

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**Appeal From Dorchester County
The Honorable Diane S. Goodstein, Circuit Court Judge**

TIMOTHY DION ROGERS,

vs.

STATE OF SOUTH CAROLINA,

Respondent, S.C. Supreme Court

Petitioner.

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF GENERAL SESSIONS
94-GS-18-0047
94-GS-18-0048

STATE OF SOUTH CAROLINA :

-vs- :

TIMOTHY ROGERS :

TRANSCRIPT OF RECORD

JANUARY 25 & 27, 1994
ST. GEORGE, SOUTH CAROLINA

B E F O R E:

HONORABLE CHARLES W. WHETSTONE, JUDGE.

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

WALTER BAILEY, SOLICITOR
ATTORNEY FOR THE STATE

BILL RUNYON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

COPY

DIANNE A. JOSEPH
CIRCUIT COURT REPORTER

EXHIBITS

(NO EXHIBITS WERE INTRODUCED DURING THE PLEAS.)

STATE V. TIMOTHY ROGERS

1 (TUESDAY, JANUARY 25, 1995.)

2 THE COURT: ALL RIGHT, SOLICITOR. GO AHEAD.

3 MR. BAILEY: I CALL 94-GS-18-47, THE STATE CHARGES
4 TIMOTHY ROGERS WITH CRIMINAL SEXUAL CONDUCT WITH A MINOR
5 SECOND DEGREE.

6 HE'S PRESENT WITH MR. RUNYON, HIS ATTORNEY.

7 THE COURT: DO WE HAVE A PRESENTENCE INVESTIGATION ON MR.
8 ROGERS?

9 PROBATION OFFICER: NO, SIR, WE DON'T, YOUR HONOR.

10 MR. BAILEY: MY UNDERSTANDING, THE DEFENDANT WOULD WAIVE
11 THAT; IS THAT CORRECT?

12 MR. RUNYON: THAT'S CORRECT.

13 THE COURT: IT'S OUTSIDE THE 15 YEARS, EXCUSE ME. MR.
14 RUNYON, DO YOU REPRESENT MR. ROGERS?

15 MR. RUNYON: YES, YOUR HONOR.

16 THE COURT: HAVE YOU EXPLAINED TO HIM THIS CHARGE, THE
17 POSSIBLE PUNISHMENT, AND HIS RIGHTS?

18 MR. RUNYON: YES, YOUR HONOR.

19 THE COURT: IN YOUR OPINION DOES HE UNDERSTAND THE
20 CHARGE, THE POSSIBLE PUNISHMENT, AND HIS RIGHTS?

21 MR. RUNYON: YES, YOUR HONOR.

22 THE COURT: HOW DOES HE INDICATE TO YOU HE WISHES TO
23 PLEAD; GUILTY OR NOT GUILTY?

24 MR. RUNYON: HE WILL TENDER A PLEA OF GUILTY TO THE
25 INDICTMENT AS SET OUT.

STATE V. TIMOTHY ROGERS

1 THE COURT: DO YOU AGREE WITH HIS DECISION TO PLEAD
2 GUILTY?

3 MR. RUNYON: ABSOLUTELY, YOUR HONOR.

4 THE COURT: ARE YOU SATISFIED FROM YOUR REVIEW OF THE
5 FACTS AND THE CIRCUMSTANCES OF MR. ROGERS' CASE THAT THE STATE
6 HAS SUFFICIENT EVIDENCE TO PROVE HIM GUILTY BEYOND A
7 REASONABLE DOUBT?

8 MR. RUNYON: THERE'S NO QUESTION ABOUT THAT, YOUR HONOR.

9 THE COURT: MR. ROGERS, RAISE YOUR RIGHT HAND, SIR.

10 DEFENDANT: (COMPLIED.)

11 THE COURT: DO YOU SOLEMNLY SWEAR THE TESTIMONY YOU'RE
12 ABOUT TO GIVE IS THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
13 THE TRUTH, SO HELP YOU, GOD?

14 DEFENDANT: YES, SIR.

15 THE COURT: MR. ROGERS, I'M GOING TO ASK YOU SOME
16 QUESTIONS. IF YOU DON'T UNDERSTAND SOMETHING, STOP ME AND
17 I'LL LET YOU TALK TO YOUR LAWYER. I'M ASKING YOU THESE
18 QUESTIONS TO BE SURE THAT YOU UNDERSTAND WHAT YOU'RE DOING AND
19 THAT YOUR PLEA OF GUILTY IS FREE AND VOLUNTARY. ALL RIGHT,
20 SIR?

21 DEFENDANT: (NODS HEAD.)

22 THE COURT: HOW OLD ARE YOU, MR. ROGERS?

23 DEFENDANT: 25.

24 THE COURT: HOW FAR DID YOU GO IN SCHOOL?

25 DEFENDANT: TENTH.

STATE V. TIMOTHY ROGERS

1 THE COURT: WHAT KIND OF WORK DO YOU DO?

2 DEFENDANT: CARPENTER'S HELPER.

3 THE COURT: HOW LONG HAVE YOU BEEN IN JAIL?

4 DEFENDANT: SINCE DECEMBER '92.

5 THE COURT: ARE YOU MARRIED?

6 DEFENDANT: YES, SIR.

7 THE COURT: DO YOU HAVE ANY CHILDREN?

8 DEFENDANT: FOUR.

9 THE COURT: HAVE YOU EVER BEEN TREATED FOR ALCOHOL OR
10 DRUG ABUSE OR ANY KIND OF MENTAL ILLNESS?

11 DEFENDANT: YES, SIR.

12 THE COURT: WHAT WERE YOU TREATED FOR AND WHEN?

13 DEFENDANT: ALCOHOL AND DRUGS.

14 THE COURT: DID YOU SUCCESSFULLY COMPLETE THE TREATMENT?

15 DEFENDANT: NO, SIR.

16 THE COURT: YOU STILL HAVE AN ALCOHOL AND DRUG PROBLEM?

17 DEFENDANT: NOT AT THE MOMENT.

18 THE COURT: ARE YOU TODAY UNDER THE INFLUENCE OF ANY
19 ALCOHOL, DRUGS, OR MEDICATION?

20 DEFENDANT: NO, SIR.

21 THE COURT: HAVE YOU HAD ANY ALCOHOL, DRUGS, OR
22 MEDICATION WITHIN THE LAST 24 HOURS?

23 DEFENDANT: NO, SIR.

24 THE COURT: IS THERE ANYTHING TODAY, WHETHER IT BE A
25 PHYSICAL, MENTAL, OR AN EMOTIONAL PROBLEM, THAT IS KEEPING YOU

1 FROM UNDERSTANDING WHAT YOU'RE DOING HERE?

2 DEFENDANT: NO, SIR.

3 THE COURT: YOUR LAWYER HAS TOLD ME THAT HE HAS EXPLAINED
4 TO YOU THIS CHARGE AND THE POSSIBLE PUNISHMENT; IS THAT RIGHT?

5 DEFENDANT: YES, SIR.

6 THE COURT: DO YOU UNDERSTAND, MR. ROGERS, THAT FOR
7 CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE SECOND DEGREE, I
8 COULD PUT YOU IN JAIL FOR 20 YEARS?

9 DEFENDANT: YES, SIR.

10 THE COURT: DO YOU STILL WANT TO PLEAD GUILTY?

11 DEFENDANT: YES, SIR.

12 THE COURT: DO YOU UNDERSTAND, MR. ROGERS, THAT WHEN YOU
13 PLEAD GUILTY, YOU GIVE UP CERTAIN IMPORTANT CONSTITUTIONAL
14 RIGHTS? YOU GIVE UP YOUR RIGHT TO REMAIN SILENT, YOU GIVE UP
15 YOUR RIGHT TO A JURY TRIAL, AND YOU GIVE UP YOUR RIGHT TO
16 CONFRONT THE WITNESSES AGAINST YOU. DO YOU UNDERSTAND ALL OF
17 THOSE CONSTITUTIONAL RIGHTS?

18 DEFENDANT: YES, SIR.

19 THE COURT: DO YOU UNDERSTAND THAT THOSE RIGHTS MEAN,
20 FIRST OF ALL, YOU'D HAVE A RIGHT TO A JURY TRIAL ON THIS
21 CHARGE? WE WOULD SELECT A JURY OF 12 PEOPLE TO HEAR THE CASE
22 AGAINST YOU. MR. RUNYON WOULD ASSIST YOU IN SELECTING THAT
23 JURY PANEL.

24 ONCE WE HAD 12 JURORS, THEY WOULD BE SWORN IN BY THE
25 CLERK OF COURT. AND THAT JURY WOULD HEAR THE CASE PRESENTED

STATE V. TIMOTHY ROGERS

1 AGAINST YOU BY THE STATE.

2 THE STATE HAS THE OBLIGATION IN REGARD TO THAT JURY TRIAL
3 RIGHT YOU HAVE TO PRESENT ENOUGH EVIDENCE AND TESTIMONY TO
4 THAT JURY TO CONVINCE THEM OF YOUR GUILT BEYOND A REASONABLE
5 DOUBT. YOU DON'T HAVE TO PROVE YOURSELF INNOCENT. THEY'VE
6 GOT TO PROVE YOU GUILTY. TO DO THAT, THE STATE WOULD CALL
7 WHATEVER WITNESSES THEY HAVE. THOSE WITNESSES WOULD TAKE THE
8 STAND AND TESTIFY. MR. RUNYON, YOUR ATTORNEY, WOULD CROSS
9 EXAMINE THOSE WITNESSES FOR YOU; THAT WOULD BE YOUR RIGHT TO
10 CONFRONT THE WITNESSES AGAINST YOU.

11 YOU ALSO HAVE THE CONSTITUTIONAL RIGHT TO REMAIN SILENT;
12 THAT MEANS THAT YOU DON'T HAVE TO TESTIFY. IF YOU DON'T
13 TESTIFY, I'LL TELL THE JURY THAT THEY CAN'T HOLD THAT AGAINST
14 YOU. THEY CAN'T EVEN TALK ABOUT THAT IN THE JURY ROOM.

15 DO YOU UNDERSTAND ALL OF THOSE CONSTITUTIONAL RIGHTS?

16 DEFENDANT: YES, SIR.

17 THE COURT: DO YOU WANT TO GIVE THEM UP AND PLEAD GUILTY?

18 DEFENDANT: YES, SIR.

19 THE COURT: UNDERSTANDING THE NATURE OF THIS CHARGE
20 AGAINST YOU, MR. ROGERS, AND THE CONSEQUENCES OF YOUR GUILTY
21 PLEA, HOW DO YOU WISH TO PLEAD; GUILTY OR NOT GUILTY?

22 DEFENDANT: GUILTY.

23 THE COURT: DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY,
24 YOU ADMIT THAT THIS CHARGE AGAINST YOU IS TRUE?

25 DEFENDANT: YES, SIR.

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1 THE COURT: DO YOU ALSO UNDERSTAND THAT WHEN YOU PLEAD
2 GUILTY, YOU GIVE UP ANY DEFENSES THAT YOU MIGHT HAVE TO THIS
3 CHARGE?

4 DEFENDANT: YES, SIR.

5 THE COURT: DO YOU FURTHER UNDERSTAND THAT WHEN YOU PLEAD
6 GUILTY, YOU GIVE UP YOUR RIGHT TO CHALLENGE ANY DEFECTS IN THE
7 STATE'S CASE? THAT MEANS, IF THEY DID SOMETHING WRONG IN THE
8 WAY THEY ARRESTED YOU, IF THEY TOOK A STATEMENT FROM YOU
9 IMPROPERLY, IF THEY DIDN'T GIVE YOU YOUR MIRANDA RIGHTS,
10 WHATEVER THEY MIGHT HAVE DONE, ONCE YOU PLEAD GUILTY, YOU
11 CAN'T CHALLENGE THAT ANY MORE. UNDERSTAND?

12 DEFENDANT: YES, SIR.

13 THE COURT: DID YOU COMMIT THIS OFFENSE?

14 DEFENDANT: YES, SIR.

15 THE COURT: TELL ME WHAT YOU DID PLEASE?

16 DEFENDANT: I HAD SEX WITH A 15- OR 16-YEAR-OLD GIRL
17 KNOWINGLY AND, YOU KNOW.

18 THE COURT: KNOWING THAT SHE WAS UNDER AGE?

19 DEFENDANT: YES, SIR.

20 THE COURT: AND YOU ARE 25?

21 DEFENDANT: I WAS 24 AT THE TIME.

22 THE COURT: 24 AT THE TIME. PRIOR RECORD, SOLICITOR?

23 MR. BAILEY: YES, SIR, YOUR HONOR. THE DEFENDANT HAS A
24 CONVICTION IN 1985 FOR TRESPASSING; 1986 FRAUDULENT CHECK; '87
25 SIMPLE POSSESSION OF MARIJUANA; '87 SHOPLIFTING; 1988 GRAND

1 LARCENY OF A VEHICLE, WHICH HE RECEIVED A Y.O.A. SENTENCE;
2 1990 POSSESSION OF COCAINE; THAT'S IT, YOUR HONOR.

3 THE COURT: IS THAT YOUR RECORD, MR. ROGERS?

4 DEFENDANT: YES, SIR.

5 THE COURT: MR. ROGERS, YOU UNDERSTAND BY PLEADING GUILTY
6 TO THIS OFFENSE, THIS IS CONSIDERED A VIOLENT OFFENCE UNDER
7 OUR LAW AND IT WILL GO ON YOUR RECORD AS A VIOLENT OFFENSE OR
8 A CONVICTION OF A VIOLENT OFFENSE; DO YOU UNDERSTAND THAT?

9 DEFENDANT: YES, SIR.

10 THE COURT: STILL WANT TO PLEAD GUILTY?

11 DEFENDANT: YES, SIR.

12 THE COURT: ARE THERE ANY PLEA NEGOTIATIONS IN REGARD TO
13 THIS CASE, MR. ROGERS, THAT YOU KNOW OF?

14 DEFENDANT: NO, SIR.

15 MR. RUNYON: NO, YOUR HONOR.

16 THE COURT: THERE AREN'T ANY PLEA NEGOTIATIONS IN REGARD
17 TO THIS CASE?

18 MR. RUNYON: ABSOLUTELY NOT, YOUR HONOR.

19 THE COURT: SOLICITOR?

20 MR. BAILEY: NOT FROM THE STATE ON THIS CHARGE, YOUR
21 HONOR.

22 THE COURT: ANYBODY PROMISED YOU ANYTHING OR THREATEN YOU
23 IN ANY WAY TO GET YOU TO PLEAD TO THIS CHARGE, MR. ROGERS?

24 DEFENDANT: NO, SIR.

25 THE COURT: ARE YOU PLEADING GUILTY OF YOUR OWN FREE WILL

1 AND ACCORD?

2 DEFENDANT: YES, SIR.

3 THE COURT: HAVE YOU HAD ENOUGH TIME TO THINK ABOUT YOUR
4 GUILTY PLEA?

5 DEFENDANT: YES, SIR.

6 THE COURT: THIS IS WHAT YOU WANT TO DO?

7 DEFENDANT: (NODS HEAD.)

8 THE COURT: SIR?

9 DEFENDANT: YES, SIR.

10 THE COURT: SATISFIED WITH THE SERVICES OF YOUR LAWYER?

11 DEFENDANT: YES, SIR.

12 THE COURT: HAS HE DONE EVERYTHING THAT YOU HAVE ASKED
13 HIM TO DO TO PREPARE YOUR CASE?

14 DEFENDANT: YES, SIR.

15 THE COURT: IS THERE ANYTHING ELSE YOU WANT MR. RUNYON TO
16 DO?

17 DEFENDANT: NO, SIR.

18 THE COURT: HAVE YOU HAD ENOUGH TIME TO TALK TO HIM?

19 DEFENDANT: YES, SIR.

20 THE COURT: HAVE YOU UNDERSTOOD HIM WHEN YOU TALKED TO
21 HIM?

22 DEFENDANT: YES, SIR.

23 THE COURT: DO YOU HAVE ANY COMPLAINTS AGAINST MR.
24 RUNYON?

25 DEFENDANT: NO, SIR.

1 THE COURT: DO YOU HAVE ANY COMPLAINTS AGAINST THE
2 SOLICITOR'S OFFICE OR AGAINST THE LAW ENFORCEMENT AGENCY THAT
3 ARRESTED YOU?

4 DEFENDANT: NO, SIR.

5 THE COURT: HAVE YOU UNDERSTOOD EVERYTHING THAT I'VE
6 ASKED YOU?

7 DEFENDANT: YES, SIR.

8 THE COURT: DO YOU UNDERSTAND THAT YOU HAVE 10 DAYS FROM
9 TODAY'S DATE TO APPEAL THIS GUILTY PLEA?

10 DEFENDANT: YES, SIR.

11 THE COURT: UNDERSTANDING THAT, UNDERSTANDING EVERYTHING
12 ELSE I HAVE ASKED YOU, ARE YOU GUILTY OF THIS CHARGE OF
13 CRIMINAL SEXUAL CONDUCT WITH A MINOR?

14 DEFENDANT: YES, SIR.

15 THE COURT: ANYTHING ELSE ON THE FACTS, SOLICITOR?

16 MR. BAILEY: NO, SIR, YOUR HONOR. JUST IN THE COURSE OF
17 THE INVESTIGATION OF AN UNRELATED OFFENSE, IT CAME TO THE
18 ATTENTION OF THE SOLICITOR'S OFFICE THAT DURING THE MONTH OF
19 AUGUST 1992, AS MR. ROGERS' SAID, HE HAD SEXUAL INTERCOURSE
20 WITH [REDACTED] Assault Victim [REDACTED] (PHONETIC), WHO AT THAT TIME WAS 15
21 YEARS OLD.

22 THE COURT: MR. RUNYON, I'D BE GLAD TO HEAR FROM YOU,
23 SIR.

24 MR. RUNYON: YOUR HONOR, AS THE COURT IS WELL AWARE, THIS
25 IS A SIDE TRACK FROM MR. ROGERS' MAIN PROBLEMS, BUT AS A

1 PRACTICAL MATTER THIS IS A -- THIS IS TRULY A TOTALLY NON-
2 AGGRAVATED SITUATION. THERE'S ABSOLUTELY NO QUESTION ABOUT
3 THE FACT MS Assault Victim STATEMENT TO JUVENILE AUTHORITIES WERE
4 HAVING WHEN BEING INTERVIEWED FOR THE REVIEW FOR WAIVING HER
5 UP FROM JUVENILE COURT -- HER SEXUAL ACTIVITY WAS TOTALLY
6 VOLUNTARY. AND THERE WAS ABSOLUTELY NO QUESTION ABOUT
7 PRESSURE OR COERCION OR ANYTHING OF THAT SORT.

8 OBVIOUSLY, ALSO UNDER THE FACTS AND THE LAW IN THIS
9 STATE, HER CONSENT IS NOT OPERATIVE. BUT I WANTED TO LET THE
10 COURT KNOW IT WASN'T A QUESTION OF SHE WAS SOMEHOW FORCED OR
11 ENTICED OR WHAT HAVE YOU. THIS WAS AN ONGOING RELATIONSHIP AT
12 THE TIME. AND I WOULD ASK THE COURT TO TAKE THAT INTO
13 CONSIDERATION WHEN HANDING DOWN THE SENTENCE. I THINK IT IS
14 DIFFERENT THAN SOMEONE WHO PERHAPS FORCES HIMSELF IN SOME
15 OTHER FASHION.

16 MR. ROGERS' HAS HAD HIS PROBLEMS IN THE PAST AS HE TOLD
17 YOU. HE'S GOT HIS PROBLEMS IN THE FUTURE. BUT THE SIMPLE
18 FACT IS THAT THIS IS SOMETHING THAT NEEDS TO BE CLEARED UP IN
19 HIS LIFE.

20 HE'S BEEN A CARPENTER'S ASSISTANT. HE'S GOT FAMILY IN
21 DORCHESTER COUNTY.

22 HE'S HAD TROUBLE -- ONE REASON WHY HE DOESN'T HAVE A DRUG
23 PROBLEM OR ALCOHOL PROBLEM NOW, YOUR HONOR, IS HE'S BEEN IN
24 JAIL SINCE DECEMBER 1992.

25 AND THE SIMPLE FACT IS THAT HE HAS ACKNOWLEDGED HIS

STATE V. TIMOTHY ROGERS

1 RELATIONSHIP WITH Assault Victim AND HE WAS -- I THINK THE
2 MATHEMATICS IS VERY CLEAR TO THE COURT. HE IS SUBSTANTIALLY 9
3 YEARS -- AT ALL TIMES HE WAS 9 YEARS OLDER THAN SHE WAS, WHICH
4 CLEARLY FALLS WITHIN THE PURVIEW OF THE STATUTE.

5 MR. BAILEY: YOUR HONOR, MR. ROGERS WAS INDICTED
6 YESTERDAY BY THE GRAND JURY. I WOULD ASK THE COURT TO INQUIRE
7 WHETHER HE WAIVES THE THREE DAYS SIGNING OF THE INDICTMENT?

8 MR. RUNYON: ABSOLUTELY, YOUR HONOR. WE'VE BEEN -- FOR
9 THE COURT'S INFORMATION, I'VE BEEN WORKING ON THIS CASE SINCE
10 DECEMBER 1992 -- I SAY, THIS CASE, I MEAN THE ENTIRE FACT
11 SITUATION AND HAVE KNOWN ABOUT THIS FOR WELL OVER 6 OR 7
12 MONTHS, YOUR HONOR.

13 SO, I MEAN, WE WOULD WAIVE THE 3 DAYS. WE'VE HAD MORE
14 THAN AMPLE AMOUNT OF PREPARATION AND INVESTIGATION. THIS IS
15 NOTHING NEW TO OUR SIDE AT LEAST.

16 THE COURT: DO YOU AGREE TO THAT TOO, MR. ROGERS?

17 DEFENDANT: YES, SIR.

18 THE COURT: WAIVE THAT 3 DAYS?

19 DEFENDANT: (NODS HEAD.)

20 THE COURT: SIR?

21 DEFENDANT: YES, SIR.

22 THE COURT: YOU'VE TALKED TO YOUR LAWYER ABOUT THAT, YOU
23 UNDERSTAND THIS CASE HAS BEEN AROUND FOR A WHILE EVEN THOUGH
24 IT'S JUST BEEN INDICTED?

25 DEFENDANT: YES, SIR.

1 THE COURT: AND YOU WAIVE YOUR 3 DAYS?

2 DEFENDANT: YES, SIR.

3 THE COURT: ANYTHING YOU'D LIKE TO TELL ME, MR. ROGERS?

4 DEFENDANT: NO, SIR.

5 THE COURT: MR. ROGERS, I FIND THAT THERE'S A SUBSTANTIAL
6 FACTUAL BASIS FOR YOUR PLEA. I FIND THAT YOUR DECISION TO
7 PLEAD GUILTY IS FREELY AND VOLUNTARILY, KNOWINGLY, AND
8 INTELLIGENTLY MADE; THAT YOU'VE HAD THE ADVICE AND COUNSEL OF
9 AN ATTORNEY WITH WHOM YOU SAY YOU'RE SATISFIED. I'LL ACCEPT
10 YOUR PLEA.

11 THE SENTENCE OF THE COURT IS THAT YOU BE CONFINED FOR 7
12 YEARS. THANK YOU, SIR.

13 MR. RUNYON: THANK YOU VERY MUCH, YOUR HONOR.

14 DEFENDANT: THANK YOU.

15 (THURSDAY, JANUARY 27, 1994.)

16 MR. BAILEY: WE CALL INDICTMENT 94-GS-18-48, THE STATE
17 VERSUS TIMOTHY ROGERS. MR. ROGERS IS CHARGED WITH CRIMINAL
18 SEXUAL CONDUCT, SECOND DEGREE WITH A MINOR. MR. RUNYON
19 REPRESENTS HIM.

20 THE COURT: MR. RUNYON, DO YOU REPRESENT MR. ROGERS ON
21 THIS CHARGE?

22 MR. RUNYON: YES, YOUR HONOR.

23 THE COURT: HAVE YOU EXPLAINED TO HIM THIS CHARGE, THE
24 POSSIBLE PUNISHMENT, AND HIS RIGHTS?

25 MR. RUNYON: YES, YOUR HONOR.

STATE V. TIMOTHY ROGERS

1 THE COURT: IN YOUR OPINION DOES HE UNDERSTAND THE
2 CHARGE, THE POSSIBLE PUNISHMENT, AND HIS RIGHTS?

3 MR. RUNYON: ABSOLUTELY, YOUR HONOR.

4 THE COURT: HOW DOES HE INDICATE TO YOU HE WISHES TO
5 PLEAD; GUILTY OR NOT GUILTY?

6 MR. RUNYON: GUILTY TO THE CHARGE AS INDICTED, WITH
7 WAIVER OF ANY 3-DAY WAITING PERIOD, YOUR HONOR.

8 THE COURT: DO YOU AGREE WITH HIS DECISION TO PLEAD
9 GUILTY?

10 DEFENDANT: YES, SIR.

11 THE COURT: I'M ASKING MR. RUNYON. DO YOU AGREE WITH HIS
12 DECISION TO PLEAD GUILTY?

13 MR. RUNYON: OH, YES, YOUR HONOR. I'M SORRY.

14 THE COURT: ARE YOU SATISFIED THE STATE HAS SUFFICIENT
15 EVIDENCE TO PROVE HIM GUILTY BEYOND A REASONABLE DOUBT?

16 MR. RUNYON: THERE'S NO QUESTION ABOUT THAT, YOUR HONOR.

17 THE COURT: MR. ROGERS, RAISE YOUR RIGHT HAND PLEASE.

18 DEFENDANT: (COMPLIED.)

19 THE COURT: DO YOU SOLEMNLY SWEAR THE TESTIMONY YOU ARE
20 ABOUT TO GIVE WILL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING
21 BUT THE TRUTH, SO HELP YOU, GOD?

22 DEFENDANT: YES, SIR.

23 THE COURT: MR. ROGERS, WE'VE DONE SOMETHING SIMILAR TO
24 THIS A COUPLE OF DAYS AGO AND GOING BACK THROUGH THIS SAME
25 PROCESS AGAIN. DO YOU UNDERSTAND THAT IF YOU HAVE ANY

1 QUESTION, YOU NEED TO ASK THEM OR STOP ME SO YOU CAN TALK TO
2 MR. RUNYON; IS THAT RIGHT?

3 DEFENDANT: YES, SIR.

4 THE COURT: ALL RIGHT. MR. ROGERS, DO YOU UNDERSTAND
5 THAT FOR THIS PARTICULAR CHARGE I COULD PUT YOU IN JAIL FOR 20
6 YEARS?

7 DEFENDANT: YES, SIR.

8 THE COURT: STILL WANT TO PLEAD GUILTY?

9 DEFENDANT: YES, SIR.

10 THE COURT: DO YOU UNDERSTAND, MR. ROGERS, THAT WHEN YOU
11 PLEAD GUILTY, YOU GIVE UP CERTAIN IMPORTANT CONSTITUTIONAL
12 RIGHTS?

13 DEFENDANT: YES, SIR.

14 THE COURT: YOU GIVE UP YOUR RIGHT TO REMAIN SILENT. YOU
15 GIVE UP YOUR RIGHT TO A JURY TRIAL. AND YOU GIVE UP YOUR
16 RIGHT TO CONFRONT THE WITNESSES AGAINST YOU. NOW, DO YOU
17 UNDERSTAND ALL OF THOSE CONSTITUTIONAL RIGHTS?

18 DEFENDANT: YES, SIR.

19 THE COURT: DO YOU UNDERSTAND THAT THOSE RIGHTS MEAN THAT
20 IN THIS CASE WE'D PICK A JURY. THERE WOULD BE 12 PEOPLE ON
21 THE JURY. MR. RUNYON WOULD ASSIST YOU IN THE SELECTION
22 PROCESS. ONCE THAT JURY WAS EMPANELED, THE STATE WOULD HAVE
23 TO PRESENT ENOUGH EVIDENCE AND TESTIMONY TO THAT JURY TO
24 CONVINCE THEM THAT YOU'RE GUILTY BEYOND A REASONABLE DOUBT OF
25 THIS CHARGE.

1 DEFENDANT: YES.

2 THE COURT: YOU DON'T HAVE TO PROVE YOURSELF INNOCENT,
3 THEY'VE GOT TO PROVE YOU GUILTY.

4 YOU ALSO HAVE THE CONSTITUTIONAL RIGHT TO CONFRONT THE
5 WITNESSES AGAINST YOU; THAT WOULD TAKE PLACE BY THE STATE
6 CALLING WHATEVER THEIR WITNESSES ARE. THOSE WITNESSES WOULD
7 TESTIFY. YOU WOULD SEE WHO THE WITNESSES ARE. MR. RUNYON
8 WOULD CROSS EXAMINE THEM FOR YOU.

9 YOUR CONSTITUTIONAL RIGHT TO REMAIN SILENT MEANS THAT YOU
10 DON'T HAVE TO TESTIFY. IF YOU DON'T TESTIFY, I'LL TELL THE
11 JURY THAT THEY CAN'T HOLD THAT AGAINST YOU. THEY CAN'T EVEN
12 TALK ABOUT THAT IN THE JURY ROOM.

13 DO YOU UNDERSTAND ALL THOSE CONSTITUTIONAL RIGHTS?

14 DEFENDANT: YES, SIR.

15 THE COURT: DO YOU WANT TO GIVE THEM UP AND PLEAD GUILTY?

16 DEFENDANT: YES, SIR.

17 THE COURT: MR. ROGERS, ARE YOU UNDER THE INFLUENCE OF
18 ANYTHING TODAY?

19 DEFENDANT: NO, SIR.

20 THE COURT: HAVE YOU HAD ANY MEDICATION, DRUGS, OR
21 ALCOHOL WITHIN THE LAST 24 HOURS?

22 DEFENDANT: NO, SIR.

23 THE COURT: IS THERE ANYTHING TODAY THAT'S KEEPING YOU
24 FROM UNDERSTANDING WHAT WE'RE DOING HERE?

25 DEFENDANT: NO, SIR.

1 THE COURT: UNDERSTANDING THE NATURE OF THIS CHARGE
2 AGAINST YOU AND THE CONSEQUENCES OF YOUR GUILTY PLEA, HOW DO
3 YOU WISH TO PLEAD; GUILTY OR NOT GUILTY?

4 DEFENDANT: GUILTY.

5 THE COURT: DO YOU UNDERSTAND, MR. ROGERS, THAT WHEN YOU
6 PLEAD GUILTY, YOU GIVE UP YOUR RIGHT TO CHALLENGE ANY DEFECTS
7 IN THE STATE'S CASE?

8 DEFENDANT: YES, SIR.

9 THE COURT: DO YOU UNDERSTAND THAT THAT MEANS IF THEY DID
10 SOMETHING WRONG IN THE WAY THAT THEY ARRESTED YOU, IF THEY
11 TOOK A STATEMENT FROM YOU IMPROPERLY, IF THEY DIDN'T GIVE YOU
12 YOUR MIRANDA RIGHTS, WHATEVER THEY MIGHT HAVE DONE ONCE YOU
13 OFFER THIS GUILTY PLEA, YOU CAN'T CHALLENGE THAT ANY MORE. DO
14 YOU UNDERSTAND?

15 DEFENDANT: YES, SIR.

16 THE COURT: DO YOU FURTHER UNDERSTAND YOU'RE GIVING UP
17 ANY DEFENSES THAT YOU MIGHT HAVE TO THIS CHARGE?

18 DEFENDANT: YES, SIR.

19 THE COURT: DID YOU COMMIT THIS OFFENSE?

20 DEFENDANT: YES, SIR.

21 THE COURT: TELL ME WHAT YOU DID PLEASE?

22 DEFENDANT: I KNOWINGLY HAD SEX WITH A MINOR ON A REGULAR
23 BASIS, NOT FORCEFULLY OR ANYTHING, BUT I ADMIT TO THAT, YES,
24 SIR.

25 THE COURT: THE MINOR BEING A PERSON 15 YEARS OF AGE OR

1 UNDER, I BELIEVE THE INDICTMENT SAYS, OR A MINOR 15 YEARS OLD;
2 IS THAT RIGHT?

3 DEFENDANT: 15 OR 16.

4 MR. RUNYON: 15 AT THE TIME, YOUR HONOR.

5 THE COURT: 15 AT THE TIME; THAT'S WHAT THE INDICTMENT
6 SAYS. WAS SHE 15 AT THE TIME OR NOT?

7 DEFENDANT: I BELIEVE SHE WAS ABOUT 16.

8 MR. RUNYON: YOUR HONOR, FOR THE RECORD HER BIRTHDAY IS
9 OCTOBER OF -- '92 -- SHE BECAME 16 YEARS OF AGE IN OCTOBER OF
10 '92.

11 THE COURT: THIS INDICTMENT SAYS SEPTEMBER OF '92. DID
12 YOU HAVE SEX WITH THIS MINOR IN SEPTEMBER OF '92?

13 DEFENDANT: YES, SIR.

14 THE COURT: WAS THAT A YES?

15 DEFENDANT: YES, SIR.

16 THE COURT: OKAY. I COULDN'T HEAR YOU WITH THE NOISE
17 BACK THERE.

18 ANY PLEA NEGOTIATIONS, SOLICITOR?

19 MR. BAILEY: YOUR HONOR, WITH RESPECT TO THIS PLEA, IN
20 AND OF ITSELF THERE'S NO PLEA NEGOTIATIONS. THIS IS PART OF A
21 LARGER PLEA NEGOTIATION INVOLVING A PLEA THAT YOU ACCEPTED A
22 COUPLE DAYS AGO INVOLVING A CSC SECOND CHARGE WITH THE SAME
23 VICTIM OCCURRING ON A DIFFERENT DATE; THAT EARLIER CHARGE WAS
24 AUGUST 1992. THIS CHARGE WAS SEPTEMBER 1992.

25 YOUR HONOR, MR. ROGERS ALSO HAS MURDER CHARGES PENDING

1 AGAINST HIM. WE HAVE SERVED NOTICE WE INTEND TO SEEK THE
2 DEATH PENALTY. THIS IS PART OF A NEGOTIATION THAT MR. RUNYON
3 AND I HAVE WORKED OUT WHEREBY MR. ROGERS WOULD PLEAD TO THE
4 TWO CRIMINAL SEXUAL CONDUCT CHARGES PRIOR TO PLEADING TO A
5 MURDER CHARGE.

6 HE UNDERSTANDS THOSE ARE BOTH VIOLENT OFFENSES AND THAT
7 UPON THE CONVICTION OF A MURDER -- PLEA TO A MURDER CHARGE IN
8 A SUBSEQUENT TERM OF COURT, HE WOULD BE INELIGIBLE FOR PAROLE
9 UNDER THE PRESENT STATUTORY SCHEME.

10 THE COURT: DO YOU UNDERSTAND ALL THAT, MR. ROGERS?

11 DEFENDANT: YES, SIR.

12 THE COURT: IS THAT YOUR PLEA AGREEMENT?

13 DEFENDANT: YES, SIR.

14 THE COURT: YOU'RE AWARE OF ALL THAT NEGOTIATIONS THAT HE
15 SAYS HAVE BEEN GOING ON?

16 DEFENDANT: YES, SIR.

17 THE COURT: IS THERE ANYTHING ELSE OTHER THAN THAT?

18 DEFENDANT: NO, SIR.

19 THE COURT: ANY OTHER PLEA NEGOTIATIONS?

20 DEFENDANT: NO, SIR.

21 THE COURT: MR. RUNYON, IS THAT A FAIR AND COMPLETE
22 STATEMENT OF THE PLEA NEGOTIATION?

23 MR. RUNYON: IT'S A FAIR AND COMPLETE STATEMENT OF THE
24 NEGOTIATIONS, YOUR HONOR.

25 MR. BAILEY: YOUR HONOR, I DON'T BELIEVE THIS MATTER WAS

1 GOTTEN INTO TUESDAY WHEN HE PLED TO THE EARLIER CHARGE, BUT
2 IT'S MY UNDERSTANDING HE WAS AWARE OF THE NATURE OF THAT PLEA,
3 THAT THAT WAS A VIOLENT OFFENSE ON THAT OCCASION ALSO.

4 THE COURT: I REMEMBER ASKING HIM WHETHER THAT ONE WAS A
5 VIOLENT OFFENSE. ARE YOU AWARE THAT THESE PLEA NEGOTIATIONS
6 WERE IN EFFECT ON TUESDAY WHEN YOU PLED GUILTY TO THE OTHER
7 CRIMINAL SEXUAL CONDUCT WITH A MINOR?

8 DEFENDANT: YES, SIR.

9 THE COURT: THAT WAS PART OF THE DEAL THEN AND IS STILL
10 PART OF THE DEAL NOW. NOTHING'S CHANGED IN REGARD TO THE PLEA
11 NEGOTIATIONS FROM TUESDAY UNTIL TODAY?

12 DEFENDANT: NO, SIR.

13 THE COURT: SO THERE'S STILL AN AGREEMENT?

14 DEFENDANT: (NO RESPONSE.)

15 MR. RUNYON: YOU HAVE TO ANSWER OUT.

16 DEFENDANT: YES, SIR.

17 THE COURT: OKAY. DO YOU UNDERSTAND AGAIN THAT THIS IS A
18 VIOLENT OFFENSE AND WILL BE CONSIDERED SUCH UNDER OUR
19 STATUTORY LAW?

20 DEFENDANT: YES, SIR.

21 THE COURT: OTHER THAN THE PLEA NEGOTIATION, HAS ANYBODY
22 PROMISED YOU ANYTHING OR THREATENED YOU IN ANY WAY TO GET YOU
23 TO PLEAD GUILTY?

24 DEFENDANT: NO, SIR.

25 THE COURT: ARE YOU PLEADING GUILTY OF YOUR OWN FREE WILL

1 AND ACCORD?

2 DEFENDANT: YES, SIR.

3 THE COURT: HAVE YOU HAD ENOUGH TIME TO THINK ABOUT YOUR
4 GUILTY PLEA?

5 DEFENDANT: YES, SIR.

6 THE COURT: IS THIS WHAT YOU WANT TO DO, MR. ROGERS?

7 DEFENDANT: YES, SIR.

8 THE COURT: SATISFIED WITH THE SERVICES OF YOUR LAWYER?

9 DEFENDANT: YES, SIR.

10 THE COURT: HAS HE DONE EVERYTHING YOU'VE ASKED HIM TO DO
11 TO PREPARE YOUR CASE?

12 DEFENDANT: YES, SIR.

13 THE COURT: ANYTHING ELSE YOU WANT HIM TO DO?

14 DEFENDANT: NO, SIR.

15 THE COURT: HAVE YOU HAD ENOUGH TIME TO TALK TO HIM?

16 DEFENDANT: YES, SIR.

17 THE COURT: HAVE YOU UNDERSTOOD HIM WHEN YOU'VE TALKED TO
18 HIM?

19 DEFENDANT: YES, SIR.

20 THE COURT: DO YOU HAVE ANY COMPLAINTS AGAINST MR.
21 RUNYON?

22 DEFENDANT: NO, SIR.

23 THE COURT: DO YOU HAVE ANY COMPLAINTS AGAINST THE
24 SOLICITOR'S OFFICE OR AGAINST THE LAW ENFORCEMENT AGENCY THAT
25 ARRESTED YOU?

1 DEFENDANT: NO, SIR.

2 THE COURT: HAVE YOU UNDERSTOOD EVERYTHING THAT I'VE
3 ASKED YOU?

4 DEFENDANT: YES, SIR.

5 THE COURT: DO YOU UNDERSTAND THAT YOU HAVE 10 DAYS FROM
6 TODAY'S DATE TO APPEAL THIS GUILTY PLEA?

7 DEFENDANT: YES, SIR.

8 THE COURT: UNDERSTANDING THAT AND UNDERSTANDING
9 EVERYTHING ELSE I'VE ASKED YOU, ARE YOU GUILTY OF THIS CHARGE
10 OF CRIMINAL SEXUAL CONDUCT WITH A MINOR IN THE SECOND DEGREE?

11 DEFENDANT: YES, SIR.

12 THE COURT: ANYTHING ELSE ON THE FACTS?

13 MR. BAILEY: NO, SIR. YOUR HONOR, I THINK WHILE TALKING
14 EARLIER, I BELIEVE YOU'RE AWARE OF THE FACTS, AS I SAID, THIS
15 IS ALLEGED TO HAVE OCCURRED IN SEPTEMBER OF 1992 AND IT CAME
16 TO OUR OFFICE'S ATTENTION THE COURSE OF THE MURDER
17 INVESTIGATION.

18 THE COURT: MR. RUNYON.

19 MR. RUNYON: YOUR HONOR, JUST BRIEFLY FOR THE RECORD. I
20 KNOW THE COURT'S HEARD THIS BEFORE, BUT THIS WAS A TOTALLY
21 NON-AGGRAVATED SITUATION. THE FACTS ARE CLEAR, THE YOUNG LADY
22 IN QUESTION HAD HAD A CHILD PREVIOUSLY. SHE WAS A SEXUALLY
23 ACTIVE YOUNG TEENAGER. THAT DOESN'T NECESSARILY MAKE IT RIGHT
24 OR LEGAL, BUT IT WAS NOT A SITUATION WHERE THERE WAS ANY
25 COERCION OR FORCE OR WHAT HAVE YOU. NO QUESTION ABOUT THE

1 FACT OF CONSENT, ALTHOUGH SHE'S LEGALLY NOT ABLE TO CONSENT.

2 THEREFORE, WE WOULD ASK THE COURT TO CONSIDER THOSE FACTS
3 IN SETTING A JUST SENTENCE AS THE COURT HAS PREVIOUSLY SET IN
4 THE PRIOR IDENTICAL CIRCUMSTANCE.

5 THEY HAD AN ONGOING RELATIONSHIP, WITHOUT ANY QUESTION,
6 DURING 1992.

7 THE COURT: MR. ROGERS, ANYTHING YOU WOULD LIKE TO TELL
8 ME?

9 DEFENDANT: I'D JUST LIKE TO SAY, YOU KNOW, IT WASN'T NO
10 KIND OF FORCE OR NOTHING LIKE THAT. BUT AT THE TIME, YOU
11 KNOW, SHE WAS LYING ABOUT HER AGE, BUT I DIDN'T, YOU KNOW,
12 LOOK INTO THE BACKGROUND. YOU KNOW, BUT AFTER -- AFTER A
13 WHILE IT DID COME TO MY ATTENTION THAT SHE WAS A MINOR AND
14 EVERYTHING AND HER PARENTS AND GUARDIANS, THEY WERE AWARE TO,
15 YOU KNOW, OUR RELATIONSHIP AND WHAT NOT. BUT STILL THE LAW
16 SAYS, YOU KNOW, THAT BEING HER AGE, I'M GUILTY OF CRIMINAL
17 SEXUAL CONDUCT.

18 THE COURT: ALL RIGHT, SIR. YOU UNDERSTAND THAT THIS IS
19 A VIOLENT OFFENSE UNDER OUR STATUTORY LAW?

20 DEFENDANT: YES, SIR.

21 MR. RUNYON: YOUR HONOR, FOR THE RECORD MR. ROGERS'
22 INDICATION THAT HIS ASCERTAINING OF HER AGE, ALTHOUGH IT IS
23 NOT A DEFENSE AS THE COURT IS WELL AWARE UNDER THE LAW,
24 MISTAKEN FACT IS NOT NECESSARILY A VIABLE DEFENSE IN THESE
25 CASES. BUT HE HAD FOUND OUT THE TRUE AGE PRIOR TO AUGUST AND

1 SEPTEMBER OF 1992.

2 THE COURT: YES, SIR, THAT'S WHAT HE JUST SAID.

3 MR. RUNYON: YES, SIR, I THOUGHT HE SAID, THAT I WANTED
4 TO MAKE IT CLEAR.

5 THE COURT: HE SAID THAT HE FOUND OUT THAT SHE WAS A
6 MINOR AND DIDN'T DO ANYTHING ABOUT IT, CONTINUED IN THE
7 CONDUCT.

8 MR. RUNYON: YES, SIR.

9 THE COURT: SO THAT'S A KNOWING CONDUCT ON HIS PART THAT
10 SHE WAS A MINOR, AND HE CONTINUED.

11 MR. RUNYON: YES, SIR.

12 THE COURT: ALL RIGHT. MR. ROGERS, I FIND THERE'S A
13 SUBSTANTIAL FACTUAL BASIS FOR YOUR PLEA. I FIND THAT YOUR
14 DECISION TO PLEAD GUILTY IS FREELY, VOLUNTARILY, KNOWINGLY,
15 AND INTELLIGENTLY MADE; THAT YOU HAVE HAD THE ADVICE AND
16 COUNSEL OF AN ATTORNEY WITH WHOM YOU SAY YOU'RE SATISFIED. I
17 WILL ACCEPT YOUR PLEA.

18 THE SENTENCE OF THE COURT IS THAT YOU BE CONFINED FOR 7
19 YEARS. THANK YOU, SIR. GOOD LUCK TO YOU.

20 --- END OF TRANSCRIPT OF RECORD ---

21

22

23

24

25

1 I, THE UNDERSIGNED DIANNE A. JOSEPH, OFFICIAL COURT
2 REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH
3 CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE,
4 ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
5 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE GUILTY PLEAS OF
6 THE CAPTIONED CASES, RELATIVE TO APPEAL, IN THE CIRCUIT COURT
7 FOR DORCHESTER COUNTY, SOUTH CAROLINA, ON THE 25TH AND 27TH
8 DAYS OF JANUARY 1994.

9 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
10 NOR INTEREST TO ANY PARTY HERETO.

11 JUNE 15, 1995

12 
13 _____
14 COURT REPORTER

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17 COPY
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STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Honorable Luke N. Brown, Jr., Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TIMOTHY D. ROGERS,

APPELLANT.

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF DORCHESTER

93-GS-18-101

THE STATE

-VS-

TIMOTHY D. ROGERS

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FEBRUARY 28, 1994
THROUGH MARCH 5, 1994
ST. GEORGE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE LUKE N. BROWN, JR., JUDGE, AND JURY.

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Date: 2-28-97
County: Dorchester

VOIR DIRE

Case No.: 93-65-18-101

Judge: Luke Brown

Pl./State: The State

State/Pl's. Atty: Walter

Defendant: Timothy D. Rogers

Bailey, Harrison Bell

Defense Atty: WM - Rungren,

Mark Leindacker

Court Reporter: Daphne Vann

Juror No.	Name	Sex	Race	Court	Strikes		
					Plaintiff	Defense	Accept
195	Ricardo Rivera	M	W				✓
31	Jennifer G. Brooks	F	W			✓	
126	Randy Langenstein	F	W				✓
238	Lamb E. Tyson	F	W				✓
16	Richard C. Garrett	M	W			✓	
6	Patricia Balcerzak	F	W			✓	
120	Mildred E. Knight	F	W				✓
16	Bergen Berkau	M	W				✓
179	John H. Phillips	M	W			✓	
117	Wickie Kasper	F	W				✓
4	Rebadeel B. Ahl	F	W			✓	
30	James M. Brooks	M	W			✓	
3	Alfreda L. Addison	F	B				✓
124	Leslie B. Lane	F	W				✓
70	Helene P. Floyd	F	W				✓
218	Mary E. Smith	F	W				✓
75	Cheryl L. Hutto	F	W				✓
25	Sandra Boyd	F	B		✓		
163	Mayorie Muckeyfus	F	W			✓	

1 THE COURT: THANK YOU VERY MUCH. BE SEATED,
2 PLEASE. ALL RIGHT. MEMBERS OF THE JURY PANEL, IT'S
3 ABOUT QUARTER AFTER TEN AND I KNOW YOU ALL WOULD RATHER
4 BE SOME OTHER PLACE AND YOU APPEARED ON TIME. IF YOU
5 WANT TO KNOW WHY I WASN'T ON TIME, I PROMISE YOU WE
6 WASN'T BACK THERE TELLING JOKES AND DRINKING COFFEE.
7 WE'RE TRYING TO SHORTEN THINGS UP FOR YOU.

8 FOR THOSE OF YOU WHO I HAVE NOT HAD THE
9 PLEASURE OF MEETING, MY NAME IS JUDGE LUKE BROWN AND
10 UNTIL 1991 I WAS A CIRCUIT JUDGE IN THE 14TH CIRCUIT.
11 THAT'S BEAUFORT AND THE SURROUNDING COUNTIES. BUT WHEN
12 YOU GET A LITTLE AGE ON YOU THEY DON'T -- YOU HAVE TO
13 RETIRE. BUT THEY HAVE A PROGRAM WHERE YOU CAN WORK IF
14 YOU CHOOSE TO, AND SO I WELCOME YOU HERE TO A COURT OF
15 GENERAL SESSIONS FOR DORCHESTER COUNTY.

16 HOW MANY HAVE NEVER SERVED ON A JURY BEFORE?
17 A LOT OF YOU. HOW MANY ARE WILLING TO ADMIT YOU'RE A
18 LITTLE BIT NERVOUS? I ALWAYS GET A CHUCKLE OUT OF THAT
19 BECAUSE MOST PEOPLE WHO HAVE NEVER SERVED ON A JURY
20 FEEL LIKE THEY CAN'T DO WHAT THEY ARE SUPPOSED TO DO.
21 BUT I PROMISE YOU BEFORE YOU ARE DRAWN ON A JURY I'LL
22 EXPLAIN TO YOU WHAT YOUR DUTIES ARE AND AS YOU ARE
23 DRAWN ON A JURY IT WILL BE IN MORE DETAIL, SO YOU'LL BE
24 COMFORTABLE SERVING.

25 NOW, IN A MOMENT OR TWO I'M GOING TO HAVE THE

1 CLERK CALL THE ROLL OF YOU AND WHEN YOUR NAME IS CALLED
2 I WANT YOU TO STAND UP AND GIVE ME CERTAIN
3 INFORMATION. YOU'VE ALREADY SENT IT IN TO THE CLERK,
4 BUT THE ATTORNEYS WHO ARE GOING TO TRY THE CASES THIS
5 WEEK WILL BE SITTING AROUND THE COURTROOM. AND I DON'T
6 KNOW PERHAPS WHAT YOU DO, SO I WANT YOU TO GIVE ME THE
7 SAME INFORMATION THAT YOU HAVE ALREADY WRITTEN IN TO
8 THE CLERK'S OFFICE. YOU CAN USE THAT SAME SLIP OF
9 PAPER IF YOU HAVE IT WITH YOU.

10 NOW, SOME OF YOU WILL NOT BE ABLE TO SERVE
11 BECAUSE OF SOME LEGAL TECHNICALITY. SOME OF YOU MIGHT
12 WANT TO CHOOSE TO NOT SERVE THIS WEEK. BUT FOR THOSE
13 OF YOU WHO MIGHT WANT TO GET EXCUSED FOR SOME FRIVOLOUS
14 REASON -- WHEN I SAY FRIVOLOUS, IT JUST DEPENDS ON
15 WHO'S SAYING THAT. IT MIGHT BE VERY SERIOUS TO YOU.
16 OUR COURT SYSTEM CANNOT OPERATE WITHOUT JURORS. EVERY
17 PERSON CHARGED WITH A CRIME HAS A RIGHT TO A JURY
18 TRIAL. AND EVEN THOUGH YOU WOULD RATHER BE SOME OTHER
19 PLACE, THINK ABOUT THIS. SUPPOSE YOU WERE CHARGED WITH
20 A CRIME THAT YOU DID NOT DO. WOULDN'T YOU WANT A
21 PERSON LIKE YOURSELF TO SERVE ON THE JURY? BECAUSE IF
22 I EXCUSED ALL THE GOOD PEOPLE LIKE YOU ALL, YOU CAN SEE
23 WHAT A PROBLEM IT WOULD CREATE. SO, BEFORE YOU ASK TO
24 BE EXCUSED - AND I WILL TAKE UP ALL YOUR PROBLEMS -
25 THINK ABOUT IT. THINK ABOUT IT. IF YOU WERE CHARGED

1 WITH A CRIME THAT YOU DIDN'T DO, WOULDN'T YOU WANT A
2 PERSON LIKE YOURSELF TO SERVE ON THE JURY?

3 NOW, THIS WEEK WE HAVE ON THE DOCKET WHAT WE
4 CALL A DEATH PENALTY CASE. THAT IS A PERSON WILL BE
5 CHARGED -- IS CHARGED WITH A CRIME IN WHICH TWELVE
6 JURORS MUST DECIDE THE GUILT OR INNOCENCE AND PERHAPS
7 DEATH OR LIFE OF THAT PERSON. SO YOU CAN SEE HOW
8 IMPORTANT IT IS TO HAVE GOOD JURORS LIKE YOURSELVES.

9 NOW, THE CLERK IS GOING TO CALL YOUR NAME.
10 WHEN YOUR NAME IS CALLED, I WANT YOU TO STAND UP AND
11 GIVE ME A LITTLE BIT OF INFORMATION. FIRST, I WANT TO
12 KNOW HOW FAR IT IS FROM YOUR HOME TO THIS COURTHOUSE.
13 THAT'S SO WE CAN PAY YOU MILEAGE. THE NEXT THING I
14 WANT TO KNOW IS WHERE YOU WORK. IF YOU WORK FOR SOME
15 MANUFACTURING PLANT OUT HERE, TELL ME THE NAME OF THE
16 PLACE YOU WORK AT AND THEN I WANT TO KNOW WHAT YOU DO.
17 IF YOU'RE A MACHINE OPERATOR, TELL ME YOU'RE A MACHINE
18 OPERATOR. IF YOU'RE AN ELECTRICIAN, IF YOU WORK AT THE
19 HOSPITAL AND YOU'RE A NURSE, TELL ME THAT. IN ADDITION
20 TO THAT, I WANT TO KNOW WHAT YOUR SPOUSE DOES.

21 MR. BAILEY: YOUR HONOR, MAY WE APPROACH
22 BRIEFLY?

23 THE COURT: YES, SIR.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

25 THE COURT: BEAR WITH ME JUST A MINUTE,

1 PLEASE.

2 (PAUSE IN PROCEEDINGS)

3 THE COURT: ALL RIGHT. WELL, IT WON'T
4 DISTURB ME IF THERE'S MOVEMENT IN THE COURTROOM, SO I'M
5 GOING AHEAD AND QUALIFYING -- BEGIN TO QUALIFY THE
6 JURY. I WAS TELLING YOU THAT I WANT TO KNOW WHERE YOU
7 WORK AND WHERE YOUR SPOUSE WORKS AND WHAT YOU DO. IF
8 YOU'RE UNEMPLOYED, TELL ME THAT YOU'RE UNEMPLOYED AND
9 THEN TELL ME THE LAST PLACE YOU WORKED AND WHAT YOU
10 DID. IF YOU'RE RETIRED, GIVE ME THE SAME INFORMATION.
11 TELL ME WHERE YOU ARE RETIRED FROM AND WHAT YOU DID.

12 NOW, THERE MIGHT BE SOME OF YOU WHO MIGHT BE
13 DIVORCED AND YOU DON'T WANT TO SAY I'M DIVORCED. I
14 DON'T HAVE A SPOUSE OR SOMETHING OF THAT NATURE. IF
15 THAT OCCURS AND YOU'RE EMBARRASSED TO TELL ME THAT,
16 JUST DON'T TELL ME ANYTHING ABOUT YOUR SPOUSE. NOW, AS
17 SOON AS I DO-- GET ALL THIS INFORMATION, THEN I'LL BE
18 ASKING YOU SOME MORE QUESTIONS AND I'LL TAKE UP ANY
19 PROBLEM YOU MIGHT HAVE.

20 (AT THIS TIME THE DEFENDANT ENTERED THE
21 COURTROOM.)

22 THE COURT: ALL RIGHT.. MADAM CLERK, NOW
23 THERE WILL BE SOME PEOPLE WHO ARE NOT QUALIFIED TO
24 SERVE. I'VE EXCUSED SOME PEOPLE; I'VE EXCUSED FOR
25 OTHER REASONS. SOME MOVED OUT OF THE COUNTY, VARIOUS

1 THINGS. AND ALL THE ATTORNEYS ALREADY KNOW ABOUT
2 THOSE, MADAM CLERK, SO ALL YOU NEED TO DO IS TO ASK THE
3 INFORMATION BY NUMBERS. AND, INCIDENTALLY, FOR ANYONE
4 THAT CAN'T HEAR OR DOESN'T UNDERSTAND INFORMATION WE'RE
5 GETTING FROM THE JUROR, JUST TELL ME ABOUT IT. MADAM
6 CLERK, DO YOU HAVE A PEN? I MUST HAVE LEFT MINE AT
7 HOME THIS MORNING. THANKS. ALL RIGHT. GO AHEAD.

8 ANY OF THE ATTORNEYS WHO ARE TRYING CASES
9 THIS WEEK, IF THERE'S SOME REASON THE CLERK DOESN'T
10 ANNOUNCE WHY THAT JUROR'S NAME WASN'T CALLED, THEN JUST
11 TELL ME ABOUT IT IF YOU WILL. I THINK YOU ALREADY
12 KNOW, BUT YOU CAN TELL ME -- YOU CAN ASK ME LATER ON.
13 GO AHEAD BY NUMBER.

14 (WHEREUPON, THE CLERK OF COURT CALLED THE
15 ROLL OF THE JURY COMMENCING AT 10:16 A.M.)

16 THE COURT: NOW, MEMBERS OF THE JURY PANEL,
17 GIVE ME YOUR ATTENTION. HOW MANY DO I HAVE? THAT'S
18 ALL RIGHT. GIVE ME YOUR ATTENTION, PLEASE. AS I WAS
19 TELLING YOU WHEN I CAME IN, I KNOW A LOT OF YOU WOULD
20 RATHER BE SOMEPLACE ELSE, BUT KEEP THIS IN MIND - THAT
21 IF YOU WERE CHARGED WITH A CRIME THAT YOU DIDN'T
22 COMMIT, WOULDN'T YOU WANT A GOOD PERSON LIKE YOURSELF
23 TO BE ON THE JURY? AND KEEP THIS IN MIND ALSO: JURORS
24 ONLY HAVE TO SERVE ONE TIME EVERY THREE YEARS IF THEY
25 ARE DRAWN, AND VERY OFTEN PEOPLE ARE NEVER DRAWN IN

1 THEIR LIFETIME BECAUSE YOU'RE DRAWN FROM TWO LISTS,
2 ONE, YOUR DRIVER'S LICENSE AND, TWO, WHEN YOU'RE
3 REGISTERED TO VOTE. SO, YOU MIGHT NEVER BE DRAWN ON
4 THE JURY AGAIN. AND SO REMEMBER IF BY CHANCE YOU'RE
5 QUALIFIED, YOU WOULDN'T BE -- YOU WOULDN'T HAVE TO
6 SERVE AGAIN IN THREE YEARS IF YOU'RE DRAWN.

7 ALSO, KEEP IN MIND THAT THE ONLY CASE THAT IN
8 ALL PROBABILITY I'LL TRY THIS WEEK WILL BE THE CASE
9 THAT I MENTIONED TO YOU A FEW MINUTES AGO AND I ONLY
10 HAVE TO GET FOURTEEN. SO I ONLY -- THAT'S TWELVE
11 JURORS AND TWO ALTERNATES, AND SO KEEP THAT IN MIND.
12 YOUR CHANCES ARE PRETTY GOOD WHICHEVER WAY YOU LOOK AT
13 IT.

14 I'M GOING TO ASK YOU SOME QUESTIONS. IF IT
15 APPLIES TO YOU, JUST STAND UP AND TELL ME ABOUT IT AND
16 WE'LL TALK ABOUT IT. IS THERE ANY MEMBER OF THE JURY
17 PANEL WHO'S NOT A RESIDENT OF DORCHESTER COUNTY? IF
18 SO, PLEASE STAND. ALL RIGHT. YOUR NAME?

19 JUROR SOJOURNER: JOAN SOJOURNER.

20 THE COURT: MS. SOJO?

21 JUROR SOJOURNER: SOJOURNER.

22 THE COURT: ALL RIGHT. AND WHAT NUMBER IS
23 THAT, MADAM CLERK?

24 THE CLERK: 221.

25 THE COURT: WHAT NUMBER?

1 THE CLERK: 221.

2 THE COURT: AND WHERE DO YOU LIVE?

3 JUROR SOJOURNER: I LIVE IN CHARLESTON NOW.

4 THE COURT: YOU MOVED?

5 JUROR SOJOURNER: YES, SIR.

6 THE COURT: DO YOU INTEND THAT TO BE

7 PERMANENT?

8 JUROR SOJOURNER: YES, SIR.

9 THE COURT: ALL RIGHT. NOW, I'M GOING TO
10 EXCUSE YOU. AND KEEP IN MIND IF THERE'S ANYBODY THAT I
11 EXCUSE -- YOU HAVE TO BE A RESIDENT OF THIS COUNTY.
12 WE'RE GOING TO MAIL YOU A CHECK, BUT I WANT TO TELL YOU
13 THAT IT WON'T BE MUCH MONEY, SO DON'T GO SPENDING A LOT
14 OF MONEY. ALL RIGHT. GIVE ME YOUR NEW ADDRESS, MS.
15 SOJOURNER.

16 JUROR SOJOURNER: [REDACTED].

17 THE COURT: [REDACTED]?

18 JUROR SOJOURNER: YES, SIR.

19 THE COURT: [REDACTED]?

20 JUROR SOJOURNER: YES, SIR.

21 THE COURT: CHARLESTON?

22 JUROR SOJOURNER: CHARLESTON, [REDACTED].

23 THE COURT: ALL RIGHT. THANK YOU AND WE'LL
24 EXCUSE YOU. AND YOUR NAME, YOUNG LADY?

25 JUROR MOBLEY: LOU ANN MOBLEY.

JURY VOIR DIRE

1 THE COURT: MS. MOBLEY, YOU MOVED TO BERKELEY
2 COUNTY?

3 JUROR MOBLEY: YES, SIR. I LIVE IN BERKELEY
4 COUNTY NOW.

5 THE COURT: AND WHAT NUMBER IS THAT?

6 JUROR MOBLEY: I WAS 160.

7 THE COURT: WHAT NUMBER?

8 THE CLERK: 160.

9 JUROR MOBLEY: 160.

10 THE COURT: ALL RIGHT. MS. MOBLEY, YOU'RE A
11 TEACHER IN THE SAME SCHOOL, BUT YOU MOVED TO BERKELEY
12 COUNTY?

13 JUROR MOBLEY: YES, SIR. WE LIVE IN BERKELEY
14 COUNTY NOW.

15 THE COURT: AND THAT'S WHERE YOU INTEND TO
16 MAKE YOUR HOME?

17 JUROR MOBLEY: YES, SIR.

18 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE
19 YOU ALSO. YOU HAVE TO BE A RESIDENT OF THIS COUNTY.

20 THE CLERK: THE NEW ADDRESS.

21 THE COURT: AND YOUR NEW ADDRESS, PLEASE?

22 JUROR MOBLEY: IT'S [REDACTED] AND
23 THE ADDRESS IS SUMMERVILLE, SOUTH CAROLINA, BUT IT'S
24 BERKELEY COUNTY WHERE WE LIVE.

25 THE CLERK: ZIP CODE?

1 JUROR MOBLEY: MA'AM?

2 THE CLERK: ZIP CODE?

3 JUROR MOBLEY: [REDACTED].

4 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.
5 AND YOUR NAME, YOUNG MAN?

6 JUROR RIED: KEITH D. RIED.

7 THE COURT: RIED?

8 JUROR RIED: YES, SIR.

9 THE COURT: JUST A MINUTE. ALL RIGHT. MR.
10 RIED, YOU'RE GOING TO TRUCK DRIVER SCHOOL?

11 JUROR RIED: YES, SIR.

12 THE COURT: IN NORTH CAROLINA?

13 JUROR RIED: YES, SIR, I'M LATE RIGHT NOW.

14 THE COURT: I THINK YOU SENT WORD YOU HAD TO
15 BE THERE AT 1:00.

16 JUROR RIED: I WAS SUPPOSED TO BE THERE AT
17 7:30 THIS MORNING.

18 THE COURT: IS THAT -- YOU MOVED TO NORTH
19 CAROLINA PERMANENTLY?

20 JUROR RIED: NO. I JUST -- I MOVED TO NORTH
21 CHARLESTON. MY ADDRESS IS IN NORTH CHARLESTON. I'M
22 GOING TO SCHOOL UP THERE, BUT MY ADDRESS IS [REDACTED]
23 [REDACTED], NORTH CHARLESTON.

24 THE COURT: IS THAT CHARLESTON COUNTY?

25 JUROR RIED: YES, SIR AND THAT'S---

1 THE COURT: AND THAT'S WHERE YOU INTEND TO
2 MAKE YOUR HOME?

3 JUROR RIED: YES, SIR.

4 THE COURT: ALL RIGHT. GIVE US THAT ADDRESS
5 AGAIN.

6 JUROR RIED: [REDACTED], NORTH
7 CHARLESTON, APARTMENT [REDACTED].

8 THE CLERK: I'M SORRY. I DIDN'T GET IT.

9 THE COURT: [REDACTED].

10 JUROR RIED: [REDACTED].

11 THE COURT: [REDACTED].

12 THE CLERK: [REDACTED].

13 JUROR RIED: [REDACTED].

14 THE COURT: [REDACTED].

15 JUROR RIED: AVENUE.

16 THE COURT: AVENUE. NORTH CHARLESTON?

17 JUROR RIED: YES, SIR.

18 THE COURT: ZIP CODE?

19 JUROR RIED: [REDACTED], I BELIEVE.

20 THE COURT: ALL RIGHT. HAVE A GOOD DAY.

21 JUROR RIED: THANK YOU.

22 THE COURT: ALL RIGHT. YOUR NAME?

23 JUROR BOWEN: JERRY BOWEN. IF I'M NOT
24 MISTAKEN, I LIVE IN CHARLESTON COUNTY.

25 THE COURT: WHAT NUMBER IS THIS?

1 THE CLERK: 22.

2 THE COURT: YOU LIVE IN CHARLESTON COUNTY?

3 JUROR BOWEN: YEAH, I'M ON THE BORDERLINE.

4 ONE SIDE OF 78 IS BERKELEY AND THE OTHER SIDE IS

5 CHARLESTON.

6 THE COURT: ALL RIGHT. I'M SORRY. YOU CAN

7 GO -- YOU DON'T WORK AT TRANSMISSION DOCTORS ANYMORE?

8 JUROR BOWEN: I WORK THERE, YEAH.

9 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE

10 YOU.

11 JUROR BOWEN: FOR THE TIME BEING ANYWAY.

12 THE COURT: I'M GOING TO EXCUSE YOU ANYWAY.

13 THANK YOU.

14 JUROR BOWEN: ALL RIGHT. THANK YOU.

15 THE CLERK: IS YOUR ADDRESS THE SAME?

16 THE COURT: IS THE ADDRESS THE SAME, [REDACTED]

17 HIGHWAY 78?

18 JUROR BOWEN: RIGHT.

19 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

20 ANYONE ELSE? YOUR NAME?

21 JUROR WILSON: MICHAEL WILSON.

22 THE CLERK: 256.

23 THE COURT: ALL RIGHT, MR. WILSON. YOU WORK

24 AS A WAITER IN VIRGINIA?

25 JUROR WILSON: YES, SIR.

1 THE COURT: WHAT DO YOU DO, GO UP THERE
2 PERIODICALLY?

3 JUROR WILSON: I WORK UP THERE SEASONALLY.

4 THE COURT: AND WHEN IS YOUR SEASON?

5 JUROR WILSON: IT'S USUALLY FROM APRIL UNTIL
6 NOVEMBER. AND THEN IF THEY NEED YOU TO WORK DURING THE
7 HOLIDAYS OR LIKE RIGHT NOW WHICH I HAVE TO WORK UP
8 THERE RIGHT NOW, THEY NEED -- THEY CALL YOU OR
9 WHATEVER.

10 THE COURT: THEY CALL YOU AND TELL YOU TO GO
11 TO WORK?

12 JUROR WILSON: YES, SIR.

13 THE COURT: WELL, ORDINARILY YOU WOULD WORK
14 FROM APRIL TO NOVEMBER, YOU TOLD ME.

15 JUROR WILSON: UH-HUH.

16 THE COURT: AND THEY CALL YOU BECAUSE THEY'RE
17 BUSY?

18 JUROR WILSON: YES, SIR.

19 THE COURT: AND ORDINARILY DO YOU GET CALLED
20 AHEAD OF TIME?

21 JUROR WILSON: USUALLY THEY CALL YOU LIKE --
22 OR LET YOU KNOW BEFORE YOU LEAVE IN NOVEMBER WHETHER
23 YOU HAVE TO WORK DURING CHRISTMAS AND NEW YEAR'S.

24 THE COURT: AND WHAT WILL THEY DO IF I KEEP
25 YOU HERE?

1 JUROR WILSON: I JUST HAVE TO CALL THEM AND
2 LET THEM KNOW.

3 THE COURT: ALL RIGHT, SIR. THERE'S A LOT OF
4 PEOPLE SITTING OUT THERE THAT WOULD RATHER BE SOMEPLACE
5 ELSE. THERE ARE PEOPLE WHO OWN THEIR OWN BUSINESS AND
6 PROBABLY DOESN'T HAVE ANYBODY TO RUN IT FOR THEM. LET
7 ME THINK ABOUT IT. GIVE ME A RED PENCIL, PLEASE,
8 MA'AM. LET ME THINK ABOUT THAT A LITTLE BIT, MR.
9 WILSON. WOULD IT BE A TERRIBLE HARDSHIP ON YOU IF I
10 HAD TO KEEP YOU HERE?

11 JUROR WILSON: I DON'T THINK SO, BUT I'M
12 NOT -- I CAN'T REALLY -- I'M NOT SURE.

13 THE COURT: ALL RIGHT. THANK YOU. THANK
14 YOU, MR. WILSON. ALL RIGHT. ANYONE ELSE? YOUR NAME?

15 JUROR MCNAIR: JEANNINE MCNAIR.

16 THE COURT: MS. MCNAIR, JUST A MINUTE.

17 JUROR MCNAIR: I'M NUMBER 150.

18 THE COURT: YES, MA'AM?

19 JUROR MCNAIR: I LIVE INSIDE THE COUNTY. I
20 HAVE TO BE IN COURT TOMORROW IN BLACKSHEAR, GEORGIA, AS
21 A WITNESS TO DEFEND MYSELF IN COURT.

22 THE COURT: YOU'VE GOT A CASE THAT'S COMING
23 UP IN GEORGIA?

24 JUROR MCNAIR: IN THE MORNING, YES, SIR.

25 THE COURT: TOMORROW MORNING?

1 JUROR MCNAIR: YES, SIR. I'VE GOT THE LETTER
2 FROM THE COURT HERE.

3 THE COURT: WELL, IS IT THE TYPE -- I'M NOT
4 ASKING YOU ANYTHING -- TRYING NOT TO GET ANYTHING
5 PERSONAL. IS IT THE TYPE THING I COULD CALL AND PUT IT
6 OFF FOR YOU?

7 JUROR MCNAIR: IF YOU WOULD, THAT WOULD BE
8 FINE, YES.

9 THE COURT: IS IT SOMETHING -- SOUNDS LIKE A
10 TRAFFIC VIOLATION.

11 JUROR MCNAIR: NO, SIR. NO, SIR. IT'S A
12 DISPUTE IN OUR BUSINESS. WE OWN OUR OWN BUSINESS AND
13 WE FILED CLAIM AGAINST THEM AND THEY FILED CLAIM
14 AGAINST US, SO WE HAVE TO GO TO COURT.

15 THE COURT: IS IT -- IT'S A CIVIL CASE, I
16 SUPPOSE.

17 JUROR MCNAIR: YES, SIR.

18 THE COURT: DID THEY TELL YOU THAT THE CASE
19 WAS SET FOR TRIAL TOMORROW OR IS IT---

20 JUROR MCNAIR: RIGHT. IT'S SET FOR TRIAL
21 TOMORROW. LIKE WE'VE ALREADY GONE WHERE WE SENT IN THE
22 INFORMATION THAT WE HAVE FOR BOTH SIDES AND ALL OF THAT
23 INTO THE COURT.

24 THE COURT: ALL RIGHT. LET ME THINK ABOUT
25 THAT A LITTLE BIT.

1 JUROR MCNAIR: OKAY.

2 THE COURT: ALL RIGHT. ANYONE ELSE? Y'ALL
3 KEEP GETTING UP ONE AT THE TIME. WHAT I'M TRYING TO --
4 I'M TRYING TO FIND OUT FIRST -- MY FIRST QUESTION WAS:
5 IS ANYBODY NOT A RESIDENT OF THIS COUNTY? AND I KIND
6 OF GOT OFF. . . ALL RIGHT. I'M GOING TO GO FORWARD
7 JUST A LITTLE BIT MORE IF YOU WILL. DOES ANY MEMBER OF
8 THE JURY PANEL WORK UNDER THE ROOF OF THIS COURTHOUSE?
9 IF SO, PLEASE STAND. ANY MEMBER OF THE JURY PANEL AN
10 OFFICER SUCH AS A CLERK FOR MUNICIPALITY OR THE COUNTY
11 GOVERNMENT OR AN ELECTED OFFICIAL? IF SO, PLEASE
12 STAND. IS THERE ANY MEMBER OF THE JURY PANEL WHO HOLDS
13 A LAW ENFORCEMENT COMMISSION, THAT IS, THE RIGHT TO
14 ARREST ISSUED EITHER BY THE STATE OF SOUTH CAROLINA OR
15 THE FEDERAL GOVERNMENT? IF SO, PLEASE STAND.

16 NOW, I ASKED EARLIER FOR A LIST AND WE IN ALL
17 PROBABILITY HAVE THAT INFORMATION, BUT IF I HAVE MISSED
18 ANYTHING I WANT YOU TO LET ME KNOW. IF THIS APPLIES TO
19 YOU, YOU CANNOT SERVE ON A JURY AND PERHAPS WE CAN HELP
20 GET YOUR CIVIL RIGHTS RESTORED. IF THIS QUESTION
21 APPLIES TO YOU, BEFORE I DRAW ANY JURY I WANT YOU TO
22 COME UP AND TELL SOME OF US ABOUT IT UP HERE SO THAT WE
23 CAN BE GUIDED BY IT. IF ANY MEMBER OF THE JURY PANEL
24 HAS BEEN CONVICTED OR PLED GUILTY IN A STATE OR FEDERAL
25 COURT FOR A CRIME PUNISHABLE - NOT THAT YOU GOT IT, BUT

1 YOU COULD HAVE GOT MORE THAN ONE YEAR IN PRISON - AND
2 WHOSE CIVIL RIGHTS HAVE NOT BEEN RESTORED BY PARDON OR
3 AMNESTY -- IF THAT APPLIES TO YOU, YOU DON'T HAVE TO
4 STAND UP NOW. YOU MIGHT BE EMBARRASSED, BUT GIVE US
5 THAT INFORMATION SHORTLY.

6 IS THERE ANY MEMBER OF THE JURY PANEL --
7 BEFORE I ASK YOU THIS QUESTION, I WANT TO TELL YOU THAT
8 I WAS ABOUT 50 YEARS OLD BEFORE I REALIZED MY FATHER
9 WAS SMARTER THAN I WAS AND HE ONLY WENT THROUGH THE
10 THIRD GRADE. SO YOU DON'T HAVE TO BE EMBARRASSED IF
11 YOU IF YOU HAVEN'T HAD A LONG LENGTH OF FORMAL
12 SCHOOLING. BUT IT IS IMPORTANT THAT YOU BE ABLE TO
13 READ, WRITE, AND UNDERSTAND THE ENGLISH LANGUAGE
14 BECAUSE ON A JURY TRIAL SOMETIMES YOU HAVE TO DO THAT.
15 IS THERE ANY MEMBER OF THE JURY PANEL THAT HAS LESS
16 THAN A SIXTH GRADE EDUCATION OR ITS EQUIVALENT? IF SO,
17 PLEASE STAND. DOES ANY MEMBER OF THE JURY PANEL HAVE
18 ANY PROBLEM READING, WRITING, OR UNDERSTANDING THE
19 ENGLISH LANGUAGE? IF SO, PLEASE STAND.

20 NOW, SOMETIMES AS YOU GET A LITTLE OLDER AND
21 SOMETIMES EVEN WHEN YOU'RE YOUNG YOU HAVE LITTLE
22 PHYSICAL OR MENTAL PROBLEMS THAT KEEP YOU FROM
23 FUNCTIONING PROPERLY. IS THERE ANY MEMBER OF THE JURY
24 PANEL WHO FEELS THAT BY REASON OF SOME PHYSICAL OR
25 MENTAL PROBLEM YOU'RE JUST NOT ABLE TO SERVE THIS WEEK

1 AND YOU WANT TO BE EITHER EXCUSED OR TRANSFERRED TO
2 ANOTHER TERM OF COURT? IF SO, PLEASE STAND. ALL
3 RIGHT. YOUR NAME?

4 JUROR WRIGHT: EDMOND H. WRIGHT.

5 THE COURT: MR. WRIGHT?

6 JUROR WRIGHT: 259.

7 THE COURT: ALL RIGHT, SIR. AND WHAT'S YOUR
8 PROBLEM?

9 JUROR WRIGHT: I'VE BEEN IN THREE CAR WRECKS
10 IN THE LAST SEVEN MONTHS.

11 THE COURT: YOU'RE HAD BAD LUCK FOR SURE,
12 HAVEN'T YOU?

13 JUROR WRIGHT: KIND OF. I'VE GOT MULTIPLE
14 INJURIES AND---

15 THE COURT: WELL, YOU KNOW, SERVING AS A
16 JUROR DOESN'T REQUIRE MUCH PHYSICAL PROBLEMS.

17 JUROR WRIGHT: YEAH.

18 THE COURT: ARE YOU SUCH -- ARE YOU IN SUCH
19 SHAPE THAT YOU FEEL THAT A DOCTOR WOULD TELL ME IN
20 WRITING THAT IT WOULD ENDANGER YOUR HEALTH?

21 JUROR WRIGHT: YES.

22 THE COURT: WELL, DID YOU ASK THE CLERK TO BE
23 EXCUSED BEFORE TODAY?

24 JUROR WRIGHT: I CALLED AND THEY SAID I HAD
25 TO COME DOWN ANYWAY.

1 THE COURT: DID THEY TELL YOU TO GET A
2 DOCTOR'S CERTIFICATE?

3 JUROR WRIGHT: SHE TOLD ME TO COME DOWN AND
4 TALK TO THE JUDGE WHEN I GET DOWN HERE.

5 THE COURT: ALL RIGHT, SIR. YOU'RE TALKING
6 TO HIM. I TELL YOU WHAT YOU GOT TO DO. WHERE IS YOUR
7 DOCTOR?

8 JUROR WRIGHT: I'VE GOT ONE IN MOUNT
9 PLEASANT.

10 THE COURT: ALL RIGHT. I'M GOING TO HAVE TO
11 HAVE FROM THAT DOCTOR A CERTIFICATE OVER HIS SIGNATURE
12 THAT IT WOULD ENDANGER YOUR HEALTH TO SERVE AS A JUROR
13 AND IF HE SENDS ME THAT I'LL EXCUSE YOU. SO I'M GOING
14 TO EXCUSE YOU THIS TIME AND ASK THAT YOU GO SEE HIM,
15 GET THAT INFORMATION IN WRITING, AND BRING IT BACK TO
16 US. OKAY?

17 JUROR WRIGHT: ALL RIGHT.

18 THE COURT: AND WHAT NUMBER WAS THAT?

19 THE CLERK: 259.

20 JUROR WRIGHT: 259.

21 THE COURT: 259.

22 JUROR WRIGHT: I GAVE HER A SLIP WITH SOME OF
23 THE LIMITATIONS THE DOCTOR PUT ON IT.

24 THE CLERK: THAT'S THE ONE I HANDED YOU THIS
25 MORNING.

1 THE COURT: LET ME SEE IT.

2 THE CLERK: IT'S ON THE DESK.

3 JUROR WRIGHT: THAT'S AN OLD SLIP. I'LL HAVE
4 TO GET AN UPDATED ONE.

5 THE COURT: OH, I SAW THAT.

6 JUROR WRIGHT: SO I CAN'T---

7 THE COURT: THAT WOULDN'T QUALIFY. WHAT I
8 REALLY NEED TO DO, I NEED A DOCTOR TO TELL YOU YOU'RE
9 JUST NOT ABLE TO SIT AS A JUROR AND HE'LL HAVE TO
10 QUALIFY---

11 MR. LEIENDECKER: JUDGE, CAN WE APPROACH?

12 THE COURT: SURE.

13 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

14 THE COURT: WELL, I'M NOT SURE I COULD GET
15 YOU OFF ON THAT, BUT ALSO ONE OF THE ATTORNEYS INVOLVED
16 IN THIS CASE REPRESENTS YOU. SO, I'M GOING TO BE ABLE
17 TO EXCUSE YOU.

18 JUROR WRIGHT: THANK YOU.

19 THE COURT: ALL RIGHT. HAVE A GOOD DAY.

20 JUROR WRIGHT: THANK YOU.

21 THE COURT: ALL RIGHT. ANYONE ELSE? OH, IF
22 YOU WOULD -- MADAM BAILIFF, PICK THAT NOTE UP AND BRING
23 IT UP HERE FOR ME, PLEASE, RIGHT QUICK. THANK YOU.
24 MR. RICHARDS, HOW OLD ARE YOU?

25 JUROR RICHARDS: I'LL BE 64 JULY THE 2ND.

1 THE COURT: HOW ABOUT STEP UP HERE JUST A
2 MINUTE FOR ME, WILL YOU?

3 (JUROR RICHARDS TALKS TO THE COURT AT THE
4 BENCH OFF THE RECORD.)

5 THE COURT: THIS IS PAUL RICHARDS. LET ME
6 STUDY ON THAT A LITTLE BIT, MR. RICHARDS. I'LL BE IN
7 TOUCH WITH YOU IN JUST A FEW MOMENTS. ANYONE ELSE?
8 NOW -- ALL RIGHT. YOUR NAME?

9 JUROR JOHNSON: MY NAME IS THELMA B.
10 JOHNSON. MY MOTHER IS SERIOUSLY ILL AND SHE'S IN THE
11 HOSPITAL. SHE NEEDS ALMOST ROUND-THE-CLOCK ATTENDANCE
12 AND I'D LIKE TO BE EXCUSED IF POSSIBLE.

13 THE COURT: AND YOUR NAME IS?

14 JUROR JOHNSON: THELMA B. JOHNSON, NUMBER
15 114.

16 THE COURT: ALL RIGHT. MS. JOHNSON, LET
17 ME -- I'LL BE ALSO IN TOUCH WITH YOU IN JUST A FEW
18 MOMENTS. ALL RIGHT. NOW, IS THERE ANY MEMBER OF THE
19 JURY PANEL WHO IS FULL-TIME IN THE MILITARY AND NEEDS
20 TO BE IN THE MILITARY? IF SO, PLEASE STAND. ALL
21 RIGHT, SIR. YOUR NAME?

22 JUROR BANE: WILLIAM BANE. WILLIAM BANE. I
23 DON'T KNOW. I'M AT THE TOP OF THE LIST SOMEWHERE.

24 THE COURT: THAT'S ALL RIGHT. I'LL GET IT IN
25 JUST A MINUTE.

1 THE CLERK: NUMBER 9.

2 THE COURT: NUMBER 9?

3 JUROR BANE: I WAS THE HAPPILY DIVORCED ONE,
4 YOUR HONOR.

5 THE COURT: I REMEMBER THAT. YOU'RE IN THE
6 NAVY FULL-TIME?

7 JUROR BANE: YES, SIR, CHIEF STOREKEEPER.

8 THE COURT: STATIONED ON THE SHIP?

9 JUROR BANE: NO, I'M INLAND.

10 THE COURT: HOW DOES THE NAVY TREAT IF YOU'RE
11 DRAWN ON THE JURY? HOW DO THEY FEEL ABOUT IT?

12 JUROR BANE: THEY WHINE AND COMPLAIN BECAUSE
13 YOU'RE NOT GOING TO BE THERE TO DO YOUR JOB.

14 THE COURT: WELL, THAT'S NO DIFFERENT FROM
15 CIVILIANS THEN. I THOUGHT IT WOULD BE SOMETHING
16 UNIQUE.

17 JUROR BANE: I CAN -- I MEAN, THEY'LL JUST BE
18 UPSET THAT I HAVE TO BE AWAY FROM WORK, BUT THE ONLY
19 COMMITMENT I HAVE IS APRIL 10TH. I HAVE TO FLY AWAY TO
20 ITALY. BUT, I MEAN, AS LONG AS WE'RE NOT GOING TO BE
21 IN COURT LONGER THAN THAT, I CAN SERVE ON A JURY.

22 THE COURT: ALL RIGHT. YOU CAN BE EXCUSED IF
23 YOU WANT TO, BUT IF YOU WANT TO SERVE I'D LOVE TO HAVE
24 YOU.

25 JUROR BANE: ARE WE GOING TO BE -- I'D LIKE

1 TO BE EXCUSED.

2 THE COURT: ALL RIGHT, SIR. I'M GOING TO
3 EXCUSE YOU, MR. BANE.

4 JUROR BANE: THANK YOU. Y'ALL HAVE A
5 WONDERFUL DAY.

6 THE COURT: THANK YOU. ANYONE ELSE? NOW,
7 THE LAW ALSO -- IF YOU GET A LITTLE BIT OF AGE ON YOU,
8 NOT MUCH, IF YOU GET A LITTLE AGE ON YOU YOU DON'T HAVE
9 TO SERVE UNLESS YOU WANT TO, BUT I PROMISE YOU, ANY OF
10 YOU BACK THERE, WHO ARE THIS AGE AND WHO'S WILLING TO
11 SERVE, WE'D WELCOME YOUR GOOD EXPERIENCE AND ADVICE,
12 BUT YOU DON'T HAVE TO SERVE UNLESS YOU WANT TO. IS
13 THERE ANY MEMBER OF THE JURY PANEL WHO'S 65 YEARS OF
14 AGE OR OLDER AND WHO DOES NOT WANT TO SERVE? IF SO,
15 PLEASE STAND. ALL RIGHT, SIR. YOUR NAME?

16 JUROR WALKER: WILLIE WALKER. I BELIEVE I AM
17 ABOUT 243. NOT POSITIVE.

18 THE CLERK: 242.

19 JUROR WALKER: BUT I HAVE SERVED LESS THAN
20 THREE YEARS.

21 THE COURT: HOLD IT JUST A MINUTE. IT'S
22 NUMBER 240 WHAT?

23 THE CLERK: TWO.

24 MR. LEIENDECKER: TWO.

25 THE COURT: 242. REVEREND, HOW OLD ARE YOU?

1 JUROR WALKER: 66.

2 THE COURT: ALL RIGHT, SIR. I'M GOING TO BE
3 ABLE TO EXCUSE YOU AND SEND YOU BACK TO ONE OF THOSE
4 CHURCHES, WHICHEVER ONE. ALL RIGHT. THANK YOU VERY
5 MUCH. HOPE YOU HAVE A GOOD DAY.

6 JUROR WALKER: THANK YOU.

7 THE COURT: ANYONE ELSE THAT AGE? ALL
8 RIGHT. YOUR NAME?

9 JUROR KITCHEN: YES, I'M JULIA S. KITCHEN.

10 THE COURT: KITCHEN?

11 JUROR KITCHEN: YES. I'VE HAD 30 YEARS IN
12 THE CLASSROOM AND I THINK AT MY AGE I'M ALLOWED TO BE
13 EXCUSED.

14 THE COURT: WOULD YOU RATHER NOT SERVE, MS.
15 KITCHEN?

16 JUROR KITCHEN: I'D LOVE TO SERVE. I WOULD
17 LOVE TO SERVE, BUT I'M JUST WONDERING WILL I BE ABLE TO
18 HOLD UP UNDER PRESSURE.

19 THE COURT: WELL, IT'S YOUR CHOICE. I'LL BE
20 GLAD TO EXCUSE YOU IF YOU WANT TO OR I'LL BE GLAD TO
21 LET YOU SERVE, WHICHEVER YOU PREFER.

22 JUROR KITCHEN: (PAUSE) I THINK I'LL -- LOVE
23 TO BE EXCUSED.

24 THE COURT: ALL RIGHT.

25 JUROR KITCHEN: THANK YOU, SIR.

1 THE COURT: MS. KITCHEN, I HOPE YOU HAVE A
2 GOOD DAY.

3 JUROR KITCHEN: THANK YOU.

4 THE COURT: HOW OLD ARE YOU, BY THE WAY? HOW
5 OLD ARE YOU?

6 JUROR KITCHEN: FROM WHAT I CAN TRACE AND
7 FROM WHAT THEY CAN TRACE, I'M SUPPOSED TO BE ABOUT 79
8 FROM WHAT THEY CAN TRACE.

9 THE COURT: 79. HOPE YOU HAVE A GOOD DAY. I
10 KNOW YOU TAUGHT THOSE STUDENTS WELL. ANYONE ELSE?

11 MR. LEIENDECKER: WHAT NUMBER?

12 THE CLERK: NUMBER 119.

13 THE COURT: 119. NOW, THE LAW ALSO PROTECTS
14 MOTHERS WHO HAVE CHILDREN, YOUNG CHILDREN. NOW, IT
15 DOESN'T EXCUSE GRANDPARENTS WHO ARE FULL-TIME
16 BABY-SITTERS. I'LL TELL YOU THAT BECAUSE THERE'S A LOT
17 OF US IN THAT POSITION SOMETIMES. IS THERE ANY MEMBER
18 OF THE JURY PANEL WHOSE OBLIGATION IT IS TO CARE FOR A
19 CHILD OR CHILDREN, MAN OR WOMAN, WHO HAS CHILDREN UNDER
20 THE AGE OF SEVEN YEARS AND WHO WANTS TO BE EXCUSED?

21 JUROR CLIFFORD: I HAVE TWO-YEAR-OLD, I MEAN,
22 A SEVEN-YEAR-OLD AND SHE GETS OUT OF SCHOOL AT TWO AND
23 I HAVE NOBODY TO PICK HER UP.

24 THE COURT: YOUR NAME?

25 JUROR CLIFFORD: KIMBERLY CLIFFORD.

1 THE COURT: WHAT NUMBER IS THAT?

2 JUROR CLIFFORD: 43.

3 THE COURT: 43?

4 JUROR CLIFFORD: UH-HUH.

5 THE COURT: AND SHE'S SEVEN?

6 JUROR CLIFFORD: YES, SIR.

7 THE COURT: WHAT TIME DO YOU GO TO WORK FOR
8 MCDONALD'S?

9 JUROR CLIFFORD: AT FOUR O'CLOCK.

10 THE COURT: FOUR O'CLOCK IN THE AFTERNOON?

11 JUROR CLIFFORD: UH-HUH.

12 THE COURT: WHERE DOES YOUR HUSBAND WORK?

13 JUROR CLIFFORD: I'M NOT MARRIED.

14 THE COURT: AND WHAT WOULD HAPPEN IF YOU
15 DIDN'T SHOW UP?

16 JUROR CLIFFORD: I WOULD GET MY MOTHER TO
17 BABY-SIT HER.

18 THE COURT: ALL RIGHT. LET ME THINK ABOUT
19 THAT, MS. CLIFFORD. THANK YOU. HAVE A SEAT. YOUR
20 NAME?

21 JUROR DRIGGERS: CASSANDRA DRIGGERS.

22 THE COURT: DRIGGERS?

23 JUROR DRIGGERS: YES, SIR.

24 THE CLERK: 69.

25 THE COURT: ALL RIGHT. MS. DRIGGERS?

JURY VOIR DIRE

1 JUROR DRIGGERS: I HAVE A THREE-YEAR-OLD AND
2 A SIXTEEN-MONTH-OLD AND BOTH OF THEM ARE SICK RIGHT
3 NOW.

4 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE
5 YOU, MS. DRIGGERS. ALL RIGHT. YOUR NAME?

6 JUROR JACKSON: MY NAME IS JACQUELINE
7 JACKSON.

8 THE COURT: MS. JACKSON?

9 JUROR JACKSON: YES. I HAVE A SIX-YEAR-OLD.

10 THE COURT: ALL RIGHT. HOLD JUST A MINUTE.
11 NUMBER 109. YOU HAVE A SIX-YEAR-OLD?

12 JUROR JACKSON: YES, SIR.

13 THE COURT: AND I BELIEVE YOU SAID YOU WERE A
14 HOUSEWIFE. YOU WERE A CASHIER AT BURGER KING IN NEW
15 YORK?

16 JUROR JACKSON: YES.

17 THE COURT: I'M GLAD TO HAVE YOU BACK IN
18 SOUTH CAROLINA. I'M GOING TO EXCUSE YOU.

19 JUROR JACKSON: THANK YOU.

20 THE COURT: ANYONE ELSE?

21 JUROR BAYNE: MARGARET BAYNE. I'M NUMBER 13
22 AND I HAVE A QUESTION FOR YOU. I HAVE A ONE-YEAR-OLD
23 DAUGHTER AND I WORK DURING THE DAY, BUT I COME BACK
24 HOME AND PICK HER UP IN THE AFTERNOON AND I WAS
25 WONDERING HOW LATE IN THE DAY THIS RUNS EVERY DAY.

1 THE COURT: WELL, YOU MIGHT BE IN A MOTEL, SO
2 YOU WOULDN'T BE ABLE TO TAKE CARE OF HER. SO, MS.
3 BAYNE, I'LL EXCUSE YOU.

4 JUROR BAYNE: THANK YOU.

5 THE COURT: WELL, THAT PICKED UP SOME
6 COMMENT, BUT JUST CALM DOWN NOW. I'LL GET TO YOU; I
7 PROMISE. DOES ANYONE ELSE HAVE YOUNG CHILDREN? YOUR
8 NAME?

9 JUROR SNIDER: KIMBERLY SNIDER. I HAVE A
10 SEVEN-MONTH-OLD.

11 THE COURT: SNIDER? WHAT NUMBER IS THAT?

12 THE CLERK: 220.

13 THE COURT: YOU WERE SOME TYPE OF RESIDENTIAL
14 MANAGER, I BELIEVE, MS. SNYDER. YOU HAVE A CHILD HOW
15 OLD?

16 JUROR SNIDER: SEVEN MONTHS.

17 THE COURT: AND WHO'S TAKING OF HER, BY THE
18 WAY?

19 JUROR SNIDER: I HAVE A SITTER ON THE
20 PROPERTY THAT I WORK AT AND AS OF THURSDAY SHE GOES ON
21 VACATION.

22 THE COURT: WELL, I'M GOING TO EXCUSE YOU.
23 YOU HAVE A RIGHT TO BE EXCUSED BY LAW, SO I'LL EXCUSE
24 YOU. YOUR NAME?

25 JUROR GOULD: CHRISTA GOULD, NUMBER 78.

JURY VOIR DIRE

1 THE COURT: JUST A MINUTE. NUMBER 78. MS.
2 GOULD?

3 JUROR GOULD: I HAVE TWO-AND-A-HALF-YEAR-OLD
4 CHILD. HE'S IN DAY CARE. THE DAY CARE CLOSSES AT SIX.

5 THE COURT: ALL RIGHT. I'LL EXCUSE YOU.
6 YOUR NAME?

7 JUROR SEGARS: BEVERLY SEGARS.

8 THE COURT: DO YOU KNOW YOUR NUMBER?

9 JUROR SEGARS: NO, I DON'T.

10 THE COURT: SEGARS?

11 JUROR SEGARS: YES.

12 THE CLERK: NUMBER 208.

13 THE COURT: MS. SEGARS?

14 JUROR SEGARS: I HAVE A SEVEN-YEAR-OLD
15 DAUGHTER WHO I HAVE CARE OF UNTIL 6:00 IN THE EVENING
16 AND THAT'S ALL I'VE GOT. I'M A SINGLE MOTHER.

17 THE COURT: LET ME SEE. YOU'RE A SECURITY
18 OFFICER. IS THAT CORRECT?

19 JUROR SEGARS: I WORK FOR A SECURITY COMPANY.

20 THE COURT: COMPANY.

21 JUROR SEGARS: WE DO ALARM SYSTEMS.

22 THE COURT: ALL RIGHT. AND YOU HAVE A
23 SEVEN-YEAR-OLD.

24 JUROR SEGARS: YES, SHE JUST TURNED SEVEN A
25 WEEK AGO.

1 THE COURT: YOU'RE JUST A WEEK TOO LATE.

2 JUROR SEGARS: I KNOW.

3 THE COURT: TELL ME ABOUT THE PROBLEM.

4 JUROR SEGARS: I DON'T HAVE A SITTER AFTER
5 SIX. I HAVE A SITTER TILL SIX.

6 THE COURT: OKAY. AND WHAT IF I HAD TO KEEP
7 YOU HERE? WHAT WOULD YOU DO?

8 JUROR SEGARS: I'M NOT SURE. I GUESS I'D TRY
9 TO WORK SOMETHING OUT.

10 THE COURT: HAVE YOU GOT A FAMILY?

11 JUROR SEGARS: I HAVE FAMILY, YES. I HAVE
12 ONE SISTER THAT LIVES HERE.

13 THE COURT: WELL, LET ME THINK ABOUT IT A
14 LITTLE BIT. OKAY? ANYONE ELSE? HAS ANY MEMBER OF THE
15 JURY PANEL SERVED IN THIS LEVEL OF COURT, CRIMINAL OR
16 CIVIL, IN THE LAST THREE YEARS? IF SO, PLEASE STAND.
17 YOUR NAME?

18 JUROR POPE: ANDY POPE.

19 THE COURT: POPE?

20 JUROR POPE: 180.

21 THE COURT: 180? MR. POPE, WHEN DID YOU
22 SERVE?

23 JUROR POPE: DECEMBER OF '91.

24 THE COURT: AND WHAT NUMBER WAS THAT?

25 THE CLERK: 180.

1 JUROR POPE: 180.

2 THE COURT: WHAT TYPE COURT WAS IT?

3 JUROR POPE: CIVIL COURT.

4 THE COURT: CIVIL COURT? JUST FOR CURIOSITY,
5 WERE YOU DRAWN ON A JURY?

6 JUROR POPE: I WAS DRAWN AND SERVED A HALF A
7 DAY AND THEN THEY---

8 THE COURT: SETTLED THEIR CASE?

9 JUROR POPE: TOOK THE CASE OUT OF COURT.

10 THE COURT: ALL RIGHT, SIR. WOULD YOU RATHER
11 BE EXCUSED?

12 JUROR POPE: IT DOESN'T MATTER.

13 THE COURT: WELL, I'D LOVE TO HAVE YOU.

14 JUROR POPE: I'LL STAY.

15 THE COURT: THANK YOU VERY MUCH. ALL RIGHT.
16 YOUR NAME?

17 JUROR PARROTT: GERALD PARROTT, 173.

18 THE COURT: MR. PARROTT?

19 JUROR PARROTT: MY WIFE SERVED, I THINK IT
20 WAS, THREE MONTHS AGO.

21 THE COURT: YOUR WIFE?

22 JUROR PARROTT: CORRECT.

23 THE COURT: YOU DON'T GET CREDIT FOR THAT.

24 JUROR PARROTT: I THOUGHT YOU SAID OR FAMILY
25 MEMBER.

1 THE COURT: NO, BUT THANK YOU. I'LL GET TO
2 YOU IN JUST A MINUTE. ALL RIGHT. MR. CUTTER? WHERE
3 IS MR. CUTTER?

4 JUROR CUTTER: YES, SIR.

5 THE COURT: STEP UP HERE JUST A MINUTE FOR
6 ME, WILL YOU?

7 (WHEREUPON, JUROR CUTTER AND THE COURT HAD AN
8 OFF-THE-RECORD DISCUSSION AT THE BENCH.)

9 THE COURT: LET ME SEE THE ATTORNEYS UP HERE
10 JUST A MINUTE.

11 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

12 THE COURT: ALL RIGHT. NUMBER 51 IS
13 EXCUSED. ANYONE ELSE? NOW, IS ANY MEMBER OF THE JURY
14 PANEL A FULL-TIME STUDENT WHO NEEDS TO BE IN SCHOOL?
15 IF SO, PLEASE STAND. YOUR NAME?

16 JUROR PERRY: ZABRA PERRY.

17 THE COURT: PARRIS?

18 JUROR PERRY: PERRY.

19 THE COURT: PERRY?

20 JUROR PERRY: 175.

21 THE COURT: 175?

22 JUROR PERRY: UH-HUH.

23 THE COURT: WHAT SCHOOL DO YOU GO TO, MS.
24 PERRY?

25 JUROR PERRY: TRIDENT TECH.

1 THE COURT: AND YOU'RE IN FULL-TIME SCHOOL?

2 JUROR PERRY: YES, SIR. I WAS ENROLLED
3 FULL-TIME LAST SEMESTER. REGISTRATION IS NEXT FRIDAY.

4 THE COURT: REGISTRATION IS WHEN?

5 JUROR PERRY: NEXT FRIDAY FOR THE SECOND
6 SESSION, FOR THE SPRING SEMESTER. I SAID I WAS
7 ENROLLED FULL-TIME LAST SEMESTER.

8 THE COURT: OH, BUT YOU'RE NOT GOING TO
9 SCHOOL AT THE TIME BEING.

10 JUROR PERRY: AS OF RIGHT NOW, NO, BUT I'M---

11 THE COURT: THAT'S ALL RIGHT. I PROMISE
12 YOU: YOU AND I, NEITHER ONE OF US ARE GOING TO BE HERE
13 FRIDAY WEEK AND THAT'S WHEN YOU TELL ME IT IS? NOT
14 THIS COMING FRIDAY NOW, NOT FOUR DAYS FROM NOW.

15 JUROR PERRY: NO, NEXT FRIDAY.

16 THE COURT: FRIDAY WEEK.

17 JUROR PERRY: YES, NEXT FRIDAY.

18 THE COURT: GLAD TO HAVE YOU WITH US. ALL
19 RIGHT. IF SOMETHING HAPPENED, I'D TAKE CARE OF US.
20 NOW, IS THERE ANY MEMBER OF THE JURY PANEL WHO FEELS
21 FOR SOME COMPELLING REASON, AND IT HAD TO BE SOMETHING
22 SUPER SERIOUS I'LL TELL YOU, THAT YOU FEEL YOU JUST
23 CANNOT SERVE THIS WEEK AND YOU WANT TO BE TRANSFERRED
24 TO ANOTHER TERM OF COURT? IF SO, PLEASE STAND. AND
25 YOUR NAME WAS PERRY.

1 JUROR PERRY: YES.

2 THE COURT: AND YOU WANT TO BE TRANSFERRED
3 FOR WHAT REASON?

4 JUROR PERRY: BECAUSE I'M FAMILIAR WITH THE
5 DEFENDANT.

6 THE COURT: OH, I'LL GET TO THAT IN A
7 MINUTE. THAT'S NOT A QUESTION. JUST HAVE A SEAT
8 HERE. YOUR NAME, PLEASE, MA'AM?

9 JUROR WELLS: MRS. KEARY WELLS, NUMBER 247.

10 THE COURT: 247? MRS. WELLS?

11 JUROR WELLS: YES, SIR.

12 THE COURT: TELL ME YOUR PROBLEM.

13 JUROR WELLS: I'M PRESENTLY COMPLETING A
14 LONG-TERM SUBSTITUTE POSITION AT BEACH HILL
15 ELEMENTARY. AT THE PRESENT MOMENT THE TEACHER THAT IS
16 RETURNING THAT'S NORMALLY IN THAT CLASSROOM WILL NOT
17 RETURN TILL NEXT MONDAY. AS IT IS, THE CLASS HAS GOT
18 SEVERAL STUDENTS WITH CERTAIN LEARNING AREAS OF
19 DIFFICULTY AND THE PRINCIPAL WHO HAS WRITTEN A LETTER
20 TO YOU HAS REQUESTED THAT FOR THE CONTINUITY OF THE
21 CLASS IF I COULD BE TRANSFERRED TO ANOTHER SESSION IT
22 WILL ALLOW THE CLASS TO TRANSFER BACK TO THE ORIGINAL
23 TEACHER, A MORE SMOOTH AND EASY TRANSMISSION THAN
24 HAVING SEVERAL SUBSTITUTES COME IN DURING THE SCHOOL
25 YEAR.

1 THE COURT: ALL RIGHT. JUST HAVE A SEAT AND
2 LET ME THINK ABOUT THAT.

3 JUROR: I'M WILLING TO TRANSFER TO THE NEXT
4 ONE INSTEAD OF THIS ONE.

5 THE COURT: YOU DON'T WORRY ABOUT IT. JUST
6 KEEP YOUR SEAT THERE. I'M GOING TO TAKE YOURS UP.
7 YOUR NAME, YOUNG MAN?

8 JUROR TURNER: SCOTT TURNER.

9 THE COURT: TURNER? NUMBER WHAT?

10 JUROR TURNER: 237. I DON'T KNOW HOW SERIOUS
11 THIS IS, BUT I KNOW ATTORNEYS ON BOTH SIDES.

12 THE COURT: OH, WELL, YOU MIGHT NOT EVEN LIKE
13 THEM. HOLD A MINUTE. LET ME SEE. IN OTHER WORDS, YOU
14 JUST KNOW THEM.

15 JUROR TURNER: YES, SIR.

16 THE COURT: DON'T WORRY ABOUT IT. HAVE A
17 SEAT. AND YOUR NAME? I BELIEVE YOU HAD -- YOUR MOTHER
18 WAS SICK, WASN'T IT?

19 JUROR JOHNSON: MY MOTHER IS CRITICALLY ILL,
20 YES.

21 THE COURT: WELL, DON'T WORRY ABOUT IT. I'M
22 GOING TO LOOK INTO YOURS IN JUST A MOMENT. AND YOUR
23 NAME?

24 JUROR PARROTT: GERALD PARROTT, 173.

25 THE COURT: RETIRED AIR FORCE DENTIST, MR.

1 PARROTT.

2 JUROR PARROTT: YES, SIR.

3 THE COURT: AND WHAT PROBLEM?

4 JUROR PARROTT: MY WIFE HAS BEEN SICK FOR
5 ABOUT THREE WEEKS AND SHE ASKED ME THIS MORNING IF I
6 WOULD ASK TO BE EXCUSED SO I COULD CARE FOR HER.

7 THE COURT: ALL RIGHT, SIR. HAVE A SEAT AND
8 LET ME THINK ABOUT IT. AND YOUR NAME?

9 JUROR THORNTON: GAIL THORNTON, 232.

10 THE COURT: MS. THORNTON?

11 JUROR THORNTON: I'M JUST ASKING TO BE
12 TRANSFERRED. I AM THE ONLY EMPLOYEE OF MY BUSINESS
13 WHICH IS AN ART GALLERY. I HAVE ABSOLUTELY NO ONE TO
14 COME IN; I TRIED. AND THIS IS A VERY BUSY TIME. IT
15 WOULD CAUSE A REAL FINANCIAL HARDSHIP FOR ME, BUT I
16 WOULD BE MORE THAN HAPPY TO SERVE AT SOME OTHER TIME.

17 THE COURT: I BET IF I ASKED THAT CROWD OUT
18 THERE OF MY JURORS THE SAME PROBLEM, I'LL BET A LOT OF
19 THEM WOULD HAVE THAT PROBLEM. AND I DO SYMPATHIZE WITH
20 YOU, BUT LET ME THINK ABOUT IT A LITTLE BIT. OKAY?

