

VOLUME III OF VIII

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

RECEIVED

Appeal from Horry County

Apr 26 2021

Honorable Robert E. Hood, Circuit Court Judge

S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

JEROME JENKINS, JR.

APPELLANT.

APPELLATE CASE NO. 2019-001280

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THE FOLLOWING DOCUMENTS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT #51 (PHOTO), STATE'S EXHIBIT #52, (DVD 905 SUNHOUSE), STATE'S EXHIBIT #75 (DVD STATEMENT NO. 2), STATE'S EXHIBIT #76 (DVD STATEMENT NO. 3), STATE'S EXHIBIT #106 (DVD – ARROWHEAD ROBBERY), STATE'S EXHIBIT #114 (DVD OAK ST.), STATE'S EXHIBIT #144 (DVD-JENKINS STATEMENT 2), STATE'S EXHIBIT #145 (DVD-JENKINS STATEMENT 3), AND STATE'S EXHIBIT #146 (DVD-JENKINS STATEMENT 4).

INDIVIDUAL JURY VOIR DIRE

1 A Mitigating, with an "M"?

2 Q Yes, ma'am. These mitigating circumstances
3 reduce the severity of the offense of murder or the
4 person's role in the offense; does that make sense?

5 A Yes, sir.

6 Q So let's imagine you are a juror in a death
7 penalty case. Phase one is over. You and your fellow
8 jurors already decided that the defendant is guilty of
9 beyond a reasonable doubt. The only issue at this time
10 is what is the appropriate sentence; do you understand
11 where we are in my example?

12 A Yes, sir.

13 Q So the question is: Could you listen to the
14 facts and circumstances and base your -- listen to any
15 aggravation that may exist, and any mitigation that may
16 exist, and the law that I give you, could you return a
17 sentence of life without parole, based upon the facts
18 and circumstances?

19 A I don't want to.

20 Q Flesh that out. What do you mean by that?

21 A I don't want to convict anyone of anything.

22 Q So could you give someone a life sentence?

23 A If the proof was there, I guess I could, but it
24 would have to be there. I mean, it would have to be
25 black and white for me.

INDIVIDUAL JURY VOIR DIRE

1 Q The person in my example has already been
2 convicted of murder; do you understand that?

3 A Okay.

4 Q So at this point in time, the jury has already
5 decided -- all 12 of you decided he's guilty, or she's
6 guilty of murder; does that make sense?

7 A Yes.

8 Q So could you give -- based upon the facts and
9 circumstances and the law, could you give someone a
10 life without the possibility of parole sentence?

11 A I don't want to.

12 Q Can you give someone the death sentence?

13 A No. I'm not a judge.

14 Q If you were on this jury, would it impose a
15 significant danger to your health or health of anyone
16 you are responsible for?

17 A Say it again.

18 Q Let me give you an example. Some people are on
19 dialysis.

20 A Yes, sir.

21 Q And they have to take dialysis three times a
22 week.

23 A Yes, sir.

24 Q If they are on the jury, their health would be in
25 serious danger. Do you have anything that significant

INDIVIDUAL JURY VOIR DIRE

1 in your life to where your health would be in danger if
2 you were on this jury?

3 A No, sir.

4 THE COURT: I'll turn you over to the attorneys.

5 I want you to answer their questions openly and
6 honestly, and I want to say thank you for answering my
7 questions.

8 EXAMINATION

9 BY MS. WILLIAMS:

10 Q Ms. Gutierrez, I got it right?

11 A Yes, ma'am.

12 Q My name is Brana Williams, and it is me and Ralph
13 Wilson representing J.J. Jenkins in this trial. We
14 appreciate are honesty. As the judge said, there is
15 not a right or wrong answer, we just need to know where
16 you are.

17 A I'm not a judge.

18 Q I get that. And you answered the judge's
19 question that if you were on this jury, you would have
20 already found the person guilty --

21 A Yes.

22 Q And when you get to part two, there are only two
23 options. So you already went through part one, and we
24 are actually at part two. You have two options: One
25 is life without parole, and the other is the death

INDIVIDUAL JURY VOIR DIRE

1 penalty. What I hear you telling us is you don't want
2 to sit in judgment and give someone --

3 A To me, they are both death sentences. Going to
4 jail walking around for the rest of your life, what are
5 you going to do in jail but grow old? So I don't know
6 -- which is better, being injected and given death
7 immediately, or going out and hanging out and being
8 with other people who -- I don't know. I mean, jail
9 what is it?

10 Q I understand, and here is what I want to ask you
11 about. You told the judge that you could follow the
12 law as he gave it to you?

13 A Yes, ma'am.

14 Q And so are you telling us that if you are on this
15 jury and you are seated, the judge is going to instruct
16 you that as a juror you never have to choose death.
17 You -- it is a moral -- individual moral compass, and
18 that based on what you hear, you either choose life, or
19 you decide that death is appropriate. Are you telling
20 us that if you got to that point, that you could not
21 follow the judge's instructions and pick either one?

22 A I would have to pick life in prison, that is what
23 I would have to pick.

24 Q This is no way you could ever pick death?

25 A I'm not -- I can't. (The juror is holding up the

INDIVIDUAL JURY VOIR DIRE

1 Bible showing it to Ms. Williams.)

2 Q And we appreciate your honesty.

3 A You have to have two or more eyes gathered to see
4 it.

5 MS. WILLIAMS: Yes, ma'am. Thank you.

6 MR. HIXSON: Thank you for being here, and thanks
7 for your honesty. No questions.

8 I don't believe she is qualified, Your Honor, for
9 this particular case.

10 MS. WILLIAMS: I think we agree. Based on her
11 answers, she's not.

12 THE COURT: We're going to excuse you from the
13 service of this case. Have a wonderful night.

14 (The juror exits the courtroom.)

15 THE COURT: Anything before we stop?

16 MR. HIXSON: I believe we talked about the time
17 period, Your Honor.

18 THE COURT: 9:00.

19 MR. HIXSON: I lose track of the messages and
20 calls, so I'm just being slow.

21 THE COURT: Anything before we break?

22 MR. WILSON: No, sir.

23 MR. RICHARDSON: Just a question.

24 THE COURT: what did you say? You have to go to
25 the bathroom? (Indicating to Mr. Jenkins.)

INDIVIDUAL JURY VOIR DIRE

1 MS. WILLIAMS: He said I thought we were about to
2 go home.

3 MR. RICHARDSON: I think tomorrow night after
4 5:00, jurors 96 through 121 are reporting.

5 THE COURT: I mean, my plan for tomorrow is let's
6 see how many more we get. If we make it to the
7 afternoon and only have four, five more, then we'll
8 take that 96 and create panels for Friday and tell
9 them 9:00, 11:00, 2:00, 4:00. Do that with them
10 instead of having them all coming back here and sit
11 all day long. We'll contact and create panels for
12 Friday.

13 If we get to 3:00, 4 o'clock tomorrow and we're
14 getting close, we may create two or three panels and
15 bring them in and see where we are. So let's cross
16 that -- I mean, we had a stride where we added a
17 bunch, and then a stride where we didn't get any.
18 Let's see where we make it tomorrow. I think we have
19 the ability and manpower to contact these people and
20 give specific times if we need to; is that okay?

21 MR. RICHARDSON: Yes, sir.

22 THE COURT: Is that okay from the defense?

23 MR. WILSON: Yes, sir.

24 THE COURT: Anything before the evening is done?

25 MR. HIXSON: No, sir.

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1 MR. WILSON: No, sir.

2 THE COURT: Thank you for your hard work today.

3 (THE PROCEEDINGS FOR MAY 8, 2010 CONCLUDED. THE
4 FOLLOWING WAS HAD ON MAY 9, 2019.)

5 THE COURT: Morning. Take your seats. Everyone
6 ready?

7 MR. HIXSON: Yes, sir.

8 THE COURT: Waiting on Brana?

9 MR. HIXSON: Her and Jimmy are out there.

10 (A brief pause in the proceedings.)

11 MR. WILSON: We're ready.

12 THE COURT: All right. Let's bring her in.

13 (JENNIFER GEE, having been duly sworn,
14 testified as follows:)

15 VOIR DIRE OF JUROR 120

16 BY THE COURT:

17 Q You are Ms. Gee?

18 A I am.

19 Q You understand you are under oath?

20 A Yes, sir.

21 Q I'll ask you a few questions. When you left here
22 on Monday, I said don't talk about the case, don't
23 watch any news and don't do your own research; did you
24 follow those instructions?

25 A I did.

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1 Q Wonderful. So we'll ask you a few questions.
2 I'll start, and then the attorneys can jump in. I want
3 you to be open, honest and candid.

4 A Okay.

5 Q No one is trying to challenge you or challenge
6 your views, we're just trying to understand what your
7 views are. We'll probably ask you questions that you
8 probably never thought about before, so if you need
9 something repeated, let me know.

10 A Okay.

11 Q Where we are in the trial is the State is seeking
12 the death penalty against Mr. Jenkins; that means that
13 the law requires I break his trial into two parts. The
14 first is called the "trial phase." In that part, the
15 jury will determine whether Mr. Jenkins is guilty or
16 not guilty of the crimes charged, like a normal trial
17 make, okay?

18 A Uh-huh.

19 Q So if he is found not guilty, then the case is
20 completely over. If he is found guilty, we move on to
21 the sentencing phase or penalty phase. In the penalty
22 phase, it is the jury's responsibility to determine
23 whether the appropriate sentence is life without
24 parole, or the death sentence; does all of that make
25 sense?

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1 A It does.

2 Q Just because we're talking about penalties
3 doesn't mean that Mr. Jenkins did anything. He is
4 presumed to be innocent under the law; you understand
5 that?

6 A I do understand that.

7 Q Do you know Mr. Jenkins or have any connection to
8 him in any way, shape or form?

9 A No, sir.

10 Q The prosecution attorneys are Mr. Hixson and
11 Mr. Richardson; the defense is Mr. Wilson and
12 Ms. Williams.

13 A Hi. How are you?

14 Q Do you know any of them?

15 A No.

16 Q Were you given an opportunity to review the
17 witness list before coming in here?

18 A Yes.

19 Q Did you know anyone on this list?

20 A No, but there was a lot of people.

21 Q But you didn't see any names that stuck out to
22 you?

23 A No.

24 Q Every juror is going to be asked to do multiple
25 things, one of the things you would all be required to

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1 do is to accept the law and apply the law that I give
2 you, whether you agree with it or not; is that
3 something you can do?

4 A I think so, yes, sir.

5 Q Have you ever heard, read, seen or do you know
6 anything about this case?

7 A I don't -- I think when I was out I think I heard
8 a couple years ago about someone robbing the corner
9 store on 95, someone did Family Dollar and the guy got
10 killed, but that was all I knew about it. I don't -- I
11 just remember because I drove past it and I remember
12 hearing someone was there.

13 Q Did you learn that information from the news?

14 A No. We were going to lunch and the boarder was
15 talking about how she hadn't gone to Family Dollar
16 because there was a murder there. I have a horse, so
17 the lady who keeps my horse was talking about it.

18 Q Would any of that affect your ability to be fair
19 and impartial in this case?

20 A I don't think so.

21 Q Are you willing to set that information aside,
22 keeping in mind it's not evidence?

23 A Yeah. I mean, I don't know anything about it,
24 she just....

25 Q None of that is evidence. It is not proof of

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1 anything. Can you set that aside and base your
2 decision on what is in court, the evidence that I give
3 you?

4 A I could.

5 Q This is a criminal case; do you understand that?

6 A I do understand that.

7 Q That means that the State has a burden of proof,
8 and that is proof beyond a reasonable doubt; do you
9 understand?

10 A Yes, I do.

11 Q Defendants don't to have to prove anything or say
12 anything. They never have to say anything; do you
13 understand that?

14 A I do.

15 Q I'll ask you two example questions. The first
16 question is this: Could you, in a criminal case,
17 depending upon the facts and the evidence and the law,
18 find a person either guilty or not guilty, depending
19 upon the facts and evidence and the law?

20 A I mean, yes, I could.

21 Q Either one?

22 A Yes.

23 Q Before I ask the second question, I need to
24 define terms for you. So the first term I'll define is
25 called "aggravating circumstances." Aggravating

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1 circumstances are laws that are written into our code
2 of laws that say these specific circumstances make a
3 murder case worse, they aggravate the case; does that
4 make sense?

5 A Yes.

6 Q In that same book of laws, the word "mitigating
7 circumstances" is defined, and the mitigating
8 circumstances mean that these set of laws -- and they
9 are listed out in the law -- these circumstances
10 mitigate or reduce the severity of a murder case or the
11 person's role or responsibility in the murder case;
12 does that concept make sense?

13 A Yes.

14 Q So the question is this. Let's imagine you are a
15 juror in a death penalty case -- not this case, just
16 any death penalty case -- and phase one of the trial is
17 already over. So you and your 11 other jurors would
18 have determined already that the defendant is guilty of
19 murder, okay. The only question left before you is
20 what is the appropriate sentence; you follow me?

21 A I do.

22 Q Do you understand where we are in my example?

23 A I do.

24 Q So the question is this: Could you, depending
25 upon the facts and circumstances in that particular

INDIVIDUAL JURY VOIR DIRE

1 case, and any aggravation and/or mitigation that may
2 exist and the law that I give you, could you consider
3 all of that and render a verdict of life without parole
4 based upon the facts and circumstances?

5 A Yes.

6 Q Could you consider all of that same information
7 and render a verdict of death based upon the facts and
8 circumstances?

9 A I could. I would say I would probably like life
10 without parole better. I thought about death
11 penalties, and it is not that I don't think it is
12 appropriate at times, but I don't like the thought that
13 I would pull the trigger, per se.

14 Q So let me ask you a couple follow-up questions,
15 and, again, this is not about challenging you or your
16 views, right or wrong, this is about us figuring where
17 you are.

18 So one of the things that jurors have to do in
19 these types of cases is they have to meaningfully
20 consider both life without the possibility of parole
21 and death. So they have to look at the facts, look at
22 the circumstances, look at any aggravation that may
23 exist, look at any mitigation that may exist and then
24 listen to and apply the law that I give them. So it
25 is kind of this all encompassing thing. So are you

INDIVIDUAL JURY VOIR DIRE

1 telling me that you would have no problem considering
2 a sentence of life without parole?

3 A I would not; that would be fine.

4 Q Could you meaningfully consider a sentence of
5 death?

6 A I mean, I would consider it, but I probably would
7 need the aggravating circumstances attached.

8 Q My second question is this: If you got to the
9 point where you decided -- and, again, we're in a
10 hypothetical --

11 A Uh-huh.

12 Q -- where you decided that death was the
13 appropriate sentence, so you decide in your mind the
14 facts and circumstances and the law in this case
15 warrant a death sentence, you would have to actually
16 sign your own name on the verdict form.

17 A Yes.

18 Q And could you do that?

19 A Yes, but I would take it very seriously.

20 Q Good. I would want you to take it very
21 seriously. I'm glad you would.

22 Last question is this: Would you being on this
23 jury render any serious health risk to you or anyone
24 that you are directly responsible for?

25 A No.

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1 THE COURT: I'll turn you over to the attorneys.

2 EXAMINATION

3 BY MR. WILSON:

4 Q As I understand, you had issues with your vision?

5 A I -- no. No. I -- I mean sometimes I have to
6 use readers if light is not good, but, no.

7 Q And my understanding is you served on a jury in a
8 past on a criminal case?

9 A Yeah, I did serve on the Wicky Martin (phonetic)
10 case, robbery.

11 Q Do you know how long ago that was?

12 A I was thinking about five years ago, but I'm not
13 totally sure.

14 Q One of the things you said was that your religion
15 or faith would affect your ability to handle a case or
16 be involved in a case in some way?

17 A I don't think it affects it. I think religion --
18 I mean, you come with your belief centers whether they
19 are religion or not, and it affects everything you do
20 in life. I haven't been to church recently, but I
21 believe in God, but I don't know that.

22 Q Is there anything in your religion that would
23 keep you being fair to the State and the defendant?

24 A Actually, not. I believe you are responsible for
25 your actions, and so I wouldn't want to do anything

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1 that was unfair to another being.

2 Q And based on His Honor's questions to you, you
3 could be a juror who could consider life in a case
4 where you have already found the person guilty of
5 murder; you could do that?

6 A Yes. That would not be a problem, I don't
7 believe.

8 Q And you understand that in South Carolina the law
9 does not require that you vote for death?

10 A I was not aware of that.

11 Q You can. You can, if that is your view of the
12 evidence and facts after considering aggravating and
13 mitigating factors and getting instructions from the
14 Court, you could if that is what your opinion was.

15 A Okay. Now I'm aware, thank you.

16 Q You also understand that you, As a juror, could
17 vote for life for any reason or no reason or just as an
18 act of mercy, if that is what you decided you wanted to
19 do and that was your moral opinion after considering
20 all of the aggravating and mitigating factors and His
21 Honor's instructions as to the law.

22 A I am aware, thank you.

23 MR. WILSON: Thank you. No other questions.

24 EXAMINATION

25

INDIVIDUAL JURY VOIR DIRE

1 BY MR. RICHARDSON:

2 Q I'm Jimmy Richardson.

3 A Hi.

4 Q How are you?

5 A Good. How are you?

6 Q This is Scott Hixson, and we're representing the
7 State.

8 A Okay.

9 Q And I wanted to follow up with you, if I can, on
10 what Mr. Wilson was asking you. Do you remember
11 filling out a form?

12 A Not in great detail, but I remember.

13 Q It has been a while ago?

14 A Yeah.

15 Q And the same -- I guess after doing this for a
16 few days, the same thing that peaked his interest,
17 peaked my interest. On No. 49, just to refresh your
18 memory --

19 A (Witness examines document.) Oh, I was just
20 saying I'm anxious, so I don't really like to be the
21 person to make a decision. I was just saying -- not
22 that I can't serve on a jury, and not that I'm unable
23 to, but that I prefer, you know -- that I'm a slightly
24 anxious person and I don't like to be the person that
25 has to pick.

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1 Q And getting picked on a death penalty case -- and
2 it is fine. I don't know that there is a lot that
3 they've told you that you probably didn't realize. I
4 know you sat on a jury before, but this is the only
5 time that we really get to talk to jurors. In robbery
6 cases and all of the other cases that you sit on, no
7 one says anything to you.

8 A No.

9 Q And the reason it is important is because
10 part one is just the guilty phase where you and 11
11 other people sit over here and you would say, Am I
12 firmly convinced that what the State is telling me is
13 true, that J.J. did this offense, and if that is -- if
14 that conviction is beyond a reasonable doubt, then you
15 could vote, yes.

16 A Absolutely.

17 Q Now, part two is different, because part one is
18 just did he do it or didn't he do it. Can we agree
19 that it is beyond a reasonable doubt? But because it
20 is special, we'll actually take a day off, called a
21 "cool off day," where if you are on this jury, we will
22 take a break from the courtroom. We wouldn't come in.
23 We'll cool off from the first part. Part two will just
24 be what is the appropriate punishment, and in death
25 penalty cases, the only appropriate punishment is once

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1 part one is found, part two is life or death. So you
2 will hear -- like Judge Hood told you -- about things
3 that are aggravating, you know. We will -- may not
4 tell you everything in part one. You may hear other
5 stuff in part two. You may hear things that lessen the
6 stigma on any particular defendant in a death penalty
7 case; you get that?

8 A I do. I understand the concept. Like I said,
9 I'm not saying I don't believe in the death penalty, I
10 just think I would need it to be very serious before I
11 sign that. I'm not saying -- I wasn't -- I'm just
12 saying it would take a little bit of convincing for
13 that, I guess. I don't know how much time you want to
14 take. I remember watching the Green Mile and thinking
15 against it, because you are watching him walking down
16 death penalty row and the flashes between the victim
17 and him, and it is just kind of hard because I don't
18 want to let the victim be forgotten, if that were the
19 case, but I don't want to -- you know, I'm a little bit
20 on the fence. It is just hard for me to do that. I'm
21 not saying I would or wouldn't.

22 Q Let me ask you about the Green Mile. You know,
23 of course, it is a movie, you know.

24 THE COURT: Do you need to approach?

25 (A brief pause in the proceedings while Mr.

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1 Richardson and Mr. Hixson confer.)

2 Q (MR. RICHARDSON) Let's do away from movies, but
3 you understand that is just a movie?

4 A I do understand that is just a movie.

5 Q And you understand that regardless of that or
6 anything that you bring with it, not every murder is
7 the same, and that is why there is --

8 A That is what I was thinking too, yeah.

9 Q Some are way worse than others -- all of them are
10 bad, but some worse than others, right?

11 A Yes.

12 Q So at the end of that, you are saying I can
13 listen to aggravating stuff, and if it is bad enough, I
14 can actually sign my name to a piece of paper saying,
15 yes, I believe that this person deserves the death
16 penalty?

17 A Yes. But like I said, I think I would be more
18 likely to pick life without parole, but if it were bad
19 enough.

20 Q What that paper is -- and that part is not -- it
21 is just a headsy (sic) thing, that is actually -- in
22 other jury service, you vote and that is it. You go in
23 the back and return a verdict. In this, there is
24 actually 12 lines, and each of the other jurors, if
25 that was everybody's thought process, that this should

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1 be the death penalty, each person, Carol, Benny,
2 everyone has to write their name, and then they hand
3 that paper to you; could you sign your name to that?

4 A I could. But, again, I would be more likely to
5 probably pick life without parole. I would have to be
6 -- I would have to be convinced that the person was
7 probably a dangerous person.

8 Q Let me ask you this, because you brought it up.
9 Again, Mr. Wilson asked you, but I wasn't sure of your
10 actual words. I'm talking about Question No. 11.

11 A Okay. (Witness examines document.) Oh, oh, I
12 used the word "influence," I didn't realize I used
13 that. Well, yeah, so you are right, I wrote that word.
14 I am -- I think that -- I think everything -- all of
15 your life experiences and all of your things influence
16 you and make you the person you are. But I guess that
17 is hard because you all don't know what the beliefs of
18 the church are, but I don't go to -- I just believe
19 Christ is the most efficient thing, so, you know, I
20 be....

21 Q Will you take just a few minutes and tell us your
22 understanding of what your church's beliefs are on the
23 death penalty?

24 A I don't think -- then don't try to be political.
25 I don't think they have a strong statement on the death

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1 penalty. There is a video we watch about justice
2 versus mercy, and that justice is more like the old
3 testament and the death penalty in that Christ brings
4 mercy. I believe in that. I just believe in Christ
5 and being accountable for my individual actions, and so
6 I would take this trial seriously. I don't want to do
7 anything that is harmful to others, but it is just --
8 basically, I want to do the best I could possibly do,
9 because I feel you are accountable for your actions,
10 and accountable to Christ, but he brings mercy on
11 others. I don't think we have a policy on the death
12 penalty.

13 Q Okay. And, really, it doesn't matter, it is what
14 your understanding of it would be.

15 A I don't think there is a -- I don't have an
16 official church policy of the death penalty.

17 MR. RICHARDSON: Bear with me one moment.

18 JUROR: Yes.

19 MR. RICHARDSON: Your Honor, I believe she's
20 qualified.

21 MR. WILSON: She's qualified.

22 THE COURT: All right. Ms. Gee, I'll find you
23 are qualified in this case. What that means -- that
24 doesn't mean you will be on the jury, so I'll bring
25 back a whole big group of you, and then we will pick

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1 from that group, who makes it on and who doesn't.

2 What I want you to do is take this card, and I want

3 you to start calling back at that point after 6:00.

4 It will have a message, and it may say call back

5 tomorrow night, and it may say come back tomorrow. I

6 don't know how many jurors well's get to today.

7 JUROR: Yes, sir.

8 THE COURT: When you come back, whenever the

9 message says to come back, one, you have to come back

10 and, two, bring a suitcase with clothes for a week.

11 Bring reading materials, toiletries items, medicines

12 you take every day. I do not want you to bring cell

13 phones, computers or tablets. Bring a list of any

14 emergency phone numbers that if something happens, we

15 can call your primary care physician, family, things

16 like that.

17 When you come back, leave all of that stuff in

18 your car. Just because you come back doesn't mean you

19 will be selected. If you are, we want to maneuver all

20 of the stuff and do what we need to with it. If you

21 are not selected, you are allowed to go to your car

22 and go home.

23 Between now and then, don't watch any news about

24 the case, don't do any research and don't talk to or

25 let anyone talk to you about the case. You follow all

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1 of that?

2 JUROR: I can.

3 THE COURT: If you go down the aisle, you can
4 head out.

5 (The juror exits the courtroom.)

6 THE COURT: I find she is qualified. She came in
7 as a "C", stayed a "C" and I think she answered the
8 questions. She said she wanted to listen to
9 everything and hear what there is to hear, and she can
10 bring either sentence based on the facts and
11 circumstances and the law, and that she is willing to
12 do that and follow the law.

13 (The juror enters the courtroom.)

14 (ARISBET GONZALES, having been duly sworn,
15 testified as follows:)

16 THE COURT: Tell me your name.

17 JUROR: Arisbet Gonzales.

18 THE COURT: Are there other people back there?

19 DEPUTY: Yes, sir.

20 MS. WILLIAMS: I know she's out of order. What
21 is the juror number?

22 THE COURT: 124.

23 MS. WILLIAMS: Thank you, Your Honor.

24 THE COURT: Ms. Gonzales.

25 JUROR: Yes, sir.

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VOIR DIRE OF JUROR 124

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BY THE COURT:

Q And, Ms. Gonzales, you understand you are under oath?

A Yes, sir.

Q When you left here the other day, I said don't talk about case, don't watch any news about the case and don't do any research; did you follow those instructions?

A Yes, sir.

Q We'll ask you questions. I need you to pull that microphone closer to you. No one is -- I just want you to be open, honest and candid with us, okay?

A Yes, sir.

Q No one is trying to challenge you or your views. We just want to understand what your views are. We'll probably ask you stuff you never thought about before, so take your time. If you need us to repeat a question, let us know.

A Yes, sir.

Q This is a death penalty trial where the State is seeking the death penalty against Mr. Jenkins. Because of that, that means I have to break the trial into two parts. The first part is what we'll call the "trial phase." In that part, the jury will determine whether

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1 Mr. Jenkins is guilty or not guilty of the offenses
2 charged. If he is found not guilty, the case is over;
3 but if he is found guilty, then we will move on to the
4 second phase of the trial, which is called the
5 sentencing phase. In the sentencing phase, the jury
6 will determine whether or not Mr. Jenkins is guilty --
7 excuse me, whether the appropriate punishment is life
8 without the possibility of parole or the death penalty;
9 does that make sense?

10 A Yes.

11 Q Just because we're talking about the penalty
12 doesn't mean that Mr. Jenkins has done anything. He is
13 presumed to be innocent under the law; do you
14 understand that?

15 A Yes.

16 Q Do you know Mr. Jenkins or have any relationship
17 to him at all?

18 A No, sir.

19 Q Do you know any of the attorneys, that would be
20 Mr. Hixson or Mr. Richardson, Mr. Wilson or
21 Ms. Williams?

22 A No, sir.

23 Q Did you see the witness list before you came in
24 here?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q Did you recognize anyone's name on that list?

2 A No, sir.

3 Q One of the things I'll ask you to do, if you are
4 a juror, is to listen to the law and apply the law as I
5 give it to you; is that something you can do?

6 A Yes, sir.

7 Q Prior to today, have you ever heard, read, seen
8 or know anything about this case at all?

9 A No.

10 Q So when I told you the allegations on Monday,
11 that was the first you ever heard of that; is that
12 right?

13 A Yes, sir.

14 Q So are you willing to sit here and listen to the
15 evidence and follow the law that I give you in this
16 case?

17 A Yes, sir.

18 Q Do you understand this is a criminal case?

19 A Yes, sir.

20 Q And what that means is the burden of proof is on
21 the State to prove the defendant's guilt beyond a
22 reasonable doubt; do you understand that?

23 A Yes, sir.

24 Q The defendant doesn't have to prove anything. He
25 doesn't have to prove his innocence. He doesn't have

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1 to say anything at all because the burden lies with the
2 State; does that make sense?

3 A Yes, sir.

4 Q Now, I'm going to give you some example
5 questions. I'll give you two, and we'll do one at a
6 time. The first example is this: Could you, in a
7 criminal case, listen to the evidence, determine what
8 the facts are, apply the law to facts and render a
9 verdict of either guilty or not guilty, based upon the
10 evidence, facts and the law?

11 A Yes, sir.

12 Q I'll explain two terms to you before I give you
13 the next example. Those terms are "aggravating" and
14 "mitigating circumstances." Aggravating circumstances
15 are circumstances that in our law the law says these
16 specific circumstances make murder cases worse, they
17 aggravate the situation; does that make sense?

18 A Yes, sir.

19 Q The second term is "mitigating circumstance." In
20 that same book of laws it says these specific
21 circumstances mitigate or reduce the severity of the
22 offense of murder or the person's responsibility in it;
23 does that make sense?

24 A Yes, sir.

25 Q So the second example question is this. Let's

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1 imagine you are a juror in a death penalty trial -- not
2 this case, just any case. Phase one is over. You and
3 your other jurors have already determined that the
4 defendant in that case is guilty of murder; you follow
5 me?

6 A Uh-huh.

7 Q Yes?

8 A Yes, sir.

9 Q So at this point in time the only decision for
10 you and the other members of the jury is what is the
11 appropriate punishment; do you follow where I am in my
12 example?

13 A Yes, sir.

14 Q So the question is this: Could you, depending
15 upon the facts and circumstances, that would include
16 any aggravation and any mitigation that may exist and
17 the law that I give you, could you listen to all of
18 that and could you render a verdict of -- a sentence of
19 life without parole, based upon the facts and
20 circumstances?

21 A Yes, sir.

22 Q Could you render a sentence of death based upon
23 the circumstances?

24 A No, sir.

25 Q If you were selected on this jury, would it pose

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1 any significant health risk to you or any member of
2 your immediate family?

3 A No, sir.

4 THE COURT: I'll turn you over to the attorney.
5 Just answer their questions openly and honestly and
6 speak up for us.

7 EXAMINATION

8 BY MS. WILLIAMS:

9 Q My name is Brana Williams, and it will be me
10 along with Ralph Wilson that is representing J.J.
11 Jenkins in this trial.

12 A Yes, ma'am.

13 Q And as the judge told you, this is kind of -- it
14 is a real unusual case because we get to talk to
15 jurors. I saw in your questionnaire that you served on
16 a jury before, right, a civil jury?

17 A Yeah. I think that is what it -- I wasn't sure
18 when that question was asked, because I know in January
19 I was at the courthouse, the smaller one on 21st
20 Avenue, but I don't know what that was considered.

21 Q That is magistrate. But the difference in a
22 civil court is it is like a contract dispute or traffic
23 accident or something like that, and criminal is a
24 speeding ticket, that kind of stuff.

25 A Yes, ma'am.

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1 Q And in that case, you don't really get to talk to
2 lawyers. In this case, we do get to talk to you. As
3 the judge just told you, what we have to find out is
4 kind of odd. We have to basically assume the first
5 phase is done, and that is the panel of 12 -- if you
6 are on it -- had decided guilty of murder beyond a
7 reasonable doubt.

8 A Uh-huh.

9 Q You have to say "yes" because she's writing it
10 down.

11 A Yes, ma'am.

12 Q Not picking on you, just she has to write it
13 down.

14 A Yes, ma'am.

15 Q What you told the judge is you could consider
16 life without parole for a guilty murderer, correct?

17 A Yes, ma'am.

18 Q But you told the judge you couldn't consider
19 death?

20 A No, ma'am.

21 Q Are you telling us that there is no scenario out
22 there that you could think of that there is enough
23 aggravating circumstances, totally a bad enough
24 scenario where you can say I vote for the death
25 penalty?

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1 A Yes, ma'am.

2 Q That is what you are telling us?

3 A Yes, ma'am.

4 MS. WILLIAMS: Thank you, your Honor. Thank you
5 for being honest.

6 JUROR: Yes, ma'am.

7 MR. HIXSON: I have no further questions. Thanks
8 for being here.

9 Your Honor, I don't believe she's qualified for
10 this case.

11 MS. WILLIAMS: We would agree.

12 THE COURT: Ms. Gonzalez, I'll excuse you for the
13 service in this case. You do not need to call back or
14 come back. Thank you for coming back this morning,
15 and have a wonderful day.

16 MS. WILLIAMS: While we're waiting, I have 29
17 marked; is that our count?

18 THE COURT: Yes.

19 (The juror enters the courtroom.)

20 (KEITH NEGRI, having been duly sworn,
21 testified as follows:)

22 VOIR DIRE OF JUROR 246

23 BY THE COURT:

24 Q Tell me your name.

25 A Keith Negri.

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1 Q Do you understand you are under oath?

2 A Yes.

3 Q Have you to speak up a lot.

4 When you left here the other day, I told you
5 don't discuss the case, don't watch any news and don't
6 do any research on the case; did you follow all of
7 that?

8 A Yes.

9 Q We're going to ask you a few questions. I want
10 you to be open, honest and candid. No one is trying to
11 challenge you or your views, just trying to understand
12 what your views are; does that make sense?

13 A Yes.

14 Q We'll ask you questions that you probably never
15 thought about before, so just take your time, and if
16 you need us to repeat the question, just let us know.

17 This case is a death penalty trial where the
18 State is seeking the death penalty. Because of that,
19 the law requires that I break the trial into two
20 separate parts. So the first part will be where the
21 jury determines if Mr. Jenkins is guilty or not guilty
22 of the crimes charged. If the jury determines he's
23 not guilty, the case is completely over. If the jury
24 determines he is guilty, then we move on to the
25 sentencing phase. In the sentencing, or penalty

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1 phase, it will be the jury's responsibility to decide
2 whether the appropriate sentence is life in prison
3 without parole, or the death penalty; does that make
4 sense?

5 A Yeah.

6 Q Just because we're talking about penalties
7 doesn't mean that Mr. Jenkins did anything. He is
8 presumed to be innocent under our law; you understand
9 that?

10 A Yeah.

11 Q Do you know Mr. Jenkins or have any relationship
12 to him at all?

13 A No.

14 Q And the attorneys in this case are Mr. Hixson,
15 Mr. Richardson, Ms. Williams and -- Mr. Wilson -- if
16 you knew how many times I said this you would
17 understand why I'm tongue tied -- Mr. Wilson and
18 Ms. Williams; do you have any connection to them at
19 all?

20 A No.

21 Q I gave you a witness list; do you have any
22 connection to anyone on the witness list?

23 A No.

24 Q One of the things that I'm going to ask the
25 jurors to do in this case is to accept the law and

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1 apply the law that I give them, whether they agree with
2 it or not; is that something you can do?

3 A Yes.

4 Q Have you ever heard, read, seen or do you know
5 anything about this case at all?

6 A No.

7 Q So when I told you the allegations on Monday,
8 that was the first time you ever heard that?

9 A Yes.

10 Q So can you base your decision in this case on the
11 evidence and the law in this particular case?

12 A Yes.

13 Q Now, this is a criminal case; do you understand
14 that?

15 A Yeah.

16 Q What that means is that the State has the burden
17 of proof. They must prove the defendant guilty beyond
18 a reasonable doubt. The defendant doesn't have to
19 prove anything, and never has to prove his innocence;
20 do you understand that?

21 A Yes.

22 Q I'll give you two different examples. The first
23 example is this: Could you, in a criminal case, listen
24 to the evidence, determine what the facts are, apply
25 those facts to the law and render a verdict of either

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1 guilty or not guilty, depending upon the evidence and
2 the law?

3 A Yes.

4 Q Let me explain two terms. One is called
5 "aggravating circumstances." Aggravating circumstances
6 are circumstances under our law that make murder cases
7 worse. They aggravate the situation; does that make
8 sense?

9 A Yes.

10 Q The second term is "mitigating circumstances."
11 In that same book of laws, it states that there is
12 certain circumstances, known as "mitigating
13 circumstances," that reduce the murder offenses or the
14 person's responsibility in the offense; does that make
15 sense?

16 A Can you repeat that?

17 Q Sure. So mitigating circumstances could be
18 incidents, details or occurrences in which our general
19 assembly -- the people who make our laws -- have
20 declared into the law that these specific type of
21 circumstances reduce the severity of the offense of
22 murder and may be considered as reducing the degree of
23 moral culpability or responsibility. So there is a
24 list that says these are the mitigating circumstances,
25 if any of these exist, they reduce the severity of the

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1 offense.

2 A Okay.

3 Q You follow me now?

4 A Yes.

5 Q So they are kind of opposite each other; does
6 that make sense?

7 A Yes.

8 Q So the last example is: I want you to imagine
9 that you are a juror in a death penalty trial -- not
10 this case, just any case.

11 A Yes.

12 Q In that trial, you and the other jurors have
13 already determined that the defendant is guilty of
14 murder. So phase one is over. We are in the
15 sentencing phase; do you understand my example?

16 A Yes.

17 Q So the question is this: Could you, depending
18 upon the particular facts and circumstances of that
19 case, including any aggravation and any mitigation that
20 may exist and the law I give you, could you listen to
21 all of that and return a sentence of life in prison
22 without parole?

23 A Yes.

24 Q Could you listen to all of that information and
25 return a sentence of death?

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1 A Yes.

2 Q If you were selected on this jury, would it pose
3 any significant health risk to you or any immediate
4 family?

5 A No.

6 THE COURT: I'll let the attorneys ask you
7 questions. Just be open and honest with them.

8 EXAMINATION

9 BY MR. WILSON:

10 Q Mr. Negri, is that how you pronounce it?

11 A Yes.

12 Q I just need to talk to you a couple of minutes
13 about some things. Let me ask you. His Honor was
14 asking you questions about an example, and you
15 indicated to him that you could do either, if the
16 evidence and the facts warranted it, both aggravating
17 and mitigating, after considering those things, if you
18 thought life was appropriate, you could do that;
19 correct?

20 A Yes.

21 Q And if after hearing all of the evidence and
22 facts, aggravating and mitigating and His Honor's
23 instructions of the law, if you heard all of those
24 things, and your opinion was that the death penalty was
25 the appropriate thing, you can do that, too, if that is

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1 what you felt was right?

2 A I think I might have been confused. When it
3 comes to my opinion, I'm not really for it. It is kind
4 of -- but I think I was just confused about the
5 question. I didn't know if it was more law wise.

6 THE COURT: Can you speak up a bit?

7 A Yeah, sorry. I think when I was referring over
8 here, I was kind of confused. I figured just because
9 of South Carolina law, that that was more of would you
10 if that was the consensus? Like, when it comes to an
11 opinion, that is not something I feel comfortable
12 doing.

13 Q (MR. WILSON) It is not something you're
14 comfortable doing, but if the facts and the
15 circumstances, based on the law and the evidence, both
16 aggravating and mitigating factors, and His Honor's
17 instructions on the law to you, if those things
18 satisfied you, could you do it, is the question?

19 A I don't think so.

20 Q Do you have any set of circumstances in your mind
21 that would be so bad after a murder that you could
22 impose the death penalty?

23 A Not really, no.

24 Q So no matter how bad it was, under any
25 circumstances, you could never, ever do it; is that

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1 what you are saying?

2 A That's what I'm saying, yes, sir.

3 MR. WILSON: Nothing further.

4 MR. HIXSON: Thanks for being here. No
5 additional questions.

6 Your Honor, I don't know believe that this juror
7 is qualified for this case.

8 MR. WILSON: Not qualified.

9 THE COURT: We're going to excuse you from the
10 service of this case. I want to say thank you for
11 being open and honest. I know sometimes when I ask
12 questions people get confused; I understand. But I
13 think -- as I told you in the beginning, the purpose
14 is to figure out your real views at this point. There
15 is no right or wrong. We are all entitled to our own
16 views, and I think you have truly expressed your real
17 views, and that exactly what I wanted you to do. That
18 was the purpose of this exercise. So thank you very
19 much for being open and honest with us. You are
20 completely and totally free. You don't need to call
21 back or come back. Walk down that aisle and you can
22 head out that door.

23 JUROR: Thank you very much.

24 (The juror exits the courtroom.)

25 MS. ELVIS: The next one is No. 40. He is not

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1 here currently. I have -- my office made contact with
2 him. He is on the way. He said he is ten minutes
3 out.

4 THE COURT: No. 40.

5 MR. HIXSON: Can I ask an inquiry?

6 THE COURT: Yeah.

7 MR. HIXSON: Do you mind, I was trying to process
8 a bunch of things. Did you contact this juror to be
9 here, or the juror contacted you?

10 MS. ELVIS: I'm not sure who contacted who first.
11 I texted my staff member and asked her to call him,
12 and she immediately contacted me back to say -- I
13 said, Please call this juror to let him know that he
14 is supposed to be here at 9:00. Tell him he needs to
15 get here right away. She said, Yes, ma'am. He is on
16 the way. He woke up late, and he is ten minutes out.
17 So I'm not sure.

18 THE COURT: Whoever that staff person is, tell
19 them to come on up here.

20 MR. HIXSON: I just wanted the basic inquiry. I
21 don't need any more development.

22 THE COURT: Did you need any more development?

23 MR. WILSON: No, sir.

24 THE COURT: Okay. Then they're fine. Someone
25 tell Sergeant Beatty he can bring in the next one.

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1 MR. HIXSON: Honestly, Judge, I just couldn't
2 hear (laughing).

3 (The juror enters the courtroom.)

4 (CASEY OWENS, having been duly sworn,
5 testified as follows:)

6 VOIR DIRE OF JUROR 262

7 BY THE COURT:

8 Q You are Mr. Owens?

9 A Yes, sir.

10 Q Do you understand you are under oath?

11 A Yes, sir.

12 Q When you left here the other day, I told you
13 don't talk about the case, don't watch the news and
14 don't do any of your own research; did you follow those
15 instructions?

16 A I did follow those instructions. Did I watch the
17 news? I did, but nothing to do with the case.

18 Q That is fine. We'll ask you a few questions, and
19 I want you to be open and honest and candid with us.
20 This is not about challenging you or your views, just
21 trying to figure out what your views are; you
22 understand that?

23 A Yes, sir.

24 Q I'll probably ask you things you never really
25 thought about before, so if you want to take time

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1 answering or want us to repeat a question, let us know,
2 okay?

3 A Okay.

4 Q Now, this is a death penalty trial, and because
5 the State is seeking the death penalty, that means I'm
6 required to break the trial into two different parts.
7 Part one, the jury will determine whether or not Mr.
8 Jenkins is guilty or not guilty of the crimes that are
9 charged. If he is found not guilty, the case will be
10 completely over. If he is found guilty, then we will
11 move on to the second phase of the trial known as the
12 "sentencing" or "penalty phase," and in that phase of
13 the trial, the jury will determine whether the
14 appropriate sentence is life without the possibility of
15 parole, or the death sentence; does that framework make
16 sense?

17 A Yeah.

18 Q Just because we're talking about penalties
19 doesn't mean that Mr. Jenkins did anything; do you
20 understand that?

21 A Uh-huh.

22 Q You have to answers out loud.

23 A Yes, sir.

24 Q He's presumed to be innocent under the law; you
25 understand that?

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1 A Yes, sir.

2 Q Do you know Mr. Jenkins or have any relationship
3 to him at all?

4 A No, sir.

5 Q Do you know either Mr. Hixson, Mr. Richardson or
6 Mr. Wilson or Ms. Williams, the attorneys at all?

7 A I do know Mr. Richardson.

8 Q How do you know him?

9 A His son and my son play ball together probably --
10 since nine or ten years old, play ball at Aynor High
11 School as well.

12 Q Would that affect your ability to be fair and
13 impartial in this case?

14 A No, sir, shouldn't.

15 Q Are you willing to base your decision on the
16 evidence and the law?

17 A Yes.

18 Q Now, I gave you a list of witnesses in the case;
19 did you know any of those people?

20 A No, sir.

21 Q One of the things I'll ask the jurors to do in
22 this case is listen to and accept and apply the law
23 that I give them, whether they agree with it or not; is
24 that something you can do?

25 A Ask me again.

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1 Q Sure. So in this case, I'm the judge of the law;
2 does that make sense?

3 A Uh-huh.

4 Q That means no one can tell me what the law is.
5 I'm the final decision maker on what the law is; you
6 follow that?

7 A Yes, sir.

8 Q So if you are a juror -- or any juror -- selected
9 on this case, they have to accept and apply the law as
10 I give it to them. If they have an idea as to what
11 they think the law is or what it ought to be, and it
12 doesn't agree with what I tell them the law is, they
13 have to abandon their own idea and accept the law as I
14 give it to them; can you do that?

15 A Yes, sir.

16 Q Have you ever heard, read, seen or know anything
17 about this case at all?

18 A No, sir. Probably a long time ago heard it in
19 the news, but following it or anything, no, sir.

20 Q You may have seen it on the news years ago?

21 A That's correct.

22 Q Do you have any specific memory as to what you
23 saw or didn't see?

24 A Not at all.

25 Q Really, what I told you on Monday what the

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1 allegations were, that was really the first time you
2 heard or knew anything about the case?

3 A That's correct.

4 Q Can you base your decision on this case off of
5 the evidence and the law in this particular case?

6 A Yes, sir.

7 Q Do you understand this is a criminal case?

8 A Yes, sir.

9 Q That means the State has the burden of proving
10 the defendant guilty beyond a reasonable doubt; you
11 understand that?

12 A Uh-huh.

13 Q Criminal defendants never have to prove their
14 innocence or say anything or prove anything at all; do
15 you understand that?

16 A Yes, sir.

17 Q We are going to switch gears and move on to some
18 examples. The first examples is this. Could you, in a
19 criminal case, as a juror, listen to the evidence,
20 determine what the facts are, apply those facts to the
21 law that I give you and find someone either guilty or
22 not guilty depending on the facts and circumstances?

23 A You will have to ask me again.

24 Q I'll do my best to make as much sense as
25 possible. So my question is this. Let's pretend you

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1 are a juror in a normal criminal case, could you in
2 that case listen to the evidence, testimony of the
3 witnesses, any documents or exhibits that are received
4 in evidence, determine what the facts are and apply
5 those facts to the law that I give you? There are laws
6 in this state how criminal cases work; you understand
7 that?

8 A Uh-huh.

9 Q And then determine whether or not the defendant
10 in that case is either guilty or not guilty, depending
11 upon the facts and circumstances?

12 A Yeah, I guess. But I wouldn't know if they are
13 facts or not, right?

14 Q You would know what the evidence was. Could you
15 take that into consideration and render one verdict or
16 the other based upon what you believe the facts and
17 evidence require?

18 A Yeah.

19 Q The next thing is I'll explain two separate terms
20 to you. First terms is called "aggravating
21 circumstances." Aggravating circumstances are specific
22 circumstances that make murder worse. The law in this
23 state is there is specific circumstances that make a
24 murder case worse than it already is; do you understand
25 that?

INDIVIDUAL JURY VOIR DIRE

1 A Uh-huh. Yes, sir.

2 Q The flip side is mitigating circumstances, these
3 are also written into the law and they say these
4 circumstances reduce the severity of a murder case or a
5 person's responsibility in that case; do you understand
6 that concept?

7 A Yes, sir.

8 Q Second example, let's pretend you are a juror in
9 a death penalty trial, not this case, just any death
10 penalty case. Phase one is over. You and the other 11
11 jurors have determined that the defendant is guilty of
12 murder. The only issue before you is what is the
13 appropriate sentence, okay? Do you understand where we
14 are in my example --

15 A Uh-huh.

16 Q Is that a yes?

17 A You are asking me the last one?

18 Q I haven't asked you anything yet, just making
19 sure you understand where we were in my example. You
20 want me to start over?

21 A Yeah.

22 Q Okay. So this is an example; does that make
23 sense?

24 A Uh-huh.

25 Q You are a juror, in my example, in a death

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1 penalty trial. You remember I told you there is two
2 parts?

3 A Uh-huh.

4 Q Yes?

5 A Yes.

6 Q Part one is over. Y'all all have already
7 determined that the defendant is guilty of murder. The
8 only issue left for you, as the jury, is to decide what
9 is the appropriate punishment?

10 A Uh-huh.

11 Q Do you understand my example?

12 A Uh-huh. Yes, sir.

13 Q So the question is this: Could you, depending
14 upon the facts and circumstances of that case,
15 including any aggravation and mitigation that may exist
16 and the law that I give you, could you listen to all of
17 that and return a sentence of life without the
18 possibility of parole?

19 A I guess I could.

20 Q Could you listen to all of that and return a
21 sentence of death?

22 A Yes, I could.

23 Q Would being on this jury affect your ability to
24 be fair and impartial -- I've lost my whole mind.
25 Would you being on this jury cause a serious health

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1 risk to you or a member of your family?

2 A No.

3 THE COURT: I'm going to let the attorneys ask
4 you questions. Just be open and honest.

5 EXAMINATION

6 BY MR. WILSON:

7 Q Good morning.

8 A Good morning.

9 Q I wanted to ask you a couple of things. You said
10 earlier that you and Mr. Richardson know each other,
11 your children play ball together and that kind of
12 thing?

13 A Yes, sir.

14 Q Do you socialize at all?

15 A As far as recently, probably not. But we have in
16 the past. We went to football games together as well.

17 Q And the fact that you have a personal
18 relationship with Mr. Richardson, and he is the
19 Solicitor in this circuit, is that in any way impacting
20 your ability to be fair and impartial?

21 A No, sir.

22 Q So you think you could set that aside and still
23 be fair and impartial, regardless of the relationship
24 that you have with Mr. Richardson?

25 A I'm supposed to, yes, sir.

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1 Q And when you filled out your form in the back,
2 you said that you are a type "A" juror?

3 A Uh-huh.

4 Q And type "A" Juror is one who says once the crime
5 of murder -- murder is the intentional killing of one
6 person by another with malice, that is a killing
7 without justification, once that has been proved by the
8 State beyond a reasonable doubt, while in sentencing
9 phase considering punishment, feels that he or she must
10 give the death penalty in each and every case; is that
11 your view?

12 A Yes, sir.

13 Q And that has always been your view about what
14 should happen when there is a murder, a real murder?

15 A Yes, sir.

16 Q And that is an opinion you have held for a period
17 of time?

18 A Yes, sir.

19 Q And that opinion is not going to change by
20 anything that I say to you today, is it?

21 A I mean, not as far as like you said, murder.

22 Q So once the State proves there was a murder, and
23 there was no justification for that murder as far as
24 you are concerned, the only appropriate sentence is
25 death?

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1 A I mean, I guess. Pretty much, yes. This is new
2 for me. I don't come up here.

3 Q I understand. And I'm just trying to find out
4 what your opinion is.

5 A Yes, sir, it is.

6 Q And so you stand by what you put on this form,
7 that that is your opinion?

8 A Yes, sir. Yes, sir.

9 Q That has been your opinion, and you are not
10 changing that opinion?

11 A I'm certainly not, no, sir.

12 MR. WILSON: I don't have any other questions.

13 MR. RICHARDSON: I don't have any questions, but
14 since we have him under oath and he has to tell the
15 truth, I might get a little information out of
16 Mr. Owens.

17 I really don't think he is qualified.

18 THE COURT: That was a joke (laughing).

19 MR. RICHARDSON: Yeah. He was sweating it, but
20 thank you for coming.

21 THE COURT: Mr. Owens, we'll excuse you from the
22 service in this case. You are free to go, and thank
23 you very much for being here and willing to serve and
24 answering these questions openly and honestly. Have a
25 wonderful day.

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1 (The juror exits the courtroom.)

2 THE COURT: I used to tell my office staff when
3 the polygrapher came in, You're next -- that is off
4 the record (laughing).

5 We are on 79.

6 (FERN DANIELS, having been duly sworn,
7 testified as follows:)

8 VOIR DIRE OF JUROR 79

9 BY THE COURT:

10 Q Are you Ms. Daniels?

11 A Yes, sir.

12 Q My voice is giving out. You are the 70 plus
13 juror I have questioned, so I'm pretty weak, so bear
14 with me.

15 Do you understand that you are under oath?

16 A Yes, I do, sir.

17 Q When you left here the other day, I said don't
18 talk about the case, don't watch the news media about
19 the case and don't do any research; did you follow
20 those instructions?

21 A Yes, sir, I did tell my husband I was on jury
22 duty.

23 Q That's perfect. If you didn't, I would think
24 there was something wrong. So that is fine. We'll ask
25 you some questions, and I want you to be open and

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1 honest and candid with us. This is not about
2 challenging you or your views, just trying to figure
3 out what your views are. We'll probably ask you
4 questions that you never thought about before, so take
5 your time. If you need us to repeat a question, let us
6 know.

7 In this case the State is seeking the death
8 penalty against Mr. Jenkins. What the law requires is
9 that I break the trial into two separate parts. The
10 first part will be when the jury determines whether
11 Mr. Jenkins is guilty or not guilty of the crimes that
12 have been charged. So if he's found not guilty, the
13 case is over and we're done, okay? Follow me?

14 A Yes, sir.

15 Q The second phase -- so if he is found guilty,
16 then we move on to the second phase. The second phase
17 of the trial is where the jury determines whether the
18 appropriate sentence is life in prison without the
19 possibility of parole, or the death sentence; does that
20 framework make sense?

21 A Yes, sir.

22 Q Just because we're talking about penalty today
23 doesn't mean that Mr. Jenkins has done anything. He is
24 presumed to be innocent under the law; does that make
25 sense?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, sir.

2 Q Do you know Mr. Jenkins or have any relationship
3 to him at all?

4 A No, sir.

5 Q The attorneys in this case are Mr. Hixson,
6 Mr. Richardson, Mr. Wilson and Ms. Williams; do you
7 have any connection to any of them?

8 A No, sir.

9 Q Okay. Wonderful. Did you have an opportunity to
10 review the witness list before you came in here?

11 A Yes, sir.

12 Q And did you know anyone on that list?

13 A I knew a name on the list, but I don't know if I
14 really know them.

15 Q Do you remember that name?

16 A Yes, sir.

17 Q What name is that?

18 A Rick Dusenbery.

19 Q Rick Dusenbery; am I saying that right?

20 A Yes.

21 Q And let's assume that is the Rick Dusenbery, how
22 do you know him?

23 A If it is the same person, it is through church
24 years ago.

25 Q Two years, five years ago, ten?

INDIVIDUAL JURY VOIR DIRE

1 A Probably three years ago.

2 Q Did y'all go to church together?

3 A No, just attended the same church.

4 Q Attended the same church?

5 A Yes.

6 Q Did you see each other outside of church?

7 A No, sir.

8 Q If you saw Rick Dusenbery today, would you
9 recognize him?

10 A No, sir.

11 Q And would you speak to him?

12 A Yes, sir.

13 Q Did you have a friendship or anything outside of
14 church?

15 A Only we were in choir practice together.

16 Q So you went to choir practice together and
17 attended church together?

18 A Yes, sir.

19 Q If he was a witness in this case, would that
20 affect your ability to be fair and impartial to both
21 sides?

22 A No, sir.

23 Q Now, one of the things we ask all of the jurors
24 to do is to accept the law that I give in the case and
25 apply it just as I give it, whether you agree with it

INDIVIDUAL JURY VOIR DIRE

1 or not; is that something you can do?

2 A Yes.

3 Q Prior to today, have you ever heard, read, seen
4 or do you have any knowledge about this case at all?

5 A Very little, but it was brought to my attention
6 by a neighbor -- we were planning on an outgoing girls
7 day out, and I mentioned I couldn't do it because I had
8 court, and she asked is this the case, and I said I
9 don't know, but she told me a little bit. So I don't
10 have a lot of details.

11 Q When was that conversation?

12 A Five days ago, six days ago maybe.

13 Q And you haven't done anything wrong.

14 A Yes, sir.

15 Q Tell me what it is she told you.

16 A We were planning a day for Monday, and I said I
17 can't, I have to go to court, and she said is it on the
18 upcoming murder, and I said I don't know. I really
19 don't know. She said let's hope it is not this case
20 because you might be there for a long time, and she
21 mentioned some of the details.

22 Q What details did she mention?

23 A She mentioned that it was the same thing I heard
24 in the news, the shooting and possible murder, and that
25 she heard rumors there would be a sequestered jury.

INDIVIDUAL JURY VOIR DIRE

1 Q At some point in time, did you see something on
2 the news about this case?

3 A No, sir.

4 Q I thought you just said --

5 A She did.

6 Q She did. But prior to her conversation with you,
7 you didn't know anything about this case at all?

8 A That's correct, yes, sir.

9 Q So here is my question -- first question is this:
10 Do you understand that whatever she told you is not
11 evidence of anything?

12 A Yes.

13 Q It is not proof of anything. You know, unless
14 she's on the witness list, you know she has no people
15 knowledge about the case; does that make sense?

16 A Yes.

17 Q So my question is this: Can you set aside what
18 she told you and base your decision on the evidence
19 that comes in this courtroom and the law that I give
20 you?

21 A Absolutely.

22 Q Do you understand this is a criminal case?

23 A Yes, sir.

24 Q That means that the State has the burden of
25 proving the defendant guilty beyond a reasonable doubt;

INDIVIDUAL JURY VOIR DIRE

1 do you understand?

2 A Yes, sir.

3 Q Defendants don't have to prove their innocence or
4 prove anything at all, or even say anything, because
5 the State has the burden of proof; does that make
6 sense?

7 A Yes, sir.

8 Q I'll give you two example questions, and I want
9 you -- we'll put you in different scenarios and see
10 what you think, okay?

11 A Okay.

12 Q The first is this. Let's imagine you are a juror
13 in a criminal case, just any criminal case. The
14 question is this: Are you capable of listening to the
15 evidence, determining what the facts are, applying the
16 law that I give you to those facts and returning a
17 verdict of either guilty or not guilty, depending on
18 the facts and circumstances?

19 A Yes, sir.

20 Q Before I give you the next example, I need to
21 explain two terms to you. The first term is called
22 "aggravating circumstances." And aggravating
23 circumstances are written laws, our code of laws, and
24 the law states that these specific circumstances make
25 murder cases worse or they aggravate the case; does

INDIVIDUAL JURY VOIR DIRE

1 that make sense?

2 A Yes.

3 Q The flip side is in that same book of laws, it
4 says these set of circumstances mitigate or reduce the
5 severity of the offense or the person's responsibility
6 in it, so they are mitigating circumstances; does that
7 make sense?

8 A Yes, sir.

9 Q You understand they are opposite each other; make
10 sense?

11 A Yes, sir.

12 Q So the second example question is I want you to
13 imagine you are a juror in a death penalty case, not
14 this case, just any case. Phase number one is already
15 over. What that means is that you and your fellow
16 jurors have already determined that the defendant in my
17 made-up case is guilty of murder. Murder is the
18 unlawful killing of another person with malice
19 aforethought, okay. That is over. The only issue left
20 for the jury to decide is what the appropriate
21 punishment is; do you understand where I am in my
22 example?

23 A Yes, sir.

24 Q Here is the question in that scenario: Could
25 you, depending upon the particular facts and

INDIVIDUAL JURY VOIR DIRE

1 circumstances of that case, that would include any
2 aggravation that may exist and/or any mitigation that
3 may exist, and the law that I give you, could you
4 listen to all of that and return a verdict of life
5 without parole, based on the facts and circumstances?

6 A Yes, sir.

7 THE COURT: What is that noise?

8 (A discussion was had off the record.)

9 Q (THE COURT) Do you need me to ask that again?

10 A No.

11 Q You answered yes?

12 A Yes.

13 Q Sorry, I got distracted.

14 The second part is could you listen to all of
15 that information, the facts and circumstances, the
16 mitigation and aggravation and the law, and return a
17 sentence of death based upon the facts and
18 circumstances?

19 A Yes, sir.

20 Q Would being on this jury pose a significant
21 health risk to you or any member of your immediate
22 family?

23 A No, sir.

24 THE COURT: I will turn you over to the
25 attorneys, and just answer their questions openly and

INDIVIDUAL JURY VOIR DIRE

1 honestly just like you have done with me. Thank you
2 for answering my questions.

3 EXAMINATION

4 BY MS. WILLIAMS:

5 Q Good morning, Ms. Daniels.

6 A Good morning.

7 Q I'm Brana Williams. It will be me, along with
8 Ralph Wilson, who will be representing our client, J.J.
9 Jenkins, in this trial.

10 As the judge said, we appreciate you being here
11 this morning, and we appreciate you talking to us.
12 Everybody has an opinion, and it is okay. We just
13 have to find out what it is. Because this is a
14 capital case, we actually get a chance to talk to
15 jurors. I know you marked that you previously served
16 on a civil jury?

17 A Yes, ma'am.

18 Q Here in South Carolina?

19 A No, ma'am.

20 Q Where was it?

21 A I honestly can't remember. I've been called, but
22 I don't remember if I have served here. I was on the
23 grand jury in Massachusetts a long time ago.

24 Q And do you think that being on the grand jury
25 would have any impact or create any preconceived

INDIVIDUAL JURY VOIR DIRE

1 notions of coming in here and being a juror here?

2 A No, ma'am.

3 Q That's one thing I wanted to ask you about. I
4 have another question. It looks like you answered that
5 you are retired, but you currently work at Food Lion?

6 A Retired from Food Lion. I'm not working any
7 longer.

8 Q And you have a degree in criminal justice and
9 sociology?

10 A Yes, ma'am.

11 Q Is Food Lion where you spent your career?

12 A For the most part. Since I have been down here,
13 yes, ma'am.

14 Q And when you were back in Massachusetts?

15 A We owned our own landscaping business. I got my
16 degree because that is what I was interested in, but my
17 husband and I owned our own landscaping business for 12
18 years, and when I moved down here, I pretty much have
19 been in healthcare. I started out with Conway Manor as
20 an activity assistant, and then Food Lion for the whole
21 time in various positions. I did retire from Food
22 Lion.

23 Q That's great. I was just making sure. As the
24 judge explained to you this is unusual because we kind
25 of have to talk about penalties, assuming guilt and

INDIVIDUAL JURY VOIR DIRE

1 skipping the first part.

2 A Right.

3 Q And you understand that if you are a part of this
4 jury, that if we get to sentencing, that will mean that
5 you and 11 others have decided that the defendant is
6 guilty of murder?

7 A Yes, ma'am, I understand that.

8 Q So when we get to the penalty phase and
9 sentencing phase, there is no doubt that the defendant
10 is guilty of murder beyond a reasonable doubt, okay?

11 A Yes, ma'am.

12 Q And you marked a "C" on your A, B, C form?

13 A That's correct.

14 Q And so are you telling us that even though this
15 is a murderer, that you are quite willing to consider
16 life without parole?

