

VOLUME TWO OF NINE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Dorchester County

Perry M. Buckner, Circuit Court Judge

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S.C. SUPREME COURT

ORIGINAL

JOHN EDWARD WEIK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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1 I don't blame any of you.

2 Let me ask this: Is there anyone on
3 the jury panel who has a child or children
4 seven years of age or younger and no one to
5 take care of the children, anyone in that
6 category?

7 THE JUROR: I have no transportation
8 other than me for my child, she's two years
9 old.

10 THE COURT: Well --

11 THE JUROR: I mean, I live with somebody,
12 but I have a two-year-old child and she has no
13 way to go nowhere or nothing.

14 THE COURT: Do you take her to day-care
15 every day?

16 THE JUROR: No. She stays with her and
17 then I go home and take her to work and I keep
18 the baby in the afternoons.

19 THE COURT: Your name, please, sir?

20 THE JUROR: Marty Johnson.

21 THE COURT: Mr. Johnson, what you're
22 telling me is --

23 THE JUROR: My girlfriend, fiancée, keeps
24 her during the day up until she has to go to
25 work at night.

1 THE COURT: And you have to come home and
2 take care of the two year old?

3 THE JUROR: I take her and pick her up,
4 you know, do whatever. I mean, I got the only
5 vehicle in my family.

6 THE COURT: And you take care of the
7 child, your child?

8 THE JUROR: In the afternoons.

9 THE COURT: In the afternoons.

10 THE JUROR: Yeah, after I get home.

11 THE COURT: So when you're on a job you
12 have to leave the job early to come home and
13 take care of the child?

14 THE JUROR: I mean, if she's got to go to
15 work before I get off, yes. We're both
16 self-employed so we got to work together.

17 THE COURT: What time does she go to
18 work?

19 THE JUROR: Between 5:30 and 6:00 in the
20 afternoon.

21 THE COURT: I'll excuse Mr. Johnson.

22 Yes, ma'am?

23 THE JUROR: I have three small children.

24 THE COURT: Your name?

25 THE JUROR: Jannie Zeigler.

1 THE COURT: Ms. Zeigler. Three small
2 ones, nobody to take care of them?

3 THE JUROR: My mama to watch them while
4 I'm at work.

5 THE COURT: Well, do you work every day?

6 THE JUROR: I work two days out of the
7 week.

8 THE COURT: Two days out of the week.
9 And the rest of the time you're home?

10 THE JUROR: Yeah.

11 THE COURT: Two days out of the week
12 you're off, or you work?

13 THE JUROR: I'm off.

14 THE COURT: You're off two days of the
15 week, work the rest of the week. And she
16 takes care of them the other five days?

17 THE JUROR: Other five days, uh-huh.

18 THE COURT: Do you work on Sunday, too,
19 then?

20 THE JUROR: Yes, sir.

21 THE COURT: What time do you leave in the
22 morning?

23 THE JUROR: I leave -- okay. I take my
24 little girl to school at 7:20, I have to be to
25 work like eight o'clock, 8:30.

1 THE COURT: Does your mother carry them
2 to school?

3 THE JUROR: I take them.

4 THE COURT: But then she takes care of
5 them when they get home?

6 THE JUROR: Yeah. Okay. My little girl
7 stay in the afternoon program until I get off
8 of work and then I pick her up. But my other
9 one catch the bus home and my baby with my
10 mama all day.

11 THE COURT: Baby is how old?

12 THE JUROR: Two.

13 THE COURT: The other one is how old, the
14 next one's how old?

15 THE JUROR: Nine.

16 THE COURT: The next one's how old?

17 THE JUROR: Thirteen.

18 THE COURT: So the only one I've got to
19 worry about is the two year old?

20 THE JUROR: Uh-huh.

21 THE COURT: And she stays all day long,
22 five days a week? Spends the night at your
23 house?

24 THE JUROR: Yeah, she stays with me.

25 THE COURT: At your house?

1 THE JUROR: Not my mom.

2 THE COURT: In your house. She sleeps at
3 your house?

4 THE JUROR: Yes.

5 THE COURT: Does she ever spend the night
6 at your mother's house?

7 THE JUROR: No.

8 THE COURT: Never has?

9 THE JUROR: Unh-unh.

10 THE COURT: Ms. Zeigler, I excuse you.

11 THE CLERK: 349.

12 THE JUROR: I just have a question. I
13 get off about 5:15, I have to get my daughter
14 out of day-care.

15 THE COURT: I can't promise you that.
16 Otherwise what do you do? Tell me how it
17 goes.

18 THE JUROR: Well, my sister used to get
19 them until she got her a part-time job in
20 Charleston.

21 THE COURT: Your name, please, ma'am?

22 THE JUROR: Martino.

23 THE COURT: You're telling me that you
24 have a child in day-care and you take the
25 child, pick the child up every day?

1 THE JUROR: Yes.

2 THE COURT: Take care of the child every
3 day. Do you work, though?

4 THE JUROR: Yes, come home.

5 THE COURT: But you get off early enough
6 so that you can take care of the child at five
7 o'clock or 5:15?

8 THE JUROR: Yes.

9 THE COURT: I see.

10 Yes, ma'am. You all keep popping up
11 now.

12 I excuse Ms. Martino.

13 THE CLERK: 201.

14 THE JUROR: I have a father-in-law that I
15 take care of. And, I mean, I don't work so
16 that's what I does.

17 THE COURT: How old is he, ma'am?

18 THE JUROR: He'll be 82 June the 12th.

19 THE COURT: Is he bedridden, or just
20 stays home?

21 THE JUROR: You can say bedridden. He
22 can move around a little, but mostly
23 bedridden.

24 THE COURT: Do you stay with him all the
25 day every day?

1 THE JUROR: Mostly somebody is with him,
2 most of the time it's me.

3 THE COURT: Do you spend the night there?

4 THE JUROR: Yes.

5 THE COURT: You spend the night there as
6 well as staying.

7 THE JUROR: I take care of him, he stays
8 with me.

9 THE COURT: I see. He's in your home.
10 Your father or father-in-law?

11 THE JUROR: Father-in-law.

12 THE COURT: I see. And your husband
13 works, obviously is working?

14 THE JUROR: Yes.

15 THE COURT: You're the only one there,
16 basically, all the time with him?

17 THE JUROR: Yes. I'm there all the time,
18 basically.

19 THE COURT: And your name, please?

20 THE JUROR: Deborah Davis.

21 THE COURT: Ms. Davis, do you happen to
22 know your number?

23 THE JUROR: It's 85.

24 THE COURT: 85, I excuse you.

25 Yes, ma'am.

1 THE JUROR: I'm a single mother with two
2 kids in day-care and I leave work at 5:15 to
3 get to day-care before 6:00 because they
4 charge a dollar a minute per kid.

5 THE COURT: Of course once you get there
6 you take them home and have to stay with them
7 at night and so forth. And your name, please,
8 ma'am?

9 THE JUROR: Cynthia Loomis, number 195.

10 THE COURT: Ms. Loomis, 195, I excuse
11 you.

12 Yes, ma'am.

13 THE JUROR: I have an 83-year-old father
14 that lives with me and I have to care for him
15 at night at around 5:00, I get home at 5:30.

16 THE COURT: Nobody there but you at night
17 to take care of him?

18 THE JUROR: Most of the time. And the
19 kind of care that he has to have, I'm a nurse
20 and I have to care for him.

21 THE COURT: And your name, please, ma'am?

22 THE JUROR: Zonda Crabtree.

23 THE COURT: Ms. Crabtree, I excuse you.

24 THE CLERK: Number 77.

25 THE COURT: I find the jury is qualified,

1 those who are here. As I stated earlier, the
2 clerk will prepare a list of those, she
3 probably already has, a list of those who are
4 not here. I'm going to give that list to the
5 sheriff. What I want to be sure of from both
6 sides, State and the defense, is that there
7 are those who we spoke about last week and
8 they were excused on the record we know about,
9 but if there are any who were not; in other
10 words, if there were some that we got a
11 response from, but they didn't show up this
12 morning I think the sheriff needs to go find
13 them. There isn't any reason for them to
14 respond and not show up in court. Those are
15 the ones I'm concerned about and you all -- if
16 you have a thought about any others I'm
17 certainly willing to hear you, but that's
18 where I think we are at this point.

19 There are those who did show up who
20 we didn't discuss last week -- or we excused,
21 actually, last week and a few of them came and
22 some of them have been excused this morning,
23 Mr. O'Toole for one. We excused him last week
24 because he was more than 65 and he came. Of
25 course he said he wanted to be excused, so

1 I've done that. So there are several we've
2 taken care of.

3 But if there are any problems with
4 the State or the defense with regard to any
5 other jurors other than those on the list, and
6 the clerk will prepare that list and let you
7 all have it, give it to the sheriff and then
8 we will see where we go. Is there any other
9 problems with the jurors? I need to know it
10 before we begin.

11 MR. BAILEY: Not from the State, Your
12 Honor.

13 MR. BEAUFORD: None from the defense,
14 Your Honor.

15 THE COURT: All right. Thank you.

16 Ladies and gentlemen, I need to tell
17 you a little -- first of all, my name's Duane
18 Shuler, I live in Kingstree, I've been
19 assigned down in your county and in Orangeburg
20 in this circuit, First Judicial Circuit, for
21 six months. I started in January, my time is
22 about to run out. At the end of this month I
23 suppose I'll be going somewhere else. I've
24 been here or Orangeburg every week about since
25 January holding court, criminal and civil.

1 I've enjoyed working with you all
2 here in this county, I think St. George is one
3 of my favorite places to come, actually. I've
4 really enjoyed working with the lawyers here
5 and court personnel and jurors and so forth,
6 and I look forward to working with you all
7 this week.

8 I'm going to give you a little more
9 detail about what we're going to do in just a
10 few minutes, but I wanted to tell you who I
11 was. I'm going to ask the solicitor to call
12 his case for trial and then I'll talk to you
13 about where we're going from there.

14 MR. BAILEY: Your Honor, if I could
15 approach the bench, I think the original
16 indictments are up there.

17 THE COURT: It is.

18 MR. BAILEY: Your Honor, the State
19 versus -- 98-GS-18-749, State versus John
20 Edward Weik, charged with burglary in the
21 first degree and 98-GS-18-750, charging John
22 Edward Weik with murder.

23 THE COURT: All right, sir.
24 Mr. Solicitor, my understanding is on these
25 two charges, on the charge of murder the State

1 intends to seek the death penalty; is that
2 correct?

3 MR. BAILEY: That's correct, Your Honor.

4 THE COURT: Let me ask you this: Have
5 you 30 days prior to this day given written
6 notice to the defendant as required by the
7 statute, written notice of your intention to
8 seek the death penalty?

9 MR. BAILEY: Yes, sir. I have, Your
10 Honor.

11 THE COURT: Have you also before calling
12 the case for trial today given the defendant
13 in writing evidence, your evidence in regards
14 to aggravation of punishment to be offered by
15 the State for introduction into evidence?

16 MR. BAILEY: Yes, Your Honor.

17 THE COURT: And have you all provided,
18 you, the State, provided the defendant with a
19 true copy of the indictment at least three
20 days prior to the calling of this trial?

21 MR. BAILEY: Yes, sir.

22 THE COURT: All right, sir. And has he
23 been arraigned?

24 MR. BAILEY: He has, Your Honor.

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

1 sir.

2 MR. BAILEY: Yes, sir.

3 THE COURT: Mr. Beauford,

4 Ms. Hardee-Thomas, let me ask you all.

5 Mr. Weik, does he agree, or do you all agree
6 on his behalf these statutory requirements
7 have been complied with by the State?

8 MR. BEAUFORD: We do, Your Honor.

9 MS. HARDEE-THOMAS: We do, Your Honor.

10 THE COURT: All right. I think I've
11 already gotten the information from you all,
12 but let me just ask you this and you can stand
13 and do so for the jury's benefit as well, of
14 course I didn't ask the solicitor, Solicitor
15 Bailey, but I'll let you all introduce
16 yourselves a little later on when we begin.
17 But, Mr. Beauford, if you don't mind, sir,
18 again tell me, you are from Moncks Corner?

19 MR. BEAUFORD: Berkeley County, yes.

20 THE COURT: You practice law in Moncks
21 Corner.

22 MR. BEAUFORD: That's correct.

23 THE COURT: And have been practicing down
24 there for how many years, sir?

25 MR. BEAUFORD: Since 1990.

1 THE COURT: All right, sir. Eight, nine
2 years?

3 MR. BEAUFORD: Yes, Your Honor.

4 THE COURT: Have at least five years'
5 felony experience trying felony cases?

6 MR. BEAUFORD: Yes, Your Honor.

7 THE COURT: All right. We did this last
8 week I know, but I just want to do it for the
9 jury.

10 Ms. Hardee-Thomas, it's my
11 understanding you're the public defender here
12 in this county?

13 MS. HARDEE-THOMAS: In Dorchester County.

14 THE COURT: Have been practicing for how
15 long, ma'am?

16 MS. HARDEE-THOMAS: Since September of
17 1995.

18 THE COURT: So that would be about three
19 and a half, four years, something like that.
20 Do you have at least three years' experience
21 trying felony cases?

22 MS. HARDEE-THOMAS: I do.

23 THE COURT: All right. And is the
24 defendant pleading guilty or not guilty?

25 MR. BEAUFORD: Your Honor, may we

1 approach?

2 THE COURT: Yes, sir.

3 (Whereupon, a bench conference was held
4 off the record in the presence of the
5 jury panel but out of the hearing of the
6 jury panel.)

7 MR. BEAUFORD: Your Honor, the defendant
8 intends to plead guilty, but mentally ill.

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

10 Ladies and gentlemen of the jury
11 panel, would you all stand, please, and hold
12 up your right hands? Do each of you swear or
13 affirm that you will not discuss any
14 questions, any answers, any aspect of this
15 case this morning with each other or with
16 anyone else until the Court relieves you of
17 the duty to do so? Would you do that for me
18 today? All right. Thank you very much.

19 Ladies and gentlemen, what I intend
20 to do, in order to qualify the jury I need to
21 tell you a little about what we're here about
22 this morning and then see if we can't move
23 this thing orderly and as quickly as we
24 possibly can.

25 As you all know, those of you who

1 have served as jurors before, some of you may
2 not have served, in a criminal case every
3 defendant is presumed to be innocent. Every
4 person who's charged with a crime in this
5 state, for that matter in this country who is
6 charged with a crime comes to the courthouse
7 and is presumed to be innocent of the charges
8 against him or her. And the State of South
9 Carolina is required to prove that guilt
10 beyond every reasonable doubt.

11 The jury, you all, are the judges of
12 the facts. You have to determine whether or
13 not the State has proven a defendant guilty of
14 a crime. My understanding is that in this
15 particular case the State has charged this
16 defendant with murder and burglary in the
17 first degree. I understand from the -- from
18 his attorneys that he intends to plead guilty,
19 but mentally ill. And I simply tell you at
20 the outset that that may be his plea, but you
21 all may be required to determine on the one
22 hand his guilt and his sentence.

23 I'm going to discuss that matter
24 with the lawyers in just a few moments, but in
25 the meantime the clerk is going to draw names

1 from a list at random. And I assume there's
2 no opposition to this?

3 MR. BAILEY: Not from the State, Your
4 Honor.

5 MR. BEAUFORD: None from the defense,
6 Your Honor.

7 THE COURT: All right. Your names are in
8 capsules, no one knows, each one is in an
9 individual capsule with a top on it and it's
10 in a basket and they'll be drawn at random.
11 And as they come out of that basket the clerk
12 is going to make a list, one through however
13 many we intend to use to begin with.

14 And then I'm going to ask you all
15 to -- some stay and some go. I'm going to set
16 this up in panels of six, six persons for the
17 first panel and six for the second and so
18 forth. And I'm going to ask you all some
19 questions individually, one juror at a time,
20 and determine whether or not you all could
21 serve as a juror in this case.

22 I'm going to make this as painless
23 as I possibly can for you, I'm going to make
24 it as convenient as I can. But I know it's
25 not convenient, I understand that. I know

1 you'd rather be somewhere than in the
2 courthouse in Dorchester County on Monday
3 morning, I know that. But let me say this to
4 you: Other than serving your country in time
5 of war, this is the most important duty you'll
6 ever be called upon to do.

7 I have heard judges say that for
8 years. I think Churchill is the one who
9 actually made that statement to begin with;
10 I've heard judges and lawyers talk about that
11 for years. And I'm convinced over 25, 26
12 years of my service that it is the most
13 important thing a citizen can be called to do.

14 It's not something that you want to
15 do, it's not something that you ask for, but I
16 can tell you this: Not only is it important,
17 it's important that we have jurors who are
18 willing to do it. Because we have to have
19 good people who are willing to come and do
20 what they believe is right.

21 We can go out and get anybody off of
22 a street corner who will not be a good juror.
23 We've got to have people who are busy, who
24 need to be with their families, need to be at
25 their job, need to be somewhere besides a

1 courthouse. You're the kind of people we
2 need. And I can tell you that if we do not
3 have good jurors, we don't have a system of
4 justice. We can sit on the sideline and
5 complain about lawyers and judges and our
6 sorry judicial system, and I can tell you that
7 it stands or it falls on the jury. You make
8 it happen. And it either works because of you
9 or it fails because of you. I can tell you
10 that I'm really not all that necessary, the
11 lawyers aren't really all that necessary.
12 What's necessary is that we have good jurors.

13 And I can promise you that I will
14 treat you with absolute respect. I will do
15 whatever I can to make things go smoothly for
16 you and help you in any way I can. But I need
17 your cooperation and your service in this
18 matter.

19 All right. If you all will begin
20 your selection process. Do you all want to
21 step up, let's talk a minute?

22 (Whereupon, a bench conference was held
23 off the record in the presence of the
24 jury panel but out of the hearing of the
25 jury panel.)

1 THE CLERK: Are you ready?

2 THE COURT: Yes, ma'am.

3 Mr. Beauford, let me ask you again
4 for the record because we're drawing a jury,
5 my understanding is that you said your client
6 intended to plead guilty, but mentally ill.
7 Are you telling me that he pleads guilty to
8 what he's charged with, but you intend to
9 offer evidence that he's mentally ill?

10 MR. BEAUFORD: Correct, Your Honor.

11 THE COURT: All right, sir. I just
12 wanted to be sure I understood that.

13 Ladies and gentlemen, while she's
14 doing that, let me expand a little on what I
15 started a few minutes ago. In this state when
16 a person is charged with a crime of any kind,
17 the jury determines whether that person is
18 guilty of the crime or not guilty. You all
19 have seen that on television, of course. It
20 doesn't work exactly like television in
21 Dorchester or anywhere else.

22 But the point of it is that the
23 jury, you all are the judges and you have to
24 determine whether that person's guilty or not.
25 The State of South Carolina has to prove that

1 that person is guilty or not. And the State
2 of South Carolina has to prove that that
3 person is guilty beyond a reasonable doubt.
4 You've heard those terms probably all your
5 life.

6 The jury in most cases determines
7 guilt. If the defendant is found to be not
8 guilty obviously the case is over, the
9 defendant is exonerated. If the defendant is
10 found guilty of a crime, in most cases the
11 judge then would decide what sentence would be
12 appropriate. In South Carolina the judge is
13 the one who does the sentencing after the jury
14 determines that a person is guilty of a crime.

15 But we have an exception in this
16 state when it comes to a death penalty case.
17 Where the State of South Carolina seeks the
18 death penalty for a defendant, the jury must
19 first decide whether that person's guilty,
20 just as in any other case. And the jury may
21 very well say not guilty, in which case the
22 trial ends, the defendant is exonerated and
23 it's over.

24 If the jury decides and finds that
25 the State has proven that the defendant is

1 guilty of murder, then a second trial, a
2 second phase, it's almost two trials in one, a
3 second trial is started. And the jury has to
4 determine what the sentence is, what the
5 sentence ought to be.

6 In this state, please listen to me
7 carefully, in this state the sentence for
8 murder generally is life or death, generally
9 speaking life or death, where a jury decides
10 that when the State seeks the death penalty.
11 But a jury cannot impose a death sentence on
12 anyone unless the jury finds that person
13 guilty of murder and at least one aggravating
14 circumstance.

15 This will be explained in great
16 detail at some later time, but it's important
17 that you understand to begin with that a death
18 sentence in South Carolina is not allowed if a
19 person is found guilty of murder only. That
20 person must be found guilty of murder, plus an
21 aggravating circumstance. And there are many
22 in which the law specifically states
23 aggravating circumstance.

24 And so I tell you to begin with that
25 the State must prove that this defendant is

1 guilty of murder. And if it can do that, if
2 it's able to prove beyond a reasonable doubt
3 guilty of murder, then there's a second trial,
4 the sentencing part of the trial in which the
5 jury has to listen to some evidence to
6 determine whether or not the State has proven
7 not only a murder, but also some aggravating
8 circumstance, murder plus something. If the
9 State hasn't proved murder and an aggravating
10 circumstance, there is no death penalty.
11 There is no death penalty.

12 If the State proves murder and an
13 aggravating circumstance beyond a reasonable
14 doubt, then the jury may, I repeat may, may
15 sentence someone to death. It's not required,
16 never required. But you simply may do so if
17 you are a member of that jury and find, and
18 you find that the State has proven beyond a
19 reasonable doubt both a murder and an
20 aggravating circumstance.

21 And, of course, you can always find
22 that someone should be given a life sentence
23 even if there is an aggravating circumstance.
24 It's left to the jury. And I tell you this
25 ahead of time because when I ask you some

1 questions at a later time, and I intend to do
2 that presently, I want you to be thinking in
3 your mind whether or not you can -- and,
4 again, I've given you an oath not to discuss
5 this, I don't want you to talk to your
6 neighbor about it, I don't want you to talk to
7 anyone about it. I don't want you to go home
8 for lunch today and talk about it with
9 anybody. I just simply want you to think in
10 your own mind whether or not you could and
11 would be able to listen to all of the
12 aggravating circumstances, and at the same
13 time listen to all the mitigating
14 circumstances. Because the defendant has the
15 right to present evidence in mitigation.

16 And you heard Mr. Beauford say we
17 intend to prove and present evidence of some
18 mental illness, which is a mitigating
19 circumstance, and there are many. There are
20 many aggravating, there are many mitigating
21 circumstances. And we're looking for, what
22 I'm looking for, is a juror who would be
23 willing to listen to the evidence in the case
24 both in aggravation and in mitigation and to
25 be able to make a decision in that regard..

1 (Pause in proceedings.)

2 THE COURT: Ladies and gentlemen, anyone,
3 there's several who may want to take a break
4 for a minute or two, I know you've been here
5 for a while. Feel free to do so. You may use
6 the back, the restrooms, fountain and so
7 forth.

8 Let me say this before everybody
9 jumps up. Please don't go more than about ten
10 minutes. Ten minutes, if you will, and come
11 back to the courtroom.

12 (Recess taken.)

13 THE COURT: Thank you, ladies and
14 gentlemen. Be seated, please. Ladies and
15 gentlemen, the State of South Carolina charges
16 John Edward Weik first with the offense of
17 burglary in the first degree.

18 Are those jurors outside the door
19 there, now? No jurors out there.

20 The indictment says that John Edward
21 Weik did in Dorchester County on or about
22 April 13th, 1998 willfully and unlawfully
23 enter the dwelling of Susan Krasae without
24 consent and with the intent to commit a crime
25 therein, to-wit: murder, and when effecting

1 entry or while in the dwelling or while in
2 immediate flight therefrom he was armed with a
3 deadly weapon, to-wit: a shotgun, and caused
4 physical injury, the death of Susan Krasae,
5 who was not a participant in the crime; and
6 third, used a dangerous instrument, a shotgun,
7 and displayed a shotgun, all of which if
8 proven, those are the elements of burglary in
9 the first degree. And to this charge my
10 understanding is that the defendant has pled
11 not guilty and seeks a trial at your hand.

12 In regard to the second charge the
13 indictment says that John Edward Weik did in
14 Dorchester County on or about April 30, 1998
15 feloniously, willfully and with malice
16 aforethought kill one Susan Krasae by means of
17 shooting her four times with a shotgun. And
18 that the said Susan Krasae did die as a
19 proximate result thereof on or about April 30,
20 1998. And to this charge the defendant also
21 pleads not guilty and seeks a trial at your
22 hands.

23 I'm going to read -- well, first of
24 all, let me ask: Is there anyone on the jury
25 panel related by blood, connected by marriage,

1 or a close personal friend of John Edward
2 Weik? Mr. Weik is seated here in the
3 courtroom, his back to you. Anyone related by
4 blood or marriage or a close personal friend?

5 (No response.)

6 Is there anyone on the jury panel
7 related by blood, connected by marriage, or a
8 close personal friend of Susan Krasae? If so,
9 would you please stand.

10 Would you give me your name, please?

11 THE JUROR: Karen Urban.

12 THE COURT: Ms. Urban, tell me what
13 relationship.

14 THE JUROR: I knew Susan and I know her
15 two sisters very well.

16 THE COURT: Would you say that you all
17 were close personal friends?

18 THE JUROR: Of her sisters. They went to
19 church with me.

20 THE COURT: But of her, the victim, would
21 you say that she's a close personal friend?

22 THE JUROR: I knew her. I taught her son
23 in a class at church years ago.

24 THE COURT: All right. All right. Well,
25 now, let me ask you this -- if you don't mind,

1 remain standing. Let me ask you this: The
2 fact that you knew who she was, say you talked
3 to her one time, taught her son in Sunday
4 school, would that fact prevent you from being
5 a fair and impartial juror? Don't explain,
6 just yes or no.

7 THE JUROR: I think so.

8 THE COURT: You think it would?

9 THE JUROR: Yes, sir.

10 THE COURT: All right. Give me your name
11 and number again, please.

12 THE JUROR: Karen Urban, 306.

13 THE COURT: Thank you very much. I will
14 excuse you, Ms. Urban.

15 Is there anyone on the jury panel
16 now who has formed or expressed an opinion as
17 to the guilt or innocence of this defendant?
18 If so, would you please stand.

19 (No response.)

20 Is there anyone on the jury panel
21 who is conscious or aware of any bias or any
22 prejudice for or against the defendant? If
23 so, would you please stand.

24 (No response.)

25 Ladies and gentlemen, the State of

1 South Carolina, Mr. Bailey is your solicitor
2 for the first circuit, he is going to be
3 prosecuting this case and I'll let him
4 introduce members of his staff and then the
5 same on the other side, and I'll ask you about
6 them.

7 MR. BAILEY: I'm Walter Bailey, I'm first
8 circuit solicitor for Orangeburg, Dorchester
9 County, Calhoun County. Robby Robbins,
10 Harrison Bell, next is Darlene Simmons who is
11 a secretary in our office, Maité Murphy is
12 also an assistant solicitor in the Dorchester
13 County office.

14 THE COURT: Thank you, sir. Is there
15 anyone on the jury panel now who is related by
16 blood or marriage, or a close personal friend
17 to any of those folks who have just been
18 introduced to you from the State's side of the
19 courtroom?

20 (No response.)

21 All right. Mr. Beauford, if you
22 will please, sir, you introduce yourself,
23 Ms. Hardee-Thomas may, then you all introduce
24 the others.

25 MR. BEAUFORD: My name is Percy Beauford,

1 solo practitioner practicing primarily in the
2 Dorchester County, Charleston area. At the
3 table here is Mr. Blume, Mr. White.

4 MS. HARDEE-THOMAS: My name is Marva
5 Hardee-Thomas, I'm a contract public defender
6 for Dorchester County.

7 THE COURT: Thank you very much.

8 Anyone now who is related by blood
9 or marriage, a close personal friend to
10 Mr. Beauford or Ms. Hardee-Thomas, Mr. Blume,
11 who is a lawyer now in Columbia, and others
12 that were introduced to you?

13 (No response.)

14 Is there anyone on the jury panel at
15 this point -- and I'm going to ask you some
16 specific questions -- who knows of any reason
17 why you could not serve as a juror in this
18 case?

19 (No response.)

20 All right. Let me ask this: There
21 are a number of people who I've got here on a
22 list who are potential witnesses in the case,
23 I'm going to read their names. Please listen
24 carefully because there are a good number of
25 them. And I'll go slowly. The first is

1 Jennye Adams, Thomas Adams, III, Sergeant Earl
2 Asbell, he's with the Dorchester County
3 Sheriff's Department. Is that how you
4 pronounce that, Asbell? A-s-b-e-l-l.

5 Dr. Thomas Behrmann, Corporal Brian
6 Bills, and he's with Dorchester County
7 Sheriff's Department. John Black, Deputy
8 Joseph Burnette. And Deputy Burnette is with
9 Charleston County Sheriff's Department
10 presently, I think he was at one time in
11 Dorchester County.

12 Dr. Theresa Campbell, Sergeant Alvin
13 Coker, Sergeant Coker is with Dorchester
14 County Sheriff's Department. Dr. Kim Collins,
15 Dr. Pamela Crawford, Debbie Crowley,
16 C-r-o-w-l-e-y, Julie Forte, F-o-r-t-e, Deputy
17 Don Gamache. And Deputy Gamache is with the
18 sheriff's department here in Dorchester
19 County. Is that Mike Giglio?

20 MR. BAILEY: Yes, sir.

21 THE COURT: Mike Giglio.

22 Yes, sir. Your name, please?

23 THE JUROR: My name's Paul Krakeel, I
24 currently work for Dorchester County EMS and
25 his co-worker.

1 THE COURT: All right. The fact that --
2 All right, sir. You're talking about
3 Mr. Giglio?

4 THE JUROR: Yes, sir.

5 THE COURT: The fact that he might
6 testify in this case, you all working
7 together, he's a -- he's not a sheriff's
8 deputy. You all work on the same team?

9 THE JUROR: We did at one time. We are
10 currently station supervisors opposite shifts.

11 THE COURT: I see. So you know him
12 obviously very well, you've worked together
13 before?

14 THE JUROR: Yes, sir.

15 THE COURT: Would that prevent you from
16 being fair and impartial in this case if he
17 happens to be one of the people who testifies?

18 THE JUROR: No, sir.

19 THE COURT: Are you saying that you would
20 be willing to listen to all of the evidence in
21 the case and including his, but you would
22 simply not give his any more weight than you
23 would anyone else, you would be willing to
24 listen to everything and decide fairly the
25 facts?

1 THE JUROR: I would be willing to listen
2 to everything. I've been picked as a juror
3 numerous times by defense or prosecution, but
4 I have not served. I think I would be fair
5 and impartial on anything.

6 THE COURT: All right, sir. Thank you
7 very much, sir.

8 All right. Let me ask you this:
9 I'm going to give you a couple of other names.
10 Keith Hogan, Ronald Hall, Alice Hilton, James
11 Hutto, Amber Krasae, Daniel Krasae, David
12 Lindsey, Detective Tom Marshall, he's with
13 Dorchester County Sheriff's Department,
14 Detective Marshall there. Officer Andrew
15 McGauvran, North Charleston Police Department,
16 Denise Merritt, Coroner Chris Nisbet, Deputy
17 Hubert Tim Price -- excuse me, Prince. Hubert
18 Tim Prince with the Dorchester County
19 Sheriff's Department, Dr. Stephen Shea,
20 S-h-e-a, Laura Tyson, Detective Terry Van
21 Doran, and he's with the Dorchester County
22 Sheriff's Department. Rebecca Vincent, and
23 Kenneth Whitler, W-h-i-t-l-e-r, and finally
24 Arnold Pastor, P-a-s-t-o-r. Anyone related by
25 blood or marriage or close personal friend to

1 any of those persons?

2 (No response.)

3 All right. I might give a couple of
4 others. Lilly Weik and Russell Weik,
5 Dr. Donna Schwartz-Watts, Dr. Donald Morgan,
6 Amy Weik, Abraham Rodrigues, Karen Spolane,
7 she's vice principal at Knightsville
8 Elementary School. Daniel Krasae, I think
9 I've already given you his name. Dr. Jeffrey
10 McKee, Dr. Augustus Rogers, D. J. Johns,
11 Dr. Joel Sexton, Scott Parker, Dr. Gary
12 Milton.

13 All right. Yes, sir. Would you
14 give me your name, please, sir?

15 THE JUROR: Kevin McCann. Karen Spolane.

16 THE COURT: All right. She's the vice
17 principal of the elementary school.

18 THE JUROR: My wife works with her.

19 THE COURT: All right. Do you know her
20 personally? Are you all close personal
21 friends, or you just know who she is?

22 THE JUROR: My son is friends with her
23 son.

24 THE COURT: All right. But are you
25 friends with her?

1 THE JUROR: Not close.

2 THE COURT: Not close.

3 If she testifies in this case, would
4 that prevent you from being fair and impartial
5 in the trial?

6 THE JUROR: No.

7 THE COURT: Thank you, sir.

8 Yes, ma'am.

9 THE JUROR: I didn't know the victim, but
10 the children Daniel and Amber, they lived in
11 my neighborhood at one time and I really think
12 that I would not be impartial.

13 THE COURT: Your name, please, ma'am?

14 THE JUROR: Ann Clark, number 71.

15 THE COURT: You believe the fact that you
16 knew those children in the neighborhood, that
17 that would prevent you from being fair and
18 impartial in this trial?

19 THE JUROR: I believe it would.

20 THE COURT: All right. Ms. Clark, I'll
21 stand you aside then.

22 THE CLERK: Number 71.

23 THE COURT: Number 71, I believe it is.

24 THE JUROR: 71.

25 THE COURT: Thank you.

1 All right. Ladies and gentlemen,
2 here is what I intend to do. I have -- your
3 names have been drawn. I'm going to ask the
4 clerk since she's -- you know, I'm from
5 Williamsburg County, ladies and gentlemen, a
6 lot of these names I can't pronounce, I'm
7 sorry. Since she's done such a good job this
8 morning, I'm going to let her read the names
9 off of each list.

10 What I intend to do is this: The
11 first six names I would like for you all, if
12 you would, just to come forward. And the
13 bailiff will carry you back to a jury room and
14 you'll be given some instruction back there.

15 What I intend to do, ladies and
16 gentlemen, is this: I'm going to have the six
17 jurors taken to the jury room, and I'm going
18 to have juror number 1 brought to the grand
19 jury room, I think they'll be in the petit
20 jury room, and then I'll have the first juror
21 brought to the grand jury room. And I'm going
22 to give that sheet, that little instruction
23 sheet or questionnaire to the juror and ask
24 that juror to read it. Then I'll bring that
25 juror in and we can talk to that number one

1 juror.

2 And as that one comes in, then Juror
3 Number 2 will be brought to the grand jury
4 room by himself or herself and she can read.
5 And so we can just move as quickly -- I think
6 more quickly that way.

7 The other thing is this, and you all
8 may want to check as we go along, but I think
9 almost everyone has filled out a
10 questionnaire, you all received one in the
11 mail. If you have not, we will probably know
12 it, but if you have not and you know that you
13 haven't, if you would tell us and we'll give
14 you one and let you fill that out while you're
15 back there as well and we can move this thing
16 quickly.

17 What I intend to do is have one
18 panel, it's now ten minutes to 12:00, and I
19 intend to go from 12:00 to 1:00 with panel
20 number one. From 1:00 to 2:00 we're going to
21 take a break. Panel number two I intend to
22 have back here in the courtroom in the room,
23 petit jury room in the back, at two o'clock.
24 So panel two will be 2:00 to 3:00. Panel
25 three will be from 3:00 to 4:00. Panel four

1 will be from 4:30 to 5:30. We'll skip 30
2 minutes. We've got to have a break, we're
3 going to skip 30 minutes and start that panel
4 at 4:30, end at 5:30. We're going to have the
5 next panel from 5:30 to 6:30, then we're going
6 to quit.

7 I know that's an imposition to you,
8 but the only way we're going to try this case
9 is to get a jury and the only way I can do
10 that is to work. And you all are paying me to
11 work and I intend to work until we get this
12 jury drawn and we get this case tried. And so
13 that's how I intend to do it.

14 Panel number one, Madam Clerk, if
15 you will read their names they can come
16 forward.

17 Mr. Bailiff, you'll carry them back
18 there, show them the room.

19 THE CLERK: Douglas W. Judy.

20 THE COURT: Mr. Judy, you can just come
21 forward, she'll take you right here, sir.

22 THE CLERK: Allen F. Bates, Donnal K.
23 Pisano, Arthur F. Weickhardt, Jr., Robert W.
24 Lawson and Ann Clark. Ann Clark was excused.

25 THE COURT: Ann Clark was excused so

1 we've got five then on this first panel.

2 Ladies and gentlemen, if you don't
3 mind, here's what I'm going to do: They'll
4 take you back, Mr. Judy will be the first one
5 out, you'll come to the other room and I'll
6 give you a little sheet, one-page sheet. When
7 you get through reading over that you let her
8 know and I'll bring you out here, ask you a
9 few questions and we'll be on our way. All
10 right. Thank you, ladies and gentlemen.

11 All right. Second group now, she's
12 going to read, will come to the petit jury
13 room. Probably what you ought to do, as you
14 leave is to come through the courtroom and
15 walk by the petit jury room back here so you
16 can see where it is. And then the stairs are
17 in the back and you can just walk in and go
18 out to your car. And I will need you here
19 please at two o'clock, two o'clock sharp.
20 Just come to the jury room, no use to come
21 back to the courtroom. Shouldn't be anybody
22 in the courtroom. Once everybody leaves this
23 time, there shouldn't be anybody back in the
24 courtroom on the jury panel.

25 What I'd like for you to do when you

1 come back is come up the back stairs and come
2 to the jury room through the back stairs
3 rather than come through the courtroom because
4 we're going to be questioning potential
5 jurors, obviously. So the second group will
6 be these.

7 **THE CLERK:** Angela Washington, Margaret
8 James, Julia Westbury, Thomas A. Nichols, Jr.,
9 Kevin J. McCann, Reginold T. Aiken.

10 **THE COURT:** All right. Ladies and
11 gentlemen, thank you all. And if you all
12 would just walk out, move to the petit jury
13 room. Obviously you don't need to stop there,
14 you just go on down to the car and get
15 something to eat and at two o'clock I will see
16 you all, just come directly to that petit jury
17 room. Thank you very much.

18 All right. Three o'clock.

19 **THE CLERK:** Barbara J. Lane, Christine N.
20 C. Glazier, Daisy G. Smalls, Sundee M. Dobek,
21 Carolyn S. Kirkland, and Ronald L. Tyrell.

22 **THE COURT:** All right. Ladies and
23 gentlemen, thank you all, you just walk by and
24 you'll see the room you come to. Three
25 o'clock. Three o'clock. Remember my charge

1 now, no discussion. If you go home don't talk
2 to your family about what's going on, if you
3 do we're going to be in big trouble. Don't do
4 that. And just come back at three o'clock.

5 We're going to move as quickly as we
6 can. If there's a delay, you know, I'll let
7 you know and I'll do whatever I can to make it
8 convenient for you, if I have to let you go
9 I'll do it, but I'm just going to move as
10 quickly as I can, but you know how that goes.
11 Thank you. Three o'clock.

12 All right. Now, this crowd they'll
13 come at 4:30. 4:30.

14 THE CLERK: Arleen A. Wheeler, Jerry E.
15 Bryan, Marvin E. Ladson, David R. Willhoit,
16 Arthur B. Cummings, Lisa L. Wallace.

17 THE COURT: Ladies and gentlemen, thank
18 you all for your help now. 4:30, I'll see you
19 at 4:30 sharp, petit jury room. Don't come
20 through the courtroom, come up the back steps.
21 You'll have those badges on so they'll know.
22 No discussion of the case now. Thank you.

23 Hold it one minute. Can we do this
24 many today? Is that enough? Do we need to go
25 one more? What do you all think? I know we

1 don't know until we get started, but if we
2 don't have them we'll need them, that's five,
3 six is 11. 18. That's 18.

4 MR. BAILEY: Judge, I think one more.

5 THE COURT: We can try it. You know, I
6 can always tell them to leave. If we get hung
7 up or whatnot, get too tired, we can always
8 tell them to come back in the morning. Let's
9 do that. 5:30. 5:30.

10 THE CLERK: Anthony Baiocco, Susan
11 Jarvis, Jaime M. Bell, Albert A. White, Jr.,
12 Timothy Jenner, Dane F. Wiggins.

13 THE COURT: Now, let me say this: Tell
14 me, pronounce that?

15 THE JUROR: Baiocco.

16 THE COURT: Mr. Baiocco, let me ask you
17 this: Do we have a room out there in the
18 front out here?

19 MR. MOULTRIE: Yes, sir. I can use
20 county council chambers.

21 THE COURT: I'll tell you what let's do.
22 Let's let these folks come there, go out that
23 way and come in that way. Because if we
24 aren't through, you know we're going to push
25 like -- so we won't inconvenience you, but the

1 point of it is if we aren't through there's no
2 need for you all to be in that mix back there
3 if we get tied up so that we can't get it to
4 you.

5 I realize it's an imposition to have
6 you come back at 5:30, but if you all will do
7 that for me. And as you go out they'll show
8 you the room, then just come there at 5:30 and
9 we can take you in a sequence that way, and
10 hopefully get you out of here this afternoon
11 one way or the other and let you know
12 something if that suits you all. Remember
13 now, no discussion. No discussion. All
14 right. Thank you all very much.

15 Ladies and gentlemen on the sixth
16 panel, I'm going to ask you all to come in the
17 morning. What I think I'll do is this: I'm
18 going to ask you all to come at ten o'clock.
19 That's late, but I'll tell you why I'm going
20 to do that. If we get tied up this afternoon
21 I can ask those to come back in the morning at
22 eight o'clock or 8:30 or whatnot so we'll have
23 time. There's no reason to ask you all to
24 come early and have you sit. I don't want you
25 to have to do that.

1 So if you all will come, this sixth
2 group now, ten o'clock tomorrow morning we'll
3 see what we can do to let you all know
4 something. All right.

5 THE CLERK: Johnny B. Britt, William E.
6 DeLonge, Ronald G. McGuire, James W. Young,
7 Christopher S. Hehn, and James M. Heath.

8 THE COURT: All right, ladies and
9 gentlemen, if you all wouldn't mind just
10 stepping by the back and come back through
11 those steps tomorrow morning then at ten
12 o'clock, and don't discuss the matter with
13 your people tonight.

14 All right. Eleven o'clock tomorrow
15 morning.

16 THE CLERK: Ira D. Avinger, Jr., William
17 Grady Matthews, Scott S. Atcherson, Teodoro L.
18 Encarnacion, Jr., Michael E. Black, Thomas O.
19 Lockyer.

20 THE COURT: All right. Okay. Thank you,
21 ladies and gentlemen. 11:00 a.m. tomorrow
22 morning. See you at that time. If you would
23 just come up those back steps, go to the petit
24 jury room. Thank you very much.

25 Now, Solicitor, defense lawyers,

1 please tell me what I do at this point. You
2 know, we can be very energetic about this
3 business, but, you know, we're going to have
4 to take a break at some point in time. What
5 I'm afraid of is we're going to have a few
6 coming first thing in the morning, then we got
7 12 more, you know, that might take the morning
8 to do those, you know, those 12 or whatnot.
9 Even if we start at ten o'clock it's going to
10 be hard to do anything else until after lunch,
11 I would think.

12 MR. BAILEY: Yes, sir. I agree.

13 THE COURT: Do you all agree with that?

14 MR. BEAUFORD: Yes, Your Honor.

15 THE COURT: All right. Let's do this
16 then. Let's go at two o'clock on this group
17 now, group number eight, 2:00 p.m.

18 THE CLERK: Sarah M. Horne, Daniel E.
19 Owens, Linda S. Barclay, Mark D. Hall, Robert
20 C. Adams, Thomas R. Thorpe.

21 THE COURT: Ladies and gentlemen, two
22 o'clock tomorrow afternoon then, petit jury
23 room. Please don't discuss it. I know your
24 family is going to ask about it when you get
25 home. Tell them I said you cannot, absolutely

1 cannot discuss the case. And I'll see you at
2 2:00 p.m. Thank you very much.

3 All right. Three o'clock tomorrow
4 afternoon, panel nine.

5 THE CLERK: Anthony L. Scott, Edith W.
6 Axson, Barbara D. Michael, Richard Lacey, Iris
7 J. Eagan, and Jimmie C. Myers.

8 THE COURT: All right, ladies and
9 gentlemen, three o'clock tomorrow afternoon,
10 petit jury room. Thank you very much.

11 One more group and then we will get
12 a phone number for the rest, we'll tell them
13 what group they're on, that will be about 60
14 some odd jurors, that should be enough. I
15 mean, if we need more we can always call.
16 Keep your fingers crossed, ladies and
17 gentlemen, if you want to be on this last
18 group. This is the last one we're going to do
19 tomorrow. And let's see, this group will come
20 at 4:30 tomorrow afternoon. 4:30 tomorrow
21 afternoon.

22 THE CLERK: Nicole Winchester, Ellen E.
23 Hyatt, Charles D. Simons, James D. Canaday,
24 Randy T. Jones.

25 THE COURT: All right. Randy Jones, they

1 had a bench warrant for him, he's in jail so
2 we don't have to worry about him.

3 THE CLERK: Eula N. Shuler.

4 THE COURT: All right. Ladies and
5 gentlemen, there are five of you all, and I'll
6 see you tomorrow afternoon at 4:30. 4:30
7 tomorrow afternoon. Please heed my warning,
8 please heed my warning. 4:30 tomorrow
9 afternoon. Thank you very much. And you all
10 can go out and see where you're to come to.
11 And that will take care of the groups at the
12 present time.

13 Now, what we've done, ladies and
14 gentlemen, we've got 11, 12, 13, 14, 15, we've
15 got five more groups. And what I intend to do
16 is this: I'm going to have the clerk read
17 your names, group 11, group 12, group 13, 14,
18 15. I would ask you all, please, to call us
19 after five o'clock tomorrow afternoon. We'll
20 give you a number. You call that number after
21 five o'clock tomorrow afternoon, chances are
22 we'll say thank you very much, we don't need
23 you.

24 You've got to remember your panel
25 number. This is school all over again.

1 You've got to remember your panel number.
2 We'll have a list, we'll know. But the point
3 of it is, call after five o'clock tomorrow
4 afternoon. And if you'll give us your panel
5 number we may be able to tell you whether we
6 will need you Wednesday morning or Wednesday
7 afternoon.

8 You all have gotten a telephone
9 number. There will probably be an answering
10 service, probably an answering service, but at
11 any rate somebody will tell you what to do if
12 you will all back after five o'clock Wednesday
13 afternoon. As I say, it may be you won't have
14 to come. If you're on the first group, of
15 course you would be the first ones that we
16 would need, obviously. But here they are,
17 group 11, panel number.

18 THE CLERK: Kittie L. Reynolds.

19 THE COURT: Is Ms. Reynolds here? Just
20 stand.

21 THE JUROR: You want me to stay standing?

22 THE COURT: Just stay right there, that's
23 fine.

24 THE CLERK: Bennie M. Barras, Loretta K.
25 Hart, Alexandre J. Frost, James R. Johnson,

1 and Marie Haynes.

2 THE COURT: Ladies and gentlemen, you'll
3 know now you're on panel number 11, really the
4 first panel that we may need. If you will
5 call back after five o'clock. You may all go
6 now, but please don't discuss the matter now
7 with family or anything like that. Do not do
8 that.

9 All right. Number 12.

10 THE CLERK: Charlie B. Way, Heather R.
11 Woy, Bonito Marcell Denson, Jennifer N.
12 Fralix, Kenneth C. Wahl, Sr., and Paul W.
13 Krakeel.

14 THE COURT: All right, ladies and
15 gentlemen. After 5:00 tomorrow afternoon.
16 Thank you very much.

17 Panel number's 13.

18 THE CLERK: It's number 12.

19 THE COURT: I thought we just did 12.
20 This is number 13 coming up now.

21 THE CLERK: Number 13. Are you ready?

22 THE COURT: Yes, ma'am.

23 THE CLERK: Kathryn O. Andaya, Lawrence
24 W. Hoover, Jr., Susan S. Martin, Richard D.
25 Hodges, Jessie J. Spell, Calvin S. Williams.

1 THE COURT: All right, ladies and
2 gentlemen, that's panel number 13. Now you
3 all call tomorrow afternoon. Don't forget.
4 Thank you very much.

5 THE CLERK: This would be --

6 THE COURT: Panel number 14.

7 THE CLERK: William H. Stillwaggon,
8 Richard J. Young, Karen G. Urban, who was
9 excused.

10 THE COURT: Ms. Urban is excused.

11 THE CLERK: Dorothy C. Way, Jacqueline
12 Berry, Catherine Parente.

13 THE COURT: All right, ladies and
14 gentlemen, thank you very much. Look to hear
15 from you tomorrow afternoon. And the last
16 group is number 15, there should be four left.

17 THE CLERK: Nancy Pietruszka, Eddie J.
18 Owens, Melvin L. Backman, Sr., and Charles L.
19 Carley.

20 THE COURT: Ladies and gentlemen, you're
21 the luckiest ones because you're the last.
22 And, Mr. Carley, you sure enough are the most
23 fortunate one in terms of whether or not
24 you're going to be needed. If you want to
25 serve you might be out of luck. But at any

1 rate, you all be available for us and call us
2 tomorrow afternoon after five o'clock and
3 we'll let you know something. Thank you very
4 much for your help.

5 THE JUROR: This is panel number 15?

6 THE COURT: Say again?

7 THE JUROR: Number 15?

8 THE COURT: That's panel 15, right, sir.
9 Thank you very much. All right.

10 (All potential jurors have left the
11 courtroom.)

12 THE COURT: Do you all need five minutes
13 now before we start with this first juror?

14 MR. BEAUFORD: Yes, Your Honor.

15 THE COURT: Let's take five minutes.
16 12:15.

17 (Recess taken.)

18 THE COURT: All right. Before we begin
19 the voir dire process, Mr. Weik, let me ask
20 you a question, please, sir. Tell me what
21 your position is in regard -- you can sit, you
22 don't have to stand if you don't want to.
23 Tell me what your position is as far as guilty
24 or not guilty? Your lawyer said guilty, but
25 mentally ill. What is your position on this?

1 THE DEFENDANT: I'm guilty, sir.

2 THE COURT: Well, do you understand that
3 you have to make the decision as to whether
4 you plead guilty or not guilty, it's your
5 choice? You understand that, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: In other words, your lawyers
8 can help you with that and they can certainly
9 advise you, but you're the man who has to say
10 whether or not you want to plead guilty or not
11 guilty.

12 THE DEFENDANT: I can't lie, sir. I
13 can't lie.

14 THE COURT: Well, do you -- I understand
15 that, I know you can't. But --

16 THE DEFENDANT: I'm not going to hold the
17 court's time up, waste a lot of money.
18 Taxpayers shouldn't have to pay for me in the
19 first place.

20 THE COURT: Well, let me ask you this,
21 sir: Are you telling me that you want to
22 plead guilty to the charge of murder?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand what murder
25 is?

1 THE DEFENDANT: Taking somebody's life,
2 right, sir?

3 THE COURT: Well, it's not just taking
4 somebody's life. It's killing somebody with
5 malice. In other words, that you had some
6 evil or some malice in your mind or some bad
7 feelings --

8 THE DEFENDANT: No, sir.

9 THE COURT: Some bad feeling ahead of
10 time.

11 THE DEFENDANT: No, sir.

12 THE COURT: No, sir, what?

13 THE DEFENDANT: No, sir. I didn't have
14 any malice, sir.

15 THE COURT: Didn't have any malice.

16 Well, then you aren't guilty of
17 murder. So if you aren't guilty of murder,
18 then you can't be guilty of murder. Do you
19 understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. I'm not going to
22 let you plead guilty. If you say that you
23 aren't guilty of having any malice, bad
24 feelings, bad intent and so forth in your
25 mind, then you can't be guilty of the crime of

1 murder.

2 THE DEFENDANT: I still took her life.

3 THE COURT: Sir?

4 THE DEFENDANT: I still took her life.

5 THE COURT: I understand that. But
6 taking someone's life does not mean that you
7 are guilty of murder.

8 THE DEFENDANT: She's got to have her
9 avenge, she can't go unavenged.

10 THE COURT: I'm sorry, tell me what he
11 said.

12 MR. BEAUFORD: He said she can't go
13 unavenged.

14 THE COURT: Unavenged, I understand.
15 Well, that being the case, I mean, I don't
16 think there's any question that I have to
17 leave the plea. I mean, it's just that he has
18 indicated from the start that he wanted to
19 plead guilty, he said he was guilty but he
20 always said I took a life so I should have to
21 give a life, I mean that's been his position,
22 you know, throughout last week and so forth.

23 MR. BEAUFORD: Yes, Your Honor.

24 THE COURT: And saying that -- I mean,
25 saying is one thing, but understanding what

1 murder actually is, the definition of murder
2 is something else. And if he understands the
3 definition of murder and says that he did not
4 have malice, then obviously under the law he's
5 not guilty of murder and I wouldn't entertain
6 a guilty plea, so that's just where I'm stuck,
7 I think.

8 All right. Let's bring juror number
9 1 out.

10 I'm sorry to hold you up in there,
11 we've been rolling as fast as we can go here.

12 Madam Clerk, do you have that juror
13 information sheet of Mr. Judy? I mean, do you
14 all have that all together, or do I have one?
15 Maybe you've given me one. I guess what I'm
16 saying is, the lawyers, you all have the
17 information sheet on Mr. Judy?

18 MR. BEAUFORD: Yes, Your Honor.

19 MR. BAILEY: Yes, sir.

20 THE COURT: You all don't have copies of
21 it, I don't guess, do you?

22 (Douglas W. Judy, called as a potential
23 juror, having first been duly sworn, is
24 examined as follows:)

25 THE JUROR: I believe I'm number 174.

1 THE CLERK: I can pull them for you.

2 THE COURT: Let's do that at the moment.

3 I want to ask him a little about what he does
4 and so forth. Thank you, ma'am, that's fine.
5 Now I got I you need.

6 Tell me what you did at the heating
7 and air.

8 THE JUROR: I was a mechanic, I was in
9 charge of a lot of jobs, you know, my boss
10 would send me out.

11 MR. BEAUFORD: Your Honor, could we have
12 him speak in the microphone?

13 THE COURT: That's all right. Just speak
14 in that microphone. In other words, was this
15 a commercial heating and air conditioning
16 thing?

17 THE JUROR: Yes, sir.

18 THE COURT: Go out basically put the
19 units in homes, or commercial?

20 THE JUROR: Homes.

21 THE COURT: Homes. And you did that for
22 this thing says 11 years.

23 THE JUROR: Eleven years.

24 THE COURT: Okay. Carpenter now. What
25 do you do, basically?

1 THE JUROR: Well, I work basically by
2 myself, you know, with my brother-in-law on
3 little side jobs, fixing stuff up for other
4 people.

5 THE COURT: I see. I got you. You read
6 that piece of paper I had back there?

7 THE JUROR: Yes, sir.

8 THE COURT: Tell me what group you think
9 you might fall into.

10 THE JUROR: From what I can understand I
11 guess three.

12 THE COURT: Right. Group three is the
13 one that says basically if I were on a jury
14 and if the jury found someone guilty of
15 murder, I wouldn't automatically say, well,
16 that person needs to get a death sentence.

17 THE JUROR: Right.

18 THE COURT: Nor would you say even if you
19 found that person guilty of murder I would
20 give that person a life sentence every single
21 time, I could never give death, I would always
22 give life. You would be one who would say I
23 would have to listen to all the circumstances
24 of the case, I basically would have to hear
25 all of the aggravating things and all of the

1 mitigating things, the things that make it
2 worse, the things that make it less heinous,
3 not so bad, and I would have to consider all
4 the evidence in the case before I decided
5 whether or not I could give someone a death
6 sentence or whether or not I should give
7 someone a life sentence. Is that where you're
8 coming from?

9 THE JUROR: Correct. The main reason I
10 say that is because I have a hard time
11 remembering -- you know, I can listen to
12 somebody talking, but I have to think through
13 it.

14 THE COURT: Think through it, exactly.

15 THE JUROR: I can't remember things.

16 THE COURT: I understand. But what
17 you're saying is you would if the case
18 warranted it, you would be willing or able to
19 sign your name and give someone a death
20 sentence, or on the other hand, you would be
21 just as willing, just as able to give someone
22 a life sentence if you felt like that was the
23 sentence that they should have?

24 THE JUROR: Oh, yeah.

25 THE COURT: In other words, you would be

1 able to go either way?

2 THE JUROR: Oh, yeah.

3 THE COURT: All right, sir.

4 Who wants to start? Solicitor, do
5 you want to start this one and then --

6 MR. BAILEY: Fine. Thank you.

7 EXAMINATION

8 BY MR. BAILEY:

9 Q. Mr. Judy, I'm Walter Bailey. I want to
10 ask you a few more questions. You understand from
11 what the judge said earlier, that in South Carolina
12 if we get to the second part of this trial, the
13 penalty phase, the jury and not the judge decides on
14 life without parole or the death penalty?

15 A. I understand that.

16 Q. All right, sir. And I'm not going to ask
17 you what you would do in this case because you hadn't
18 heard any of the facts. But if the case is bad
19 enough can you vote for the death penalty knowing
20 that person is actually going to get executed based
21 on the jury's vote?

22 A. If he's guilty of murdering somebody and
23 taking their life without any reason, yeah, I could
24 give it.

25 Q. All right, sir. You understand that when

1 we're talking about whether they're guilty or not
2 that's the first part of the trial?

