE THE PSYCHIATRIC AREAS
23 OF THE BRAIN SEEM TO BE MORE OF A SOFTWARE ISSUE, HOW
24 A BRAIN BEHAVES AFTER IT.

25 SO THAT'S MY CONCERN. IF -- AND I WILL -- AFTER

1 STATING THAT, I WILL -- I HAVE NO FURTHER OBJECTION
2 TO HIS QUALIFICATION AS A FORENSIC -- OR EXCUSE ME --
3 A NEUROPSYCHIATRIST.

4 THE COURT: OKAY. SIR, YOU INDICATED THAT YOU
5 HAVE BEEN ADMITTED AS AN EXPERT IN COURTS IN GEORGIA
6 AS WELL?

7 THE WITNESS: YES.

8 THE COURT: HOW MANY TIMES? YOU CAN GIVE ME AN
9 ESTIMATE.

10 THE WITNESS: FIFTY, 60, 70 TIMES.

11 THE COURT: AND WHAT AREAS WERE YOU ADMITTED AS
12 AN EXPERT?

13 THE WITNESS: ALL THOSE THREE AREAS.

14 THE COURT: ALL THREE--

15 THE WITNESS: PSYCHIATRY, FORENSIC PSYCHIATRY,
16 NEUROPSYCHIATRY.

17 THE COURT: THINK THE OBJECTION CAN WAIT. HE'S
18 ADMITTED. HE CAN CONTINUE.

19 MR. DIGGS: THANK YOU.

20 BY MR. DIGGS:

21 Q DR. SACHY, DID YOU HAVE AN OCCASION TO BEGIN WORK ON
22 THE STEPHEN STANKO CASE?

23 A YES, I DID.

24 Q YES. OKAY. AND TELL US IF YOU WOULD, PLEASE SIR,
25 HOW YOU KIND OF -- HOW IT WAS THAT YOU CAME TO BE INVOLVED

1 IN THE CASE.

2 A I WAS ESSENTIALLY ON A SPEAKING TOUR OF MYRTLE BEACH
3 AND THIS AREA, AND I WAS AT DINNER INTRODUCED TO A DR.
4 THRASHER WHO HAD ASKED ABOUT MY FORENSIC WORK. AND I
5 MENTIONED ANOTHER CASE THAT I WORKED ON IN GEORGIA WHERE
6 THIS KIND OF -- THE KIND OF WORK I DO, THE NEUROLOGICAL
7 AND IMAGING ANALYSIS OF -- IN VIOLENT PEOPLE, HE WAS
8 INTERESTED IN THAT. AND I GUESS THROUGH HIM, HE CONTACTED
9 YOU AND -- AND SOMEONE HERE, OR YOU CONTACTED ME.

10 Q ALL RIGHT. AND DID YOU PERFORM WORK ON THIS CASE?

11 A YES.

12 Q TELL US WHAT YOU DID, JUST IN A GENERAL SENSE.

13 A WELL, IN A GENERAL SENSE I DID A PSYCHIATRIC
14 EVALUATION OF MR. STANKO. I PERFORMED A NEUROLOGICAL
15 EXAMINATION OF MR. STANKO. I REVIEWED A GREAT DEAL OF
16 RECORDS ON MR. STANKO. AND VERY IMPORTANTLY I ARRANGED OR
17 ORDERED POSITRON EMISSION TOMOGRAPHY SCANS TO BE PERFORMED
18 OF HIS BRAIN, AND THOSE -- THAT DATA WAS THEN SENT TO THE
19 UNIVERSITY OF CALIFORNIA IRVINE FOR ANALYSIS, AND WE WILL
20 DISCUSS THOSE FINDINGS.

21 THEN AS WELL, I ORDERED A BRAIN MRI OF MR. STANKO.
22 AND I HAD THAT DATA SENT TO THE UNIVERSITY OF PENNSYLVANIA
23 WHERE IT WAS ANALYZED IN A DIFFERENT -- COMPLETELY
24 DIFFERENT MATTER FOR ANALYSIS FOR BRAIN ABNORMALITY.

25 Q OKAY. DID YOU HAVE ALL OF THAT INFORMATION AVAILABLE

1 TO YOU AND THE RESULTS OF THOSE SCANS AND SO FORTH AT THE
2 TIME YOU DRAFTED A REPORT IN THE CASE?

3 A YES.

4 Q AND LET ME SHOW YOU THIS. IS THIS YOUR REPORT THAT
5 WE HAVE HAD MARKED AS EXHIBIT NUMBER 1?

6 A YES.

7 MR. DIGGS: YOUR HONOR, WE'D LIKE TO OFFER IT
8 INTO EVIDENCE AT THIS TIME.

9 THE COURT: ANY OBJECTION?

10 MR. HEMBREE: WHICH REPORT IS IT, THE ONE DATED
11 THE SEVENTH OR THE 22ND?

12 MR. DIGGS: TWENTY-SECOND.

13 MR. HEMBREE: YOU INTEND TO INTRODUCE BOTH? I
14 HAVE NO OBJECTION TO IT, YOUR HONOR.

15 THE COURT: MARKED AND ADMITTED WITHOUT
16 OBJECTION. YOU MAY CONTINUE.

17 (WHEREUPON, COURT'S EXHIBIT 1 WAS ADMITTED INTO
18 EVIDENCE.)

19 BY MR. DIGGS:

20 Q DR. SACHY, DO YOU HAVE A COPY OF YOUR REPORT OVER
21 THERE?

22 A YES, I DO.

23 Q YOU HAVE IT WITH YOU? ALL RIGHT. IN YOUR REPORT --
24 LET'S GET TO THE BOTTOM LINE IN YOUR REPORT, AND THEN
25 WE'LL HAVE YOU EXPLAIN HOW YOU ARRIVED AT THAT CONCLUSION.

1 WHAT IS YOUR OPINION REGARD TO HIS MENTAL STATE AT
2 THE TIME OF THIS PARTICULAR -- THE ACTS THAT WERE ALLEGED
3 IN THIS CASE? DO YOU HAVE AN OPINION WITH RESPECT TO THE
4 DEFENDANT'S MENTAL STATE AT THAT TIME?

5 A AT THE TIME OF THESE ACTS?

6 Q YES.

7 A IT'S MY OPINION THAT HE MET THE LEGAL DEFINITION OF
8 MORAL AND LEGAL INSANITY AND HE DID NOT KNOW RIGHT VERSUS
9 WRONG AT THE TIME OF THESE ACTS.

10 Q ALL RIGHT. NOW, YOU UNDERSTAND WHAT WE MEAN BY
11 DIMINISHED CAPACITY?

12 A YES.

13 Q AND DO YOU UNDERSTAND BY -- OR DO YOU UNDERSTAND WHAT
14 WE MEAN BY INSANITY?

15 A YES.

16 Q AND WERE YOU AWARE OF THOSE DISTINCTIONS AT THE TIME
17 YOU DID THIS REPORT?

18 A I WAS AWARE, BUT AS I -- AS I WAS MADE AWARE OF THE
19 ACTUAL STATUTE, I BECAME MORE AWARE.

20 Q ALL RIGHT. NOW, IS IT YOUR OPINION IN THIS REPORT
21 THAT MR. STANKO WAS INSANE OR THAT HE WAS SUFFERING FROM
22 DIMINISHED CAPACITY?

23 A AT THE TIME HE WAS INSANE, BUT IT IS MY OPINION THAT
24 MR. STANKO HAS DIMINISHED CAPACITY 24-SEVEN. BUT AT THE
25 TIME OF THESE -- THIS CRIME AND THIS ACT, HE WAS BEYOND

1 THAT, HE WAS INSANE.

2 Q ALL RIGHT. LET'S GO AHEAD AND GET TO THE CRUX THEN.
3 WHY DO YOU COME TO THAT CONCLUSION?

4 A I COME TO THAT CONCLUSION -- FIRST OF ALL, WHEN THIS
5 CASE WAS SENT TO ME AND I REVIEWED THE MATERIALS AND BASED
6 ON MY TRAINING AND KNOWLEDGE IN THE MEDICAL LITERATURE, I
7 WAS CONVINCED THAT THE ACTS THAT HE HAD COMMITTED WERE
8 INSANE IN A -- IN A LEGAL SENSE.

9 I -- WHEN I WAS CONTACTED THEN ABOUT THIS CASE, I
10 KNEW THAT THERE WERE CERTAIN SCIENTIFIC STUDIES THAT
11 EXISTED THAT COULD BE PUT INTO USE THAT WOULD LITERALLY
12 SHOW THE NEUROLOGICAL OR BRAIN ABNORMALITIES THAT WOULD
13 ACCOUNT FOR THIS INSANITY. SO I OBTAINED THEM.

14 ONCE I SAW THE RESULTS, WHICH ARE ACTUALLY
15 OUTSTANDING, I WAS CONVINCED THAT HE WAS INSANE AT THE
16 TIME OF THESE CRIMES.

17 Q ALL RIGHT. CAN YOU GIVE US AN OVERVIEW -- ARE YOU
18 PREPARED TO GIVE US AN OVERVIEW OF THOSE ARTICLES OR THOSE
19 MATERIALS?

20 A YES, BUT I THINK -- IF YOUR HONOR WANTS TO LOOK AT
21 THE PICTURES, I HAVE -- I WILL HAVE TO GO TO THAT SIDE TO
22 GET ON MY COMPUTER TO SHOW YOU.

23 THE COURT: YOU NEED TO FOLLOW -- HE NEEDS TO
24 ANSWER THE QUESTIONS, SIR. YOU NEED TO CONTINUE.

25 BY MR. DIGGS:

1 Q CAN YOU GIVE US AN OVERVIEW OF THOSE MATERIALS AT
2 THIS TIME, THE TYPES OF RESEARCH THAT YOU LOOKED AT?

3 A YES. WELL, THE--

4 Q DO YOU HAVE THAT ON YOUR COMPUTER?

5 A I -- I DO, BUT I CAN GIVE A VERBAL -- THE MEDICAL
6 LITERATURE IS VERY CONSISTENT AND REALLY OVERWHELMING IN
7 THIS FIELD.

8 Q DESCRIBE IT FOR US, IF YOU WOULD.

9 A MUCH RESEARCH -- AND GOING BACK TO THE 1800'S WHEN
10 THE SCIENCE OF THE BRAIN WAS BEING BORN, BUT MUCH -- MUCH
11 RESEARCH HAS BEEN DONE CERTAINLY SINCE -- IN WHAT IS THE
12 SCIENCE OR THE BRAIN SCIENCE BEHIND VIOLENT AND
13 PSYCHOPATHIC BEHAVIOR.

14 AND STUDIES HAVE BEEN DONE IN PSYCHOLOGICAL PEN AND
15 PAPERS, PEN AND PAPER STUDIES HAVE BEEN DONE IN THE PAST.
16 BUT MORE RECENTLY IMAGING, BRAIN IMAGING, PET AND MRI
17 SCANS HAVE COME INTO PLAY.

18 AND THE MEDICAL LEGISLATURE FROM THE MID-1990'S,
19 ESPECIALLY FROM A VERY IMPORTANT FELLOW IN THIS FIELD, DR.
20 ADRIAN RAINE, SHOWED THAT MURDERERS IN PARTICULAR SEEM TO
21 HAVE -- WELL, THEY DON'T SEEM TO HAVE -- THEY HAVE
22 DECREASED ACTIVITY IN THE AREA OF THEIR BRAIN RIGHT ABOVE
23 THEIR EYEBALLS AND BEHIND THEIR EYEBROWS.

24 IT'S CALLED THE MEDIAL ORBITAL FRONTAL LOBE OF THEIR
25 ENTIRE FRONTAL LOBE. IT'S A SPECIAL SECTION. THAT

1 SECTION OF THE BRAIN WE KNOW FROM PEOPLE WHO GET CANCER
2 THERE OR HAVE A STROKE OR A GUNSHOT WOUND TO THAT
3 PARTICULAR PART OF THEIR BRAIN, WE KNOW THAT THAT AREA OF
4 THE BRAIN IS -- IS THE MOST IMPORTANT PART FOR BEING
5 SOCIALLY RESPONSIBLE, FOR BEING EMPATHETIC, FOR NOT
6 BREAKING RULES, FOR FOLLOWING RULES.

7 IT'S ACTUALLY WHERE THE CONSCIENCE, THE HUMAN
8 CONSCIENCE, BEING A GOOD PERSON LIES.

9 Q IF I COULD ASK YOU A COUPLE OF FOLLOW-UPS THERE. ONE
10 IS, ARE YOU SAYING MR. STANKO HAS A PROBLEM IN THAT AREA?

11 A MOST DEFINITELY.

12 Q OKAY. AND IS THAT WHY YOU MAKE YOUR STATEMENT THAT
13 HE WAS DIMINISHED -- OPERATING IN A DIMINISHED CAPACITY
14 MODE 24 HOURS A DAY?

15 A YES. HIS -- I'M SORRY. HIS BEHAVIORS ARE ABSOLUTELY
16 CONSISTENT WITH THE DIAGNOSIS OF PSYCHOPATHY.

17 Q ALL RIGHT. WHAT DISTINGUISHES THAT SITUATION FROM
18 THIS PARTICULAR CASE WHERE YOUR OPINION IS THAT HE WAS
19 INSANE AS OPPOSED TO MERELY DIMINISHED CAPACITY?

20 A HE HAS DIMINISHED CAPACITY WHEN IT COMES TO
21 CONFIDENCE SCHEMES AND THAT KIND OF CRIMINAL ACTIVITY. HE
22 DOES NOT SEEM TO BE ABLE TO CONTROL THAT KIND OF BEHAVIOR
23 IN SPITE OF SEVERAL INCARCERATIONS AND THREE MENTAL HEALTH
24 INTERVENTIONS.

25 VERY TYPICAL OF THE PSYCHOPATH. THEY DON'T LEARN

1 FROM THESE EXPERIENCES. SO -- I LOST TRACK OF THE
2 QUESTION JUST ASKED. WHAT...

3 Q OKAY. MY QUESTION WENT TO -- IS -- DOES THAT EXPLAIN
4 WHY YOUR TESTIMONY WAS THAT HE OPERATES IN DIMINISHED --
5 IN A DIMINISHED CAPACITY MODE 24 HOURS A DAY?

6 A YES, IN -- IN THAT KIND OF SENSE OF IT -- THE
7 SCHEMES, AND THE CONFIDENCE SCHEMES, HE'S MORALLY
8 DIMINISHED. HE IS DIMINISHED CAPACITY IN THAT WAY.

9 HOWEVER, THE ACTS THAT WE'RE TALKING ABOUT HERE WENT
10 FAR BEYOND THAT. MR. STANKO DOES NOT APPEAR TO HAVE A
11 DIMINISHED CAPACITY. IN OTHER WORDS, MR. STANKO APPEARS
12 NOT TO BE WALKING AROUND AND DOING BRUTAL ACTS TO PEOPLE
13 JUST ON -- AT RANDOM ON THE STREET.

14 IT'S CLEAR TO ME THAT THE ACTS THAT OCCURRED WENT
15 BEYOND A DIMINISHED CAPACITY INTO THE REALM OF INABILITY
16 TO MORALLY AND LEGALLY UNDERSTAND THE DIFFERENCE BETWEEN
17 RIGHT AND WRONG. AND THE BRAIN IMAGING SHOWS THAT THOSE
18 AREAS THAT ARE RESPONSIBLE FOR THAT ARE NOT FUNCTIONAL OR
19 LOW FUNCTIONAL.

20 AND IT IS MY MEDICAL OPINION THAT HE COULD NOT HAVE
21 POSSIBLY KNOWN THE DIFFERENCE, MORAL OR LEGAL, AT THE TIME
22 BECAUSE THOSE AREAS THAT ARE RESPONSIBLE FOR THAT ARE NOT
23 WORKING PROPERLY.

24 Q ALL RIGHT. AND YOU MENTIONED DR. RAINE, ADRIAN
25 RAINE?

1 A YES.

2 Q DOES HE DO IMAGING OR DID HE MAKE USE OF IMAGING?

3 A HE IS THE FATHER OF BRAIN IMAGING IN MURDERERS, THE
4 VIOLENT AND PSYCHOPATHIC.

5 Q OKAY. AND WHO DID HE USE FOR HIS IMAGING?

6 A WELL, I MENTIONED THE PREVIOUS CASE IN GEORGIA. I
7 CONTACTED DR. ADRIAN RAINE'S OFFICE. I WANTED HIM TO DO
8 THE IMAGING IN THAT CASE. HE'S VERY FAMOUS. HE'S VERY
9 IMPORTANT. HE DOESN'T DO THAT. BUT HIS OFFICE TOLD ME
10 WHO TO CONTACT.

11 Q AND WHO WAS THAT?

12 A DR. JOSEPH WU AT THE UNIVERSITY OF CALIFORNIA IN--

13 Q OKAY. AND DID YOU CONTACT HIM?

14 A I CERTAINLY DID.

15 Q AND DID HE BECOME INVOLVED IN THE CASE?

16 A HE BECAME INVOLVED IN THAT CASE AND THIS CASE. THE
17 PET SCANS WERE OBTAINED AT THE MEDICAL UNIVERSITY OF SOUTH
18 CAROLINA IN CHARLESTON.

19 Q THAT WAS PURSUANT TO YOUR REQUEST?

20 A CORRECT.

21 Q ALL RIGHT.

22 A THEN THEY WERE SENT TO DR. WU AND HIS TEAM FOR THEIR
23 COMPUTER ANALYSIS.

24 Q NOW, WHAT WAS IT SPECIFICALLY THAT WAS SENT TO DR.
25 WU?

1 A THE PET SCAN. THE PET CAN THAT WAS OBTAINED AT THE
2 MEDICAL UNIVERSITY OF SOUTH CAROLINA, THE RAW DATA.

3 Q ALL RIGHT. THE RAW DATA?

4 A YES.

5 Q ALL RIGHT. AND DID DR. WU GET THE MRI DATA?

6 A I DON'T KNOW IF HE DID GET THAT DATA.

7 Q WHERE DID THE -- WHERE DID THE MRI DATA GO?

8 A THE MRI DATA WENT TO DR. RUBEN GUR AT THE UNIVERSITY
9 OF PENNSYLVANIA. DR. GUR, G-U-R, IS ONE OF THE WORLD'S
10 MOST FAMOUS EXPERTS ON MORPHOLOGICAL STUDY OF THE HUMAN
11 BRAIN.

12 Q OKAY. WHAT DO YOU MEAN BY THAT?

13 A THAT MEANS USING COMPLEX COMPUTER ALGORITHMS TO LOOK
14 AT THE MRI DATA AND SEE IF A PERSON'S BRAIN OR VERY --
15 VARIOUS AREAS OF THE BRAIN ARE ABNORMAL IN SIZE.

16 Q OKAY. NOW, DID YOU GET REPORTS BACK FROM DR. WU AND
17 DR. GUR?

18 A YES.

19 Q AND DID YOU TAKE THOSE INTO CONSIDERATION IN
20 FORMULATING THE OPINION WHICH YOU'RE GIVING US NOW?

21 A MOST DEFINITELY.

22 MR. DIGGS: YOUR HONOR, I'D ASK THAT IF THE
23 WITNESS COULD COME DOWN AND SIT AT HIS COMPUTER.

24 THE COURT: SURE.

25 MR. DIGGS: AND HE CAN SHOW THE COURT WHAT HE'S

1 REFERRING TO WITH RESPECT TO DR. WU AND DR. GUR'S
2 IMAGING AND -- WHAT WAS THE TERM YOU USED, MORPHING?

3 THE WITNESS: MORPHOMETRIC.

4 MR. DIGGS: MORPHOMETRIC.

5 THE WITNESS: ANALYSIS.

6 THE COURT: I WOULD IMAGINE THERE'S NO OBJECTION
7 FROM THE STATE.

8 MR. HEMBREE: I'M SORRY?

9 THE COURT: HE ASKED IF WE NEED TO HAVE THE
10 DOCTOR COME TO HIS COMPUTER.

11 MR. HEMBREE: OH, NO OBJECTION AT ALL, YOUR
12 HONOR, NOT THAT I KNOW OF.

13 (WITNESS LEFT THE STAND.)

14 MR. DIGGS: YOUR HONOR, I BELIEVE THAT THEY HAVE
15 THAT HOOKED SO THAT YOU SEE THE SAME THING THAT'S ON
16 HIS COMPUTER.

17 THE COURT: OKAY. YOU MAY PROCEED. I NEED YOU
18 TO SPEAK IN HER DIRECTION SO THAT SHE CAN TAKE DOWN
19 WHAT YOU'RE SAYING.

20 THE WITNESS: VERY QUICKLY, THIS IS FROM DR.
21 RAINE'S WEBSITE. HE AGAIN -- HE'S THE BRAIN EXPERT
22 WHO STUDIES VIOLENT CRIMINAL AND PSYCHOPATHIC
23 BEHAVIOR.

24 AGAIN, I CONTACTED HIM YEARS AGO TO FIND OUT HOW
25 TO DO THE IMAGING THAT HE HAD PUBLISHED IN PEER

1 REVIEWED JOURNALS, INDICATING THAT THERE WAS A
2 PROBLEM -- NOT INDICATING, BUT SHOWING CLEAR EVIDENCE
3 THAT THERE WAS A PROBLEM WITH MURDERERS AND
4 PSYCHOPATHS.

5 HE DIRECTED ME TO DR. WU AT THE UNIVERSITY OF
6 CALIFORNIA, IRVINE, AND DR. WU DID THE ANALYSIS IN
7 THIS CASE. AND WHAT DR. WU FOUND -- WELL, AND JUST
8 BEFORE WE GO ON, THE MRI WAS SENT TO DR. GUR AT THE
9 UNIVERSITY OF PENNSYLVANIA.

10 AND AGAIN, HIS EXPERTISE IS ANALYZING THE SHAPE
11 AND SIZE OF DIFFERENT AREAS OF THE BRAIN USING
12 COMPLEX COMPUTER ANALYSIS OF THE MRI--

13 BY MR. DIGGS:

14 Q DOCTOR, I ASK YOU THIS WITH RESPECT TO BOTH DR. WU
15 AND GUR.

16 A YES.

17 Q HAVE THEY -- HAS THEIR WORK BEEN STUDIED OR LOOKED AT
18 OR PUBLISHED IN ANY JOURNAL OR LOOKED AT IN TERMS OF PEER
19 REVIEW?

20 A LITERALLY THEY HAVE BEEN PUBLISHED ALL OVER. THEY
21 ARE WORLD FAMOUS PEOPLE.

22 Q OKAY.

23 A THERE'S NO DOUBT ABOUT THAT. ANYHOW, FROM DOCTOR --
24 THIS IS AN INTERESTING IMAGE. AT THE TOP RIGHT IN THIS
25 PICTURE WE SEE JUST THIS IS -- I'M GOING TO SHOW FILM IN A

1 MINUTE OF MR. STANKO'S BRAIN, BUT THIS IS A -- A SLICE
2 THROUGH THE BRAIN IN AN AXIS LIKE THIS.

3 IF I COULD CUT MY HEAD OFF, JUST SLICE IT WITH A SAW
4 RIGHT HERE, I MIGHT GET AN IMAGE LIKE THIS. BUT ON A PET
5 SCAN, WE SEE AND -- CAN EVERYONE SEE MY MOUSE MOVING?

6 Q YES.

7 A OKAY. WE CAN SEE THAT COMPARED TO AVERAGE CONTROLS,
8 WHICH THEY HAVE A LIBRARY AT THE UNIVERSITY OF CALIFORNIA,
9 IRVINE, OF WHAT HAS BEEN SCIENTIFICALLY CONSIDERED
10 LEGITIMATE -- HOW DO I SAY THIS -- IT'S WHAT'S CONSIDERED
11 AN AVERAGE, NORMAL BRAIN.

12 THIS IS WHAT'S CONSIDERED AN AVERAGE, NORMAL BRAIN.
13 THIS IS MR. STANKO' BRAIN.

14 Q COULD I -- COULD I ASK YOU ABOUT THAT -- ASK THAT
15 THIS PARTICULAR PROCESS HAS THE -- HELP ME -- BEEN
16 SUBJECTED TO PEER VIEW, PUBLICATION, AND ACCEPTANCE IN THE
17 COMMUNITY?

18 A YES, IT IS ACCEPTED.

19 Q ALL RIGHT.

20 A ANYHOW, WHEN THE PET WAS DONE, THE POSITRON AND
21 TOMOGRAPHY SCAN OF MR. STANKO'S BRAIN, A SPECIAL
22 PSYCHOLOGICAL TEST WAS ADMINISTERED WHILE -- JUST
23 BEFORE -- JUST BEFORE THE IMAGE WAS TAKEN.

24 THIS TEST IS CALLED A CONTINUOUS PERFORMANCE TASK,
25 AND IT IS DESIGNED TO MAKE SOMEONE'S FRONTAL LOBES TURN

1 ON. AND AS THEY DO THAT FOR 15 MINUTES AT A COMPUTER, AND
2 AT THAT--

3 Q NOW, IS THAT PROCESS THAT'S DONE WITH A HEALTHY
4 DATABASE?

5 A THAT'S HOW IT IS DONE, WITH THE HEALTHY DATABASE.

6 Q ALL RIGHT. SO THAT WAY YOU KNOW WHAT EACH -- EACH
7 PERSON -- WHAT MENTAL PROCESS IS THAT THEY ARE ENGAGING IN
8 AT THAT MOMENT THAT THE SCAN IS DONE; IS THAT CORRECT?

9 A RIGHT. SO THERE'S NO WAY FOR THEM TO FAKE OR TRY TO
10 FAKE SOME KIND OF OTHER THOUGHT PROCESS. THEY ARE FORCED
11 TO FOCUS ON THIS TEST. IF THEY DON'T PERFORM IT, THE
12 COMPUTER -- I'M ASSUMING THE COMPUTER KICKS THEM OUT OR
13 INFORMS THE TESTER THAT THEY ARE NOT DOING IT.

14 SO IT MAKES THEM FOCUS AND FOCUS WITH THEIR FRONTAL
15 LOBES AND NOT BE ABLE TO THINK OR TRY TO SLEEP OR WHAT
16 HAVE YOU.

17 Q NOW, WHAT DID YOU DO TO ENSURE THAT MR. STANKO WAS
18 GOING THROUGH THIS SAME EXERCISE AT THE TIME OF THE SCAN?

19 A WELL, I WASN'T THERE, BUT MY COLLEAGUE, DR. MARC
20 EINHORN, THE NEUROPSYCHOLOGIST FROM ATLANTA WHO HAD DONE
21 THIS PREVIOUS IMAGING AND TESTING IN THE OTHER CASE IN
22 GEORGIA, HE WAS THERE AND HE FOLLOWED DR. RAINE'S EXACT
23 PROTOCOL HE RECEIVED FROM DR. RAINE.

24 Q ALL RIGHT. AND DID HE DO THAT PURSUANT TO YOUR
25 INSTRUCTIONS AND REQUEST?

1 A YES.

2 Q ALL RIGHT. GO AHEAD.

3 A WELL, IGNORE THE STUFF AT THE BOTTOM FOR THE--

4 COURT REPORTER: I'M SORRY. I CAN'T HEAR.

5 THE WITNESS: I'M SORRY. WE'LL IGNORE WHAT'S AT
6 THE BOTTOM LEFT FOR ONE MOMENT. WE CAN SEE AT THE
7 TOP RIGHT THAT MR. STANKO'S FRONTAL LOBE HERE HAVE A
8 MUCH DIMINISHED ACTIVITY COMPARED TO THE FRONTAL --
9 MEDIAL FRONTAL, THAT MEANS MIDDLE FRONTAL, AND
10 LATERAL FRONTAL LOBES HERE. HE IS DIMINISHED. AND
11 IT'S OBVIOUS BY INSPECTION.

12 NOW, JUST TO GIVE AN EXAMPLE OF WHAT DR. RAINE
13 UNCOVERED IN HIS -- HIS STUDY IN THIS, THIS IS FROM
14 ONE OF THE BOOKS HE HAS PUBLISHED -- IT'S REVERSED
15 HERE. BUT THE NORMAL CONTROL IS ON THE LEFT AND THE
16 MURDERER IS ON THE RIGHT.

17 WE CAN SEE DECREASED FRONTAL LOBE ACTIVITY IN
18 THE MURDERER AS COMPARED TO THE NORMAL INDIVIDUAL.
19 THOUGH THESE ARE SLIGHTLY DIFFERENT IN ORIENTATION,
20 WE CAN SEE THESE SAME THINGS HERE, BUT IT WILL
21 OBVIOUSLY STAND OUT MORE WHEN WE SHOW THE ACTUAL
22 THREE-DIMENSIONAL FILMS.

23 BY MR. DIGGS:

24 Q OKAY. COULD WE DO THAT AT THIS POINT?

25 A YES, WE CAN.

1 Q NOW, WE MADE SOME -- IF I MIGHT INTERJECT AT THIS
2 POINT -- SOME STILL PHOTOS FROM THAT FOOTAGE. IS THAT
3 CORRECT? HAVE YOU SEEN THOSE?

4 A WHAT I WILL DO IS WHERE I -- WHERE I BELIEVE THERE
5 ARE IMPORTANT THINGS TO STOP, I WILL PAUSE IT.

6 Q ALL RIGHT. LET'S LET YOU DO THAT, AND THEN FOR THE
7 RECORD WE WILL JUST SUPPLEMENT THOSE.

8 A SO THE NORMAL, AVERAGE CONTROLLED BRAIN IS ON THE
9 RIGHT. AND MR. STANKO'S BRAIN IS ON THE LEFT. AND THE
10 ORIENTATION IS THE SAME AS WHAT WE SEE IN THAT HEAD AT THE
11 BOTTOM LEFT HAND OF THE SCREEN, BUT I'M GOING TO -- LET'S
12 SEE.

13 Q STOP.

14 A OKAY. WE CAN SEE JUST IN THIS VIEW THAT MR. STANKO
15 IN GENERAL, JUST HIS DORSAL LATERAL FREE FRONTAL CORTEX --
16 I KNOW THAT'S COMPLEX -- BUT THE AREAS THAT I'M CIRCLING
17 HERE AND HERE THERE IS A SLIGHT REDUCTION COMPARED TO A
18 NORMAL INDIVIDUAL.

19 BUT WHERE THERE'S A HUGE DIFFERENCE IS THIS AREA
20 RIGHT HERE, THE MEDIAL OR MIDDLE ORBITAL FRONTAL LOBE AND
21 THE ORBITAL FRONTAL LOBES HERE. THEY'RE CALLED ORBITAL
22 BECAUSE OUR EYES ARE IN ORBITS AND IT'S RIGHT ABOVE OUR
23 EYEBALLS.

24 SO WE CAN SEE JUST LOOKING IN THIS VIEW THE
25 SIGNIFICANT DECREASE IN ACTIVITY. YOU ALL -- I MEAN, I

1 CALL IT COLD. NOW, I KNOW THAT HE'S NOT MISSING HIS BRAIN
2 MATERIAL THERE AND I KNOW IT HAS SOME FUNCTION, BUT ON A
3 CONTINUOUS PERFORMANCE TASK, WHICH IS TASKED TO MAKE THAT
4 AREA LIGHT UP, HIS BRAIN DOESN'T. THIS IS VERY TYPICAL
5 SEEN IN MURDERERS AND PSYCHOPATHS.

6 Q AND THIS AGAIN IS A -- THE CAUSE FOR HIS WHAT YOU
7 CALL DIMINISHED CAPACITY 24 HOURS A DAY?

8 A THAT'S -- THAT'S THE CAUSE OF HIS DIMINISHED CAPACITY
9 AND THE INSANITY.

10 Q ALL RIGHT. CONTINUE ON.

11 A OKAY. THIS MAY TAKE -- IT'S ABOUT FOUR MINUTES IN
12 LENGTH, BUT WE'RE JUST SPINNING THE BRAIN HERE. AND IN A
13 FEW MOMENTS IT WILL SHOW US SOME DIFFERENT... AGAIN, IT'S
14 HIGHLIGHTING MR. STANKO'S BRAIN. IT'S HARDER TO SEE IN
15 THIS SHOT, BUT IT'S COOLER IN THE MEDIAL ORBITAL FRONTAL
16 LOBE THAN THE BRAIN ON THE RIGHT.

17 Q DOCTOR, DO YOU KNOW -- YOU SEE THESE TWO ARROWS HERE?

18 A YES.

19 Q DO YOU KNOW WHO PLACED THOSE ARROWS THERE OR WHO
20 DIRECTED THEY BE PLACED THERE?

21 A MR. WU IN HIS IMAGING DID.

22 Q DR. WU?

23 A YES.

24 Q ALL RIGHT. GO AHEAD. CONTINUE ON.

25 A AND IT'S PLAYING, JUST WILL TAKE A FEW MOMENTS HERE.

1 BY THE WAY, AREAS OF RED AND YELLOW ARE AREAS OF HIGHER
2 ACTIVITY. AREAS OF GREEN AND BLUE ARE AREAS OF LOWER
3 ACTIVITY. AND THIS IS ACTUAL BRAIN ACTIVITY. IT'S WHERE
4 GLUCOSE, SUGAR, RADIOACTIVE SUGAR IS BEING TAKEN UP IN
5 BRAIN DURING ACTIVITY.

6 Q OKAY. NOW--

7 A I THINK IT'S GOING TO -- IT'S GOING TO LIFT THE BRAIN
8 UP AND THEN IT -- PLAYING. I'M GOING TO FREEZE IT RIGHT
9 THERE. IT'S QUITE DRAMATIC. MR. STANKO IN HIS MEDIAL
10 ORBITAL FRONTAL LOBES AND HIS MEDIAL AND LATERAL FRONTAL
11 LOBES IS COOL COMPARED TO A NORMAL CONTROL.

12 REMEMBER, IT'S THIS AREA OF THE BRAIN THAT'S
13 RESPONSIBLE FOR SOCIAL RESPONSIBILITY, FOLLOWING RULES,
14 BEING EMPATHETIC, BEING NON-PSYCHOPATH.

15 Q WHERE -- WHERE DOES THE THOUGHT -- WELL, EXCUSE ME --
16 THE THOUGHT PROCESS OCCUR THAT WOULD MAKE MORAL AND LEGAL
17 JUDGMENT?

18 A OKAY. HANG ON ONE SECOND. OKAY. THOSE -- THE
19 THOUGHT -- WHERE THE THOUGHTS OF BEING MORAL, FOLLOWING
20 SOCIAL MORALS, THOSE THOUGHTS ARE DONE IN THE FRONTAL
21 LOBES HERE, ESPECIALLY THE ORBITAL FRONTAL LOBES DOWN
22 HERE.

23 SO WHEN SOME -- THEY'RE RESPONSIBLE FOR INHIBITION,
24 INHIBITING OUR EMOTIONS AND AGGRESSIVE OUTBURSTS AND
25 SOCIALLY INAPPROPRIATE THOUGHTS THAT ALL OF US MAY HAVE

1 THAT WE DON'T DO BECAUSE OUR BRAINS ARE WORKING NORMALLY.

2 WHEN SOMEONE CUTS US OFF ON THE ROAD, WE DON'T PULL
3 OUT A GUN AND JUMP OUT AND BLOW THEM AWAY. THERE ARE MANY
4 THINGS WE DON'T DO THAT ARE SOCIALLY INAPPROPRIATE, BUT
5 IT'S THIS PART OF THE BRAIN THAT'S RESPONSIBLE FOR THAT.

6 BUT WHERE THESE EMOTIONS AND AGGRESSIVE IMPULSES
7 ACTUALLY BEGIN IS IN THIS AREA OF THE BRAIN, AND IT'S
8 CALLED THE LIMBIC -- THE LIMBIC LOBES OF THE BRAIN,
9 ESPECIALLY THE FORWARD OR ANTERIOR PORTION OF THE LIMBIC
10 SYSTEM. THERE--

11 Q WHAT KIND OF EMOTIONS COME OUT OF THE LIMBIC SYSTEM?

12 A STRONG EMOTIONS, BUT ESPECIALLY ANGER.

13 Q WHY -- WHY DOES THE -- I MEAN, WHY ACCORDING TO THE
14 BRAIN STRUCTURE, WHAT IS THE PURPOSE OF THE LIMBIC SYSTEM?
15 WHY WOULD--

16 A THE PURPOSE OF THE LIMBIC SYSTEM IS IT'S ACTUALLY A
17 VERY PRIMITIVE PART OF OUR BRAIN. IT'S RESPONSIBLE REALLY
18 FOR FIGHT OR FLIGHT. IT'S RESPONSIBLE FOR AGGRESSION.
19 IT'S RESPONSIBLE IF -- IT'S PLAYS A VERY IMPORTANT PART IN
20 MEMORY. BUT IN EMOTIONAL PROCESSING OF OUR -- IN OUR
21 BRAIN, IT'S WHERE THE BASIC KIND OF ANIMAL, ALMOST,
22 EMOTIONS START.

23 Q IS THAT WHY IT'S SOMETIMES CALL THE REPTILIAN BRAIN?

24 A THAT'S -- THAT'S WHY IT IS CALLED THE REPTILIAN
25 PORTION BECAUSE REPTILES HAVE THAT SYSTEM. THEY HAVE

1 NOTHING ELSE ABOVE IT.

2 Q ALL RIGHT. WHERE DOES ONE GAIN THE CAPACITY TO
3 DISTINGUISH -- WELL, LET ME BACK UP BEFORE WE GET THERE.
4 WHAT'S RESPONSIBLE -- HOW IS THE LIMBIC SYSTEM EMOTION
5 CONSTRAINED IN THE PROCESS?

6 A WHAT CONSTRAINS THE LIMBIC SYSTEM IS THE FRONTAL
7 LOBES, ESPECIALLY THE MEDIAL ORBITAL FRONTAL LOBES. THAT
8 IS THE BREAK ON OUR EMOTIONAL AND AGGRESSIVE BEHAVIOR.

9 Q ALL RIGHT. AND WHERE DOES THE CAPACITY COME FROM TO
10 DISTINGUISH RIGHT FROM WRONG, MORAL OR LEGAL RIGHT FROM
11 WRONG, WITH RESPECT TO THOSE BEHAVIORAL EMOTIONS THAT COME
12 OUT OF THE LIMBIC SYSTEM?

13 A IT COMES FROM THIS AREA RIGHT HERE THAT I'M MOVING,
14 BUT ESPECIALLY DOWN HERE.

15 Q CAN WE GO BACK AND LOOK AT THE SCAN OF MR. STANKO'S
16 BRAIN?

17 A YES, AND WE CAN SEE THAT HE'S COLD HERE.

18 Q OKAY. SO WOULD YOU POINT FOR US ON MR. STANKO'S
19 BRAIN WHERE THE LIMBIC SYSTEM WOULD BE?

20 A THE LIMBIC SYSTEM, IT WOULD BE VERY -- IT BE
21 STRUCTURED BURIED ON EITHER SIDE DEEPER BEHIND THIS TISSUE
22 HERE, AND IT WOULD KIND OF HELP FILL THE CENTER OF THE
23 BRAIN ALONG WITH THE BASE GANGLION AND OTHER COMPLICATED
24 STRUCTURES.

25 Q WOULD IT BE FAIR TO SAY THEN THAT THAT EMOTION WOULD

1 BE CONSTRAINED OR PROCESSED IN THIS AREA WHERE
2 MR. STANKO'S BRAIN IS NOT WORKING?

3 A YES. AND IN FACT, THIS MIGHT NOT BE THE BEST
4 PICTURE. I'M GOING BACK TO THIS. THIS IS SHOWING THE
5 INICULA (SIC).

6 Q OKAY.

7 A AND THIS LOOP I'M -- I'M DRAWING HERE A LITTLE LOOP,
8 AND THEY HAVEN'T REALLY FILLED IT OUT. THIS WOULD BE THE
9 LIMBIC SYSTEM, THIS LOOP INTERNALLY. BUT WHEN EMOTIONS
10 ARE AROUSED AND FEELINGS OF ANGER ARE VERY, YOU KNOW,
11 INTENSE EMOTION, THOSE SIGNALS ARE SENT TO THE FRONTAL
12 LOBES FOR PROCESSING. THE FRONTAL LOBES THEN DECIDE OR
13 GOVERN WHAT WILL AND WON'T BE DONE.

14 Q ALL RIGHT. SO, IF ONE HAS THE CAPACITY TO
15 DISTINGUISH BETWEEN ACTS THAT ARE RIGHT OR WRONG, LEGALLY
16 OR MORALLY, DOES THAT DISTINGUISH -- IS THAT CAPABILITY
17 GOING TO BE LOCATED IN THAT AREA WHERE MR. STANKO HAS
18 IN -- INACTIVITY?

19 A YES, ABSOLUTELY.

20 Q ALL RIGHT. AND IS THAT THE CAPACITY -- IF WE SAY ONE
21 LACKS THE CAPACITY TO DISTINGUISH BETWEEN RIGHT OR WRONG,
22 IS THAT LACKING OF CAPACITY OCCURRING RIGHT THERE, IS THAT
23 WHERE THAT WOULD TAKE PLACE?

24 A YES.

25 Q IN THE BRAIN? ALL RIGHT. CONTINUE ON WITH -- LET'S

1 GO BACK TO THE PET SCAN. AND LET'S GO AHEAD -- AGAIN, WHO
2 PLACED THOSE ARROWS?

3 A DR. WU AND HIS TEAM AT THE UNIVERSITY OF CALIFORNIA,
4 IRVINE.

5 Q OKAY. GO AHEAD AND IF YOU... TAPE OVER?

6 A YEAH. IT'S ROLLING. IT JUST FREEZES. THIS IS
7 SHOWING THE BACK OF HIS BRAIN, AND IT'S SHOWING WHERE HIS
8 VISUAL ORIFICES ARE BEING STIMULATED AS COMPARED TO
9 NORMAL. ESSENTIALLY HE'S NORMAL.

10 Q YEAH, WHAT'S THE SIGNIFICANCE, THOUGH, IF YOU SEE THE
11 HEALTHY AREA, A LOT OF RED -- LOT MORE RED THERE?

12 A RIGHT.

13 Q DOES THAT ANY SIGNIFICANCE PLACE -- PLAY ANY
14 SIGNIFICANCE IN THIS CASE?

15 A I'LL FREEZE IT HERE. THERE APPEARS TO BE A LITTLE
16 MORE RED HERE AND HERE COMPARED TO MR. STANKO. WHAT HAS
17 BEEN FOUND ON ALL OF THESE IMAGING ANALYSIS IN MURDERERS
18 AND PSYCHOPATHS, THERE ARE SOME DIFFERENCES IN OTHER AREAS
19 TO THE BRAIN WHICH WE STILL HAVE YET TO NOT UNDERSTAND
20 WHAT THEY MEAN.

21 BUT -- AND THEY MAY VARY FROM ONE STUDY TO ANOTHER.
22 BUT THE ONE THING THAT'S BEEN CONSISTENTLY FOUND WITHOUT A
23 DOUBT IS DECREASED FUNCTIONING IN THE FRONTAL LOBE.

24 Q ALL RIGHT. GO AHEAD AND PLAY THE TAPE. ALL RIGHT.

25 A NOW WE ARE DOING...

1 Q EXPLAIN WHAT AXIAL SLICING IS, IF YOU WOULD.

2 A WELL, WE ARE CUTTING THE BRAIN THIS WAY JUST LIKE A
3 SLAB OF BOLOGNA BEING CUT--

4 Q SEE THAT LITTLE MAN?

5 A YES, THAT IS EXACTLY. THE LITTLE MAN AT THE BOTTOM
6 LEFT IS SHOWING THE CUTS. AND IF I WILL FREEZE IT HERE --
7 I MEAN, WE'RE AT THE LEVEL NOW OF THE LOWER LEVELS, THE
8 LOWER ANTERIOR LEVELS. WE ARE JUST ABOVE THE EYEBALLS.

9 AND WE CAN SEE -- THIS IS JUST A GREAT SHOT. NORMAL
10 CONTROL HAS A LOT OF ACTIVITY WITH CONTINUOUS PERFORMANCE
11 TASK. MR. STANKO HAS VERY LITTLE.

12 Q OKAY. AND AGAIN, IS THAT AN AREA THAT -- WITH
13 RESPECT TO CONSTRAINING LIMBIC SYSTEM EMOTION?

14 A IMMENSELY. AND AGAIN, HERE'S THE MEDIAL OR THE
15 MIDDLE PORTION OF THOSE FRONTAL LOBES THAT CONTROL PAST
16 PERITIVE (SIC) ACTIVITY. I MEAN, MR. STANKO IS -- IT'S --
17 IT'S JUST A HUGE DIFFERENCE. AND AGAIN, THAT'S WHERE OUR
18 PRO-SOCIAL OR MORAL OR CONSCIENCE, OUR CONSCIENCE -- WHERE
19 OUR CONSCIENCE COMES FROM.

20 Q ALL RIGHT. A SLICE...

21 A THIS IS FRONT AND SIDE. AND LET'S SEE... LET IT PLAY
22 THROUGH. THERE IS ONLY A MINUTE LEFT.

23 Q OKAY. LOOK AT THE LITTLE MAN. HE -- THERE'S --
24 WE'RE GOING ACROSS HIS RIGHT EYE. IS THAT RIGHT?

25 A YES.

1 Q CAN YOU STOP IT THERE?

2 A YES.

3 Q ALL RIGHT. SO THIS -- THIS LINE DOWN THE -- FROM TOP
4 TO BOTTOM OF THE HEAD BEHIND THE RIGHT EYE CORRESPONDS
5 WITH WHERE WE'RE LOOKING IN THE BRAIN WITH RESPECT TO THIS
6 PARTICULAR IMAGE.

7 A YES. AND WE CAN SEE AGAIN THE OTHER DIFFERENCES THAT
8 MAY EXIST IN THE BRAIN, WE, YOU KNOW, THEY EXIST AND VARY
9 FOR DIFFERENT INDIVIDUALS, BUT WHAT IS CONSISTENTLY FOUND
10 IN MURDERERS AND PSYCHOPATHS IS THIS DECREASE IN THE
11 MEDIAL ORBITAL FRONTAL LOBES.

12 AND AGAIN, ACTUALLY IN THE DORSAL LATERAL, WE CAN SEE
13 A NICE SOLID BAND IN THE NORMAL CONTROL, IN THAT NICE
14 RIGHT SPOT HERE, SMALL RIGHT SPOT IN THIS ACTIVITY,
15 CERTAINLY NOT A FULL BAND THERE OF ACTIVITY.

16 Q OKAY. CONTINUE.

17 A I WILL JUST FREEZE IN VARIOUS POINTS. NOW WE'RE
18 GETTING TO THE MIDDLE OF THE BRAIN. I MEAN, WE CAN REALLY
19 SEE IN THE NORMAL CONTROL THE BIG DIFFERENCE. AND THEN,
20 OF COURSE, IT'S JUST GOING ACROSS NOW TO THE OTHER SIDE WE
21 SHOULD SEE--

22 Q THOSE ARROWS AGAIN WERE PUT THERE BY DR. WU?

23 A YES.

24 Q WE JUST SAW?

25 A YES.

1 Q AND AGAIN--

2 A AND AGAIN, I JUST WANT TO SHOW YOU SOMETHING.

3 Q YES.

4 A IN THE LATERAL PREFRONTAL PORTICES THERE'S A BIT OF A

5 DIFFERENCE, BUT REALLY NOT MUCH. HE'S GOT ACTIVITY WITH A

6 LITTLE BIT OF SPOTTING HERE, BUT IT'S -- IT'S PRETTY MUCH

7 THE SAME. IT'S NOT THAT -- THAT OUTSTANDING DIFFERENCE

8 THAT WE SEE IN THE FRONTAL LOBE AND THE ORBITAL -- ORBITAL

9 FRONTAL PORTICES. AND CHROMOSIZING IF YOU WANT TO LOOK AT

10 IT...

11 Q YEAH. WELL, LET'S GO AHEAD AND FINISH.

12 A OKAY.

13 Q IT'S COMING FROM THE FRONT.

14 A YEAH.

15 Q WOULD YOU STOP IT THERE?

16 A OKAY. COLD. WARM.

17 Q ALL RIGHT. SO BASICALLY WOULD IT BE FAIR TO SAY THAT

18 THIS INACTIVITY IS DETECTABLE FROM VIRTUALLY EVERY ANGLE

19 THE PET SCAN VIEW?

20 A YES.

21 Q FROM THIS VIEW?

22 A YES. THAT'S HOW A THREE-DIMENSIONAL AREA FILM

23 CENTER, THAT'S WHAT I WAS ABLE TO NOTE.

24 Q ALL RIGHT. AND COULD YOU TELL US, PLEASE SIR, WHERE

25 DR. WU IS AND WHAT HIS POSITION IS, IF YOU KNOW.

1 A IF YOU GIVE ME JUST A FEW MINUTES. HE IS THE HEAD OF
2 THE BRAIN IMAGING CENTER AT THE UNIVERSITY OF CALIFORNIA,
3 IRVINE. HE IS ALSO A -- ON THE DEPARTMENT OF PSYCHIATRY.
4 HIS RESEARCH INTERESTS INCLUDE -- DOESN'T DO RESEARCH
5 PARTICULARLY IN LIKE MURDERERS, THAT'S ADRIAN RAINE WHO
6 DOES THAT.

7 HE DOES DO IMAGING OF BRAINS. HIS SPECIALTY IS
8 SCHIZOPHRENIA BRAIN DAMAGE, ET CETERA. BUT AGAIN, HIS
9 OPINION, WHEN HE LOOKED AT THESE IMAGES, WAS THAT THERE
10 WAS DEFINITE FRONTAL LOBE -- THERE WAS DEFINITE
11 ABNORMALITY THAT NEEDED CLINICAL CORRELATION.

12 IN OTHER WORDS, HE SAW SOMETHING SO ABNORMAL THAT HE
13 SAID, THIS NEEDS TO BE FOLLOWED UP ON TO SEE IF THERE ARE
14 CLINICAL MANIFESTATIONS OF THIS ABNORMALITY TO BE FOUND.

15 Q DID YOU INCLUDE DR. WU'S WRITTEN REPORT IN YOUR
16 REPORT?

17 A I DID.

18 Q ALL RIGHT.

19 MR. DIGGS: AND WE HAVE MARKED, YOUR HONOR, AS
20 DEFENDANT'S EXHIBIT NUMBER TWO.

21 THE COURT: ANY OBJECTION?

22 MR. HEMBREE: NO OBJECTION, JUDGE.

23 THE COURT: MARKED AND ADMITTED WITHOUT
24 OBJECTION. YOU MAY PROCEED.

25

1 (WHEREUPON, COURT'S EXHIBIT 2 WAS ADMITTED INTO
2 EVIDENCE.)

3 BY MR. DIGGS:

4 Q NOW, HAS DR. WU BEEN PUBLISHED?

5 A YES.

6 Q CAN YOU GIVE US AN IDEA OF HOW MANY TIMES?

7 A FIFTY, A HUNDRED TIMES, ALL OVER TIME.

8 Q ALL RIGHT. AND YOU SAY HE DOES IMAGING FOR DR.
9 RAINE?

10 A I BELIEVE HE'S DONE IMAGING FOR DR. RAINE. WHAT I'M
11 CERTAIN OF, THOUGH, IS DR. RAINE'S OFFICE REFERRED ME TO
12 HIM TO GET THIS KIND OF IMAGING.

13 Q OKAY. NOW, LET'S MOVE ON TO THE MRI. YOU ASKED FOR
14 AN MRI TO BE DONE AS WELL AT MUSC IN CHARLESTON?

15 A I DID.

16 Q AND DID YOU GET THE RESULTS FROM THAT TEST?

17 A I DID. I REVIEWED -- NOW, AN -- THIS PET SCAN SHOWS
18 ABNORMALITY IN FUNCTION.

19 Q FUNCTION?

20 A NOT STRUCTURE, BUT FUNCTION.

21 Q AND THAT'S WHY YOU HAVE A CERTAIN REGIMEN THAT'S
22 REQUIRED IN TERMS OF THE THINKING PROCESS?

23 A YES.

24 Q DURING THIS--

25 A THAT'S WHY WE MAKE THEM DO THE CONTINUUM PERFORMANCE

1 TASK, AND THAT IS STANDARD THROUGHOUT THE WORLD WHEN WE
2 ARE DOING PET SCAN IMAGES, YOU KNOW, OF THE FRONTAL LOBE.

3 Q ALL RIGHT. WHAT IS -- WHAT IS THE PURPOSE OF AN MRI?

4 A MRI SHOWS A STRUCTURE, SEEING WHAT THE PHYSICAL LOOKS
5 LIKE.

6 Q ALL RIGHT. AND DID YOU GET THE RESULTS FROM THE MRI
7 WITH RESPECT TO MR. STANKO?

8 A WE DID, AND IT'S -- I GOT THE FILM SITTING BY JOHAN
9 RIGHT OVER THERE, AND I'VE REVIEWED THOSE. I DO NOT HAVE
10 THE DISK OF HIS MRI IN FRONT OF ME.

11 Q ALL RIGHT. LET ME -- DID YOU INCORPORATE DR. GUR'S
12 RESULTS IN YOUR REPORT?

13 A I DID. AND NOW, DR. GUR IS THE ONE OF THE WORLD
14 EXPERTS ON AGAIN LOOKING AT STRUCTURE OF THE BRAIN AND
15 LOOKING FOR ABNORMALITIES IN THE BRAIN BASED ON STRUCTURE
16 BY COMPUTER ANALYSIS OF MRI. DR. WU DOES COMPUTER
17 ANALYSIS OF THE PET DATA.

18 NOW, I REVIEWED THOSE MRIS AND I SAW AN ABNORMALITY
19 IN SHRINKAGE IN THE BRAIN, MR. STANKO IN HIS PARIETAL
20 LOBE. IT'S QUITE OBVIOUS FOR ANYONE TO SEE WHO HAS SOME
21 TRAINING THAT HE HAS SHRINKAGE. NOW, I DON'T -- I CAN
22 ONLY -- I CAN HOLD THESE UP AND SHOW THEM TO THE JUDGE,
23 BUT...

24 Q THAT'S OKAY. WE WON'T DO IT AT THIS POINT. I JUST
25 WANT THE COURT TO SEE THAT YOU HAVE THEM. AND YOU HAD

1 THOSE IMAGES WHEN YOU DID YOUR REPORT HERE?

2 A YES.

3 Q LET'S LOOK AT YOUR REPORT AND SEE IN THIS PAGE --

4 LET'S GO TO THE DIAGRAM. ALL RIGHT. EXPLAIN WHAT WE SEE
5 THERE.

6 A WELL, I -- I'M JUST GOING TO ACTUALLY READ RIGHT FROM
7 THE REPORT.

8 Q OKAY.

9 A BEST FROM THE FIGURE.

10 Q ALL RIGHT.

11 A THESE SCORES -- THIS IS JUST A COMPLICATED
12 STATISTICAL ANALYSIS, BUT STATISTICS ARE VERY POWERFUL AND
13 THEY SHOW US A LOT OF HIDDEN TRUTHS--

14 Q NOW--

15 A -- CLINICALLY MIGHT NOT BE APPARENT JUST BY LOOKING.

16 Q DOES THIS PROCESS A PROCESS THAT'S BEEN PUBLISHED AND
17 SUBJECTED TO PEER REVIEW?

18 A MANY TIMES. IN FACT, DR. GUR'S WHERE HE IS WORLD
19 FAMOUS IS FINDING AND DOCUMENTING IN -- BRAIN
20 ABNORMALITIES IN SCHIZOPHRENICS. FOR INSTANCE, AREAS OF
21 THE BRAIN THAT ARE SHRUNKEN AND AREAS OF THE BRAIN THAT
22 ARE ENLARGED.

23 AND HE IS EXPERT IN THE -- WORLD EXPERT IN THAT AND
24 HE USED THE SAME COMPUTER ANALYSIS TO EVALUATE
25 MR. STANKO'S BRAIN AS HE DOES ANY OTHER MRIS.

1 Q WHAT DO WE SEE HERE ON THIS PARTICULAR IMAGE? BY THE
2 WAY, THIS IMAGE IS INCORPORATED IN DEFENDANT'S EXHIBIT
3 NUMBER ONE?

4 A YES.

5 Q CORRECT? IN YOUR REPORT?

6 A YES.

7 Q ALL RIGHT. GO AHEAD, PLEASE SIR.

8 A OKAY. THIS BLACK LINE GOES ACROSS HERE. THIS BLACK
9 LINE GOES ACROSS HERE. ANYTHING THAT'S WITHIN THESE --
10 THIS BAND IS CONSIDERED TO BE NORMAL IN SIZE OF THE BRAIN
11 COMPARED TO THEIR LIBRARY OF NORMAL, SO THEY HAVE PEER
12 REVIEWED AND ACCEPTED AS A NORMAL BRAIN.

13 Q ALL RIGHT. HOW -- CAN YOU SPEAK TO HOW THEY PUT THAT
14 LIBRARY TOGETHER?

15 A WELL, AS DR. GUR EXPLAINED IT TO ME, THEY FIND --
16 THEY CANVAS HUNDREDS OF PATIENTS OR INDIVIDUALS AND THEY
17 THROW OUT ANYONE WHO HAS A NEUROLOGICAL OR PSYCHIATRIC OR
18 ANY KIND OF MEDICAL ABNORMALITY THEY KNOW OF TO FIND, THEN
19 THEY SCAN THEIR BRAINS AND THE COMPUTER COMES UP WITH A
20 COMPOSITE THAT REPRESENTS WHAT THE AVERAGE NORMAL BRAIN
21 SHOULD BE.

22 Q OKAY. WITH RESPECT TO SOMEONE WITH PHYSICAL
23 CHARACTERISTICS LIKE MR. STANKO?

24 A ANYONE.

25 Q OKAY.

1 A AGE MATCHED AS WELL AS AND--

2 Q ALL RIGHT.

3 A -- COMPARING--

4 Q MY POINT IS, THE PROCESS HAS BEEN SUBJECTED TO PEER
5 REVIEW IN TERMS OF VALIDITY?

6 A MOST DEFINITELY.

7 Q ALL RIGHT. GO AHEAD AND EXPLAIN TO US WHAT WE SEE
8 HERE AND THEN LET'S DISCUSS WHAT IT MEANS OR HOW WE CAN
9 TRANSLATE TO MR. STANKO.

10 A ANYTHING -- OKAY. THE LINES -- THERE ARE NO TRENDS
11 HERE, AND I WISH LINES HADN'T BEEN PUT ON HERE. I DON'T
12 KNOW WHY THEY WERE, BUT DON'T LOOK AT THE LINES. THEY
13 DON'T MEAN ANYTHING. BUT LOOK AT THE POINTS.

14 Q OKAY.

15 A ANYTHING BELOW THIS LINE IS SOMETHING ABNORMALLY
16 SHRUNKEN. ANYTHING ABOVE THIS LINE HERE IS ABNORMALLY
17 LARGE. THERE'S ONE AREA OF MR. STANKO'S BRAIN, HIS LEFT
18 TEMPORAL LOBE THAT'S SLIGHTLY ENLARGED. WE DON'T KNOW
19 WHAT THAT MEANS OR WHY IT IS, BUT IT'S A FINDING ON THIS
20 MRI.

21 HOWEVER, HIS FRONTAL -- LEFT FRONTAL LOBE IS -- THE
22 SIZE OF HIS LEFT FRONTAL LOBE IS IN -- IS SO SMALLER, IT'S
23 SMALL -- STATISTICALLY IT'S SO SMALL THAT HE'S
24 APPROXIMATELY IN THE ONE TO TWO -- ONE TO 2 PERCENT OF THE
25 POPULATION WHO ARE CONSIDERED NORMAL, MIGHT HAVE A FRONTAL

1 -- LEFT FRONTAL LOBE THAT SMALL. SO IT'S THAT -- IT'S
2 STATISTICALLY GROSSLY ABNORMAL. AS WELL--

3 Q NOW, IS THAT -- HOW DOES THAT CORRELATE WITH THE
4 IMAGES THAT WE SAW FROM DR. WU?

5 A WELL, IN DR. WU'S FINDINGS WE HAD BILATERAL OR BOTH
6 SIDES OF HIS FRONTAL LOBE TO SHOW LOW FUNCTION. THIS
7 SHOWS AND DOCUMENTS THAT HIS RIGHT FRONTAL LOBE IS ABOUT
8 AVERAGE BUT HIS LEFT IS SHRUNKEN SIGNIFICANTLY.

9 Q OKAY.

10 A AND AGAIN, THE -- THEY DON'T HAVE TO NECESSARILY
11 CORRELATE, BUT THIS SHOWS THAT THERE'S A PHYSICAL BACKLAY
12 OR BACKGROUND PROBABLY IN CONNECTION WITH THIS FUNCTIONAL
13 DISFUNCTION OR FUNCTIONAL IRREGULARITY THAT HE HAS WITH
14 THE BRAIN.

15 Q OKAY.

16 A ALSO IT'S VERY IMPORTANT TO NOTICE THAT HIS MEDIAL,
17 THE -- THE SIDE PARTS OF HIS BRAIN ARE BOTH
18 STATISTICALLY -- I MEAN, HE'S IN -- HIS RIGHT FIELD (SIC)
19 LOBE IS -- I WANT TO SAY I GUESS IN THE 1 PERCENT OR LESS,
20 YOU KNOW, IN SIZE OF THE AVERAGE POPULATION, BUT MOST
21 IMPORTANTLY IT'S RIGHT UP HERE.

22 THIS IS A MEASURE OF VENTRICULAR SIZE. THIS IS THE
23 FLUID-FILLED SPACE OF THE BRAIN. IT'S ENLARGED IN
24 SCHIZOPHRENICS. IT'S ENLARGED IN ALL KINDS OF PEOPLE WHO
25 HAVE SIGNIFICANT BRAIN ABNORMALITY.

1 HE'S GOT IT. HIS -- NOW, THIS IS AN ENLARGEMENT
2 WHERE HE SHOULDN'T HAVE ENLARGEMENT OF THESE FLUID-FILLED
3 SPACES. HE'S IN THE -- ABOVE THE SECOND TWO STANDARD
4 DEVIATION. AGAIN, HE'S IN THE TOP 5 PERCENT OR LESS OF AN
5 ABNORMAL BRAIN.

6 Q OKAY. LET'S TALK ABOUT DR. EINHORN. YOU RECEIVED
7 SOME TESTS FROM -- OR RESULTS FROM DR. EINHORN?

8 A I DID.

9 Q AND WITH RESPECT TO MR. STANKO'S INTELLIGENCE LEVEL,
10 COULD YOU SPEAK TO THAT?

11 A HIS IQ IS 143. HE'S CONSIDERED A GENIUS.

12 Q ALL RIGHT. DO YOU -- CAN YOU SPEAK TO WHERE THAT
13 CAPACITY WOULD BE OR WHERE THAT ABILITY, WHERE THAT TRAIT
14 WOULD BE GENERATED IN THE BRAIN?

15 A WELL, THEY WOULD BE GENERATED ALL OVER. YOU NEED TO
16 HAVE GLOBAL FUNCTIONING TO HAVE A HIGH -- HIGH IQ. BUT
17 WHAT HAS BEEN NOTED WITH PSYCHOPATHS GOING BACK FOR --
18 SINCE 18 -- THE EARLY 1800S IS THAT INTELLECTUALLY THEY
19 APPEARED INTACT, BUT THEY WERE MORALLY DEFICIENT.

20 AND IN FACT, PSYCHOPATHY WAS ONCE KNOWN AS MORAL
21 INSANITY. I STILL BELIEVE IT'S A GREAT NAME FOR IT. IT
22 IS MORAL INSANITY DUE TO DISFUNCTION IN THIS PART OF THE
23 BRAIN.

24 Q WOULD A HIGH IQ NECESSARILY RULE OUT INSANITY IN THIS
25 CASE?

1 A NOT AT ALL.

2 Q AND CAN YOU SAY -- CAN YOU TELL ME WHY YOU WOULD SAY
3 NO?

4 A WELL, JUST PLAINLY SPEAKING, THE NATURE OF THE CRIMES
5 WE'RE TALKING ABOUT HERE, FOR SOMEONE WITH SUCH A HIGH
6 IQ -- SO REALLY, IN LAYMAN'S TERMS, DUMB THINGS WERE DONE,
7 THAT -- IF THIS WERE A WELL THOUGHT OUT, YOU KNOW, PLANNED
8 HIGH IQ KIND OF CRIME, I WOULDN'T HAVE SUSPECTED THIS KIND
9 OF BEHAVIOR.

10 AND YOU KNOW, THERE'S A KIND OF CRIME THAT'S IN THIS
11 FIELD THAT IS WELL THOUGHT OUT, HIGHLY ORGANIZED, YOU
12 KNOW, IN GREAT DETAIL FOR A COVER-UP, YOU KNOW,
13 PRE-PLANNING, ET CETERA.

14 FOR SOMEONE WITH SUCH A HIGH IQ, SOMEONE WHO IS SO
15 SUPERIOR IN HIS INTELLIGENCE TO CONTINUALLY TAKE PART IN
16 CRIMINAL ACTIVITY AND THIS ACT IN SPITE OF THREE OR FOUR
17 MENTAL HEALTH INTERVENTIONS AND SEVERAL INCARCERATIONS AND
18 PRESENT INCARCERATION, IT SHOWS THAT IN SPITE OF HIS HIGH
19 IQ, WHEN IT COMES TO MORALITY, HE HAS AN INABILITY TO
20 LEARN.

21 Q NOW, DID YOU INTERVIEW MR. STANKO BEFORE YOU DRAFTED
22 YOUR REPORT AND CAME TO THE CONCLUSION THAT YOU HAVE IN
23 THIS CASE OF INSANITY?

24 A YES.

25 Q AND DID HE DISCUSS WITH YOU THE SPECIFICS OF THIS

1 CASE?

2 A YES.

3 Q AND HOW IT CAME TO BE THAT THIS HOMICIDE OCCURRED?

4 A YES.

5 Q AND WHAT DID YOU TELL HIM?

6 A HE TOLD ME THAT HE HAD BEEN -- WELL, LIVING WITH THE
7 VICTIM AND HER DAUGHTER FOR SEVERAL MONTHS AND THAT THERE
8 HAD BEEN CONFLICT OVER THE DAUGHTER'S BEHAVIOR OR HER
9 GETTING ALONG WITH HER MOTHER, BUT THAT THINGS HAD BEEN
10 ESSENTIALLY GOING OKAY. HE WAS STILL DOING HIS CRIMINAL
11 ACTIVITY WHICH THE GIRLFRIEND WAS AWARE OF.

12 BUT ON THE NIGHT IN QUESTION HE HAD SAID OR SAID THE
13 DAY BEFORE, FOR SEVERAL DAYS, THAT HE WAS GOING TO LEAVE
14 BECAUSE OF THE CONFLICT BETWEEN THE MOTHER AND THE
15 DAUGHTER AND HE THOUGHT IT HAD TO DO WITH HIM OR WAS BEST
16 IF HE LEFT.

17 HE SAID THAT THE VICTIM THREATENED TO EXPOSE HIM AS A
18 CHILD MOLESTER AND THAT, YOU KNOW, IT WAS EXTREMELY ANGRY
19 THAT HE WAS GOING TO LEAVE. THERE WAS A MINOR PHYSICAL
20 ALTERCATION WHERE SHE SLAPPED HIM AND A CIGARETTE I
21 GUESS -- OR TOUCHED HIS EYE OR HIT HIS EYE, AND FROM THAT
22 POINT ON HE SAYS HE CANNOT REMEMBER WHAT HAPPENED UNTIL HE
23 CAME TO I GUESS IN THE SHOWER SHOWERING HIMSELF OFF.

24 Q RIGHT. SO HE DOESN'T REMEMBER THE ACTUAL EVENTS OF
25 THIS HOMICIDE. IS THAT AT LEAST WHAT HE TOLD YOU?

1 A THAT'S WHAT HE CLAIMED TO--

2 Q LET'S GO BACK AND CONSIDER THE IMAGES AND DR. GUR'S
3 REPORT AS WELL. IS THERE ANY SCIENTIFIC BASIS IN WHAT YOU
4 SEE IN THOSE IMAGES THAT WOULD SUPPORT OR CORROBORATE AN
5 INABILITY TO REMEMBER SPECIFICS OF THE EVENTS?

6 A YES. WELL, FIRST OF ALL, I DON'T BELIEVE HE HAS
7 COMPLETE AMNESIA FOR THIS EVENT. I -- I KNOW ABOUT
8 AMNESIA AS PART OF MY NEUROPSYCHIATRIC TRAINING, SO I
9 DON'T BELIEVE THAT.

10 HOWEVER, THE FRONTAL LOBES AND THE LIMBIC SYSTEM ARE
11 KEY FOR LAYING DOWN FOUNDATION FOR MEMORY OF EVENTS. WHEN
12 WE -- WE'RE IN A FIGHT OR FLIGHT RESPONSE. WHEN WE ARE
13 FORCED TO FIGHT OR WE'RE ATTACKING SOMEONE OR WE'RE IN
14 SOME KIND OF CONFLICT OR WE'RE RUNNING FOR OUR LIVES, OUR
15 ABILITY TO STORE MEMORY AND LAY DOWN MEMORY IS GREATLY
16 DIMINISHED.

17 Q ALL RIGHT. WHERE DOES THE -- THE LAYING DOWN OF THE
18 MEMORY ORIGINATE?

19 A WELL, THE LAYING DOWN OF THE MEMORY WILL BE -- WELL,
20 IT'S REALLY THROUGHOUT THE BRAIN. IT'S SCATTERED
21 THROUGHOUT THE BRAIN. BUT WE NEED FIRST OF ALL ATTENTION.
22 ATTENTION IS THE FIRST PART OF MEMORY. IT'S THE PITCHING
23 GLOVE IN BASEBALL.

24 MEMORY IS FIRST THING THAT GETS THE INFORMATION WHICH
25 WILL THEN BE HANDED OFF TO OTHER PARTS OF THE BRAIN. AND

1 THE FRONTAL LOBES PARTICULARLY ARE VERY IMPORTANT IN
2 ATTENTION. WE KNOW THAT BECAUSE WHEN YOU DO PET SCANS ON
3 CHILDREN WITH ADHD, ET CETERA, THEY HAVE POOR ATTENTION,
4 THEIR FRONTAL LOBES AREN'T WORKING VERY WELL.

5 Q ALL RIGHT. LET ME GIVE YOU A HYPOTHETICAL. LET'S
6 SAY -- LET'S SAY WE GOT AN EMOTION COMING OUT OF THE
7 LIMBIC SYSTEM THAT IS EITHER RAGE OR FIGHT OR FLIGHT, YOU
8 GOT A DIMINISHED SIDE -- SIZE AND ACTIVITY FRONTAL LOBE
9 THAT WOULD BE CHARGED WITH RESPONSIBILITY OF PROCESSING
10 THAT EXECUTING EXECUTIVE ANALYSIS -- AM I USING THE RIGHT
11 TERMINOLOGY?

12 A EXECUTIVE FUNCTION, YES.

13 Q ALL RIGHT. WOULD IT BE POSSIBLE FOR THAT LIMBIC
14 SYSTEM EMOTION TO TAKE CONTROL OF THE ACTIONS SO THAT THE
15 FRONT LOBES ARE NOT AWARE OF WHAT ACTIONS ARE BEING TAKEN?

16 A THAT'S -- YOU HAVE GIVEN AN EXCELLENT ANALYSIS OF MY
17 WORK, YES.

18 Q SO THAT WOULD BE POSSIBLE IN YOUR OPINION?

19 A YES.

20 Q AND IN THAT SITUATION WOULD A PERSON BE ABLE TO
21 DISTINGUISH BETWEEN -- OR WOULD THEY HAVE THE CAPACITY AT
22 THAT TIME TO DISTINGUISH BETWEEN RIGHT AND WRONG, MORAL OR
23 LEGAL?

24 A NO, BECAUSE--

25 Q WHY IS THAT?

1 A BECAUSE THEIR BEHAVIOR IS BEING CONTROLLED IN AN
2 UN -- IN A DISINHIBITED OR UNMITIGATED FASHION BY THEIR
3 DEEPER STRUCTURES OF THEIR BRAIN.

4 Q A REPTILIAN BRAIN?

5 A CORRECT.

6 Q AND WOULD THAT BE -- WOULD THAT BE A SCIENTIFIC
7 EXPLANATION OR AN INABILITY TO REMEMBER THE EVENTS THAT
8 OCCURRED AT THAT TIMEFRAME?

9 A WELL, IT'S PART OF IT AGAIN.

10 Q ALL RIGHT.

11 A I -- I KNOW -- I THINK I'M QUITE CERTAIN HE DOESN'T
12 HAVE COMPLETE AMNESIA, BUT IT COULD GO A LONG WAY TOWARDS
13 EXPLAINING SOME MEMORY DIFFICULTY WITH THIS, DEFINITELY.

14 Q NOW, DO WE HAVE ANY IDEA WHERE THIS BRAIN -- WELL, I
15 DON'T WANT TO PUT WORDS IN YOUR MOUTH, BUT DOES HE -- DOES
16 MR. STANKO HAVE A HEALTHY, NORMAL BRAIN?

17 A NO.

18 Q AND HOW WOULD YOU CHARACTERIZE IT? JUST IS IT A
19 BIRTH DEFECT, IS IT -- DID IT HAPPEN LATER IN LIFE? DO
20 YOU KNOW.

21 A VERY INTERESTING. MR. STANKO'S MEDICAL RECORDS FROM
22 HIS BIRTH IN GUANTANAMO BAY, CUBA, AT A NAVAL BASE
23 DOCUMENTED AT BIRTH HE HAD -- HE WAS IN A PRECARIOUS
24 SITUATION WHEN THE PHYSICIANS DIDN'T EXPECT HIM TO LIVE.

25 THEY DOCUMENT THAT HE HAD POOR NEUROLOGICAL REFLEXES,

1 IN PARTICULAR A MORO REFLEX, WHICH IS WHAT ALL NEONATES
2 HAVE, IT'S JUST A VERY PRIMITIVE REFLEX. HE HAD A POOR
3 MORO REFLEX, AND THEY DOCUMENTED THAT HE HAD PROBABLE
4 INTRACRANIAL DAMAGE, AND THIS WAS IN 1968, NOT 1998.

5 AND IT WAS INTERESTING THAT THEY NOTED THAT. I
6 BELIEVE WHAT THEY SAID WAS TRUE.

7 Q ALL RIGHT. HOW LONG AFTER BIRTH WAS THAT NOTED? CAN
8 YOU TELL US?

9 A WELL, WITHIN THE FIRST -- WITH HIM COMING OUT, I
10 MEAN, RIGHT FROM BIRTH.

11 Q RIGHT.

12 A AND THEN HE WAS KEPT IN A -- I BELIEVE NEONATAL
13 INTENSIVE CARE. THE MOTHER WASN'T ALLOWED TO HAVE HIM FOR
14 SEVERAL DAYS. AND IN FACT, HIS MOTHER, BECAUSE THERE WERE
15 SEVERAL OTHER CHILDREN, SHE WAS GOING TO HAVE HER TUBES
16 TIED AT THE TIME.

17 BECAUSE OF HIS POOR PROGNOSIS AND PRECARIOUS STATE,
18 THEY TOLD HER THE -- THE COMMITTEE ON STERILIZATION OR
19 WHATEVER THEY HAVE THERE -- REFUSED TO ALLOW THAT TO
20 HAPPEN BECAUSE THEY THOUGHT HE MIGHT DIE.

21 MR. DIGGS: YOUR HONOR, COULD WE HAVE THESE
22 MARKED? I 'D LIKE TO INTRODUCE THEM AS EVIDENCE.

23 MR. HEMBREE: WE OBJECT UNTIL WE CAN HAVE A
24 COPY, YOUR HONOR. THOSE HAVEN'T BEEN PROVIDED.

25 THE COURT: YOU--

1 MR. DIGGS: YOUR HONOR, MAYBE WE CAN HAVE THEM
2 MARKED.

3 THE COURT: MARKED FOR ID?

4 MR. DIGGS: FOR ID.

5 THE COURT: TAKEN UNDER ADVISEMENT UNTIL THE
6 STATE HAS ACCESS TO THEM.

7 (WHEREUPON, COURT'S EXHIBITS NOS. 5 AND 6 WERE
8 MARKED FOR IDENTIFICATION ONLY.)

9 MR. DIGGS: AND YOUR HONOR, I DON'T KNOW HOW
10 THAT HAPPENED THAT THEY DON'T HAVE THEM, BUT WE CAN
11 CERTAINLY MAKE IT AVAILABLE.

12 THE COURT: IT'S EASILY REMEDIED.

13 MR. DIGGS: THANK YOU.

14 BY MR. DIGGS:

15 Q AND SO AGAIN, BECAUSE I WASN'T PAYING ATTENTION I
16 GUESS AS CLOSELY AS I SHOULD HAVE, EXPLAIN TO ME AGAIN
17 WHAT WAS NOTED AT MR. STANKO'S BIRTH WITH RESPECT TO HIS
18 BRAIN.

19 A HE WAS NOTED TO HAVE JAUNDICE. I BELIEVE THERE WAS--

20 COURT REPORTER: I'M SORRY. WHAT WAS THAT
21 ANSWER? JUDGE? I MISSED THAT ANSWER.

22 THE COURT: YOU CAN'T HEAR HIM?

23 COURT REPORTER: I CAN'T HEAR.

24 THE COURT: SIR, IF YOU COULD TURN TOWARD THE
25 COURT REPORTER SO THEN -- IF YOU WOULD BEGIN TO

1 REPEAT YOUR LAST RESPONSE SO THAT SHE IS ABLE TO
2 RECORD IT.

3 THE WITNESS: UPON MR. STANKO'S BIRTH HE WAS
4 NOTED TO BE IN VERY POOR HEALTH AND HAVE POOR
5 NEUROLOGICAL REFLEXES FOR A NEWBORN. HIS HEALTH WAS
6 NOTED AS BEING IN A PRECARIOUS STATE AND HIS
7 PROGNOSIS WAS FAIR TO POOR. I CAN'T REMEMBER THE
8 EXACT WORDS.

9 BUT HIS PROGNOSIS WAS SO POOR THAT THE
10 PHYSICIANS AT GUANTANAMO BAY REFUSED TO ESSENTIALLY
11 STERILIZE THE MOTHER, TIE HER TUBES, BECAUSE THEY
12 FELT THAT MR. STANKO WOULD PASS AWAY. BUT IT WAS
13 NOTED IN HIS CHART THAT HE HAD PROBABLE INTRACRANIAL
14 DAMAGE.

15 NOW, THEY DIDN'T GO INTO GREAT DETAIL, BUT I
16 KNOW WHAT THAT MEANS. THEY SUSPECTED HE HAD BRAIN
17 DAMAGE.

18 BY MR. DIGGS:

19 Q ALL RIGHT. BRAIN DAMAGE AT BIRTH?

20 A YES.

21 Q AND LET ME ASK YOU, THE INACTIVITY OF THE BRAIN,
22 WOULD THAT BE A DECISION -- OR A RESULT OF DECISIONS OR
23 CHOICES THAT HE MAKES?

24 A ABSOLUTELY NOT.

25 Q ALL RIGHT. AND HOW ABOUT STRUCTURE? I ASSUME THAT

1 WOULD BE TRUE. Y'ALL DON'T -- YOU DON'T DECIDE HOW LARGE
2 A PARTICULAR AREA OF THE BRAIN IS GOING TO BE, OBVIOUSLY?

3 A NO. I MIGHT ADD THAT SUPPOSEDLY IN THE 1980'S OR
4 70 -- I THINK IT WAS 80'S, HE WAS JUST A LATE TEEN. HIS
5 MOTHER HAD REPORTED THAT HE BEGAN TO LIE HABITUALLY, I
6 GUESS IN A PSYCHOPATHIC MANNER AFTER BEING HIT IN THE HEAD
7 WITH A BOTTLE.

8 I DON'T HAVE ANY DOCUMENTATION OF THAT. BUT
9 ACCORDING TO THE RESEARCH LITERATURE ON PSYCHOLOGY AND
10 MURDERERS, YOU KNOW, A CASCADE OF BRAIN INJURY CAN, YOU
11 KNOW, IS CONSISTENT WITH WORSENING OF THEIR BEHAVIOR.

12 YOU KNOW, SOMEONE WHO HAS JUST ONE INJURY MAY NOT BE
13 BAD -- AS BAD AS SOMEONE LATER ON WHO HAD SEVERAL BRAIN
14 INJURIES.

15 Q WHEN DOES THE BRAIN MATURE FULLY? WHEN DOES A HUMAN
16 BRAIN MATURE FULLY?

17 A THEY BELIEVE NOW IT'S ABOUT AGE 25, MIGHT EVEN BE A
18 LITTLE LATER THAN THAT.

19 Q AND DID STEVEN HAVE MENTAL HEALTH PROBLEMS OR
20 QUESTIONS PRIOR TO THAT TIME IN -- IF YOU KNOW?

21 A YES. HE WAS IN HIS EARLY TWENTIES, I BELIEVE, PRIOR
22 TO AGE 25 WHEN HE FIRST WAS SENT FOR PSYCHIATRIC
23 DIVERSIONARY TREATMENT FOR BEING A CONFIDENCE SCHEME
24 CRIMINAL.

25 Q ALL RIGHT. AND AT THAT POINT BASED ON WHAT WE KNOW

1 NOW ABOUT BRAIN DEVELOPMENT AND GROWTH, EVOLUTION, HIS
2 BRAIN WOULD NOT HAVE BEEN FULLY DEVELOPED AT THAT POINT?

3 A NO.

4 MR. DIGGS: YOUR HONOR, I WOULD ASK THE COURT
5 FOR ITS INDULGENCE FOR JUST A SECOND.

6 THE COURT: CERTAINLY.

7 MR. DIGGS: YOUR HONOR, THAT'S ALL I HAVE FOR
8 THE WITNESS AT THIS TIME.

9 THE COURT: IS THERE ANY EXCEPTION TO US JUST
10 BREAKING FOR LUNCH BEFORE CROSS SO THAT YOU WILL HAVE
11 AN OPPORTUNITY TO REVIEW THE REPORT, OR DO YOU WANT
12 TO GO FORWARD? I JUST WANT TO GIVE YOU THE OPTION.

13 MR. HEMBREE: I'M READY TO GO FORWARD, YOUR
14 HONOR. IT'S LATE. I WOULD -- I APPRECIATE EVERYBODY
15 ELSE'S...

16 THE COURT: I USUALLY WORK THROUGH LUNCH, SO
17 IT'S NOT A PROBLEM FOR ME. IS IT A PROBLEM FOR ANY
18 OF YOU?

19 MR. DIGGS: YOUR HONOR, WITH THE CHOICE OF BREAK
20 FOR LUNCH OR TO WORK -- CONTINUE WORK?

21 THE COURT: WELL, CONTINUE -- I WAS GOING TO
22 GIVE YOU ALL THE OPTION. MR. HEMBREE SAYS HE'S READY
23 TO PROCEED.

24 MR. DIGGS: THAT'S FINE.

25 THE COURT: AGAIN, I'M FINE. I JUST DIDN'T

1 KNOW -- WANT TO GIVE YOU THAT OPTION IN THE EVENT YOU
2 WANT TO -- YOU MAY PROCEED.

3 MR. HEMBREE: THANK YOU, YOUR HONOR.

4 THE COURT: YOU'RE WELCOME. DO YOU WANT A COPY
5 OF THE REPORT SO YOU CAN REVIEW THAT BEFORE YOU BEGIN
6 YOUR CROSS?

7 MR. HEMBREE: NO, YOUR HONOR.

8 THE COURT: OKAY.

9 MR. HEMBREE: THEY JUST PROVIDED US WITH A COPY
10 OF SOMETHING, SO I WILL TAKE...

11 THE COURT: THE LAST TWO THAT WERE MARKED FOR ID
12 IS WHAT I'M REFERRING TO.

13 MR. HEMBREE: YES.

14 THE COURT: OKAY.

15 CROSS-EXAMINATION

16 BY MR. HEMBREE:

17 Q DR. SACHY, I'M UNCLEAR ABOUT THIS DEFENDANT'S
18 INSANITY. AFTER READING YOUR REPORT AND HEARING YOUR
19 TESTIMONY, WHAT IS THE -- WHAT IS YOUR DIAGNOSIS OF HIS
20 MENTAL CONDITION?

21 A MY DIAGNOSIS WOULD BE PSYCHOPATHY WITH DIMINISHED OR
22 IMPAIRED ACTIVITY IN FRONTAL LOBES OF THE BRAIN, ENLARGED
23 VENTRICLES, JUST ANATOMICAL AND FUNCTIONAL ABNORMALITIES
24 OF BRAIN LEADING TO PSYCHOPATHY AND ALSO RES -- BEING
25 RESPONSIBLE FOR HIS ACT AT THE TIME.

1 Q DID -- NOW, YOU HAVE INDICATED THE PHYSICAL
2 ABNORMALITIES OF HIS BRAIN. ARE DOCTORS WU OR GUR
3 NEUROLOGISTS?

4 A THEY'RE -- DR. WU IS A PSYCHIATRIST. I BELIEVE HE'S
5 A PSYCHIATRIST. HE'S AN MD. AND DR. GUR IS A PHD
6 RESEARCH SPECIALIST IN BRAIN PHYSIOLOGY AND ANATOMY.

7 Q UNDERSTOOD. SO NEITHER ONE OF THOSE DOCTORS ARE
8 NEUROLOGISTS. ISN'T -- I THINK YOU TOLD US EARLIER WHEN
9 WE WERE -- WHEN YOU WERE BEING QUALIFIED THAT NEUROLOGY IS
10 THE STUDY OF THE MECHANICS OF THE BRAIN; CORRECT?

11 A ACTUALLY, NO. YOU'RE WRONG. NEUROLOGISTS AT THE
12 MEDICAL UNIVERSITY OF SOUTH CAROLINA, WHEN THEY NEEDED A
13 CONSULTATION ON SOME FORM OF BEHAVIORAL ABNORMALITY, THEY
14 ALWAYS CONSULTED DR. BACHMAN AND ME AS THE BEHAVIORAL
15 NEUROLOGY TEAM.

16 WHEN IT CAME TO STROKE OR SOME GROSS BRAIN
17 ABNORMALITY, THAT'S A PROVINCE OF A NEUROLOGIST. NOW, A
18 NEUROLOGIST CAN CHOOSE BECAUSE OF HIS OWN INTEREST TO
19 DELVE DEEPER AND TO BECOME AN EXPERT IN THE SUBTLE BRAIN
20 ABNORMALITIES THAT CAUSE BEHAVIORAL PROBLEMS.

21 BUT GENERALLY SPEAKING, THAT JUST DOES NOT SEEM TO BE
22 WHAT THEY DO. THEY REFER TO PSYCH -- WELL,
23 NEUROPSYCHIATRISTS OR BEHAVIORAL NEUROLOGISTS IN THAT.

24 Q SO YOU'RE SAYING THAT NEUROLOGIST -- A CONSULT WITH A
25 NEUROLOGIST WOULD NOT HAVE ASSISTED YOU IN YOUR DIAGNOSIS

1 IN THIS CASE?

2 A WELL, I DID A NEUROLOGICAL EVALUATION OF MR. STANKO.

3 Q I UNDERSTAND THAT, BUT YOU'RE NOT A NEUROLOGIST.

4 YOU'RE...

5 A I'M QUALIFIED TO DO A NEUROLOGICAL EXAMINATION. IN
6 FACT, IT APPEARS THAT I FOUND A SIGN THAT THE NEUROLOGIST
7 THAT YOU ALL PICKED DIDN'T SEE, AND I REPEATED MY
8 EXAMINATION TODAY AND IT'S STILL THERE. SO I'M WONDERING
9 IF HE'S ABSOLUTELY FAMILIAR WITH THE CONCEPTS THAT I'M
10 USING TO...

11 Q DR. SACHY, LET ME GO BACK AGAIN TO THE MENTAL ILLNESS
12 THAT YOU HAVE ASSIGNED TO MR. STANKO. YOU HAVE INDICATED
13 HE HAS A DIMINISHED CAPACITY, THAT HE HAS THIS DIMINISHED
14 FUNCTION THAT LEADS HIM TO COMMIT CRIMINAL -- COMMIT
15 CRIMINAL ACTS; CORRECT?

16 A CORRECT.

17 Q AND THAT -- YOU HAVE SAID HE IS -- YOU HAVE INDICATED
18 HE'S A PSYCHOPATH--

19 A PSYCHOPATHIC.

20 Q PSYCHOPATHIC.

21 A YEAH.

22 Q AND WHAT IS -- IN THE DSM4, WHEN WE LOOK TO A -- TO
23 THE DSM4 FOR A DIAGNOSIS, WHERE IS THAT DIAGNOSIS IN THE
24 DSM4?

25 A WELL, IT'S UNDER THE RUBRIC NOW OF ANTISOCIAL

1 PERSONALITY DISORDER. AND WE HAVE TO, YOU KNOW, ADMIT OR
2 GO OVER SOMETHING. THE DSM4 IS JUST A RECIPE BOOK, A
3 LABELING OF MENTAL DISORDERS OR PSYCHIATRIC DISORDERS.

4 IT IS NOT A RESEARCH TEXT NOR DOES IT SEEK TO EXPLAIN
5 BEHAVIOR. IT'S CERTAINLY NOT WHAT I USE IN MY EVERY DAY
6 PRACTICE OR RESEARCH OF...

7 Q I MEAN, BUT ISN'T IT TRUE THAT THE DSM4 IS THE
8 GENERALLY ACCEPTED AND THE PSYCHIATRIC COMMUNITY STANDARD
9 FOR DIAGNOSING MENTAL ILLNESS?

10 A IT IS FOR SOME. IT ISN'T FOR OTHERS. FOR
11 INSTANCE...

12 Q AND--

13 A I HAVE TWO TEXTBOOKS HERE -- IF I MAY FINISH.

14 THE COURT: SIR, IF YOU WOULD ANSWER THE
15 QUESTION YES OR NO, AND THEN YOU CAN EXPLAIN YOUR
16 ANSWER.

17 THE WITNESS: I'M SORRY. OKAY.

18 THE COURT: WOULD YOU LIKE TO REPEAT THE
19 QUESTION?

20 MR. HEMBREE: YOUR HONOR.

21 BY MR. HEMBREE:

22 Q MY QUESTION WAS, ISN'T THE DSM4 THE DIAGNOSTIC GOLD
23 STANDARD, THE PRIMARY MANUAL, PRIMARY TEXT USED BY
24 PSYCHIATRISTS IN REACHING A PSYCHIATRIC DIAGNOSIS?

25 A WELL, I WOULD SAY YES FOR SOME AND NO FOR OTHERS.

1 Q IS IT THE GENERALLY ACCEPTED STANDARD?

2 A I DO NOT THINK THAT SPECIALISTS IN PARTICULAR FIELDS
3 OF INTEREST IN NEUROLOGY OR PSYCHIATRY WOULD GO TO THAT AS
4 THEIR GO-TO BOOK TO -- FOR A DEFINITIVE DIAGNOSIS. BUT IF
5 THEY'RE GOING TO EVALUATE SOMEONE AND BILL FOR IT AND THEY
6 WANT A DIAGNOSIS CODE, THAT'S A GREAT BOOK.

7 BUT WHEN IT COMES TO SCIENTIFIC RESEARCH, SUCH AS
8 WHAT DR. GUR OR WU OR OTHERS DO, THEY MAY -- THEY MAY
9 REFER TO PSYCHOPATHY UNDER THE RUBRIC OF ANTISOCIAL, BUT
10 THEY REALLY DON'T USE THAT FOR THEIR PURPOSES OF RESEARCH.

11 Q THIS IS ACCEPTED; CORRECT?

12 A YES.

13 Q THE BOOKS YOU TALK ABOUT INVOLVE MORE RESEARCH
14 TOPICS, CUTTING-EDGE TOPICS; CORRECT?

15 A WELL, CUTTING EDGE, BUT PEER REVIEWED AND ACCEPTED.
16 THERE CERTAINLY AREN'T TEXTBOOKS TO THE CONTRARY WHICH SAY
17 ANYTHING DIFFERENT THAN WHAT I HAVE TALKED ABOUT TODAY.

18 Q IS IT YOUR TESTIMONY TODAY THAT -- THAT DR. RAINES'
19 STUDIES TRYING TO LINK OR PRESUMABLY LINKING FRONTAL LOBE
20 ACTIVITY TO VIOLENT CRIMINALS IS GENERALLY ACCEPTED AS THE
21 GOSPEL TRUTH IN THE PSYCHIATRIC COMMUNITY?

22 A YES, IT IS. IN FACT, I -- IF I MAY CONTINUE -- THE
23 RESEARCH -- THERE IS A GREAT -- SOMEWHERE IN MY PILE OF
24 PAPERS THERE THERE'S A GREAT REVIEW ARTICLE FROM 2001
25 WHICH LOOKED AT ALL THE DATA THAT WAS AVAILABLE THEN,

1 IMAGING AND NEUROPSYCHOLOGICAL, AND THE CONCLUSION WAS
2 REACHED THAT FRONTAL LOBE DAMAGE IS CONSISTENT WITH
3 AGGRESSIVE AND VIOLENT BEHAVIOR AND PSYCHOPATHIC BEHAVIOR.

4 IT -- I WILL STATE IT. IT'S ACCEPTED. NOW, THERE
5 ARE SOME WHO DO DO PHILOSOPHY MAY NOT WANT TO AGREE WITH
6 THAT, BUT IT'S -- IT'S ACCEPTED.

7 Q BY MANY? BY -- GENERALLY ACCEPTED IN THE PSYCHIATRIC
8 COMMUNITY?

9 A GENERALLY.

10 Q I CAN GO TO THEN -- SO YOU'RE TELLING ME THAT I'M
11 GOING TO BE ABLE TO FIND BASICALLY ANY PSYCHIATRIST THAT I
12 CONSULT WITH THAT IS FAMILIAR WITH THE STANDARDS GENERALLY
13 ACCEPTED IN THE PSYCHIATRIC COMMUNITY AND THEY'RE GOING TO
14 AGREE WITH THAT STATEMENT?

15 A IF -- IF THEY HAVE READ THEIR JOURNAL ARTICLES AND
16 READ THEIR TEXTBOOKS IN THIS FIELD AND READ THE MEDICAL
17 AND READING -- THE ACCEPTED MEDICAL AND RESEARCH
18 LITERATURE, YES, THEY WOULD.

19 Q NOW, HOW DID YOU DETERMINE OR REACH THIS CONCLUSION
20 THAT DEFENDANT STANKO IS PSYCHOPATHIC AND -- WELL, OR
21 ANTISOCIAL -- THAT WOULD BE THE -- HE WOULD BE AN
22 ANTISOCIAL DISORDER BY THE DSM4.

23 A CORRECT.

24 Q OKAY. WHAT DID YOU DRAW UPON? WHAT DID YOU -- HOW
25 DID YOU MAKE THIS DETERMINATION? IN ADDITION TO -- WE

1 HAVE HEARD ABOUT THE PET SCAN AND THE MRI THAT YOU HAVE
2 HAD DONE, BUT I'M LOOKING FOR SOME OTHER BASIS FOR THAT.

3 A WELL, DR. EINHORN PERFORMED THE NEUROPSYCHOLOGICAL
4 EXAMINATION WHICH CAME TO THE CONCLUSION THAT HE WAS
5 ANTISOCIAL BY THAT -- BY THAT TEXTBOOK DEFINITION. AND
6 JUST FROM HIS LIFE HISTORY AND HIS BEHAVIOR AS WELL AS DR.
7 CRAWFORD'S EXCELLENT REPORT WHICH JUST DETAILS IN GREAT
8 DETAIL A LIFE-LONG HISTORY OF PSYCHOPATHY.

9 Q SO HE'S A -- IT IS YOUR POSITION THAT HE WAS A
10 PSYCHOPATH WHEN HE WAS A CHILD?

11 A YES.

12 Q BASED ON WHAT EVIDENCE?

13 A BASED -- WELL, AS A CHILD I DON'T KNOW, BUT IN HIS
14 EARLY TWENTIES WHEN HE STARTED HIS CONFIDENCE SCHEMES.

15 Q ALL RIGHT. I'M ASKING ABOUT AS A CHILD. DO YOU HAVE
16 ANY EVIDENCE TO OFFER THIS COURT THAT HE WAS PSYCHOPATHIC
17 AS A CHILD?

18 A NO.

19 Q AND ANY EVIDENCE -- IS IT YOUR CONTENTION THAT THESE
20 CONFIDENCE SCHEMES ARE THAT OF A PSYCHOPATH?

21 A YES.

22 Q AND HE BEING A PSYCHOPATH, BEING THAT HE FEELS NO
23 REMORSE FOR THESE ACTS?

24 A HE PROBABLY FEELS ALMOST CLOSE TO NO REMORSE. I
25 CAN'T READ HIS MIND OR GET INTO HIS MIND. BUT LIKE MOST

1 PSYCHOPATHS, I -- IT IS MY OPINION THAT THE REMORSE HE MAY
2 SHOW MIGHT BE FAIGNED. PSYCHOPATHS HAVE SOMETHING THAT'S
3 CLICKLY (SIC) IN AUGUSTA TERMED A MASK OF SANITY.

4 AND THEY APPEAR NORMAL. BUT WHEN PSYCHOPATHS HAVE
5 BEEN INTENSIVELY INTERVIEWED AND RESEARCHED AS FAR AS
6 THEIR FEELINGS, THE ONES WHO WOULD SPEAK SAY THAT THEY
7 PROCESS EMOTIONS DIFFERENTLY FROM THE REST OF US. OTHER
8 HUMAN BEINGS ARE JUST EMOTIONAL, PHYSICAL, AND FINANCIAL
9 SOURCES OF PREY.

10 Q ISN'T ANTISOCIAL PERSONALITY DISORDER A BEHAVIOR AND
11 NOT A MENTAL DISEASE?

12 A WELL, ALL OUR BEHAVIORS ARE DUE TO MENTAL PROCESSES.
13 IN ESSENCE WHAT YOU'RE SAYING IS IF YOU'RE -- HAVE A
14 PERSONALITY DISORDER, THERE'S SOME SPIRIT OUT HERE OR SOME
15 SEPARATE FUNCTION OF THE BRAIN THAT'S WORKING NORMALLY
16 THAT SHOULD CONTROL US AND TELL US -- AND MAKE US DO RIGHT
17 ALL THE TIME.

18 UNFORTUNATELY, THERE ISN'T A SEPARATE PART OF THE
19 BRAIN OR SOMETHING SEPARATE. IT'S WHAT'S UP HERE. AND IT
20 IS DYSFUNCTIONAL. YOU CAN'T -- YOU HAVE DIFFICULTY OR
21 CANNOT CONTROL YOUR ACTIONS.

22 Q AND A PSYCHOPATH WOULD BE -- WELL, LET ME FINISH ON
23 THAT LINE ABOUT ANTISOCIAL PERSONALITY DISORDER. IS THAT
24 A BEHAVIOR OR A DIAGNOSIS? IS IT A BEHAVIOR OR A MENTAL
25 ILLNESS?

1 A WELL, IT'S BOTH.

2 Q YOU'RE SAYING THAT ANTISOCIAL PERSONALITY DISORDER IS
3 MENTAL ILLNESS?

4 A YES.

5 Q OKAY.

6 A THAT'S -- I'M SORRY. THAT'S WHY IT'S IN THE DSM4.
7 THEY DO NOT LIST -- AND HERE'S WHERE I'LL, YOU KNOW,
8 ACCEPT YOUR DSM4. THEY DON'T LIST, FOR INSTANCE, NORMAL
9 BEHAVIORS AS BEING ABERRANT. THEY LIST ABERRANT
10 BEHAVIOR -- THEY'RE ALL MENTAL ILLNESS.

11 WHAT PERSONALITY DISORDERS -- WHY THEY GOT CLASSED
12 INTO A DIFFERENT SUBSECTION OF DSM4 WAS THEY GOT PUT THERE
13 WITH MENTAL RETARDATION BECAUSE THESSE -- WHAT WOULD
14 MENTAL RETARDATION HAVE TO DO WITH PSYCHOPATHY OR
15 BORDERLINE PERSONALITY?

16 IT'S BECAUSE THESE WERE MENTAL DISORDERS THAT THEY --
17 THAT DOCTORS OR THE MENTAL COMMUNITY AT THE TIME
18 UNDERSTOOD AS IMMUTABLE OR UNCHANGEABLE, VERY DIFFICULT TO
19 CHANGE. WE REALIZE NOW YOU NEVER CAN CHANGE A
20 SCHIZOPHRENIC. SOME WITH MAJOR DEPRESSION YOU CAN NEVER
21 CHANGE. YOU CAN TREAT THEM WITH MEDICINE, BUT THE STUFF'S
22 ALWAYS GOING TO BE THERE.

23 THE FUTURE DSM4'S THAT COME OUT -- AND THERE ARE SO
24 MANY WHO ARE ACTUALLY TIRED AND SICK OF THAT, AND IN FACT,
25 SOME OF THE AUTHORS OF THAT BOOK PUBLISHED OTHER BOOKS

1 JUST HAVE, YOU KNOW, LISTING THEIR DISCOMFORT WITH THE
2 DSM4.

3 IT WILL CHANGE, AND I -- IT'S -- IT'S -- AND EVERYONE
4 IS CALLING FOR SIGNIFICANT CHANGES. WHEN THAT DSM4 WAS
5 WRITTEN, IT WAS ASSUMED THAT IT WOULD CHANGE IN 2007.
6 THEY ALREADY WERE DISSATISFIED WHEN THEY PUBLISHED IT.

7 I ACCEPT THAT IT'S THERE. I'M NOT AGAINST IT, BUT
8 I'M JUST SAYING PERSONALITY DISORDERS ARE PROVEN TO BE
9 MENTAL ILLNESSES. THEY ARE NOT SOMETHING ELSE.

10 Q NOW, THE -- IS IT YOUR TESTIMONY THAT THIS
11 PSYCHOPATHY -- THIS DEFENDANT NEVER KNOWS RIGHT FROM
12 WRONG?

13 A HE HAS A -- THIS IS WHERE HIS DIMINISHED CAPACITY IS.
14 HE HAS AS JC PRITCHARD STATED IN 1835, AGAIN,
15 INTELLECTUALLY THEY APPEAR NORMAL, BUT MORALLY THEY ARE
16 BEREFT.

17 HE INTELLECTUALLY MIGHT BE ABLE TO APPRECIATE OR CAN
18 APPRECIATE, YOU KNOW, THAT THIS IS WRONG OR I GET BUSTED
19 IF I DO THIS, BUT HE SEEMS TO HAVE NO CONTROL OVER
20 PREVENTING HIMSELF FROM DOING THAT OR DIFFICULTY LEARNING.
21 NOW, THAT'S HIS DIMINISHED CAPACITY.

22 AGAIN, IF YOU -- IN MY OPINION, WHEN YOU LOOK AT THE
23 CRIME THAT WE'RE TALKING ABOUT HERE, NOT JUST HIS PAST
24 BEHAVIOR BUT THE CRIME, IT GOES BEYOND THAT INTO THE REALM
25 OF IN MY OPINION NOT KNOWING MORAL RIGHT FROM MORAL WRONG.

1 HE DID WHAT WAS APPROPRIATE FOR HIM, WHAT A PSYCHOPATH --
2 SOMEONE WHOSE FRONTAL LOBES ARE NOT CONTROLLING THEIR
3 MENTAL AND LIMBIC SYSTEM, THAT'S WHAT THEY DO, THAT'S WHAT
4 THEY CAN DO. BUT THOSE OF US WITH NORMAL FRONTAL LOBES
5 DON'T.

6 Q LIKE A GREAT WHITE SHARK?

7 A CORRECT.

8 Q HE'S A KILLING MACHINE?

9 A WELL, HE'S -- NO. NOW, IF HE WERE -- THAT'S
10 INTERESTING. I WONDER WHERE YOU GOT THE GREAT WHITE SHARK
11 COMMENT.

12 Q SHARK WEEK ON DISCOVERY CHANNEL.

13 A IF WE WERE A GREAT WHITE SHARK, HE WOULD BE KILLING
14 MANY MORE PEOPLE THAN HE HAS. PERHAPS IF HE HADN'T HAVE
15 GOTTEN CAUGHT, IT'S MY OPINION THAT HE PROBABLY MIGHT HAVE
16 CONTINUED THIS BEHAVIOR IN THE FUTURE IN THE SAME WAY THAT
17 HIS CRIMINAL ACTIVITY, HIS CONFIDENCE SCHEMES WERE NEVER
18 ABATED OR STOPPED BY THREAT OF JAIL, BY THE JAIL, BY
19 PSYCHIATRIC INTERVENTION. NOW, THOSE SHOULD WORK ON A
20 NORMAL INDIVIDUAL, AND THEY DO.

21 Q SO IT WOULD BE YOUR TESTIMONY THAT IF HE GOES TO
22 PRISON, ANYONE AROUND HIM IS A POTENTIAL VICTIM?

23 A NO. BECAUSE WE KNOW FROM STUDIES OF PSYCHOPATHS, ONE
24 ENGLISH AND ONE SWEDISH, THEY ACTUALLY IN PRISON ARE QUITE
25 WELL-BEHAVED. I DON'T REMEMBER HEARING OF TED BUNDY OR

1 JOHN WAYNE GASEY OR ANY OF THOSE PEOPLE EVER GOING AROUND
2 BEATING THE HECK OUT OF ANYONE IN THE PRISON SOUP LINE
3 BECAUSE THEY WERE LOOKED AT FUNNY.

4 IN FACT, WHAT WE KNOW IS THIS. IN PRISON THEY TEND
5 TO BE MANIPULATIVE, THEY TEND TO MANIPULATE THE SYSTEM FOR
6 THEIR OWN GOALS. IN FACT, DR. CRAWFORD TOLD ME THAT IN
7 PRISON HE WAS WELL-LIKED AND HAD CONTROL OF THE JAIL, OR
8 SOMETHING TO THAT EFFECT WHEN I DISCUSSED THIS WITH HER.

9 SHE SAID THAT EVERYONE LIKED HIM, HE WAS A LAWYER FOR
10 EVERYONE, AND HE KIND OF HAD HIS WAY. SHE SAID THAT
11 THEY -- FOR FOUR DAYS THEY GOT TO GO AROUND THE JAIL
12 ESSENTIALLY UNACCOMPANIED.