21 JUROR THORNTON: ALL RIGHT.

22 THE COURT: ALL RIGHT. ANYONE ELSE? ALL
23 RIGHT, SIR. HOW ABOUT STAND UP AND GIVE ME YOUR NAME
24 PLEASE, SIR.

25 JUROR MOSELEY: MY NAME IS WILLIAM MOSELEY.

1 MY WIFE JUST HAD AN OPERATION.

2 THE COURT: HOLD JUST A MINUTE, MR. MOSELEY.

3 JUROR MOSELEY: 160 SOMETHING.

4 THE CLERK: 162.

5 THE COURT: 162? YOU'RE A RETIRED SHIPYARD
6 PIPE FITTER, I BELIEVE.

7 JUROR MOSELEY: YES, SIR.

8 THE COURT: AND YOU HAVE A WIFE WHO'S SICK?

9 JUROR MOSELEY: SHE JUST GOT OUT OF THE
10 HOSPITAL FOR AN OPERATION. SHE'S GOING TO BE ALMOST
11 INCAPACITATED FOR ABOUT THE NEXT WEEK.

12 THE COURT: ALL RIGHT, SIR. BEAR WITH ME
13 JUST A MOMENT OR TWO. ANYONE ELSE? ALL RIGHT. I'M
14 GOING TO TAKE A TEN-MINUTE RECESS AND I'LL BE RIGHT
15 BACK OUT. I'LL GIVE Y'ALL ALL THAT INFORMATION. ALL
16 RIGHT. COURT'S IN RECESS TEN MINUTES. LET ME SEE THE
17 PARTIES IN CHAMBERS.

18 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

19 THE COURT: THANK YOU SO MUCH. BE SEATED,
20 PLEASE. I WONDER IF MY JURORS WOULD MOVE BACK AND
21 LEAVE THAT FRONT. . . IS THERE A ROW -- IS THERE A ROW
22 OF SEATS ABOVE THE -- ALL RIGHT. THAT'S ALL RIGHT
23 THEN. I DIDN'T KNOW THERE WAS ONE THERE. ALL RIGHT.
24 I WENT OVER MY JURY LIST. KIMBERLY CLIFFORD. MS.
25 CLIFFORD BACK THERE?

1 JUROR CLIFFORD: YES, SIR.

2 THE COURT: I BELIEVE YOU HAD THAT CHILD
3 SEVEN YEARS OLD. WE'RE GOING TO EXCUSE YOU.

4 JUROR CLIFFORD: THANK YOU.

5 THE COURT: THELMA JOHNSON. MS. JOHNSON?

6 JUROR JOHNSON: YES.

7 THE COURT: I BELIEVE YOU HAD -- YOUR MOTHER
8 WAS SICK. WE'RE GOING TO EXCUSE YOU.

9 JUROR JOHNSON: THANK YOU.

10 THE COURT: I'M GOING TO TRANSFER YOU TO
11 ANOTHER TERM OF COURT, MS. JOHNSON.

12 JUROR JOHNSON: THAT'S FINE.

13 THE COURT: IS THERE ANY SPECIAL TERM?

14 JUROR JOHNSON: NO, NO SPECIAL TERM.

15 THE COURT: WELL, DO YOU WANT IT TWO OR THREE
16 MONTHS FROM NOW?

17 JUROR JOHNSON: THAT'S FINE.

18 THE COURT: ALL RIGHT. THANK YOU. I HOPE
19 YOUR MOTHER GETS ALONG ALL RIGHT.

20 JUROR JOHNSON: THANK YOU.

21 THE COURT: MS. MCNAIR?

22 JUROR MCNAIR: YES, SIR.

23 THE COURT: I'M GOING TO TRANSFER YOU TO
24 ANOTHER TERM OF COURT. THAT SOUNDS LIKE A TIME CERTAIN
25 FOR THAT TRIAL AND YOU MIGHT GET IN SOME KIND OF

1 PROBLEMS. ANY SPECIAL MONTH YOU'D LIKE TO HAVE?

2 JUROR MCNAIR: ANY TIME IS FINE.

3 THE COURT: ALL RIGHT. WE'LL---

4 JUROR MCNAIR: I REALLY DON'T MIND YOU
5 GETTING ME OUT OF THAT. I REALLY DON'T.

6 THE COURT: I BETTER NOT DO IT. IF IT WAS
7 SOMETHING LIKE A TRAFFIC TICKET OR SOMETHING, BUT IT
8 SOUNDS LIKE EVERYBODY IS READY FOR THE TRIAL. SO, I
9 WISH YOU GOOD LUCK, THOUGH.

10 JUROR MCNAIR: THANK YOU.

11 THE COURT: WE'LL NOTIFY YOU. I'M GOING TO
12 TRANSFER YOU TO A COUPLE OF MONTHS FROM NOW.

13 JUROR MCNAIR: THANK YOU.

14 THE COURT: MR. MOSELEY, YOU HAD A PROBLEM
15 WITH YOUR WIFE. I'M GOING TO -- I'M GOING TO TRANSFER
16 YOU TO ANOTHER TERM OF COURT. HOW ABOUT SOMETIME THIS
17 FALL PERHAPS?

18 JUROR MOSELEY: (NODDED HEAD UP AND DOWN.)

19 THE COURT: I HOPE YOUR WIFE GETS ALONG FINE.

20 JUROR MOSELEY: THANK YOU.

21 THE COURT: ALL RIGHT, SIR. I'M GOING TO
22 TRANSFER HIM.

23 JUROR MOSELEY: I'LL BE NOTIFIED ABOUT THAT?

24 THE COURT: OH, YEAH. GERALD PARROTT?

25 JUROR PARROTT: YES, SIR.

1 THE COURT: MR. PARROTT, I'M ALSO GOING TO
2 TRANSFER YOU AND I HOPE YOUR WIFE GETS ALONG FINE. HOW
3 ABOUT THIS FALL? WOULD THAT BE ALL RIGHT?

4 JUROR PARROTT: THAT WOULD BE FINE.

5 THE COURT: ALL RIGHT. I HOPE YOUR WIFE GETS
6 ALONG FINE.

7 JUROR PARROTT: THANK YOU.

8 THE COURT: MR. RICHARDS?

9 JUROR RICHARDS: YES, SIR.

10 THE COURT: I HOPE YOU GET ALONG, TOO. I'M
11 GOING TO EXCUSE YOU UNLESS YOU FEEL LIKE YOU'D FEEL
12 BETTER LATER IN THE YEAR AND I'LL BE GLAD TO TRANSFER
13 IT IF YOU WANT TO SERVE.

14 JUROR RICHARDS: I'M A NATIVE SOUTH
15 CAROLINIAN. I WANT TO SERVE.

16 THE COURT: ALL RIGHT. I'M GOING TO TRANSFER
17 YOU TO THIS FALL. IF YOU'VE STILL GOT A PROBLEM, LET
18 ME KNOW. ALL RIGHT. SO, I HOPE YOU GET ALONG FINE.
19 TRANSFER HIM TO THIS FALL. MS. SEGARS?

20 JUROR SEGARS: YES, SIR.

21 THE COURT: YOU GOT A PROBLEM WITH YOUR
22 CHILD. YOU DON'T REALLY FIT IN THE CATEGORY BECAUSE
23 IT'S UNDER SEVEN YEARS OF AGE. WHAT DID I DO? MISS IT
24 A WEEK?

25 JUROR SEGARS: YES.

1 THE COURT: BUT, ANYWAY, I'M GOING TO EXCUSE
2 YOU.

3 JUROR SEGARS: THANK YOU.

4 THE COURT: MS. THORNTON, I'M GOING TO
5 TRANSFER YOU, TOO. WHAT MONTH IS IT YOU THINK YOU'D
6 HAVE THE THINGS IN SHAPE WHERE YOU COULD GET SOMEBODY
7 TO HANDLE IT?

8 JUROR THORNTON: ANY TIME IN THE SUMMERTIME
9 OR THE SUMMER WOULD BE WONDERFUL.

10 THE COURT: THE SUMMER?

11 JUROR THORNTON: YES, SIR.

12 THE COURT: ALL RIGHT. TELL ME WHAT MONTH.

13 JUROR THORNTON: OH, I GET TO PICK A MONTH?

14 THE COURT: OF COURSE.

15 JUROR THORNTON: JULY.

16 THE COURT: JULY.

17 THE CLERK: JULY 11TH.

18 THE COURT: JULY THE 11TH, BUT WE'LL SEND YOU
19 A NOTICE.

20 JUROR THORNTON: THANK YOU, SIR.

21 THE COURT: ALL RIGHT. MS. WELLS?

22 JUROR WELLS: YES, SIR.

23 THE COURT: YOU'VE GOT A PROBLEM, TOO. I
24 HOPE YOU GET THAT PERMANENT JOB.

25 JUROR WELLS: WELL, IT'S NOT SO MUCH

1 PERMANENT AS THIS IS A -- THE PERMANENT TEACHER IS
2 THERE.

3 THE COURT: WHY DON'T YOU JUST PICK A MONTH
4 YOU'D LIKE TO. . .

5 JUROR WELLS: AS OF THE NEXT -- AT THE END OF
6 THIS WEEK I'M FREE FROM THAT POINT ON. SO, ANY TIME
7 AFTER THE END OF THIS WEEK.

8 THE COURT: IS THERE ANY SPECIAL MONTH YOU'D
9 LIKE TO HAVE?

10 JUROR WELLS: MARCH, APRIL, MAY, DOESN'T MAKE
11 ANY DIFFERENCE.

12 THE CLERK: APRIL 25TH.

13 THE COURT: HOW ABOUT APRIL 25TH?

14 JUROR WELLS: THAT WILL BE FINE.

15 THE COURT: WE'RE GOING TO SEND YOU A
16 NOTICE. OKAY?

17 JUROR WELLS: OKAY.

18 THE COURT: HAVE A GOOD DAY. WON'T YOU SEND
19 HER A NOTICE, MADAM CLERK?

20 THE CLERK: YES, WE WILL.

21 THE COURT: ALL RIGHT. MR. WILSON.

22 JUROR WILSON: YES, SIR.

23 THE COURT: YOU'VE GOT A -- IT SOUNDED -- YOU
24 SOUNDED PRETTY CASUAL, BUT I TAKE THE POSITION THAT I
25 COULD MAKE IT A LITTLE MORE CONVENIENT IF YOU WANT ME

1 TO. IF YOU TELL ME WHAT MONTH YOU WANT TO SERVE AND --
2 I'LL PICK IT.

3 JUROR WILSON: WELL, UP THERE IT DEPENDS ON
4 THE BUSINESS. ANY MONTH IT REALLY GETS -- IT CAN BE
5 BUSY OR DOESN'T HAVE TO BE.

6 THE COURT: WELL---

7 JUROR WILSON: IT ALL JUST DEPENDS ON HOW
8 IT'S GOING UP THERE.

9 THE COURT: WELL, I KNOW YOU, BUT YOU CAN'T
10 -- YOU'VE GOT TO GIVE ME A MONTH.

11 JUROR WILSON: IT'S USUALLY LIKE MAYBE --
12 MAYBE IN THE FALL.

13 THE COURT: YOU JUST TELL ME WHEN. YOU SAID
14 YOU WORK TILL NOVEMBER?

15 JUROR WILSON: YEAH, UP UNTIL NOVEMBER.

16 THE COURT: UP UNTIL NOVEMBER. HOW ABOUT
17 DECEMBER?

18 JUROR WILSON: OKAY. THAT'S FINE.

19 THE COURT: ARE YOU GOING TO BE HOME?

20 JUROR WILSON: I HOPE SO, BUT I'M NOT SURE
21 YET.

22 THE CLERK: WHAT ABOUT NOVEMBER 28TH?

23 THE COURT: HOW ABOUT NOVEMBER 28TH?

24 JUROR WILSON: OKAY, IF I CAN WORK THAT OUT.

25 THE COURT: OH, NO.

1 JUROR WILSON: OKAY. THAT'S FINE.

2 THE COURT: YOU TELL THEM YOU GOT A DATE WITH
3 ME ON NOVEMBER THE 28TH.

4 JUROR WILSON: OKAY, SIR.

5 THE COURT: WE'RE GOING TO SEND YOU A NOTICE.

6 JUROR WILSON: THANK YOU.

7 THE COURT: ANYONE ELSE? WELL, LET'S SEE.

8 NOW, IS THERE ANYBODY ELSE WHO'S GOT A PROBLEM? YES,
9 SIR? YOUR NAME?

10 JUROR ROBERTS: JOHNNY ROBERTS, 196. MY
11 WIFE'S IN THE HOSPITAL, JUDGE, AND I JUST LOST MY
12 BROTHER AND I'M UNDER A LOT OF STRESS.

13 THE COURT: THAT'S ALL RIGHT. WHY DON'T YOU
14 TELL ME WHAT MONTH YOU THINK YOU'D FEEL BETTER?

15 JUROR ROBERTS: WELL, ANY TIME AFTER I GET MY
16 WIFE OUT OF THE HOSPITAL WILL BE FINE.

17 THE COURT: WOULD YOU LIKE TO WAIT UNTIL THIS
18 FALL?

19 JUROR ROBERTS: THAT WILL BE GREAT.

20 THE COURT: ALL RIGHT. I'M GOING TO TRANSFER
21 MR. ROBERTS.

22 THE CLERK: HOW ABOUT SEPTEMBER 12TH?

23 JUROR ROBERTS: THANK YOU, SIR.

24 THE COURT: ALL RIGHT. I HOPE SHE GETS ALONG
25 FINE.

1 JUROR ROBERTS: THANK YOU.

2 THE COURT: NOW, THERE'S ONE MORE HERE. LET
3 ME SEE. MR. TURNER.

4 JUROR TURNER: YES, SIR.

5 THE COURT: WOULD YOU LIKE TO BE EXCUSED?

6 JUROR TURNER: I'D LIKE TO BE TRANSFERRED TO
7 ANOTHER TIME.

8 THE COURT: ALL RIGHT. I'M GOING TO -- WELL,
9 THAT'S WHAT I MEANT.

10 JUROR TURNER: YES.

11 THE COURT: AND I'M DOING THAT BECAUSE ONE OF
12 THE ATTORNEYS HAS GOT ONE OF YOUR CASES.

13 JUROR TURNER: YEAH.

14 THE COURT: ALL RIGHT. I'M GOING TO
15 TRANSFER. ANY SPECIAL WEEK -- MONTH YOU'D LIKE TO
16 HAVE?

17 JUROR TURNER: END OF THIS MONTH OR APRIL,
18 END OF MARCH, APRIL.

19 THE CLERK: APRIL 25TH.

20 THE COURT: HOW ABOUT---

21 MR. LEIENDECKER: BETTER TRANSFER HIM TO THE
22 FALL.

23 THE COURT: HUH?

24 MR. LEIENDECKER: FALL.

25 THE COURT: I BETTER SET YOU FOR FALL HE

1 SAYS.

2 JUROR TURNER: OKAY.

3 THE COURT: BECAUSE HE MIGHT BE STILL IN YOUR
4 CASE. LET'S SEE.

5 THE CLERK: OCTOBER 25TH.

6 THE COURT: OCTOBER THE 25TH IS. . . ALL
7 RIGHT. WE'LL TRANSFER YOU, BUT I'LL NOTIFY YOU.

8 JUROR TURNER: ALL RIGHT.

9 THE COURT: THANK YOU. HAVE A GOOD DAY.
10 ANYONE ELSE? ALL RIGHT. NOW, MEMBERS OF THE JURY
11 PANEL, I'M GOING TO GIVE YOU SOME MORE INFORMATION
12 LATER ON. I KNOW SOME OF YOU GASPED A WHILE AGO, BUT
13 DON'T GET TOO CONCERNED. ALL RIGHT. SOLICITOR, CALL
14 YOUR CASE.

15 MR. BAILEY: YOUR HONOR, IF I CAN APPROACH
16 THE BENCH. I PUT THE INDICTMENT UP THERE.

17 THE COURT: ALL RIGHT, SIR.

18 MR. BAILEY: STATE CALLS 93-GS-18-101. THE
19 STATE CHARGES TIMOTHY D. ROGERS WITH MURDER.

20 THE COURT: BEG YOUR PARDON?

21 MR. RUNYON: DEFENSE IS PRESENT AND READY,
22 YOUR HONOR.

23 THE COURT: ALL RIGHT, SIR. WOULD YOU MIND,
24 COUNSELOR -- WELL, THAT'S ALL RIGHT. KEEP THOSE SEATS
25 FOR THE TIME BEING. NOW, MEMBERS OF THE JURY PANEL,

JURY VOIR DIRE

1 GIVE ME YOUR ATTENTION, PLEASE. THE SOLICITOR HAS
2 CALLED THE CASE OF THE STATE VERSUS TIMOTHY ROGERS.
3 MR. ROGERS IS THE YOUNG MAN SITTING RIGHT OVER HERE
4 BETWEEN HIS ATTORNEYS FACING YOU. HE'S CHARGED WITH
5 THE CRIME OF MURDER, AND SITTING AT THAT TABLE HE'S
6 JUST AS INNOCENT AS YOU AND I UNLESS AND UNTIL THE
7 STATE, IF INDEED THEY CAN, FIND HIM GUILTY -- PROVE HIM
8 GUILTY BEYOND A REASONABLE DOUBT BECAUSE A PERSON IS
9 ALWAYS PRESUMED TO BE INNOCENT.

10 I'LL BE TELLING JURORS IF THEY KNOW ANYTHING
11 ABOUT THIS CASE TO LAY IT ASIDE AND BRING IN A VERDICT
12 THAT SPOKE THE TRUTH. I'M GOING TO ASK YOU SOME
13 QUESTIONS. THERE ARE NO RIGHT OR WRONG ANSWERS. IT'S
14 INFORMATION WE WANT AND IF IT APPLIES TO YOU JUST STAND
15 UP AND TELL ME ABOUT IT. WHEN YOU STAND UP, THE FIRST
16 THING I WANT TO KNOW IS YOUR NAME AND YOUR NUMBER IF
17 YOU KNOW IT. IT HELPS US FIND IT HERE.

18 NOW, IS THERE ANY MEMBER OF THE JURY PANEL
19 RELATED BY BLOOD OR CONNECTED BY MARRIAGE OR CONNECTED
20 IN ANY SOCIAL OR BUSINESS WAY WITH TIMOTHY ROGERS? IF
21 SO, PLEASE STAND. NOW -- ALL RIGHT, SIR. YOUR NAME?

22 JUROR EDWARDS: GENE EDWARDS.

23 THE COURT: WHAT NUMBER ARE YOU?

24 JUROR EDWARDS: NUMBER 62.

25 THE COURT: NUMBER 62. ALL RIGHT. YOU'RE

JURY VOIR DIRE

1 RELATED TO HIM, MR.---

2 JUROR EDWARDS: NO, SIR.

3 THE COURT: ---ETHRIDGE (SIC)?

4 JUROR EDWARDS: YES, SIR.

5 THE COURT: IS IT EDWARDS?

6 JUROR EDWARDS: EDWARDS.

7 THE COURT: EDWARDS. ALL RIGHT, SIR. THE
8 PRINTING IS PRETTY BAD HERE. I BELIEVE YOU WERE A NEWS
9 PHOTOGRAPHER WITH---

10 JUROR EDWARDS: RIGHT.

11 THE COURT: ---WITH LIVE 5. THAT'S A GOOD
12 STATION. I GET IT OVER IN RIDGELAND. WHAT RELATION
13 ARE YOU?

14 JUROR EDWARDS: I JUST KNOW THE FAMILY. I
15 KNOW---

16 THE COURT: YOU JUST KNOW THE FAMILY.

17 JUROR EDWARDS: YES, SIR, I DO.

18 THE COURT: ALL RIGHT, SIR. WELL, I REALLY
19 WAS TALKING ABOUT -- IN WHAT WAY DO YOU KNOW THE
20 FAMILY? JUST KNOW THEM?

21 JUROR EDWARDS: I'VE ATTENDED THEIR CHURCH.

22 THE COURT: YOU ATTEND THEIR CHURCH. ALL
23 RIGHT. NOW, THE FACT THAT YOU ATTENDED THEIR CHURCH, I
24 WOULD BE TELLING YOU AS I WILL TELL ALL THE REST OF THE
25 JURORS TO LAY ASIDE ANY FEELINGS YOU HAVE BECAUSE IN A

1 CASE WHERE A PERSON IS CHARGED A CRIME YOU DON'T HAVE
2 TO FEEL YOU'VE GOT TO PUNISH ANYBODY. YOU DON'T HAVE
3 TO FEEL SORRY OR SYMPATHY. YOU JUST HAVE TO DO ONE
4 THING - THAT IS BRING IN A VERDICT THAT SPOKE THE
5 TRUTH. THE FACT THAT YOU MIGHT KNOW HIM, WOULD THAT
6 KEEP YOU FROM FOLLOWING THOSE INSTRUCTIONS?

7 JUROR EDWARDS: I THINK IT WOULD KEEP ME FROM
8 MAKING A FAIR JUDGMENT IN THIS TRIAL SINCE I KNOW THE
9 FAMILY SO WELL.

10 THE COURT: ALL RIGHT, SIR. I'M GOING TO --
11 I JUST WANT YOU TO HAVE A SEAT THEN. THANK YOU VERY
12 MUCH. ALL RIGHT, SIR. YOUR NAME, PLEASE?

13 JUROR PERRY: ZABRA PERRY, NUMBER 175.

14 THE COURT: MS. PERRY?

15 JUROR PERRY: YES, SIR.

16 THE COURT: ALL RIGHT, SIR. TELL ME ABOUT
17 IT.

18 JUROR PERRY: LIKE I SAID, I WENT TO HIGH
19 SCHOOL WITH HIM AND HIS BROTHERS. I'M FAMILIAR WITH
20 HIS FAMILY ALSO BECAUSE HIS MOM -- MY MOM USUALLY DOES
21 -- DO HIS MOM'S HAIR AND WE'RE PRETTY CLOSE. AND I
22 KNOW BEING ON THE JURY WOULD AFFECT MY DECISION.

23 THE COURT: ALL RIGHT. HAVE A SEAT. THANK
24 YOU VERY MUCH. AND YOUR NAME?

25 JUROR SMITH: ANTHONY SMITH, 215.

1 THE COURT: 215?

2 JUROR SMITH: YES.

3 THE COURT: MR. SMITH?

4 JUROR SMITH: YEAH.

5 THE COURT: WHAT RELATION ARE YOU, NOW?

6 JUROR SMITH: NO RELATION. I JUST KNOW THE
7 DEFENDANT.

8 THE COURT: YOU KNOW THE DEFENDANT. ALL
9 RIGHT. THANK YOU VERY MUCH. ANYONE ELSE? NOW, IS
10 THERE ANY MEMBER OF THE JURY PANEL OR ANY MEMBER OF
11 YOUR IMMEDIATE FAMILY RELATED BY BLOOD OR CONNECTED BY
12 MARRIAGE TO SOLICITOR BAILEY WHO IS STANDING THERE OR
13 ANY MEMBER OF HIS STAFF OR OFFICE OR HAVE EVER USED
14 THEM IN THE PAST AS AN ATTORNEY? IF SO, PLEASE STAND.
15 ALL RIGHT. YOUR NAME, PLEASE, MA'AM?

16 JUROR NICHOLS: SUE NICHOLS, 169.

17 THE COURT: MS. NICHOLS? AND TELL ME WHAT
18 RELATION, IF ANY.

19 JUROR NICHOLS: MR. BAILEY WAS MY LAWYER IN
20 MY HUSBAND'S ESTATE.

21 THE COURT: ALL RIGHT. WHEN I HEAR THAT, I
22 SAY, WELL, GOSH, YOU MIGHT HAVE NOT EVEN LIKED HIM, BUT
23 BE THAT AS IT MAY, I APPRECIATE THAT VERY MUCH. ALL
24 RIGHT. YOUR NAME?

25 JUROR KASPAR: VICKIE KASPAR, 117.

1 THE COURT: MS. KASPAR?

2 JUROR KASPAR: UH-HUH. I WAS INVOLVED IN A
3 CAR ACCIDENT IN 1979 AND HE REPRESENTED ME THEN.

4 THE COURT: AND YOU MIGHT HAVE NOT LIKED
5 HIM. THANK YOU VERY MUCH. ANYONE ELSE? NOW, THE
6 SOLICITOR IS GOING TO STAND UP -- SOLICITOR, DO I HAVE
7 -- DO I HAVE THE FILE IN THIS CASE, PLEASE, MADAM
8 CLERK?

9 THE CLERK: NO.

10 THE COURT: DO I HAVE A FILE? DO I HAVE A
11 LIST OF THE WITNESSES?

12 MR. BAILEY: YOUR HONOR, I HANDED THAT UP
13 ALONG WITH THE INDICTMENT. IT SHOULD BE---

14 THE COURT: OH, HERE THEY ARE RIGHT HERE.
15 THANK YOU VERY MUCH. LOOK HERE JUST A MINUTE, ONE OF
16 Y'ALL.

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

18 THE COURT: NOW, MEMBERS OF THE JURY PANEL,
19 THESE ARE SOME MIGHT-BE WITNESSES. I'M ASKING YOU OUT
20 OF AN ABUNDANCE OF PRECAUTION AND THEY MIGHT BE
21 WITNESSES IN THE CASE AND I WANT TO KNOW THE SAME
22 THING: IF ANY MEMBER OF THE JURY PANEL IS CONNECTED IN
23 ANY WAY, BUSINESS, SOCIAL, BLOOD, OR MARRIAGE TO ANY OF
24 THESE WITNESSES. DETECTIVE EARL ASBELL. IF IT APPLIES
25 TO YOU, JUST STAND UP AND TELL ME ABOUT IT. JAMES

1 ALLEN CARVER, DALE NEVINS, SR., DETECTIVE JAMES RICHARD
2 BROWN, ANTHONY RILEY, [Assault Victim] DETECTIVE IVAN
3 JOHNSON, DAXTON PATTERSON, JAMES ROBINSON. ALL RIGHT,
4 SIR.

5 JUROR EDWARDS: I KNOW JAMES ROBINSON WELL.

6 THE COURT: YOU KNOW HIM.

7 JUROR EDWARDS: YES, SIR.

8 THE COURT: THE FACT THAT YOU MIGHT KNOW HIM
9 JUST AS A WITNESS, WOULD THAT AFFECT YOUR ABILITY TO
10 RENDER A FAIR VERDICT?

11 JUROR EDWARDS: I BELIEVE IF HE WOULD BE ON
12 THE STAND I'D BE WILLING TO BELIEVE WHATEVER HE SAID.

13 THE COURT: OH, THANK YOU VERY MUCH.

14 JUROR EDWARDS: JUDGE---

15 THE COURT: YOU DON'T HAVE TO TELL ME THAT.
16 YES, SIR, MR. ROBINSON (SIC)?

17 JUROR EDWARDS: IF YOU COULD TRANSFER ME TO
18 ANOTHER COURT DATE, THAT WOULD BE FINE, YOU KNOW, WITH
19 SOMEBODY I DON'T KNOW.

20 THE COURT: I UNDERSTAND THAT. I'M GOING TO
21 TAKE IT UP IN JUST A MINUTE. THANK YOU. I MIGHT AS
22 WELL TALK TO YOU NOW. YOU WERE TELLING ME EARLIER, MR.
23 ROBINSON, THE FACT THAT YOU'RE SO CLOSE TO THE FAMILY
24 YOU FELT LIKE THAT WOULD AFFECT YOUR ABILITY TO RENDER
25 A FAIR VERDICT?

1 JUROR EDWARDS: IT MIGHT AFFECT MY JUDGMENT.

2 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE
3 YOU FROM THIS CASE.

4 JUROR EDWARDS: TRANSFER ME TO ANOTHER COURT
5 DATE?

6 THE COURT: WELL, I'M GOING TO EXCUSE YOU --
7 SOLICITOR -- I'M GOING TO EXCUSE YOU PERIOD. OKAY?

8 JUROR EDWARDS: THANK YOU, JUDGE.

9 THE CLERK: THAT'S NUMBER 62. IS THAT
10 CORRECT?

11 MR. RUNYON: THAT'S CORRECT, MADAM CLERK.

12 THE COURT: ALL RIGHT. I HAD GOTTEN TO --
13 WHAT JUROR WAS THAT?

14 THE CLERK: NUMBER 62.

15 THE COURT: THE NEXT ONE IS ISAIAH JENNINGS,
16 HERTHENIA LINCOLN, MICHAEL B [REDACTED] OR B [REDACTED], CLAY
17 NICHOLS, DAVID SHANKLE. THAT CLAY NICHOLS IS A
18 DOCTOR. HAS ANY MEMBER OF THE JURY PANEL EVER USED HIM
19 AS A DOCTOR OR PRESENTLY USING HIM? HE'S WITH THE
20 MEDICAL UNIVERSITY. JOHN BARRON, DAVID COLLINS,
21 LIEUTENANT LESTER PATRICK, RODNEY DOUGLAS, DETECTIVE
22 RACELL COOK, STEPHANIE SIMMONS, VERNEST LAWRENCE, TONY
23 (SIC) POWELL OR TOMMY POWELL, ANTHONY BROWN, PATSY
24 BUNCH, MIKE B [REDACTED]. SOMETIMES I MIGHT -- I MIGHT
25 REPEAT THEM TWICE. YOUR NAME, PLEASE?

1 JUROR GROOMS: FRANCES GROOMS.

2 THE COURT: AND WHAT NUMBER ARE YOU? DO YOU
3 KNOW, MS. CLERK?

4 JUROR GROOMS: 83.

5 THE COURT: 83?

6 JUROR GROOMS: UH-HUH.

7 THE COURT: TELL ME ABOUT IT.

8 JUROR GROOMS: WELL, I KNOW PATSY BUNCH.
9 THEY LIVE RIGHT DOWN THE STREET FROM ME ABOUT -- I
10 DON'T KNOW.

11 THE COURT: WOULD THE FACT THAT PATSY BUNCH
12 MIGHT BE A WITNESS -- WOULD THAT SWAY YOU EITHER WAY?

13 JUROR GROOMS: WELL, I ALSO KNEW STEPHANIE
14 AND THAT SHE PLAYED WITH MY SISTER-IN-LAW'S
15 GRANDCHILDREN.

16 THE COURT: WELL, THAT WOULD JUST BE A
17 WITNESS. WOULD THAT AFFECT YOUR ABILITY TO RENDER A
18 FAIR VERDICT?

19 JUROR GROOMS: I'M TALKING ABOUT THE VICTIM
20 AND IT PROBABLY WOULD.

21 THE COURT: IN OTHER WORDS, YOU FEEL THE FACT
22 THAT YOU KNEW THE VICTIM WOULD KEEP YOU FROM GIVING
23 BOTH SIDES A FAIR TRIAL?

24 JUROR GROOMS: IT MIGHT, YES, SIR.

25 THE COURT: WHAT NUMBER ARE YOU?

JURY VOIR DIRE

1 JUROR GROOMS: 83.

2 THE COURT: 83? I'M GOING TO EXCUSE YOU. BY
3 THE WAY, YOU SAID YOU'RE A RETIRED COURT REPORTER?

4 JUROR GROOMS: YES, I AM.

5 THE COURT: FROM WHERE?

6 JUROR GROOMS: CHARLESTON AIR FORCE BASE.

7 THE COURT: OH. THANK YOU VERY MUCH, MS.

8 GROOMS. I'M GOING TO EXCUSE YOU. SHARON KENNEDY, RIC
9 LAWHON. NOW, IS THERE ANY MEMBER OF THE JURY PANEL --
10 I NOTICE THERE'S SOME POLICE OFFICERS ON THERE. IS
11 THERE ANY MEMBER OF THE JURY PANEL WHO FEELS YOU WOULD
12 GIVE A POLICE OFFICER'S TESTIMONY MORE WEIGHT THAN YOU
13 WOULD AN ORDINARY PERSON JUST BECAUSE THEY'RE POLICE
14 OFFICERS? IF SO, PLEASE STAND.

15 NOW, I'M GOING TO LET THE ATTORNEYS STAND UP
16 AND THEY'RE GOING TO INTRODUCE THEMSELVES AND I WANT TO
17 KNOW IF ANY MEMBER OF THE JURY PANEL IS CONNECTED IN
18 ANY WAY, BLOOD OR MARRIAGE, BUSINESS OR SOCIAL, WITH
19 EITHER OF THE ATTORNEYS, ANY MEMBERS OF THEIR STAFF OR
20 OFFICE. I'LL START OFF WITH YOU, MR. RUNYON.

21 MR. RUNYON: BILL RUNYON. I PRACTICE LAW IN
22 CHARLESTON WITH WILLIAM STEWART AND ELLIOTT BARNWELL.

23 MR. LEIENDECKER: MY NAME IS MARK
24 LEIENDECKER. I PRACTICE LAW IN SUMMERVILLE WITH THE
25 ROSE LAW FIRM. MIKE ROSE IS MY PARTNER.

1 THE COURT: ALL RIGHT. ANY MEMBER OF THE
2 JURY PANEL EVER USED THEM IN THE PAST AS ATTORNEYS OR
3 PRESENTLY USING THEM? IF SO, PLEASE STAND. ALL
4 RIGHT. NOW, MEMBERS OF THE JURY PANEL, GIVE ME -- HERE
5 IT IS RIGHT HERE. THIS IS THE INDICTMENT. IT'S NOT
6 EVIDENCE. IT'S JUST A PIECE OF PAPER AND IT'S WHAT THE
7 STATE ALLEGES THAT THEY'RE GOING TO PROVE AND IT SAYS
8 THIS. IT SAYS THAT TIMOTHY ROGERS, THAT'S THE
9 DEFENDANT, DID IN DORCHESTER COUNTY ON OR ABOUT
10 NOVEMBER THE 25TH, 1992, FELONIOUSLY, WILLFULLY, AND
11 WITH MALICE AFTERTHOUGHT KILL ONE STEPHANIE B [REDACTED] BY
12 MEANS OF SHOOTING HER IN THE BACK OF THE HEAD WITH A 38
13 CALIBER PISTOL AND THAT THE SAID STEPHANIE B [REDACTED] DID
14 DIE IN CHARLESTON AS A APPROXIMATE RESULT THEREOF ON OR
15 ABOUT THE 26TH DAY OF NOVEMBER, 1992. THAT'S WHAT HE'S
16 PLEADING NOT GUILTY TO.

17 NOW, I DON'T KNOW HOW MUCH, IF ANY, OF THIS
18 INCIDENT WAS IN THE NEWS MEDIA, EITHER ON THE RADIO OR
19 T.V. OR A NEWSPAPER, AND SO I'M GOING TO ASK THAT YOU
20 STAND UP AND TELL ME, IF YOU WILL, IF ANY MEMBER OF THE
21 JURY PANEL KNOW ANYTHING ABOUT THIS CASE, WATCHED IT ON
22 T.V., FOLLOWED IT IN THE NEWSPAPER OR T.V. OR RADIO OR
23 HAVE DISCUSSED IT WITH OTHER PEOPLE. IF SO, PLEASE
24 STAND.

25 ALL RIGHT. NOW, I'M GOING TO START ON THIS

1 SIDE AND I MERELY WANT TO GET YOU TO GIVE ME YOUR
2 NAME. AND WHEN YOU GIVE ME YOUR NAME AND NUMBER, IF
3 YOU KNOW IT, I WANT YOU TO SIT DOWN. YOUR NAME?

4 JUROR JOYNER: DAVID L. JOYNER. I DON'T KNOW
5 MY NUMBER.

6 THE COURT: IT'S NUMBER 115. THANK YOU, MR.
7 JOYNER.

8 JUROR JEFFERSON: CHARLTON JEFFERSON, NUMBER
9 111 (SIC).

10 THE COURT: 111, MR. -- NO, IT'S NOT 111.
11 IT'S -- WHAT JEFFERSON? CHARLTON? IT'S 110. ALL
12 RIGHT, SIR. AND YOUR NAME, YOUNG LADY?

13 JUROR PERRY: ZABRA PERRY, 175.

14 THE COURT: THANK YOU, MS. PERRY. AND I'LL
15 START WITH THIS YOUNG LADY.

16 JUROR GRANT: I'M MELISSA GRANT, NUMBER 80.

17 THE COURT: THANK YOU, MS. GRANT. YOUR
18 NAME?

19 JUROR BARKER: WILLIAM F. BARKER. YOUR
20 HONOR, IS THIS IN REFERENCE OF JUST READING OR HEARING
21 ABOUT THIS OR. . . I MEAN---

22 THE COURT: WELL, I DON'T WANT TO KNOW HOW
23 YOU FEEL ABOUT IT. I DON'T WANT TO KNOW WHAT YOU READ
24 OR WHAT YOU HEARD AT THIS TIME. I JUST WANT TO KNOW
25 WHETHER YOU KNOW ANYTHING ABOUT THIS CASE FROM THE NEWS

1 MEDIA OR DISCUSSED IT WITH ANYONE.

2 JUROR BARKER: SURE, YES, SIR.

3 THE COURT: AND YOUR NAME WAS BARKER?

4 JUROR BARKER: YES, SIR, WILLIAM F. BARKER

5 010.

6 THE COURT: THANK YOU, MR. BARKER.

7 JUROR BARKER: YOU'RE WELCOME.

8 THE COURT: AND YOUR NAME?

9 JUROR BRIGHT: THOMAS BRIGHT, 26 (SIC).

10 THE COURT: NO, IT'S NOT 26. IT'S -- THOMAS
11 BRIGHT. IT'S NUMBER 28, MR. BRIGHT. THANK YOU. I'M
12 GOING TO START BY THE ROWS GOING BACK. THE FIRST ROW,
13 YOUR NAME?

14 JUROR KING: REGINA KING.

15 THE COURT: YES, MA'AM.

16 JUROR CROXTON: MY NAME? I'M SORRY. PAMELA
17 CROXTON AND MY NUMBER IS 049.

18 THE COURT: MS. CROXTON, THANK YOU VERY
19 MUCH.

20 JUROR REED: DEXTER REED, 185.

21 THE COURT: 1 WHAT?

22 JUROR REED: 185.

23 THE COURT: THANK YOU, MR. REED.

24 JUROR LOTT: WILLIAM LOTT, 137.

25 THE COURT: THANK YOU, MR. LOTT. AND

1 INCIDENTALLY, STATE AND MR. RUNYON, IF FOR ANY REASON
2 I'M GOING TOO FAST, LET ME KNOW. ALL RIGHT, SIR. YOUR
3 NAME?

4 JUROR HARRINGTON: TERRY HARRINGTON, 93.

5 THE COURT: MR. HARRINGTON? THANK YOU.

6 JUROR HARRINGTON: YES, SIR.

7 JUROR LEMON: MORRIS LEMON.

8 THE COURT: WHAT NUMBER?

9 JUROR LEMON: MORRIS LEMON. I DON'T KNOW THE
10 NUMBER.

11 THE COURT: YOUR LAST NAME IS?

12 JUROR LEMON: LEMON.

13 THE COURT: LEMON?

14 JUROR LEMON: YEAH.

15 THE COURT: NUMBER 133. THANK YOU, SIR.

16 JUROR MERRIMAN: BONNIE MERRIMAN, NUMBER 151.

17 THE COURT: THANK YOU, MS. MERRIMAN.

18 JUROR DANGERFIELD: CHRISTINE DANGERFIELD,
19 NUMBER 55.

20 THE COURT: THANK YOU, MS. DANGERFIELD.

21 JUROR WESTBURY: MIRIAM WESTBURY, NUMBER 250.

22 THE COURT: NUMBER WHAT?

23 JUROR WESTBURY: 250.

24 THE COURT: THANK YOU, MS. WESTBURY.

25 JUROR TAYLOR: ROBIN TAYLOR, NUMBER 229.

1 THE COURT: THANK YOU, MS. TAYLOR.

2 JUROR CRUMPLER: CHARLES CRUMPLER, 50.

3 THE COURT: THANK YOU.

4 JUROR NORTON: NED NORTON, 171.

5 JUROR MATTHEWS: BRENDA MATTHEWS.

6 THE COURT: HOLD IT JUST A MINUTE. IT TAKES

7 A LITTLE WHILE TO FIND THESE. THANK YOU, MR. NORTON.

8 JUROR MATTHEWS: BRENDA MATTHEWS, NUMBER 143.

9 THE COURT: 123?

10 JUROR MATTHEWS: 143.

11 THE COURT: 143. MS. MATTHEWS.

12 JUROR LUTTRELL: DON LUTTRELL, 139.

13 THE COURT: THANK YOU.

14 JUROR REARICK: MILDRED REARICK, 184.

15 THE COURT: 184?

16 JUROR REARICK: YES, SIR.

17 THE COURT: MS. REARICK, THANK YOU VERY MUCH.

18 JUROR BALCERZAK: PATRICIA BALCERZAK. I

19 BELIEVE THE NUMBER IS 7 (SIC).

20 THE COURT: YOUR NAME WAS. . . NO, I BELIEVE

21 THAT'S 6, ISN'T IT? BALCERZAK?

22 JUROR BALCERZAK: YES, SIR.

23 THE COURT: THANK YOU. THAT'S NUMBER 6.

24 THANK YOU VERY MUCH.

25 JUROR MURPHREE: BRIAN MURPHREE, 164.

1 THE COURT: MR. MURPHREE, THANK YOU.

2 JUROR INFINGER: JAMES INFINGER, 107.

3 THE COURT: MR. INFINGER.

4 JUROR MCFALLS: DEBRA MCFALLS, 148.

5 THE COURT: MS. MCFALLS.

6 JUROR MURRAY: SIDNEY MURRAY, 166.

7 THE COURT: WHAT NUMBER?

8 JUROR MURRAY: 166.

9 THE COURT: OH, 166. MS. MURRAY.

10 JUROR CARN: JERVEY CARN, 39.

11 THE COURT: CARTER?

12 JUROR CARN: CARN.

13 THE COURT: MR. CARN.

14 JUROR GRANT: BENJAMIN GRANT, NUMBER 79.

15 THE COURT: MR. GRANT.

16 JUROR HAYNES: SAMUEL HAYNES, 96.

17 THE COURT: MR. HAYNES.

18 JUROR FORD: PATRICIA FORD, 71.

19 THE COURT: MS. FORD, THANK YOU.

20 JUROR PHIBBS: MARIE PHIBBS. I DON'T

21 REMEMBER MY NUMBER.

22 THE COURT: WHAT NUMBER?

23 JUROR PHIBBS: MARIE PHIBBS. I DON'T

24 REMEMBER THE NUMBER.

25 THE COURT: PHIPPS?

1 JUROR PHIBBS: PHIBBS, P-H-I-B-B-S.

2 THE COURT: NUMBER 178. THANK YOU.

3 JUROR MIZZELL: GARY MIZZELL, 159.

4 THE COURT: MR. MIZZELL.

5 JUROR DANDRIDGE: STANLEY DANDRIDGE, 59.

6 (SIC).

7 THE COURT: NUMBER WHAT?

8 JUROR DANDRIDGE: 59.

9 THE COURT: IS THAT DONALD DONOFRIO?

10 JUROR DANDRIDGE: NO, DANDRIDGE.

11 THE COURT: WHAT NUMBER?

12 MR. BAILEY: 54.

13 THE COURT: OH. THANK YOU.

14 JUROR MUCKENFUSS: SIR, WOULD YOU PLEASE ADD
15 MY NAME, ALSO? MARJORIE MUCKENFUSS.

16 THE COURT: AND DO YOU KNOW YOUR NUMBER, MS.
17 MUCKENFUSS?

18 JUROR MUCKENFUSS: NO, I DON'T.

19 THE COURT: JUST A MINUTE. YOU'RE NUMBER
20 163. THANK YOU. ANYONE ELSE?

21 JUROR SMITH: YEAH, ANTHONY SMITH, 215.

22 THE COURT: I BELIEVE YOU TOLD ME THAT YOU
23 KNEW THE DEFENDANT. IS THAT CORRECT?

24 JUROR SMITH: YES, SIR.

25 THE COURT: IN WHAT WAY DO YOU KNOW HIM?

1 JUST AS A FRIEND OR MEMBER OF THE FAMILY OR. . .

2 JUROR SMITH: AS A FRIEND.

3 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

4 HAVE A SEAT. ANYONE ELSE? NOW, I DON'T WANT TO KNOW
5 THOSE WHO HAVE ALREADY STOOD UP HOW YOU FEEL OR WHAT
6 YOU KNOW. THIS IS A QUESTION FOR -- OTHER THAN THOSE
7 WHO STOOD UP, DOES ANY MEMBER OF THE JURY PANEL KNOW OF
8 ANY REASON WHY THEY COULD NOT GIVE BOTH SIDES A FAIR
9 TRIAL? IF SO, PLEASE STAND. ALL RIGHT. ANYTHING ELSE
10 FROM THE PLAINTIFF -- FROM THE STATE?

11 MR. BAILEY: NOTHING FROM THE STATE, YOUR
12 HONOR.

13 THE COURT: AT THIS TIME. ANYTHING FROM THE
14 DEFENSE?

15 MR. RUNYON: NOTHING FURTHER AT THIS TIME,
16 YOUR HONOR.

17 THE COURT: AT THIS TIME. NOW, MEMBERS OF
18 THE JURY PANEL, LET ME TELL YOU WHAT THIS -- I'VE
19 ALREADY TOLD YOU WHAT THIS CASE IS ABOUT. LET ME TELL
20 YOU HOW I'M GOING TO PROCEED. I NEED TO -- I NEED TO
21 QUALIFY ABOUT 36, 37 JURORS AND HERE'S HOW I'M GOING TO
22 DO IT. I'M GOING TO DRAW AS MANY AS I THINK WE CAN
23 TALK PRIVATELY TO. IN OTHER WORDS, EACH JUROR IS GOING
24 TO COME INTO THE COURTROOM OR SOME CHAMBERS, WHEREVER I
25 MIGHT BE, AND EACH SIDE AND MYSELF WILL GET TO ASK YOU

1 SOME QUESTIONS AND YOU'LL JUST ANSWER THEM AS BEST YOU
2 CAN, AND THEN I MIGHT QUALIFY YOU OR I MIGHT NOT
3 QUALIFY YOU.

4 THEN I'M GOING TO EXCUSE THAT PERSON AND IF
5 THAT PERSON IS QUALIFIED, THEN I WOULD SEND THAT PERSON
6 HOME. THAT WOULD JUST MEAN THAT YOU'D BE QUALIFIED.
7 DOESN'T MEAN YOU'RE GOING TO SERVE ON THE JURY. WHEN I
8 TALK TO ENOUGH PEOPLE AND THE ATTORNEYS HAVE A CHANCE
9 TO TALK TO YOU, TOO, TO WHERE I CAN GET ABOUT 35, 36,
10 37 JURORS, THEN I'D BRING THOSE JURORS IN THE COURTROOM
11 AND WE'D DRAW A JURY BY HAVING YOUR NAME CALLED OUT OF
12 THIS LITTLE CYLINDER OVER HERE. BE MAKING ME A LIST,
13 MADAM CLERK, PLEASE. DO YOU HAVE ANY OBJECTION, THE
14 STATE OR DEFENSE, IN THE CLERK DRAWING OUT THE NAMES?

15 MR. BAILEY: NONE FROM THE STATE, YOUR HONOR.

16 MR. RUNYON: I THINK IT'S STATUTORILY
17 PERMISSIBLE, YOUR HONOR.

18 THE COURT: THANK YOU VERY MUCH. THE REASON
19 I SAID THAT IS IN OLDEN TIMES AND EVEN TODAY PEOPLE WHO
20 CAN'T READ OR WRITE, USUALLY CHILDREN, DRAW THOSE NAMES
21 OUT OF THERE. BUT BE THAT AS IT MAY, AS SOON AS I GET
22 THAT MANY QUALIFIED AND IT PROBABLY -- IT MIGHT TAKE A
23 COUPLE OF DAYS TO DO THAT. IN THE MEANTIME, ALL OF YOU
24 DON'T HAVE TO BE HERE. I'M GOING TO DRAW A LIST OF
25 JURORS, A SERIES OF NUMBERS, AND FOR INSTANCE I MIGHT

1 TELL TEN OR FIFTEEN OF YOU TO COME IN THIS AFTERNOON.
2 I MIGHT TELL ANOTHER TEN TO COME IN TOMORROW MORNING.
3 I MIGHT TELL ANOTHER TEN TO COME TOMORROW AFTERNOON.
4 DEPENDS ON HOW FAST WE'RE WORKING.

5 IN THE MEANTIME I'LL EXCUSE YOU AND SEND YOU
6 HOME AND LET YOU GO ABOUT YOUR BUSINESS AND I'LL TELL
7 YOU A SPECIFIC TIME TO COME. THAT'S THE WAY WE'RE
8 GOING TO OPERATE. LET ME SEE THE ATTORNEYS HERE JUST A
9 MINUTE.

10 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

11 THE COURT: NOW, MEMBERS OF THE JURY PANEL,
12 WHAT WE'RE DOING, WE'RE TRYING TO FIGURE OUT A WAY
13 WHERE WE DON'T KEEP Y'ALL IN THE COURTROOM AND THAT'S
14 WHAT WE'RE DOING. NOW, WHAT I'M GOING TO ASK THE CLERK
15 TO DO -- I'M GOING TO RECESS COURT NOW AND I'M GOING TO
16 ASK YOU TO BE BACK AT 2:00. AT 2:00 I'LL HAVE THREE
17 LISTS. I'LL HAVE A LIST OF TEN -- FIFTEEN PEOPLE TO
18 WORK THIS AFTERNOON, FIFTEEN JURORS.

19 THEN THE REST OF YOU ARE EXCUSED EXCEPT
20 ANOTHER LIST WILL BE FOR TOMORROW MORNING AT 9:30 AND
21 THEN ANOTHER LIST WILL BE FOR TOMORROW AFTERNOON AT
22 2:00? PERHAPS WE CAN GET A JURY OUT OF THAT LIST, BUT
23 BE THAT AS IT MAY, I'M GOING TO EXCUSE YOU AT THIS TIME
24 AND ASK YOU TO BE -- AND, INCIDENTALLY, YOU KNOW WE GOT
25 GREAT NEWS MEDIA IN SOUTH CAROLINA, BUT VERY OFTEN THEY

1 CAN'T GET ALL THE INFORMATION OR PERHAPS THEY MIGHT GET
2 IT NOT IN THE ORDER THAT IT OCCURRED OR PERHAPS MAKE
3 SOME MISTAKE IN TAKING INFORMATION FROM THIRD PARTIES.

4 SO, I'M GOING TO ASK YOU: AT LEAST UNTIL I
5 TELL YOU YOU CAN, I DON'T WANT YOU TO READ A NEWSPAPER,
6 WATCH T.V. OR LISTEN TO THE RADIO. IT'S VERY
7 IMPORTANT. IN ADDITION, EVEN THOUGH YOU HAVEN'T BEEN
8 DRAWN ON THE JURY, DON'T DISCUSS THIS CASE. DON'T LET
9 ANYBODY DISCUSS IT IN FRONT OF YOU. IF SOMEBODY
10 ATTEMPTS TO DO SO, TELL ME ABOUT IT AND I'LL TAKE CARE
11 OF IT FOR YOU. HOPE YOU HAVE A GOOD LUNCH. I'M GOING
12 TO ASK THAT YOU BE BACK IN THE COURTROOM AT 2:00. THAT
13 WILL GIVE YOU AN HOUR AND FIFTEEN MINUTES.

14 (WHEREUPON, THE JURY PANEL WAS EXCUSED TO GO
15 TO LUNCH.)

16 THE COURT: COURT'S IN RECESS UNTIL 2:00.
17 HAVE A GOOD LUNCH.

18 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

19 THE COURT: THANK YOU VERY MUCH. BE SEATED.
20 NOW, MEMBERS OF THE JURY PANEL, LET ME TELL YOU A
21 LITTLE BIT ABOUT HOW THE SYSTEM WORKS. THERE'S SO MANY
22 OF YOU WHO -- BRING ME. . .

23 BAILIFF: THEY HAVE GONE TO GET HIM, YOUR
24 HONOR.

25 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

1 LET ME TELL YOU A LITTLE BIT OF HOW THE SYSTEM WORKS
2 AND I'LL BE TELLING YOU MORE ABOUT IT LATER. WHAT
3 HAPPENS AT A TRIAL OF THIS TYPE, THERE ARE TWO PHASES
4 TO IT. IN THE FIRST PLACE WHAT'S GOING TO OCCUR IS THE
5 SOLICITOR IS GOING TO GET UP AND MAKE AN OPENING
6 STATEMENT. THEN IT WILL BE FOLLOWED BY THE DEFENDANT'S
7 ATTORNEY AND THEN EACH SIDE GETS THE RIGHT TO PUT UP
8 WITNESSES. I'M JUST GIVING YOU A LITTLE BRIEF SKETCH
9 OF WHAT OCCURS. THEN WHEN EACH SIDE EXAMINES WITNESSES
10 -- I TELL YOU WHAT. I THINK I'LL JUST WAIT UNTIL THE
11 DEFENDANT COMES IN. BEAR WITH ME JUST A MOMENT OR
12 TWO.

13 (PAUSE IN PROCEEDINGS)

14 BAILIFF: ARE YOU READY, YOUR HONOR?

15 THE COURT: PLEASE.

16 (WHEREUPON, THE DEFENDANT ENTERED THE
17 COURTROOM.)

18 THE COURT: I WAS TELLING YOU WHAT OCCURS
19 DURING A TRIAL AND I HAD TOLD YOU THAT THE SOLICITOR
20 MAKES AN OPENING STATEMENT, FOLLOWED BY THE ATTORNEY'S
21 OPENING STATEMENT. THEN THE PARTIES PUT UP THEIR
22 WITNESSES AND THEN EACH SIDE GETS THE RIGHT TO EXAMINE
23 THOSE WITNESSES. AND FOR THOSE JURORS WHO ARE DRAWN TO
24 TRY THIS CASE, I'LL BE TELLING YOU THIS SAME THING
25 EXCEPT IN A LITTLE MORE DETAIL, BUT I WANTED TO TELL

JURY VOIR DIRE

1 YOU THIS PORTION OF IT AT THIS TIME BECAUSE IT'S SO
2 IMPORTANT THAT WE GET GOOD, FAIR JURORS.

3 JURORS IN THE TRIAL OF A CASE LIKE THIS ARE
4 THE MOST IMPORTANT PEOPLE IN THE COURTROOM BECAUSE THEY
5 TRY -- THEY DECIDE FACTS. AS DECIDING FACTS, JURORS
6 DETERMINE THE CREDIBILITY, THE BELIEVABILITY OF THE
7 WITNESSES. I CAN'T AS A JUDGE INTIMATE IN ANY WAY HOW
8 I FEEL ABOUT A CASE. THAT'S A JURY'S JOB TO DECIDE WHO
9 TO BELIEVE OR WHO NOT TO BELIEVE, WHAT PORTION TO
10 BELIEVE OR NOT BELIEVE, IN OTHER WORDS, THE
11 BELIEVABILITY OF THAT WITNESS.

12 ALL I'LL DO IS PRESIDE AT THE TRIAL AND TELL
13 YOU WHAT THE LAW IS. FOR INSTANCE, I MIGHT RULE IN
14 FAVOR OF ONE SIDE OR ANOTHER. DOESN'T MEAN THAT I HAVE
15 A FEELING ABOUT THE CASE. IT JUST MEANS THAT I MUST
16 RULE ACCORDING TO THE LAW. NOW, I JUST GIVE YOU THAT
17 INFORMATION BECAUSE WE'RE GOING INTO ANOTHER PHASE OF
18 THE TRIAL IN JUST A FEW MOMENTS AND I WANTED YOU TO
19 UNDERSTAND THAT PORTION OF IT, HOW A TRIAL OPERATES.

20 NOW, IN THIS TYPE CASE IN WHICH THE SOLICITOR
21 IS SEEKING THE DEATH PENALTY, IT WILL BE IN TWO
22 PHASES. AS YOU KNOW, ORDINARILY A JURY DETERMINES
23 WHETHER OR NOT A PERSON IS GUILTY OR NOT GUILTY, AND
24 WHEN THEY FINISH THAT, THEY'RE THROUGH BECAUSE IT'S UP
25 TO THE JUDGE TO DECIDE THE PENALTY. IN THIS TYPE CASE

1 IT'S DIFFERENT. IN THIS CASE JURORS DECIDE BOTH GUILT
2 OR INNOCENCE AND IF FOUND GUILTY DECIDE WHAT THE
3 PENALTY OUGHT TO BE.

4 NOW, I'M GOING TO BE GIVING YOU SOME MORE
5 DETAILS IN A MOMENT OR TWO ON HOW WE'RE GOING TO
6 PROCEED, BUT THAT JUST GIVES YOU A LITTLE IDEA OF WHAT
7 IS ABOUT TO OCCUR. AT THIS TIME I'VE ASKED THE CLERK
8 -- INCIDENTALLY, GENTLEMEN, I JUST WANT TO JUST ASK
9 YOU ONE THING. THE CLERK, AS YOU KNOW, HAS DRAWN THREE
10 LISTS INDISCRIMINATELY: A LIST FOR THIS AFTERNOON, ONE
11 FOR TOMORROW MORNING, AND ONE FOR TOMORROW AFTERNOON.
12 UP TO THIS POINT, ARE THERE ANY OBJECTIONS FROM THE
13 STATE ON HOW THIS HAS PROCEEDED?

14 MR. BAILEY: NONE FROM THE STATE, YOUR HONOR.

15 THE COURT: FROM THE DEFENSE?

16 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
17 HONOR.

18 THE COURT: ALL RIGHT. FINE. NOW, THE CLERK
19 IS GOING TO CALL YOUR NAME OF THE FIRST FIFTEEN
20 PEOPLE. THIS DOESN'T MEAN THAT YOU'RE GOING TO SERVE
21 ON THE JURY. IT JUST MEANS THAT THIS IS THE ORDER IN
22 WHICH WE'RE GOING TO EXAMINE YOU. THEN SHE'S GOING TO
23 CALL THE NAMES OF THE NEXT TWENTY. THOSE ARE THE ONES
24 THAT I WANT TO BE HERE TOMORROW MORNING AT 9:30 AND
25 I'LL BE TELLING YOU WHERE TO REPORT OR THE BAILIFFS

1 WILL SHOW YOU THE ROOM BACK THERE, AND THEN I'M GOING
2 TO DRAW ANOTHER LIST OR THE CLERK HAS DRAWN ANOTHER
3 LIST OF TWENTY NAMES FOR TOMORROW AFTERNOON.

4 AND WHAT'LL HAPPEN IS THIS AFTERNOON I'LL PUT
5 MY FIFTEEN JURORS BACK IN THAT ROOM BACK THERE AND
6 WE'LL DRAW THEM -- BRING THEM OUT ONE AT A TIME. EACH
7 SIDE GETS A RIGHT TO ASK YOU SOME QUESTIONS. I'LL BE
8 ASKING YOU SOME QUESTIONS AND EXPLAINING CERTAIN THINGS
9 TO YOU. AND THEN DEPENDING UPON WHETHER YOU'RE
10 QUALIFIED OR NOT, I'LL TELL YOU WHEN TO COME BACK OR
11 THAT YOU'RE EXCUSED.

12 NOW, I WANT TO IMPRESS UPON ALL OF YOU AT
13 THIS TIME NOT TO DISCUSS THIS CASE WITH ANYONE. DON'T
14 READ THE NEWSPAPER OR WATCH T.V. OR ANYTHING, AND IF
15 YOU KNOW ANYTHING ABOUT THIS CASE, WE'LL BE FINDING
16 THAT OUT WHEN WE DISCUSS ALL OF THIS TO YOU
17 INDIVIDUALLY. SO, EVEN THOUGH SOME OF YOU HAVE MADE
18 SOME REMARKS ABOUT WHO YOU KNOW OR WHAT YOU KNOW ABOUT
19 THE CASE, WE'LL BE ABLE TO DISCUSS IT WITH YOU IN SOME
20 DETAIL PRIVATELY.

21 SO, AT THIS TIME I'M GOING TO ASK THE CLERK
22 TO GIVE ME THE FIRST FIFTEEN NAMES AND I WANT YOU TO,
23 AS YOUR NAME IS CALLED, COME RIGHT UP HERE. COME
24 RIGHT -- THIS GENTLEMAN HERE, HE'S GOING TO CARRY YOU
25 RIGHT THROUGH THAT DOOR AND PUT YOU IN A ROOM BACK

1 THERE. THEN AS SHE CALLS THE SECOND LIST, I WANT YOU
2 TO JUST STAND UP AS YOUR NAME IS CALLED AND I'LL EXCUSE
3 YOU AND YOU'LL BE THE ONES THAT COME BACK TOMORROW
4 MORNING. THE SAME THING FOLLOWED BY TOMORROW
5 AFTERNOON'S LIST AND THE REST OF YOU ARE EXCUSED, BUT I
6 WANT YOU TO CALL AND THE CLERK IS GOING TO GIVE YOU THE
7 TELEPHONE NUMBER. I WANT YOU TO CALL AFTER 6:00
8 TOMORROW AND IT WILL GIVE YOU SOME INSTRUCTIONS, EITHER
9 TO REPORT THE FOLLOWING MORNING OR I'LL EXCUSE YOU FOR
10 THREE YEARS. ALL RIGHT, MADAM CLERK.

11 THE CLERK: RICHARD A. GRUBER, NUMBER 85.

12 THE COURT: JUST KEEP CALLING.

13 THE CLERK: JOYCE A. BALL, NUMBER 7. MARY E.
14 SMITH, NUMBER 218. BENJAMIN GRANT, NUMBER 79. DOTTIE
15 A. WHATLEY, NUMBER 251. MILDRED E. KNIGHT, NUMBER
16 120. JAMES M. BROOKS, NUMBER 30. LAURA E. TYSON,
17 NUMBER 238. PATRICIA BALCERZAK, NUMBER 6. JERVEY
18 CARN, NUMBER 39. JAMES D. VAUGHAN, NUMBER 241.
19 JOHNNIE HUGHES, NUMBER 103. ROMEO R. SANPEDRO, NUMBER
20 202. REBADELL B. AHL, NUMBER 4. AND RICHARD C.
21 GARRETT, NUMBER 76.

22 THE COURT: ALL RIGHT. NOW, THESE I WANT YOU
23 TO STAND AND AS SOON AS YOU STAND YOU CAN SIT BACK DOWN
24 AGAIN. THESE ARE THE ONES I WANT TO REPORT TOMORROW
25 MORNING AT 9:30. GO AHEAD. AND YOU'LL REPORT RIGHT

1 BACK IN THE LOBBY BACK HERE AND SOMEONE WILL BE THERE
2 TO TELL YOU WHERE TO GO.

3 THE CLERK: JEFFREY D. HARE, NUMBER 89.
4 JAMES L. MANN, NUMBER 140. ROBERT N. MIMS, NUMBER
5 156. LESLIE B. LANE, NUMBER 124. RICARDO RIVERA,
6 NUMBER 195. REGINA H. KING, NUMBER 118. JAMES L.
7 BEASLEY, NUMBER 14. JOSEPH D. STUBBS, NUMBER 226.

8 THE COURT: IF YOU'D RATHER, YOU CAN JUST
9 HOLD UP YOUR HANDS. I JUST WANT TO BE SURE YOU HEAR
10 YOUR NAME.

11 THE CLERK: LINDA H. TANNER, NUMBER 228.
12 NANCY J. LANGENSTEIN, NUMBER 126. DEXTER A. REED,
13 NUMBER 1895. PEGGY A. MURRAY, NUMBER 165. VIRGINIA V.
14 MORRIS, NUMBER 161. ANDREW L. POPE, NUMBER 180.
15 VICKIE KASPAR, NUMBER 117. JOHN H. PHILLIPS, JR.,
16 NUMBER 179. SHEILA SAMUEL, NUMBER 200. ALFREDA L.
17 ADDISON, NUMBER 3. JENNIFER G. BROOKS, NUMBER 31. AND
18 CHERYL L. HUTTO, NUMBER 105.

19 THE COURT: ALL RIGHT. THOSE ARE TO REPORT
20 TOMORROW MORNING AT 9:30. NOW, GIVE ME THE OTHER --
21 KEEP YOUR SEAT THERE FOR A MINUTE. NOW, GIVE ME THE
22 NEXT LIST TO REPORT TOMORROW AT 2:00.

23 THE CLERK: JOYCE F. NORRIS, NUMBER 170.
24 LASHONE---

25 THE COURT: HOLD IT A MINUTE.

1 THE CLERK: LASHONE ROLACK, NUMBER 197.
2 BONNIE B. MERRIMAN, NUMBER 151. MELVA R. JENNINGS,
3 NUMBER 112. SANDRA BOYD, NUMBER 25. HARVEY M.
4 FERRELL, NUMBER 67. THOMAS J. BRIGHT, NUMBER 28.
5 HELENE P. FLOYD, NUMBER 70. BONNIE J. DAN, NUMBER 53.
6 MARJORIE MUCKENFUSS, NUMBER 163. JAMES R. HOWELL,
7 NUMBER 102. BERGEN F. BERKAW, JR., NUMBER 16. BARBARA
8 MISSROOM, NUMBER 157. SIDNEY C. MURRAY, NUMBER 166.
9 BRIAN L. WARD, NUMBER 243. DONNA B. DILLON, NUMBER
10 58. BETTY C. STRICKLAND, NUMBER 225. MIRIAM WESTBURY,
11 NUMBER 250. RONALD M. LARY, NUMBER 128. AND GENE A.
12 SIMMONS, NUMBER 211.

13 THE COURT: NOW, THOSE REPORT TOMORROW AT
14 2:00 AND YOU'LL REPORT BACK HERE TO THE LOBBY. SOMEONE
15 WILL BE BACK THERE TO TELL YOU WHERE TO GO. THE REST
16 OF YOU ARE EXCUSED TODAY AND TOMORROW. I'M GOING TO
17 ASK THAT YOU CALL -- WHERE IS THAT NUMBER, MADAM
18 CLERK? ALL RIGHT. AS YOU GO OUT THE DOOR AND I ASK
19 THAT YOU ALL GO OUT -- WELL, I DON'T KNOW. IT MIGHT
20 TAKE A MINUTE OR TWO. SHE'S GOING TO OPEN THOSE DOORS
21 FOR YOU SO YOU CAN GO OUT AND TAKE ONE OF THOSE SLIPS
22 OF PAPER. CALL THAT NUMBER AFTER 6:00 TOMORROW AND IT
23 WILL GIVE YOU A MESSAGE.

24 IF WE HAVE ENOUGH JURORS FROM THOSE WE'VE
25 DRAWN, THAT MESSAGE WILL BE THAT I'LL EXCUSE YOU FOR

1 THE NEXT THREE YEARS. YOU WON'T HAVE TO COME BACK. IT
2 JUST DEPENDS. THANK YOU VERY MUCH AND HAVE A GOOD
3 AFTERNOON.

4 (WHEREUPON, ALL JURORS, WITH THE EXCEPTION OF
5 JUROR PERRY, WERE EXCUSED FROM OPEN COURT.)

6 THE COURT: COME ON, MS. PERRY, COME RIGHT
7 AROUND. YOU CAN COME RIGHT HERE IF YOU'D LIKE.

8 (WHEREUPON, JUROR PERRY AND THE COURT HAVE AN
9 OFF-THE-RECORD DISCUSSION.)

10 MR. BAILEY: BILL?

11 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

12 THE COURT: ALL RIGHT. FOR THOSE OF YOU WHO
13 ARE IN THE COURTROOM AND ARE INTERESTED IN THIS CASE,
14 I'M GOING TO ASK THAT YOU DO ONE THING FOR ME. WE'RE
15 GOING TO HAVE THESE JURORS UP HERE AND WE'RE GOING TO
16 BE ASKING QUESTIONS ABOUT IT AND I REALIZE THAT YOU
17 MIGHT HAVE SOME FEELINGS ABOUT THIS. SO, I'M GOING TO
18 ASK THAT YOU NOT MAKE ANY FACIAL EXPRESSIONS OR
19 ANYTHING AND AS I KNOW YOU WON'T DO IT. ALSO, I DON'T
20 WANT ANYBODY IN OR OUT OF THE COURTROOM EXCEPT BETWEEN
21 TIMES. IN OTHER WORDS, IF A JUROR COMES UP AND HAS A
22 SEAT AND WE'RE ASKING SOME QUESTIONS, I DON'T WANT
23 ANYBODY TO GET UP AND LEAVE OR ANYBODY TO COME IN WHILE
24 THAT'S GOING ON. ANYBODY CAN LEAVE OR COME IN AT THE
25 TIME WE FINISH WITH A JUROR. ALL RIGHT. GIVE ME

1 RICHARD GRUBER. ARE YOU GOING TO HANDLE IT?

2 FROM THE COURTROOM: YES, SIR.

3 THE COURT: GOOD. RICHARD GRUBER.

4 (JUROR RICHARD GRUBER ENTERS THE COURTROOM.)

5 THE COURT: HEY, MR. GRUBER. PUT YOUR LEFT
6 HAND -- WHERE IS THE BIBLE? NOW, YOU CAN PUT IT RIGHT
7 -- GO AHEAD. PUT YOUR LEFT HAND ON THE BIBLE AND
8 RAISE YOUR RIGHT HAND.

9 RICHARD A. GRUBER, AFTER BEING DULY
10 SWORN, TESTIFIED AS FOLLOWS:

11 THE COURT: HAVE A SEAT, PLEASE. IT DOESN'T
12 REALLY MAKE ANY DIFFERENCE AT ALL. IF YOU FEEL LIKE
13 STAYING, FINE. IF YOU FEEL LIKE YOU WANT ME TO SWEAR
14 THE WITNESSES AND YOU'VE GOT SOMETHING TO DO, I'LL BE
15 GLAD TO DO IT, WHICHEVER ONE YOU ALL PREFER. I WILL
16 TELL YOU, THOUGH, THIS FOR YOUR INFORMATION.

17 THE CLERK: YOU NEED ONE---

18 THE COURT: I NEED ONE OF YOU BECAUSE YOU ALL
19 ARE GOING TO HAVE TO KNOW WHAT'S GOING ON. OKAY?

20 THE CLERK: OKAY.

21 EXAMINATION BY THE COURT

22 Q. WELL, MR. GRUBER, I NOTICE YOU DRIVE A TRUCK
23 FOR PEARLSTEIN (PHONETIC)?

24 A. YES, SIR.

25 Q. HE'S PUT A BIG HOLDING PLANT DOWN THERE IN

1 JASPER COUNTY. I WAS JUST LOOKING OVER THIS LIST HERE
2 THAT YOU SENT IN AND I'M NOT FAMILIAR WITH THIS
3 PARTICULAR ONE AND SO I WAS REALLY LOOKING ON THERE TO
4 SEE IF YOU EVER SERVED ON A JURY BEFORE. HAVE YOU?

5 A. NO, YOUR HONOR.

6 Q. HERE IT IS RIGHT HERE. ALL RIGHT. SO, YOU
7 DON'T KNOW TOO MUCH ABOUT THE SYSTEM THEN, DO YOU?

8 A. NO, SIR.

9 Q. WELL, I WAS TELLING YOU ALL A LITTLE BIT
10 ABOUT HOW THE SYSTEM HAPPENS, WHAT OCCURS. AND I
11 NOTICE YOU WASN'T ONE OF THOSE WHO LISTED THAT YOU KNEW
12 ANYTHING ABOUT THE CASE. DID YOU KNOW ANYTHING ABOUT
13 THE CASE?

14 A. NO. I REALLY DON'T PAY ATTENTION TO THE
15 NEWS.

16 Q. YOU'RE WORKING HARD.

17 A. YES, SIR. THE TIME I GET OFF, IT'S USUALLY
18 8:00 OR 9:00 AT NIGHT SOMETIMES.

19 Q. ALL RIGHT. YEAH, I CAN UNDERSTAND THAT. SO,
20 YOU DON'T KNOW OF ANY REASON WHY YOU COULDN'T GIVE BOTH
21 THE STATE AND THE DEFENSE A FAIR TRIAL, DO YOU?

22 A. HUH-UH.

23 Q. WELL, AS I WAS TELLING YOU ALL, ORDINARILY IN
24 A CASE A JURY DECIDES WHETHER A PERSON IS GUILTY OR
25 NOT, THE SAME THING THAT WOULD OCCUR IN THIS CASE. IF

1 WE DREW TWELVE JURORS OVER THERE -- I'M GOING TO REALLY
2 DRAW FOURTEEN SO WE CAN HAVE SOME ALTERNATE JURORS IN
3 CASE SOMEBODY BECOMES INCAPACITATED. IF THEY FIND HIM
4 NOT GUILTY OF MURDER, THEN THAT WOULD END THE
5 PROCEEDINGS. BUT IF THEY FIND HIM GUILTY, THEN WE GO
6 INTO ANOTHER PHASE OF THE TRIAL CALLED THE GUILT (SIC)
7 PHASE AND THEN A JURY DECIDES WHETHER OR NOT HE'S TO
8 LIVE OR DIE. DID YOU KNOW THAT?

9 A. HUH-UH.

10 Q. WELL, IT'S A LITTLE DIFFERENT FROM AN
11 ORDINARY CASE. YOU TELL ME YOU'VE NEVER SERVED ON A
12 JURY BEFORE. SO, WHEN WE START DRAWING JURORS LIKE
13 THIS, EACH SIDE GETS THE RIGHT TO ASK YOU SOME
14 QUESTIONS AND WHEN I GET THROUGH WITH WHAT I'M TELLING
15 YOU NOW THEY'LL BE ABLE TO ASK YOU SOME QUESTIONS. BUT
16 BEFORE WE DO THAT, I'LL TELL YOU WHEN WE BRING JURORS
17 LIKE YOU IN HERE AND WE ASK THEM QUESTIONS, THEY
18 GENERALLY FALL WITHIN ONE OF THREE CATEGORIES AND I'M
19 GOING TO TELL YOU THOSE CATEGORIES AND WHEN I GET
20 THROUGH I WANT YOU TO TELL ME WHICH ONE BEST FITS YOU.

21 THE FIRST CATEGORY IS THE TYPE JUROR WHOSE
22 MIND WOULD BE MADE UP, THAT IS, WHO WOULD ALWAYS VOTE
23 FOR THE DEATH PENALTY, AND THEY WOULDN'T BE INTERESTED
24 IN THE SECOND PHASE OF THE TRIAL BECAUSE AT THE SECOND
25 PHASE OF THE TRIAL THERE WILL BE MITIGATION

1 CIRCUMSTANCES AND AGGRAVATING CIRCUMSTANCES. IN OTHER
2 WORDS, THAT SECOND TRIAL IS TO ASSIST THE JURY IN
3 DETERMINING WHICH IS THE APPROPRIATE SENTENCE, LIFE OR
4 DEATH, BECAUSE HE'S CHARGED WITH MURDER AND THE STATE
5 IS ASKING FOR THE DEATH PENALTY. THEY WOULDN'T WANT TO
6 HEAR THAT BECAUSE THEIR MIND WOULD HAVE ALREADY BEEN
7 MADE UP. THEY WOULD ALWAYS VOTE FOR THE DEATH
8 PENALTY. THAT'S NUMBER ONE.

9 NUMBER TWO IS THAT JUROR WHO WOULD BE EXACTLY
10 THE OPPOSITE. THEY ALSO WOULDN'T BE INTERESTED IN THAT
11 SECOND PHASE OF THE TRIAL BECAUSE THEY WOULD NEVER VOTE
12 FOR THE DEATH PENALTY. THEY WOULD ALWAYS VOTE FOR LIFE
13 IMPRISONMENT. AND THEN THERE'S THE THIRD TYPE OF JUROR
14 THAT WOULD TAKE THE POSITION, IF THE JURY FOUND HIM
15 GUILTY, THAT BEFORE THEY SENTENCED HIM TO LIFE OR DEATH
16 THEY WOULD WANT TO KNOW ALL ABOUT HIM. THEY WOULD WANT
17 TO KNOW THE GOOD THINGS AND THE BAD THINGS, THE
18 EXTENUATING CIRCUMSTANCES AND THE AGGRAVATING
19 CIRCUMSTANCES. AND THEN DEPENDENT UPON WHAT THEY
20 HEARD, THEY COULD THEN DECIDE I VOTE FOR LIFE OR I VOTE
21 FOR DEATH. WHICH ONE DO YOU FEEL YOU BEST FIT?

22 A. PROBABLY THE THIRD ONE.

23 Q. IN OTHER WORDS, YOU'D WANT TO HEAR EVERYTHING
24 BEFORE YOU DECIDED WHETHER TO VOTE FOR LIFE OR DEATH.
25 IS THAT CORRECT?

1 A. YES.

2 Q. I FAILED TO TELL YOU THAT -- AND YOU ARE THE
3 FIRST ONE, SO I KEEP FORGETTING THE VARIOUS QUESTIONS I
4 SHOULD BE ASKING YOU AND I ASK YOU THIS ONE. I'M GOING
5 TO TELL YOU THIS INFORMATION NOW AND THEN I'LL ASK YOU
6 ANOTHER QUESTION. IF A JURY FINDS HIM GUILTY AND THEN
7 THE JURY LISTENS TO THAT SECOND PHASE OF THE TRIAL, IF
8 THEY DECIDE THAT THE APPROPRIATE SENTENCE IS LIFE IN
9 PRISON, THEN THE FOREMAN WOULD WRITE ON THERE, WE, THE
10 JURY RECOMMEND LIFE AND THE FOREMAN WOULD SIGN HIS
11 NAME. BUT IF THEY RECOMMENDED DEATH, IN OTHER WORDS,
12 IF ALL TWELVE JURORS DECIDED THAT DEATH WAS THE
13 APPROPRIATE PUNISHMENT, EACH JUROR WOULD THEN SIGN
14 THEIR OWN NAME, TWELVE NAMES, TO A PIECE OF PAPER THAT
15 SAID, WE, THE JURY, RECOMMEND THAT THE PROPER SENTENCE
16 IS DEATH IN PRISON. DO YOU FEEL YOU WOULD HAVE ANY
17 PROBLEM IN DOING THAT?

18 A. NO, SIR.

19 THE COURT: ALL RIGHT. I MIGHT HAVE MISSED
20 SOME QUESTIONS, BUT I'M SATISFIED THE ATTORNEYS WILL
21 ASK YOU THOSE QUESTIONS. JUST ANSWER THE QUESTIONS
22 THAT THEY ASK YOU AS BEST YOU CAN. SOLICITOR?

23 MR. BAILEY: THANK YOU, YOUR HONOR.
24
25

DIRECT EXAMINATION

BY MR. BAILEY:

Q. MR. GRUBER, I'M WALTER BAILEY. I JUST WANT TO FOLLOW UP ON A FEW OF THE THINGS THE JUDGE ASKED YOU, AND I'M GOING TO ASK YOU, YOU KNOW, ABOUT YOUR BELIEFS IN REGARD TO THE DEATH PENALTY. HAVE YOU EVER HAD OCCASION IN TALKING WITH FRIENDS OR FAMILY TO EXPRESS ANY OPINION ON THE DEATH PENALTY ONE WAY OR THE OTHER, WHETHER YOU'RE GENERALLY FOR IT OR AGAINST IT?

A. NOT REALLY, NO, SIR.

Q. OKAY. WHAT ABOUT RELIGIOUS TEACHINGS? I NOTICE IN YOUR QUESTIONNAIRE THAT YOU ATTEND THE ROMAN CATHOLIC CHURCH.

A. YES, SIR.

Q. WOULD THE CHURCH'S TEACHINGS ON THE DEATH PENALTY HAVE ANY INFLUENCE ON YOUR THOUGHTS OR YOUR ABILITY TO SIT AS AN IMPARTIAL JUROR HERE?

A. NO, SIR, IT WOULDN'T.

Q. THE JUDGE TOLD YOU THAT IF WE GET TO THAT SECOND STAGE OF THE TRIAL WHICH IS THE PENALTY PHASE WHERE THE JURY DECIDES FOR LIFE IN PRISON OR THE DEATH PENALTY THAT IF YOU DECIDED ON THE DEATH PENALTY EACH JUROR WOULD HAVE TO SIGN A DEATH VERDICT FORM AND YOU INDICATED THAT YOU COULD DO THAT IF YOU REACHED THE DECISION AFTER HEARING ALL THE TESTIMONY THAT THE DEATH

1 PENALTY WAS THE MOST APPROPRIATE PUNISHMENT?

2 A. YES, SIR.

3 Q. YOU WOULD ALSO BE REQUIRED TO COME OUT INTO
4 OPEN COURT AND THERE'S A PROCEDURE CALLED POLLING THE
5 JURY WHERE EACH JUROR HAS TO SAY THAT THAT IS THEIR
6 VERDICT. WOULD YOU HAVE ANY PROBLEM IF YOU HEARD ALL
7 THE FACTS AND YOU DECIDED THE DEATH PENALTY WAS THE
8 APPROPRIATE PUNISHMENT TO SAY IN OPEN COURT THAT THAT
9 WAS YOUR VERDICT?

10 A. UH-HUH.

11 MR. BAILEY: SIR, THAT'S ALL I HAVE. THANK
12 YOU VERY MUCH.

13 CROSS-EXAMINATION

14 BY MR. RUNYON:

15 Q. GOOD AFTERNOON, MR. GRUBER.

16 A. HOW ARE YOU DOING?

17 Q. I'M BILL RUNYON AND MR. LEIENDECKER
18 REPRESENTS THE DEFENDANT. I JUST HAVE A FEW QUESTIONS
19 FOR YOU. YOU WORK AT PEARLSTEIN'S.

20 A. YES, SIR.

21 Q. AND I NOTICE THAT YOU'RE A KIND OF RELIEF
22 DRIVER. YOU DRIVE ALL OVER THE PLACE FOR THEM.

23 A. WELL, UP TO TWO WEEKS AGO I GOT MY PERMANENT
24 ROUTE.

25 Q. OKAY. YOU GOT YOUR PERMANENT ROUTE.

1 A. YES, SIR.

2 Q. DURING THE COURSE OF YOUR -- STRIKE THAT.

3 WHERE IS YOUR PERMANENT ROUTE?

4 A. EDISTO BEACH IN HOLLYWOOD.

5 Q. OKAY. YOU GET A LOT OF TIME IN THE COUNTRY,

6 THEN.

7 A. YES, SIR.

8 Q. AS IT RELATES TO THE TIME WHEN YOU USED TO

9 DRIVE EVERYBODY ELSE'S ROUTES WHEN THEY'D BE OFF OR

10 SICK OR WHAT HAVE YOU, DID YOU EVER HAVE AN OCCASION TO

11 SERVICE SPELL'S GROCERY STORE?

12 A. ABOUT THREE AND A HALF YEARS AGO I WENT THERE

13 ONE TIME, BUT I VAGUELY REMEMBER IT. I JUST KNOW IT'S

14 IN SUMMERVILLE SOMEWHERE.

15 Q. OKAY. SO, IT'S BEEN SOMETIME IN 1991

16 PROBABLY SINCE YOU'VE BEEN THERE.

17 A. UH-HUH. YES, SIR.

18 Q. NOW, IF YOU WERE CHOSEN ON THIS JURY, THE

19 JURY MAY BE SEQUESTERED OR KEPT SEPARATE FROM THE

20 COMMUNITY IN A HOTEL OR MOTEL FOR A WHILE. WOULD THAT

21 PRESENT ANY REAL SERIOUS PROBLEMS TO YOU, FAMILY

22 DIFFICULTIES, OR ANYTHING OF THAT SORT?

23 A. NO, SIR.

24 Q. AS IT RELATES TO YOUR JOB, WOULD IT IMPACT

25 ADVERSELY ON YOU ECONOMICALLY?

1 A. NO, SIR. THE GUY THAT DOES MY ROUTE WHEN I'M
2 NOT THERE, HE KNOWS IT BETTER THAN I DO.

3 Q. OKAY. SO, THIS IS SOMEBODY WHO TOOK YOUR JOB
4 DURING THE REPLACEMENT TIME.

5 A. YES, SIR.

6 Q. SO, AS A PRACTICAL MATTER, IF YOU WERE
7 SELECTED ON THIS JURY YOU WOULD SEE NO REASON BEING
8 ABLE TO TAKE THE TIME NECESSARY TO LISTEN TO THE
9 EVIDENCE AND MAKE A DECISION AT THE APPROPRIATE TIME
10 WHEN THE COURT ASKED YOU TO.

11 A. YES.

12 Q. AND AS IT RELATES TO YOUR VIEWS ON CAPITAL
13 PUNISHMENT, HAVE YOU EVER -- LET ME GET THIS STRAIGHT.
14 I THINK YOU TOLD THE COURT WHAT YOU THINK YOUR POSITION
15 IS AS IT RELATES TO THE TYPE OF JUROR YOU ARE. IS IT
16 MY UNDERSTANDING YOU HAVE NEVER REALLY THOUGHT ABOUT
17 THIS ISSUE OF CAPITAL PUNISHMENT?

18 A. I'VE THOUGHT ABOUT IT, BUT I JUST, YOU
19 KNOW -- NOTHING, NOTHING -- I MEAN, I NEVER DREW IT OUT
20 FOR A LONG TIME OR ANYTHING. I JUST HEARD ABOUT IT AND
21 THAT WAS IT.

22 Q. OKAY. IN THINKING ABOUT IT, DID YOU EVER
23 DISCUSS IT WITH ANYBODY? DID YOU EVER GET IN ANY
24 DEBATES?

25 A. HUH-UH.

1 Q. EVEN AMONGST FRIENDS OR WHAT HAVE YOU?

2 A. (JUROR SHOOK HEAD FROM SIDE TO SIDE.)

3 Q. SO, YOU DON'T REALLY HAVE A POSITION ONE WAY
4 OR THE OTHER. YOU JUST WANT TO LISTEN TO ALL THE
5 FACTS.

6 A. YES, SIR.

7 Q. AND THEN MAKE AN APPROPRIATE DECISION BASED
8 ON WHAT YOU FELT THE EVIDENCE CALLED FOR.

9 A. YES.

10 MR. RUNYON: NO FURTHER QUESTIONS OF THIS
11 WITNESS AT THIS TIME, YOUR HONOR.

12 THE COURT: ANY MOTIONS FROM THE STATE?

13 MR. BAILEY: NO, SIR.

14 THE COURT: FROM THE DEFENSE?

15 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
16 HONOR.

17 THE COURT: ALL RIGHT. MR. GRUBER, WE ALL
18 THINK YOU WOULD MAKE A GOOD JUROR. IT DOESN'T MEAN
19 YOU'RE GOING TO BE ON THE JURY, BUT I'M GOING TO ASK
20 YOU -- WELL, LET'S SEE NOW. YOU'RE THE FIRST ONE.
21 WELL, I'M GOING TO GIVE THE JURY A MESSAGE TOMORROW
22 AFTER 6:00. IS THERE A PLACE I CAN -- IS THERE A
23 TELEPHONE I CAN ALWAYS REACH YOU?

24 JUROR GRUBER: YES, SIR.

25 THE COURT: DO WE HAVE IT?

1 JUROR GRUBER: THERE'S A 1-800 NUMBER FOR MY
2 COMPANY. YOU CAN LEAVE A MESSAGE AT IT.

3 THE COURT: HOW LONG WILL IT TAKE FOR THEM TO
4 GET THE MESSAGE TO YOU?

5 JUROR GRUBER: TWO MINUTES. IT BEEPS ME ON
6 MY BEEPER.

7 THE COURT: ALL RIGHT. MADAM CLERK, WHAT IS
8 THAT NUMBER?

9 JUROR GRUBER: [REDACTED]. IT'S
10 EXTENSION [REDACTED].

11 THE COURT: THANK YOU. YOU JUST GO ON TO
12 WORK AND WE'LL GIVE YOU SOME NOTICE.

13 JUROR GRUBER: OKAY.

14 THE COURT: NOW, WHEN I TELL YOU TO COME
15 BACK, I DON'T KNOW WHETHER YOU'LL BE DRAWN ON THE JURY
16 OR NOT BUT IF -- WHEN I TELL YOU TO COME BACK, JUST IN
17 CASE YOU'RE DRAWN, I WANT YOU TO BRING ENOUGH CLOTHES
18 FOR ABOUT FIVE DAYS AND TOILET ARTICLES. DON'T GET
19 EXCITED, THOUGH. IT MIGHT NOT EVEN LAST THAT LONG.

20 SO, IN THE MEANTIME, I WANT -- IT'S SO
21 IMPORTANT THAT YOU DON'T DISCUSS THE CASE WITH ANYONE.
22 DON'T EVEN TELL THE JURORS OR ANY OF THEM WHAT HAS GONE
23 ON HERE AND, OF COURSE, DON'T READ THE NEWSPAPERS OR
24 WATCH T.V. OR ANYTHING. OKAY?

25 JUROR GRUBER: OKAY.

1 THE COURT: THANK YOU VERY MUCH.

2 JUROR GRUBER: JUST CALL UP HERE OR THEY'RE
3 GOING TO GET IN TOUCH WITH ME; RIGHT?

4 THE COURT: WE'LL FIND YOU.

5 JUROR GRUBER: THANK YOU.

6 (JUROR RICHARD GRUBER WAS EXCUSED FROM THE
7 COURTROOM.)

8 THE COURT: ALL RIGHT. GENTLEMEN, THAT WAS
9 THE FIRST JUROR WE EXAMINED. THERE WAS A LOT I MISSED
10 ASKING HIM AND I APOLOGIZE, BUT IS THERE ANYTHING SO
11 FAR THAT I'VE DISCUSSED AND THE WAY I'VE DISCUSSED IT
12 THAT YOU OBJECT TO, MR. RUNYON? DO YOU HAVE ANY
13 SUGGESTIONS OR COMPLAINTS?

14 MR. RUNYON: GOT NO COMPLAINTS, YOUR HONOR,
15 AND I HAVE NO SUGGESTIONS.

16 THE COURT: ALL RIGHT. WELL, I THINK I
17 CAN---

18 MR. RUNYON: AT THIS POINT IN TIME, I THINK.

19 THE COURT: I CAN SHORTEN MY QUESTIONS UP
20 BUT, YET, I CAN ASK THEM THINGS I THINK THAT MIGHT BE
21 OF SOME ASSISTANCE TO BOTH OF YOU. ALL RIGHT. THANK
22 YOU. THE NEXT ONE IS JOYCE ANN BALL.

23 (JUROR JOYCE ANN BALL ENTERS THE COURTROOM.)

24 JOYCE A. BALL, AFTER BEING DULY SWORN,
25 TESTIFIED AS FOLLOWS:

1 EXAMINATION BY THE COURT

2 Q. MS. BALL, I NOTICE YOU'RE A REGISTERED
3 NURSE.

4 A. YES, SIR.

5 Q. AND YOU'VE GOT SOME JURY EXPERIENCE.

6 A. UH-HUH.

7 Q. WAS I LUCKY ENOUGH TO HAVE YOU AS A JUROR?

8 A. (JUROR NODDED HEAD UP AND DOWN.)

9 Q. I WAS?

10 A. NO. WITH YOU?

11 Q. YEAH.

12 A. NO, I DON'T THINK SO.

13 Q. OH, I JUST -- I NOTICE YOU -- I'VE HELD A LOT
14 OF COURT UP HERE. WELL, YOU KNOW A LITTLE BIT ABOUT
15 THE JURY SYSTEM THEN AND YOU KNOW, OF COURSE, THAT MR.
16 ROGERS IS CHARGED WITH MURDER.

17 A. (JUROR NODDED HEAD AFFIRMATIVELY).

18 Q. AND I WAS TELLING YOU ALL EARLIER SOMETHING
19 ABOUT HOW COURTS WORK, BUT YOU'VE BEEN IN COURT SO YOU
20 KNOW GENERALLY HOW COURTS WORK. WERE YOU ONE OF THOSE
21 WHO STOOD UP AND SAID YOU KNEW A LITTLE BIT ABOUT THIS
22 CASE?

23 A. NO, SIR.

24 Q. SO, THIS CHARGE OF MURDER THAT MR. -- THAT
25 THE STATE HAS BROUGHT AGAINST MR. ROGERS YOU DON'T KNOW

1 ANY OF THE FACTS OF THE CASE.

2 A. NO, I DON'T.

3 Q. WELL, AS I WAS -- DO YOU KNOW OF ANYTHING --
4 WELL, YOU'RE TELLING ME YOU DIDN'T KNOW ANYTHING ABOUT
5 THE CASE.

6 A. NO, OTHER THAN JUST VAGUELY RECOGNIZING
7 NAMES. I KNEW I COULD NOT HAVE TOLD YOU WHAT THE
8 CHARGE WAS.

9 Q. OH, ALL RIGHT. THANK YOU. AS I WAS TELLING
10 YOU A LITTLE BIT EARLIER, THE GENERAL CASE IS WHEN
11 SOMEBODY IS CHARGED WITH A CRIME -- AND, OF COURSE, YOU
12 KNOW THAT PEOPLE ARE PRESUMED TO BE INNOCENT. THE
13 STATE HAS TO PROVE THEM GUILTY BEYOND A REASONABLE
14 DOUBT, AND ORDINARILY A JURY DECIDES WHETHER SOMEONE IS
15 GUILTY OR NOT. THEN THE JUDGE SENTENCES THEM. WELL,
16 IN THIS TYPE CASE THE JURY DOES BOTH.

17 SO, WHAT WOULD OCCUR WAS WE WOULD TRY THE
18 CASE AND IF THE JURY DECIDED HE WASN'T GUILTY, OF
19 COURSE, THAT ENDS EVERYTHING. BUT IF HE'S FOUND
20 GUILTY, THEN WE HAVE A SECOND TRIAL. IT'S CALLED THE
21 PENALTY PHASE TRIAL. AND AT THAT TRIAL THERE WOULD BE
22 TESTIMONY, BOTH GOOD AND BAD, EXTENUATING
23 CIRCUMSTANCES, AGGRAVATING CIRCUMSTANCES, AND IT'S AN
24 ATTEMPT TO ASSIST THE JURY IN DECIDING WHAT THE PROPER
25 PUNISHMENT IS, THAT IS, LIFE OR DEATH.

1 IF THE JURY, FOR INSTANCE, TWELVE JURORS
2 DECIDED THAT THE APPROPRIATE SENTENCE WAS LIFE IN
3 PRISON, THEN IT WOULD BE WRITTEN ON A PIECE OF PAPER,
4 THAT FORM, AND THE FOREMAN WOULD SIGN IT AND IT WOULD
5 SAY, WE, THE JURY, DECIDED THAT THE PROPER SENTENCE WAS
6 LIFE IN PRISON. ON THE OTHER HAND, IF THEY DECIDED
7 THAT THE APPROPRIATE SENTENCE WAS DEATH WHICH IN THIS
8 STATE IS BY ELECTROCUTION, THEN IT WOULD BE A LITTLE
9 DIFFERENT. EACH JUROR WOULD SIGN THEIR NAME
10 INDIVIDUALLY AND IT WOULD SAY IN ESSENCE, WE, THE
11 FOLLOWING JURORS, DECIDED THAT THE PROPER SENTENCE
12 WOULD BE DEATH. AND IF THAT WERE THE SENTENCE, THE
13 RECOMMENDATION BY THE JURY, THAT'S WHAT I'D SENTENCE
14 HIM BECAUSE I MUST DO EXACTLY WHAT THE JURY TELLS ME TO
15 DO. IF THEY DECIDED THAT LIFE IS THE APPROPRIATE
16 PUNISHMENT, I MUST GIVE HIM LIFE IN PRISON. IF THEY
17 DECIDE THAT DEATH IS THE APPROPRIATE PUNISHMENT, I MUST
18 SENTENCE HIM TO DEATH BY ELECTROCUTION.

19 NOW, WHEN JURORS COME IN HERE JUST LIKE
20 YOURSELF AND WE DISCUSS WITH THEM THE FACT THAT THIS IS
21 A DEATH PENALTY CASE, GENERALLY THEY FALL IN ONE OF
22 THREE CATEGORIES AND I'M GOING TO TELL YOU WHAT THOSE
23 CATEGORIES ARE AND THEN I WANT YOU TO TELL ME WHICH ONE
24 YOU THINK BEST FITS YOU. THE FIRST CATEGORY IS THAT
25 JUROR WHO TAKES THE POSITION THAT IF YOU KILL SOMEONE

1 YOU OUGHT TO DIE YOURSELF, KIND OF LIKE AN EYE FOR AN
2 EYE AND A TOOTH FOR A TOOTH, AND THAT JUROR WOULDN'T BE
3 INTERESTED IN THAT SECOND TRIAL BECAUSE THAT JUROR'S
4 MIND WOULD HAVE BEEN MADE UP. THEY WOULD ALWAYS VOTE
5 FOR THE DEATH PENALTY.

6 ON THE OTHER SIDE, JUROR NUMBER TWO WOULD BE
7 THE TYPE JUROR THAT WOULD BE EXACTLY THE OPPOSITE.
8 THEY ALSO WOULDN'T BE INTERESTED IN THAT SECOND TRIAL
9 BECAUSE THEY WOULD ALWAYS VOTE FOR LIFE IN PRISON.
10 THEY WOULD NEVER VOTE FOR THE DEATH PENALTY. AND THEN
11 THERE'S THE THIRD TYPE OF JUROR WHICH WOULD TAKE THE
12 POSITION, WELL, YES, WE HAVE NOW FOUND YOU GUILTY OF
13 MURDER, BUT BEFORE WE DECIDE WHAT THE SENTENCE WOULD
14 BE, WE WANT TO HEAR ALL THE GOOD AND THE BAD, THE
15 EXTENUATING CIRCUMSTANCES, THE AGGRAVATING
16 CIRCUMSTANCES. AND THEN WHEN THAT IS DONE, THEN WE CAN
17 DECIDE WHICH THE APPROPRIATE SENTENCE WOULD BE. DO YOU
18 FEEL YOU BEST FIT ONE, TWO, OR THREE?

19 A. THREE.

20 Q. THREE. IN OTHER WORDS, DEPENDENT UPON
21 WHAT -- YOU WOULD WANT TO HEAR THAT THIRD TRIAL (SIC)
22 AND DEPENDENT UPON WHAT YOU HEARD YOU COULD EITHER VOTE
23 FOR LIFE IN PRISON OR IF IT WERE NECESSARY AND YOU FELT
24 THAT IT WAS THE APPROPRIATE SENTENCE YOU COULD SIGN
25 YOUR NAME AND SENTENCE HIM TO DEATH. IS THAT CORRECT?

1 A. YES.

2 THE COURT: ALL RIGHT. NOW, THAT'S MR.
3 RUNYON THERE, THAT YOUNG MAN SITTING ON THAT END OF THE
4 TABLE, AND HE AND MR. MARK LEIENDECKER WHO SITS ALSO
5 WITH MR. ROGERS. . . THIS IS THE SOLICITOR.
6 SOLICITOR, ARE YOU GOING TO HANDLE ALL THE QUESTIONS?

7 MR. BAILEY: YES, SIR.

8 THE COURT: THAT'S SOLICITOR BAILEY. AND
9 EACH OF THEM ARE GOING TO ASK YOU SOME QUESTIONS.
10 THERE ARE NO RIGHT OR WRONG ANSWERS. JUST GIVE THEM
11 WHATEVER INFORMATION YOU CAN. SOLICITOR?

12 MR. BAILEY: THANK YOU, YOUR HONOR.

13 DIRECT EXAMINATION

14 BY MR. BAILEY:

15 Q. MS. BALL, I JUST WANT TO FOLLOW UP A LITTLE
16 BIT ON WHAT THE JUDGE ASKED YOU AND I'M NOT, YOU KNOW,
17 TRYING TO PROBE TOO DEEPLY INTO YOUR THOUGHTS, BUT
18 SINCE THIS IS SUCH AN IMPORTANT CASE FOR EVERYBODY HERE
19 WE NEED TO FIND OUT EXACTLY HOW YOU FEEL ABOUT THE
20 DEATH PENALTY. AND YOU'VE EXPRESSED TO THE JUDGE THAT
21 YOU FEEL LIKE YOU WOULD BE THAT THIRD TYPE JUROR THAT
22 COULD DECIDE EITHER ON LIFE OR DEATH DEPENDING ON THE
23 CIRCUMSTANCES AND THE FACTS THAT YOU HEAR?

24 A. (JUROR NODDED HEAD UP AND DOWN.)

25 Q. HAVE YOU EVER IN, YOU KNOW, IN A COLLEGE

1 CLASS OR TALKING TO FAMILY OR FRIENDS, YOU KNOW, BEFORE
2 THIS -- YOU GOT SUMMONED TO THIS TRIAL HAD OCCASION TO
3 EXPRESS YOUR VIEWS ON THE DEATH PENALTY IN GENERAL?

4 A. PROBABLY JUST WITH MY FAMILY.

5 Q. OKAY. AND WHAT POSITION DID YOU TAKE WITH
6 THEM WHEN Y'ALL DISCUSSED IT?

7 A. THAT AS DIFFICULT AS I THINK IT WOULD BE, I
8 DO BELIEVE IN THE DEATH PENALTY.

9 Q. OKAY.

10 A. IF THE CIRCUMSTANCES WARRANTED THAT.

11 Q. AND YOU WOULD LISTEN TO THE CIRCUMSTANCES,
12 BOTH PRO AND CON, BEFORE YOU MADE A DECISION?

13 A. YES.

14 Q. AND IF YOU WERE PICKED FOR THIS JURY AND WE
15 GOT TO THE SECOND PHASE OF THE TRIAL WHICH WOULD BE THE
16 PENALTY PHASE WHICH WE WOULDN'T GET TO UNLESS THE
17 DEFENDANT HAD BEEN FOUND GUILTY OF MURDER IN THE FIRST
18 STAGE AND THE JURY DECIDED AFTER HEARING ALL THE FACTS
19 AND EVIDENCE THAT THE DEATH PENALTY WAS THE APPROPRIATE
20 SENTENCE FOR THAT PARTICULAR DEFENDANT FOR THAT
21 PARTICULAR CRIME, THEN EACH JUROR WOULD HAVE TO SIGN
22 THEIR NAME ON A DEATH VERDICT FORM. COULD YOU SIGN
23 YOUR NAME ON A FORM LIKE THAT KNOWING THE RESULT WOULD
24 BE THE IMPOSITION OF THE DEATH PENALTY ON THE
25 DEFENDANT?

1 A. YES, I COULD.

2 Q. OKAY. AND COULD YOU ALSO COME OUT INTO OPEN
3 COURT -- AND THERE'S A PROCEDURE CALLED POLLING THE
4 JURY WHERE THE JUDGE OR THE CLERK OF COURT WOULD ASK
5 EACH INDIVIDUAL JUROR IF THAT WAS THEIR VERDICT AND DID
6 THEY ASSENT THERETO. IF YOU HAD REACHED THAT DECISION,
7 COULD YOU EXPRESS THAT IN OPEN COURT?

8 A. YES, I COULD.

9 Q. ON YOUR QUESTIONNAIRE YOU INDICATED THAT YOU
10 HAD HAD SOME PRIOR CRIMINAL JURY SERVICE?

11 A. I'M NOT SURE IF IT'S CRIMINAL JURY.

12 Q. OKAY. WAS IT IN THIS COURT HERE, IN THIS
13 COURTROOM?

14 A. NO, NOT IN THIS COURT. NO.

15 Q. DO YOU RECALL WHAT COURT?

16 A. IT WAS IN THE CITY OF SUMMERVILLE.

17 Q. OKAY. THAT WAS A D.U.I. CASE OR TRAFFIC CASE
18 OF SOME TYPE?

19 A. ONE WAS A D.U.I. CASE AND ONE WAS A --
20 SOMETHING ABOUT UNLAWFUL CONDUCT.

21 Q. OKAY. THAT WAS A MUNICIPAL COURT TRIAL OF
22 SOME TYPE.

23 A. YES. YES.

24 Q. OKAY. ALSO IN THE QUESTIONNAIRE THERE'S A
25 FORM -- THERE'S A PLACE DOWN THERE WHERE THEY ASK YOU

1 WHAT YOUR CHURCH AFFILIATION IS AND YOU HAVE LISTED
2 CROSSROADS COMMUNITY CHURCH.

3 A. UH-HUH.

4 Q. DO YOU KNOW IF THAT CHURCH HAS ANY PARTICULAR
5 LEANINGS OR TEACHINGS ON THE DEATH PENALTY?

6 A. NO, I DON'T.

7 Q. YOU DON'T RECALL ANY SERMONS OR SUNDAY SCHOOL
8 LESSONS ABOUT THE DEATH PENALTY---

9 A. (JUROR SHOOK HEAD FROM SIDE TO SIDE.)

10 Q. ---THAT WOULD INFLUENCE YOUR DECISION HERE?

11 A. NO, NOT FROM CHURCH I DON'T.

12 Q. AS I UNDERSTAND YOUR TESTIMONY, YOU CAN GO
13 EITHER WAY DEPENDING ON THE CIRCUMSTANCES THAT YOU HEAR
14 FROM THE WITNESS STAND.

15 A. YES, SIR.

16 MR. BAILEY: THANK YOU VERY MUCH. THAT'S ALL
17 I HAVE.

18 CROSS-EXAMINATION

19 BY MR. RUNYON:

20 Q. GOOD AFTERNOON, MS. BALL.

21 A. GOOD AFTERNOON.

22 Q. YOU'RE A NURSE MIDWIFE AND YOU DEAL WITH --
23 HOPEFULLY YOU DEAL WITH LIFE MORE THAN YOU DEAL WITH
24 DEATH. ISN'T THAT CORRECT?

25 A. THAT'S CORRECT.

1 Q. AND YOU INDICATED THAT.-- YOU SAID THAT IF
2 THE CIRCUMSTANCES WARRANTED THE DEATH PENALTY. DO YOU
3 HAVE ANY IDEAS ABOUT WHAT TYPE OF CIRCUMSTANCES YOU'RE
4 MAKING REFERENCE TO OR IS THAT JUST A GENERAL
5 STATEMENT?

6 MR. BAILEY: JUDGE, I WOULD HAVE TO OBJECT TO
7 THAT.

8 THE COURT: REPHRASE YOUR QUESTION,
9 COUNSELOR.

10 BY MR. RUNYON:

11 Q. YOU UNDERSTAND, OF COURSE, THAT YOU'RE ONLY
12 ABLE TO CONSIDER AS CIRCUMSTANCES FOR AGGRAVATION OR
13 FOR IMPOSITION OF THE DEATH PENALTY THAT LAW WHICH HIS
14 HONOR GIVES YOU, DO YOU NOT, MA'AM?

15 A. NO, I DON'T UNDERSTAND WHAT YOU'RE SAYING.

16 Q. WELL, LET ME ASK YOU THIS: YOU INDICATED --
17 YOU MADE SOME INDICATION ABOUT IF THE CIRCUMSTANCES
18 WARRANTED IT, YOU COULD IMPOSE THE DEATH PENALTY. WHAT
19 SPECIFICALLY DID YOU MEAN BY THAT?

20 MR. BAILEY: YOUR HONOR?

21 THE COURT: YES, SIR. WELL, SHE DOESN'T KNOW
22 ANY OF THE FACTS OF THIS CASE. I'M GOING TO ALLOW
23 THAT. GO AHEAD.

24 MR. RUNYON: IS THERE ANY -- IS THAT -- DO
25 YOU HAVE A NOTION ABOUT WHAT THAT MEANS OR WAS THAT

1 JUST A KIND OF A GENERALIZED STATEMENT?

2 THE COURT: ARE YOU ASKING, COUNSELOR,
3 WHETHER ALL MURDERS SHOULD BE DEATH OR ALL MURDERS
4 SHOULD BE LIFE OR. . . SEE IF YOU CAN REPHRASE THE
5 QUESTION.