3 A. Correct.

4 Q. If the defendant's found not guilty
5 that's the end of it, if he's found guilty then we go
6 on to the second part of the trial, there will be
7 additional evidence and additional instructions from
8 the judge to help the jury decide what the sentence
9 ought to be?

10 A. Correct.

11 Q. Going into that second phase, if we go
12 into the second phase, would you keep an open mind,
13 listen to all the testimony that came out in that
14 part of the trial?

15 A. To the best of my knowledge.

16 Q. All right, sir. Again, if you felt like
17 the case was bad enough you could vote for the death
18 penalty, but you've also said you could vote for life
19 in the appropriate case, is that right?

20 A. Right.

21 Q. If you and the other 11 jurors after
22 hearing all the facts voted for the death penalty, I
23 think the judge asked you this, you could sign your
24 name to a piece of paper that would result in that
25 execution taking place?

1 A. Yeah.

2 Q. And there's a process called polling the
3 jury, where if the jury hears all that evidence, they
4 vote for the death penalty, then each juror's name is
5 called out one at a time and they're asked if that's
6 their verdict and they have to say out loud if it is,
7 could you do that if that was your verdict?

8 A. I would do the best I could.

9 Q. Okay. One other thing is that the jury
10 is going to be put up in a motel for maybe about a
11 week, week and a half, until this trial is over.
12 They would be here in court during the daytime and at
13 the motel at night.

14 A. Right.

15 Q. Is that going to create any kind of
16 problems for you if you had to do that?

17 A. Not really.

18 Q. Okay. I think that's all I got. Thank
19 you very much.

20 THE COURT: Mr. Beauford?

21 EXAMINATION

22 BY MR. BEAUFORD:

23 Q. Mr. Judy, again, my name is Percy
24 Beauford, I have several questions I need to ask you.
25 How did you form your opinion about the death

1 penalty?

2 A. Well, if a person deserves the death
3 penalty, he deserves it. I mean, you know, if he's
4 found guilty without a reasonable doubt of killing
5 somebody else I've always felt that way. You know,
6 if he takes a life of somebody else and he's found
7 completely guilty of it he deserves the death
8 penalty.

9 Q. Could you sort of explain that a little
10 bit more? You said earlier if he's found he killed
11 someone without any reason --

12 A. Right.

13 Q. -- you're saying it's automatically you
14 would vote for the death penalty?

15 A. Well, no. I mean, it would have to -- I
16 don't know much about law so I can't, you know....

17 Q. Just take your time, I'm trying to be
18 informal, relaxed.

19 A. I ain't never done it before.

20 Q. You said without any reason then you
21 believe he must be given death.

22 A. Well, I mean, if it was proven, you know,
23 that there was no doubt in my mind that he did do it
24 and I knew he did it with the evidence, it depends on
25 the circumstances, you know, whether to give him

1 death or life.

2 Q. So if the evidence comes out that he --
3 excuse me. Strike that.

4 A. You're going to have to help me out a
5 little bit.

6 THE COURT: Let me stop you. There is no
7 right or wrong answer. You can't give the
8 wrong answer.

9 THE JUROR: I've never done this.

10 THE COURT: I know you haven't. Nobody
11 else has. You cannot give a wrong answer.
12 All we want is your honest -- is the truth --

13 THE JUROR: I'll try.

14 THE COURT: -- to the best you know,
15 that's all we're asking for.

16 BY MR. BEAUFORD:

17 Q. I'll give you a scenario to maybe better
18 help you. If there's a situation where a gentleman
19 comes up and says, I did it, I committed the
20 murder --

21 MR. BAILEY: Judge, I object to him
22 staking out the juror on what he anticipates
23 the testimony may be.

24 THE COURT: I sustain.

25 MR. BEAUFORD: I'll withdraw that.

1 BY MR. BEAUFORD:

2 Q. I'm just trying to get an understanding.
3 You say of all the evidence that he committed the
4 act, then you said you believe you must give the
5 death penalty.

6 A. All I can tell you if there was enough
7 evidence to show that he did kill an innocent person
8 without any remorse or, you know, stuff like that, I
9 mean, if I knew he deliberately killed somebody I
10 could give the death penalty.

11 Q. So basically what you are saying if he
12 killed someone, but if there's other circumstances
13 surrounding you will consider, like you said remorse?

14 A. Oh, yeah. I would consider something
15 like that, yeah. If he had -- you know, I mean, I
16 don't believe in anyone taking another life, I mean,
17 you know, I just don't believe in that. I mean, this
18 case here according, he broke into a house and shot a
19 lady three times with a shotgun, according to this
20 case. And that sounds kind of cruel to me, but I
21 would have to hear all the evidence whether he might
22 be innocent in any other way. I mean, I'll have to
23 hear everything, you know, before I can give a death
24 penalty.

25 Q. So are you saying that basically from

1 what you've heard in the indictment, that little
2 factual scenario that you've heard, that if those are
3 the evidence you've already rendered a decision about
4 how you would decide?

5 A. Oh, no, not yet, no. But it would have
6 to be proven, yeah, that he actually did kill someone
7 out of whatever, anger or whatever he's doing in
8 there.

9 Q. Do you understand that life in South
10 Carolina is now life without parole, means life?

11 A. And never gets back out?

12 Q. Right.

13 A. Yeah, I understand that.

14 Q. Okay. Have you ever been the victim of a
15 crime?

16 A. No, sir.

17 Q. Any family members?

18 A. Well, family members we're talking small
19 stuff, you know, no murders or nothing like that.

20 Q. Any type of criminal domestic violence or
21 anything of that nature?

22 A. Not really. Just small stuff, DUI, stuff
23 like that. I've never been committed with anything
24 serious, no.

25 Q. If you were in the jury room and say 11

1 people voted a certain way, would you stand to your
2 commitment of how you wanted to vote?

3 A. Oh, yeah. Yeah. If I felt the man
4 didn't deserve the death penalty I would say so.

5 Q. Say just the opposite, you thought he did
6 the other ones said he didn't, would you change your
7 vote?

8 A. Would I argue it?

9 Q. No. Would you change your vote because
10 of the majority voting one way?

11 A. Well, that's hard to say. Oh, you mean
12 if everybody else said that he deserves the death
13 penalty and I say that he don't, would I go with
14 them?

15 Q. Yes.

16 THE COURT: Or vice-versa. He asked it
17 both ways.

18 MR. BEAUFORD: Right.

19 THE JUROR: I guess vice-versa.

20 BY MR. BEAUFORD:

21 Q. When you're saying vice-versa, the
22 question is would you change one way or the other?

23 MR. BAILEY: Your Honor, I object to that
24 because he couldn't know whether he would
25 change unless he knew what the facts were and

1 what the argument was, and I don't think it's
2 a fair question.

3 THE COURT: I sustain your objection, but
4 I do think it's appropriate to an extent. I
5 agree with you, ask the ultimate question.
6 Unless he knows what the facts are he wouldn't
7 know whether he would change or not.

8 I think the question fairly should
9 be this: If you have 11 people in there, they
10 see it one way, whichever way it is, they say
11 we want to give death and you say, no, I don't
12 see the evidence that way, I see the evidence
13 that he needs to be given a life sentence,
14 would you be willing -- what he's wanting to
15 know is would you be willing to stand your
16 ground? Or vice-versa, if 11 said life and
17 you said death, would you be willing to stand
18 your ground at least to the extent of arguing
19 your point? I think that's all he wants to
20 know from you.

21 THE JUROR: Yeah. I could go my own way.

22 BY MR. BEAUFORD:

23 Q. If in a case, and the State has alleged
24 that in the murder case and it's also alleging
25 burglary --

1 MR. BAILEY: Objection. The staking out
2 of specific aggravation.

3 THE COURT: Go ahead, let me hear what
4 the question is.

5 BY MR. BEAUFORD:

6 Q. Would you automatically vote for the --

7 THE COURT: I sustain. I don't think you
8 can go into the specific crime itself.

9 MR. BEAUFORD: Okay.

10 THE JUROR: I just know by what was said
11 to start with, what the man -- what I'm really
12 going to be a juror of the case.

13 THE COURT: Charge.

14 THE JUROR: The charge against the man.

15 BY MR. BEAUFORD:

16 Q. What is your understanding of what murder
17 is?

18 MR. BAILEY: Objection to him asking the
19 juror legal questions before he's been
20 instructed.

21 THE COURT: Well, you're basically asking
22 him to give you what he perceives to be the
23 legal, the legal definition of murder. Could
24 you ask it another way, Mr. Beauford? Would
25 he be willing to -- would he listen to the

1 law.

2 MR. BEAUFORD: Okay.

3 BY MR. BEAUFORD:

4 Q. You understand that murder is the
5 intentional killing with malice aforethought, such
6 the meaning of a depraved heart. If you found
7 someone guilty of murder, would you automatically
8 give them the death penalty?

9 A. Well, depends on the situation of how he
10 did it. My mind if he -- if someone has a reason or
11 any kind of motive to kill a person, that's different
12 than just killing someone just to have money or
13 something. You know, like someone breaking into a
14 house and just for instance killing a lady for money,
15 or in my mind they deserve the death penalty.

16 If someone has killed someone over
17 an argument or something, it wasn't really meant to
18 happen but it did, well, that's life sentence to me.

19 MR. BEAUFORD: No further questions.

20 MR. BAILEY: Nothing further, Your Honor.

21 THE COURT: I thank you, sir. Now,
22 Mr. Judy, we're through with you, except this:
23 There may be -- I have -- there may be
24 something in the newspaper, there could be
25 something in the local newspaper, could be

1 something on television. I kind of doubt it,
2 but it may be. I would ask you, please, sir,
3 not to watch the news, or TV, or read a
4 newspaper if you don't mind just for the next
5 day.

6 THE JUROR: If I --

7 THE COURT: Just until you are picked.
8 See, what I've got to do is go through and get
9 a panel of like 35 people. You're just the
10 first one, we've got a lot of people to go
11 through.

12 THE JUROR: I know.

13 THE COURT: Once I get 35, then we have
14 to get 12 basically out of the 35. And so you
15 may or may not be chosen, I'm not even -- I
16 can't even tell you that you've got a good
17 chance of being chosen, I'm just telling you
18 that I would like for you to come back, but in
19 the meantime just don't read a newspaper,
20 watch television because, it's going to be a
21 couple days before we even need you to come
22 back. Follow where I'm coming from?

23 THE JUROR: I don't watch TV. I watch a
24 lot of Discovery.

25 THE COURT: That's the best thing to

1 watch. That's what I watch. I don't blame
2 you. That and the History Channel are the two
3 best channels on TV.

4 Do this for me. If you don't mind,
5 you know that number that -- they gave you a
6 number this morning.

7 THE JUROR: I believe it's 174.

8 THE COURT: No, not that. I'm not
9 talking about yours, I'm talking about a
10 telephone number. Did you have a piece of
11 paper they gave you when you came in with a
12 telephone number?

13 THE JUROR: Yeah, I think my wife got it.

14 THE COURT: She got it. What I need for
15 you to do is to call us -- I'll tell you what
16 I need you to do. Let me ask you to step out
17 just a second and then I'll talk to you about
18 it. I'll discuss it with them as to how we're
19 going to handle it.

20 (Whereupon, the prospective juror leaves
21 the courtroom.)

22 THE COURT: First of all, I'll do it this
23 way: Any objection by the State?

24 MR. BAILEY: No, sir.

25 THE COURT: Defendant?

1 MR. BEAUFORD: No, sir.

2 THE COURT: He's qualified. No doubt in
3 my mind he's qualified. What do you all
4 think, do you want to have them call back like
5 Wednesday morning?

6 MR. BAILEY: Maybe if they call back late
7 Tuesday in case this thing goes back.

8 THE COURT: You want to say after eight
9 o'clock Tuesday night or something like that?
10 Because there's no use to have all those phone
11 calls coming in with all these other ones on
12 Tuesday afternoon. If we put it a couple
13 hours later it seems like to me, you know, if
14 there's a chance that we would sort of know
15 about that time, when to have them come
16 Wednesday or whatnot, or Thursday, however
17 long.

18 MR. BEAUFORD: It's up to the Court, Your
19 Honor, I have no preference.

20 THE COURT: Well, nobody knows. We just
21 don't know. We'll do the best we can. Let's
22 just ask him to call after eight o'clock
23 tomorrow. Will that be a problem for you all?

24 THE CLERK: We would have to set the
25 answering machine twice.

1 THE COURT: But aren't you going to have
2 to do that anyway? No, that's right. Suppose
3 one of those first jurors calls in after eight
4 o'clock, I just told them to call after 6:00,
5 suppose they wait until after 8:30 to call?

6 THE CLERK: They would get both messages.
7 Maybe we can take this telephone number and
8 call him.

9 THE COURT: Call him. That's the best
10 thing to do. That's the best thing to do,
11 have them call him. Let's bring him back.
12 That's absolutely the best way to do it if you
13 all can do it that way.

14 (Whereupon, the prospective juror returns
15 to the courtroom.)

16 THE COURT: Mr. Judy, would you mind if I
17 asked you to give me your phone number rather
18 than you having to worry about calling us
19 back, if we need you we can call you?

20 THE JUROR: Sure.

21 THE COURT: I'm going to write it down.
22 It might be on here. Home telephone number?

23 THE JUROR: 871-1960.

24 THE COURT: All right. You're going to
25 be there, someone will be there like tomorrow

1 night?

2 THE JUROR: Somebody's always there.

3 THE CLERK: 871-1960?

4 THE COURT: It's on there. It's on the
5 sheet. He's verified it. So we've got his
6 telephone number, we'll call him.

7 Thank you, sir. Appreciate your
8 help. Don't discuss the case now with your
9 family.

10 THE JUROR: Oh, no, I won't. I won't.

11 (Whereupon, the prospective juror leaves
12 the courtroom.)

13 (Alan F. Bates, called as a potential
14 juror, having first been duly sworn, is
15 examined as follows:)

16 THE COURT: How are you doing, sir? Come
17 on in. This is Mr. Who?

18 MR. BEAUFORD: Bates.

19 THE COURT: Bates. Got your sheet right
20 here. What is Andrew Vasquez, what exactly is
21 that?

22 THE JUROR: It's a surveying company with
23 the Ports Authority.

24 THE COURT: A surveying company with the
25 Ports Authority.

1 THE JUROR: We survey import and export
2 cargo.

3 THE COURT: I got you. You've been there
4 this thing says for five years?

5 THE JUROR: Yeah, five years next month.

6 THE COURT: All right, sir. I've noticed
7 that you put your great-grandfather was a
8 local police officer. Would that prevent you
9 from being fair and impartial in this case, if
10 your great-grandfather was a police officer?

11 THE JUROR: No, sir.

12 THE COURT: Let me ask you this: You
13 read that sheet back there?

14 THE JUROR: Yes.

15 THE COURT: Tell me what group you think
16 you would generally fall in on a death penalty
17 case like this.

18 THE JUROR: The first group.

19 THE COURT: Which says what?

20 THE JUROR: Basically if -- I guess if
21 someone kills someone they also should fall in
22 the same category.

23 THE COURT: In other words, you don't
24 think that -- in other words, if someone is
25 guilty of murder, automatically you would

1 impose a death sentence every time?

2 THE JUROR: Right.

3 THE COURT: In every case? In every
4 case?

5 THE JUROR: More cases than not. Not
6 exactly every case, no.

7 THE COURT: Well, let me --

8 THE JUROR: But --

9 THE COURT: Let me rephrase it then, put
10 it this way. Are you -- you're not telling me
11 then that you would automatically give
12 somebody a death sentence, you're just more
13 prone to give someone a death sentence?

14 THE JUROR: Right. Out of those three
15 the first one more than any of the other two.

16 THE COURT: Well, the reason I asked you
17 that is number two says I'd always give life,
18 I would never give a death sentence. I'm just
19 not one who believes in a death sentence, I'm
20 going to give a life sentence regardless of
21 what anybody does.

22 THE JUROR: Right.

23 THE COURT: That's number two. You say
24 you don't fall in that obviously.

25 Number three says I could give life,

1 I could give death, but it depends on the
2 circumstances, I would have to hear all the
3 circumstances and then make a decision.

4 THE JUROR: Okay.

5 THE COURT: But you're saying that you
6 would automatically in every case give death,
7 or are you saying that there are cases in
8 which you might give a life sentence, it just
9 depends on what the circumstances are?

10 THE JUROR: Yeah, I guess the third one
11 then.

12 THE COURT: For instance, if the State
13 puts up evidence that someone has committed a
14 murder and the jury finds that that person has
15 committed a murder, and in addition to that
16 has committed some other act, some other
17 aggravating circumstance, the jury could
18 consider giving someone, but wouldn't have to
19 give someone, could consider giving someone a
20 death sentence. But the defendant has the
21 right to put up evidence in mitigation. In
22 other words, the defendant might put up some
23 evidence to show that that person, I don't
24 know, maybe was real young or just whatever,
25 there may be all kinds of circumstances under

1 which the defendant might want to show that
2 while I committed a murder I'm not -- it's not
3 nearly so bad as what the State says.

4 So basically you can hear some --
5 you may hear bad on the one hand and some good
6 on the other hand.

7 **THE JUROR:** Yes.

8 **THE COURT:** Do you see where I'm coming
9 from?

10 **THE JUROR:** Yeah, I understand.

11 **THE COURT:** So are you telling me then
12 that you, that you would be one who would at
13 least be willing to listen to all of the
14 evidence, the aggravating and the mitigating,
15 the good and the bad before you decide whether
16 or not you would give a death sentence or a
17 life sentence? Or are you saying it doesn't
18 make any difference, I'm just going to give
19 the death sentence every time?

20 **THE JUROR:** I could listen.

21 **THE COURT:** Would you listen?

22 **THE JUROR:** I would listen to both sides.

23 **THE COURT:** And are you telling me then
24 that you could give a life sentence -- in
25 spite of the fact that someone has committed a

1 murder, you could still give a life sentence
2 if you felt like that was the appropriate
3 sentence; or, on the other hand, you could
4 give a death sentence if you felt like under
5 the circumstances and that was the right one
6 to give?

7 THE JUROR: Yeah.

8 THE COURT: Is that where we are now?

9 THE JUROR: Yeah.

10 THE COURT: Am I making you say this? I
11 want you to say what you believe.

12 THE JUROR: No. You made it more clearer
13 than what I actually read.

14 THE COURT: I don't want to put words in
15 your mouth. Only thing we're looking for,
16 because there are no right or wrong answers,
17 there absolutely are no right or wrong
18 answers, and all we're looking for are jurors,
19 12 jurors who are willing to at least listen
20 to both sides and not come in here with the
21 mind made up about what they're going to do
22 ahead of time.

23 And so if you can honestly tell us
24 that you would listen to both sides of it, and
25 that you would give a death sentence if you

1 felt like that was the right thing, or give a
2 life sentence if you felt like that was the
3 right thing to do, then fine and good. But if
4 you can't do that we need to know it now.

5 THE JUROR: I think I can listen to both
6 sides.

7 THE COURT: Solicitor?

8 MR. BAILEY: I think Mr. Beauford --

9 THE COURT: Mr. Beauford, you're right, I
10 apologize. He's just going to ask you --
11 they'll both ask you a couple questions.

12 EXAMINATION

13 BY MR. BEAUFORD:

14 Q. Mr. Bates, my name is Percy Beauford, ask
15 you a few questions. How did you form your opinion
16 about the death penalty?

17 A. I'm not exactly sure. I can't explain
18 it. Maybe just from -- I don't know. I can't answer
19 it.

20 Q. Have you always held the same opinion, or
21 has it changed over time?

22 A. I think I've always had the same opinion.

23 Q. You understand that murder in South
24 Carolina is the intentional killing with malice
25 aforethought, such as a meanness or depraved heart?

1 If you found someone guilty of murder would you
2 automatically give them the death penalty?

3 A. If I found them?

4 Q. Yeah. Based upon that definition that I
5 gave you.

6 A. Yes, I think so.

7 Q. Okay. Would you consider any other
8 mitigating evidence, such as maybe age, background --

9 MR. BAILEY: Objection to the specific.

10 THE COURT: Well, I started it. I said,
11 I gave him an example of age, I started it on
12 this witness. I'll let him go ahead. He just
13 said age and background, I'll let him go
14 ahead.

15 BY MR. BEAUFORD:

16 Q. Would you consider any other evidence in
17 maybe giving a lesser charge?

18 THE COURT: Lesser sentence.

19 Q. Lesser sentence, excuse me.

20 A. Than death?

21 Q. Yes.

22 A. No.

23 Q. Do you understand in South Carolina life
24 in prison would mean actual life without parole?

25 A. Yes.

1 Q. And in any case where there's a murder
2 could you consider a life sentence?

3 A. No.

4 THE COURT: You are saying you would
5 always give death?

6 THE JUROR: Well, yeah, I'm going back
7 and forth from the first one to the third one.

8 THE COURT: Are you sure?

9 THE JUROR: Yeah.

10 BY MR. BEAUFORD:

11 Q. So is it fair to say that you generally
12 have a strong conviction, belief for the death
13 penalty?

14 A. Yeah. Like I say, I'm more stronger than
15 opposed.

16 Q. Have you ever had any family members that
17 were a victim of a crime?

18 A. No. Not a death or -- nothing I can
19 think of, nothing offhand.

20 Q. If you are sitting in any jury room, or
21 if you happen to make a decision and say 15 people
22 decides one way and you're the only one standing
23 there, would that influence you in any way?

24 A. No.

25 Q. You would hold to your convictions?

1 A. Right.

2 Q. What do you do with your job again?

3 A. Inspect import and export cargo.

4 Q. What is your position?

5 A. Team leader.

6 Q. You are a supervisor?

7 A. Lead supervisor.

8 Q. And as a supervisor, what do you do?

9 A. I supervise people underneath me to make
10 sure they do their jobs correctly, make sure we
11 inspect everything we should, not overlooking
12 anything.

13 MR. BEAUFORD: No further questions.

14 EXAMINATION

15 BY MR. BAILEY:

16 Q. Mr. Bates, I'm Walter Bailey, I'm going
17 to prosecute this case. I need to ask just a few
18 more questions. I need to back up and ask you some
19 of the same questions since you've kind of given
20 inconsistent answers.

21 A. Right.

22 Q. I just want to make sure. There are no
23 right or wrong answers. You understand the first
24 phase of this trial is like any other criminal trial
25 where the defendant is presumed to be not guilty and

1 the State has the burden of proof to prove him guilty
2 beyond a reasonable doubt to that jury's
3 satisfaction. If I can't do that, that's the end of
4 it. He's charged with burglary in the first degree
5 and murder.

6 A. Uh-huh (affirmative response).

7 Q. And the sole purpose of that first trial
8 is to determine whether or not the State can prove
9 him guilty of murder. Now, if you're on a jury in
10 that first part of the trial, would you hold me to
11 that burden of proof? In other words, if I couldn't
12 prove to you beyond a reasonable doubt that he was
13 guilty, could you find him not guilty?

14 A. Yes.

15 Q. All right, sir. And on the other hand,
16 if I could prove him guilty beyond a reasonable doubt
17 of the two crimes he's charged with...?

18 A. Then he would be guilty.

19 Q. Then and only then we would go on to that
20 second part of the trial.

21 A. Right.

22 Q. So anytime a jury in a death penalty case
23 goes into that second phase, that means you're
24 dealing with a convicted murderer or else you
25 wouldn't be there.

1 A. Okay.

2 Q. And the purpose of that second phase is
3 to allow additional evidence to come out, additional
4 instructions to be given to the jury by the judge so
5 that the jury can then make that decision, life
6 without parole or the death penalty.

7 Now, if you're on a jury in this
8 kind of a case, assume the defendant is found guilty
9 of murder, we go on to the second phase of the trial,
10 would you be able to listen to that testimony that
11 came out, listen to those instructions from the judge
12 and vote for either life or death, or would you
13 already have your mind made up, this guy's a
14 murderer, doesn't matter what anybody says I'm going
15 to find for the death penalty?

16 A. If he was -- no. I would listen to both
17 sides and if he was found for murder, then I guess we
18 would hear the other side of the evidence for the
19 other case?

20 Q. You would be instructed to hear whatever
21 evidence came out in the trial.

22 A. Yeah.

23 Q. No matter where that evidence came from
24 you would be instructed to listen to that evidence.
25 The judge would tell you the law that applied to the

1 penalty phase of the trial, the jury would go back
2 and deliberate just like they deliberated in the
3 first part of the trial, discuss the case and come up
4 with a unanimous verdict, all 12 jurors would have to
5 agree on life without parole or the death penalty.

6 And my question is, I guess the
7 simplest way I can put it, could you keep an open
8 mind if you're in that second phase of the trial and
9 be able to vote on life or death depending on what
10 you heard, or would you automatically vote for the
11 death penalty because you're dealing with a person
12 that you found is a murderer?

13 A. No, life or death.

14 Q. So you could do either one?

15 A. Yeah, I could do either one.

16 Q. If all 12 jurors vote for the death
17 penalty and each one of them is asked to sign their
18 name to a verdict form that's going to result in the
19 execution happening, could you sign your name to that
20 paper if that was your decision?

21 A. If that was my decision, yes.

22 Q. Could you stand up in open court and
23 announce that decision if that was your decision?

24 A. Yes.

25 Q. So are you a number three juror now that

1 you've had a chance --

2 A. Now that I've -- yes.

3 Q. Thank you.

4 A. Now that I understand the sheet more.

5 Q. Thank you. That's all I have as far as
6 questions.

7 MR. BEAUFORD: Your Honor, could I ask
8 some follow-up questions?

9 THE COURT: Go back and forth, I don't
10 know how long that's going to take. Go ahead
11 and do it, let's see how it goes.

12 EXAMINATION

13 BY MR. BEAUFORD:

14 Q. Mr. Bates, I'm a little confused and
15 maybe trying to explain. When Mr. Bailey asked you
16 about after the first phase do you realize that that
17 is the guilt phase and that second phase does not
18 include any evidence or whether he committed the act?

19 A. Yeah, the second one's his -- whether or
20 not he'll have life or death sentence.

21 Q. Okay. And then I asked you would you
22 consider other factors -- he's already found guilty
23 of murder, I asked you whether would you consider
24 other factors, mitigating factors such as age,
25 background. And what was your answer then, and tell

1 me what your answer is now so I can get an
2 understanding here. Would you consider background,
3 age, in deciding whether to give life or the death
4 penalty? Factors such as those, I'm not saying it
5 includes those.

6 MR. BAILEY: Your Honor, again, I'm going
7 to object to him staking out the --

8 THE COURT: I sustain. The State versus
9 Longworth of course is the case that the
10 solicitor is making the objection on. But,
11 again, I think you've got the right to ask a
12 question like that. I just think that the
13 word "mitigation," I don't understand it. I
14 just think that most people that come in don't
15 know what mitigation means. I don't know what
16 it means.

17 What he's basically saying is you
18 find a fellow guilty of murder, as a juror,
19 all 12 of you say you're guilty of murder.
20 Guilty. And then you have a second trial and
21 the defendant puts up some evidence which
22 makes that murder not so heinous, it's
23 evidence which sort of minimized the guilt, it
24 sort of makes the guilt less, for lack of a
25 better word, less bad. That's really what it

1 amounts to.

2 And what he wants to know is whether
3 or not you would consider the mitigating, the
4 minimizing evidence, just as you might
5 consider the bad, the aggravating evidence,
6 would you consider both sides of it before you
7 determined whether or not you would give
8 somebody life or death, that's all.

9 THE JUROR: Yeah, I would.

10 BY MR. BEAUFORD:

11 Q. Would you be able to consider facts that
12 had nothing to do with the act itself?

13 MR. BAILEY: Judge, he's asking to
14 predict what he would consider when he hadn't
15 heard the evidence, I just don't think it's a
16 fair question to ask him.

17 THE COURT: Well, I'm going to allow it.
18 I think that he should be allowed to ask him
19 whether or not he will consider evidence other
20 than the guilt of the accused, evidence other
21 than the guilt of the accused, that's really
22 what I think he's asking, in order to
23 determine whether he would vote life or death.

24 Am I confusing you?

25 THE JUROR: I'm not confused, but I think

1 I answered his question wrong the first time.

2 THE COURT: I don't know. There aren't
3 any right or wrong answers.

4 BY MR. BEAUFORD:

5 Q. If you want to correct something, what do
6 you want to correct?

7 A. Did I tell you that -- back to your
8 questions the first time.

9 THE COURT: Age and background, that's
10 what he asked you about the first time which
11 the solicitor objected to. But he said, would
12 you consider.

13 THE JUROR: And then I said, no, I would
14 not consider age and background? I believe
15 that's what I said.

16 BY MR. BEAUFORD:

17 Q. I think you said yes, but go ahead.
18 Answer it.

19 A. Well, I would consider age and
20 background, and for whatever reasons for death or for
21 life or -- I'm on the -- what is it, the third part
22 of the jury thing over here?

23 Q. Okay.

24 THE COURT: That's right.

25 A. Yeah. Yeah. The third one.

1 Q. Okay.

2 A. So I don't know if I answered your
3 question or not.

4 Q. No right or wrong answer, so you did
5 answer it.

6 THE COURT: All right, sir. Let me ask
7 you to step back there just for one second,
8 I'll bring you right back.

9 (Whereupon, the prospective juror leaves
10 the courtroom.)

11 THE COURT: State qualify?

12 MR. BAILEY: Yes, sir.

13 THE COURT: Defendant?

14 MR. BEAUFORD: Your Honor, I would
15 object.

16 THE COURT: All right, sir. I find that
17 he's qualified over the objection of the
18 defendant. Bring him back. He's absolutely
19 qualified.

20 (Whereupon, the prospective juror returns
21 to the courtroom.)

22 THE COURT: Mr. Bates, I'm going to ask
23 you, if you don't mind, to give us your phone
24 number. Well, I got a phone number here.
25 What we're going to do, we've got a lot of

1 jurors to go through, we're going to get a
2 panel, 35 jurors, something like that, out of
3 which we're going to try to get 12 jurors, two
4 alternates. Basically about a third of the
5 jury panel is going to actually serve on the
6 jury. So I don't know whether you'll be
7 selected or not, nobody knows that at this
8 point. What I want to do is I'll call you, or
9 someone will call you probably tomorrow night
10 or maybe Wednesday. Can we get in touch with
11 you or someone quickly by using that number
12 right there?

13 THE JUROR: Yes. Right. Yes.

14 THE COURT: In this case when the jury is
15 finally sworn, put together, I'm going to
16 sequester the jury, put them in a motel three
17 or four days, four or five days maybe, I don't
18 know exactly how long it will last. Obviously
19 we pay for everything, provide expenses, pay
20 for food, the whole deal. And so I just want
21 you to be aware of that so when we call we'll
22 have someone tell you, all right, we need for
23 you to bring this, that, or the other, come to
24 a certain place and that will be it. Fair
25 enough?

1 THE JUROR: Yeah.

2 THE COURT: Don't discuss the case now,
3 don't read anything. There may be something
4 in the newspaper or something, or television,
5 I don't know, just avoid the newspaper and the
6 television for the next couple of days. We'll
7 try to let you know something tomorrow night.
8 Thank you, sir.

9 THE JUROR: Thank you.

10 THE COURT: You're free to go.

11 (Whereupon, the prospective juror leaves
12 the courtroom.)

13 THE COURT: Five after 1:00, you want to
14 keep going? Better try to get three, huh?
15 Bring the next one.

16 (Donnal K. Pisano, called as a potential
17 juror, having first been duly sworn, is
18 examined as follows:)

19 THE COURT: Ms. Pisano, come on, have a
20 seat right there, if you don't mind. Santa
21 Rosa, California. How long have you been
22 here?

23 THE JUROR: I've been in Charleston for
24 18 years.

25 THE COURT: Well, you're a Charlestonian

1 then, you're not a Californian at this point.

2 Let me tell you what we're doing.

3 As you all know, I told all of you this
4 morning, this is a case in which the defendant
5 has been charged with murder, burglary. The
6 State seeks the death penalty. The jury has
7 to make a decision. First decision the jury
8 has to make is whether or not he's guilty of
9 anything at all. Do you understand that?

10 THE JUROR: Yes, sir.

11 THE COURT: And of course the judge tells
12 you what the law is and you decide what the
13 facts are and you basically arrive at a
14 verdict like any other case, any other
15 courthouse anywhere else, there's nothing
16 strange about it, it's just a trial.

17 And what occurs is that after that
18 first trial, that first part, if, if the jury
19 finds the defendant guilty of murder, then you
20 have a sentencing trial, a second trial.

21 And just for the sake of asking you
22 a few questions because I've got to get some
23 jurors who are qualified to serve, assume,
24 assume that you were on a jury and that all 12
25 of you said guilty of murder, State has proved

1 the defendant's guilty of murder.

2 Would you be a juror who falls into
3 category one, two, or three about those things
4 you read? Would you be one that said I would
5 always give death, I don't care, if it's
6 murder I'm going to give death every time?
7 Would you say I would never give death, I
8 would always give life because I don't believe
9 in the death penalty and I could not give
10 anybody the death penalty, I'm going to vote
11 for life even though he's guilty of murder?
12 Or would you be a juror who would say I would
13 have to listen to more than just this murder
14 business, I would have to hear both sides, all
15 of the aggravating circumstances, all of the
16 mitigating circumstances, all of the bad
17 things, all of the good things, basically, and
18 then I would have to -- after hearing all that
19 I would be able to say, well, I could give one
20 or the other, which would be three, obviously?

21 So one is automatic death, number
22 two is automatic life, and number three is I'd
23 have to listen to both sides and then I can
24 tell you.

25 THE JUROR: I hate to say that I'm

1 automatic one way or the other, but I really
2 don't think that I could give the death
3 penalty. I don't think that it is -- I don't
4 think I have the right.

5 THE COURT: All right. You feel that you
6 don't have the right to give a death sentence.

7 Let me ask you this: Do you think
8 that there are at least some cases, would
9 there be some cases in which you would feel
10 the death penalty would be the appropriate
11 sentence? In other words, can you visualize
12 in your own mind a situation where you would
13 say I will vote for death because I think the
14 circumstances warrant it?

15 THE JUROR: It's very difficult to
16 answer.

17 THE COURT: I know it is. And, listen,
18 there aren't any right or wrong answers. You
19 believe how you believe. Nobody's here to try
20 to, you know, make you feel bad about it
21 because everybody has their own opinion.
22 There aren't any right or wrong answers.

23 THE JUROR: Right.

24 THE COURT: It's just how you feel.

25 THE JUROR: Up before today I haven't

1 really given it a whole lot of thought.

2 THE COURT: That's right.

3 THE JUROR: But I just don't think that I
4 could do it.

5 THE COURT: All right.

6 EXAMINATION

7 BY MR. BAILEY:

8 Q. I'm Walter Bailey, I want to ask you a
9 few more questions. Like the judge said, there are
10 no right or wrong answers and we all respect whatever
11 opinion you've got on the death penalty. But just to
12 make sure I understand what you're saying is that
13 you're the number two type juror, that no matter how
14 bad the case was, would not believe in the death
15 penalty, and if you had the option of life without
16 parole or the death penalty would always vote for
17 life without parole?

18 A. I would probably have to say yes.

19 Q. Okay. You don't have to say anything
20 except your true answer. But is that how you really
21 feel?

22 A. Yes, it is.

23 Q. Is that based on religious beliefs or
24 just personal beliefs?

25 A. That's my moral beliefs.

1 Q. Okay. You just think it's wrong to have
2 a death penalty?

3 A. I don't think it's wrong to have the
4 death penalty; I don't think that I personally could
5 do that.

6 Q. Okay. And for that reason then you could
7 never sign your name to a death verdict form that
8 would actually result in somebody being executed?

9 A. No, sir.

10 Q. Thank you. That's all I have. Thank you
11 very much.

12 EXAMINATION

13 BY MR. BEAUFORD:

14 Q. Hi. Again, my name is Percy Beauford, I
15 have several questions. In the trial if you were
16 selected could you listen to the evidence as
17 presented by both the State and defendant and make a
18 decision?

19 A. Yes, I could.

20 Q. Could you listen to the law as given by
21 the judge and follow the law to make a decision?

22 A. Yeah. I mean --

23 Q. And in the first phase of the trial,
24 which is the guilt phase, and if the evidence by the
25 State shows that the defendant is guilty of murder

1 and the judge gives you what the law of murder is,
2 could you come back with a verdict of guilty of
3 murder?

4 A. Yes, I think I could.

5 Q. In the second phase, guilt phase, could
6 either be death penalty or life imprisonment. And
7 the facts or whatever in any case suggest that in
8 your mind that it should be the death, could you do
9 that?

10 A. I don't think I could.

11 Q. You said you don't think you could?

12 A. Like I said, I haven't given it a lot of
13 thought to give you an honest answer, if I could or
14 if I couldn't. If I had to answer the question yes
15 or no today it would have to be no.

16 Q. So you're saying in your mind there's no
17 factual scenario that you can think of now that would
18 warrant a death penalty?

19 A. Not that I could personally hand down,
20 no. I just don't think I have the right to say that
21 a person's life can be ended.

22 Q. No further questions.

23 THE COURT: All right. If you wouldn't
24 mind stepping out there just one second, I'll
25 bring you right back.

1 THE JUROR: Okay.

2 (Whereupon, the prospective juror leaves
3 the courtroom.)

4 THE COURT: State?

5 MR. BAILEY: Not qualified, Your Honor.

6 THE COURT: Defendant?

7 MR. BEAUFORD: Your Honor, I think she
8 should qualify, basically just in her mind now
9 she can't think of anything, but we're not
10 going fact specific so she can't make a
11 decision.

12 THE COURT: All right. She's not
13 qualified. She's absolutely not qualified.
14 Let's bring her back.

15 (Whereupon, the prospective juror returns
16 to the courtroom.)

17 THE COURT: Thank you very much. I'm
18 going to excuse you. You don't have to come
19 back. Thank you very much for helping us out.

20 (Whereupon, the prospective juror leaves
21 the courtroom.)

22 (Arthur F. Weickhardt, Jr., called as a
23 potential juror, having first been duly
24 sworn, is examined as follows:)

25 THE COURT: Mr. Weickhardt.

1 Mr. Weickhardt, how are you doing?

2 THE JUROR: All right.

3 THE COURT: Let me look here at your
4 thing. I'm sorry to hold you up, I know we're
5 running a little bit late. All right. We're
6 going as quickly as we can.

7 THE JUROR: That's fine.

8 THE COURT: Summerville High. Did you
9 play ball there?

10 THE JUROR: Wrestling.

11 THE COURT: Wrestling. How about that
12 fellow falling off the thing last night, did
13 you see that on television?

14 THE JUROR: Unh-unh (negative response).

15 THE COURT: Some professional wrestler
16 fell off of a stunt, some pre-fight stunt he
17 fell off and killed himself, he fell 50 feet I
18 believe onto the -- one of these professional
19 wrestlers, I saw it this morning on
20 television.

21 Let me ask you this: I see
22 Performance Auto Body two and a half years,
23 body repairman, basically, auto body repair.

24 THE JUROR: Right.

25 THE COURT: Episcopal. The fact that

1 your oldest brother served Port Royal, South
2 Carolina, police force, would that -- is that
3 going to prevent from you being fair and
4 impartial in this trial?

5 THE JUROR: No.

6 THE COURT: Let me ask you this, sir:
7 You read that sheet back there. Tell me where
8 you fit in there, are you number one, number
9 two, or number three?

10 THE JUROR: Closer to number one than
11 two.

12 THE COURT: Closer to number one. Which
13 means what, sir?

14 THE JUROR: I always have been in favor
15 of the death penalty in murder cases. I mean,
16 I feel that punishment should fit the crime,
17 basically. That's the way I've felt about the
18 legal system in general.

19 THE COURT: All right, sir. Well, let me
20 ask you about that then. When you say closer
21 to number one, are you saying then that if you
22 were on a jury and the jury found someone
23 guilty of murder, that you would automatically
24 in every case give someone a death sentence?

25 THE JUROR: I would have to say yes.

1 THE COURT: You would have to say yes.

2 In other words, there wouldn't be a situation
3 where you could say, well, even though it's a
4 murder the situation is such, the
5 circumstances are such that I would not be
6 able to give murder in this one -- I mean,
7 give death in this one, I would have to give a
8 life sentence?

9 THE JUROR: No, because if he was proven
10 guilty.

11 THE COURT: So your idea is that anybody
12 who commits a murder automatically ought to be
13 given a death sentence?

14 THE JUROR: I would say so.

15 THE COURT: All right, sir. Solicitor?

16 MR. BAILEY: No, sir.

17 MR. BEAUFORD: No questions.

18 THE COURT: I excuse you. Thank you very
19 much for your service.

20 THE JUROR: Okay.

21 (Whereupon, the prospective juror leaves
22 the courtroom.)

23 THE COURT: I didn't ask, but I ask now.
24 State?

25 MR. BAILEY: No objection.

1 MR. BEAUFORD: No objection, Your Honor.

2 THE COURT: All right. I didn't think
3 Mr. Beauford would have any. He's not
4 qualified. He's got his mind made up. Let's
5 bring the next one.

6 (Robert W. Lawson, called as a potential
7 juror, having first been duly sworn, is
8 examined as follows:)

9 THE COURT: How are you doing? Have a
10 seat there. Thank you. I'm sorry to hold you
11 up, we're moving quickly. Did you have time
12 to read that thing back there?

13 THE JUROR: Yes, sir.

14 THE COURT: Let's see. I see engineer,
15 27 years. Are you in engineering -- what do
16 you all do? Sales and marketing, what do you
17 all do, sir?

18 THE JUROR: We make a lot of industrial
19 type products, we have parts on the space
20 shuttle, we make elastic to go in swimwear,
21 packing for pumps, lots of industrial type
22 stuff.

23 THE COURT: All right, sir. You all
24 didn't manufacture that thing that went on
25 that space shuttle that didn't hold six or

1 eight years ago?

2 THE JUROR: No, sir. We didn't.

3 THE COURT: That wasn't your product.

4 Let me ask you this: In reading
5 that sheet there, where do you figure you
6 fall, one, two, or three?

7 THE JUROR: Third one.

8 THE COURT: Which says what, sir?

9 THE JUROR: It says that --

10 THE COURT: To you. You can read it if
11 you want to, I got it there, but, I mean,
12 basically what does it mean to you, I suppose?

13 THE JUROR: Well, basically your mind's
14 not made up until you've heard all the
15 evidence.

16 THE COURT: Suppose you serve on the jury
17 panel and all 12 of you say the defendant is
18 guilty of murder, absolutely, no question
19 asked, no doubt about it he's guilty of murder
20 in your minds and all 12 of you agree to that.

21 Would -- in that situation, would
22 you still be able to and willing to listen to
23 the evidence in aggravation, or in mitigation
24 before you pronounced a sentence? In other
25 words, would you be willing to say even though

1 I find him guilty of murder, I'm still willing
2 to listen to all of the evidence, other
3 evidence in the case, and I could either give
4 life or I could give death, it just depends on
5 what that evidence shows me, that's where you
6 are basically?

7 THE JUROR: Yes, sir.

8 THE COURT: Which is number three.

9 THE JUROR: Right.

10 THE COURT: You're not one who would
11 automatically give death just because someone
12 was guilty of murder is what I guess I'm
13 trying to get at?

14 THE JUROR: No, sir.

15 THE COURT: Or automatically give life
16 just because you don't believe in the death
17 sentence and you just won't give it under any
18 circumstance?

19 THE JUROR: Correct.

20 THE COURT: You would be willing to do
21 one or the other, could give one or the other,
22 it just depends on what you hear, you would be
23 willing to keep your mind open, assuming, of
24 course, the State proved him guilty of murder
25 to begin with, that would be the first thing?

1 THE JUROR: Yes, sir.

2 THE COURT: All right, sir.

3 EXAMINATION

4 BY MR. BAILEY:

5 Q. Mr. Lawson, I'm Walter Bailey, I want to
6 ask you a few more questions, I'll be prosecuting
7 this case along with these other lawyers here. No
8 right or wrong answers, I just want to make sure I
9 understand what your position is in the death penalty
10 because this is the only chance that any of us have
11 to find that out.

12 You've indicated to the judge that
13 you're a number three type juror, which means that if
14 we got into the second part of the trial you wouldn't
15 have your mind made up on the penalty even though the
16 person's a convicted murderer, but would be willing
17 to listen to the testimony that came out, listen to
18 the instruction of the judge and could vote either
19 way depending on what you heard; does that summarize
20 it?

21 A. That's correct.

22 Q. And I'm not going to ask you to predict
23 what you would do in this case because you hadn't
24 heard any of the facts. But if the case is bad
25 enough, could you vote for the death penalty knowing

1 that based on that jury's vote the death penalty will
2 be ordered by the court, will be carried out?

3 A. I could.

4 Q. Could you sign your name to a verdict
5 form that would result in that execution taking
6 place?

7 A. Yes, sir.

8 Q. Could you stand up in open court and
9 announce that as being your verdict if it was your
10 verdict?

11 A. Yes, sir.

12 Q. All right, sir. I noticed on your
13 questionnaire that you had some work conflicts. I
14 think that you said there might be some hardship on
15 you if you served?

16 A. I went into work yesterday, Sunday
17 afternoon for a while and tried to catch up my desk,
18 so the other folks in there are going to fill in for
19 me.

20 Q. Okay. So you've taken care of that?

21 A. Yes, sir.

22 Q. I don't know whether the judge mentioned
23 this earlier or not, but the jury in this kind of
24 case is going to be put up in a motel at night for
25 roughly a week, a week and a half, until the trial is

1 over which is a hardship on everybody. Is that
2 something you can accommodate?

3 A. Yes, sir.

4 Q. Mr. Lawson, that's all I've got. Thank
5 you very much.

6 EXAMINATION

7 BY MR. BEAUFORD:

8 Q. Mr. Lawson, my name is Percy Beauford, a
9 few questions. What is your opinion on the death
10 penalty?

11 A. I would say the penalty fits the crime.
12 You know, if somebody's guilty of it and it's been
13 proven beyond a shadow of a doubt then I'll go with
14 it.

15 Q. Would you explain, you say if someone is
16 found guilty of it then --

17 A. If the evidence leads to, you know,
18 aggravated assault and, you know, somebody murdered
19 somebody, then, you know, if the evidence presents
20 itself.

21 Q. So if the person is found guilty of
22 murder, then would you render a -- in the second
23 phase would you vote for the death penalty?

24 MR. BAILEY: Objection of him asking what
25 he would do without hearing the facts.

1 THE COURT: The question is could you.

2 MR. BEAUFORD: Could you.

3 THE COURT: Could you vote for the death
4 penalty if -- well, I don't want to put words
5 in your mouth.

6 BY MR. BEAUFORD:

7 Q. That's the correct question. If
8 someone's found guilty of murder, could you vote for
9 the death penalty?

10 A. If the evidence presented itself.

11 Q. Could you also if the person is found
12 guilty of murder, could you vote for life
13 imprisonment?

14 A. Absolutely.

15 Q. What would you look for -- let me strike
16 that.

17 Do you understand that life
18 imprisonment means life without parole?

19 A. Yes, sir.

20 Q. And if someone is found guilty of murder,
21 you will look at the evidence in the second phase and
22 determine whether that person should be given life or
23 the death penalty?

24 A. Yes, sir.

25 Q. At the job you are a foreman, supervisor?

1 A. I am a supervisor. I just have one
2 report to me.

3 Q. Okay. Could you -- in the situation if a
4 group all votes one way, could you hold to your
5 conviction and hold out if you believe that to be
6 true, your conviction?

7 A. Absolutely.

8 Q. Is there anything about murder and
9 burglary that would -- you would automatically vote
10 for the death penalty?

11 MR. BAILEY: Judge, I'll object to him
12 getting into specific aggravating
13 circumstances.

14 THE COURT: I'll sustain. Rephrase it.
15 You can ask him, just don't specifically name
16 the crimes because that's the aggravating
17 circumstance is what the problem -- is where
18 the problem comes. Certainly asking him about
19 murder or some aggravating circumstance,
20 whatever they are in general, no problem.

21 BY MR. BEAUFORD:

22 Q. In voting for the death penalty in a
23 murder case, what would you look for in determining
24 whether to vote for death?

25 MR. BAILEY: Objection.

1 THE COURT: I'm going to have to sustain
2 that one before you even -- because here again
3 you're asking him now to profile, trying to
4 get a profile on what he would look for and I
5 think that would be against the rules.

6 BY MR. BEAUFORD:

7 Q. In South Carolina murder is the
8 intentional killing of someone such as meanness or
9 with a depraved heart. Would you be able to
10 differentiate the murder from manslaughter, or
11 accidents, or any other things of that nature?

12 A. Sure.

13 Q. How long have you held your belief about
14 the death penalty?

15 A. Well, I was raised, you know, raised that
16 way.

17 Q. And what way is that?

18 A. Where the penalty would fit the crime..

19 Q. Are you saying you believe, I'm not
20 putting words in your mouth, but an eye for an eye
21 situation?

22 A. It depends on the circumstance.

23 Q. Okay. I have no further questions.

24 THE COURT: Thank you, sir. Would you
25 mind stepping right there just one second?

1 I'll bring you right back.

2 THE JUROR: Okay.

3 (Whereupon, the prospective juror leaves
4 the courtroom.)

5 THE COURT: State?

6 MR. BAILEY: Qualified.

7 THE COURT: Defendant?

8 MR. BEAUFORD: He's qualified, Your
9 Honor.

10 THE COURT: He's qualified, absolutely.
11 Bring him back.

12 (Whereupon, the prospective juror returns
13 to the courtroom.)

14 THE COURT: Mr. Lawson, thank you so
15 much. What we're going to do, I've got a
16 phone number, let me make sure. Is that it?

17 THE JUROR: Yes, sir.

18 THE COURT: We're going to try to -- what
19 we'll do is call you probably tomorrow night.
20 We've got 60 jurors, you're number four, we
21 got 60. What we intend to do is to get about
22 35 who I believe are qualified for a panel,
23 out of which 14 will be drawn. So there's no
24 guarantee you'll be drawn on it by any means,
25 but the point of it is I may have you all come

1 assemble Wednesday or whenever we can do it.
2 I don't want to inconvenience you so we'll try
3 to call you. Can we reach you at that number,
4 somebody at that number?

5 THE JUROR: Yes, sir. If there's nobody
6 there, there's an answering machine.

7 THE COURT: And you'll get back with me
8 very quickly? Because if it's tomorrow night
9 at eight o'clock, obviously you will be there
10 tomorrow night sometime if you can get back,
11 or if it says come Wednesday morning, come
12 Wednesday afternoon, you'll get the message?

13 THE JUROR: Is my pager number on there?
14 That might be the best way to get in touch
15 with me.

16 THE COURT: I'll put it if you don't
17 mind.

18 THE JUROR: Okay. It's 219-0518.

19 THE COURT: Fair enough. And as he
20 explained to you, we don't know exactly how
21 long a trial like this is going to take, but
22 obviously we're going to take care of
23 everything for you in terms of where you stay
24 and so forth. We'll just try to give you some
25 instruction tomorrow. If we need you we'll

1 give you some instruction as to what to bring.
2 and so forth.

3 May be something in the newspaper, I
4 don't know. I doubt there's anything on
5 television, but if you would, please, sir,
6 just try to avoid news until tomorrow night.
7 And then obviously once you're sequestered it
8 won't be a problem because I won't let you
9 watch that. I'll let you watch TV, but not
10 that. But I don't think there's going to be
11 anything anyway, but just avoid it and then
12 there wouldn't be a problem. Thank you very
13 much.

14 THE JUROR: Would I need to be here
15 tomorrow, or just wait until you call?

16 THE COURT: No, sir. We'll just call you
17 tomorrow night. You're good to go right now.

18 THE JUROR: Thank you.

19 THE COURT: Thank you, sir.

20 (Whereupon, the prospective juror leaves
21 the courtroom.)

22 THE COURT: Is that it, or do we have one
23 more?

24 MR. BEAUFORD: That's it with this panel,
25 Your Honor.

1 THE COURT: That's right. Because the
2 other one was excused, I believe. We did
3 pretty well, we're 30 minutes late, but that's
4 all right. We got 30 minutes then. All
5 right. Thank you.

6 MR. BEAUFORD: Two o'clock?

7 THE COURT: Yes, sir.

8 (Lunch recess taken.)

9 THE COURT: Thank you, ladies and
10 gentlemen. Be seated now.

11 (Angela Washington, called as a potential
12 juror, having first been duly sworn, is
13 examined as follows:)

14 THE COURT: How are you doing? You're
15 Margaret; is that right?

16 THE JUROR: Angela.

17 THE CLERK: No, Angela Washington is the
18 first one. She just filled it out. The one
19 that's missing out of your stack.

20 THE COURT: Okay. Ms. Washington, there
21 you go. Born in Philadelphia. You grew up
22 here, though?

23 THE JUROR: I was a little girl when we
24 moved down here.

25 THE COURT: I see. Tell me what you do

1 at the Costal Center. Human services
2 assistant, tell me what you do.

3 THE JUROR: We care for mentally
4 handicapped and physically disabled people.

5 THE COURT: Are you like a nurse, I mean?

6 THE JUROR: Well, we try to get them to,
7 you know, work with daily living skills and
8 all so they can go out into the community.

9 THE COURT: I got you. I understand.
10 How long have you been doing that?

11 THE JUROR: About a year and a half.

12 THE COURT: Okay. And you read that
13 piece of paper back there?

14 THE JUROR: Yes, sir.

15 THE COURT: Can you follow that? Does
16 that make any sense to you?

17 THE JUROR: Makes a lot of sense.

18 THE COURT: What category do you feel
19 like you fall into, one, two, or three?

20 THE JUROR: I think three.

21 THE COURT: What means what? Which says
22 what or means what to you?

23 THE JUROR: On the third one, it's like
24 having an open mind on the third one saying
25 not judging --

1 THE COURT: Excuse me, I didn't mean to
2 cut you off.

3 THE JUROR: Third one is, you know,
4 having an open mind, you're not judging before
5 you get all the facts of everything.

6 THE COURT: Well, do you understand that
7 the jury, first of all, the jury has to
8 determine whether somebody's guilty or not?
9 Obviously if the jury said not guilty you
10 don't even have to worry about sentencing
11 somebody because this trial's over with.
12 Somebody's not guilty, that's the end of it.
13 But if the jury were to find that somebody's
14 guilty of murder, are you telling me that you
15 would not be one who would automatically give
16 a death sentence every time, or automatically
17 give a life sentence every time, but rather
18 you would be one who would have to listen to
19 all the evidence in the case, even after you
20 found somebody guilty of murder that you would
21 still have to listen to all the evidence and
22 circumstances, and depending on what those
23 were you could either give a death sentence or
24 give a life sentence, but you would have to
25 listen to everything first?

1 THE JUROR: Right.

2 THE COURT: That's where you are?

3 THE JUROR: Uh-huh (affirmative
4 response).

5 THE COURT: You understand, of course,
6 that if you found somebody guilty of murder,
7 as a juror, all 12 of you did, that you could
8 not give a death sentence unless the State
9 proved murder and something else, some other
10 aggravating circumstance? You couldn't even
11 consider doing it, it would have to be murder
12 plus robbery, or murder plus rape, or murder
13 plus something. You understand that?

14 THE JUROR: Yes, sir.

15 THE COURT: And even if you found that,
16 suppose a jury were to find murder plus one
17 aggravating circumstance, you wouldn't have to
18 give the death sentence, do you follow that?

19 THE JUROR: Right.

20 THE COURT: In other words, basically you
21 just have to listen to everything and when you
22 listen to everything then you decide whether
23 or not a person ought to be given a death
24 sentence or a life sentence.

25 THE JUROR: Yes, sir.

1 THE COURT: All right. And that's where
2 you are?

3 THE JUROR: Yes.

4 THE COURT: If you got to a point, if you
5 got to a point where you felt like a death
6 sentence was the appropriate sentence to give,
7 do you understand that you would have to sign
8 your name to a paper along with all the other
9 jurors saying I sentence the defendant to
10 death, basically?

11 THE JUROR: Yes, sir.

12 THE COURT: You would have to sign your
13 name. You understand that?

14 THE JUROR: Yes, sir.

15 THE COURT: Could you do that?

16 THE JUROR: I could.

17 THE COURT: On the other hand, if you
18 felt like it was not a case that you should
19 impose the death sentence, would you be
20 willing to say we recommend life sentence, we
21 want the defendant to be given a life sentence
22 rather than a death sentence?

23 THE JUROR: Yes, sir.

24 THE COURT: I'm not sure who's first. I
25 think Mr. Beauford was.

EXAMINATION

BY MR. BEAUFORD:

Q. Ms. Washington, my name is Percy Beauford, I would like to ask you a few questions. What is your opinion about the death penalty?

A. Well, I feel -- well, if you do wrong I don't think -- I have mixed feelings about it. I feel that it's good.

Q. There's no right or wrong answer.

A. Right. It's good in a way, you know, you can't give the death penalty every time. Just, you know, I feel -- if the crime is bad enough I feel that, you know, it's good, but.... I'm for it, I'm saying, if the crime is good -- I mean, bad enough.

Q. How did you formulate your opinion about the death penalty?

A. Well, just watching TV, seeing, you know, all the horrible crimes people commit. Some people deserve it.

Q. Is there any particular one instance that caused you to formulate that, or how long have you held that opinion?

A. Well, like murder. Killing somebody, take somebody else's life mainly, I mean I think mainly that's called for the death penalty.

1 Q. If I tell you that murder is the
2 intentional killing with malice aforethought, such as
3 meanness or depraved heart, and if someone was found
4 guilty of that would you automatically find for the
5 death penalty?