13 THIS IS EXACTLY WHAT'S IN THE RESEARCH LITERATURE.
14 BUT YOU KNOW WHAT THE LITERATURE SHOWS? PSYCHOPATHS
15 TYPICALLY AREN'T VIOLENT IN JAIL. THEY'RE NOT. THE
16 MINUTE THEY GET OUT OF JAIL THEY HAVE A 70 TO 80 PERCENT
17 CHANCE, INCREASED CHANCE, OF COMMITTING A VIOLENT ACT ONCE
18 RELEASED FROM JAIL.

19 JAIL SEEM -- OR A TIGHT -- HOW I DO SAY IT -- TIGHT
20 CONSTRAINTS ON THEM IS VERY GOOD CONTROL FOR PSYCHOPATHS,
21 BUT IT DOES NOT TEACH THEM TO -- TO COME PORT -- TO COME
22 PORT -- TO CONFORM THEIR BEHAVIOR.

23 Q SO HE KNOWS -- I THINK YOU HAVE SAID -- LET ME
24 UNDERSTAND THIS.

25 A YES.

1 Q THAT HE UNDERSTANDS RIGHT FROM WRONG, HE --
2 INTELLECTUALLY HE UNDERSTANDS RIGHT FROM WRONG, HE MERELY
3 CHOOSES REGULARLY ON A CONSISTENT BASIS TO DO ABERRANT
4 BEHAVIOR, CRIMINAL BEHAVIOR?

5 A NO. HE HAS ALMOST -- I WOULD SAY HE HAS NO CHOICE IN
6 BEING WHAT HE IS. IF YOU WANT TO CALL IT THAT GREAT
7 WHITE--

8 Q I WANT TO KNOW IS -- DOES HE KNOW RIGHT FROM WRONG?
9 THAT'S MY QUESTION.

10 A HE KNOWS RIGHT FROM WRONG WHEN IT COMES TO CONFIDENCE
11 SCHEMES. HE APPRECIATES THEIR LEGAL WRONGNESS, BUT
12 MORALLY I THINK HE PROBABLY DOESN'T APPRECIATE IT BECAUSE
13 HE CONTINUES TO DO IT WITHOUT REMORSE.

14 YOU SEE, REMORSE IS ANOTHER PART OF THE ACTIVITY OF
15 THOSE FRONTAL LOBES. WE KNOW WHEN SOMEONE GETS CANCER OF
16 THE BRAIN RIGHT HERE, THEY START TO SHOW A LACK OF REMORSE
17 OR SOCIALLY INAPPROPRIATE BEHAVIOR.

18 BUT REMEMBER, YOU'RE TRYING TO GENERALIZE. AND I'M
19 SAYING THAT AT THE TIME OF THE INCIDENTS WE'RE TALKING
20 ABOUT, HE WENT BEYOND THAT THRESHOLD INTO INSANITY.

21 Q AND YOU INDICATED THAT YOU DIDN'T BELIEVE HIS AMNESIA
22 ABOUT THE SPECIFIC CRIMES HE'S CHARGED WITH IN THIS CASE?

23 A I -- I DON'T. I -- AS I DISCUSSED WITH DR. CRAWFORD,
24 SHE MENTIONED MANY THINGS THAT HE HAD SAID TO HER, AND I
25 REMEMBER SAYING TO HER, BUT HE'S A PSYCHOPATH. DR.

1 CRAWFORD, IF -- I BELIEVE, DOES NOT HAVE THE OPINION THAT
2 HE'S A PSYCHOPATH.

3 I'M CERTAIN OF IT. AND HE CERTAINLY MEETS THE HAIR
4 PSYCHOPATHY CHECKLIST AND THE KLECKLEY CHECKLIST, AND HE
5 WAS DIAGNOSED ANTISOCIAL BY MARC EINHORN. HE'S A
6 PSYCHOPATH.

7 Q HE'S ANTISOCIAL?

8 A WELL, THE NEW DEFINITION IS ANTISOCIAL, BUT IT'S NOT
9 THE NEW DEFINITION. WHEN -- IT USED TO BE CALLED
10 PSYCHOPATHY. THEY CHANGED IT I BELIEVE IN THE 1980'S.
11 BECAUSE THEY HAD -- THEY WANTED THAT BOOK, THE DSM, TO
12 REFLECT A STATISTICAL AVERAGE SO THEY COULD SAY, WELL, IF
13 YOU ARE IN THIS PERCENTAGE OR THIS GROUP, YOU WILL GET
14 THIS DIAGNOSIS.

15 WHEN THEY DID THAT, ALL THEY LOOKED AT THEN FOR
16 PERSONALITY DISORDERS WAS BEHAVIOR. BUT NOW THEY HAVE TO
17 LEAVE OUT CAUSES OF BEHAVIOR OR THE EMOTIONAL PERSONALITY
18 COMPONENT.

19 THE PEOPLE WHO RESEARCH PSYCHOPATHY ARE VERY MUCH
20 INTERESTED IN THAT. THE DSM4 UNFORTUNATELY HAS DISCARDED
21 IT FOR NOW. OF ALL THE PERSONALITY DISORDERS, THE MOST
22 HIGHLY STUDIED AND THE MOST -- THE MOST ROBUSTLY PROVEN TO
23 HAVE A NEUROLOGICAL BASIS IS PSYCHOPATHY.

24 Q YOU INDICATE THAT -- I WANT TO GO BACK TO YOU NOT
25 BELIEVING THE DEFENDANT--

1 A RIGHT.

2 Q -- ABOUT HIS AMNESIA.

3 A I BELIEVE THAT HE PROBABLY HAS SOME AMNESIA TO THE
4 EVENT IN THE SAME WAY THAT YOU OR I -- YOU KNOW, IN A CAR
5 ACCIDENT, WHEN WE HAVE A CAR ACCIDENT--

6 Q DOCTOR, I MEAN, I'M JUST -- PLEASE JUST ANSWER MY
7 QUESTION. I PROMISE I WILL LET YOU EXPLAIN THEM.

8 A OKAY.

9 Q BUT DO YOU -- YOU HAVE INDICTED THAT YOU DON'T
10 BELIEVE THAT HE HAD AMNESIA THROUGH THIS ENTIRE EPISODE.
11 YES OR NO?

12 A I CAN'T ANSWER THAT WITH A YES OR NO. I BELIEVE HE
13 PROBABLY HAS SOME AMNESIA AND HE PROBABLY DOESN'T. IT'S--

14 Q PARTS THAT HE REMEMBERS AND PARTS THAT HE DOESN'T?

15 A CORRECT.

16 Q NOW, IN THE PARTS -- WELL, HIS DIMINISHED CAPACITY,
17 HIS LOW PET SCAN, HIS ABNORMAL MRI, DO YOU BELIEVE THAT
18 THAT CONTRIBUTED TO HIS INABILITY TO CONTROL HIS IMPULSES
19 WHEN HE WAS FACED WITH THIS ALLEGATION OF SEXUAL ABUSE?

20 A YES. I BELIEVE THEY ARE THE ABSOLUTE CAUSE OF IT,
21 NOT THE -- NOT A DIMINISHED ABILITY, BUT HE'S GONE NOW
22 OVER INTO THE THRESHOLD OF KNOWING ABILITY, AND THAT'S
23 INSANITY. HE MORALLY -- WELL, WE COULD--

24 Q LEGALLY HE KNOWS THE DIFFERENCE, BUT MORALLY HE
25 DOESN'T CARE?

1 A IT'S NOT THAT HE DOESN'T CARE. PSYCHOPATHS ARE
2 INABLE TO SCARE. THERE'S NOT A SEPARATE BRAIN OUT HERE
3 AGAIN OR SOMETHING FLOATING OUT HERE. THE ANALOGY THAT
4 CAN BE DRAWN -- IF I MAY DO THIS -- IS WITH ALCOHOLICS.

5 WE KNOW THEY HAVE A DISEASE NOW. IT'S A DISEASED
6 STATE. BUT A LOT OF PEOPLE STILL SAY, NO, IT ISN'T, IT'S
7 THEIR FAULT, THEY CHOOSE TO BE ALCOHOLICS. BUT NOW WE
8 KNOW, LOTS OF RESEARCH, ESPECIALLY MUCH DONE AT MUSC, THAT
9 THEY HAVE BRAIN ABNORMALITIES AND CHEMICAL ABNORMALITIES,
10 BUT WE TELL THEM, YOU'RE EXPECTED STILL, THOUGH YOUR BRAIN
11 IS MESSED UP, TO DO THE RIGHT THING.

12 BUT PARTS OF THEIR BRAIN -- THE PARTS OF THEIR BRAIN
13 THAT ARE ACTUALLY RESPONSIBLE FOR KNOWING THAT THEY ARE
14 MESSED UP ARE DYSFUNCTIONAL. SO THEY HAVE GREAT
15 DIFFICULTY. THAT'S WHY, YOU KNOW, MANY ALCOHOLICS DRINK
16 THEMSELVES TO DEATH NO MATTER HOW MANY INTERVENTIONS YOU
17 GIVE.

18 BUT REMEMBER, THERE'S A SPECTRUM. THERE'S YOUR
19 HARDCORE ALCOHOLIC AND YOUR LIGHT. HARDCORE PSYCHOPATH,
20 PSYCHOPATH LIGHT. MAYBE THE ANTISOCIAL PERSONALITY
21 DISORDER IS YOUR LIGHT PSYCHOPATH.

22 DO YOU KNOW SOMETHING? PSYCH -- ANTISOCIALS MAKE UP
23 50 PERCENT OF THE CRIMINAL POPULATION WHEN YOU TEST THEM.
24 BUT OF THAT, PSYCHOPATHS ONLY MAKE UP THEY ESTIMATE
25 25 PERCENT OF THE PRISON POPULATION. THEY ARE A VERY

1 SMALL SUBSET OF ANTISOCIAL.

2 NOT EVERYONE WITH AN ANTISOCIAL HAS TO BE A -- IS
3 PSYCHOPATHIC, BUT EVERYONE WHO IS PSYCHOPATHIC DOES MEET
4 THE CRITERIA FOR ANTISOCIAL.

5 Q IS IT YOUR POSITION, DOCTOR, THAT ANYONE WHO IS
6 PSYCHOPATHIC IS NOT CRIMINALLY RESPONSIBLE FOR THEIR
7 ACTIONS?

8 A THAT'S A PHILOSOPHICAL QUESTION. AND I -- THE WAY --
9 ASK ME THAT QUESTION AGAIN NICE AND SLOW. JUST LET ME --
10 LET ME THINK ABOUT IT.

11 Q IS IT YOUR BELIEF OR YOUR POSITION THAT PERSONS
12 DIAGNOSED AS PSYCHOPATHIC ARE NOT CRIMINALLY RESPONSIBLE
13 FOR THEIR ACTIONS?

14 A IF THE SCIENTIFIC EVIDENCE AND IMAGING EVIDENCE THAT
15 COMES ALONG WITH THAT THAT PROVES THEY HAVE THESE, DID
16 THESE AREAS OF ABNORMALITY, YES, I BELIEVE THAT.

17 Q WHAT WOULD BE THE DIFFERENCE BETWEEN THIS PSYCHOPATH
18 AND THAT PSYCHOPATH IF THEY'RE ALL PSYCHOPATHIC AND THEY
19 HAVE ALL COMMITTED CRIMINAL ACTS? I DON'T -- I FAIL TO
20 SEE THE DISTINCTION.

21 A WELL, IF THEY'VE REACHED THE LEVEL OF PSYCHOPATHY,
22 YOU'RE RIGHT. IT'S DIFFICULT TO MAKE THE DISTINCTION
23 BECAUSE IF YOU'RE LABELED PSYCHOPATH, OBVIOUSLY YOU'RE
24 DOING THINGS THAT ARE MUCH MORE TERRIBLE THAN SOMEONE WHO
25 IS JUST, LET'S SAY YOUR LOWER-ORDER TEEN-AGE THUG WHO, YOU

1 KNOW, JUST LIKES TO DRINK AND BASH WINDOWS IN AND STEAL
2 CARS.

3 BUT WE CAN SEE THERE'S A DIFFERENCE BETWEEN THAT
4 PERSON AND THEIR RISK OF DOING VIOLENT HARM TO SOCIETY
5 COMPARED TO A PSYCHOPATH. IN FACT, ANTISOCIALS, YOU
6 ALMOST CANNOT PREDICT THEIR FUTURE DANGEROUSNESS.

7 THERE'S A SLIGHT INCREASED RISK, BUT YOU CANNOT --
8 YOU CANNOT PREDICT WHAT THEY WILL DO COMPARED TO
9 PSYCHOPATHS WHICH HAVE A HIGH PREDICTABILITY RATE FOR
10 VIOLENT RECIDIVISM, ET CETERA. THEY -- THEY CAN -- THE
11 PSYCHOPATHS YOU CAN, YOU KNOW, THEY ARE WHAT THEY ARE,
12 THEY ARE A GREAT WHITE SHARK.

13 AND A GREAT WHITE SHARK, TYPICALLY IF YOU SWIM WITH
14 THEM, WILL BITE YOU. PSYCHOPATHS WILL CONTINUE THEIR SAME
15 BEHAVIORS. BUT ANTISOCIALS MAY NOT BECAUSE IT'S A
16 SPECTRUM.

17 BUT THERE'S A POINT WHERE YOU GO INTO THAT -- THAT
18 LITTLE COUNTRY OR STATE OF THE COUNTRY OF ANTISOCIAL AND
19 BECOME A PSYCHOPATH.

20 Q DR. SACHY, ISN'T THE PRIMARY BUILDING BLOCK OF A
21 DIAGNOSIS, ANY PSYCHIATRIC DIAGNOSIS, ISN'T THE PRIMARY
22 BUILDING BLOCK THE CLINICAL INTERVIEW?

23 A YES.

24 Q OKAY. ISN'T ANOTHER FOUNDATIONAL BUILDING BLOCK A
25 REVIEW AND EVALUATION OF CONTEMPORANEOUS CONDUCT?

1 A YES.

2 Q DID YOU UNDERTAKE BOTH OF THOSE ANALYSIS IN YOUR
3 EVALUATION OF MR. STANKO?

4 A YES.

5 Q AND YOU -- YOU FOUND IN -- DID YOU FIND THAT HE WAS
6 APPRECIATING THE WRONGFULNESS OF HIS CONDUCT BY SUBSEQUENT
7 CONDUCT?

8 A NO.

9 Q HOW DO YOU ATTRIBUTE HIS FLIGHT? WHAT DO YOU -- HOW
10 DO YOU EXPLAIN HIS FLIGHT IF HE DID NOT UNDERSTAND WHAT HE
11 HAD JUST DONE WAS WRONG?

12 A WELL, FLIGHT IS, YOU KNOW, THERE'S THAT FLIGHT OR
13 FIGHT RESPONSE. AND FLIGHT IS ACTUALLY A VERY BASIC
14 NON-THOUGHT OUT RESPONSE. IT'S A SELF PRESERVATION --
15 SELF PRESERVATORY (SIC) RESPONSE.

16 GOING BACK TO THE REPTILIAN BRAIN. A REPTILE HAS TO
17 MAKE TWO DECISIONS, IS IT GOING EAT OR IS IT GOING TO BE
18 EATEN. AND FLIGHT IS VERY BASIC. AND JUST BECAUSE YOU
19 JUMP IN A CAR AND CAN TURN A KEY AND FOLLOW DIRECTIONS
20 DOWN THE ROAD, IT'S STILL FLIGHT.

21 HOWEVER -- AND I DON'T KNOW IF YOU WANT TO GO INTO
22 GREAT DETAIL IN THIS PART OF THIS -- THIS THING, THERE ARE
23 MANY THINGS HE DID AT THE TIME OF THIS CRIME. FOR
24 INSTANCE, I'M -- I WILL BRING THEM OUT. FOR INSTANCE,
25 TAKING A BRACELET BEFORE HE LEAVES FROM THE VICTIM THAT HE

1 WOULD LATER GIVE TO ANOTHER PERSON IN A DIFFERENT CITY. I
2 WONDER, WELL, I MEAN, I -- I--

3 Q ROBBERY. THE ROBBERY. IT WAS A ROBBERY.

4 A THE ROBBERY. HE TOOK THE BRACELET FROM THE VICTIM.
5 I MEAN, YOU CALL IT ROBBERY, I CALL IT -- IT'S BIZARRE.
6 IT'S -- WHEN YOU -- I SEE IT AS AN INABILITY TO UNDERSTAND
7 RIGHT FROM WRONG BECAUSE IF YOU OR I IN A MOMENT OF HEATED
8 PASSION KILLED SOMEONE, LET'S SAY OUR WIFE OR SOMETHING,
9 WOULD WE THEN TAKE THEIR JEWELRY, WOULD WE THEN MAYBE JUMP
10 IN THE CAR AND DRIVE TO ANOTHER STATE WITH A LICENSE PLATE
11 ON THERE THAT ANYONE WOULD KNOW, ESPECIALLY WITH AN IQ OF
12 143, THAT THAT WILL PROBABLY AID IN TRACKING THEM DOWN,
13 WOULD THEN THAT PERSON STEAL ANOTHER VEHICLE WHICH HAS
14 ANOTHER LICENSE PLATE THAT COULD EASILY HELP TRACK THEM
15 DOWN?

16 THOUGH -- AND FROM DR. CRAWFORD'S EXCELLENT REPORT
17 SHE NOTED THAT HE TOOK -- HE MADE SURE TO PACK HIS
18 ELECTRIC GUITAR BEFORE HE LEFT THE VICTIM'S HOME. AGAIN,
19 FOR ME TO APPRECIATE RIGHT VERSUS WRONG, I WOULD THINK
20 THAT THERE WOULD HAVE TO BE SOMETHING WRONG WITH THAT IF
21 I'M MAKING SURE TO PACK MY ELECTRIC GUITAR, ESPECIALLY
22 AFTER COMMITTING SUCH HEINOUS ACTS.

23 Q WHAT ABOUT THE CHECKING THE PULSE OF THE TWO VICTIMS
24 TO CONFIRM THAT THEY ARE IN FACT DEAD, WAS THAT -- WAS
25 THAT THE ACT -- APPEARS TO ME TO BE SOMEONE WHO IS

1 GOAL-DIRECTED AND HAS A PLAN IN MIND.

2 A WELL, WHAT'S THE PLAN?

3 Q MAKE SURE THEY ARE DEAD, HE'S FINISHED THE JOB.

4 A WELL, IT WOULD APPEAR THAT ON 50 PERCENT OF THAT PLAN
5 HE WAS NOT CORRECT AND DIDN'T FINISH THE JOB. IT'S --
6 IT'S -- THIS DOES NOT APPEAR TO BE A WELL THOUGHT OUT
7 EVENT NOR WAS THE FLIGHT WELL THOUGHT OUT. AND LET'S --
8 LET'S SAY PERFECTLY THOUGHT OUT.

9 IF -- I JUST NEED TO SAY, EVERYONE NEEDS TO WATCH A
10 FEW EPISODES OF COLOMBO AND WATCH WHAT A WELL THOUGHT OUT
11 CRIME IS WHERE THERE'S LAYER UPON LAYER OF ALIBI BEING
12 LAID, ET CETERA, ET CETERA. THAT'S -- THAT'S HIGH, GOOD,
13 YOU KNOW, NONPSYCHOPATHIC FUNCTIONING.

14 AS WELL, YOU ASKED ABOUT THE BEHAVIOR SINCE THE
15 MURDERS OR SINCE THE EVENTS. YOU KNOW, MR. STANKO IN A
16 VERY DISPASSIONATE -- AND TYPICALLY THAT'S PSYCHOPATHIC
17 WAY -- DESCRIBES THE EVENTS EXCEPT THE PARTS HE SAYS HE
18 CAN'T REMEMBER, BUT IT'S SURE -- SURELY ATYPICAL.

19 NORMALLY WHEN I INTERVIEW SOMEONE WHO IS A MURDERER,
20 SOMETIMES EVEN A SCHIZOPHRENIC, UNLESS THEY'RE VERY
21 DELUSIONAL OR PSYCHOTIC AT THE TIME, THEY SHOW VERY
22 LEGITIMATE AND HIGH AFFECT AND MAY EVEN GET NAUSEOUS OR
23 SICK IN TALKING ABOUT WHAT HAPPENED.

24 AND MR. STANKO DID SHED SOME TEARS, BUT IN MY OPINION
25 THEY WERE DEFINITELY CROCODILE TEARS, THEY--

1 Q SO HE FEELS LITTLE REMORSE, LITTLE OR NO REMORSE FOR
2 THE ACTIONS COMMITTED?

3 A I BELIEVE -- I BELIEVE THAT HE DOES FEEL LITTLE --
4 LITTLE OR NO REMORSE. BUT I BELIEVE LIKE THE TYPICAL
5 PSYCHOPATH HE PRESENTS A VENEER OF THAT.

6 Q BECAUSE HE UNDERSTANDS THAT THEY ARE WRONG AND THIS
7 IS HOW HE SHOULD ACT WHEN HE IS TRYING TO PERFORM FOR YOU?

8 A SEE, YOU'RE SAYING HE'S MAKING A CONSCIOUS DECISION
9 TO DO THIS BEHAVIOR, AND I KNOW FROM THE RESEARCH
10 LITERATURE -- AND IT'S NOT JUST -- IT'S NOT RESEARCH,
11 IT'S -- IT'S THE ESTABLISHED LITERATURE, THAT HE HAS NO
12 CHOICE IN THAT.

13 HE'S -- AGAIN, IF YOU WANT TO CALL IT A GREAT WHITE
14 SHARK, BUT HE IS WHAT HE IS.

15 Q AND THE THEFT AT THE ATM, STEALING THE MONEY AT THE
16 ATM MACHINE WITHIN AN HOUR OF THE MURDERS, THIS IS AN
17 ACT -- HE SEEMS VERY GOAL DIRECTED, SOMEBODY NEEDS MONEY
18 SO THEY CAN ESCAPE AND ELUDE THE LAW.

19 A AND VERY FOOLISH, AGAIN, FOR SOMEONE WITH AN IQ OF
20 140 SOMETHING WHO HAS BEEN INVOLVED WITH LAW -- WITH THE
21 CRIMINAL SYSTEM ON SEVERAL OCCASIONS AND KNOWS -- SHOULD
22 KNOW WHAT'S RIGHT AND WRONG, HE JUST MURDERS AND HE GOES
23 TO AN ATM WHERE HIS PICTURE IS GOING TO BE TAKEN AND HE
24 USES THE VICTIM'S ATM CARD?

25 NOT CONSISTENT WITH WELL THOUGHT OUT AND, YOU KNOW,

1 APPROPRIATE THINKING. IT'S ACTUALLY IN MY OPINION VERY
2 STUPID.

3 Q NOT VERY GOOD AT BEING A CRIMINAL?

4 A IT'S -- WELL, I THINK HE'S VERY GOOD AT BEING A
5 CRIMINAL NATURALLY, BUT WHEN IT COMES TO THE HIGHER
6 COGNITIVE FUNCTIONS OF BEING A CRIMINAL, HE'S REALLY
7 ACTING ON JUST VERY BASIC LOWER LEVEL PARTS OF HIS BRAIN
8 BECAUSE THE PART THAT YOU'RE SAYING SHOULD BE DOING THIS,
9 WE HAVE SHOWN BY IMAGING, STRUCTURAL AND FUNCTIONAL, THAT
10 THERE'S SOMETHING WRONG.

11 Q AND YOU'RE -- BUT WOULDN'T A BIRTH DEFECT TO THE
12 BRAIN TYPICALLY LEAD SOMEONE TO HAVE A LOW IQ?

13 A NO, NOT AT ALL. I MEAN, YOU CAN HAVE SOMEONE WITH --
14 AGAIN -- SO YOU'RE MAKING A GENERALIZATION. THE BRAIN
15 IS--

16 Q YEAH, I'M ASKING A GENERAL QUESTION. GENERALLY
17 SPEAKING, ISN'T THAT TRUE?

18 A NO. NO. IT DEPENDS ON WHAT PARTS OF THE BRAIN ARE
19 EFFECTED. YOU COULD HAVE A SCHIZOPHRENIC. MOST OF THEM
20 HAVE COGNITIVE IMPAIRMENT, BUT SOME OF THEM ARE BRILLIANT.
21 IN FACT, THE MOVIE A BEAUTIFUL MIND DOCUMENTS -- AND I
22 FORGET THE GENTLEMAN'S NAME -- BUT HE WAS A -- I BELIEVE A
23 NOBEL PRIZE WINNER FOR MATHEMATICS OR PHYSICS AND HE'S A
24 SCHIZOPHRENIC, BUT MOST SCHIZOPHRENICS ON THE WHOLE HAVE A
25 LOWER IQ AND IMPAIRED COGNITIVE FUNCTIONING.

1 Q WHAT -- YOU DIDN'T REALLY TOUCH ON THE CLINICAL
2 INTERVIEW IN YOUR NOTES OR WAS VERY, VERY -- I DIDN'T NOTE
3 VERY MUCH IN YOUR NOTES OR YOUR REPORT ABOUT THE CLINICAL
4 INTERVIEW. WHAT WAS IT IN YOUR CLINICAL INTERVIEW THAT
5 INDICATED TO YOU THAT DEFENDANT STANKO WAS A PSYCHOPATH?

6 A OH, HIS KIND OF CALLOUS MATTER-OF-FACT DISCUSSION OF
7 THE INCIDENTS, THE VICTIMS, THE LACK OF KIND OF -- WELL,
8 THE -- THE SIGNIFICANT LACK OF EMOTIONAL, YOU KNOW,
9 VALANCE, EMOTIONAL, YOU KNOW, VENEER. IT WAS -- IT WAS --
10 THERE WAS NO EMOTIONAL VENEER. IT WAS REALLY JUST A
11 BUSINESS-LIKE KIND OF SICH -- YOU KNOW.

12 Q COLD?

13 A COLD. NOW REMEMBER, PSYCHOPATHS ARE NOTED TO BE
14 COLD. THEY TEND TO BE, YOU KNOW, THEY CAN BE COLD-BLOODED
15 KILLERS. NOW, WHEN WE SAY COLD-BLOODED, ACTUALLY DURING
16 THEIR VIOLENT ACTS THEY ARE VERY EMOTIONAL AND THEY ARE
17 VERY -- PEOPLE WILL DESCRIBE, LIKE WITH TED BUNDY, HIS
18 FACE, A FACE OF RAGE AND ANGER.

19 BUT IT'S AFTER THE ACT THEY ARE VERY BUSINESS-LIKE
20 AND CALCULATING AND PROFESSIONAL IN HOW THEY DESCRIBE WHAT
21 HAPPENED. BY THE WAY--

22 Q SO IN HIS CLINICAL INTERVIEW YOU BASICALLY TAKE FROM
23 THE FACT THAT HE WAS COLD IN DESCRIBING THE MURDERS HE HAD
24 COMMITTED, THE CRIMES HE HAD COMMITTED, THAT THIS WAS AN
25 INDICATOR TO YOU THAT HE WAS PSYCHOPATHIC?

1 A YES. AND ALSO, YOU KNOW, I MEAN, HIS ENTIRE HISTORY,
2 THAT CRIMINAL HISTORY, THE LACK OF REMORSE, YOU KNOW, THE
3 LACK OF SIGNIFICANT REMORSE OR GUILT, THE -- HIS
4 GRANDIOSITY -- AS DR. CRAWFORD SAYS, SHE BELIEVES HE'S
5 NARCISSISTIC. BUT AGAIN, YOU PUT ANTISOCIAL AND
6 NARCISSISTIC PERSONALITY TOGETHER AND YOU GET PSYCHOPATHY.

7 Q YOU DON'T DISAGREE WITH HER OPINION THAT HE'S
8 NARCISSISTIC?

9 A NO. BUT I THINK SHE'S TRYING TO DISPLAY HIM AS A
10 NARCISSISTIC PERSONALITY DISORDER. REALLY HE'S A
11 PSYCHOPATH AND PSYCHOPATHS ARE NARCISSISTIC. WITHOUT THIS
12 AREA OF THE BRAIN WORKING, YOU NOT EMPATHIZE WITH OTHERS,
13 OR IT'S DIMINISHED.

14 AND IF YOU DON'T EMPATHIZE WITH OTHERS, YOU DON'T
15 CARE WHAT THEY THINK. AND IF YOU DON'T CARE WHAT THEY
16 THINK, YOU'RE SUPERIOR. NOW, MR. STANKO STATED HE ALWAYS
17 FELT INFERIOR BUT HE DID HIS BEST THROUGHOUT HIS LIFE TO
18 SHOW THAT HE WAS SUPERIOR TO OTHERS.

19 Q SO HE CLEARLY DID CARE WHAT OTHER PEOPLE THOUGHT OF
20 HIM BECAUSE HE WAS CONSTANTLY TRYING TO PRESENT HIMSELF AS
21 SOMETHING GREATER THAN HE REALLY WAS?

22 A YES. YOU KNOW, BUT AGAIN, CARING WHAT PEOPLE THOUGHT
23 ABOUT HIM IS A DIFFERENT COGNITIVE PROCESS, YOU KNOW,
24 ALTOGETHER THAN WHAT WE WERE JUST EARLIER TALKING ABOUT.

25 Q SO -- BUT IT'S A HIGH LEVEL THOUGHT PROCESS; TRUE?

1 A IT IS, BUT AS WE KNOW FROM THESE STUDIES, THE
2 DISFUNCTION IN THE FRONTAL LOBES IN PSYCHOPATHS AND
3 MURDERS SEEMS TO BE VERY SUBTLE. AGAIN, I -- WE CAN'T
4 POINT TO THE ACTUAL NEURONS THAT ARE DYSFUNCTIONAL LIKE
5 AND SEE TRACKS OF THEM LIGHTING UP.

6 ONE DAY WE WILL. WE ARE GETTING THERE. RIGHT NOW WE
7 SEE THE GENERAL AREA OF DISFUNCTION. IT'S NOT COMPLETELY
8 TURNED OFF. IF I WERE TO CUT OUT THAT PART OF HIS BRAIN,
9 HE WOULD NOT BE ABLE TO FUNCTION AND SIT THERE
10 APPROPRIATELY RIGHT NOW.

11 BUT IT'S -- IT'S AREAS OF THAT BRAIN AND HOW THEY
12 CONNECT WITH THE REST OF THE BRAIN THAT ARE RESPONSIBLE
13 FOR HIS PERSONALITY AND BEHAVIOR.

14 Q THE -- AND IT'S NOT YOUR TESTIMONY ABOUT PET SCANS
15 AND MRI'S THAT EVERYONE WHOSE PET SCAN ISN'T NORMAL,
16 ACCORDING TO THE NORMAL THAT YOU SUBMITTED ON THIS, IS A
17 PSYCHOPATH, A KILLER, HAS NO CONTROL, WHATEVER IT --
18 WHATEVER OPINION YOU HAVE OFFERED ON THAT. THAT'S NOT
19 YOUR TESTIMONY; IS IT?

20 A WELL, I CAN'T ANSWER THAT WITH A YES OR NO. BUT --
21 BUT -- AND THAT'S ALWAYS ASKED AND IT'S SOMETHING, YOU
22 KNOW, ADDRESSED IN THE LITERATURE IN THIS AREA. WELL,
23 THAT'S THE COMEBACK. WELL, DOES EVERYONE WHO HAS AN
24 ABNORMAL PET SCAN, ARE THEY ALL PSYCHOPATHS, ET CETERA?

25 IF YOU HAVE A PET SCAN LIKE HIS, I WOULD -- I

1 WOULD -- IT WOULD BE MY OPINION THAT YOU COULDN'T BE
2 NORMAL. I'LL REPEAT MYSELF. IF YOU HAVE A PET SCAN LIKE
3 HIS, I BELIEVE THAT YOU COULDN'T BE NORMAL.

4 YOU MAY LOOK NORMAL, A LOT OF PEOPLE MAY THINK YOU'RE
5 NORMAL, BUT IF YOU REALLY SIT DOWN AND IF YOU COULD WATCH
6 THEIR BEHAVIOR OVER TIME, GET THEIR HISTORY, WATCH AGAIN,
7 YOU KNOW, THEIR BEHAVIOR, YOU WILL SEE SIGNS OF SOMETHING
8 WRONG BECAUSE IF THAT FRONT PART OF THE BRAIN ISN'T DOING
9 WHAT IT'S SUPPOSED TO BE DOING, WHAT IS? SOMEONE OVER MY
10 SHOULDER?

11 Q AND THAT USE OF A PET SCAN -- PET SCAN IS GENERALLY
12 ACCEPTED IN THE SCIENTIFIC COMMUNITY--

13 A YES.

14 Q -- PSYCHIATRIC COMMUNITY?

15 A WELL, YOU SAY PSYCHIATRIC. IN THE BRAIN SCIENCE
16 COMMUNITY IT IS. I MEAN, THE PEOPLE WHO ARE EXPERTS IN
17 THIS FIELD AGREED. AGAIN, I HAVE NOT SEEN A REVIEW
18 ARTICLE OR AN ARTICLE IN ANY JOURNAL, AND DR. RAINE NOTES
19 IN THIS TEXTBOOK, WHERE THEY CAN -- THEY REVIEWED THIS OR
20 COME UP WITH SOME STUDY THAT SHOWS OTHERWISE. IT'S --
21 JUST HASN'T HAPPENED.

22 Q SO I WOULD BE ABLE TO GO OUT AGAIN -- I KNOW I HAVE
23 GONE THROUGH THIS WITH YOU BEFORE, BUT THIS IS A DIFFERENT
24 TOPIC. I CAN PUT ANY PSYCHIATRIST WHO IS -- WHO IS
25 FOLLOWING GENERALLY ACCEPTED PSYCHIATRIC PRINCIPLES AND

1 THEY WILL AGREE WITH YOU THAT AN ABNORMAL PET SCAN EQUALS
2 WHATEVER MENTAL DEFECT OR DISEASE THAT YOU'RE OFFERING?

3 A NO. AND -- NO. AND CAN I JUST FINISH THAT?

4 Q SURE.

5 A IN THE OTHER CASE THAT I DID IN GEORGIA SEVERAL YEARS
6 AGO, I -- BEFORE WE GOT THE PET SCAN -- I'LL ONLY BE A
7 MOMENT -- WE GOT AN MRI. AND ON THAT MRI IT SHOWED
8 GROWTHS LIKE OBVIOUS ATROPHY OR SHRINKAGE.

9 EVEN THE RADIOLOGIST AT THE VA IN AUGUSTA SAID
10 ATROPHY, BUT HE SAID MILD GLOBAL ATROPHY. THE HEAD OF
11 NEUROLOGY AT THE VA IN AUGUSTA, A VERY PROMINENT
12 NEUROLOGIST, A CHAIRMAN, TESTIFIED IN THAT CASE THAT IT
13 WAS A NORMAL MRI.

14 SO I GUESS ANYONE CAN HAVE ANY OPINION, BUT EVEN THE
15 RADIOLOGIST SAID THERE WAS ATROPHY, BUT HE GOT ON THE
16 STAND FOR THE PROSECUTION AND SAID IT WAS NORMAL. AND WE
17 WERE ALL -- ANYONE CONNECTED WITH THE CASE WHO KNEW ABOUT
18 MRIS WERE SHOCKED.

19 SO ANYONE CAN HAVE ANY OPINION. BUT I DO BASE MINE
20 ON WHAT'S OUT THERE IN THE LITERATURE AND IN, YOU KNOW,
21 THE SCIENCE, WHAT'S OUT THERE.

22 MR. HEMBREE: I HAVE NO FURTHER QUESTIONS OF
23 THIS WITNESS, YOUR HONOR.

24 MR. DIGGS: COUPLE OF FOLLOW-UPS.

25 THE COURT: YOU MAY PROCEED.

REDIRECT EXAMINATION

BY MR. DIGGS:

Q A PET SCAN WOULD BE A FORENSIC TOOL?

A YES.

Q AND THAT'S HOW YOU USED IT?

A YES. AND IF I MAY ADD, THE FIRST TIME A PET SCAN WAS USED IN A CRIMINAL CASE WAS IN 1991 IN NEW YORK. IT WAS A MURDER AND PET SCAN WAS USED AND IT WAS ACCEPTED. AND IN GEORGIA, THE FIRST -- WELL, IN THE SOUTHEAST -- I DON'T KNOW.

IN GEORGIA THE FIRST TIME IT WAS EVER BROUGHT INTO EVIDENCE WAS A CASE THAT I WAS INVOLVED IN.

Q WELL, ISN'T IT STANDARD PROCEDURE IN THE PHARMACEUTICAL INDUSTRY TO USE PET SCANS TO DETERMINE HOW VARIOUS DRUGS AFFECT THE BRAIN?

A THAT'S EXACTLY HOW THEY FIND OUT--

Q THAT--

A I'M SORRY, I DIDN'T HEAR THAT.

Q HOW LONG HAS THAT BEEN STANDARD PRACTICE?

A OH, I WOULD SAY AT LEAST MAYBE GOING ON 20 YEARS AT LEAST, 15 YEARS.

Q ALL RIGHT. NOW, YOU SAID THAT INITIALLY YOU DIDN'T HAVE ANY EVIDENCE THAT MR. STANKO WAS A PSYCHOPATH AS A CHILD. BUT WE DO HAVE THE MORO REFLEX COMMENT IN THE BIRTH RECORDS.

1 A YES, WE HAVE--

2 Q YEAH.

3 A YES.

4 Q AND YOU HAVE THE IMAGES OF THE BRAIN DEFECT. WOULD
5 THIS HAVE BEEN A DEFECT THAT JUST OCCURRED NATURALLY LATER
6 IN LIFE OR WOULD IT HAVE BEEN PRESENT -- COULD HAVE IT
7 BEEN PRESENT IN EARLY LIFE AND WOULD IT NECESSARILY HAVE
8 MANIFESTED ITSELF AT, YOU KNOW, WHEN MR. STANKO WAS A
9 CHILD?

10 A WELL, I JUST REMEMBER SOMETHING FROM DR. CRAWFORD'S
11 REPORT. SHE NOTED THAT AS A CHILD -- AND I AM NOT SURE
12 EXACTLY WHO SHE INTERVIEWED -- BUT AS A CHILD HE WAS
13 WELL-LIKED BY EVERYONE AND YET OTHERS SEEM, YOU KNOW, TO
14 NOTE THAT HE WAS COCKY AND ARROGANT.

15 AND I THOUGHT TO MYSELF, HOW CAN YOU BE WELL-LIKED
16 AND COCKY AND ARROGANT? WELL, SOME MAY TAKE YOU ONE WAY
17 AND SOME MAY THE OTHER. BUT YOU KNOW, PSYCHOPATHS HAVE
18 THIS -- THEY'RE THE KIND OF PERSON WHO WHEN THEY WALK UP
19 TO YOU -- THE DEFINITION OF A PSYCHOPATH IS IF ONE WALKS
20 UP TO YOU AND THEY TALK TO YOU FOR 10 MINUTES AND YOU HAND
21 THEM A HUNDRED DOLLAR BILL, THEY ARE A PSYCHOPATH.

22 PERHAPS HIS CHARM -- AND PSYCHOPATHS HAVE A
23 SUPERFICIAL CHARM -- WAS WHAT MADE HIM WELL-LIKED. BUT
24 THE GRANDIOSITY AND THE EGOCENTRICITY IS WHAT WILL ALSO
25 TURN OFF OTHER PEOPLE.

1 SO IN FACT, IN DR. CRAWFORD'S REPORT THERE MAY BE
2 EVIDENCE OF PSYCHOPATHY IN CHILDHOOD.

3 Q AND DO YOU KNOW DR. THRASHER?

4 A YES.

5 Q BELIEVE MENTIONED HIM EARLIER. I WANT TO SHOW YOU A
6 REPORT THAT HE HAS DRAFTED, HIS FINDINGS THERE. HAVE YOU
7 DISCUSSED THIS CASE WITH DR. THRASHER?

8 A YES, SIR.

9 Q ALL RIGHT. AND WHAT ARE DR. THRASHER'S OPINIONS WITH
10 RESPECT TO MR. STANKO?

11 A I'M SORRY. WHAT ARE HIS OPINIONS?

12 Q YES, THE FINDINGS IN THAT REPORT.

13 A CAN I READ THEM OR JUST -- JUST.

14 Q YEAH, YOU CAN READ THEM.

15 A OKAY. AT THE TIME OF THE ALLEGED OFFENSES
16 MR. STEPHEN STANKO WAS -- CAPITALIZED -- SUFFERING FROM
17 MENTAL DISEASE OR DISORDER OR DEFECT, AND HE DID NOT --
18 CAPITALIZE -- HAVE THE CAPACITY TO DISTINGUISH MORAL OR
19 LEGAL RIGHT FROM WRONG AND TO RECOGNIZE THE PARTICULAR
20 ACTS AS MORAL OR LEGALLY WRONG.

21 AT THE TIME OF THE OFFENSES MR. STANKO DID HAVE A
22 MENTAL DISORDER AND DID NOT HAVE SUFFICIENT CAPACITY TO
23 CONFORM HIS BEHAVIOR TO THE REQUIREMENTS OF THE LAW. AT
24 PRESENT TIME MR. STANKO DOES HAVE A MENTAL DISORDER, BUT
25 HE IS COMPETENT TO STAND TRIAL.

1 Q ALL RIGHT. HAVE YOU INCORPORATED ANY OF THE OPINIONS
2 OF DR. THRASHER IN YOUR TESTIMONY TODAY?

3 A NO. I MEAN, I HAVE READ THIS, BUT...

4 Q ALL RIGHT. DID -- BUT DO YOU -- CAN YOU COMMENT ON
5 WHETHER OR NOT YOU FEEL THEY CORROBORATE YOUR OPINION?

6 A WELL, I THINK DR. THRASHER MEETS THE GOOD GENTLEMAN'S
7 DESCRIPTION OF WHAT WAS IN YOUR AVERAGE OR WHATEVER
8 PSYCHIATRIST IN THE FIELD OR PRACTICING OUT THERE. I
9 SUSPECT AND I DO BELIEVE -- I DON'T SUSPECT DR. THRASHER
10 IS ONE OF THOSE, AND HE SEEMS TO HAVE THE SAME OPINION
11 THAT I DO.

12 Q OKAY. THANK YOU.

13 MR. DIGGS: YOUR HONOR, I'D LIKE TO GO AHEAD AND
14 HAVE THIS MARKED AS AN EXHIBIT FOR THE DEFENSE AS
15 WELL.

16 THE COURT: ANY OBJECTION?

17 MR. HEMBREE: I THINK WE JUST RECEIVED THAT
18 REPORT. IS THAT CORRECT? I HAVEN'T HAD AN
19 OPPORTUNITY TO REVIEW IT, YOUR HONOR, BUT I DON'T
20 HAVE ANY OBJECTION.

21 THE COURT: MARKED AND ADMITTED WITHOUT
22 OBJECTION.

23 (WHEREUPON, COURT'S EXHIBIT 7 WAS ADMITTED INTO
24 EVIDENCE.)

25 MR. DIGGS: THANK YOU. YOUR HONOR, WE HAVE --

1 WE DIDN'T ACTUALLY PUT IT INTO EVIDENCE, BUT THE SCAN
2 THAT THE COURT VIEWED DURING DR...

3 MR. HEMBREE: NO OBJECTION, YOUR HONOR.

4 MR. DIGGS: SACHY, WE'D LIKE TO.

5 THE COURT: MARKED AND ADMITTED WITHOUT
6 OBJECTION.

7 (WHEREUPON, COURT'S EXHIBIT 8 WAS ADMITTED INTO
8 EVIDENCE.)

9 MR. DIGGS: HAND THAT UP AND HAVE IT... YOUR
10 HONOR, THAT WOULD BE OUR SHOWING AT THIS POINT.

11 THE COURT: ANY -- SIR, YOU CAN STEP DOWN. I
12 ASSUME THE STATE HAS NO FURTHER QUESTIONS OF THE
13 WITNESS? OR DID I MAY THE WRONG ASSUMPTION?

14 MR. HEMBREE: NO, NO QUESTIONS, YOUR HONOR.

15 THE COURT: SIR, YOU CAN STEP DOWN. ALL RIGHT.
16 IS THERE ANY OBJECTION TO US BREAKING FOR LUNCH?

17 MR. HEMBREE: NO, YOUR HONOR.

18 THE COURT: WHAT WE WILL DO IS WE WILL BREAK FOR
19 LUNCH AFTER WHICH WE WILL COME BACK AND I'LL HEAR
20 ARGUMENT OR ACTUALLY -- WELL, WE WILL DISCUSS HOW WE
21 ARE GOING TO PROCEED. I'M DEBATING ABOUT -- WELL,
22 WE'LL TALK.

23 IF Y'ALL CAN INDULGE ME FOR A FEW MINUTES BEFORE
24 YOU GO TO LUNCH, AND THEN WE WILL DECIDE HOW TO
25 PROCEED THIS AFTERNOON. WE'LL BE AT EASE UNTIL 3:30.

1 (COURT IN RECESS FOR LUNCH.)

2 THE COURT: I UNDERSTAND THAT THEY ARE BRINGING
3 MR. STANKO NOW.

4 (DEFENDANT ENTERED THE COURTROOM.)

5 THE COURT: OKAY. ARE WE READY TO PROCEED?
6 STATE READY?

7 MR. HEMBREE: STATE IS READY, YOUR HONOR.

8 THE COURT: IS THE DEFENSE READY?

9 MR. DIGGS: CORRECT, YOUR HONOR.

10 THE COURT: IS IT CORRECT THAT WE HAVE
11 DETERMINED THAT THERE WILL BE NO FURTHER TESTIMONY
12 REQUIRED? IS THAT CORRECT?

13 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

14 THE COURT: AND MR. DIGGS, IS THAT ALSO CORRECT?

15 MR. DIGGS: YES.

16 THE COURT: AND I WAS SPEAKING I GUESS
17 SPECIFICALLY TO THE STATE'S ABILITY OR DESIRE TO
18 PRESENT WITNESSES, JUST FOR THE CLARITY OF THE
19 RECORD. SO THAT WOULD LEAVE US AT THE POINT OF
20 HEARING ARGUMENT. STATE READY TO PROCEED?

21 MR. HEMBREE: YES, I AM, YOUR HONOR.

22 THE COURT: YOU MAY PROCEED.

23 MR. HEMBREE: THANK YOU, YOUR HONOR. THE --
24 THIS QUESTION REALLY, REALLY BOILS DOWN TO JUST A
25 LITTLE BIT OF TESTIMONY THAT'S BEEN PRESENTED TODAY.

1 WE HEARD A LOT FROM THE DOCTOR. WE HEARD A LOT OF
2 CROSS AS WELL AS DIRECT.

3 BUT THE BOTTOM LINE IS THIS. HE HAS INDICATED
4 THROUGH -- ON DIRECT AND ON CROSS THAT MR. STANKO HAS
5 A DIMINISHED CAPACITY. HE HAS STATED THAT OVER AND
6 OVER AGAIN, AND HE ATTRIBUTES OR SORT OF LINKS THAT
7 DIMINISHED CAPACITY TO THESE ACTS OF THESE CONFIDENCE
8 GAMES OR THESE -- THESE CONS THAT HE CONTINUES TO
9 RUN.

10 HE SAYS HE -- THERE WAS SOME -- THERE WAS SOME
11 VAGUE DISTINCTION IN THERE BETWEEN THE CONFIDENCE
12 GAMES AND THE MURDER BECAUSE HE'S CHARGED WITH --
13 MURDER AND RAPE HE'S CHARGED WITH TODAY.

14 I ASKING HIM THE QUESTION, JUDGE, I THINK THIS
15 WAS -- ALL OF THAT DISCUSSION AND THERE WAS LOT OF
16 IT, PROBABLY GONE LONGER THAN I NEEDED TO. BUT OUT
17 OF ALL THAT DISCUSSION, EVEN THOUGH I MAY NOT AGREE
18 WITH THE -- WITH HIS INTERPRETATIONS OF THE PET SCANS
19 AND HIS INTERPRETATIONS OF THE MRIS THAT'S WHAT OTHER
20 DOCTORS COULD TELL US AND WE CAN COUNTER THAT.

21 I'M NOT EVEN GOING THERE. I'M JUST CONCEDED
22 THAT THOSE -- THEY ARE WHAT THEY ARE AND HE TRULY
23 BELIEVES THAT THAT'S HONEST. HE STILL SAID WHEN THE
24 KEY QUESTION WAS PUT TO HIM, ARE YOU SAYING, DOCTOR,
25 THAT BECAUSE OF THIS MENTAL DEFECT, THIS DIMINISHED

1 CAPACITY, THAT THIS DEFENDANT, THAT HIS ABILITY TO
2 CONTROL HIS ACTIONS ONCE HE WAS FACED WITH THE
3 ACCUSATION OF BEING A CHILD MOLESTER WAS IMPAIRED WAS
4 HIS CAPACITY TO CONTROL HIS IMPULSE IMPAIRED, HE
5 SAID, EXACTLY, THAT'S JUST WHAT I'M TALKING ABOUT.

6 THAT'S -- THAT'S RIGHT WHAT WE'RE TALKING ABOUT.
7 AND JUDGE, THAT IS THE DEFINITION OF DIMINISHED
8 CAPACITY. HE HAS THIS CONDITION, IF YOU WILL, THAT
9 AFFECTS HIS ABILITY TO STOP WHEN HE SHOULD, WHEN HE'S
10 FACED WITH THIS, THIS IMPULSE, HE'S FACED WITH THIS
11 EMOTIONAL IMPULSE TO STRIKE OUT, THAT THIS DIMINISHED
12 CAPACITY AFFECTS THAT. IT'S DIMINISHED.

13 HE'S NOT -- HE'S NOT AS GOOD AS IT AS SOMEBODY
14 ELSE, AND THAT'S THE DEFINITION OF DIMINISHED
15 CAPACITY. I COULD -- JUDGE, I COULD ARGUE ABOUT
16 OTHER THINGS AND I COULD NIBBLE AROUND THE EDGES
17 ABOUT SOME OTHERS, BUT IN MY JUDGMENT THAT'S THE
18 FUNDAMENTAL QUESTION BEFORE YOU.

19 IT'S THE STATE'S POSITION THAT YOU CAN -- YOU
20 CAN CALL A ROSE BY ANY OTHER NAME, BUT IT'S STILL A
21 ROSE. AND IT MAY HAVE SOMETHING TO DO WITH THE FACT
22 THAT -- THAT THE DOCTOR IS, YOU KNOW, HE'S NOT FROM
23 SOUTH CAROLINA, HE'S NOT ACCUSTOMED TO TESTIFYING AND
24 CONSIDERING THESE QUESTIONS IN SOUTH CAROLINA COURTS,
25 THAT HE HAS A -- AN OPINION THAT SORT OF WAVERS OFF

1 WHAT THE STANDARD IS IN SOUTH CAROLINA DIMINISHED
2 CAPACITY.

3 BUT BE THAT AS IT MAY, IT WOULD BE THE STATE'S
4 POSITION THAT HE HAS -- HE HAS -- EVEN THOUGH HE MAY
5 CALL IT SOMETHING DIFFERENT, IT IS IN FACT DIMINISHED
6 CAPACITY AND IT'S NOT ADMISSIBLE IN THE GUILT PHASE
7 OF THIS TRIAL AND WE WOULD ASK THAT THE EVIDENCE BE
8 EXCLUDED.

9 THE COURT: MR. DIGGS?

10 MR. DIGGS: YOUR HONOR, WHEN THE TESTIMONY IS
11 TAKEN AS A WHOLE, IT SHOWS THAT THIS DOCTOR BELIEVES
12 THAT MR. STANKO WAS INSANE. COUNSEL MAY BE ABLE TO
13 POINT TO SAY -- TO A POINT WHERE HE SAYS, YEAH, YOU
14 KNOW, I THINK THAT'S EXACTLY WHAT I'M SAYING, BUT
15 WHEN YOU LOOK AT HIS TESTIMONY AS A WHOLE, FOR ABOUT
16 TWO HOURS HE SET UP AND EXPLAINED IN VERY GOOD DETAIL
17 WHAT HIS OPINION WAS AND WHY HE -- WHY HE THOUGHT
18 THAT, WHY HE CAME TO THAT OPINION.

19 AND SO WHEN YOU -- ONE THING I THINK THAT I
20 WOULD SUBMIT THAT YOU HAVE TO SAY ABOUT DR. SACHY IS
21 HE CERTAINLY UNDERSTANDS THE DIFFERENCE BETWEEN
22 DIMINISHED CAPACITY AND INSANITY.

23 HIS TESTIMONY WAS THAT THE DEFENDANT OPERATES IN
24 A DIMINISHED CAPACITY ALL THE TIME BECAUSE OF THE
25 MENTAL DEFECT THAT HE HAS. THERE'S NO QUESTION

1 THROUGH THIS TESTIMONY THERE ESTABLISHES A QUESTION,
2 A FACTUAL QUESTION, ABOUT WHETHER MR. STANKO HAS A
3 MENTAL DEFECT OR DISEASE, AND HE DOES.

4 WE CAN -- WE CAN SHOW THAT HE HAD THAT FROM
5 BIRTH, IN THE BIRTH RECORDS THAT ALMOST TOOK HIS LIFE
6 WHEN HE WAS -- WHEN HE WAS AN INFANT RIGHT AFTER HIS
7 BIRTH.

8 BUT THEN IN THIS PARTICULAR INSTANT WHEN YOU
9 LOOK AT THE TIME OF THE OFFENSE, AND IN THE -- IN THE
10 STATUTE AND IN DR. SACHY'S REPORT HE WAS VERY CAREFUL
11 TO POINT OUT THIS LEGAL REQUIREMENT.

12 HE WANTED TO KNOW EXACTLY -- IF HE WAS OFFERING
13 AN OPINION ON CRIMINAL RESPONSIBILITY, HE WANTED TO
14 KNOW WHAT CRIMINAL RESPONSIBILITY WAS IN THIS
15 JURISDICTION. HE WANTED TO KNOW HOW THAT WAS
16 DEFINED.

17 AND SO HE INCORPORATES THAT. HE -- HE WAS GIVEN
18 THAT INFORMATION AND INCORPORATES IT IN HIS REPORT AT
19 PAGE SEVEN THAT SAYS, IT IS AN AFFIRMATIVE DEFENSE TO
20 A PROSECUTION FOR A CRIME THAT AT THE TIME OF THE
21 COMMISSION OF THE ACT CONSTITUTING THE OFFENSE THE
22 DEFENDANT AS A RESULT OF MENTAL DISEASE OR DEFECT --
23 AND THERE'S CLEARLY, YOUR HONOR, TESTIMONY THAT
24 MR. STANKO SUFFERS OR HAS THAT -- SUFFERS FROM OR HAS
25 THAT LACK OF CAPACITY TO DISTINGUISH.

1 AND I WAS SPECIFIC IN FRAMING MY QUESTIONS TO
2 THE DOCTOR ABOUT DID HE LACK THE CAPACITY TO
3 DISTINGUISH. AND OF COURSE, THE DOCTOR SAID
4 REPEATEDLY, YES, YES, HE DID AT THE TIME OF THE
5 COMMISSION OF THE ACT CONSTITUTING THE OFFENSE.

6 AND SO SOMETIMES YOU MIGHT COME INTO A SITUATION
7 AND SAY, WELL LOOK, AFTERWARDS THERE WAS SOME
8 EVIDENCE OF INSANITY HERE. BEFORE THERE WAS SOME
9 EVIDENCE OF SANITY.

10 WELL, THERE'S EVIDENCE OF DIMINISHED CAPACITY
11 BEFORE AND AFTER, BUT AT THE TIME OF THE OFFENSE THAT
12 BRINGS US TO COURT THERE WAS NO QUESTION THE DOCTOR
13 WAS VERY CLEAR, YES, HE WAS INSANE, HE MET THAT
14 DEFINITION.

15 AND SO, YOUR HONOR, WITH ALL DUE RESPECT I WOULD
16 SUBMIT AT THIS POINT YOUR HONOR HAS TO REVIEW THE
17 EVIDENCE AND THE INFERENCES DRAWN FROM THAT EVIDENCE
18 AND CONSTRUE IT, CONSTRUE ALL OF THOSE INFERENCES
19 AGAINST THE STATE AT THIS POINT AND IN FAVOR OF THE
20 DEFENSE, AND THAT THE COURT IN THAT INSTANT WOULD
21 ALLOW THIS EVIDENCE TO COME IN BEFORE THE JURY AT THE
22 GUILT PHASE OF THE TRIAL.

23 THANK YOU VERY MUCH, YOUR HONOR. I'D BE HAPPY
24 TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

25 THE COURT: I DON'T HAVE ANY QUESTIONS.

1 ANYTHING FURTHER, MR. HEMBREE?

2 MR. HEMBREE: NO, YOUR HONOR.

3 THE COURT: GENTLEMEN, I WANT TO TAKE THE MATTER
4 UNDER ADVISEMENT. I NEED SOME TIME TO REVIEW MY
5 NOTES AS WELL AS POTENTIALLY -- WELL, I NEED SOME
6 TIME TO REVIEW MY NOTES.

7 I ALSO WANT THE OPPORTUNITY TO REVIEW DR.
8 SACHY'S REPORT ONE LAST TIME IN LIGHT OF HIS ACTUAL
9 TESTIMONY, AND THE COURT WILL RENDER A DECISION IN
10 THE MORNING REGARDING WHETHER THE MOTION IN LIMINE IS
11 GRANTED OR DENIED.

12 I'M GOING TO TALK TO Y'ALL BEFORE YOU LEAVE. IS
13 THERE ANYTHING ELSE? ACTUALLY WE NEED TO DEAL WITH
14 THE ISSUE OF THE PROPOSED VOIR DIRE AND IF THERE ARE
15 ANY EXCEPTIONS TO VOIR DIRE ACTUALLY POSED BY THE
16 COURT.

17 I'M HOPING TO ELIMINATE A LOT OF BACK AND FORTH
18 TOMORROW, AND HOPEFULLY WITH US BEING ON THE SAME
19 PAGE, THAT THE COURT WILL BE ABLE TO DIRECT THAT THAT
20 QUANTITY OF VOIR DIRE AND PROBABLY AS WE DISCUSSED
21 EARLIER WITH THE TYPED QUESTION ELIMINATE PROBABLY A
22 VAT MAJORITY OF THE COURT'S QUESTIONS BUT GIVE THE
23 PARTIES THE ABILITY TO REHABILITATE JURORS IF THEY
24 FEEL THE NECESSITY TO ASK FOLLOW-UP QUESTIONS AS IS
25 PROVIDED BY THE STATUTE.

1 IS THERE ANY EXCEPTION TO THE QUESTIONS AS
2 PROPOSED FROM THE STATE?

3 MR. HEMBREE: NO, YOUR HONOR.

4 THE COURT: FROM THE DEFENSE?

5 MR. DIGGS: NONE, YOUR HONOR.

6 THE COURT: OKAY. WELL THEN WE'RE ALL ON THE
7 SAME PAGE. WONDERFUL.

8 MR. HEMBREE: YOUR HONOR, I DO HAVE ONE
9 HOUSEKEEPING MATTER. I DID NOT MARK THIS BECAUSE WE
10 DIDN'T CALL PAM CRAWFORD AS A WITNESS. WE DID -- HER
11 REPORT THAT WAS SUBMITTED DIRECTLY TO THE COURT. I
12 MEAN, THAT'S HER -- HER REQUIREMENT IS TO SUBMIT THIS
13 REPORT DIRECTLY TO THE COURT.

14 I DON'T KNOW THAT IT WAS MARKED FOR THE RECORD.
15 I'D LIKE TO GO AHEAD AND...

16 THE COURT: I THOUGHT THAT MAYBE HER REPORT WAS
17 MARKED AS A PART OF THE STIPULATION THAT MR. STANKO
18 WAS COMPETENT TO STAND TRIAL.

19 MR. HEMBREE: WE MADE THAT REFERENCE, YOUR
20 HONOR, BUT I'M NOT SURE THAT WE EVER ACTUALLY
21 PHYSICALLY MARKED THE REPORTS.

22 THE COURT: AND I ASSUME THAT WOULD BE THE
23 REPORT THAT WAS PROVIDED TO ME THIS MORNING?

24 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

25 THE COURT: OKAY. I ASSUME THERE'S NO EXCEPTION

1 TO THAT REQUEST.

2 MR. DIGGS: NONE, YOUR HONOR.

3 THE COURT: BE MARKED AND ADMITTED WITHOUT
4 EXCEPTION.

5 MR. HEMBREE: AS A COURT'S EXHIBIT.

6 THE COURT: AS A COURT'S EXHIBIT AS WELL AS THE
7 OTHERS, COURT EXHIBITS, AS THEY WERE ADMITTED FOR THE
8 SOLE PURPOSE OF THE MOTION IN LIMINE.

9 MR. HEMBREE: THANK YOU.

10 (WHEREUPON, COURT'S EXHIBIT 9 WAS ADMITTED INTO
11 EVIDENCE.)

12 THE COURT: CAN YOU ALL THINK OF ANYTHING ELSE
13 THAT WE NEED TO DEAL WITH THIS AFTERNOON PRIOR TO
14 PREPARING FOR THE JURY'S ARRIVAL IN THE MORNING?

15 MR. HEMBREE: YOUR HONOR, I CAN -- I CAN'T THINK
16 OF ANYTHING FROM THE STATE'S PERSPECTIVE.

17 THE COURT: I THINK THAT WE COVERED A GREAT DEAL
18 IN THE STATUS CONFERENCE AND PROBABLY ELIMINATED A
19 LOT OF WHAT WE WOULD HAVE BEEN DEALING WITH NOW. I
20 WAS THINKING ABOUT EXHIBITS, BIT IT'S A LITTLE
21 PREMATURE FOR THAT. MR. DIGGS, CAN YOU THINK OF
22 ANYTHING ELSE WE NEED TO COVER THIS MORNING?

23 MR. DIGGS: NO, YOUR HONOR. THE JURY'S GOING TO
24 COME IN AT 10; IS THAT CORRECT?

25 THE COURT: THAT'S MY UNDERSTANDING. LET ME ASK

1 MRS. ALMA.

2 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

3 THE COURT: THEY ARE COMING IN AT 10.

4 MR. DIGGS: WHAT TIME WOULD YOU LIKE THE
5 ATTORNEYS HERE?

6 THE COURT: WHATEVER TIME IS GOOD FOR YOU ALL,
7 AS LONG AS YOU ARE PROMPTLY HERE AT 10. OH, YOU ALL,
8 I'M SO SORRY. WE HAD SUCH A LONG, INTENSE DAY. I
9 APOLOGIZE. I NEED TO RULE ON THE MOTION.

10 SO I WOULD ASSUME -- I WOULD -- YOU ALL BE HERE
11 AT 9:30, AND THEN WE CAN DISPOSE OF THAT. THAT GIVES
12 US A 30 MINUTE WINDOW TO DEAL WITH THAT AND THEN YOU
13 ALL WILL BE IN A POSITION TO WAIT ON THE JURY TO
14 ARRIVE AND THEN WE WILL CONDUCT QUALIFICATIONS AND
15 INDIVIDUAL VOIR DIRE.

16 AND I SHARED WITH YOU ALL THAT WE HAD
17 PREPARED -- MY STAFF PREPARED THE JURY PANEL SHEETS
18 FOR THE CLERK'S OFFICE. WE WILL SHARE THOSE, BUT
19 THEY ARE VERY BASIC. THEY JUST PROVIDE FOR PANELS OF
20 FOUR COMING IN STAGGERED TIMES.

21 I ASSUME THAT THE MORNING WOULD BE PREOCCUPIED
22 TOMORROW WITH QUALIFICATION AND THAT WE WOULD NOT
23 START INDIVIDUAL VOIR DIRE UNTIL 2:00. SO THAT IS
24 WHAT -- AND IF WE RUN BEYOND THAT, IF WE'RE NOT ABLE,
25 WE WILL JUST ELIMINATE THE 2:00 TIME SLOT.

1 BUT BEING ROUGHLY SURE, I'M GOING TO GIVE
2 EVERYBODY TIME TO GET LUNCH AND GET REFRESHED BEFORE
3 WE BEGIN THAT PROCESS. AND THEN I HAVE IT STAGGERED
4 FOR WEDNESDAY AND THURSDAY COMING IN AT NINE AT ONE
5 HOUR INTERVALS WITH A BREAK FOR LUNCH AND THEN ONE
6 HOUR INTERVALS BEGINNING AT TWO.

7 AND AS I UNDERSTAND IT, YOU ALL DID NOT WAIVE
8 THE REQUIREMENT OF THE BLIND PERSON OR A CHILD TO DO
9 THAT RANDOM SELECTION, AND I WILL ASSUME THAT ALMA
10 HAS MADE A PROVISION FOR THAT. SO WE'LL BE IN GOOD
11 SHAPE IN THE MORNING.

12 OKAY? IS THERE ANYTHING ELSE BEFORE WE ADJOURN
13 FOR THE EVENING, FOR THE AFTERNOON?

14 MR. HEMBREE: NOTHING FROM THE STATE.

15 MR. DIGGS: NOTHING FROM THE DEFENSE.

16 THE COURT: OKAY. WE WILL BE IN RECESS.

17 (WHEREUPON THERE WAS A PAUSE.)

18 THE COURT: WE HAVE SOME LATE QUESTIONNAIRES.
19 WE HAD SOME LATE QUESTIONNAIRES AND SOME ADDITIONAL
20 JURORS WHO ARE REQUESTING TO BE EXCUSED, AND SO I
21 WANTED TO -- IF WE COULD GO THROUGH THAT BEFORE YOU
22 ALL LEAVE SO THAT THE CLERK CAN IN FACT EXCUSE THOSE
23 PEOPLE WITHOUT THEM COMING UP HERE IN THE MORNING TO
24 SAVE THEM JUST THE EXPENSE OF THAT TIME. AND WE'LL
25 DO THAT RIGHT NOW. I WILL COME DOWN..

1 MR. KELLY: MA'AM? EXCUSE ME. WE WILL NEED THE
2 DEFENDANT.

3 THE COURT: OH, YES. I'M ASSURING YOU ALL HAVE
4 A LIST AND THEY ARE GOING TO GO GET MR. STANKO.

5 (WHEREUPON THERE WAS A PAUSE.)

6 (WHEREUPON, COURT'S EXHIBITS 1-9 WERE ADMITTED
7 INTO EVIDENCE.)

8 THE COURT: THIS IS -- I HAVE A LETTER FROM HIS
9 EMPLOYER INDICATING THAT HE IS CURRENTLY WORKING IN
10 CALIFORNIA. HIS ASSIGNMENT IS EXPECTED TO LAST 12
11 MONTHS. IT LOOKS LIKE THEY LOANED HIM TO ANOTHER
12 CONTRACTING COMPANY.

13 AND IT SAID THE GEOGRAPHIC HARDSHIP WILL WORK --
14 GEOGRAPHICALLY IT WILL WORK A HARDSHIP. IS THERE ANY
15 EXCEPTION TO DISMISSING HIM?

16 MR. HEMBREE: NO, YOUR HONOR. BE EXCUSED.

17 THE COURT: EXCUSED RATHER. SORRY. THANK YOU.
18 FIFTY-EIGHT WILL BE EXCUSED. NUMBER 10? BASICALLY
19 THIS JUROR HAS A SEASONAL BUSINESS AND A 10 YEAR OLD
20 WHO IS OUT ON SUMMER VACATION AND SHE INDICATES THAT
21 THIS IS HER BUSIEST TIME OF THE YEAR AND IF HE
22 DOESN'T -- IS NOT ABLE TO WORK NOW, SHE WON'T BE ABLE
23 TO MAKE HER BILLS IN THE MONTHS IN THE OFF-SEASON OR
24 THE WINTER. ANY EXCEPTION TO EXCUSING HER?

25 MR. DIGGS: NO, YOUR HONOR. I KNOW THOSE

1 PEOPLE. I KNOW.

2 THE COURT: ALSTONS? ANY OBJECTION.

3 MR. HEMBREE: NO OBJECTION.

4 THE COURT: ANY OBJECTION FROM THE STATE? SHE
5 WILL BE EXCUSED. TRANSFERRED. WHEN I SAID EXCUSED,
6 I MEANT TRANSFERRED. I MEAN EXCUSED FOR NOW BUT
7 TRANSFERRED TO...

8 OKAY. NUMBER 192. I'M -- BASICALLY HE JUST HAS
9 A LETTER FROM HIS EMPLOYER INDICATING HE STARTED
10 WORKING ON JULY 17TH AND HE'S ASKING TO BE EXCUSED ON
11 THAT BASIS. I REALLY DON'T THINK THAT'S A BASIS TO
12 EXCUSE HIM.

13 MR. HEMBREE: I AGREE.

14 THE COURT: YEAH. I THINK HE WILL REMAIN WITH
15 US. ANY EXCEPTION FROM THE DEFENSE?

16 MR. DIGGS: WE DON'T HAVE ANY EXCEPTION.

17 THE COURT: TELL HIM HE NEEDS TO BE HERE.

18 NUMBER 210. BASICALLY HE WORKS FOR AN HVAC COMPANY
19 AND HE INDICATES THAT HE'S SHORTHANDED AND THIS IS
20 HIS BUSIEST TIME OF THE YEAR AND COULD WE TRANSFER
21 HIM.

22 MR. HEMBREE: NO OBJECTION. HE SEEMS TO BE
23 SITUATED IN THE SAME POSITION AS AUSTIN.

24 THE COURT: THAT'S WHAT I WAS THINKING. ANY
25 EXCEPTION FROM THE DEFENSE?

1 MR. DIGGS: NONE, YOUR HONOR.

2 THE COURT: OKAY. HE WILL BE TRANSFERRED.
3 NUMBER 304. THIS PERSON WORKS FOR A MOTORCYCLE
4 COMPANY AND INDICATES THAT THEY HAVE A VERY IMPORTANT
5 MEETING IN FLORIDA AND AT THIS MEETING THEY ORDER
6 THEIR ENTIRE INVENTORY FOR THE YEAR.

7 MR. HEMBREE: WHEN IS THE MEETING?

8 THE COURT: IT JUST SAYS -- DOESN'T SAY.
9 DOESN'T TELL ME. MAYBE -- 7-30. THEY HAVE ALREADY
10 LEFT. WELL, NO. NO. WELL, SAYS ARRIVAL DATE 7-30,
11 DEPARTURE EIGHT-TWO. THAT'S RIGHT IN THE MIDDLE OF
12 EVERYTHING. IT LOOKS LIKE THEY WOULD HAVE ALREADY
13 LEFT.

14 MR. HEMBREE: THEY DIDN'T WAIT FOR US; DID THEY?

15 THE COURT: NO. I'M WONDERING HOW MUCH ORDERING
16 THEY HAVE ALREADY DONE. IT'S PROBABLY VENDORS AND
17 STUFF.

18 MR. HEMBREE: NOT GOING TO BE HERE TOMORROW.
19 TRANSFER HIM.

20 THE COURT: YEAH. ANY EXCEPTION?

21 MR. DIGGS: NO, YOUR HONOR.

22 THE COURT: THIS IS BASICALLY A PERSON THAT
23 WORKS FOR A TRUCKING COMPANY AND THEY SAID TO REQUIRE
24 HIM TO BE HERE WOULD WORK AN UNDUE HARDSHIP.
25 EVERYBODY HAS THAT HARDSHIP. THAT'S ALWAYS GOING TO

1 BE A PROBLEM BASICALLY IS THE WAY I PERCEIVE IT.

2 ANY EXCEPTION TO US KEEPING HIM? I MEAN KEEPING
3 HIM AT LEAST FOR THE TIME BEING.

4 MR. HUMPHRIES: WE KEPT THE OTHER TRUCKER.

5 THE COURT: YEAH. HE NEEDS TO COME TO THE
6 COURTHOUSE. NUMBER 380. MY PERCEPTION OF THIS IS
7 THAT THEY HAD THIS FOR OVER A MONTH AND THEY COULD
8 HAVE ALREADY MADE ARRANGEMENTS.

9 THIS GENTLEMAN WORKS IN THE RADIOLOGY DEPARTMENT
10 OF THE HOSPITAL. THEY SAY HE'S ON CALL 365 DAYS OF
11 THE YEAR. THAT'S ALWAYS GOING TO BE A PROBLEM AND
12 TRANSFER GOING TO STILL BE A PROBLEM.

13 IT'S BEEN A MONTH AND THEY COULD HAVE ALREADY
14 MADE ALTERNATIVE ARRANGEMENTS FOR HIM AS FAR AS I'M
15 CONCERNED, SO HE WILL -- TELL HIM HE NEEDS TO BE
16 HERE. BUT THEY HAD A MONTH TO HAVE SOMEBODY ELSE
17 COME IN IF THEY NEEDED TO. ANY EXCEPTION FROM THE
18 DEFENSE?

19 MR. DIGGS: NONE.

20 THE CLERK: THE LAST ONE ON THAT SHEET DIDN'T
21 SEND ANYTHING.

22 THE COURT: TELL THEM TO BE HERE -- WROTE A
23 LETTER OR I WOULDN'T HAVE EXCUSED HER. ANY EXCEPTION
24 FROM THE STATE?

25 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

1 MR. DIGGS: NONE.

2 THE CLERK: THE NEXT ONE IS SCHOOL.

3 THE COURT: WHEN DOES GEORGETOWN SCHOOLS START?
4 SCHOOL YEAR START?

5 THE CLERK: TEACHERS GO TO WORK ON THE TENTH AND
6 THE STUDENTS RETURN ON THE 17TH, I BELIEVE.

7 THE COURT: OKAY. THE FIRST IS A SCHOOL
8 TEACHER. ANY EXCEPTION TO TRANSFERRING HER?

9 MR. HEMBREE: NONE, YOUR HONOR.

10 THE COURT: THAT WOULD BE IN THE MIDDLE OF
11 EVERYTHING. OKAY. WHAT IS SS -- DATA ENTRY.

12 THE CLERK: YEAH, SOME KIND OF SYSTEMS
13 SOMETHING, THEY...

14 THE COURT: WHEN IS REGISTRATION?

15 THE CLERK: THEY HELP THE GUIDANCE COUNSELORS
16 WITH THE REGISTRATION.

17 THE COURT: SO WHAT DAY IS REGISTRATION?

18 THE CLERK: THE SECOND.

19 THE COURT: THE SECOND OF AUGUST? OKAY. ANY
20 EXCEPTION TO HER BEING TRANSFERRED?

21 MR. HEMBREE: NO, YOUR HONOR. NONE FROM THE
22 STATE.

23 MR. DIGGS: NO, MA'AM.

24 THE COURT: OKAY. SHE WILL BE TRANSFERRED. THE
25 THIRD IS A LIBRARIAN AT SCHOOL. SAYS SEE LETTER

1 ATTACHED.

2 THE CLERK: SHE DID SEND A LETTER.

3 THE COURT: ACTUALLY SHE WON AN ESSAY CONTEST
4 WHICH ALLOWED HER SCHOOL TO WIN A PROJECTOR AND A
5 LAPTOP, AND SO SHE HAS TO BE IN ATTENDANCE AT SOME
6 WORKSHOPS TO TEACH EVERYBODY ELSE HOW TO USE THEM.

7 (OFF THE RECORD DISCUSSION.)

8 THE COURT: SCHOOL LIBRARIAN, 700 CHILDREN. I
9 DO FEEL GUILT IN NOT WANTING -- HAS SHE EVER BEEN
10 TRANSFERRED BEFORE? SHE'S ALREADY KIND OF INDICATED
11 A PREDISPOSITION, TOO, WHICH IS STARTING TO CONCERN
12 ME. SHE STARTS TALKING ABOUT -- OH, AND HER
13 DOCTORATE DISSERTATION IS ALSO IN FINAL REVIEW DURING
14 THE TIME OF TRIAL.

15 I THINK WE PROBABLY -- THE THING THAT CONCERNS
16 ME IS SHE IS A JUROR NUMBER TWO, AND SHE INDICATES A
17 KNOWLEDGE OF THE FACTS OF THE CASE.

18 MR. HUMPHRIES: SHE'S A LIBRARIAN.

19 THE COURT: AND THAT CONCERNS ME. AND A
20 PREDISPOSITION -- I THINK WE PROBABLY NEED TO. I
21 THINK WE SHOULD TRANSFER HER. YOU ALL ARE WELCOME TO
22 LOOK AT THIS LATER, BUT SHE DOESN'T -- SHE GIVES A
23 WHOLE PARAGRAPH TO HER VERSION OF WHAT SHE BELIEVES
24 THE FACTS ARE AND THEN TALKS ABOUT WHY YOU TAKE A
25 LIFE -- MAYBE AN EXPERT WITNESS.

1 OH, MY. OH, MY. EXCUSE -- Y'ALL MIGHT WANT TO
2 READ THAT LETTER. YOU MIGHT FIND IT INTERESTING.

3 THE CLERK: NOW, JUROR NUMBER 243 DID NOT SIGN
4 ANY KIND OF AFFIDAVIT ABOUT THE CHILDREN... SHE'S GOT
5 EVERYTHING LISTED ON THERE.

6 THE COURT: WELL, SHE WORKS.

7 THE CLERK: NO, SHE'S A HOMEMAKER.

8 THE COURT: WELL, NO. I REMEMBERED -- FAMILY
9 WORK.

10 THE CLERK: THE KIDS ARE FOUR TO SIX, AND SHE'S
11 HOMEMAKER.

12 THE COURT: THEY BOTH GO TO KINDERGARTEN THEN;
13 DON'T THEY?

14 MR. HUMPHRIES: NOT NECESSARILY ON THE FOUR YEAR
15 OLD.

16 THE COURT: IT'S NOT MANDATORY? MOST PEOPLE
17 DON'T SEND THEIR KIDS TO FOUR YEAR OLD KINDERGARTEN?

18 MR. HUMPHRIES: WE SEND OURS TO PRESCHOOL,
19 BUT...

20 THE COURT: SIX YEAR OLD GOES TO SCHOOL.

21 MR. HUMPHRIES: WELL, THEY DON'T GO TO SCHOOL
22 YET.

23 THE COURT: I THINK SHE NEEDS TO COME AND THEN
24 WE WILL DEAL WITH HAVING HER SIGN THE AFFIDAVIT
25 BECAUSE SHE NEEDS TO UNDER OATH TELL ME THAT THAT'S

1 IN FACT HER SITUATION. IS THERE ANY EXCEPTION TO
2 THAT FROM THE STATE?

3 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

4 THE COURT: FROM THE DEFENSE?

5 MR. DIGGS: NONE.

6 THE COURT: 354.

7 THE CLERK: THIS SAME WITH THIS ONE. I THINK
8 SHE'S GOT A -- SHE'S UNEMPLOYED AND HAS A CHILD --
9 ONE YEAR OLD OR UNDER SOMETHING LIKE THAT ON THERE.

10 THE COURT: OKAY. SHE HAS A ONE YEAR OLD.
11 OKAY. IT'S THE SAME. SHE'LL NEED TO COME UP AND AT
12 THAT PART OF THE -- THAT PART OF THE QUALIFICATION
13 SHE CAN DO THE AFFIDAVIT AND WE CAN EXCUSE HER. ANY
14 EXCEPTION FROM THE STATE?

15 MR. HEMBREE: NONE FROM THE STATE.

16 THE COURT: FROM THE DEFENSE?

17 MR. DIGGS: NONE, YOUR HONOR.

18 THE COURT: OKAY. 165 HAS A ONE YEAR OLD, SAME,
19 THAT SHE'LL NEED TO COME UP. WE WILL TAKE CARE OF
20 HER DURING QUALIFICATION. ANY EXCEPTION FROM THE
21 STATE?

22 MR. HEMBREE: NONE, YOUR HONOR.

23 THE COURT: FROM THE DEFENSE?

24 MR. DIGGS: NONE, YOUR HONOR.

25 THE COURT: OKAY. MEDICAL. WHAT WAS YOUR

1 JUDGMENT ABOUT THIS PHYSICAL PROBLEM? DID HE LOOK
2 LIKE HE WAS IN PAIN OR INCAPACITATED?

3 THE CLERK: I THINK IT WAS -- BASICALLY I THINK
4 IT WAS OTHERWISE, BUT...

5 THE COURT: GIVE US YOUR HONEST OPINION.

6 THE CLERK: I WILL LET YOU SIZE HIM UP.

7 THE COURT: YOU THINK I NEED TO TAKE A LOOK AT
8 HIM AND TALK TO HIM?

9 THE CLERK: YEAH, YOU CAN TALK TO HIM.

10 THE COURT: OKAY. ISN'T SHE A DIPLOMAT? SHE'S
11 A POLITICIAN.

12 (OFF THE RECORD DISCUSSION WAS HAD.)

13 THE COURT: TELL HIM HE NEEDS TO COME AND WE'LL
14 TALK TO HIM. ANY EXCEPTION FROM THE STATE?

15 MR. HEMBREE: NONE, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. DIGGS: NO, YOUR HONOR.

18 THE COURT: OKAY. 396. TO THE BACK. PATIENT
19 IS UNABLE TO STAND. HE HADN'T HAD HIS SURGERY YET,
20 HAS HE? HE HAD IT ALREADY. AND HE CANNOT STAND FOR
21 SIX TO NINE MONTHS. RIGHT TIBULA FIBULA -- IS THAT
22 WHAT THAT LOOKS LIKE TO YOU? T-I-B-F-I-B-E-A.

23 MR. HUMPHRIES: THAT'S A BREAK IN THE TIBULA AND
24 FIBULA.

25 THE COURT: YEAH. LOOKS LIKE. AND HE HAD

1 SURGERY.

2 THE CLERK: HE HAD A BROKEN LEG IN THREE PLACES.

3 THE COURT: SOUNDS PAINFUL. SAYS HE CAN'T STAND
4 FOR SIX TO NINE MONTHS. HE BROUGHT IT UP HERE?

5 THE CLERK: HE CAME IN AND HAD HIS FOOT IN A
6 BRACE. I TOLD HIM THE SAME THING YOU TOLD ME. I
7 DON'T HAVE ANYTHING TO DO -- THE JUDGE SAID Y'ALL GOT
8 TO DEAL WITH HER. STARTED CURSING AT ME -- HE HAD TO
9 COME UP HERE ANOTHER...

10 THE COURT: SO HE WAS ABLE TO WALK?

11 DEPUTY CLERK: NO, HE HOPPED IN. HE DID, HE
12 HOPPED IN.

13 THE COURT: WAS HE ON CRUTCHES?

14 DEPUTY CLERK: NO, HE WAS JUST HOPPING.

15 THE COURT: DID HE DRIVE?

16 DEPUTY CLERK: I DON'T KNOW IF HE DROVE...

17 THE COURT: OR SOMEBODY DROPPED HIM OFF?

18 DEPUTY CLERK: APPARENTLY BECAUSE HE WAS
19 HOPPING.

20 THE COURT: I WILL LEAVE IT UP TO Y'ALL.

21 MR. HEMBREE: IF WE WEREN'T SEQUESTERING THE
22 JURY, I'D SAY...

23 THE COURT: THAT IS SOME KIND OF TROUBLE. YEAH.
24 HE MAY NEED MEDICAL TREATMENT. YEAH, THAT'S TRUE. DO
25 Y'ALL HAVE ANY OBJECTION TO TRANSFERRING HIM?

1 MR. DIGGS: NO, YOUR HONOR.

2 THE COURT: WHY DON'T Y'ALL TRANSFER HIM FOR AT
3 LEAST SIX TO NINE MONTHS OUT SO HIS LEG CAN GET
4 HEALED.

5 YEAH, THAT PERSON LEGITIMATELY HAD AN ANEURISM.
6 SHE'LL TAKE NINE MONTHS CONVALESCENCE. ANY EXCEPTION
7 TO TRANSFERRING?

8 MR. HEMBREE: NO EXCEPTION FROM THE STATE.

9 MR. DIGGS: NO.

10 THE COURT: GOOD. THAT TAKES CARE OF EVERYONE.
11 OH, ACTUALLY I GOT THIS NUMBER 258 LEFT A NOTE WITH
12 THE CLERK'S OFFICE, THAT SHE'S SICK, SHE HAS MY A
13 MIGRAINE, LUPUS AND FIBROMYALGIA.

14 MR. HUMPHRIES: THAT'S 251?

15 THE COURT: FIFTY-EIGHT.

16 THE CLERK: THAT NOTE CAME IN HERE WHILE WE WERE
17 IN HERE.

18 THE COURT: I THINK SHE NEEDS TO COME UP HERE.

19 MR. HEMBREE: SHE NEEDS A DOCTOR'S EXCUSE ANY
20 WAY.

21 THE COURT: YEAH. TELL HER SHE NEEDS TO COME
22 AND THAT SHE NEEDS TO BRING DOCTOR, A WRITTEN
23 DOCTOR'S EXCUSE WITH HER. IS THAT EVERYTHING? YOU
24 CAN COVER IT ALL?

25 THE CLERK: UH-HUH. I JUST GOT A QUESTION FOR

1 YOU: WHEN Y'ALL LEFT THE LAST TIME, Y'ALL HAD MY
2 STAFF TO MAKE COPIES AND--

3 THE COURT: THE QUESTIONNAIRES?

4 THE CLERK: RIGHT. SO Y'ALL WANT ME TO MAKE
5 COPY OF THOSE TOMORROW MORNING?

6 MR. HEMBREE: PLEASE DO.

7 MR. HUMPHRIES: PLEASE. THE ONES THAT ARE
8 COMING IN.

9 THE COURT: AND WHAT SHE'S INDICATED TO ME IS --
10 HOW MANY ARE YOU MISSING? YOU SAID 30? NO, 20.
11 WHICH I THINK IS EXCELLENT ALL THINGS CONSIDERED.
12 NOW, ONE OF THE FIRST THINGS I'M GOING TO ASK IN THE
13 MORNING I WHO HAS NOT COMPLETED -- BEFORE I EVEN GET
14 STARTED, I'M GOING TO FIND OUT WHO HAS NOT COMPLETED
15 THEIR QUESTIONNAIRE, AND WE HAVE A ROOM FOR THEM TO
16 DO THAT?

17 THE CLERK: YEAH. WELL...

18 MR. HEMBREE: LIBRARY.

19 THE COURT: AND LET THEM -- AND SO THAT WE CAN
20 GO AHEAD AND GET THE COPIES DONE BEFORE WE REALLY GET
21 INTO THE PROCESS.

22 THE CLERK: AND IF YOU WILL CONSIDER, JUDGE, THE
23 ONES WITH THE KIDS, BECAUSE I ALREADY KNOW -- I KNOW
24 WHAT THEY DO. THEY'RE GOING TO BRING THE KIDS UP
25 WITH THEM. AND IF WE DON'T GET THEM OUT OF THE WAY

1 OFF THE BAT...

2 THE COURT: WELL, I'M GOING TO -- THAT FIRST
3 PART OF JURY QUALIFICATION, EXCEPTIONS AND
4 QUALIFICATIONS. SO WE'LL DEAL WITH THAT.

5 MR. HUMPHRIES: IS THE COURTROOM GOING TO BE
6 SECURE OVER THE EVENING?

7 THE CLERK: YEAH.

8 MR. HUMPHRIES: I WAS GOING TO LEAVE SOME STUFF.

9 THE COURT: THEY ARE SEARCHING IT EVERY MORNING
10 WITH THE BOMB DOG. THEY'RE SEARCHING THE COURTHOUSE
11 EVERY MORNING WITH THE BOMB DOG AND AT OTHER
12 INTERVALS TO MAKE SURE THAT EVERYTHING IS SAFE AND AS
13 IT SHOULD.

14 THEN I'LL CHAT WITH Y'ALL IN JUST A SECOND, AND
15 THEN WHAT I'M GOING TO DO...

16 (OFF THE RECORD DISCUSSION WAS HAD.)

17 (WHEREUPON COURT WAS IN RECESS FOR THE EVENING.)

18 **** AUGUST 1, 2006 ****

19 THE COURT: LADIES AND GENTLEMEN, WE APPRECIATE
20 YOUR PATIENCE. WE KNOW THERE HAS BEEN SOME DELAY. I
21 UNDERSTAND WITH THE ADDITIONAL NOW PEOPLE PRESENT IN
22 THE DOWNTOWN AREA THERE WAS SOME DELAY IN GETTING --
23 SOME OF YOUR MEMBERS GETTING LUNCH, AND SO WE ARE
24 WAITING FOR EVERYONE TO RETURN FROM THE LUNCHEON
25 RECESS BECAUSE I COULD NOT HAVE ANYONE ABSENT FOR THE

1 QUESTIONING ESPECIALLY AFTER HAVING COME THIS FAR IN
2 QUESTIONING.

3 CAN THE BAILIFFS CONFIRM FOR ME THAT EVERYONE IS
4 PRESENT? WE ARE STILL SHORT TWO. CAN YOU TELL ME
5 THE TWO WE'RE SHORT?

6 THE CLERK: CALL THE ROLL...

7 BAILIFF: MISSING TWO.

8 THE COURT: DO YOU KNOW WHICH NUMBERS OR YOU
9 JUST COUNTED AGAINST THE NUMBERS?

10 THE CLERK: CAN YOU ASK IF NEIGHBOR -- WELL THEY
11 WOULDN'T KNOW. LADIES AND GENTLEMEN, IF YOU CAN
12 INDULGE US FOR PURPOSES OF THE RECORD WE ARE GOING TO
13 HAVE TO CALL TO ENSURE WHO IS NOT PRESENT BECAUSE I'M
14 GOING TO HAVE TO SEND SOMEONE TO PICK THEM UP SO IF
15 YOU COULD INDULGE US WE'D APPRECIATE IT. MADAM
16 CLERK, YOU CAN PROCEED.

17 (JURY ROLL CALL WAS CONDUCTED.)

18 THE COURT: LADIES AND GENTLEMEN, AGAIN WE
19 APPRECIATE YOUR PATIENCE. AS I INDICATED, THIS JURY
20 PROCESS IS DONE IN SEVERAL PARTS. AT THE CONCLUSION
21 OF THIS PROCESS WE WILL IMPANEL A JURY THAT IS
22 CAPABLE OF LISTENING TO THE TESTIMONY AND THE
23 EVIDENCE THAT WILL BE PRESENTED DURING THE COURSE OF
24 THIS TRIAL, CAPABLE OF ACTING AS FACT FINDERS IN BOTH
25 LISTENING TO THE TESTIMONY AND EVIDENCE, CAPABLE OF

1 APPLYING TO THE TESTIMONY THE LAW AND BEING CAPABLE
2 OF LISTENING TO THE INSTRUCTIONS AND RETURNING A FAIR
3 AND JUST VERDICT AND A RECOMMENDATION OF SENTENCE IF
4 APPROPRIATE.

5 LADIES AND GENTLEMEN, A QUALIFIED JUROR IS ONE
6 WHO WILL CONSCIENTIOUSLY APPLY THE LAW AND FIND THE
7 FACTS.

8 A QUALIFIED JUROR IS ONE WHO IS CAPABLE OF
9 RETURNING A VERDICT AND A RECOMMENDATION OF SENTENCE
10 BASED ON THE EVIDENCE AND THE LAW. A QUALIFIED JUROR
11 IS ONE CAPABLE OF SETTING ASIDE HIS OR HER OPINION
12 AND DECIDING A MATTER BASED UPON THE LAW AND THE
13 EVIDENCE.

14 A JUROR IS NOT QUALIFIED IF THE JUROR'S VIEW
15 WOULD PREVENT OR SUBSTANTIALLY IMPAIR THE PERFORMANCE
16 OF HIS OR HER DUTIES AS A JUROR IN ACCORDANCE WITH
17 THE OATH OF A JUROR AND THE INSTRUCTIONS OF THE
18 COURT.

19 AND AS I INDICATED, THERE IS A SECOND SET OF
20 QUESTIONS PRECEDING THE LAST INDIVIDUAL -- LAST SET
21 OF QUESTIONS WHICH IS THE INDIVIDUAL QUESTIONING BY
22 THE COURT THAT WE WILL GO THROUGH THIS AFTERNOON
23 AFTER WHICH WE WILL LET EACH OF YOU KNOW WHICH PANELS
24 YOU ARE ON AND WHEN YOU WILL BE REPORTING BACK TO THE
25 COURT FOR INDIVIDUAL QUESTIONING.

1 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS
2 RELATED BY BLOOD OR MARRIAGE TO OR WHO HAS A CLOSE
3 PERSONAL, SOCIAL OR BUSINESS RELATIONSHIP WITH STEVEN
4 CHRISTOPHER STANKO, LAURA LING, OR CHRISTINA LING.
5 IF SO, PLEASE STAND AT THIS TIME.

6 I NEED FOR YOU TO PROVIDE ME WITH THE FOLLOWING
7 INFORMATION, AND REMAIN STANDING, YOUR NAME AND YOUR
8 JUROR NUMBER AND WHAT THE NATURE OF YOUR RELATIONSHIP
9 IS AND TO WHICH PARTY. I DON'T WANT YOU, HOWEVER, TO
10 GET INTO ANY GREATER DETAIL THAN THAT BECAUSE IT IS
11 NOT NECESSARY FOR ME TO MAKE MY DETERMINATION. I
12 WILL START OVER HERE. YES, SIR.

13 *JUROR:* JUROR NUMBER 99, WALLACE FORD. THE
14 FAMILY THAT CHRISTINA LING LIVES WITH RIGHT NOW ARE
15 GOOD FRIENDS OF OURS, AND I'VE MET HER AND HAVE KNOWN
16 HER THROUGH THEM.

17 *THE COURT:* WOULD YOU CONSIDER YOURSELF A FRIEND
18 OF HERS OR AN ACQUAINTANCE?

19 *JUROR:* MORE OF AN ACQUAINTANCE.

20 *THE COURT:* AS A RESULT -- WELL, I NEED YOU TO
21 REMAIN STANDING FOR ME. YES, SIR.

22 *JUROR:* I WORK AT FORD--

23 *THE COURT:* I NEED YOU TO GIVE ME YOUR NAME AND
24 YOUR JUROR NUMBER.

25 *JUROR:* EIGHTY-THREE, FRASER DREW.

1 THE COURT: YES, SIR.

2 JUROR: THE CAR THAT WAS INVOLVED, ACTUALLY
3 BROUGHT TO OUR DEALERSHIP AND OF COURSE BEING WHO WE
4 ARE, WE WENT TO LOOK AT IT AND EVERYTHING. CHRISTINE
5 HAD BEEN IN THE DEALERSHIP MULTIPLE TIMES, HAD
6 MULTIPLE CONVERSATIONS WITH HER. NOT ABOUT THIS.

7 THE COURT: YOU WOULD SAY THAT YOU HAVE A
8 BUSINESS RELATIONSHIP--

9 JUROR: NOT REALLY A BUSINESS RELATIONSHIP. SHE
10 COMES IN FOR SERVICE AND WE MET EACH OTHER AFTER THIS
11 HAPPENED ACTUALLY. AND WHEN SHE COMES IN, WE JUST
12 TALK. I MEAN, IF I SAW HER IN GROCERY STORE, SHE'D
13 SAY, HEY, HOW ARE YOU DOING, AND I'D SAY THE SAME
14 THING.

15 THE COURT: IF YOU WOULD REMAIN STANDING FOR ME.
16 YES, MA'AM.

17 JUROR: YES. JUROR 351, SUSAN WHITE. I HAVE A
18 RELATIONSHIP WITH THE FAMILY CHRISTINA LING LIVES
19 WITH. AND I BABYSAT FOR HER ABOUT A YEAR AGO.

20 THE COURT: YOU DID WHAT A YEAR AGO?

21 JUROR: I BABY SAT IN THAT HOME A YEAR AGO AND
22 SHE WAS THERE.

23 THE COURT: OKAY. HAVE YOU SEEN HER SINCE THEN?

24 JUROR: YES.

25 THE COURT: OKAY. HOW OFTEN WOULD YOU SAY YOU

1 HAVE SEEN HER?

2 JUROR: WHEN THEY NEED A HOUSEKEEPER, THEY CALL
3 ME EVERY NOW AND THEN AND I WOULD SEE HER.

4 THE COURT: SO ONCE A YEAR, TWICE A YEAR?

5 JUROR: NO, ONE TIME -- MAYBE ONE TIME -- I
6 GUESS EVERY TWO WEEKS.

7 THE COURT: AND WHEN WAS THE LAST TIME YOU WERE
8 THERE?

9 JUROR: ABOUT MONDAY. MONDAY I WENT OVER, BUT
10 SHE WAS NOT THERE.

11 THE COURT: OKAY. WHEN WAS THE LAST TIME YOU
12 WERE THERE WHEN SHE WAS PHYSICALLY IN THE RESIDENCE?

13 JUROR: SHE WAS THERE THE LAST WEEK OF SCHOOL I
14 HAVE SEEN.

15 THE COURT: YES, SIR?

16 JUROR: JUROR 275, DANNY ROBERTS. AND I WAS
17 CLOSE FRIENDS WITH THE LING'S HUSBAND AND FATHER,
18 BEEN IN BUSINESS WITH HIM.

19 THE COURT: WITH MS. LING'S HUSBAND AND FATHER?

20 JUROR: HUSBAND AND FATHER.

21 THE COURT: HUSBAND AND FATHER. I'M SORRY.
22 WHEN WAS THE LAST TIME YOU WOULD ESTIMATE YOU SAW
23 THEM?

24 JUROR: IT'S BEEN PROBABLY FIVE, SIX YEARS.

25 THE COURT: AND -- OKAY. IF YOU'D REMAIN

1 STANDING. YES, MA'AM?

2 *JUROR:* JUROR NUMBER 392, ROBIN POSTON. I WAS
3 FRIENDS WITH LAURA LING AND HER FORMER HUSBAND CHRIS
4 LING HERE IN GEORGETOWN. WE HAVE LUNCH NUMEROUS
5 TIMES AT ALL...

6 *THE COURT:* HOW WOULD YOU CHARACTERIZE YOUR
7 RELATIONSHIP WITH THEM?

8 *JUROR:* WE WERE FRIENDS.

9 *THE COURT:* OKAY. CLOSE FRIENDS OR MORE LIKE
10 ACQUAINTANCES?

11 *JUROR:* WE SPOKE WHEN WE SAW EACH OTHER. HE
12 ANNOUNCED FOR FOOTBALL GAMES THAT MY HUSBAND WAS -- A
13 DEFENSE COORDINATOR FOR GEORGETOWN, SO I SAW HIM
14 ROUTINELY AT THOSE GAMES AND WE TALKED ABOUT JUST
15 TEAM, THE GAME, AND, YOU KNOW, NORMAL CONVERSATIONS.

16 *THE COURT:* WHEN WAS THE LAST TIME YOU'D
17 ESTIMATE YOU SAW HER OR HIM?

18 *JUROR:* WHEN THEY WERE IN GEORGETOWN, AND I DO
19 NOT RECALL, IT'S--

20 *THE COURT:* MORE THAN ONE YEAR?

21 *JUROR:* MORE THAN ONE YEAR.

22 *THE COURT:* MORE THAN THREE YEARS?

23 *JUROR:* I WOULD -- I THINK SO, BUT I -- IT'S
24 HARD FOR ME TO REMEMBER TO JUDGE THAT TIMEFRAME.

25 *THE COURT:* OKAY. IF I WERE TO SAY BETWEEN

1 THREE TO FIVE YEARS, WOULD THAT BE ACCURATE?

2 JUROR: THAT WOULD BE ACCURATE.

3 THE COURT: IF YOU WOULD REMAIN STANDING. YES,
4 MA'AM?

5 JUROR: JUROR 249. AND CHRIS LING COACHED MY
6 SON -- ON MY SON'S TEAM WHEN HE WAS YOUNGER AND
7 CHRISTINA'S NOW -- HAD SOME MUTUAL FRIENDS WHOM I'VE
8 TEACH AND SEEN HER AT SCHOOL AND ALL, AND I -- I JUST
9 DON'T IF KNOW IF I 'M APPROPRIATE.

10 THE COURT: WELL, I'M GOING TO ASK ANOTHER
11 QUESTION. I JUST NEED YOU FOR TO TELL ME THE NATURE
12 OF THE RELATIONSHIP.

13 JUROR: PROBABLY CASUAL, OLD FRIEND, IN THE
14 PAST.

15 THE COURT: DID I COVER EVERYONE? AS A RESULT
16 OF THIS EXPERIENCE OR THESE EXPERIENCES, DO YOU ALL
17 FEEL THAT YOU COULD REMAIN FAIR AND IMPARTIAL AND
18 RENDER A FAIR AND IMPARTIAL DECISION IN THIS CASE
19 BASED SOLELY ON THE EVIDENCE AS IT WILL BE PRESENTED
20 AND ON THE LAW AS THE COURT WILL CHARGE DURING AND AT
21 THE CLOSE OF THE TRIAL? NUMBER 99?

22 JUROR: NO.

23 THE COURT: OKAY. SIR, IF YOU WOULD BE SEATED
24 FOR ME. NUMBER 83?

25 MR. DIGGS: YOUR HONOR?

1 THE COURT: I'M GOING TO TAKE CARE OF IT.

2 MR. DIGGS: I'M SORRY. I DIDN'T HEAR THE
3 ANSWER.

4 THE COURT: HE SAID NO. YES, SIR. THERE'S NO
5 RIGHT ANSWER, BUT I NEED A YES OR A NO.

6 JUROR: NO.

7 THE COURT: OKAY. YOU MAY BE SEATED. NUMBER
8 351?

9 JUROR: NO.

10 THE COURT: THAT WAS 83.

11 JUROR: NO.

12 THE COURT: THAT WAS 351. 275?

13 JUROR: NO.

14 THE COURT: SIR, YOU MAY TAKE YOUR SEAT. NUMBER
15 392?

16 JUROR: NO.

17 THE COURT: AND NUMBER 249?

18 JUROR: NO.

19 THE COURT: OKAY. EACH OF YOU WILL BE EXCUSED
20 FROM THE TRIAL OF THIS CASE. HAVE A GOOD DAY. AND I
21 WILL JUST ASSUME THERE IS NO -- ORDER -- I ASSUME
22 THERE IS NO EXCEPTION FROM THE STATE?

23 MR. HEMBREE: NO, YOUR HONOR.

24 THE COURT: AND FROM THE DEFENSE?

25 MR. DIGGS: NO, YOUR HONOR.

1 MR. HEMBREE: COULD WE JUST REVIEW THOSE
2 NUMBERS?

3 THE COURT: IT IS 99, 83, 351, 275, 392, AND
4 249.

5 MR. HEMBREE: THANK YOU, YOUR HONOR.

6 THE COURT: YOU'RE WELCOME. I'M GOING TO ASK
7 FOR YOU ALL -- I HATE TO SOUND LIKE A HALL MONITOR,
8 BUT THIS IS A VERY OLD BUILDING WITH VERY HIGH
9 CEILINGS, AND EVEN A MINIMAL AMOUNT OF TALKING
10 ELIMINATES OUR ABILITY TO HEAR.

11 AND SO EVERY TIME YOU TALK, IT REALLY OBSCURES
12 YOUR FELLOW JURORS' ABILITY TO HEAR THE COURT AND IT
13 ALSO REALLY AFFECTS MY ABILITY TO HEAR ANSWERS AND
14 FOR THE COURT REPORTER TO RECORD THE PROCEEDINGS.

15 AND I KNOW IT'S BEEN A LONG DAY AND I APPRECIATE
16 YOUR PATIENCE. IT'S BEEN A LONG DAY FOR ME, TOO. SO
17 WE'LL ALL TRY TO ACCOMMODATE ONE ANOTHER AND WITH AS
18 MUCH QUIET AS WE CAN HAVE, I'LL BE ABLE TO GET
19 THROUGH THIS A WHOLE LOT MORE QUICKLY AND WE CAN GET
20 THROUGH THE PROCESS A WHOLE LOT MORE QUICKLY SO I CAN
21 GET YOU ALL ON HOME AND ON WITH THE REST OF YOUR DAY.
22 SO I APPRECIATE YOU ACCOMMODATING US.

23 IS THERE ANY MEMBER OF THE PANEL WHO IS RELATED
24 BY BLOOD OR MARRIAGE TO OR HAS A CLOSE PERSONAL OR
25 SOCIAL RELATIONSHIP WITH THE ATTORNEYS INVOLVED IN

1 THIS CASE OR ANYONE WITH WHOM THEY PRACTICE LAW? IF
2 SO, PLEASE STAND AT THIS TIME. YES, SIR. IF YOU
3 WOULD TELL ME YOUR NAME AND YOUR JUROR NUMBER.

4 JUROR: MY NAME IS KENT MCGINLEY, JUROR 221.
5 THE ATTORNEY DIGGS, THE -- HIS GRANDSON AND MY SON
6 ARE -- WELL, THEY ARE THE SAME AGE, BOTH SIX YEARS
7 OLD, BIG BUDDIES EVER SINCE THEY HAVE BEEN TWO YEARS
8 OLD.

9 HIS DAUGHTER-IN-LAW AND -- WELL, OKAY, KATIE AND
10 MY WIFE ARE REAL CLOSE FRIENDS AND I'M FRIENDS
11 WITH -- HIS SON, PETEY.

12 THE COURT: OKAY. AS A RESULT OF THIS
13 RELATIONSHIP, DO YOU FEEL THAT YOU CAN REMAIN FAIR
14 AND IMPARTIAL AND RENDER A FAIR AND IMPARTIAL
15 DECISION IN THIS CASE BASED SOLELY ON THE EVIDENCE AS
16 IT WILL BE PRESENTED AND ON THE LAW AS THE COURT WILL
17 CHARGE?

18 JUROR: NO.

19 THE COURT: SIR, YOU WILL BE EXCUSED FROM THE
20 TRIAL OF THIS CASE. YES, SIR.

21 JUROR: FADY BASSILY, NUMBER 17.

22 THE COURT: I'M SORRY. I CAN'T HEAR YOU.

23 JUROR: NUMBER 17.

24 THE COURT: YES, SIR.

25 JUROR: YOU DID SAY THAT IF ANY OF THE FAMILY--

1 THE COURT: HAVE YOU EVER REPRESENTED BY ANY OF
2 THE ATTORNEYS OR IF YOU HAVE A CLOSE PERSONAL OR
3 SOCIAL OR BUSINESS RELATIONSHIP WITH ANY OF THE
4 ATTORNEYS?

5 JUROR: OH, ATTORNEYS JUST HERE?

6 THE COURT: YES, JUST THE ATTORNEYS HERE.

7 JUROR: NO, MA'AM.

8 THE COURT: OKAY. THANK YOU, SIR. LADIES AND
9 GENTLEMEN, THE FOLLOWING ARE LISTS OF POTENTIAL
10 WITNESSES IN THIS CASE. I NEED YOU TO LISTEN VERY
11 CAREFULLY.