17 A I'm willing to consider whatever sentence.

18 Q There is not a right or wrong answer. I'm not
19 trying to put you on the spot, and I'm sorry this is
20 confusing. I know this is unusual. It's okay, because
21 it is intimidating to be in the chair. I just want to
22 be sure we understand that you understand that what
23 we're asking you is if you are on the jury, as part of
24 a jury that has already decided that the person is
25 definitely guilty of murder, that is the intentional

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1 murder of another with malice aforethought, guilty
2 beyond a reasonable doubt, that you really would
3 consider life without parole after you heard the
4 aggravation and/or mitigation and the law that the
5 judge gives you?

6 A Yes, I would consider it.

7 Q And you would equally be able to consider a death
8 sentence after you heard everything?

9 A Yes, ma'am.

10 Q And you understand that South Carolina never
11 requires a death penalty?

12 A I did not know that.

13 Q That is one of the interesting things we want to
14 talk about.

15 A I did not know that.

16 Q Well, yeah. Because in South Carolina -- the
17 judge will tell you our law is completely satisfied
18 with a life sentence, but you, as a jury and part of
19 the jury pool, have to be able to consider what you
20 consider to be appropriate and make your individual
21 moral judgment and render a verdict.

22 A Yes, ma'am.

23 Q And then the other things I want to ask you is
24 that if it were coming to where you really decided that
25 death was appropriate, one of the other things our law

INDIVIDUAL JURY VOIR DIRE

1 requires is that you sign a form that says, yes, this
2 is my verdict; would you be able to do that?

3 A Yes, ma'am.

4 MS. WILLIAMS: Beg the Court's indulgence for a
5 moment.

6 (A brief pause in the proceedings.)

7 MS. WILLIAMS: Thank you, Ms. Daniels.

8 MR. RICHARDSON: No questions for Ms. Daniels.
9 We believe she's qualified.

10 MS. WILLIAMS: We agree.

11 THE COURT: All right. I'll find you qualified
12 in this case. Just because you are qualified doesn't
13 mean you will be on a jury. I'll put together a group
14 of people and bring you back and then choose who is on
15 and who is off at that point in time. Starting at
16 that point, after 6:00, you will call back this number
17 and it will have a message for you. It may say call
18 back in tomorrow, may say come back tomorrow, I don't
19 know because I don't know how many jurors we'll get to
20 today.

21 JUROR: Yes, sir.

22 THE COURT: So when you are called back up here,
23 bring a suitcase with week's worth of clothes,
24 toiletry items, any medicines, anything you want to
25 read. Don't bring a cell phone. Don't bring a tablet

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1 or computer or anything like that. Write down any
2 numbers that you may need to have access to. Most
3 people don't memorize numbers anymore, so have your
4 primary care physician, any family members or things
5 where if we had a situation, we could get in contact
6 with them.

7 When you come back up, leave all of that stuff in
8 your car. Just because you come back, doesn't mean
9 you are selected. At that point in time, if you are
10 selected, we'll want you to have your things with you,
11 and if you are not, you'll be able to get in your car
12 and go home. So between now and then, do not talk to
13 anyone about the case. Do not let the neighbor,
14 especially, talk to you about the case. Do not watch
15 any local news about the case, and do not do your own
16 research or say I need to figure this out before we
17 start. You really don't know anything about this
18 case, and that is exactly how I want you when you come
19 back; follow me?

20 JUROR: Yes, sir.

21 THE COURT: So head out the aisle and back to the
22 left-hand corner. Thank you.

23 (The juror exits the courtroom.)

24 (The juror enters the courtroom.)

25 (TERENCE BRISTER, having been duly sworn,

INDIVIDUAL JURY VOIR DIRE

1 testified as follows:)

2 VOIR DIRE OF JUROR 40

3 BY THE COURT:

4 Q You are Mr. Brister?

5 A Yes, sir.

6 Q Do you understand you are under oath?

7 A Yes, sir.

8 Q When you left here the other day, I said do not
9 talk about the case, do not watch any news media about
10 the case and do not do any research on the case; did
11 you follow those instructions?

12 A Yes, sir.

13 Q We'll ask you some questions. I want you to be
14 open, honest and candid. This is not about attacking
15 you or your views. This is about us figuring out what
16 your views really are, okay? If you don't understand
17 something, let us know and we'll ask it again.

18 A Okay.

19 Q In this case the State is seeking the death
20 penalty. Because of that, I'm required to break the
21 trial into two separate parts. The first part is where
22 the jury determines whether or not Mr. Jenkins is
23 guilty or not guilty. If the jury finds Mr. Jenkins
24 not guilty, the case is completely over. If the jury
25 finds Mr. Jenkins guilty, we move on to the sentencing

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1 phase, or at that point in time it is the jury's
2 responsibility to determine what is the appropriate
3 sentence: Either life without the possibility of
4 parole, or death. Does that framework of the case make
5 sense to you? Just because we're talking about
6 penalties doesn't mean Mr. Jenkins has done anything.
7 He is presumed to be innocent under the law; do you
8 understand that?

9 A Yes, sir.

10 Q Do you know Mr. Jenkins or have any connection to
11 him at all?

12 A No, sir.

13 Q The attorneys in this case are Scott Hixson,
14 Jimmy Richardson, Ralph Wilson and Brana Williams; do
15 you have any connection to any of them at all?

16 A No.

17 Q You were given a witness list prior to coming in
18 here; did you see anyone on the list that you know or
19 you think you know.

20 A No, sir.

21 Q One of the things we will ask you to do is this.
22 We'll ask you to listen to the law and apply the law
23 and accept the law as I give it to you and not put your
24 own ideas into the law; is that something you can do?

25 A Yes.

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1 Q Prior to today, have you ever seen, heard, read
2 or know anything about this case at all?

3 A No.

4 Q So when I told you the allegations on Monday,
5 that was brand new to you?

6 A Yes.

7 Q So can you base your decision in this case on the
8 evidence that comes in the case and the law I give you?

9 A Yes.

10 Q Do you understand this is a criminal case?

11 A Yes.

12 Q That means the State has the burden of proving
13 the defendant guilty beyond a reasonable doubt.
14 Defendants don't have to prove their innocence or prove
15 anything at all; do you understand that?

16 A Yes.

17 Q We'll switch gears. I will give you two
18 different examples. The first example is this. Could
19 you, as a juror in a criminal case, could you sit
20 there, listen to the evidence, determine what the facts
21 are, apply those facts to the law that I give you and
22 render a verdict of either guilty or not guilty, based
23 upon the facts and circumstances?

24 A Yes.

25 Q I need to explain two terms to you. One is

INDIVIDUAL JURY VOIR DIRE

1 called "aggravating circumstances." Aggravating
2 circumstances are a set of laws that our legislature
3 has said these set of circumstances make murder cases
4 worse or they aggravate the case; does that concept
5 make sense to you?

6 A Yes.

7 Q The flip side, in that same code of laws, is
8 there are mitigating circumstances. Mitigating
9 circumstances mitigate or reduce the severity of the
10 offense or the person's role in the offense; does that
11 concept of law make sense to you?

12 A Yes.

13 Q So the last example question is this. Let's
14 imagine that you are a juror on a death penalty case,
15 not this one, just any one. You and your other 11
16 jurors have already determined that the defendant is
17 guilty of murder. So the State -- in your mind, the
18 State already has proven beyond a reasonable doubt that
19 the defendant is guilty of murder. The only decision
20 left for the jury is what is the appropriate sentence;
21 do you follow me where I am in my example?

22 A Yes.

23 Q So the question is this: Could you in that
24 scenario, depending upon the particular facts and
25 circumstances of that case, including any aggravation

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1 or any mitigation that is presented, and the law that I
2 give you, could you listen to all of that and could you
3 return a sentence of life without the possibility of
4 parole, based upon the facts and circumstances?

5 A Yes.

6 Q Could you return a sentence of death based upon
7 the facts and circumstances?

8 A Yes.

9 Q If you were on this jury, would it pose any kind
10 of health risk to you or a member of your immediate
11 family?

12 A No, sir.

13 THE COURT: I'll let the attorneys ask you
14 questions. Be open and honest and candid with us.

15 EXAMINATION

16 BY MR. WILSON:

17 Q How are you doing?

18 A Doing good. How about you?

19 Q Pretty good, thank you. I need to ask you a few
20 questions, if I can, please, sir. When you were back
21 in the room earlier, they gave you a form to fill out.
22 You checked "A"? You have to respond so she can take
23 it down.

24 A Yes.

25 Q And you read the other two types of jurors on

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1 there?

2 A Yes, sir.

3 Q And based on your reading and understanding of
4 this form, you are a type A?

5 A Yes, sir.

6 Q And is that -- let me read it to you to make sure
7 we're on the same page. A type "A" juror says, I'm one
8 that once the crime of murder -- and murder is the
9 intentional killing of another person without any
10 justification -- once that has been proved by the State
11 beyond a reasonable doubt, and while in the sentencing
12 phase considering punishment, I feel that the only --
13 that I must give the death penalty in each and every
14 case; is that your view?

15 A Yes, sir.

16 Q So once the State has proven a murder beyond a
17 reasonable doubt to you, to your satisfaction beyond a
18 reasonable doubt, once they have proven that, your
19 opinion is that death is the only appropriate sentence?

20 A Yes, sir.

21 Q And is that something you have felt before you
22 came in here today?

23 A Yes, sir.

24 Q And is that based on any moral or religious
25 belief, or that is just your opinion?

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1 A Just my opinion?

2 Q Is there anything I can say to talk you out of
3 the opinion?

4 A Probably not.

5 Q Is there anything the State can say that might
6 change your mind on what your opinion is?

7 A No.

8 Q His Honor asked you questions, and you indicated
9 to him that you could follow instructions, but you
10 really can't vote for life once that murder has been
11 proven?

12 A Yes, sir.

13 MR. WILSON: No questions.

14 MR. HIXSON: Thanks for coming and being here. I
15 don't have any additional questions.

16 Your Honor, based on the responses, we don't
17 believe this juror is qualified for this particular
18 case.

19 MR. WILSON: Not qualified.

20 THE COURT: All right. Mr. Brister, I'll find
21 you unqualified. No personal attack, that is just the
22 rules that are in place at this time. You are excused
23 from your service in this case. You do not need to
24 call back or come back. You are completely done.
25 Thank you for being open and honest, and have a

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1 wonderful day.

2 (The juror exits the courtroom.)

3 THE COURT: Let's take a little break.

4 (A recess was taken.)

5 THE COURT: All right. We're ready.

6 (DONALD ECKLER, having been duly sworn,
7 testified as follows:)

8 THE COURT: This is No. 100.

9 VOIR DIRE OF JUROR 100

10 BY THE COURT:

11 Q Thanks for being here early.

12 You understand you are under oath?

13 A Yes.

14 Q When you left me on Monday, some of the things I
15 said are don't talk about the case, don't do any
16 research about the case and don't watch any news media
17 about the case; did you follow those instructions?

18 A Yes.

19 Q We'll ask you a few questions. No one is trying
20 to challenge you or your views, you just need to
21 understand what your views are. If you need us to
22 repeat any questions, just let us know.

23 A Okay.

24 Q In this case, the State is seeking the death
25 penalty. What that means is I'm required to break the

INDIVIDUAL JURY VOIR DIRE

1 trial into two separate parts. The first part --
2 during the first part, the jury will determine whether
3 or not Mr. Jenkins is guilty or not guilty of the
4 crimes that have been charged; do you understand that?

5 A Yes.

6 Q If he is found not guilty, the case is over, but
7 if he is found guilty, then we move on to the second
8 phase of the trial, known as the "penalty" or
9 "sentencing phase." During that portion, the jury
10 determines whether or not the appropriate sentence is
11 life in prison without the possibility of parole, or
12 death. Do you understand the framework I just
13 explained?

14 A Yes.

15 Q Just because we're talking about penalty, that
16 doesn't mean Mr. Jenkins is guilty of anything. He is
17 presumed innocent under the law; do you understand
18 that?

19 A Yes.

20 Q Are you related to Mr. Jenkins in any way, shape
21 or form or have any connection to him at all?

22 A No.

23 Q Do you know either Mr. Scott Hixson, Jimmy
24 Richardson, Ralph Wilson or Ms. Brana Williams at all?
25 Those are the lawyers in the case.

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1 A No.

2 Q Did you have an opportunity to review the witness
3 list?

4 A Yes.

5 Q And did you see anyone's name you know on that?

6 A No.

7 Q One of the things I'll ask all of the jurors to
8 do in this case is to accept the law and apply the law
9 that I give them, whether they agree with it or not; is
10 that something you could do?

11 A Yes.

12 Q Prior to today, have you ever heard, read or seen
13 or know anything about this case at all?

14 A No.

15 Q So when I told you about the allegations on
16 Monday, was that the first you had ever heard of it?

17 A Yes.

18 Q Can you base your decision in this case on the
19 evidence that comes in this courtroom and the law that
20 I give you?

21 A Yes.

22 Q Do you understand that this is a criminal case?

23 A Yes.

24 Q That means that the State of South Carolina has
25 the burden of proving the defendant guilty beyond a

INDIVIDUAL JURY VOIR DIRE

1 reasonable doubt. Defendants never have to prove their
2 innocence or present any evidence at all; do you
3 understand that?

4 A Yes.

5 Q We'll switch gears. I'll ask you two different
6 examples. The first one is this. Imagine you were a
7 juror in a criminal case, any criminal case, could you
8 listen to the evidence, decide what the facts are and
9 then apply those facts to the law and render a verdict
10 of either guilty or not guilty?

11 A Yes.

12 Q The first term I want to explain is called
13 "aggravating circumstances." Aggravating circumstances
14 are circumstances which our legislature has determined
15 make murder cases worse, that is, they aggravate the
16 case; does that make sense?

17 A Yes.

18 Q The flip side is "mitigating circumstances." In
19 that same book of laws, the legislature determined that
20 certain circumstances reduce the set of murder cases or
21 the person's responsibility in the case; does that make
22 sense?

23 A Yes.

24 Q So here is your second example. Imagine you are
25 a juror in a death penalty case, not this case just any

INDIVIDUAL JURY VOIR DIRE

1 case.

2 A Yeah.

3 Q You and the other jurors have already determined
4 that the defendant is guilty of murder. So part one is
5 over; does that make sense?

6 A Yes.

7 Q So the only decision left for you is what is the
8 appropriate punishment; do you understand where I am in
9 my example?

10 A Yes.

11 Q So here is the question: Could you, in that
12 scenario, depending upon the facts and circumstances,
13 including any aggravation and/or any mitigation and the
14 law I give you, could you listen to all of that and
15 return a verdict of life in prison without the
16 possibility of parole?

17 A Yes.

18 Q Could you return a verdict of death based upon
19 the facts and circumstances?

20 A Yes.

21 Q Would you -- if you were on this jury, would it
22 pose a significant health risk to you or any member of
23 your family?

24 A No.

25 THE COURT: I'll let the attorneys ask you

INDIVIDUAL JURY VOIR DIRE

1 questions. Be open and honest with them.

2 EXAMINATION

3 BY MR. WILSON:

4 Q How are you?

5 A Good.

6 Q Ms. Eckler, I noticed that when you were back in
7 your jury room earlier they gave you a form to fill out
8 and asked you what type of juror that you were?

9 A Yeah.

10 Q And you checked "A" juror?

11 A Yeah.

12 Q Did you read the other two?

13 A Yeah.

14 Q And you found that you are more compatible with
15 "A"?

16 A Yeah.

17 Q And "A" says, I'm one who once the crime of
18 murder -- and murder is the intentional killing of
19 another person with what we call "malice aforethought,"
20 and there is no justification for the murder, for the
21 killing, that would be murder.

22 A Yeah.

23 Q And you said, I'm one who once the crime of
24 murder has been proved by the State beyond a reasonable
25 doubt -- once the State has proved it beyond a

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1 reasonable doubt -- and while in the sentencing phase
2 considering punishment, feels that he or she must give
3 the death penalty for that murder; is that what you --
4 your understanding?

5 A Yeah.

6 Q And is that how you feel?

7 A Yeah.

8 Q And is that based on some religious or moral
9 belief?

10 A I think the punishment should match with the
11 crime.

12 Q So in your opinion, once the State proves beyond
13 a reasonable doubt that this was a murder, intentional
14 killing of another person without justification, then
15 in your mind, the only appropriate sentence would be
16 death?

17 A Yes.

18 Q And that is a belief you had for awhile?

19 A Yes.

20 Q That is not something you just decided today?

21 A No.

22 Q And you are not going to change that opinion?

23 A No.

24 Q It is your opinion you are entitled to your
25 opinion, I just want to know what the opinion is. Is

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1 that how you feel?

2 A Yeah.

3 MR. WILSON: Thank you, sir.

4 MR. HIXSON: We have no questions. I don't
5 believe he is qualified for this case.

6 MR. WILSON: Not qualified.

7 THE COURT: We'll excuse you from the service in
8 this case. You can exit through the back door. Thank
9 you very much for being here and willing to serve.

10 (The juror exits the courtroom.)

11 (ANDREA DAVIS, having been duly sworn,
12 testified as follows:)

13 VOIR DIRE OF JUROR 81

14 BY THE COURT:

15 Q Are you Andrea Davis?

16 A Yes, sir.

17 THE COURT: This is Juror 81. 81. 81.

18 Q You are under oath; you understand that?

19 A Yes, sir.

20 Q You have to speak up a whole lot. Get closer to
21 the mic. There you go.

22 When you left here, I said don't discuss the case
23 with anyone, do not do any research on the case and do
24 not watch any news media on the case; did you follow
25 all of those instructions?

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1 A Yes, Your Honor.

2 Q We're going to ask you questions. We want you to
3 be open, honest and candid with us. This is not about
4 challenging you or challenging your views, this is
5 about us figuring your views. If you need to us repeat
6 a question, let us know.

7 This is a death penalty case. What that means is
8 that I'm required, by law, to break this trial into
9 two separate parts. The first part is where the jury
10 determines whether or not Mr. Jenkins is guilty or not
11 guilty of the crimes charged. If he is found not
12 guilty, then the case is over, done. But if he's
13 found guilty, we move on to the second phase; this is
14 known as the "penalty" or "sentencing phase." In that
15 part of the trial, it is the jury's responsibility to
16 determine whether the appropriate sentence is death or
17 life in prison without parole; does that framework
18 make sense to you?

19 A Yes, sir.

20 Q Now, just because we're talking about penalty
21 doesn't mean that Mr. Jenkins has done anything. He is
22 presumed to be innocent under the law; do you
23 understand that?

24 A Yes, sir.

25 Q Do you know Mr. Jenkins or have any relationship

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1 with him in any way, shape or form?

2 A No, sir.

3 Q Do you know Mr. Hixson or Mr. Richardson or Mr.
4 Wilson or Ms. Williams in any way, shape or form?

5 A No, sir.

6 Q Did you review the witness list prior to coming
7 in here?

8 A Yes, sir.

9 Q And you said that you know Shirley Huggins?

10 A Yes, sir. My kids went to school there.

11 Q Went to school where?

12 A Green Sea Floyd.

13 Q How do you know her?

14 A Only her being the principal.

15 Q So she was the principal of the school? Did you
16 have any relationship with her outside of school?

17 A No, sir.

18 Q If she was a witness in this case, would it
19 affect your ability to be fair and impartial to both
20 sides?

21 A No, sir.

22 Q Something we ask all the jurors to do is accept
23 the law and apply the law as I give it to you
24 without -- accept the law and apply the law as I give
25 it to them even though they may not agree with the law;

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1 is that something you can do?

2 A Yes, sir.

3 Q Prior to today, have you ever heard, read, seen
4 or do you know anything about this case at all?

5 A Very little.

6 Q And tell me what the very little is.

7 A I've just heard that there was a shooting on 905
8 at Sunhouse.

9 Q And what is your source of that information?

10 A Just friends.

11 Q So people in the community?

12 A Yes, sir.

13 Q Is this back when the incident allegedly
14 occurred, or closer to now?

15 A Back when it happened.

16 Q Do you live near the store?

17 A Not really. I live in Green Sea.

18 Q Do you ever go to that store?

19 A No, sir.

20 Q Are you willing to set aside anything you heard
21 and base your evidence from the courtroom?

22 A Yes, sir.

23 Q Do you understand this is a criminal case?

24 A Yes, sir.

25 Q That means the State has the burden of proving

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1 Mr. Jenkins guilty beyond a reasonable doubt. He
2 doesn't have to prove anything. He doesn't have to say
3 anything because he is presumed to be innocent; do you
4 understand that?

5 A Yes, sir.

6 Q I'll give you two examples, and so follow along
7 with me. The first example is this: Could you, in a
8 criminal case, listen to the evidence, determine what
9 the facts are and apply them to the law I give you and
10 find somebody either guilty or not guilty?

11 A Yes, sir.

12 Q I need to explain two different terms. One is
13 called "aggravating circumstances" and one is
14 "mitigating circumstances." Aggravating circumstances
15 are circumstances that when accompanying a murder case,
16 they aggravate or make the murder case worse; does that
17 make sense?

18 A Not quite.

19 Q So aggravating circumstances are laws. So in our
20 book of laws, there is a statute that says these
21 certain circumstances aggravate or make a murder case
22 worse; does that make sense?

23 A Yes, sir.

24 Q In that same book of laws, there is a set of
25 circumstances called "mitigating circumstances" that

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1 the law says reduces or mitigates the severity of a
2 murder charge and/or the person's responsibility in the
3 offense; does that make sense?

4 A Yes, sir.

5 Q Second example question. I want you to imagine
6 you are a juror in a death penalty trial -- not this
7 one, just an imaginary one; does that make sense?

8 A Yes, sir.

9 Q You and your fellow jurors already have
10 determined the defendant is guilty beyond a reasonable
11 doubt. So phase one is over, and we're now in phase
12 two where the decision is what is the appropriate
13 sentence; do you understand where I am in my examples?

14 A Yes, sir.

15 Q So the question is this. Could you, depending
16 upon the particular facts and circumstances of that
17 case, including any aggravating and mitigating
18 circumstances and the law that I give you at the end of
19 the case, could you listen to all of that and return a
20 sentence of life in prison without the possibility of
21 parole, based upon the facts and circumstances?

22 A Yes, sir.

23 Q Could you listen to all of that and return a
24 sentence of death based upon the facts and
25 circumstances?

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1 A Yes, sir.

2 Q And if you were on the jury, would it pose a
3 significant health risk to you or any member of your
4 immediate family?

5 A No, sir.

6 THE COURT: I'll let the attorneys ask you
7 questions. I want to say thank you for answering my
8 questions.

9 EXAMINATION

10 BY MS. WILLIAMS:

11 Q Good morning. I'm Brana Williams and it will be
12 me and Ralph Wilson who are representing our client,
13 J.J. Jenkins in this trial.

14 A Yes, ma'am.

15 Q And as the judge said, it is an unusual case. It
16 is capital, and the lawyers and judge get to talk to
17 you as a juror, and you get to talk. This is a
18 complete no-judgment zone. We just kind of need to
19 find out what your thoughts are and where you are in
20 your thinking, okay?

21 A Yes, ma'am.

22 Q Now, I want to ask you a couple of things about
23 that questionnaire, that piece of paper you filled out.
24 One thing you sent in -- and I believe you told us
25 Monday, if I'm not mistaken -- is that your husband is

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1 in the National Guard and assigned to Missouri?

2 A Yes, ma'am.

3 Q And you just happened to be back home and found
4 out about this jury duty, correct?

5 A Yes, ma'am. I had a doctor's appointment.

6 Q And then you are -- you have been living in
7 Missouri?

8 A Yes, ma'am.

9 Q How long?

10 A Since December.

11 Q And when are his orders to end?

12 A June.

13 Q And after June, what will happen?

14 A He'll move back home.

15 Q But until then, you have been out there with him?

16 A Yes, ma'am.

17 Q Do you work otherwise?

18 A No, ma'am.

19 Q And let me ask you about that. If you are picked
20 on this jury and are a part of this, one of the things
21 is we're going to sequester you, you'll be here. Tell
22 me about being away and not being able to go back to
23 Missouri to be with him for that amount of time; do you
24 think that would make it difficult for you or impair
25 you to really participate and truly evaluate in the

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1 trial?

2 A No, ma'am. I just would miss his graduation.

3 Q Tell me about that.

4 A He graduates in June.

5 Q Your husband?

6 A Yes, ma'am.

7 Q He is in school?

8 A Yes, ma'am.

9 Q Where does he -- what is his graduation?

10 A It is part of his -- he got promoted, so it is
11 part of that.

12 THE COURT: So what is he in Missouri for? I
13 know for the National Guard, but there is like sniper
14 school, drill sergeant.

15 JUROR: He got promoted to a warrant officer, so
16 he had to do extra schooling.

17 THE COURT: Take classes and schooling and
18 training?

19 JUROR: Yes, sir.

20 THE COURT: And at the end of the term, they will
21 have a graduation ceremony?

22 JUROR: Yes, sir.

23 THE COURT: Am I saying that right?

24 JUROR: Yes, sir.

25 THE COURT: They go into these schools, like

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1 sniper school or drill sergeant school, and when they
2 finish them, they have a little mini graduation
3 ceremony for completing the school and saying good job
4 and things?

5 JUROR: Yes, sir.

6 Q (MS. WILLIAMS) And he is graduating from warrant
7 school?

8 A Well, he already graduated. He just had to do
9 additional schooling on top of that.

10 Q So what is his job going to be?

11 A He's a federal technician, and then he works with
12 the National Guard also.

13 Q I'm not asking it correctly. You said he's
14 graduating from warrant school; is that like warrant,
15 like security?

16 A He is -- he's a non-commissioned officer in the
17 National Guard now.

18 Q And then in the Guard, he does what?

19 A He is a maintenance tech.

20 Q Okay.

21 A If that makes sense.

22 Q Yes. I am just thinking about security,
23 arresting, some type of serving papers?

24 A Oh, no. No, ma'am. It just makes him promoted
25 to a higher rank.

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1 Q Great. That is what I was trying to figure out,
2 because of the term.

3 Now, another thing, and I don't want to upset
4 you, but you talked in here that your brother was
5 arrested and charged with -- for drugs and domestic
6 violence?

7 A Yes, ma'am.

8 Q When was that?

9 A Six years ago.

10 Q Where was that?

11 A He since has passed away.

12 Q I'm so sorry. Was that here in Horry County?

13 A No. It was in Georgia.

14 Q And that was in Question No. 37. Then No. 41,
15 you answered, My children and my mom were witness to my
16 brother attacking me?

17 A Yes, ma'am.

18 Q And I don't mean to drag up bad memories, but
19 tell me about that.

20 A Yes, ma'am. It was -- my daughter was going to
21 get married, and we dealt with my brother all night
22 trying to calm him down, because he was on drugs. And
23 we were trying to calm him down, and he got in my
24 daughter's face. I was trying to get him out, and when
25 I did, he proceeded to choke me, and my daughter and

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1 mom tried to get him off of me. They had to call the
2 law to get him off of me.

3 Q But they were able to do that?

4 A Yes, ma'am.

5 Q And that is what he was arrested with the drugs
6 and domestic violence?

7 A Yes, ma'am.

8 Q Did he go to jail?

9 A Yes, ma'am.

10 (A brief pause in the proceedings.)

11 Q (MS. WILLIAMS) Ms. Davis, I have one more about
12 this questionnaire. You said you came back to see
13 your doctor because of medicine?

14 A Yes, ma'am.

15 Q And, I'm sorry, this is personal and part of what
16 the judge brought us back individually is because of
17 the nature of the case. We have to get in depth and
18 take accurate records about what we are talking about.
19 So can you tell me about that medication and what it is
20 and what it is for normally?

21 A I take -- well, that is only part of the medicine
22 I take, but because of what -- they wanted to know if
23 it affects my concentration. I take it because I'm
24 bipolar and I have PTSD.

25 Q I'm sorry to hear that. Tell me about that. I

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1 don't know how to say it other than just tell me.

2 A The circumstances was from my childhood because I
3 had a -- I call him father -- and he put us through a
4 lot when we were younger. Some of the stuff I went
5 through when I got older with my brother and stuff, and
6 I had other incidents when I got older.

7 Q And I'm sorry. I'm sorry I have to ask about
8 this in open court.

9 A That's okay.

10 Q And so you take?

11 A I take Trazodone, Abilify and Topamax.

12 Q What is Topamax?

13 A Anti-seizure medication, but it is for bipolar
14 too.

15 Q And you're bipolar. Is it like A, B?

16 A Bipolar Two.

17 Q Do you think -- and I have to ask you this --
18 with the medication and the PTSD and diagnosis and
19 stuff, do you believe that in some way that would make
20 it very difficult or impair you or embarrass you --
21 basically make it extremely difficult to be a part of
22 the jury and the length? As the judge said, we have
23 part one we get through, and then assume it's guilty,
24 we'll get to part two. We do the guilty phase, guilty
25 and not guilty, and then sentencing phase.

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1 A Yes, ma'am.

2 Q Tell me if you think -- and it is okay -- but do
3 you think your medication and your diagnosis and that
4 stuff would impair you in any way, make it too
5 difficult?

6 A I don't want to say, yes. I do have bad nerves,
7 and I'm not going to lie about that.

8 Q We don't want you to -- it's okay. That is why
9 I'm asking this, so you can tell us this. Because,
10 normally, you wouldn't get to tell us these things.

11 A Yes, ma'am. And it tends to elevate my blood
12 pressure sometimes when my nerves get too bad, but I
13 don't want to say it would affect me because, honestly,
14 I don't know unless I'm in a certain situation.

15 Q Let me pose it to you this way. If you are put
16 on this jury and you get to a point, as the judge said
17 in his example, you are on a jury and you and 11 other
18 people have voted guilty beyond a reasonable doubt of
19 murder, which is the intentional killing of another --
20 it is the killing of another with malice aforethought
21 basically, no justification, and then we get to the
22 sentencing, and the two options for sentencing -- and
23 you will have to assume that you are on the jury that
24 has found this person guilty of murder, and that the
25 only two options are death or life without the

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1 possibility of parole. So it is an intention -- I
2 mean, it is a heavy-duty situation. I want you to be
3 honest with us about what you think about that and how
4 it may or may not affect you.

5 A Yes, ma'am. Well, I'm not going to say it might
6 not get to me. The thing is, like, I don't know if
7 anyone realizes, but when a group is in here, I had to
8 stand and just tell what I do for a living and what my
9 husband does, I had a hard time getting it out because
10 I can't talk in a big crowd.

11 Q Very stressful?

12 A Yes, ma'am. I have a fear of talking in front of
13 people.

14 Q Do you think that that fear of talking would
15 interfere with your ability, if you are a part of this
16 jury, to be able to truly talk to your 11 fellow
17 jurors, express your opinion and talk about it? And
18 let me say something else. When -- if you are a part
19 of this jury and you get to part two, then each
20 individual juror has to make an individual moral
21 judgment about is life appropriate, or is death
22 appropriate. You have to talk to the other jurors
23 about that. Do you think that -- I mean, tell us what
24 you think about that scenario.

25 A I can talk to a small group, if it is just a

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1 small group. A big group, I have trouble with.

2 Q The other thing that will happen is if you are
3 part of this, and you are on this jury and you get to
4 part two and it is your individual moral judgment that
5 death is appropriate, you have to sign a piece of paper
6 that says, yes, I vote for death; do you think you
7 could do that?

8 A Yes, ma'am, if I had to.

9 Q And in court, if we ask for polling, you have to
10 answer, yes, that is my signature; do you think you can
11 do that?

12 A Yes, ma'am.

13 MS. WILLIAMS: Beg the Court's indulgence.

14 (A brief pause in the proceedings.)

15 Q (MS. WILLIAMS) I don't mean to beat a dead
16 horse. You said a large group. The group with you as
17 part two, that is 12 people, is that an okay size
18 group for you?

19 A Yes, ma'am.

20 Q You can deal with that?

21 A Yes, ma'am. Just real big groups.

22 MS. WILLIAMS: That is --

23 Q (MS. WILLIAMS) I don't know if I told you that
24 in South Carolina -- I want to be sure you are
25 aware -- the judge will tell you the law, but I want

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1 to be sure you are aware that in South Carolina death
2 is never required, okay. The State of South Carolina,
3 the Solicitor, judge, everybody is perfectly happy
4 with a vote for life, but a vote for death is an
5 individual moral judgment, but you are never required
6 to do that, okay?

7 A Yes, ma'am.

8 Q All right.

9 MS. WILLIAMS: That is all. Thank you, Your
10 Honor.

11 MR. HIXSON: Thank you, Your Honor.

12 EXAMINATION

13 BY MR. HIXSON:

14 Q How are you?

15 A Good. How are you?

16 Q I want to continue the conversation with what
17 Ms. Williams was talking about just for a little bit,
18 and let's focus on a couple of issues: PTSD and
19 bipolar. Have you been under a doctor's care for a
20 period of time or a psychiatrist's care?

21 A I'm still under it.

22 Q About how far -- I'm not going to pry hard at
23 all --

24 A That is fine.

25 Q How far back did you first become under medical

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1 supervision for that?

2 A I've been under the psychiatrist since 2017.

3 Q And then you mentioned, basically, that you have
4 been through a lot. You mentioned that. I'm going to
5 ask yes or no questions there. Was that because you
6 were a victim in a situation or accused of things, what
7 generally is the nature of what "been through a lot"
8 means?

9 A I've been a victim of some stuff and just dealing
10 with loss through my family and stuff.

11 Q Loss of life situations, family members passing
12 on?

13 A Well, like, just recently before my brother
14 passed away, one of my brother's girlfriends decided to
15 hang herself in my mother's yard, which was traumatic.

16 Q Understandably.

17 A Then I had to -- beginning of last year, I was
18 held against my will for a whole week before anyone
19 could find me.

20 Q Where did that occur?

21 A In Georgia. I went to see a friend and somebody
22 decided they liked me and decided to keep me against my
23 will for a week and away from my family and took my
24 phone and car and everything, so I've been through....

25 Q Yes, ma'am. Yes, ma'am. I have to kind of

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1 generally characterize things. The questions I want to
2 ask you specifically about are as a juror, your duty to
3 deliberate and talk to other folks about things, to not
4 go along with the crowd. That is kind of the general
5 idea, because we're entitled to a -- everyone is
6 entitled to fair deliberations and be able to share
7 ideas and not feel like they are not allowed to or, God
8 forbid, substitute their judgment for someone else's
9 because it is 11 to 1, and I better go with the crowd
10 because I'm afraid of deliberating. When you talk
11 about stressful environments that make you want to
12 close in, which is entirely understandable, and I'll
13 preface this by saying we talked to a lot of folks, and
14 we're not picking on you, we're trying to sort out
15 folks to see that it is a fair trial, that is why your
16 honesty is exactly what we want, not assumptions or
17 anything like that.

18 So the sentencing phase of a death penalty is
19 about the most stressful environment, and that is
20 where all the issues are joined and that discussion
21 among people occur. Historically, have you had --
22 with your PTSD or stressful diagnosis and bipolar
23 diagnosis, have you had problems dealing with that and
24 having to be medicated for that, if the stress gets
25 intense?

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1 A Well, that is why I take the medicine I take now,
2 because I don't do well with a lot of stuff. I have to
3 take it on a daily basis.

4 Q Let me ask this. Do you feel in any way that
5 your medical situation would impair your ability to
6 deal with stress after deliberations that it may cause
7 a problem and impair your ability to not be stressed
8 out in that situation?

9 A Well, like I was explaining to this lady, it is
10 hard for me to say certain things unless I'm in that
11 situation. To be honest, knowing that I was flying
12 back to do this, I've never been on a jury before, I
13 ended up at the hospital because my blood pressure went
14 so high, I'm not going to lie.

15 Q Let me make sure I understand. In preparation
16 for reporting for jury duty, that caused you to be
17 hospitalized?

18 A I had to go to the hospital because it went up so
19 high, because I didn't know what to expect in these
20 types of things.

21 Q Reporting for jury duty caused enough stress that
22 it impaired your ability to show up for jury duty; is
23 that right?

24 A Yes, sir.

25 THE COURT: Let's take a break. I'll let you

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1 step outside. There is a chair, hang out right there
2 and I'll be right back with you.

3 (The juror exits the courtroom.)

4 MS. WILLIAMS: Your Honor, we submit this juror
5 is not qualified to serve. I think that given her
6 medication, given her anxiety as she said, she
7 actually had to go to the hospital just for fear of
8 reporting. She was a victim, held for a week. I just
9 think her ability to truly mitigate and deliberate and
10 being a part of the system is impaired. I don't think
11 she's qualified.

12 MR. HIXSON: I concur. I think that final answer
13 was clarified to give guidance to Your Honor.

14 THE COURT: And this is my opinion on this young
15 lady. I think she is a good citizen and she is a good
16 member of our community and she comes in here with the
17 right motives and with the right intent and her heart
18 is in the right place of wanting to be here and
19 willing to serve, but I think she has suffered through
20 so much in her life from being the victim of a
21 kidnapping for a week, to an alcoholic father, to a
22 brother who physically assaulted her and put in
23 custody, to the brother's girlfriend hanging herself
24 in her mother's front yard to the brother recently
25 dying, to being away from her husband, there is a lot

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1 of trauma in this young lady's life. While I believe
2 she has the best intentions, the idea that she had to
3 be hospitalized just for the concept of coming here --
4 I think if she were to get selected on this jury, she
5 would probably be in the hospital quickly. And so I
6 completely agree with all counsels' decision. I
7 believe that her heart is in the right place and,
8 again, trying to do the right thing, but there is too
9 many medical and emotional things, too much history
10 for her. I don't think it is an issue of her being
11 fair, just an issue of her processing through being on
12 the jury, it is too overwhelming for her.

13 Bring her back.

14 (The juror enters the courtroom.)

15 THE COURT: Ms. Davis, we'll let you get your
16 stuff for you. I'll excuse you in this case, and I
17 want to say this to you. I want to say thank you very
18 much for being here. I know it was an inconvenience,
19 and I know that it caused you a lot of stress. I want
20 to personally say thank you to you, and I know the
21 lawyers are all appreciative for you being here and
22 open and honest with us. You shared a lot of things
23 today that most people would not want to share in
24 public, but I really do appreciate you doing that
25 because it helps us make good decision in the jury

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1 selection process.

2 So you are completely and totally done. You are
3 free to leave, and you do not need to come back or
4 call back. But I would also say thank you for your
5 husband's service in our military, and I hope that his
6 graduation goes well. I'm glad you will be there for
7 him.

8 JUROR: Thank you.

9 THE COURT: Have a wonderful day.

10 JUROR: Thank you.

11 (The juror exits the courtroom.)

12 (The juror enters the courtroom.)

13 (ROBERT SWEET, having been duly sworn,
14 testified as follows:)

15 VOIR DIRE OF JUROR 357

16 BY THE COURT:

17 Q You're Mr. Sweet?

18 A I am.

19 Q Good morning. How are you?

20 A Fine. Thank you.

21 Q Mr. Sweet, do you understand you are under oath?

22 A I do.

23 Q And when you left here Monday, I said don't talk
24 about the case, don't watch any news and don't do any
25 research on the case?

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1 A You made it clear.

2 Q You complied with those instructions?

3 A Yes, sir.

4 Q And so we'll ask you questions. I'll start and
5 the attorneys will jump in. I want you to be open,
6 honest and I want you to be candid. This is not about
7 challenging you or your views, it is about us figuring
8 out what your views really are. So we'll ask you
9 questions you probably have not thought about before,
10 so take your time. If you need us to repeat something,
11 let us know.

12 In this case the State is recommending the death
13 penalty against Mr. Jenkins. Because of that, I'm
14 required under the law to break the trial into two
15 separate parts or phases. The first phase -- or
16 during the first phase, the jury will determine
17 whether or not Mr. Jenkins is guilty or not guilty of
18 the crimes that have been charged. If he is found not
19 guilty, the case is completely over. If he is found
20 guilty, then we move on to the second phase of the
21 trial; this is known as the "sentencing phase" or
22 "penalty phase." In that portion of the trial, the
23 jury will determine what is the appropriate sentence,
24 either life without the possibility of parole or
25 death; does that framework of the case make sense to

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1 you?

2 A It does.

3 Q Now, just because we're talking about penalties
4 today, does not mean that Mr. Jenkins has done
5 anything. He is presumed to be innocent under the law;
6 do you understand that?

7 A I do.

8 Q Do you know Mr. Jenkins or have any relationship
9 with him in any way, shape or form?

10 A I do not.

11 Q The attorneys in this case are Scott Hixson,
12 Jimmy Richardson, Ralph Wilson and Brana Williams; do
13 you have any connection to any of them at all?

14 A I do not.

15 Q You were given a witness list before you came in
16 here, did you see any names on there that you knew?

17 A I carefully reviewed it and saw no names I
18 recognized.

19 Q Wonderful. Every juror in this case is asked to
20 do multiple things. One of the things the jury is
21 asked to do is this. Each juror must accept and apply
22 the law I give them, whether they agree with it or not;
23 is that something you can do?

24 A Yes.

25 Q Prior to today, have you ever heard, read, seen

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1 or know anything about this case at all?

2 A I may be in the minority, but I have not.

3 Q That is fine. So when I told you about the
4 allegations on Monday, that was news to you?

5 A I never heard anything.

6 Q And you are not in the minority?

7 A Okay.

8 Q It is a healthy mix of people who have seen
9 things on the news and have not, which is normal. Can
10 you base your decision in this case on evidence and the
11 law that comes in this courtroom?

12 A As best I know, I can.

13 Q And this is a criminal trial; do you understand
14 that?

15 A I do.

16 Q That means the State has the burden of proving
17 the defendant guilty beyond a reasonable doubt.
18 Defendants don't have to prove anything. They don't
19 have to present any evidence at all. They don't even
20 have to say anything because the burden of proof is on
21 the State; do you understand that?

22 A I do.

23 Q We'll switch gears and talk about some examples.
24 The first example is this: Could you, as a juror in
25 just a normal criminal case, could you listen to the

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1 evidence, decide what the facts are, apply those facts
2 to the law I give you and ultimately reach a verdict of
3 either guilty or not guilty, depending on the facts and
4 circumstances?

5 A I believe I could, yes.

6 Q I'll explain two terms to you: Aggravating
7 circumstances and mitigating circumstances.
8 Aggravating circumstances are a set of laws that our
9 general assembly in Columbia created, and what they say
10 is that these specific circumstances make murder cases
11 worse or they aggravate the situation; does that make
12 sense?

13 A Yes.

14 Q The flip side is in the same book of laws it says
15 these certain circumstances mitigate or reduce the
16 severity of a murder case or a person's role in that
17 case; does that make sense?

18 A It does.

19 Q Now, we'll do example number two now. In example
20 two, you are a juror in a death penalty trial, in any
21 trial, not this trial; make sense?

22 A Yes.

23 Q You and your fellow jurors have already
24 determined that the defendant is guilty of murder. So
25 phase one is over. The only decision left is what is

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1 the appropriate punishment; do you understand where I
2 am in my example?

3 A I do.

4 Q So the question is this: Could you in that
5 scenario, depending upon the facts and the
6 circumstances that exists and any aggravation or
7 mitigation that exists and the law that I give you,
8 listen to all of that and render a sentence of life
9 without parole, based upon the facts and circumstances
10 that exist?

11 A Yes.

12 Q Could you render a sentence of death based upon
13 the circumstances that exist?

14 A If the circumstances lead to that, yes.

15 Q Great. Now would you -- if you were on this
16 jury, would it cause a significant health risk to you
17 personally or to anyone you are directly responsible
18 to?

19 A No.

20 THE COURT: I'm going to let the attorneys ask
21 you questions. Be open and honest with them.

22 JUROR: May I observe that you have probably
23 given those statements dozens, if not hundreds, of
24 times, but you do it patiently and very clearly, I
25 appreciate that.

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1 THE COURT: Thank you very much. I appreciate
2 that. My voice is about gone, so.

3 All right. Who is up? Ms. Williams?

4 MS. WILLIAMS: Yes, sir.

5 EXAMINATION

6 BY MS. WILLIAMS:

7 Q Lieutenant Corneal?

8 A Correct.

9 Q I'll struggle with that a little bit, but I'm
10 good with that. You retired from the Air Force?

11 A I did.

12 Q And you were a pilot?

13 A Yes, sir.

14 Q And a military officer?

15 A Yes.

16 Q Tell me about that.

17 A It was an opportunity to serve in my country's
18 armed forces. My father and grandfather both had been
19 career military officers. My father was killed in
20 action in World War II.

21 Q I'm sorry.

22 A But I was very privileged to be able to serve in
23 that capacity and appreciate the opportunity.

24 Q Tell me about being in the military police, even
25 though you were a pilot. I didn't know you could do

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1 both. Tell me about it.

2 A Being a pilot in the Air Force requires you are
3 first an officer. So then you are assigned as a pilot
4 as your primary duty, but I was privileged to serve in
5 other capacities, as well as a military attaché under
6 our U.S. Embassy in Liberia. I was still servicing as
7 the ambassador's pilot, but also as a diplomat. I had
8 other opportunities to serve in staff positions in the
9 Pentagon and State Department, but my principal
10 specialty was pilot. I was privileged to fly eight
11 different airplanes during my career.

12 Q So as part of being the ambassador's pilot, it
13 gave you authority to arrest?

14 A Not to arrest, no. And I might have -- you might
15 have heard incorrectly. I did not refer to any
16 military police.

17 Q I may have misspoke. Military officer?

18 A Military officer.

19 Q And special investigator?

20 A Yes. After I retired from the Air Force, I then
21 became a special investigator for the Department of Air
22 Force. I would investigate people to determine their
23 eligibility for security clearances on the higher level
24 esoteric set that our senior people require. So I was
25 investigating them.

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1 Q I got it. Thank you for clarifying that. I did
2 not mean to misspeak.

3 There is something else. You had a Master's of
4 Science. Is that you or your wife, because I see
5 she's a retired school teacher?

6 A Yes, I had a Master's of Science.

7 Q What was your undergrad?

8 A Bachelor's of Science.

9 Q In what year?

10 A In business administration, and the master's was
11 in management.

12 Q Super.

13 As the judge said, you know, this is -- have you
14 ever been a part of a capital grand jury -- I mean
15 capital jury process?

16 A I have not, no.

17 Q Well, as the judge explained, this is unusual
18 because this case is in two parts. It can be two
19 parts.

20 A Agree.

21 Q So the up front thing we have to do is presume
22 that we are at part two, and this is the only time we,
23 as lawyers, get to talk to the jurors and you get to
24 talk back.

25 A Yes.

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1 Q So, unfortunately, we have to kind of skip
2 through paragraph one, but it is real important,
3 because if you are a part of the jury in part one, it
4 means you and 12 others decide guilty beyond a
5 reasonable doubt that we have a murder.

6 A And I have to recognize just because they are
7 talking about part two, does not presume we ever get
8 there, but we have to discuss it as a necessity.

9 Q Correct. And part two, where you are at, if you
10 are on this jury, is that you have to make an
11 individual moral decision about is life without the
12 possibility of parole an appropriate sentence, or is
13 death the appropriate sentence, right?

14 A Correct.

15 Q And what I want to ask you is when you filled out
16 that sheet, it had A, B and C juror; you picked "C"?

17 A Correct.

18 Q Tell me under the "A" when it says if you are on
19 a jury -- as an individual person, when you have found
20 a guilty murderer beyond a reasonable doubt, an "A" is
21 like death is the only appropriate sentence; you didn't
22 pick that?

23 A I did not.

24 Q Tell me about that.

25 A I just feel that there needs to be a broader

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1 spectrum than that. That it needs to be on the table,
2 but it cannot be the only thing. I feel that -- a
3 personal conviction -- I would not require others to
4 hold that, but that there needs to be a broader
5 spectrum that I should not narrow my focus or my
6 judgments to require only that.

7 Q But there are cases where you may see it might be
8 the appropriate thing?

9 A That is correct. I would not eliminate as a
10 possibility, but I would not require it as the only
11 outcome.

12 Q And the other thing -- two things. One, as His
13 Honor said, he will give you the law of the State. The
14 law -- he'll tell you, I believe, that South Carolina
15 never ever requires a death penalty.

16 A That's correct.

17 Q And that as a juror in a capital case, you can
18 give life for any reason, for whatever reason you
19 choose, or basically no reason, just mercy.

20 A Yes.

21 Q And knowing that, you have to be able to make an
22 individual moral judgment, and it is kind of different
23 in the essence that in the guilt phase, where it is
24 guilty or not guilty, all 12 jurors have to agree it is
25 a guilty verdict.

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1 A Uh-huh.

2 Q When we get to the sentencing phase, all 12
3 jurors talk about it and all 12 deliberate, but it is
4 truly an individual moral judgment, and if one person
5 says, you know, life is my judgment, then life it will
6 be, okay?

7 A Yes.

8 Q And I just want you to be aware of that.

9 A Yes.

10 MS. WILLIAMS: Thank you so much for being here.

11 MR. HIXSON: Sir, thanks for being here. I have
12 no additional questions. Thank you for your service
13 so much.

14 Your Honor, we believe this gentleman is
15 qualified.

16 MS. WILLIAMS: We would agree.

17 THE COURT: All right. Colonel, just because you
18 are qualified does not mean you will be on the actual
19 jury, so I'll put together a big pool of people that I
20 have determined are qualified. We'll bring them back.
21 Once I get to the right number of people, then at that
22 point we will select exactly who is on and who is off.
23 So starting at that point -- after 6 o'clock, I want
24 you to call back to this number on this card. It will
25 give you a message. It may say call back Friday

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1 night. It may say come back in Friday. I don't know,
2 because I don't know how many people we'll get to
3 today; does that make sense?

4 JUROR: It does.

5 THE COURT: Once it says come back, come back
6 with suitcase of clothes for a week, any toiletries or
7 medicines you may need and any reading materials you
8 want to bring with you. You don't need to bring a
9 phone, tablet or computer. Write down a list of
10 numbers where if we had a situation, we could contact
11 your primary care physician or spouse or children or
12 whoever you would want contacted. When you come back
13 to the courthouse, leave all of that in car. Just
14 because you come back does not mean that you will be
15 selected. If you are not selected, you will be
16 allowed to leave. If you are, we want you to have all
17 of that stuff already with you so we can coordinate
18 getting you where we need to get you; you understand
19 all of that?

20 JUROR: I do.

21 THE COURT: Now, between now and then, don't talk
22 to anyone about the case. You can tell people you are
23 on a jury, but don't say this is the case and don't
24 let them talk to you about the case.

25 JUROR: Exactly. I was required in my military

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1 careerer with a level of clearance to discipline
2 myself to keep my own counsel and abide by these same
3 principals.

4 THE COURT: Wonderful. I'm very happy for that.

5 Second thing is don't watch any local news. So
6 all of the local news stations are covering this case,
7 which is perfectly normal, but don't watch or read or
8 listen to local news. If you want to watch the big
9 national news, that is fine. Don't do any research
10 about this case. You don't really know anything about
11 this case. When you come back, I want you the same
12 way. I don't want you to prepare for it. We want you
13 just like you are now, ready to sit here and listen
14 fairly and impartially, listen to the case and see
15 what the evidence is and what the facts are and things
16 like that.

17 JUROR: You are reinforcing what you made clear
18 on Monday.

19 THE COURT: Wonderful. I'll let you go. Call
20 back the number after 6:00. Go down the aisle and
21 right out the back.

22 JUROR: Thank you, sir.

23 THE COURT: Have a wonderful day.

24 (The juror exits the courtroom.)

25 (ROBERT SMITH, having been duly sworn,

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1 testified as follows:) voir dire

2 VOIR DIRE OF JUROR 338

3 BY THE COURT:

4 Q Are you Mr. Smith?

5 A Yes, sir.

6 Q Do you understand that you are under oath?

7 A Yes, sir.

8 Q And let's see, when you left here Monday, I said
9 don't talk about the case, don't do any research, don't
10 watch any news media about the case; have you complied
11 with all of that?

12 A Yes, sir.

13 Q We're going to ask you some questions. I'm going
14 to start, and the attorneys will follow up. Now, I
15 want you to be open, honest and candid. This is not
16 about challenging you or challenging your views, we are
17 just trying to figure out what your views are.

18 A Understand.

19 Q We'll ask you questions, and you probably never
20 really thought about them before, so take your time.
21 If you need us to repeat anything, let us know.

22 In this case the state is seeking the death
23 penalty against Mr. Jenkins. Because of that, I am
24 required, under the law, to break his trial into two
25 parts. During the first phase of the trial it will be

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1 the jury's responsibility to determine whether Mr.
2 Jenkins is guilty or not guilty of the crimes that
3 have been charged. If he is found not guilty, the
4 case is over. We're done. If he is found guilty, we
5 will then move on to the second phase of the trial,
6 which is called the "penalty phase" or the "sentencing
7 phase." In that phase, the jury will determine what
8 is the appropriate sentence: Is it life without the
9 possibility of parole, or is it the death sentence;
10 does that framework make sense to you?

11 A Yes, sir.

12 Q Now, just because we're talking about penalty
13 doesn't mean that Mr. Jenkins is guilty of anything at
14 all. He sits there presumed to be innocent under the
15 law; do you understand that?

16 A Yes, sir, Your Honor.

17 Q Do you know Mr. Jenkins or have any connection
18 with him in any way, shape or form?

19 A No, sir.

20 Q Do you know either Mr. Hixson, Mr. Richardson,
21 Mr. Wilson or Ms. Williams at all?

22 A No, sir.

23 Q Did you read the witness list you were provided?

24 A Yes.

25 Q Did you recognize anyone's name on that list?

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1 A No, sir.

2 Q Wonderful. Every juror in this case will be
3 asked to do multiple things. One of the things the
4 jurors will be asked to do is to accept and apply the
5 law that I give them whether they agree with it or not;
6 is that something you can do?

7 A Yes, Your Honor.

8 Q Prior to today, have you ever heard, read, seen
9 or do you know anything about this case at all?

10 A I just vaguely remember hearing about what
11 happened. I watched the news and read the paper, so I
12 vaguely remember there was a robbery and that someone
13 died as a result.

14 Q Was that back when it allegedly occurred or more
15 recently?

16 A Back when it occurred.

17 Q And is that just in your normal course of
18 watching the news or following what is going on in the
19 community?

20 A Yes, Your Honor.

21 Q And do you have any personal knowledge about the
22 case?

23 A Not at all.

24 Q Do you know anyone involved in the case?

25 A No, Your Honor.

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1 Q And my question to you is this: Could you set
2 aside whatever you saw on the news three, four years
3 ago and base your decision on the evidence that comes
4 in in this courtroom and the law that I give you?

5 A Yes, Your Honor.

6 Q Do you understand this is a criminal case?

7 A Yes.

8 Q That means the State has the burden of proving
9 the defendant guilty beyond a reasonable doubt.
10 Defendants don't have to prove themselves innocent,
11 they don't have to say anything. They don't have to
12 prove anything at all; do you understand?

13 A I understand.

14 Q We'll switch gears. I'll give you two different
15 example style questions. The first one is this. If
16 you were a juror in any criminal case, could you listen
17 to the evidence, determine what the facts are, apply
18 those facts to the law I give you and return a verdict
19 of either guilty or not guilty depending upon the facts
20 and circumstances?

21 A Yes, I think I can do that.

22 Q Great. Now, I need to explain two terms. One is
23 called "aggravating circumstances." So in our law the
24 legislature has chosen to list out what we call
25 "aggravating circumstances." These are circumstances

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1 that make murder cases worse or they aggravate the
2 space; does that make sense?

3 A Yes.

4 Q The flip side is in that same code of laws, the
5 legislature has created mitigating circumstances, and
6 those are circumstances which the legislature says
7 reduce the severity of the offense or the person's role
8 in the offense; does that make sense?

9 A Yes.

10 Q Second example question. Let's imagine that you
11 are a juror in a death penalty trial, not this case,
12 just imaginary case. You and your other jurors already
13 determined that the defendant is guilty of murder, that
14 means phase one is over. We are in the sentencing
15 phase; do you understand where I am in my example?

16 A Yes.

17 Q Here is the question. Could you in that
18 situation, depending upon the facts and circumstances
19 that exist, depending on any aggravation and mitigation
20 that may exist and the law that I give you at the
21 conclusion of the case, could you listen to and
22 consider all of that and return a sentence of life in
23 prison based upon the facts and circumstances?

24 A Yes.

25 Q Could you return a sentence of death based upon

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1 the facts and circumstances?

2 A Yes.

3 Q If you were selected on this jury, would it pose
4 any significant health risk to you or someone you are
5 directly responsible for?

6 A No, sir.

7 THE COURT: I'll turn you over to the attorneys
8 now. Just answer them openly and honestly.

9 EXAMINATION

10 BY MR. WILSON:

11 Q Mr. Smith, how are you today?

12 A Good. How are you?

13 Q Fine, thank you, sir. Mr. Smith, I just need to
14 ask you a few things. One, you said that -- you were
15 telling His Honor you did hear something about this
16 case at some point early on, or at least more recently,
17 which was it?

18 A It was back when it happened, just in my daily
19 watching the news and reading the paper and keeping up
20 with current events.

21 Q You regularly keep up with what is going on in
22 the newspaper or television?

23 A Yes, sir.

24 Q And when you heard about this information that
25 you said you heard in the news, did you have any

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1 opinion about it or express any opinion to anyone else
2 about what you saw or what you read or did anyone
3 express an opinion about what they said or read?

4 A No, sir. I mean, I just thought it was sad. I
5 didn't have an opinion about anything else about it.
6 No one likes to see violence in their community.

7 Q Did you know any of the people who were involved,
8 any of the victims or any of the store owners or any of
9 the people who owned any of the stores or worked at the
10 stores, did you know any of the people?

11 A No, sir.

12 Q Had you frequented any of the stores that you
13 know of?

14 A No, sir.

15 Q Now, you indicated that you were a type "C" juror
16 on the little form you had in the back?

17 A Yes, sir.

18 Q Type "C" juror is one who although the crime of
19 murder has been proven by the State beyond a reasonable
20 doubt, and while in sentencing phase considering
21 punishment, would not have his or her mind made up in
22 advance concerning punishment?

23 A Correct.

24 Q This juror would need to hear the facts and
25 circumstances and aggravation and in mitigation before

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1 he or she could make the decision regarding punishment.

2 A Correct.

3 Q This juror could -- based on the facts presented
4 by the State and the defendant -- bring in a verdict of
5 death or life imprisonment?

6 A Correct.

7 Q And what is -- what is your understanding of what
8 that juror is?

9 A Just you listen to the evidence and what has
10 proven to be true or not true and make a decision from
11 that.

12 Q You understand that in the first phase of the
13 trial, you and other -- of the example that His Honor
14 gave you in the first part of that trial, you and the
15 other 11 members of your jury panel will already have
16 found that individual guilty of murder?

17 A Correct.

18 Q And murder is the killing of one person by
19 another with malice aforethought, that is there is no
20 justification for the killing, just murder.

21 A Correct.

22 Q So you would have already made that decision, the
23 12 of you.

24 A Yes.

25 Q And now we're going to the sentencing phase, and

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1 you are saying to us you could actually go into that
2 sentencing phase, even though you found the person
3 guilty of murder, you could go into that with a
4 completely open mind, listen to the aggravating
5 circumstances, listen to the mitigating circumstances,
6 listen to His Honor's instructions on the law and then
7 make a decision; you could do all of that with an open
8 mind?

9 A Yes, sir.

10 Q And you could be fair to the defendant and to the
11 State of South Carolina?

12 A I think, yeah.

13 Q And let me ask you, I noticed that in your -- in
14 your information sheet it says that -- there was
15 something on here No. 48 that says USCCA; what is that?

16 A United States Concealed Carry Association.

17 Q That is just a group that allows you to carry or
18 gives you --

19 A Gives you education. You get magazines, videos.
20 It has insurance policies if for some reason if you are
21 ever involved in a shooting.

22 Q I also notice on here, on No. 47, you say that
23 you watch Tucker Carlson on television?

24 A Yes, sir.

25 Q Let me ask you. In this particular case, the

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1 defendant obviously is African-American; you understand
2 that?

3 A Yes, sir.

4 Q The victim or one of the victims in this case is
5 a white female; you understand that?

6 A Yes, sir.

7 Q Does the fact that this defendant is an
8 African-American in any way cause you to have any
9 hesitation about being able to be fair to the State and
10 the defendant?

11 A Not at all, sir.

12 MR. WILSON: Nothing else.

13 MR. HIXSON: Thank you. I have no additional
14 questions. We believe this juror is qualified.

15 MR. WILSON: He's qualified.

16 THE COURT: Okay. I have determined you are
17 qualified, and just because you are qualified doesn't
18 mean you are actually on the jury. I'll get a big
19 group of people and bring y'all back, and at that
20 point we'll choose who is on and who is off. Starting
21 tonight after 6 o'clock, call back this number. It is
22 going to give you a message. It will say come back in
23 tomorrow, or call back tomorrow night after 6:00.
24 Whatever the message says, just do that. Eventually,
25 it is going to say come back in at this time. When

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1 you do, come back in with a week's worth of clothes in
2 a suitcase, any reading materials you want, any
3 toiletry items you may need and any medicines you may
4 need, and a list of any phone numbers you may need,
5 like spouse, children, work, emergency, primary care
6 physician, anything like that. That is not for public
7 dissemination, just in case for an emergency. But
8 leave all of the stuff in your car. Don't bring a
9 telephone or computer or tablet because just because
10 you come back, doesn't mean you are selected. If you
11 are, you will have that stuff with you. If you are
12 not, you can get in your car and go home.

13 Between now and then, don't listen or read to any
14 news accounts, and don't do research on the case. You
15 don't know anything about this case, and that is
16 exactly how I want you when you come back. You are
17 allowed to tell them you are on a jury, but don't let
18 them talk to you about the case. If they start to say
19 anything other than that doesn't sound like fun or
20 something, just stop them. This is in the news media,
21 but I don't want you to have any outside news
22 influences. Good?

23 JUROR: Good.

24 THE COURT: Go down the aisle, hang a left and
25 right out the back door. Thank you very much.

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1 (The juror exits the courtroom.)

2 THE COURT: For the record, I found Juror 357 and
3 Juror 338, Robert Sweet and Robert Smith, are
4 qualified. They answered the questions correctly.
5 They came in as a "C," stayed a "C." They want to
6 listen to the evidence and consider the facts and
7 circumstances of the case. They are capable of
8 rendering a life or death sentence, and they are
9 capable of being fair and impartial to both sides, so
10 I find them qualified.

11 This next juror I have a note, and I don't know
12 what I've done with it. Next juror said -- I probably
13 threw it away. The next juror said that she cannot
14 read the witness list nor can she read the A, B, C
15 questions. She said she had trouble reading. Do you
16 want me to start with that?