6 A. I can't say that. I mean, listen to all
7 the facts. If I'm picked to become a juror, you
8 know, you have to hear all the facts, you can't just
9 say automatically he deserves the death penalty, you
10 have to hear all the facts and everything.

11 Q. If you, indeed, in the first phase, the
12 guilt phase, I said you, meaning the 12 of you,
13 decide that the defendant did commit murder and you
14 have to decide either death or life, would you look
15 at any other factors in determining death or life?

16 A. Well --

17 THE COURT: In other words, what he's
18 saying is would you consider other evidence
19 other than the murder itself in order to
20 determine death or life? I think that's what
21 you mean.

22 MR. BEAUFORD: That's correct, Your
23 Honor.

24 THE JUROR: No, I wouldn't.

25 BY MR. BEAUFORD:

1 Q. Explain that. I'm trying to make sure I
2 understand your answer.

3 A. Other evidence. I mean, I guess I have
4 to take the evidence that's presented to me, take it
5 from there.

6 Q. Okay. Do you understand that life means
7 life without parole?

8 A. Uh-huh (affirmative response).

9 Q. So you said you understand that?

10 A. Yes.

11 Q. And in any scenario, not even saying in
12 this matter, in this case, if you were faced with a
13 situation where the majority of that group felt a
14 certain way and you didn't, would you hold to your
15 belief or would you vote in favor with the others of
16 that --

17 A. I think I would. I would hold to my
18 belief.

19 Q. If it was just the opposite, you were
20 within the majority, would you ask that one that was
21 in the minority to come -- not ask, but would you
22 feel forced to have that other individual vote the
23 way you do?

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

25 Q. Would you respect their vote?

1 A. Oh, yeah, I sure would.

2 Q. I don't think it's been asked, but any
3 other questions, have you heard anything about this
4 case, read anything about this case?

5 A. No.

6 MR. BEAUFORD: No other questions.

7 THE COURT: Mr. Bailey?

8 EXAMINATION

9 BY MR. BAILEY:

10 Q. Ms. Washington, I'm Walter Bailey, I just
11 want to ask you a couple more questions, and no right
12 or wrong answers, it's just the only chance we have
13 to talk to jurors before we pick a jury in the next
14 couple days.

15 I notice in your questionnaire you
16 go to the Methodist church?

17 A. Yes.

18 Q. Which church?

19 A. Branch AME.

20 Q. Do you know whether or not that church
21 has any belief on the death penalty one way or the
22 other?

23 A. No. I think it -- I guess it's like
24 mixed feelings, some people are for it and some are
25 against, it's not just one belief.

1 Q. Okay. Do you have any religious beliefs
2 that you think might interfere with your ability to
3 fairly decide one way or the other if you're picked
4 on this case?

5 A. No.

6 Q. You understand that we wouldn't even be
7 talking about the punishment unless that defendant is
8 found guilty on the first part of the trial?

9 A. Right.

10 Q. The judge doesn't decide what the penalty
11 is if we get to that point, the jury makes the
12 decision, all the judge would do is just order that
13 to happen. So if the jury votes for life
14 imprisonment, the judge would order that, he would
15 serve life without parole as Mr. Beauford said. On
16 the other hand, if the jury votes for the death
17 penalty the judge would order that and that sentence
18 would be carried out.

19 And as I understand what you said,
20 if the case is bad enough you could vote for the
21 death penalty knowing that sentence would you be
22 carried out?

23 A. Yes, sir.

24 Q. Could you sign your name to a death
25 verdict form, a paper along with the other jurors?

1 A. Yes.

2 Q. That would result in the person being
3 executed?

4 A. Yes, sir.

5 Q. And there's a process called polling the
6 jury where if the jury votes for the death penalty
7 and they sign that paper, the jury comes out here and
8 the foreman announces the verdict, each juror's name
9 is called out one at a time and they're asked to
10 stand up and say out loud what the verdict is, could
11 you do that if that was your verdict?

12 A. Yes, sir.

13 Q. I notice you got, what, four children?

14 A. Three.

15 Q. Three children, okay.

16 The jury in this kind of a case is
17 put in a motel to keep them away from any kind of
18 street talk or newspapers or stuff like that about
19 the case until the trial's over. During the daytime
20 they're in court and when court's over they go to the
21 motel, the county feeds them and takes care of them,
22 and we're looking at maybe a week, week and a half.
23 Would that cause you any problems as far as caring
24 for your children if you were in a motel?

25 A. Well, it might cause a little.

1 Q. Okay.

2 A. I would have to, you know, get it
3 straight.

4 THE COURT: Make some arrangements?

5 THE JUROR: Right.

6 BY MR. BAILEY:

7 Q. But you feel like you could make those
8 arrangements if you had to?

9 A. Yes, sir.

10 Q. How old is your youngest child?

11 A. She's eight months.

12 Q. Eight months.

13 Okay. Who would take care of her if
14 you were in the motel for a week?

15 A. My mother.

16 Q. Okay. All right. Can you think of any
17 reason at all that we may not have even asked you
18 that you think would prevent you from being a fair
19 juror to both sides, the State and the defense?

20 A. No, sir.

21 Q. All right. Ms. Washington, that's all
22 I've got. Thank you very much.

23 THE COURT: Step out one second, we'll
24 bring you right back.

25 (Whereupon, the prospective juror leaves

1 the courtroom.)

2 THE COURT: State?

3 MR. BAILEY: Qualified.

4 THE COURT: Defendant?

5 MR. BEAUFORD: Qualified.

6 THE COURT: She's qualified.

7 (Whereupon, the prospective juror returns
8 to the courtroom.)

9 THE COURT: Ms. Washington, I've got home
10 telephone number there. Is that right?

11 THE JUROR: That's right.

12 THE COURT: What I'm going to do, you'll
13 go home and be there for the next day or so,
14 or do you work?

15 THE JUROR: I work.

16 THE COURT: Suppose you go in tomorrow --
17 I know you work because I asked you about it.
18 Suppose you go in tomorrow morning. You're
19 home at five o'clock, six o'clock, something
20 like that?

21 THE JUROR: Yes, sir.

22 THE COURT: What we're going to do, we're
23 going to get -- we got 60 jurors, at least 60
24 people we got to talk to just like you. We're
25 going to end up with 35, at least 35 in a pool

1 out of which 14 jurors will be drawn to serve.
2 So I'm not saying you're going to be drawn,
3 I'm not saying you're going to serve, I'm not
4 saying you're going to have to do much of
5 anything, I don't know that at this point.
6 But what I'm wanting to do is when I get
7 through talking to all the jurors I need to
8 talk to, then I want to be able to call you
9 tomorrow night, or let one of the people call
10 you tomorrow night and say, all right, we
11 would like for you to come Wednesday morning,
12 or we want you to come Wednesday afternoon. I
13 can call that number, give you information and
14 so forth and do that?

15 THE JUROR: Yes, sir.

16 THE COURT: All right. That will be
17 fine. Don't watch -- read the newspaper,
18 watch the news. I don't think there's
19 anything, but just avoid it. Just avoid the
20 newspapers.

21 THE JUROR: Okay.

22 THE COURT: And don't talk to your family
23 and so forth. You can tell them that this is
24 a death penalty case, you can't discuss it,
25 you may have to be away for a few days or

1 something like that. But just leave it at
2 that.

3 THE JUROR: Okay.

4 THE COURT: Fair enough?

5 THE JUROR: Fair enough.

6 THE COURT: All right. Thank you, ma'am.
7 We'll call you tomorrow night.

8 THE JUROR: Okay.

9 (Whereupon, the prospective juror leaves
10 the courtroom.)

11 MR. BAILEY: Your Honor, can I put
12 something on the record before the next juror
13 comes in? I think the next one is Margaret L.
14 James.

15 THE COURT: Yes, sir.

16 MR. BAILEY: She didn't stand up when she
17 was asked about any contacts with my office;
18 however, she was a potential witness in a
19 death penalty case I tried a couple of months
20 ago. We didn't actually call her as a
21 witness. I haven't interviewed her, but one
22 of my investigators did interview her.

23 She had a mistake on a rap sheet
24 where a sister, I think, had used her driver's
25 license, had gotten arrested, we helped to

1 straighten that record out, my office did. So
2 I just wanted to disclose that to the defense.

3 THE COURT: Fair enough. I'll ask her
4 about that, too.

5 (Margaret L. James, called as a potential
6 juror, having first been duly sworn, is
7 examined as follows:)

8 THE COURT: Ms. James, come on in, have a
9 seat. I just want to ask you a couple
10 questions, these lawyers may want to ask you
11 one or two. Let me tell you to start off with
12 that there are no right answers, no wrong
13 answers, okay?

14 THE JUROR: Okay.

15 THE COURT: Whatever you feel, whatever
16 you say is fine with us.

17 THE JUROR: Okay.

18 THE COURT: Let me ask you this: I see
19 you work?

20 THE JUROR: At Williams Technology.

21 THE COURT: Williams Tech. What do you
22 do now?

23 THE JUROR: They tear down transmissions
24 over there as a parts company, they need to be
25 cleaned.

1 THE COURT: Right. You got some kind of
2 a washing process you go through to wash them
3 off?

4 THE JUROR: Right.

5 THE COURT: I got you. And you've been
6 doing that since...?

7 THE JUROR: April.

8 THE COURT: Since April, the last couple
9 of months?

10 THE JUROR: Right.

11 THE COURT: What did you do before that?

12 THE JUROR: I went to school at
13 Orangeburg Technical College up until December
14 and then I wasn't doing anything, trying to
15 find something.

16 THE COURT: All right. And have you ever
17 served as a juror in a case before?

18 THE JUROR: No, sir.

19 THE COURT: Do you know -- I asked
20 earlier about whether you knew the lawyers and
21 no one stood, I don't believe back there. My
22 understanding is that you were -- at one point
23 in time that one of the people from the
24 solicitor's office talked to you about maybe
25 testifying in a case sometime ago.

1 THE JUROR: Right.

2 THE COURT: I don't think you testified.

3 THE JUROR: But I never met any of these
4 people.

5 THE COURT: I know you don't know them.
6 But the fact that somebody from the
7 solicitor's office talked to you, would that
8 prevent you from being fair and impartial in
9 this trial?

10 THE JUROR: No.

11 THE COURT: I also understand that I
12 think that there was something about your
13 sister and a driver's license something, one
14 of the officers or somebody helped get the
15 driver's license straight?

16 THE JUROR: Right. Because what happened
17 was she got caught and said she was me. And
18 I'm the type of person if I did something I
19 did it, if I didn't do it --

20 THE COURT: You didn't do it.

21 THE JUROR: It was hard to get it
22 straightened out without me getting a lawyer.
23 I just asked, I said can I ask you something
24 off the record and she said yes. And then she
25 realized I was telling the truth so she just

1 helped me.

2 THE COURT: The officer did to get you
3 straight?

4 THE JUROR: Yes.

5 THE COURT: And the fact that an officer
6 might have helped you or did help you back
7 then, would that prevent you from being fair
8 and impartial in this trial?

9 THE JUROR: No, sir. I just believe that
10 it was fair that she helped me because it
11 wasn't something I did.

12 THE COURT: She did what you felt like
13 she ought to have done?

14 THE JUROR: Well, she did what I feel
15 like I would have done for somebody else if I
16 would have helped them.

17 THE COURT: Let me ask you this: Did you
18 read that piece of paper back there?

19 THE JUROR: Yes.

20 THE COURT: Can you tell me what group
21 you fall into?

22 THE JUROR: The last one.

23 THE COURT: What does that mean to you?
24 When you say the last group, I mean, basically
25 what are you saying when you're saying you're

1 in the last group?

2 THE JUROR: Just like I did, if I did
3 something I did it, whatever punishment is due
4 for you is what you're supposed to take.

5 THE COURT: All right. Well, do you
6 understand that the jury in this kind of case,
7 like I was telling you all this morning, the
8 jury has to decide what the sentence is but
9 doesn't even get to talk about what a sentence
10 is until they find that somebody's guilty of
11 murder? In other words, the jury would have
12 to find somebody guilty of murder to start off
13 with before they even thought about what
14 punishment somebody ought to get.

15 THE JUROR: Well, that's only fair.

16 THE COURT: That's right.

17 MR. BEAUFORD: Your Honor, could we have
18 her just speak into the mic?

19 THE COURT: Just speak a little louder.

20 THE JUROR: I was saying that's only
21 fair.

22 THE COURT: Okay.

23 THE JUROR: But it would be wrong for me
24 to look at you and tell you what kind of
25 punishment you going to get, when I don't even

1 know what it was that you did.

2 THE COURT: All right. But let's assume,
3 assume now for me that you were on the jury
4 and assume that that jury of 12 people
5 including yourself found the defendant, a
6 defendant, guilty of murder, just assume that
7 the State had proven beyond a reasonable
8 doubt, there isn't any question that the
9 defendant is guilty of murder. And all of you
10 voted for it and you found him guilty. And
11 then you go to a sentencing phase for the
12 trial, you have to decide what punishment to
13 give because of that murder.

14 THE JUROR: Right.

15 THE COURT: Are you telling me that you
16 would not be one who would always give death,
17 or always give life, that you would be one who
18 could give death, you could give life, but you
19 really would have to listen to all the
20 circumstances before you did that?

21 THE JUROR: Yes, sir.

22 THE COURT: Knowing that he's guilty of
23 murder now to start off with, you know he's
24 guilty of murder. Do you follow where I'm
25 coming from? You already know that --

1 THE JUROR: Yes.

2 THE COURT: -- because you voted for
3 that. So at this stage of the trial you would
4 be willing to listen to all the evidence, the
5 good and the bad, good things about him, bad
6 things that the State might bring out. And
7 then you would have to -- after listening to
8 everything then you would have to decide
9 whether or not he ought to be given a death
10 sentence or a life sentence; is that what
11 you're saying?

12 THE JUROR: Yes.

13 THE COURT: That's what you're saying you
14 would do?

15 THE JUROR: I believe I can.

16 THE COURT: All right. Again, and I know
17 you're intelligent, I don't mean to insinuate
18 that you aren't, just this is kind of an
19 unusual thing to ask jurors to come in and for
20 me to ask you these kind of questions. You're
21 not somebody who would always give a death
22 sentence? In other words, somebody commits
23 murder, they get the death every time, you're
24 not one of those?

25 THE JUROR: It's a lot of different

1 people -- a lot of different people do things
2 for a lot of different reasons.

3 THE COURT: Okay.

4 THE JUROR: So therefore, a lot of times
5 you can't just -- well, I couldn't just go out
6 and say, well, let's just kill him because he
7 killed.

8 THE COURT: All right. And by the same
9 token, you're not one who would say, well, I
10 don't care if he's committed murder, I'm going
11 to give him life every time because I just
12 don't believe in the death penalty, I'm going
13 to give live every time, you're not one of
14 those either?

15 THE JUROR: No, sir.

16 THE COURT: Basically you're telling me
17 you would have to listen to both sides of it.

18 THE JUROR: And be fair.

19 THE COURT: And I don't mean to put words
20 in your mouth, but is that really how you feel
21 in your heart, that you would be fair and
22 listen to everything before you made a
23 decision?

24 THE JUROR: Yes.

25 THE COURT: All right.

EXAMINATION

BY MR. BAILEY:

Q. Ms. James, I'm Walter Bailey, I'll be prosecuting the case and I need to ask you a few questions. Like the judge I think told you, there are no right or wrong answers.

A. Right.

Q. The only wrong answer's if you tell somebody something because you think that's what you think we want to hear. We just want to hear how you really think.

A. Right.

Q. Have you ever thought about the death penalty before you found out you might be a juror in this kind of case?

A. Yes.

Q. And can you tell us in general, not relating to this case because you don't know anything about it, but in general just what your thoughts are on the death penalty?

A. It depends on what you show me why it happened.

Q. Okay. All right. And you understand, and the judge went over this with you, but if we get into that second part of the trial that would mean

1 the defendant's already guilty of murder.

2 A. Yes.

3 Q. And the jury makes a decision on life
4 without parole and the death penalty, not the judge,
5 you understand that?

6 A. Yes.

7 Q. If the case is bad enough can you vote
8 for the death penalty knowing that sentence is going
9 to be carried out, meaning that person actually would
10 be executed?

11 A. I would have to say, yeah, because I
12 would have to live with that after that happened.

13 Q. Right. And you think you can do that?

14 A. I believe I can.

15 Q. Okay. That's if the case is bad enough?

16 A. Excuse me?

17 Q. If the case is bad enough you can vote
18 for it knowing it's going to happen?

19 A. Knowing the circumstances of it, yes.

20 Q. Okay. Could you sign your name to a
21 piece of paper along with the other 11 jurors, if you
22 did vote for the death penalty could you sign your
23 name to that piece of paper knowing that person's
24 going to be executed later on because you signed that
25 paper?

1 A. That would be one of the reasons of me
2 being able to say, well, you did this and if that's
3 the way I feel, yes, I believe I can.

4 Q. Could you stand up when your name's
5 called out, announce that decision out loud, it's a
6 process called polling the jury?

7 A. Yes.

8 Q. If that was your decision you could say
9 it out loud?

10 A. Yes.

11 Q. Ms. James, the jury would be put in a
12 motel until this case is over, it will be about a
13 week maybe, maybe a little more, a little less.
14 Nobody wants to go to a motel for a week, but is that
15 something you can handle? I know you got some
16 children.

17 A. I have a 17, almost 18-year-old daughter
18 also.

19 Q. Okay.

20 A. And this is her last week of school, so
21 she's planning on going into the service in August so
22 somebody will be there.

23 Q. Okay. So that shouldn't be any problem?

24 A. No.

25 Q. Okay. Ms. James, that's all I've got.

1 Thank you very much.

2 THE COURT: Mr. Beauford's going to ask
3 you a couple questions, some questions.

4 EXAMINATION

5 BY MR. BEAUFORD:

6 Q. Ms. James, my name is Percy Beauford,
7 just a few questions. You said that you were a
8 potential witness in another case. What type of case
9 was that?

10 A. This was in the sentencing phase --

11 Q. It was a death penalty case?

12 A. Yes. It was in the sentencing, I would
13 have had to testify in the sentencing phase. Okay.
14 I knew the guy that did whatever it was that he did.
15 And years before that he stole a TV from me, I was
16 somewhere else visiting some family and he knew I
17 wasn't home.

18 Q. So you would be testifying -- excuse me,
19 I'm sorry.

20 A. And he knew that I wasn't home so he
21 stole my TV. I got the TV back. Naturally being
22 human I was a little miffed but then again, you know,
23 I just sat that aside because being fair I forgive
24 him. He told me that he was sorry for what he did, I
25 forgave him. So then we ended up being friends years

1 later.

2 So all I was going to do was come
3 in, ask me to come in to show that he wasn't the good
4 guy they was maybe trying to get him to be.

5 Q. Who asked you to testify, was it the
6 State or the defendant?

7 A. Excuse me?

8 Q. Who asked you to come and testify, was it
9 the State or the defendant?

10 A. The State. He wouldn't want me to
11 testify against him knowing he stole my TV. It was
12 the State. You asked me how did I got involved in
13 this, right?

14 Q. Who asked you to testify, was it the
15 State or the defendant?

16 A. The State. The State.

17 Q. And they were seeking the death penalty?

18 A. At this particular time I didn't know the
19 aspect, they just wanted to talk to me of how I got
20 involved with my TV being stolen.

21 Q. Okay.

22 A. Okay. And then I was told that I may
23 have to come in and testify in the sentencing phase
24 of it, of the trial, of the trial of -- okay. What
25 you asked me was how I got involved in the

1 sentencing, how I got involved with the trial that
2 you talking about?

3 Q. Yes, ma'am.

4 A. And I said I got involved because the
5 particular person that was -- whose trial it was
6 stole a TV from me years before that and that's how I
7 got involved in it. But then I wasn't -- they didn't
8 have to call me, I didn't go down there, so it was
9 over just like that, just as soon as -- to me as soon
10 as it started it was over because I didn't have to go
11 down there.

12 Q. Were you prepared to testify for the
13 State in that case?

14 A. Even though he was my friend, if he done
15 that he did wrong, so, yes, I was prepared to testify
16 against him.

17 Q. And then your testimony would have -- you
18 viewed it more likely would have given him the death
19 or given him life?

20 A. Well, me testifying I didn't have to say
21 life or death, but if you're asking me in a scenario
22 as brutal as what he did to this lady if that was his
23 punishment and everybody else agreed to it, I would
24 have to say, yes, I agree to it also. If it was life
25 in punishment, life in prison, yes, I would have

1 agreed with that also. Because it would have been
2 fair. Either way it would have been fair to me.

3 Q. In deciding whether to impose the life or
4 death, could you consider other factors involved in
5 the case?

6 A. I would have to hear everything that was
7 going on in order to form my own opinion.

8 Q. Okay. The person's already found guilty
9 and now we're in the sentencing phase. Could you
10 consider other factors in determining whether to give
11 him death or life imprisonment?

12 A. Yes. Circumstances as to why it was
13 proven that he did it. We're talking scenario, me
14 knowing him, the type of person that I knew compared
15 to the person that he became after he was using the
16 drugs. It would have been different circumstances,
17 yes. I would have to hear the whole thing, find out
18 what was going on.

19 Q. And you understand that murder in South
20 Carolina, intentional killing with malice
21 aforethought, meanness, or depraved heart, if someone
22 is found guilty of that would you automatically --
23 could you automatically -- would you automatically
24 give them the death sentence, or vote for the death
25 sentence?

1 A. I can't look at you and say one way or
2 the other with that one.

3 Q. There's no right or wrong answer.

4 A. I can't look at you and say one way or
5 the other and say yes to it. Because like I say, I
6 don't know anything about this case so anything about
7 a scenario --

8 Q. Let's not talk about this case, I'm
9 sorry.

10 A. If you can even put it in a scenario form
11 like that I can't answer you yes or no one way or the
12 other.

13 Q. Do you understand that life means life
14 without parole?

15 A. Yes.

16 Q. Okay. If you are in a situation where
17 you are in the minority and the majority voted a
18 particular way, would you hold to your views?

19 MR. BAILEY: Your Honor, I would object
20 to that question again, I think it -- the
21 answer would have to depend on what they were
22 discussing and what the facts were and I don't
23 think anybody really answered that question.

24 THE COURT: Yeah. I certainly understand
25 your objection. It's a little unfair because

1 on the one hand you want to know whether or
2 not she would stand up on what she believes is
3 right. On the other hand, if -- would she be
4 willing to consider what the views of the
5 other ones are and she might be able to change
6 her opinion, or they might change theirs for
7 her.

8 MR. BAILEY: There's no right answer for
9 this question.

10 THE COURT: That's right. It's a little
11 difficult. I know what he wants and I can
12 understand why he wants to ask it and I don't
13 really have a real problem with it except
14 that, as I state, he -- the way it's phrased
15 it kind of puts her on the spot because no
16 matter how she answers it it's not going to --
17 I don't know that it's going to give you a
18 clear indication of where she is.

19 Let me see, I'm going to sustain the
20 objection, but I'll try to ask it, maybe I can
21 ask it, I don't know. If I can't I'll let you
22 try again.

23 MR. BEAUFORD: Okay.

24 THE COURT: Let me just see what I can
25 do. What he really wants to know is that if

1 you have a strong, strong opinion about a
2 fact, are you going to stand on it?. And again
3 you don't know what the fact is, you know, but
4 are you willing to listen as the jurors
5 discuss the matter, or are you just one who
6 just simply won't even -- you know, once you
7 get your opinion you're going to stay there no
8 matter what? You see where I'm coming from?
9 I think that's kind of what he wants to know.

10 **THE JUROR:** Nine times out of ten if I
11 believe I'm right, I'm right. But there's
12 always that one time when I have to listen to
13 see if maybe I am wrong. That's the only way
14 I can answer that.

15 **BY MR. BEAUFORD:**

16 Q. It's fair to say that you would discuss
17 the matter with the other jurors and then revisit
18 your thinking, and then you may stay with it or not
19 stay with it depending on after you all discussed the
20 matter?

21 A. Right.

22 Q. Your views on the death penalty, how did
23 you come about those views?

24 A. Um....

25 Q. Have you always had those views, same

1 views you hold now?

2 A. I've always tried to be fair. And part
3 of being fair is listening at both sides of the
4 story. And once you form your own opinion you try to
5 figure out is that really fair or just the way you
6 feel. So when it comes to something like that you
7 always got to look at both sides of the story if it's
8 going to be fair.

9 Q. Okay. No further questions.

10 EXAMINATION

11 BY MR. BAILEY:

12 Q. I should have asked this earlier, but
13 since it's been discussed in a little more detail
14 now, the fact that you were a friend of Kenneth
15 Simmons, and you know I prosecuted him; is that
16 correct?

17 A. Right.

18 Q. That you may have been a witness and he
19 ended up getting the death penalty not too long ago,
20 would you hold that against me or the State or
21 anything because we're seeking the death penalty in
22 this case?

23 A. No.

24 Q. Thank you. That's all I have.

25 THE COURT: Thank you, ma'am. If you'll

1 just step out one second and I'll bring you
2 right back.

3 THE JUROR: Okay.

4 (Whereupon, the prospective juror leaves
5 the courtroom.)

6 THE COURT: All right, State?

7 MR. BAILEY: She's qualified.

8 THE COURT: Defendant?

9 MR. BEAUFORD: Qualified.

10 THE COURT: She's qualified, absolutely
11 qualified. You can bring her back in, please.
12 This is Ms. James, right?

13 (Whereupon, the prospective juror returns
14 to the courtroom.)

15 THE COURT: Ms. James, let me ask you,
16 ma'am, that's your home phone number?

17 THE JUROR: Yes.

18 THE COURT: What I'm going to do is this:
19 We're going through a great number of jurors,
20 I don't know how many we're going to have, 60
21 maybe. We're going to end up trying to get
22 about 35 jurors out of which we're going to
23 end up with 14 to actually hear the case. And
24 what -- and so it's going to take us today and
25 tomorrow and I don't know how long. What I

1 want to do is just have someone call you, tell
2 you what time to come back. Maybe Wednesday,
3 probably would be Wednesday or after. Can we
4 get you at that number at your house if we
5 call that number tomorrow night?

6 THE JUROR: You should be able to. If
7 not, there's an emergency phone number down
8 there.

9 THE COURT: The emergency phone number,
10 that's exactly right. Either one we can get
11 you and just tell you what time to come?
12 We're going to probably call tomorrow night
13 sometime.

14 THE JUROR: Okay.

15 THE COURT: Fair enough. Don't read the
16 newspaper, if you don't mind, don't watch the
17 news on television. I don't think there will
18 be anything on it, nobody's in here taking
19 notes. If by chance somebody happened to
20 write an article for the newspaper, just avoid
21 the newspaper for a couple days and so forth.

22 All right. Thank you, ma'am. Don't
23 discuss, you know, your testimony.

24 THE JUROR: Thank you.

25 THE COURT: Thank you.

1 (Whereupon, the prospective juror leaves
2 the courtroom.)

3 THE COURT: Pretty good juror.

4 (Julia S. Westbury, called as a potential
5 juror, having first been duly sworn, is
6 examined as follows:)

7 THE COURT: Ms. Westbury, how are you
8 doing? Secretary for D&S Sales. What is
9 that?

10 THE JUROR: It's a snack food industry,
11 but I don't work for him anymore.

12 THE COURT: You don't. What do you do
13 now?

14 THE JUROR: I don't work, I'm unemployed.

15 THE COURT: All right. And let me ask
16 you this: When did you -- I just noticed that
17 was on your job title, said four years
18 secretary there. When did that end?

19 THE JUROR: It's been recent.

20 THE COURT: Last couple, three weeks,
21 something like that, month?

22 THE JUROR: Yeah.

23 THE COURT: Have you served as a juror
24 ever before?

25 THE JUROR: No, sir.

1 THE COURT: In any case?

2 THE JUROR: No, sir.

3 THE COURT: This thing that you read back
4 there.

5 THE JUROR: Uh-huh (affirmative
6 response).

7 THE COURT: Tell me about that. Where do
8 you fall in that thing, one, two, or three?
9 Which kind of juror do you think you are? If
10 you want me to explain it, I'll explain it.

11 THE JUROR: No, I don't.

12 THE COURT: There aren't any right or
13 wrong answers.

14 THE JUROR: I understand. I probably
15 fall in number two.

16 THE COURT: Which would be that you would
17 always give a life sentence?

18 THE JUROR: Yeah.

19 THE COURT: No matter how bad the crime
20 you would never, ever give a death sentence?

21 THE JUROR: I couldn't live with that on
22 my conscience.

23 THE COURT: Even if it was Pee Wee
24 Gaskins you're saying you couldn't give a
25 death sentence?

1 THE JUROR: I don't think I could.

2 THE COURT: All right. Any questions?

3 MR. BAILEY: No questions.

4 EXAMINATION

5 BY MR. BEAUFORD:

6 Q. Ms. Westbury, my name is Percy Beauford.
7 You said that you couldn't give the death penalty,
8 but are you willing to listen to the facts and then
9 later rethink that position, or there's no fact
10 scenario that you would never give the death penalty?

11 A. I mean, I can't say ever, but, I mean --
12 I don't know that I could live with myself if I was
13 to vote to -- for someone to die. I don't think that
14 would be my choice to decide someone's death or to
15 live, you know what I'm saying? No, I could not live
16 with myself.

17 Q. I follow that. But if you were
18 instructed with the law and -- you found that the
19 individual's guilty of murder and you're instructed
20 with the law by this court and you had to choose and
21 one of the options could be death penalty based on
22 the fact scenario, would you be able to give the
23 death -- vote for the death penalty?

24 A. No.

25 MR. BEAUFORD: No further questions, Your

1 Honor.

2 MR. BAILEY: No questions.

3 THE COURT: All right. Ms. Westbury, I'm
4 going to excuse you, and I thank you very much
5 for your help. Thank you for coming back,
6 too.

7 THE JUROR: Thank you.

8 (Whereupon, the prospective juror leaves
9 the courtroom.)

10 THE COURT: I assume State or defendant
11 feels the juror is not qualified?

12 MR. BEAUFORD: That's correct, Your
13 Honor.

14 THE COURT: She's not qualified. She
15 won't do it.

16 Mr. Nichols.

17 (Thomas A. Nichols, Jr., called as a
18 potential juror, having first been duly
19 sworn, is examined as follows:)

20 THE COURT: Mr. Nichols, how are you
21 doing?

22 THE JUROR: Doing fine.

23 THE COURT: Good. Let me just ask you a
24 couple of questions. Let me first of all tell
25 you there are no, absolutely no right or wrong

1 answers, anything you tell me is fine, I don't
2 have a problem with whatever you tell me.

3 You're a chemical process operator.
4 What in the world do you do?

5 THE JUROR: We mix chemicals to make
6 products for different industries, the paper
7 industry, other manufacturing industries.

8 THE COURT: Where is that located?

9 THE JUROR: It's in North Charleston.

10 THE COURT: A-v-e-b-e?

11 THE JUROR: Yes, sir.

12 THE COURT: It says you've worked there
13 two years and a month; is that right?

14 THE JUROR: Yes, sir.

15 THE COURT: Your father-in-law is a
16 retired police officer, your brother was a
17 police officer for one to two years. Does
18 that -- would that fact prevent you from being
19 fair and impartial in this or any other case,
20 I mean the fact that you have people who are,
21 you know, related to you who were officers? I
22 mean, would that --

23 THE JUROR: No, sir. Knowing both of
24 them very well actually allowed me to see that
25 they're not infallible.

1 MR. BEAUFORD: Your Honor, we can't hear..

2 THE COURT: All right. He'll talk a
3 little louder. He says knowing both of them
4 as he does he's learned that police officers
5 are not infallible, you have to look at -- I'm
6 not putting words, I think that's what you
7 said.

8 THE JUROR: Yes, sir. That's what I
9 said.

10 THE COURT: Let me ask you this: This
11 paper that I gave you all to read back there,
12 tell me where do you think you fall, one, two,
13 or three as far as a juror on that?

14 THE JUROR: I think I would be in the
15 third group.

16 THE COURT: Which basically says what,
17 sir?

18 THE JUROR: It says that once the guilt
19 would be established you would base choosing
20 the death penalty or life imprisonment based
21 on the letter of the law, the evidence as it
22 relates to how the law reads and what the
23 standards are.

24 THE COURT: In other words, basically
25 what you're saying is you're not a fellow who

1 says, well, you found a person guilty of
2 murder, therefore I'm going to give a death
3 sentence every time?

4 THE JUROR: No, sir. There's no every in
5 either direction.

6 THE COURT: No every in life or no every
7 for death?

8 THE JUROR: That's true.

9 THE COURT: But basically you could, if
10 the circumstances warranted, you could give a
11 death sentence, or on the other hand if you
12 felt like the circumstances prevented it or
13 leaned the other way you could give a life
14 sentence, it just depends on the
15 circumstances?

16 THE JUROR: Yes, sir. I believe so.

17 THE COURT: And could you sign -- if you
18 found for -- if you found that a person ought
19 to be given a death sentence, could you sign a
20 verdict form that said, along with all of the
21 other jurors, 12 jurors, that death was the
22 verdict? In other words, could you sign a
23 form to say that if you voted that way?

24 THE JUROR: Yes, sir. I believe I could.
25 It would be extremely difficult, but I believe

1 I could.

2 THE COURT: All right, sir. And by the
3 same token if you found that life sentence is
4 the more appropriate sentence, you would also
5 vote that way?

6 THE JUROR: Yes, sir.

7 THE COURT: All right, sir. I'm not sure
8 which one.

9 MR. BAILEY: I think it's mine.

10 EXAMINATION

11 BY MR. BAILEY:

12 Q. Mr. Nichols, I'm Walter Bailey. Like the
13 judge says, there's no right or wrong answers, this
14 is the only chance we get to talk to jurors before we
15 actually pick a jury and start this case. Let me ask
16 you this, first of all: Do you have any religious
17 beliefs about the death penalty one way or the other?

18 A. No. I don't believe that the Bible
19 restricts us or encourages us one way or the other.
20 I believe it states that we are to abide by the
21 authority placed in our lives.

22 Q. I understand. And as far as your
23 personal beliefs, is the death penalty something that
24 you've thought about in the past just in general
25 terms?

1 A. I've thought about how difficult it is to
2 have that kind of law.

3 Q. Okay.

4 A. Sometimes it's necessary, I guess. I
5 don't see that side of life very often, but, you
6 know, it wouldn't be there if it wasn't necessary.

7 Q. All right, sir. And you understand we
8 wouldn't even get to that point unless and until the
9 jury convicted that person of murder in the first
10 part of the trial?

11 A. Yes, sir.

12 Q. So anytime a jury in South Carolina is
13 deciding life or death, that means you've got a
14 convicted murderer you're dealing with.

15 A. Yes, sir.

16 Q. The purpose of that second trial is to
17 allow additional evidence to come out that might bear
18 on the punishment and the judge would instruct the
19 jury.

20 A. Yes, sir.

21 Q. You understand the judge doesn't make the
22 decisions?

23 A. It's up to the jury.

24 Q. If we get to that point the jury makes a
25 decision. Whatever that jury says is going to

1 happen. If the jury votes for life, the judge would
2 order life and he would serve life without parole.
3 If the jury unanimously votes for the death penalty,
4 the judge would order that, he'll be executed.

5 A. Yes, sir.

6 Q. If the case is bad enough, could you vote
7 for the death penalty knowing that sentence would
8 actually be carried out and that person would be
9 executed?

10 A. Yes, sir.

11 Q. And if the other 11 jurors voted the same
12 way, unanimously voted on the death penalty, could
13 you sign your name to that verdict form the judge
14 asked you about, along with the other jurors?

15 A. Yes, sir.

16 Q. I believe you said that it would be
17 extremely difficult to sign that form, but we're
18 presupposing you've already voted for the death
19 penalty?

20 A. Yes, sir.

21 Q. Is there anything about the physical act
22 of signing that paper that would hold you back if
23 you'd already made that decision?

24 A. No, sir. A vote in that direction would
25 be the same as signing your name, I would believe.

1 Q. All right, sir. As far as the next thing
2 that would happen, if the jury votes for the death
3 penalty and signs the verdict form, then they come
4 out in the open court, the decision would be
5 announced by the foreman and each juror would be
6 asked to stand up and acknowledge out loud that's
7 their verdict. Could you do that if it was your
8 verdict?

9 A. Yes, sir.

10 Q. Okay. The jury's going to be put in a
11 motel until this trial is over, it's going to be
12 roughly a week. In the daytime you would be here
13 hearing the case, in the nighttime you would be in
14 the motel. Is that something you could handle if you
15 were picked on the jury as far as your work and your
16 family?

17 A. I could handle it. I don't like being
18 away from my family, it's part of the responsibility.

19 Q. Thank you, sir. I think that's all I've
20 got. Thank you very much.

21 THE COURT: Mr. Beauford?

22 EXAMINATION

23 BY MR. BEAUFORD:

24 Q. Mr. Nichols, my name is Percy Beauford.
25 How did you come out, to formulate your opinion on the

1 death penalty?

2 A. My opinion?

3 Q. Whether you're for or against it.

4 A. I guess it's just my personal feelings.

5 I think life is precious, it's something given to us
6 by the Lord, but sometimes I guess it becomes
7 necessary because of the way society heads because of
8 the times.

9 Q. Other than the occupation that you listed
10 here, have you ever worked any other place?

11 A. Yes, sir. I managed convenience stores
12 for five years, and before that I was in the alarm
13 intrusion protection business for about four and a
14 half or five years.

15 Q. And where did your father-in-law and
16 brother work, what police agency?

17 A. The state of West Virginia. They were
18 city police officers in Martinsburg, West Virginia.

19 Q. How long have you lived here in South
20 Carolina?

21 A. Nine years.

22 Q. And if you found that someone
23 intentionally killed someone with malice
24 aforethought, meanness, or depraved heart, would you
25 automatically vote for the death penalty?

1 A. No, sir. People are capable of a lot of
2 things and sometimes it's the circumstances that have
3 to be evaluated to determine --

4 Q. Okay.

5 A. -- the justification for that kind of
6 thing.

7 Q. And you understand that in South Carolina
8 life, a life sentence means life without parole?

9 A. Yes, sir.

10 Q. If you were on a jury and the majority of
11 the jury was voting one way and you wanted to vote
12 another way but you were not in the majority, would
13 you just give up your vote to go along with the
14 majority just to get the case over?

15 A. No, sir.

16 MR. BEAUFORD: Nothing else.

17 MR. BAILEY: No further questions.

18 THE COURT: Would you mind stepping out
19 just one minute?

20 (Whereupon, the prospective juror leaves
21 the courtroom.)

22 THE COURT: Mr. Nichols, the State?

23 MR. BAILEY: Qualified.

24 MR. BEAUFORD: Qualified, Your Honor.

25 THE COURT: Absolutely qualified.

1 (Whereupon, the prospective juror returns
2 to the courtroom.)

3 THE COURT: Mr. Nichols, your phone
4 numbers and so forth are correct there?

5 THE JUROR: Yes, sir.

6 THE COURT: What I'm going to do, we're
7 going through 60 jurors, try to get 35, out of
8 the 35 narrow it to 14.

9 THE JUROR: Yes, sir.

10 THE COURT: What I'm going to do, we
11 don't know how long this process is going to
12 take us, of course. What I would like to do
13 rather than us asking you come back is let us
14 call you, maybe tomorrow night.

15 THE JUROR: Certainly.

16 THE COURT: Then we could say to you we
17 need you to bring thus and so, come Wednesday
18 morning, Thursday, whatever day it is. And it
19 will probably be no sooner than tomorrow night
20 before we call you, but we can get in touch
21 with you at one of these numbers?

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you very much. No
24 newspapers, if you don't mind. I don't think
25 there's anything, no TV, of course don't

1 discuss the case other than telling your
2 family obviously what you're going to be
3 called to do, but -- you may be called to do,
4 but don't get into the facts of the case with
5 them.

6 THE JUROR: Yes, sir.

7 THE COURT: Thank you, sir.

8 THE JUROR: Thank you.

9 (Whereupon, the prospective juror leaves
10 the courtroom.)

11 (Kevin J. McCann, called as a potential
12 juror, having first been duly sworn, is
13 examined as follows:)

14 THE COURT: Mr. McCann.

15 THE JUROR: Your Honor.

16 THE COURT: How are you doing, sir?

17 THE JUROR: Good.

18 THE COURT: Let's see. I'm going to just
19 ask you, mortgage loan?

20 THE JUROR: Broker.

21 THE COURT: Say again?

22 THE JUROR: Mortgage loan broker, I'm the
23 owner.

24 THE COURT: You're the owner of the
25 business. All right. Very good. And that's

1 a year and a half you've been doing that, that
2 kind of business. Before that you sold life
3 insurance, or what was that?

4 THE JUROR: Well, I've been the owner of
5 this company for a year and a half, but I've
6 been in that business.

7 THE COURT: For a long time.

8 THE JUROR: For about five years as a
9 manager or supervisor.

10 THE COURT: I see.

11 THE JUROR: Before that it was insurance.

12 THE COURT: You're from New York
13 originally, born there and came here from New
14 York?

15 THE JUROR: Upstate New York.

16 THE COURT: Upstate New York?

17 THE JUROR: About almost five years ago,
18 Your Honor.

19 THE COURT: What do you think about hot
20 Charleston compared to cool upstate New York?

21 THE JUROR: I like it. Once you get used
22 to the weather it's okay, the heat.

23 THE COURT: I would like to go up there
24 sometime. I might have to take a trip and
25 stay up there.

1 Let me ask you this, sir: You read
2 that. Have you ever served as a juror before?

3 THE JUROR: No, I haven't.

4 THE COURT: You read that thing?

5 THE JUROR: Yes, I have.

6 THE COURT: Tell me what group you feel
7 like you might fall into, first, or second, or
8 the third.

9 THE JUROR: Well, you should fall into
10 the third.

11 THE COURT: Well...?

12 THE JUROR: Third. I wouldn't make my
13 mind up until I heard all the evidence from
14 the defense and from the district attorney.

15 THE COURT: Well, let me ask you this:
16 When you say you should fall into that group,
17 again, there really aren't any right or wrong
18 answers because some people, you know, come in
19 and say, well, if it's a murder as far as I'm
20 concerned death penalty. Others come along
21 and say if it's a murder I don't care, I'm
22 never going to give a death penalty, I'm going
23 to give life, I don't believe in the death
24 penalty. And of course others say I could
25 give life or I could give death just depends

1 on the circumstances. Is that really where
2 you come from?

3 THE JUROR: No. I think it's a
4 case-by-case situation. I'm not pro-life or
5 pro-death penalty, or pro-capital punishment.
6 I think it's a case by case where if the
7 circumstances warrant if there's enough
8 evidence there for the death penalty, then you
9 should want the death penalty. If there
10 isn't, then life imprisonment.

11 THE COURT: Of course you understand that
12 what we're talking about would be -- obviously
13 would be someone whom the jury has already
14 convicted of murder, so you're really talking
15 about a convicted murderer before you even get
16 to a sentencing phase, obviously?

17 THE JUROR: Right.

18 THE COURT: And so what you would do as a
19 juror after, if the jury -- of course there's
20 a big if because the State has got to prove
21 the guilt to begin with, but just assuming
22 that that has happened, you're saying that
23 you're willing to listen to all of the
24 evidence in aggravation and in mitigation and
25 depending on what that shows then you could,

1 if the circumstances warrant, give life or
2 vice-versa, give death, just depends on the
3 circumstances?

4 THE JUROR: Yes.

5 THE COURT: Just depends on the case.
6 And to the extent that you can sign along with
7 12 -- 11 other jurors a death sentence, I
8 mean, sign your name on a sheet, would there
9 be any --

10 THE JUROR: That's kind of scary. I've
11 never been in that situation before.

12 THE COURT: Yes, sir.

13 THE JUROR: But if I was picked to be a
14 juror I guess I would have to take that oath
15 to do that. But to say I would really want to
16 do that, it's kind of hard to say that.

17 THE COURT: Exactly.

18 THE JUROR: I've never been in that
19 position before.

20 THE COURT: Exactly. I guess the point
21 of it is if all 12 of you agreed that the
22 State had proven the aggravating circumstances
23 beyond a reasonable doubt and so forth, and if
24 you found as the law might allow, if you found
25 that there was -- that the death sentence was

1 the appropriate sentence, then you would be
2 required to sign your name.

3 THE JUROR: Yes.

4 THE COURT: You know, along with all the
5 other jurors. I guess my question is if you
6 all found that, if you found that, is there
7 anything about signing the paper itself that
8 would prevent you from doing so?

9 THE JUROR: No. No.

10 THE COURT: And by the same token if you
11 found otherwise, you would simply say I do not
12 believe life is the appropriate --

13 THE JUROR: Yes.

14 THE COURT: What about the fact, I notice
15 I believe it's Roman Catholic, is it?

16 THE JUROR: I'm Roman Catholic, yes.

17 THE COURT: Would that, would your
18 religion or religious beliefs prevent you from
19 either imposing the death sentence because of
20 your Catholicism, or vice-versa, I mean, would
21 that have any bearing on it?

22 THE JUROR: No. Actually because I'm for
23 abortion, but I'm also open to death penalty
24 if it warrants, so it's kind of like both
25 cases are the Catholic church kind of frets

1 against both.

2 **THE COURT:** Right.

3 **THE JUROR:** But my religion is not that
4 strong that if the evidence was there, the
5 other jurors agreed on it....

6 **THE COURT:** Let me ask you about that
7 because that's an interesting point when you
8 say if other jurors said so. Are you saying
9 then that you would -- are you saying that if
10 the others go --

11 **THE JUROR:** No. I'm not saying I'm being
12 swayed with it, but, I mean, if 11 jurors said
13 yes and I also said yes, then it would be all
14 of us would agree.

15 **THE COURT:** Would it be fair -- and
16 again, there are no right or wrong answers, I
17 want you to just, you know, tell me the truth
18 about this business. Would it be fair to say
19 that you maybe in some instances, depending on
20 what the facts are, that you might stand on
21 your own and not allow others to sway you, but
22 then there may be other circumstances where
23 you would be willing to say, well, I need to
24 listen to you all, I'm not so sure that I'm
25 correct on that?

1 THE JUROR: I know what you're saying.

2 THE COURT: You see where I'm coming
3 from?

4 THE JUROR: Sure. Exactly. No, I would
5 be making my own mind up not letting other
6 jurors convince me one way or the other,
7 guilty, not guilty, death penalty, life in
8 prison. All people are supposed to have their
9 own mind open when they go in and supposed to
10 make their own decisions. I've never been on
11 a jury before so this is all new to me.

12 THE COURT: I understand all this, it's
13 very awkward I'm sure for you all to be
14 brought in and asked these questions.

15 Have you thought much about the
16 death penalty before today? I mean, have you
17 ever really sat down and thought about what if
18 I'm a juror in a death penalty case?

19 THE JUROR: Never thought about being on
20 a jury. Just talking indirectly, politics,
21 maybe with a relative about the death penalty,
22 but never, ever as a juror, no.

23 THE COURT: Mr. Beauford?
24
25

EXAMINATION

BY MR. BEAUFORD:

Q. Mr. McCann, my name is Percy Beauford, I have a few questions. How did you develop your views or opinion about the death penalty?

A. How did I develop them?

Q. Yes.

A. Good question. I don't think it's from my family background. I think maybe it's just from society today, the way things are, is generally. I'm just very opinionated and, like I say, I'm not for the death penalty or against the death penalty, but it would have to be a case-by-case situation. So as far as my views on it I don't really know what you mean.

Q. If you could, how would you view yourself, a leader or a follower?

A. On the death penalty I'm not a leader. But in general I am a leader because I've always been in management in whatever business I've done. But as far as the death penalty goes, I've never been a leader to talk about the death penalty to be an advocate against or an advocate for.

Q. If the jury finds that the defendant intentionally killed someone with malice

1 aforethought, meanness, with a depraved heart, would
2 you automatically return a verdict for the death
3 penalty?

4 A. Automatically?

5 Q. Yes.

6 A. If he was found guilty?

7 Q. Yes.

8 A. Well, from what the judge was saying
9 before there's two different sets, there's the guilty
10 and then there's the death penalty part of it. And I
11 didn't know there was two parts before.

12 Q. But --

13 A. So I would have to know the evidence
14 about the second part before I could say life
15 imprisonment or death penalty.

16 Q. So you look at other factors in
17 determining whether death or life in the second
18 phase?

19 A. Well, from what I've read and from what
20 the judge said that's what you have to do. I mean, I
21 never knew that before, I thought that was guilty and
22 then there was guilty with the death penalty, I
23 didn't know you had to go back into recess and look
24 at the other factors involved.

25 Q. You're saying that's what you have to do,

1 but you're willing to do, follow the instructions of
2 the court?

3 A. Yes.

4 Q. You understand that life means life
5 without parole?

6 A. No, I didn't know that. No one mentioned
7 that before, they just said life imprisonment.

8 Q. Have you ever been the victim of a
9 violent crime?

10 A. No, I haven't.

11 Q. Any family members?

12 A. No.

13 Q. And you understand that murder is not an
14 act of manslaughter, or accident, or self-defense,
15 you understand that?

16 A. Is it premeditated murder? Or what are
17 we talking about? Just talking murder?

18 Q. Murder. You understand it's not an
19 accident, it's not manslaughter, it's not something
20 in self-defense?

21 A. Yes.

22 Q. Okay. No further questions.

23 EXAMINATION

24 BY MR. BAILEY:

25 Q. Mr. McCann, I'm Walter Bailey, I'll be

1 prosecuting the case, I need to ask you a few more
2 questions. I realize you've answered a lot of them
3 already, but this is the only chance we get to talk
4 to potential jurors.

5 Now that you know that when we're
6 talking about life it's life without parole, if you
7 had known that before you answered these questions
8 would your answers still be the same?

9 A. Yes. It was never mentioned before it
10 was life without parole.

11 Q. So you understand that in South Carolina
12 if we reach that second part of the trial the judge
13 doesn't make the decision on the penalty, the jury
14 makes that decision, all the judge does is order that
15 sentence to be carried out?

16 A. Uh-huh (affirmative response).

17 Q. So if the jury votes for life, the judge
18 would order life and he would serve life without
19 parole. If the jury votes unanimously for the death
20 penalty, the judge would order that to happen and it
21 would happen. So if the case was bad enough could
22 you vote for the death penalty knowing that sentence
23 would be actually carried out?

24 A. If the evidence was there, yes.

25 Q. All right, sir. If the other 11 jurors

1 felt the same way you did and all 12 unanimously vote
2 for the death penalty, you told the judge you could
3 sign that death verdict form knowing that as a result
4 of that form being signed that person would be
5 executed; is that correct?

6 A. Yes.

7 Q. And you could stand up and announce that
8 decision if it was your decision?

9 A. Yes.

10 Q. All right, sir. And in your
11 questionnaire you indicated some job problems since
12 you got a one -- I think a one-man business?

13 A. Well, it's just three or four of us, but
14 I basically run the business.

15 Q. Okay.

16 A. For me I tried to -- I'll be honest with
17 you, I tried to get out of it. I didn't know it was
18 a murder trial, first of all, I didn't know what kind
19 of trial it was.

20 Q. Right.

21 A. Because losing a week of business, you
22 know, in this type of business it could be a lot of
23 money.

24 Q. Right.

25 A. But I understand if I didn't get picked

1 to be on this jury that I would still be in the jury
2 pool for another time. So sooner or later I have to
3 make my obligation to the county, to the state to
4 serve. So if I'm going to serve I'm going to serve
5 to the best of my ability.

6 Q. And in this kind of a case where we're
7 seeking the death penalty the jury is put in a motel
8 while the trial goes on.

9 A. So the jurors are --

10 Q. Sequestered. And we're looking at
11 roughly, don't told me to it, it could be less or
12 more, roughly a week, where you would be in the motel
13 during the night, you would be here in the daytime,
14 we would go through the weekend if that's necessary
15 to get it finished with. But is that going to create
16 any kind of undue hardship on you as far as your
17 business or your family life? I know it isn't
18 something --

19 A. I'm going on vacation in the middle of
20 June and I already paid for my vacation, so I hope
21 it's not in the middle of June.

22 Q. It won't be the middle of June.

23 A. It's a non-refundable vacation type of
24 thing. I'm sure my wife won't be happy in it, but,
25 honestly, I would not want to be sequestered for a

1 week, but if I had to be I understand the situation.

2 Q. Okay. And as far as any kind of
3 particular problems going on at work that -- of
4 course it doesn't get any more serious than what
5 we're doing here today, it would require 100 percent
6 concentration.

7 A. Sure. But are you allowed to make phone
8 calls after you get out of the jury --

9 THE COURT: I'm going to allow that. I'm
10 going allow phone calls to be made. I'll say
11 this, though, it's not going to be one of
12 these deals where you run out every ten
13 minutes.

14 THE JUROR: I understand that.

15 THE COURT: Obviously what I intend to do
16 is the SLED agents, South Carolina Law
17 Enforcement Division agents, are going to be
18 in charge, you'll hear what I tell them,
19 they're going to be in charge. They stay with
20 you all, you know, there's a room, you'll
21 watch TV, there's a room with a telephone and
22 you can certainly make phone calls. Business
23 kind of things.

24 THE JUROR: I understand.

25 THE COURT: I guess what he's asking is

1 will it cause you a problem such that at, you
2 know, 11:00 in the morning you're thinking I
3 need to be making a phone call for this reason
4 or that reason and he's in the middle of one
5 of his witnesses or the other side is.

6 THE JUROR: I totally understand what
7 you're saying.

8 THE COURT: Do you know where I'm coming
9 from?

10 THE JUROR: My mind would have to be -- I
11 understand that. My mind is almost always on
12 my business because I own the business, but I
13 have other people that I could -- if I had to,
14 I mean, you know, but as long as I can make
15 phone calls after the trial, after 4:30, 5:00,
16 when all of this stops to catch up with the
17 day's work.

18 MR. BAILEY: Okay. Mr. McCann, that's
19 all I've got. Thank you very much.

20 THE COURT: Would you mind, just right
21 there in the hall just for a minute and then
22 I'll bring you right back.

23 (Whereupon, the prospective juror leaves
24 the courtroom.)

25 MR. BAILEY: Qualified.

1 MR. BEAUFORD: Qualified.

2 THE COURT: I'll tell you what, you all
3 are on a roll. I don't know what these
4 people -- they sure act to me like they are --
5 I mean, we might hit some along, but the ones
6 I've heard are sure sincere about how they're
7 answering these questions, looks like to me.
8 I'm sort of impressed with them. I didn't
9 know St. George, and I'm used to Williamsburg
10 County.

11 We sent about nine out of ten out of
12 the courtroom in Williamsburg, they won't -- I
13 don't think they've ever had a fleeting
14 thought about the death penalty. I'm very
15 impressed with these people. This man's
16 qualified, he's absolutely qualified.

17 (Whereupon, the prospective juror returns
18 to the courtroom.)

19 THE COURT: Mr. McCann, your phone
20 number, is that correct?

21 THE JUROR: That's my home, that's my
22 vehicle.

23 THE COURT: What I'm going to do, we're
24 going through a lot of jurors as you know, we
25 got 60 or more. I'm going to try to get 35

1 who I feel are qualified from which 14 are
2 drawn, 12 jurors, two alternates. So my point
3 is simply this: Rather than ask you to come
4 back, I'm going to let you go, we'll call you.
5 In other words, it will be tomorrow night,
6 eight o'clock tomorrow night, something like
7 that, maybe Wednesday. We will have someone
8 call you and say we would like for you to
9 come, be here at whatever certain time.

10 **THE JUROR:** Is there any way of getting a
11 little more definite? I mean, I'm trying to
12 make my business appointments at nighttime for
13 the next couple days, is there any way you can
14 tell me if it's going to be tomorrow night or
15 Wednesday night?

16 **THE COURT:** It's almost impossible. I
17 can do this: I don't mind if you want to call
18 the clerk's office late this afternoon. The
19 reason that I don't know is because, you see,
20 you're in the second group, you know, the
21 second group and we are just to the end of
22 that so we don't have but six or eight jurors
23 right now who I feel are qualified. I don't
24 know what the count is, but I've got to have
25 35. I don't know how many we're going to get

1 this afternoon, and until we do them we won't
2 know. And until I start tomorrow I really
3 won't know, but I'm satisfied it's going to be
4 at least tomorrow night at the earliest before
5 I can tell you that we'll need you Wednesday.
6 I think, I personally think we can get a jury
7 in two days.

8 **THE JUROR:** So I have a six o'clock
9 appointment and a seven o'clock tomorrow night
10 for my job.

11 **THE COURT:** Go ahead and go. Six, seven
12 o'clock tomorrow night, no problem. We'll
13 call you after that time. And I think that
14 Wednesday is the day.

15 **THE JUROR:** Okay.

16 **THE COURT:** Just the way it looks right
17 now. And it may be Thursday, but it looks
18 like Wednesday to me. There's no one here
19 making any report for the TV or for
20 newspapers, but if you don't mind, sir, just
21 avoid those newscasts. And obviously when you
22 go home you're going to need to tell your
23 family that you may be involved, but please
24 don't get into the facts of the case. Or I
25 know you don't know anything about it, but all

1 I'll say is you need to tell your people what
2 you may be involved in, that you can't discuss
3 the case. And we will call you and give you
4 instruction as to exactly, you know, what you
5 need to bring, when you need to come and that
6 sort of thing.