6 MR. RUNYON: ALL RIGHT. I'LL REPHRASE IT.

7 THE COURT: SHE SAYS SHE DOESN'T UNDERSTAND
8 IT.

9 BY MR. RUNYON:

10 Q. ALL RIGHT. MS. BALL, DO YOU BELIEVE THAT IF
11 SOMEONE IS GUILTY OF MURDER, THAT IS FOUND GUILTY OF
12 MURDER, THAT THEY SHOULD, IN FACT, RECEIVE THE DEATH
13 PENALTY?

14 A. I THINK IT WOULD DEPEND ON THE CIRCUMSTANCES
15 THAT SURROUNDED THAT GUILTY VERDICT.

16 Q. OKAY. WHAT DO YOU MEAN BY THAT?

17 A. I GUESS THE WAY THAT -- WAS IT PREMEDITATED?
18 THE WAY IT HAPPENED, THE CIRCUMSTANCES INVOLVED AROUND
19 IT.

20 Q. OKAY. NOW, AS IT RELATES TO YOUR BACKGROUND
21 -- AND I BELIEVE MR. BAILEY ASKED YOU ABOUT YOUR
22 CHURCH AFFILIATION. WOULD THE PRESENCE OF ALCOHOL
23 INVOLVED IN A SET OF CIRCUMSTANCES IN ANY WAY INFLUENCE
24 YOU ADVERSELY?

25 A. NOT THAT I -- NO, I DON'T THINK IT WOULD.

1 Q. OKAY. AND YOU'VE SERVED ON A JURY BEFORE?

2 A. YES, SIR.

3 Q. AND YOU'VE LISTENED TO THE COURT GIVE YOU
4 JURY INSTRUCTIONS AS TO WHAT THE JURY IS SUPPOSED TO
5 DO?

6 A. YES. UH-HUH.

7 Q. AND YOU COULD FOLLOW THE INSTRUCTIONS THAT
8 THE COURT GAVE YOU AS IT RELATED TO HOW TO ARRIVE AT A
9 DECISION IN A PARTICULAR MATTER?

10 A. UH-HUH. I DID THAT TIME, YEAH.

11 Q. OKAY. WELL, YOU DID IT ONCE BEFORE?

12 A. (JUROR NODDED HEAD UP AND DOWN.)

13 Q. OKAY. AND WITH REGARDS TO YOUR WORK, YOU'RE
14 A NURSE MIDWIFE?

15 A. UH-HUH.

16 Q. DO YOU WORK PRETTY EXCLUSIVELY IN THAT FIELD
17 NOW?

18 A. YES.

19 Q. OKAY. I MEAN, YOU DON'T OPERATE, SO TO
20 SPEAK, IN THE EMERGENCY ROOM FROM TIME TO TIME, DO YOU,
21 MA'AM?

22 A. NO.

23 Q. AND I NOTICE YOUR HUSBAND IS ALSO A
24 REGISTERED NURSE.

25 A. UH-HUH.

1 Q. WHAT IS HIS AREA OF SPECIALTY OR WHAT AREA
2 DOES HE WORK IN MOSTLY?

3 A. HE WORKS WITH A HAND SURGEON WITHIN THE
4 OFFICE IN HELPING DO SURGERY.

5 Q. OKAY. EXCUSE ME, YOUR HONOR. MS. BALL, YOU
6 INDICATED -- YOU WERE NOT ONE OF THOSE PEOPLE WHO STOOD
7 UP AND SAID YOU HEARD ANYTHING ABOUT THIS PARTICULAR
8 CASE OR THAT YOU KNOW ANYTHING ABOUT THE CASE. YOU'VE
9 LIVED IN -- YOU WERE LIVING IN SUMMERVILLE IN 1992?

10 A. YES.

11 Q. OKAY. AND TO YOUR RECOLLECTION, YOU HAVEN'T
12 -- YOU DIDN'T HEAR ANYTHING ABOUT THIS CASE.

13 A. NO, OTHER THAN, LIKE I SAID, VAGUELY
14 RECOGNIZING NAMES. I COULD NOT HAVE TOLD YOU WHAT THE
15 CHARGE WAS.

16 MR. RUNYON: OKAY. NO FURTHER QUESTIONS,
17 YOUR HONOR.

18 THE COURT: ANY MOTIONS FROM THE STATE?

19 MR. BAILEY: NONE FROM THE STATE, YOUR HONOR.

20 THE COURT: FROM THE DEFENSE?

21 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
22 HONOR.

23 THE COURT: MS. BALL, WE ALL THINK YOU'D MAKE
24 A GOOD JUROR, BUT IT DOESN'T MEAN YOU'RE GOING TO BE ON
25 THE JURY. IT JUST MEANS YOU'RE QUALIFIED. SO, I'M

1 GOING TO EXCUSE YOU. DO WE HAVE A NUMBER THAT FOR SURE
2 WE CAN REACH YOU? I'LL PROBABLY BE CALLING YOU
3 SOMETIME WEDNESDAY. CAN YOU GIVE ME A NUMBER THAT YOU
4 KNOW WE CAN REACH YOU?

5 JUROR BALL: YES, I CAN. I CAN GIVE YOU MY
6 OFFICE.

7 THE COURT: GIVE US THAT.

8 JUROR BALL: IT'S [REDACTED].

9 THE COURT: AND YOUR HOME?

10 JUROR BALL: IT'S [REDACTED].

11 THE COURT: OKAY. DON'T BE TOO FAR AWAY FROM
12 THOSE TELEPHONES. NOW, WHEN YOU COME -- AND DON'T GET
13 EXCITED BECAUSE IT PROBABLY WON'T LAST THAT LONG OR YOU
14 MIGHT NOT GET DRAWN, BUT WHEN YOU COME BRING ENOUGH
15 TOILET ARTICLES AND CLOTHES FOR ABOUT FOUR OR FIVE
16 DAYS. HAVE A GOOD DAY.

17 JUROR BALL: THANK YOU.

18 THE COURT: AND I WANT TO REMIND YOU NOT TO
19 WATCH T.V. OR READ THE NEWSPAPERS AND BE SURE NOT TO
20 DISCUSS THIS WITH ANYONE.

21 JUROR BALL: THANK YOU.

22 THE COURT: THANK YOU.

23 (JUROR JOYCE BALL WAS EXCUSED FROM THE
24 COURTROOM.)

25 THE COURT: MARY E. SMITH.

1 (JUROR MARY E. SMITH ENTERED THE COURTROOM.)

2 MARY E. SMITH, AFTER BEING DULY SWORN,
3 TESTIFIED AS FOLLOWS:

4 EXAMINATION BY THE COURT

5 Q. MS. SMITH, I NOTICE YOU'VE NEVER SERVED ON A
6 JURY BEFORE.

7 A. NO, SIR.

8 Q. ARE YOU NERVOUS?

9 A. YES, SIR.

10 Q. OH, YOU DON'T HAVE TO BE. WE'RE JUST GOING
11 TO ASK YOU SOME QUESTIONS AND THERE ARE NO RIGHT OR
12 WRONG ANSWERS. SO, YOU CAN JUST SIT BACK AND RELAX AND
13 JUST ANSWER THEM AS BEST YOU CAN. IF YOU DON'T KNOW,
14 JUST TELL ME YOU DON'T KNOW. WERE YOU ONE OF THOSE
15 THAT TOLD ME THAT YOU KNEW SOMETHING ABOUT THIS CASE?

16 A. NO, SIR.

17 Q. IN OTHER WORDS, YOU DON'T KNOW ANYTHING FROM
18 DISCUSSIONS EXCEPT FROM WHAT I TOLD YOU THIS MORNING.

19 A. OH, NO, SIR, I'VE HEARD IT. YOU KNOW, MY MOM
20 AND THEM TALK ABOUT IT, WHAT WAS ON THE NEWS AND IN THE
21 PAPER, BUT AS FAR AS READING IT IN THE PAPER MYSELF OR
22 LISTENING TO IT ON THE NEWS, NO, SIR.

23 Q. WELL, OF COURSE, AS I ALREADY TOLD Y'ALL,
24 EVERY PERSON -- MR. ROGERS SITTING AT THAT TABLE IS
25 JUST AS INNOCENT AS YOU AND I. HE'S ALWAYS PRESUMED TO

1 BE INNOCENT. AND SO I ASK THE JURY WHO IS GOING TO TRY
2 THIS CASE TO LAY ASIDE WHATEVER THEY HEARD OR DISCUSSED
3 WITH ANYONE BECAUSE IT MIGHT NOT BE TRUE WHAT THEY
4 HEARD. YOU KNOW, IT WOULD BE INFORMATION THEY HAD
5 OBTAINED FROM OTHER PEOPLE. DO YOU FEEL YOU COULD DO
6 THAT? IN OTHER WORDS, IS THERE ANYTHING YOU KNOW ABOUT
7 THIS CASE THAT WOULD PREJUDICE EITHER SIDE?

8 A. NO, SIR.

9 Q. ALL RIGHT. NOW, I TOLD YOU THAT HE'S CHARGED
10 WITH MURDER AND I ALSO TOLD YOU THAT IN AN ORDINARY
11 CASE A JURY FINDS A PERSON GUILTY OR NOT GUILTY AND
12 THEN THEY ARE THROUGH. THE JUDGE THEN SENTENCES THAT
13 PERSON. WELL, IN THE CASE IN WHICH THE STATE IS
14 SEEKING THE DEATH PENALTY IT'S DIFFERENT. JURIES DO
15 BOTH. IN OTHER WORDS, IF I HAD TWELVE JURORS OVER
16 THERE, THAT JURY WOULD LISTEN TO THE CASE AND IF THEY
17 DECIDED THAT THE STATE DID NOT PROVE HIM GUILTY, THAT
18 WOULD END IT.

19 BUT IF THEY FOUND HIM GUILTY, THEN WE WOULD
20 HAVE ANOTHER PROCEEDING LIKE ANOTHER TRIAL AND IT WOULD
21 BE A TRIAL IN WHICH THERE WOULD BE GIVEN TO THE JURY BY
22 BOTH SIDES GOOD THINGS, BAD THINGS, EXTENUATING
23 CIRCUMSTANCES, AGGRAVATING CIRCUMSTANCES, AND ALL THAT
24 WOULD BE AIMED TOWARD ASSISTING THE JURY IN WHAT WOULD
25 BE THE PROPER SENTENCE. AND IF LISTENING TO THAT

1 SECOND TRIAL THE JURY DECIDED THAT THE APPROPRIATE
2 SENTENCE WAS LIFE IN PRISON, THEN THE FOREMAN WOULD GET
3 UP AND ANNOUNCE THAT THEIR VERDICT WAS -- THE
4 APPROPRIATE SENTENCE WAS LIFE IN PRISON AND HE WOULD
5 SIGN HIS NAME TO THAT AND THAT WOULD BE WHAT I WOULD
6 HAVE TO SENTENCE HIM TO BECAUSE I MUST DO EXACTLY WHAT
7 THE JURY TELLS ME TO REGARDLESS. I CANNOT CHANGE IT.

8 ON THE OTHER HAND, IF THE JURY DECIDED THAT
9 THE APPROPRIATE SENTENCE WAS DEATH, THEN EACH JUROR
10 WOULD INDIVIDUALLY SIGN THEIR NAME TO A PIECE OF PAPER
11 AND IT WOULD SAY, IN ESSENCE, WE, THE JURY, FEEL THAT
12 THE APPROPRIATE SENTENCE IS DEATH BY -- AND I WOULD
13 SENTENCE HIM TO DEATH BY ELECTROCUTION. DO YOU
14 UNDERSTAND?

15 A. YES, SIR.

16 Q. NOW, JURORS WHEN THEY COME IN THE COURTROOM
17 JUST LIKE YOU WHO HAVEN'T HAD TOO MUCH EXPERIENCE AND
18 THEY LISTEN TO THIS INFORMATION ABOUT THE DEATH
19 PENALTY, THEY GENERALLY FALL IN ONE OF THREE
20 CATEGORIES. NOW, I'M GOING TO TELL YOU WHAT THOSE
21 CATEGORIES ARE AND THEN I WANT YOU TO TELL ME WHICH ONE
22 YOU FEEL YOU BEST FIT. THE FIRST CATEGORY IS THAT
23 JUROR WHO WOULD NOT BE INTERESTED IN HEARING THAT
24 SECOND TRIAL BECAUSE THEIR MIND WOULD HAVE BEEN MADE
25 UP. THEY'D TAKE THE POSITION THAT IF YOU KILL SOMEBODY

1 YOU OUGHT TO DIE YOURSELF, LIKE AN EYE FOR AN EYE AND A
2 TOOTH FOR A TOOTH. THEY WOULD ALWAYS VOTE FOR THE
3 DEATH PENALTY.

4 THEN THERE'S THE SECOND JUROR WHO WOULD BE
5 EXACTLY THE OPPOSITE. THEY WOULD TAKE THE POSITION
6 EVEN THOUGH YOU KILLED AND EVEN THOUGH IT MIGHT BE A
7 PRETTY HORRIBLE CRIME, THEY WOULD NEVER VOTE FOR THE
8 DEATH PENALTY AND THEY ALSO WOULDN'T BE INTERESTED IN
9 HEARING THAT SECOND TRIAL. THEN THERE WOULD BE THE
10 THIRD TYPE OF JUROR THAT WOULD TAKE THE POSITION, IF
11 THEY WERE FOUND GUILTY, THAT I WANT TO HEAR MORE ABOUT
12 THIS PERSON AND THE CIRCUMSTANCES AND THEY WOULD WANT
13 TO HEAR THAT SECOND TRIAL. THEY WOULD WANT TO KNOW THE
14 GOOD THINGS AND THE BAD THINGS, AND THEN WHEN THEY
15 HEARD IT ALL THEN THEY COULD MAKE UP THEIR MIND WHAT
16 THE PROPER SENTENCE WOULD BE.

17 IF THEY FELT LIKE THE PROPER SENTENCE WAS
18 LIFE IN PRISON, THEY COULD VOTE THAT WAY. AND IF THEY
19 FELT LIKE THE PROPER SENTENCE WAS DEATH BY
20 ELECTROCUTION, THEY COULD SIGN THEIR NAME TO THAT PIECE
21 OF PAPER THAT SAID, WE, THE FOLLOWING JURORS, RECOMMEND
22 DEATH. NOW, WHICH ONE OF THOSE THREE DO YOU FEEL LIKE
23 YOU FIT?

24 A. I FEEL LIKE I'D HAVE TO LISTEN TO BOTH SIDES
25 AND COME TO THE CONCLUSION LIKE THAT.

1 Q. IN OTHER WORDS, IF YOU FIND HIM GUILTY YOU
2 WOULD WANT TO KNOW MORE ABOUT THE CIRCUMSTANCES AND HIM
3 AND THEN DEPENDING UPON WHAT YOU HEARD YOU COULD EITHER
4 VOTE FOR LIFE IN PRISON OR YOU COULD SIGN YOUR NAME TO
5 THAT PIECE OF PAPER THAT WOULD SAY DEATH BY
6 ELECTROCUTION. IS THAT WHAT YOU'RE TELLING ME?

7 A. YES, SIR.

8 THE COURT: ALL RIGHT. NOW, THESE GENTLEMEN
9 ARE GOING TO ASK YOU SOME QUESTIONS, AND AS I TOLD YOU
10 EARLIER, THERE'S NO RIGHT OR WRONG ANSWERS. IT'S JUST
11 INFORMATION THEY WANT. THIS IS SOLICITOR BAILEY WHO
12 WILL BE FIRST. HE'S GOING TO ASK YOU SOME QUESTIONS
13 AND EITHER FOLLOWED BY MR. BILL RUNYON OR MR. MARK
14 LEIENDECKER, THE OTHER YOUNG MAN THERE. JUST ANSWER
15 THEM AS BEST YOU CAN.

16 DIRECT EXAMINATION

17 BY MR. BAILEY:

18 Q. OKAY. MS. SMITH, PLEASE DON'T BE NERVOUS.
19 I'M JUST GOING TO ASK YOU A FEW MORE QUESTIONS KIND OF
20 LIKE THE JUDGE ASKED YOU AND THERE ARE NO RIGHT OR
21 WRONG ANSWERS. WE JUST ALL HAVE TO FIND OUT HOW YOU
22 REALLY THINK ABOUT THE DEATH PENALTY AND SOME OTHER
23 ISSUES. OKAY. IN THE QUESTIONNAIRE OR THE JUROR
24 RESPONSE FORM THAT YOU AND THE OTHER JURORS FILLED OUT,
25 YOU HAD INDICATED THAT YOU HAD A PROBLEM WITH POSSIBLY

1 NEEDING TO CARE FOR YOUR FATHER AT HOME?

2 A. MY FATHER PASSED AWAY.

3 Q. OKAY. I'M SORRY. OKAY. DID THAT HAPPEN
4 JUST WITHIN THE LAST SEVERAL DAYS OR. . .

5 A. NO, SIR. MY FATHER RECENTLY PASSED AWAY, BUT
6 MY STEPFATHER IS ILL WITH CANCER AND WE'VE PRETTY MUCH
7 GOT THAT TAKEN CARE OF WITH MY STEPSISTER AND
8 STEPBROTHER.

9 Q. OKAY. SO, THAT SITUATION WITH YOUR FATHER
10 AND YOUR STEPFATHER WOULD NOT PREVENT YOU FROM PAYING
11 ATTENTION TO THE TESTIMONY AND---

12 A. NO, SIR.

13 Q. ---CONCENTRATING ON WHAT'S TAKING PLACE
14 HERE? BECAUSE THIS IS A SERIOUS -- YOU KNOW, THE MOST
15 SERIOUS CASE THAT YOU'LL EVER BE ON AS FAR AS A JUROR.

16 A. YES, SIR.

17 Q. MS. SMITH, HAVE YOU EVER, JUST TALKING TO
18 FRIENDS OR FAMILY BEFORE YOU FOUND OUT YOU WERE GOING
19 TO BE ON JURY SERVICE HERE, EXPRESSED ANY OPINION ON
20 THE DEATH PENALTY IN GENERAL, WHETHER YOU THOUGHT IT
21 WAS A GOOD THING OR A BAD THING THAT WE HAVE THE DEATH
22 PENALTY IN THIS STATE?

23 A. NO, SIR, I NEVER REALLY THOUGHT THAT MUCH
24 ABOUT IT.

25 Q. IT'S JUST SOMETHING THAT NEVER CAME UP IN

1 CONVERSATION OR IN SCHOOL OR ANYWHERE LIKE THAT?

2 A. NO, SIR.

3 Q. NOW, THE JUDGE TOLD YOU THERE MAY BE TWO
4 STEPS HERE. THE FIRST TRIAL WOULD BE CALLED THE GUILT
5 PHASE WHICH IS LIKE ANY OTHER CRIMINAL TRIAL WHERE THE
6 JURY DETERMINES WHETHER OR NOT WE CAN -- THE STATE CAN
7 PROVE MR. ROGERS IS GUILTY OF MURDER, AND ONLY IF THE
8 JURY FINDS HIM GUILTY OF MURDER DO WE GO INTO THE
9 SECOND STAGE WHICH IS THE PENALTY PHASE. AND IF Y'ALL
10 GO INTO THAT SECOND STAGE, YOU HAVE ONE OF TWO
11 CHOICES: LIFE IMPRISONMENT OR THE DEATH PENALTY.

12 AND YOU WOULD HEAR CIRCUMSTANCES IN
13 AGGRAVATION THAT THE STATE WOULD BE TRYING TO PUT UP,
14 THAT I WOULD BE TRYING TO CONVINCE YOU TO BRING BACK
15 THE DEATH PENALTY. AND THEN THERE MAY ALSO BE EVIDENCE
16 IN MITIGATION WHERE THE DEFENSE IS TRYING TO GET YOU TO
17 RECOMMEND A LIFE SENTENCE. IF YOU DECIDED AFTER
18 HEARING ALL OF THE EVIDENCE - WHEN I SAY YOU, I MEAN
19 THE ENTIRE JURY, ALL TWELVE OF YOU - THAT THE DEATH
20 PENALTY WAS THE APPROPRIATE SENTENCE, THEN EACH JUROR
21 WOULD HAVE TO SIGN THEIR NAME ON A DEATH VERDICT FORM
22 AND THE RESULT OF THAT WOULD BE THAT THE DEATH PENALTY
23 WOULD BE IMPOSED ON THE DEFENDANT. COULD YOU SIGN YOUR
24 NAME ON A FORM LIKE THAT IF YOU'D ALREADY MADE UP YOUR
25 MIND THAT THE DEATH PENALTY WAS APPROPRIATE?

1 A. YES, SIR, I DO BELIEVE I COULD.

2 Q. OKAY. AND THE JURY WOULD ALSO COME OUT INTO
3 OPEN COURT AND THE VERDICT WOULD BE ANNOUNCED AND
4 EITHER THE JUDGE OR THE CLERK OF COURT WOULD THEN ASK
5 EACH JUROR IF THAT WAS THEIR VERDICT. IF THAT WAS YOUR
6 VERDICT, COULD YOU SAY THAT IN OPEN COURT?

7 A. YES, SIR.

8 Q. ALONG WITH THE OTHER ELEVEN JURORS?

9 A. YES, SIR.

10 Q. OKAY. DO YOU HAVE ANY RELIGIOUS FEELINGS OR
11 BELIEFS THAT WOULD INTERFERE IN ANY WAY WITH YOUR
12 ABILITY TO COME BACK WITH THE DEATH PENALTY IF YOU FELT
13 THAT WAS THE APPROPRIATE SENTENCE?

14 A. NO, SIR, I DON'T THINK SO.

15 Q. MS. SMITH, THAT'S ALL I HAVE. THANK YOU VERY
16 MUCH.

17 A. THANK YOU.

18 CROSS-EXAMINATION

19 BY MR. RUNYON:

20 Q. GOOD AFTERNOON, MS. SMITH.

21 A. GOOD AFTERNOON.

22 Q. HOW ARE YOU DOING? JUST VERY BRIEFLY, I SEE
23 YOU'RE SELF-EMPLOYED?

24 A. YES, SIR.

25 Q. WOULD YOUR BUSINESS OBLIGATIONS OR WHAT HAVE

1 YOU KEEP YOU FROM DEVOTING THE TIME TO JURY SERVICE
2 THIS WEEK IN ANY WAY?

3 A. NO, SIR.

4 Q. NOW, NOT EVEN IF PERHAPS YOU WERE UNABLE TO
5 ATTEND TO YOUR BUSINESS AFTER HOURS OR WHAT HAVE YOU?

6 A. NO, SIR, IT WOULDN'T BE A PROBLEM.

7 Q. OKAY. YOU INDICATED THAT YOUR STEPFATHER WAS
8 ILL?

9 A. YES, SIR.

10 Q. WITHOUT GETTING INTO ANY INFORMATION THAT'S
11 PRIVATE, IS HE ACUTELY ILL AT THIS TIME?

12 A. HE'S TERMINALLY ILL.

13 Q. BUT -- HAVING GONE THROUGH THIS MYSELF WITH
14 MY FATHER, I DON'T KNOW HOW TO ASK THIS, BUT I'LL JUST
15 GO AHEAD AND ASK IT. WOULD THOSE CIRCUMSTANCES -- DOES
16 IT LOOK LIKE YOUR STEPFATHER MAY PASS AWAY IN THE NEXT
17 WEEK OR SO?

18 A. OH, NO, SIR.

19 Q. OKAY. SO, YOU HAVE NO FAMILY OBLIGATIONS AT
20 THE PRESENT TIME OR NO BUSINESS OBLIGATIONS THAT WOULD
21 KEEP YOU FROM BEING SAY, FOR EXAMPLE, OCCUPIED THIS
22 ENTIRE WEEK INCLUDING YOUR FREE TIME, BEING AWAY FROM
23 YOUR FAMILY?

24 A. NO, SIR.

25 Q. OKAY. AS IT RELATES TO -- AS IT RELATES TO

1 JUST BELIEFS IN GENERAL, DO YOU HAVE ANY PARTICULARLY
2 STRONG OPINIONS AS IT RELATES TO ALCOHOL BEING INVOLVED
3 IN ANY TYPE OF CIRCUMSTANCES THAT YOU MAY HAVE TO
4 JUDGE?

5 A. NO, SIR, NOT REALLY. I MEAN, IT -- I GUESS
6 IT DEPENDS ON WHAT THE SITUATION IS.

7 Q. OKAY. AS IT RELATES TO -- AS IT RELATES TO
8 THE DISCUSSIONS THAT YOU SAID YOU HEARD, DO YOU HAVE
9 ANY RECOLLECTIONS OF SPECIFIC DISCUSSIONS OR WHAT
10 SOMEBODY MAY HAVE SAID ABOUT THIS CASE, IF YOU HEARD
11 ANY DISCUSSIONS?

12 A. JUST MY MOM SAID A LITTLE GIRL GOT SHOT
13 OUTSIDE OF SPELL'S GROCERY STORE.

14 Q. IT WAS JUST KIND OF GENERAL LIKE THAT?

15 A. YES, SIR. I DON'T WATCH THE NEWS OR READ THE
16 PAPER, SO I DON'T -- I'M NOT THAT EXPOSED TO IT.

17 Q. WELL, IF YOU RUN YOUR OWN BUSINESS YOU DON'T
18 HAVE A LOT OF TIME TO WATCH THE NEWS, DO YOU?

19 A. NO, SIR.

20 Q. USUALLY PROBABLY DON'T GET OFF WORK UNTIL
21 LATE.

22 A. USUALLY I GET HOME ABOUT 8:00.

23 Q. RIGHT. NOW, AS IT RELATES TO THOSE
24 DISCUSSIONS, DID ANYONE EXPRESS AN OPINION AS TO THE
25 FACTS OR CIRCUMSTANCES THAT YOU RECALL?

1 A. NO, SIR, NOT AS I RECALL.

2 Q. AND SO NO ONE HAS EXPRESSED AN OPINION AS TO
3 WHAT SHOULD OR SHOULD NOT BE DONE IN THIS CASE?

4 A. NO, SIR.

5 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
6 HONOR.

7 THE COURT: ANY MOTIONS FROM THE STATE?

8 MR. BAILEY: NO, SIR, YOUR HONOR.

9 THE COURT: FROM THE DEFENSE?

10 MR. RUNYON: NONE, YOUR HONOR.

11 THE COURT: WE THINK YOU'D MAKE A GOOD JUROR,
12 BUT IT DOESN'T MEAN YOU'RE GOING TO SERVE ON THE JURY.
13 IT JUST MEANS YOU'RE QUALIFIED. I'M GOING TO HAVE TO
14 DRAW ABOUT 36, 37 PEOPLE WHICH I'LL DRAW MY JURY FROM.
15 AND SO I'M GOING TO SEND YOU ABOUT YOUR BUSINESS. AND
16 ARE THESE NUMBERS THAT ARE ON YOUR -- ARE THESE STILL
17 NUMBERS. . . YOU GOT AN EMERGENCY [REDACTED], [REDACTED],
18 AND [REDACTED]. ARE THOSE STILL. . .

19 JUROR SMITH: THE EMERGENCY NUMBER.

20 THE COURT: HERE, WRITE THE PROPER NUMBERS
21 DOWN THERE IF IT'S NOT PROPER.

22 (JUROR SMITH COMPLIES.)

23 THE COURT: ALL RIGHT. THANK YOU. THE NEW
24 EMERGENCY NUMBER IS [REDACTED].

25 JUROR SMITH: 851.

1 THE COURT: 851. FORGIVE ME. AND SO I'M
2 GOING TO SEND YOU ABOUT YOUR BUSINESS. REMEMBER, DON'T
3 DISCUSS ANYTHING WITH ANYBODY. DON'T READ THE
4 NEWSPAPER OR T.V., AND I'M GOING TO ASK THAT YOU REPORT
5 BACK WHEN I TELL YOU TO. WE'LL CALL YOU. IF I HAD TO
6 GUESS, I'D SAY IT WILL PROBABLY BE WEDNESDAY SOME TIME,
7 SO DON'T GO OUT OF TOWN.

8 JUROR SMITH: OKAY.

9 THE COURT: AND WHEN YOU COME BACK - IT
10 PROBABLY WON'T TAKE THAT LONG - BUT BRING ENOUGH
11 CLOTHES AND THINGS FOR ABOUT FOUR OR FIVE DAYS.

12 JUROR SMITH: OKAY.

13 THE COURT: HAVE A GOOD DAY.

14 JUROR SMITH: THANK YOU.

15 (JUROR MARY E. SMITH WAS EXCUSED FROM THE
16 COURTROOM.)

17 THE COURT: BENJAMIN GRANT.

18 (JUROR BENJAMIN GRANT ENTERED THE COURTROOM.)

19 BENJAMIN F. GRANT, AFTER BEING DULY
20 SWORN, TESTIFIED AS FOLLOWS:

21 EXAMINATION BY THE COURT

22 Q. HAVE A SEAT. WELL, I WAS LOOKING AT YOUR
23 CARD HERE, MR. GRANT. I NOTICE AT LEAST YOU'VE SERVED
24 ON A CIVIL JURY, DIDN'T YOU?

25 A. YES, SIR.

1 Q. BUT NEVER SERVED ON A CRIMINAL JURY.

2 A. NO, SIR.

3 Q. ALL RIGHT. I TOLD YOU A LITTLE BIT ABOUT HOW
4 THINGS HAPPEN AND I NOTICE YOU WERE ONE OF THOSE THAT
5 STOOD UP WHEN I ASKED YOU IF YOU KNEW ANYTHING ABOUT
6 THE CASE. WASN'T YOU ONE OF THEM?

7 A. YES, SIR.

8 Q. DID YOU FIND OUT FROM -- DO YOU KNOW
9 ANYTHING -- ARE YOU FAMILIAR WITH MR. ROGERS?

10 A. NO, SIR, I DON'T KNOW HIM PERSONALLY.

11 Q. ALL RIGHT. DID YOU -- DID YOU WATCH IT ON
12 T.V. OR NEWSPAPER OR RADIO? HOW DID YOU LEARN ABOUT
13 IT?

14 A. WELL, TALK AROUND TOWN. I LIVE ABOUT A MILE
15 FROM WHERE IT HAPPENED.

16 Q. SLIDE YOUR SEAT UP JUST A LITTLE BIT.

17 A. I LIVE ABOUT A MILE FROM WHERE IT HAPPENED.

18 Q. OH, ALL RIGHT. NOW, IS THERE ANYTHING THAT
19 YOU HEARD -- REMEMBER WHAT I TOLD YOU ALL. I SAID WHAT
20 YOU MIGHT HEAR OUT THERE ON THE STREET OR WHAT YOU
21 MIGHT READ IN THE NEWSPAPER OR T.V. MIGHT NOT
22 NECESSARILY BE ALL THE FACTS. I WOULD TELL MY JURY TO
23 LAY ASIDE ANYTHING THAT THEY HEARD OR SAW OR READ AND
24 JUST BRING IN A VERDICT FROM WHAT THEY HEAR IN THIS
25 COURTROOM BECAUSE THIS IS WHERE WE'RE ATTEMPTING TO GET

1 ALL THE TRUTH.

2 IS THERE ANYTHING YOU'VE HEARD OR READ OR
3 SEEN OR DISCUSSED WITH ANYBODY THAT WOULD MAKE YOU FEEL
4 YOU COULDN'T FOLLOW MY INSTRUCTIONS AND BRING IN A
5 VERDICT THAT SPOKE THE TRUTH AND LAY ASIDE WHAT YOU
6 MIGHT HAVE HEARD?

7 A. NO, SIR.

8 Q. ALL RIGHT. NOW, AS I TOLD YOU, MR. ROGERS IS
9 CHARGED WITH MURDER AND SITTING AT THAT TABLE HE'S JUST
10 AS INNOCENT AS YOU AND I BECAUSE THE STATE WOULD HAVE
11 TO SATISFY TWELVE JURORS OF HIS GUILT BEYOND A
12 REASONABLE DOUBT. YOU KNOW THAT.

13 A. YES, SIR.

14 Q. AND, INCIDENTALLY, DO SPEAK OUT LOUD BECAUSE
15 I'VE GOT A MACHINE DOWN THERE THAT CAN'T SEE YOU.

16 A. OH, OKAY.

17 Q. IT WILL DO IT. THANK YOU VERY MUCH. NOW, IF
18 I DREW TWELVE JURORS UP THERE WITH TWO ALTERNATES AND
19 THOSE TWELVE JURORS DECIDED THAT THE STATE HADN'T
20 SATISFIED THEM OF HIS GUILT BEYOND A REASONABLE DOUBT
21 AND THEY FOUND HIM NOT GUILTY, THAT WOULD END
22 EVERYTHING. BUT IF THEY FOUND HIM GUILTY, THEN
23 DIFFERENT FROM OTHER TRIALS -- BECAUSE IN THIS TYPE
24 TRIAL THE JURIES DO BOTH. THEY FIND HIM GUILTY OR NOT
25 GUILTY, AND IF THEY FIND HIM GUILTY, THEN THEY MUST

1 ALSO SENTENCE HIM AND THERE'S ONLY TWO SENTENCES THAT
2 CAN COME OUT OF THIS CASE IF HE'S FOUND GUILTY, THAT
3 IS, LIFE OR DEATH.

4 NOW, IF THE JURY DECIDED THAT THE PROPER
5 SENTENCE WAS LIFE IN PRISON, THE FOREMAN WOULD JUST
6 STAND UP THERE AND HE WOULD HAVE SIGNED A PIECE OF
7 PAPER AND IT WOULD SAY, WE, THE JURY, DECIDED THAT THE
8 PROPER SENTENCE IS LIFE IN PRISON AND WHATEVER THAT
9 JURY TELLS ME TO DO I MUST DO. I CAN'T CHANGE IT. SO,
10 I WOULD SENTENCE HIM TO LIFE IN PRISON. ON THE OTHER
11 HAND, IF TWELVE JURORS DECIDED THAT THE PROPER SENTENCE
12 WAS DEATH, THEN EACH JUROR INDIVIDUALLY WOULD SIGN
13 THEIR NAME TO A PIECE OF PAPER AND IT WOULD SAY, WE,
14 THE FOLLOWING JURORS, DETERMINED THAT THE PROPER
15 SENTENCE IS DEATH. AND HERE AGAIN, I MUST DO WHAT THE
16 JURY TELLS ME AND I WOULD SENTENCE HIM TO DEATH BY
17 ELECTROCUTION. DO YOU UNDERSTAND?

18 A. YES, SIR.

19 Q. NOW, WHEN PEOPLE COME INTO COURT JUST LIKE
20 YOU AND THEY LISTEN TO THESE THINGS I'VE ASKED YOU,
21 THEY GENERALLY FALL IN ONE OF THREE CATEGORIES. THAT
22 IS, THE FIRST TYPE JUROR -- AND I'M GOING TO TELL YOU
23 THESE THREE TYPES AND THEN I WANT YOU TO TELL ME WHICH
24 ONE YOU THINK YOU BEST FIT IN. THE FIRST TYPE IS THAT
25 TYPE JUROR THAT WOULDN'T BE INTERESTED IN HEARING A

1 SECOND TRIAL. NOW, LET ME TELL YOU ABOUT THIS SECOND
2 TRIAL BECAUSE I FAILED TO TELL YOU A MOMENT AGO.

3 IF THE JURY FOUND HIM GUILTY, WE HAVE A
4 SECOND TRIAL. THAT'S CALLED A SENTENCING TRIAL, AND AT
5 THAT TRIAL IT'S DESIGNED TO TRY TO HELP THE JUROR
6 DECIDE WHAT'S THE PROPER PUNISHMENT. AND SO AT THAT
7 TRIAL WOULD BE INFORMATION, GOOD AND BAD, ABOUT THE
8 DEFENDANT. IT WOULD BE THE EXTENUATING CIRCUMSTANCES.
9 IT WOULD BE THE AGGRAVATING CIRCUMSTANCES, AND AS I
10 SAID, IT'S TO HELP THE JURY DECIDE WHAT'S THE PROPER
11 PUNISHMENT.

12 NOW, THE FIRST TYPE OF JUROR IS THAT TYPE OF
13 JUROR THAT WOULD TAKE THE POSITION ALWAYS THAT IF YOU
14 KILL SOMEBODY YOU OUGHT TO DIE YOURSELF AND THAT JUROR
15 WOULDN'T BE INTERESTED IN THAT SECOND TRIAL. THEY
16 WOULD ALWAYS VOTE FOR THE DEATH PENALTY. THEN JUROR
17 NUMBER TWO WOULD BE THAT TYPE JUROR WHICH WOULD BE
18 EXACTLY THE OPPOSITE. THEY WOULD NEVER VOTE FOR THE
19 DEATH PENALTY. THEY WOULD ALWAYS VOTE FOR LIFE IN
20 PRISON, SO THEY WOULDN'T BE INTERESTED IN THAT SECOND
21 TRIAL.

22 THEN THERE'S THE THIRD JUROR THAT IF THEY
23 FOUND HIM GUILTY WOULD WANT TO HEAR THAT SECOND TRIAL.
24 THEY'D WANT TO KNOW ALL THE GOOD THINGS, ALL THE BAD
25 THINGS, THE AGGRAVATING CIRCUMSTANCES, THE MITIGATING

1 CIRCUMSTANCES, AND THEN WHEN THAT -- THEY HEARD ALL OF
2 IT, THEN DEPENDENT UPON WHAT THEY HEARD, THEY COULD
3 EITHER VOTE FOR LIFE IN PRISON OR THEY COULD SIGN THEIR
4 NAME TO A PIECE OF PAPER THAT SAID WE RECOMMEND DEATH
5 BY ELECTROCUTION. WHICH ONE OF THOSE THREE DO YOU
6 THINK YOU BEST FIT IN?

7 A. NUMBER THREE.

8 Q. IN OTHER WORDS, YOU WOULD WANT TO HEAR THAT
9 SECOND TRIAL AND DEPENDENT UPON WHAT YOU HEARD YOU
10 COULD EITHER VOTE FOR LIFE IN PRISON OR YOU COULD SIGN
11 YOUR NAME TO THAT PIECE OF PAPER THAT SAID DEATH BY
12 ELECTROCUTION.

13 A. (JUROR NODDED HEAD UP AND DOWN.)

14 THE COURT: ALL RIGHT. NOW, AT MY LEFT OVER
15 HERE IS SOLICITOR BAILEY. HE'S THE SOLICITOR AND HE'S
16 GOING TO ASK YOU SOME QUESTIONS. ON MY RIGHT HERE IS
17 MR. RUNYON. HE'S THE ONE ON THE LEFT-HAND SIDE OF THE
18 TABLE FACING YOU AND ON THE OTHER SIDE IS MARK
19 LEIENDECKER. HE ALSO MIGHT BE ASKING YOU SOME
20 QUESTIONS AND YOU JUST ANSWER THEM AS BEST YOU CAN.
21 SOLICITOR?

22 MR. BAILEY: THANK YOU, YOUR HONOR.

23 DIRECT EXAMINATION

24 BY MR. BAILEY:

25 Q. MR. GRANT, I JUST WANT TO ASK YOU A FEW

1 QUESTIONS SORT OF ON THE LINES OF WHAT JUDGE BROWN JUST
2 ASKED YOU. YOU FILLED OUT A QUESTIONNAIRE THE CLERK OF
3 COURT SENT YOU ALONG WITH THE OTHER JURORS. I WANT TO
4 ASK YOU A COUPLE OF QUESTIONS ON THAT FIRST OF ALL.
5 YOU HAD INDICATED YOU WERE IN MILITARY SERVICE BEFORE?

6 A. YES.

7 Q. WHAT BRANCH OF THE ARMED FORCES WERE YOU IN?

8 A. ARMY.

9 Q. OKAY. AND WHEN WAS THAT?

10 A. '67 THROUGH '70. 1970.

11 Q. DID YOU SERVE IN VIETNAM OR WHERE?

12 A. YES.

13 Q. OKAY. YOU ALSO INDICATED YOUR CHURCH
14 AFFILIATION IS SAINT PETERS A.M.E. METHODIST CHURCH?
15 IS THAT IN SUMMERVILLE?

16 A. NORTH CHARLESTON.

17 Q. NORTH CHARLESTON? OKAY. DO YOU GO THERE ON
18 A REGULAR BASIS?

19 A. YES.

20 Q. PRETTY MUCH EVERY SUNDAY?

21 A. YES.

22 Q. DOES THAT CHURCH HAVE ANY PARTICULAR
23 TEACHINGS ABOUT THE DEATH PENALTY THAT YOU'RE AWARE OF
24 THAT COULD POSSIBLY INFLUENCE YOUR DECISION HERE IN
25 COURT?

1 A. NOT PARTICULARLY, NO.

2 Q. DO YOU RECALL ANY SERMONS OR SUNDAY SCHOOL
3 LESSONS THAT MAY HAVE BEEN AT CHURCH ABOUT THE DEATH
4 PENALTY?

5 A. NOT THAT I CAN REMEMBER RIGHT OFFHAND.

6 Q. ALL RIGHT. IF I HAD RUN INTO YOU SOMEWHERE
7 SAY A COUPLE OF WEEKS AGO BEFORE YOU GOT YOUR JURY
8 SUMMONS AND JUST ASKED YOU JUST IN GENERAL TERMS WHAT
9 YOU THOUGHT ABOUT THE DEATH PENALTY, NOT THIS
10 PARTICULAR CASE BUT JUST WHAT YOUR THOUGHTS IN GENERAL
11 WERE ABOUT THE DEATH PENALTY, WHAT DO YOU THINK YOU
12 WOULD HAVE TOLD ME THEN?

13 A. I REALLY DON'T BELIEVE IN IT.

14 Q. OKAY. YOU DON'T BELIEVE IN IT?

15 A. NO.

16 Q. OKAY. IS THAT BASED ON PERSONAL BELIEFS THAT
17 YOU HAVE OR ARE THEY RELIGIOUS BELIEFS OR CAN YOU TELL
18 ME, YOU KNOW, HOW YOU ARRIVED AT THAT DECISION?

19 A. SORT OF BOTH.

20 Q. OKAY.

21 A. PERSONAL AND RELIGIOUS.

22 Q. OKAY. AND ARE THOSE BELIEFS YOU'VE HAD FOR
23 SOME TIME?

24 A. YES.

25 Q. THAT YOU'VE KIND OF GROWN UP WITH?

1 A. RIGHT.

2 Q. AND ARE YOU PRETTY FIRM IN THOSE BELIEFS?

3 A. RIGHT.

4 Q. AND, AGAIN, THERE ARE NO RIGHT OR WRONG
5 ANSWERS HERE. NOBODY IS TESTING YOU. WE'RE JUST
6 TRYING TO FIND OUT HOW YOU REALLY THINK AND EVERYBODY
7 HERE NEEDS TO KNOW THAT. WOULD YOUR PERSONAL AND
8 RELIGIOUS BELIEFS AGAINST THE DEATH PENALTY IN GENERAL
9 SUBSTANTIALLY IMPAIR YOUR ABILITY TO SIT AS A FAIR AND
10 IMPARTIAL JUROR IN THE PENALTY PHASE IF WE GOT THERE
11 AND BRING BACK A DEATH VERDICT?

12 A. (PAUSE) YES.

13 Q. OKAY. SO, ALTHOUGH YOU -- IF WE GOT INTO
14 THAT SECOND PHASE AND YOU WERE ON THE JURY, ALTHOUGH
15 YOU COULD LISTEN TO THE EVIDENCE IN AGGRAVATION AND
16 EVIDENCE IN MITIGATION CONCERNING THE FACTS AND
17 CIRCUMSTANCES OF THE CASE AND THE DEFENDANT, IS WHAT
18 YOU'RE TELLING ME THAT YOU WOULD ALWAYS VOTE FOR LIFE
19 IMPRISONMENT BECAUSE YOU DON'T BELIEVE IN THE DEATH
20 PENALTY?

21 A. I BELIEVE SO.

22 Q. OKAY. AND THAT'S REGARDLESS OF WHAT FACTS
23 AND CIRCUMSTANCES CAME OUT OR WHAT THE JUDGE CHARGED
24 YOU THE LAW WAS?

25 A. YES.

1 MR. BAILEY: THANK YOU VERY MUCH. THAT'S ALL
2 I HAVE.

3 CROSS-EXAMINATION

4 BY MR. RUNYON:

5 Q. MR. GRANT, BILL RUNYON. I'M A LITTLE BIT
6 CONFUSED. WHEN YOU WERE TALKING WITH HIS HONOR, YOU
7 SAID THAT YOU'D BE THE THIRD KIND OF JUROR?

8 A. YES.

9 Q. WHO WANTED TO LISTEN TO EVERYTHING AND --
10 BEFORE YOU MADE A DECISION?

11 A. RIGHT.

12 Q. AND, OF COURSE, YOU DIDN'T INDICATE YOU WOULD
13 ALWAYS VOTE FOR LIFE IMPRISONMENT AT THAT TIME, DID
14 YOU, SIR?

15 A. NO, I DIDN'T.

16 Q. OKAY. AND WOULD YOU ALWAYS VOTE FOR LIFE
17 IMPRISONMENT?

18 A. (PAUSE) I WOULD THINK SO.

19 Q. YOU WOULD THINK SO. NOW, LET ME ASK YOU
20 THIS. HIS HONOR IS GOING TO TELL YOU WHAT THE LAW IS
21 IN THE STATE OF SOUTH CAROLINA. AND DESPITE YOUR OWN
22 PERSONAL BELIEFS ABOUT THE DEATH PENALTY, WOULD YOU
23 CONSIDER A DEATH SENTENCE FOR A DEFENDANT IN A PENALTY
24 PHASE IF IT GOT THAT FAR?

25 A. WOULD I CONSIDER?

1 Q. WELL, WOULD YOU GO BACK IN THE JURY ROOM AND
2 DELIBERATE WITH YOUR FELLOW JURORS ABOUT WHETHER OR NOT
3 THE DEATH PENALTY SHOULD BE IMPOSED?

4 A. I WOULD.

5 Q. YOU WOULDN'T JUST GO BACK IN THE JURY ROOM
6 AND SIT IN THE CORNER AND SAY I'M NOT VOTING FOR DEATH
7 UNDER ANY CIRCUMSTANCE, WOULD YOU, SIR?

8 A. NO.

9 Q. AND YOU'D LISTEN TO YOUR FELLOW JURORS AND
10 THEIR REASONS FOR WANTING TO IMPOSE THE DEATH PENALTY
11 OR WANTING TO IMPOSE LIFE?

12 A. YES.

13 Q. IS THAT CORRECT, SIR?

14 A. YES.

15 Q. AND YOU'D TRY TO REACH A HAPPY MEDIUM.

16 A. YES.

17 Q. WOULD YOU BE OPEN TO LISTEN TO WHAT YOUR
18 FELLOW JURORS HAD TO SAY?

19 A. YES.

20 Q. AND NO ONE -- JURY SERVICE DOESN'T REQUIRE
21 YOU TO COMPROMISE ANY OF YOUR BASIC VALUES THAT YOU MAY
22 HOLD, BUT WHAT YOU'RE SAYING IS IS WHILE YOU HAVE
23 RESERVATIONS ABOUT THE DEATH PENALTY, YOU COULD
24 DELIBERATE AND LISTEN TO YOUR FELLOW JURORS ABOUT
25 WHETHER OR NOT THE DEATH PENALTY SHOULD BE IMPOSED.

1 A. YES.

2 Q. IF THE FACTS AND CIRCUMSTANCES AND THE --
3 STRIKE THAT. DO YOU FEEL THAT IF THE FACTS AND
4 CIRCUMSTANCES WARRANTED IT AND YOUR FELLOW JURORS MADE
5 A CASE TO YOU FOR IMPOSING THE DEATH PENALTY THAT YOU
6 COULD VOTE FOR THE DEATH PENALTY IN THE APPROPRIATE
7 CASE?

8 A. MAYBE.

9 Q. MAYBE. THAT "MAYBE" DEPENDS UPON WHAT THE
10 FACTS AND CIRCUMSTANCES ARE.

11 A. YES.

12 Q. SO, IN OTHER WORDS, YOU'D WANT TO CONSIDER
13 THE CIRCUMSTANCES. YOU JUST WOULDN'T WANT TO SAY,
14 "LET'S IMPOSE THE DEATH PENALTY."

15 A. RIGHT.

16 Q. AND YOU'D TAKE YOUR DUTY AS A JUROR TO MEAN
17 THAT YOU'RE SUPPOSED TO LISTEN TO EVERYTHING AND TRY TO
18 FOLLOW THE LAW IN ARRIVING AT A DECISION ON THE
19 SENTENCE. CORRECT?

20 A. RIGHT.

21 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
22 HONOR.

23 MR. BAILEY: YOUR HONOR, COULD I HAVE A
24 COUPLE OF OTHER QUESTIONS TO FOLLOW UP ON THAT?

25 THE COURT: GO AHEAD.

1 REDIRECT EXAMINATION

2 BY MR. BAILEY:

3 Q. MR. GRANT, AGAIN I WANT TO EMPHASIZE THAT,
4 YOU KNOW, I'M NOT TRYING TO EMBARRASS YOU AND THERE ARE
5 NO RIGHT OR WRONG ANSWERS. I NEED TO KNOW HOW YOU
6 REALLY FEEL. DO YOU UNDERSTAND THE DIFFERENCE IN BEING
7 ABLE TO CONSIDER SOMETHING AND ACTUALLY CARRYING
8 THROUGH WITH IT?

9 A. (JUROR NODDED HEAD UP AND DOWN.)

10 Q. IN OTHER WORDS, I MIGHT CONSIDER JUMPING UP
11 AND TOUCHING THE CEILING, BUT I COULDN'T DO IT.

12 A. RIGHT.

13 Q. IS THAT KIND OF THE WAY YOU ARE WITH THE
14 DEATH PENALTY? YOU CAN CONSIDER DOING IT, BUT YOU
15 REALLY COULDN'T ACTUALLY GET UP THERE AND TAKE
16 SOMEBODY'S LIFE?

17 A. I DON'T THINK SO.

18 Q. OKAY. AND YOU'RE PRETTY SURE ABOUT THAT?

19 A. YES.

20 Q. I NOTICED YOU GAVE A "MAYBE" ANSWER TO MR.
21 RUNYON TO A QUESTION LIKE THAT, BUT YOU WERE SHAKING
22 YOUR HEAD NO WHEN YOU SAID MAYBE. BUT LET ME JUST ASK
23 YOU POINTBLANK: ARE THERE ANY CIRCUMSTANCES UNDER
24 WHICH YOU COULD TAKE SOMEBODY'S LIFE BY VOTING FOR THE
25 DEATH PENALTY?

1 A. I WOULD HAVE TO HEAR ALL OF THE EVIDENCE,
2 GOOD AND BAD, BUT. . . I WOULD JUST HAVE TO HEAR ALL
3 THE EVIDENCE.

4 Q. OKAY. AFTER HEARING ALL OF THE EVIDENCE,
5 COULD YOU UNDER ANY CIRCUMSTANCES IMPOSE THE DEATH
6 PENALTY?

7 MR. RUNYON: YOUR HONOR, I'M GOING TO
8 OBJECT. I MEAN, I ASKED THAT QUESTION OF THE
9 PROSPECTIVE JUROR EARLIER AND I BELIEVE IT WAS
10 SUSTAINED. I MEAN, TO CAUSE HIM TO SPECULATE UPON THE
11 CIRCUMSTANCES UPON WHICH HE. . .

12 RE-EXAMINATION BY THE COURT

13 Q. THE QUESTION IS: UNDER ANY CIRCUMSTANCE DO
14 YOU FEEL YOU COULD SIGN YOUR NAME TO A PIECE OF PAPER
15 THAT WOULD REQUIRE ME TO SENTENCE SOMEBODY TO DEATH?

16 A. NO.

17 Q. YOU MEAN YOU COULD NEVER DO IT?

18 A. I DON'T THINK SO.

19 Q. WELL, WHEN YOU KEEP SAYING -- AND THAT'S ALL
20 RIGHT. HERE AGAIN, I DON'T WANT TO EMBARRASS YOU AND
21 NEITHER DO THE ATTORNEYS AND THERE ARE NO RIGHT OR
22 WRONG ANSWERS. YOU KEEP SAYING, "I DON'T THINK SO."
23 DO YOU FEEL UNDER THE PROPER CIRCUMSTANCES, IF YOU
24 THOUGHT THAT A MURDER WAS BAD ENOUGH, THAT YOU COULD
25 VOTE FOR THE DEATH PENALTY AND SIGN YOUR NAME TO THAT

1 PIECE OF PAPER?

2 A. I DON'T THINK SO.

3 THE COURT: THAT'S ALL RIGHT. NOBODY IS MAD
4 AT YOU. STEP OUTSIDE THAT DOOR FOR JUST A MINUTE FOR
5 ME, WILL YOU?

6 (JUROR GRANT WAS EXCUSED FROM OPEN COURT.)

7 THE COURT: ANY MOTIONS FROM THE STATE?

8 MR. BAILEY: YES, SIR. YOUR HONOR, THE STATE
9 WOULD MOVE TO DISQUALIFY MR. GRANT FOR CAUSE. I THINK
10 THIS JUROR, PROSPECTIVE JUROR, STRUGGLED IN GOOD FAITH
11 TO ANSWER THAT QUESTION. I THINK TAKING ALL OF HIS
12 RESPONSES AS A WHOLE WHICH THE COURT MUST THAT HE
13 DOESN'T MEET THE WAINWRIGHT VERSUS WITT STANDARD, AND
14 HIS STRONG FEELINGS AGAINST THE DEATH PENALTY WOULD
15 SUBSTANTIALLY IMPAIR HIS ABILITY TO SIT AS A FAIR AND
16 IMPARTIAL JUROR.

17 MR. RUNYON: YOUR HONOR, I, OF COURSE, FOR
18 THE RECORD WOULD OBJECT ON THE GROUNDS THAT THAT'S NOT
19 WHAT HE SAID. HE, OF COURSE, STARTED OUT SAYING HE
20 WOULD LISTEN TO ALL THE FACTS AND, OF COURSE, THE
21 RECORD SPEAKS FOR ITSELF. THEN ON CROSS-EXAMINATION OR
22 DIRECT EXAMINATION BY MR. BAILEY, HE EQUIVOCATED
23 SOMEWHAT AND THEN SAID THAT HE HAD SOME RIGHT SERIOUS
24 DOUBTS ABOUT THE PROCESS AND THEN WHEN I ASKED HIM SAID
25 THAT THERE WERE CIRCUMSTANCES HE WOULD CONSIDER THE

1 DEATH PENALTY. HE WOULD LISTEN TO HIS FELLOW JURORS
2 AND HE WOULDN'T JUST SIT THERE AND CROSS HIS ARMS AND
3 SAY I'M ALWAYS GOING TO VOTE FOR DEATH.

4 I THINK THAT CERTAINLY HE SHOULD BE INCLUDED
5 IN THE POOL AND HE'S NOT -- HE HAS NOT EXPRESSED A
6 SERIOUS CLOSELY-HELD MORAL OR RELIGIOUS BELIEF THAT THE
7 DEATH PENALTY SHOULD NOT BE IMPOSED BY HIM OR COULD NO
8 BE IMPOSED BY HIM. HE JUST DOUBTS THAT HE COULD DO
9 IT. HE HAS DOUBTS AND I THINK THE JUROR SHOULD NOT BE
10 PENALIZED BECAUSE HE'S BEEN HONEST ABOUT EXPRESSING HIS
11 INNER FEELINGS ABOUT HAVING DOUBTS ABOUT IT. HAVING
12 DOUBTS AND HAVING THAT CLEAR-CUT MORAL OPPOSITION TO
13 THE DEATH PENALTY SUFFICIENT TO GET HIM DISQUALIFIED IS
14 FAR DIFFERENT AND, THEREFORE, I WOULD OBJECT TO HIM
15 BEING DISQUALIFIED. I'D MOVE THAT THE COURT INCLUDE
16 HIM IN THE POOL.

17 THE COURT: SOLICITOR, I'M DISTURBED BECAUSE
18 HE SAYS I DON'T THINK SO. HE KEEPS SAYING I DON'T
19 THINK SO. I DON'T THINK SO. AND NEITHER ONE OF YOU
20 HAS TO PIN HIM DOWN EVEN THOUGH YOU ATTEMPTED TO DO
21 SO. AND I DO GATHER THAT IT WOULD BE AWFUL HARD FOR
22 HIM TO DO IT, BUT ALSO IF YOU TAKE THE WHOLE
23 EXAMINATION, INCLUDING MINE, I DENY YOUR MOTION. BRING
24 HIM IN.

25 (JUROR GRANT WAS BROUGHT INTO OPEN COURT.)

1 THE COURT: WELL, MR. GRANT, WE ALL THINK
2 YOU'D MAKE A FAIR JUROR EVEN THOUGH WE REALIZE THAT
3 YOU'RE OPPOSED TO THE. . . BUT THIS DOESN'T MEAN
4 YOU'RE GOING TO SIT ON THE JURY. IT JUST MEANS YOU'RE
5 QUALIFIED TO SIT ON THE JURY. SO, I'M GOING TO SEND
6 YOU HOME AND I'VE GOT SOME TELEPHONE NUMBERS HERE.
7 WHAT IS THIS [REDACTED]? IS THAT YOUR -- NO, THAT'S NOT
8 YOURS. HOLD IT A MINUTE. [REDACTED], IS THAT YOUR
9 HOME?

10 JUROR GRANT: YES, SIR.

11 THE COURT: AND YOUR BUSINESS IS [REDACTED]?

12 JUROR GRANT: YES, SIR.

13 THE COURT: AND [REDACTED], THAT'S YOUR
14 WIFE'S?

15 JUROR GRANT: JOB.

16 THE COURT: JOB. AND THEN YOUR EMERGENCY.
17 WHAT'S [REDACTED]?

18 JUROR GRANT: MY BROTHER.

19 THE COURT: BROTHER.

20 JUROR GRANT: IN NORTH CHARLESTON.

21 THE COURT: WELL, DON'T GO OUT OF TOWN
22 BECAUSE I'M PROBABLY GOING TO BE CALLING YOU MAYBE EVEN
23 TOMORROW NIGHT AND TELLING YOU TO REPORT BACK HERE.
24 NOW, IN THE MEANTIME I DON'T WANT YOU TO READ OR
25 DISCUSS THIS CASE OR WATCH IT ON T.V. OR ANYTHING IF IT

1 HAPPENS TO BE ON THERE, AND WHEN YOU REPORT, BRING
2 ENOUGH CLOTHES AND TOILET ARTICLES FOR ABOUT FIVE
3 DAYS. I DON'T THINK YOU'RE GOING TO NEED IT BUT JUST
4 IN CASE IT LASTS THAT LONG. AND I HOPE YOU HAVE A GOOL
5 DAY AND I'LL BE CALLING YOU.

6 JUROR GRANT: DON'T COME UNTIL YOU CALL?

7 THE COURT: DON'T COME UNTIL I CALL YOU.

8 JUROR GRANT: ALL RIGHT.

9 THE COURT: BUT DON'T DISCUSS THE CASE IN ANY
10 WAY. OKAY?

11 JUROR GRANT: ALL RIGHT.

12 THE COURT: ALL RIGHT.

13 (JUROR BENJAMIN GRANT WAS EXCUSED FROM THE
14 COURTROOM.)

15 THE COURT: DOTTIE WHATLEY.

16 (JUROR DOTTIE WHATLEY ENTERED THE COURTROOM.)

17 THE COURT: MS. WHATLEY, PUT YOUR LEFT HAND
18 ON THE BIBLE RIGHT THERE AND RAISE YOUR RIGHT HAND FOR
19 US.

20 THE CLERK: STATE YOUR NAME, PLEASE.

21 JUROR WHATLEY: DOTTIE A. WHATLEY.

22 DOTTIE A. WHATLEY, AFTER BEING DULY
23 SWORN, TESTIFIED AS FOLLOWS:

24 EXAMINATION BY THE COURT

25 Q. HAVE A SEAT, MS. WHATLEY. YOU KNOW, I'VE

1 ALWAYS BEEN FASCINATED BY CLINICAL PSYCHOLOGISTS AS WE
2 ALL ARE I'M SURE. NOW, I NOTICE YOU'VE NEVER BEEN --
3 SERVED ON A JURY BEFORE.

4 A. NO, I HAVEN'T.

5 Q. WELL, ANYBODY WITH YOUR PROFESSION WOULDN'T
6 BE NERVOUS, WOULD THEY?

7 A. NO.

8 Q. WELL, I APPRECIATE VERY MUCH YOUR SERVICE
9 HERE TODAY AS DO THESE ATTORNEYS. THIS IS SOLICITOR
10 BAILEY OVER THERE. HE'S THE SOLICITOR WHO IS GOING TO
11 TRY THIS CASE ALONG WITH MR. WILLIAM RUNYON THERE ON
12 YOUR LEFT FACING THERE AND MR. LEIENDECKER, THE OTHER
13 YOUNG MAN. OF COURSE, IN THE MIDDLE THERE IS MR.
14 ROGERS. HE'S CHARGED WITH MURDER. WERE YOU ONE OF THE
15 ONES THAT HELD UP YOUR HAND TO SAY THAT YOU KNEW
16 SOMETHING ABOUT THE CASE?

17 A. NO, I DID NOT.

18 Q. OH, I DIDN'T -- HADN'T MADE A NOTATION BY
19 YOUR NAME THERE AND I WANTED TO BE SURE. SO, THE ONLY
20 THING YOU KNOW ABOUT IT IS WHAT I HAVE TOLD YOU SO
21 FAR.

22 A. YES.

23 Q. WELL, AS I TOLD YOU, HE'S CHARGED WITH MURDER
24 AND, OF COURSE, AS YOU KNOW, A PERSON IS PRESUMED TO BE
25 INNOCENT AND THE STATE MUST SATISFY TWELVE JURORS OF

1 HIS GUILT BEYOND A REASONABLE DOUBT. YOU UNDERSTAND
2 THAT.

3 A. YES.

4 Q. AND I ALSO TOLD YOU THAT IN AN ORDINARY CASE
5 JURIES FIND THEM GUILTY OR NOT GUILTY AND THEN WHATEVER
6 THEY FIND THEY'RE THROUGH. IF THEY FIND HIM GUILTY,
7 THE JUDGE SENTENCES THAT PERSON. WELL, IN THIS TYPE
8 CASE IT'S DIFFERENT; THE JURY DOES BOTH. IN OTHER
9 WORDS, IF A JURY AFTER LISTENING TO THE CASE DECIDED
10 THAT THE STATE HASN'T PROVED HIM GUILTY OF MURDER, THAT
11 STOPS EVERYTHING, BUT IF THEY FIND HIM GUILTY, THEN WE
12 HAVE A SECOND TRIAL.

13 IT'S CALLED A GUILT -- IT'S CALLED THE
14 SENTENCING PHASE OF THE TRIAL. AND THAT TRIAL IS
15 DESIGNED SO THAT IT'S TO ASSIST THE JURY IN DECIDING
16 WHAT THE PROPER PUNISHMENT IS. AND YOU'LL HEAR GOOD
17 THINGS, BAD THINGS, AGGRAVATING CIRCUMSTANCES,
18 EXTENUATING CIRCUMSTANCES SOMETIMES CALLED MITIGATING
19 CIRCUMSTANCES, AND WHEN THAT'S COMPLETED THE JURY THEN
20 MUST DECIDE WHETHER HE LIVES OR DIES BECAUSE THAT'S THE
21 ONLY TWO I HAVE HERE. SO, IF A JURY DECIDED THAT THE
22 APPROPRIATE PUNISHMENT WAS LIFE IN PRISON, THEN THE
23 FOREMAN WOULD SIGN A PIECE OF PAPER THAT SAID, WE, THE
24 JURY, FIND THAT THE PROPER PUNISHMENT IS LIFE IN
25 PRISON, AND WHATEVER THE JURY TELLS ME TO DO I MUST

1 DO. I CANNOT CHANGE IT. SO, IF THEY DECIDED THAT THE
2 PROPER PUNISHMENT WAS LIFE, THAT'S EXACTLY WHAT I WOULD
3 SENTENCE HIM TO.

4 ON THE OTHER HAND, IF THE JURY DECIDED THAT
5 THE APPROPRIATE PUNISHMENT WAS DEATH, THEN EACH JUROR
6 WOULD SIGN THEIR NAME TO A PIECE OF PAPER AND IT WOULD
7 SAY, IN ESSENCE, WE, THE FOLLOWING JURORS, DETERMINE
8 THAT THE PROPER SENTENCE IS DEATH. AND HERE AGAIN, I
9 MUST DO WHAT THEY TELL ME TO DO AND I WOULD SENTENCE
10 HIM TO DEATH BY ELECTROCUTION.

11 NOW, IN CASES OF THIS TYPE WHEN WE GET PEOPLE
12 JUST LIKE YOU WHO HAS NEVER HAD TO THINK ABOUT SERVING
13 ON A DEATH PENALTY CASE, JURORS GENERALLY - AND I SAY
14 GENERALLY - FALL INTO ONE OF THREE CATEGORIES. I'M
15 GOING TO TELL YOU THOSE CATEGORIES AND I WANT YOU TO
16 TELL ME WHICH YOU THINK YOU BEST FIT IN. THE FIRST
17 TYPE JUROR IS THE TYPE JUROR THAT WOULDN'T BE
18 INTERESTED IN HEARING THAT SECOND TRIAL BECAUSE THEIR
19 MIND WOULD HAVE ALREADY BEEN MADE UP. THEY'D TAKE THE
20 POSITION THAT IF YOU KILL SOMEBODY YOU OUGHT TO DIE
21 YOURSELF, LIKE AN EYE FOR AN EYE AND A TOOTH FOR A
22 TOOTH, SO TO SPEAK. THEY WOULD ALWAYS VOTE FOR THE
23 DEATH PENALTY.

24 JUROR NUMBER TWO IS THAT TYPE JUROR THAT IS
25 EXACTLY THE OPPOSITE. THEY WOULDN'T BE INTERESTED IN

1 HEARING THAT SECOND TRIAL BECAUSE REGARDLESS OF HOW
2 HORRIBLE A MURDER MIGHT BE, THEY WOULD ALWAYS VOTE FOR
3 LIFE IN PRISON. AND THERE'S A THIRD TYPE JUROR THAT IF
4 THEY FOUND HIM GUILTY WOULD BE INTERESTED IN HEARING
5 THAT SECOND TRIAL BECAUSE THEY WOULD WANT TO KNOW THE
6 GOOD AND THE BAD, THE EXTENUATING, AGGRAVATING, AND
7 THEN DEPENDENT UPON WHAT THEY HEARD COULD VOTE EITHER
8 WAY. THEY COULD EITHER VOTE FOR LIFE IN PRISON OR THEY
9 COULD SIGN THEIR NAME TO THAT PIECE OF PAPER THAT SAID
10 DEATH BY ELECTROCUTION. WHICH DO YOU THINK YOU BEST
11 FIT IN?

12 A. NUMBER THREE.

13 Q. IN OTHER WORDS, DEPENDENT UPON WHAT
14 CIRCUMSTANCES YOU HEARD IN THE SECOND TRIAL, YOU COULD
15 EITHER VOTE FOR LIFE IN PRISON OR YOU COULD SIGN YOUR
16 NAME TO A PIECE OF PAPER THAT SAID DEATH BY
17 ELECTROCUTION.

18 A. YES, I COULD.

19 Q. THE ATTORNEYS ARE GOING TO ASK YOU SOME
20 QUESTIONS. THERE ARE NO RIGHT OR WRONG ANSWERS, HERE
21 AGAIN. SO, JUST ANSWER THEM AS BEST YOU FEEL LIKE YOU
22 WANT TO ANSWER THEM.

23 A. ALL RIGHT.

24 THE COURT: SOLICITOR?

25 MR. BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION

1

2 BY MR. BAILEY:

3 Q. MS. WHATLEY, I JUST WANT TO FOLLOW UP A
4 LITTLE BIT ON SOME OF JUDGE BROWN'S QUESTIONS TO YOU.

5 A. ALL RIGHT.

6 Q. LIKE HE SAID, THERE ARE NO RIGHT OR WRONG
7 ANSWERS. WE JUST NEED TO KNOW HOW YOU FEEL ABOUT THE
8 DEATH PENALTY AND SOME OTHER ASPECTS OF THIS TRIAL.

9 A. ALL RIGHT.

10 Q. PUTTING ASIDE THIS PARTICULAR CASE AND JUST
11 TALKING IN GENERAL TERMS, IF I HAD STRUCK UP A
12 CONVERSATION WITH YOU, SAY, A MONTH AGO AND ASKED YOU
13 WHAT YOUR BELIEFS OR THOUGHTS WERE ON THE DEATH PENALTY
14 IN GENERAL, WHAT WOULD YOU HAVE TOLD ME BESIDES MIND
15 YOUR OWN BUSINESS? BUT IF WE WERE TALKING ABOUT
16 THAT. . .

17 A. IT WOULD ALL DEPEND ON THE CASE.

18 Q. OKAY. SO, YOU THINK IT'S APPROPRIATE IN SOME
19 CIRCUMSTANCES AND NOT APPROPRIATE IN OTHERS.

20 A. RIGHT.

21 Q. IS THAT CORRECT?

22 A. YES, I DO.

23 Q. AND HAVE YOU EVER REALLY HAD OCCASION TO SIT
24 DOWN AND THINK ABOUT THE DEATH PENALTY, YOU KNOW,
25 WHETHER YOU WERE GENERALLY IN FAVOR OR GENERALLY

1 AGAINST IT OR HAVE YOU. . .

2 A. YES, I'VE THOUGHT ABOUT IT.

3 Q. OKAY. AND YOU UNDERSTAND FROM JUDGE BROWN'S
4 INSTRUCTIONS TO YOU THAT IF WE REACH THE SECOND PHASE,
5 THE PENALTY PHASE, AND THE JURY HAS THOSE TWO CHOICES,
6 LIFE OR DEATH, THAT THE DECISION OF THE JURY IS WHAT
7 WILL HAPPEN. IT'S NOT A RECOMMENDATION EVEN THOUGH WE
8 USE THE TERM RECOMMENDATION SOMETIMES. THAT IS WHAT
9 WOULD HAPPEN.

10 A. RIGHT. I DO.

11 Q. AND IF YOU WERE ON A JURY IN THE SECOND PHASE
12 OF A DEATH PENALTY TRIAL AND YOU AND THE OTHER ELEVEN
13 JURORS AGREED THAT CONSIDERING ALL THE CIRCUMSTANCES
14 THE DEATH PENALTY WAS THE APPROPRIATE PUNISHMENT FOR
15 THAT DEFENDANT AND THAT CRIME, THEN EACH JUROR WOULD
16 HAVE TO SIGN THEIR NAME ON A DEATH VERDICT FORM IN
17 ORDER TO IMPOSE THAT PENALTY. COULD YOU SIGN YOUR NAME
18 ON A FORM LIKE THAT?

19 A. YES, I COULD.

20 Q. IF THAT WAS YOUR DECISION? AND COULD YOU
21 ALSO COME OUT INTO OPEN COURT AND ANNOUNCE THAT
22 DECISION INDIVIDUALLY IF YOU WERE REQUIRED TO DO THAT?

23 A. YES, I WOULD.

24 Q. OKAY. DO YOU HAVE ANY RELIGIOUS FEELINGS OR
25 BELIEFS THAT WOULD INTERFERE IN ANY WAY WITH YOUR

1 ABILITY TO BRING BACK EITHER DEATH OR LIFE DEPENDING ON
2 THE CIRCUMSTANCES?

3 A. NO, I DO NOT.

4 Q. MS. WHATLEY, THAT'S ALL I HAVE. THANK YOU
5 VERY MUCH.

6 A. UH-HUH.

7 CROSS-EXAMINATION

8 BY MR. RUNYON:

9 Q. MS. WHATLEY, GOOD AFTERNOON. YOU, OF COURSE,
10 HAVE SOME IMPRESSIVE ACADEMIC CREDENTIALS WITH AN M.S.
11 AND PH.D. FROM U.C.L.A.

12 A. YES.

13 Q. AND I ASSUME THAT BASED ON THAT -- THE
14 QUESTIONNAIRE DOESN'T APPROACH THE ISSUE, BUT I ASSUME
15 YOU PRACTICED CLINICAL PSYCHOLOGY FOR SOME PERIOD OF
16 TIME?

17 A. YES, I DID.

18 Q. OKAY. AND WAS THAT IN THE STATE OF
19 CALIFORNIA?

20 A. IN CALIFORNIA AND VIRGINIA.

21 Q. IN CALIFORNIA AND VIRGINIA.

22 A. YES.

23 Q. IN THE COURSE OF YOUR PRACTICE IN CLINICAL
24 PSYCHOLOGY, DID YOU HAVE AN OCCASION TO WORK WITH
25 ANYONE ACCUSED OF CRIMES OR SOMEONE WHO'D BEEN

1 CONVICTED OF A CRIME OR ANYTHING LIKE THAT?

2 A. YES, I DID.

3 Q. OKAY. DID YOU WORK FOR A PENAL INSTITUTION
4 OF SORTS?

5 A. NO, I WORKED FOR A CLINIC.

6 Q. YOU WORKED FOR A CLINIC.

7 A. UH-HUH.

8 Q. AND IN THE COURSE OF YOUR DUTIES YOU HAD TO
9 COUNSEL WITH AND YOU HAD TO TREAT PEOPLE WHO WERE
10 INVOLVED WITH THE LAW?

11 A. YES, I DID.

12 Q. OKAY. I KNOW YOU DON'T KEEP SCORE. AND HOW
13 LONG DID YOU PRACTICE CLINICAL PSYCHOLOGY?

14 A. ABOUT EIGHTEEN YEARS.

15 Q. DURING THE COURSE OF EIGHTEEN YEARS, WOULD
16 YOU SAY TEN PERCENT OF YOUR PRACTICE WAS WITH PEOPLE
17 WHO HAD TROUBLE WITH THE LAW WHO WERE ACCUSED WITH
18 HAVING TROUBLE WITH THE LAW?

19 A. NO. I WOULD SAY APPROXIMATELY FIVE PERCENT.

20 Q. OKAY. SO, FIVE PERCENT OF YOUR PRACTICE OVER
21 A PERIOD OF ROUGHLY EIGHTEEN YEARS.

22 A. YES.

23 Q. OKAY. NOW, MR. BAILEY ASKED YOU IF --
24 HARKING BACK TO THE BIT ABOUT IT, HE ASKED YOU ABOUT
25 YOUR BELIEFS ON THE DEATH PENALTY OR HAD YOU FORMED AN

1 OPINION, WHAT WOULD YOU HAVE TOLD HIM SHORT OF MINDING
2 HIS OWN BUSINESS. WHAT WOULD YOU HAVE TOLD HIM
3 GENERALLY ABOUT THE DEATH PENALTY IF YOU HAD TALKED TO
4 HIM A COUPLE OF WEEKS AGO, NOT ABOUT THIS CASE, BUT
5 JUST IN GENERAL?

6 A. THE SAME AS I TOLD HIM, THAT IT WOULD DEPEND
7 ON THE CASE.

8 Q. ALL RIGHT. AND, CONVERSELY, WHILE YOU HAVE
9 NO PROBLEM WITH SIGNING YOUR NAME TO -- WITH ELEVEN
10 OTHER JURORS TO A SENTENCE OF DEATH, YOU WOULDN'T SIGN
11 YOUR NAME TO THAT JUST TO, QUOTE, GET IT OVER WITH,
12 WOULD YOU, MA'AM?

13 A. NO, I WOULD NOT. IT WOULD DEPEND ON THE
14 CASE.

15 Q. AND IF YOU FELT STRONGLY ENOUGH ABOUT IT, YOU
16 WOULD WITHHOLD YOUR SIGNATURE.

17 A. IF I FELT THAT HE WAS INNOCENT, YES, I WOULD.

18 Q. WELL, YOU UNDERSTAND---

19 A. OR IF I HAD A DOUBT ABOUT IT, I WOULD.

20 Q. WELL, LET ME SAY THIS. LET ME CLARIFY THIS.
21 THE COURT HAS TOLD YOU THAT THERE ARE TWO PHASES.

22 A. RIGHT.

23 Q. IF THE DEFENDANT WERE NOT FOUND GUILTY OF
24 MURDER, THEN THE SECOND PHASE WOULD NOT COME UP. BUT
25 ONCE A PERSON IS FOUND GUILTY OF MURDER, THEN THE JURY

1 HAS RECEIVED SOME EVIDENCE AND THEN THEY HAVE TO
2 DELIBERATE AS TO WHAT THE APPROPRIATE SENTENCE WOULD
3 BE, LIFE OR DEATH. DO YOU UNDERSTAND THAT---

4 A. YES, I DO.

5 Q. ---THAT WOULD BE THE PROCEDURE? AND THAT THE
6 SENTENCE ACTUALLY DOESN'T HAVE ANYTHING TO DO WITH
7 GUILT OR INNOCENCE BECAUSE YOU WOULD HAVE ALREADY
8 DECIDED THAT AT THAT POINT.

9 A. RIGHT.

10 Q. AT THAT POINT IN TIME, IS IT YOUR POSITION
11 THAT YOU WOULD STILL CONSIDER WHETHER OR NOT THE
12 DEFENDANT WAS ENTITLED TO A LIFE SENTENCE OR A DEATH
13 SENTENCE?

14 A. YES, I WOULD.

15 Q. AND DO YOU HAVE ANY PARTICULAR BELIEFS AS TO
16 WHETHER ONE PENALTY OR THE OTHER SHOULD ALWAYS BE
17 IMPOSED AT THAT POINT?

18 A. NO, I DO NOT.

19 MR. RUNYON: OKAY. NO FURTHER QUESTIONS,
20 YOUR HONOR.

21 THE COURT: ANY MOTIONS FROM THE STATE?

22 MR. BAILEY: NO, SIR.

23 THE COURT: FROM THE DEFENSE?

24 MR. RUNYON: NO, YOUR HONOR.

25 THE COURT: MS. WHATLEY, WE ALL THINK YOU'D

1 MAKE A GOOD JUROR. DOESN'T MEAN YOU'RE GOING TO BE ON
2 THE JURY. IT JUST MEANS YOU'RE QUALIFIED AND I'M GOING
3 TO DRAW ABOUT 36, 37 PEOPLE. I'M GOING TO SEND YOU
4 ABOUT YOUR BUSINESS. I'VE GOT YOUR TELEPHONE NUMBERS.
5 THEY'RE STILL THE SAME NUMBERS I CAN REACH YOU AT.

6 JUROR WHATLEY: YES, SIR.

7 THE COURT: DON'T GO OUT OF TOWN.

8 JUROR WHATLEY: NO.

9 THE COURT: IF I HAD TO GUESS, I'D SAY THAT
10 PROBABLY TOMORROW NIGHT OR SOME TIME WEDNESDAY I'LL BE
11 CALLING YOU AND ASK THAT YOU COME BACK WHERE WE'LL ALL
12 MEET AND THEN DRAW 12 OR 14 PEOPLE FROM THOSE 36 OR 37
13 PEOPLE. IN THE MEANTIME, I'M GOING TO ASK THAT YOU
14 DON'T READ THE NEWSPAPER OR WATCH T.V. OR ANYTHING
15 ABOUT THIS CASE AND DON'T DISCUSS THE CASE, OF COURSE,
16 WITH ANYONE. AND WHEN YOU COME BACK, BRING ENOUGH
17 CLOTHES AND TOILET ARTICLES PROBABLY FOR ABOUT FIVE
18 DAYS. I DON'T THINK IT WILL TAKE IT BUT JUST IN CASE.

19 JUROR WHATLEY: ALL RIGHT.

20 THE COURT: AND I HOPE YOU HAVE A GOOD
21 AFTERNOON.

22 JUROR WHATLEY: ALL RIGHT. THANK YOU.

23 THE COURT: UH-HUH.

24 (JUROR DOTTIE WHATLEY WAS EXCUSED FROM THE
25 COURTROOM.)

1 THE COURT: JAMES BROOKS. WELL, NO, MILDRED
2 KNIGHT.

3 (JUROR MILDRED KNIGHT ENTERED THE COURTROOM.)

4 MILDRED E. KNIGHT, AFTER BEING DULY
5 SWORN, TESTIFIED AS FOLLOWS:

6 EXAMINATION BY THE COURT

7 Q. HAVE A SEAT, MS. KNIGHT. I NOTICE THAT YOU
8 NEVER SAT ON A JURY BEFORE, HAVE YOU?

9 A. NO.

10 Q. WELL, BEING A SCHOOL TEACHER, THOUGH, YOU
11 WOULDN'T BE NERVOUS AT ALL, WOULD YOU?

12 A. YEAH, A LITTLE BIT PROBABLY. THIS IS A NEW
13 EXPERIENCE, YES.

14 Q. WELL, I'M SURE IT IS. I'M GOING TO BE ASKING
15 YOU SOME QUESTIONS AND THESE PEOPLE HERE -- LET'S START
16 FROM RIGHT OVER THERE. MR. LEIENDECKER IS ONE OF THE
17 YOUNG MEN WHO REPRESENTS MR. ROGERS WHO SITS IN THE
18 CENTER AND MR. RUNYON, BILL RUNYON, IS SITTING THERE,
19 AND ON THIS SIDE IS SOLICITOR BAILEY. WE'RE ALL GOING
20 TO ASK YOU SOME QUESTIONS AND THERE ARE NO RIGHT OR
21 WRONG ANSWERS, SO JUST ANSWER AS BEST YOU CAN.

22 A. OKAY.

23 Q. NOT HAVING BEEN IN THE -- SERVED ON A JURY
24 BEFORE, YOU DON'T KNOW TOO MUCH ABOUT HOW WE PROCEED.
25 AND SO EVEN THOUGH I'VE EXPLAINED A LITTLE PART OF IT

1 TO YOU, I'M GOING INTO A LITTLE MORE DETAIL. IN THE
2 MEANTIME, I DIDN'T LOOK BUT WERE YOU ONE OF THOSE THAT
3 HELD THEIR HAND UP AND SAID THEY KNEW SOMETHING ABOUT
4 THE CASE?

5 A. NO.

6 Q. SO, EXCEPT FOR WHAT I TOLD YOU, EVERYTHING IS
7 GREEK, SO TO SPEAK.

8 A. IF I KNOW ANYTHING, IT'S PROBABLY BECAUSE I
9 HEARD IT ON THE NEWS AT THE TIME THAT IT HAPPENED, BUT
10 I DO NOT REMEMBER ANY OF THE DETAILS OF THE CASE.

11 Q. IN OTHER WORDS, IS THERE ANYTHING YOU KNOW OF
12 THAT YOU KNOW ABOUT THIS CASE OR HEARD ABOUT IT FOR
13 THAT MATTER THAT WOULD KEEP YOU FROM GIVING BOTH SIDES
14 A FAIR TRIAL?

15 A. NO.

16 Q. ALL RIGHT. NOW, AS I TOLD YOU, MR. ROGERS IS
17 CHARGED WITH MURDER AND HE'S PRESUMED TO BE INNOCENT
18 AND, OF COURSE, YOU AS A TEACHER WOULD KNOW THAT A
19 PERSON PRESUMED TO BE INNOCENT THE STATE MUST SATISFY
20 TWELVE JURORS OF HIS GUILT BEYOND A REASONABLE DOUBT.
21 YOU KNOW THAT.

22 A. UH-HUH.

23 Q. AND I TOLD YOU THAT IN AN ORDINARY CASE
24 JURIES DECIDE GUILT OR INNOCENCE AND THE JUDGE DOES THE
25 SENTENCING.

1 A. UH-HUH.

2 Q. WELL, IN THIS TYPE CASE IN WHICH THE STATE IS
3 SEEKING THE DEATH PENALTY IT'S DIFFERENT. JURIES DO
4 BOTH. IN OTHER WORDS, IF I DREW A JURY OVER THERE AND
5 TWELVE OF THEM SAID THAT THE STATE HAS FAILED TO PROVE
6 HIM GUILTY, THAT WOULD END THE PROCEEDING. BUT IF THEY
7 FOUND HIM GUILTY OF MURDER -- AND MURDER IS THE
8 FELONIOUS KILLING OF ONE PERSON BY ANOTHER PERSON WITH
9 MALICE. IF THEY PROVE -- IF THE JURY WAS SATISFIED
10 THAT HE WAS GUILTY OF MURDER, THEN WE HOLD A SECOND
11 TRIAL.

12 AT THAT TRIAL THERE WOULD BE TESTIMONY OF
13 PERHAPS EXTENUATING CIRCUMSTANCES, AGGRAVATING
14 CIRCUMSTANCES, GOOD AND BAD, AND IT'S DESIGNED TO HELP
15 THE JURY DECIDE WHAT THE PROPER PUNISHMENT IS BECAUSE
16 IN THIS CASE IF THEY FOUND HIM GUILTY THERE'S ONLY TWO
17 LIFE OR DEATH. FOR INSTANCE, IF THE JURY DECIDED THAT
18 LIFE IN PRISON WAS THE APPROPRIATE SENTENCE, THEN THE
19 FOREMAN WOULD SIGN A PIECE OF PAPER AND IT WOULD SAY IN
20 OPEN COURT HERE, WE, THE JURY, FIND THAT THE
21 APPROPRIATE SENTENCE FOR MR. ROGERS IS LIFE IN PRISON.
22 WHATEVER THE JURY TELLS ME TO DO I MUST DO. I CAN'T
23 CHANGE IT. SO, I WOULD SENTENCE HIM TO LIFE IN
24 PRISON.

25 ON THE OTHER HAND, IF THE JURY DECIDED THAT

1 THE PROPER SENTENCE WAS DEATH, EACH JUROR INDIVIDUALLY
2 WOULD SIGN THEIR NAME AND IT WOULD SAY, IN ESSENCE, WE,
3 THE FOLLOWING JURORS, DETERMINE THAT THE PROPER
4 SENTENCE IS DEATH AND, HERE AGAIN, I MUST DO WHAT THE
5 JURY TELLS ME AND I WOULD SENTENCE HIM TO DEATH BY
6 ELECTROCUTION. DO YOU UNDERSTAND?

7 A. (JUROR NODDED HEAD UP AND DOWN.)

8 Q. YOU HAVE TO SPEAK OUT LOUD.

9 A. YES, SIR.

10 Q. I'VE GOT A MACHINE DOWN THERE THAT'S GOT TO
11 PICK UP YOUR VOICE.

12 A. YES, SIR. YES, SIR.

13 Q. WELL, IN ANY EVENT, JURORS JUST LIKE YOURSELF
14 WHICH HAVEN'T HAD TOO MUCH EXPERIENCE IN THE COURTROOM
15 WHEN THEY HEAR ABOUT A DEATH SENTENCING TRIAL THEY FALL
16 IN ONE OF THREE CATEGORIES. YOU KNOW HOW TEACHERS AND
17 JUDGES LIKE TO PUT PEOPLE IN CATEGORIES. I'M GOING TO
18 TELL YOU WHAT THE THREE CATEGORIES ARE AND I WANT YOU
19 TO TELL ME WHICH ONE YOU BEST FIT IN.

20 THE FIRST TYPE WOULD BE THAT TYPE JUROR THAT
21 WOULD ALWAYS HAVE THAT PERSON'S MIND MADE UP. THEY
22 WOULDN'T BE INTERESTED IN HEARING THAT SECOND TRIAL
23 BECAUSE THEY WOULD ALWAYS VOTE FOR THE DEATH PENALTY.
24 THEY WOULD TAKE THE POSITION IF YOU KILL SOMEBODY YOU
25 OUGHT TO DIE YOURSELF.

1 JUROR NUMBER TWO IS THAT TYPE JUROR THAT
2 WOULD TAKE THE POSITION, EVEN THOUGH WE HAVE FOUND YOU
3 GUILTY, I WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY
4 WOULDN'T BE INTERESTED IN LISTENING TO THAT SECOND
5 TRIAL. THEY WOULD ALWAYS VOTE FOR LIFE. THEN THERE'S
6 THE THIRD TYPE JUROR WHICH WOULD TAKE THE POSITION THAT
7 WE FOUND YOU GUILTY. BEFORE I SENTENCE YOU, I WANT TO
8 LISTEN TO EVERYTHING. I WANT TO KNOW ALL ABOUT THE
9 CIRCUMSTANCES, THE GOOD AND THE BAD, THE AGGRAVATING
10 CIRCUMSTANCES, MITIGATING CIRCUMSTANCES, AND THEN
11 DEPENDENT UPON WHAT THEY HEARD THAT JUROR COULD EITHER
12 VOTE FOR LIFE IN PRISON OR SIGN THEIR NAME TO A PIECE
13 OF PAPER THAT WOULD SAY DEATH. WHICH DO YOU THINK YOU
14 BEST FIT IN?

15 A. I THINK I WOULD FIT IN BEST IN NUMBER THREE,
16 THE LAST ONE YOU SAID.

17 Q. IN OTHER WORDS, YOU COULD VOTE EITHER WAY.

18 A. I COULD.

19 Q. YOU DON'T FEEL THAT EVERY MURDER DESERVES
20 DEATH OR EVERY MURDER DESERVES LIFE.

21 A. NO.

22 Q. DEPENDENT UPON WHAT YOU HEARD. YOU COULD
23 VOTE EITHER WAY?

24 A. I THINK I COULD, YES.

25 THE COURT: ALL RIGHT. THE ATTORNEYS ARE

1 GOING TO ASK YOU SOME QUESTIONS, AND AS I TOLD YOU,
2 DON'T BE NERVOUS. JUST ANSWER THEM AS BEST YOU CAN.

3 A. OKAY.

4 THE COURT: SOLICITOR?

5 DIRECT EXAMINATION

6 BY MR. BAILEY:

7 Q. MS. KNIGHT, I'M WALTER BAILEY. I WANT TO
8 FOLLOW UP A LITTLE BIT ON SOME OF JUDGE BROWN'S
9 QUESTIONS. THE QUESTIONNAIRE THAT YOU AND THE OTHER
10 JURORS FILLED OUT, ONE OF THE QUESTIONS WAS YOUR CHURCH
11 AFFILIATION.

12 A. UH-HUH.

13 Q. AND YOU'VE GOT INDIAN PEAK UNITED METHODIST
14 CHURCH?

15 A. YES.

16 Q. DOES THAT CHURCH HAVE ANY PARTICULAR
17 TEACHINGS ON THE DEATH PENALTY THAT YOU'RE AWARE OF?

18 A. NOT THAT I'M AWARE OF.

19 Q. SO, YOU DON'T HAVE ANY RELIGIOUS THOUGHTS---

20 A. NO.

21 Q. ---THAT WOULD INTERFERE WITH YOUR ABILITY TO
22 MAKE THAT CHOICE, LIFE OR DEATH?

23 A. NO.

24 Q. OKAY. JUST PUTTING THIS PARTICULAR CASE
25 ASIDE AND JUST TALKING IN GENERAL TERMS, HAVE YOU EVER

1 HAD OCCASION TALKING TO, YOU KNOW, YOUR CLASS AT SCHOOL
2 OR FAMILY OR FRIENDS ABOUT THE DEATH PENALTY TO EXPRESS
3 YOUR VIEWS ON IT BEFORE?

4 A. I HAVE NOT WITH MY STUDENTS BECAUSE MY
5 STUDENTS WOULD BE TOO YOUNG.

6 Q. OKAY.

7 A. I PROBABLY HAVE WITH MY FAMILY, WITH MY
8 HUSBAND.

9 Q. OKAY.

10 A. BUT I THINK IT WOULD DEPEND ON THE CASE, YOU
11 KNOW, AS TO WHETHER OR NOT THAT, YOU KNOW, WOULD BE
12 NECESSARY.

13 Q. SO, YOU'RE NOT A HUNDRED PERCENT FOR IT OR A
14 HUNDRED PERCENT AGAINST IT.

15 A. NO.

16 Q. YOU JUST LOOK AT IT ON A CASE-BY-CASE BASIS?

17 A. I THINK I WOULD HAVE TO.

18 Q. OKAY. AND YOU UNDERSTAND THAT EVEN THOUGH WE
19 MIGHT USE THE WORD RECOMMENDATION THAT IF WE GET INTO
20 THAT SECOND PHASE, THE PENALTY PHASE---

21 A. RIGHT.

22 Q. ---WHATEVER THE JURY DECIDES BETWEEN THOSE
23 TWO CHOICES, LIFE IN PRISON OR THE DEATH PENALTY, IS
24 WHAT'S GOING TO HAPPEN. I MEAN, THE JURY MAKES THAT
25 DECISION, NOT THE JUDGE.

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1 A. YES.

2 Q. AND IN ORDER TO IMPOSE THAT VERDICT, IF IT IS
3 FOR THE DEATH PENALTY AFTER YOU HEAR ALL THE FACTS AND
4 CIRCUMSTANCES, THEN ALL TWELVE JURORS HAVE TO SIGN A
5 DEATH VERDICT FORM. IF YOU WERE ON A DEATH PENALTY
6 JURY AND YOU GOT TO THAT SECOND STAGE, YOU HAD HEARD
7 ALL THE EVIDENCE THAT CAME OUT AND YOU AND THE OTHER
8 ELEVEN JURORS DECIDED THE DEATH PENALTY WAS THE
9 APPROPRIATE PUNISHMENT, COULD YOU SIGN YOUR NAME TO
10 THAT FORM ALONG WITH THE OTHER JURORS?

11 A. I THINK IF I FELT THAT IT WAS -- THAT
12 EVERYTHING HAD BEEN PROVEN, ALL THE FACTS SHOW THAT, I
13 THINK I COULD.

14 Q. OKAY. AND COULD YOU ALSO COME OUT INTO OPEN
15 COURT AND IF THE JURY IS POLLED - THAT MEANS THE CLERK
16 OF COURT OR THE JUDGE WOULD ASK EACH JUROR INDIVIDUALLY
17 IF THAT WAS THEIR VERDICT - IF THAT WAS YOUR VERDICT,
18 WOULD YOU HAVE A PROBLEM SAYING THAT IN OPEN COURT?

19 A. I DON'T KNOW.

20 Q. OKAY.

21 A. I POSSIBLY COULD. I'M NOT SURE.

22 Q. OKAY.

23 A. I'VE NEVER BEEN IN THAT SITUATION BEFORE, SO
24 I REALLY DON'T KNOW IF I COULD OR NOT.

25 Q. WE'RE TALKING ABOUT A SITUATION WHERE YOU

MILDRED E. KNIGHT - CROSS-EXAMINATION BY MR. RUNYON

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1 WOULD HAVE BEEN IN A---

2 A. YES.

3 Q. ---FIRST STAGE---

4 A. YES.

5 Q. ---AND YOU AND THE OTHER JURORS FOUND THE
6 PERSON GUILTY OF MURDER.

7 A. RIGHT.

8 Q. THEN YOU GOT TO THE SECOND STAGE AND
9 CONSIDERED LIFE AND DEATH AND FOUND DEATH WAS
10 APPROPRIATE AND THEN YOU SIGNED THE DEATH VERDICT
11 FORM. THEN YOU CAME OUT INTO OPEN COURT. AFTER DOING
12 ALL THAT, COULD YOU SIGN THE DEATH VERDICT FORM? I
13 MEAN, COULD YOU ANNOUNCE THAT THAT WAS YOUR DECISION?

14 A. I GUESS I COULD IF I WAS A HUNDRED PERCENT
15 SURE AND I GUESS I WOULD HAVE TO BE A HUNDRED PERCENT
16 SURE IF WE HAD FOUND THE PERSON GUILTY THE FIRST TIME.

17 MR. BAILEY: MS. KNIGHT, THAT'S ALL I HAVE.
18 THANK YOU VERY MUCH.

19 CROSS-EXAMINATION

20 BY MR. RUNYON:

21 Q. VERY BRIEFLY, MS. KNIGHT, I SEE YOU TAUGHT
22 SCHOOL UP IN LIMESTONE, MAINE.

23 A. YES.

24 Q. HOW LONG DID YOU TEACH SCHOOL IN MAINE?

25 A. TWO YEARS FULL-TIME, ONE YEAR SUBSTITUTE.

1 BASICALLY THREE YEARS.

2 Q. BEING FROM DORCHESTER COUNTY, I BET YOU LIKE
3 SOUTH CAROLINA A LOT BETTER THAN ALL THAT SNOW IN
4 MAINE; RIGHT?

5 A. NO, I LIKE THE SNOW.

6 Q. OH, YOU LIKE THE SNOW. ALL RIGHT. LET ME
7 ASK YOU THIS, MS. KNIGHT, IN ALL SERIOUSNESS. I NOTICE
8 YOU'RE AN ELEMENTARY SCHOOL TEACHER.

9 A. YES.

10 Q. AND YOU'RE, LIKEWISE, THE MOTHER OF THREE
11 CHILDREN.

12 A. RIGHT.

13 Q. ONE OF THEM A DAUGHTER, I BELIEVE?

14 A. YES.

15 Q. AND WOULD THE FACT THAT THE VICTIM OR THE
16 ALLEGED -- THE DECEASED IN THIS MATTER WAS A YOUNG
17 CHILD AT THE TIME, WOULD THAT -- AND YOUR OCCUPATION AS
18 WELL AS YOUR CURRENT PARENTING STATE, WOULD THAT HAVE
19 ANY EFFECT ON HOW YOU WOULD LOOK AT THE EVIDENCE?

20 A. IT COULD, YES. IT COULD.

21 Q. WELL, WOULD IT AFFECT YOU ADVERSELY?

22 MR. BAILEY: YOUR HONOR, I'M GOING TO OBJECT
23 TO THAT. I THINK HE'S TRYING TO STAKE OUT HER BELIEFS
24 UNDER PARTICULAR AGGRAVATING CIRCUMSTANCES WITHOUT
25 HEARING ALL THE FACTS.

1 THE COURT: YEAH, I SUSTAIN THAT OBJECTION.
2 REPHRASE YOUR QUESTION.

3 BY MR. RUNYON:

4 Q. ALL RIGHT. WELL, WITH YOUR CURRENT -- WOULD
5 YOUR OCCUPATION DEALING WITH YOUNG CHILDREN KEEP YOU
6 FROM LOOKING AT THE FACTS AND CIRCUMSTANCES IN A
7 CAPITAL CASE OBJECTIVELY?

8 A. I WOULD HOPE NOT. I WOULD TRY VERY HARD TO
9 BE OPEN-MINDED.

10 Q. OKAY. I NOTICE THAT YOUR LAST NAME IS
11 KNIGHT.

12 A. YES.

13 Q. AND IN DORCHESTER COUNTY THAT'S A LOT LIKE
14 THE NAME SMITH.

15 A. UH-HUH.

16 Q. ELSEWHERE.

17 A. RIGHT.

18 Q. ARE YOU -- WHICH BRANCH OF THE KNIGHT FAMILY
19 ARE YOU RELATED TO?

20 A. ARTIE KNIGHT.

21 MR. RUNYON: OKAY. NO FURTHER QUESTIONS,
22 YOUR HONOR.

23 THE COURT: ALL RIGHT. ANY MOTIONS FROM THE
24 STATE?

25 MR. BAILEY: NO, SIR.

1 THE COURT: FROM THE DEFENSE?

2 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
3 HONOR.

4 THE COURT: WELL, IT WOULD BE GOOD TO HAVE
5 GOOD JURORS ON THERE AND EVERYBODY THINKS YOU WOULD
6 MAKE A GOOD JUROR, MS. KNIGHT. IT DOESN'T MEAN YOU'LL
7 BE A JUROR. IT JUST MEANS YOU'RE QUALIFIED. SO, I'M
8 GOING TO SEND YOU HOME AND I'M GOING TO GET IN TOUCH
9 WITH YOU AT SOME POINT, PROBABLY TOMORROW NIGHT.

10 JUROR KNIGHT: OKAY.

11 THE COURT: OR PERHAPS WEDNESDAY AND SO I
12 DON'T WANT YOU TO GO AWAY FROM THESE TELEPHONES.

13 JUROR KNIGHT: OKAY.

14 THE COURT: YOU'VE GOT YOUR HOME PHONE,
15 BUSINESS PHONE, YOUR SPOUSE'S PHONE, AND THERE'S AN
16 EMERGENCY WHICH YOU GAVE THE SAME AS YOUR HOME PHONE.
17 NOW, WHEN YOU COME BACK -- IN THE MEANTIME, DON'T WATCH
18 T.V. OR READ THE NEWSPAPERS OR ANYTHING. JUST KEEP AN
19 OPEN MIND AS I KNOW YOU WILL. IN THE MEANTIME, WHEN
20 YOU COME BACK, BRING ENOUGH CLOTHES - I DON'T THINK IT
21 WILL TAKE IT - FOR FOUR OR FIVE DAYS AND TOILET
22 ARTICLES JUST IN CASE.

23 JUROR KNIGHT: OKAY.

24 THE COURT: AND I HOPE YOU HAVE A GOOD
25 AFTERNOON.

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1 JUROR KNIGHT: OKAY. THANK YOU.

2 THE COURT: ALL RIGHT.

3 (JUROR MILDRED KNIGHT WAS EXCUSED FROM THE
4 COURTROOM.)

5 THE COURT: JAMES BROOKS.

6 (JUROR JAMES BROOKS ENTERED THE COURTROOM.)

7 JAMES M. BROOKS, AFTER BEING DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 EXAMINATION BY THE COURT

10 Q. MR. BROOKS, I NOTICE YOU'RE SELF-EMPLOYED
11 MOBILE MUSIC SERVICE. WHAT DO YOU DO?

12 A. I HAVE A MOBILE D.J. SERVICE AND WE DO --
13 WELL, ENTERTAINMENT VENUES.

14 Q. THAT'S NICE. THAT'S WHAT MY BOY ALWAYS
15 WANTED TO DO. HE'S A LAWYER. IN ANY EVENT, I NOTICE
16 ALSO YOU NEVER HAVE SERVED ON A JURY BEFORE.

17 A. NO, SIR.

18 Q. HAVE YOU BEEN AROUND COURT VERY MUCH?

19 A. NO, SIR.

20 Q. WELL, IN -- THIS MORNING WHEN I ASKED ALL
21 THIS JURY ABOUT THIS CASE -- OF COURSE, YOU KNOW MR.
22 ROGERS IS CHARGED WITH MURDER.

23 A. RIGHT.

24 Q. AND YOU REMEMBER I TOLD YOU HE'S JUST AS
25 INNOCENT AS YOU AND I. IN OTHER WORDS, THE STATE HAS

1 GOT TO SATISFY TWELVE JURORS OF HIS GUILT BEYOND A
2 REASONABLE DOUBT. DO YOU UNDERSTAND?

3 A. YES, SIR.

4 Q. WE'RE GOING TO ASK YOU SOME QUESTIONS. THE
5 YOUNG MAN ON THE RIGHT OVER THERE OF MR. ROGERS IS MR.
6 MARK LEIENDECKER. COMING TO THE LEFT THERE IS MR. BILL
7 RUNYON. THE TWO OF THEM REPRESENT MR. ROGERS. THEN
8 MR. BAILEY, THE SOLICITOR, IS THE ONE ON THE CORNER
9 THERE. AND SO THERE ARE NO RIGHT AND WRONG ANSWERS TO
10 WHAT WE'RE GOING TO ASK YOU. JUST ANSWER AS BEST YOU
11 CAN IF YOU WILL. ON YESTERDAY -- ON THIS MORNING WHEN
12 I ASKED YOU ABOUT WHETHER YOU KNEW ANYTHING ABOUT THIS
13 CASE YOU DIDN'T STAND UP AND SO I ASSUME YOU DON'T KNOW
14 ANYTHING ABOUT THE CASE EXCEPT WHAT I TOLD YOU.

15 A. JUST WHAT I'VE HEARD IN HERE TODAY.

16 Q. WELL, HE'S CHARGED WITH -- ACTUALLY THE
17 INDICTMENT STATES THAT WITH MALICE, THAT'S MURDER, THAT
18 HE SHOT SOMEONE IN THE BACK OF THE HEAD IN WHICH THEY
19 DIED. NOW, ORDINARILY, AS I TOLD YOU, JURIES DECIDE
20 GUILT OR INNOCENCE AND THE JUDGE DOES THE SENTENCING.
21 WELL, IN THIS TYPE CASE, A DEATH PENALTY CASE, JURIES
22 DO BOTH. SO, HOW WE WOULD PROCEED IS WE WOULD DRAW
23 TWELVE JURORS AND I'LL DRAW A COUPLE OF ALTERNATES JUST
24 IN CASE SOMEONE BECOMES INCAPACITATED AND THEN IF THE
25 JURY -- IF THE STATE PUTS UP THEIR CASE AND THE JURY

1 DECIDES THAT HE'S NOT GUILTY, THAT ENDS EVERYTHING.
2 BUT IF THEY FIND HIM GUILTY OF MURDER, THEN WE HAVE A
3 SECOND TRIAL.

4 THAT TRIAL IS CALLED THE PENALTY PHASE AND
5 IT'S DESIGNED SO THAT IT WOULD ASSIST THE JURY IN
6 DECIDING WHETHER THE PROPER PUNISHMENT WAS, LIFE OR
7 DEATH, BECAUSE THAT'S THE ONLY THING YOU WOULD HAVE IN
8 THIS TYPE CASE. AND YOU MIGHT HEAR GOOD THINGS AND BAD
9 THINGS, AGGRAVATING CIRCUMSTANCES, AND MITIGATING
10 CIRCUMSTANCES, AND WHEN ALL THAT'S DONE, THEN THE JURY
11 DECIDES WHAT THE PUNISHMENT IS. IF THE JURY DECIDED
12 THAT THE PROPER PUNISHMENT WAS LIFE IN PRISON, THEN THE
13 FOREMAN WOULD COME OUT AND ANNOUNCE AND HE WILL HAVE
14 SIGNED A PIECE OF PAPER THAT SAYS, WE, THE JURY,
15 RECOMMEND LIFE IN PRISON AND I MUST DO EXACTLY WHAT THE
16 JURY TELLS ME TO DO. I CAN'T CHANGE IT. SO I WOULD
17 SENTENCE HIM TO LIFE IN PRISON.

18 ON THE OTHER HAND, ASSUMING THAT THEY FOUND
19 HIM GUILTY, THE SECOND TRIAL THE JURY DECIDED THAT
20 DEATH WAS THE PROPER PENALTY, THEN EACH JUROR
21 INDIVIDUALLY WOULD SIGN THEIR NAME TO A PIECE OF PAPER
22 AND IT WOULD SAY, WE, THE JURY, DETERMINED THAT THE
23 PROPER SENTENCE IS DEATH. AND HERE AGAIN, AS I TOLD
24 YOU, I MUST DO WHAT THE JURY TELLS ME AND SO I WOULD
25 SENTENCE HIM TO DEATH BY ELECTROCUTION.

1 NOW, WHEN JURORS COME IN HERE LIKE YOURSELF
2 THAT HAVEN'T HAD TOO MUCH COURT EXPERIENCE AND THEY
3 LEARN -- THEY'RE ASKED QUESTIONS ABOUT THE DEATH
4 PENALTY, THEY GENERALLY FALL IN ONE OF THREE CATEGORIES
5 AND I'M GOING TO TELL YOU WHAT THOSE CATEGORIES ARE AND
6 THEN I WANT YOU TO TELL ME WHICH ONE YOU THINK YOU BEST
7 FIT. THE FIRST JUROR WOULD BE THAT TYPE JUROR THAT
8 WOULD TAKE THE POSITION ALWAYS THAT THEY WOULD VOTE FOR
9 THE DEATH PENALTY. THEY WOULD TAKE THE POSITION THAT
10 IF YOU KILL SOMEBODY YOU OUGHT TO DIE YOURSELF. EVERY
11 MURDER OUGHT TO RECEIVE DEATH AND SO THEY WOULDN'T BE
12 INTERESTED IN THAT SECOND TRIAL BECAUSE THEIR MIND
13 WOULD HAVE BEEN MADE UP.