17 MR. WILSON: Yes, sir.

18 MR. HIXSON: Yes, sir. If she can't make it to
19 this point, if she can't read --

20 MR. WILSON: I agree.

21 THE COURT: Let me start and see where we get to,
22 and we can take a break or talk to her about it, but I
23 want to be sure that me doing it that way is okay with
24 everyone.

25 MR. WILSON: Yes, sir.

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1 MR. HIXSON: It is.

2 THE COURT: All right. Now bring her in.

3 (The juror enters the courtroom.)

4 (MICHELLE LANNI, having been duly sworn,
5 testified as follows:)

6 VOIR DIRE OF JUROR 184

7 BY THE COURT:

8 Q Are you Ms. Lanni?

9 A Yes.

10 Q You understand you're oath under oath?

11 A Yes.

12 Q One of the things I want to start off with -- and
13 you know you are close to the 80th person we talked
14 to -- one of the things we'll start with and flesh out
15 is when you were here on Monday you mentioned to me you
16 were concerned about reading?

17 A Yes.

18 Q I promise you, this is not about embarrassing you
19 or causing you to suffer embarrassment, but I have to
20 convince myself, and the lawyers have to convince
21 themselves -- I don't know what the evidence will be in
22 this case; does that make sense?

23 A Yes.

24 Q And I have tried to come into it with jurors with
25 no preconceived ideas or notions. So there is a strong

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1 possibility that there could be documents in this case
2 that the jurors will use in considering the evidence
3 and would need to read. There will be a verdict form
4 in this case that the jurors will need to be able to
5 read and understand. There could be jury charges that
6 I hand out that the jurors need to read and understand.
7 Walk me through, in your opinion, where you are with
8 reading?

9 A I won't be able to read the whole thing.

10 Q Could you read this form?

11 A Yes. I was able to read most of it and
12 understand what it meant.

13 Q You circled "A" on this form?

14 A Uh-huh.

15 Q Tell me your opinion of what "A" means?

16 A "A" is for the death penalty for murder.

17 Q So the "A" juror believes what, in our
18 hypothetical? If someone says they are an "A," what is
19 their position or opinion?

20 (A brief pause in the proceedings.)

21 A Well....

22 Q Again, this is not about challenging your views
23 or trying to change your views, I'm trying to
24 understand how much you comprehended about the A, B and
25 C before you circled "A" to understand. What I'm

INDIVIDUAL JURY VOIR DIRE

1 trying to understand is your reading comprehension, not
2 that you should be an A, B or C; that is a different
3 set of questions. My concern is were you able to read
4 these three paragraphs and decide and think about it
5 and say, okay, I'm one of these three?

6 A Yes.

7 Q So you are able to read these okay? What do you
8 have trouble reading?

9 A I had trouble reading some of that, I did.

10 Q Did you have trouble reading the witness list?

11 A Some of it. It was long.

12 Q A lot of names, right? So do you read at all for
13 work?

14 A Not really. It is basically done by numbers.

15 Q What work do you do?

16 A I'm an overnight stocker at Walmart.

17 Q How far did you go in school?

18 A Either 9th or 10th grade.

19 Q What school system?

20 A I started in PS2 in New York City and went to 84
21 and then 141, and then I went to career development, it
22 is supposed to help you, but it didn't help me.

23 Q Were you in normal classes?

24 A No. No. I was in special ed.

25 Q Special ed. classes in school?

INDIVIDUAL JURY VOIR DIRE

1 A Uh-huh.

2 Q And did the teachers recognize you had reading
3 difficulties?

4 A Yes, but they don't -- back then they didn't
5 really do anything like they do now.

6 Q Now, there is all kinds of things available.

7 A Uh-huh.

8 Q Back when you and I were younger, there wasn't
9 many things, I understand that.

10 A Yeah.

11 Q Are you married?

12 A Single.

13 Q Do you have any children?

14 A No.

15 Q Who do you live with?

16 A My parents.

17 Q What do they do?

18 A Retired.

19 Q What are they retired from?

20 A UPS and my mother did retail.

21 Q Are they able to read?

22 A Yes.

23 Q And do they help you at all?

24 A My father is not good at it, but he can read a
25 little.

INDIVIDUAL JURY VOIR DIRE

1 Q Do they help you at all reading things in the
2 mail?

3 A Yes.

4 Q So if you get a letter from a bank or car loan or
5 something, they help you with that stuff?

6 A She helped me with my questionnaire.

7 Q She helped you with the questionnaire?

8 A Yes.

9 Q You took the words, right out of my mouth. My
10 next question is: How did you fill out the
11 questionnaire; your mom helped you?

12 A Yes.

13 THE COURT: Would you like to question her?

14 MR. HIXSON: No. Thank you for your questions.

15 MR. WILSON: No, sir. No, sir.

16 THE COURT: Anyone have any objection to me
17 excusing her from the case?

18 MR. WILSON: No objection.

19 MR. HIXSON: No, sir.

20 THE COURT: Here is what we'll do. I'll excuse
21 you from this case. I don't want you to be in a
22 situation where you are in the room with the other 12
23 jurors and everyone is reading something and you
24 suffer that embarrassment of saying I don't know what
25 it says. I also don't want -- in a case that is

INDIVIDUAL JURY VOIR DIRE

1 serious, if there are things you need to read, I need
2 to make sure that people are making the most important
3 decisions, and the people that are making the most
4 important decisions, that they are reading and looking
5 at what needs to be read. I promise, this is not to
6 meant for embarrassment. I needed to convince myself
7 where you are. I have people every Monday morning in
8 my life trying to get out of jury duty -- not that you
9 were doing that -- but I needed to convince myself and
10 create a record because of the nature of this case,
11 but I'll excuse you.

12 Thank you very much for coming back today, and
13 thank you for being willing to serve. I truly
14 appreciate that. Best of luck to you. You are free
15 to go.

16 (The juror exits the courtroom.)

17 THE COURT: All right. Next.

18 (The juror enters the courtroom.)

19 (DIANE RANDLE, having been duly sworn,
20 testified as follows:)

21 VOIR DIRE OF JUROR 286

22 BY THE COURT:

23 Q You are Ms. Randle?

24 A I am.

25 Q Good morning. How are you? We are running on

INDIVIDUAL JURY VOIR DIRE

1 time.

2 A Good. That is a good thing.

3 Q It is a good thing for me, especially because I
4 like to stay on time.

5 You are under oath; do you understand that?

6 A I do.

7 Q And when you left here Monday, I said don't talk
8 about the case, don't watch any news media about the
9 case and don't do your own research on the case; have
10 you complied with that?

11 A Yes. In so many ways, you just don't know.

12 Q Great. I'll ask you some questions. I want you
13 to be open, honest and candid. This is not to
14 challenge you or your views. This is about all of us
15 figuring out what your views are. So we'll probably
16 ask you things you never thought about before, so take
17 your time. If you need me or any of us to repeat a
18 question, let us know.

19 In this case the State is seeking the death
20 penalty against Mr. Jenkins. Because of that I'm, as
21 the judge, required to break the trial into two parts.
22 The first part is what we call the "trial phase." In
23 that part of the trial it will be the jury's
24 responsibility to determine whether Mr. Jenkins is
25 guilty or not guilty of the crimes, okay?

INDIVIDUAL JURY VOIR DIRE

1 A Okay.

2 Q If he is found not guilty, the trial is
3 completely done. We're done. If he is found guilty,
4 then we move on to the sentencing phase or the penalty
5 phase. They are the same thing; we use the words
6 interchangeably. In that phase of the trial, it is the
7 jury's responsibility to determine what is the
8 appropriate punishment, either life without the
9 possibility of parole, or the death sentence; does that
10 framework make sense?

11 A Yes.

12 Q Just because we're talking about penalties this
13 morning doesn't mean that Mr. Jenkins did anything.

14 A I understand.

15 Q He is presumed to be innocent; you understand?

16 A I do, until you find him guilty.

17 Q Right. Until he is proven guilty by the State
18 beyond a reasonable doubt.

19 A Okay.

20 Q Does that make sense?

21 A Yes.

22 Q So it is the State's burden to prove guilty to a
23 jury beyond a reasonable doubt. Defendants don't have
24 to prove anything. They don't have to say anything.
25 They don't have to prove themselves innocent. They can

INDIVIDUAL JURY VOIR DIRE

1 sit there and say nothing at all; you understand all of
2 that?

3 A Uh-huh.

4 Q Do you know Mr. Jenkins or have any relationship
5 to him at all?

6 A No, sir.

7 Q Do you know Mr. Hixson, Mr. Richardson, Mr.
8 Wilson or Ms. Williams?

9 A I know Wilson by his picture, because he married
10 my attorney.

11 Q Married your attorney? Where have you seen his
12 picture?

13 A In her office.

14 THE COURT: Is your wife an attorney?

15 MR. WILSON: Ex-wife. She's a city judge for
16 Myrtle Beach.

17 THE COURT: That is news to me.

18 Q (THE COURT) So you have seen his picture before?

19 A Yes.

20 Q But you have no relationship to him?

21 A No.

22 Q I gave you a witness list before you came in
23 here; did you know anyone on that list?

24 A No.

25 Q Did you know anyone?

INDIVIDUAL JURY VOIR DIRE

1 A No.

2 Q Great. So one thing I'm going to ask all the
3 jurors in this case is accept and apply the law that I
4 give them, whether they agree with it or not; is that
5 something you can do?

6 A I can.

7 Q Have you ever seen, heard, read or do you know
8 anything about this case at all?

9 A No.

10 Q Never saw it on the news?

11 A I don't have cable.

12 Q Me either. So what about reading it on the
13 newspaper or anything?

14 A I don't get the newspaper, no.

15 Q Can you base your decision in this case on the
16 evidence and law in this case?

17 A Sure.

18 Q As I told you a moment ago -- this will be
19 repetitive -- but this is a criminal case. That means
20 the State has the burden of proving guilt beyond a
21 reasonable doubt. Mr. Jenkins doesn't have to prove
22 anything. He doesn't have to say anything in any way,
23 shape or form; you understand that?

24 A I do.

25 Q Now, I'll give you two examples, so follow along

INDIVIDUAL JURY VOIR DIRE

1 with me. Example one is this. You are a juror in a
2 criminal case, any criminal case; can you listen to the
3 evidence, determine what the facts are and apply those
4 facts to the law that I give you and render a verdict
5 of either guilty or not guilty, based upon the facts
6 and circumstances?

7 A Yeah.

8 Q I need to explain two terms to you. One is
9 called "aggravating circumstances," the other is called
10 "mitigating circumstances." So aggravating
11 circumstances are a set of circumstances that are
12 written into the law like actual code of laws that says
13 these certain circumstances make murder cases worse or
14 they aggravate a murder case; does that make sense?

15 A Yeah, I've never heard of that.

16 Q That is why I'm telling you that. I don't know
17 that anyone has, any of my jurors have. But in our
18 laws, there is a set of circumstances where our
19 legislature says these are types of circumstances that
20 make a murder worse. In that same set of laws, there
21 is a set of circumstances that can reduce the severity
22 of a murder case or reduce a person's responsibility,
23 and those are called "mitigating circumstances"; does
24 that make sense?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q So they are opposite, but both in the law.

2 A Yes.

3 Q So example two is this. Let's imagine that you
4 are a juror in a death penalty case -- not this case,
5 just any case.

6 A Right. Right.

7 Q You and your fellow jurors already determined at
8 that time that the defendant is guilty of murder.
9 Murder is the unlawful killing of another person with
10 malice aforethought.

11 A Right.

12 Q So phase one is over. It's done. We are in
13 phase two; do you understand where we are in my
14 example?

15 A Sure. Yeah, you said there was two phases.

16 Q So in the example I'm giving you, phase one
17 already occurred. You and your 11 fellow jurors have
18 voted and said the defendant in that case, in my
19 hypothetical case, is guilty of murder, so that part is
20 over.

21 A Okay.

22 Q Follow me?

23 A Yeah.

24 Q So we're in phase two, and the decision is what
25 is the appropriate sentence under this set of facts.

INDIVIDUAL JURY VOIR DIRE

1 A Okay.

2 Q Do you follow me with where you are in my
3 hypothetical?

4 A Uh-huh.

5 Q Is that a yes?

6 A Yes.

7 Q So the question is: In that scenario, depending
8 upon the facts and circumstances, including any
9 aggravating factors and any mitigating factors and the
10 law that I give you, could you consider all of that and
11 could you render a verdict -- render a sentence of life
12 without the possibility of parole, based upon the facts
13 and circumstances and the law?

14 A Yes.

15 Q Could you render a sentence of death based upon
16 the facts and circumstances and the law?

17 A Yes.

18 Q If you were selected on this jury, would it pose
19 a significant health risk to you or a member of your
20 family?

21 A No.

22 THE COURT: I'll turn you over to the attorneys
23 so they can ask you questions. Answer them openly,
24 honestly and candidly, and thank you for answering my
25 questions.

INDIVIDUAL JURY VOIR DIRE

EXAMINATION

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BY MS. WILLIAMS:

Q My name is Brana Williams, and it will be me along with Ralph Wilson representing our client, J.J. Jenkins, in this trial.

A Okay.

Q And the judge -- she's taking down what you say, so you have to say "yes" or "no" as opposed to "uh-huh" or "huh-huh."

A Okay. I'm sorry.

Q Listen, it is common. We have to explain it, and it is not a natural thing. Normally we're used to shaking our head.

This is -- as the judge said, this is an unusual case because we get to talk to you as lawyers, and normally that doesn't happen. And so what we're here this morning talking to you about is your opinions and your feelings, and it is okay. This is a no-judgment zone. No one is judging you, because we all have our beliefs and what we hold near and dear to our heart, we just have to find it out. So I want to be sure -- as the judge was talking to you, if you are in this trial, as the judge said in his scenario, you and 11 other jurors have already found the defendant guilty beyond a reasonable doubt of murder.

INDIVIDUAL JURY VOIR DIRE

1 A Okay.

2 Q Done. We are now to part two, which would be
3 what is the appropriate sentence for that guilty
4 murderer beyond a reasonable doubt, that he murdered,
5 okay?

6 A Okay.

7 Q Now, you had a choice of A, B or C, tell me about
8 "A," and that says that that juror, once they decided
9 that a person is guilty of murder beyond a reasonable
10 doubt, that the death penalty is the only appropriate
11 sentence.

12 A Because I don't think it is.

13 Q Tell me about that.

14 A Okay. Um....

15 Q This is not a right or wrong answer.

16 A You have -- a lot of states don't do the death
17 penalty, you know that. And I think -- if it is beyond
18 a reasonable doubt, a shadow of a doubt, I think if
19 they committed murder, then I think they should be in
20 the same situation. I mean, yeah, I say death would be
21 fine, but I think you should get all of the evidence
22 first; do you know what I'm saying?

23 Q Yes, ma'am. And I want to be sure you understand
24 that to get to that, murder has been proven to that
25 jury, and you would be one of them sitting there.

INDIVIDUAL JURY VOIR DIRE

1 There is no doubt that that person was guilty of murder
2 beyond a reasonable doubt.

3 A Okay.

4 Q And just to make sure we are there, you said that
5 you do or don't believe that the death is the only
6 appropriate sentence?

7 A I don't think it is the only appropriate, but I
8 think you can do death or life without parole.

9 Q That is great. That is what we're looking for.
10 As we go through this process, the lawyers will talk to
11 you and His Honor will give you the law. Quite
12 frankly, no matter what we say, it is really what the
13 judge says. But I believe the judge will tell you that
14 in South Carolina the death is never required; did you
15 know that?

16 A I kind of did.

17 Q Super. So as a person who is a juror on a death
18 penalty case can give life for any reason or no reason
19 at all, basically for mercy, okay?

20 A Okay.

21 Q And you know that, and you are okay with that?

22 A I'm okay with that.

23 Q On your questionnaire, you said you are retired?

24 A I am.

25 Q From what?

INDIVIDUAL JURY VOIR DIRE

1 A Everything.

2 Q What did you do?

3 A I did a lot of things. I did home care, I had a
4 cleaning business a little over ten years and I worked
5 at the college, Senior Grill, for three years. So I've
6 been around and about.

7 Q And then I have something else to ask you about
8 that you put on this; you attend Langston?

9 A I do.

10 Q That is just on 905 across the railroad tracks?

11 A I do.

12 Q And this case, if you heard the judge talking
13 about it, one of the places that will be talking about
14 is the Sunhouse on 905.

15 A Okay.

16 Q Do you know where that is?

17 A I do know where it is at, yes.

18 Q Is that near to you?

19 A That is not near to me, but near to my church.

20 Q Is it somewhere where you stop at?

21 A No, it is further up. I'm back this way.

22 Q So you go to the church and come back?

23 A Yes.

24 Q Now, the last thing I want to ask you about on
25 your questionnaire, and I don't mean to bring up a bad

INDIVIDUAL JURY VOIR DIRE

1 subject, No. 40 says, Has anyone close to you or your
2 spouse died as a result of a violent act by another;
3 you put your sister. Tell us about that.

4 A She was killed in 1989. Her ex-boyfriend
5 unloaded a gun on her. That was rough.

6 Q Was that here in Horry County?

7 A No.

8 Q Where was that?

9 A It was in Spartanburg.

10 Q Did the boyfriend get prosecuted?

11 A He got 15 years.

12 Q He got 15 years?

13 A Don't even ask me his name, I can't -- I try to
14 block all of that out of my mind.

15 Q I understand. What I want to ask you is: Do you
16 think that the fact that your sister was killed being
17 shot, would that impact your ability to be a juror in
18 this matter and give the State and the defense a fair
19 trial?

20 A Would it affect me? No.

21 MS. WILLIAMS: That is all I have. Thank you.

22 MR. RICHARDSON: Your Honor, we believe that
23 Ms. Randle is qualified. No further questions for
24 her.

25 MS. WILLIAMS: Could we be heard?

INDIVIDUAL JURY VOIR DIRE

1 THE COURT: Sure.

2 Step outside and we'll be right back with you.

3 (The juror exits the courtroom.)

4 MS. WILLIAMS: Your Honor, I want to state for
5 the record that while I understand Ms. Randle answered
6 that she could be fair and impartial, and that her
7 sister's death would not affect her, murder would not
8 affect her being a part of this jury, Your Honor, we
9 would submit that that incident in and above -- in and
10 of itself, the impact it would obviously have on you
11 as your sister was murdered would render her to be
12 unable to be truly impartial and give our client a
13 fair trial.

14 THE COURT: What says the State?

15 MR. RICHARDSON: She clearly said it was over 15
16 years ago and she doesn't remember the defendant's
17 name in that case. She was asked directly on point,
18 and she said it would have no effect on her,
19 whatsoever.

20 MS. WILLIAMS: The next point that obviously it
21 was an issue of domestic violence. There will be
22 domestic violence that comes up in this, and we are
23 just concerned about the fact that when the domestic
24 violence comes up in our client's situation and in
25 this trial, it will be too much for her to set aside.

INDIVIDUAL JURY VOIR DIRE

1 THE COURT: Anything else from the State?

2 MR. RICHARDSON: No, sir, Your Honor.

3 THE COURT: Bring her back in juror.

4 (The juror enters the courtroom.)

5 THE COURT: Come on back up here, Ms. Randle. In
6 the incident that occurred with your sister, is this
7 your biological sister?

8 JUROR: It is.

9 THE COURT: And were you a witness to that
10 incident?

11 JUROR: No.

12 THE COURT: Were you involved in it?

13 JUROR: No.

14 THE COURT: Did you have any other -- knowing
15 your sister, obviously -- did you have any personal
16 knowledge about the case or facts?

17 JUROR: Only what we were told.

18 THE COURT: Told by law enforcement or prosecutor
19 or whatever?

20 JUROR: Yep.

21 THE COURT: However it all played out.

22 JUROR: Right.

23 THE COURT: Does that -- if this were -- if a
24 case that you were selected on as a juror had any
25 issues that were domestic in nature, domestic violence

INDIVIDUAL JURY VOIR DIRE

1 in nature, would that affect your ability to be fair
2 and impartial in a case?

3 JUROR: No.

4 THE COURT: You can base your decision off the
5 evidence and law in this case?

6 JUROR: I am.

7 THE COURT: Will you do that?

8 JUROR: I will.

9 THE COURT: I will find you are qualified to
10 serve in this case, Ms. Randle. Just because you are
11 qualified doesn't mean you are selected. We'll bring
12 all of those people back and choose who is in and who
13 is out. So starting tonight at 6:00, call this number
14 and there will be a message there for you. It will
15 say call back tomorrow night or come in at a specific
16 time. Once the message says come in, you need to come
17 back up here and pack a suitcase for a week, toiletry
18 items, medicines you may need, any reading materials
19 you want to bring with you. I do not want you to
20 bring a phone or computer or tablet. I want you to
21 write down any emergency numbers you may have, spouse,
22 children, family, primary care physicians, things like
23 that in case you have an emergency situation. I want
24 you to come back and leave all of that in your car.
25 Just because you come back, that doesn't mean that you

INDIVIDUAL JURY VOIR DIRE

1 will be get on; does that make sense?

2 JUROR: Yes.

3 THE COURT: At that point in time, if you make it
4 on, we want you to have your stuff. If not, you can
5 go home and be done. Between now and then, I don't
6 want you to watch, read or listen to any news accounts
7 about the case, don't talk to anyone about the case,
8 don't let anyone talk to you about the case and don't
9 do your own research on the case. You told us you
10 don't.

11 JUROR: I'm computer illiterate anyway.

12 THE COURT: Good. When you come back, I just
13 want you the way you are now.

14 So call that number after 6:00, and you can walk
15 down that aisle and hang a left and head out for the
16 day. Thank you, ma'am.

17 (The juror exits the courtroom.)

18 THE COURT: For the record, I find that she is
19 qualified. She came in as a "C" juror, stayed a "C"
20 juror. She said she was willing to listen to the
21 evidence and the case and follow the law in the case,
22 that she could consider a life sentence or death
23 sentence, depending upon the facts and circumstances
24 that were represented. I do not feel that the fact
25 her sister was killed that many years ago, that it has

INDIVIDUAL JURY VOIR DIRE

1 been that long in time, she was not a witness or
2 directly involved in the crime or no personal
3 knowledge of the crime, and she stated to the Court
4 under oath that she's willing to be fair and impartial
5 and base her decision on the evidence and the law in
6 this case, and I'll find that she is qualified over
7 the defense's objection.

8 All right. Anything before we break for lunch?

9 MR. RICHARDSON: Nothing from State, Your Honor.

10 THE COURT: From the defense?

11 MR. WILSON: Nothing, Your Honor.

12 THE COURT: As soon as we start getting them here
13 this afternoon, we'll round everyone up and jump right
14 back into it.

15 (A lunch recess was taken.)

16 THE COURT: Do you need to wait on Scott, or are
17 you good?

18 MR. RICHARDSON: No, sir, we're ready.

19 (The juror enters the courtroom.)

20 (ERIC McCOY, having been duly sworn, testified
21 as follows:)

22 VOIR DIRE OF JUROR 218

23 BY THE COURT:

24 Q What is your name?

25 A Eric McCoy.

INDIVIDUAL JURY VOIR DIRE

1 Q Do you understand you're under oath?

2 A Yes, sir.

3 Q When you left here on Monday, I said do not
4 discuss the case with anyone, keep an open -- do not
5 watch any news accounts about the case, do not do any
6 research about case; have you followed all of those
7 instructions?

8 A Correct, sir.

9 Q At this point in time, what will happen is I'll
10 ask you a few questions and the attorneys can ask a few
11 questions. We just want you to be open, honest. We
12 want you to be candid. No one is trying to challenge
13 you or your views, just trying to figure out what your
14 views are; does that make sense?

15 A Yes, sir.

16 Q If you don't understand, anything you let us
17 know, we'll repeat the question.

18 In this case, Mr. McCoy, the State is seeking the
19 death penalty against Mr. Jenkins, so I'm required to
20 divide the trial up in two parent. The first part is
21 to determine whether or not Mr. Jenkins is guilty or
22 not guilty of the offenses charged. If he is found
23 not guilty, the case is completely over. If he is
24 found guilty, it will proceed to the second phase,
25 which we call the "sentencing phase" or "penalty

INDIVIDUAL JURY VOIR DIRE

1 phase." In that part of the trial, it is the jury's
2 responsibility to determine whether or not the
3 appropriate sentence is life without the possibility
4 of parole, or the death sentence; does that make
5 sense?

6 A Yes, sir.

7 Q Just because we're talking about penalties
8 doesn't mean Mr. Jenkins is guilty of anything. The
9 burden is on the State to prove his guilt beyond a
10 reasonable doubt, and he is presumed innocent; do you
11 understand that?

12 A Yes, sir.

13 Q Do you have any relationship to Mr. Jenkins in
14 any way, shape or form?

15 A No, sir.

16 Q Do you know Mr. Hixson, Mr. Richardson or Mr.
17 Wilson or Ms. Williams, the attorneys in the case?

18 A No, sir.

19 Q I gave you a witness list before you came in
20 here; did you review that.

21 A Yes, sir.

22 Q Was there anyone on there that you knew?

23 A I did not, sir.

24 Q One of the things I'm going to ask all of the
25 jurors to do is accept the law and apply the law as I

INDIVIDUAL JURY VOIR DIRE

1 give it to them; can you do that?

2 A Yes, sir.

3 Q Before today, have you ever heard, read, seen or
4 do you know anything about this case at all?

5 A It's in the street, but at that particular time,
6 when this happened, I was at work.

7 Q What did you hear from the street?

8 A I heard about the guy getting shot, but I didn't
9 follow up on it because I was busy, and I don't try to
10 get into gossip.

11 Q Did you see it on the news at all?

12 A I heard it from friends I was working with
13 because they always went to the store.

14 Q So they went to the 905 Red Bluff store?

15 A Yes.

16 Q Did they tell you their version?

17 A No, they said they knew the guy because they
18 always went in the store and he was a nice guy.

19 Q Did you know the guy?

20 A I didn't know the guy. I frequently go to stores
21 in that area.

22 Q So did you say you frequently go?

23 A Yes. That is when I'm in the area.

24 Q So give me a ballpark -- let me give you an
25 example. We all go to gas stations, that is a part of

INDIVIDUAL JURY VOIR DIRE

1 life.

2 A Right. Yes, sir.

3 Q And sometimes you go to the same grocery store
4 over and over again.

5 A Yes, sir.

6 Q And some people go to the same convenience stores
7 over and over again. So ballpark me how many times you
8 have been in that store.

9 A I hardly come in that area, that part of the
10 intersection, so probably like twice or every three
11 months or so.

12 Q Did you know the store clerk or owner?

13 A I did not know the store clerk or store owner.

14 Q Did you have any connection with anyone directly
15 involved in the case?

16 A No, sir.

17 Q Do you understand what you heard on the street is
18 not evidence?

19 A Yes, sir, it is only hearsay.

20 Q It is not even hearsay, just gossip, like you
21 said.

22 A Yes, sir.

23 Q Do you understand if you were a juror in court,
24 you would have to base the evidence and the law that
25 comes into the courtroom (sic)?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, sir.

2 Q Are you willing to do that?

3 A Yes, sir.

4 Q Do you understand this is a criminal trial?

5 A Yes, sir.

6 Q And you understand the burden of proof is on the
7 State? Defendants don't have to prove their innocence
8 or prove anything at all; you understand that?

9 A Yes, sir.

10 Q I'll give you a couple of examples and see how
11 you do with those questions. The first one is if you
12 were a juror in a criminal case, could you listen to
13 the facts, determine what the evidence -- listen to the
14 evidence, determine the facts and apply those facts to
15 the law I give you and return a verdict of either the
16 guilty or not guilty, based upon the facts and
17 circumstances?

18 A Yes, sir.

19 Q I need to explain two terms to you. The first
20 term is called "aggravating circumstances."
21 Aggravating circumstances are facts and circumstances
22 that are declared by law to increase or make worse,
23 that is aggravate the offense of murder; does that make
24 sense?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q So there is a set of circumstances that when
2 taken with the murder case, they make the murder case
3 worse; do you follow that logic?

4 A Yes, sir.

5 Q The other side is we have in our law something
6 called "mitigating circumstances." These are laws
7 written into the books that say these certain
8 circumstances mitigate or reduce the severity of the
9 murder or the moral culpability or responsibility of
10 the person; do you understand that?

11 A Yes, sir.

12 Q Now, my second example for you is this. Let's
13 say you are a juror in a death penalty case -- not this
14 one, just hypothetical one.

15 A Yes, sir.

16 Q You and the other 11 jurors have already
17 determined that the defendant, in my hypothetical case,
18 is guilty of murder. So we're at phase two of the
19 trial; does that make sense?

20 A Yes, sir.

21 Q So the question is: Could you, depending upon
22 the facts and circumstance, any aggravation and any
23 mitigation, and the law I give you, could you render a
24 verdict of life -- a sentence of life without the
25 possibility of parole based upon the facts and

INDIVIDUAL JURY VOIR DIRE

1 circumstances?

2 A Yes, sir.

3 Q Could you render a sentence of death based upon
4 the facts and circumstances?

5 A Death is a strong word, sir.

6 Q I'm aware of that.

7 A That is a strong word.

8 Q That is why I want you to be open and honest.

9 Could you imagine a scenario, based upon the facts and
10 circumstances, the aggravation and the mitigation and
11 the law, could you envision a scenario where you could
12 render a sentence of death?

13 A Death is -- I'd rather give a life sentence than
14 death, sir.

15 Q If you were put on this jury, would your health
16 or the health of anyone dependent on you affect you in
17 a serious way?

18 A No.

19 THE COURT: I'll let the attorneys ask you some
20 questions and just be open and honest with them.

21 JUROR: Yes, sir.

22 EXAMINATION

23 BY MR. WILSON:

24 Q Mr. McCoy, you are from North Myrtle Beach?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q Are you related to Sam McCoy?

2 A Brother.

3 Q You are related to him?

4 A Yes, sir.

5 Q He's your brother?

6 A That is one of my oldest brothers.

7 Q Okay. I'm just asking.

8 When you signed this form, you signed that you
9 were an "A" juror -- remember the form with three
10 things and you picked "A"?

11 A Right.

12 Q What was your understanding of type A?

13 A What was my understanding?

14 Q Yes, sir.

15 A Type A was....

16 Q You want to see --

17 A Yes, sir.

18 MR. WILSON: May I approach?

19 THE COURT: Of course.

20 A (Witness examines document.) Okay.

21 Q Having looked over it, does that help kind of to
22 refresh your memory as to why you picked that
23 particular one?

24 A Yes, sir.

25 Q So if you would, help me understand what your

INDIVIDUAL JURY VOIR DIRE

1 understanding of an "A" juror is?

2 A I'm nervous right now. I apologize, right now
3 I'm nervous.

4 Q You have never been in a process like this?

5 A No. No.

6 Q I understand it is nerve racking.

7 THE COURT: Take a deep breath. Take your time.
8 Read it as much as you need.

9 A Only reason I'm nervous is back in 2001 when I
10 got jumped, I got trauma in the back of my head, one
11 eye is completely dead.

12 THE COURT: We'll come back to that form. Tell
13 me a little bit about that. Back in 2001 what
14 happened?

15 JUROR: 2001 I was at Atlantic Beach. An
16 altercation happened between a male and female getting
17 into my vehicle, and I tried to stop it. When I did,
18 the guy swung, and I swung back at him. At that time,
19 I got hit in the back of the head with a gun.

20 THE COURT: With a gun?

21 JUROR: Yes. Knocked out. I was in the hospital
22 for ten days. I got disability in one eye, but I
23 didn't go for the disability because I was a working
24 man at the time.

25 THE COURT: You wanted to go to work?

INDIVIDUAL JURY VOIR DIRE

1 JUROR: Yes. And sometimes when I'll be talking,
2 my eyes flutter.

3 THE COURT: Did anyone get arrested out of that?

4 JUROR: The guy that hit me in the back of the
5 head.

6 THE COURT: What happened to him?

7 JUROR: I have no idea, sir. Because it messed
8 me up for like ten days; I was in the hospital.

9 THE COURT: So you don't know if he got
10 prosecuted or convicted or went to jail?

11 JUROR: Right.

12 THE COURT: How are you doing since then with
13 those issues?

14 JUROR: It is just my eye flutters a lot. Like
15 now, I'm nervous, I'm shaking.

16 THE COURT: That's okay. Take a deep breath.

17 Mr. Wilson, you can follow up on anything you
18 want to.

19 MR. WILSON: Thank you, sir.

20 THE COURT: I wanted to flesh that out a little
21 bit, so take your time with that form.

22 JUROR: Yes, sir.

23 (A brief pause in the proceedings.)

24 A I did choose "A."

25 Q (BY MR. WILSON) And what I was asking you is to

INDIVIDUAL JURY VOIR DIRE

1 try to describe to me what your understanding of an "A"
2 juror is?

3 A Understanding of an "A" juror?

4 Q Yes, sir. Whatever you think. It doesn't
5 matter, it is not right or wrong, just whatever you
6 feel. There is no right or wrong answer, whatever you
7 think.

8 A Yes, sir.

9 (A brief pause in the proceedings.)

10 Q Let me ask you this. Do you have an opinion
11 about the death penalty one way or the other?

12 A My opinion is if it is death penalty, I would say
13 life in prison instead of death penalty.

14 Q And I don't want to put words in your mouth, I'm
15 struggling trying to understand. You are saying if you
16 had a choice, you would rather choose life as opposed
17 to death?

18 A Yes.

19 Q His Honor asked you whether there -- I'll ask it
20 this way. Are there any facts or circumstances that
21 exist where you could vote for the death penalty?

22 A I would rather take life than death.

23 Q I understand that you are saying that would be
24 your preference. But my question is could you, if you
25 found the circumstances bad enough and aggravated

INDIVIDUAL JURY VOIR DIRE

1 enough in your mind, based on the law, and after
2 considering aggravating and mitigating circumstances
3 and His Honor's instructions as to the law, could you,
4 if you felt that it was appropriate, say I'm going to
5 vote for death; could you do that?

6 A No, sir.

7 Q So you are saying there is no set of
8 circumstances anywhere that exists that you can say
9 I'll vote for death?

10 A No. I would rather do life in jail than death.

11 Q Do you understand that if you are in a death
12 penalty case, in order to get to the second phase where
13 you are going to be considering death, you would
14 already have found the person guilty of murder?

15 A Okay.

16 Q You with me?

17 A Yes, sir.

18 Q First part, you make a decision, you and the
19 other 11 members, you vote together that we all believe
20 this person committed an intentional killing of another
21 person without any justification; that is murder?

22 A Yes, sir.

23 Q You have made that decision. You get to the
24 second part of this trial, the penalty or sentencing
25 phase, then you have to consider whether or not you can

INDIVIDUAL JURY VOIR DIRE

1 impose life or death; could you do either/or, or are
2 you only going to do life?

3 A Life.

4 Q You are only going to be able to do life?

5 A Yes, sir.

6 Q And there is no circumstance -- one last time --
7 that you can do death?

8 A No.

9 MR. WILSON: Fair enough.

10 MR. RICHARDSON: No questions, and I don't
11 believe that he's qualified for service on this
12 particular jury.

13 MR. WILSON: Agree.

14 THE COURT: Mr. McCoy, I'll excuse you from the
15 service of this case. Thank you for coming back up
16 here today. You do not need to you call back or come
17 back. You can head out that back door over there.
18 Have a great day.

19 (The juror exits the courtroom.)

20 (The juror enters the courtroom.)

21 (SUSAN SUNDAY, having been duly sworn,
22 testified as follows:)

23 THE COURT: This is 356.

24 VOIR DIRE OF JUROR 356.

25 BY THE COURT:

INDIVIDUAL JURY VOIR DIRE

1 Q Are you Ms. Sunday?

2 A Yes, sir.

3 Q Good. Do you understand you are under oath?

4 A I do.

5 Q When you left Monday, I said don't talk about the
6 case, don't do your research and don't watch news about
7 the case; have you followed that instruction?

8 A Yes. Tuesday morning, when our clock radio went
9 off, the news went on and they were saying about the
10 jury selection for a case in Conway. I turned it off
11 real quick, but that is as close as I came to anything.

12 Q Great. Thank you for doing that, I appreciate
13 it.

14 I want you to be open and honest, and I want you
15 to be candid. This is not about challenging you or
16 your views. This is about all of us understanding
17 what your views are. We'll ask you questions you
18 never thought about. If you need us to repeat any
19 questions, just ask, okay.

20 So in this case, where we are now, is that the
21 State is seeking the death penalty against Mr.
22 Jenkins. Because of that, I'm required, under the
23 law, to break the trial into two different phases or
24 parts. In the first phase, the jury will be
25 responsible for deciding whether or not Mr. Jenkins is

INDIVIDUAL JURY VOIR DIRE

1 guilty or not guilty of the crimes charged. If the
2 jury finds that he is not guilty, the case is
3 completely over at that time. If the jury determines
4 he is guilty, we move on to what is called the
5 sentencing phase or the penalty phase.

6 In the sentencing phase, it becomes the jury's
7 responsibility to determine what is the appropriate
8 sentence: Either life without the possibility of
9 parole, or death; do you understand the framework I
10 just explained to you?

11 A Yes.

12 Q Just because we're talking about penalties
13 doesn't mean that Mr. Jenkins has done anything. He is
14 presumed innocent under the law; do you understand
15 that?

16 A Yes.

17 Q Do you know Mr. Jenkins or have any relationship
18 to him in any way, shape or form?

19 A No.

20 Q Do you know any of the attorneys, Mr. Hixson, Mr.
21 Richardson, Mr. Wilson or Ms. Williams at all?

22 A No.

23 Q Did you see the witness list before you came in
24 here?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q Did you know anyone or think you knew anyone on
2 there?

3 A No.

4 Q One of the things I'll ask all the jurors to do
5 in this case is to accept the law and apply the law
6 that I give them, whether they agree with it or not; is
7 that something you can do?

8 A Say that again.

9 Q So in every single trial, whether we are in a
10 wreck case or shoplifting case or death case, there is
11 one judge of the law in the courtroom. In this case,
12 that is me. So all the jurors will have to agree that
13 they will accept the law that I give them and apply it
14 as I give it to them, whether they agree with it or
15 not; are you capable of doing that?

16 A Yes.

17 Q Now, other than radio incident, have you heard,
18 read, seen or do you know anything about this case at
19 all?

20 A Only thing I know is what was in the Horry
21 Independent last Thursday, and I kind of read through
22 that; that's it.

23 Q So other than that article, have you seen or
24 heard any news accounts about the case?

25 A No.

INDIVIDUAL JURY VOIR DIRE

1 Q Have you talked with anyone about the case?

2 A No.

3 Q Do you have any independent knowledge about the
4 case?

5 A No.

6 Q Do you know anyone involved in the case?

7 A No.

8 Q Tell me what you remember from that article.

9 And, again, you didn't do anything wrong by reading
10 that article; does that make sense?

11 A Right.

12 Q But what I'm trying to figure out is what you
13 read from that article, and there is no right or wrong
14 article, just as much as you can remember.

15 A It seemed like an interview with a defendant,
16 mainly. He was giving his idea of what happened. I
17 remember a part that said he did pull the trigger, he
18 did fire, but he did not kill the guy. The guy was on
19 the other side of the counter, and someone else jumps
20 over-the-counter and shot a couple more times. I
21 remember that, and not too much else.

22 Q Do you realize that none of that is evidence or
23 proof of anything?

24 A If you say so, I do.

25 Q That it is a news article.

INDIVIDUAL JURY VOIR DIRE

1 A Yeah. Right.

2 Q And you and I both know that things in the news
3 are not accurate or true, or that they are admissible
4 in court; does that make sense?

5 A Yes.

6 Q So can you disregard that article and make a
7 decision on what happens in court, the evidence and the
8 law that I give you?

9 A Yes.

10 Q Do you understand that this is a criminal case?

11 A Yes.

12 Q That means that the State has the burden of
13 proving guilt beyond a reasonable doubt. Criminal
14 defendants don't have to prove their innocence. They
15 don't have to prove anything or say anything at all
16 under the law; do you understand that?

17 A Yes.

18 Q We're going to switch gears a bit and I'll give
19 you example questions. I'll give you two, so we'll
20 jump into the first one. The first one is imagine a
21 scenario where you are a juror in a criminal case, an
22 average criminal case. So the question is this: Could
23 you, as a juror in that case, listen to the evidence,
24 determine what the facts are, apply those facts to the
25 law that I give you and render a verdict of either

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1 guilty or not guilty, based on the facts and
2 circumstances that existed?

3 A I would certainly try to, but whether I would be
4 able to come up with an answer, I don't know.

5 Q What do you mean by that?

6 A I wouldn't know if the facts I'm being told are
7 really true or not, I mean.

8 Q So one of the things we ask jurors to do during
9 any case, not just this case, even a civil case like a
10 traffic accident case, we say, Jurors, it is your
11 responsibility to judge the creditability of each
12 witness that comes before you and to determine whether
13 or not they are telling you the truth. So that would
14 be part of your duties and responsibilities, to listen
15 to the evidence, decide what the facts are and then
16 apply those facts to the law and, ultimately, reach a
17 verdict of either guilty or not guilty, depending upon
18 the facts and circumstances and the law that I give
19 you; could you do that?

20 A I think I could. I don't think I would want to,
21 but I could.

22 Q What do you mean you don't want to?

23 A I don't want to pass judgment. It's a scary
24 thing for me.

25 Q Would you have an issue passing judgment upon

INDIVIDUAL JURY VOIR DIRE

1 somebody's sentence?

2 A Once it has been proven that they are guilty?

3 Q Right.

4 A No.

5 Q So moving past the first phase of the trial, and
6 moving on to the second phase of the trial, the death
7 penalty phase, if you were called to render a sentence
8 of either death or life, depending upon the facts and
9 circumstances, could you do that?

10 A Yes.

11 Q Let me explain these two terms: "Aggravating
12 circumstances" and "mitigating circumstances."
13 Aggravating circumstances are circumstances that under
14 the law make murder cases worse.

15 A I'm sorry, you said the first one you were
16 telling me is aggravating?

17 Q Yeah. So aggravating circumstances are
18 circumstances that under the law, if one or more of
19 these exist, they make a murder case worse or more
20 serious or aggravate the case; does that make sense?

21 A Uh-huh.

22 Q Yes?

23 A Yes.

24 Q The flip side is mitigating circumstances, and
25 these are circumstances that under the law reduce the

INDIVIDUAL JURY VOIR DIRE

1 severity of the offense or person's role or
2 responsibility in the offense; does that make sense?

3 A Yes.

4 Q So the question then, example question, is this:
5 Imagine you are a juror in a death penalty case, any
6 case. You and your fellow jurors have already
7 determined that the defendant in my made-up case is
8 guilty. So y'all have voted and said she is guilty of
9 the offense. So we're in the sentencing phase now; you
10 follow where I am in my example?

11 A Yes.

12 Q So the question is: Could you, depending upon
13 the facts and circumstances, and the aggravation and
14 the mitigation and the law, could you render a sentence
15 of life without the possibility of parole?

16 A Yes.

17 Q Could you render a sentence of death based upon
18 the facts and circumstances?

19 A Yes.

20 Q If you were on this jury, would it cause you a
21 significant health issues?

22 A No.

23 THE COURT: I'll let the attorneys ask you some
24 questions. Be open and honest with them.

25 EXAMINATION

INDIVIDUAL JURY VOIR DIRE

1 BY MS. WILLIAMS:

2 Q I'm Brana Williams, and it will be me along with
3 Ralph Wilson, we represent J.J. Jenkins in this trial.
4 I'm not picking on you, but this lady has to take down
5 what we say, so most people say "uh-huh" or "huh-huh"
6 and nod and shake, and I'm not picking, but you have to
7 answer out loud so she can type, yes or no.

8 A I understand.

9 Q I want to ask you a couple of questions. You put
10 in your juror questionnaire that you filled out back
11 when you sent it in, that you are retired from DHEC;
12 what did you do?

13 A I worked in administration in the epidemiology
14 department.

15 Q Which means?

16 A I did a lot of paperwork. I didn't do any
17 investigation of diseases, but I would enter data into
18 the computer system, send letters.

19 Q So the word you said?

20 A Epidemiology.

21 Q Is what?

22 A Certain infectious diseases people have.

23 Q Like when they come up with how many people have
24 had the flu and the measles?

25 A Yes. Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q That is what I was going to ask you about. Your
2 answer on No. 26, you went to Pennsylvania State?

3 A Uh-huh.

4 Q And studied anthropology?

5 A Yes, I did.

6 Q And so did you always use that anthropology or
7 work at DHEC; what did you do?

8 A What did I do?

9 Q As a career.

10 A Oh. I worked in several things. I've worked in
11 banking. I worked as a facility manager for a large
12 computer company, and then I took time off to raise my
13 children. Then I went back to work, and that was with
14 DHEC. I was with them about 24 years.

15 Q As the judge was talking and explaining this,
16 this is an unusual case. Have you ever been through
17 qualifications on a capital case before?

18 A No.

19 Q So you will know it is unusual. I know it is
20 nerve racking, so thank you for being open and honest
21 and talking to us. As the judge said, it is not about
22 right or wrong, and it is not about what you think
23 versus what I think. It is so we know what everyone
24 thinks, all right?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q One of the things with we'll talk about, and I
2 will make sure you understand, as you said, it would be
3 difficult sometimes -- we don't want to pass judgment
4 on people.

5 A Yes.

6 Q So like in the judge's example, in a capital
7 case, phase one is a normal jury trial, and what we see
8 there is 12 people and they vote unanimously and decide
9 guilty or not guilty, okay?

10 A Yes.

11 Q And so in a capital case, we kind of skip through
12 that and we almost assume, in the judge's case, that
13 you sat on the jury, and you and 11 others found guilt
14 beyond a reasonable doubt for murder.

15 A Okay.

16 Q And murder -- the judge will tell you -- is the
17 killing of another with malice aforethought, there is
18 no justification, okay?

19 A When you said "malice" -- or what was the word?

20 Q The word is technically "malice."

21 A Or?

22 Q "Aforethought," one word, but it has three parts.

23 A Oh, okay.

24 Q And the judge will explain what that means. It
25 is a big definition, and he'll explain to you, but

INDIVIDUAL JURY VOIR DIRE

1 basically without justification.

2 A Okay. In other words, not like in self-defense,
3 which is a justification, but for some other reason?

4 Q Yes, ma'am. And that is what he was explaining
5 when he was saying "aggravating" and "mitigating," not
6 legal defenses. Because you are past part one where
7 there might be possible legal defenses, you just asked
8 about, and as part of that jury, the jury panel said,
9 No, we believe that that defendant is guilty of murder
10 beyond a reasonable doubt, which is the killing of
11 another with malice aforethought, intentionally.

12 A Okay.

13 Q In that case, that is what this sheet was talking
14 about with A, B and C jurors. In Section A, I know you
15 picked "C," but in Section A it talks about -- and
16 there are people that think if I'm on a jury, the jury
17 has voted that that is a guilty murderer beyond a
18 reasonable doubt, that the death penalty is the only
19 appropriate penalty. You didn't mark that. Tell me
20 about that.

21 A Well, I understand there may be two penalties,
22 there may be death or life sentence. I would probably
23 choose a life sentence, because I don't feel in my
24 heart that I could put -- choose death on another
25 person.

INDIVIDUAL JURY VOIR DIRE

1 Q You said that. Here is what I have to ask. The
2 lay -- the judge is going to give you the law. I want
3 to be plain about this. The State may tell you what it
4 says, I may, but Your Honor is the only person that
5 will read you the law, but I'm pretty sure he will tell
6 you that in South Carolina the State never ever
7 requires a death penalty, okay; did you know that?

8 A No, I did not.

9 Q And His Honor will tell you that the State of
10 South Carolina will be perfectly satisfied with a life
11 sentence, and that a juror can give --

12 MR. HIXSON: Objection.

13 THE COURT: Ma'am, step outside of the courtroom
14 for a minute. I need you to step outside of the
15 courtroom for a second.

16 (The juror exits the courtroom.)

17 MR. HIXSON: Your Honor, this is like the second
18 or third time that this is said and it usually hasn't
19 mattered because they were solid C's, but it is not a
20 true, accurate statement of law that the State of
21 South Carolina is satisfied with this or satisfied
22 with that. The specific question was, I can tell the
23 witness that the State of South Carolina is going to
24 be completely satisfied with a life sentence. Our
25 objection is that is an inaccurate statement of law

INDIVIDUAL JURY VOIR DIRE

1 procedurally.

2 MS. WILLIAMS: It is our position that that is
3 the law.

4 THE COURT: That is not the law. The State, in
5 the scenario that we're going through things, in this
6 scenario is the prosecution -- this is the second
7 juror that you have told that the people at the other
8 table are fine if you give a life sentence. The law
9 says that they have the right to give a life sentence
10 for any reason or no reason at all, but what you are
11 saying to them is that the State -- which is the
12 scenario we're communicating with these people -- is
13 the prosecution is perfectly fine with you returning a
14 life sentence, they don't care if you return a life
15 sentence. That is the language that is put out there.
16 This is either the second or third juror that you have
17 done it with.

18 MS. WILLIAMS: Your Honor, I'm sorry if I
19 misstated. I will be very careful. I'll say the law
20 never requires it. I meant to say "the law," but I
21 said "the State," so I'll correct that.

22 THE COURT: This happened now multiple times.
23 You cannot put the idea out that the prosecution
24 doesn't really care if they give someone the death
25 penalty or not. I mean, I understand you are doing

INDIVIDUAL JURY VOIR DIRE

1 this off-the-cuff, but it needs to be some more
2 pre-programming going on in place, you know. You
3 can't stand up and say the prosecution is fine with
4 you giving someone a life sentence. If that were
5 true, none of us would be sitting in this room right
6 now, okay.

7 MR. HIXSON: May I add one point while we're
8 talking about that process? I have not objected on
9 it, but relating to informing the victim and charging
10 them on the law without any voir dire questions on
11 bias or prejudice about preparing them, like, you
12 know, You can give mercy, you can give mercy. That is
13 an inoculation not really a question.

14 THE COURT: Right. Right. I've been waiting for
15 that objection for three days now.

16 MR. HIXSON: Yes.

17 THE COURT: You are up here telling these
18 potential jurors what you want them to hear, and not
19 asking any questions. You are up here juror after
20 juror after juror after juror saying, You can give
21 life for no reason at all. I'm not saying that is not
22 an accurate statement, but that is not a question.
23 Y'all are just filling them with information you want
24 and not asking questions of these people -- I mean,
25 you are asking questions, but you are -- there is

INDIVIDUAL JURY VOIR DIRE

1 enough fluff in the question -- you know, you people
2 are walking up here saying that they are "C" people,
3 and you are going into a diatribe about how they don't
4 have to give someone the death penalty. This woman
5 already said she doesn't really want to give anyone
6 the death penalty.

7 Bring her back in. But if I hear an objection on
8 that in the future, I'm going to sustain it.

9 (The juror enters the courtroom.)

10 THE COURT: Come back up, Ms. Sunday. You
11 understand are still under oath?

12 JUROR: Yes.

13 THE COURT: You may continue.

14 MS. WILLIAMS: Thank you, Your Honor. One moment
15 please.

16 (A brief pause in the proceedings.)

17 Q (MS. WILLIAMS) I have one more question. If you
18 are seated on a jury in this case, and as part of --
19 in a case, as the judge said, like in His Honor's
20 example, you get to part two, as we talked about the
21 first phase is over, we are in part two and the Court
22 gave you the choice, because that jury found the
23 defendant guilty of murder.

24 A Okay.

25 Q And then there is two possible sentences. You

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1 have said you could consider death, and you could
2 consider life, right?

3 A Yes.

4 Q What I want to ask you, to be sure, is that if in
5 your heart and your beliefs, after you made a judgment
6 that death is the appropriate sentence, based on the
7 facts and evidence and everything you have heard, that
8 is what you decided was right, the State -- one of the
9 requirements of the court of the law is that the juror
10 has to sign a piece of paper that says, yes, I believe
11 that is the right sentence; could you do that if you
12 believed it were the right sentence?

13 A Yes.

14 MS. WILLIAMS: Thank you.

15 THE COURT: State.

16 MR. HIXSON: Thank you, Your Honor.

17 EXAMINATION

18 BY MR. HIXSON:

19 Q Good afternoon. How are you? I want to ask you
20 a couple of questions relating to what Ms. Williams
21 talked to you about. I want to focus on a couple of
22 comments you made, and specifically concerning about
23 your beliefs relating to you setting judgment or the
24 one that has to make a decision on such important
25 matters, specifically you indicated -- you said -- I

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1 wrote it down -- I can't choose death. Let's back away
2 and set the table. When the judge asked you questions,
3 you understood that the first part of the process is
4 deciding guilt, right?

5 A Yes, sir.

6 Q And after guilt comes a decision by the jurors to
7 make a decision concerning a life sentence or a death
8 sentence in the penalty phase; is that your
9 understanding?

10 A Yes.

11 Q And Ms. Williams started the conversation, and
12 she's a hundred percent right, that we're trying to
13 understand your beliefs and ability to do your oath if
14 you were sworn in. You take an oath as a juror and
15 your duty is to independently deliberate those issues
16 and actually do those issues, not just to consider
17 them, not just consider a life sentence, but to vote
18 for a life sentence, and not just to consider a death
19 sentence, but to vote a death sentence and sign a
20 verdict form that that is my vote; do you understand?

21 A Yes.

22 Q So when you said you can't choose death earlier,
23 would that belief substantially impair your ability to
24 return a death sentence?

25 A Am I going to have the choice?

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1 Q The choice will only be the jurors' choice. If
2 you are a part of the jury, your choice -- if you get
3 to the penalty phase --

4 A The jurors choose one or the other?

5 Q One or the other. And you have to be a properly
6 sworn juror. The oath will be, I promise the Court
7 that I can equally choose life, or equally choose
8 death, not just consider it, but to do both.

9 MS. WILLIAMS: Your Honor, may we take up a
10 matter?

11 THE COURT: Step back out, we'll be back with
12 you.

13 (The juror exits the courtroom.)

14 THE COURT: Okay.

15 MS. WILLIAMS: Your Honor, we believe that the
16 Solicitor's statement that they must equally be able
17 to consider life or equally consider death is a
18 misstatement. I believe the correct phraseology, as
19 the Court said, they have to be able to meaningfully
20 consider it, that doesn't mean equally. We believe
21 that is a misstatement of the characterization of the
22 duty.

23 MR. HIXSON: I apologize for using "equally."

24 THE COURT: They have to consider both.

25 MR. HIXSON: That is what I was trying to get

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1 across.

2 THE COURT: Let's ask her questions. Bring her
3 back in.

4 (The juror enters the courtroom.)

5 Q (MR. HIXSON) I have a short summation for you.
6 Back to the specific point I was talking about your
7 earlier statement when you said that you thought that
8 you can't choose death. Do you think that that belief
9 that you have would impair your ability to return a
10 death sentence in this case?

11 A I do.

12 MR. HIXSON: No further questions.

13 THE COURT: Let me ask you some questions.

14 RE-EXAMINATION BY THE COURT:

15 Q I'm going -- we've been talking about penalty
16 now, the lawyers have, right?

17 A Yes.

18 Q I need to go back to the questions that if you
19 were in just a criminal case, not even a death penalty
20 case, you were just asked to be a juror on a criminal
21 case, criminal case about possession of drugs or
22 shoplifting or domestic violence, an average case, not
23 a death penalty, do you have the ability, in your own
24 belief system, to find a person either guilty or not
25 guilty?

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1 A Yes.

2 Q Do you have the ability to deliberate it, talk
3 about it, go through the evidence with the other jurors
4 and render a verdict of guilty or not guilty?

5 A Yes.

6 Q Because what you told me earlier is you can't
7 judge someone, and I'm not trying to put words in your
8 mouth, but when I made it to that question earlier, you
9 said, you know, something along the lines that you
10 wouldn't want to judge another person.

11 A If I were judging someone solely on me. If I
12 were in a group and the group went back and forth and
13 discussed it and decided, I would be able to.

14 Q And the question in that scenario that you just
15 gave is: Can you make your own independent decision
16 based upon a review of your own review of the evidence
17 and the law while listening to the views of your fellow
18 jurors? Does that make sense? You need me to explain
19 it again?

20 A Yes.

21 Q I'm not talking about penalty, I'm talking about
22 a normal criminal case. You come up here and they say
23 someone is charged with possessing marijuana. Your
24 duty and responsibility is to follow the law that I
25 give you and to render a verdict, and when you begin

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1 deliberating with your 11 fellow jurors, you are
2 supposed to consider the evidence, talk about it,
3 discuss the evidence and do it in a calm, courteous and
4 thorough manner. You are to come to your own
5 conclusion as to whether or not somebody is guilty or
6 not guilty. What I heard you tell me earlier, when I
7 started questioning you the first time, is that you
8 could not do that. I'm not saying you can or can't, I
9 don't know you, but I want to understand what your
10 position is on that. It is not that your position is
11 right or your position is wrong; does that make sense?

12 A Yes.

13 Q This is not about your views, if they are right
14 or if they are wrong, this is about us understanding
15 your true views on that issue, that is why I said I
16 want you to be open, honest and candid?

17 A Yes.

18 Q Walk we through what you think about what I just
19 said.

20 A You wanted to know if I were able to decide for
21 myself, based on all of the circumstances and evidence,
22 everything else, whether a person actually did commit
23 this crime or did not commit this crime, and I probably
24 could do that.

25 Q Now, I want to work in phases. Let's go back to

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1 the example where you are in a penalty phase of a death
2 penalty case; you with me where I am now?

3 A Yes.

4 Q So in that scenario, based upon the facts and
5 circumstances of the case, any aggravation and any
6 mitigation that may or may not exist and the law I give
7 you, if you determined that the appropriate sentence --
8 is there a set of circumstances that you can imagine
9 that you can ever determine an appropriate sentence is
10 death?

11 A I've never had to do that. I've never had to
12 imagine it where I would have to say that. It's hard.

13 Q I know. The law requires that we have jurors
14 that can meaningfully consider both life and both death
15 based upon the facts and circumstances. We've had
16 people that come in here and given all different
17 answers, and it is not that anyone's answers is right
18 or it is wrong, I just need to know your true feelings
19 on that issue. Could you, Susan Sunday, sign your name
20 on a sheet of paper on a line saying that the
21 appropriate sentence for this person is death?

22 (A brief pause in the proceedings.)

23 A No.

24 THE COURT: Step back outside that door. Last
25 time, I promise.

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1 (The juror exits the courtroom.)

2 MR. HIXSON: Nothing to add; she's not qualified.

3 MR. WILSON: Your Honor, I don't want to belabor
4 this. She came in as a "C" and she said that she
5 believed, based on what she read -- as I understand it
6 from that form -- that she was a "C," when, in fact,
7 now we kind have determined she's probably a "B."
8 Again, my frustration in this process has been that
9 this form, I think, again, is misleading. I believe
10 that, and I apologize for keep making the same
11 objection. If the Court lets it be a continuing
12 objection, I won't make it anymore.

13 THE COURT: You don't object when the person says
14 what you want them to say, and you do objection when
15 they say what you don't want. We're not going to make
16 it a continuing objection because if the person says
17 the right thing up here that you want, and I determine
18 they are disqualified, you object and say it is the
19 form's fault. So it is not a continuing objection.
20 It is an objection you need to make each time. You
21 wouldn't frustrate me, but I want you to make the
22 objection at the appropriate time and make sure that
23 the record is protected.

24 MR. WILSON: Thank you, Your Honor. And, Your
25 Honor, I would just say that considering everything, I

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1 know she's gone back and forth with it, I understand
2 the words she used would not make her qualified, it is
3 just that I'm concerned about how we get there, so I
4 -- that is my objection.

5 THE COURT: I'm concerned about her
6 qualifications. I mean, I think she really is close
7 to one of the people that never wants to say someone
8 is guilty or not guilty altogether. I think that is
9 probably part of her true feelings, too. But I'll
10 determine her as disqualified. She has some form of a
11 moral opposition of the death penalty, and I don't
12 believe she could under any circumstances meaningfully
13 consider giving someone death.

14 Bring her back in.

15 (The juror enters the courtroom.)

16 THE COURT: Ms. Sunday, we are going to excuse
17 you from service. We asked you a lot of hard
18 questions, and I appreciate you being open and honest
19 and candid, that is exactly what we wanted you to do.
20 We sincerely appreciate you doing that and being that
21 way.

22 You are completely done with your service in this
23 case. You don't need to call back or come back. I
24 hope you have a wonderful day. Thank you very much
25 for your willingness to serve.

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1 (The juror exits the courtroom.)

2 (The juror enters the courtroom.)

3 (WENDY WILSON, having been duly sworn,
4 testified as follows:)

5 VOIR DIRE OF JUROR 392

6 BY THE COURT:

7 Q Are you Ms. Wendy Wilson?

8 A Yes.

9 Q You understand you are under oath?

10 A Yes.

11 Q You and I are going to go through some things,
12 and then the attorneys will ask you things. Monday I
13 told you don't talk about case, don't do any research
14 and don't watch any news on the case; did you follow
15 those instructions?

16 A Yes.

17 Q We'll ask you questions. I want you to be open,
18 honest and candid. This is not about attacking you or
19 attacking your views. This is about us trying to
20 figure out exactly what your views are. To do that,
21 we'll ask you questions that you probably never thought
22 about before, so take your time. If you need us to ask
23 something again, let us know; that is perfectly okay.

24 So in this case the State is seeking the death
25 penalty against Mr. Jenkins, because of that, I'm

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1 required to break this trial into two parts. Part one
2 is where the jury determines whether or not Mr.
3 Jenkins is guilty or not guilty of the crimes charged,
4 if he is found not guilty, we're done. Everything is
5 over. If he is found guilty, we move into a second
6 phase where the jury -- not the judge -- determines
7 whether the appropriate sentence is death or life
8 without the possibility of parole; does that framework
9 make sense to you?

10 A Yes.

11 Q We'll talk a lot about penalty, but just because
12 we're talking about penalties doesn't mean that he is
13 guilty of anything, he is presumed to be innocent; you
14 understand that concept of law?

15 A Yes.

16 Q Do you know Mr. Jenkins or have any connection to
17 him at all?

18 A No.

19 Q Do you know Mr. Hixson, Mr. Wilson or Ms. Willis
20 at all?

21 A No.

22 Q Did you review the witness list before you came
23 in here?

24 A Yes.

25 Q Did you know anyone on that list?

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1 A No.

2 Q One of the things we'll ask of jurors is to
3 accept the law I give them and apply it to the case,
4 whether they agree with it or not; is that something
5 you can do?