7 THE JUROR: This will go through Memorial
8 Day weekend then, I guess?

9 THE COURT: Well, there's a possibility.
10 You know, I'm an optimist, I hope not. But I
11 think it will go through the weekend. I don't
12 know that it will go to Memorial Day. I think
13 it's going to go through the weekend at least,
14 I feel like it will. If we start Wednesday,
15 then I think it's going to go through Sunday,
16 at best. That's the way I see it.

17 But, again, you know, there are a
18 lot of witnesses and I don't have the
19 slightest idea how long, you know, each person
20 is going to be questioned or anything like
21 that. Just what we try to do is go long days
22 and get through. And if it takes, you know,
23 Friday, Saturday, Sunday, we just try to get
24 done rather than hold jurors out of work.

25 THE JUROR: Okay.

1 THE COURT: I don't mind telling you
2 California, other places, they go two or three
3 hours a day, we just go ten hours a day, we're
4 going to go until we finish.

5 THE JUROR: That's better to me.

6 THE COURT: That's just the way to handle
7 it in my opinion, that's just the way we do it
8 in this state.

9 THE JUROR: Thank you very much.

10 THE COURT: Thank you, sir.

11 (Whereupon, the prospective juror leaves
12 the courtroom.)

13 THE COURT: Come on in, Mr. Aiken. How
14 are you doing, sir?

15 (Reginold T. Aiken, called as a potential
16 juror, having first been duly sworn, is
17 examined as follows:)

18 THE COURT: I just want to ask you a
19 couple of questions. Tell me about this
20 machine operating business, what is --

21 THE JUROR: Linq Industrial.

22 THE COURT: Linq. What sort of machine
23 is that?

24 THE JUROR: It's like --

25 THE COURT: Talk in that microphone.

1 THE JUROR: It's a machine like yarn back
2 on the carpet, carpet backing.

3 THE COURT: Okay. Yarn?

4 THE JUROR: Yeah.

5 THE COURT: Okay. I'm with you. You got
6 to keep the thing running?

7 THE JUROR: Yeah.

8 THE COURT: If you don't, somebody will
9 want to talk to you?

10 THE JUROR: Yeah. Right.

11 THE COURT: And you've been working there
12 how long, sir?

13 THE JUROR: Three years. At the end of
14 this month three years.

15 THE COURT: All right, sir. And have you
16 ever served as a juror before?

17 THE JUROR: No, sir.

18 THE COURT: Let me ask you this: You
19 read that piece of paper about this, the sheet
20 back there.

21 THE JUROR: Right.

22 THE COURT: Can you tell me what group
23 you fall into, one, two, or three? You want
24 me to explain it to you? I'll explain it.

25 THE JUROR: Yeah.

1 THE COURT: You want me to explain it to
2 you? Let me tell you what it says, might
3 speed it up for you. The State has to prove
4 someone guilty beyond a reasonable doubt.
5 You've heard that before.

6 THE JUROR: Right.

7 THE COURT: Before a jury can find
8 somebody guilty, right?

9 THE JUROR: Right.

10 THE COURT: If you are a juror, if you
11 were serving with 11 other people, 12 of you,
12 you were one of them, you were on that jury
13 and the State proved to all of you that a
14 person was guilty of murder, okay, if the
15 State did that, would you be a person who
16 would say, well, the Defendant's guilty of
17 murder, I'm going to give him the death
18 penalty every time, he's guilty of murder, he
19 gets death?

20 Or are you a juror who would say,
21 well, even if he's guilty of murder I would
22 never give death, I always give life, I don't
23 believe in the death penalty, I'm going to
24 give the defendant a life sentence always?

25 Or, are you a juror who would say,

1 well, I could give death, I could give life,
2 but it depends on the circumstances, it
3 depends on what I hear beyond that business of
4 murder?

5 Where are you, which one?

6 THE JUROR: Life.

7 THE COURT: You would always give life?

8 THE JUROR: Yes.

9 THE COURT: Never could give a death
10 sentence?

11 THE JUROR: No, sir.

12 THE COURT: Under no circumstances would
13 you give death?

14 THE JUROR: No, sir.

15 THE COURT: No matter how bad the
16 defendant was?

17 THE JUROR: I would just give him life.

18 THE COURT: No matter how terrible the
19 crime was, rape, murder, robbery, no matter
20 what it was you just could not give a death
21 sentence, you would give a life sentence every
22 time?

23 THE JUROR: Yes, sir.

24 THE COURT: That's what you're saying.

25 All right, sir. All right.

1 MR. BAILEY: Your Honor, just a second.

2 (Pause in proceedings.)

3 EXAMINATION

4 BY MR. BAILEY:

5 Q. Mr. Aiken, I'm Walter Bailey, and like
6 the judge said, there are no right or wrong answers
7 and everybody in this courtroom respects your opinion
8 just like we respect everybody else's opinions that
9 is being called out here, so don't give me an answer
10 just because you think I want to hear it.

11 But based on what you told the judge
12 it's my understanding that you're the number two type
13 of juror that doesn't believe in the death penalty
14 and for that reason you could never sign your name to
15 a piece of paper that would result in somebody dying;
16 is that correct?

17 A. Right.

18 Q. Okay. Now, do you attend a church around
19 here?

20 A. Ridgeville.

21 Q. Okay. What church do you go to?

22 A. Bethel AME.

23 Q. Okay. And your beliefs in regard to the
24 death penalty, are those religious beliefs, do you
25 think it's a sin to take somebody's life?

1 A. No, sir.

2 Q. Okay. Is the death penalty something
3 you've thought about before, before you found out
4 that you might be a juror in this kind of a case?

5 A. Yes, sir.

6 Q. And did you feel the same way then that
7 you feel now, that you just didn't believe in the
8 death penalty?

9 A. No, sir.

10 Q. But as you sit here now it's your
11 position that you're against the death penalty for
12 that reason and you could never vote for it; is that
13 correct?

14 A. Well, I didn't say I would never vote for
15 it.

16 Q. Okay. I'm sorry, I thought that's what
17 you told the judge. And, again, I'm not trying to
18 make you give me any particular answer, I'm just
19 trying -- this is the only chance we get to talk to
20 jurors before we pick a jury. And we're not testing
21 you, we're just trying to find out exactly how you
22 feel.

23 The number two type juror that you
24 said you were is the kind of juror that does not
25 believe in the death penalty, and therefore even

1 though a person's committed murder he would never
2 vote for the death penalty. If he had a choice
3 between life in prison and the death penalty he would
4 always vote for life. Is that what you told the
5 judge that you were?

6 A. Yes, sir.

7 Q. Is that what you're saying you are now, a
8 number two juror?

9 A. Yes, sir.

10 Q. Okay. Thank you.

11 MR. BAILEY: That's all I have from the
12 State.

13 EXAMINATION

14 BY MR. BEAUFORD:

15 Q. Mr. Aiken, my name is Percy Beauford, I
16 have a few questions. If someone intentionally
17 killed someone with malice aforethought, meanness, or
18 depraved heart --

19 MR. BAILEY: Your Honor, I want to object
20 to him using meanness when he defines murder,
21 he's done that several times, it's not part of
22 the definition. I don't want to be picky,
23 but....

24 THE COURT: I know. Malice aforethought
25 is really ill will, hatred, or a person who

1 has a heart bent on mischief. I don't know
2 that I could give you the legal definition of
3 it; I don't mind reading it to you. I don't
4 think meanness is one word that's included in
5 there, but depraved heart I think is.

6 MR. BEAUFORD: Yes, sir.

7 THE COURT: I don't mind at all you using
8 that part of it, I think that's in there. If
9 you want me to give you the definition before
10 we go to the next one I don't mind doing that
11 either.

12 MR. BEAUFORD: No, Your Honor.

13 BY MR. BEAUFORD:

14 Q. If someone intentionally kills someone
15 with malice aforethought or depraved heart, would you
16 automatically give them life as opposed to death if
17 that were one of your choices?

18 A. Yes, sir.

19 Q. If there was a scenario where someone
20 killed a family member and you were sitting on a
21 jury --

22 MR. BAILEY: Objection. Your Honor, he
23 would never be in that position to judge a
24 family member so I think it's an unfair
25 question.

1 THE COURT: I sustained. You can
2 rephrase that. Rephrase it.

3 BY MR. BEAUFORD:

4 Q. So you're saying there's no conceivable
5 situation where you would render a vote for the death
6 penalty?

7 A. No, sir.

8 Q. Okay.

9 MR. BEAUFORD: No further questions.

10 THE COURT: In other words, there's just
11 not a case, you just can't think of a case.
12 Even the worst case you can think of you
13 simply wouldn't give a death penalty, you
14 would just give a life sentence, that's what
15 you're telling me?

16 THE JUROR: Yes, sir.

17 THE COURT: All right, sir. Let me ask
18 you to step right there in the hall just a
19 minute.

20 (Whereupon, the prospective juror leaves
21 the courtroom.)

22 THE COURT: State?

23 MR. BAILEY: Not qualified.

24 THE COURT: Defendant?

25 MR. BEAUFORD: Not qualified.

1 THE COURT: He's not qualified. He ended
2 up right where he started off. He's not
3 qualified.

4 (Whereupon, the prospective juror returns
5 to the courtroom.)

6 THE COURT: Mr. Aiken, thank you, sir.
7 You can go home, don't have to worry about
8 Dorchester County Courthouse. Thank you very
9 much for your help today.

10 THE JUROR: Okay. Thank you.

11 THE COURT: You don't have to come back.
12 Thank you, sir.

13 (Whereupon, the prospective juror leaves
14 the courtroom.)

15 Ms. Lane, how are you doing?

16 THE JUROR: Pretty good.

17 THE COURT: Come right on, ma'am.

18 (Barbara J. Lane, called as a potential
19 juror, having first been duly sworn, is
20 examined as follows:)

21 THE COURT: You've been in the home
22 taking care of five children I see?

23 THE JUROR: Right.

24 THE COURT: You've got enough to do.
25 Looks like to me you had enough to do. But

1 you've also worked in real estate?

2 THE JUROR: Right. That was a long time
3 ago.

4 THE COURT: That was a while ago?

5 THE JUROR: Uh-huh (affirmative
6 response).

7 THE COURT: Your son, police department,
8 your father you say was a New York state
9 police officer. Would that, would that fact,
10 the fact that you've got family members who
11 were in law enforcement at some point in time,
12 would that prevent you, do you feel like, from
13 being fair and impartial in this case?

14 THE JUROR: That wouldn't change
15 anything. My father, it was when I was very
16 young, and my son he was just in -- he was
17 just helping, you know, with the police, you
18 know, he wanted to work, you know, I think
19 auxilliary so it really didn't affect me at
20 all.

21 THE COURT: I see. All right. Have you
22 served as a juror before?

23 THE JUROR: Yes. Just, you know, the
24 minor court in Summerville.

25 THE COURT: In Summerville in

1. magistrate's court?

2. THE JUROR: Right.

3. THE COURT: And I see you were born
4. there?

5. THE JUROR: Right.

6. THE COURT: You lived several places,
7. Florida, California, New York, and now
8. Dorchester County.

9. THE JUROR: Yes, for a long time.

10. THE COURT: You've been here how long,
11. ma'am?

12. THE JUROR: Probably about 32 years, 33
13. years.

14. THE COURT: Well, this is home then,
15. really?

16. THE JUROR: Right.

17. THE COURT: Well, let me ask you this:
18. You read that sheet I had for you all back
19. there?

20. THE JUROR: Right.

21. THE COURT: Tell me what group you feel
22. you would fall into, one, two, or three.

23. THE JUROR: I feel the second juror.

24. THE COURT: Which means what?

25. THE JUROR: It means that I wouldn't --

1 if he was guilty I wouldn't give him the death
2 penalty.

3 THE COURT: I notice that you're Roman
4 Catholic?

5 THE JUROR: Right.

6 THE COURT: Does that have some bearing,
7 your faith? And, again, I mean, I'm not
8 trying to be nosey, but, I mean, does that
9 have some bearing on the fact that you feel
10 like that the death penalty just wouldn't be
11 something that you could do, or is that
12 something besides?

13 THE JUROR: That has something to do with
14 it.

15 THE COURT: But are you saying then that
16 there's not a case, there's just not a case,
17 not a situation that you could imagine, not
18 one so bad that you could ever give a death
19 sentence?

20 THE JUROR: No. I don't think, you know,
21 I could give the death penalty, you know.

22 THE COURT: Under any circumstances?

23 THE JUROR: Under any circumstances.

24 THE COURT: All right. Mr. Beauford?

25 MR. BEAUFORD: A few questions.

EXAMINATION

BY MR. BEAUFORD:

Q. Ms. Lane, my name is Percy Beauford. If in this case you find that the defendant murdered someone and you go to the second phase and you've already said that he committed this act, is there any scenario that would create in your mind that you could come back with a vote for the death penalty?

A. I could not vote for the death penalty.

Q. Without any scenario?

A. Right.

Q. Nothing further.

MR. BAILEY: No questions from the State, Your Honor.

THE COURT: All right. Ms. Lane, I'm going to excuse you, and I thank you very much for your help in this case. Thank you, ma'am.

(Whereupon, the prospective juror leaves the courtroom.)

THE COURT: I don't think there's much question, but do you all have a problem with that?

MR. BEAUFORD: No.

THE COURT: She's not qualified.

(Cristine N. Glazier, called as a

1 potential juror, having first been duly
2 sworn, is examined as follows:)

3 THE COURT: Ms. Glazier, how are you
4 doing?

5 THE JUROR: Good. How are you?

6 THE COURT: I'm fine, thank you. We're
7 running a minute or two late, but we're going
8 pretty quickly, as fast as we can.

9 Winthrop College. When did you
10 finish Winthrop?

11 THE JUROR: Ninety.

12 THE COURT: 1990. You're at Wachovia
13 after five years, senior teller, five years
14 have been there, three months as a senior
15 teller.

16 THE JUROR: Yes.

17 THE COURT: Have been there at Wachovia.
18 Is that in Summerville?

19 THE JUROR: Uh-huh (affirmative
20 response).

21 THE COURT: The -- your questionnaire
22 form says that your mother was a dispatcher
23 for the weapons police.

24 THE JUROR: Yes.

25 THE COURT: The fact that she had some

1 connection with the police officers in the
2 armed forces, would that affect your ability
3 to be fair and impartial in this case, or any
4 other criminal case like this?

5 THE JUROR: Not that I know of.

6 THE COURT: All right. You say that your
7 brother has worked -- accused in an accident
8 of negligence, brought to trial, found not
9 guilty. Now, I assume that was in a civil
10 case, or was that a criminal case? I mean,
11 you know, when you say automobile accident and
12 negligence, that sounds like a civil case to
13 me where somebody's suing him for money.

14 THE JUROR: Yeah.

15 THE COURT: That was what it was, wasn't
16 it?

17 THE JUROR: Yeah.

18 THE COURT: They didn't -- nobody had any
19 indictment against him for committing some
20 criminal act?

21 THE JUROR: No.

22 THE COURT: All right. Tell me about
23 this form. You read that form back there?

24 THE JUROR: Yes.

25 THE COURT: Where do you fit in do you

1 think as a juror, one, two, or three? One who
2 always gives death, one who would always give
3 life, one who would listen and decide and
4 could give one or the other?

5 THE JUROR: Well, I would be tempted to
6 say that I would be the third, but I can't say
7 that I wouldn't be the second because it is my
8 religious beliefs -- or at least it's there, I
9 wouldn't say that I wouldn't decide either
10 way. I mean, I have heard cases where I
11 thought, you know, this person deserves to
12 die.

13 THE COURT: All right.

14 THE JUROR: But I'm not saying that
15 that -- I wouldn't --

16 THE COURT: Want to do it.

17 THE JUROR: That's right.

18 THE COURT: What I'm hearing is that
19 you're a person who would maybe have some
20 leaning toward giving a life sentence if you
21 could, assuming that the person was found
22 guilty obviously of murder. I mean, obviously
23 you wouldn't even be talking about a sentence
24 unless he was found guilty of murder. Let's
25 just assume that occurs. Are you saying then

1 that you would be a person who for the most
2 part would favor life if you could, that's
3 what you would rather do, but that there are
4 cases or would be cases in which you might
5 feel that a death sentence would be an
6 appropriate one? Or am I putting words in
7 your mouth?

8 THE JUROR: I would say that I would
9 generally lean towards life unless it was
10 something, you know, that would be the extreme
11 case.

12 THE COURT: All right.

13 THE JUROR: And even then it would be
14 hard for me to do that.

15 THE COURT: But then my next question is
16 could you even in the extreme case or even in
17 a case, and I'm not going to ask you about
18 facts of a particular --

19 THE JUROR: Sure.

20 THE COURT: -- one, we're not going to
21 get into the specific facts of a case, but
22 generally speaking could you, if you felt like
23 the case was one which warranted a death
24 sentence, could you vote for a death sentence?

25 THE JUROR: I don't think I could.

1 THE COURT: Even if you felt like it was
2 one that I understood you to say a few minutes
3 ago that you do know of situations or cases
4 where you felt like someone ought to be given
5 the death sentence, are you saying that you
6 simply could not, you simply could not sign to
7 give someone a death sentence?

8 And, again, let me say this, there
9 aren't any right or wrong answers, you know,
10 we're not looking for you to answer it in any
11 way, we just want you to tell us what you
12 feel.

13 THE JUROR: It would be very hard for me.
14 I would say that I probably couldn't.

15 THE COURT: You probably couldn't?

16 THE JUROR: I probably could not.

17 THE COURT: Can you say definitely that
18 you would not?

19 THE JUROR: I would say definitely I
20 would not.

21 THE COURT: You would not give a death
22 sentence?

23 THE JUROR: No.

24 THE COURT: You just feel like you would
25 lean to life every time in every situation?

1 THE JUROR: Yes.

2 THE COURT: All right. Just let me ask
3 you once again, then I'll leave you alone.
4 Are you saying then that --

5 THE JUROR: I'm saying that -- I mean,
6 it's not that I don't agree with other people,
7 but I don't know if I could do it myself.

8 THE COURT: All right. Okay. What
9 you're saying is you're not so opposed to the
10 death sentence, that you think it's something
11 that shouldn't be done, it's just that you're
12 saying you couldn't?

13 THE JUROR: Yeah.

14 THE COURT: You couldn't impose the death
15 sentence. Even if it was a case where you
16 felt like it was one that was appropriate you
17 still won't be able to impose it yourself?

18 THE JUROR: I mean, personally, I mean, I
19 would think life would be far more appropriate
20 in most cases to me.

21 THE COURT: Well, here again, you're
22 saying most cases. I'm not worried about most
23 cases. Is there a case? Is there any case in
24 which you feel you could sign a paper saying
25 this defendant ought to be given a death

1 sentence, and could you do it and would you do
2 it in a given case?

3 THE JUROR: I wouldn't do it.

4 THE COURT: Period?

5 THE JUROR: I would not do it.

6 THE COURT: All right. Okay.

7 Mr. Bailey?

8 MR. BAILEY: Your Honor, could I confer
9 with Mr. Beauford for one second?

10 THE COURT: Yes, sir.

11 (Pause in proceedings.)

12 EXAMINATION

13 BY MR. BAILEY:

14 Q. Let me just ask you a couple of
15 questions, Ms. Glazier. I'm Walter Bailey, and like
16 the judge said there are no right or wrong answers,
17 we all respect your opinion. And I think I
18 understand that you're struggling with this thing,
19 it's not something that you're used to thinking about
20 every day.

21 In South Carolina, unlike maybe some
22 other states, if we reach the point of a decision
23 having to be made on life without parole which is
24 what life means here, and the death penalty, if we
25 get to that point the judge doesn't make that

1 decision. All he does is order the jury's verdict
2 form to be put into effect. If that jury votes for
3 life, the judge would sentence that defendant to
4 life, then he'll serve life without parole. On the
5 other hand, if the jury unanimously votes for the
6 death, the judge will order that sentence to be
7 carried out and that person actually would be
8 executed.

9 Now, as I understand what you told
10 the judge, no matter how bad the crime was you
11 couldn't yourself personally vote for the death
12 penalty knowing that that person would actually be
13 put to death based on that vote; is that correct?

14 A. That's correct.

15 Q. And you could never sign your name to a
16 verdict form that would result in that person being
17 executed; is that correct?

18 A. That's correct.

19 Q. Thank you, ma'am. That's all I have.

20 EXAMINATION

21 BY MR. BEAUFORD:

22 Q. Ms. Glazier, during the trial could you
23 listen to all the evidence and make a decision first
24 on the first phase whether the defendant's guilty of
25 murder, could you listen to the case like that?

1 A. Yes.

2 Q. In the second phase could you listen to
3 the evidence again and the law as given by Your
4 Honor, and then render a decision whether death or
5 life?

6 A. I could never. I don't think I could
7 ever sign anything that said that there would be
8 death.

9 Q. Okay.

10 MR. BEAUFORD: No further questions, Your
11 Honor.

12 THE COURT: Ms. Glazier, I'm going to
13 excuse you, and I thank you very much for your
14 help today. You won't have to come back. I
15 thank you very much.

16 THE JUROR: I won't have to come back
17 tomorrow?

18 THE COURT: You will not. You are free.
19 Thank you, ma'am.

20 THE JUROR: Thank you.

21 (Whereupon, the prospective juror leaves
22 the courtroom.)

23 THE COURT: Ms. Smalls, how are you
24 doing? Come on, have a seat.

25 (Daisy G. Smalls, called as a potential

1 juror, having first been duly sworn, is
2 examined as follows:)

3 THE COURT: How are you today?

4 THE JUROR: Fine.

5 THE COURT: Let's see, looks like to me
6 you got a house full of children, I see that
7 much. Well, they're not in the house now,
8 because most of them are old, pretty old now,
9 aren't they?

10 THE JUROR: Yes, sir.

11 THE COURT: How many you got at home?

12 THE JUROR: I have two home, three
13 married.

14 THE COURT: Two home, three married.

15 You're the school bus driver. You
16 told me this morning you wanted to stay here
17 with us, you didn't want to drive the bad
18 children to school?

19 THE JUROR: No, sir.

20 THE COURT: Let me ask you this now:
21 Have you served as a juror before?

22 THE JUROR: No, sir.

23 THE COURT: Did you read that thing back
24 there in that back room that you had?

25 THE CLERK: Yes, sir.

1 THE COURT: Did you understand, could you
2 understand what I was trying to get across
3 there?

4 THE JUROR: Yes, sir.

5 THE COURT: Tell me what group you think
6 you fall into. Are you in the first group,
7 the second group, or the third?

8 MR. BEAUFORD: In the first group.

9 THE COURT: You would always give
10 somebody the death sentence, if they got
11 convicted of murder you would give them death
12 every time?

13 THE JUROR: Not every time, but it's like
14 this, actually like this, if you, you know, do
15 something -- before you do something you need
16 to go and talk it over with somebody else
17 before, you know, commit the crime. For
18 instance, like me, for instance, if I do
19 something, before I do it I'll go and talk to
20 somebody else and cool off, you know, and, you
21 know, just going to talk to someone before you
22 do it. Sometime that's the best thing to do,
23 talk to somebody else before you commit the
24 crime.

25 THE COURT: Let me ask you this: Suppose

1 you were on a jury, suppose you were on a jury
2 with 11 other people.

3 THE JUROR: Right.

4 THE COURT: And you all found that a
5 defendant had committed a murder.

6 THE JUROR: Right.

7 THE COURT: Suppose you all agreed that
8 the State had proven beyond a reasonable
9 doubt.

10 THE JUROR: Right.

11 THE COURT: That this person was guilty
12 of murder.

13 THE JUROR: Right.

14 THE COURT: Do you follow me?

15 THE JUROR: Yes, sir.

16 THE COURT: All 12 of you voted on that.

17 THE JUROR: Yes, sir.

18 THE COURT: And he's guilty of murder.

19 And then you had to determine whether or not
20 he should be given a life sentence or a death
21 sentence --

22 THE JUROR: Right.

23 THE COURT: -- for what he'd done.

24 THE JUROR: Right.

25 THE COURT: Are you a person who would

1 always, in every case that somebody has
2 committed a murder, would you be one who would
3 always give a death sentence, or would you be
4 a juror who would always give a life sentence,
5 or would you be a juror who could give death
6 or could give life, but it really just
7 depended on the circumstances? Do you follow
8 where I'm going?

9 THE JUROR: Yes, sir.

10 THE COURT: That first juror would say
11 I'll tell you what, if he's committed murder,
12 he's got to have a death sentence.

13 THE JUROR: Right.

14 THE COURT: The other kind of juror would
15 say I don't care if has committed murder, I
16 couldn't ever give a death sentence, I would
17 have to give life every time.

18 THE JUROR: Right.

19 THE COURT: The third one would say I
20 could give a death sentence, or I could give a
21 life sentence, but I would have to listen to
22 all the evidence to see, the circumstances to
23 see whether or not he ought to be given one or
24 the other. Which one do you fall into?

25 THE JUROR: Okay. You have a point

1 there. What I would do is I would listen to
2 all the circumstance, you know, and see, you
3 know --

4 THE COURT: Could you give a death
5 sentence if you felt like that was the thing
6 to do? If you felt like it was the thing to
7 do, could you give a death sentence?

8 THE JUROR: I don't think I could.

9 THE COURT: You don't think you could?

10 THE JUROR: No, sir.

11 THE COURT: You don't know of any case?
12 Are you saying that there isn't a case, there
13 isn't a set of circumstances where you feel
14 like you could give anybody a death sentence?

15 THE JUROR: Yes, sir.

16 THE COURT: You think that you can
17 think -- and I'm not asking you what they are,
18 but you can think of a case where you would
19 give somebody the death sentence?

20 THE JUROR: Yes, sir.

21 THE COURT: In other words, if it were
22 bad enough you feel like you could give death?

23 THE JUROR: Yes, sir.

24 THE COURT: But in some instances if it
25 wasn't so bad you would give a life sentence?

1 THE JUROR: Yes, sir.

2 THE COURT: Are you telling me then that
3 you -- if you felt like the death sentence was
4 the right one to give, are you telling me that
5 you would be willing to sign a paper saying
6 the defendant should be put to death?

7 THE JUROR: If that was the right thing
8 to do I would.

9 THE COURT: You would do that?

10 THE JUROR: Yes, sir.

11 THE COURT: Along with the other jurors?
12 Because all of you would have to do it.

13 THE JUROR: Yes, sir.

14 THE COURT: So let me go back again and
15 make sure now.

16 THE JUROR: Okay.

17 THE COURT: You're telling me -- and let
18 me tell you something, let me tell you
19 something. There isn't a right answer or a
20 wrong answer. I don't care what you say. You
21 hear what I'm telling you?

22 THE JUROR: Yes, sir.

23 THE COURT: All I want to know is what
24 you feel from your heart.

25 THE JUROR: Yes, sir.

1 THE COURT: Are you telling me that you
2 could give the death sentence if you felt like
3 it was the right thing to do, you could give
4 it?

5 THE JUROR: Yes, sir.

6 THE COURT: Or you could give life if you
7 felt like it was the right thing to do?

8 THE JUROR: Yes, sir.

9 THE COURT: You're not somebody that
10 would always give life?

11 THE JUROR: No, sir.

12 THE COURT: Or always give death?

13 THE JUROR: No, sir.

14 THE COURT: But you would listen to
15 everything and then you could decide?

16 THE JUROR: Yes, sir. That's what I'd
17 do.

18 THE COURT: That's where you are?

19 THE JUROR: Yes, sir. Yes, sir.

20 THE COURT: All right. Mr. Beauford?

21 EXAMINATION

22 BY MR. BEAUFORD:

23 Q. Ms. Smalls, my name is Percy Beauford, a
24 few questions. How did you formulate your opinion
25 about the death penalty?

1 A. How did I?

2 Q. Yes.

3 A. Okay. In a situation -- I don't know,
4 you know, what the situation is.

5 Q. Right.

6 A. What I'd do, if me and my husband get in
7 an argument, you know, something like that, what I do
8 is walk out the house, you know, cool down or talk to
9 somebody before I come back, you know, and make a bad
10 decision and then later on you can regret what you
11 done, later on.

12 Q. If someone was found to intentionally
13 kill someone with malice aforethought.

14 A. Right.

15 Q. They intentionally killed this
16 individual, would you automatically vote for the
17 death penalty?

18 A. Well, like I said, at first I have to
19 listen, you know, to the circumstance, the story, and
20 see, you know, what the circumstance is before I can
21 give the death penalty, you know.

22 Q. So there's no question you would listen
23 to the circumstances surrounding whether he committed
24 the act of murder, so those circumstances.

25 Now you're in the second phase where

1 you have to decide whether death or life. Would you
2 automatically vote for the death penalty as opposed
3 to life, or life as opposed to the death penalty?

4 A. Well, if it comes down to that, if I have
5 to, I will.

6 Q. Which one would you vote for?

7 A. Death penalty if I have to, sir.

8 Q. Are there any other factors at this point
9 in the case you would have to consider before
10 deciding death or life? Knowing that he
11 intentionally killed the individual and he's already
12 convicted of murder, knowing that phase is over with,
13 are there any other factors that you would need to
14 know, don't tell me what they are, in order to
15 determine whether death or life?

16 A. Yes, sir. I have to know the facts
17 before, you know, find him with life, give him life.

18 Q. Are you saying you would be more prone to
19 give death?

20 A. I said I have to know the facts, you
21 know, before I give him life or death.

22 Q. Do you understand that life means life
23 without parole?

24 A. Uh-huh (affirmative response). Yes, sir.

25 Q. If you were on a jury and the majority of

1 the jury was voting in one way and you wanted to vote
2 for another, would you just give up your call just to
3 get the case over with?

4 A. No, sir. What I have to do is sit down
5 and go over the facts and make sure that I'm making
6 the right decision.

7 Q. Okay. On the other hand, if you were
8 voting with the majority but the other jurors were
9 voting differently, you would not want the jury to
10 vote, change their vote just to get the case over
11 with, would you?

12 A. No sir.

13 Q. Would you respect their votes?

14 A. I respect votes, yes, sir.

15 Q. Have you heard or read anything about
16 this case on television?

17 A. No, sir.

18 Q. Or read it in the newspaper?

19 A. No, sir.

20 MR. BEAUFORD: No further questions.

21 EXAMINATION

22 BY MR. BAILEY:

23 Q. Ms. Smalls, I'm Walter Bailey, I'll be
24 prosecuting the case. And I apologize to you because
25 I got to ask some of the same questions the judge

1 asked you, but in all honesty the reason I'm doing it
2 is because you gave some answers that put you in all
3 three, one, two, and three, and we need to see which
4 one you really are.

5 A. Okay.

6 Q. There's no right or wrong answer. The
7 only wrong answer would be for you to tell me
8 something because you think that's what I'm looking
9 for.

10 A. Okay.

11 Q. All I'm looking for is, like the judge
12 said, what's from your heart, okay?

13 A. Okay.

14 Q. A case like this we got two parts to the
15 trial possibly, the first part is the guilt phase.
16 And have you ever been on a jury before?

17 A. No, sir. Not a jury.

18 Q. Guilt phase is like any other trial,
19 where the jury decides whether or not the State
20 proves that person guilty of what the State charges
21 them with beyond a reasonable doubt. And if the
22 State can't do it, that's the end of it.

23 A. Yes, sir.

24 Q. But in this kind of a case the State says
25 this defendant committed murder and burglary. And if

1 the jury finds the State has proven that beyond a
2 reasonable doubt, they come back with a verdict of
3 guilty, then we go onto that second part of the
4 trial. So you understand we wouldn't get to part two
5 unless the jury's already found that person guilty of
6 murder?

7 A. Yes, sir.

8 Q. And in that second part of the trial is
9 additional evidence that will come out, the judge
10 would instruct you. The judge would never tell the
11 jury what they had to do.

12 A. Right.

13 Q. But the judge would tell them what the
14 law is that applied to deciding between life without
15 parole or the death penalty. And whatever that jury
16 decides the sentence ought to be will be the sentence
17 of the court. If the jury says life, the judge
18 orders that, he goes to prison for life without
19 parole. If the jury says death, he's executed, he's
20 put to death.

21 What we all in the courtroom want to
22 know is if you get to that second part of the trial
23 and you found the man guilty of murder in the first
24 part, if the case is bad enough can you vote for the
25 death penalty knowing that as a result of that vote

1 that defendant actually is going to be executed?

2 A. Just like I said the first time, I have
3 to know, you know, the situation --

4 Q. Right.

5 A. -- before, you know, you could sentence
6 someone to a death penalty or life, you know.

7 Q. Yeah.

8 A. Because I may make a bad mistake if I
9 said, well, I'll give them prison, I may make a bad
10 mistake and I want to know, you know, the
11 circumstances.

12 Q. Okay. I understand. You would want to
13 know all the facts and circumstances before you
14 decide?

15 A. Right. Before I make a bad decision. If
16 I sent him to the prison and then give him life, then
17 I said, oh, you know, I shouldn't have done that, you
18 know, so I want to know the whole facts and
19 everything.

20 Q. But if you know all the facts and the
21 facts are bad enough, could you vote for the death
22 penalty? I'm not asking you what you would do,
23 because you hadn't heard it yet.

24 A. No, sir.

25 Q. If it's bad enough can you do it knowing

1 that person's actually going to be executed, you see
2 what I'm saying?

3 A. Yes, sir.

4 Q. You could do that?

5 A. Yes, sir.

6 Q. If all 12 jurors vote for the death
7 penalty, there's a piece of paper, each one of them
8 would have to sign their name to that paper, it's a
9 death verdict form. Could you sign your name to that
10 paper along with the other jurors knowing it would
11 result in that person being executed if that was your
12 decision?

13 A. Yes, sir.

14 Q. Could you come out here into court and
15 announce that decision when your name's called, stand
16 up by yourself and say, yeah, that's my verdict out
17 loud?

18 A. Yes, sir. Yes, sir.

19 Q. The jury's going to be put up in a motel
20 here in St. George until this trial's over, and it's
21 going to be about a week. You would be here in the
22 daytime hearing the trial, back in the motel at night
23 with other jurors. Nobody wants to do that,
24 obviously, but is that something you can handle if
25 you were picked on this jury?

1 A. Yes, sir. I'm not working now, I can
2 handle it.

3 Q. All right. Is there any reason you can
4 think of at all that would keep you from serving as a
5 fair, impartial juror to both sides, the State and
6 the defense?

7 A. No, sir.

8 Q. That's all I have. Thank you very much.

9 THE COURT: All right. If you'll step
10 right in the hall just one minute, I'll bring
11 you right back.

12 (Whereupon, the prospective juror leaves
13 the courtroom.)

14 THE COURT: How says the State?

15 MR. BAILEY: I guess she's qualified,
16 Judge.

17 MS. HARDEE-THOMAS: Qualified.

18 THE COURT: She's qualified.

19 (Whereupon, the prospective juror returns
20 to the courtroom.)

21 THE COURT: Ms. Smalls, I got your phone
22 number here. Is that right?

23 THE JUROR: Yes, sir.

24 THE COURT: We're going to call you
25 tomorrow night, probably sometime tomorrow

1 night and tell you what time to come back.

2 You won't have to come back tomorrow.

3 THE JUROR: Okay.

4 THE COURT: We'll call you tomorrow
5 night. Don't say anything to your family.

6 THE JUROR: No, sir.

7 THE COURT: Except tell them, you can
8 tell them that you might be called to come
9 back in as a juror. And, you know, they might
10 have to make some arrangements, but other than
11 that don't tell them anything about the case.

12 THE JUROR: No, sir.

13 THE COURT: Don't read the newspaper,
14 watch television, news part of it. You can
15 watch television, just not the news, all
16 right?

17 THE JUROR: All right.

18 THE COURT: Thank you, ma'am. We'll call
19 you tomorrow.

20 THE JUROR: Thank you.

21 (Whereupon, the prospective juror leaves
22 the courtroom.)

23 (Sundee M. Dobek, called as a potential
24 juror, having first been duly sworn, is
25 examined as follows:)

1 THE COURT: This is Mr. Dobek?

2 THE JUROR: Yes, it is.

3 THE COURT: How are you doing?

4 THE JUROR: Fine.

5 THE COURT: Let me ask you just a couple
6 questions, if you don't mind, these lawyers
7 may ask you one or two, it's not going to take
8 but just a few minutes to do this.

9 You were born in Oklahoma?

10 THE JUROR: Right.

11 THE COURT: And you lived in Myrtle
12 Beach. But you've lived here now for how
13 long?

14 THE JUROR: Almost seven years.

15 THE COURT: Seven years.

16 Have you served as a juror before on
17 any case?

18 THE JUROR: I was picked for a case, but
19 then they --

20 THE COURT: Settled it or whatever
21 happened?

22 THE JUROR: Right.

23 THE COURT: Was it a civil case, car
24 wreck or something like that?

25 THE JUROR: No, it was a criminal case.

1 THE COURT: Criminal case.

2 Some time ago? When?

3 THE JUROR: Probably six years ago, five
4 years ago, something like that.

5 THE COURT: All right. You read that
6 thing I had back there in that room for you?

7 THE JUROR: Uh-huh (affirmative
8 response).

9 THE COURT: What group do you feel you
10 fall into?

11 THE JUROR: I think I probably fall into
12 number one.

13 THE COURT: Which says what?

14 THE JUROR: I believe if you're convicted
15 of murder that you should have the death
16 penalty.

17 MR. BEAUFORD: Your Honor, we can't hear.

18 THE COURT: Yeah.

19 THE JUROR: I feel that if you are
20 convicted of murder that you should get the
21 death penalty.

22 THE COURT: Would that be true in every
23 case?

24 THE JUROR: I would feel so, yeah.

25 THE COURT: In other words, that's not a

1 case where you found somebody guilty of murder
2 in which you felt -- would feel like you could
3 vote or should vote for life without parole?

4 THE JUROR: No, I don't think so.

5 THE COURT: You would give death every
6 time regardless of the circumstances?

7 THE JUROR: I mean, unless I
8 misunderstand. The way I feel convicted of
9 murder is, means you had the intent to do.

10 THE COURT: Absolutely.

11 THE JUROR: Okay. And if you had the
12 intent to do, then I feel that should be the
13 punishment.

14 THE COURT: Well, you see in this state,
15 in this state a person who kills somebody
16 intentionally kills somebody with malice, ill
17 will, hatred, a depraved mind or heart, is
18 guilty of murder. We don't have in this state
19 what we call premeditated murder, it's just
20 the intentional killing with malice
21 beforehand. In other words, bad will, ill
22 will beforehand, hatred beforehand.

23 THE JUROR: Right.

24 THE COURT: That would be murder. Under
25 our law a person would not be eligible to be

1 sentenced to death for murder alone. Someone
2 who commits a murder in this state cannot
3 receive a death sentence unless together with
4 that murder he's committed some other act,
5 some other aggravating circumstance. Murder
6 plus something else, murder plus rape for
7 instance, or murder plus kidnapping, murder
8 plus burglary, or something like that.

9 THE JUROR: Right.

10 THE COURT: So am I to understand that
11 you wouldn't even have to hear the aggravating
12 part of it, you simply say that if somebody is
13 convicted of murder they ought to be given the
14 death sentence every time anyway?

15 THE JUROR: Yes, that's the way I feel.

16 THE COURT: Well, there's no right or
17 wrong answers, if that's how you feel, no
18 problem, that's just the way it is. I just
19 want to be sure that's where you're coming
20 from.

21 THE JUROR: Yes.

22 MR. BEAUFORD: No questions.

23 EXAMINATION

24 BY MR. BAILEY:

25 Q. Very briefly to make sure I understand

1 what your position is, and I think I understand. No
2 right or wrong answers, but can you envision any
3 situation without, you know, telling me what it is
4 where you could find somebody guilty of murder, but
5 at the same time be willing to go into the second
6 phase of the trial and listen to whatever additional
7 information came out as far as testimony, evidence,
8 instruction from the judge? Or would you have your
9 mind made up going into that second phase, doesn't
10 matter what I hear, he's a murderer, I'm going to
11 vote for the death penalty?

12 A. Right. I think I would have to go with
13 my first, that I would say, yeah, death penalty.
14 That, I don't know that, that second half would sway
15 my mind one way or another, you understand what I'm
16 saying?

17 Q. Okay. All right. But could you listen
18 to the testimony, or would you have your mind made
19 up?

20 A. I think I would probably have my mind
21 made up.

22 Q. Thank you. That's all I have.

23 THE COURT: I would excuse you. Thank
24 you very much for coming to help us.

25 THE JUROR: Thank you.

1 (Whereupon, the prospective juror leaves
2 the courtroom.)

3 THE COURT: She's not qualified by the
4 defendant.

5 State?

6 MR. BAILEY: Not qualified.

7 (Carolyn S. Kirkland, called as a
8 potential juror, having first been duly
9 sworn, is examined as follows:)

10 THE COURT: Ms. Kirkland, how are you
11 doing?

12 THE JUROR: I'm doing fine.

13 THE COURT: Let me ask you just a couple
14 of questions, this will be painless. You've
15 been at the Western Steer for 15 years. You
16 probably seen me out there once or twice in
17 the last six months, hadn't you? Probably
18 wouldn't remember, but I've been there.

19 THE JUROR: Well, unless you came at
20 night. I only work at night.

21 THE COURT: I didn't come at night,
22 that's why you didn't see me there. I came in
23 the daytime..

24 Let me ask you this, ma'am: Have
25 you ever served as a juror before?

1 THE JUROR: Well, the magistrate's office
2 one time.

3 THE COURT: Magistrate.

4 THE JUROR: Other than that, no.

5 THE COURT: All right. Did you read that
6 sheet I had back there for you?

7 THE JUROR: I did.

8 THE COURT: Can you tell me what group
9 you feel you fall into?

10 THE JUROR: Three.

11 THE COURT: Which says what, ma'am?

12 THE JUROR: Where just -- okay. You've
13 got a case coming up, death penalty or life
14 imprisonment. I do believe in capital
15 punishment, but it's something that you would
16 take very, very seriously, all the facts would
17 have to be put before me before I could make
18 such a decision as that.

19 THE COURT: Are you saying then that
20 you --

21 THE JUROR: If --

22 THE COURT: You're not one who would
23 always vote for the death sentence?

24 THE JUROR: No, no, no.

25 THE COURT: Or always vote for a life

1 sentence?

2 THE JUROR: No, no.

3 THE COURT: But you would have to listen
4 to all the facts and circumstances --

5 THE JUROR: Facts, exactly.

6 THE COURT: -- before you made a decision
7 on that?

8 THE JUROR: Right. Beyond a shadow of a
9 doubt. For a death penalty, you know, is
10 nothing that you would like lightly.

11 THE COURT: Right. Let me ask you this:
12 You understand, of course, that the first part
13 of the trial the State would have to prove
14 that the person was guilty of murder, I mean,
15 you would basically -- when you get to talking
16 about sentencing, life or death, you have
17 already as a juror found that person guilty of
18 murder beyond a reasonable doubt; in other
19 words, all 12 jurors have said we believe
20 beyond a reasonable doubt that this person is
21 guilty of murder, so you got that established.
22 But then when you go to the sentencing part
23 there would be other evidence presented, some
24 good, some bad.

25 THE JUROR: Yeah.

1 THE COURT: And are you saying that you
2 would have to listen to all the evidence
3 before you could make a decision as to whether
4 a person should be given a death sentence or a
5 life sentence?

6 THE JUROR: Right. All of it.

7 THE COURT: And you say it would be
8 something that you would have to take very
9 seriously?

10 THE JUROR: Very.

11 THE COURT: If you believe that a death
12 sentence was the appropriate sentence to give,
13 would you sign a sheet with your name on it
14 along with 11 other jurors saying we sentence
15 the defendant to death? In other words, would
16 you sign your name if you felt like that was
17 the appropriate thing to do?

18 THE JUROR: Yeah.

19 THE COURT: But by the same token, are
20 you saying that if you felt like a life
21 sentence was the appropriate thing that you
22 would then do the same, you would say --

23 THE JUROR: Right.

24 THE COURT: -- we believe that a life
25 sentence is the appropriate sentence?

1 THE JUROR: Exactly. To me a death
2 sentence, to do something like that it would
3 have to be -- somebody would have to do
4 something very, very -- I mean, it would just
5 have to be awful.

6 THE COURT: I understand.

7 THE JUROR: I mean, everybody that does a
8 crime does not deserve a death sentence.

9 THE COURT: All right.

10 THE JUROR: That's the way I feel about
11 that.

12 THE COURT: We're not talking about
13 everybody who does a crime, we're talking
14 about everyone who commits the crime of
15 murder.

16 THE JUROR: Right.

17 THE COURT: So let me go back just one
18 second. Because the only time that you can
19 ever give a death sentence in this state is if
20 someone committed a murder.

21 THE JUROR: But not all murders.

22 THE COURT: Not all murders, exactly
23 right.

24 THE JUROR: Not all murders.

25 THE COURT: Even where there's a murder

1 and there is an aggravating circumstance,
2 murder plus -- let's say murder plus robbery,
3 murder plus kidnapping, or something like
4 that. Even if that were the case the law says
5 that the jury, even if they found they were
6 both present, murder plus kidnapping, they
7 would not be required to give a death
8 sentence, but they could under some
9 circumstances.

10 So, again, my question is are you,
11 or would you be willing to listen to all the
12 evidence in the case if it got to the
13 sentencing portion, we don't even know whether
14 it's going to get that far, you've got to get
15 through the first portion first, if it were to
16 get to the second portion, the sentencing part
17 of it, would you be willing to listen to all
18 the evidence of the case and decide at that
19 time whether or not a death sentence was the
20 appropriate one or the life sentence was the
21 appropriate one?

22 THE JUROR: (Nonverbal affirmative
23 response.)

24 THE COURT: All right. And, again, let
25 me say this, we're not asking you -- you know,

1 there aren't any right or wrong answers.

2 THE JUROR: No.

3 THE COURT: We're not asking you to -- I
4 don't want you to tell me what you think I
5 want you to tell me.

6 THE JUROR: No, no, no.

7 THE COURT: I want you to tell me what
8 you feel in your heart.

9 THE JUROR: Because everybody's got their
10 own opinion, their own thoughts.

11 THE COURT: That's exactly right.

12 THE JUROR: Everybody's got their own
13 opinions.

14 THE COURT: That's right. Well, now --
15 all right. Any questions then by either side?

16 MR. BAILEY: Yes, just a few.

17 EXAMINATION

18 BY MR. BAILEY:

19 Q. Ms. Kirkland, I'm Walter Bailey, I want
20 to ask you a few more questions. I just want to back
21 up a little bit and ask some of the same stuff that
22 the judge had asked you. And I want to make sure
23 that you understand the process that we go through,
24 and I think the judge went over that to some extent.
25 But we would never be in that second phase unless it

1 was somebody that you found guilty of murder in the
2 first part of the trial. You understand the jury,
3 not the judge, makes the decision. It's life without
4 parole on the one hand, death penalty on the other
5 hand. And the judge only orders the jury sentence to
6 be carried out. In other words, whatever the jury
7 decides is going to happen will happen.

8 I'm not going to ask you what you
9 would do if you were picked as a juror because you
10 hadn't heard any of the facts. But my question is if
11 the facts were bad enough, could you vote for the
12 death penalty knowing that person actually is going
13 to get executed?

14 A. Yes.

15 Q. Okay. And you've already indicated to
16 the judge if you did vote for it you could sign your
17 name to the death verdict form knowing that would
18 result in that execution taking place?

19 A. Yes.

20 Q. Could you come out here in open court and
21 when your name is called announce that out loud that
22 that was your decision?

23 A. Yes.

24 Q. Okay. Is the death penalty something
25 that you've thought about before today when you found

1 out you might be on a death penalty jury?

2 A. Yes. It's something that I have thought
3 about when -- you know, in different situations. But
4 it's also something -- like I've said, it's nothing
5 that you take lightly. When you make a decision like
6 that you better have everything before you, you
7 better know what you're doing. You just don't -- you
8 don't do something like that without a lot of
9 consideration and thought behind it.

10 Q. Okay. But in addition to feeling the way
11 you expressed about the death penalty, have you had
12 any other thoughts in general about it, I mean like
13 whether it's good or bad that we have a death penalty
14 in South Carolina?

15 A. I think it's good.

16 Q. Okay. In the right case?

17 A. Yeah. In the right respect I think it's
18 good.

19 Q. That's all I've got. Thank you very
20 much.

21 THE COURT: Mr. Beauford?

22 EXAMINATION

23 BY MR. BEAUFORD:

24 Q. Ms. Kirkland, my name is Percy Beauford,
25 a few questions. What else would you need to know in

1 determining whether to give someone the death penalty
2 or not to?

3 MR. BAILEY: Objection.

4 THE COURT: I think you're going to have
5 to rephrase, Mr. Beauford. You're asking her
6 to give you specific instances and that's what
7 we've got to avoid. I think you can ask it,
8 just rephrase it.

9 BY MR. BEAUFORD:

10 Q. In deciding whether to impose life or
11 death, could you consider other facts that has
12 nothing to do with the crime?

13 A. Would you please repeat that? I can't
14 hear you.

15 Q. In deciding whether to impose life or
16 death, would you be able to consider other facts,
17 factors, that has nothing to do with the crime in
18 rendering your decision for life or death?

19 THE COURT: In other words, I think what
20 he's asking you is this: Again, I'm going to
21 let you go back and ask it again, I don't want
22 to cut you off, Mr. Beauford. What he's
23 saying is would you consider other factors,
24 good and bad, good things about the defendant,
25 maybe some bad things about him, would you

1 consider other factors other than the crime
2 itself to determine whether or not that person
3 should get a life sentence or a death
4 sentence?

5 BY MR. BEAUFORD:

6 Q. Let me add one thing to that. Knowing
7 that he's already been convicted of murder.

8 A. Yes. I would have to take part then.

9 Q. As you know, murder is an intentional
10 killing with malice aforethought, ill will, or
11 depraved heart. So that would not change your
12 opinion knowing the definition of it?

13 A. No. It wouldn't change my decision at
14 all.

15 Q. Okay. If you were on a jury and the
16 majority of the jury wanted to vote some fashion and
17 you were not with the -- in the majority in your
18 voting, would you be influenced to change your vote
19 in order to get the case over?

20 A. No, I wouldn't. No.

21 Q. You believe in holding to your view?

22 A. Yeah. I believe in standing my ground.

23 Q. Do you also believe in listening to what
24 the other people have to say also?

25 A. I would.

1 MR. BEAUFORD: No further questions.

2 THE COURT: Let me ask you, if you don't
3 mind, just to step out in the hall just for
4 one minute. I'll bring you right back.

5 (Whereupon, the prospective juror leaves
6 the courtroom.)

7 THE COURT: Qualified, State?

8 MR. BAILEY: Qualified.

9 MR. BEAUFORD: Qualified.

10 MS. HARDEE-THOMAS: Qualified.

11 THE COURT: She's qualified.

12 Seems like in these cases there's
13 always one question that kind of causes the
14 judge trouble, that one there is the one that
15 caused me trouble. In each case he wants to
16 ask it and I kind of hate for him not to, as
17 long as you clear it up. Because I think
18 it -- as the solicitor said, I think it's a
19 question that there isn't a right or wrong
20 answer to, you know. I think you can do it in
21 such a way that you could ask her one way will
22 you hold the ground, but then on the other
23 hand are you willing to listen. If she says
24 no to both of them or yes to both of them you
25 know you got a problem, but I think just to

1 ask one and leave the other side off is a
2 little bit unfair. What you did there I think
3 is all right, I mean, if it helps you.

4 (Whereupon, the prospective juror returns
5 to the courtroom.)

6 THE COURT: Ms. Kirkland, I've got your
7 phone number. Is that correct? What I'm
8 going to do is this: We've got a lot of
9 jurors we've got to talk to today and
10 tomorrow. And what I'm trying to do is to get
11 about 35 jurors who -- from whom I can choose
12 14, 12 and two alternates. I can't tell you
13 that you'll be drawn, I can't even -- I don't
14 have any idea.

15 The only thing I can tell you is
16 that we think, I think, if we keep going, that
17 probably late, late tomorrow afternoon we
18 might be able to have that number of jurors
19 available. And what I'd rather do rather than
20 have you come back is for me to have the clerk
21 or someone call you and say we're going to
22 need you Wednesday morning, we're going to
23 need you Thursday or whatever.

24 THE JUROR: Okay.

25 THE COURT: Would that be all right?

1 THE JUROR: That would be fantastic.

2 THE COURT: And you understand that this
3 death penalty case, like all others, is I
4 would sequester the jury, put the jury in a
5 motel and so forth. And of course SLED agents
6 are there to stay with you, you have your own
7 room and that kind of thing, we feed you,
8 transport you, the whole deal, you're here in
9 the daytime, you just spend the night there at
10 night.

11 And what we do on these cases is
12 that we try to get through, I mean we go a
13 long day so that we won't keep you away from
14 your family any longer than we have to, or
15 your work, or wherever. And so we go, you
16 know, right through the weekend if we have to
17 do that. Of course, if we don't start until
18 Wednesday or Thursday, obviously we're going
19 to, you know, be into two or three days.

20 I don't know how long it's going to
21 take, but I would just tell you that ahead of
22 time. Is that going to cause you any great
23 trouble? I know you don't want to do it, but
24 would that cause you any tremendous problem?

25 THE JUROR: No. Just like tomorrow I'll

1 go to work, you know, and I'll continue to
2 work.

3 THE COURT: Until you have to come.

4 THE JUROR: Yeah, is what I would do, you
5 know.

6 THE COURT: What I'll do is we'll have
7 someone call you and they'll give you some
8 instructions as to what maybe you should bring
9 and whatnot, that type of thing.

10 Don't read a newspaper, if you don't
11 mind, a local newspaper, or the television
12 newscast. Nobody's here, I don't think there
13 will be anything on it, just for safety sake
14 don't do that. And your family, if you have
15 any family, you might just tell them that you
16 are going to get a call, are probably going to
17 have to come back in, but you don't know
18 whether you're going to be serving, but don't
19 get into the facts of the case and so forth.
20 Fair enough?

21 THE JUROR: Fair enough.

22 THE COURT: Thank you, ma'am. I
23 appreciate your help.

24 (Whereupon, the prospective juror leaves
25 the courtroom.)

1 (Ronald L. Tyrell, called as a potential
2 juror, having first been duly sworn, is
3 examined as follows:)

4 THE COURT: Mr. Tyrell, how are you
5 doing, sir?

6 THE JUROR: I'm fine.

7 THE COURT: We're running just a minute
8 or two behind, but we're doing pretty well to
9 tell you the truth to have talked to as many
10 as we've talked to. And I'll get you out of
11 here as quickly as I can.

12 Tell me about your work, if you
13 please, sir, if you don't mind that.

14 THE JUROR: Okay. I am the owner of
15 Bedroom Express in Summerville, South
16 Carolina. It's a retail store, we sell
17 bedding and furniture in general. We've been
18 in business since January 15th of this year.
19 I used to be a store manager for Wal-Mart for
20 ten years and I've always wanted to work for
21 myself.

22 THE COURT: So you got your own thing.

23 THE JUROR: Here I am doing my own thing,
24 yes, sir.

25 THE COURT: Very good.

1 THE JUROR: Yes, sir.

2 THE COURT: Well, have you served as a
3 juror before?

4 THE JUROR: No, sir. I haven't. I've
5 been called, I think this is my third time,
6 but never actually served.

7 THE COURT: Sat on a jury itself.

8 THE JUROR: Right. I've never sat on a
9 jury.

10 THE COURT: And let me ask you this:
11 This sheet that I gave you all, gave you to
12 read back there, did you read that?

13 THE JUROR: Yes, sir. I did.

14 THE COURT: Does did make any sense to
15 you?

16 THE JUROR: Oh, absolutely, yes, sir.

17 THE COURT: Tell me what group you feel
18 like you fall into.

19 THE JUROR: I think I fall into group
20 number three.

21 THE COURT: Which says what? Basically
22 means what, I guess?

23 THE JUROR: Well, I think there's
24 different degrees of crimes in general and I
25 think each one of them holds a certain type of

1 punishment and I could go either way.

2 THE COURT: All right.

3 THE JUROR: I really could.

4 THE COURT: Do you -- so what you're
5 saying is you're not one -- if someone were
6 convicted of murder, and obviously in this
7 state you don't even consider a life sentence
8 or a death sentence in this state unless that
9 person's committed a murder, so assuming that
10 you were a juror and the jury found beyond a
11 reasonable doubt that a defendant was guilty
12 of murder, you're saying that in order to
13 determine what the sentence would be that you
14 would have to listen to all the evidence
15 presented -- in addition to the evidence of
16 the murder you would have to listen to all of
17 the aggravating circumstances, all the
18 mitigating circumstances?

19 THE JUROR: Yes, sir. Because there's a
20 lot that can determine that, there really is.

21 THE COURT: In other words, you're not
22 one who says, well, if someone's convicted of
23 murder he's going to death every time?

24 THE JUROR: Absolutely not.

25 THE COURT: Or one who says I don't care

1 if he's committed murder, I'm not going to
2 give anything but a life sentence, I just
3 don't believe in the death sentence, you're
4 not that one either?

5 THE JUROR: No, sir.

6 THE COURT: So you could give life, could
7 give death, just depends on the circumstances?

8 THE JUROR: That is correct.

9 THE COURT: Mr. Beauford, Mr. Bailey,
10 whichever one.

11 EXAMINATION

12 BY MR. BEAUFORD:

13 Q. Mr. Tyrell, my name is Percy Beauford, a
14 few questions. How long have you held this opinion
15 about the death penalty or life?