12 THERE ARE APPROXIMATELY 120 WITNESSES
13 POTENTIALLY THAT COULD BE CALLED IN THIS CASE. AND I
14 NEED YOU TO LISTEN VERY CAREFULLY BECAUSE IT IS VERY
15 IMPORTANT. AND I ASK YOU THE QUESTION IN ADVANCE SO
16 THAT YOU WILL HAVE A POINT OF REFERENCE SO THAT YOU
17 WILL KNOW WHY THIS LIST OF PEOPLE COULD POSSIBLY --
18 POTENTIALLY BE SIGNIFICANT TO YOU.

19 AND I WILL READ THE QUESTION AGAIN AFTER I HAVE
20 READ THE LIST OF POTENTIAL WITNESSES. AS I HAVE
21 INDICATED, I'M GOING TO READ TO YOU THE LIST OF
22 POTENTIAL WITNESSES IN THIS CASE, AND I NEED TO KNOW
23 IF YOU ARE RELATED BY BLOOD OR MARRIAGE TO ANY OF
24 THESE INDIVIDUALS OR IF YOU HAVE A CLOSE PERSONAL OR
25 SOCIAL RELATIONSHIP WITH ANY OF THEM.

1 AND AGAIN, I WILL ASK THAT QUESTION AGAIN AFTER
2 I HAVE LISTED THE POTENTIAL WITNESSES, AND I NEED FOR
3 YOU ALL TO LISTEN VERY CAREFULLY.

4 MARY ANN ADAMS, JOE AGONEY, AND THAT'S
5 A-G-O-N-E-Y, OF BONNEAU, SOUTH CAROLINA, DR. BERNARD
6 ALBINIAK, SPELLED A-L-B-I-N-I-A-K, INVESTIGATOR JOHN
7 ALLEN FORMERLY OF THE GEORGETOWN COUNTY SHERIFF'S
8 OFFICE, BRYAN ANDERSON, VICTOR E ARCHAMBEAU,
9 A-R-C-H-A-M-B-E-A-U, MD, SERGEANT CHRIS BAILEY OF THE
10 GEORGETOWN COUNTY SHERIFF'S OFFICE, TIMOTHY BALDWIN,
11 WAYNE BEARDSLEY, KEN BENNETT, JOHN BERTANG, DETECTIVE
12 SCOTT BOGART WITH THE HORRY COUNTY POLICE DEPARTMENT,
13 KEITH BOOKER, SHARI BOWKER, B-O-W-K-E-R, DR. BRANNON,
14 DR. TORA BRAWLEY, IDA BROOKS, CAROLYN BUCKLEY OF
15 MYRTLE BEACH, ELIZABETH MCLENDON BUCKNER OF GOOSE
16 CREEK, SCOTT BURNS, MD, EVELYN CALIFF MD, OFFICER
17 JOHN CAULDER OF THE HORRY COUNTY POLICE DEPARTMENT,
18 PETER CESTARE, C-E-S-T-A-R-E, A SUPERVISOR WITH THE
19 HORRY COUNTY POLICE DEPARTMENT, OFFICER WARREN CHALK
20 OF THE GEORGETOWN COUNTY SHERIFF'S OFFICE, KEN
21 CHANDLER, RYAN COLEMAN OF COLUMBIA, SOUTH CAROLINA,
22 KIM COLLINS, MD, A PATHOLOGIST AT MUSC, MARVIN COOPER
23 OF CONWAY, SOUTH CAROLINA, BETHANY CRAWFORD OF
24 CHARLESTON, DR. PAM CRAWFORD OF COLUMBIA, SOUTH
25 CAROLINA, RAY CRENSHAW OF GOOSE CREEK, SOUTH

CAROLINA, ED CRISCO, KATHY CROLLEY, DAN DEFREESE OF
SLED, WHICH IS THE SOUTH CAROLINA LAW ENFORCEMENT,
INVESTIGATOR TOM DIGGSBY FORMERLY OF THE RICHMOND
COUNTY SHERIFF'S OFFICE, JEFF DRAKE OF DRAKE
FINANCIAL, EVE EGGIMON, SERGEANT JIMMY EDWARDS OF THE
HORRY COUNTY POLICE DEPARTMENT, MARK EINHORN,
PSYCHOLOGY -- DOCTOR OF PSYCHOLOGY, ROSWELL, GEORGIA,
PATTI FINES, ALFRED FISHER, JUNIOR, ROSEMARY FOLK,
JOHN H FULMER OF GOOSE CREEK, JOHN GUAMER OF SURFSIDE
BEACH, JEFF GAUSE OF THE HORRY COUNTY POLICE
DEPARTMENT, MELISSA GERARD, JOHN GIBSON OF WEST
COLUMBIA, WAYNE GILLESPIE, JOHNSON CITY, TENNESSEE,
JAMES GORDON OF THE RICHMOND COUNTY SHERIFF'S OFFICE,
GEORGIA, CHARLES GOSNELL, HORRY COUNTY FIRE AND
RESCUE, SANFORD GRAVES, KAREN HAYNBRICK, ERIN
HARDWICK OF LEXINGTON, SOUTH CAROLINA, MARK HARRIS,
PROBATION, PARDON, AND PAROLE, RICHARD HERRING, SARAH
HOLMES, RUSTY HOLT OF SAVANNAH, GEORGIA, CYNTHIA
HORN, MARIETTA, GEORGIA, VERNON E HOUSE, GOOSE CREEK,
STEVE HOWARD, SUMMERVILLE, SOUTH CAROLINA, CRAIG
HUTCHISON, HORRY COUNTY POLICE DEPARTMENT, LORI
HUNTER OF GOOSE CREEK, TONY HUTHMACKER,
H-U-T-H-M-A-C-K-E-R, JAMES CARSON JACKSON, MORAVIA
JOHNSON OF THE CHARLESTON POLICE DEPARTMENT, CORPORAL
NEIL JOHNSON, GEORGETOWN COUNTY SHERIFF'S OFFICE,

1 CECELIA KOTSIPIAS, THAT SPELLED K-O-T-S-I-P-I-A-S, OF
2 CHARLOTTE, NORTH CAROLINA, PEGGY KLISS, STEVE LEE,
3 SERGEANT DARRELL LEWIS OF THE BERKELEY COUNTY
4 SHERIFF'S OFFICE, DETECTIVE JOHN LEWIS OF THE HORRY
5 COUNTY POLICE DEPARTMENT, CHRISTINA LING, DETECTIVE
6 NEIL LIVINGSTON OF THE HORRY COUNTY POLICE
7 DEPARTMENT, RICHARD LONG OF FLORENCE, SOUTH CAROLINA,
8 JEFF LOWMAN OF THE HORRY COUNTY FIRE AND RESCUE, DON
9 MCALLISTER, DOUG MCELVEEN OF SUMMERVILLE, TIM
10 MEACHAM, SOLICITOR TIM MEACHAM, KELSEY MILES,
11 COLUMBIA, SOUTH CAROLINA, DEPUTY TRACEY MILLIGAN,
12 GEORGETOWN COUNTY SHERIFF'S OFFICE, WILLA MAE MISHUE,
13 M-I-S-H-U-E, CYNTHIA L MONE, M-O-N-E, MYRTLE BEACH,
14 DONALD J NESMITH, HORRY COUNTY FIRE AND RESCUE, GARY
15 OWENS, SHIRLEY PARKER OF VENICE, FLORIDA, LIEUTENANT
16 SCOTT PEEBLES, RICHMOND COUNTY SHERIFF'S OFFICE,
17 GEORGIA, CHUCK PETRELLA, P-E-T-R-E-L-L-A, HORRY
18 COUNTY FIRE AND RESCUE, LIEUTENANT WA PIERCE,
19 GEORGETOWN COUNTY SHERIFF'S OFFICE, INVESTIGATOR
20 DWAYNE PIPER, RICHMOND COUNTY SHERIFF'S OFFICE,
21 GEORGIA, DETECTIVE ANN PITTS, HORRY COUNTY POLICE
22 DEPARTMENT, CHRIS POWELL OF BANK OF AMERICA, CONNIE
23 PRICE, MYRTLE BEACH, SOUTH CAROLINA, DANA PUTNAM,
24 AUGUSTA, GEORGIA, CAROL RODGERS, SURFSIDE BEACH,
25 THOMAS H SACHY, MD, SACHY -- SACHY -- I APOLOGIZE FOR

1 THAT -- THOMAS H SACHY, S-A-C-H-Y, MD, OF GEORGIA,
2 AMY T SHIEL, S-H-I-E-L, MD, OF MUSC, INVESTIGATOR
3 GEORGE SMITH, GEORGETOWN COUNTY SHERIFF'S OFFICE,
4 NEIL SMITH, PEGGY SNOWDEN, JEFF STANKO, MRS. STANKO,
5 OFFICER MELEXA STONE, GEORGETOWN COUNTY SHERIFF'S
6 OFFICE, ROBIN TAYLOR OF THE SOUTH CAROLINA LAW
7 ENFORCEMENT DIVISION, INVESTIGATOR MICHAEL THATCHER
8 OF GEORGETOWN COUNTY SHERIFF'S OFFICE, JAMES
9 THRASHER, MD, TRITON PCS-SUNCOM RECORDS CUSTODIAN,
10 ROBERT TODD, MYRTLE BEACH, SOUTH CAROLINA, SOLICITOR
11 HEATHER TOLER, MARY JANE TURNER OF COLUMBIA, ROGER
12 TURNER OF MYRTLE BEACH, TOM WALTERS WITH GARDEN CITY,
13 JASON WATSON, US MARSHAL'S OFFICE, GEORGIA, OFFICER
14 CHARLIE WEAVER, GEORGETOWN COUNTY SHERIFF'S OFFICE,
15 TOM WALTERS, JAMES WILDER, JENNIFER WILDER OF
16 COLUMBIA, DONNA WILLIAMS, DEPUTY CLERK D WILLIAMSON,
17 KELLY WIRDZEK, W-I-R-D-Z-E-K, AND JOSEPH WU, MD, OF
18 IRVINE, CALIFORNIA.

19 IS THERE ANY MEMBER OF THE PANEL RELATED BY
20 BLOOD OR MARRIAGE TO ANY OF THE PEOPLE THAT I HAVE
21 JUST LISTED OR DOES ANYONE HAVE A CLOSE PERSONAL,
22 SOCIAL, OR BUSINESS RELATIONSHIP WITH ANY OF THESE
23 INDIVIDUALS; IF SO, PLEASE STAND AT THIS TIME.

24 IF YOU WOULD TELL ME YOUR NAME AND YOUR JUROR
25 NUMBER AND WITH WHICH POTENTIAL WITNESS YOU HAVE A

1 RELATIONSHIP AND THE NATURE OF THAT RELATIONSHIP.
2 YES, MA'AM. QUIET. THANK YOU.

3 JUROR: 168, SARAH JAMES.

4 THE COURT: SARAH JAMES? AND WHICH WITH WHICH
5 WITNESS?

6 JUROR: I THINK JACK JACKSON, I THINK IS -- HIS
7 NAME IS JAMES CARSON JACKSON. I KNOW HIM AS JACK
8 JACKSON.

9 MR. HUMPHRIES: MURRELLS INLET, FISHERMAN.

10 THE COURT: HE'S YOUR NEIGHBOR, MA'AM? HOW
11 WOULD YOU -- YOU NEED TO TELL ME YES OR NO.

12 JUROR: YES.

13 THE COURT: I'M SORRY. WHEN YOU SHAKE YOUR
14 HEAD, THE COURT REPORTER CAN'T RECORD THAT. AND HOW
15 WOULD YOU CHARACTERIZE YOUR RELATIONSHIP WITH HIM?

16 JUROR: HE'S A GOOD FRIEND AND A NEIGHBOR.

17 THE COURT: OKAY. IF YOU'D REMAIN STANDING.
18 YES, SIR, IN THE BLUE SHIRT?

19 JUROR: I'M JUROR NUMBER 245. I'M CURRENTLY
20 INVOLVED IN A BUSINESS RELATIONSHIP WITH TOM WALTERS.

21 THE COURT: AND WITHOUT THAT GOING INTO TOO MUCH
22 DETAIL, WHAT IS THE NATURE OF THAT RELATIONSHIP?

23 JUROR: RETAIL.

24 THE COURT: OKAY. ARE YOU ALL PARTNERS?

25 JUROR: NO, MA'AM.

1 THE COURT: JOINT OWNERS?

2 JUROR: NO, MA'AM.

3 THE COURT: TELL ME A LITTLE MORE.

4 JUROR: HE IS A PART -- SUPPLIES PRODUCT FOR ONE
5 OF MY RETAIL STORES. I'M INVOLVED WITH HIM ON A
6 WEEKLY BASIS.

7 THE COURT: OKAY. SO HE PROVIDES YOU WITH
8 PRODUCT?

9 JUROR: THAT'S CORRECT.

10 THE COURT: OKAY. YES, SIR. IN THE RED SHIRT?

11 JUROR: I'M JUROR 192. ROGER TURNER.

12 THE COURT: OKAY. AND HOW WOULD YOU
13 CHARACTERIZE THAT RELATIONSHIP?

14 JUROR: REAL GOOD FRIENDS. I HAVEN'T SEEN HIM
15 IN ABOUT A MONTH.

16 THE COURT: YES, SIR. IN THE VERY BACK IN THE
17 STRIPED SHIRT.

18 JUROR: OH, I'M SORRY.

19 THE COURT: THAT'S OKAY.

20 JUROR: JUROR 314. THERE'S TWO NAMES HERE I
21 KNOW, VICTOR ARCHAMBEAU, AND DID YOU SAY STEVE LEE?

22 MR. HUMPHRIES: YES.

23 JUROR: VICTOR ARCHAMBEAU WAS WITH MY WIFE FOR
24 SEVERAL YEARS. HE WAS OUR DOCTOR, OUR FAMILY DOCTOR.
25 I ALSO DO SOME BUSINESS. I DO AIR CONDITIONING WORK

1 AND I TAKE CARE OF HIS AIR CONDITIONERS. AND STEVE
2 LEE IS PRETTY MUCH THE SAME SCENARIO.

3 *THE COURT:* HOW LONG AGO WAS YOUR WIFE EMPLOYED
4 WITH THE DOCTOR?

5 *JUROR:* SHE WAS EMPLOYED WITH HIM SEVERAL YEARS
6 BACK, ABOUT I WOULD SAY FOUR YEARS.

7 *THE COURT:* OKAY. AND WHEN WAS THE LAST TIME
8 YOU SAW EITHER OF THESE INDIVIDUALS?

9 *JUROR:* I SAW STEVE LEE AND TALKED TO HIM ON THE
10 PHONE YESTERDAY AND SAW HIM ABOUT A MONTH AGO. AND
11 DR. ARCHAMBEAU I BELIEVE I SAW ABOUT TWO MONTHS AGO.

12 *THE COURT:* OKAY. IF YOU'D REMAIN STANDING.
13 YES, MA'AM.

14 *JUROR:* TONY ALBINIAK AND MY HUSBAND WORK
15 TOGETHER.

16 *THE COURT:* OKAY. IF YOU'LL TELL ME YOUR NAME
17 AND YOUR JUROR NUMBER.

18 *JUROR:* 379, KAREN HILLS.

19 *THE COURT:* OKAY. YES, MA'AM.

20 *JUROR:* JUROR 191, MABLE LAMBERT. SERGEANT --
21 DEPUTY SERGEANT THATCHER, MY HUSBAND IS RELATED TO
22 THEIR FAMILY.

23 *THE COURT:* OKAY. IN THE YELLOW SHIRT, YES,
24 SIR.

25 *JUROR:* MY NAME 383, NY NAME IS GEORGE E

1 JOHNSON, THE THIRD. I'M A LIEUTENANT WITH THE --
2 FIRE DEPARTMENT AND I WORK FOR THE SHERIFF'S OFFICE,
3 911 DISPATCHER STEVE ABERLAND (SIC) AND SOME OF THE
4 COUNTY FIREMEN, Horry County Fire and Rescue Squad in
5 WHICH THEY'RE...

6 THE COURT: OKAY. YES, MA'AM. NEXT TO YOU.

7 JUROR: JUROR NUMBER 200, MARY FRANCES LAZZARI.
8 I'M CLOSE FRIENDS WITH DR. SCOTT BARNES, WORK REAL
9 CLOSE. THE LAB IS LOCATED RIGHT NEXT TO THE ER AND
10 WE HAVE A FRIENDSHIP AND A BUSINESS RELATIONSHIP.

11 THE COURT: OKAY. AND BEHIND YOU, YES, SIR.

12 JUROR: 368. I KNOW PRETTY MUCH ALL THE GUYS AT
13 THE SHERIFF'S DEPARTMENT AND I'M FRIENDS WITH THEM
14 AND DR. ARCHAMBEAU, STEVE LEE AND SOME OF THE OTHERS
15 YOU HAVE NAMED.

16 THE COURT: OKAY. HOW OFTEN WOULD YOU SAY YOU
17 HAVE SEEN THEM?

18 JUROR: EVERY DAY. I MEAN--

19 THE COURT: I AM SORRY. I CAN'T HEAR YOU.

20 JUROR: EVERY DAY OR EVERY OTHER DAY IN PASSING.

21 THE COURT: OKAY. YOU SAID IN PASSING LIKE IF I
22 SEE YOU AT THE COFFEE SHOP OR SOMETHING LIKE THAT?

23 JUROR: WE ARE FRIENDS OF -- WE ARE FRIENDS WE
24 TALK TO EACH OTHER. AS PROBABLY DEPUTY LEE, I KNOW
25 HIM AND ARE ACQUAINTED WITH HIM.

1 THE COURT: YES, MA'AM, IN THE BLACK SHIRT.

2 JUROR: 363 PATRICIA WAFFORD. I'M NOT SURE IT'S
3 THE SAME PERSON, BUT I DO KNOW A STEVE LEE. HE USED
4 TO WORK WITH ME AT CHEVROLET...

5 MR. HUMPHRIES: THAT'S BODY SHOP, AUTO REPAIR.

6 JUROR: PARDON ME?

7 THE COURT: AUTO SHOP BODY REPAIR, IS THAT HIS
8 BUSINESS, THE PERSON YOU'RE TALKING ABOUT?

9 JUROR: IT'S AN AUTOMOBILE DEALERSHIP.

10 THE COURT: THIS PERSON IS IN THE BUSINESS OF
11 BODY REPAIR.

12 JUROR: THAT WOULDN'T BE THE SAME. HE WORKS
13 WITH HYMAN FORD NOW.

14 MR. HUMPHRIES: NO, IT'S NOT.

15 THE COURT: NOT THE SAME PERSON. THANK YOU.
16 YES, MA'AM.

17 JUROR: I'M JUROR NUMBER 28 DEBBIE BONHAM. I'M
18 BAD WITH NAMES, BUT I WOULD -- I'M AN EMT OR WAS I A
19 EMT STUDENT, SO I WENT TO SCHOOL WITH A LOT OF FIRE
20 FIGHTERS THAT HAD TO GET THEIR EMTS, SO A LOT OF
21 HORRY COUNTY AND GEORGETOWN COUNTY I USED TO -- LAST
22 YEAR TO GET RECERTIFIED.

23 LIKE THAT GENTLEMAN RIGHT THERE, I'VE BEEN IN
24 HIS STATION AND I RUN INTO PEOPLE I KIND OF KNOW
25 PEOPLE, BUT I DON'T KNOW THEIR NAMES.

1 THE COURT: OKAY. BUT YOU WOULD NOT CONSIDER
2 THEM A CLOSE OR PERSONAL FRIENDS, CORRECT? THEY
3 WOULD BE MORE LIKE ACQUAINTANCES, PEOPLE YOU SEE IN
4 PASSING THAT YOU KNOW, YOU'RE FRIENDLY AND YOU SAY
5 HELLO AND GOODBYE?

6 JUROR: YES.

7 THE COURT: OKAY. DID I GET EVERYBODY? YES,
8 SIR.

9 JUROR: JUROR NUMBER 250, MATTHEW PERRY. I KNOW
10 VICTOR ARCHAMBEAU IS MY FAMILY DOCTOR AND I GREW UP
11 WITH HIS SON. I WENT TO SCHOOL WITH HIM.

12 THE COURT: WHEN WAS THE LAST TIME YOU SAW HIM?

13 JUROR: WHEN WE GRADUATED ABOUT TWO YEARS AGO.

14 THE COURT: SO YOU WOULD CONSIDER HIM AT THIS
15 POINT AN ACQUAINTANCE?

16 JUROR: YES, MA'AM.

17 THE COURT: AS A RESULT OF THESE EXPERIENCES, DO
18 YOU ALL FEEL THAT YOU CAN REMAIN FAIR AND IMPARTIAL
19 AND RENDER A FAIR AND IMPARTIAL DECISION IN THIS CASE
20 BASED SOLELY ON THE EVIDENCE AS IT WILL BE PRESENTED
21 AND ON THE LAW AS THE COURT WILL CHARGE?

22 NUMBER 221 -- ACTUALLY I'M GOING TO DO THIS THIS
23 WAY. IF YOUR ANSWER IS YES, PLEASE TAKE YOUR SEAT.
24 COULD THOSE WHO WERE PREVIOUSLY STANDING, WERE
25 STANDING, STAND BACK UP FOR ME? I'M SORRY. OKAY.

1 AND I'M GOING TO GO BACK. OKAY. STARTING WITH
2 NUMBER 68?

3 JUROR: 168?

4 MR. HUMPHRIES: SHE'S 168.

5 THE COURT: I APOLOGIZE. I WROTE DOWN 68. YES,
6 MA'AM. IS YOUR ANSWER TO THE QUESTION YES OR NO?

7 JUROR: NO.

8 THE COURT: OKAY. YOU MAY TAKE YOUR SEAT.
9 NUMBER 245?

10 JUROR: NO.

11 THE COURT: OKAY. SIR, YOU MAY TAKE YOUR SEAT.
12 192?

13 JUROR: NO.

14 THE COURT: YOU MAY TAKE YOUR SEAT. NUMBER 314?

15 JUROR: NO.

16 THE COURT: NUMBER 379?

17 JUROR: YES.

18 THE COURT: NUMBER 191?

19 JUROR: YES.

20 THE COURT: THANK YOU, MA'AM. NUMBER 383?

21 JUROR: NO.

22 THE COURT: NUMBER 200?

23 JUROR: NO.

24 THE COURT: NUMBER 363?

25 MR. HUMPHRIES: 368, YOUR HONOR.

1 THE COURT: I HAD 363. IS THAT CORRECT?

2 JUROR: 368.

3 THE COURT: I APOLOGIZE, SIR.

4 JUROR: YES.

5 THE COURT: THANK YOU, SIR. IF YOU WOULD TAKE
6 YOUR SEAT. NUMBER 28.

7 JUROR: NO.

8 THE COURT: AND NUMBER 250?

9 JUROR: NO.

10 THE COURT: OKAY. AGAIN, AS I HAVE INDICATED,
11 THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE
12 QUESTIONS, BUT I WOULD REMIND YOU THAT YOU ALL ARE
13 STILL UNDER OATH AND I EXPECT YOU TO BE FAIR,
14 FORTHRIGHT AND FORTHCOMING WITH THE COURT. OKAY?
15 NUMBERS 168, 245, 192, 314, 383, 200, 28, AND 250 ARE
16 EXCUSED.

17 IS THERE ANY MEMBER OF THE PANEL WHO HAS EVER
18 BEEN REPRESENTED BY ANY OF THE ATTORNEYS INVOLVED IN
19 THESE CASES OR ANYONE WITH WHOM THEY PRACTICE LAW?
20 IF SO, PLEASE STAND AT THIS TIME.

21 IS THERE ANY MEMBER OF THE PANEL WHO HAS FORMED
22 OR EXPRESSED AN OPINION ABOUT THIS CASE; IF SO,
23 PLEASE STAND AT THIS TIME. I WILL REPEAT THE
24 QUESTION. HAS ANY MEMBER OF THE PANEL FORMED OR
25 EXPRESSED AN OPINION ABOUT THIS CASE, IF SO PLEASE

1 STAND AT THIS TIME.

2 I WOULD ASK YOU TO PROVIDE ME SIMPLY WITH YOUR
3 NAME AND YOUR JUROR NUMBER, AND THEN YOU MAY BE
4 SEATED. AND I WILL START WITH THE FIRST ROW STARTING
5 ON THIS SIDE. YES, MA'AM?

6 JUROR: NUMBER FOUR, DIANNA ALLEN.

7 THE COURT: NUMBER FOUR?

8 JUROR: YES, MA'AM.

9 THE COURT: THANK YOU.

10 JUROR: NUMBER 138 SUSAN HARRELSON.

11 THE COURT: THANK YOU.

12 JUROR: THIRTY-EIGHT, TRACY BUCHANAN.

13 THE COURT: THANK YOU.

14 JUROR: 358, ELEANOR WILLIAMSON.

15 THE COURT: THANK YOU.

16 JUROR: 313, VIRGINIA STULL.

17 THE COURT: THANK YOU.

18 JUROR: 292, RALPH SHELLEY.

19 THE COURT: THANK YOU.

20 JUROR: 340, ROBERT VITALE.

21 THE COURT: THANK YOU, SIR.

22 JUROR: 257, RONALD POLSON.

23 THE COURT: REPEAT YOUR NUMBER FOR ME ONE MORE
24 TIME, SIR.

25 JUROR: 257.

1 THE COURT: THANK YOU. STARTING, SIR, WITH THE
2 MELON COLORED SHIRT.

3 THE DEFENDANT: SIXTY-EIGHT, CHARLES DAVIS.

4 THE COURT: THANK YOU.

5 JUROR: 206, MICHAEL LINEN, SENIOR.

6 THE COURT: THANK YOU.

7 JUROR: 17, FADY BASSILY.

8 THE COURT: THANK YOU.

9 JUROR: 345, CHRISTOPHER WATKINS.

10 THE COURT: THANK YOU VERY MUCH. YES, SIR.

11 JUROR: 161, DONALD HORTON.

12 THE COURT: YES. THANK YOU, SIR. YOU MAY TAKE
13 YOUR SEAT.

14 (WHEREUPON THERE WAS A PAUSE.)

15 THE COURT: I'M SORRY. I LOST TRACK. I LEFT
16 OFF WITH NUMBER 161. YES, MA'AM.

17 JUROR: 385, DEASIA LINEN.

18 THE COURT: THANK YOU. 385.

19 JUROR: 384, MARIA LEATHERMAN.

20 THE COURT: THANK YOU, MA'AM.

21 JUROR: 188, KUO SHUH LING.

22 THE COURT: THANK YOU.

23 JUROR: 84, DAVID DUBOIS.

24 THE COURT: YES, SIR.

25 JUROR: 106, JUDITH GAITHER.

1 THE COURT: THANK YOU.

2 JUROR: 288, SUE ANN SCHRODER.

3 THE COURT: THANK YOU. STARTING OVER HERE?

4 JUROR: 298, RITA SMALL.

5 THE COURT: THANK YOU.

6 JUROR: 44, PATRICIA CANTEEN.

7 THE COURT: THANK YOU.

8 JUROR: 400 LINDA YOUNG.

9 THE COURT: YOU SAID 400?

10 JUROR: YES, MA'AM.

11 THE COURT: AND WHAT WAS YOUR NAME, MA'AM? I'M
12 SORRY.

13 JUROR: LINDA YOUNG.

14 THE COURT: THANK YOU. YES, MA'AM?

15 JUROR: 260, VIRGINIA PORTER.

16 THE COURT: THANK YOU.

17 JUROR: 254, BETTY PITTMAN.

18 THE COURT: THANK YOU. YES, MA'AM?

19 JUROR: 374 REBECCA FUENER.

20 THE COURT: THANK YOU VERY MUCH.

21 JUROR: 318, VIRGINIA TAYLOR.

22 THE COURT: THANK YOU VERY MUCH.

23 JUROR: 92 ELLEN FALLON.

24 THE COURT: THANK YOU VERY MUCH.

25 JUROR: 87, DEBRA ELERBEE.

1 THE COURT: THANK YOU. STARTING ON THE NEXT
2 ROW. YES, MA'AM.

3 JUROR: 41, ROSEZENA CALLUM.

4 THE COURT: THANK YOU.

5 JUROR: 265, ROSCOE PRIEST.

6 THE COURT: THANK YOU.

7 JUROR: 31, ANDREW BREWINGTON, JUNIOR.

8 THE COURT: THANK YOU, SIR.

9 JUROR: 363, PATRICIA WOFFORD.

10 THE COURT: THANK YOU VERY MUCH.

11 JUROR: 230, RAYMOND MILLER.

12 THE COURT: 230?

13 JUROR: YES, SIR.

14 THE COURT: THANK YOU.

15 JUROR: 79, WALTER DONALDSON.

16 JUROR: 343, STEVEN WALTERS.

17 THE COURT: THANK YOU VERY MUCH.

18 JUROR: 376, WALTER HALTERMAN, JUNIOR.

19 MR. DIGGS: YOUR HONOR--

20 THE COURT: I'M GOING TO REPEAT ALL THE NUMBERS
21 FOR YOU. 376 CORRECT?

22 JUROR: 376 YES.

23 THE COURT: THANK YOU.

24 JUROR: 276 (SIC) CLYDE RATCHFORD.

25 THE COURT: THANK YOU.

1 JUROR: SIXTY-SEVEN, ANTHONY DALLAS.

2 THE COURT: THANK YOU VERY MUCH. THOSE NUMBERS
3 FOR PURPOSES OF THE LAWYERS AND THE CLERK ARE FOUR,
4 138, 38, 358, 313, 292, 340, 257, 68, 206, 17, 345,
5 161, 385, 384, 188, 84, 106, 288, 298, 44, 400, 260,
6 254, 374, 318 -- SORRY -- AM I GOING TOO FAST?

7 I GOT THEM WRITTEN DOWN. I WILL LET YOU LOOK AT
8 THEM. 318, 92, 87, 41, 265, 31, 363, 230, 79, 343,
9 376, 276 AND 67.

10 JUROR: JUDGE, I GAVE YOU THE IN CORRECT NUMBER.

11 THE COURT: OKAY.

12 JUROR: IT'S 267, RATCHFORD. I THINK I SAID
13 276.

14 THE COURT: OKAY. THANK YOU, SIR.

15 JUROR: YOU MISSED A NUMBER, 395.

16 MR. HUMPHRIES: IT WAS 395 INSTEAD OF...

17 MR. HEMBREE: NOT 385.

18 THE COURT: THANK YOU VERY MUCH. NOW, BEFORE I
19 -- YES, MA'AM?

20 JUROR: DID YOU CALL 358?

21 THE COURT: YES, MA'AM. OKAY. DID NUMBER 87
22 FINISH HER QUESTIONNAIRE?

23 JUROR: YES. I HANDED IT--

24 THE COURT: PERFECT. I JUST WANTED TO ASK WHILE
25 IT WAS ON MY MIND SO I WOULDN'T FORGET. SIR, YOU HAD

1 YOUR HAND RAISED?

2 JUROR: DID YOU CALL OUT 257? 257?

3 MR. HEMBREE: YES.

4 THE COURT: YES, SIR, I DID.

5 JUROR: THANK YOU, MA'AM.

6 THE COURT: YOU'RE WELCOME. IS THERE ANY MEMBER
7 OF THE PANEL AWARE OF ANY BIAS OR PREJUDICE IN THIS
8 CASE EITHER FOR OR AGAINST THE STATE OR THE
9 DEFENDANT? IF SO, PLEASE STAND.

10 AND WE'RE GOING TO FOLLOW THE SAME PROCEDURE. I
11 NEED YOU TO GIVE ME YOUR NAME AND JUROR NUMBER AND
12 THEN TAKE YOUR SEAT. STARTING ON THIS SIDE. YES,
13 MA'AM.

14 JUROR: COULD YOU REPEAT THAT?

15 THE COURT: CERTAINLY. I WILL REPEAT IT AGAIN
16 FOR YOU. IS THERE ANY MEMBER OF THE PANEL AWARE OF
17 ANY BIAS OR PREJUDICE IN THIS CASE EITHER FOR OR
18 AGAINST THE STATE OR THE DEFENDANT? YES, MA'AM. IN
19 THE GREEN, STARTING WITH YOU.

20 JUROR: 313, VIRGINIA STULL.

21 THE COURT: OKAY. THANK YOU. YES, SIR.

22 JUROR: 161, DONALD HORTON.

23 THE COURT: YOU SAID 161?

24 JUROR: YES, YOUR HONOR.

25 THE COURT: THANK YOU. YES, MA'AM.

1 JUROR: 384, MARIA LEATHERMAN.

2 THE COURT: THANK YOU VERY MUCH.

3 JUROR: 188, KUO SHUH LING.

4 THE COURT: THANK YOU.

5 JUROR: SUE ANN SCHROER, 288.

6 THE COURT: THANK YOU.

7 JUROR: 388, WANDA MASON.

8 THE COURT: YOU SAID 388?

9 JUROR: 388.

10 THE COURT: THANK YOU, MA'AM.

11 JUROR: 400, LINDA YOUNG.

12 THE COURT: THANK YOU, MA'AM. IS THERE ANY
13 MEMBER OF THE PANEL THAT KNOWS OF ANY REASON
14 WHATSOEVER WHY YOU COULD NOT GIVE A FAIR TRIAL TO
15 BOTH THE STATE AND THE DEFENSE? IF SO, PLEASE STAND
16 AT THIS TIME. YES, MA'AM.

17 JUROR: 313, VIRGINIA STULL.

18 THE COURT: I'M SORRY?

19 JUROR: 313, VIRGINIA STULL.

20 THE COURT: MA'AM, I AM GOING TO MAKE A NOTE OF
21 THAT AND WE WILL DEAL WITH THAT ISSUE WHEN -- YOUR
22 INDIVIDUAL QUESTIONING. YES, SIR, IN THE VERY BACK?

23 JUROR: 68, CHARLES DAVIS. I'VE ALREADY MADE A
24 DECISION.

25 THE COURT: I DON'T NEED YOU TO GIVE ME THE

1 REASON. I JUST NEED YOU TO TELL ME -- INDICATE --
2 BECAUSE WE WILL DEAL WITH THAT INDIVIDUALLY WHEN WE
3 SPEAK WITH YOU. JUST GIVE ME YOUR NAME AND YOUR
4 JUROR NUMBER. NEXT. YES, SIR?

5 JUROR: 345, CHRISTOPHER WATKINS.

6 THE COURT: THANK YOU VERY MUCH. YES, SIR?

7 JUROR: 161, DONALD HORTON.

8 THE COURT: THANK YOU, SIR.

9 JUROR: 384, MARIA LEATHERMAN.

10 THE COURT: THANK YOU, MA'AM. YES, MA'AM, IN
11 THE RED.

12 JUROR: LINDA YOUNG, 400.

13 THE COURT: THANK YOU.

14 JUROR: 288, SUE ANN SCHROER.

15 THE COURT: THANK YOU VERY MUCH. YOU ALL MAY BE
16 SEATED. LADIES AND GENTLEMEN, I'M GOING TO GIVE YOU
17 A LITTLE EXPLANATION AS TO THE TYPE OF TRIAL THAT
18 THIS IS AND HOW WE WILL BE PROCEEDING.

19 THIS IS WHAT WE CALL A BIFURCATED TRIAL. AND
20 THAT'S JUST A FANCY WAY OF SAYING TWO PARTS. IT
21 MEANS THAT IT IS SEPARATED BY TWO PHASES, A GUILT
22 PHASE AND A PENALTY PHASE.

23 IN THIS CASE THE STATE IS SEEKING THE DEATH
24 PENALTY AGAINST THE DEFENDANT. THESE TRIALS ARE
25 AGAIN, AS I HAVE INDICATED, BIFURCATED WHICH AGAIN

1 JUST SIMPLY MEANS BROKEN INTO TWO PARTS.

2 THE FIRST PART IS WHAT WE REFER TO IN OUR COMMON
3 LEGAL LANGUAGE AS THE GUILT PHASE. DURING THIS PHASE
4 OF THE TRIAL THE JURY WILL DECIDE WHETHER THE
5 DEFENDANT IS GUILTY OF THE CRIME CHARGED.

6 IF THE DEFENDANT IS FOUND GUILTY OF MURDER IN
7 THE GUILT PHASE, THEN WE WOULD MOVE TO THE SECOND
8 PART WHICH IS WHAT WE REFER TO AS THE PENALTY PHASE.
9 IN THAT PART OF THE TRIAL THE JURY WOULD DECIDE
10 WHETHER THE DEFENDANT SHOULD RECEIVE A PENALTY OF
11 LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE OR A
12 PENALTY OF DEATH BY ELECTROCUTION OR BY LETHAL
13 INJECTION.

14 LADIES AND GENTLEMEN, I NEED TO EMPHASIZE THAT
15 THE MENTIONING OF A PENALTY INDICATES NOTHING ABOUT
16 THE GUILT OR INNOCENCE OF THE DEFENDANT. HE IS
17 PRESUMED TO BE INNOCENT OF THE OFFENSES THAT HE HAS
18 BEEN CHARGED WITH.

19 WE SIMPLY DISCUSS PENALTY NOW AS A CONVENIENT
20 MEANS OF EXPLAINING THE DETAILS OF THIS PROCESS TO
21 YOU. SO YOU SHOULD DRAW NO CONCLUSION FROM THE
22 COURT'S INSTRUCTIONS FROM THIS EXPLANATION.

23 NOW, AS I INDICATED EARLIER, EACH JUROR WILL BE
24 SPOKEN WITH INDIVIDUALLY, WHICH IS REQUIRED BY STATE
25 LAW. AND WE WILL CONTINUE THAT PROCESS UNTIL WE ARE

1 ABLE TO REACH A CERTAIN NUMBER OF JURORS, AND
2 GENERALLY THAT NUMBER IS SOMEWHERE BETWEEN 35 AND 45.

3 AND WHAT WE ARE GOING TO STRIVE TO ATTAIN IS A
4 NUMBER OF 45 QUALIFIED JURORS. FROM THAT PANEL OF
5 45, 12 JURORS AND TWO ALTERNATES WILL BE SELECTED FOR
6 THE TRIAL OF THIS CASE. AND AGAIN, WE APPRECIATE AND
7 ASK FOR YOUR PATIENCE.

8 LADIES AND GENTLEMEN, DURING THIS PROCESS I
9 CAUTION YOU VERY CAREFULLY AND I REMIND YOU THAT YOU
10 ARE UNDER OATH AND I NEED FOR YOU TO TAKE THIS
11 INSTRUCTION VERY SERIOUSLY.

12 YOU ARE COMPLETELY DISALLOWED, WHICH MEANS YOU
13 CANNOT READ ANY ACCOUNT OF THIS MATTER, YOU CANNOT
14 VIEW ANY ACCOUNT WHICH MEANS ANYTHING THAT COULD BE
15 SEEN ON TELEVISION, YOU CANNOT LISTEN TO ANY ACCOUNT
16 WHICH IS ANYTHING THAT CAN BE HEARD ON THE RADIO, NOR
17 CAN YOU DO ANY INDEPENDENT RESEARCH OF ANY TYPE, THAT
18 INCLUDES ANYTHING THAT COULD BE FOUND ON THE INTERNET
19 REGARDING THE PROCEEDINGS OF THIS CASE.

20 IN ADDITION, YOU ARE STRICTLY INSTRUCTED THAT
21 YOU ARE NOT TO DISCUSS THESE MATTERS OR THIS MATTER
22 OR ANY PORTION OF THIS JURY QUALIFICATION PROCESS
23 WITH ANYONE, THAT INCLUDES AMONG YOUR FELLOW JURORS,
24 UNTIL YOU ARE INSTRUCTED TO DO SO.

25 AND GENERALLY WHEN I SAY THAT, I'M REFERRING TO

1 JURY DELIBERATIONS WHICH IS AT THE END OF THE TRIAL
2 PROCESS. IF ANYONE TRIES TO DISCUSS THIS MATTER WITH
3 YOU, PLEASE ADVISE THAT PERSON THAT YOU ARE A
4 PROSPECTIVE JUROR IN THIS CASE AND THAT IT IS
5 COMPLETELY IMPROPER FOR YOU TO HAVE ANY DISCUSSIONS
6 WITH THEM REGARDING ANY MATTER THAT COULD EVEN
7 REMOTELY TOUCH ON ANY ISSUE OR MATTER INVOLVED IN
8 THIS CASE.

9 AND IN ADDITION TO THAT, IF ANYONE ATTEMPTS TO
10 SPEAK WITH YOU, YOU SHOULD REPORT THAT TO THE COURT,
11 THE CLERK OF COURT STAFF, OR TO THE SHERIFF'S STAFF
12 IMMEDIATELY SO THAT WE CAN TAKE THE APPROPRIATE
13 ACTION THAT IS NECESSARY.

14 NOW, BEFORE WE PROCEED WITH THE DRAWING OF THE
15 PANEL, I NEED TO SPEAK WITH THE ATTORNEYS VERY
16 BRIEFLY. AND IF YOU WOULD INDULGE US, I WOULD
17 GREATLY APPRECIATE IT.

18 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

19 *THE COURT:* FOR THE PURPOSES OF THE RECORD,
20 AFTER CONSULTATION WITH COUNSEL THERE ARE NO
21 ADDITIONAL VOIR DIRE QUESTIONS TO BE ASKED OF THE
22 PANEL.

23 LADIES AND GENTLEMEN, AS I INDICATED, WE WILL
24 NOW -- EACH -- ALL OF YOU WILL NOW BE BROKEN DOWN
25 INTO SEPARATE PANELS OF FOUR. AND I WILL TELL YOU IN

1 ADVANCE BEFORE YOU LEAVE TODAY WHEN YOU WILL NEED TO
2 RETURN TO THE COURTHOUSE FOR THE INDIVIDUAL
3 QUESTIONING PROCESS.

4 WE ANTICIPATE AND WE WILL HAVE YOU -- FOR
5 EXAMPLE, WE WILL -- AS I INDICATED, YOU WILL BE IN
6 PANELS OF FOUR. WE WILL ADVISE YOU WHEN YOU NEED TO
7 REPORT BACK TO THE COURTHOUSE, WHAT TIME, AND WHERE
8 YOU NEED TO REPORT.

9 WE WILL BE CONDUCTING THE QUESTIONING PROCESS
10 HERE IN THE COURTROOM BUT WE WILL HAVE WAITING ROOMS
11 FOR YOU. WE ANTICIPATE, HOWEVER, THAT IF WE STAY ON
12 TRACK THAT WE SHOULD BE ABLE TO MAKE A GREAT AND
13 EFFICIENT USE OF YOUR TIME WITHOUT YOU ALL HAVING TO
14 WAIT.

15 THAT IS WHY WE'RE DOING SMALLER PANELS, SO
16 HOPEFULLY WE'LL BE ABLE TO DO THAT QUICKLY AND
17 EFFICIENTLY.

18 WE ARE NOW GOING TO HAVE THE CLERK DRAW THOSE
19 PANELS. AND AS I INDICATED, WE WILL BEGIN THAT
20 PROCESS -- WE HAD ANTICIPATED STARTING TODAY, BUT
21 BECAUSE OF, YOU KNOW, BEST LAID PLANS, WE WILL NOT
22 BEGIN UNTIL TOMORROW.

23 AND THE PANELS WILL COME IN STAGGERED. JUST BY
24 WAY OF EXAMPLE FOR YOU, WE WILL HAVE A PANEL OF FOUR
25 COME IN AT NINE, A PANEL COME AT 10, PANEL AT 11,

1 PANEL AT 12. WE WILL THEN BREAK FOR LUNCH AND WE
2 WILL BEGIN THAT PROCESS AGAIN AT 2:00, 3:00 AND 4:00.
3 AND WE WILL FOLLOW THAT SAME PROCEDURE AGAIN ON
4 THURSDAY AND IF NECESSARY ON FRIDAY ALSO.

5 ALL OF YOU MAY WELL NOT BE ASSIGNED TO PANELS
6 TODAY. AND IF YOU ARE NOT ASSIGNED TO A PANEL, WE
7 WILL THEN HAVE THE BALANCE OF YOUR REPORT AT A
8 PARTICULAR TIME ON FRIDAY AFTER WHICH WE WILL
9 DETERMINE AT THAT TIME WHETHER WE NEED TO DO ANY
10 ADDITIONAL PANELS OF JURORS.

11 AGAIN, WE GREATLY APPRECIATE YOUR TIME AND YOUR
12 PATIENCE. TO US, BECAUSE WE DO THIS PROCESS AND WE
13 ARE INVOLVED IN IT SO VERY OFTEN AND WE KNOW THE INS
14 AND OUTS OF THE LEGAL PROCESS, THIS IS NORMAL FOR US.
15 WE ARE USED TO THESE TYPE OF HOURS. WE ARE USED
16 TO -- FOR LACK OF A BETTER WAY OF PUTTING IT -- THE
17 AMOUNT OF STRESS THAT THIS PUTS ON AN INDIVIDUAL.

18 AND SO ON BEHALF OF THE STATE AND THE DEFENSE, I
19 KNOW THAT YOU WILL HEAR US SAY THANK YOU A LOT DURING
20 THIS PROCESS, BUT PLEASE KNOW THAT IT IS SINCERE AND
21 IT IS GENUINE, AND I AM ACUTELY AWARE OF THE
22 INCONVENIENCE THAT SERVICE POSES TO YOUR PERSONAL AND
23 YOUR PROFESSIONAL LIVES AND THAT WE TRULY APPRECIATE
24 YOUR SACRIFICE.

25 SO AGAIN, WE APPRECIATE YOUR PATIENCE. AS YOUR

1 NAME IS CALLED, WE WILL THEN BEGIN THE ASSIGNMENT OF
2 THE PANELS. AND AGAIN, IF YOU COULD JUST BEAR WITH
3 US. WE ANTICIPATE THAT THAT PROCESS WILL BEGIN VERY
4 SHORTLY.

5 AND MADAM CLERK, AS YOU DO THE FOUR, IF YOU
6 WOULD JUST GO AHEAD HAND THOSE UP TO ME AND I WILL GO
7 AHEAD AND HANDLE IT FROM THERE. AND FOR THOSE WHO
8 ARE NOT AWARE, OUR STATUTE PROVIDES THAT RANDOM JURY
9 SELECTION IS DONE BY A CHILD UNDER A CERTAIN AGE OR A
10 BLIND PERSON, AND SO WE HAVE WITH US OUR JURY PERSON
11 TODAY WHO HAS BEEN SO PATIENT. HE WANTS TO BE
12 OUTSIDE PLAYING, AND HE HAS BEEN ASSISTING US TODAY.

13 OUR STATUTE, HOWEVER, HAS CHANGED RECENTLY TO
14 ALLOW FOR ELECTRONIC SELECTION, BUT WE HAVEN'T
15 PROGRESSED FAR ENOUGH TO BE ABLE TO DO THAT. YES,
16 SIR.

17 MR. DIGGS: YOUR HONOR, WILL TOMORROW BE OPEN
18 COURT? OPEN TO--

19 THE COURT: YEAH. COURT IS OPEN NOW. THEY'RE
20 JUST WATCHING OUT THE HALLWAY. WE JUST DON'T HAVE
21 THE SPACE.

22 MR. DIGGS: ALL RIGHT.

23 THE COURT: YEAH. COURT IS ALWAYS OPEN. WE
24 NEVER CLOSE THE COURTROOM. THE MEDIA IS JUST IN THE
25 HALLWAY WATCHING BY SATELLITE -- NOT A SATELLITE, BUT

1 A MONITOR BECAUSE WE JUST DON'T HAVE THE SPACE FOR
2 THEM.

3 THE CLERK: THIS IS JORDAN.

4 THE COURT: HOW ARE YOU, JORDAN? WE ARE HAPPY
5 TO HAVE YOU. THANK YOU. GO AHEAD. SWIRL IT AROUND.
6 YOU'RE NOT GOING TO HURT IT.

7 IF THE FOLLOWING JURORS WOULD STAND FOR ME.
8 MICHAEL KEOUGH -- AND IF I AM MISPRONOUNCING YOUR
9 NAME, SIR, PLEASE SAY SO. KEOUGH, NUMBER 185.
10 CHARLES DAVIS, NUMBER 68. EARL MOULTRIE, NUMBER 234.
11 AND JUDITH GAITHER; IS THAT CORRECT?

12 JUROR: THAT'S CORRECT.

13 THE COURT: NUMBER 106? YOU ALL ARE SCHEDULED
14 TO BE HERE IN THE MORNING AT 9 AM. I WOULD ASK THAT
15 YOU STRICTLY ABIDE BY MY INSTRUCTION REGARDING ANY
16 MEDIA COVERAGE OF THIS CASE AND HAVING ANY CONTACT
17 WITH ANYONE.

18 ALSO I WOULD ASK -- AND THIS IS ALSO A GENERAL
19 INSTRUCTION FOR EVERYONE -- PLEASE DON'T HAVE ANY
20 CONTACT WITH ANYBODY IN OR ABOUT THE COURTHOUSE.
21 PEOPLE LOOK VERY DIFFERENT IN A COURTROOM THAN THEY
22 LOOK OUT ON THE STREET OR IN A RESTAURANT OR IN THE
23 LOBBY.

24 AND I OFTEN SAY AS SOUTHERNERS, WE ARE VERY
25 SOCIAL. WE CAN HAVE VERY ANIMATED CONVERSATIONS

1 ABOUT THE WEATHER OR A TV SHOW. AND SOMEONE WATCHING
2 WHO IS NOT PRIVY SO THAT CONVERSATION COULD VERY
3 EASILY MISCONSTRUE WHAT IS BEING SAID AND COULD VERY
4 EASILY BELIEVE THAT YOU ARE TALKING ABOUT THE CASE.

5 SO I WOULD ASK THAT YOU RESTRAIN AND RESTRICT
6 YOURSELF FROM THAT. IF YOU WOULD RETURN DIRECTLY TO
7 THE COURTROOM IN THE MORNING AT 9 AM. AND AT THAT
8 TIME WE WILL BEGIN THE INDIVIDUAL QUESTIONING
9 PROCESS. AND AGAIN WE APPRECIATE YOUR PATIENCE,
10 YOU'RE EXCUSED UNTIL 9 AM.

11 IF YOU ENCOUNTER ANY -- AND ACTUALLY BEFORE YOU
12 LEAVE, WE NEED CURRENT PHONE NUMBERS FOR YOU. SO IF
13 YOU WOULD APPROACH. AND MADAM CLERK, HAVE A FREE
14 HAND...

15 *THE CLERK:* JUDGE, IF THEY TURNED IN THE CARDS
16 THIS MORNING...

17 *THE COURT:* OKAY. DID YOU ALL TURN IN YOUR
18 CARDS THIS MORNING WITH YOUR CURRENT PHONE NUMBERS?
19 HE HAS HIS.

20 *JUROR:* NO, THIS IS THE--

21 *THE CLERK:* YOU TURNED THIS IN?

22 *THE COURT:* ALL RIGHT, THEN. IT'S JUST
23 IMPORTANT THAT WE HAVE CURRENT PHONE NUMBERS FOR YOU.
24 THANK YOU. SEE YOU ALL AT NINE. CHERYL GAUSE, 112.
25 LOTTIE POINT, 256. AM I MISPRONOUNCING? DID I SAY

1 YOUR NAME CORRECT, MA'AM?

2 JUROR: YES.

3 THE COURT: RONNIE TRAPPIER. DID I PRONOUNCE
4 YOUR NAME CORRECTLY?

5 JUROR: YES, MA'AM.

6 THE COURT: NUMBER 328. AND VIRGINIA TAYLOR,
7 318. YOU ALL ARE SCHEDULED TO BE HERE IN THE MORNING
8 AT 10 AM. AND IF YOU WOULD ABIDE BY THE SAME
9 INSTRUCTIONS THAT I GAVE THE OTHER COURT -- PEOPLE
10 THAT I JUST SPOKE WITH.

11 AND PLEASE, IF YOU COULD MAKE SURE THAT YOU
12 TURNED IN YOUR CARD SO THAT WE HAVE AN ACCURATE PHONE
13 NUMBER FOR YOU. OKAY? WE WILL SEE YOU ALL IN THE
14 MORNING AT 10. THANK YOU AGAIN FOR YOUR PATIENCE.

15 MABLE LAMBERT, 191. EBONY FORD, 97. DONALD
16 HORTON, 161. AND JOHN THOMAS, JUNIOR, 321. IF YOU
17 ALL COULD RETURN IN THE MORNING AT 11 AM. AND PLEASE
18 MAKE SURE, IF YOU HAVE NOT, THAT YOU TURN IN YOUR
19 CARD, AND PLEASE ABIDE BY THE COURT'S INSTRUCTIONS.
20 WE WILL SEE YOU IN THE MORNING AT 11. THANK YOU
21 AGAIN FOR YOUR PATIENCE.

22 VIRGINIA STILL -- IS THAT STILL? STALL.
23 S-T-U-L-L?

24 JUROR: S-T-U-L-L.

25 THE COURT: SORRY, 313. STEVEN WALTERS 343.

1 SHEILA SMITH, 395. AND DAVID DUBOIS, 84. YOU ALL
2 ARE SCHEDULED TO RETURN IN THE MORNING AT 12 NOON.
3 AND AGAIN, IF YOU WOULD ABIDE BY THE CLERK OF COURT'S
4 INSTRUCTIONS.

5 COME DIRECTLY TO THE JURY ROOM. I MEAN, NOT THE
6 JURY ROOM, TO THIS COURTROOM. BUT WE WILL HAVE
7 BAILIFFS STATIONED WHO WILL TAKE YOU TO A WAITING
8 AREA. OKAY? THANK YOU VERY MUCH.

9 YOU ALL HAVE A WONDERFUL EVENING AND AGAIN THANK
10 YOU FOR YOUR PATIENCE. AND PLEASE MAKE SURE THAT WE
11 HAVE YOUR YELLOW CARD SO THAT WE HAVE AN ACCURATE
12 PHONE NUMBER FOR YOU.

13 TRACEY BUCHANAN, NUMBER 38. MARTHA ANN GRAHAM,
14 121. CRYSTAL COLLINS, 55. DO WE HAVE CRYSTAL
15 COLLINS, 55?

16 MR. HUMPHRIES: SHE WASN'T PRESENT EARLIER.

17 THE COURT: OKAY. SO MAYBE SHE SHOULD NOT HAVE
18 BEEN INCLUDED? CRYSTAL COLLINS. WE DON'T HAVE HER
19 DOWN FOR ROLL CALL EITHER. SHE WAS INADVERTENTLY
20 INCLUDED. WE JUST NEED TO DRAW ANOTHER NAME. YES,
21 MA'AM?

22 JUROR: I AM GOING TO HAVE SURGERY THURSDAY
23 MORNING--

24 THE COURT: WE ARE GOING TO DEAL WITH IT, MA'AM.
25 I ALREADY MADE PREPARATION. WE ARE NOT FINISHED YET.

1 I'M GOING TO MAKE SURE YOUR SURGERY -- YOU SAID
2 THURSDAY, CORRECT?

3 JUROR: YES, MA'AM.

4 THE COURT: AND FRIDAY?

5 JUROR: YES, MA'AM.

6 THE COURT: AND THEN YOU HAVE AN APPOINTMENT ON
7 MONDAY?

8 JUROR: YES, MA'AM.

9 THE COURT: WE ARE GOING TO TAKE CARE OF YOU.
10 AND MA'AM, JUST FOR THE RECORD, IF YOU'LL TELL US
11 YOUR NUMBER.

12 JUROR: 388.

13 THE COURT: THANK YOU. WE HAVE TRACY BUCHANAN,
14 38. MARTHA ANN GRAHAM, 121. EARL MOULTRIE, 235.
15 AND JESSE WRIGHT, 364. YOU ALL ARE SCHEDULED TO BE
16 HERE ON TOMORROW AT 2 PM. AGAIN, PLEASE ABIDE BY MY
17 EARLIER INSTRUCTIONS.

18 HAVE A GREAT EVENING AND WE WILL SEE YOU AT TWO.
19 PLEASE MAKE SURE THAT YOU HAVE FILLED OUT YOUR FORM,
20 YOUR YELLOW CARD, SO THAT WE HAVE AN ACCURATE PHONE
21 NUMBER FOR YOU. YES, MA'AM.

22 JUROR: COULD I -- I -- I HAVE A DOCTOR'S--

23 THE COURT: UNFORTUNATELY AT THIS POINT I HAVE
24 TO DO THIS RANDOMLY AND I CANNOT DEVIATE FROM THE
25 PROCESS WE'VE ALREADY BEGUN. LINDA YOUNG, 400.

1 RONALD POLSON, 257. SUE ANN SCHROER,
2 S-C-H-R-O-E-R -- DID I PRONOUNCE THAT CORRECT?

3 JUROR: YES, YOU DID.

4 THE COURT: AND CYNTHIA CRIBB, 63.

5 MR. HUMPHRIES: WHAT IS THE JUROR'S NUMBER?

6 THE COURT: 288.

7 MR. HUMPHRIES: THANK YOU.

8 THE COURT: YOU'RE WELCOME. LADIES AND
9 GENTLEMEN, YOU HAVE BEEN SCHEDULED FOR TOMORROW AT 3
10 PM. AND IF YOU WOULD ABIDE BY MY EARLIER
11 INSTRUCTIONS AND PLEASE MAKE SURE YOU'VE FILLED OUT
12 YOUR CARDS SO THAT WE HAVE AN ACCURATE PHONE NUMBER
13 FOR YOU. HAVE A GOOD EVENING.

14 BARNEY BLAIN, JUNIOR, NUMBER 24. PATRICIA
15 WOFFORD 363. LINDA HEARL FLOYD, 95. WALTER
16 DONALDSON, 79. YOU ALL ARE SCHEDULED FOR TOMORROW,
17 WHICH IS AUGUST 2ND, AT 4 PM.

18 AGAIN, PLEASE ABIDE BY THE COURT'S EARLIER
19 INSTRUCTIONS AND PLEASE MAKE SURE YOU FILLED OUT YOUR
20 CARD SO WE HAVE ACCURATE CONTACT INFORMATION FOR YOU.
21 HAVE A GOOD EVENING. THANK YOU.

22 ALL RIGHT. NOW WE'RE STARTING FOR AUGUST 3RD.
23 KAREN HILLS, 379. RICHARD COX, JUNIOR, 61. ELEANOR
24 WILLIAMSON, 358. BRENDA SIMMONS 394.

25 LADIES AND GENTLEMEN, YOU ARE SCHEDULED FOR

1 AUGUST 3RD AT 9 AM. PLEASE ABIDE BY THE COURT'S
2 INSTRUCTIONS AND PLEASE MAKE SURE THAT YOU LEAVE YOUR
3 CARD WITH US SO THAT WE HAVE ACCURATE INFORMATION FOR
4 YOU. HAVE A GOOD EVENING. WE WILL SEE YOU ON
5 AUGUST 3RD AT 9 AM.

6 TIMOTHY LEONARD, 202. TIANI GREER, 130.
7 CARROLL EUGENE BAKER 368. REBECCA FUENER -- IS THAT
8 FUENER, F-U-E-N-E-R? 374. YOU ALL ARE SCHEDULED FOR
9 AUGUST 3RD, WHICH IS THURSDAY, AT 10 AM.

10 AND IF -- PLEASE MAKE SURE YOU FILLED OUT YOUR
11 FORMS AND SO THAT WE HAVE ACCURATE INFORMATION. AND
12 PLEASE ABIDE BY THE COURT'S INSTRUCTIONS. AND ALSO
13 IF ANY OF YOU FORGET, JUST CALL US. WE'LL BE ABLE TO
14 TELL YOU WHEN YOU'RE SUPPOSED TO BE HERE. AND AGAIN
15 THAT'S AUGUST 3RD AT 10 AM. THANK YOU. HAVE A GOOD
16 EVENING.

17 AND MA'AM, IF I MISPRONOUNCE YOUR NAME, PLEASE
18 FORGIVE ME. TONGRANGELIA -- IS THAT CORRECT? DID I
19 GET IT RIGHT?

20 JUROR: TONGRANGELIA.

21 THE COURT: TONGRANGELIA. I'M SORRY. I DIDN'T
22 MEAN TO MUTILATE YOUR NAME. I APOLOGIZE. I GET
23 CALLED EVERYTHING FROM DEADRA TO WHATEVER, YOU KNOW,
24 SO I UNDERSTAND, AND I APOLOGIZE. COLE, NUMBER 52.
25 ROBERT LUMPKIN THE THIRD, 387. RALPH SHELLY, 292.

1 AND ELLEN WINNS, 361.

2 LADIES AND GENTLEMEN, YOU HAVE BEEN SCHEDULED
3 FOR AUGUST 3RD, WHICH IS THURSDAY, AT 11 AM. AGAIN,
4 IF YOU WOULD ABIDE BY THE COURT'S INSTRUCTIONS THAT
5 YOU HEARD ME GIVE TO EVERYONE ELSE. YOU'RE EXCUSED
6 FOR THE COURT TODAY. HAVE A GOOD EVENING.

7 PHILLIP MCCRAY, 389. MICHAEL LINNEN, 206, IS
8 THAT CORRECT, SIR? IS IT LINNEN? LINNEN? LINN --
9 LINEN. I'M SORRY, MADAM CLERK. I COULDN'T READ
10 YOU -- MICHAEL LINNEN, 206. ROSCO PRIEST 265. IS
11 THAT 265 OR 263?

12 JUROR: 265.

13 THE COURT: 265. AND JOSEPH HENSON, 378.
14 GENTLEMEN, YOU'RE SCHEDULED FOR AUGUST 3RD AT 12
15 NOON. THAT IS AGAIN AUGUST 3RD AT 12 NOON, WHICH IS
16 THURSDAY. AND IF YOU WOULD ABIDE BY THE COURT'S
17 EARLIER INSTRUCTIONS, YOU'RE EXCUSED WITH THE COURT'S
18 THANKS. HAVE A GOOD EVENING. AND PLEASE MAKE SURE
19 WE HAVE THE OTHER PART OF YOUR YELLOW CARD.

20 SARAH ROBERTS 276. RYAN IZZARD, 167. FADY --
21 IS THAT BASSILY?

22 JUROR: BASSILY.

23 THE COURT: BASSILY. I'M SO SORRY, SIR, 17.
24 AND CAROLYN CANNON, 43. LADIES AND GENTLEMEN, YOU'RE
25 SCHEDULED FOR AUGUST 3RD AT 2 PM. AGAIN, THAT'S

1 THURSDAY, AUGUST 3RD, AT 2 PM. AND IF YOU WOULD
2 ABIDE BY THE COURT'S EARLIER INSTRUCTIONS, WE WILL
3 SEE YOU AT THAT TIME. HAVE A GOOD EVENING. YOU'RE
4 EXCUSED.

5 LARRY DRAKE, NUMBER 82. KYLON MIDDLETON, 225.
6 JOAN GRECO 125. AND QUENNIE MURRAY, 237. LADIES AND
7 GENTLEMEN, YOU ARE SCHEDULED FOR THURSDAY AUGUST 3RD
8 AT 3 PM. AGAIN, THAT'S THURSDAY, AUGUST 3RD, AT 3
9 PM. I HOPE YOU ALL HAVE A GOOD EVENING AND PLEASE
10 ABIDE BY THE COURT'S INSTRUCTIONS AND MAKE SURE WE
11 HAVE ACCURATE CONTACT INFORMATION FOR YOU.

12 MR. DIGGS: YOUR HONOR, COULD YOU GIVE THOSE
13 FOUR NUMBERS AGAIN?

14 THE COURT: SURE. 82, 225, 125 AND 237. WE'RE
15 GOING TO GIVE YOU COPIES OF THESE SHEETS SO YOU DON'T
16 HAVE TO WORRY ABOUT THAT.

17 MR. DIGGS: ALL RIGHT. THANK YOU.

18 MR. HUMPHRIES: YOUR HONOR, MAY WE APPROACH VERY
19 BRIEFLY?

20 THE COURT: YES. ANTHONY FRYE, 105. RICHANDA
21 KNOWLIN, 187. ANDREW BREWINGTON, JUNIOR, 31. JOHN
22 SHUTEY, 294. LADIES AND GENTLEMEN, YOU'RE SCHEDULED
23 FOR THURSDAY, AUGUST 3RD AT 4 PM. AGAIN, THURSDAY,
24 AUGUST 3RD, AT 4 PM.

25 PLEASE ABIDE BY THE COURT'S INSTRUCTIONS AND

1 PLEASE MAKE SURE WE HAVE ACCURATE INFORMATION TO
2 CONTACT YOU. YOU'RE EXCUSED. HAVE A GOOD EVENING.

3 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

4 THE COURT: LADIES AND GENTLEMEN, JUST BEAR WITH
5 US. WE HAD TO PRINT ANOTHER SHEET SO THAT WE COULD
6 DO THE NEXT SCHEDULE. WELL, ACTUALLY DID YOU ALREADY
7 PICK THE -- GO AHEAD AND WE CAN WRITE THEM DOWN
8 AFTER -- JUST HAND THEM TO ME IN THE ORDER THAT HE IS
9 PICKING THEM.

10 TYRONE MAYERS, 213. SHUH LING -- KUO -- I
11 APOLOGIZE -- 188. KARIN HARPER, 136. TIFFANY
12 WILDER, 354. OKAY. IF YOU ALL WOULD BE PRESENT ON
13 FRIDAY, AUGUST 4TH AT 9 AM. THAT'S AGAIN FRIDAY,
14 AUGUST 4TH AT NINE.

15 AND AGAIN, PLEASE ABIDE BY THE COURT'S
16 INSTRUCTIONS AND PLEASE MAKE SURE THAT WE HAVE THE
17 OTHER PART OF YOUR SHEET SO WE HAVE ACCURATE
18 INFORMATION, CONTACT INFORMATION FOR YOU. YOU'RE
19 EXCUSED. HAVE A GOOD EVENING.

20 JUROR: YOUR HONOR, I DON'T HAVE A BABYSITTER
21 FRIDAY.

22 THE COURT: YOU'RE MOTHER IS NOT AVAILABLE?

23 JUROR: SHE'S WORKING.

24 THE COURT: YOU WERE NOT -- WERE YOU SUPPOSED TO
25 BE WORKING ON FRIDAY IF YOU WEREN'T HERE?

1 JUROR: DO WHAT? HUH-UH.

2 THE COURT: YOU'RE OFF ON FRIDAYS?

3 JUROR: DAY CARE AIN'T OPEN ON FRIDAYS.

4 THE COURT: I'M SORRY?

5 JUROR: DAY CARE AIN'T OPEN ON FRIDAYS.

6 THE COURT: COUNSEL, APPROACH A MOMENT. MA'AM,
7 WHAT WE WOULD INSTRUCT YOU TO DO IS TRY TO FIND A
8 BABYSITTER. IF YOU CANNOT, HOWEVER, JUST BRING YOUR
9 CHILD WITH YOU, OKAY, THEN WE WILL MAKE ARRANGEMENTS.
10 OKAY.

11 JOHN SCHWINDT, 289. ROBERT MILLS EDWARDS, 86.
12 VIRGINIA PORTER, 260. RAYMOND MILLER, 230. MY MAN,
13 THE CLAUSTROPHOBIC. I'VE GOT A MEMORY LIKE A
14 FIELD -- AND BECAUSE, OF COURSE, YOU KNOW YOU'RE NEAR
15 AND DEAR TO MY HEART. I'M CLAUSTROPHOBIC. I DON'T
16 DO CLOSED SPACES WELL EITHER.

17 JUROR: THANK YOU.

18 THE COURT: YOU ALL ARE SCHEDULED TO RETURN ON
19 AUGUST 4TH, WHICH IS FRIDAY AT 10 AM. AGAIN, THAT'S
20 AUGUST 4TH, FRIDAY, AT 10 AM. PLEASE ABIDE BY THE
21 COURT'S INSTRUCTIONS AND PLEASE MAKE SURE THAT WE
22 HAVE YOUR YELLOW SHEET WITH YOUR PHONE NUMBERS.
23 THANK YOU VERY MUCH. YOU ALL HAVE BEEN VERY PATIENT.
24 HAVE A GOOD EVENING.

25 RALPH HOUCHINS -- IS IT HOUCHINS -- 380. DUANE

1 GRATE, 123. LILIAN VEREEN, 339. AND BENJAMIN HOLT,
2 160. YOU ALL HAVE BEEN SCHEDULED FOR FRIDAY,
3 AUGUST 4TH, AT 11 AM. AGAIN, THAT'S FRIDAY,
4 AUGUST 4TH AT 11 AM.

5 PLEASE ABIDE BY THE COURT'S INSTRUCTIONS AND
6 WE'LL SEE YOU AT THAT TIME. MAKE SURE WE HAVE
7 YOUR -- THE SHEET THAT HAS YOUR CONTACT INFORMATION.
8 COULD COUNSEL APPROACH FOR ME, PLEASE?

9 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

10 THE COURT: TO THE BALANCE OF THE PANEL, WE'RE
11 GOING TO ASK THAT YOU ALL RETURN AT 12 NOON ON
12 FRIDAY, AUGUST THE FOURTH. AT THAT TIME WE WILL BE
13 IN A POSITION OF KNOWING WHETHER WE NEED TO DO ANY
14 MORE INDIVIDUAL VOIR DIRE OR WHETHER WE WOULD HAVE
15 REACHED THE NUMBER OF JURORS THAT ARE NECESSARY TO
16 SELECT OUR PANEL.

17 AGAIN, I NEED ALL OF YOU TO RETURN ON FRIDAY,
18 AUGUST 4TH, AT 12 NOON, AND AT THAT TIME I WILL GIVE
19 YOU FURTHER INSTRUCTIONS. HOWEVER, DURING THIS BREAK
20 I NEED FOR YOU ALL TO STRICTLY ADHERE TO THE COURT'S
21 INSTRUCTIONS.

22 YOU ARE NOT TO READ, WATCH OR LISTEN TO ANY
23 ACCOUNTS ABOUT THIS CASE. AND THAT INCLUDES ANYTHING
24 THAT IS ON THE RADIO, TELEVISION, INTERNET, OR ANY
25 OTHER MEDIA OUTLET, OR IN THE NEWSPAPER.

1 AND THE REASON WE ASK YOU THIS IS BECAUSE YOU
2 POTENTIALLY WILL BE THE FACT FINDERS IN THIS CASE,
3 WHICH MEANS WE HAVE TO MAINTAIN YOUR IMPARTIALITY AND
4 MAKE SURE THAT WE ARE ABLE TO IMPANEL A FAIR PANEL
5 THAT WILL BE ABLE TO LISTEN TO THE EVIDENCE WITHOUT
6 BIAS OR PREJUDICE AND RENDER A TRUE AND JUST VERDICT
7 IN THIS CASE.

8 SO IT IS ESSENTIAL THAT YOU FOLLOW THE COURT'S
9 INSTRUCTIONS. AND ALSO PLEASE HAVE NO CONTACT WITH
10 ANYONE AND HAVE NO DISCUSSION ABOUT THIS CASE IN ANY
11 WAY. PLEASE MAKE SURE THAT WE HAVE THE BOTTOM
12 PORTION OF YOUR YELLOW CARD SO THAT WE HAVE ACCURATE
13 CONTACT INFORMATION FOR YOU.

14 I HOPE THAT YOU ALL HAVE A WONDERFUL EVENING.
15 THANK YOU AGAIN FOR YOUR PATIENCE, AND WE WILL SEE
16 YOU AT NOON ON FRIDAY.

17 (WHEREUPON THERE WAS A PAUSE.)

18 *THE COURT:* ALL RIGHT, GENTLEMEN. WE'VE GOT A
19 COUPLE THINGS WE NEED TO TAKE CARE OF. MA'AM, I'M SO
20 SORRY. NUMBER -- WAIT ONE SECOND. BEAR WITH ME ONE
21 MOMENT. IF YOU HAVE A SEAT FOR ME, I'D APPRECIATE
22 IT.

23 IS NUMBER 388 PRESENT? MA'AM, DUE TO YOUR
24 DENTAL SURGERY AND THE FACT WE HAVE NOT SELECTED YOU
25 FOR A PANEL, WE'RE GOING TO GO AHEAD AND EXCUSE YOU

1 SO YOU WILL BE ABLE TO MAKE THOSE APPOINTMENTS.

2 JUROR: THANK YOU.

3 THE COURT: YOU'RE WELCOME. HAVE A GOOD NIGHT.

4 388. AND THERE IS NO EXCEPTION, CORRECT, FROM THE
5 STATE?

6 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

7 THE COURT: AND FROM THE DEFENSE?

8 MR. KELLY: NONE FROM THE DEFENSE.

9 THE COURT: OKAY. THIS IS WHAT I WOULD LIKE TO
10 DO. AND TO MEMBERS OF THE MEDIA, WE APPRECIATE YOUR
11 PATIENCE. WE WERE, AS I INDICATED TO YOU ALL
12 EARLIER, PACKED TO THE CAPACITY. AND WE APPRECIATE
13 YOU ALL VIEWING THE PROCEEDINGS FROM THE REMOTE
14 CAMERA.

15 WE KNOW THAT THAT MAY HAVE BEEN A LITTLE
16 UNCOMFORTABLE FOR YOU, BUT THE COURT REALLY
17 APPRECIATES YOU ALL ACCOMMODATING US.

18 WHAT I WOULD LIKE TO DO -- I'M GOING TO GO AHEAD
19 AND RULE ON THE STATE'S MOTION IN LIMINE IN A FEW
20 MINUTES. IF ANYONE HAS ANY CELLPHONES, I'D ASK FOR
21 YOU TO TURN THEM OFF. JUST FOR -- MR. DIGGS NEED TO
22 GO TO THE RESTROOM?

23 MR. KELLY: I BELIEVE SO, MA'AM.

24 THE COURT: OKAY. WE'LL WAIT ON HIM. WELL, WHY
25 DON'T WE USE THIS AS AN OPPORTUNE TIME FOR EVERY BODY

1 TO TAKE A QUICK RESTROOM BREAK. THAT WILL GIVE ME A
2 CHANCE TO DO WHAT I NEED TO DO AND THEN WE WON'T HAVE
3 TO STOP ONCE WE GET STARTED. WE'LL BE AT EASE FOR
4 ABOUT TEN MINUTES.

5 MR. HUMPHRIES: JUDGE, CAN WE TAKE UP A BRIEF
6 MATTER AT YOUR LEISURE IN CHAMBERS?

7 THE COURT: SURE. Y'ALL, AS SOON AS YOU GET
8 THROUGH REFRESHING YOURSELVES, COME ON IN CHAMBERS
9 AND WE'LL TALK. AND MY CLERK IS MAKING COPIES OF ALL
10 OF THE SHEETS FOR YOU.

11 (WHEREUPON THERE WAS A BRIEF RECESS.)

12 THE COURT: AS A PRELIMINARY HOUSEKEEPING
13 MATTER, DURING SIDEBAR, MR. DIGGS, YOU INDICATED THAT
14 YOU DID NOT DURING THE JURY QUALIFICATION PROCESS
15 WANT TO WAIVE YOUR OBJECTION TO THOSE WHO ARE 65
16 YEARS OF AGE OR OLDER EXERCISING THEIR EXEMPTIONS TO
17 SERVICE. IS THAT CORRECT?

18 MR. DIGGS: YES, YOUR HONOR. WE MADE THAT
19 OBJECTION EARLIER IN THE CASE.

20 THE COURT: ON JUNE 27TH.

21 MR. DIGGS: YES. AND THERE WAS ONE
22 INDIVIDUAL -- I BELIEVE IT WAS A -- AT LEAST ONE LADY
23 HERE WHO VOICED A DESIRE NOT TO SERVE AND TAKE
24 ADVANTAGE OF THAT EXEMPTION. AND SO I JUST -- I
25 DIDN'T HAVE AN OPPORTUNITY AT THAT TIME, ALTHOUGH I

1 DID INDICATE TO THE COURT I WANTED TO MAKE SURE THAT
2 WE WERE...

3 THE COURT: THAT'S WHY I'M DOING IT NOW, TO MAKE
4 SURE YOUR OBJECTION IS PRESERVED FOR THE RECORD. AND
5 AT THAT TIME I ADVISED YOU THAT THE LEGISLATURE IN
6 ITS INFINITE WISDOM HAS DECIDED THOSE WHO ARE 65
7 YEARS OF AGE OR OLDER BY STATUTE ARE ALLOWED TO
8 EXERCISE THEIR EXEMPTION.

9 AND AS I INDICATED TO YOU AT THAT TIME, I WOULD
10 ENCOURAGE PEOPLE TO REMAIN WITH US IF THEY WANTED TO.
11 BUT THEY DO HAVE THE OPTION OF THAT EXEMPTION AND I
12 AM NOT GOING TO PROHIBIT THEM FROM EXERCISING IT.

13 MR. DIGGS: THANK YOU VERY MUCH, YOUR HONOR.

14 THE COURT: YOU'RE WELCOME. NOW, ALSO JUST AS A
15 MATTER OF HOUSEKEEPING, ON JUNE 22ND MR. STANKO WAS
16 ARRAIGNED, AND I ASKED YOU ALL PRIOR TO VOIR DIRE
17 PROCESS IF YOU WANTED HIM TO BE ARRAIGNED AGAIN IN
18 THE PRESENCE OF THE JURY. AND AS I UNDERSTAND IT,
19 YOU ALL WAIVE THAT, CORRECT?

20 MR. DIGGS: YOUR HONOR, WE WAIVE IT. THAT'S
21 CORRECT.

22 THE COURT: OKAY. LADIES AND GENTLEMEN, THAT
23 THEN LEAVES WITH US THE MOTION IN LIMINE FILED BY THE
24 STATE OF JULY 24TH SEEKING TO LIMIT IN ADVANCE OF
25 TRIAL THE EVIDENCE REGARDING IN STATE -- AND I'M

1 READING THE STATE'S CAPTION -- EVIDENCE REGARDING
2 DIMINISHED CAPACITY IN THE GUILT PHASE OF THE TRIAL.

3 THE COURT HEARD ARGUMENT AND TESTIMONY ON THAT
4 MOTION ON YESTERDAY. AND AS I ADVISED THE PARTIES, I
5 TOOK THE MOTION UNDER ADVISEMENT. I WANTED AN
6 OPPORTUNITY TO REVIEW MY NOTES AS WELL AS STUDY THE
7 MATTER A LITTLE MORE AND THINK, QUITE FRANKLY, AND
8 HAVE THE ABILITY OF REFLECTION OVER THE EVENING
9 RECESS.

10 THE MOTION WAS FILED, OF COURSE, IN THE NATURE
11 OF THE MOTION IN LIMINE, WHICH AS WE ALL KNOW IN
12 GENERAL, A MOTION IN LIMINE SEEKS A PRETRIAL
13 EVIDENTIARY RULING TO PREVENT THE DISCLOSURE OF
14 POTENTIALLY PREJUDICIAL MATTERS TO BE -- FROM BEING
15 PRESENTED TO THE JURY.

16 AND AS WE ALSO ARE AWARE AS BLACK LETTER LAW,
17 THAT A MOTION IN LIMINE IS A PRETRIAL RULING ON THE
18 ADMISSIBILITY OF EVIDENCE AND IS PRELIMINARY IN ITS
19 DETERMINATION AND IS ALWAYS SUBJECT TO CHANGE BASED
20 ON DEVELOPMENT AT TRIAL.

21 AND SO I JUST SAY THAT ONLY AS A PRECURSOR TO
22 THE COURT'S RULING. MR. STANKO, THROUGH HIS COUNSEL,
23 WISHES TO PRESENT A -- THE AFFIRMATIVE DEFENSE OF
24 INSANITY.

25 AND AS WE ALL ARE AWARE, SOUTH CAROLINA FOLLOWS

1 THE M'NAGHTEN STANDARD. AND THE TEST OF WHETHER AN
2 ACCUSED IS CRIMINALLY RESPONSIBLE FOR HIS ACTIONS IS
3 WHETHER HE HAD THE MENTAL CAPACITY TO DISTINGUISH
4 MORAL OR LEGAL RIGHT FROM MORAL OR LEGAL WRONG AND
5 RECOGNIZE THE PARTICULAR ACT CHARGED AS MORALLY OR
6 LEGALLY WRONG.

7 OF COURSE, I'M REFERRING TO STATE VERSUS LOFT
8 AND IT'S PROGENY WHICH IS FOUND AT 270 SOUTH CAROLINA
9 664, 244 SOUTHEAST SECOND 302, WHICH IS A 1978
10 SUPREME COURT DECISION.

11 AT THIS JUNCTURE OF THE PROCEEDINGS THE COURT
12 WOULD FIND THAT IT IS PREMATURE TO EXCLUDE
13 MR. STANKO'S AFFIRMATIVE DEFENSE OF INSANITY. AND I
14 THINK THAT AT LEAST THE STANDARD AT THIS JUNCTURE OF
15 THE PROCEEDINGS IS WHETHER A FACTUAL ISSUE HAS BEEN
16 RAISED SUFFICIENTLY BEFORE THE COURT TO ALLOW THE
17 DEFENDANT TO PRESENT EVIDENCE OF THE DEFENSE, AND THE
18 COURT WOULD FIND THAT THROUGH THE WITNESS, THROUGH
19 THE EXPERT, MR. STANKO'S EXPERT WITNESS, DR. SACHY
20 WHO TESTIFIED AT LENGTH REGARDING HIS EVALUATION OF
21 MR. STANKO -- AND I WAS LOOKING AT MY NOTES BECAUSE I
22 WANTED TO USE THE EXACT TERMINOLOGY THAT DR. SACHY
23 USED.

24 BUT BASICALLY WHAT HE INDICATED IS THAT
25 MR. STANKO OPERATES WITHIN A DIMINISHED CAPACITY

1 24-SEVEN. AND I'M QUOTING HIS EXACT LANGUAGE, BUT HE
2 WAS INSANE AT THE TIME OF THE CRIME.

3 AND I'M NOT GOING TO GO BACK THROUGH ALL OF THE
4 MEDICAL TERMS AND THE TECHNICAL TERMS THAT HE USED ON
5 YESTERDAY. I THINK YOU WERE ALL PRESENT FOR HIS
6 TESTIMONY.

7 AND QUITE FRANKLY, IN THE INTEREST OF TIME I'M
8 NOT GOING TO GO BACK THROUGH ALL OF THE PARTICULARS
9 OF THAT TESTIMONY.

10 BUT WHAT HE BASICALLY TESTIFIED TO IS THAT
11 MR. STANKO AT THE TIME OF THE CRIME COULD NOT
12 DISTINGUISH RIGHT FROM WRONG BECAUSE OF DECREASED
13 FUNCTIONING IN HIS BRAIN.

14 AND ON CROSS-EXAMINATION WHAT HE INDICATED
15 BASICALLY ON DIRECT AND CROSS IS THAT MR. STANKO
16 SUFFERS FROM A LEVEL OF DIMINISHED CAPACITY DUE TO
17 THE NEUROLOGICAL DEFICITS IN THE FRONTAL LOBES OF HIS
18 BRAIN.

19 AND FURTHER HE TESTIFIED THAT MR. STANKO LEGALLY
20 KNOWS THE DIFFERENCE BUT MORALLY HE DOES NOT HAVE THE
21 CAPACITY TO BASICALLY -- AND I'M JUST PARAPHRASING
22 WHAT HE SAID -- TO DISTINGUISH THE TYPE OF MORAL
23 STANDARD THAT IS REQUIRED BY THE STATUTE.

24 AND I THINK PRELIMINARILY THAT IS SUFFICIENT TO
25 ALLOW HIS DEFENSE. I THINK IT WOULD BE EXTREMELY

1 PREMATURE AT THIS POINT FOR THE COURT TO EXCLUDE IT.

2 AND AS I INDICATED BEFORE, IT IS THE -- ONCE THE
3 STATE RAISED THE MOTION, AS I INDICATED TO MR. DIGGS
4 ON YESTERDAY, IT WAS INCUMBENT UPON THE COURT TO HEAR
5 IT. I SIMPLY COULD NOT DISMISS IT WITHOUT HEARING
6 EVIDENCE.

7 BUT THE WHOLE PURPOSE OF THE HEARING WAS FOR THE
8 COURT TO DETERMINE IF IT HAD HEARD ENOUGH EVIDENCE TO
9 DETERMINE IF A FACTUAL ISSUE HAD BEEN RAISED. AND AS
10 I SHARED WITH YOU ALL IN CHAMBERS ON YESTERDAY, IT'S
11 NOT THE COURT'S PREROGATIVE TO BE THE FACT FINDER.
12 IT'S NOT FOR ME TO WEIGH EVIDENCE.

13 IT IS ONLY FOR ME REALLY TO -- IT'S ALMOST A
14 DIRECTED VERDICT STANDARD, FOR ME TO LOOK AT THE
15 EXISTENCE OR NONEXISTENCE OF THE EVIDENCE, BUT IT'S
16 NOT FOR ME TO WEIGH ITS CREDIBILITY.

17 THE COURT DOESN'T HAVE TO -- IT'S NOT FOR ME TO
18 PASS ON THE CREDIBILITY OR THE BELIEVABILITY OF HIS
19 THEORIES. WHEN WE ARE TALKING ABOUT CASE THAT RISES
20 TO THE LEVEL OF A DEATH PENALTY CASE, AS WE KNOW,
21 FOLLOWING SUPREME COURT PRECEDENCE OVER AND OVER
22 AGAIN, THE SUPREME COURT SAYS, AND I'M QUOTING THEM,
23 THAT DEATH IS DIFFERENT.

24 AND WHEN YOU HAVE A CASE OF THAT MAGNITUDE, THAT
25 REALLY I THINK THE COURT SHOULD ERR ON THE SIDE OF

1 CAUTION AT LEAST AT THIS EARLY JUNCTURE IN THE TRIAL.
2 AND SO MR -- AT THIS JUNCTURE MR. STANKO WILL BE
3 ALLOWED TO PRESENT THAT DEFENSE AND THE COURT WILL
4 DENY THE MOTION IN LIMINE.

5 HOWEVER, AS I INDICATED, A MOTION IN LIMINE IS A
6 PRELIMINARY FINDING. IT IS NOT FINAL. AND CERTAINLY
7 THE STATE AT ANY TIME -- AND I DON'T HAVE TO TELL
8 THEM HOW TO FOLLOW, YOU KNOW, WHAT THEY NEED TO DO IN
9 TERMS OF THEIR PROCEDURE.

10 BUT AT ANY TIME, OF COURSE, THEY WILL HAVE TO
11 PRESERVE THEIR OBJECTIONS BY MAKING CONTEMPORANEOUS
12 OBJECTIONS. AND I ASSUME WE WILL VISIT THIS AGAIN AT
13 THE CHARGE PORTION OF THIS TRIAL DURING THE CHARGE
14 CONFERENCE, AND WE'LL GO FROM THERE.

15 BUT I THINK AT THIS JUNCTURE IT WOULD BE
16 EXTREMELY PREMATURE AND THE COURT WOULD DENY THE
17 MOTION. IS THERE ANYTHING FURTHER FOR THE RECORD
18 REGARDING THE MOTION IN LIMINE?

19 MR. HEMBREE: NO, YOUR HONOR. THANK YOU.

20 THE COURT: FROM THE DEFENSE?

21 MR. DIGGS: NO, YOUR HONOR.

22 THE COURT: OKAY. NOW, IN TERMS OF
23 HOUSEKEEPING, AS I KNOW, THIS HAS BEEN A LONG AND
24 ARDUOUS DAY FOR EVERYONE. IS THERE ANYTHING ELSE
25 THAT WE NEED TO COVER, ANYTHING -- JUST LOOSE ENDS

1 THAT WE HAVE LEFT UNRESOLVED OR ANYTHING THAT WE NEED
2 TO DEAL WITH PRIOR TO ADJOURNING COURT TODAY SO THAT
3 EVERYBODY CAN BE RESTED FOR WHAT I ASSUME WILL BE
4 ANOTHER LONG DAY TOMORROW?

5 MR. HEMBREE: UNLESS THERE'S SOME IN CAMERA
6 MATTERS THAT ARE TO BE TAKEN UP WITH DEFENSE COUNSEL.

7 THE COURT: ANYTHING OTHER THAN THOSE MATTERS,
8 GENTLEMEN? AND I ASSUME YOU ALL HAVE BEEN PROVIDED
9 WITH COPIES OF THE STRIKE PANELS SO THAT WE...

10 MR. DIGGS: WE HAVE. THE DEFENSE HAS NOTHING
11 FURTHER.

12 THE COURT: OKAY. AND I MAY HAVE ALREADY DONE
13 THIS BEFORE, AND IF I'M REPEATING MYSELF, PLEASE
14 EXCUSE THAT OVERSIGHT. AS I UNDERSTAND IT, THERE
15 WERE NO EXCEPTIONS TO THE COURT'S INDIVIDUAL VOIR
16 DIRE AS PROPOSED. IS THAT CORRECT?

17 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR, NONE
18 FROM THE STATE.

19 THE COURT: AND FROM THE DEFENSE?

20 MR. DIGGS: NONE FROM THE DEFENSE.

21 THE COURT: AND WHAT WE WILL DO IS IN THE JURY
22 WAITING ROOM WE WILL PUT THE TYPED FORMS IN THERE SO
23 THAT EACH PANEL HAS AN ADEQUATE OPPORTUNITY TO REVIEW
24 THOSE FORMS.

25 IT'S BEEN MY EXPERIENCE THIS WEEK IN DEALING

1 WITH THE JURY THAT ALTHOUGH WE HAVE ASKED THEM TO BE
2 HERE AT A PARTICULAR TIME, THEY HAVE BEEN FAIRLY
3 EARLY. SO I AM THINKING THAT OUR PANEL THAT IS SET
4 TO ARRIVE AT NINE WILL PROBABLY BE ARRIVING AROUND
5 8:30 IF EXPERIENCE IS ANY GUIDE.

6 AND SO I WILL HAVE THOSE FORMS IN THE ROOM FOR
7 THEM. I WILL ALSO MAKE AN ATTEMPT TO FIND SOME
8 PERIODICALS THAT ARE COMPLETELY NEUTRAL IN SUBJECT
9 MATTER SO THAT THEY WON'T BE BORED WHILE THEY ARE
10 WAITING, MAYBE SOME -- I WILL HAVE TO THINK ON THAT,
11 SEE IF I CAN EXAMINE SOME THINGS FOR THEM TO READ,
12 SOME MINDLESS ENTERTAINMENT.

13 WE WILL SEE IF WE CAN DO THAT, AND OF COURSE,
14 PROVIDE THEM WITH REFRESHMENTS WHILE THEY ARE
15 WAITING.

16 ARE THERE ANY EXCEPTIONS? AND OF COURSE, I WILL
17 LET YOU ALL SEE WHATEVER WE PUT BACK THERE BEFORE
18 IT'S PUT BACK THERE. BUT I WILL THINK ABOUT PEOPLE
19 MAGAZINE, YOU KNOW, SOMETHING THAT THEY CAN READ THAT
20 IS NOT HEAVY IN CONTENT AND CHARGED IN THE SUBJECT
21 MATTER SO THAT THEY WILL NOT BE BORED WHILE THEY ARE
22 WAITING. OKAY?

23 WE WILL STAND IN RECESS WITH THE EXCEPTION OF
24 THE IN CAMERA MATTERS I NEED TO COVER WITH MR. STANKO
25 AND HIS COUNSEL. AND WE WILL BE IN RECESS UNTIL

1 9:00.

2 MR. HEMBREE: THANK YOU, YOUR HONOR.

3 THE COURT: THANK YOU.

4 (COURTROOM CLEARED FOR IN CAMERA HEARING.)

5 THE COURT: OKAY. I AM GOING TO -- I KNOW Y'ALL
6 ARE PROBABLY GOING TO FUSS WITH ME, BUT I'M GOING TO
7 HAVE TO CLEAR THE COURTROOM BECAUSE YOU ALL CANNOT BE
8 PRIVY TO THE CONVERSATION I'M ABOUT TO HAVE WITH
9 MR. STANKO AND HIS LAWYERS BECAUSE IT'S ATTORNEY
10 CLIENT PRIVILEGE AND IT COULD SEVERELY COMPROMISE HIS
11 REPRESENTATION.

12 SO I NEED Y'ALL -- I -- Y'ALL HAVE TO TAKE --
13 Y'ALL HAVE STEPS FOR THE PAGERS? IF YOU HEAR ME
14 SCREAM, THEN DO WHAT YOU NEED TO DO. I FEEL -- I
15 FEEL SAFE.

16 (WHEREUPON THERE WAS A PAUSE.)

17 THE COURT: SOMEONE NEEDS TO MAKE SURE THAT 48
18 HOURS HAS TURNED OFF THEIR CAMERAS. MR. STANKO, HOW
19 ARE YOU DOING TODAY?

20 THE DEFENDANT: GOOD. HOW ARE YOU DOING?

21 THE COURT: GOOD. I'M DOING FINE. I
22 UNDERSTAND. I WANT TO JUST PURPOSES OF THE RECORD
23 AND JUST SIMPLY TO FOLLOW UP ON WHAT WE DISCUSSED
24 EARLIER FROM OUR VERY FIRST MOTION REGARDING YOUR
25 REPRESENTATION BY MR. DIGGS MR. KELLY, AND IT'S JUST

1 A MATTER FOR ME TO HAVE PEACE OF MIND KNOWING THAT
2 YOU ARE STILL SATISFIED WITH THEIR REPRESENTATION.

3 THE DEFENDANT: YES, MA'AM, I AM.

4 THE COURT: DO YOU HAVE ANY COMPLAINTS ABOUT
5 THEIR SERVICES?

6 THE DEFENDANT: NONE I THINK MY ANSWER--

7 COURT REPORTER: I'M SORRY. JUDGE, I CAN'T
8 HEAR.

9 THE COURT: OKAY. HE SAID HE BELIEVES HIS
10 ACTIONS MAY HAVE BEEN PREMATURE AT THE TIME BECAUSE
11 HE HAD SO MUCH TO DEAL WITH AT THE TIME. IS THAT
12 ACCURATE?

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: THANK YOU. CAN YOU COME OUT THIS
15 WAY A LITTLE MORE?

16 COURT REPORTER: I CAN'T COME OUT TOO FAR
17 BECAUSE I'M ALL CONNECTED TO THIS THING.

18 THE COURT: OKAY. MR. STANKO, DO YOU HAVE ANY
19 COMPLAINTS ABOUT YOUR ATTORNEYS' SERVICES?

20 THE DEFENDANT: NO, MA'AM, I DO NOT.

21 THE COURT: ARE YOU SATISFIED WITH THEIR
22 REPRESENTATION AT THIS POINT?

23 THE DEFENDANT: AT THIS POINT, YES, MA'AM, I AM.

24 THE COURT: DO YOU TO FEEL THAT YOU HAVE BEEN
25 ABLE TO EFFECTIVELY COMMUNICATE WITH THEM REGARDING

1 REPRESENTATION?

2 THE DEFENDANT: YES, MA'AM.

3 THE COURT: DO YOU FEEL LIKE THEY HAVE
4 ADEQUATELY DISCUSSED ALL THE MATTERS INVOLVING THIS
5 CASE WITH YOU, INCLUDING STRATEGY?

6 THE DEFENDANT: YES, MA'AM.

7 THE COURT: OKAY. DO YOU HAVE ANY COMPLAINTS?

8 THE DEFENDANT: WITH THEM?

9 THE COURT: UH-HUH.

10 THE DEFENDANT: NO, MA'AM.

11 THE COURT: OKAY. DO YOU FEEL ANY DURESS BY ME
12 TALKING TO YOU, DO YOU FEEL ANY COERCION--

13 THE DEFENDANT: NO.

14 THE COURT: -- OPEN AND HONEST WITH THEM?

15 THE DEFENDANT: YES.

16 THE COURT: OKAY. NOW, I'M TRYING TO THINK OF
17 THE OTHER THING I NEEDED TO ASK HIM. IN THIS --
18 AGAIN, MR. STANKO, PLEASE DON'T DRAW ANY INFERENCES
19 FROM THE COURT'S QUESTION.

20 THE DEFENDANT: YES, MA'AM.

21 THE COURT: I SIMPLY -- THERE'S CERTAIN
22 QUESTIONS I HAVE TO ASK JUST FOR POST-TRIAL PURPOSES
23 TO MAKE SURE THAT WE AREN'T DEALING WITH A HINDSIGHT
24 SITUATION LATER SO THAT WE CAN HAVE YOUR ACCURATE
25 IMPRESSIONS NOW.

1 OF COURSE, YOUR MEMORY IS NO MORE CLEARER THAN
2 IT IS WHEN IT GOING ON.

3 THE DEFENDANT: YES, MA'AM.

4 THE COURT: DO YOU UNDERSTAND THAT -- AND YOU
5 ARE FULLY ADVISED THAT YOUR ATTORNEYS ARE PURSUING AN
6 INSANITY DEFENSE ON YOUR BEHALF. IS THAT CORRECT?

7 THE DEFENDANT: YES, MA'AM.

8 THE COURT: OKAY. AND HAVE THEY DISCUSSED WITH
9 YOU THE STATE'S INTENTIONS IF THE COURT LET IN THE
10 INSANITY DEFENSE REGARDING ADDITIONAL INFORMATION
11 THAT THEY FEEL THEY WOULD BE SEEKING TO ELICIT IN THE
12 FORMS OF -- IN THE FORM OF EVIDENCE WITH YOUR -- THEY
13 ALLEGE SUBSEQUENT CRIME IN CONWAY?

14 IN OTHER WORDS, THAT THE STATE IS WANTING THEIR
15 EXPERT TO TESTIFY ABOUT THIS OTHER CRIME IF I LET
16 THEM EXAMINE--

17 THE DEFENDANT: I UNDERSTAND THAT THAT'S WHAT
18 THEY INTEND TO DO.

19 THE COURT: OKAY. BUT MY QUESTION IS, HAVE YOUR
20 LAWYERS FULLY DISCUSSED THAT WITH YOU?

21 THE DEFENDANT: WHEN YOU SAY FULLY, I'M NOT SURE
22 WHAT THE LIMIT IS. I MEAN, THEY HAVE DISCUSSED THAT
23 THE STATE HAS INDICATED IT--

24 THE COURT: DO YOU FEEL YOUR LAWYERS HAVEN'T
25 DISCLOSED SOMETHING TO YOU?

1 THE DEFENDANT: NO, MA'AM, I THINK THEY HAVE.
2 I'M AFRAID THE STATE PROBABLY HASN'T.

3 THE COURT: WELL, I CAN'T -- YOU KNOW, I DON'T
4 KNOW WHAT'S IN THEIR MINDS.

5 THE DEFENDANT: RIGHT.

6 THE COURT: THEY DON'T HAVE ANY DUTY TO DISCLOSE
7 ANYTHING TO YOU OR YOUR ATTORNEYS THAT IS NOT
8 EXCULPATORY.

9 THE DEFENDANT: YES, MA'AM.

10 THE COURT: SO YOU KNOW, WHATEVER THEIR MOTIVES
11 ARE -- MY QUESTION IS, THOUGH, ABOUT MR. DIGGS AND
12 MR. KELLY.

13 THE DEFENDANT: YES, MA'AM. I UNDERSTAND.

14 THE COURT: HAVE THEY FULLY EXPLAINED THAT TO
15 YOU?

16 THE DEFENDANT: I BELIEVE THEY HAVE.

17 THE COURT: AND DO YOU BELIEVE THEY'VE FULLY
18 EXPLAINED THE PROS AND CONS OF THAT TO YOU? IN OTHER
19 WORDS, THE BENEFITS AND THE POSSIBLE DETRIMENT? IN
20 OTHER WORDS, THE BEST CASE SCENARIO, THE WORST CASE
21 SCENARIO. DO YOU FEEL THEY FULLY EXPLAINED THAT TO
22 YOU?

23 THE DEFENDANT: YES, MA'AM.

24 THE COURT: OKAY. AND ARE YOU SATISFIED WITH
25 THEIR EXPLANATION? IN OTHER WORDS, DO YOU FEEL THAT

1 YOU HAVE BEEN FULLY ABLE TO PARTICIPATE IN TERMS OF
2 THOSE STRATEGIC DECISIONS?

3 *THE DEFENDANT:* YES, MA'AM. IT IS MY
4 UNDERSTANDING THOUGH, THAT THERE IS STILL GOING TO BE
5 A HEARING--

6 *THE COURT:* OH, YEAH. MY--

7 *THE DEFENDANT:* -- TO DECIDE ON--

8 *THE COURT:* EXACTLY.

9 *THE DEFENDANT:* YES, MA'AM.

10 *THE COURT:* MY ONLY QUESTION, THOUGH, AT THIS
11 POINT IS NOT WHAT THE COURT MAY DO OR MAY NOT DO --
12 AND AS I EXPLAINED TO YOUR LAWYERS YESTERDAY, WHEN I
13 DEAL WITH A CRIMINAL DEFENDANT OR ANYONE, I ALWAYS
14 HAVE TO LOOK AT THE WORST CASE SCENARIO.

15 *THE DEFENDANT:* YES, MA'AM.

16 *THE COURT:* AND I ALWAYS HAVE TO MAKE SURE THAT
17 THEY'VE FULLY DISCUSSED THE WORST CASE SCENARIO WITH
18 YOU, BECAUSE IF YOU GET ANYTHING SHORT OF THE WORST
19 CASE THAT, YOU KNOW, YOU HAVEN'T REALLY SUFFERED
20 ANYTHING.

21 IF YOU GET SOMETHING MORE THAN WHAT YOU THOUGHT
22 IT MIGHT BE--

23 *THE DEFENDANT:* YES, MA'AM.

24 *THE COURT:* -- OF COURSE, THEN THERE'S SURPRISE.

25 *THE DEFENDANT:* YES, MA'AM.

1 THE COURT: AND SO I'M JUST TRYING TO MAKE SURE
2 THAT EVERYTHING AT THIS POINT HAD BEEN FULLY
3 DISCUSSED WITH YOU.

4 THE DEFENDANT: THIS POINT, YES, MA'AM.

5 THE COURT: AND THEY DISCUSSED WITH YOU THE
6 WORST POSSIBLE CASE SCENARIO. IN OTHER WORDS, THAT
7 THE EVIDENCE COULD POSSIBLY--

8 THE DEFENDANT: YES.

9 THE COURT: OKAY... AND YOU FEEL FULLY SATISFIED
10 WITH THEIR EXPLANATION AND THEIR DISCUSSION WITH YOU?

11 THE DEFENDANT: YES, MA'AM, I DO.

12 THE COURT: AND IT IS YOUR DESIRE FOR THEM TO
13 PURSUE AN INSANITY DEFENSE ON YOUR BEHALF. IS THAT
14 CORRECT?

15 THE DEFENDANT: YES, MA'AM.

16 THE COURT: OKAY. NOW, MR. DIGGS, MR. KELLY, DO
17 YOU ALL HAVE ANY QUESTIONS OF YOUR CLIENT, OTHER
18 QUESTIONS OR INQUIRY TO WHAT THE COURT HAS MADE?

19 MR. DIGGS: YOUR HONOR, I DON'T HAVE ANY
20 QUESTIONS AT THIS POINT.

21 MR. KELLY: NO, MA'AM.

22 THE COURT: OKAY. NOW, DO Y'ALL WANT
23 TO DETERMINE THIS OTHER STUFF -- CONFLICT? I GUESS
24 JUST FOR PURPOSES OF THE RECORD, THERE'S CERTAIN
25 WITNESSES THAT MR. DIGGS AND MR. KELLY HAVE LISTED IN

1 THEIR POTENTIAL WITNESS LIST WHO ARE EMPLOYEES OF THE
2 SOLICITOR'S OFFICE.

3 DURING THE CHAMBERS CONFERENCE THE ATTORNEYS FOR
4 THE SOLICITOR AND THE DEPUTY SOLICITOR MADE INQUIRY
5 AS TO WHY THOSE WITNESSES WERE LISTED BECAUSE THEY
6 ARE CONCERNED THAT THERE IS SOME CONFLICT OF INTEREST
7 WHERE THEY POTENTIALLY COULD BE CONFLICTED OUT OF
8 THIS CASE OR IF THERE IS SOME CONCERN OR ETHICAL
9 PROPRIETIES REGARDING THEIR BEHAVIOR. IS THAT A
10 CORRECT COMMENT?

11 MR. KELLY: IT'S SOMETHING LIKE THAT, YOUR
12 HONOR.

13 THE COURT: OKAY. AND WHAT EVERYONE'S CONSENTED
14 TO, BECAUSE MR. DIGGS AND MR. KELLY INDICATED AT THAT
15 TIME THAT THEY HAD NO OBLIGATION TO DISCLOSE THEIR
16 STRATEGY, AND THE COURT AGREED WITH THEM, THAT THEY
17 WOULD DISCUSS WITH ME IN CAMERA WHY THEY WERE
18 OFFERING THESE WITNESSES AND THE COURT WOULD MAKE AN
19 INDEPENDENT SORT OF ASSESSMENT OF WHETHER THERE WAS
20 SOME PROBLEM SO THAT THE SOLICITOR CAN -- AND OF
21 COURSE, I'M LIMITED, OF COURSE, IN MAKING -- IN ANY
22 EVENT, BECAUSE ULTIMATELY THEY WOULD HAVE TO MAKE
23 THAT DECISION.

24 BUT THE PARTIES AGREE THAT THIS IS THE WAY WE
25 WILL HANDLE IT. AND SO JUST SO THE RECORD CAN BE

1 CLEAR AS TO WHY THEY ARE DIVULGING THIS INFORMATION
2 TO THE COURT.

3 MR. KELLY: LET ME SAY FIRST OF ALL THAT--

4 THE COURT: AND YOU DON'T HAVE TO DISCLOSE IT
5 ALL TO ME, MR. KELLY, BECAUSE I DON'T WANT YOU -- OF
6 COURSE, I DON'T HAVE ANYBODY TO TELL BUT MY LAW
7 CLERK, BUT I DON'T WANT YOU IN ANY WAY TO COMPROMISE
8 YOUR STRATEGY REGARDING YOUR DEFENSE OF MR. STANKO.

9 MR. KELLY: MA'AM, I DON'T -- I DON'T BELIEVE
10 THERE'S ANYBODY IN HERE THAT --

11 THE COURT: EXACTLY.

12 MR. KELLY: -- HERE ARE THE ONES THAT ARE IN THE
13 ROOM.

14 THE COURT: EXACTLY.

15 MR. KELLY: AND THAT I THINK THAT YOU'RE GOING
16 TO INSTRUCT THOSE PERSONS WHO ARE CLEARLY HERE THAT
17 IF THEY DIVULGE THIS WITHOUT YOUR APPROVAL, THAT'S
18 CONTEMPT OF COURT.