6 A Yes.

7 Q Prior to today, have you read, heard, seen or
8 know anything about this case at all?

9 A I probably heard about it you; I don't remember
10 it.

11 Q Would you have heard it from the news or --

12 A I'm sure at the time when it happened, I probably
13 heard it on the news.

14 Q Do you have a specific memory of it?

15 A Not really.

16 Q Do you know anybody involved in the case?

17 A No.

18 Q Do you have any connection to the case?

19 A No.

20 Q Are you willing to base your decision on what
21 happened in the courtroom, the evidence and the law?

22 A Yes.

23 Q You understand this is a criminal case?

24 A Yes.

25 Q That means the burden of proof is upon the State,

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1 the prosecutor, to prove Mr. Jenkins guilty beyond a
2 reasonable doubt. He doesn't have to prove anything.
3 He doesn't have to say anything at all because the
4 burden is on the State.

5 A Yes.

6 Q We'll switch gears and give you example
7 questions. So imagine as I go through the first
8 example -- the first example is this: Could you, if
9 you were a juror in a criminal case, any criminal case,
10 could you do the following: Could you listen to the
11 evidence, decide what the facts are and then apply
12 those facts to the law I give you and ultimately return
13 a verdict of guilty or not guilty depending on the
14 facts and circumstances?

15 A Yes.

16 Q Now, I'll define some words. The first word is
17 "aggravating circumstances." Aggravating circumstances
18 are written into our code of law in the legislature
19 that says these certain circumstances make murder cases
20 worse, they aggravate it; do you follow that?

21 A Yes.

22 Q The flip side is "mitigating circumstances." In
23 that same book of laws, the legislature says these
24 certain circumstances mitigate or reduce the
25 seriousness of the offense or person's role in the

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1 offense; does that make sense?

2 A Yes.

3 Q Now, here is what I want you to do, I want you to
4 imagine you are a juror in a death penalty trial -- not
5 in this trial, but any trial -- and you and your fellow
6 members of the jury have already determined that the
7 defendant in my example is guilty of murder. So phase
8 one is over; does that make sense?

9 A Yes.

10 Q So y'all decided she -- and we'll call her a
11 "she" in my example -- is guilty of murder, unlawful
12 killing of another person with malice aforethought. So
13 you are in the sentencing phase now.

14 A Yes.

15 Q Here is my question: Could you, being in the
16 sentencing phase of a death penalty trial, could you,
17 depending upon the particular facts and circumstances
18 in that case, including any aggravation and any
19 mitigation that may exist and the law that I give you,
20 could you listen to all of that and render a sentence
21 of life without the possibility of parole, depending on
22 the facts and circumstances?

23 A Yes.

24 Q Could you listen to all of that and render a
25 sentence of death, depending on the circumstances?

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1 A Yes.

2 Q If you were on this jury, would it pose a
3 significant health risk to you or anyone in your
4 family?

5 A No.

6 THE COURT: I'll let the attorneys ask you
7 questions. Thank you very much.

8 EXAMINATION

9 BY MR. WILSON:

10 Q How are you today?

11 A Good.

12 Q Let me ask you, Ms. Wilson. I noticed from your
13 questionnaire that you sent in by mail that your
14 husband works for Horry County?

15 A Yes.

16 Q And how long has he been an employee of Horry
17 County?

18 A I believe about six years.

19 Q He does -- firefighter, EMT?

20 A Yes.

21 Q Had you heard anything about this case before
22 today?

23 A I'm sure when it happened that I paid attention,
24 but I don't remember.

25 Q You don't remember anything?

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1 A Not much, no. I remember it happening and saying
2 where the gas stations were and things, but.

3 Q Was this a gas station you frequented?

4 A No. No. No. I don't live in those areas.

5 Q I also noticed that you are an employee of the
6 South Carolina Department of Health and Human Services?

7 A Yes, sir. Excuse me, long-term care.

8 Q You are an RN?

9 A Yes.

10 Q What do you do for them?

11 A We see patients in the home, elderly, that need
12 to go to nursing homes and try to find placement. We
13 see kids with autism and see if they can get Medicaid
14 to help with therapy, Meals On Wheels for people.

15 Q When you were in the room earlier, they gave you
16 a form with three different types of jurors on it?

17 A Yes.

18 Q And you chose "C"?

19 A Yes.

20 Q Why did you choose "C"?

21 A I have to hear the facts to decide anything.

22 Q But you, in listening to His Honor's instructions
23 earlier, when he gave you examples, you would also be
24 in the second phase, because in the first phase, you
25 would have found the defendant guilty of murder

INDIVIDUAL JURY VOIR DIRE

1 already.

2 A Yes.

3 Q So you are trying to decide what the appropriate
4 sentence is in the second part?

5 A Yes.

6 Q As I understand it, you would want to go into
7 that second phase with an open mind?

8 A Yeah. I mean, I guess it depends on what
9 happened, you know, how things happen, stuff like that.

10 Q I guess what I'm asking is when you come into the
11 second phase to do the sentencing, could you come into
12 that second phase with an open mind, listening to the
13 aggravating factors or mitigating factors before you
14 make a decision on what sentence?

15 A Death penalty or --

16 Q Yes.

17 A Yes. Yes.

18 Q And if you decided that the death penalty was the
19 appropriate sentence, you could sign a form indicating
20 that, sign your name on it returning that?

21 A Yes.

22 Q No. Your form -- I was looking at your form, and
23 on No. 32, I guess it was, it asked whether or not you
24 were a member of any volunteer groups, civic clubs or
25 organizations, and you didn't put anything on that?

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1 A No.

2 Q You don't participate in anything?

3 A No. I started volunteering at Pelicans baseball
4 games, but nothing.

5 MR. WILSON: Thank you.

6 EXAMINATION

7 BY MR. RICHARDSON:

8 Q Ms. Wilson, I want to ask you a few questions
9 about your questionnaire. Now, you presently work at
10 DHEC?

11 A No. It is community long-term care. It is a
12 division of the Department of Health and Human
13 Services. Pretty much Medicaid placement and things.
14 We send people to nursing homes or get sources in the
15 home, so.

16 Q How long have you been there?

17 A Six years. This is my sixth year, seven years
18 January 2nd.

19 Q When did you work at The Lighthouse?

20 A I worked there very briefly. It was like PR
21 work, and I did it like two, three days, and I want say
22 that was back maybe in 2010.

23 Q Prn?

24 A Yeah, just as needed.

25 Q Oh, okay.

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1 A I was working in dialysis at the time, so I
2 didn't have extra time.

3 Q It was a secondary job?

4 A Yes.

5 Q Nothing you did at The Lighthouse would have any
6 bearing on this case here?

7 A No. I worked with the geriatrics, dementia and
8 things.

9 Q At The Lighthouse?

10 A Uh-huh.

11 MR. RICHARDSON: No further questions. I believe
12 she's qualified, Your Honor.

13 MR. WILSON: She's qualified.

14 THE COURT: What is Pelicans baseball? Minor?

15 JUROR: Yeah.

16 THE COURT: Pelicans back home is like a snow
17 cone place.

18 JUROR: We have that here, too.

19 THE COURT: That caught me offguard.

20 I'll determine that you are qualified to be on
21 this jury. That doesn't mean you will be on it. I'm
22 in the middle of -- I'm halfway in the middle, but in
23 the process of creating a big group of people that are
24 qualified to come back. So you are going to be in
25 that group. Just because you are in that group,

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1 doesn't mean you are going to be on this jury; does
2 that make sense?

3 JUROR: Yes.

4 THE COURT: So out of the big group we'll pick
5 the jurors. But starting tonight after 6:00, start
6 calling back the number. That number will say you
7 need to come back up here on this day, at this time.
8 I don't know what that is right now, because I don't
9 know how long it will take me to get to my number;
10 does that make sense?

11 JUROR: Yes.

12 THE COURT: When you come back, bring a suitcase
13 with a week's worth of clothes, toiletry items, books,
14 magazines, things like that. I want you to create a
15 list of emergency phone numbers, primary care
16 physician, family friend, whoever you -- if we have an
17 emergency we can make contact.

18 When you come back up, leave all of that stuff in
19 your car. Just because you are coming back doesn't
20 mean you are going to be selected. If you are, I want
21 you to have that stuff. If you don't, you can get in
22 your car and go home.

23 So between now and then, don't talk to anyone
24 about the case, don't do any research about the case,
25 don't say I need to go figure this out. You really

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1 don't know anything about this case, and that is
2 exactly how I want you when you do come back. So
3 don't watch any news media. Can you follow those
4 instructions?

5 JUROR: Yes.

6 THE COURT: Thank you very much. You can head
7 back down the aisle.

8 (The juror exits the courtroom.)

9 (The juror enters the courtroom.)

10 (ELROY VAUGHT, having been duly sworn,
11 testified as follows:)

12 VOIR DIRE OF JUROR 378

13 BY THE COURT:

14 Q How are you, Mr. Vaught?

15 A Doing all right.

16 Q What is today? Thursday?

17 A Thursday.

18 Q Happy Thursday.

19 Do you understand you are under oath?

20 A Yes, I do.

21 Q When you left me on Monday, I said don't talk
22 about the case, don't watch news and don't do your own
23 research; did you follow those instructions?

24 A Yes, sir.

25 Q Here is what will happen. I'm going to ask you

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1 questions and the lawyers are going to ask you
2 questions. I want you to be open, honest and candid;
3 can you do that?

4 A Yes, sir.

5 Q This isn't about challenging you or challenging
6 your views. We are just trying to figure out how you
7 feel about things. In this case the State is seeking
8 the death penalty against Mr. Jenkins. What that means
9 is I'm required to break the trial into two different
10 parts. In the first part, the jury will determine
11 whether Mr. Jenkins is guilty or not guilty of the
12 crimes charged. If he is found not guilty, the case is
13 over. If he is found guilty, we move to the second
14 phase of the trial, and in that part of the trial, the
15 jury will be required to determine is death or life
16 without the possibility of parole the appropriate
17 sentence; do you understand all of that?

18 A Yes, sir.

19 Q That doesn't mean he did anything. He is
20 presumed to be innocent under the law; do you
21 understand that?

22 A I understand.

23 Q Do you know Mr. Jenkins or have any connection to
24 him in any way, shape or form?

25 A No, sir.

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1 Q Do you know Mr. Hixson, Mr. Richardson, Mr.
2 Wilson or Ms. Williams at all?

3 A I know Mr. Wilson.

4 Q How do you know him?

5 A He used to be -- before he was an attorney, he
6 used to be like going to jury duty. He was I think DA.

7 Q Prosecutor?

8 A Yes, sir.

9 Q You remember him from back then?

10 A At jury duty.

11 Q When you were on jury duty?

12 A Yes, sir.

13 Q So the last time you had jury duty, he was the
14 prosecutor?

15 A Yes, sir.

16 Q Fair enough. Would that affect your ability to
17 be fair and impartial?

18 A No, sir, it wouldn't.

19 Q Did you go through this witness list I gave you?

20 A Yes, sir.

21 Q And it said you know Corporal Jones?

22 A Is that with -- did he used to be with Horry
23 County Police?

24 MR. HIXSON: J. Reuben Long.

25 A Oh, that might not be him.

INDIVIDUAL JURY VOIR DIRE

1 Q If this person is Corporal Jones, and he were to
2 testify, would that affect your ability to be fair and
3 impartial?

4 A Oh, no, sir.

5 Q If you get selected as a juror in this case, are
6 you going to be able to follow the law and accept the
7 law, whether you agree with it or not?

8 A I have to see what the law is.

9 Q Let me explain this to you. Not just in this
10 case, in any case where a jury is chosen, the jurors
11 are required under their oath to accept the law that I
12 give and apply the law that I give, whether they agree
13 with it or not; can you do that?

14 A Yes, sir.

15 Q And are you willing to do that?

16 A Yes, sir.

17 Q Have you ever heard, read, seen or do you know
18 anything about this case at all?

19 A Only thing I seen is stuff on TV.

20 Q Tell me about that.

21 A Well, only thing I seen about one of the
22 suspects, that is the only thing I seen about it.

23 Q Was it a long time ago, or more recently?

24 A It's been awhile.

25 Q And can you set that aside and base your decision

INDIVIDUAL JURY VOIR DIRE

1 on the evidence and the law here in the courtroom?

2 A Yes, sir.

3 Q Do you understand this is a criminal trial?

4 A Yes.

5 Q That means the State has the burden of proof.

6 They have the burden of proving the defendant guilty

7 beyond a reasonable doubt. Mr. Jenkins doesn't have to

8 prove anything or say anything at all; you understand

9 that?

10 A Yes, sir.

11 Q We'll switch gears and I'll give you some

12 examples. So first example is this. If you were a

13 juror in a criminal case, could you listen to the

14 evidence, decide what the facts are and apply those

15 facts to the law and render a verdict of either guilty

16 or not guilty, based upon the facts and circumstances?

17 A Yes, sir.

18 Q I need to explain two terms to you. One is

19 called "aggravating circumstances." Aggravating

20 circumstances under our laws are circumstances that

21 make murder cases worse or they aggravate the

22 situation; does that make sense?

23 A Yes, sir.

24 Q The other side is "mitigating circumstances."

25 Those are circumstances that the laws say these

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1 circumstances reduce the severity of murder, or reduce
2 the person's responsibility in the case; does that make
3 sense?

4 A Yes, sir.

5 Q Now, I want you to imagine that you are a juror
6 in a death penalty case. You and the other jurors have
7 already determined that the defendant in any case is
8 guilty of murder; do you understand that?

9 A Yes, I do.

10 Q The only decision left is what is the appropriate
11 sentence; do you understand where we are?

12 A Yes.

13 Q Could you in that situation, depending upon the
14 facts and circumstances in that case, and any
15 aggravation and mitigation and the law that I give you,
16 could you take all of that together and render a
17 verdict -- a sentence of life without the possibility
18 of parole?

19 A Yes.

20 Q Could you take all of that into consideration and
21 render a sentence of death?

22 A Yes.

23 Q If you are selected on this jury, would it cause
24 serious harm to you, your health or a member of your
25 immediate family's health?

INDIVIDUAL JURY VOIR DIRE

1 A No, sir.

2 THE COURT: I'll let the attorneys ask you some
3 questions, be open and honest, and thank you very
4 much.

5 EXAMINATION

6 BY MR. WILSON:

7 Q I have a couple of questions. You said that you
8 didn't hear much about this case except a little bit on
9 TV?

10 A Yes, sir. Yes, sir.

11 Q And that was some months?

12 A Right. After it happened.

13 Q And you checked on your form that you were a "C"
14 juror; is that correct? That form you had with three
15 different types --

16 A Yes, sir.

17 Q And on that, you checked "C," and that says I'm a
18 juror who will -- who although the crime of murder has
19 been proved by the State beyond a reasonable doubt, and
20 while in the sentencing phase considering punishment,
21 would not have his or her mind made up in advance
22 concerning punishment. This juror will need to hear
23 the facts and circumstances and the aggravation and
24 mitigation before he or she could make a decision.

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q That's correct?

2 A Yes.

3 Q Is that you? Is that how you feel?

4 A I guess I misunderstood the question.

5 Q You misunderstood my question?

6 A On the paper.

7 Q What did you misunderstand?

8 A Like I say, innocent until proven guilty. I
9 misunderstood the way I did it on there.

10 Q All right. His Honor told you that when you come
11 in here, the defendant is presumed to be innocent.

12 A Yes, sir.

13 Q Not guilty?

14 A Yes, sir.

15 Q And only the jury can determine whether or not
16 the person is guilty or not guilty.

17 A Yes, sir.

18 Q And so I guess what I'm asking you is are you the
19 kind of juror who is going to listen to all of the
20 facts and circumstances, both in aggravation and
21 mitigation, before you make up your mind?

22 A Yes. I listen to everything, yes, sir.

23 Q And once you make up your mind, you will decide
24 whether you can give a life or death sentence based on
25 the evidence and the facts that you consider?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, sir.

2 Q And if you decide that death was the appropriate
3 sentence, could you then sign your name on the form
4 along with the other jurors and present that to the
5 Court?

6 A Yes, sir.

7 Q Would you have any trouble doing that if that is
8 what you decided?

9 A No, I won't.

10 Q Could you also decide life, if that is your view
11 of the evidence and facts?

12 A Yes, sir.

13 MR. WILSON: No other questions.

14 EXAMINATION

15 BY MR. RICHARDSON:

16 Q Mr. Vaught, I bet you are ready to get out of
17 here, ain't you?

18 A (Laughing.)

19 Q You hesitated a minute (laughing.)

20 With Mr. Wilson -- I want been to clear. The
21 judge talked about it, but it is complicated --

22 A Yes, sir.

23 Q So this is -- this type of case, what would
24 happen is if you are on the jury, you would sit and
25 listen to the first part, and that part you go back and

INDIVIDUAL JURY VOIR DIRE

1 discuss it and say either he's guilty or I believe he's
2 innocent, and all of you would be able to go back and
3 talk about it; do you think if the facts were there you
4 could find him guilty?

5 A Yes, sir.

6 Q And if you had a real concern, you could find him
7 not guilty, right?

8 A I would just go with the facts.

9 Q Go with the facts?

10 A Yes, sir.

11 Q So you could find him guilty or not guilty.

12 If you find him guilty, and this is the thing
13 that is a little different about this case than it was
14 when you were here with Mr. Wilson. This is just a
15 different type of case. If you found him guilty, then
16 we could take a day off, let everyone cool down.

17 A Yes, sir.

18 Q And the second trial goes on, basically saying
19 what is the appropriate punishment, right?

20 A Yes, sir.

21 Q So that second part you might hear about things
22 that make particular cases worse. Obviously, it is
23 murder, but it might make it worse, more aggravating,
24 and you might hear some stuff that makes it less
25 mitigating, okay?

INDIVIDUAL JURY VOIR DIRE

1 A Yeah.

2 Q At that point, the 12 of y'all would have to
3 discuss what do we do with this situation, is it life
4 or death, do you think you could meaningfully consider
5 life imprisonment if that was the appropriate
6 punishment?

7 A Yes, sir.

8 Q Do you think you could meaningfully talk about
9 and discuss even vote for death?

10 A Yes.

11 Q You would have no problem with either?

12 A No, sir.

13 Q Just depends what was told to you in part two?

14 A Yes.

15 MR. RICHARDSON: Your Honor, I believe that he is
16 qualified.

17 MR. WILSON: I agree.

18 THE COURT: All right. I qualify you as being
19 qualified. That doesn't mean you are on the jury, but
20 you could be. After 6:00 tonight, call this number.
21 When you come back -- eventually, the message will
22 tell you to come back. When you do, bring a suitcase
23 with clothes for a week. Bring any medicine you may
24 need, toiletry items and a list of emergency phone
25 numbers. Don't bring a phone or tablet or computer or

INDIVIDUAL JURY VOIR DIRE

1 anything like that, okay.

2 JUROR: Uh-huh.

3 THE COURT: And leave all of that in your car.

4 JUROR: I don't drive.

5 THE COURT: Do you need a ride?

6 JUROR: Yes, I will.

7 THE COURT: We can get you a ride. I can send
8 someone. See that gentleman in the back, tell him
9 where you live and I'll have one of them grab you and
10 bring you up here when it is time to come.

11 JUROR: All right.

12 THE COURT: But you need to be packed and ready
13 to go. Then when you come back up here, we'll decide
14 whether you are on the jury or off the jury, okay?

15 JUROR: Come back, bring a suitcase?

16 THE COURT: Yes, and any toiletry items, any
17 medicines. Get phone numbers. Then at that point in
18 time, we'll figure if you are on or you are off. If
19 you are off, we'll take you home. If you are on,
20 we'll take care of your stuff, okay?

21 JUROR: Okay.

22 THE COURT: Don't talk to anyone about this case,
23 don't watch the news media. Are you a big computer
24 guy?

25 JUROR: No, sir.

INDIVIDUAL JURY VOIR DIRE

1 THE COURT: Me either. So don't do any research
2 on this case. Do you need a ride home today?

3 JUROR: I have a ride today.

4 THE COURT: So you tell that young guy in the
5 back where we need to come. Do you have a phone?

6 JUROR: I got one.

7 THE COURT: Give him your number so he can get,
8 you know, what is going on.

9 JUROR: I call 6 o'clock today?

10 THE COURT: Call 6 o'clock today. Tonight it may
11 say come tomorrow, or it may say call back Friday
12 night. You just do whatever it says.

13 JUROR: Okay, then. All right.

14 THE COURT: You can exit through the back door
15 there. Thank you.

16 (The juror exits the courtroom.)

17 THE COURT: For the record, I find Mr. Vaught and
18 Ms. Wilson both qualified based upon their answers.

19 (The juror enters the courtroom.)

20 (LISA ODLE, having been duly sworn, testified
21 as follows:)

22 VOIR DIRE OF JUROR 256

23 BY THE COURT:

24 Q You understand you are under oath?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q When you left Monday, I said don't talk about the
2 case, don't do research, don't watch the news; did you
3 follow those instructions?

4 A Yes.

5 Q We'll ask you some questions, and I'll start and
6 then the attorneys. I want you to be open, honest and
7 candid. This is not about challenging you or your
8 views. This is about equipping ourselves of what your
9 views are; does that make sense? There are no wrong or
10 right views, we just want you to tell us the truth.

11 So in this case the State is seeking the death
12 penalty. What that means is I'm required to break the
13 trial in two separate parts. In the first part, the
14 jury will determine whether Mr. Jenkins is guilty or
15 not guilty of the crimes. If he is not guilty, the
16 case is over. If he is found guilty, then we move on
17 to the sentencing phase. Normally in South Carolina,
18 judges sentence people, but in these kinds of cases,
19 juries render the sentence. The jury's decision in
20 the sentencing phase will be what is the appropriate
21 sentence: Life without the possibility of parole, or
22 is the appropriate sentence death; do you understand
23 what I've said so far?

24 A Yes.

25 Q Just because we're talking about permits doesn't

INDIVIDUAL JURY VOIR DIRE

1 mean that Mr. Jenkins did anything. He sits there and
2 is presumed to be innocent under the law; do you
3 understand that?

4 A Yes.

5 Q You have to speak up.

6 A Yes.

7 Q Do you know Mr. Jenkins or have any connection to
8 him in any way, shape or form?

9 A No.

10 Q Do you know any of the lawyers: Mr. Hixson,
11 Mr. Richardson, Mr. Wilson or Ms. Williams?

12 A No.

13 Q Did you read the witness list before you came in
14 here?

15 A Yes.

16 Q Was there anyone on there whose name you thought
17 you knew or may know?

18 A No.

19 Q Now, every juror in this case will be asked to
20 accept the law and apply the law that I give to them,
21 whether they agree with it or not; is that something
22 you can do?

23 A Are you speaking of the death penalty? That was
24 the box I marked, I probably can't.

25 Q In South Carolina, the death penalty is never

INDIVIDUAL JURY VOIR DIRE

1 automatic; does that make sense? It is not a two plus
2 two equals four. But could you follow the law that I
3 give you, whether you agreed with it or not?

4 A For Christian purposes, I could not agree or vote
5 with the rest of my jury partners for the death
6 penalty.

7 Q Okay. Have you heard, read or seen or know
8 anything about this case?

9 A No.

10 Q Are you willing to base your decision in this
11 case off the evidence and the law?

12 A Yes.

13 Q Do you understand this is a criminal case and the
14 burden of proof is on the State to prove guilt beyond a
15 reasonable doubt?

16 A Yes.

17 Q Mr. Jenkins doesn't have to prove anything or say
18 anything at all; you understand that?

19 A Yes.

20 Q So I'll give you an example. The first example
21 is this. Could you in a normal criminal case listen to
22 the evidence, decide what the facts are, apply the law
23 I give you and render a verdict of either guilty or not
24 guilty, depending upon the facts and circumstances?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q I'll explain two terms: "Aggravating
2 circumstances," and the other is called "mitigating
3 circumstances." Aggravating circumstances are laws
4 that in the law says that these circumstances make
5 murder cases worse or aggravate the situation; do you
6 understand that concept?

7 A Yes.

8 Q And I don't mean the specifics of it, but the
9 general picture. If you are in the hospital and you
10 have to go in for something normal and you get a staph
11 infection, it aggravates the situation.

12 A Right.

13 Q So you understand the term "aggravate" generally?

14 A Uh-huh.

15 Q In that same book of laws, there is mitigating
16 circumstances. In those circumstances the law says it
17 reduces the severity of the murder offense or the
18 person's role in the offense; does that concept make
19 sense to you?

20 A Explain that.

21 Q So aggravating circumstances make things worse.
22 Mitigating circumstances reduce or mitigate the
23 severity of the murder case or person's role or
24 responsibility in it. So they are written into the law
25 and say these things reduce the severity. In the same

INDIVIDUAL JURY VOIR DIRE

1 book, it says these things increase the severity, and
2 I'm not giving you those specifically, but you
3 understand in general?

4 A Yes.

5 Q So here is the hypothetical. You are a juror in
6 a death penalty case -- not this case, just any case.
7 You and your fellow jurors have already determined that
8 the defendant is guilty of murder. We're in phase two.
9 Phase two is the sentencing phase; do you understand
10 where I am in my example?

11 A Yes.

12 Q So my question is can you consider the facts and
13 circumstances, any aggravation and any mitigation that
14 exists and the law I give you, could you listen to all
15 of that and could you return a sentence of life without
16 the possibility of parole?

17 A Yes.

18 Q Could you return a sentence of death based upon
19 the facts and circumstances?

20 A No.

21 Q If you were on the jury, would it affect your
22 health in any significant manner?

23 A I do have nerve issues.

24 Q Are you on medicine for that?

25 A I'm not on any medicine for nerves, just for -- I

INDIVIDUAL JURY VOIR DIRE

1 mean, I have mental health problems and acid reflex
2 problems, and I mean I had to take sleeping pills this
3 week. I'll be so nervous.

4 Q Just the thought of being on the jury?

5 A Exactly.

6 Q So what you told me is you haven't been able to
7 sleep well or eat well this week just due to your
8 nervousness about this case?

9 A Yes. Yes.

10 Q And do you work?

11 A No.

12 Q Are you disabled?

13 A No.

14 Q You just....

15 A Well, I've only lived here for a year.

16 Q Where did you live before that?

17 A A small town in Virginia. It is just
18 overwhelming.

19 Q That's fine. So I'll let the attorneys ask you
20 questions. Just take a deep breath. They are not mean
21 or anything. We just need to make sure where you are
22 and your views.

23 A Sure.

24 EXAMINATION

25

INDIVIDUAL JURY VOIR DIRE

1 BY MS. WILLIAMS:

2 Q Ms. Odle, I'm Brana Williams, and it will be me
3 along with Ralph Wilson representing our client, J.J.
4 Jenkins, in this trial.

5 A Okay.

6 Q On that juror form you filled out, you put on
7 there that you were retired?

8 A Yes.

9 Q From what?

10 A Bookkeeping.

11 Q Is that what you have done?

12 A Yes. Only two days a week. I was part time.

13 Q And as the judge said, there is no right or wrong
14 here. Everyone is entitled to their opinion, and
15 because of the nature of this case, we, the lawyers,
16 and the judge get to talk to potential jurors, and you
17 get to talk to us, right?

18 A Okay.

19 Q I understand you just told the judge that even
20 the thought of being on this type of case made you --
21 what did you say?

22 A Nervous. And I've been sick this week since
23 Monday, just nerves.

24 Q And that is fine, but you said you've been sick
25 this week, can't sleep; can you tell me about that?

INDIVIDUAL JURY VOIR DIRE

1 A No sleep. Anything I have eaten came straight
2 back out. I haven't been able to -- I haven't really
3 done anything. I cried a lot, and I hate to say this
4 because it's embarrassing.

5 Q I understand, and I'm sorry to ask you, but what
6 we have to do is find out, because what we have to know
7 is the State has a right to a fair trial, and the
8 defendant has a right. If you think -- what I want to
9 know is if you believe that these nerve issues -- and
10 I'll use that term because it was your term -- if they
11 impacted you coming here, do you believe that they
12 would really substantially impair you from really being
13 able to be here and focus and be a part of and listen
14 and participate in this entire case?

15 A Absolutely, yes, I do.

16 Q I appreciate you answering that. That is what we
17 need to do, and we thank you for telling us that. I'm
18 sorry I had to ask you.

19 THE COURT: Do you want any questions?

20 MR. HIXSON: No, sir.

21 MS. WILLIAMS: Based on her answers, this juror
22 is disqualified for service.

23 MR. HIXSON: Yes, sir.

24 THE COURT: Here is what we'll do. One, I want
25 to say thank you very much for coming back in here.

INDIVIDUAL JURY VOIR DIRE

1 Usually, if we are on a normal trial, you would have
2 told me on Monday and I would have gone ahead and
3 excused you. In this case, we have to make a record
4 of everything that we do, so we have a record of the
5 people that we are excusing. So I want to say thank
6 you. I'm sorry for the stress that it caused you.

7 JUROR: I appreciate that.

8 THE COURT: We will totally excuse you from this
9 case. You do not have to come back or call back. You
10 are done. Thank you for coming back up here and
11 willing to serve and following my instructions. I
12 genuinely appreciate it and hope the best for you.

13 JUROR: Thank you.

14 (The juror exits the courtroom.)

15 (The juror enters the courtroom.)

16 (MARCELLO MILONE, having been duly sworn,
17 testified as follows:)

18 VOIR DIRE OF JUROR 231

19 BY THE COURT:

20 Q I had a Favale earlier in the week, now I have a
21 Milone.

22 A We live in the same neighborhood and we're here
23 in the same neighborhood.

24 Q Intentionally?

25 A No, just happened to work out that way.

INDIVIDUAL JURY VOIR DIRE

1 Q That makes it a small world.

2 A Yes, sir.

3 Q Do you understand that you are under oath?

4 A Yes, sir.

5 Q Now, when you left here on Monday, I said don't
6 talk about the case, don't do any research and don't
7 watch any news media; have you followed those
8 instructions?

9 A Yes, sir.

10 Q We'll ask you questions. I'm going to start and
11 the attorneys can jump in. I want you to be open,
12 honest and I want you to be candid, okay? This is not
13 about challenging you, nor is it about challenging your
14 views, we just need to understand what your views are.
15 So we'll ask you some things you haven't thought about
16 before. So if you need us to repeat any questions, let
17 us know.

18 A Yes, sir.

19 Q This is a death penalty trial, and because of
20 that, I'm required to break it into two parts.
21 Part one is where the jury determines whether Mr.
22 Jenkins is guilty or not guilty of the crimes charged.
23 If he is found not guilty, then the case is completely
24 and totally over. If he is found guilty, then we move
25 on to the second phase, which is called the "sentencing

INDIVIDUAL JURY VOIR DIRE

1 phase" or the "penalty phase." Normally in South
2 Carolina, judges sentence people, not juries, but under
3 the specific rules of this case, it is the jury's
4 responsibility to determine what is the appropriate
5 punishment, either life in prison without the
6 possibility of parole, or death; does that framework
7 make sense to you?

8 A Absolutely.

9 Q Just because we're talking about penalties
10 doesn't mean that Mr. Jenkins did anything. You
11 understand and as he sits here, and before this Court,
12 he is presumed to be innocent under the law; do you
13 understand that?

14 A Yes, sir.

15 Q Do you know Mr. Jenkins or have any connection to
16 him in any way, shape or form?

17 A No, sir.

18 Q The prosecutors in this case are Scott Hixson and
19 Mr. Richardson. And the defense is Mr. Ralph Wilson
20 and Brana Williams. Do you have any connection to any
21 of them?

22 A Our kids go to school together, Ms. Brana.

23 Q I heard she was PTA president; is that true?

24 A Yes.

25 Q Do you know her outside of school?

INDIVIDUAL JURY VOIR DIRE

1 A No.

2 Q Has she represented anyone in your family or you?

3 A Not yet.

4 Q Would her being on this case affect your ability
5 to be fair and impartial?

6 A No.

7 Q I gave you a witness list before you came in
8 here, did you have an opportunity to go through that?

9 A I did.

10 Q Did you recognize or see names you know?

11 A I'm affiliated with a bunch of police officer
12 groups. I know a lot of the police officers. Doing
13 awards, we see them come in. Personal interactions?
14 Not that close, but aware of who they are and have been
15 in social functions with them.

16 Q Can you give me any names?

17 A Not really.

18 Q But you know some of the police officers in the
19 area, and you have interacted with them at events and
20 things?

21 A Every month.

22 Q And you saw specific names that you saw on this
23 list; could you tell me?

24 A You want me to be candid?

25 Q Yeah.

INDIVIDUAL JURY VOIR DIRE

1 A In October, I fractured my skull. I had a brain
2 injury, so my recollection of faces is much better than
3 recollection of names. If you ask me a name, it is
4 very difficult for me to come out with it. But as
5 faces, facial, I have really good recognition.

6 Q So if you saw someone that you knew was a witness
7 in this case, would that affect your ability to be fair
8 and impartial to both sides?

9 A I don't think so, no.

10 Q Every juror in this case is asked to do many
11 things. One of the things each juror is asked to do is
12 to accept the law and apply the law as I give it to
13 them without any regard to what they think the law is
14 or what they think the law ought to be; can you follow
15 those instructions?

16 A Yes, sir.

17 Q Now, prior to today, have you heard, read, seen
18 or do you have any knowledge about this case at all?

19 A Yes, sir.

20 Q Tell me about that.

21 A I know when it happened the news articles that
22 were put out. It is hard not to hear that everyone is
23 talking about it, you know. But, you know, basically
24 what happened, that is really it.

25 Q When you say everybody is talking about it, what

INDIVIDUAL JURY VOIR DIRE

1 do you mean by that?

2 A Well, you know, yesterday was a police function.
3 Everyone is talking about what is going on and what
4 we're going to be doing -- what the courthouse is
5 doing. I never acknowledged where I was or what I was
6 doing.

7 Q What did you hear about the case?

8 A That it is a big murder and the jurors are going
9 to be picking the verdict.

10 Q And anything about the facts or circumstances of
11 the case?

12 A No.

13 Q You understand -- you were a police officer
14 before; is that correct?

15 A Yes, sir.

16 Q And I thought I remembered that from Monday. You
17 understand what you see in the news or what you hear on
18 the news or read in the news, and what you hear at
19 police functions is not necessarily evidence; is that
20 right?

21 A Yes, sir.

22 Q And that evidence is what comes from the witness
23 stand, the exhibits, documents and any photos or videos
24 or whatever they may be, that is the evidence in the
25 case; do you understand that?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, sir.

2 Q And then the law I give you is the law of the
3 case; do you understand that?

4 A Yes.

5 Q So can you set aside anything that you have seen
6 or heard if you are selected on this jury and base your
7 decision off the evidence and the law?

8 A I think it is difficult, but, yes.

9 Q Let's talk through that for a second. You know
10 I've struggled with this issue. I tell jurors this in
11 every single case, I do, and I say to myself, you know,
12 as I'm riding down the road, do we really expect people
13 to ignore everything they've seen or heard or what they
14 think they know when they base their decision? The
15 conclusion I came to is that I can't erase from your
16 memory whatever it is you heard or saw, and I can't ask
17 you to erase it; does that make sense?

18 A Absolutely.

19 Q But when the 12 jurors go in the room to
20 deliberate about whether or not a defendant in a
21 criminal case is guilty or not guilty, she should talk
22 about and consider the evidence. Evidence is what
23 witnesses say and any documents, exhibits, photographs,
24 videos that are introduced into evidence. So could you
25 look at it from that perspective and consider that

INDIVIDUAL JURY VOIR DIRE

1 information and disregard whatever you heard on the
2 street or on the news?

3 A I've never been put in that position. I've
4 always been on the other side. I think it is very
5 difficult being someone that is always on the other
6 side, but I know it would be expected of me and I would
7 do my best.

8 Q Do you understand this is a criminal case?

9 A I do.

10 Q Do you understand that means the burden of proof
11 is upon the State?

12 A I do.

13 Q That means they have to prove him guilty beyond a
14 reasonable doubt.

15 A I do.

16 Q Defendants don't have to prove anything, don't
17 have to prove innocence. They didn't have to say
18 anything at all; do you understand that?

19 A I do.

20 Q I'll give you some examples, two different
21 examples. The first one is this: Could you, in any
22 criminal case, could you as a juror listen to the
23 evidence, determine what the facts are, apply those
24 facts to the law I give you and make a decision about
25 whether someone is guilty or not guilty?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q I need to explain two terms to you before I give
3 you the next example. The first one is "aggravating
4 circumstances" that is a set of laws in South Carolina
5 that say these certain circumstances make murder cases
6 worse, they aggravate the situation; does that make
7 sense?

8 A Yes.

9 Q The flip side is "mitigating circumstances."
10 Mitigating circumstances are a part of the code of laws
11 of this state that say these certain circumstances
12 reduce the severity of the offense or the person's
13 responsibility in it; does that, in theory, make sense
14 to you?

15 A Yes.

16 Q So the question is this: Let's suppose you are a
17 juror in a death penalty trial -- not this trial, just
18 any death penalty trial -- and you and your fellow
19 jurors already decided and voted that the individual
20 charged with the crime of murder in that case is guilty
21 of murder. In South Carolina murder is defined as the
22 unlawful killing of another person with malice
23 aforethought, okay?

24 A Yes, sir.

25 Q So that decision is made. You already voted on

INDIVIDUAL JURY VOIR DIRE

1 that, and we're in phase two. Phase two is what is the
2 appropriate sentence; you with me?

3 A Yeah.

4 Q So in that situation, could you, depending upon
5 the facts and circumstances and any aggravation and any
6 mitigation that exists, and the law that I give you,
7 take all of that together and give someone a life
8 sentence?

9 A No.

10 Q Could you give someone a death sentence?

11 A Yes.

12 Q If you were on this jury, would it impact --
13 significantly impact your health in any way?

14 A No.

15 THE COURT: I'll let the attorneys ask you
16 questions, just be open and honest.

17 JUROR: Thank you, Your Honor.

18 EXAMINATION

19 BY MR. WILSON:

20 Q How are you?

21 A Well. How are you?

22 Q Fine for an old fellow.

23 I need to ask you questions. Having been a
24 police officer for all of those years -- how many was
25 it in New York?

INDIVIDUAL JURY VOIR DIRE

1 A I did 15 years.

2 Q And I understood you to say that you now kind of
3 fraternize, socialize, with other law enforcement
4 officers in this area?

5 A And retirees, yes. I stay very surrounded by
6 officers.

7 Q And you have good relationships with them?

8 A Good brotherhood, yes.

9 Q And a lot of those officers are the officers from
10 the Horry County Police Department?

11 A Yes, sir.

12 Q You know them well and talked with them and had
13 dinner with them or whatever social --

14 A Yes. Social functions.

15 Q And if they were to testify in this case, would
16 that make a difference, in your opinion, what they
17 would say versus what someone else says, one of the
18 officers you are friends with?

19 A It is a very tough question. You want me to be
20 candid? Of course, because I've worn the shoes. I've
21 always respected -- I gravitate towards that line of
22 thinking because I've worn the shoes, but I would do my
23 best not to infringe on my personal answers.

24 Q You would try to be fair?

25 A I would try.

INDIVIDUAL JURY VOIR DIRE

1 Q You said that you had a fractured skull?

2 A Three places, yeah.

3 Q Wow. What happened?

4 A Well, I don't have any memory of what happened.

5 I can tell you that I was a hundred feet from my house,
6 shut off the motorcycle because of my neighbor has a
7 young child and my motorcycle, like most here, are
8 loud. I didn't want to wake up the baby. It was about
9 10 o'clock, somewhere around that. I shut off the bike
10 and woke up in the ER room and saw my wife who was in
11 New York and my best friend who was my sergeant and
12 best man and my son's godfather standing over me. I
13 said, Did I die? And they said, yes, twice. I was
14 like, Really? You are in MUSC. I spent 14 days. I
15 didn't get hit by a deer. I joke around and say my
16 bike looks like an ex-wife, when it came out, it looked
17 perfect. I don't know what happened. I didn't get hit
18 by anything. I have no idea.

19 Q Let me ask you this --

20 (Laughter in courtroom.)

21 A I shouldn't be this bad (laughing).

22 Q You are alive, and you are here. Let me ask you
23 a couple more questions, and I'll be done.

24 In regards to your responses to the form that had
25 three different categories, you checked block "A";

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1 correct?

2 A Yes.

3 Q And, essentially, that means that you are a juror
4 who believes that once murder is proven beyond a
5 reasonable doubt, the only appropriate penalty is
6 death?

7 A Yes.

8 Q And that is just how you feel?

9 A Yes.

10 Q And nothing wrong with that, that is -- you are
11 entitled to feel however you feel.

12 A Yes.

13 Q And you are not going to change that today or
14 tomorrow?

15 A No, sir.

16 MR. WILSON: Nothing else.

17 MR. HIXSON: Thank you for your service. Glad
18 you are feeling better.

19 JUROR: Feeling pretty good.

20 MR. HIXSON: Unfortunately, I don't know think he
21 is qualified for this case.

22 MR. WILSON: I agree.

23 THE COURT: You have to tell me the joke again.

24 JUROR: My bike looked like an ex-wife, when it
25 came out, it looked so much better.

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1 It took me a month to look at the bike. The kids
2 were mentally distraught when they heard I died and
3 brought back to life. So my friend Mike says, hey,
4 why don't you now come and look at your bike. So I
5 was like, you know, dude, this is a big thing, all
6 right, I'll come. I get there, he opens the garage
7 and I'm like, Where is my bike? He said, That one.
8 That one that is in perfect shape? Not even like deer
9 hair. What the hell happened? Still have no clue.
10 No clue. None, whatsoever.

11 THE COURT: Thank you for coming back. You are
12 excused from service in this case. Have a wonderful
13 day. You do not need to come back.

14 JUROR: God bless you.

15 THE COURT: I find him disqualified, and I think
16 with no objection with anyone. Let's take a break.

17 (The juror exits the courtroom and a recess is
18 taken.)

19 THE COURT: Let's talk about where we are and
20 where we are not and where we think we are going. We
21 are at 35 right now. We have to have 43. So it is
22 4 o'clock on Thursday. We have 12 people left to go
23 through today. Tell me what you are thinking.

24 MR. RICHARDSON: Your Honor, I think it is
25 possible we can get to 43 with 12 more, that would

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1 mean we have to get eight out of 12, so it is close,
2 especially with the higher amount of "A" and "Bs" than
3 usual. As an alternative, we could have three
4 alternates, which would move the figure down to 39.
5 There is no way to really have an answer on 43 until
6 dead at 6 o'clock. If we decided to keep going with
7 the idea of 43 and we were around 42 or 41 at the end
8 of things, I think we could bring in maybe 12 tomorrow
9 morning. But, I mean, it is something to consider,
10 three alternates instead of four.

11 THE COURT: So let's walk a couple of these dogs
12 to the end of the street, because we need to
13 communicate with these jurors about tomorrow. So
14 let's say we're at whatever time we finish tonight and
15 we believe we have enough, either we have 43 or 39,
16 and we say that's enough. If we make it there, do we
17 want to pull everyone that is qualified back in
18 tomorrow morning and start tomorrow morning?

19 MR. RICHARDSON: That is what the State -- we
20 would want to do that.

21 THE COURT: If we don't make it there, do we
22 bring in 12 people at 9 o'clock tomorrow morning and
23 go until we get to that number; is that everyone's
24 thought process?

25 MR. RICHARDSON: Yes, sir.

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1 MR. WILSON: Judge, I understand the Solicitor's
2 position that he would like to start immediately. I
3 would ask the Court to give us at least a couple of
4 hours after we get the number to go through them and
5 for us to be able to make our strikes more meaningful.

6 THE COURT: Under that theory, you would have all
7 night to do it.

8 MR. WILSON: If we stay here until 8:00 or 9:00
9 tonight getting this done, I don't know that how much
10 of the night I'll have left before I'm back here at
11 8 o'clock.

12 THE COURT: I mean, I already know who you are
13 going to strike (laughing).

14 MR. WILSON: I have a good idea, too, but I need
15 to sit down with Ms. Williams and discuss it and
16 figure it out, figure it out what we will do. I think
17 I would need some time.

18 THE COURT: Let's assume we don't get to a good
19 number tonight, make that assumption. We finish
20 tonight and we're not there. Do you want to bring in
21 12 people at 9:00 and see how many we get to?

22 MR. RICHARDSON: Yes, sir.

23 THE COURT: Under that theory, let's say by lunch
24 we have enough. Let's go under the theory that by
25 lunchtime tomorrow, whether that is 12:00 or 1:00 or

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1 whatever, we have enough people. Do you want to bring
2 back the panel and pick them tomorrow afternoon to
3 process through the list?

4 MR. WILSON: Yes, sir. If we -- let's say we
5 finish at 12:00 and you can give us until 2:30, 3:00,
6 then we can be ready.

7 THE COURT: And then we can bring everyone back
8 that is qualified and we choose this is our jury. So
9 let's say we're under that hypothetical. Under that
10 hypothetical, do you want to start Saturday morning,
11 or let them go home and start Monday morning?

12 MR. HIXSON: I think that is exactly the point --
13 I glad you brought it up with Mother's Day and all of
14 that. I know that is a common discussion, and I think
15 you are hitting the point right on the head. While
16 I'm standing, the danger of coming really close to the
17 qualification number is people do get in car accidents
18 and get sick, and you may want more in case they can't
19 show.

20 THE COURT: And I'm going -- let's say we --
21 tomorrow at noon we have 43, 44, 45. I'm going to
22 keep at least one, if not two, panels in reserves in
23 case something happens and tell these people they are
24 on stand-by in case we need to be bring them in and
25 get qualified, because things happen, life happens and

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1 I understand. So we're going to -- I will keep at
2 least one extra panel, an extra six, if not maybe
3 eight or nine, out there extra for us.

4 My question is: Let's say it is tomorrow at
5 5 o'clock and we have selected our jurors, whether we
6 take 15 or whether we take 16; do we want to start
7 Saturday morning, or tell them to go home and start
8 Monday?

9 MR. RICHARDSON: Obviously, we're guessing, but I
10 would be straight up, I really believe our guilt phase
11 is going to go fast, and I believe it will go fast on
12 both sides, the guilt phase. I think that the bigger
13 portion of this is going to be the penalty phase, if
14 we reach the penalty phase. I'm wondering if that can
15 be completed if we start Monday, if we can do the
16 guilt and penalty phase next week. I think we can
17 probably do it starting Friday, but I'm unsure if we
18 can start Monday, do you?

19 MR. WILSON: I don't think that -- Your Honor, I
20 think that is -- as far as the guilt phase, I don't
21 think it is going to take more than two days. I don't
22 know exactly what they have, but I wouldn't expect it
23 would take more than two days for that, so I don't see
24 why we wouldn't be able to finish all of it by
25 Saturday probably -- Friday or Saturday of that week.

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1 The other thing is -- and Ms. Williams is just
2 saying one of the concerns we have about working on
3 Mother's Day is that you have a mother who is killed
4 in this case, and that is one of the things that
5 causes heartburn if we are trying this case on
6 Saturday and Sunday -- into Sunday. I think it raises
7 that issue and is more prominent. Whether it will
8 prejudice us or not, I don't know. I have no way of
9 knowing it. I just know it is a concern I have. But
10 I think that we can do it in a week, but I don't know
11 that either, because I don't know how long it will
12 take. I can tell you that probably we'll take
13 two-and-a-half days, probably, for mitigation.

14 THE COURT: Let me ask you this -- and this is
15 not me holding you to this. You have tried cases with
16 me, I'm not saying I'm going to cut you off, but if
17 morning -- if Monday morning jury selection is totally
18 over and Monday morning at 9:00 is opening statements,
19 and we are pushing and working all day Monday, how
20 long do you think it is going to put up the State's
21 case?

22 MR. HIXSON: If I enter into a couple of
23 stipulations, chain of custody witnesses, I think we
24 can do it in eight witnesses, because we're calling
25 just one, and you've heard the lion's share of that,

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1 post-Miranda statement.

2 THE COURT: Right. We could be going into a
3 verdict Tuesday morning?

4 MR. HIXSON: I think there is a potential,
5 depending on Ralph's cross. That case is a fairly
6 compartmentalized case, as Your Honor is aware.

7 THE COURT: Right. So if we're on a verdict by
8 lunchtime on Tuesday and then wait 24 hours, how long
9 is the State's sentencing phase presentation?

10 MR. HIXSON: Your Honor presided over Mr.
11 Daniels' trial, and this is not as complicated as
12 that. So I would say two days. I don't think it
13 would take two days. There is not a lot of
14 allocution, just slot building-block type of people,
15 you know.

16 For instance, I would ask for a stipulation to
17 cause of death by Dr. Proctor, would you be able to
18 stipulate that Trisha Stull died from a gunshot wound,
19 things like that are minor, that I'll talk to Ralph
20 about that off the record.

21 THE COURT: Unless we get to our number tonight,
22 there is no way we can get to opening statements
23 tomorrow; does everyone agree?

24 MS. WILLIAMS: Yes, sir.

25 THE COURT: If we get to our number tonight, I

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1 think we can get to opening statements tomorrow and
2 put up the State's case Saturday. I mean, that is
3 best case scenario. Best case scenario. Worse case
4 is we pick jurors tomorrow morning and take a good
5 solid lunch break and half the jurors come back
6 tomorrow afternoon, choose the jurors, tell them to
7 come back Monday morning.

8 Let's do this. You have the list? So call 96 --
9 I think we need more than 12 for tomorrow morning,
10 that is 24 that we have to get eight out of.

11 MR. HIXSON: We're clicking a little better at
12 30-some percent, so I think we would be able to get
13 them.

14 THE COURT: So call back personally 96 to 101,
15 tell them to be here at 9 o'clock in the morning, then
16 I want you to call back this group and tell them to be
17 here at 11 o'clock Friday. I need the message for
18 people that are qualified to say that they need to
19 call back tomorrow morning at 11:00 a.m. And then for
20 the people just floating out there with no time, they
21 need to call tomorrow after 6:00. Does everyone
22 understand what I'm doing?

23 MR. WILSON: Yes, sir, I do.

24 (A discussion was had off the record and law
25 enforcement officers are sworn to protect the jury

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1 panel's integrity.)

2 (A brief recess is taken.)

3 THE COURT: All right. Ready.

4 (The juror enters the courtroom.)

5 (CHERI SATTERFIELD, having been duly sworn,
6 testified as follows:)

7 VOIR DIRE OF JUROR 314

8 BY THE COURT:

9 Q How are you?

10 A Good.

11 Q Thanks for being patient. Tell me your name.

12 A Cheri Satterfield.

13 THE COURT: This is 314. 314. 314.

14 Q (THE COURT) Do you understand you are under
15 oath?

16 A Yes.

17 Q When you left here on Monday, I said don't talk
18 about the case, don't do your own research, don't watch
19 the news media; did you follow those instructions?

20 A Yes.

21 Q Now, here is what is going to happen. I'm going
22 to ask you questions, the attorneys are going to ask
23 you questions, and I want you to be open, honest and I
24 want you to be candid. This is not about attacking you
25 or your views. This is about us figuring out what your

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1 views are. You have to answer out loud. You are
2 whispering on me, get a little closer to the microphone
3 and speak up.

4 We'll ask you questions you never really thought
5 about before, so take your time. If you need us to
6 repeat a question, let us know.

7 In this case the State is seeking the death
8 penalty against Mr. Jenkins, and because of that, the
9 law requires that I divide his trial into two parts.
10 In the first part, the jury will determine whether or
11 not Mr. Jenkins is guilty or not guilty of the crimes
12 that are charged. If he is found not guilty, the case
13 will stop. If he is found guilty, then we move on to
14 what is call the "sentencing phase" or the "penalty
15 phase." Normally in South Carolina, judges sentence
16 people, but under this specific type of case, it is
17 the jury's responsibility to render the sentence. So
18 in the sentencing phase, the jury would be tasked with
19 determining what is the appropriate sentence: Either
20 life without the possibility of parole, or the death
21 sentence; does all of that make sense?

22 A Yes.

23 Q Just because we are talking about sentencing
24 doesn't mean that Mr. Jenkins did anything. He is
25 presumed to be innocent under the law; do you

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1 understand that?

2 A Yes.

3 Q Do you know Mr. Jenkins or have any relationship
4 to him in any way, shape or form?

5 A No.

6 Q You have to speak up.

7 A No.

8 Q You see this young lady, she's taking down what
9 you say and I need it to be accurate; do you know Mr.
10 Hixson, Mr. Richardson, Mr. Wilson or Ms. Williams at
11 all?

12 A No.

13 Q Did you have an opportunity to go through the
14 witness list?

15 A Yes, I did.

16 Q You knew a couple of names?

17 A I did, yes.

18 Q Bruce Maggi, M-A-G-G-I, and Susan Carter Spain?

19 A Yes.

20 Q Are those the two names you recognized?

21 A Yes.

22 Q Tell us how you know those people.

23 A Bruce Maggi is a good friend of ours. They live
24 in our neighborhood. We've known them for years. Our
25 kids were the same age. Susan Carter Spain comes to

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1 Ten Oaks Middle School quite often. She works with
2 Horry County schools, so I see her at the school.

3 Q Would either of those relationships affect your
4 ability to be fair and impartial in this case?

5 A No.

6 Q Now, if you get called to serve as a juror in
7 this case, one of the things you are required to do is
8 accept the law and apply the law that I give to you,
9 whether you agree with it or not; is that something you
10 can do?

11 A Yes.

12 Q Before today, have you ever heard, read, seen or
13 do you know anything about this case at all?

14 A Yes, a little bit.

15 Q Tell me what you know.

16 A Just really remember vaguely hearing about it
17 and, I mean, I don't remember details, just vaguely
18 hearing.

19 Q Where did you hear about it or from what source?

20 A Probably people talking about it or the news.

21 Q Do you know anyone directly involved in the case?

22 A No.

23 Q Do you have any personal knowledge about the
24 case?

25 A No.

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1 Q Have you ever been in any of the stores I brought
2 up the other day?

3 A No.

4 Q So do you understand that whatever you heard
5 people say about the case is not evidence?

6 A Yes.

7 Q It is not proof of anything; does that make
8 sense?

9 A Yes.

10 Q So the evidence in this case comes from the
11 witness stand, from the exhibits, from the documents,
12 things of that nature, and the law that I give you.
13 That is what the jurors will be required to base their
14 decision off of. Can you set aside whatever you may
15 have heard and base your decision off of the evidence
16 and law?

17 A Yes.

18 Q Now, this is a criminal case; do you understand
19 that?

20 A Yes.

21 Q That means that the State of South Carolina is
22 charged with proving Mr. Jenkins guilty beyond a
23 reasonable doubt. Mr. Jenkins doesn't have to prove
24 anything. He doesn't have to say anything. He doesn't
25 have to introduce any evidence at all, because the

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1 burden is on the State; does that make sense?

2 A Yes.

3 Q I'm going to ask you two examples questions. In
4 the first example, I want you to imagine that you are a
5 juror in just a normal criminal case. As the juror in
6 that case, are you able to listen to the evidence,
7 determine what the facts are and then apply those facts
8 to the law that I give you and ultimately render a
9 verdict of either guilty or not guilty, depending on
10 the facts and circumstances?

11 A Yes.

12 Q Now, I'm going to explain two terms to you:
13 "Aggravating circumstances" and "mitigating
14 circumstances." So aggravating circumstances are
15 written into our code of laws, and our legislature said
16 these certain circumstances make murder cases worse,
17 they aggravate the situation; does that make sense?

18 A Yes.

19 Q In that same code of laws, there is a list of
20 what we call "mitigating circumstances," and these
21 reduce the severity of the crime of murder or the
22 person's role or responsibility; does that make sense?

23 A Uh-huh.

24 Q Last example. So let's imagine that you are a
25 juror in a death penalty case; follow me?

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1 A Yes.

2 Q You and other jurors already determined that the
3 defendant in my example is guilty of murder. Murder is
4 the unlawful killing of another person with malice
5 aforethought. So phase one is already over. This is
6 not about did she do it. You have already determined
7 that the person on trial is guilty of murder. The
8 decision for the jury is what is the appropriate
9 punishment based upon the circumstances; does that make
10 sense?

11 A Yes.

12 Q You understand where I am in my example?

13 A Yes.

14 Q The question is: Can you, depending upon the
15 facts and circumstances and the aggravation or
16 mitigation that may exist and the law I give you, could
17 you take all of that in consideration and render a
18 sentence of life without the possibility of parole,
19 based upon the facts and circumstances?

20 A Yes.

21 Q Could you render a sentence of death based upon
22 the facts and circumstances?

23 A Yes.

24 Q Now, would you -- if you were required to serve
25 on this jury, would it pose a serious danger to your

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1 health or the health of anybody you are directly
2 responsible for?

3 A No.

4 THE COURT: So I'll let the attorneys ask you
5 questions. I want you to answer openly and honestly
6 just as you have done with me. Thank you very much
7 for answering my questions.

8 EXAMINATION

9 BY MS. WILLIAMS:

10 Q Ms. Satterfield, I'm Brana Williams, and I, along
11 with my co-counsel, Ralph, will be representing our
12 client, J.J. Jenkins, in this trial. I want to ask
13 you -- you are a school secretary at Ten Oaks Middle?

14 A Yes, ma'am, Carolina Forest Boulevard.

15 Q So you are not -- as you heard when the judge
16 told you about the facts of the case, or mentioned and
17 read what the alleged charges were, you are not really
18 familiar or didn't go to the places where these stores
19 are in question, right?

20 A Correct.

21 Q Just making sure.

22 You filled out that sheet in the back that talked
23 about whether you were an "A" juror, "B" juror, or "C"
24 juror?

25 A Yes.

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1 Q And as the judge explained, there are no right on
2 wrong answers. This is really about talking to you and
3 figuring out what your opinions are. I have mine.
4 Everyone has their own. It is okay. There is no right
5 or wrong, we just need to know where you are.

6 A Sure.

7 Q What you talked about is on this -- and I want to
8 be sure I understand. In the judge's scenario, the
9 jury has already found the defendant guilty of murder
10 beyond a reasonable doubt. If you are on that jury, it
11 is you and 11 other jurors that decided that that
12 defendant is guilty of murder, okay?

13 A Okay.

14 Q And where we're at is phase two where murder is
15 definite. You know, the judge is going to tell you, as
16 he said, it is a killing of another with malice
17 aforethought, and now we go to sentencing.

18 A Yes.

19 Q You marked that even after you were a part of a
20 jury that decided guilty for murder, you could consider
21 and would consider life without the possibility of
22 parole as a possible sentence, and/or consider death,
23 right?

24 A Correct.

25 Q Tell me what that means to you.

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1 A I think it just means that I would need some
2 clarification, and there might be -- I just don't know.
3 I really never really thought about it that seriously,
4 so I guess I just can't really say yes or no. I don't
5 know how I would feel, I just don't.

6 Q That is perfectly fine, and we appreciate your
7 honesty, because that is what this is about. Most
8 people -- this is not part of your every day life. We
9 just have to make sure that what you think this sheet
10 talks about, because the State is entitled to a fair
11 trial and the defendant is entitled to a fair trial.
12 There are folks out there that say, you know what, if a
13 person is guilty of murder, then the death penalty is
14 the only appropriate punishment, no matter what the
15 circumstances of the case are; that is an "A" juror.
16 "B" jurors are people out there that say -- this juror
17 believes the death penalty is never appropriate, no
18 matter what the circumstances.

19 A Yes.

20 Q And then there is "C" that you want to hear the
21 circumstances, the evidence of aggravation, any
22 evidence of mitigation and then you can consider both
23 as a possible penalty.

24 A Yes.

25 Q You can do that?

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1 A I think so.

2 Q And, listen, it is not meant to be easy. The
3 other thing you have to know and you have to agree to,
4 if you are on the jury, is in the sentencing phase --
5 it gets to the sentencing and you make an individual
6 moral judgment along with the 11 other folks that death
7 is the appropriate sentence, the law requires a sheet
8 to be signed that says, yes, I believe that death is
9 appropriate in this case; do you think you could sign
10 that sheet?

11 A I mean, I think so. I'm not sure. I don't know.

12 Q It is nerve racking, what you have to be able to
13 -- what we have to know is that the judge will tell you
14 the law never requires a death sentence, okay. The law
15 requires that our jurors meaningfully consider whether
16 or not the death sentence is appropriate or whether or
17 not a life sentence is appropriate. It is not
18 required. In fact, the law says you can give life for
19 any reason or for no reason at all, and what we have to
20 know is that you are willing to meaningfully consider
21 both, and then once you made your judgment, you are
22 okay with that. If that judgment, given those facts
23 and those circumstances, is death, you think that is
24 appropriate, you could actually sign this sheet?

25 A I mean, I think I could.

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1 MS. WILLIAMS: Thank you.

2 EXAMINATION

3 BY MR. HIXSON:

4 Q These are very heavy issues. I know it is
5 difficult. I have to push you a little more,
6 unfortunately, because in the end you have to be able
7 to do more than just consider. In the end, to be
8 qualified, you have to be able to vote and do it,
9 either vote for life, or you have to be able to vote
10 for death. So I'll talk about that for a second.
11 Because we can consider anything. You said you weren't
12 really sure, and so all we're asking for is for you to
13 kind of give us insight into what you are thinking so
14 we can understand where you are, and that is it. It is
15 extraordinarily easy, and extraordinary complexed at
16 the same time, if that makes sense. So I'll try to
17 rephrase and just ask you questions again, because I
18 can tell that you are taking it very seriously and
19 trying to come to grips with questions that no one has
20 asked you. You are going to hear a bunch of stuff at
21 the trial. You will determine guilt, and once that is
22 done, you will come back and the jury -- I think the
23 judge instructed you that the jury will decide
24 punishment in a death penalty case, not the judge. So
25 it is all on you guys. At that point in time -- to

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1 have a fair and impartial jury panel, it is important
2 that the jurors can consider aggravation and mitigation
3 and be able to return a verdict for life, and that is
4 also important for them to consider aggravation and
5 mitigation and return a verdict for death.

6 So I'm going to ask you a question. Do the
7 reservations that you are wearing on your face right
8 now, do you think that would substantially impair your
9 ability to return a death verdict?

10 A I mean, I'm -- I don't know. I really don't
11 know. I think it is easy for me to say one way or the
12 other, but if there is things you have to hear and
13 decide -- that is a big decision, so I don't know. I
14 really don't know. I'm kind of -- this is not really
15 what I was expecting to be doing, and I just have a lot
16 of other things going on, so I just don't really know.