16 A. I think most all my life, ever since I
17 can remember. I'm a religious person to a degree, I
18 believe in the old testament, an eye for an eye, but
19 then again we're living in the new testament so I
20 think I could go either way. I mean, you know, I
21 don't think everybody that commits a very serious or
22 violent crime should be sentenced to death, you know,
23 but then there are some that could. It depends on
24 the circumstances of the evidence, you know, both
25 what the State presents and what's on the defense

1 side, I guess. I mean, it could have been brought on
2 over a number of years or something, it could have
3 been a crime of passion or whatever. I mean, there's
4 a lot of different circumstances and you have to take
5 that into consideration. But I could go either way,
6 okay? I mean --

7 Q. In a case of murder if someone
8 intentionally kills someone with malice aforethought
9 or depraved heart, would that sway you, just that
10 person being guilty of that crime, whether you're
11 going to do death penalty or life?

12 A. It depends on the circumstances.

13 Q. Okay.

14 A. And it's hard to say one way or the
15 other, you know. I would have to hear all the
16 evidence. I mean, there's just a lot that can
17 happen, you know, to lead up to that point, you know,
18 where somebody does something like that, yes, sir.

19 Q. How do you classify yourself, as a leader
20 or follower?

21 A. I'm a leader.

22 Q. Okay. If you were on a jury and a
23 majority of a jury was voting one way and you wanted
24 to vote another way but you are not in the majority,
25 would you give up your view just to get the case over

1 with?

2 A. Absolutely not.

3 Q. Would you respect the views of the other
4 jurors and give them opportunity to discuss their
5 views?

6 A. Yes, sir. I would, absolutely.

7 Q. No further questions.

8 EXAMINATION

9 BY MR. BAILEY:

10 Q. I'm Walter Bailey, I'm prosecuting the
11 case, I need to kind of back up and ask you some of
12 the same questions to be sure I fully understand what
13 your position is here.

14 A. Right.

15 Q. You understand we wouldn't even be
16 getting to the punishment stage unless the
17 defendant's found guilty of murder in the first part
18 of the trial beyond a reasonable doubt?

19 A. Right.

20 Q. And you understand also that in South
21 Carolina if we get to that point the judge doesn't
22 decide the penalty, the jury makes that decision.
23 All the judge does is order that sentence to be
24 carried out.

25 A. Right.

1 Q. If the jury votes for a life sentence the
2 judge would order it, and life sentence in this case
3 means life without parole. Death sentence means
4 execution, obviously.

5 A. Right.

6 Q. And as I said, whatever the jury -- it's
7 not a recommendation, it's what's going to happen.
8 If the case is bad enough, could you vote for the
9 death penalty knowing that sentence is going to be
10 carried out?

11 A. Absolutely, yes, sir.

12 Q. Could you sign your name to a verdict
13 form along with the other jurors if that was the
14 unanimous verdict of the jury?

15 A. Yes, sir. I could.

16 Q. Knowing that sentence would be carried
17 out?

18 A. Yes, sir.

19 Q. Could you announce that sentence out loud
20 if it was your decision?

21 A. I sure could.

22 Q. This might have been mentioned before,
23 I'm not sure if it was or not, but in a death penalty
24 case the jury is put up in a motel for the duration
25 of a trial, which we're looking roughly at a week,

1 give or take a day or two one way or the other.

2 A. Right.

3 Q. Is that going to create any kind of undue
4 hardship on you since your store just opened up in
5 January, or is that something you could work around?

6 A. Well, I think I could work around it,
7 yes, sir. It would be tight, but I do feel like I
8 need to serve my country. And I've never been in the
9 military, maybe this is the best way I can do it, you
10 know.

11 Q. Thank you very much.

12 THE COURT: Step out just a minute and
13 I'll bring you right back.

14 THE JUROR: Sure.

15 (Whereupon, the prospective juror leaves
16 the courtroom.)

17 THE COURT: What says the State?

18 MR. BAILEY: Qualified, Your Honor.

19 THE COURT: Defendant?

20 MS. HARDEE-THOMAS: Qualified.

21 THE COURT: He's qualified.

22 (Whereupon, the prospective juror returns
23 to the courtroom.)

24 THE COURT: Mr. Tyrell, your phone number
25 is correct?

1 THE JUROR: Yes.

2 THE COURT: What I'm going to do is this:
3 We're going through this whole slew of jurors
4 trying to get 35, at least, from which we can
5 draw 12 jurors, two alternates.

6 THE JUROR: Okay.

7 THE COURT: And what I intend to do is to
8 go all afternoon is this afternoon, all day
9 tomorrow until late tomorrow afternoon and
10 hopefully we will have the 35. May not, we
11 may have to come back Wednesday to get some
12 more.

13 THE JUROR: Okay.

14 THE COURT: But the point of it is rather
15 than having you come back, because I don't
16 know if we could call you tomorrow night, you
17 know, eight o'clock or something like that
18 tomorrow night.

19 THE JUROR: Sure, you can do that.

20 THE COURT: And then just any one of
21 these numbers and let you know.

22 THE JUROR: I've got an answering machine
23 at the home number and then I'm in and out at
24 work, leave a message and I can call you back.

25 THE COURT: That's basically what we need

1 to know, is whether we can get in touch with
2 you. And we'll just say we need you Wednesday
3 whatever time, or Thursday, whatever time it
4 is, we'll just call you and try to give you
5 the information you need.

6 Please avoid, you know, the media.
7 There isn't anybody here, I don't think
8 there's going to be anything, but it would
9 just be wise not to do that. And also
10 obviously when you tell your family, you know,
11 what this is just as long as you explain to
12 them you may be called as a juror, but I don't
13 want you to go into the facts of the case.

14 THE JUROR: Details or anything.

15 THE COURT: Of course you don't know
16 anything about the facts.

17 THE JUROR: Right.

18 THE COURT: The whole point of it is
19 don't get into a discussion about the death
20 penalty and that kind of thing, because
21 somebody will give you some opinion they've
22 got.

23 THE JUROR: Yes, sir.

24 THE COURT: That's what we want to avoid.

25 THE JUROR: Yes, sir.

1 THE COURT: Thank you very much. We'll
2 call you.

3 THE JUROR: Thank you.

4 (Whereupon, the prospective juror leaves
5 the courtroom.)

6 THE COURT: Let's take a minute or two
7 now.

8 (Recess taken.)

9 (Arleen A. Wheeler, called as a potential
10 juror, having first been duly sworn, is
11 examined as follows:)

12 THE COURT: Ms. Wheeler, how are you
13 doing? I'm just going to ask you just a very
14 few questions, we're running just 15 minutes
15 late, we were going to take a 30-minute break,
16 didn't take one because we didn't have time,
17 we're just a minute or two late. Brook.

18 Brooklyn, New York.

19 THE JUROR: Yes.

20 THE COURT: You grew up there?

21 THE JUROR: Yes.

22 THE COURT: Lived in Smithtown.

23 THE JUROR: Long Island.

24 THE COURT: Long Island. Have been here
25 now, how long now?

1 THE JUROR: Twelve years.

2 THE COURT: What's the difference in
3 Summerville and Long Island?

4 THE JUROR: Nothing. It's exactly the
5 same.

6 THE COURT: People are the same anywhere
7 you go; is that what you're saying?

8 THE JUROR: Oh, yeah.

9 THE COURT: Tell me about your work.
10 Charleston/Dorchester Mental Health, seven
11 years.

12 THE JUROR: I do data entry clerk.

13 THE COURT: And your son you say is a
14 police officer in New York. The fact that he
15 is an officer, would that in any way prevent
16 you from being fair and impartial in the trial
17 down here?

18 THE JUROR: I don't think so.

19 THE COURT: Have you served as a juror
20 before?

21 THE JUROR: No, this is the first time.

22 THE COURT: First time. There are no
23 right or wrong answers. Whatever you tell me,
24 all I want is how you feel from the heart,
25 what your truth is. Doesn't make any

1 difference who asks the questions of you, and
2 I can tell you that there are no right or
3 wrong answers, just whatever you say is
4 perfectly fine.

5 Tell me about this business here,
6 this sheet I gave you all back there to read,
7 tell me where you fit into that thing.

8 THE JUROR: I fit into the third type, I
9 think.

10 THE COURT: Which says what now? I mean,
11 in your opinion, tell me in your own words.

12 THE JUROR: Well, I would have to hear
13 more than the facts in the case in order to
14 make a judgment of any kind, but I am for the
15 death penalty.

16 THE COURT: In other words, you are not
17 one who would always give a life sentence, you
18 believe that the death penalty is appropriate
19 in some cases?

20 THE JUROR: Yes.

21 THE COURT: But you don't believe it's
22 appropriate in all cases?

23 THE JUROR: No. It's what the facts --

24 THE COURT: Hence number three, you feel
25 like it depends on the circumstances to feel

1 like to determine whether or not you should
2 vote for a death sentence or not?

3 THE JUROR: Yes.

4 THE COURT: You understand, of course,
5 that the jury would have to determine in the
6 first portion of the trial, the guilt phase we
7 call it, the jury would have to determine
8 first of all whether the defendant was guilty
9 of murder, obviously before you even talk
10 about sentencing someone?

11 THE JUROR: Uh-huh (affirmative
12 response).

13 THE COURT: So when I asked you those
14 questions there, or gave those three
15 categories of juror, we're really presupposing
16 that the jury is convicting the person of
17 murder.

18 THE JUROR: Right.

19 THE COURT: And so what we're really
20 talking about is sort of putting the cart
21 before the horse and talking about the penalty
22 phase.

23 THE JUROR: Penalty.

24 THE COURT: Right. Exactly. But you're
25 saying you would be able to listen, and would

1 listen to all of the facts and circumstances,
2 the facts of aggravation, the facts which make
3 the crime maybe more heinous, worse, and on
4 the other hand listen to the facts in
5 mitigation, the facts which might make the
6 crime or person less culpable, or the crime
7 lesser in degree, you would listen both to the
8 good and the bad basically before you could
9 make a decision as to whether or not the death
10 sentence is appropriate?

11 THE JUROR: Right. Exactly.

12 THE COURT: How long -- I mean, is that
13 something that you just thought of today, or
14 is that something --

15 THE JUROR: No. That's something that I
16 guess was always my beliefs. You know, you
17 have to hear all the evidence.

18 THE COURT: All the evidence. What about
19 the fact, I notice that you are Roman
20 Catholic, does that, does your religious faith
21 or your faith have any bearing on your idea
22 about capital punishment?

23 THE JUROR: No.

24 THE COURT: In other words, you simply
25 would have to listen to everything and you

1 could go either way?

2 THE JUROR: Yes.

3 THE COURT: Depending on the
4 circumstances?

5 THE JUROR: Yes.

6 EXAMINATION

7 BY MR. BEAUFORD:

8 Q. How are you doing, Ms. Wheeler?

9 A. Okay.

10 Q. My name is Percy Beauford. How did you
11 formulate your opinion about the death penalty?

12 A. How do I form my opinion about it?

13 Q. Yes.

14 A. Reading, what I read or try to understand
15 about the death penalty. But I am for it.

16 Q. Okay. And what type of literature would
17 you read to -- that involved the death penalty?

18 A. Cases that have been written about.

19 Q. So you read actual case laws?

20 A. No. No, just books in general, fiction
21 or criminal books.

22 Q. And you understand that the -- murder is
23 the intentional killing of someone with malice
24 aforethought with a depraved heart?

25 A. Yes.

1 Q. And if someone is convicted of murder, am
2 I understanding you to say that you will look at
3 other circumstances surrounding it whether to
4 determine whether to give him the death penalty or
5 life imprisonment?

6 A. Yes.

7 Q. Okay. How do you classify yourself, as a
8 leader or follower?

9 A. I'm not a leader.

10 Q. Okay. With that being said, let me ask
11 you this: If you are in a scenario where the
12 majority voted one way and you were not within
13 majority, would you change your vote in order to just
14 get the case over with?

15 A. Oh, no.

16 Q. Okay.

17 A. I still believe what I believe in. And
18 if I hear the circumstances or whatever, what the
19 case is, you know, I have to make my own judgment
20 with that.

21 Q. Basically if you're not convinced with
22 the majority you would hold on to your views?

23 A. Uh-huh (affirmative response).

24 Q. Again, this may have been asked. In
25 deciding whether to vote for life or death could you

1 consider facts that has nothing to do with the murder
2 itself in determining whether to vote for the death
3 or life in prisonment?

4 A. No, I would have to see the facts not
5 just --

6 Q. Okay.

7 A. You're saying something else besides the
8 facts?

9 Q. Okay. What I'm saying, the person's
10 already convicted of murder and we're in the second
11 phase.

12 A. Okay.

13 Q. Whether it's mitigating or aggravating.
14 Would you consider those factors in determining
15 whether life or death?

16 A. Uh-huh (affirmative response).

17 Q. Would you consider fact as a background,
18 life?

19 A. No.

20 Q. You wouldn't consider those kind of
21 facts?

22 A. Well, the fact that what occurred during
23 that time that he was -- he did what he did.

24 Q. I mean, I don't understand. Explain that
25 for me.

1 A. I don't know how else to explain it.

2 Q. I mean, there's no right or wrong answer,
3 I just want to understand.

4 A. I know, I just don't know how to explain
5 it.

6 THE COURT: I think what he's asking you
7 is would your ultimate decision just be based
8 on the circumstances of the murder, the facts
9 surrounding the murder alone, or would you
10 also consider other facts. For instance, the
11 facts about the defendant himself, or who he
12 is, where he came from, that kind of thing; or
13 the victim and who she is and where she came
14 from, factors really sort of outside --

15 THE JUROR: All in general, outside of
16 it?

17 THE COURT: Yes, ma'am. Sort of outside
18 of the narrow facts of exactly what happened
19 at the crime itself, but would you consider --

20 THE JUROR: The whole picture.

21 THE COURT: The whole picture.

22 THE JUROR: The whole picture.

23 THE COURT: The good and bad as to victim
24 and defendant and their families and
25 background, just whatever else that might come

1 in.

2 BY MR. BEAUFORD:

3 Q. I'm saying not at the guilt phase, he's
4 already convicted of murder, I'm saying at the
5 sentencing phase.

6 A. Right.

7 Q. Would you consider those factors in
8 determining whether --

9 A. Oh, yes. Take everything into
10 consideration, the whole picture. You have to take
11 in the whole picture.

12 Q. No further questions.

13 EXAMINATION

14 BY MR. BAILEY:

15 Q. Ms. Wheeler, I'm Walter Bailey, I just
16 want to ask you a couple more questions. I'll try
17 not to repeat too much of what the judge and
18 Mr. Beauford asked you, but this is the only chance
19 we get to talk to jurors before we pick a jury. As
20 far as the second phase of the trial, you understand
21 we don't get there unless the defendant's convicted
22 of murder beyond a reasonable doubt in the first part
23 of the trial?

24 A. Okay.

25 Q. If we're in that stage the judge doesn't

1 make a decision on the punishment, it's strictly up
2 to the jury. And all the judge does is basically --
3 he'll rubber stamp what the jury says. If the jury
4 votes for life, the judge would sentence that person
5 to life and he'll serve life without parole. If the
6 jury votes for the death penalty, the judge would
7 order that death penalty be carried out and it would
8 be carried out.

9 Now, nobody is going to ask you to
10 predict what you'd do in this case because you
11 haven't heard any of the facts that you said you
12 would want to hear, but if the facts are bad enough
13 can you vote for the death penalty knowing that as a
14 result of that vote that defendant's actually going
15 to be executed?

16 A. Yes.

17 Q. Could you sign your name to the verdict
18 form with the other 11 jurors if all 12 voted for the
19 death penalty?

20 A. Yes.

21 Q. And could you stand up in open court out
22 here in one of these chairs here? Not stand in the
23 chair, but you would be sitting there and they would
24 call your name up one at a time and announce that out
25 loud that that was your verdict?

1 A. Uh-huh (affirmative response).

2 Q. The jury's going to be put up in a motel,
3 I don't know whether this was mentioned earlier or
4 not, they'll be sequestered for the trial, which is
5 going to be roughly a week, maybe a little bit less,
6 a little bit more. And so during the daytime you
7 would be here in court, nighttime you would be in the
8 motel until this thing is over with. And we would be
9 going into the weekend. Is that going to create any
10 kind of an undue burden on you?

11 A. Yes.

12 Q. Okay. Can you tell us about that?

13 A. Well, I have obligations on the weekend.

14 Q. Okay. Any specific obligations that
15 would --

16 A. I have a couple of weddings to go if it's
17 this weekend, yes.

18 Q. Okay. All right. And of course
19 everybody that's called for jury service has places
20 they would rather be, but do your commitments rise to
21 the level you think where it would really create a
22 hardship on you if you were not able to attend those?

23 A. I think it would.

24 Q. Okay. To the extent would it -- if you
25 were picked anyway, okay, would the fact that if the

1 jury is being sequestered, we're trying the case into
2 the weekend and you were unable to attend those
3 weddings, would that in any way cause you not to be
4 able to concentrate on the testimony that was taking
5 place, would you be upset about it?

6 A. I would be, yes. It's a very close
7 friend that's getting married.

8 Q. Okay.

9 MR. BAILEY: I believe that's all I have,
10 Your Honor.

11 THE COURT: All right. Would you mind
12 stepping out there just for a second?

13 THE JUROR: Okay.

14 (Whereupon, the prospective juror leaves
15 the courtroom.)

16 THE COURT: Qualified, State?

17 MR. BAILEY: Judge, I think she is
18 qualified in the death penalty qualifications.
19 I am concerned about her wish not to be here
20 because of the wedding, and I don't know
21 whether Your Honor could explore that with her
22 a little bit more or whether you've got enough
23 on the record to make a decision on it.

24 MR. BEAUFORD: Your Honor, I do think she
25 was qualified. I wouldn't have any objection

1 to having her excused since it may interfere
2 with her judgment or maybe jury deliberations.

3 THE COURT: All right, sir. Well, if you
4 both want to excuse her, I'll excuse her. I
5 think she's qualified and I think, you know,
6 the next one comes along and says I want to go
7 to the movie this weekend, I'm going to be mad
8 because I can't go to the movie, we're going
9 to have the same thing.

10 I mean, I know it's maybe important
11 to her. And, again, I'm not trying to talk
12 you into or out of. I'm simply saying if you
13 all say excuse her, I will. But I don't want
14 to get into a situation where I'm doing that
15 on everyone that --

16 MR. BAILEY: Your Honor, I may have asked
17 her too many questions, but I had been asking
18 all of them that and I just hate somebody to
19 think it's going to be a good juror and --

20 THE COURT: I agree. I don't think you
21 asked her too many questions at all. I don't
22 have a problem with what you're asking. I
23 mean, it's just one of those things that we're
24 going to run into. Most people would probably
25 say, well, I sure wish I could go, but I

1 understand. You know, the gentleman who was
2 here not too long ago said, well, I got a new
3 business, I just would rather not, but it's my
4 obligation as a citizen to do it. And, you
5 know, that's kind of what we want to hear.
6 She's just telling you what she thinks. So, I
7 mean, you can't really fault either one of
8 them. On the one hand one wants to stay, the
9 other one wants to go.

10 You tell me. If you all both tell
11 me you want her to be excused, I will excuse
12 her.

13 MR. BAILEY: Your Honor, could I request
14 possibly call her back in and let you ask her
15 the questions and see how --

16 THE COURT: We can do that.

17 MR. BAILEY: If it's really a problem
18 with her. It seemed to be a problem with her.

19 THE COURT: Well, I think it probably is.
20 I don't mind doing that.

21 What do you say about it,
22 Mr. Beauford?

23 MR. BEAUFORD: Your Honor, I'm not saying
24 to excuse her. I said I wouldn't have an
25 objection to having her excused. I mean, I

1 just.....

2 THE COURT: Well, you know -- let's bring
3 her back, let me talk to her. That's the only
4 way.

5 (Whereupon, the prospective juror returns
6 to the courtroom.)

7 THE COURT: Ms. Wheeler, my concern is of
8 this business about the wedding, close
9 personal friend, I mean obviously.

10 THE JUROR: Yes.

11 THE COURT: So close that you're telling
12 us that you simply feel like it would prevent
13 you from being an effective juror, that you
14 would be so upset that you simply could not
15 serve because you would be so upset that
16 you're missing it? Ma'am, been looking
17 forward to it, I understand that.

18 THE JUROR: Yes. Is the trial starting
19 this week?

20 THE COURT: Here's what we think. We
21 don't know because we've got to get the jury.
22 See, as long as we excuse them we're not going
23 to get a jury. But if we get a jury by
24 tomorrow night, I mean, get a panel together
25 by tomorrow night, then it would be Wednesday

1 morning before we actually drew a jury and
2 started the trial. And so we're talking about
3 Wednesday and Thursday. And what day is
4 the --

5 THE JUROR: Saturday.

6 THE COURT: It's Saturday.

7 THE JUROR: The next one I can miss.

8 THE COURT: That's on Sunday?

9 THE JUROR: No, the following week.

10 THE COURT: The following week.

11 THE JUROR: But this one....

12 THE COURT: Well, I sure hate to excuse
13 you because I think you would be a good juror,
14 but I'll excuse you.

15 THE JUROR: Thank you.

16 THE COURT: See how nice we are in South
17 Carolina?

18 THE JUROR: Yes.

19 THE COURT: I'll excuse you.

20 THE JUROR: Thank you very much.

21 THE COURT: Yes, ma'am.

22 (Whereupon, the prospective juror leaves
23 the courtroom.)

24 THE COURT: I hate to do that. I think
25 she would have been a good juror. All right.

1 (Jerry E. Bryan, called as a potential
2 juror, having first been duly sworn, is
3 examined as follows:)

4 THE COURT: Mr. Bryan?

5 THE JUROR: Yes, sir.

6 THE COURT: How are you doing?

7 THE JUROR: Doing fine, sir.

8 THE COURT: Let me just ask you a couple
9 of questions, then I'll let these lawyers ask
10 you one or two.

11 You were in the Navy, sir, E-8, for
12 how long?

13 THE JUROR: Twenty years, sir.

14 THE COURT: Twenty years. And have
15 worked Gaskins Mobile Supplies. What is that,
16 sir?

17 THE JUROR: We provide milling tools,
18 turning lathes, bending brakes, so forth for
19 the commercial industries in the area.

20 THE COURT: And you're in the sales end
21 of that?

22 THE JUROR: Yes, sir. I am.

23 THE COURT: Okay. Have you served, sir,
24 before?

25 THE JUROR: No, sir.

1 THE COURT: As a juror?

2 THE JUROR: No, sir.

3 THE COURT: Let me ask you this: My
4 Uncle, Joe Bryan, killed his wife, you have
5 that -- there was a conviction, yes, murder
6 first degree.

7 THE JUROR: Yes, sir.

8 THE COURT: Would that fact -- well,
9 first of all, let me ask you a little bit
10 about that. Was he living here?

11 THE JUROR: No, sir.

12 THE COURT: Some other place?

13 THE JUROR: No, sir. I only put it on
14 there because, you know, had stated the fact
15 that I needed to.

16 THE COURT: Right.

17 THE JUROR: That was back when I was
18 younger.

19 THE COURT: Very young.

20 THE JUROR: It was in the State of
21 Alabama.

22 THE COURT: I see. The fact that that
23 occurred, that an uncle was convicted of a
24 crime a long time ago, would that prevent you
25 from being fair and impartial in this case?

1 THE JUROR: No, sir. I know very little
2 about the case back there.

3 THE COURT: I understand. And have you
4 read -- did you read that sheet I left for you
5 all?

6 THE JUROR: Yes, sir.

7 THE COURT: Tell me about that. What
8 group do you feel you fall into?

9 THE JUROR: Sir, I think I fell in the
10 third group by being in the military with
11 explanation. I have served and been in the
12 courtroom with some of my junior personnel as
13 a senior chief and we've always been
14 impartial, you know, tried to be fair in the
15 judgment of any of them.

16 THE COURT: Would you say then that you
17 are not a person, absolutely are not a person
18 who would always give a death sentence even if
19 you found someone guilty of murder?

20 THE JUROR: Well, sir, I would have to
21 consider the circumstances.

22 THE COURT: Okay. Right.

23 THE JUROR: Surrounding after I heard all
24 the facts.

25 THE COURT: So you're not one -- so what

1 you're saying is some people, you know, will
2 come along and say, well, if you're guilty of
3 murder, he ought to get the death sentence
4 every time.

5 THE JUROR: No, sir. I would not say
6 that.

7 THE COURT: Of course a bunch of other
8 people would say I don't care if he has
9 committed a murder, I'm just opposed to the
10 death sentence, I would never give it, I would
11 give life every time in every case.

12 THE JUROR: Right, sir.

13 THE COURT: And you wouldn't do that
14 either?

15 THE JUROR: No, sir. I would have to
16 listen to the circumstances surrounding the
17 situation.

18 THE COURT: All right.

19 THE JUROR: And from there make my
20 decision.

21 THE COURT: And you understand that the
22 circumstances surrounding the situation, what
23 you would basically be allowed to hear, if you
24 got to that point in the trial, because the
25 State would have to prove murder first before

1 you even talk about sentencing, but assuming
2 that you got to the sentencing portion of a
3 trial, what you would hear would be evidence
4 regarding the circumstances of the crime
5 itself, but also there may be a good bit of
6 other evidence of -- say of evidence of --
7 about the people involved, I mean the victim
8 and her family and so forth, the defendant,
9 his family and who he is, where he came from.
10 Just all kinds of information not just pointed
11 to the occurrence to the crime itself, if you
12 follow where I'm coming from.

13 THE JUROR: Yes, sir.

14 THE COURT: Are you saying then that you
15 would be willing to listen to all that
16 information and then develop and decide what
17 an appropriate sentence would be?

18 THE JUROR: Yes, sir.

19 THE COURT: And you could give life if
20 you felt it was necessary, but you could also
21 give death if you felt like that was
22 necessary?

23 THE JUROR: Yes, sir. I could.

24 THE COURT: To the extent of signing a
25 form, with all 12 jurors signing a form saying

1 that?

2 THE JUROR: Yes, sir. I could.

3 THE COURT: Realizing, of course, when
4 you sign that form that's what it would be.
5 In other words, it's your decision, you're the
6 sentencer and not the judge?

7 THE JUROR: Yes, sir.

8 THE COURT: Okay. All right, sir.

9 Mr. Beauford?

10 EXAMINATION

11 BY MR. BEAUFORD:

12 Q. Mr. Bryan, my name is Percy Beauford.

13 A. Yes, sir.

14 Q. Just a couple of questions. What is your
15 opinion on the death penalty?

16 A. My opinion on the death penalty? Well,
17 sir, I feel that if someone deserves it, I mean
18 depending, again, on the circumstances and evidence
19 I'm not -- I don't oppose the death penalty.

20 Q. Okay.

21 A. That's the best way I can say it.

22 Q. Okay.

23 A. I do not oppose the death penalty if the
24 situation warrants it.

25 Q. Do you understand that life means life

1 without parole?

2 A. Yes, sir.

3 Q. Okay. Do you consider yourself a leader
4 or a follower?

5 A. I'm a leader, sir. I've been 20 years in
6 the military. Of the last ten years --

7 Q. And as a leader if you were voting in the
8 majority but there was other jurors voting
9 differently, and you would not want those jurors just
10 to change their view just to get the case over with,
11 would you?

12 A. No, sir. Everyone is entitled to their
13 beliefs in lives or taking of life.

14 Q. And you respect their views?

15 A. I respect everyone's views.

16 Q. Okay. No further questions.

17 EXAMINATION

18 BY MR. BAILEY:

19 Q. Mr. Bryan, I'm Walter Bailey, just a
20 couple of questions. Thoughts you've had on the
21 death penalty that you've expressed here today, is
22 that something that you've thought about in the past?

23 A. Well, I've seen a lot of it, yes, sir, I
24 have discussed it with individuals, church groups,
25 with my wife, and it's something you think about.

1 You know, even in the military we thought about it.

2 It's not nothing that's spur of the moment.

3 Q. Okay. And the fact that you actually may
4 be on a jury that will be making a life and death
5 decision, have your views changed in any way, firmed
6 up, or slacked off, or pretty much the same as they
7 were before?

8 A. No, sir. Pretty much the same.

9 Q. And as the judge said, in South Carolina
10 the sentencer is the jury and not the judge. The
11 judge can't alter that sentence, all he does is
12 impose whatever the jury says. If the jury votes for
13 life he would sentence that person to life, they
14 serve life without parole. If the jury votes for,
15 death the judge would order that and he's going to be
16 executed.

17 A. Yes, sir.

18 Q. Nobody's going to ask you to predict what
19 you would do in this case because you hadn't heard
20 any of the facts, circumstances at all. But if the
21 case is bad enough you've indicated you could vote
22 for the death penalty; is that correct?

23 A. Yes, sir. I could.

24 Q. And if all 12 jurors voted for it you
25 could sign your name to the verdict form?

1 A. Yes, sir.

2 Q. Could you announce that decision in open
3 court?

4 A. Yes, sir. I can.

5 Q. Okay. And I hate to ask this question,
6 but the jury's going to be put in a motel during the
7 course of this trial for roughly a week, maybe a day
8 or two less than that. Probably will go through this
9 weekend, that's a hardship or everybody. Is it any
10 undue hardship on you taking into consideration your
11 work and personal life?

12 A. No, sir. No one at home but my wife, she
13 would understand.

14 Q. Thank you, sir. That's all I have.

15 A. Yes, sir.

16 THE COURT: Would you mind just stepping
17 out there one minute? I'll bring you right
18 back.

19 (Whereupon, the prospective juror leaves
20 the courtroom.)

21 THE COURT: Mr. Bryan qualified?

22 MR. BAILEY: Qualified.

23 THE COURT: State says yes.

24 MR. BEAUFORD: Qualified.

25 THE COURT: Defendant says yes, I say

1 yes.

2 (Whereupon, the prospective juror returns
3 to the courtroom.)

4 THE COURT: Mr. Bryan, your phone number,
5 those are correct? You take your glasses off
6 and I have to put mine on to see.

7 THE JUROR: Yes, sir.

8 THE COURT: What I'm going to do is this:
9 Going through all this number of jurors I'm
10 attempting to get a pool of about 35 jurors.
11 I got 60 names, we're trying to get 35 from
12 which I can draw 12 jurors and two alternates.

13 And so what I'm going to do rather
14 than ask you to come back here and wait and so
15 forth, I'll just let you go and we will call
16 you. I think it will be tomorrow night.

17 THE JUROR: Okay.

18 THE COURT: I think it will be late
19 tomorrow sometime, possibly Wednesday morning.

20 THE JUROR: Yes, sir.

21 THE COURT: I don't know exactly when.
22 But my idea is rather than making you all come
23 back here, we'll call you and tell you when we
24 need you to come back and at that time we can
25 give you some information in regards to what

1 you need if you were -- and how long and so
2 forth we think we'll be.

3 Please avoid the news media. I
4 don't think you'll hear anything, see
5 anything, nobody's here, and I doubt there
6 will be anything except maybe a little
7 something in the local paper. But avoid that,
8 if you will.

9 And obviously you've got to discuss
10 with your wife the fact that you may be having
11 to come back. But don't get into any
12 discussion of the death penalty or, you know,
13 the facts or anything like that. Just avoid
14 that, if you will. Obviously you got to tell
15 her what you're going to be doing, but other
16 than that.

17 THE JUROR: Yes, sir.

18 THE COURT: Thank you very much.
19 Appreciate your service.

20 THE JUROR: Thank you, sir.

21 (Whereupon, the prospective juror leaves
22 the courtroom.)

23 (Marvin E. Ladson, called as a potential
24 juror, having first been duly sworn, is
25 examined as follows:)

1 THE COURT: Mr. Ladson, how are you
2 doing?

3 THE JUROR: All right, sir.

4 THE COURT: Tell me about Alaska.

5 THE JUROR: I was stationed in Alaska for
6 three years. It's all right.

7 THE COURT: What did you do in the
8 service?

9 THE JUROR: I was a medic.

10 THE COURT: A medic?

11 THE JUROR: Yes, sir.

12 THE COURT: What did you have to do up
13 there, administer frost bite? I mean, that's
14 about all you can get in Alaska.

15 THE JUROR: Basically it.

16 THE COURT: Frost bite.

17 THE JUROR: Yes, sir. Frost bite, broken
18 legs off skis.

19 THE COURT: That's right. I got you.
20 Let me ask you this, sir: You work for
21 Flav-O-Rich now, or did. You still do?

22 THE JUROR: Yes, sir.

23 THE COURT: Route salesman.

24 THE JUROR: Yes, sir.

25 THE COURT: Been doing that for a year I

1 believe you say. And you worked at Ling
2 Industrial Fabrics. What is that?

3 THE JUROR: Ling Industrial Fabrics in
4 Summerville.

5 THE COURT: Ling.

6 THE JUROR: They made plastic products.

7 THE COURT: Somebody else I believe we
8 had here today was working there as well.

9 Have you served as a member of a
10 jury panel before?

11 THE JUROR: No, sir.

12 THE COURT: Did you read that sheet back
13 there?

14 THE JUROR: Yes, sir.

15 THE COURT: Tell me what group you think
16 you fall into.

17 THE JUROR: Number three.

18 THE COURT: Which means what to you?

19 THE JUROR: Which means that I wouldn't
20 pass judgment until I heard the evidence in a
21 case.

22 THE COURT: All right, sir. Well, let me
23 ask you this, sort of goes like this: You
24 have someone charged with murder and a jury
25 convicts that person of murder beyond a

1 reasonable doubt, the State proves beyond a
2 reasonable doubt the person is guilty of
3 murder. And the jury, all 12 jurors, vote
4 guilty of murder.

5 And then you go to a sentencing
6 phase where you have to determine what the
7 sentence is. Some jurors would say, well, if
8 he's guilty of murder he ought to get a death
9 sentence every time. I mean, if it's murder,
10 it ought to be death. Some jurors would say I
11 don't care if he's committed murder, I
12 couldn't ever give a death sentence, I would
13 always give a life sentence. I just don't
14 believe in the death sentence, I'm going to
15 give life every time. Some give death every
16 time, some give life every time.

17 And some would say, well, I could
18 give death, I could give life, but what I
19 really need to do is listen to all the
20 evidence, not just about the crime itself but
21 other evidence as well before I can determine
22 whether a person ought to be given a life
23 sentence or a death sentence. That's the way
24 I understand you fall?

25 THE JUROR: Yes, sir.

1 THE COURT: In other words, you're
2 willing to listen to all the evidence in the
3 case beyond evidence about any crime?

4 THE JUROR: Yes, sir.

5 THE COURT: To determine whether or not
6 the appropriate sentence should be death or
7 life; is that right?

8 THE JUROR: Yes, sir.

9 THE COURT: So there are cases in which
10 you could give a death sentence and could sign
11 a form saying the sentence is death. Knowing
12 that you're the one who's doing the
13 sentencing, you could actually sign a form if
14 you felt like that was the right thing to do
15 in that particular case?

16 THE JUROR: Yes, sir.

17 THE COURT: And on the other hand, you
18 could say, no, I don't think that's the right
19 thing to do, I think life is the appropriate
20 sentence and that's what I'm going to give?

21 THE JUROR: Yes, sir.

22 THE COURT: All right, sir.

23 I'm not sure which, I lose track.
24 You all keep up with it better than I do.
25

EXAMINATION

BY MR. BAILEY:

Q. Mr. Ladson, I'm Walter Bailey, I want to ask you a few more questions to follow up on what Judge Shuler asked you, there are no right or wrong answers. Is the death penalty something that you've ever had any real reason to sit down and think about in the past?

A. No, sir.

Q. Okay. You think now that you've considered the three kind of jurors, you've had enough time to put yourself kind of firmly in the number three category, that it's not for it or against it in every case, wants to hear all the facts and circumstances?

A. Yes, sir.

Q. I'm going to wait for that train if that's okay.

(Pause in proceedings.)

One thing I wanted to mention, it might have been mentioned before, we were talking about life in this kind of case, it's life without parole. And the second thing I wanted to make sure that you understood was that -- and the judge mentioned this, too, if we get to that second phase

1 that means the defendant's convicted of murder in the
2 first part of the trial, the jury makes that decision
3 on life without parole, the death penalty, not the
4 judge. All the judge does is order that sentence to
5 be carried out.

6 And I'm not going to ask you to
7 predict what you would do in this case if you get
8 picked on the jury because you haven't heard the
9 first word about the facts in this case, and you said
10 you wanted to hear all that before you decided. But
11 if the case is bad enough could you vote for the
12 death penalty knowing that sentence is actually going
13 to be carried out?

14 A. Yes, sir.

15 Q. Could you sign your name to that piece of
16 paper, the death verdict form along with the other
17 jurors if that was your vote?

18 A. Yes, sir.

19 Q. Could you stand up in open court and
20 announce that decision out loud when your name's
21 called out if that was your decision?

22 A. Yes, sir.

23 Q. The jury's going to be put in a motel
24 until the trial's over. It's not like in California
25 or New York where it goes on and on, we're talking

1 about roughly a week, starting possibly Wednesday.
2 That's an inconvenience on everybody as far as their
3 personal life and work and all that, but is that
4 something that you can handle?

5 A. I could handle it, but I was scheduled to
6 start school on Thursday.

7 Q. Okay. What type school were you going to
8 start?

9 A. Trident Tech.

10 Q. Okay. And that's an evening course, or
11 what?

12 A. Yes, sir.

13 Q. Okay. How many evenings a week would you
14 be going?

15 A. Well, I'd start this week and Thursday
16 would be my only day. And I don't have no classes on
17 Friday.

18 Q. Okay. All right. So if we went into --
19 so you would miss, what, one session?

20 A. One session.

21 Q. Okay. And that would be the first
22 session, which is sort of like a kind of get
23 acquainted thing anyway.

24 A. Yes, sir.

25 Q. So do you think you can work around that,

1 can you handle that situation?

2 A. Yes, sir.

3 Q. Mr. Ladson, that's all I've got. Thank
4 you very much.

5 EXAMINATION

6 BY MR. BEAUFORD:

7 Q. Mr. Ladson, my name is Percy Beauford,
8 just a few more questions. You understand that
9 murder is the intentional killing of someone with
10 malice aforethought or depraved heart, and it's not
11 manslaughter by accident or self-defense?

12 A. Yes, sir.

13 Q. Knowing that if you found someone guilty
14 of murder, would you automatically vote for the death
15 penalty?

16 A. No, sir.

17 Q. Are you a leader or follower?

18 A. A leader.

19 Q. And as a leader and if you are voting in
20 the majority and someone is not voting the way in
21 which -- with the majority, would you want that juror
22 to change their view just to get the case over with?

23 A. No, sir.

24 Q. Would you allow that juror to express
25 their opinion in the jury room?

1 A. Yes, sir.

2 Q. Would you respect that juror's view?

3 A. Yes, sir.

4 Q. You may have said it earlier, but you
5 wouldn't consider other factors -- the person is
6 already guilty of murder, you're in the sentencing
7 phase, you're willing to consider other factors that
8 has nothing to do with the crime, like the life of
9 the defendant, life of the plaintiff, the good and
10 the bad about either one of the parties, in deciding
11 whether to give death or life?

12 A. I think you have to consider that.

13 Q. Okay. No further questions.

14 THE COURT: Mr. Ladson, let me ask you to
15 step out there in the hall just for a second,
16 I'll bring you right back.

17 (Whereupon, the prospective juror leaves
18 the courtroom.)

19 THE COURT: What says the State?

20 MR. BAILEY: Qualified.

21 THE COURT: Defendant?

22 MR. BEAUFORD: Qualified.

23 THE COURT: I find that he's qualified,
24 well qualified.

25 (Whereupon, the prospective juror returns

1 to the courtroom.)

2 THE COURT: Mr. Ladson, this phone
3 number, that is correct?

4 THE JUROR: Yes.

5 THE COURT: What I'm going to do is have
6 someone call you tomorrow, probably tomorrow
7 night, maybe Wednesday morning, but after we
8 finish. Because I've got to talk to all these
9 jurors and get a group of jurors who qualified
10 to come back. And then out of those who come
11 back I'm going to have to get 14, 12 and two
12 alternates, to actually serve.

13 So you're not -- you're just sort of
14 in a group, but not in the -- you understand,
15 you haven't been selected yet. But rather
16 than having you come back and wait on us we'll
17 call you when we need you and tell you when to
18 come, tell you what you need to bring and so
19 forth. Fair enough?

20 THE JUROR: Yes, sir.

21 THE COURT: Avoid the news media. I
22 don't think you're going to hear anything, I
23 don't think you're going to see anything, but
24 just watch everything, the news, it's not
25 worth watching anyway as you know. And the

1 other thing is when you tell your family what
2 you're going to be doing, I'm not sure you
3 have family or what, whoever you are there
4 with just tell them that you may be involved
5 and so forth. Don't get into a discussion of
6 the death penalty or this case or anything
7 like that. Just tell them you may be called
8 and that I said you couldn't discuss it. Fair
9 enough?

10 THE JUROR: Yes, sir.

11 THE COURT: Thank you.

12 THE JUROR: I'm clear to go to work
13 tomorrow, right?

14 THE COURT: Yes, sir. You can go to work
15 tomorrow, that's fine.

16 THE JUROR: Thank you.

17 (Whereupon, the prospective juror leaves
18 the courtroom.)

19 (David R. Willhoit, called as a potential
20 juror, having first been duly sworn, is
21 examined as follows:)

22 THE COURT: Mr. Willhoit, how are you
23 doing?

24 THE JUROR: Fine.

25 THE COURT: Did I pronounce that right?

1 THE JUROR: Willhoit.

2 THE COURT: Hoit, H-o-i-t. All right,
3 sir. Let me -- I just need to ask you a few
4 questions, these lawyers may ask you one or
5 two, we're moving pretty quickly, it doesn't
6 take just a few minutes. There are no right
7 or wrong answers, whatever you tell me as long
8 as you tell me the truth, comes from your
9 heart, nobody's going to complain. Fair
10 enough?

11 THE JUROR: Yeah.

12 THE COURT: And there are no dumb
13 questions in my courtroom. If you have a
14 question, don't you -- you ask it, don't worry
15 about it, I'll try to answer it for you if I
16 can.

17 Bosch, you've been there 14 years.

18 THE JUROR: Yes, sir.

19 THE COURT: Machine operator. What do
20 you exactly do?

21 THE JUROR: I run a machine that makes
22 hydraulic braking system.

23 THE COURT: The fact that your brother
24 was a deputy sheriff in Kentucky, would that
25 prevent you from being fair and impartial in

1 this trial in any way?

2 THE JUROR: No, sir.

3 THE COURT: Apparently you were reared,
4 grew up in Kentucky?

5 THE JUROR: No. I was born in Kentucky.

6 THE COURT: Okay. But I see your brother
7 was a deputy sheriff which made me think you
8 grew up there.

9 THE JUROR: No.

10 THE COURT: Where did you actually grow
11 up?

12 THE JUROR: Here, actually.

13 THE COURT: Right here?

14 THE JUROR: Yeah.

15 THE COURT: Okay. So you've been here
16 all your life then?

17 THE JUROR: Yeah, pretty much.

18 THE COURT: Have you served as a juror
19 before?

20 THE JUROR: No, sir.

21 THE COURT: What about this sheet of
22 paper that I asked you to read back there,
23 what group do you think you fall into?

24 THE JUROR: The bottom, the last group.

25 THE COURT: All right, sir. Which

1 basically means what to you?

2 THE JUROR: I mean, it just depends on
3 the circumstances of, you know, what happens,
4 or what happened.

5 THE COURT: All right, sir. Am I to
6 understand then from you that you would not be
7 a person if you were on a jury and the jury
8 convicted someone of murder, the State proved
9 beyond a reasonable doubt the person was
10 guilty and the jury convicted, and you were
11 one of them that convicted a person of murder,
12 you would not be a juror who would say, well,
13 if you're convicted of murder then he has to
14 give him a death sentence, I'm going to give
15 them death sentence every single time, I don't
16 care what the circumstances are?

17 THE JUROR: No, sir.

18 THE COURT: And you would not be one to
19 say, well, I don't care if it's murder, I
20 couldn't give the death sentence, I would give
21 life every time, I don't believe in the death
22 sentence?

23 THE JUROR: No, sir.

24 THE COURT: You would not do that?

25 THE JUROR: No, sir.

1 THE COURT: So you would be a juror
2 basically who would have to listen to all the
3 evidence of the case, not just the evidence of
4 the crime, but all the evidence?

5 THE JUROR: Yes, sir.

6 THE COURT: Good and bad about all,
7 anything that the court allowed to come in
8 relevant, you would consider all of that
9 before you would determine whether or not a
10 person should be given a death sentence or a
11 life sentence?

12 THE JUROR: I would have to listen to it
13 all.

14 THE COURT: Could you give a death
15 sentence in the appropriate case?

16 THE JUROR: Yes, sir.

17 THE COURT: Sign your name to the sheet,
18 sentencing the person to death?

19 THE JUROR: Yes, sir.

20 THE COURT: Knowing that that's your
21 decision and not the judge's?

22 THE JUROR: True.

23 THE COURT: And could you stand up in the
24 courtroom and announce in open court that that
25 was your decision?

1 THE JUROR: Yes, I do.

2 THE COURT: And by the same token, could
3 you say in the appropriate case I'm not going
4 to impose the death sentence, I think the life
5 sentence is appropriate in this case and I
6 would not go with the death sentence?

7 THE JUROR: Yeah, could do that also.

8 THE COURT: All right, sir. So you're
9 not opposed to the death sentence, but you're
10 not -- in other words, you can just go either
11 way?

12 THE JUROR: Yeah, that's fair.

13 THE COURT: All right, sir.

14 EXAMINATION

15 BY MR. BEAUFORD:

16 Q. Mr. Willhoit, my name is Percy Beauford,
17 a few questions. How did you form your opinion about
18 the death penalty?

19 A. I basically, I mean -- I mean, a life is
20 precious, I mean you just can't take it, but, I mean,
21 there's some things that, you know, I think that just
22 you have to be accounted for.

23 Q. Okay. And you understand that murder is
24 the intentional killing with malice aforethought or
25 depraved heart, and it's not manslaughter or an

1 accident or self-defense. Knowing that, if you found
2 someone guilty of murder, would you automatically
3 vote for the death penalty?

4 A. No.

5 Q. Are you willing to consider whether to
6 impose life or death other factors that have nothing
7 to do with the crime itself, such as, you know, the
8 life of the defendant, life of the deceased person,
9 or the good or bad of either of the parties?

10 A. I'm sorry, could you repeat the question?

11 Q. In deciding whether to impose life or
12 death, could you consider facts that may have nothing
13 to do with the crime itself, such as the life of the
14 defendant, life of the victim, the good or bad of
15 either one of these individuals in deciding that?

16 A. I mean, yeah. Take it in consideration;
17 is that what you're saying?

18 Q. The person is already found guilty of
19 murder, but at the sentencing phase would you
20 consider those factors in determining whether life or
21 death?

22 A. Yes.

23 Q. How do you consider yourself, a leader or
24 a follower?

25 A. Leader, usually.

1 Q. Okay.

2 A. I mean, at work. That's basically where
3 I'm at most of the time.

4 Q. Okay. And if you were on a jury and the
5 majority voted one way and you wanted to vote another
6 way, would you change your vote just to get the case
7 over with?

8 A. No.

9 Q. Do you understand that life means life
10 without parole?

11 A. Yes.

12 Q. Is there any particular way that you came
13 about that conclusion?

14 A. No. I mean, life is life, right? I
15 mean, that's....

16 Q. You just took it for what it means, life?

17 A. Yeah, for what it means.

18 Q. No further questions.

19 EXAMINATION

20 BY MR. BAILEY:

21 Q. Mr. Willhoit, I'm going to be fairly
22 brief because I think between the judge and
23 Mr. Beauford they pretty much asked you everything,
24 but I want to make sure I fully understand what your
25 position is on the death penalty, I think I do, but

1 just to make sure. You understand that when we get
2 into phase two, that means the defendant has already
3 been convicted of murder beyond a reasonable doubt in
4 the first part of the trial, and if we get there the
5 judge doesn't make that decision on the penalty, life
6 without parole or the death penalty, the jury makes
7 it? And all the judge does is order that sentence to
8 be carried out and it will be carried out, he'll go
9 to prison for the rest of his life or he'll be
10 executed based on that jury's vote?

11 A. Right.

12 Q. You haven't heard any of the facts, so
13 I'm not going to ask you to predict what you would do
14 in this case, because that wouldn't be fair. But if
15 the case is bad enough could you vote for the death
16 penalty knowing it's going to be carried out?

17 A. Yes, sir. I could.

18 Q. You've already indicated that if you and
19 the other 11 jurors voted for the death penalty you
20 could sign your name to the death verdict form; is
21 that correct?

22 A. Yes, sir.

23 Q. And could announce that decision out loud
24 if that was your decision?

25 A. Yes, sir.

1 Q. The last thing I wanted to mention, I
2 don't believe this has been mentioned earlier, is
3 that in a death penalty case the jury doesn't get to
4 go home at night, they go to a motel until it is
5 over.

6 A. Okay.

7 Q. It's going to be a matter of maybe a
8 week, starting probably Wednesday. That's an
9 inconvenience for everybody as far as personal life
10 and work and all that. But is that something that
11 you can handle if you are picked?

12 A. Oh, yes, sir.

13 Q. Thanks. That's all I have.

14 THE COURT: Would you mind stepping out
15 there just for a second and I'll bring you
16 right back.

17 (Whereupon, the prospective juror leaves
18 the courtroom.)

19 THE COURT: How says the State?

20 MR. BAILEY: Qualified, Your Honor.

21 THE COURT: Defendant?

22 MR. BEAUFORD: Qualified, Your Honor.

23 THE COURT: I find that he's qualified as
24 well.

25 (Whereupon, the prospective juror returns

1 to the courtroom.)

2 THE COURT: Mr. Willhoit, these phone
3 numbers you gave me, those are correct?

4 THE JUROR: Oh, yes, sir.

5 THE COURT: What I'm going to do, rather
6 than making you or asking you to come back and
7 wait on us, we'll call you. Probably tomorrow
8 night, maybe Wednesday. But my idea is that
9 if we can go through all these jurors we have
10 and I can get a pool, I'll probably get 35,
11 from which 12 and two alternates will be
12 drawn. So you're not on the jury, but I'm
13 going to allow you to come back, I want you to
14 come back and be in that pool.

15 THE JUROR: Okay.

16 THE COURT: But I don't want you to have
17 to come back because I don't want -- I can't
18 calculate, I don't know when we're going to
19 finish, I think it would be better if we
20 called you, had you come back rather than you
21 waiting on me.

22 Don't read the newspaper, if you
23 don't mind, local newspaper. I don't think
24 there will be anything on the TV or news, but
25 just avoid that business. Tell your family,

1 or your wife, do you have a wife?

2 THE JUROR: Yes, sir.

3 THE COURT: Well, tell her she'll be real
4 happy, tell her that you might be involved in
5 this trial, that you probably will have to
6 come back, you know, Wednesday, you don't know
7 whether you will be serving or not. But I
8 don't mind you telling her what you may have
9 to do, but I don't want you to talk about the
10 death sentence, I don't want you to talk about
11 the facts of a case or any -- you know, what
12 would you do in this case or that case.
13 Please don't get into anything like that, just
14 avoid all that business. You can obviously
15 tell her what you're going to be involved in
16 and let it stop at that point, say I said not
17 to talk about anything else. Fair enough?

18 THE JUROR: Yes, sir.

19 THE COURT: Thank you, sir. We'll call
20 you tomorrow night.

21 THE JUROR: All right.

22 THE COURT: Thank you, sir.

23 (Whereupon, the prospective juror leaves
24 the courtroom.)

25 (Arthur B. Cummings, called as a

1 potential juror, having first been duly
2 sworn, is examined as follows:)

3 THE COURT: Mr. Cummings, how are you
4 doing, sir?

5 THE JUROR: Okay.

6 THE COURT: Come on, have a seat. Let me
7 just ask you a couple of questions, not too
8 many. Tell me about Dempsy Wood. What is it?
9 Machine operator, what do you all do?

10 THE JUROR: Cut boards.

11 THE COURT: Is it a sawmill?

12 THE JUROR: Uh-huh (affirmative
13 response).

14 THE COURT: A big sawmill?

15 THE JUROR: Uh-huh (affirmative
16 response).

17 THE COURT: Talk just a little bit louder
18 in that. Maybe you want to pull the
19 microphone up. I think the thing fell over,
20 is what it did. There you go.

21 What sort of wood, I mean two by
22 fours, just rough-cut lumber?

23 THE JUROR: Yes, sir.

24 THE COURT: Do you all plane the lumber,
25 do all that in the business?

1 THE JUROR: We do that in the back, not
2 on the front.

3 THE COURT: All right. You're on the saw
4 mill side where you just cut the rough boards
5 and then somebody else takes it back and
6 finishes it off; is that right?

7 THE JUROR: That's right.

8 THE COURT: You all got a -- you all have
9 a kiln there?

10 THE JUROR: Yes, sir.

11 THE COURT: And you've been working there
12 two years. What exactly -- when you say
13 machine operator and laborer, what exactly do
14 you do on the machine?

15 THE JUROR: Well, right now I'm doing
16 labor, but I'm a machine operator. I run an
17 edger.

18 THE COURT: All right. I know what an
19 edger is.

20 THE JUROR: Close it down for a couple
21 weeks.

22 THE COURT: Okay. So then you're
23 labeling (sic) now?

24 THE JUROR: Yes, sir.

25 THE COURT: What is it you label (sic)?

1 THE JUROR: Just like keeping the mill,
2 kind of keeping it running and help everybody
3 else out.

4 THE COURT: Okay. Let me ask you this:
5 Have you served as a juror before?

6 THE JUROR: No, sir.

7 THE COURT: Have you read -- did you read
8 that sheet back there I gave you all back
9 there in the back?

10 THE JUROR: Yes, sir.

11 THE COURT: Tell me what group you think
12 you might fall into if you were a juror, first
13 group, second group, or the third group. Or
14 you want me to explain them to you?

15 THE JUROR: Yeah.

16 THE COURT: You want me to? Here's the
17 deal. Here's what happens. In a case like
18 this the State has to prove beyond a
19 reasonable doubt that the defendant is guilty
20 of murder. All right?

21 THE JUROR: Yes, sir.

22 THE COURT: Do you follow me?

23 THE JUROR: Yes, sir.

24 THE COURT: If the State proves that the
25 defendant is guilty of murder and all 12

1 jurors vote guilty of murder, are you with me?

2 THE JUROR: Yes, sir.

3 THE COURT: They have to then decide what
4 the sentence should be, life sentence, death
5 sentence. Do you follow me?

6 THE JUROR: Yes, sir.

7 THE COURT: Some people come along and
8 they say, well, if he's guilty of murder he's
9 going to get the death sentence every time.
10 Every time. Every case he's going to get a
11 death sentence.

12 Some people come along and say I
13 don't care if he's convicted of murder, I
14 don't believe in the death sentence, I will
15 give a life sentence every time. I don't care
16 how bad the case is, a life sentence every
17 time.

18 And then some people will come along
19 and say, well, I tell you, it depends on the
20 circumstances, I would have to listen to all
21 the facts of the case and then I would have
22 to -- I would have to consider whether to give
23 him a life sentence or a death sentence. I
24 could give death, I could give life, but I'd
25 have to listen to all the facts of the case.

1 So which one do you fall in? Are
2 you one that would always give a death
3 sentence, or one that would always give a life
4 sentence, or one who could give either one but
5 you would have to listen to the evidence?

6 THE JUROR: The third one.

7 THE COURT: The third one. Does that
8 mean then that you could give the death
9 sentence if you felt like it was the right
10 thing to do?

11 THE JUROR: That's right.

12 THE COURT: Or you could give a life
13 sentence if you felt like that was the right
14 thing to do?

15 THE JUROR: Correct.

16 THE COURT: Is that right?

17 THE JUROR: (Nonverbal affirmative
18 response.)

19 THE COURT: Do you understand that if
20 somebody is given a life sentence he would go
21 to jail for life; in other words, he wouldn't
22 be eligible for parole, he's in there for
23 life, life means life. Do you understand
24 that, sir?

25 THE JUROR: Yes, sir.

1 THE COURT: If somebody's given a death
2 sentence it means death. And the jury, if
3 you're on the jury, you would have to sign a
4 piece of paper, basically a death -- some
5 people call it a death warrant, you would have
6 to sign a sheet, put your name on it along
7 with 11 jurors to say that you voted for a
8 death sentence, if that's what you intended to
9 do. You would have to sign it. Could you do
10 that if the case was one that you felt you
11 ought to give the death sentence on?

12 THE JUROR: Yes, sir.

13 THE COURT: You could. Could you come
14 out here in the courtroom and stand up and say
15 that's my vote, I vote for death, could you
16 say that yourself if you felt like it was the
17 right thing to do?

18 THE JUROR: Yep.

19 THE COURT: All right. And by the same
20 token, if you didn't feel like it was the
21 right thing to do, could you just as easily
22 vote for life, could you say life is what I
23 feel is the appropriate sentence?

24 THE JUROR: Yep.

25 THE COURT: All right, sir.

1 Mr. Bailey?

2 EXAMINATION

3 BY MR. BAILEY:

4 Q. Mr. Cummings, I'm Walter Bailey, I'll be
5 prosecuting the case, I need to ask you a few more
6 questions. I think the judge mentioned this, but
7 there's no right or wrong answers. There's a type
8 one, type two, type three juror, they're all fine,
9 it's a matter of individual preference and what you
10 really believe, so please don't tell anybody some
11 particular thing because you think that's what we
12 want to hear. All we want to hear is just how you
13 feel.