19 THE COURT: WELL, AND THE COURT -- SO THAT YOU
20 ALL CAN HAVE SOME LEVEL OF SECURITY, I REQUIRE MY LAW
21 CLERKS TO FIND ETHICAL OATH THAT THEY WILL NEVER
22 DISCLOSE ANYTHING NOT ONLY TO THOSE ON THE
23 PROCEEDINGS OR ANYTHING THAT GOES ON IN MY OFFICE
24 WITH ANYONE, AND THEY UNDERSTAND THAT THAT WILL BE A
25 VIOLATION OF THE ETHICS AND THAT I WOULD PURSUE IT.

1 SO IF THAT GIVES YOU -- AND I DON'T LET ANYBODY
2 IN MY SPACE THAT I DON'T HAVE COMPLETE TRUST IN, SO I
3 FEEL VERY SURE THAT SHE WILL NOT.

4 MR. KELLY: AND OF COURSE, THAT ONLY LEAVES THE
5 REPORTER.

6 THE COURT: WELL, SHE IS ETHICALLY BOUND NOT TO
7 RECORD -- NOT TO REPEAT ANYTHING.

8 MR. KELLY: OKAY. AND I ASSUME THAT THERE ISN'T
9 ANYBODY ELSE VISITING...

10 THE COURT: NO, THERE'S NOBODY ELSE HERE EXCEPT
11 JOHANNA, MR. DIGGS, MR. STANKO, MR. KELLY, MY LAW
12 CLERK, SUMMER YOUNG, AND OF COURSE, ME. AND ALL THE
13 RECORDING DEVICES HAVE BEEN SWITCHED OFF. ALL OF THE
14 MEDIA OUTLETS AND COURT -- INCLUDING -- WELL, THE
15 ONLY PROVIDED CAMERAS WE HAVE ARE THE 48 HOURS.

16 MY CLERK HAS BEEN ASSURED THAT THOSE CAMERAS
17 HAVE BEEN CUT OFF AND WE HAVE A DEPUTY STATIONED TO
18 MAKE SURE THAT THEY ARE NOT RECORDING THESE
19 PROCEEDINGS.

20 MR. KELLY: YOUR HONOR, PROBABLY DON'T HAVE
21 ENOUGH TIME IN THE DAYLIGHT TO TELL YOU EVERYTHING
22 ABOUT WHAT WE--

23 THE COURT: WELL, WILL YOU ASSURE ME THAT YOU
24 DON'T THINK THERE'S AN ETHICAL PROBLEM OR CONFLICT
25 ISSUE. REALLY THE RIGHT BELONGS TO YOU ALL, AS I EX

1 PLAINING IT IN CHAMBERS. IF Y'ALL FEEL COMFORTABLE
2 WITH THEM PROSECUTING THE CASE...

3 MR. KELLY: I DON'T THINK THERE IS, DO YOU?

4 MR. DIGGS: WELL, NO, BECAUSE AS I SAID BACK IN
5 YOUR CHAMBERS, THE SAME ISSUES IN THE CASE, WHETHER
6 THOSE FOLKS TESTIFY OR NOT, SO...

7 MR. KELLY: BUT I WILL TELL YOU BASICALLY WHAT
8 IT'S ALL ABOUT. OKAY?

9 THE COURT: OKAY.

10 MR. KELLY: WE RECEIVED A TAPE OF AN INTERVIEW
11 OF A CITIZEN WHOSE NAME IS CONNIE PRICE. AND I
12 INTERVIEWED CONNIE PRICE LAST NIGHT WITH HER
13 BOYFRIEND WHOSE NAME IS I BELIEVE GREG OWENS -- GARY
14 OWENS. BOTH OF THOSE WERE ON THE WITNESS LIST.
15 OKAY.

16 THE TAPE THAT WE RECEIVED WAS MADE OVER A YEAR
17 AGO, IN MAY OF 2005. I DIDN'T RECEIVE IT UNTIL ABOUT
18 45, 50 DAYS AGO. THEY WOULD SEND DISCOVERY TO US AND
19 IT WOULD HAVE SOMETIMES TAPES AND IT MIGHT HAVE DISKS
20 AND IT WOULD HAVE ALL THESE DOCUMENTS.

21 WELL, WHEN I LISTENED TO THE TAPE WHAT I FOUND
22 ON THE TAPE WAS IS THAT SHE SAID THAT IF SHE HAD --
23 HAD BUSINESS RELATIONSHIPS WITH STEPHEN STANKO AND
24 THAT STEPHEN STANKO -- SHE HAD CALLED THE LIBRARY
25 BECAUSE SHE LIVED NEAR THE LIBRARY AND SHE'S BLIND IN

1 ONE EYE, HER RIGHT EYE, AND I THINK SHE HAS ANOTHER
2 DISABILITY BESIDES THE BLINDNESS.

3 AND SHE HAD MADE IT A PRACTICE TO CALL THE
4 LIBRARY IF SHE NEEDED SOME KIND OF HELP. AND SHE --
5 HER MOTHER HAD DIED, AND SHE WAS INTERESTED IN
6 GETTING SOME INFORMATION ABOUT PROBATES.

7 AND THAT WAS ONE OF THE LEGAL PROBLEMS THAT SHE
8 HAD, AND THE MAIN ONE THAT SHE WAS CALLING THE
9 LIBRARY FOR. AND WHEN SHE CALLED THE LIBRARY THEY
10 SAID, THEY WILL LET YOU SPEAK TO LAURA LING, SHE'S
11 THE RESEARCH LIBRARIAN.

12 AND SHE SAID AS SHE WAS BEING INTERVIEWED BY
13 STEVE BROWN, THE INVESTIGATOR WITH THE SOLICITOR'S
14 OFFICE, THAT LAURA LING WAS VERY HELPFUL TO HER AND
15 THAT WHILE SHE TALKED TO HER FOR AN EXTENDED PERIOD
16 OF TIME, WHILE SHE WAS TALKING TO HER BOYFRIEND,
17 STEPHEN STANKO CAME IN AND LAURA SAID, MY BOYFRIEND
18 IS A LAWYER, IN QUOTES, SO-TO-SPEAK, OR HE'S -- WORKS
19 IN THE LAW FIELD, AND MAYBE HE CAN HELP YOU. OKAY?

20 AND WHAT HAPPENED WAS IS THAT STEPHEN STANKO MET
21 WITH HER THE NEXT DAY AFTER TALKING WITH HER ON THE
22 TELEPHONE, AND A RELATIONSHIP BEGAN TO DEVELOP WHERE
23 STEVE WOULD REPRESENT HER BY LOOKING INTO THE
24 RESEARCH AND FILING PAPERS OR DOING WHAT WAS
25 NECESSARY TO HELP HER IN PROBATE.

1 THE COURT: OKAY.

2 MR. KELLY: AND THIS HAPPENED -- THIS BEGAN LONG
3 ABOUT NOVEMBER OF 2004. OKAY. AS THE SITUATION --
4 AS THE SITUATION OR RELATIONSHIP BETWEEN THE
5 DEFENDANT AND CONNIE PRICE BEGAN TO DEVELOP OVER
6 TIME, SHE BECAME DISSATISFIED WITH HIM. SHE FELT
7 THAT SHE WASN'T GETTING HER MONEY'S WORTH FOR WHAT
8 SHE WAS PAYING.

9 THE COURT: OKAY.

10 MR. KELLY: SHE FELT THAT HE WAS SUPPLYING
11 DOCUMENTS TO HER THAT WERE NONSENSICAL IN TERMS OF
12 HER NEEDS. AND SHE BEGAN ALONG AND ABOUT FEBRUARY
13 THE 14TH OR THE 15TH OR 16TH, SHE CALLED A NOTABLE
14 ATTORNEY THAT STEPHEN HAD REPRESENTED THAT HE WORKED
15 FOR OR WORKED WITH, AND -- WHOSE NAME WAS ON THE
16 LIST, MR. IRBY WALKER. OKAY.

17 MR. IRBY WALKER HAD ALSO REPRESENTED STEPHEN
18 STANKO IN A PROBATIONARY OR PAROLE HEARING -- I WILL
19 CALL IT A MATTER -- WHERE STEPHEN AND LAURA LING WENT
20 TO IRBY WALKER AND PAID HIM A THOUSAND DOLLARS FOR
21 HIM TO GO TO THE PROBATION OFFICE AND INTERVENE AND
22 SAY ESSENTIALLY THIS, STEVE HAS BEEN -- BEEN CONNING
23 PEOPLE AND HE WANTS -- DOESN'T WANT TO GO BACK--

24 COURT REPORTER: I'M SORRY. I DIDN'T...

25 MR. KELLY: THAT STEPHEN STANKO, THE DEFENDANT,

1 HAS BEEN CONNING PEOPLE OR USING CONFIDENCE SCHEMES
2 TO GAIN MONEY FRAUDULENTLY FROM OTHER PEOPLE. AND WE
3 WANT YOU TO KNOW ABOUT IT AND WE WANT TO HEAD IT OFF.

4 THAT'S WHY THE PROBATION AND PAROLE PEOPLE --
5 THAT'S ONE OF THE REASONS THAT THEY ARE ON THE LIST,
6 THERE ARE THREE OF THEM. OKAY.

7 THE COURT: OKAY.

8 MR. KELLY: NOW, STEPHEN STANKO HAD ALSO TOLD
9 HER THAT HE WAS REPRESENTING OR WAS DOING WORK WITH
10 OR FOR TWO OTHER ATTORNEYS. WELL, CONNIE PRICE
11 CALLED ATTORNEY WALKER AND HE SAID, OH YEAH, HE DOES
12 GOOD WORK, AND THAT ALAID (SIC) HER CONCERNS BECAUSE
13 SHE WAS TOLD THIS.

14 AND SHE ATTEMPTED TO CALL THE OTHER TWO
15 ATTORNEYS WHO I HAVE UNDER SUBPOENA AND NEVER COULD
16 GET IN TOUCH WITH THEM.

17 WELL, MARCH THE EIGHTH COMES ALONG. AND ON
18 MARCH THE EIGHTH SHE RECEIVES FROM STEPHEN STANKO A
19 DOCUMENT THAT IS -- THAT IS PURPORTED TO BE SIGNED BY
20 CIRCUIT COURT JUDGE VICTOR RAWL. IT'S GOT HIS
21 SIGNATURE THERE.

22 WELL, WHEN SHE COMPARES THE SIGNATURE TO A KNOWN
23 SIGNATURE OR DOCUMENT FROM THE COURT THAT HAS THE
24 REAL VICTOR RAWL'S SIGNATURE, THEY DON'T MATCH. WHEN
25 THAT HAPPENS, BOTH SHE AND HER BOYFRIEND DECIDE,

1 WE'VE GOT TO DO SOMETHING.

2 NOW, THEY CALL -- THEY BEGIN CALLING I THINK
3 FIRST OF ALL THE SOLICITOR'S OFFICE. AND WE HAVE
4 LISTED PEOPLE WHO ARE IN THE SOLICITOR'S OFFICE, THE
5 PEOPLE THAT SHE CALLED AT DIFFERENT TIMES FROM MARCH
6 THE EIGHTH ALL THE WAY UP TO THE TIME OF LAURA LING'S
7 DEATH.

8 NOW, WHEN SHE'S CALLING TO COMPLAIN, SHE'S
9 COMPLAINING ABOUT HIM AND SHE'S ALSO COMPLAINING
10 ABOUT SOME OTHER ILLEGALITIES IN HER LIFE THAT SHE
11 PERCEIVES THAT DON'T HAVE ANYTHING TO DO WITH HIM.
12 OKAY. SHE CAN'T GET ANY RESPONSE FROM THESE PEOPLE.

13 NOW, SHE'S REPORTING THAT A CITIZEN IS -- THAT
14 SHE'S A VICTIM OF A CRIME BY ANOTHER CITIZEN, STEPHEN
15 STANKO, AND HIS BEHAVIOR IS VERY BIZARRE AND
16 ABERRANT.

17 THE COURT: OH, SO Y'ALL ARE OFFERING A STATE OF
18 MIND AS WELL AS INSANITY IN TERMS OF DEFENSE?

19 MR. KELLY: THAT AND MITIGATION. THAT'S NOT
20 ALL.

21 THE COURT: I'M SORRY. DIDN'T --
22 CIRCUMSTANTIAL--

23 MR. KELLY: -- WELL, IT GETS COMPLEX.

24 THE COURT: OKAY.

25 MR. KELLY: BECAUSE WHAT HAPPENS IS SHE CALLS

1 DONNA WILLIAMS, THE CLERK OF COURT, AND SAYS, I NEED
2 HELP, YOU KNOW, NOBODY'S HELPING ME. AND DONNA
3 WILLIAMS SAYS, CALL HEATHER TOLER, SHE'S THE
4 SOLICITOR WHO IS IN CHARGE THIS WEEK.

5 THEY HAVE 20 SOLICITORS OR ASSISTANT SOLICITORS
6 AND ONE A WEEK HAS THE ROTATION. AND TO THIS POINT
7 WE HAVE LEARNED THAT SHE DID CALL HEATHER TOLER AND
8 HEATHER TOLER SAID, CALL PAROLE.

9 WE THINK THE REASON THAT IS IS BECAUSE HE WAS ON
10 PAROLE AND IT PROBABLY SHOWED UP IN SOME KIND OF BANK
11 OF INFORMATION ACCESSIBLE BY A COMPUTER. THAT'S MY
12 GUESS. WE DON'T KNOW YET. ALL RIGHT.

13 SHE DOES CALL PROBATION AND PAROLE, AND THEY
14 DON'T HELP HER. THEY SAY THEY DON'T KNOW ANYTHING
15 ABOUT HIM. THAT'S NOT TRUE. THAT'S NOT CORRECT.

16 SO WHAT WE HAVE GOT HERE IS THAT BEGINNING
17 SOMEWHERE AROUND MARCH THE EIGHTH, WHICH IS 30 TO 31
18 DAYS BEFORE THE DEATH OF LAURA LING AND THE ALLEGED
19 RAPE OF CHRISTINA LING, THERE IS A -- THERE IS A
20 CITIZEN WHO IS RAISING AN ALARM AGAINST A MAN NAMED
21 STANKO, THIS GUY RIGHT HERE.

22 SHE GIVES THE NAME, TELEPHONE NUMBER. NOBODY
23 LISTENS TO HER, JUDGE. SHE THEN STARTS CALLING
24 OUTSIDE. SHE CALLS THE FBI. SHE CALLS THE US
25 MARSHAL'S OFFICE. SHE CALLS SLED, LOCAL AND IN

1 COLUMBIA. SHE CAN GET ANY RESPONSE TO IT.

2 IN FACT, SHE SAYS THAT SOME PEOPLE SHE CALLED
3 WERE JUST DOWN RIGHT UGLY TO HER. OKAY? SHE GETS A
4 MEETING WITH TIM BEACHAM. THAT'S WHY HE'S ON THE
5 LIST. OKAY?

6 THE REASON PEGGY IS ON THE LIST IS BECAUSE SHE
7 TALKS TO HER. AND WHAT WE WANT TO SHOW -- FINALLY,
8 JUDGE, HERE'S WHAT HAPPENS. WE BELIEVE THAT ON APRIL
9 THE FOURTH SHE CALLS INVESTIGATOR BURGMAN (SIC) AT
10 MYRTLE BEACH AND HE GIVES HER AN APPOINTMENT TO MEET
11 WITH HIM ON THE EIGHTH -- ON THE SEVENTH. THAT'S THE
12 THURSDAY.

13 WELL, IN THE -- 9:30 IN THE MORNING, WHICH WILL
14 BE 16 HOURS BEFORE THE TIME OF THE DEATH OF LAURA
15 LING. OKAY. AND HE DOESN'T DO ANYTHING. HE DOESN'T
16 TAKE ANY NOTES. HE DOESN'T -- AND WHAT HE TELLS HER
17 IS, YOU NEED TO GO TO THE SOLICITOR'S OFFICE, YOU
18 NEED TO GO BACK THERE.

19 AND WHEN SHE TALKS WITH THESE PEOPLE THAT I'M
20 TALKING ABOUT, THEY -- THEY SAY THINGS LIKE THIS,
21 WELL, WE'RE NOT SURE WHAT THE JURISDICTION IS. SHE
22 CALLS ON HORRY COUNTY PD. SHE CALLS MYRTLE BEACH PD.
23 SHE CALLS HORRY COUNTY SHERIFF'S DEPARTMENT. AND SHE
24 CAN NEVER GET ANYBODY WHO APPARENTLY EVEN RAN HIS
25 NAME, BECAUSE IF THEY HAD DONE IT, IF THEY HAD RAN

1 HIS NAME, IT WOULD COME UP HE'S ON PAROLE.

2 AND THEN WHAT'S THERE? DEFRAUD WHICH SHE'S
3 CLAIMING AND KIDNAPPING AND ASSAULT AND BATTERY OF A
4 HIGH AND AGGRAVATED NATURE. OKAY. ALL RIGHT.
5 WHAT'S THE POINT? THE POINT IS, IS THAT IF THEY HAD
6 DONE WHAT THEY SHOULD HAVE DONE, THIS WOULD NEVER
7 HAVE HAPPENED.

8 THE COURT: OKAY.

9 MR. KELLY: THAT'S WHAT THIS IS ALL ABOUT.

10 THE COURT: WELL, THAT'S CLEARLY NOT A CONFLICT
11 THEN.

12 MR. KELLY: NOW, LET ME SAY THIS SO THAT WE WILL
13 KNOW. OKAY. I DIDN'T -- I DIDN'T SUBPOENA THE
14 SOLICITOR OR MR. HUMPHRIES OR MR. STEVE BROWN BECAUSE
15 THE SOLICITOR TALKS WITH HER IN HIS OFFICE ABOUT TWO
16 WEEKS AGO.

17 AND I THINK SHE TELLS ME LAST NIGHT THAT'S WHERE
18 SHE FINALLY IS ABLE TO SAY TO HIM, HEY LOOK, THIS IS
19 WHAT I'VE BEEN DOING, THIS IS WHAT HAPPENED. OKAY.
20 SO IT'S NOT A CONFLICT.

21 THE COURT: SO IT'S LIKE HIS FIRST KNOWLEDGE. I
22 DON'T KNOW THAT IT WOULD BE A CONFLICT IN ANY WAY.
23 WHAT YOU'RE BASICALLY ASSERTING IS -- IS THAT IF THEY
24 HAD BEEN DOING WHAT THEY WERE SUPPOSED TO DO KNOWING
25 THIS PERSON'S PROLIFICS, IT COULD HAVE BEEN

1 PREVENTED.

2 AND IN ADDITION TO THAT YOU'RE TALKING ABOUT HIS
3 STATE OF MIND BECAUSE YOU CAN HAVE LAY TESTIMONY
4 ABOUT INSANITY.

5 MR. KELLY: ABSOLUTELY.

6 THE COURT: I THINK THAT'S -- PROBABLY WOULDN'T
7 BE A CONFLICT IN ANY--

8 MR. KELLY: I DON'T EITHER, MA'AM. THERE'S
9 NOTHING FOR US TO DO ABOUT IT EXCEPT DEAL WITH IT
10 BECAUSE IT WAS JUST DROPPED--

11 THE COURT: AND I DON'T THINK THERE WOULD BE ANY
12 DISCLOSURE TO THEM. THEY WILL JUST HAVE TO
13 CONNECT -- IF THEY DO. AND IF THEY CAN'T, THEN
14 THAT'S -- YOU KNOW--

15 MR. KELLY: ABSOLUTELY. AND MA'AM, LET ME SAY
16 THIS ON THE RECORD.

17 THE COURT: SURE.

18 MR. KELLY: YOU KNOW, WE DIDN'T COME IN HERE TO
19 TELL YOU THAT TO DISCLOSE TO THEM UNLESS YOU FOUND
20 THAT THERE IS SOME REASON TO DISCLOSE IT--

21 THE COURT: I DON'T THINK YOU HAVE TO DISCLOSE
22 ANY OF IT.

23 MR. KELLY: -- BECAUSE WE ARE DEALING WITH
24 PEOPLE WHO'VE GOT SOME SERIOUS ANSWERS TO GIVE AS TO
25 WHY THEY --

1 THE COURT: WELL--

2 MR. KELLY: DID THIS. AND WE DON'T WANT THEM--

3 THE COURT: -- THE COURT'S PERCEPTION IS THAT
4 THE PURPOSE OF AN IN CAMERA HEARING IS JUST THAT.
5 YOU HAVE REVEALED TO THE COURT MATTERS OF STRATEGY.
6 I DO NOT THINK IT IS WITHIN MY PREROGATIVE. THE ONLY
7 REASON I'M HEARING THIS IS BECAUSE I'M THE COURT.

8 AND YOU KNOW, THE COURT DOES NOT STAND FOR
9 INTEGRITY, HONESTY, CONDUCTS --

10 MR. KELLY: DOES--

11 THE COURT: -- AND SO THE SOLE PURPOSE AS I
12 UNDERSTAND IT OF HAVING THIS HEARING WAS TO MAKE SURE
13 AND FOR THE COURT IN CAMERA TO REVIEW YOUR REASONS
14 AND TO MAKE EXCEPTIONS TO WHETHER THERE WERE ANY
15 VALID OR LEGITIMATE CONFLICT, BECAUSE MR. HUMPHRIES
16 AND MR. HEMBREE'S CONCERN WAS IF THERE IS CONFLICT,
17 WE NEED TO GO ON AND SAVE AS MUCH RESOURCES AS WE CAN
18 NOW SO WE CAN BE CONFLICTED OUT AND ANOTHER
19 SOLICITOR'S OFFICE CAN STEP IN AND DEAL WITH THIS
20 CASE.

21 BUT BASED ON -- AND GENERALLY, THOUGH, WHEN WE
22 HAVE A CONFLICT ISSUE SIMILAR THAT -- IT REALLY IS
23 THE RIGHT OF THE DEFENDANT TO RAISE IT BECAUSE
24 GENERALLY WHEN A CONFLICT ISSUE OF THAT TYPE IS
25 RAISED AND RAISED IN A CONTEXT OF COMPROMISE OF THE

1 PROSECUTION OF AN ACTION, AND I'VE NOT HEARD ANYTHING
2 IN THAT REGARD.

3 WHAT I HAVE HEARD FROM YOU IS BASICALLY YOU DID
4 YOUR LAY WORK, YOU CONNECTED THE DOTS. YOU FEEL LIKE
5 THERE'S SOME VALID INFORMATION THAT YOU NEED TO
6 PURSUE AND DISCLOSE TO A JURY IN MITIGATION OF YOUR
7 CLIENT'S SITUATION, AND I THINK THAT IS LEGITIMATE.

8 AND THE ONLY THING I EVER AGREE OR AT LEAST --
9 AGREE REALLY IS PROBABLY NOT THE PROPER TERM -- BUT
10 MY UNDERSTANDING OF OUR AGREEMENT, FOR LACK OF A
11 BETTER WAY OF PUTTING IT, IS THAT A COURT WILL LOOK
12 AT IT EN CAMERA, AND IF THERE WERE THE POTENTIAL FOR
13 A CONFLICT WHERE THE COURT PERCEIVED THERE WAS A
14 CONFLICT, I WOULD SIMPLY PUT THEM ON NOTICE AND THAT
15 I WOULD THEN TAKE APPROPRIATE ACTION THAT WOULD BE
16 NECESSARY TO CONFLICT THEM OUT BECAUSE I THINK THEN
17 IT WOULD BE INCUMBENT UPON ME TO DO THAT.

18 I THINK -- I HAVE DONE IT BEFORE. NOT IN A
19 DEATH PENALTY CASE. BUT I HAVE HAD SITUATIONS WHERE
20 I'VE HAD TO CONFLICT OUT THE SOLICITOR'S OFFICE, AND
21 I'M CERTAINLY -- IF I FELT LIKE THIS WAS A SITUATION
22 LIKE THAT, I WOULD DO IT SUE SPONTE IF THERE WOULD
23 NOT EVEN BE A QUESTION.

24 BUT I THINK IN THIS INSTANCE THERE'S NOTHING FOR
25 ME TO DISCLOSE TO THEM. AND I FEEL VERY COMFORTABLE

1 IN SAYING TO YOU THAT IN CHAMBERS TOMORROW I WILL SAY
2 TO THEM THAT I HAVE INQUIRED OF THE MATTER IN CAMERA,
3 IT'S A STRATEGIC MATTER OF MR. STANKO'S DEFENSE,
4 YOU'RE NOT ENTITLED TO DISCLOSURE, AND THERE IS NO
5 CONFLICT.

6 MR. KELLY: THAT SATISFIES US IN FULL, MA'AM.

7 THE COURT: OKAY?

8 MR. KELLY: THANK YOU, MA'AM.

9 MR. DIGGS: THANK YOU VERY MUCH.

10 (COURT IN RECESS FOR THE EVENING.)

11 ***** WEDNESDAY, AUGUST 2, 2006 *****

12 THE COURT: NUMBER 74, BRIAN DENNISON. IF YOU
13 WOULD STAND FOR ME. YOU WERE SUBPOENAED FOR JURY
14 DUTY AND I NEED FOR YOU TO -- FOR LACK OF BETTER WAY
15 OF PUTTING IT -- LET ME KNOW WHY YOU WERE NOT HERE ON
16 YESTERDAY.

17 JUROR: OH, I FORGOT.

18 THE COURT: I'M SORRY?

19 JUROR: I FORGOT ALL ABOUT IT.

20 THE COURT: WHAT DID YOU SAY?

21 JUROR: I FORGOT ALL ABOUT IT.

22 THE COURT: YOU FORGOT?

23 JUROR: YEAH.

24 THE COURT: OKAY. ARE YOU EMPLOYED?

25 JUROR: HUH?

1 THE COURT: ARE YOU EMPLOYED?

2 JUROR: YES, I'M EMPLOYED.

3 THE COURT: WHERE DO YOU WORK?

4 JUROR: I DETAIL CARS, AND MOST OF THE TIME I
5 GET JOBS BY APPOINTMENT. I HAVE A JOB YESTERDAY I
6 HAD TO DO, THEN I WORK AT NIGHT.

7 THE COURT: WHERE DO YOU WORK?

8 JUROR: I WORK AT -- BEACH IN PAWLEYS ISLAND.

9 THE COURT: DO YOU ACKNOWLEDGE YOUR RECEIPT OF
10 THE SUBPOENA?

11 JUROR: YEAH, I DO.

12 THE COURT: IS THE STATE SATISFIED WITH THE
13 JUROR'S EXPLANATION? I'M JUST ASKING IF Y'ALL HAVE
14 ANY ADDITIONAL FEEDBACK OR ANYTHING. I'M GOING TO
15 GIVE YOU ALL AN OPPORTUNITY TO LET ME KNOW IF THAT'S
16 SUFFICIENT INFORMATION.

17 MR. HEMBREE: YES, WE HAVE SUFFICIENT
18 INFORMATION, YOUR HONOR.

19 MR. DIGGS: WE DO.

20 THE COURT: MR. DENNISON, I FORGET THINGS
21 SOMETIMES MYSELF. I DON'T THINK, HOWEVER, I WOULD
22 PROBABLY FORGET A SUBPOENA. HOWEVER, I'M GOING TO
23 TRANSFER YOU TO ANOTHER TERM OF COURT. I NEED FOR
24 YOU TO MAKE SURE, HOWEVER, THAT YOU DO NOT FORGET THE
25 NEXT TIME, OKAY?

1 JUROR: OKAY.

2 THE COURT: MADAM CLERK, IF YOU WOULD COME
3 FORWARD SO YOU CAN SEE THE CLERK SO THEY CAN TRANSFER
4 YOU TO A SUBSEQUENT TERM OF COURT. AMBER FOLLROD --
5 SORRY F-O-L-L-R-O-D. NUMBER 96, AMBER FOLLROD? WERE
6 YOU ABLE TO LOCATE HER? NUMBER 143? WANDA L
7 HAYWARD?

8 JUROR: RIGHT HERE.

9 THE COURT: MRS. HAYWARD, CAN YOU TELL ME WHY
10 YOU DID NOT APPEAR ON YESTERDAY?

11 JUROR: I FORGOT THE DATE.

12 THE COURT: PARDON ME?

13 JUROR: I FORGOT THE DATE.

14 THE COURT: DID YOU RECEIVE YOUR SUMMONS?

15 JUROR: YES. YEAH.

16 THE COURT: OKAY. YOU ARE...

17 SISTER OF JUROR: I'M HER SISTER. ME AND HER
18 MAMA -- WANDA IS LIKE DISABLED, YOU KNOW, SLOW AND
19 STUFF.

20 THE COURT: OKAY. SHE HAS SOME LEARNING
21 DISABILITIES?

22 SISTER OF JUROR: YES, AND SHE HAVE TWO DISABLED
23 KIDS.

24 THE COURT: OKAY. IS SHE EMPLOYED?

25 SISTER OF JUROR: NO. SHE GET A CHECK.

1 THE COURT: OKAY. SSI OR SSA?

2 SISTER OF JUROR: SOCIAL SECURITY.

3 THE COURT: I'M GOING TO -- WOULD YOU ESTIMATE
4 THAT SHE HAS A SIXTH GRADE EDUCATION OR ITS
5 EQUIVALENT?

6 SISTER OF JUROR: SAY THAT AGAIN.

7 THE COURT: WOULD YOU ESTIMATE THAT SHE HAS A
8 SIXTH GRADE EDUCATION OR ITS EQUIVALENT? CAN SHE
9 READ AND WRITE?

10 SISTER OF JUROR: SOME DAYS SHE COULD.

11 THE COURT: OKAY. IF YOU HAD TO ESTIMATE FOR ME
12 WHAT HER -- HER EDUCATIONAL LEVEL WAS, WHAT WOULD
13 THAT BE?

14 SISTER OF JUROR: PROBABLY ABOUT -- PROBABLY
15 ABOUT SIXTH.

16 THE COURT: ABOUT THE SIXTH GRADE? AND SHE'S
17 NOT WORKING, RIGHT?

18 SISTER OF JUROR: NO. NO. NO. MY MOM IS THE
19 HEAD OF EVERYTHING.

20 THE COURT: AND YOU -- SO YOUR MOTHER IS HER
21 CONSERVATOR FOR LACK OF A BETTER WAY OF PUTTING IT?

22 SISTER OF JUROR: YES.

23 THE COURT: SHE MAKES SURE THAT ALL OF HER
24 FINANCES ARE HANDLED?

25 SISTER OF JUROR: YES.

1 THE COURT: HOW OLD ARE HER CHILDREN?

2 SISTER OF JUROR: XAVIER IS SIX AND RAPHAEL IS
3 16.

4 THE COURT: YOU SAID THEY ARE BOTH DISABLED
5 ALSO?

6 SISTER OF JUROR: YES, ESPECIALLY XAVIER.
7 XAVIER, HE HAS SURGERY NEXT THURSDAY. HE JUST HAD
8 TWO--

9 THE COURT: IS THAT THE SIX YEAR OLD?

10 SISTER OF JUROR: YES.

11 THE COURT: CAN YOU TELL ME WHAT THE -- WHAT THE
12 NATURE OF THIS DISABILITY IS?

13 SISTER OF JUROR: HE WAS BORN ALMOST SEVEN
14 MONTHS OLD WITH ONE AND A HALF POUNDS.

15 THE COURT: OH, SO HE WAS PREMATURE?

16 SISTER OF JUROR: YES.

17 THE COURT: OKAY.. AND WHAT IS THE NATURE OF THE
18 DISABILITY OF THE 16 YEAR OLD?

19 SISTER OF JUROR: RAPHAEL IS IN HANDICAPPED
20 CLASSES, STUFF LIKE THAT.

21 THE COURT: OKAY. WHAT I AM GOING TO DO IS
22 BASED ON WHAT YOU ALL HAVE TOLD ME, I'M JUST GOING TO
23 EXCUSE HER FROM JURY DUTY. I'M NOT GOING TO TRANSFER
24 HER TO ANOTHER TERM.

25 SHE PROBABLY, IF SHE SHOWED UP ON YESTERDAY,

1 AFTER I QUESTIONED HER, I PROBABLY WOULD HAVE EXCUSED
2 HER, OKAY? THANK YOU ALL FOR COMING THIS MORNING.
3 Y'ALL HAVE A GOOD DAY.

4 SISTER OF JUROR: THANK YOU.

5 THE COURT: YOU'RE WELCOME. TAMINA JOHNSON,
6 178. MRS. JOHNSON, HOW ARE YOU TODAY?

7 JUROR: FINE.

8 THE COURT: CAN YOU TELL ME WHY YOU DID NOT COME
9 TO JURY DUTY ON YESTERDAY?

10 JUROR: DIDN'T KNOW I HAD IT.

11 THE COURT: DID YOU RECEIVE YOUR JURY SUMMONS?

12 JUROR: YES.

13 THE COURT: YOU RECEIVED IT?

14 JUROR: YES.

15 THE COURT: OKAY. WHEN YOU SAY YOU DIDN'T KNOW
16 YOU HAD IT, DID YOU NOT READ YOUR SUMMONS?

17 JUROR: TALKING ABOUT -- READING IT, IT LOOKED
18 KIND OF BLURRY-LIKE.

19 THE COURT: ARE YOU LEGALLY BLIND?

20 JUROR: I'M PRETTY CLOSE.

21 THE COURT: PRETTY CLOSE? DO YOU HAVE -- IS
22 THIS YOUR MOTHER WITH YOU?

23 JUROR: THAT'S MY AUNT.

24 THE COURT: YOUR AUNT? ARE YOU EMPLOYED? DO
25 YOU WORK?

1 AUNT OF JUROR: NO. SAY NO.

2 JUROR: NO.

3 THE COURT: OKAY. IS SHE TOTALLY DEPENDENT ON
4 YOU ALL TO MAKE IT, TO GET ALONG? I MEAN, DO YOU
5 NEED TO ASSIST HER? DOES SHE HAVE SOME LEARNING
6 DISABILITIES?

7 AUNT OF JUROR: HER MAMA DID. HER MOTHER DID.
8 NOT ME, BUT HER MOTHER.

9 THE COURT: HER MOTHER TAKES CARE?

10 AUNT OF JUROR: YES.

11 THE COURT: OKAY. SO DOES SHE HAVE A LEARNING
12 DISABILITY OF SOME TYPE?

13 JUROR: WELL, HER PROBLEM IS SHE CAN'T SEE. SHE
14 CAN'T SEE THAT GOOD.

15 THE COURT: OKAY. OKAY. ALL RIGHT. NORMALLY
16 WHAT WE DO, WE USUALLY HAVE THE -- IT IS OUR
17 RESPONSIBILITY, OF COURSE, TO ASSIST HER IN SERVING
18 ON JURY DUTY IF THAT'S HER DESIRE IRREGARDLESS OF ANY
19 DISABILITY, BUT SINCE I DON'T REALLY THINK WE HAVE
20 THE CAPABILITY AT THIS TIME TO DO THAT, I'M JUST
21 GOING TO GO AHEAD AND EXCUSE HER FROM SERVICE.

22 JUROR: OKAY.

23 THE COURT: OKAY? THANK YOU ALL FOR COMING THIS
24 MORNING. ROBERT LANGLEY SENIOR, NUMBER 196.
25 MR. LANGLEY, HOW ARE YOU THIS MORNING?

1 JUROR: ALL RIGHT.

2 THE COURT: TELL ME WHY YOU WEREN'T HERE ON
3 YESTERDAY.

4 JUROR: SOMEHOW OR ANOTHER GOT ME AND MY SON
5 MIXED UP.

6 THE COURT: OH, OKAY. SO IT WENT TO YOUR SON
7 INSTEAD OF YOU?

8 JUROR: AND THEY SENT MY -- WELL, I GOT A LETTER
9 FILL OUT IN THE MAIL FROM WITH MY NAME ON IT, NOT
10 LEVY'S, AND SOMEHOW OR ANOTHER I GOT A CALL FROM THE
11 DEPUTY SHERIFF THAT NIGHT SAYING MY SON'S NAME WAS ON
12 THE PAPER AND MY NAME WAS ON THE ONE I FILLED OUT,
13 SENT IT BACK IN BACK IN JULY.

14 THE COURT: OH, SO YOU DID SEND -- YOU FILLED
15 OUT YOUR QUESTIONNAIRE, BUT YOU DIDN'T COME YET?

16 JUROR: I DIDN'T KNOW WHETHER IT WAS MEANT FOR
17 ME...

18 THE COURT: OR FOR YOUR SON. DID WE GET A
19 QUESTIONNAIRE BACK FROM MR. LANGLEY?

20 THE CLERK: YOUR HONOR, I CAN CHECK, BUT THE
21 SUMMONS HAS SENIOR, IF YOU LOOK ON YOUR VENIRE.

22 THE COURT: IT DOES HAVE SENIOR.

23 THE CLERK: HE'S SENIOR; RIGHT?

24 THE COURT: SIR, YOU ARE A SENIOR, CORRECT?

25 JUROR: YES.

1 THE COURT: YES. SUMMONS HAD SENIOR ON IT.

2 JUROR: MA'AM?

3 THE COURT: THE SUMMONS THAT WE SENT HAD SENIOR
4 ON IT. IT HAD ROBERT LANGLEY, SENIOR. IT HAD ROBERT
5 LANGLEY, SENIOR.

6 JUROR: I DIDN'T KNOW IN TIME TO AT -- AND AFTER
7 MY WIFE FILLED THE PAPER OUT FOR ME, WE SENT IT BACK
8 IN, AND I HAVEN'T GOTTEN NOTICE UNTIL LAST NIGHT.

9 THE COURT: OKAY. SO YOU READ THE SUMMONS,
10 FILLED OUT THE QUESTIONNAIRE, BUT YOU JUST DIDN'T --
11 SAW THE DATE, YOU JUST DIDN'T COME YESTERDAY?

12 JUROR: I DIDN'T KNOW THAT I HAD TO BE HERE,
13 BECAUSE I HADN'T GOT -- AFTER THE FILLED OUT, HAD
14 DEPUTY SHERIFF CALLED ME LAST NIGHT.

15 THE COURT: THE SUMMONS WOULD HAVE HAD THE DATE
16 AND TIME FOR SERVICE ON IT. BUT SINCE IT APPEARS YOU
17 HAD SOME CONFUSION WITH IT, WE'RE GOING TO TRANSFER
18 YOU TO ANOTHER TERM OF COURT. IF YOU WOULD COME SEE
19 THE CLERK FOR ME.

20 AND I ASSUME -- I DID NOT ASK THIS QUESTION AND
21 I SHOULD HAVE ON NUMBER -- ON NUMBER 143, 178, AND
22 196, THERE ARE NO EXCEPTIONS TO THE COURT'S HANDLING
23 OF THOSE JURORS FROM THE STATE?

24 MR. HUMPHRIES: NONE FROM THE STATE.

25 THE COURT: FROM THE DEFENSE?

1 MR. KELLY: NO, YOUR HONOR.

2 THE COURT: ALL RIGHT. ERNEST MERCHANT, NUMBER
3 224. MR. MERCHANT, HOW ARE YOU?

4 JUROR: I'M FINE, MA'AM.

5 THE COURT: CAN YOU TELL ME WHY YOU WERE NOT
6 HERE ON YESTERDAY?

7 JUROR: WELL, I APOLOGIZE. I MADE AN INCORRECT
8 ASSUMPTION THAT BY FILLING OUT THAT FORM EXPLAINING
9 THAT I HAD A -- FELONY CONVICTIONS IN MY PAST EXCUSED
10 ME FROM -- I DIDN'T -- I ACTUALLY IN FACT, AFTER BEEN
11 GETTING A PHONECALL LAST NIGHT, I WENT BACK AND
12 RE-READ THE PAPER THIS MORNING AND SAW THE OBVIOUSLY
13 HIGHLIGHTED PART THAT STATED THAT -- THAT FILLING OUT
14 THE FORM WAS NOT SUFFICIENT, THAT I HAD TO APPEAR.

15 AND -- AND OF COURSE, BY HAVING -- IT WAS TOO
16 LATE, SO HERE I AM THIS MORNING.

17 THE COURT: OKAY. AND SIR, I DON'T MEAN TO PRY.
18 IT'S NOT MY INTENT TO EMBARRASS YOU. CAN YOU TELL ME
19 WHAT THE NATURE OF THAT CONVICTION WAS?

20 JUROR: WELL, THERE WERE SEVERAL ACTUALLY, 1996
21 I'M A DRUG ADDICT IN RECOVERY AT THIS TIME. AT THAT
22 TIME I WAS IN FULL PURSUIT OF MY ADDICTION, AND I WAS
23 CONVICTED FOR DISTRIBUTION -- LET'S SEE...

24 THE COURT: IN SOUTH CAROLINA?

25 JUROR: NO, MA'AM, IN THE STATE OF CALIFORNIA.

1 THE COURT: DID THAT CARRY MORE THAN ONE YEAR?

2 JUROR: IN PRISON?

3 THE COURT: WAS THE MAXIMUM PENALTY MORE THAN
4 ONE YEAR?

5 JUROR: YEAH. WELL, ACTUALLY NOT AT THE -- I
6 WAS SENTENCED TO RECOVERY IN '96.

7 THE COURT: NOT WHAT YOU GOT, BUT UNDER THE
8 CALIFORNIA -- UNDER CALIFORNIA LAW, COULD YOU HAVE
9 GOTTEN MORE THAN ONE YEAR ON THAT?

10 JUROR: OH, I -- I COULD HAVE AND DID.

11 THE COURT: OKAY. WELL THEN, YOU WOULD BE
12 EXEMPT FROM SERVICE, SIR, AND WE WOULD EXEMPT YOU.
13 AND WE APPRECIATE YOU COMING THIS MORNING.

14 JUROR: MAY I ASK YOU A QUESTION?

15 THE COURT: SURE.

16 JUROR: ARE FELONS ALLOWED TO VOTE IN THE STATE
17 OF SOUTH CAROLINA?

18 THE COURT: THAT'S A GOOD QUESTION.

19 JUROR: I KNOW THERE ARE SOME STATES THAT THEY
20 CAN AND SOME THAT THEY CAN'T.

21 THE COURT: I CAN'T REMEMBER.

22 MR. HUMPHRIES: AFTER A PERIOD OF TIME? I'D
23 HATE TO -- I HEARD JUST RECENTLY THAT AFTER A CERTAIN
24 PERIOD OF TIME--

25 THE COURT: CHANGING THE STATUTE.

1 MR. HUMPHRIES: -- AFTER A CERTAIN PERIOD OF
2 TIME I THINK THAT THEY CAN, FIVE YEARS.

3 THE COURT: YOU WOULD NEED TO CHECK WITH THE
4 BOARD OF -- THE VOTER REGISTRATION BOARD, AND THEY
5 WOULD BE ABLE TO TELL YOU. I KNOW THAT RECENTLY I
6 THINK THERE'S A CHANGE IN THE STATUTE, BUT I JUST
7 CANNOT REMEMBER.

8 JUROR: OKAY.

9 THE COURT: THANK YOU.

10 JUROR: THANK YOU.

11 THE COURT: YOU'RE WELCOME.

12 JUROR: AM I EXCUSED?

13 THE COURT: YES, SIR. HAVE A GOOD DAY. NUMBER
14 241 -- ANY EXCEPTION TO NUMBER 224 BEING EXCUSED FROM
15 THE STATE?

16 MR. HUMPHRIES: NO, YOUR HONOR.

17 THE COURT: FROM THE DEFENSE?

18 MR. DIGGS: NO YOUR HONOR.

19 THE COURT: NUMBER 285, SHARON RYAN? NUMBER
20 341, ALETHIA WALKER? MA'AM, CAN YOU TELL ME WHY
21 YOU'RE NOT PRESENT ON YESTERDAY?

22 JUROR: THE LADY TOLD ME YESTERDAY TO COME THIS
23 MORNING.

24 THE COURT: OKAY. DID YOU RECEIVE YOUR SUMMONS?

25 JUROR: YES, BUT I -- I CALLED UP HERE, MY

1 FOOTS -- MY FEET ARE SWOLLEN. I CAN'T HARDLY FIT
2 INTO MY SHOE.

3 THE COURT: OKAY. YOU'RE SAYING YOU WERE ILL?

4 JUROR: YES, MA'AM.

5 THE COURT: AND DO YOU MIND TELLING ME THE
6 NATURE OF YOUR ILLNESS? I'M NOT TRYING TO PRY OR
7 EMBARRASS YOU.

8 JUROR: MY FEET SWOLE.

9 THE COURT: YOU HAVE GOUT?

10 JUROR: MY ANKLE--

11 THE COURT: YES.

12 JUROR: I CAN'T HARDLY GET ON MY SHOE.

13 THE COURT: DO YOU HAVE GOUT OR DIABETES?

14 JUROR: NO, JUST SWOLE. I WENT TO THE DOCTOR
15 THE WEEK BEFORE LAST, HE TOLD ME MIGHT HAVE TO DO
16 SURGERY ON IT NEXT MONTH, AND I HAD TO WALK ALL THE
17 WAY FROM CHURCH STREET, I DRAGGED.

18 THE COURT: YOU SHOULD HAVE CALLED US. WE'D
19 HAVE GIVEN YOU A RIDE. I'M SORRY THAT YOU DID THAT.
20 HOW OLD ARE YOU, MA'AM?

21 JUROR: SIXTY-FOUR.

22 THE COURT: MA'AM, WHAT I'M GOING TO DO IS
23 TRANSFER YOU TO ANOTHER TERM. ANY EXCEPTION FROM THE
24 STATE?

25 MR. HUMPHRIES: NONE FROM THE STATE.

1 THE COURT: FROM THE DEFENSE?

2 MR. KELLY: NONE.

3 THE COURT: THANK YOU, MA'AM. IF YOU WOULD COME
4 FORWARD SO THE CLERK CAN TRANSFER YOU AND WE'LL MAKE
5 SURE YOU GET A RIDE BACK TO YOUR HOME. NUMBER 352,
6 KENNETH WHITLEY. MR. WHITLEY, HOW ARE YOU TODAY?

7 JUROR: GOOD.

8 THE COURT: CAN YOU LET ME KNOW WHY YOU WEREN'T
9 HERE ON YESTERDAY?

10 JUROR: MAY I APPROACH?

11 THE COURT: SURE. IF YOU'LL STAND RIGHT BY THE
12 COURT REPORTER, SIR, I WILL COME DOWN.

13 (AT SIDE BAR.)

14 JUROR: I HAVE COLON CANCER, MY LIVER AND I
15 HAVE -- I DO CHEMO EVERY THREE WEEKS, AND I FOUGHT TO
16 GET DOWN HERE THIS MORNING, SO I WAS NOT JUST--

17 THE COURT: I'M SURE. VERY DIFFICULT.

18 JUROR: I APOLOGIZE ABOUT YESTERDAY, BUT I SENT
19 MY FORM IN EXPLAINING.

20 THE COURT: WELL, I WOULD IMAGINE YOU'RE
21 PREOCCUPIED. YEAH, UNFORTUNATELY WE STILL REQUIRE
22 YOU TO APPEAR.

23 JUROR: AND I'LL BE HONEST WITH YOU SO, I'M SO
24 GLAD THE GENTLEMAN CALLED ME LAST NIGHT BECAUSE I
25 COULDN'T BE HERE TODAY.

1 THE COURT: HOW LONG IS YOUR PROPOSED TREATMENT,
2 DO YOU KNOW?

3 JUROR: WELL, I HAVE BEEN IN CHEMO.

4 THE COURT: COURSE OF TREATMENT?

5 JUROR: FOR TWO YEARS.

6 THE COURT: OKAY.

7 JUROR: AND RIGHT NOW I'M ON THREE-WEEK AND HE
8 WANTS ME TO CONTINUE THIS. IT'S NOT -- IT'S
9 STABILIZED.

10 THE COURT: OKAY. WELL, I'LL TELL YOU WHAT
11 WE'LL DO. WE WILL TRANSFER YOU TO A TERM ABOUT SIX
12 MONTHS OUT. THAT WILL GIVE YOU SOME TIME--

13 JUROR: OKAY. THAT WILL BE -- I WANT TO SERVE,
14 BUT I JUST WANT TO--

15 THE COURT: ALL RIGHT. MADAM CLERK, WE NEED TO
16 TRANSFER HIM TO A TERM THAT'S ABOUT SIX MONTHS.

17 JUROR: THANK YOU VERY MUCH.

18 THE COURT: YOU'RE WELCOME, SIR. AND WE
19 APPRECIATE YOU COMING THIS MORNING.

20 JUROR: THANK YOU.

21 THE COURT: JUROR NUMBER 360 WILL BE
22 TRANSFERRED. 390, BENJAMIN NAUSS JUNIOR. NUMBER
23 360, HALEA WINKLER. OKAY. THE RECORD SHOULD REFLECT
24 THAT NUMBER 96, NUMBER 240, NUMBER 285, 360, AND 390
25 ARE STILL NO-SHOWS.

1 COULD WE HAVE THE DEPUTIES THAT RESEARCHED THOSE
2 MATTERS AND WOULD BE ABLE TO GIVE US AN UPDATE ON
3 EFFORTS BEING ABLE TO LOCATE THEM? THANK YOU, SIR.
4 AS TO JUROR 96 -- OR DO YOU HAVE THE SAME EXPLANATION
5 FOR ALL OF THEM?

6 THE CLERK: NINETY-SIX CALLED. SHE IS TAKING
7 EXAMS AND SHE SAID SHE WILL BE IN AT 11:00.

8 THE COURT: SHE'S A STUDENT?

9 THE CLERK: SHE'S A STUDENT.

10 THE COURT: WHY DON'T WE TRANSFER HER SINCE
11 SHE'S -- WELL, WHERE IS SHE IN SCHOOL?

12 THE CLERK: SHE'S AT HORRY GEORGETOWN TECH.

13 THE COURT: IS SHE FULL-TIME? DID SHE SAY?

14 THE CLERK: SHE IS IN THE NURSING PROGRAM, SHE
15 HAD AN EXAM ON YESTERDAY.

16 THE COURT: WHEN WILL HER PROGRAM BE ENDED? DO
17 YOU KNOW?

18 THE CLERK: SHE SAID -- I THINK SHE SHOULD BE
19 FINISHED BY SEPTEMBER.

20 THE COURT: WHY DON'T WE JUST TRANSFER HER TO A
21 TERM IN SEPTEMBER. AND YOU CAN JUST CALL HER AND LET
22 HER KNOW THAT. ANY EXCEPTION FROM THE STATE?

23 MR. HUMPHRIES: NO, YOUR HONOR.

24 THE COURT: FROM THE DEFENSE?

25 MR. DIGGS: NO, YOUR HONOR.

1 THE COURT: ALL RIGHT. YES, SIR.

2 DEPUTY: YOUR HONOR, ON ALL NO-SHOWS, CONTACT
3 WAS MADE WITH A TELEPHONE MESSAGE.

4 THE COURT: OKAY. SO YOU DID REACH A PHONE
5 NUMBER FOR EACH OF THE INDIVIDUALS AND YOU LEFT A
6 MESSAGE?

7 DEPUTY: YES, MA'AM.

8 THE COURT: DID YOU GET A RESPONSE FROM ANY OF
9 THEM?

10 DEPUTY: JUST THE ONES THAT SHOWED UP THIS
11 MORNING.

12 THE COURT: OKAY. HOW WOULD YOU ALL PROPOSE WE
13 HANDLE THIS? DO YOU WANT ME -- I GUESS TECHNICALLY
14 UNDER THE STATUTE I PROBABLY NEED TO SEND SOMEONE --
15 I NEED TO ISSUE A BENCH WARRANT FOR THEM TO HAVE THEM
16 PICKED UP.

17 I HATE TO HAVE TO TAKE THOSE EXTREME MEASURES,
18 BUT THAT'S THE ONLY OPTION THAT'S LEFT. I MEAN, I'M
19 A LITTLE CONCERNED THAT THEY WERE SENT A SUBPOENA AND
20 DIDN'T RESPOND AND THEN WE FOLLOWED THAT UP WITH A
21 COURTESY PHONECALL, AND IT'S NOT A SITUATION WHERE
22 THERE WAS NOT AN ANSWERING MACHINE OR A MESSAGE WAS
23 NOT LEFT, AND THEN EVEN IN LIGHT OF THAT, THEY STILL
24 HAVE NOT RESPONDED.

25 AND I HATE BENCH WARRANTS BECAUSE SOMETIMES THEY

1 SEEM SO VERY HEAVY-HANDED AND I KNOW WE'RE DEALING
2 WITH THE PUBLIC, MOST OF WHOM PROBABLY ARE HOURLY
3 WORKERS OR HAVE OTHER OBLIGATIONS, ESPECIALLY WITH
4 CHILDREN, AND JUST THE STRESS OF LIFE IN GENERAL, BUT
5 I AM ALSO LEFT WITH, YOU KNOW, FOLKS JUST
6 DISREGARDING A SUBPOENA FROM THE COURT AND THAT
7 CONCERNS ME ALSO. WHAT WOULD YOU ALL SUGGEST?

8 MR. HUMPHRIES: COURT'S DISCRETION, YOUR HONOR.

9 THE COURT: THAT WAS DIPLOMATIC, MR. HUMPHRIES.

10 MR. KELLY: YOUR HONOR, I THINK YOU OUGHT TO
11 LEAVE A MESSAGE, TELL THEM IF THEY DON'T GET IN
12 CONTACT, COME TO THIS COURTHOUSE, A BENCH WARRANT
13 WILL BE ISSUED AND BE BROUGHT UP HERE TO ANSWER THE
14 SUBPOENA.

15 THE COURT: I THINK THAT'S A VERY NICE, MEASURED
16 RESPONSE, AND I THINK THAT'S WHAT WE WILL DO. IF YOU
17 ALL WOULD EXECUTE THAT FOR ME, I'D GREATLY APPRECIATE
18 IT.

19 SO THAT WOULD BE FOR NUMBER 240, NUMBER 285,
20 NUMBER 360, AND 390. AND I WOULD ASSUME THEY MAY
21 WELL HAVE SOME VERY LEGITIMATE CIRCUMSTANCES, BUT
22 THEY COULD HAVE GIVEN US A CALL LIKE NUMBER 96 WHO IS
23 TAKING -- I MEAN, TAKING AN EXAM, AND WE COULD HAVE
24 HANDLED IT. SO IF YOU ALL COULD HANDLE THAT FOR ME,
25 I WOULD GREATLY APPRECIATE IT.

1 ALL RIGHT. ARE WE READY TO BEGIN THE INDIVIDUAL
2 VOIR DIRE? DID THE GENTLEMAN HAVE AN OPPORTUNITY TO
3 FINISH FILLING OUT HIS QUESTIONNAIRE? DO YOU ALL
4 HAVE ANY PROBLEM WITH ME HAVING ONE OF THE BAILIFFS
5 INQUIRE OF -- WHICH -- AS A MATTER OF FACT, LET ME
6 BACKTRACK A LITTLE BIT. WHICH JUROR WAS IT THAT
7 NEEDED TO FILL OUT A QUESTIONNAIRE?

8 MR. HEMBREE: 234, YOUR HONOR.

9 THE COURT: WHICH IS -- MR. MOULTRIE? DO YOU
10 ALL HAVE ANY PROBLEM WITH ME HAVING ONE OF THE
11 BAILIFFS INQUIRE OF HIM IF HE IS ABLE TO READ THE
12 JUROR TYPE FORM AND IF WE NEED TO TRY TO IMPROVISE
13 AND GIVE HIM SOME READING GLASSES.

14 MR. HEMBREE: NO OBJECTION AT ALL, YOUR HONOR.

15 MR. DIGGS: WE DON'T HAVE AN OBJECTION.

16 THE COURT: ALL RIGHT. MADAM, OR SIR, IF YOU
17 ALL WOULD GO INTO THE JURY ROOM FOR ME AND ASK
18 MR. MOULTRIE IF HE'S ABLE TO READ THE TYPED FORM
19 BECAUSE WE UNDERSTAND HE DID NOT HAVE HIS GLASSES
20 THIS MORNING, AND IF HE NEEDS US TO FIND A PAIR OF
21 READING GLASSES FOR HIM SO THAT HE CAN READ IT OR
22 DOES HE NEED TO HAVE SOMEONE READ IT TO HIM. OKAY?
23 THANK YOU.

24 THE CLERK: YOUR HONOR, THE JUROR NUMBER 235
25 SUGGESTING NEEDS SOME HELP, HE'S ALREADY -- HE'S GOT

1 IT COMPLETED BECAUSE SHE READ IT TO HIM.

2 THE COURT: THAT'S WHY I ASKED THAT QUESTION.

3 THE CLERK: SO IT'S DONE.

4 THE COURT: NO, THERE'S A FORM THEY HAVE TO READ
5 IN THE JURY ROOM THAT I'M GOING TO QUESTION HIM
6 ABOUT, AND I NEED TO KNOW IF HE CAN READ THAT FORM.
7 OKAY. AND WE'LL HAVE TO PROBABLY GET A BAILIFF OR
8 SOMEONE TO READ THAT TO HIM. OKAY. MR. DIGGS, YOU
9 SAID YOU HAD A PAIR OF READING GLASSES WE CAN BORROW?

10 MR. DIGGS: YES, MA'AM.

11 THE COURT: DO YOU MIND IF WE BORROW THEM AND
12 SEE IF THEY ASSIST HIM? I THINK THEY'RE SITTING ON
13 THE TABLE. OH, THEY'RE IN YOUR POCKET. YOU CARRY A
14 SPARE?

15 ASK HIM IF THOSE ASSIST HIM AND IF THAT WILL
16 HELP HIM IN AIDING HIM IN READING THE FORM THAT IS IN
17 THE JURY ROOM.

18 BAILIFF: THANK YOU.

19 THE COURT: YOU'RE WELCOME. OKAY. COULD YOU
20 GET MICHAEL KEOUGH FOR ME, NUMBER 185.

21 (JUROR ENTERED THE COURTROOM.)

22 MICHAEL KEOUGH, (WHITE MALE)

23 TESTIFIED AS FOLLOWS:

24 BY THE COURT:

25 Q MR. KEOUGH, HOW ARE YOU? AM I PRONOUNCING YOUR NAME

1 CORRECTLY?

2 A YOU ARE.

3 Q GOOD. HAVE A SEAT FOR ME. WE ARE TRYING TO MAKE
4 THIS WHOLE SITUATION A LITTLE LESS AUSTERE AND
5 INTIMIDATING, TRYING TO MAKE IT A LITTLE MORE INTIMATE.
6 PLEASE STATE YOUR NAME FOR THE RECORD.

7 A MICHAEL KEOUGH.

8 Q AND SIR, I WOULD REMIND YOU THAT YOU'RE STILL UNDER
9 OATH. DO YOU UNDERSTAND THAT?

10 A YES, I DO.

11 Q OKAY. AND I NEED TO MAKE SURE THAT YOU FOLLOWED THE
12 COURT'S INSTRUCTIONS ON LAST NIGHT REGARDING ANY MEDIA
13 OUTLETS, READING, WATCHING OR LISTENING TO ANY ACCOUNTS OF
14 THE CASE.

15 A I DID FOLLOW THE INSTRUCTIONS.

16 COURT REPORTER: I DIDN'T HEAR HIM.

17 THE COURT: HE SAID HE DID FOLLOW THE
18 INSTRUCTIONS.

19 BY THE COURT:

20 Q WHY DON'T YOU, SIR, COULD YOU SCOOT OUT A LITTLE FOR
21 ME AND FACE ME A LITTLE MORE SO THE COURT REPORTER CAN
22 HEAR WHAT WE ARE TALKING ABOUT.

23 THE COURT: IS THAT BETTER?

24 COURT REPORTER: YES.

25 THE COURT: OKAY. THEN SHE CAN SEE YOUR LIPS

1 AND THAT HELPS HER.

2 BY THE COURT:

3 Q MY RECORDS REFLECT THAT MR. KEOUGH DID NOT RESPOND TO
4 QUESTION 21, 22 OR 25 WHICH DEAL WITH FORMING AN OPINION,
5 BIAS, PREJUDICE, OR INABILITY TO BE FAIR AND IMPARTIAL AT
6 TRIAL. IS THAT YOU ALLS...

7 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR. I
8 DON'T KNOW HIS -- HE DID NOT RESPOND TO THOSE
9 QUESTIONS.

10 BY THE COURT:

11 Q SIR, WE'RE GOING TO ASK YOU A FEW QUESTIONS THIS
12 MORNING. WE'RE NOT TRYING TO INVADE YOUR PRIVACY IN ANY
13 WAY. IT'S NECESSARY DUE TO THE NATURE OF THESE
14 PROCEEDINGS FOR US TO QUESTION YOU INDIVIDUALLY. AND I
15 KNOW IT'S A LITTLE INTIMIDATING, BUT I WANT YOU TO FEEL AT
16 EASE.

17 I WANT YOU TO KNOW -- I NEED YOU JUST TO ANSWER
18 OPENLY, HONESTLY, AND FULLY. I NEED YOU TO ALSO
19 UNDERSTAND THAT NO ONE IS CHALLENGING YOUR VIEWS OR YOUR
20 OPINIONS, AND THAT WE ARE PROBABLY GOING TO ASK YOU SOME
21 QUESTIONS YOU'VE NEVER CONSIDERED BEFORE.

22 I NEED FOR YOU TO UNDERSTAND AMONGST OTHER THINGS
23 WE'RE GOING TO BE TALKING ABOUT PENALTY, THE POTENTIAL
24 PENALTY. BUT THE MERE FACT THAT WE TALK ABOUT IT DOES NOT
25 MEAN THAT IT INDICATES ANYTHING ABOUT THE DEFENDANT. AND

1 HE IS PRESUMED INNOCENT IN THE LAW. DO YOU UNDERSTAND
2 THAT?

3 A YES, I DO.

4 Q AND ALSO -- I JUST WANTED TO INDICATE TO YOU THAT
5 THERE IS NO RIGHT OR WRONG ANSWER. WE JUST NEED YOU TO
6 ANSWER AS HONESTLY AS POSSIBLE. DO YOU UNDERSTAND THAT?

7 A YES, I DO.

8 Q OKAY. IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
9 YOU LISTEN TO THE LAW?

10 A YES, I WOULD.

11 Q COULD YOU ACCEPT THE LAW AND APPLY THE LAW AS THE
12 COURT WOULD INSTRUCT YOU?

13 A YES, I COULD.

14 Q EVEN THOUGH YOU MAY NOT AGREE WITH WHAT THE LAW IS OR
15 WHAT YOU THINK IT MAY BE OR OUGHT TO BE IN SOME WAY, COULD
16 YOU STILL FOLLOW IT?

17 A YES, I COULD.

18 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
19 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
20 ANYTHING THAT YOU MAY HAVE HEARD, READ OR SEEN ABOUT THIS
21 CASE?

22 A YES, I COULD.

23 Q SIR, HAVE YOU HEARD, READ, OR SEEN ANY MEDIA COVERAGE
24 ABOUT THIS CASE, THAT INCLUDES ANYTHING THAT MIGHT HAVE
25 BEEN ON THE RADIO, TELEVISION, NEWSPAPER, OR INTERNET

1 REGARDING THIS CASE?

2 A YES, I HAVE.

3 Q OKAY. AND TELL ME WHAT OUTLETS HAVE YOU -- HAVE YOU
4 READ SOMETHING, SEEN SOMETHING?

5 A READ AND TELEVISION, MEDIA.

6 Q OKAY.

7 A TELEVISION.

8 Q AS A RESULT OF WHAT YOU READ OR HEARD, HAVE YOU
9 FORMED ANY FIXED OPINION ABOUT THIS CASE?

10 A NO, I HAVE NOT.

11 Q OKAY. SIR, IN A CRIMINAL CASE THE STATE HAS THE
12 BURDEN OF PROVING GUILT, AND THE BURDEN OF PROVING GUILT
13 IS FOR THE STATE TO PROVE THAT BEYOND A REASONABLE DOUBT.
14 THE DEFENDANT HAS NO BURDEN TO PROVE HIS INNOCENCE. DO
15 YOU UNDERSTAND THAT?

16 A YES, I DO.

17 Q AND SIR, DEPENDING ON THE FACTS AND THE EVIDENCE IN
18 THIS CASE -- WELL, LET ME READ RE-READ THAT. LET ME
19 REPHRASE THAT. COULD YOU DEPENDING UPON THE FACTS AND
20 EVIDENCE AND THE LAW AS THE COURT INSTRUCTS YOU IN A
21 PARTICULAR CASE FIND THE DEFENDANT EITHER GUILTY OR NOT
22 GUILTY?

23 A YES, I COULD.

24 Q OKAY. NOW, THE JUROR TYPE SHEETS THAT WE HAD IN THE
25 JURY ROOM, HAVE YOU HAD AN OPPORTUNITY TO REVIEW THAT

1 SHEET?

2 A YES, I HAVE.

3 Q OKAY. AND -- WHAT WAS HIS NUMBER -- I REMEMBER WHAT
4 IT IS -- SIR, THERE IS A CATEGORY ONE WHICH BASICALLY SAYS
5 THAT YOU WOULD NEVER THINK THE DEATH PENALTY IS
6 APPROPRIATE UNDER ANY CIRCUMSTANCES, CATEGORY TWO WHICH
7 INDICATES THAT YOU WOULD THINK THAT IT IS ALWAYS
8 APPROPRIATE, AND CATEGORY THREE WHICH BASICALLY INDICATES
9 I CAN LISTEN TO THE LAW, BE THE FACT IMPARTIALLY -- BE THE
10 FACT FINDER, APPLY THE LAW, AND RENDER A TRUE AND JUST
11 VERDICT IN THIS CASE BASED ON THE EVIDENCE AND THE LAW.

12 DO YOU FEEL THAT YOU FIT INTO ANY ONE OF THESE
13 CATEGORIES?

14 A TYPE THREE.

15 Q OKAY.

16 THE COURT: AND ALSO, FOR THE RECORD, WE WOULD
17 MARK THE TYPED SHEET AS AN EXHIBIT FOR THE RECORD AND
18 WE'LL MAKE SURE THAT WE DO THAT PRIOR TO THE
19 CONCLUSION OF QUESTIONING.

20 AS A RESULT OF QUESTION 10, DOES THE STATE HAVE
21 ANY QUESTIONS FOR THE POTENTIAL JUROR? I'M GOING TO
22 GIVE YOU ANOTHER OPPORTUNITY.

23 MR. HEMBREE: OH, NO.

24 THE COURT: AND THE DEFENSE? I'M ALSO GOING TO
25 GIVE YOU ANOTHER OPPORTUNITY.

1 MR. DIGGS: NOT AT THIS TIME.

2 BY THE COURT:

3 Q SIR, IF YOU WERE A JUROR IN A DEATH PENALTY CASE AND
4 IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER, WE
5 WOULD THEN MOVE TO THE SENTENCING PHASE OF THE TRIAL. DO
6 YOU UNDERSTAND?

7 A YES, I DO.

8 Q AND SIR, YOU WOULD THEN HAVE THE OPPORTUNITY TO
9 CONSIDER WHAT WE CALL AGGRAVATING CIRCUMSTANCES, WHICH ARE
10 FACTS, INCIDENTS, DETAILS, OR ON OCCURRENCE WHICH THE
11 GENERAL ASSEMBLY HAS DECLARED BY STATUTE WOULD MAKE WORSE,
12 THAT IS AGGRAVATE THE OFFENSE OF MURDER.

13 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
14 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
15 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
16 COMMISSION OF A CRIME.

17 AND SOME EXAMPLES OF AGGRAVATING CIRCUMSTANCES WOULD
18 BE THE MURDER OF A CHILD UNDER AGE 11, DRUG TRAFFICKING,
19 KILLING BY POISON, BURGLARY IN ANY DEGREE, AND THESE ARE
20 JUST EXAMPLES OF AGGRAVATING FACTORS.

21 YOU WOULD ALSO HAVE THE OPPORTUNITY TO CONSIDER
22 MITIGATING FACTORS. AND MITIGATING CIRCUMSTANCES ARE
23 INCIDENTS, DETAILS, OR OCCURRENCES WHICH THE GENERAL
24 ASSEMBLY HAS DECLARED BY STATUTE REDUCE THE SEVERITY OF
25 THE OFFENSE OF MURDER AND MAY BE CONSIDERED AS AN

1 EXTENUATING -- AS EXTENUATING OR REDUCING THE DEGREE OF
2 MORAL CULPABILITY OR RESPONSIBILITY.

3 AND SOME EXAMPLES OF THOSE -- AND THESE ARE ONLY
4 EXAMPLES HERE -- MENTAL RETARDATION AT THE TIME OF THE
5 CRIME, THE DEFENDANT WAS PROVOKED BY THE VICTIM, JUST SAW
6 A MISSPELLING ON THAT -- BY THE VICTIM, THE DEFENDANT WAS
7 AN ACCOMPLICE AND PARTICIPATION WAS RELATIVELY MINOR, THE
8 DEFENDANT ACTED UNDER DURESS OR DOMINATION. AND AGAIN,
9 THESE ARE JUST EXAMPLES OF MITIGATION.

10 IF YOU WERE A JUROR IN THAT SITUATION, THE SENTENCING
11 PHASE, COULD YOU, DEPENDING UPON THE PARTICULAR FACTS AND
12 CIRCUMSTANCES OF THE CASE INCLUDING THE CONSIDERATION OF
13 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND THE LAW THE
14 COURT WILL INSTRUCT YOU THAT APPLIES AT THE CONCLUSION OF
15 THE CASE, RETURN A SENTENCE OF LIFE WITHOUT THE
16 POSSIBILITY OF PAROLE?

17 A COULD I? YES.

18 Q OKAY. IF YOU WERE A JUROR IN THAT SITUATION, COULD
19 YOU, DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES
20 OF THAT CASE INCLUDING THE CONSIDERATION OF AGGRAVATING
21 AND MITIGATING CIRCUMSTANCES AND THE LAW THAT THE COURT
22 WOULD INSTRUCT YOU AT THE CONCLUSION OF THE CASE RETURN A
23 SENTENCE OF DEATH WHICH IN THIS STATE IS BY ELECTROCUTION
24 OR BY LETHAL INJECTION?

25 A YES, I COULD.

1 Q OKAY. IF YOU ARE CHOSEN FOR THE JURY, YOU WILL BE
2 HOUSED IN A MOTEL DURING THE TRIAL WHICH WILL BE
3 APPROXIMATELY 10 DAYS -- AND I ASKED THIS QUESTION IN SOME
4 DETAIL IN GENERAL QUALIFICATION.

5 EXCEPT FOR THE PERSONAL INCONVENIENCE, WOULD THIS
6 POSE A SERIOUS DANGER TO YOUR HEALTH OR WELL-BEING OR OF
7 THOSE DEPENDENT UPON YOU?

8 A NO, IT WOULD NOT.

9 Q OKAY. SIR, WOULD YOU BE ABLE TO SIGN A VERDICT FORM
10 IN THE EVENT OF A LIFE WITHOUT POSSIBILITY OF PAROLE OR
11 DEATH SENTENCE?

12 A YES, I WOULD.

13 Q OKAY. AND JUST FOR MORE SPECIFICITY, THAT FORM
14 HAS -- THE FORM HAS A PLACE FOR EACH JUROR TO SIGN HIS
15 NAME, SO THAT IS JUST FOR PURPOSES. AND WITH THAT
16 CLARIFICATION, DO YOU STILL FEEL YOU WOULD BE ABLE TO SIGN
17 THAT VERDICT FORM?

18 A YES, MA'AM.

19 THE COURT: ARE THERE ANY QUESTIONS FROM THE
20 STATE?

21 MR. HEMBREE: NO, YOUR HONOR. NO QUESTIONS FROM
22 THE STATE.

23 THE COURT: ANY QUESTIONS FROM THE DEFENSE?

24 MR. KELLY: JUST A FEW.

25 BY MR. KELLY:

1 Q MY NAME IS GERALD KELLY. I'D LIKE TO ASK YOU A FEW
2 QUESTIONS. DO YOU REALIZE THAT IF YOU WERE SWORN AS A
3 JUROR AND YOU SAT WITH THE OTHER JURORS WITH US HERE IN
4 THE COURTROOM THAT YOU WOULD BE SITTING UNDER LAW AS A
5 JUDGE OF THE FACTS? DO YOU UNDERSTAND THAT?

6 A YES.

7 Q AND OUR JUDGE OF THE LAW HERE TODAY, JUDGE JEFFERSON,
8 HAS A DIFFERENT FUNCTION. SHE WOULD BE THE JUDGE OF THE
9 LAW. DO YOU UNDERSTAND THAT?

10 A YES, I DO.

11 Q SO THERE ARE REALLY, YOU MIGHT SAY, TWO SETS OF
12 JUDGES. CORRECT?

13 A YES, SIR.

14 Q ARE YOU A PERSON OF INDEPENDENT ENOUGH MIND THAT YOU
15 CAN MAKE UP YOUR OWN MIND ON THE FACTS PRESENTED TO YOU?

16 A I AM.

17 Q AND IF YOU SERVED AS A JUROR HERE, WOULD YOU MAKE UP
18 YOUR OWN MIND, NOT DEPEND ON OTHERS TO MAKE IT UP FOR YOU?

19 A I WOULD.

20 Q THANK YOU, SIR.

21 THE COURT: OKAY.

22 BY MR. KELLY:

23 Q ONE OTHER QUESTION. WOULD YOU FOLLOW THE
24 INSTRUCTIONS OF OUR JUDGE?

25 A YES, I WOULD.

1 Q AND NOT BE, YOU KNOW, THE JUDGE WOULD NEVER TRY TO
2 INFLUENCE YOUR THINKING ON THE FACTS. YOU REALIZE THAT?

3 A I DO.

4 Q THANK YOU, SIR.

5 THE COURT: OKAY. ARE THERE ANY EXCEPTIONS TO
6 THIS JUROR BEING QUALIFIED FROM THE STATE?

7 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

8 THE COURT: FROM THE DEFENSE?

9 MR. KELLY: THERE ARE NONE, MA'AM.

10 THE COURT: SIR, YOU HAVE BEEN FOUND QUALIFIED
11 WHICH MEANS ON MONDAY WHAT WE WILL BE DOING IS
12 FROM -- AS I EXPLAINED DURING THE GENERAL
13 QUALIFICATION -- WHAT WE WILL DO IS FROM THIS
14 INDIVIDUAL PROCESS WE WILL HAVE WHAT WE CALL GROUP OF
15 QUALIFIED JURORS AND FROM THAT LIST WE WILL THEN
16 SELECT THE JURY PANEL WHICH WILL CONSIST OF 12
17 MEMBERS AND TWO ALTERNATES. AND WE MAY INCREASE THE
18 NUMBER OF ALTERNATES DEPENDING ON OUR CHANGE AND NEED
19 OR OTHERWISE. OKAY?

20 SO WHAT I NEED FOR YOU TO DO IS I NEED FOR YOU
21 TO RETURN ON MONDAY PACKED FOR A PERIOD OF TWO WEEKS.
22 AND I ALSO NEED YOU TO STRICTLY ABIDE BY MY
23 INSTRUCTIONS.

24 PLEASE DO NOT -- AND THERE WILL BE A LOT OF
25 MEDIA COVERAGE ABOUT THIS CASE. AND I NEED FOR YOU

1 TO STRICTLY ABIDE BY THE COURT'S INSTRUCTION AND HAVE
2 NO EXPOSURE TO ANYTHING THAT IS ON THE RADIO,
3 TELEVISION, INTERNET, OR ANY MEDIA OUTLET.

4 AND I KNOW IT'S TEMPTING, BUT IF YOU COULD -- IT
5 IS SO VERY IMPORTANT THAT YOU REMAIN IMPARTIAL AND
6 THAT YOU DECIDE -- IF YOU ARE SELECTED THAT YOU
7 DECIDE THIS CASE ONLY UPON THE EVIDENCE THAT YOU HEAR
8 IN THIS COURTROOM.

9 IT IS ESSENTIAL. AND THAT IS WHY WE GIVE YOU
10 THAT INSTRUCTION. ALSO, PLEASE DO NOT DISCUSS THIS
11 QUESTIONING PROCESS WITH ANYONE. AND PLEASE DO NOT
12 DISCUSS THE JUROR TYPED SHEET WITH ANYONE.

13 SO BASICALLY WE'RE ASKING YOU TO SORT OF BE IN
14 BUBBLE FOR THE NEXT FEW DAYS. AND I HAVE GREAT
15 CONFIDENCE YOU WILL BE ABLE TO DO THAT.

16 JUROR: I WILL FOLLOW THE INSTRUCTION.

17 THE COURT: I THINK YOU WILL. WE WILL SEE YOU
18 ON MONDAY AT 9:30?

19 JUROR: 9:30 ON MONDAY.

20 THE COURT: YES, SIR.

21 JUROR: VERY GOOD.

22 THE COURT: WE WILL SEE YOU AT THAT TIME.

23 JUROR: THANK YOU VERY MUCH.

24 THE COURT: YOU'RE WELCOME. YOU HAVE A GREAT
25 DAY AND WE REALLY APPRECIATE HOW PATIENT YOU HAVE

1 BEEN. THANK YOU, SIR.

2 (JUROR LEFT THE COURTROOM.)

3 THE COURT: JUROR NUMBER 68, CHARLES DAVIS.

4 (JUROR ENTERED THE COURTROOM.)

5 CHARLES DAVIS, WHITE MALE, TESTIFIED AS
6 FOLLOWS:

7 BY THE COURT:

8 Q SIR, IF YOU'LL HAVE A SEAT FOR ME. BEAR WITH ME ONE
9 SECOND. I NEED TO TAKE CARE OF SOMETHING
10 ADMINISTRATIVELY.

11 THE COURT: AND GENTLEMAN, IF YOU ALL COULD --
12 LET ME SHOW YOU SOMETHING REAL QUICK, AND I REGRETTED
13 TO DO THIS ON YESTERDAY, AND I APOLOGIZE. WHAT I AM
14 GOING TO DO IS I'M GOING TO HAVE ALMA, AS WE ARE
15 GOING THROUGH THIS PROCESS, SHE WILL RECORD THE
16 JUROR'S NAME, NUMBER, AGE -- SHE REALLY DOESN'T HAVE
17 TO DO ALL THAT BECAUSE WE WENT THROUGH THAT IN ROLL
18 CALL, IT'S NOT NECESSARY.

19 BUT SHE WILL BE ABLE TO KEEP TRACK OF PEOPLE AS
20 THEY ARE QUALIFIED AND THEN WE WILL PROVIDE YOU ALL
21 WITH COPIES OF IT. OKAY?

22 AND LET ME JUST TELL HER. MS. ALMA, YOU ASKED
23 ME IF I NEEDED YOU TO DO SOMETHING THIS MORNING AND I
24 DID, AND I'M SORRY.

25 (THE COURT WAS SPEAKING TO THE CLERK OFF THE

1 RECORD.)

2 BY THE COURT:

3 Q SIR, WE APPRECIATE YOUR PATIENCE. HOW ARE YOU DOING
4 THIS MORNING?

5 A DOING GOOD.

6 Q OKAY. AND WE ARE, AS I INDICATED, GOING TO GO
7 THROUGH AN INDIVIDUALIZED QUESTIONING PROCESS THAT'S
8 REQUIRED BY STATUTE AND NOT -- I KNOW IT MAY SEEM A LITTLE
9 DAUNTING. SO I WANT YOU JUST TO RELAX. BUT PLEASE STATE
10 YOUR NAME FOR THE RECORD.

11 A CHARLES DAVIS, JUNIOR.

12 Q OKAY. AND SIR, WHAT IS YOUR JUROR NUMBER?

13 A SIXTY-EIGHT.

14 Q OKAY. SIR, I WOULD REMIND YOU THAT YOU'RE STILL
15 UNDER OATH. DO YOU UNDERSTAND?

16 A YES.

17 Q AND I NEED YOU -- UNFORTUNATELY I NEED YOU TO TELL ME
18 YES OR NO BECAUSE THE COURT REPORTER CAN'T RECORD NODS
19 OR--

20 A OH, YES, MA'AM.

21 Q THANK YOU. I KNOW. I NEVER REALIZED HOW MUCH I SAID
22 UH-HUH. UNTIL I START THINKING ABOUT A COURT RECORD. AND
23 SIR, DID YOU FOLLOW THE COURT'S CAUTIONARY INSTRUCTIONS
24 REGARDING MEDIA COVERAGE IN THIS CASE BY NOT WATCHING,
25 LISTENING TO, OR READING ANY ACCOUNTS ABOUT THIS CASE?

1 A YES.

2 Q ALL RIGHT. AND WE HAVE MR. DAVIS LISTED AS TO
3 QUESTION NUMBER 21. IS THAT YOU ALL'S REFLECTION -- AND
4 NUMBER 25. AND WE WILL DEAL WITH THAT I THINK IT WILL
5 BECOME READILY APPARENT AS WE GO THROUGH FURTHER IN THE
6 QUESTIONING.

7 SIR, WE'RE GOING TO ASK YOU SOME QUESTIONS. IT'S NOT
8 TO INVAD E YOUR PRIVACY IN ANY WAY BUT IT'S BECAUSE IT IS
9 NECESSARY DUE TO THE NATURE OF THESE PROCEEDINGS. THERE
10 ARE NO RIGHT OR WRONG ANSWERS. WE JUST NEED FOR YOU TO
11 ANSWER US OPENLY, HONESTLY AND FULLY.

12 NO ONE IS GOING TO CHALLENGE YOUR VIEWS OR YOUR
13 OPINIONS. WE JUST NEED TO KNOW WHAT THOSE VIEWS ARE. DO
14 YOU UNDERSTAND?

15 A YES.

16 Q AND WE'RE PROBABLY GOING TO ASK YOU SOME QUESTIONS
17 YOU'VE NEVER REALLY CONSIDERED BEFORE. SIR, AMONG OTHER
18 THINGS WE WILL BE TALKING ABOUT PENALTY. BUT THE MERE
19 FACT THAT WE TALK ABOUT PENALTY DOES NOT INDICATE ANYTHING
20 ABOUT THE DEFENDANT. HE IS PRESUMED TO BE INNOCENT. DO
21 YOU UNDERSTAND THAT?

22 A YEAH.

23 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
24 YOU LISTEN TO THE LAW?

25 A YES.

1 Q COULD YOU ACCEPT THE LAW AND APPLY THE LAW AS I WOULD
2 INSTRUCT YOU AS THE JUDGE OF THIS COURT?

3 A YES.

4 Q EVEN THOUGH YOU MAY NOT AGREE WITH WHAT THE LAW IS OR
5 WHAT YOU THINK IT MIGHT -- IT SHOULD BE IN SOME OTHER WAY,
6 WOULD YOU STILL BE ABLE TO FOLLOW IT AS THE COURT
7 INSTRUCTED?

8 A YES.

9 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
10 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
11 ANYTHING THAT YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
12 CASE? AGAIN, THERE ARE NO RIGHT OR WRONG ANSWERS.

13 A I HAVE -- I WOULD HAVE TO SAY NO.

14 Q SIR, CAN YOU TELL ME--

15 MR. KELLY: I'M SORRY, JUDGE--

16 THE COURT: HE SAID HE WOULD PROBABLY HAVE TO
17 SAY NO.

18 MR. KELLY: OKAY.

19 BY THE COURT:

20 Q SIR, HAVE YOU READ ANY MEDIA COVERAGE ABOUT THIS
21 CASE?

22 A IT'S BEEN A WHILE.

23 Q OKAY. HAVE -- I DON'T MEAN LIKE YESTERDAY, BUT I
24 MEAN--

25 A OH, NO.

1 Q -- IN ADVANCE OF YESTERDAY?

2 A MONTHS AGO.

3 Q AS A RESULT OF WHAT YOU READ, HAVE YOU FORMED A FIXED
4 OPINION ABOUT THIS CASE?

5 A YES.

6 Q OKAY. DO YOU FEEL THAT YOU COULD DISREGARD THAT
7 OPINION AND LISTEN TO THE FACTS AND THE LAW AS THE COURT
8 CHARGES AND RENDER A FAIR AND IMPARTIAL VERDICT IN THIS
9 CASE?

10 A I CAN LISTEN TO THE FACTS, BUT I DON'T THINK CHANGE
11 MY MIND.

12 Q OKAY.

13 THE COURT: ARE THERE ANY EXCEPTIONS TO EXCUSING
14 THE JUROR?

15 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. KELLY: THERE ARE NONE.

18 THE COURT: SIR, YOU'RE EXCUSED. AND WE WOULD
19 ASK THAT YOU NOT DISCUSS THIS INDIVIDUAL PROCESS WITH
20 ANYONE.

21 JUROR: OKAY.

22 THE COURT: HAVE A GOOD DAY. WE TRULY
23 APPRECIATE YOUR PATIENCE.

24 JUROR: THANK YOU.

25 THE COURT: YOU'RE WELCOME.

1 (JUROR LEFT THE COURTROOM.)

2 THE COURT: NUMBER 234, EARL MOULTRIE.

3 (JUROR ENTERED THE COURTROOM.)

4 EARL MOULTRIE, BLACK MALE, TESTIFIED AS
5 FOLLOWS:

6 BY THE COURT:

7 Q HOW ARE YOU THIS MORNING, SIR?

8 A DOING GOOD.

9 Q HOPE YOU HAD A RESTFUL EVENING. I NEED YOU TO TURN A
10 LITTLE MORE TOWARD ME AND SPEAK UP A LITTLE MORE FOR ME SO
11 THE COURT REPORTER CAN TAKE DOWN WHAT WE'RE SAYING. I
12 KNOW THIS CAN BE A LITTLE INTIMIDATING, BUT TAKE A DEEP
13 BREATH, RELAX -- WONDERFUL, THANK YOU. SIR, STATE YOUR
14 FULL NAME FOR THE RECORD.

15 A EARL MOULTRIE.

16 Q AND SIR, YOUR JUROR NUMBER IS 234; IS THAT CORRECT?

17 A YES, MA'AM.

18 Q AND SIR, I WOULD REMIND YOU THAT YOU'RE STILL UNDER
19 OATH. DO YOU UNDERSTAND?

20 A YES, MA'AM.

21 Q SIR, DID YOU IN ANY WAY VIOLATE THE COURT'S
22 CAUTIONARY INSTRUCTIONS? IN OTHER WORDS, DID YOU READ,
23 WATCH, OR LISTEN TO ANY MEDIA ACCOUNTS ABOUT THIS CASE
24 LAST NIGHT?

25 A ON TV?

1 Q YES, SIR.

2 A NO, I DIDN'T.

3 Q OKAY. SIR, WE'RE PROBABLY GOING TO ASK -- WE'RE NOT
4 PROBABLY, WE'RE GOING TO ASK YOU A FEW QUESTIONS.

5 A OKAY.

6 Q AND IT'S NOT TO INVADE YOUR PRIVACY IN ANY WAY, BUT
7 IT'S BECAUSE IT'S NECESSARY DUE TO THE NATURE OF THE
8 PROCEEDINGS THAT WE ARE GOING TO TRY. THERE ARE NO RIGHT
9 OR WRONG ANSWERS. WE NEED YOU TO ANSWER AS COMPLETELY AND
10 FULLY AND HONESTLY AS POSSIBLE.

11 A OKAY.

12 Q WE ARE NOT TRYING TO CHALLENGE ANY OF YOUR VIEWS.
13 IT'S JUST THAT WE NEED TO KNOW WHAT YOUR VIEWS ARE. DO
14 YOU UNDERSTAND?

15 A YES.

16 Q OKAY. AND WE'RE PROBABLY GOING TO ASK YOU SOME
17 THINGS YOU NEVER CONSIDERED BEFORE. SIR, AMONG OTHER
18 THINGS WE'RE GOING TO BE TALKING ABOUT PENALTY. BUT THE
19 MERE FACT THAT WE TALK ABOUT PENALTY DOES NOT INDICATE
20 ANYTHING ABOUT THE DEFENDANT. HE IS PRESUMED TO BE
21 INNOCENT. DO YOU UNDERSTAND THAT?

22 A YES.

23 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
24 YOU LISTEN TO THE LAW?

25 A RIGHT.

1 Q I NEED YOU TO TELL ME YES OR NO.

2 A YES, MA'AM.

3 Q COULD YOU ACCEPT THE LAW AND APPLY THE LAW AS I WOULD
4 INSTRUCT YOU AS TO JUDGE OF THIS COURT?

5 A YES, MA'AM.

6 Q EVEN THOUGH YOU MAY NOT AGREE WHAT THE LAW IS OR WHAT
7 YOU THINK IT OUGHT TO BE IN SOME WAY, COULD YOU STILL
8 APPLY IT AS THE COURT WOULD INSTRUCT YOU?

9 A YES, MA'AM.

10 Q COULD YOU DECIDE THIS CASE SOLELY ON THE EVIDENCE
11 PRESENTED HERE IN THIS COURTROOM AND DISREGARD ANYTHING
12 YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

13 A YES, MA'AM.

14 Q SIR, HAVE YOU HEARD, READ, OR SEEN ANY MEDIA
15 COVERAGE, THAT MEANS ANYTHING IN THE RADIO, ON THE RADIO,
16 NEWSPAPER, TELEVISION, OR INTERNET REGARDING THIS CASE?

17 A NO, I DIDN'T.

18 Q OKAY. SIR, IN A CRIMINAL CASE THE STATE HAS THE
19 BURDEN OF PROVING GUILT, AND THAT BURDEN OF PROOF IS
20 BEYOND A REASONABLE DOUBT. THE DEFENDANT HAS NO BURDEN TO
21 PROVE HIS INNOCENCE. DO YOU UNDERSTAND THIS?

22 A YES, MA'AM.

23 Q SIR, DEPENDING ON THE FACTS -- WELL, LET ME RESTATE
24 THAT QUESTION. SIR, HAVE YOU REVIEWED THE JUROR TYPE
25 SHEET? I UNDERSTAND YOU LEFT YOUR GLASSES. WE GOT YOU

1 SOME. WERE YOU ABLE TO READ THE JUROR FORM SHEET?

2 A I CAN'T SEE.

3 Q YOU CAN'T SEE OUT OF THEM? DO YOU NEED ME TO READ IT
4 TO YOU?

5 A YES, MA'AM.

6 Q OKAY. AND I'M GOING TO ASK YOU -- AFTER I READ IT TO
7 YOU I'M GOING TO ASK YOU IF YOU FEEL YOU FALL INTO ANY OF
8 THESE CATEGORIES.

9 A YES, MA'AM.

10 Q OKAY. AFTER I READ EACH ONE, I'M GOING TO ASK YOU IF
11 YOU FEEL YOU FIT INTO THAT CATEGORY, AND I NEED YOU TO
12 TELL ME YES OR NO, OKAY?

13 NUMBER ONE IS THE TYPE OF JUROR WHO ALTHOUGH THE
14 CRIME OF MURDER HAS BEEN PROVED BY THE STATE AND THE JUROR
15 IS CONSIDERING PUNISHMENT FEELS THAT HE OR SHE IS UNABLE
16 OR UNWILLING TO GIVE THE DEATH PENALTY IN ANY CASE. THIS
17 JUROR FEELS THAT ALTHOUGH A MURDER HAS BEEN COMMITTED, THE
18 DEATH PENALTY IS NOT AN APPROPRIATE PUNISHMENT UNDER ANY
19 CIRCUMSTANCE. DID YOU UNDERSTAND THE QUESTION?

20 A YES, MA'AM.

21 Q DO YOU FEEL YOU FIT INTO THAT CATEGORY?

22 A YES, MA'AM.

23 Q OKAY. ARE THERE ANY QUESTIONS FROM THE STATE?

24 MR. HEMBREE: NO, YOUR HONOR.

25 THE COURT: ANY QUESTIONS FROM THE DEFENSE?

1 MR. KELLY: YES, MA'AM.

2 THE COURT: OKAY, SIR. IF YOU WILL TURN TOWARD
3 MR. KELLY FOR ME.

4 BY MR. KELLY:

5 Q MR. MOULTRIE, WE MAY -- I'M GERALD KELLY AND I'D LIKE
6 TO ASK YOU A FEW QUESTIONS IF YOU DON'T MIND. THE JUDGE
7 WAS SAYING TO YOU THAT THERE ARE THREE CATEGORIES OF
8 JURORS. SHE JUST READ ONE OF THOSE TO YOU.

9 THE OTHER TWO WOULD HAVE BEEN A JUROR WHO THINKS THAT
10 THE DEATH PENALTY IS ALWAYS APPROPRIATE IN ANY CASE WHERE
11 THERE'S A MURDER. AND THEN THE THIRD ONE WOULD BE A JUROR
12 WHO WOULD LISTEN TO THE FACTS AS PRESENTED IN THIS
13 COURTROOM AND WHO WOULD TAKE THE INSTRUCTIONS AS GIVEN TO
14 THEM BY THE JUDGE AND THEN DECIDE WHETHER OR NOT IT WAS
15 APPROPRIATE TO EITHER GIVE LIFE IN PRISON WITH NO PAROLE
16 AS THE PUNISHMENT OR TO GIVE DEATH AS THE PUNISHMENT. DO
17 YOU UNDERSTAND THAT?

18 A YES.

19 Q AND I THINK YOU TOLD HER IMMEDIATELY I'M A PERSON WHO
20 NO MATTER WHAT, I WOULD NEVER GIVE THE DEATH PENALTY. IS
21 THAT THE TYPE OF JUROR YOU ARE?

22 A NO.

23 Q ALL RIGHT. WHAT -- OF THOSE THREE THAT I JUST NAMED
24 TO YOU, THE ONE THAT WOULD ALWAYS GIVE LIFE OR THE ONE
25 THAT WOULD ALWAYS GIVE DEATH OR THE ONE WHO WOULD LISTEN

1 TO THE FACTS AND THE LAW AND THEN MAKE A DECISION BETWEEN
2 THE TWO, WHICH ONE OF THOSE THREE ARE YOU?

3 A WHICH ONE BE FAIR.

4 THE COURT: I'M SORRY, SIR. COULD YOU REPEAT
5 THAT?

6 JUROR: WHICH ONE HE SAY GIVE DEATH?

7 BY MR. KELLY:

8 Q THERE ARE THREE TYPES OF JURORS, MR. MOULTRIE. AND
9 WE'RE JUST TRYING TO FIND OUT WHICH ONE YOU MIGHT BE. ONE
10 TYPE OF JUROR WOULD BE -- ALWAYS GIVE LIFE IN PRISON AS A
11 PUNISHMENT NO MATTER WHAT. THAT'S ONE TYPE.

12 A OKAY.

13 Q OKAY. ANOTHER TYPE WOULD ALWAYS GIVE DEATH NO MATTER
14 WHAT. AND THEN THERE'S A THIRD TYPE WHO WOULD -- COULD
15 GIVE EITHER PUNISHMENT DEPENDING ON THE FACTS AND THE
16 CIRCUMSTANCES THAT WERE HEARD BY THEM AS THE JUROR AND THE
17 LAW THAT THEY WOULD RECEIVE AND THEN THEY'D MAKE THAT
18 DECISION.

19 IN OTHER WORDS, THEY COULD GIVE EITHER PENALTY. SO
20 YOU'D BE ONE OF THOSE THREE. AT FIRST YOU TOLD THE JUDGE,
21 I'D ALWAYS GIVE LIFE. I'M JUST ASKING YOU IS THAT THE
22 PERSON THAT YOU ARE? YOU WOULD ALWAYS GIVE LIFE OR YOU
23 COULD DO EITHER ONE BASED ON THE CIRCUMSTANCES? WHICH ARE
24 YOU?

25 A LIFE IN PRISON.

1 Q YOU WOULD ALWAYS GIVE LIFE IN PRISON?

2 A YES.

3 MR. KELLY: THANK YOU, MA'AM. WE HAVE NO
4 OBJECTION.

5 MR. HEMBREE: WE HAVE NO QUESTIONS, YOUR HONOR.
6 NO OBJECTIONS TO THIS JUROR BEING EXCUSED.

7 THE COURT: OKAY. I ASSUME THERE'LL BE NO
8 EXCEPTION TO BEING EXCUSED?

9 MR. KELLY: THAT'S WHAT I MEAN. NO EXCEPTION OR
10 OBJECTION TO BEING EXCUSED.

11 THE COURT: OKAY. SIR, WE WOULD EXCUSE YOU. WE
12 WOULD ASK THAT YOU NOT DISCUSS THIS WITH ANYONE, AND
13 WE THANK YOU FOR YOUR TIME AND YOUR PATIENCE IN THIS
14 CASE. HAVE A GOOD DAY. MR. MOULTRIE IS EXCUSED.

15 (JUROR LEFT THE COURTROOM.)

16 THE COURT: IF YOU COULD GET JUDITH -- IS THAT
17 GAITHER, NUMBER 106. AND ALSO, HAVE THE OTHER FOUR
18 JURORS FOR 10:00 ARRIVED? IF THEY HAVE, WE NEED TO
19 GO AHEAD PUT THEM IN THE JURY ROOM SO THEY COULD BE
20 READING THE TYPE SHEET.

21 MR. HEMBREE: JUDGE, THERE ARE TWO JURY ROOMS.

22 THE COURT: THAT'S TRUE. ACTUALLY, YOU CAN PUT
23 THEM IN A SEPARATE JURY ROOM. I'M GOING TO PRINT
24 SOME MORE OF THOSE FORMS.

25 (JUROR ENTERED THE COURTROOM.)

1 JUDITH GAITHER, WHITE FEMALE,
2 TESTIFIED AS FOLLOWS:

3 BY THE COURT:

4 Q HOW ARE YOU THIS MORNING?

5 A GOOD. HOW ARE YOU?

6 Q DOING FINE. WE APPRECIATE YOUR PATIENCE. YEAH, WE
7 NEED TO MAKE SURE THE COURT REPORTER CAN SEE YOU SO SHE
8 CAN RECORD YOUR RESPONSES. MA'AM, IF YOU WOULD STATE YOUR
9 NAME FOR THE RECORD.

10 A JUDITH GAITHER.

11 Q AND YOU ARE NUMBER 106; IS THAT CORRECT?

12 A CORRECT.

13 Q AND MRS. GAITHER, I WILL REMIND YOU YOU'RE STILL
14 UNDER OATH. DO YOU UNDERSTAND THAT?

15 A YES.

16 Q AND I KNOW THIS IS A LITTLE BIT DAUNTING, BUT TAKE A
17 DEEP BREATH. I KNOW IT'S ALMOST FEELING LIKE YOU'RE IN
18 THE SPOTLIGHT, BUT WE'RE JUST HERE TO SPEAK WITH YOU
19 INDIVIDUALLY BECAUSE OF THE NATURE OF THESE PROCEEDINGS.

20 A ALL RIGHT.

21 Q DID YOU IN ANY WAY VIOLATE THE COURT'S CAUTIONARY
22 INSTRUCTIONS ON LAST NIGHT REGARDING READING, WATCHING, OR
23 LISTENING TO ANY MEDIA ACCOUNTS ABOUT THIS CASE?

24 A NO.

25 Q OKAY. AS I INDICATED, MA'AM, WE'RE GOING TO ASK --

1 AND I HAVE MRS. GAITHER LISTED UNDER QUESTION 21. IS THAT
2 EVERYONE--

3 MR. KELLY: YES, MA'AM.

4 THE COURT: -- REFLECTION?

5 BY THE COURT:

6 Q MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS NOT TO
7 INVADE YOUR PRIVACY IN ANY WAY, BUT BECAUSE OF THE NATURE
8 OF THESE TYPE PROCEEDINGS. THERE ARE NO RIGHT OR WRONG
9 ANSWERS. WE JUST NEED YOU TO ANSWER US AS OPENLY AND
10 HONESTLY AND FULLY AS POSSIBLE.

11 A SURE.

12 Q WE'RE NOT TRYING TO CHALLENGE ANY OF YOUR VIEWS. WE
13 JUST NEED TO KNOW WHAT THOSE VIEWS ARE.

14 A OKAY.

15 Q AND WE'RE PROBABLY GOING TO ASK YOU SOME QUESTIONS
16 YOU NEVER THOUGHT ABOUT BEFORE.

17 A OKAY.

18 Q AMONG OTHER THINGS WE WILL BE TALKING ABOUT PENALTY,
19 BUT THE MERE FACT THAT WE TALK ABOUT PENALTY DOES NOT
20 INDICATE ANYTHING ABOUT THE DEFENDANT. HE IS PRESUMED TO
21 BE INNOCENT. DO YOU UNDERSTAND THAT?

22 A YES.

23 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
24 LISTEN TO THE LAW?

25 A YES.

1 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
2 INSTRUCT YOU AS THE JUDGE OF THE COURT?

3 A YES.

4 Q EVEN THOUGH YOU MAY NOT AGREE WITH WHAT THE LAW IS OR
5 WHAT YOU THINK IT OUGHT TO BE, AND -- COULD YOU STILL
6 APPLY THE LAW AS THE COURT INSTRUCTED IT?

7 A YES.

8 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
9 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
10 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
11 CASE? AGAIN, THERE ARE NO RIGHT OR WRONG ANSWERS.

12 A I -- THAT I'M NOT REALLY SURE OF. I HAVE -- DONE
13 THAT.

14 Q HAVE YOU READ, HEARD, OR SEEN ANYTHING ABOUT THIS
15 CASE IN THE MEDIA? NOT LAST NIGHT, BUT PREVIOUSLY?

16 A YES.

17 Q AS A RESULT OF WHAT YOU MAY HAVE READ OR HEARD, HAVE
18 YOU FORMED A FIXED OPINION ABOUT THIS CASE?

19 A I REALLY THOUGHT LONG AND HARD ABOUT THIS BECAUSE
20 I -- MY DAUGHTER IS A NEWS REPORTER FOR CHANNEL FIVE. I
21 HAVE BEEN EXPOSED TO A LOT OF INFORMATION THAT SHE HAS
22 HAD.

23 MY HUSBAND IS PRINCIPAL OF WACCAMAW HIGH SCHOOL AND
24 HE HAS WORKED WITH CHRISTINA IN THE PAST YEAR AND BEEN IN
25 SITUATIONS WITH HER, AND I HAVE HEARD THOSE DISCUSSIONS,

1 SO I FEEL THAT I NEED TO -- ALTHOUGH I PERSONALLY HAVE NOT
2 BEEN EXPOSED, YOU KNOW, THAT'S WHY I DIDN'T STAND UP
3 YESTERDAY BECAUSE I FELT LIKE YOU ASKED IF I PERSONALLY
4 HAD BEEN.

5 BUT I HAVE BEEN INVOLVED IN CONVERSATIONS OVER THE
6 PAST YEAR REGARDING THIS CASE, AND I FEEL THAT I NEED TO
7 DISCLOSE THAT TO YOU TO IN ALL FAIRNESS.

8 Q OKAY. DO YOU FEEL THAT YOU FORMED A FIXED OPINION
9 ABOUT THIS CASE AS A RESULT OF THAT EXPOSURE?

10 A I WRESTLED WITH THAT ALL THAT ALL DAY YESTERDAY AND
11 LAST NIGHT CONSIDERING, AND PROBABLY YES.

12 Q OKAY. AND I -- WHEN YOU SAY PROBABLY, AND AGAIN
13 THERE ARE NO RIGHT OR WRONG ANSWERS. I JUST NEED YOU TO
14 ANSWER ME AS FULLY AND HONESTLY AS POSSIBLE. DO YOU FEEL
15 YOU'VE FORMED A FIXED OPINION ABOUT THE FACTS AND
16 CIRCUMSTANCES OF THIS CASE?

17 A YES.

18 Q OKAY. IS THERE ANY EXCEPTION -- WELL, ARE THERE ANY
19 QUESTIONS FROM THE STATE?

20 MR. HEMBREE: NO.

21 THE COURT: FROM THE DEFENSE?

22 MR. KELLY: NONE, MA'AM.

23 THE COURT: ANY EXCEPTION TO EXCUSING
24 MRS. GAITHER FROM THE STATE?

25 MR. HEMBREE: NO, YOUR HONOR.

1 THE COURT: FROM THE DEFENSE?

2 MR. KELLY: NO, MA'AM.

3 THE COURT: MRS. GAITHER, YOU'RE EXCUSED. WE
4 THANK YOU FOR YOUR TIME AND YOUR PATIENCE AND YOUR
5 CANDOR. I HOPE YOU HAVE A VERY GREAT DAY.

6 JUROR: THANK YOU VERY MUCH.

7 THE COURT: YOU'RE WELCOME.

8 (JUROR LEFT THE COURTROOM.)

9 THE COURT: ALL RIGHT. CHERYL GAUSE, 112. YOU
10 THINK THEY HAD ENOUGH TIME TO READ THE FORM?

11 BAILIFF: THEY HAVE.

12 THE COURT: OKAY. I DON'T HAVE MRS. GAUSE
13 LISTED ON MY OF ANY QUESTIONS 21, 22 OR 25. DOES THE
14 STATE?

15 MR. HEMBREE: NO.

16 (JUROR ENTERED THE COURTROOM.)

17 THE COURT: MR. KELLY AND MR. DIGGS, I DON'T
18 HAVE NUMBER 112 LISTED IN ANY OF MY CATEGORIES. DO
19 YOUR NOTES REFLECT THE SAME?

20 CHERYL GAUSE, WHITE FEMALE, TESTIFIED
21 AS FOLLOWS:

22 BY THE COURT:

23 Q MA'AM, HOW ARE YOU? IF YOU'D COME HAVE A SEAT FOR
24 ME. I'M IMPRESSED THAT YOU CAN CARRY THAT LITTLE
25 POCKETBOOK. I USED TO CARRY A TINY PURSE LIKE THAT, BUT

1 YOU KNOW WHAT? ONCE YOU GO BACK TO A BIG PURSE, YOU CAN'T
2 EVER GO BACK.

3 A I GAVE THEM UP. I CARRY EVERYTHING IN MY POCKET. I
4 HAD A COUPLE OF THINGS I COULDN'T FIT IN THERE, SO I -- I
5 DON'T LIKE...

6 Q I KNOW. THAT'S THE SMART WAY TO DO IT.

7 A BUT I DON'T LIKE THEM HEAVY ONES.

8 Q I KNOW. THEY REALLY RUIN YOUR... MA'AM, IF YOU
9 WOULD STATE YOUR NAME FOR THE RECORD.

10 A CHERYL JEAN GAUSE.

11 Q YOU ARE JUROR 112; IS THAT CORRECT?

12 A YES.

13 Q MA'AM, DO YOU UNDERSTAND THAT YOU ARE STILL UNDER
14 OATH?

15 A YES.

16 Q OKAY. HAVE YOU IN ANY WAY VIOLATED THE COURT'S
17 CAUTIONARY INSTRUCTIONS REGARDING MEDIA COVERAGE OF THIS
18 CASE?

19 A NO.

20 Q MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS THIS
21 MORNING. I WANT YOU TO TAKE A DEEP BREATH. I KNOW THIS
22 CAN BE A LITTLE UNNERVING. WE'RE USED TO IT BECAUSE WE DO
23 IT ALL THE TIME, BUT WE KNOW THAT MOST PEOPLE ARE NOT, SO
24 I DON'T WANT YOU TO BE NERVOUS.