17 Q Let me ask you another question this way. Do you
18 think the facts -- if you are on a jury, you swear an
19 oath, and your oath is a duty to deliberate and return
20 a verdict. So you will say I swear I'm going to act.
21 Do you think that your inability to come up with an
22 answer here may indicate that that would substantially
23 impair your duty to come up with a decision if you were
24 on this jury?

25 A Possibly.

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1 THE COURT: Let me jump in.

2 RE-EXAMINATION

3 BY THE COURT:

4 Q We're asking these questions in a vacuum; does
5 that make sense?

6 A Uh-huh.

7 Q Because you don't know anything. You don't
8 really know anything about this case, and you don't
9 know anything about what aggravation may exist or what
10 mitigation may exist; does that make sense?

11 A Yes.

12 Q No juror that has come before you has known that
13 information either. I don't even know that
14 information; does that make sense?

15 A Yes.

16 Q But the information we need to know -- and I'll
17 try to state this as concisely as possible. Let me
18 start with something I think you are comfortable with.
19 If you heard all of the facts and circumstances, and
20 all the aggravation and mitigation, and you believed
21 that the appropriate sentence under the facts and
22 circumstances was a life sentence, then you could vote
23 for and render a sentence of life?

24 A Yes.

25 Q So the question is: Can you imagine a scenario

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1 where you could take all of the facts and
2 circumstances, and any aggravation and any mitigation
3 that exists, and reach a point where you could make
4 your own personal decision and say I believe that the
5 death sentence is appropriate based upon all of the
6 facts and circumstances that I know?

7 A Yes, I think so.

8 Q If you made that decision, one of the things that
9 you would be required to do in the process is every
10 juror -- if the jury decides that death is the
11 appropriate sentence, all of you would have to sign
12 your name on the form, so if you made it that far and
13 you made that decision, that you believe death is the
14 appropriate sentence, could you sign "Cheri
15 Satterfield" for that form?

16 A Yes.

17 THE COURT: I want you to step outside and we'll
18 be right back with you.

19 (The juror exits the courtroom.)

20 THE COURT: What is your position?

21 MR. HIXSON: She said her opinion would impair
22 her ability to do her duties as a juror; however, she
23 answered the questions that Your Honor posed to her.
24 You know, that is why I apologized to try to get an
25 absolute answer, and I got the same thing.

INDIVIDUAL JURY VOIR DIRE

1 THE COURT: Yeah, I know. I know.

2 Is your position that she's qualified?

3 MS. WILLIAMS: Our position is that she's
4 qualified. She struggled, but in the end she said I
5 could do it if it were the right answer for her.

6 THE COURT: Your position is what?

7 MR. HIXSON: I believe that she's -- based on
8 your voir dire, I believe she's qualified. She said
9 she would sign the form and reach a verdict.

10 THE COURT: I'm going to find that she's
11 qualified. Bring her back in.

12 (The juror enters the courtroom.)

13 THE COURT: Here is what we're going to do.
14 These are difficult questions, but that is why we ask
15 them, because it is important. So I'm going to find
16 that you are qualified in this case, okay. Just
17 because you are qualified doesn't mean that you will
18 be on this jury.

19 JUROR: Okay.

20 THE COURT: I am going to bring back a group of
21 people, and out of that group we'll pick the actual
22 jurors, but I have to determine first who is really
23 qualified and who really is not, and that is what this
24 process is for.

25 JUROR: I understand.

INDIVIDUAL JURY VOIR DIRE

1 THE COURT: I'm kind of in limbo when I need you
2 to come back, so there is this number. What you are
3 going to do is you are going to call this number
4 tomorrow, Friday at 11:00. More than likely, I'm
5 going to ask you to come back up here tomorrow
6 afternoon, okay? At that point in time, I don't
7 need -- bring whatever you normally carry with you.
8 You don't need to pack a suitcase or anything. I
9 think that is the way my schedule is going to work
10 out. When you call this number, listen to the message
11 and follow the instruction. If the clerk's office
12 calls you, you get a number you don't recognize and it
13 is a Conway number, that's the clerk's office calling
14 you to say Judge Hood says do this or do that. But
15 right now, I don't want you to bring all of your stuff
16 back with you because I may not start this until
17 Monday; does that make sense? It depends how far I
18 make it tonight and how many people I need; does that
19 make sense?

20 JUROR: Yes.

21 THE COURT: Don't talk about the case. Don't
22 read or watch or listen to anything about the case.
23 Don't figure out the case. You really don't know what
24 is going on in this case, and that is exactly how I
25 want jurors to be, because I want you to come in with

INDIVIDUAL JURY VOIR DIRE

1 an open mind about it; understand?

2 JUROR: Yes.

3 THE COURT: Thank you. You can go right down the
4 aisle and back.

5 (The juror exits the courtroom.)

6 THE COURT: Okay. Next.

7 (The juror enters the courtroom.)

8 (KEVIN ROSCOE, having been duly sworn,
9 testified as follows:)

10 VOIR DIRE OF JUROR 301

11 BY THE COURT:

12 Q You are my 80th person I said the exact same
13 thing.

14 A I can only imagine.

15 Q So bear with me.

16 A Sure.

17 Q Do you understand you are under oath?

18 A Yes.

19 Q When you left here on Monday, I said do not
20 discuss the case with anyone, do not do any research on
21 the case and do not watch any news media; did you
22 follow those instructions?

23 A I did. The only thing I did say was it was a
24 murder trial.

25 Q Did anyone say anything to you about this case

INDIVIDUAL JURY VOIR DIRE

1 specifically in response?

2 A My brother-in-law -- well, he had mentioned, I
3 wonder, you know, and I guess it must have been on the
4 news or something.

5 Q Right.

6 A I said I'm not allowed to talk about it.

7 Q So he didn't tell you anything specific?

8 A No. No. I just know the convenience store
9 because the line of work I started in, I delivered beer
10 there.

11 Q How long ago with that?

12 A A year ago.

13 Q How often did you deliver beer, approximately?

14 A Two months.

15 Q And back in 2015, what employment did you have?

16 A I worked for Metlife in Pennsylvania.

17 Q So you weren't delivering beer in Horry County
18 back in 2015?

19 A No, I was not.

20 Q Do you know anyone that works at any of these
21 stores?

22 A No, not personally.

23 Q I'm going to ask you some questions. The lawyers
24 are going to ask you questions. I need you to be open,
25 I need you to be honest, and I need you to be candid,

INDIVIDUAL JURY VOIR DIRE

1 okay. This is not about your creditability or your
2 views or if your views are right or if your views are
3 wrong. This is about us understanding exactly what
4 your views are, okay. So we're going to ask you
5 questions you probably never really thought about
6 before, so if you want us to repeat a question, let us
7 know.

8 In this trial the State is seeking the death
9 penalty; that means I am required to break the trial
10 into two separate parts. The first part the jury will
11 determine whether or not Mr. Jenkins is guilty or not
12 guilty of the crime of murder. If the jury finds Mr.
13 Jenkins not guilty, then the case is completely over.
14 If the jury finds the defendant guilty, then we move
15 into the second phase, which is known as the
16 "sentencing phase." It is the jury's
17 responsibility -- not mine -- to render the
18 appropriate sentence based upon the circumstances,
19 either life without the possibility of parole, or the
20 death sentence; does that make sense?

21 A Yes.

22 Q Now, just because we're talking about penalties
23 doesn't mean that Mr. Jenkins has done anything. He's
24 presumed to be innocent under the law; you understand
25 that?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, sir.

2 Q Do you know Mr. Jenkins or have any relationship
3 to him at all?

4 A No.

5 Q Do you know either Mr. Hixson, Mr. Richardson,
6 Mr. Wilson or Ms. Williams at all?

7 A I do not.

8 Q Did you review the witness list before you came
9 in here?

10 A Yes.

11 Q Was there any names on there that you knew or
12 think you knew?

13 A No.

14 Q Now, every juror in this case will be asked to
15 accept and to apply the law that I give them, whether
16 they agree with it or not; is that something you
17 believe you can do?

18 A Yes.

19 Q You told us about what you know or think you know
20 about the case; is there anything else you have seen,
21 heard, read, listened to, watched or anything else
22 about the case?

23 A No.

24 Q When did you move here?

25 A Two years ago.

INDIVIDUAL JURY VOIR DIRE

1 Q 2017?

2 A Yes.

3 Q So in 2015 you didn't live in Horry County at
4 all?

5 A No. That is right.

6 Q So you have no memory of any news media when it
7 originally occurred?

8 A No.

9 Q Do you know anyone personally involved in the
10 case?

11 A No.

12 Q And do you know that if you have any connection
13 to the case at all?

14 A No.

15 Q Can you base your decision in this case on the
16 evidence and the law that comes in through this
17 courtroom?

18 A Yes.

19 Q Now, this is a criminal case; do you understand
20 that?

21 A Yes.

22 Q That means that the State has the burden of
23 proving guilt beyond a reasonable doubt. The
24 defendants never have to prove their innocence or
25 present evidence at all; do you understand that?

INDIVIDUAL JURY VOIR DIRE

1 A Now I do, yes.

2 Q So in South Carolina, and in this country,
3 criminal defendants are presumed to be innocent unless
4 and until proven guilty beyond a reasonable doubt.
5 That burden of proof lies with the State. Defendants
6 don't have to present any evidence at all. They don't
7 have to present a defense. They don't have to prove
8 themselves innocent. They don't even have to say
9 anything at all, because the State holds the burden of
10 proving guilt in this case; does that make sense?

11 A Yes.

12 Q I'm going to give you a couple of examples, so
13 follow along with me. If you were a juror in a
14 criminal case, just any criminal case, could you listen
15 to the evidence, determine what the facts are and apply
16 those facts to the law that I give you and return a
17 verdict of either guilty or not guilty, based upon the
18 facts and circumstances?

19 A Yes. I should, yes.

20 Q And I need to explain two terms to you. One is
21 called "aggravating circumstances" and one is called
22 "mitigating circumstances." Aggravating circumstances
23 are a set of laws that our legislature has determined
24 that these circumstances make murder cases worse, they
25 aggravate the situation; do you follow that logic?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q The flip side is in the law it also says -- in
3 the same book -- that these types of -- some types of
4 circumstances reduce or mitigate the severity of the
5 offense or the person's responsibility in the offense;
6 does that make sense?

7 A Yes.

8 Q So they are opposite of each other; you follow
9 me?

10 A Yes.

11 Q Second example last. I need you to imagine that
12 you are a juror in a death penalty trial. You and your
13 fellow jurors have already finished with phase one of
14 the trial, and you have all determined unanimously that
15 the defendant is guilty of the crime of murder. In
16 South Carolina, murder is the unlawful killing of
17 another person with malice aforethought. So y'all have
18 already voted and decided and told the judge the
19 defendant is guilty?

20 A Yes.

21 Q So we are in phase two. Phase two is what is the
22 appropriate punishment; do you understand where I am in
23 my example?

24 A Yes.

25 Q So could you, in that scenario, depending upon

INDIVIDUAL JURY VOIR DIRE

1 the facts and circumstances that exist, that includes
2 aggravation and/or mitigation that may exist, and the
3 law that I give you, could you hear all of that and
4 could you render a sentence of life without the
5 possibility of parole, based upon the facts and
6 circumstances?

7 A Yes.

8 Q Could you render a sentence of death based upon
9 the circumstances?

10 A Yes.

11 Q If you were selected on this jury, would it pose
12 any serious danger to your health or the health of
13 anyone you are directly responsible for?

14 A Would you mind repeating?

15 Q Here is what I'm looking for. I'll give an
16 example: Some people are on dialysis.

17 A Oh.

18 Q They have to go to dialysis three days a week,
19 three or four hours a day. You couldn't serve if you
20 were on a jury if you were going to dialysis. So what
21 I'm looking for is do you have any serious health risks
22 that would be affected if you were on this jury? Or
23 say if you were a parent and you had a child who had
24 doctors appointments every day or had surgery and it is
25 health risk for you to be away from them.

INDIVIDUAL JURY VOIR DIRE

1 A No, I'm good.

2 THE COURT: So I'll let the lawyers ask you
3 questions. I want you to be open and honest with
4 them, and I thank you for answering my questions.

5 EXAMINATION

6 BY MR. WILSON:

7 Q How are you today?

8 A Good.

9 Q I have a couple of questions for you. You said
10 that you had some conversation with your brother-in-law
11 about what he may have heard happened or something?

12 A He just made a statement what happened, that
13 whoever went from one place to another place, and that
14 is all he said. Because at that time, I said I can't
15 talk about it, and we kind of.....

16 Q At that time he didn't know that you were coming
17 here for jury duty?

18 A No, he did. He did.

19 Q And that conversation -- let me back up, because
20 you said you only had been here a couple of years?

21 A Yes.

22 Q And had you heard anything about this case before
23 you had a conversation with your brother-in-law?

24 A No.

25 Q Nothing?

INDIVIDUAL JURY VOIR DIRE

1 A No.

2 Q And what kind of work do you do?

3 A I'm a draft line technician. I clean beer draft
4 lines in different restaurants and bars in Myrtle
5 Beach, Little River, Loris area.

6 Q You worked for Better Brands for a short period
7 of time?

8 A A little over a year.

9 Q And that was during that period of time you were
10 doing beer deliveries?

11 A Yes.

12 Q And you are saying you delivered to some of the
13 stores that was involved?

14 A Yes.

15 Q And you did that for, approximately, two months?

16 A Two months. I did the delivery for two months,
17 and then promoted me to draft line technician.

18 Q So you still work for Better Brands, just in a
19 different capacity?

20 A Correct.

21 Q Let me ask you. When you were in that room back
22 there, they gave you a form to fill out and asked you
23 three choices; did you read over it and everything?

24 A Yes, I read all three.

25 Q And did you understand what was there?

INDIVIDUAL JURY VOIR DIRE

1 A I thought there could be another choice, but,
2 yes, I had to think about my answer.

3 Q What was the other choice you thought could have
4 been there?

5 A Well, it is kind of hard to go over all the
6 scenarios, but I went with the choice that I did for
7 the fact that I just believe in tougher penalties for,
8 mainly, murder, you know what I mean, or child abuse.

9 Q And let me say this to you: We're just asking
10 your opinion.

11 A Right.

12 Q It is not right or wrong. It is what your
13 opinion is, and that is all we're trying to find out.

14 Let me read to you and see if this is who you are
15 as a juror. I am one who once the crime of murder has
16 been proven beyond a reasonable doubt, to you as a
17 juror, while in the sentencing phase considering
18 punishment, feels that he or she must give the death
19 penalty in each and every case?

20 A Uh-huh.

21 Q Is that how you're viewed?

22 A That is where -- like, if it is -- if you are
23 protecting your home or family member and you would
24 have to kill someone, I feel different. But if you
25 are -- in case of a robbery or going out to just hurt

INDIVIDUAL JURY VOIR DIRE

1 someone and kill them, that is where I am in that.

2 Q So you are saying if there is an intentional
3 murder, not self-defense, not anything else, an
4 intentional murder which is unjustified; is that what
5 you are saying?

6 A Yes.

7 Q And in every case where there is an intentional
8 murder unjustified, you would then vote for death?

9 A Yes.

10 Q Once that person is found guilty beyond a
11 reasonable doubt of that crime?

12 A As long as they were found guilty.

13 MR. WILSON: Thank you.

14 EXAMINATION

15 BY MR. HIXSON:

16 Q Do you understand that the law in the State of
17 South Carolina never requires an automatic death
18 sentence? There is never A and B? It is always up to
19 the decision of the jury.

20 A Now I do, yes.

21 Q And so Mr. Wilson -- well, is there ever a
22 situation you could foresee, after hearing mitigation
23 and aggravation, that you would come back with a life
24 sentence after they have been found guilty of murder?
25 With everything that Mr. Wilson just said, is there

INDIVIDUAL JURY VOIR DIRE

1 ever a circumstance that you would come back with a
2 life sentence, or it's always death?

3 A I don't know. See, that is where -- like I said,
4 if you take someone's life for no reason, for a
5 criminal act, I would have to go with the death
6 penalty.

7 MR. HIXSON: Thank you. I don't have any further
8 questions, Your Honor. I believe he is mitigation
9 impaired and not qualified.

10 MR. WILSON: I say not qualified.

11 THE COURT: All right. Mr. Roscoe, I'll
12 disqualify you from the service in this case. Thank
13 you for being open and honest with us. You do not
14 need to call back. You do not need to come back. You
15 are completely and totally done. Have a wonderful
16 day.

17 (The juror exits the courtroom.)

18 MR. WILSON: Your Honor, before you bring out the
19 next juror, I was going to -- I made motions earlier
20 and we talked about this, about the form, the ABC
21 form. This juror I think is another good example,
22 which is why I raise it. He says there should be
23 another choice on here, and this is what I've been
24 saying throughout the process. I would say that,
25 again, I object to this form because I don't think --

INDIVIDUAL JURY VOIR DIRE

1 I think the form is too limiting in the scope to allow
2 jurors to appreciate who they are or give them the
3 alternative to decide or say who they think they are,
4 if it is not covered in here.

5 MR. HIXSON: The witness specifically said he
6 would have requested a form that listed statutory
7 aggravators, like, yeah, I'll do it if it is a child
8 abuse or something else. That is why it can't be more
9 specific. He started as an "A" and ended as an "A."

10 THE COURT: I mean, if left up to him, he would
11 have put on there in defense of your home, in defense
12 of other people, all of these things that are not
13 proper considerations under the format we are under.

14 Bring in the next one. He's disqualified.

15 (The juror enters the courtroom.)

16 (CURTIS STRICKLAND, having been duly sworn,
17 testified as follows:)

18 VOIR DIRE OF JUROR 352

19 BY THE COURT:

20 Q Mr. Strickland?

21 A Yes, sir.

22 Q When you left me on Monday, I said don't talk
23 about the case and don't watch any news media; did you
24 follow those instructions?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q We're going to ask you questions. I'm going to
2 start, and then the attorneys can follow up. I want
3 you to be open, honest and candid.

4 A Okay.

5 Q This is not about challenging you or challenging
6 your views, this is about all of us trying to figure
7 out what your views are.

8 In this case the State is seeking the death
9 penalty against Mr. Jenkins. Under that scenario, the
10 law requires that I break this trial into two parts.
11 In the first part, the jury will determine whether or
12 not Mr. Jenkins is guilty or not guilty of the crimes
13 that have been charged. If he is not guilty, the case
14 is over; we're done. If he is guilty, we will then
15 move on to sentencing, the second phase of the trial,
16 which is call the "sentencing phase" or the "penalty
17 phase." In that phase, the jury will be responsible
18 for determining what the appropriate sentence is:
19 Either death, or life in prison without the
20 possibility of parole; do you understand that?

21 A Yes, sir.

22 Q Just because we're talking about penalties
23 doesn't mean that Mr. Jenkins has done anything. As he
24 sits here, he is presumed to be innocent under the law.

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q Do you know Mr. Jenkins or have any connection or
2 any relationship to him?

3 A No, sir.

4 Q Do you know Mr. Hixson, Mr. Richardson, Mr.
5 Wilson or Ms. Williams at all?

6 A No, sir.

7 Q Did you review the witness list provided to you?

8 A Yes, sir.

9 Q Did you see any names on there you may know?

10 A No, sir.

11 Q Every juror that is sworn in this case will be
12 required to accept the law and apply the law that I
13 give them, whether they agree with it or not; is that
14 something you can do?

15 A Yes, sir.

16 Q Prior to today, have you read, seen or heard or
17 know anything about this case at all?

18 A No, sir.

19 Q Juror No. 38 -- the gentleman with the T-shirt on
20 on Monday -- said that he communicated in your presence
21 about the case?

22 A I had no idea what he was talking about. I was
23 trying to figure out where I'm going. He says, Oh, you
24 have to go this way, and that is all I was
25 understanding.

INDIVIDUAL JURY VOIR DIRE

1 Q Did you hear him say anything about this case?

2 A No, sir.

3 Q Do you know anything about this case?

4 A Not at all.

5 Q Have you ever seen any news media about this
6 case?

7 A No. I was in North Carolina when this went down.

8 Q So you didn't even live here?

9 A No, sir.

10 Q So when I told you about the case on Monday, was
11 that the first day you ever heard about it?

12 A Yes, sir.

13 Q So my question is: Can you base your decision on
14 the evidence and the law that comes in from this
15 courtroom?

16 A Yes, sir.

17 Q Do you understand that this is a criminal case?

18 A Yes, sir.

19 Q That means the State has the burden of proving
20 the defendant guilty beyond a reasonable doubt; do you
21 understand that?

22 A Yes, sir.

23 Q Defendants don't have to prove anything. They
24 don't have to say anything because the burden is on the
25 State; does that make sense?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, sir.

2 Q We're going to go through two examples. The
3 first example is this. Let's imagine you are a juror
4 in a criminal case. The question is: Can you listen
5 to the evidence, decide what the facts are and then
6 apply those facts to the law in order to reach a
7 verdict of either guilty or not guilty, depending on
8 the facts and circumstances?

9 A Yes, sir.

10 Q I need to explain two terms to you; the first is
11 called "aggravating circumstances." In our law, there
12 is a list of aggravating circumstances. In these
13 circumstances, according to the law, it makes murder
14 cases worse, or they aggravate the circumstances; does
15 that make sense?

16 A Yes, sir.

17 Q The flip side is in that same book of laws there
18 is a list of mitigating circumstances, and this list
19 mitigates or reduces the severity of a murder offense
20 or the person's role in the offense; does that make
21 sense?

22 A Yes, sir.

23 Q So the second stage is this. Let's say that you
24 are a juror in a death penalty trial -- not this trial,
25 just a trial. Assume that you and the other 11 jurors

INDIVIDUAL JURY VOIR DIRE

1 decides the defendant in our case is guilty of murder,
2 the killing of another. Trial number one is over. We
3 are now in the sentencing phase of the trial; do you
4 understand my example?

5 A Yes, sir.

6 Q So the question is: In that situation, could
7 you, depending upon the facts and circumstances that
8 exist, that would include any aggravation and/or any
9 mitigation that may exist and the law that I give you,
10 could you listen to and meaningfully consider all of
11 that and return a sentence of life in prison without
12 the possibility of parole?

13 A Yes, sir.

14 Q Could you also return a sentence of death based
15 upon the facts and circumstances?

16 A Yes, sir.

17 Q If you were selected on this jury, would it cause
18 a serious danger to your health or the health of anyone
19 you are directly responsible for?

20 A No, sir.

21 THE COURT: I'll turn you over to the attorneys
22 and they will ask you questions. Be open and honest
23 with them. Thank you very much for answering my
24 questions.

25 EXAMINATION

INDIVIDUAL JURY VOIR DIRE

1 BY MS. WILLIAMS:

2 Q I'm Brana Williams. Ralph Wilson and I will be
3 representing our client, J.J. Jenkins, in this trial.
4 So there are a couple of things on your form, that
5 questionnaire you filled out, I would like to ask you
6 about. Your wife is a teller at Anderson Brothers
7 Bank?

8 A Yes, ma'am.

9 Q How long has she been working there?

10 A Anderson Brothers? Two plus years. First
11 Citizens before that. I don't know the dates.

12 Q That's okay. And I want to tell you, as the
13 judge said, this is no-judgment zone. You know, we all
14 have our opinions. Because of the nature of this case,
15 we just have to talk to you and kind of figure out
16 where you are there. There is no right or wrong. We
17 just -- the State needs to know and the defense needs
18 to know certain things.

19 Now, No. 22, you answered in the last ten years
20 you were employed at Swain?

21 A Swain County, North Carolina.

22 Q Sheriff's Office?

23 A Yes, ma'am.

24 Q Tell me about that.

25 A What do you want to know?

INDIVIDUAL JURY VOIR DIRE

1 Q How long were you there? What did you do?

2 A I was there -- started December 27 of 2014. I
3 was with -- I was with the county as a detention
4 officer at first waiting for a spot on the road to open
5 up to be a deputy. I became a deputy roughly around
6 March, beginning of March. I was on the road until
7 July. I left law enforcement because it wasn't paying
8 the bills. I mean, making 860 every two weeks and rent
9 was 900, it didn't work. So I left there and I became
10 a black jack dealer in Cherokee. Once me and my wife
11 decided to come closer to home to start a family, we
12 moved back.

13 Q So you were a black jack dealer for awhile?

14 A Yes.

15 Q So when you were a sheriff's deputy -- prior to
16 that you were in the Marines?

17 A Yes, ma'am.

18 Q How long were you in the Marines?

19 A Four years, three months, twelve days and sixteen
20 hours.

21 THE COURT: But who is counting?

22 Q (MS. WILLIAMS) And what was your position or
23 duties?

24 A I was in infantry, squad leader, slash, team
25 leader, slash, section leader. I worked with

INDIVIDUAL JURY VOIR DIRE

1 demolition, breaching for the other infantry.

2 Q Well, thank you for that.

3 So let me ask you, your time as a deputy sheriff,
4 did I see when it said -- I want to say maybe you
5 worked at the jail?

6 A Yes, ma'am.

7 Q That is what it said, "jail employee." So you
8 were waiting to go on the road?

9 A Yes.

10 Q When you were at the jail, did you ever have any
11 run-ins with any of the inmates?

12 A None.

13 Q Awesome. And do you think that your prior
14 position as a deputy sheriff, and even working at the
15 jail, somehow would influence you or bias you about
16 coming into this trial as a juror?

17 A Not at all.

18 Q And you marked on that form that we had to fill
19 out that it was an A, B or C juror?

20 A Yes, ma'am.

21 Q And you understand that in this case -- the
22 judge's scenario, what he was talking about was we
23 already got through phase one, guilty beyond a
24 reasonable doubt of murder.

25 A Okay.

INDIVIDUAL JURY VOIR DIRE

1 Q Now we're at phase two. What I want to know is
2 you did not mark "A," which says, The death penalty is
3 the only appropriate punishment no matter what the
4 circumstance.

5 A Yes, ma'am.

6 Q Tell me what that meant to you.

7 A Well, without the facts, you can't just tell
8 someone, hey, you are going to die. I mean, that is
9 just wrong, without the facts. Being in law
10 enforcement, I understand you have to have malice with
11 aggravating things, conditions that get to you that
12 point. If it did come down to where it was --
13 everything was -- all the facts lined up in a row, then
14 I could see going to the death penalty, but you
15 shouldn't just sentence to death.

16 Q So what you are telling us is that you want to
17 hear everything? You understand we've already found
18 murder, right? You want to hear what the State has to
19 say, and you want to hear what, if anything, the
20 defense tells you?

21 A Yes, ma'am.

22 Q And at that point, you will make a thoughtful
23 decision about what you think is appropriate?

24 A Yes, ma'am.

25 Q And you understand that -- I want you to know

INDIVIDUAL JURY VOIR DIRE

1 that His Honor will tell you that under the law of
2 South Carolina, if you're a part of this jury that has
3 made an individual judgment that death is the
4 appropriate sentence, one of the things the law
5 requires is that you sign a piece of paper that says,
6 yes, in this case I think death is appropriate; would
7 you be willing to sign that piece of paper if that was
8 your choice?

9 A Yes, ma'am.

10 MS. WILLIAMS: Thank you.

11 MR. HIXSON: Thank you, and thank you for your
12 service.

13 No more questions, Your Honor. I believe this
14 gentleman is qualified to be on the panel.

15 MS. WILLIAMS: Yes, sir, we agree.

16 THE COURT: So, Mr. Strickland, I'll find you are
17 qualified. Just because you are qualified doesn't
18 mean you will be on the jury. At this point in time,
19 I'm putting together a group. I'll bring those people
20 back and we'll choose who is on and who is off. I'm
21 really in the middle of a guessing game when I'm going
22 to have my group of people. We're pretty close. I
23 want you to call back this number tomorrow at 11:00.
24 More than likely that message will say for you to come
25 back up here tomorrow, and it will give you a specific

INDIVIDUAL JURY VOIR DIRE

1 time.

2 This has a list of things that you need to bring.
3 At this point, don't bring those things, because I
4 think we'll need a break before we start. So when it
5 says come back, you do need to come back. Also, if
6 you get a call from an 843 number and it says Conway,
7 that is the Clerk of Court's Office calling you
8 because I need to get a message to you; does that make
9 sense?

10 I don't want you to watch any news media about
11 the case, don't talk about the case with anyone, and I
12 don't want you to do your research; does that make
13 sense?

14 JUROR: Uh-huh.

15 THE COURT: Call that number at 11:00. Thank you
16 very much.

17 JUROR: Thank you.

18 (The juror exits the courtroom.)

19 THE COURT: Okay. Let's bring in the next one.

20 (The juror exits the courtroom.)

21 (LOURDES LIMPASUVAN, having been duly sworn,
22 testified as follows:)

23 VOIR DIRE OF JUROR 198

24 BY THE COURT:

25 Q Tell me your name.

INDIVIDUAL JURY VOIR DIRE

1 A Lourdes Limpasuvan.

2 Q Ms. Limpasuvan, thank you for being here. Do you
3 understand you are under oath?

4 A Yes.

5 Q When you left here Monday, I said don't talk
6 about the case, don't do research and don't watch the
7 news; did you comply with those rules?

8 A Yes, Your Honor.

9 Q We're going to ask you some questions. I'll
10 start, and then the attorneys will ask you some
11 questions. I want you to be open and honest. This is
12 not about challenging you, it's about trying to figure
13 out what your real views are. There is nothing wrong
14 with your views, we just need to understand what they
15 are.

16 So in this case the State is seeking the death
17 penalty against Mr. Jenkins; that means that the law
18 requires that I divide his trial into two separate
19 parts. During the first part of the trial, the jury
20 will determine whether or not Mr. Jenkins is guilty or
21 not guilty of the crimes charged. If he is found not
22 guilty, the case is over. If he is found guilty, then
23 we will move on to the second phase of the trial,
24 which I will call the "sentencing" or the "penalty
25 phase." In that trial, it will be the jury's

INDIVIDUAL JURY VOIR DIRE

1 responsibility to determine what is the appropriate
2 sentence: Death, or life without the possibility of
3 parole; does that make sense?

4 A Yes.

5 Q Just because we're talking about penalties
6 doesn't mean that Mr. Jenkins has done anything. He is
7 presumed to be innocent under the law; do you
8 understand that?

9 A Yes.

10 Q Do you know Mr. Jenkins or have any relationship
11 with him in any way, shape or form?

12 A No.

13 Q The attorneys are Mr. Scott Hixson, Solicitor
14 Jimmy Richardson, Mr. Ralph Wilson and Ms. Brana
15 Williams; do you have any connection to them at all?

16 A No.

17 Q Did you have an opportunity to review the witness
18 list prior to coming in here?

19 A Yes.

20 Q Did you know anyone on that list at all?

21 A No.

22 Q One of the things I'm asking all the jurors to do
23 is to accept and apply the law I give them, whether
24 they agree with it or not; is that something you
25 believe you can do?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q Have you ever heard, read, seen or know anything
3 about this case at all?

4 A No, I don't know anything about this case.

5 Q So when I told you the allegations on Monday,
6 that was brand new to you?

7 A Yes.

8 Q Wonderful. So are you willing to base your
9 decision in this case off the evidence and the law that
10 comes in in this courtroom?

11 A Yes.

12 Q Do you understand it is a criminal trial?

13 A Yes.

14 Q That means the burden of proof is upon the State
15 to prove the defendant guilty beyond a reasonable
16 doubt. The defendant doesn't have to prove anything or
17 say anything at all; does that make sense?

18 A Yes.

19 Q Could you listen to the evidence, decide what the
20 facts are, apply those facts to the law that I give you
21 and reach a verdict of either guilty or not guilty,
22 depending on the facts and circumstances?

23 A Yes.

24 Q I need to explain two terms to you. The first
25 term is "aggravating circumstances;" these are laws

INDIVIDUAL JURY VOIR DIRE

1 that the legislator has created that says these
2 circumstances make murder cases worse, or they
3 aggravate the case.

4 A Okay.

5 Q Do you follow that?

6 A Yes.

7 Q The flip side is "mitigating circumstances," and
8 those say they mitigate or reduce the severity of a
9 murder case or the person's role in the case; they are
10 called "mitigating circumstances."

11 A Okay.

12 Q Does that make sense?

13 A Yes.

14 Q Last example I want you to imagine is that you
15 are a juror in a death penalty trial -- not this trial,
16 just any trial. In this example, you and the 11 other
17 members of the jury have determined that the defendant
18 in that case is guilty of murder. You already told the
19 judge. The first part of the case is over. We are now
20 in phase two, which is what is the appropriate
21 sentence; do you follow where I am in my example?

22 A Yes.

23 Q Could you in that scenario, depending upon the
24 facts and circumstances, that would include any
25 aggravation and/or mitigation that exists, could you

INDIVIDUAL JURY VOIR DIRE

1 render a sentence of life without the possibility of
2 parole?

3 A Yes.

4 Q Could you render a sentence of death based upon
5 the facts and circumstances?

6 A That is a hard question. By under circumstance,
7 you have to have strong evidence, yes, I believe.

8 Q And if you actually determined -- you made your
9 own decision after meaningfully considering all of the
10 evidence that death was appropriate, you would have to
11 sign your name to the verdict form; do you believe that
12 you could do that?

13 A Yes.

14 Q If you were selected on this jury, would it pose
15 any significant health risk to you or a member to your
16 immediate family?

17 A Health risks?

18 Q Do you have any serious physical health risks, or
19 your spouse, that needs daily attending?

20 A No.

21 Q Some people have dialysis, things like that,
22 anything like that?

23 A No.

24 THE COURT: I'll turn you over to the attorneys.
25 Thank you for answering my questions.

INDIVIDUAL JURY VOIR DIRE

EXAMINATION

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BY MR. WILSON:

Q I won't even attempt to try to pronounce the last name. I just need to ask you a couple of questions; if that is okay?

A Yes.

Q And I'll be brief, I promise. I just want to ask you, your husband is a professor at Coastal?

A Yes.

Q What area?

A In the atmospheric science and applied physics.

Q You are working on your doctorate degree?

A No, master's.

Q In what area?

A Studying to be a nurse practitioner.

Q Now, you have been working as a nurse before this time?

A Yes, for about 20 plus years. I work at Conway for 13 years.

Q Were you a registered nurse?

A Yes.

Q So what is the difference between a nurse practitioner and a registered nurse?

A Like a doctor, basically.

Q Step closer to being a doctor?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q So once you get that, then you will see patients?

3 A And treat them, yes.

4 Q And just let me ask you quickly in regards to --
5 His Honor asked you questions, and based on your form
6 you filled out back there in the back, which was -- you
7 said you were Category 3?

8 A I don't remember the category.

9 Q Let me show you.

10 A Oh, yes. Yes.

11 Q Do you remember that? Let me ask you. Based on
12 the scenario that His Honor gave you, we would be in
13 the second part of the trial when you are making the
14 decision. Because in the first part, in order to get
15 to the second, you and the other 11 members of the
16 panel would have decided that the person is guilty of
17 murder, and murder is the intentional killing of one
18 person by another with malice aforethought. It wasn't
19 justified, they killed them, murdered them. You would
20 have made that decision, but you are saying -- let me
21 ask you this way. Are you saying with type "C" that
22 you still would have an open mind even having made that
23 decision?

24 A I haven't thought about all of this. I guess it
25 depends on the situation and how much evidence shows.

INDIVIDUAL JURY VOIR DIRE

1 Q And that is what I'm asking. Because type "C"
2 says, I'm one who although the crime of murder has been
3 proved by the State beyond a reasonable doubt, and
4 while in the sentencing phase considering punishment,
5 would not have his or her mind made up in advance.

6 Let me ask you this way. After you found the
7 person guilty of murder, would you automatically have
8 your mind made up?

9 A Yes.

10 Q So you wouldn't -- you can't go into the second
11 part with an open mind once you made up your mind that
12 the person was guilty of murder?

13 A Well, I guess I will stick with....

14 Q You will stick with what?

15 A I'm not sure. I haven't thought about this.
16 This is all new to me.

17 MR. WILSON: Your Honor, do you want to....

18 THE COURT: Let's walk through this.

19 RE-EXAMINATION

20 BY THE COURT:

21 Q You understand you are like the 80th something
22 person I've talked to?

23 A Yes.

24 Q These things we talk about are what I call heavy
25 things, up in your head; follow me?

INDIVIDUAL JURY VOIR DIRE

1 A Right.

2 Q But the other side of that is I want you to be
3 open, and I want you to be honest. This is not about
4 your views, if they are right or wrong. That is not
5 what this is about. It is just about us figuring out
6 what your real position is; does that make sense?

7 A Okay.

8 Q So there is no right or wrong answer. So in my
9 example -- let's go back to the second example I gave
10 you where we are in the sentencing phase. At that
11 point in that example the trial on whether or not the
12 defendant is guilty or not guilty is already over.

13 A Right.

14 Q You have heard the evidence and you have
15 determined in your own mind -- and the rest of the
16 jurors determined in their minds -- that the defendant
17 in that example is guilty of the unlawful killing of
18 another person with malice aforethought. That is over.
19 Does that make sense?

20 A Yes.

21 Q So in the second phase, the issue is -- you have
22 to keep in mind that in normal judges in South
23 Carolina, judges sentence people. So, normally, that
24 is my job. But in these kinds of cases, the law says
25 we are going to let the jury determine what the

INDIVIDUAL JURY VOIR DIRE

1 appropriate sentence is.

2 A Okay.

3 Q So the question is: In that sentencing phase,
4 can you take the facts and circumstances that exist,
5 and that would include any aggravation and/or
6 mitigation and the law that I give you, can you put all
7 of that together and say I'm going to meaningfully
8 consider giving someone a life sentence?

9 A Yes.

10 Q And can you meaningfully consider giving someone
11 a death sentence?

12 A Yes.

13 Q Now, if you decide -- you are there. You looked
14 at all of this evidence. You processed through it.
15 You looked at the aggravation, you looked at the
16 mitigation. If there is any -- and you have listened
17 to my instructions on the law. So I've told you this
18 is what the law is. So let's say at that point in time
19 you come to your own decision that you believe that the
20 death sentence is appropriate, based upon the facts and
21 circumstances. At that point in time, you would be
22 required to sign a sheet of paper with a line that has
23 your name on it.

24 A Right.

25 Q And you are required to take a pen and sign your

INDIVIDUAL JURY VOIR DIRE

1 name to that, as would all the other jurors who agree
2 that the death penalty is appropriate; is that
3 something you can do?

4 A Yes.

5 MR. WILSON: No other questions.

6 THE COURT: Would you like to follow up?

7 MR. WILSON: No, sir.

8 THE COURT: Mr. Hixson?

9 MR. HIXSON: Not really.

10 EXAMINATION

11 BY MR. HIXSON:

12 Q Well, just a little history. You were in the
13 Army?

14 A Yes.

15 Q Critical care?

16 A Yes.

17 Q Were you ever deployed?

18 A No, I was not.

19 Q I'm sure you are trained to deal with some high
20 stressed situations?

21 A Well, that was a long time ago.

22 Q More than I've done.

23 The other question is that you mentioned about
24 working in critical care in Conway; did you work with
25 mental health patients, or just you were there and saw

INDIVIDUAL JURY VOIR DIRE

1 them come in from time to time?

2 A Yes, I saw them from time to time.

3 Q Would you consider -- I try to -- you are dealing
4 with -- I guess I'm paralleling with the Army issue,
5 that is not your speciality really, you just kind of
6 deal with folks with psychiatric issues from time to
7 time when they need critical care?

8 A Yes. We get some patients, especially around
9 holidays, suicidal.

10 Q But that is not necessarily your area of
11 expertise, you just deal with it?

12 A Right.

13 MR. HIXSON: Thank you. I believe she's
14 qualified.

15 MR. WILSON: Nothing further.

16 THE COURT: Your position?

17 MR. WILSON: Yes, sir, she's qualified.

18 THE COURT: I'm going to deem that you are
19 qualified to serve in this case. Just because you are
20 qualified doesn't mean you are selected. I'll bring
21 back a big group, and then we'll sit down and decide
22 exactly who is on the jury and who is not on the jury,
23 okay. So at this point in time, call back to this
24 number tomorrow at 11:00. More than likely that
25 message is going to say come back up here tomorrow

INDIVIDUAL JURY VOIR DIRE

1 afternoon. Just follow exactly what that message
2 says, okay.

3 Between now and then, don't talk about the case,
4 don't watch any news about the case, and don't do your
5 own independent research about the case. If you get a
6 phone number between now and then from 843, a Conway
7 number, that is the clerk's office trying to call you
8 because I have a message because I'm changing things
9 up. I still have eight or nine people to go through
10 tonight. So if I get to that number I need, the
11 message may change and may say come back tomorrow
12 morning with a suitcase; follow me? Just stay by your
13 phone, and if you get a call from a phone number you
14 don't recognize, take it because that is someone from
15 the clerk's office calling you with a message from me.

16 JUROR: Okay.

17 THE COURT: Thank you. Have a great night.

18 (The juror exits the courtroom.)

19 THE COURT: For the record, I found
20 Ms. Satterfield, Ms. Limpasuvan and Mr. Strickland to
21 be qualified. They are willing to listen to the
22 evidence and willing to consider the facts and
23 circumstances and willing to consider the law, and
24 they were also willing to consider meaningfully a life
25 sentence and a death sentence, depending upon the

INDIVIDUAL JURY VOIR DIRE

1 facts and circumstances presented. I didn't find them
2 to be anything other than fair and impartial in this
3 situation.

4 Next is Matthew Baliles.

5 (The juror enters the courtroom.)

6 (MATTHEW BALILES, having been duly sworn,
7 testified as follows:)

8 VOIR DIRE OF JUROR 16

9 BY THE COURT:

10 Q Tell me how to say your name.

11 A Baliles.

12 Q Mr. Baliles, thank you for being here. Do you
13 understand you are under oath?

14 A Yes, sir.

15 Q When you left here Monday, I said don't talk
16 about the case, don't do any research on the case,
17 don't watch any news about the case; did you follow
18 those instructions?

19 A I did.

20 Q We'll ask you questions. I'll start, and then
21 the attorneys can jump in. I want you to be open. I
22 want you to know honest and candid.

23 A I will be.

24 Q This is not about attacking you or your views,
25 just trying to figure what your views are.

INDIVIDUAL JURY VOIR DIRE

1 A Okay.

2 Q We're probably asking you things you never
3 thought about before, so take your time.

4 In this case the State is seeking the death
5 penalty against Mr. Jenkins.

6 A Yes, sir.

7 Q That means I'm required under the law to break
8 this trial into two different parts. Part one -- in
9 part one, the jury will determine whether or not Mr.
10 Jenkins is guilty or not guilty. If he is found not
11 guilty, we're done. But if he is found guilty, we move
12 on to phase two. In phase two, the jury -- not the
13 judge, but the jury -- will determine what the
14 appropriate sentence is: Either life in prison without
15 the possibility of parole, or death.

16 A Right.

17 Q Do you follow the framework of what I've told you
18 so far?

19 A Yes.

20 Q Just because we're talking about penalties
21 doesn't mean that Mr. Jenkins has done anything.

22 A Correct.

23 Q He is presumed to be innocent under the law; do
24 you understand that?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q Do you know Mr. Jenkins or have any connection to
2 him at all?

3 A No, sir.

4 Q Do you know either Mr. Hixson, Mr. Richardson,
5 Mr. Wilson or Ms. Williams?

6 A No, sir.

7 Q You don't know any of them?

8 A No, sir.

9 Q Did you review the witness list prior to coming
10 in here?

11 A I did.

12 Q Did you see anyone on there you know?

13 A No one.

14 Q One of the things we're going to do is -- and we
15 do this in every case -- is accept the law and apply
16 the law I give to them, whether they agree with it or
17 not; is that something you can do?

18 A Yes, sir.

19 Q Prior to today, have ever heard, read or seen or
20 do you have any knowledge about this case at all?

21 A No.

22 Q So when I told you about the case on Monday, was
23 that the first time you ever heard that?

24 A It was.

25 Q Great. So are you willing to base your decision

INDIVIDUAL JURY VOIR DIRE

1 in this case on the evidence and on the law?

2 A Yes. Exactly.

3 Q Do you understand that this is a criminal case?

4 A I do.

5 Q That means that the burden of proof is upon the
6 State, and they are required to prove guilt beyond a
7 reasonable doubt. Defendants don't have to prove
8 anything. They don't have to present any evidence.
9 They don't have to prove themselves innocent, because
10 the burden of proof is upon the State; do you
11 understand that?

12 A I do.

13 Q We'll do some examples. Let's imagine that you
14 are a juror in a normal criminal case -- not a death
15 penalty, just a normal case. As a juror in that case,
16 can you listen to the evidence, decide what the facts
17 are, apply those facts to the law I give you and reach
18 a verdict of either guilty or not guilty, depending
19 upon the facts and circumstances?

20 A Yes, I will do that perfectly.

21 Q Now, I'll explain two terms to you. One is
22 called "aggravating circumstances," the other is called
23 "mitigating circumstances." So under our law, South
24 Carolina Code of Laws, says that certain circumstances
25 aggravate or make murder cases worse; does that make

INDIVIDUAL JURY VOIR DIRE

1 sense?

2 A Yes.

3 Q In that same set of laws, there is a list of
4 mitigating circumstances, and the law says that these
5 mitigating circumstances reduce the severity of a
6 murder case or a person's role or responsibility in the
7 case; does that make sense?

8 A It does.

9 Q Example two is this. Let's imagine you are a
10 juror in a death penalty trial -- not this trial, just
11 a trial. You and the other 11 jurors have already
12 determined that in your case the defendant is guilty of
13 murder.

14 A Okay.

15 Q Part one is over; does that make sense?

16 A Yes.

17 Q So we are in part two.

18 A Punishment.

19 Q Exactly. So the question is this: In that
20 scenario, could you, depending upon the facts and
21 circumstances that exist, that would include any
22 aggravation and/or mitigation that may exist and the
23 law that I give you, could you listen to all of that
24 and could you render a sentence of life in prison
25 without the possibility of parole based upon the facts

INDIVIDUAL JURY VOIR DIRE

1 and circumstances?

2 A I can.

3 Q Could you render a sentence of death based upon
4 the facts and circumstances?

5 A I could, yes.

6 Q If you were selected on this jury, would it pose
7 any serious health risks to you or to a member of your
8 immediate family?

9 A Not at all.

10 THE COURT: I am going to turn you over to the
11 attorneys for questioning. Answer their questionings
12 openly and honestly.

13 EXAMINATION

14 BY MS. WILLIAMS:

15 Q I'm Brana Williams, and Ralph Wilson and I
16 represent J.J. Jenkins in this trial. We appreciate
17 you being here.

18 As the judge said, this is the only time we'll
19 get to talk to you. There is no right or wrong, we
20 just need to know where you stand. I want to ask you
21 a couple of things that you filled out on your
22 questionnaire. You put on here that you were in the
23 Army?

24 A Correct.

25 Q And for -- I can't tell -- nine years, total?

INDIVIDUAL JURY VOIR DIRE

1 A Nine years, 11 months.

2 Q But who's counting. And your job there was
3 psychiatric nurse --

4 A Yes.

5 Q -- counselor; what did that mean?

6 A Right. In the military, when I first went in, I
7 was a psychiatric technician or specialist, which is a
8 counselor to any military family or their spouses.
9 Later on, into that field, I went to LP nursing school.
10 It still entailed the same things, you know, treatment
11 for people who had mental illness or suicidal thoughts,
12 things such as that.

13 Q And you put you are pension military disability
14 now?

15 A Yes. I believe when I heard the gentleman
16 answer, instead of saying I'm retired, what I should
17 have said is "disabled veteran," but because I'm a war
18 veteran, I get a military pension also.

19 Q So tell me about that. What happened?

20 A What do you mean?

21 Q You said a war veteran?

22 A During time of war, I was in the military.

23 Q You went and served?

24 A If you are in active duty during any type of war,
25 just like if we have a soldier now overseas, you are

INDIVIDUAL JURY VOIR DIRE

1 considered a war veteran. You don't have to physically
2 be in that.

3 Q But you were -- and you had a disability?

4 A Correct.

5 Q Tell me about that.

6 A My disability?

7 Q Yes, sir. If you don't mind. I don't mean to
8 embarrass.

9 A I don't mind. That disability is for depression
10 that I had, which I do not suffer because I take
11 medications for that. I've been fine for a good ten
12 years or so. That basically was anxiety that I had.

13 Q I don't mean to embarrass you.

14 A I'm not embarrassed.

15 Q And part of it is because of this, we have to get
16 a detailed record. That is why she's writing what we
17 say.

18 And you take medication?

19 A Yes.

20 Q Do you think that is a -- what medication do you
21 take?

22 A It is Citalopram, which is a mood enhancer.
23 That's pretty much it. I take Trazodone at night to
24 sleep. Those are standard for military people. If
25 Benadryl doesn't work for you, Trazodone is a

INDIVIDUAL JURY VOIR DIRE

1 medication. It is not a narcotic, but helps you sleep
2 better.

3 Q Do you believe in any way that taking that
4 medication would impair your ability, if you were
5 seated on this jury, to participate and listen and
6 absorb everything?

7 A Not at all. I'm just as alert there, as I am
8 now.

9 Q And you answered when you defined yourself as an
10 A, B or C juror, that you understood in the judge's
11 scenario -- we were talking about we are at a
12 sentencing phase, because the jury in that -- which you
13 would have been a part of -- already found that person
14 guilty of murder.

15 A Yes.

16 Q As the judge said, malice is killing of another,
17 malice aforethought, which means there was no
18 justification. So we're at the sentencing. What you
19 said is you could -- based on the facts presented by
20 the State, whatever the State presents and whatever
21 defense may present, you want to listen to everything
22 before you decide which penalty would be appropriate?

23 A That's correct.

24 Q And then once you made a decision that you were
25 comfortable with, the law -- let me start this again.

INDIVIDUAL JURY VOIR DIRE

1 So there are two possible choices if we're to get
2 to sentencing. If you made the decision that death
3 was appropriate, our law requires that you, along with
4 the other 11 jurors, sign a piece of paper that says
5 that is my decision; would you be able to sign that
6 paper?

7 A I would.

8 MS. WILLIAMS: Beg the Court's indulgence.

9 (A brief pause in the proceedings.)

10 MS. WILLIAMS: That is all I have. Thank you.

11 MR. HIXSON: Two quick questions.

12 EXAMINATION

13 BY MR. HIXSON:

14 Q It is relating to what Ms. Williams was referring
15 to your psychiatric experience as a nurse, and
16 especially in the military. The last paragraph you
17 said -- also, that is the other question concerning
18 that you do not judge people, of course you are
19 referring to sexual, nationality, but then you
20 indicated you take a lot of other factors into
21 consideration?

22 A That's right.

23 Q I wanted to be sure of that.

24 A Otherwise, what I was saying, I don't just base
25 it on what I feel; that is not the way the law works.

INDIVIDUAL JURY VOIR DIRE

1 It is all the facts, that is how I see it. Everything
2 is facts. If it is proved to be, then judgment is
3 done, and that is what we all agreed to, I have no
4 issue with that. I don't know how to finish answering
5 that.

6 Q I just wanted to clarify. You are talking about
7 amenable characteristics and some other stuff, and that
8 is not what we're talking about so much here.

9 A I don't want to judge somebody -- everything is
10 facts.

11 Q We would be asking you to judge conduct, if that
12 were to be the case.

13 You mentioned a war vet and all of that. What is
14 the nature of your interaction with folks that you
15 felt were suffering from psychiatric issues? Can you
16 describe that in more detail and what effect that has
17 had on you?

18 A It helps to understand people more. I mean, I'm
19 not any better than anyone else at all, but my training
20 and experience over the years I had in the military
21 doing that, you are more in tune to listen to every
22 word that someone is saying, because every word in
23 psychiatry matters.

24 So as far as not being judgmental -- because
25 everyone has issues at one time or another. So being

INDIVIDUAL JURY VOIR DIRE

1 in psychiatry, I see things in more of an open and
2 understanding sense than someone who is in charge
3 of -- like a manager who fires you because they don't
4 like the way you look. I just have more of an
5 understanding, I believe.

6 Q And just to sum up the last question. The nature
7 of your interaction, is more of a critical care stage,
8 or ongoing maintenance and continuing to see folks over
9 time?

10 A You mean the role I was?

11 Q In the profession, so to speak.

12 A It was inpatient psychiatry, which was --
13 compared to outpatient, it would be someone who would
14 come in temporary for a day, one day a week. Inpatient
15 psychiatry is where we're bringing someone who has
16 mental issues or something going on, suicidal. The
17 difference in inpatient is the patient usually stays
18 two weeks, at the most. There are occasions when there
19 is one or two a year. But it is an every day
20 interaction. It depends who I'm assigned to. We could
21 hold 20 people in the unit. If there is four of us
22 doing the job, we divide by four or whatever. But
23 every day I was involved while they are admitted on the
24 floor, I was involved in all of their lives, and I
25 actually enjoyed it. It was something to help me.

INDIVIDUAL JURY VOIR DIRE

1 MR. HIXSON: Thank you for your service, and
2 thanks for answering questions.

3 Your Honor, we believe he is qualified.

4 MS. WILLIAMS: We agree.

5 THE COURT: We will find you are qualified, and
6 just because you are qualified does not mean you will
7 be on this jury. It just means you are able to be.
8 We're creating a large group of people that are
9 qualified that we'll bring back. What I want you to
10 do at this point is take this card, call back at 11:00
11 tomorrow. More than likely the message will say come
12 in tomorrow afternoon. At that point in time, bring
13 whatever you normally carry with you. You don't need
14 to pack everything like the list says. If you
15 actually make it on the jury, we'll give you further
16 instructions. If you don't, then you will be free,
17 completely done and able to go home.

18 Do not talk to anyone about the case. Do not
19 watch, read or listen to any news about this case.
20 Don't do your own research about the case. You don't
21 know anything, and that is how I want you.

22 JUROR: Monday was the first time I ever heard
23 what happened. Everyone stood up and I was like,
24 Well, I sure didn't keep up with things.

25 THE COURT: You weren't the only one, so don't

INDIVIDUAL JURY VOIR DIRE

1 worry about it.

2 If you get a call from an 843 Conway number, that
3 is the clerk's office calling you because I'm trying
4 to get a message, so answer your phone.

5 JUROR: Who do I give the change of number to?

6 THE COURT: Come over here to this young lady
7 with the glasses and give her your correct number, and
8 you can do that on your way out.

9 JUROR: Am I dismissed?

10 THE COURT: Yes, sir.

11 (The juror exits the courtroom.)

12 THE COURT: I find he is qualified. He was
13 prepared to listen to the evidence and be open to the
14 different things that the jurors need to be open to
15 and willing to listen to the evidence and the facts
16 and make a decision based on the evidence and the
17 facts presented and give consideration to both
18 sentences.

19 (The juror enters the courtroom.)

20 (IKESHIA HARRINGTON, having been duly sworn,
21 testified as follows:)

22 VOIR DIRE OF JUROR 137

23 BY THE COURT:

24 Q How are you? You remember on Monday I said don't
25 talk about the case, don't watch news media about the

INDIVIDUAL JURY VOIR DIRE

1 case or do any research; did you follow those
2 instructions?

3 A Yes, sir.

4 Q We are going to ask you questions. I want you to
5 be open, and I want you to be honest. I want you to be
6 candid. No one is trying to challenge you or your
7 views, we just want to understand what your views are.

8 This is a death penalty case, and because it is a
9 death penalty case, the law requires that I break the
10 trial into two separate parts. During the first part,
11 the jury determines if Mr. Jenkins is guilty or not
12 guilty of the crimes charged. If he is found not
13 guilty, the case is over and done with. If he is
14 found guilty, then we move on to the second phase of
15 the trial, known as the "penalty" or "sentencing
16 phase." In that phase, the jury will determine
17 whether the appropriate sentence is life without the
18 possibility of parole, or death. Just because we're
19 talking about penalties doesn't mean Mr. Jenkins did
20 anything. He is presumed to be innocent under the
21 law; do you understand that?

22 A Yes, sir.

23 Q Do you know Mr. Jenkins or have any connection to
24 be him at all?

25 A No, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q Do you know Mr. Hixson or Mr. Richardson or
2 Mr. Wilson or Ms. Williams?

3 A I don't.

4 Q Did you review the witness list prior to coming
5 in here?

6 A I did.

7 Q Do you know or have you any connection to any
8 other witnesses?

9 A No, sir.

10 Q One of the things that we're going to ask the
11 jurors to do is to listen to the law that I give and
12 apply the law that I give, whether they agree with it
13 or not; is that something you believe you can do?

14 A Yes, sir.

15 Q Prior to Monday, did you ever hear anything, say
16 anything, know anything or have any knowledge about
17 this case?

18 A No, sir.

19 Q So when I told you the allegations on Monday,
20 that was the first time you heard the information?

21 A Yes, sir.

22 Q Are you willing to base your decision off the
23 evidence and the law?

24 A Yes, sir.

25 Q Do you understand this is a criminal case?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, sir.

2 Q That means the State has the burden of proving
3 Mr. Jenkins guilty beyond a reasonable doubt.
4 Defendants don't have to prove their innocence or
5 present any evidence at all; do you understand that?

6 A Yes, sir.

7 Q I'm going to give you two different examples.
8 Let's start with the first one. In the first example,
9 you are a juror in a criminal case, a normal case. Can
10 you as a juror in a criminal case listen to the facts,
11 listen to the evidence, decide what the facts are,
12 apply those facts to the law I give you and reach a
13 verdict of either guilty or not guilty, depending upon
14 the facts and circumstances?

15 A Yes, sir.

16 Q I need to explain to you two terms. One is
17 called "aggravating circumstances," one is called
18 "mitigating circumstances." Aggravating circumstances
19 are laws written into our code of laws that say these
20 circumstances make murder cases worse, or they
21 aggravate a murder case; does that make sense?

22 A Somewhat.

23 Q So there is two different kinds of circumstances.
24 One is called "aggravating," one is called
25 "mitigating." They are both written in the code of

INDIVIDUAL JURY VOIR DIRE

1 laws. So the legislature in Columbia has determined
2 this is the law of the state. So aggravating
3 circumstances are a list of circumstances, and if one
4 of those exists, it makes a murder case worse.

5 A Uh-huh.

6 Q Or it aggravates the case.

7 A Okay.

8 Q Does that make sense?

9 A Yes, sir.

10 Q In that same book of laws, there is a list of
11 mitigating circumstances. Mitigating circumstances
12 reduce the severity of the offense or the person's role
13 in that offense; does that make sense?

14 A Yes, sir.

15 Q So they are kind of opposite; you follow me?

16 A Yes, sir.

17 Q So let's -- for Example No. 2, let's pretend that
18 you are a juror in a death penalty case -- not this
19 case, just any case. In my example, you and the other
20 jurors have already determined -- and you have already
21 told the judge -- that the defendant is guilty of
22 murder. So we are in phase two, the sentencing phase;
23 do you understand where I am in my example?

24 A Yes, sir.

25 Q Could you, depending upon the facts and

INDIVIDUAL JURY VOIR DIRE

1 circumstances, including any other aggravating and any
2 mitigating factors, and the law that I give you, could
3 you consider all of that and render a sentence of life
4 without parole, based upon the facts and circumstances?

5 A Yes, sir.

6 Q Could you consider all of that and render a
7 sentence of death based upon the facts and
8 circumstances?

9 A It depends what it is.

10 Q That is a real answer. At this point, I don't
11 know what it is. So the issue is can you meaningfully
12 consider giving someone a death sentence if the facts
13 and circumstances warrant that in your mind?

14 A Yes.

15 Q If you decided that -- and we are in a
16 hypothetical; does that make sense?

17 A Uh-huh.

18 Q If you decided that, you say to yourself, In this
19 case, the facts and circumstances, in my opinion,
20 warrant a death sentence. You would have to take out a
21 pen and there would be a sheet of paper with your name.
22 You have to sign it. You would have to sign the
23 verdict form that says the appropriate sentence is
24 death; could you do that?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q If you were selected on this jury, would it pose
2 any significant health risk to you or to any member of
3 your immediate family?

4 A No, sir.

5 THE COURT: I'll let the attorneys ask you
6 questions. Be open, honest and thank you for
7 answering mine.

8 EXAMINATION

9 BY MR. WILSON:

10 Q Ms. Harrington, I have a couple of questions. On
11 your form you said you were type "C" juror?

12 A Sorry?

13 Q On the form you filled out in the back, there
14 were three categories; you said you were type "C"?

15 A Uh-huh.

16 Q In your estimation, what is a type "C" juror?

17 A Someone that can look at the facts and, you know,
18 base their decision on facts.

19 Q So you want to hear all of the facts and
20 circumstances, and you would want to do that before you
21 found a person guilty in the first place?

22 A Yes, sir.

23 Q And then you would also want to hear all of the
24 facts and circumstances surrounding sentencing?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q And after hearing aggravating and mitigating
2 factors and His Honor gave you the instructions on the
3 laws, you could vote for life or death depending on
4 your view on what you heard?

5 A Yes, sir.

6 Q And His Honor asked you, and you said you could,
7 that if your view was death, you would be able to sign
8 the form and send it out to the Court that that was
9 your decision?

10 A Yes, sir.

11 MR. WILSON: Nothing further.

12 MR. HIXSON: No questions. Thank you for being
13 here.

14 And, Your Honor, we believe she is qualified to
15 sit on the jury.

16 MR. WILSON: Qualified.

17 THE COURT: I find she is qualified based upon
18 her answers here in court.

19 Here is what we'll do, Ms. Harrington. I'll deem
20 you are qualified to serve in this case. That doesn't
21 mean you are going to be on the jury. So I'll bring
22 back a big group of you. I'm getting closer that we
23 can determine who is qualified. We'll bring back a
24 group and decide from the whole group who gets to sit
25 and who does not get to sit. So at this point in

INDIVIDUAL JURY VOIR DIRE

1 time, call this number tomorrow morning at 11:00 and
2 listen to any instructions. More than likely, it will
3 tell you to come in tomorrow afternoon. There is a
4 chance that in the next two hours I get to my number
5 of jurors. If I do, then you may get a call from
6 Horry County Clerk of Court saying come in tomorrow
7 morning. So make sure your phone number you have
8 given is correct.

9 Do you not discuss the case with anyone. Do not
10 do any research on the case, and don't watch any news
11 about the case.

12 Come right around here. You can double check
13 your phone number with Ms. Elvis.

14 I find Ms. Harrington is qualified based upon the
15 answers given.

16 Let's take a break before the next panel.

17 (A recess is taken.)

18 (The juror enters the courtroom.)