14 THEN THERE'S THE SECOND TYPE JUROR THAT WOULD
15 BE THE EXACT OPPOSITE. THEY ALSO WOULDN'T BE
16 INTERESTED IN HEARING THAT SECOND TRIAL WITH THE
17 MITIGATION AND AGGRAVATING CIRCUMSTANCES BECAUSE THEY
18 WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY WOULD
19 ALWAYS VOTE FOR LIFE IN PRISON. AND THEN THERE'S THE
20 THIRD TYPE JUROR THAT WOULD TAKE THE POSITION, IF THEY
21 FOUND HIM GUILTY, THAT THEY WOULD WANT TO LISTEN TO
22 THAT SECOND TRIAL. THEY WOULD WANT TO KNOW THE GOOD
23 AND THE BAD, THE EXTENUATING AND THE AGGRAVATING
24 CIRCUMSTANCES, AND THEN DEPENDENT UPON WHAT THEY HEARD
25 THEY COULD EITHER VOTE FOR LIFE IN PRISON OR THEY COULD

1 SIGN THEIR NAME TO THAT PIECE OF PAPER THAT SAID
2 DEATH. WHICH JUROR DO YOU THINK YOU BEST FIT IN?

3 A. THE LATTER OF THE THREE.

4 Q. IN OTHER WORDS, DEPENDING UPON WHAT YOU
5 HEARD, YOU DON'T BELIEVE THAT EVERY MURDER OUGHT TO
6 RECEIVE THE DEATH PENALTY NOR LIFE IN PRISON, BUT YOU
7 COULD VOTE EITHER WAY. IS THAT WHAT YOU'RE SAYING?

8 A. RIGHT.

9 Q. ALL RIGHT. NOW, AS I TOLD YOU THERE ARE NO
10 RIGHT OR WRONG ANSWERS. THE ATTORNEYS HAVE SOME
11 QUESTIONS AND JUST ANSWER THEM AS BEST YOU CAN.

12 A. OKAY.

13 THE COURT: SOLICITOR?

14 MR. BAILEY: THANK YOU, YOUR HONOR.

15 DIRECT EXAMINATION

16 BY MR. BAILEY:

17 Q. MR. BROOKS, I'M WALTER BAILEY. I JUST WANT
18 TO ASK YOU A VERY FEW QUESTIONS HERE. YOU RETIRED FROM
19 THE AIR FORCE AFTER TWENTY YEARS?

20 A. YES, SIR.

21 Q. HOW LONG AGO WAS THAT THAT YOU RETIRED?

22 A. NOVEMBER.

23 Q. OKAY. AND YOU INDICATED YOUR CHURCH
24 AFFILIATION IN THE QUESTIONNAIRE IS SUMMERVILLE BAPTIST
25 CHURCH?

1 A. RIGHT.

2 Q. DO YOU HAVE ANY RELIGIOUS FEELINGS ABOUT THE
3 DEATH PENALTY?

4 A. NO, NOT REALLY.

5 Q. OKAY. IF WE FORGET THIS PARTICULAR CASE AND
6 JUST TALK IN GENERALITIES, IF I HAD ASKED YOU A MONTH
7 OR SIX WEEKS AGO SOMEWHERE WHAT DO YOU THINK ABOUT THE
8 DEATH PENALTY IN GENERAL, WHAT WOULD YOUR RESPONSE HAVE
9 BEEN?

10 A. I AM FOR THE DEATH PENALTY DEPENDING ON THE
11 CIRCUMSTANCES BEHIND, YOU KNOW, THE CASE AND WHAT'S
12 GOING ON. I DON'T THINK THAT THERE'S ONE SET RULE THAT
13 YOU CAN USE THAT'S GOING TO FIT EVERY CIRCUMSTANCE,
14 OKAY, OR EVERY CASE. IF -- I MEAN, BECAUSE NOTHING IS
15 THE SAME. THERE'S NO TWO THINGS THAT ARE IDENTICAL.
16 AND SO I THINK YOU HAVE TO TAKE EACH ON ITS INDIVIDUAL
17 MERIT. I THINK THE DEATH PENALTY IS A GOOD TOOL TO USE
18 DEPENDING ON THE CIRCUMSTANCES AND WHAT HAVE YOU BUT,
19 YOU KNOW, THERE'S OTHER ALTERNATIVES TO THAT ALSO.

20 Q. SOUNDS LIKE YOU'VE THOUGHT THROUGH THIS
21 PROCESS BEFORE, I MEAN---

22 A. OH, YEAH.

23 Q. ---IN TALKING TO FRIENDS OR CO-WORKERS OR
24 WHATEVER.

25 A. YES, SIR.

1 Q. OKAY. THE JUDGE EXPLAINED A LITTLE BIT ABOUT
2 THE TWO-PART PROCESS, THAT IF WE -- IF THE JURY REACHES
3 A FINDING OF GUILTY OF MURDER IN THE FIRST STAGE, WE GO
4 INTO THE SECOND STAGE?

5 A. RIGHT.

6 Q. THE JURY THEN HEARS ADDITIONAL EVIDENCE IN
7 AGGRAVATION AND MITIGATION, THEN DETERMINES THE
8 PUNISHMENT, EITHER LIFE IN PRISON OR THE DEATH
9 PENALTY. THOSE ARE THE TWO CHOICES.

10 A. RIGHT.

11 Q. IN ORDER TO IMPOSE THAT DEATH PENALTY IF THAT
12 WAS THE DECISION, EACH JUROR WOULD HAVE TO SIGN THEIR
13 NAME TO A DEATH VERDICT FORM.

14 A. RIGHT.

15 Q. COULD YOU SIGN YOUR NAME TO A FORM LIKE THAT
16 IF YOU HAD ALREADY REACHED THAT DECISION?

17 A. IF I HAD ALREADY REACHED THAT DECISION, YES.

18 Q. OKAY. BY THE SAME TOKEN, COULD YOU COME OUT
19 INTO OPEN COURT ALONG WITH THE OTHER TWELVE JURORS --
20 OTHER ELEVEN JURORS AND INDIVIDUALLY GIVE THAT
21 RESPONSE---

22 A. YES.

23 Q. ---IF THAT WAS YOUR VERDICT?

24 A. IF NEED BE, YES.

25 MR. BAILEY: THAT'S ALL I HAVE. THANK YOU

1 VERY MUCH.

2 CROSS-EXAMINATION

3 BY MR. RUNYON:

4 Q. GOOD AFTERNOON.

5 A. HOW ARE YOU DOING?

6 Q. GOOD. MR. BROOKS, HOW ARE YOU DOING THIS
7 AFTERNOON?

8 A. NOT BAD.

9 Q. I WAS JUST INTERESTED IN YOUR RESPONSE TO ONE
10 OF MR. BAILEY'S QUESTIONS. YOU SAID YOU THOUGHT THE
11 DEATH PENALTY WAS A GOOD TOOL. WHAT DID YOU MEAN BY
12 THAT, SIR?

13 A. WELL, AS AN INSTRUMENT TO USE FOR DETERRENCE;
14 OKAY? IT'S IF -- LIKE I SAID, I DON'T THINK EVERY CASE
15 IS THE SAME, OKAY, AND DEPENDING UPON THE CIRCUMSTANCES
16 BEHIND IT A PUNISHMENT SHOULD FIT THE CRIME. OKAY?
17 AND YOU HAVE TO WEIGH ALL THE EVIDENCE AND ALL THE
18 THINGS THAT YOU HEAR AND SEE AND CAN GATHER ALL THE
19 INFORMATION BEFORE YOU CAN MAKE REALLY AN INTELLIGENT
20 DECISION ON IT; OKAY? I MEAN, I COULDN'T SIT HERE AND
21 TELL YOU THAT, YEAH, I THINK EVERYBODY SHOULD DIE
22 BECAUSE THEY KILL SOMEBODY; OKAY? BUT THERE ARE SOME
23 INSTANCES WHERE I HAVE SEEN THINGS THAT HAPPENED THAT,
24 YEAH, I BELIEVE THEY SHOULD HAVE BEEN, YOU KNOW, PUT TO
25 DEATH FOR WHAT THEY DID. OKAY?

1 Q. OKAY.

2 A. I MEAN, I HOPE THAT ANSWERS YOUR QUESTION.

3 Q. YES, SIR. WELL, THERE ARE NO RIGHT AND WRONG
4 ANSWERS. THE ANSWERS ARE WHATEVER YOUR ANSWERS ARE.

5 A. RIGHT.

6 Q. NOW, AS IT RELATES TO -- I NOTICE YOU'RE VERY
7 ACTIVE WITH P.T.A. PROGRAMS.

8 A. RIGHT.

9 Q. AND YOU INDICATED THAT YOU, QUOTE, BELONG TO
10 THE FRATERNAL ORDER OF POLICE. DO YOU ATTEND MEETINGS
11 OR ANYTHING LIKE THAT?

12 A. NO, I JUST -- I'M A SUPPORTER. I DO A LOT OF
13 CHARITIES AND THINGS LIKE THAT, ESPECIALLY WITH THE
14 BUSINESS THAT I'M IN. THAT JUST HAPPENS TO BE ONE OF
15 THE ONES THAT I DO.

16 Q. SO THAT YOUR ACTIVITIES WITH, SAY, THE
17 FRATERNAL ORDER OF POLICE IS NOT THE SAME AS YOUR
18 ACTIVITIES WITH THE P.T.A. GIVEN THE FACT THAT YOU HAV
19 THREE CHILDREN IN SCHOOL.

20 A. RIGHT. RIGHT.

21 Q. AND JUST TO CLARIFY, YOU THINK THAT AS A
22 PRACTICAL MATTER YOU NEED TO HEAR ALL THE FACTS AND
23 EVIDENCE BEFORE YOU COULD MAKE A DECISION AS TO WHETHE
24 OR NOT, IF A PERSON WAS FOUND GUILTY OF MURDER, AS TO
25 WHETHER OR NOT THEY SHOULD RECEIVE THE DEATH PENALTY.

1 A. RIGHT. YEAH.

2 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
3 HONOR.

4 THE COURT: ANY MOTIONS?

5 MR. BAILEY: NO, SIR.

6 THE COURT: ANY MOTIONS?

7 MR. RUNYON: NO, YOUR HONOR.

8 THE COURT: WE ALL THINK YOU'D MAKE A GOOD
9 JUROR, MR. BROOKS. DOESN'T MEAN YOU'RE GOING TO BE
10 ONE.

11 JUROR BROOKS: I UNDERSTAND.

12 THE COURT: IT JUST MEANS YOU'D BE AMONG
13 ABOUT 37, 38 PEOPLE THAT WE'LL CHOOSE, AND SO I'M GOING
14 TO SEND YOU ABOUT YOUR BUSINESS. I'VE GOT YOUR
15 TELEPHONE NUMBERS HERE AND I ASSUME THEY'RE THE SAME.

16 [REDACTED] ?

17 JUROR BROOKS: YES, SIR.

18 THE COURT: IS THAT YOUR HOME?

19 JUROR BROOKS: THAT'S MY HOME AND OFFICE
20 NUMBER.

21 THE COURT: AND OFFICE.

22 JUROR BROOKS: RIGHT. I WORK OUT OF MY HOME.

23 THE COURT: WELL, DON'T GET TOO FAR AWAY
24 BECAUSE I'LL PROBABLY BE CALLING YOU TOMORROW NIGHT OR
25 WEDNESDAY SOMETIME.

1 JUROR BROOKS: OKAY.

2 THE COURT: AND WHEN YOU COME - I DON'T THINK
3 IT WILL TAKE THAT LONG - BUT BRING ENOUGH CLOTHES FOR
4 ABOUT FIVE DAYS AND TOILET ARTICLES IN CASE YOU'RE
5 CHOSEN.

6 JUROR BROOKS: OKAY.

7 THE COURT: AND SO IN THE MEANTIME DON'T
8 WATCH T.V. OR NEWSPAPERS OR ANYTHING AND JUST GET THIS
9 CASE FROM WHAT YOU HEAR IN THE COURTROOM. DON'T TALK
10 TO ANYONE ABOUT THIS CASE.

11 JUROR BROOKS: AND YOU WILL CALL TOMORROW?
12 SOMEBODY WILL CALL TOMORROW. OKAY.

13 THE COURT: OR TOMORROW OR WEDNESDAY.

14 JUROR BROOKS: OR WEDNESDAY.

15 THE COURT: YOU JUST GO ON ABOUT YOUR
16 BUSINESS---

17 JUROR BROOKS: UNTIL I HEAR---

18 THE COURT: BUT DON'T GO OUT OF TOWN.

19 JUROR BROOKS: OH, I'M NOT, NOT TILL I GET A
20 PHONE CALL; RIGHT?

21 THE COURT: HAVE A GOOD AFTERNOON.

22 JUROR BROOKS: OKAY. THANK YOU, SIR.

23 (JUROR JAMES BROOKS WAS EXCUSED FROM THE
24 COURTROOM.)

25 THE COURT: WOULD ANYBODY LIKE TO TAKE A

1 BREAK? ALL RIGHT. LET'S TAKE ABOUT FIVE MINUTES AND
2 LET ME KNOW -- LET ME KNOW WHEN YOU ALL ARE READY.
3 COURT WILL BE IN RECESS FOR ABOUT FIVE MINUTES.

4 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

5 THE COURT: KEEP YOUR SEAT. THANK YOU VERY
6 MUCH. SOLICITOR, LET ME SEE YOU AND MR. RUNYON.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD.)

8 THE COURT: ALL RIGHT. THE NEXT ONE IS
9 PATRICIA BALCERZAK. NO, IT'S LAURA TYSON. FORGIVE
10 ME.

11 (JUROR LAURA TYSON ENTERED THE COURTROOM.)

12 LAURA TYSON, AFTER BEING DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 EXAMINATION BY THE COURT

15 Q. HAVE A SEAT, PLEASE, MS. TYSON. I NOTICE
16 THAT YOU HAVE NEVER SERVED ON A JURY.

17 A. NO, SIR.

18 Q. HAVE YOU BEEN AROUND COURT VERY MUCH?

19 A. NO, SIR.

20 Q. ARE YOU NERVOUS?

21 A. YES.

22 Q. WELL, YOU DON'T HAVE TO BE.

23 A. OKAY.

24 Q. YOUR PROFESSION WOULDN'T LET YOU BE NERVOUS
25 ANYWAY BECAUSE YOU GET OUT AMONG THE PEOPLE, DON'T YOU?

1 A. YES, SIR. I SEE QUITE A FEW EVERY DAY.

2 Q. WELL, AS I WAS TELLING YOU ALL A LITTLE
3 EARLIER A LITTLE BIT ABOUT THIS CASE, YOU KNOW, OF
4 COURSE, THAT MR. ROGERS WHO SITS IN THE CENTER THERE IS
5 CHARGED WITH MURDER. YOU UNDERSTAND THAT?

6 A. YES, SIR.

7 Q. AND THE STATE MUST PROVE HIM GUILTY BEYOND A
8 REASONABLE DOUBT, IF THEY CAN DO IT, BECAUSE A PERSON
9 IS ALWAYS PRESUMED TO BE INNOCENT. YOU KNOW THAT.

10 A. YES, SIR.

11 Q. NOW, SITTING AT THE TABLE THERE ON YOUR
12 RIGHT, THAT YOUNG MAN IS MR. MARK LEIENDECKER. THE
13 GENTLEMAN ON THIS END OF THE TABLE IS MR. BILL RUNYON
14 AND OVER HERE IS SOLICITOR BAILEY. AND, OF COURSE, MY
15 NAME IS JUDGE BROWN AND I'M GOING TO ASK YOU SOME
16 QUESTIONS JUST AS THEY WILL AND THERE ARE NO RIGHT OR
17 WRONG ANSWERS. IT'S INFORMATION TO ATTEMPT TO ASSIST
18 US IN DRAWING A JURY THAT'S TOTALLY IMPARTIAL, IN OTHER
19 WORDS, THAT WILL BRING IN A VERDICT THAT SPEAKS THE
20 TRUTH BECAUSE, AS I TOLD YOU, YOU DON'T HAVE TO
21 APOLOGIZE TO ANYONE. YOU DON'T HAVE TO FEEL SYMPATHY
22 OR PREJUDICE OR ANYTHING. JUST BRING IN A VERDICT THAT
23 SPEAKS THE TRUTH.

24 A. OKAY.

25 Q. NOW, HE'S CHARGED WITH MURDER AND WE'LL DRAW

1 JURORS TO TRY THIS CASE, AND IF THAT JURY DECIDES THAT
2 HE'S NOT GUILTY, THAT ENDS THE PROCEEDING.

3 A. (JUROR NODDED HER HEAD UP AND DOWN.)

4 Q. AND WHEN YOU NOD YOUR HEAD, I'VE GOT A
5 MACHINE DOWN THERE THAT CAN'T PICK THAT UP. SO SPEAK
6 OUT LOUD FOR ME. WILL YOU DO THAT?

7 A. YES, SIR.

8 Q. OKAY. IN AN ORDINARY CASE, AS I TOLD YOU
9 ALL, THE JURY DECIDES THE GUILT OR INNOCENCE AND THE
10 JUDGE SENTENCES HIM. IN THIS TYPE CASE, THIS DEATH
11 PENALTY CASE, IT'S DIFFERENT. THE JURY DOES BOTH. DID
12 YOU KNOW THAT?

13 A. FROM WHAT YOU TOLD ME.

14 Q. ALL RIGHT. AND SO WHAT WOULD HAPPEN IS IF
15 THE JURY FOUND HIM NOT GUILTY, THAT WOULD END
16 EVERYTHING, BUT IF THEY FOUND HIM GUILTY OF MURDER,
17 THEN WE'D HAVE A SECOND TRIAL AND AT THAT SECOND TRIAL
18 THERE WOULD BE TESTIMONY AND EVIDENCE TO ASSIST THE
19 JURY IN DECIDING WHAT'S THE PROPER PUNISHMENT. THAT
20 IS, THERE MIGHT BE EXTENUATING OR MITIGATING
21 CIRCUMSTANCES. THERE MIGHT BE GOOD AND BAD,
22 AGGRAVATING CIRCUMSTANCES, AND WHEN IT'S COMPLETED THE
23 JURY THEN MUST FIND HIM GUILTY -- FIND -- SENTENCE HIM
24 TO LIFE OR PRISON, LIFE IN PRISON OR DEATH BY
25 ELECTROCUTION. I DON'T KNOW WHAT GOT ME ALL

1 TONGUE-TIED.

2 IF THE JURY DECIDED, AS I SAID, THAT THE
3 APPROPRIATE PUNISHMENT WAS LIFE IN PRISON, THE JURY
4 WOULD COME OUT AND THE FOREMAN WOULD HAVE SIGNED A
5 PIECE OF PAPER THAT SAID, WE, THE JURY, FIND THAT THE
6 APPROPRIATE SENTENCE IS LIFE IN PRISON AND WHATEVER THE
7 JURY DECIDES OR RECOMMENDS I MUST DO. I CAN'T CHANGE
8 IT, EVEN THOUGH I SAY RECOMMEND. ON THE OTHER HAND, IF
9 THE JURY DECIDED THAT THE PROPER PUNISHMENT WAS DEATH,
10 THEN EACH JUROR INDIVIDUALLY WOULD SIGN THEIR NAME TO A
11 PIECE OF PAPER AND IT WOULD SAY, WE, THE FOLLOWING
12 JURORS, DETERMINE THAT THE PROPER SENTENCE IS DEATH.
13 AND HERE AGAIN, I MUST DO WHAT THE JURY TELLS ME, SO I
14 WOULD SENTENCE HIM TO DEATH BY ELECTROCUTION. DO YOU
15 UNDERSTAND?

16 A. YES, SIR.

17 Q. NOW, BEFORE I GO ANY FURTHER, I NOTICE THAT
18 YOU DIDN'T STAND UP WHEN I ASKED IF YOU KNEW ANYTHING
19 ABOUT THIS CASE FROM THE MEDIA OR ANYBODY ELSE. DID
20 YOU KNOW ANYTHING ABOUT IT?

21 A. NO, SIR. IF I HEARD ANYTHING, IT KIND OF
22 WENT IN ONE EAR AND OUT THE OTHER. I DON'T REMEMBER
23 HEARING ANYTHING ABOUT IT.

24 Q. ALL RIGHT. SO, THEN, YOU DON'T KNOW OF ANY
25 REASON WHY ANYTHING YOU MIGHT HAVE HEARD WOULD AFFECT

1 YOUR ABILITY TO RENDER A FAIR VERDICT.

2 A. NO, SIR.

3 Q. ALL RIGHT. NOW, WHEN PEOPLE LIKE YOU COME
4 INTO COURT AND LISTEN AND IS CONFRONTED THE FIRST TIME
5 ABOUT THEIR JURY SERVICE ON THIS TYPE CASE THEY
6 GENERALLY FALL WITHIN ONE OF THREE CATEGORIES. I'M
7 GOING TO TELL YOU WHAT THOSE CATEGORIES ARE AND THEN I
8 WANT YOU TO TELL ME WHICH YOU THINK YOU BEST FIT.

9 A. OKAY.

10 Q. THE FIRST TYPE JUROR WOULD BE THAT JUROR WHO
11 WOULDN'T WANT TO HEAR THAT SECOND TRIAL BECAUSE THEIR
12 MIND WOULD HAVE ALREADY BEEN MADE UP. THEY WOULD
13 ALWAYS VOTE FOR THE DEATH PENALTY. THEY WOULD TAKE THE
14 POSITION IF YOU KILL SOMEBODY YOU OUGHT TO DIE. THEN
15 THE OPPOSITE TO THAT WOULD BE JUROR NUMBER TWO WHICH
16 WOULD TAKE THE POSITION THAT REGARDLESS OF HOW HEINOUS
17 THE CRIME, THE MURDER, MIGHT BE OR HOW AGGRAVATING THE
18 CIRCUMSTANCES MIGHT BE, THEY WOULD ALWAYS VOTE FOR LIFE
19 IN PRISON. THEY WOULD NEVER PICK THE DEATH PENALTY.

20 AND THEN THERE'S THE THIRD JUROR THAT WOULD
21 TAKE THE POSITION IF THEY FOUND HIM GUILTY THAT BEFORE
22 THEY SENTENCED THAT PERSON THEY WOULD WANT TO KNOW THE
23 CIRCUMSTANCES, GOOD AND BAD, AND DEPENDENT UPON WHAT
24 THEY HEARD THEN THEY COULD VOTE FOR EITHER LIFE OR
25 DEATH. WHICH JUROR DO YOU THINK YOU BEST FIT?

1 A. I THINK I WOULD HAVE TO WEIGH THE
2 CIRCUMSTANCES TO DECIDE.

3 Q. IN OTHER WORDS, YOU ARE THE TYPE JUROR THAT
4 WOULDN'T THINK THAT EVERY MURDER WOULD DESERVE LIFE OR
5 EVERY MURDER DESERVES DEATH?

6 A. YES, SIR.

7 THE COURT: ALL RIGHT. . THEY'RE GOING TO ASK
8 YOU SOME QUESTIONS AND JUST ANSWER THEM AS BEST YOU
9 CAN. SOLICITOR?

10 MR. BAILEY: THANK YOU, YOUR HONOR.

11 DIRECT EXAMINATION

12 BY MR. BAILEY:

13 Q. MS. TYSON, I JUST HAVE A FEW QUESTIONS TO ASK
14 YOU ABOUT YOUR BELIEFS IN THE DEATH PENALTY.
15 FORGETTING THIS PARTICULAR CASE FOR RIGHT NOW AND JUST
16 TALKING IN GENERAL TERMS, HAVE YOU EVER HAD OCCASION
17 TO, YOU KNOW, TALK TO YOUR FRIENDS OR CO-WORKERS OR
18 YOUR FAMILY ABOUT THE DEATH PENALTY IN GENERAL, JUST
19 HOW YOU THOUGHT ABOUT IT?

20 A. YES, SIR, AND I'VE NEVER BEEN AWARE OF
21 CERTAIN SPECIFICS, SO I WOULD NEVER TAKE A STAND ON
22 EITHER -- EITHER OR.

23 Q. OKAY. WELL, JUST IN GENERAL TERMS, THE FACT
24 THAT WE HAVE A DEATH PENALTY IN SOUTH CAROLINA, DO YOU
25 THINK THAT'S GOOD OR BAD THAT IT'S A POSSIBILITY IN

1 CERTAIN CASES?

2 A. IN CERTAIN CASES I THINK IT IS NECESSARY.

3 Q. THE JUDGE TOLD YOU ABOUT -- LET ME ASK YOU
4 THIS FIRST. ON THE JUROR INFORMATION CARD THAT YOU
5 RETURNED---

6 A. UH-HUH.

7 Q. ---YOU MENTIONED YOUR WEDDING ANNIVERSARY AND
8 RESERVATIONS OUT OF STATE FOR THE WEEKEND?

9 A. YES, SIR.

10 Q. THAT WAS THIS PAST WEEKEND; RIGHT?

11 A. YES, SIR, THEY'RE GONE.

12 Q. SO, THAT'S NO LONGER A PROBLEM; RIGHT?

13 A. NO LONGER.

14 Q. SO, THERE'S REALLY NOTHING THAT WOULD
15 INTERFERE WITH YOUR ABILITY TO SIT IN THIS TRIAL IF YOU
16 WERE SELECTED ON THE JURY?

17 A. NO, SIR, NO PROBLEMS.

18 Q. YOU UNDERSTAND THAT IT WILL REQUIRE BEING
19 SEQUESTERED IN A MOTEL?

20 A. YES, SIR.

21 Q. BEFORE THE CASE IS OVER WHICH MAY BE, YOU
22 KNOW, SEVERAL DAYS?

23 A. YES, SIR. THAT'S NO PROBLEM. NO CHILDREN OR
24 ANYTHING TO WORRY ABOUT.

25 Q. ALL RIGHT. NOW, JUDGE BROWN JUST BRIEFLY

1 TOLD YOU THERE MAY BE TWO STAGES, THE GUILT PHASE WHERE
2 WE WOULD BE TRYING TO PROVE MR. ROGERS GUILTY OF MURDER
3 AND ONLY IF THE STATE IS SUCCESSFUL AT PROVING HIM
4 GUILTY OF MURDER WOULD WE GO INTO THE SECOND PHASE
5 WHICH IS THE PENALTY PHASE?

6 A. YES, SIR.

7 Q. AND YOU HAVE TWO CHOICES IF YOU'RE ON THE
8 JURY. THAT'S LIFE IN PRISON OR THE DEATH PENALTY.

9 A. YES, SIR.

10 Q. AND YOU'VE INDICATED YOU'D BE WILLING TO
11 LISTEN TO ALL THE TESTIMONY AND YOU COULD BRING BACK A
12 VERDICT ONE WAY OR THE OTHER DEPENDING ON THE FACTS AND
13 CIRCUMSTANCES?

14 A. YES, SIR.

15 Q. OKAY. IF YOU WERE ON A JURY IN THAT SECOND
16 PHASE AND AFTER HEARING ALL OF THE EVIDENCE YOU AND THE
17 OTHER JURORS DECIDED THE DEATH PENALTY WAS THE
18 APPROPRIATE DECISION, THE APPROPRIATE SENTENCE, COULD
19 YOU ALONG WITH THE OTHER ELEVEN JURORS SIGN YOUR NAME
20 ON A DEATH VERDICT FORM THAT WOULD RESULT IN THE
21 IMPOSITION OF THE DEATH PENALTY?

22 A. YES, SIR, IF I FELT IT WAS NECESSARY I WOULD
23 STAND UP.

24 Q. OKAY. AND COULD YOU COME OUT INTO OPEN COURT
25 AND ANNOUNCE THAT AS BEING YOUR VERDICT?

1 A. YES, SIR.

2 Q. MS. TYSON, THANK YOU. THAT'S ALL I HAVE.

3 A. OKAY.

4 CROSS-EXAMINATION

5 BY MR. RUNYON:

6 Q. GOOD AFTERNOON, MS. TYSON.

7 A. HELLO.

8 Q. WE DIDN'T MAKE YOU ALL RUSH BACK FROM YOUR
9 WEEKEND TRIP, DID WE?

10 A. YES, I GOT BACK AT 12:30 LAST NIGHT.

11 Q. OKAY. ALL RIGHT. MR. BAILEY ASKED YOU ABOUT
12 STANDING UP FOR A PARTICULAR DECISION. IF YOU WERE IN
13 THAT SAME SITUATION AS HE DESCRIBED TO YOU AND YOU FELT
14 THAT THE IMPOSITION OF THE DEATH PENALTY WAS NOT
15 WARRANTED UNDER THE CIRCUMSTANCES AND THE LAW AS HIS
16 HONOR GAVE IT TO YOU, WOULD YOU JUST AS WELL STAND UP
17 FOR THAT POSITION?

18 A. YES, SIR.

19 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
20 HONOR.

21 THE COURT: ALL RIGHT. ANY MOTIONS FROM THE
22 STATE?

23 MR. BAILEY: NO, SIR, YOUR HONOR.

24 THE COURT: DEFENSE?

25 MR. RUNYON: NO, YOUR HONOR.

1 THE COURT: WE ALL THINK YOU'D MAKE A GOOD
2 JUROR, BUT IT DOESN'T MEAN THAT YOU'RE GOING TO BE
3 ONE. IT JUST MEANS YOU'LL BE AMONG ABOUT 36 TO 38
4 PEOPLE.

5 JUROR TYSON: OKAY.

6 THE COURT: AND SO I'M GOING TO SEND YOU
7 ABOUT YOUR BUSINESS. I HAVE THESE TELEPHONE NUMBERS.
8 ARE THEY STILL THE CURRENT NUMBERS THAT I CAN REACH
9 YOU?

10 JUROR TYSON: YES. I DON'T KNOW IF I -- DID
11 I GIVE YOU BOTH WORK AND HOME?

12 THE COURT: WELL, YOU GAVE ME [REDACTED] AND
13 [REDACTED] ?

14 JUROR TYSON: YES, SIR.

15 THE COURT: AND YOU ALSO GAVE ME YOUR
16 SPOUSE'S AND YOUR MOTHER'S.

17 JUROR TYSON: YES, SIR.

18 THE COURT: IN ANY EVENT, DON'T GO OUT OF
19 TOWN. I'LL PROBABLY BE CALLING YOU TOMORROW NIGHT, IF
20 I HAD TO GUESS, PERHAPS WEDNESDAY, BUT DON'T GET TOO
21 FAR FROM THESE PHONE NUMBERS.

22 JUROR TYSON: OKAY.

23 THE COURT: AND WHEN YOU COME, I'M GOING TO
24 ASK THAT YOU BRING ENOUGH CLOTHES AND TOILET ARTICLES
25 FOR ABOUT FIVE DAYS, PROBABLY NOT GOING TO NEED IT, BUT

1 IN CASE YOU DO. AND KEEP IN MIND NOT TO WATCH T.V. OR
2 READ THE NEWSPAPERS OR DISCUSS THE CASE WITH ANYONE.

3 JUROR TYSON: YES, SIR.

4 THE COURT: HAVE A GOOD DAY AND I'LL SEE YOU
5 WHENEVER I SEE YOU.

6 JUROR TYSON: THANK YOU.

7 THE COURT: ALL RIGHT.

8 (JUROR LAURA TYSON WAS EXCUSED FROM THE
9 COURTROOM.)

10 THE COURT: PATRICIA BALCERZAK.

11 (JUROR PATRICIA BALCERZAK ENTERED THE
12 COURTROOM.)

13 PATRICIA A. BALCERZAK, AFTER BEING DULY
14 SWORN, TESTIFIED AS FOLLOWS:

15 EXAMINATION BY THE COURT

16 Q. HAVE A SEAT. IS IT BALCERZAK?

17 A. BALCERZAK, EXACTLY.

18 Q. MS. BALCERZAK, I NOTICE YOU HAVE NEVER SERVED
19 ON A JURY BEFORE, HAVE YOU?

20 A. NO. NO, SIR.

21 Q. WELL, YOU'RE NOT NERVOUS, I'M SURE.

22 A. OH, NO, OF COURSE, NOT.

23 Q. YOU WOULD PROBABLY KNOW JUST WHAT YOU'VE BEEN
24 EDUCATED ABOUT THE CRIMINAL SYSTEM AND AS I TOLD YOU
25 EARLIER ORDINARILY IN AN ORDINARY CASE A JURY DECIDES

1 GUILT OR INNOCENCE AND THE JUDGE DOES THE SENTENCING.
2 YOU KNOW THAT.

3 A. RIGHT. UH-HUH.

4 Q. IN THIS TYPE CASE THE JURY DOES BOTH. DID
5 YOU KNOW THAT?

6 A. ONLY BECAUSE YOU SAID IT EARLIER.

7 Q. ALL RIGHT. WELL, LET ME TELL YOU WHAT WE'RE
8 GOING TO DISCUSS NOW. FIRST OF ALL, I WANT TO
9 INTRODUCE YOU TO THE ATTORNEYS. OF COURSE, IN THE
10 CENTER THERE IS MR. ROGERS AND HE'S PRESUMED TO BE
11 INNOCENT. YOU UNDERSTAND THAT.

12 A. YES.

13 Q. AND ONLY IF THE STATE CAN SATISFY TWELVE
14 JURORS OF HIS GUILT BEYOND A REASONABLE DOUBT WILL A
15 JURY HAVE TO CONSIDER LIFE OR DEATH BECAUSE IF THEY
16 FIND HIM NOT GUILTY THAT ENDS EVERYTHING.

17 A. UH-HUH.

18 Q. ON YOUR RIGHT THERE IS MR. MARK LEIENDECKER.
19 HE'S ONE OF THE ATTORNEYS. AND ON MR. ROGERS' RIGHT IS
20 MR. WILLIAM RUNYON. ON THE LEFT OVER HERE IS SOLICITOR
21 BAILEY. WE'RE ALL GOING TO ASK YOU SOME QUESTIONS.
22 THERE ARE NO RIGHT OR WRONG ANSWERS AND SO DON'T WORRY
23 ABOUT WHAT THE ANSWERS ARE.

24 A. OKAY.

25 Q. JUST GIVE US YOUR BEST. I TOLD YOU WHAT THE

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1 CASE IS ALL ABOUT. WERE YOU ONE OF THE ONES THAT STO
2 UP AND SAID YOU HAD HEARD OR READ SOMETHING ABOUT THE
3 CASE?

4 A. YES. YES.

5 Q. AND COULD YOU TELL ME WHAT YOU READ OR HEARD
6 OR. . .

7 A. WELL, JUST WHAT WAS ON THE NEWS STATING WHAT
8 HAD HAPPENED.

9 Q. WHEN DID---

10 A. BUT THIS IS---

11 Q. WHEN IT OCCURRED OR LATER?

12 A. NO, NO, WHEN IT OCCURRED.

13 Q. WHEN IT OCCURRED.

14 A. SO I HAD NOT HEARD ABOUT THIS IN -- WAS IT
15 NOT TWO YEARS?

16 Q. OH, YEAH. WELL, DO YOU REMEMBER THE DETAILS
17 THAT WERE ALLEGED?

18 A. NO, NOT ALL THE DETAILS. ABSOLUTELY NOT.

19 Q. ALL RIGHT. HAVE YOU DISCUSSED THIS WITH
20 ANYBODY?

21 A. RECENTLY, NO.

22 Q. AND DID YOU DISCUSS IT AT THAT TIME?

23 A. WELL, WHEN IT WAS ON THE NEWS, YES. MY
24 HUSBAND AND I TALKED ABOUT IT.

25 Q. ALL RIGHT. WELL, AS I TOLD YOU, VERY OFTEN

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1 NEWSPAPERS OR T.V.'S OR RADIO CAN'T GET ALL THE
2 DETAILS, AND SO I WOULD TELL ANY JUROR THAT I HAVE AND
3 CERTAINLY IN THIS CASE I WILL TELL THE JURY THAT -- TO
4 LAY ASIDE ANYTHING THEY MIGHT HAVE HEARD, AN OPINION OR
5 EXPRESSION OF OPINION, JUST DECIDE WHAT THEY HEAR IN
6 THIS COURTROOM. DO YOU FEEL YOU COULD DO THAT?

7 A. YES.

8 Q. IS THERE ANYTHING YOU HEARD OR DISCUSSED WITH
9 ANYBODY THAT WOULD, YOU FEEL, AFFECT YOUR ABILITY TO
10 RENDER A VERDICT THAT SPEAKS THE TRUTH?

11 A. NO, NOT -- NO.

12 Q. ALL RIGHT. NOW, AS I WAS TELLING YOU, THE
13 JURY DOES BOTH IN THIS CASE. IF THE JURY FINDS HIM NOT
14 GUILTY, THAT ENDS EVERYTHING.

15 A. UH-HUH.

16 Q. BUT IF THEY FIND HIM GUILTY OF MURDER, THEN
17 THERE'S A SECOND TRIAL AND AT THAT TRIAL JURORS MIGHT
18 HEAR GOOD AND BAD ABOUT MR. ROGERS. THEY MIGHT HEAR
19 MITIGATING CIRCUMSTANCES OR AGGRAVATING CIRCUMSTANCES,
20 AND THAT SECOND TRIAL IS DESIGNED TO ASSIST THE JURY IN
21 DECIDING WHAT WOULD BE THE APPROPRIATE PUNISHMENT. FOR
22 INSTANCE, IF THE JURY AFTER LISTENING TO THAT SECOND
23 TRIAL DECIDED THAT THE APPROPRIATE PUNISHMENT WAS LIFE
24 IN PRISON, THE FOREMAN WOULD SIGN A PIECE OF PAPER AND
25 IT WOULD SAY, WE, THE JURY, FIND THAT THE PROPER

1 SENTENCE IS LIFE IMPRISONMENT AND WHATEVER THE JURY
2 TELLS ME TO DO I MUST DO BY LAW. I CAN'T CHANGE IT.
3 SO, I WOULD SENTENCE HIM TO LIFE IN PRISON.

4 ON THE OTHER HAND, IF THE JURY DECIDED THAT
5 THE PROPER SENTENCE WAS DEATH, EACH JUROR INDIVIDUALLY
6 WOULD SIGN THEIR NAME TO A PIECE OF PAPER AND IT WOULD
7 SAY, WE, THE FOLLOWING JURORS, DETERMINE THAT THE
8 APPROPRIATE SENTENCE IS DEATH AND, AS I TOLD YOU, I
9 MUST DO WHAT THE JURY TELLS ME. SO, I WOULD SENTENCE
10 HIM TO DEATH BY ELECTROCUTION. DO YOU UNDERSTAND?

11 A. YES.

12 Q. NOW, WHEN WE GET JURORS IN HERE LIKE YOURSELF
13 WHO WE DISCUSS THIS QUESTION OF WHAT THE APPROPRIATE
14 SENTENCE IS, GENERALLY JURORS FALL IN ONE OF THREE
15 CATEGORIES. I'M GOING TO TELL YOU WHAT THOSE
16 CATEGORIES ARE AND THEN I WANT YOU TO TELL ME WHICH ONE
17 YOU THINK YOU BEST FIT.

18 A. OKAY.

19 Q. JUROR NUMBER ONE WOULD BE THAT TYPE JUROR
20 THAT WOULDN'T WANT TO HEAR THAT SECOND TRIAL BECAUSE
21 THEIR MIND WOULD BE MADE UP. THEY WOULD TAKE THE
22 POSITION IF YOU KILL SOMEBODY YOU OUGHT TO DIE
23 YOURSELF, LIKE AN EYE FOR AN EYE AND A TOOTH FOR A
24 TOOTH, AND THEY WOULD ALWAYS VOTE FOR THE DEATH
25 PENALTY. THEN JUROR NUMBER TWO WOULD BE THE EXACT

1 OPPOSITE. THAT JUROR WOULD NEVER VOTE FOR THE DEATH
2 PENALTY REGARDLESS OF HOW HEINOUS THE MURDER MIGHT BE,
3 AND SO THAT JUROR WOULDN'T BE INTERESTED IN HEARING
4 THAT SECOND TRIAL.

5 JUROR NUMBER THREE WOULD BE THAT TYPE JUROR
6 THAT WOULD TAKE THE POSITION THAT WE FOUND YOU GUILTY
7 OF MURDER, BUT NOW, MR. ROGERS, OR WHATEVER THE
8 DEFENDANT MIGHT BE, WE WANT TO KNOW SOMETHING ABOUT
9 YOU. WE WANT TO KNOW THE GOOD AND THE BAD. WE'D LIKE
10 TO HEAR THE EXTENUATING CIRCUMSTANCES AND THE
11 MITIGATING CIRCUMSTANCES AND THEN WHEN WE'VE HEARD ALL
12 OF THAT THEN WE COULD DECIDE WHAT WOULD BE THE
13 APPROPRIATE PUNISHMENT AND IF WE THOUGHT IT PROPER WE
14 WOULD VOTE FOR LIFE AND IF WE THOUGHT IT PROPER WE
15 WOULD SIGN OUR NAME TO DEATH. WHICH JUROR DO YOU THINK
16 YOU BEST FIT?

17 A. I THINK I'D LIKE TO BE THREE, BUT I THINK I
18 MIGHT BE ONE.

19 Q. OKAY. YOU WOULD LIKE TO BE THREE, BUT YOU
20 FEEL THAT---

21 A. I REALLY -- YEAH.

22 Q. YOU FEEL THAT EVERY MURDERER DESERVES TO DIE?

23 A. NO. SO, I GUESS MAYBE I'M THREE.

24 Q. NUMBER TWO. YOU FEEL THAT REGARDLESS OF HOW
25 BAD A MURDER IS YOU DON'T FEEL YOU COULD VOTE FOR THE

1 DEATH PENALTY?

2 A. OH, NO, I THINK I COULD VOTE FOR THE DEATH
3 PENALTY.

4 Q. WELL, DO YOU FEEL THAT YOU COULD VOTE EITHER
5 WAY---

6 A. BY WHAT YOU'RE SAYING, YES, I DON'T THINK
7 EVERYBODY. . .

8 Q. YOU DON'T THINK---

9 A. I GUESS IT'S THREE THEN. THEN IT'S GOT TO BE
10 THREE.

11 Q. OKAY. ALL RIGHT. IN OTHER WORDS, YOU'RE
12 TELLING ME THAT EVERY MURDER DOESN'T NECESSARILY
13 DESERVE DEATH NOR EVERY MURDER NECESSARILY DESERVE
14 LIFE.

15 A. YES.

16 Q. BUT YOU'D LIKE TO LISTEN TO EVERYTHING AND
17 THEN YOU COULD VOTE EITHER WAY.

18 A. YES.

19 Q. ALL RIGHT. ALL RIGHT. THEY'RE GOING TO ASK
20 YOU SOME QUESTIONS AND DO THE BEST YOU CAN.

21 A. THANK YOU.

22 DIRECT EXAMINATION

23 BY MR. BAILEY:

24 Q. HOW ARE YOU DOING?

25 A. I'M DOING PRETTY GOOD.

1 Q. OKAY.

2 A. I THINK.

3 Q. LET ME JUST FOLLOW UP ON A FEW OF JUDGE
4 BROWN'S QUESTIONS.

5 A. OKAY.

6 Q. FIRST OF ALL, I'VE LOOKED OVER YOUR
7 QUESTIONNAIRE THAT YOU AND THE OTHER JURORS SENT IN.

8 A. UH-HUH.

9 Q. I JUST HAD A COUPLE OF QUESTIONS ON THAT.

10 A. OKAY.

11 Q. WOULD THE FACT THAT YOUR HUSBAND WORKS FOR
12 THE SOLICITOR'S OFFICE IN CHARLESTON---

13 A. UH-HUH.

14 Q. ---CREATE ANY PROBLEM FOR YOU IN SITTING ON
15 THIS JURY AT EITHER STAGE?

16 A. I DON'T THINK SO.

17 Q. OKAY. YOU'VE INDICATED YOUR CHURCH
18 AFFILIATION AS BEING THE CATHOLIC CHURCH?

19 A. UH-HUH.

20 Q. WOULD ANY RELIGIOUS BELIEFS THAT YOU MIGHT
21 HAVE AS A RESULT OF YOUR CHURCH AFFILIATION IMPINGE ON
22 YOUR ABILITY TO BRING BACK A DECISION ONE WAY OR THE
23 OTHER ON THE DEATH PENALTY OR A LIFE SENTENCE?

24 A. NO, I DON'T THINK SO.

25 THE COURT: WHAT DOES YOUR HUSBAND DO?

1 THE WITNESS: HE'S AN INVESTIGATOR FOR THE
2 SOLICITOR'S OFFICE.

3 THE COURT: ALL RIGHT.

4 THE WITNESS: I MEAN, I DON'T KNOW. I MEAN,
5 WE DO TALK, SO I MEAN I DON'T KNOW -- I DON'T THINK IT
6 WOULD AFFECT ME BUT. . .

7 BY MR. BAILEY:

8 Q. OKAY. BUT YOU CAN MAKE YOUR DECISION BASED
9 ON THE FACTS AND THE EVIDENCE AND THE LAW THE JUDGE
10 GIVES YOU HERE---

11 A. RIGHT, AND NOT LISTENING TO WHAT---

12 Q. ---REGARDLESS OF ANY PRECONCEIVED IDEAS?

13 A. UH-HUH. YES.

14 Q. OKAY. AND YOU UNDERSTAND THAT WE WOULD NOT
15 EVEN GET INTO THE SECOND PHASE UNLESS THE JURY FOUND
16 MR. ROGERS GUILTY OF MURDER IN THE FIRST STAGE.

17 A. YES.

18 Q. SO WHEN YOU'RE MAKING THAT LIFE OR DEATH
19 DECISION YOU'RE IN EVERY CASE IN THE SECOND STAGE
20 DEALING WITH A CONVICTED MURDERER. OKAY?

21 A. OKAY.

22 Q. NOW, BEARING THAT IN MIND, ARE YOU SAYING
23 THAT YOU COULD BRING BACK EITHER LIFE OR DEATH
24 DEPENDING ON THE CIRCUMSTANCES OF THE CRIME AND THE
25 CHARACTERISTICS OF THE DEFENDANT?

1 A. YES, SIR.

2 Q. AND IF THAT DECISION, ALONG WITH THE OTHER
3 ELEVEN JURORS, WAS THE DEATH PENALTY, COULD YOU SIGN
4 YOUR NAME TO THE DEATH VERDICT FORM ALONG WITH THE
5 OTHER JURORS?

6 A. YES, I COULD.

7 Q. IN THAT SAME SITUATION, COULD YOU COME INTO
8 OPEN COURT AND ANNOUNCE THAT AS BEING YOUR VERDICT?

9 A. YES.

10 MR. BAILEY: THANK YOU. THAT'S ALL I HAVE.

11 CROSS-EXAMINATION

12 BY MR. RUNYON:

13 Q. GOOD AFTERNOON, MA'AM.

14 A. HI THERE.

15 Q. HOW ARE YOU DOING? NOW, YOUR HUSBAND, FINE
16 FELLOW, HE WORKS FOR THE SOLICITOR'S OFFICE. ISN'T
17 THAT CORRECT?

18 A. ABSOLUTELY RIGHT.

19 Q. AND HE'S AN INVESTIGATOR WITH THE SOLICITOR'S
20 OFFICE.

21 A. UH-HUH.

22 Q. AND HE ASSISTS IN HELPING THEM PREPARE CASES
23 TO GO TO TRIAL AND WHAT HAVE YOU. IS THAT NOT CORRECT?

24 A. HE GETS INFORMATION, UH-HUH.

25 Q. AND HE'S RETIRED.

1 A. HE WAS A SPECIAL AGENT FOR THE INTERNAL
2 REVENUE.

3 Q. RIGHT. SO, FOR TWENTY YEARS OR MORE HE WAS,
4 IN FACT, A FEDERAL POLICE OFFICER SPECIALIZING IN
5 INTERNAL REVENUE SERVICE CRIMES.

6 A. UH-HUH.

7 Q. AND HAVE YOU DISCUSSED THIS CASE WITH HIM?

8 A. NOT RECENTLY, NO. WHEN IT WAS ON T.V. AND
9 ALL, YES.

10 Q. AND DID YOU DISCUSS THE CASE WITH HIM WHEN
11 YOU GOT THE FAITHFUL JURY SUMMONS SAYING COME ON IN
12 HERE?

13 A. NO. HE TEASED ME THAT I MIGHT GET SOME KIND
14 OF CASE LIKE THIS BUT, NO, WE DID NOT DISCUSS IT.

15 Q. OKAY. AND SO YOU DON'T FEEL LIKE THAT
16 PRESENTS ANY TYPE OF PRESSURE OR WHAT HAVE YOU FOR YOU?

17 A. NO, IT DOES NOT.

18 Q. AND YOUR HUSBAND AND YOUR YOUNGEST SON,
19 THEY'RE OLD ENOUGH TO KIND OF FEND FOR THEMSELVES FOR
20 ABOUT A WEEK?

21 A. YES, I WOULD THINK SO. I WOULD HOPE SO.

22 Q. YOU WOULD HOPE SO. YOU DON'T WANT TO VENTURE
23 A GUESS OF WHAT THE HOUSE WOULD LOOK LIKE IF YOU'RE
24 GONE FOR A WEEK, DO YOU?

25 A. NO, I WOULD NOT.

1 Q. OKAY. BUT YOU DON'T THINK THIS WOULD PRESENT
2 ANY PROBLEMS TO YOU TO SERVE ON THE JURY IF YOU WERE
3 SELECTED---

4 A. NO, I DO NOT THINK SO.

5 Q. ---TO BE AWAY FROM YOUR FAMILY. AND YOU'D
6 HAVE NO DIFFICULTY FROM YOUR EMPLOYER OR FROM YOUR
7 EMPLOYMENT STATUS?

8 A. THEY'D MISS ME TERRIBLY, BUT THEY KNOW I HAVE
9 TO DO THIS.

10 Q. YOU HAVE A REAL IMPORTANT JOB UP THERE.
11 YOU'RE AN OPERATING ROOM NURSE.

12 A. YES, I AM.

13 Q. AND THAT'S JUST NOT TAKING TEMPERATURES.
14 THAT'S KNOWING WHAT YOU'RE SUPPOSED TO DO.

15 A. ABSOLUTELY. SO, I MEAN, IT IS IMPORTANT.

16 Q. AND IN ANSWER TO SOME OF THE THINGS MR.
17 BAILEY ASKED YOU, YOU INDICATED, JUST SO IT CLARIFIES
18 FOR ME -- I KNOW YOU'RE CLEAR ON WHAT YOUR POSITION
19 IS.

20 A. OKAY.

21 Q. YOU'D LIKE TO THINK OF YOURSELF AS THE THIRD
22 TYPE OF JUROR THAT THE JUDGE DESCRIBED AS SOMEONE WHO
23 WOULD LIKE TO LISTEN TO ALL THE FACTS AND
24 CIRCUMSTANCES---

25 A. ABSOLUTELY.

1 Q. ---AS TO WHY A CERTAIN SENTENCE SHOULD OR
2 SHOULD NOT BE IMPOSED.

3 A. UH-HUH.

4 MR. RUNYON: I HAVE NO FURTHER QUESTIONS,
5 YOUR HONOR.

6 THE COURT: ANY MOTIONS FROM THE STATE?

7 MR. BAILEY: NO, SIR, YOUR HONOR.

8 THE COURT: FROM THE DEFENSE?

9 MR. RUNYON: EXCUSE ME, YOUR HONOR.

10 (AN OFF-THE-RECORD DISCUSSION WAS HELD
11 BETWEEN THE DEFENSE ATTORNEYS AND THE DEFENDANT.)

12 MR. RUNYON: YES, YOUR HONOR. WE'D LIKE TO
13 TAKE UP A MATTER OF LAW WITH---

14 THE COURT: WHY DON'T YOU JUST STEP OUTSIDE
15 FOR JUST A MINUTE?

16 THE WITNESS: OH, SURE.

17 THE COURT: IT WON'T TAKE BUT A SECOND.

18 THE WITNESS: ALL RIGHT.

19 (JUROR BALCERZAK WAS EXCUSED FROM OPEN
20 COURT.)

21 THE COURT: ALL RIGHT. MR. RUNYON, I'VE BEEN
22 LISTENING TO EACH SIDE EACH TIME AND I ALWAYS ASK IN
23 OPEN COURT WITH THE WITNESS THERE WERE THERE ANY
24 MOTIONS. IF FOR ANY REASON YOU FEEL YOU'D RATHER I DO
25 IT, I DON'T MIND SENDING EACH JUROR OUT BEFORE I ASK

1 THAT.

2 MR. RUNYON: THAT'S WHY I SAID I HAVE A
3 MATTER OF LAW, YOUR HONOR. I DON'T---

4 THE COURT: WELL, THAT'S ALL RIGHT. BUT WHAT
5 I MEAN IS BEFORE I ASK YOU ALL THOSE QUESTIONS WOULD
6 YOU LIKE FOR ME TO SEND ALL JURORS OUT?

7 MR. RUNYON: NO, YOUR HONOR.

8 THE COURT: ALL RIGHT. GO AHEAD, I'LL HEAR
9 YOUR MOTION.

10 MR. RUNYON: YOUR HONOR, WITH ALL DUE RESPECT
11 TO THE WITNESS -- TO THE NINTH JUROR COMING BEFORE YOU,
12 MS. BALCERZAK, I THINK EVERYBODY IN LAW ENFORCEMENT
13 HERE AT THE TWO TABLES PROBABLY ARE AWARE OF MR.
14 BALCERZAK. HE IS A VERY FINE EMPLOYEE OF THE NINTH
15 CIRCUIT SOLICITOR'S OFFICE. HE'S A DULY SWORN POLICE
16 OFFICER.

17 THE COURT: OH, I KNOW HIM.

18 MR. RUNYON: AND WE WOULD THINK THAT FOR THAT
19 REASON WE WOULD OBJECT TO HER BEING QUALIFIED TO BE IN
20 THE POOL, YOUR HONOR.

21 THE COURT: BECAUSE SHE'S RELATED TO HIM?

22 MR. RUNYON: WELL, SHE'S NOT JUST RELATED TO
23 HIM. SHE'S MARRIED TO HIM, JUDGE.

24 THE COURT: WELL, I CAN TELL YOU IT'S MY
25 OPINION THIS FELLOW WOULDN'T -- THIS JUROR WOULDN'T

PATRICIA A. BALCERZAK - CROSS-EXAMINATION BY MR. RUNYON.
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1 LISTEN TO HER HUSBAND. SHE'D DO WHAT SHE THOUGHT SHE
2 OUGHT TO DO. IS THAT YOUR MOTION?

3 MR. RUNYON: THAT'S THE MOTION, YOUR HONOR.

4 THE COURT: I DENY IT. BRING HER IN FOR ME.

5 (JUROR PATRICIA BALCERZAK WAS BROUGHT BACK
6 INTO OPEN COURT.)

7 THE COURT: WELL, MS. BALCERZAK, WE ALL THINK
8 YOU'D MAKE A GOOD JUROR, BUT IT DOESN'T MEAN YOU'RE
9 GOING TO BE ON THE JURY. IT JUST MEANS YOU'RE
10 QUALIFIED. AND SO I'M GOING TO SEND YOU ABOUT YOUR
11 BUSINESS. WE'VE GOT YOUR NUMBERS HERE, THREE NUMBERS:
12 YOUR SPOUSE'S TELEPHONE NUMBER AND YOUR TELEPHONE AND
13 YOUR HOME PHONE.

14 JUROR BALCERZAK: OKAY.

15 THE COURT: NOW, WE'LL PROBABLY CALL YOU --
16 IF I HAD TO GUESS, I'D SAY PROBABLY TOMORROW NIGHT,
17 MIGHT BE WEDNESDAY, BUT DON'T GET TOO FAR AWAY FROM THE
18 PHONE SO THAT WE CAN NOTIFY YOU WHEN TO COME IN. IF I
19 HAD TO GUESS, I WOULD SAY IT WOULD PROBABLY BE
20 WEDNESDAY MORNING. AND WHEN YOU COME BACK, BRING
21 ENOUGH CLOTHES AND TOILET ARTICLES FOR ABOUT FIVE
22 DAYS. I DON'T THINK IT WILL TAKE THAT LONG, BUT JUST
23 IN CASE WE NEED IT. AND I WANT TO REMIND YOU NOT TO
24 READ THE NEWSPAPERS OR T.V. OR ANYTHING AND, OF COURSE,
25 DON'T DISCUSS THE CASE.

JERVEY CARN - EXAMINATION BY THE COURT

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1 JUROR BALCERZAK: OKAY.

2 THE COURT: AND I HOPE YOU HAVE A GOOD NIGHT.

3 JUROR BALCERZAK: AND I THANK YOU.

4 THE COURT: ALL RIGHT.

5 (JUROR PATRICIA BALCERZAK WAS EXCUSED FROM
6 THE COURTROOM.)

7 THE COURT: JERVEY CARN.

8 (JUROR JERVEY CARN WAS ENTERED THE
9 COURTROOM.)

10 JERVEY CARN, AFTER BEING DULY SWORN,
11 TESTIFIED AS FOLLOWS:

12 EXAMINATION BY THE COURT

13 Q. HAVE A SEAT, MR. CARN. YOU KNOW, WHEN YOU
14 TOLD ME WHAT YOU DID FOR AN OCCUPATION I STARTED TO ASK
15 YOU WHAT THAT WAS, BUT IN READING THIS I DID SEE WHERE
16 YOU -- CHIP AND SAW I BELIEVE YOU SAID. YOU RUN THE
17 SAWMILL OR IS THAT -- YOU RUN THE CHIPPER? WHICH IS
18 IT?

19 A. IT'S JUST -- I RUN THE SAWMILL. IT'S AN
20 OPERATION.

21 Q. OH, ALL RIGHT. IN ANY EVENT, I NOTICE THAT
22 YOU HAVE NEVER SERVED ON A JURY BEFORE. IS THAT RIGHT?

23 A. NO, SIR, I HAVEN'T.

24 Q. ALL RIGHT. NOW, I'VE GOT A MACHINE OVER
25 THERE THAT WANTS TO PICK YOU UP, SO SPEAK A LITTLE

1 LOUDER FOR ME.

2 A. ALL RIGHT, SIR.

3 Q. I WANT EVERYBODY TO HEAR YOU. OF COURSE,
4 SITTING IN THE CENTER THERE IS MR. ROGERS. HE'S
5 CHARGED WITH MURDER. AND SITTING ON HIS LEFT OVER
6 THERE IS ONE OF HIS ATTORNEYS WHO IS MARK LEIENDECKER
7 AND THEN ON HIS RIGHT IS MR. BILL RUNYON. THEY
8 REPRESENT HIM IN THIS CASE IN WHICH HE'S CHARGED WITH
9 MURDER. AND SOLICITOR BAILEY IS THE YOUNG FELLOW
10 SITTING THERE AT THE OTHER TABLE, THE FIRST ONE. AND,
11 OF COURSE, I'M JUDGE BROWN AND WE'RE GOING TO ASK YOU
12 SOME QUESTIONS.

13 I WANT TO TELL YOU, MR. CARN, THAT THERE'S NO
14 RIGHT OR WRONG ANSWERS. IT'S JUST INFORMATION. WE
15 WANT TO PICK A JURY WHO WILL BRING IN REGARDLESS A
16 VERDICT THAT SPEAKS THE TRUTH BECAUSE MR. ROGERS IS
17 PRESUMED TO BE INNOCENT. DO YOU FOLLOW ME? HE'S JUST
18 AS INNOCENT AS YOU AND I. NOW, AS I WAS --
19 INCIDENTALLY, I NOTICED WHEN I ASKED YOU ABOUT WHETHER
20 YOU KNEW ANYTHING ABOUT THIS CASE YOU HAD STOOD UP.
21 DID YOU KNOW ANYTHING -- DO YOU KNOW MR. ROGERS?

22 A. YEAH, I HAVE SEEN HIM SEVERAL TIMES. YES,
23 SIR.

24 Q. YOU'VE SEEN HIM IN WHAT WAY? I MEAN, JUST
25 OUT IN THE---

1 A. YEAH.

2 Q. ---IN THE COMMUNITY?

3 A. YEAH.

4 Q. ALL RIGHT. WELL, DO YOU KNOW ANYTHING ABOUT
5 THIS CASE EITHER FROM THE NEWSPAPERS OR DISCUSSING IT
6 WITH SOMEONE?

7 A. I HAVE -- I REMEMBER THE NIGHT WHERE IT
8 HAPPENED AT BECAUSE OF WHERE I WORK. I WENT OUT ONE
9 NIGHT TO LUNCH AND IT HAPPENED THAT NIGHT WHEN I WENT
10 OUT TO LUNCH AND I SEEN IT THEN, BUT LATER ON I DIDN'T
11 REALLY KNOW WHAT HAD HAPPENED BUT LATER ON I FOUND OUT
12 THAT THAT'S WHAT IT WAS.

13 Q. DID YOU FIND OUT FROM SOMEBODY THAT TOLD YOU
14 OR DID YOU READ IT OR WATCH IT ON T.V.?

15 A. I SAW IT ON THE NEWS.

16 Q. OH, ALL RIGHT. NOW, I TOLD YOU THAT WHAT YOU
17 MIGHT SEE ON THE NEWS OR READ IN THE NEWSPAPER OR
18 LISTEN ON THE RADIO MIGHT NOT BE THE TRUTH BECAUSE THEY
19 MIGHT NOT HAVE ALL THE FACTS. DO YOU UNDERSTAND?

20 A. YES, SIR.

21 Q. AND SO I WILL BE TELLING MY JURY THAT SITS UP
22 THERE TO LAY ASIDE THOSE THINGS AND DON'T PUT ANY
23 WEIGHT IN THEM AT ALL AND JUST GET THEM OUT OF YOUR
24 MIND AND LISTEN TO WHAT COMES FROM THESE WITNESSES WHO
25 ARE GOING TO TESTIFY AND DECIDE THE CASE ON THAT. AND

1 SO I ASK YOU: IS THERE ANYTHING THAT YOU'VE HEARD OR
2 READ THAT FEELS LIKE THAT IT WOULD KEEP YOU FROM GIVING
3 A FAIR TRIAL AND A TRUE TRIAL BOTH TO MR. ROGERS AND
4 THE STATE?

5 A. NO, I DON'T -- I DON'T SEE NOTHING, NO.

6 Q. ALL RIGHT. NOW, I TOLD YOU EARLIER, AS I
7 TOLD THE REST OF THE JURORS, THAT ORDINARILY WHEN
8 PEOPLE ARE CHARGED WITH A CRIME JURIES DECIDE WHETHER
9 THEY'RE GUILTY OR NOT GUILTY AND THE JUDGE DECIDES WHAT
10 THE SENTENCE OUGHT TO BE. YOU'VE HEARD THAT, I KNOW,
11 MANY TIMES, HAVEN'T YOU?

12 A. YES, SIR.

13 Q. WELL, DID YOU KNOW THAT IN THIS TYPE CASE IN
14 WHICH THE STATE IS SEEKING THE DEATH PENALTY THE JURY
15 DOES BOTH? DID YOU KNOW THAT?

16 A. NO, I DID NOT.

17 Q. WELL, I CAN TELL YOU THAT'S TRUE. WHAT'S
18 GOING TO HAPPEN IS THERE WILL BE KIND OF LIKE TWO
19 TRIALS. THE FIRST TRIAL WILL BE DECIDING -- THE JURY
20 HAS GOT TO DECIDE WHETHER HE'S GUILTY OR NOT GUILTY OF
21 MURDER, AND IF THEY FIND HIM NOT GUILTY, THEN THAT ENDS
22 EVERYTHING. BUT IF THEY FIND THAT HE COMMITTED MURDER,
23 THEN WE HAVE A SECOND TRIAL AND THAT SECOND TRIAL IS
24 DESIGNED SOLELY -- WOULD HELP THE JURY DECIDE WHAT THE
25 PROPER PUNISHMENT IS, LIFE OR DEATH. AND YOU MIGHT

1 HEAR GOOD THINGS AND BAD THINGS AND AGGRAVATING
2 CIRCUMSTANCES AND MITIGATING CIRCUMSTANCES, AND WHEN
3 THEY'VE HEARD THAT THEN THE JURY MUST DECIDE WHETHER OR
4 NOT HE OUGHT TO LIVE OR DIE. IF THE JURY DECIDES THAT
5 HE OUGHT TO LIVE, THE FOREMAN WOULD JUST COME OUT AND
6 HE WILL HAVE SIGNED A PIECE OF PAPER AND THEY'LL
7 PUBLISH IT IN COURT HERE AND IT WILL SAY SOMETHING LIKE
8 THIS: WE, THE JURY, FIND THAT THE PROPER SENTENCE FOR
9 MR. ROGERS IS LIFE IN PRISON AND, THEREFORE, WE
10 RECOMMEND IT. AND EVEN THOUGH I USE THE WORDS
11 RECOMMEND, I MUST DO -- I CAN'T CHANGE IT. I MUST DO
12 WHAT THE JURY TELLS ME TO DO, AND SO I WOULD SENTENCE
13 HIM TO LIFE IN PRISON.

14 ON THE OTHER HAND, IF THE JURY DECIDED THAT
15 THE PROPER PUNISHMENT WAS DEATH, THEN EACH JUROR
16 INDIVIDUALLY WOULD SIGN THEIR NAME TO A PIECE OF PAPER
17 AND IT WOULD SAY IN ESSENCE, WE, THE FOLLOWING JURORS,
18 DETERMINE THAT THE PROPER SENTENCE IS DEATH AND, HERE
19 AGAIN, I MUST DO WHAT THE JURY TELLS ME TO AND I WOULD
20 SENTENCE HIM TO DEATH BY ELECTROCUTION. DO YOU
21 UNDERSTAND?

22 A. YES, SIR.

23 Q. NOW, WHEN PEOPLE COME INTO COURT LIKE YOU,
24 MR. CARN, AND ASK ABOUT THE DEATH PENALTY, USUALLY THEY
25 FALL IN ONE OF THREE CATEGORIES AND SO I'M GOING TO

1 TELL YOU THOSE CATEGORIES AND I WANT YOU TO TELL ME
2 WHICH ONE YOU THINK YOU BEST FIT. JUROR NUMBER ONE IS
3 THAT JUROR THAT TAKES THE POSITION IF YOU KILL SOMEBODY
4 YOU OUGHT TO DIE YOURSELF, AND SO THEY WOULDN'T BE
5 INTERESTED IN THAT SECOND TRIAL BECAUSE THEY WOULD
6 ALWAYS VOTE FOR THE DEATH PENALTY.

7 THE SECOND JUROR WOULD BE THAT TYPE JUROR
8 THAT WOULD BE EXACTLY THE OPPOSITE. THEY WOULD NEVER
9 VOTE FOR THE DEATH PENALTY. THEY WOULD TAKE THE
10 POSITION THAT REGARDLESS OF HOW HEINOUS A MURDER MIGHT
11 BE THEY WOULD ALWAYS VOTE FOR LIFE IN PRISON. AND THEN
12 THERE'S THE THIRD TYPE JUROR WHICH WOULD TAKE THE
13 POSITION THAT EVERY MURDERER SHOULDN'T DESERVE TO DIE
14 NOR EVERY MURDERER DESERVE TO LIVE AND THEY WOULD WANT
15 TO HEAR THAT SECOND TRIAL, AND THEN DEPENDENT UPON WHAT
16 THEY HEARD THEY COULD EITHER VOTE FOR LIFE IN PRISON OR
17 THEY COULD SIGN THEIR NAME TO THAT PIECE OF PAPER THAT
18 WOULD SAY DEATH. WHICH ONE OF THOSE THREE DO YOU FEEL
19 LIKE YOU ARE?

20 A. NUMBER TWO.

21 Q. IN OTHER WORDS, YOU TAKE THE POSITION
22 REGARDLESS OF HOW HEINOUS THE MURDER MIGHT BE YOU COULD
23 NEVER VOTE FOR DEATH?

24 A. YES.

25 THE COURT: ALL RIGHT. WE RESPECT YOUR

1 FEELINGS, BUT WE STILL MIGHT WANT TO ASK YOU SOME
2 QUESTIONS AND SO JUST ANSWER THEM AS BEST YOU CAN.
3 SOLICITOR?

4 MR. BAILEY: YOUR HONOR, CAN I TALK WITH MR.
5 RUNYON FOR A QUESTION?

6 THE COURT: BEG YOUR PARDON?

7 MR. BAILEY: CAN I TALK WITH MR. RUNYON A
8 SECOND BEFORE. . .

9 THE COURT: YEAH. SURE.

10 DIRECT EXAMINATION

11 BY MR. BAILEY:

12 Q. MR. CARN, I'M WALTER BAILEY. I HAVE A FEW
13 QUESTIONS TO ASK YOU AND I'M NOT -- NOBODY IS TRYING TO
14 PUT YOU ON THE SPOT OR EMBARRASS YOU AND THERE ARE NO
15 RIGHT ANSWERS, NO WRONG ANSWERS. WE JUST NEED TO KNOW
16 HOW YOU REALLY FEEL ABOUT IT. YOU'VE TOLD JUDGE BROWN
17 THAT AFTER THINKING ABOUT THE THREE POSSIBLE TYPE
18 JURORS YOU'RE THAT SECOND TYPE JUROR?

19 A. YES.

20 Q. THAT JUST FLAT OUT DOESN'T BELIEVE IN THE
21 DEATH PENALTY?

22 A. YEAH.

23 Q. UNDER ANY CIRCUMSTANCES?

24 A. (JUROR NODDED HEAD AFFIRMATIVELY).

25 Q. AND THAT ALTHOUGH YOU MIGHT SIT THERE AND

1 LISTEN TO THE FACTS THAT COME OUT, THAT NO MATTER WHAT
2 THOSE FACTS ARE YOU'RE ALWAYS GOING TO VOTE FOR LIFE IN
3 PRISON---

4 A. YEAH.

5 Q. ---BECAUSE THAT'S THE WAY YOU FEEL. AND IS
6 THAT A DEEP-FELT FEELING THAT YOU'VE HAD FOR SOME TIME?

7 A. YES, THAT'S JUST THE WAY I FEEL.

8 Q. OKAY. AND YOU'RE REAL FIRM AND SOLID ON
9 THAT?

10 A. YES.

11 Q. OKAY. THAT BELIEF WOULD PREVENT YOU FROM
12 EVER BRINGING BACK THE DEATH PENALTY UNDER ANY
13 CIRCUMSTANCES.

14 A. YES.

15 MR. BAILEY: THANK YOU. THAT'S ALL I HAVE.

16 CROSS-EXAMINATION

17 BY MR. RUNYON:

18 Q. GOOD AFTERNOON, MR. CARN.

19 A. ALL RIGHT.

20 Q. YOU INDICATE THAT THERE IS ABSOLUTELY NO WAY
21 YOU COULD EVER VOTE TO IMPOSE THE DEATH PENALTY?

22 A. YES, SIR.

23 Q. DOES THAT MEAN THAT YOU WOULD NOT EVEN
24 CONSIDER IMPOSING THE DEATH PENALTY?

25 A. I DON'T -- IT'S JUST -- JUST TO ME IT'S JUST

1 NOT -- I JUST DON'T BELIEVE IN THE DEATH PENALTY.
2 THAT'S IT.

3 Q. AND THIS IS A RESULT OF SOME PERSONAL
4 DECISION YOU'VE MADE IN YOUR LIFE ABOUT YOUR PERSONAL
5 PHILOSOPHY?

6 A. YES, SIR.

7 Q. IF HIS HONOR GAVE YOU THE INSTRUCTIONS AS TO
8 WHAT LAW TO APPLY, DO YOU THINK YOU COULD -- YOU COULD
9 APPLY THE LAW IN A DEATH PENALTY CASE AND AT LEAST
10 CONSIDER IMPOSING THE DEATH PENALTY?

11 A. I DON'T THINK I -- FOR ME I WOULDN'T WANT TO
12 BE PUT IN THAT POSITION.

13 Q. SO WHAT YOU'RE SAYING IS THERE'S ABSOLUTELY
14 NO WAY THAT YOU COULD EVER CONSIDER IMPOSING THE DEATH
15 PENALTY.

16 A. NO.

17 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
18 HONOR.

19 THE COURT: ALL RIGHT. WE RESPECT HOW YOU
20 FEEL, MR. CARN, BUT WHAT WE'RE TRYING TO FIND IS JURORS
21 THAT COULD THINK EITHER WAY. AND SO I'M GOING TO
22 EXCUSE YOU AND I'M GOING TO JUST ASK YOU ONE THING.
23 YOU DON'T HAVE TO COME BACK ANY MORE. JUST DON'T
24 DISCUSS THIS CASE WITH ANYONE TILL THE CASE IS OVER AND
25 ESPECIALLY THE JURORS. WILL YOU DO THAT FOR ME?

1 JUROR CARN: YES, SIR.

2 THE COURT: AND I HOPE YOU HAVE A GOOD DAY.

3 JUROR CARN: ALL RIGHT.

4 THE COURT: WE'RE GOING TO MAIL YOU A LITTLE
5 CHECK, BUT REMEMBER DON'T SPEND MUCH MONEY. THANK YOU.

6 JUROR CARN: ALL RIGHT.

7 (JUROR JERVEY CARN WAS EXCUSED FROM THE
8 COURTROOM.)

9 THE COURT: JAMES VAUGHN.

10 MR. RUNYON: YOUR HONOR, JUST FOR THE RECORD,
11 COULD I VOUCH THE RECORD -- PUT ON THE RECORD AS SAYING
12 WE WOULD OBJECT TO ANY JUROR WHO HAS A DEEP-SEATED
13 BELIEF OPPOSED TO THE DEATH PENALTY BEING EXCUSED FROM
14 THE JURY POOL. I KNOW THE SUPREME COURT---

15 THE COURT: HOLD JUST A MINUTE. WOULD YOU
16 STEP OUT JUST A MINUTE FOR ME? I'VE GOT ONE LITTLE
17 THING I WANT TO CLEAR UP.

18 MR. RUNYON: I REALIZE THE SUPREME COURT OF
19 THE UNITED STATES HAS ADDRESSED THE ISSUE AND IT'S WELL
20 SETTLED IN LAW, BUT ON THE CHANCE THAT THAT MIGHT BE --
21 THAT THAT MIGHT BE RE-ADDRESSED AND A DIFFERENT
22 POSITION TAKEN, WE WOULD OBJECT TO SOMEONE BEING
23 DISMISSED SIMPLY BECAUSE THEY'RE OPPOSED TO THE DEATH
24 PENALTY.

25 THE COURT: ALL RIGHT. WELL, FOR THE RECORD,

1 THIS JUROR HAS JUST SAID UNDER NO CIRCUMSTANCES COULD
2 HE EVER VOTE FOR THE DEATH PENALTY AND SO THAT WOULD --
3 IF HE WERE DRAWN ON THE JURY, THAT WOULD STOP THE
4 TRIAL. THE TRIAL COULDN'T GO FORWARD. IT WOULD
5 JUST -- HE WOULD ALREADY HAVE MADE UP HIS MIND, BUT I
6 UNDERSTAND YOUR MOTION. ALL RIGHT. NOW, BRING HIM IN.

7 (JUROR JAMES VAUGHAN ENTERED THE COURTROOM.)

8 JAMES D. VAUGHAN, AFTER BEING DULY
9 SWORN, TESTIFIED AS FOLLOWS:

10 EXAMINATION BY THE COURT

11 Q. HOW DOES IT FEEL TO HAVE A BUILT-IN INSURANCE
12 AGENT?

13 A. PRETTY GOOD.

14 Q. THAT'S YOUR WIFE?

15 A. THAT'S RIGHT. I CAN AT LEAST ASK HER THE
16 QUESTIONS.

17 Q. YEAH, I KNOW. ALL OF US NEED IT. WHEN YOU
18 -- YOU BELONG TO THE -- I NOTICE YOU BELONG TO THE
19 U.S. AIR FORCE CHIEF GROUP. WHAT IS THAT?

20 A. I'M AN AIR RESERVE TECHNICIAN AND, OF COURSE,
21 WHEN YOU GET TO BE E-9 THAT'S A CHIEF AND WE HAVE A
22 GROUP WITH A. . .

23 Q. HELPS YOU. YOU CAN ASK QUESTIONS TO. . .

24 A. RIGHT.

25 Q. YEAH. BUT I ALSO KNOW YOU HAVE NEVER SERVED

1 ON A CRIMINAL JURY. WHEN DID YOU SERVE ON A CIVIL
2 JURY?

3 A. IT'S BEEN ABOUT -- THE BEST I RECOLLECT,
4 ABOUT SIX OR SEVEN YEARS AGO.

5 Q. IT WASN'T ME, WAS IT?

6 A. NO. IT WAS I GUESS WHEN THE COURTROOM HERE
7 WAS UNDER CONSTRUCTION OR RENOVATION OR WHAT. IT WAS
8 AT KNIGHTSVILLE ELEMENTARY SCHOOL.

9 Q. ALL RIGHT. IN ANY EVENT, I TOLD YOU A LITTLE
10 -- THE JURY A LITTLE BIT ABOUT WHAT'S GOING ON. I
11 WANT TO INTRODUCE THE PARTIES TO YOU. IN THE CENTER
12 THERE IS MR. ROGERS. HE'S CHARGED WITH MURDER.

13 A. YES, SIR.

14 Q. AND ON HIS LEFT, TO YOUR RIGHT THERE, IS MR.
15 MARK LEIENDECKER. HE'S ONE OF THE ATTORNEYS AS IS ON
16 THE OTHER SIDE IS MR. BILL RUNYON AND ON -- THE FIRST
17 GENTLEMAN RIGHT HERE IS MR. BAILEY. HE'S SOLICITOR
18 BAILEY. HE REPRESENTS THE STATE. WE'RE ALL GOING TO
19 ASK YOU A FEW QUESTIONS AND THERE ARE NO RIGHT OR WRONG
20 ANSWERS, SO DON'T WORRY ABOUT WHAT THE ANSWERS ARE.
21 JUST ANSWER AS BEST YOU CAN.

22 I TOLD YOU ALL EARLIER, THAT IS, I TOLD --
23 AND, OF COURSE, YOU KNOW THAT MR. ROGERS IS PRESUMED TO
24 BE INNOCENT. THE STATE MUST SATISFY TWELVE JURORS OF
25 HIS GUILT FOR MURDER BEYOND A REASONABLE DOUBT.

1 OTHERWISE, WE DON'T HAVE TO WORRY ABOUT LIFE OR DEATH
2 BECAUSE IF THE JURY FINDS HIM NOT GUILTY, THAT ENDS
3 EVERYTHING, BUT IF THEY FIND HIM GUILTY THEN WE HAVE
4 ANOTHER TRIAL. I TOLD YOU ALL IN AN ORDINARY CASE THE
5 JURY DECIDES GUILT OR INNOCENCE AND THE JUDGE DOES THE
6 SENTENCING.

7 A. YES, SIR.

8 Q. WELL, BEFORE YOU CAME HERE TODAY DID YOU KNOW
9 THAT IN A DEATH PENALTY CASE THE JURY DOES BOTH OF
10 THEM?

11 A. NO, SIR, I DIDN'T.

12 Q. YOU KNOW IT NOW, DON'T YOU?

13 A. YES, SIR.

14 Q. WHAT HAPPENS IS IF THE JURY FINDS HIM GUILTY
15 OF MURDER, THEN WE HAVE A SECOND TRIAL. IT'S CALLED A
16 SENTENCING TRIAL AND THAT TRIAL IS DESIGNED TO HELP THE
17 JURY DECIDE WHAT THE PROPER PUNISHMENT IS. IN OTHER
18 WORDS, YOU MIGHT HEAR GOOD THINGS AND BAD THINGS ABOUT
19 HIM. YOU MIGHT HEAR EXTENUATING CIRCUMSTANCES OR
20 AGGRAVATING CIRCUMSTANCES, AND WHEN IT'S ALL COMPLETED
21 THE JURY THEN MUST MAKE A DECISION TO WHETHER HE OUGHT
22 TO LIVE OR DIE. YOU UNDERSTAND THAT.

23 A. YES, SIR.

24 Q. NOW, THIS MORNING WHEN I ASKED THE JURY TO
25 STAND UP AND LET ME KNOW IF ANYTHING -- IF THEY KNEW

1 ANYTHING ABOUT THIS CASE AT ALL A LOT OF THEM STOOD UP
2 BACK THERE, BUT I NOTICED THAT YOU DIDN'T STAND UP.

3 A. NO, SIR.

4 Q. DO YOU KNOW ANYTHING UNTIL YOU CAME HERE TO
5 COURT TODAY? DO YOU KNOW ANYTHING ABOUT THE CASE?

6 A. I'VE HEARD THE NAME ROGERS BEFORE AND -- BUT
7 TO SIT THERE AND TRY TO THINK WHAT IT'S CONNECTED WITH,
8 NO, SIR.

9 Q. IN OTHER WORDS, DO YOU KNOW OF ANYTHING THAT
10 YOU'VE HEARD OR DISCUSSED WITH ANYBODY THAT WOULD KEEP
11 YOU FROM GIVING BOTH MR. ROGERS AND THE STATE A FAIR
12 TRIAL?

13 A. NO, SIR, I KNOW OF NOTHING.

14 Q. ALL RIGHT. I CAN UNDERSTAND THAT. IN ANY
15 EVENT, AT THAT SECOND TRIAL THAT I JUST TOLD YOU ABOUT
16 IF THE JURY DECIDES THAT THE PROPER PUNISHMENT IS LIFE
17 IN PRISON, THE FOREMAN WOULD STAND UP AND HE'D SAY --
18 HE WILL HAVE SIGNED A PIECE OF PAPER AND IT SAYS, WE,
19 THE JURY, RECOMMEND LIFE IN PRISON. EVEN THOUGH I SAID
20 THE WORDS RECOMMEND, DON'T LET THOSE FOOL YOU BECAUSE I
21 MUST DO EXACTLY WHAT THE JURY TELLS ME TO DO. IF THE
22 JURY SAID THE PROPER PUNISHMENT WAS LIFE IN PRISON, I
23 WOULD SENTENCE HIM TO LIFE IN PRISON.

24 BUT ON THE OTHER HAND IF THEY DECIDED THAT
25 DEATH WAS THE APPROPRIATE SENTENCE, EACH JUROR WOULD

1 INDIVIDUALLY SIGN THEIR NAME TO A PIECE OF PAPER THAT
2 SAID, WE, THE JURY, FIND THAT THE PROPER SENTENCE IS
3 DEATH. AND AS I TOLD YOU, I MUST DO WHAT THE JURY
4 TELLS ME AND I WOULD SENTENCE HIM TO DEATH BY
5 ELECTROCUTION. DO YOU UNDERSTAND?

6 A. YES, SIR.

7 Q. NOW, JURORS THAT HAVEN'T HAD ANY CRIMINAL
8 EXPERIENCE GENERALLY IN A CASE OF THIS TYPE WHEN THEY
9 COME INTO COURT FALL IN ONE OF THREE CATEGORIES. SO,
10 I'M GOING TO TELL YOU WHAT THOSE CATEGORIES ARE AND
11 THEN I WANT YOU TO TELL ME WHICH ONE YOU THINK YOU BEST
12 FIT IN. THE FIRST TYPE OF JUROR IS THAT TYPE OF JUROR
13 THAT WOULDN'T BE INTERESTED IN HEARING THAT SECOND
14 TRIAL BECAUSE THEIR MIND WOULD HAVE ALREADY BEEN MADE
15 UP. THEY'D TAKE THE POSITION IF YOU KILL SOMEBODY YOU
16 OUGHT TO DIE YOURSELF, AN EYE FOR AN EYE AND A TOOTH
17 FOR A TOOTH, SO TO SPEAK. THEY WOULD ALWAYS VOTE FOR
18 THE DEATH PENALTY.

19 THEN THERE WOULD BE THE OPPOSITE TO THAT,
20 JUROR NUMBER TWO, WHICH WOULD TAKE THE POSITION,
21 REGARDLESS OF HOW BAD THE MURDER WAS, THEY WOULD NEVER
22 VOTE FOR THE DEATH PENALTY. THEY WOULD ALWAYS VOTE FOR
23 LIFE IN PRISON. AND THEN THERE'S A THIRD TYPE JUROR
24 WHO COULD GO EITHER WAY. THAT JUROR WOULD WANT TO
25 LISTEN TO THAT SECOND TRIAL SO THAT THEY WOULD BE IN A

1 BETTER POSITION TO DECIDE WHETHER THE PARTY OUGHT TO
2 HAVE LIFE OR DEATH, AND DEPENDENT UPON WHAT THEY HEARD
3 THEY COULD EITHER VOTE FOR LIFE IN PRISON OR SIGN THEIR
4 NAME TO A PIECE OF PAPER THAT SAID WE RECOMMEND DEATH.
5 WHICH ONE DO YOU THINK YOU BEST FALL IN?

6 A. I WOULD THINK THE LAST ONE.

7 Q. NUMBER THREE?

8 A. THREE.

9 Q. IN OTHER WORDS, YOU DON'T FEEL THAT EVERY
10 MURDERER OUGHT TO DIE OR EVERY MURDERER OUGHT TO HAVE
11 LIFE IN PRISON. IS THAT WHAT YOU'RE SAYING?

12 A. YES, SIR.

13 THE COURT: ALL RIGHT. THEY'RE GOING TO ASK
14 YOU SOME QUESTIONS AND JUST ANSWER AS BEST YOU CAN.
15 THERE ARE NO RIGHT OR WRONG ANSWERS, AS I TOLD YOU.

16 DIRECT EXAMINATION

17 BY MR. BAILEY:

18 Q. MR. VAUGHAN, I'M WALTER BAILEY. I WANT TO
19 FOLLOW UP JUST A LITTLE BIT ON SOME OF JUDGE BROWN'S
20 QUESTIONS AND THERE ARE NO RIGHT OR WRONG ANSWERS. WE
21 JUST NEED TO FIND OUT HOW YOU HONESTLY FEEL ABOUT THE
22 DEATH PENALTY. OKAY?

23 A. YES, SIR.

24 Q. FORGETTING ABOUT THIS PARTICULAR CASE, HAVE
25 YOU EVER IN THE PAST, TALKING TO YOUR WIFE AND

1 CHILDREN, PEOPLE THAT YOU'RE IN THE MILITARY SERVICE
2 WITH, ANYBODY ELSE, HAD OCCASION TO TALK ABOUT THE
3 DEATH PENALTY?

4 A. YES, SIR.

5 Q. JUST IN GENERAL TERMS?

6 A. SURE.

7 Q. AND WHAT IS -- WHAT WAS YOUR POSITION AT THAT
8 TIME WHEN YOU TALKED TO PEOPLE ABOUT IT?

9 A. I GUESS IT WAS PROBABLY DEPENDING UPON THE
10 CIRCUMSTANCE. IF IT WAS SOMETHING THAT I WAS TALKING
11 ABOUT THAT MAYBE I HAD SAW ON T.V. OR SOMETHING WHERE
12 IF IT WAS PARTICULARLY A CRUEL-TYPE MURDER OR SOMETHING
13 LIKE THAT AND IT WAS PRETTY EVIDENT THAT -- WHO WAS
14 ACCUSED DID DO IT THAT I MIGHT HAVE SAID SOMETHING
15 ABOUT, YOU KNOW, THAT, YEAH, THAT HE DESERVES THE DEATH
16 PENALTY OR WHATEVER, YOU KNOW.

17 Q. OKAY.

18 A. DEPENDING UPON THE SITUATION THAT WE'RE
19 TALKING ABOUT.

20 Q. HAVE THERE BEEN OTHER OCCASIONS WHEN YOU'VE
21 HEARD ABOUT A MURDER AND THOUGHT THAT MAYBE A LIFE
22 SENTENCE WOULD HAVE BEEN THE MOST APPROPRIATE
23 PUNISHMENT?

24 A. YES. SURE.

25 Q. DO YOU HAVE ANY STRONG RELIGIOUS FEELINGS ONE

1 WAY OR THE OTHER THAT MIGHT POSSIBLY INFLUENCE YOUR
2 DECISION?

3 A. NO, SIR.

4 Q. OKAY. NOW, THE JUDGE TALKED TO YOU ABOUT THE
5 POSSIBLE TWO PHASES OF THE TRIAL?

6 A. YES.

7 Q. AND YOU UNDERSTAND WE WOULDN'T EVEN GET INTO
8 THAT SECOND PHASE UNLESS IN THE FIRST PHASE THE JURY
9 FINDS THE DEFENDANT GUILTY OF MURDER.

10 A. YES.

11 Q. SO IN EVERY CASE IN THAT SECOND STAGE YOU'RE
12 DEALING WITH A CONVICTED MURDERER.

13 A. YES.

14 Q. OKAY. AND YOU'RE WILLING TO LISTEN TO BOTH
15 SIDES AND BRING BACK EITHER LIFE OR DEATH DEPENDING ON
16 WHAT YOU HEAR---

17 A. YES.

18 Q. ---DURING THAT TRIAL? IF THE JURY, AFTER
19 HEARING EVERYTHING, DECIDES THAT THE DEATH SENTENCE IS
20 THE MOST APPROPRIATE PUNISHMENT, THEN EACH JUROR IN
21 ORDER TO IMPOSE THAT DEATH SENTENCE HAS TO SIGN THEIR
22 NAME ON A FORM, A DEATH VERDICT FORM.

23 A. YES.

24 Q. COULD YOU SIGN YOUR NAME WITH THE OTHER
25 ELEVEN JURORS IF YOU GOT TO THAT POINT?

1 A. YES, SIR.

2 Q. AND IF YOU GOT TO THAT POINT, COULD YOU COME
3 OUT IN OPEN COURT AND ANNOUNCE IN RESPONSE TO QUESTIONS
4 FROM THE JUDGE OR THE CLERK THAT THAT WAS YOUR
5 DECISION?

6 A. YES, SIR.

7 MR. BAILEY: ALL RIGHT, SIR. I THINK THAT'S
8 ALL I HAVE. THANK YOU VERY MUCH.

9 CROSS-EXAMINATION

10 BY MR. RUNYON:

11 Q. GOOD AFTERNOON, MR. VAUGHAN.

12 A. HOW YOU ARE DOING, SIR?

13 Q. OF COURSE, IT'S ALMOST GETTING TO BE
14 NIGHTTIME.

15 A. YES, IT IS.

16 Q. YOU SERVED IN THE MILITARY.

17 A. YES, SIR.

18 Q. THE AIR FORCE?

19 A. YES. I STILL WORK THERE. I'M AN AIR RESERVE
20 TECHNICIAN.

21 Q. OKAY. AND IN THE COURSE OF YOUR MILITARY
22 CAREER, HOW LONG DID YOU SPEND ON ACTIVE DUTY, SIR?

23 A. FOUR YEARS ACTIVE DUTY. ALTOGETHER WITH THE
24 RESERVE AND ALL, ABOUT TWENTY-EIGHT YEARS NOW.

25 Q. ALL RIGHT. AND IN THE COURSE OF YOUR ACTIVE

1 DUTY TIME, BE IT INITIALLY OR BEING DURING YOUR RESERVE
2 CAREER, HAVE YOU HAD AN OCCASION TO -- STRIKE THAT.
3 DURING THE COURSE OF YOUR MILITARY CAREER, YOU HAVE
4 ALWAYS DEALT WITH BASICALLY MAINTENANCE OF AIRCRAFT AND
5 WHAT HAVE YOU?

6 A. YES, SIR, AIRCRAFT MAINTENANCE.

7 Q. AND DURING THE COURSE OF THAT CAREER, HAVE
8 YOU EVER BEEN CALLED UPON TO SERVE AS -- ON THE GENERAL
9 COURT-MARTIAL, FOR EXAMPLE?

10 A. NO, SIR.

11 Q. NEVER HAVE?

12 A. NO.

13 Q. OKAY. AND YOU, OF COURSE, -- YOUR RANK IS?

14 A. CHIEF MASTER SERGEANT.

15 Q. OKAY. I'M GLAD YOU SAID THAT BECAUSE I DON'T
16 UNDERSTAND ALL THE E'S. MY FATHER WAS A CAREER CHIEF
17 IN THE NAVY AND I NEVER DID UNDERSTAND ALL THAT "E."
18 STUFF. AND DURING THE COURSE OF THAT -- SERVING IN
19 THAT CAPACITY, YOU HAVE NEVER HAD TO BE PART OF EVEN
20 CONVENING A COURT-MARTIAL IN ANY WAY, HAVE YOU, SIR?

21 A. NO, SIR?

22 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
23 HONOR.

24 THE COURT: ANY MOTIONS FROM THE STATE?

25 MR. BAILEY: NO, SIR, YOUR HONOR.

1 THE COURT: DEFENSE?

2 MR. RUNYON: NONE, YOUR HONOR.

3 THE COURT: WELL, WE ALL THINK YOU'D MAKE A
4 GOOD JUROR, MR. VAUGHAN. DOESN'T MEAN YOU'RE GOING TO
5 BE ON THE JURY. IT MEANS YOU'RE QUALIFIED. AND SO
6 WHEN I GET ABOUT 35, 36, 37 PEOPLE, I'LL BE CONTACTING
7 YOU AND ASK THAT YOU COME IN. IF I HAD TO GUESS, I'LL
8 PROBABLY BE CALLING YOU TOMORROW NIGHT, MAYBE
9 WEDNESDAY. BUT IN THE MEANTIME, DON'T GET TOO FAR AWAY
10 FROM THESE TELEPHONE NUMBERS THAT YOU GAVE ME. ARE
11 THESE STILL THE NUMBERS?

12 JUROR VAUGHAN: YES, SIR.

13 THE COURT: ALL RIGHT. AND WE'LL BE
14 CONTACTING YOU. IN THE MEANTIME, DON'T READ THE PAPERS
15 OR WATCH T.V. OR DISCUSS THIS CASE WITH ANYBODY, AND
16 WHEN YOU COME BACK BRING ENOUGH CLOTHES FOR ABOUT FIVE
17 DAYS. IT PROBABLY WON'T TAKE THAT LONG, BUT JUST IN
18 CASE YOU'RE DRAWN, IN CASE IT TAKES THAT LONG.

19 JUROR VAUGHAN: YES, SIR.

20 THE COURT: HOPE YOU HAVE A GOOD DAY.

21 JUROR VAUGHAN: ALL RIGHT.

22 THE COURT: THANK YOU VERY MUCH.

23 JUROR VAUGHAN: I UNDERSTAND THAT I'LL BE
24 CALLED AT A LATER DATE THEN.

25 THE COURT: OH, YEAH. WE'LL CONTACT YOU.

1 (JUROR JAMES VAUGHAN WAS EXCUSED FROM THE
2 COURTROOM.)

3 THE COURT: JOHNNIE HUGHES. GENTLEMEN, I'M
4 GOING TO WAIT TILL 5:30. IS THAT SATISFACTORY?

5 MR. BAILEY: YES, SIR, HOW EVER LONG YOU WANT
6 TO, JUDGE.

7 MR. RUNYON: 5:30 IS GREAT, JUDGE.

8 THE COURT: WELL, YOU KNOW, SOME OF THEM GOT
9 SOME WAYS TO GO AND IT'S TWENTY -- IT'S QUARTER AFTER.
10 THIS WILL PROBABLY BE THE LAST ONE WE'LL DO. WE'VE
11 MADE A LOT OF HEADWAY.

12 (JUROR JOHNNIE R. HUGHES ENTERED THE
13 COURTROOM.)

14 JOHNNIE R. HUGHES, AFTER BEING DULY
15 SWORN, TESTIFIED AS FOLLOWS:

16 EXAMINATION BY THE COURT

17 Q. MR. HUGHES, HOW ARE YOU TODAY?

18 A. I'M DOING FINE.

19 Q. YOU KNOW, EVERY TIME I HOLD COURT UP HERE I
20 HAVE TO BE QUIET TILL THAT TRAIN GOES BY.

21 A. YEAH, I KNOW.

22 Q. IT'S RIGHT HERE. I NOTICE YOU HAVE NEVER
23 SERVED ON A JURY BEFORE.

24 A. YES, SIR. I'VE BEEN ON A PETTY I THINK TWICE
25 AND THE GRAND JURY THREE TIMES.

1 Q. JOHNNIE HUGHES?

2 A. YES, SIR.

3 Q. DID YOUR WIFE FILL THIS OUT FOR YOU?

4 A. YES, SIR.

5 Q. THAT'S ALL RIGHT. THERE ARE TWO QUESTIONS:

6 HAVE YOU PREVIOUSLY SERVED ON A CRIMINAL CASE? NO.

7 AND HAVE YOU PREVIOUSLY SERVED ON A JURY IN A CIVIL

8 CASE? NO. BUT THAT'S NOT SO.

9 A. I HAVEN'T SERVED ON CIVIL COURT, NO.

10 Q. BUT YOU SERVED ON A CRIMINAL CASE.

11 A. YEAH.

12 Q. WELL, SHE SAID NO.

13 A. I'M SORRY.

14 Q. SHE PROBABLY FORGOT ABOUT IT.

15 A. SHE FORGOT ABOUT IT; I'M SORRY.

16 Q. THAT'S ALL RIGHT.

17 A. I'VE BEEN SICK FOR -- JUDGE, I'VE BEEN SICK

18 FOR THE. . . I RETIRED -- I DON'T MIND TELLING YOU I

19 RETIRED BACK HERE LAST APRIL. I'M A BUILDING

20 CONTRACTOR.

21 Q. YEAH, I SAW THAT.

22 A. AND SINCE I HAVE RETIRED I ABOUT FELL APART.

23 I NEED TO GO BACK TO WORK, BUT I'VE HAD SOME PROBLEMS,

24 YOU KNOW.

25 Q. DO YOU THINK---

1 A. IN FACT, I WAS JUST IN THE HOSPITAL FRIDAY
2 FOR SOME TESTS AND THINGS AND I DON'T MIND TELLING YOU
3 I HAD BYPASS BACK HERE A FEW YEARS AGO AND I'VE HAD
4 CHEST PROBLEMS AND INDIGESTION PROBLEMS.

5 Q. REALLY? WHAT YEAR DID YOU HAVE YOUR---

6 A. WELL, I HAD THE OPEN HEART SURGERY BACK HERE
7 ABOUT FIVE YEARS AGO BACK IN '88, BUT SINCE THAT TIME
8 I'VE BEEN DOING REAL FINE UNTIL THE LAST, LIKE I SAY,
9 THE LAST -- WELL, TWO WEEKS AGO I STARTED HAVING A LOT
10 OF PROBLEMS. I HAD PNEUMONIA BACK IN JULY. I'M NOT
11 TRYING TO TELL YOU MY PROBLEMS.

12 Q. OH, WELL, WE'RE INTERESTED.

13 A. YOU KNOW WHAT I'M SAYING.

14 Q. ALL OF US ARE INTERESTED.

15 A. I'VE HAD -- LIKE I SAY, I THINK I'M -- IT
16 SEEMS TO ME I'M FALLING APART SINCE I RETIRED. I NEED
17 TO GO BACK TO BUILDING HOUSES, I GUESS, BUT I'M---

18 Q. WELL, LET ME JUST ASK YOU THIS: I DON'T HAVE
19 ANY OBJECTION. FEELING LIKE YOU DO, IF YOU'D LIKE FOR
20 ME TO TRANSFER YOU TO ANOTHER TERM OF COURT OR EXCUSE
21 YOU, WHICHEVER YOU FEEL LIKE YOU'D LIKE TO DO---

22 A. WELL, I'M WILLING TO SERVE, YOUR HONOR, AS
23 LONG AS I'M FINE, YOU KNOW. I HAVE A LOT OF
24 INDIGESTION PROBLEMS I'VE GOT HERE IN THE LAST FEW
25 WEEKS AND I HAVEN'T BEEN ABLE TO EAT BUT I'VE BEEN

1 DOING FINE TODAY. SO, I MEAN, IF I'M -- I JUST WANT TO
2 PUT IT THIS WAY. IF SOMETHING SHOULD OCCUR, I MAY HAVE
3 TO FALL OUT, YOU KNOW, BUT I'LL SERVE. IF I'M DOING
4 FINE, I'LL BE GLAD TO SERVE.

5 Q. OH, I KNOW THAT. THIS IS A CASE, THOUGH, IN
6 WHICH YOU, IF YOU WERE DRAWN ON THE JURY, YOU MIGHT BE
7 SEQUESTERED AND STAY AT A MOTEL FOR SEVERAL DAYS, MAYBE
8 FIVE OF SIX DAYS. WOULD THAT CREATE A PROBLEM FOR YOU?

9 A. WELL, RIGHT NOW I'M WAITING ON SOME TESTS
10 THAT I MADE FRIDAY AND I'M HOPING TO GET BACK TO MY
11 DOCTOR AND FIND OUT WHAT WE CAN DO ABOUT THIS.

12 Q. WHY DON'T YOU STEP OUTSIDE JUST A MINUTE FOR
13 ME?

14 A. OKAY.

15 Q. WILL YOU DO THAT? JUST STEP OUTSIDE.

16 (JUROR JOHNNIE HUGHES WAS EXCUSED FROM OPEN
17 COURT.)

18 MR. RUNYON: I'D RESPECTFULLY MOVE THAT HE BE
19 EITHER EXCUSED OR TRANSFERRED, YOUR HONOR. OBVIOUSLY
20 HE'S GOT SOME PENDING MEDICAL PROBLEMS.

21 MR. BAILEY: NO OBJECTION. HE DOES SEEM
22 PREOCCUPIED WITH HIS HEALTH PROBLEMS.

23 THE COURT: I FEEL LIKE IT, TOO, BECAUSE HE'S
24 WORRIED ABOUT WHAT THOSE TESTS ARE, TOO. BRING HIM
25 BACK IN.

1 (JUROR JOHNNIE HUGHES WAS BROUGHT BACK INTO
2 OPEN COURT.)

3 THE COURT: I'M GOING TO WRITE ACROSS THE
4 FACE OF THIS -- MR. HUGHES, LET ME TELL YOU. I TALKED
5 TO THE ATTORNEYS AND I KNOW IF YOU'RE A LITTLE WORRIED
6 ABOUT YOUR HEALTH I DON'T WANT TO NOR DO THEY WANT TO
7 GET YOU IN A POSITION WHERE YOU'RE WORRIED ABOUT IT.
8 WHY DON'T YOU LET ME TRANSFER YOU TO ANOTHER TERM OF
9 COURT A MONTH OR SO AWAY AND SEE HOW YOU FEEL? WOULD
10 YOU LIKE ME TO DO THAT?

11 JUROR HUGHES: THAT'S FINE.

12 THE COURT: I'M GOING TO DO THAT, I TELL
13 YOU. I'M GOING TO---

14 JUROR HUGHES: I'M GLAD -- YOU KNOW, I'M GLAD
15 TO DO MY PART.

16 THE COURT: OH, I KNOW THAT. AIN'T NO
17 QUESTION. MAYBE BY THAT TIME YOU'LL DO WHAT I DID.

18 JUROR HUGHES: I SURE HOPE SO.

19 THE COURT: I HAD OPEN HEART SURGERY, BUT I
20 COULDN'T QUIT WORKING AND I'M STILL WORKING.

21 JUROR HUGHES: NO, I'M NOT QUITTING EITHER.

22 THE COURT: AND YOU'LL FEEL BETTER WHEN YOU
23 GET BACK TO BUILDING HOUSES.

24 JUROR HUGHES: NO, I AIN'T GOING TO BUILD NO
25 MORE.

1 THE COURT: THANK YOU. I'M GOING TO TRANSFER
2 YOU TO THIS FALL.

3 JUROR HUGHES: OKAY, SIR.

4 THE COURT: AND I HOPE YOU FEEL BETTER.

5 JUROR HUGHES: THANK YOU SO MUCH. APPRECIATE
6 IT.

7 THE COURT: GOOD.

8 (JUROR JOHNNIE HUGHES WAS EXCUSED FROM THE
9 COURTROOM.)

10 THE COURT: ROMEO SANPEDRO.

11 (JUROR ROMEO SANPEDRO ENTERED THE COURTROOM.)

12 ROMEO R. SANPEDRO, AFTER BEING DULY
13 SWORN, TESTIFIED AS FOLLOWS:

14 EXAMINATION BY THE COURT

15 Q. MR. SANPEDRO, HOW ARE YOU TODAY?

16 A. FINE. THANK YOU, SIR.

17 Q. I NOTICE THAT YOU NEVER SERVED ON A JURY
18 BEFORE; IS THAT RIGHT?

19 A. NO, SIR.

20 Q. AND WHAT NATIONALITY ARE YOU?

21 A. I AM FILIPINO.

22 Q. HOW LONG HAVE YOU BEEN OVER HERE?

23 A. SINCE 1959.

24 Q. CONGRATULATIONS, IF YOU LIKE IT.

25 A. YES, SIR.

1 Q. I'M GLAD TO HAVE YOU HERE AND I KNOW
2 EVERYBODY ELSE IS, TOO. AND YOU'VE NEVER SERVED ON A
3 JURY BEFORE, BUT YOU IN ALL PROBABILITY KNOW ALL OF THE
4 BASICS ABOUT A TRIAL. FOR INSTANCE, YOU WORK IN A
5 STORE NOW, IN A COMMISSARY?

6 A. YES, SIR.

7 Q. IN ANY EVENT, SPEAK UP LOUD ENOUGH SO THAT
8 YOUNG LADY CAN HEAR YOU AND WE'RE GOING TO ASK YOU SOME
9 QUESTIONS AND THERE ARE NO RIGHT OR WRONG ANSWERS. IN
10 OTHER WORDS, YOU CAN'T MAKE A MISTAKE, SO DON'T WORRY
11 ABOUT IT. THE YOUNG MAN IN THE CENTER THERE IS MR.
12 ROGERS AND HE'S CHARGED WITH MURDER AND ON HIS LEFT, ON
13 YOUR RIGHT, IS ONE OF HIS ATTORNEYS AND THAT'S MR. MARK
14 LEIENDECKER. ON HIS RIGHT, ON YOUR LEFT THERE, IS MR.
15 BILL RUNYON AND THE TWO OF THEM REPRESENT MR. ROGERS
16 WHO'S CHARGED WITH MURDER. NOW, OVER HERE AT THIS
17 TABLE, THE FIRST GENTLEMAN RIGHT THERE IS SOLICITOR
18 BAILEY. HE REPRESENTS THE STATE OF SOUTH CAROLINA AND
19 I'M JUDGE BROWN AND WE'RE JUST GOING TO ASK YOU SOME
20 QUESTIONS. YOU TELL ME YOU HAVE NEVER SERVED ON A JURY
21 BEFORE, BUT YOU KNOW IN THE UNITED STATES THAT A PERSON
22 IS PRESUMED TO BE INNOCENT. DO YOU KNOW THAT?

23 A. YES, SIR.

24 Q. AND THE STATE MUST PROVE HIM GUILTY OF MURDER
25 BEYOND A REASONABLE DOUBT, AND IF A JURY FINDS HIM NOT

1 GUILTY THAT ENDS EVERYTHING. DO YOU UNDERSTAND?

2 A. YES, SIR.

3 Q. GOOD. I NOTICE THAT YOU DIDN'T STAND UP WHEN
4 YOU SAID YOU KNEW ANYTHING ABOUT THIS CASE. DO YOU
5 KNOW ANYTHING ABOUT THIS CASE?

6 A. NO, SIR, I DON'T KNOW ANYTHING ABOUT IT.

7 Q. JUST WHAT I TOLD YOU. HE'S CHARGED WITH
8 SHOOTING A CHILD IN THE BACK OF THE HEAD. DO YOU
9 UNDERSTAND THAT AND KILLING THAT CHILD?