25 WE'RE NOT TRYING TO IN ANY WAY INVADE YOUR PRIVACY,

1 BUT BECAUSE OF THE NATURE OF THESE PROCEEDINGS IT'S
2 NECESSARY FOR US TO INQUIRE INTO YOUR VIEWS ABOUT THIS
3 CASE -- ABOUT -- NOT THIS CASE, YOUR VIEWS IN GENERAL.

4 WE'RE NOT IN ANY WAY GOING TO CHALLENGE YOUR VIEWS.
5 WE JUST NEED FOR YOU TO BE OPEN AND HONEST WITH US. THERE
6 ARE NO RIGHT OR WRONG ANSWERS. WE JUST NEED YOU TO ANSWER
7 QUESTIONS AS FULLY, OPENLY, AND HONESTLY AS POSSIBLE.

8 AMONG OTHER THINGS WE'LL BE TALKING ABOUT PENALTY,
9 BUT BECAUSE THE MERE FACT THAT WE TALK ABOUT PENALTY DOES
10 NOT INDICATE ANYTHING ABOUT THE DEFENDANT. HE IS PRESUMED
11 TO BE INNOCENT. DO YOU UNDERSTAND THAT?

12 A YES.

13 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
14 YOU LISTEN TO THE LAW?

15 A YES.

16 Q COULD YOU ACCEPT AND APPLY THE LAW AS THE COURT WOULD
17 INSTRUCT YOU?

18 A YES.

19 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
20 MAY DISAGREE WITH IT?

21 A YES.

22 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
23 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
24 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
25 CASE?

1 A YES.

2 Q HAVE YOU HEARD, READ, OR SEEN ANY MEDIA COVERAGE
3 ABOUT THIS CASE IN THE PAST?

4 A YES.

5 Q AS A RESULT OF WHAT YOU MAY HAVE BEEN EXPOSED TO,
6 HAVE YOU FORMED ANY FIXED OPINION ABOUT THIS CASE?

7 A NO.

8 Q IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
9 PROVING GUILT BEYOND A REASONABLE DOUBT. THE DEFENDANT
10 HAS NO BURDEN TO PROVE HIS INNOCENCE. DO YOU UNDERSTAND
11 THAT?

12 A YES.

13 Q MA'AM, HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE
14 JUROR TYPED SHEET?

15 A YES.

16 Q AND DO YOU FEEL THAT YOU FALL INTO ANY OF THESE
17 CATEGORIES OF JURORS?

18 A YES.

19 Q WHICH CATEGORY DO YOU FEEL YOU FALL INTO?

20 A THREE.

21 Q OKAY. IF YOU WERE A JUROR IN A DEATH PENALTY CASE
22 AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER,
23 WE WOULD THEN MOVE TO THE SENTENCING PHASE OF THE TRIAL.
24 DO YOU UNDERSTAND?

25 A YES.

1 Q AND AS A PART OF THAT YOU WOULD CONSIDER WHAT WE CALL
2 AGGRAVATING CIRCUMSTANCES WHICH ARE FACTS, INCIDENTS,
3 DETAILS OR AN OCCURRENCE WHICH THE GENERAL ASSEMBLY HAS
4 DECLARED BY STATUTE WOULD MAKE WORSE, THAT IS AGGRAVATE,
5 THE OFFENSE OF MURDER.

6 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
7 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
8 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
9 COMMISSION OF A CRIME.

10 AND SOME EXAMPLES OF AGGRAVATING CIRCUMSTANCES WOULD
11 BE MURDER OF A CHILD UNDER AGE 11, DRUG TRAFFICKING,
12 KILLING BY POISON, BURGLARY IN ANY DEGREE. THESE ARE JUST
13 EXAMPLES OF AGGRAVATING CIRCUMSTANCES.

14 YOU WOULD ALSO HAVE THE ABILITY TO CONSIDER WHAT WE
15 CALL MITIGATING CIRCUMSTANCES WHICH ARE INCIDENTS,
16 DETAILS, OR OCCURRENCES WHICH THE GENERAL ASSEMBLY HAS
17 DECLARED BY STATUTE REDUCES THE SEVERITY OF THE OFFENSE OF
18 MURDER AND MAY BE CONSIDER THAT EXTENUATING OR AS REDUCING
19 THE DEGREE OF MORAL CULPABILITY OR RESPONSIBILITY.

20 AND SOME EXAMPLES OF THOSE -- AND AGAIN, THESE ARE
21 JUST EXAMPLES -- MENTAL RETARDATION AT THE TIME OF THE
22 CRIME, THE DEFENDANT WAS PROVOKED BY THE VICTIM, THE
23 DEFENDANT WAS AN ACCOMPLICE AND PARTICIPATION WAS
24 RELATIVELY MINOR, OR THAT THE DEFENDANT WAS ACTING UNDER
25 DURESS OR DOMINATION AT THE TIME OF THE INCIDENT. AGAIN,

1 THESE ARE JUST EXAMPLES OF MITIGATION.

2 IF YOU WERE A JUROR IN THAT SITUATION, THE SENTENCING
3 PHASE, COULD YOU, DEPENDING UPON THE PARTICULAR FACTS AND
4 CIRCUMSTANCES OF THE CASE INCLUDING THE CONSIDERATION OF
5 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND THE LAW THE
6 COURT WOULD INSTRUCT YOU THAT APPLY AT THE CONCLUSION OF
7 THE CASE RETURN A SENTENCE OF LIFE IMPRISONMENT WITHOUT
8 THE POSSIBILITY OF PAROLE?

9 A YES.

10 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU,
11 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
12 THE CASE, INCLUDING THE CONSIDERATION OF AGGRAVATING AND
13 MITIGATING CIRCUMSTANCES AND THE LAW THE COURT INSTRUCTS,
14 COULD YOU RETURN A SENTENCE OF DEATH WHICH IN THIS CASE IS
15 BY ELECTROCUTION OR BY LETHAL INJECTION?

16 A YES.

17 Q IF YOU WERE CHOSEN FOR THE JURY, YOU WILL BE HOUSED
18 IN A MOTEL AS I HAVE EXPLAINED AND YOU WILL BE SEQUESTERED
19 FOR APPROXIMATELY 10 DAYS. MIGHT BE SHORTER. EXCEPT FOR
20 THE PERSONAL INCONVENIENCE, WOULD THIS POSE A SERIOUS
21 DANGER TO YOUR HEALTH OR WELL-BEING?

22 A NO.

23 Q OR ANYBODY WHO IS DEPENDENT UPON YOU?

24 A NO.

25 Q WOULD YOU BE ABLE TO SIGN VERDICT FORM -- AND THE

1 REASON I ASK THIS IS BECAUSE IN THESE TYPE CASES EACH
2 JUROR IS REQUIRED TO SIGN INDIVIDUALLY ON THE VERDICT
3 FORM.

4 WOULD YOU BE ABLE TO SIGN A VERDICT FORM IN THE EVENT
5 OF A LIFE WITHOUT THE POSSIBILITY OF PAROLE SENTENCE OR A
6 DEATH SENTENCE?

7 A YES.

8 Q ARE THERE ANY ADDITIONAL QUESTIONS FROM THE STATE?

9 MR. HEMBREE: NO, YOUR HONOR.

10 THE COURT: FROM THE DEFENSE?

11 MR. KELLY: YES, MA'AM.

12 THE COURT: MA'AM, IF YOU WOULD GIVE MR. KELLY
13 YOUR ATTENTION. THANK YOU.

14 BY MR. KELLY:

15 Q MRS. GAUSE?

16 A GAUSE.

17 Q GAUSE. MRS. GAUSE, I'M GERALD KELLY. I'D LIKE TO
18 ASK YOU A FEW QUESTIONS. I THINK THAT YOU SAID THAT YOU
19 HAD BEEN AWARE OF MEDIA COVERAGE AND YOU REALIZED THAT
20 THAT HAS NO BEARING IN THIS COURTROOM?

21 A YES.

22 Q AND YOU WOULD BE ABLE TO, IF YOU WERE A JUROR, TO
23 LIMIT YOURSELF UNDER THE INSTRUCTIONS OF OUR JUDGE JUST TO
24 THE EVIDENCE THAT COMES TO YOU HERE; CORRECT?

25 A (NODDED.)

1 Q AND ARE YOU A PERSON OF INDEPENDENT MIND, MA'AM?

2 A YES.

3 Q AND CAN YOU MAKE UP YOUR OWN MIND WITHOUT HAVING
4 SOMEONE MAKE IT UP FOR YOU?

5 A YES.

6 Q YOU REALIZE THAT IF YOU WERE A JUROR, YOU COULD NOT
7 DISCUSS THIS CASE WITH ANYONE UNTIL YOU WERE GIVEN THE --
8 THAT OPPORTUNITY BY THE JUDGE IN YOUR DELIBERATIONS?

9 A YES.

10 Q YOU COULDN'T DISCUSS WITH IT YOUR HUSBAND.

11 A YES.

12 Q YOU REALIZE THAT?

13 A YES.

14 Q YOU COULDN'T DISCUSS IT WITH ANY MEMBER OF THE JURY.
15 YOU UNDERSTAND THAT?

16 A YES.

17 Q COULD YOU FOLLOW THAT RULE?

18 A YES.

19 Q AND IF SOMEONE VIOLATED THAT RULE, YOU WOULD REPORT
20 THAT TO THE COURT?

21 A ABSOLUTELY.

22 Q NO MATTER WHO IT WAS?

23 A YES.

24 Q YOU WOULD BE A FAIR JUROR?

25 A YES.

1 Q AND YOU'RE TELLING ME THE TRUTH NOW?

2 A YES.

3 Q I HAVE NO FURTHER QUESTIONS.

4 THE COURT: OKAY. ANY EXCEPTION TO THE -- OH,
5 YOU HAVE SOME QUESTIONS?

6 MR. HEMBREE: NO, YOUR HONOR. MRS. GAUSE IS
7 QUALIFIED.

8 THE COURT: OKAY. ANY EXCEPTION FROM THE
9 DEFENSE?

10 MR. KELLY: NONE, YOUR HONOR.

11 THE COURT: MA'AM, YOU HAVE BEEN FOUND QUALIFIED
12 AS A JUROR IN THIS CASE. AND AS I EXPLAINED ON
13 YESTERDAY, WHAT WE ARE DOING IS WE HAVE TO QUESTION
14 EVERYONE INDIVIDUALLY, AND FROM THAT QUESTIONING WE
15 WILL THEN DEVELOP WHAT IS A POOL OF JURORS WHO WE
16 WILL SELECT THE JURY PANEL FROM ON MONDAY.

17 AND WE WILL SELECT 12 JURORS AND EITHER TWO OR
18 THREE ALTERNATES. WHAT I NEED FOR YOU TO DO FOR ME
19 IS RETURN ON MONDAY AT 9:30.

20 JUROR: OKAY. 9:30?

21 THE COURT: YES, MA'AM. PACKED FOR TWO WEEKS.

22 JUROR: OKAY.

23 THE COURT: OKAY? AND DURING THIS BREAK I NEED
24 FOR YOU TO STRICTLY ABIDE BY THE COURT'S INSTRUCTION
25 AND HAVE NO DISCUSSION ABOUT THIS CASE. PLEASE DO

1 NOT WATCH OR READ ANY MEDIA REPORTS ABOUT IT.

2 IT IS EXTREMELY IMPORTANT THAT EVERYONE REMAIN
3 FAIR AND IMPARTIAL IN THIS CASE, AND THAT IS WHY WE
4 GIVE YOU THOSE INSTRUCTIONS, TO MAINTAIN THAT AND TO
5 PRESERVE THE INTEGRITY OF THE PROCESS. AND WE'LL SEE
6 YOU ON MONDAY. WE APPRECIATE YOUR PATIENCE.

7 JUROR: THANK YOU.

8 THE COURT: HAVE A GOOD DAY. TRY TO SURVIVE IN
9 THIS HEAT. YEAH, I MIGHT, YOU KNOW--

10 JUROR: MONDAY AT 9:30.

11 THE COURT: YES, MA'AM. AND REPORT HERE TO THE
12 COURTROOM.

13 (JUROR LEFT THE COURTROOM.)

14 THE COURT: LOTTIE POINT, 256. 250...

15 (JUROR IN THE COURTROOM.)

16 LOTTIE POINT, BLACK FEMALE, TESTIFIED
17 AS FOLLOWS:

18 BY THE COURT:

19 Q MRS. POINT, HOW ARE YOU DOING THIS MORNING?

20 A UM...

21 Q MRS. POINT, HOW ARE YOU THIS MORNING?

22 A OH, I'M FEELING A LITTLE BETTER.

23 Q GOOD. PLEASE TELL ME YOUR NAME FOR THE RECORD.

24 A EDITH LOTTIE POINT.

25 Q AND MRS. POINT, YOU'RE JUROR NUMBER IS 256; IS THAT

1 RIGHT?

2 A YES, MA'AM.

3 Q AND MA'AM, I JUST REMIND YOU YOU'RE STILL UNDER OATH.
4 DO YOU UNDERSTAND THAT ALSO?

5 A YES, MA'AM.

6 Q MA'AM, DID YOU IN ANY WAY READ, WATCH, OR LISTEN TO
7 ANY MEDIA REPORTS ABOUT THIS CASE LAST NIGHT?

8 A NO, MA'AM.

9 Q MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS. I NEED
10 FOR YOU TO BE RELAXED. I KNOW THIS CAN BE A LITTLE
11 UNNERVING. BUT DUE TO THE NATURE OF THESE PROCEEDINGS, WE
12 HAVE TO ASK YOU INDIVIDUAL QUESTIONS.

13 A YES, MA'AM.

14 Q THERE ARE NO RIGHT OR WRONG ANSWERS. I NEED YOU JUST
15 TO ANSWER ME AS OPENLY AND HONESTLY AS POSSIBLE. DO YOU
16 UNDERSTAND?

17 A YES, MA'AM.

18 Q AMONG OTHER THINGS WE'RE GOING TO BE TALKING ABOUT
19 PENALTY, BUT THE MERE FACT THAT WE TALK ABOUT PENALTY DOES
20 NOT INDICATE ANYTHING ABOUT THE DEFENDANT. HE IS PRESUMED
21 TO BE INNOCENT. DO YOU UNDERSTAND?

22 A YES, MA'AM.

23 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
24 YOU LISTEN TO THE LAW?

25 A YES, MA'AM, I COULD.

1 Q I'M SORRY. I DIDN'T HEAR YOU.

2 A YES, MA'AM, I COULD LISTEN.

3 Q COULD YOU ACCEPT THE LAW AND APPLY THE LAW AS I WOULD
4 INSTRUCT YOU AS THE JUDGE OF THE COURT?

5 A YES, MA'AM.

6 Q OKAY. COULD YOU ACCEPT THE LAW AND APPLY IT EVEN
7 THOUGH YOU MIGHT DISAGREE WITH IT?

8 A YES, MA'AM.

9 Q MA'AM, COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
10 EVIDENCE PRESENTED AND DISREGARD ANYTHING YOU MAY HAVE
11 HEARD OR READ ABOUT THIS CASE?

12 A (NO RESPONSE.)

13 Q WANT ME TO REPEAT THE QUESTION?

14 A YES, MA'AM.

15 Q IN OTHER WORDS, YOU MAY HAVE READ SOME THINGS PRIOR
16 TO COMING ON JURY -- BEING SUMMONSED FOR JURY DUTY. DO
17 YOU BELIEVE THAT YOU COULD DISREGARD ANYTHING YOU MAY HAVE
18 HEARD OR READ IN THE MEDIA ABOUT THIS CASE AND DECIDE THIS
19 CASE SOLELY ON THE EVIDENCE PRESENTED?

20 THERE ARE NO RIGHT OR WRONG ANSWERS. YOU CAN JUST BE
21 HONEST WITH ME.

22 A YOU ARE ASKING ME IF I AM WILLING TO ANSWER...

23 Q I'M ASKING YOU IF YOU CAN LISTEN TO THE EVIDENCE AND
24 DISREGARD ANYTHING YOU MAY HAVE HEARD OUTSIDE OF THIS
25 COURTROOM ABOUT THE CASE.

1 A AND THEN THROUGH MY HOME?

2 Q YES, MA'AM.

3 A YES, MA'AM, I CAN LISTEN TO THE EVIDENCE.

4 Q OKAY. AND YOU CAN DISREGARD WHAT YOU MAY HAVE HEARD
5 IN THE MEDIA ABOUT THE CASE?

6 A (NO RESPONSE.)

7 Q DO YOU UNDERSTAND WHAT I'M ASKING?

8 A YOU ASKING ME IF LIKE I HEAR SOMETHING, MY -- THAT I
9 SHOULD -- IF I WANT TO...

10 Q COULD YOU--

11 A COULD I--

12 Q -- IGNORE IT?

13 A IGNORE. WELL, I WOULD LIKE TO KNOW -- TO GET THE
14 FACTS AND -- BEFORE I DECIDE ON WHAT I HEARD.

15 Q OKAY. MA'AM, HAVE YOU -- BEFORE YOU WERE SUMMONSED
16 FOR JURY DUTY, DID YOU READ, WATCH, OR LISTEN TO ANY MEDIA
17 ACCOUNTS ABOUT THIS CASE? DID YOU SEE ANYTHING IN THE
18 NEWSPAPER, SEE ANYTHING ON TV, OR HEAR ANYTHING ON THE
19 RADIO?

20 A I HEARD SOMETHING BACK WHEN IT FIRST HAPPENED I
21 GUESS, BUT I DIDN'T -- THAT JUST, YOU KNOW, I DIDN'T READ
22 GREAT ON MY KNOWLEDGE TO THINK OF ANYTHING ABOUT IT.

23 Q OKAY. DID YOU FORM A FIXED OPINION ABOUT THIS CASE
24 FROM WHAT YOU HEARD?

25 A NO, MA'AM.

1 Q OKAY. IN A CRIMINAL CASE, THE STATE HAS THE BURDEN
2 OF PROVING A DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.
3 AND THE DEFENDANT HAS NO BURDEN TO PROVE ANYTHING. DO YOU
4 UNDERSTAND?

5 A YES, MA'AM.

6 Q HAVE YOU LOOKED AT THE JUROR TYPE SHEET THAT WAS IN
7 THE JURY ROOM? DID YOU READ IT?

8 A YES, MA'AM.

9 Q OKAY. DO YOU FEEL YOU FIT INTO ANY OF THE
10 CATEGORIES, TYPE ONE, TYPE TWO, OR TYPE THREE?

11 A I THINK, UM, TYPE ONE.

12 Q OKAY. YOU WANT TO LOOK AT IT AGAIN AND READ IT WHILE
13 WE'RE SITTING HERE AND TELL ME WHICH ONE YOU THINK YOU'D
14 FIT INTO, IF ANY?

15 A (PAUSE) I THINK NUMBER ONE.

16 Q OKAY. ANY QUESTIONS FROM THE STATE? THANK YOU,
17 MA'AM.

18 MR. HEMBREE: NO, YOUR HONOR.

19 THE COURT: ANY QUESTIONS FROM THE DEFENSE?

20 MR. KELLY: WE HAVE NONE.

21 THE COURT: ANY EXCEPTION TO THE JUROR BEING
22 EXCUSED FROM THE STATE?

23 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

24 THE COURT: FROM THE DEFENSE?

25 MR. KELLY: THERE ARE NONE, YOUR HONOR.

1 THE COURT: MA'AM, YOU'RE EXCUSED FROM JURY
2 SERVICE. I WOULD ASK THAT YOU NOT DISCUSS ANYTHING
3 WE'VE DISCUSSED WITH ANYONE. CAN YOU DO THAT FOR ME?

4 JUROR: YES, MA'AM.

5 THE COURT: THANK YOU, MA'AM. YOU HAVE A GOOD
6 DAY. WE APPRECIATE YOU BEING SO PATIENT WITH US.

7 JUROR: THANK YOU, MA'AM.

8 THE COURT: TAKE CARE.

9 JUROR: ALL RIGHT.

10 (JUROR LEFT THE COURTROOM) .

11 THE COURT: RONNIE TRAPPIER, 328.

12 (JUROR ENTERED THE COURTROOM.)

13 RONNIE TRAPPIER, BLACK MALE, TESTIFIED AS
14 FOLLOWS:

15 BY THE COURT:

16 Q SIR, HOW YOU DOING THIS MORNING?

17 A MORNING. MORNING.

18 Q HOPE YOU HAD A RESTFUL NIGHT. HAVE A SEAT FOR ME.

19 HE IS NOT LISTED, CORRECT, FROM THE STATE OR THE DEFENSE
20 IN ANY OF OUR CATEGORIES. SIR, STATE YOUR NAME FOR THE
21 RECORD.

22 A RONNIE TRAPPIER.

23 Q AND SIR, YOU ARE JUROR NUMBER 328; IS THAT CORRECT?

24 A YES, MA'AM.

25 Q SIR, I WILL REMIND YOU YOU'RE STILL UNDER OATH. DO

1 YOU UNDERSTAND?

2 A YES, MA'AM.

3 Q SIR, DID YOU READ, WATCH, OR LISTEN TO ANY MEDIA
4 ACCOUNTS ABOUT THIS CASE ON LAST NIGHT?

5 A NO, MA'AM.

6 Q AND SIR, I'M GOING TO ASK YOU SOME QUESTIONS. WE'RE
7 NOT TRYING TO INVADE YOUR PRIVACY, BUT BECAUSE OF THE
8 NATURE OF THIS CASE, WE HAVE TO TALK TO EVERYBODY
9 INDIVIDUALLY.

10 WE'RE NOT TRYING TO CHALLENGE ANY OF YOUR VIEWS.
11 IT'S JUST THAT WE NEED TO KNOW WHAT YOUR VIEWS ARE. THERE
12 ARE NO RIGHT OR WRONG ANSWERS. WE JUST NEED YOU TO ANSWER
13 US AS COMPLETELY, FULLY, AND HONESTLY AS POSSIBLE. DO YOU
14 UNDERSTAND?

15 A YES, MA'AM.

16 Q SIR, AMONG OTHER THINGS WE'RE GOING TO BE TALKING
17 ABOUT PENALTY. BUT BECAUSE WE TALK ABOUT PENALTY, IT'S NO
18 REFLECTION ON THE DEFENDANT BECAUSE HE IS PRESUMED TO BE
19 INNOCENT. DO YOU UNDERSTAND?

20 A YES, MA'AM.

21 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
22 YOU LISTEN TO THE LAW?

23 A YES, MA'AM.

24 Q COULD YOU APPLY THE LAW AS I INSTRUCT IT AS THE JUDGE
25 OF THE COURT?

1 A YES, MA'AM.

2 Q COULD YOU APPLY THE LAW AS I INSTRUCT EVEN IF YOU
3 WERE TO DISAGREE WITH WHAT YOU THINK IT SHOULD BE OR OUGHT
4 TO BE?

5 A YES, MA'AM.

6 Q SIR, COULD YOU CONSIDER THIS CASE BASED SOLELY ON THE
7 EVIDENCE PRESENTED IN THE COURTROOM AND DISREGARD ANYTHING
8 YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE IN THE
9 MEDIA?

10 A YES, MA'AM.

11 Q SIR, HAVE YOU READ, SEEN, OR HEARD ANYTHING -- NOT
12 FROM LAST NIGHT -- BUT PREVIOUSLY ABOUT THIS CASE?

13 A YES, MA'AM.

14 Q AS A RESULT OF WHAT YOU MAY HAVE READ OR HEARD, HAVE
15 YOU FORMED ANY FIXED OPINION ABOUT THE FACTS AND
16 CIRCUMSTANCES OF THIS CASE?

17 A YES, MA'AM.

18 Q YOU'VE FORMED A FIXED OPINION?

19 A YES, MA'AM.

20 Q OKAY. DO YOU FEEL THAT YOU COULD DISREGARD THAT
21 OPINION AND LISTEN TO THE FACTS AND THE EVIDENCE IN THIS
22 CASE AND RENDER A VERDICT BASED SOLELY ON THE EVIDENCE AS
23 IT IS PRESENTED AND ON THE LAW AS THE COURT WILL CHARGE?

24 A YES, MA'AM.

25 Q OKAY. SIR, IN A CRIMINAL CASE THE STATE HAS THE

1 BURDEN OF PROVING GUILT, AND THEY MUST PROVE THAT BEYOND A
2 REASONABLE DOUBT. DO YOU UNDERSTAND THAT THE DEFENDANT
3 HAS NO BURDEN TO PROVE HIS INNOCENCE?

4 A YES, MA'AM.

5 Q SIR, HAVE YOU REVIEWED THE JUROR TYPE SHEET IN THE
6 JURY ROOM WITH IS JUROR TYPE ONE, TYPE TWO, AND TYPE
7 THREE?

8 A YES, MA'AM.

9 Q DO YOU TO FEEL YOU FIT INTO ANY OF THOSE CATEGORIES?

10 A YES, MA'AM.

11 Q OKAY. WHICH ONE DO YOU FEEL YOU FIT INTO?

12 A ONE AND THREE.

13 Q ONE AND THREE? OKAY. ARE THERE ANY QUESTIONS FROM
14 THE STATE?

15 MR. HEMBREE: YES, YOUR HONOR.

16 THE COURT: YOU MAY PROCEED.

17 MR. HEMBREE: THANK YOU, YOUR HONOR.

18 THE COURT: YOU'RE WELCOME.

19 BY MR. HEMBREE:

20 Q MR. TRAPPIER?

21 A YES, SIR.

22 Q YOU INDICATED THAT YOU WERE A ONE -- I'M SORRY. I'M
23 GREG HEMBREE. I ALONG WITH DEPUTY SOLICITOR FRAN
24 HUMPHRIES WILL BE TRYING THIS CASE ON BEHALF OF THE
25 CITIZENS OF GEORGETOWN COUNTY.

1 A YES.

2 Q I APPRECIATE YOU BEING HERE TODAY AND YOUR PATIENCE
3 WITH US YESTERDAY. YOU INDICATED YOU'RE A ONE AND A
4 THREE?

5 A YES, SIR.

6 Q TELL ME WHAT -- WHY DO YOU BELIEVE THAT YOU'RE A ONE?

7 A RELIGIOUS.

8 Q I NOTICED THAT IN YOUR QUESTIONNAIRE THAT YOU'RE AN
9 ORDAINED MINISTER?

10 A YES, SIR.

11 Q IS THERE ANYTHING ABOUT -- SOMETHING ABOUT -- YOU
12 SAID I GUESS I WILL ASK IT A LITTLE DIFFERENT WAY --
13 SOMETHING ABOUT YOUR RELIGIOUS BELIEFS THAT WOULD GIVE YOU
14 HESITATION OR DIFFICULTY IN IMPOSING THE DEATH PENALTY?

15 A YES, SIR.

16 Q ALL RIGHT. I DON'T HAVE ANY FURTHER QUESTIONS.

17 THE COURT: OKAY. ANY QUESTIONS FROM THE
18 DEFENSE?

19 MR. KELLY: YES, MA'AM.

20 THE COURT: YOU MAY PROCEED.

21 BY MR. KELLY:

22 Q IS IT MR. TRAPPIER?

23 A YES, SIR.

24 Q MR. TRAPPIER, DID I UNDERSTAND YOU TO SAY THAT YOU
25 HAD OR HAD NOT FORMED A FIXED OPINION?

1 A I SAID I HAD.

2 Q AND WHAT IS THAT FIXED OPINION?

3 A WELL, FROM THE PRIOR THINGS THAT I HAVE HEARD, MY
4 OPINION I SAY HE'S GUILTY.

5 Q NOW, THAT'S AN OPINION THAT YOU HAVE THIS MORNING BUT
6 DIDN'T HAVE YESTERDAY WHEN YOU WERE ASKED YESTERDAY BY THE
7 JUDGE, OR HOW IS THAT?

8 A WELL, I HEARD THING PASS YESTERDAY THAT I QUITE
9 DIDN'T UNDERSTAND.

10 Q MR. TRAPPIER.

11 A YES, SIR.

12 Q IF YOU WERE CHOSEN AS A JUROR, YOU'D HAVE TO PUT OUT
13 OF YOUR MIND ANY FIXED OPINION AND ONLY ACCEPT THE
14 EVIDENCE THAT'S PLACED BEFORE YOU IN THIS ROOM AND THEN
15 DECIDE ABOUT HIS INNOCENCE OR GUILT. COULD YOU DO THAT?

16 A YES, SIR.

17 Q YOU KNOW, THIS HERE IS THE MAN, MR. STEPHEN STANKO,
18 WHO IS THE DEFENDANT HERE, AND HE'S PRESUMED NOW TO BE
19 INNOCENT. DO YOU UNDERSTAND THAT?

20 A YES, SIR.

21 Q AND EVEN THOUGH THE NEWSPAPERS AND RADIO AND TV MIGHT
22 HAVE SAID THINGS THAT THEY'RE REPORTING, THAT'S NOT
23 EVIDENCE. YOU DO UNDERSTAND THAT?

24 A YES, SIR.

25 Q OKAY. AND IF YOU WERE A JUROR THE ONLY EVIDENCE

1 WOULD BE NOTHING PREVIOUS TO THE -- TO THE DAY THAT YOU
2 WERE SWORN AS A JUROR, BUT ONLY AFTER THAT AND IN THIS
3 ROOM. COULD YOU ACCEPT THAT?

4 A YES, SIR.

5 Q OKAY. AND I THINK YOU SAID THAT YOU WERE -- COULD
6 GIVE EITHER LIFE OR DEATH, BUT YOU LEAN TO GIVING LIFE.
7 IS THAT CORRECT?

8 A NO, SIR. I DIDN'T SAY THAT.

9 Q WHAT DID YOU SAY?

10 A I SAID I'M TYPE ONE.

11 Q YOU'RE TYPE ONE?

12 A YES, SIR.

13 Q SO THAT NO MATTER WHAT THE CIRCUMSTANCES WERE, YOU
14 WOULD ALWAYS GIVE LIFE AND NEVER GIVE THE PENALTY OF DEATH
15 NO MATTER WHAT THE CIRCUMSTANCES WERE?

16 A THAT'S WHAT I SAID.

17 Q OKAY. AND THAT'S THE WAY IT IS?

18 A YES, SIR.

19 Q THANK YOU, SIR.

20 THE COURT: ANY EXCEPTION TO EXCUSING THE JUROR
21 FROM THE STATE?

22 MR. HEMBREE: NO, YOUR HONOR.

23 THE COURT: FROM THE DEFENSE?

24 MR. KELLY: NO, MA'AM.

25 THE COURT: SIR, YOU'RE EXCUSED. PLEASE DON'T

1 DISCUSS WHAT WE'VE DISCUSSED. HAVE A WONDERFUL DAY.
2 WE APPRECIATE YOU BEING SO PATIENT WITH US.

3 JUROR: THANK YOU.

4 THE COURT: YOU'RE WELCOME.

5 (JUROR LEFT THE COURTROOM).

6 THE COURT: VIRGINIA TAYLOR, 318.

7 (JUROR ENTERED THE COURTROOM.)

8 VIRGINIA TAYLOR, WHITE FEMALE, TESTIFIED AS
9 FOLLOWS:

10 BY THE COURT:

11 Q HOW ARE YOU THIS MORNING?

12 A GOOD MORNING. I'M FINE. HOW ARE YOU?

13 Q I'M DOING GOOD. APPRECIATE YOU BEING SO PATIENT WITH
14 US.

15 A OKAY.

16 Q OKAY. MRS. TAYLOR, WE APPRECIATE YOU BEING SO
17 PATIENT WITH US THIS MORNING. PLEASE STATE YOUR NAME FOR
18 THE RECORD.

19 A VIRGINIA H TAYLOR.

20 Q AND MA'AM, YOU ARE JUROR 318; IS THAT RIGHT?

21 A CORRECT. YES, MA'AM.

22 Q AND I REMIND YOU THAT YOU'RE STILL UNDER OATH. DO
23 YOU UNDERSTAND?

24 A YES, MA'AM.

25 Q AND I HAVE HER AS RESPONDING TO QUESTION 21; IS THAT

1 CORRECT? FROM THE STATE AND FROM THE DEFENSE?

2 MR. HEMBREE: YES, MA'AM.

3 BY THE COURT:

4 Q MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS. WE'RE
5 NOT TRYING TO INVADE YOUR PRIVACY IN ANY WAY. IT'S JUST
6 BECAUSE THE NATURE OF THESE PROCEEDINGS, WE HAVE TO TALK
7 TO EACH JUROR INDIVIDUALLY.

8 A ALL RIGHT.

9 Q THERE ARE NO RIGHT OR WRONG ANSWERS. WE NEED YOU
10 JUST TO ANSWER UP AS OPENLY, HONESTLY, AND FULLY AS
11 POSSIBLE.

12 A OKAY.

13 Q NO ONE IS CHALLENGING YOUR VIEWS. WE JUST NEED TO
14 KNOW WHAT YOUR VIEWS ARE.

15 A OKAY.

16 Q AND AMONG OTHER THINGS WE'LL BE TALKING ABOUT
17 PENALTY, BUT THE MERE FACT THAT WE TALK ABOUT PENALTY DOES
18 NOT INDICATE ANYTHING ABOUT THE DEFENDANT. HE IS PRESUMED
19 TO BE INNOCENT. DO YOU UNDERSTAND?

20 A YES, MA'AM.

21 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
22 YOU LISTEN TO THE LAW?

23 A YES.

24 Q COULD YOU APPLY THE LAW AS I WOULD INSTRUCT YOU AS
25 THE JUDGE OF THE COURT?

1 A YES.

2 Q COULD YOU APPLY THE LAW EVEN THOUGH YOU MAY DISAGREE
3 WITH IT?

4 A YES.

5 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
6 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
7 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
8 CASE?

9 A NOT ABOUT THIS CASE, NO, MA'AM.

10 Q OKAY. HAVE YOU HEARD, READ, OR SEEN ANY MEDIA
11 ACCOUNTS ABOUT THIS CASE PRIOR TO MY INSTRUCTIONS?

12 A YES, MA'AM, FROM THE GET-GO.

13 Q OKAY. AND AS A RESULT OF WHAT YOU HAVE HEARD OR
14 READ, HAVE YOU FORMED A FIXED OPINION ABOUT THE FACTS IN
15 THIS CASE?

16 A YES, I HAVE.

17 Q OKAY. MA'AM, AS A RESULT OF THAT -- WELL, YOU HAVE
18 INDICATED TO ME YOU HAVE A FIXED OPINION. DO YOU FEEL
19 THAT YOU COULD DISREGARD THAT OPINION AND LISTEN TO THE
20 FACTS AND THE EVIDENCE AS IT IS PRESENTED IN THIS CASE AND
21 APPLY THE LAW TO THOSE FACTS AND RENDER A TRUE AND JUST
22 VERDICT IN THIS CASE?

23 A IN THIS CASE I DON'T THINK I COULD.

24 Q OKAY. ANY EXCEPTION TO EXCUSING THE JUROR FROM THE
25 STATE?

1 MR. HEMBREE: NONE FROM THE STATE.

2 THE COURT: FROM THE DEFENSE?

3 MR. KELLY: THERE ARE NONE.

4 THE COURT: MA'AM, YOU'RE EXCUSED. WE THANK YOU
5 FOR YOUR CANDOR. HAVE A WONDERFUL DAY.

6 JUROR: I WANTED TO TELL YOU OFF THE RECORD,
7 EVERYBODY HAS HAD THE HIGHEST OPINION OF YOU, AND YOU
8 ARE THE MOST FAIR, HONEST JUDGE I HAVE EVER BEEN IN
9 FRONT OF.

10 THE COURT: THANK YOU. HAVE A WONDERFUL DAY.
11 WE HOPE YOU SURVIVE HURRICANE SEASON.

12 JUROR: BACK TO THE REAL WORLD.

13 (JUROR LEFT THE COURTROOM.)

14 THE COURT: THANK YOU SO MUCH.

15 MR. HUMPHRIES: JUDGE, FOR THE RECORD, WE
16 BELIEVE THE SAME THING.

17 (OFF-THE-RECORD DISCUSSION WAS HAD.)

18 THE COURT: OKAY. WE ARE DONE TILL 11, GUYS.
19 TAKE A LITTLE BREAK. WE GOT A LITTLE AHEAD. I
20 ASSUME OUR 11:00 PEOPLE ARE HERE? IF THEY ARE NOT,
21 LET'S DOUBLE CHECK AND MAKE SURE THEY HAVE JUROR
22 FORMS AND LET'S TAKE A BREAK.

23 (WHEREUPON A RECESS WAS HAD.)

24 THE COURT: IS THE STATE READY TO PROCEED?

25 MR. HEMBREE: THE STATE IS READY, YOUR HONOR.

1 THE COURT: DEFENSE READY?

2 MR. KELLY: YES, MA'AM.

3 THE COURT: MABLE LAMBERT, 191. MABLE LAMBERT.

4 (JUROR IN THE COURTROOM.)

5 MABLE LAMBERT, WHITE FEMALE, TESTIFIED

6 AS FOLLOWS:

7 BY THE COURT:

8 Q HOW ARE YOU THIS MORNING?

9 A FINE. AND YOU?

10 Q FINE. I APOLOGIZE FOR HAVING A MINT IN MY MOUTH, BUT
11 I'VE BEEN DOING A LOT OF TALKING, AND SO I NEED TO
12 LUBRICATE MY THROAT A LITTLE BIT. PLEASE STATE YOUR NAME
13 FOR THE RECORD.

14 A MABLE MORRIS LAMBERT.

15 Q AND MRS. LAMBERT, YOU ARE NUMBER 191; IS THAT
16 CORRECT?

17 A YES, MA'AM.

18 Q AND I WANT TO REMIND YOU THAT YOU'RE STILL UNDER
19 OATH. DO YOU UNDERSTAND?

20 A YES, MA'AM.

21 Q HAVE YOU IN ANY WAY WATCHED, READ, OR LISTENED TO ANY
22 MEDIA REPORTS ABOUT THIS CASE ON LAST NIGHT?

23 A NO, MA'AM.

24 Q WE'RE GOING TO ASK YOU SOME QUESTIONS. WE REFLECT
25 THAT MRS. LAMBERT IS ON LIST 21, 22 AND -- YEAH, NO, 191.

1 I APOLOGIZE. I'M LOOKING AT THE WRONG NUMBER. IS IT --
2 YOU KNOW WHAT? I GOT AHEAD OF MYSELF. I WAS THINKING
3 ABOUT 161. I'M SO SORRY. I APOLOGIZE.

4 A THAT'S ALL RIGHT.

5 Q WE ARE GOING TO ASK YOU A FEW QUESTIONS. WE'RE NOT
6 TRYING TO INVADE YOUR PRIVACY IN ANY WAY. BECAUSE OF THE
7 NATURE OF THIS CASE, WE HAVE TO SPEAK TO EACH JUROR
8 INDIVIDUALLY. THERE ARE NO RIGHT OR WRONG ANSWERS. WE
9 NEED YOU JUST TO ANSWER AS OPENLY AND HONESTLY AND
10 COMPLETELY AS POSSIBLE.

11 NO ONE IS CHALLENGING YOUR VIEWS. WE JUST NEED TO
12 KNOW WHAT THEY ARE. AMONG OTHER THINGS WE'RE GOING TO
13 TALK ABOUT PENALTY, BUT BECAUSE WE ARE TALKING ABOUT
14 PENALTY IT'S NO REFLECTION ON THE DEFENDANT BECAUSE HE'S
15 PRESUMED TO BE INNOCENT. DO YOU UNDERSTAND?

16 A YES, MA'AM.

17 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
18 LISTEN AND APPLY THE LAW? COULD YOU LISTEN TO THE LAW?

19 A YES, MA'AM.

20 Q COULD YOU APPLY THE LAW AS I WOULD INSTRUCT AS THE
21 JUDGE OF THE COURT?

22 A YES, MA'AM.

23 Q COULD YOU APPLY THE LAW AS I INSTRUCT EVEN THOUGH YOU
24 MAY DISAGREE WITH IT?

25 A YES, MA'AM.

1 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
2 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
3 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
4 CASE?

5 A YES, MA'AM.

6 Q HAVE YOU HEARD, READ, OR SEEN ANY MEDIA COVERAGE
7 ABOUT THIS CASE -- AND I DON'T MEAN LAST NIGHT, BUT
8 PREVIOUSLY?

9 A YES, MA'AM.

10 Q AS A RESULT OF WHAT YOU MAY HAVE READ OR HEARD, HAVE
11 YOU FORMED ANY FIXED OPINION ABOUT THE FACTS OF THIS CASE?

12 A NO, MA'AM.

13 Q IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
14 PROVING THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.
15 THE DEFENDANT HAS NO BURDEN TO PROVE HIS INNOCENCE. DO
16 YOU UNDERSTAND?

17 A WOULD YOU PLEASE REPEAT THE QUESTION?

18 Q I WILL. DO YOU UNDERSTAND THAT THE STATE IN EVERY
19 CASE MUST PROVE THE DEFENDANT'S GUILT BEYOND A REASONABLE
20 DOUBT?

21 A YES, MA'AM.

22 Q DO YOU UNDERSTAND THAT THE DEFENDANT HAS NO BURDEN AT
23 ALL. HE DOESN'T HAVE TO PROVE ANYTHING, LEAST OF ALL
24 INNOCENCE. DO YOU UNDERSTAND THAT?

25 A YES, MA'AM.

1 Q IN A CRIMINAL -- LET ME ASK ANOTHER QUESTION. RAISE
2 MY NEXT QUESTION. HAVE YOU REVIEWED THE JUROR TYPE SHEET
3 IN THE JURY ROOM?

4 A YES, MA'AM.

5 Q AND DO YOU FEEL THAT YOU FIT INTO ANY OF THE
6 CATEGORIES, THAT BEING TYPE ONE, TYPE TWO, OR TYPE THREE?
7 DO YOU WANT TO LOOK AT IT AGAIN?

8 A YES, MA'AM.

9 Q AND REFRESH YOUR MEMORY?

10 A TYPE THREE.

11 Q THANK YOU. IF YOU ARE A JUROR IN A DEATH PENALTY
12 CASE AND IF THE JURY FOUND THE DEFENDANT GUILTY OF MURDER,
13 WE WOULD THEN MOVE TO THE SENTENCING PHASE OF THE TRIAL.
14 DO YOU UNDERSTAND?

15 A YES, MA'AM.

16 Q AS A PART OF THAT PHASE YOU WOULD BE ALLOWED TO
17 CONSIDER AGGRAVATING CIRCUMSTANCES, WHICH ARE FACTS,
18 INCIDENTS, DETAILS, OR AN OCCURRENCE WHICH THE GENERAL
19 ASSEMBLY HAS DECLARED BY STATUTE WOULD MAKE WORSE, THAT IS
20 AGGRAVATE, THE OFFENSE OF MURDER.

21 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
22 ACCOMPANIED WITH A MURDER INCREASES THE ENORMITY OR ADDS
23 TO THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN
24 THE COMMISSION OF A CRIME. AND JUST BY WAY OF EXAMPLE --
25 THIS LIST IS NOT EXCLUSIVE.

1 SOME EXAMPLES WOULD BE MURDER OF A CHILD UNDER AGE
2 11, DRUG TRAFFICKING, KILLING BY POISON, BURGLARY IN ANY
3 DEGREE, AND AS I'VE INDICATED, THESE ARE JUST EXAMPLES.

4 YOU WOULD ALSO BE ALLOWED TO CONSIDER MITIGATING
5 CIRCUMSTANCES WHICH ARE INCIDENCES, DETAILS, OR
6 OCCURRENCES WHICH THE GENERAL ASSEMBLY HAS DECLARED REDUCE
7 THE SEVERITY OF AN OFFENSE OF MURDER AND MAY BE CONSIDERED
8 AS EXTENUATING OR REDUCING THE DEGREE OF MORAL CULPABILITY
9 OR RESPONSIBILITY.

10 SOME EXAMPLES OF THOSE ARE MENTAL RETARDATION, THE
11 DEFENDANT WAS PROVOKED BY THE VICTIM, THE DEFENDANT WAS AN
12 ACCOMPLICE AND THEIR PARTICIPATION WAS RELATIVELY MINOR,
13 THE DEFENDANT ACTED UNDER DURESS OR DOMINATION, AND AGAIN,
14 THESE ARE JUST EXAMPLES.

15 IF YOU WERE A JUROR IN THAT SITUATION, THE SENTENCING
16 PHASE, COULD YOU DEPENDING ON THE PARTICULAR FACTS AND
17 CIRCUMSTANCES OF THAT CASE INCLUDING THE CONSIDERATION OF
18 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND THE LAW THAT
19 I WOULD INSTRUCT APPLY -- THAT APPLIES AT THE CONCLUSION
20 OF THE CASE RETURN A SENTENCE OF LIFE IN PRISON WITHOUT
21 THE POSSIBILITY OF PAROLE?

22 A YES, MA'AM.

23 Q IF YOU WERE A JUROR IN THAT SITUATION, COULD YOU
24 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
25 THAT CASE INCLUDING THE CONSIDERATION OF AGGRAVATION AND

1 MITIGATING CIRCUMSTANCES AND THE LAW THAT I WOULD INSTRUCT
2 THAT APPLY, COULD YOU RETURN A SENTENCE OF DEATH WHICH IN
3 THIS STATE IS BY ELECTROCUTION OR LETHAL INJECTION?

4 A YES, MA'AM.

5 Q IF YOU WERE CHOSEN FOR THIS JURY, AND I HAVE ALREADY
6 EXPLAINED THIS IN SOME DETAIL ON YESTERDAY, YOU WILL BE
7 HOUSED IN A MOTEL DURING THE TRIAL FOR APPROXIMATELY 10
8 DAYS. EXCEPT FOR THE PERSONAL INCONVENIENCE, WOULD THIS
9 POSE A SERIOUS DANGER TO THE HEALTH OR WELL-BEING OF
10 YOURSELF OR ANYONE WHO IS DEPENDENT UPON YOU?

11 A NO, MA'AM.

12 Q WOULD YOU BE -- AND I ASK THIS QUESTION BECAUSE IN
13 THIS TYPE CASE EVERY JUROR IS REQUIRED TO SIGN THEIR NAME
14 ON THE VERDICT FORM. WOULD YOU BE ABLE TO SIGN A VERDICT
15 FORM IN THE EVENT OF A LIFE WITHOUT THE POSSIBILITY OF
16 PAROLE SENTENCE OR A DEATH SENTENCE?

17 A YES, MA'AM.

18 Q ARE THERE ANY QUESTIONS FROM THE STATE?

19 MR. HUMPHRIES: NO, MA'AM, NO QUESTIONS.

20 THE COURT: FROM THE DEFENSE?

21 MR. KELLY: YES, MA'AM.

22 THE COURT: YOU MAY PROCEED. IF YOU WOULD GIVE
23 MR. KELLY YOUR ATTENTION.

24 BY MR. KELLY:

25 Q MRS. LAMBERT, I'M GERALD KELLY. I'D LIKE TO ASK YOU

1 A FEW QUESTIONS.

2 A YES, SIR.

3 Q I'M LOOKING AT YOUR JUROR QUESTIONNAIRE. I NOTICE
4 THAT ON YOUR JURY QUESTIONNAIRE YOU SAID THAT YOU HAVE A
5 RELATIVE IN LAW ENFORCEMENT?

6 A YES, SIR.

7 Q WHO IS THAT?

8 A ACTUALLY HIS WIFE WAS -- MY PERSON.

9 Q AND WHAT ABOUT THE CLOSE FRIEND?

10 A THAT WOULD BE...

11 COURT REPORTER: I DIDN'T HEAR THAT.

12 THE COURT: WOULD REPEAT THAT AGAIN FOR US,
13 MA'AM? JULIUS INMAN.

14 BY MR. KELLY:

15 Q JULIUS INMAN?

16 A I-N-M-A-N.

17 Q AND BY WHOM IS JULIUS EMPLOYED?

18 A THE BEST OF MY KNOWLEDGE HE USED TO WORK FOR THE
19 DEPUTY SHERIFF'S DEPARTMENT.

20 Q I ALSO NOTICE FROM YOUR QUESTIONNAIRE, MA'AM, THAT
21 YOU YOURSELF WERE A VICTIM OF A VIOLENT CRIME.

22 A YES, SIR, TWO YEARS AGO.

23 Q MA'AM, COULD YOU SEPARATE IN YOUR OWN MIND IF YOU
24 WERE A JUROR IN THIS CASE YOUR PAST HISTORY AND YOUR
25 FRIENDS IN LAW ENFORCEMENT AND DUTIES AS A JUROR?

1 A MY PAST HISTORY IS--

2 COURT REPORTER: I CAN'T HEAR HER.

3 THE COURT: MA'AM, COULD YOU REPEAT THAT FOR ME
4 AGAIN, AND TURN TOWARD THE COURT REPORTER SO SHE CAN
5 RECORD WHAT YOU JUST SAID.

6 JUROR: MY PAST HISTORY IS MY PAST AND I HAVE
7 GONE ON WITH LIFE.

8 THE COURT: OKAY.

9 BY MR. KELLY:

10 Q THE -- I'M JUST TRYING TO DETERMINE THAT YOU'RE NOT
11 CARRYING ANY KIND OF ANGER THAT YOU WOULD BRING INTO THE
12 COURTROOM THAT COULD BE MISDIRECTED AGAINST THE DEFENDANT
13 IN THIS INSTANCE BECAUSE OF WHAT HAD HAPPENED OUTSIDE THE
14 COURTROOM. YOU WOULDN'T DO THAT; WOULD YOU?

15 A NO, SIR.

16 Q OKAY. NOW, YOU SAID THAT YOU WOULD BE ABLE TO FOLLOW
17 THE INSTRUCTIONS OF OUR JUDGE, JUDGE JEFFERSON?

18 A YES, SIR.

19 Q OKAY. AND YOU REALIZE THAT IF YOU WERE A JUROR YOU
20 WOULD ACTUALLY BE SITTING AS A SWORN JUDGE IN THIS
21 COURTROOM. YOU REALIZE THAT?

22 A YES, SIR.

23 Q AND THAT WOULD BE A JUDGE OF THE FACTS AS TO WHAT
24 TOOK PLACE.

25 A YES, SIR.

1 Q AND WOULD YOU LISTEN TO ALL OF THE EVIDENCE THAT'S
2 PRESENTED TO YOU AND GIVE IT EQUAL WEIGHT?

3 A YES, SIR, I CAN.

4 Q SO ONE OF THE ISSUES THAT'S IN THIS CASE IS THE
5 MENTAL STATE OF THE DEFENDANT AT THE TIME OF THE ALLEGED
6 CRIMES.

7 MR. HUMPHRIES: I'M GOING TO OBJECT TO ANY
8 SPECIFIC QUESTIONS REGARDING THAT ISSUE.

9 THE COURT: AND THAT WOULD BE SUSTAINED. I
10 ASSUME MR. KELLY KNOWS THE PARAMETERS.

11 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

12 THE COURT: I'M GOING TO LISTEN TO THE WHOLE
13 QUESTION FIRST, THOUGH.

14 BY MR. KELLY:

15 Q THE QUESTION IS THIS, HAS TO -- ONE OF THE ISSUES IS
16 GOING TO BE THE MENTAL STATE OF THE DEFENDANT AS TO
17 WHETHER OR NOT HE WAS INSANE--

18 THE COURT: THAT WOULD BE AN IMPROPER QUESTION.
19 I'VE ASKED THAT YOU CAN CONSIDER MITIGATING AND
20 AGGRAVATING CIRCUMSTANCES AND I'VE DELIBERATELY GIVEN
21 EXAMPLES THAT WERE DIFFERENT FROM THIS--

22 MR. KELLY: OUTSIDE THE HEARING OF THE JUROR,
23 PLEASE?

24 THE COURT: CERTAINLY. MA'AM, IF YOU WOULD GO
25 WITH THE BAILIFF FOR ME FOR A MOMENT. AND PLEASE DO

1 NOT DISCUSS WHAT WE HAVE BEEN DISCUSSING WITH ANYONE.

2 (JUROR OUT OF COURTROOM.)

3 THE COURT: AND I APOLOGIZE, MR. KELLY. I WAS
4 SUSTAINING THE STATE'S OBJECTION. I THINK THAT YOU
5 CAN ASK GENERAL QUESTIONS. YOU CANNOT ASK SPECIFIC
6 QUESTIONS THAT RELATE DIRECTLY TO THE FACTS AND
7 CIRCUMSTANCES OF THIS CASE.

8 IT WOULD BE IMPROPER. AND THAT IS WHY WHEN I
9 ASKED ABOUT AGGRAVATING AND MITIGATING CIRCUMSTANCES,
10 I DELIBERATELY FROM THE LIST DID NOT INCLUDE ANYTHING
11 THAT BORE DIRECTLY ON THE FACTS OF THIS CASE.

12 I PICKED EXAMPLES THAT WERE NOT LIKE THIS CASE
13 FOR THAT VERY REASON. I THINK YOU MIGHT BE ABLE TO
14 REPHRASE YOUR QUESTION.

15 MR. KELLY: I'M MERELY ASKING FOR INSTRUCTION
16 FROM THE BENCH IN THIS MATTER AND--

17 THE COURT: REPEAT YOUR QUESTION TO ME AGAIN.

18 MR. KELLY: AND THE -- MY -- HERE IS MY INTENT.

19 THE COURT: OKAY.

20 MR. KELLY: AND I WILL FASHION THE QUESTION AS
21 THE COURT WOULD ALLOW. I WANT TO DETERMINE WHETHER
22 OR NOT THE JUROR WOULD CONSIDER A DEFENSE OF
23 INSANITY.

24 THE COURT: I DON'T THINK YOU CAN ASK HER THAT.

25 MR. KELLY: WELL, WHY NOT? IT HAPPENS TO BE AN

1 ISSUE IN THE CASE. IF SHE WERE TO SAY--

2 *THE COURT:* THAT'S SPECIFICALLY WHY YOU CAN'T
3 ASK IT.

4 *MR. KELLY:* WELL MA'AM, HOW CAN YOU HAVE A FAIR
5 JUROR IF SHE CAN'T CONSIDER AN ISSUE IN THE CASE?

6 *THE COURT:* I'VE ASKED HER IF SHE CAN -- THE LAW
7 ONLY REQUIRES THAT I ASK IF SHE CAN CONSIDER
8 MITIGATING AND AGGRAVATING CIRCUMSTANCES. YOU CAN'T
9 ASK HER SPECIFICALLY WHAT SHE'D DO IN THIS CASE.

10 *MR. KELLY:* MA'AM, INSANITY IS NOT A MITIGATING
11 OR AGGRAVATING CIRCUMSTANCE.

12 *THE COURT:* IT'S AN AFFIRMATIVE DEFENSE. AND
13 I'M WELL AWARE OF THAT. BUT YOU STILL CAN'T ASK HER
14 SPECIFICALLY WHAT SHE'D DO IN THIS CASE.

15 *MR. KELLY:* AM I TO UNDERSTAND, MA'AM, THE BENCH
16 IS SAYING THAT IF A JUROR LATER ON IN THE TRIAL MAY
17 DETERMINE THAT SHE COULD HAVE NEVER CONSIDERED A
18 DEFENSE OF INSANITY, THAT THAT'S PROPER BEFORE THE
19 COURT?

20 *THE COURT:* STATE VERSUS TUCKER INDICATES THAT
21 THE DEFENDANT IS ENTITLED TO SPECIFIC QUESTIONS ONLY
22 IF THE FAILURE TO ASK THEM WOULD RENDER HIS TRIAL
23 FUNDAMENTALLY UNFAIR, WHICH IS CORRECT. BUT IT ALSO
24 INDICATES THAT YOU CANNOT ASK ABOUT SPECIFIC FACTS OF
25 THE CASE.

1 MR. KELLY: I'M NOT ASKING ABOUT THE FACTS OF
2 THE CASE, MA'AM. NOT SAYING ANYTHING ABOUT ANY OF
3 THE FACTS UPON WHICH THAT'S FOUNDED. I'M MERELY
4 ASKING IF A JUROR CAN CONSIDER THE DEFENSE OF
5 INSANITY, WOULD THEY--

6 THE COURT: I THINK THAT YOU WOULD HAVE TO
7 REPHRASE IT TO SAY, COULD YOU CONSIDER AFFIRMATIVE
8 DEFENSES AND LIST THEM ALL, BUT NOT INSANITY BY
9 ITSELF. BUT I DON'T KNOW THAT I WOULD AGREE WITH
10 THAT EITHER. I'M GOING TO HAVE TO DO SOME RESEARCH
11 FOR A QUICK MINUTE.

12 MR. KELLY: YOUR HONOR, I WOULD REFER TO MR.
13 DIGGS IN THIS MATTER SINCE HE'S HANDLING THAT
14 PORTION.

15 THE COURT: CERTAINLY.

16 MR. DIGGS: THERE'S ANOTHER ISSUE, YOUR HONOR,
17 WE'D LIKE TO PUT ON THE RECORD, TOO. WHEN A JUROR
18 COMES IN AND SAYS I'VE ALREADY FORMED AN OPINION, WE
19 BELIEVE THAT HE'S GUILTY, AND I CAN'T -- WE HAVE
20 ALREADY EXCUSED A NUMBER OF JURORS BECAUSE OF THAT.
21 WE HAVEN'T RAISED THE--

22 THE COURT: WELL, ACTUALLY WE DIDN'T EXCUSE THEM
23 FOR THAT. I ASKED THEM IF THEY HAD FORMED A FIXED
24 OPINION. IF THE ANSWER WAS YES, I ASKED THEM IN
25 ACCORDANCE WITH CASE LAW WHETHER THEY COULD DISREGARD

1 THAT OPINION, LISTEN TO THE FACTS AND EVIDENCE AND
2 RENDER A VERDICT BASED SOLELY ON THE EVIDENCE AND THE
3 LAW AS THE COURT WILL CHARGE.

4 AND I HAVE ONLY GONE FURTHER IF THEY INDICATED
5 TO ME THAT THEY COULD. IF THEY INDICATED THAT THEY
6 COULD NOT, I HAVE ASKED IF YOU ALL WANTED TO EXCUSE
7 THE JUROR BECAUSE IN MY MIND THEY HAD ALREADY
8 EXHIBITED TO THE COURT AN INABILITY TO BE FAIR AND
9 IMPARTIAL AND THEY HAD ALREADY EXHIBITED TO THE COURT
10 A FIXED BIAS AND PREJUDICE IN THIS CASE, WHICH IN MY
11 ESTIMATION IS FUNDAMENTALLY UNFAIR TO MR. STANKO AND
12 TO THE STATE.

13 MR. DIGGS: YOUR HONOR, TWO POINTS.

14 THE COURT: CERTAINLY. YOU MAY PROCEED.

15 MR. DIGGS: ONE, YOU DON'T KNOW THAT WITH -- IN
16 A RELIABLE WAY UNLESS THE ISSUE OF INSANITY IS PUT
17 BEFORE THE JUROR. FOR EXAMPLE--

18 THE COURT: AND ACTUALLY THE CASE THAT I WAS
19 RELYING ON IS STATE VERSUS SALL (SIC) WHICH YOU
20 CANNOT ASK HYPOTHETICAL QUESTION STAKING OUT JURORS
21 PARTICULARLY AS TO AGGRAVATING OR MITIGATING
22 CIRCUMSTANCES.

23 AND I THINK THAT -- I KNOW, BUT I THINK BY
24 EXTENSION IT'S ALMOST THE SAME THING WHEN YOU'RE
25 ASKING THE JUROR SPECIFICALLY. IN THIS CASE WE'RE

1 ASSERTING A DEFENSE AND COULD YOU CONSIDER THAT
2 DEFENSE. YOU'RE BASICALLY ASKING THEM, HOW WOULD YOU
3 DECIDE THIS.

4 MR. DIGGS: NOT AT ALL. WHAT WE'RE ASKING IS
5 THE JUROR MIGHT NOT HAVE FOLLOWED THAT. MAYBE THEY
6 HAVE A FIXED OPINION BECAUSE THEY THINK THAT
7 MR. STANKO DID IT.

8 BUT IF THEY ARE -- IF THEY -- THE UNIVERSE OF
9 KNOWLEDGE THAT THEY HAVE ABOUT THIS CASE ALL OF A
10 SUDDEN HAS THE ISSUE OF INSANITY INJECTED INTO IT,
11 THEY MAY SAY, WELL, WAIT A MINUTE I HAVEN'T THOUGHT
12 ABOUT THAT, YES, I COULD CONSIDER THAT, I COULD BE AN
13 OPEN JUROR AND FOLLOW THE LAW IN THE CASE AND BE
14 OPEN-MINDED ABOUT IT WITH RESPECT TO THE VERDICT.

15 WE HAVEN'T HAD A JUROR YET WHERE WE AS THE
16 DEFENSE WANTED TO PUT THAT TO TEST, BUT CERTAINLY
17 UNDER THE SIXTH AMENDMENT THIS MAN HAS A RIGHT TO
18 COUNSEL, AND WE CAN'T ADVISE HIM PROPERLY WHO SHOULD
19 BE ON THE JURY UNLESS WE KNOW THE ANSWER TO THAT
20 QUESTION.

21 WE MIGHT BE PARADING OUT HERE A DOZEN JURORS WHO
22 WOULD BE EXCELLENT JURORS FOR THIS CASE, BUT ONLY
23 BECAUSE WE NEVER INQUIRED AS TO WHETHER THEY HAD EVER
24 THOUGHT ABOUT THE ISSUE OF INSANITY WHICH IS GOING TO
25 BE AN ISSUE IN THIS CASE IN ALL LIKELIHOOD.

1 THE DIFFERENCE BETWEEN THIS SITUATION AND THE
2 OTHER CASES THAT HAVE BEEN DECIDED ARE -- OR IS
3 THERE -- THIS IS NOT A MITIGATING FACTOR AT THIS
4 POINT. IF HE'S INSANE, THERE'S NO WAY THAT CAN BE A
5 MITIGATING FACTOR, THAT'S GOING TO BE A DEFENSE.

6 IF HE'S NOT INSANE, THEN WE FALL BACK TO
7 SOMETHING LESS THAN THAT, WE FALL INTO THE REALM OF
8 MITIGATING OR MITIGATING EVIDENCE. AND SO WE
9 WOULD -- WE WOULD ASSERT THAT IN ORDER TO DO OUR JOBS
10 AS HIS DEFENSE COUNSEL, TO FULLY UNDERSTAND WHETHER
11 THIS JUROR COULD BE A FAIR JUROR AND FOLLOW THE LAW
12 THAT'S APPLICABLE, AND WE DON'T KNOW HOW -- IF THEY
13 COULD, YOUR HONOR.

14 THE COURT: WELL, YOU RAISE ANOTHER VALID POINT
15 WHICH IS I'VE ASKED HER IF SHE WOULD APPLY THE LAW AS
16 I CHARGED IT, AND ONE OF THE THINGS -- IF I DECIDE TO
17 CHARGE INSANITY IS INSANITY, AND SHE'S INDICATED SHE
18 CAN LISTEN TO IT, SHE CAN APPLY IT EVEN IF SHE
19 DISAGREES WITH IT.

20 MR. DIGGS: YOUR HONOR, THAT'S CLOSE. I MEAN,
21 IT'S GETTING CLOSE TO WHAT WE'RE ASKING. BECAUSE
22 CERTAINLY THE INSANITY INSTRUCTION'S GOING TO BE
23 PUT -- IF THERE IS EVIDENCE IN THE CASE OF INSANITY,
24 THAT INSTRUCTION IS GOING TO GO TO THE JURY.

25 BUT I -- WHAT I WOULD ASK AND WHAT MR. KELLY I

1 THINK IS ASKING IS TO PUT SOMETHING IN THIS JUROR'S
2 MIND AT THIS POINT SO -- I MEAN, IF THIS PERSON
3 ALREADY HAS A FIXED OPINION ABOUT GUILT--

4 THE COURT: WELL, SHE DOESN'T BECAUSE SHE'S
5 INDICATED THAT.

6 MR. DIGGS: YEAH. EXCLUDING THE EVIDENCE OF
7 INSANITY--

8 THE COURT: I'M LISTENING.

9 MR. DIGGS: -- THAT'S DIFFERENT FROM, I DON'T
10 CARE IF HE'S INSANE, I'M JUST GOING TO VOTE GUILTY
11 ANY WAY.

12 THE COURT: WELL, THAT'S NOT -- SHE'S ALREADY
13 INDICATED THAT SHE DOES NOT HAVE A FIXED OPINION,
14 SHE'S A JUROR TYPE NUMBER THREE, AND THAT SHE CAN
15 LISTEN TO THE EVIDENCE AND RENDER A VERDICT BASED
16 SOLELY ON THE EVIDENCE. SO I THINK THAT IS NOT EVEN
17 A RELEVANT INQUIRY AT THIS POINT.

18 MR. DIGGS: WELL, I'M -- IT MAY BE TRUE WITH
19 RESPECT TO THIS WITNESS, BUT I'M -- I'M ADDRESSING
20 SOME OF THE REMARKS OF THE COURT THAT CERTAINLY WOULD
21 BE APPLICABLE TO PROSPECTIVE JURORS COMING UP HERE
22 AFTER THAT WOULD STAKE OUT POSITIONS THAT THEY HAVE A
23 FIXED OPINION AND WOULDN'T BE ABLE TO BE FAIR.

24 THE COURT: THE STATE MAY RESPOND.

25 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE

1 PRIMARY REASON WE HAVE INDIVIDUAL VOIR DIRE IN THESE
2 CASES IS NOT AS RELATES TO THE GUILT PHASE. IT'S TO
3 THE PENALTY PHASE. BUT THE COURT DOES ENGAGE IN SOME
4 INSTRUCTION REGARDING THE GUILT PHASE.

5 IF YOU LOOK AT IT IN CONTEXT OF THE GUILT PHASE
6 ALONE AND LOOK AT THE CORRESPONDING SITUATION, SAY IN
7 A REGULAR MURDER CASE, THAT QUESTION WOULD NEVER BE
8 ASKED IN VOIR DIRE APPROPRIATELY IN THE CONTEXT OF A
9 REGULAR MURDER CASE.

10 *THE COURT:* YOU'RE CORRECT, I WOULD NOT ALLOW
11 IT.

12 *MR. HUMPHRIES:* THE SECOND THING, AND YOUR HONOR
13 HAS ALREADY POINTED THIS OUT, THE COURT HAS UPHELD
14 TIME AND TIME AND TIME AGAIN THAT IF THE JUROR CAN
15 RESPOND THAT THEY WILL HEAR THE LAW, THEY WILL APPLY
16 THE LAW AS THE JUDGE INSTRUCTS IT, THAT THEY ARE
17 QUALIFIED AS TO THOSE ISSUES REGARDING THE LAW.

18 THIS JUROR HAS INDICATED THAT SHE CAN LISTEN TO
19 THE LAW, THAT SHE CAN APPLY THE LAW, TAKE THE LAW AS
20 THE COURT GIVES IT TO HER AND APPLY THE FACTS. THAT
21 IS SUFFICIENT. ANYTHING ELSE WOULD BE STAKING OUT OF
22 THE JURY, AND THAT IS CLEARLY IMPERMISSIBLE UNDER OUR
23 LAW.

24 *MR. DIGGS:* YOUR HONOR.

25 *THE COURT:* YES, SIR.

1 MR. DIGGS: MIGHT CAN SAVE SOME TIME HERE. WITH
2 RESPECT TO THIS INDIVIDUAL JUROR, I DON'T KNOW THAT
3 WE DISAGREE A LOT WITH WHAT MR. HUMPHRIES JUST SAID.

4 HOWEVER, INITIALLY WHAT ALARMED DEFENSE COUNSEL
5 IN THIS CASE WAS PERHAPS A DICTA STATED BY THE COURT
6 WITH RESPECT TO THIS PARTICULAR JUROR. IF -- I'M
7 JUST ANTICIPATING DOWN THE ROAD THE JUROR COMES IN
8 AND HAS A FIXED OPINION, THEN I WOULD SUBMIT WOULD BE
9 PROPER AT THAT POINT TO ASK ABOUT OTHER ISSUES IN
10 THIS CASE, NOT -- NOT WHAT SHE'S GOING TO DO. OF
11 COURSE, WE'RE NOT GOING TO ASK THAT.

12 BUT -- BUT HAVE YOU THOUGHT ABOUT THIS AND WOULD
13 THAT TEND TO OPEN UP YOUR OPINION TO MAKE, YOU KNOW,
14 TO LET GO OF THAT FIXED OPINION SO THAT YOU CAN BE A
15 FAIR JUROR.

16 THE COURT: I THINK IN MY ESTIMATION YOU ASKING
17 THAT QUESTION IS NO DIFFERENT THAN ASKING ABOUT THE
18 BURDEN OF PROOF, ASKING ABOUT THE DEFENDANT'S FAILURE
19 TO TESTIFY, IT ALL IN MY ESTIMATION COMES IN THAT
20 SAME CATEGORY, WHICH IS THE LAW, WHICH IS WHAT IS
21 CHARGED WHICH THE COURT.

22 AND I THINK IN A REGULAR CASE MR. HUMPHRIES IS
23 ABSOLUTELY CASE, I WOULDN'T ALLOW IT TO BE ASKED
24 UNDER ANY CIRCUMSTANCES NOR I DO THINK IT WOULD BE
25 APPROPRIATE. MY RESPONSE WOULD BE, THE COURT ASKS

1 ABOUT THE LAW, STAY OUT OF THAT AREA.

2 WELL, I DON'T -- YOU'RE NOT ALLOWED INDIVIDUAL
3 VOIR DIRE. IF IT WERE PROPOSED, I CERTAINLY WOULD
4 NOT ASK THAT QUESTION. BUT I THINK THAT IN AND OF
5 ITSELF IS SUFFICIENT FOR THE COURT TO ASK, CAN YOU
6 FOLLOW OR CAN YOU LISTEN TO THE LAW, WHICH AN
7 INSANITY DEFENSE IS, IF THE COURT CHARGES -- THAT'S
8 THE OTHER CONCERN THAT I HAVE.

9 WELL, I GUESS IN THE BEST CASE SCENARIO. BUT IN
10 ANY EVENT, THAT'S WHY THE QUESTIONS SPECIFICALLY ARE
11 ASKED, CAN YOU LISTEN TO THE LAW, CAN YOU APPLY THE
12 LAW AS THE COURT WILL CHARGE.

13 AND ADDITIONALLY, CAN YOU APPLY IT EVEN THOUGH
14 YOU MAY DISAGREE WITH IT, WITH WHAT YOU THINK IT MAY
15 BE, OUGHT TO BE, OR COULD BE, AND THAT'S USUALLY THE
16 QUESTION THAT -- I USUALLY ASK A LITTLE BIT LONGER
17 QUESTION, BUT THE QUESTION THAT I ASKED IS, COULD YOU
18 APPLY IT EVEN THOUGH YOU DISAGREE WITH IT.

19 AND I THINK THAT THAT COVERS IT. BECAUSE IN
20 OTHER WORDS, I'M SAYING IRREGARDLESS OF WHAT THE
21 INDIVIDUALIZED THEORY MAY BE IN THE LAW, IF I CHARGE
22 THIS JURY INSANITY, SHE'S GOING TO BE BOUND TO THE
23 PLIGHT, AND THAT IS WHAT THE QUESTION ASKS.

24 EVEN IF YOU DISAGREE WITH THAT DEFENSE IN AND OF
25 ITSELF OR ANY PROVISION OF THE LAW -- TO ME IT'S NO

1 DIFFERENT THAN IF YOU DISAGREE WITH THE DEFENDANT
2 DOESN'T HAVE TO TESTIFY AND THAT THERE IS NO
3 PRESUMPTION DRAWN ON THAT, AND THEN HE HAS NO BURDEN
4 OF PROOF.

5 SO WHAT I THEN -- BECAUSE I MAY THINK PEOPLE MAY
6 DISREGARD THAT, ASK EVERY JUROR DO YOU UNDERSTAND THE
7 DEFENDANT DOESN'T HAVE TO TESTIFY IN THIS CASE, DO
8 YOU UNDERSTAND THAT IF HE DOES TESTIFY, YOU CAN'T
9 HOLD THAT AGAINST HIM? NO, I WOULDN'T ASK THAT
10 QUESTION NOR WOULD I ALLOW YOU TO ASK IT.

11 MR. DIGGS: THE DIFFERENCE IS THAT QUESTION
12 SHOULD BE ASKED -- IT WOULD BE OUR HUMBLE OPINION --
13 AND WE WOULD SUBMIT IT SHOULD BE ASKED IN THE CASE
14 WHERE INSANITY IS AT PLAY AND WHERE THE JUROR HAS
15 INDICATED THAT HE OR SHE HAS ALREADY FORMED AN
16 OPINION, YOU KNOW, ABOUT THE GUILT OR INNOCENCE OF
17 THE ACCUSED, AND THERE'S A POSSIBILITY OPEN THERE AND
18 NO ONE KNOWS WHETHER OR NOT INSANITY DEFENSE IS AN
19 ISSUE THAT'S BEEN MADE KNOWN TO THE JUROR, IT MIGHT
20 PERSUADE THE JUROR, YEAH, OR ALLOW THE JUROR TO SAY,
21 WELL, IN FACT, YES, I DO HAVE AN OPEN MIND NOW THAT I
22 RETHINK THAT, I UNDERSTAND WHAT THE ISSUES ARE TO BE
23 DECIDED POSSIBLY, I MEAN, I DO HAVE AN OPEN MIND.
24 AND I SUBMIT THAT WOULD BE THE LAW THAT WOULD BE
25 APPLICABLE IN ANY CASE--

1 THE COURT: DO YOU HAVE A CASE YOU CAN CITE FOR
2 ME?

3 MR. DIGGS: PARDON ME?

4 THE COURT: DO YOU HAVE A CASE YOU CAN CITE FOR
5 ME THAT SUPPORTS THAT PROPOSITION?

6 MR. DIGGS: NO, MA'AM. BUT I WOULD RESPECTFULLY
7 SUBMIT NEITHER DOES THE STATE--

8 THE COURT: THEY DO. THERE IS A CASE -- THE
9 CASE THAT I'M REFERRING TO, ARGUE BY EXTENSION IS
10 STATE VERSUS TUCKER, AND THERE IS A CASE THAT SAYS
11 YOU CANNOT QUESTION ABOUT PRESUMPTION OF INNOCENCE,
12 REASONABLE DOUBT, RIGHT NOT TO TESTIFY. IT'S ALL THE
13 SAME.

14 MR. DIGGS: I WOULD RESPECTFULLY--

15 THE COURT: I WILL GIVE YOU A FEW MINUTES TO SEE
16 IF YOU CAN FIND ME SOMETHING TO READ TO SEE WHETHER
17 THAT'S IN THE AMBIT--

18 MR. DIGGS: YOUR HONOR, I HAVE LOOKED AND...

19 THE COURT: YOU CAN'T FIND ANYTHING?

20 MR. DIGGS: I CAN'T FIND ANYTHING THAT GOES
21 EITHER WAY, YOUR HONOR. THAT'S WHY WE MAKE THE
22 ARGUMENT WITHOUT ASKING TO OVERRULE PRECEDENT.

23 THE COURT: YOU'RE ASKING FOR ME TO OVERRULE
24 PRECEDENT?

25 MR. DIGGS: NO. THAT'S WHY I'M NOT ASKING.

1 THE COURT: OH, I JUST WANTED TO MAKE SURE THAT
2 WAS CLEAR FOR THE RECORD BECAUSE I MISUNDERSTOOD WHAT
3 YOU JUST SAID. YES, SIR?

4 MR. DIGGS: YOUR HONOR, I WAS GOING TO SAY WE
5 APPRECIATE YOUR PATIENCE WITH US.

6 THE COURT: NO, BETTER TO TAKE A FEW MINUTES TO
7 THINK THAN TO...

8 MR. DIGGS: THANK YOU.

9 THE COURT: WE CAN ALWAYS CATCH BACK UP. MR.
10 KELLY, COULD YOU REPEAT YOUR QUESTION FOR ME AGAIN?

11 MR. KELLY: EXCUSE ME, MA'AM?

12 THE COURT: COULD YOU REPEAT YOUR QUESTION FOR
13 ME THAT YOU WOULD BE--

14 MR. KELLY: IN THIS PARTICULAR.

15 THE COURT: SEEKING TO ASK?

16 MR. KELLY: MA'AM, IN THIS PARTICULAR CASE I
17 AGREE WITH YOU AS FAR AS THIS WITNESS IS CONCERNED.
18 IT WOULD BE ENOUGH IN HER CASE SINCE SHE HAS SAID
19 THAT SHE COULD CONSIDER ALL THE FACTORS.

20 BUT IN THE CASE THAT IS PRESENTED HYPOTHETICALLY
21 BY MR. DIGGS WHERE SOMEONE WOULD SAY I'VE ALREADY
22 MADE UP MY MIND, I BELIEVE THAT WOULD BE DIFFERENT.
23 AND IF SHE -- WHEN SHE RETURNS TO THE ROOM, MA'AM, I
24 WILL NOT PURSUE THE -- ANY QUESTION THAT HAS TO DO
25 WITH THE AFFIRMATIVE DEFENSE.

1 I WILL MERELY ASK HER HAVING TO DO WITH WHETHER
2 OR NOT SHE WOULD FOLLOW YOUR INSTRUCTIONS IN THIS
3 PARTICULAR WITNESS.

4 THE COURT: OKAY. TELL ME, HOWEVER, IN THE
5 HYPOTHETICAL, MR. DIGGS PROPOSES--

6 MR. KELLY: WHAT MR. DIGGS IS SEEKING, MA'AM, IS
7 IF WE HAVE A WITNESS THAT COMES IN, SAYS, I HAVE
8 ALREADY MADE UP MY MIND AND -- AND I BELIEVE THAT
9 HE'S GUILTY AND THAT'S WHAT I MADE UP MY MIND TO, WE
10 BELIEVE THAT WE SHOULD BE ABLE TO SAY, WELL, WHAT IF
11 THERE WERE EVIDENCE THAT HE -- THAT THE PERSON WERE
12 INSANE OR NOT IN CONTROL AND THAT WERE INSTRUCTED TO
13 YOU, COULD YOU CONSIDER THAT, WOULD THAT CHANGE YOUR
14 MIND.

15 THE COURT: IN AN EFFORT TO REHABILITATE THE
16 WITNESS?

17 MR. KELLY: NO, MA'AM. IN AN EFFORT TO GET A
18 WITNESS.

19 THE COURT: I MEAN THE JUROR. WE KEEP SAYING
20 WITNESS. I MEAN JUROR. I'M SORRY.

21 MR. KELLY: EXCUSE ME. WELL, I'M USING THE
22 WRONG WORD MYSELF. BUT IN AN EFFORT TO DETERMINE
23 WHETHER THE POTENTIAL JUROR WOULD BE QUALIFIED AS A
24 FAIR JUROR, BECAUSE IF THEY SAID NO, IT -- I WOULD
25 NEVER CONSIDER THAT AS A DEFENSE. THEY WOULDN'T BE

1 QUALIFIED.

2 IF THEY SAID YES, I -- I WOULDN'T WANT TO DO IT,
3 BUT I'D FOLLOW THE INSTRUCTIONS, THEN THEY'D BE
4 QUALIFIED.

5 THE COURT: OKAY. BUT YOU'RE SAYING FOR THE
6 RECORD THAT YOU'RE ABANDONING ASKING THAT -- THE
7 QUESTION WE HAVE BEEN DISCUSSING OF THIS JUROR.

8 MR. KELLY: OF THIS JUROR.

9 THE COURT: OR ANY OTHER JUROR SIMILARLY
10 SITUATED; CORRECT?

11 MR. KELLY: ANY OTHER JUROR SIMILARLY SITUATED
12 TO JUROR LAMBERT.

13 THE COURT: OKAY. AND THEN THAT ALSO GIVES ME
14 SOME TIME TO DO SOME RESEARCH ABOUT THE OTHER
15 SITUATION.

16 MR. KELLY: YES, MA'AM.

17 THE COURT: NOW, CAN YOU TELL ME WHAT THE LAST
18 QUESTION OF THE JUROR WAS BEFORE WE EXCUSED HER ON
19 THE OBJECTION? I'M JUST GETTING THE COURT REPORTER
20 TO LET US KNOW WHERE WE LEFT OFF SO WHEN WE BRING HER
21 BACK, WE'LL KNOW.

22 (THE COURT REVIEWED THE TRANSCRIPT.)

23 OKAY. THE LAST QUESTION YOU ASKED, MR. KELLY,
24 WAS AND WOULD YOU LISTEN TO ALL OF THE EVIDENCE
25 THAT'S PRESENTED TO YOU AND GIVE IT EQUAL WEIGHT, AND

1 SHE SAID YES, SIR, AND THEN YOUR NEXT WAS ABOUT
2 MENTAL STATE.

3 WHEN SHE COMES IN I'M GOING TO INSTRUCT HER TO
4 DISREGARD THAT LAST QUESTION AND TO DISABUSE IT FROM
5 HER MIND, AND THEN YOU CAN CONTINUE YOUR QUESTIONING.

6 MR. KELLY: THANK YOU, MA'AM.

7 THE COURT: YOU'RE WELCOME. PLEASE BRING IN THE
8 JUROR.

9 (JUROR ENTERED COURTROOM.)

10 THE COURT: MA'AM, WE APOLOGIZE FOR THE DELAY.
11 WE APPRECIATE YOUR PATIENCE. I WOULD INSTRUCT YOU
12 THAT -- YOU DIDN'T HEAR THE WHOLE QUESTION BUT I
13 WOULD ASK THAT YOU DISREGARD THE LAST QUESTION THAT
14 MR. KELLY ASKED OF YOU AND TO COMPLETELY DISREGARD,
15 DISABUSE IT FROM YOUR MIND.

16 JUROR: YES, MA'AM.

17 THE COURT: HE MAY HAVE SOME FURTHER QUESTIONS
18 FOR YOU, HOWEVER. AND I WOULD ASK THAT YOU GIVE HIM
19 YOUR ATTENTION. THANK YOU.

20 BY MR. KELLY:

21 Q MRS. LAMBERT, IF YOU WERE CHOSEN AS A JUROR, YOU SAID
22 THAT YOU WOULD FOLLOW THE INSTRUCTIONS OF JUDGE JEFFERSON;
23 CORRECT?

24 A YES, SIR.

25 Q OKAY. AND EVEN IF YOU DISAGREE WITH THOSE

1 INSTRUCTIONS THAT SHE GAVE YOU; IS THAT CORRECT?

2 A REPEAT THE QUESTION, PLEASE.

3 Q IF JUDGE JEFFERSON AS JUDGE OF THE LAW INSTRUCTED YOU
4 AS A JUROR AND YOU DISAGREE WITH HER INSTRUCTIONS, WOULD
5 YOU STILL FOLLOW HER INSTRUCTIONS?

6 A I WOULD GO WITH MY GUT.

7 Q SO YOU WOULD?

8 THE COURT: DO YOU UNDERSTAND? I'M SORRY. I'M
9 NOT SURE I UNDERSTAND THE QUESTION.

10 JUROR: NO. SOUNDS TO ME LIKE I'M TRYING TO BE
11 CONFUSED.

12 THE COURT: WELL, NO. I LISTEN TO -- WE NEED
13 LEGALESE, AND SO -- I KNOW IT'S SOMETIMES DIFFICULT
14 FOR A LAYPERSON TO UNDERSTAND, BUT I NEED YOU TO
15 LISTEN VERY CAREFULLY TO WHAT MR. KELLY IS ASKING,
16 AND IF YOU DO NOT UNDERSTAND, AND THIS GOES FOR ME,
17 MR. KELLY, OR MR. HEMBREE, ASK US TO REPEAT IT AND --
18 OR LET US KNOW YOU DON'T UNDERSTAND.

19 JUROR: AT THIS MOMENT I DON'T UNDERSTAND.

20 THE COURT: MR. KELLY, COULD YOU -- DID YOU NEED
21 US TO READ BACK YOUR QUESTION OR DO YOU WANT HER JUST
22 TO REPEAT IT?

23 MR. KELLY: YOU MAY READ IT BACK.

24 THE COURT: MADAM COURT REPORTER, COULD YOU READ
25 BACK MR. KELLY'S QUESTION? MA'AM, IF YOU WOULD.

1 LISTEN CAREFULLY TO THE COURT REPORTER.

2 (COURT REPORTER READ BACK REQUESTED PORTION.)

3 THE COURT: OKAY. DO YOU NOW UNDERSTAND THE
4 QUESTION OR DO YOU NEED HER TO REPEAT IT TO YOU
5 AGAIN? READ THE QUESTION TO HER AGAIN, NOT THE
6 RESPONSE.

7 (COURT REPORTER READ BACK REQUESTED PORTION).

8 JUROR: YES.

9 THE COURT: OKAY. HER ANSWER WAS YES, MR.
10 KELLY. YOU MAY CONTINUE.

11 BY MR. KELLY:

12 Q SO IF JUDGE JEFFERSON INSTRUCTED YOU TO THE LAW AS A
13 JUROR, YOU WOULD FOLLOW HER INSTRUCTIONS, CORRECT?

14 A YES, I WOULD.

15 Q EVEN IF YOU DISAGREED WITH HER, EVEN IF YOU DISAGREE
16 WITH HER, WOULD YOU STILL FOLLOW HER INSTRUCTIONS?
17 THERE'S NO RIGHT OR WRONG ANSWER, MA'AM. I JUST WANT TO
18 KNOW THE TRUTH OF WHAT YOU'D DO.

19 A IF SHE INSTRUCTED ME AS TO WHAT POINT, I MEAN OR--

20 Q ON ANY POINT, ON ANYTHING DURING THE COURSE OF THE
21 TRIAL, IF YOU WERE A JUROR AND YOU DISAGREE WITH HER
22 INSTRUCTIONS, WOULD YOU FOLLOW HER INSTRUCTION ANY WAY?

23 MR. HUMPHRIES: I'M GOING TO OBJECT AS TO THE
24 FORM OF THE QUESTION AS TO ANYTHING. I MEAN, THAT
25 CAN ENCOMPASS YOUR INSTRUCTIONS ON ANYTHING. THIS

1 JUROR DOESN'T KNOW IN WHAT CONTEXT THOSE INSTRUCTIONS
2 MAY COME.

3 THE COURT: I'M GOING TO OVERRULE IT, BUT I'M
4 GOING TO ASK MR. KELLY TO REPHRASE IT IN TERMS OF THE
5 LAW.

6 MR. HUMPHRIES: THANK YOU.

7 MR. KELLY: YES, MA'AM.

8 BY MR. KELLY:

9 Q IF JUDGE JEFFERSON INSTRUCTED YOU ON A POINT OF THE
10 LAW AS A JUROR, WOULD YOU FOLLOW HER INSTRUCTION EVEN IF
11 YOU DISAGREE WITH IT?

12 A AS FAR AS THE INSTRUCTIONS GOES, IF IT WAS TO A POINT
13 OF THE LAW WHERE THAT I'M NOT SUPPOSED TO BE DISCUSSING
14 ANYTHING ABOUT THE CASE OUTSIDE OR TO ANYONE, NO, I WOULD
15 NOT GO AGAINST HER WILL.

16 Q WELL, THAT MIGHT BE ONE POINT OF LAW, BUT THERE MAY
17 BE MANY MORE. WOULD YOU SELECT BETWEEN INSTRUCTIONS THAT
18 SHE GAVE YOU AND YOU WOULD FOLLOW SOME IF YOU -- AND NOT
19 FOLLOW OTHERS ACCORDING TO YOUR OWN WILL?

20 A YOU'RE SUPPOSED TO FOLLOW THE--

21 Q I KNOW YOU ARE, MA'AM. I'M ASKING WOULD YOU?

22 A YES, SIR.

23 Q IN ALL CASES?

24 A TO THE BEST OF MY KNOWLEDGE.

25 Q WHEN YOU SAY TO THE BEST OF YOUR KNOWLEDGE, WHAT DOES

1 THAT MEAN?

2 A IF I EXACTLY UNDERSTOOD WHERE YOU WERE THOROUGHLY
3 COMING FROM, THEN I MAY BE ABLE TO ANSWER YOUR QUESTION
4 MORE DIRECTLY.

5 Q LET ME--

6 A BUT WHEN YOU ASK IF I WOULD FOLLOW HER RULES AND
7 REGULATIONS, THE UNDERSTANDING THAT I GET IS IF WE ARE
8 APPOINTED AS A JUROR, THAT WE WILL BE GIVEN CERTAIN THINGS
9 THAT WE'RE SUPPOSED TO DO AND CERTAIN THINGS THAT WE
10 AREN'T OR THEN BY ALL MEANS WE WILL BE DISMISSED AS A
11 JUROR.

12 THE COURT: MR. KELLY, COME HERE FOR A SECOND.

13 JUROR: I JUST FEEL LIKE I'M TRYING TO--

14 THE COURT: NO, MA'AM, I WON'T. I'M GOING TO --
15 GIVE ME ONE SECOND. BEAR WITH US.

16 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

17 BY THE COURT:

18 Q MA'AM, I'M GOING TO GIVE YOU A LITTLE BIT OF
19 INSTRUCTION BECAUSE I THINK MAYBE YOU'RE -- YOU KNOW, WE
20 KNOW THIS PROCESS AND SO IT'S VERY EASY FOR US, AND WE
21 TALK IN TERMS LIKE FOLK UNDERSTAND WHAT WE DO EVERY DAY,
22 AND THEY DON'T ALWAYS UNDERSTAND.

23 WHEN WE SAY INSTRUCT ON THE LAW, THERE ARE CERTAIN
24 PARTS OF THIS PROCESS WHERE I WILL GIVE YOU INSTRUCTIONS
25 ABOUT THE LAW. FOR EXAMPLE, WHEN WE BEGIN THE TRIAL, I

1 WILL GIVE YOU PRELIMINARY INSTRUCTIONS ABOUT WHAT THE CASE
2 IS AND HOW IT WILL PROCEED AND WHAT EVERYBODY'S RIGHTS AND
3 RESPONSIBILITIES ARE AND WHAT MY RESPONSIBILITIES ARE AS
4 THE COURT AND WHAT YOUR RESPONSIBILITIES ARE AS A JUROR.

5 MIDWAY AND DURING THE COURSE OF THE TRIAL I MAY GIVE
6 YOU ADDITIONAL INSTRUCTIONS ABOUT EVIDENCE AND OTHER RULES
7 OF PROCEDURE AND OTHER THINGS THAT INVOLVE THE CASE. IT'S
8 THE LAWYERS JOB TO PRESENT THE EVIDENCE.

9 AND IN A WAY I'M LIKE A HALL MONITOR. WE CALL IT THE
10 GATEKEEPER, BUT THE JUDGE IS KIND OF LIKE THE HALL MONITOR
11 OR LIKE THE REFEREE IN A BASEBALL GAME, THEY -- OR ANY
12 OTHER SPORT ACTIVITY. THEY KIND OF DECIDE LIKE WHAT
13 CAN -- UNDER OUR RULES WHETHER IT'S A STRIKE OR A FOUL,
14 WHETHER IT CAN COME IN OR NOT COME IN, WHETHER IT'S
15 ALLOWED OR DISALLOWED.

16 AND SO IN THE COURSE OF THAT, I MAY WELL GIVE THE
17 JURY INSTRUCTIONS ABOUT THAT. AND AT THE END OF THE CASE,
18 AS THIS CASE HAS TWO PHASES, A PENALTY PHASE -- I MEAN A
19 GUILT PHASE AND A PENALTY PHASE, I WILL GIVE YOU
20 INSTRUCTIONS ON WHAT THE LAW IS AND HOW IT IS TO BE
21 FOLLOWED AND WHAT LAW YOU ARE TO APPLY TO THE EVIDENCE,
22 BECAUSE THE JURY ARE THE FACT FINDERS.

23 AND OF COURSE, THE COURT CANNOT INTERFERE WITH THAT.
24 I CANNOT TELL YOU WHAT YOUR OPINION IS TO BE ABOUT THE
25 FACTS. I CANNOT EVEN GIVE YOU AN INKLING AS TO WHAT I

1 THINK OR FEEL BECAUSE THE LAW DOES NOT ALLOW ME TO HAVE AN
2 OPINION.

3 AND I'LL BE FRANK WITH YOU, I NEVER HAVE ONE BECAUSE
4 IT'S NOT MY FUNCTION. BUT I WILL INSTRUCT YOU AS TO WHAT
5 THE LAW IS AND WHAT THE LAW IS IN SOUTH CAROLINA AND WHAT
6 LAW YOU ARE TO APPLY TO THOSE FACTS IN BOTH PHASES.

7 AND WHAT WE'RE SIMPLY ASKING IS, WHEN I GIVE YOU
8 THOSE INSTRUCTIONS, CAN YOU APPLY THAT LAW THAT I GIVE TO
9 YOU AND WILL YOU FOLLOW IT?

10 A YES, MA'AM.

11 Q AND EVEN THOUGH YOU MAY DISAGREE WITH IT, EVEN THOUGH
12 YOU MAY THINK IT SHOULD BE SOMETHING ELSE OR COULD BE
13 SOMETHING ELSE, WITHIN YOUR OWN THINKING, COULD YOU
14 DISREGARD THAT AND STILL APPLY THE LAW AS IT IS
15 INSTRUCTED?

16 A YES, MA'AM.

17 Q OKAY.

18 THE COURT: MR. KELLY, IS THERE ANY EXCEPTION TO
19 WHAT -- THE COURT'S EXPLANATION FROM THE STATE?

20 MR. HUMPHRIES: NO, NOT FROM THE STATE.

21 THE COURT: FROM THE DEFENSE?

22 MR. KELLY: NO, MA'AM.

23 THE COURT: MR. KELLY, YOU MAY CONTINUE WITH
24 YOUR QUESTIONING.

25 BY MR. KELLY:

1 Q SO YOU WOULD FOLLOW THE JUDGE'S INSTRUCTIONS AS SHE'S
2 JUST EXPLAINED TO YOU; CORRECT?

3 A YES, SIR.

4 Q AND LATER IF YOU WERE A JUROR IN THE TRIAL, YOU
5 WOULDN'T JUST GIVE THAT LIP SERVICE, YOU WOULD ACTUALLY DO
6 AS YOU ARE SAYING NOW THAT YOU WOULD DO UNDER OATH; IS
7 THAT CORRECT?

8 A YES, SIR.

9 Q NO CHANGING LATER ON; CORRECT?

10 A YES, SIR.

11 Q NO FURTHER QUESTIONS.

12 THE COURT: OKAY. ANYTHING FURTHER FROM THE
13 STATE?

14 MR. HUMPHRIES: I DON'T HAVE ANYTHING FOR
15 MRS. LAMBERT. THANK YOU.

16 BY THE COURT:

17 Q MA'AM, I NEED YOU TO STAY THERE FOR ME. I'VE GOT A
18 COUPLE MORE QUESTIONS. AND I APOLOGIZE BECAUSE OF, YOU
19 KNOW, SOME DAYS AS OLD FOLK IN CHARLESTON WOULD SAY, MY
20 HEAD JUMPS TIME AND I FORGET WHERE I LEFT OFF AT.

21 SO BEAR WITH ME IF I ALREADY ASKED YOU THIS QUESTION.
22 IF YOU ARE CHOSEN, YOU WILL BE HOUSED IN A MOTEL FOR
23 APPROXIMATELY 10 DAYS. EXCEPT FOR PERSONAL INCONVENIENCE,
24 WOULD THAT POSE ANY PROBLEMS OR DANGER TO YOUR HEALTH OR
25 YOUR WELL-BEING OR ANYBODY WHO IS DEPENDENT ON YOU?

1 A NO.

2 Q AND I BELIEVE I'VE ALREADY ASKED YOU THE QUESTION
3 ABOUT THE VERDICT FORM; CORRECT?

4 A SIGN.

5 Q ABOUT SIGNING IT INDIVIDUALLY AND WHETHER YOU WOULD
6 HAVE A PROBLEM DOING THAT?

7 A YES.

8 Q CORRECT?

9 A YES, MA'AM.

10 Q OKAY.

11 THE COURT: NOW, ANY EXCEPTIONS OF THIS JUROR
12 BEING QUALIFIED FROM THE STATE?

13 MR. HUMPHRIES: NONE FROM THE STATE.

14 THE COURT: FROM THE DEFENSE?

15 MR. KELLY: NONE, MA'AM.

16 THE COURT: MA'AM, YOU ARE QUALIFIED IN THIS
17 CASE. NOW, AS I EXPLAINED ON YESTERDAY, WHAT WE WILL
18 BE DOING IS WE WILL HAVE AN ENTIRE POOL OF PEOPLE WHO
19 WILL BE FOUND QUALIFIED AT SOME POINT DURING THE
20 PROCESS OF THESE DAYS OF INDIVIDUAL QUESTIONING.

21 ALL OF YOU WILL RETURN ON MONDAY AT 9:30. AND
22 WHEN YOU RETURN, I NEED FOR YOU -- AND FROM THAT POOL
23 WE ARE GOING TO PICK THE JURY IN THIS CASE. AND THAT
24 WILL BE 12 JURORS AND EITHER TWO OR THREE ALTERNATES.
25 WE HAVE NOT -- I HAVE NOT COMPLETELY COME TO A

1 DECISION ABOUT THAT YET.

2 I WILL NEED YOU TO RETURN ON MONDAY PACKED FOR
3 TWO WEEKS. YOU DON'T HAVE TO BRING YOUR CLOTHES UP
4 HERE TO THE COURTHOUSE PHYSICALLY BECAUSE IF YOU'RE
5 SELECTED, WE HAVE A PROCESS AND WE WILL CHECK YOU
6 INTO THE HOTEL SO YOU DON'T HAVE TO LUG ALL OF THAT
7 STUFF WITH YOU.

8 DURING THE BREAK IN THESE PROCEEDINGS, HOWEVER,
9 I NEED FOR YOU TO STRICTLY ABIDE BY MY INSTRUCTIONS.
10 AS USE CAN TELL FROM THE DISCUSSIONS THE LAWYERS AND
11 I HAD WITH YOU THIS MORNING, IT IS ESSENTIAL THAT YOU
12 REMAIN IMPARTIAL IF YOU ARE POTENTIALLY SELECTED AS A
13 JUROR IN THIS CASE AND THAT YOU MAKE NO DECISIONS
14 ABOUT THIS CASE OUTSIDE OF THE EVIDENCE.

15 SO I ASK THAT YOU STRICTLY NOT READ, WATCH, OR
16 LISTEN TO ANY MEDIA ACCOUNTS ABOUT THIS CASE, THAT IS
17 ESSENTIAL, THAT YOU NOT SPECULATE ABOUT WHAT YOU
18 THINK THIS CASE COULD BE ABOUT OR MAY BE ABOUT, AND
19 THAT YOU HAVE ABSOLUTELY NO DISCUSSIONS WHATSOEVER
20 ABOUT THIS CASE WITH ANYONE. DO YOU UNDERSTAND MY
21 INSTRUCTIONS?

22 JUROR: YES, MA'AM.

23 THE COURT: OKAY. WE'LL SEE YOU. WE APPRECIATE
24 YOUR PATIENCE. WE WILL SEE YOU MONDAY AT 9:30. AND
25 AGAIN, PLEASE DO NOT DISCUSS ANYTHING WE HAVE

1 DISCUSSED WITH ANY POTENTIAL JURORS OR WITH ANYONE
2 ELSE.

3 JUROR: I DO HAVE A COUPLE OF QUESTIONS I NEED
4 TO ASK YOU.

5 THE COURT: SURE.

6 JUROR: AT THIS MOMENT IS IT OKAY FOR ME TO
7 RETURN TO WORK OR WOULD IT BE BEST FOR ME NOT TO GO
8 BACK TO MY WORK?

9 THE COURT: YOU KNOW, ONLY YOU CAN MAKE THAT
10 DECISION. IF YOU THINK BEING AT WORK -- YOU KNOW,
11 I'M NOT GOING TO TELL YOU NOT TO GO EARN A LIVING,
12 AND I DON'T WANT YOU TO MISS ANY TIME.

13 IF YOU BELIEVE YOU CAN GO TO WORK AND YOU -- I
14 WOULD JUST INSTRUCT YOU TO INSULATE YOURSELF. YOU
15 KNOW, IT'S NORMAL FOR PEOPLE TO SAY TO YOU -- I EVEN
16 HAVE TO CATCH MYSELF.

17 IF I'M IN A SOCIAL SETTING AND SOMEBODY SAYS TO
18 ME, I GOT JURY DUTY. I MEAN, YOUR NATURAL
19 INCLINATION IS TO SAY, WHAT KIND OF CASE ARE YOU
20 HEARING? AND THOSE ARE THE KINDS OF THING YOU NEED
21 TO AVOID.

22 IF SOMEBODY SAYS, YOU KNOW, WHAT KIND OF CASE --
23 I HEARD YOU'RE ON JURY DUTY, YOU KNOW, BECAUSE THIS
24 IS IN THE MEDIA, I HEAR YOU'RE ON THE STANKO CASE.
25 JUST SAY, I CANNOT DISCUSS THAT WITH YOU, IT WOULD BE

1 A VIOLATION OF THE COURT'S ORDER AND I COULD BE FOUND
2 IN CONTEMPT AND I -- YOU KNOW, AND SO IF YOU FEEL YOU
3 CAN GO TO WORK AND YOU CAN INSULATE YOURSELF FROM
4 THOSE KINDS OF DISCUSSIONS, GO ON TO WORK AND MAKE
5 YOU A LIVING.

6 IF YOU HAVE SOME REAL CONCERNS ABOUT YOUR
7 ABILITY TO DO THAT, THEN I'M GOING TO LEAVE THAT
8 DECISION UP TO YOU.

9 JUROR: OKAY. AND ONE OTHER QUESTION.

10 THE COURT: YES, MA'AM.

11 JUROR: YOU SAID MONDAY WE NEED TO BE HERE BY
12 9:30.

13 THE COURT: YES, MA'AM.

14 JUROR: AND THAT WE NEED TO...

15 THE COURT: BE PACKED FOR TWO WEEKS?

16 JUROR: EVERYTHING PACKED FOR TWO WEEKS IN CASE
17 WE GET CALLED.

18 THE COURT: YES, MA'AM.

19 JUROR: OKAY. THANK YOU.

20 THE COURT: YOU'RE WELCOME. YOU HAVE A GOOD
21 DAY.

22 (JUROR LEFT THE COURTROOM.)

23 THE COURT: WE HAVE ANOTHER NO-SHOW THAT
24 ARRIVED. I INSTRUCTED THE CLERK WE'LL DEAL WITH HER
25 SHORTLY. DO Y'ALL HAVE ANY -- DOES THE STATE HAVE

1 ANY EXCEPTION TO THE COURT'S RESPONSE TO THE JUROR'S
2 QUESTIONS?

3 MR. HUMPHRIES: NO, YOUR HONOR.

4 MR. HEMBREE: NO, YOUR HONOR.

5 THE COURT: DOES THE DEFENSE? ANY EXCEPTION TO
6 MY EXPLANATION TO HER QUESTION?

7 MR. KELLY: ABSOLUTELY NOT, MA'AM.

8 THE COURT: OKAY. BACK ON TRACK. EBONY FORD,
9 97. OUR NOTES REFLECT SHE HAS NO RESPONSE TO
10 QUESTION 21, 22 OR 25.

11 (JUROR ENTERED THE COURTROOM.)

12 EBONY FORD, BLACK FEMALE, TESTIFIED AS
13 FOLLOWS:

14 BY THE COURT:

15 Q MRS. FORD, HOW ARE YOU THIS MORNING? IF YOU'LL COME
16 HAVE A SEAT RIGHT HERE FOR ME. YOU DOING OKAY? TAKE A
17 DEEP BREATH. WE KNOW THIS CAN BE A LITTLE UNNERVING, BUT
18 WE JUST NEED TO TALK TO YOU INDIVIDUALLY. TELL ME YOUR
19 NAME FOR THE RECORD.

20 A NAME IS EBONY...

21 Q YOU ARE VERY SOFT SPOKEN. CAN YOU TALK A LITTLE BIT
22 LOUDER FOR ME?

23 A YES, MA'AM.

24 Q OKAY. TRY TO TALK AS LOUD AS YOU CAN FOR ME.

25 A JUROR 97, EBONY FORD.

1 Q WE MIGHT HAVE TO PUT THIS MIKE CLOSER TO HER. WE
2 HAVE A LITTLE SOMETHING WE CAN SIT IT ON? CAN YOU ALL
3 HEAR HER CLEARLY? MR. DIGGS, CAN YOU HEAR HER CLEARLY?

4 MR. KELLY: I CAN'T HEAR HER.

5 THE COURT: YEAH. WE'RE GOING TO GET A LITTLE
6 TABLE AND WE'RE GOING TO SIT THE MIKE IN FRONT OF HER
7 SO THAT -- WE NEED TO MAKE SURE WE HEAR HER. YOU ARE
8 VERY SOFT SPOKEN.

9 MR. KELLY: MA'AM, I DON'T HAVE ANY
10 QUESTIONNAIRE FOR THIS...

11 THE COURT: OKAY. WE WILL MAKE SURE.

12 MR. DIGGS: YOUR HONOR, I GOT ONE I WILL SHARE
13 WITH HIM.

14 THE COURT: OKAY.

15 BY THE COURT:

16 Q THANK YOU. WE'RE GOING TO SET THIS MICROPHONE DOWN
17 IN FRONT OF YOU SO HOPEFULLY THAT WILL HELP EVERYBODY BE
18 ABLE TO HEAR YOU. SO THE COURT REPORTER CAN HEAR YOU.
19 OKAY. STATE YOUR NAME AGAIN FOR ME.

20 A EBONY FORD.

21 Q THAT'S MUCH BETTER. AND YOU ARE NUMBER 97; IS THAT
22 RIGHT?

23 A YES, MA'AM.

24 Q OKAY. AND I WANT TO REMIND YOU THAT YOU'RE STILL
25 UNDER OATH. I NEED -- DO YOU UNDERSTAND THAT?

1 A YES, MA'AM.

2 Q I NEED YOU TO TAKE A DEEP BREATH. I CAN LOOK IN YOUR
3 EYES AND TELL YOU'RE A LITTLE NERVOUS, OKAY? NOW, I AM
4 GOING TO ASK YOU SOME QUESTIONS. WE'RE NOT TRYING TO
5 INVADE YOUR PRIVACY, BUT IT'S NECESSARY BECAUSE OF THESE
6 PROCEEDINGS.