19 THE COURT: You are Ms. Brown?

20 JUROR: Yes.

21 THE COURT: This is Juror 43. 43.

22 (PATRICIA BROWN, having been duly sworn,
23 testified as follows:)

24 VOIR DIRE OF JUROR 43

25

INDIVIDUAL JURY VOIR DIRE

1 BY THE COURT:

2 Q Do you understand you are still under oath?

3 A Yes.

4 Q And when you left on Monday, I told you don't
5 talk about the case, don't do any research on the case,
6 don't watch or listen to any news media; did you follow
7 those rules?

8 A Yes, sir.

9 Q What will happen is we'll ask you questions.
10 I'll start, and then the attorneys will jump in. I
11 want you to be open. I want you to be honest. I want
12 you to be candid. This is not about challenging you or
13 your views. This is about us figuring out what your
14 views are; does that make sense?

15 A Yes.

16 Q Now, in this case the State is seeking the death
17 penalty against Mr. Jenkins, because of that, I'm
18 required to, under the law, bifurcate or separate into
19 two different parts the trial. In the first part of
20 the trial, the jury will determine whether or not Mr.
21 Jenkins is guilty or not guilty of the crimes that have
22 been charged. If he is found not guilty, we're done.
23 The case is over. But if he is found guilty, then we
24 will move on to what we call the sentencing phase or
25 penalty phase, and in that portion of the trial it will

INDIVIDUAL JURY VOIR DIRE

1 be the jury's responsibility to determine what is the
2 appropriate sentence: Either life without the
3 possibility of parole, or death. Does that framework
4 of the case make sense?

5 A Yes.

6 Q Just because we're talking about penalties
7 doesn't mean that Mr. Jenkins has done anything. He is
8 presumed to be innocent under the law; do you
9 understand that?

10 A Yes.

11 Q Do you know Mr. Jenkins or have any connection to
12 him at all?

13 A No.

14 Q And do you know either Mr. Hixson,
15 Mr. Richardson, Mr. Wilson or Ms. Williams at all?

16 A No.

17 Q Did you read the witness list before coming in
18 here?

19 A Yes.

20 Q Did you see anyone on there that you know at all?

21 A No.

22 Q One of things that I'm going to ask everyone on
23 the jury to do in this case is to accept and to apply
24 the law that I give to them, whether they agree with it
25 or not; is that something you can do?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q Prior to today, have you ever heard, read, seen
3 or do you know anything about this case at all?

4 A After I got home, I got to thinking, and I do
5 remember hearing something about Sunhouse, Sunmart or
6 something, that someone had got shot there; that's all
7 I remember. Don't remember anything else or read
8 anything after that.

9 Q Is the source of that information the news or
10 hearing someone tell you about it?

11 A On the news.

12 Q And would that be closer in time when the
13 incidents allegedly occurred, or closer in time to now?

14 A When it occurred.

15 Q Would that -- are you able to set that aside and
16 base your decision on what happened here in court, the
17 evidence and the law?

18 A Yes.

19 Q Now, do you understand that this is a criminal
20 case?

21 A Yes.

22 Q And what that means is that the State has the
23 burden of proving Mr. Jenkins guilty beyond a
24 reasonable doubt. He doesn't have to prove anything.
25 He doesn't have to say anything; do you understand all

INDIVIDUAL JURY VOIR DIRE

1 of that?

2 A Yes.

3 Q Now, I want to ask you two examples. The first
4 example is this. Let's imagine that you are a juror in
5 a criminal case, not a death penalty case, just a
6 normal criminal case; could you listen to the evidence,
7 could you determine what the facts are and then could
8 you apply those facts to the law that I give you and
9 render a verdict of either guilty or not guilty,
10 depending upon the facts and circumstances of that
11 particular case?

12 A Yes.

13 Q Now, the next thing I need to do is explain two
14 different terms to you. The first term is called
15 "aggravating circumstances." Aggravating circumstances
16 are written into our code of laws, and our legislature
17 has said these circumstances make murder cases worse,
18 and this is a list of them. That means they aggravate
19 the case; does that make sense?

20 A Yes.

21 Q In that same code of laws, there is a list of
22 mitigating circumstances, and the legislature has said
23 these mitigating circumstances reduce the severity of
24 the offense or reduce the person's role in the offense;
25 does that make sense?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q So your second example is this. Let's pretend
3 that you are a juror in a death penalty trial -- not
4 this trial, but just a trial. In that trial, you and
5 your 11 other jurors have already determined that the
6 defendant in that case is guilty of murder. So the
7 first phase of the trial is over. You all have
8 determined -- you voted and you have told the judge we
9 believe -- we find that the defendant is guilty of
10 murder, the unlawful killing of another person with
11 malice aforethought. So we're in phase two. Remember
12 I told you there are two phases? We are in phase two.
13 The only decision before you and the other jurors now
14 is what is the appropriate sentence; do you understand
15 where I am in my example?

16 A Yes.

17 Q So the question is this: Could you, depending on
18 the facts and circumstances of that case, and any
19 aggravation and any mitigation that may exist, and the
20 law that I give you, take all of that into
21 consideration and render a verdict of life without the
22 possibility of parole?

23 A Are going to give me those choices?

24 Q Yes. I'll tell you the law.

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q And I'll explain to you the different things that
2 apply in the law.

3 A Okay. Yes.

4 Q So it is not automatic.

5 A Got you. Right. Okay.

6 Q Can you listen to everything, can you listen to
7 the facts and circumstances, can you listen to the
8 aggravation and/or the mitigation, can you follow the
9 law that I give you, and could you consider all of that
10 and return a verdict of life, if you believe that is
11 what is warranted?

12 A Yes. If I believe that is warranted, yes.

13 Q The other side of that coin is could you consider
14 all of that and return a sentence of death, if that is
15 what you believe is warranted under the facts and
16 circumstances?

17 A Yes.

18 Q Would being on this jury pose any significant
19 health risk to you or a member of your immediate
20 family?

21 A No.

22 THE COURT: I'll let the attorneys ask you
23 questions. Answer them openly and honestly. Thank
24 you for answering my questions.

25 EXAMINATION

INDIVIDUAL JURY VOIR DIRE

1 BY MS. WILLIAMS:

2 Q Good evening. My name is Brana William. Ralph
3 Wilson and I represent the defendant in this case, J.J.
4 Jenkins. Thank you for being here. Thank you for
5 doing this. It is late, and we know it. We've been
6 here a long time.

7 This is not about what is right or wrong. It
8 really is just figuring where you are so that we --
9 that being the State's attorneys and the defense
10 attorneys -- can figure out that both sides have a
11 fair trial.

12 You are a deli manager?

13 A Yeah. I was, and now I'm just a worker, because
14 I got tired of being manager, so I'm just a worker.
15 But I was for 30-some years, a deli bakery manager.

16 Q Let me ask you -- as the judge said, I want to be
17 sure that we're clear, when you filled out that form in
18 the back that said A, B or C juror, the judge said in
19 his scenario you would have been a part of the jury
20 that found the defendant guilty beyond a reasonable
21 doubt, and that the person was guilty of murder.

22 A What I circled there?

23 Q Yes, ma'am. What I'm saying is that is what
24 we're talking about. That is phase one. Now we are in
25 phase two talking about sentencing.

INDIVIDUAL JURY VOIR DIRE

1 A Right.

2 Q In sentencing, what you chose was, This juror
3 could, based on the facts presented by the State and
4 defendant, bring in a verdict of death or life
5 imprisonment?

6 A Could be either one.

7 Q And so you did not pick "A," which says, This
8 juror simply feels that once a murder has been
9 committed, the death penalty is the only appropriate
10 punishment no matter what the circumstance is.

11 A I did not circle that.

12 Q And that is because you really do want to hear
13 everything?

14 A I want to hear, right.

15 Q The judge will instruct you on the law -- and we
16 appreciate that, and one of the things that our law in
17 South Carolina requires is that if you are on a panel
18 in the penalty phase that has you and the other 11
19 jurors made an individual choice that death is
20 appropriate, in that particular circumstance, you have
21 to sign a piece of paper.

22 A Right.

23 Q And it has your name on it.

24 A Right.

25 Q And if you felt that death was appropriate, you

INDIVIDUAL JURY VOIR DIRE

1 could sign that piece of paper?

2 A Yes.

3 Q That is what we needed to know, thank you.

4 MR. RICHARDSON: We don't have any questions. We
5 believe she's qualified.

6 MS. WILLIAMS: We agree.

7 THE COURT: I'll deem you qualified for this
8 case, and I'll give you this card. Call this number
9 back at 11:00. Make sure you have your phone on you
10 because you may get a call from the Clerk of Court's
11 Office. But call back tomorrow at 11:00 and listen
12 for those instructions.

13 Do not talk to anyone about the case, do not
14 listen to any news, do not watch any news about the
15 case, and do not do research on the case; can you
16 follow all of those?

17 JUROR: Yes.

18 THE COURT: Thank you very much.

19 (The juror exits the courtroom.)

20 THE COURT: I find she is qualified based upon
21 the facts and circumstances presented here in court.
22 She can be fair and impartial and follow the law and
23 willing to listen to the facts and circumstances and
24 render a verdict based upon the facts and
25 circumstances in the evidence and the law, the

INDIVIDUAL JURY VOIR DIRE

1 aggravation and mitigation, and is willing to consider
2 either sentence.

3 (The juror enters the courtroom.)

4 (DAVID CHESTERFIELD, having been duly sworn,
5 testified as follows:)

6 VOIR DIRE OF JUROR 61

7 BY THE COURT:

8 Q You are Mr. Chesterfield?

9 A Yes, sir.

10 Q Thanks for being here with us.

11 You are under oath; do you understand that?

12 A Yes, sir.

13 Q When you left here Monday, I said don't talk to
14 anyone about the case, don't watch any news about the
15 case and don't do any research about the case; did you
16 follow those instructions?

17 A I did.

18 Q We're going to ask you questions, and I want you
19 to be open. I want you to be honest and candid with
20 us.

21 A Okay.

22 Q This is not about challenging you or challenging
23 your views. This is about us figuring out what your
24 views truly are; does that make sense?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q In this case the State is seeking the death
2 penalty against the defendant, that means that the law
3 requires I break the trial into two different phases.
4 Phase one, the jury determines whether or not Mr.
5 Jenkins is guilty or not guilty of the crimes charged.
6 If he is found not guilty, the case is over. If he is
7 found guilty, we'll move on to the sentencing phase or
8 the penalty phase of the case. In that phase, it is
9 the jury's responsible to determine what is the
10 appropriate sentence either death or life in prison
11 without the possibility of parole; do you understand
12 the framework I've just given you?

13 A Yes, sir.

14 Q Just because we're talking about penalties
15 doesn't mean that Mr. Jenkins has done anything. As he
16 sits here, he is presumed to be innocent under the law.

17 A Yes.

18 Q Do you know Mr. Jenkins or have any relationship
19 to him at all?

20 A No.

21 Q Do you know Mr. Hixson, Mr. Richardson, Mr.
22 Wilson or Ms. Williams at all?

23 A No idea.

24 Q Did you read the witness list?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q Did you know anyone on that list?

2 A No.

3 Q Every juror who is sworn in on this case is
4 required to accept the law and apply the law as I give
5 it to them, whether they agree with it or not; is that
6 something you can do?

7 A Yes.

8 Q Have you ever heard, read, seen or know anything
9 about this case at all?

10 A After I thought about it, I think I moved here in
11 December.

12 Q Of what year?

13 A '15, I think. I don't remember anything about
14 it, just hearing about it a little bit.

15 Q Would anything that you would have heard affect
16 your ability to be fair and impartial in this case?

17 A No.

18 Q Are you willing to set aside what you heard and
19 base your decision off of the evidence and the law in
20 this courtroom?

21 A I really didn't hear much, so.

22 Q My question is -- let me phrase it to you this
23 way. Whatever you heard is not evidence; does that
24 make sense?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q It is not proof of anything. In court, we
2 require people to come, tell the truth, be examined and
3 cross-examined by both sides, and that is evidence. So
4 whatever you heard is not evidence of anything.

5 So my question is: Can you set that aside and
6 base your decision on what happens here in court, the
7 evidence and the law?

8 A Yes.

9 Q Do you understand this is a criminal case?

10 A Yes.

11 Q And do you understand that the State has the
12 burden of proof, and that burden is beyond a reasonable
13 doubt?

14 A Yes.

15 Q Do you understand the defendants never have to
16 prove their innocence. They don't have to say
17 anything. They don't have to present anything, because
18 they don't have anything to prove; do you understand
19 that?

20 A Yes. I had to think. I mean, yes, I understand.

21 Q Defendants in this country are presumed to be
22 innocent.

23 A Correct.

24 Q They don't have to present evidence or try to
25 prove themselves. They don't have to present a

INDIVIDUAL JURY VOIR DIRE

1 defense. They don't have to open their mouths in
2 court; does that make sense?

3 A Yes.

4 Q Because the burden of proving guilt in this
5 country lies or rests with the State of South Carolina.
6 It is their responsibility to convince a jury of the
7 defendant's guilt beyond a reasonable doubt; do you
8 understand that?

9 A Yes, I understand that.

10 Q I'll give you some examples; you ready?

11 A Yes.

12 Q Example number one: You are a juror in a
13 criminal case, not a death penalty, just a normal
14 criminal case. Could you listen to the evidence,
15 determine what the facts are, apply those facts to the
16 law I give you and ultimately reach a verdict of either
17 guilty or not guilty, depending upon the facts and
18 circumstances?

19 A I'm sure I could, yes.

20 Q And I need to explain two terms to you before the
21 next examples. The first term is "aggravating
22 circumstances." Those are specific circumstances
23 written into our code of laws that, essentially, say
24 these specific circumstances make murder cases worse,
25 they aggravate the situation; does that make sense?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q In that same code of laws, there is a list of
3 what we call "mitigating circumstances," and they are
4 laws that say these specific circumstances mitigate or
5 reduce the severity of the offenses or the role of
6 the -- person's role in the offense; does that make
7 sense?

8 A Yes.

9 Q So example two is this: Let's assume that you
10 were a juror in a death penalty trial -- not this
11 trial, just a trial. You and your 11 other jurors have
12 already decided, and you've already told the judge,
13 that in your opinion -- or that in the consensus of the
14 jury is that all 12 agree that the defendant is guilty
15 of murder in South Carolina. Murder is the unlawful
16 killing of another person before malice aforethought.
17 So phase one would be over; make sense?

18 A Yes.

19 Q We would be in phase two. So do you understand
20 where I'm at in my example?

21 A I understand.

22 Q The question is: Could you, depending upon the
23 facts and circumstances, including any aggravating and
24 mitigating circumstances and the law that I give you,
25 could you listen to all of that and return a sentence

INDIVIDUAL JURY VOIR DIRE

1 of life without parole, based upon the circumstances?

2 A No.

3 Q Could you return a sentence of death based upon
4 the circumstances?

5 A Yes.

6 Q If you were on this jury, would it pose any
7 significant health risk to you or anyone in your
8 family?

9 A Health risk? No.

10 THE COURT: I'll let the attorneys ask you
11 questions. Be open and honest and candid with them.

12 MR. WILSON: May we approach for a second?

13 THE COURT: Sure.

14 You can step outside and we'll be back with you.

15 (The juror exits the courtroom, and a bench
16 conference was had.)

17 THE COURT: Okay. We're ready. Bring him in.

18 THE COURT: All right, Mr. Chestnut (sic), I
19 thought I was through, but I have a few more
20 questions.

21 Q (BY THE COURT) Is your name David J.
22 Chesterfield?

23 A Yes.

24 Q Is your birthday [REDACTED] ?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q And does your Social Security end in [REDACTED]?

2 A Yes.

3 Q One of the things I have as part of your file
4 comes with every juror, a criminal history. Reading
5 criminal histories from South Carolina is super easy
6 because we all do it all the time, so we know what
7 we're looking for. I don't show anything on your
8 record from South Carolina, but I do show some charges
9 from Illinois, I show charges from -- let's see,
10 another Illinois, Illinois -- the majority from
11 Illinois; what do you know about those charges?

12 A Mainly, when I was getting divorce, there was
13 orders of protection and stuff, violation orders of
14 protection, that type of thing.

15 Q And did you go to jail for any of those?

16 A No. I did community service for threatening my
17 ex.

18 Q Were you on probation?

19 A Actually, I did do like a work release, like go
20 to work, come in for a week, like seven days or
21 something, and then come back from work and stay
22 overnight, that type of thing.

23 Q What was the maximum punishment you could get?

24 A Been so long, I don't know.

25 Q Were you ever on probation?

INDIVIDUAL JURY VOIR DIRE

1 A I don't remember if I was. If I was, it wasn't
2 for very long.

3 Q Did you plead guilty to any of those offenses, or
4 was this trials, or what?

5 A Well, there was a trial on one. That was before
6 my divorce.

7 Q I'm not worried about the divorce case.

8 A I don't remember exactly.

9 Q Is this all, like, in 1998?

10 A Late '90s, before I was completely divorced. My
11 ex kept me from my son, one of those deals.

12 Q I only show one thing on here that says, Status:
13 Sentence to imprisonment, jail. That looks to be
14 around 1998, maybe?

15 A Like a week or something?

16 Q It doesn't say.

17 A That is the longest I've ever been in.

18 Q It doesn't say. And the question -- the question
19 that disqualifies you automatically is whether the
20 charge carried more than a year in custody; does that
21 make sense? So contempt of court in South Carolina
22 carries six months. So if you had been found in
23 contempt of court here, the maximum sentence you could
24 have gotten was six months. So I'm trying to figure
25 out what --

INDIVIDUAL JURY VOIR DIRE

1 A I think it was more than a year, because I --
2 first, it was -- the original thing was a felony, but
3 then it went to a misdemeanor. I can't remember -- I
4 want to say two years, but I don't know for sure. I
5 have every single court document in chronological
6 order, every bill, attorney's fees, everything for my
7 son to see someday, but, yes.

8 THE COURT: What is the State's position?

9 MR. HIXSON: I think probably not qualified. I
10 would be concerned about giving a sentence of death
11 penalty.

12 MR. WILSON: Not qualified.

13 THE COURT: Okay. What we are going to do out of
14 an abundance of caution is determine that you are not
15 qualified to serve in this. Have a wonderful evening.

16 (The juror exits the courtroom.)

17 THE COURT: those out-of-state records are so
18 difficult, so I appreciate you bringing that to the
19 Court's attention, and that is what I would have
20 expected y'all to do, so thank you. All right.

21 (The juror enters the courtroom.)

22 (PATTI JACKSON, having been duly sworn,
23 testified as follows:)

24 VOIR DIRE OF 155

25

INDIVIDUAL JURY VOIR DIRE

1 BY THE COURT:

2 Q You are Ms. Jackson?

3 A I am.

4 Q You understand you are under oath?

5 A Yes.

6 Q And when you left here Monday, I said don't talk
7 about the case, don't watch news about the case, don't
8 do any research about the case; did you follow those
9 instructions?

10 A I did. Only thing I did talk to my boss and let
11 her know that I had to come back.

12 Q That is fine. Did your boss say anything about
13 the facts of the case?

14 A No, just discussed work.

15 Q That is perfectly fine. Okay. We'll ask you
16 questions, and I'll start and the attorneys are going
17 to jump in. I want you to be honest and open, and I
18 want you to be candid. This is not about you or
19 attacking you. This is about us figuring out what your
20 views are, so some of these questions you probably
21 never thought about before, so just take your time.

22 In this case the State is seeking the death
23 penalty against Mr. Jenkins; because of that, I'm
24 required to break his trial into two separate phases.
25 During the first phase, the jury will determine

INDIVIDUAL JURY VOIR DIRE

1 whether or not Mr. Jenkins is guilty or not guilty of
2 the offense of murder. If he is found not guilty,
3 we're done. The case is over. If he is found guilty,
4 we will then move on to what we call the "sentencing
5 phase." During the sentencing phase, or the penalty
6 phase, it will be the jury's responsibility to
7 determine what is the appropriate punishment: Either
8 life without the possibility of parole, or death. Do
9 you understand the framework that I've explained to
10 you so far?

11 A Yes, sir.

12 Q Now, just because we're talking about penalty
13 doesn't mean that Mr. Jenkins has done anything. He's
14 presumed to be innocent under the law; do you
15 understand that?

16 A Yes, sir.

17 Q Do you know Mr. Jenkins or have any relationship
18 to him at all?

19 A No, sir.

20 Q Do you know Mr. Hixson or Mr. Richardson, Mr.
21 Wilson or Ms. Williams?

22 A I don't know any of them. I've seen Mr. Wilson
23 around town.

24 Q That is fine. You don't really know any of them?

25 A No. No.

INDIVIDUAL JURY VOIR DIRE

1 Q You were given a witness list prior to coming in
2 here; do you know anyone on the witness list?

3 A No, sir.

4 Q Do you understand that if you are sat as a juror
5 in this case, you have to accept the law that I give
6 you and apply the law that I give you, whether you
7 agree with it or not?

8 A Yes, sir.

9 Q Now, have you ever heard, read, seen or do you
10 know anything about this case at all?

11 A I remember back in -- I remember hearing about it
12 a few years ago when it happened, but I haven't
13 really -- I didn't pay a lot of attention to it then.

14 Q What is your source for that information?

15 A The news.

16 Q Are you willing to set aside anything that you
17 saw on the news and base your decision on what happens
18 here in court, the evidence and the law?

19 A Yes, sir.

20 Q Do you understand this is a criminal case?

21 A Yes, sir.

22 Q And that means that the State has the burden of
23 proving Mr. Jenkins guilty beyond a reasonable doubt.

24 A Yes, sir.

25 Q He doesn't have to prove anything. He doesn't

INDIVIDUAL JURY VOIR DIRE

1 have to say anything at all, because the State has the
2 burden of proof; do you understand that?

3 A Yes, sir.

4 Q Now, could you -- I'll ask you two example
5 questions. This is the first one: If you were a juror
6 in a criminal case -- not a death penalty, just a
7 normal criminal case -- could you listen to the
8 evidence, decide what the facts are and then apply
9 those facts to the law that I give you and reach a
10 verdict of either guilty or not guilty depending upon
11 the facts and the circumstances of that case?

12 A Yes, sir.

13 Q I need to explain to you two terms before I give
14 you the next example. The first one is called
15 "aggravating circumstances." In our laws, South
16 Carolina Code of Laws, there is written a list of
17 aggravating circumstances that our legislature has
18 decided that these aggravating circumstances make
19 murder cases worse, that is, they aggravate murder
20 cases; does that make sense?

21 A Yes.

22 Q In that same code of laws, there is a list of
23 what we call "mitigating circumstances." These
24 mitigating circumstances reduce the severity of the
25 offense of murder or it could reduce a person's role in

INDIVIDUAL JURY VOIR DIRE

1 a murder case; does that make sense?

2 A Yes.

3 Q So the second example is this. I want you to
4 imagine you are a juror in a death penalty case -- not
5 this case, just a case. In that case, you and your
6 fellow jurors have already decided and already told the
7 judge that you believe that the defendant is guilty of
8 murder. So phase one is over; does that make sense?

9 A Yes.

10 Q So we're in the sentencing phase; do you
11 understand my example?

12 A Yes.

13 Q So the question is this: Could you, in the
14 sentencing phase of a death penalty case, listen to the
15 facts and circumstances of the case, listen to any
16 aggravation and/or mitigation that may exist, follow
17 the laws that I give you, and if you believe it is
18 warranted, return a sentence of life in prison without
19 parole, based upon the facts and circumstances?

20 A Yes.

21 Q Could you return a sentence of death based on the
22 facts and circumstances?

23 A Yes. If the burden of proof was there, yes.

24 Q And you understand that in my example the
25 defendant has already been convicted of an intentional

INDIVIDUAL JURY VOIR DIRE

1 murder, unlawful killing of another person?

2 A Yes.

3 Q So under that scenario, in the sentencing phase,
4 could you meaningfully consider giving the person life
5 based upon the facts and circumstances?

6 A Yes.

7 Q And could you, likewise, meaningfully consider
8 the sentence of death based upon the facts and
9 circumstances?

10 A Yes.

11 Q If you were asked to serve on this jury, would it
12 pose any health risk to you or anyone you are directly
13 responsible for?

14 A No.

15 THE COURT: I'll let the attorneys ask you
16 questions now. Thank you.

17 EXAMINATION

18 BY MR. WILSON:

19 Q I wanted to ask you a couple of questions, if I
20 can. In your comments a second ago, you said if the
21 proof was there; what did you mean by that?

22 A Well, I mean, I guess I think it is challenging
23 to put a person's life -- take their life, so I would
24 want to be very, very sure, very positive, you know,
25 that they were -- like the judge said, mitigating

INDIVIDUAL JURY VOIR DIRE

1 circumstances versus -- I would want to be really --
2 feel like it was the correct penalty.

3 Q Okay. So you would want to hear both mitigating
4 and aggravating circumstances before you made your
5 decision about whether or not life was appropriate?

6 A Yes.

7 Q Or whether death was appropriate?

8 A Yes, sir.

9 Q And you could keep an open mind from that first
10 trial, even though you have found that person guilty of
11 murder?

12 A Yes, sir, I could.

13 Q And you could keep an open mind and go into the
14 second phase and listen to the aggravating and --
15 evidence of aggravation, evidence of mitigation and His
16 Honor's instructions of the law and decide whether or
17 not life was appropriate, or if death was appropriate;
18 you could do that?

19 A Yes, sir.

20 Q And if you decided, for instance, that death was
21 the appropriate sentence, could you sign a form, along
22 with the other jurors, signing your name saying that
23 that was your decision and that you were recommending
24 to the Court of imposing a death sentence?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q You said you hadn't heard a lot about this or
2 heard something about it way back?

3 A Yes, sir.

4 Q Did you ever talk to any of your neighbors or
5 friends about what happened?

6 A No, sir.

7 Q So you just heard stuff on the news?

8 A Yes, sir. Myrtle Beach so is violent, this and
9 that.

10 Q And you could be fair to this defendant and to
11 the State of South Carolina if you are on this jury?

12 A Yes.

13 MR. WILSON: All right. Thank you, ma'am.

14 MR. HIXSON: No additional questions. I believe
15 that she's qualified to be on this panel.

16 MR. WILSON: She's qualified, Your Honor.

17 THE COURT: Ms. Jackson, here is what we'll do.
18 I'm in what we call "no man's land." I'm close to
19 having enough people to select a jury, but I don't
20 know if I'll have enough until I go through three more
21 people. So, literally, I'm on the cusp of all of it.
22 So at this point in time, I'm releasing you for the
23 evening. Do not talk to anyone about the case, do not
24 discuss the case, keep an open mind. At this point,
25 call back tomorrow morning at 11:00, call this number;

INDIVIDUAL JURY VOIR DIRE

1 you with me?

2 JUROR: Yes.

3 THE COURT: And the other thing is this: You may
4 get a phone call between now and then that says come
5 back at a different time. If you do get a call from
6 an 843 number in Conway, that is the clerk's office
7 calling you on my behalf; does that make sense?

8 JUROR: Yes.

9 THE COURT: So you may need to come in sooner.

10 JUROR: What phone numbers do you have for me?

11 THE COURT: Double check that information.

12 JUROR: Because I'm supposed to work tomorrow,
13 so.

14 THE COURT: We'll get that before you leave. But
15 call that number at 11 o'clock and follow the
16 instructions on the message.

17 MR. WILSON: Before you -- could we have a side
18 bar?

19 THE COURT: Before I release her?

20 MR. WILSON: Yes.

21 THE COURT: Hang tight.

22 (Whereupon, a bench conference was had.)

23 THE COURT: We have a couple more questions for
24 you, okay?

25 EXAMINATION

INDIVIDUAL JURY VOIR DIRE

1 BY MR. WILSON:

2 Q And, I apologize. In our discussions when we
3 were talking about the death penalty, and I'll rely on
4 your recollection, but I was asking whether or not --
5 what I was trying to get information about from you
6 about your death penalty views, did you say -- and I'm
7 asking this question as opposed to telling you. I'm
8 just asking you, did you say it would be very
9 challenging for you and that -- if there were -- there
10 would have to be no mitigating circumstances?

11 A I said I would consider -- what I think I said is
12 I would consider mitigating and aggravating
13 circumstances. I believe that is what I said in the
14 penalty phase.

15 Q You understand that the defendant doesn't have
16 any burden, as Your Honor instructed you already, to --

17 A Right. Completely on the State. Yes.

18 Q And so you would be willing -- and I'm asking --
19 you would be willing to listen to aggravating
20 circumstances, mitigating circumstances and His Honor's
21 instructions and then make up your mind as to whether
22 life or death?

23 A Yes.

24 Q You could do that?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q And you would come into that second phase with an
2 open mind?

3 A Yes, sir.

4 Q Listening to all of that evidence and facts that
5 would be presented?

6 A Yes, sir.

7 Q And you would understand that the defendant
8 doesn't have prove anything or present anything?

9 A Doesn't have to say a word.

10 THE COURT: Mr. Hixson.

11 EXAMINATION

12 BY MR. HIXSON:

13 Q Simple question. In addition to considering it,
14 can you vote for a death penalty sentence after that
15 consideration?

16 A After consideration, I could, yes.

17 MR. HIXSON: That's it.

18 THE COURT: Anything else?

19 MR. WILSON: No, sir.

20 THE COURT: You are qualified. Call back the
21 number after 11:00. You may get a call, so you are
22 kind of in limbo, but call back at 11:00. Thank you.

23 (JOSHUA WASHINGTON, having been duly sworn,
24 testified as follows:)

25 VOIR DIRE OF JUROR 383

INDIVIDUAL JURY VOIR DIRE

1 BY THE COURT:

2 Q You are Mr. Washington?

3 A Yes.

4 Q Do you understand you're under oath?

5 A Yes, sir.

6 Q When you left here Monday, I said don't talk
7 about the case, don't read any news about the case,
8 don't do any research about the case; did you follow
9 those instructions?

10 A I sure did.

11 Q You sure didn't?

12 A I sure did.

13 Q Oh, wonderful. Thank you. We'll ask you some
14 questions. I'll start, and then the attorneys can jump
15 in at the end. I want to you be open. I want you to
16 be honest. I want you to be candid; can you do that?

17 A Yes, sir.

18 Q This is not about attacking you or your views,
19 just about us understanding what your views are, okay?

20 A All right.

21 Q So in this case the State is seeking the death
22 penalty against Mr. Jenkins; because of that, I'm
23 required under the law to break this trial into two
24 different parts. So during the first part, the jury
25 will determine whether or not Mr. Jenkins is guilty or

INDIVIDUAL JURY VOIR DIRE

1 not guilty of the crimes that have been charged. If he
2 is found not guilty, the case is over; does that make
3 sense?

4 A Yes, sir.

5 Q If he is found guilty, we will move on to second
6 phase of the trial, which we call the "sentencing
7 phase" or the "penalty phase." In that part of the
8 trial, it is the jury's responsibility to determine
9 what is the appropriate sentence: Death, or life
10 without the possibility of parole. Does that framework
11 I just explained to you make sense?

12 A Yes, sir.

13 Q Just because we're talking about penalties
14 doesn't mean that Mr. Jenkins is guilty of anything, he
15 is presumed to be innocent under the law; you
16 understand that?

17 A Yes, sir.

18 Q Do you know Mr. Jenkins or have any relation to
19 him in any way, shape or form?

20 A No, sir.

21 Q The attorneys are Scott Hixson, Jimmy Richardson,
22 Ralph Wilson and Ms. Brana Williams; do you have any
23 connection to them?

24 A No, sir.

25 Q I gave you a witness list before you came in

INDIVIDUAL JURY VOIR DIRE

1 here; did you know anyone on that list?

2 A No, sir.

3 Q Now, if you are selected as a juror in this case,
4 one of the things you are required to do is this: You
5 will have to accept and apply the law that I give you,
6 whether you agree with it or not; are you capable of
7 doing that?

8 A Yes, sir.

9 Q Prior to today, have you ever heard, read, seen
10 or do you know anything about this case at all?

11 A I heard about it, because I work at Waccamaw
12 Youth Center off of 905, and so one of my co-workers
13 told me about it when it occurred.

14 Q Back in 2015?

15 A Uh-huh.

16 Q Tell me what you heard.

17 A Just said that somebody robbed a gas station and
18 they got away with it -- not got away, but didn't catch
19 them yet.

20 Q Anything else?

21 A No, that was basically it.

22 Q Have you seen anything about the case since then?

23 A I have not.

24 Q Do you understand that conversation that you had
25 is not evidence of anything and it is not proof; does

INDIVIDUAL JURY VOIR DIRE

1 that make sense?

2 A Yes.

3 Q Evidence is testimony that comes in during the
4 trial and any exhibits or documents or pictures or
5 videos or whatever that come in in the courtroom; do
6 you understand that?

7 A Yes, sir.

8 Q Are you willing to set that conversation aside
9 and base your decision on the evidence and the law in
10 this case?

11 A Yes, sir.

12 Q Do you know anything about the case?

13 A I know nothing at all.

14 Q Do you know anyone involved in the case?

15 A No, sir.

16 Q Do you understand that this is a criminal case?

17 A I do understand.

18 Q What that means is that the State has the burden
19 of proof, and that burden of proof is beyond a
20 reasonable doubt; do you understand that?

21 A Yes, sir.

22 Q Defendants don't have to prove anything. They
23 don't have to say anything. They don't have to prepare
24 any defense at all; do you understand that?

25 A Yes, sir.

INDIVIDUAL JURY VOIR DIRE

1 Q What I'm going to do is I'm going to give you two
2 examples. The first example is this: Let's pretend
3 that you are a juror in a criminal case, not a death
4 penalty case, just an average criminal case; could you
5 listen to the evidence, figure out what the facts are,
6 apply those facts to the law that I give you and return
7 a verdict of either guilty or not guilty, based upon
8 the circumstances?

9 A Yes, sir.

10 Q I need to explain two terms. First is called
11 "aggravating circumstances." The second term is called
12 "mitigating circumstances." Aggravating circumstances
13 are laws written into our code of laws that says these
14 circumstances make murder cases worse, or they
15 aggravate the situation; does that make sense?

16 A Yes, sir.

17 Q The flip side in the same code of laws is a list
18 of mitigating circumstances, and the law says these
19 circumstances reduce the severity of a murder case;
20 does that make sense?

21 A Yes, sir.

22 Q Example two is this: Let's imagine that you are
23 a juror in a death penalty trial -- not this one, just
24 a death penalty trial; you with me?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q And you and your fellow jurors already have
2 determined that the defendant is guilty of murder, that
3 is the unlawful killing of another person with malice
4 aforethought. So phase one of the trial is over; does
5 that make sense?

6 A Yes, sir.

7 Q So we're in the sentencing phase; do you follow
8 me with where I am?

9 A Yes, sir.

10 Q So the question is this: Could you, in that
11 situation, depending upon the facts and circumstances,
12 depending on any aggravation and/or mitigation that may
13 exist and the law I give you, listen to all of that,
14 consider it and return a sentence of life without the
15 possibility of parole?

16 A Yes, sir.

17 Q Could you do the same thing and return a sentence
18 of death, based upon the facts and circumstances?

19 A Yes, sir.

20 Q If you were a juror in this case, would it pose
21 any significant health risk to you or any member of
22 your immediate family?

23 A No, sir.

24 THE COURT: I'll let the attorneys ask you
25 questions. Answer them openly, honestly and fully.

INDIVIDUAL JURY VOIR DIRE

EXAMINATION

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BY MS. WILLIAMS:

Q I'll ask you a few questions. You said on your
-- in answering the judge's questions, you said you
work off of 905?

A Uh-huh.

Q How close is where you work to where the store
was?

A Probably -- maybe five to eight minutes away.

Q Is that a store you normally go to?

A No, I've never been to it.

Q Never been there?

A Huh-huh.

Q So when the co-workers talked to you about it,
that is all you know?

A Yes.

Q Yes? Yes or no?

A Yes.

Q Just making sure she gets yes or no as opposed to
"uh-huh" and/or "huh-huh."

Q Your job is still the rec assistant for the City
of Myrtle Beach?

A Yes, ma'am.

Q And you answered on being an A, B or C juror,
that you were a "C" juror?

INDIVIDUAL JURY VOIR DIRE

1 A Yes, ma'am.

2 Q What does that mean?

3 A I have to hear the facts before I determine what
4 I want.

5 Q And you understand based on the scenario the
6 judge gave you -- and that is part two. Part one, if
7 you are in that case, is guilty versus not guilty, but
8 that has already been determined beyond a reasonable
9 doubt in part one.

10 A Uh-huh.

11 Q And then when you get to part two, we're really
12 talking about sentencing.

13 A Yes, ma'am.

14 Q You are telling us that you are not the kind of
15 juror that simply feels that once a murder has been
16 committed, the death penalty is the only appropriate
17 punishment no matter what the circumstances?

18 A Yes, ma'am.

19 Q The other thing we have to find out is -- one of
20 the things our law requires is if you are on a jury,
21 and once you -- phase two -- and once you have made the
22 individual moral judgment that death is appropriate in
23 that particular circumstance, given what you have heard
24 and seen, that you and the other 11 jurors have to sign
25 a piece of paper that says, yes, death is my verdict;

INDIVIDUAL JURY VOIR DIRE

1 would you be willing to sign that if you felt that was
2 appropriate?

3 A Yes, ma'am.

4 MS. WILLIAMS: Thank you, Mr. Washington.

5 MR. HIXSON: Thank you, Your Honor.

6 EXAMINATION

7 BY MR. HIXSON:

8 Q Thank for being here. Long day.

9 A I understand.

10 Q Just a couple of questions. I was looking at
11 your questionnaire. You spent a fair amount of your
12 past helping young folks. You talk about Helping Hands
13 and Family Services. I wanted to see what your
14 thoughts were on -- you talk about behavioral care,
15 foster care. What was your role prior to your current
16 job, Bridge Builders and Youth and Family Services?
17 What were you doing helping out young folks?

18 A I was helping young folks that had anger issues,
19 anxiety issues and things.

20 Q Did you intersect with the criminal justice
21 issues with them, dealing with folks facing court
22 system?

23 A Just overall anger issues. No, sir, nothing to
24 do with court or anything like that.

25 Q So what we're trying to get at to some degree

INDIVIDUAL JURY VOIR DIRE

1 is -- do you think anything about that, trying to get
2 folks through their tough time, would make it harder or
3 impair your ability to come back with a death sentence
4 versus a life sentence? Do you -- describe how that
5 would --

6 A No, sir, it wouldn't affect me at all. Some of
7 the things that those kids were going through, I was
8 trying to prevent them to get to this point in their
9 life. I would use these types of situations to explain
10 it to them, like, If you don't get better with your
11 anger, this is where you can end, and you don't want to
12 be on that side.

13 MR. HIXSON: Well put. Well put. Thank you for
14 your time.

15 MS. WILLIAMS: We submit this juror is qualified.

16 MR. HIXSON: Yes, sir.

17 THE COURT: Mr. Washington, I'll determine you're
18 qualified based on the answers. Just because you are
19 qualified, doesn't mean you will be chosen. I have a
20 pool, and I'm really close enough to stop questioning
21 jurors. So at this point, I want you to call back to
22 this number at 11:00 for further instructions, but you
23 may get a call that says you need to come back before.
24 So if you have a call from 843, that is the clerk
25 calling you. At this point in time, call this number

INDIVIDUAL JURY VOIR DIRE

1 at 11 o'clock tomorrow and follow the instructions,
2 okay?

3 JUROR: Yes, sir.

4 THE COURT: Don't read anything about the case,
5 don't watch anything about the case, don't talk to
6 anyone about the case and don't go do your own
7 research.

8 JUROR: Yes, sir.

9 THE COURT: You with me?

10 JUROR: Yes.

11 THE COURT: Do we have your correct phone number?

12 JUROR: Yes, sir.

13 THE COURT: Thank you. Have a great evening.
14 Thank you for your willingness to serve.

15 (The juror exits the courtroom.)

16 THE COURT: I found Mr. Washington and
17 Ms. Jackson and Ms. Brown qualified by the answers
18 they provided.

19 You want to do the next two jurors?

20 All right. Bring her in.

21 (MIRACLE KEITH, having been duly sworn,
22 testified as follows:)

23 VOIR DIRE OF JUROR 174

24 BY THE COURT:

25 Q Ms. Keith, how are you?

INDIVIDUAL JURY VOIR DIRE

1 A Fine.

2 Q Do you understand you are under oath?

3 A Yes, sir.

4 Q When you left here Monday, I said don't talk to
5 anyone about the case, don't do any research on the
6 case and don't watch the news about the case; did you
7 follow those instructions?

8 A Yes, I did.

9 Q We're going to have a conversation with you. I
10 want you to be open and honest. I want you to be
11 candid with us. This is not about challenging you or
12 challenging your views. We just need to understand
13 what your views are; does that make sense?

14 A Yes.

15 Q Because of that, I'm required to break the trial
16 into two phases. The first phase is what we call the
17 "trial phase." During that phase, the jury will decide
18 whether Mr. Jenkins is guilty or not guilty of the
19 crimes charged. If he is found not guilty, then the
20 case is over. If he is found guilty, we move into what
21 we call the "sentencing phase" or the "penalty phase."
22 In that portion of the trial, the jury will have to
23 determine what is the appropriate sentence: Either
24 death, or life without the possibility of parole. Does
25 the framework of the case make sense to you?

INDIVIDUAL JURY VOIR DIRE

1 A Yes.

2 Q And just because I'm talking about penalty
3 doesn't mean Mr. Jenkins has done anything. He is
4 presumed to be innocent under the law; do you
5 understand that?

6 A Yes.

7 Q Do you know Mr. Jenkins or have any relationship
8 to him at all?

9 A No.

10 Q Do you know Mr. Hixson or Mr. Richardson or
11 Mr. Wilson or Ms. Williams at all?

12 A No.

13 Q Did you read the witness list prior to coming
14 here?

15 A Yes, sir.

16 Q Did you know anyone on there at all?

17 A No.

18 Q If you get selected as a juror, I'll require you
19 to accept the law and apply the law that I give you,
20 whether you agree with it or not; is that something you
21 can do?

22 A Yes, sir.

23 Q Prior to today, have you read, heard, seen or
24 know anything about this case at all?

25 A I've heard about it.

INDIVIDUAL JURY VOIR DIRE

1 Q How have you heard about it?

2 A I live in Conway, and from there, just word gets
3 around.

4 Q Word on the street?

5 A Yeah.

6 Q Has anyone told you anything specific about the
7 case?

8 A No.

9 Q Do you know anyone involved in the case?

10 A No.

11 Q Do you have any connection to the case at all?

12 A No.

13 Q Are you willing to base your decision on the
14 evidence that comes into the courtroom and the law that
15 I give you, and disregard whatever you heard about the
16 case on the street?

17 A Yes.

18 Q Do you understand this is a criminal case?

19 A Yes.

20 Q That means the State has the burden of proving
21 guilt beyond a reasonable doubt. Mr. Jenkins doesn't
22 have to prove anything. He doesn't have to say
23 anything. He doesn't have to prove his innocence. The
24 burden is on the State; do you understand that?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q I'll give you an example. If you were a juror in
2 a criminal case, a normal criminal case, could you
3 listen to the facts, listen to the evidence, apply the
4 law to the facts and render a verdict of either guilty
5 or not guilty, depending upon the circumstances?

6 A Yes.

7 Q I need to explain two terms: One is "aggravating
8 circumstances" and one is "mitigating circumstances."
9 Mitigating circumstances are laws that our legislature
10 says these circumstances make murder cases worse; do
11 you understand that?

12 A Yes, sir.

13 Q The other side is mitigating circumstances. The
14 same book of laws says that certain circumstances
15 mitigate or reduce the severity of a murder offense; do
16 you understand that?

17 A Yes.

18 Q The last example I will give you is this. Let's
19 assume that you are a juror in a death penalty trial.
20 You have already determined that the defendant is
21 guilty of murder. So we're now in the second phase of
22 the trial; do you understand that?

23 A Uh-huh.

24 Q Yes?

25 A Yes.

INDIVIDUAL JURY VOIR DIRE

1 Q And at that point in time, depending upon the
2 facts and circumstances, could you listen to the facts
3 and circumstances, listen to any aggravation and/or
4 mitigation that may exist and apply the law that I give
5 you and render a sentence of life without the
6 possibility of parole?

7 A Yes.

8 Q Could you render a sentence of death based upon
9 the facts and circumstances?

10 A Yes.

11 Q If you were asked to serve on this jury, would it
12 pose any serious risk to your health?

13 A No, sir.

14 THE COURT: I'll let the attorneys ask you
15 questions. Be open and honest. Thank you for
16 answering my questions.

17 EXAMINATION

18 BY MR. WILSON:

19 Q I'll ask a couple of questions.

20 A Yes.

21 Q Are you a student anywhere?

22 A No.

23 Q You work?

24 A Yeah.

25 Q Where do you work?

INDIVIDUAL JURY VOIR DIRE

1 A Sport Clips in North Myrtle Beach.

2 Q Sport Clips? What do you do there?

3 A Cut hair.

4 Q You are a cosmetologist?

5 A Yeah, cosmetologist.

6 Q You still live at home with your parents?

7 A Yes.

8 Q You live in Conway?

9 A Conway.

10 Q Let me ask you, if you were -- His Honor was --
11 gave you a hypothetical example of a being on a jury,
12 and in that first phase of that trial you determined
13 that that person was guilty of murder, murder being the
14 unlawful killing of a person without justification. If
15 you made that determination, you and the other 11
16 members of the jury made that determination, could you
17 keep an open mind going into the sentencing part, or
18 would you have already --

19 A I can keep an open mind.

20 Q And when you get to the sentencing part, you
21 could wait and hear whatever testimony or evidence
22 there was in aggravation or in mitigation; you could do
23 that, too?

24 A Yes.

25 Q And after listening to that evidence, both in

INDIVIDUAL JURY VOIR DIRE

1 aggravation and/or mitigation, and getting His Honor's
2 instruction on the law, you could come back with a
3 sentence of life, if that is what you thought was
4 appropriate?

5 A Yes, sir.

6 Q Or you could come back with death, if you thought
7 that was appropriate?

8 A Yes.

9 Q Either one?

10 A Yes.

11 Q Let me ask you if you understand that you could
12 also give life for no reason at all, if that is what
13 you wanted to do?

14 A I wouldn't do that.

15 Q You wouldn't do that?

16 A For no reason?

17 Q As an act of mercy. So His Honor told you that
18 that is what the law is, that you could do that, you
19 are saying you wouldn't follow his instructions on
20 that?

21 A If I had to, yes. Me, personally, I wouldn't
22 want to do that.

23 Q You have to follow his instructions on the law.

24 MR. HIXSON: I object to that.

25 THE COURT: I think the issue is the way it is

INDIVIDUAL JURY VOIR DIRE

1 posed to her. I'm okay with you going down the line,
2 but rephrase the question and put it back into
3 context; does that make sense?

4 MR. WILSON: Yes, sir.

5 THE COURT: We got sideways. Put it back in
6 context and ask her it again.

7 Q What I'm asking -- first of all, let me go back.
8 You would go follow whatever instructions the Court
9 would give you?

10 A Yes.

11 Q Whatever His Honor would tell you what the law
12 is, you would accept that and abide by that?

13 A Yes.

14 Q And as a juror, after hearing all of the
15 aggravating and mitigating factors, you could decide
16 life, if that is what your view of the evidence was
17 based on the aggravating and mitigating circumstances,
18 you could decide life, if that is what you believed?

19 A Correct.

20 Q You could also decide death, if that is what you
21 believed?

22 A Yes.

23 Q Could you -- I'm struggling with this question
24 because --

25 THE COURT: Based upon where we are, just ask the

INDIVIDUAL JURY VOIR DIRE

1 question. Based upon the earlier answer, if you
2 didn't ask her, I'll ask her.

3 Q If His Honor told you that that is an option that
4 you have, that you could give life for no reason at
5 all, other than an act of mercy, if he instructs you
6 that you could -- not that you had to, but you could --
7 could you follow his instructions and at least do that?

8 A Yes.

9 MR. WILSON: Okay. That's all.

10 MR. RICHARDSON: No questions. I believe she's
11 qualified.

12 THE COURT: I'll find you are qualified based
13 upon the answers that you have given here today. So I
14 want you to step outside the door and give me one
15 minute before I give you instructions.

16 (The juror exits the courtroom.)

17 THE COURT: For the record, I find she's
18 qualified based upon the answers. I think -- I just
19 think she got confused, and if you didn't follow up, I
20 was going to follow up. I think once she understood
21 it is an option, not that I mandate that she do it,
22 but it is an option, that she can consider it, I think
23 she understood it at that point in time, so that is
24 why I said keep asking the question, just rephrase the
25 way you are coming at it.

INDIVIDUAL JURY VOIR DIRE

1 So if we get this next one -- or if we don't --
2 we're at 44. So let's have a serious conversation
3 about selecting a jury in the morning, maybe not at
4 9:00, but maybe 10:00.

5 MR. RICHARDSON: This is the State's position.
6 We would like to go ahead and start tomorrow, at
7 whatever time Your Honor believes is appropriate,
8 bring the jury in and start. We have enough at this
9 point. You know, I know Ms. Elvis hadn't said
10 anything, but she blocked off probably 20 rooms since
11 Wednesday.

12 THE COURT: I know. Here is my question. In my
13 mind, the rubber meets the road. You bring in the
14 panel tomorrow morning, say, 10:00. At this point,
15 that selection process is going to take 15 minutes
16 because you are going to know the exact order they
17 will be in. We know what the strikes are, you know.
18 Short of us having to qualify other people or
19 something, that process is going to move fast. My
20 question is: If we are able to get in touch with all
21 of these 44 or 45 people that we have and tell them
22 bring all of your stuff with you tomorrow, be here at
23 10:00 a.m., and we knock out jury selection and don't
24 have any significant issues, we're starting openings
25 at lunchtime, or a little bit after. Do you think you

INDIVIDUAL JURY VOIR DIRE

1 can get to the point where we are deliberating
2 Saturday night?

3 MR. RICHARDSON: I do, Your Honor. There is a
4 possibility -- we don't know what is going to go on,
5 and I don't know how far -- what they may put until
6 the first part. I am just concerned with starting on
7 Monday that it will go -- trying to do the whole thing
8 Monday on we'll push us into the next --

9 THE COURT: If we start Monday, we're going into
10 the following weekend. I don't know that that is
11 avoidable at this point in time.

12 MR. HIXSON: Instead of bringing the jury at
13 10:00 or 11:00, instead of taking a lunch break --
14 just like do qualifications and go so you have the
15 whole morning.

16 THE COURT: We have to eat.

17 MR. HIXSON: No. No. I mean starting after
18 lunch.

19 THE COURT: If we pick them in the morning and
20 jump and order lunch in?

21 MR. HIXSON: What I meant is instead of
22 picking -- because picking won't take long. If you
23 have everyone come back at 1 o'clock.

24 THE COURT: After lunch?

25 MR. WILSON: I like that a lot better.

INDIVIDUAL JURY VOIR DIRE

1 MS. WILLIAMS: I would say that is better. What
2 is your thinking, say, with regard to Sunday? That is
3 what we're concerned about.

4 THE COURT: That is what I'm concerned about,
5 too. I don't -- my angle is different than yours,
6 because it is Mother's Day. Question No. 1 is going
7 to be how many people do we have on the jury that that
8 affects? I don't know what that answer is. The SLED
9 team -- if we are in the 24-hour break at that point
10 in time, what the SLED team told me is that they
11 can -- as long as they know -- they can arrange times
12 for people to be able to come up there and hang out
13 and spend time with their family members on the
14 holiday, if they want to do that.

15 Now, SLED also told me that is not optimal and,
16 you know, that is not the easiest way to do it. Some
17 people on the jury -- it is going to be -- they will
18 want to do something or see their mothers, or
19 something. Some people are -- like my mother lives so
20 far away I'm not seeing her whether I'm with you or
21 not with you. So I think we'll have a mix of people.

22 But what SLED told me is they can do their best
23 to coordinate people seeing each other and spend time
24 together if the circumstances merit that in their
25 situation. I don't think SLED will drive them to

INDIVIDUAL JURY VOIR DIRE

1 Georgia, but I think if someone can come here or
2 arrange an hour or two with their family under
3 supervised situations, where we are sure they are not
4 talking about the case, that is possible.

5 MS. WILLIAMS: I was going -- as we're
6 discussing, my other concern or curiosity is if we
7 start tomorrow after lunch, we are not sure they can
8 get done in a day-and-a-half -- but say they do --
9 that puts them going into a jury late Saturday night.
10 I would -- or maybe rolling into Sunday morning.
11 Let's say we are not to deliberations until 6:00 to
12 7 o'clock; what are you thinking about then? Are we
13 going to have any court?

14 THE COURT: I think we work Sunday morning and
15 get it knocked out to get to that break, if there is a
16 break. Obviously, y'all understand this is -- I'm
17 making 20 different assumptions, but the issue is if
18 we're taking that break, you know, Tuesday night to
19 Wednesday night, then it's Thursday before we're
20 anywhere close to starting the second phase, as
21 opposed to if we argue and charge, Sunday morning and
22 start deliberations, we're done at Sunday and take a
23 24-hour break we can start penalty Monday afternoon
24 and still give them time to spend with family on
25 Mother's Day, if they want.

INDIVIDUAL JURY VOIR DIRE

1 MR. WILSON: The only problem is if we, say, do
2 arguing and charging on Sunday morning, we don't know
3 how long they will be out.

4 THE COURT: I understand that. That is why I
5 said there is 20 assumptions, so I don't have a
6 crystal ball. We know that. I'm just trying to put
7 us in the best possible position to make the best use
8 of the time within the constraints of -- you know,
9 we've been working 10-hour days.

10 MR. WILSON: My concern is if they are thinking,
11 well, if we finish this, we can see our families, so
12 let's get this done and see our families. So I worry
13 about that, if we push them into a box where they feel
14 like they have to hurry up and make a decision to get
15 out of here.

16 THE COURT: One of the things we may do -- or can
17 do -- is tell the SLED agents to be prepared for that
18 situation and not tell the jurors, and that way they
19 are not rushed, and whenever they come back with a
20 verdict, they come back with a verdict. Then, at that
21 point in time, SLED can coordinate the people that
22 live locally to have contact with their mom on
23 Mother's Day to come up there, get the SLED team
24 ready. I mean, we have people on the jury panel that
25 have not gone on their family vacations for service,

INDIVIDUAL JURY VOIR DIRE

1 you know. So I think they would, under that scenario,
2 those people don't want to come tomorrow and take the
3 whole weekend if they are going to be sleeping in a
4 hotel room anyway.

5 (A brief pause in the proceedings.)

6 THE COURT: If we tell the jurors -- the 40
7 whatever number we're up to -- to be back tomorrow, be
8 packed, already eat lunch so it is not an issue of
9 feeding them, do you want to tell them to be here at
10 12:00, 12:30 or 1:00?

11 MR. WILSON: 1:00 is fine.

12 THE COURT: Let's do 12:30 so we can get them
13 checked in to see and make sure we have the right
14 people and have the right order. Don't shoot the
15 messenger. Let's get her in here.

16 (The juror enters the courtroom.)

17 THE COURT: Thank you for waiting. I'm trying to
18 avoid -- we are really close to having all the people
19 we need, so I'm trying to make sure I give you right
20 instructions. Come on up here. Here is what I want
21 you to do. You are going to come back up here
22 tomorrow at 12:30. At that point in time, you are
23 going to have a suitcase packed with a week's worth of
24 clothes, any medicine you need, toiletries you need,
25 anything you want to read. You are not going to have

INDIVIDUAL JURY VOIR DIRE

1 a phone, tablet or a computer. You are going to have
2 a list of any emergency phone numbers we may need,
3 family doctor, anything like that. Then, you'll leave
4 all of that stuff in your car when you come here at
5 12:30 tomorrow, because like I told you before, just
6 because you are in this group doesn't mean you will be
7 selected; does that make sense?

8 So you may come in here and we may not even get
9 to you. But if we do get to you, I want you to have
10 all of your stuff.

11 So don't listen to news accounts, don't research
12 and don't talk to anyone about the case. But
13 tomorrow -- you are not going to call. Calling is
14 over. Be here tomorrow at 12:30 and already eat
15 lunch; you with me?

16 JUROR: Yes.

17 THE COURT: Thank you. Have a wonderful evening.

18 (The juror exits the courtroom.)

19 MS. ELVIS: What my plan is is I'll take these
20 home and I'll call them from home, and then I'll also
21 print a list of everyone, so when we get here tomorrow
22 morning, I'll have it available for y'all.

23 THE COURT: So you will have the list of who I
24 already qualified?

25 MS. ELVIS: Correct.

INDIVIDUAL JURY VOIR DIRE

1 THE COURT: So you will make sure each of the
2 people is called and they are told to be here tomorrow
3 at 12:30 with their suitcase, with their personal
4 items, and having eaten lunch. We're not giving them
5 lunch tomorrow. Eat before they get here, and be back
6 here ready to go at 12:30.

7 MS. ELVIS: I'll call SLED and the Sheriff's
8 Office.

9 MR. RICHARDSON: We can wait until afterwards,
10 I'm just -- would it be possible for us to all go over
11 the list and make sure there is no mistake?

12 THE COURT: We can. Let's do the other guy and
13 then we'll do that, and then I want the next six
14 people after this guy, that is 96 through 101. They
15 need to be up here at 12:30, too. We'll put them in
16 the back in a jury room in case we have issues.

17 This is Michael Laveglia.

18 (MICHAEL LAVEGLIA, having been duly sworn,
19 testified as follows:)

20 VOIR DIRE OF JUROR 185

21 BY THE COURT:

22 Q How do you say the last name?

23 A That's Laveglia.

24 Q Where is that from?

25 A That is from Italy.

INDIVIDUAL JURY VOIR DIRE

1 Can I say one thing before we get started? I
2 believe my wife works with Judge Wilson in Myrtle
3 Beach, and I believe Judge Wilson is related to Mr.
4 Wilson.

5 THE COURT: Is that true?

6 MR. WILSON: My ex-wife.

7 THE COURT: Your ex-wife is a judge, too?

8 MR. WILSON: Yes, sir.

9 Q I'm going to ask you a question just like that in
10 must a minute. I appreciate you letting me know.
11 Would that affect your ability to be fair and impartial
12 in this case?

13 A I don't think so.

14 Q Tell me how to say it.

15 A Laveglia.

16 Q Do you understand that you are under oath?

17 A I do.

18 Q When you left Monday I said don't talk about the
19 case, don't research the case and don't read news
20 media; did you follow those rules?

21 A I did.

22 Q I'll ask you some questions, and the attorneys
23 will follow up. I want you to be open, honest and
24 candid; do you understand that?

25 A I do.

INDIVIDUAL JURY VOIR DIRE

1 Q This is not about challenging you or your views.
2 This is about us trying to figure out what your views
3 are; does that make sense?

4 A Yes.

5 Q In this case the State is seeking the death
6 penalty against Mr. Jenkins; that means that the trial
7 must be broken into two parts. The first part -- or
8 during the first part, the jury would determine whether
9 or not Mr. Jenkins is guilty or not guilty of the
10 offenses charged. If he is found not guilty, we're
11 done. Case is over; does that make sense?

12 A Yep.

13 Q If he is found guilty, we will move on to the
14 sentencing phase of the trial. At that point in time,
15 it will be the jury's responsibility to determine the
16 appropriate sentence: Either life without the
17 possibility of parole, or death. Does that make sense?

18 A Yes.

19 Q Just because we're talking about penalties
20 doesn't mean that Mr. Jenkins is guilty of anything.
21 As he sits here, he is presumed to be innocent under
22 the law; do you understand that?

23 A Yes, sir.

24 Q Do you know Mr. Jenkins or have any relationship
25 to him at all?

INDIVIDUAL JURY VOIR DIRE

1 A No.

2 Q Do you know Mr. Hixson, Mr. Richardson Mr.
3 Wilson, other than what you have told us -- and
4 Ms. Williams?

5 A No.

6 Q You were given a witness list prior to coming in
7 here; is that correct?

8 A Yes.

9 Q Did you see anyone on there that you know?

10 A I didn't. But I'm not that good with names. I
11 am from that area.

12 Q From what area?

13 A Pretty close to Loris.

14 Q Is that the Red Bluff -- someone help me -- is
15 that Red Bluff?

16 A A little beyond that. Longs, 5 miles.

17 Q I'll ask you questions about the case, but did
18 you see any names on there where you said, I know that
19 person or I think --

20 A I did not definitely recognize names.

21 Q That is fine. If you are a juror in this case,
22 one of the things I'll ask you to do is to accept and
23 follow the law that I give you whether you agree with
24 it or not; can you do that?

25 A If you say. If you tell me, yeah.

INDIVIDUAL JURY VOIR DIRE

1 Q If you want to be a juror, that is part of being
2 a juror.

3 A Right.

4 Q Have you ever heard, read, seen or do you know
5 anything about this case at all?

6 A I do remember 2015, I believe you said it was, I
7 do remember that Sunhouse, because I have friends that
8 live pretty close right behind the place.

9 Q Are any of those people actually involved in the
10 case?

11 A No.

12 Q Have you ever been in that store?

13 A I believe I have.

14 Q Do you routinely go to that store, or casually?

15 A Casually.

16 Q So some people go to the same convenient stores
17 over and over --

18 A Right.

19 Q Is that you and this store, or just when you --

20 A I might have been there a time or twice, passing
21 by visiting my friend.

22 Q Do you know anyone that works there?

23 A No.

24 Q Do you have any other knowledge about the case?

25 A No.

INDIVIDUAL JURY VOIR DIRE

1 Q Now, are you willing to set that aside and base
2 your decision in this case on the evidence and the law?

3 A Yes.

4 Q Now, this is a criminal case; do you understand
5 that?

6 A Yes.

7 Q That means that the State has the burden of
8 proving guilt beyond a reasonable doubt; do you
9 understand that?

10 A Yes.

11 Q The defendant doesn't have to prove anything. He
12 doesn't have to say anything, because the burden is
13 upon the State; do you understand that?

14 A Yes.

15 Q I'll give you two examples; are you ready?

16 A Yes.

17 Q First example is this: You are a juror in a
18 criminal case. Can you listen to the evidence,
19 determine what the facts are and then apply those facts
20 to the law that I give you and render a verdict of
21 either guilty or not guilty, based upon the facts and
22 circumstances?

23 A Yes.

24 Q To give you an example of two terms, I need to
25 explain two different terms to you. The first term is

INDIVIDUAL JURY VOIR DIRE

1 "aggravating circumstances." Aggravating circumstances
2 are a set of laws, in our code of laws, that says these
3 circumstances make murder cases worse, or they
4 aggravate the situation; does that make sense?