10 A. (JUROR NODDED HEAD UP AND DOWN.)

11 Q. YOU HAVE TO SPEAK OUT LOUD FOR ME.

12 A. YES, SIR, I UNDERSTAND THAT.

13 Q. THANK YOU VERY MUCH. NOW, ORDINARILY A JURY
14 DECIDES GUILT OR INNOCENCE AND THE JUDGE DOES THE
15 SENTENCING. DID YOU KNOW THAT? IN OTHER WORDS, IF A
16 JURY DECIDES SOMEBODY IS GUILTY, THEY DON'T SENTENCE
17 THAT PERSON. THE JUDGE SENTENCES HIM. DO YOU
18 UNDERSTAND THAT?

19 A. YES, SIR.

20 Q. BUT IN THIS TYPE CASE THE JURY DOES BOTH.
21 THEY DECIDE INNOCENCE OR GUILT AND IF THEY FIND THE
22 PERSON GUILTY, THEN THEY ALSO DECIDE WHETHER HE'S GOING
23 TO LIVE OR DIE. DO YOU UNDERSTAND?

24 A. YES, SIR.

25 Q. NOW, WHAT WILL HAPPEN IS IF THE JURY

1 DECIDES -- FOR INSTANCE, IF THE JURY FINDS HIM GUILTY
2 OF MURDER, THEN WE HAVE A SECOND TRIAL AND THAT SECOND
3 TRIAL IS SO AS TO HELP THE JURY DECIDE WHAT THE PROPER
4 PUNISHMENT IS. AND SO THE JURY MIGHT HEAR AT THAT
5 SECOND TRIAL GOOD THINGS AND BAD THINGS, AGGRAVATING
6 CIRCUMSTANCES, MITIGATING CIRCUMSTANCES, AND WHEN ALL
7 OF THAT SECOND TRIAL IS OVER, THE JURY IS ASKED TO
8 DECIDE WHETHER HE OUGHT TO LIVE OR DIE. IF THEY DECIDE
9 THAT THE PROPER PUNISHMENT IS LIFE IN PRISON, THE
10 FOREMAN OF THAT JURY WOULD STAND UP AND HE WOULD TELL
11 THE COURT THAT THE PROPER SENTENCE WAS LIFE IN PRISON
12 AND I WOULD SENTENCE HIM TO LIFE IN PRISON. DO YOU
13 UNDERSTAND?

14 A. YES, SIR.

15 Q. BUT IF THE JURY -- AND I MUST DO WHAT THE
16 JURY TELLS ME TO. I CAN'T CHANGE IT. IF THE JURY
17 DECIDED THAT THE PROPER PUNISHMENT WAS DEATH, THEN EACH
18 JUROR, ALL TWELVE JURORS, WOULD SIGN THEIR NAME TO A
19 PIECE OF PAPER AND IT WOULD SAY IN ESSENCE, WE, THE
20 FOLLOWING JURORS, DETERMINE THAT THE PROPER SENTENCE
21 FOR THIS CRIME IS DEATH, AND I WOULD SENTENCE HIM TO
22 DEATH BY ELECTROCUTION. DO YOU UNDERSTAND?

23 A. YES, SIR.

24 Q. NOW, WHEN JURORS LIKE YOURSELF COME INTO
25 COURT AND DON'T -- HAVE NEVER BEEN FACED WITH THIS

1 QUESTION OF LIFE OR DEATH, THEY USUALLY FALL IN ONE OF
2 THREE CATEGORIES. SO I'M GOING TO TELL YOU WHAT THOSE
3 CATEGORIES ARE AND THEN I WANT YOU TO TELL ME WHICH ONE
4 YOU THINK YOU BEST FIT IN. OKAY?

5 THE FIRST TYPE JUROR WOULD BE THE TYPE JUROR
6 THAT WOULD ALWAYS VOTE FOR THE DEATH PENALTY. THEY
7 WOULDN'T BE INTERESTED IN THESE CIRCUMSTANCES THAT I
8 TOLD YOU ABOUT. THEY'D JUST TAKE THE POSITION IF YOU
9 KILL SOMEBODY YOU OUGHT TO DIE. THAT WOULD BE NUMBER
10 ONE. NUMBER TWO WOULD BE THE OPPOSITE. THAT JUROR
11 WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY WOULD
12 TAKE THE POSITION THAT NO MATTER HOW BAD A MURDER MIGHT
13 BE I WOULD NEVER VOTE FOR THE DEATH PENALTY AND THEY
14 WOULD ALWAYS VOTE FOR LIFE.

15 AND THEN JUROR NUMBER THREE COULD GO EITHER
16 WAY. THEY WOULD WANT TO HEAR ALL OF THE GOOD AND THE
17 BAD AND THEN DEPENDING UPON WHAT THEY HEARD THEY COULD
18 EITHER VOTE FOR LIFE IN PRISON OR THEY COULD SIGN THEIR
19 NAME TO THAT PIECE OF PAPER WHICH SAYS DEATH. NOW,
20 WHICH ONE OF THOSE THREE JURORS DO YOU THINK YOU BEST
21 FIT IN?

22 A. I THINK I WOULD FIT IN NUMBER TWO, THE
23 MIDDLE.

24 Q. IN OTHER WORDS, YOU WOULD NEVER VOTE FOR THE
25 DEATH PENALTY?

1 A. NO, SIR.

2 Q. IN OTHER WORDS, NO MATTER HOW HORRIBLE THE
3 MURDER MIGHT BE, YOU TAKE THE POSITION THAT YOU WOULD
4 ALWAYS VOTE FOR LIFE?

5 A. YES, SIR.

6 Q. WELL, YOU UNDERSTAND WE'RE NOT TRYING TO
7 EMBARRASS YOU AND EVERYBODY'S GOT AN OPINION. BUT THEY
8 MIGHT WANT TO ASK SOME QUESTIONS OF YOU, SO YOU JUST
9 ANSWER THEM AS BEST YOU CAN.

10 A. ALL RIGHT, SIR.

11 THE COURT: THANK YOU. SOLICITOR?

12 MR. BAILEY: YES, SIR.

13 DIRECT EXAMINATION

14 BY MR. BAILEY:

15 Q. MR. SANPEDRO, LIKE JUDGE BROWN TOLD YOU,
16 THERE ARE NO RIGHT OR WRONG ANSWERS AND NOBODY IS
17 TRYING TO EMBARRASS YOU, BUT SINCE THIS IS SUCH AN
18 IMPORTANT TRIAL FOR THE DEFENDANT AND FOR THE STATE I
19 NEED TO ASK YOU A FEW QUESTIONS KIND OF FOLLOWING UP ON
20 WHAT JUDGE BROWN HAD ASKED YOU. YOU INDICATED THAT YOU
21 WERE THAT SECOND TYPE OF JUROR THAT JUST DOES NOT
22 BELIEVE IN THE DEATH PENALTY---

23 A. YES, SIR.

24 Q. ---REGARDLESS OF THE CIRCUMSTANCES?

25 A. YES, SIR.

1 Q. IS THAT A FEELING THAT YOU'VE HAD FOR QUITE
2 SOME TIME?

3 A. BEG YOUR PARDON?

4 Q. HAVE YOU HAD THAT FEELING FOR A LONG TIME?
5 HAVE THOSE BEEN YOUR THOUGHTS?

6 A. THE WAY I FEEL ABOUT IT IS I THINK ONLY GOD
7 IS THE ONE WHO CAN SAY SOMEBODY HAS TO DIE.

8 Q. OKAY.

9 A. SINCE I'M NOT GOD AND I'M NOT ALLOWED TO DO
10 THAT. . .

11 Q. OKAY. I UNDERSTAND THAT. NOBODY IS
12 CRITICIZING YOUR VIEW, BUT IT'S A RELIGIOUS POSITION
13 THAT YOU TAKE.

14 A. YES, SIR.

15 Q. THAT IT'S JUST WRONG FOR THE STATE TO EXECUTE
16 ANYBODY NO MATTER WHAT THEY HAVE DONE?

17 A. YES, SIR.

18 MR. BAILEY: THAT'S ALL I HAVE. THANK YOU
19 VERY MUCH.

20 CROSS-EXAMINATION

21 BY MR. RUNYON:

22 Q. GOOD EVENING, SIR.

23 A. GOOD EVENING, SIR.

24 Q. YOU INDICATE THAT YOUR POSITION AGAINST THE
25 DEATH PENALTY IS BASED ON YOUR RELIGIOUS PRINCIPALS.

1 A. YES, SIR.

2 Q. AND THERE'S ABSOLUTELY NO WAY YOU COULD BE --
3 YOU COULD DECIDE TO CHANGE YOUR MIND.

4 A. NO, SIR.

5 Q. IS THIS BASED ON SOME PARTICULAR PASSAGE IN
6 THE BIBLE OR PARTICULAR RELIGIOUS TEACHING OR IS IT
7 JUST A COMBINATION OF THINGS THAT HAVE COME TO PASS
8 OVER THE YEARS?

9 A. I'VE BEEN THAT WAY -- I WAS BORN CATHOLIC AND
10 I WAS BROUGHT UP THAT WAY AND I DON'T BELIEVE IN THE
11 DEATH PENALTY.

12 MR. RUNYON: ALL RIGHT. NO FURTHER
13 QUESTIONS, YOUR HONOR.

14 THE COURT: WELL, WE APPRECIATE VERY MUCH
15 YOUR WILLINGNESS TO COME UP HERE AND TALK TO US, BUT
16 WE'RE ATTEMPTING TO DRAW A JURY THAT CAN THINK EITHER
17 WAY.

18 JUROR SANPEDRO: YES, SIR.

19 THE COURT: AND WE RESPECT YOUR VIEWS AND SO
20 I'M GOING TO EXCUSE YOU. YOU DON'T HAVE TO COME BACK
21 ANY MORE AND I HOPE YOU GET ALONG FINE AND I'M GOING TO
22 JUST ASK YOU ONE THING. DON'T DISCUSS THIS CASE WITH
23 THE REST OF THE JURORS UNTIL THE WEEK'S OVER. WILL YOU
24 DO THAT FOR ME?

25 JUROR SANPEDRO: YES, SIR.

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1 THE COURT: AND I HOPE YOU HAVE A GOOD DAY.

2 JUROR SANPEDRO: THANK YOU, SIR.

3 THE COURT: GET ME THE OTHER TWO JURORS UP
4 HERE, BOTH OF THEM.

5 (JURORS REBADELL AHL AND RICHARD C. GARRETT
6 WERE BROUGHT INTO THE COURTROOM.)

7 THE COURT: MS. AHL AND MR. GARRETT, WE'RE
8 GOING TO STOP FOR THE AFTERNOON AND SO I'M GOING TO ASK
9 YOU TO BE BACK TOMORROW MORNING AT 9:30, SAME ROOM, AND
10 WE'LL TAKE YOU FIRST AND THEN WE'LL BE ABLE TO SEND YOU
11 ON YOUR WAY FOR PERHAPS SOME LENGTH OF TIME. BUT BE
12 THAT AS IT MAY, I'M GOING TO ASK THAT YOU DON'T DISCUSS
13 THIS CASE WITH ANYONE, LIKE I TOLD YOU, AND REMEMBER
14 DON'T READ THE NEWSPAPERS OR WATCH T.V. OR ANYTHING.
15 WHEN YOU COME BACK TOMORROW MORNING, I'M GOING TO ASK
16 THAT YOU COME STRAIGHT TO THAT JURY ROOM. SOMEBODY
17 MIGHT BE TALKING ABOUT IT AROUND THE COURTROOM AND YOU
18 WOULDN'T WANT TO HEAR THAT. SO, IF YOU'LL LEAVE AT
19 THIS TIME AND I'LL SEE YOU TOMORROW MORNING AT 9:30.
20 HAVE A GOOD NIGHT.

21 JUROR GARRETT: HAVE A GOOD EVENING, JUDGE.

22 THE COURT: ALL RIGHT. MADAM CLERK, IF YOU
23 WILL, I HAVE JUST TWO OF THESE. I WANT THE NEXT TWENTY
24 IN ORDER TOMORROW MORNING. I DON'T HAVE TO HAVE THEM
25 READY. YOU GOT THEM?

1 THE CLERK: THEY'RE READY.

2 THE COURT: YOU CAN JUST HAND THEM HERE AND I
3 ALREADY HAVE A LIST SO YOU -- GOOD. THANK YOU VERY
4 MUCH. ALL RIGHT. ANYTHING BEFORE I -- BEFORE WE
5 ADJOURN? IS THERE ANY MOTIONS OR ANYTHING PENDING THAT
6 I CAN TAKE CARE OF?

7 MR. RUNYON: YOUR HONOR, I HAVEN'T FORMALLY
8 SERVED THE MOTION THAT WE DISCUSSED AS IT RELATES TO
9 THE UNCONSTITUTIONALITY OF ONE OF THE AGGRAVATING
10 CIRCUMSTANCES.

11 THE COURT: YOU DON'T HAVE TO SERVE ME WITH A
12 MOTION. YOU CAN PUT ANYTHING YOU WANT TO ON THE
13 RECORD.

14 MR. RUNYON: WELL, YOUR HONOR, FOR THE
15 RECORD, IF THE COURT WOULD LIKE TO HAVE THIS ADDRESSED
16 AT THIS TIME WE WOULD MOVE TO QUASH THE NOTICE OF
17 INTENTION TO SEEK THE DEATH PENALTY ON THE GROUNDS --
18 ON THE AGGRAVATING CIRCUMSTANCE GROUNDS THAT THE WEAPON
19 HERE WAS AN INSTRUMENT THAT COULD USE -- THAT COULD BE
20 OF HARM TO MORE THAN ONE PERSON ON THE GROUNDS THAT
21 THAT IS VAGUE AND UNCONSTITUTIONAL BECAUSE OF ITS
22 VAGUENESS.

23 IN ADDITION TO THAT, MORE IMPORTANTLY, YOUR
24 HONOR, WE WOULD ASK THAT THE COURT TAKE THIS MOTION
25 UNDER ADVISEMENT DURING THE COURSE OF THE STATE'S CASE

1 AND WE WOULD RENEW IT AT THE END OF THE STATE'S CASE.
2 WE THINK UNDER THE VARIOUS CASES -- NOW, I THINK I'VE
3 READ EVERY CASE IN THE COUNTRY DEALING WITH WEAPONS AND
4 I REALLY THINK THAT IT'S A FACT-BASED---

5 THE COURT: WHY DON'T YOU JUST LET ME TAKE IT
6 UNDER ADVISEMENT AND LISTEN TO THE CASE AND YOU CAN
7 MAKE THE MOTION AT THE END OF THE CASE?

8 MR. RUNYON: YES, SIR. I'D BE MORE THAN
9 HAPPY TO.

10 THE COURT: IS THAT ALL RIGHT WITH YOU,
11 SOLICITOR?

12 MR. BAILEY: THAT'S FINE, YOUR HONOR.

13 THE COURT: AND I THINK YOU HAD SOME
14 INFORMATION, PERHAPS AN ATTORNEY GENERAL'S OPINION---

15 MR. BAILEY: I'VE GOT AN ATTORNEY GENERAL'S
16 OPINION IF I COULD HAND THAT UP TO THE COURT.

17 THE COURT: IF YOU WOULD.

18 MR. BAILEY: THAT ADDRESSES THAT SAME ISSUE.

19 THE COURT: ALL RIGHT, SIR. ANY OTHER
20 MOTIONS?

21 MR. RUNYON: YES, YOUR HONOR. AS IT RELATES
22 TO THE SECOND AGGRAVATING CIRCUMSTANCE THAT THE
23 LEGISLATURE PASSED, TO WIT, ON THE DEATH OR THE MURDER
24 OF A CHILD UNDER THE AGE OF ELEVEN. WE THINK THAT
25 UNDER THE LAW OF SOUTH CAROLINA AS WE HAVE STRUCTURED

1 THE LAW IN SOUTH CAROLINA THAT PRACTICALLY EVERY
2 HOMICIDE OF A CHILD IN SOUTH CAROLINA WOULD BE A
3 CAPITAL CASE AND IT'S SIMPLY NOT HANDLED THAT WAY, AND
4 THAT'S WHERE WE'RE BACK AS IT RELATES TO THAT FACT
5 SITUATION AND THAT AGGRAVATING CIRCUMSTANCE. IT'S VERY
6 SIMILAR TO THE CIRCUMSTANCES THAT EXISTED AT THE TIME
7 THE SUPREME COURT DECIDED FURMAN VERSUS GEORGIA, THAT
8 IS, THAT TO WIND UP AS A CAPITAL CASE WHEREIN A CHILD
9 UNDER THE AGE OF ELEVEN IS THE VICTIM OF A HOMICIDE,
10 AND SPECIFICALLY MURDER, THAT IT'S LIKE LIGHTNING
11 STRIKING.

12 THERE ARE NO CLEAR DEFINED GUIDELINES TO
13 DIRECT THE SOLICITOR IN CHOOSING TO PURSUE THIS COURSE
14 OF ACTION AND THUS -- AND I CAN TELL YOU THIS: A
15 PREVIOUS ORDER OF JUDGE WHETSTONE -- SENATOR MCLEOD WHO
16 HEADS UP THE LEGISLATIVE RESEARCH COUNCIL WAS KIND
17 ENOUGH TO GIVE US EVERYTHING THAT THEY COULD FIND ON
18 THE LEGISLATIVE INTENT IN THIS STATE AS IT RELATES TO
19 THAT GROUND AND FRANKLY THERE IS NONE. THERE'S NO
20 LEGISLATIVE INTENT THAT'S OF RECORD AT LEAST AND SO,
21 THEREFORE, WITH NO GUIDELINES, WITH NO LEGISLATIVE
22 INTENT TO GUIDE SOLICITORS, AND WITH THE ARBITRARY
23 CUTOFF OF THE DEATH OF A CHILD AT THE AGE OF ELEVEN WE
24 WOULD RESPECTFULLY SUBMIT THAT THAT AGGRAVATING
25 CIRCUMSTANCE IS, IN FACT, UNCONSTITUTIONAL ON ITS FACE

1 AND SIMILAR TO THE CIRCUMSTANCES THAT EXISTED THAT WENT
2 TO THE UNITED STATES SUPREME COURT IN FURMAN VERSUS
3 GEORGIA.

4 THE COURT: ALL RIGHT. WHAT HAVE YOU GOT TO
5 SAY, SOLICITOR?

6 MR. BAILEY: YOUR HONOR, THE ONLY THING THE
7 UNITED STATES SUPREME COURT SAYS IN FURMAN VERSUS
8 GEORGIA AND THE CASES THAT FOLLOW THAT IS THAT THE
9 AGGRAVATING CIRCUMSTANCE HAS TO CHANNEL THE JURY'S
10 DISCRETION. IN OTHER WORDS, YOU JUST CAN'T HAVE A WIDE
11 OPEN AREA WHERE THEY CAN BRING BACK THE DEATH PENALTY
12 WILLY-NILLY. THAT PARTICULAR AGGRAVATING CIRCUMSTANCE
13 HAS BEEN USED BEFORE IN SOUTH CAROLINA SUCCESSFULLY IN
14 STATE VERSUS WILSON. THAT'S THE ONLY CASE I CAN THINK
15 OF RIGHT OFF THE BAT WHERE IT HAS BEEN USED.

16 THE COURT: HAS THAT BEEN BEFORE THE SUPREME
17 COURT?

18 MR. BAILEY: YES, SIR.

19 THE COURT: IS IT---

20 MR. BAILEY: IT'S---

21 THE COURT: ---STILL PENDING BEFORE ANY
22 COURT?

23 MR. BAILEY: SIR, I DON'T KNOW IF IT'S -- I
24 IMAGINE IT MAY BE BEFORE THE UNITED STATES SUPREME
25 COURT OR IT MAY BE -- I'M SURE IT'S IN THE APPEAL

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1 PROCESS.

2 THE COURT: I WAS JUST CURIOUS. I HAVEN'T
3 HEARD THIS PARTICULAR ONE.

4 MR. BAILEY: THAT'S THE FELLOW THAT SHOT TWO
5 OR THREE CHILDREN AT THE ELEMENTARY---

6 THE COURT: WELL, I KNOW ABOUT THAT ONE, BUT
7 I JUST WONDERED WHETHER OR NOT THIS HAS EVER BEEN
8 ARGUED OR WHETHER IT'S PENDING OR. . .

9 MR. RUNYON: JUDGE, THIS IS A FIRST.

10 THE COURT: ALL RIGHT. THANK YOU.

11 MR. BAILEY: IT'S A FAIRLY NEW AGGRAVATING
12 CIRCUMSTANCE. I THINK IT WENT IN ABOUT 1990 OR SO.

13 THE COURT: ALL RIGHT.

14 MR. RUNYON: AND IN THE WILSON CASE, YOUR
15 HONOR, HE HAD MULTIPLE HOMICIDES VERSUS THE ATTACK ON
16 THE AGGRAVATING CIRCUMSTANCE OF THE MURDER OF A CHILD
17 UNDER ELEVEN.

18 THE COURT: ALL RIGHT. ALL RIGHT. I DENY
19 YOUR MOTION ON THAT, COUNSELOR. IT'S NOT -- I DON'T
20 HAVE TO WEIGH ANY FACTS ON THAT BECAUSE I THINK
21 EVERYBODY AGREES THAT THE VICTIM WAS UNDER ELEVEN YEARS
22 OF AGE, AND SO I DENY THAT UNLESS YOU CAN GET ME
23 SOMETHING THAT SUPPORTS IT. I'VE READ FURMAN VERSUS
24 GEORGIA AND I DON'T SEE WHERE THIS APPLIES, BUT IT'S A
25 CUT-OFF PLACE. THERE'S OTHER SPECIFIC PEOPLE ADDRESSED

1 IN THE DEATH PENALTY STATUTE, SO I JUST -- I DENY YOUR
2 MOTION. I'LL TAKE THE OTHER ONE UNDER ADVISEMENT,
3 THOUGH, AND WILL RENDER A DECISION AT SOME LATER TIME.
4 ANYTHING ELSE THAT'S PENDING? ARE THERE ANY -- IS
5 THERE ANY JACKSON DENNO HEARINGS OR. . .

6 MR. RUNYON: YOUR HONOR, I THINK THERE IS
7 GOING TO BE A JACKSON HEARING.

8 THE COURT: YOU SAID YOU WANTED A BLAIR
9 HEARING?

10 MR. BAILEY: YES, SIR, JUST OUT OF AN
11 ABUNDANCE OF PRECAUTION.

12 THE COURT: WELL, WE'LL DO IT ANY TIME YOU
13 WANT TO. SO, JUST YOU LET ME KNOW WHEN YOU'RE READY.

14 MR. BAILEY: ALL RIGHT, SIR. I NEED TO GET
15 THE PSYCHIATRIST -- PSYCHOLOGIST DOWN FROM COLUMBIA.
16 SO I COULD PROBABLY DO THAT -- LOOKS LIKE WE MAY GET A
17 JURY TOMORROW. DO IT FIRST THING WEDNESDAY, BEFORE WE
18 START THE TRIAL.

19 THE COURT: WHENEVER YOU WANT TO OR. . .
20 THEY'RE NOT CLAIMING THAT HE'S UNDER ANY DISABILITY AT
21 ALL, SO IT REALLY WOULDN'T MAKE ANY DIFFERENCE WHEN YOU
22 HEAR IT. YOU CAN DO IT AFTER I START THE TRIAL FOR
23 THAT MATTER.

24 MR. BAILEY: YES, SIR.

25 THE COURT: SO IT DOESN'T MAKE ANY

1 DIFFERENCE.

2 MR. RUNYON: THAT'S CORRECT, YOUR HONOR. THE
3 RECORD SHOULD REFLECT HE WAS SERVED WITH, IN ESSENCE,
4 MOTIONS FOR US TO PRODUCE SUCH POSITION IF WE WERE
5 TAKING IT. WE HAVE NOT PRODUCED SUCH A POSITION.

6 THE COURT: AND DON'T INTEND TO.

7 MR. RUNYON: DON'T INTEND TO.

8 THE COURT: ALL RIGHT, SIR. BUT ANYWAY, OUT
9 OF AN ABUNDANCE OF PRECAUTION, IF YOU WANT TO,
10 SOLICITOR, WE'LL HOLD ONE WITH OR WITHOUT THE
11 PSYCHIATRIST. IF YOU HAVE A WRITTEN REPORT FROM HIM, I
12 CAN TAKE CARE OF IT FROM THAT PERHAPS. WHATEVER YOU
13 DECIDE YOU WANT TO DO.

14 MR. BAILEY: YES, SIR. I DO HAVE A WRITTEN
15 REPORT, BUT I THINK DUE TO THE NATURE OF THE CASE AND
16 THE FACT THAT HE JUST -- HE GOT SENT UP THERE BY, YOU
17 KNOW -- HIS LAWYERS MADE THAT REQUEST, SO I THINK WE
18 NEED TO HAVE THEM DOWN HERE.

19 THE COURT: ALL RIGHT, SIR. WHICHEVER WAY.
20 ANYTHING ELSE THAT YOU CAN THINK OF THAT'S PENDING?

21 MR. BAILEY: ONLY JACKSON V. DENNO, YOUR
22 HONOR. THE STATEMENT HE'S TALKING ABOUT WAS TAKEN IN
23 ALABAMA. I HAD THE POLICE OFFICERS COME IN HERE BEFORE
24 THE TRIAL, SO I DON'T HAVE ANY WITNESSES TO DO THAT
25 BEFORE TRIAL.

1 THE COURT: WE'LL DO IT BEFORE, THEN.

2 MR. RUNYON: YES, SIR.

3 THE COURT: SOMETIME DURING THE TRIAL. CAN
4 YOU THINK OF ANYTHING ELSE? DO YOU HAVE ANY EXHIBITS
5 THAT YOU NEED TO SHOW MR. RUNYON OR. . .

6 MR. BAILEY: YES, SIR, I DO AND THERE MAY
7 BE -- THERE MAY BE AN ISSUE REGARDING THE AUTOPSY
8 PHOTOGRAPHS COMING IN AT THE GUILT PHASE.

9 THE COURT: LOOK THEM OVER AND TELL ME WHAT
10 YOU THINK AND IF YOU -- I CAN'T IMAGINE YOU WOULD NEED
11 A PHOTO IN THE GUILT PHASE, WOULD YOU?

12 MR. BAILEY: YOUR HONOR, THIS HAS TO DO WITH
13 THE PATHOLOGIST'S TESTIMONY THAT THERE WAS A DOWN ANGLE
14 FROM THE ENTRANCE WOUND TO THE EXIT WOUND.

15 THE COURT: WELL, WOULDN'T YOU BE BETTER OFF
16 WITH SOME TYPE OF DEMONSTRATIVE EVIDENCE? I MEAN, IF
17 YOU'RE TALKING ABOUT ACTUAL PICTURES I -- IN ALL
18 PROBABILITY, I WOULDN'T LET THEM IN FOR WHAT IT'S WORTH
19 TO YOU.

20 MR. RUNYON: JUDGE, FOR THE RECORD, I AM---

21 THE COURT: WHEN YOU WIN, YOU DON'T EVEN
22 TALK.

23 MR. RUNYON: YES, SIR. I'M PREPARED TO
24 STIPULATE TO THE ANGLE.

25 THE COURT: ALL RIGHT, SIR. HE SAID HE'S

1 WILLING TO STIPULATE AND I---

2 MR. BAILEY: YOUR HONOR, I'VE GOT A CHART
3 THAT I CAN---

4 THE COURT: WHATEVER. YOU CAN SHOW A SIDE
5 VIEW OF A SKULL AND SHOW THE ANGLE EASY ENOUGH. YOU
6 WON'T RUN INTO THE PROBLEM OF INFLAMING THE JURY.
7 ANYTHING ELSE?

8 MR. BAILEY: THE ONLY OTHER THING I CAN THINK
9 OF THAT HE MAY POSSIBLY OBJECT TO IS THAT WHEN MR.
10 ROGERS WAS TAKEN BACK HERE FROM ALABAMA FOR, I BELIEVE,
11 A BOND HEARING HE WAS FILMED BY THREE DIFFERENT
12 TELEVISION STATIONS. I'VE GOT TWO OF THOSE TAPES. HE
13 MADE SOME ADMISSIONS IN THERE AND I'D LIKE TO PLAY THAT
14 DURING THE GUILT PHASE. I DON'T KNOW IF MR. RUNYON HAS
15 HAD A CHANCE TO SEE THAT YET OR NOT.

16 THE COURT: SHOW IT TO HIM AND LET HIM LOOK
17 IT OVER. I DON'T KNOW WHAT HE SAYS, BUT YOU MIGHT --
18 YOU MIGHT BE GLAD TO ALLOW THEM.

19 MR. RUNYON: I MIGHT BE GLAD TO ALLOW THEM,
20 JUDGE.

21 THE COURT: SURE.

22 MR. RUNYON: I'M NOT SPECIFICALLY TAKING
23 OBJECTION AT THIS POINT IN TIME. WHAT I WANT TO DO---

24 THE COURT: GO AND LOOK THEM OVER AND THEN
25 LET ME KNOW. ANYTHING ELSE YOU ALL CAN THINK OF?

1 WILLING TO STIPULATE AND I---

2 MR. BAILEY: YOUR HONOR, I'VE GOT A CHART
3 THAT I CAN---

4 THE COURT: WHATEVER. YOU CAN SHOW A SIDE
5 VIEW OF A SKULL AND SHOW THE ANGLE EASY ENOUGH. YOU
6 WON'T RUN INTO THE PROBLEM OF INFLAMING THE JURY.
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9 OF THAT HE MAY POSSIBLY OBJECT TO IS THAT WHEN MR.
10 ROGERS WAS TAKEN BACK HERE FROM ALABAMA FOR, I BELIEVE,
11 A BOND HEARING HE WAS FILMED BY THREE DIFFERENT
12 TELEVISION STATIONS. I'VE GOT TWO OF THOSE TAPES. HE
13 MADE SOME ADMISSIONS IN THERE AND I'D LIKE TO PLAY THAT
14 DURING THE GUILT PHASE. I DON'T KNOW IF MR. RUNYON HAS
15 HAD A CHANCE TO SEE THAT YET OR NOT.

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17 IT OVER. I DON'T KNOW WHAT HE SAYS, BUT YOU MIGHT --
18 YOU MIGHT BE GLAD TO ALLOW THEM.

19 MR. RUNYON: I MIGHT BE GLAD TO ALLOW THEM,
20 JUDGE.

21 THE COURT: SURE.

22 MR. RUNYON: I'M NOT SPECIFICALLY TAKING
23 OBJECTION AT THIS POINT IN TIME. WHAT I WANT TO DO---

24 THE COURT: GO AND LOOK THEM OVER AND THEN
25 LET ME KNOW. ANYTHING ELSE YOU ALL CAN THINK OF?

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1 MR. BAILEY: NO, SIR.

2 THE COURT: HAVE A GOOD NIGHT.

3 MR. RUNYON: NOTHING AT THIS POINT.

4 THE COURT: 9:30 TOMORROW MORNING.

5 MR. RUNYON: 9:30?

6 THE COURT: YES, SIR.

7 MR. RUNYON: THANK YOU VERY MUCH, YOUR HONOR.

8 THE COURT: IS THAT ALL RIGHT? 9:30?

9 MR. RUNYON: YES, SIR. I APOLOGIZE FOR
10 RUNNING A LITTLE BIT LATE THIS MORNING.

11 (WHEREUPON, THE TRIAL CONCLUDED FOR THE DAY
12 AND RESUMED THE NEXT DAY, MARCH 1, 1994.)

13 THE COURT: THANK YOU VERY MUCH. BE SEATED,
14 PLEASE. I'VE GOT SOME JURORS BACK THERE WHO DIDN'T
15 SHOW UP ON YESTERDAY AND I JUST WANTED TO CHAT WITH YOU
16 JUST A MOMENT. IS BELINDA ADAMS. . .

17 JUROR ADAMS: YES.

18 THE COURT: MS. ADAMS, I BELIEVE YOU SAID YOU
19 DIDN'T RECEIVE A NOTICE?

20 JUROR ADAMS: NO, SIR.

21 THE COURT: IT HAPPENS SOMETIMES. MIGHT HAVE
22 GONE TO AN OLD ADDRESS OR SOMETHING. I'M GOING TO
23 TRANSFER YOU TO ANOTHER TERM OF COURT. ARE YOU IN
24 ANOTHER COUNTY?

25 JUROR ADAMS: YES, I LIVE IN HOLLY HILL.

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1 THE COURT: ORANGEBURG COUNTY?

2 JUROR ADAMS: YES.

3 THE COURT: OH. WELL, I'M SORRY, BUT YOU
4 MUST HAVE HAD THIS COUNTY'S ADDRESS. DID YOU?

5 JUROR ADAMS: THAT'S MY FATHER'S ADDRESS
6 AND---

7 THE COURT: WELL, THIS EITHER CAME OFF OF
8 YOUR DRIVER'S LICENSE OR IT CAME OFF OF YOUR VOTER
9 REGISTRATION. SO, IF IT'S ON EITHER ONE OF THOSE WHICH
10 SHOWS [REDACTED], BOX [REDACTED], HARLEYVILLE, I'D GET IT
11 CORRECTED BECAUSE YOU'LL GET A NOTICE EVERY TIME YOU'RE
12 DRAWN.

13 JUROR ADAMS: YES, MY LICENSE IS HOLLY HILL,
14 BUT MY VOTER REGISTRATION IS HARLEYVILLE.

15 THE COURT: YOU NEED TO CHANGE IT THEN. BUT
16 BE THAT AS IT MAY, I'M GOING TO EXCUSE YOU. I'M SORRY
17 WE HAD TO BRING YOU IN, BUT WE'RE GOING TO MAIL YOU A
18 CHECK. IT WON'T BE MUCH MONEY. I'LL MAIL EACH ONE OF
19 YOU A CHECK, SO DON'T SPEND MUCH MONEY. HAVE A GOOD
20 DAY.

21 JUROR ADAMS: THANK YOU.

22 THE CLERK: WHAT IS YOUR MILEAGE, PLEASE?

23 JUROR ADAMS: MY MILEAGE?

24 THE CLERK: YES.

25 JUROR ADAMS: HOW MANY MILES?

1 THE COURT: WHERE DO YOU LIVE?

2 JUROR ADAMS: I LIVE ON HIGHWAY 15.

3 THE CLERK: ABOUT 16 MILES.

4 FROM THE COURTROOM: 15.

5 THE CLERK: 15 OR 16.

6 THE COURT: ALL RIGHT.

7 THE CLERK: 16.

8 THE COURT: THANK YOU VERY MUCH.

9 JUROR ADAMS: YOU'RE WELCOME.

10 THE COURT: CATHERINE DORMAN, IS SHE STILL IN
11 THE COURTROOM? ALL RIGHT. SHE WAS OVER 65. DENISE
12 LANDHAN?

13 JUROR LANDHAN: THAT'S ME.

14 THE COURT: WHAT HAPPENED TO YOU?

15 JUROR LANDHAN: I HAD ANOTHER NOTICE TO GO TO
16 COURT ON THE 24TH OF FEBRUARY. I CALLED THEM AND THEY
17 SAID IT WAS POSTPONED UNTIL MARCH 24TH AND I THOUGHT
18 THAT WAS THE SAME AS THIS COURT. I GOT CONFUSED.

19 THE COURT: ALL RIGHT, MS. LANDHAN. I'M
20 GOING TO TRANSFER YOU TO ANOTHER TERM OF COURT. DO YOU
21 ALL HAVE ANY OBJECTION, GENTLEMEN? I'VE GOT -- ALREADY
22 DRAWN SO MANY?

23 MR. RUNYON: NO OBJECTION, YOUR HONOR.

24 MR. BAILEY: NO, SIR.

25 MR. RUNYON: NO OBJECTION WHATSOEVER.

1 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.
2 ALL RIGHT. I'M GOING TO TRANSFER YOU TO ANOTHER TERM
3 OF COURT. NOW, KEEP IN MIND AND READ THIS BECAUSE YOU
4 MIGHT GET A GROUCHY OLD JUDGE NEXT TIME THAT WON'T BE
5 SO EASY. WE'LL MAIL YOU A CHECK FOR TODAY ALSO. THAN
6 YOU.

7 JUROR LANDHAN: DO YOU NEED THE MILEAGE?

8 THE COURT: YES, PLEASE.

9 JUROR LANDHAN: 42 MILES.

10 THE COURT: HOW FAR?

11 JUROR LANDHAN: 42.

12 THE COURT: ALL RIGHT. JAMES MCCRAW?

13 JUROR MCCRAW: YES, SIR.

14 THE COURT: YOU FORGOT?

15 JUROR MCCRAW: YES, SIR.

16 THE COURT: WELL, DON'T FORGET NEXT TIME.

17 I'M GOING TO TRANSFER YOU TO ANOTHER TERM OF COURT.
18 YOU MIGHT SURELY MEET SOME OLD GROUCHY JUDGE LIKE JUDGE
19 ELTZROTH OR SOMEBODY. I ALWAYS TEASE HIM BECAUSE HE
20 CAN GET UP ON THE WRONG SIDE OF THE BED SOMETIMES. SO,
21 BE SURE TO BE HERE NEXT TIME. THANK YOU VERY MUCH.

22 THE CLERK: YOUR MILEAGE?

23 THE COURT: I'M GOING TO EXCUSE YOU. HOW FAR
24 ARE YOU? NO, I'M NOT GOING TO -- I'M NOT GOING TO PAY
25 THE ONE BEFORE THAT AND I'M NOT GOING TO PAY MR.

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1 MCCRAW. HE FORGOT.

2 THE CLERK: OKAY.

3 THE COURT: ALL RIGHT. IT WASN'T THAT MUCH,
4 MR. MCCRAW, SO DON'T WORRY ABOUT IT. YOU HAVEN'T LOST
5 MUCH.

6 JUROR MCCRAW: THANK YOU.

7 THE COURT: I'M NOT GOING TO PAY THE ONE
8 BEFORE THAT. HOW ABOUT WINSTON PRIESTER?

9 JUROR PRIESTER: YES, SIR.

10 THE COURT: YOU DIDN'T RECEIVE A NOTICE, MR.
11 PRIESTER?

12 JUROR PRIESTER: NO, SIR.

13 THE COURT: WELL, IS YOUR ADDRESS [REDACTED]
14 [REDACTED], RIDGEVILLE?

15 JUROR PRIESTER: [REDACTED].

16 THE COURT: OR [REDACTED].

17 JUROR PRIESTER: RIGHT.

18 THE COURT: I DON'T KNOW WHAT HAPPENED TO IT
19 BECAUSE IT GOES OUT BY COMPUTER, BUT I'LL TAKE YOUR
20 WORD FOR IT AND WE'LL -- I'M GOING TO GIVE YOU A CHECK,
21 THOUGH, AND WE'LL SEND YOU ANOTHER NOTICE, SO BE
22 SURE -- WELL, I DON'T KNOW. PERHAPS I BETTER TELL HIM
23 THE NEXT TERM OF COURT IF HE DIDN'T RECEIVE A NOTICE.
24 WELL, WOULD SOMEBODY ELSE BE GETTING YOUR MAIL?

25 JUROR PRIESTER: I DON'T KNOW, SIR.

1 THE COURT: WELL, WE'LL TRY AGAIN NEXT TIME.
2 ALL RIGHT. I'M GOING TO EXCUSE YOU ALSO. TRANSFER YOU
3 TO ANOTHER TERM OF COURT.

4 JUROR PRIESTER: YES, SIR.

5 THE COURT: SAME THING WITH RENZIE
6 RICHARDSON?

7 JUROR RICHARDSON: YES.

8 THE COURT: MS. RICHARDSON?

9 JUROR RICHARDSON: UH-HUH.

10 THE COURT: DON'T FORGET ABOUT SOME OLD
11 GROUCHY JUDGE.

12 JUROR RICHARDSON: I WON'T, SIR.

13 THE COURT: BE SURE TO COME BY NEXT TIME.

14 JUROR RICHARDSON: THANK YOU, SIR.

15 THE COURT: ALL RIGHT. I WON'T PAY HER
16 EITHER. GEORGE RISSO?

17 JUROR RISSO: YES, SIR.

18 THE COURT: YOU FORGOT?

19 JUROR RISSO: YES, SIR.

20 THE COURT: HOW COULD YOU FORGET A SERIOUS
21 THING LIKE THAT?

22 JUROR RISSO: SIR, I WAS UNDER THE IMPRESSION
23 I WOULD BE NOTIFIED.

24 THE COURT: WHEN YOU GOT A NOTICE?

25 JUROR RISSO: A TELEPHONE CALL OR SOMETHING

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1 OF THAT DEGREE.

2 THE COURT: DID YOU READ THAT THING?

3 JUROR RISSO: YES, SIR.

4 THE COURT: OKAY. NEXT TIME YOU READ IT.

5 JUROR RISSO: YES, SIR:

6 THE COURT: HAVE A GOOD DAY. AND I MIGHT BE
7 HERE NEXT TIME. I WOULDN'T TAKE THAT SAME THING TWICE.

8 JUROR RISSO: YES, SIR.

9 THE COURT: I NEVER HAVE HAD TO PUT A JUROR
10 IN JAIL BUT THREE TIMES.

11 JUROR RISSO: YES, SIR.

12 THE COURT: HAVE A GOOD DAY. CRYSTAL
13 SANDERS, YOU DIDN'T RECEIVE A NOTICE?

14 JUROR SANDERS: NO, SIR.

15 THE COURT: MS. SANDERS, YOURS IS [REDACTED]
16 [REDACTED], RIDGEVILLE?

17 JUROR SANDERS: YES, SIR.

18 THE COURT: HAVE YOU GOT SOMEBODY STEALING
19 YOUR MAIL?

20 JUROR SANDERS: NO, SIR.

21 THE COURT: WELL, IN ANY EVENT, BE SURE TO
22 READ THESE THINGS. I'LL SEND YOU A CHECK JUST IN CASE,
23 BUT SOMETIMES WE ALL THROW AWAY JUNK MAIL. THAT MIGHT
24 LOOK LIKE JUNK MAIL, BUT DON'T -- READ IT AND MEET ME
25 HERE WHENEVER WE SEND YOU A NOTICE. OKAY?

1 JUROR SANDERS: OKAY.

2 THE COURT: HAVE A GOOD DAY. AND LEONARD
3 TUCKER?

4 JUROR TUCKER: YES, SIR.

5 THE COURT: SAME THING?

6 JUROR TUCKER: YES, SIR.

7 THE COURT: SAME THING. BE SURE TO LOOK AT
8 ALL YOUR MAIL CAREFULLY, WILL YOU? HAVE A GOOD DAY.
9 PAULA WARD? IT SAYS HERE ROGER'S SISTER RECEIVED THE
10 NOTICE?

11 JUROR WARD: IT WAS SENT TO MY PARENTS' HOUSE
12 AND APPARENTLY MY SISTER HAD FILLED IT OUT AND SENT IT
13 IN AND NOT TAKEN THIS PORTION. I DON'T KNOW.

14 THE COURT: [REDACTED],

15 SUMMERVILLE?

16 JUROR WARD: THAT'S NOT WHERE I LIVE. THAT'S
17 MY PARENTS' ADDRESS.

18 THE COURT: WELL, YOU NEED TO CHANGE --
19 THAT'S EITHER ON YOUR DRIVER'S LICENSE---

20 JUROR WARD: IT'S NOT ON MY DRIVER'S
21 LICENSE. IT'S ON MY REGISTRATION CARD.

22 THE COURT: OKAY. WELL, THAT'S WHAT THE
23 PRIMARY NUMBER COMES FROM. YOU NEED TO GO TO YOUR
24 PEOPLE AND TELL THEM -- YOU NEED TO CHANGE IT FIRST.
25 THEN YOU NEED TO GO TELL YOUR FAMILY IF THERE'S SOME

COLLOQUY

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1 MIX-UP NEXT TIME, FOR THE LORD'S SAKE, SEND IT TO YOU
2 BECAUSE YOU MIGHT MEET ME HERE AGAIN.

3 JUROR WARD: UH-HUH.

4 THE COURT: HAVE A GOOD DAY.

5 JUROR WARD: OKAY.

6 THE COURT: ANYBODY ELSE? ARE THERE ANY
7 OTHER JURORS IN THE COURTROOM? DOESN'T APPEAR TO BE.
8 THANK YOU.

9 MR. RUNYON: YOUR HONOR, FOR THE RECORD THE
10 DEFENSE HAS NO OBJECTIONS TO THE ACTIONS TAKEN BY THE
11 COURT IN DECIDING ON HOW TO HANDLE THESE LATER
12 DELINQUENT JURORS.

13 THE COURT: ALL RIGHT, SIR.

14 MR. RUNYON: AND I BELIEVE BOTH THE SOLICITOR
15 AND MYSELF WOULD OFFER TO STIPULATE THAT THE BENCH IN
16 THIS CASE IS NOT GROUCHY.

17 MR. BAILEY: YES, SIR, I WOULD CERTAINLY
18 STIPULATE TO THAT.

19 THE COURT: THANK YOU VERY MUCH. THE NEXT
20 ONE IS REBADELL ABLE. NO, AHL I BELIEVE IT'S
21 PRONOUNCED.

22 (JUROR REBADELL AHL ENTERED THE COURTROOM.)

23 REBADELL AHL, AFTER BEING DULY SWORN,
24 TESTIFIED AS FOLLOWS:

25

1 EXAMINATION BY THE COURT

2 Q. MS. AHL, DO THEY CALL YOU REBADELL?

3 A. UH-HUH. YES, SIR.

4 Q. WELL, THEY USED TO CALL ME BY TWO NAMES

5 ALSO. I NOTICE ON HERE YOU HAVE NEVER SERVED ON A JURY
6 BEFORE, HAVE YOU?

7 A. NO, SIR.

8 Q. WELL, WE ARE GOING TO ASK YOU SOME
9 QUESTIONS. MY NAME, OF COURSE, IS JUDGE LUKE BROWN AND
10 THE GENTLEMAN STRAIGHT IN FRONT OF YOU THERE IS MR.
11 RUNYON. HE'S ONE OF THE ATTORNEYS FOR MR. ROGERS WHO
12 SITS IN THE CENTER, AND ON THE OTHER SIDE OF THAT IS
13 ANOTHER ATTORNEY, MARK LEIENDECKER, WHO IS ALSO HIS
14 ATTORNEY. OVER HERE IS SOLICITOR BAILEY. AND THERE
15 ARE NO RIGHT OR WRONG ANSWERS. IT'S JUST INFORMATION
16 THAT WE WANT TO ATTEMPT US TO PICK A JURY TO DECIDE
17 THIS CASE.

18 AS YOU KNOW, MR. ROGERS IS CHARGED WITH
19 MURDER AND HE'S PRESUMED TO BE INNOCENT. SO, IF THE
20 STATE CAN, THEY ARE ATTEMPTING TO PROVE HIM GUILTY
21 BEYOND A REASONABLE DOUBT. SO, WHAT WE'RE TRYING TO
22 FIND OUT IS JURORS WHO WILL LISTEN TO THE FACTS IN THE
23 CASE AND DECIDE JUST WHAT GOES ON IN THE COURTROOM AND
24 REACH A VERDICT.

25 NOW, YOU REMEMBER I TOLD YOU ALL ON YESTERDAY

REBADELL AHL - EXAMINATION BY THE COURT

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1 A LITTLE BIT ABOUT THE COURT SYSTEM AND I DON'T KNOW
2 HOW MUCH YOU KNOW ABOUT IT, BUT ORDINARILY IN AN
3 ORDINARY CRIMINAL CASE LIKE THIS IN WHICH A PERSON IS
4 CHARGED WITH A CRIME, THE JURY'S ONLY FUNCTION IS TO
5 DETERMINE GUILT OR INNOCENCE AND WHEN THEY DO THAT TH
6 ARE THROUGH WITH IT. IF THE PERSON IS CONVICTED, THE
7 THE JUDGE IS THE ONE THAT SENTENCES THAT PERSON. IN
8 THIS TYPE CASE IN WHICH THE STATE IS ASKING FOR THE
9 DEATH PENALTY, THE JURY DOES BOTH. DID YOU KNOW THAT?

10 A. NO. NO.

11 Q. ALL RIGHT. LET ME TELL YOU HOW THE THING
12 COMES ABOUT. IN THE FIRST PLACE, WHEN I CAME IN ON
13 YESTERDAY I ASKED THE JURORS IF THEY KNEW ANYTHING
14 ABOUT THIS CASE AND I HAD SOME OF THEM STAND UP. I
15 NOTICE YOU WERE NOT ONE OF THOSE THAT STOOD UP. DO YOU
16 KNOW ANYTHING ABOUT THE CASE?

17 A. NO, SIR.

18 Q. SO YOU DON'T KNOW ANYTHING THAT WOULD KEEP
19 YOU FROM GIVING BOTH SIDES A FAIR TRIAL.

20 A. NO, SIR.

21 Q. ALL RIGHT. WELL, IN A CASE OF THIS TYPE
22 THERE'S REALLY TWO TRIALS. THE FIRST TRIAL IS -- WILL
23 BE THAT THE JURY WILL ONLY BE CONCERNED WITH GUILT OR
24 INNOCENCE. IF THEY FIND MR. ROGERS NOT GUILTY, OF
25 COURSE, THAT ENDS ALL THE PROCEEDINGS. IF THEY FOUND

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1 HIM GUILTY, THOUGH, THEN WE WOULD HAVE A SECOND TRIAL
2 AND THAT TRIAL WOULD BE POINTED TOWARD GIVING THE JURY,
3 INFORMATION THAT WOULD HELP THEM DECIDE WHAT IS THE
4 PROPER SENTENCE, EITHER LIFE OR DEATH, BECAUSE THAT'S
5 THE ONLY TWO THAT THE JURY IS CONCERNED WITH IN THIS
6 CASE OR ANY CASE IN WHICH THEY'RE SEEKING THE DEATH
7 PENALTY.

8 SO, AT THAT SECOND TRIAL, IF IT GETS THAT
9 FAR, THERE WOULD BE QUESTIONS AND ANSWERS AND
10 INFORMATION AND EVIDENCE AND TESTIMONY PERHAPS ABOUT
11 THE GOOD AND BAD ABOUT THE PERSON CHARGED WITH THE
12 CRIME OR PERHAPS EXTENUATING OR MITIGATING
13 CIRCUMSTANCES OR AGGRAVATING CIRCUMSTANCES. AND WHEN
14 THAT SECOND TRIAL IS OVER, THE JURY WILL BE ASKED TO
15 SENTENCE -- RECOMMEND A SENTENCE, BUT EVEN THOUGH I USE
16 THE WORDS RECOMMEND, IT REALLY MEANS THAT I MUST DO
17 WHATEVER THE JURY TELLS ME TO DO. I HAVE NO
18 ALTERNATIVE.

19 SO, IF THE JURY DECIDED THAT THE PROPER
20 SENTENCE WAS LIFE IN PRISON, THE FOREMAN WOULD SIGN A
21 PIECE OF PAPER THAT WOULD SAY, WE, THE JURY, RECOMMEND
22 LIFE IMPRISONMENT AND THEN I WOULD HAVE TO DO THAT.
23 I'D SENTENCE HIM TO LIFE IMPRISONMENT. ON THE OTHER
24 HAND, IF THE JURY THOUGHT THE PROPER SENTENCE WAS
25 DEATH, THEN IT'S A LITTLE DIFFERENT. EACH JUROR

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1 INDIVIDUALLY WOULD SIGN THEIR NAME TO A PIECE OF PAPER
2 AND IT WOULD SAY, WE, THE FOLLOWING JURORS, RECOMMEND
3 DEATH AS THE PROPER PUNISHMENT. AND AS I SAID, I MUST
4 DO WHAT THE JURY TELLS ME AND SO I WOULD SENTENCE HIM
5 TO DEATH BY ELECTROCUTION. DO YOU UNDERSTAND SO FAR?

6 A. YES, SIR.

7 Q. JURORS LIKE YOURSELF WHEN THEY COME IN THE
8 COURTROOM AND HAVE NEVER BEEN CONFRONTED WITH JURY
9 SERVICE ON A DEATH PENALTY CASE -- WHEN WE ASK THEM
10 QUESTIONS AND RECEIVE ANSWERS, THEY GENERALLY FALL
11 WITHIN ONE OF THREE CATEGORIES. I'M GOING TO EXPLAIN
12 THOSE CATEGORIES TO YOU AND I WANT YOU TO TELL ME WHEN
13 I FINISH WHICH CATEGORY YOU THINK YOU BEST FIT IN.

14 THE FIRST TYPE JUROR WOULD BE THAT TYPE JUROR
15 THAT WOULDN'T WANT TO HEAR THAT SECOND TRIAL. THAT
16 PERSON'S MIND WOULD BE MADE UP. THEY WOULD TAKE THE
17 POSITION IF YOU KILL SOMEBODY YOU SHOULD DIE YOURSELF,
18 AND REGARDLESS IF IT'S MURDER, THEY WOULD ALWAYS VOTE
19 FOR THE DEATH PENALTY. THE SECOND TYPE JUROR WOULD BE
20 EXACTLY THE OPPOSITE. THAT PERSON WOULD TAKE THE
21 POSITION THAT REGARDLESS OF HOW HEINOUS THE MURDER
22 MIGHT BE, THEY WOULD NEVER VOTE FOR THE DEATH PENALTY.
23 THEY WOULD ALWAYS VOTE FOR LIFE IN PRISON.

24 AND THE THIRD TYPE JUROR WOULD BE THAT TYPE
25 JUROR THAT COULD GO EITHER WAY. THAT IS, THAT PERSON

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1 WOULD LISTEN TO THAT SECOND TRIAL AND DECIDE FROM THE
2 MITIGATING AND EXTENUATING CIRCUMSTANCES OR AGGRAVATING
3 CIRCUMSTANCES WHETHER OR NOT THE PROPER PUNISHMENT
4 WOULD BE LIFE OR DEATH, AND IF IT WAS LIFE THEY COULD
5 VOTE FOR LIFE AND IF IT WAS DEATH THEY COULD SIGN THEIR
6 NAME TO THAT PIECE OF PAPER THAT SAID WE RECOMMEND
7 DEATH. WHICH ONE DO YOU THINK YOU BEST FIT?

8 A. THE THIRD ONE.

9 Q. THE THIRD ONE. IN OTHER WORDS, YOU TAKE THE
10 POSITION THAT YOU WOULD LIKE TO HEAR INFORMATION TO
11 DECIDE WHAT WOULD BE THE PROPER PUNISHMENT?

12 A. YES, SIR.

13 Q. IN OTHER WORDS, YOUR POSITION IS THAT YOU
14 DON'T THINK THAT EVERY MURDER DESERVES DEATH NOR EVERY
15 MURDER DESERVES LIFE. IS THAT WHAT YOU'RE SAYING?

16 A. RIGHT.

17 Q. ALL RIGHT. NOW, AS I TOLD YOU, THERE ARE NO
18 RIGHT OR WRONG ANSWERS. THE ATTORNEYS ARE GOING TO ASK
19 YOU SOME QUESTIONS AND, JUST AS YOU DID FOR ME, JUST
20 ANSWER THEM AS BEST YOU CAN.

21 A. OKAY.

22 THE COURT: THANK YOU. SOLICITOR?

23 MR. BAILEY: THANK YOU, YOUR HONOR.

24

25

REBADELL AHL - DIRECT EXAMINATION BY MR. BAILEY

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DIRECT EXAMINATION

BY MR. BAILEY:

Q. MS. AHL, I'M WALTER BAILEY. THERE ARE A FEW QUESTIONS I NEED TO ASK YOU. THE JUDGE EXPLAINED TO YOU ABOUT THE POSSIBLE TWO STAGES OF THE TRIAL?

A. UH-HUH.

Q. THE GUILT PHASE AND IF THE DEFENDANT IS FOUND GUILTY OF MURDER WE GO INTO THE PENALTY PHASE WHERE THE JURY MAKES THAT SELECTION OF LIFE IN PRISON OR THE DEATH PENALTY?

A. RIGHT.

Q. IN ORDER TO IMPOSE THE DEATH PENALTY, EACH JUROR WOULD HAVE TO SIGN THEIR NAME ON A DEATH VERDICT FORM. IF YOU ALONG WITH THE OTHER ELEVEN JURORS REACHED THAT DECISION THAT THE DEATH PENALTY WAS APPROPRIATE, COULD YOU SIGN YOUR NAME ALONG WITH THE OTHER JURORS---

A. YES, SIR.

Q. ---ON THAT FORM? AND COULD YOU ALSO COME OUT INTO OPEN COURT AND IF THE JURY IS POLLED BY THE JUDGE OR THE CLERK OF COURT AND EACH INDIVIDUAL JUROR IS ASKED TO STATE IN OPEN COURT IF THAT WAS THEIR VERDICT, WOULD YOU BE ABLE TO DO THAT?

A. YES, SIR.

Q. DO YOU HAVE ANY RELIGIOUS FEELINGS IN REGARD

1 TO THE DEATH PENALTY---

2 A. NO, SIR.

3 Q. ---ONE WAY OR THE OTHER THAT WOULD INFLUENCE
4 YOUR ABILITY TO SIT AS A FAIR AND IMPARTIAL JUROR?

5 A. NO. NO.

6 Q. HAVE YOU EVER HAD OCCASION IN THE PAST IN,
7 YOU KNOW, TALKING TO FAMILY OR FRIENDS OR CO-WORKERS TO
8 EXPRESS AN OPINION ON THE DEATH PENALTY---

9 A. NO, SIR.

10 Q. ---JUST IN GENERAL?

11 A. NO, SIR.

12 Q. JUST NEVER HAD OCCASION TO THINK OF IT TILL
13 YOU CAME TO COURT HERE?

14 A. RIGHT.

15 Q. MS. AHL, THAT'S ALL I HAVE. THANK YOU VERY
16 MUCH.

17 A. THANK YOU.

18 CROSS-EXAMINATION

19 BY MR. RUNYON:

20 Q. GOOD MORNING, MS. AHL.

21 A. HI.

22 Q. I SEE YOU LIVE OVER IN HARLEYVILLE AND YOU --
23 BUT YOU WORK IN ORANGEBURG.

24 A. YES, SIR.

25 Q. WHAT NEWSPAPER DO YOU SUBSCRIBE TO?

1 A. I DON'T HAVE ANY.

2 Q. OKAY. DO YOU PICK UP MAYBE A SUNDAY PAPER TO
3 READ THE SUNDAY PAPER?

4 A. SOMETIMES I DO.

5 Q. WHICH NEWSPAPER DO YOU USUALLY PICK UP?

6 A. NEWS AND COURIER.

7 Q. NEWS AND COURIER?

8 A. UH-HUH.

9 Q. AND DO YOU HAVE CABLE TELEVISION OR. . .

10 A. YES, SIR, CABLE.

11 Q. AND I ASSUME YOU RECEIVE THE CHARLESTON
12 STATION?

13 A. YES, SIR.

14 Q. OKAY. DO YOU RECALL SEEING ANYTHING ABOUT
15 THIS PARTICULAR CASE?

16 A. ONE -- WHEN IT FIRST HAPPENED; THAT'S IT.

17 Q. WHEN IT FIRST HAPPENED.

18 A. UH-HUH.

19 Q. AND DO YOU HAVE ANY SPECIFIC RECOLLECTIONS OF
20 ANY FACTS THAT WERE ALLEGED TO HAVE OCCURRED AT THAT
21 TIME?

22 A. NO, SIR.

23 Q. SO YOU'RE KIND OF GENERALLY AWARE FROM
24 WHEN. . .

25 A. WHEN IT HAPPENED.

1 Q. WHEN THE EVENT FIRST HAPPENED.

2 A. YEAH.

3 Q. BUT SINCE THEN YOU HAVEN'T READ OR SEEN
4 ANYTHING ABOUT IT.

5 A. NO, SIR.

6 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
7 HONOR.

8 THE COURT: ANY MOTIONS?

9 MR. BAILEY: NO, SIR, YOUR HONOR.

10 MR. RUNYON: NO, YOUR HONOR.

11 THE COURT: MS. AHL, WE ALL THINK YOU'D MAKE
12 A GOOD JUROR. DOESN'T MEAN YOU'RE GOING TO SERVE ON
13 THE JURY. IT JUST MEANS YOU'RE QUALIFIED TO SERVE
14 ALONG WITH ABOUT PROBABLY 35 OR 36 MORE PEOPLE. SO,
15 I'M GOING TO SEND YOU ABOUT YOUR BUSINESS AND WE'RE
16 GOING TO GET IN TOUCH WITH YOU. I NOTICE YOU'VE GOT
17 SOME TELEPHONE NUMBERS HERE, HOME AND BUSINESS.

18 JUROR AHL: UH-HUH.

19 THE COURT: AND AN EMERGENCY TELEPHONE CALL.
20 WHERE IS THAT EMERGENCY?

21 JUROR AHL: THAT'S MY BROTHER'S HOUSE NEXT
22 DOOR.

23 THE COURT: GOOD. WELL, I'M GOING TO SEND
24 YOU ABOUT YOUR BUSINESS AND DON'T GET TOO FAR AWAY FROM
25 THESE. IN OTHER WORDS, DON'T GO OUT OF TOWN OR

1 ANYTHING. I'LL PROBABLY CALL YOU TONIGHT. PERHAPS IT
2 WILL BE TOMORROW AND I'LL ASK THAT YOU COME IN AT A
3 TIME AND I'LL TELL YOU WHEN TO COME IN.

4 JUROR AHL: OKAY.

5 THE COURT: IN THE MEANTIME, DON'T WATCH T.V.
6 OR READ NEWSPAPERS OR ANYTHING AND, OF COURSE, DON'T
7 DISCUSS THIS WITH ANYONE. AND WHEN YOU COME, I DON'T
8 THINK IT WILL TAKE THAT LONG, BRING ENOUGH CLOTHES FOR
9 ABOUT FIVE DAYS AND TOILET ARTICLES AND I HOPE YOU HAVE
10 A GOOD DAY.

11 JUROR AHL: THANK YOU.

12 (JUROR REBADELL AHL WAS EXCUSED FROM THE
13 COURTROOM.)

14 THE COURT: RICHARD GARRETT.

15 (JUROR RICHARD GARRETT ENTERED THE
16 COURTROOM.)

17 RICHARD C. GARRETT, AFTER BEING DULY
18 SWORN, TESTIFIED AS FOLLOWS:

19 EXAMINATION BY THE COURT

20 A. MR. GARRETT, I NOTICE FROM HERE -- AND I
21 APOLOGIZE FOR HAVING TO BRING YOU ANOTHER DAY.

22 A. THAT'S OKAY.

23 Q. IT'S JUST THAT WE WEREN'T ABLE TO FINISH LAST
24 NIGHT. I NOTICE YOU HAVE NEVER SERVED ON A JURY BUT
25 THAT YOU WERE A WITNESS IN A CRIMINAL CASE. WHAT TYPE

1 CASE WAS IT? DO YOU RECALL?

2 A. OKAY. YES, SIR, I DO. I WAS IN RIDGELAND,
3 SOUTH CAROLINA, SERVING A CLAIM AND DELIVERY ON A
4 SUBJECT AND HE HELD ME AND AN OFFICER AT GUNPOINT FOR
5 TWO HOURS.

6 Q. OH. WHAT YEAR WAS THAT?

7 A. THIS WAS NOT TOO LONG AGO. IT WAS IN '93.

8 Q. OH, OKAY.

9 A. AND, IN FACT, IT WAS AUGUST OF '93, AUGUST
10 3RD.

11 Q. WELL, I'M GLAD THAT YOU WERE ABLE TO -- THAT
12 YOU WASN'T HARMED.

13 A. NO, SIR, I WASN'T.

14 Q. NOT HAVING BEEN AROUND THE COURT SYSTEM THAT
15 MUCH INDICATED FROM YOUR RETURN THAT YOU MADE -- AND I
16 APPRECIATE YOU MAKING THAT RETURN FOR US. IT HELPS US
17 A GREAT DEAL. THE REASON THAT WE HAVE YOU IN HERE THIS
18 MORNING IS SO THAT WE CAN ASK YOU SOME QUESTIONS
19 BECAUSE, AS YOU KNOW, MR. ROGERS WHO SITS BETWEEN HIS
20 ATTORNEYS THERE IS CHARGED WITH MURDER AND WE WANT A
21 JURY THAT'S IMPARTIAL, THAT COULD THINK EITHER WAY AND
22 COULD VOTE THEIR CONVICTIONS AND BRING IN A VERDICT
23 THAT SPOKE THE TRUTH BECAUSE THAT'S ALL WE HAVE TO DO.
24 YOU DON'T HAVE TO FEEL SORRY FOR ANYONE OR FEEL LIKE
25 YOU'VE GOT TO PUNISH ANYONE OR ANYTHING OF THAT

1 NATURE.

2 SO, WE'RE GOING TO ASK YOU SOME QUESTIONS.
3 THERE ARE NO RIGHT OR WRONG ANSWERS. IT'S JUST
4 INFORMATION WE WANT AND JUST ANSWER THEM AS BEST YOU
5 CAN. IF YOU DON'T KNOW, YOU CAN JUST TELL US SO. I
6 FIRST WANT TO INTRODUCE THE PEOPLE THAT ARE HERE. THE
7 YOUNG MAN AT THE END OF DESK OVER THERE IS SOLICITOR
8 BAILEY. HE REPRESENTS THE STATE. THE NEXT PERSON IS
9 MR. BILL RUNYON. HE REPRESENTS MR. ROGERS AND I
10 INTRODUCED MR. ROGERS AND THEN ON THE OTHER SIDE OF MR.
11 ROGERS THERE IS MR. MARK LEIENDECKER.

12 NOW, NOT HAVING BEEN AROUND THE SYSTEM VERY
13 MUCH, YOU KNOW, OF COURSE, THAT MR. ROGERS IS PRESUMED
14 TO BE INNOCENT. SO THE STATE, IF INDEED THEY CAN, MUST
15 FIND HIM GUILTY OF MURDER BEYOND A REASONABLE DOUBT.
16 NOW, IN AN ORDINARY CASE, AS I TOLD YOU ALL YESTERDAY,
17 WHEN A PERSON IS CHARGED WITH A CRIME A JURY'S ONLY
18 CONCERNED WITH GUILT OR INNOCENCE AND WHEN THEY FINISH
19 THAT THE JUDGE -- THEY'RE THROUGH. THE JUDGE DOES THE
20 SENTENCING. WELL, AS I TOLD YOU ALL ON YESTERDAY, IN A
21 DEATH PENALTY CASE, A CASE IN WHICH THE STATE IS
22 SEEKING THE DEATH PENALTY, THE JURY DOES BOTH. DID YOU
23 KNOW THAT?

24 A. NO, SIR.

25 Q. WELL, THEY DO. AND HERE'S WHAT HAPPENS. WE

1 FIRST HAVE A TRIAL AND THE ONLY THING THE JURY IS
2 CONCERNED WITH IS GUILT OR INNOCENCE AND, OF COURSE, IF
3 THEY FOUND HIM NOT GUILTY, THAT WOULD END THE
4 PROCEEDING. BUT IF THEY FOUND HIM GUILTY, THEN WE GO
5 INTO ANOTHER PROCEEDING IN WHICH IT'S -- INFORMATION IS
6 GIVEN TO THE JURY, PERHAPS EXTENUATING CIRCUMSTANCES,
7 MITIGATING CIRCUMSTANCES, AGGRAVATING CIRCUMSTANCES,
8 GOOD AND BAD, AND IT'S AN ATTEMPT TO HELP THE JURY
9 DECIDE WHICH IS THE PROPER SENTENCE. THAT'S WHAT
10 HAPPENS IN THE SECOND PROCEEDINGS.

11 NOW, ON YESTERDAY WHEN I ASKED THE JURY TO
12 STAND UP AND LET ME KNOW WHETHER THEY KNEW ANYTHING
13 ABOUT THIS CASE AT ALL, I NOTICE THAT YOU DID NOT STAND
14 UP. DID YOU KNOW ANYTHING ABOUT THIS CASE?

15 A. NO, YOUR HONOR. I HAD JUST MOVED -- I WAS
16 OUT WORKING OUT OF TOWN IN BAMBERG.

17 Q. OH.

18 A. WITH MY PARENTS AND I HAD JUST MOVED BACK IN
19 WITH MY GIRLFRIEND'S PARENTS WHERE I'VE BEEN RENTING A
20 ROOM AND I GET A LETTER IN THE MAIL SAYING I HAD JURY
21 DUTY. I DIDN'T KNOW -- I DIDN'T KNOW THAT ANYTHING HAD
22 HAPPENED UNTIL. . .

23 Q. TILL YOU CAME TO COURT.

24 A. WELL, WHEN I GOT READY TO LEAVE, MY
25 GIRLFRIEND'S FATHER SAID THAT YOU MIGHT HAVE HEARD

1 BECAUSE THERE'S GOING TO BE 260 OTHER PEOPLE UP THERE
2 AND HE SHOWED ME IN THE PAPER WHERE -- AND THAT'S ALL I
3 KNEW. I DIDN'T KNOW THAT THIS WAS WHAT I WAS GOING TO
4 BE ON.

5 Q. ALL RIGHT. WELL, YOU ARE A RESIDENT OF THIS
6 COUNTY, AREN'T YOU?

7 A. YES, SIR.

8 Q. I KNEW BECAUSE WE WOULDN'T HAVE BEEN ABLE TO
9 GET YOU IF WE HADN'T HAD EITHER THE DRIVER'S LICENSE OR
10 THE REGISTRATION. IN ANY EVENT, IF AT THAT SECOND
11 TRIAL THAT I WAS TELLING YOU ABOUT THE JURY DECIDES
12 THAT THE PROPER PUNISHMENT IS LIFE IN PRISON, THEN THE
13 FOREMAN STANDS UP AND SAYS, IN ESSENCE, ON A PIECE OF
14 PAPER THAT HE'S SIGNED, WE, THE JURY, RECOMMEND THAT
15 THE PROPER SENTENCE IS LIFE IN PRISON, AND EVEN THOUGH
16 IT SAYS RECOMMEND, I MUST BY LAW DO EXACTLY WHAT THE
17 JURY TELLS ME TO DO. I CAN'T CHANGE IT. SO, I WOULD
18 SENTENCE HIM TO LIFE IN PRISON.

19 ON THE OTHER HAND, IF THEY DECIDED THAT THE
20 PROPER PUNISHMENT WAS DEATH, EACH JUROR WOULD
21 INDIVIDUALLY SIGN THEIR NAME TO A PIECE OF PAPER AND IT
22 WOULD SAY, WE, THE JURY, FOLLOWING JURORS, RECOMMEND
23 THAT THE PROPER SENTENCE IS DEATH AND, HERE AGAIN, I
24 MUST DO WHAT THE JURY TELLS ME TO, SO I WOULD SENTENCE
25 HIM TO DEATH BY ELECTROCUTION. DO YOU UNDERSTAND?

1 A. YES, SIR.

2 Q. NOW, NOT HAVING BEEN AROUND THE CRIMINAL
3 SYSTEM VERY LONG OR HAD THAT MUCH EXPERIENCE SUCH AS
4 YOURSELF, WHEN PEOPLE ARE FIRST CONFRONTED, JURORS,
5 WITH AN IDEA OF SITTING ON A CASE OF THIS TYPE THEY
6 GENERALLY FALL WITHIN ONE OF THREE CATEGORIES. SO, I'M
7 GOING TO TELL YOU WHAT THOSE CATEGORIES ARE AND THEN I
8 WANT YOU TO TELL ME WHICH ONE YOU THINK YOU BEST FIT
9 IN.

10 THE FIRST TYPE JUROR, NUMBER ONE, IS THAT
11 TYPE JUROR THAT WOULDN'T BE INTERESTED IN HEARING THAT
12 SECOND TRIAL BECAUSE THEIR MIND WOULD ALREADY BE MADE
13 UP. THEY WOULD BE THE TYPE JUROR THAT WOULD TAKE THE
14 POSITION IF YOU KILL SOMEBODY YOU SHOULD DIE YOURSELF,
15 SUCH AS AN EYE FOR AN EYE AND A TOOTH FOR A TOOTH, AND
16 SO THEY WOULD ALWAYS VOTE FOR THE DEATH PENALTY. JUROR
17 NUMBER TWO WOULD BE THAT PERSON WHO COULD DO EXACTLY
18 OPPOSITE. THEY WOULD TAKE THE POSITION, REGARDLESS OF
19 HOW BAD A MURDER WAS OR HOW HEINOUS OR HOW AGGRAVATED,
20 HOW AGGRAVATED IT MIGHT BE, THEY WOULD NEVER VOTE FOR
21 THE DEATH PENALTY AND THEY ALSO WOULDN'T BE INTERESTED
22 IN HEARING THAT SECOND TRIAL. THEY WOULD ALWAYS VOTE
23 FOR LIFE.

24 THEN THERE'S A THIRD JUROR THAT WOULD TAKE
25 THE POSITION, WELL, I REALIZE YOU'VE BEEN CONVICTED,

RICHARD C. GARRETT - EXAMINATION BY THE COURT

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1 BUT BEFORE I DECIDE WHAT THE PROPER SENTENCE IS, I W.
2 TO HEAR THE GOOD THINGS AND THE BAD THINGS. I WANT
3 HEAR THE AGGRAVATION AND THE MITIGATING CIRCUMSTANCES
4 AND THEN DEPENDENT UPON WHAT I HEAR COULD GO EITHER
5 WAY. THEY WOULD TAKE THE POSITION THAT EVERY MURDERER
6 DOESN'T DESERVE DEATH NOR EVERY MURDERER DESERVE LIFE
7 BUT COULD VOTE EITHER WAY. WHICH DO YOU FEEL YOU BES
8 FIT?

9 A. I THINK I'D FIT IN THE THIRD PART BECAUSE I'
10 WANT TO KNOW EVERYTHING THAT WENT ON.

11 Q. OKAY. FIRST, AS YOU UNDERSTAND IT, YOU
12 WOULDN'T REACH THAT PART OF IT UNLESS HE'D FIRST BEEN
13 CONVICTED OF MURDER AND THEN YOU WOULD HEAR AND FROM -
14 AGGRAVATING AND MITIGATING CIRCUMSTANCES AND THEN
15 DEPENDENT UPON WHAT YOU HEARD YOU COULD VOTE EITHER
16 WAY. IS THAT WHAT YOU'RE TELLING ME?

17 A. YES, SIR.

18 Q. ALL RIGHT.

19 A. YES, SIR.

20 Q. NOW, THE ATTORNEYS ARE GOING TO ASK YOU SOME
21 QUESTIONS. REMEMBER, THERE ARE NO RIGHT OR WRONG
22 ANSWERS AND JUST ANSWER THEM AS BEST YOU CAN.

23 A. OKAY.

24 THE COURT: SOLICITOR?

25 MR. BAILEY: THANK YOU, YOUR HONOR.

RICHARD C. GARRETT - DIRECT EXAMINATION BY MR. BAILEY
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1 DIRECT EXAMINATION

2 BY MR. BAILEY:

3 Q. MR. GARRETT, I'M WALTER BAILEY. I JUST NEED
4 TO ASK A FEW QUESTIONS OF YOU.

5 A. YES, SIR.

6 Q. AND LIKE THE JUDGE TOLD YOU, THERE ARE NO
7 RIGHT OR WRONG ANSWERS. YOU'RE NOT BEING TESTED ON
8 YOUR BELIEFS. WE JUST NEED TO KNOW WHAT YOU HONESTLY
9 FEEL---

10 A. YES, SIR.

11 Q. ---ABOUT THESE DIFFERENT THINGS. THE
12 QUESTIONNAIRE THAT YOU FILLED OUT ALONG WITH THE OTHER
13 JURORS INDICATED YOU HAD SOME MILITARY SERVICE?

14 A. YES, SIR.

15 Q. WHAT BRANCH OF THE ARMED FORCES?

16 A. UNITED STATES ARMY AND ARMY RESERVES.

17 Q. OKAY. ARE YOU STILL IN THE RESERVES OR. . .

18 A. NO, SIR. I WAS DISCHARGED AUGUST OF '91
19 BECAUSE IN AUGUST OF '90 I WAS HIT HEAD-ON BY A DRUNK
20 DRIVER IN WALTERBORO, SOUTH CAROLINA, AND I HAD TOO
21 MUCH DAMAGE TO MY RIGHT LEG FOR THEM TO KEEP ME IN
22 SERVICE.

23 Q. OKAY. SO, YOU GOT A MEDICAL DISCHARGE?

24 A. YES, SIR.

25 Q. FROM THE ARMY RESERVE. WOULD THOSE -- YOUR

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1 LEG PROBLEM AND ALL THAT, WOULD THAT INTERFERE WITH
2 YOUR ABILITY TO SIT AND LISTEN ON THE JURY?

3 A. NO, SIR.

4 Q. OKAY. THE QUESTIONNAIRES THAT WERE SENT OUT
5 HAD A PLACE WHERE YOU WOULD CHECK OFF WHETHER OR NOT
6 YOU HAD EVER HAD ANY CONVICTIONS OF A CRIME OTHER THAN
7 A MINOR TRAFFIC OFFENSE AND YOU DID NOT CHECK EITHER
8 BLOCK YES OR NO. COULD YOU---

9 A. I HAD TRAFFIC OFFENSES. THAT'S IT.

10 Q. ALL RIGHT, SIR. WE ROUTINELY ON ALL OF THE
11 JURORS RUN A RECORD CHECK THAT'S A COMPUTERIZED CHECK
12 MAINTAINED BY S.L.E.D. AND SOMETIMES THOSE RECORD
13 CHECKS COME BACK AND THEY'LL CONFUSE A BIRTHDAY OR
14 SOCIAL SECURITY NUMBER OR A NAME AND THEY'LL PRINT OUT
15 A RECORD ON ONE PERSON THAT BELONGS TO SOMEBODY ELSE.
16 AND WE DID RUN A RECORD CHECK WITH YOU ALONG WITH THE
17 OTHER JURORS AND IT CAME BACK WITH TWO NAMES WITH YOUR
18 SOCIAL SECURITY NUMBER. ONE OF THEM IS RICHARD CHARLES
19 GARRETT AND THE OTHER ONE WAS A DUFFIE HICKS.

20 A. OKAY.

21 Q. IS THAT. . .

22 A. YES, SIR. WHEN I WAS YOUNGER, I WAS ADOPTED
23 BY A THOMAS HICKS.

24 Q. OKAY.

25 A. AND WE HAVE PERSONAL PROBLEMS WITH HIS

RICHARD C. GARRETT - DIRECT EXAMINATION BY MR. BAILEY
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1 BACKGROUND AND WHAT HAS HAPPENED TO ME WHEN I WAS IN
2 HIS CARE.

3 Q. UH-HUH.

4 A. I FOUND OUT WHO MY REAL FATHER WAS AND I
5 CHANGED MY LAST NAME.

6 Q. OKAY.

7 A. BACK TO MY REAL FATHER'S LAST NAME.

8 Q. ALL RIGHT.

9 A. IN -- LET'S SEE. IT WAS -- I THINK IT WAS
10 '87.

11 Q. OKAY.

12 A. IS WHEN I DID THAT BECAUSE I NO LONGER WANTED
13 TO BE ASSOCIATED WITH MR. THOMAS HICKS.

14 Q. OKAY. FINE. I JUST WANT TO MAKE SURE WE HAD
15 THE RIGHT PERSON.

16 A. YES, SIR. AND DUFFIE IS MY NICKNAME.

17 Q. DUFFIE IS A NICKNAME?

18 A. YES, SIR.

19 Q. OKAY. SO, THAT'S -- YOU STILL GO BY THAT
20 SOMETIMES BUT YOUR REAL NAME---

21 A. MY CLOSE FRIENDS CALL ME THAT BUT MY -- AND
22 CLOSE FAMILY MEMBERS, BUT MOST EVERYBODY CALLS ME
23 EITHER RICHARD OR RICK.

24 Q. OKAY. ON THE RECORD CHECK I NOTICE IT
25 INDICATES A COUPLE OF D.U.S. CONVICTIONS?

1 A. YES, SIR. THAT WAS IT. ALL I'VE HAD WAS
2 TRAFFIC VIOLATIONS. I HAVE BEEN, YOU KNOW, ACCUSED OF
3 STUFF AND IT'S ALL BEEN CLEARED UP BECAUSE I WAS
4 WRONGFULLY ACCUSED---

5 Q. OKAY.

6 A. ---ON SEVERAL CASES.

7 Q. ALL RIGHT. WITH THE EXPERIENCE YOU'VE HAD
8 WITH THE CRIMINAL JUSTICE SYSTEM, THE D.U.S.
9 CONVICTIONS AND THEN THE ARREST WHICH I THINK IS LATER
10 ON A GENERAL SESSIONS OFFENSE THAT WAS DROPPED---

11 A. IT WAS DROPPED, YES, SIR.

12 Q. WOULD THAT -- WOULD THAT KIND OF CARRY OVER
13 INTO YOUR JURY SERVICE IN ANY WAY OR DO YOU---

14 A. NO, SIR.

15 Q. YOU DON'T -- YOU'RE NOT MAD AT LAW
16 ENFORCEMENT---

17 A. NO.

18 Q. ---OR ANYTHING?

19 A. I MEAN, THEY HAD A JOB TO DO. I WAS WRONG IN
20 DRIVING WHEN I WAS NOT SUPPOSED TO BE AND THAT, YOU
21 KNOW -- IT'S NO BIG DEAL. I MEAN, I DID WRONG. I
22 DON'T HAVE ANY COMPLAINTS AGAINST THE JURY SYSTEM.

23 Q. OKAY. AND YOU CAN SET THAT ASIDE AND BASE
24 YOUR DECISION ON WHAT YOU HEAR FROM THE WITNESS STAND?

25 A. YES, SIR.

1 Q. OKAY. AND THE JUDGE EXPLAINED TO YOU A
2 LITTLE BIT ABOUT THE TWO-PART PROCESS OR IT POSSIBLY
3 BEING A TWO-PART PROCESS WHERE IN THE FIRST STAGE WHICH
4 IS THE GUILT PHASE THE JURY DETERMINES GUILT OR
5 INNOCENCE AND IN THIS CASE OF MURDER.

6 A. YES, SIR.

7 Q. AND ONLY IF THE JURY FINDS THE DEFENDANT
8 GUILTY OF MURDER DO WE GO INTO THE SECOND PHASE, THE
9 PENALTY PHASE.

10 A. YES, SIR.

11 Q. WHERE THE JURY DETERMINES LIFE IN PRISON OR
12 THE DEATH PENALTY.

13 A. YES, SIR.

14 Q. AND YOU'VE INDICATED YOU'RE THE THIRD TYPE
15 JUROR THAT COULD VOTE EITHER WAY DEPENDING ON THE FACTS
16 AND CIRCUMSTANCES?

17 A. YES, SIR.

18 Q. ALL RIGHT, SIR. AND IF YOU WERE ON A JURY
19 AND YOU GOT TO THAT SECOND PHASE AND YOU AND THE OTHER
20 ELEVEN JURORS DECIDED AFTER HEARING ALL THE EVIDENCE
21 THAT THE DEATH PENALTY WAS THE APPROPRIATE PUNISHMENT,
22 THEN EACH JUROR WOULD HAVE TO SIGN THEIR NAME TO A
23 DEATH VERDICT FORM IN ORDER TO IMPOSE THAT PUNISHMENT.

24 A. YES, SIR.

25 Q. WOULD YOU HAVE A PROBLEM DOING THAT IF YOU

1 HAD REACHED THAT DECISION?

2 A. IF THAT WAS THE DECISION THAT WAS REACHED,
3 YES, SIR, I WOULD PUT MY NAME DOWN.

4 Q. AS FAR AS COMING OUT INTO OPEN COURT AND
5 ANNOUNCING THAT AS YOUR VERDICT, WOULD YOU HAVE A
6 PROBLEM DOING THAT IF THAT WAS YOUR DECISION?

7 A. NO, SIR?

8 MR. BAILEY: ALL RIGHT, SIR. THAT'S ALL I
9 HAVE, MR. GARRETT. THANK YOU VERY MUCH.

10 A. THANK YOU.

11 CROSS-EXAMINATION

12 BY MR. RUNYON:

13 Q. GOOD MORNING, MR. GARRETT.

14 A. GOOD MORNING, SIR.

15 Q. ESSENTIALLY YOU HAVE BEEN THE VICTIM IN AT
16 LEAST TWO SERIOUS SITUATIONS - YOUR LEG AND THE
17 SITUATION LAST YEAR.

18 A. YES, SIR.

19 Q. NEITHER OF THOSE EXPERIENCES WERE PLEASANT,
20 I'M SURE.

21 A. NO, SIR.

22 Q. OKAY. AND DO YOU THINK THAT THOSE
23 EXPERIENCES WOULD HAVE ANY IMPACT IN YOUR ROLE AS A
24 JUROR?

25 A. NO, SIR.

1 Q. OKAY. THEY WOULDN'T, SO TO SPEAK, COLOR YOUR
2 JUDGMENT WHEN YOU'RE LISTENING TO EVIDENCE OR TRYING TO
3 DECIDE WHAT THE FACTS ARE IN THIS CASE?

4 A. NO, SIR, IT WOULDN'T.

5 Q. OKAY. AND LET ME BE MORE SPECIFIC. AS IT
6 RELATES TO THE INCIDENT LAST YEAR, THAT INVOLVED
7 WEAPONS?

8 A. YES, SIR.

9 Q. NOW, WOULD WEAPONS IN AND OF THEMSELVES CAUSE
10 YOU -- CAUSE YOU ANY PARTICULAR CONCERN IF THEY WERE
11 INVOLVED IN A FACT SITUATION?

12 A. I DON'T QUITE UNDERSTAND WHAT YOU'RE SAYING,
13 SIR.

14 Q. WELL, YOU SERVED IN THE ARMY; CORRECT?

15 A. YES, SIR.

16 Q. AND YOU'RE FAMILIAR WITH FIREARMS.

17 A. YES, SIR.

18 Q. AND I ASSUME THAT THE FIREARMS THEMSELVES,
19 BASED ON YOUR MILITARY EXPERIENCE, DON'T CREATE ANY
20 KIND OF APPREHENSION IN YOU.

21 A. NO, SIR. I MEAN, FIREARMS THEY'RE THERE.
22 IT'S AN EVERYDAY THING OF LIFE.

23 Q. WHAT WAS YOUR M.O.S. IN THE MILITARY SERVICE?

24 A. ELEVEN HOTEL ECHO NINER (PHONETIC).

25 Q. AND YOUR SPECIFIC JOB?

1 A. OKAY. I WAS A GUNNER ON -- I WAS A SIGHTER
2 ACTUALLY ON AN I.T.V. WHICH IS TOW MISSILE SYSTEM.

3 Q. ALL RIGHT. AND SO BASICALLY YOU WERE
4 INVOLVED WITH A REALLY BIG KIND OF GUN, RIGHT, IF YOU
5 WANT TO CALL IT THAT?

6 A. YES, SIR.

7 Q. OKAY. YOU DIDN'T CARRY THOSE THINGS AROUND
8 IN YOUR POCKET, BUT IT WAS ESSENTIALLY JUST A BIG GUN;
9 RIGHT?

10 A. YES, SIR.

11 Q. AND SO THAT WEAPONS IN AND OF THEMSELVES
12 DON'T CAUSE YOU TO HAVE ANY PARTICULAR FEARS OR
13 ANYTHING OF THAT SORT, DO THEY, SIR?

14 A. NO, SIR.

15 MR. RUNYON: OKAY. NO FURTHER QUESTIONS,
16 YOUR HONOR.

17 THE COURT: ANY MOTIONS FROM THE STATE?

18 MR. BAILEY: NO, SIR, YOUR HONOR.

19 THE COURT: DEFENSE?

20 MR. RUNYON: NONE, YOUR HONOR.

21 THE COURT: MR. GARRETT, WE ALL THINK YOU'D
22 BE A GOOD JUROR. IT DOESN'T MEAN YOU'RE GOING TO
23 SERVE. IT JUST MEANS YOU'RE QUALIFIED. AND WHEN I GET
24 ABOUT 35 OR 36 PEOPLE, WE'LL BE CALLING YOU. I NOTICE
25 FROM YOUR REPORT HERE THAT YOU HAVE [REDACTED]. WHERE IS

1 THAT NUMBER?

2 JUROR GARRETT: THAT'S IN SUMMERVILLE. IT'S
3 IN QUAIL HARBOR.

4 THE COURT: ALL RIGHT. AND THAT'S YOUR
5 SINGLE NUMBER.

6 JUROR GARRETT: I'M THERE ALL THE TIME.

7 THE COURT: OH, ALL RIGHT. WELL, IF WE CALL,
8 FOR INSTANCE, IF WE CALL TONIGHT OR TOMORROW AND SAID
9 YOU WERE TO APPEAR AT A CERTAIN TIME, HOW MUCH NOTICE
10 WOULD YOU HAVE TO HAVE? A COUPLE OF HOURS BE ENOUGH?

11 JUROR GARRETT: YES, SIR.

12 THE COURT: ALL RIGHT.

13 JUROR GARRETT: A COUPLE OF HOURS. AN HOUR.

14 THE COURT: ALL RIGHT. SO, I'M GOING TO SEND
15 YOU ABOUT YOUR BUSINESS AND I WANT TO REMIND YOU NOT TO
16 WATCH THE NEWS, T.V. OR NEWSPAPER. DON'T DISCUSS THE
17 CASE AND WHEN YOU COME BACK - I DON'T THINK IT WILL
18 TAKE THAT LONG - BRING ENOUGH CLOTHES AND TOILET
19 ARTICLES FOR ABOUT FIVE DAYS.

20 JUROR GARRETT: OKAY, SIR.

21 THE COURT: HOPE YOU HAVE A GOOD DAY.

22 JUROR GARRETT: THANK YOU, JUDGE.

23 THE COURT: ALL RIGHT.

24 (JUROR RICHARD GARRETT WAS EXCUSED FROM THE
25 COURTROOM.)

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1 THE COURT: IS LINDA TANNER -- DID SHE EVER
2 COME IN? I DON'T WANT HER NOW, BUT I WANT TO FIND OUT
3 WHETHER OR NOT SHE CAME IN.

4 FROM THE COURTROOM: YES, JUDGE, SHE'S IN.

5 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.
6 MADAM CLERK, LINDA TANNER NEVER SENT IN A
7 QUESTIONNAIRE. WOULD YOU GIVE A FORM QUESTIONNAIRE TO
8 THE BAILIFF AND WOULD YOU---

9 THE CLERK: I'VE ALREADY GIVEN HER ONE.
10 SHE'S FILLED IT OUT.

11 THE COURT: DO I HAVE IT HERE?

12 THE CLERK: YES, SIR.

13 THE COURT: OH, THAT'S ALL RIGHT.

14 THE CLERK: AND WE'VE ALREADY GIVEN THEM ONE.

15 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

16 JEFFREY HARE. DID YOU ALL GET A COPY OF THAT?

17 MR. BAILEY: YES, SIR.

18 MR. RUNYON: YES, YOUR HONOR.

19 THE COURT: GOOD.

20 (JUROR JEFFREY HARE ENTERED THE COURTROOM.)

21 JEFFREY D. HARE, AFTER BEING DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 EXAMINATION BY THE COURT

24 Q. MR. HARE, HAVE A SEAT. I NOTICE HERE THAT
25 YOU NEVER SERVED ON A JURY BEFORE, HAVE YOU?

1 A. NO, SIR.

2 Q. WELL, I'M GOING TO NEED TO TELL YOU A LITTLE
3 BIT ABOUT THE CRIMINAL SYSTEM BECAUSE THIS -- WHAT
4 WE'RE FIXING TO GO THROUGH IS A LITTLE DIFFERENT FROM
5 EVERYTHING ELSE. IN THE MEANTIME, LET ME INTRODUCE TH
6 PARTIES. SITTING IN THE MIDDLE THERE WITH HIS
7 ATTORNEYS IS MR. ROGERS. HE'S CHARGED WITH MURDER AND
8 THE STATE IS ATTEMPTING TO PROVE TO TWELVE JURORS OF
9 HIS GUILT BEYOND A REASONABLE DOUBT BECAUSE HE'S
10 PRESUMED TO BE INNOCENT UNDER OUR SYSTEM. YOU KNOW
11 THAT. NOW, TO HIS LEFT, TO YOUR RIGHT, IS MR. MARK
12 LEIENDECKER. HE'S ONE OF THE ATTORNEYS AND ON THE
13 OTHER SIDE OF HIM IS MR. WILLIAM RUNYON. HE'S ALSO ONE
14 OF THE ATTORNEYS. AND THE YOUNG MAN SITTING UP HERE AT
15 THIS TABLE IS THE SOLICITOR, MR. BAILEY. AND, OF
16 COURSE, I'M JUDGE BROWN AND WE'RE JUST GOING TO ASK YOU
17 SOME QUESTIONS. THERE ARE NO RIGHT OR WRONG ANSWERS,
18 SO YOU CAN'T MAKE A MISTAKE. JUST TELL US AS BEST YOU
19 CAN THE ANSWERS TO THESE QUESTIONS, AND IF YOU CAN'T
20 GIVE US AN ANSWER YOU TELL US YOU CAN'T GIVE AN ANSWER
21 AND IF YOU WANT TO GIVE US AN ANSWER AND MAKE AN
22 EXPLANATION, FEEL FREE TO DO THAT.

23 NOW, ON YESTERDAY WHEN I ASKED THE JURORS IF
24 THEY KNEW ANYTHING ABOUT THIS CASE OR WATCHED IT ON
25 T.V. OR READ ANY NEWSPAPER OR ANYTHING, YOU DIDN'T

1 INDICATE THAT YOU KNEW ANYTHING ABOUT IT. DID YOU KNOW
2 ANYTHING ABOUT IT TILL YOU GOT HERE?

3 A. WELL, AT THE TIME IT HAPPENED I HEARD ABOUT
4 IT AND THAT WAS IT. I DIDN'T KNOW---

5 Q. DO YOU REMEMBER ANY OF THE DETAILS?

6 A. NO, SIR.

7 Q. ALL RIGHT. SO, YOU DON'T KNOW ANYTHING THAT
8 WOULD KEEP YOU, IF YOU WERE DRAWN AS A JUROR, KEEP YOU
9 FROM GIVING BOTH SIDES A FAIR TRIAL.

10 A. NO, SIR.

11 Q. ALL RIGHT. NOW, AS I TOLD YOU ALL ON
12 YESTERDAY, IN AN ORDINARY CASE A JURY IS JUST CONCERNED
13 WITH ONE THING, THAT IS, WHETHER THE PERSON IS GUILTY
14 OR NOT AND THEN THE JUDGE DOES THE SENTENCING. WELL,
15 ON YESTERDAY I TOLD YOU AND I SO REMIND YOU HERE IN
16 THIS TYPE CASE IN WHICH THE STATE IS SEEKING THE DEATH
17 PENALTY THE JURY DOES BOTH. DID YOU KNOW THAT?

18 A. YOU SAID -- YESTERDAY YOU SAID SOMETHING
19 ABOUT IT.

20 Q. YEAH. BUT BEFORE THAT DID YOU KNOW IT?

21 A. (JUROR SHOOK HEAD FROM SIDE TO SIDE).

22 Q. YOU'RE NODDING YOUR HEAD, SO BE SURE TO
23 ANSWER YES. I'VE GOT A MACHINE OVER THERE TO PICK UP
24 YOUR VOICE IF YOU WILL FOR ME.

25 A. OKAY.

1 Q. IN ANY EVENT, WHAT WOULD HAPPEN IN A CASE OF
2 THIS TYPE IS THE STATE -- FIRST WE HAVE A TRIAL TO
3 DETERMINE WHETHER OR NOT THE STATE PROVES HIM GUILTY OF
4 MURDER. AND, OF COURSE, IF THE JURY FINDS HE'S NOT
5 GUILTY THAT ENDS EVERYTHING, BUT IF THEY FIND HE'S
6 GUILTY OF MURDER, THEN WE HAVE A SECOND TYPE TRIAL IN
7 WHICH THERE WOULD BE TESTIMONY AND EVIDENCE TO HELP THE
8 JURY DECIDE WHAT IS THE PROPER PUNISHMENT, LIFE OR
9 DEATH. IT MIGHT BE GOOD AND BAD ABOUT THE PARTY. IT
10 MIGHT BE EXTENUATING OR MITIGATING CIRCUMSTANCES. IT
11 MIGHT BE AGGRAVATING CIRCUMSTANCES. AND WHEN IT'S
12 COMPLETED, THEN THE JURY WOULD BE EXPECTED TO RECOMMEND
13 TO ME WHAT WOULD BE THE PROPER SENTENCE. AND DON'T LET
14 THOSE WORDS "RECOMMEND" FOOL YOU BECAUSE I MUST DO BY
15 LAW EXACTLY WHAT THE JURY TELLS ME TO DO, LIFE OR
16 DEATH.

17 SO, IF THE JURY DECIDED THAT AT THAT SECOND
18 TRIAL THAT THE PROPER SENTENCE WAS LIFE IN PRISON, THE
19 FOREMAN WOULD GET UP AND HE'D SIGN A PIECE OF PAPER
20 THAT SAYS, WE, THE JURY, RECOMMEND LIFE IN PRISON AND I
21 WOULD SENTENCE HIM TO LIFE IN PRISON. ON THE OTHER
22 HAND, IF THE JURY DECIDED THAT THE PROPER PUNISHMENT
23 WAS DEATH, THEN IT'S A LITTLE DIFFERENT BECAUSE EACH
24 JUROR INDIVIDUALLY WOULD SIGN THEIR NAME TO A PIECE OF
25 PAPER AND IT WOULD SAY, IN ESSENCE, WE, THE FOLLOWING

1 JURORS, RECOMMEND THAT THE PROPER SENTENCE IS DEATH.
2 AND HERE AGAIN, BECAUSE I MUST DO WHAT THE JURY TELLS
3 ME TO DO, I WOULD SENTENCE HIM TO DEATH BY
4 ELECTROCUTION.

5 NOW, WHEN PEOPLE LIKE YOURSELF COME IN HERE
6 AND WE ASK YOU THE QUESTIONS THAT WE'RE ASKING YOU AND
7 YOU NEVER HAVE THOUGHT ABOUT SITTING ON A JURY IN WHICH
8 A POSSIBLE DEATH WOULD BE THE SENTENCE, THEY GENERALLY
9 FALL WITHIN ONE OF THREE CATEGORIES AND I'M GOING TO
10 TELL YOU WHAT THOSE CATEGORIES ARE AND THEN I WANT YOU
11 TO TELL ME WHICH ONE YOU THINK YOU BEST FIT IN. JUROR
12 NUMBER ONE IS THAT TYPE JUROR WHICH WOULD TAKE THE
13 POSITION IF YOU KILL SOMEBODY YOU OUGHT TO DIE
14 YOURSELF, KIND OF LIKE AN EYE FOR AN EYE AND A TOOTH
15 FOR A TOOTH, AND THAT JUROR WOULDN'T BE INTERESTED IN
16 THAT SECOND TRIAL BECAUSE THEIR MIND WOULD HAVE ALREADY
17 BEEN MADE UP. THEY WOULD ALWAYS VOTE FOR DEATH.

18 THE SECOND TYPE JUROR WOULD BE EXACTLY THE
19 OPPOSITE. THEY WOULD TAKE THE POSITION THAT NO MATTER
20 HOW HORRIBLE, NO MATTER HOW SERIOUS OR HEINOUS A MURDER
21 MIGHT BE, THEY WOULD NEVER VOTE FOR THE DEATH PENALTY
22 AND THEY ALSO WOULDN'T BE INTERESTED IN THAT SECOND
23 TRIAL BECAUSE THEY WOULD ALWAYS VOTE FOR LIFE IN
24 PRISON. AND THEN THERE'S THAT THIRD TYPE JUROR WHICH
25 WOULD TAKE THE POSITION THAT HERE YOU'VE NOW BEEN FOUND

1 GUILTY OF MURDER. I WANT TO HEAR MORE ABOUT IT. I
2 WANT TO HEAR THE GOOD AND THE BAD. I WANT TO HEAR THE
3 MITIGATING CIRCUMSTANCES AND THE AGGRAVATING
4 CIRCUMSTANCES, AND THEN DEPENDENT UPON WHAT I HEAR I
5 COULD VOTE EITHER FOR LIFE OR DEATH DEPENDING UPON WHAT
6 I HEARD. IN OTHER WORDS, THAT JUROR WOULD TAKE THE
7 POSITION THAT NOT EVERY MURDER DESERVES DEATH NOR EVERY
8 MURDER DESERVES LIFE BUT COULD VOTE EITHER WAY. WHICH
9 ONE DO YOU THINK YOU'D FIT IN? ONE, TWO, OR THREE?

10 A. PROBABLY NUMBER THREE.

11 Q. IN OTHER WORDS, YOU TAKE THE POSITION THAT IF
12 THAT PERSON WERE FOUND GUILTY, BEFORE YOU DECIDED WHAT
13 WOULD BE THE PROPER PUNISHMENT YOU'D WANT TO HEAR ALL
14 THE CIRCUMSTANCES AND THE GOOD AND THE BAD ABOUT THAT
15 PERSON AND THEN DEPENDENT UPON WHAT YOU HEARD YOU COULD
16 VOTE EITHER WAY?

17 A. YES, SIR.

18 THE COURT: ALL RIGHT. NOW, AS I TOLD YOU,
19 THERE ARE NO WRONG OR RIGHT ANSWERS. THE ATTORNEYS ARE
20 GOING TO ASK YOU SOME QUESTIONS AND, JUST LIKE YOU DID
21 WITH ME, JUST ANSWER AS BEST YOU CAN. THANK YOU.
22 SOLICITOR?

23 MR. BAILEY: THANK YOU, YOUR HONOR.

24

25

3 Q. MR. HARE, JUST FORGETTING ABOUT THIS
4 PARTICULAR TRIAL BUT JUST TALKING IN GENERAL TERMS, IN
5 THE PAST HAVE YOU EVER HAD ANY REASON TO THINK ABOUT
6 THE DEATH PENALTY OR, YOU KNOW, TALK WITH YOUR FAMILY
7 AND FRIENDS ABOUT WHETHER OR NOT YOU BELIEVE IN THE
8 DEATH PENALTY IN GENERAL?

10 Q. OKAY. THE JUDGE TOLD YOU ABOUT THE TWO
11 PHASES OF A TRIAL LIKE THIS WHERE YOU HAVE THE GUILT
12 PHASE AND THEN IF THE JURY FINDS THE DEFENDANT GUILTY
13 IN THE FIRST PHASE YOU GO INTO THE SECOND PHASE WHICH
14 IS THE PENALTY PHASE AND THE JURY MAKES THAT DECISION
15 OF LIFE AND DEATH AND YOU'VE SAID YOU'RE THE NUMBER
16 THREE TYPE JUROR. I THINK YOU SAID PROBABLY NUMBER
17 THREE THAT COULD LISTEN TO ALL THE EVIDENCE AND MAKE A
18 DECISION ONE WAY OR THE OTHER BASED ON WHAT YOU HEAR?

22 Q. OKAY. IF THE JURY DECIDES AFTER HEARING ALL
23 OF THE EVIDENCE IN BOTH STAGES THAT THE DEATH PENALTY
24 IS THE MOST APPROPRIATE FORM OF PUNISHMENT INSTEAD OF
25 LIFE IN PRISON, THEN ALL TWELVE JURORS HAVE TO SIGN OFF

1 ON A DEATH VERDICT FORM IN ORDER TO IMPOSE THAT DEATH
2 PENALTY. WOULD YOU HAVE A PROBLEM SIGNING YOUR NAME TO
3 A PAPER LIKE THAT IF YOU HAD REACHED THAT DECISION?

4 A. NO, SIR.

5 Q. OKAY. COULD YOU COME OUT INTO OPEN COURT AND
6 ANNOUNCE THAT AS BEING YOUR DECISION IF YOU WERE ASKED
7 BY THE JUDGE OR BY THE CLERK OF COURT IF THAT WAS YOUR
8 DECISION?

9 A. YES, SIR.

10 Q. DO YOU HAVE ANY RELIGIOUS FEELINGS IN REGARD
11 TO THE DEATH PENALTY? I NOTICE THAT -- YOU KNOW, WE'VE
12 SENT THESE QUESTIONNAIRES OUT AND ONE OF THE QUESTIONS
13 IS WHAT CHURCH YOU WENT TO AND YOU'VE INDICATED YOU DO
14 GO TO SUMMERVILLE BAPTIST CHURCH. DOES THAT CHURCH
15 HAVE ANY PARTICULAR TEACHINGS ON THE DEATH PENALTY THAT
16 WOULD INFLUENCE YOU?

17 A. NO, SIR.

18 MR. BAILEY: MR. HARE, I THINK THAT'S ALL I
19 HAVE. THANK YOU.

20 CROSS-EXAMINATION

21 BY MR. RUNYON:

22 Q. GOOD MORNING, MR. HARE.

23 A. GOOD MORNING.

24 Q. I NOTE THAT YOU'RE IN THE ELECTRICAL BUSINESS
25 AND BASICALLY YOU'RE INVOLVED WITH CHUV (PHONETIC)

1 ELECTRIC AND YOU WIRE NEW HOUSES MOSTLY?

2 A. YES, SIR.

3 Q. AND THAT'S PRETTY PRECISE WORK. I MEAN,
4 YOU'VE GOT TO FOLLOW SOME PRETTY RIGID RULES IN PUTTING
5 IN THAT ELECTRICAL SERVICE. ISN'T THAT CORRECT, SIR?

6 A. YES, SIR.

7 Q. AND THERE'S NOT TOO MUCH DEVIATION FROM THE
8 CODE, SO TO SPEAK, IS THERE?

9 A. NO, SIR.

10 Q. SO, IN YOUR DAILY BUSINESS YOU KIND OF FOLLOW
11 SOME PRETTY NARROW COURSES THAT YOU HAVE TO FOLLOW IN
12 ORDER TO DO YOUR JOB PROPERLY.

13 A. YES, SIR.

14 Q. NOW, AS A PRACTICAL MATTER, THE ONLY THING
15 YOU KNOW ABOUT THIS CASE IS BASICALLY WHAT YOU HEARD AT
16 THE TIME?

17 A. YES, SIR.

18 Q. AND THEN SOMEONE SAID LOOK AT WHAT YOU'RE
19 WALKING INTO WHEN YOU GOT READY TO COME DOWN TO COURT?

20 A. YES, SIR.

21 Q. OKAY. AND WAS THERE ANY PARTICULAR
22 DISCUSSION OF FACTS AT THAT TIME OR JUST WE MIGHT NOT
23 SEE YOU FOR A LONG TIME OR SOMETHING LIKE THAT?

24 A. THAT'S ABOUT IT.

25 Q. OKAY. WOULD SERVICE ON A JURY OF THIS TYPE

JEFFREY D. HARE - CROSS-EXAMINATION BY MR. RUNYON

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1 CREATE ANY PARTICULAR FINANCIAL HARDSHIPS FOR YOU AS A
2 -- IF YOU WERE AWAY FROM YOUR JOB FOR FIVE OR SIX
3 DAYS?

4 A. NOT TOO BAD IF -- I DON'T KNOW IF MY BOSS
5 WOULD REIMBURSE ME FOR IT OR NOT. HE AIN'T SAID.

6 Q. WELL, SO, AS A PRACTICAL MATTER YOU DON'T
7 FEEL THAT BEING AWAY FROM YOUR JOB WOULD NECESSARILY
8 PUT ANY PRESSURE ON YOU TO WANT TO GET THINGS OVER WITH
9 OR ANYTHING OF THAT SORT.