7 NOW, THERE ARE NO RIGHT OR WRONG ANSWERS, I JUST NEED
8 YOU TO BE AS HONEST WITH ME AS POSSIBLE AND ANSWER THE
9 QUESTIONS OPENLY, HONESTLY, AND FULLY. DO YOU UNDERSTAND?

10 A YES, MA'AM.

11 Q AMONG OTHER THINGS WE WILL BE TALKING ABOUT PENALTY,
12 BUT THE MERE FACT THAT WE TALK ABOUT PENALTY DOES NOT
13 INDICATE ANYTHING ABOUT THE DEFENDANT BECAUSE HE IS
14 PRESUMED TO BE INNOCENT OF THE CHARGES HE'S -- OF THE
15 CHARGES HE FACES. DO YOU UNDERSTAND THAT?

16 A YES, MA'AM.

17 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
18 LISTEN TO THE LAW?

19 A YES, MA'AM.

20 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
21 INSTRUCT YOU DURING AND AT THE CLOSE OF THE CASE?

22 A YES, MA'AM.

23 Q COULD YOU APPLY THE LAW EVEN THOUGH YOU MAY DISAGREE
24 WITH WHAT YOU THINK IT SHOULD BE OR OUGHT TO BE? IN OTHER
25 WORDS, YOU -- IF I TELL YOU THE LAW IS SOMETHING AND YOU

1 DISAGREE WITH IT, COULD YOU STILL FOLLOW WHAT I SAY THE
2 LAW IS?

3 A YES, MA'AM.

4 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
5 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
6 ANYTHING YOU MAY HAVE READ OR HEARD ABOUT IT IN THE PAST?

7 A YES, MA'AM.

8 Q HAVE YOU READ OR SEEN OR BEEN EXPOSED TO ANY MEDIA
9 COVERAGE ABOUT THIS CASE BEFORE YOU -- BEFORE I INSTRUCTED
10 YOU NOT TO READ ANYTHING?

11 A NO, MA'AM.

12 Q OKAY. IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
13 PROVING THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.
14 DO YOU UNDERSTAND THAT?

15 A YES, MA'AM.

16 Q DO YOU UNDERSTAND THAT THE DEFENDANT HAS NO BURDEN TO
17 PROVE HIS INNOCENCE?

18 A YES, MA'AM.

19 Q PUSH THAT A LITTLE CLOSER TO YOU FOR ME AND SPEAK
20 INTO IT.

21 A OKAY.

22 Q HAVE YOU REVIEWED THE JUROR TYPE SHEET THAT WAS IN
23 THE JURY ROOM?

24 A YES, MA'AM.

25 Q DO YOU WANT -- DO YOU NEED TO REFRESH YOUR MEMORY AND

1 LOOK AT IT AGAIN? DO YOU FEEL THAT YOU FIT INTO ANY OF
2 THOSE CATEGORIES, ONE, TWO, OR THREE?

3 A TYPE TWO.

4 Q OKAY. ANY QUESTIONS FROM THE STATE? DO YOU
5 UNDERSTAND WHAT TYPE TWO IS? THAT IS THAT IF A PERSON
6 WERE FOUND GUILTY OF MURDER, THAT YOU BELIEVE THE DEATH
7 PENALTY IS ALWAYS APPROPRIATE, ALWAYS THE APPROPRIATE
8 PUNISHMENT? IS THAT YOUR ANSWER?

9 OR DO YOU NEED TO REVIEW THE SHEET ONE MORE TIME AND
10 MAKE SURE YOU UNDERSTAND WHAT EACH -- TYPE ONE SAYS NO
11 MATTER WHAT, I WOULD NEVER GIVE DEATH. TYPE TWO SAYS NO
12 MATTER WHAT, I'D ALWAYS GIVE DEATH. AND TYPE THREE SAYS I
13 CAN LISTEN TO THE EVIDENCE, APPLY THE LAW, AND THEN MAKE A
14 DECISION ABOUT PENALTY.

15 A TYPE THREE.

16 Q OKAY. ARE YOU CERTAIN OF THAT ANSWER?

17 A YES, MA'AM.

18 Q DO YOU NEED ANY MORE TIME TO REVIEW THE SHEET? DO
19 YOU WANT TO READ THEM EACH AGAIN JUST TO BE SURE? MAKE
20 SURE YOUR ANSWER IS ACCURATE?

21 (WHEREUPON THERE WAS A PAUSE.)

22 A YES.

23 Q YOU HAVE READ IT AGAIN?

24 A UH-HUH.

25 Q OKAY. TELL ME WHICH -- NOW YOU'VE LOOKED AT TYPE

1 ONE, TYPE TWO, AND TYPE THREE.

2 A YES, MA'AM.

3 Q OKAY. AND WHICH ONE DO YOU FEEL -- WHICH CATEGORY DO
4 YOU FEEL YOU FALL UNDER?

5 A TYPE ONE.

6 Q TYPE ONE?

7 A YES, MA'AM.

8 Q WHICH IS -- AND I'M GOING TO READ IT TO YOU AND I
9 WANT YOU TO LISTEN BECAUSE YOU'VE NOW GIVEN ME THREE
10 DIFFERENT ANSWERS. AND I NEED TO MAKE SURE -- AND AGAIN,
11 THERE IS NO RIGHT OR WRONG ANSWER, BUT I NEED YOU TO BE
12 OPEN AND HONEST WITH ME.

13 AND I KNOW YOU MIGHT BE NERVOUS AND IT MAY BE HARD TO
14 COMPREHEND WHAT YOU'RE READING, BUT I NEED YOU TO FOCUS
15 FOR ME SO THAT I CAN GET AN ACCURATE ANSWER FROM YOU.
16 OKAY? AND AGAIN, THERE IS NO RIGHT OR WRONG ANSWER. WE
17 JUST NEED YOU TO BE HONEST WITH US.

18 NUMBER ONE IS THE TYPE OF JUROR WHO ALTHOUGH THE
19 CRIME OF MURDER HAS BEEN PROVEN BY THE STATE AND THE JUROR
20 IS CONSIDERING PUNISHMENT FEELS THAT HE OR SHE IS UNABLE
21 OR UNWILLING TO GIVE THE DEATH PENALTY IN ANY CASE. THIS
22 JUROR FEELS THAT ALTHOUGH A MURDER HAS BEEN COMMITTED, THE
23 DEATH PENALTY IS NOT AN APPROPRIATE PUNISHMENT UNDER ANY
24 CIRCUMSTANCES. IS THAT WHAT YOU'RE TELLING ME IS YOUR
25 ANSWER?

1 A (NO VERBAL RESPONSE.)

2 Q OKAY. YOU'RE UNCERTAIN? OKAY. NUMBER TWO IS THE
3 TYPE OF JUROR WHO ONCE THE CRIME OF MURDER HAS BEEN PROVEN
4 BY THE STATE AND THE JUROR IS CONSIDERING PUNISHMENT FEELS
5 THAT HE OR SHE WOULD GIVE THE DEATH PENALTY IN EACH AND
6 EVERY CASE. THIS JUROR FEELS THAT ONCE A MURDER HAS BEEN
7 PROVEN, THE DEATH PENALTY IS THE ONLY APPROPRIATE
8 PUNISHMENT NO MATTER WHAT THE CIRCUMSTANCES ARE. DO YOU
9 FEEL YOU'RE IN THAT CATEGORY? TELL ME YES OR NO.

10 A NO, MA'AM.

11 Q OKAY. AND THIS IS TYPE THREE. AND I NEED YOU TO
12 LISTEN VERY CAREFULLY AS YOU DID IN ONE AND TWO. IS THE
13 TYPE OF JUROR WHO ALTHOUGH A DEFENDANT HAS BEEN FOUND
14 GUILTY OF MURDER WOULD NOT HAVE HIS OR HER MIND MADE UP IN
15 ADVANCE CONCERNING PUNISHMENT.

16 INSTEAD, THIS JUROR WOULD NEED TO HEAR THE FACTS AND
17 CIRCUMSTANCES, BOTH IN AGGRAVATION AND MITIGATION, AND
18 WOULD LISTEN TO AND FOLLOW THE LAW AS EXPLAINED BY THE
19 JUDGE BEFORE HE OR SHE MADE THE DECISION REGARDING
20 PUNISHMENT.

21 IF THE FACTS WARRANTED, THIS JUROR COULD RETURN A
22 VERDICT OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF
23 PAROLE. ON THE OTHER HAND, IF THE FACTS WARRANTED AND IF
24 THE LAW ALLOWED IT, THIS JUROR COULD RETURN A VERDICT FOR
25 THE DEATH PENALTY. DO YOU FEEL YOU FIT INTO THIS

1 CATEGORY?

2 A YES, MA'AM.

3 Q AND YOU'RE CERTAIN OF THAT ANSWER?

4 A YES, MA'AM.

5 Q OKAY. WERE YOU A LITTLE NERVOUS? DID YOU NOT
6 UNDERSTAND THE TYPES? IT WAS EASIER TO HEAR THEM READ TO
7 YOU?

8 A YES, MA'AM.

9 Q OKAY. TAKE ANOTHER DEEP BREATH. IF YOU WERE A JUROR
10 IN A DEATH PENALTY CASE AND IF THE JURY HAD FOUND THE
11 DEFENDANT GUILTY OF MURDER, YOU WOULD THEN MOVE TO THE
12 SENTENCING PHASE OF THE TRIAL. DO YOU UNDERSTAND?

13 A YES, MA'AM.

14 Q YOU SURE? OKAY. DO YOU UNDERSTAND THAT WE WOULD
15 THEN MOVE TO THE SENTENCING PHASE?

16 A YES, MA'AM.

17 Q NOW, IN THE SENTENCING PHASE YOU WOULD ALSO BE
18 ALLOWED TO CONSIDER WHAT WE CALL AGGRAVATING CIRCUMSTANCES
19 WHICH ARE FACTS AND INCIDENTS, DETAILS OR AN OCCURRENCE
20 WHICH THE GENERAL ASSEMBLY HAS DECLARED BY STATUTE WOULD
21 MAKE WORSE, THAT IS AGGRAVATE, THE OFFENSE OF MURDER.

22 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
23 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
24 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
25 COMMISSION OF A CRIME.

1 AND SOME EXAMPLES OF AGGRAVATING CIRCUMSTANCES ARE
2 THE MURDER OF A CHILD UNDER THE AGE OF 11, DRUG
3 TRAFFICKING, KILLING BY POISON, BURGLARY IN ANY DEGREE.
4 THESE ARE JUST EXAMPLES OF AGGRAVATION. DO YOU
5 UNDERSTAND?

6 A YES, MA'AM.

7 Q MITIGATING CIRCUMSTANCES ARE INCIDENTS, DETAILS, OR
8 OCCURRENCES WHICH THE GENERAL ASSEMBLY HAS DECLARED BY
9 STATUTE REDUCE THE SEVERITY OF AN OFFENSE OF MURDER AND
10 MAY BE CONSIDERED AS EXTENUATING OR REDUCING THE DEGREE OF
11 MORAL CULPABILITY OR RESPONSIBILITY.

12 AND SOME OF THOSE EXAMPLES -- AND THESE ARE ONLY
13 EXAMPLES -- MENTAL RETARDATION AT THE TIME OF THE CRIME,
14 THE DEFENDANT WAS PROVOKED BY THE VICTIM, THE DEFENDANT
15 WAS AN ACCOMPLICE AND THEIR PARTICIPATION WAS RELATIVELY
16 MINOR, THE DEFENDANT ACTED UNDER DURESS OR DOMINATION.
17 AND AGAIN THESE ARE JUST EXAMPLES. DO YOU UNDERSTAND?

18 A YES, MA'AM.

19 Q IF YOU WERE A JUROR IN THAT SITUATION, THE SENTENCING
20 PHASE, COULD YOU, DEPENDING ON THE FACTS AND CIRCUMSTANCES
21 OF THE CASE, INCLUDING THE CONSIDERATION OF AGGRAVATING
22 AND MITIGATING CIRCUMSTANCES, AND THE LAW THAT I WOULD
23 INSTRUCT THAT APPLIES AT THE CONCLUSION OF THE CASE RETURN
24 A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE?

25 A YES, MA'AM.

1 Q ADDITIONALLY IN THAT SAME SITUATION, COULD YOU
2 DEPENDING ON THE FACTS AND CIRCUMSTANCES INCLUDING THE
3 CONSIDERATION OF AGGRAVATION AND MITIGATING CIRCUMSTANCES
4 AND THE LAW AS THE COURT WOULD INSTRUCT RETURN A SENTENCE
5 OF DEATH WHICH IN THIS STATE IS BY ELECTROCUTION OR BY
6 LETHAL INJECTION?

7 A CAN YOU READ THAT?

8 Q YEAH, I SURE WILL. I WILL READ IT TO YOU AGAIN. IF
9 WE REACH THE SENTENCING PHASE OF THE TRIAL, COULD YOU,
10 DEPENDING ON THE FACTS AND CIRCUMSTANCES OF THE CASE,
11 INCLUDING AGGRAVATING CIRCUMSTANCES AND MITIGATING
12 CIRCUMSTANCES, AND THE LAW THAT I WOULD INSTRUCT YOU
13 APPLIES TO THE CASE WHEN I'M GIVING YOU THE CHARGE ON THE
14 LAW, COULD YOU RETURN A SENTENCE OF DEATH WHICH IN THIS
15 STATE IS BY ELECTROCUTION OR LETHAL INJECTION?

16 A YES, MA'AM.

17 Q IF YOU ARE CHOSEN FOR THIS JURY -- AND I HAVE ALREADY
18 EXPLAINED THIS IN A LITTLE DETAIL DURING GENERAL
19 QUALIFICATION -- YOU WILL BE HOUSED IN A MOTEL DURING THE
20 TRIAL, WHICH WILL BE APPROXIMATELY 10 DAYS.

21 EXCEPT FOR THE PERSONAL INCONVENIENCE, WOULD THIS
22 POSE A SERIOUS DANGER TO YOUR HEALTH OR WELL-BEING OR
23 ANYONE WHO IS DEPENDENT UPON YOU?

24 A NO, MA'AM.

25 Q OKAY. IN THESE TYPE CASES EACH JUROR IS REQUIRED TO

1 SIGN THEIR NAME INDIVIDUALLY ON THE VERDICT FORM, AND SO
2 THAT IS WHY I ASK THE NEXT QUESTION. WOULD YOU BE ABLE TO
3 SIGN A VERDICT FORM IN THE EVENT OF A LIFE WITHOUT THE
4 POSSIBILITY OF PAROLE OR DEATH SENTENCE?

5 A (NO RESPONSE.)

6 Q DO YOU NEED ME TO REPEAT THE QUESTION? WOULD YOU BE
7 ABLE TO SIGN A VERDICT FORM IN THE EVENT OF A LIFE WITHOUT
8 THE POSSIBILITY OF PAROLE OR A DEATH SENTENCE?

9 A NO, MA'AM.

10 Q YOU WOULD NOT BE ABLE TO SIGN A VERDICT FORM? DO YOU
11 UNDERSTAND THE QUESTION?

12 A NOT REALLY.

13 Q NOT REALLY?

14 A NO, MA'AM.

15 Q OKAY. LET ME SEE IF I CAN EXPLAIN IT BETTER.
16 WHENEVER YOU HAVE ANY TYPE OF CASE, THERE IS ALWAYS A
17 VERDICT FORM. IN OTHER WORDS, AND THAT MEMORIALIZES OR
18 SAYS WHAT THE JURY HAS DONE. LET'S USE A CIVIL CASE AS AN
19 EXAMPLE.

20 IF WE HAD AN AUTOMOBILE WRECK AND THE JURY WAS
21 LISTENING TO THE CASE, THERE WOULD BE TWO OPTIONS. ONE
22 WOULD BE WE FIND FOR THE PLAINTIFF AND THIS IS HOW MUCH
23 MONEY WE ARE GOING TO GIVE THEM. THE OTHER OPTION WOULD
24 BE WE FIND FOR THE DEFENDANT.

25 IN THOSE CIRCUMSTANCES USUALLY ONLY THE FOREPERSON

1 SIGNS THE VERDICT FORM. BUT IN THIS KIND OF -- AND WHAT
2 THE FOREMAN DOES IS THEY FILL IT OUT, FILL OUT -- THEY ARE
3 GOING TO GIVE -- LET'S JUST SAY THEY'RE GOING TO GIVE THE
4 PLAINTIFF \$4000. THEY WOULD WRITE THAT OUT AND THEN AT
5 THE BOTTOM THEY WOULD SIGN IT AND THEY'D DATE IT.

6 IN THIS KIND OF CASE, AND IN A CRIMINAL CASE USUALLY
7 ONLY ONE PERSON SIGNS THAT SAME KIND OF VERDICT FORM, AND
8 THE OPTIONS WOULD BE GUILTY OR NOT GUILTY.

9 BUT IN A -- THIS TYPE OF CASE, WHICH WE CALL A
10 CAPITAL CASE, EACH JUROR HAS TO SIGN THE VERDICT FORM. SO
11 IN OTHER WORDS, THERE WILL BE A VERDICT FORM AND THERE
12 WILL BE A LINE FOR ALL 12 JURORS AND EACH OF YOU WOULD
13 HAVE TO SIGN YOUR NAME AS TO WHAT YOUR DECISION IS,
14 WHETHER THAT DECISION BE LIFE WITHOUT THE POSSIBILITY OF
15 PAROLE OR DEATH. DO YOU UNDERSTAND THE QUESTION NOW?

16 A YES, MA'AM.

17 Q AND WOULD YOU BE ABLE TO SIGN THAT FORM IN EITHER OF
18 THOSE CIRCUMSTANCES?

19 A YES, MA'AM.

20 Q OKAY.

21 THE COURT: ARE THERE ANY ADDITIONAL QUESTIONS
22 BY THE STATE?

23 MR. HUMPHRIES: YES.

24 THE COURT: YOU MAY PROCEED.

25 MR. HUMPHRIES: THANK YOU.

1 THE COURT: YOU'RE WELCOME.

2 BY MR. HUMPHRIES:

3 Q GOOD MORNING, MRS. FORD.

4 A GOOD MORNING.

5 Q I'M FRAN HUMPHRIES. I'M THE DEPUTY SOLICITOR. I
6 ALONG WITH SOLICITOR HEMBREE WILL BE REPRESENTING THE
7 STATE IN THIS CASE. AND I WANT TO TELL YOU TO BEGIN WITH
8 THAT I APPRECIATE THAT THIS IS A -- AN UNCOMFORTABLE
9 SITUATION FOR YOU.

10 A ALL RIGHT.

11 Q WHAT WE'RE TRYING TO DO REALLY -- THE BASIC THING
12 WE'RE TRYING TO FIND OUT IS WHETHER OR NOT YOU AND THE
13 OTHER JURORS THAT WILL BE COMING IN ARE GOING TO BE
14 QUALIFIED JURORS.

15 AND WHAT THAT MEANS IN THIS TYPE OF CASE IS CAN THE
16 JURY GIVEN THE RIGHT AMOUNT OF EVIDENCE AND THE
17 APPROPRIATE CIRCUMSTANCES RENDER A VERDICT OF DEATH OR
18 LIFE DEPENDING UPON THOSE FACTS AND CIRCUMSTANCES.

19 WE -- AND THE COURT'S ALREADY TOLD YOU, WE'RE NOT
20 HERE TO TRY TO CHANGE YOUR MIND. YOUR OPINION, WHETHER
21 NEWLY FORMED OR LONG-HELD IS YOUR OPINION, AND THAT'S NOT
22 OUR INTENT.

23 BUT IT IS IMPORTANT FOR US TO KNOW REALLY HOW YOU
24 FEEL ABOUT THAT, WHAT YOUR OPINION IS. SO MY QUESTION
25 BASICALLY IS THIS. DO YOU BELIEVE THAT IN THE RIGHT SET

1 OF CIRCUMSTANCES, GIVEN THE RIGHT AMOUNT OF EVIDENCE, YOU
2 NOT ONLY COULD CONSIDER THE DEATH PENALTY, BUT ACTUALLY
3 IMPOSE THE DEATH PENALTY.

4 A (NO RESPONSE.)

5 THE COURT: DO YOU UNDERSTAND THE QUESTION?

6 JUROR: I DON'T UNDERSTAND THE QUESTION.

7 THE COURT: JUST WANTED TO MAKE SURE.

8 BY MR. HUMPHRIES:

9 Q IT'S A TOUGH QUESTION. LET ME GO AT IT ANOTHER WAY,
10 OKAY? BECAUSE SOMETIMES IT'S NOT CLEAR TO JURORS THAT
11 WHAT THEY DECIDE, WHAT THE JUROR OR THE JURY ACTUALLY
12 DECIDES IS THE SENTENCE IS THE SENTENCE THAT THE COURT
13 WILL CARRY OUT.

14 THERE'S A FORM, AND REALLY NO NEED FOR YOU TO KNOW
15 THIS, BUT THERE'S A FORM THAT SAYS RECOMMENDATION OF
16 DEATH, BUT IT'S NOT A RECOMMENDATION. THE FORM SAYS WE
17 THE JURY HAVING FOUND THE FOLLOWING AGGRAVATING
18 CIRCUMSTANCES BEYOND A REASONABLE DOUBT, DA, DA, DA, DA,
19 DA FIND THE DEFENDANT SHOULD BE PUT TO DEATH.

20 AND ON THAT FORM THERE ARE 12 LINES. EACH JUROR HAS
21 TO SIGN HIS OR HER NAME INDICATING THEIR VOTE. AND FROM
22 THAT FORM THE COURT WILL THEN SENTENCE THE DEFENDANT TO
23 DEATH.

24 AGAIN, NOBODY IS TRYING TO CHANGE YOUR MIND AS TO
25 WHAT YOUR OPINION IS, BUT THAT IS SOMETHING UNDER THE

1 RIGHT SET OF CIRCUMSTANCES, GIVEN THE RIGHT AMOUNT OF
2 EVIDENCE, THAT YOU HAVE TO KNOW AT THIS POINT THAT YOU ARE
3 CAPABLE OF DOING. DO YOU BELIEVE THAT YOU COULD SENTENCE
4 SOMEBODY TO DEATH?

5 A NO, SIR.

6 THE COURT: I NEED YOU TO SPEAK UP FOR ME.

7 JUROR: NO, SIR.

8 MR. HUMPHRIES: I DIDN'T THINK SO. AND I
9 APPRECIATE THAT. THANK YOU VERY MUCH.

10 JUROR: THANK YOU.

11 THE COURT: ANY QUESTIONS FROM THE DEFENSE?

12 MR. KELLY: NO, MA'AM.

13 THE COURT: OKAY. ANY EXCEPTION TO EXCUSING THE
14 JUROR FROM THE STATE?

15 MR. HUMPHRIES: NONE FROM THE STATE.

16 THE COURT: FROM THE DEFENSE?

17 MR. KELLY: NO, MA'AM.

18 THE COURT: MA'AM, YOU'RE EXCUSED. PLEASE DO
19 NOT DISCUSS ANYTHING YOU'VE DISCUSSED WITH US WITH
20 ANYONE. WE APPRECIATE YOUR CANDOR. HAVE A WONDERFUL
21 DAY.

22 (JUROR LEFT THE COURTROOM.)

23 THE COURT: DONALD HORTON, 161.

24 (JUROR ENTERED THE COURTROOM.)

25 DONALD HORTON, WHITE MALE, TESTIFIED AS

1 FOLLOWS:

2 BY THE COURT:

3 Q MR. HORTON, HOW ARE YOU? WE APPRECIATE YOU BEING SO
4 PATIENT WITH US. YOU DOING OKAY TODAY?

5 A FINE.

6 Q IF YOU'D STATE YOUR FULL NAME FOR THE RECORD.

7 A DONALD FRANK HORTON.

8 Q AND SIR, YOUR JUROR NUMBER IS 161; IS THAT CORRECT?

9 A CORRECT.

10 Q SIR, I WOULD REMIND YOU THAT YOU'RE STILL UNDER OATH.
11 DO YOU UNDERSTAND?

12 A UH-HUH.

13 Q I NEED YOU TO TELL ME YES OR NO.

14 A YES.

15 Q THANK YOU. WE HAVE HIM REPORTED AS RESPONSES TO 21,
16 22 AND 25.

17 MR. HUMPHRIES: ALL THREE.

18 THE COURT: IS THAT CORRECT FROM THE DEFENSE?

19 MR. KELLY: IT IS, MA'AM.

20 BY THE COURT:

21 Q SIR, WE'RE GOING TO ASK YOU SOME QUESTIONS NOT TO
22 INVADE YOUR PRIVACY BUT BECAUSE IT'S NECESSARY DUE TO THE
23 NATURE OF THESE PROCEEDINGS. STATE LAW REQUIRES THAT WE
24 SPEAK TO EACH POTENTIAL JUROR INDIVIDUALLY.

25 WE ARE NOT -- I NEED TO EMPHASIZE THERE ARE NO RIGHT

1 OR WRONG ANSWERS. WE JUST NEED FOR YOU TO BE AS OPEN AND
2 HONEST WITH US AND ANSWER THE QUESTIONS I'M GOING TO ASK
3 YOU AS FULLY AND COMPLETELY AND HONESTLY AS POSSIBLE.

4 NO ONE IS CHALLENGING YOUR VIEWS. WE JUST NEED TO
5 KNOW WHAT YOUR VIEWS ARE. DO YOU UNDERSTAND?

6 A YES.

7 Q SIR, AMONG OTHER THINGS WE WILL BE TALKING ABOUT
8 PENALTY, BUT THE MERE FACT THAT WE TALK ABOUT PENALTY IS
9 NO REFLECTION ON THE DEFENDANT. HE IS PRESUMED TO BE
10 INNOCENT IN THE LAW. DO YOU UNDERSTAND?

11 A YES.

12 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
13 YOU LISTEN TO THE LAW?

14 A YES.

15 Q COULD YOU APPLY THE LAW AND ACCEPT IT AS I INSTRUCT
16 IT AS THE JUDGE OF THIS COURT?

17 A YES.

18 Q COULD YOU APPLY IT EVEN THOUGH YOU MAY DISAGREE WITH
19 IT?

20 A YES.

21 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
22 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
23 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
24 CASE?

25 A YES.

1 Q SIR, HAVE YOU SEEN ANY MEDIA COVERAGE ABOUT THIS CASE
2 PRIOR TO JURY DUTY?

3 A YES.

4 Q AND AS A RESULT OF WHAT YOU MAY HAVE READ OR HEARD,
5 HAVE YOU FORMED ANY FIXED OPINION ABOUT THE FACTS IN THIS
6 CASE?

7 A YES.

8 Q YOU HAVE INDICATED THAT YOU FORMED A FIXED OPINION,
9 AND MY NEXT QUESTION IS TO DETERMINE WHETHER -- SEE IF I
10 CAN PHRASE IT THE WAY I'M -- CAN BEAR WITH ME ONE MOMENT.
11 SIR, DO YOU FEEL YOU CAN LAY ASIDE THAT FIXED OPINION AND
12 LISTEN TO THE EVIDENCE IN THIS CASE AND APPLY THE LAW AS
13 THE COURT WILL INSTRUCT AND RENDER A VERDICT IN THIS CASE
14 BASED SOLELY ON THE EVIDENCE AND THE LAW?

15 IN OTHER WORDS, COULD YOU DISREGARD ANY OPINION THAT
16 YOU FEEL YOU HAVE FORMED ABOUT THIS CASE AND DECIDE THIS
17 CASE ONLY ON THE EVIDENCE THAT WILL BE PRESENTED IN THIS
18 COURTROOM FROM THE LIPS OF SWORN WITNESSES AND THE OTHER
19 EVIDENCE THAT WILL BE INTRODUCED AND APPLY THE LAW AS THE
20 COURT WILL INSTRUCT DURING AND AT THE CLOSE OF EACH PHASE
21 OF THIS TRIAL AND MAKE A DECISION BASED SOLELY ON THOSE
22 THINGS AND RENDER A FAIR AND JUST VERDICT IN THIS CASE
23 IRREGARDLESS OF ANY OUTSIDE INFLUENCES?

24 A I THINK SO.

25 Q OKAY. AGAIN, THERE ARE NO RIGHT OR WRONG ANSWERS,

1 AND SO I NEED A YES OR A NO. I JUST NEED YOU TO BE HONEST
2 WITH ME.

3 A YES.

4 Q OKAY. SIR, IN A CRIMINAL CASE THE STATE HAS THE
5 BURDEN OF PROVING GUILT AND THEY MUST PROVE THAT GUILT
6 BEYOND A REASONABLE DOUBT. THE DEFENDANT HAS NO BURDEN TO
7 PROVE ANYTHING. DO YOU UNDERSTAND THAT?

8 A YES.

9 Q SIR, HAVE YOU READ THE JUROR TYPE SHEET THAT WE HAD
10 IN THE JURY ROOM?

11 A YES.

12 Q WE HAVE A COPY OF IT RIGHT THERE FOR YOU--

13 A YES.

14 Q -- IN THE EVENT THAT YOU NEED TO REFRESH YOUR MEMORY.
15 SIR, DO YOU FEEL THAT YOU FIT INTO ANY OF THESE
16 CATEGORIES?

17 A YES.

18 Q AND WHAT CATEGORY DO YOU FEEL YOU FIT INTO?

19 A THREE.

20 Q OKAY. IF YOU WERE A JUROR IN A DEATH PENALTY CASE
21 AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER,
22 YOU WOULD THEN MOVE TO THE SENTENCING PHASE OF THE TRIAL.
23 DO YOU UNDERSTAND?

24 A YES.

25 Q AT THAT PHASE, SIR, YOU WOULD BE ALLOWED TO CONSIDER

1 WHAT WE CALL AGGRAVATING CIRCUMSTANCES WHICH ARE FACTS AND
2 INCIDENTS, DETAILS OR AN OCCURRENCE WHICH THE LEGISLATURE
3 HAS DECLARED BY STATUTE WOULD MAKE A -- WOULD MAKE WORSE,
4 THAT IS AGGRAVATE, THE OFFENSE OF MURDER.

5 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
6 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
7 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
8 COMMISSION OF A CRIME.

9 AND I'M GOING TO GIVE YOU SOME EXAMPLES OF WHAT AN
10 AGGRAVATING CIRCUMSTANCE WOULD BE. THE MURDER OF A CHILD
11 UNDER AGE 11, DRUG TRAFFICKING, KILLING BY POISON,
12 BURGLARY IN ANY DEGREE. AGAIN, THESE ARE JUST EXAMPLES OF
13 WHAT WE WOULD CALL AN AGGRAVATING CIRCUMSTANCE.

14 YOU WOULD ALSO BE ALLOWED TO CONSIDER WHAT WE CALL
15 MITIGATING CIRCUMSTANCES, AND THOSE ARE INCIDENTS, DETAILS
16 OR OCCURRENCES WHICH THE LEGISLATURE HAS DECLARED BY
17 STATUTE REDUCE THE SEVERITY OF AN OFFENSE OF MURDER AND
18 MAY BE CONSIDERED AS EXTENUATING OR REDUCING THE DEGREE OF
19 MORAL CULPABILITY OR RESPONSIBILITY.

20 AND AGAIN, THESE ARE JUST EXAMPLES AND ARE -- AND IS
21 NOT AN EXCLUSIVE LIST. RETARDATION AT THE TIME OF THE
22 CRIME, THE DEFENDANT WAS PROVOKED BY THE VICTIM, THE
23 DEFENDANT WAS AN ACCOMPLICE AND THEIR PARTICIPATION WAS
24 RELATIVELY MINOR, THE DEFENDANT ACTED UNDER DURESS OR
25 DOMINATION. AND AGAIN, THESE ARE JUST EXAMPLES AND IT IS

1 NOT AN EXCLUSIVE LIST.

2 IF YOU WERE A JUROR IN THAT SITUATION, THE SENTENCING
3 PHASE OF THE TRIAL, COULD YOU DEPENDING UPON THE
4 PARTICULAR FACTS AND CIRCUMSTANCES OF THAT CASE INCLUDING
5 THE CONSIDERATION OF AGGRAVATING AND MITIGATING
6 CIRCUMSTANCES AND THE LAW WHICH I WILL INSTRUCT YOU THAT
7 APPLIES AT THE CONCLUSION OF THE CASE, COULD YOU RETURN A
8 VERDICT OF LIFE IN PRISON WITHOUT THE POSSIBILITY OF
9 PAROLE?

10 A YES.

11 Q COULD YOU UNDER THOSE VERY SAME CIRCUMSTANCES
12 CONSIDERING AGGRAVATING AND MITIGATING CIRCUMSTANCES AND
13 THE LAW THAT I WOULD INSTRUCT RETURN A SENTENCE OF DEATH
14 WHICH IN THIS STATE IS BY ELECTROCUTION OR BY LETHAL
15 INJECTION?

16 A YES.

17 Q OKAY. SIR, IF -- AND I HAVE ALREADY ASKED TO SOME
18 EXTENT THIS QUESTION. IF YOU ARE CHOSEN FOR THIS JURY,
19 YOU WOULD BE HOUSED IN A MOTEL DURING THE TRIAL WHICH
20 WOULD BE ABOUT 10 DAYS AND YOU WOULD, OF COURSE, HAVE YOUR
21 OWN ROOM, YOU WOULD NOT BE REQUIRED TO LODGE WITH ANYONE.

22 EXCEPT FOR THE PERSONAL INCONVENIENCE WOULD THIS POSE
23 A SERIOUS DANGER TO YOUR HEALTH OR WELL-BEING OR ANYONE
24 WHO IS DEPENDENT UPON YOU?

25 A NO.

1 Q SIR, IN THESE TYPE CASES EACH -- AND USUALLY IN
2 GENERAL, OF COURSE, EVERY CASE HAS A VERDICT FORM AND
3 USUALLY ONLY THE FOREPERSON HAS TO SIGN THAT FORM. BUT IN
4 WHAT WE CALL CAPITAL CASES IT'S DIFFERENT. EACH JUROR HAS
5 TO SIGN THE VERDICT FORM, WHETHER IT BE FOR LIFE WITHOUT
6 THE POSSIBILITY OF PAROLE OR DEATH. WOULD YOU BE ABLE TO
7 SIGN A VERDICT FORM?

8 A YES.

9 Q IN EITHER OF THOSE CIRCUMSTANCES?

10 A YES.

11 Q OKAY.

12 THE COURT: ARE THERE ANY QUESTIONS FROM THE
13 STATE?

14 MR. HUMPHRIES: NONE AT THIS TIME.

15 THE COURT: FROM THE DEFENSE?

16 MR. KELLY: YES, MA'AM.

17 THE COURT: SIR, IF YOU WOULD GIVE MR. KELLY
18 YOUR ATTENTION. HE HAS SOME QUESTIONS FOR YOU.

19 BY MR. KELLY:

20 Q MR. HORTON, I'M GERALD KELLY. I'D LIKE TO ASK YOU A
21 FEW QUESTIONS. I NOTICED YESTERDAY THAT WHEN YOU WERE ON
22 THE JURY VENIRE WAS ASKED HAVING ALREADY MADE UP THEIR
23 MIND, YOU WERE THE FIRST TO STAND UP. TO ME THAT MEANT
24 THAT YOU DEFINITELY MADE UP YOUR MIND. BUT TODAY YOU
25 HAVEN'T. WHAT'S CHANGED BETWEEN TODAY AND YESTERDAY?

1 A I DON'T THINK I ANSWERED THAT. DID I SAY I DID,
2 MA'AM?

3 THE COURT: ACTUALLY, SIR, WHAT YOU STOOD IN
4 RESPONSE TO IS WHETHER YOU HAD FORMED OR EXPRESSED AN
5 OPINION.

6 JUROR: I HAD FORMED AN OPINION.

7 THE COURT: WHETHER YOU WERE BIASED OR
8 PREJUDICED AND WHETHER YOU FELT YOU COULD NOT GIVE A
9 FAIR AND IMPARTIAL TRIAL.

10 BY MR. KELLY:

11 Q BUT TODAY YOU SAY YOU CAN GIVE ONE. YESTERDAY YOU
12 SAID YOU COULDN'T. WHAT HAS CHANGED TODAY?

13 A NOTHING HAS CHANGED. I MEAN, I READ -- I HAVE READ
14 FROM THE BEGINNING WHAT HAPPENED AND WHAT -- AND NOT SINCE
15 BEING HERE. AND BE HONEST, TO ME IT WAS PRETTY CUT AND
16 DRY.

17 Q WELL, HAVE YOU MADE UP YOUR MIND ABOUT IT OR NOT?

18 A IN MY OWN OPINION, BUT AFTER I WAS ASKED IF IT PROVEN
19 OTHERWISE...

20 Q SO YOU HAVEN'T MADE UP YOUR MIND?

21 A MY MIND -- MY OPINION FROM WHAT I READ IS ONE THING.
22 WHAT IS PROVEN AND DONE IN COURT I GUESS IS SOMETHING
23 ELSE. I MEAN...

24 Q WELL, I THINK, MR. HORTON, YOU SAID TODAY THAT YOU
25 AGREE THAT THE DEFENDANT SEATED HERE BY ME IS INNOCENT

1 NOW. IS THAT CORRECT?

2 A UNDER THE LAW HE'S INNOCENT UNTIL PROVEN GUILTY.

3 Q HOW ABOUT IN YOUR OWN MIND? IS HE INNOCENT IN YOUR
4 MIND AS WELL?

5 A UNDER THE LAW, YES.

6 Q MR. HORTON, I'M NOT TRYING TO CONFUSE YOU OR INSULT
7 YOU IN ANY WAY. I DON'T WANT ANY JURORS ON THIS PANEL
8 THAT HAVE GOT A PERSONAL AGENDA IN ORDER TO ACCOMPLISH
9 SOMETHING ON THEIR OWN. DO YOU HAVE A PERSONAL AGENDA TO
10 EFFECT HERE IN THIS COURTROOM?

11 A NONE.

12 Q ARE YOU ABLE TO LEAVE ASIDE EVERYTHING THAT YOU HEARD
13 OR READ ABOUT THIS CASE, PUT IT OUT OF YOUR MIND
14 100 PERCENT?

15 A DON'T KNOW ABOUT A HUNDRED PERCENT. BUT YEAH, I
16 THINK...

17 Q WELL, IT'S GOT TO BE A HUNDRED PERCENT, MR. HORTON,
18 FOR YOU TO BE A FAIR JUROR. CAN YOU PUT IT OUT OF YOUR
19 MIND OR NOT, BECAUSE IF YOU CAN'T, THEN YOU WOULDN'T BE
20 QUALIFIED AND WE'D GO RIGHT TO THE NEXT JUROR, AND IT
21 WOULDN'T HAVE ANY EFFECT ON ANYTHING, INCLUDING YOU.

22 A WELL, WHEN YOU SAY PUT IT OUT OF MY MIND, I KNOW WHAT
23 I -- I KNOW WHAT I HAVE READ JUST, YOU KNOW, I CAN'T
24 FORGET WHAT I READ.

25 Q WELL, IN THAT CASE IF YOU CAN'T FORGET WHAT YOU HAVE

1 READ, YOU KNOW, WHEN YOU COME IN HERE AS A JUROR YOU CAN
2 ONLY LISTEN TO WHAT'S IN THIS COURTROOM AS EVIDENCE. AND
3 IF YOU HEARD SOMETHING DIFFERENT BEFORE, YOU WOULD HAVE TO
4 PUT IT OUT OF YOUR MIND BECAUSE YOU COULD NOT KEEP IT IN
5 YOUR MIND AS FAR AS YOUR JUDGMENT IS CONCERNED. COULD YOU
6 DO THAT?

7 A THAT'S HARD TO, YOU KNOW, I THINK I'M A FAIR PERSON.
8 I MEAN, I HAVE READ THE CASE. THAT DOESN'T MEAN
9 EVERYTHING YOU READ IS SO. I KNOW THAT. I WAS IN THE
10 NEWSPAPER BUSINESS, YOU KNOW.

11 Q WELL--

12 THE COURT: WE HAVE A REPORTER FOR THE RECORD
13 THAT SAID AMEN.

14 BY MR. KELLY:

15 Q IN THE TELEVISION BUSINESS AND THE RADIO BUSINESS AS
16 WELL?

17 A RIGHT, I HAVEN'T HEARD ANYTHING ON--

18 Q EXCUSE ME?

19 A I HAVEN'T HEARD ANYTHING ON TV ABOUT IT, SOMETHING I
20 READ.

21 Q I ASK YOU AGAIN, IF YOU -- WHAT WE'RE LOOKING FOR ARE
22 JURORS WHO IDEALLY WOULD HAVE NO KNOWLEDGE OF THE CASE,
23 PERIOD. THAT WOULD MAKE THEM UNPREJUDICED AND UNBIASED.
24 DO YOU AGREE WITH THAT, OF COURSE?

25 A YES.

1 Q IN YOUR CASE, YOU HAVE HEARD -- WE'RE TRYING TO
2 DECIDE IF YOU CAN DISABUSE YOURSELF FROM THIS INFORMATION
3 AND LIMIT YOURSELF TO ONLY WHAT YOU WOULD HEAR IN THIS
4 COURT AS EVIDENCE. IF YOU COULD DO THAT, FINE. IF YOU
5 CAN'T, JUST SAY SO.

6 A I THINK I COULD.

7 Q NOT THINK, MR. HORTON.

8 A YES, I CAN. YES, I CAN.

9 Q NOW, MR. HORTON, I'M KIND OF LEANING ON YOU A LITTLE
10 BIT. YOU'RE NOT GOING TO HOLD THAT AGAINST ME; ARE YOU?

11 A NO, I DON'T THINK SO. NOT PERSONALLY.

12 Q SO YOU'RE NOT GOING TO TAKE IT THIS PERSONALLY AT
13 ALL?

14 A NO, NOT AT ALL.

15 Q AND YOU SAY THAT YOU WOULD LISTEN TO THE JUDGE AND
16 YOU WOULD FOLLOW THE JUDGE'S INSTRUCTION?

17 A YES.

18 Q YOU WOULDN'T -- YOU'RE NOT JUST GIVING THAT LIP
19 SERVICE, ARE YOU, MR. HORTON? YOU WOULD REALLY DO WHAT
20 YOU'RE SAYING?

21 A YES.

22 Q OKAY. ARE YOU SEEKING TO BE A MEMBER OR A JUROR IN
23 THIS CASE?

24 A NO, I DON'T WANT TO BE. I GOT RESERVATIONS TO LEAVE
25 TOWN THE END OF THIS MONTH. I DON'T WANT TO TAKE A CHANCE

1 OF NOT MAKING IT, BE HONEST.

2 Q MR. HORTON, I SEE THAT YOU HAVE A CANE WITH YOU. ARE
3 YOU IN GOOD ENOUGH HEALTH TO BE A JUROR?

4 A YEAH.

5 Q AND WHY, MAY I ASK, WHAT IS YOUR PHYSICAL--

6 A I HAVE VASCULAR DISEASE IN MY LEG. I HAD SEVERAL
7 SURGERIES.

8 Q BUT YOU'D BE OKAY TO SERVE?

9 A YES.

10 Q AND YOU WOULD LISTEN TO ONLY THE EVIDENCE THAT'S
11 GIVEN YOU HERE AND DETERMINE ONLY FROM THIS EVIDENCE,
12 NOTHING OTHER THAN THAT; CORRECT?

13 A YES.

14 Q COULD YOU ALSO NOT DISCUSS THIS CASE WITH ANYBODY?

15 A YES.

16 Q YOU'RE MARRIED; AREN'T YOU, SIR?

17 A YES.

18 Q YOU WOULD NOT DISCUSS IT WITH YOUR WIFE?

19 A NO.

20 Q NOT WITH ANY JUROR OR ANYONE UNTIL IT WAS GIVEN TO
21 YOU TO DELIBERATE?

22 A NO.

23 Q IF YOU DID THAT, WOULD YOU TELL US?

24 A YES. WELL, I WOULDN'T DO IT.

25 Q BUT IF YOU DID, WOULD YOU?

1 A WELL, I -- THAT'S A TOUGHIE.

2 Q MR. HORTON, I'M NOT GOING--

3 A NOT GOING DO IT.

4 Q -- WELL, MR. HORTON, I'M GOING TO ASK YOU, WOULD YOU
5 BE HONEST THAT IF YOU--

6 A I'M AN HONEST MAN.

7 Q YOU--

8 A HONEST MAN, YES.

9 Q IF YOU BROKE THAT RULE, YOU WOULD TELL US I BROKE
10 THAT RULE?

11 A I'M AN HONEST MAN.

12 Q WOULD YOU TELL US I BROKE THAT RULE IF YOU DID IT?

13 A I GUESS SO.

14 Q NOT GUESS, MR. HORTON, WOULD YOU?

15 A YES.

16 Q WHAT ABOUT SOMEONE ELSE? IF SOMEONE ELSE IS A JUROR
17 BROKE THAT RULE, WOULD YOU REPORT IT?

18 A IF I WAS ON THE JURY, YES.

19 Q YOU WOULD?

20 A YES.

21 Q AND I HEAR YOU TODAY THAT YOU WOULD FOLLOW THROUGH
22 ALL THE WAY TO THE END OF THE TRIAL IF YOU WERE A JUROR
23 AND YOU WOULD HOLD -- YOU'RE UNDER OATH AND YOU WOULD
24 FOLLOW WHAT YOU JUST SAID. IS THAT CORRECT?

25 A THAT'S WHAT I HAVE BEEN ASKED TO DO.

1 Q HAVE NO FURTHER QUESTIONS.

2 THE COURT: ANY QUESTIONS FROM THE STATE?

3 MR. HUMPHRIES: NOT A THING. THANK YOU.

4 THE COURT: ANY EXCEPTION TO THE JUROR BEING
5 QUALIFIED FROM THE STATE?

6 MR. HUMPHRIES: NONE FROM THE STATE.

7 THE COURT: FROM THE DEFENSE?

8 MR. KELLY: NONE.

9 THE COURT: SIR, YOU HAVE BEEN QUALIFIED AS A
10 JUROR IN THIS CASE. NOW, WHAT THAT MEANS AS I
11 EXPLAINED ON YESTERDAY AND PROBABLY ESCAPED BECAUSE
12 THERE WAS SO MUCH GOING ON YESTERDAY.

13 BUT WHAT WE ARE GOING TODAY IS THE LAW REQUIRES
14 US TO SPEAK TO EACH JUROR INDIVIDUALLY. AND ONCE WE
15 HAVE DONE THAT, WE WILL HAVE WHAT WE CALL A QUALIFIED
16 POOL OF JURORS, AND ALL OF YOU WILL REPORT ON MONDAY
17 AT 9:30.

18 FROM THAT POOL WE WILL PICK 12 JURORS AND EITHER
19 TWO OR THREE ALTERNATES. THOSE WHO ARE NOT SELECTED
20 WOULD BE FREE TO GO ON ABOUT THEIR LIVES AND WILL BE
21 EXCUSED.

22 I NEED YOU TO RETURN ON MONDAY AT 9:30 PACKED
23 FOR TWO WEEKS. OF COURSE, YOU DON'T HAVE TO BRING
24 YOUR LUGGAGE UP HERE. YOU CAN LEAVE IT IN THE CAR.

25 JUROR: THE FACT THAT YOU HAVE RES -- I MEAN...

1 THE COURT: IT'S AT THE END OF THE MONTH. WE
2 WILL BE DONE LONG BEFORE THAT WE ANTICIPATE. WE
3 ANTICIPATE THE TRIAL WILL TAKE TWO WEEKS. WHEN ARE
4 YOUR RESERVATIONS?

5 JUROR: FIRST OF SEPTEMBER, ALREADY. I MADE
6 THEM IN JANUARY. THEY ARE PAID FOR, AND I...

7 THE COURT: YOU WILL BE FINE. WE WON'T BE GOING
8 BEYOND THE TWO WEEKS OF AUGUST. IF WE DO -- ANY
9 POTENTIAL WE HAVE IS TO GO INTO A THIRD WEEK, BUT WE
10 ARE NOT ANTICIPATING THAT, BUT YOU WILL BE DONE
11 LONG -- EVEN IF WE WENT TO THAT THIRD WEEK, YOU WOULD
12 BE DONE LONG BEFORE YOUR TRIP IN SEPTEMBER.

13 JUROR: OKAY. BECAUSE I'M BOOKED.

14 THE COURT: NO, WE--

15 JUROR: MY PAPERWORK WITH ME IN CASE YOU WANTED
16 TO SEE IT.

17 THE COURT: NO. NO. WE'LL BE DONE LONG BEFORE
18 THAT. WE UNDERSTAND THE EXPENSE OF NONREFUNDABLE
19 TICKETS. AGAIN, I NEED YOU TO RETURN PACKED FOR TWO
20 WEEKS.

21 PLEASE DO NOT DISCUSS THIS CASE WITH ANYONE. WE
22 MUST MAKE SURE THAT YOUR IMPARTIALITY IS MAINTAINED.
23 AND IN THE INTERIM, PLEASE DO NOT WATCH, READ, OR
24 LISTEN TO ANY MEDIA ACCOUNTS ABOUT THIS CASE. THAT
25 IS VITALLY IMPORTANT.

1 WE APPRECIATE YOUR TIME AND YOUR PATIENCE. AND
2 IF YOU WOULD RETURN FOR US AT 9:30 ON MONDAY MORNING,
3 AND YOU HAVE A GOOD AFTERNOON. GO GET YOU SOME
4 LUNCH.

5 JUROR: ALL RIGHT.

6 THE COURT: HAVE A GREAT DAY.

7 (JUROR LEFT THE COURTROOM.)

8 THE COURT: JOHN THOMAS, JUNIOR, 321. WE DO NOT
9 HAVE HIM LISTED ON ANY LIST. IS THAT CORRECT?

10 (JUROR ENTERED THE COURTROOM.)

11 MR. HUMPHRIES: CORRECT.

12 JOHN THOMAS, SR., WHITE MALE, TESTIFIED AS
13 FOLLOWS:

14 BY THE COURT:

15 Q HOW ARE YOU TODAY, SIR?

16 A I'M DOING GREAT.

17 Q GOOD. WE APPRECIATE YOUR PATIENCE. I'M FINE.

18 PLEASE STATE YOUR NAME FOR THE RECORD.

19 A JOHN W THOMAS, JUNIOR.

20 Q OKAY. AND SIR, YOU ARE JUROR NUMBER 321; IS THAT
21 CORRECT?

22 A YES, MA'AM.

23 Q AND SIR, I WILL REMIND YOU THAT YOU'RE STILL UNDER
24 OATH. DO YOU UNDERSTAND?

25 A YES, MA'AM.

1 Q SIR, WE ARE GOING TO ASK SOME QUESTIONS OF YOU AND
2 STATE LAW REQUIRES THAT WE SPEAK TO EACH JUROR
3 INDIVIDUALLY IN A CASE OF THIS TYPE. THERE ARE NO RIGHT
4 OR WRONG ANSWERS. WE KNOW THIS CAN BE A LITTLE DAUNTING,
5 BE TALKING TO ALL THESE FOLKS, KIND OF LIKE BEING IN THE
6 HOT SEAT, BUT DON'T FEEL THAT WAY.

7 AGAIN, AS I'VE INDICATED, THERE ARE NO RIGHT OR WRONG
8 ANSWERS. WE JUST NEED YOU TO ANSWER THE QUESTIONS AS
9 FULLY AND HONESTLY AND COMPLETELY AS POSSIBLE. AGAIN,
10 WE'RE NOT TRYING TO INVADE YOUR PRIVACY. WE WILL BE
11 INQUIRING ABOUT SOME OF YOUR VIEWS.

12 AND AGAIN, THERE IS NO RIGHT OR WRONG ANSWER. AMONG
13 OTHER THINGS WE'LL BE TALKING ABOUT PENALTY, BUT THE MERE
14 FACT THAT WE TALK ABOUT PENALTY IS NO REFLECTION ON THE
15 DEFENDANT BECAUSE HE IS PRESUMED INNOCENT IN THE LAW. DO
16 YOU UNDERSTAND?

17 A YES, MA'AM.

18 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
19 YOU LISTEN TO THE LAW?

20 A YES, MA'AM.

21 Q COULD YOU APPLY THE LAW AND ACCEPT IT AS I INSTRUCT
22 IT TO YOU AS THE JUDGE OF THIS COURT?

23 A YES, MA'AM.

24 Q COULD YOU APPLY IT EVEN THOUGH YOU MAY DISAGREE WITH
25 WHAT I TELL YOU THE LAW IS?

1 A YES, MA'AM.

2 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
3 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
4 ANYTHING YOU MAY HAVE READ OR HEARD ABOUT THIS CASE?

5 A YES, MA'AM.

6 Q SIR, HAVE YOU HAD -- BEEN EXPOSED TO ANY MEDIA
7 COVERAGE ABOUT THIS CASE?

8 A YES, MA'AM.

9 Q OKAY. TELL ME -- AS A RESULT OF WHAT YOU MAY HAVE
10 READ OR HEARD, HAVE YOU FORMED ANY FIXED OPINION ABOUT THE
11 FACTS OF THIS CASE?

12 A SOMEWHAT.

13 Q OKAY. BASED ON WHAT YOU FEEL YOU MAY HAVE CONCLUDED
14 COULD YOU PUT ASIDE THAT OPINION IN ITS ENTIRETY AND
15 DECIDE THIS CASE BASED SOLELY ON THE EVIDENCE AS IT WILL
16 BE PRESENTED IN THIS COURTROOM FROM THE LIPS OF SWORN
17 WITNESSES AND THE OTHER EVIDENCE THAT WILL BE INTRODUCED
18 AND APPLY THE LAW AS THE COURT INSTRUCTS AND RENDER A
19 VERDICT BASED SOLELY ON THE EVIDENCE AND THE LAW?

20 A YES, MA'AM.

21 Q OKAY. SIR, IN A CRIMINAL CASE THE STATE HAS THE
22 BURDEN OF PROVING THE DEFENDANT'S GUILT BEYOND A
23 REASONABLE DOUBT. DO YOU UNDERSTAND THAT?

24 A YES, MA'AM.

25 Q DO YOU UNDERSTAND THAT THE DEFENDANT HAS ABSOLUTELY

1 NO BURDEN AT ALL TO PROVE HIS INNOCENCE?

2 A YES, MA'AM.

3 Q SIR, HAVE YOU REVIEWED THE JUROR TYPE SHEET THAT WE
4 HAD IN THE WAITING ROOM?

5 A YES, MA'AM.

6 Q OKAY. DO YOU NEED A FEW MORE MINUTES TO REVIEW IT
7 NOW OR DO YOU REMEMBER?

8 A I REMEMBER.

9 Q SIR, DO YOU FEEL THAT YOU FALL INTO ANY OF THOSE
10 CATEGORIES OF JURORS?

11 A YES, MA'AM.

12 Q AND WHICH ONE IS THAT?

13 A TYPE ONE.

14 Q OKAY. AND YOU'RE CERTAIN WHAT -- AND TYPE ONE IS THE
15 TYPE OF JUROR WHO WHEN CONSIDERING PUNISHMENT IS EITHER
16 UNABLE OR UNWILLING TO EVER GIVE THE DEATH PENALTY IN ANY
17 CASE?

18 A WELL, I GUESS MIND KIND OF FLUCTUATES BECAUSE I COULD
19 GIVE ONE OR TWO TYPES. BUT I DON'T BELIEVE IN THE DEATH
20 PENALTY.

21 Q OKAY.

22 A I MEAN--

23 Q TELL ME, WHEN YOU SAY IT FLUCTUATES BETWEEN ONE OR
24 TWO TYPES, TELL ME WHICH TYPE YOU FEEL YOU FLUCTUATE IN
25 BETWEEN.

1 A WELL, I COULD LISTEN TO THE EVIDENCE AND I COULD GIVE
2 MY VERDICT.

3 Q OKAY.

4 A OKAY? BUT I JUST DON'T BELIEVE IN THE DEATH PENALTY.

5 Q OKAY. DO YOU BELIEVE THAT YOU COULD LAY ASIDE THOSE
6 PERSONAL FEELINGS THAT YOU HAVE ABOUT THE DEATH PENALTY --
7 WELL, ACTUALLY I'M GOING TO ASK -- I'M GOING TO ASK THAT
8 QUESTION A DIFFERENT WAY AND I'M GOING TO -- HOPEFULLY I
9 WILL INQUIRE A LITTLE BIT FURTHER INTO THOSE VIEWS AND I
10 MAY SKIP AHEAD A LITTLE AND COME BACK TO THAT.

11 BUT IN TERMS OF THE TYPE SHEET, DO YOU FEEL THAT YOU
12 FLUCTUATE BETWEEN TYPE ONE AND TYPE THREE? IS THAT AN
13 ACCURATE SUMMARY?

14 A I WOULD SAY SO.

15 Q OKAY. DO YOU ALL WANT ME TO CONTINUE? I THINK MY
16 QUESTIONING WILL COVER SOME OF THIS. AND THEN I WILL GIVE
17 YOU ALL AN OPPORTUNITY TO QUESTION HIM OR DO YOU ALL WANT
18 AN OPPORTUNITY TO QUESTION HIM NOW?

19 MR. HUMPHRIES: GO AHEAD.

20 THE COURT: I THINK QUESTION 11 AND 12, I'D LIKE
21 TO HEAR THE ANSWER TO THOSE. ANY EXCEPTION FROM THE
22 DEFENSE?

23 MR. KELLY: NONE, MA'AM.

24 THE COURT: ANY FROM THE STATE?

25 MR. HUMPHRIES: NO, MA'AM.

1 BY THE COURT:

2 Q OKAY. SIR, IF YOU WERE A JUROR IN A DEATH PENALTY
3 CASE AND THE JURY FOUND THE DEFENDANT GUILTY OF MURDER, WE
4 WOULD THEN MOVE TO THE SENTENCING PHASE OF THE TRIAL. DO
5 YOU UNDERSTAND THAT? NEED TO TELL ME YES OR NO.

6 A YES, MA'AM.

7 Q BECAUSE WE -- THE -- SHE CAN'T RECORD--

8 A YES, MA'AM. ALL RIGHT.

9 Q YEAH. SIR, WHEN WE REACH THAT STAGE, IF WE WERE TO
10 REACH THAT STAGE OF THE TRIAL, THE LAW ALLOWS YOU TO
11 CONSIDER WHAT WE CALL AGGRAVATING CIRCUMSTANCES. AND WHAT
12 THOSE ARE ARE FACTS, INCIDENTS, DETAILS OF AN OCCURRENCE
13 WHICH THE LEGISLATURE HAS DECLARED BY THE LAW WOULD MAKE
14 WORSE, THAT IS AGGRAVATE, THE OFFENSE OF MURDER.

15 IN OTHER WORDS, AN AGGRAVATING CIRCUMSTANCE WHEN
16 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
17 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
18 COMMISSION OF A CRIME.

19 AND SOME EXAMPLES OF THOSE ARE MURDER, MURDERING A
20 CHILD UNDER THE AGE OF 11, WHEN IT'S INVOLVED WITH DRUG
21 TRAFFICKING, KILLING BY POISON, BURGLARY IN ANY DEGREE.
22 AGAIN, THOSE ARE JUST EXAMPLES OF WHAT WOULD BE CONSIDERED
23 AGGRAVATING.

24 THE LAW WOULD ALSO ALLOW YOU TO CONSIDER WHAT WE CALL
25 MITIGATING CIRCUMSTANCES WHICH ARE INCIDENTS, DETAILS,

1 OCCURRENCES WHICH THE LEGISLATURE HAS DECLARED BY ITS LAW
2 REDUCE THE SEVERITY OF THE OFFENSE OF MURDER AND MAY BE
3 CONSIDERED AS EXTENUATING OR AS REDUCING THE DEGREE OF
4 MORAL CULPABILITY OR RESPONSIBILITY.

5 AND SOME OF THOSE EXAMPLES ARE MENTAL RETARDATION AT
6 THE TIME OF THE CRIME, WHETHER SOMEONE WAS ACTING UNDER
7 COERCION OR DURESS, WHETHER THEY WERE JUST AN ACCOMPLICE
8 AND THEIR PARTICIPATION WAS RELATIVELY MINOR. AND AGAIN,
9 THESE ARE JUST EXAMPLES OF MITIGATION.

10 IF YOU WERE A JUROR IN THIS SITUATION, AND I'M
11 REFERRING TO SENTENCING PHASE, COULD YOU DEPENDING ON THE
12 CIRCUMSTANCES OF THE CASE INCLUDING CONSIDERING
13 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND THE COURT'S
14 INSTRUCTION ON THE LAW AT THE CONCLUSION OF THE CASE
15 RETURN A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF
16 PAROLE?

17 A YES.

18 Q COULD YOU UNDER THE SAME CIRCUMSTANCES INCLUDING THE
19 CONSIDERATION OF AGGRAVATING AND MITIGATING CIRCUMSTANCES
20 AND THE LAW AS I WOULD INSTRUCT CONSIDER AND RETURN A
21 SENTENCE OF DEATH, WHICH IN THIS STATE IS BY ELECTROCUTION
22 OR BY LETHAL INJECTION?

23 A NO, MA'AM.

24 Q OKAY. ANY EXCEPTION TO EXCUSING THE JUROR FROM THE
25 STATE?

1 MR. HUMPHRIES: NONE FROM THE STATE.

2 THE COURT: FROM THE DEFENSE?

3 MR. KELLY: NONE.

4 THE COURT: SIR, YOU'RE EXCUSED FROM THE TRIAL
5 OF THIS CASE. PLEASE DO NOT DISCUSS WHAT WE HAVE
6 DISCUSSED WITH YOU. WE APPRECIATE YOUR TIME AND YOUR
7 PATIENCE, AND I HOPE YOU HAVE A GREAT DAY.

8 JUROR: THANK YOU VERY MUCH.

9 THE COURT: YOU'RE WELCOME.

10 (JUROR LEFT COURTROOM.)

11 THE COURT: DO YOU MIND IF I DEAL WITH HER WHILE
12 YOU'RE -- ABSENT JUROR -- COULD Y'ALL GET MRS. NANCE
13 IN HERE, WANDA NANCE, THE NO-SHOW? WAIT ONE SECOND
14 FOR ME WHILE I DEAL WITH ONE THING. AND 313 IS IN
15 RESPONSE TO 21, 22 AND 25.

16 (JUROR WANDA NANCE ENTERED COURTROOM.)

17 THE COURT: MRS. NANCE, HOW ARE YOU? I'M SORRY
18 YOU HAD TO WAIT. IF YOU COULD COME FORWARD FOR ME.
19 WE JUST NEEDED TO KNOW WHY YOU DID NOT RESPOND TO
20 YOUR JUROR SUMMONS ON YESTERDAY.

21 JUROR: I HAVE NO EXCUSE FOR NOT. I AGAIN--

22 THE COURT: I CAN APPRECIATE THE HONESTY. I
23 CAN'T DENY YOU THAT.

24 JUROR: I SIMPLY FORGOT.

25 THE COURT: OKAY. WHAT WE'LL DO THEN IS WE WILL

1 TRANSFER YOU TO ANOTHER TERM OF COURT. IS THERE ANY
2 EXCEPTION FROM THE STATE?

3 MR. HEMBREE: NO, YOUR HONOR.

4 THE COURT: FROM THE DEFENSE?

5 MR. KELLY: NONE..

6 THE COURT: HAVE A WONDERFUL DAY. WE APPRECIATE
7 YOUR PATIENCE.

8 JUROR: I'M SO SORRY AGAIN.

9 THE COURT: THAT'S ALL RIGHT. DO YOU NEED TO
10 SEE HER FOR THAT TRANSFER? DOES SHE NEED TO SEE
11 ANYBODY?

12 THE CLERK: WE WILL SEND YOU ANOTHER SUMMONS.
13 THANK YOU.

14 (JUROR LEFT THE COURTROOM.)

15 THE COURT: WE WILL WAIT ON MR. DIGGS ONE SECOND
16 THEN WE WILL...

17 (WHEREUPON THERE WAS A PAUSE.)

18 THE COURT: PLEASE BRING IN MRS. STULL.

19 (JUROR ENTERED THE COURTROOM.)

20 VIRGINIA STULL, WHITE FEMALE, TESTIFIED AS
21 FOLLOWS:

22 BY THE COURT:

23 Q MRS. STULL, IF YOU'LL COME HAVE A SEAT FOR ME.

24 A RIGHT HERE?

25 Q YES, MA'AM. HOW YOU DOING TODAY?

1 A OKAY.

2 Q YOU DOING ALL RIGHT TODAY, MA'AM?

3 A LITTLE BETTER TODAY.

4 Q GOOD.

5 A WHEW, THAT'S LOUD.

6 Q WE APPRECIATE YOUR PATIENCE. PLEASE STATE YOUR NAME
7 FOR THE RECORD.

8 A VIRGINIA ANN STULL.

9 Q AND MRS. STULL, YOU ARE JUROR NUMBER 313?

10 A YES, MA'AM.

11 Q IS THAT CORRECT? I WILL REMIND YOU THAT YOU'RE STILL
12 UNDER OATH. DO YOU UNDERSTAND?

13 A YES, MA'AM.

14 Q NOW MA'AM, I'M GOING TO ASK YOU SOME QUESTIONS.

15 WE'RE NOT TRYING TO INVADE YOUR PRIVACY. IT'S BECAUSE OF
16 THE NATURE OF THESE TYPE PROCEEDINGS THE LAW REQUIRES US
17 TO TALK TO EACH POTENTIAL JUROR INDIVIDUALLY.

18 A YES, MA'AM.

19 Q AND AGAIN, THERE ARE NO RIGHT OR WRONG ANSWERS, WE
20 JUST NEED YOU TO ANSWER US AS HONESTLY AND TRUTHFULLY AS
21 YOU CAN AND FULLY. DO YOU UNDERSTAND?

22 A YES, MA'AM.

23 Q AMONG OTHER THINGS WE'LL BE TALKING ABOUT PENALTY,
24 BUT THE MERE FACT THAT WE TALK ABOUT PENALTY IS NO
25 REFLECTION ON THE DEFENDANT BECAUSE THE LAW PRESUMES THAT

1 HE IS INNOCENT. DO YOU UNDERSTAND?

2 A YES, MA'AM.

3 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
4 LISTEN TO THE LAW?

5 A YES, MA'AM.

6 Q COULD YOU ACCEPT AND APPLY THE LAW AS THE COURT WOULD
7 INSTRUCT?

8 A YES, MA'AM.

9 Q COULD YOU APPLY AND ACCEPT THE LAW EVEN THOUGH YOU
10 MIGHT DISAGREE WITH WHAT THE COURT SAYS THE LAW IS?

11 A THAT'S A -- I'M NOT SURE ABOUT THAT ONE.

12 Q ARE YOU SAYING THAT IF I TOLD YOU THAT THE STATE OF
13 THE LAW WAS SOMETHING AND YOU DISAGREED WITH WHAT I TOLD
14 YOU IT WAS, THAT YOU COULD NOT FOLLOW MY INSTRUCTION?

15 A I WOULD FOLLOW YOUR INSTRUCTIONS, YES, MA'AM.

16 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
17 EVIDENCE PRESENTED IN THE COURTROOM AND DISREGARD ANYTHING
18 YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

19 A I'M SORRY? COULD YOU REPEAT THAT?

20 Q SURE. I NEED TO KNOW IF YOU CAN DECIDE THIS CASE
21 IRREGARDLESS OF WHAT YOU MAY HAVE HEARD IN THE MEDIA. IN
22 OTHER WORDS, CAN YOU DISREGARD ANYTHING YOU MAY HAVE READ
23 IN THE NEWSPAPER, WATCHED ON TV, OR HEARD ON THE RADIO AND
24 DECIDE THIS CASE SOLELY ON THE EVIDENCE THAT WILL BE
25 PRESENTED FROM THE LIPS OF SWORN WITNESSES AND OTHER

1 EVIDENCE THAT WILL BE INTRODUCED AND THE LAW THAT THE
2 COURT WILL CHARGE AND APPLY THE LAW TO THE EVIDENCE AND
3 RENDER A VERDICT IN THIS CASE?

4 A THAT WOULD BE -- I'M NOT QUITE SURE IF I COULD.

5 Q AND AGAIN, THERE IS NO RIGHT OR WRONG ANSWER.

6 A OKAY. I'M -- I'M NOT SURE IF I COULD. I'M NOT SURE.

7 Q OKAY. HAVE YOU, AS A RESULT OF WHAT YOU HAVE HEARD
8 IN THE MEDIA, FORMED A FIXED OPINION ABOUT THE FACTS IN
9 THIS CASE?

10 A YEAH. PRETTY MUCH SO, YES.

11 Q OKAY. WOULD YOU BE ABLE TO DISREGARD THAT OPINION
12 AND PUT IT ASIDE AND LISTEN AGAIN TO THE EVIDENCE FROM THE
13 LIPS OF SWORN WITNESSES AND APPLY THE LAW AS I WOULD
14 INSTRUCT YOU AND RENDER A VERDICT BASED SOLELY ON THAT
15 EVIDENCE AND THE LAW?

16 A I'M NOT -- I'M NOT SURE IF I COULD.

17 Q OKAY. OKAY.

18 A IF THIS...

19 Q AND THERE IS NO RIGHT OR WRONG ANSWER, BUT I'M GOING
20 TO HAVE TO ASK YOU TO CONFINE IT TO A YES OR A NO FOR ME,
21 AND WHETHER YOU'RE LEANING MORE TOWARD YES OR MORE TOWARD
22 NO. AGAIN, THERE IS NO RIGHT OR WRONG ANSWER. I JUST
23 NEED YOU TO BE HONEST WITH ME AS YOU CAN BE.

24 A YES, MA'AM. OKAY. YOU'RE GOING TO ASK ANOTHER
25 QUESTION?

1 Q NO. I NEED YOU -- WHEN I ASKED IF YOU COULD PUT
2 ASIDE ANY OPINIONS YOU MAY HAVE AND LISTEN ONLY TO THE
3 EVIDENCE -- AND THE WITNESS IS GOING TO BE SITTING RIGHT
4 WHERE THAT DEPUTY IS SITTING. WE ARE GOING TO SWEAR THEM,
5 THEY ARE GOING TO TESTIFY, BOTH -- EVERYBODY IS -- ALL THE
6 WITNESSES THAT ARE CALLED ARE GOING TO BE SWORN, THEY ARE
7 GOING TO TESTIFY, EVIDENCE IS GOING TO BE INTRODUCED.

8 AND I NEED TO KNOW IF LIKE A HORSE WITH BLINDERS YOU
9 CAN BLOCK OUT EVERYTHING ELSE THAT YOU HAVE HEARD, READ,
10 OR SEEN AND LISTEN ONLY TO THAT EVIDENCE AND APPLY THE LAW
11 THAT I'M GOING TO INSTRUCT, AND AS THE FACT FINDER
12 DETERMINE WHAT THE FACTS ARE IN THIS CASE FROM THAT
13 TESTIMONY AND EVIDENCE, APPLY THE LAW AND RENDER A
14 VERDICT?

15 A NO, MA'AM.

16 Q OKAY.

17 THE COURT: ANY EXCEPTION TO EXCUSING THE JUROR
18 FROM THE STATE?

19 MR. HUMPHRIES: NO, MA'AM.

20 THE COURT: FROM THE DEFENSE?

21 MR. KELLY: NONE, MA'AM.

22 THE COURT: MA'AM, YOU'RE EXCUSED. PLEASE DO
23 NOT DISCUSS, HOWEVER, WHAT WE HAVE BEEN DISCUSSING.
24 HAVE A WONDERFUL DAY. WE APPRECIATE YOUR PATIENCE.

25 (JUROR LEFT THE COURTROOM).

1 THE COURT: STEPHEN WALTERS, 343. HE IS IN
2 RESPONSE TO QUESTION 21? AM I CORRECT? QUESTION 21.

3 (JUROR ENTERED THE COURTROOM.)

4 STEPHEN WALTERS, WHITE MALE, TESTIFIED AS
5 FOLLOWS:

6 BY THE COURT:

7 Q SIR, IF YOU WOULD HAVE A SEAT FOR ME. HOW ARE YOU
8 DOING TODAY?

9 A GOOD. HOW ARE YOU?

10 Q FINE. WE APPRECIATE YOUR PATIENCE. HOPE YOU HAD A
11 GOOD NIGHT LAST NIGHT.

12 A I GUESS IT WAS GOOD.

13 Q OKAY. IF YOU WOULD STATE YOUR FULL NAME FOR THE
14 RECORD.

15 A STEPHEN M WALTERS.

16 Q COULD YOU SLIDE OVER A LITTLE MORE FOR ME IN FRONT OF
17 THE MICROPHONE?

18 A STEPHEN M WALTERS.

19 Q THANK YOU, SIR. AND YOU'RE NUMBER IS 343; IS THAT
20 RIGHT?

21 A 343.

22 Q SIR, I WILL REMIND YOU THAT YOU'RE STILL UNDER OATH.
23 DO YOU UNDERSTAND?

24 A YES, MA'AM.

25 Q OKAY. SIR, HAVE YOU READ OR WATCHED ANY MEDIA

1 ACCOUNTS ABOUT THIS CASE DURING THE RECESS?

2 A NO, MA'AM.

3 Q SIR, WE'RE GOING TO ASK SOME QUESTIONS OF YOU. WE'RE
4 NOT TRYING TO INVADE YOUR PRIVACY, BUT STATE LAW REQUIRES
5 IN THE CASE OF THIS TYPE THAT WE SPEAK TO EACH POTENTIAL
6 JUROR INDIVIDUALLY AND INQUIRE OF YOUR VIEWS. WE'RE NOT
7 HERE TO CRITICIZE YOUR VIEWS. WE SIMPLY NEED TO KNOW WHAT
8 THEY ARE.

9 I NEED TO EMPHASIZE THAT THERE ARE NO RIGHT OR WRONG
10 ANSWERS. WE JUST NEED YOU TO ANSWER THESE QUESTIONS AS
11 FULLY AND HONESTLY AND TO THE BEST OF YOUR ABILITY. AND
12 AGAIN, THERE ARE NO RIGHT ANSWERS.

13 AMONG OTHER THINGS WE WILL BE TALKING ABOUT PENALTY
14 IN THIS CASE. AND THERE IS NO REFLECTION ON THE -- ON THE
15 DEFENDANT WHEN WE TALK ABOUT PENALTY BECAUSE HE IS
16 PRESUMED TO BE INNOCENT IN THE LAW. DO YOU UNDERSTAND?

17 A YES, MA'AM.

18 Q SIR, IF YOU WERE A JUROR IN THIS CASE OR IN ANY
19 CRIMINAL CASE, COULD YOU LISTEN TO THE LAW?

20 A YES.

21 Q COULD YOU APPLY AND ACCEPT THE LAW AS I WOULD
22 INSTRUCT AS THE JUDGE OF THIS COURT?

23 A YES.

24 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT IT
25 EVEN THOUGH YOU MIGHT DISAGREE WITH WHAT YOU THINK THE LAW

1 IS OR WHAT IT SHOULD BE? IN OTHER WORDS, CAN YOU APPLY
2 THE LAW EXACTLY AS I TELL YOU IT IS?

3 A YES.

4 Q EVEN THOUGH YOU MIGHT DISAGREE WITH IT?

5 A (NO RESPONSE.)

6 Q DO YOU NEED ME TO RESTATE THE QUESTION?

7 A NO. I THINK, YES.

8 Q YOU THINK YES? OKAY.

9 A I MEAN YES IS MY ANSWER.

10 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
11 EVIDENCE PRESENTED IN THE COURTROOM AND DISREGARD ANYTHING
12 YOU MAY HAVE HEARD IN THE MEDIA?

13 A I'M HUMAN, IT'S IN THE BACK OF YOUR MIND.

14 Q PARDON ME?

15 A I SAY I AM HUMAN, IT IS IN THE BACK OF ONE'S MIND
16 WHAT THEY HAVE SEEN IN THE MEDIA OR HEARD THUS FAR.

17 Q WELL, LET ME ASK THE QUESTION A LITTLE DIFFERENTLY
18 BECAUSE THE LAW REQUIRES A HIGHER BURDEN OF EVEN THAT.
19 AND AGAIN, THERE ARE NO RIGHT OR WRONG ANSWERS, BECAUSE
20 WHAT WE'RE TRYING TO DO TODAY IS DETERMINE AND GET A
21 QUALIFIED POOL OF JURORS FROM WHICH WE WILL SELECT THE
22 ACTUAL JURY PANEL.

23 AND I NEED FOR YOU -- THE BEST EXAMPLE I CAN THINK OF
24 IS YOU KNOW THE WAY A HORSE WEARS BLINDERS SO THEY CAN'T
25 SEE ANYTHING TO THE LEFT OR TO THE RIGHT? I NEED TO KNOW

1 IF YOU CAN BE LIKE THAT HORSE WITH BLINDERS AND LISTEN
2 ONLY TO THE EVIDENCE THAT WILL COME FROM THE LIPS OF SWORN
3 WITNESSES WHO WILL TESTIFY IN THIS CASE AND ONLY CONSIDER
4 THE OTHER EVIDENCE THAT IS INTRODUCED, AND AS -- BECAUSE
5 THE JURY IS THE FACT FINDER -- AND DETERMINE WHAT THE TRUE
6 FACTS ARE IN THIS CASE AND APPLY THE LAW TO THOSE FACTS AS
7 THE COURT WILL INSTRUCT YOU AND MAKE A DECISION BASED
8 SOLELY ON THAT EVIDENCE AND TESTIMONY AND THE COURT'S
9 INSTRUCTIONS.

10 A YES.

11 Q OKAY. SIR, HAVE YOU SEEN ANY MEDIA ACCOUNTS ABOUT
12 THIS CASE IN THE PAST -- NOT LAST NIGHT, BUT...

13 A YES.

14 Q OKAY. AS A RESULT OF WHAT YOU MAY HAVE READ OR
15 HEARD, HAVE YOU FORMED ANY FIXED OPINION ABOUT THE FACTS
16 IN THIS CASE?

17 A YES.

18 Q DO YOU BELIEVE THAT YOU COULD DISREGARD THAT FIXED
19 OPINION AND RENDER A VERDICT IN THIS CASE? IN OTHER
20 WORDS, DISREGARD IT COMPLETELY AND DISABUSE IT FROM YOUR
21 MIND AND FIND AND MAKE A -- COME TO A VERDICT IN THIS CASE
22 BASED SOLELY ON THE EVIDENCE AS IT WILL BE PRESENTED AS I
23 EXPLAINED TO YOU PREVIOUSLY AND ON THE LAW AS THE COURT
24 WILL CHARGE?

25 A YES.

1 Q OKAY. SIR, IN A CRIMINAL CASE THE STATE HAS THE
2 BURDEN OF PROVING THE DEFENDANT'S GUILT BEYOND A
3 REASONABLE DOUBT. DO YOU UNDERSTAND THAT?

4 A YES.

5 Q AND DO YOU ALSO UNDERSTAND THAT THE DEFENDANT HAS NO
6 BURDEN TO PROVE HIS INNOCENCE. IN OTHER WORDS, THE
7 DEFENDANT HAS ABSOLUTELY NO BURDEN AT ALL IN THE LAW. AS
8 A MATTER OF FACT, THE STATE CAN COME IN AND PRESENT A
9 CASE, HIS LAWYERS DON'T HAVE TO GIVE AN OPENING OR A
10 CLOSING ARGUMENT, THEY DON'T HAVE TO PRESENT ANY EVIDENCE,
11 THEY DON'T HAVE TO PUT UP ANYTHING, THEY HAVE ABSOLUTELY
12 NO BURDEN IN THE LAW.

13 THE LAW PRESUMES THAT HE IS INNOCENT. THE STATE IS
14 REQUIRED TO PROVE EACH AND EVERY ELEMENT OF EVERY OFFENSE
15 BEYOND A REASONABLE DOUBT. HE HAS NO BURDEN. DO YOU
16 UNDERSTAND THAT?

17 A YES, I DO.

18 Q COULD YOU -- WELL, ACTUALLY I ALWAYS END UP DOING
19 THAT AND I'M SORRY. SIR, HAVE YOU REVIEWED THE JUROR TYPE
20 SHEET THAT WAS IN THE JURY ROOM WITH YOU?

21 A YES, MA'AM.

22 Q AND DO YOU NEED A FEW MINUTES TO REFRESH YOUR MEMORY
23 ABOUT IT OR DO YOU REMEMBER THE THREE TYPES?

24 A NO, TYPE THREE.

25 Q OKAY. SIR, IF YOU WERE IN -- A JUROR IN THIS CASE

1 AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF MURDER,
2 WE WOULD THEN MOVE TO THE SENTENCING PHASE OF THIS TRIAL.
3 DO YOU UNDERSTAND?

4 A YES.

5 Q AND IN THE SENTENCING PHASE THE LAW ALLOWS YOU TO
6 CONSIDER SEVERAL THINGS, ONE OF WHICH IS WHAT WE CALL
7 AGGRAVATING CIRCUMSTANCES. AND AN AGGRAVATING
8 CIRCUMSTANCE ARE FACTS, INCIDENTS, AND DETAILS OF AN
9 OCCURRENCE WHICH THE LEGISLATURE HAS DECLARED BY LAW WOULD
10 MAKE WORSE, THAT IS AGGRAVATE, THE OFFENSE OF MURDER.

11 IN OTHER WORDS, A AGGRAVATING CIRCUMSTANCES WHEN
12 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
13 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
14 COMMISSION OF A CRIME.

15 AND THE FOLLOWING ARE EXAMPLES OF AGGRAVATING
16 CIRCUMSTANCES, AND THESE ARE ONLY EXAMPLES, IT IS NOT THE
17 ENTIRE LIST. MURDER OF A CHILD UNDER THE AGE OF 11, DRUG
18 TRAFFICKING, KILLING BY POISON, AND BURGLARY IN ANY
19 DEGREE. AGAIN, THESE ARE JUST EXAMPLES.

20 YOU WOULD ALSO HAVE THE ABILITY TO CONSIDER
21 MITIGATING CIRCUMSTANCES WHICH ARE INCIDENTS, DETAILS, OR
22 OCCURRENCES WHICH THE LEGISLATURE HAS DETERMINED BY STATE
23 LAW REDUCES THE SEVERITY OF THE OFFENSE OF MURDER AND MAY
24 BE CONSIDERED AS AN EXTENUATING OR AS REDUCING THE DEGREE
25 OF MORAL CULPABILITY OR RESPONSIBILITY.

1 AND AGAIN, THESE ARE ONLY EXAMPLES THAT I'M GOING TO
2 USE AND THIS IS NOT BY ANY MEANS THE EXHAUSTIVE LIST.
3 MENTAL RETARDATION AT THE TIME OF THE CRIME, THE DEFENDANT
4 WAS PROVOKED BY THE VICTIM, THE DEFENDANT WAS AN
5 ACCOMPLICE AND THEIR PARTICIPATION WAS RELATIVELY MINOR,
6 THAT THE DEFENDANT ACTED UNDER DURESS OR DOMINATION.
7 AGAIN, THESE ARE JUST EXAMPLES.

8 IF YOU WERE A JUROR IN THE GUILT PHASE OF THIS CASE,
9 COULD YOU DEPENDING ON THE FACTS AND CIRCUMSTANCES OF THE
10 CASE INCLUDING CONSIDERING AGGRAVATING AND MITIGATING
11 CIRCUMSTANCES AND THE LAW AS I WOULD INSTRUCT THAT APPLIES
12 RETURN A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF
13 PAROLE?

14 A YES.

15 Q COULD YOU UNDER THOSE VERY SAME CIRCUMSTANCES, AND
16 THAT MEANS CONSIDERING THE AGGRAVATING -- ANY AGGRAVATING
17 AND MITIGATING CIRCUMSTANCES AND THE LAW AS THE COURT
18 WOULD INSTRUCT, RETURN A SENTENCE OF DEATH WHICH IN THIS
19 STATE IS BY ELECTROCUTION OR LETHAL INJECTION?

20 A NOT WITH THE SECOND PART AS FAR AS -- I DON'T RECALL.

21 Q DO YOU UNDERSTAND THE QUESTION OR DO YOU...

22 A YEAH. YOU'RE SAYING COULD YOU RETURN A VERDICT OF
23 DEATH WITH NOT AGGRAVATING -- WHAT WAS THE SECOND WORD?

24 Q MITIGATING.

25 A MITIGATING, MEANING THAT THE PERSON BE MENTALLY

1 RETARDED OR SOMETHING?

2 Q NO. LET ME TELL YOU WHAT I MEAN. WHAT I MEAN IS THE
3 LAW REQUIRES YOU TO CONSIDER BOTH AGGRAVATING AND
4 MITIGATING CIRCUMSTANCES. YOU DON'T HAVE A CHOICE. YOU
5 CAN'T DISREGARD THEM. YOU HAVE TO CONSIDER THE TOTALITY
6 OF IT ALL. OKAY.

7 AND I'M GOING TO REPEAT MY QUESTION AND I WANT YOU TO
8 LISTEN TO ME VERY CAREFULLY. IF YOU WERE A JUROR IN THE
9 DEATH PENALTY -- IN THE PENALTY PHASE OF THIS CASE, COULD
10 YOU DEPENDING UPON THE FACTS AND CIRCUMSTANCES OF THE CASE
11 INCLUDING THE CONSIDERATION OF AGGRAVATING AND MITIGATING
12 CIRCUMSTANCES, AND AGAIN THE LIST OF MITIGATORS THAT I
13 GAVE YOU IS NOT EXHAUSTIVE. THERE ARE MANY.

14 AS A MATTER OF FACT, THE DEFENSE CAN PRESENT
15 MITIGATING CIRCUMSTANCES THAT ARE NOT LISTED, OKAY?
16 ANYTHING THEY FEEL MAY MITIGATE, OR AS I EXPLAINED TO YOU
17 EARLIER, REDUCE THE DEGREE OF CULPABILITY OR
18 RESPONSIBILITY.

19 AFTER CONSIDERING -- INCLUDING THE CONSIDERATION OF
20 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND THE LAW AS I
21 WILL INSTRUCT YOU AT THE CONCLUSION OF THE CASE RETURN A
22 SENTENCE OF DEATH WHICH IN THIS STATE IS BY ELECTROCUTION
23 OR BY LETHAL INJECTION?

24 IN OTHER WORDS, ONCE YOU CONSIDER IT ALL, COULD YOU
25 RETURN A SENTENCE OF DEATH WHICH AGAIN IS BY ELECTROCUTION

1 OR LETHAL INJECTION?

2 A YES.

3 Q SIR, IF YOU WERE CHOSEN FOR THIS JURY, AS I'VE
4 ALREADY EXPLAINED THE JURY WILL BE SEQUESTERED FOR
5 APPROXIMATELY 10 DAYS. WILL THIS RESULT -- I KNOW IT'S
6 GOING TO BE PERSONALLY INCONVENIENT. WE ALREADY ASSUME
7 THAT.

8 WOULD THIS POSE A SERIOUS DANGER TO YOUR HEALTH OR
9 THE WELL-BEING -- OR YOUR WELL-BEING OR ANYBODY WHO IS
10 DEPENDENT UPON YOU?

11 A FINANCIALLY.

12 Q YEAH.

13 A I'M SELF-EMPLOYED. I HAVE ONE EMPLOYEE THAT WORKS
14 FOR ME AND HE DOESN'T GET PAID IF I'M NOT ON THE JOB, SO
15 THAT'S TWO OF US.

16 Q I KNOW. AND UNFORTUNATELY, AS EMPATHETIC AS I AM --
17 BELIEVE ME, I WAS ONCE SELF-EMPLOYED, SO I HAVE MORE
18 EMPATHY THAN YOU COULD EVER REALIZE -- THAT WOULD NOT BE A
19 BASIS -- THE LAW DOESN'T REALLY CONSIDER THAT, THEY ARE
20 TALKING ABOUT, YOU KNOW, LIFE OR LIMB, WHICH, MAKING A
21 LIVELIHOOD IS LIFE OR LIMB, YOU KNOW, DEPENDING ON. OTHER
22 THAN THAT, WOULD IT INTERPOSE ANY, YOU KNOW, SERIOUS RISK
23 OF INJURY TO YOU OR ANY OF YOUR DEPENDENTS?

24 A NO, JUST FINANCIALLY.

25 Q OKAY. AND SIR, IN A CAPITAL CASE IT'S A LITTLE

1 DIFFERENT THAN OTHER CASES. IN OTHER CASES THE VERDICT
2 FORM IS ONLY SIGNED BY THE FOREPERSON. IN A CAPITAL CASE
3 EACH JUROR IS REQUIRED TO SIGN THE VERDICT FORM, WHETHER
4 IT BE FOR A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF
5 PAROLE OR DEATH.

6 DO YOU FEEL IN EITHER OF THOSE CIRCUMSTANCES THAT YOU
7 COULD SIGN A VERDICT FORM?

8 A YES.

9 Q OKAY.

10 THE COURT: ANY QUESTIONS FROM THE STATE?

11 MR. HUMPHRIES: JUST BRIEFLY.

12 THE COURT: YOU MAY PROCEED.

13 BY MR. HUMPHRIES:

14 Q GOOD AFTERNOON. I'M FRAN HUMPHRIES. I'M THE DEPUTY
15 SOLICITOR. I ALONG WITH SOLICITOR HEMBREE WILL REPRESENT
16 THE STATE. I JUST WANT TO -- FOR MY PURPOSES, FOR MY
17 CLARIFICATION, I WANT TO TALK ABOUT COUPLE OF THINGS WITH
18 YOU.

19 AND I BELIEVE THE JUDGE HAS MADE IT VERY CLEAR. BUT
20 I KNOW WE'RE USED TO TALKING IN THE TERMS THAT THE LAWYERS
21 TALK WITH, AND SOMETIMES WHAT'S CLEAR TO US IS NOT CLEAR
22 TO OTHERS. BUT THIS IS A VERY DIFFERENT PROCESS. IT'S A
23 CAPITAL PROCESS. IT'S VERY DIFFICULT FROM A REGULAR
24 CRIMINAL TRIAL.

25 ONE OF THE THINGS THAT'S VERY, VERY DIFFERENT ABOUT

1 THIS IS THAT THE JURY WILL ACTUALLY BE DOING THE
2 SENTENCING. THE COURT HAS MENTIONED THAT A NUMBER OF
3 TIMES. THAT IS, WHATEVER THE 12 JURORS DECIDE SHOULD BE
4 THE SENTENCE IN THIS CASE IN THE PENALTY, LIFE OR DEATH,
5 THAT IS THE SENTENCE THAT THE COURT WILL CARRY OUT. NOT A
6 RECOMMENDATION. IT IS THE SENTENCE.

7 NOW, I NOTICE THERE WAS -- AND IT MAY HAVE JUST BEEN
8 THOSE -- THE QUESTION MIGHT HAVE BEEN COMPOUNDED OR HAD
9 SOME TERMS IN IT THAT WEREN'T FAMILIAR TO YOU, AND I
10 UNDERSTAND THAT.

11 I RECOGNIZED THE FIRST TIME YOU WERE ASKED A QUESTION
12 ABOUT WHETHER OR NOT YOU COULD CONSIDER AGGRAVATING,
13 MITIGATING CIRCUMSTANCES AND IN THAT CASE RETURN A DEATH
14 VERDICT, INITIALLY YOU SAID NO AND MENTIONED MENTAL
15 RETARDATION, WHICH IS ONLY AN EXAMPLE THAT THE JUDGE HAS
16 PROVIDED YOU.

17 WHAT I WANT TO MAKE SURE YOU UNDERSTAND, AND PERHAPS
18 YOU DO AND I JUST DON'T, IS THAT THERE ARE NO SET OF
19 CIRCUMSTANCES, THERE IS NO FORMULA INVOLVED IN THESE CASES
20 THAT WOULD REQUIRE YOU TO REACH A VERDICT OF DEATH. DID
21 YOU UNDERSTAND THAT?

22 A YES.

23 Q YOU WILL ALWAYS HAVE THE OPTION LIFE OR DEATH EVEN IF
24 YOU FIND AGGRAVATING CIRCUMSTANCES, EVEN IF YOU FIND NO
25 EXISTENCE OF MITIGATING CIRCUMSTANCES. DO YOU UNDERSTAND

1 THAT?

2 A YES, SIR.

3 Q AND IN FACT, THE COURT WILL ULTIMATELY CHARGE YOU
4 THAT YOU CAN GIVE A VERDICT OF LIFE FOR ANY OR NO REASON
5 AT ALL, FOR NO REASON AT ALL. SO I WANTED TO MAKE SURE
6 YOU UNDERSTOOD THAT THERE IS NO FORMULA WHICH WOULD EVER
7 REQUIRE YOU TO RENDER A DEATH VERDICT.

8 UNDERSTANDING THAT, UNDERSTANDING IT'S NEVER A
9 REQUIREMENT, COULD YOU NOT ONLY CONSIDER BUT IMPOSE THE
10 DEATH PENALTY WHERE YOU GOT THE RIGHT AMOUNT OF EVIDENCE
11 AND THE RIGHT SET OF CIRCUMSTANCES?

12 A YES, SIR.

13 Q THAT IS ALL WE CAN ASK OF YOU. THANK YOU, SIR.

14 A YOU'RE WELCOME.

15 THE COURT: MR. KELLY, ANY QUESTIONS OF THE
16 POTENTIAL JUROR?

17 MR. KELLY: YES, MA'AM.

18 THE COURT: YOU MAY PROCEED WHEN YOU'RE READY.
19 SIR, IF YOU GIVE MR. KELLY YOUR ATTENTION, BUT MAKE
20 SURE WE CAN STILL HEAR YOU EVEN IF YOU NEED TO SLIDE
21 THIS AROUND A LITTLE BEFORE YOU SO THE COURT REPORTER
22 CAN TAKE DOWN YOUR RESPONSE. THANK YOU SO MUCH.

23 BY MR. KELLY:

24 Q MR. WALTERS, I'M GERALD KELLY. I'D LIKE TO ASK YOU A
25 FEW QUESTIONS.

1 A YES, SIR.

2 Q I NOTICE BY EXAMINING YOUR JUROR QUESTIONNAIRE THAT
3 YOU SAY THAT YOU HAD A RELATIVE AND CLOSE FRIEND THAT WAS
4 IN LAW ENFORCEMENT?

5 A YES, SIR, I DO.

6 Q WHO WOULD THAT BE? WHO IS THAT?

7 A HIS NAME IS KEVIN VIBE (SIC.) HE'S MY COUSIN.

8 Q DOES HE LIVE HERE?

9 A HE'S IN CONWAY.

10 Q CONWAY?

11 A SOUTH CAROLINA.

12 Q OKAY. AND SO IS THAT THE -- IS THAT THE SAME PERSON,
13 CLOSE FRIEND AND RELATIVE?

14 A YES, SIR.

15 Q THAT'S THE ONE PERSON?

16 A (NODDED.)

17 Q IF YOU WERE CHOSEN AS A JUROR, WOULD YOU BE ABLE TO
18 PUT ASIDE ANY FRIENDSHIP WITH HIM THAT MIGHT IN ANY WAY
19 INTERFERE WITH YOUR INDEPENDENT JUDGMENT? COULD YOU DO
20 THAT?

21 A YES, SIR.

22 Q YOU KNOW, SOME PEOPLE ARE -- WHEN THEY ARE AFRAID TO
23 GO BACK INTO THE COMMUNITY AND TO THEIR FRIENDS AND
24 RELATIVES AND SAY I DID THIS OR I DID THAT. IT AFFECTS
25 THEM IN THE COURTROOM. WOULD THAT HAPPEN TO YOU?

1 A NO, SIR.

2 Q OKAY. YOU SAID THAT THERE'D BE SOME FINANCIAL
3 DISTRESS OR PROBLEM BY SERVING AS A JUROR; CORRECT?

4 A YES, SIR.

5 Q IF YOU WERE A JUROR HERE, WOULD THAT INTERFERE? THIS
6 COULD BE A LONG TRIAL, COULD BE 10 DAYS.

7 A IT WOULD BE.

8 Q OKAY. WHAT WE WANT TO MAKE SURE -- WHAT I WANT TO
9 ASK YOU IS, WOULD THAT DISTRACT YOU TO THE EXTENT THAT YOU
10 MIGHT NOT BE ABLE TO GIVE THE FULL ATTENTION TO WHAT GOES
11 ON IN THE COURTROOM?

12 A NO, SIR.

13 Q YOU'D BE ABLE TO PUT YOUR FAMILY AND FINANCIAL
14 SITUATION COMPLETELY OUT OF YOUR MIND?

15 A IT'S SOMETHING YOU WOULD THINK ABOUT, BUT I MEAN, I'M
16 NOT GOING TO BE SITTING HERE THINKING ABOUT WHERE THE NEXT
17 DOLLAR IS COMING FROM TO WHERE THAT WOULD INTERFERE WITH
18 MY DECISION MAKING.

19 Q IF IT -- IF IT DID, MR. WALTERS, WOULD YOU JUST
20 SIMPLY TELL THE COURT, INFORM THEM, I HAVE REACHED A POINT
21 WHERE I REALLY CAN'T KEEP MY MIND ON THINGS BECAUSE I'M SO
22 WORRIED ABOUT MY FAMILY AND MY FINANCES. YOU'D DO THAT;
23 WOULDN'T YOU?

24 A YES, SIR, THAT'S...

25 Q YOU KNOW, THE -- ARE YOU THE TYPE PERSON WHO IS

1 INDEPENDENT, MAKE UP YOUR OWN MIND YOURSELF?

2 A YES, SIR.

3 Q AND WOULD YOU BE INDEPENDENT, MAKE UP YOUR OWN MIND
4 ON THE EVIDENCE?

5 A AFTER I HEARD THE EVIDENCE, YES.

6 Q AND ONLY THE EVIDENCE THAT WOULD COME IN THIS ROOM,
7 NOTHING YOU HAVE HEARD BEFORE, BUT JUST HERE?

8 A RIGHT.

9 Q AND WOULD YOU -- YOU'D BE ABLE TO PUT OUT OF YOUR
10 MIND COMPLETELY ANYTHING YOU HAD EARLIER BECAUSE IT MIGHT
11 NOT HAVE THE SAME RELIABILITY OR EVEN HAVE TOUCHED THE
12 ISSUES HERE IN THIS ROOM. YOU REALIZE THAT?

13 A THIS WOULD BE THE FACTS THAT I WOULD HERE--

14 Q AND YOU'D BE ABLE TO--

15 A -- AND THAT'S WHAT I WOULD PROCESS.

16 Q THANK YOU, SIR. I HAVE NO FURTHER QUESTIONS.

17 JUROR: THANK YOU.

18 MR. HUMPHRIES: NOTHING FURTHER.

19 THE COURT: ANY EXCEPTION TO THE JUROR BEING
20 ACCEPTED FROM THE STATE?

21 MR. HUMPHRIES: NONE FROM THE STATE.

22 THE COURT: QUALIFIED, RATHER. I'M SORRY. FROM
23 THE DEFENSE?

24 MR. KELLY: NO, MA'AM.

25 THE COURT: SIR, YOU HAVE BEEN FOUND QUALIFIED

1 TO SERVE ON THIS PANEL. AND I'M GOING TO EXPLAIN TO
2 YOU WHAT THAT MEANS BECAUSE I THINK YESTERDAY WAS A
3 VERY BUSY DAY AND PROBABLY STRESSFUL FOR EVERYBODY
4 INVOLVED.

5 BECAUSE WE KNOW WHAT'S GOING ON, SOMETIMES WE
6 JUST ASSUME EVERYBODY SORT OF UNDERSTANDS OUR LEGAL
7 LINGO, AND THAT ISN'T ALWAYS THE CASE. SO WHAT WE
8 ARE DOING IS, LIKE I SAID, STATE LAW REQUIRES US TO
9 TALK TO EVERYBODY INDIVIDUALLY.

10 AND FROM TALKING TO EVERYONE INDIVIDUALLY, WE
11 WILL COME UP WITH WHAT IS CALLED A QUALIFIED POOL OF
12 CANDIDATES FOR JURY SERVICE ON THIS JURY WHICH MEANS
13 THAT FROM THE PEOPLE WHO ARE FOUND QUALIFIED IN THE
14 NEXT FEW DAYS, WE WILL THEN PICK THE JURY OF 12 AND
15 ALTERNATES OF TWO.

16 SO WHAT I NEED FOR YOU TO DO IS TO RETURN ON
17 MONDAY AT 9:30 TO THIS COURTROOM PACKED FOR 10 DAYS.
18 OF COURSE, YOU DON'T HAVE TO BRING YOUR LUGGAGE UP
19 HERE. YOU CAN LEAVE IT IN YOUR VEHICLE. AND AT THAT
20 TIME WE WILL SELECT A JURY PANEL.

21 DURING THIS BREAK, HOWEVER, I NEED FOR YOU NOT
22 TO DISCUSS ANYTHING THAT HAS BEEN DISCUSSED WITH YOU
23 DURING THIS QUESTIONING PROCESS. I NEED FOR YOU TO
24 MAKE -- NOT MAKE EVERY ATTEMPT, I NEED FOR YOU TO
25 STRICTLY ABIDE BY MY INSTRUCTION TO HAVE NO MEDIA

1 EXPOSURE TO THIS CASE.

2 YOU'RE NOT TO DO ANY INDEPENDENT RESEARCH OF ANY
3 TYPE ON THE INTERNET OR OTHERWISE. AND PLEASE DON'T
4 HAVE ANY DISCUSSION WITH ANYONE ABOUT THIS CASE AT
5 ALL. DON'T SPECULATE ABOUT WHAT YOU THINK IT COULD
6 BE ABOUT OR MAY BE ABOUT.

7 AND IF ANYBODY TRIES TO DISCUSS IT WITH YOU, YOU
8 NEED TO SAY I CANNOT DISCUSS IT, I WILL BE VIOLATING
9 THE COURT RULES. AND HAVE A WONDERFUL DAY AND WE
10 APPRECIATE YOUR PATIENCE. WE WILL SEE YOU ON MONDAY.

11 JUROR: THANK YOU VERY MUCH.

12 THE COURT: YOU'RE WELCOME, SIR.

13 (JUROR LEFT THE COURTROOM.)

14 THE COURT: SHEILA SMITH, 395.

15 (JUROR ENTERED THE COURTROOM.)

16 SHEILA SMITH, BLACK FEMALE, TESTIFIED
17 AS FOLLOWS:

18 BY THE COURT:

19 Q HI, HOW ARE YOU? DON'T YOU LOOK LIKE SUMMER TODAY.
20 WE APPRECIATE YOUR PATIENCE.

21 A OKAY.

22 Q YOU DOING OKAY THIS MORNING, THIS AFTERNOON?

23 A OKAY.

24 Q MA'AM, IF YOU WOULD STATE YOUR NAME FOR THE RECORD.

25 A SHEILA SMITH.

1 Q AND MRS. SMITH, YOU ARE JUROR 395; IS THAT CORRECT?

2 A CORRECT.

3 Q AND MA'AM, I WILL REMIND YOU THAT YOU'RE STILL UNDER
4 OATH. DO YOU UNDERSTAND?

5 A YES.

6 Q AND DID YOU WATCH OR READ ANY MEDIA REPORTS ABOUT
7 THIS CASE ON LAST EVENING?

8 A NO, I DID NOT.

9 Q MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS.
10 BECAUSE OF THE NATURE OF THESE PROCEEDINGS STATE LAW
11 REQUIRES THAT WE TALK TO EVERY JUROR INDIVIDUALLY.

12 A OKAY.

13 Q WE'RE NOT TRYING TO INVADE YOUR PRIVACY. THERE ARE
14 NO RIGHT OR WRONG ANSWERS. WE JUST NEED YOU TO ANSWER US
15 FULLY AND COMPLETELY AND HONESTLY TO THE BEST OF YOUR
16 ABILITY. AND AGAIN, WE ARE NOT CHALLENGING ANY OF YOUR
17 VIEWS. WE SIMPLY NEED TO KNOW WHAT YOUR VIEWS ARE.

18 A OKAY.

19 Q OKAY? DO YOU UNDERSTAND?

20 A YEAH.

21 Q AMONG OTHER THINGS WE WILL BE TALKING ABOUT PENALTY,
22 BUT THE MERE FACT THAT WE TALK ABOUT PENALTY DOES NOT
23 INDICATE ANYTHING ABOUT THE DEFENDANT BECAUSE HE IS
24 PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND?

25 A YES.

1 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
2 YOU LISTEN TO THE LAW?

3 A YES.

4 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
5 INSTRUCT AS THE JUDGE OF THIS COURT?

6 A YES.

7 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN -- AS I
8 INSTRUCT YOU EVEN THOUGH YOU MAY DISAGREE WITH WHAT I TELL
9 YOU THE LAW IS?

10 A YES.

11 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
12 EVIDENCE PRESENTED IN THE COURTROOM AND DISREGARD ANYTHING
13 YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

14 A YES.

15 Q HAVE YOU HEARD, READ, OR SEEN ANY MEDIA COVERAGE,
16 THAT INCLUDES ANYTHING ON THE RADIO, NEWSPAPER,
17 TELEVISION, OR INTERNET ABOUT THIS CASE?

18 A NO.

19 Q OKAY. I MEAN, I DON'T MEAN LAST NIGHT. I MEAN IN
20 GENERAL.

21 A OH, YES. YES, I HAVE, YES.

22 Q AS A RESULT OF WHAT YOU MAY HAVE BEEN EXPOSED TO,
23 HAVE YOU FORMED ANY FIXED OPINION ABOUT THE FACTS IN THIS
24 CASE? AND THERE IS NO RIGHT OR WRONG ANSWER.

25 A UM...

1 Q A FIXED OPINION IS AN OPINION THAT BASICALLY IMPLIES
2 THAT YOU HAVE ALREADY MADE UP YOUR MIND AND THERE'S
3 NOTHING ELSE YOU FEEL YOU NEED TO LISTEN TO?

4 A OH, NO.

5 Q OKAY. YOU HAVE NOT FORMED A FIXED OPINION?

6 A NO.

7 Q MA'AM, ANY OPINION THAT YOU HAVE FORMED, DO YOU
8 FEEL -- AND I HAVE BEEN USING THIS EXAMPLE BECAUSE IT'S
9 THE BEST ONE I CAN THINK OF. CAN YOU BE LIKE A HORSE WITH
10 BLINDERS?