5 A Yes.

6 Q The same code of laws is -- there is a list of
7 what we call "mitigating circumstances," and it says
8 these circumstances mitigate or reduce the severity of
9 the offense; do you understand that?

10 A Yes.

11 Q You want me to explain?

12 A If you could, please.

13 Q Sure. So you understand what "aggravating" or
14 "make worse" means?

15 A Right.

16 Q So the opposite of that is "mitigating" or reduce
17 something. So in our code of laws, we have a list of
18 mitigating circumstances that our legislature said when
19 one or some of these exist, then that reduces the
20 offense of the offense of murder, or the person's role
21 in the offense; does that make sense, in theory?

22 A Yes.

23 Q So the last example is this: Pretend you are a
24 juror in a death penalty case -- not this case, just a
25 case. You and your fellow jurors already determined

INDIVIDUAL JURY VOIR DIRE

1 that the defendant is guilty of the crime of murder.

2 A Right.

3 Q We're in phase two. Remember I told you there is
4 two phases? We're in phase two; you follow me?

5 A Yeah.

6 Q So the question is: In phase two, can you, based
7 upon the facts and circumstances that exist,
8 considering any aggravation and/or mitigation that may
9 exist, and the law that I give you, can you listen to
10 all of that and return a sentence of life without the
11 possibility of parole?

12 A I'm not sure.

13 Q Can you return a sentence of death?

14 A I believe so.

15 Q If you were selected on this jury, would it pose
16 any significant health risk to you?

17 A Other than what all my ailments are that I listed
18 on that form?

19 Q Yeah.

20 A Well, the fibrillator (sic) isn't going off yet.

21 Q So you be would okay?

22 A I think so.

23 THE COURT: All right. Ms. Williams.

24 MS. WILLIAMS: Yes, sir.

25 EXAMINATION

INDIVIDUAL JURY VOIR DIRE

1 BY MS. WILLIAMS:

2 Q Good evening. My name is funny, odd. I'm Brana
3 Williams. Ralph Wilson is lead chair, and we are
4 representing our client, J.J. Jenkins, in this trial.
5 You just had a conversation with the judge, and as the
6 judge told you, we're late, everyone is tired, but we
7 appreciate you being here. We appreciate you being
8 honest, because what we have to do is figure out if the
9 case can get a fair trial, if we can get a fair trial.
10 So there is no right or wrong opinions. I want to be
11 sure that we understand that and it is okay.

12 You said that if you were part of a situation
13 where you were part of a jury that found a defendant
14 guilty of murder, and it came to the sentencing, you
15 believe that once a murder has been committed, that
16 the death penalty is an appropriate punishment no
17 matter what the circumstances?

18 A Yes.

19 Q And that is how you feel, right?

20 A Yes.

21 Q And have you felt that way for awhile, or how
22 long?

23 A I'm not sure. That is just the way I feel now.

24 Q And there is probably not much I can do to change
25 your mind?

INDIVIDUAL JURY VOIR DIRE

1 A You would have to make a pretty good argument.

2 Q That's fine. We just need to know if that is how
3 you feel about it.

4 A I think the punishment should fit the crime.

5 Q That is perfectly fine. What we're trying to --
6 we've had people in here that have said that, and that
7 is okay. But that is -- I'm probably not going to be
8 able to change your mind, right?

9 A I don't see what could make me change my mind.
10 If it was murder out of self-defense, I mean. Murder
11 is a murder.

12 Q Yes, sir.

13 MS. WILLIAMS: I don't think I have any more
14 questions. Thank you.

15 MR. HIXSON: No questions. Thank for being here,
16 sir.

17 Your Honor, I don't think he's qualified.

18 MS. WILLIAMS: We agree.

19 THE COURT: Mr. Laveglia, I'll excuse you from
20 service in this case. I want you to know that since
21 y'all left us Monday, we have been working until about
22 8 o'clock at night. So you are not the first person
23 to be here at 8 o'clock this week. So thank you for
24 your patience. I'm going to excuse you from the trial
25 of this case. You do not need to call back, and you

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1 do not need to come back here. You are completely and
2 totally done. Have a wonderful evening.

3 (The juror exits the courtroom.)

4 THE COURT: Let's use this list, the numbers on
5 the left. The numbers on the left. Using the numbers
6 on the left on Page One, I have 6, 12, 13, 15, 17, 19,
7 21.

8 MR. RICHARDSON: Yes, sir.

9 THE COURT: Is that what the defense has?

10 MS. WILLIAMS: Yes, sir.

11 THE COURT: Page Two. I have 28, 29, 30, 35, 39,
12 42, 47, 48.

13 MR. RICHARDSON: Yes, sir.

14 MS. WILLIAMS: Yes, sir.

15 THE COURT: Page Three. I have 49, 51, 52, 53,
16 54, 55, 56, 58, 60, 61, 62, 63, 64, 66, 71.

17 MR. RICHARDSON: Yes, sir.

18 MS. WILLIAMS: Yes, sir.

19 THE COURT: Next Page. 73, 74, 76, 78, 81, 84,
20 85, 86, 87, 88, 90 -- no, excuse me. 90 is not; is
21 that correct?

22 MS. WILLIAMS: Right. It is 91.

23 MR. RICHARDSON: 91.

24 THE COURT: 91, 92, 93 and 95.

25 MS. ELVIS: And then 96 through 101 will be

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1 called and asked to be here also?

2 THE COURT: Yes. Let's have 96 through 101
3 present in case something happens and we need to
4 qualify more people. So tell all of those people to
5 be here tomorrow at 2:30. They need to bring
6 suitcases, toiletries, medicines, anything they want
7 to read. No cell phones, tablets, computers. They
8 need a list of emergency numbers, and need to have
9 already eaten lunch.

10 MR. HIXSON: As it relates to the alternates, are
11 you going to seat them in the order they are qualified
12 on this list?

13 THE COURT: My understanding -- hold on. I have
14 a note. In criminal, we draw. So the statute -- I
15 keep this note because I can never find that statute
16 to save my life, but in criminal cases we draw. So
17 we'll get 12, four alternates, but the alternates are
18 not seated in order. We draw them -- if we have to
19 seat them -- out of a hat. That is pursuant to the
20 statute. In civil cases, you go in order. We draw
21 the alternates out of a hat.

22 My thought process at this point in time is I'm
23 not going to tell the alternates that they are
24 alternates, because I want people paying attention.
25 When we get to deliberating in the first phase, they

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1 are obviously going to have to put them in a room by
2 themselves and they will know at that point in time.
3 But between then and there, I don't want anyone
4 realizing they are an alternate because I want them to
5 understand they need to be fully engaged and paying
6 attention to the process. Unless anyone has an
7 objection to me doing that?

8 MR. WILSON: We have no objection.

9 THE COURT: Does the State?

10 MR. HIXSON: No, sir.

11 THE COURT: So when do we want to get back
12 together tomorrow, or is there anything we need to
13 take up tomorrow before jury selection?

14 MS. WILLIAMS: Can you give us a second?

15 THE COURT: Yes, ma'am.

16 (A brief pause in the proceedings.)

17 (A discussion was had off the record.)

18 THE COURT: When are we getting together?

19 MS. WILLIAMS: Ralph and I probably need to meet
20 with the client. We were thinking maybe at 11:30,
21 give us about an hour or so. Once he and I talk, that
22 way we can do final things with the client and finish
23 up things like opening arguments and things. So we
24 were planning about an hour, that is why I was asking
25 Scott -- I don't know that there is really anything we

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1 have to talk about, other than marking exhibits.

2 MR. HIXSON: I have all the exhibits marked and
3 numbered. Everything is done. I will show you what
4 we have. So I'll be here first thing in the morning.
5 So can we get here at noon?

6 MR. WILSON: We agreed to some stuff already.

7 MR. HIXSON: I'll show you everything. I have
8 the exhibit list, what I intend to introduce per
9 witness. I'll provide it to the Court. Everything is
10 numbered, marked, stickered, everything.

11 THE COURT: Would you like to meet with him up
12 here as opposed to the jail?

13 MR. WILSON: Yes. Yes, sir. Yes, sir.

14 THE COURT: It's just an easier place to meet and
15 don't worry about travel?

16 MR. WILSON: Yes, sir.

17 THE COURT: Where is my security guys? What time
18 would you like him here?

19 MR. WILSON: 11:30.

20 THE COURT: How about 11:00?

21 MR. WILSON: That is fine.

22 THE COURT: Have Mr. Jenkins here by 11:00. Do
23 we have clothes?

24 MS. WILLIAMS: Yes, sir, we do.

25 THE COURT: So that will give you time. I will

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1 be up here probably about 10:30 or 11:00. So if you
2 need me, you know where I am. Send someone to get me.
3 We did talk about the opening statements a couple
4 weeks ago.

5 MR. WILSON: That is one of the things we wanted
6 to discuss.

7 THE COURT: So if we need to have that
8 conversation off the record -- I mean out of the
9 presence of the jury, we can do that, too. But let's
10 have him up here by 11:00. That gives them plenty of
11 time to meet. If anything comes up, we can process
12 through all of that; is that okay?

13 MR. HIXSON: Great. I'll have everything in here
14 by 12:00.

15 THE COURT: Is that okay with the defense?

16 MR. WILSON: We'll be here.

17 THE COURT: Security is good?

18 MR. JENKINS: Can I say anything?

19 THE COURT: You've been quiet this week.

20 MR. JENKINS: Stressing.

21 THE COURT: Stressing, okay. I'll let you meet
22 him up here as opposed to the jail. It is easier to
23 meet and talk. So you can meet with them up here.
24 And they can make sure you have the right clothes. Do
25 you want to shave for tomorrow?

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1 MR. JENKINS: I want a fresh haircut.

2 THE COURT: Does he have access to a razor?

3 I'm talking about your facial hair.

4 MR. JENKINS: On Sundays.

5 OFFICER: We can work it out.

6 THE COURT: We'll work on that for you. I don't
7 know what I can do about your haircut now, but we can
8 work on a razor.

9 MR. HIXSON: Is it okay if we send out an e-mail
10 or something, because the media is asking when it
11 starts?

12 THE COURT: That's fine.

13 MR. HIXSON: Something about it starts now,
14 instead of multiple phone calls?

15 THE COURT: That is perfectly fine.

16 I want to say this before we get out of this
17 room. Y'all -- and when I say "y'all," there is a
18 whole bunch of people besides just the four or five of
19 us that talk that have done a lot of extra week to get
20 us ready, and I want to thank you all. For all of you
21 support staff people, you are a big help. You make
22 things run professionally and in a very, very
23 professional, nice, pleasant environment. Mr. Jenkins
24 is always here. He is always on time --

25 MS. JENNINGS: I have no choice.

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1 THE COURT: That's right you don't have a choice
2 (laughing.)

3 Some of the things in the other counties that I
4 have had to deal with just don't exist in this
5 building. It is a true pleasure and a testimony to
6 all of your professionalism and promptness and
7 courteousness, so I'll personally say I know you
8 worked a lot of extra hours, and we have a lot of
9 extra hours between now and when this is over. So I
10 sincerely appreciate everyone's hard work and extra
11 work. It makes things move so much easier, so thank
12 you.

13 I'll be here in the morning if you need me, and
14 we'll be ready to roll.

15 (THE PROCEEDINGS FOR MAY 9, 2019 CONCLUDED. THE
16 FOLLOWING PROCEEDINGS TOOK PLACE ON MAY 10, 2019.)

17 THE COURT: Morning. Take your seats.

18 Where are my SLED agents? Let's get your team,
19 Monty, and handle that. We can't find Elroy Vaught,
20 the guy who needed a ride. We have two deputies at
21 his house; he ain't there, and he's not here. Let's
22 see.

23 Let's get all your names. We have John Kirkland,
24 Joe Means, Cheryl McCall, Jeff Ford, Donald Evett,
25 Sandy Templeton, Bobby Jenkins, Chandler Horny, Dustin

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1 Phillips, Tyler White, Tony Anderson, Jade Pike,
2 Pamela Williamson, Wade Petti.

3 If you would all raise your right hand. Do each
4 of you swear or affirm that you will keep the jurors
5 sworn over this case, in your care for as long as
6 ordered by this Court, that you will suffer no person
7 to speak to them, or speak to themselves without such
8 leave, that you will see that they carry out all
9 orders of the Court, and that you will carry out all
10 orders of this Court pertaining to your
11 responsibilities to the Court in this case, so help
12 you God.

13 (Whereupon, all officers affirm.)

14 THE COURT: Thank you very much. Thank you for
15 your service during this case. I appreciate your hard
16 work and extra work. We'll try to keep things running
17 as smooth as we can. Thank you.

18 (A brief pause in the proceedings.)

19 THE COURT: We're going to do juror stuff a
20 little while, so I need that camera to audios, the
21 video camera. Just so the news media knows what we're
22 doing, over the next little while or so we'll be
23 dealing with some juror issues. Once they are set,
24 and I determine and know exactly who is on the jury
25 and who is not, we'll take a break and I'll let you

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1 set up what you need. I want you to have access, but
2 I just want to get this jury actually in place and
3 where they need to be, and then we'll give you access
4 and give you time to set up; is that fair? Okay.
5 Wonderful.

6 Let's get Ms. Satterfield up here. I need Cheri
7 Satterfield, and just her, Bobby.

8 MR. ROPP: All right.

9 THE COURT: You have a proposal on what we do
10 about Elroy, Mr. Vaught?

11 MR. WILSON: Yes, sir. Was he here -- did they
12 contact him last night? I know that was....

13 MR. HIXSON: Who is not here?

14 THE COURT: Mr. Vaught, the elderly
15 African-American gentleman that said he had ride
16 issues.

17 MR. HIXSON: Yes. Yes.

18 THE COURT: He did not contact them, and so they
19 contacted him, and then they went ahead and sent
20 someone to his residence and they have been there for
21 over an hour, and he's nowhere to be found. So that
22 is what I know at this point. But we can -- Deputy
23 Thompson has that information, but we can have him
24 come back in and put it on the record.

25 Do we have the extra six?

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1 MS. ELVIS: They were contacted. I don't know if
2 they are here or not.

3 THE COURT: Let's figure if they are here or not.
4 While we're waiting on the jury, let's talk with the
5 media a little bit. So, of course, no jurors are to
6 be in any pictures or any video at all. Y'all will
7 have access to the court and to the proceedings and to
8 the trial, and all of that stuff. I do not want
9 cameras -- when I say "cameras," I mean the big ones.
10 I know we have them on our phones, and that is fine.
11 Probably people have digital cameras, that is fine.
12 But the big video cameras, those need to be set up
13 before court and after court, or taken down breaks or
14 lunch breaks. I don't want big, heavy equipment
15 hauled out; it can be distracting.

16 In one -- one time -- I've done so many cases in
17 this county the news media and I -- I would like to
18 forget most of them, frankly. But one time we were in
19 a much, much smaller courtroom and one news reporter
20 was taking pictures of the witnesses. I don't believe
21 that she was intentionally taking pictures of the
22 jurors, but because of where she was located in the
23 courtroom, she was capturing two, three and four
24 jurors on her pictures each time and then posting
25 those on-line. Just be careful.

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1 In 2019, we all take pictures all the time and
2 don't really realize what is in the background.
3 Clearly, the jurors were not the subject of her
4 pictures, but their faces and identities could have
5 been determined from that. So if you are taking
6 hand-held pictures or videos, do your best to make
7 sure there are no jurors in those pictures before you
8 post them on-line or something. Thank you very much.

9 (Ms. Satterfield enters the courtroom.)

10 THE COURT: Come on up, Ms. Satterfield. Come up
11 here. That may be the easiest way to do this, and
12 I'll swear her in. How are you?

13 (CHERI SATTERFIELD, having been duly sworn,
14 testified as follows:)

15 THE COURT: Make sure you speak into the
16 microphone. And then -- so I was relayed information
17 that you shared with the Clerk of Court. So you kind
18 of -- but in this case, we have to put all of this on
19 the record to make sure we understand all of it. Tell
20 me what is going on in your own words

21 MS. SATTERFIELD: It was just a conversation I
22 had with my mother last night at 11 o'clock, and I've
23 actually come away from all of that. I'm kind of at a
24 better place since the conversation. I was kind of
25 freaking out last night when I was having the

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1 conversation with her, but I'm in a good place.

2 THE COURT: Do you believe you are able to be
3 fair and impartial to both side of the case?

4 MS. SATTERFIELD: Yes.

5 THE COURT: Do you believe you are able to listen
6 to the evidence and listen to law and follow the law
7 that give to you?

8 MS. SATTERFIELD: Yes.

9 THE COURT: And do you have any -- I don't even
10 know what is going to be presented in this trial; does
11 that make sense?

12 MS. SATTERFIELD: Yes.

13 THE COURT: That is why we ask the questions the
14 way we do when we question them individually, because
15 it is not about could you give a life sentence in this
16 case, or could you give a death sentence in this case,
17 it is about your ability to meaningfully consider
18 either a life sentence or a death sentence, depending
19 on the facts and the circumstances, and any
20 aggravation and/or any mitigation that may exist and
21 the law that I give you, which will aid you and guide
22 you and direct you in the case and take all of that
23 into consideration and return a verdict of either life
24 or death depending upon the circumstances; do you
25 believe you can do that?

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1 MS. SATTERFIELD: Yes.

2 THE COURT: Are you willing to do that?

3 MS. SATTERFIELD: Yes.

4 THE COURT: I'm happy to let either side question
5 her, if you would like to question her. I appreciate
6 -- I want to make sure that you know you did the right
7 thing by letting the clerk know that last night,
8 because I don't want to get three, four, five days
9 into it and then figure that out; does that make
10 sense?

11 MS. SATTERFIELD: Yes.

12 THE COURT: So I'm happy to let either side
13 question her.

14 MR. HIXSON: I do, Your Honor, or even ask the
15 Court to question her. Specifically, I want to make
16 sure is that during the course of the conversations
17 you had with your mother, that there is no effort to
18 replace your judgment, but what that conversation with
19 your mother had. In other words, you had a duty to
20 deliberate, and you can't carry other people's
21 opinions in the room or other people's opinions about
22 it. One of your oaths you'll do is that it is your
23 duty to deliberate on your own, not just go along with
24 the crowd. So I ask the Court, perhaps, to clarify
25 that. Is the nature of your conversation such that

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1 you are going to carry what your mom said into the
2 jury room about this issue?

3 MS. SATTERFIELD: No.

4 MR. HIXSON: Can you expand on that? I'm trying
5 to protect the record.

6 THE COURT: I'm with you. So kind of walk us
7 through it in your own words.

8 MS. SATTERFIELD: It was just some things that
9 she enlightened me on that I wasn't -- that I wasn't
10 quite aware of, but I kind of did my own research on
11 it and talked to my sister, you know. I thought about
12 it, and I'm good.

13 MR. HIXSON: When you say that, are you referring
14 case specific facts?

15 MS. SATTERFIELD: No. No. No. No.

16 MR. HIXSON: Beliefs?

17 MS. SATTERFIELD: Correct, beliefs.

18 MR. HIXSON: And you wanted to resolve conflict
19 for you yourself, personally?

20 MS. SATTERFIELD: Yes. Yes.

21 THE COURT: We're not -- and, again, this is not
22 about your view is right or your view is wrong. I've
23 done these kinds of cases for years. I've seen jurors
24 that come in and say my religion doesn't allow me to
25 do it, or my religion requires I do this. I've seen

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1 the broad spectrum. It is not about one type is
2 right, or one type is wrong. It is what are your true
3 views on the situation. And so are you able to render
4 either sentence depending upon the facts, the
5 circumstances and the aggravation and/or any potential
6 mitigation and follow the law that I give you in this
7 case?

8 MS. SATTERFIELD: Yes.

9 THE COURT: Are you willing to do that?

10 MS. SATTERFIELD: Yes.

11 THE COURT: Anything else you would like to
12 question her?

13 MR. WILSON: No, sir.

14 MR. HIXSON: Thank you, Your Honor.

15 THE COURT: Thank you very much. I sincerely --
16 you did the right thing by letting us know this.

17 Let's just have her wait outside in the hallway,
18 Mr. Bobby, because I'm thinking about bringing up the
19 whole group, so you don't have to walk all the way
20 back upstairs, but we just need a few more minutes
21 before we do that.

22 Deputy Thompson, can you come up front for me,
23 please?

24 (DEPUTY THOMPSON, having been duly sworn,
25 testified as follows:)

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1 THE COURT: Do you remember the gentleman with
2 the last name of Vaught?

3 DEPUTY: Yes, sir.

4 THE COURT: And he stated when he was on the
5 witness stand that he had ride issues. He didn't need
6 a ride home, but he didn't have a car or didn't have a
7 daily way to get here, so I told him that we could
8 provide transportation. Can you tell us about your
9 conversations with him since that time?

10 DEPUTY: Yes, sir. We exchanged phone numbers
11 and I told him we would send someone to pick him up.
12 We haven't heard anything this morning, so I sent two
13 deputies about 10:45 and they stayed there about an
14 hour and 15 minutes, knocked on the door and several
15 phone calls, and no contact with Mr. Vaught at all.

16 THE COURT: Do we know if Ms. Elvis got in touch
17 with Mr. Vaught last night?

18 THE CLERK: I know she made a phone call to all
19 of them, and the ones she could not reach, she left a
20 voice mail. So I know she either called them and got
21 ahold of them, or called and left a voice message, so
22 I can't be for sure.

23 THE COURT: Where is everybody on what we do
24 about Mr. Vaught?

25 MR. WILSON: Your Honor, I don't know what to

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1 say. I mean, I would want him here.

2 THE COURT: I would like for him to be here, too.

3 I believe he was qualified to serve in the case, but

4 at this point he's not here, and it is not likely --

5 we'll try to find him and locate him. We're all

6 sitting on our hands. I mean, we told him very

7 clearly we would provide him a ride and happy to

8 provide him a ride and make sure he could get here,

9 and at this point in time, it sounds like he doesn't

10 want to be found.

11 MR. WILSON: I don't know. I understand the

12 situation, I do. But I don't know that I can -- I'm

13 in a position to waive it. I don't know that I am. I

14 don't know what else to do.

15 THE COURT: And the State's position?

16 MR. HIXSON: Similarly situated with Mr. Wilson,

17 I think I need to defer judgment to the Court.

18 THE COURT: On our new list of order he is No.

19 81.

20 So are the deputies still at his house?

21 DEPUTY: I could make a phone call, Your Honor,

22 and find out.

23 THE COURT: Here is what I would like. I would

24 like the deputies to stay at his house. If they find

25 him or come in contact with him, I want them to bring

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1 him up here. I want them to call you immediately. We
2 have, you know -- he is not number 85 (sic) on the
3 list.

4 MS. WILLIAMS: He's No. 35 on the qualified.

5 THE COURT: That's right. So there is a chance
6 we could get to him, or a chance we could not.

7 I want them to call you if they find him, because
8 depending where we are in the process, we may stop and
9 wait for him to be driven up here at that point in
10 time. But if not, then at this point he's willfully
11 and intentionally in violation of a court order and
12 failing to follow the instructions of the Court,
13 explicitly in failing to participate in the system.
14 So absent him being up here by the time we get to his
15 name, I find that he is not qualified, because at this
16 point in time, he's unwilling to follow the
17 instructions and directions of the Court, and is
18 willfully, intentionally evading the court procedures.

19 Does everyone have this list, the new one that
20 Ms. Elvis created?

21 MR. WILSON: Yes, sir.

22 MR. HIXSON: Yes, sir.

23 THE COURT: Does everyone agree that this list
24 matches the people in the correct order?

25 MR. WILSON: It does, Your Honor.

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1 THE COURT: Mr. Hixson, do you agree the numbers
2 are correct?

3 MR. HIXSON: Yes, sir, appears to be.

4 THE COURT: Let me check our people we took out
5 of order. Is there anything we need to take up before
6 we select the jury from the State?

7 MR. HIXSON: No, sir.

8 THE COURT: From the defense?

9 MR. WILSON: The only issue I have is that of
10 Mr. Vaught.

11 MS. WILLIAMS: Hold on.

12 (A brief pause in the proceedings.)

13 MR. WILSON: The only issue I have of
14 Mr. Vaught's absence; other than that, no issues.

15 THE COURT: All right. We'll bring them up here
16 and put them in the middle, Ms. Walker. Would you
17 slide over to one side to the other. I'll put the
18 jurors in the middle. Thank you, Ms. Walker. Do you
19 want them to come up here one at a time so you can
20 look at them like we normally do?

21 MR. WILSON: Yes, sir.

22 THE COURT: Is that okay with the State?

23 MR. HIXSON: Yes, sir.

24 THE COURT: Anything else before I bring up the
25 panel?

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1 MR. HIXSON: No, sir. No, sir.

2 THE COURT: Strikes are five and ten. Strikes
3 are one and two on each alternate. Once we get an
4 alternate, the strikes will start over with each
5 alternate; does everyone understand?

6 MR. WILSON: Yes.

7 THE COURT: All right. Bobby, bring them up.

8 So we'll select a jury, and I'll put them in the
9 jury room. I'll excuse the other people, and then
10 we'll take a break before we do openings; is that okay
11 with the State?

12 MR. HIXSON: Yes, sir.

13 THE COURT: And the defense?

14 MR. WILSON: Yes, sir.

15 THE COURT: Okay.

16 (A brief pause in the proceedings.)

17 THE COURT: If you are in the audience, make sure
18 cell phones are turned off or silent so that they
19 don't go off during the proceedings.

20 When they get up here, I'll take roll to make
21 sure we have the right people here. I picked a jury
22 one time in Richland County and we went through the
23 entire jury selection process and got a jury sat, I
24 think it was a criminal case, strikes were like five
25 and ten. Three jurors who were supposed to be in

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1 there the whole time walked in the back door because
2 the clerk's office in Columbia didn't notice they were
3 missing, so now we take the roll.

4 I'll mark all the juror A, B, C forms as a
5 Court's exhibit; is there any objection from the
6 State?

7 MR. HIXSON: No, sir.

8 MR. WILSON: None, Your Honor.

9 THE COURT: So we have those, and they have the
10 juror numbers on them. So we will make that part of
11 the Court's exhibit.

12 (Court's Exhibit 3 marked.)

13 THE COURT: That's Court's 3.

14 (A brief pause in the proceedings.)

15 (Whereupon, the jury enters at 12:53 p.m.)

16 MR. ROPP: I have 47.

17 THE COURT: Maybe you don't know how to count
18 (laughing).

19 MR. ROPP: 48 (laughing).

20 THE COURT: All right. Good afternoon, ladies
21 and gentlemen. It is my pleasure to be with you again
22 today. I have seen all of you this week already at
23 least twice, so this is the third time again.

24 My name is Robert Hood, and I want to say thank
25 you very much for being here. Just so you know, we

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1 have been working since we were with you Monday
2 morning. We have been working each day until about 8
3 o'clock at night, almost every single night to get to
4 the point where we have enough jurors to select a jury
5 in a case. We are at that point, and we'll get right
6 into what we need to get into.

7 The first thing I want to say to you and stress
8 to you is that I want to say thank you very much for
9 being here. Thank you very much for being willing to
10 serve, and thank you for the sacrifice that the
11 service on a potential jury of this nature is making
12 upon you and your family. Not all of you in this room
13 will be on the jury, we know that, but all of you are
14 here, ready, willing and able to serve, and I
15 sincerely appreciate that.

16 When our founding fathers created this country,
17 they created a system of check and balances. You have
18 all heard those terms from news or school, how one
19 branch checks the other branch, and that is the way
20 our country was created. That is part of what made
21 our country so successful over the years of its
22 existence.

23 Jury service is a key democratic check on the
24 judicial branch of government. This is right up there
25 with your responsibility to vote, and part of our

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1 participatory democracy. So thank you very much for
2 your service. Thank you very much for being willing
3 to serve.

4 We are in the record -- on the record in the
5 State of South Carolina versus Jerome Jenkins, Junior.
6 Mr. Jenkins has been indicted by the Horry County
7 Grand Jury for three charges. These indictments are
8 2015-GS-26-1758 and 1759. As I told you on Monday,
9 ladies and gentlemen, these indictments are not proof
10 of anything. They are not evidence of anything. They
11 are merely the documents that give this court the
12 authority to hear this case.

13 To these charges, Mr. Jenkins has pled not
14 guilty. That plea puts the burden of proof upon the
15 State to prove his guilt beyond a reasonable doubt.
16 Mr. Jenkins has requested a trial by jury, and you are
17 here for the actual jury selection in this case.

18 Is the State ready to proceed with jury
19 selection?

20 MR. RICHARDSON: Yes, Your Honor.

21 THE COURT: Is the defense ready to proceed with
22 jury selection?

23 MR. WILSON: We are, Your Honor.

24 THE COURT: The first thing I want to do is make
25 sure I have the right group of people in the room. So

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1 we've worked way too hard to make sure I don't have
2 the right people in the room. So your names have all
3 been shuffled, so you will not be called in
4 alphabetical order. So just listen for your name, and
5 when your name is called, just answer with here or
6 present so I know that you are here. If I say your
7 name wrong, I sincerely apologize; I don't intend to
8 do so.

9 (Whereupon, roll call was taken.)

10 THE COURT: Is there anyone whose name I did not
11 call?

12 Stand up, please. Tell me your name.

13 JUROR: Karen Neifert.

14 THE COURT: Come up here to Mr. Ropp.

15 Yes, ma'am.

16 JUROR: Darlene Holmes.

17 THE COURT: Ms. Holmes, come over here to Mr.
18 Ropp.

19 JUROR: Nakia Spain.

20 THE COURT: Ms. Spain, come over here to Mr.
21 Ropp.

22 JUROR: Deborah Stegmeier.

23 THE COURT: Come over here with Mr. Ropp.

24 JUROR: Jason Munoz.

25 THE COURT: Come right over here.

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1 And are you Dominic Delguericco?

2 JUROR: Yes.

3 THE COURT: Come over.

4 That is our next panel.

5 Would you take them back to a jury room, Mr.

6 Ropp. Thank you.

7 Y'all come up here.

8 (The following was had at a bench conference.)

9 THE COURT: Mr. Vaught is on the way. We'll call
10 Ms. Leeson. They found him. They mixed up the city.
11 I think they went to Longs, and he was in Loris, or
12 vice-versa. So they found him, and he is on the way,
13 so we'll call Ms. Leeson. Do you want me to send
14 backups?

15 MR. HIXSON: This panel -- how long is he going
16 to take to get here?

17 MS. WILLIAMS: Longs takes 30 minutes to get
18 there.

19 THE COURT: We're missing Leeson, too, before we
20 do anything.

21 MR. HIXSON: Yes, sir.

22 THE COURT: You want me to send them back
23 downstairs?

24 MS. WILLIAMS: Please.

25 (The following was had in open court.)

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1 THE COURT: We are missing two jurors, and one I
2 knew that we were missing, and that was our fault, and
3 one I did not know that we were missing. So one of
4 the ones that is missing, we already located and he is
5 on the way. The other one we're attempting to locate
6 now, so I'll send you back downstairs at this point.

7 Do not discuss the case. Do not have any
8 conversation about the case in any way, shape or form.
9 Do not do any research or watch news media or
10 anything. Stay downstairs in your assembly room, and
11 we will bring you back up as soon as we have everyone
12 that we need.

13 Ms. Rodriquez, will you come up?

14 All of these jurors can go back downstairs. Can
15 someone take them back downstairs?

16 (The prospective jury panel exits.)

17 THE COURT: Ms. Rodriquez, what is going on?

18 MS. RODRIQUEZ: The pink eye has spread on the
19 second eye.

20 THE COURT: Did you start putting the medicine
21 in?

22 MR. RODRIQUEZ: I'm on my second tube.

23 THE COURT: Did you go back to the doctor, or did
24 you just call them?

25 MR. RODRIQUEZ: No, I had the other tube already.

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1 THE COURT: Are you able to see?

2 MR. RODRIQUEZ: I can see, it is just gritty and
3 a lot of junk that comes out.

4 THE COURT: How are you feeling other than that?

5 MR. RODRIQUEZ: Okay. But it is contagious.

6 THE COURT: Yes, she is contagious.

7 MR. HIXSON: I'm not opposed to excusing her.

8 MR. WILSON: I'm not either.

9 THE COURT: We're going to excuse you from
10 service. You are free to go. Thank you very much,
11 and have a great day.

12 (A discussion was had off the record.)

13 THE COURT: We're going to show Mr. Munoz the A,
14 B, C list and the witness list, and then start the
15 next panel.

16 MR. RICHARDSON: Yes, sir.

17 THE COURT: I'll be right back. Give me one
18 second.

19 (A recess was taken.)

20 THE COURT: Ladies and gentlemen, Deputy Thompson
21 informed me that the Sheriff's Department went to the
22 wrong city, I guess it was.

23 MR. WILSON: Yes, sir.

24 THE COURT: They went to Loris or Longs, and they
25 said when they made it to the right city, he was

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1 dressed and ready to go and had all of his things, so
2 he wasn't avoiding anything in any way, shape or form.
3 It was a miscommunication, and he is on the way.

4 DEPUTY: Yes, sir. That is correct.

5 THE COURT: I want to be sure that is clear on
6 the record. So we'll certainly wait for him to be
7 here. As soon as Mr. Munoz goes through the witness
8 list and the A, B, C, we'll start with him, assuming
9 we can't find Ms. Leeson. We're calling her
10 employment and her cell phone and sending somebody to
11 her home address.

12 Are you ready for Mr. Munoz?

13 MR. RICHARDSON: Yes, sir.

14 MR. WILSON: Yes, sir.

15 (JASON MUNOZ, having been duly sworn,
16 testified as follows:)

17 VOIR DIRE OF JUROR 241

18 BY THE COURT:

19 Q How do you say the last name?

20 A Munoz.

21 Q If I get that wrong, I'm sorry. I don't mean
22 disrespect.

23 A No problem.

24 Q All right. Do you understand you are under oath?

25 A Yes.

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1 Q Now, when you left here on Monday, I said don't
2 talk to anyone about the case, don't watch any news
3 media and don't do any research on the case; did you
4 comply with those instructions?

5 A Yes.

6 Q Wonderful. So we'll have a conversation with
7 you. I'll start, and then the attorneys will be able
8 to jump in at the end. I want you to be open, honest
9 and candid. It is not about challenging you or your
10 views. We need to understand what your views really
11 are; does that make sense?

12 A Yes.

13 Q We'll probably ask you questions you never really
14 thought about before, so take your time. If you need
15 us to repeat anything, we can do that.

16 Now, in this case the State is seeking the death
17 penalty against Mr. Jenkins; because of that, the law
18 requires that I break this trial into two different
19 parts. During the first part, the jury will be tasked
20 with determining whether or not Mr. Jenkins is guilty
21 or not guilty of the crimes that have been charged;
22 does that make sense?

23 A Yes.

24 Q If he is found not guilty, the case is completely
25 over and we are done. But if he is found guilty, we

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1 move on to the second phase of the trial, which is
2 known as the "sentencing" or "penalty phase." During
3 that portion of the trial, it will be the jury's
4 responsibility to determine what is the appropriate
5 sentence: Either death, or life in prison without the
6 possibility of parole; does that all make sense?

7 A Yes.

8 Q Just because we're talking about penalties
9 doesn't mean he has done anything. He is presumed to
10 be innocent under the law; do you understand that?

11 A Yes.

12 Q Do you know Mr. Jenkins or have any relationship
13 to him at all?

14 A I don't.

15 Q Do you know Mr. Hixson or Mr. Richardson or Mr.
16 Wilson or Ms. Williams at all?

17 A No.

18 Q And did you have an opportunity to review the
19 witness list prior to coming in here?

20 A Yes.

21 Q Was there anyone on there that you think you know
22 or may have known?

23 A I didn't know anyone.

24 Q That is perfectly fine.

25 Every juror in this case will be asked to do many

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1 things. One of the things they are asked and required
2 to do is to accept the law that I give and apply the
3 law that I give, whether they agree with it or not; do
4 you believe you can do that?

5 A Yes.

6 Q Now, have you ever heard, read, seen or do you
7 know anything about this case at all?

8 A No.

9 Q So when I told you the allegations on Monday, all
10 of that was first time you ever heard that?

11 A Yes.

12 Q So can you base your decision in this case on the
13 evidence that comes in this the courtroom and the law
14 that I give you?

15 A Yes.

16 Q Now, this is a criminal case; do you understand
17 that?

18 A Yes.

19 Q And that means the State has the burden of
20 proving the defendant guilty beyond a reasonable doubt.
21 Mr. Jenkins doesn't have to prove anything. He doesn't
22 have to say anything. He doesn't have to prove his
23 innocence; does that make sense?

24 A Yes.

25 Q Now, we're going to switch gears a little bit. I

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1 will give you two different examples. In the first
2 example, I want you to imagine that you are a juror in
3 just a normal criminal case. So in that situation, can
4 you listen to the evidence, decide what the facts are
5 and then apply those facts to the law that I give you
6 and renderer a verdict of either guilty or not guilty,
7 depending upon the facts and circumstances?

8 A Yes.

9 Q Now, to ask you the second example, I need you to
10 explain a couple of terms. One is called "aggravating
11 circumstances," the other is called "mitigating
12 circumstances." Aggravating circumstances are facts,
13 incidents, details that are literally written into our
14 code of laws that say these -- these circumstances make
15 murder cases worse, or they aggravate the situation.

16 A Okay.

17 Q Does that make sense?

18 A Yes.

19 Q The flip side is that in the same book of laws
20 there is a list of mitigating circumstances in the law
21 that says that these circumstances reduce the severity
22 of a murder case or the person's role or responsibility
23 in it; does that make sense?

24 A Yes.

25 Q Great. So here is the second example. Let's

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1 imagine that you are a juror in a death penalty
2 trial -- not this case, just a case.

3 A Okay.

4 Q Let's imagine that phase one is over. Y'all have
5 already determined that the defendant in my made-up
6 case is guilty of murder; does that make sense?

7 A Right.

8 Q Okay. So here is the question: Could you, in
9 that situation, could you, depending upon the facts and
10 circumstances that exist, in that particular case, that
11 would include any aggravation and/or mitigation that
12 may exist, and the law that I give you, could you
13 listen to all of that, and depending upon the facts and
14 circumstances return a sentence of life without the
15 possibility of parole?

16 A Could be.

17 Q Could you return a sentence of death?

18 A If the facts were there.

19 Q If you were asked to serve on this jury, would it
20 pose any real serious health risks to you or to any
21 member of your family?

22 A No.

23 THE COURT: I'll let the attorneys ask you some
24 questions. I want you to be open and honest with
25 them, and thank you for answering my questions.

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1 Ms. Williams.

2 MS. WILLIAMS: Thank you, Your Honor.

3 EXAMINATION

4 BY MS. WILLIAMS:

5 Q I'm Brana Williams, and it will be me and Ralph
6 Wilson that represent our client, J.J. Jenkins. I want
7 to ask you a couple of questions. You filled out that
8 sheet and you said you were in the Marine Corps?

9 A Yes, ma'am.

10 Q Occupational Specialty 1161; what is that?

11 A Reefer mechanic.

12 Q So it was like refrigeration?

13 A Air conditioning.

14 Q Awesome.

15 A Not as good as it sounds.

16 Q It's okay. I had no idea what it meant.

17 MS. WILLIAMS: Your Honor, may I borrow that?

18 THE COURT: Yes, ma'am.

19 MS. WILLIAMS: Thank you.

20 THE COURT: Yes, ma'am.

21 Q (MS. WILLIAMS) This sheet the judge asked you
22 about, the A, B, C sheet --

23 A Yes.

24 Q Part of what we have to do today, and have done
25 all week, is understand where you are on this sheet,

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1 all right. And what I want to make sure is that you
2 understand that as in the judge's example, that in a
3 capital case there are two parts -- you have to say
4 "yes" or "no" because she writes it down.

5 A I got you. Yes.

6 Q So I'm not picking on you.

7 What that means is in the first part you and 11
8 other jurors are part of the jury that found a person
9 guilty of murder.

10 A Okay.

11 Q The judge will tell you murder is killing of
12 another with malice aforethought, no justification.

13 A Yes.

14 Q So he guilty. That person is guilty of murder
15 beyond a reasonable doubt.

16 A Okay.

17 Q And so choice "A" is: This juror simply feels
18 that once a murder has been committed, the death
19 penalty is the only appropriate punishment no matter
20 what the circumstances of the case.

21 A Yes.

22 Q Tell me about that. You didn't pick it.

23 A Well, at that point you are basically saying that
24 anyone who commits murder is put to death, and just
25 like the judge said, there might be some mitigating

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1 circumstances in there, you know, other factors that
2 might contribute to that that might not lead you into a
3 death penalty decision.

4 Q And we've had people in here that sat in the
5 chair and said, yes, yes, and some said absolutely not.
6 That is what we're looking for, because the State gets
7 a fair trial, and our client gets to get a fair trial,
8 and that is what you want. So you are telling us that
9 you are quite willing, even though you -- on the
10 judge's case, you could be in a position where you
11 already found someone guilty of murder, no
12 justification, and you would consider whatever was
13 presented at that point?

14 A Yes. Punishment would have to fit the actual
15 murder of the crime.

16 Q What do you mean?

17 A Death penalty is probably your top punishment.
18 You could get life without parole, or 20 years. You
19 know, if you have a murder and it is not a horrific
20 tragic murder, maybe a 20-year sentence or life
21 sentence.

22 Q As the judge said, in a capital case, if you are
23 on the jury in phase one and guilty beyond a reasonable
24 doubt, we get to phase two. There will be two choices:
25 Life without parole, or the death penalty.

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1 A Okay. I understand. Right.

2 Q So those are the two choices, if we get to
3 part two.

4 A Right. Right.

5 Q And that is great. The other thing I want to ask
6 you is -- one of the other things our law requires --
7 let me tell you. The law of South Carolina -- the
8 judge will tell you what the law is. He will give you
9 a whole long list of things, but he's going to tell you
10 that the law never requires the death penalty.

11 A Okay.

12 Q But he will tell you that the law will be
13 satisfied, and you can give mercy for any reason or for
14 no reason at all, it is just however you weigh it out
15 in your independent personal beliefs.

16 A Right.

17 Q And if you are on that jury and determine that
18 death is the appropriate sentence, one of the things
19 the law requires is that you sign a piece of paper, all
20 12 jurors have to agree if it is your thought that your
21 sentence is death, you have to sign, and we need to
22 make sure that if you found that, and believed that,
23 you would be willing to sign a piece of paper?

24 A To pick the death penalty?

25 Q If you had decided that. That is the point. You

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1 go back and deliberate and the jurors decide -- kind of
2 like you deliberate and decide what you think is
3 appropriate, you talk to everybody and you make your
4 decision, and then if death is what you had picked,
5 then the law requires you to sign a piece of paper.

6 A Okay.

7 Q Just need to make sure you could do that?

8 A Yes.

9 MS. WILLIAMS: Beg the Court's indulgence.

10 (A brief pause in the proceedings.)

11 MS. WILLIAMS: Thank you.

12 MR. RICHARDSON: We believe Mr. Munoz is
13 qualified. No further questions.

14 MS. WILLIAMS: We agree.

15 THE COURT: Mr. Munoz, I'll find you are
16 qualified. Just because you are qualified doesn't
17 mean that you are actually on the jury, you do not
18 have any of your stuff with you; is that right?

19 JUROR: I did bring a bag in the car with my
20 wife.

21 THE COURT: Wonderful. I'll give you
22 instructions. One, do not discuss the case or
23 anything about it with anyone in any way, shape or
24 form. Do not watch any local news media or news
25 accounts, and do not do any research on the case.

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1 So I'll determine he's qualified; is that okay
2 with the State?

3 MR. RICHARDSON: Yes, sir.

4 THE COURT: Defense?

5 MR. WILSON: Yes, sir.

6 THE COURT: I'll send him downstairs so we keep
7 them together.

8 So I'll send you downstairs with the other
9 potential jurors. Hang out until I bring the panel
10 up, and we'll start back.

11 Deputy Thompson, see that he gets downstairs.

12 DEPUTY: Yes, sir.

13 THE COURT: We found Ms. Leeson and she's on the
14 way, so we are in a holding pattern until Ms. Leeson
15 and Mr. Vaught gets here, and then we'll jump right
16 back on the record and get into it, okay?

17 MR. RICHARDSON: Yes, sir.

18 MR. WILSON: Yes, sir.

19 MS. ELVIS: She did finally answer her phone.
20 She is on the way. She says that I did not leave a
21 message for her last night. I did.

22 THE COURT: Let's be in a holding pattern, and
23 you get me when these two people get here.

24 MS. ELVIS: The deputies are just going to her
25 house to speed things up.

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1 THE COURT: Let me know when they get here and
2 we'll pull the panel back up and knock it out. We do
3 not need the next one. Let them stay back there in
4 that room.

5 (A recess was taken.)

6 THE COURT: Mr. Roddy wants to discuss something
7 with me, so we're bringing him up.

8 (A brief pause in the proceedings.)

9 (The juror enters the courtroom.)

10 THE COURT: Come on up, Mr. Roddy.

11 (ROBERT RODDY, having been duly sworn,
12 testified as follows:)

13 THE COURT: Grab a seat. What do you need to
14 talk about?

15 JUROR: One of my employees, she went to high
16 school with the defendant, and also her brother's
17 girlfriend's sister's was the victim.

18 THE COURT: Wait. The brother's....

19 JUROR: Brother's girlfriend.

20 THE COURT: The brother's girlfriend has a
21 sister?

22 JUROR: And that was Trisha.

23 THE COURT: That was Ms. Stull?

24 JUROR: Correct. And I just don't think I
25 would be able to give a fair verdict towards

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1 Mr. Jenkins.

2 THE COURT: Would the State like to question him
3 on this issue?

4 MR. HIXSON: A little more foundation on when the
5 situation was discussed, I think you went through
6 Monday.

7 JUROR: Yes, sir.

8 MR. HIXSON: Were you aware of the discussions
9 that you had with the Court about pretrial publicity
10 and explaining that, and what happened from then until
11 today?

12 JUROR: I didn't speak of anything about the
13 case. I went back to work. They knew I was on jury
14 duty, and asked me what was going on. I said I can't
15 talk about the case, it was a supreme court case. She
16 started bringing up information. We work closely
17 together on a dock, the operations team manger, we
18 receive trucks. She was just discussing things, and I
19 can't walk away that much because I'm team supervisor.
20 Unfortunately, things she was saying, I don't feel
21 comfortable -- when I was here speaking to you guys on
22 Monday, I thought I would, but I don't feel
23 comfortable giving a verdict towards Mr. Jenkins.

24 MR. HIXSON: That is fine. I don't know if you
25 need to say who was talking to you, but I would like

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1 to know who continued to talk to you?

2 THE COURT: Who were you talking to?

3 JUROR: Sarah Norris, my employee.

4 THE COURT: Mr. Wilson, would you like to
5 question this juror?

6 MR. WILSON: No, sir.

7 THE COURT: What the State's position?

8 MR. HIXSON: I mean, his answers indicate -- if
9 he's saying that he is not capable of doing it, I
10 think it -- the dye is cast.

11 MR. WILSON: Agree.

12 THE COURT: We'll excuse you from service of this
13 case. You are completely and totally free.

14 Bring up the panel.

15 (The juror exits the courtroom.)

16 (A brief pause in the proceedings.)

17 THE COURT: Mr. Roddy is out, Ms. Rodriguez is
18 out. Ms. Leeson is here, Mr. Vaught is here and
19 Mr. Munoz is now in the panel.

20 THE COURT: When we get to alternates, I'm not
21 going to say "alternate," I'll say "one," "two," but I
22 won't use the word "alternate," so don't freak out if
23 I don't say it, okay?

24 MR. HIXSON: Yes, sir.

25 MR. WILSON: Yes, sir.

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1 (Mr. Vaught enters the courtroom.)

2 THE COURT: You good, Mr. Vaught?

3 MR. VAUGHT: I'm good.

4 THE COURT: Sorry about the confusion this
5 morning.

6 MR. VAUGHT: Okay.

7 (A brief pause in the proceedings.)

8 (The prospective jury panel enters the
9 courtroom.)

10 THE COURT: Welcome back. The two jurors that we
11 were missing, is it not their fault. There was a
12 miscommunication with both of them, so that was the
13 issue we needed to resolve. So I appreciate you being
14 patient with us, but it was not the situation where
15 your fellow jurors were intentionally avoiding being
16 here; it was a miscommunication.

17 So just to double check, I'm going to take the
18 roll again. When your name is called, answer out
19 loud.

20 (Whereupon, the jury roll was taken.)

21 THE COURT: All right. Everyone is present.
22 Is the State ready to proceed?

23 MR. RICHARDSON: Yes, Your Honor.

24 THE COURT: Is the defense ready to proceed?

25 MR. WILSON: Ready, Your Honor.

JURY SELECTION

1 THE COURT: Ladies and gentlemen, when your name
2 is called, I want you to come forward, either right
3 down this side or that side. Stand here at this
4 table. Face out into the audience. The clerk will
5 ask the State whether they want to keep you, or excuse
6 you. Then they will ask the defense whether they want
7 to keep you, or excuse you. If both sides says keep
8 or swear the juror, you come into this spot and have a
9 seat in the jury box. If either side says excused,
10 just go to the back row of the courtroom. Okay.
11 Everyone understand? Bring anything you have with
12 you, purse or anything like that.

13 Ready, Natalie?

14 THE CLERK: Yep. 161, Harry Johnson. What says
15 the State?

16 MR. RICHARDSON: Please present Mr. Johnson.

17 MR. WILSON: Seat Mr. Johnson.

18 THE CLERK: Please be seated in the jury box.

19 179, Harold Coleman. What says the State?

20 MR. RICHARDSON: Please present Mr. Coleman.

21 THE CLERK: Defense?

22 MR. WILSON: Please excuse Mr. Coleman from this
23 case.

24 THE CLERK: 220 Christine McGinley. What says
25 the State?

JURY SELECTION

1 MR. RICHARDSON: Please excuse Ms. McGinley.

2 THE CLERK: 166, Crystal Jordan. What says the
3 State?

4 MR. RICHARDSON: Please present Ms. Jordan.

5 MR. WILSON: Please excuse Ms. Jordan from the
6 trial of this case.

7 THE CLERK: 101, Denise Edge. What says the
8 State?

9 MR. RICHARDSON: Please excuse Ms. Edge.

10 THE CLERK: You are excused from this particular
11 case.

12 No. 270, James Payne. What says the State?

13 MR. RICHARDSON: Please present Mr. Payne.

14 THE CLERK: Defense?

15 MR. WILSON: Please sit Mr. Payne.

16 THE CLERK: Please be seated in the jury box.

17 135, Jerry Harper. What says the State?

18 MR. RICHARDSON: Please present Mr. Harper.

19 THE CLERK: Defense?

20 MR. WILSON: Seat Mr. Harper.

21 THE CLERK: No. 13, John Archibald. What says
22 the State?

23 MR. RICHARDSON: Please present Mr. Archibald.

24 THE CLERK: Defense?

25 MR. WILSON: Seat Mr. Archibald.

JURY SELECTION

1 THE CLERK: No. 350, Lauren Stevens. What says
2 the State?

3 MR. RICHARDSON: Please present Ms. Stevens.

4 THE CLERK: Defense?

5 MR. WILSON: Please sit Ms. Stevens.

6 THE CLERK: No. 108, Jennifer Favale. What says
7 the State?

8 MR. RICHARDSON: Please present Ms. Favale.

9 THE COURT: Defense?

10 MR. WILSON: Please excuse Ms. Favale from the
11 trial of this case.

12 THE CLERK: Juror No. 334, Roberta Sloan. What
13 says the State?

14 MR. RICHARDSON: Please present Ms. Sloan.

15 THE CLERK: Defense?

16 MR. WILSON: Please seat the juror.

17 THE CLERK: No. 319, Jacob Schuster. What says
18 the State?

19 MR. RICHARDSON: Please present Mr. Schuster.

20 THE CLERK: Defense?

21 MR. WILSON: Please excuse Mr. Schuster from the
22 trial of this case.

23 THE CLERK: No. 77, Shannon Dagrossa. What says
24 the State?

25 MR. RICHARDSON: Please present Ms. Dagrossa.

JURY SELECTION

1 MR. WILSON: Please excuse Ms. Dagrossa from this
2 particular case.

3 THE CLERK: No. 201, Nicole Loan. What says the
4 State?

5 MR. RICHARDSON: Please present Ms. Loan.

6 MR. WILSON: Please excuse Ms. Loan from the
7 trial of this particular case.

8 THE CLERK: No. 2941, Carl Robbins. What says
9 the State?

10 MR. RICHARDSON: Please excuse Mr. Robbins.

11 THE CLERK: You are excused for this particular
12 case.

13 345, Stephen Stancil. What says the State?

14 MR. RICHARDSON: Please present Mr. Stancil.

15 MR. WILSON: Please seat Mr. Stancil.

16 THE CLERK: No. 119, Terry Gartner. What says
17 the State?

18 MR. RICHARDSON: Please present Mr. Gartner.

19 THE CLERK: Defense?

20 MR. WILSON: Please seat Mr. Gartner.

21 THE CLERK: No. 23, James Bellamy, Junior. What
22 says the State?

23 MR. RICHARDSON: Please excuse Mr. Bellamy.

24 THE CLERK: You're excused from this particular
25 case.

JURY SELECTION

1 No. 229, Stephen Mills. What says the State?

2 MR. RICHARDSON: Please present Mr. Mills.

3 THE CLERK: Defense?

4 MR. WILSON: Please excuse Mr. Mills from the
5 trial of this case.

6 THE CLERK: 267, Douglas Palmer. What says the
7 State?

8 MR. RICHARDSON: Please excuse Mr. Palmer.

9 THE CLERK: No. 325, Timothy Semones. What says
10 the State?

11 MR. RICHARDSON: Please present Mr. Semones.

12 MR. WILSON: Please excuse Mr. Semones from the
13 trial of the case.

14 THE CLERK: No. 86, Kimberly Decker. What says
15 the State?

16 MR. RICHARDSON: Please present Ms. Decker.

17 THE CLERK: Defense?

18 MR. WILSON: Please seat Ms. Decker.

19 THE CLERK: No. 110, Amanda Fineran. What says
20 the State?

21 MR. RICHARDSON: Please present Ms. Fineran.

22 THE CLERK: Defense?

23 MR. WILSON: Please excuse Ms. Fineran from the
24 trial of this particular case.

25 THE CLERK: 257, Hanna Oliveras. What says the

JURY SELECTION

1 State?

2 MR. RICHARDSON: Please present Ms. Oliveras.

3 THE CLERK: Defense?

4 MR. WILSON: Please seat Ms. Oliveras.

5 THE CLERK: No. 190, Jessica Leeson. What says
6 the State?

7 MR. RICHARDSON: Please present Ms. Leeson.

8 THE CLERK: Defense?

9 (A brief pause in the proceedings.)

10 MR. WILSON: Excuse Ms. Leeson from this
11 particular case.

12 THE CLERK: No. 10, Melanie Anderson.

13 MR. WILSON: Can we have a count strike?

14 THE COURT: You are out. Everyone is out.

15 THE CLERK: What says the State?

16 MR. RICHARDSON: Please present Ms. Anderson.

17 MR. WILSON: Seat Ms. Anderson.

18 THE CLERK: 120, Jennifer Gee. What says the
19 State?

20 MR. RICHARDSON: Please present Ms. Gee.

21 THE CLERK: Defense?

22 MR. WILSON: Seat Ms. Gee.

23 THE COURT: We're on No. 1; you with me?

24 MR. RICHARDSON: Yes, sir.

25 MR. WILSON: Yes.

JURY SELECTION

1 THE COURT: With me?

2 THE CLERK: Yeah.

3 No. 79, Fern Daniels. What says the State.

4 MR. RICHARDSON: Present Ms. Daniels.

5 MR. WILSON: Seat Ms. Daniels.

6 THE CLERK: 357, Robert's Sweet. What says the
7 State?

8 MR. RICHARDSON: Please present Mr. Sweet.

9 THE CLERK: Defense?

10 MR. WILSON: Excuse Mr. Sweet from the trial of
11 this case.

12 THE CLERK: No. 338, Robert Smith. What says the
13 State?

14 MR. RICHARDSON: Please present Mr. Smith.

15 THE CLERK: Defense?

16 MR. WILSON: Excuse Mr. Smith from this case.

17 THE CLERK: 286, Diane Randle. What says the
18 State?

19 MR. RICHARDSON: Please present Ms. Randle.

20 THE CLERK: Defense?

21 MR. WILSON: Can we have a count?

22 THE COURT: You've used both strikes on where we
23 are.

24 MR. WILSON: Yes, sir. Please seat Ms. Randle.

25 THE CLERK: 392, Wendy Wilson. What says the

JURY SELECTION

1 State?

2 MR. RICHARDSON: Please present Ms. Wilson.

3 MR. WILSON: Excuse Ms. Wilson from the trial of
4 this case.

5 THE CLERK: No. 378, Elroy Vaught. What says the
6 State?

7 MR. RICHARDSON: Please present Mr. Vaught.

8 MR. WILSON: Please seat Mr. Vaught.

9 THE CLERK: 352, Curtis Strickland. What says
10 the State?

11 MR. RICHARDSON: Present Mr. Strickland.

12 MR. WILSON: Excuse Mr. Strickland.

13 THE CLERK: 198, Lourdes Limpasuvan. What says
14 the State?

15 MR. RICHARDSON: Please excuse this juror.

16 THE CLERK: 314, Cheri Satterfield.

17 MR. RICHARDSON: Please present Ms. Satterfield.

18 MR. WILSON: Please seat Ms. Satterfield.

19 THE COURT: Any exception to the jury selection
20 process from the State?

21 MR. RICHARDSON: None, Your Honor.

22 THE COURT: Any from the defense other than those
23 already previously put on the record?

24 MR. WILSON: Yes, sir.

25 THE COURT: Do I need to excuse everyone?

JURY SELECTION

1 MR. WILSON: Yes, sir.

2 THE COURT: So if you are seated in the audience
3 and in my jury panel, go back downstairs. Do not
4 discuss the case, and keep an open mind. If you are
5 seated over here, I want you to take them out, put
6 them in a jury room. The other five that I'm still
7 holding, have them stay there. Do not discuss the
8 case. I'll be back with you in a few moments. If you
9 are in audience to jury panel, head back downstairs.

10 (A brief pause in the proceedings.)

11 (The following is had out of the presence of
12 all potential jurors.)

13 THE COURT: The jury panel is out of the room.

14 MR. WILSON: Yes, Your Honor. Your Honor, my
15 challenge is under Batson in regards to the State's
16 use of its peremptory challenges. There were only
17 five African-Americans in the entire pool that we just
18 went through up to that point, and the State struck
19 three of those African-American individuals. I'm not
20 sure that there is any -- they used -- out of the five
21 strikes, they used three to them to strike the few
22 African-Americans on this panel.

23 I would submit to the Court that is at least -- I
24 apologize, there were four. I think one was seated,
25 which was Mr. Harry Johnson, who was seated, who is a

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1 detention officer over at Myrtle Beach. All the other
2 African-Americans were stricken from the panel by the
3 State, and I would submit to the Court that that is a
4 violation of Batson.

5 THE COURT: At this point in time, we're in the
6 Batson versus Kentucky challenging process, so the
7 Court must conduct a hearing, if requested. The Court
8 is in the middle of conducting that hearing. I have
9 sent the jury panel and the jurors selected out of the
10 room, so we are following the rules of Batson versus
11 Kentucky and Peyton versus Pierce.

12 So at this point in time, Mr. Wilson made a
13 challenge that the State strikes were made based upon
14 racial discrimination. At this point in time, the
15 proponent of the strikes is required to provide an
16 explanation for its strikes. The State did use all
17 five of its strikes, and so the State is now given an
18 opportunity to explain each of those strikes.

19 Keep in mind, I know what these individuals said
20 on the witness stand, so I want you to create the
21 record that you want to create, which is fine. But if
22 there is information in their jury packet that you are
23 using, let me know. I don't have all of that
24 information memorized, nor do I have it in front of
25 me. So do you have any objection to the

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1 non-African-American strikes that the State made, or
2 just the African-American strikes?

3 MR. WILSON: My -- I don't really have any
4 objections to the non-African-American strikes. They
5 struck two white females from the panel as well. I'm
6 not sure if that is in and of itself to me suggests --
7 because they seated a number of white females, so I
8 don't see that that is a problem.

9 THE COURT: So the issue is directly for the
10 African-American male and/or females that were struck
11 by the State; is that correct?

12 MR. WILSON: Yes, sir. Yes, sir. And I think
13 that it's really compelling because the defendant is
14 African-American.

15 THE COURT: Fair enough.

16 MR. HIXSON: Thank you, Your Honor.
17 Specifically, I'll go in order; it is the easiest way
18 to do it.

19 Juror 220, Christina McGinley. She was
20 specifically struck --

21 THE COURT: She was a white female.

22 MR. HIXSON: Yes. She was specifically struck
23 under the Elmore series of cases about her vacillating
24 repeatedly back and forth on her ability to actually
25 vote for the death penalty, if Your Honor recalls,

JURY SELECTION

1 that was a long qualifications process.

2 Juror 110, Denise Edge. Ms. Edge, the specific
3 basis for that is multi-faceted, but the most
4 important one is that she failed to disclose on her
5 questionnaire that her -- he says it is her brother,
6 she says it is her uncle is being prosecuted by our
7 office. He has been prosecuted three separate times.
8 He has been on drug charges starting in 2002, Dwayne
9 Milan Edge. In 2002, he was first prosecuted by our
10 office and convicted. And, once again, he was
11 prosecuted by not just the 15th Circuit, but the
12 Horry County Office of the 15th Circuit, and that
13 day of prosecution was 2001. It was a distribution of
14 crack cocaine. Currently, the third time, November 9
15 of 2015, he pled guilty to a possession of cocaine
16 charge. He was put in drug court. Recently through
17 drug court, he was violated and sent to prison on
18 that. The reason it is a concern is there are three
19 separate questions in the juror questionnaire, that is
20 37, 38 and 49, and this particular juror failed to
21 disclose that relationship on three separate
22 occasions.

23 The fourth, Your Honor, being an admonishment to
24 please let us know if there is any information
25 probative in determining bias or any other particular

JURY SELECTION

1 issue. There are several cases specifically on point
2 onto this issue, Your Honor. The most probative one,
3 I think, is a series of cases referring to the failure
4 to disclose information. You can imply resentment or
5 imply a bias against when the questions were so clear
6 on why that disclosure didn't take place.