10 A. NO, SIR.

11 MR. RUNYON: OKAY. NO FURTHER QUESTIONS,
12 YOUR HONOR.

13 THE COURT: ANY MOTIONS?

14 MR. BAILEY: NO, SIR, YOUR HONOR.

15 MR. RUNYON: NONE FROM DEFENSE, YOUR HONOR.

16 THE COURT: ALL RIGHT. WE ALL THINK YOU'D
17 MAKE A GOOD JUROR, BUT IT DOESN'T MEAN YOU'RE GOING TO
18 BE ON THE JURY. IT JUST MEANS THAT YOU'RE QUALIFIED
19 ALONG WITH -- HOPEFULLY WE CAN GET ABOUT 36 OR 37
20 PEOPLE. SO, I'M GOING TO SEND YOU ABOUT YOUR BUSINESS,
21 AND I NOTICE THAT YOU HAVE GIVEN US SOME TELEPHONE
22 NUMBERS. MR. HARE, WHERE IS THAT EMERGENCY NUMBER,
23 0437?

24 JUROR HARE: THAT'S IN LADSON.

25 THE COURT: WHO IS THAT?

1 JUROR HARE: MY COUSIN.

2 THE COURT: OH. WELL, DON'T GET TOO FAR AWAY
3 FROM THESE NUMBERS. HOPEFULLY I'D CALL YOU TONIGHT AND
4 TELL YOU WHEN TO COME IN TOMORROW.

5 JUROR HARE: OKAY.

6 THE COURT: IT MIGHT BE TOMORROW SOMETIME,
7 BUT HOW LONG WILL IT TAKE TO GET YOU IF -- HOW LONG
8 WOULD IT TAKE YOU TO GET HERE IF I CALL YOU? AND COULD
9 I REACH YOU PRETTY WELL AT ONE OF THESE NUMBERS?

10 JUROR HARE: YES, SIR.

11 THE COURT: OH, ALL RIGHT. WELL, WE'LL GIVE
12 YOU PLENTY OF NOTICE TO BE ABLE TO GET HERE. AND
13 REMEMBER IN THE MEANTIME DON'T TALK ABOUT THE CASE WITH
14 ANYONE OR READ THE NEWSPAPER OR WATCH T.V. AND WHEN
15 YOU COME, I DON'T THINK IT WILL TAKE THAT LONG, BRING
16 ENOUGH CLOTHES FOR ABOUT FIVE DAYS AND TOILET ARTICLES
17 AND I HOPE YOU HAVE A GOOD DAY.

18 JUROR HARE: OKAY. THANK YOU.

19 (JUROR JEFFREY HARE WAS EXCUSED FROM THE
20 COURTROOM.)

21 THE COURT: JAMES MANN.

22 (JUROR JAMES MANN ENTERED THE COURTROOM.)

23 JAMES L. MANN, AFTER BEING DULY SWORN,
24 TESTIFIED AS FOLLOWS:

25

1 EXAMINATION BY THE COURT

2 Q. WELL, MR. MANN, HOW ARE YOU TODAY?

3 A. FINE. I HOPE YOU'RE DOING WELL.

4 Q. I'M JUDGE LUKE BROWN AND WE'RE GOING TO ASK
5 YOU SOME QUESTIONS AND THERE ARE NO RIGHT OR WRONG
6 ANSWERS.

7 A. OKAY.

8 Q. SO, WHEN I ASK YOU A QUESTION OR THE
9 ATTORNEYS ASK YOU A QUESTION, JUST ANSWER THEM AS BEST
10 YOU CAN. AS YOU KNOW, MR. ROGERS WHO SITS AT THIS
11 TABLE BETWEEN HIS ATTORNEYS IS CHARGED WITH MURDER.

12 A. YES, SIR.

13 Q. AND TO HIS LEFT ARE ONE OF HIS ATTORNEYS, MR.
14 MARK LEIENDECKER. FORGIVE ME, MR. LEIENDECKER. AND
15 NEXT TO HIM ON MR. ROGERS' RIGHT IS MR. BILL RUNYON.
16 THEY ARE HIS ATTORNEYS AND OVER HERE REPRESENTING THE
17 STATE IS MR. BAILEY, SOLICITOR BAILEY. NOW, I NOTICE,
18 MR. MANN, WHEN YOU CHECKED AND SENT IN THIS INFORMATION
19 THAT YOU NEVER HAD SERVED ON A JURY BEFORE. IS THAT
20 CORRECT?

21 A. I WAS CALLED IN TWENTY YEARS AGO BUT. . .

22 Q. DIDN'T GET TO SERVE?

23 A. NO, SIR. IT WAS JUST A CROWD OF PEOPLE LIKE
24 TWENTY OF US AND THEN WE LEFT LIKE A HALF HOUR LATER.

25 Q. OH. DID YOU EVER WANT TO SERVE ON ONE TO SEE

1 HOW IT FELT?

2 A. WELL, I'M INTERESTED NOW BUT BEFORE NOW I---

3 Q. YOU WOULDN'T HAVE. ALL RIGHT. IN ANY EVENT,
4 AS YOU KNOW, MR. ROGERS IS CHARGED WITH MURDER AND THE
5 STATE MUST PROVE HIM GUILTY BEYOND A REASONABLE DOUBT
6 BECAUSE IF THEY CAN'T DO THAT THEN THE PROCEEDINGS
7 WOULD END. AND AS I TOLD YOU ALL ON YESTERDAY, THIS
8 TYPE CASE IN WHICH THE STATE IS SEEKING THE DEATH
9 PENALTY IS A LITTLE DIFFERENT FROM AN ORDINARY CRIMINAL
10 CASE. IN AN ORDINARY CRIMINAL CASE, THE JURY DECIDES
11 GUILT OR INNOCENCE AND THEY ARE THROUGH AND THE JUDGE
12 SENTENCES THAT PERSON. WELL, IN THIS TYPE CASE THE
13 JURY DOES BOTH. UNTIL I TOLD YOU YESTERDAY, DID YOU
14 KNOW THAT?

15 A. I. . .

16 Q. HAD HEARD ABOUT IT?

17 A. I DON'T -- I THINK YOU TOLD ME FOR THE FIRST
18 TIME.

19 Q. ALL RIGHT. IN ANY EVENT, WHAT WOULD HAPPEN
20 IS WE WOULD HAVE IN ESSENCE TWO TRIALS. IT'S REALLY A
21 CONTINUATION OF THE FIRST PORTION OF IT. IN THE FIRST
22 TRIAL THE STATE WOULD ONLY BE CONCERNED WITH GUILT OR
23 INNOCENCE AND, OF COURSE, IF THE JURY DECIDED THAT MR.
24 ROGERS WAS INNOCENT, THAT WOULD END THE PROCEEDING.
25 BUT IF THEY DECIDED THAT HE WAS GUILTY OF MURDER, THEN

1 WE WOULD HAVE ANOTHER TRIAL AND THAT SECOND TRIAL IS
2 AIMED TO GIVE THE JURY INFORMATION SO THAT THEY CAN
3 INTELLIGENTLY MAKE -- DECIDE WHAT THE PROPER PUNISHMENT
4 IS.

5 THAT SECOND TRIAL MIGHT HAVE THE GOOD AND THE
6 BAD ABOUT THE PARTY. IT MIGHT HAVE EXTENUATING OR
7 MITIGATING CIRCUMSTANCES. IT MIGHT BE AGGRAVATING
8 CIRCUMSTANCES. AND WHEN IT'S ALL COMPLETED, THE JURY
9 WOULD BE ASKED TO RECOMMEND TO ME WHAT THE PROPER
10 SENTENCE WOULD BE AND RECOMMEND REALLY MEANS SENTENCE
11 BECAUSE I MUST DO BY LAW EXACTLY WHAT THE JURY TELLS ME
12 TO DO. I CAN'T CHANGE IT. SO, IF THE JURY DECIDED
13 THAT THE PROPER PUNISHMENT WAS LIFE IN PRISON, THEN
14 WHEN THEY CAME OUT, THE FOREMAN WOULD SIGN A PIECE OF
15 PAPER AND IT WOULD SAY, WE, THE JURY, RECOMMEND THAT
16 THE PROPER SENTENCE IS LIFE IN PRISON AND, AS I MUST, I
17 WOULD SENTENCE HIM TO LIFE IN PRISON.

18 ON THE OTHER HAND, IF THEY DECIDED THAT THE
19 PROPER PUNISHMENT WAS DEATH, THEN IT WOULD BE
20 DIFFERENT. EACH JUROR THEN INDIVIDUALLY WOULD SIGN
21 THEIR NAME TO A PIECE OF PAPER AND IT WOULD SAY IN
22 ESSENCE, WE, THE JURORS, FOLLOWING JURORS, RECOMMEND
23 THAT THE DEFENDANT BE SENTENCED TO DEATH AND, AS I
24 SAID, I MUST DO WHAT THE JURY TELLS ME TO DO AND I
25 WOULD SENTENCE HIM TO DEATH BY ELECTROCUTION. NOW, ON

1 MONDAY WHEN I ASKED THE JURORS TO STAND UP AND TELL ME
2 IF THEY KNEW ANYTHING ABOUT THAT CASE, WERE YOU ONE OF
3 THOSE THAT STOOD UP?

4 A. YES, I STOOD UP AND I SAID I DIDN'T KNOW
5 ANYTHING ABOUT IT.

6 Q. OH. SO UNTIL YOU CAME IN YESTERDAY YOU
7 DIDN'T KNOW ANYTHING THAT WOULD KEEP YOU FROM -- WELL,
8 FOR THAT MATTER, I DIDN'T POSE IT QUITE RIGHT. YOU
9 DON'T KNOW ANYTHING AT THIS TIME THAT WOULD KEEP YOU
10 FROM GIVING BOTH THE STATE AND MR. ROGERS A FAIR TRIAL,
11 DO YOU?

12 A. NO, NOTHING I KNOW WOULD KEEP ME FROM GIVING
13 A FAIR TRIAL.

14 Q. ALL RIGHT. THANK YOU. NOW, PEOPLE WHO
15 HAVEN'T BEEN AROUND THE SYSTEM TOO LONG, WHEN THEY COME
16 IN AND THEY'RE CONFRONTED WITH PERHAPS SERVING ON A
17 JURY AND THEY'RE ASKED QUESTIONS, THEIR ANSWERS
18 GENERALLY PUT THEM IN ONE OF THREE CATEGORIES. SO I'M
19 GOING TO TELL YOU WHAT THOSE CATEGORIES ARE AND THEN I
20 WANT YOU TO TELL ME WHICH ONE YOU THINK YOU BEST FIT
21 IN. THE FIRST JUROR WOULD BE THE TYPE JUROR THAT
22 WOULD -- WOULDN'T WANT TO HEAR THAT SECOND TRIAL. THEY
23 WOULD TAKE THE POSITION THAT IF YOU KILL SOMEBODY YOU
24 OUGHT TO DIE YOURSELF. IN OTHER WORDS, THEY'RE ALWAYS
25 FOR THE DEATH PENALTY, FOR MURDER, AND SO THEY WOULD

1 ALWAYS VOTE FOR THE DEATH PENALTY. THAT'S NUMBER ONE.
2 NUMBER TWO WOULD BE THE OPPOSITE. THAT WOULD
3 BE A PERSON WHO WOULDN'T WANT TO HEAR THAT SECOND TRIAL
4 EITHER BECAUSE THEY WOULD ALWAYS VOTE FOR LIFE IN
5 PRISON, NEVER FOR THE DEATH PENALTY. AND THEN THERE'S
6 THE THIRD JUROR THAT, IN ESSENCE, COULD GO EITHER WAY.
7 THEY WOULD TAKE THE POSITION THAT EVERY MURDERER
8 DOESN'T DESERVE TO DIE OR LIVE AND THEY'D WANT TO HEAR
9 THAT TRIAL, THE SECOND TRIAL, AND DEPENDENT UPON WHAT
10 THEY HEARD, GOOD AND BAD, THEY COULD VOTE EITHER WAY.
11 WHICH DO YOU THINK YOU BEST FIT IN?

12 A. THE SECOND CATEGORY.

13 Q. IN OTHER WORDS, YOU TAKE THE POSITION THAT
14 UNDER NO CIRCUMSTANCES, NOT -- DOESN'T MAKE ANY
15 DIFFERENCE HOW HEINOUS THE MURDER MIGHT BE, YOU WOULD
16 ALWAYS VOTE FOR LIFE IN PRISON?

17 A. IF IT WAS WITHOUT PAROLE.

18 Q. WELL, YOU SHOULD NOT BE -- AND I WOULD
19 INSTRUCT THE JURY IF THEY WERE SITTING UP THERE THAT
20 YOU CAN'T CONSIDER ANYTHING EXCEPT THE LAW AS I GIVE
21 YOU AND I WOULD SAY THAT A MATTER OF PAROLE WOULD NOT
22 BE UP TO THE JURY. YOU COULDN'T EVEN CONSIDER IT.

23 A. WELL, I'D FALL INTO THE THIRD CATEGORY THEN.
24 I'D HAVE TO DECIDE---

25 Q. IN OTHER WORDS, A JURY IS NOT CONCERNED WITH

1 PAROLE.

2 A. UH-HUH.

3 Q. THEY'RE ONLY CONCERNED ON THE FIRST TRIAL
4 WITH GUILT OR INNOCENCE.

5 A. YEAH.

6 Q. AND IN THE SECOND TRIAL WHETHER THE PROPER
7 SENTENCE IS LIFE OR DEATH AND I WOULD BE TELLING THAT
8 JURY---

9 A. YEAH.

10 Q. ---TO USE THE WORDS LIFE IN PRISON AND DEATH
11 IN THEIR ORDINARY MEANINGS.

12 A. UH-HUH. ABSOLUTELY.

13 Q. IF I INSTRUCTED YOU THAT AND YOU WERE SITTING
14 ON THE JURY, COULD YOU FOLLOW THOSE INSTRUCTIONS AND
15 BRING IN A VERDICT, WHATEVER YOU THOUGHT, AND USE THE
16 WORDS LIFE OR DEATH IN THEIR PLAIN AND ORDINARY
17 MEANING?

18 A. OH, I SEE WHAT YOU MEAN.

19 Q. I'D BE INSTRUCTING THE JURY TO -- NOT TO USE
20 -- OR AS I SAID A MOMENT AGO, TO USE THE WORDS LIFE OR
21 DEATH IN THEIR ORDINARY MEANING.

22 A. WELL, I WOULD PROBABLY FALL -- IN THAT CASE
23 I'D FALL INTO THE THIRD CATEGORY WHERE I WOULD HAVE TO
24 DECIDE LIFE OR DEATH.

25 Q. ALL RIGHT. THERE ARE NO RIGHT OR WRONG

1 ANSWERS AND WE'RE TRYING NOT---

2 A. OKAY.

3 Q. ---TO GET INTO YOUR PERSONAL LIFE. SO, JUST
4 ANSWER ANY QUESTIONS THAT THE ATTORNEYS HAVE THAT YOU
5 FEEL LIKE YOU'D LIKE TO ASK (SIC).

6 A. ALL RIGHT.

7 THE COURT: ALL RIGHT. SOLICITOR?

8 MR. BAILEY: THANK YOU, YOUR HONOR.

9 DIRECT EXAMINATION

10 BY MR. BAILEY:

11 Q. MR. MANN, I'M WALTER BAILEY. I NEED TO ASK
12 YOU A FEW QUESTIONS HERE. LIKE JUDGE BROWN SAID, THERE
13 ARE NO RIGHT OR WRONG ANSWERS AND YOU'RE NOT BEING
14 TESTED OR ANYTHING. WE'RE JUST TRYING TO FIND OUT WHAT
15 YOUR THOUGHTS ARE ON THE DEATH PENALTY. IF WE JUST
16 FORGET ABOUT THIS PARTICULAR CASE AND TALK IN GENERAL
17 TERMS, IF I HAD RUN INTO YOU SOMEWHERE SAY A MONTH AGO
18 BEFORE YOU GET YOUR JURY SUMMONS AND ASK YOU WHAT YOU
19 THOUGHT ABOUT THE DEATH PENALTY JUST IN GENERAL TERMS,
20 WHAT DO YOU THINK YOU MIGHT HAVE TOLD ME THEN?

21 A. IF THERE WAS -- I WOULD BE FOR IT IF THERE
22 WAS NO DOUBT THAT THE PERSON ON TRIAL WAS GUILTY. IT
23 WOULD HELP IF THEY CONFESSED. YOU KNOW, THAT WOULD
24 BE -- THAT WOULD ABSOLUTELY PROVE IN MY MIND THAT THEY
25 COMMITTED A MURDER AND THE DEATH PENALTY WOULD BE

1 JUSTIFIED.

2 Q. ALL RIGHT. SO, NOW, THE JUDGE EXPLAINED TO
3 YOU THE TWO-PART PROCESS WHERE YOU DON'T GET INTO THE
4 SECOND PHASE, THE PENALTY PHASE, UNLESS THE JURY
5 FINDS---

6 A. YEAH, THAT'S TRUE.

7 Q. ---IN THE FIRST STAGE THAT THE PERSON IS
8 GUILTY OF MURDER.

9 A. UH-HUH.

10 Q. SO IN EVERY CASE THAT THAT JURY IS IN THE
11 SECOND PHASE YOU'RE DEALING WITH A CONVICTED MURDERER
12 WHICH YOU'VE ALREADY CONVICTED.

13 A. OKAY. YEAH.

14 Q. NOW, BEARING THAT IN MIND THAT THE ONLY TIME
15 YOU'RE CONSIDERING THAT LIFE AND DEATH ALTERNATIVE
16 YOU'RE DEALING WITH SOMEBODY THAT YOU'VE ALREADY
17 CONVICTED OF MURDER, DOES THAT CHANGE YOUR OUTLOOK ANY?

18 A. I HAVE NO PREFERENCE AT THIS TIME WHETHER I
19 WOULD DECIDE LIFE OR DEATH.

20 Q. OKAY.

21 A. I WOULD HAVE TO DECIDE THAT AT THE SECOND
22 PHASE.

23 Q. THAT WOULD BE BASED ON THE FACTS THAT COME
24 OUT DURING THE COURSE OF THE TRIAL, THE FIRST STAGE AND
25 SECOND STAGE?

1 A. CORRECT.

2 Q. OKAY. NOW, INITIALLY YOU INDICATED TO THE
3 JUDGE THAT YOU FELT LIKE YOU WERE THE NUMBER TWO TYPE
4 JUROR WHO WOULD ALWAYS BRING BACK A LIFE SENTENCE?

5 A. YEAH.

6 Q. CAN YOU EXPLAIN THAT TO ME WHY YOU SAID THAT
7 INITIALLY AND NOW SAYING YOU'RE NUMBER THREE?

8 A. WELL, SOMEONE THAT'S COMMITTED A MURDER HAS
9 TO BE TAKEN OUT OF SOCIETY AND IF IT WAS -- IF I
10 COULD -- IF I COULD TAKE SOMEBODY OFF THE STREETS WITH
11 LIFE IMPRISONMENT WITHOUT PAROLE, THAT WOULD BE
12 PREFERABLE TO DEATH IN MY EYES. BUT IF THERE WAS A
13 CHANCE THAT THE MURDERER WOULD GO FREE ONE DAY, THEN
14 THE DEATH PENALTY WOULD BE THE BEST OPTION.

15 Q. OKAY. YOU UNDERSTOOD WHAT THE JUDGE TOLD YOU
16 ABOUT---

17 A. YEAH, I'M NOT SUPPOSED TO -- WE HAVE TO USE
18 LIFE OR THE TERMS LIFE OR DEATH IN THEIR ABSOLUTE
19 EVERYDAY MEANING AND NOT CONSIDER WHETHER PAROLE IS A
20 FACTOR OR NOT.

21 Q. ALL RIGHT, SIR. IF THE JURY IN THAT SECOND
22 PHASE OF THE TRIAL DECIDES AFTER HEARING ALL THE
23 EVIDENCE THAT THE DEATH PENALTY IS THE MOST APPROPRIATE
24 SENTENCE INSTEAD OF LIFE IMPRISONMENT, THEN ALL TWELVE
25 JURORS HAVE TO SIGN A DEATH VERDICT FORM IN ORDER TO

1 IMPOSE THAT PENALTY. COULD YOU SIGN YOUR NAME ON A
2 FORM LIKE THAT KNOWING THE RESULT WOULD BE THE
3 EXECUTION OF THAT DEFENDANT?

4 A. YEAH, AND THE POSSIBILITY I MIGHT GO TO HELL
5 FOR DOING IT, SURE.

6 Q. OKAY. AND COULD YOU COME OUT INTO OPEN COURT
7 AND ANNOUNCE THAT AS BEING YOUR VERDICT IF IT WAS YOUR
8 VERDICT?

9 A. WHAT WAS THE QUESTION? I COULDN'T HEAR YOU.

10 Q. IF YOU'RE ON A JURY AND THEY DECIDE THE DEATH
11 PENALTY IS THE APPROPRIATE SENTENCE, THERE'S A
12 PROCEDURE CALLED POLLING THE JURY WHERE EACH ONE OF THE
13 JURORS IS ASKED BY THE JUDGE OR THE CLERK OF COURT IF
14 THAT IS YOUR OPINION -- YOUR DECISION AND DO YOU ASSENT
15 THERETO. COULD YOU ANSWER UP IN OPEN COURT?

16 A. YEAH, I THINK I COULD.

17 Q. ALL RIGHT, SIR. YOU -- IN RESPONSE TO ONE OF
18 THE QUESTIONS I JUST ASKED YOU, YOU SAID YOU MAY GO TO
19 HELL IF YOU BROUGHT BACK A DEATH VERDICT.

20 A. IT'S A POSSIBILITY, YEAH. SURE.

21 Q. OKAY. DO YOU HAVE ANY RELIGIOUS CONVICTIONS
22 OR FEELINGS IN REGARDS TO THE DEATH PENALTY THAT MIGHT
23 IMPACT ON YOUR ABILITY TO SIT AS A JUROR?

24 A. I BELIEVE IN THE LAW OF CAUSE AND EFFECT THAT
25 I REALLY BELIEVE THAT YOU SHOULD NOT KILL SOMEBODY

1 DIRECTLY OR INDIRECTLY.

2 Q. WELL, CAN YOU TELL ME HOW THAT RELIGIOUS
3 FEELING MIGHT CARRY OVER INTO YOUR DUTY AS A JUROR?

4 A. THERE WOULD BE SOME FEAR INVOLVED BECAUSE IF
5 I ELECTED TO CHOOSE THE DEATH PENALTY THEN -- I BELIEVE
6 THAT THERE IS A HELL AND YOU'RE NOT SUPPOSED TO KILL
7 PEOPLE AND THAT WOULD QUITE POSSIBLY BE THE RESULT OF
8 ME SENTENCING SOMEONE TO DEATH.

9 Q. OKAY. AND DO YOU THINK THAT YOUR FEAR OF
10 GOING TO HELL WOULD SUBSTANTIALLY IMPAIR YOUR ABILITY
11 TO SIT AS A JUROR IN THAT SECOND PHASE AND BRING BACK
12 THAT EITHER-OR SENTENCE, LIFE OR DEATH?

13 A. IF I WERE SURE THAT I NEEDED TO GET A
14 MURDERER OFF THE STREETS, I WOULD GO AHEAD AND -- I
15 WOULD BE CAPABLE OF CHOOSING THE DEATH PENALTY. I'D BE
16 CAPABLE OF DOING THAT.

17 Q. DO YOU ATTEND ANY CHURCH AT THIS TIME OR WERE
18 YOU BROUGHT UP IN A PARTICULAR DENOMINATION?

19 A. WELL, WHEN I WAS YOUNGER I WOULD GO TO
20 CHURCH, BUT IN MY ADULT LIFE I DID NOT. I'M FROM A
21 SOUTHERN BAPTIST TYPE FAMILY AND MOST OF MY EXPOSURE TO
22 RELIGION IS READING THE BIBLE AND I HAVE READ IT.

23 Q. DO YOU READ THE BIBLE ON A FREQUENT BASIS
24 OR. . . I HATE TO ASK THESE PERSONAL QUESTIONS.

25 A. I DON'T MIND.

1 Q. YOU UNDERSTAND I'VE GOT TO DO THAT.

2 A. I KNOW WHAT'S IN THE BIBLE.

3 Q. OKAY. DO YOU LEAN MORE TOWARDS THE OLD
4 TESTAMENT OR THE NEW TESTAMENT?

5 A. THE NEW TESTAMENT. I'VE STUDIED THAT
6 MOSTLY. THAT'S WHAT I -- THOSE ARE THE RULES I GO BY.

7 Q. DO YOU KNOW OF ANY OTHER REASON THAT WE MAYBE
8 NOT HAVE TALKED ABOUT WHERE YOU WOULD -- YOU THINK
9 MIGHT CAUSE ANY PROBLEMS IN SITTING IN A CASE LIKE
10 THIS?

11 A. NO. IT REQUIRES A SACRIFICE, BUT I COULD DO
12 IT.

13 MR. BAILEY: ALL RIGHT, SIR. MR. MANN,
14 THAT'S ALL I HAVE. THANK YOU VERY MUCH.

15 MR. RUNYON: NO QUESTIONS, YOUR HONOR.

16 THE COURT: THANK YOU VERY MUCH. HOW ABOUT
17 STEP OUTSIDE THE DOOR THERE FOR JUST A MINUTE?

18 THE WITNESS: OKAY.

19 (JUROR MANN WAS EXCUSED FROM OPEN COURT.)

20 THE COURT: ANY MOTIONS FROM THE STATE?

21 MR. BAILEY: YES, SIR. YOUR HONOR, I WOULD
22 THINK BASED ON THIS WITNESS'S ANSWERS I WOULD HAVE TO
23 MOVE THAT HE BE DISQUALIFIED FOR CAUSE. IF I'VE GOT A
24 JUROR THERE WORRIED ABOUT GOING TO HELL BECAUSE OF A
25 DECISION HE'S GOING TO MAKE WHICH HE SAID HE WOULD,

1 THEN THAT WOULD HAVE TO IMPACT---

2 THE COURT: HE SAID HE MIGHT.

3 MR. BAILEY: HE MIGHT GO TO HELL?

4 THE COURT: HE SAID HE MIGHT GO TO HELL FOR
5 IT.

6 MR. BAILEY: YEAH, BUT THE WAY HE COULD BE
7 SURE HE DOESN'T GO TO HELL IS TO VOTE FOR LIFE
8 IMPRISONMENT AND THAT'S WHAT I'M---

9 THE COURT: I DIDN'T UNDERSTAND THAT. I
10 UNDERSTAND THAT HE COULD DO WHAT HE -- NECESSARY TO DO
11 BUT HE MIGHT GO TO HELL FOR IT. SO, YOUR MOTION IS TO
12 EXCLUDE HIM?

13 MR. BAILEY: YES, SIR.

14 THE COURT: AND WHAT'S YOUR. . .

15 MR. BAILEY: BASED ON THAT, YOUR HONOR, AND
16 ALSO ON HIS EQUIVOCATION.

17 THE COURT: ALL RIGHT. COUNSELOR?

18 MR. RUNYON: YOUR HONOR, I MEAN, HERE WE'VE
19 GOT SOMEBODY THAT'S COME IN AND THEY'VE QUITE -- BEEN
20 QUITE CANDID WITH THE COURT AND THEY'VE SAID, LOOK. I
21 COULD -- I COULD DO IT UNDER THESE CIRCUMSTANCES. I
22 THINK THAT I HAVE SOME THINGS WHICH I'M LOOKING FOR
23 AND, YEAH, I'M WORRIED ABOUT KILLING SOMEBODY, BUT I
24 THINK I COULD DO IT IF THAT WAS MY DUTY. AND, FRANKLY,
25 I DON'T KNOW WHAT THE PROSECUTION AND DEFENSE WOULD

1 LOOK MORE FOR IN A JUROR THAN SOMEONE WHO WAS EXTREMELY
2 THOUGHTFUL AND SERIOUS AND CONSIDERED WHAT THEY WERE
3 ABOUT TO DO.

4 THE COURT: WHAT ABOUT HIS ANSWER THAT HE
5 BELIEVES IN CAUSE AND EFFECT?

6 MR. RUNYON: WELL, THAT SCARES ME BECAUSE
7 UNDER THE FACTS OF THIS CASE---

8 THE COURT: WELL, DO YOU -- ARE YOU MOVING
9 THE SAME THING AS THE SOLICITOR?

10 MR. RUNYON: NO, SIR. I THINK HE OUGHT TO BE
11 IN THE POOL, JUDGE.

12 MR. BAILEY: YOUR HONOR, IF I COULD SAY ONE
13 OTHER THING---

14 THE COURT: SURE.

15 MR. BAILEY: ---BEFORE I SIT DOWN HERE. THIS
16 JUROR HAS GOT PAROLE IN HIS MIND AND I DON'T THINK HE
17 CAN GET IT OUT OF HIS MIND AND I DON'T THINK IT OUGHT
18 TO BE A FACTOR, BUT I THINK IT CAN'T HELP BUT COME UP.

19 THE COURT: BUT HE SAID HE BELIEVES THAT
20 SOMEBODY KILLED SOMEBODY THEY OUGHT TO DIE THEMSELVES.

21 MR. RUNYON: THAT'S MY ARGUMENT, JUDGE, IF I
22 WAS GOING TO MAKE IT RIGHT THERE, THAT HE'S GOT THIS --
23 AND I THINK WE ALL HAVE THAT PROBLEM WHEN WE HAVE A
24 CAPITAL CASE ABOUT THESE JURORS WHO CONSIDER PAROLE AND
25 WHAT HAVE YOU, BUT I AIN'T MAKING THAT ARGUMENT.

1 THE COURT: WHAT'S YOUR MOTION?

2 MR. RUNYON: MY MOTION IS KEEP HIM IN THE
3 POOL.

4 THE COURT: I GRANT YOUR MOTION.

5 MR. RUNYON: THANK YOU.

6 THE COURT: ALL RIGHT. BRING HIM IN.

7 (JUROR JAMES MANN WAS BROUGHT BACK INTO OPEN
8 COURT.)

9 THE COURT: MR. MANN, WE ALL DISCUSSED IT AND
10 WE THINK YOU WOULD MAKE A GOOD JUROR---

11 JUROR MANN: OKAY.

12 THE COURT: ---EVEN WITH YOUR FEELINGS BOTH
13 WAYS. THAT DOESN'T MEAN YOU'RE GOING TO BE ON THE
14 JURY. IT JUST MEANS THAT YOU'RE QUALIFIED. I HOPE TO
15 GET 35, 36 PEOPLE TODAY AND I'LL BE IN TOUCH WITH YOU
16 HOPEFULLY TONIGHT. IT MIGHT BE TOMORROW SOMETIME. BUT
17 IN THE MEANTIME, I'M GOING TO EXCUSE YOU AND ASK THAT
18 YOU NOT DISCUSS THE CASE WITH ANYONE OR WATCH T.V. OR
19 READ THE NEWSPAPER, AND WHEN YOU COME BACK, BRING ABOUT
20 -- ENOUGH CLOTHES AND THINGS FOR ABOUT FIVE DAYS. I
21 DON'T THINK IT WILL TAKE THAT LONG, BUT I WANT YOU TO
22 BRING THAT MUCH ANYWAY.

23 JUROR MANN: UH-HUH.

24 THE COURT: AND I NOTICE HERE THAT YOUR
25 TELEPHONE NUMBERS -- COULD YOU BE REACHED ON REASONABLE

1 NOTICE AT THESE TWO TELEPHONE NUMBERS THAT YOU GAVE
2 ME?

3 THE WITNESS: LET ME SEE HERE. YES, SIR, I
4 COULD.

5 THE COURT: OKAY. DON'T GO OUT OF TOWN OR
6 ANYTHING LIKE THAT. AND HOW LONG WILL IT TAKE IF WE
7 CALLED YOU TO REACH YOU BECAUSE I'LL GIVE YOU PLENTY OF
8 TIME TO GET HERE -- HOW LONG WOULD IT TAKE TO REACH YOU
9 IF I CALL THOSE NUMBERS?

10 JUROR MANN: IF YOU CALLED A NUMBER AND I WAS
11 THERE, I MEAN, EVEN IF YOU HAD TO TRY TO---

12 THE COURT: IN OTHER WORDS, COULD THEY GET A
13 MESSAGE TO YOU?

14 JUROR MANN: YES, SIR.

15 THE COURT: OH, ALL RIGHT.

16 JUROR MANN: I WOULD SAY THIRTY MINUTES OR
17 LESS.

18 THE COURT: WE'LL GIVE YOU PLENTY OF TIME.

19 JUROR MANN: ALL RIGHT.

20 THE COURT: HOPE YOU HAVE A GOOD DAY.

21 JUROR MANN: THANK YOU.

22 THE COURT: THANK YOU.

23 JUROR MANN: ALL RIGHT.

24 (JUROR JAMES L. MANN WAS EXCUSED FROM THE
25 COURTROOM.)

1 THE COURT: ALL RIGHT. ROBERT MIMS.
2 (JUROR ROBERT N. MIMS ENTERED THE COURTROOM.)

3 ROBERT N. MIMS, AFTER BEING DULY SWORN,
4 TESTIFIED AS FOLLOWS:

5 EXAMINATION BY THE COURT

6 Q. WELL, MR. MIMS, HOW ARE YOU TODAY?

7 A. I'M DOING PRETTY GOOD. HOW ABOUT YOU?

8 Q. I NOTICE YOU'RE A MECHANICAL ENGINEER AND I
9 ALSO NOTICED WHEN YOU SENT IN THIS INFORMATION YOU HAVE
10 NEVER SERVED AS A JUROR.

11 A. THAT'S RIGHT.

12 Q. I NEVER HAVE EITHER. I ALWAYS WANTED TO
13 BUT. . . I ALWAYS WANTED TO FIND OUT WHAT GOES ON IN A
14 JURY ROOM AND AS A FORMER ATTORNEY I NEVER WAS ABLE.
15 WE ALWAYS THINK WE DO, BUT WE DON'T KNOW. NOT HAVING
16 BEEN AROUND THE CRIMINAL SYSTEM THAT LONG, AS YOU KNOW,
17 A PERSON CHARGED WITH A CRIME IS ALWAYS PRESUMED TO BE
18 INNOCENT.

19 A. (JUROR NODDED HEAD UP AND DOWN.)

20 Q. AND YOU NEED TO ANSWER OUT LOUD BECAUSE I GOT
21 A MACHINE DOWN THERE THAT WANTS TO PICK UP YOUR VOICE.
22 DO YOU UNDERSTAND THAT?

23 A. YES, SIR.

24 Q. MR. ROGERS, WHO SITS BETWEEN HIS ATTORNEYS
25 OVER HERE - AND HIS ATTORNEY ON YOUR LEFT IS MR. BILL

ROBERT N. MIMS - EXAMINATION BY THE COURT

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1 RUNYON AND ON THE RIGHT IS MR. MARK LEIENDECKER - IS
2 CHARGED WITH MURDER AND OVER HERE ON MY LEFT THE FIRST
3 PERSON THERE IS SOLICITOR BAILEY. WE -- AND I'M JUDGE
4 BROWN. WE WANT TO ASK YOU SOME QUESTIONS AND I WANT
5 TELL YOU THAT THERE ARE NO RIGHT OR WRONG ANSWERS.
6 IT'S JUST INFORMATION -- WE ARE ATTEMPTING TO PICK A
7 JURY THAT'S TOTALLY IMPARTIAL THAT WOULD BRING IN A
8 VERDICT THAT SPOKE THE TRUTH.

9 SO, JUST ANSWER ME AS BEST YOU CAN. IF YOU
10 FEEL LIKE YOU NEED TO MAKE AN EXPLANATION, YOU CAN TELL
11 ME THAT. AS I TOLD YOU ALL -- INCIDENTALLY, I NOTICED
12 THAT WHEN I ASKED THE JURY DID THEY KNOW ANYTHING ABOUT
13 IT, I ASKED THEM TO STAND UP IF THEY WATCHED IT ON T.V.
14 OR ANYTHING. I NOTICED YOU DIDN'T STAND UP. DO YOU
15 KNOW ANYTHING ABOUT THIS CASE?

16 A. WELL, YOU ASKED THE QUESTION: DID YOU FOLLOW
17 THE CASE?

18 Q. OH.

19 A. I DID NOT FOLLOW THE CASE.

20 Q. ALL RIGHT. WELL---

21 A. NOW---

22 Q. ---YOU MISUNDERSTOOD ME.

23 A. ---I REMEMBER SEEMED LIKE TWO YEARS AGO
24 HEARING ABOUT THE INCIDENT, BUT THAT WAS IT.

25 Q. IN OTHER WORDS, DO YOU KNOW ANYTHING OR HAVE

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1 YOU READ ANYTHING OR HEARD ANYTHING OR DISCUSSED IT
2 WITH ANYBODY THAT WOULD KEEP YOU FROM GIVING BOTH SIDES
3 A FAIR TRIAL?

4 A. NO, SIR.

5 Q. BECAUSE, AS I TOLD YOU, EVEN IF YOU KNEW
6 SOMETHING ABOUT IT, I'D TELL YOU TO LAY IT ASIDE AND
7 JUST DECIDE THE CASE ON WHAT COMES OUT IN THE
8 COURTROOM. IN ANY EVENT, ON YESTERDAY I TOLD YOU THAT
9 IN AN ORDINARY CASE WHEN A PERSON IS CHARGED WITH A
10 CRIME THE JURY IS ONLY CONCERNED WITH GUILT OR
11 INNOCENCE. THE JUDGE DOES THE SENTENCING. WELL, IN
12 THIS CASE IN WHICH THE STATE IS SEEKING THE DEATH
13 PENALTY, IT'S DIFFERENT. THE JURY DOES BOTH. UNTIL I
14 TOLD YOU THAT, DID YOU KNOW IT?

15 A. NO.

16 Q. IN OTHER WORDS, IN A CASE IN WHICH THE STATE
17 IS SEEKING THE DEATH PENALTY WE REALLY HAVE TWO
18 TRIALS. THE FIRST PORTION OF IT IS ONLY TO DETERMINE
19 WHETHER OR NOT THE STATE PROVES A PERSON GUILTY BEYOND
20 A REASONABLE DOUBT. IF THEY FIND HIM NOT GUILTY, THAT
21 ENDS EVERYTHING. BUT IF THEY FIND HIM GUILTY, WE'LL
22 SAY OF MURDER, THEN WE HOLD ANOTHER TRIAL BECAUSE THEN
23 WE ARE SEEKING FOR THE JURY TO TELL ME WHAT THE PROPER
24 SENTENCE IS. AND AT THAT SECOND TRIAL IT'S DESIGNED TO
25 HELP THE JURY. IT MIGHT BE GOOD AND BAD ABOUT THE

1 PARTY. IT MIGHT BE MITIGATING OR AGGRAVATING
2 CIRCUMSTANCES, ALL INFORMATION TO HELP THE JURY TO
3 DECIDE WHAT TO RECOMMEND TO ME, AND I MUST TELL YOU
4 THAT WHATEVER THE JURY RECOMMENDS I MUST DO BY LAW.
5 SO, IT'S NOT REALLY RECOMMEND. IT'S THE JURY DOING
6 IT.

7 FOR INSTANCE, IF THE JURY DECIDED THAT THE
8 PROPER SENTENCE WAS LIFE IN PRISON, THEN THE FOREMAN
9 WOULD STAND UP AND HE WOULD HAVE A PIECE OF PAPER THAT
10 HE HAD SIGNED AND IT WOULD SAY IN ESSENCE, WE, THE
11 JURY, HAVE DECIDED THAT THE PROPER SENTENCE IS LIFE IN
12 PRISON AND THAT'S EXACTLY WHAT I'D SENTENCE HIM TO. ON
13 THE OTHER HAND, IF THE JURY DECIDED THAT THE PROPER
14 SENTENCE WAS DEATH, IT'S A LITTLE DIFFERENT. EACH
15 JUROR INDIVIDUALLY WOULD SIGN THEIR NAME TO A PIECE OF
16 PAPER AND THE FOREMAN WOULD GET UP AND ANNOUNCE, WE,
17 THE FOLLOWING JURORS, RECOMMEND THAT THE PROPER
18 SENTENCE IS DEATH AND, HERE AGAIN, I MUST DO WHAT THE
19 JURY TELLS ME AND I WOULD SENTENCE HIM TO DEATH BY
20 ELECTROCUTION.

21 NOW, WHEN JURORS LIKE YOURSELF WHO HAVEN'T
22 BEEN AROUND THE SYSTEM TOO LONG COME IN AND THEY'RE
23 CONFRONTED AS POSSIBLE BEING JURORS IN A CASE OF THIS
24 TYPE THEY GENERALLY FALL IN ONE OF THREE CATEGORIES.
25 SO, I'M GOING TO TELL YOU WHAT THOSE THREE CATEGORIES

1 ARE AND THEN I WANT YOU TO TELL ME WHICH ONE YOU THINK
2 YOU BEST FIT IN. JUROR NUMBER ONE IS THAT JUROR THAT
3 WOULDN'T BE INTERESTED IN THAT SECOND TRIAL. THAT
4 JUROR'S NAME -- MIND WOULD BE MADE UP. THEY WOULD TAKE
5 THE POSITION IF YOU KILL SOMEBODY YOU OUGHT TO DIE LIKE
6 AN EYE FOR AN EYE AND A TOOTH FOR A TOOTH SO TO SPEAK
7 AND THEY WOULD ALWAYS VOTE FOR THE DEATH PENALTY IF
8 THAT PERSON WERE CONVICTED OF MURDER.

9 THE SECOND TYPE JUROR WOULD BE EXACTLY THE
10 OPPOSITE. THEY WOULD TAKE THE POSITION NO MATTER HOW
11 HEINOUS THE MURDER MIGHT HAVE BEEN, NO MATTER HOW
12 AGGRAVATING CIRCUMSTANCES MIGHT HAVE BEEN PRESENT, THEY
13 WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY WOULD
14 ALWAYS VOTE FOR LIFE IN PRISON. AND THEN THERE WOULD
15 BE NUMBER THREE. THAT JUROR WOULD TAKE THE POSITION,
16 DEPENDENT UPON WHAT THEY HEARD AT THAT SECOND TRIAL,
17 COULD VOTE EITHER WAY. IF THEY FELT THAT THE PROPER
18 SENTENCE WAS LIFE IN PRISON, THEY COULD VOTE FOR LIFE
19 IN PRISON. IF THEY FELT THAT THE PROPER SENTENCE WAS
20 DEATH, THEY COULD SIGN THEIR NAME AND RECOMMEND TO ME
21 DEATH BY ELECTROCUTION. WHICH DO YOU THINK YOU BEST
22 FIT IN?

23 A. I FIT IN THE SECOND CATEGORY.

24 Q. IN OTHER WORDS, YOU TAKE THE POSITION THAT
25 REGARDLESS OF HOW HEINOUS THE MURDER MIGHT BE YOU COULD

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1 NEVER VOTE FOR THE DEATH PENALTY?

2 A. YES, SIR.

3 Q. WELL, THERE ARE NO RIGHT OR WRONG ANSWERS, AS
4 I TOLD YOU. EVERYBODY'S GOT DIFFERENT OPINIONS. SO,
5 I'M GOING TO LET THE ATTORNEYS ASK YOU SOME QUESTIONS
6 AND YOU JUST ANSWER THEM AS BEST YOU CAN.

7 DIRECT EXAMINATION

8 BY MR. BAILEY:

9 Q. MR. MIMS, I'M WALTER BAILEY. I WANT TO
10 FOLLOW UP A LITTLE BIT ON SOME OF JUDGE BROWN'S
11 QUESTIONS. YOU'VE INDICATED THAT YOU'RE THAT SECOND
12 TYPE JUROR THAT JUST DOES NOT BELIEVE IN THE DEATH
13 PENALTY REGARDLESS OF THE FACTS AND CIRCUMSTANCES?

14 A. YES, SIR.

15 Q. IS THAT CORRECT? AND THERE'S, YOU KNOW, NO
16 RIGHT OR WRONG ANSWERS AND NOTHING WRONG WITH THAT.
17 THAT'S YOUR OPINION AND I RESPECT THAT. IS THAT AN
18 OPINION YOU'VE HELD FOR SOME TIME?

19 A. WELL, I FEEL LIKE IF YOU BELIEVE IN THE DEATH
20 PENALTY YOU HAVE TO BELIEVE ONE HUNDRED PERCENT IN THE
21 DEATH PENALTY AND AS FAR AS REVENGE OR HAVING REVENGE,
22 I IMAGINE FOR ME TO SAY I WANT -- I BELIEVE IN THE
23 DEATH PENALTY, I'D HAVE TO BE ABLE TO PULL THE SWITCH
24 ON ONE OF MINE OR ONE OF MY LOVED ONES AND I NEVER
25 COULD DO THAT. SO, I CAN'T REALLY SAY THAT I BELIEVE

1 THAT SOMEONE ELSE SHOULD. FOR INSTANCE, IF MY SON OR
2 MY DAUGHTER KILLED SOMEONE, I WOULDN'T EVER BE ABLE TO
3 ADMIT THAT THE DEATH PENALTY IS THE RIGHT PENALTY FOR
4 THAT.

5 Q. DO YOU THINK THE DEATH PENALTY IS MORALLY
6 WRONG?

7 A. YES, SIR.

8 Q. ALL RIGHT, SIR. AND IS THAT BASED ON
9 RELIGIOUS CONVICTIONS THAT YOU HAVE?

10 A. JUST MORAL CONVICTIONS.

11 Q. JUST MORAL FEELINGS THAT YOU'VE GOT ABOUT THE
12 DEATH PENALTY.

13 A. YES, SIR.

14 Q. AND IF YOU FELT -- HAVE YOU HAD OCCASION TO
15 THINK ABOUT THAT BEFORE? I MEAN, JUST SITTING AROUND
16 TALKING TO FAMILY OR FRIENDS OR ANYTHING HAVE YOU
17 EXPRESSED---

18 A. YES. I'VE EXPRESSED THAT FEELING TO MY
19 FATHER. MY FATHER HAS THE SAME FEELINGS AS I DO.

20 Q. SO, WOULD THOSE FEELINGS SUBSTANTIALLY IMPAIR
21 YOUR ABILITY TO SIT AS A FAIR AND IMPARTIAL JUROR AND
22 CONSIDER BOTH ALTERNATIVES IF YOU GOT INTO THE SECOND
23 PHASE, THE PENALTY PHASE?

24 A. IF I GOT IN THE SECOND PENALTY PHASE, YES,
25 SIR.

ROBERT N. MIMS - CROSS-EXAMINATION BY MR. RUNYON

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1 Q. ALL RIGHT, SIR. AND YOU WOULD ALWAYS,
2 REGARDLESS OF WHAT FACTS AND CIRCUMSTANCES CAME OUT,
3 VOTE FOR LIFE IN PRISON.

4 A. YES, SIR.

5 MR. BAILEY: THAT'S ALL I HAVE. THANK YOU
6 VERY MUCH.

7 CROSS-EXAMINATION

8 BY MR. RUNYON:

9 Q. MR. MIMS, GOOD MORNING, SIR.

10 A. GOOD MORNING.

11 Q. YOU UNDERSTAND, OF COURSE, THAT A JUROR IS A
12 IMPARTIAL PERSON WHO DOESN'T -- IS NOT RELATED TO
13 ANYBODY IN THE PROCEEDING.

14 A. UH-HUH.

15 Q. SO THAT YOU DON'T HAVE TO JUDGE THE FACTS AND
16 CIRCUMSTANCES AS THEY RELATE TO SOMEONE THAT YOU EVEN
17 KNOW. YOU UNDERSTAND THAT; CORRECT?

18 A. I DON'T SEE HOW YOU SAY THAT YOU'RE IMPARTIAL
19 OR WHENEVER YOU COMMIT SOMEONE TO DEATH. THAT'S -- HOW
20 ARE YOU STEPPING BACK AND SAYING I DIDN'T HAVE ANYTHING
21 TO DO WITH THAT?

22 Q. WELL, NO, I'M NOT SUGGESTING YOU'RE STEPPING
23 BACK AND SAYING I DIDN'T HAVE ANYTHING TO DO WITH THAT,
24 BUT I'M SAYING THAT -- I BELIEVE YOU SAID THAT YOU FELT
25 THAT YOU WOULD HAVE TO BE ABLE TO -- TO BELIEVE IN IT

ROBERT N. MIMS - CROSS-EXAMINATION BY MR. RUNYON

317

1 YOU'D HAVE TO BE ABLE TO PUT ONE OF YOUR OWN CHILDREN
2 TO DEATH, I BELIEVE IS WHAT YOU---

3 A. THAT'S WHAT I SAID.

4 Q. ---IS WHAT YOU USED AS AN EXAMPLE.

5 A. YES, SIR.

6 Q. AND, OF COURSE, YOU REALIZE THAT'S NOT THE
7 SITUATION IN THIS PARTICULAR TRIAL AND IN YOUR DUTY AS
8 A JUROR. ISN'T THAT CORRECT, SIR?

9 A. I DON'T UNDERSTAND.

10 Q. WELL, YOU DON'T KNOW -- YOU DON'T KNOW
11 ANYBODY INVOLVED IN THIS CASE, DO YOU, SIR?

12 A. ABSOLUTELY.

13 Q. OKAY. AND YOU CERTAINLY COULD JUDGE THE
14 FACTS AS IT RELATES TO WHETHER OR NOT THE STATE HAS
15 PROVEN THEIR CASE BEYOND A REASONABLE DOUBT AS TO THE
16 GUILT OR INNOCENCE OF THE DEFENDANT, COULDN'T YOU, SIR?

17 A. YES, SIR, I COULD DO THAT, BUT -- AND WHEN
18 YOU SAY YOU DON'T KNOW THESE PEOPLE, I IMAGINE IF I SAT
19 HERE FOR A DAY OR TWO THEN I WOULD SAY, YES, I KNOW
20 THEM NOW.

21 Q. WELL, AFTER A FEW DAYS OF A TRIAL, YES, SIR,
22 YOU WOULD KNOW. . . WE'D ALL KIND OF KNOW EACH OTHER,
23 SO TO SPEAK.

24 A. YES, SIR.

25 Q. BUT IT'S YOUR POSITION THAT IT'S THE SECOND

ROBERT N. MIMS - CROSS-EXAMINATION BY MR. RUNYON

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1 PHASE THAT YOU ABSOLUTELY COULD NOT PARTICIPATE IN IN
2 REASONABLE DELIBERATIONS WITH YOUR FELLOW JURORS?

3 A. WELL, I WOULD TELL YOU WHAT MY FEELINGS ARE
4 ON THAT SECOND CASE AND I WOULD -- I KNOW THAT WOULD BE
5 MY POSITION JUST KNOWING MY CHARACTER AND THE WAY I
6 FEEL ABOUT---

7 Q. YES, SIR?

8 A. ---THE DEATH PENALTY, I KNOW REGARDLESS OF
9 THE FACTS OF HOW IT WOULD COME OUT, I KNOW HOW I WOULD
10 IN THE END RULE ON THAT DECISION, DEATH OR LIFE IN
11 PRISON.

12 Q. AND THAT WOULD ALWAYS BE FOR LIFE IN PRISON?

13 A. MORE THAN LIKELY.

14 MR. RUNYON: EXCUSE ME ONE MOMENT, YOUR
15 HONOR.

16 (AN OFF-THE-RECORD DISCUSSION TOOK PLACE
17 BETWEEN MR. RUNYON AND MR. LEIENDECKER.)
18 BY MR. RUNYON:

19 Q. AND YOUR CONVICTION IS SO STRONG THAT IF
20 ELEVEN OTHER PEOPLE ARE ON THE JURY AND YOU'RE IN THE
21 JURY ROOM AND SAID WE NEED TO PUT THIS PERSON IN THE
22 ELECTRIC CHAIR, YOU WOULD ABSOLUTELY SAY NO?

23 A. YES, SIR.

24 Q. IN EVERY CIRCUMSTANCE?

25 A. WELL, IT DEPENDS. YOU KNOW, IF IT'S --

ROBERT N. MIMS - CROSS-EXAMINATION BY MR. RUNYON

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1 HYPOTHETICALLY LET'S SAY ONE OF MY KIDS GOT KILLED. I
2 CAN'T TELL YOU IN EVERY CIRCUMSTANCE IF I WAS ON THAT
3 JURY THAT I WOULDN'T VOTE FOR IT BECAUSE I'D BE IN A
4 DIFFERENT STATE OF MIND. IT WOULD BE MORE IN A REVENGE
5 STATE THAN ACTUAL. . .

6 Q. YOU REALIZE, OF COURSE, THAT IF ONE OF YOUR
7 FAMILY WERE INVOLVED YOU'D NEVER BE ON A JURY IN A
8 CASE, DON'T YOU, SIR?

9 A. I REALIZE THAT, BUT YOU SAY IN EVERY CASE.

10 Q. WELL, I MEAN, IN EVERY CASE IN WHICH YOU
11 WOULD SIT ON A JURY.

12 A. YES, SIR.

13 Q. YOU WOULD ALWAYS -- YOU WOULD ALWAYS ADHERE
14 TO YOUR BELIEF THAT THE DEATH PENALTY SHOULD NOT BE
15 IMPOSED?

16 A. YES, SIR.

17 THE COURT: ANY MORE QUESTIONS?

18 MR. RUNYON: NO MORE QUESTIONS, YOUR HONOR.

19 THE COURT: ALL RIGHT. STEP OUTSIDE FOR JUST
20 A MINUTE FOR ME. WILL YOU DO THAT?

21 JUROR MIMS: YES, SIR.

22 (JUROR ROBERT MIMS WAS EXCUSED FROM OPEN
23 COURT OUT.)

24 THE COURT: WELL, I KNOW WHAT YOUR MOTION IS,
25 SOLICITOR.

ROBERT N. MIMS - CROSS-EXAMINATION BY MR. RUNYON

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1 MR. BAILEY: YES, SIR.

2 THE COURT: AND COUNSELOR?

3 MR. RUNYON: YOUR HONOR, JUST FOR THE RECORD
4 I REALIZE WHAT THE SUPREME COURT HAS SAID THAT THE JURY
5 SELECTION PROCESS IN CAPITAL CASES TENDS TO EXCLUDE
6 PEOPLE WHO ARE OPPOSED TO THE DEATH PENALTY AND,
7 THEREFORE, WE'D OBJECT TO HIM BEING EXCLUDED.

8 THE COURT: ALL RIGHT, SIR. BUT YOU
9 UNDERSTAND HE SAID REGARDLESS UNLESS UNDER THE
10 HYPOTHETICAL QUESTION THAT HE WAS SITTING ON A JURY
11 WITH ONE OF HIS CHILDREN. ALL RIGHT. BRING HIM BACK
12 IN FOR ME.

13 (JUROR ROBERT MIMS WAS BROUGHT BACK INTO OPEN
14 COURT.)

15 THE COURT: WE ALL RESPECT YOUR VIEW. THERE
16 ARE PEOPLE LIKE THAT. THERE ARE PEOPLE BOTH WAYS, BUT
17 WHAT WE'RE TRYING TO PICK IS A JURY THAT WOULD BE --
18 THAT HAS AN OPEN MIND AND COULD DO EITHER ONE. SO, I'M
19 GOING TO SEND YOU ABOUT YOUR BUSINESS AND I'M -- WE'RE
20 GOING TO MAIL YOU A CHECK, BUT REMEMBER IT'S NOT MUCH
21 MONEY.

22 JUROR MIMS: THAT'S ALL RIGHT.

23 THE COURT: AND DON'T FORGET, IF YOU WILL,
24 DON'T DISCUSS THIS CASE WITH ANYONE UNTIL THE CASE IS
25 OVER. I'M SPEAKING OF THE JURORS AND I HOPE YOU HAVE A

LESLIE B. LANE - EXAMINATION BY THE COURT

321

1 GOOD WEEK AND I'M GOING TO EXCUSE YOU FOR AT LEAST
2 THREE YEARS. IF YOU'RE DRAWN WITHIN THAT TIME, IT
3 WOULD BE A COMPUTER ERROR, SO YOU WOULDN'T HAVE TO
4 SERVE. HOPE YOU HAVE A GOOD DAY.

5 JUROR MIMS: ALL RIGHT.

6 THE COURT: YOU CAN GO THIS WAY. IT WILL BE
7 FINE. MR. BAILIFF? ALL RIGHT. I WANT LESLIE LANE.

8 (JUROR LESLIE B. LANE ENTERED THE COURTROOM.)

9 LESLIE B. LANE, AFTER BEING DULY SWORN,
10 TESTIFIED AS FOLLOWS:

11 EXAMINATION BY THE COURT

12 Q. MS. LANE, HOW ARE YOU THIS MORNING?

13 A. FINE. NERVOUS.

14 Q. IS IT BECAUSE YOU HAVE NEVER SERVED ON A JURY
15 BEFORE?

16 A. YES, SIR.

17 Q. WELL, YOU DON'T HAVE TO BE NERVOUS. MY
18 GOODNESS. ALL WE'RE GOING TO DO IS ASK YOU SOME
19 QUESTIONS AND IT'S THE KIND OF QUESTIONS YOU CAN'T MAKE
20 A MISTAKE. IN OTHER WORDS, THERE ARE NO RIGHT OR WRONG
21 ANSWERS. WHAT WE'RE REALLY TRYING TO DO IS TO GET
22 ENOUGH INFORMATION THAT WOULD KIND OF HELP US PICK A
23 JURY THAT WILL BRING IN ONE THING, THAT IS, THE TRUTH.
24 WHEN THAT JURY DOES THAT, THEY DON'T HAVE TO APOLOGIZE
25 TO ANYONE.

1 NOW, I'M JUDGE BROWN AND SITTING AT THIS
2 TABLE OVER HERE IS SOLICITOR BAILEY. HE REPRESENTS TH
3 STATE. THE TWO ATTORNEYS WHO SIT IN THE MIDDLE OF THE
4 GENTLEMAN IN THE CENTER, THE TWO ATTORNEYS ON THE
5 RIGHT, YOUR RIGHT, IS MR. LEIENDECKER, MARK
6 LEIENDECKER, AND ON THE LEFT MR. BILL RUNYON AND THEY
7 REPRESENT MR. ROGERS WHO SITS IN THE CENTER AND HE IS
8 CHARGED WITH MURDER. NOW, I NOTICED THAT WHEN I ASKED
9 THE JURY THIS WEEK IF THEY KNEW ANYTHING ABOUT THIS
10 CASE YOU DIDN'T STAND UP. DO YOU KNOW ANYTHING ABOUT
11 IT?

12 A. I DON'T THINK SO. I'VE HEARD A LITTLE HERE
13 AND THERE, BUT I DON'T REALLY KNOW IF THAT'S THIS CASE
14 OR NOT.

15 Q. YEAH. WELL, HAVE YOU HEARD ANYTHING THAT
16 WOULD MAKE YOU FEEL THAT YOU COULDN'T BRING IN A
17 VERDICT THAT WOULD BE THE TRUTH?

18 A. NO.

19 Q. ALL RIGHT. NOW, AS I TOLD YOU ALL ON
20 YESTERDAY, IN AN ORDINARY CASE A JURY IS ONLY CONCERNED
21 WITH GUILT OR INNOCENCE AND IF THEY FIND A PERSON
22 GUILTY THEN THE JUDGE DOES THE SENTENCING. IN A CASE
23 IN WHICH THE STATE IS SEEKING THE DEATH PENALTY, AS IN
24 THIS ONE, IT'S DIFFERENT. THE JURY DOES BOTH. DID YOU
25 KNOW THAT?

LESLIE B. LANE - EXAMINATION BY THE COURT

323

1 A. I REMEMBER YOU SAID THAT YESTERDAY.

2 Q. BUT UNTIL THEN YOU DIDN'T KNOW?

3 A. NO.

4 Q. HERE AGAIN, AS I TOLD YOU, DON'T BE NERVOUS.
5 IN OTHER WORDS, THE FIRST THING WE WOULD DO AFTER WE
6 PICKED TWELVE JURORS AND TWO ALTERNATES, THE STATE
7 WOULD ATTEMPT TO PROVE MR. ROGERS GUILTY OF MURDER. IF
8 THE JURY FOUND HIM NOT GUILTY, THEN THAT WOULD END ALL
9 THE PROCEEDINGS. BUT IF THEY FOUND HIM GUILTY OF
10 MURDER, THEN WE WOULD GO TO A SECOND TRIAL. NOW, THAT
11 SECOND TRIAL WOULDN'T REALLY BE A TRIAL. IT WOULD BE
12 GIVING THE JURY INFORMATION TO HELP THEM DECIDE WHAT
13 THE PROPER PUNISHMENT WOULD BE, WHAT THEY OUGHT TO
14 RECOMMEND TO ME. AND DON'T LET THOSE WORDS "RECOMMEND"
15 FOOL YOU BECAUSE I MUST DO EXACTLY WHAT THE JURY TELLS
16 ME TO DO.

17 IN THIS CASE THERE'S ONLY TWO
18 RECOMMENDATIONS, LIFE OR DEATH. IF THE JURY FOUND THE
19 DEFENDANT GUILTY OF MURDER, THEN THAT SECOND TRIAL
20 MIGHT BE GOOD AND BAD ABOUT HIM. IT MIGHT BE
21 AGGRAVATING CIRCUMSTANCES, EXTENUATING CIRCUMSTANCES,
22 ALL OF THAT TYPE THING. AND WHEN IT WAS OVER IF THE
23 JURY DECIDED THAT THE PROPER PUNISHMENT WOULD BE LIFE
24 IN PRISON, THEN THE FOREMAN WOULD STAND UP AND SIGN A
25 PIECE OF PAPER AND IT WOULD SAY IN ESSENCE, WE, THE

LESLIE B. LANE - EXAMINATION BY THE COURT

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1 JURY, DECIDE THAT THE PROPER PUNISHMENT IS LIFE AND I
2 WOULD SENTENCE HIM TO LIFE.

3 ON THE OTHER HAND, IF THEY DECIDED THAT THE
4 PROPER PUNISHMENT WAS DEATH, THEN IT'S A LITTLE
5 DIFFERENT. EACH JUROR INDIVIDUALLY WOULD SIGN THEIR
6 NAME TO A PIECE OF PAPER AND IT WOULD SAY IN ESSENCE,
7 WE, THESE JURORS, HAVE DECIDED THAT THE PROPER
8 PUNISHMENT IS DEATH AND, HERE AGAIN, I MUST DO WHATEVER
9 THE JURY TELLS ME TO DO. I WOULD SENTENCE HIM TO DEATH
10 BY ELECTROCUTION.

11 NOW, JURORS LIKE YOURSELF WHEN THEY COME IN
12 WHEN THEY ARE FIRST CONFRONTED WITH THE POSSIBILITY OF
13 SERVING ON A JURY THEY GENERALLY FALL WITHIN ONE OF
14 THREE CATEGORIES. I'M GOING TO TELL YOU WHAT THOSE
15 CATEGORIES ARE AND THEN I WANT YOU TO TELL ME WHICH ONE
16 YOU THINK YOU BEST FIT IN. THE FIRST TYPE JUROR,
17 NUMBER ONE, WOULD BE THAT TYPE JUROR THAT WOULD ALREADY
18 HAVE HIS OR HER MIND MADE UP. THEY WOULD TAKE THE
19 POSITION IF YOU KILL SOMEBODY YOU OUGHT TO DIE YOURSELF
20 AND THEY WOULDN'T BE INTERESTED IN THAT SECOND TRIAL.
21 THEY WOULD ALWAYS VOTE FOR DEATH.

22 JUROR NUMBER TWO IS THAT PERSON WHO WOULD BE
23 ESSENTIALLY THE OPPOSITE. THEY ALSO WOULDN'T BE
24 INTERESTED IN THAT SECOND PORTION OF THE TRIAL BECAUSE
25 THEY WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY

1 WOULD ALWAYS VOTE FOR LIFE IN PRISON. AND THEN THERE
2 WOULD BE THE THIRD JUROR THAT WOULD TAKE THE POSITION
3 THAT NOT EVERY MURDERER DESERVES LIFE OR DEATH AND THEY
4 WOULD WANT TO HEAR THAT SECOND TRIAL AND DEPENDING UPON
5 WHAT THEY HEARD THEY COULD VOTE EITHER WAY, FOR LIFE IF
6 NECESSARY OR SIGN THEIR NAME TO THAT PIECE OF PAPER
7 THAT SAID DEATH. WHICH ONE DO YOU THINK YOU BEST FIT
8 IN?

9 A. I THINK IT WOULD HAVE TO BE THE THIRD.

10 Q. IN OTHER WORDS, IT'S YOUR POSITION THAT EVERY
11 MURDERER DOES NOT DESERVE DEATH NOR EVERY MURDERER
12 DESERVE LIFE, BUT DEPENDING UPON WHAT YOU HEARD AT THAT
13 SECOND TRIAL YOU COULD RECOMMEND LIFE OR SIGN YOUR NAME
14 AND RECOMMEND DEATH. IS THAT WHAT YOU'RE TELLING ME?

15 A. YES, SIR?

16 THE COURT: WELL, AS I SAID, THERE ARE NO
17 RIGHT OR WRONG ANSWERS. NOW, THEY'RE GOING TO ASK YOU
18 SOME QUESTIONS. HERE AGAIN, JUST ANSWER THEM AS BEST
19 YOU CAN. SOLICITOR?

20 DIRECT EXAMINATION

21 BY MR. BAILEY:

22 Q. MS. LANE, I JUST HAVE A FEW QUESTIONS TO ASK
23 YOU AND, LIKE THE JUDGE SAID, THERE ARE NO RIGHT OR
24 WRONG ANSWERS. WE JUST NEED TO KNOW HOW YOU FEEL ABOUT
25 THE DEATH PENALTY. IF WE FORGET ABOUT THIS CASE AND

1 JUST TALK IN GENERAL TERMS, IF I HAD MET YOU SOMEWHERE,
2 SAY, THIRTY DAYS AGO AND ASKED YOU WHAT YOU THOUGHT
3 ABOUT THE DEATH PENALTY, WHAT DO YOU THINK YOUR
4 RESPONSE MIGHT HAVE BEEN THEN?

5 A. WELL, I FEEL LIKE IF WITHOUT A DOUBT THERE'S
6 NO QUESTION THAT THE PERSON -- YOU KNOW, HE OR SHE HAD
7 COMMITTED THAT CRIME AND HAD COLD-HEARTEDLY MURDERED
8 SOMEBODY, THEN I -- IF THERE WAS NO QUESTION IN MY MIND
9 ABOUT THE EVIDENCE---

10 Q. YOU UNDERSTAND THAT YOU WOULD NOT EVEN GET
11 INTO THAT SECOND PHASE, THAT PENALTY PHASE, AS A JUROR
12 UNLESS IN THE FIRST PHASE THE JURY FOUND THAT PERSON
13 GUILTY OF MURDER. SO IN EVERY CASE THAT YOU'RE
14 CONSIDERING THAT LIFE AND DEATH ALTERNATIVE, THE
15 DEFENDANT HAS ALREADY BEEN FOUND GUILTY OF MURDER. DO
16 YOU UNDERSTAND THAT?

17 A. WELL, JUST NOW.

18 Q. OKAY. ALL RIGHT. SO, WOULD THE FACT THAT
19 YOU'RE DEALING WITH A MURDERER AND YOU'VE ALREADY FOUND
20 HIM GUILTY OF MURDER -- WOULD YOU STILL HAVE AN OPEN
21 MIND ON THE PUNISHMENT? COULD YOU STILL LISTEN TO THE
22 FACTS THAT I WOULD BE BRINGING OUT IN AGGRAVATION TO
23 TRY TO CONVINCE YOU TO BRING BACK THE DEATH PENALTY AS
24 WELL AS ANY FACTS THAT MIGHT COME OUT IN MITIGATION TO
25 TRY TO CONVINCE YOU TO BRING BACK A LIFE SENTENCE THAT

1 THE DEFENSE MAY COME UP WITH?

2 A. SO, WHAT IS YOUR QUESTION AGAIN?

3 Q. COULD YOU CONSIDER BOTH ALTERNATIVES DESPITE
4 THE FACT THAT YOU'RE DEALING WITH A CONVICTED MURDERER?

5 A. I WOULD KEEP AN OPEN MIND.

6 Q. OKAY. NOW, IF YOU GET INTO THAT SECOND PHASE
7 OF THE TRIAL WHICH IS THE PENALTY PHASE AND THE JURY,
8 ALL ELEVEN PEOPLE, HAVE TO -- I MEAN, ALL TWELVE PEOPLE
9 HAVE TO VOTE UNANIMOUSLY ONE WAY OR THE OTHER. YOU ALL
10 HAVE TO AGREE. IF YOU AND THE OTHER ELEVEN JURORS
11 AFTER HEARING ALL THE FACTS AND THE JUDGE'S CHARGE ON
12 THE LAW TO YOU DECIDED THAT OUT OF THOSE TWO CHOICES,
13 LIFE IN PRISON OR THE DEATH PENALTY, THAT THE DEATH
14 PENALTY WAS THE MOST APPROPRIATE PUNISHMENT, COULD YOU
15 SIGN YOUR NAME TO A DEATH VERDICT FORM ALONG WITH THOSE
16 OTHER ELEVEN JURORS KNOWING THE RESULT WOULD BE THE
17 ACTUAL IMPOSITION OF THE DEATH PENALTY ON THAT
18 DEFENDANT?

19 A. YES.

20 Q. AND COULD YOU COME OUT INTO OPEN COURT AND
21 ANNOUNCE THAT VERDICT IF YOU WERE ASKED WHAT YOUR
22 VERDICT WAS?

23 A. I WOULDN'T LIKE TO, BUT IF I HAD TO. . .

24 Q. IF YOU HAD -- IF YOU HAD ALREADY REACHED THAT
25 DECISION AND SIGNED THE FORM, YOU COULD ALONG WITH THE

LESLIE B. LANE - CROSS-EXAMINATION BY MR. RUNYON

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1 OTHER ELEVEN PEOPLE COME OUT AND ANNOUNCE THAT?

2 A. YEAH, I GUESS, IF I HAD TO.

3 Q. WELL, YOU DON'T HAVE TO DO ANYTHING.

4 A. I DON'T WANT TO.

5 Q. THE CHOICE OF THE PENALTY IS COMPLETELY IN
6 THE HANDS OF THE JURY. YOU KNOW, IF THERE'S A MURDER
7 PROVEN AND AN AGGRAVATING CIRCUMSTANCE PROVEN, THEN THE
8 JURY HAS THE ABILITY TO EITHER BRING BACK LIFE OR
9 DEATH. SO, YOU DON'T HAVE TO DO ANYTHING. BUT MY
10 QUESTION IS: IF YOU DECIDED ALONG WITH THE OTHER
11 JURORS THAT THE DEATH PENALTY WAS APPROPRIATE, COULD
12 YOU COME OUT INTO COURT AND ANNOUNCE WHEN ASKED BY THE
13 JUDGE OR THE CLERK OF COURT IF THAT WAS YOUR DECISION,
14 COULD YOU SAY---

15 A. YES, I COULD.

16 Q. ---THAT THAT WAS YOUR DECISION? DO YOU HAVE
17 ANY RELIGIOUS CONVICTIONS REGARDING THE DEATH PENALTY
18 THAT WOULD INFLUENCE YOU---

19 A. NO.

20 Q. ---AS A JUROR? MS. LANE, THAT'S ALL I HAVE.
21 THANK YOU VERY MUCH.

22 MR. RUNYON: JUST BRIEFLY, YOUR HONOR.

23 CROSS-EXAMINATION

24 BY MR. RUNYON:

25 Q. MS. LANE, YOU INDICATED THAT YOU HEARD

LESLIE B. LANE - CROSS-EXAMINATION BY MR. RUNYON

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1 SOMETHING ABOUT SOME CASE. IT MAY NOT BE THIS
2 PARTICULAR CASE. WHAT -- DO YOU RECALL WHAT YOU DID,
3 IN FACT, HEAR?

4 A. I JUST HEARD THAT THERE WAS A SHOOTING AT A
5 CONVENIENCE STORE AND BASICALLY THAT'S IT. I DIDN'T
6 PAY ANY ATTENTION AND I DON'T EVEN KNOW IF THAT'S THIS
7 CASE. I DON'T KNOW.

8 Q. ALL RIGHT. AND THAT WOULDN'T AFFECT YOUR
9 ABILITY TO JUDGE THE EVIDENCE AS IT COMES IN DURING THE
10 COURSE OF THE TRIAL, WOULD IT, MA'AM?

11 A. NO.

12 Q. AND YOU COULD DECIDE BASED ON THE EVIDENCE
13 YOU HEAR IN THIS COURTROOM VERSUS SOMETHING YOU MAY
14 HAVE HEARD OUTSIDE THE COURTROOM AS TO THE GUILT OR
15 INNOCENCE OF THE DEFENDANT. ISN'T THAT CORRECT, MA'AM?

16 A. YOU MEAN WOULD IT CARRY ANY PRECEDENCE IN MY
17 DECISION?

18 Q. YES, MA'AM. COULD YOU PUT THAT ASIDE?

19 A. OF ANYTHING I HEARD?

20 Q. YES, MA'AM.

21 A. YES.

22 Q. AND YOU'RE A MOTHER, I BELIEVE.

23 A. YES.

24 Q. AND HOW OLD IS YOUR SON, MA'AM?

25 A. THREE.

1 Q. OKAY. AS A PRACTICAL MATTER, WOULD IN A
2 PARTICULAR CASE WHERE THE -- STRIKE THAT. WOULD YOUR
3 BEING AWAY FROM YOUR JOB FOR ANY LENGTH OF TIME CREATE
4 ANY DIFFICULTY FOR YOU OR PERSONAL PRESSURE TO KIND OF
5 GET BACK TO THE JOB, SO TO SPEAK?

6 A. I DON'T THINK SO, BUT I GO TO SCHOOL
7 PART-TIME. IT MAY TAKE ME A WHILE TO GET BACK INTO
8 CATCHING BACK UP WITH MY STUDIES.

9 Q. OKAY. WELL, YOU UNDERSTAND THAT AS A
10 PRACTICAL MATTER YOU MAY BE KEPT IN A MOTEL FOR A
11 WHILE.

12 A. RIGHT.

13 Q. AND WOULD THAT INTERFERENCE WITH YOUR STUDIES
14 CREATE ANY PERSONAL HARDSHIP ON YOU OTHER THAN THE HARD
15 WORK IN TRYING TO CATCH UP?

16 A. NO.

17 Q. OKAY. AND THAT WOULDN'T SET YOU BACK A
18 SEMESTER OR ANYTHING OF THAT SORT, WOULD IT?

19 A. I HOPE NOT. I HOPE I COULD CATCH UP.

20 Q. OKAY.

21 A. IF I COULDN'T CATCH UP, IT WOULD.

22 Q. BUT, I MEAN, YOU'RE NOT GOING TO
23 AUTOMATICALLY BE GIVEN AN INCOMPLETE OR A FAILURE OR
24 ANYTHING IN YOUR COURSE SIMPLY BECAUSE YOU MISSED SOME
25 CLASS DAYS?

LESLIE B. LANE - CROSS-EXAMINATION BY MR. RUNYON

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1 A. I DON'T THINK SO AS LONG -- YOU KNOW, IF IT
2 WASN'T TOO LONG, WASN'T LENGTHY.

3 MR. RUNYON: ALL RIGHT. I HAVE NO FURTHER
4 QUESTIONS AT THIS TIME, YOUR HONOR.

5 THE COURT: ANY MOTIONS?

6 MR. BAILEY: NONE FROM THE STATE, YOUR HONOR.

7 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
8 HONOR.

9 THE COURT: MS. LANE, WE ALL THINK YOU'D MAKE
10 A GOOD JUROR. DOESN'T MEAN YOU'RE ON THE JURY. IT
11 JUST MEANS YOU'D BE ONE OF ABOUT 36 OR 37 PEOPLE AND
12 I'M GOING TO SEND YOU ABOUT YOUR BUSINESS AND I NOTICE
13 YOU GOT SOME TELEPHONE NUMBERS HERE. HOW LONG WOULD IT
14 TAKE YOU IF WE CALLED YOU AT ONE OF THOSE NUMBERS TO
15 REACH YOU.

16 JUROR LANE: IF YOU CALL IN TODAY?

17 THE COURT: WELL, I MIGHT CALL YOU TONIGHT.
18 I MIGHT CALL YOU TOMORROW, MIGHT BE IN THE MIDDLE OF
19 THE DAY. HOW LONG WOULD IT TAKE TO REACH YOU.

20 JUROR LANE: IT WOULD DEPEND BECAUSE I WORK
21 TWO JOBS PLUS I GO TO SCHOOL.

22 THE COURT: WELL, I'VE GOT BOTH OF THOSE
23 NUMBERS THERE.

24 JUROR LANE: YOU WOULD GET ME AT ONE OF THEM.

25 THE COURT: AT ONE OF THEM. ALL RIGHT. AND

RICARDO RIVERA - EXAMINATION BY THE COURT

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1 I'LL GIVE YOU PLENTY OF TIME TO GET HERE, SO DON'T
2 WORRY ABOUT THAT. IN THE MEANTIME, I'M GOING TO ASK
3 THAT YOU NOT READ THE NEWSPAPERS AND WATCH T.V. AND
4 CERTAINLY DON'T DISCUSS THE CASE WITH ANYONE. AND WHEN
5 YOU COME, BRING ENOUGH CLOTHES AND TOILET ARTICLES FOR
6 ABOUT FIVE DAYS. I DON'T THINK IT WILL TAKE THAT LONG,
7 BUT JUST TO BE ON THE SAFE SIDE AND I HOPE YOU HAVE A
8 GOOD DAY.

9 JUROR LANE: THANK YOU.

10 (JUROR LESLIE B. LANE WAS EXCUSED FROM THE
11 COURTROOM.)

12 THE COURT: RICARDO RIVERA.

13 (JUROR RICARDO RIVERA ENTERED THE COURTROOM.)

14 RICARDO RIVERA, AFTER BEING DULY SWORN,
15 TESTIFIED AS FOLLOWS:

16 EXAMINATION BY THE COURT

17 Q. MR. RIVERA, I NOTICE THAT YOU'RE FROM CANAL
18 ZONE?

19 A. YES, SIR.

20 Q. DURING WORLD WAR II I WAS THERE FOR AWHILE,
21 SO I'M FAMILIAR WITH BOTH SIDES OF THE CANAL ZONE.
22 GLAD TO HAVE YOU IN THE UNITED STATES. I NOTICE YOU
23 WENT THROUGH AT ANNAPOLIS, DIDN'T YOU?

24 A. NO, SIR.

25 Q. WERE SWORN IN IN ANNAPOLIS?

1 A. THAT'S WHERE I WAS BORN. I WAS BORN IN
2 MARYLAND.

3 Q. OH, I READ IT WRONG. YOU SERVED IN CANAL
4 ZONE.

5 A. NO, MY FATHER SERVED IN CANAL ZONE.

6 Q. OH. WELL, I READ IT ALL WRONG THEN. OH, IT
7 SAYS HAS ANY MEMBER OF YOUR FAMILY. I GOT YOU. ALL
8 RIGHT. IN ANY EVENT, I NOTICE YOU NEVER SERVED ON A
9 JURY BEFORE.

10 A. NO, SIR.

11 Q. AND I NOTICED ALSO THAT WHEN I ASKED THE
12 PEOPLE YESTERDAY IF THEY KNEW ANYTHING ABOUT THIS CASE
13 YOU DIDN'T STAND UP. DO YOU KNOW ANYTHING ABOUT IT?

14 A. NO. I HAVEN'T BEEN LIVING IN SUMMERVILLE
15 THAT LONG, SO. . .

16 Q. HOW LONG HAVE YOU BEEN LIVING HERE?

17 A. I WENT TO HIGH SCHOOL IN SUMMERVILLE AND I
18 WAS THERE FOR MY SENIOR YEAR. MY FATHER RETIRED FROM
19 -- WHEN WE MOVED FROM PANAMA, HE RETIRED. SO, I JUST
20 LIVED THERE FOR ONE YEAR. I LIVED IN WEST ASHLEY
21 BUT. . .

22 Q. YOU'RE BACK HERE?

23 A. I MOVED BACK TO SUMMERVILLE ABOUT A MONTH AGO
24 AND THAT'S WHEN I RECEIVED THE LETTER IN THE MAIL.

25 Q. THAT'S A PRETTY GOOD WELCOME MAT FOR YOU,

1 WASN'T IT? WELL, IN ANY EVENT, I'M GLAD TO HAVE YOU
2 HERE TODAY. MY NAME IS JUDGE LUKE BROWN AND SITTING IN
3 THE CENTER THERE BETWEEN HIS ATTORNEYS IS MR. ROGERS.
4 HE'S CHARGED WITH MURDER. AND ON YOUR LEFT THERE, ONE
5 OF HIS ATTORNEYS, MR. BILL RUNYON, AND ON YOUR RIGHT
6 ANOTHER ONE OF HIS ATTORNEYS, MR. LEIENDECKER. AND ON
7 MY LEFT OVER HERE, THE FIRST ONE AT THAT TABLE, IS
8 SOLICITOR BAILEY. HE REPRESENTS THE STATE. AND WE'RE
9 GOING TO ASK YOU SOME QUESTIONS AND YOU CAN'T FAIL IN
10 THIS TEST. IT'S JUST -- THERE ARE NO RIGHT OR WRONG
11 ANSWERS. IT'S INFORMATION WE WANT IN AN ATTEMPT TO
12 DRAW A JURY THAT WOULD GIVE BOTH MR. ROGERS AND THE
13 STATE A FAIR TRIAL.

14 NOW, YOU INDICATED YOU HAVEN'T BEEN AROUND
15 THE CRIMINAL SYSTEM TOO LONG. I SUPPOSE YOU KNOW THAT
16 EVERY PERSON IN THE UNITED STATES - AND SOUTH CAROLINA
17 IS NO EXCEPTION - IS ALWAYS PRESUMED TO BE INNOCENT AND
18 THE STATE MUST PROVE A PERSON CHARGED WITH A CRIME
19 GUILTY BEYOND A REASONABLE DOUBT. YOU KNOW THAT, DON'T
20 YOU?

21 A. YES, SIR.

22 Q. NOW, AS I TOLD YOU ALL ON YESTERDAY, IN AN
23 ORDINARY CASE A JURY DECIDES GUILT OR INNOCENCE AND THE
24 JUDGE SENTENCES THAT PERSON.

25 A. RIGHT.

1 Q. IN THIS CASE IN WHICH THE STATE IS SEEKING
2 THE DEATH PENALTY IT'S DIFFERENT. THE JURY DOES BOTH.
3 THEY MAKE WHAT WE CALL RECOMMENDATIONS TO THE JUDGE,
4 BUT BY LAW I MUST FOLLOW THAT RECOMMENDATION. SO, IT'S
5 KIND OF AN ILLNOMER (SIC) OR A MISNOMER, RATHER, TO SAY
6 RECOMMENDATION BECAUSE I MUST DO WHAT THE JURY TELLS ME
7 TO DO. NOW, IN THE FIRST PORTION -- ACTUALLY, WE HAVE
8 TWO TRIALS. THE FIRST PORTION THE STATE IS ATTEMPTING
9 TO SATISFY A JURY THAT THE PERSON CHARGED WITH MURDER
10 IS GUILTY OF THAT, AND IF THE JURY FINDS THAT HE'S NOT
11 GUILTY, THEN THAT ENDS THE PROCEEDING. BUT IF HE'S
12 FOUND GUILTY OF MURDER, THEN WE GO A STEP FURTHER, A
13 SECOND TRIAL, SO TO SPEAK, AND AT THAT TRIAL
14 INFORMATION WOULD BE GIVEN TO THE JURY TO ATTEMPT TO
15 ASSIST THEM IN DECIDING WHAT THE PROPER PUNISHMENT
16 WOULD BE, IN THIS CASE LIFE OR DEATH.

17 SO, THERE MIGHT BE GOOD AND BAD THINGS.
18 THERE MIGHT BE EXTENUATING OR MITIGATING CIRCUMSTANCES
19 OR AGGRAVATING CIRCUMSTANCES. AND WHEN THAT SECOND
20 TRIAL WAS COMPLETED, THE JURY WOULD BE ASKED TO
21 RECOMMEND TO ME WHAT THE PROPER SENTENCE WOULD BE, AND
22 IF THE JURY DECIDED THAT THE PROPER SENTENCE WOULD BE
23 LIFE IN PRISON, THE FOREMAN WOULD SIGN A FORM THAT
24 SAID, WE, THE JURY, DECIDE THAT THE PROPER PUNISHMENT
25 IS LIFE IN PRISON AND I MUST DO THAT. SO, I WOULD

1 SENTENCE HIM TO LIFE IN PRISON.

2 ON THE OTHER HAND, IF THE JURY DECIDED THAT
3 THE PROPER PUNISHMENT WAS DEATH, IT'S DIFFERENT. THEN
4 EACH JUROR INDIVIDUALLY WOULD SIGN THEIR NAME TO A
5 PIECE OF PAPER AND IT WOULD SAY, WE, THE FOLLOWING
6 JURORS, RECOMMEND THAT THE PROPER SENTENCE IS DEATH
7 AND, HERE AGAIN, I MUST DO WHAT THE JURY TELLS ME TO
8 AND SO I WOULD SENTENCE HIM TO DEATH BY ELECTROCUTION.
9 I SEE YOU'RE NODDING YOUR HEAD. SPEAK OUT LOUD IF YOU
10 WILL FOR ME. I'VE GOT A MACHINE OVER THERE THAT NEEDS
11 TO PICK UP YOUR INFORMATION.

12 NOW, JURORS LIKE YOURSELF THAT COME IN AND
13 ARE FIRST CONFRONTED WITH THE IDEA THAT THEY MIGHT SIT
14 ON A CASE OF THIS TYPE GENERALLY FALL IN ONE OF THREE
15 CATEGORIES. SO, I'M GOING TO TELL YOU WHAT THOSE
16 CATEGORIES ARE AND THEN I WANT YOU TO TELL ME WHICH ONE
17 YOU THINK YOU BEST FIT IN.

18 A. (JUROR NODDED HEAD UP AND DOWN.)

19 Q. THE FIRST JUROR IS THAT TYPE JUROR THAT WOULD
20 TAKE THE POSITION THAT IF YOU KILL SOMEBODY YOU OUGHT
21 TO DIE YOURSELF AND THAT JUROR WOULDN'T BE INTERESTED
22 IN THAT SECOND TRIAL BECAUSE HIS MIND WOULD BE MADE
23 UP. THEY WOULD ALWAYS VOTE FOR THE DEATH PENALTY IF
24 THE PERSON WAS CONVICTED OF MURDER. JUROR NUMBER TWO
25 WOULD BE THE OPPOSITE. THAT JUROR WOULD TAKE THE

1 POSITION THAT EVEN THOUGH THAT PERSON HAD BEEN
2 CONVICTED OF MURDER, THEY WOULD NEVER VOTE FOR THE
3 DEATH PENALTY. THEY WOULD ALWAYS VOTE FOR LIFE IN
4 PRISON.

5 AND THEN THERE WOULD BE THE SECOND (SIC) TYPE
6 JUROR THAT WOULD TAKE THE POSITION NOT EVERY MURDERER
7 DESERVED LIFE NOR EVERY MURDERER DESERVED DEATH, BUT
8 THEY WOULD WANT TO HEAR THAT SECOND TRIAL AND DEPENDENT
9 UPON THE CIRCUMSTANCES, THE MITIGATION, AGGRAVATION,
10 THE GOOD AND THE BAD, THEN THEY COULD VOTE EITHER WAY
11 DEPENDING UPON WHAT THEY HEARD. WHICH JUROR DO YOU
12 FEEL YOU BEST FIT IN? WHICH CATEGORY?

13 A. I WOULD BE THE THIRD.

14 Q. THIRD ONE. IN OTHER WORDS, IT'S YOUR
15 POSITION THAT DEPENDENT UPON WHAT YOU HEARD, IF HE WAS
16 CONVICTED OF MURDER, YOU COULD VOTE EITHER WAY.

17 A. YES, SIR.

18 THE COURT: ALL RIGHT. THEY'RE GOING TO ASK
19 YOU SOME QUESTIONS. JUST ANSWER THEM AS BEST YOU CAN
20 AND KEEP IN MIND THAT YOU CAN'T FAIL AT THIS. IT'S
21 JUST INFORMATION WE WANT. SOLICITOR?

22 MR. BAILEY: THANK YOU, YOUR HONOR.

23 DIRECT EXAMINATION

24 BY MR. BAILEY:

25 Q. MR. RIVERA, I'M WALTER BAILEY. I NEED TO ASK

1 YOU A FEW QUESTIONS AND I'LL TRY TO HOLD IT AS SHORT AS
2 I CAN. DID YOU FINISH SUMMERVILLE HIGH SCHOOL?

3 A. YES, SIR.

4 Q. WHAT YEAR WAS THAT?

5 A. 1988.

6 Q. OKAY. AND DO YOU RECALL IF MR. ROGERS WAS A
7 STUDENT THERE AT THAT TIME?

8 A. (JUROR SHOOK HEAD FROM SIDE TO SIDE.) I
9 DIDN'T MEET MANY PEOPLE. I WAS KIND OF NEW.

10 Q. OKAY. YOU DON'T RECALL EVER HAVING SEEN HIM
11 ANYWHERE IN TOWN OR AT SCHOOL OR ANYWHERE ELSE?

12 A. NO, I DON'T RECALL.

13 Q. OKAY. DID YOU GO IN THE ARMY RIGHT AFTER
14 HIGH SCHOOL?

15 A. NO, SIR.

16 Q. OKAY. WHEN DID YOU GO IN THE ARMY?

17 A. I JOINED THE ARMY RESERVES IN MAY OF '93.

18 Q. OKAY. SO YOU DID, WHAT, SIX MONTHS OR SO
19 ACTIVE DUTY?

20 A. I DID, YEAH, EXACTLY SIX MONTHS.

21 Q. OKAY. YOU'RE STILL IN THE RESERVES?

22 A. YES, SIR.

23 Q. OKAY. THE JUDGE ASKED YOU ABOUT THE THREE
24 POSSIBLE TYPE JURORS AND YOU INDICATED YOU'RE THE THIRD
25 TYPE OF JUROR---

1 A. RIGHT.

2 Q. ---WHICH COULD LISTEN TO THE FACTS AND
3 CIRCUMSTANCES AND COME BACK WITH EITHER THE DEATH
4 PENALTY OR LIFE?

5 A. RIGHT.

6 Q. DEPENDING ON WHAT YOU HEARD AND THE LAW THE
7 JUDGE GIVES YOU?

8 A. RIGHT.

9 Q. BEFORE YOU GOT SUMMONED FOR SERVICE IN THIS
10 CASE HAD YOU EVER HAD ANY REASON OR DID YOU EVER, YOU
11 KNOW, TALK WITH YOUR FRIENDS OR FAMILY AND TALK ABOUT
12 THE DEATH PENALTY TO KIND OF FORMULATE AN IDEA IN YOUR
13 OWN MIND HOW YOU FELT ABOUT IT?

14 A. IT'S NEVER REALLY COME UP FOR ANY REASON
15 OTHER THAN I'M CATHOLIC AND---

16 Q. THAT WAS MY NEXT QUESTION.

17 A. OH, OKAY.

18 Q. TO ASK WHETHER OR NOT YOU HAD ANY RELIGIOUS
19 VIEWS ON THE DEATH PENALTY.

20 A. WELL, I AM CATHOLIC, BUT I'M ALSO AN ARMY
21 RESERVIST AND SHOULD I BE IN BATTLE ANY TIME I WOULD
22 ACTUALLY HAVE TO KILL OR BE KILLED. SO, THERE'S A, YOU
23 KNOW, THIN LINE BETWEEN REACHING BOTH, BUT IF SOMEONE
24 HAD TO BE KILLED SO THAT I COULD DEFEND MY OTHER FELLOW
25 SOLDIERS THEN, OF COURSE, I WOULD DO IT.

1 Q. SO, YOU UNDERSTAND THE DIFFERENCE BETWEEN
2 LAWFULLY TAKING SOMEBODY'S LIFE---

3 A. EXACTLY. RIGHT.

4 Q. ---AND TAKING SOMEBODY'S LIFE LAWFULLY LIKE
5 IN COMBAT.

6 A. YES, SIR.

7 Q. OKAY. IF THE JURY, AFTER DETERMINING THAT
8 THE DEFENDANT'S GUILTY OF MURDER IN THE FIRST STAGE,
9 GOES INTO THE SECOND PHASE OR WHEN THEY GO INTO THE
10 SECOND PHASE AND THEY'RE FACED WITH THOSE TWO CHOICES,
11 LIFE IN PRISON OR THE DEATH PENALTY, IF THE JURY
12 DECIDES THAT THE DEATH PENALTY IS THE APPROPRIATE
13 PUNISHMENT INSTEAD OF LIFE IN PRISON, THEN EACH JUROR
14 HAS TO SIGN THEIR NAME TO A FORM, A DEATH VERDICT FORM,
15 THE JUDGE WOULD GIVE TO THEM. IF YOU REACHED THAT
16 DECISION ALONG WITH THE OTHER ELEVEN JURORS, COULD YOU
17 SIGN YOUR NAME TO THAT TYPE FORM?

18 A. IF WE PROVED BEYOND A REASONABLE DOUBT THAT
19 HE SHOULD BE SENTENCED TO DEATH FOR WHATEVER CRIME,
20 THEN, YES, I WOULD SIGN MY NAME.

21 Q. OKAY. AND COULD YOU ALSO COME OUT INTO OPEN
22 COURT AND THERE'S A PROCESS CALLED POLLING THE JURY
23 WHERE THE JUDGE OR THE CLERK OF COURT WOULD ASK EACH
24 INDIVIDUAL JUROR IF THAT WAS THEIR VERDICT. COULD YOU
25 SAY THAT WAS YOUR VERDICT IF IT WAS YOUR VERDICT?

1 A. EXCUSE ME? CAN YOU EXPLAIN THAT?

2 Q. THERE'S A PROCESS CALLED POLLING THE JURY
3 WHERE AFTER THE VERDICT IS ANNOUNCED BY THE FOREMAN
4 THEN---

5 A. WHETHER OR NOT WE ALL AGREED TOGETHER
6 OR. . .

7 Q. ANY DECISION YOU MAKE HAS TO BE UNANIMOUS.

8 A. RIGHT.

9 Q. ALL TWELVE OF YOU HAVE TO AGREE.

10 A. RIGHT.

11 Q. AND MY QUESTION IS: IF YOU DID AGREE ALONG
12 WITH THE OTHER ELEVEN JURORS THAT THE DEATH PENALTY WAS
13 APPROPRIATE, COULD YOU COME OUT INTO OPEN COURT AND
14 ANNOUNCE THAT AS BEING YOUR DECISION?

15 A. YES.

16 MR. BAILEY: THAT'S ALL I HAVE. THANK YOU
17 VERY MUCH.

18 CROSS-EXAMINATION

19 BY MR. RUNYON:

20 Q. MR. RIVERA, IN THE COURSE OF YOUR LIVING IN
21 THE SUMMERVILLE AREA OR ATTENDING SUMMERVILLE HIGH
22 SCHOOL OR ANY OF YOUR OTHER ACTIVITIES, HAVE YOU EVER
23 MET OR COME IN CONTACT WITH SOMEONE BY THE NAME OF
24 DAXTON PATTERSON?

25 A. DAXTON PATTERSON? NO, I DON'T RECALL.

1 Q. ALL RIGHT. AND I BELIEVE IT'S YOUR TESTIMONY
2 THAT IF BASED ON THE FACTS IN THE PENALTY PHASE YOU
3 HELD A SINCERE BELIEF THAT SOMEONE SHOULD RECEIVE THE
4 DEATH PENALTY YOU WOULD BE ABLE TO VOTE FOR THAT.

5 A. YES.

6 Q. AND, LIKEWISE, IF YOU HELD A SINCERE BELIEF
7 THAT SOMEONE SHOULDN'T, BECAUSE OF THE FACTS AND
8 CIRCUMSTANCES YOU HEARD, NOT RECEIVE THE DEATH PENALTY
9 YOU COULD ADHERE TO THAT DECISION ALSO.

10 A. ABSOLUTELY RIGHT.

11 MR. RUNYON: YES, SIR. NO FURTHER QUESTIONS.

12 THE COURT: ANY MOTIONS?

13 MR. BAILEY: NO, SIR, YOUR HONOR.

14 MR. RUNYON: NONE, YOUR HONOR.

15 THE COURT: MR. RIVERA, WE THINK YOU'D MAKE A
16 GOOD JUROR, BUT IT DOESN'T MEAN YOU'RE GOING TO SERVE.
17 IT JUST MEANS YOU'LL BE AMONG THOSE WHICH WE'LL PICK
18 FROM, ABOUT 36 PROBABLY. I'M GOING TO SEND YOU ABOUT
19 YOUR BUSINESS AND I'M GOING TO ASK THAT YOU NOT READ
20 THE NEWSPAPER OR WATCH T.V. OR ANYTHING ABOUT THE CASE
21 AND CERTAINLY DON'T DISCUSS IT WITH ANYONE.

22 JUROR RIVERA: I UNDERSTAND.

23 THE COURT: AND WHEN YOU COME BACK I'M GOING
24 TO ASK THAT YOU BRING ENOUGH CLOTHES AND TOILET
25 ARTICLES FOR ABOUT FIVE DAYS. IT PROBABLY WON'T TAKE

1 THAT LONG. BUT IN THE MEANTIME, WE'RE GOING TO BE
2 NEEDING TO GET IN TOUCH WITH YOU. WILL YOU BE VERY FAI
3 FROM THESE TELEPHONES IF I CALL TONIGHT OR TOMORROW?

4 JUROR RIVERA: NO. DID I PUT DOWN MY. . .

5 THE COURT: WHY DON'T YOU. . .

6 JUROR RIVERA: OKAY. THAT'S MY CURRENT
7 ADDRESS. I WAS JUST MAKING SURE. WHEN THEY SENT THE
8 ORIGINAL -- WHEN I GOT THE LETTER IN THE MAIL, IT WAS
9 TO MY MOTHER'S HOUSE WHERE I LIVED WHEN I WAS IN HIGH
10 SCHOOL.

11 THE COURT: OKAY. WELL, ANYWAY, I HOPE YOU
12 HAVE A GOOD AFTERNOON. THANK YOU VERY MUCH.

13 JUROR RIVERA: OKAY.

14 THE COURT: WOULD YOU LIKE TO TAKE FIVE
15 MINUTES?

16 MR. BAILEY: YES, SIR.

17 MR. RUNYON: YES, SIR.

18 THE COURT: ALL RIGHT. LET'S TAKE ABOUT FIVE
19 MINUTES. LET ME KNOW WHEN Y'ALL ARE READY IF YOU
20 WILL.

21 (WHEREUPON, A SHORT BREAK WAS TAKEN.)

22 THE COURT: BE SEATED. THANK YOU VERY MUCH.
23 ALL RIGHT. MY NEXT ONE IS REGINA KING.

24 (JUROR REGINA KING ENTERED THE COURTROOM.)

25 REGINA H. KING, AFTER BEING DULY SWORN,

1 TESTIFIED AS FOLLOWS:

2 EXAMINATION BY THE COURT

3 Q. WELL, MS. KING, HOW ARE YOU THIS MORNING?

4 A. FINE.

5 Q. I NOTICE YOU HAVE NEVER SERVED ON A JURY
6 BEFORE.

7 A. NO, I HAVEN'T.

8 Q. ARE YOU NERVOUS?

9 A. I'M READY TO GO HOME.

10 Q. WELL, ALL OF US SOMETIMES WOULD LIKE TO BE
11 SOMEWHERE ELSE. BUT BE THAT AS IT MAY, YOU DON'T HAVE
12 TO BE NERVOUS. I KNOW YOU WOULDN'T BE BECAUSE I NOTICE
13 YOUR OCCUPATION. AND WHAT YOU'RE HERE FOR THIS MORNING
14 IS JUST TO ASK YOU SOME QUESTIONS AND THIS IS NOT THE
15 KIND OF TEST YOU CAN FLUNK. IT'S JUST INFORMATION THAT
16 WE WANT IN AN ATTEMPT TO PICK A JURY THAT'S TOTALLY
17 FAIR TO BOTH THE STATE AND THE DEFENSE.

18 A. I UNDERSTAND.

19 Q. YOU INDICATED THAT YOU HAVEN'T SERVED ON A
20 JURY BEFORE. WELL, YOU KNOW, OF COURSE, THAT THE STATE
21 HAS CHARGED MR. ROGERS WHO SITS BETWEEN HIS ATTORNEYS
22 RIGHT THERE WITH THE CHARGE OF MURDER. ON HIS LEFT, ON
23 YOUR RIGHT, THERE'S MR. LEIENDECKER AND ON YOUR LEFT
24 THERE IS MR. RUNYON. THEY REPRESENT HIM. AND OVER
25 HERE THE YOUNG MAN, THE FIRST ONE THERE IS SOLICITOR

1 BAILEY. HE REPRESENTS THE STATE. I NOTICED ON
2 YESTERDAY WHEN I ASKED THE JURY IF THEY KNEW ANYTHING
3 ABOUT THIS CASE YOU DIDN'T STAND UP. DO YOU KNOW
4 ANYTHING ABOUT IT?

5 A. NO, SIR, I DON'T.

6 Q. SO, YOU DON'T KNOW ANYTHING THAT WOULD KEEP
7 YOU FROM GIVING BOTH SIDES A FAIR TRIAL.

8 A. NO, SIR.

9 Q. NOW, I TOLD YOU ON YESTERDAY AND I REMIND YOU
10 AT THIS TIME THAT IN AN ORDINARY CASE, A PERSON CHARGEI
11 WITH A CRIME, THE JURY JUST DECIDES GUILT OR INNOCENCE
12 AND THE JUDGE SENTENCES THAT PERSON.

13 A. (JUROR NODDED HEAD UP AND DOWN.)

14 Q. YOU HAVE SPEAK OUT LOUD. I'VE GOT A MACHINE
15 DOWN THERE THAT WANTS TO HEAR YOU.

16 A. YES, SIR.

17 Q. THANK YOU. WELL, IN A CASE WHERE THE STATE
18 IS SEEKING THE DEATH PENALTY, IT'S DIFFERENT. THE JUR
19 DOES BOTH. DID YOU KNOW THAT?

20 A. YOU EXPLAINED THAT YESTERDAY.

21 Q. BEFORE THAT, DID YOU KNOW IT?

22 A. YES, SIR.

23 Q. OH. WELL, YOU DO KNOW SOMETHING ABOUT THE
24 SYSTEM.

25 A. YES, I DO.

1 Q. IN ANY EVENT, IF YOU WERE DRAWN ON THE JURY
2 THE FIRST THING THAT THE STATE WOULD ATTEMPT TO DO
3 WOULD BE TO DECIDE JUST WHETHER OR NOT THE STATE
4 SATISFIED TWELVE JURORS OF HIS GUILT BEYOND A
5 REASONABLE DOUBT. IF THEY FOUND HIM NOT GUILTY, THAT
6 WOULD END THE PROCEEDING. BUT IF THEY FOUND HIM GUILTY
7 OF MURDER, THEN WE WOULD HAVE A SECOND TYPE TRIAL AND
8 AT THAT TRIAL WHICH IS REALLY NOT A TRIAL -- IT'S A
9 PROCEEDING IN AN ATTEMPT TO GIVE THE JURY INFORMATION
10 TO ENABLE THEM TO BEST PICK WHAT THE PROPER SENTENCE
11 OUGHT TO BE, LIFE OR DEATH, AND IT MIGHT BE GOOD AND
12 BAD ABOUT THE DEFENDANT. IT MIGHT BE EXTENUATING OR
13 MITIGATING CIRCUMSTANCES. IT MIGHT BE AGGRAVATING
14 CIRCUMSTANCES. WHEN IT'S ALL OVER, THE JURY WOULD BE
15 ASKED TO DECIDE THE PROPER SENTENCE TO RECOMMEND TO ME,
16 BUT RECOMMEND REALLY MEANS DIRECT BECAUSE WHATEVER THE
17 JURY DECIDES I MUST BY LAW OBEY THAT.

18 SO, IF THE JURY DECIDED THAT THE PROPER
19 PUNISHMENT WAS LIFE IN PRISON, THE FOREMAN WOULD GET UP
20 AND HE'D SIGN A PIECE OF PAPER AND IT WOULD SAY, WE,
21 THE JURY, RECOMMEND THE PROPER SENTENCE IS LIFE IN
22 PRISON AND I WOULD SENTENCE HIM TO THAT. ON THE OTHER
23 HAND, IF THE JURY DECIDED THAT THE PROPER SENTENCE WAS
24 DEATH, IT'S A LITTLE DIFFERENT THERE. EACH JUROR WOULD
25 SIGN THEIR NAME TO A PIECE OF PAPER AND IT WOULD BE

1 PUBLISHED AND IT WOULD SAY IN ESSENCE, WE, THE
2 FOLLOWING JURORS, DETERMINE THAT THE PROPER SENTENCE
3 WAS DEATH AND I WOULD SENTENCE HIM TO DEATH BY
4 ELECTROCUTION.

5 NOW, JURORS LIKE YOURSELF THAT COME IN AND
6 ARE FIRST CONFRONTED WITH SERVING ON THIS TYPE OF JURY
7 GENERALLY FALL WITHIN ONE OF THREE CATEGORIES. SO, I'M
8 GOING TO TELL YOU THOSE CATEGORIES AND I WANT YOU TO
9 TELL ME WHICH YOU THINK YOU BEST FIT IN.

10 A. YES, SIR.

11 Q. NUMBER ONE JUROR IS THAT JUROR WHO WOULD NOT
12 BE INTERESTED IN THAT SECOND PROCEEDING. THEY WOULD
13 TAKE THE POSITION IF YOU KILL SOMEBODY YOU OUGHT TO DIE
14 YOURSELF, SUCH AN EYE FOR AN EYE AND A TOOTH FOR A
15 TOOTH, SO TO SPEAK. THEY WOULD ALWAYS VOTE FOR THE
16 DEATH PENALTY IF YOU KILL SOMEBODY. THE SECOND TYPE
17 JUROR WOULD BE JUST THE OPPOSITE. THEY WOULD TAKE THE
18 POSITION, NO MATTER HOW HEINOUS THE MURDER MIGHT HAVE
19 BEEN, THEY WOULD NEVER VOTE FOR THE DEATH PENALTY.
20 THEY WOULD ALWAYS VOTE FOR LIFE IN PRISON.

21 AND THEN THERE WOULD BE THE THIRD TYPE OF
22 JUROR WHICH WOULD TAKE THE POSITION THAT EVEN THOUGH HE
23 HAD BEEN CONVICTED OF MURDER THEY WOULD WANT TO KNOW
24 MORE ABOUT THE SITUATION. THEY'D WANT TO KNOW
25 SOMETHING ABOUT THE PERSON, THE CIRCUMSTANCES, AND THEN

1 DEPENDENT UPON WHAT THEY HEARD, IF THEY FELT IT WAS
2 PROPER, THEY COULD VOTE FOR LIFE IN PRISON AND IF THEY
3 FELT IT WAS PROPER THEY COULD SIGN THEIR NAME AND
4 RECOMMEND DEATH. WHICH DO YOU THINK YOU BEST FIT IN?

5 A. IN THE THIRD CATEGORY.

6 Q. THIRD. IN OTHER WORDS, YOU DON'T FEEL THAT
7 EVERY MURDER DESERVES DEATH OR EVERY MURDER DESERVES
8 LIFE. YOU COULD VOTE EITHER WAY?