11 IN OTHER WORDS, DISREGARD AND DISABUSE YOUR MIND
12 COMPLETELY OF ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN
13 ABOUT THIS CASE AND DECIDE THE CASE BASED SOLELY ON THE
14 EVIDENCE AND TESTIMONY THAT WILL BE FROM THE LIPS OF SWORN
15 WITNESSES FROM THIS WITNESS STAND AND THE OTHER EVIDENCE
16 THAT WILL BE INTRODUCED AND THE LAW THAT THE COURT WILL
17 APPLY, WILL CHARGE YOU, IN OTHER WORDS INSTRUCT YOU, AND
18 APPLY THE LAW TO THOSE FACTS AND RENDER A TRUE AND JUST
19 VERDICT IN THIS CASE?

20 A YES.

21 Q OKAY. IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
22 PROVING GUILT BEYOND A REASONABLE DOUBT. THE DEFENDANT
23 HAS NO BURDEN TO PROVE HIS INNOCENCE. HE HAS ABSOLUTELY
24 NO BURDEN IN THIS CASE. DO YOU UNDERSTAND?

25 A YES.

1 Q HAVE YOU REVIEWED THE JUROR TYPE FORM THAT WAS IN THE
2 JURY ROOM?

3 A YES.

4 Q AND DO YOU NEED TO LOOK AT IT FOR A MOMENT TO REFRESH
5 YOUR MEMORY OR DO YOU REMEMBER THE JUROR TYPES?

6 A I REMEMBER.

7 Q DO YOU FEEL THAT YOU FIT INTO ANY OF THOSE
8 CATEGORIES?

9 A YES.

10 Q AND WHICH ONE DO YOU FEEL?

11 A TYPE ONE.

12 Q OKAY. AND TYPE ONE IS THE TYPE OF JUROR WHO FEELS
13 THAT NO MATTER WHAT THE CIRCUMSTANCES, YOU ARE EITHER
14 UNWILLING OR UNABLE TO GIVE THE DEATH PENALTY IN ANY CASE;
15 IS THAT CORRECT?

16 A CORRECT.

17 Q OKAY.

18 THE COURT: ANY QUESTIONS FROM THE STATE?

19 MR. HUMPHRIES: NONE FROM THE STATE.

20 THE COURT: ANY FROM THE DEFENSE?

21 MR. KELLY: NONE, MA'AM.

22 THE COURT: ANY EXCEPTION TO THE JUROR BEING
23 EXCUSED FROM THE STATE?

24 MR. HUMPHRIES: NONE FROM THE STATE.

25 THE COURT: FROM THE DEFENSE?

1 MR. KELLY: NONE, MA'AM.

2 THE COURT: MA'AM, YOU'RE EXCUSED WITH THE
3 COURT'S THANKS. PLEASE, HOWEVER, DO NOT DISCUSS
4 ANYTHING THAT WAS DISCUSSED DURING THIS INDIVIDUAL
5 VOIR DIRE.

6 JUROR: OKAY.

7 THE COURT: THANK YOU. HAVE A GREAT DAY. .

8 (JUROR LEFT THE COURTROOM.)

9 THE COURT: JUROR DAVID DUBOIS.

10 (JUROR ENTERED THE COURTROOM.)

11 DAVID DUBOIS, WHITE MALE, TESTIFIED AS

12 FOLLOWS:

13 BY THE COURT:

14 Q MR. DUBOIS, HOW ARE YOU?

15 A FINE.

16 Q IF YOU WOULD HAVE A SEAT FOR US.

17 A HERE?

18 Q YOU DOING OKAY TODAY?

19 A JUST FINE.

20 Q GOOD. WE APPRECIATE YOUR PATIENCE, SIR. STATE YOUR
21 NAME FOR THE RECORD.

22 A DAVID DUBOIS.

23 Q DUBOIS. I'M SORRY THAT I MISPRONOUNCED IT.

24 A DUBOIS, DUBOIS, EITHER.

25 Q OKAY. AND YOU ARE JUROR...

1 A EIGHTY-FOUR.

2 Q EIGHTY-FOUR. AND SIR, I REMIND YOU THAT YOU'RE STILL
3 UNDER OATH. DO YOU UNDERSTAND?

4 A YES.

5 Q AND DID YOU IN ANY WAY VIOLATE THE COURT'S CAUTIONING
6 OF NOT BEING EXPOSED TO ANY MEDIA ACCOUNTS ABOUT THIS CASE
7 LAST NIGHT?

8 A NO.

9 Q OKAY.

10 THE COURT: WE HAVE A RESPONSE TO QUESTION 21.
11 IS THAT EVERYONE ELSE'S REFLECTION?

12 MR. HUMPHRIES: YES, YOUR HONOR.

13 BY THE COURT:

14 Q SIR, WE'RE GOING TO ASK YOU SOME QUESTIONS. WE'RE
15 NOT TRYING TO INVADE YOUR PRIVACY. BECAUSE OF THE NATURE
16 OF THIS CASE, STATE LAW REQUIRES THAT WE TALK TO EACH
17 POTENTIAL JUROR INDIVIDUALLY.

18 NOW, THERE ARE NO RIGHT OR WRONG ANSWERS. THE ONLY
19 THING THAT WE ASK OF YOU IS YOU ANSWER US AS HONESTLY,
20 FULLY, AND COMPLETELY AS POSSIBLE. AND AGAIN, THERE ARE
21 NO RIGHT OR WRONG ANSWERS. WE'RE GOING TO INQUIRE INTO
22 SOME OF YOUR VIEWS. AGAIN, WE'RE NOT CHALLENGING YOUR
23 VIEWS, IT'S THAT WE SIMPLY NEED TO KNOW WHAT YOUR VIEWS
24 ARE, OKAY?

25 A YES.

1 Q NOW, AMONG OTHER THINGS WE WILL BE TALKING ABOUT
2 PENALTY. AND BECAUSE WE TALK ABOUT PENALTY, THAT IN NO
3 WAY IS A REFLECTION ON THE DEFENDANT BECAUSE THE LAW
4 PRESUMES HIM TO BE INNOCENT. DO YOU UNDERSTAND?

5 A YES, I DO.

6 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
7 YOU LISTEN TO THE LAW?

8 A YES.

9 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
10 INSTRUCT YOU AS THE JUDGE OF THIS COURT?

11 A YES.

12 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
13 MAY DISAGREE WITH IT?

14 A YES.

15 Q SIR, COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
16 EVIDENCE PRESENTED IN THE COURTROOM AND DISREGARD ANYTHING
17 YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

18 A YES.

19 Q SIR, HAVE YOU READ, SEEN, OR HEARD ANY MEDIA COVERAGE
20 ABOUT THIS CASE?

21 A I THINK SO.

22 Q NOT LAST NIGHT BUT BEFORE, PREVIOUSLY.

23 A I HAD -- I HAVE A GENERAL AWARENESS, SO I MUST HAVE.

24 Q OKAY. AS A RESULT OF WHAT YOU MAY HAVE BEEN EXPOSED
25 TO, HAVE YOU FORMED A FIXED OPINION ABOUT THE FACTS AND

1 CIRCUMSTANCES IN THIS CASE? IN OTHER WORDS, IS YOUR MIND
2 ALREADY MADE UP OR -- THAT'S WHAT FIXED OPINION MEANS.

3 A WELL, MY THOUGHTS ON THAT ARE WHEN SOMEONE HEARS OF
4 SUCH AN INCIDENT OR HEARS A CONVERSATION, TYPICALLY THE
5 LEGAL EXPRESSION ALLEGEDLY DOES NOT OCCUR IN MY MIND AT
6 LEAST. YOU ALMOST VIEW IT AS A FACT. DID YOU HEAR ABOUT
7 SOMETHING, SUCH A GUY WHO DID SUCH AND SUCH.

8 NOW, DID YOU HEAR ABOUT SUCH A GUY -- SUCH A GUY WHO
9 ALLEGEDLY DID SUCH AND SUCH. SO YOU ALMOST FORM A
10 CONCLUSION ON THAT BASIS.

11 Q OKAY. NOW, AS A RESULT OF WHAT YOU -- WHAT THE
12 OPINION YOU MIGHT HOLD, DO YOU BELIEVE AND AGAIN I USE THE
13 BEST EXAMPLE I KNOW WHICH IS LIKE A HORSE WITH BLINDERS,
14 AND YOU KNOW A HORSE WHEN THEY ARE RIDING THEY HAVE
15 BLINDERS, AND IT'S FOR A VERY GOOD REASON, BECAUSE A HORSE
16 GETS EASILY DISTRACTED?

17 A YES.

18 Q AND CAN GET OFF TRACK. DO YOU FEEL JUST LIKE USING
19 THAT EXAMPLE THAT YOU COULD PUT BLINDERS ON AND DISREGARD
20 AND DISABUSE YOUR MIND OF ANY OPINION YOU MAY HAVE
21 FORMED -- AND THERE'S MORE TO THE QUESTION--

22 A ALL RIGHT.

23 Q -- AND LISTEN TO THE WITNESSES WHO WILL SIT VERY MUCH
24 LIKE WHERE MY DEPUTY IS SITTING AND THEY WILL BE SWORN AND
25 THEY WILL PRESENT TESTIMONY, AND OTHER EVIDENCE WILL BE

1 PRESENTED INTO THIS PROCEEDING, AND THE COURT WILL
2 INSTRUCT YOU ON THE LAW.

3 AND DO YOU FEEL THAT YOU COULD MAKE A DECISION BASED
4 ONLY ON THOSE WITNESSES, THE EVIDENCE, AND THE LAW AS THE
5 COURT WILL CHARGE?

6 A YES.

7 Q OKAY. AND HAVE YOU LOOKED AT THE JUROR TYPE SHEET?

8 A THAT WHAT THIS IS?

9 Q YEAH, THAT WAS IN THE JURY ROOM. DID YOU HAVE AN
10 OPPORTUNITY TO READ IT?

11 A YES, I DID.

12 Q DO YOU FEEL THAT -- DO YOU REMEMBER WHAT TYPE ONE,
13 TYPE TWO, AND TYPE THREE ARE?

14 A YES.

15 Q DO YOU FEEL THAT YOU FIT INTO ANY OF THOSE
16 CATEGORIES?

17 A THREE SEEMED TO FIT PRETTY WELL.

18 Q YOU WANT TO REVIEW IT AGAIN?

19 A YES.

20 Q AND MAKE SURE?

21 A NUMBER THREE.

22 Q OKAY. SIR, AND I MAY HAVE ALREADY ASKED THIS
23 QUESTION, BUT BEAR WITH ME IF I HAVE. DO YOU UNDERSTAND
24 THAT THE STATE HAS THE BURDEN OF PROVING GUILT BEYOND A
25 REASONABLE DOUBT AND THE DEFENDANT HAS NO BURDEN TO PROVE

1 HIS INNOCENCE?

2 A YES, I DO.

3 Q SIR, IF YOU WERE A JUROR IN A DEATH PENALTY CASE AND
4 IF THE JURY FOUND THE DEFENDANT GUILTY OF MURDER, WE WOULD
5 THEN MOVE TO WHAT IS CALLED THE SENTENCING PHASE OF THE
6 TRIAL. DO YOU UNDERSTAND?

7 A YES.

8 Q AND SIR, DURING THE SENTENCING PHASE YOU WOULD BE
9 ALLOWED TO CONSIDER WHAT WE CALL AGGRAVATING
10 CIRCUMSTANCES. AND AN AGGRAVATING CIRCUMSTANCE ARE FACTS,
11 INCIDENTS, DETAILS, OR AN OCCURRENCE WITH WHICH THE
12 LEGISLATURE HAS DECLARED BY LAW WOULD MAKE WORSE, THAT IS
13 AGGRAVATE, THE OFFENSE OF MURDER.

14 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
15 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
16 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
17 COMMISSION OF A CRIME.

18 AND I'M GOING TO GIVE YOU SOME EXAMPLES BECAUSE
19 SOMETIMES IT'S HARD FOR PEOPLE TO VISUALIZE WHAT I'M
20 TALKING ABOUT. THIS LIST, HOWEVER, IS NOT EXCLUSIVE, BUT
21 I'M JUST GIVING IT TO YOU BY WAY OF EXAMPLE. THE MURDER
22 OF A CHILD UNDER AGE 11, DRUG TRAFFICKING, KILLING BY
23 POISON, BURGLARY IN ANY DEGREE. AGAIN, THESE ARE JUST
24 EXAMPLES.

25 YOU WOULD ALSO BE ALLOWED TO CONSIDER WHAT WE CALL

1 MITIGATING CIRCUMSTANCES. AND AGAIN, THESE ARE INCIDENTS,
2 DETAILS, OCCURRENCES WHICH THE GENERAL ASSEMBLY HAS
3 DECLARED BY STATE LAW REDUCES THE SEVERITY OF AN OFFENSE
4 OF MURDER AND MAY BE CONSIDERED AS EXTENUATING
5 CIRCUMSTANCES OR AS REDUCING THE DEGREE OF MORAL
6 CULPABILITY OR RESPONSIBILITY.

7 AND AGAIN, THESE ARE JUST EXAMPLES. THIS IS NOT AN
8 EXCLUSIVE LIST. MENTAL RETARDATION AT THE TIME OF THE
9 CRIME, THE DEFENDANT WAS PROVOKED BY THE VICTIM, THE
10 DEFENDANT WAS AN ACCOMPLICE AND THEIR PARTICIPATION WAS
11 RELATIVELY MINOR, THE DEFENDANT ACTED UNDER DURESS OR
12 DOMINATION. AGAIN, THESE ARE JUST EXAMPLES.

13 IF YOU WERE A JUROR IN THE PENALTY PHASE OF THIS
14 TRIAL, COULD YOU DEPENDING UPON THE PARTICULAR FACTS AND
15 CIRCUMSTANCES, INCLUDING CONSIDERING AGGRAVATING AND
16 MITIGATING CIRCUMSTANCES AND THE LAW THAT I WILL INSTRUCT
17 THAT APPLIES AT THE CONCLUSION OF THE CASE RETURN A
18 VERDICT -- RETURN A SENTENCE OF LIFE IN PRISON WITHOUT THE
19 POSSIBILITY OF PAROLE?

20 A YES.

21 Q COULD YOU UNDER THOSE SAME CIRCUMSTANCES THAT I JUST
22 EXPLAINED RETURN A SENTENCE OF DEATH WHICH IN THIS STATE
23 IS BY ELECTROCUTION OR BY LETHAL INJECTION?

24 A YES.

25 Q SIR, IF YOU WERE CHOSEN AS I HAVE INDICATED EARLIER

1 IN GENERAL QUALIFICATION, WE ARE GOING TO SEQUESTER THE
2 JURY WHICH IS HOUSE YOU IN A MOTEL FOR APPROXIMATELY 10
3 DAYS.

4 WOULD THIS, EXCEPT THE PERSONAL INCONVENIENCE,
5 BECAUSE WE RECOGNIZE ALREADY THAT IT'S GOING TO BE
6 PERSONALLY INCONVENIENT BOTH TO YOUR FAMILY AND TO YOUR
7 PERSONAL LIFE AND BUSINESS, WOULD THIS POSE A SERIOUS
8 DANGER TO YOUR HEALTH OR WELL-BEING OR THOSE DEPENDENT
9 UPON YOU?

10 A NO.

11 Q NOW SIR, IN A CASE OF THIS TYPE, WHICH IS A LITTLE
12 DIFFERENT THAN OTHER CASES. IN OTHER CASES WHEN WE HAVE A
13 VERDICT, ONLY THE FOREPERSON SIGNS THE FORM OF THE
14 VERDICT.

15 IN THIS CASE THERE IS WHAT WE CALL A RECOMMENDATION
16 OF SENTENCE. AND SO EACH JUROR IS REQUIRED TO SIGN THAT
17 FORM INDIVIDUALLY. WOULD YOU BE ABLE TO SIGN THAT VERDICT
18 FORM IN THE EVENT OF A LIFE WITHOUT THE POSSIBILITY OF
19 PAROLE OR DEATH SENTENCE?

20 A YES.

21 THE COURT: ARE THERE ANY QUESTIONS FROM THE
22 STATE?

23 MR. HUMPHRIES: NONE FROM THE STATE.

24 THE COURT: FROM THE DEFENSE?

25 MR. KELLY: NO, MA'AM.

1 THE COURT: OKAY. ANY EXCEPTION TO THE JUROR
2 BEING QUALIFIED?

3 MR. HUMPHRIES: NONE, YOUR HONOR.

4 MR. KELLY: NO, MA'AM.

5 THE COURT: SIR, YOU HAVE BEEN FOUND QUALIFIED.
6 WHAT WE NEED YOU TO DO FOR US IS I NEED YOU TO RETURN
7 ON MONDAY AT 9:30 PACKED FOR 10 DAYS. OF COURSE, YOU
8 DON'T HAVE TO BRING YOUR CLOTHES UPSTAIRS.

9 YOU CAN LEAVE IT IN THE CAR. IF YOU'RE SELECTED
10 FOR THE JURY, WE WILL MAKE PROVISIONS FOR CHECK INTO
11 THE HOTEL AND OTHERWISE.

12 JUROR: RETURN MONDAY.

13 THE COURT: 9:30, BUT BE PACKED FOR 10 DAYS
14 BECAUSE IF SELECTED YOU'RE NOT GOING TO BE ABLE TO GO
15 BACK HOME. WAIT ONE SECOND FOR ME. I NEED TO GIVE
16 YOU SOME MORE INSTRUCTIONS. WHAT WE'RE DOING NOW IS
17 BY SPEAKING TO EACH INDIVIDUAL JUROR, WE ARE CREATING
18 A POOL OF QUALIFIED JURORS.

19 AND FROM THAT POOL ON MONDAY WE WILL SELECT THE
20 ACTUAL JURY WHICH WILL CONSIST OF 12 JURORS AND TWO
21 OR MAYBE THREE ALTERNATES. OKAY?

22 NOW, DURING THIS BREAK PLEASE STRICTLY ABIDE BY
23 THE COURT'S INSTRUCTION. DON'T ALLOW YOURSELF TO BE
24 EXPOSED TO ANY MEDIA ACCOUNTS OF THIS CASE. THAT
25 INCLUDES ANYTHING RADIO, NEWSPAPER, INTERNET,

1 TELEVISION, ANY ACCOUNTS.

2 PLEASE DON'T ALLOW YOURSELF TO BE INVOLVED IN
3 ANY DISCUSSION ABOUT THE CASE WITH ANYONE UNDER ANY
4 CIRCUMSTANCES. AND IF ANYONE APPROACHES YOU, JUST
5 LET THEM KNOW I CAN'T VIOLATE THE COURT'S
6 INSTRUCTION, I CAN BE FOUND IN CONTEMPT, AND I CANNOT
7 TALK ABOUT THIS CASE.

8 AND IF SOMEONE DOES TRY TO TALK TO YOU, YOU NEED
9 TO REPORT IT TO THE COURT SO THAT WE CAN TAKE CARE OF
10 IT. I THINK THAT WAS ALL OF MY CAUTIONARY
11 INSTRUCTIONS. WE WILL SEE YOU ON MONDAY AT 9:30.
12 HAVE A GREAT EVENING.

13 *JUROR:* THANK YOU VERY MUCH.

14 *THE COURT:* THANKS VERY MUCH. THANKS FOR YOUR
15 PATIENCE.

16 (JUROR LEFT THE COURTROOM.)

17 *THE COURT:* ALL RIGHT, GUYS. WE ARE IN RECESS
18 UNTIL TWO.

19 (WHEREUPON COURT WAS IN RECESS FOR LUNCH.)

20 *THE COURT:* OKAY. MR. DIGGS, YOU READY? Y'ALL
21 READY? SHOULDN'T HAVE SAID Y'ALL. YOU CAN GET TRACY
22 BUCHANAN, JUROR NUMBER 38.

23 (JUROR ENTERED THE COURTROOM.)

24 *THE COURT:* I HAVE HER LISTED AS RESPONDING TO
25 QUESTION 21.

1 MR. KELLY: I DO TOO, YOUR HONOR.

2 TRACY BUCHANAN, WHITE FEMALE,

3 TESTIFIED AS FOLLOWS:

4 BY THE COURT:

5 Q HOW ARE YOU, MRS. BUCHANAN?

6 A I'M GOOD. HOW ARE YOU?

7 Q I'M DOING FINE. IF YOU COULD STATE YOUR NAME FOR THE
8 RECORD.

9 A TRACY BUCHANAN.

10 Q AND YOU ARE JUROR 38; IS THAT CORRECT?

11 A CORRECT.

12 Q MA'AM, I WILL REMIND YOU THAT YOU'RE STILL UNDER
13 OATH. HAVE YOU READ, WATCHED, OR LISTENED TO ANY MEDIA
14 ACCOUNTS ABOUT THE CASE ON LAST NIGHT?

15 A NO.

16 Q NOW, WE'RE GOING TO ASK YOU A FEW QUESTIONS, AND I
17 KNOW IT'S HARD. WE ARE USED TO THIS PROCESS. YOU OF
18 COURSE ARE NOT, SO DON'T FEEL INTIMIDATED IN ANY WAY. WE
19 JUST NEED FOR YOU TO BE HONEST WITH US. THERE ARE NO
20 RIGHT OR WRONG ANSWERS. WE JUST NEED YOU TO ANSWER OUR
21 QUESTIONS AS OPENLY, HONESTLY AND FULLY AS YOU'RE ABLE TO.

22 A OKAY.

23 Q OKAY? AMONG THE THINGS THAT WE WILL BE TALKING ABOUT
24 WILL BE PENALTY, BUT THE MERE FACT THAT WE TALK ABOUT
25 POTENTIAL PENALTIES IN THIS CASE DOES NOT IN ANY WAY

1 INDICATE ANYTHING ABOUT THE DEFENDANT. HE IS PRESUMED IN
2 THE LAW TO BE INNOCENT. DO YOU UNDERSTAND THIS?

3 A YES, MA'AM.

4 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
5 LISTEN TO THE LAW?

6 A YES.

7 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
8 INSTRUCT YOU AS THE JUDGE OF THIS COURT?

9 A YES.

10 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
11 MAY DISAGREE WITH IT?

12 A IT WOULD BE A LITTLE BIT HARDER, BUT YES.

13 Q OKAY. SO EVEN IF YOU, IF YOU -- IF I TOLD YOU THE
14 LAW WAS ONE THING AND YOU DISAGREED WITH IT AND YOU
15 THOUGHT IT SHOULD BE OR COULD BE SOMETHING ELSE, COULD YOU
16 STILL APPLY IT AS I TOLD YOU IT WAS?

17 A YES.

18 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
19 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
20 ANYTHING THAT YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
21 CASE? AND AGAIN, THERE IS NO RIGHT--

22 A I DON'T KNOW.

23 Q -- OR WRONG ANSWER. OKAY. LET ME ASK THE QUESTION
24 ANOTHER WAY. AND THE EXAMPLE I'M GOING TO USE IS A HORSE
25 WITH BLINDERS. AND YOU KNOW HOW YOU USUALLY SEE A HORSE,

1 HE HAS LITTLE BLACK FLAPS ON THE SIDE. AND OF COURSE,
2 THEY DO THAT BECAUSE THE HORSE IS EASILY DISTRACTED, THEY
3 NEED TO MAKE SURE HE OR SHE STAYS ON THE DESIGNATED PATH.

4 AND SO WHAT I'M ASKING IS IRREGARDLESS OF WHAT YOU
5 MAY HAVE HEARD OR BEEN EXPOSED TO IN THE MEDIA OR
6 OTHERWISE, COULD YOU COMPLETELY DISREGARD THAT AND COME
7 INTO THIS COURTROOM COMPLETELY IMPARTIAL AND LISTEN TO THE
8 WITNESSES WHO WILL BE SWORN AND WHO WILL TESTIFY FROM THIS
9 WITNESS STAND AND CONSIDER ONLY THAT TESTIMONY AND THE
10 OTHER EVIDENCE THAT MAY BE INTRODUCED AND APPLY THE LAW AS
11 I TELL YOU IT IS AND APPLY THAT LAW TO THOSE FACTS AND
12 RENDER A TRUE AND JUST VERDICT IN THIS CASE?

13 A PROBABLY NOT.

14 Q OKAY.

15 A THAT'S...

16 Q NO, AND I -- THERE IS NO RIGHT OR WRONG ANSWER. THE
17 ONLY THING WE ASK OF YOU IS COMPLETE HONESTY. OKAY. ARE
18 THERE ANY EXCEPTIONS TO EXCUSING THE JUROR FROM THE STATE?

19 MR. HEMBREE: NO, YOUR HONOR.

20 THE COURT: FROM THE DEFENSE?

21 MR. KELLY: NONE, YOUR HONOR.

22 THE COURT: MA'AM, YOU ARE EXCUSED. PLEASE DO
23 NOT DISCUSS, HOWEVER, ANYTHING THAT WE'VE DISCUSSED
24 DURING THE COURSE OF THESE -- THIS QUESTIONING
25 PROCESS.

1 JUROR: OKAY. SO I'M DONE?

2 THE COURT: YOU'RE DONE. HAVE A WONDERFUL DAY.

3 JUROR: THANK YOU.

4 (JUROR LEFT THE COURTROOM.)

5 THE COURT: YOU'RE WELCOME. MARTHA ANN GRAHAM,
6 121.

7 (JUROR ENTERED THE COURTROOM.)

8 MARTHA GRAHAM, BLACK FEMALE, TESTIFIED
9 AS FOLLOWS:

10 BY THE COURT:

11 Q MRS. GRAHAM, HOW ARE YOU TODAY?

12 A I'M FINE.

13 Q WONDERFUL. NICE TO SEE YOU. WOULD YOU STATE YOUR
14 FULL NAME FOR THE RECORD.

15 A MY NAME IS MARTHA ANN GRAHAM.

16 Q AND MRS. GRAHAM, YOU ARE JUROR 121; IS THAT CORRECT.

17 A CORRECT.

18 THE COURT: I DON'T HAVE MRS. GRAHAM LISTED AS
19 RESPONDING TO QUESTION 21, 22 OR 25. IS THAT
20 CORRECT?

21 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

22 THE COURT: MR. DIGGS, IS THAT CORRECT?

23 MR. DIGGS: YES, YOUR HONOR.

24 BY THE COURT:

25 Q MA'AM, HAVE YOU WATCHED, READ, OR LISTENED TO ANY

1 NEWS ACCOUNTS ABOUT THIS CASE ON LAST NIGHT?

2 A NO, I DID NOT.

3 Q OKAY. AND IF YOU COULD COME JUST A LITTLE CLOSER TO
4 THE MICROPHONE FOR ME, YOU'RE A LITTLE SOFT SPOKEN AND I
5 NEED TO MAKE SURE WE GET DOWN ALL OF YOUR RESPONSES.

6 MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS. THERE ARE
7 NO RIGHT OR WRONG ANSWERS TO THESE QUESTIONS. WE JUST ASK
8 THAT YOU BE OPEN AND COMPLETELY HONEST WITH US.

9 A ALL RIGHT.

10 Q BECAUSE ONLY YOU KNOW THE ANSWERS FOR YOURSELF.
11 STATE LAW REQUIRES THAT WE INDIVIDUALLY QUESTION EVERY
12 POTENTIAL JUROR IN A CASE OF THIS TYPE.

13 A OKAY.

14 Q THERE ARE SOME THINGS THAT WE'RE GOING TO BE TALKING
15 ABOUT. ONE OF THEM IS PENALTY. AND THE FACT THAT WE TALK
16 ABOUT PENALTY IS NO REFLECTION ON THE DEFENDANT BECAUSE HE
17 IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND
18 THIS?

19 A YES.

20 Q IF YOU WERE JUROR IN A CRIMINAL CASE, COULD YOU
21 LISTEN TO THE LAW?

22 A YES.

23 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
24 INSTRUCT YOU AS THE JUDGE OF THIS COURT?

25 A YES.

1 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
2 MIGHT DISAGREE WITH WHAT I TELL YOU THE LAW IS?

3 A YES.

4 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
5 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
6 ANYTHING YOU MAY HAVE HEARD, READ OR SEEN ABOUT THIS CASE?

7 A YES.

8 Q HAVE YOU HEARD ANY OR SEEN ANY MEDIA COVERAGE ABOUT
9 THIS CASE, THAT WOULD BE ANYTHING BEFORE LAST NIGHT?

10 A YES.

11 Q AS A RESULT OF WHAT YOU MAY HAVE BEEN EXPOSED TO,
12 HAVE YOU FORMED ANY FIXED OPINION ABOUT THE FACTS OF THIS
13 CASE? A FIXED OPINION MEANS AN OPINION THAT CANNOT BE
14 ALTERED OR CHANGED.

15 A NO.

16 Q OKAY. MA'AM, IN A CRIMINAL CASE THE STATE HAS THE
17 BURDEN OF PROVING GUILT BEYOND A REASONABLE DOUBT. DO YOU
18 UNDERSTAND THAT THE DEFENDANT HAS NO BURDEN IN THIS CASE
19 AND HE DOES NOT HAVE TO PROVE HIMSELF INNOCENT?

20 A I DO UNDERSTAND THAT?

21 Q YES, MA'AM.

22 A YES.

23 Q OKAY. HAVE YOU HAD AN OPPORTUNITY TO READ THE JUROR
24 TYPE LIST THAT WE HAD IN THE JURY ROOM?

25 A YES.

1 Q OKAY. DO YOU NEED A MINUTE TO REVIEW IT OR DO YOU
2 REMEMBER WHAT EACH TYPE OF JUROR WAS?

3 A I REMEMBER.

4 Q AND DO YOU BELIEVE THAT YOU FIT INTO ANY OF THOSE
5 CATEGORIES?

6 A YES.

7 Q IF YOU WOULD TELL ME WHICH ONE YOU THINK YOU FIT
8 INTO.

9 A MORE OR LESS TYPE ONE.

10 Q OKAY. DOES THE STATE HAVE ANY QUESTIONS OF THE
11 JUROR?

12 MR. HEMBREE: NO, YOUR HONOR.

13 THE COURT: DOES THE DEFENSE HAVE ANY QUESTIONS
14 OF THE JUROR?

15 MR. KELLY: NO, MA'AM.

16 THE COURT: ANY OBJECTION TO THE JUROR BEING
17 EXCUSED FROM THE STATE?

18 MR. HEMBREE: NO, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. DIGGS: NO, MA'AM.

21 THE COURT: MA'AM, YOU WILL BE EXCUSED FROM THE
22 TRIAL OF THIS CASE. WE THANK YOU FOR YOUR TIME AND
23 YOUR ATTENTION AND PLEASE DO NOT DISCUSS ANY OF THIS
24 QUESTIONING WITH ANYONE. THANK YOU.

25 (JUROR LEFT THE COURTROOM.)

1 THE COURT: EARL MOULTRIE, 235. AND HE IS NOT
2 LISTED ON ANY OF OUR NOTES AS RESPONDING TO ANY OF
3 THE QUESTIONS.

4 (JUROR ENTERED THE COURTROOM.)

5 EARL MOULTRIE, BLACK MALE, TESTIFIED
6 AS FOLLOWS:

7 BY THE COURT:

8 Q MR. MOULTRIE, HOW ARE YOU?

9 A FINE.

10 Q SIR, IF YOU WOULD GET AS CLOSE AS YOU CAN TO THAT
11 MICROPHONE FOR ME. THANK YOU. STATE YOUR FULL NAME FOR
12 THE RECORD.

13 A EARL MOULTRIE, JUNIOR.

14 Q EARL MOULTRIE, JUNIOR?

15 A YES, SIR.

16 Q OKAY. AND SIR, ARE YOU JUROR NUMBER 235?

17 A YES, SIR.

18 Q MR. MOULTRIE, I REMIND YOU THAT YOU'RE STILL UNDER
19 OATH. DO YOU UNDERSTAND?

20 A (NODDED.)

21 Q NEED TO TELL ME YES OR NO.

22 A YES, MA'AM.

23 Q SIR, HAVE YOU WATCHED ANY MEDIA ACCOUNTS ABOUT THIS
24 CASE LAST NIGHT?

25 A NO, MA'AM.

1 Q AND SIR, WE'RE GOING TO ASK YOU SOME QUESTIONS.
2 THERE ARE NO RIGHT OR WRONG ANSWERS TO THESE QUESTIONS.
3 STATE LAW REQUIRES THAT WE TALK WITH EACH JUROR IN A CASE
4 LIKE THIS INDIVIDUALLY. OKAY?

5 A OKAY.

6 Q ALL WE ASK IS THAT YOU ANSWER US OPENLY, HONESTLY AND
7 FULLY. AGAIN, THERE IS NO RIGHT OR WRONG ANSWER. AMONG
8 OTHER THINGS WE'RE GOING TO BE TALKING ABOUT PENALTY. AND
9 THE MERE FACT THAT WE TALK ABOUT THAT IS NO INDICATION
10 ABOUT THE DEFENDANT. HE IS PRESUMED TO BE INNOCENT IN THE
11 LAW. DO YOU UNDERSTAND THAT?

12 A YES, MA'AM.

13 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
14 YOU LISTEN TO THE LAW?

15 A YES, MA'AM.

16 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
17 INSTRUCT YOU?

18 A YES, MA'AM.

19 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
20 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

21 A YES, MA'AM.

22 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
23 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
24 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
25 CASE?

1 A YES.

2 Q HAVE YOU -- AND I'M NOT TALKING ABOUT LAST NIGHT.
3 BUT HAVE YOU HAD ANY -- HAVE YOU SEEN ANY MEDIA ACCOUNTS
4 ABOUT THIS CASE?

5 A NO, MA'AM.

6 Q SIR, IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
7 PROVING THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.
8 DO YOU UNDERSTAND THAT?

9 A NO, MA'AM.

10 Q DO YOU UNDERSTAND THAT NOW THAT I EXPLAINED IT TO
11 YOU?

12 A YES, MA'AM.

13 Q AND I WILL SAY IT ONE MORE TIME BECAUSE SOMETIMES WE
14 UNDERSTAND WHAT ALL THOSE TERMS MEANS AND A LAYPERSON DOES
15 NOT. I WILL INSTRUCT YOU THAT THE STATE IN EVERY CASE,
16 EVERY CRIMINAL CASE, NO MATTER HOW SERIOUS THE CHARGES MAY
17 BE, HAS THE BURDEN OF PROVING EACH AND EVERY ELEMENT OF
18 THE OFFENSE THEY CHARGE THE DEFENDANT WITH BEYOND A
19 REASONABLE DOUBT AND THAT THE DEFENDANT HAS NO BURDEN AT
20 ALL TO PROVE HIMSELF INNOCENT. DO YOU UNDERSTAND THAT?

21 A YES, MA'AM.

22 Q SIR, HAVE YOU REVIEWED THE JUROR TYPE SHEET THAT WAS
23 IN THE JURY ROOM THAT LISTED JUROR TYPE ONE, TWO, AND
24 THREE?

25 A YES, MA'AM.

1 Q DO YOU REMEMBER WHAT EACH TYPE IS? YOU NEED TO
2 REVIEW IT TO REFRESH YOUR MEMORY OR DO YOU REMEMBER?

3 A REVIEW.

4 Q DO YOU REMEMBER READING THAT?

5 A YES, MA'AM.

6 Q DO YOU FEEL THAT YOU FIT INTO ANY OF THOSE
7 CATEGORIES?

8 A NO.

9 Q YOU DON'T FEEL LIKE YOU'RE ONE, TWO, OR THREE?

10 A (SHOOK HEAD).

11 Q OKAY. LET ME ASK, DO YOU FEEL THAT YOU COULD BE THE
12 KIND OF JUROR THAT EVEN IF THE DEFENDANT HAD BEEN FOUND
13 GUILTY THAT YOU WOULD NOT HAVE MADE UP YOUR MIND IN
14 ADVANCE CONCERNING PUNISHMENT?

15 A NO.

16 Q OKAY. DO YOU FEEL THAT YOU WOULD HAVE ALREADY MADE
17 UP YOUR MIND ABOUT PUNISHMENT? WHY DON'T YOU TELL ME HOW
18 YOU FEEL AND TELL ME WHY YOU DON'T FIT INTO ONE, TWO OR
19 THREE. I THINK THAT'S PROBABLY THE BETTER WAY TO APPROACH
20 IT.

21 A BECAUSE IF YOU DO A CRIME, YOU DO THE TIME.

22 Q OKAY. LET ME TELL YOU WHAT WE'RE TRYING TO FIGURE
23 OUT TODAY AND YOU TELL ME WHETHER YOU THINK YOU CAN DO
24 THIS. AND AGAIN, THERE IS NO RIGHT OR WRONG ANSWER.

25 WHAT WE'RE TRYING TO DETERMINE TODAY IS WHETHER

1 YOU'RE THE KINDS OF JUROR WHO CAN COME TO COURT WITH NO
2 PREDISPOSITIONS, WHICH MEANS NOT HAVING MADE UP YOUR MIND
3 ONE WAY OR THE OTHER, AND CAN LISTEN TO ALL OF THE
4 WITNESSES WHO WILL BE TESTIFYING UNDER OATH, LOOK AT THE
5 EVIDENCE THAT IS PRESENTED, APPLY THE LAW THAT THE COURT
6 INSTRUCTS YOU, APPLY THAT LAW TO THOSE FACTS AND RENDER A
7 VERDICT IN THIS CASE.

8 ARE YOU TELLING ME YOU CANNOT DO THAT OR ARE YOU
9 TELLING ME YOU CAN DO THAT?

10 A CANNOT.

11 Q OKAY. ARE YOU TELLING ME YOU HAVE ALREADY MADE UP
12 YOUR MIND ABOUT THIS CASE?

13 A NO, MA'AM.

14 Q OKAY. THEN TELL ME WHAT YOU'RE TELLING ME BECAUSE
15 YOU LOST ME JUST A LITTLE. I'M TRYING TO BE CLEAR FOR THE
16 RECORD AS TO WHAT IT IS EXACTLY YOU'RE TRYING TO TELL ME.

17 A I REALLY DON'T UNDERSTAND. I MEAN, I CAN'T...

18 Q I'M SORRY? REPEAT THAT FOR ME.

19 A I REALLY DON'T UNDERSTAND THE CASE.

20 Q WELL, YOU DON'T KNOW ANYTHING ABOUT THE CASE YET AND
21 YOU WOULDN'T UNTIL YOU STARTED HEARING EVIDENCE ABOUT IT.
22 SO WHAT I'M -- THE ONLY THING WE'RE TRYING TO DETERMINE
23 NOW IS CAN YOU BE FAIR AND IMPARTIAL AND CAN YOU COME TO
24 THIS COURT FAIR AND IMPARTIAL AND LISTEN TO THE EVIDENCE
25 AND NOT MAKE A DECISION UNTIL YOU HAVE HEARD ALL OF THE

1 EVIDENCE AND THE LAW?

2 A (SHOOK HEAD.)

3 Q IS THAT A YES OR A NO?

4 A NO, MA'AM.

5 THE COURT: IS THERE ANY EXCEPTION TO EXCUSING
6 THIS JUROR FROM THE STATE?

7 MR. HEMBREE: NONE, YOUR HONOR.

8 THE COURT: FROM THE DEFENSE?

9 MR. KELLY: NO, MA'AM.

10 THE COURT: SIR, YOU'RE EXCUSED. PLEASE DO NOT
11 DISCUSS THIS QUESTIONING PROCESS WITH ANYONE.

12 JUROR: OKAY.

13 THE COURT: HAVE A GOOD DAY.

14 (JUROR LEFT THE COURTROOM.)

15 THE COURT: JESSE WRIGHT, 364.

16 (JUROR ENTERED THE COURTROOM.)

17 MR. KELLY: IS THERE A QUESTIONNAIRE ON JESSE
18 WRIGHT?

19 JESSE WRIGHT, BLACK MALE, TESTIFIED AS
20 FOLLOWS:

21 BY THE COURT:

22 Q SIR, DID YOU FILL OUT A QUESTIONNAIRE?

23 A I BELIEVE I DID.

24 THE COURT: OKAY. WE NEED TO LOCATE IT THEN.

25 THE CLERK: YOU NEED THE QUESTIONNAIRE?

1 THE COURT: YEAH. BEAR WITH US. DO Y'ALL HAVE
2 ANY OBJECTION TO ME GOING FORWARD WHILE WE LOCATE
3 THAT INFORMATION?

4 MR. HEMBREE: NONE FROM THE STATE.

5 MR. KELLY: NO OBJECTION.

6 BY THE COURT:

7 Q SIR, IF YOU WOULD STATE YOUR NAME FOR THE RECORD.

8 A 364, JESSE A WRIGHT.

9 Q OKAY. AND SIR, I WILL REMIND YOU YOU'RE STILL UNDER
10 OATH. DO YOU UNDERSTAND?

11 A (NODDED.)

12 Q NEED TO TELL ME YES OR NO.

13 A YES.

14 Q YEAH, BECAUSE WHEN YOU DO THAT, THE COURT REPORTER
15 CAN'T TAKE IT DOWN.

16 A OKAY.

17 Q SHE WOULD JUST HAVE TO WRIGHT NODDED HEAD, AND IT
18 WON'T DESIGNATE WHETHER YOU NODDED HEAD THIS WAY OR NODDED
19 HEAD THIS WAY.

20 A RIGHT.

21 Q OKAY. SIR, DID YOU SEE ANY OR READ ANY MEDIA REPORTS
22 ABOUT THIS CASE LAST NIGHT?

23 A NO.

24 THE COURT: AND WE DO NOT HAVE HIM AS RESPONDING
25 TO ANY OF THE QUESTIONS.

1 MR. HEMBREE: THAT'S WHAT MY RECORDS INDICATE,
2 YOUR HONOR.

3 BY THE COURT:

4 Q OKAY. SIR, I'M GOING TO ASK YOU SOME QUESTIONS.
5 STATE LAW REQUIRES THAT WE TALK TO EACH JUROR INDIVIDUALLY
6 WHEN IT'S A CASE OF THIS TYPE. THERE ARE NO RIGHT OR
7 WRONG ANSWERS. THE ONLY THING WE NEED FOR YOU TO DO WITH
8 US IS WHEN YOU ANSWER, TO BE OPEN AND HONEST AND FULLY
9 ANSWER THE QUESTIONS.

10 AGAIN, I EMPHASIZE THERE IS NO RIGHT OR WRONG ANSWER
11 BECAUSE THESE ARE QUESTIONS ABOUT YOUR VIEWS AND ONLY YOU
12 CAN TELL US WHAT THOSE HONEST ANSWERS ARE. OKAY? DO YOU
13 UNDERSTAND?

14 A YES.

15 Q SIR, AMONG OTHER THINGS WE WILL BE TALKING ABOUT
16 PENALTIES. BUT THE MERE FACT THAT WE TALK ABOUT A PENALTY
17 HAS NO BEARING OR BEARING ON THE DEFENDANT. HE IS
18 PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND
19 THAT?

20 A YES.

21 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
22 YOU LISTEN TO THE LAW?

23 A YES.

24 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
25 INSTRUCT YOU?

1 A YES.

2 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT YOU
3 EVEN IF YOU DISAGREED WITH WHAT I TELL YOU THE LAW IS?

4 A YES.

5 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
6 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
7 ANYTHING YOU MAY HAVE BEEN EXPOSED TO IN THE MEDIA?

8 A YES.

9 Q SIR, HAVE YOU READ, SEEN -- READ, HEARD, OR SEEN ANY
10 MEDIA COVERAGE ABOUT THIS CASE -- AND I'M NOT TALKING
11 ABOUT LAST NIGHT, BUT PRIOR TO THAT -- REGARDING THIS
12 CASE?

13 A SOME TIME AGO, BUT I DON'T REMEMBER IT--

14 Q OKAY.

15 A -- THE CASE UNTIL NOW.

16 Q HAVE YOU FORMED ANY FIXED OPINION? AND A FIXED
17 OPINION IS A OPINION THAT DOES NOT CHANGE. HAVE YOU
18 FORMED ANY FIXED OPINION ABOUT THE FACTS IN THIS CASE AS A
19 RESULT OF WHAT YOU MAY HAVE BEEN EXPOSED TO?

20 A NO.

21 Q SIR, IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
22 PROVING THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.
23 DO YOU UNDERSTAND THIS?

24 A YES.

25 Q DO YOU UNDERSTAND THAT THE DEFENDANT HAS ABSOLUTELY

1 NO BURDEN TO PROVE HIS INNOCENCE?

2 A RIGHT.

3 Q DO YOU UNDERSTAND THAT?

4 A YES.

5 Q SIR, HAVE YOU HAD A CHANCE TO REVIEW THE JUROR TYPE
6 SHEET, WHICH IS THE SHEET THAT WAS IN THE JURY ROOM THAT
7 HAD JUROR TYPES ONE, TWO, AND THREE?

8 A YES.

9 Q DO YOU REMEMBER WHAT EACH TYPE WAS?

10 A YES.

11 Q DO YOU -- CAN YOU TELL US IF YOU FEEL YOU FIT INTO
12 ONE OF THOSE TYPES?

13 A I WOULD HAVE TO HEAR THE TRUTH THE WHOLE MATTER.

14 Q OKAY. SO YOU'RE TELLING ME YOU ARE TYPE THREE?

15 A TYPE THREE.

16 Q OKAY. SIR, IF YOU WERE A JUROR IN A DEATH PENALTY
17 CASE AND THE JURY FOUND THE DEFENDANT GUILTY OF MURDER, WE
18 WOULD THEN MOVE TO WHAT WE CALL THE SENTENCING PHASE OF
19 THE TRIAL. DO YOU UNDERSTAND THIS?

20 A YEAH.

21 Q AND SIR, IN A SENTENCING PHASE YOU WOULD BE ABLE TO
22 CONSIDER WHAT WE CALL AGGRAVATING CIRCUMSTANCES. AND
23 THOSE ARE FACTS, INCIDENTS, DETAILS, OR AN OCCURRENCE
24 WHICH THE GENERAL ASSEMBLY HAS DECLARED BY STATUTE WOULD
25 MAKE WORSE, THAT IS TO AGGRAVATE, THE OFFENSE OF MURDER.

1 IN OTHER WORDS, AGGRAVATING CIRCUMSTANCE WHEN
2 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
3 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
4 COMMISSION OF A CRIME.

5 SOME EXAMPLES OF AN AGGRAVATING CIRCUMSTANCE WOULD BE
6 MURDER OF A CHILD UNDER THE AGE OF 11, DRUG TRAFFICKING,
7 KILLING BY POISON, OR BURGLARY IN ANY DEGREE. I EMPHASIZE
8 THAT THESE ARE ONLY EXAMPLES AND I GIVE THEM TO YOU
9 BECAUSE MOST PEOPLE REALLY WOULDN'T KNOW WHAT I MEANT WHEN
10 I SAID AN AGGRAVATING CIRCUMSTANCE.

11 THE SAME IS TRUE FOR A MITIGATING CIRCUMSTANCE, AND
12 YOU WOULD BE ALLOWED TO CONSIDER THOSE ALSO. AND THOSE
13 ARE INCIDENTS, DETAILS, OR OCCURRENCES WHICH THE
14 LEGISLATURE HAS DECLARED BY STATE LAW REDUCE THE SEVERITY
15 OF AN OFFENSE OF MURDER.

16 AND THOSE MAY BE CONSIDERED AS EXTENUATING OR IN
17 OTHER WORDS REDUCING THE DEGREE OF MORAL CULPABILITY OR
18 RESPONSIBILITY. AND EXAMPLES OF THOSE, AGAIN, THIS LIST
19 IS BY NO MEANS EXHAUSTIVE.

20 MENTAL RETARDATION AT THE TIME OF THE CRIME, THE
21 DEFENDANT WAS PROVOKED BY THE VICTIM, THE DEFENDANT WAS AN
22 ACCOMPLICE AND PARTICIPATION WAS RELATIVELY MINOR, THE
23 DEFENDANT ACTED UNDER DURESS OR DOMINATION. THESE ARE,
24 AGAIN, JUST EXAMPLES OF WHAT WE WOULD TYPICALLY CALL
25 MITIGATING CIRCUMSTANCES.

1 IF YOU WERE A JUROR IN THE SENTENCING PHASE OF THIS
2 CASE OR ANY CASE, COULD YOU DEPENDING UPON THE PARTICULAR
3 FACTS AND CIRCUMSTANCES OF THE CASE INCLUDING THE
4 CONSIDERATION OF AGGRAVATING AND MITIGATING CIRCUMSTANCES
5 AND THE LAW THE COURT WOULD INSTRUCT AT THE CONCLUSION OF
6 THE CASE RETURN A SENTENCE OF LIFE IN PRISON WITHOUT THE
7 POSSIBILITY OF PAROLE?

8 A I COULD.

9 Q OKAY. IN THE VERY SAME CIRCUMSTANCE, AGAIN,
10 CONSIDERING AGGRAVATING AND MITIGATING CIRCUMSTANCES AND
11 THE LAW THAT THE COURT WOULD INSTRUCT AT THE CONCLUSION OF
12 THE CASE, COULD YOU RETURN A SENTENCE OF DEATH WHICH IN
13 THIS STATE IS BY ELECTROCUTION OR BY LETHAL INJECTION?

14 A POSSIBLY.

15 Q OKAY. AGAIN, THERE IS NO RIGHT OR WRONG ANSWER. AND
16 I KNOW THESE ARE QUESTIONS THAT REQUIRE YOU TO SEARCH
17 YOURSELF AND THINK ABOUT THINGS YOU PROBABLY NEVER THOUGHT
18 ABOUT BEFORE.

19 AND AGAIN, I EMPHASIZE THERE IS NO RIGHT OR WRONG
20 ANSWER, BUT I NEED TO SEARCH YOURSELF AS BEST YOU CAN AND
21 GIVE ME A YES OR A NO ANSWER. AND I'M GOING TO REPEAT THE
22 QUESTION FOR YOU.

23 COULD YOU UNDER THE VERY SAME CIRCUMSTANCES THAT I
24 HAVE TOLD YOU PREVIOUSLY INCLUDING THE CONSIDERATION OF
25 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND THE LAW THAT

1 I WOULD INSTRUCT AT THE CONCLUSION OF THE CASE RETURN A
2 SENTENCE OF DEATH WHICH IN THIS STATE IS BY ELECTROCUTION
3 OR BY LETHAL INJECTION?

4 A YES.

5 Q OKAY. IF YOU WERE CHOSEN FOR THIS JURY, I HAVE
6 ALREADY EXPLAINED THAT THE JURY WILL BE SEQUESTERED. YOU
7 WILL BE HOUSED IN A MOTEL FOR APPROXIMATELY 10 DAYS. AND
8 OF COURSE, YOU WOULD HAVE YOUR OWN ROOM. WE WOULDN'T
9 REQUIRE YOU TO BUNK WITH ANYBODY.

10 WOULD THAT -- AND THE LAW PRESUMES THAT THAT'S
11 INCONVENIENT. WE ALREADY ASSUME THAT. WE ALREADY ASSUME
12 THAT PERSONALLY AND FOR BUSINESS REASONS IT IS COMPLETELY
13 INCONVENIENT. BUT WOULD IT IN ANY WAY POSE A SERIOUS
14 DANGER TO YOUR HEALTH OR WELL-BEING OR ANY MEMBERS OF YOUR
15 FAMILY?

16 A FINANCIALLY.

17 Q WELL, FINANCIALLY, WE ALREADY ASSUME THAT. YEAH. WE
18 ALREADY ASSUME THAT. WE'RE TALKING ABOUT WHETHER THERE'S
19 SOME SERIOUS DANGER TO YOUR HEALTH, OTHER THAN YOUR WIFE
20 BEING MAD AT YOU, WHICH I KNOW COULD BE A SERIOUS THREAT
21 TO YOUR HEALTH. I UNDERSTAND. I UNDERSTAND. OTHER THAN
22 THAT, WOULD IT BE, YOU KNOW, WOULD IT BE LIFE-THREATENING
23 TO YOU?

24 A NO.

25 Q OKAY. AND I KNOW THAT'S RELATIVE. I UNDERSTAND.

1 NOW, IN CAPITAL CASES -- YOU'RE LAUGHING LIKE YOUR WIFE IS
2 LIKE, WHAT ARE YOU THINKING ABOUT? WOULD YOU BE ABLE --
3 IN CASES OF THIS TYPE -- IN MOST CASES -- NOT MOST CASES,
4 ALL CASES, THERE'S A VERDICT FORM. AND USUALLY ONLY THE
5 FOREPERSON SIGNS IT.

6 BUT IN A CASE LIKE A CAPITAL CASE, WE CALL IT A
7 CAPITAL CASE, BUT IT'S A DEATH PENALTY CASE. WHAT THE
8 JURY DOES IS THEY RECOMMEND TO THE COURT WHAT THE PENALTY
9 IS GOING TO BE. AND EVEN THOUGH WE CALL IT A
10 RECOMMENDATION, IT'S REALLY NOT A RECOMMENDATION. THE
11 COURT HAS TO FOLLOW WHATEVER THE JURY SAYS IS TO BE DONE.

12 AND SO FOR THAT REASON EVERY JUROR HAS TO SIGN THE
13 VERDICT FORM INDIVIDUALLY. AND I NEED TO KNOW IN THE
14 EVENT OF A LIFE WITHOUT THE POSSIBILITY OF PAROLE SENTENCE
15 OR A DEATH SENTENCE WOULD YOU HAVE ANY HESITATION IN
16 SIGNING THE VERDICT FORM?

17 A NO.

18 THE COURT: ARE THERE ANY QUESTIONS FROM THE
19 STATE?

20 MR. HEMBREE: JUST A FEW.

21 THE COURT: YOU MAY PROCEED.

22 BY MR. HEMBREE:

23 Q HEY, MR. WRIGHT. I WAS INTRODUCED TO YOU YESTERDAY.
24 I'M GREG HEMBREE, THE SOLICITOR FOR THE 15TH CIRCUIT, AND
25 I ALONG WITH FRAN HUMPHRIES, DEPUTY SOLICITOR, WILL BE

1 TRYING THIS CASE ON BEHALF OF THE CITIZENS OF GEORGETOWN
2 COUNTY.

3 A OKAY.

4 Q MR. WRIGHT, I'LL -- THE JUDGE PROBABLY COVERED THIS,
5 BUT I JUST WANTED TO -- I WANT TO CLARIFY IT. FIRST LET
6 ME SAY, THERE IS NOT -- AND AS JUDGE JEFFERSON HAS TOLD
7 YOU, THERE'S NOT A RIGHT OR WRONG ANSWER. WE ARE NOT
8 TRYING TO, YOU KNOW, MOVE YOU ONE WAY OR THE OTHER.

9 A RIGHT.

10 Q THE MAIN PURPOSE OF US BEING HERE IS TO FIND OUT
11 REALLY TO FIND OUT YOUR OPINION ON THE DEATH PENALTY.

12 A UH-HUH.

13 Q AND TO DETERMINE IF YOU COULD, YOU REALLY COULD
14 IMPOSE THE DEATH PENALTY ON ANOTHER HUMAN BEING GIVEN THE
15 RIGHT FACTS AND CIRCUMSTANCES. AND WE KNOW THAT, YOU
16 KNOW, MOST PEOPLE IN -- TALK ABOUT IT IN THE ABSTRACT,
17 BUT, YOU KNOW, YOU'RE -- YOU'RE MOVING TOWARD A PLACE
18 WHERE YOU MAY ACTUALLY BE CALLED UPON TO MAKE THAT
19 DECISION.

20 A RIGHT.

21 Q AND MOST PEOPLE REALLY HAVEN'T THOUGHT ABOUT IT THAT
22 WAY. I DETECTED WHEN JUDGE JEFFERSON ASKED YOU THIS
23 QUESTION, SHE ASKED YOU ABOUT COULD YOU IMPOSE LIFE, THAT
24 YOU SAID, SURE. I MEAN, QUICK -- YOU WERE -- YOU WERE
25 VERY DIRECT IN RESPONSE.

1 A UH-HUH.

2 Q AND WHEN SHE ASKED YOU ABOUT IMPOSING DEATH--

3 A DEATH, YEAH.

4 Q -- YOU WERE MUCH MORE HESITANT.

5 A RIGHT.

6 Q COULD YOU TELL ME WHY?

7 A THAT'S A -- JUST SOMETHING I HAVE TO THINK ABOUT TO
8 ACTUALLY HAVING A LIFE TAKEN AWAY LIKE THAT.

9 Q WHETHER YOU WOULD PHILOSOPHICALLY BE ABLE TO DO THAT?

10 A RIGHT.

11 Q REALLY, ASIDE FROM THE FACTS AND CIRCUMSTANCES,
12 REALLY JUST WHETHER OR NOT--

13 A RIGHT.

14 Q -- YOU, MR. WRIGHT, CAN DO THAT.

15 A RIGHT. EXACTLY.

16 Q LET ME MAKE THIS CLEAR TO YOU, ONE THING THAT'S
17 REALLY -- YOU WILL -- IF YOU ARE SELECTED FOR THIS JURY,
18 YOU FIND THE DEFENDANT GUILTY AND THE STATE PROVES THE
19 STATUTORY AGGRAVATING CIRCUMSTANCE IN THE PENALTY PHASE
20 AND COMES TO THAT POINT IN TIME WHEN IT'S TIME TO VOTE ON
21 THE PENALTY, IF YOU VOTE FOR DEATH, THAT IS -- THE SHEET
22 SAYS RECOMMENDATION OF DEATH, BUT IT'S NOT JUST A
23 RECOMMENDATION, IT'S NOT JUST A SUGGESTION, IT'S NOT JUST
24 AN IDEA--

25 A RIGHT.

1 Q -- A CONCEPT. IT IS ACTUALLY THE SENTENCE THAT THIS
2 COURT WILL CARRY OUT.

3 A UH-HUH.

4 Q DO YOU -- I MEAN, I KNOW IT'S NOT BEEN TOLD TO YOU
5 LIKE THAT. DOES THAT IN ANY WAY AFFECT YOUR VIEW ON THIS
6 ISSUE, THAT IT WILL BE YOUR SIGNATURE ON THAT LINE?

7 A SOMEWHAT, YES.

8 Q AND WHAT WAY DOES IT AFFECT YOUR FEELING ABOUT THIS
9 QUESTION?

10 A SIMPLY BECAUSE I HAVE SOME SAY IN WHETHER LIFE IS
11 TAKEN OR GIVEN.

12 Q YOU HAVE ABSOLUTE SAY.

13 A RIGHT.

14 Q YES, SIR. UNDERSTANDING THAT, WOULD YOU, MR. WRIGHT,
15 CAN YOU SAY TODAY WITH CONFIDENCE THAT YOU WOULD BE ABLE
16 IF THE APPROPRIATE FACTS AND CIRCUMSTANCES, YOU WOULD BE
17 ABLE TO IMPOSE DEATH ON ANOTHER HUMAN BEING?

18 A UNDER THE CIRCUMSTANCES? EVIDENCE?

19 Q CERTAINLY THERE WOULD HAVE TO BE SUFFICIENT EVIDENCE.

20 A (PAUSE) I DON'T KNOW.

21 MR. HEMBREE: I DON'T HAVE ANY FURTHER
22 QUESTIONS. THANK YOU.

23 THE COURT: MR. KELLY, ANY QUESTIONS FOR THIS
24 JUROR?

25 MR. KELLY: YES, MA'AM.

1 THE COURT: SIR, IF YOU WOULD GIVE MR. KELLY
2 YOUR ATTENTION. AND I NEED YOU TO SPEAK UP LOUDLY
3 AND CLEARLY SO THE COURT REPORTER CAN TAKE DOWN
4 EVERYTHING WE'RE SAYING.

5 BY MR. KELLY:

6 Q MR. WRIGHT, I'M GERALD KELLY. I WANT TO ASK YOU A
7 FEW QUESTIONS. IS THAT ALL RIGHT?

8 A CERTAINLY.

9 Q GOOD. WE'RE JUST TRYING TO DETERMINE WHETHER YOU
10 QUALIFY AS A JUROR OR NOT. THAT'S WHAT THESE QUESTIONS
11 ARE ABOUT.

12 A RIGHT.

13 Q AND ONE OF THE THINGS THAT QUALIFIES A JUROR IS IF --
14 YOU'VE ALREADY SAID THAT IF YOU WERE A JUROR, YOU COULD
15 CONSIDER EITHER LIFE OR DEATH AS A PENALTY. IS THAT
16 CORRECT?

17 A YEAH.

18 Q IN OTHER WORDS, IF YOU WERE A JUROR AND YOU DECIDED
19 THAT THE CIRCUMSTANCES ALLOWED IT AND CALLED FOR IT--

20 A DEATH PENALTY?

21 Q YES. YOU COULD ALWAYS GIVE LIFE. YOU SAID THAT.

22 A RIGHT.

23 Q BUT IF YOU FELT LIKE THE CIRCUMSTANCES CALLED FOR IT
24 AND ALLOWED IT, COULD YOU SIGN THE PAPER AND SAY THAT'S
25 WHAT I THINK, THAT'S WHAT Y'ALL DO, GO AHEAD AND DO IT?

1 A LIKE I SAID, I WOULD REALLY THINK ABOUT THAT.

2 Q WELL, THINK ABOUT IT NOW. BECAUSE IF YOU'RE NOT ABLE
3 TO DO THAT, THAT'S NOTHING WRONG WITH THAT.

4 A RIGHT.

5 Q BUT IF YOU ARE ABLE TO DO THAT, THEN WE NEED TO KNOW
6 AS TO WHETHER YOU'RE QUALIFIED OR NOT. NOT -- EVERYBODY
7 IS RELUCTANT TO DO SOMETHING, WHATEVER IT MIGHT BE, BUT
8 CAN STILL DO IT. THAT'S WHAT I'M ASKING YOU. I SEE
9 YOU'RE RELUCTANT TO GIVE A DEATH PENALTY.

10 A RIGHT.

11 Q IS THAT CORRECT?

12 A THAT'S CORRECT.

13 Q OKAY. BUT COULD YOU UNDER THE CIRCUMSTANCES
14 DESCRIBED TO YOU BY JUDGE JEFFERSON AND THE OTHER
15 ATTORNEYS HERE OR NOT?

16 A NO.

17 MR. KELLY: THANK YOU, SIR.

18 THE COURT: ANY EXCEPTION TO EXCUSING THE JUROR?

19 MR. HEMBREE: NO, YOUR HONOR.

20 THE COURT: FROM THE DEFENSE?

21 MR. KELLY: NONE, YOUR HONOR.

22 THE COURT: SIR, YOU'RE EXCUSED. HAVE A
23 WONDERFUL DAY. PLEASE DO NOT DISCUSS ANYTHING THAT
24 WE DISCUSSED WITH YOU WITH ANYONE.

25 JUROR: ALL RIGHT.

1 THE COURT: YOU HAVE A GOOD DAY. TAKE CARE.

2 JUROR: WHAT DO -- DO I RETURN OR...

3 THE COURT: NO, SIR. WE HAVE EXCUSED YOU.

4 JUROR: THANK YOU.

5 THE COURT: YOU'RE WELCOME. WE ARE DONE UNTIL
6 THREE. TAKE A LITTLE BREAK.

7 (JUROR LEFT THE COURTROOM.)

8 MR. KELLY: THANK YOU, MA'AM.

9 (WHEREUPON A RECESS WAS HAD.)

10 THE COURT: STATE READY TO PROCEED?

11 MR. HEMBREE: YES.

12 THE COURT: PLEASE BRING MRS. YOUNG, NUMBER 400.
13 SHE IS ON ALL THREE LISTS. YEAH, SHE'S ON THE OTHER
14 ONE. I COULDN'T READ MY OWN HANDWRITING. SORRY.

15 (JUROR ENTERED THE COURTROOM.)

16 LINDA YOUNG, WHITE FEMALE, TESTIFIED
17 AS FOLLOWS:

18 BY THE COURT:

19 Q HOW ARE YOU, MA'AM? WE APPRECIATE YOU BEING SO
20 PATIENT. IF YOU COULD SCOOT AS CLOSE TO THE MICROPHONE
21 FOR US AS YOU CAN. THANK YOU. IF YOU WOULD STATE YOUR
22 FULL NAME FOR THE RECORD.

23 A LINDA SUE YOUNG.

24 Q AND YOU ARE NUMBER 400. IS THAT CORRECT?

25 A YES, MA'AM.

1 Q AND MA'AM, DO YOU -- I WILL REMIND YOU YOU'RE STILL
2 UNDER OATH. DO YOU UNDERSTAND?

3 A YES, MA'AM.

4 Q HAVE YOU IN ANY WAY READ OR WATCHED ANY MEDIA
5 ACCOUNTS ABOUT THIS CASE DURING THE BREAK FROM YESTERDAY?

6 A THE NEWS WAS ON, BUT I WAS IN THE KITCHEN, SO I
7 WASN'T PAYING IT ANY ATTENTION. I MEAN, BASICALLY WHAT I
8 HEARD WAS WHAT I HAD ALREADY KNOWN.

9 Q OKAY. SO DID YOU WATCH MEDIA ACCOUNTS ABOUT IT LAST
10 NIGHT OR LISTEN TO ANY MEDIA ACCOUNTS ABOUT IT LAST NIGHT?

11 A LIKE I SAY, IT WAS ON. I SEEN IT ON THERE, BUT I
12 ALREADY KNEW WHAT IT WAS SAYING, SO I REALLY DIDN'T PAY IT
13 THAT MUCH ATTENTION.

14 Q OKAY. MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS
15 NOT TO INVADE YOUR PRIVACY, BUT IT'S NECESSARY. DUE TO
16 THE NATURE OF THIS CASE, THE LAW REQUIRES THAT WE SPEAK TO
17 EACH POTENTIAL JUROR INDIVIDUALLY. THERE ARE NO RIGHT OR
18 WRONG ANSWERS, BUT THE ONLY THING I NEED YOU TO DO IS BE
19 COMPLETELY HONEST WITH ME AND ANSWER THE QUESTIONS AS
20 HONESTLY AND FULLY AS YOU POSSIBLY CAN. DO YOU
21 UNDERSTAND?

22 A YES, MA'AM.

23 Q AMONG OTHER THINGS WE'RE GOING TO BE TALKING ABOUT
24 PENALTY, AND THE MERE FACT THAT WE TALK ABOUT PENALTY DOES
25 NOT INDICATE ANYTHING ABOUT THE DEFENDANT BECAUSE HE IS

1 PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND?

2 A YES, MA'AM.

3 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
4 YOU LISTEN TO THE LAW?

5 A YES.

6 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
7 INSTRUCT YOU?

8 A I GUESS SO. I HAVE NEVER BEEN IN THAT SITUATION, SO
9 I...

10 Q AGAIN, THERE ARE NO RIGHT OR WRONG ANSWERS, BUT I DO
11 NEED FOR YOU TO GIVE ME A YES OR A NO. DO YOU UNDERSTAND
12 THAT YOU ARE BOUND TO ACCEPT THE LAW AND APPLY IT AS THE
13 COURT INSTRUCTS YOU?

14 A YES.

15 Q AND SO MY QUESTION AGAIN IS, DO YOU BELIEVE THAT YOU
16 COULD ACCEPT AND APPLY THE LAW AS I WOULD INSTRUCT YOU AS
17 THE JUDGE OF THIS COURT?

18 A YES.

19 Q DO YOU FEEL THAT YOU COULD ACCEPT AND APPLY THE LAW
20 AS I INSTRUCT YOU EVEN THOUGH YOU MIGHT DISAGREE WITH IT
21 OR DISAGREE WITH WHAT I TELL YOU THE LAW IS IN THIS STATE?

22 A YES.

23 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
24 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
25 ANYTHING THAT YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS

1 CASE?

2 A NO.

3 Q OKAY.

4 THE COURT: ANY QUESTIONS FROM THE STATE?

5 MR. HEMBREE: NO, YOUR HONOR.

6 THE COURT: ANY FROM THE DEFENSE?

7 MR. KELLY: NONE, MA'AM.

8 THE COURT: ANY EXCEPTIONS TO EXCUSING THE JUROR
9 FROM THE STATE?

10 MR. HEMBREE: NO, YOUR HONOR.

11 THE COURT: FROM THE DEFENSE?

12 MR. KELLY: NO, MA'AM.

13 THE COURT: MA'AM, YOU'RE EXCUSED WITH THE
14 COURT'S THANKS. PLEASE, HOWEVER, DO NOT DISCUSS
15 ANYTHING WE DISCUSSED WITH YOU WITH ANYONE.

16 JUROR: OKAY.

17 THE COURT: THANK YOU.

18 JUROR: THANK YOU.

19 THE COURT: YOU'RE WELCOME.

20 (JUROR LEFT THE COURTROOM.)

21 (JUROR ENTERED THE COURTROOM.)

22 RONALD POLSON, WHITE MALE, TESTIFIED
23 AS FOLLOWS:

24 BY THE COURT:

25 Q OKAY. RONALD POLSON, 257. WE HAVE HIM AS RESPONDING

1 TO QUESTION 21. MR. POLSON, HOW ARE YOU?

2 A FINE, MA'AM.

3 Q COME HAVE A SEAT FOR US. WE APPRECIATE YOUR
4 PATIENCE. AND SIR, STATE YOUR FULL NAME FOR THE RECORD.

5 A RONALD WAYNE POLSON.

6 Q AND SIR, YOU ARE JUROR 257; IS THAT RIGHT?

7 A YES, MA'AM.

8 Q AND SIR, I WOULD REMIND YOU THAT YOU'RE STILL UNDER
9 OATH. DO YOU UNDERSTAND?

10 A YES, MA'AM.

11 Q SIR, HAVE YOU READ, WATCHED, OR LISTENED TO ANY MEDIA
12 ACCOUNTS ABOUT THIS CASE DURING THE BREAK?

13 A YES, MA'AM.

14 Q OKAY. SO YOU WATCHED THE NEWS LAST NIGHT--

15 A NO, MA'AM.

16 Q -- OR SOMETHING OR...

17 A I HAD A PAPER YESTERDAY MORNING BEFORE I COME TO
18 COURT.

19 Q OKAY. I MEAN FROM THE TIME THAT I TOLD YOU YOU
20 COULDN'T WATCH ANYTHING --

21 A NO, MA'AM.

22 Q -- OR READ ANYTHING?

23 A NO, MA'AM.

24 Q OKAY. SIR, I'M GOING TO ASK YOU SOME QUESTIONS. THE
25 LAW REQUIRES IN A CASE OF THIS TYPE THAT WE TALK TO EACH

1 POTENTIAL JUROR INDIVIDUALLY. THERE ARE NO RIGHT OR WRONG
2 ANSWERS. THE ONLY THING THAT WE REQUIRE OF YOU IS THAT
3 YOU BE COMPLETELY HONEST WITH US AND ANSWER THE QUESTIONS
4 AS FULLY AS YOU CAN. DO YOU UNDERSTAND?

5 A YES, MA'AM.

6 Q SIR, AMONG OTHER THINGS WE ARE GOING TO BE TALKING
7 ABOUT POTENTIAL PENALTIES IN THIS CASE, BUT THE MERE FACT
8 THAT WE TALK ABOUT IT IS NO REFLECTION ON THE DEFENDANT
9 BECAUSE HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU
10 UNDERSTAND?

11 A YES, MA'AM.

12 Q OKAY. SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE,
13 COULD YOU LISTEN TO THE LAW?

14 A YES, MA'AM.

15 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT YOU?

16 A YES, MA'AM.

17 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
18 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

19 A ONE MORE TIME, PLEASE.

20 Q OKAY. COULD YOU ACCEPT AND APPLY IT -- FOR EXAMPLE,
21 IF I TOLD YOU THE LAW IN SOUTH CAROLINA WAS A PARTICULAR
22 THING AND YOU DISAGREED WITH WHAT THE LAW SAID OR YOU
23 DISAGREED WITH WHAT IT IS AND YOU THINK IT SHOULD BE
24 SOMETHING ELSE, SOMETHING ELSE, COULD YOU DISREGARD THAT
25 AND APPLY THE LAW AS I TELL YOU IT IS?

1 A DEPENDING ON CIRCUMSTANCES.

2 Q OKAY. DO YOU UNDERSTAND THAT YOU COULD NOT DISREGARD
3 THE LAW. IF I TELL YOU IT IS ONE THING, THEN YOU HAVE TO
4 ACCEPT IT AS I TELL YOU WHAT IT IS, AND YOU HAVE TO APPLY
5 IT EXACTLY AS I TELL YOU AS IT IS. YOU HAVE NO OPTION.
6 DO YOU UNDERSTAND THAT?

7 A I UNDERSTAND.

8 Q OKAY. NOW, MY QUESTION IS -- AND AGAIN, THERE IS NO
9 RIGHT OR WRONG ANSWER. DO YOU BELIEVE THAT YOU COULD
10 APPLY AND ACCEPT THE LAW AS I TELL YOU WHAT IT IS?

11 A YES, MA'AM.

12 Q OKAY. SIR, COULD YOU DECIDE THIS CASE BASED SOLELY
13 ON THE EVIDENCE PRESENTED IN THE COURTROOM FROM SWORN
14 WITNESSES AND OTHER EVIDENCE AND DISREGARD ANYTHING YOU
15 MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

16 A NO, MA'AM. I CANNOT.

17 Q OKAY.

18 THE COURT: ANY EXCEPTION -- ANY QUESTIONS FROM
19 THE STATE?

20 MR. HEMBREE: NO, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. KELLY: NO, MA'AM.

23 THE COURT: ANY EXCEPTION TO EXCUSING THIS
24 JUROR?

25 MR. HEMBREE: NO, YOUR HONOR.

1 THE COURT: FROM THE DEFENSE?

2 MR. KELLY: NO, MA'AM.

3 THE COURT: SIR, YOU'RE EXCUSED WITH THE COURTS
4 THANKS. PLEASE, HOWEVER, DO NOT DISCUSS THESE
5 PROCEEDINGS WITH ANYONE.

6 JUROR: NO, MA'AM. THANK YOU.

7 THE COURT: THANK YOU.

8 (JUROR LEFT THE COURTROOM.)

9 THE COURT: SUE ANN SCHRODER, 288. WE HAVE HER
10 AS RESPONDING TO ALL THREE.

11 MR. HEMBREE: YES, YOUR HONOR.

12 BAILIFF: THAT IS 288, MA'AM?

13 THE COURT: YES, SIR.

14 (JUROR ENTERED THE COURTROOM.)

15 SUE ANN SCHRODER, WHITE FEMALE,
16 TESTIFIED AS FOLLOWS:

17 BY THE COURT:

18 Q MA'AM, HOW ARE YOU?

19 A PRETTY GOOD. AND HOW ABOUT YOU?

20 Q GOOD. DOING FINE, WE APPRECIATE YOU BEING SO PATIENT
21 WITH US. YEAH, IF YOU COULD GET AS CLOSE TO THE
22 MICROPHONE AS YOU CAN. THANK YOU. STATE YOUR FULL NAME
23 FOR THE RECORD.

24 A SUE ANN CRAWFORD SCHRODER.

25 Q AND MA'AM, YOU ARE JUROR 288?

1 A YES.

2 Q AND MA'AM, I WOULD REMIND YOU THAT YOU'RE STILL UNDER
3 OATH. DO YOU UNDERSTAND?

4 A YES.

5 Q OKAY. NOW MA'AM, WE'RE GOING TO ASK YOU SOME
6 QUESTIONS. IT'S NOT TO INVADE YOUR PRIVACY IN ANY WAY,
7 BUT STATE LAW REQUIRES THAT WE QUESTION EACH JUROR
8 INDIVIDUALLY IN A CASE OF THIS TYPE.

9 THE ONLY THING THAT WE REQUIRE IS THAT YOU BE OPEN,
10 HONEST AND FULL IN YOUR ANSWERS. I EMPHASIZE TO YOU THERE
11 IS NO RIGHT OR WRONG ANSWER. AND ONLY YOU CAN ANSWER
12 THESE QUESTIONS. THE ONLY THING WE REQUIRE OF YOU IS
13 COMPLETE HONESTY, OKAY?

14 A YES.

15 Q OKAY. NOW, AMONG OTHER THINGS WE ARE GOING TO BE
16 TALKING ABOUT POSSIBLE PENALTIES IN THIS CASE. BUT THE
17 MERE FACT THAT WE DISCUSS THOSE IS NO REFLECTION ON THE
18 DEFENDANT BECAUSE IN THE LAW HE IS PRESUMED TO BE
19 INNOCENT. DO YOU UNDERSTAND THIS?

20 A YES.

21 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
22 LISTEN TO THE LAW?

23 A YES.

24 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT YOU
25 AS THE JUDGE OF THIS COURT?

1 A YES.

2 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
3 MIGHT DISAGREE WITH WHAT I TELL YOU THE LAW IS?

4 A YES.

5 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
6 EVIDENCE PRESENTED HERE IN THE COURTROOM FROM THE LIPS OF
7 SWORN WITNESSES AND THE EVIDENCE AS IT WAS PRESENTED AND
8 THE LAW AS THE COURT WILL CHARGE IRREGARDLESS OF WHAT YOU
9 MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

10 A I'M NOT CERTAIN ABOUT THAT.

11 Q OKAY. AGAIN, THERE IS NO RIGHT OR WRONG ANSWER. I
12 NEED YOU TO SEARCH YOURSELF. IF YOU NEED A FEW MINUTES TO
13 REFLECT, PLEASE DO SO, AND THEN TELL ME WHETHER YOU CAN
14 GIVE ME A YES OR A NO ANSWER.

15 A NO.

16 Q OKAY.

17 THE COURT: ANY QUESTIONS FROM THE STATE?

18 MR. HEMBREE: NO, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. KELLY: NO, MA'AM.

21 THE COURT: ANY EXCEPTION TO EXCUSING THIS JUROR
22 FROM THE STATE?

23 MR. HEMBREE: NO.

24 THE COURT: FROM THE DEFENSE?

25 MR. KELLY: NO, MA'AM.

1 THE COURT: MA'AM, YOU'RE EXCUSED WITH THE
2 COURT'S THANKS.

3 JUROR: THANK YOU.

4 THE COURT: YOU'RE WELCOME AND PLEASE DON'T
5 DISCUSS THESE PROCEEDINGS.

6 JUROR: I WON'T.

7 THE COURT: HAVE A GOOD DAY.

8 (JUROR LEFT THE COURTROOM.)

9 THE COURT: CYNTHIA CRIBB, 63. I DON'T HAVE HER
10 LISTED AS RESPONDING TO 21, 22 OR 25.

11 MR. HEMBREE: MY RECORDS REFLECT THE SAME, YOUR
12 HONOR.

13 (JUROR ENTERED THE COURTROOM.)

14 CYNTHIA CRIBB, WHITE FEMALE, TESTIFIED AS
15 FOLLOWS:

16 BY THE COURT:

17 Q HOW ARE YOU, MA'AM?

18 A OKAY.

19 Q IT'S GOOD TO SEE YOU. WE APPRECIATE YOUR PATIENCE.

20 A THANK YOU.

21 Q MA'AM, IF YOU WOULD STATE YOUR FULL NAME FOR THE
22 RECORD.

23 A CYNTHIA P CRIBB.

24 Q AND MA'AM, MRS. CRIBB, YOU ARE JUROR 63; IS THAT
25 RIGHT?

1 A YES, MA'AM.

2 Q OKAY. IF YOU WOULD SLIDE A LITTLE -- YEAH, AND SPEAK
3 DIRECTLY INTO THAT MICROPHONE. MA'AM, I WOULD REMIND YOU
4 THAT YOU'RE STILL UNDER OATH. DO YOU UNDERSTAND THAT?

5 A YES, MA'AM.

6 Q AND DID YOU SEE ANY MEDIA REPORTS ABOUT THIS CASE
7 LAST NIGHT?

8 A NO, MA'AM.

9 Q OKAY. NOW, I'M GOING TO ASK YOU SOME QUESTIONS.
10 THERE ARE NO RIGHT OR WRONG ANSWERS. ALL WE ASK IS THAT
11 YOU BE OPEN, FULL, AND HONEST WITH US. STATE LAW REQUIRES
12 IN A CASE OF THIS TYPE THAT WE TALK TO EACH JUROR
13 INDIVIDUALLY.

14 AGAIN, IT'S NOT OUR INTENT TO INVADE YOUR PRIVACY.
15 AND I EMPHASIZE THERE IS NO RIGHT OR WRONG ANSWER. WE DO
16 YOU NEED TO ANSWER US YES OR NO HOWEVER.

17 A OKAY.

18 Q OKAY? AND IF YOU DON'T UNDERSTAND THE QUESTION,
19 PLEASE LET ME KNOW BECAUSE WE TEND TO TALK IN WHAT WE CALL
20 LEGALESE AND WE ASSUME EVERYBODY UNDERSTANDS IT, AND THEY
21 ALWAYS DO NOT. OKAY?

22 AMONG OTHER THINGS WE'RE GOING TO BE TALKING ABOUT
23 POSSIBLE PENALTIES IN THIS CASE. THE FACT THAT WE REFER
24 TO PENALTIES OR TALK ABOUT THEM IS ABSOLUTELY NO
25 REFLECTION ON THE DEFENDANT BECAUSE HE IS PRESUMED TO BE

1 INNOCENT IN THE LAW. DO YOU UNDERSTAND THAT?

2 A YES, MA'AM.

3 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
4 YOU LISTEN TO THE LAW?

5 A YES, MA'AM.

6 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT YOU
7 AS THE JUDGE OF THE COURT?

8 A YES, MA'AM.

9 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
10 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

11 A YES, MA'AM.

12 Q OKAY. BECAUSE SOMETIMES PEOPLE HAVE PRECONCEIVED
13 NOTIONS ABOUT WHAT THEY THINK THE LAW SHOULD BE OR HOW IT
14 SHOULD BE WRITTEN, AND SOMETIMES WHEN I TELL THEM WHAT THE
15 LAW ACTUALLY IS, THEY ARE SURPRISED.

16 AND SO WHAT I'M ASKING IS IF I TELL YOU THE LAW IS A
17 PARTICULAR WAY ON A PARTICULAR SUBJECT AND YOU DISAGREED
18 WITH WHAT YOU THOUGHT IT SHOULD HAVE BEEN OR COULD BE, CAN
19 YOU STILL APPLY IT BASED ON WHAT I TELL YOU IT ACTUALLY
20 IS?

21 A NO, MA'AM.

22 Q OKAY. DO YOU UNDERSTAND THE QUESTION?

23 A YES, MA'AM.

24 Q OKAY. DO YOU UNDERSTAND WHAT I MEAN WHEN I SAY THE
25 LAW? I'M NOT TALKING ABOUT THE FACTS OF THE CASE.

1 A OKAY. THE LAW.

2 Q NO, I'M TALKING ABOUT THE LAW. THE LAW, FOR EXAMPLE,
3 AND THAT'S WHY I ASKED IT BECAUSE I SAW SOME PUZZLEMENT IN
4 YOUR EYES. THERE ARE CERTAIN STAGES OF THE TRIAL. FOR
5 EXAMPLE, I'M NOT ALLOWED BY STATE LAW OR CONSTITUTION TO
6 HAVE AN OPINION ABOUT THE FACTS OF ANY CASE. THAT'S WHY
7 WE HAVE A JURY, BECAUSE YOU ALL ARE THE FACT FINDERS.

8 A UH-HUH.

9 Q I NEVER INTERFERE IN THAT PROCESS. YOU ALL DECIDE
10 WHAT THE FACTS ARE. BUT I TELL YOU WHAT THE LAW IS. FOR
11 EXAMPLE, IF SOMEBODY WAS CHARGED WITH SAY BURGLARY, THERE
12 ARE CERTAIN ELEMENTS OF THE CRIME OF BURGLARY AND I WOULD
13 TELL YOU WHAT THOSE ARE.

14 AND WHAT I'M ASKING IS IF YOU THOUGHT THE ELEMENTS OF
15 BURGLARY WERE SUPPOSED TO BE ONE THING BUT I TELL YOU THE
16 LAW SAYS THEY ARE THESE THINGS, YOU KNOW, ELEMENTS ONE,
17 TWO, AND THREE, COULD YOU DISREGARD WHAT YOU THINK IT
18 SHOULD BE AND APPLY THE LAW AS I TELL YOU IT IS?

19 A YES, MA'AM.

20 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
21 EVIDENCE PRESENTED IN THE COURTROOM FROM THE LIPS OF SWORN
22 WITNESSES AND THE EVIDENCE THAT WILL BE INTRODUCED
23 IRREGARDLESS OF WHAT YOU MAY HAVE HEARD, READ, OR SEEN
24 ABOUT THIS CASE?

25 A NO, MA'AM.

1 Q OKAY. YOU WANT TO THINK ABOUT IT SOME MORE? YOU
2 SORT OF -- YOU SAID THAT'S A TOUGH ONE.

3 A YEAH.

4 Q AND THERE ARE NO RIGHT OR WRONG ANSWERS. AND I NEED
5 YOU TO SEARCH YOUR HEART AND TELL ME AND BE AS HONEST WITH
6 US AS YOU CAN. AND AGAIN, THERE IS NO RIGHT OR WRONG
7 ANSWER.

8 A NO, MA'AM.

9 Q OKAY.

10 THE COURT: ANY QUESTIONS FROM THE STATE?

11 MR. HEMBREE: NO, YOUR HONOR.

12 THE COURT: FROM THE DEFENSE?

13 MR. KELLY: NO, MA'AM.

14 THE COURT: ANY OBJECTION TO THE WITNESS BEING
15 EXCUSED FROM THE STATE?

16 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

17 THE COURT: FROM THE DEFENSE?

18 MR. KELLY: NO, MA'AM.

19 THE COURT: MA'AM, YOU'RE EXCUSED WITH THE
20 COURT'S THANKS. PLEASE DO NOT DISCUSS THESE
21 PROCEEDINGS.

22 (JUROR LEFT THE COURTROOM.)

23 THE COURT: WE WILL BE AT EASE UNTIL GOLLY,
24 4:00. I GUESS MAYBE WE SHOULD HAVE SCHEDULED SOME
25 MORE FOLKS, BUT THEN, YOU KNOW, IF WE HAD, WE

1 WOULDN'T HAVE HAD ENOUGH TIME, WE'D BE PUSHING IT.
2 EXACTLY. MURPHY'S LAW. STRESSED OUT. SEE Y'ALL AT
3 4.

4 (WHEREUPON THERE WAS A RECESS.)

5 THE COURT: READY TO START? I UNDERSTAND THE
6 4:00 HAVE BEEN HERE WITH SUFFICIENT TIME TO HAVE READ
7 THE JURY TYPE FORM, SO WE ARE GOING TO GO AHEAD AND
8 PROCEED. BARNEY BLAIN, JUNIOR, 24. AND WE DON'T
9 HAVE HIM ON ANY OF THE LISTS AS RESPONDING TO ANY OF
10 THE QUESTIONS.

11 (JUROR ENTERED THE COURTROOM.)

12 BARNEY BLAIN, BLACK MALE, TESTIFIED AS
13 FOLLOWS:

14 BY THE COURT:

15 Q SIR, HOW ARE YOU?

16 A DOING FINE. THANK YOU.

17 Q GOOD. WE APPRECIATE YOUR PATIENCE. CAN YOU STATE
18 YOUR NAME FOR THE RECORD?

19 A BARNEY BLAIN, JUNIOR.

20 Q AND SIR, YOU ARE JUROR 24; IS THAT RIGHT?

21 A YES, YOUR HONOR.

22 Q SIR, I REMIND YOU YOU'RE STILL UNDER OATH. DO YOU
23 UNDERSTAND?

24 A YES, YOUR HONOR.

25 Q SIR, DID YOU FOLLOW THE COURT'S CAUTIONARY

1 INSTRUCTIONS LAST NIGHT NOT TO WATCH ANY MEDIA ACCOUNTS
2 ABOUT THIS CASE?

3 A YES, YOUR HONOR.

4 Q AND SIR, I'M GOING TO ASK YOU SOME QUESTIONS. THERE
5 ARE NO RIGHT OR WRONG ANSWERS TO THESE QUESTIONS. WE JUST
6 NEED YOU TO BE AS OPEN AND HONEST WITH US AS POSSIBLE.
7 STATE LAW REQUIRES THAT WE TALK TO EACH POTENTIAL JUROR
8 ONE BY ONE. OKAY? DO YOU UNDERSTAND?

9 A YES.

10 Q SIR, AMONG OTHER THINGS WE'LL BE TALKING ABOUT
11 PENALTY. BUT THE MERE FACT THAT WE ARE TALKING ABOUT
12 PENALTY DOES NOT INDICATE ANYTHING ABOUT THE DEFENDANT.
13 HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU
14 UNDERSTAND?

15 A YES.

16 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
17 YOU LISTEN TO THE LAW?

18 A YES.

19 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT YOU?

20 A YES.

21 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
22 MAY DISAGREE WITH WHAT YOU THINK THE LAW OUGHT TO BE?

23 A YES.

24 Q SIR, COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
25 EVIDENCE PRESENTED IN THE COURTROOM AND DISREGARD ANYTHING

1 YOU MAY HAVE HEARD OR READ ABOUT THIS CASE?

2 A YES.

3 Q SIR, HAVE YOU HEARD, READ, OR SEEN ANY MEDIA COVERAGE
4 ABOUT THIS CASE?

5 A YES.

6 Q AND HAVE YOU FORMED A FIXED OPINION ABOUT -- AS A
7 RESULT OF WHAT YOU HAVE HEARD?

8 A NO.

9 Q SIR, IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
10 PROVING GUILT BEYOND A REASONABLE DOUBT, AND THE DEFENDANT
11 HAS NO BURDEN TO PROVE HIS INNOCENCE. DO YOU UNDERSTAND
12 THAT?

13 A YES.

14 Q SIR, HAVE YOU HAD A CHANCE TO READ THE JUROR TYPE
15 FORM?

16 A YES.

17 Q AND DO YOU FEEL YOU FIT INTO ANY OF THOSE TYPES?

18 A TYPE THREE.

19 Q OKAY. SIR, IF YOU WERE A JUROR IN A DEATH PENALTY
20 CASE AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF
21 MURDER, WE WOULD THEN MOVE TO THE SENTENCING PHASE OF THE
22 TRIAL. DO YOU UNDERSTAND?

23 A YES.

24 Q AND SIR, DURING THAT PHASE YOU WOULD BE ABLE TO
25 CONSIDER WHAT WE CALL AGGRAVATING CIRCUMSTANCES, AND THOSE

1 ARE FACTS, INCIDENTS, DETAILS, OR OCCURRENCES WHICH THE
2 LEGISLATURE HAS DECLARED BY STATE LAW WOULD MAKE WORSE,
3 THAT IS TO AGGRAVATE, THE OFFENSE OF MURDER.

4 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
5 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
6 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
7 COMMISSION OF A CRIME.

8 AND AN EXAMPLE OF AN AGGRAVATING CIRCUMSTANCE,
9 ALTHOUGH THIS IS NOT THE WHOLE LIST, I JUST WANT TO GIVE
10 YOU AN EXAMPLE, WOULD BE THE MURDER OF A CHILD UNDER AGE
11 11, DRUG TRAFFICKING, KILLING BY POISON, BURGLARY IN ANY
12 DEGREE, AND THESE ARE JUST EXAMPLES.

13 YOU WOULD ALSO BE ALLOWED TO CONSIDER WHAT WE CALL
14 MITIGATING CIRCUMSTANCES, WHICH ARE INCIDENTS, DETAILS, OR
15 OCCURRENCES WHICH THE GENERAL ASSEMBLY HAS DECLARED BY
16 STATUTE REDUCE THE SEVERITY OF THE OFFENSE OF MURDER AND
17 MAY BE CONSIDERED AS EXTENUATING OR IN OTHER WORDS AS
18 REDUCING THE DEGREE OF MORAL CULPABILITY OR
19 RESPONSIBILITY.

20 AND I'M GOING TO GIVE YOU SOME EXAMPLES OF THAT, AND
21 THESE ARE ONLY EXAMPLES, MENTAL RETARDATION AT THE TIME OF
22 THE CRIME, THE DEFENDANT WAS PROVOKED BY THE VICTIM, THE
23 DEFENDANT WAS AN ACCOMPLICE AND THEIR PARTICIPATION WAS
24 RELATIVELY MINOR, THE DEFENDANT ACTED UNDER DURESS OR
25 DOMINATION. AGAIN, THESE ARE JUST EXAMPLES.

1 SIR, IF YOU WERE A JUROR IN THE PENALTY PHASE OF A
2 CASE, IN THE SENTENCING PHASE OF A CASE, COULD YOU
3 DEPENDING UPON THE PARTICULAR FACTS AND CIRCUMSTANCES OF
4 THAT CASE INCLUDING CONSIDERING AGGRAVATING AND MITIGATING
5 CIRCUMSTANCES AND THE LAW THAT I WOULD INSTRUCT YOU
6 APPLIES TO THE CASE, COULD YOU RETURN A VERDICT OR A
7 SENTENCE OF LIFE IN PRISON WITHOUT THE POSSIBILITY OF
8 PAROLE?

9 A YES.

10 Q UNDER THE SAME CIRCUMSTANCES THAT I'VE JUST
11 EXPLAINED, COULD YOU RETURN A SENTENCE OR A RECOMMENDATION
12 OF DEATH WHICH IN THIS STATE IS BY ELECTROCUTION OR LETHAL
13 INJECTION?

14 A YES.

15 Q SIR, IF CHOSEN FOR THIS JURY, AS I HAVE EXPLAINED,
16 YOU WILL BE HOUSED IN A HOTEL OR SEQUESTERED FOR A PERIOD
17 OF 10 DAYS. EXCEPT FOR PERSONAL INCONVENIENCE, WHICH WE
18 ALREADY ACCEPT THERE IS GOING TO BE, WOULD THIS POSE A
19 SERIOUS DANGER TO YOUR HEALTH OR WELL-BEING?

20 A NO.

21 Q DOES IT POSE A SERIOUS DANGER OF HEALTH OR WELL-BEING
22 TO ANYBODY WHO IS DEPENDENT ON YOU?

23 A NO.

24 Q SIR, IN CAPITAL CASES LIKE THIS ONE, UNLIKE REGULAR
25 CASES -- IN A REGULAR CASE -- IN EVERY CASE THERE'S A

1 VERDICT FORM. AND USUALLY JUST THE FOREPERSON SIGNS IT.
2 BUT IN A CASE OF THIS TYPE, WHETHER THERE BE A
3 RECOMMENDATION OF LIFE WITHOUT THE POSSIBILITY OF PAROLE
4 OR A RECOMMENDATION OF DEATH, EACH JUROR IS REQUIRED TO
5 SIGN THAT RECOMMENDATION OR THAT VERDICT FORM.

6 DO YOU HAVE ANY HESITATION IN BEING ABLE TO SIGN A
7 FORM THAT WOULD RECOMMEND LIFE WITHOUT THE POSSIBILITY OF
8 PAROLE OR DEATH?

9 A NO.

10 Q OKAY.

11 THE COURT: ARE THERE ANY QUESTIONS FROM THE
12 STATE?

13 MR. HEMBREE: NO, YOUR HONOR.

14 THE COURT: FROM THE DEFENSE?

15 MR. KELLY: NO, MA'AM.

16 THE COURT: ANY EXCEPTION TO THE JUROR BEING
17 QUALIFIED FROM THE STATE?

18 MR. HEMBREE: NO, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. KELLY: NO, MA'AM.

21 THE COURT: SIR, YOU HAVE BEEN QUALIFIED -- BEEN
22 FOUND QUALIFIED AS -- TO SERVE AS A JUROR IN THIS
23 CASE. AND WHAT THAT MEANS TO -- THE NEXT COUPLE OF
24 DAYS WE'RE GOING TO BE GOING THROUGH THIS SAME
25 PROCESS WITH OTHER JURORS.

1 WE WILL THEN COME UP WITH A POOL OF JURORS WHO
2 ON MONDAY WE WILL SELECT THE JURY FROM. AND WE WILL
3 SELECT 12 JURORS ALONG WITH TWO ALTERNATES. I'M
4 GOING TO ASK THAT YOU FOLLOW SOME INSTRUCTIONS FOR
5 ME. I NEED YOU TO RETURN ON MONDAY MORNING AT
6 9:30 AND I NEED YOU TO BE PACKED FOR TWO WEEKS.

7 JUROR: OKAY.

8 THE COURT: YOU DON'T HAVE TO ACTUALLY BRING
9 YOUR LUGGAGE UP HERE. YOU CAN LEAVE IT IN YOUR CAR.
10 I NEED FOR YOU TO STRICTLY ABIDE BY MY INSTRUCTION
11 AND NOT READ, WATCH, OR LISTEN TO ANY ACCOUNTS ABOUT
12 THE CASE AND NOT LOOK FOR ANYTHING ON THE INTERNET.
13 OKAY?

14 JUROR: YES.

15 THE COURT: AND I NEED YOU NOT TO DISCUSS THIS
16 WITH ANYONE, NOT THIS QUESTIONING PROCESS, NOT
17 SPECULATING ABOUT WHAT YOU THINK THE CASE COULD BE
18 ABOUT OR MAY BE ABOUT OR ANY DISCUSSION ABOUT THE
19 CASE AT ALL BECAUSE WE HAVE TO MAKE SURE YOU MAINTAIN
20 YOUR IMPARTIALITY. DO YOU UNDERSTAND?

21 JUROR: YES, YOUR HONOR.

22 THE COURT: OKAY. WELL, THANK YOU SO MUCH FOR
23 YOUR PATIENCE. WE WILL SEE YOU ON MONDAY AT 9:30.
24 YOU HAVE A GOOD DAY.

25 JUROR: THANK YOU.

1 THE COURT: YOU'RE WELCOME.

2 (JUROR LEFT THE COURTROOM.)

3 THE COURT: PATRICIA WOFFORD, 363. ANSWERED 21.

4 (JUROR ENTERED THE COURTROOM.)

5 PATRICIA WOFFORD, WHITE FEMALE,
6 TESTIFIED AS FOLLOWS:

7 THE COURT: I HAVE HER RESPONDING TO QUESTION 21
8 IS THAT CORRECT WITH THE STATE AND THE DEFENSE?

9 MR. HEMBREE: I DO, TOO.

10 BY THE COURT:

11 Q MA'AM, HOW ARE YOU TODAY?

12 A FINE. HOW ARE YOU DOING?

13 Q GOOD. I'M DOING FINE.

14 A GOOD.

15 Q WE APPRECIATE YOUR PATIENCE AND YOUR BEING SO KIND TO
16 US. WOULD YOU STATE YOUR NAME FOR THE RECORD.

17 A MY NAME IS PATRICIA WOFFORD.

18 Q MRS. WOFFORD, IF YOU COULD SCOOT A LITTLE CLOSER AND
19 SPEAK DIRECTLY INTO THE MICROPHONE FOR ME.

20 A MY NAME IS PATRICIA WOFFORD.

21 Q THANK YOU. MA'AM, YOU ARE JUROR 363, IS THAT RIGHT?

22 A THAT'S CORRECT.

23 Q OKAY. AND MA'AM, I REMIND YOU YOU'RE STILL UNDER
24 OATH. DO YOU UNDERSTAND?

25 A I UNDERSTAND.

1 Q NOW MA'AM, I'M GOING TO ASK YOU SOME QUESTIONS.
2 STATE LAW REQUIRES IN CASES OF THIS TYPE THAT WE TALK TO
3 EVERYONE INDIVIDUALLY.

4 A I UNDERSTAND.

5 Q THERE ARE NO RIGHT OR WRONG ANSWERS. WE KNOW THIS
6 CAN BE A LITTLE DAUNTING. AND THE ONLY THING WE ASK OF
7 YOU IS THAT YOU ANSWER OUR QUESTIONS AS OPENLY AND
8 HONESTLY AND FULLY AS YOU CAN. AND AGAIN, THERE ARE NO
9 RIGHT, NO WRONG ANSWERS. ONLY YOU CAN GIVE US -- CAN
10 ANSWER AS TO YOUR VIEWS.

11 NOW, AMONG OTHER THINGS WE'RE GOING TO BE TALKING
12 ABOUT PENALTY. THE FACT THAT WE REFER TO POSSIBLE
13 PENALTIES IS NO REFLECTION ON THE DEFENDANT BECAUSE HE IS
14 PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND?

15 A I UNDERSTAND.

16 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
17 YOU LISTEN TO THE LAW?

18 A YES, I COULD.

19 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT YOU
20 AS THE JUDGE OF THIS COURT?

21 A YES, I COULD.

22 Q WOULD YOU BE ABLE TO ACCEPT AND APPLY THE LAW EVEN
23 THOUGH YOU MIGHT DISAGREE WITH WHAT I TELL YOU THE LAW IS?

24 A YES, I COULD.

25 Q OKAY. MA'AM, COULD YOU DECIDE THIS CASE BASED SOLELY

1 ON THE EVIDENCE PRESENTED AND DISREGARD ANYTHING YOU MAY
2 HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

3 A YES.

4 Q HAVE YOU HEARD, READ, OR SEEN ANY MEDIA COVERAGE
5 ABOUT THIS CASE?

6 A YES.

7 Q AND AS A RESULT, HAVE YOU FORMED A FIXED OPINION
8 ABOUT THE FACTS? IN OTHER WORDS, HAVE YOU ALREADY MADE UP
9 YOUR MIND BASED ON WHAT YOU HAVE READ, HEARD, OR SEEN?

10 A I DO HAVE AN OPINION.

11 Q OKAY. IS -- WOULD YOU CHARACTERIZE IT AS FIXED,
12 WHICH AS I INDICATED IS MEANING I'VE ALREADY MADE UP MY
13 MIND, I DON'T NEED TO HEAR ANYTHING ELSE?

14 A NOT NECESSARILY.

15 Q OKAY. I'M GOING TO ASK YOU A FEW MORE QUESTIONS. I
16 NEED YOU TO LISTEN TO ME VERY CAREFULLY. AND I'M GOING TO
17 USE THE EXAMPLE OF A HORSE WITH BLINDERS. YOU EVER SEEN A
18 HORSE AND THEY WEAR THOSE LITTLE BLACK THINGS BESIDE THEIR
19 EYES?

20 A UH-HUH.

21 Q BECAUSE WHAT WE'RE TRYING TO DETERMINE IS IF WE CAN
22 QUALIFY A POOL OF JURORS WHO CAN PUT ASIDE ANY
23 PRECONCEIVED NOTIONS THAT THEY MAY HAVE ABOUT THIS CASE.

24 AND WHAT A JUROR IS REQUIRED TO DO IS TO LISTEN TO
25 THE FACTS AND THE EVIDENCE THAT IS PRESENTED FROM THE

1 WITNESS STAND BY SWORN WITNESSES AND ANY OTHER EVIDENCE
2 THAT MAY BE INTRODUCED AND APPLY THE LAW AS THE COURT WILL
3 CHARGE TO THOSE FACTS AND RENDER A DECISION THAT IS BASED
4 SOLELY ON THE EVIDENCE AND THE LAW. DO YOU BELIEVE THAT
5 YOU COULD DO THAT?

6 A YES.

7 Q DO YOU BELIEVE THAT YOU COULD SET ASIDE COMPLETELY
8 AND DISABUSE FROM YOUR MIND ANY OPINION YOU MAY HAVE
9 FORMED AS A RESULT OF WHAT YOU HAVE SEEN IN THE MEDIA?

10 A YES.

11 Q OKAY. IN A CRIMINAL CASE, MA'AM, THE STATE HAS THE
12 BURDEN OF PROVING EACH AND EVERY ELEMENT OF THE OFFENSE
13 THAT THEY HAVE CHARGED THE DEFENDANT WITH BEYOND A
14 REASONABLE DOUBT.

15 IN OTHER WORDS, THEY HAVE THE BURDEN OF PROVING HIS
16 GUILT BEYOND A REASONABLE DOUBT. AND HE HAS NO BURDEN TO
17 PROVE ANYTHING. DO YOU UNDERSTAND THAT?

18 A YES, I DO.

19 Q OKAY. MA'AM, HAVE YOU HAD A CHANCE TO READ THE JUROR
20 TYPE SHEET?

21 A I HAVE.

22 Q AND DO YOU REMEMBER WHAT EACH TYPE REPRESENTS?

23 A YES.

24 Q OKAY. DO YOU FEEL YOU FIT INTO ANY OF THOSE
25 CATEGORIES?

1 A I WOULD SAY NUMBER THREE.

2 Q OKAY. MA'AM, IF YOU WERE A JUROR IN A DEATH PENALTY
3 CASE AND IF THE JURY HAD FOUND THE DEFENDANT GUILTY OF
4 MURDER -- BLESS YOU -- WE WOULD THEN MOVE TO WHAT WE CALL
5 THE SENTENCING PHASE OF THE TRIAL.

6 AS I EXPLAINED ON YESTERDAY, THERE ARE TWO PHASES.
7 THERE'S A GUILT PHASE, AND IF WE GET BEYOND THAT, WE THEN
8 COME TO A PENALTY PHASE. DURING -- DO YOU UNDERSTAND?

9 A I UNDERSTAND.

10 Q DURING THE PENALTY PHASE OR THE -- OF THE TRIAL YOU
11 WOULD BE ALLOWED TO CONSIDER WHAT WE CALL AGGRAVATING
12 FACTORS. AND AGGRAVATING FACTORS ARE CIRCUMSTANCES OR
13 FACTS, INCIDENTS, DETAILS OR AN OCCURRENCE WHICH THE
14 LEGISLATURE HAS DECLARED BY STATE LAW WOULD MAKE WORSE,
15 THAT IS AGGRAVATE, THE OFFENSE OF MURDER.

16 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
17 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
18 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
19 COMMISSION OF A CRIME.

20 AND I'M GOING TO GIVE YOU SOME EXAMPLES, AND THESE
21 ARE ONLY EXAMPLES SO THAT YOU CAN HELP UNDERSTAND WHAT I
22 HAVE JUST EXPLAINED TO YOU.

23 A OKAY.

24 Q THAT WOULD BE MURDER OF A CHILD UNDER AGE 11, DRUG
25 TRAFFICKING, KILLING BY POISON, OR BURGLARY IN ANY DEGREE.

1 AGAIN, THESE ARE JUST EXAMPLES.

2 YOU WOULD ALSO BE ALLOWED TO CONSIDER WHAT WE CALL
3 MITIGATING CIRCUMSTANCES, WHICH ARE INCIDENTS, DETAILS, OR
4 OCCURRENCES WHICH THE LEGISLATURE HAS DECLARED BY STATE
5 LAW REDUCES THE SEVERITY OF THE OFFENSE OF MURDER AND MAY
6 BE CONSIDERED AS EXTENUATING OR AS REDUCING THE DEGREE OF
7 MORAL CULPABILITY OR RESPONSIBILITY.

8 AND AGAIN, I'M GOING TO GIVE YOU SOME EXAMPLES. THIS
9 LIST, HOWEVER, IS NOT EXCLUSIVE. I JUST GIVE IT TO YOU SO
10 YOU CAN UNDERSTAND, MORE BE ABLE TO RELATE WHAT I'M
11 SAYING.