14 And talking about the death penalty
15 is something that most people don't ever get involved
16 in, some people thought about it before and some
17 never have. Have you ever before today given any
18 real thought to the death penalty, whether you
19 believed in it or didn't believe in it?

20 A. Well, I don't think I want to even be on
21 a trial like that.

22 Q. Okay. Could you tell us -- you mean, you
23 wouldn't want to be on a jury like this?

24 A. Yeah, a jury like this.

25 Q. Okay. Could you tell us why that is?

1 Because this is the only time we get to find out the
2 answers to these kind of questions.

3 A. I just don't believe I can do it.

4 Q. Okay. When you say you don't believe you
5 could do it, are you talking about the guilt phase
6 where you would have to decide whether somebody was
7 guilty or innocent?

8 A. Yeah, murder or life case.

9 Q. I'm sorry?

10 A. That murder or life case.

11 Q. Okay. All right. And now that you've
12 had a chance to think about it, the three type
13 jurors, and, again, there's no right or wrong
14 answers, the first type juror would always vote for
15 the death penalty if you got a convicted murderer;
16 the second type juror would never vote for the death
17 penalty because of religious or personal beliefs,
18 they just don't feel like they could do that, they
19 don't believe in it; the third type juror could vote
20 for life, could vote for death, just depended on what
21 he hears.

22 Now, you know, from your heart, are
23 you the number two type juror, would always vote for
24 life, or are you number three?

25 A. Two.

1 Q. Okay. All right. And, again, we're not
2 trying to put you on the spot, there are no wrong
3 answers. We just need to find these questions, okay,
4 you know, ask these questions and get the answers.

5 In South Carolina if we get the
6 second part of this kind of trial the judge doesn't
7 decide what the sentence is going to be, the jury
8 decides. Whatever that jury decides to happen will
9 happen. If the jury votes for life, the judge would
10 sentence that person to life and he serves life
11 without parole. If the jury decides on the death
12 penalty, the judge would order that sentence to be
13 carried out and that person is going to be excused.

14 Now, could you ever vote for the
15 death penalty knowing that person is actually going
16 to die because of that jury's vote?

17 A. I don't think so.

18 Q. All right, sir. And could you ever under
19 any circumstances sign your name to a death verdict
20 form that would result in somebody being executed?

21 A. I wouldn't want to do that.

22 Q. Okay.

23 THE COURT: It's not whether you want to
24 do it, the question is could you do it? Could
25 you ever do it under any circumstances, ever

1 sign a death warrant? That's the question,
2 really.

3 THE JUROR: No, sir.

4 THE COURT: You could never do it?

5 THE JUROR: I don't think so.

6 THE COURT: Is that right?

7 All right. Go ahead. I didn't mean
8 to cut you off.

9 MR. BAILEY: Yes, sir. Thank you, Judge.

10 BY MR. BAILEY:

11 Q. We're not trying -- I guess we are trying
12 to put you on the spot. But what I'm trying to do
13 when the judge asked you that last question, you said
14 I don't think so. But we don't need to know from you
15 to predict what you'd do in this case because you
16 haven't heard the facts. But what we want to know is
17 if the facts were bad enough could you do it, or
18 would you say if I'm faced with life without parole
19 and the death penalty I'm always going to vote for
20 life?

21 A. I don't think I could do it.

22 Q. Okay. You don't think you could vote for
23 the death penalty?

24 A. No, sir.

25 Q. Okay. Could you sign your name to a

1 paper, a death verdict form that would result in
2 somebody actually being executed by the electric
3 chair or by lethal injection?

4 A. No, sir.

5 Q. Thank you. That's all I have.

6 THE COURT: Mr. Beauford?

7 EXAMINATION

8 BY MR. BEAUFORD:

9 Q. Mr. Cummings, my name is Percy Beauford,
10 just a few questions. If in this case the facts
11 suggest the individual is guilty of murder, could you
12 render a vote for murder, intentional killing of
13 someone with malice aforethought, could you come back
14 with a verdict of guilty of murder?

15 A. I don't know.

16 Q. I'm not asking you -- I'm not talking
17 about the sentencing at this point, but just can you
18 render, return a verdict of guilty of murder?

19 THE COURT: If the facts and the law
20 warranted it. In other words, if the facts
21 prove it, if the State proves it under the law
22 he wants to know whether or not you could vote
23 guilty of murder.

24 THE JUROR: Yeah.

25 BY MR. BEAUFORD:

1 Q. Okay. Now that you have a defendant
2 guilty of murder, if there are other facts in the
3 sentencing, could be some gruesome facts, could be
4 some serious facts, could be whatever the facts may
5 be, but would you ever in any circumstances, the
6 defendant's guilty of murder, vote for death? Not
7 even looking at this case, but in any case.

8 A. No. No, sir.

9 Q. So you would vote for life as opposed to
10 death in all cases where someone is found guilty of
11 murder?

12 A. Yeah. I would rather vote for life than
13 a death.

14 Q. No further questions.

15 THE COURT: All right, sir. If you'll
16 step out in the hall just for one second,
17 please, sir.

18 (Whereupon, the prospective juror leaves
19 the courtroom.)

20 THE COURT: State?

21 MR. BAILEY: The State contends he's not
22 qualified.

23 THE COURT: The defendant?

24 MR. BEAUFORD: Not qualified.

25 THE COURT: He's not qualified.

1 (Whereupon, the prospective juror returns
2 to the courtroom.)

3 THE COURT: Mr. Cummings, I'll let you go
4 back to the sawmill. Thank you very much for
5 your help today. We appreciate your help.

6 (Whereupon, the prospective juror leaves
7 the courtroom.)

8 MR. BAILEY: Your Honor, before the next
9 juror comes in, could I put something on the
10 record?

11 THE COURT: Yes, sir. Let's stop one
12 second. Yes, sir.

13 MR. BAILEY: The next juror is Lisa
14 Wallace. Ms. Wallace is a secretary for the
15 Town of Summerville. One of the people that
16 we had talked to trying to get some jury
17 information is Ricky Waring, who's the head of
18 the Department of Public Safety.

19 When my investigator was walking to
20 Mr. Waring in his office, Ms. Wallace walked
21 into the office as they were talking about the
22 jury, and I believe Mr. Waring might have made
23 some comment to her about why my investigator
24 was in the office.

25 And since that was some sort of

1 contact with a juror, I wanted to disclose
2 that to the defense and to you.

3 THE COURT: All right, sir. Well, why
4 don't I do this, I mean, without just
5 summarily dismissing her because we don't know
6 what was said, he might not have said
7 anything, I think I probably, first of all,
8 ask her and just see where she comes from. If
9 she feels like it causes a problem -- I mean,
10 you know, I asked general questions this
11 morning, but I think if I hit her head-on with
12 a specific question, I mean, surely she'll
13 tell me the truth on the thing, I think she
14 will. Let's just play it by ear and see where
15 we go with that.

16 MR. BEAUFORD: Yes, Your Honor.

17 (Lisa L. Wallace, called as a potential
18 juror, having first been duly sworn, is
19 examined as follows:)

20 THE COURT: Ms. Wallace, how are you
21 doing?

22 THE JUROR: Just fine.

23 THE COURT: Good. Let me just ask you a
24 very few questions, and these lawyers may ask
25 you one or two and then we'll be -- I'll let

1 you get out of here. And we appreciate the
2 fact it's a quarter to 6:00 and you're still
3 here for us.

4 My understanding is that you work
5 for the Town of Summerville and worked there
6 for a couple of years, two or three years; is
7 that right?

8 THE JUROR: Yes.

9 THE COURT: I understand that one of the
10 investigators for the -- I think the State had
11 come into your office and was speaking to one
12 of your people there about some juror
13 information, or some information that they
14 were seeking and you had walked in at that
15 time. Do you recall that occurring?

16 THE JUROR: Yes.

17 THE COURT: Can you tell me whether or
18 not, and I don't know anything about it, what
19 I know is what I've just said, that's it. Did
20 that contact with an investigator, did that --
21 did you all have a conversation, the two of
22 you?

23 THE JUROR: I believe I was introduced to
24 her and that was the extent of it.

25 THE COURT: Did you overhear any of the

1 conversation, I mean, as to what they were
2 there about?

3 THE JUROR: No.

4 THE COURT: Would you -- do you have any
5 problem, would you have any problem serving as
6 a juror on this case? I mean, do you feel
7 like you've been prejudiced in some way, or
8 affected in some way because somebody was
9 there talking about some fact of the case?

10 THE JUROR: No.

11 THE COURT: Am I hearing you correctly
12 then, that you really didn't have any contact
13 except you knew who she was and you were
14 introduced to her and that was it?

15 THE JUROR: That's correct.

16 THE COURT: Would that be the sum total
17 of your contact?

18 THE JUROR: Uh-huh (affirmative
19 response).

20 THE COURT: Have you served as a juror
21 before?

22 THE JUROR: Two weeks ago I was called to
23 serve as a juror in municipal court.

24 THE COURT: Municipal court. You got out
25 of that, didn't you?

1 THE JUROR: I certainly did.

2 THE COURT: I can't help you this time.
3 Well, let me ask you this: You read that
4 piece of paper, that sheet back there?

5 THE JUROR: Yes.

6 THE COURT: Tell me what type of juror
7 you feel like you would fall into.

8 THE JUROR: The third type.

9 THE COURT: Which basically says what
10 about you, ma'am?

11 THE JUROR: Basically that I would have
12 to hear the evidence in a case before I made a
13 determination on whether -- first of all,
14 whether a person was guilty or not guilty, and
15 then secondly whether a person should be given
16 the death penalty.

17 THE COURT: All right.

18 THE JUROR: Or not.

19 THE COURT: Or not. Are you saying then
20 that you're not one, if you were -- assuming
21 that you served on a jury and the jury
22 convicted a person of murder, proven beyond a
23 reasonable doubt that the person is guilty of
24 murder, all 12 jurors voted guilty of murder,
25 and then you got to a sentencing phase, are

1 you saying that you're not one who would say,
2 well, if he's guilty of murder, then the death
3 sentence is what it's going to be in every
4 case?

5 THE JUROR: That's correct. I would not
6 say that.

7 THE COURT: You would not say that. Nor
8 would you say, well, I don't care if it's
9 murder, I would give life in every case, I
10 don't believe in the death sentence, I'm just
11 going to give life in every case?

12 THE JUROR: That's correct. I would not
13 say that.

14 THE COURT: You wouldn't do that as well?

15 THE JUROR: Right.

16 THE COURT: Basically what you would do
17 is you could give death or you could give
18 life, but you would have to listen and
19 consider the circumstances, not just about the
20 crime itself, but any circumstances that might
21 have some bearing on whether or not the person
22 should get death or life; is that basically
23 where you're coming from?

24 THE JUROR: That's correct.

25 THE COURT: To the extent that you -- if

1 you were to find that a person, 12 of you were
2 to unanimously find that the person should be
3 given a death sentence, do you understand that
4 you would have to sign, some people call it
5 the death warrant, you would have to sign a
6 sheet with your name along with 11 people
7 sentencing that person to death, that you do
8 it as a juror rather than the judge?

9 THE JUROR: Yes, I understand that.

10 THE COURT: Could you do that?

11 THE JUROR: Uh-huh (affirmative
12 response).

13 THE COURT: As well could you stand in
14 open court and announce to the court that that
15 was your decision, if it was your decision?

16 THE JUROR: Yes.

17 THE COURT: And by the same token could
18 you, if the circumstances warranted it, say I
19 do not believe that death is appropriate in
20 this case, but I think life is and I would
21 therefore vote for a life sentence?

22 THE JUROR: Yes.

23 THE COURT: All right.

24 All right. Mr. Beauford?

25

EXAMINATION

BY MR. BEAUFORD:

Q. Ms. Wallace, my name is Percy Beauford, a few questions. Do you have an opinion about the death penalty?

A. No, sir. I don't. Actually if anybody was to just come up and ask me if I was for or against, I wouldn't have an opinion one way or the other.

Q. Okay. Have you heard or read anything about this case?

A. No, sir.

Q. And your encounter when the investigator came on, did you inquire any more, have any more discussion after that investigator left concerning why they were there?

A. No, sir.

Q. In deciding whether to impose life or death, could you consider other facts that has nothing to do with the case with the act itself -- excuse me. In order to decide death or life, could you just -- could you consider other factors that does not have anything to do with the crime -- after the defendant is already found guilty of murder and now you're in the sentencing phase, can you consider

1 other factors that has nothing to do with the crime
2 of murder itself in determining death or life?

3 A. Yes.

4 Q. Such as the life of the defendant, life
5 of the victim, or the good or the bad of either of
6 the parties?

7 A. Yes, I believe I could.

8 Q. Okay. I think the judge already
9 discussed, you understand life without parole means
10 life?

11 A. I understand that.

12 Q. Okay. And do you have any other
13 knowledge of the criminal system? I understand when
14 you described the different phases you were
15 comfortable in describing that. Like do you have any
16 other knowledge of how the criminal system works?
17 How did you gain that knowledge?

18 A. I guess just basic general knowledge.

19 Q. Okay. About the death penalty phases,
20 the guilt and the sentencing?

21 A. Right.

22 Q. Have you ever sat in on a court
23 proceeding before?

24 A. No, sir.

25 Q. And you said that basically you are

1 willing to sit and listen to all the facts before you
2 render your decision about the guilt of the
3 defendant, and also during the sentencing phase of
4 whether death or life?

5 A. Yes, sir.

6 Q. Okay.

7 EXAMINATION

8 BY MR. BAILEY:

9 Q. Ms. Wallace, I'm Walter Bailey, I'll
10 being prosecuting the case, I've got a few more
11 questions to ask you. I think most of it's been kind
12 of touched on, but you understand that if we reach
13 that second stage of the trial the jury, not the
14 judge, makes the decision on the punishment of life
15 without parole or the death penalty?

16 A. Yes, sir.

17 Q. Okay. In other words, all the judge does
18 is order that jury's verdict to be put into effect.
19 So if the jury votes for life, the judge would order
20 a life sentence and he'll serve life without parole.
21 If the jury votes for the death penalty, then the
22 judge would order that and that person would be
23 executed.

24 I'm not going to ask you what you
25 would do in this case if you get picked because you

1 hadn't heard the facts of the case yet. But if the
2 facts are bad enough you've indicated you could vote
3 for the death penalty; is that right?

4 A. That's correct.

5 Q. Knowing that sentence is going to be
6 carried out?

7 A. Yes, sir.

8 Q. And you could sign your name to the
9 verdict form if that was your verdict?

10 A. Yes, sir.

11 Q. Could you announce that decision out loud
12 when your name was called?

13 A. Yes, sir.

14 Q. It's called polling the jury, you could
15 do that also?

16 A. Uh-huh (affirmative response).

17 Q. The jury's going to be put in a motel
18 until the trial is over, which is going to probably
19 start Wednesday and maybe last five days to a week,
20 somewhere in that neighborhood. That's a hardship on
21 everybody as far as personal life, family life, if
22 not work. But is that something that you can
23 accommodate if you've got a day or so to make
24 arrangements?

25 A. Yes.

1 Q. Thank you. That's all I have.

2 THE COURT: Please step out if you don't
3 mind, I'll bring you right back.

4 (Whereupon, the prospective juror leaves
5 the courtroom.)

6 THE COURT: You notice that I allowed the
7 solicitor to ask that question about the
8 motel.

9 MR. BAILEY: Okay. Maybe I should have
10 said hotel.

11 THE COURT: Whatever. They don't look
12 like they're real happy when you give them
13 that news, but I'm glad you're breaking it to
14 them and not me.

15 MR. BAILEY: I would be happy to let
16 Mr. Beauford tell them that.

17 THE COURT: Does the State find her
18 qualified?

19 MR. BAILEY: Yes, sir.

20 THE COURT: Defendant?

21 MR. BEAUFORD: Qualified.

22 THE COURT: She's qualified. Thank you
23 very much.

24 (Whereupon, the prospective juror returns
25 to the courtroom.)

1 THE COURT: Ms. Wallace, your phone
2 number that you gave, those are still correct?

3 THE JUROR: Yes.

4 THE COURT: What I intend to do rather
5 than asking you to come back, is to let the
6 clerk of court's office call you.

7 THE JUROR: Okay.

8 THE COURT: Which may be tomorrow night.

9 THE JUROR: Okay.

10 THE COURT: Or Wednesday morning. I
11 don't have any idea because we've got 60
12 jurors we've got to talk to.

13 THE JUROR: Okay.

14 THE COURT: We haven't even done half
15 yet.. So what we'll do is we're going to try
16 to get 35, out of which 12 and two alternates
17 will be drawn, so that's not to say that
18 you're going to be drawn, obviously you just
19 are in the pool. And what I will do is just
20 have you all, all of you come at a certain
21 designated time when I can decide when that
22 is.

23 Tell your husband, you know, we'll
24 be calling, what the case is about. But do
25 not go, please, ma'am, into any discussion of

1 the facts of this case, or for that matter of
2 fact, any kind of a case where the death
3 penalty is discussed. I just feel like no one
4 should try to help you now to decide what to
5 do in a particular case. Given that oath this
6 morning, I just ask you to comply with it.
7 But obviously you've got to tell him, you
8 know, what you're going to be called upon to
9 do.

10 So if you would do that for us and
11 we'll give you some contact tomorrow, probably
12 tomorrow afternoon or late tomorrow. And also
13 if you would avoid the local paper, probably
14 the news on the television. I don't think
15 there's going to be anything, I haven't seen
16 anyone except maybe a reporter for the local
17 newspaper. There probably won't be anything,
18 but just avoid it if you don't mind and there
19 won't be any problem with that. And we'll
20 call you tomorrow sometime or Wednesday.
21 Thank you, ma'am.

22 **THE JUROR:** Thank you.

23 (Whereupon, the prospective juror leaves
24 the courtroom.)

25 **THE COURT:** You all need a break, or you

1 want to go ahead? We've got one more group.

2 MR. BAILEY: I'm fine.

3 THE COURT: What do you say,

4 Mr. Beauford?

5 MR. BEAUFORD: Push through it.

6 Your Honor, just one question.

7 THE COURT: Yes, sir.

8 MR. BEAUFORD: Basically when we actually
9 need to strike, are we going in the same order
10 or --

11 THE COURT: I'm going to let you decide.
12 I'll tell you, some people do it, you know,
13 both ways. I don't know what the solicitor
14 thinks and I don't know what you think about
15 that, I've done it both ways. I have in the
16 past basically suggested that we simply use
17 the order in which they were polled to begin
18 with, everybody knows it. Seems like to me
19 it's better for you.

20 But then I've had a defendant say I
21 don't like that, put them back in there again.
22 And I've put them back, jumbled them up. So
23 it really -- you know, we can talk about it
24 after we get through. But I don't know what
25 the solicitor thinks and, again, I don't know

1 what you've got in your mind, but I'm
2 certainly open to suggestions. I wish you all
3 could agree, obviously, that would keep me
4 from having to make that decision.

5 I think it's discretionary, I think
6 I can do it either way, I don't think there's
7 a thing anyone can do about it if I decide
8 either way. I would like for you to agree to
9 it if you can. If you can't, so be it.

10 This gentleman is in the wheelchair,
11 Mr.-- I can't pronounce his name I'm afraid.

12 (Anthony Baiocco, called as a potential
13 juror, having first been duly sworn, is
14 examined as follows:)

15 **THE COURT:** Well, we're 30 minutes late,
16 but we're going as hard as we can go.

17 **THE JUROR:** I understand. Hard for you
18 all.

19 **THE COURT:** Thank you for coming back
20 again so late in the afternoon and your
21 willingness to help us with this.

22 I just need to ask you a very few
23 questions and then the lawyers might ask you a
24 few, but as I say, this thing is not -- it's
25 not nearly as time consuming for each

1 individual as you might think.

2 Tell me about your job, first of
3 all, what you do and --

4 THE JUROR: I work for SPAWAR Systems,
5 Space Naval Warfare Command in North
6 Charleston. Basically I break things for a
7 living. It's a great job.

8 THE COURT: You do what?

9 THE JUROR: I break things for a living.

10 THE COURT: Break things for a living.

11 THE JUROR: I spent 15 years in the Navy
12 in Charleston shipyard fixing and repairing
13 and making things work great, transferred over
14 to SPAWAR and they hired me to test things and
15 make sure that they break.

16 THE COURT: I got some fellows that work
17 for me on my farm, I need to send them down
18 there. They tear up everything you have.

19 THE JUROR: This is a great job.

20 THE COURT: I bet it is. Let me ask you
21 this: Have you served -- if you don't mind my
22 asking, I do this because I want to --
23 obviously you have a job, you're very capable
24 of doing all kinds of things, but just for the
25 record, this gentlemen of course is confined

1 to a wheelchair. Could you or would you
2 consider telling us in any way you like what
3 your condition is?

4 THE JUROR: I was diagnosed with Becker's
5 muscular dystrophy roughly 14 years ago. It's
6 not like that you see on the telethons, it's a
7 little bit slower progressing. Basically I've
8 been in a wheelchair now for -- since October.
9 I just got this.

10 THE COURT: I see. But you look
11 perfectly healthy and are able to move around
12 quickly.

13 THE JUROR: I can fake it. This chair
14 does wonders.

15 THE COURT: Do you on your -- in terms of
16 medications and so forth, I mean if you were
17 called upon to serve as a juror, would you
18 feel that you would have any problem?
19 Certainly we're not going to have any problem
20 as far as transportation and that kind of
21 thing, we can work that out for you, we are
22 not -- I'm not in any way -- I'm asking you if
23 you would have a problem with it?

24 THE JUROR: I personally probably
25 wouldn't have a problem, it's just a matter of

1 getting me wherever you want me to be.

2 THE COURT: Well, and you see right here,
3 I mean I've tried cases in Charleston and
4 other place where people come in and just sit
5 in front of the jury panel, not a bit of
6 problem in the world, rather than sitting back
7 in one of the chairs, I mean it really doesn't
8 make any difference, that's not a problem at
9 all.

10 This business you read, this thing I
11 had out there for you, could you tell me, sir,
12 where you fit in on that first, second, or
13 third category?

14 THE JUROR: I guess I'm probably the
15 third.

16 THE COURT: Yes, sir.

17 THE JUROR: I'm not dead set against the
18 death penalty, I'm not always for it. It does
19 depend on the circumstances, I understand
20 that.

21 THE COURT: I noticed that you're Roman
22 Catholic.

23 THE JUROR: Yes.

24 THE COURT: Does that -- would your
25 religious belief --

1 THE JUROR: Basically, yeah, I sort of go
2 against the grain of what the church believes.

3 THE COURT: And, again, I'm not trying
4 to -- I guess I am trying to put you on the
5 spot, too, because I'm asking the question,
6 but I'm not doing it to embarrass you. I just
7 see that on the list and I've asked everybody
8 else who was Roman Catholic that question
9 because I do know the church stands for one
10 position and people can believe what they
11 want.

12 THE JUROR: Right.

13 THE COURT: But you're telling me that
14 that would not prevent you from voting for a
15 death sentence if you felt the case was an
16 appropriate one?

17 THE JUROR: Probably not.

18 THE COURT: By the same token, you could
19 vote for life if you felt like the case was
20 appropriate?

21 THE JUROR: Yes, sir.

22 THE COURT: So you're not always for a
23 death sentence even if a person is convicted
24 of murder, or always for life even when a
25 person is convicted of murder, but you would

1 have to listen to everything before you
2 decide?

3 THE JUROR: Right.

4 THE COURT: And by saying have to listen
5 to everything, I mean you would have to listen
6 to all of the aggravating circumstances, the
7 bad I suppose on the one side and all of the
8 mitigating, all the good on the other side and
9 then determine what you felt would be an
10 appropriate sentence?

11 THE JUROR: Right.

12 THE COURT: All right, sir.

13 Mr. Bailey?

14 MR. BAILEY: Thank you.

15 EXAMINATION

16 BY MR. BAILEY:

17 Q. I'm Walter Bailey, I want to ask just a
18 few more questions to follow up on what the judge
19 asked you. First of all, in regards to the death
20 penalty in general, I'm not going to talk about this
21 case because you hadn't heard the facts of this case,
22 but in general had you thought about the death
23 penalty before today and you found out that you could
24 be a juror on this kind of a case?

25 A. Not particularly. I've always -- I've

1 caught news cases and stuff like that and wondered
2 what I would do, but I've never been strong one way
3 or the other.

4 Q. Okay. And as far as the Catholic
5 church's position and your position you said, I think
6 I wrote it down correctly, that you kind of went
7 against the grain of the church?

8 A. With respect to their -- yes, if the case
9 required, if I felt it was -- that there's certain
10 things that I have that in my beliefs of what I
11 believe would require that, then I guess when it
12 comes to the church I do go against the grain for
13 that.

14 Q. Okay. And I believe when the judge asked
15 you whether the church's position would influence you
16 as a juror you said probably not.

17 A. Probably not.

18 Q. Okay. And I'm not trying to pick at you,
19 but can you tell me why you said, "probably not"
20 instead of no, it wouldn't?

21 A. Well, I do have -- I have very strong
22 religious beliefs, I go to my church, I belong to
23 Knights of Columbus, I'm really into that side of it,
24 but when it comes to that one particular issue
25 there's -- I just have my own personal feelings for

1 that.

2 Q. Okay. And could you just tell us in your
3 own words, you might have done this already, what
4 your feelings are in regard to the death penalty in
5 general?

6 A. I may, if circumstances are aggravated
7 enough and it's really ugly and anything that has to
8 do with kids, I'm sorry, I'm a big kid fan, and
9 anything that has to do against crimes against kids
10 and cases of women and that kind of stuff it's....

11 Q. Okay. You understand we wouldn't even
12 get to the punishment phase unless and until the
13 defendant's found guilty of murder in the first part
14 of the trial?

15 A. I understand.

16 Q. And if we get into that second phase the
17 jury makes the decision. We have two options, life
18 without parole, life means life without parole in
19 this context, and the death penalty. Whatever that
20 jury votes on is what the judge is going to order and
21 what he orders is going to happen. So if the jury
22 votes for life, the judge orders life, he serves life
23 without parole. If the jury orders death, the judge
24 orders that, he'll be executed.

25 And is it your testimony here that

1 if the case is bad enough you could vote for the
2 death penalty knowing that sentence is actually going
3 to be carried out, that person would be executed
4 based on that jury's vote?

5 A. Yes, sir.

6 Q. And could you sign your name to the death
7 verdict form if that was your verdict?

8 A. Yeah, I believe so.

9 Q. Okay. When you said, "I believe so," I
10 need to ask about that.

11 A. Yes, sir. Yeah.

12 Q. Okay. Is there anything about the
13 physical act of signing that paper as opposed to the
14 vote which would precede it that would cause you to
15 kind of hang up?

16 A. I've never done it before so I couldn't
17 say I would or wouldn't.

18 Q. Okay. Well, let me back up, I might not
19 have asked that question too artfully. But the jury
20 would vote, and whatever the jury's decision is it
21 has to be unanimous.

22 A. Right.

23 Q. Everybody's got to agree. If you and the
24 other 11 jurors after hearing all the facts and
25 circumstances voted for the death penalty, the next

1 thing that would happen in that sequence would be
2 there would be a piece of paper already prepared
3 ahead of time the jurors would need to fill out and
4 sign, all 12 would be asked to sign their names to
5 it.

6 A. That's fine.

7 Q. If you voted for it could you then sign
8 the paper?

9 A. If I voted for it, yes. I would sign it
10 if I voted for it.

11 Q. Could you announce that decision out loud
12 in open court if that was your decision? There's a
13 procedure called polling the jury where each juror's
14 name is called out and they're asked if that's your
15 verdict.

16 A. Not a problem.

17 Q. Okay. I'm going to wait until that train
18 comes by, I have two more questions then.

19 (Pause in proceedings.)

20 BY MR. BAILEY:

21 Q. Once we get a sufficient number of jurors
22 qualified we'll pick a jury and start the trial.
23 Once the trial starts the jury gets sent to a motel
24 at night, they don't get to go home, that's an
25 inconvenience, hardship on everybody that's got a

1 family or got a job. But is that going to be any
2 kind of an undue hardship if you had a day or so to
3 make plans?

4 A. That could be for me in my condition.
5 And usually if I go anywhere overnight or something
6 like that my wife is with me if I need any assistance
7 with anything.

8 Q. Okay. All right. You think that could
9 create a problem? We're looking maybe a week.

10 A. That could be a problem.

11 Q. Okay. I think that's all I've got.
12 Thank you very much.

13 THE COURT: Mr. Beauford?

14 EXAMINATION

15 BY MR. BEAUFORD:

16 Q. My name is Percy Beauford, just a few
17 questions. If in the trial you find a defendant
18 guilty and you move into the sentencing phase, could
19 you decide whether to impose the life or death
20 penalty considering other factors that has nothing to
21 do with the crime, such as the background of the
22 defendant or the victim, or some things good about
23 the defendant or the victim in deciding whether to
24 impose life or death?

25 A. Yeah, I believe so.

1 Q. Okay. If you were on a jury and a
2 majority was voting one way and you wanted to vote
3 another way, would you just change your vote in order
4 just to get the case over with?

5 A. No, sir.

6 Q. No further questions.

7 THE COURT: Let me ask you in connection
8 with this service and the motel and so forth,
9 and I'm just asking, I mean I don't know what
10 to do obviously about it. I want to do the
11 right thing for you and for everybody here.
12 If I were to conclude that you are qualified
13 to serve as a juror and if you were chosen as
14 a juror, actually ultimately chosen as a juror
15 and got there to the motel and found out that
16 you were having some problem such that you
17 needed help, first of all, and this is in no
18 way -- please, understand I'm not in any way
19 trying to embarrass you at all.

20 THE JUROR: I understand.

21 THE COURT: There will be SLED agents and
22 people there, first of all, with the jury. I
23 mean, you send a jury out there, you have your
24 own private room, nobody's going to be there
25 with you, but, I mean, at the same time there

1 would be SLED agents available.

2 First of all, if you found out that
3 you simply needed to have some assistance or
4 wife and so forth, it just wouldn't work
5 otherwise, then we're going to have
6 alternates. Or if the SLED agents are there
7 and you need a glass of water, whatever you
8 need, they're going to be up all night, one of
9 them's going to be up all night I can tell you
10 that, sitting right there. And so the -- I
11 guess my question to you is would you be
12 willing, in spite of what you tell us, would
13 you be willing to attempt to try to serve as a
14 juror, or do you feel like -- and I really am
15 leaving this to you, do you feel like it would
16 be such an imposition, such a hardship, that
17 you simply don't think you ought to be
18 required to serve? And, again, I leave that
19 entirely up to you.

20 THE JUROR: I've always been -- I'm one
21 of those kind of people that I know I'm in a
22 wheelchair, I know there's things I can and
23 can't do. And I don't like putting other
24 people to jump through hoops for me to do
25 other things that, you know, my family would

1 do or something like that. So to ask the
2 court to appoint somebody to help me, I
3 wouldn't ask that.

4 THE COURT: You wouldn't want that?

5 THE JUROR: I would rather be
6 disqualified.

7 THE COURT: And you feel that the
8 situation is such that you would need some
9 help in all probability?

10 THE JUROR: Probably. In all
11 probability, yeah. I've been through -- every
12 hotel is a little bit different in what their
13 handicap accessibility things are, and so far
14 there hasn't been one yet that I haven't
15 needed some assistance in something.

16 THE COURT: How says the State in regards
17 to this?

18 MR. BAILEY: Your Honor, I would defer to
19 him if he thinks it that he would like to be
20 excused.

21 THE COURT: Defendant?

22 MR. BEAUFORD: Your Honor, I would want
23 to keep him, I think he's qualified.

24 THE COURT: You think he's qualified?

25 MR. BEAUFORD: Yes, sir.

1 THE COURT: Well, there isn't any
2 question he's qualified. Isn't any question
3 he's qualified. The question is whether or
4 not based on his condition I should excuse
5 him.

6 And over the objection of the
7 defendant I'm going to excuse him because I've
8 really -- I told him I was going to leave it
9 to him, and everything I'm reading from him is
10 I want to be excused, that's what I'm reading.

11 THE JUROR: That's fine.

12 THE COURT: Am I reading you right?

13 THE JUROR: Right. I wouldn't want -- I
14 just wouldn't want anybody -- I wouldn't want
15 any special things for me just to make --

16 THE COURT: See, I understand you
17 wouldn't and I appreciate that, but at the
18 same time, you know, these folks are here to
19 help and I mean it's their job, they don't
20 care. They're getting paid to do it, it's not
21 a problem for them to do it, but it's just a
22 matter of whether or not it would put you --
23 unlike some other juror, it would put you in a
24 situation that you would feel uncomfortable.
25 And if that's the case I'm not going to make

1 you serve, I'm not going to put you in that
2 position.

3 THE JUROR: Yes, that's -- I prefer that.

4 THE COURT: That's the way you think you
5 would be?

6 THE JUROR: I prefer that.

7 THE COURT: I'm going to excuse him over
8 the defendant's objection. But I thank you
9 very much for everything you've done for us
10 today.

11 THE JUROR: Thank you.

12 THE COURT: Yes, sir.

13 (Whereupon, the prospective juror leaves
14 the courtroom.)

15 THE COURT: Ms. Jarvis, come right on,
16 ma'am. Come right on up if you would, please,
17 ma'am.

18 (Susan B. Jarvis, called as a potential
19 juror, having first been duly sworn, is
20 examined as follows:)

21 THE COURT: I'm just going to ask you two
22 or three questions, we're running a little bit
23 late, but we're about to get there. Thank you
24 so much for your help.

25 Looks like to me almost everybody

1 that comes along today is born in New York,
2 California, Detroit.

3 THE JUROR: Is that a problem?

4 THE COURT: It's not a problem at all. I
5 just think it's sort of interesting that so
6 many people from -- Did you grow up here, or
7 there?

8 THE JUROR: I grew up there.

9 THE COURT: Came here how long ago,
10 ma'am?

11 THE JUROR: To this area right here?

12 THE COURT: Yes, ma'am.

13 THE JUROR: 1984.

14 THE COURT: Okay. Have you served as a
15 juror before?

16 THE JUROR: No.

17 THE COURT: And tell me, please, ma'am,
18 about your work.

19 THE JUROR: I'm a teacher at Dubose
20 Middle School, and I teach sixth grade reading
21 to underachievers.

22 THE COURT: Dyslectic children, or just
23 under-achieved children?

24 THE JUROR: All underachievers.

25 THE COURT: All?

1 THE JUROR: Yeah.

2 THE COURT: And I see graduate school at
3 the Citadel?

4 THE JUROR: Yes.

5 THE COURT: BS in education and then
6 master's in education?

7 THE JUROR: Uh-huh (affirmative
8 response).

9 THE COURT: And can you tell me about
10 that thing you read out there, what category
11 you might fall into as a juror?

12 THE JUROR: Well, as a rule I don't make
13 any decisions until I hear all the facts, so I
14 guess I would fall into the last one.

15 THE COURT: Well, let me ask you about
16 this: I notice that you have put on here
17 religious affiliation Catholic.

18 THE JUROR: Yes.

19 THE COURT: Would your faith, religious
20 faith prevent you from rendering a decision
21 for the death penalty if you felt like it was
22 appropriate in a certain case?

23 THE JUROR: Probably not if I felt it was
24 right.

25 THE COURT: Well, am I to understand that

1 what you're basically saying is if you were a
2 juror and if the State proved murder beyond a
3 reasonable doubt so that all 12 jurors simply
4 said guilty of murder, we believe that it's
5 been proved beyond a reasonable doubt, and we
6 got to the phase of the trial where the jury
7 would have to decide what sentence to impose,
8 and after finding a person guilty of murder,
9 would it -- is what you're telling me that you
10 would be one who would not automatically give
11 somebody a death sentence, just every case
12 say, well, if it's murder then he must receive
13 a death sentence, you wouldn't be one like
14 that?

15 **THE JUROR:** No.

16 **THE COURT:** Nor one who would say, well,
17 even if it was murder I could never give
18 death, I would always give life, I don't care
19 what the circumstances are, life is the only
20 sentence I would ever give, you're not saying
21 you're one of those?

22 **THE JUROR:** No, I would have to hear it.

23 **THE COURT:** You would basically have to
24 listen to all the evidence in aggravation and
25 in mitigation, basically bad and the good and

1 not just the facts surrounding the crime
2 itself but also maybe other factors; families,
3 situation, education, background, whatever it
4 happens to be, any facts that you might
5 consider, you would consider those facts
6 before you made a decision as to life or
7 death?

8 THE JUROR: Yes.

9 THE COURT: Could you impose a death
10 sentence if you felt that it was appropriate?

11 THE JUROR: It would be hard, but if I
12 heard the facts and I -- you know, I've been
13 thinking about it all day, it would be a
14 difficult decision.

15 THE COURT: Is it one that you have just
16 probably for the first time in your life
17 you've had to think about?

18 THE JUROR: Pretty much.

19 THE COURT: You've had to think about it
20 now.

21 THE JUROR: Right.

22 THE COURT: But though it's a hard
23 decision, could you -- would you say that you
24 could depending on the facts and circumstances
25 of the case?

1 THE JUROR: Yes.

2 THE COURT: Even to the extent of signing
3 your name to the sentence form, the sentence
4 sheet which all 12 jurors would have to sign?

5 THE JUROR: (Nonverbal affirmative
6 response.)

7 THE COURT: And announcing it in the
8 courtroom in open court, this is my decision.
9 Could you do that if you think it was
10 appropriate? I mean, if you felt like it was
11 the thing to do, could you announce as well?
12 Do you follow what I'm saying?

13 THE JUROR: I would have to verbalize it,
14 is that what you're saying?

15 THE COURT: Well, here's how it goes.
16 The jury has to decide the case, the jury
17 basically has to vote on the sentence.
18 Suppose the jury, all the jurors, all 12 have
19 to agree, all 12 agreed that the death
20 sentence was an appropriate sentence. The
21 second thing the jury would have to do would
22 be to sign the form, a verdict form which says
23 we sentence, basically, the defendant to
24 death. And all 12 jurors sign that form.

25 And then once that sentence form is

1 read we have a process called polling the jury.
2 where the individual jurors might be asked in
3 the courtroom just as you sit there, was that
4 your decision, is that still your decision?
5 Was that your decision, you would have to say
6 yes or no. Is that still your decision, yes
7 or no. In other words, you would have to
8 verbalize, or may have to verbalize that was
9 your decision. To that extent is how I'm
10 talking about verbalizing.

11 THE JUROR: Right.

12 THE COURT: Could you do that if you felt
13 the case was appropriate for death?

14 THE JUROR: If I got to that point and
15 made all the other decisions, yes.

16 THE COURT: You could do so. By the same
17 token, could you also say that you do not
18 believe the case is one which warrants a death
19 sentence and impose a life sentence?

20 THE JUROR: Yes.

21 THE COURT: Mr. Beauford?

22 EXAMINATION

23 BY MR. BEAUFORD:

24 Q. Ms. Jarvis, my name is Percy Beauford,
25 just a few questions. You said earlier that because

1 earlier this morning you started thinking about the
2 death penalty and so you formed an opinion about the
3 death penalty in some way?

4 A. What do you mean, yes or no?

5 Q. I mean, have you formed an opinion about
6 the death penalty as a result of thinking about it
7 all day?

8 A. Yes.

9 Q. And what is your opinion in the death
10 penalty?

11 A. My opinion is it would have to be a last
12 resort depending on the crime and all the facts.

13 Q. Okay. If you get to the point knowing
14 that the defendant is guilty of murder, intentional
15 killing of someone with malice aforethought, and you
16 go to the second phase and you know that is out of
17 the way, would you automatically vote for the death
18 penalty --

19 A. No.

20 Q. -- or life?

21 You said no?

22 A. No.

23 Q. Would you look at other factors in
24 determining?

25 A. Yes.

1 Q. Okay. If you were on the jury and the
2 majority wanted to vote a certain way and you were
3 not one of the voters in the majority, you were in
4 the minority, would you change your vote in order to
5 get the case over with?

6 A. No, not if I felt that the facts did not
7 point that way.

8 Q. No further questions.

9 EXAMINATION

10 BY MR. BAILEY:

11 Q. Ms. Jarvis, I hate to -- I'm the last one
12 to go so I kind of probably repeat some of what the
13 judge and Mr. Beauford asked you, but I just wanted
14 to clarify a couple of things. In regard to the
15 death penalty in general, have you ever given any
16 thought to it before today?

17 A. Well, yes.

18 Q. Okay. And could you tell us, and you may
19 have already done this, what your thoughts were
20 generally of the death penalty just in your own
21 words?

22 A. That, well, it's not something that I
23 like, but it seems to be a necessary part of our
24 judicial system.

25 Q. Okay. And the judge asked you about the

1 Catholic church stance on the death penalty and I
2 think he asked you something to the effect would that
3 have any bearing on your thought processes or
4 something and you said probably not.

5 A. Well, my thought processes, but, you
6 know, the facts are the facts.

7 Q. Okay.

8 A. I mean, whether or not I would
9 automatically go one way or the other because of
10 that.

11 Q. Okay. I'm not --

12 A. I'm not sure what you're asking me.

13 Q. Well, I'm not sure, either. Let me try
14 it again, okay?

15 If you were selected as a juror you
16 would be asked to render a decision, first of all, in
17 the guilt phase or whether or not the State proved
18 that defendant guilty beyond a reasonable doubt based
19 on the facts as you heard on the witness stand and
20 the law the judge gave you. If the jury finds that
21 defendant guilty of murder, then we go into the
22 second phase, and you would be asked to make a
23 decision on punishment.

24 A. Right.

25 Q. Based, again, on the facts that came up

1 during the trial and the law the judge gave you,
2 okay? And my question is whether or not your
3 religious beliefs, knowing the doctrine of the
4 Catholic church, would that intrude on your ability
5 to make a punishment decision based strictly on the
6 facts, or would you have -- kind of have the Pope in
7 the back of your mind there during your thought
8 process?

9 A. Strictly the facts.

10 Q. Okay.

11 A. Even though I don't know how I could keep
12 from not having that in my mind.

13 Q. Okay.

14 A. I'm not sure if I'm answering the
15 question, but....

16 Q. Okay. All right. I understand you
17 can't -- you know what the Catholic church's stance
18 is and you can't just put that out of your mind.

19 A. Right.

20 Q. But are you saying you can render a
21 decision on the punishment if we get to that point on
22 the facts and not even take into account what the
23 Catholic church's position is on the death penalty?

24 A. Right.

25 Q. You can do that.

1 And you understand that if we get to
2 that second phase of the trial, when we're talking
3 about life, life means life without parole, death
4 sentence of course means he would be executed by
5 lethal injection or the electric chair. The judge
6 doesn't make that decision, the jury makes the
7 decision, the judge simply carries that decision out.
8 I'm not going to ask you to predict what you'd do in
9 this case because you haven't heard the facts, but if
10 the facts were bad enough could you vote for the
11 death penalty?

12 A. Yes.

13 Q. Knowing that defendant that's sat in your
14 eyesight for a week or so is actually going to be put
15 to death?

16 A. Yes. It would be difficult, but I think
17 I could.

18 Q. Okay. And the judge asked you about the
19 death warrant, the death verdict form. Could you
20 sign that if you and the other 11 jurors, after
21 hearing all the facts, voted for the death penalty?

22 A. If I got to that point I could.

23 Q. Okay. If you got to both of those points
24 I think you told the judge you could announce that
25 decision?

1 A. Yes.

2 Q. Okay. Once we get a jury selected and
3 picked and sworn, the jury would be staying in a
4 motel for however long it takes to complete the
5 trial, which may be roughly a week give or take a day
6 or two one way or the other. Is that something that
7 you could accommodate taking into consideration your
8 family life, personal life?

9 A. Yes.

10 Q. Can you think of any reason we may not
11 have even mentioned yet that may prevent you from
12 serving as a fair and impartial juror in this kind of
13 a case for both the State and the defense?

14 A. No, not from everything you've mentioned.

15 Q. Okay. Ms. Jarvis, that's all I've got.

16 Thank you.

17 THE COURT: Would you mind stepping right
18 back there for a second and I'll bring you
19 right back?

20 (Whereupon, the prospective juror leaves
21 the courtroom.)

22 THE COURT: All right. Ms. Jarvis,
23 State?

24 MR. BAILEY: Qualified.

25 THE COURT: Defendant?

1 MR. BEAUFORD: Qualified.

2 THE COURT: She's qualified. Thank you.

3 (Whereupon, the prospective juror returns
4 to the courtroom.)

5 THE COURT: Ms. Jarvis, you put some
6 phone numbers down here on that right here at
7 the top. Are those still correct?

8 THE JUROR: Yes.

9 THE COURT: What I intend to do is this:
10 I've got a lot of jurors to talk to all day
11 tomorrow, what I'm trying to get is about 35
12 in a pool.

13 THE JUROR: Okay.

14 THE COURT: Out of which 12 and two
15 alternates will ultimately be drawn. And so
16 what I -- rather than tell you to come back at
17 a certain time, because I don't know when
18 that's going to be, I don't know whether it's
19 going to take us all day tomorrow, sometime
20 into Wednesday. Looks to me like we'll finish
21 it late tomorrow afternoon, from what we've
22 done today. We'll have that pool tomorrow.

23 What I'd like to do is have the
24 clerk, or someone call you tomorrow night and
25 say be here Wednesday or whatever time it

1 would have to be. Would that suit you all
2 right?

3 THE JUROR: Yes.

4 THE COURT: And I can notify you, one of
5 those numbers we can notify you?

6 THE JUROR: Yes.

7 THE COURT: And, again, tell your husband
8 and so forth what you're here about, obviously
9 you're going to have to tell him that when the
10 call comes, but I would ask you, again, please
11 not to discuss death penalty, you know, in any
12 way, this case, or any other case for that
13 matter. I don't want any discussion about
14 the -- his feelings one way or the other about
15 a death sentence and so forth, or life
16 sentence.

17 THE JUROR: I understand.

18 THE COURT: Rather I would simply ask you
19 to tell him what you're going to be doing,
20 that you may be drawn, you may not be. If you
21 aren't, you go back home. If you are, then of
22 course you wouldn't be able to talk.

23 We're going to have SLED agents who
24 will assist. Everyone has a private room,
25 everyone has -- you know, is going to be fed.

1 You will be treated properly, I will assure
2 you. There will be nothing distasteful about
3 it except for the fact that you -- you want to
4 be working I know rather than in court, but we
5 intend to do everything we can to make it --
6 if you happen to be drawn.

7 But, again, just don't discuss the
8 matter and we'll call you and let you know
9 what you need to do tomorrow, probably
10 tomorrow night.

11 THE JUROR: All right.

12 THE COURT: Thank you, ma'am.

13 THE JUROR: Thank you.

14 THE COURT: The news, just avoid it. I
15 don't think there's going to be anything in
16 the news, maybe a little something in the
17 newspaper in Summerville, if you don't mind
18 just avoid the newspaper tomorrow and the
19 newscast.

20 THE JUROR: Okay.

21 THE COURT: I don't think nobody's been
22 here today, but you never know.

23 THE JUROR: Okay.

24 THE COURT: Thank you, ma'am.

25 THE JUROR: Thank you.

1 (Whereupon, the prospective juror leaves
2 the courtroom.)

3 THE COURT: Ms. Bele, how are you doing?
4 Come on right up here, please, ma'am. Come on
5 and have a seat right here.

6 (Jaime M. Bele, called as a potential
7 juror, having first been duly sworn, is
8 examined as follows:)

9 THE COURT: How are you doing?

10 THE JUROR: Good.

11 THE COURT: Good. Thank you for coming
12 back. I know it's sort of late, but we're
13 about to get there. Tell me about the
14 University of South Carolina. Where do you
15 work? University of South Carolina. That's
16 the last employment?

17 THE JUROR: Yes, sir.

18 THE COURT: What in the world did you do
19 there at that school?

20 THE JUROR: I was a work study for two
21 years, I was -- I worked at the library and
22 then I worked in the -- I also worked in the
23 Longstreet Theatre as office assistant.

24 THE REPORTER: Judge, I cannot hear her.

25 THE COURT: All right. Just as loud as

1 you can.

2 THE JUROR: I also worked for the
3 Longstreet Theatre as an office assistant.

4 THE COURT: And have you ever served on a
5 jury before?

6 THE JUROR: No, sir.

7 THE COURT: You have not. And I believe
8 it says you are not married, right?

9 THE JUROR: Right.

10 THE COURT: And let me ask you this: Did
11 you read that piece of paper I left out there
12 for you?

13 THE JUROR: Yes, sir.

14 THE COURT: Can you tell me what category
15 you might fall into, you think you fall into?

16 THE JUROR: I think the third category.

17 THE COURT: The third?

18 THE JUROR: Yes, sir.

19 THE COURT: Tell me what, basically what
20 that third category would mean.

21 THE JUROR: That -- to not make, I guess,
22 any decisions about life or death until all
23 the evidence comes in.

24 THE COURT: That's correct. And do you
25 understand that there really are no right or

1 wrong answers, it doesn't make any difference.
2 what you tell me because it's what you
3 believe, what comes from your heart and not --
4 I don't want you to tell me what you think I
5 want you to tell me, right? Or anybody else.
6 All we want to know is what you feel, you
7 know, what you feel in your heart.

8 Are you saying, then, that if you
9 were on a jury and the State proved that a
10 defendant was guilty of murder, and all
11 jurors, all 12 of you agreed that the
12 defendant was guilty of murder, and you voted
13 guilty of murder, are you saying that if that
14 were the case you would not be a juror who
15 would say, well, if it's murder, then he's
16 going to get death? In other words, it
17 doesn't make any difference, every case if
18 it's murder he's going to get death in every
19 case. You're not one of those?

20 THE JUROR: No, sir.

21 THE COURT: There's some jurors who would
22 say, you know, well, even if he's guilty of
23 murder I don't believe in capital punishment,
24 I don't believe in the death sentence, I'm not
25 going to ever give him murder, I'll give him

1 life every time because I don't believe in the
2 death sentence, even though he's guilty of
3 murder. You're not one of those?

4 THE JUROR: No, sir.

5 THE COURT: You're telling me that you
6 could give life or you could give death, but
7 you would have to listen to all the evidence,
8 and not just about the case but about all the
9 good and all the bad, really, before you could
10 decide which way you could vote?

11 THE JUROR: Yes, sir.

12 THE COURT: Is that right?

13 THE JUROR: Yes, sir.

14 THE COURT: Do you understand that if
15 you -- that if you were on a jury and you
16 voted guilty of murder like all 11 others
17 would do, that you would have to decide the
18 sentence? And that once you decide the
19 sentence if you found that the person was
20 guilty of murder and needed to be sentenced to
21 death, that you would have to actually sign
22 your name on a sheet along with all of the
23 jurors; do you understand that?

24 THE JUROR: Yes, sir.

25 THE COURT: In other words, the jury does

1 the sentencing, really the jury becomes the
2 judge. I don't do the sentencing, the jury
3 does that. You understand that?

4 THE JUROR: Yes, sir.

5 THE COURT: All right. Could you do that
6 if you felt like it was the appropriate thing
7 to do?

8 THE JUROR: I don't know. I think I can,
9 but I honestly don't know.

10 THE COURT: All right. Well, you
11 understand I'm not asking you about the facts
12 of this case, I'm not asking you what you
13 would do in this case because you hadn't heard
14 anything about this case, I'm just asking you
15 in general if you were a juror and you heard a
16 case and you felt like after you heard
17 everything that death was the appropriate
18 thing to give, you know, if there's a case in
19 which you hear all the evidence and you feel
20 like this is a case that I feel like a death
21 sentence is appropriate, could you sign your
22 name to the form along with the other 11
23 jurors?

24 THE JUROR: Yes.

25 THE COURT: Ma'am?

1 THE JUROR: Yes, sir.

2 THE COURT: Okay. And could you come out
3 into the courtroom and if need be say to me
4 that's my sentence, that's what I agreed to
5 do?

6 THE JUROR: Yes, sir.

7 THE COURT: All right. And by the same
8 token, could you, if you felt that the case
9 was one where a person should not get death,
10 but rather get a life sentence, could you then
11 say I'm not going to vote for death, I'm going
12 to vote for life because I think this is a
13 case where a life sentence is the appropriate
14 sentence?

15 THE JUROR: Yes, sir.

16 THE COURT: So you're basically telling
17 me that you could go either way, death or
18 life, but you have to listen to everything
19 before you decide?

20 THE JUROR: Yes, sir.

21 THE COURT: All right.

22 EXAMINATION

23 BY MR. BAILEY:

24 Q. Is it Ms. Bele, is that how you pronounce
25 your last name?

1 A. Yes, sir.

2 Q. Okay. And, Ms. Bele, the air conditioner
3 was running when the judge asked the first couple of
4 questions, but did you go to Carolina taking work
5 study, is what you're employment was?

6 A. Yes, sir.

7 Q. Okay. Have you graduated now?

8 A. Yes, sir.

9 Q. Okay. And what was your major?

10 A. I majored in sociology with a minor in
11 psychology.

12 Q. Okay. When did you graduate?

13 A. This past May 8th.

14 Q. Okay. And you're still job hunting now,
15 or what?

16 A. Yes, sir.

17 Q. Okay. All right. And I think the judge
18 mentioned this, there are no right or wrong answers,
19 the only wrong answer is if you tell somebody
20 something just because you think that's what they
21 want to hear. But this is the only chance any of us
22 get to question jurors about their feelings on the
23 death penalty before we pick a jury in a day or so.

24 Is the death penalty something that
25 you ever really thought about before today?

1 A. Yes.

2 Q. Okay. And can you tell us how that came
3 up? Was it at church, or school, or home, or what?

4 A. The first time I remember it was like
5 high school, and I was like against the death penalty
6 at the time.

7 Q. Okay.

8 A. And so, you know, we had discussions
9 about it then.

10 Q. Okay. And I guess since you said the
11 first time there must have been a second time.
12 What's the next time you remember, you know, getting
13 really involved in the death penalty?

14 A. I don't remember when, but my feelings
15 had changed and we just had discussions about it just
16 wherever.

17 Q. Okay.

18 A. And just stated my opinion.

19 Q. All right. And can you recall what your
20 most recent opinion was before today when you found
21 out you might actually be a juror?

22 A. I always thought that given the
23 circumstances, depending on the crime and what was
24 the reasoning, I don't know, behind whatever
25 happened, then I would see how the decision would go.

1 Q. Okay.

2 A. Depending on the crime.

3 Q. All right. And you understand what the
4 judge told you that if we get to that second part of
5 the trial that would mean the jury's found the
6 defendant guilty of murder beyond a reasonable doubt.
7 And that if we reach that point the judge doesn't
8 make the decision on punishment, the jury makes the
9 decision. If the jury votes for life, the judge
10 orders life and he serves life without parole. If
11 the jury orders -- the jury votes for the death
12 penalty, the judge would order it and that defendant
13 actually would be executed either by lethal injection
14 or the electric chair.

15 If the case is bad enough, you know,
16 in all honesty could you vote for the death penalty
17 knowing that based on that vote that person actually
18 is going to be executed?

19 A. Yes, sir.

20 Q. And you've already answered this, I
21 believe, with the judge, but if all 12 jurors vote
22 for the death penalty they're asked to sign their
23 names to a piece of paper, a death verdict form
24 that's going to result in that execution happening.
25 Could you sign your name to that paper?

1 A. Yes, sir.

2 Q. And you could announce that out loud in
3 open court?

4 A. Yes, sir.

5 Q. Okay. The jury's going to be put in a
6 hotel or motel for probably however long it takes to
7 finish this trial, probably start Wednesday. We're
8 looking, my guess, is roughly six days, somewhere in
9 that neighborhood. Is that something that you can
10 accommodate with your life?

11 A. Yes, sir.

12 Q. Okay. Is there any reason you can think
13 of, Ms. Bele, that we might not have asked you about
14 that would in any way keep you from serving as a fair
15 and impartial juror to both sides, the State and the
16 defense?

17 A. No, sir.

18 Q. Okay. Thank you. That's all I have.

19 EXAMINATION

20 BY MR. BEAUFORD:

21 Q. Ms. Bele, my name is Percy Beauford, just
22 a couple of questions. I know you may have answered
23 it in some way, but I'm just trying to clarify it in
24 my mind. What are your views on the death?

25 A. That depending on the crime whether or

1 not it's warranted. If he's guilty and the, I guess
2 the severity of it, and just the whole circumstances
3 surrounding it, then that would determine whether or
4 not he should get the death penalty.

5 Q. Say the crime is murder, and which is
6 intentionally killing someone with malice
7 aforethought, would you automatically vote for the
8 death penalty?

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

10 Q. Would you look -- in deciding death or
11 life would you consider other factors that does not
12 have anything to do with the crime, such as the
13 background of the defendant, background of the
14 victim, or whether -- other characteristics of both
15 of the parties?