9 A. YES, SIR, I COULD.

10 Q. ALL RIGHT. THEY'RE GOING TO ASK SOME
11 QUESTIONS. HERE AGAIN, YOU CAN'T FLUNK. SO, JUST
12 ANSWER THEM AS BEST YOU CAN.

13 A. YES, SIR.

14 THE COURT: SOLICITOR?

15 MR. BAILEY: THANK YOU, YOUR HONOR.

16 DIRECT EXAMINATION

17 BY MR. BAILEY:

18 Q. MS. KING, I'M WALTER BAILEY. I'VE GOT A FEW
19 QUESTIONS TO FOLLOW UP ON WHAT JUDGE BROWN JUST ASKED
20 YOU.

21 A. YES, SIR.

22 Q. IF WE FORGET ABOUT THIS PARTICULAR CASE FOR
23 RIGHT NOW AND JUST TALK IN GENERAL TERMS, IF I HAD
24 ASKED YOU A MONTH AGO BEFORE YOU GOT YOUR JURY SUMMONS
25 JUST WHAT YOU THOUGHT IN GENERAL ABOUT THE DEATH

1 PENALTY, WHETHER YOU WERE FOR IT OR AGAINST IT, WHAT DO
2 YOU THINK YOU MIGHT HAVE TOLD ME THEN?

3 A. I WAS NEITHER ONE. I NEVER HAVE BEEN.

4 Q. OKAY.

5 A. I BELIEVE THAT I WOULD NEED ALL THE FACTS TO
6 EVER MAKE A DECISION LIKE THAT.

7 Q. OKAY.

8 A. THAT I'M NEITHER FOR NOR AGAINST. I BELIEVE
9 THAT IT JUST DEPENDS ON THE CIRCUMSTANCES AND WITHOUT
10 THE PROPER FACTS I COULD NOT COMMENT ON THAT.

11 Q. OKAY. AND THE JUDGE EXPLAINED THAT TWO-PART
12 PROCESS WHERE THE FIRST STAGE YOU'RE JUST CONCERNED
13 WITH GUILT OR INNOCENCE?

14 A. YES, SIR.

15 Q. AND IF THE DEFENDANT IS FOUND GUILTY OF
16 MURDER IN THE FIRST STAGE, YOU MOVE TO THE SECOND STAGE
17 AND YOU GET TWO CHOICES, LIFE OR DEATH. ALL TWELVE
18 JURORS HAVE TO AGREE NO MATTER WHAT YOUR DECISION IS.

19 A. I UNDERSTAND.

20 Q. NOW, IN THE SECOND STAGE IF YOU AND THE
21 ELEVEN OTHER JURORS DECIDED AFTER HEARING ALL OF THE
22 FACTS AND THE LAW FROM THE JUDGE THAT THE DEATH PENALTY
23 SHOULD BE IMPOSED, THEN IN ORDER TO CARRY THAT INTO
24 EFFECT EACH ONE OF Y'ALL WOULD HAVE TO SIGN A DEATH
25 VERDICT FORM. COULD YOU SIGN YOUR NAME ON A FORM LIKE

1 THAT?

2 A. IF I BELIEVED IT WAS CORRECT, YES, I COULD.

3 Q. AND COULD YOU COME OUT INTO OPEN COURT AND
4 ANNOUNCE THAT IN OPEN COURT IF YOU WERE ASKED TO?

5 A. YES, I COULD.

6 Q. OKAY. DO YOU HAVE ANY RELIGIOUS FEELINGS
7 ABOUT THE DEATH PENALTY THAT WOULD AFFECT YOUR
8 ABILITY---

9 A. NO, SIR.

10 Q. ---TO MAKE THAT DECISION? MS. KING, THAT'S
11 ALL I HAVE. THANK YOU VERY MUCH.

12 A. THANK YOU.

13 CROSS-EXAMINATION

14 BY MR. RUNYON:

15 Q. MS. KING, I BELIEVE YOU SAID YOU REALLY
16 WANTED TO GO HOME IF YOU HAD YOUR CHOICE.

17 A. YEAH.

18 Q. OKAY.

19 A. I WOULD ALSO LIKE TO SEE THIS GENTLEMAN GET A
20 FAIR TRIAL.

21 Q. ALL RIGHT. AND AS A PRACTICAL MATTER, DO YOU
22 HAVE ANY FAMILY RESPONSIBILITIES OR JOB
23 RESPONSIBILITIES THAT WOULD PUT ANY PRESSURE ON YOU---

24 A. NO, SIR, I DON'T.

25 Q. ---IF YOU WERE AWAY FROM THEM FOR, LET'S SAY,

1 THREE OR FOUR DAYS?

2 A. NO, SIR, I DO NOT.

3 Q. OKAY. SO YOU COULD MAYBE NOT AFFORD TO BE
4 BUT AT LEAST EMOTIONALLY YOU COULD AFFORD TO BE AWAY
5 FROM YOUR RESPONSIBILITIES FOR THREE TO FOUR DAYS.

6 A. YES, SIR. I HAVE AN EXCELLENT HUSBAND, TWO
7 CHILDREN THAT ARE TEN AND ELEVEN, AND MY JOB -- I'M A
8 TEACHER AND I'VE ARRANGED A SUBSTITUTE?

9 MR. RUNYON: OKAY. THANK YOU VERY MUCH. NO
10 FURTHER QUESTIONS, YOUR HONOR.

11 THE COURT: ANY MOTIONS?

12 MR. BAILEY: NO, SIR, YOUR HONOR.

13 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
14 HONOR.

15 THE COURT: THANK YOU. MS. KING, WE ALL
16 THINK YOU'D MAKE A FAIR JUROR. DOESN'T MEAN YOU'RE
17 GOING TO BE ON THE JURY. IT MEANS YOU'D BE AMONG THE
18 PANEL IN WHICH THEY'LL BE CHOSEN. SO, I'M GOING TO
19 SEND YOU ABOUT YOUR BUSINESS AND I NOTICE YOU LEFT ME
20 SOME TELEPHONE NUMBERS. ARE THOSE STILL THOSE THAT I
21 COULD REACH YOU AT REASONABLY SHORT NOTICE?

22 JUROR KING: YES, SIR. I ALSO HAVE A CAR
23 PHONE NUMBER.

24 THE COURT: OH, YOUR CAR. AND WHAT IS THAT
25 CAR?

1 JUROR KING: [REDACTED].

2 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.
3 AND WHILE YOU'RE GONE -- I HOPE TO CALL YOU TONIGHT.
4 IT MIGHT BE TOMORROW SOMETIME, BUT I'LL GIVE YOU TIME
5 TO GET HERE SO YOU DON'T HAVE TO WORRY ABOUT THAT. IF
6 I CALL YOU TOMORROW AND YOU MIGHT STILL BE WORKING, CAN
7 YOU GET A SUBSTITUTE OR WHAT WOULD HAPPEN?

8 JUROR KING: YES, I CAN.

9 THE COURT: OH, ALL RIGHT. IN THE MEANTIME,
10 DON'T TALK ABOUT THE CASE OR WATCH T.V. OR READ THE
11 NEWSPAPER. AND WHEN YOU COME BACK - I DON'T THINK IT
12 WILL TAKE THAT MUCH - BUT BRING ENOUGH CLOTHES FOR
13 ABOUT FIVE DAYS AND I HOPE YOU HAVE A GOOD DAY.

14 JUROR KING: THANK YOU.

15 THE COURT: UH-HUH.

16 (JUROR REGINA KING WAS EXCUSED FROM THE
17 COURTROOM.)

18 THE COURT: JAMES BEASLEY.

19 (JUROR JAMES L. BEASLEY ENTERED THE
20 COURTROOM.)

21 JAMES L. BEASLEY, AFTER BEING DULY
22 SWORN, TESTIFIED AS FOLLOWS:

23 EXAMINATION BY THE COURT

24 Q. MR. BEASLEY, HOW ARE YOU TODAY?

25 A. JUST FINE.

1 Q. WELL, I'M JUDGE BROWN AND I WANT TO INTRODUCE
2 THESE PEOPLE TO YOU. YOU KNOW, OF COURSE, THAT MR.
3 ROGERS WHO SITS BETWEEN HIS ATTORNEYS IS CHARGED WITH
4 MURDER. ON HIS LEFT, ON YOUR RIGHT THERE, IS MR.
5 LEIENDECKER, ONE OF HIS ATTORNEYS, AND THE OTHER ONE IS
6 MR. BILL RUNYON. HE SITS ON YOUR LEFT THERE AND THE
7 FIRST GENTLEMAN OVER HERE IS SOLICITOR BAILEY. HE
8 REPRESENTS THE STATE. HOW LONG WERE YOU IN THE AIR
9 FORCE?

10 A. JUST FOUR YEARS.

11 Q. FOUR YEARS? AND WHAT DID YOU DO IN THE AIR
12 FORCE? I NOTICE YOU WENT TO ADMINISTRATIVE SPECIALTY
13 SCHOOL.

14 A. RIGHT. THAT'S PRIMARILY WHAT I DID. I
15 WORKED IN OPERATIONS, COMMUNICATIONS, THOSE KINDS OF
16 THINGS.

17 Q. I UNDERSTAND. BUT I NOTICE YOU ALSO GOT SOME
18 SERVICE AS A JUROR.

19 A. YES.

20 Q. YOU SERVED BOTH CIVIL AND CRIMINAL. WHAT
21 COUNTY WAS THAT?

22 A. I'M FROM WASHINGTON, D.C.

23 Q. YOU GOT TO SERVE UP THERE?

24 A. YES.

25 Q. AND ON A CRIMINAL CASE, WHAT TYPE CASE DID

1 YOU SERVE ON IF YOU REMEMBER?

2 A. ONE OF THEM WAS, AS I RECALL, WAS ATTEMPTED
3 MURDER. I THINK ONE WAS KIDNAPPING AND SOME THINGS
4 LIKE THAT.

5 Q. ALL RIGHT.

6 A. IT'S A LITTLE DIFFERENT SITUATION THAN HERE,
7 THOUGH, BECAUSE YOU HAVE A POOL AND THEY COME IN AND
8 GET SOME GUYS.

9 Q. HOW DO YOU MEAN WHEN YOU SAY IT'S A LITTLE
10 DIFFERENT?

11 A. WELL, YOU'RE SITTING IN A ROOM AND THEY COME
12 IN AND GET SOME PEOPLE AND TAKE THEM OUT AND THEY JUST
13 CHOOSE THEM RIGHT AWAY.

14 Q. OH, WELL. I DON'T KNOW HOW THEY OPERATE UP
15 THERE, BUT YOU DO KNOW SOMETHING ABOUT IT.

16 A. YES.

17 Q. AND, OF COURSE, YOU KNOW THAT MR. ROGERS
18 SITTING AT THAT TABLE IS AS INNOCENT AS YOU AND I
19 UNLESS THE STATE CAN SATISFY TWELVE JURORS OF HIS GUILT
20 BEYOND A REASONABLE DOUBT. YOU KNOW THAT.

21 A. YES.

22 Q. IN AN ORDINARY -- AND, INCIDENTALLY, WHEN I
23 ASKED IF YOU KNEW ANYTHING ABOUT THIS CASE YOU DIDN'T
24 STAND UP ON YESTERDAY. DO YOU KNOW ANYTHING ABOUT THIS
25 CASE?

1 A. NO, I DON'T.

2 Q. WELL, HE'S CHARGED WITH MURDER AND IN AN
3 ORDINARY CASE, AS YOU KNOW, THE JURY IS JUST CONCERNED
4 WITH GUILT OR INNOCENCE AND THE JUDGE IS CONCERNED WITH
5 SENTENCING THAT PERSON. BUT IN A DEATH PENALTY CASE IN
6 WHICH -- THIS TYPE CASE IN WHICH THE STATE HAS ASKED
7 FOR THE DEATH PENALTY IT'S DIFFERENT. THE JURY DOES
8 BOTH. DID YOU KNOW THAT BEFORE I TOLD YOU?

9 A. NO, I DIDN'T.

10 Q. IN OTHER WORDS, FIRST YOU HAVE A TRIAL. IF
11 THE JURY DECIDES THAT THE STATE HASN'T SATISFIED THEM
12 THAT HE'S GUILTY OF MURDER, THEN THAT WOULD END THE
13 PROCEEDINGS. BUT IF THE JURY FINDS HIM GUILTY OF
14 MURDER, THEN WE HAVE A SECOND TYPE TRIAL AND THAT
15 SECOND PROCEEDING IS AIMED TOWARD GIVING THE JURY
16 INFORMATION TO HELP THEM DECIDE WHAT THE PROPER
17 SENTENCE IS, LIFE OR DEATH, BECAUSE THE JURY DOES IT
18 ALSO. THEY RECOMMEND TO THE COURT, BUT BY LAW I MUST
19 DO EXACTLY WHAT THE JURY RECOMMENDS. SO, THAT WORD
20 RECOMMEND REALLY IS A MISNOMER.

21 FOR INSTANCE, IF THE JURY FOUND HIM GUILTY OF
22 MURDER, THEN IN THAT SECOND PROCEEDING -- AND THEY
23 LISTENED TO THE GOOD AND THE BAD PERHAPS ABOUT HIM OR
24 THE EXTENUATING OR MITIGATING CIRCUMSTANCES, THE
25 AGGRAVATING CIRCUMSTANCES, THE JURY WOULD BE EXPECTED

1 TO RECOMMEND TO THE COURT WHAT THE PROPER SENTENCE
2 WOULD BE. AND IF THE JURY DECIDED THE PROPER SENTENCE
3 WAS LIFE IN PRISON, THEN THAT FOREMAN WOULD SIGN A
4 PIECE OF PAPER AND IT WOULD SAY, WE, THE JURY, FIND
5 THAT THE PROPER SENTENCE IS LIFE IN PRISON AND THAT'S
6 WHAT I'D SENTENCE HIM TO.

7 ON THE OTHER HAND, IF THE JURY DECIDED THAT
8 THE PROPER SENTENCE FOR THAT PARTICULAR MURDER WAS
9 DEATH, THEN IT'S A LITTLE DIFFERENT. EACH JUROR
10 INDIVIDUALLY WOULD SIGN THEIR NAME TO A PIECE OF PAPER
11 AND IT WOULD SAY, WE, THE JURY, THIS FOLLOWING JURY,
12 HAVE DETERMINED THAT THE PROPER SENTENCE IS DEATH AND
13 IF THAT WAS THE RECOMMENDATION, I MUST BY LAW -- I
14 WOULD SENTENCE HIM TO DEATH BY ELECTROCUTION.

15 NOW, JURORS WHEN THEY COME INTO COURT AND ARE
16 FIRST CONFRONTED WITH THE POSSIBILITY OF SERVING ON
17 THIS TYPE JURY GENERALLY FALL WITHIN ONE OF THREE
18 CATEGORIES. I'M GOING TO GIVE YOU THOSE CATEGORIES AND
19 THEN I'M GOING TO ASK YOU WHICH ONE YOU THINK YOU BEST
20 FIT. THE FIRST TYPE OF JUROR IS THAT TYPE OF JUROR
21 THAT TOOK THE POSITION IF YOU KILL SOMEBODY YOU OUGHT
22 TO DIE YOURSELF AND THEY WOULDN'T BE INTERESTED IN THAT
23 SECOND PROCEEDING. THEIR MIND WOULD HAVE ALREADY BEEN
24 MADE UP. THEY WOULD ALWAYS VOTE FOR THE DEATH
25 PENALTY.

1 THE SECOND TYPE JUROR WOULD BE JUST THE
2 OPPOSITE. THEY WOULD TAKE THE POSITION THAT REGARDLESS
3 OF HOW HEINOUS THE MURDER MIGHT HAVE BEEN THEY WOULD
4 NEVER VOTE FOR THE DEATH PENALTY AND THEY ALSO WOULDN'T
5 BE INTERESTED IN THAT SECOND PROCEEDING BECAUSE THEY
6 WOULD ALWAYS VOTE FOR LIFE IN PRISON. AND THE THIRD
7 TYPE JUROR WOULD BE THAT TYPE JUROR WHO COULD GO EITHER
8 WAY DEPENDING UPON WHAT THAT SECOND PROCEEDING
9 PRODUCED. THEY WOULD TAKE THE POSITION THAT EVERY
10 MURDERER SHOULDN'T DESERVE DEATH NOR SHOULD EVERY
11 MURDERER DESERVE LIFE, BUT THEY COULD VOTE EITHER WAY.
12 WHICH ONE DO YOU THINK YOU BEST FIT IN?

13 A. THE LAST ONE YOU MENTIONED THERE.

14 Q. IN OTHER WORDS, YOU'D TAKE THE POSITION THAT
15 DEPENDING UPON WHAT YOU HEARD, IF HE WERE CONVICTED OF
16 MURDER, DEPENDING UPON WHAT THE CIRCUMSTANCES, THE GOOD
17 AND BAD ABOUT HIM, YOU COULD VOTE EITHER WAY.

18 A. YES, SIR.

19 Q. IS THAT WHAT YOU'RE TELLING ME?

20 A. YES, SIR?

21 THE COURT: ALL RIGHT. THERE ARE NO RIGHT OR
22 WRONG ANSWERS AND SO JUST ANSWER THE ATTORNEYS AS THEY
23 ASK YOU THE QUESTIONS HOWEVER YOU FEEL THE PROPER
24 ANSWER IS. SOLICITOR?

25 MR. BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION

BY MR. BAILEY:

Q. MR. KING (SIC), I'M WALTER BAILEY. I WANT TO FOLLOW UP A LITTLE BIT ON SOME OF THE QUESTIONS JUDGE BROWN ASKED YOU. AND LIKE HE SAID, THERE ARE NO RIGHT OR WRONG ANSWERS AND WE'RE NOT TESTING YOU. WE JUST NEED TO FIND OUT WHAT YOUR THOUGHTS ARE. IF I HAD RUN INTO YOU SOMEWHERE, SAY, A MONTH AGO AND STARTED TALKING IN GENERAL TERMS ABOUT THE DEATH PENALTY AND I'M NOT TALKING ABOUT THIS PARTICULAR CASE BUT JUST IN GENERAL, WHAT DO YOU THINK YOU MIGHT HAVE TOLD ME THEN THAT YOUR VIEWS WERE ON THE DEATH PENALTY?

A. PROBABLY THAT I HAD READ QUITE A BIT LATELY ABOUT LACK OF THE DEATH PENALTY OR SOME JUDGES NOT BEING ABLE TO ENFORCE IT AND THINGS ARE JUST RUNNING HIGH ABOUT THAT. BUT BASICALLY I THINK I WOULD HAVE SAID THAT I'D HAVE TO WAIT AND SEE WHAT IT WAS BECAUSE I'VE HEARD SO MUCH ABOUT PEOPLE NOT HAVING ANY LATITUDE ON THAT EVEN IN CASES OF DRUGS EVEN.

Q. OKAY. BUT AS FAR AS YOUR PERSONAL BELIEFS, DO YOU THINK THAT IT'S APPROPRIATE IN SOME CIRCUMSTANCES AND NOT APPROPRIATE IN OTHERS?

A. YES.

Q. ALL RIGHT, SIR. NOW, IF WE GO INTO THAT SECOND STAGE THAT THE JUDGE TALKED TO YOU ABOUT WHICH

1 WE WOULDN'T GET TO UNLESS THE JURY FOUND THE DEFENDANT
2 GUILTY OF MURDER IN THE FIRST STAGE, YOU'VE GOT TWO
3 CHOICES: LIFE IN PRISON OR THE DEATH PENALTY. IN THAT
4 SECOND STAGE ALL TWELVE JURORS HAVE TO AGREE ON
5 WHATEVER THE DECISION IS, EITHER LIFE IN PRISON OR THE
6 DEATH PENALTY. IF YOU WERE ON A JURY IN A CAPITAL
7 MURDER CASE AND YOU GOT TO THAT SECOND STAGE AND YOU
8 AND THE OTHER ELEVEN JURORS DECIDED THE DEATH PENALTY
9 WAS THE APPROPRIATE SENTENCE, THEN IN ORDER TO CARRY
10 THAT PENALTY OUT EACH JUROR WOULD HAVE TO SIGN THEIR
11 NAME TO A FORM, A DEATH VERDICT FORM. COULD YOU SIGN
12 YOUR NAME TO A FORM LIKE THAT KNOWING WHAT THE RESULTS
13 WOULD BE?

14 A. YES. CERTAINLY.

15 Q. AND COULD YOU COME INTO OPEN COURT AND
16 ANNOUNCE THAT DECISION?

17 A. YES.

18 Q. IF REQUESTED BY THE JUDGE OR CLERK OF COURT?

19 A. YES.

20 Q. DO YOU HAVE ANY RELIGIOUS BELIEFS IN REGARD
21 TO THE DEATH PENALTY THAT WOULD INTERFERE OR HAVE ANY
22 INFLUENCE ON WHAT YOUR CHOICE MIGHT BE IF WE GOT TO THE
23 SECOND STAGE?

24 A. NO.

25 MR. BAILEY: MR. BEASLEY, I BELIEVE THAT'S

1 ALL I HAVE. THANK YOU VERY MUCH.

2 MR. RUNYON: GOOD MORNING, MR. BEASLEY.

3 THE WITNESS: GOOD MORNING.

4 MR. RUNYON: NO QUESTIONS. NO MOTIONS.

5 THE COURT: ALL RIGHT. THANK YOU.

6 SOLICITOR, ANY MOTIONS?

7 MR. BAILEY: NO, SIR.

8 THE COURT: MR. BEASLEY, WE ALL THINK YOU'D
9 MAKE A GOOD JUROR. DOESN'T MEAN YOU'RE GOING TO SERVE
10 ON THE JURY. IT JUST MEANS YOU WILL BE ONE OF 35, 36,
11 37 THAT WE'LL DRAW, AND SO I'M GOING TO SEND YOU ABOUT
12 YOUR BUSINESS AND ASK -- AND TELL YOU THAT I'LL BE
13 CALLING YOU HOPEFULLY TONIGHT BUT IT MIGHT BE TOMORROW
14 SOMETIME. I COULD REACH YOU AT THESE TELEPHONE NUMBERS
15 YOU GAVE ME, I SUPPOSE.

16 JUROR BEASLEY: YES, SIR.

17 THE COURT: SO DON'T GO OUT OF TOWN OR
18 ANYTHING; JUST BE WHERE I CAN REACH YOU. IN THE
19 MEANTIME, DON'T TALK TO ANYONE ABOUT THE CASE OR READ
20 NEWSPAPERS OR WATCH T.V. ABOUT IT.

21 JUROR BEASLEY: RIGHT.

22 THE COURT: AND WHEN YOU COME BACK, BRING
23 ENOUGH CLOTHES AND TOILET ARTICLES FOR ABOUT FIVE
24 DAYS. I DON'T THINK IT WILL TAKE THAT LONG, BUT JUST
25 BRING ALL THAT TO BE SURE.

1 JUROR BEASLEY: ALL RIGHT.

2 THE COURT: AND I HOPE YOU HAVE A GOOD DAY.

3 JUROR BEASLEY: THANK YOU.

4 (JUROR JAMES L. BEASLEY WAS EXCUSED FROM THE
5 COURTROOM.)

6 THE COURT: JOSEPH STUBBS.

7 (JUROR JOSEPH D. STUBBS ENTERED THE
8 COURTROOM.)

9 JOSEPH D. STUBBS, AFTER BEING DULY
10 SWORN, TESTIFIED AS FOLLOWS:

11 EXAMINATION BY THE COURT

12 Q. MR. STUBBS, HOW ARE YOU TODAY?

13 A. FINE, SIR.

14 Q. MY NAME IS JUDGE LUKE BROWN AND, OF COURSE,
15 YOU KNOW TODAY WE'RE ATTEMPTING TO PICK A JURY OR PICK
16 A PANEL TO DECIDE THE ISSUES IN THE STATE VERSUS MR.
17 ROGERS. HE SITS THERE WITH HIS ATTORNEYS AND HE'S
18 CHARGED WITH MURDER. AND WITH HIM, HIS ATTORNEY ON HIS
19 LEFT OR YOUR RIGHT, IS MR. LEIENDECKER. THAT'S ONE OF
20 THE ATTORNEYS AND MR. RUNYON ON THE RIGHT THERE AND
21 THIS IS SOLICITOR BAILEY ON -- THE FIRST GENTLEMAN
22 THERE. HE REPRESENTS THE STATE AND IN THIS -- THESE
23 QUESTIONS THAT WE'RE GOING TO ASK YOU, THERE ARE NO
24 RIGHT OR WRONG ANSWERS. IT'S JUST INFORMATION TO
25 ASSIST US IN GETTING THAT PANEL. I'M IMPRESSED WITH

1 YOUR EDUCATION AND YOU ENDED UP WORKING FOR A GOOD
2 INSURANCE COMPANY. AND SO I THOUGHT I'D ASK YOU: HAVE
3 YOU NEGOTIATED WITH ANY OF THE ATTORNEYS HERE, MR.
4 STUBBS?

5 A. NO, SIR, NOT THAT I CAN RECALL.

6 Q. I WAS JUST CURIOUS. WOULDN'T MAKE ANY
7 DIFFERENCE AT ALL. I HAD A LAW PROFESSOR NAMED
8 STUBBS. THAT WOULDN'T HAVE BEEN YOUR RELATION?

9 A. NO, SIR.

10 Q. GOOD PROFESSOR. I NOTICE YOU'VE SERVED ON A
11 CIVIL CASE. DID IT HAPPEN TO BE IN THIS COUNTY?

12 A. IT WAS IN CHARLESTON COUNTY.

13 Q. CHARLESTON?

14 A. YEAH, AND IT WAS A REAL SHORT CASE.

15 Q. THEY DIDN'T -- IT WASN'T AN AUTOMOBILE
16 ACCIDENT CASE, WAS IT?

17 A. NO, SIR. NO. I DON'T THINK THEY WOULD HAVE
18 LET ME ON THAT ONE.

19 Q. I'M SURE THAT THEY WOULD HAVE. I'M GOING TO
20 ASK YOU SOME QUESTIONS AND, AS I TOLD YOU, THERE ARE NO
21 RIGHT OR WRONG ANSWERS. YOU KNOW, OF COURSE, THAT MR.
22 ROGERS SITTING AT THAT TABLE IS AS INNOCENT AS YOU AND
23 I.

24 A. (JUROR NODDED HEAD UP AND DOWN.)

25 Q. THAT THE STATE WOULD HAVE TO PROVE HIM

1 GUILTY, IF INDEED THEY CAN, OF HIS GUILT OF MURDER
2 BEYOND A REASONABLE DOUBT. YOU KNOW THAT.

3 A. YES, SIR.

4 Q. IN AN ORDINARY CASE, AS I TOLD YOU ALL
5 YESTERDAY, A JURY IS JUST CONCERNED WITH GUILT OR
6 INNOCENCE AND THE JUDGE DOES THE SENTENCING. IN A CASE
7 IN WHICH THE STATE IS SEEKING THE DEATH PENALTY, THE
8 JURY DOES BOTH IN THIS TYPE CASE. DID YOU KNOW THAT
9 BEFORE I TOLD YOU?

10 A. NO, SIR.

11 Q. THAT'S TRUE. AND I ALSO NOTICED THAT WHEN I
12 ASKED YESTERDAY WHETHER YOU KNEW ANYTHING ABOUT THE
13 CASE YOU DIDN'T STAND UP. DID YOU KNOW ANYTHING ABOUT
14 IT?

15 A. I REMEMBER VAGUELY HEARING THAT IT HAPPENED.

16 Q. DO YOU KNOW ANYTHING THAT YOU'VE HEARD, IF IT
17 WAS THIS, THAT WOULD KEEP YOU FROM GIVING BOTH SIDES A
18 FAIR TRIAL?

19 A. NO, SIR.

20 Q. NOW, ACTUALLY THIS TYPE PROCEEDING IS IN TWO
21 STAGES. THE FIRST THING IS THE STATE -- I'D DRAW MY
22 JURORS AND THE STATE WOULD ATTEMPT TO PROVE HIM GUILTY
23 OF MURDER BEYOND A REASONABLE DOUBT. IF THE JURY
24 DECIDED THAT HE WASN'T GUILTY OF THAT, THAT WOULD END
25 EVERYTHING. BUT IF THEY DECIDED HE WAS GUILTY OF

1 MURDER, THEN WE WOULD HAVE A SECOND PROCEEDING. THAT'S
2 CALLED A SENTENCING PHASE AND IT'S DESIGNED TO GIVE THE
3 JURY INFORMATION TO ENABLE THEM TO DECIDE WHAT IS THE
4 PROPER SENTENCE, LIFE OR DEATH. YOU MIGHT HEAR GOOD
5 AND BAD THINGS ABOUT THE PARTIES. YOU MIGHT HEAR
6 EXTENUATING OR AGGRAVATING CIRCUMSTANCES, AND THEN AT
7 THE END OF THAT PROCEEDING THE JURY WOULD BE ASKED TO
8 RECOMMEND TO ME WHAT THE PROPER SENTENCE IS. DON'T LET
9 THE WORD RECOMMEND FOOL YOU BECAUSE I MUST DO BY LAW
10 EXACTLY WHAT THE JURY TELLS ME TO DO.

11 FOR INSTANCE, IF THE JURY DECIDED THAT THE
12 PROPER SENTENCE WAS LIFE IN PRISON, THE FOREMAN WOULD
13 STAND UP AND HE'D SIGN A PIECE OF PAPER AND IT WOULD
14 SAY IN ESSENCE, WE, THE JURY, RECOMMEND LIFE IN PRISON
15 AND THAT'S WHAT I'D SENTENCE HIM TO. ON THE OTHER
16 HAND, IF THE JURY DECIDED THAT THE PROPER SENTENCE WAS
17 DEATH, IT'S A LITTLE DIFFERENT. EACH JUROR THEN
18 INDIVIDUALLY WOULD SIGN THEIR NAME TO A PIECE OF PAPER
19 AND IT WOULD SAY, WE, THE FOLLOWING JURORS, RECOMMEND
20 THAT THE PROPER SENTENCE IN THIS CASE IS DEATH AND I
21 WOULD SENTENCE HIM TO DEATH BY ELECTROCUTION.

22 NOW, JURORS, WHEN THEY COME IN WITH NO
23 EXPERIENCE IN DEATH PENALTY CASES OF THIS TYPE,
24 GENERALLY FALL IN ONE OF THREE CATEGORIES. SO, I'M
25 GOING TO TELL YOU THOSE CATEGORIES AND I WANT YOU TO

1 TELL ME WHICH ONE YOU THINK YOU BEST FIT. JUROR NUMBER
2 ONE IS THAT TYPE JUROR WHO WOULD TAKE THE POSITION IF
3 YOU KILL SOMEBODY YOU OUGHT TO DIE YOURSELF. IN OTHER
4 WORDS, THEY WOULDN'T BE INTERESTED IN LISTENING TO THAT
5 SECOND TRIAL. THEIR MIND WOULD BE MADE UP. THEY WOULD
6 ALWAYS VOTE FOR THE DEATH PENALTY.

7 THEN THERE'S THE SECOND TYPE JUROR THAT WOULD
8 TAKE THE POSITION THAT REGARDLESS OF HOW HEINOUS THE
9 MURDER MIGHT HAVE BEEN THEY WOULD NEVER VOTE FOR THE
10 DEATH PENALTY AND THEY ALSO WOULDN'T BE INTERESTED IN
11 THAT SECOND PROCEEDING. AND THEN THERE WOULD BE THE
12 THIRD TYPE OF JUROR THAT COULD GO EITHER WAY. THEY
13 WOULDN'T TAKE THE POSITION THAT EVERY MURDERER OUGHT TO
14 BE SENT TO THE ELECTRIC CHAIR OR THAT EVERY MURDERER
15 OUGHT TO BE SENT TO PRISON, BUT THEY WOULD WANT TO
16 LISTEN AND DEPENDING UPON WHAT THEY HEARD THEY COULD
17 VOTE EITHER WAY, VOTE FOR LIFE OR SIGN THEIR NAME TO
18 THAT PIECE OF PAPER THAT SAID DEATH. WHICH DO YOU
19 THINK YOU BEST FIT?

20 A. I'D FIT THE THIRD CATEGORY.

21 Q. THIRD. WELL, THE ATTORNEYS ARE GOING TO ASK
22 YOU SOME QUESTIONS. HERE AGAIN, I WANT YOU TO TELL --
23 TO REMIND YOU THAT THERE ARE NO RIGHT OR WRONG
24 ANSWERS. JUST ANSWER AS BEST YOU CAN AND IF YOU FEEL
25 LIKE YOU WANT TO EXPLAIN IT, STOP AND EXPLAIN IT.

1 A. OKAY.

2 THE COURT: SOLICITOR?

3 MR. BAILEY: THANK YOU, YOUR HONOR.

4 DIRECT EXAMINATION

5 BY MR. BAILEY:

6 Q. MR. STUBBS, I'M WALTER BAILEY. I'VE GOT VERY
7 FEW QUESTIONS I WANT TO ASK YOU JUST FOLLOWING UP ON
8 WHAT JUDGE BROWN HAS TALKED TO YOU ABOUT. JUDGE BROWN
9 TOLD YOU ABOUT THERE POSSIBLY BEING TWO PHASES OF THE
10 TRIAL, THE GUILT PHASE WHERE THE JURY DECIDES WHETHER
11 OR NOT THE STATE CAN PROVE THE DEFENDANT IS GUILTY OF
12 MURDER BEYOND A REASONABLE DOUBT AND THE PENALTY PHASE
13 WHERE IF WE PROVE HIM GUILTY OF MURDER WE GO INTO THE
14 PENALTY PHASE AND THE JURY HAS TWO CHOICES, LIFE IN
15 PRISON OR THE DEATH PENALTY.

16 IN THAT SECOND PHASE ALL TWELVE JURORS HAVE
17 TO AGREE ON EITHER LIFE OR DEATH. IF THE JURY AGREED
18 AFTER HEARING ALL OF THE EVIDENCE THAT THE DEATH
19 PENALTY WAS THE APPROPRIATE PUNISHMENT INSTEAD OF LIFE
20 IN PRISON, IN ORDER TO CARRY THAT SENTENCE INTO EFFECT
21 THEN EACH ONE OF THE JURORS HAS TO SIGN THEIR NAME TO A
22 DEATH VERDICT FORM. COULD YOU SIGN YOUR NAME TO A FORM
23 LIKE THAT IF YOU HAD REACHED THAT DECISION AFTER
24 HEARING ALL THE EVIDENCE?

25 A. YES, SIR, IF I BELIEVED THAT I WOULD.

1 Q. COULD YOU COME OUT INTO OPEN COURT IF ASKED
2 AND ANNOUNCE THAT AS BEING YOUR DECISION?

3 A. YES.

4 Q. DO YOU HAVE ANY RELIGIOUS BELIEFS OR FEELINGS
5 IN REGARD TO THE DEATH PENALTY THAT WOULD HAVE ANY
6 IMPACT IN YOUR ABILITY TO MAKE THAT DECISION?

7 A. BASICALLY MY RELIGIOUS BELIEFS IS WHAT'S
8 DEVELOPED MY -- THE BELIEF THAT I'VE EXPRESSED HERE IN
9 THAT IT DEPENDS ON THE CRIME AND WHAT'S REQUIRED. I'M
10 A MEMBER OF THE MORMON CHURCH AND I'M A BISHOP IN THAT
11 CHURCH AND THAT'S WHAT WE TEACH.

12 Q. OKAY. THE CHURCH IS NOT A HUNDRED PERCENT
13 OPPOSED TO THE DEATH PENALTY.

14 A. (JUROR SHOOK HEAD FROM SIDE TO SIDE.)

15 Q. IT'S A CASE-BY-CASE SITUATION?

16 A. RIGHT. EXACTLY.

17 Q. DOES THAT PRETTY WELL SUM IT UP?

18 A. THAT'S CORRECT.

19 Q. YOU WOULD WAIT TILL YOU HEARD ALL OF THE
20 EVIDENCE AND THE JUDGE'S INSTRUCTIONS ON THE LAW AND
21 THEN YOU COULD MAKE THAT DECISION ONE WAY OR THE OTHER
22 AT THAT TIME?

23 A. YES, SIR.

24 MR. BAILEY: MR. STUBBS, THAT'S ALL I HAVE.
25 THANK YOU VERY MUCH.

1 MR. RUNYON: NO QUESTIONS, NO MOTIONS, YOUR
2 HONOR.

3 THE COURT: ANY MOTIONS, SOLICITOR?

4 MR. BAILEY: NO, SIR.

5 THE COURT: MR. STUBBS, WE THINK YOU'D MAKE A
6 GOOD JUROR. IT DOESN'T MEAN YOU'RE GOING TO SERVE ON
7 THE JURY. IT MEANS YOU'RE QUALIFIED. ARE THOSE STILL
8 YOUR NUMBERS THAT I CAN REACH YOU ON REASONABLE
9 NOTICE?

10 JUROR STUBBS: YES, SIR.

11 THE COURT: FINE. WELL, DON'T GO OUT OF
12 TOWN. I HOPE TO CALL YOU TONIGHT, BUT IT MIGHT BE
13 TOMORROW SOMETIME AND I WOULD ASK YOU TO COME IN -- I'D
14 GIVE YOU TIME TO GET HERE, SO DON'T WORRY ABOUT IT.
15 AND WHEN YOU COME, BRING ENOUGH CLOTHES FOR ABOUT FIVE
16 DAYS. I DON'T THINK IT WILL TAKE THAT LONG BUT JUST TO
17 BE ON THE SAFE SIDE. IN THE MEANTIME, DON'T READ THE
18 NEWSPAPER, WATCH T.V. OR ANYTHING ABOUT THE CASE AND
19 HOPE YOU HAVE A GOOD DAY.

20 JUROR STUBBS: THANK YOU, SIR.

21 (JUROR JOSEPH D. STUBBS WAS EXCUSED FROM THE
22 COURTROOM.)

23 THE COURT: LINDA TANNER.

24 (JUROR LINDA H. TANNER ENTERED THE
25 COURTROOM.)

1 LINDA H. TANNER, AFTER BEING DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 EXAMINATION BY THE COURT

4 Q. MS. TANNER, I NOTICE THAT YOU'VE SERVED ON A
5 CRIMINAL CASE BEFORE. WAS I LUCKY ENOUGH TO HAVE YOU
6 AS A JUROR?

7 A. IT WAS IN CHARLESTON COUNTY.

8 Q. OH. WHAT TYPE OF CASE WAS IT? DO YOU
9 REMEMBER?

10 A. I SERVED ON THREE DIFFERENT ONES. TWO OF
11 THEM WERE DRUG RELATED AND ONE WAS KIDNAPPING AND CHILD
12 RAPE OF A MINOR.

13 Q. WELL, I'M GOING TO ASK YOU SOME QUESTIONS AS
14 WILL THE ATTORNEYS.

15 A. OKAY.

16 Q. AND IN THIS CASE THERE ARE NO RIGHT OR WRONG
17 ANSWERS.

18 A. (JUROR NODDED HEAD UP AND DOWN.)

19 Q. JUST INFORMATION WE WANT IN AN ATTEMPT TO
20 ALLOW US TO PICK A PANEL OF QUALIFIED JURORS. IT'S A
21 LITTLE DIFFERENT CASE HERE. HERE IN THIS CASE THE
22 STATE, REPRESENTED BY SOLICITOR BAILEY AT THIS TABLE,
23 IS SEEKING TO CONVICT MR. ROGERS OF MURDER AND THEY ARE
24 SEEKING THE DEATH PENALTY. HE'S FLANKED BY HIS
25 ATTORNEYS. ON YOUR RIGHT THERE IS MR. LEIENDECKER AND

1 ON YOUR LEFT MR. RUNYON. AND AS I SAID, THERE ARE NO
2 RIGHT OR WRONG ANSWERS. AS YOU KNOW FROM HAVING SERVED
3 ON A JURY -- INCIDENTALLY, WHEN I ASKED WHETHER OR NOT
4 ANY OF THE JURORS KNEW ANYTHING ABOUT THIS PARTICULAR
5 CASE YOU DIDN'T STAND UP. DO YOU KNOW ANYTHING ABOUT
6 THE CASE?

7 A. I'VE SEEN A LITTLE BIT ON THE NEWS, BUT I
8 DON'T KNOW ANY OF THE NAMES OR REALLY ANY OF THE
9 DETAILS OR ANYTHING.

10 Q. IS THERE ANYTHING YOU'VE HEARD OR DISCUSSED
11 WITH ANYONE THAT WOULD KEEP YOU FROM HAVING AN OPEN
12 MIND AND GIVING BOTH SIDES A FAIR AND IMPARTIAL TRIAL?

13 A. NO, SIR.

14 Q. ALL RIGHT. NOW, AS YOU KNOW AS I SAID FROM
15 HAVING SERVED ON A CRIMINAL JURY, THE JURY IS JUST
16 CONCERNED WITH ONE THING, GUILT OR INNOCENCE. THE
17 JUDGE DOES THE SENTENCING.

18 A. (JUROR NODDED HEAD UP AND DOWN.)

19 Q. DID YOU KNOW UNTIL I TOLD YOU ON YESTERDAY
20 THAT IN A DEATH PENALTY CASE THE JURY DOES BOTH?

21 A. I DIDN'T KNOW THAT UNTIL YOU MENTIONED IT TO
22 ME.

23 Q. ALL RIGHT. HERE'S HOW IT GOES ABOUT. THE
24 FIRST THING WE WOULD HAVE IS A TRIAL. THE ONLY THING
25 THE JURY WOULD BE CONCERNED WITH IS GUILT OR

1 INNOCENCE. THE STATE WOULD ATTEMPT TO PROVE HIM GUILTY
2 OF MURDER. IF THE JURY DECIDED HE WASN'T GUILTY, THEN
3 IT WOULD STOP EVERYTHING.

4 A. (JUROR NODDED HEAD UP AND DOWN.)

5 Q. IF THE JURY DECIDED, HOWEVER, THAT HE WAS
6 GUILTY OF MURDER AS THE STATE CHARGES, THEN WE WOULD
7 HAVE A SECOND PROCEEDING AND THAT SECOND PROCEEDING IS
8 AIMED TOWARD HELPING THAT JURY DECIDE WHAT THE
9 PUNISHMENT WOULD BE, WHAT TO RECOMMEND TO ME. AND
10 DON'T LET THE WORDS RECOMMEND FOOL YOU BECAUSE I MUST
11 BY LAW DO EXACTLY WHAT THE JURY TELLS ME TO DO. THAT
12 SECOND PROCEEDING MIGHT HAVE GOOD AND BAD ABOUT THE
13 PARTY. IT MIGHT BE EXTENUATING OR AGGRAVATING
14 CIRCUMSTANCES, MITIGATING CIRCUMSTANCES, EVERYTHING.
15 AND THEN AT THE END OF THAT SECOND PHASE THE JURY WOULD
16 BE ASKED TO RECOMMEND THE SENTENCE AND IF THEY DECIDED
17 THAT THE PROPER SENTENCE SHOULD BE LIFE IN PRISON, THEN
18 THE FOREMAN WOULD SIGN A PIECE OF PAPER THAT SAYS, WE,
19 THE JURY, RECOMMEND THAT THE PROPER SENTENCE IS LIFE IN
20 PRISON. THAT'S WHAT I'D SENTENCE HIM TO.

21 ON THE OTHER HAND, IF THE JURY DECIDED THAT
22 THE PROPER SENTENCE WAS DEATH, IT'S DIFFERENT. THEN IN
23 THAT CASE, EACH JUROR INDIVIDUALLY WOULD SIGN THEIR
24 NAME TO A PIECE OF PAPER AND IT WOULD SAY IN ESSENCE,
25 WE, THE FOLLOWING JURORS, DETERMINE THAT THE PROPER

1 SENTENCE IS DEATH AND I WOULD SENTENCE HIM TO DEATH BY
2 ELECTROCUTION. DO YOU UNDERSTAND?

3 A. YES, SIR.

4 Q. NOW, JURORS LIKE YOURSELF WHEN THEY COME IN
5 AND ARE CONFRONTED WITH SERVING ON THIS TYPE JURY
6 GENERALLY FALL WITHIN ONE OF THREE CATEGORIES, AND I'M
7 GOING TO EXPLAIN THOSE TO YOU AND THEN I WANT YOU TO
8 TELL ME WHICH ONE YOU THINK YOU BEST FIT. JUROR NUMBER
9 ONE WOULD BE THAT TYPE JUROR THAT WOULDN'T BE
10 INTERESTED IN THAT SECOND PROCEEDING. THAT PERSON'S
11 MIND WOULD BE MADE UP. THEY WOULD TAKE THE POSITION IF
12 YOU KILL SOMEBODY YOU OUGHT TO DIE YOURSELF, LIKE AN
13 EYE FOR AN EYE AND A TOOTH FOR A TOOTH, SO TO SPEAK,
14 AND SO THEY WOULD ALWAYS VOTE FOR THE DEATH PENALTY IF
15 THAT PERSON WAS CONVICTED OF MURDER.

16 THE SECOND TYPE JUROR WOULD BE THAT TYPE THAT
17 WOULD TAKE THE POSITION THAT REGARDLESS OF HOW HEINOUS
18 THE MURDER MIGHT HAVE BEEN, THEY WOULD NEVER VOTE FOR
19 THE DEATH PENALTY. THEY WOULD ALWAYS VOTE FOR LIFE IN
20 PRISON AND THEY WOULDN'T BE INTERESTED IN THAT SECOND
21 PROCEEDING EITHER. THE THIRD TYPE JUROR WOULD BE THAT
22 TYPE JUROR THAT WOULD TAKE THE POSITION THAT NOT EVERY
23 MURDERER DESERVES TO DIE NOR EVERY MURDERER DESERVES TO
24 LIVE OR RATHER TO GET LIFE IN PRISON, BUT DEPENDING
25 UPON WHAT THE CIRCUMSTANCES WERE, THAT JUROR COULD VOTE

1 FOR LIFE OR SIGN THEIR NAME TO THAT PIECE OF PAPER THAT
2 SAID DEATH. WHICH ONE OF THOSE THREE CATEGORIES DO YOU
3 THINK YOU BEST FIT?

4 A. THE THIRD ONE.

5 Q. THE THIRD ONE. IN OTHER WORDS, YOU TAKE THE
6 POSITION THAT NOT EVERY MURDERER DESERVES TO DIE OR NOT
7 EVERY MURDERER DESERVES TO LIVE, BUT DEPENDING UPON
8 WHAT YOU HEARD YOU COULD VOTE EITHER WAY?

9 A. YES, SIR.

10 THE COURT: ALL RIGHT. THE ATTORNEYS ARE
11 GOING TO ASK YOU SOME QUESTIONS. JUST ANSWER IT AS
12 BEST YOU CAN. SOLICITOR?

13 DIRECT EXAMINATION

14 BY MR. BAILEY:

15 Q. MS. TANNER, I'M WALTER BAILEY. I WANT TO ASK
16 YOU A FEW QUESTIONS---

17 A. NICE TO MEET YOU.

18 Q. ---IF THAT'S ALL RIGHT. LIKE JUDGE BROWN
19 TOLD YOU, THERE ARE NO RIGHT OR WRONG ANSWERS. WE JUST
20 NEED TO KNOW WHAT YOUR THOUGHTS ARE ON SOME OF THE
21 ISSUES INVOLVED HERE. MS. TANNER, IF WE FORGET TALKING
22 ABOUT THIS CASE IN SPECIFIC AND TALK IN GENERALITIES---

23 A. OKAY.

24 Q. IF I HAD ASKED YOU A MONTH AGO BEFORE YOU GOT
25 YOUR JURY SUMMONS WHAT YOUR THOUGHTS WERE ON THE DEATH

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1 PENALTY, WHAT DO YOU THINK YOU MIGHT HAVE TOLD ME THEN?

2 A. I THINK DEPENDING ON THE CIRCUMSTANCES AND
3 THE CASE AND WHAT REALLY HAPPENED AND IF THEY WERE
4 GUILTY OR NOT.

5 Q. OKAY. DO YOU UNDERSTAND WE WOULD NOT EVEN
6 GET INTO THE SECOND PHASE UNLESS THE DEFENDANT HAD BEEN
7 FOUND GUILTY IN THE FIRST PHASE?

8 A. UH-HUH. RIGHT.

9 Q. AND AS I UNDERSTAND YOUR ANSWERS TO JUDGE
10 BROWN'S QUESTIONS, EVEN THOUGH YOU HAD FOUND THAT
11 PERSON GUILTY IN THE FIRST STAGE YOU WOULD STILL HAVE
12 AN OPEN MIND IN THE SECOND STAGE AND WOULD HEAR
13 ADDITIONAL EVIDENCE?

14 A. RIGHT.

15 Q. AND INSTRUCTIONS BEFORE MAKING UP YOUR MIND?

16 A. YES, SIR.

17 Q. AND JUDGE BROWN ALSO MENTIONED THE FORM, THE
18 DEATH VERDICT FORM, THAT THE JURY WOULD BE REQUIRED TO
19 SIGN IF YOU FOUND FOR THE DEATH PENALTY IN THAT SECOND
20 STAGE.

21 A. YES, SIR.

22 Q. DO YOU THINK YOU'D BE ABLE TO SIGN THAT FORM
23 ALONG WITH THE OTHER JURORS IF YOU'D REACHED THAT
24 DECISION WITH THEM?

25 A. YES, SIR.

1 Q. AND COULD YOU COME OUT INTO OPEN COURT AND
2 ANNOUNCE THAT DECISION?

3 A. YES, SIR.

4 Q. IF THAT WAS YOUR DECISION?

5 A. YES, SIR.

6 Q. DO YOU HAVE ANY RELIGIOUS BELIEFS THAT WOULD
7 HAVE ANY IMPACT ON YOUR ABILITY TO MAKE THAT DECISION
8 ONE WAY OR THE OTHER?

9 A. NO, SIR.

10 Q. HAD YOU EVER HAD OCCASION IN TALKING TO
11 FAMILY OR FRIENDS TO REALLY FORMULATE WHAT YOUR
12 THOUGHTS WERE ON THE DEATH PENALTY? HAVE YOU EVER
13 THOUGHT ABOUT IT BEFORE?

14 A. I'VE PROBABLY TALKED ABOUT IT BUT NOTHING,
15 YOU KNOW. . . IT'S JUST LIKE IF SOMEONE DID SOMETHING,
16 IF SOMEONE TOOK SOMEONE'S LIFE AND THEY REALLY DID IT
17 AND THEY WERE FOUND GUILTY THAT, YES, THEY SHOULD DIE
18 FOR IT.

19 Q. OKAY. BUT YOU'VE ALSO SAID THAT YOU -- EVEN
20 THOUGH YOU MADE THAT DECISION YOU COULD CONSIDER
21 MITIGATING EVIDENCE.

22 A. RIGHT.

23 Q. AND COULD IMPOSE A LIFE SENTENCE.

24 A. RIGHT. AND DEPENDING ON WHAT HAPPENED TO
25 CAUSE THAT.

1 Q. RIGHT. YOU WOULD LISTEN TO---

2 A. YES.

3 Q. ---THE EVIDENCE ABOUT THE ACCUSED AND ABOUT
4 THE CHARACTERISTICS---

5 A. YES.

6 Q. ---OF THE CRIME.

7 A. (JUROR NODDED HEAD UP AND DOWN.)

8 Q. THANK YOU. THAT'S ALL I HAVE AT THIS TIME.

9 A. THANK YOU.

10 CROSS-EXAMINATION

11 BY MR. RUNYON:

12 Q. GOOD MORNING, MS. TANNER.

13 A. HI. HOW ARE YOU?

14 Q. JUST FINE. MS. TANNER, IS IT MY

15 UNDERSTANDING THAT AT THE SENTENCING PHASE THAT THE --

16 IT'S YOUR POSITION THAT THE DEFENDANT WOULD HAVE TO

17 GIVE YOU REASONS NOT TO IMPOSE THE DEATH PENALTY? IS

18 THAT WHAT YOU WERE SAYING?

19 A. I'M SAYING IF HE WAS FOUND GUILTY AND THERE
20 WOULD HAVE TO BE A REASON FOR HIM TO EITHER DIE OR NOT
21 TO DIE. YOU KNOW, THERE WOULD HAVE TO BE A REASON FOR
22 ME TO SAY, YES, I WANT -- THIS PERSON SHOULD, IN MY
23 OPINION, HAVE THE DEATH PENALTY OR, NO, HE SHOULDN'T
24 BECAUSE OF WHAT HAPPENED.

25 Q. ALL RIGHT. AND YOU, OF COURSE, UNDERSTAND

1 THAT AT THE TIME YOU GET TO THAT SECOND PART OF THE
2 PROCESS---

3 A. (WITNESS NODDED HEAD UP AND DOWN.)

4 Q. ---YOU CAN'T GET THERE UNLESS SOMEONE'S BEEN
5 FOUND GUILTY OF, QUOTE, MURDER.

6 A. YES, SIR.

7 Q. AND AT THAT POINT IN TIME THEN THE STATE HAS
8 TO PROVE TO YOU WHY THEY THINK HE OUGHT TO GET THE
9 DEATH PENALTY.

10 A. YES, SIR.

11 Q. BUT I'M JUST TRYING TO CLEAR UP. . . YOU
12 INDICATED THAT YOU WERE THE THIRD TYPE OF JUROR THAT
13 WOULD HAVE TO WAIT AND HEAR THE EVIDENCE AS IT RELATES
14 TO THE SENTENCING PHASE.

15 A. (JUROR NODDED HEAD UP AND DOWN.)

16 Q. BEFORE YOU COULD MAKE A DECISION AS TO
17 WHETHER OR NOT SOMEONE SHOULD RECEIVE THE DEATH PENALTY
18 OR NOT.

19 A. YES, SIR.

20 Q. OKAY. BUT MR. BAILEY ASKED YOU A QUESTION
21 ABOUT WHAT YOUR OPINION WOULD HAVE BEEN IF HE'D RUN
22 INTO YOU A FEW WEEKS AGO AND ASKED YOU ABOUT THE DEATH
23 PENALTY AND WHAT WAS THAT AGAIN NOW?

24 A. IT WOULD HAVE BEEN IF SOMEONE WAS FOUND
25 GUILTY AND I THOUGHT THEY REALLY -- THAT THE EVIDENCE

1 SHOWED THAT THEY WERE GUILTY AND THEY WERE FOUND
2 GUILTY, THEN IT WOULD ALSO DEPEND ON WHAT HAPPENED TO
3 MAKE THIS CRIME. IT WOULDN'T BE AN AUTOMATIC, WELL,
4 YES, HE KILLED SOMEONE, SO HE SHOULD DIE. IT WOULD BE
5 ON WHAT HAPPENED TO CAUSE IT.

6 MR. RUNYON: THANK YOU VERY MUCH, YOUR HONOR.

7 THE COURT: ANY MOTIONS?

8 MR. RUNYON: NO FURTHER QUESTIONS.

9 MR. BAILEY: NO, SIR.

10 MR. RUNYON: NO, YOUR HONOR.

11 THE COURT: THANK YOU. WE THINK YOU'D MAKE A
12 GOOD JUROR, MS. TANNER. DOESN'T MEAN YOU'RE GOING TO
13 BE ON THE JURY, BUT YOU'D BE ON THE PANEL. SO, I'M
14 GOING TO SEND YOU ABOUT YOUR BUSINESS. CAN I STILL
15 REACH YOU AT THOSE TELEPHONE NUMBERS YOU GAVE ME?

16 JUROR TANNER: YES, SIR.

17 THE COURT: IN THE MEANTIME, DON'T TALK ABOUT
18 THE CASE OR READ THE PAPER OR WATCH T.V., AND WHEN YOU
19 COME BACK BRING ENOUGH CLOTHES AND TOILET ARTICLES FOR
20 ABOUT FIVE DAYS. I DON'T THINK IT WILL TAKE THAT LONG
21 BUT JUST IN CASE AND I HOPE YOU HAVE A GOOD DAY.

22 JUROR TANNER: SO WHEN DO I COME BACK?

23 THE COURT: WE'RE GOING TO CALL YOU.

24 JUROR TANNER: OKAY. THANK YOU.

25 THE COURT: DON'T GO OUT OF TOWN.

1 JUROR TANNER: ALL RIGHT.

2 THE COURT: HOPEFULLY I CAN CALL YOU TONIGHT,
3 BUT IN ALL PROBABILITY IT MIGHT BE TOMORROW. I'LL GIVE
4 YOU TIME TO GET HERE.

5 JUROR TANNER: OKAY.

6 (JUROR LINDA H. TANNER WAS EXCUSED FROM THE
7 COURTROOM.)

8 MR. BAILEY: JUDGE, WE DON'T HAVE A FIRST
9 PAGE ON THIS NEXT WITNESS, NEITHER ONE OF US.

10 MR. RUNYON: LANGENSTEIN.

11 THE COURT: ALL RIGHT. WOULD YOU -- OH.

12 THE CLERK: DO YOU WANT ME TO RUN SOME
13 COPIES?

14 THE COURT: LET ME SEE. IS THIS THE
15 ORIGINAL?

16 THE CLERK: YES, SIR.

17 THE COURT: DO YOU WANT ME TO SEND BACK AND
18 LET HIM (SIC) FILL IT OUT OR DO YOU WANT ME TO -- OR DO
19 YOU WANT ME TO ASK THE QUESTIONS AND FILL IT OUT?

20 MR. BAILEY: EITHER ONE. IF I COULD HAVE A
21 BLANK FIRST PAGE JUST TO FILL IT OUT AS WE GO.

22 THE COURT: WELL, IF YOU TURN YOURS OVER,
23 YOURS IS NOT. . .

24 MR. BAILEY: NO, WE JUST RAN---

25 MR. RUNYON: WE JUST HAVE A PHOTOCOPY.

1 THE COURT: ALL RIGHT. BRING ME MR. -- NO,
2 NANCY LANGENSTEIN.

3 (JUROR NANCY J. LANGENSTEIN ENTERED THE
4 COURTROOM.)

5 NANCY J. LANGENSTEIN, AFTER BEING DULY
6 SWORN, TESTIFIED AS FOLLOWS:

7 EXAMINATION BY THE COURT

8 Q. MS. LANGENSTEIN, I'M JUDGE BROWN.

9 A. HI.

10 Q. AND YOU'RE HERE TODAY FOR US TO ASK YOU SOME
11 QUESTIONS IF YOU DON'T MIND, AND AS I TOLD A FORMER
12 TEACHER THAT WAS SITTING THERE, THERE ARE NO RIGHT OR
13 WRONG ANSWERS. YOU CAN'T FLUNK THIS TEST. SO I JUST
14 WANT YOU TO SPEAK OUT BECAUSE I'VE GOT A MACHINE THERE
15 THAT WANTS TO PICK UP YOUR VOICE AND JUST TELL ME --
16 ANSWER MY QUESTIONS AND, IF YOU WANT TO EXPLAIN IT,
17 FEEL FREE TO EXPLAIN IT ALSO. YOU KNOW, OF COURSE,
18 THAT YOU'RE HERE TODAY SO WE CAN QUESTION YOU IN AN
19 ATTEMPT TO DRAW A JURY THAT'S IMPARTIAL, THAT WOULD
20 BRING IN A VERDICT THAT SPEAKS THE TRUTH, BECAUSE THE
21 STATE CHARGES MR. ROGERS WITH MURDER. YOU KNOW THAT.

22 A. YES, SIR.

23 Q. NOW, WHEN I ASKED THE JURORS TO STAND UP AND
24 TELL ME IF THEY KNEW ANYTHING ABOUT THIS PARTICULAR
25 CASE, YOU DIDN'T STAND UP. DO YOU KNOW ANYTHING ABOUT

1 IT?

2 A. REALLY, I THOUGHT YOU WERE TALKING ABOUT THE
3 CASE DOWNTOWN WHERE SOMEONE SHOT HIS WIFE IN A
4 MCDONALD'S. THAT'S WHAT I THOUGHT IT WAS COMING TO.
5 BUT THE REAL TRUTH OF IT IS THIS CASE IS ONLY A FEW
6 MILES FROM MY HOME.

7 Q. OH. WELL, DID YOU READ ABOUT IT OR WATCH IT
8 ON T.V. OR ANYTHING ELSE?

9 A. I DON'T RECALL ANYTHING ABOUT IT, NO.

10 Q. IN OTHER WORDS, IS THERE ANYTHING THAT YOU'VE
11 DISCUSSED IT OR THE FACT THAT IT WAS CLOSE TO YOUR HOME
12 OR ALLEGED TO BE CLOSE TO YOUR HOME OR ANYTHING THAT
13 WOULD KEEP YOU IF YOU WERE CHOSEN AS A JUROR TO BRING
14 IN A VERDICT THAT WOULD BE FAIR TO BOTH SIDES,
15 IMPARTIAL?

16 A. THERE'S NOTHING THAT I KNOW THAT WOULD
17 INFLUENCE ME.

18 Q. ALL RIGHT. LET ME INTRODUCE THE PARTIES.
19 THIS IS MR. ROGERS SITTING BETWEEN HIS ATTORNEYS HERE.
20 AS I SAID, HE'S CHARGED WITH MURDER. TO HIS LEFT, ON
21 YOUR RIGHT, IS MR. LEIENDECKER, ONE OF THE ATTORNEYS,
22 AND ON HIS RIGHT IS MR. RUNYON.

23 A. HI.

24 Q. OVER HERE ON MY LEFT, THE FIRST GENTLEMAN
25 THERE IS SOLICITOR BAILEY.

1 A. HI.

2 Q. HE REPRESENTS THE STATE AND, OF COURSE, I
3 INTRODUCED MYSELF. I'M JUDGE BROWN. I NOTICE YOU
4 DIDN'T FILL OUT ONE SIDE OF YOUR RETURN, AND SO I'M
5 GOING TO ASK YOU SOME QUESTIONS A LITTLE BIT.

6 A. OKAY.

7 Q. CAN YOU TELL ME YOUR HOME NUMBER?

8 A. MY ADDRESS?

9 Q. YOUR HOME TELEPHONE NUMBER.

10 A. [REDACTED].

11 Q. AND YOU SAY YOU'RE A HOUSEWIFE, SO YOU DON'T
12 HAVE A BUSINESS PHONE.

13 A. NO, I'M NOT A HOUSEWIFE.

14 Q. OH. IT SAID YOUR OCCUPATION BEFORE YOUR
15 PRESENT EMPLOYMENT.

16 A. UH-HUH.

17 Q. WHAT DO YOU DO NOW?

18 A. I'M A FACILITIES MANAGER FOR PROMISE COMPANY.

19 Q. FOR WHAT KIND?

20 A. PROMISE COMPANY, A HAMPTON INN.

21 Q. AND WHAT'S THAT TELEPHONE NUMBER?

22 A. [REDACTED].

23 Q. THAT'S A CHARLESTON NUMBER, ISN'T IT?

24 A. SURE, DOWNTOWN CHARLESTON, MEETING STREET.

25 Q. AND DOES YOUR HUSBAND HAVE A BUSINESS

1 TELEPHONE NUMBER?

2 A. IT'S ALUMAX. I DON'T KNOW HIS PHONE NUMBER.

3 Q. HOW DO YOU SPELL ALUMAX?

4 A. A-L-U-M-A-X.

5 Q. AND DO YOU HAVE ANY KIND OF EMERGENCY NUMBER

6 IF I COULDN'T REACH EITHER ONE OF YOU?

7 A. POSSIBLY [REDACTED].

8 Q. AND WHERE IS THAT? I MEAN, WHAT IS THAT?

9 A. SUMMERVILLE. IT'S MY DAUGHTER'S PHONE

10 NUMBER.

11 Q. AND COULD YOU TELL ME ABOUT YOUR SCHOOLING,

12 WHERE YOU WENT TO GRADE SCHOOL, JUNIOR HIGH, HIGH

13 SCHOOL, COLLEGE, VOCATIONAL, ANY OF THOSE?

14 A. I GRADUATED FROM HIGH SCHOOL IN HAGERSTOWN,

15 MARYLAND, AND I WENT TO GRADE SCHOOL IN BEAVER CREEK,

16 MARYLAND.

17 Q. ANY COLLEGE OR VOCATIONAL?

18 A. NO.

19 Q. AND HOW LONG HAVE YOU LIVED IN DORCHESTER

20 COUNTY?

21 A. 1977.

22 Q. HOW DID YOU GET DOWN HERE?

23 A. MY HUSBAND IS RETIRED AIR FORCE.

24 Q. OH. HAVE YOU EVER LIVED OUTSIDE THE U.S.?

25 A. YES. UH-HUH.

1 Q. WHERE?

2 A. JAPAN. PORTUGAL.

3 Q. OH.

4 A. YES.

5 Q. I'VE NEVER BEEN TO PORTUGAL. I'VE ALWAYS
6 WANTED TO GO. I'VE BEEN TO JAPAN.

7 A. THIS WAS THE AZORES ISLAND.

8 Q. OH.

9 A. IT'S VERY NICE.

10 Q. AND YOUR HUSBAND WAS IN THE AIR FORCE?

11 A. YES, HE WAS A LOAD MASTER.

12 Q. AND THE NAME OF YOUR EMPLOYER NOW IS HAMPTON
13 INN?

14 A. YES. UH-HUH.

15 Q. WHAT DO YOU DO THERE?

16 A. I'M A FACILITIES MANAGER. THAT MEANS
17 RESPONSIBLE FOR ALL THE BACK OF THE HOUSE THINGS,
18 EVERYTHING OTHER THAN PAPERWORK.

19 Q. OH, I GOT YOU. AND HOW LONG HAVE YOU BEEN
20 WITH THEM?

21 A. FIFTEEN YEARS WITH THE SAME COMPANY. HAMPTON
22 INN WHICH IS PART OF THE SAME COMPANY SINCE 1985.

23 Q. AS I TOLD YOU, THERE ARE NO RIGHT OR WRONG
24 ANSWERS IN THIS. AND I NOTICE ON THE BACK OF IT THAT
25 WAS FILLED OUT THAT YOU NEVER SERVED ON A -- AS A JUR

1 BEFORE.

2 A. CORRECT.

3 Q. WELL, YOU KNOW BASICALLY, OF COURSE, THAT THE
4 STATE MUST PROVE ANYONE CHARGED WITH A CRIME BEYOND A
5 REASONABLE DOUBT. YOU KNOW THAT.

6 A. YES.

7 Q. AND MR. ROGERS SITTING AT THAT TABLE IS JUST
8 AS INNOCENT AS YOU AND I UNLESS THE STATE CAN DO WHAT I
9 SAID. AND ORDINARILY, AS I TOLD YOU ALL ON YESTERDAY,
10 JURIES ARE ONLY CONCERNED WITH GUILT OR INNOCENCE. IF
11 THEY ARE FOUND GUILTY, THEN THE JUDGE DOES THE
12 SENTENCING. YOU KNEW THAT.

13 A. YES.

14 Q. DID YOU KNOW UNTIL YESTERDAY THAT WHEN THE
15 STATE IS SEEKING THE DEATH PENALTY THAT THE JURY DOES
16 BOTH? DO YOU KNOW THAT?

17 A. ALL OF THIS IS NEW TO ME.

18 Q. ALL RIGHT.

19 A. IT WAS VERY INTERESTING, IN FACT.

20 Q. LET ME EXPLAIN TO YOU HOW THE PROCEEDINGS
21 WORK. FIRST WE WOULD DRAW A JURY OF TWELVE PEOPLE.
22 I'LL DRAW SOME ALTERNATES, OF COURSE, IN CASE SOMEONE
23 BECOMES INCAPACITATED AND THEN WE HAVE A TRIAL THAT'S
24 SPLIT INTO TWO SECTIONS. FIRST, THE STATE IS ONLY
25 CONCERNED -- AND THE JURY'S ONLY CONCERN IS WHETHER OR

1 NOT THE STATE CAN SATISFY THAT THE PERSON IS GUILTY IN
2 THIS CASE OF MURDER. IF THE JURY FINDS HIM NOT GUILTY,
3 THEN, OF COURSE, THAT ENDS EVERYTHING. BUT IF THEY
4 FIND HIM GUILTY OF MURDER, THEN WE HAVE A SECOND
5 PROCEEDING. IT'S CALLED A SENTENCING PHASE AND THAT
6 PHASE, SENTENCING PHASE, IS AIMED TOWARD GIVING THE
7 JURY INFORMATION TO ENABLE THEM TO DECIDE WHAT WOULD BE
8 THE PROPER PUNISHMENT FOR THIS PARTICULAR MURDER. AND
9 THERE MIGHT BE GOOD AND BAD THINGS ABOUT MR. ROGERS.
10 THERE MIGHT BE EXTENUATING OR AGGRAVATING
11 CIRCUMSTANCES, EVERYTHING.

12 AND THEN THE JURY WOULD BE ASKED TO CONSIDER
13 WHAT SENTENCE TO RECOMMEND TO ME AND DON'T LET THOSE
14 WORDS RECOMMEND FOOL YOU BECAUSE BY LAW I MUST DO
15 EXACTLY WHAT THE JURY TELLS ME TO DO. IF THE JURY
16 DECIDED THAT THE PROPER PUNISHMENT WAS LIFE IN PRISON,
17 THEN THE JURY -- THE FOREMAN WOULD STAND UP AND HE
18 WOULD HAND US A PIECE OF PAPER THAT HE HAD SIGNED AND
19 IT WOULD SAY, WE, THE JURY, RECOMMEND THAT THE PROPER
20 SENTENCE IS LIFE IN PRISON AND I WOULD SENTENCE HIM TO
21 LIFE IN PRISON.

22 ON THE OTHER HAND, IF THE JURY DECIDED THAT
23 THE PROPER SENTENCE WAS DEATH, THEN EACH JUROR -- IT'S
24 A LITTLE DIFFERENT IN THIS CASE. EACH JUROR WOULD SIGN
25 A PIECE OF PAPER AND IT WOULD SAY, WE, THE FOLLOWING

1 JURORS, RECOMMEND THAT THE PROPER SENTENCE IN THIS CASE
2 IS DEATH. AND, HERE AGAIN, I WOULD DO WHAT THE JURY
3 TOLD ME TO DO AND I WOULD SENTENCE HIM TO DEATH BY
4 ELECTROCUTION.

5 NOW, GENERALLY WHEN PEOPLE LIKE YOURSELF COME
6 IN THE COURTROOM WITHOUT ANY JURY EXPERIENCE AND IS
7 ASKED TO -- THESE QUESTIONS ABOUT THE DEATH PENALTY,
8 THEY GENERALLY FALL WITHIN ONE OF THREE CATEGORIES AND
9 I'M GOING TO EXPLAIN THOSE CATEGORIES TO YOU AND THEN I
10 WANT YOU TO TELL ME WHICH ONE YOU THINK YOU BEST FIT.
11 JUROR NUMBER ONE IS THAT TYPE JUROR THAT REALLY
12 WOULDN'T BE INTERESTED IN THAT SECOND PHASE. THEY
13 WOULD TAKE THE POSITION ALWAYS THAT IF YOU KILL
14 SOMEBODY YOU OUGHT TO DIE AND THEY WOULD ALWAYS VOTE
15 FOR THE DEATH PENALTY.

16 JUROR NUMBER TWO WOULD BE THAT TYPE JUROR
17 THAT WOULD BE EXACTLY THE OPPOSITE. EVEN THOUGH IT
18 MIGHT HAVE BEEN A HEINOUS MURDER OR AGGRAVATED MURDER,
19 THEY WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY
20 WOULD ALWAYS VOTE FOR LIFE AND THEY ALSO WOULDN'T BE
21 INTERESTED IN THAT SECOND PHASE. THEN THERE WOULD BE
22 NUMBER THREE, THAT TYPE JUROR THAT COULD VOTE EITHER
23 WAY. IN OTHER WORDS, THEY WOULDN'T BELIEVE THAT EVERY
24 MURDERER IN EVERY CASE OUGHT TO RECEIVE THE DEATH
25 PENALTY OR LIFE, BUT THEY WOULD WANT TO HEAR THAT

1 SECOND PHASE AND DETERMINE FROM WHAT THEY HEARD WHAT
2 THE PROPER SENTENCE OUGHT TO BE. AND IF THEY FELT IT
3 OUGHT TO BE LIFE IN PRISON, THEY COULD VOTE FOR LIFE.
4 AND IF THEY DECIDED THAT THE PROPER SENTENCE WAS DEATH,
5 THEY COULD SIGN THAT PIECE OF PAPER THAT SAID THAT WE
6 RECOMMEND DEATH. WHICH DO YOU THINK YOU BEST FALL IN?

7 A. NUMBER THREE.

8 Q. IN OTHER WORDS, YOU DON'T BELIEVE THAT EVERY
9 MURDERER DESERVES LIFE OR DEATH. YOU COULD VOTE EITHER
10 WAY?

11 A. EITHER WAY. UH-HUH.

12 THE COURT: ALL RIGHT. THE ATTORNEYS ARE
13 GOING TO ASK YOU SOME QUESTIONS AND, HERE AGAIN, THERE
14 ARE NO RIGHT OR WRONG ANSWERS. JUST ANSWER THEM AS
15 BEST YOU CAN. SOLICITOR?

16 DIRECT EXAMINATION

17 BY MR. BAILEY:

18 Q. MS. LANGENSTEIN, I JUST NEED TO ASK YOU A FEW
19 QUESTIONS TO FOLLOW UP ON JUDGE BROWN'S QUESTIONS.
20 JUDGE BROWN TOLD YOU ABOUT THE TWO-STAGE PROCESS WHERE
21 YOU HAVE THE GUILT PHASE AND THEN POSSIBLY THE
22 SENTENCING PHASE.

23 A. YES.

24 Q. AND WE WOULD NOT GET INTO THE SENTENCING
25 PHASE UNLESS THE JURY FINDS THE DEFENDANT GUILTY OF

1 MURDER IN THE FIRST STAGE. NOW, IN THE SECOND STAGE,
2 IF WE GET THERE, THERE ARE TWO CHOICES: LIFE IN PRISON
3 OR THE DEATH PENALTY. THE JURY, ALL TWELVE OF YOU,
4 HAVE TO UNANIMOUSLY AGREE ONE WAY OR THE OTHER, ALL
5 TWELVE FOR DEATH, ALL TWELVE FOR LIFE. IF YOU WERE ON
6 A JURY AND GOT TO THAT SECOND STAGE AND YOU AND THE
7 OTHER JURORS DECIDED AFTER HEARING ALL THE LAW FROM THE
8 JUDGE AND ALL THE FACTS FROM THE WITNESS STAND TO
9 IMPOSE THE DEATH SENTENCE AND IN ORDER TO CARRY THAT
10 INTO EFFECT THEN EACH ONE OF YOU WOULD HAVE TO SIGN A
11 DEATH VERDICT FORM, SIGN YOUR NAMES TO IT. COULD YOU
12 SIGN THAT FORM UNDER THOSE CIRCUMSTANCES?

13 A. IF I REALLY BELIEVED THAT, YES, I COULD.

14 Q. OKAY. AND COULD YOU COME OUT INTO OPEN COURT
15 IF ASKED AND ANNOUNCE THAT AS BEING YOUR VERDICT?

16 A. I WOULD HAVE TO IF THAT'S WHAT I BELIEVED,
17 YES.

18 Q. ALL RIGHT. AND DO YOU HAVE ANY RELIGIOUS
19 BELIEFS OR TEACHINGS THAT WOULD IMPACT ON YOUR DECISION
20 AT ALL?

21 A. NO, I DON'T.

22 THE COURT: I DIDN'T ASK YOU, BUT WHAT CHURCH
23 DO YOU BELONG TO?

24 THE WITNESS: I AM BAPTIZED IN THE UNITED
25 BRETHREN FAITH.

1 THE COURT: THANK YOU.

2 THE WITNESS: UH-HUH.

3 BY MR. BAILEY:

4 Q. AND IF I ASKED YOU, MS. LANGENSTEIN, JUST IN
5 GENERAL TERMS, NOT TALKING ABOUT THIS PARTICULAR CASE,
6 BUT JUST IN GENERAL, SAY, A MONTH AGO BEFORE YOU GOT
7 YOUR JURY SUMMONS WHAT YOU THOUGHT ABOUT THE DEATH
8 PENALTY, WHAT DO YOU THINK YOU MIGHT HAVE TOLD ME AT
9 THAT TIME?

10 A. WELL, IT ALL DEPENDS WHETHER IT WAS
11 PREMEDITATED OR WHAT. I BELIEVE IN THE DEATH PENALTY.
12 I DO.

13 Q. OKAY. BUT AS I UNDERSTAND YOUR TESTIMONY,
14 YOU ALSO BELIEVE THAT IT'S NOT APPROPRIATE IN EVERY
15 CASE.

16 A. CORRECT.

17 Q. AND YOU WOULD LISTEN TO ALL THE FACTS---

18 A. ALL THE FACTS.

19 Q. ---BEFORE MAKING UP YOUR MIND ONE WAY OR THE
20 OTHER. IS THAT CORRECT?

21 A. UH-HUH.

22 Q. THANK YOU. THAT'S ALL I HAVE.

23 A. THANK YOU.

24

25

1 CROSS-EXAMINATION

2 BY MR. RUNYON:

3 Q. GOOD -- ACTUALLY IT'S GOOD AFTERNOON, MS.

4 LANGENSTEIN. YOU HAVE FIVE CHILDREN.

5 A. FIVE CHILDREN.

6 Q. AND THEY ALL LIVE HERE IN SOUTH CAROLINA?

7 A. THEY DO NOW, YES.

8 Q. OKAY. AND WHAT DO THEY DO FOR A LIVING JUST
9 GENERALLY?

10 A. MY ONE SON WORKS AT GOOSE CREEK, SOMETHING TO
11 DO WITH FILM. MY SECOND SON LIVES, I MEAN, WORKS AT A
12 PLACE COMING DOWN THE ROAD HERE. MY FIRST ONE JUST GOT
13 BACK FROM ALASKA AND IT'S A NEW JOB; MY SECOND ONE
14 ALSO. MY THIRD SON WORKS FOR OSCAR'S AND HAS SINCE HE
15 GRADUATED FROM JOHNSON WALES. MY DAUGHTER WORKS FOR
16 WAL-MART. SHE'S A C.S.M. AND MY THIRD DAUGHTER WORKS
17 -- I MEAN, MY FIFTH CHILD WORKS FOR HAMPTON INN. SHE
18 DOES THE OFFICE WORK.

19 Q. WHERE IN ALASKA WAS YOUR SON?

20 A. PRUDHOE BAY. HE WORKED FOR THE OIL WELLS.

21 Q. NOW, I BELIEVE YOU INDICATED THAT YOU, QUOTE,
22 BELIEVE IN THE DEATH PENALTY.

23 A. YES, I DO.

24 Q. AND BUT, ONCE AGAIN, TO REHASH A LITTLE BIT,
25 PLOW SOME OF THE SAME GROUND, YOU INDICATED THAT NOT IN

1 EVERY CASE.

2 A. NOT IN EVERY CASE.

3 Q. OKAY. NOW, DO YOU HAVE ANY PRECONCEIVED
4 NOTION AS TO WHAT CIRCUMSTANCES MUST BE PRESENT TO
5 IMPOSE THE DEATH PENALTY OR IS IT CASE BY CASE?

6 A. CASE BY CASE. UH-HUH.

7 MR. RUNYON: OKAY. NO FURTHER QUESTIONS,
8 YOUR HONOR. NO MOTION.

9 THE COURT: ANY MOTIONS?

10 MR. BAILEY: NO, SIR.

11 THE COURT: ANY MOTIONS, MR. RUNYON?

12 MR. RUNYON: NO, YOUR HONOR.

13 THE COURT: WE ALL THINK, MS. LANGENSTEIN,
14 THAT YOU'D MAKE A GOOD JUROR. DOESN'T MEAN YOU'RE
15 GOING TO SERVE ON THE JURY. IT MEANS YOU'RE GOING TO
16 BE ON THE PANEL AND I HOPE TO FINISH THE PANEL BY
17 TODAY. IT MIGHT BE TOMORROW AND SO I'M GOING TO SEND
18 YOU ABOUT YOUR BUSINESS. WE'LL CALL YOU---

19 JUROR LANGENSTEIN: OKAY.

20 THE COURT: ---AND GIVE YOU TIME TO GET HERE,
21 PLENTY OF TIME. AND WHEN YOU COME, BRING ENOUGH
22 CLOTHES AND TOILET ARTICLES FOR ABOUT FIVE DAYS. I
23 DON'T THINK IT WILL TAKE THAT LONG BUT JUST TO BE ON
24 THE SAFE SIDE. IN THE MEANTIME I WOULD ASK THAT YOU
25 NOT WATCH T.V. OR READ THE NEWSPAPERS BUT COME FRESH

1 JUST LIKE YOU ARE NOW TO DECIDE THIS CASE.

2 JUROR LANGENSTEIN: OKAY.

3 THE COURT: I HOPE YOU HAVE A GOOD DAY.

4 JUROR LANGENSTEIN: THANK YOU VERY MUCH. BU
5 YOU WILL CALL ME?

6 THE COURT: YES, MA'AM.

7 JUROR LANGENSTEIN: THANK YOU.

8 THE COURT: DEXTER REED.

9 (JUROR NANCY J. LANGENSTEIN WAS EXCUSED FROM
10 THE COURTROOM. JUROR DEXTER A. REED ENTERED THE
11 COURTROOM.)

12 DEXTER A. REED, AFTER BEING DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 EXAMINATION BY THE COURT

15 Q. MR. REED, HOW ARE YOU TODAY?

16 A. ALL RIGHT, YOUR HONOR.

17 Q. MY NAME IS JUDGE BROWN AND I APPRECIATE YOU
18 VERY MUCH, YOUR PATIENCE, SITTING BACK THERE. AND YOU
19 KNOW BY NOW TODAY THAT MR. ROGERS WHO SITS WITH HIS
20 ATTORNEYS RIGHT THERE IS CHARGED WITH MURDER. AND SO
21 WHAT WE ARE TRYING TO DO IS PICK A JURY THAT'S TOTALLY
22 IMPARTIAL THAT WOULD BRING IN A VERDICT THAT SPOKE THE
23 TRUTH, AND SO THERE ARE NO RIGHT OR WRONG ANSWERS.
24 IT'S JUST INFORMATION WE WANT. SO JUST ANSWER THEM AS
25 BEST YOU CAN.

1 MR. ROGERS IS SITTING WITH HIS ATTORNEYS. ON
2 YOUR RIGHT THERE IS MR. LEIENDECKER AND ON YOUR LEFT
3 THERE IS MR. RUNYON. OVER HERE AT THIS TABLE IS MR.
4 BAILEY. HE'S THE SOLICITOR AND HE REPRESENTS THE
5 STATE. ON YESTERDAY WHEN I ASKED THE JURY TO STAND UP
6 AND TELL ME IF THEY KNEW ANYTHING ABOUT THIS CASE YOU
7 STOOD UP, AND I DIDN'T WANT YOU TO TELL ME WHAT YOU
8 KNEW ABOUT IT AT THAT TIME.

9 A. YEAH.

10 Q. BUT COULD YOU -- DID YOU KNOW MR. ROGERS
11 BEFORE -- DO YOU KNOW HIM?

12 A. NOT PERSONALLY, BUT YOU KNOW. . .

13 Q. ALL RIGHT. AND YOU SAID YOU KNEW SOMETHING
14 ABOUT THE CASE. TELL ME HOW YOU GOT IT AND WHAT YOU
15 KNOW, IF ANYTHING.

16 A. JUST FROM THE NEWSPAPER AND ON T.V.

17 Q. WHEN IT HAPPENED?

18 A. YES.

19 Q. HAVE YOU SEEN ANYTHING LATELY?

20 A. ANYTHING LATELY? YES.

21 Q. THAT WAS BEFORE YOU CAME?

22 A. BEFORE -- YEAH, THE DAY BEFORE -- YESTERDAY
23 IT WAS ON THE---

24 Q. AS YOU KNOW, AS I TOLD Y'ALL ON YESTERDAY,
25 VERY OFTEN THE NEWS MEDIA CAN'T GIVE YOU ALL THE

1 INFORMATION OR SOMETIME IT'S IN ERROR, NOT BECAUSE
2 THEY'RE TRYING TO DO IT, BECAUSE THEY DON'T KNOW
3 EVERYTHING. AND I WOULD BE TELLING MY JURY UP HERE
4 THAT THEY MUST LAY ASIDE ANYTHING THEY HEARD OR
5 DISCUSSED OR SAW AND JUST LISTEN TO THESE WITNESSES AND
6 BRING IN A VERDICT FROM WHAT THEY HEAR AND SEE IN THIS
7 COURTROOM. COULD YOU DO THAT, DO YOU FEEL?

8 A. (PAUSE).

9 Q. IN OTHER WORDS, WHAT I'M ASKING YOU IS THIS
10 AND I'M NOT ASKING YOU WHICH WAY: IS THERE ANYTHING
11 YOU'VE HEARD OR READ OR DISCUSSED BEFORE -- UP TO THIS
12 POINT THAT YOU FEEL WOULD INFLUENCE YOUR VERDICT IF YOU
13 WERE A JUROR?

14 A. I WAS HEARING ALL KIND OF THINGS ABOUT THIS,
15 YOU KNOW.

16 Q. I DIDN'T UNDERSTAND YOU.

17 A. I HEARD A WHOLE LOT OF THINGS ABOUT WHAT
18 HAPPENED, YOU KNOW.

19 Q. BUT I WOULD BE TELLING YOU TO LAY THAT
20 ASIDE.

21 A. LAY THAT ASIDE.

22 Q. AND JUST CONCENTRATE ON WHAT WAS HERE. DO
23 YOU FEEL LIKE ANYTHING THAT YOU HEARD OR READ BEFORE
24 THIS TIME -- IF I TOLD YOU TO LAY IT ASIDE AND FORGET
25 ABOUT THAT, COULD YOU DO IT?

1 A. I COULD FORGET ABOUT IT.

2 Q. ALL RIGHT. NOW, IN LOOKING AT YOUR REPORT
3 THAT YOU SENT IN YOU SAID YOU'D BEEN A WITNESS IN A
4 CRIMINAL CASE. WHAT KIND OF CASE WAS IT?

5 A. IT WAS A WITNESS TO A COURT-MARTIAL.

6 Q. A COURT-MARTIAL. YOU WERE IN THE SERVICE?

7 A. YES.

8 Q. OH. WHAT SERVICE WAS IT?

9 A. IN THE ARMY.

10 Q. HOW LONG DID YOU STAY IN?

11 A. FOUR YEARS.

12 Q. FOUR YEARS. AND AN ORDINARY CASE, AS YOU
13 KNOW, YOU KNOW THE STATE MUST PROVE MR. ROGERS GUILTY
14 BEYOND A REASONABLE DOUBT IF THEY CAN. YOU KNOW THAT.

15 A. YES.

16 Q. BECAUSE HE'S PRESUMED TO BE INNOCENT. AND IN
17 AN ORDINARY CASE THE JURY IS ONLY CONCERNED WITH GUILT
18 OR INNOCENCE. THE JUDGE DOES THE SENTENCING. DO YOU
19 KNOW THAT?

20 A. YES, SIR.

21 Q. WELL, DID YOU KNOW UNTIL I TOLD YOU YESTERDAY
22 THAT IN A CASE IN WHICH THEY'RE SEEKING THE DEATH
23 PENALTY THE JURY DOES BOTH? DID YOU KNOW THAT?

24 A. I DIDN'T REALLY KNOW THAT.

25 Q. ALL RIGHT. HERE'S HOW IT HAPPENS. WE'LL

1 DRAW A JURY OF TWELVE PEOPLE AND THE STATE WILL ATTEMPT
2 TO FIND MR. ROGERS GUILTY OF MURDER. IF THEY -- IF THE
3 JURY DECIDES HE WASN'T GUILTY, THAT STOPS EVERYTHING.
4 BUT IF THEY DECIDE HE COMMITTED THE MURDER THAT THE
5 STATE SAYS HE COMMITTED, THEN WE HAVE A SECOND TRIAL,
6 SO TO SPEAK, AND AT THAT TRIAL THERE WOULD BE
7 INFORMATION GIVEN TO THE JURY TO HELP THEM DECIDE WHAT
8 WOULD BE THE PROPER PUNISHMENT, DEATH OR LIFE IN
9 PRISON. AND SO THERE MIGHT BE GOOD THINGS OR BAD
10 THINGS SAID ABOUT HIM. THERE MIGHT BE AGGRAVATING
11 CIRCUMSTANCES ABOUT THE MURDER OR MITIGATING
12 CIRCUMSTANCES, ALL OF THOSE THINGS. AND WHEN IT'S
13 COMPLETED, WE WOULD ASK THE JURY TO TELL US WHAT TO
14 SENTENCE HIM TO AND WHATEVER THE JURY TELLS ME TO DO I
15 MUST DO BY LAW. SO, IF THE JURY DECIDED THAT LIFE WAS
16 THE PROPER PUNISHMENT FOR THAT PARTICULAR MURDER, THEN
17 THE FOREMAN WOULD STAND UP AND SIGN A PIECE OF PAPER
18 AND IT WOULD SAY WE RECOMMEND LIFE IN PRISON.

19 AND THEN IF THEY DECIDED THAT THE PROPER
20 PUNISHMENT WAS DEATH, THEN IT'S DIFFERENT. EACH JUROR,
21 ALL TWELVE, WOULD HAVE TO SIGN THEIR NAME TO A PIECE OF
22 PAPER THAT SAID, WE, THE FOLLOWING JURORS, RECOMMEND
23 THAT DEATH IS THE PROPER SENTENCE AND I WOULD SENTENCE
24 HIM TO DEATH BY ELECTROCUTION. DO YOU UNDERSTAND?

25 A. YES, SIR.

1 Q. NOW, WHEN PEOPLE COME IN HERE LIKE YOU AND
2 THEY ARE FIRST CONFRONTED WITH SITTING ON A JURY OF
3 THIS TYPE THEY GENERALLY FALL WITHIN ONE OF THREE
4 CATEGORIES. SO, I'M GOING TO TELL YOU THOSE CATEGORIES
5 AND THEN I WANT YOU TO TELL ME WHICH ONE YOU THINK YOU
6 BEST FIT. CATEGORY NUMBER ONE WOULD BE THAT TYPE JUROR
7 THAT WOULDN'T BE INTERESTED IN THAT SECOND TRIAL.
8 THEIR MIND WOULD ALREADY BE MADE UP. THEY WOULD TAKE
9 THE POSITION IF YOU KILL SOMEBODY YOU OUGHT TO DIE
10 YOURSELF AND THEY WOULD ALWAYS VOTE FOR THE DEATH
11 PENALTY.

12 JUROR NUMBER TWO WOULD BE THE OPPOSITE OF
13 THAT. THAT JUROR WOULD TAKE THE POSITION, REGARDLESS
14 OF HOW TERRIBLE THE MURDER MIGHT HAVE BEEN, THEY WOULD
15 ALWAYS VOTE FOR LIFE IN PRISON. THAT WOULD BE NUMBER
16 TWO. NUMBER THREE COULD VOTE EITHER WAY. DEPENDING
17 UPON WHAT THE CIRCUMSTANCES WERE, IF HE WERE CONVICTED
18 OF MURDER, THEY COULD RECOMMEND LIFE IN PRISON OR THEY
19 COULD SIGN THEIR NAME TO THAT PIECE OF PAPER THAT SAID
20 DEATH. WHICH OF THOSE THREE CATEGORIES DO YOU FEEL YOU
21 BEST FIT IN?

22 A. THREE.

23 Q. IN OTHER WORDS, DEPENDING UPON -- YOU TAKE
24 THE POSITION THAT NOT EVERY MURDERER DESERVES LIFE OR
25 DEATH, BUT YOU WOULD WANT TO HEAR THE CIRCUMSTANCES AND

1 DEPENDING UPON WHAT YOU HEARD YOU COULD VOTE EITHER
2 WAY?

3 A. YES, SIR.

4 THE COURT: ALL RIGHT. NOW, THE ATTORNEYS
5 ARE GOING TO ASK YOU SOME QUESTIONS AND KEEP IN MIND
6 THERE ARE NO RIGHT OR WRONG ANSWERS. JUST ANSWER THEM
7 AS BEST YOU CAN. SOLICITOR?

8 MR. BAILEY: THANK YOU, YOUR HONOR.

9 DIRECT EXAMINATION

10 BY MR. BAILEY:

11 Q. MR. REED, I'M WALTER BAILEY. I NEED TO ASK
12 YOU SOME QUESTIONS HERE AND SOME OF THE QUESTIONS I'M
13 GOING TO ASK YOU THAT I ASKED OTHER JURORS ARE KIND OF
14 PERSONAL THAT I WOULDN'T ORDINARILY ASK SOMEBODY, BUT
15 SINCE THIS CASE IS SO IMPORTANT TO EVERYBODY I KIND OF
16 NEED TO ASK SOME OF THESE QUESTIONS. I APOLOGIZE IF
17 I'M KIND OF GETTING INTO YOUR PRIVATE LIFE. YOU HAD
18 SAID YOU DIDN'T KNOW ROGERS PERSONALLY. HAD YOU HEARD
19 OF HIM BEFORE OR KNOW HIS FAMILY?

20 A. WELL, I WAS BROUGHT UP AROUND THE SUMMERVILLE
21 AREA AND I'VE SEEN HIM BEFORE.

22 Q. OKAY. WHERE HAD YOU SEEN HIM BEFORE?

23 A. WELL, A LONG TIME AGO I USED TO SEE HIM AT
24 THE SKATING RINKS. THAT'S A LONG TIME AGO AND JUST
25 AROUND.

1 Q. OKAY. DID YOU -- DID YOU TALK TO HIM AND
2 KIND OF HANG AROUND WITH HIM?

3 A. NO, SIR.

4 Q. OKAY. HOW OLD ARE YOU NOW?

5 A. TWENTY-FIVE.

6 Q. OKAY. I THINK HE'S TWENTY-FIVE ALSO. DID
7 YOU SEE HIM ANY PLACE BESIDES THE SKATING RINK?

8 A. WELL, NOT REALLY.

9 Q. OKAY.

10 A. JUST AROUND.

11 Q. OKAY. DID YOU SEE HIM AT PARTIES OR CLUBS OR
12 THINGS LIKE THAT?

13 A. NO, I REALLY COULDN'T SAY.

14 Q. DO YOU KNOW ANYBODY IN HIS FAMILY, ANY
15 BROTHER?

16 A. HIS BROTHERS.

17 Q. WHAT'S HIS BROTHER'S NAME?

18 A. I KNOW AL AND ROBERT.

19 Q. AL AND WHAT'S THE OTHER BROTHER?

20 A. ROBERT.

21 Q. DO YOU KNOW THEM BETTER THAN YOU KNOW TIMOTHY
22 ROGERS?

23 A. YES, I'VE SEEN THEM BEFORE AROUND THEIR
24 HOUSE.

25 Q. YOU'VE BEEN TO VISIT WITH THEM IN THEIR HOME?

1 A. YES, I HAVE FRIENDS THAT LIVE AROUND THERE
2 AND I'VE -- WELL, WE'VE TALKED TO THEM BEFORE.

3 Q. HAVE YOU BEEN IN MR. ROGERS' HOUSE?

4 A. NO, SIR.

5 Q. HAVE YOU BEEN -- DOES HIS BROTHER LIVE WHERE
6 HE LIVES OR SEPARATE PLACES OR WHAT?

7 A. I REALLY COULDN'T TELL YOU THAT.

8 Q. OKAY. ARE YOU FRIENDS WITH HIS BROTHERS?

9 A. WELL, I HAVE FRIENDS THAT KNOW HIM AND
10 WHENEVER THEY GO TALK WITH THEM I USUALLY BE AROUND
11 THEM.

12 Q. OKAY. SO, YOU HAVE SOCIALIZED WITH HIS
13 BROTHERS BUT NOT WITH HIM PERSONALLY?

14 A. YES, SIR.

15 Q. IS THAT A PRETTY GOOD SUMMARY OF IT? YOU
16 SAID YOU SAW SOMETHING OR HEARD SOMETHING IN THE NEWS
17 MEDIA YESTERDAY? WAS THAT YESTERDAY MORNING OR
18 YESTERDAY AFTERNOON?

19 A. IN THE MORNING BEFORE I WAS COMING OUT HERE.

20 Q. OKAY. HAVE YOU HEARD OR SEEN ANYTHING SINCE
21 THEN?

22 A. NO, SIR.

23 Q. OKAY. DO YOU THINK THAT YOUR PERSONAL
24 KNOWLEDGE OF THE ROGERS FAMILY, INCLUDING KNOWING HIS
25 BROTHERS PRETTY WELL, WOULD HAVE ANY EFFECT ON YOUR

DEXTER A. REED - DIRECT EXAMINATION BY MR. BAILEY

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1 ABILITY TO SIT IN A CASE THIS IMPORTANT INVOLVING MR.
2 ROGERS?

3 A. THIS IMPORTANT? YES, I THINK SO.

4 Q. OKAY. HOW DO YOU THINK THAT MIGHT AFFECT
5 YOU?

6 A. I JUST WOULD BE NERVOUS.

7 Q. OKAY. WOULD YOU RATHER NOT SERVE IN THIS
8 CASE BECAUSE OF THAT RELATIONSHIP WITH THE ROGERS
9 FAMILY?

10 A. I WOULD RATHER NOT.

11 Q. OKAY. LET ME ASK YOU A COUPLE OF OTHER
12 QUESTIONS AND AGAIN I APOLOGIZE FOR GETTING INTO WHAT
13 WOULD ORDINARILY BE YOUR PRIVATE BUSINESS. BUT YOU
14 TOLD JUDGE BROWN YOU'D BEEN IN THE ARMY PREVIOUSLY?

15 A. YES, SIR.

16 Q. OKAY. AND WE ROUTINELY, NOT JUST ON YOU, BUT
17 ALL OF THE 260 JURORS THAT WERE SUMMONSED RUN A
18 COMPUTERIZED RECORD CHECK THROUGH S.L.E.D.

19 A. YES, SIR.

20 Q. AND WE CAME BACK WITH AN ARMY COURT-MARTIAL
21 RECORD ON SOMEBODY WITH YOUR NAME AND SOCIAL SECURITY
22 NUMBER. DID YOU HAVE A PROBLEM WITH A COURT-MARTIAL IN
23 THE ARMY?

24 A. OTHER THAN BEING A WITNESS TO ONE.

25 Q. NO. AS FAR AS BEING CHARGED WITH AN

1 OFFENSE.

2 A. I'VE BEEN CHARGED WITH AN OFFENSE.

3 Q. OKAY. WHAT WE'VE GOT HERE IN THE PRINTOUT
4 AND I COULD, YOU KNOW, SHOW THIS TO YOU IF YOU WOULD
5 LIKE WOULD BE THAT IN 1991 SOMEBODY WITH YOUR NAME AND
6 ALL WAS CONVICTED IN A COURT-MARTIAL OF USE OF
7 COCAINE.

8 A. NOT COURT-MARTIAL.

9 Q. OKAY. IT WAS AN ARTICLE 15?

10 A. YES.

11 Q. OKAY. WHICH IS A NONJUDICIAL PUNISHMENT?

12 A. YES, SOMETHING LIKE THAT.

13 Q. OKAY. ALL RIGHT. AND IF YOU HAD RECEIVED
14 EVERYTHING THEY COULD HAVE -- THAT YOU COULD HAVE
15 RECEIVED FOR THAT, WHAT'S THE MAXIMUM SENTENCE YOU
16 COULD HAVE GOTTEN AT THAT ARTICLE 15?

17 A. I DON'T KNOW. PROBABLY FIVE YEARS.

18 Q. OKAY.

19 MR. RUNYON: YOUR HONOR, I HAVE TO OBJECT TO
20 THAT QUESTION. I DON'T KNOW THE WITNESS IS ABLE TO
21 REALLY RESPOND.

22 THE COURT: WELL, IF HE KNOWS. HE'LL
23 ANSWER. HE SAYS MAYBE.

24 THE WITNESS: YEAH, MAYBE. I REALLY COULDN'T
25 TELL YOU.

1 THE COURT: HE SAYS HE REALLY CAN'T TELL.

2 BY MR. BAILEY:

3 Q. OKAY. DO YOU KNOW IF YOU COULD HAVE GOTTEN
4 OVER A YEAR?

5 A. PROBABLY SO. I REALLY COULDN'T TELL.

6 Q. ALL RIGHT. AND YOU'RE ALSO IN THE P.T.I.
7 PROGRAM WITH MY OFFICE NOW. IS THAT RIGHT?

8 A. YES.

9 Q. AND YOU HAVEN'T COMPLETED THE P.T.I.
10 PROGRAM.

11 A. HAVEN'T COMPLETED IT.

12 Q. DO YOU THINK THAT THOSE CHARGES PENDING
13 AGAINST YOU IN THE P.T.I. PROGRAM THAT'S MONITORED BY
14 MY OFFICE WOULD ALSO BE ANOTHER THING THAT WOULD MAKE
15 YOU FEEL UNCOMFORTABLE IN SITTING ON THIS JURY?

16 A. YES.

17 Q. NOW, THE JUDGE ASKED YOU ABOUT THE THREE
18 TYPES OF JURORS, THE TYPE THAT WOULD ALWAYS BRING BACK
19 THE DEATH PENALTY, THE TYPE THAT ALWAYS WOULD BRING
20 BACK A LIFE SENTENCE.

21 A. YES.

22 Q. NO MATTER WHAT THE CIRCUMSTANCES AND THE
23 THIRD TYPE THAT COULD DO EITHER ONE. OKAY? YOU
24 INDICATED YOU WERE THAT THIRD TYPE JUROR THAT COULD
25 BRING BACK LIFE IN PRISON AND YOU COULD ALSO BRING BACK

1 THE DEATH PENALTY. IS THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. OKAY. DO YOU FEEL LIKE YOUR INVOLVEMENT IN
4 THE P.T.I. PROGRAM COUPLED WITH YOUR KNOWLEDGE AND
5 FRIENDSHIP WITH MEMBERS OF THE ROGERS FAMILY WOULD
6 CHANGE THAT IN THIS CASE?

7 A. I THINK IT COULD CHANGE.

8 Q. OKAY. HOW WOULD IT CHANGE THAT?

9 A. WELL, I DON'T KNOW IF IT COULD CHANGE. I
10 JUST WOULDN'T FEEL COMFORTABLE.

11 Q. OKAY.

12 A. BEING HERE.

13 Q. WELL, DO YOU THINK THAT THOSE FACTORS THAT
14 WE'VE TALKED ABOUT WOULD SUBSTANTIALLY IMPAIR YOUR
15 ABILITY TO SIT AS A FAIR AND IMPARTIAL JUROR IN THIS
16 TRIAL, NOT ANY OTHER TRIAL, BUT IN THIS TRIAL INVOLVING
17 TIMOTHY ROGERS?

18 A. I JUST WOULDN'T BE COMFORTABLE.

19 Q. OKAY. AND WOULD YOU LIKE TO BE EXCUSED FOR
20 THAT PURPOSE?

21 A. YES.

22 Q. FOR THAT REASON?

23 A. YES.

24 MR. BAILEY: THAT'S ALL I HAVE, YOUR HONOR.

25 MR. RUNYON: GIVE ME ONE MOMENT, YOUR HONOR.

1 CROSS-EXAMINATION

2 BY MR. RUNYON:

3 Q. MR. REED, AS I UNDERSTAND IT, YOU'RE NOT
4 REALLY FRIENDS WITH MR. ROGERS' BROTHERS. YOU JUST
5 KIND OF KNOW OF THEM---

6 A. JUST KIND OF---

7 Q. ---THROUGH OTHER FRIENDS.

8 A. YES.

9 Q. AND WHILE YOU HAVE THIS KNOWLEDGE AND IT
10 WOULD MAKE YOU UNCOMFORTABLE, WOULD IT IMPAIR YOUR
11 ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

12 A. I JUST WOULDN'T BE COMFORTABLE.

13 Q. WELL, I KNOW YOU WOULDN'T BE COMFORTABLE, BUT
14 WOULD IT AFFECT YOUR JUDGMENT?

15 A. IT -- I SUPPOSE IT WOULDN'T REALLY. I JUST
16 WOULDN'T---

17 Q. YOU SUPPOSE IT WOULDN'T REALLY?

18 A. YEAH. I WOULDN'T BE COMFORTABLE WITH IT.

19 Q. YOU WOULDN'T BE COMFORTABLE. WE ALL
20 RECOGNIZE YOU NOT BEING COMFORTABLE.

21 A. YEAH.

22 Q. BUT WOULD YOU BE ABLE TO SERVE EVEN THOUGH
23 YOU WERE UNCOMFORTABLE?

24 A. I SUPPOSE I COULD SERVE.

25 Q. AND YOU COULD GIVE -- YOU COULD GIVE A FAIR

1 TRIAL TO THE STATE, COULDN'T YOU, CONSIDER WHAT THEY
2 HAD, CONSIDER THEIR EVIDENCE, AND MAKE A DECISION ON
3 THAT, COULDN'T YOU?

4 A. I STILL WOULDN'T BE -- I WOULDN'T BE
5 COMFORTABLE WITH THIS.

6 Q. I REALIZE YOU WOULDN'T BE COMFORTABLE NOW,
7 BUT WHEN YOU'RE SAYING YOU'D BE UNCOMFORTABLE, DOES
8 THAT MEAN YOU'D BELIEVE ANYTHING THE STATE SAID?

9 A. I PROBABLY COULD GIVE A FAIR TRIAL.

10 Q. OKAY. AND JUST BECAUSE YOU'RE UNCOMFORTABLE
11 THAT DOESN'T MEAN YOU'D BELIEVE EVERYTHING THAT ANYBODY
12 CAME UP HERE AND TESTIFIED FOR MR. ROGERS, WOULD YOU?

13 A. (JUROR SHOOK HEAD FROM SIDE TO SIDE) I GUESS
14 I'LL JUDGE EVERYTHING FAIRLY, LISTEN TO EVIDENCE AND
15 EVERYTHING.

16 MR. RUNYON: ALL RIGHT. NO FURTHER
17 QUESTIONS, YOUR HONOR.

18 RE-EXAMINATION BY THE COURT

19 Q. LET ME ASK YOU THIS. YOU INDICATED WHILE YOU
20 HADN'T BEEN IN HIS HOME YOU'D BEEN IN THE BROTHER'S
21 HOME?

22 A. I DIDN'T ACTUALLY GO IN THE HOME. I WAS
23 OUTSIDE.

24 Q. OUTSIDE THEIR HOME?

25 A. YEAH.

1 Q. ALL RIGHT. HOW WOULD YOU HAPPEN TO BE
2 TALKING TO THEM?

3 A. JUST MY FRIENDS GO OVER THERE AND THEY TALK
4 WITH THEM AND I JUST BE OUT THERE.

5 Q. YOU BE WITH THEM?

6 A. YEAH, LIKE I CONVERSATING (SIC).

7 Q. WELL, IN THIS CASE IF HE'S CONVICTED OF
8 MURDER AND IF YOU WERE A JUROR YOU WOULD HAVE TO DECIDE
9 WHETHER TO VOTE FOR LIFE OR DEATH. DO YOU FEEL THAT
10 YOUR CONNECTION WITH THE BROTHERS OF MR. ROGERS AND
11 BEING ON P.T.I., THAT'S PRETRIAL INTERVENTION -- THAT
12 MEANS THE SOLICITOR HAS CHOSEN TO ACCEPT YOU IN THAT
13 PROGRAM RATHER THAN PROSECUTE YOU FOR WHATEVER YOU WERE
14 ARRESTED FOR.