12 THOSE WOULD BE MENTAL RETARDATION AT THE TIME OF THE
13 CRIME, THE DEFENDANT WAS PROVOKED BY THE VICTIM, THE
14 DEFENDANT WAS AN ACCOMPLICE AND THEIR PARTICIPATION WAS
15 RELATIVELY MINOR, THE DEFENDANT ACTED UNDER DURESS OR
16 DOMINATION. AGAIN, THESE ARE JUST EXAMPLES.

17 IF YOU WERE A JUROR IN THIS SITUATION, MEANING THE
18 SENTENCING PHASE OF THE TRIAL, COULD YOU DEPENDING UPON
19 THE PARTICULAR FACTS AND CIRCUMSTANCES OF A CASE,
20 INCLUDING THE CONSIDERATION OF AGGRAVATING AND MITIGATING
21 CIRCUMSTANCES AND THE LAW THAT I WOULD INSTRUCT YOU THAT
22 APPLIES AT THE CONCLUSION OF THAT PHASE OF THE CASE RETURN
23 A SENTENCE OF LIFE IN PRISON WITHOUT THE POSSIBILITY OF
24 PAROLE? DO YOU UNDERSTAND THE QUESTION OR DO YOU NEED ME
25 TO REPEAT IT?

1 A CAN YOU REPEAT THE QUESTION WITHOUT GOING THROUGH
2 THAT WHOLE LONG THING?

3 Q YEAH.

4 A YEAH.

5 Q WHY DON'T I SIMPLIFY IT FOR YOU?

6 A OKAY.

7 Q IN OTHER WORDS, BASED ON WHAT I'VE EXPLAINED TO YOU
8 ARE AGGRAVATING CIRCUMSTANCES AND WHAT I'VE EXPLAINED TO
9 YOU ARE MITIGATING CIRCUMSTANCES, COULD YOU CONSIDER ALL
10 OF THAT WITHIN THE CONTEXT OF THE CASE AND APPLY THE LAW
11 AS I EXPLAIN IT TO YOU AND RETURN A SENTENCE OF LIFE IN
12 PRISON WITHOUT THE POSSIBILITY OF PAROLE?

13 A IF -- IF THAT WERE APPROPRIATE--

14 Q OKAY.

15 A -- TO THE CASE, YES, I COULD.

16 Q OKAY. AND UNDER THE SAME CIRCUMSTANCES COULD YOU
17 RETURN A VERDICT OF DEATH WHICH IN THIS STATE IS BY
18 ELECTROCUTION OR LETHAL INJECTION?

19 A IF THAT WERE APPROPRIATE TO THE CASE, I COULD.

20 Q OKAY. IF YOU WERE CHOSEN, AS I'VE INDICATED, YOU
21 WOULD BE HOUSED OR SEQUESTERED IN A HOTEL FOR 10 DAYS.
22 AND WE ALREADY KNOW, WE ASSUME THAT'S A PERSONAL
23 INCONVENIENCE TO BOTH YOUR PERSONAL LIFE, YOUR FAMILY
24 LIFE, AND YOUR BUSINESS, WORK, EMPLOYMENT, OR OTHERWISE.
25 BUT WOULD THIS POSE A SERIOUS DANGER TO YOUR HEALTH OR

1 WELL-BEING?

2 A NO.

3 Q OKAY. NOW MA'AM, IN EVERY CASE THERE'S A VERDICT
4 FORM, AND USUALLY THE FOREPERSON OF THE JURY SIGNS THAT
5 VERDICT FORM. IN OTHER WORDS, THEY FILL IT OUT AND THEY
6 TELL US WHAT THE JURY'S VERDICT IS.

7 IN A CAPITAL CASE SUCH AS THIS, THE JURY MAY SAY
8 RECOMMENDATION OF PENALTY. AND WHILE IT IS CALLED A
9 RECOMMENDATION OF PENALTY, IT REALLY IS THE SENTENCE OF
10 THE COURT, WHETHER THAT BE LIFE WITHOUT THE POSSIBILITY OF
11 PAROLE OR DEATH.

12 AND AS SUCH, STATE LAW REQUIRES THAT EACH INDIVIDUAL
13 PERSON, MEMBER OF THE JURY, SIGN THEIR NAME ON THAT
14 VERDICT FORM. DO YOU FORESEE THAT BEING A PROBLEM FOR YOU
15 OR WOULD YOU BE ABLE TO SIGN A VERDICT FORM IN THE EVENT
16 OF A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE OR
17 DEATH?

18 A I WOULD BE ABLE TO SIGN.

19 Q OKAY. ARE THERE ANY QUESTIONS FROM THE STATE?

20 MR. HEMBREE: JUST A COUPLE, YOUR HONOR.

21 THE COURT: YOU MAY PROCEED.

22 MR. HEMBREE: THANK YOU, JUDGE.

23 THE COURT: YOU'RE WELCOME.

24 BY MR. HEMBREE:

25 Q GOOD AFTERNOON, MRS. WOFFORD.

1 A HI.

2 Q I'M GREG HEMBREE. I WAS INTRODUCED TO YOU YESTERDAY.
3 SEEMS LIKE A LONG TIME AGO. I ALONG WITH DEPUTY SOLICITOR
4 FRAN HUMPHRIES WILL BE TRYING THIS CASE ON BEHALF OF THE
5 STATE. COUPLE OF QUESTIONS.

6 ONE, OBVIOUSLY THE -- YOU KNOW, THE -- YOU WANT TO
7 GET DOWN TO THE VERY CORE OF WHAT WE HAVE BEEN ASKING
8 ABOUT TODAY OF THE JURORS INDIVIDUALLY IS THEIR BELIEF
9 ABOUT THE DEATH PENALTY. AND JUST GENERALLY, WOULD YOU
10 SHARE YOUR FEELINGS ABOUT THE DEATH PENALTY WITH ME?

11 A WELL, I FEEL THAT THERE ARE CIRCUMSTANCES THAT THE
12 DEATH PENALTY IS APPROPRIATE. I DON'T THINK IN ALL CASES
13 IT'S APPROPRIATE. BUT I DO THINK THERE ARE CERTAIN CRIMES
14 AND CIRCUMSTANCES WHERE IT PROBABLY IS THE BEST
15 PUNISHMENT.

16 Q OKAY. AND YOU'RE THE TYPE OF JUROR THAT, AS YOU
17 DESCRIBED, YOU'RE THE TYPE THAT -- YOU JUST SAID IN A
18 DIFFERENT WAY, THAT YOU'RE A TYPE THREE JUROR, THAT YOU
19 WANT TO HEAR ALL THE FACTS AND CIRCUMSTANCES AND THEN
20 BASED ON THOSE FACTS AND CIRCUMSTANCES YOU COULD EITHER
21 VOTE FOR LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE
22 OR DEATH DEPENDING UPON THOSE FACTS AND CIRCUMSTANCES?

23 A YES. AND I THINK THIS CASE ESPECIALLY IS ONE THAT'S
24 VERY SERIOUS AND -- AND NEEDS TO BE TREATED SERIOUSLY.
25 YOU HAVE GOT A SERIOUS CRIME, BUT YOU HAVE ALSO GOT A

1 PERSON'S LIFE HANGS IN THE BALANCE, SO -- YEAH, I THINK
2 BOTH SIDES DESERVE TO BE LISTENED TO.

3 Q VERY GOOD. AND YOU WOULD BE FAIR AND OPEN-MINDED
4 UNTIL YOU HEARD ALL OF THAT EVIDENCE AND THE CHARGE BY THE
5 JUDGE ON THE LAW?

6 A YES, I WOULD.

7 Q THAT'S ALL WE CAN ASK OF YOU. THANK YOU,
8 MRS. WOFFORD.

9 THE COURT: ANY QUESTIONS FROM THE DEFENSE?

10 MR. KELLY: NO, MA'AM.

11 THE COURT: ANY EXCEPTION TO THE JUROR BEING
12 QUALIFIED BY THE STATE?

13 MR. HEMBREE: NO, YOUR HONOR.

14 THE COURT: BY THE DEFENSE?

15 MR. KELLY: NO, MA'AM.

16 THE COURT: MA'AM, YOU HAVE BEEN FOUND QUALIFIED
17 TO SERVE AS A JUROR IN THIS CASE. AND JUST -- I KNOW
18 I EXPLAINED IT ON YESTERDAY, BUT THERE WAS SO MUCH
19 GOING ON YESTERDAY, I WANT TO EXPLAIN IT AGAIN.

20 WHAT WE'RE GOING TO DO AND WHAT WE'RE DOING FOR
21 THE NEXT COUPLE OF DAYS IS WE ARE TALKING TO
22 EVERYBODY AS STATE LAW REQUIRES US TO DO. AND FROM
23 THAT WE WILL HAVE A POOL OF QUALIFIED JURORS.

24 IN OTHER WORDS, WHEN WE GET ABOUT 45, GIVE OR
25 TAKE, WE'RE GOING TO STOP THE PROCESS. AND THEN WE

1 WILL HAVE A POOL OF QUALIFIED JURORS WHO WILL REPORT
2 ON MONDAY AT 9:30, AND YOU WILL BE ONE OF THEM.

3 FROM THAT GROUP WE WILL THEN SELECT A JURY OF 12
4 AND TWO ALTERNATES. SO WHAT I NEED FOR YOU TO DO FOR
5 ME IS TO RETURN ON MONDAY MORNING AT 9:30 PACKED FOR
6 TWO WEEKS.

7 OF COURSE, YOU DON'T HAVE TO BRING YOUR STUFF UP
8 HERE TO THE COURTROOM WITH YOU. WE WILL MAKE
9 PROVISION FOR IT LATER IF YOU'RE SELECTED ON THE
10 PANEL.

11 DURING THE RECESS, HOWEVER, I NEED FOR YOU TO
12 STRICTLY ABIDE BY THE COURT'S INSTRUCTIONS AND DO NOT
13 DISCUSS THIS CASE WITH ANYONE. DON'T SPECULATE ABOUT
14 WHAT YOU THINK IT COULD BE OR MAY BE ABOUT.

15 DON'T DO ANY INDEPENDENT RESEARCH OF ANY TYPE,
16 THAT INCLUDES ANYTHING THAT COULD BE FOUND ON THE
17 INTERNET. AND PLEASE DO NOT WATCH, READ, OR LISTEN
18 TO ANY MEDIA ACCOUNTS ABOUT THIS CASE, THAT INCLUDES
19 ANY MEDIA OUTLET, NEWSPAPER, RADIO, TELEVISION, OR
20 OTHERWISE.

21 AND ALSO PLEASE DON'T ALLOW ANYBODY TO DISCUSS
22 THE CASE WITH YOU. AND IT'S VERY TEMPTING. PEOPLE
23 SAY, OH, I HEARD YOU GOT SUMMONSED FOR JURY DUTY,
24 WHAT KIND OF CASE IS THAT? JUST TELL THEM THE JUDGE
25 SAYS I CAN'T TALK ABOUT IT, AND THAT SHOULD STOP THE

1 CONVERSATION AND KEEP YOU OUT OF TROUBLE AND KEEP
2 THEM FROM GETTING THEMSELVES IN HARM'S WAY ALSO.

3 JUROR: OKAY. ONE...

4 THE COURT: YES, MA'AM.

5 JUROR: THERE IS ONE THING. YOU ASKED A BUNCH
6 OF QUESTIONS YESTERDAY.

7 THE COURT: YES, MA'AM.

8 JUROR: AND THIS WAS NOT COVERED IN IT, BUT I
9 FEEL LIKE I SHOULD, YOU KNOW, MAKE YOU AWARE.

10 THE COURT: CERTAINLY.

11 JUROR: THAT I DO KNOW SOMEBODY THAT KNOWS THE
12 TEEN-AGED GIRL.

13 THE COURT: OKAY.

14 JUROR: I KNOW HER HIGH SCHOOL PRINCIPAL.

15 THE COURT: OKAY. AND WHO IS--

16 JUROR: AND KEITH BROWN.

17 THE COURT: OKAY.

18 JUROR: AND...

19 THE COURT: WHEN YOU SAY KNOW HIM, DEFINE THAT
20 RELATIONSHIP.

21 JUROR: I WORK WITH HIS WIFE.

22 THE COURT: OKAY.

23 JUROR: AND SO, YOU KNOW, I KNOW HER AND WORK
24 RELATIONSHIP, AND I KNOW, YOU KNOW, HE COMES UP EVERY
25 WHILE, SO I KNOW HIM, TOO. BUT I DO KNOW THAT HE

1 WENT TO THE HOSPITAL, YOU KNOW, WHEN SHE WAS TAKEN TO
2 THE HOSPITAL AND...

3 THE COURT: OKAY.

4 JUROR: AND SO, YOU KNOW, I JUST WANTED TO MAKE
5 YOU AWARE OF THAT.

6 THE COURT: WE APPRECIATE YOUR CANDOR. AS A
7 RESULT OF HAVING CONTACT WITH HIM, YOU -- BASICALLY
8 WHAT I HEAR YOU SAYING IS HE IS AN ACQUAINTANCE OF A
9 CO-WORKER. WELL, I MEAN HE IS YOUR CO-WORKER'S
10 HUSBAND, BUT HE'S AN ACQUAINTANCE TO YOU.

11 JUROR: THAT'S RIGHT.

12 THE COURT: HE'S SOMEBODY YOU SEE AND YOU SAY
13 HI, HOW YOU DOING, ARE YOU HAVING A GOOD DAY. BUT
14 ALSO DURING THE COURSE OF THAT, THIS INFORMATION WAS
15 DIVULGED TO YOU?

16 JUROR: YES, IT WAS.

17 THE COURT: SO WHAT I NEED TO INQUIRE IS AS A
18 RESULT OF WHAT YOU'VE HEARD OR YOUR CONTACT WITH HIM,
19 DO YOU BELIEVE YOU CAN BE FAIR AND IMPARTIAL IN THIS
20 CASE AND RENDER A FAIR AND IMPARTIAL DECISION BASED
21 SOLELY ON THE EVIDENCE AND THE CASE LAW?

22 JUROR: I DO.

23 THE COURT: I MEAN, THE LAW AS THE COURT WILL
24 INSTRUCT YOU.

25 JUROR: I UNDERSTAND THAT. I WILL DO.

1 THE COURT: ANY FURTHER QUESTIONS FROM THE
2 STATE?

3 MR. HEMBREE: NO, YOUR HONOR.

4 THE COURT: FROM THE DEFENSE?

5 MR. KELLY: NO, MA'AM.

6 THE COURT: OKAY. MA'AM, THANK YOU. WE WILL
7 SEE YOU ON MONDAY MORNING AT 9:30. AND AGAIN, WE
8 APPRECIATE YOUR CANDOR AND YOUR PATIENCE WITH US.

9 JUROR: OKAY. THANK YOU.

10 THE COURT: THANK YOU. HAVE A GOOD EVENING.

11 (JUROR LEFT THE COURTROOM.)

12 THE COURT: LINDA PEARL FLOYD, 95. LINDA FLOYD.

13 I DON'T HAVE HER ON ANY LIST, DO YOU ALL?

14 MR. HEMBREE: NO, YOUR HONOR.

15 (JUROR ENTERED THE COURTROOM.)

16 LINDA FLOYD, WHITE FEMALE, TESTIFIED
17 AS FOLLOWS:

18 BY THE COURT:

19 Q HOW ARE YOU, MA'AM? YES, MA'AM, IF YOU'D HAVE A SEAT
20 FOR ME. HOW ARE YOU TODAY?

21 A I'M NERVOUS.

22 Q I KNOW. SCOOT AS CLOSE TO THE MICROPHONE FOR ME.
23 TAKE A DEEP BREATH. YEAH. NOW, I KNOW IT'S UNNERVING,
24 BUT THERE'S JUST -- YOU KNOW, IT'S HARD, AND WE DO THIS
25 ALL THE TIME, SO WE ARE USED TO IT, SO...

1 A WELL, BEFORE -- EXCUSE ME. BEFORE WE PROCEED, CAN I
2 SAY SOMETHING? IS IT...

3 Q SURE.

4 A YESTERDAY WHEN YOU ASKED ANYBODY THAT HAD FORMED AN
5 OPINION TO STAND.

6 Q UH-HUH.

7 A WELL, I HAD NOT 100 PERCENT FORMED AN OPINION.

8 Q OKAY.

9 A BUT AFTER WRESTLING WITH IT LAST NIGHT AND PRAYING
10 ABOUT IT, I FEEL LIKE I HAVE FORMED AN OPINION, AND I JUST
11 DIDN'T WANT -- I WANTED TO COME FORWARD WITH THAT BECAUSE
12 I DIDN'T WANT TO DO ANYTHING THAT MIGHT JEOPARDIZE
13 ANYTHING.

14 Q OKAY. WELL, I'LL TELL YOU WHAT. WE ARE GOING TO GO
15 THROUGH SOME QUESTIONS.

16 A OKAY.

17 Q AND I'M GOING TO -- I NEED YOU TO STATE YOUR NAME FOR
18 THE RECORD.

19 A LINDA HURL FLOYD.

20 Q AND YOU ARE JUROR 95; CORRECT?

21 A CORRECT.

22 Q MA'AM, I'LL REMIND YOU YOU'RE STILL UNDER OATH. DO
23 YOU UNDERSTAND?

24 A UH-HUH.

25 Q I NEED YOU TO TELL ME YES OR NO.

1 A YES.

2 Q YEAH, BECAUSE SHE CAN'T--

3 A EXCUSE ME.

4 Q YEAH, IT'S HARD FOR HER. I'M GOING TO ASK YOU SOME
5 QUESTIONS. STATE LAW REQUIRES THAT WE TALK TO EACH
6 POTENTIAL JUROR INDIVIDUALLY. I NEED TO EMPHASIZE FOR YOU
7 THERE IS NO RIGHT OR WRONG ANSWER. WE JUST NEED YOU TO BE
8 AS OPEN AND HONEST WITH US IN ANSWERING AS YOU CAN BE.

9 NOW, WE'RE GOING TO DISCUSS POSSIBLE PENALTIES IN
10 THIS CASE, BUT THAT IS NO REFLECTION ON THE DEFENDANT
11 BECAUSE HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU
12 UNDERSTAND THAT?

13 A YES, MA'AM, I DO.

14 Q NOW, AS A JUROR IN A CRIMINAL CASE, COULD YOU LISTEN
15 TO THE LAW?

16 A YES, MA'AM.

17 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
18 INSTRUCT YOU?

19 A YES, MA'AM.

20 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
21 MIGHT DISAGREE WITH WHAT I TELL YOU THE LAW IS?

22 A YES, MA'AM.

23 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
24 EVIDENCE PRESENTED IN THIS COURTROOM AND DISREGARD
25 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS

1 CASE? THERE IS NO RIGHT OR WRONG ANSWER.

2 A NO.

3 Q OKAY. SO YOU'RE TELLING ME THAT YOU CANNOT DISABUSE
4 YOUR MIND OF WHAT YOU HAVE HEARD, COME INTO THE COURTROOM,
5 BE IMPARTIAL, LISTEN TO THE WITNESSES AS THEY TESTIFY,
6 REVIEW THE EVIDENCE, LISTEN TO THE LAW AS THE COURT GIVES
7 IT TO YOU, APPLY THAT LAW TO THE EVIDENCE AND RENDER A
8 VERDICT IN THIS CASE?

9 A YES.

10 Q OKAY. LET ME SEE -- OKAY. LET ME HOW I CAN -- OKAY.
11 LET ME -- I'M GOING TO -- BECAUSE I NEED TO BE REALLY AS
12 CLEAR AS I CAN. BECAUSE THE LAW DOESN'T SAY YOU SHOULDN'T
13 HAVE ANY OPINIONS. THAT'S NOT HUMAN.

14 I MEAN, THAT WOULD BE THAT WE WOULD HAVE TO SET
15 ASIDE -- YOU KNOW, WE ALL HAVE CERTAIN PROCLIVITIES
16 BECAUSE OF OUR REARING, BECAUSE OF THE THINGS WE HAVE BEEN
17 EXPOSED TO IN OUR ENVIRONMENT.

18 WHAT THE LAW REQUIRES OF YOU, HOWEVER, IS THAT YOU BE
19 ABLE BASICALLY TO COME INTO THIS COURT AS AN EMPTY VESSEL,
20 SO-TO-SPEAK WITH NO OPINIONS ABOUT THIS CASE. AND IF YOU
21 HAVE ANY, TO BE ABLE TO PUT THEM ASIDE AND TO LISTEN TO
22 THE EVIDENCE FROM -- THE WITNESSES WILL SIT IN THIS
23 WITNESS BOX, THEY WILL BE SWORN TO TELL THE TRUTH, THE
24 WHOLE TRUTH AND NOTHING BUT THE TRUTH, THEY WILL TESTIFY,
25 OTHER EVIDENCE WILL BE PRESENTED.

1 AND AS A JURY MEMBER, WHAT YOU WOULD BE REQUIRED TO
2 DO IS TO WEIGH THE CREDIBILITY AND BELIEVABILITY OF THOSE
3 WITNESSES AND BE THE FACT FINDER AND DECIDE WHO YOU
4 BELIEVE AND WHO YOU DON'T BELIEVE AND TO DETERMINE WHAT
5 YOU BELIEVE THE TRUE FACTS TO BE IN THIS CASE.

6 AND THEN TO LISTEN TO THE COURT TELL YOU WHAT THE LAW
7 IS AND APPLY THAT LAW TO THE FACTS AND RENDER A VERDICT IN
8 THIS CASE IRREGARDLESS OF WHAT YOU MAY HAVE HEARD, READ,
9 OR SEEN WITH THAT HAVING NO BEARING ON YOUR DECISION.

10 AND WHAT I NEED TO KNOW IS ARE YOU CAPABLE OF DOING
11 THAT AND CAN YOU DO THAT?

12 A YES.

13 Q OKAY. AND YOU BELIEVE THAT TO BE YOUR ANSWER EVEN IN
14 LIGHT OF WHAT YOU TOLD ME FROM THE BEGINNING?

15 A I HATE TO SAY NO, BUT AFTER...

16 Q AFTER HEARING ME EXPLAIN IT, IT'S CHANGED YOUR
17 OPINION?

18 A YEAH, YES.

19 Q OKAY. IN A CRIMINAL CASE -- WELL, LET ME ASK THIS
20 OTHER QUESTION. AS A RESULT OF WHAT YOU HAVE SEEN OR
21 HEARD, HAVE YOU FORMED A FIXED OPINION -- AND A FIXED
22 OPINION MEANS MY MIND IS ALREADY MADE UP.

23 A YES.

24 Q SO YOUR MIND IS ALREADY MADE UP?

25 A YES.

1 Q OKAY. AND YOU'VE FORMED A FIXED OPINION ABOUT THE
2 CASE?

3 A I'M PRETTY SURE I HAVE.

4 Q SO THEN WHAT YOU TOLD ME BEFORE ABOUT BEING ABLE TO
5 LISTEN AND MAKE A DECISION IRREGARDLESS OF WHAT YOU HEARD,
6 WHICH IS IT? AND THERE IS NO RIGHT OR WRONG ANSWER. I
7 JUST NEED YOU TO BE HONEST WITH ME.

8 A WELL, I'M BEING HONEST. I HAVE FORMED AN OPINION
9 AND...

10 Q YOU FEEL LIKE YOU'VE ALREADY MADE UP YOUR MIND?

11 A YES, I DO. YES, I DO.

12 Q OKAY. AND YOU DON'T FEEL LIKE YOU CAN MAKE A
13 DECISION BASED ON THE FACTS?

14 A NO, MA'AM.

15 Q OKAY.

16 THE COURT: ANY EXCEPTION TO EXCUSING THE JUROR?

17 MR. HEMBREE: NO, YOUR HONOR.

18 THE COURT: FROM THE DEFENSE?

19 MR. DIGGS: I WANT TO ASK HER ONE QUESTION.

20 THE COURT: SURE. GO RIGHT AHEAD. I'LL WELCOME
21 IT. GO AHEAD.

22 BY MR. DIGGS:

23 Q NOW, HAVING HEARD YOUR ANSWERS TO THE JUDGE'S
24 QUESTIONS, AT ONE POINT YOU INDICATED YOU COULD FOLLOW THE
25 LAW THAT SHE CHARGED. WHAT IF IN THE EVIDENCE THERE WAS

1 PRESENTED A DEFENSE TO THE CHARGE, SOMETHING YOU MIGHT NOT
2 EVEN KNOW ABOUT.

3 IN THAT SITUATION WOULD YOU BE ABLE TO FOLLOW THE LAW
4 AND MAKE A DECISION BASED ON THE EVIDENCE THAT YOU HEAR IN
5 COURT?

6 A I WOULD AGAIN HAVE TO SAY I'VE ALREADY FORMED MY
7 OPINION.

8 Q FORMED...

9 THE COURT: YEAH, SHE SAID -- HER RESPONSE WAS
10 SHE WOULD HAVE TO SAY SHE'S ALREADY FORMED HER
11 OPINION.

12 BY MR. DIGGS:

13 Q AND JUST FOR CLARIFICATION IN MY MIND, EVEN IF THE
14 EVIDENCE SHOWED THERE WAS A DEFENSE?

15 A THAT'S CORRECT.

16 Q YOU WOULD DISREGARD IT?

17 A YEAH.

18 Q THANK YOU.

19 THE COURT: ANY EXCEPTION?

20 MR. DIGGS: NO.

21 THE COURT: MA'AM, YOU'RE EXCUSED FROM THE TRIAL
22 OF THIS CASE. WE THANK YOU FOR YOUR TIME. HAVE A
23 WONDERFUL EVENING. WE APPRECIATE YOUR CANDOR.

24 JUROR: SO THAT'S IT?

25 THE COURT: YES, MA'AM.

1 JUROR: THANK YOU.

2 THE COURT: YOU'RE WELCOME HAVE A GREAT EVENING.

3 (JUROR LEFT THE COURTROOM.)

4 THE COURT: WALTER DONALDSON, 79. AND WE
5 REFLECT THAT HE ANSWERED TO 20 -- DID A RESPONSE TO
6 NUMBER 21.

7 (JUROR ENTERED THE COURTROOM.)

8 WALTER DONALDSON, WHITE MALE,
9 TESTIFIED AS FOLLOWS:

10 BY THE COURT:

11 Q SIR, HOW ARE YOU?

12 A GOOD, MA'AM.

13 Q HAVE A SEAT FOR US. IF YOU CAN GET AS CLOSE AS YOU
14 CAN TO THE MICROPHONE FOR ME. STATE YOUR NAME FOR THE
15 RECORD.

16 A WALTER DONALDSON.

17 Q AND SIR, YOU ARE JUROR 79; IS THAT RIGHT?

18 A YES, MA'AM.

19 Q AND SIR, I WILL REMIND YOU YOU'RE STILL UNDER OATH.
20 DO YOU UNDERSTAND?

21 A YES, MA'AM.

22 Q SIR, DID YOU READ, WATCH, OR EXPOSE YOURSELF TO ANY
23 MEDIA REPORTS ABOUT THIS CASE LAST NIGHT?

24 A NO, MA'AM.

25 Q SIR, I'M GOING TO ASK YOU SOME QUESTIONS. I KNOW

1 SOME OF THEM MAY SEEM VERY PERSONAL, BUT STATE LAW
2 REQUIRES THAT IN A CASE OF THIS NATURE THAT WE TALK WITH
3 EACH POTENTIAL JUROR INDIVIDUALLY.

4 I NEED TO EMPHASIZE FOR YOU THAT THERE IS NO RIGHT OR
5 WRONG ANSWERS. I JUST NEED YOU TO ANSWER ME AS OPENLY,
6 HONESTLY, AND FULLY AS POSSIBLE. DO YOU UNDERSTAND?

7 A YES, MA'AM.

8 Q SIR, AMONG OTHER THINGS WE'RE GOING TO BE TALKING
9 ABOUT PENALTIES. AND THE MERE FACT THAT WE TALK ABOUT
10 PENALTIES DOES NOT INDICATE ANYTHING ABOUT THE DEFENDANT
11 BECAUSE HE IS PRESUMED IN THE LAW TO BE INNOCENT. DO YOU
12 UNDERSTAND?

13 A YES, MA'AM.

14 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
15 YOU LISTEN TO THE LAW?

16 A YES, MA'AM.

17 Q COULD YOU ACCEPT AND APPLY THE LAW AS I INSTRUCT YOU?

18 A YES, MA'AM.

19 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
20 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

21 A I WOULD HAVE MY OWN OPINION.

22 Q OKAY. DO YOU UNDERSTAND THAT YOU WOULD BE DUTI-BOUND
23 TO ACCEPT AND APPLY THE LAW EXACTLY AS I TELL IT TO YOU
24 AND YOU HAVE NO OTHER OPTION? IN OTHER WORDS, IF I TELL
25 YOU THE LAW IS GREEN AND YOU BELIEVE IT'S PURPLE, YOU HAVE

1 TO BELIEVE IT'S GREEN; DO YOU UNDERSTAND? THAT'S THE BEST
2 EXAMPLE I CAN USE. IT'S REALLY SIMPLE.

3 A I UNDERSTAND.

4 Q AND DO YOU -- AND SO I ASK THE QUESTION AGAIN. AND
5 THE FACTS AND THE LAW ARE DIFFERENT THINGS. OKAY. SO LET
6 ME CLARIFY. I HAVE NO OPINION ABOUT THE FACTS IN THIS
7 CASE NOR WOULD I DURING THE COURSE OF THE TRIAL. THAT'S
8 THE FUNCTION FOR THE JURY. THE JURY LISTENS TO THE
9 EVIDENCE AND THEY DECIDE WHAT THE FACTS ARE.

10 MY ONLY FUNCTION IS LIKE THE REFEREE AT A GAME. I
11 REFEREE EVERYBODY, I MAKE SURE EVERYBODY FOLLOWS THE RULES
12 AND I MAKE SURE THAT YOU AS A JURY MEMBER KNOWS EXACTLY
13 WHAT THE LAW IS.

14 IN OTHER WORDS, IN A CRIMINAL CASE THERE ARE -- FOR
15 EXAMPLE, IF -- TO THE OFFENSE OF BURGLARY, THERE ARE
16 CERTAIN ELEMENTS THAT THE STATE HAS TO PROVE. SO IT'S MY
17 FUNCTION TO TELL YOU WHAT THOSE ELEMENTS ARE.

18 SO IN OTHER WORDS, IF YOU BELIEVED THE OFFENSE OF
19 BURGLARY THIRD MADE UP THESE ELEMENTS BUT I TOLD YOU THEY
20 MADE UP A DIFFERENT SET OF ELEMENTS, DO YOU UNDERSTAND
21 THAT YOU WOULD BE BOUND TO APPLY THE ELEMENTS THAT I TOLD
22 YOU--

23 A YES, MA'AM.

24 Q OF -- APPLIED. AND DO YOU FEEL THAT YOU COULD ACCEPT
25 AND APPLY THAT LAW EVEN THOUGH YOU MIGHT DISAGREE WITH

1 WHAT YOU THINK IT SHOULD OR COULD BE?

2 A YES, MA'AM.

3 Q OKAY. SIR, COULD YOU DECIDE THIS CASE BASED SOLELY
4 ON THE EVIDENCE PRESENTED IN THE COURTROOM FROM THE LIPS
5 OF SWORN WITNESSES AND THE OTHER EVIDENCE THAT WILL BE
6 INTRODUCED AND DISREGARD ANYTHING YOU MAY HAVE HEARD,
7 READ, OR SEEN ABOUT THIS CASE?

8 A PROBABLY NOT.

9 Q OKAY. LET ME ASK ANOTHER QUESTION. HAVE YOU READ,
10 HEARD, OR SEEN ANY MEDIA COVERAGE ABOUT THIS CASE?

11 A YES, MA'AM.

12 Q AS A RESULT OF WHAT YOU HAVE READ, HEARD, OR SEEN,
13 HAVE YOU FORMED A FIXED OPINION? IN OTHER WORDS, HAVE YOU
14 ALREADY MADE UP YOUR MIND?

15 A YES, MA'AM.

16 Q OKAY.

17 THE COURT: ANY QUESTIONS FROM THE STATE?

18 MR. HEMBREE: NO, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. KELLY: NONE, MA'AM.

21 THE COURT: ANY EXCEPTIONS TO THE JUROR BEING
22 EXCUSED FROM THE STATE?

23 MR. HEMBREE: NO, YOUR HONOR.

24 THE COURT: FROM THE DEFENSE?

25 MR. KELLY: NO, MA'AM.

1 THE COURT: SIR, YOU'RE EXCUSED WITH THE COURT'S
2 THANKS. HAVE A GOOD AFTERNOON. AND PLEASE DON'T
3 DISCUSS ANY OF THESE PROCEEDINGS WITH ANYONE. HAVE A
4 GOOD NIGHT.

5 (JUROR LEFT COURTROOM.)

6 THE COURT: WHAT DO Y'ALL THINK ABOUT ME ADDING
7 A 5:00 TIME SLOT FOR TOMORROW?

8 MR. HUMPHRIES: PLEASE DO. I DON'T CARE IF YOU
9 ADD A 6:00. OH, YEAH.

10 THE COURT: MR. DIGGS, YOU -- I WAS THINKING AT
11 THE RATE WE ARE MOVING, I THINK WE COULD...

12 MR. HEMBREE: IT'S NOT LIKE THE PACE IS SO
13 ONEROUS BECAUSE WE ARE GETTING BREAKS IN BETWEEN.

14 THE COURT: I THINK SO. WE NEED A BLIND MAN OR
15 A CHILD UNLESS MR. KELLY IS GOING TO WAIVE THAT FOR
16 ME SO I CAN DO MY PANELS AND HAVE THE CLERK'S OFFICE
17 CALL THEM.

18 MR. KELLY: NO, MA'AM, WE WON'T WAIVE.

19 THE COURT: OKAY. CAN WE FIND A BLIND PERSON?
20 I NEEDS TO PICK ME SOME MORE PANELS AND ADD A 5:00
21 AND A 6:00 TIME SLOT FOR TOMORROW AND HAVE THE JURORS
22 CALLED AND TOLD TO BE HERE AT SIX.

23 MR. HUMPHRIES: PUT THEM ON THE BACK END?

24 MR. KELLY: MA'AM, COULD WE JUST HAVE EIGHT OF
25 THEM COME IN AT FIVE, BECAUSE WE MIGHT FINISH THEM

1 UP. MIGHT BE BETTER--

2 THE COURT: WE CAN DO THAT?

3 THE CLERK: WE FINISHED FOR THE DAY?

4 (OFF-THE-RECORD DISCUSSION HAD WITH CLERK.)

5 BAILIFF: HERE'S A CHILD. IS HE OKAY?

6 THE COURT: HOW OLD IS HE? HE IS 10.

7 MR. KELLY: NO EXCEPTION FROM THE DEFENSE.

8 THE COURT: OKAY. AND THIS WOULD BE PANEL 18.

9 AS I INDICATED ALTHOUGH, WE ARE CALLING THEM OUT OF
10 ORDER ON TOMORROW, IF WE WERE DOING IT IN ORDER, THEY
11 WOULD BE COMING IN ON FRIDAY AT NOON.

12 AND WE HAVE SELECTED 10 NAMES -- AND WE WILL
13 GIVE YOU COPIES OF THIS, SO I DON'T KNOW THAT I NEED
14 TO GO THROUGH READING THOSE OUT, BUT MY CLERK WILL
15 MAKE COPIES.

16 AND WHAT I'M INSTRUCTING THE CLERK TO DO WHILE
17 WE HAVE A CHILD PRESENT, WE ARE GOING TO GO AHEAD AND
18 PANEL OUT THE REMAINING JURORS SO THAT WHEN THEY
19 ARRIVE ON NOON ON FRIDAY, WE CAN JUST DO AS MANY AS
20 WE CAN, BREAK FOR LUNCH, COME BACK AND TRY TO FINISH
21 AS MUCH AS WE CAN ON FRIDAY. AND IF WE CAN'T, WE
22 WILL JUST COME BACK ON SATURDAY TO FINISH THOSE UP.
23 IS THERE ANY EXCEPTION TO FOLLOWING THAT PROCEDURE?
24 AND THAT WILL BE CONSIDERED PANEL 19.

25 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

1 MR. KELLY: NO, MA'AM.

2 THE COURT: OKAY. AND JUST WAIT A SECOND.

3 SUMMER WENT TO MAKE COPIES.

4 (WHEREUPON THERE WAS A PAUSE.)

5 THE COURT: OKAY. THE CLERK HAS PANELED OUT THE
6 REMAINING JURORS RANDOMLY NUMBERED ONE THROUGH 48.
7 THIS WILL BE PANEL 19. WE WILL MAKE A COPY FOR
8 EVERYONE.

9 MR. HUMPHRIES: SO THAT WILL BE ACTUALLY
10 STARTING AT 79TH DRAWN ON OUT.

11 THE CLERK: THEY WILL ACTUALLY -- I'M SORRY?

12 MR. HUMPHRIES: IT WILL BE THE 79TH DRAWN ON
13 OUT.

14 THE COURT: IT WILL BE PANEL 19, THE VERY LAST
15 PANEL. THE PANEL BEFORE THIS ONE WILL BE 18. IT
16 WILL BE AFTER, YEAH, EXACTLY.

17 AND ALTHOUGH WE HAVE 1:00 ON HERE, THEY ARE
18 SUPPOSED TO REPORT AT NOON ON FRIDAY AND THEN WE WILL
19 JUST DECIDE WHAT WE ARE GOING TO DO FROM THAT POINT,
20 BUT THEY WOULD HAVE ALREADY BEEN PANELED OUT.

21 THE REST OF THEM ARE COMING BACK AT NOON, BUT I
22 NEED YOU TO CALL ALL THESE PEOPLE AND TELL THEM TO BE
23 HERE AT FIVE ON TOMORROW.

24 (WHEREUPON THERE WAS A PAUSE.)

25 THE COURT: WHAT I DID IS I SIMPLY DID 19A, B

1 AND C, SO I WILL KNOW WHAT -- WELL, I DO KNOW ANY WAY
2 SINCE THEY ARE NUMBERED.

3 MR. HUMPHRIES: THEY GOT AT 79 DRAWN -- THIS
4 LIST DOES -- 79TH DRAWN.

5 THE COURT: ALL RIGHT. I WILL SEE Y'ALL IN THE
6 MORNING. GET SOME REST. WE'VE GOT A LONG DAY
7 TOMORROW.

8 (COURT IN RECESS FOR THE EVENING.)

9 ***** AUGUST 3RD, 2006 *****

10 THE COURT: LET'S SEE. WE HAD A COUPLE OTHER
11 NO-SHOWS WHO ARE HERE. LET'S SEE IF I HAVE... AND
12 ARE THOSE JURORS SEATED RIGHT HERE? MA'AM, IF YOU
13 WOULD TELL ME YOUR NAME.

14 JUROR: SHARON RYAN.

15 THE COURT: SHARON RYAN, NUMBER 285? I KNOW,
16 YOU PROBABLY DON'T KNOW YOUR NUMBER. MA'AM, CAN YOU
17 TELL ME WHY YOU WERE NOT PRESENT PURSUANT TO YOUR
18 JURY SUMMONS ON TUESDAY -- ON MONDAY -- ON TUESDAY.
19 SORRY, GOT MY DATES MIXED UP.

20 JUROR: YEAH. MY HUSBAND IS DISABLED, AND I
21 THOUGHT AFTER I FILLED OUT THE PAPERWORK, I SENT IT
22 TO THE CLERK OF COURT, I DIDN'T READ THE LETTER
23 CAREFUL ENOUGH TO UNDERSTAND THAT I HAD TO BE HERE
24 ANY WAY AFTER SENDING IN THE PAPER.

25 THE COURT: WHEN YOU SAY YOUR HUSBAND IS

1 DISABLED, WHAT DO YOU MEAN?

2 JUROR: WELL, I'VE GOT TO GET HIM OUT OF BED,
3 I'VE GOT TO BATHE HIM, FEED HIM, TAKE CARE OF HIM.

4 THE COURT: OKAY. HOW OLD IS HE?

5 JUROR: SIXTY-FIVE.

6 THE COURT: OKAY. AND--

7 JUROR: HE'S GOT TO GO TO THE HOSPITAL TUESDAY
8 TO HAVE SOME WORK DONE.

9 THE COURT: ARE YOU HIS PRIMARY CAREGIVER?

10 JUROR: I'M THE ONLY ONE.

11 THE COURT: OKAY. AND THERE'S NO WAY -- AND YOU
12 ARE PRIMARILY RESPONSIBLE FOR HIS CARE; IS THAT
13 CORRECT?

14 JUROR: YES.

15 THE COURT: MA'AM, PURSUANT TO STATUTE, WE WILL
16 BE ABLE TO EXCUSE YOU FROM JURY DUTY. OKAY? BUT IN
17 THE -- AND WE APPRECIATE YOU COMING UP HERE THIS
18 MORNING. YOU HAVE A GOOD DAY.

19 JUROR: I'M SORRY I MISUNDERSTOOD.

20 THE COURT: THAT'S ALL RIGHT. YOU'VE GOT A LOT
21 ON YOUR PLATE, AND WE UNDERSTAND.

22 JUROR: THANK YOU.

23 THE COURT: ALL RIGHT, SIR. WHAT IS YOUR NAME?

24 JUROR: BENJAMIN NAUSS.

25 THE COURT: NUMBER 390. MR. NAUSS, HOW ARE YOU

1 DOING THIS MORNING?

2 JUROR: DOING FINE.

3 THE COURT: CAN YOU TELL ME WHY YOU WEREN'T HERE
4 ON TUESDAY?

5 JUROR: I TRAVEL. AND WHEN I FILLED OUT THE
6 PAPERWORK BACK IN MAY, THEN I TOLD THEM I WAS GOING
7 TO BE OUT OF TOWN THIS WEEK, SENT IT BACK TO THEM,
8 THEY FILL IT OUT ONCE AGAIN. AND APPARENTLY I
9 THOUGHT THEY WERE GOING TO NOTIFY ME AGAIN BEFORE I
10 COME. I APOLOGIZE, SO SORRY -- CUSTOMERS, HAD NO.

11 THE COURT: YOU TRAVEL WITH YOUR EMPLOYMENT OR
12 SOMETHING?

13 JUROR: YES, I DO.

14 THE COURT: OKAY.

15 JUROR: -- CHANGE SOMETHING--

16 THE COURT: AND YOU WERE OUT OF TOWN ON TUESDAY?

17 JUROR: YES, I WAS.

18 THE COURT: I NEED YOU TO STAY WITH US BECAUSE
19 WE ARE GOING TO TRANSFER YOU TO ANOTHER TERM OF
20 COURT.

21 JUROR: BEG YOUR PARDON?

22 THE COURT: I NEED YOU TO COME SPEAK TO THE
23 CLERK FOR ME BECAUSE WE'RE GOING TO TRANSFER YOU TO
24 ANOTHER TERM OF COURT.

25 JUROR: OKAY.

1 THE COURT: OKAY. IS THE FIRST PANEL PRESENT?

2 BAILIFF: YES, MA'AM.

3 THE COURT: AND HOW LONG HAVE -- WOULD YOU
4 ESTIMATE THEY HAVE BEEN HERE?

5 BAILIFF: PROBABLY 15 MINUTES.

6 THE COURT: OKAY. I WAS JUST TRYING TO ASK,
7 BECAUSE I WANTED TO MAKE SURE THEY HAD ENOUGH TIME TO
8 READ THAT AND REVIEW THAT SHEET THAT'S IN THE JURY
9 ROOM. OKAY. YOU CAN BRING IN TO US KAREN HILLS,
10 NUMBER 379.

11 (WHEREUPON THERE WAS A PAUSE.)

12 THE COURT: I'M SORRY. I APOLOGIZE. I DIDN'T
13 REALIZED THEY HADN'T BROUGHT MR. STANKO. I NEED
14 Y'ALL TO BRING MR. STANKO.

15 (JUROR ENTERED COURTROOM.)

16 THE COURT: HAVE A SEAT FOR ME, MA'AM. WE'LL
17 GET STARTED IN JUST ONE MOMENT. ONE MORE THING AND
18 WE'LL BE READY. BEAR WITH US.

19 (WHEREUPON THE DEFENDANT WAS BROUGHT INTO
20 COURTROOM).

21 KAREN HILLS, WHITE FEMALE, TESTIFIED AS
22 FOLLOWS:

23 BY THE COURT:

24 Q ALL RIGHT. MA'AM, IF YOU COULD STATE YOUR NAME FOR
25 THE RECORD.

1 A MY NAME IS KAREN TYSON HILLS.

2 Q AND MRS. HILLS, YOU ARE JUROR 379; IS THAT CORRECT?

3 A THAT IS CORRECT.

4 Q I WOULD REMIND YOU, MA'AM, THAT YOU'RE STILL UNDER
5 OATH. DO YOU UNDERSTAND?

6 A YES.

7 Q OKAY. NOW, I DO NOT HAVE HER RESPONDING TO ANY OF
8 THE CATEGORIES. IS THAT CORRECT?

9 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

10 MR. KELLY: CORRECT.

11 BY THE COURT:

12 Q MA'AM, I'M GOING TO ASK YOU A FEW QUESTIONS. SOME OF
13 THEM MAY BE INTENSELY PERSONAL. STATE LAW REQUIRES THAT
14 WE, IN THIS TYPE CASE, THAT WE QUESTION EACH JUROR
15 INDIVIDUALLY TO INQUIRE BASICALLY INTO THEIR VIEWS. WE
16 ARE NOT CHALLENGING YOUR VIEWS.

17 AND I NEED TO EMPHASIZE THAT THERE IS NO RIGHT OR
18 WRONG ANSWER TO ANY OF THESE QUESTIONS. THE ONLY THING
19 THAT WE ASK OF YOU IS THAT YOU ANSWER US OPENLY, HONESTLY
20 AND FULLY.

21 AMONG OTHER THINGS, WE'RE GOING TO BE TALKING ABOUT
22 PENALTY. BUT THE FACT THAT WE DISCUSS PENALTY IS NO
23 REFLECTION ON THE DEFENDANT BECAUSE HE IS PRESUMED IN THE
24 LAW TO BE INNOCENT. DO YOU UNDERSTAND?

25 A YES.

1 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
2 LISTEN TO THE LAW?

3 A YES.

4 Q COULD YOU ACCEPT AND APPLY THE LAW AS YOU WOULD BE
5 INSTRUCTED BY THE COURT?

6 A YES.

7 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
8 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS? IN OTHER
9 WORDS, IF YOU HAVE A PRECONCEIVED NOTION AS TO WHAT YOU
10 THINK THE LAW IS OR SHOULD BE BUT I TELL YOU THAT IT'S
11 SOMETHING DIFFERENT, DO YOU UNDERSTAND THAT YOU ARE BOUND
12 TO APPLY THE LAW AS I INSTRUCT YOU?

13 A YES.

14 Q AND DO YOU FEEL THAT YOU WILL BE ABLE TO FOLLOW THOSE
15 INSTRUCTIONS EVEN THOUGH YOU MAY DISAGREE WITH THEM?

16 A YES.

17 Q OKAY. AND I'M NOT TALKING ABOUT THE FACTS OF A CASE.
18 I'M TALKING ABOUT WITH THE LAW IS, WHAT THE STATE LAW AND
19 STATUTES AND OTHERWISE ARE.

20 A OKAY.

21 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
22 EVIDENCE PRESENTED IN THIS COURTROOM AND DISREGARD
23 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
24 CASE?

25 A YES.

1 Q HAVE YOU READ, HEARD, OR SEEN ANY MEDIA COVERAGE
2 ABOUT THIS CASE, THAT INCLUDES ANYTHING THAT COULD HAVE
3 BEEN ON THE RADIO, NEWSPAPER, TELEVISION, OR INTERNET?
4 NOT FROM LAST -- NOT FROM THE TIME THAT I TOLD YOU NOT TO
5 LISTEN, BUT PREVIOUSLY?

6 A VERY FEW. I WAS OUT OF TOWN APRIL, THE END OF APRIL,
7 MAY, AND JUNE OF LAST YEAR.

8 Q OKAY. AS A RESULT OF ANYTHING THAT YOU HAVE HEARD,
9 HAVE YOU FORMED ANY FIXED OPINION ABOUT THE FACTS OF THIS
10 CASE?

11 A NO.

12 Q IN A CRIMINAL CASE THE STATE HAS THE BURDEN OF
13 PROVING THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT.
14 DO YOU UNDERSTAND THAT?

15 A YES.

16 Q AND DO YOU UNDERSTAND THAT A DEFENDANT HAS NO BURDEN
17 TO PROVE HIS INNOCENCE?

18 A YES.

19 Q HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE JUROR TYPE
20 SHEET THAT WAS IN THE WAITING ROOM?

21 A YES.

22 Q AND DO YOU REMEMBER WHAT EACH CATEGORY REPRESENTS?

23 A YES.

24 Q AND DO YOU FEEL THAT YOU FIT INTO ANY OF THOSE
25 CATEGORIES?

1 A I WOULD PROBABLY BE TYPE THREE.

2 Q OKAY. IF YOU WERE A JUROR IN A DEATH PENALTY CASE
3 AND IF THE JURY FOUND THE DEFENDANT GUILTY OF MURDER, WE
4 WOULD THEN MOVE TO THE SENTENCING PHASE OF THE TRIAL
5 BECAUSE AS I EXPLAINED, THERE ARE TWO PHASES, THE GUILT
6 PHASE AND THE PENALTY PHASE. DO YOU UNDERSTAND THAT?

7 A YES.

8 Q DURING THE PENALTY PHASE YOU WOULD HAVE THE
9 OPPORTUNITY TO CONSIDER AGGRAVATING CIRCUMSTANCES. AND
10 AGGRAVATING CIRCUMSTANCES ARE FACTS, INCIDENTS, DETAILS,
11 OR AN OCCURRENCE WHICH THE LEGISLATURE HAS DECLARED BY
12 STATE LAW WOULD MAKE WORSE, THAT IS AGGRAVATE, THE OFFENSE
13 OF MURDER.

14 IN OTHER WORDS, THE AGGRAVATING CIRCUMSTANCE WHEN
15 ACCOMPANYING A MURDER INCREASES THE ENORMITY OR ADDS TO
16 THE INJURY OF THE CRIME OF MURDER. IT IS COMMITTED IN THE
17 COMMISSION OF A CRIME.

18 AND I'M JUST GOING TO GIVE YOU SOME EXAMPLES OF WHAT
19 WE MEAN BY AN AGGRAVATING CIRCUMSTANCE. MURDER OF A CHILD
20 UNDER AGE 11, DRUG TRAFFICKING, KILLING BY POISON OR
21 BURGLARY IN ANY DEGREE, AGAIN, THESE ARE JUST EXAMPLES.

22 YOU WOULD ALSO HAVE THE ABILITY TO CONSIDER WHAT WE
23 CALL MITIGATING CIRCUMSTANCES. AND THOSE ARE INCIDENTS,
24 DETAILS, OR OCCURRENCES WHICH THE LEGISLATURE HAS DECLARED
25 BY STATE LAW REDUCE THE SEVERITY OF THE OFFENSE OF MURDER

1 AND MAY BE CONSIDERED AS EXTENUATING OR AS REDUCING THE
2 DEGREE OF MORAL CULPABILITY OR RESPONSIBILITY.

3 AND AGAIN, SOME EXAMPLES OF THOSE ARE MENTAL
4 RETARDATION AT THE TIME OF THE CRIME, THE DEFENDANT WAS
5 PROVOKED BY THE VICTIM, THE DEFENDANT WAS AN ACCOMPLICE
6 AND THEIR PARTICIPATION WAS RELATIVELY MINOR, THE
7 DEFENDANT ACTED UNDER DURESS OR DOMINATION. AGAIN, THESE
8 ARE JUST EXAMPLES.

9 IF YOU WERE A JUROR IN THAT SITUATION, THE SENTENCING
10 PHASE AS I'VE REFERRED TO, COULD YOU, DEPENDING UPON THE
11 PARTICULAR FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING
12 THE CONSIDERATION OF AGGRAVATING AND MITIGATING
13 CIRCUMSTANCES AND THE LAW WHICH I WOULD INSTRUCT YOU AT
14 THE CLOSE OF THE CASE, RETURN A SENTENCE OF LIFE WITHOUT
15 THE POSSIBILITY OF PAROLE?

16 A YES.

17 Q UNDER THE SAME CIRCUMSTANCES THAT I JUST EXPLAINED,
18 MEANING THE PENALTY -- IF YOU WERE A JUROR IN THE PENALTY
19 PHASE AND DEPENDING UPON THE PARTICULAR FACTS AND
20 CIRCUMSTANCES INCLUDING THE CONSIDERATION OF AGGRAVATING
21 AND MITIGATING CIRCUMSTANCES AND THE LAW THAT I WOULD
22 INSTRUCT RETURN A SENTENCE OF DEATH, WHICH IN THIS STATE
23 IS BY ELECTROCUTION OR BY LETHAL INJECTION?

24 A YES.

25 Q AS I'VE ALREADY EXPLAINED, IF YOU WERE CHOSEN AS A

1 JUROR IN THIS CASE YOU WOULD BE SEQUESTERED, THAT MEANS
2 YOU WOULD BE HOUSED IN A HOTEL FOR APPROXIMATELY 10 DAYS.
3 EXCEPT FOR THE PERSONAL INCONVENIENCE, WHICH WE ALREADY
4 ASSUME IT WILL BE PERSONALLY INCONVENIENT BOTH TO YOUR
5 PERSONAL LIFE AND YOUR PROFESSIONAL LIFE, WOULD THIS POSE
6 A SERIOUS DANGER TO YOUR HEALTH OR WELL-BEING?

7 A NO.

8 Q WOULD YOU, AND THIS -- IN -- EVERY CASE REQUIRES A
9 VERDICT FORM. A CAPITAL CASE, WHICH IS WHAT WE CALL A
10 DEATH PENALTY CASE, IS A LITTLE DIFFERENT BECAUSE WHAT
11 HAPPENS IN A CAPITAL CASE IS THE JURY DECIDES THE PENALTY.
12 WE CALL IT A RECOMMENDATION, BUT THE COURT HAS TO FOLLOW
13 WHAT THE JURY DOES, WHETHER IT BE LIFE WITHOUT THE
14 POSSIBILITY OF PAROLE OR DEATH.

15 THEREFORE, IT REQUIRES EACH JUROR TO SIGN THEIR NAME
16 ON THE VERDICT FORM. WOULD YOU HAVE ANY PROBLEM, WOULD
17 YOU BE ABLE TO SIGN A VERDICT FORM IN THE EVENT OF A
18 SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE OR
19 DEATH?

20 A YES.

21 Q OKAY.

22 THE COURT: ARE THERE ANY QUESTIONS FROM THE
23 STATE?

24 MR. HUMPHRIES: JUST A FEW.

25 THE COURT: YOU MAY PROCEED.

1 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

2 BY MR. HUMPHRIES:

3 Q GOOD MORNING, MRS. HILLS. I'M FRAN HUMPHRIES. I'M
4 THE DEPUTY SOLICITOR. I ALONG WITH GREG HEMBREE, THE
5 SOLICITOR, WILL BE PROSECUTING THE CASE FOR THE STATE. I
6 APPRECIATE YOUR ANSWERS IN RESPONSE TO JUDGE JEFFERSON'S
7 QUESTIONS. ABOUT THAT I'M VERY CLEAR AS TO YOUR POSITION.

8 AND I DO HAVE SOME QUESTIONS REGARDING YOUR HUSBAND'S
9 PROFESSIONAL RELATIONSHIP WITH DR. ALBINIAK.

10 A YES.

11 Q THAT DOCTOR, WHO IS A FINE FELLOW, WE SEE HIM A LOT
12 IN CRIMINAL COURT AS YOU MIGHT IMAGINE, IS -- HAS BEEN
13 INVOLVED TO MY KNOWLEDGE IN A NUMBER OF CAPITAL CASES ON
14 THE DEFENSE SIDE AS PART OF HIS PRACTICE.

15 A YEAH.

16 Q AND IS INVOLVED AT LEAST TO SOME EXTENT IN THIS CASE.
17 WHEN YOU MENTIONED THAT YOUR HUSBAND WORKED WITH DR.
18 ALBINIAK, DO YOU KNOW IN WHAT CONTEXT?

19 A THEY'RE BOTH PROFESSORS AT COASTAL CAROLINA
20 UNIVERSITY.

21 Q ARE THEY IN THE SAME DEPARTMENT?

22 A YES.

23 Q WHICH IS THE PSYCHOLOGY DEPARTMENT?

24 A CORRECT.

25 Q DO YOU KNOW IF YOUR HUSBAND WAS CONSULTED BY DR.

1 ALBINIAK IN REGARD TO THIS CASE?

2 A I -- I DON'T KNOW.

3 Q HAVE YOU AND YOUR HUSBAND DISCUSSED THIS CASE PRIOR
4 TO -- OBVIOUSLY PRIOR TO YOUR COMING IN?

5 A I -- SUNDAY I SAW ON THE INTERNET THAT A JURY WAS
6 GOING TO BE SEATED FOR THIS CASE, AND SO AT THAT TIME I
7 DID MENTION IT TO MY HUSBAND.

8 Q AND AS THE JUDGE SAID, WE CERTAINLY HAVE NO INTEREST
9 IN TRYING TO PEER INTO YOUR PERSONAL LIFE. BUT LET ME ASK
10 YOU THIS. IN CONNECTION WITH THAT CONVERSATION, DID YOU
11 EXPRESS ANY OPINION, FIXED OR OTHERWISE, AT THAT POINT IN
12 REGARD TO YOUR POTENTIAL JURY SERVICE?

13 A IN REGARD TO GUILT OR INNOCENCE? NO.

14 Q OR PENALTY?

15 A HE -- MY HUSBAND AND I HAVE TALKED ABOUT -- ABOUT THE
16 DEATH PENALTY.

17 Q AND YOU KNOW, AT THE VERY BASE OF THIS PROCESS,
18 THAT'S REALLY WHAT WE'RE TRYING TO DETERMINE, WHETHER YOU
19 CAN BE FAIR AND IMPARTIAL -- NOBODY HAS ANY DOUBTS ABOUT
20 THAT -- AND WHAT YOUR FEELINGS ARE ABOUT THE DEATH
21 PENALTY. DO YOU MIND SHARING JUST A LITTLE BIT ABOUT
22 THAT?

23 A WELL, UNTIL THIS PROCESS I REALLY HAD NOT CONSIDERED
24 IT. I DO HAVE A FRIEND WHO WAS SHOT AND EVENTUALLY WAS --
25 WAS KILLED. I...

1 Q YOUR FRIEND WAS FRIEND -- MS. NICHOLS?

2 A YES, SHE'S A--

3 Q I'M -- RECALL THE CASE.

4 A I -- MY THOUGHT AS A MENTAL HEALTH COUNSELOR I
5 UNDERSTAND THAT EVERYBODY DESERVES A CHANCE, BUT I ALSO
6 BELIEVE IN OUR SYSTEM, AND SO I FIND MYSELF IN THE
7 POSITION NOW WHERE I -- I HAD TO DETERMINE WHETHER I
8 COULD--

9 Q SURE.

10 A -- UPHOLD THE LAW AS IT IS WRITTEN EVEN THOUGH MY --
11 I'M SWORN TO -- TO HELP PEOPLE BE THE BEST THEY CAN BE AND
12 DEAL WITH ANY EMOTIONAL PROBLEMS, AND I THINK I COULD
13 RESOLVE THAT. I LOVE THE AMERICAN SYSTEM. I THINK IT
14 WORKS.

15 WHEN I DEAL WITH MY CLIENTS, I -- PART OF MY STRATEGY
16 IS TO HELP THEM UNDERSTAND THERE -- THERE ARE CONSEQUENCES
17 FOR YOUR BEHAVIOR. EVERYBODY HAS TO LEARN THAT. THERE
18 ARE CONSEQUENCES FOR MURDER.

19 AND IF IN FACT THE EVIDENCE IS FOUND THAT THIS
20 GENTLEMAN DID MURDER THE VICTIMS, I -- IT WOULD BE
21 PERSONALLY VERY DIFFICULT FOR ME, BUT I MEAN, IT WOULD --
22 IF IT IS PART OF THE LAW, I THINK THAT -- THAT I VOTE THAT
23 WAY.

24 Q AND LET ME TALK TO YOU JUST A BIT ABOUT THAT. THIS
25 IS A VERY UNIQUE PROCESS. WHAT WE'RE ENGAGED IN HERE --

1 I'M TALKING DIRECTLY WITH YOU. VERY RARELY DO THAT. AND
2 THE CAPITAL SENTENCING PROCEDURE IN GENERAL IS VERY UNIQUE
3 IN THE LAW.

4 ONE OF THE THINGS THAT'S -- OFTEN TIMES IS NOT CLEAR
5 EVEN TO VERY SOPHISTICATED, EDUCATED PEOPLE, IS THAT THERE
6 IS -- THERE IS NO SET OF CIRCUMSTANCES, THERE IS NO
7 FORMULA IN THE LAW BY WHICH YOU WILL BE REQUIRED TO VOTE
8 FOR DEATH.

9 LET ME SAY THAT ANOTHER WAY. EVEN IF -- AND THE
10 STATE HAS TO PROVE AGGRAVATING CIRCUMSTANCES BEYOND A
11 REASONABLE DOUBT TO EVEN CONSIDER THE DEATH PENALTY, OKAY?

12 A OKAY.

13 Q BUT EVEN IF THE STATE MEETS THAT BURDEN IN THIS CASE,
14 THERE IS NO CORRESPONDING REQUIREMENT ON THE JURORS AFTER
15 FINDING AGGRAVATING CIRCUMSTANCES TO GIVE DEATH.

16 A OKAY.

17 Q IN FACT, THE COURT WILL TELL YOU THAT YOU CAN GIVE
18 LIFE EVEN IN THE FACE OF AGGRAVATING CIRCUMSTANCES FOR ANY
19 REASON, FOR NO REASON AT ALL, OFTEN CALLED A MERCY
20 VERDICT, SO -- AND A LOT OF FOLKS JUST DON'T UNDERSTAND
21 THAT.

22 A RIGHT. I HAVE AN INCREDIBLE--

23 Q AND THAT'S WHAT I WANTED TO MAKE SURE YOU KNEW,
24 BECAUSE A LOT OF PEOPLE COME IN THE ROOM THINKING, WELL, I
25 FIND THIS, IF IT'S A PLUS B, THEN WE'RE GOING TO HAVE TO

1 HAVE C, C BEING DEATH. THAT IS NEVER THE CASE IN A
2 CAPITAL CASE.

3 A UH-HUH.

4 Q IF THERE WERE NO -- AND CERTAINLY I HAVE NO IDEA
5 ABOUT WHAT IF ANY MITIGATION THE DEFENSE WILL OFFER. BUT
6 EVEN IF THERE WERE NO MITIGATION OFFERED AND THERE WERE
7 ONLY AGGRAVATING CIRCUMSTANCES OFFERED, EVEN IN THAT CASE
8 THE JURORS COULD RETURN A VERDICT OF LIFE OR A SENTENCE OF
9 LIFE.

10 A OKAY.

11 Q SO WITH THAT BACKGROUND, LET ME ASK YOU AGAIN.
12 KNOWING THAT YOU COULD GIVE LIFE UNDER ANY CIRCUMSTANCES,
13 EVEN THE MOST HORRIBLE OF CIRCUMSTANCES AND THAT THE LAW
14 WOULD NOT REQUIRE YOU TO RETURN A VERDICT OF DEATH, COULD
15 YOU NOT ONLY FAIRLY CONSIDER THE DEATH PENALTY, BUT IN THE
16 RIGHT SET OF CIRCUMSTANCES GIVEN THE RIGHT AMOUNT OF
17 EVIDENCE RETURN A VERDICT OF DEATH?

18 A WELL, I -- I DON'T KNOW THE CIRCUMSTANCES OF THE
19 CASE.

20 Q EXACTLY.

21 A I...

22 Q BUT WHAT WE -- AND YOU KNOW, AND WE DO THIS IN A
23 VACUUM. WE DO IT IN ADVANCE. VERY -- ACTUALLY IT'S
24 ALMOST UNFAIR TO YOU, BUT WE--

25 MR. KELLY: OBJECTION.

1 THE COURT: I NEED -- COME OVER HERE FOR A
2 SECOND.

3 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

4 THE COURT: THE OBJECTION IS SUSTAINED. YOU MAY
5 REPHRASE.

6 MR. HUMPHRIES: THANK YOU.

7 BY MR. HUMPHRIES:

8 Q AGAIN, WHAT WE'RE TRYING TO ACHIEVE IN THIS PROCESS
9 IS THAT YOU COULD BE FAIR AND IMPARTIAL IN THE RIGHT SET
10 OF CIRCUMSTANCES, GIVEN THE RIGHT AMOUNT OF EVIDENCE,
11 IMPOSE THE DEATH PENALTY. DO YOU FEEL CONFIDENT IN BOTH
12 OF THESE CIRCUMSTANCES?

13 A I DO.

14 Q THANK YOU. THAT'S REALLY OUR OBJECTIVE.

15 THE COURT: ANY QUESTIONS FROM THE DEFENDANT?

16 MR. KELLY: YES, MA'AM, IF YOU PLEASE.

17 BY MR. KELLY:

18 Q MRS. HILLS, I BELIEVE THAT YOU SAID THAT YOU WOULD
19 PROBABLY BE A TYPE THREE.

20 A YES.

21 Q WHAT DOES THAT MEAN? WHAT DOES THAT MEAN, THE
22 PROBABLY PART?

23 A WELL, REALLY UNTIL SUNDAY I -- I DID NOT KNOW WHAT
24 I'D BE DOING TODAY. I DIDN'T KNOW WHAT KIND OF CASE I
25 WOULD BE INVOLVED IN.

1 THE COURT: MA'AM, CAN YOU SPEAK INTO THE
2 MICROPHONE? THANK YOU.

3 A SO REALLY UNTIL I CAME ON TUESDAY, I REALLY DIDN'T
4 KNOW THE CIRCUMSTANCES OF THE CASE. I DID NOT REALIZE
5 THAT THIS WOULD BE A CAPITAL CASE, SO IT'S -- IT'S BEEN
6 A -- A PROCESS OF SEARCHING WHAT -- WHAT I WOULD BE
7 CAPABLE OF.

8 AND AGAIN, AS I SAID EARLIER, I THINK THE LAW IN OUR
9 COUNTRY WORKS. I -- I DON'T WORK -- THIS WILL BE MY FIRST
10 TIME TO WORK IN -- IN THE LEGAL SYSTEM, BUT I -- I DO FEEL
11 THAT I WILL BE CAPABLE WITH INSTRUCTION AND WITH -- WITH
12 UNDERSTANDING OF HOW THE LAW WORKS TO RETURN A FAIR
13 VERDICT.

14 Q BUT THE PROBABLY PART.

15 A WELL...

16 Q WHAT DOES THAT MEAN?

17 A I'LL SAY I'M TYPE THREE.

18 Q OKAY. BUT AT THAT TIME YOU SAID, I'M PROBABLY.
19 YOU'RE -- PROBABLY MEANS MAYBE TWO -- LEANING TOWARDS TWO
20 OR LEANING TOWARDS ONE, BUT I BELIEVE I CAN BE A THREE.
21 IS THAT WHY YOU'RE AMBIVALENT, MA'AM, BECAUSE YOU ACTUALLY
22 HAVE A LEAN?

23 A WELL, I THINK I SAID PROBABLY BECAUSE THIS IS
24 EMOTIONALLY A -- DIFFICULT FOR ME. I WOULD -- I AM ALL
25 THREE OF THE TYPES THAT ARE PRESENTED. I THINK THAT I

1 COULD, I -- I COULD RENDER A -- A VERDICT OF DEATH IF THE
2 CIRCUMSTANCES -- IF I FEEL THAT THE CIRCUMSTANCES ARE
3 WARRANTED.

4 Q YOU ALSO SAID IN RESPONSE TO THE QUESTION THAT YOU
5 SAID, IF THE MURDERS OR MURDER WERE PROVED, I WOULD
6 PROBABLY VOTE THAT WAY. WHAT DID YOU MEAN BY, VOTE THAT
7 WAY?

8 A IF -- IF THE CIRCUMSTANCES -- IF THE EVIDENCE THAT IS
9 PRESENTED SHOWS THAT THERE WERE AGGRAVATING CIRCUMSTANCES,
10 I FEEL THAT THAT WOULD BE AN OPTION.

11 Q WHAT WOULD BE AN OPTION?

12 A THE DEATH PENALTY WOULD BE AN OPTION THAT I WOULD
13 CONSIDER.

14 Q BUT YOU SAID, AND I WROTE IT DOWN -- AND YOU SAID, I
15 THINK I WOULD VOTE THAT WAY. WHAT DID YOU MEAN BY, I
16 WOULD VOTE THAT WAY? IF IT WERE PROVED -- I TELL YOU WHAT
17 I THINK. I THINK IT MEANT THAT IF IT'S PROVED THAT
18 THERE'S A MURDER, THEN I WOULD VOTE FOR DEATH. I THINK
19 THAT'S WHAT THAT MEANT.

20 A NO. WELL I -- I'M SORRY TO--

21 Q DID I MISUNDERSTAND?

22 A YOU DID, BECAUSE I -- THAT -- I CERTAINLY WOULD NOT
23 DO THAT. THE DEATH PENALTY WOULD BE SOMETHING THAT --
24 THAT I WOULD HAVE TO DEBATE ABOUT, DELIBERATE ABOUT. IT
25 WOULD NOT BE SOMETHING THAT I WOULD DO FRIVOLOUSLY.

1 Q SO YOU WOULDN'T AUTOMATICALLY DO ONE OR THE OTHER;
2 WOULD YOU? YOU WOULDN'T AUTOMATICALLY SIMPLY BECAUSE
3 SOMEONE WAS CONVICTED OF MURDER AND THERE WERE AN
4 AGGRAVATING CIRCUMSTANCE, YOU WOULDN'T AUTOMATICALLY VOTE
5 FOR DEATH -- OR WOULD YOU?

6 A NO, I WOULD NOT.

7 MR. KELLY: I HAVE NO FURTHER QUESTIONS.

8 THE COURT: ANY EXCEPTION TO THE JUROR BEING
9 QUALIFIED FROM THE STATE?

10 MR. HUMPHRIES: NO, YOUR HONOR.

11 THE COURT: FROM THE DEFENSE?

12 MR. KELLY: NO, MA'AM.

13 THE COURT: MA'AM, YOU HAVE BEEN FOUND QUALIFIED
14 FOR THE TRIAL OF THIS CASE. I EXPLAINED ON TUESDAY,
15 BUT I THINK WITH EVERYTHING THAT WAS GOING ON, SOME
16 OF IT MAY HAVE BEEN LOST IN TRANSLATION.

17 WHAT WE'RE DOING IS AS WE TALK TO EACH
18 INDIVIDUAL JUROR, WE ARE CREATING A POOL OF JURORS
19 FROM WHICH ON MONDAY WE WILL SELECT THE ACTUAL JURY
20 PANEL. AND WE WILL PICK 12 JURORS AND TWO OR THREE
21 ALTERNATES -- I HAVEN'T DECIDED JUST YET.

22 WE NEED FOR YOU TO RETURN AT 9:30 ON MONDAY
23 PACKED FOR TWO WEEKS. OF COURSE, YOU DON'T HAVE TO
24 LUG YOUR BELONGINGS UP HERE. YOU CAN LEAVE THEM IN
25 CAR. IN THE EVENT THAT YOU'RE SELECTED, WE WILL MAKE

1 ARRANGEMENTS FOR THE CHECK-IN AT THE HOTEL AND
2 TRANSMITTAL OF YOUR LUGGAGE AND OTHER THINGS.

3 DURING THIS BREAK, HOWEVER, I NEED FOR YOU TO
4 STRICTLY ABIDE BY THE COURT'S INSTRUCTIONS AND HAVE
5 NO DISCUSSION ABOUT THIS CASE WITH ANYONE. PLEASE DO
6 NOT SPECULATE ABOUT WHAT YOU THINK IT COULD OR MAY BE
7 ABOUT.

8 IF YOU'RE APPROACHED AND SOMEONE SAYS TO YOU, I
9 UNDERSTAND YOU'RE IN THE JURY POOL, STOP THEM
10 IMMEDIATELY AND SAY, I CANNOT DISCUSS THAT WITH YOU,
11 I WOULD BE IN VIOLATION OF THE COURT'S RULES.

12 AND IF SOMEONE SHOULD PERSIST IN TRYING TO SPEAK
13 WITH YOU, PLEASE REPORT IT TO US BECAUSE WE WOULD NOT
14 WANT YOU OR THEM TO FIND THEMSELVES IN A POSSIBLE
15 CONTEMPT SITUATION.

16 ALSO, PLEASE STRICTLY ABIDE BY THE COURT'S
17 INSTRUCTIONS AND DO NOT READ, WATCH, OR LISTEN TO ANY
18 MEDIA ACCOUNTS ABOUT THIS CASE. AND WE ASSUME ON THE
19 FRONT END THERE WILL BE MANY, ESPECIALLY THIS
20 WEEKEND, AND THAT INCLUDES ANYTHING THAT COULD BE ON
21 THE RADIO, NEWSPAPER, TELEVISION OR THE INTERNET.
22 OKAY? WE LOOK FORWARD TO SEEING YOU ON MONDAY.

23 JUROR: THERE IS SOMETHING THEY WANTED TO ADD.

24 THE COURT: SURE.

25 JUROR: I DON'T KNOW IF I NEED TO TALK TO YOU

1 PRIVATELY REGARDING MY HUSBAND. MY -- MY HUSBAND HAS
2 PREVIOUSLY WRITTEN TWO CRIME NOVELS.

3 THE COURT: OKAY.

4 JUROR: AND IS CONTRACTING TO WRITE TWO MORE, SO
5 I DON'T KNOW IF MY INVOLVEMENT WITH THE JURY WOULD
6 FURTHER SENSATIONALIZE THE CASE, SO I -- I DO WANT
7 YOU TO BE AWARE OF THAT.

8 I HAVE NO INTENTION OF DISCLOSING ANY FACTS OF
9 THE CASE TO MY HUSBAND OR ANYONE ELSE, BUT
10 CERTAINLY...

11 THE COURT: WELL, IF YOU'RE SELECTED FOR THIS --
12 WELL, LET ME ASK THIS QUESTION. DO YOU FEEL YOUR
13 HUSBAND'S INVOLVEMENT IN THESE CONTRACTS WILL IN ANY
14 WAY AFFECT YOUR ABILITY TO LISTEN TO THE EVIDENCE IN
15 THIS CASE AND RENDER A VERDICT BASED SOLELY ON THE
16 EVIDENCE AND THE TESTIMONY FROM SWORN WITNESSES AND
17 APPLY THE LAW AS THE COURT INSTRUCTS AND RENDER A
18 VERDICT BASED SOLELY ON THOSE THINGS?

19 JUROR: I CAN DO THAT.

20 THE COURT: OKAY. DO YOU FEEL THAT YOUR
21 HUSBAND'S INVOLVEMENT IN ANY WAY IMPAIRS YOUR ABILITY
22 TO DO THAT?

23 JUROR: NO.

24 THE COURT: OKAY. I WILL TELL YOU AT THE OUTSET
25 THAT WE REALLY DON'T HAVE ANY CONCERN ABOUT YOU

1 DIVULGING ANYTHING TO YOUR HUSBAND BECAUSE YOU WILL
2 BE SEQUESTERED. AND WHEN YOU SPEAK TO HIM, THERE
3 WILL BE SOMEONE OBSERVING YOUR CONVERSATIONS AT ALL
4 TIMES.

5 JUROR: OKAY.

6 THE COURT: NOW, AFTER YOU'RE RELEASED FROM JURY
7 DUTY -- AND I WILL INSTRUCT THE JURY ABOUT THIS -- A
8 JUROR CAN SPEAK ABOUT ANYTHING THEY WISH TO OR NOT
9 SPEAK ABOUT ANYTHING THEY WISH TO. THERE IS NO
10 RESTRICTION ON YOU ONCE THE TRIAL IS OVER. OKAY.

11 BUT WE APPRECIATE YOUR CANDOR IN DISCLOSING THAT
12 BECAUSE I'M CERTAIN THE LAWYERS FEEL THAT THAT
13 INFORMATION WILL BE USEFUL TO THEM.

14 JUROR: OKAY.

15 THE COURT: THANK YOU SO MUCH. WE'LL SEE YOU ON
16 MONDAY. HAVE A GOOD MORNING RATHER.

17 (JUROR LEFT THE COURTROOM.)

18 THE COURT: ARE THERE ANY EXCEPTIONS TO THE
19 COURT'S ADDITIONAL INSTRUCTIONS BASED ON THE
20 DISCLOSURE OF THE POTENTIAL JUROR?

21 MR. HUMPHRIES: NONE FROM THE STATE.

22 THE COURT: FROM THE DEFENSE?

23 MR. KELLY: NONE, MA'AM.

24 THE COURT: THANK YOU. PLEASE BRING RICHARD
25 COX, JUNIOR, 61. I HAVE NO NOTATION REGARDING

1 MR. COX.

2 (JUROR ENTERED THE COURTROOM.)

3 RICHARD COX, WHITE MALE, TESTIFIED AS
4 FOLLOWS:

5 THE COURT: WE HAVE A CORRECTION TO PANEL SHEET
6 19, THE SECOND PAGE, NUMBER 21. THE JUROR NUMBER
7 SHOULD BE 41 AND NOT FOUR. THAT WAS A SCRIVENER'S
8 ERROR. IT SHOULD BE 41 INSTEAD OF FOUR. IT WAS A
9 SCRIVENER'S ERROR. NUMBER 21 ON PANEL SHEET 19.

10 BY THE COURT:

11 Q HOW ARE YOU, SIR?

12 A PRETTY WELL.

13 Q YOU ARE RICHARD COX, JUNIOR; IS THAT CORRECT?

14 A CORRECT.

15 Q AND YOU'RE JUROR 61?

16 A CORRECT.

17 Q SIR, I WOULD REMIND YOU THAT YOU'RE STILL UNDER OATH.
18 AND I NEED YOU TO SPEAK AS LOUDLY AND CLEARLY AS YOU CAN
19 FOR US. IF YOU NEED THE ADJUST THAT MICROPHONE, FEEL FREE
20 TO.

21 A ALL RIGHT.

22 Q SIR, HAVE YOU IN ANY WAY WATCHED, READ, OR LISTENED
23 TO ANY NEWS ACCOUNTS OF THIS CASE DURING THE BREAK FROM
24 TUESDAY TO NOW?

25 A NO.

1 Q SIR, WE'RE GOING TO ASK YOU SOME QUESTIONS. IT'S NOT
2 OUR INTENT TO INVADE YOUR PRIVACY. WE KNOW SOME OF THESE
3 QUESTIONS MAY BE PERSONAL. WE KNOW WE MAY BE ASKING YOU
4 ABOUT THINGS YOU NEVER REALLY THOUGHT ABOUT.

5 I NEED TO EMPHASIZE FOR YOU THAT THERE ARE NO RIGHT
6 OR WRONG ANSWERS. WE JUST NEED YOU TO ANSWER US AS FULLY
7 AND COMPLETELY AS POSSIBLE. IF YOU DON'T UNDERSTAND A
8 QUESTION WE'RE ASKING, PLEASE LET US KNOW BECAUSE WE USE
9 LEGALESE AND WE TAKE FOR GRANTED YOU UNDERSTAND WHAT WE'RE
10 TALKING ABOUT BECAUSE, YOU KNOW, IT'S LIKE OUR OWN LITTLE
11 LANGUAGE.

12 A RIGHT.

13 Q AND SOMETIMES WE TAKE FOR GRANTED THAT PEOPLE ALWAYS
14 UNDERSTAND WHAT WE'RE TRYING TO COMMUNICATE. SO IF YOU DO
15 NOT UNDERSTAND SOMETHING, PLEASE LET US KNOW.

16 A ALL RIGHT.

17 Q AMONG OTHER THINGS, SIR, WE WILL BE TALKING ABOUT
18 PENALTY. BUT THE MERE FACT THAT WE'RE TALKING ABOUT
19 PENALTY IS NO REFLECTION ON THE DEFENDANT. HE IS PRESUMED
20 IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND?

21 A YES, MA'AM.

22 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
23 YOU LISTEN TO THE LAW?

24 A YES.

25 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD

1 INSTRUCT AS THE JUDGE OF THE COURT?

2 A TO MY KNOWLEDGE I COULD.

3 Q OKAY. WOULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH
4 YOU MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

5 A YES.

6 Q OKAY. AND I NEED TO ALSO CLARIFY, BECAUSE SOMETIMES
7 PEOPLE THINK THE FACTS AND THE LAW ARE THE SAME THING.
8 JURORS ARE THE JUDGES OF THE FACTS. THE COURT SIMPLY IS
9 LIKE A HALL MONITOR. WE TELL YOU WHAT THE GUIDELINES ARE
10 AND WHAT THE RULES ARE. SO WHEN I REFER TO THE LAW, THAT
11 IS WHAT I'M REFERRING TO.

12 AND SOMETIMES PEOPLE HAVE PRECONCEIVED IDEAS ABOUT
13 WHAT THEY THINK A PARTICULAR LAW SAYS OR HOW IT IS
14 WRITTEN. AND SOMETIMES WHEN THE COURT TELLS THEM WHAT THE
15 LAW ACTUALLY IS, THEY'RE SURPRISED.

16 A RIGHT.

17 Q SO WHAT I'M ASKING IS, DO YOU THINK THAT YOU COULD
18 FOLLOW THE LAW, ACCEPT AND APPLY IT AS I INSTRUCT, EVEN
19 THOUGH YOU MAY DISAGREE OR HAVE PRECONCEIVED IDEAS ABOUT
20 WHAT YOU THINK IT SHOULD BE?

21 A YES.

22 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
23 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
24 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
25 CASE?

1 A MAY HAVE DIFFICULTY WITH THAT.

2 Q OKAY. LET ME ASK AN ADDITIONAL QUESTION. HAVE YOU
3 READ, HEARD, OR SEEN ANY MEDIA COVERAGE ABOUT THIS CASE,
4 THAT INCLUDES ANYTHING ON THE RADIO, NEWSPAPER,
5 TELEVISION, OR INTERNET PRIOR TO ARRIVING ON TUESDAY?

6 A OH, YES.

7 Q OKAY. AND AS A RESULT OF WHAT YOU HAVE HEARD, HAVE
8 YOU FORMED ANY FIXED OPINION ABOUT THE FACTS IN THIS CASE.
9 IN OTHER WORDS, A FIXED OPINION IS AN OPINION, A MIND THAT
10 IS ALREADY MADE UP, THAT IS NOT WILLING TO LISTEN TO
11 ANYTHING ADDITIONAL.

12 A BASED ON WHAT I KNOW, YES, PRETTY MUCH MADE UP MY
13 MIND.

14 Q OKAY. SO YOU'RE TELLING ME YOU FORMED A FIXED
15 OPINION?

16 A YES.

17 Q ARE YOU TELLING ME, SIR, THAT YOU CAN -- AND I GUESS
18 I NEED TO ASK AN ADDITIONAL QUESTION. CAN YOU DISREGARD
19 AND DISABUSE YOUR MIND OF WHAT YOU HAVE HEARD AND COME
20 INTO THIS COURTROOM ALMOST LIKE A HORSE WITH BLINDERS,
21 WITH AN EMPTY MIND, LISTEN TO THE WITNESSES FROM -- WHO
22 WILL BE SWORN UNDER OATH, WILL TESTIFY FROM THIS WITNESS
23 STAND ALONG WITH THE OTHER EVIDENCE THAT WILL BE
24 INTRODUCED AND THE LAW THAT THE COURT WILL CHARGE AND MAKE
25 A DECISION AS THE LAW REQUIRES BASED SOLELY ON THAT

1 EVIDENCE AND ON THE LAW AND RENDER A DECISION IN THIS
2 CASE?

3 A BE QUITE HONEST, BE VERY DIFFICULT TO DO THAT.

4 Q OKAY.

5 THE COURT: ARE THERE ANY QUESTIONS FROM THE
6 STATE?

7 MR. HUMPHRIES: NONE FROM THE STATE.

8 THE COURT: FROM THE DEFENSE?

9 MR. KELLY: NO, MA'AM.

10 THE COURT: OKAY. ANY EXCEPTION TO EXCUSING
11 THIS JUROR FROM THE STATE?

12 MR. HUMPHRIES: NO.

13 THE COURT: FROM THE DEFENSE?

14 MR. KELLY: NO, MA'AM.

15 THE COURT: SIR, YOU'RE EXCUSED WITH THE COURT'S
16 THANKS. PLEASE DO NOT DISCUSS THIS PROCESS WITH
17 ANYONE.

18 JUROR: OKAY. THANK YOU, MA'AM.

19 THE COURT: THANK YOU, SIR. YOU HAVE A GOOD
20 DAY.

21 (JUROR LEFT THE COURTROOM.)

22 THE COURT: ELEANOR WILLIAMSON, 358. SHE
23 RESPONDED TO QUESTION 21. IS THAT...

24 MR. HUMPHRIES: THAT'S CORRECT, YOUR HONOR.

25 (JUROR ENTERED THE COURTROOM.)

1 ELEANOR WILLIAMSON, WHITE FEMALE,
2 TESTIFIED AS FOLLOWS:

3 BY THE COURT:

4 Q MA'AM, IF YOU WOULD COME FORWARD FOR ME AND COME HAVE
5 A SEAT. AND IF YOU COULD GET AS CLOSE TO THE MICROPHONE
6 FOR ME AS POSSIBLE.

7 A OKAY.

8 Q HOW ARE YOU DOING THIS MORNING?

9 A I'M DOING GOOD.

10 Q GOOD.

11 A HOW ARE YOU DOING?

12 Q DOING FINE. IT'S GOOD TO SEE YOU. TAKE A DEEP
13 BREATH. WE KNOW THIS CAN BE A LITTLE DISCONCERTING, A
14 LITTLE UNNERVING. BUT YOU HAVE NOTHING TO BE NERVOUS
15 ABOUT. IF YOU WOULD TELL US YOUR NAME FOR THE RECORD.

16 A ELEANOR WILLIAMSON.

17 Q AND MRS. WILLIAMSON, YOU ARE JUROR 358; IS THAT
18 RIGHT?

19 A THAT'S CORRECT.

20 Q AND MA'AM, I WILL REMIND YOU YOU'RE STILL UNDER OATH.
21 DO YOU UNDERSTAND?

22 A YES, I DO.

23 Q HAVE YOU READ, WATCHED, OR LISTENED TO ANY MEDIA
24 ACCOUNTS ABOUT THIS CASE SINCE YOU WERE RELEASED ON
25 TUESDAY?

1 A NO, I HAVE NOT.

2 Q MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS. SOME
3 OF THEM MAY SEEM INTENSELY PERSONAL. IT'S NOT OUR
4 INTENTION TO INVAD E YOUR PRIVACY. WE JUST HAVE TO INQUIRE
5 INTO YOUR VIEWS.

6 THERE ARE NO RIGHT OR WRONG ANSWERS. WE JUST NEED
7 YOU TO BE AS HONEST WITH US AS POSSIBLE AND ANSWER THE
8 QUESTIONS AS OPENLY AND FULLY AS YOU CAN. DO YOU
9 UNDERSTAND?

10 A YES, I DO.

11 Q IF THERE'S A QUESTION YOU DO NOT UNDERSTAND, PLEASE
12 LET US KNOW SO THAT WE CAN REPHRASE IT OR HELP YOU TO
13 UNDERSTAND WHAT WE'RE ASKING; OKAY?

14 A OKAY.

15 Q AMONG OTHER THINGS WE'RE GOING TO BE TALKING ABOUT
16 PENALTIES. BUT THE MERE FACT THAT WE TALK ABOUT A PENALTY
17 HAS NO REFLECTION ON THE DEFENDANT. HE IS PRESUMED IN THE
18 LAW TO BE INNOCENT. DO YOU UNDERSTAND THAT?

19 A YES, I DO.

20 Q MA'AM, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
21 YOU LISTEN TO THE LAW?

22 A YES, I COULD.

23 Q COULD YOU ACCEPT AND APPLY THE LAW AS THE COURT WOULD
24 INSTRUCT YOU?

25 A YES, I COULD.

1 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
2 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

3 A YES, I COULD.

4 Q MA'AM, COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
5 EVIDENCE PRESENTED IN THE COURTROOM AND DISREGARD ANYTHING
6 YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS CASE?

7 A NO.

8 Q OKAY. ARE YOU TELLING ME THAT YOU'VE FORMED A FIXED
9 OPINION ABOUT THE FACTS?

10 A YES, I HAVE.

11 Q AND ARE YOU TELLING ME THAT YOU HAVE ALREADY MADE UP
12 YOUR MIND?

13 A YES, I HAVE.

14 Q OKAY.

15 THE COURT: ANY ADDITIONAL QUESTIONS FROM THE
16 STATE?

17 MR. HUMPHRIES: NONE FROM THE STATE.

18 THE COURT: FROM THE DEFENSE?

19 MR. KELLY: NO, MA'AM.

20 THE COURT: ANY EXCEPTION TO EXCUSING THIS
21 JUROR?

22 MR. HUMPHRIES: NONE, YOUR HONOR.

23 MR. KELLY: NO, MA'AM.

24 THE COURT: MA'AM, YOU'RE EXCUSED. HAVE A
25 WONDERFUL DAY. WE APPRECIATE YOUR TIME AND YOUR

1 PATIENCE.

2 JUROR: THANK YOU.

3 THE COURT: YOU'RE WELCOME.

4 (JUROR LEFT THE COURTROOM.)

5 THE COURT: BRENDA SIMMONS, 394.

6 (JUROR ENTERED THE COURTROOM.)

7 BRENDA SIMMONS, WHITE FEMALE,
8 TESTIFIED AS FOLLOWS:

9 BY THE COURT:

10 Q IF YOU COULD GET AS CLOSE TO THE MICROPHONE FOR US AS
11 POSSIBLE. TAKE A DEEP BREATH. WE KNOW THIS IS KIND OF
12 LIKE BEING IN THE SPOTLIGHT.

13 A YEAH, IT IS.

14 Q AND A LITTLE UNNERVING TO YOU, BUT IT'S NOTHING TO BE
15 CONCERNED ABOUT. WE'RE JUST HERE TO TALK TO YOU A LITTLE
16 BIT THIS MORNING. IF YOU WOULD STATE YOUR FULL NAME FOR
17 THE RECORD.

18 A BRENDA SIMMONS CHAPMAN.

19 Q CHAPMAN? C-H-A-P-M-A-N?

20 A UH-HUH.

21 Q AND MA'AM, YOU ARE JUROR 394; IS THAT CORRECT?

22 A THAT IS CORRECT.

23 Q AND YOU -- AND I WILL REMIND YOU YOU'RE STILL UNDER
24 OATH. DO YOU UNDERSTAND?

25 A I DO.

1 Q MA'AM, WE'RE GOING TO ASK YOU SOME QUESTIONS THIS
2 MORNING. WE KNOW SOME OF THEM MAY SEEM INTENSELY
3 PERSONAL. THEY ARE IN NO WAY INTENDED TO INTIMIDATE YOU.
4 WE JUST -- OR TO INVADE YOUR PRIVACY. WE JUST NEED TO
5 INQUIRE INTO YOUR VIEWS.

6 I NEED TO EMPHASIZE THAT THERE ARE NO RIGHT OR WRONG
7 ANSWERS. WE JUST NEED YOU TO BE AS OPEN AND HONEST WITH
8 US AS POSSIBLE AND TO ANSWER THE QUESTIONS AS OPENLY AND
9 FULLY AS POSSIBLE.

10 IF YOU DON'T UNDERSTAND A QUESTION, WE ASK PLEASE LET
11 US KNOW SO THAT WE CAN CLARIFY IT. DO YOU UNDERSTAND?

12 A I DO.

13 Q MA'AM, AMONG OTHER THINGS WE'LL BE TALKING ABOUT
14 PENALTY. AND THE FACT THAT WE TALK ABOUT PENALTY DOES NOT
15 INDICATE ANYTHING ABOUT THE DEFENDANT BECAUSE HE IS
16 PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND?

17 A I DO.

18 Q IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD YOU
19 LISTEN TO THE LAW?

20 A I COULD.

21 Q COULD YOU ACCEPT THE LAW AND APPLY IT AS THE COURT
22 WOULD INSTRUCT YOU?

23 A I COULD.

24 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
25 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

1 A I WOULD LIKE TO THINK I COULD.

2 Q WELL, DO YOU UNDERSTAND WHAT I MEAN WHEN I SAY THE
3 LAW?

4 A YES.

5 Q OKAY. I'M NOT TALKING ABOUT THE FACTS OF THE CASE
6 BECAUSE THE JURY IS THE SOLE FINDER OF FACTS. THE COURT
7 IS NOT ALLOWED TO HAVE AN OPINION ABOUT THE FACTS. I'M
8 TALKING ABOUT WHAT STATE LAW SAYS AND HOW IT IS WRITTEN
9 AND WHAT IT MEANS.

10 A OKAY.

11 Q WOULD YOU HAVE A PROBLEM APPLYING AND ACCEPTING THE
12 LAW AS I TELL YOU IT IS--

13 A NO.

14 Q -- EVEN THOUGH YOU MAY HAVE A PRECONCEIVED NOTION
15 ABOUT WHAT YOU THINK IT SHOULD BE?

16 A NO, I WOULD NOT.

17 Q OKAY. COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
18 EVIDENCE PRESENTED HERE IN THIS COURTROOM AND DISREGARD
19 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
20 CASE?

21 A I WOULD LIKE TO SAY THAT I COULD, BUT I'M VERY CLOSE
22 TO A LOT OF PEOPLE WHO WERE CLOSE TO THESE -- TO THE
23 VICTIMS IN THIS CASE, SO THERE'S A LOT OF THINGS ALREADY
24 IN MY HEAD.

25 Q NO, THERE ARE NO RIGHT OR WRONG ANSWERS.

1 A WELL, I...

2 Q LET ME ASK A QUESTION WITH A -- HOPEFULLY GIVE YOU
3 SOME CLARITY AND GIVE YOU A POINT OF REFERENCE. WHAT
4 WE'RE TRYING TO DETERMINE THIS MORNING IS WHETHER WE CAN
5 IMPANEL IMPARTIAL JURORS, PEOPLE WHO CAN BASICALLY EMPTY
6 THEIR MINDS OF WHATEVER PRECONCEIVED NOTIONS THEY MAY HAVE
7 HEARD OR READ, COME INTO THE COURTROOM, SIT AS FACT
8 FINDERS, LISTEN TO THE WITNESSES FROM THE WITNESS STAND
9 WHO WILL BE SWORN AND UNDER OATH, AND CONSIDER THE OTHER
10 EXHIBITS THAT WILL BE INTRODUCED AND CONSIDER ONLY THAT
11 SWORN TESTIMONY AND THE EVIDENCE AND THE LAW AS THE COURT
12 WILL CHARGE AND RENDER A VERDICT IN THIS CASE. THAT'S
13 BASICALLY WHAT I'M ASKING YOU IF YOU CAN DO.

14 IT IS IMPOSSIBLE TO BELIEVE THAT PEOPLE HAVE NO
15 PREDISPOSITION OR PRECONCEPTIONS OR -- WE ALL COME TO THE
16 TABLE WITH PRECONCEPTIONS AND BIASES AND PREJUDICES. I
17 MEAN, IT'S JUST THE NATURE OF -- I HATE TO SAY THE BEAST,
18 BUT WE'RE HUMAN BEINGS. WE ARE, YOU KNOW, PRODUCTS OF HOW
19 WE ARE SOCIALIZED IN OUR OWN ENVIRONMENT.

20 THERE'S A CERTAIN AMOUNT OF THAT THE LAW PRESUMES YOU
21 BRING TO THE TABLE. BUT WHAT I'M TRYING TO DETERMINE IS
22 WHETHER YOU CAN, WHATEVER NOTIONS YOU HAVE, EMPTY YOUR
23 MIND OF THEM, BE ABLE TO TAKE AN OATH AND SAY I'M SWORN TO
24 LISTEN IMPARTIALLY, WHICH MEANS WITHOUT HAVING MADE A
25 DECISION, AND THAT I CAN LISTEN IMPARTIALLY TO WHAT EVERY

1 WITNESS SAYS, APPLY -- AND READ EVERY AND LOOK AT EVERY
2 EXHIBIT THAT IS INTRODUCED AND APPLY THE LAW THAT THE
3 JUDGE WILL TELL ME, AND THEN DELIBERATE AND REACH A
4 DECISION BASED ON THAT JOINT DELIBERATION, IRREGARDLESS OF
5 WHAT I MAY HAVE BELIEVED BEFORE I CAME INTO THE COURTROOM.
6 AND THAT IS WHAT I'M TRYING TO DETERMINE.

7 A I HOPE -- I UNDERSTAND WHAT YOU'RE TRYING TO
8 DETERMINE, AND I TRIED TO ANSWER YOU AS HONESTLY AS I CAN.

9 Q AND AGAIN--

10 A THAT'S WHY --

11 Q -- THERE--

12 A -- I SAID I WOULD LIKE TO THINK THAT I COULD.

13 Q OKAY. AND AGAIN, THERE ARE NO RIGHT OR WRONG
14 ANSWERS. BUT THE LAW REQUIRES THAT I GET A YES OR A NO.
15 BECAUSE PROBABLY IS...

16 A I UNDERSTAND.

17 Q YEAH. AND AGAIN, THERE ARE NO RIGHT OR WRONG
18 ANSWERS. ONLY YOU CAN SEARCH YOUR HEART AND TELL US WHAT
19 YOUR ANSWER IS.

20 A YES.

21 Q OKAY. IN A CRIMINAL CASE -- WELL, LET ME ASK. HAVE
22 YOU READ, HEARD, OR SEEN ANY MEDIA COVERAGE ABOUT THIS
23 CASE, THAT INCLUDES ANYTHING THAT IS ON THE RADIO,
24 NEWSPAPER, TELEVISION, OR INTERNET REGARDING THIS CASE?
25 NOT FROM SINCE I TOLD YOU NOT TO, BUT PREVIOUSLY?

1 A YES.

2 Q HAVE YOU FORMED A FIXED OPINION, WHICH MEANS A
3 DEFINITE, I HAVE ALREADY MADE UP MY MIND OPINION ABOUT THE
4 FACTS IN THIS CASE?

5 A YES.

6 Q OKAY. AND AGAIN, GOING BACK TO MY ORIGINAL QUESTION,
7 WHICH IS, EVEN THOUGH YOU FEEL YOU HAVE FORMED A FIXED
8 OPINION, CAN YOU TOTALLY DISABUSE YOUR MIND OF THAT
9 OPINION, COME INTO THIS COURT, LISTEN TO THE WITNESSES AND
10 MAKE A DECISION BASED SOLELY ON THE EVIDENCE, THE
11 WITNESSES, AND THE COURT -- AND THE LAW AS THE COURT WILL
12 CHARGE IRREGARDLESS OF WHAT YOUR PRECONCEIVED OPINIONS MAY
13 HAVE BEEN?

14 A YES.

15 Q OKAY. MA'AM, HAVE YOU REVIEWED THE JUROR TYPE SHEET
16 WHEN YOU WERE IN THE JURY ROOM?

17 A I HAVE.

18 Q WHICH IS TYPE JUROR TYPE ONE, JUROR TYPE TWO, AND
19 JUROR TYPE TWO?

20 A TYPE TWO.

21 Q OKAY. WHICH IS IN A CASE, ONCE A MURDER HAS BEEN
22 PROVEN BY THE STATE, YOU FEEL THAT THE DEATH PENALTY IS
23 ALWAYS THE APPROPRIATE PENALTY? YOU WANT TO TAKE A FEW
24 MOMENTS TO REVIEW THE SHEET AGAIN FOR ME OR DO YOU
25 REMEMBER COMPLETELY.

1 A I HAVE READ IT THREE TIMES.

2 Q OKAY. OKAY. SOMETIMES PEOPLE HAVE A HEARD TIME
3 REMEMBERING, THOUGH, ONCE THEY GET IN HERE, SO I JUST
4 WANTED TO GIVE YOU AN OPPORTUNITY TO LOOK AT IT AGAIN.

5 A YEAH.

6 Q OKAY. ANY QUESTIONS FROM THE STATE?

7 MR. HUMPHRIES: NONE FROM THE STATE.

8 THE COURT: ANY FROM THE DEFENSE?

9 MR. KELLY: NO, MA'AM.

10 THE COURT: NO, MA'AM?

11 MR. KELLY: ARE YOU GOING TO QUALIFY THIS JUROR?

12 THE COURT: NO, I'M ASKING -- SHE'S INDICATED
13 SHE'S A TYPE TWO JUROR AND I NEED TO KNOW IF YOU HAVE
14 ANY QUESTIONS FOR HER.

15 MR. KELLY: I HAVE NO QUESTIONS.

16 MR. HUMPHRIES: I DO HAVE ONE QUESTION.

17 THE COURT: CERTAINLY. GO RIGHT AHEAD.

18 BY MR. HUMPHRIES:

19 Q DID YOU REALLY FILL THIS THING OUT ON YOUR HONEYMOON?

20 A NO, I -- I GOT THE SUMMONS ON FRIDAY BEFORE WE WERE
21 TO BE MARRIED ON SATURDAY AND FILLED IT OUT ON MONDAY
22 BEFORE WE LEFT ON OUR HONEYMOON ON WEDNESDAY.

23 MR. HEMBREE: I SAW TWO DAYS AND I SAID, THAT
24 CAN'T BE RIGHT.

25 JUROR: WELL, WHAT ARE YOU GOING TO PUT?

1 MR. HEMBREE: TOTALLY HONEST.

2 THE COURT: ANY EXCEPTIONS TO THE JUROR BEING
3 EXCUSED FROM THE STATE?

4 MR. HUMPHRIES: NONE FROM THE STATE.

5 THE COURT: FROM THE DEFENSE?

6 MR. KELLY: NO, MA'AM.

7 THE COURT: MA'AM, YOU'RE EXCUSED WITH THE
8 COURT'S THANKS. PLEASE DO NOT DISCUSS THIS PROCESS
9 WITH ANYONE.

10 JUROR: THANK YOU.

11 THE COURT: THANK YOU. HAVE A GOOD DAY. WE ARE
12 DOWN TILL 10. ENJOY YOUR BREAK.

13 (WHEREUPON A RECESS WAS HAD.)

14 (JUROR ENTERED THE COURTROOM.)

15 THE COURT: ALL RIGHT. TIMOTHY LEONARD, 202.

16 TIMOTHY LEONARD, WHITE MALE, TESTIFIED AS
17 FOLLOWS:

18 BY THE COURT:

19 Q HOW ARE YOU TODAY, SIR?

20 A GOOD.. HOW ARE YOU?

21 Q I'M GOOD. SIR, YOU ARE MR. LEONARD, NUMBER 202. IS
22 THAT RIGHT?

23 A YES, MA'AM.

24 Q AND SIR, I REMIND YOU THAT YOU'RE STILL UNDER OATH.
25 DO YOU UNDERSTAND THAT?

1 A YES, MA'AM.

2 Q OKAY. I'M GOING TO HAVE TO ASK YOU TO ANSWER ALL MY
3 QUESTIONS YES OR NO BECAUSE IT'S HARD FOR THE COURT
4 REPORTER -- WE ALL DO THAT, WE NOD, AND SHE CAN'T RECORD
5 THAT. SO IF YOU -- WE KNOW THIS IS DIFFICULT. IT'S
6 UNNERVING. TAKE A DEEP BREATH. NOTHING TO BE NERVOUS
7 ABOUT.

8 HAVE YOU READ, WATCHED, OR LISTENED TO ANYTHING SINCE
9 YOU WERE RELEASED ON TUESDAY REGARDING THIS CASE?

10 A NO.

11 Q SIR, WE'RE GOING TO ASK YOU SOME QUESTIONS. AGAIN,
12 WE KNOW THIS CAN BE AN UNNERVING PROCESS. WE'RE NOT
13 TRYING TO INVADE YOUR PRIVACY. STATE LAW REQUIRES WHEN WE
14 HAVE CASES OF THIS TYPE THAT WE TALK TO EACH POTENTIAL
15 JUROR INDIVIDUALLY.

16 SO THE ONLY THING THAT WE ASK OF YOU IS THAT YOU
17 ANSWER THE QUESTIONS OPENLY, HONESTLY, AND FULLY. I NEED
18 TO EMPHASIZE THERE ARE NO RIGHT OR WRONG ANSWERS. SO BE
19 AS COMPLETELY HONEST WITH US AS POSSIBLE.

20 AMONG OTHER THINGS WE WILL BE TALKING ABOUT POTENTIAL
21 PENALTIES. THE MERE FACT THAT WE TALK ABOUT PENALTY DOES
22 NOT INDICATE ANYTHING ABOUT THE DEFENDANT BECAUSE HE IS
23 PRESUMED IN THE LAW TO BE INNOCENT. DO YOU UNDERSTAND
24 THAT?

25 A YES.

1 Q SIR, IF YOU WERE A JUROR IN A CRIMINAL CASE, COULD
2 YOU LISTEN TO THE LAW?

3 A YES.

4 Q COULD YOU ACCEPT AND APPLY THE LAW AS I WOULD
5 INSTRUCT YOU?

6 A YES.

7 Q COULD YOU ACCEPT AND APPLY THE LAW EVEN THOUGH YOU
8 MAY DISAGREE WITH WHAT I TELL YOU THE LAW IS?

9 A YES.

10 Q COULD YOU DECIDE THIS CASE BASED SOLELY ON THE
11 EVIDENCE PRESENTED HERE IN THE COURTROOM AND DISREGARD
12 ANYTHING YOU MAY HAVE HEARD, READ, OR SEEN ABOUT THIS
13 CASE?

14 A YES.

15 Q SIR, HAVE YOU READ, SEEN, OR HEARD ANY MEDIA COVERAGE
16 ABOUT THIS CASE BEFORE TUESDAY?

17 A YES AND NO.

18 Q OKAY.

19 A FROM WHEN IT HAPPENED.

20 Q OKAY.

21 A I MEAN, I FOLLOWED IT WHEN IT HAPPENED.

22 Q UH-HUH.

23 A AFTER IT HAPPENED, I REALLY DIDN'T FOLLOW IT TOO
24 MUCH.

25 Q OKAY. AS A RESULT OF WHAT YOU MAY HAVE READ, HEARD,