16 A. Yes, I think so. Like extenuating
17 circumstances, like outside influences, that's what
18 you're asking me?

19 Q. Outside, background factors.

20 A. Yes, I would consider that.

21 Q. You say you're a psych and sociology
22 major?

23 A. Psych minor, sociology major.

24 Q. Did you ever discuss the death penalty as
25 part of the your class projects or anything?

1 A. I don't think not as projects, no, just
2 like some --

3 Q. Class discussions?

4 A. Yeah. Just up in the air kind of thing.

5 Q. And during those class discussions at
6 that time were you for the death penalty or against
7 the death penalty?

8 A. At the university I was for it. Yeah, I
9 was for, you know -- capital punishment, is that it?

10 Q. Yes.

11 A. At the time.

12 Q. Okay. And how long has it been since you
13 graduated?

14 A. About two weeks.

15 Q. And these discussions would have been --
16 what year were you in school at the time?

17 A. I don't know.

18 Q. Roughly your freshman, sophomore? Just
19 roughly.

20 A. About my junior year, around there, I'm
21 not too sure.

22 Q. And do you know when your views changed
23 from your junior year to now, or what caused it to
24 change?

25 A. Well, in college I was for capital

1 punishment, in high school I was against capital
2 punishment. And I don't know when they changed from
3 high school to college, but ever since they changed
4 that way they've always been for capital punishment.

5 Q. So I'm confused. You're saying that you
6 are for the death penalty?

7 A. Yes, sir. Yes. I was against capital
8 punishment in high school.

9 Q. Okay.

10 A. And then somewhere along the way my views
11 changed and I was for capital punishment.

12 Q. Maybe when you said you were against
13 it -- when you were in high school when you were
14 against it, at that point there was nothing
15 mitigating, aggravating, or any kind of circumstance
16 which would have changed your view, you just was
17 totally against it at that time?

18 A. Yes, sir.

19 Q. But now you're saying that basically
20 you're for it, but also you want to look at the other
21 circumstances surrounding it?

22 A. Yes, sir.

23 Q. Okay. And if you were on a jury and a
24 majority of the jury was voting one way and you
25 wanted to vote another way, would you vote with the

1 majority just to get the case over with?

2 A. No.

3 Q. Would you want the other jurors to
4 respect your vote?

5 A. Yes, sir.

6 Q. Would you respect their voting?

7 A. Yes, sir.

8 Q. Do you have any certain religious
9 preference or belief that influenced your decision in
10 the death penalty?

11 A. No.

12 Q. Okay. No further questions.

13 THE COURT: Ms. Bele, would you mind
14 stepping right in the hall just for a minute?
15 I'll bring you right back, let you go.

16 (Whereupon, the prospective juror leaves
17 the courtroom.)

18 THE COURT: How says the State?

19 MR. BAILEY: Qualified.

20 THE COURT: Defendant?

21 MR. BEAUFORD: Qualified.

22 THE COURT: She's qualified.

23 (Whereupon, the prospective juror returns
24 to the courtroom.)

25 THE COURT: Ms. Bele, I've got a phone

1 number here, see if that is right, still your
2 phone number.

3 THE JUROR: Yes, sir.

4 THE COURT: What I'm going to do is have
5 someone call you tomorrow, probably tomorrow
6 night, late tomorrow afternoon. I'm not going
7 to make you come back tomorrow. We'll get
8 about 35 people, you'll be one of them, there
9 will be a whole lot of people. And then out
10 of those 35 we're going to get 14 jurors. I'm
11 not saying you're going to serve on a jury,
12 I'm just saying you're one of the ones who may
13 serve. You follow me?

14 THE JUROR: Yes, sir.

15 THE COURT: So just if we could get you
16 at that number, I'll call you there. Don't
17 discuss the case, now, with anyone. If you
18 have to tell family members what you're going
19 to be doing, obviously you need to tell them
20 that, tell them we're going to call you,
21 you'll come here, you'll be taken care of,
22 that's not a problem. I assure you you'll be
23 taken care of. But I don't want you to
24 discuss death penalty, this or that with your
25 family, all right?

1 THE JUROR: Okay.

2 THE COURT: Or anyone else for that
3 matter. Thank you, ma'am. We'll call you
4 tomorrow.

5 (Whereupon, the prospective juror leaves
6 the courtroom.)

7 THE COURT: Mr. White, come on down, sir.
8 (Albert A. White, Jr., called as a
9 potential juror, having first been duly
10 sworn, is examined as follows:)

11 THE COURT: Come on, sir, come on right
12 around. Come right on, have a seat right
13 here, sir, if you don't mind. How are you
14 doing?

15 THE JUROR: Oh, not bad. How are you?

16 THE COURT: I'm fine. I know I got you
17 here late at night. I apologize, but I thank
18 you for your help, sir.

19 Mr. White, let me ask you just a
20 couple -- just a very few questions. RRR
21 Charleston truck driver. Where do you go,
22 where are you driving?

23 THE JUROR: All over.

24 THE COURT: I mean, the United States,
25 from here to California and back?

1 THE JUROR: Never, ever California, but
2 Tennessee and Alabama and North Carolina and
3 places like that, and Georgia, places we go
4 frequently.

5 THE COURT: I understand. All right,
6 sir. When you say down here served as a
7 member of an auxilliary or police reserve, you
8 were a member of the police administration.
9 Tell me about that. What is that exactly?

10 THE JUROR: I don't know myself. They
11 sent me some kind of little brochure, that
12 type of thing.

13 THE COURT: Yes, sir.

14 THE JUROR: To send in a donation to Ray
15 Nash.

16 THE COURT: I see. They send me the same
17 thing.

18 THE JUROR: I filled it out and sent them
19 a donation.

20 THE COURT: That's pretty good. I threw
21 mine in the trash can, but that's fine, I
22 understand. Nothing wrong with that.

23 THE JUROR: Next time I'll do mine like
24 that, too.

25 THE COURT: Well, you'll save a little

1 bit of money.

2 Let me ask you this: The fact that
3 you sent them the donation, the police
4 administration a donation, would that affect
5 your ability to be fair and impartial in this
6 kind of a trial?

7 THE JUROR: No, I don't think so.

8 THE COURT: All right, sir. Well, did
9 you read that sheet that I had out there?

10 THE JUROR: Yeah.

11 THE COURT: Tell me, have you ever served
12 as a juror before?

13 THE JUROR: Not in my life.

14 THE COURT: All right, sir. Well, let me
15 tell you, first of all, you can't give me a
16 wrong answer. I don't care what you tell me,
17 it's not going to be a wrong answer. All I
18 want from you is what comes from the heart. I
19 just want you to tell me what you honestly
20 believe and not what you think I want you to
21 tell me. I want you to just flat out tell me
22 what you feel.

23 THE JUROR: Okay.

24 THE COURT: Do you follow me?

25 THE JUROR: Uh-huh (affirmative

1 response).

2 THE COURT: Let me ask you this, sir:
3 What group do you think you fall into, first,
4 second, or third? You want me to explain it
5 to you?

6 THE JUROR: No, I read it pretty --

7 THE COURT: Pretty good?

8 THE JUROR: Pretty clearly.

9 THE COURT: Yes, sir.

10 THE JUROR: And to make an honest
11 opinion, it's not either one of those groups,
12 you're taking an honest opinion.

13 THE COURT: All right.

14 THE JUROR: You're not characterizing
15 anything.

16 THE COURT: All right. Let me ask you
17 this: If you were to serve on the jury and
18 the State proved to you and to 11 other
19 people, if the State proved to all 12 of you
20 beyond a reasonable doubt that a defendant was
21 guilty of murder and you all voted guilty of
22 murder, in other words, if you were convinced
23 that he was guilty of murder, do you follow
24 me?

25 THE JUROR: Yeah.

1 THE COURT: Would you be a juror who
2 would say, well, if he's guilty of murder then
3 he deserves the death sentence in every single
4 case? Or would you be a juror who would say,
5 I don't care if he's guilty of murder, I would
6 never give him the death sentence, I don't
7 believe in it, I think he should get a life
8 sentence in every single case? Or are you a
9 juror who would say I could give death, I
10 could give life, but I have to listen to all
11 the circumstances, I have to hear more
12 evidence before I can say whether or not
13 he's -- he should be given a life sentence or
14 a death sentence?

15 THE JUROR: Again, I would reply, depends
16 on the type of murder it was.

17 THE COURT: All right, sir. Okay. In
18 other words, are you saying then that
19 depending on the facts and circumstances, the
20 kind of murder, the circumstances surrounding
21 the murder, and for that matter any other
22 circumstances, whether it was aggravated or
23 whether there was some mitigating
24 circumstances or some aggravating
25 circumstances, that you could -- are you

1 telling me that you could impose the death
2 sentence if you felt like it was the right
3 thing to do?

4 THE JUROR: If it's some children or
5 something like that involved, yeah, no doubt.

6 THE COURT: All right, sir. But I'm not
7 even getting into a specific kind of case, you
8 don't even need to tell me what specific kind
9 of case, but what you're saying is that there
10 are cases, there are circumstances in which
11 you would be able to give somebody a death
12 sentence?

13 THE JUROR: That's right.

14 THE COURT: But there are also some cases
15 in which you would not want to give somebody a
16 death sentence, but you'd give them a life
17 sentence?

18 THE JUROR: Yeah, most likely.

19 THE COURT: Is that right?

20 THE JUROR: Yeah, probably.

21 THE COURT: See, the whole thing is that
22 the -- that you don't even talk about
23 sentencing until you determine that the man is
24 guilty or the woman is guilty of murder. In
25 other words, once the jury decides that the

1 person is guilty of murder, then you start
2 talking about what sentence to impose. Do you
3 follow me?

4 THE JUROR: That's true.

5 THE COURT: So that the first thing you
6 have to do is to decide whether or not the
7 person is guilty.

8 THE JUROR: Okay.

9 THE COURT: But I'm saying, I'm saying to
10 you, if you all found that he was guilty of
11 murder you're telling me that you could give a
12 death sentence but it depends on what you --
13 what other circumstances you hear?

14 THE JUROR: That's right.

15 THE COURT: But you could give life
16 sentence depending on what circumstances you
17 hear?

18 THE JUROR: That's true as well.

19 THE COURT: All right, sir. You're not
20 one who would always give a life sentence?

21 THE JUROR: No.

22 THE COURT: Nor one who would always give
23 a death sentence?

24 THE JUROR: There ain't no way possible
25 because it's different circumstances.

1 THE COURT: All right, sir. And you
2 would be willing to listen to all those
3 circumstances before you decide it?

4 THE JUROR: That's right.

5 THE COURT: Could you sign a death
6 warrant, a sheet, if all of you agreed that
7 the death sentence was the right thing to
8 give, could you sign your name to the sheet?
9 I'm saying if you all agreed to it now. If
10 you agreed to it could you sign your name to
11 it?

12 THE JUROR: I don't know. I'm going to
13 be perfectly honest with you.

14 THE COURT: What would prevent you from
15 signing your name to it? If you decided that
16 he was guilty and you decided that he should
17 get a death sentence, why wouldn't you be able
18 to sign your name to it? Tell me what
19 prevents you from doing that.

20 THE JUROR: It's, again, I go back to it
21 depends on the circumstances.

22 THE COURT: All right, sir. And I'm --
23 all right. Now, let's assume. Let's start
24 over again, I'm not going to beat it to death,
25 but let's assume. Let's assume that this is a

1 case, that this is a case you're serving on
2 where you believe that the circumstances
3 warrant a death sentence. In other words, you
4 heard all the circumstances and you say, well,
5 I've heard everything, I think the death
6 sentence is the right sentence to give in this
7 case. Could you sign your name to that death
8 sentence?

9 THE JUROR: I don't think so.

10 THE COURT: All right, sir.

11 THE JUROR: I don't think so.

12 THE COURT: Are you saying then that you
13 could never give a death sentence?

14 THE JUROR: Being in the situation that
15 I'm in, I could never pass judgment that
16 strongly on anybody.

17 THE COURT: All right, sir. Are you
18 saying that you could never then give a death
19 sentence, you just couldn't give it, you just
20 couldn't do it?

21 THE JUROR: I just couldn't do it, no.
22 It depends on the circumstances.

23 THE COURT: Well, suppose it's the worst
24 circumstance you can imagine, suppose it's
25 just terrible, there's a murder and there were

1 terrible circumstances. Are you saying that
2 you could not even under those --

3 THE JUROR: No, I probably could.

4 THE COURT: Well, that's what I'm getting
5 at.

6 THE JUROR: I probably could.

7 THE COURT: All right. Let's suppose
8 that it is then. Suppose that there was a
9 murder and terrible circumstances and you felt
10 like, in your own heart and mind you felt like
11 that the death sentence was the appropriate
12 sentence to give.

13 THE JUROR: That's right.

14 THE COURT: All right. Now, my question
15 is could you sign the death warrant?

16 THE JUROR: Oh, yeah.

17 THE COURT: Could you sign the thing?

18 THE JUROR: Oh, yeah. If I felt in my
19 heart that he or she was guilty, yeah, I could
20 sign it.

21 THE COURT: Well, all right, sir. And
22 could you at the same time if you decided that
23 they were guilty, could you still say even
24 though they're guilty I don't think that death
25 is appropriate, I think it ought to be a life

1 sentence? Could you do that as well?

2 THE JUROR: Oh, yeah.

3 THE COURT: So you could give either
4 death or life is what you're saying?

5 THE JUROR: Yeah.

6 THE COURT: But it's going to depend on
7 the circumstances?

8 THE JUROR: That's right.

9 EXAMINATION

10 BY MR. BEAUFORD:

11 Q. Mr. White, my name is Percy Beauford,
12 just a few questions. And I tell you that murder is
13 intentional killing with malice aforethought, it's
14 not manslaughter, it's not by accident, or it's not
15 by self-defense. So if someone is found guilty of
16 murder in the right circumstances as this in the
17 sentencing phase, would you automatically give the
18 death sentence?

19 A. No.

20 Q. Okay. Would you need to know some
21 additional facts?

22 A. That's right. That's right.

23 Q. What is your opinion on the death
24 penalty?

25 A. My opinion of the death penalty is we

1 can't give life and we shouldn't take life. We can't
2 give life. You can't give life to somebody so how
3 can you take life, without an adequate situation?

4 Q. So on the one hand you're saying you
5 can't give life so you should not take it, then you
6 say, again, with the right situation you are willing
7 to sign your name for the death penalty?

8 A. Yeah. Yeah.

9 Q. Do you understand that life means life
10 without parole if you decide to give someone a life
11 sentence?

12 A. Yeah, I understand that as well. And I
13 also understand that death penalty is an awful stern
14 penalty. When I say awful stern, depends on what the
15 criminal did, how did it come about, how did it all
16 come about.

17 Q. And if you're on a jury and the majority
18 of the jury was voting one way and you wanted to vote
19 the other way, would you change your vote just to get
20 the case over with?

21 A. No. No. I guess that's why all my life
22 I never was called as a juror, it just worked that
23 way. It just worked that way because I would give an
24 honest opinion of what I hear, of what I heard.

25 Q. So you're saying you're willing to listen

1 to all the facts before rendering your opinion for
2 the guilt and for sentencing?

3 A. Absolutely.

4 Q. No further questions.

5 EXAMINATION

6 BY MR. BAILEY:

7 Q. Mr. White, I'm Walter Bailey, I'm going
8 to be prosecuting the case, I need to go over some of
9 the questions Mr. Beauford asked and the judge asked.
10 I'm going over my notes, I think you were giving
11 different answers to some of the questions.

12 A. No.

13 Q. You weren't?

14 A. No.

15 Q. Okay. Let me just clarify in my mind
16 because I might have misunderstood you. Please
17 believe me when I tell you there are no right or
18 wrong answers, we're not testing you here. Type one,
19 type two, type three juror, one's as good as the
20 other. It's a matter of personal preference and
21 everybody respects whatever opinion you got no matter
22 what it is, so we're not testing you.

23 In South Carolina if we get to the
24 penalty phase, that means that person's been
25 convicted of murder in the first part of the trial

1 beyond a reasonable doubt. And if we get to that
2 second phase of the trial the judge doesn't make the
3 decision on the penalty. All he does is he makes
4 sure that sentence is carried out, he orders that
5 into effect. The jury decides between life without
6 parole, the death penalty.

7 Whatever they decide is going to
8 happen. If they decide on life, that person goes to
9 prison for the rest of his life. If they decide on
10 the death penalty, they're executed by lethal
11 injection or the electric chair, okay?

12 I'm not going to ask you what you
13 would do in this case because you haven't heard any
14 of the facts. But at one point according to my notes
15 I think you told Mr. Beauford we can't give life, we
16 shouldn't take life.

17 A. That's right.

18 Q. Okay. With that being your belief, is
19 that a religious belief?

20 A. That's right.

21 Q. All right. With that being your belief,
22 could you vote for the death penalty under any
23 circumstances knowing that sentence would be actually
24 carried out based on your vote on that jury?

25 A. Not under any circumstances, no.

1 Q. Okay.

2 THE COURT: I think you better rephrase
3 that.

4 MR. BAILEY: I know. I'm just trying to
5 think how to rephrase it.

6 THE COURT: Not under all circumstances
7 is what I think he means.

8 BY MR. BAILEY:

9 Q. Without telling what there are, are there
10 any circumstances that you could think of that you
11 could vote for a death penalty knowing that sentence
12 would actually be carried out and that person that
13 you've had in eyesight for roughly a week is actually
14 going to be executed, could you do that?

15 A. If he was guilty of the crime that he's
16 accused of. Now, meaning whatever -- something real
17 bad happens into a murder, then I feel that the
18 person that -- the guilty party should pay whatever
19 it is, if it's life or whatever it is, death penalty
20 or whatever it is.

21 Q. Okay. At another point I think you said
22 that you could never pass judgment on anybody, I
23 think you told the judge that.

24 A. I mean that. I mean it.

25 Q. Okay. And during the first part of the

1 trial, the guilt phase, the jury is the judge of
2 whether or not the State can prove that person guilty
3 beyond a reasonable doubt. The judge tells you what
4 the law is, but the jury judges the facts of that
5 case, they decide what facts are true, what facts
6 aren't and they pass judgment on that defendant to
7 see whether the State proves him guilty or not.
8 Could you do that?

9 A. Uh-huh (affirmative response).

10 Q. So when you said that you could never
11 pass judgment on anybody, tell me again what you
12 meant there.

13 A. I mean, like you just explained yourself
14 to me who you were. All I know is you got on a nice
15 suit of clothes, a nice tie, a nice shirt.

16 Q. Thank you.

17 A. I don't know your background, I don't
18 know where you come from, I don't know what school
19 you went to or anything of that nature. In other
20 words, you can't pass judgments on what you see, you
21 got to hear it out of your own ears.

22 Q. Okay. Well, let me ask you this: Of
23 course that's what you would be asked to do as a
24 juror, to listen, to see, to observe those witnesses,
25 then you would have to make a judgment, first of all,

1 whether or not he's guilty. And the second part of
2 the trial the jury is the judge of the sentence that
3 takes place. The jury decides, not the judge, on
4 what's going to happen.

5 Now, if the jury votes for the death
6 penalty, all 12 of them vote for it, the next step in
7 that process, and the judge asked about you this, I
8 think, is that each juror would be asked to sign
9 their name to a death warrant, a death verdict form.
10 Could you sign your name to a paper like that knowing
11 it would result in that person being executed?

12 A. I'm going to say this one more time.
13 Depends on the type of crime. As far as I'm
14 concerned I don't have anything else to do with the
15 other jurors.

16 Q. What do you mean by that?

17 A. I mean, because they sign, they said he
18 was guilty, or she was guilty, that doesn't
19 necessarily mean that I was going to say the same
20 thing.

21 Q. Okay. If you were on a jury would you
22 deliberate with the other jurors, would you listen to
23 what their points of view were?

24 A. Absolutely.

25 Q. Would you tell them what your point of

1 view was?

2 A. Yeah.

3 Q. If the jury, all 12 of them vote for the
4 death penalty and sign the death verdict form, could
5 you stand up in open court and announce that decision
6 when your name is called if that was your decision?

7 A. Yeah.

8 Q. All right. The jury's going to be put up
9 in a motel while this trial's going on until the
10 trial is over with. They would be here in the
11 daytime and in the motel at night for maybe a week.
12 Could you do that if you were picked on this jury?

13 A. I don't see no reason why not.

14 Q. Okay.

15 A. Hopefully not, though.

16 MR. BAILEY: I'm sorry, I didn't catch
17 that last part.

18 THE COURT: He said hopefully not,
19 though.

20 MR. BAILEY: Okay. I think that's all
21 I've got right now.

22 THE COURT: All right, sir. Mr. White,
23 if you'll step right out in the hall just for
24 one minute, I'll bring you right back, sir.

25 (Whereupon, the prospective juror leaves

1 the courtroom.)

2 THE COURT: How says the State?

3 MR. BAILEY: Judge, I don't believe
4 that -- I don't believe Mr. White's qualified.
5 I think he gave the correct answers
6 eventually, but I think when you look at the
7 totality of his responses, his demeanor, on
8 one occasion, and if I can read my notes
9 correctly here, he says we can't give life, we
10 shouldn't take life. When you asked him what
11 type of juror he was initially he said
12 basically none of the above.

13 At one point when you asked if he
14 could sign the death verdict form he said he
15 didn't know. He then said he could not sign.
16 He said he could never pass judgment on
17 anybody.

18 I will agree that if you just
19 isolate the answers that he gave you can go
20 through there and find out that at some point
21 or another he answered all the questions
22 correctly, but I think with his demeanor and
23 the totality of the responses it's obvious
24 that he couldn't do it, or wouldn't do it.

25 THE COURT: You all think he's qualified?

1 MR. BEAUFORD: I think he's qualified,
2 Your Honor.

3 THE COURT: Well, you know, it's a
4 situation where, of course, I have to look at
5 each one individually. And of all the people
6 we've talked to today he's hanging by a
7 thread. If he's qualified, he's barely
8 qualified, he's hanging by a thread.

9 I'm going to find he's qualified.
10 I'm probably throwing you all the bones
11 because I'll tell you the truth, he's hanging
12 by a thread. The gentleman, he basically says
13 depends on the circumstances. But you have to
14 understand this: I could -- of course I could
15 find the other way and I don't believe that
16 the defendant could really do much about it, I
17 am looking at it as though this gentleman has
18 never, first of all, ever been into a
19 courtroom before, this is a strange experience
20 for him, and I'm not so sure that he's -- on
21 the one hand he says, well, you can't take
22 life if you can't give it and then he turns
23 right around and says what I'm talking about
24 is I'm not going to judge you until I hear
25 everything, until I know everything.

1 And I just -- again, I have to look
2 at the totality. And I know it can be argued
3 both ways, but I'm going to qualify him. And
4 the defendant simply won't have a thing to
5 complain about and I'm going to do it.

6 (Whereupon, the prospective juror returns
7 to the courtroom.)

8 THE COURT: Mr. White, your telephone
9 number, we're going to call you tomorrow,
10 probably tomorrow night. Those phone numbers
11 are still right, aren't they?

12 THE JUROR: Oh, yeah.

13 THE COURT: All right, sir. We'll call
14 you probably tomorrow night and let you know
15 when to come. I don't know yet what time I'm
16 going to need the jury, but I'll call you in
17 and have the clerk or someone call you
18 tomorrow afternoon, later tomorrow night if
19 you would be at that phone number. Or I see
20 spouse's phone number. In other words, we can
21 get in touch with you?

22 THE JUROR: That's right.

23 THE COURT: Is that right?

24 THE JUROR: Yeah.

25 THE COURT: All right, sir. Don't

1 discuss the case now with anyone. You can
2 tell them you might have to serve on this
3 jury, but don't talk about the death penalty
4 or this case or anything like that, all right?

5 THE JUROR: Okay.

6 THE COURT: Fair enough?

7 THE JUROR: All right.

8 THE COURT: Thank you, sir.

9 THE JUROR: All right.

10 (Whereupon, the prospective juror leaves
11 the courtroom.)

12 (Timothy J. Jenner, called as a potential
13 juror, having first been duly sworn, is
14 examined as follows:)

15 THE COURT: Mr. Jenner, come forward by
16 me. I'm going to ask you a few questions.
17 Thank you for being here late, I know it's
18 late in the afternoon. I just want to ask you
19 a couple of questions. Tell me about your
20 work, please, sir.

21 THE JUROR: Self-employed, I own a site
22 development company, I have 12 employees.

23 THE COURT: Bulldozers?

24 THE JUROR: Yeah, bulldozers, track hoes,
25 dump trucks.

1 THE COURT: Man after my own heart.

2 Twelve employees?

3 THE JUROR: Yes, sir.

4 THE COURT: What's the biggest dozer you
5 got?

6 THE JUROR: 750B, John Deere,
7 38,000 pounds.

8 THE COURT: Yes, sir. You're a man after
9 my heart, Mr. Jenner. I would like to push
10 something with that big dozer.

11 THE JUROR: I'll give you a job.

12 THE COURT: I bet that would be fun. I
13 just got a little small one and I play with
14 it, but I've seen one operate, I know it's a
15 nice piece of equipment. Got a six-way blade
16 on it, or straight blade?

17 THE JUROR: Four way.

18 THE COURT: Four-way blade.

19 THE JUROR: 450G has a six-way blade.

20 THE COURT: That's right. Well, let me
21 ask you this: Have you ever served as a juror
22 before?

23 THE JUROR: No, sir.

24 THE COURT: Did you read that sheet back
25 there?

1 THE JUROR: Yes, sir.

2 THE COURT: What do you think about that
3 thing? Are you -- can you tell me what group
4 you might fall into?

5 THE JUROR: Group number one.

6 THE COURT: Which says what?

7 THE JUROR: Eye for an eye.

8 THE COURT: You are saying basically you
9 find somebody guilty of murder, death penalty
10 every time?

11 THE JUROR: Should be, yeah.

12 THE COURT: Never a case where you give
13 somebody a life sentence?

14 THE JUROR: No.

15 THE COURT: You just don't believe in a
16 life sentence for murder, you believe somebody
17 takes a life you got to give it?

18 THE JUROR: If you seen the taxes I have
19 to pay supporting them on death row, it's
20 horrendous.

21 THE COURT: Questions?

22 MR. BEAUFORD: It's Walter's first.

23 THE COURT: Well, either one.

24 MR. BAILEY: I don't have any questions.

25 THE COURT: Anything?

1 MR. BEAUFORD: Nothing.

2 THE COURT: Well, you got the right
3 answer if you wanted to get out of here,
4 Mr. Jenner, I'll let you go. Thank you, sir.

5 THE JUROR: Thank you.

6 THE COURT: Appreciate you coming. Thank
7 you, Mr. Jenner, for your services.

8 (Whereupon, the prospective juror leaves
9 the courtroom.)

10 THE COURT: You know, these jurors, I'll
11 say this for the record, I'm not trying to be
12 cute, these jurors are rather sophisticated
13 people. I'm surprised. I'm really surprised
14 at the number of jurors who came in here and
15 told the truth and said that they would fall
16 in category three. I would have thought that
17 there would have been more who would have come
18 and said I'm one or two to get out of service.
19 I think they're pretty sophisticated, I
20 believe they're telling the truth.

21 (Dane F. Wiggins, called as a potential
22 juror, having first been duly sworn, is
23 examined as follows:)

24 THE COURT: Mr. Wiggins, I'm going to ask
25 you a few questions and let you get out of

1 here. I'm sorry it's so late, but we thank
2 you for being here this time of night. Thank
3 you very much.

4 Summerville all the way through
5 school, hey?

6 THE JUROR: Yes, sir.

7 THE COURT: Did you play ball?

8 THE JUROR: I wrestled.

9 THE COURT: Wrestle. I had another one
10 in here that did that. College of Charleston.
11 Tell me what you do, sir.

12 THE JUROR: I work for a temporary
13 agency. I actually work at Porsche Cars North
14 America.

15 THE COURT: And prepare wheels for paint
16 and so forth you say?

17 THE JUROR: Yes, sir.

18 THE COURT: What exactly do you do to do
19 that?

20 THE JUROR: Basically the damaged wheels
21 come in and we sand them down and get them
22 smooth and paint them and put them back on.

23 THE COURT: I got you. Have you served
24 as a juror before?

25 THE JUROR: No, sir.

1 THE COURT: Ten years ago my parents'
2 house was robbed, you say a year ago their
3 liquor store was broken into. The fact that
4 your parents have had some problems with
5 people going in the store, in the house, would
6 that affect your ability to be fair and
7 impartial in this case?

8 THE JUROR: No, sir.

9 THE COURT: You could listen, would
10 listen to the evidence in this case and be --
11 render a fair and an impartial decision,
12 wouldn't be based on what's occurred with your
13 family?

14 THE JUROR: Correct.

15 THE COURT: What about that sheet that I
16 had you read out there? Tell me what group
17 you fall into.

18 THE JUROR: I would like to think I fall
19 in the third one.

20 THE COURT: All right, sir.

21 THE JUROR: With some more understanding
22 because I didn't quite understand that.

23 THE COURT: All right, sir. I'll be glad
24 to try to talk to you about that a little bit.
25 What happens, of course, is that as I've told

1 you all this morning, is that the jury in a
2 case such as this, a jury has to determine
3 whether someone's guilty or not.

4 THE JUROR: Yeah.

5 THE COURT: And so really when you start
6 a trial like this the State has to prove the
7 murder beyond a reasonable doubt. The State
8 has to prove to all 12 jurors that the person
9 is actually guilty of a murder.

10 THE JUROR: Okay.

11 THE COURT: And the jury decides that
12 yes, they have or no, they haven't. If the
13 jury says, no, it's not guilty, then of course
14 the trial's over with, you go home.

15 THE JUROR: Right.

16 THE COURT: If the jury says, yes, the
17 State has proven guilt of murder beyond a
18 reasonable doubt, we're satisfied the person
19 is guilty of murder as the judge explains the
20 law to us and so forth, and as we consider the
21 facts, then the jury has to determine what
22 sentence to impose.

23 THE JUROR: Okay.

24 THE COURT: If the jury finds that all 12
25 of you, if you were sitting on the jury and

1 all 12 of you were to find that the person was
2 guilty of murder, then you have to decide
3 whether or not he should receive a death
4 sentence or a life sentence.

5 THE JUROR: Okay.

6 THE COURT: And what this sheet basically
7 does, I think is to say this: That there are
8 some people who would say, well, if he's
9 guilty of murder, then he ought to get a death
10 sentence in every case. I mean, every time.
11 If he's guilty of murder, it's death every
12 time without exception.

13 And then there's some people who
14 say, well, even if he's guilty of murder, I
15 could never give him death, I would have to
16 give him life every single time. I don't
17 believe in the death sentence, I believe in
18 the life sentence every case. No matter how
19 bad the crime is I just cannot give death, I
20 would have to give life.

21 And then the third group, as you
22 sort of indicated, says, well, I could give
23 death, I could give life, but it really
24 depends on the circumstances. I'd have to
25 hear all the evidence. Not just the evidence

1 of the crime itself, that would be important,
2 but I would also have to hear all of the
3 aggravating circumstances, all the things that
4 make the crime bad, for lack of a better word.

5 THE JUROR: Okay.

6 THE COURT: And I'd also have to hear
7 evidence which makes the crime not so bad,
8 really lessens the culpability of the
9 defendant, makes the crime not so severe.

10 THE JUROR: Okay.

11 THE COURT: And then after I hear all
12 that, then I can decide whether or not he
13 should get life or death. That's sort of the
14 third group.

15 THE JUROR: I think I would fall in that.

16 THE COURT: That's where you think you
17 fall?

18 THE JUROR: Yes, sir.

19 THE COURT: Are you saying then that you
20 are not one who would always give the death
21 penalty?

22 THE JUROR: Definitely not.

23 THE COURT: And you are not always one
24 who would always give a life sentence?

25 THE JUROR: Definitely not.

1 THE COURT: All right, sir. But that you
2 could give death, or you could give life but
3 you really have to listen to all the facts and
4 circumstances before you could decide?

5 THE JUROR: Yes, sir.

6 THE COURT: All right, sir. If you were
7 on a jury and you all decided, let's just
8 assume that, you're just having to assume a
9 lot of things, but let's just assume that the
10 jury, all 12 of you believe that the person
11 should receive a death sentence. You would
12 have to sign your name to a form called a
13 death verdict form, some people call it a
14 death warrant. Because actually the jury,
15 you're the ones who do the sentencing, not the
16 judge, so you would have to put your name on
17 that form. Could you do that if you believed
18 that this was an appropriate case for it,
19 obviously --

20 THE JUROR: If I believed that I could
21 sign it.

22 THE COURT: You could sign your name.
23 That's basically all I'm asking, whether you
24 could sign your name if you believed that was
25 the thing to do.

1 THE JUROR: Yes, sir.

2 THE COURT: By the same token you could
3 refuse to sign your name if you said this is
4 not, I believe it's a life sentence and not a
5 death sentence situation?

6 THE JUROR: Yes, sir.

7 THE COURT: All right. Mr. Beauford?

8 EXAMINATION

9 BY MR. BEAUFORD:

10 Q. Mr. Wiggins, my name is Percy Beauford, I
11 know it's late in the evening so I'll be sure to be
12 brief. How did you come about to form your opinion
13 on the death penalty?

14 A. I'm sorry, what opinion? That I could
15 give it?

16 Q. Yes.

17 A. I just -- that's a tough question. It's
18 not something that I formed an opinion about that I,
19 you know, yes, that's definitely the way to go or
20 anything like that. I think it is a -- you know, an
21 option.

22 Q. Have you always had the same opinion that
23 you have know about the death penalty?

24 A. Yes, sir.

25 Q. When was the last time that you ever

1 discussed death penalty, or life, or any of those
2 conversations with anyone?

3 A. Probably the last time that someone was
4 executed in South Carolina. Is that about a year,
5 year and a half ago? The last one I remember,
6 anyway, I remember hearing about.

7 Q. Do you keep up with who's executed in the
8 State on the death penalty?

9 A. Not really at all.

10 Q. How is that?

11 A. I heard it on the radio, they were
12 talking about it.

13 Q. Okay. You understand that murder is the
14 intentional killing of someone with malice
15 aforethought, not manslaughter, not by accident, not
16 by self-defense?

17 A. Yes, sir.

18 Q. And knowing that, you're still open with
19 your views of listening to all the facts before you
20 decide whether this is a death penalty situation or a
21 life situation?

22 A. Yes, sir.

23 Q. Also in deciding whether to vote for life
24 or death, are you able to consider other factors that
25 does not involve the crime itself, like background of

1 defendant, background of the victim, the good and the
2 bad about either one of the parties in deciding
3 whether to give life or death? And this is saying
4 that you already decided the person was guilty of
5 murder.

6 A. Right. Yes, sir.

7 Q. If you were on a jury and the majority
8 wanted to vote a certain way and you were not in that
9 majority's views, would you hold onto your view and
10 not just change them to get the case over with?

11 A. I would definitely hold onto my view.

12 Q. Do you understand that life means life
13 without parole?

14 A. I did not know that.

15 Q. Would that change your view in whether to
16 give death or life now knowing that?

17 A. I don't think so.

18 Q. No further questions.

19 EXAMINATION

20 BY MR. BAILEY:

21 Q. Mr. Wiggins, I'm Walter Bailey, I'll be
22 prosecuting the case, I need to ask you a few more
23 questions, I'll try to be as short as I can. But
24 when Mr. Beauford asked you about whether or not you
25 were a hold-out juror, would you stick to your views,

1 you understand that the jury's supposed to
2 deliberate, share views, to listen as well as to
3 speak?

4 A. Yes, sir.

5 Q. And you would do that, wouldn't you, if
6 you were on this jury?

7 A. Yes, sir..

8 Q. All right, sir. And as far as the
9 process that we undergo in South Carolina in a death
10 penalty case, you understand we don't get to phase
11 two unless the jury is convinced beyond a reasonable
12 doubt that the defendant is guilty of murder in the
13 first part of the trial?

14 A. Correct.

15 Q. And during that second phase there would
16 be additional information by way of evidence and
17 instruction from the judge to tell the jury what law
18 applied to the penalty phase, and that the judge
19 doesn't make the decision. If we're at that point
20 the jury makes the decision, either life without
21 parole or the death penalty. The only thing the
22 judge does is order that sentence to be put into
23 effect.

24 A. Okay.

25 Q. So the jury, assuming they vote for life,

1 the judge would order life, that person would go to
2 prison for life without parole. The jury votes for
3 the death penalty, the judge would order that and
4 that person would be executed.

5 Now, if the facts were bad enough
6 could you vote for the death penalty knowing that
7 sentence would be carried out?

8 A. Yes, sir. I could.

9 Q. You've already indicated that if you
10 voted for the death penalty and the other jurors also
11 voted for it, you could sign your name on the verdict
12 form; is that correct?

13 A. Yes, sir.

14 Q. And could announce that decision when
15 your name is called?

16 A. Yes, sir.

17 Q. The jury's going to be put into hotel or
18 motel for the duration of the trial, which will
19 probably be about six days, maybe starting as early
20 as Wednesday. Can you accommodate that, can you --
21 not that anybody really wants to, but can you do it
22 if you're picked?

23 A. Yes, sir.

24 Q. Mr. Wiggins, that's all I've got. Thank
25 you.

1 THE COURT: Would you mind stepping out?

2 I'll bring you right back.

3 (Whereupon, the prospective juror leaves
4 the courtroom.)

5 THE COURT: Mr. Wiggins qualified by the
6 State?

7 MR. BAILEY: Qualified.

8 MR. BEAUFORD: Qualified.

9 THE COURT: He's qualified.

10 (Whereupon, the prospective juror returns
11 to the courtroom.)

12 THE COURT: I've got your phone number.

13 THE JUROR: Yes, sir.

14 THE COURT: What I'm going to do is this:
15 I'm not going to make you come back tomorrow.

16 THE JUROR: Okay.

17 THE COURT: I'm going to -- I've got to
18 get about 35 jurors who are qualified to
19 serve, you're one of them.

20 THE JUROR: Okay.

21 THE COURT: Out of that 35 we're going to
22 draw 12 jurors and two alternates. Ones who
23 aren't, they're gone.

24 THE JUROR: Okay.

25 THE COURT: And so what I'm going to do,

1 rather than make you come back and wait on us
2 because I don't know when we're finished,
3 we're not even half through, we got to start
4 first thing in the morning and go all day
5 tomorrow. What I intend to do is to have a
6 clerk, someone call you, tell you tomorrow
7 afternoon, late afternoon, early night, what
8 time to be there Wednesday or Thursday or
9 whenever we get started; is that fair enough?

10 THE JUROR: Can I go to work tomorrow?

11 THE COURT: You can go to work tomorrow.

12 THE JUROR: Okay.

13 THE COURT: Is that fair enough? And you
14 can tell those at work, you know, what's going
15 to happen, what may happen as far as being
16 chosen.

17 Please don't discuss the death
18 penalty business with anyone. Obviously you
19 can tell them that you're going to be here on
20 the panel, you don't know whether you'll get
21 selected or not, if you do you'll be involved
22 in the case. If you don't, you'll be back to
23 work. But I don't want you to discuss this
24 case, or for that matter I don't want you to
25 let anybody tell you what their opinion is

1 about the death penalty. It doesn't make any
2 difference. What counts is what you believe
3 and so forth, so don't discuss it.

4 THE JUROR: Yes, sir.

5 THE COURT: Fair enough?

6 THE JUROR: Yes, sir.

7 THE COURT: Thank you, sir.

8 THE JUROR: Okay.

9 THE COURT: We'll call you tomorrow
10 night.

11 THE JUROR: Okay.

12 THE COURT: Thank you very much.

13 THE JUROR: Thank you.

14 (Whereupon, the prospective juror leaves
15 the courtroom.)

16 THE COURT: Now, all the jurors are out
17 of the room and that's the last one as I
18 understand?

19 THE CLERK: Yes, sir.

20 THE COURT: Is there anything from the
21 State or the defense about what I have done in
22 regard to questioning these jurors today? Is
23 there anything that I need to do? First of
24 all, do you have any complaint about it, and
25 second of all is there anything I need to do

1 to make it clearer to them tomorrow?

2 MR. BAILEY: Your Honor, no complaints
3 from the State. I don't see any problem with
4 anything we've heard today.

5 THE COURT: You all have pretty much
6 agreed. And I realize that you don't have to,
7 but I just feel like you're doing what you're
8 supposed to do. When they aren't qualified
9 say so, when they are qualified and if it's a
10 close question you just got to call it the way
11 you can, I've just got to make a decision,
12 which I've done. Calling the defense aside on
13 the one that I really do have a little
14 question on, but the others I'm satisfied are
15 qualified. And I really honestly believe that
16 they have tried to give honest opinions to us
17 today. Now, who knows. But all we can do is
18 what we're doing. I think we're at least
19 heading in the right direction.

20 I said ten o'clock in the morning,
21 of course we could have started at 8:00 if I
22 would have any idea we would have finished
23 this early, I thought we would have been here
24 right on, but it's 7:30 so we'll just start at
25 10:00 and just go like we did today.

1 How many do we have, 16 or 17?

2 MR. BAILEY: Eighteen.

3 MR. BEAUFORD: Eighteen.

4 THE COURT: Eighteen. Well, if that's
5 the case, then I'll see you all in the morning
6 at ten o'clock if nothing else.

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: C E R T I F I C A T E

COUNTY OF DORCHESTER)

I, Robin L. Keil, Registered Merit Reporter and First Judicial Circuit Court Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand
this the 15th day of November 2000.

Robin L. Keil
Robin L. Keil, RMR
Resident Court Reporter
First Judicial Circuit

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
:
COUNTY OF DORCHESTER) CASE NOS. 98-GS-18-749, 7.

STATE OF SOUTH CAROLINA,) VOLUME V
)
Plaintiff,) TRANSCRIPT OF RECORD
)
-versus-) May 25, 1999
)
JOHN EDWARD WEIK,) St. George, South Carolina
)
Defendant.)

B E F O R E:

The Honorable M. Duane Shuler

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

Walter M. Bailey, Jr., Esquire
Robert D. Robbins, Esquire
B. Harrison Bell, Jr., Esquire
Maité Murphy, Esquire
Darlene Simmons
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A L S O P R E S E N T:

John Edward Weik

Robin L. Keil, RMR
Circuit Court Reporter
First Judicial Circuit
Post Office Box 50096
Summerville, SC 29485-0096

1 (May 25, 1999.)

2 THE COURT: All right. Thank you. Be
3 seated. I'll give the juror just a minute or
4 two more, just went in there.

5 (Johnny B. Britt, called as a potential
6 juror, having first been duly sworn, is
7 examined as follows:)

8 THE COURT: Mr. Britt, how are you this
9 morning?

10 THE JUROR: I'm fine.

11 THE COURT: Thank you for being on time
12 this morning. I just want to ask you one or
13 two questions, get you out of here. I'm
14 interested in your -- I see here where before
15 you said you had the present job that you
16 milked cows. Do y'all do that manually?

17 THE JUROR: Machine.

18 THE COURT: You worked for actually a
19 dairy with automatic milkers and so forth?

20 THE JUROR: Yes.

21 THE COURT: Where is that dairy?

22 THE JUROR: Willie Durham in St. George.

23 THE COURT: In St. George right here?

24 THE JUROR: Right.

25 THE COURT: How many cows he got?

1 THE JUROR: He went out of business.

2 THE COURT: Gone out of business?

3 THE JUROR: Yeah.

4 THE COURT: What happened, the milk dried
5 up, or what?

6 THE JUROR: Something else happened.

7 THE COURT: You work now with Dorchester
8 County Water & Sewer.

9 THE JUROR: Yes, sir.

10 THE COURT: What do you do, sir?

11 THE JUROR: I'm a water technician.

12 THE COURT: That means you do what?

13 THE JUROR: Read water meters and stuff
14 like that.

15 THE COURT: All right. I'm with you.
16 I'm with you. Have you ever served as a juror
17 before?

18 THE JUROR: Yeah, last year.

19 THE COURT: You did?

20 THE JUROR: Uh-huh (affirmative
21 response).

22 THE COURT: Was that in magistrate's
23 Court? Or where was that?

24 THE JUROR: I think right here.

25 THE COURT: Right here?

1 THE JUROR: Uh-huh (affirmative
2 response).

3 THE COURT: Well, let me ask you this:
4 Did you read that piece of paper I had back
5 there?

6 THE JUROR: Oh, yes, sir.

7 THE COURT: Can you tell me what group
8 you might fall into?

9 THE JUROR: Probably the third one.

10 THE COURT: Which means what, sir? I
11 mean, when you say the third, what sort of
12 juror do you figure you are?

13 THE JUROR: I would say probably fair.

14 THE COURT: You're fair.

15 THE JUROR: Uh-huh (affirmative
16 response).

17 THE COURT: You understand, you
18 understand that if, if someone is convicted o
19 murder in this state, I mean if the jury
20 decides that someone is guilty of murder, tha
21 the jury would have to decide what the
22 punishment for that murder would be?

23 THE JUROR: Yes, sir.

24 THE COURT: And the jury could give
25 someone a life sentence, or could give someon

1 a death sentence, it just depends on some
2 circumstances that you have to listen to. Do
3 you understand that?

4 THE JUROR: Yes, sir.

5 THE COURT: Well, the question is this:
6 Are you a juror who would give somebody a
7 death sentence if they were convicted of
8 murder, would you give them a death sentence
9 every time?

10 THE JUROR: Yes, sir.

11 THE COURT: You would give them a death
12 sentence every time?

13 THE JUROR: Depending on the
14 circumstances.

15 THE COURT: Depends on the circumstances?

16 THE JUROR: Yeah.

17 THE COURT: Would you give them a life
18 sentence every time?

19 THE JUROR: Depends on the circumstances.

20 THE COURT: So what you're saying is you
21 could give death or you could give life, but
22 you would have to listen to the circumstances
23 before you decide that?

24 THE JUROR: Yes, sir.

25 THE COURT: You're not one who would

1 automatically give somebody death, or
2 automatically give somebody life?

3 THE JUROR: No, sir.

4 THE COURT: Could you give both, I mean
5 could you do one or the other?

6 THE JUROR: Yes, sir.

7 THE COURT: Could you give life, could
8 you give death?

9 THE JUROR: Yes, sir. Depending on the
10 circumstances.

11 THE COURT: All right. All right. Could
12 you sign your name if you voted, if you voted
13 for a death sentence, could you sign your name
14 to the verdict form that said --

15 THE JUROR: Yes, sir.

16 THE COURT: And say so out here in the
17 courtroom?

18 THE JUROR: Uh-huh (affirmative
19 response).

20 THE COURT: All right, sir. And by the
21 same token, would you be willing to listen to
22 the evidence, and if you felt like the life
23 sentence was the appropriate sentence, would
24 you vote to give the defendant life?

25 THE JUROR: Yes, sir.

1 THE COURT: All right, sir.

2 I'm not sure who goes first.

3 MR. BAILEY: I think it's mine.

4 EXAMINATION

5 BY MR. BAILEY:

6 Q. Mr. Britt, I'm Walter Bailey, I'll be
7 prosecuting the case. The air conditioner was on
8 when you first answered the questions so I missed a
9 couple of them. Who did you work for when you say
10 you worked at the dairy?

11 A. Willie Durham.

12 Q. All right. He went out of business and
13 now you're working for the county as a meter reader?

14 A. Yes, sir.

15 Q. The death penalty is something that some
16 people thought about before and some of them never
17 even entered their minds until they find they may be
18 on a jury while we're seeking the death penalty.
19 Have you ever thought about the death penalty before?

20 A. No, sir.

21 Q. Since yesterday when you found out what
22 kind of case this is, a case where the State's
23 seeking the death penalty, you've had a chance to
24 think about it?

25 A. Yes, sir.

1 Q. Okay. And do you have any religious or
2 personal beliefs about the death penalty that you
3 think might prevent you from looking at both possib
4 penalties if we get to that point?

5 A. No, sir.

6 Q. Okay. And you understand what the judge
7 told everybody out here yesterday, that this would be
8 a two-part process if it goes all the way through,
9 the first part's the guilt phase where the jury is
10 just there to decide whether or not we can prove the
11 defendant guilty beyond a reasonable doubt. If we
12 can't do it then that's the end of it, but if we
13 prove him guilty beyond a reasonable doubt we go on
14 to the second part of that trial.

15 And at that point you're dealing
16 with a convicted murderer, he's already been
17 convicted. And the jury, not the judge, decides what
18 that sentence is going to be. They got two choices,
19 life without parole and the death penalty. And the
20 judge is going to do whatever that jury says. If the
21 jury says life, the judge sentences that person to
22 life, they do life without parole. If the jury vote
23 for death, the judge would order that and that person
24 is going to be executed. So that's the process here.
25 We're not going to ask you to tell

1 us what you'd do in this case because you hadn't
2 heard any of the facts. And you said you wanted to
3 listen to everything. But if the facts are bad
4 enough, could you vote for the death penalty knowing
5 that as a result of that vote that person's actually
6 going to be executed?

7 A. Oh, yes, sir.

8 Q. And the judge asked you this before, just
9 to make sure. There's a verdict form, if the jury
10 votes for the death penalty then each juror is asked
11 to sign their name to a piece of paper that's going
12 to result in that person being executed. Could you
13 sign that paper?

14 A. Yes, sir.

15 Q. And could you stand up in open court when
16 your name is called out and say out loud that was
17 your verdict?

18 A. Yes, sir.

19 Q. Okay. The last thing, Mr. Britt, is the
20 jury's going to be put in a motel at night to keep
21 them away from television, radio, TV, that kind of
22 thing, newspapers. You would be here in the daytime
23 hearing the case. And we're looking at possibly
24 starting tomorrow, maybe the jury would be in a motel
25 for five days, six days, something like that. That'

1 an inconvenience for everybody, but is it something
2 that you could handle if you got picked?

3 A. Yes, sir.

4 Q. Okay. Mr. Britt, that's all I've got.
5 Thank you very much.

6 A. All right.

7 EXAMINATION

8 BY MR. BEAUFORD:

9 Q. Mr. Britt, good morning.

10 A. Good morning.

11 Q. My name is Percy Beauford, I have a few
12 other questions. Do you understand that murder is
13 the intentional killing someone with malice, it's
14 notice manslaughter, by accident, or by self-defense

15 A. Yes.

16 Q. And knowing that, if someone's already
17 convicted of murder, will your views change -- as you
18 talked to the judge about if you find someone guilty
19 of murder, would you give them the death penalty
20 automatically, or would you give them life
21 automatically, or you would still listen to the
22 circumstances?

23 A. Still listen to the circumstances.

24 Q. Okay. Are you willing to consider
25 circumstances that does not have anything to do with

1 the crime for which the defendant committed; such as
2 background, health, or things of this nature?

3 A. Oh, yes.

4 Q. In deciding whether to give death or
5 life?

6 A. Yes, I'll listen to the whole thing.

7 Q. After the person's already convicted of
8 murder, would you look at those circumstances in
9 determining whether to give death or life?

10 A. Yes, sir.

11 Q. And you understand in South Carolina tha
12 life means life without parole?

13 A. Yeah.

14 Q. How did you come to that understanding o
15 knowing that?

16 A. Oh, by reading about it.

17 Q. And have you read any articles on the
18 death penalty or -- in South Carolina, read any kind
19 of article on that issue?

20 A. Not lately.

21 Q. And when had you read anything on that?

22 A. Probably about a couple months ago.

23 Q. And when you read a couple months ago,
24 did that help you in developing your views, or you
25 had your views on the death penalty prior to that?

1 A. Prior to that.

2 Q. Could you tell us when you came to your
3 views about the death penalty?

4 A. Well, after reading about it, you know,
5 and thinking more what the guy did.

6 Q. So it was a particular case in which you
7 were reading about it, wasn't just an article but a
8 particular case?

9 A. Just a typical case.

10 Q. Okay. And do you remember what that case
11 was about?

12 A. No, I sure don't.

13 Q. It was involving a death penalty case?

14 A. Yes.

15 Q. That was about a year ago, two years ago?

16 A. Somewhere around there, yeah.

17 Q. There's no right or wrong answer, I'll
18 tell you that, I'm just trying to find some
19 information.

20 Okay. If you're on the jury and the
21 majority wanted to vote a certain way and you were
22 not within the majority view, would you change your
23 vote in order to just get the case over with?

24 A. No.

25 Q. Would you respect the other jurors' vote

1 A. Not really.

2 Q. When you say "not really," maybe I didn'
3 ask the question properly, but explain what you mean
4 by "not really."

5 A. Depend on what's the case all about.

6 Q. When I say respect, I mean would you --

7 THE COURT: Allow others to voice their
8 opinion. You're going to give your opinion,
9 would you let everybody else tell what they
10 got on their mind, listen to what they got to
11 say?

12 THE JUROR: Yes, sir.

13 BY MR. BEAUFORD:

14 Q. Yes. So you would respect their opinion
15 and what they have to say, or how they come to their
16 opinion?

17 A. Yes.

18 Q. Would you want them to respect your
19 opinion also?

20 A. Yes.

21 Q. And, again, you would not change your
22 opinion just to get the case over with?

23 A. No.

24 Q. No further questions.

25 THE COURT: Mr. Britt, stand out right

1 there just one second. I'll bring you right
2 back, sir.

3 All right. How says the State?

4 MR. BAILEY: Qualified, Your Honor.

5 MR. BEAUFORD: Qualified.

6 THE COURT: He's qualified.

7 Mr. Britt, we're going to call you
8 tonight, late this afternoon, or something.
9 Are you going to be at one of those numbers
10 there?

11 THE JUROR: Yes.

12 THE COURT: On the top?

13 THE JUROR: Yeah.

14 THE COURT: We'll call you and let you
15 know what you need to do. Don't talk to your
16 family about death penalty or this trial or
17 anything. You can tell them that you may be
18 called to be a juror, no problem with telling
19 them that.

20 THE JUROR: Okay.

21 THE COURT: Just don't get into a
22 discussion with them about death penalty and
23 the facts of this case and so forth.

24 THE JUROR: Okay.

25 THE COURT: All right?

1 THE JUROR: All right.

2 THE COURT: Thank you, sir.

3 THE JUROR: All right.

4 (Whereupon, the prospective juror leaves
5 the courtroom.)

6 THE COURT: All right.

7 (Ronald G. McGuire, called as a potential
8 juror, having first been duly sworn, is
9 examined as follows:)

10 THE COURT: I just want to ask you a
11 couple questions, sir. And these lawyers may
12 want to ask you one or two, we're going to get
13 you out of here. Thank you very much for
14 being here this morning again.

15 Tell me about your work.

16 THE JUROR: I'm a salesman.

17 THE COURT: What exactly?

18 THE JUROR: I sell office equipment.

19 THE COURT: All right, sir. And you
20 apparently went to school in New York, grew up
21 in New York state?

22 THE JUROR: That's correct.

23 THE COURT: Moved down here when?

24 THE JUROR: Twenty-four years ago.

25 THE COURT: Was that after you were in

1 the Navy or in the --

2 THE JUROR: No, I was in the Air Force.

3 THE COURT: Down here and just stayed?

4 THE JUROR: In Sumter, yeah.

5 THE COURT: And stayed?

6 THE JUROR: Well, actually no. Went ba
7 to New York for six years and then came back
8 here.

9 THE COURT: What was wrong with New Yor
10 too cold?

11 THE JUROR: No, my wife is from here.
12 Well, too cold, too.

13 THE COURT: All right. Okay. I
14 understand. Well, let me ask you this: You
15 read that piece of paper?

16 THE JUROR: Yes.

17 THE COURT: Have you been a juror before

18 THE JUROR: No.

19 THE COURT: You never have. Tell me
20 where you think you fit in.

21 THE JUROR: Probably number three.

22 THE COURT: Which basically says what,
23 sir?

24 THE JUROR: It says that --

25 THE COURT: Means to you.

1 THE JUROR: What it means to me is I
2 would want to hear everything before I would
3 make a decision on the death penalty or life
4 in prison.

5 THE COURT: You're not one who would
6 automatically give a death sentence? If
7 someone was convicted of murder, brutal murder
8 let's say, that wouldn't be -- I shouldn't say
9 that. Murder, someone were convicted of
10 murder, you wouldn't be one who would
11 automatically give a death sentence every time
12 in every case?

13 THE JUROR: No, I don't think so.

14 THE COURT: Nor would you be one who
15 would in every case automatically give a life
16 sentence even though it is murder? In other
17 words, some people just say I don't believe in
18 the death penalty, I'm going to give life and
19 I don't care what happens.

20 THE JUROR: No, I can go either way.

21 THE COURT: You basically say that you
22 could under some circumstances give a
23 sentence, or vote for a sentence of death
24 depending on the circumstances, or vote for a
25 sentence of life, again, depending on the

1 circumstances?

2 THE JUROR: Yes, sir.

3 THE COURT: All right, sir.

4 THE JUROR: Yes.

5 THE COURT: Have you thought about that
6 before you found out yesterday what we were
7 doing?

8 THE JUROR: Yes, I have. And I would say
9 that because I know some people can do a
10 violent act through instantaneous reaction or
11 emotion and necessarily -- not necessarily
12 need to have a death sentence, but I do
13 believe in the death sentence if so warranted

14 THE COURT: If it's appropriate. All
15 right, sir.

16 Okay. Mr. Beauford?

17 EXAMINATION

18 BY MR. BEAUFORD:

19 Q. Good morning, Mr. McGuire, my name is
20 Percy Beauford, just a few questions. Tell me about
21 your opinion of the death penalty, your feelings,
22 your belief. I know you somehow went through some o
23 it.

24 A. Well, I think it's important as a
25 deterrent to crime. I think the death penalty shoul

1 be in effect where needed.

2 Q. And how did you come about your opinion,
3 was it literature, or how did you come about your
4 opinion of the death penalty?

5 A. Just from general knowledge and
6 experience and what I've read in papers. And I spent
7 a little time at Lieber prison, not as an inmate, I
8 teach Sunday school there.