15 A. I UNDERSTAND.

16 Q. DO YOU FEEL THAT YOUR CONNECTION WITH MR.
17 ROGERS' BROTHERS AND THE SOLICITOR'S OFFICE ALSO WOULD
18 AFFECT YOUR ABILITY TO DECIDE WHICH SENTENCE IT OUGHT
19 TO BE?

20 A. BEING WITH THE SOLICITOR'S OFFICE I --
21 PROBABLY COULD AFFECT ME.

22 Q. WHEN YOU SAY PROBABLY COULD AFFECT YOU, WOULD
23 IT AFFECT YOU DO YOU THINK?

24 A. I DON'T KNOW WHAT -- I DON'T KNOW WHAT WOULD
25 HAPPEN.

1 Q. YOU DON'T KNOW WHAT WOULD HAPPEN.

2 A. YEAH.

3 THE COURT: ALL RIGHT. HOW ABOUT STEP
4 OUTSIDE FOR ME RIGHT THERE FOR JUST A MINUTE?

5 MR. BAILEY: YOUR HONOR, COULD I ASK HIM ONE
6 OTHER QUESTION---

7 THE COURT: SURE.

8 MR. BAILEY: ---JUST TO FOLLOW UP?

9 REDIRECT EXAMINATION

10 BY MR. BAILEY:

11 Q. MR. REED, WHEN YOU HAD SOCIALIZED WITH MR.
12 ROGERS' BROTHERS, WAS THAT AFTER NOVEMBER OF 1992 OR
13 BEFORE THAT?

14 A. AFTERWARDS.

15 Q. OKAY. DID Y'ALL EVER TALK ABOUT THE CHARGES
16 AGAINST HIM?

17 A. NO, NEVER TALKED ABOUT THAT BEFORE.

18 MR. BAILEY: NOTHING FURTHER, YOUR HONOR.

19 MR. RUNYON: JUST ONE THING, YOUR HONOR.

20 RECROSS EXAMINATION

21 Q. MR. REED, YOU DON'T THINK THAT THIS FAIR
22 GENTLEMAN OVER HERE, MR. BAILEY, WOULD DO ANYTHING TO
23 YOU IF YOU DECIDED ONE WAY OR THE OTHER AS A JUROR IN
24 THIS CASE, DO YOU, SIR?

25 A. WELL, NO, SIR, I DON'T THINK HE WOULD DO

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1 ANYTHING TO ME.

2 MR. RUNYON: OKAY. GOOD REPUTATION. NO
3 FURTHER QUESTIONS.

4 THE COURT: WELL, THEN, IF YOU DON'T DECIDE
5 THAT HE WOULD DO ANYTHING, WHY ARE YOU UNCOMFORTABLE?

6 THE WITNESS: JUST BECAUSE I'M GOING TO
7 ALWAYS HAVE TO GO BACK AND SEE HIM.

8 THE COURT: STEP OUTSIDE THE DOOR JUST A
9 MINUTE.

10 (JUROR DEXTER REED WAS EXCUSED FROM OPEN
11 COURT.)

12 THE COURT: ANY MOTIONS?

13 MR. BAILEY: YES, SIR, YOUR HONOR. I WOULD
14 MOVE THIS JUROR BE DISQUALIFIED FOR CAUSE. YOUR HONOR,
15 HE KNOWS THIS FAMILY. HE'S GOT TO GO BACK OUT IN THE
16 COMMUNITY AND FACE THESE PEOPLE AND I DON'T THINK IT'S
17 FAIR TO ASK HIM TO SERVE ON THIS CASE, MAYBE SOME OTHER
18 CASE BUT NOT THIS ONE. IN ADDITION TO THAT, YOUR
19 HONOR, I'M CONCERNED ABOUT THE MILITARY RECORD THAT HE
20 THINKS MAY CARRY OVER A YEAR'S WORTH OF TIME WHICH
21 WOULD DISQUALIFY HIM. HE WAS CONVICTED FOR A COCAINE
22 CHARGE IN THE MILITARY. I DON'T BELIEVE HE MEETS THE
23 WAYNEWRIGHT VERSUS WITT STANDARD BECAUSE I THINK THAT
24 HIS ABILITY TO SIT AS A FAIR AND IMPARTIAL JUROR IS
25 IMPAIRED AND I DON'T BELIEVE THE STANDARD IS WHETHER OR

1 NOT HE COULD POSSIBLY BRING BACK A DEATH PENALTY OR
2 POSSIBLY BRING BACK A LIFE SENTENCE UNDER SOME
3 CIRCUMSTANCES, WHETHER HIS ABILITY TO DO SO WOULD BE
4 IMPAIRED, AND I THINK BASED ON HIS RESPONSES AND JUST
5 THE WAY HE ACTED AS WELL AS WHAT HE SAID THAT HE WOULD
6 BE IMPAIRED OVERALL AND I WOULD MOVE THAT HE BE
7 DISQUALIFIED FOR CAUSE.

8 MR. RUNYON: I'D OPPOSE THAT AND MOVE THAT HE
9 BE INCLUDED IN THE POOL, YOUR HONOR. FIRST OF ALL,
10 THIS IS NOT A WAYNEWRIGHT CASE. THIS IS A PRACTICAL
11 CASE OF SOMEONE FROM A SMALL COMMUNITY WHO HAS SOME
12 KNOWLEDGE OF THE DEFENDANT'S FAMILY. SECONDLY, THERE
13 WAS AN ARTICLE 15 NONJUDICIAL PUNISHMENT. I THINK THE
14 UNITED STATES CODE OF MILITARY JUSTICE ADDRESSES THAT
15 AND HE WOULDN'T HAVE GOTTEN---

16 THE COURT: WHAT DO YOU MEAN BY NONJUDICIAL
17 PUNISHMENT?

18 MR. RUNYON: WELL, THAT'S WHAT THE TESTIMONY
19 WAS. THAT MEANS HE APPEARED BEFORE HIS COMMANDING
20 OFFICER LIKE A CAPTAIN'S MAST, JUDGE.

21 THE COURT: WELL, COULD HE HAVE GOTTEN FIVE
22 YEARS OR MORE THAN A YEAR FOR THAT?

23 MR. RUNYON: NO, SIR, NOT -- MY UNDERSTANDING
24 OF THE UNIFORM CODE OF MILITARY JUSTICE IS IT'S VERY
25 LIMITED PUNISHMENT AT A CAPTAIN'S MAST IN ARTICLE 15.

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1 NOW, I STAND -- YOU KNOW, I'VE HANDLED A FEW
2 COURT-MARTIALS AND I STAND TO BE CORRECTED. AND THEN
3 THE THIRD THING, YOUR HONOR, IS IS THAT INsofar AS HIS
4 BEING UNCOMFORTABLE, EVERYBODY IS UNCOMFORTABLE IN A
5 CAPITAL CASE. AND I WOULD GO ON RECORD AS SAYING AND
6 THIS DEFENDANT EVEN BELIEVES IT THAT THIS SOLICITOR
7 OVER HERE IS A FAIR INDIVIDUAL AND WOULDN'T, NOR WOULD
8 ANY MEMBER OF HIS STAFF, PUNISH THIS MAN IF HE DIDN'T
9 COME DOWN WITH A DECISION AS A JUROR THAT HE DIDN'T
10 LIKE. NOW, THAT'S THE REPUTATION MR. BAILEY'S GOT IN
11 THIS COMMUNITY AND I DON'T THINK IT'S GOING TO CHANGE
12 AND THAT'S THE WAY THIS GENTLEMAN FEELS. HE DOESN'T
13 FEEL ANY PRESSURE OR THREATS FROM THE SOLICITOR, AND I
14 THINK THAT HE SHOULD BE AT LEAST INCLUDED IN THE POOL
15 AND LET US MAKE A DECISION.

16 I DON'T KNOW WHETHER -- FRANKLY, JUDGE, I
17 DON'T KNOW WHETHER I WOULD, YOU KNOW, WHETHER WE WOULD
18 EXERCISE A PEREMPTORY CHALLENGE OR NOT. AFTER ALL,
19 WITH ALL DUE RESPECT TO MY GOOD FRIEND WHOSE REPUTATION
20 I HAVE JUST STOOD UP FOR, I STILL WOULD BE CONCERNED A
21 LITTLE BEFORE WE PUT HIM ON THAT JURY ABOUT HIM
22 WORRYING ABOUT -- WHILE I BELIEVE IN HIS REPUTATION, HE
23 MAY HAVE HIS DOUBTS. SO WE WOULD HAVE TO MAKE A
24 DECISION ON THAT, BUT I THINK HE SHOULD BE INCLUDED.

25 THE COURT: I'M LIKE YOU, COUNSELOR. I'M

1 WORRIED ABOUT WHAT HE SAID WHEN HE SAID I WOULD BE
2 WORRIED ABOUT GOING BACK TO SEE THE SOLICITOR AND SO
3 I'M GOING TO GRANT THE STATE'S MOTION. BRING HIM IN.

4 MR. RUNYON: THANK YOU, YOUR HONOR.

5 (JUROR DEXTER REED WAS BROUGHT BACK INTO OPE
6 COURT)

7 THE COURT: MR. REED, WE ALL THINK YOU WOULD
8 MAKE A FAIR JUROR, BUT REALIZING YOUR SITUATION I'M
9 GOING TO EXCUSE YOU FROM THIS CASE, BUT I'M GOING TO
10 ASK YOU TO DO ONE THING FOR ME. DON'T TALK ABOUT THIS
11 CASE TO ANYONE, NOT HIS BROTHERS OR THE SOLICITOR'S
12 OFFICE OR ANY OF THE JURORS. JUST DON'T TALK ABOUT
13 THIS CASE TO ANYBODY UNTIL IT'S OVER. WILL YOU DO THAT
14 FOR ME?

15 THE WITNESS: YES, SIR.

16 THE COURT: OKAY. WE'RE GOING TO MAIL YOU A
17 LITTLE CHECK AND YOU DON'T HAVE TO COME BACK ANY MORE
18 AND I HOPE YOU HAVE A GOOD WEEK.

19 THE WITNESS: ALL RIGHT. THANK YOU, SIR.

20 THE COURT: BYE-BYE. WHY DON'T WE TAKE TILL
21 2:00? WOULD YOU LIKE TO DO THAT? WILL THAT GIVE YOU
22 ENOUGH -- AN HOUR AND FIVE MINUTES TO GET LUNCH?

23 MR. BAILEY: YES, SIR.

24 MR. RUNYON: YES, SIR. YES, YOUR HONOR.

25 THE COURT: HAVE A GOOD LUNCH. 2:00.

1 MR. BAILEY: THANK YOU, YOUR HONOR.

2 (WHEREUPON, A LUNCH BREAK WAS TAKEN.)

3 THE COURT: KEEP YOUR SEAT. THANK YOU SO
4 MUCH. PEGGY MURRAY.

5 (JUROR PEGGY A. MURRAY ENTERED THE
6 COURTROOM.)

7 PEGGY A. MURRAY, AFTER BEING DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 EXAMINATION BY THE COURT

10 Q. SIT DOWN, MS. MURRAY. HOW ARE YOU TODAY?

11 A. NERVOUS.

12 Q. YOU DON'T HAVE TO BE NERVOUS AT ALL. LET ME
13 TELL YOU IT'S NOT LIKE SCHOOL. WE'RE GOING TO BE
14 ASKING YOU SOME QUESTIONS IN AN ATTEMPT TO DRAW A JURY
15 THAT'S TOTALLY IMPARTIAL THAT COULD BRING IN A VERDICT
16 AND BE FAIR TO BOTH SIDES, THAT IS, THE STATE AND MR.
17 ROGERS' ATTORNEYS AND HIMSELF. SO, THERE ARE NO RIGHT
18 OR WRONG ANSWERS. WE'RE GOING TO ASK YOU SOME
19 QUESTIONS AND YOU JUST ANSWER THEM AS BEST YOU CAN, AND
20 IF YOU FEEL LIKE YOU'D LIKE TO DO IT, JUST EXPLAIN YOUR
21 ANSWERS. YOU CAN'T FLUNK THIS TEST.

22 A. OKAY.

23 Q. YOU DON'T HAVE TO BE NERVOUS. I NOTICE THAT
24 WHEN I ASKED THE JURY ON YESTERDAY IF THEY KNEW
25 ANYTHING ABOUT THIS CASE YOU DIDN'T STAND UP. DO YOU

1 KNOW ANYTHING ABOUT THE CASE?

2 A. NO, I DON'T.

3 Q. SO, THERE'S NOTHING YOU KNOW THAT IF YOU WERE
4 CHOSEN AS A JUROR THAT YOU COULDN'T BE FAIR TO BOTH
5 SIDES. IS THAT A FAIR STATEMENT?

6 A. WELL, I KNOW SOME MEMBERS OF THE DEFENDANT'S
7 FAMILY.

8 Q. OKAY. WELL, YOU NEED TO TALK A LITTLE LOUDER
9 FOR ME. YOU KNOW SOME MEMBERS OF THE DEFENDANT'S
10 FAMILY. TELL ME WHO YOU KNOW AND HOW.

11 A. OKAY. IN THE NEIGHBORHOOD WHERE I GREW UP --
12 DO YOU WANT ME TO CALL THEIR NAMES OR. . .

13 Q. YEAH. TELL ME AND THE RELATIONSHIP, IF YOU
14 KNOW.

15 A. WELL, IT JUST IN SPEAKING. WE GREW UP
16 TOGETHER LIKE PATRICK BRYANT, KEITH BRYANT, ALLEE MAE.
17 THAT'S THE NEIGHBORHOOD WHERE I GREW UP AT. THAT'S HOW
18 I KNEW THEM. WE GREW UP TOGETHER.

19 Q. WELL, THE DEFENDANT'S NAME IS ROGERS.

20 A. I KNOW HIS -- SOME OF HIS PEOPLE.

21 Q. OH, SOME OF HIS PEOPLE.

22 A. YES.

23 Q. OH, ALL RIGHT. DO YOU KNOW HIM PERSONALLY?

24 A. NO, I DON'T.

25 Q. OH, ALL RIGHT. SO, EXCEPT FOR THAT

1 CONNECTION THAT YOU KNOW SOME OF HIS PEOPLE, DO YOU
2 KNOW ANYTHING THAT WOULD KEEP YOU FROM BEING FAIR BOTH
3 TO HIM AND TO THE STATE?

4 A. NO.

5 Q. ALL RIGHT. I WANT TO INTRODUCE THEM. YOU
6 SAY YOU DON'T KNOW HIM. THAT'S MR. ROGERS SITTING IN
7 THE CENTER THERE AND HE'S CHARGED WITH MURDER. ON YOUR
8 RIGHT THERE IS MR. LEIENDECKER. HE'S ONE OF THE
9 ATTORNEYS AND ON THIS SIDE IS MR. RUNYON, ANOTHER OF
10 THE ATTORNEYS, AND ON THIS SIDE IS MR. BAILEY. HE'S
11 THE SOLICITOR.

12 NOW, IN AN ORDINARY CASE, YOU REMEMBER I TOLD
13 YOU, THE JURY DECIDES WHETHER THAT PERSON IS INNOCENT
14 OR NOT AND THE JUDGE SENTENCES HIM. IN THIS TYPE CASE
15 IN WHICH THE STATE IS ASKING FOR THE DEATH PENALTY, THE
16 JURY DOES BOTH. DID YOU KNOW THIS UNTIL I TOLD YOU?

17 A. NO.

18 Q. WELL, WHAT HAPPENS IS -- BECAUSE YOU KNOW
19 THAT MR. ROGERS IS JUST AS INNOCENT AS YOU AND I UNLESS
20 THE STATE CAN SATISFY TWELVE JURORS OF HIS GUILT BEYOND
21 A REASONABLE DOUBT. SO, IF A JURY FINDS HIM NOT
22 GUILTY, THAT ENDS EVERYTHING.

23 A. (JUROR NODDED HEAD UP AND DOWN.)

24 Q. IF THEY FIND HIM GUILTY, THEN WE WOULD HAVE A
25 SECOND TRIAL IN WHICH AT THAT TRIAL THERE WOULD BE

1 INFORMATION GIVEN THE JURY TO TRY TO HELP THEM DECIDE
2 WHICH WAS THE PROPER PUNISHMENT, LIFE OR DEATH. IT
3 MIGHT BE GOOD THINGS AND BAD THINGS ABOUT HIM. IT
4 MIGHT BE AGGRAVATING CIRCUMSTANCES ABOUT THE MURDER OR
5 EXTENUATING OR MITIGATING CIRCUMSTANCES, ALL THOSE KIND
6 OF THINGS. AND THEN WHEN IT WAS COMPLETED, THEN THE
7 JURY WOULD BE ASKED TO RECOMMEND TO ME WHAT SENTENCE TO
8 GIVE HIM, LIFE OR DEATH. AND THOSE WORDS RECOMMEND, IT
9 MIGHT BE A MISNOMER REALLY BECAUSE WHATEVER THE JURY
10 TELLS ME TO DO I MUST BY LAW DO. IF THEY TELL ME THAT
11 I MUST SENTENCE HIM TO LIFE, I'LL DO IT. THE SAME
12 THING FOR DEATH.

13 SO, IF THE JURY DECIDED THAT THE PROPER
14 PUNISHMENT WAS LIFE IN PRISON, THE FOREMAN OF THE JURY
15 WOULD JUST SIGN A LITTLE PIECE OF PAPER AND THEY WOULD
16 COME OUT AND ANNOUNCE THAT THEY RECOMMEND LIFE IN
17 PRISON AND THAT'S WHAT I'D SENTENCE HIM TO. ON THE
18 OTHER HAND, IF THE JURY DECIDED THAT THE PROPER
19 PUNISHMENT WAS DEATH FOR MURDER, THEN EACH JUROR --
20 IT'S A LITTLE DIFFERENT BECAUSE EACH JUROR WOULD SIGN
21 THEIR NAME AND THERE WOULD BE A PIECE OF PAPER THAT
22 WOULD SAY IN ESSENCE, WE, THE FOLLOWING JURORS,
23 DETERMINE THAT THE PROPER SENTENCE IS DEATH AND I WOULD
24 SENTENCE HIM TO DEATH BY ELECTROCUTION.

25 NOW, JURORS WHEN THEY COME IN, MS. MURRAY,

1 LIKE YOU THAT HAVEN'T HAD TOO MUCH EXPERIENCE - BECAUSE
2 I NOTICE HERE THAT YOU HAVE NEVER SERVED ON A JURY
3 BEFORE - WHEN THEY COME IN, THEY ARE FACED WITH THE
4 PROPOSITION OF MAYBE SERVING ON A JURY. THEY GENERALLY
5 FALL IN ONE OF THREE CATEGORIES. SO, I'M GOING TO TELL
6 YOU THOSE CATEGORIES AND THEN I WANT YOU TO TELL ME
7 WHICH ONE YOU THINK FITS YOU BEST. THE FIRST CATEGORY,
8 JUROR NUMBER ONE, IS THAT TYPE JUROR WHO WOULD ALWAYS
9 VOTE FOR THE DEATH PENALTY. HE WOULDN'T BE INTERESTED
10 IN THAT SECOND TRIAL BECAUSE HIS MIND WOULD BE MADE
11 UP. THAT JUROR WOULD TAKE THE POSITION IF YOU KILL
12 SOMEBODY YOU OUGHT TO DIE YOURSELF.

13 NOW, JUROR NUMBER TWO IS THAT JUROR WHO WOULD
14 BE JUST THE OPPOSITE. THEY WOULD TAKE THE POSITION
15 THAT REGARDLESS OF HOW HORRIBLE A MURDER MIGHT BE THEY
16 WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY WOULD
17 NEVER SIGN A PIECE OF PAPER THAT WOULD SAY DEATH AND
18 THEY WOULD ALWAYS VOTE FOR LIFE. AND THEN THERE'S
19 NUMBER THREE THAT COULD VOTE EITHER WAY. DEPENDING
20 UPON WHAT THEY HEARD, IF THEY DECIDED THAT THE PROPER
21 SENTENCE WAS LIFE IN PRISON, THEY COULD VOTE THAT WAY.
22 AND IF THEY DECIDED THAT THE PROPER SENTENCE WAS DEATH,
23 THEY COULD SIGN THAT PIECE OF PAPER AND VOTE FOR
24 DEATH. WHICH DO YOU THINK YOU FIT BEST?

25 A. I THINK NUMBER THREE.

1 Q. IN OTHER WORDS, IS IT YOUR POSITION THAT YOU
2 FEEL THAT NOT EVERY MURDERER DESERVES DEATH AND NOT
3 EVERY MURDERER DESERVES LIFE, BUT DEPENDING UPON THE
4 CIRCUMSTANCES AND OTHER THINGS YOU COULD VOTE EITHER
5 WAY? IS THAT WHAT YOU'RE TELLING ME?

6 A. YEAH. I WOULD WANT TO HEAR BOTH SIDES OF THE
7 STORY FIRST.

8 Q. ALL RIGHT. NOW, YOU UNDERSTAND THAT BEFORE
9 YOU GET TO THAT SECOND PHASE A JURY MUST ALREADY FIND
10 HIM GUILTY OF MURDER. THE SECOND TRIAL IS ONLY TO
11 DETERMINE THE SENTENCE, THE CIRCUMSTANCES PERHAPS, OF
12 THE MURDER, WHETHER IT WAS AGGRAVATED, WHETHER THERE
13 WAS MITIGATION, SOME EXCUSABLE REASON, THOSE TYPE
14 THINGS. DO YOU UNDERSTAND?

15 A. NO, I DON'T.

16 Q. THE FIRST THING, THE FIRST TRIAL, THE ONLY
17 THING THE JURY IS CONCERNED WITH IS WHETHER HE MURDERED
18 THIS PERSON.

19 A. UH-HUH.

20 Q. THAT'S ALL. AND AS I TOLD YOU, IF THEY FIND
21 HE DIDN'T DO IT, FIND HIM NOT GUILTY, THAT ENDS IT.
22 BUT IF THEY FIND THAT HE COMMITTED THE MURDER---

23 A. UH-HUH.

24 Q. ---THEN THE SECOND TRIAL IS TO DETERMINE WHAT
25 THE SENTENCE IS AND SO A JURY MIGHT HEAR GOOD THINGS

1 AND BAD THINGS ABOUT HIM, SOME EXCUSABLE REASON WHY HE
2 DID IT, MIGHT BE SOMETHING THAT SHOWS IT WAS AN
3 AGGRAVATED THING, ALL OF THOSE KIND OF THINGS. NOW YOU
4 UNDERSTAND?

5 A. UH-HUH.

6 Q. NOW, YOU STILL FIT IN NUMBER THREE?

7 A. YEAH.

8 Q. ALL RIGHT. NOW, THE ATTORNEYS ARE GOING TO
9 ASK YOU SOME QUESTIONS, AND JUST AS I SAID THERE ARE NO
10 RIGHT OR WRONG ANSWERS. JUST ANSWER AS BEST YOU CAN.

11 A. OKAY.

12 THE COURT: OKAY? SOLICITOR?

13 MR. BAILEY: THANK YOU, YOUR HONOR.

14 DIRECT EXAMINATION

15 BY MR. BAILEY:

16 Q. MS. MURRAY, I'M WALTER BAILEY. I'M GOING TO
17 ASK YOU A FEW QUESTIONS HERE AND I'M GOING TO APOLOGIZE
18 IN ADVANCE BECAUSE THE QUESTIONS ARE KIND OF PERSONAL.
19 I'M ASKING HOW YOU FEEL ABOUT CERTAIN THINGS THAT I
20 WOULDN'T ORDINARILY ASK SOMEBODY ABOUT THAT I DIDN'T
21 KNOW, BUT SINCE THIS IS SUCH AN IMPORTANT TRIAL FOR
22 EVERYBODY I NEED TO FIND OUT HOW YOU FEEL. OKAY?

23 A. (JUROR NODDED HEAD UP AND DOWN.)

24 Q. YOU TOLD JUDGE BROWN THAT YOU WERE THAT THIRD
25 TYPE OF JUROR?

1 A. UH-HUH.

2 Q. COULD YOU EXPLAIN TO ME WHAT YOU MEAN BY
3 THAT, WHAT YOU THINK THAT THIRD TYPE JUROR IS?

4 A. WELL, LIKE I SAID BEFORE, I WOULD WANT TO
5 HEAR -- YOU KNOW, GIVE HIM A FAIR, YOU KNOW, TRIAL, YOU
6 KNOW, LISTEN AND GET BOTH SIDES---

7 Q. OKAY.

8 A. ---OF THE STORY BEFORE I---

9 Q. AND THEN AFTER HEARING BOTH SIDES, WOULD YOU
10 BE ABLE TO BRING BACK A VERDICT OF EITHER LIFE IN
11 PRISON OR THE DEATH PENALTY?

12 A. YES, I THINK I WOULD.

13 Q. OKAY. HAVE YOU EVER HAD OCCASION, SAY, IN
14 MAYBE A CLASS IN COLLEGE OR TALKING TO YOUR PARENTS AND
15 FRIENDS TO TALK ABOUT THE DEATH PENALTY AND EXPRESS
16 YOUR VIEWS ON IT TO ANYBODY?

17 A. YEAH.

18 Q. OKAY. OF COURSE, THAT WOULD BE JUST IN
19 GENERAL TERMS AND NOT IN RELATION TO THIS CASE BUT
20 WHAT -- BEFORE YOU GOT PICKED FOR THIS JURY OR BEFORE
21 YOU GOT ON THIS JURY PANEL, WHAT WERE YOUR GENERAL
22 THOUGHTS ON THE DEATH PENALTY?

23 A. WELL, LIKE I SAID BEFORE, I HAVE TO HEAR BOTH
24 SIDES OF THE STORY, THEN TALK -- MAKE A DECISION.

25 Q. OKAY. ALL RIGHT. YOU HAD MENTIONED YOU KNEW

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1 SOME PEOPLE WHOSE LAST NAME WAS BRYANT. I THINK YOU
2 SAID PATRICK BRYANT AND KEITH BRYANT. THEN I THINK YOU
3 MENTIONED ANOTHER NAME, BUT I DIDN'T CATCH. . . WHO
4 WAS THAT?

5 A. ALLEE MAE.

6 Q. IS THAT LAST NAME BRYANT ALSO?

7 A. I'M NOT SURE. I DON'T KNOW IF SHE GOT
8 MARRIED OR WHAT. I'M NOT EVEN SURE.

9 Q. OKAY. YOU'RE FROM ST. GEORGE. IS THAT
10 RIGHT?

11 A. YES.

12 Q. AND THE PEOPLE YOU'RE TALKING ABOUT, DO THEY
13 LIVE IN ST. GEORGE---

14 A. UH-HUH.

15 Q. ---OR SUMMERVILLE?

16 A. ST. GEORGE.

17 Q. AND HOW ARE THEY KIN TO THE ROGERS FAMILY?
18 DO YOU KNOW?

19 A. I THINK THEY'RE HIS COUSINS. I'M NOT SURE.

20 Q. HAVE YOU EVER TALKED TO ANY MEMBERS OF THE
21 ROGERS FAMILY, THE BRYANTS, OR ANYBODY ELSE ABOUT THIS
22 PARTICULAR CASE?

23 A. NO. NO, I HAVEN'T.

24 Q. HAVE YOU READ ANYTHING IN THE NEWSPAPER OR
25 SEEN ANYTHING ON TELEVISION THAT WOULD GIVE YOU ANY

1 KIND OF PRECONCEIVED IDEA?

2 A. I SEEN SOMETHING ON TELEVISION, BUT I REALLY
3 DIDN'T PAY IT NO TOO MUCH OF ATTENTION.

4 Q. OKAY.

5 A. SO. . .

6 Q. WAS THAT RECENTLY OR WAY BACK---

7 A. WAY BACK.

8 Q. ---WHEN THIS THING FIRST HAPPENED?

9 A. WAY BACK.

10 Q. OKAY. I NOTICED IN YOUR QUESTIONNAIRE THAT
11 YOU FILLED OUT THAT YOU GO TO SAINT MARKS BAPTIST
12 CHURCH?

13 A. YES.

14 Q. DO YOU GO THERE EVERY SUNDAY OR JUST. . .

15 A. WE HAVE CHURCH ON THE SECOND AND FOURTH, SO I
16 TRY TO GO AS MUCH AS POSSIBLE.

17 Q. OKAY. DOES THAT CHURCH HAVE ANY PARTICULAR
18 TEACHINGS AS FAR AS THE DEATH PENALTY THAT YOU'RE AWARE
19 OF?

20 A. NO.

21 Q. YOU DON'T RECALL ANY SERMONS OR ANYTHING
22 ABOUT THE DEATH PENALTY.

23 A. NO.

24 Q. OR ANYTHING OF THAT NATURE.

25 A. NO.

1 Q. THE JUDGE TOLD YOU ABOUT THE TWO-STAGE
2 PROCESS WHERE THE FIRST STAGE IS LIKE ANY OTHER TRIAL.
3 THE JURY IS JUST THERE TO DETERMINE GUILT OR
4 INNOCENCE.

5 A. UH-HUH.

6 Q. IN THIS CASE THE CHARGE IS MURDER. SO, IN
7 THE FIRST STAGE THE JURY WOULD DECIDE AFTER HEARING ALL
8 THE EVIDENCE AND THE LAW FROM THE JUDGE WHETHER OR NOT
9 THE STATE HAD PROVEN BEYOND A REASONABLE DOUBT THAT THE
10 DEFENDANT'S GUILTY OF MURDER.

11 A. (JUROR NODDED HEAD UP AND DOWN.)

12 Q. IF THE JURY FOUND HIM GUILTY OF MURDER, WE
13 WOULD THEN GO INTO THAT SECOND STAGE AND YOU WOULD HEAR
14 ADDITIONAL EVIDENCE. THERE WOULD BE ADDITIONAL
15 INSTRUCTIONS FROM THE JUDGE AS FAR AS THE LAW. THEN
16 THAT JURY DECIDES WHETHER OR NOT TO IMPOSE LIFE
17 IMPRISONMENT OR THE DEATH PENALTY, AND ALL TWELVE
18 JURORS HAVE TO AGREE ONE WAY OR THE OTHER IN THAT
19 SECOND STAGE.

20 A. UH-HUH.

21 Q. IF THEY DECIDE ON THE DEATH PENALTY, THEN IN
22 ORDER TO IMPOSE THAT DEATH PENALTY EACH JUROR WOULD
23 HAVE TO SIGN THEIR NAME TO A PAPER. COULD YOU SIGN
24 YOUR NAME TO A PAPER LIKE THAT KNOWING THE RESULT WOULD
25 BE THE DEFENDANT WOULD BE PUT TO DEATH?

1 A. I REALLY DON'T KNOW.

2 Q. OKAY. DO YOU NEED MORE TIME TO THINK ABOUT
3 IT OR IS IT JUST THAT YOU WOULDN'T KNOW UNTIL YOU HEARD
4 THE FACTS?

5 A. I WOULD SAY I WOULDN'T KNOW UNTIL I HEARD THE
6 FACTS. I DON'T -- I DON'T THINK SO.

7 Q. OKAY. JUST SO I'M CLEAR, WE'RE TALKING ABOUT
8 A SITUATION WHERE YOU'VE ALREADY MADE UP YOUR MIND OUT
9 OF THOSE TWO CHOICES. YOU'VE CONSIDERED LIFE IN
10 PRISON. YOU'VE CONSIDERED THE DEATH PENALTY. WHEN I
11 SAY YOU, I'M TALKING ABOUT THE WHOLE JURY AND ALL
12 TWELVE OF Y'ALL DECIDE ON THE DEATH PENALTY. WHAT YOU
13 DECIDE IS WHAT'S GOING TO HAPPEN. WE MAY USE THE WORD
14 RECOMMENDATION, BUT THAT IS -- YOU'RE THE JUDGES OF THE
15 SENTENCE. COULD YOU SIGN YOUR NAME ON A PIECE OF PAPER
16 KNOWING THAT AS A RESULT OF SIGNING THAT THE DEFENDANT
17 IN THIS CASE WOULD BE PUT TO DEATH BY ELECTROCUTION?

18 A. NO.

19 Q. OKAY. SO, AS I UNDERSTAND YOUR TESTIMONY,
20 ALTHOUGH YOU COULD CONSIDER BOTH OPTIONS---

21 A. YES.

22 Q. ---AND POSSIBLY VOTE ONE WAY OR THE OTHER---

23 A. THAT'S RIGHT.

24 Q. ---YOU COULD NOT SIGN YOUR NAME ON THAT FORM
25 KNOWING THE RESULT WOULD BE THE ELECTROCUTION OF A

1 PERSON?

2 A. I DON'T THINK I WOULD BE ABLE TO.

3 Q. OKAY. YOU SAID YOU DIDN'T THINK YOU WOULD BE
4 ABLE TO AND I HATE TO PIN YOU DOWN, BUT WE NEED TO FIND
5 OUT WHETHER YOU COULD OR WHETHER YOU COULDN'T.

6 A. NO.

7 Q. YOU COULD NOT?

8 A. NO.

9 Q. AND YOU'RE PRETTY SURE OF THAT?

10 A. YES.

11 Q. OKAY. AND BY THE SAME TOKEN, IF YOU WERE
12 REQUIRED TO COME OUT INTO OPEN COURT AND ANNOUNCE THAT
13 THAT WAS YOUR VERDICT WOULD YOU BE ABLE TO DO THAT?

14 A. NO.

15 MR. BAILEY: OKAY. THANK YOU. THAT'S ALL I
16 HAVE.

17 CROSS-EXAMINATION

18 BY MR. RUNYON:

19 Q. MS. MURRAY, GOOD AFTERNOON. LET ME KIND OF
20 GET CLEAR IN MY MIND. MR. BAILEY WAS ASKING YOU ABOUT
21 A MECHANICAL PROCESS OF HOW THE VERDICT WOULD COME
22 OUT. LET ME TRY TO CLARIFY THAT. IF YOU HEARD BOTH
23 SIDES AND YOU AND THE REST OF THE JURORS THAT YOUR
24 DECISION WAS SOMEONE SHOULD BE PUT TO DEATH AND THAT
25 WAS YOUR DECISION, COULD YOU WRITE THAT ON A PIECE OF

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1 PAPER AND SAY THIS IS WHAT I THINK SHOULD BE DONE, THIS
2 IS MY DECISION, IF YOU THOUGHT IT SHOULD BE?

3 A. IF I-- YEAH, IF I THOUGHT IT SHOULD BE.

4 Q. ALL RIGHT. AND, LIKEWISE, IF YOU MADE A
5 DECISION THAT THIS WAS WHAT YOU THOUGHT SHOULD HAPPEN
6 AND IT WAS BROUGHT OUT IN COURT AND PUBLISHED TO THE
7 COURT, YOU'D HAVE NO PROBLEM STANDING BY A
8 WELL-THOUGHT-OUT, HONEST CONCLUSION THAT YOU HAD
9 REACHED, WOULD YOU?

10 A. RIGHT.

11 MR. RUNYON: OKAY. NO FURTHER QUESTIONS,
12 YOUR HONOR.

13 RE-EXAMINATION BY THE COURT

14 Q. WELL, NOW I'VE HEARD TWO ANSWERS. LET ME
15 JUST ASK YOU THIS. AND I REALIZE YOUR RELUCTANCE, BUT
16 AS THEY HAVE STATED YOU'VE GOT TO GIVE US AS BEST YOU
17 CAN AN ANSWER. IF THE JURY DECIDED THAT DEATH WAS THE
18 PROPER SENTENCE, EACH JUROR WOULD SIGN THEIR NAME TO A
19 PIECE OF PAPER.

20 A. YEAH.

21 Q. AND IT SAYS WE RECOMMEND DEATH AND I WOULD
22 SENTENCE THAT PERSON TO DEATH IF I RECEIVED THAT. SO,
23 MY QUESTION IS: IF YOU DECIDED THAT THE PROPER - AND
24 YOU WERE ON THE JURY - THAT THE PROPER SENTENCE WAS
25 DEATH, COULD YOU SIGN YOUR NAME TO A PIECE OF PAPER

1 THAT WOULD RESULT IN THAT PERSON'S DEATH?

2 A. WELL, IT WOULD BE A DIFFERENCE IF I DIDN'T
3 KNOW THE DEFENDANT'S FAMILIES.

4 Q. IN OTHER WORDS, ARE YOU SAYING YOU COULDN'T
5 DO IT BECAUSE YOU KNOW THE DEFENDANT'S FAMILY?

6 A. UH-HUH.

7 Q. YOU MEAN YOU COULD DO IT, BUT YOU
8 COULDN'T. . .

9 A. I MEAN, I -- YEAH, I CAN DO IT BUT BECAUSE I
10 KNOW THE DEFENDANT'S FAMILY. . .

11 Q. YOU COULD NOT SIGN YOUR NAME?

12 A. I COULD NOT.

13 THE COURT: GENTLEMEN, DO YOU WANT TO RE-ASK
14 SOME QUESTIONS?

15 MR. BAILEY: I DON'T WANT TO UNLESS MR.
16 RUNYON DOES, YOUR HONOR.

17 MR. RUNYON: JUST VERY BRIEFLY.

18 RECROSS EXAMINATION

19 BY MR. RUNYON:

20 Q. THESE FOLKS WHO ARE THE BRYANTS, ARE YOU SURE
21 THEY'RE RELATED TO MR. ROGERS?

22 A. I THINK THEY ARE, YEAH.

23 Q. I BEG YOUR PARDON?

24 A. YES.

25 Q. YOU THINK THEY ARE?

1 A. YES.

2 Q. ALL RIGHT. IF THEY WEREN'T RELATED TO MR.
3 ROGERS, WOULD THAT HELP YOU WITH YOUR DILEMMA?

4 A. YES.

5 Q. OKAY. AND SO YOU JUST HAVE SOME CONCEPT THA
6 MAYBE THESE PEOPLE ARE RELATED SOMEHOW TO THE
7 DEFENDANT.

8 A. YES.

9 Q. BUT YOU DON'T KNOW THAT FOR A FACT. IS THAT
10 A FAIR STATEMENT?

11 A. UH-HUH.

12 Q. SO THAT CLARIFICATION OF THEM NOT BEING
13 RELATED WOULD FREE YOU UP TO BE ABLE TO SERVE ON A JUR
14 IF ASKED.

15 A. YES.

16 MR. BAILEY: YOUR HONOR?

17 THE COURT: WAIT A MINUTE. WE'VE GOT A
18 DILEMMA HERE. TELL ME THIS AND WE'RE NOT TRYING TO PR
19 INTO YOUR PERSONAL LIFE. WHAT MAKES YOU THINK THAT
20 THESE PEOPLE YOU'RE TALKING ABOUT ARE RELATIONS?

21 THE WITNESS: BECAUSE I HEARD, YOU KNOW, THEY
22 WAS.

23 COURT REPORTER: I DIDN'T HEAR HER ANSWER.

24 THE COURT: SHE SAID SHE HEARD THEY WERE.

25 AND WHERE DID YOU HEAR THIS? IS THIS SOMETHING YOU'VE

1 BEEN KNOWING FOR YEARS?

2 THE WITNESS: NO, I DIDN'T KNOW THIS FOR
3 YEARS, NO, BECAUSE I DON'T KNOW HIM.

4 THE COURT: WHY DON'T YOU STEP OUTSIDE FOR
5 JUST A MINUTE? WILL YOU DO THAT FOR ME FOR JUST A
6 SECOND?

7 (JUROR PEGGY MURRAY WAS EXCUSED FROM OPEN
8 COURT.)

9 THE COURT: GENTLEMEN, I'VE NEVER RUN UP ON A
10 SITUATION LIKE THIS. ARE THEY RELATED?

11 MR. RUNYON: YOUR HONOR, THERE IS A PATRICK
12 BRYANT WHO IS RELATED TO MR. ROGERS' MOTHER. WE'RE NOT
13 SURE THAT THAT'S THE SAME BRYANT THAT SHE'S MAKING
14 REFERENCE TO.

15 THE COURT: COME HERE.

16 (WHEREUPON, A POLICE OFFICER TALKS OFF THE
17 RECORD WITH THE COURT.)

18 THE COURT: THE OFFICER WAS TELLING ME THAT
19 THE DEFENDANT'S BEEN ARRESTED UNDER THE NAME OF BRYANT
20 BEFORE AND HAS A HALF BROTHER THAT GOES BY THE NAME
21 BRYANT.

22 MR. RUNYON: YES, SIR, BUT I'M NOT -- I DON'T
23 THINK---

24 THE COURT: WELL, YOU SEE, WHAT YOU ALL HAVE
25 BOXED ME IN ON IS THIS: SHE'S SAYING, IN ESSENCE, IF

1 HE'S RELATED TO THE BRYANTS THAT SHE WOULD NOT VOTE FOR
2 THE DEATH PENALTY, AND SO Y'ALL HAVE BOXED ME IN AND
3 WE'VE GOT TO DETERMINE THIS SO I CANNOT SEAT HIM
4 (SIC). IF HE'S RELATED, THEN SHE WOULDN'T BE
5 QUALIFIED. SHE SAID SHE COULD NOT DO IT. SO, YOU KIND
6 OF BOX ME IN. YOU TELL ME HOW YOU WANT TO GET OUT OF
7 IT.

8 MR. RUNYON: WELL, I'VE GOT A PROBLEM.

9 THE COURT: IT'S EITHER YES OR NO, YOU KNOW.

10 MR. RUNYON: WELL, I'M NOT -- I DON'T THINK
11 THAT THE PEOPLE SHE'S MAKING REFERENCE TO ARE THE
12 BRYANTS THAT'S RELATED TO HIM.

13 THE COURT: YOUR CLIENT KNOWS. ARE YOU --
14 CAN YOU GET ON THE STAND -- I MEAN, CAN YOU STAND UP
15 THERE AND TELL ME THAT IT'S NOT TRUE?

16 MR. RUNYON: I JUST TOLD YOU, YOUR HONOR,
17 THAT THERE IS A PATRICK BRYANT WHO IS THE BROTHER OF
18 Applicant's Mother, THE MOTHER OF THE DEFENDANT, BUT SHE
19 WOULDN'T BE -- HE WOULDN'T BE A CONTEMPORARY OF THIS
20 LADY.

21 THE COURT: I DON'T KNOW WHAT YOU MEAN BY
22 CONTEMPORARY.

23 MR. RUNYON: WELL---

24 THE COURT: ARE THEY RELATED? THAT'S WHAT
25 I'M ASKING.

1 MR. RUNYON: I DON'T. . .

2 MR. BAILEY: SHE'S SHAKING HER HEAD YES.

3 MR. RUNYON: ARE THESE BRYANTS RELATED THAT
4 SHE'S---

5 Applicant's Mother : PATRICK BRYANT IS MY BROTHER.

6 MR. RUNYON: PATRICK BRYANT IS HER BROTHER.

7 NOW, ARE THE BRYANTS THAT SHE'S TALKING ABOUT RELATED?

8 Applicant's Mother: YES.

9 MR. RUNYON: OKAY. THAT SETTLES IT, YOUR
10 HONOR.

11 THE COURT: BRING HER IN.

12 MR. RUNYON: I APOLOGIZE FOR THE CONFUSION,
13 YOUR HONOR.

14 THE COURT: THAT'S QUITE ALL RIGHT.

15 (JUROR PEGGY MURRAY WAS BROUGHT INTO OPEN
16 COURT.)

17 THE COURT: MS. MURRAY, WE ALL THINK YOU'D
18 MAKE A GOOD JUROR, BUT WE SEE YOUR DILEMMA AND SO WE'RE
19 GOING TO EXCUSE YOU FROM THIS CASE. WE KNOW YOU'D MAKE
20 A GOOD JUROR, BUT WE DON'T THINK IT'S FAIR TO PUT YOU
21 WITH THE RELATIONSHIP THERE. SO, BE THAT AS IT MAY,
22 I'M GOING TO EXCUSE YOU. I'M GOING TO ASK YOU TO DO
23 ONE THING. DON'T DISCUSS THIS CASE WITH ANYONE,
24 ESPECIALLY THE JURORS. DON'T DISCUSS IT WITH ANYBODY
25 UNTIL THE CASE IS OVER. WILL YOU DO THAT FOR ME?

1 JUROR MURRAY: (NODDED HEAD UP AND DOWN.)

2 THE COURT: AND WE'RE GOING TO MAIL YOU A
3 LITTLE CHECK, BUT DON'T SPEND MUCH MONEY. YOU'RE
4 EXCUSED.

5 JUROR MURRAY: THANK YOU.

6 THE COURT: BYE-BYE.

7 (JUROR PEGGY MURRAY WAS EXCUSED FROM THE
8 COURTROOM.)

9 THE COURT: VIRGINIA MORRIS.

10 (JUROR VIRGINIA V. MORRIS ENTERED THE
11 COURTROOM.)

12 VIRGINIA V. MORRIS, AFTER BEING DULY
13 SWORN, TESTIFIED AS FOLLOWS:

14 EXAMINATION BY THE COURT

15 Q. MS. MORRIS, HOW ARE YOU TODAY?

16 A. JUST FINE.

17 Q. WELL, I'M JUDGE LUKE BROWN. I INTRODUCED
18 MYSELF EARLIER AND WE WANT TO ASK YOU SOME QUESTIONS.
19 AND IT'S NOT THE TYPE TEST YOU CAN FLUNK, SO THERE ARE
20 NO RIGHT OR WRONG ANSWERS.

21 A. GOOD.

22 Q. SO WE'RE GOING TO ASK YOU THESE QUESTIONS AND
23 JUST ANSWER AS BEST YOU CAN BECAUSE WHAT WE'RE TRYING
24 TO DO IS PICK A JURY THAT'S TOTALLY IMPARTIAL BECAUSE,
25 AS YOU KNOW, MR. ROGERS IS CHARGED WITH MURDER. HE

1 SITS BETWEEN HIS ATTORNEYS OVER THERE AND ON HIS RIGHT
2 IS MR. LEIENDECKER, ONE OF THE ATTORNEYS, AND ON YOUR
3 LEFT IS MR. RUNYON. HE'S THE OTHER ATTORNEY AND ON MY
4 LEFT OVER HERE THE FIRST GENTLEMAN THERE IS THE
5 SOLICITOR, MR. BAILEY. NOW, ON YESTERDAY MORNING WHEN
6 I ASKED -- YOU KNOW HE'S CHARGED WITH MURDER AND, OF
7 COURSE, EVERYONE'S PRESUMED TO BE INNOCENT AND THE
8 STATE MUST SATISFY TWELVE JURORS, IF INDEED THEY CAN,
9 OF HIS GUILT BEYOND A REASONABLE DOUBT. YOU KNOW
10 THAT.

11 A. UH-HUH.

12 Q. I NOTICE YOU'VE NEVER SERVED ON A CRIMINAL
13 JURY, BUT YOU SERVED ON A CIVIL JURY.

14 A. THAT'S CORRECT.

15 Q. WAS I LUCKY ENOUGH TO BE YOUR JUDGE?

16 A. NO, SIR. THIS WAS IN CHARLESTON COUNTY WHEN
17 I WAS LIVING IN CHARLESTON COUNTY.

18 Q. OH. HOW LONG HAVE YOU BEEN LIVING IN THIS
19 COUNTY?

20 A. TWENTY-ONE YEARS.

21 Q. IN ANY EVENT, YOU KNOW THAT IN AN ORDINARY
22 CRIMINAL CASE THE JURY IS ONLY CONCERNED WITH GUILT OR
23 INNOCENCE. THE JUDGE IS THE ONE THAT DOES THE
24 SENTENCING. WELL, IN A CASE IN WHICH THE STATE IS
25 SEEKING THE DEATH PENALTY IT'S DIFFERENT. THE JURY

1 DOES BOTH. DID YOU KNOW THIS BEFORE I TOLD YOU ON
2 YESTERDAY?

3 A. NO, SIR.

4 Q. LET ME TELL YOU HOW YOU GO ABOUT IT. THE
5 FIRST THING WE'RE GOING TO DO IS DRAW THE JURY AND THEN
6 THE STATE IS GOING TO ATTEMPT TO PROVE HIM GUILTY OF
7 MURDER. OF COURSE, IF THE JURY FINDS THAT HE'S NOT
8 GUILTY, THAT ENDS EVERYTHING. BUT IF THEY FIND HE'S
9 GUILTY OF MURDER, THEN WE HAVE A SECOND PROCEEDING.
10 IT'S CALLED THE SENTENCING PROCEEDING AND THAT
11 PROCEEDING IS DESIGNED TO HELP THE JURY DECIDE WHAT THE
12 PUNISHMENT OUGHT TO BE, LIFE OR DEATH, BECAUSE THEY'LL
13 RECOMMEND TO ME AT THE END OF THE PROCEEDINGS WHAT I
14 SHOULD DO AND I MUST DO EXACTLY WHAT THEY TELL ME TO
15 DO. I CAN'T VARY. IF THEY SAY SENTENCE HIM TO LIFE, I
16 MUST SENTENCE HIM TO LIFE. IF THEY SAY SENTENCE HIM TO
17 DEATH, I MUST SENTENCE HIM TO THE ELECTRIC CHAIR.

18 NOW, THAT SECOND PROCEEDING, IN AN ATTEMPT TO
19 HELP THE JURY, THERE MIGHT BE GOOD THINGS AND BAD
20 THINGS ABOUT HIM. IT MIGHT BE THE CIRCUMSTANCES OF THE
21 MURDER, GOOD THINGS, BAD THINGS, AGGRAVATING
22 CIRCUMSTANCES, MITIGATING CIRCUMSTANCES, AND IF THE
23 JURY AFTER ALL THAT DECIDED THAT THE PROPER SENTENCE
24 WAS LIFE IN PRISON, THE FOREMAN WOULD STAND UP AND HE
25 WILL HAVE A PIECE OF PAPER WHICH HE SIGNED AND IT WOULD

1 SAY, WE, THE JURY, RECOMMEND LIFE IMPRISONMENT AND
2 THAT'S WHAT I WOULD SENTENCE HIM TO.

3 ON THE OTHER HAND, IF THE JURY DECIDED THAT
4 DEATH WAS THE PROPER SENTENCE, THEN EACH JUROR -- IT'S
5 A LITTLE DIFFERENT BECAUSE EACH JUROR WOULD SIGN THEIR
6 NAME TO A PIECE OF PAPER AND IT WOULD SAY, IN ESSENCE,
7 WE, THE FOLLOWING JURORS, DETERMINED THAT DEATH IS THE
8 PROPER SENTENCE FOR THIS MURDER AND I WOULD SENTENCE
9 HIM TO DEATH BY ELECTROCUTION. NOW, BEFORE I GO ANY
10 FURTHER I WANT TO ASK YOU THIS BECAUSE I NOTICED ON
11 YESTERDAY WHEN I ASKED THE JURY IF THEY KNEW ANYTHING
12 ABOUT THE CASE YOU DIDN'T STAND UP. DO YOU KNOW
13 ANYTHING ABOUT IT?

14 A. NO, SIR, NOTHING OTHER THAN THE FACT THAT
15 JUST WHAT WAS SAID. YOU KNOW, PEOPLE MADE MENTION THAT
16 SOMEONE WAS KILLED.

17 Q. WELL, IS THERE ANYTHING YOU'VE HEARD THAT
18 WOULD MAKE YOU PREJUDICE FOR OR AGAINST EITHER SIDE?

19 A. NO, SIR.

20 Q. ALL RIGHT. JURORS LIKE YOURSELF, WHEN THEY
21 COME IN, AND WE ASK QUESTIONS GENERALLY FALL WITHIN ONE
22 OF THREE CATEGORIES. SO, I'M GOING TO TELL YOU THOSE
23 CATEGORIES AND THEN I WANT YOU TO TELL ME WHICH ONE YOU
24 THINK YOU BEST FIT: ONE, TWO, OR THREE. NOW, THE
25 FIRST TYPE JUROR IS THAT TYPE JUROR THAT WOULD TAKE THE

1 POSITION THAT EVERY MURDERER DESERVES DEATH, IN OTHER
2 WORDS, AN EYE FOR AN EYE AND A TOOTH FOR A TOOTH. THEY
3 WOULDN'T BE INTERESTED IN HEARING THAT SECOND TRIAL
4 BECAUSE THEIR MIND WOULD BE MADE UP. THEY WOULD ALWAYS
5 VOTE FOR DEATH.

6 THEN THERE'S THE SECOND TYPE JUROR WHICH
7 WOULD BE THE OPPOSITE. THEY DON'T BELIEVE THAT ANYONE
8 SHOULD BE PUNISHED FOR DEATH FOR MURDER EVEN THOUGH IT
9 MIGHT BE A HORRIBLE-TYPE MURDER. THEY JUST WOULD NEVER
10 VOTE FOR THE DEATH PENALTY. THAT WOULD BE NUMBER TWO.
11 THEN NUMBER THREE WOULD BE THAT TYPE JUROR THAT COULD
12 DO EITHER. IF THEY LISTENED TO THE CIRCUMSTANCES AND
13 THEY FELT THAT THE PROPER SENTENCE WAS LIFE, THEY COULD
14 VOTE FOR IT. AND IF THEY LISTENED TO IT AND DECIDED
15 FOR THAT MURDER, THE PROPER SENTENCE WAS DEATH, THEY
16 COULD SIGN THEIR NAME TO THAT PIECE OF PAPER. WHICH
17 ONE OF THOSE THREE JURORS DO YOU THINK YOU BEST FIT?

18 A. NUMBER THREE.

19 Q. IN OTHER WORDS, DEPENDING UPON WHAT YOU HEARD
20 YOU COULD VOTE EITHER WAY?

21 A. THAT'S CORRECT.

22 Q. YOU TAKE THE POSITION THAT NOT EVERY MURDERER
23 DESERVES LIFE OR DEATH. IS THAT WHAT YOU'RE TELLING
24 ME?

25 A. WELL, NO. I FEEL LIKE IT JUST DEPENDS ON

1 WHAT I AM HEARING AS TO HOW I WANT TO MAKE MY MIND
2 UP---

3 Q. I UNDERSTAND.

4 A. ---AS TO HOW I FEEL LIKE WHETHER, YOU KNOW,
5 IF HE IS -- IF HE OR SHE IS GUILTY.

6 Q. WELL, YOU WOULDN'T EVEN GET TO THAT SECOND
7 PHASE UNLESS YOU HAD ALREADY FOUND HIM GUILTY. IN
8 OTHER WORDS, YOU WILL HAVE ALREADY FOUND THAT HE
9 COMMITTED THE MURDER. NOW, THE SECOND THING IS: WHAT
10 MUST WE DO WITH HIM? AND SO THAT SECOND PHASE WOULD
11 TRY TO GIVE YOU INFORMATION TO DECIDE WHETHER FOR THAT
12 MURDER HE OUGHT TO LIVE OR DIE AND IT WOULD BE GOOD
13 THINGS.

14 IT MIGHT BE SOME AGGRAVATING CIRCUMSTANCES
15 THAT YOU'D WANT TO CONSIDER. IT MIGHT BE SOME
16 MITIGATING CIRCUMSTANCES THAT WOULD HAVE CAUSED HIM TO
17 DO IT, ALL OF THOSE TYPE THINGS, AND THEN YOU COULD
18 DECIDE FROM THAT WHICH WOULD BE THE PROPER PUNISHMENT.
19 ARE YOU STILL THREE? IN OTHER WORDS, DO YOU BELIEVE
20 THAT EVERY TIME SOMEONE COMMITS A MURDER THEY OUGHT TO
21 DIE OR EVERY TIME SOMEONE COMMITS A MURDER THEY OUGHT
22 TO LIVE OR DO YOU FEEL THAT THERE ARE DIFFERENT TYPES
23 OF MURDERS AND YOU WOULD WANT TO HEAR ALL OF IT? WHICH
24 WOULD YOU SAY?

25 A. WELL, THAT'S HARD TO SAY. I THINK I'M STILL

1 NUMBER THREE.

2 Q. I UNDERSTAND AND I JUST WANTED TO GET IT
3 CLEAR.

4 A. UH-HUH.

5 THE COURT: ALL RIGHT. THE ATTORNEYS ARE
6 GOING TO ASK YOU SOME QUESTIONS. JUST ANSWER AS YOU
7 BEST CAN. SOLICITOR?

8 MR. BAILEY: THANK YOU, YOUR HONOR.

9 DIRECT EXAMINATION

10 BY MR. BAILEY:

11 Q. MS. MORRIS, I'M WALTER BAILEY. I JUST WANT
12 TO ASK YOU A FEW QUESTIONS TO FOLLOW UP ON WHAT JUDGE
13 BROWN HAD ASKED YOU. HE EXPLAINED THE TWO-STAGE
14 PROCESS IN A DEATH PENALTY TRIAL. THE FIRST STAGE YOU
15 DETERMINE GUILT OR INNOCENCE.

16 A. UH-HUH.

17 Q. THE SECOND PHASE THE JURY IS CONCERNED WITH
18 PUNISHMENT AND YOU WOULD NOT GET TO THAT SECOND STAGE
19 UNLESS THE DEFENDANT IS FOUND GUILTY OF MURDER IN THE
20 FIRST STAGE. SO, IN EACH AND EVERY CASE WHERE YOU'RE
21 CONSIDERING LIFE OR DEATH, YOU'RE DEALING WITH A
22 CONVICTED MURDERER. YOU'VE INDICATED YOU'RE THE NUMBER
23 THREE TYPE JUROR THAT COULD LISTEN TO THE JUDGE WHEN HE
24 TELLS YOU WHAT THE LAW IS, LISTEN TO THE EVIDENCE, AND
25 COME BACK WITH EITHER VERDICT. IS THAT CORRECT?

1 A. YES, SIR.

2 Q. DEPENDING ON THE CASE.

3 A. DEPENDING ON THE CASE.

4 Q. AND DEPENDING ON THE INDIVIDUAL DEFENDANT.

5 A. RIGHT.

6 Q. AND THERE'S A PROCEDURE WHERE IF THE JURY

7 UNANIMOUSLY DETERMINES THE DEATH PENALTY IS

8 APPROPRIATE, THEN EACH JUROR WOULD HAVE TO SIGN A FORM,

9 A DEATH VERDICT FORM, TO IMPOSE THAT SENTENCE. IF YOU

10 AND THE OTHER ELEVEN JURORS REACHED THAT DECISION AFTER

11 HEARING ALL OF THE FACTS AND THE LAW THAT THE DEATH

12 PENALTY WAS THE APPROPRIATE PUNISHMENT, COULD YOU SIGN

13 YOUR NAME WITH THE OTHER ELEVEN JURORS?

14 A. YES, SIR.

15 Q. AND COULD YOU COME INTO OPEN COURT AND

16 ANNOUNCE THAT DECISION---

17 A. YES, SIR.

18 Q. ---IN COURT? OKAY. DO YOU HAVE ANY

19 RELIGIOUS BELIEFS OR ANY DEEP-HELD PERSONAL BELIEFS ON

20 THE DEATH PENALTY THAT WOULD INTERFERE WITH YOUR

21 ABILITY TO CONSIDER ALL OF THE EVIDENCE AND MAKE THAT

22 CHOICE?

23 A. NO, SIR.

24 Q. ALL RIGHT. MS. MORRIS, THAT'S ALL I HAVE.

25 THANK YOU VERY MUCH.

1 A. THANK YOU.

2 CROSS-EXAMINATION

3 BY MR. RUNYON:

4 Q. GOOD AFTERNOON, MS. MORRIS.

5 A. HI.

6 Q. UNRELATED TO THIS CASE, SUPPOSE A FEW MONTHS
7 AGO WE MET AT A CHRISTMAS PARTY AND WE GOT TO TALKING
8 ABOUT THINGS AS PEOPLE DO AT PARTIES AND GOT AROUND THE
9 SERIOUS SUBJECTS LIKE THE DEATH PENALTY. WHAT WOULD
10 YOU PROBABLY HAVE TOLD ME BACK IN DECEMBER ABOUT YOUR
11 POSITION ON THE DEATH PENALTY, I MEAN, IF YOU THOUGHT
12 ABOUT THAT?

13 A. WELL, I REALLY NEVER THOUGHT ANYTHING ABOUT
14 IT OTHER THAN MAKING COMMENTS WHENEVER YOU SEE OR READ
15 THINGS IN THE PAPER, HEAR THE NEWS, ET CETERA. I DON'T
16 KNOW. I MEAN, HONESTLY I DO NOT KNOW HOW I COULD
17 ANSWER YOU OR COULD EVEN DISCUSS IT AT THAT TIME.

18 Q. OKAY. SO, BASICALLY YOU'VE NEVER DEVELOPED A
19 POSITION ON THE DEATH PENALTY. I MEAN, IF YOU HAVEN'T
20 YOU HAVEN'T.

21 A. NO, I DON'T THINK I HAVE. I WOULD BE -- NO,
22 I DON'T THINK SO.

23 Q. AND YOU UNDERSTAND THAT AS -- I KNOW BOTH HIS
24 HONOR AND MR. BAILEY HAVE SAID THIS, BUT YOU UNDERSTAND
25 THAT EVEN ONCE A DECISION HAS BEEN MADE UPON THE

1 QUESTION OF GUILT, IT DOES NOT MEAN THAT AUTOMATICALLY
2 A DEATH PENALTY MUST BE IMPOSED.

3 A. I UNDERSTAND THAT.

4 Q. OKAY. AND YOU'D WANT TO HEAR THINGS AND
5 YOU'D WANT TO HEAR WHAT THE STATE HAD TO SAY ABOUT WHY
6 THE DEATH PENALTY SHOULD BE IMPOSED, WOULDN'T YOU?

7 A. RIGHT. I'D HAVE TO WEIGH---

8 Q. AND WEIGH ALL THAT.

9 A. RIGHT.

10 MR. RUNYON: THANK YOU. NO FURTHER
11 QUESTIONS, YOUR HONOR.

12 THE COURT: ANY MOTIONS?

13 MR. BAILEY: NONE FROM THE STATE, YOUR HONOR.

14 MR. RUNYON: NONE FROM THE DEFENDANT.

15 THE COURT: WE ALL THINK, MS. MORRIS, THAT
16 YOU'D MAKE A GOOD JUROR. DOESN'T MEAN YOU'RE GOING TO
17 BE A JUROR. IT JUST MEANS YOU ALONG WITH ABOUT 35 OR
18 36 OTHERS WILL BE DRAWN AND SO I'M GOING TO SEND YOU
19 ABOUT YOUR BUSINESS. CAN I STILL REACH YOU AT THESE
20 SAME TELEPHONE NUMBERS THAT YOU GAVE ME?

21 JUROR MORRIS: YEAH.

22 THE COURT: IN THE MEANTIME -- I'M GOING TO
23 SEND YOU ABOUT YOUR BUSINESS. IN THE MEANTIME, I'M
24 GOING TO CALL YOU. MIGHT BE TONIGHT BUT PROBABLY
25 TOMORROW MORNING AND TELL YOU TO COME OVER HERE AND

1 I'LL GIVE YOU PLENTY OF TIME TO GET HERE. IN THE
2 MEANTIME, DON'T WATCH T.V. OR READ THE PAPER OR
3 ANYTHING ABOUT THE CASE. AND WHEN YOU COME, BRING
4 ENOUGH CLOTHES AND TOILET ARTICLES FOR ABOUT FIVE
5 DAYS. I DON'T THINK IT WILL TAKE THAT LONG BUT IN CASE
6 IT DOES. I HOPE YOU HAVE A GOOD AFTERNOON.

7 JUROR MORRIS: THANK YOU.

8 (JUROR VIRGINIA MORRIS WAS EXCUSED FROM THE
9 COURTROOM.)

10 THE COURT: ANDREW POPE.

11 (JUROR ANDREW L. POPE ENTERED THE COURTROOM.)

12 ANDREW L. POPE, AFTER BEING DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 EXAMINATION BY THE COURT

15 Q. HOW ARE YOU TODAY, MR. POPE?

16 A. FINE, SIR.

17 Q. SUMMERVILLE JAYCEES. THAT'S A GOOD
18 ORGANIZATION, ISN'T IT?

19 A. THE GREATEST.

20 Q. THE ONLY THING I KNOW ABOUT SUMMERVILLE WAS
21 THE GREEN WAVE USED TO BEAT US ALL THE TIME PLAYING
22 FOOTBALL. I NOTICED YOU'VE NEVER SERVED ON A JURY
23 BEFORE. HAVE YOU EVER BEEN DRAWN AS A PANEL?

24 A. YES, SIR.

25 Q. JUST NEVER SERVED ON A JURY?

1 A. WELL, I SERVED DECEMBER OF '91 AND YESTERDAY
2 I HAD A CHANCE NOT TO SERVE THIS TIME, BUT I SAID I'D
3 DO IT.

4 Q. OH. WELL, WE APPRECIATE YOUR WILLINGNESS TO
5 SERVE.

6 A. I'D LIKE TO CHANGE MY MIND NOW, THOUGH, IF I
7 COULD.

8 Q. YOU SERVED IN DECEMBER OF '91?

9 A. YES, SIR.

10 Q. AND -- LET'S SEE. DECEMBER OF '91 ON WHAT
11 TYPE JURY?

12 A. CIVIL COURT.

13 Q. CIVIL COURT?

14 A. (JUROR NODDED HEAD UP AND DOWN.)

15 Q. AND YOU WANT TO CHANGE YOUR MIND?

16 A. YES, SIR.

17 Q. HOW ABOUT STEP OUT THERE JUST-- WELL, THAT'S
18 ALL RIGHT. YOU DON'T HAVE TO SERVE AND YOU ELECTED NO
19 TO. I'M GOING TO EXCUSE YOU.

20 A. OKAY. THANK YOU VERY MUCH.

21 THE COURT: ALL RIGHT.

22 (JUROR ANDREW POPE WAS EXCUSED FROM THE
23 COURTROOM.)

24 THE COURT: ANY OBJECTION TO THAT,
25 GENTLEMEN?

1 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
2 HONOR.

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

4 THE COURT: ALL RIGHT. THE NEXT ONE IS
5 VICKIE KASPAR.

6 (JUROR VICKIE T. KASPAR ENTERED THE
7 COURTROOM.)

8 VICKIE T. KASPAR, AFTER BEING DULY
9 SWORN, TESTIFIED AS FOLLOWS:

10 EXAMINATION BY THE COURT

11 Q. MS. KASPAR, HOW ARE YOU?

12 A. I'M DOING FINE.

13 Q. I SEE VICKIE SPELLED DIFFERENT WAYS. YOU
14 SPELL YOURS WITH AN "E", DON'T YOU?

15 A. I-E. I-E. UH-HUH.

16 Q. I-E? I NOTICE YOU HAVE NEVER SERVED ON A
17 CRIMINAL JURY, BUT YOU SERVED ONE TIME ON A CIVIL
18 JURY.

19 A. UH-HUH.

20 Q. WHEN WAS THAT?

21 A. I COULDN'T REMEMBER THE EXACT DATES.

22 Q. IN THIS COUNTY?

23 A. UH-HUH. RIGHT HERE.

24 Q. WAS I THE JUDGE?

25 A. HUH-UH. I DON'T THINK SO.

1 Q. I DID A LOT OF TIME UP HERE. AS YOU KNOW,
2 MR. ROGERS WHO SITS IN THE CENTER BETWEEN HIS ATTORNEYS
3 IS CHARGED WITH MURDER.

4 A. UH-HUH.

5 Q. AND WE'RE GOING TO ASK YOU SOME QUESTIONS,
6 ALL OF US. BUT IT'S NOT THE TYPE ANSWERS THAT YOU CAN
7 FLUNK ON BECAUSE THERE ARE NO RIGHT OR WRONG ANSWERS,
8 AND SO JUST -- YOU DON'T HAVE TO BE NERVOUS IF YOU ARE
9 AND JUST ANSWER AS BEST YOU CAN.

10 A. (JUROR NODDED HEAD UP AND DOWN.)

11 Q. AND SPEAK OUT LOUD FOR ME. I'VE GOT A
12 MACHINE OVER THERE THAT WANTS TO HEAR YOU.

13 A. (JUROR NODDED HEAD UP AND DOWN.)

14 Q. THANK YOU. I INTRODUCED YOU TO MR. ROGERS.
15 ON HIS LEFT, ON YOUR RIGHT THERE, IS MR. LEIENDECKER
16 AND ON HIS RIGHT, YOUR LEFT, IS MR. RUNYON. HE'S THE
17 ATTORNEY -- THEY'RE THE ATTORNEYS AND ON THIS SIDE IS
18 THE SOLICITOR, MR. BAILEY. NOW, NOT HAVING SERVED ON A
19 CRIMINAL JURY YOU KNOW, OF COURSE, THAT HE'S PRESUMED
20 TO BE INNOCENT.

21 A. (JUROR NODDED HEAD UP AND DOWN.)

22 Q. AND THE STATE MUST PROVE HIM GUILTY BEYOND A
23 REASONABLE DOUBT OF THE CRIME OF MURDER. DO YOU KNOW
24 THAT?

25 A. UH-HUH.

1 Q. AND ORDINARILY -- YOU REMEMBER I TOLD YOU
2 YESTERDAY THAT JURIES JUST DECIDE INNOCENCE OR GUILT
3 AND THE JUDGE DOES THE SENTENCING. BUT AS I TOLD YOU
4 ON YESTERDAY, IN A DEATH PENALTY CASE WHERE THE STATE
5 IS SEEKING THE DEATH PENALTY JURIES DO BOTH. DID YOU
6 KNOW THAT UNTIL I TOLD YOU?

7 A. WELL, NO, NOT UNTIL YOU TOLD ME YESTERDAY.

8 Q. WELL, THEY DO. BEFORE I GO ANY FURTHER, WHEN
9 I ASKED YESTERDAY IF ANYBODY KNEW ANYTHING ABOUT THIS
10 CASE YOU DIDN'T STAND UP. DO YOU KNOW ANYTHING ABOUT
11 IT?

12 A. NO. WELL, I WASN'T SURE YESTERDAY WHEN YOU
13 SAID. . . YOU SAID CHARLESTON COUNTY?

14 Q. OH, DID I?

15 A. I WASN'T SURE, YOU KNOW, AND THEN I'M NOT
16 EXACTLY SURE WHICH IT IS.

17 Q. WELL, IT'S BEEN ALLEGED TO HAVE OCCURRED IN
18 THIS COUNTY. DO YOU KNOW -- HAVE YOU READ ANYTHING
19 ABOUT IT OR HEARD IT ON T.V. OR ANYTHING OR DO YOU KNOW
20 FOR SURE THAT YOU DID?

21 A. WELL, I'M NOT SURE WHICH IT IS.

22 Q. WELL, HE'S ALLEGED IN THERE TO HAVE SHOT A
23 CHILD IN THE BACK OF THE HEAD.

24 A. NOW, IS THIS -- IS THIS AT A GROCERY STORE?

25 Q. SOME CONVENIENCE STORE, YES.

1 A. I THINK I REMEMBER.

2 Q. WELL, DO YOU REMEMBER ANYTHING THAT YOU FEEL
3 WOULD KEEP YOU FROM GIVING BOTH SIDES A FAIR TRIAL?

4 A. NO.

5 Q. ALL RIGHT. AS I WAS TELLING YOU EARLIER,
6 THIS TYPE PROCEEDING DIFFERS FROM THE OTHER ONE THAT I
7 TOLD YOU ABOUT. THE FIRST THING WE DO IS WE HAVE A
8 TRIAL TO DETERMINE IF THE STATE CAN PROVE HIM GUILTY OF
9 THIS MURDER BEYOND A REASONABLE DOUBT. AND, OF COURSE,
10 IF THAT JURY THAT WE CHOOSE DECIDES THAT HE DIDN'T DO
11 IT, THEN THAT ENDS EVERYTHING. BUT IF THEY DECIDED
12 THAT HE COMMITTED THE MURDER, THEN WE GO FURTHER AND WE
13 HAVE ANOTHER PROCEEDING. IT'S CALLED A SENTENCING
14 PROCEEDING AND IT'S DESIGNED TO HELP THE JURY DECIDE
15 WHAT THE PROPER PUNISHMENT, LIFE OR DEATH. AND SO
16 THERE MIGHT BE GOOD THINGS AND BAD THINGS ABOUT HIM,
17 MIGHT BE THE CIRCUMSTANCES OF THE MURDER THAT COULDN'T
18 COME OUT AT TRIAL, MITIGATING PERHAPS, PERHAPS
19 AGGRAVATING, AND WHEN IT'S ALL COMPLETED THE JURY WOULD
20 BE EXPECTED TO TAKE THAT INFORMATION AND RECOMMEND TO
21 ME LIFE OR DEATH. AND WHEN I SAY RECOMMEND, I MUST DO
22 EXACTLY WHAT THE JURY TELLS ME TO DO.

23 SO, IF THE JURY DECIDED THAT LIFE IN PRISON
24 WAS THE PROPER SENTENCE, THEY WOULD -- THE FOREMAN
25 WOULD SIGN A PIECE OF PAPER AND IT WOULD SAY, WE, THE

1 JURY, RECOMMEND THAT THE PROPER SENTENCE IS LIFE IN
2 PRISON AND THAT'S WHAT I WOULD SENTENCE HIM TO. ON THE
3 OTHER HAND, IF THE JURY DECIDED THAT THE PROPER
4 SENTENCE WAS DEATH, EACH JUROR -- IT'S DIFFERENT AS I
5 TOLD YOU ABOUT THE FOREMAN. EACH JUROR WOULD SIGN
6 THEIR NAME TO A PIECE OF PAPER AND IT WOULD SAY IN
7 ESSENCE, WE, THE FOLLOWING JURORS, DETERMINE THAT THE
8 PROPER SENTENCE IS DEATH AND I WOULD SENTENCE HIM TO
9 DEATH BY ELECTROCUTION BECAUSE I MUST DO WHATEVER THE
10 JURY TELLS ME TO DO.

11 NOW, WHEN PEOPLE LIKE YOU COME IN HERE TO
12 SERVE AS JURORS, GENERALLY FROM THEIR ANSWERS AND
13 QUESTIONS THEY FALL IN ONE OF THREE CATEGORIES. SO,
14 I'M GOING TO ASK YOU -- I'M GOING TO EXPLAIN THESE
15 CATEGORIES TO YOU AND I WANT YOU TO TELL ME WHICH ONE
16 YOU THINK FITS YOU BETTER THAN THE OTHERS.

17 A. OKAY.

18 Q. THE FIRST TYPE JUROR IS THAT TYPE JUROR THAT
19 WOULDN'T CARE ABOUT HEARING THAT SECOND PHASE BECAUSE
20 HIS MIND WOULD ALREADY BE MADE UP. HE WOULD BE A JUROR
21 THAT TOOK THE POSITION THAT IF YOU KILLED SOMEBODY YOU
22 OUGHT TO DIE YOURSELF EVERY TIME. SO, THEY WOULD
23 ALWAYS VOTE FOR THE DEATH PENALTY. THAT'S JUROR NUMBER
24 ONE.

25 NUMBER TWO JUROR WOULD BE JUST THE OPPOSITE.

1 HE WOULD BE THAT TYPE JUROR THAT WOULD TAKE THE
2 POSITION THAT EVEN THOUGH HE COMMITTED MURDER AND EVEN
3 THOUGH IT MIGHT BE AN ESPECIALLY HEINOUS MURDER THAT
4 THEY WOULD NEVER VOTE FOR THE DEATH PENALTY. THEY
5 WOULD ALWAYS VOTE FOR LIFE IN PRISON. AND THEN THE
6 THIRD TYPE JUROR WOULD BE THAT TYPE JUROR THAT COULD
7 VOTE EITHER WAY. IF THEY FOUND HIM GUILTY OF MURDER,
8 THEN THAT JUROR WOULD LISTEN TO THE GOOD THINGS AND THE
9 BAD THINGS, EXTENUATING CIRCUMSTANCES OR MITIGATION,
10 SOMETIMES THEY CALL IT, OR AGGRAVATION AND DEPENDING
11 UPON WHAT THEY HEARD THEY COULD EITHER VOTE FOR LIFE IN
12 PRISON OR THEY COULD SIGN THEIR NAME TO THAT PIECE OF
13 PAPER THAT SAID DEATH. WHICH DO YOU THINK YOU BEST FIT
14 IN?

15 A. I THINK IT WOULD BE THE THIRD ONE.

16 Q. IN OTHER WORDS, YOU DON'T BELIEVE THAT EVERY
17 MURDERER SHOULD DIE FOR EVERY MURDER OR THAT EVERY
18 MURDERER SHOULD GET LIFE FOR EVERY MURDER.

19 A. NO.

20 Q. BUT DEPENDING UPON WHAT YOU HEARD, YOU COULD
21 VOTE EITHER WAY?

22 A. I BELIEVE SO.

23 THE COURT: ALL RIGHT. THEY'RE GOING TO ASK
24 YOU SOME QUESTIONS. JUST ANSWER IT AS BEST YOU CAN.
25 SOLICITOR?

1 MR. BAILEY: THANK YOU, YOUR HONOR.

2 DIRECT EXAMINATION

3 BY MR. BAILEY:

4 Q. MS. KASPAR, THE JUDGE EXPLAINED THAT TWO-PART
5 PROCESS TO YOU AS FAR AS THE GUILT PHASE WHICH IS LIKE
6 ANY OTHER TRIAL, AND IN THIS PARTICULAR CASE SINCE
7 WE'RE SEEKING THE DEATH PENALTY IF WE CAN PROVE TO THE
8 JURY'S SATISFACTION THAT THE CRIME OF MURDER WAS
9 COMMITTED WE GO INTO THE SECOND PHASE AND THE JURY HAS
10 TWO CHOICES: LIFE IN PRISON OR THE DEATH PENALTY. AND
11 YOU WOULD HEAR ADDITIONAL EVIDENCE IN THAT SECOND STAGE
12 TO HELP YOU MAKE THAT CHOICE.

13 IF ALL TWELVE OF THE JURORS AGREE THAT THE
14 DEATH PENALTY IS APPROPRIATE DECISION, THEN EACH ONE OF
15 THEM HAS TO SIGN THEIR NAME TO A PIECE OF PAPER, A
16 DEATH VERDICT FORM, IN ORDER TO IMPOSE THAT VERDICT.
17 COULD YOU SIGN YOUR NAME TO A PAPER LIKE THAT IF YOU
18 AND THE OTHER JURORS DECIDED THAT WAS THE APPROPRIATE
19 PUNISHMENT?

20 A. YES.

21 Q. AND AFTER THAT THEN THE JURY WOULD COME OUT
22 INTO COURT AND ANNOUNCE THAT DECISION TO THE JUDGE AND
23 EACH JUROR WOULD BE REQUIRED INDIVIDUALLY TO STATE IN
24 OPEN COURT THAT THAT WAS THEIR DECISION. COULD YOU DO
25 THAT?

1 A. YES.

2 Q. IN GENERAL TERMS, IF I WAS TO ASK YOU, SAY,
3 SEVERAL WEEKS AGO BEFORE YOU FOUND OUT ABOUT THIS CASE
4 AND BEFORE YOU GOT YOUR JURY SUMMONS WHAT YOU THOUGHT
5 ABOUT THE DEATH PENALTY, WHETHER YOU THOUGHT IT WAS
6 GOOD OR BAD THAT WE HAD THE DEATH PENALTY IN SOUTH
7 CAROLINA, WHAT WOULD YOUR ANSWER HAVE BEEN AT THAT TIME
8 OR WHAT WOULD YOU HAVE SAID THEN?

9 A. WELL, IT WOULD BE DEPENDING UPON THE CASE AND
10 I GUESS HOW MALICIOUS OR WHATEVER. I DON'T KNOW
11 EXACTLY WHAT TO SAY, BUT, YOU KNOW, I GUESS IT WOULD
12 DEPEND ON THE CASE.

13 Q. YOU WOULD LISTEN TO THE FACTS REGARDING THE
14 CIRCUMSTANCES OF THE CRIME AND THE CHARACTERISTICS OF
15 THE DEFENDANT AND MAKE YOUR CHOICE BASED ON THAT?

16 A. RIGHT.

17 Q. OKAY. DO YOU HAVE ANY RELIGIOUS CONVICTIONS
18 THAT WOULD AFFECT YOUR ABILITY TO RENDER A DECISION ONE
19 WAY OR THE OTHER?

20 A. NO.

21 Q. DO YOU KNOW OF ANY REASON WHY YOU COULDN'T
22 SIT AS A FAIR AND IMPARTIAL JUROR BOTH IN THE GUILT
23 PHASE AND, IF WE GET TO IT, THE PENALTY PHASE?

24 A. NO.

25 MR. BAILEY: THANK YOU. THAT'S ALL I HAVE.

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1 MR. BAILEY: NO, SIR.

2 MR. RUNYON: NONE FROM THE DEFENSE, YOUR
3 HONOR.

4 THE COURT: MS. KASPAR, WE ALL THINK YOU'D
5 MAKE A GOOD JUROR. THAT DOESN'T MEAN YOU'RE GOING TO
6 BE ON THE JURY. IT JUST MEANS YOU'RE QUALIFIED TO SIT
7 ON IT. SO, I'M GOING TO EXCUSE YOU NOW AND ASK YOU
8 THAT WHILE YOU'RE GONE -- BECAUSE I'M HOPING TO CALL
9 EVERYBODY TO TELL THEM WHEN TO COME IN TONIGHT. IT
10 MIGHT BE TOMORROW SOMETIME. BUT IN THE MEANTIME, I'M
11 GOING TO ASK THAT YOU NOT READ THE NEWSPAPERS OR WATCH
12 T.V. OR ANYTHING AND THAT WHEN YOU COME BACK BE SURE TO
13 BRING CLOTHES FOR ABOUT -- AND TOILET ARTICLES FOR
14 ABOUT FIVE DAYS. I DON'T THINK IT WILL TAKE THAT LONG
15 BUT JUST IN CASE IT SHOULD. IN THE MEANTIME, CAN YOU
16 BE REACHED -- CAN YOU BE REACHED AT THESE SAME NUMBERS
17 THAT YOU GAVE US THERE?

18 JUROR KASPAR: RIGHT.

19 THE COURT: ALL RIGHT. I HOPE YOU HAVE A
20 GOOD AFTERNOON.

21 JUROR KASPAR: ALL RIGHT. SHOULD I BE
22 CALLING BACK OR Y'ALL WILL LET US KNOW?

23 THE COURT: WE'LL CALL YOU.

24 JUROR KASPAR: THANK YOU.

25 THE COURT: WE'RE GOING TO -- DON'T GO OUT OF

1 TOWN NOW.

2 JUROR KASPAR: NO, I WON'T.

3 (JUROR VICKIE KASPAR WAS EXCUSED FROM THE
4 COURTROOM.)

5 THE COURT: ALL RIGHT. JOHN PHILLIPS.

6 (JUROR JOHN H. PHILLIPS, JR., ENTERED THE
7 COURTROOM.)

8 JOHN H. PHILLIPS, JR., AFTER BEING DULY
9 SWORN, TESTIFIED AS FOLLOWS:

10 EXAMINATION BY THE COURT

11 Q. MR. PHILLIPS, I SEE YOU'RE A MANAGER OF FOOD
12 LION?

13 A. YES, SIR.

14 Q. WE JUST GOT ONE IN JASPAR COUNTY IN
15 RIDGELAND.

16 A. YES, SIR.

17 Q. WE WERE HAPPY TO GET IT. THAT'S A GOOD
18 STORE. YOU'VE GOT A REAL RESPONSIBLE POSITION. IN
19 LOOKING AT THIS THAT YOU SENT IN TO ME -- AND YOU WERE
20 ASKED ABOUT YOUR EXPERIENCE. I NOTICED YOU'VE NEVER
21 SERVED ON A JURY BEFORE.

22 A. NO, SIR.

23 Q. AND ON YESTERDAY WHEN I ASKED THE JURY IF
24 THEY KNEW ANYTHING ABOUT THIS CASE YOU DIDN'T STAND
25 UP. DO YOU KNOW ANYTHING ABOUT IT?

1 A. NO, SIR.

2 Q. SO, YOU DON'T KNOW OF ANY REASON IF YOU WERE
3 CHOSEN AS A JUROR THAT YOU COULDN'T PERFORM YOUR DUTIES
4 BY BRINGING IN A VERDICT THAT SPOKE THE TRUTH. DO YOU
5 KNOW ANYTHING THAT WOULD KEEP YOU FROM DOING THAT?

6 A. NO, SIR.

7 Q. NOT HAVING BEEN -- SERVED ON A JURY, YOU
8 STILL KNOW THAT EVERY PERSON IS PRESUMED TO BE
9 INNOCENT. SO, MR. ROGERS THERE WHO IS CHARGED WITH
10 MURDER, THE STATE WOULD HAVE TO PROVE HIM GUILTY BEYOND
11 A REASONABLE DOUBT. YOU'VE HEARD THAT, I'M SURE.

12 A. YES, SIR.

13 Q. WELL, WE'RE GOING TO ASK YOU SOME QUESTIONS.
14 THERE ARE NO RIGHT OR WRONG ANSWERS. JUST ANSWER THEM
15 AS BEST YOU CAN. IT'S NOT A TEST YOU CAN FLUNK. MY
16 NAME, OF COURSE, AS I INTRODUCED MYSELF IS JUDGE
17 BROWN. ON MY LEFT OVER HERE IS THE SOLICITOR WHO
18 REPRESENTS THE STATE. THAT'S MR. BAILEY. THE NEXT
19 GENTLEMAN THERE IS MR. RUNYON, BILL RUNYON, AND I
20 ALREADY INTRODUCED YOU TO MR. ROGERS IN THE CENTER.
21 THAT'S MR. LEIENDECKER, ANOTHER OF HIS ATTORNEYS OVER
22 THERE.

23 I TOLD YOU ON YESTERDAY THAT IN AN ORDINARY
24 CRIMINAL CASE WHEN SOMEBODY IS CHARGED WITH A CRIME THE
25 ONLY FUNCTION OF THE JURY IS JUST TO DECIDE INNOCENCE

1 OR GUILT AND I TOLD YOU THE JUDGE DOES THE SENTENCING.
2 WELL, IN THE CASE IN WHICH THE STATE IS ASKING FOR THE
3 DEATH PENALTY IT'S DIFFERENT, THAT IS, THE JURY DOES
4 BOTH. I TOLD YOU THAT ON YESTERDAY. DID YOU KNOW
5 THAT?

6 A. YES, SIR.

7 Q. SO, WHAT HAPPENS IS THE FIRST THING WE'LL DO
8 IS HAVE A TRIAL TO DETERMINE WHETHER OR NOT HE'S GUILTY
9 AND IF THE JURY DECIDES HE'S NOT GUILTY, THAT ENDS
10 EVERYTHING. IF THE JURY DECIDES HE'S GUILTY OF MURDER
11 AS CHARGED BY THE STATE, THEN WE HAVE A SECOND TRIAL OR
12 PROCEEDING AND THAT TRIAL IS TO HELP THE JURY DETERMINE
13 WHICH IS THE PROPER SENTENCE, LIFE OR DEATH. SO, YOU
14 MIGHT HEAR GOOD THINGS AND BAD THINGS ABOUT HIM. YOU
15 MIGHT HEAR AGGRAVATING CIRCUMSTANCES ABOUT THE MURDER
16 OR IT MIGHT BE MITIGATING OR EXTENUATING
17 CIRCUMSTANCES. AND THEN WHEN IT'S COMPLETED, THE JURY
18 WOULD RECOMMEND TO ME WHAT THE SENTENCE OUGHT TO BE,
19 LIFE OR DEATH. AND WHEN I SAY RECOMMEND, I REALLY MEAN
20 THAT I MUST DO WHAT THE JURY TELLS ME TO DO. I CAN'T
21 CHANGE IT.

22 SO, IF THE JURY DECIDED THAT THE PROPER
23 SENTENCE WAS LIFE IN PRISON, THE FOREMAN WOULD ANNOUNCE
24 IT AND HE'D SIGN A PIECE OF PAPER AND IT WOULD SAY, WE,
25 THE JURY, DECIDE THAT THE PROPER PUNISHMENT IS LIFE IN

1 PRISON. THAT'S WHAT I'D GIVE HIM. ON THE OTHER HAND,
2 IF THE JURY DECIDED THAT THE PROPER SENTENCE WAS DEATH,
3 THE PROCEEDING IS A LITTLE DIFFERENT. EACH JUROR ON
4 THE JURY WOULD SIGN THEIR NAME TO A PIECE OF PAPER AND
5 IT WOULD SAY, WE, THE FOLLOWING JURORS, RECOMMEND THAT
6 THE PROPER SENTENCE IS DEATH AND SO I WOULD SENTENCE
7 HIM TO DEATH BY ELECTROCUTION. NOW, JURORS LIKE
8 YOURSELF WHEN YOU COME IN AND ASK THEM ABOUT THIS TYPE
9 JURY SERVICE GENERALLY FALL IN ONE OF THREE
10 CATEGORIES. SO, I'M GOING TO TELL YOU WHAT THOSE
11 CATEGORIES ARE AND THEN I WANT YOU TO TELL ME WHICH ONE
12 YOU THINK YOU BEST FIT IN.

13 A. (JUROR NODDED HEAD UP AND DOWN.)

14 Q. THE FIRST TIME TYPE JUROR WOULD BE THAT TYPE
15 JUROR THAT WOULDN'T WANT TO HEAR THAT SECOND TRIAL
16 BECAUSE THEIR MIND WOULD ALREADY HAVE BEEN MADE UP.
17 THEY WOULD TAKE THE POSITION THAT IF YOU KILL SOMEBODY
18 YOU OUGHT TO DIE IN EVERY CASE AND SO THEY WOULD ALWAYS
19 VOTE FOR THE DEATH PENALTY. JUROR NUMBER TWO WOULD BE
20 THAT TYPE JUROR THAT WOULD TAKE THE POSITION THAT EVEN
21 THOUGH IT MIGHT BE A VERY HEINOUS MURDER UNDER NO
22 CIRCUMSTANCES WOULD THEY EVER VOTE FOR THE DEATH
23 PENALTY. THEY WOULD ALWAYS VOTE FOR LIFE AND THEY,
24 TOO, WOULDN'T CARE ABOUT HEARING THAT SECOND TRIAL.

25 THEN JUROR NUMBER THREE WOULD BE THAT TYPE

1 JUROR THAT COULD VOTE EITHER WAY. IF THEY FELT THAT
2 THE SENTENCE WAS PROPER -- THAT THE CIRCUMSTANCES WERE
3 PROPER, THEY COULD VOTE FOR LIFE. AND IF THEY DECIDED
4 THAT THE PROPER SENTENCE WAS DEATH, THEY COULD SIGN
5 THAT PIECE OF PAPER THAT SAID DEATH BY ELECTROCUTION.
6 WHICH DO YOU THINK YOU CLOSEST FIT IN?

7 A. THE LAST ONE.

8 Q. THE LAST ONE?

9 A. YES, SIR.

10 Q. IN OTHER WORDS, IT'S YOUR POSITION THAT NOT
11 EVERY MURDER WARRANTS DEATH NOR EVERY MURDER WARRANTS
12 LIFE, BUT DEPENDING YOU COULD VOTE EITHER WAY. IS THAT
13 WHAT YOU'RE TELLING ME?

14 A. YES, SIR.

15 Q. ALL RIGHT. THEY'RE GOING TO ASK YOU SOME
16 QUESTIONS. JUST ANSWER IT AS BEST YOU CAN.

17 A. YES, SIR.

18 THE COURT: SOLICITOR?

19 MR. BAILEY: THANK YOU, YOUR HONOR.

20 DIRECT EXAMINATION

21 BY MR. BAILEY:

22 Q. MR. PHILLIPS, I'M WALTER BAILEY. I WANT TO
23 ASK YOU A FEW QUESTIONS.

24 A. YES, SIR.

25 Q. AND I WANT TO ASK YOU NOT ABOUT THIS

1 PARTICULAR CASE BUT JUST IN GENERAL TERMS.

2 A. YES, SIR.

3 Q. IF I HAD RUN INTO YOU SOMEWHERE LAST MONTH
4 BEFORE YOU GOT YOUR JURY SUMMONS AND HAD ASKED YOU JUST
5 IN GENERAL TERMS WHAT YOUR FEELINGS WERE IN THE DEATH
6 PENALTY, WHAT WOULD YOU HAVE TOLD ME AT THAT TIME?

7 A. I SUPPORT IT DEPENDING ON THE CIRCUMSTANCES
8 THAT SURROUNDED THE ISSUE.

9 Q. OKAY. HAD YOU EVER HAD OCCASION TO SIT DOWN
10 AND REALLY THINK ABOUT THE DEATH PENALTY, TALKING TO
11 FRIENDS AND FAMILY AND ALL?

12 A. YES, SIR.

13 Q. AND IS THAT THE WAY YOU FELT?

14 A. YES, SIR.

15 Q. YOU FELT LIKE IT WAS APPROPRIATE IN SOME
16 CASES AND NOT APPROPRIATE IN OTHERS?

17 A. YES, SIR.

18 Q. AND YOU WOULD WANT TO HEAR ALL THE FACTS AND
19 MAKE UP YOUR MIND AND YOU COULD GO EITHER WAY DEPENDING
20 ON WHAT YOU HEARD?

21 A. YES, SIR.

22 Q. THERE'S A -- IF WE GET TO THE SECOND PHASE OF
23 THE TRIAL WHICH IS THE PENALTY PHASE, THE DEFENDANT
24 WOULD HAVE ALREADY BEEN FOUND GUILTY OF MURDER IN THE
25 FIRST PHASE, AND ONCE THE JURY HEARD ALL THE ADDITIONAL

1 EVIDENCE AND ADDITIONAL INSTRUCTIONS AND THE LAW FROM
2 THE JUDGE, THEY WOULD MAKE THAT DECISION OF LIFE IN
3 PRISON OR THE DEATH PENALTY AND ALL TWELVE OF YOU WOULD
4 HAVE TO AGREE ONE WAY OR THE OTHER.

5 A. (JUROR NODDED HEAD UP AND DOWN.)

6 Q. IF AFTER HEARING EVERYTHING THE JURY DECIDED
7 THE DEATH PENALTY WAS THE APPROPRIATE PUNISHMENT, IN
8 ORDER TO PUT THAT SENTENCE INTO EFFECT EACH JUROR WOULD
9 NEED TO SIGN THEIR NAME TO A DEATH VERDICT FORM. COULD
10 YOU SIGN YOUR NAME TO A FORM LIKE THAT IF YOU HAD
11 ALREADY REACHED THAT DECISION?

12 A. YES, SIR.

13 Q. AND COULD YOU COME OUT INTO OPEN COURT AND
14 ANNOUNCE THAT DECISION?

15 A. YES, SIR.

16 Q. IN OPEN COURT. DO YOU HAVE ANY RELIGIOUS
17 FEELINGS OR ANY RELIGIOUS TEACHINGS FROM THE PAST OR
18 PRESENT THAT WOULD INTERFERE WITH YOUR ABILITY TO MAKE
19 A DECISION ONE WAY OR THE OTHER?

20 A. NO, SIR.

21 Q. DO YOU KNOW OF ANY REASON AT ALL THAT YOU
22 FEEL LIKE YOU COULD NOT SIT AS A FAIR AND IMPARTIAL
23 JUROR---

24 A. NO, SIR.

25 Q. ---IN EITHER STAGE OF THE TRIAL? OKAY. YOU

1 WERE ON ACTIVE DUTY IN THE AIR FORCE, I THINK?

2 A. YES, SIR, I WAS ACTIVE DUTY.

3 Q. OKAY. WERE YOU AN M.P.?

4 A. YES, SIR.

5 Q. OKAY. AND YOU WERE ON ACTIVE DUTY FOR FOUR
6 YEARS?

7 A. YES, SIR.

8 Q. OKAY. I THINK THAT'S ALL I HAVE. THANK YOU
9 VERY MUCH.

10 A. YES, SIR.

11 THE COURT: ALL RIGHT.

12 CROSS-EXAMINATION

13 BY MR. RUNYON:

14 Q. GOOD AFTERNOON, MR. PHILLIPS.

15 A. HOW ARE YOU DOING?

16 Q. HOW FAR DO YOU LIVE FROM WHERE YOU WORK? I
17 KNOW WHERE THE FOOD LION IS OVER THERE AT 52 AND 52
18 BYPASS BUT---

19 A. WELL, I JUST RECENTLY MOVED TO THE FOOD LION
20 IN SUMMERVILLE BY SUMMERVILLE HIGH SCHOOL. SO, IT'S
21 ABOUT TWENTY MINUTES.

22 Q. OKAY. AND YOU'VE REGISTERED TO VOTE?

23 A. YES, SIR.

24 Q. OKAY. AND DO YOU -- HAVE YOU VOTED IN ANY
25 RECENT ELECTIONS?

1 A. NO, SIR.

2 Q. OKAY. DO YOU KNOW WHERE YOU WOULD GO TO VOTE
3 IF YOU. . .

4 A. SOMEWHERE IN ST. GEORGE.

5 Q. SOMEWHERE IN ST. GEORGE?

6 A. YES, SIR.

7 Q. OKAY. AND YOU'VE BEEN LIVING IN DORCHESTER
8 COUNTY FOR TWO AND A HALF YEARS?

9 A. YES, SIR.

10 Q. AND YOU'VE GOTTEN YOUR TAX BILLS FROM ST.
11 GEORGE?

12 A. YES, SIR.

13 Q. OKAY. SO, LET ME -- LET ME UNDERSTAND THIS.

14 I TAKE IT THAT ONE OF YOUR -- PERHAPS I'M NOT READING

15 IT CORRECTLY. WERE YOU -- AS PART OF YOUR MILITARY

16 POLICE DUTIES, WERE YOU A CORRECTIONS OFFICER IN THE

17 AIR FORCE OR WERE YOU GENERAL INVESTIGATION? JUST WHAT

18 WERE YOUR DUTIES?

19 A. LAW ENFORCEMENT.

20 Q. TOTAL LAW ENFORCEMENT.

21 A. YES, SIR.

22 Q. AND YOU HAVE -- STRIKE THAT. SO, AS A

23 PRACTICAL MATTER, YOU HAD FOUR YEARS OF MILITARY POLICE

24 DUTY IN THE AIR FORCE. WHERE WAS THAT? WHERE WERE YOU

25 STATIONED IN THE AIR FORCE?

1 A. R.A.F. GREENHAM COMMON (PHONETIC), UNITED
2 KINGDOM.

3 Q. YOU WERE IN ENGLAND.

4 A. YES, SIR.

5 Q. SO TO SPEAK. AND WHILE YOU HAVE A VERY
6 RESPONSIBLE POSITION, I TAKE IT THAT YOUR EMPLOYER, A.,
7 UNDERSTANDS AND, B., ARRANGEMENTS CAN BE MADE TO COVER
8 FOR YOU IF YOU HAD TO BE AWAY FROM YOUR JOB FOR, LET'S
9 SAY, THREE TO FIVE DAYS.

10 A. YES, SIR.

11 MR. RUNYON: NO FURTHER QUESTIONS, YOUR
12 HONOR, AND NO MOTION.

13 MR. BAILEY: NO MOTIONS.

14 THE COURT: ALL RIGHT. WE THINK YOU'D MAKE A
15 GOOD JUROR, MR. PHILLIPS. IT DOESN'T MEAN YOU'RE GOING
16 TO BE ON THE JURY, BUT YOU'D QUALIFIED. SO, AS SOON AS
17 I GET ABOUT 36, 37 NAMES HOPEFULLY THIS AFTERNOON,
18 MAYBE IN THE MORNING WE'LL CALL YOU. SO, I'M GOING TO
19 EXCUSE YOU AND ASK THAT YOU NOT DISCUSS THIS CASE WITH
20 ANYONE OR READ THE NEWSPAPERS OR WATCH T.V. ABOUT IT.
21 AND WHEN YOU COME BACK -- AND WE'LL CALL YOU AND I HAVE
22 THOSE NUMBERS YOU GAVE ME, SO I KNOW I CAN FIND YOU.
23 JUST DON'T GO OUT OF TOWN.

24 JUROR PHILLIPS: YES, SIR.

25 THE COURT: AND WHEN YOU COME BACK, BRING

1 ENOUGH CLOTHES AND TOILET ARTICLES FOR ABOUT FIVE DAYS.

2 JUROR PHILLIPS: YES, SIR.

3 THE COURT: I DON'T THINK YOU'LL NEED THEM
4 BUT. . . HAVE A GOOD AFTERNOON.

5 JUROR PHILLIPS: OKAY. THANK YOU VERY MUCH.

6 (JUROR JOHN PHILLIPS WAS EXCUSED FROM THE
7 COURTROOM.)

8 THE COURT: SHEILA SAMUEL.

9 (JUROR SHEILA SAMUEL ENTERED THE COURTROOM.)

10 SHEILA SAMUEL, AFTER BEING DULY SWORN,
11 TESTIFIED AS FOLLOWS:

12 EXAMINATION BY THE COURT

13 Q. MS. SAMUEL, HOW ARE YOU TODAY?

14 A. FINE.

15 Q. I HAD INTRODUCED MYSELF ON YESTERDAY. I'M
16 JUDGE BROWN AND I WANT TO INTRODUCE THE PEOPLE IN THE
17 COURTROOM. YOU KNOW, OF COURSE, THAT MR. ROGERS WHO
18 SITS WITH HIS ATTORNEYS HERE IS CHARGED WITH MURDER AND
19 TO YOUR RIGHT IS MR. LEIENDECKER. HE IS ONE OF THE
20 ATTORNEYS AND ON THE LEFT, YOUR LEFT, IS MR. RUNYON.
21 HE'S ALSO AN ATTORNEY. AND ON MY LEFT OVER HERE AT
22 THIS TABLE IS MR. BAILEY. HE'S OUR SOLICITOR. WHEN I
23 SAY OUR SOLICITOR, I MEAN HE'S ONE OF THE STATE'S
24 SOLICITORS. AND WE ARE GOING TO ASK YOU SOME QUESTIONS
25 AND YOU CAN'T FLUNK THIS TEST.

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1 A. OKAY.

2 Q. THERE'S JUST NO RIGHT OR WRONG ANSWERS. IT'S
3 TO HELP US DRAW A JURY, AND SO JUST ANSWER AS BEST YOU
4 CAN FOR ME. AND IF YOU DON'T UNDERSTAND, TELL ME ABOUT
5 IT. IF YOU WANT TO EXPLAIN IT, YOU CAN EXPLAIN IT.
6 YOU KNOW, OF COURSE, THAT A PERSON IS ALWAYS PRESUMED
7 TO BE INNOCENT AND THAT'S THE POSITION MR. ROGERS IS IN
8 SITTING AT THE TABLE UNLESS THE STATE CAN SATISFY
9 TWELVE JURORS OF HIS GUILT BEYOND A REASONABLE DOUBT OF
10 MURDER.

11 A. (JUROR NODDED HEAD UP AND DOWN.)

12 Q. DO YOU UNDERSTAND THAT?

13 A. YES.

14 Q. NOW, INCIDENTALLY, ON YESTERDAY I ASKED THE
15 JURY IF THEY KNEW ANYTHING ABOUT THIS CASE, THE FACTS
16 OF THE CASE OR READ IT OR WATCHED IT ON T.V. AND I
17 ASKED THEM TO STAND UP AND YOU DIDN'T STAND UP. DO YOU
18 KNOW ANYTHING ABOUT THE CASE?

19 A. NOT REALLY. THERE WERE SOME PEOPLE LIKE AT
20 THE BEGINNING MENTIONING SOMETHING ABOUT IT, BUT I HAD
21 NOT HEARD, YOU KNOW, ANY REAL DETAILS ABOUT ANY OF THE
22 CASE.

23 Q. THEN, COULD I ASSUME THAT THERE'S NOTHING
24 THAT YOU KNOW OR HEARD THAT WOULD KEEP YOU FROM GIVING
25 BOTH SIDES A FAIR TRIAL?

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1 A. NO.

2 Q. ALL RIGHT. NOW, I TOLD YOU ON YESTERDAY THAT
3 IN AN ORDINARY CASE A PERSON CHARGED WITH A CRIME AND
4 TRIED -- THE JURY JUST DECIDES WHETHER HE'S GUILTY OR
5 NOT AND THE JUDGE DOES THE SENTENCING. YOU KNEW THAT.

6 A. YES.

7 Q. WELL, ON YESTERDAY I TOLD YOU THAT IN A DEATH
8 PENALTY CASE SUCH AS THIS THE JURY DOES BOTH. DID YOU
9 KNOW THAT?

10 A. NO, I DIDN'T KNOW THAT. I DON'T KNOW TOO
11 MUCH ABOUT THE COURT.

12 Q. ALL RIGHT. WELL, LET ME TELL YOU WHAT -- HOW
13 IT GOES ABOUT. FIRST, I WILL DRAW A JURY OVER THERE
14 AND THEN THE STATE WOULD ATTEMPT TO SATISFY THAT JURY
15 OF HIS GUILT, AS I INDICATED, AND IF THEY FOUND HIM NOT
16 GUILTY, EVERYTHING WOULD STOP. BUT IF THEY FOUND HIM
17 GUILTY OF MURDER, THEN WE'D HAVE A SECOND TRIAL OR A
18 SECOND PROCEEDING AND IT'S CALLED A SENTENCING
19 PROCEEDING. AND AT THAT PROCEEDING THE JURY MIGHT HEAR
20 GOOD THINGS ABOUT HIM OR BAD THINGS, MIGHT HEAR
21 EXTENUATING CIRCUMSTANCES, AGGRAVATING CIRCUMSTANCES,
22 AND IT'S DESIGNED TO HELP THE JURY DECIDE WHAT'S THE
23 PROPER PUNISHMENT BECAUSE WHEN THEY GET THROUGH, THE
24 JURY MUST RECOMMEND TO ME WHAT TO DO. AND DON'T LET
25 THOSE WORDS RECOMMEND FOOL YOU BECAUSE I MUST DO

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1 EXACTLY WHAT THE JURY TELLS ME TO DO. I CAN'T CHANGE
2 IT.

3 SO, IF THE JURY DECIDED THAT THE PROPER
4 PUNISHMENT WAS LIFE IN PRISON, THE FOREMAN WOULD SIGN A
5 LITTLE PIECE OF PAPER AND IT WOULD SAY, WE, THE JURY,
6 DECIDE THAT THE PROPER PUNISHMENT WAS LIFE IN PRISON
7 AND THAT'S JUST WHAT I'D SENTENCE HIM TO. ON THE OTHER
8 HAND, IF THE JURY DECIDED THAT THE PROPER PUNISHMENT
9 WAS DEATH, IT'S DIFFERENT. EACH JUROR INDIVIDUALLY
10 WOULD SIGN THEIR NAME TO A PIECE OF PAPER AND IT WOULD
11 SAY, WE, THE FOLLOWING JURORS, DETERMINE THAT DEATH IS
12 THE APPROPRIATE SENTENCE AND SO I WOULD SENTENCE HIM TO
13 DEATH BY ELECTROCUTION. DO YOU UNDERSTAND?

14 A. YES.

15 Q. NOW, GENERALLY WHEN PEOPLE COME IN AND
16 DISCUSS MATTERS WITH US ABOUT THIS TYPE CASE THEY
17 GENERALLY FALL IN ONE OF THREE CATEGORIES. SO, I'M
18 GOING TO EXPLAIN THOSE CATEGORIES TO YOU AND THEN I
19 WANT YOU TO TELL ME WHICH ONE YOU THINK YOU CLOSEST FIT
20 IN.

21 A. OKAY.

22 Q. THE FIRST TYPE JUROR WOULDN'T BE INTERESTED
23 IN HEARING THAT SECOND TRIAL BECAUSE HIS MIND WOULD
24 ALREADY BE MADE UP. THEY WOULD TAKE THE POSITION IF
25 YOU KILL SOMEBODY YOU OUGHT TO DIE YOURSELF AND SO THEY