7 Additionally, the juror indicated that she --
8 with Facebook page, the open source social media,
9 indicates some posts that support Ms. Edge cares for
10 her uncle and that she was aware of his situation; in
11 other words, it is not an inadvertent slipped his
12 mind. According to drug court documents on Mr. Edge,
13 he cites her as his sister. According to the packet
14 from the clerk of court, which indicates familial
15 relationships that the Court provided and the
16 questionnaire packet, it is an uncle. Either way, we
17 think it is absolutely on point of either a close
18 friend or family member being prosecuted by the
19 office, and that a failure to disclose that is a
20 concern for hidden bias of some kind, and it is so
21 prevalent it is a little hard to believe that it was
22 an inadvertent disclosure, and even if it was an
23 inadvertent disclosure, that would indicate an
24 inability to follow the Court's instructions and would
25 be a basis for the strike. But that is the basis for

JURY SELECTION

1 Juror 110 (sic). I have case law to support this if
2 you want to hear case cites.

3 THE COURT: That is Juror 101, not 110.

4 MR. HIXSON: Okay.

5 THE COURT: Next one is Mr. Bellamy.

6 MR. HIXSON: Yes. As it relates to Mr. Bellamy,
7 he had a compelling story. The specific basis for his
8 concern was his specific discussion of beliefs and his
9 work history for three years getting out of the Army
10 and using inhumane terms to discuss dealing with
11 mental health patients. He discussed specifically
12 holding people in monkey cages. He said it was
13 shocking -- I don't think he used the word "shocking,"
14 but it was very sad to see what was happening with
15 people with everything that happened in their life.
16 That in and of itself, considering -- the problem
17 is -- as Your Honor is very well aware -- that the
18 theory of these cases are going to be -- the entire
19 discussion in the penalty phase is going to be about
20 mental health concerns in dealing with the
21 consequences of bad things happening. The State is
22 somewhat hamstrung by lack of discovery on the part of
23 the mental health experts, so we don't exactly know
24 what mitigation is going to be put up relating to
25 mental health. So we don't have any reports or

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1 documentation specifically, but we have heard
2 discussions and concerns about domestic violence, the
3 defendant witnessing these things. And so the
4 specific take-away quotes I believe that Mr. Bellamy
5 referred to is the use of that inhumane language,
6 keeping people in monkey cages, I don't know which way
7 that goes. I don't know if he is for keeping people
8 in monkey cages, but he spent three years out of the
9 Army confronting those issues, and I believe we'll
10 have five days of testimony of that, and that opinion
11 is so firm that I think either way it goes it causes a
12 substantial concern when that probably is going to be
13 the entire issue of it. So that it is the basis -- I
14 believe three-year work experience -- and there are
15 several cases, Adams, among others, that indicates
16 your employment and work experience and your beliefs
17 that develop from that are race mutual basis for a
18 strike, and we think it is important. Honestly, we're
19 not sure which way -- if you feel being held in a
20 monkey cage, which way that goes.

21 As it relates to -- in that regard, if Your Honor
22 remembers, on the record, that is the importance of
23 striking, and we were voir diring anybody that had any
24 psychiatric experience, specifically Ms. Lourdes --
25 I'll mess up that name -- she said she was a critical

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1 care nurse, but she did come into contact with mental
2 health patients, and she did deal with them in a
3 critical care context, but that was not her area of
4 expertise. That was not her specialty, but
5 nonetheless we struck her as well because of the
6 likelihood we'll hear a series of experts, and I don't
7 know if a layperson's of psychiatric is necessary.

8 The other lady, she indicated that she worked
9 with geriatrics and she indicated that she was doing
10 Meals On Wheels and things like that. She did not
11 deal with the kind of psychiatric issues that Mr.
12 Bellamy said he spent three years dealing with.

13 Finally, the last one, we did not reach the last
14 person, that was the person in the Army that indicated
15 that he had dealt with --

16 THE COURT: Mr. Baliles.

17 MR. HIXSON: We did not reach him, but we're
18 prepared to deal with him.

19 As it relates to Mr. Parker, that is under State
20 v. Lewis. That is straightforward.

21 THE COURT: You mean Mr. Palmer.

22 MR. HIXSON: Mr. Palmer, excuse me. Yes, sir.
23 He is a lifelong friend of Mr. Wilson, goes to church
24 with Mr. Wilson every Sunday, and that is quite a
25 thing to see Mr. Wilson next Saturday or Sunday and

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1 not go to breakfast with him and not come back with a
2 death verdict and have to see the defense attorney the
3 next day. So that is the basis for Mr. Palmer's
4 strike.

5 As it relates to Mr. Robbins, if you recall,
6 Mr. Robbins was a heated qualifications process with
7 him. He specifically indicated repeatedly that he
8 would not be able to do that, would not be able to
9 meaningfully vote for the death penalty. Ultimately,
10 he came around and I believe was properly qualified,
11 but under the Elmore cases also, vacillation on your
12 ability to use the death penalty is a reason for it.

13 THE COURT: That's all of them.

14 MR. HIXSON: That's all of them?

15 MR. WILSON: Your Honor, first of all, there is
16 nothing in the record -- let's go back to Ms. Edge,
17 101. There is nothing in the record about anything
18 the Solicitor said about Ms. Edge. Whatever he said
19 is not supported by anything that happened in this
20 record, first thing.

21 Secondly, when we talk about Mr. Bellamy, he says
22 that the reason that they struck Mr. Bellamy was
23 because Mr. Bellamy had expertise or information about
24 medical issues. Well, there are two nurses that came
25 up, which the Solicitor actually did not strike, but I

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1 struck them, but he didn't strike them. So he was
2 willing to allow them to sit because they were white
3 females, but wasn't willing to let this gentleman sit.
4 My position is the reason they didn't let him sit is
5 because he's African-American and wanted to deprive
6 the defendant to have as many African-Americans on the
7 jury as they possibly could. So what I'm saying -- I
8 understand Mr. Palmer's strike; I understand that. I
9 do not understand the other strikes. I do think that
10 it is in violation of Batson, and I do think that
11 we're entitled to redraw the jury.

12 THE COURT: Anything further?

13 MR. HIXSON: Yes. Court's exhibit, I'll make it
14 a Court's exhibit specifically on Ms. Edge, her
15 questionnaire on questions where she was specifically
16 asked about do you know anyone that had any criminal
17 -- that is the point, they are right. There is
18 nothing in the record relating to her. The familial
19 relationship -- and let me back up.

20 Under the Kelly series of cases, those usually
21 apply to a jury -- juror not being forthright during
22 the course of jury selection, and then a verdict
23 occurs. After the verdict is over, additional
24 information is discovered and the Court is faced with
25 a determination of whether that conduct is

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1 intentional, like they try to get on the jury so the
2 folks wouldn't know about hidden bias or not, or
3 unintentional. That series of cases I'll hand up to
4 the Court. That indicates that if these questions
5 have been asked four times and the record is silent --
6 and I'll make our questionnaire -- or the Clerk of
7 Court's questionnaire a part of the court record --
8 specifically the questions on do you or a close family
9 member or anyone been involved -- have you, your
10 spouse, partner or any immediate family members or
11 close personal friends ever been accused, indicted,
12 arrested or convicted, including probation,
13 adjudication, conditional discharge, fined for a crime
14 under than a traffic ticket? No.

15 Have you or any immediate family member,
16 household member been connected with the 15th Circuit
17 Solicitor's Office by blood or marriage or is close
18 personal friends? No.

19 Have you or any of immediate family member, house
20 member ever been a victim of a crime?

21 The final one is do you have an F49, do you have
22 any other information that would be important. The
23 clerk's office attached the familial relationship on
24 Dwayne Edge, and immediate upon that name,
25 unfortunately, our office knew right away by the name

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1 because of -- with Mr. Edge.

2 And then the Facebook postings specifically from
3 the open sourcing with pictures of Mr. Edge with the
4 children that she cites in her questionnaire. I say
5 that because the familial relationship is beyond a
6 reasonable doubt. The connection between them are
7 beyond a reasonable doubt. The question is why is
8 this information during Your Honor's allocution, as
9 well as our allocution, not discussed.

10 Now, we're more than happy to assume it was an
11 omission. That is why I indicated to the Court that
12 omission is sufficient for a strike for inability to
13 follow instructions of the Court. But the series of
14 cases I'm referring to -- and I'll hand it up to the
15 Court -- specifically State versus Tucker, Juror
16 Harper's resentment against the Solicitor's Office due
17 to solicitor's decision in a prior case. In this
18 situation, her uncle, or Wayne, refers to the juror as
19 his sister in his drug court admission paperwork. So
20 I'll make that a part of the court record if Mr.
21 Wilson would like to see this.

22 MR. WILSON: First, I have an objection to it
23 being in the record, because we don't even know that
24 that is correct. I have no idea what Internet
25 information he has, but whatever it is, I have never

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1 seen it before. How do we know it is correct? That
2 is my first concern.

3 Secondly, when this juror was on the witness
4 stand and the Solicitor had every opportunity to ask
5 her anything he wanted to ask her, none of this was
6 ever raised or brought up, which makes me suspect as
7 to -- as to whether or not there is any truth to it.
8 That is my other concern. You know, what we are
9 having to do here is accept some outside information
10 that they are saying they got from Internet. They
11 didn't say they got it from this juror. They didn't
12 say they got it from court records. They are saying,
13 well, we went on the internet and found some
14 information where he says this is his cousin or sister
15 or whatever, and we saw him saying these were her
16 children. I haven't seen one shred of proof that
17 those things are even true. I mean, I don't
18 understand that. I have absolutely no understanding
19 of why they struck Ms. Edge, other than because she's
20 an African-American. There is no real rational
21 explanation other than that.

22 MR. HIXSON: May I cite South Carolina Supreme
23 Court, State versus Woods, 345 S.C. 583. When a
24 juror, without justification, fails to disclose a
25 relationship and may be inferred that the juror is not

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1 impartial.

2 Everyone went through the qualification process,
3 and the reason that the State was not able to ask her
4 specific questions is because it was not disclosed.
5 If those questions had said, yes, my family is being
6 prosecuted by your office, he's been prosecuted by
7 your office since 2001, but I can set that aside, that
8 is a different situation. But as far as supporting
9 documentation, I can hold certified copies from the
10 Clerk's Office, but that is not the standard of proof.
11 I'll show Mr. Wilson -- that is the reason why on the
12 questionnaire there is what social media accounts do
13 you use so you can follow-up behind, everyone does due
14 diligence to see open source information if there is a
15 hidden bias of some particular kind. It is not a
16 revolutionary concept. But the reason we weren't able
17 to flush it out in court is because it wasn't provided
18 on the juror's questionnaire, and that leads to the
19 next question of why?

20 MR. WILSON: The juror filled out a
21 questionnaire, and the Solicitor had that
22 questionnaire when the juror testified. The Solicit
23 certainly had every opportunity -- in fact, I remember
24 correctly, he did, in fact, question her about her
25 questionnaire. There was never any issue raised by

JURY SELECTION

1 the Solicitor's Office about whether or not that juror
2 had family or failed to answer some question in that
3 questionnaire, and we had a number of jurors who
4 didn't completely fill out all of the things on the
5 questionnaire. The solicitor had every opportunity to
6 ask her about it.

7 What you bothers me more is -- my concern is
8 this, is that we don't even know that the things that
9 are being presented are correct. I don't know that
10 this is her brother. I don't know that they have a
11 relationship. There is no proof in this record that
12 stuff ever happened. That is my real concern when
13 they talk about Ms. Edge.

14 MR. HIXSON: Once again, I'm prepared to hand
15 this up. The standard of proof relating to our
16 decision is supportable by five different supreme
17 court cases specifically on point on why hidden
18 resentment to the Solicitor's Office by conduct of the
19 office against her family member is the basis for us
20 striking Ms. Edge.

21 THE COURT: All right. In the Batson versus
22 Kentucky analysis, the Court has multiple steps it
23 must go through. We have conducted a hearing, and at
24 this point in time, the defense made the Court aware
25 of the strikes that they have issues with. We have

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1 turned to the State to see if they are capable of
2 providing a race neutral explanation for each of their
3 strikes. I find for the record in this case that the
4 State provided race neutral reasons for the striking
5 of Juror 101, Denise Edge; Juror 23, James D. Bellamy,
6 Junior; and Juror 267, Douglas I. Palmer.

7 The State provided race neutral reasons for each
8 of the strikes and have provided reasons in regard to
9 each juror that was struck who was African-American as
10 to their reason to striking them beyond their race
11 and/or their gender.

12 At that point in time, the burden shifts to the
13 -- the burden lies with the opponent of the strike,
14 and the Court apply the totality of the facts and
15 circumstances test to see if the challenging party met
16 its burden, and I find at this point that the State
17 has provided sufficient race neutral reasons for the
18 strikes and that there are no pretextual strikes
19 taking place.

20 Anything further as to that issue?

21 MR. WILSON: No, sir, Your Honor.

22 THE COURT: Mr. Hixson?

23 MR. HIXSON: Nothing additional, other than
24 potentially copies of this information for the Court's
25 record.

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1 THE COURT: Do you want to have the conversation
2 that we need to have with Mr. Jenkins while the jury
3 is out of the room?

4 MR. WILSON: Yes, sir.

5 THE COURT: Let's create the record on this
6 issue, and I'll question him about that.

7 MR. WILSON: Yes, sir. I have over the last --
8 actually several weeks, I had several conversations
9 with Mr. Jenkins about where we are in this case and
10 what the evidence and testimony and -- will consist of
11 in this particular case. Having done that, we have
12 discussed with him, again, as late as this morning,
13 what his wishes are and what he would like for us to
14 do.

15 What we are wanting to do is -- and we discussed
16 this on the record in the past, that our concern is
17 that the statute under which a defendant is not
18 permitted to enter a guilty plea and then have a jury
19 sentence him, we believe that that statute is
20 unconstitutional and it takes away a defendant's right
21 to plead guilty and be sentenced by a jury. We think
22 every defendant is entitled to have a jury trial, that
23 every defendant is entitled to have a jury trial on
24 the issue of sentencing in a capital case; this being
25 a capital case.

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1 So what we want to do is -- because we cannot
2 plead guilty and then have a sentencing trial by jury,
3 what we want to do is explain to the jury in this case
4 that we are not pleading not guilty, that we admit
5 guilt as to the issues in this case -- that we admit
6 guilt as to the issues in this case, but that the only
7 way we could have a jury do the sentencing is to go
8 through this process, which means the State has to
9 present evidence and we have to wait and let the jury
10 hear the aggravating and mitigating factors in order
11 to make their decision.

12 So we're asking the Court to inquire of Mr.
13 Jenkins if that is his understanding and if he is
14 onboard with that, and whether or not that is okay
15 with him. Because, obviously, this is not something
16 that is commonly done. We have some concerns about
17 it, but we think it is in his best interest to do it
18 this way. So I would ask the Court to inquire of him
19 if he is okay with that.

20 THE COURT: Okay. Let me ask each of the
21 attorneys questions first, and then I'll come to Mr.
22 Jenkins.

23 Mr. Wilson, do you believe that this strategy is
24 in Mr. Jenkins' best interest?

25 MR. WILSON: Absolutely, Your Honor, I do.

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1 THE COURT: And your resume in death penalty
2 cases is you have tried death penalty cases as a
3 prosecutor, as the circuit solicitor and you have
4 tried them as a defense attorney; this is not your
5 first rodeo.

6 MR. WILSON: No, sir.

7 THE COURT: And the Court is very well aware of
8 that, and throughout the entire case, from the moment
9 I got into it until now, and I assume until the case
10 is over, you have been nothing but completely and
11 totally prepared for these matters in making the
12 appropriate motions with the Court and the way you
13 have handled this case. At this point in time, do you
14 believe that this is the best strategy to employ for
15 Mr. Jenkins in this scenario?

16 MR. WILSON: I do, Your Honor.

17 THE COURT: Do you agree with it?

18 MR. WILSON: Yes, sir.

19 THE COURT: Do you believe it is in his best
20 interest?

21 MR. WILSON: Absolutely, I do.

22 THE COURT: Have you discussed it with him prior
23 to today?

24 MR. WILSON: Yes, sir, on at least three or four
25 different occasions.

JURY SELECTION

1 THE COURT: Do you believe he understand the
2 strategy?

3 MR. WILSON: He does, yes, sir.

4 THE COURT: Do you believe he is in agreement
5 with it?

6 MR. WILSON: He has told me so on multiple
7 occasions.

8 THE COURT: Do you believe anyone forced him or
9 threatened him to do this?

10 MR. WILSON: No, sir.

11 THE COURT: Do you believe he is going along with
12 this freely and voluntarily?

13 MR. WILSON: I do, Your Honor.

14 THE COURT: Ms. Williams, your behavior during
15 this case is also excellent, and you clearly know
16 exactly what you are doing and where you are going.
17 You are always fully and completely prepared for
18 hearings and ready to go and ready to work within the
19 perimeters that the Court sets and know exactly what
20 you are doing, and the Court is very well aware of
21 that. Do you agree with Mr. Jenkins doing this?

22 MS. WILLIAMS: Yes, sir, I do.

23 THE COURT: And do you believe it is in his best
24 interest?

25 MS. WILLIAMS: Yes, sir, I do in this particular

JURY SELECTION

1 circumstance. I do believe it is.

2 THE COURT: Do you believe that he understands
3 that?

4 MS. WILLIAMS: Yes, sir. And as Mr. Wilson said,
5 we have discussed this with him numerous times. We
6 talked about it at the jail and talked with him here
7 in the courtroom, and talked with him in the back and
8 right before this matter started today. I fully
9 believe that our client is aware. I think he
10 understands. He has participated in the conversation,
11 and I believe it is the right thing to do.

12 THE COURT: Do you believe it is in his best
13 interest?

14 MS. WILLIAMS: Absolutely.

15 THE COURT: Do you believe he understands the
16 conversations you had with him?

17 MS. WILLIAMS: Yes, sir.

18 THE COURT: And do you believe that anyone has
19 forced him or threatened to do this?

20 MS. WILLIAMS: No, sir.

21 THE COURT: Do you believe he's done it freely
22 and voluntarily?

23 MS. WILLIAMS: Yes, sir.

24 THE COURT: Now, we all have had a conversation
25 about the extent to the length that I will let you go

JURY SELECTION

1 into this in opening statements, and I have told y'all
2 that I'm not going to fuss. This is the strategy that
3 y'all believe is correct, and Mr. Jenkins agrees with
4 it, then I will let you explain to the jury that based
5 upon the way the law is written in this state, the
6 only way for him to have a jury determine his sentence
7 in a capital trial is if he starts with a jury trial
8 as opposed to pleading. I will let you explain that.
9 Whoever is doing opening, I'll let you explain that,
10 and whoever is doing closing, I will let you explain
11 that to them. So you have -- I know lawyers are
12 always worried about judges jumping on them, but you
13 will not hear sua sponte from the Court. I appreciate
14 you bringing this to my attention ahead of time as
15 opposed to springing it on me. If you sprung it on
16 me, we may have stopped everything. So I believe you
17 have employed the right strategy to bring it to the
18 Court's attention.

19 Jerome, how are you today?

20 MR. JENKINS: All right. How are you?

21 THE COURT: Good. Thank you. You and I have had
22 multiple conversations in the past. You have always
23 been clear, coherent, responsive. You have always
24 been professional and courteous, and I truly do
25 appreciate that. So we need to have a conversation

JURY SELECTION

1 now, okay?

2 MR. JENKINS: Yeah.

3 THE COURT: Are you under the influence of any
4 drugs or alcohol right now?

5 MR. JENKINS: No, sir.

6 THE COURT: And do you understand what is going
7 on here today?

8 MR. JENKINS: Yes, sir.

9 THE COURT: Have you understood your
10 conversations with Ms. Brana has Mr. Ralph?

11 MR. JENKINS: Yes, sir. I brought it up then
12 when you threw it at me. I wanted to plea, but I
13 ain't about to plea and hang. I'd rather take a
14 chance with a jury. So they are like I have to go
15 through this process.

16 THE COURT: Okay. All right. You and I have
17 talked before on the record that if you did plea, then
18 I would be the one -- we would have a sentencing
19 trial, but there is no jury, just up to me. I think
20 you said something like, I like you, but not like
21 that, or something like that (laughing). We all kind
22 of chuckled about it, but that is perfectly fine. You
23 don't offend me or bother me in any way, shape or
24 form; does that make sense?

25 MR. JENKINS: Yes, sir.

JURY SELECTION

1 THE COURT: So I understand that. So what they
2 have done -- or what Mr. Wilson and Ms. Williams want
3 to do is they basically want to explain that to the
4 jury; does that make sense?

5 MR. JENKINS: Yes, sir.

6 THE COURT: They want to say, We are in a jury
7 trial, but Mr. Jenkins is guilty of these charges and,
8 really, the issue is what is the appropriate sentence;
9 does that make sense?

10 MR. JENKINS: Yes, sir.

11 THE COURT: Do you understand they are going to
12 do that?

13 MR. JENKINS: Yes, sir. I want them to do it
14 before the prosecution can do it, being straight with
15 it.

16 THE COURT: You are perfectly okay with it?

17 MR. JENKINS: Yes, sir.

18 THE COURT: Has anyone forced you or threatened
19 you to get you to say that?

20 MR. JENKINS: No, sir.

21 THE COURT: Are you saying it freely and
22 voluntary?

23 MR. JENKINS: Yes, sir.

24 THE COURT: Do you believe it is in your best
25 interest?

JURY SELECTION

1 MR. JENKINS: Yes, sir.

2 THE COURT: And I want to state for the record
3 that I completely understand the logic behind what you
4 are doing. I can see how a jury would -- could get
5 frustrated with the attorneys, or the attorneys could
6 lose creditability. So I completely understand the
7 strategy that is employed. I think it is a very good
8 strategy, and a very positive strategy. But, Mr.
9 Jenkins, before we sit down, you are completely
10 onboard with this; is that right?

11 MR. JENKINS: Yes, sir.

12 THE COURT: Do you have any questions for me
13 about it at all?

14 MR. JENKINS: No, sir.

15 THE COURT: Ms. Williams, anything else you think
16 I need to ask him?

17 MS. WILLIAMS: No. Unless the Court wants to
18 address -- we know that my client takes some
19 medication at the jail, but it should not interfere,
20 just to be clear for the record.

21 THE COURT: What medication are you taking at the
22 jail?

23 MR. JENKINS: Basically, for anxiety.

24 THE COURT: Does it affect your ability to
25 understand what is going on?

JURY SELECTION

1 MR. JENKINS: No, sir.

2 THE COURT: Does it help?

3 MR. JENKINS: Yes, sir.

4 THE COURT: On top of that, have you taken it
5 correctly?

6 MR. JENKINS: Lately, yes, sir. I mean, I just
7 really got it. They have me on something different.

8 THE COURT: You are taking it like the doctor
9 says?

10 MR. JENKINS: Yes, sir.

11 THE COURT: Have you taken it in the past 24
12 hours?

13 MR. JENKINS: I took it this morning.

14 THE COURT: Is that when you were supposed to
15 take it?

16 MR. JENKINS: At night and in the morning.

17 THE COURT: Did you take the correct dosage?

18 MR. JENKINS: Yes, sir.

19 THE COURT: Do you have any questions for me?

20 MR. JENKINS: No, sir.

21 THE COURT: Mr. Wilson, anything else?

22 MR. WILSON: Nothing further, Your Honor.

23 THE COURT: Mr. Hixson, anything you would like
24 me to ask?

25 MR. HIXSON: No, sir. No, sir.

JURY SELECTION

1 THE COURT: So let's do this. We've been going
2 for a little while. The panel that is downstairs --
3 you can sit down. The panel downstairs can be
4 completely and totally excused, and I don't want to --
5 we have enough to do for me not to go down there, but,
6 Deputy Thompson, tell them that the judge wanted to
7 make sure that they knew how thankful I was for their
8 service and willingness to serve, and they are
9 completely and totally done.

10 DEPUTY: Yes, sir.

11 THE COURT: The panel of extra five in the back,
12 we can tell them the same thing.

13 We'll take a break, go to the restroom and get a
14 drink of water, whatever. We will come back in and
15 we'll swear in the 16, and then we will jump -- I'll
16 give them an outline of the case and jump into opening
17 statements; is that okay with the State?

18 MR. RICHARDSON: Yes, sir.

19 MR. WILSON: Yes, sir.

20 THE COURT: Everyone good? Let's do it.

21 (A recess was taken.)

22 THE COURT: State ready?

23 MR. RICHARDSON: Ready, Your Honor.

24 MR. WILSON: Ready, Your Honor.

25 THE COURT: If you would, take a moment to check

JURY SELECTION

1 your electronic devices and make sure they are to
2 "off" or "silent." If they go off while court is
3 going on, I'll confiscate those from you. I don't
4 want to do that.

5 I'll say thank you for being here. One of the
6 things that I will ask is I allow people to go in and
7 out of the courtroom, but I like you to go in and out
8 at natural breaks. We're about to do opening
9 statements. I don't want you walking out in the
10 middle of the witness' testimony or opening
11 statements. It is very distracting to the jurors, and
12 I know it doesn't seem like it out there, but up here,
13 people moving around is very distracting. So when
14 someone finishes an opening statement or when a
15 witness finishes, you can slide right out, just do
16 your best to not be distracting.

17 This case is very important to both sides. This
18 is their only day in court to resolve the issues, so
19 we want the jurors to be giving the attorneys and
20 witnesses their undivided attention; does that make
21 sense?

22 All right. Bring them in.

23 (The jury enters at 3:24 p.m., and the
24 following is heard in the presence of the jury.)

25 THE COURT: Good afternoon, ladies and gentlemen.

COURT TO THE JURY

1 Thank you very much for being here. I know there are
2 a million other places that you could be, but on
3 behalf of all the parties involved in this case, the
4 lawyers and anyone connected to this case, I'll say
5 thank you very much for being here, and thank you very
6 much for your willingness to serve.

7 We have done lots of work this week. Some of you
8 were up here with me at past 8 o'clock at night going
9 through individual questioning, and I appreciate all
10 of the time and sacrifice you have given this case
11 already, and you will give this case.

12 What I'm going to do is give you an outline where
13 we are going and what we're doing. The first thing I
14 need to have done is I need you to be sworn in. You
15 were here Monday and took an oath to answer my
16 questions truthfully, and when you came back for your
17 individual questioning, you also took an oath to
18 answer my questions truthfully. This oath you are
19 about to take is completely and totally different.
20 This oath has been used in this country almost since
21 the beginning of the jury trial system in this
22 country, and it embodies your duty and responsibility
23 to listen to the evidence and consider the evidence,
24 follow the law and give a fair trial to both sides, to
25 be fair and impartial to both sides. You are like

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1 your own 16 judges, like you wear your own black
2 robes. You are not on anyone's side. You sit there
3 fair and impartial. This oath embodies your duties
4 and responsibilities. This oath is not only your
5 promise to me, it is your promise to the parties in
6 this case. It is your promise to each other, and it
7 is your promise that you will fairly and impartially
8 try this case.

9 So, Natalie, come over and swear them in. If you
10 would, please stand.

11 (Whereupon, the jury panel was sworn.)

12 THE COURT: If you have accepted that oath, you
13 may be seated. Thank you very much.

14 Let me start by introducing you to everyone who
15 is in the courtroom. First and foremost, I'll
16 introduce you to be considered one of the most
17 important people in the courtroom, and this is the
18 young lady who sits down in front of me. This is
19 Natalie Dahl. Natalie is one of our excellent and
20 wonderful court reporters. Natalie has taken down
21 every single word we have said this week, and she will
22 take down every single word that is said in this
23 trial. So if you hear me tell people to "shh" or say
24 "stop talking," or sometimes I like to say "time out,"
25 okay, I'm doing that not to be rude or offensive to

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1 anyone, but Natalie can only take down one voice at a
2 name, and her record is the true and accurate report
3 of what occurs in this courtroom, so we want it to be
4 accurate. So if sometimes -- and it's just the nature
5 of all cases, lawyers or witnesses start talking over
6 people, you may hear me manage those people. I will
7 let people talk, but I can only let them talk one at a
8 time; does that make sense? She'll be with us. She's
9 the hardest working person in the room. The only time
10 she gets a break is when I take an official break. So
11 if she looks at me and says, I need a break, or, I
12 need a minute, or, Something happened with my machine,
13 we'll take a break for her any time she needs it.

14 Now, there is two Natalies in the room. So this
15 is Natalie No. 1, because I met her first. Natalie
16 No. 1 works in your Clerk of Court's Office. She's
17 been with me on this case from the very beginning. So
18 she'll be with us throughout the trial. She will be
19 swearing in witnesses and making sure that the
20 exhibits and all of that is in order. So that's
21 Natalie No. 1 and she'll be with us during the trial.

22 Seated next to me is Kathryn Ortman. She is my
23 law clerk. Kathryn graduated from law school, she has
24 passed the bar exam and got married last year. She
25 spends her first year of work as a lawyer working for

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1 a judge. So she works directly for me. So Kathryn is
2 always doing multiple things, and that is perfectly
3 normal. You will see her come in and go out. She'll
4 do things for me or working on other issues going on
5 at the same time.

6 Back there in that corner there is your new
7 friend, and his name is Bobby Ropp. He will be one of
8 our bailiffs during the trial. He will take good care
9 of you and show you how to come in and go out and make
10 sure you have the things you need and take good care
11 of you.

12 You will have an extra group of people that
13 normal jurors don't have. You will have a team of
14 SLED agents, mostly which are retired SLED agents,
15 that are responsible for you. You'll get to know them
16 and see them, and they'll help you come in and go out.
17 They'll make sure that you are not reading anything
18 that you are not supposed to read. They will make
19 sure you are not watching anything you are not
20 supposed to watch. They will make sure you are fed,
21 make sure everything in your life is okay. You'll get
22 to know who they are, and they'll introduce themselves
23 to you later tonight. So that is the general
24 framework who everyone is. Y'all know who the lawyers
25 are, and so I'm not going to reintroduce you to them

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1 but they can introduce themselves to you. That is the
2 general framework of who will be in here; does that
3 make sense?

4 Now, one thing you may have noticed throughout
5 jury selection and today is there is courthouse
6 security. Courthouse security is completely and
7 totally normal. It doesn't matter what county or how
8 big the county is or how small the county is, every
9 courthouse is staffed with courthouse security, so
10 that is no indication of anything in this case at all,
11 other than what I will call the normal course of
12 business. When I'm up here holding court, and it is
13 not a death penalty trial, there is courthouse
14 security. When I'm up here holding civil court where
15 parties talk about car wrecks or contract disputes,
16 there is courthouse security. So you don't need to be
17 worried or concerned about any courthouse security,
18 that is perfectly normal and rational, and it will
19 happen. There will be courthouse security here
20 whether you and I are here, or not here; does that
21 make sense to you?

22 Okay. Before we begin the actual trial of this
23 case, I thought it might be helpful to explain how a
24 trial would proceed. So first and foremost, the State
25 will be allowed to make an opening statement. Opening

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1 statements are not evidence. They are outlines to
2 help you understand what that party expects the
3 evidence will show. The defendant may, if he chooses,
4 present an opening statement, but he does not have to
5 for reasons I'll explain to you in a moment.

6 Following the opening statements, you will listen
7 to the testimony and the evidence in the case. This
8 will consist of testimony from the State's witnesses,
9 as well as any physical exhibits, which will be
10 introduced into evidence. Following the completion of
11 the testimony, the attorneys will, again, come before
12 you and have an opportunity to make what are called
13 closing arguments or closing statements. This is an
14 opportunity for the attorneys to summarize the case
15 from their respective points of view. Again, the
16 opening statements and the closing arguments are not
17 evidence.

18 Following the closing statements, I will instruct
19 you on the law of South Carolina as it pertains to the
20 issues that have come up during this case. When I
21 have completed my instructions to you, you will then
22 be permitted to begin the deliberations in order to
23 reach a verdict.

24 I need to take a few moments to tell you
25 something about your duty and your responsibility in

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1 this case. At the end of the trial, I'll give you a
2 much longer list of detailed instructions and an
3 explanation of the law. In a nutshell, your
4 responsibility is this: It is your duty to decide
5 from the evidence what the facts are. You, and you
6 alone, are the judges of the facts. So you will hear
7 the evidence, you will decide what the facts are, and
8 then you will apply those facts to the law that I will
9 give you. That's how you reach a verdict. In doing
10 so, you must follow the law I give you, whether you
11 agree with it or not.

12 So what is evidence? This word "evidence" is a
13 very important word. I've already told you that
14 opening statements and closing arguments are not
15 evidence. So what is evidence? Evidence is the
16 testimony of the witnesses, any documents and/or any
17 other thing received into evidence as an exhibit,
18 maybe a photo, maybe a video, something of that
19 nature, and any fact on which the lawyers agree or
20 anything that I tell you, you must accept. So I'm
21 going to make up a silly example. Let's say that the
22 lawyers all agree that on the day in question it was
23 raining, okay. So I would tell you you are to accept
24 the fact that on the day in question, it was raining,
25 okay. And that would be evidence because the lawyers

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1 agreed on it; does that make sense? Okay.

2 Do not take anything that I do or that I say as
3 indication or indicating what I think of the evidence
4 or what I think your verdict should be. So in this
5 courtroom, I like to create an imaginary line between
6 you and I. On your side of the line sits the facts,
7 okay. I cannot tell you what the facts are unless all
8 the lawyers agree. So, again, if the lawyers all
9 agree it is raining, then I can tell you on the day in
10 question it was raining. But other than that, you
11 will not hear me tell you what the facts are. You
12 control the facts; I control the law.

13 Now, the opposite side of that is you can't tell
14 me what the law is. You must accept the law and apply
15 the law as I give it to you whether you agree with it
16 or not.

17 This is a criminal case, and I explained this to
18 each and every one of you when you came in here for
19 your individual questioning, I had a script which was
20 this many pages long (indicates) that I memorized,
21 because after you say it 90-something times, you have
22 it memorized. So I explained some of this to y'all
23 already, but I want to be sure you hear it one more
24 time. This is a criminal case brought by the State of
25 South Carolina. The State has charged Mr. Jenkins

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1 with murder, attempted murder and armed robbery. The
2 charges against Mr. Jenkins are contained in the
3 indictments that I read to you on Monday. These
4 indictments are not evidence. They are not proof of
5 anything, they are simply documents that give this
6 court the authority to hear this case.

7 To these charges, Mr. Jenkins has pled not
8 guilty, and he is presumed to be innocent unless and
9 until he is proven guilty beyond a reasonable doubt.
10 Proof beyond a reasonable doubt is proof that leaves
11 you firmly convinced of the defendant's guilt. A
12 defendant has the right not to testify and never has
13 to prove innocence or present any evidence at all.
14 The burden of proof is also upon the State of South
15 Carolina. Some things you will hear during this trial
16 are not evidence, and you must not consider them as
17 evidence.

18 Number one, the statements and the arguments of
19 the attorneys are not evidence.

20 Number two, the questions and the objections of
21 the attorneys are not evidence.

22 Number three, anything that I tell you to
23 disregard.

24 So in every single case somebody says something
25 they are not supposed to say. It doesn't matter if it

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1 is a one-witness trial, or a 20-witness trial, it
2 always happens. When it does, I will tell you what he
3 or she just said now, I understand you can't erase
4 that from your mind, but when it comes time for y'all
5 to sit around and discuss and deliberate the evidence,
6 whatever that person said is not part of the equation;
7 does that make sense to you? Okay.

8 Now, there are two types of evidence that you may
9 hear; one is called "direct evidence" and one is
10 called "circumstantial evidence." Direct evidence is
11 what somebody saw, heard or did. They know this
12 information. They have personal knowledge about it.
13 Circumstantial evidence is indirect evidence, that is
14 it is proof of one or more facts from which you can
15 find another fact. You are allowed to consider direct
16 evidence and circumstantial evidence. The law permits
17 you to give equal weight to both, but it is for you to
18 decide how much weight to give any evidence at all.
19 Now, at the end I will explain direct and
20 circumstantial evidence again.

21 Now, in this court, and throughout this case,
22 there are rules which control what happens, down to
23 who talks first and who talks last. There are rules
24 for everything. This right here is my rule book
25 (indicates). I take this with me everywhere I go, and

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1 this is my own personal rule book that I created.
2 What happens is this. When a lawyer asks a question
3 or wants to admit an exhibit into evidence, and the
4 lawyer on the other side says that may be against the
5 rules, then the lawyer on the other side will stand up
6 and she'll say "objection." So they can say,
7 Objection, hearsay. Objection, relevance.
8 Objection -- they may throw out a number like 403,
9 612. So when that happens, here is what we do. If I
10 overrule the objection -- so if I say "overruled,"
11 then the witness can answer the question or the
12 exhibit can be admitted into evidence. If I sustain
13 the objection, or if I say that is not coming in or
14 don't answer that, that means the witness cannot
15 answer the question or the exhibit cannot be received
16 into evidence. So whenever I sustain an objection to
17 a question or refuse to admit an exhibit into
18 evidence, you must ignore the question or dismiss the
19 exhibit. You can't guess or try to figure out, well,
20 what would he have said, or what would she have said,
21 or what would that have shown. I have ruled that that
22 is inadmissible.

23 In every single case, regardless of if it is a
24 one-witness case or a hundred-witness case, there are
25 times when I have to discuss legal issues with the

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1 attorneys outside of your presence. So there are
2 specific times when the law says I must send you back
3 to the jury room to talk about these legal issues with
4 the attorneys. So it's not an issue if it is going to
5 happen, it's just an issue of when. When it does, do
6 not speculate about what we are discussing or why you
7 were asked to leave the room. This is a procedure
8 used by all courts throughout the entire country to
9 decide legal issues.

10 Now, sometimes the lawyers say, Judge, may we
11 approach the bench. When they do, we'll come over
12 here and have a conversation. So when that is
13 happening, I'm deciding legal issues. They have to be
14 decided outside of your presence. So we'll talk in
15 the corner as much as we can to keep you from walking
16 in and walking out and walking in and walking back
17 out. Again, no one is trying to keep anything from
18 you, but these are rules that we must follow and they
19 are used by all lawyers and all courts.

20 Let's talk about what we call the "credibility
21 of the witnesses." So to decide the facts of this
22 case, you have to decide which witnesses to believe,
23 and which witnesses not to believe. You may believe
24 every single thing a witness says. You may believe
25 none of what a witness says, or you may believe part

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1 of what a witness says.

2 In deciding what you believe, you may consider,
3 but not limited to what was the witness' ability to
4 hear, see or know what he or she testified to? How
5 good was the witness' memory? What was the witness'
6 demeanor like on the witness stand? Does the witness
7 have an interest in the outcome of the case, any
8 motive or bias? Was the witness contradicted by
9 something that they said or wrote before the trial or
10 by other evidence? How reasonable was the witness'
11 testimony when considered in the light of the other
12 evidence which you believe?

13 Now, listen, we all judge people's creditability
14 every single day. You have already done it today, and
15 we do it so much you don't even realize you are doing
16 it anymore. The most common example of this is in my
17 house when you ask someone, a small child, Did you
18 brush your teeth? Right. Or, Did you do your
19 homework? I know you can't have done your homework
20 because I watched you play basketball from the moment
21 you got off the bus until right now, right? In that
22 moment, I judged that child's creditability, and you
23 judge people's creditability all day long, family,
24 people you work with, friends. You do this using your
25 commonsense, okay. When you came back in the

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1 building, you did not leave your commonsense at the
2 metal detector. One of the reasons you were chosen on
3 this case is they believe in you and believe in your
4 commonsense, so just use your good commonsense, okay.

5 Now, let's talk about some rules, okay. These
6 rules are very important. I've already said some of
7 these rules, and most of these you'll hear me say over
8 and over and over again. You will think I'm a broken
9 record, but that is how important these rules are.

10 Until I advise you to begin your deliberations, which
11 is at the end of the case, I will give you a very
12 specific sign, and this sign will be your sign that
13 you can start deliberating. Until that point in time,
14 you are not allowed to discuss this case or anything
15 about it with anyone, and that includes each other.

16 You are about to become friends, whether you want to
17 or not, but you are not allowed to talk about this
18 case or anything about it at all. You can't even
19 comment on whether or not you like my tie today
20 because I do not -- you are not allowed to discuss
21 this case or communicate about it at all. You can
22 talk about how bad the Gamecock baseball team is, how
23 Clemson got another quarterback pick, talk about the
24 weather, your kids, work, whatever you want to, but
25 you can't talk about this case or anything about it,

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1 and you can't let anyone talk to you, okay. I learned
2 that one the hard way. I used to not say that, but I
3 do now. If someone tries to talk to you, you need to
4 say, Stop, the judge said we can't talk about the
5 case. The next time you come in the courtroom, you
6 need to tell me about it. You got it? Everyone with
7 me? Some of these rules are a little different
8 because of your sequestration, but you can't talk
9 about the case face-to-face, telephone, text message,
10 blog, e-mail, Facebook, Messenger, some other app I
11 don't know about, none of that to get and/or send
12 information about the case. None of you should have a
13 tablet, cell phone or computer with you; that is the
14 reason we do that, to keep you from getting or sending
15 information about the case.

16 Do not have then contact with anyone involved in
17 the case. So all of the witnesses, they are not going
18 to talk to you. If you see the attorneys in the back
19 hall for whatever reason, they are not going to speak
20 to you or say hello or good morning. They are going
21 to ignore you. If I see you, I say, hey, how are you,
22 but they are not going to; does that make sense? Do
23 not read, watch or listen to any news reports about
24 this case.

25 Last thing before I turn you over to the

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1 attorneys. It is very important that you keep an open
2 mind about this case and not decide any issues in this
3 case until you have heard all of the evidence, the
4 evidence that has been presented. The parties made
5 their closing arguments, and I've instructed you on
6 the law in the case. It is your responsibility to
7 determine the guilt or the innocence of the defendant.
8 Your verdict must be based solely upon the evidence
9 presented to you in this trial and on the law I give
10 you at the close of the trial.

11 Just a couple of notes I had come up with over
12 the years. I do not allow note taking. While this
13 case is very important, I do not expect it to be a
14 very -- what I would call -- scientific, heavy case.
15 I've done cases that involves asbestos litigation,
16 tobacco or opioids, things like that, that are really
17 high end on the science, and the majority of words
18 that are coming out of people's mouths, I don't even
19 know what they are, so I allow note taking in those,
20 but not in this case. So don't worry about taking
21 notes. I want you to give the attorneys and the
22 witnesses your undivided attention, just as you have
23 done with me. I want to say, again, thank you very
24 much for your service.

25 Anything from the State?

1 MR. OPENING STATEMENT BY MR. RICHARDSON
MR. RICHARDSON: No, sir.

2 THE COURT: Defense?

3 MR. WILSON: Nothing, Your Honor.

4 THE COURT: Who will be making opening?

5 MR. RICHARDSON: I will, Your Honor.

6 THE COURT: Thank you, Solicitor Richardson, and
7 the floor is yours.

8 MR. RICHARDSON: If it pleases the Court.

9 THE COURT: Yes, sir.

10 MR. RICHARDSON: The indictments before you this
11 week are: Armed robbery, attempted murder and murder.
12 I got to thinking how long in time does it take
13 someone to completely destroy? How long would it take
14 you to rob with a gun, to kill and try to kill
15 another? What do you think? 30 minutes? Ten? Five?
16 All of that depends on how good you are at robbing and
17 killing. Jerome Jenkins is very good. In fact, in
18 about the same amount of time that I've been talking
19 to you, Jerome Jenkins and his friends, James Daniels
20 and McKinley Daniels had already entered the Sunhouse
21 on 905, had already fired several shots down range at
22 a man you will meet today, Jimmy McZeke, trying to
23 kill him, had already taken all of the money from the
24 Sunhouse and had already killed Bala Paruchuri in
25 about a minute. How do we know that? We know that

1 OPENING STATEMENT BY MR. RICHARDSON
2 because convenient stores have cameras, and you are
3 going to get to see a very shocking video. You will
4 see it all on tape. Now, I called out three people.
5 What you will learn from the testimony is that one of
6 those guys was the get-away driver; that was James
7 Daniels. James Daniels took them there. McKinley
8 Daniels and Jerome Jenkins went inside and immediately
9 started firing shots at a man named Jimmy McZeke.
10 You'll hear from Jimmy. Jimmy is at the back of the
11 courtroom. Jimmy used to work with Bala Paruchuri.
12 They worked at the Sunhouse. Jimmy will tell you on
13 this night there had been a robbery up the road and he
14 came in and told Bala, We have to close the store
15 down.

16 When we are talking about timing and you watch
17 this video, I want you to consider something. Jimmy
18 McZeke, when you see him come inside, I don't expect
19 you to count every second, but watch how quickly Jimmy
20 leaves from there to go to the back of the store and
21 starts cutting off the lights for the beer and drinks,
22 and ask yourself, What if Jimmy would have stayed up
23 there 5, 20, 30 more seconds? Ask yourself, Would
24 this be a double murder? It wasn't. It was one
25 murder. Jimmy McZeke, down range of the store,
26 cutting off the lights. Enters is McKinley Daniels

1 OPENING STATEMENT BY MR. RICHARDSON
and Jerome Jenkins firing at Jimmy. Jimmy got in the
2 bathroom, locked the door, laid on the floor. Bala
3 Paruchuri wasn't that lucky. You won't hear from
4 Bala. Bala Paruchuri is dead. Bala Paruchuri was
5 standing behind the cash register with nowhere to run.
6 You will see it on video.

7 Jerome Jenkins goes after Jimmy McZeke. You will
8 see on the video McKinley Daniels goes and starts
9 unloading the money. In about a minute, they meet
10 back up, headed back out the door. Watch that part of
11 the video. This is going to come in, and you will see
12 they've got everything they came for. You will see
13 Bala Paruchuri is standing behind the counter
14 defenseless saying, You've got it. You will see him
15 die in a hail of bullets. Both people shooting at
16 him.

17 That is the attempted murder of Jimmy McZeke.
18 That is the armed robbery of the Sunhouse. That is
19 the murder of Bala Paruchuri. That took about a
20 minute. I want you to ask yourself while you are
21 watching this, How in the world? Do you see any
22 hesitation? Do you see any slowing down? Or is this
23 a brutal, well-planned out efficient killing? Because
24 when you think about, at the end of this thing,
25 murder. These terms of law we put out there,

1 "murder," ^{OPENING STATEMENT BY MR. RICHARDSON} you heard it a hundred times -- well, I've
2 heard it a hundred times; you heard it once. But
3 murder is the intentional killing of another, someone
4 other than yourself, with malice aforethought, which
5 is just a little bit of preplanning. You will see a
6 lot of pre-planning.

7 Let me tell you something. It is unfair when we
8 are watching TV and you see like the NFL players, when
9 you see a man run a 40-yard dash, it would be unfair
10 to say, That man gets \$10 million to run 4.35 seconds.
11 That ain't the first time. He's practiced. He's
12 planned it. He's prepared for that. Ask yourself
13 when you watch this video is this hesitation, or is
14 this well-planned out? Is this efficient? Because
15 that is part of it, that is part of the aforethought.
16 Ask yourself when they are shooting down range, Does
17 this look planned out? Does this look like people
18 with intent, or is this happenstance?

19 This case is all about a one-minute period of
20 time on January 2nd, 2015 when these two men, Jimmy
21 McZeke and Bala Paruchuri, were trying to close down.
22 There is some other terms that the judge will give
23 you, but I want to give you an idea -- not a very
24 sophisticated idea, but an idea -- that you can sort
25 of measure all of this through.

1 OPENING STATEMENT BY MR. RICHARDSON
2 Obviously, the State of South Carolina, I'm

3 sitting up here talking, hey, it all has to come from
4 the witness stand, but we've got to be able to prove
5 all of this stuff to you beyond a reasonable doubt.
6 That is a fancy way of saying that you have to leave
7 here fully convinced, firmly convinced that the State
8 has proven this. It doesn't have to be beyond any
9 doubt, but you have to be firmly convinced. You have
10 to be firmly convinced that Jerome Jenkins, along with
11 the two Daniels brothers, killed Bala Paruchuri,
12 robbed the store and shot at Jimmy McZeke with an
13 intent to kill.

14 You are also going to hear -- and kind of keep in
15 your mind this idea of the hand-of-one-hand-of-all.
16 In other words, if we're acting in concert, and I'm
17 doing this part of the job and you are doing that part
18 of the job, and somebody gets killed or somebody gets
19 robbed, we are all in it together. That is known as
20 the-hand-of-one-hand-of-all.

21 A perfect example -- this didn't happen in this
22 case, but two guys go to a convenience store, one guy
23 stands outside, has no gun, but he's watching to make
24 sure no one comes in. Second guy goes in and robs the
25 store. You could find both guilty of robbery of the
26 store, and if the dude inside shoots the clerk, guess

1 OPENING STATEMENT BY MR. RICHARDSON
2 who is guilty of murder? Both. So it doesn't mean,
3 when we tell y'all this, that Jerome Jenkins is doing
4 everything.

5 Those are some of the terms that you are going to
6 hear this week. You are going to see the video. You
7 are going to hear from Greg Lent, in fact, a police
8 officer with Horry County, the statement of Jerome
9 Jenkins telling you, yeah, I did it and this is how it
10 went down. You are going to hear from other members
11 of Horry County, and you should be proud of what a
12 great job they did. But I'll leave it to you to watch
13 as they come up here and piece it altogether,
14 ultimately, with the confession of Jerome Jenkins as
15 to what occurred.

16 That is it in a nutshell. It is awful to watch,
17 but that is part of it. I know you heard this over
18 and over, but that will be our case in the guilt
19 phase. We are here to prove to you beyond a
20 reasonable doubt that J.J., Jerome Jenkins, did, in
21 fact, kill Bala Paruchuri; did, in fact, rob the
22 Sunhouse; did, in fact, try to kill Jimmy McZeke, who
23 you will hear from as your first witness. That is the
24 guilt phase. At that point, y'all have to go back and
25 figure out if we did our job. If we did, you'll
 return a verdict of guilty, and that is what we'll be

1 OPENING STATEMENT BY MR. RICHARDSON
asking you to do.

2 One caution I want to give you. The guilt phase
3 is not very complicated. We are going to push through
4 this quickly, just as quickly as possible, but one of
5 the worries that I have when we do that, and I don't
6 think it's ever happened, but it's always a worry, is
7 that jurors will say they tried this in a
8 day-and-a-half, tried this in two days. Don't let
9 that minimize the importance. Bala Paruchuri is dead.
10 Bala Paruchuri, if we take 15 days to try this case,
11 is still going to be dead, and it will still be Jerome
12 Jenkins' fault.

13 We'll push through it quickly, but I want to be
14 able to prove each one of these things to your
15 satisfaction. I don't want you going away thinking,
16 He didn't tell me the truth. At the end of that,
17 we're going to -- when I say "we're," I'm talking
18 about myself, Jimmy Richardson, I'm the Solicitor for
19 Horry County and Georgetown, and my Chief Deputy Scott
20 Hixson, that is the brains, but I'm the looks.
21 Together we make a team. That is going to be our job
22 over the next couple of days, to try to prove to you
23 everything that I've just told you.

24 I appreciate your attention, and I appreciate
25 y'all knowing that every day this week part of y'all

OPENING STATEMENT BY MR. WILSON

1 have been in here trying to get this jury selected.
2 This is the most important thing on our plates right
3 now. Please give it your utmost attention, and we'll
4 be back as soon as the defense -- and, listen, give
5 the defense your attention, too. It wouldn't be fair
6 if you took my side and you already made up your mind.
7 Listen to them like you listened to me. I want Jerome
8 Jenkins to have the fair trial. Please listen to Mr.
9 Wilson or Ms. Brana Williams, and we'll start right
10 after that calling witnesses. Thank you.

11 THE COURT: Thank you, Solicitor.

12 MR. WILSON: Your Honor.

13 THE COURT: Yes, sir, Mr. Wilson.

14 MR. WILSON: The Solicitor says he is the looks,
15 and Mr. Hixson is the brains. So I'm sitting next to
16 Ms. Williams, she has the brains and the looks, so
17 what does that make me? I was left out in the cold.

18 Folks, first of all, let me say thank you for
19 your service. I know when you got your summons in the
20 mail and you realized you had to come here, you know,
21 it wasn't a picnic. You probably had a thousand
22 things going through your mind and thinking I would
23 rather be anywhere than down here sitting with a bunch
24 of lawyers going on about something. Well, this is
25 important. Your presence here is important. It is

OPENING STATEMENT BY MR. WILSON

1 important to the State of South Carolina, because they
2 have a duty and responsibility. But it is also
3 important to Jerome Jenkins, to J.J., because this is
4 his day in court. It is his opportunity to have you
5 hear his case and decide what his fate is.

6 Now, let me say to you this: Every defendant --
7 every defendant, I don't care how minor the charge is,
8 I don't care how serious the charge is, every
9 defendant is entitled to a trial by jury. That is one
10 of the constitutional rights we have and enjoy in this
11 country. Let me say also that our system is not
12 perfect; it's not. Lord knows it has a place, but I
13 can tell you this, that I have never seen a system
14 that works better. I don't know of one anywhere in
15 the world that is better than the one we have with all
16 of its imperfections. It does work. You know why it
17 works? It works because of you. It just doesn't come
18 from the walls of this courthouse. It is not lined in
19 the hem of the garment that His Honor wears. It comes
20 from the hearts and minds of the people who serve, and
21 that is you. If there is no justice in your hearts,
22 then it doesn't exist. That is the only place it
23 exists, in the hearts and minds of those people who
24 serve as jurors.

25 I say to people all the time, I don't think there

OPENING STATEMENT BY MR. WILSON

1 is any greater service that a citizen can render to
2 his community and country, other than military
3 service. Because you are asked to come away from your
4 family, away from your home, take off from your jobs,
5 and some of you probably can't even get paid, and sit
6 here and listen to the facts and circumstances and
7 then have to sit in judgment of a fellow human being.
8 But that is a good thing. That is a wonderful thing.

9 Let me say this to you. I listened to the
10 Solicitor's presentation, and a lot of what he said is
11 absolutely true. I'll tell you this right up front,
12 straight up: Jerome Jenkins is guilty. He's guilty.
13 He's guilty of the charges that the State has brought
14 against him. You say, Well, then, Mr. Wilson, why are
15 we here if he's guilty? Because the only way that he
16 can have 12 jurors decide what his fate is, is to go
17 through this process. That's the only way. In
18 capital cases, that is the only way.

19 So in order for him to have a jury determine his
20 sentence, he has to come through this process, so that
21 you can decide what the sentence will be. So that is
22 why we're here. We're not trying to say, oh, no, he
23 wasn't there, he doesn't know anything about it. That
24 is not what happened. But in order -- remember when
25 we met with the judge and you each came in and we

OPENING STATEMENT BY MR. WILSON

1 asked you about the first phase, the second phase,
2 that the first phase is the trial phase where you
3 decide the guilt or innocence, the second phase is
4 deciding what the sentence is going to be? That is
5 why it is so important that we asked you those
6 questions back then, because, ultimately, you are
7 going to have to decide, one, guilt or innocence, and
8 then you have to decide what the appropriate penalty
9 is.

10 In order for you to have all of the facts and
11 circumstances, you have to hear from the State and
12 hear what their case is. Because of that, the law
13 puts the burden on them to bring all of that
14 information into it so that you can hear it. They
15 will do that. You will probably see that Ms. Williams
16 and I will not do a lot of questioning of the
17 witnesses, because as I said, we're not trying to deny
18 it, that he committed the crime. What we're trying to
19 do is get to the second phase where you can decide
20 what the appropriate sentence is.

21 Now, having said all of that, let me ask you to
22 do something, and that is to listen. Listen to the
23 witnesses as they testify. Listen to the evidence as
24 it unfolds from the witness stand, but more
25 importantly, keep an open mind throughout the process.

OPENING STATEMENT BY MR. WILSON

1 This is a serious case; no ifs, ands, or buts about
2 it. You have a man who lost his life wrongfully.
3 This is a solemn occasion. This trial is a solemn
4 experience, because you have a man who lost his life
5 without any justification. There is no dispute about
6 that.

7 Then, you have another young man who is on trial
8 for his life as well. I simply ask you, ladies and
9 gentlemen, to keep an open mind, hear all of the
10 evidence, and if you do that, you will be in a
11 position to render a verdict that speaks the truth.
12 No one can ask more of you than that; not the State of
13 South Carolina, not the defendant. You have taken an
14 oath that you would do that.

15 Out of all those jurors that we had over the last
16 four-and-a-half days, the State and the defense
17 selected the 16 of you to hear this matter, and the
18 reason we selected you was because out of all of those
19 people, we believed collectively -- when I say "we" --
20 that you were the most fair people we could find to
21 hear this matter, and we trust you to do that.

22 Thank you very much.

23 THE COURT: Thank you very much, Mr. Wilson.

24 The State can call their first witness.

25 MR. RICHARDSON: Jimmy McZeke.

JIMMY MCZEKE - DIRECT EXAMINATION

(State's Exhibits 1-78 marked.)

(JIMMY MCZEKE, having been duly sworn,
testified as follows:)

THE WITNESS: My name is Jimmy McZeke,
M-C-Z-E-K-E.

DIRECT-EXAMINATION

BY MR. RICHARDSON:

Q Where are you from?

A Loris, South Carolina.

Q How long have you lived in Loris?

A 54 years.

Q You are 54 years old?

A Yes, sir.

Q Where do you work?

A I work for myself, grass cutting and detailing
cars.

Q Where were you employed back in January 2, 2015?

A At Sunhouse.

Q One up there at Longs?

A 905.

Q Yes, sir. Did you know Bala Paruchuri?

A Yes, sir.

Q And as of that time, how long had you know Bala?

A Two-and-a-half years.

Q Were you with Bala on January 2, 2015?

JIMMY MCZEKE - DIRECT EXAMINATION

1 A Yes, I was.

2 Q At the Sunhouse on 905?

3 A Yes, sir.

4 Q Let's talk about that night. Let's start off
5 around 9:00 or 9:30; did something occur that caused
6 y'all -- caused you to want to close down the store?

7 A Yes. A guy came by and said Dollar General got
8 robbed, and I went back in there and told him, and he
9 told me to go outside and lock the icebox and we'll
10 close up. So I went outside and locked the icebox and
11 went back to cut the lights out over the gas pump. He
12 said go ahead and start cutting boxes out on the back
13 wall, so I started around there cutting lights in the
14 box. By the time I got to the box, I think I cut one
15 or two of them off, and next thing I know, shooting,
16 bam, bam, shooting at me.

17 Q You heard gunfire?

18 A Yes, sir.

19 Q Were you able to tell how many or what anyone
20 looked like?

21 A No, sir, I didn't.

22 Q And back up for a second. How far away was the
23 Dollar General -- or is the Dollar General from the
24 Sunhouse there on 905? Could you see it from the
25 parking lots?

JIMMY MCZEKE - DIRECT EXAMINATION

1 A Yes, sir. Yes, sir, you could see it.

2 Q In terms of football fields, how many?

3 A I would say 50 yards or so.

4 Q You would say 50 yards?

5 A Yes, sir.

6 Q So it is real close by?

7 A Yes, sir, close.

8 Q And you saw the police cars up there?

9 A Yes, sir.

10 Q Now, you locked up the icebox, went to the back,
11 told Bala what you were doing, and then went to the
12 back and started --

13 A Cutting the lights out in the boxes.

14 Q And you heard gunfire?

15 A Yes, sir.

16 Q What did you do when you heard the gunfire?

17 A When they started shooting, I started to run to
18 the bathroom in the back.

19 Q And the bathroom is at the back part of the
20 store?

21 A Yes, sir.

22 Q What did you do when you got into the bathroom?

23 A Once I got in the bathroom, I locked the door and
24 laid on the floor.

25 Q Did -- I'll show you what is marked as State's

JIMMY MCZEKE - DIRECT EXAMINATION

1 Exhibit -- first of all, you went into the bathroom;
2 did you continue hearing shooting?

3 A I think I heard one shot.

4 Q Did someone shoot into the bathroom?

5 A Yes, sir. Someone shot into the door.

6 MR. WILSON: No objections to two photographs.

7 THE COURT: What are the numbers, please?

8 MR. RICHARDSON: State's Exhibits 2 and 3.

9 THE COURT: State's Exhibits 2 and 3, no
10 objection?

11 MR. WILSON: No objections.

12 THE COURT: Without objection.

13 (State's Exhibit 2 and 3 admitted.)

14 Q I'll ask you what is State's 2 and 3; do you
15 recognize what those are photographs of?

16 A This is the bathroom.

17 Q What number is that?

18 A 2.

19 Q 2 is the bathroom. What is 3?

20 A That's the bathroom on the inside. This is the
21 door here. 2 is the door.

22 Q Let me ask you: Do you see anything on that
23 door?

24 A Yes, sir. I see a bullet hole in the door there.

25 Q Was that bullet hole there before the night of

JIMMY MCZEKE - DIRECT EXAMINATION

1 January 2nd?

2 A No, sir, it wasn't.

3 Q Was that bullet hole there before you went into
4 that bathroom?

5 A No. It was done after I got in there.

6 Q So someone shot through that door into the
7 bathroom; is that correct, Jimmy?

8 A Yes, sir.

9 Q Where would you have been in relation to the
10 door?

11 A You talking about?

12 Q What did you do when you went in the bathroom?

13 A Laid on the floor.

14 Q Laid on the floor?

15 A Yeah, I laid on the floor.

16 Q What part of the bathroom did you lay on? Would
17 you put your finger where you laid on the floor?

18 A I was right over there sideways.

19 Q This side of the commode?

20 A Yes, sir.

21 Q Jimmy, at some point did you hear the gunshots
22 stop?

23 A Yes, sir, I did.

24 Q What did you do when the gunshots stopped going
25 off?

JIMMY MCZEKE - DIRECT EXAMINATION

1 A I waited about 15 minutes, then I didn't hear
2 nothing. I cracked the door and I just -- didn't see
3 anything, just seen smoke, and I ran beside the wall
4 and ran out of the door.

5 Q When you run out, you still saw the gun smoke?

6 A Yes, sir, inside the place.

7 Q Did you see Bala?

8 A I looked, but didn't see him.

9 Q You did not see Bala?

10 A Huh-huh.

11 Q Did you see anybody in the store?

12 A No. I was going out the door, a guy was coming
13 in, and I remember running in front of him and knocking
14 him down.

15 Q And he was just a customer?

16 A Yes, sir.

17 Q What did you do upon leaving the store?

18 A Talking about when I leave out of there?

19 Q Yes, sir.

20 A I see the police down the road, and I got in my
21 truck and went back up right there.

22 Q Tell them about what color your truck is.

23 A Burgundy Chevrolet truck, '89 Chevrolet.

24 Q You told the police what happened?

25 A Yes, sir.