9 Q. Okay.

10 A. And I've come to know some inmates that
11 have committed murder that belong in prison,
12 shouldn't have been killed. But then I know there
13 are people that need to be, that our society doesn't
14 need people that go out and murder people regularly.

15 Q. Do you currently still go to Lieber
16 prison and teach Sunday school?

17 A. As a substitute, yeah, maybe once a
18 month, once every six weeks.

19 Q. So you understand that murder is the
20 intentional killing of someone with malice, you
21 understand that?

22 A. Uh-huh (affirmative response).

23 Q. Okay. Are you willing to look at other
24 factors that does not have anything to do with the
25 crime in determining whether to give death or life?

1 A. Yes, sure.

2 Q. What -- are you willing to look at
3 backgrounds, or health of the defendant, or things
4 those nature, has nothing to do with the crime
5 itself?

6 A. I would want to understand his motives
7 best I could.

8 Q. Okay. And you understand that in South
9 Carolina life in prison now is life without parole?

10 A. Yes.

11 Q. If you were on a jury and the majority
12 the jury was voting one way and you wanted to vote
13 another way, would you change your views just to ge
14 the case closed?

15 A. No. No, sir.

16 Q. Would you respect the views of the othe
17 members of the jury?

18 A. Sure. Yes.

19 Q. Would you want them to respect yours?

20 A. Yes.

21 Q. How would you classify yourself, as a
22 leader or follower?

23 A. Probably a leader.

24 Q. Okay. No further questions.

25

EXAMINATION

BY MR. BAILEY:

Q. Mr. McGuire, I'm Walter Bailey, I'll be prosecuting the case, I need to ask just a few follow-up questions, and I'll try not to be too repetitive. But you understand the two-part process where the guilt phase is like any other criminal trial where the jury determines whether or not the State can prove to their satisfaction beyond a reasonable doubt that he committed the crimes he's charged with, and if the defendant is found not guilty of course that's the end of it. If he's found guilty of murder then we go into the penalty phase.

And the reason we have a penalty phase is to allow additional evidence to come out. And the judge would instruct the jury in the law that applies to that part of the trial, and the jury, not the judge, makes the ultimate decision on life without parole or the death penalty. The judge is basically going to rubber stamp whatever the jury says the verdict should be. And the verdict will be carried out. He will either serve life without parole or actually be executed.

Now, we're not going to ask you to predict what you would do in this case because you

1 hadn't heard any of the facts. If the facts were b
2 enough can you vote for the death penalty knowing
3 that that person was actually going to be executed?

4 A. Yes.

5 Q. And the Judge already asked you this, b
6 you could then sign your name to the verdict form i
7 all 12 jurors agree on the death penalty?

8 A. Yes.

9 Q. The final thing the jury would be asked
10 to do, they come out here in open court, the forema
11 would hand the verdict to the clerk of court and th
12 would poll the jury, ask each juror separately to
13 assent to that verdict. Could you do that if it wa
14 your verdict?

15 A. Yes.

16 Q. Tell me a little bit about the prison
17 ministry program that you're involved in at Lieber.
18 How long have you been doing that?

19 A. About four years.

20 Q. And have you ministered to any of the
21 people that are on death row?

22 A. No.

23 Q. Okay. Do you know that death row is at
24 Lieber now, it's been moved there?

25 A. Yes.

1 Q. But you have had some contact with peopl
2 that are in the general population?

3 A. Yes. In our class that we have there ar
4 a variety of prisoners that are there, some for
5 murder, some for drugs, or whatever, yeah.

6 Q. Okay. And as I understand what you told
7 the judge earlier, you feel like some of those peopl
8 a life sentence is appropriate, perhaps for others a
9 death sentence might have been appropriate?

10 A. Well, the ones I've met that are there
11 for life I felt like that's appropriate, yeah.

12 Q. All right, sure. But you haven't met
13 anybody that's been sentenced to death?

14 A. No, sir. I have not.

15 Q. The last thing is, Mr. McGuire, that the
16 jury's going to be put in a motel here in St. George
17 until the trial's over, it's going to be probably
18 starting tomorrow, going about maybe five, six days,
19 that's an inconvenience for everybody. Is that
20 something that you can handle if you're picked for
21 the jury?

22 A. Yes.

23 Q. Can you think of any reason at all that
24 we may not have even mentioned yet that you think
25 might in any way prevent you from serving as a fair

1 juror to both sides, State and the defense?

2 A. No, I can't.

3 Q. That's all I have. Thank you very much.

4 THE COURT: Please step out in the hall
5 just one minute and I'll bring you right back
6 (Whereupon, the prospective juror leaves
7 the courtroom.)

8 MR. BAILEY: Qualified.

9 MR. BEAUFORD: Qualified.

10 THE COURT: He's qualified.

11 (Whereupon, the prospective juror return
12 to the courtroom.)

13 THE COURT: What we're going to do,
14 rather than my telling you to come back
15 because I don't know, we still got all day to
16 do what we're doing now. Could we just call
17 you, have the clerk call you late this
18 afternoon, maybe tonight, something like that
19 give you some instruction as to what?

20 THE JUROR: (Nonverbal affirmative
21 response.)

22 THE COURT: Thank you very much. Don't
23 discuss -- if you will, sir, don't discuss
24 the -- your views on the death penalty.
25 Obviously don't discuss this case. I know yo

1 don't know anything about it, but the point o
2 it is you've got to tell your people I may be
3 serving on a jury, it's a death penalty case
4 and so forth. But to get into a discussion
5 about the death penalty or the facts of this
6 case, obviously would ask you not to do that.

7 THE JUROR: All right.

8 THE COURT: Thank you, sir.

9 (Whereupon, the prospective juror leaves
10 the courtroom.)

11 MR. BAILEY: Your Honor, before the next
12 juror comes in, I'm not certain at this point
13 whether or not we're going to be reshuffling
14 the list of jurors. But in the event we don'
15 and Mr. DeLonge qualifies, is he going to
16 qualify on the order he is in the list or is
17 he is going to qualify after --

18 THE COURT: No, he's going to qualify in
19 the sequence in which he was drawn out of tha
20 box.

21 MR. BAILEY: Okay.

22 THE CLERK: He is here. He was back
23 there all the time.

24 THE COURT: I understand. He just
25 happened to come out different. But, I mean,

1 the point of it is he was drawn out of the b
2 and put on a list 4and I just want to go rigl
3 down that list. If that's how we're going to
4 keep it I think the list ought to be the
5 thing. If we're going to shuffle it, no
6 problem. I don't care which way we do it.

7 Okay. Mr. DeLonge.

8 THE CLERK: I don't think he's had time
9 to read. They had the other man in there
10 reading.

11 THE COURT: Which one's ready?

12 THE CLERK: Young.

13 THE COURT: Young?

14 THE CLERK: George.

15 THE COURT: James.

16 THE CLERK: James Young.

17 (James W. Young, called as a potential
18 juror, having first been duly sworn, is
19 examined as follows:)

20 THE COURT: Mr. Young, how are you doing

21 THE JUROR: Just fine. How are you?

22 THE COURT: Just fine. Let me ask you
23 just a couple questions. These fellows may
24 ask you one or two, get you out of here. Tel
25 us please, sir, about your work. Is that

1 three years?

2 THE JUROR: Yes, sir.

3 THE COURT: Tell me what exactly you do.

4 THE JUROR: I do --

5 THE COURT: Heating and air?

6 THE JUROR: -- heating and air

7 maintenance on apartments.

8 THE COURT: Apartments, okay. Change ou
9 compressors and all that business?

10 THE JUROR: Yes, sir. And repair holes
11 in walls, leaky faucets.

12 THE COURT: And you've been here now, it
13 says your thing says Durham, you were born in
14 Durham. Did you go to school there?

15 THE JUROR: No, sir. I went to school i
16 Florida.

17 THE COURT: In Florida. Okay. But have
18 been here for how long?

19 THE JUROR: Three years.

20 THE COURT: Three years, I see. Have yo
21 ever served on a jury in any of the places
22 you've lived?

23 THE JUROR: No, sir.

24 THE COURT: Have you ever considered muc
25 about the death penalty, thought too much

1 about the death penalty?

2 THE JUROR: Not really.

3 THE COURT: That piece of paper that I
4 have back there for you all to read, did you
5 read that?

6 THE JUROR: Yes, sir.

7 THE COURT: Can you tell me where you
8 think you fit in?

9 THE JUROR: I would say the third person
10 there.

11 THE COURT: Which really says what to
12 you? I mean, that would mean what to your
13 mind?

14 THE JUROR: Well, to begin with, if
15 anything you need to know all the facts. Jus
16 can't go off half-cocked thinking whatever yo
17 want to think. You need to know all the
18 circumstances behind everything.

19 THE COURT: Right, sir. You understand
20 of course, that obviously that the jury in
21 South Carolina is going to sentence, in this
22 kind of case the jury does the sentencing. I
23 the jury convicts the person of the murder to
24 begin with, obviously the first thing that ha
25 to occur is the State has got to prove to the

1 jury that the defendant is guilty to begin
2 with.

3 THE JUROR: Yes.

4 THE COURT: And then we just started
5 putting the cart before the horse. But just
6 assuming that the jury convicts a defendant,
7 not this one, but any defendant of murder,
8 you're telling me that you would not, if you
9 were on that jury and you convicted someone c
10 murder, you would not be one who would
11 automatically say, well, if there's murder
12 it's got to be a death sentence, I give death
13 every time?

14 THE JUROR: No. No.

15 THE COURT: Nor would you be one who
16 would say, well, I don't care if it's murder,
17 I would never give anyone a death sentence no
18 matter how bad it was, I would just always
19 give life?

20 THE JUROR: It just really all depends c
21 the circumstances.

22 THE COURT: What you would say is I coul
23 give death, I could give life, but I would
24 have to listen to all the circumstances befor
25 I could make up my mind up on that?

1 THE JUROR: Yes.

2 THE COURT: Is that where you fall?

3 THE JUROR: Oh, definitely.

4 THE COURT: The whole point I'm trying to
5 be sure of is that you could, in fact, give a
6 death sentence if you felt like it was
7 appropriate; or you could, in fact, give a
8 life sentence if you felt like it was
9 appropriate?

10 THE JUROR: Yes.

11 THE COURT: In other words, you could go
12 either way?

13 THE JUROR: Yes, sir.

14 THE COURT: All right, sir.

15 Mr. Bailey?

16 MR. BAILEY: Thank you.

17 EXAMINATION

18 BY MR. BAILEY:

19 Q. Mr. Young, I'm Walter Bailey, I'll be
20 prosecuting the case. I want to ask you a couple
21 kind of follow-up questions. I noticed in your
22 questionnaire that you said you had been a witness in
23 a criminal case?

24 A. Yeah.

25 Q. Okay. Could you tell us about that, what

1 kind of case it was and how long ago?

2 A. I used to be a security officer and I ha
3 to go to court for people that I had arrested, stuff
4 like that.

5 Q. Okay. How long ago was that when you
6 were a security officer?

7 A. Back in 1980.

8 Q. Okay. All right. Now, as far as the
9 death penalty, is that something that you've thought
10 about in the past, or just something that you really
11 started thinking about yesterday when you found out
12 what kind of case this is?

13 A. Just more or less yesterday. I've never
14 really thought that much about it.

15 Q. Okay.

16 A. Never had a need to.

17 Q. Do you have any religious or personal
18 beliefs about the death penalty one way or the other
19 that you think might impact your ability to sit as a
20 juror in this kind of case?

21 A. No, I don't believe so.

22 Q. Okay. And I noticed that you're
23 divorced?

24 A. Yes.

25 Q. Is that correct?

1 And could you tell us who your wife
2 was, her name?

3 A. Cynthia Ann Leath was her maiden name.

4 Q. All right. Okay. And as far as the
5 trial process, you understand this is potentially a
6 two-part process where we start off with the guilt
7 phase, which is basically like any other trial where
8 the jury decides whether or not the State can prove
9 person guilty beyond a reasonable doubt.

10 And if the State does prove a person
11 guilty of murder and we're seeking the death penalty
12 as we are in this case, we go on to the second phase.
13 So as we end on that second phase that would mean
14 we're dealing with a convicted murderer. And that
15 the judge doesn't decide the sentence, the jury
16 decides and the judge would just order that jury's
17 verdict into effect. So if the jury votes for life
18 the judge would order that, he'll serve life without
19 parole. If the jury votes for death the judge would
20 order that and that person actually is executed.

21 I'm not going to ask you to predict
22 what you'd do in this case because you hadn't heard
23 the facts, but if the facts were bad enough could you
24 vote for the death penalty knowing that sentence is
25 actually going to be carried out based on the jury's

1 decision?

2 A. I really couldn't say.

3 Q. Okay. Maybe I asked that question the
4 wrong way.

5 A. Yeah. Like I was telling the judge, I
6 mean you have to know the facts about anything --

7 Q. Okay.

8 A. -- before I could -- or I do.

9 Q. Okay.

10 A. Before I could pass any kind of sentence
11 on anybody.

12 Q. And, again, I'm not asking you to
13 predict, to tell me, yeah, I'll do it in this case
14 or, no, I won't, because you haven't heard the facts
15 I'm just asking if the facts are bad enough could you
16 do it knowing that it's not an academic exercise,
17 it's not sitting around talking in a bull session, I
18 mean could you vote for it knowing it's going to
19 happen if the case is bad enough?

20 A. If the facts warrant it I'm sure I could
21 yeah.

22 Q. And the judge asked you this before, but
23 could you sign your name to a death verdict form if
24 you had already voted for the death penalty and the
25 other 11 jurors?

2 Q. And could you stand up and announce the
3 decision out loud if that was your decision?

5 Q. Okay. The jury's going to be put in a
6 motel here in St. George until the trial's over to
7 keep them away from any outside influence, newspaper
8 TV, whatever. And we're looking at probably starting
9 that process tomorrow, and the jury may be in the
0 motel for, say, five, six days. And we understand
1 nobody looks forward to that, but is that something
2 you could do if you were picked?

14 Q. Mr. Young, that's all I've got. Thank
15 you very much.

17 BY MR. BEAUFORD:

24 Q. Knowing that, would your opinion change
25 in one, two, and three -- on that form that you

1 indicated that you were a three; am I correct?

2 A. Yes, sir.

3 Q. Would your opinion change knowing that
4 now, whether you're a one, two, or three?

5 A. Knowing what murder is?

6 Q. What murder is.

7 A. I knew what murder was before I read
8 that, sir.

9 Q. How did you know what murder was?

10 A. It's when you kill somebody.

11 Q. Are you willing -- in phase two the
12 sentencing phase, the individual's already convicted
13 of murder, are you willing to look at other factors
14 that has nothing to do with the crime in determining
15 whether to give death or life?

16 A. Other factors?

17 Q. Other factors that has nothing to do with
18 the crime. Maybe background, health of the
19 defendant, how he's raised, things of that nature?

20 A. Well, that would be part of the case,
21 wouldn't it? I mean....

22 Q. This is after the individual is already
23 convicted of murder, we're in the sentencing phase.
24 Would you look at those factors to determine whether
25 to give death or life?

1 A. You mean like how they were before all
2 this happened, or what? I don't rightly understand

3 Q. Just other background factors about the
4 defendant, other factors. They don't have to be
5 background about the individual, but just other
6 factors in determining whether to give life or death

7 A. I don't see why not. It don't hurt to
8 listen.

9 Q. Would that help you in rendering a
10 decision, not in this case but in any other case, of
11 whether to give death or life?

12 A. I really couldn't say. It all depended
13 on what you were -- what background you were talking
14 about.

15 Q. Are there some background information
16 that would be important to you in determining whether
17 to give death or life? I'm using background. It
18 doesn't have to be background. Other factors, use
19 that word.

20 A. If they pertain to that particular thing
21 I wouldn't see why not.

22 Q. And you understand that life in South
23 Carolina means life without parole?

24 A. Yes, sir.

25 Q. Okay. If you were on the jury and the

1 majority wanted to vote a certain way and you were
2 not within the majority, would you change your vote
3 in order just to get the case over with?

4 A. No.

5 Q. Okay. Would you respect the vote of the
6 majority?

7 A. If you're asking me would I go along with
8 the crowd, no, I would not.

9 Q. Would you want them to respect your vote

10 A. Yes. I mean, once -- if I decided that
11 he's guilty or if he's not guilty, that's my
12 decision, my decision alone.

13 Q. Okay. There's no right or wrong answer,
14 I tell you that.

15 A. Yeah.

16 Q. What is your general opinion about the
17 death penalty?

18 A. If it's gruesome enough I could see, you
19 know, making that decision.

20 Q. Okay. No further questions.

21 THE COURT: Thank you, sir. Step right
22 in the hall just a minute and I'll bring you
23 right back, sir.

24 Mr. Young, juror 347.

25 MR. BAILEY: Qualified, Your Honor.

1 MR. BEAUFORD: Qualified, Your Honor.

2 THE COURT: He's qualified. I think by
3 the end of today we're going to have enough
4 jurors that we can select from that pool 14,
5 12 and two alternates, so we'll have 35 and
6 end up with 14. So what I intend to do is
7 just call you, have the clerk or someone call
8 you and say, please be here tomorrow at such
9 and such a time, whatever. Will that be all
10 right with you?

11 THE JUROR: Sure, that will be fine.

12 THE COURT: Also please don't discuss
13 death penalty, your opinion about the death
14 penalty, have somebody else tell you what the
15 think about the death penalty or this case an
16 that sort of thing, just avoid -- obviously
17 you've got to tell people at work maybe, or
18 whomever, you're going to be doing this, may
19 be involved in this case. But don't get into
20 a discussion about the case or your ideas of
21 the death penalty.

22 THE JUROR: All right.

23 THE COURT: Or theirs and so forth.

24 THE JUROR: Okay.

25 THE COURT: Thank you, sir. Thank you

1 very much.

2 Well, we've got a problem with one
3 juror hedging on us now from yesterday. My
4 idea maybe is to make him come back up here if
5 he wants to get out of it.

6 MR. BAILEY: Please tell me it's
7 Mr. White.

8 THE COURT: You should not be so lucky,
9 Mr. Solicitor. It's not Mr. White. It's
10 actually Mr. McCann, he's the juror from New
11 York, you know, and he says that he's the
12 mortgage company fellow. He says that he got
13 home and told his wife he might be serving,
14 whatnot, and she asked him, well, is this the
15 case in which the principal will be called as
16 a witness or something like that, I can't
17 remember exactly how it went. But, anyway, I
18 haven't talked to him, he called me.

19 Anyway, he says that he made his
20 mind up about the case a year ago when he
21 heard about it. How in the world he could go
22 through all that business yesterday and tell
23 us he didn't know anything is beyond me. But
24 I don't know any other way to do it except
25 bring him back and make him come in here and

1 say it. Because, I mean, this secondhand
2 business is not going to cut it, we've got to
3 hear it from him.

4 But I'll do that. I mean, I'm not
5 going to just excuse him. Because he's
6 qualified, he went through everything that
7 everybody else did, I think he just doesn't
8 want to serve. You know, I think he just
9 decided he doesn't want to be in a motel,
10 that's all it amounts to, and his wife gave
11 him a hard time when he got home. That's the
12 long and short of that.

13 But anyway, have we ever gotten
14 Mr. DeLonge yet?

15 THE CLERK: He's back there. He should
16 be ready.

17 (William E. DeLonge, called as a
18 potential juror, having first been duly
19 sworn, is examined as follows:)

20 THE COURT: Mr. DeLonge, how you doing,
21 sir?

22 THE JUROR: Good.

23 THE COURT: Come on have a seat, let me
24 ask you just one or two questions.

25 Summerville, all school in Summerville?

1 THE JUROR: Yes.

2 THE COURT: All right, sir. And tell me
3 about your job. It says where you work, you
4 say self.

5 THE JUROR: I'm a self-employed
6 electrical contractor.

7 THE COURT: Got a bunch of people working
8 for you?

9 THE JUROR: About three head of men. I
10 do a lot of work myself, but, yeah, we do
11 pretty good, I reckon.

12 THE COURT: What do you do, like wire
13 houses, that kind of thing?

14 THE JUROR: Do some of that there, do a
15 lot of utility work, work with a lot of
16 utility contractors. As a matter of fact, did
17 about 13 in Kingstree five or six months ago.

18 THE COURT: When you say utility, are you
19 talking about Santee Co-op, or something like
20 that?

21 THE JUROR: No. Like with different
22 utility contractors, Tideland Utilities,
23 people that do underground water and sewer
24 distribution systems, things like that.

25 THE COURT: You all did some of that out

1 there on the site, preparation for industria
2 site?

3 THE JUROR: Yes, sir. Some of them don
4 like that there. Take the one in Kingstree,
5 those were rehab ones. They had government
6 funded money and we went up there and rehab
7 rehabilitation, brought them up to local cod
8 and standards and things of that nature ther

9 THE COURT: I see. How did the water
10 taste in Kingstree?

11 THE JUROR: Ain't bad. Pretty darn good

12 THE COURT: Let me ask you this: You
13 served as a juror before?

14 THE JUROR: No, sir.

15 THE COURT: What about that piece of
16 paper you read back there? What do you think
17 where do you fall on that thing?

18 THE JUROR: Well, between number one and
19 number three.

20 THE COURT: Number one would be always
21 give death, number three is could give death
22 and could give life, it depends on the
23 circumstance?

24 THE JUROR: Yes, sir.

25 THE COURT: Can you narrow that down for

1 me?

2 THE JUROR: Number three.

3 THE COURT: Would you explain for me
4 more?

5 THE JUROR: Number three.

6 THE COURT: See, what I intended to do
7 when I set these things out, maybe I didn't do
8 such a good job at it, but what I'm trying to
9 find out is whether or not once a juror along
10 with 11 others, if a jury convicts someone of
11 murder, then the jury has to decide what the
12 punishment is going to be.

13 And what I'm trying to determine is
14 whether or not some jurors will say if it's
15 murder, death penalty every time, I don't care
16 what, if it's murder, death penalty. Some
17 jurors will say I don't care if it's murder, I
18 don't ever give death penalty, I don't believe
19 in death penalty, I'm going to give life every
20 time, just not going to do otherwise. And
21 then some will say, well, I could give death,
22 or I could give life, but I really have to --
23 it depends on the circumstances not only of
24 the crime, but some other circumstances, too.
25 I have to listen to everything and decide

1 before I decide.

2 THE JUROR: Yeah, put me down for number
3 three.

4 THE COURT: That's where you think you
5 fall?

6 THE JUROR: Honestly.

7 THE COURT: Honestly. Because here's the
8 thing. There are no right or wrong answers.
9 Somebody's used number one is fine, somebody
10 number two is fine. I have all three, you
11 know, people just have different views about
12 the death penalty.

13 THE JUROR: Yes, sir.

14 THE COURT: All I want to know is that
15 what you're saying is true and comes from the
16 heart.

17 THE JUROR: Oh, yes, sir.

18 THE COURT: That you could give a death
19 penalty under certain circumstances, or you
20 could give a life sentence depending on the
21 circumstances, but you wouldn't just
22 automatically fall one way or the other?

23 THE JUROR: No. I would be number three
24 definitely then, the way you said it.

25 THE COURT: All right, sir. All right,

1 sir.

2	<u>EXAMINATION</u>

3 BY MR. BAILEY:

4 Q. Mr. DeLonge, how are you doing? I'm
5 Walter Bailey, I'll be prosecuting this case, I need
6 to ask you a couple more questions just to kind of
7 follow up on what the judge said. You understand
8 that we're talking about the penalty phase now, we
9 wouldn't even get to that point unless I can convince
10 the jury beyond a reasonable doubt that he's guilty
11 of murder in the first place.

12 A. Yes, sir.

13 Q. So anytime we're talking about the secon
14 phase we're talking about somebody that's already
15 been found guilty of murder.

16 A. Yes, sir.

17 Q. And that second part of the trial we're
18 allowed to introduce additional evidence that didn't
19 come out in the first part of the trial. The judge
20 would instruct the jury about the law that applied to
21 the sentencing. The judge doesn't make the decision
22 the jury makes the decision. They got life without
23 parole on the one hand, death penalty on the other
24 hand.

25 And whatever that jury decides the

1 punishment ought to be is going to be the judge's
2 order to be carried out. So if the jury hears all
3 that information and they say life sentence, the
4 judge would order life, he'll serve life without
5 parole. If the jury says we think this is an
6 appropriate case for the death penalty, that will be
7 the judge's order, he'll be executed.

8 A. Yes, sir.

9 Q. I'm not going to ask you what you would
10 do if you get picked in this case because you hadn't
11 heard any of the facts, don't know anything about it.
12 But if the facts are bad enough could you vote for
13 the death penalty knowing that sentence would be
14 carried out?

15 A. Oh, yes, sir.

16 Q. Could you sign your name to a death
17 verdict form if you already voted for it and the rest
18 of the jury voted for it?

19 A. Yes, sir.

20 Q. Knowing that sentence would be carried
21 out?

22 A. Oh, yes, sir.

23 Q. If somebody asked you to stand up and say
24 out loud that was your verdict, could you do it?

25 A. Yes, sir.

1 Q. Okay. I know that you are self-employed,
2 you have employees and all that, but in a case like
3 this until the case is over with once we get started,
4 the jury's put into a motel at night to keep them
5 away from television, newspapers, talk on the street
6 and that kind of thing. And we're looking at maybe
7 four or five days, no more than a week would be my
8 guess. Is that something you can live with?

9 A. As long as I can call my house and find
10 out what my men are working and I can tell them where
11 to go and my wife can run my business from my house.

12 Q. Okay. So you can handle that?

13 A. Yes, sir.

14 Q. All right. That's all I got. Thank you
15 very much.

16 A. Yes, sir.

17 EXAMINATION

18 BY MR. BEAUFORD:

19 Q. Good morning, Mr. DeLonge.

20 A. Good morning.

21 Q. My name is Percy Beauford, just a few
22 follow-up questions.

23 A. Yes, sir.

24 Q. What is your opinion about the death
25 penalty?

1 A. What do you mean my opinion on it?

2 Either you live or you're dead.

3 Q. Can you explain that?

4 A. My opinion if you get the death penalty
5 you're dead. I mean that's it, right?

6 Q. Are you --

7 A. I mean my opinion on life or death,
8 what's your opinion, I mean you're asking my opinion
9 on it, you're alive or you're dead, there ain't no
10 opinion.

11 Q. Okay. Let me rephrase the question.

12 A. Yes, sir.

13 Q. What's your opinion on deciding whether
14 to vote for the death penalty or not?

15 A. If the right circumstances arise and, you
16 know, like that thing said, all the right elements
17 are there, yeah. If all the wrong elements are there
18 he don't deserve it, or whatever the person is he
19 don't get it. That thing there says he deserves to
20 die and everybody else agrees, yeah.

21 Q. You understand in South Carolina murder
22 is the intentional killing of someone with malice,
23 it's not by accident, not by manslaughter, not by
24 self-defense. Knowing that, would that change your
25 opinion about the views on the death penalty of

1 whether to vote for it or not?

2 A. If he did it trying to protect himself,
3 is that what you're saying?

4 Q. No. Say the defendant's already
5 convicted of murder, intentionally killing someone
6 with malice.

7 A. Yes, sir.

8 Q. And we know that murder is not
9 manslaughter, is not by accident, not by
10 self-defense. Would that change your view on whethe
11 to vote for the death penalty? Or not knowing that
12 he's committed this murder, intentionally killed
13 someone with malice, would that change your vote on
14 whether to vote for the death penalty or life? Not
15 in this case, in any other case.

16 A. It would be hard for me to say. Like yo
17 said, it's kind of hard to speculate on something yo
18 don't know nothing about. The best thing I can tell
19 you is I can sit right there and keep my mind open
20 and my mouth shut and see what happens at the end of
21 the day. I mean, I just don't know. I ain't never
22 been put in this spot before in my life.

23 Q. The defendant's already convicted of
24 murder and we're in the second phase of sentencing,
25 would you need other factors in helping deciding

1 whether to do death or life?

2 A. Probably so.

3 Q. Other factors like background, mental
4 health of the defendant?

5 MR. BAILEY: Judge, I'm going to object
6 to him trying to stake out on the specific
7 things he thinks may come up in this case.

8 THE COURT: What he wants to know is
9 other than the murder itself, other than
10 circumstances of the crime itself, would you
11 consider other evidence as well?

12 THE JUROR: Oh, yeah.

13 THE COURT: In order to determine whether
14 or not someone should get the death sentence
15 or a life sentence?

16 THE JUROR: Oh, yeah, you have to.

17 BY MR. BEAUFORD:

18 Q. Other than the murder itself, the
19 defendant is already convicted of murder.

20 A. Yeah. I would take everything into
21 consideration.

22 Q. You understand that life in South
23 Carolina means life without parole?

24 A. Ain't getting out in 25 years, all that
25 there, when you say life.

1 Q. He's got life.

2 A. Yeah, he's buried inside them fences.

3 Q. Yeah, you understand that?

4 A. Yeah.

5 Q. If you're on the jury and the majority
6 was voting a particular way and you were in the
7 minority view, would you change your view just to ge
8 the case over with?

9 A. No. Do what's right or what I think's
10 right. I mean, I ain't going to change my mind for
11 nobody else.

12 Q. Would you respect the vote of the other
13 jurors?

14 A. Yes, sir. Everybody has a right to thei
15 own opinion.

16 Q. Would you want them to respect your
17 views?

18 A. I hope so.

19 Q. Have you read or heard anything about
20 this case?

21 A. Closest I heard anything about this case
22 was yesterday and this morning on my way when my wif
23 called me up and told me she read it in the paper ar
24 I told her to shut up.

25 Q. Thank you, sir.

1 THE JUROR: You told me not to discuss
2 with nobody.

3 THE COURT: You're right. You're
4 absolutely right. She might be mad at you
5 instead of me, though. Let me ask you to sit
6 out there one second and I'll bring you right
7 back.

8 (Whereupon, the prospective juror leaves
9 the courtroom.)

10 THE COURT: What says the State?

11 MR. BAILEY: Qualified.

12 THE COURT: Defendant?

13 MR. BEAUFORD: Qualified.

14 (Whereupon, the prospective juror returns
15 to the courtroom.)

16 THE COURT: Mr. DeLonge, let me ask you
17 sir, you've got a telephone number right
18 there?

19 THE JUROR: Yes, sir. 0948.

20 THE COURT: All right. Can we call you
21 late this afternoon, or early night right
22 there?

23 THE JUROR: Yeah. Or let me give you
24 another number because I'll be in and out of
25 my truck. 991-0222. That's my mobile number

1 If I ain't there, go straight to my pager.

2 THE COURT: All right, sir. Tell you
3 what we're going to do, we got to go all day
4 long with this business. When I get 35 jurors
5 or so out of which I'm going to get 14, 12 and
6 two alternates, what I'm trying to do now is
7 get a pool, you know, 35. So at the end of
8 the day I hope I can have that, then I'll get
9 with you, give you a call, say you can come
10 here tomorrow such and such a time, something
11 like that.

12 THE JUROR: Let me know and I'll be here.
13 Can't beat that.

14 THE COURT: Again, don't discuss the
15 case.

16 THE JUROR: Oh, I ain't.

17 THE COURT: Thank you, sir. I'm
18 satisfied you're not going to say anything.

19 THE JUROR: All right.

20 THE COURT: Thank you, sir.

21 THE JUROR: Thank you. You all have a
22 good day.

23 (Whereupon, the prospective juror leaves
24 the courtroom.)

25 (Christopher S. Hehn, called as a

1 potential juror, having first been duly
2 sworn, is examined as follows:)

3 THE COURT: This is Mr. Hehn?

4 THE JUROR: Hehn.

5 THE COURT: Hehn. Well, I tried, I'm
6 sorry. Let me just ask you a few questions,
7 sir, if you don't mind. You're a long way
8 from home. How long have you been here, sir?

9 THE JUROR: Since '82.

10 THE COURT: Okay. Finished Clemson, BS
11 in engineering, chemical engineering.

12 THE JUROR: Uh-huh (affirmative
13 response).

14 THE COURT: I figured you were a pretty
15 good fellow when you walked in. Let me ask
16 you this. '82.

17 THE JUROR: Yes, sir.

18 THE COURT: You were there some pretty
19 good years, weren't you?

20 THE JUROR: They were.

21 THE COURT: Westvaco. Do you work out of
22 the plant over there in Summerville?

23 THE JUROR: No, sir. The paper mill down
24 in the Cooper River.

25 THE COURT: Oh, okay. Have you served a

1 a juror before?

2 THE JUROR: Only in a civil case.

3 THE COURT: Tell me about this thing that
4 I had you all read, where do you think you
5 fall on that?

6 THE JUROR: I think I fall to the third
7 category. I mean, the severity of the
8 punishment that the State is asking for, it
9 just demands that not only you weigh all the
10 facts, you know, both sides and how they
11 present them and what they present, but also,
12 you know, weigh what they tell you as charges
13 as jurors and you began that process
14 yesterday.

15 THE COURT: Well, you know, what
16 occurs -- of course there aren't any right or
17 wrong answers. You know, a lot of people come
18 in and say, well, if I'm a juror and I convict
19 someone, or we convict someone of murder I'm
20 going to give the person a death sentence
21 every time, I don't care what the
22 circumstances are, if it's murder as far as
23 I'm concerned they all need to be put to
24 death.

25 And then there are others who come

1 along and say, well, even if I was on a jury
2 and we found someone, you know, guilty of
3 murder I could never give death, I don't care
4 how bad it is I just don't believe in the
5 death sentence, I would always give life, it
6 automatic to do so.

7 The third category would be those
8 who would say, you know, I suppose I could
9 give death or I could give life, either way,
10 but I'd have to listen and consider all the
11 not just the crime, but all the circumstances
12 surrounding it, who the people are, just the
13 whole business before I could make a decision
14 like that.

15 So are you telling me -- I'm not
16 trying to put words in your mouth, are you
17 telling me that's where you are?

18 THE JUROR: Absolutely. The severity of
19 what's at stake just absolutely demands that
20 you hear both sides.

21 THE COURT: Right.

22 THE JUROR: And, plus, as you said
23 yesterday, it's not just the aspect of murder
24 but, you know, the other --

25 THE COURT: The aggravating

1 circumstances?

2 THE JUROR: Right, the other
3 circumstances.

4 THE COURT: Or the mitigating
5 circumstances which may lessen the effect of
6 the crime. All right, sir.

7 EXAMINATION

8 BY MR. BEAUFORD:

9 Q. Mr. Hehn, my name's Percy Beauford, I
10 have a few questions. Tell me about your opinion
11 about the death penalty.

12 A. My opinion? I think it's important in
13 our society that that penalty exists because I
14 believe it is a deterrent. Yet it's easier to have
15 that opinion when you aren't involved with it
16 closely, you know, as a juror, but certainly, you
17 know, a fear that -- or a concern that you're doing
18 the right thing as the law applies to that.

19 Q. Have you always had that opinion?

20 A. Yes.

21 Q. And you understand in South Carolina
22 murder is the intentional killing with malice, it's
23 not manslaughter, it's not by accident, it's not by
24 self-defense?

25 A. Correct.

1 Q. Knowing that, would that change your
2 opinion if after someone is found guilty of murder
3 when you would -- whether you would vote for death
4 life?

5 A. As the judge was saying yesterday, there
6 have to be additional circumstances, so I think
7 you've got to weigh all the facts.

8 Q. Okay. Knowing that someone had committed
9 a murder and we're in the second phase, knowing that
10 someone's intentionally killed someone, already been
11 convicted, you've already voted that he's committed
12 this murder -- and not in this case, but I'm talking
13 about any other scenario, any other case -- would you
14 consider other factors that had nothing to do with
15 the crime itself, background, or how the person was
16 raised, or good or bad of that person, would you
17 consider those factors in deciding whether to vote
18 for death or life?

19 A. I think you'd have to make the
20 determination of the facts as they existed in the
21 case. So, you know, how a person was raised, you
22 know, I'm not sure how that applies or how that would
23 apply to the case at hand.

24 THE COURT: Suppose that as a trial judge
25 I allow into evidence certain information

1 which I say is relevant. Obviously if it's
2 not relevant it's not going to come in, so I
3 guess if it comes in sort of has to come
4 through me.

5 THE JUROR: Right.

6 THE COURT: Assume, just assume that
7 there's information that comes to the jury
8 which gives you -- you will hear some
9 information in regards to an aggravating
10 circumstance, how bad for instance the crime
11 was, or some other information which makes the
12 crime really worse, for lack of a better word.
13 But at the same time I would allow in, or I
14 may allow in information in mitigation which
15 lessens the effect of the crime, which makes
16 the crime, the person less culpable, for lack
17 of a better word.

18 I think what he wants to know is
19 would you consider all of the information
20 that's allowed in, even the information in
21 mitigation which makes it less, would you
22 consider that as well before you would make up
23 your mind as to whether or not someone should
24 be given a life sentence or a death sentence?

25 MR. BEAUFORD: What I'm saying also

1 before you answer, these factors has nothing
2 to do with the crime itself.

3 THE COURT: That's right. In other
4 words, you're not talking about just
5 information about the particular circumstance
6 surrounding the act itself, but rather would
7 you consider, if I allowed it into evidence,
8 all the information which either aggravates
9 in some way lessens or mitigates before you
10 would make a decision as to whether or not
11 someone should be given life or death?

12 THE JUROR: I guess as you phrased it,
13 mean, if it's evidence that you've allowed in
14 and consider relevant, I guess I see that as
15 part of the judge's charge in making that
16 determination.

17 THE COURT: Suppose I were to charge you
18 all, suppose I would say to the jury, jurors,
19 you can consider A, B, C, D, E, and you can
20 consider for that matter anything else that
21 makes this crime less heinous, you can
22 consider A, B, C, D, E as the law allows, as
23 the law specifically sets out. And in
24 addition to that you can consider anything
25 that you've heard which makes the crime less

1 heinous. And you should consider A, B, C
2 which aggravates, aggravating circumstances
3 which the law specifically sets out.

4 Here's the question: Would you
5 consider both sides of the thing beyond just
6 the circumstances of the crime and the acts
7 itself, would you consider all of the
8 circumstances both aggravating and mitigating
9 before you decided what sentence to impose?

10 MR. BEAUFORD: Such things -- and I'm no
11 saying it's in this case, maybe the life of a
12 defendant or the background.

13 THE COURT: Or the victim.

14 MR. BEAUFORD: Or the victim. Things of
15 that nature.

16 THE COURT: It cuts both ways. If you
17 consider the victim and her family or the
18 defendant and his family. That kind of
19 information, if it all comes to you through
20 the court as relevant information would you
21 consider it all before you make your decision

22 THE JUROR: I believe I would. I mean,
23 if that's what you instructed us to do, is to
24 consider the whole body.

25 THE COURT: Right.

1 THE JUROR: Of what there is.

2 MR. BEAUFORD: Just to follow up on that
3 you would consider it, but would you use or
4 not use that information in determining --

5 MR. BAILEY: Objection.

6 THE COURT: I think it depends on what i
7 is and he can't answer that question because
8 he wouldn't know what it is. I think he woul
9 listen and consider it.

10 He says he'll listen and consider
11 it. Now, whether or not he wants to use it i
12 another thing. He might say I don't believe
13 part of it, or I believe another part, so I
14 think it's unfair to ask him whether or not h
15 would use it. You see what I am getting at?

16 Rephrase it, but I think that's the
17 problem, that's where the objection comes.

18 MR. BEAUFORD: Yes. Okay.

19 THE JUROR: May I add to that?

20 THE COURT: Sure, anything you want.

21 THE JUROR: I guess the only thing I say
22 is like when you looked at the three types of
23 jurors, you know, I don't think that in every
24 case in the death penalty or -- you know,
25 would be the most appropriate. So having

1 never been here in abstract it's difficult to
2 say how -- you know, what body of information
3 goes into it. But, you know, I know there
4 must be circumstances where that's not the
5 most appropriate punishment, but it's
6 difficult to answer in abstract.

7 BY MR. BEAUFORD:

8 Q. So you're saying in every murder case yo
9 don't think the death penalty is appropriate, every
10 murder case you don't think life is appropriate, and
11 then so -- and that's what you're saying?

12 A. It goes to the third case, it's what the
13 judge has charged us to consider.

14 Q. Okay. And you understand in South
15 Carolina life means life without parole?

16 A. (Nonverbal affirmative response.)

17 Q. And if you were on a jury and a majority
18 voted for a certain way and you wanted to vote
19 another way, would you change just to get the case
20 over with?

21 A. No.

22 Q. Would you respect the vote of the
23 majority? Not in this case, any other case.

24 A. If my convictions said I should vote one
25 way, unless -- I wouldn't just --

1 Q. There's no right or wrong answer.

2 A. I wouldn't just change my vote to go
3 along with the crowd. If my convictions say I had to
4 vote a certain way, that's how I'm going to vote.

5 Q. You would respect the votes of the other
6 juror members?

7 A. I would be open to, you know, why they
8 vote the way they vote versus why I vote the way I
9 vote, I mean to see if I'm missing something, but I
10 wouldn't just change my vote.

11 Q. Okay. Thank you.

12 EXAMINATION

13 BY MR. BAILEY:

14 Q. Mr. Hehn, I'm Walter Bailey, I'll be
15 prosecuting the case, I need to ask you just a couple
16 follow-up questions. And my questions are about the
17 second part of the trial, which would only occur
18 after, assuming the defendant's found guilty of
19 murder in the first part of the trial beyond a
20 reasonable doubt. But you understand that the way
21 the system works, if we get to that point in the
22 trial the Judge does not decide what the penalty is,
23 he merely orders the jury's verdict to be carried
24 out. So if the jury votes for life imprisonment,
25 that's what the judge's order would be and he would

1 serve life without parole. If the jury votes for the
2 death penalty, that will be the court's order and
3 that sentence will be carried out?

4 A. Yes, I understand that.

5 Q. All right, sir. I'm not going to ask you
6 to predict what you would do in this case because you
7 haven't heard the facts, but my question is if the
8 facts were bad enough could you vote for the death
9 penalty knowing that sentence would actually be
10 carried out?

11 A. I believe I could, yes.

12 Q. Saying I believe I could I need to --
13 again, I'm not asking you to tell me what you would
14 do in this case or any other case, but my question is
15 if it's bad enough could you vote for it knowing that
16 it's not an academic exercise, that person is
17 actually going to die as a result of that vote?

18 A. Yes.

19 Q. All right, sir. And if all 12 jurors
20 agree, there's a verdict form which they're each
21 asked to sign that's going to result in that
22 execution taking place if they all agree in the death
23 penalty, could you sign your name to a paper like
24 that knowing that person would be executed based on
25 that document?

1 A. Yes.

2 Q. And could you announce that verdict out
3 loud if that was your verdict?

4 A. Yes.

5 Q. Okay. The only other thing I want to
6 bring to your attention is that in a case like this
7 the jury's put in a motel, they're sequestered for
8 the trial. We're not talking about any extended
9 period of time like some other places, but we're
10 talking about maybe a week, max, starting probably
11 tomorrow. Is that something that you could
12 accommodate as far as your work and your personal
13 life if you're picked?

14 A. Yes.

15 Q. Mr. Hehn, that's all I've got. Thank yo
16 very much.

17 THE COURT: Mr. Hehn, let me ask you to
18 step out in the hall just a minute and I'll
19 bring you right back.

20 (Whereupon, the prospective juror leaves
21 the courtroom.)

22 MR. BAILEY: Qualified.

23 MR. BEAUFORD: Qualified.

24 THE COURT: Clemson man is the most
25 qualified you all have had yet. Bring him

1 back.

2 (Whereupon, the prospective juror returns
3 to the courtroom.)

4 THE COURT: Mr. Hehn, that phone number
5 there on the top, you've got home address and
6 so forth, can I call you there at night?

7 THE JUROR: Yes, sir.

8 THE COURT: I say "I," somebody will. I
9 don't know because it's going to take us all
10 day to go through this process. What I intend
11 to do is to get 35, out of which 12 jurors and
12 two alternates will be drawn. So not to say
13 you are going to be serving, just I've got to
14 have a pool.

15 THE JUROR: Right.

16 THE COURT: And I don't know what time to
17 have you come so I'm just saying we'll call,
18 you know, tell you to be here at a certain
19 time. So if we could call at that number and
20 that will maybe help you some.

21 THE JUROR: I'll be there.

22 THE COURT: Thank you, sir. Appreciate
23 it. Don't discuss, by the way, the death
24 penalty, this case, or anything like that.

25 THE JUROR: Right.

1 THE COURT: Thank you, sir.

2 (Whereupon, the prospective juror leaves
3 the courtroom.)

4 (Recess taken.)

5 (James M. Heath, called as a potential
6 juror, having first been duly sworn, is
7 examined as follows:)

8 THE COURT: Mr. Heath, how are you doing
9 this morning?

10 THE JUROR: Good.

11 THE COURT: Come on, let me ask you a
12 couple questions if you don't mind, sir, two
13 or three, and then these lawyers are going to
14 ask you a couple, get you out of here. We
15 thank you for coming back this morning for us
16 Alcoa, Mt. Holly. That's out there
17 on 52?

18 THE JUROR: Yes, sir.

19 THE COURT: Isn't that where it is?

20 THE JUROR: 52, 176.

21 THE COURT: You've been out there for 18
22 years?

23 THE JUROR: Yes.

24 THE COURT: Tell me about computer
25 instrumentation supervisor, what does that

1 mean? And how do you get to be that with a
2 degree from the University of South Carolina?
3 Wait a minute now, with a BS in business
4 management, that's all I wanted to know. I'm
5 not throwing off on the university, I'm just
6 wondering about that switch over, how does
7 that work?

8 THE JUROR: Well, when I got out of
9 school in 1980 jobs were hard to come by, I
10 started working out there and just happened to
11 be -- happened to work my way through the
12 electrical department.

13 THE COURT: I got you. And I'm just
14 having fun with you. Because the last guy
15 came in here had a degree from Clemson.

16 THE JUROR: Oh, I would have had fun with
17 him, too.

18 THE COURT: I know.

19 Well, let me ask you this: Have you
20 been a juror before?

21 THE JUROR: No, sir.

22 THE COURT: Did you read that thing?

23 THE JUROR: Yes, sir.

24 THE COURT: Tell me where you fall in
25 that category, those categories.

1 THE JUROR: I'm in the first category.

2 THE COURT: You would always give a death
3 sentence if you convicted somebody of murder

4 THE JUROR: Yes, sir.

5 THE COURT: Every case?

6 THE JUROR: Yes, sir.

7 THE COURT: Without fail?

8 THE JUROR: Yes, sir.

9 THE COURT: And there wouldn't be any
10 cases where someone was convicted of murder
11 where you feel like a life sentence would be
12 the appropriate sentence?

13 THE JUROR: No, sir.

14 THE COURT: Any questions?

15 EXAMINATION

16 BY MR. BEAUFORD:

17 Q. Good morning, my name is Percy Beauford,
18 just a few questions. Tell me your opinion, how did
19 you come about your opinion with the death penalty?

20 A. Conservative upbringing, somewhat
21 religious.

22 Q. Somewhat religious.

23 And you understand in South Carolina
24 murder is the intentional killing of someone with
25 malice. It's not manslaughter, it's not by accident

1 it's not by self-defense. Knowing that, you're still
2 saying that if someone commits murder then whatever
3 circumstances you would vote for the death penalty?

4 A. Yes, sir.

5 Q. You understand that life, a life sentence
6 means life without parole, no -- they're in there for
7 their natural life, you understand that?

8 A. (Nonverbal affirmative response.)

9 Q. Even knowing that, there would be no
10 circumstances in which someone who commits murder you
11 would vote for life?

12 A. No, sir.

13 MR. BEAUFORD: No other questions.

14 EXAMINATION

15 BY MR. BAILEY:

16 Q. Mr. Heath, I won't ask you too many
17 questions, but you understand that when the State
18 seeks the death penalty it's potentially a two-part
19 process where we have a guilt phase which is like any
20 other trial. And during that first phase of the
21 trial it's my burden of proof as prosecutor to
22 convince that jury beyond a reasonable doubt the
23 defendant's guilty of murder.

24 If you were picked as a juror, would
25 you hold me to that burden, would you require me to

1 prove to your satisfaction that he was in fact guilty
2 of murder?

3 A. I'm somewhat confused by what I heard
4 yesterday in that a plea was entered of guilty and
5 then I guess the correct plea was entered of not
6 guilty by reason of mental incompetence.

7 Q. Okay. But if we sat that aside, and
8 don't think about this case, but just talking
9 generally, you know. If you're picked as a juror in
10 a murder case, not this murder case but some other
11 murder case, would you automatically think because
12 that person was charged with murder that he's guilty
13 or would you require the State to prove to your
14 satisfaction beyond a reasonable doubt that he was
15 guilty of murder?

16 A. Require the State to prove him guilty.

17 Q. Okay. And if you felt like the State
18 couldn't prove the person guilty, would you have any
19 problem with coming back with a verdict of not
20 guilty?

21 A. No, sir.

22 Q. Okay. Now, if we're seeking the death
23 penalty, anytime we get into phase two of the trial
24 that of course means that the person's already been
25 convicted of murder in the first part of the trial

1 you wouldn't be at the second part. And the reason
2 why we have that second phase is to allow additional
3 evidence to come out, evidence in aggravation to make
4 the crime worse, evidence in mitigation to make it
5 seem maybe not quite as bad.

6 Now, if you were going into that
7 second phase dealing with a convicted murderer, would
8 you take the position it doesn't matter what comes
9 out I'm going to find him -- I'm going to find for
10 the death penalty, or would you say, well, I'm going
11 to listen and then decide?

12 A. If he's guilty of murder, death penalty.

13 Q. Okay. I got you. Thank you, that's all.

14 THE COURT: Thank you, sir. Mr. Heath, I
15 can excuse you and I appreciate very much your
16 coming this morning. I'm sorry we made you
17 come back today, but I appreciate it and you
18 may be excused, sir. Thank you, sir.

19 (Whereupon, the prospective juror leaves
20 the courtroom.)

21 MR. BAILEY: Judge, before that next
22 juror comes in if you could hold it just a
23 minute, bear with me a second, please.

24 (Pause in proceedings.)

25 MR. BAILEY: It appears that this next

1 juror may have a disqualifying record, he's
2 got a 1980 forgery conviction, got a
3 three-year suspended sentence and I don't kn
4 whether it's been --

5 THE COURT: That's Avinger?

6 MR. BAILEY: Yes.

7 (Ira D. Avinger, Jr., called as a
8 potential juror, having first been duly
9 sworn, is examined as follows:)

10 THE COURT: Mr. Avinger, how are you
11 doing, sir?

12 THE JUROR: Fine.

13 THE COURT: Let me ask you a couple
14 questions. I've got a -- looks to me like
15 Richland County, an arrest and a conviction
16 for forgery. Would that be you?

17 THE JUROR: Yes, that was me years ago.

18 THE COURT: That would have been back in
19 1980.

20 THE JUROR: Right.

21 THE COURT: Nineteen years ago.

22 THE JUROR: I served on Orangeburg Count
23 jury since then, so I didn't think it was on
24 my record to be honest with you.

25 THE COURT: Well, my understanding just

1 looking at it says court charge forgery, a
2 court disposition, convicted three years,
3 suspended. Suspended sentence is what it was.
4 But you have not had a pardon or --

5 THE JUROR: No.

6 THE COURT: -- anything like that?

7 THE JUROR: No. The restitution was made
8 and that was the end of it.

9 THE COURT: The end of it.

10 THE JUROR: At least that's what I
11 thought.

12 THE COURT: Oh, I understand. Well, I'm
13 going to excuse you. I just -- I didn't know
14 yesterday, you say you made a mistake and
15 didn't realize that it was on your record and
16 you have served since. But if that's your
17 record and you verify it is, I mean I think
18 you're disqualified so I have to excuse you
19 this morning, but I thank you very much for
20 coming.

21 THE JUROR: Okay.

22 THE COURT: Thank you, sir.

23 (Whereupon, the prospective juror leaves
24 the courtroom.)

25 THE COURT: All right. We'll just stand

1 him aside, of course. Mr. Matthews I think
2 the next juror.

3 (William Grady Matthews, called as a
4 potential juror, having first been duly
5 sworn, is examined as follows:)

6 THE COURT: Mr. Matthews, how are you
7 doing this morning, sir?

8 THE JUROR: Fine. How are you?

9 THE COURT: Fine. Thank you, sir, for
10 coming. Appreciate your help. You got down
11 here that you came from my neck of the woods

12 THE JUROR: Yes, sir.

13 THE COURT: But you've been here a
14 good --

15 THE JUROR: Twenty-four years.

16 THE COURT: Yes, sir. Let me ask you,
17 sir, have you served as a juror before?

18 THE JUROR: No, sir.

19 THE COURT: Have you thought about the
20 death penalty for any significant period of
21 time? I mean, other than yesterday when you
22 found out this was a death penalty case, have
23 you ever really thought much about it?

24 THE JUROR: No, sir. No, sir.

25 THE COURT: In reading that sheet there

1 this morning, can you tell me whether or not
2 you fit into one of those three categories?

3 THE JUROR: I would think this one.

4 THE COURT: Third category?

5 THE JUROR: Yes, sir.

6 THE COURT: It basically says what to
7 you, or means what to you?

8 THE JUROR: That you listen to all the
9 facts and listen to what the judge has to say
10 and make your mind up from the facts, is the
11 way I read it.

12 THE COURT: In other words, you're not a
13 fellow who would automatically give a death
14 sentence if you found somebody guilty of
15 murder?

16 THE JUROR: No.

17 THE COURT: Or you would not be one who
18 would automatically give a life sentence in
19 every case even if you did find someone guilty
20 of murder?

21 THE JUROR: That's correct.

22 THE COURT: But basically, I think where
23 you're coming from is basically you could say,
24 well, I could give a death sentence under the
25 appropriate circumstances, I just have to

1 listen to the facts.

2 THE JUROR: Right.

3 THE COURT: If I felt like it was
4 appropriate I could do it.

5 THE JUROR: Right.

6 THE COURT: On the other hand, I could
7 also give a life sentence, or would give a
8 life sentence if I felt like that was the
9 appropriate thing?

10 THE JUROR: If I felt like that.

11 THE COURT: So you would be willing to
12 listen not only to the evidence of the crime
13 itself, but also all the evidence that would
14 be introduced, aggravating or mitigating, you
15 would be willing to listen to everything
16 before you could say one way or the other what
17 a sentence should be?

18 THE JUROR: Yes, sir.

19 THE COURT: And do you understand, sir,
20 that the jury really sentences? I mean, in a
21 case like this the judge does not do the
22 sentencing, you all -- when the jury says
23 death or when the jury says life, that's what
24 it is, I mean you all really become the judge

25 THE JUROR: Yes, sir.

1 THE COURT: All right, sir. I think
2 that's all I need.

3 Mr. Bailey?

4 EXAMINATION

5 BY MR. BAILEY:

6 Q. Mr. Matthews, how are you doing? I'm
7 Walter Bailey, I'll be prosecuting this case, I just
8 want to ask you a couple more questions.

9 A. Yes, sir. Right.

10 Q. You understand that we wouldn't even be
11 talking about the penalty unless the defendant's
12 found guilty of murder in the first part of the
13 trial?

14 A. Right.

15 Q. So we're looking at potentially actually
16 two trials, or two different phases.

17 A. Yeah.

18 Q. So anytime a jury goes into that second
19 phase they're dealing with somebody they've already
20 convicted of murder beyond a reasonable doubt.

21 A. Right.

22 Q. And like the judge said, the jury not the
23 judge makes that decision, the judge just orders that
24 jury's decision to happen. It will happen. So if
25 the jury hears all of the facts and circumstances in

1 the first part of the trial and finds him guilty of
2 murder, and in the second part of the trial they
3 think this is an appropriate case for the death
4 penalty and they vote for it, the judge would order
5 that to happen. And it will happen, he'll be
6 executed. On the other hand, if they vote for life
7 the judge will order that, he'll serve life without
8 parole.

9 We're not going to ask you to
10 predict what you'd do in this case because you hadn
11 heard any of the facts yet.

12 A. No.

13 Q. But if the case is bad enough could you
14 vote for the death penalty knowing that sentence is
15 actually going to be carried out based on what that
16 jury voted?

17 A. Yes.

18 Q. If all 12 jurors -- and no matter what
19 the vote is, it has to be a unanimous vote, but if
20 they all 12 vote for the death penalty, then each
21 juror is asked to sign their names to a death
22 warrant, a death verdict form. Could you sign your
23 name to a paper like that if you already voted for
24 the death penalty along with the rest of the jury?

25 A. Right.

1 Q. And the last thing the jury would have to
2 do is they would have to come out here in open court
3 from the jury room and each juror would be asked to
4 affirm or say out loud that, yeah, that's my verdict

5 A. Right.

6 Q. That's still my verdict. Could you do
7 that if that was your verdict?

8 A. Yes, sir.

9 Q. Okay. Can you think of any reason at all
10 that might in any way prevent you from serving as a
11 fair, impartial juror for both sides, the defense and
12 the State?

13 A. No, I can't think of any.

14 Q. Mr. Matthews, in a case like this the
15 jury is put in a motel at night until the trial's
16 over. And we're talking about probably the trial
17 starting tomorrow and lasting maybe five to six days
18 somewhere in that time frame. If you were picked as
19 a juror, could you handle that?

20 A. Oh, I could.

21 Q. With your job and work and all?

22 A. Yeah.

23 Q. All right, sir. That's all I have.

24 Thank you very much.

25 A. Okay.